VOL
49
ISS
19
JA
27
1984
UMI

1-27-84
Vol. 49 No. 19

federal register

Friday
January 27, 1984

United States
Government
Printing Office
SUPERINTENDENT
OF DOCUMENTS
Washington, D.C. 20402

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Federal Register
(ISSN 0097-6326)

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VOL
49
ISS
19
JA
27
1984
UMI

1-27-84
Vol. 49 No. 19
Pages 3441-3638

federal register

Friday
January 27, 1984

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Federal Energy Regulatory Commission

Air Pollution Control
Environmental Protection Agency

Animal Diseases
Animal and Plant Health Inspection Service

Aviation Safety
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Food and Drug Administration

Income Taxes
Internal Revenue Service

Marine Safety
Engineers Corps

Marketing Agreements
Agricultural Marketing Service

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FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

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Questions and requests for specific information may be directed to the telephone numbers listed under INFORMATION AND ASSISTANCE in the READER AIDS section of this issue.

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Federal Energy Regulatory Commission

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Presidential Documents

Title 3—

The President

Proclamation 5148 of January 25, 1984

Centennial of the Birth of Harry S Truman

By the President of the United States of America

A Proclamation

May 8, 1984, marks the one hundredth anniversary of the birth of Harry S Truman, the thirty-third President of the United States and one of this Nation's most respected statesmen.

First elected to the United States Senate from Missouri in 1934, Mr. Truman gained national recognition during World War II, when his investigating committee saved the taxpayers large amounts of money by exposing waste and extravagance in the procurement process. In November 1944, the voters elected Mr. Truman Vice President. He served only 83 days in that office and succeeded to the Presidency in April 1945, upon the death of President Roosevelt.

In his first months in office, President Truman guided the country through the end of World War II and made the difficult decisions that ushered in the nuclear age. In the postwar years, he oversaw America's transition from a wartime to a peacetime economy and began an era of growth and stability. In foreign affairs, President Truman established the cornerstones of the policy of containment in dealing with the communist threat to Europe. Through the Truman Doctrine and the Marshall Plan he stalwartly assisted free peoples in their efforts to stem the tide of totalitarian subversion. In applying the principles of collective security, President Truman assisted in the formation of the North Atlantic Treaty Organization to help European nations respond to this threat.

In 1948, Mr. Truman was elected to the Presidency, battling from behind to overtake Governor Thomas Dewey. President Truman responded to the invasion of South Korea by utilizing United Nations as well as American forces in dealing with that crisis.

Although confronted with a series of major challenges throughout his tenure, President Truman responded with courage, humanity, decisiveness, and a wit which have secured his place in the Nation's history as one of our most respected Presidents.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim May 8, 1984 to be the "Centennial of the Birth of Harry S Truman." I call upon the people of the United States to observe that day with appropriate ceremonies and activities in remembrance of his many accomplishments and dedication to freedom and democracy.

IN WITNESS WHEREOF, I have hereunto set my hand this 25th day of January, in the year of our Lord nineteen hundred and eighty-four, and of the Independence of the United States of America the two hundred and eighth.

Ronald Reagan

[FR Doc. 84-2529
Filed 1-26-84; 11:05 am]
Billing code 3195-01-M

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ISS
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Rules and Regulations

Federal Register
Vol. 49, No. 19
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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 371

Organization, Functions, and Delegations of Authority; Deputy Administrator, Veterinary Services

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: This document revises the statement of organization, functions and delegations of authority of the Animal and Plant Health Inspection Service (APHIS) by delegating to the Deputy Administrator, Veterinary Services, the authority to conduct such diagnostic and related activities at the Plum Island Animal Disease Center (PIADC) as may be proper to prevent, detect, control or eradicate any contagious, infectious or communicable disease of animals or live poultry not known to exist in the United States.

EFFECTIVE DATES: January 27, 1984.

FOR FURTHER INFORMATION CONTACT: John C. Frey, Classification, Employment, and Executive Resources Programs, Human Resources Division, Animal and Plant Health Inspection Service, 6505 Belcrest Road, Hyattsville, MD 20782 (301–436–6466).

SUPPLEMENTARY INFORMATION: The facilities of the PIADC are designed for work with exotic animal diseases. Responsibility for diagnoses of foreign animal diseases as well as research on such diseases, was assigned to the Agricultural Research Service (ARS) when the facility at Plum Island first began operations. However, the primary mission of ARS, which is research, has been compromised at times due to demands of the needs for diagnostic services and related responsibilities. Accordingly, the Secretary of Agriculture determined that transfer of diagnostic services and related activities at PIADC to APHIS would alleviate some administrative problems and provide working assignments more appropriate to the missions of the two agencies. Thus, the Secretary delegated the responsibility for diagnostic and related activities at PIADC to the Assistant Secretary for Marketing and Inspection Services, who in turn has delegated such authority to the Administrator, APHIS (49 FR 1047). The purpose of this document is to amend the statement of organization, functions, and delegations of authority of the Animal and Plant Health Inspection Service to specifically delegate the responsibility for diagnostic and related activities at PIADC to the Deputy Administrator, Veterinary Services. The functions so delegated include diagnosis of foreign animal diseases, preparation of diagnostic reagents, diagnostic methods evaluation or adaptation, training of foreign animal disease diagnosticians, vaccine production and storage, and epizootiology and/or epidemiology testing.

This rule relates to internal agency management, and therefore, pursuant to 5 U.S.C. 553, it is found upon good cause that notice and other public procedures with respect thereto are impractical and contrary to the public interest, and good cause is found for making this rule effective less than 30 days after publication in the **Federal Register**. Further, since this rule relates to internal agency management, it is exempt from the provisions of executive Order 12291. Finally, this action is not a rule as defined by Public Law 96–354, the Regulatory Flexibility Act, and thus is exempt from the provisions of that Act.

List of Subjects in 7 CFR Part 371

Organization and functions (Government agencies).

PART 371—ORGANIZATION, FUNCTIONS AND DELEGATIONS OF AUTHORITY

Accordingly, 7 CFR Part 371 is amended as follows:

1. The authority citation for Part 371 reads as follows:

Authority: 5 U.S.C. 301.

2. Section 371.2 is amended by adding a new paragraph (d)(2) (xx) to read as follows:

§ 371.2 The Office of the Administrator.

* * * * *

(d) * * *

(2) * * *

(xx) Conducting diagnostic and related activities necessary to prevent, detect, control or eradicate foot-and-mouth disease and other foreign animal diseases (21 U.S.C. 113a).

* * * * * *

Issued at Washington, D.C., this 20th day of January 1984.

Bert W. Hawkins,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 84-2308 Filed 1-26-84; 8:45 am]

BILLING CODE 3410-34-M

Federal Grain Inspection Service

7 CFR Part 810

Revision of the United States Standards for Mixed Grain

AGENCY: Federal Grain Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: The Federal Grain Inspection Service (FGIS) is revising the U.S. Standards for Mixed Grain in order to enhance their clarity and uniformity, to promote a better understanding of the standards, and to facilitate the marketing of mixed grain. Changes include an updated format; a clarified definition of mixed grain; elimination of the mixed feed oats sections and the special grade *Tough;* a tighter limit for the special grade *Ergoty;* a simpler basis for determining the percentage of each type of grain in the mixture and damaged kernels; a revision of section 7 CFR 810.910 to apply only to the corn, rye, soybeans, and flaxseed standards; establishment of rounding procedures for determining percentages; and other general nonsubstantive changes to update the standards to accommodate current marketing practices. The revisions made to the standards are the same as those proposed.

EFFECTIVE DATE: January 28, 1985.

FOR FURTHER INFORMATION CONTACT: Lewis Lebakken, Jr., Information Resources Management Branch, USDA,

FGIS, Room 0667, South Building, 1400 Independence Avenue, SW., Washington, D.C. 20250, telephone (202) 382–1738.

SUPPLEMENTARY INFORMATION:

Executive Order 12291

This final rule has been issued in conformance with Executive Order 12291 and Departmental Regulation 1512–1. The action has been classified as nonmajor because it does not meet the criteria for a major regulation established in the Order.

Regulatory Flexibility Act Certification

Dr. Kenneth A. Gilles, Administrator, FGIS, has determined that this final rule will not have a significant economic impact on a substantial number of small entities because most users of mixed grain inspection services do not meet the requirements for small entities as defined in the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

Final Action

The review of the standards included a determination of the continued need for the standards; a review of changes in marketing factors and functions affecting the standards; and a review of the changes in technology and economic conditions in the area affected by the standards and their application through the incorporation of grading factors or tests which better indicate grain quality. The objective was to assure that the standards continued to serve the needs of the market to the greatest possible extent.

A notice requesting public comment on the U.S. Standards for Corn, Soybeans, and Mixed Grain was published in the May 8, 1980 **Federal Register** (45 FR 30446). Of the thirteen comments received, one commenter, while making no specific recommendations, suggested that clarification of the definition for mixed grain should enhance the uniform application of the standards.

A proposal to revise the standards for mixed grain was published in the April 5, 1983 **Federal Register** (48 FR 14601), and comments were solicited during a 60-day comment period. All of the comments received expressed support for the proposed changes.

A review of all related information and the Agency's review and subsequent research of sieving procedures indicate that the revisions in the standards proposed in the April 5, 1983 **Federal Register** would increase the clarity and effectiveness of the standards, reflect current marketing practices, and establish a desirable degree of uniformity with other grain standards. Therefore, the United States Standards for Mixed Grain are revised as discussed below. The revisions are the same as proposed. It should be noted that pursuant to section 4(b) of the Act no standards established as amendments or revocations of standards under the Act are to become effective less than one calendar year after promulgation, unless in the judgement of the Administrator the public health, interest, or safety requires that they become effective sooner. The following amendments to the standards become effective one calendar year after publication in the **Federal Register**.

1. To enhance clarity and uniformity between and among various grade standards, the format of the U.S. Standards for Mixed Grain is revised by dividing the standards into sections such as currently exist in the U.S. Standards for Wheat. Specifically, in addition to the changes discussed below, the current § 810.451, *Terms defined* is divided into § 810.451, *Definition of Mixed Grain*, and a new § 810.452, *Definition of other terms;* the current § 810.542, *Principles governing application of standards* is divided into a new § 810.453, *Basis of determination*, a new § 810.454, *Temporary modification in equipment and procedures*, and a new § 810.455, *Percentages;* and the current § 810.453, *Grades, grade requirements, and grade designations* is divided into new sections, § 810.456, *Grades and grade requirements*, § 810.457, *Grade designation*, § 810.458, *Special grades and special grade requirements*, and § 810.459, *Special grade designations*. Incidental to this reformating, the definitions for moisture and for test weight per bushel are moved from the current § 810.452 to the new § 810.452, *Definition of other terms*.

2. Because mixed feed oats are not marketed on the basis of official grades, and because inspections have decreased drastically in recent years, the mixed feed oats portions of the standards is deleted. In the standards for mixed grain, wild oats and mixtures of wild oats with cultivated oats are only applicable to the definition and grading of mixed feed oats; therefore all references to and definitions of these grains would also be deleted, including the references to wild oats in the basic definition of mixed grain. Appropriate changes as a result of the deletion of the two mixed feed oats grades are made to all affected sections in the standards for mixed grain.

3. The special grade *Tough* is not descriptive of grain quality, and the placement of moisture content on certificates (7 CFR 800.162(a)), which is currently used to determine this condition, mades this special grade designation unnecessary. Accordingly, the special grade *Tough* is deleted. (Similar changes are planned for the standards for barley, oats, and rye, which are the only grain standards that still retain this special grade.)

4. The limit for the special grade *Ergoty* is tightened to 0.10 percent from 0.30 percent. Feeding trials conducted by the North Dakota Agricultural Experiment Station concluded that livestock regularly consuming feed containing as little as 0.06 percent of ergot exhibit significant signs of toxicity, and all standards using the special grade *Ergoty*, except wheat and rye, have been previously tightened to 0.10 percent for that reason.

5. In addition to deleting references to wild oats in the definition of mixed grain, the definition is further amended to incorporate a minimum requirement of 50 percent of whole kernels of grain for which standards have been established, and/or whole and broken soybeans which will not pass through a 5/64 inch triangular-hole sieve, and/or whole flaxseed passing through the sieve. The definitions of other standardized grains are based on a minimum percentage of whole kernels of grain for those grains which commonly have broken kernels, and a minimum of whole and broken kernels for those grains in which broken kernels are not common. Therefore, a minimum percentage of kernels is generally used to define each grain, except in the case of soybeans which are defined on the basis of a minimum percentage of whole and broken kernels remaining on top of a 5/64 inch round-hole sieve which gives similar results to the 5/64 inch triangular-hole sieve which will be used for the mixed grain standards. Thus, the mixed grain standards would be consistent with other grain standards.

6. Another revision changes the basis for determining the percentage of each type of grain present in a mixture and the amount of damaged kernels, to the basis of the grain after sieving. Sieving tests conducted by FGIS showed that the use of a 5/64 inch triangular-hole sieve to separate fine material significantly shortened the time required for the hand-picking process, thus facilitating the manual separation of whole and broken kernels of each kind of grain and damaged kernels. Because the bulk of the fine material passing through the sieve (fines) is of indeterminate value and origin, this material is categorized with foreign material to create a new grading factor, *foreign material and fines*.

7. The current definitions in the mixed grain standards for moisture and test weight per bushel contain obsolete or no longer used references. The definitions are updated and clarified.

8. The equipment and procedures referred to in the mixed grain standards are applicable to grain produced and harvested under normal environmental conditions. To conform to other standards, provision is made to provide that, when adverse growing or harvesting conditions make the use of routine procedures impractical, minor temporary modifications in the equipment or procedures may be made to obtain results expected under normal conditions. Accordingly, the addition of a new section 810.454 on temporary modifications in equipment and procedures is included. However, adjustments in interpretations (i.e., identity, quality, and condition) shall not be made.

9. In the interest of promoting clarity and uniformity throughout the grain standards, a new section 810.455, *Percentages* is added to reflect rounding and recording procedures (whole or tenths of a percent) for all percentage determinations made under the mixed grain standards. The present standards states that percentages of each kind of grain shall be stated in terms of whole percents.

10. The specific limit of two crotalaria seeds in a 1000 gram sample is included in the new section 810.456(b) to more clearly define the U.S. Sample grade Mixed Grain. This limit is currently imposed by section 810.901 which renders grain exceeding this limit as distinctly low quality. 7 CFR 810.901, through still applicable to other grains, would no longer be applicable to mixed grain.

11. Because the special grades *Smutty* and *Garlicky* are applicable to samples of triticale under the U.S. Standards for Triticale, provision is made for the application, when appropriate, of these special grades in mixtures in which triticale predominates. Special grades *Smutty* and *Garlicky* are currently applied to samples of wheat and rye and to samples of mixed grain in which wheat and rye are predominant.

12. Section 810.901 is revised so it does not apply to mixed grain, since the provisions of this section will be included in the Sample grade definition for Mixed grain. This section will then only apply to the standards for corn, rye, soybeans, and flaxseed. As these four standards are reviewed, the provisions of section 810.901 will be incorporated elsewhere in the standards with the intention of eventually eliminating section 810.901 from all standards. The interpretation in section 810.901 has already been incorporated in the standards for wheat, barley, oats, sorghum, and triticale.

13. Incorporated also into this revision are nonsubstantative changes to update references to handbooks and FGIS.

List of Subjects in 7 CFR Part 810

Export, grain.

PART 810—[AMENDED]

Accordingly, §§ 810.451–810.453 and § 810.901 and §§ 810.454–810.459 are revised to read as follows:

United States Standards for Mixed Grain

Terms Defined

Sec.
810.451 Definition of mixed grain.
810.452 Definition of other terms.

Principles Governing Application of Standards

810.453 Basis of determination.
810.454 Temporary modifications in equipment and procedures.
810.455 Percentages.

Grades, grade requirements, and grade designations

810.456 Grades and grade requirements.
810.457 Grade designation.

Special Grades, Special Grade Requirements and Special Grade Designations

810.458 Special grades and special grade requirements.
810.459 Special grade designations.

UNITED STATES STANDARDS FOR MIXED GRAIN [1]

Terms Defined

§ 810.451 Definition of mixed grain.

Mixed grain shall be any mixture of grains for which standards have been established under the United States Grain Standards Act, provided that such mixture does not come within the requirements of any of the standards for such grains and that such mixture consists of 50 percent or more of whole kernels of grain and/or whole and broken soybeans which will not pass through a 5/64 inch triangular-hole sieve and/or whole flaxseed passing through such a sieve.

§ 810.452 Definition of other terms.

(a) *Grades. U.S. Mixed Grain,* or *U.S. Sample grade Mixed Grain,* and special grades provided for in § 810.458.

(b) *Foreign material and fines.* All material except whole flaxseed which passes through a 5/64 inch triangular-hole sieve, and all material other than grains for which standards have been established under the Act, remaining on top of the sieve.

(c) *Damaged kernels.* Kernels and pieces of kernels of grains for which standards have been established under the Act, which are heat damaged, sprouted, frosted, badly ground damaged, badly weather damaged, moldy, diseased, or otherwise materially damaged.

(d) *Heat-damaged kernels.* Kernels and pieces of kernels of grain for which standards have been established under the Act, and which have been materially discolored and damaged by heat.

(e) *Moisture.* Water content in mixed grain as determined by an approved device in accordance with procedures prescribed in the Equipment Handbook[2] for the kind of grain which predominates in the mixture. For the purpose of this paragraph, *approved device* shall include any equipment that is approved by the Administrator as giving equivalent results.[3]

(f) *Stones.* Concreted earthy or mineral matter and other substances of similar hardness that do not disintegrate readily in water.

(g) *Test weight per bushel.* The weight per Winchester bushel (2,150.42 cubic-inch capacity) as determined on a test portion of the representative sample using a approved device in accordance with instruction in the Grain Inspection Handbook.[2] Test weight per bushel shall be expressed in whole and half pounds; a fraction of a half pound shall be disregarded. For the purpose of this paragraph, *approved device* shall include any equipment that is approved by the Administrator as giving equivalent results.[3]

Principles Governing Application of Standards

§ 810.453 Basis of determination.

Damaged and heat-damaged kernels, and the percentage of each kind of grain in the mixture shall be on the basis of the sample after removal of foreign material and fines. Test weight, moisture, odor, and foreign material and fines shall be determined on the basis of the sample as a whole. Determinations

[1] Compliance with the provisions of these standards does not excuse failure to comply with the provisions of the Federal Food, Drug, and Cosmetic Act, or other Federal Laws.

[2] The Equipment Handbook and the Grain Inspection Handbook copies may be obtained from the Federal Grain Inspection Service, U.S. Department of Agriculture, 1400 Independence Avenue SW., Washington, D.C. 20250.

[3] Requests for information on approved devices and procedures, criteria for approved devices, and requests for approval of devices should be directed to the Federal Grain Inspection Service, U.S. Department of Agriculture, 1400 Independence Avenue SW., Washington, D.C. 20250.

of definition are also made on the basis of the sample as a whole.

§ 810.454 Temporary modifications in equipment and procedures.

The equipment and procedures referred to in the mixed grain standards are applicable to grain produced and harvested under normal environmental conditions. Abnormal environmental conditions during the production and harvest of grain may require minor temporary modifications in the equipment or procedures to obtain results expected under normal conditions. When these adjustments are necessary, proper notification will be made in a timely manner. Adjustments in interpretations (i.e., identity, quality, and condition) are excluded and shall not be made.

§ 810.455 Percentages.

(a) Percentages shall be determined on the basis of weight and shall be rounded off as follows:

(1) When the figure to be rounded is followed by a figure greater than 5, round to the next higher figure; for example, state 0.46 as 0.5.

(2) When the figure to be rounded is followed by a figure less than 5, retain the figure to be rounded only; for example, state 0.54 as 0.5.

(3) When the figure to be rounded is even and is followed by the figure 5, retain the even figure; for example, state 0.45 as 0.4. When the figure to be rounded is odd and is followed by the figure 5, round the figure to the next higher number; for example, state 0.55 as 0.6.

(b) Percentages shall be stated in whole and tenth percent to the nearest tenth percent, except when determining the definition, the percentage of each kind of grain, and foreign material and fines, which are stated in terms of whole percent.

Grades, Grade Requirements, and Grade Designations

§ 810.456 Grades and grade requirements.

(a) *U.S. Mixed Grain (Grade).* Mixed grain with not more than 15.0 percent of damaged kernels, and not more than 3.0 percent of heat-damaged kernels, and which otherwise does not meet the requirements for the grade *U.S. Sample grade Mixed Grain.*

(b) *U.S. Sample grade Mixed Grain.* Mixed grain which does not meet the requirements for the grade U.S. Mixed Grain; or which contains more than 16.0 percent of moisture; or which contains stones; or which contains more than 2 crotalaria seeds (*Crotalaria* spp.) in 1,000 grams of grain; or which is musty, or sour, or heating; or which has any commercially objectionable foreign odor except of smut or garlic; or which is otherwise of distinctly low quality.

§ 810.457 Grade designation.

(a) *Grade designation for Mixed Grain.* The grade designation for mixed grain shall include the words *U.S. Mixed Grain* or *U.S. Sample grade Mixed Grain,* and the name of each applicable special grade. The name and the approximate percentage of each kind of grain which constitutes 10.0 percent or more of the mixture in the order of predominance and when applicable, the words *other grains* followed by a statement of the percentage of the combined quantity of those kinds of grains, each of which is present in quantity less than 10.0 percent shall be shown in the remarks section of the certificate.

(b) *Optional grade designation.* Mixed grain may be certificated under certain conditions,[4] when supported by official analysis as *U.S. Sample grade or better Mixed Grain.* The special grade designations, when applicable, also shall be included (under certain conditions [4]) in the certification.

Special Grades, Special Grade Requirements and Special Grade Designations

§ 810.458 Special grades and special grade requirements.

(a) *Smutty mixed grain.* (1) Mixed grain in which wheat, rye, or triticale predominates, and which contains balls, portions of balls, or spores of smut in excess of a quantity equal to 14 balls of average size in 250 grams of mixed grain; or (2) any other mixed grain which has the kernels covered with smut spores, or which contains smut masses and/or smut balls in excess of 0.2 percent.

(b) *Ergoty mixed grain.* Mixed grain which contains ergot in excess of 0.10 percent.

(c) *Garlicky mixed grain.* (1) Mixed grain in which wheat, rye, or triticale predominates, and which contains 2 or more green garlic bulblets, or an equivalent quantity of dry or partly dry bulblets in 1,000 grams of mixed grain; or (2) any other mixed grain which contains 4 or more green garlic bulblets, or an equivalent quantity or dry or partly dry bulblets, in 500 grams of mixed grain.

(d) *Weevily mixed grain.* Mixed grain which is infested with live weevils or other insects injurious to stored grain.

(e) *Blighted mixed grain.* Mixed grain in which barley predominates and which, as a whole, contains more than 4.0 percent of barley damaged or materially discolored by blight and/or mold.

(f) *Treated mixed grain.* Mixed grain which has been scoured, limed, washed, sulfured, or treated in such a manner that its true quality is not reflected by the grade designation *U.S. Mixed Grain* or *U.S. Sample grade Mixed Grain.*

§ 810.459 Special grade designations.

(a) The special grade designation for smutty, ergoty, garlicky, weevily, and blighted mixed grain shall include as applicable, following the terms *U.S. Mixed Grain* or *U.S. Sample grade Mixed Grain,* the word(s) *Smutty, Ergoty, Garlicky, Weevily,* or *Blighted,* and all other information prescribed in § 810.457.

(b) The special grade designation for treated mixed grain shall include, the word *Treated,* followed by a statement indicating the kind of treatment (that is, scoured, limed, washed, or sulfured).

* * * * *

Interpretations

§ 810.901 *Interpretation with respect to the term distinctly low quality.* The term *distinctly low quality,* when used in the United States Standards for Corn, Rye, Soybeans, and Flaxseed, shall be construed to include grain which contains more than two crotalaria seeds (*Crotalaria* spp.) in 1,000 grams of grain.

(Secs. 5 and 18, Pub. L. 94-582, 90 Stat. 2869 and 2884 (7 U.S.C. 76 and 87e))

Dated: January 16, 1984.

K. A. Gilles,

Administrator.

[FR Doc. 84-2388 Filed 1-26-84; 8:45 am]

BILLING CODE 3410-EN-M

[4] The conditions are listed in the Grain Inspection Handbook. Copies may be obtained from the Federal Grain Inspection Service, U.S. Department of Agriculture, 1400 Independence Avenue SW., Washington, D.C. 20250.

Animal and Plant Health Inspection Service

9 CFR Part 53

[Docket 83-126]

Lethal Avian Influenza

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule.

SUMMARY: This document amends the regulations in 9 CFR Part 53 by authorizing the Department to cooperate with States in the control and eradication of lethal avian influenza (a disease of poultry caused by any form of H5 influenza virus that has been determined by the Deputy

Administrator, Veterinary Services, to have spread from the 1983 outbreak in poultry in Pennsylvania) and to pay up to 100 percent of the expenses of "purchase, destruction, and disposition of animals and materials required to be destroyed because of being contaminated by or exposed to" lethal avian influenza. This is necessary in order to help prevent the spread of lethal avian influenza.

DATES: Effective date is January 25, 1984. Written comments must be received on or before March 27, 1984.

ADDRESS: Written comments should be submitted to Thomas O. Gessel, Director, Regulatory Coordination Staff, APHIS, USDA, Room 728, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782. Written comments received may be inspected at Room 728 of the Federal Building, 8 a.m. to 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Dr. William W. Buisch, Chief, National Emergency Field Operations Staff, VS, APHIS, USDA, Room 747, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301–436–8073.

SUPPLEMENTARY INFORMATION:

Background

This document amends the regulations in 9 CFR Part 53 (referred to below as the regulations) which, among other things, provide for a Federal-State cooperative program for the "purchase, destruction, and disposition of animals and materials required to be destroyed because of being contaminated by or exposed to" communicable diseases of livestock or poultry under certain emergency situations. This document amends the regulations because of certain forms of avian influenza.

Serious outbreaks of avian influenza have recently occurred in poultry in Pennsylvania and other States. These outbreaks were caused by forms of H5 avian influenza virus initially found in poultry in Pennsylvania in 1983. Further, it appears that all forms of H5 avian influenza that have resulted from the virus found in poultry in Pennsylvania in 1983, including highly pathogenic avian influenza and other forms of avian influenza, are capable of causing extremely high levels of morbidity and mortality in poultry. In addition, these are the only forms of avian influenza currently known to produce significant levels of mortality in poultry in the United States.

These forms of avian influenza have been collectively named by the Department "lethal avian influenza." Accordingly, lethal avian influenza is defined as a disease of poultry caused by any form of H5 influenza virus that has been determined by the Deputy Administrator, Veterinary Services, to have spread from the 1983 outbreak in poultry in Pennsylvania.

Application of Regulations to Lethal Avian Influenza

Under the regulations the Deputy Administrator of Veterinary Services, among other things, is authorized to invite the proper State authorities to cooperate with the United States Department of Agriculture in the control and eradication of communicable diseases of poultry specified in the regulations when the Secretary of Agriculture declares that an emergency exists because of such poultry disease. The Secretary has determined that an emergency exists because of lethal avian influenza, for a Notice of Declaration of Extraordinary Emergency, see the Notices Section of today's **Federal Register.**

Prior to the effective date of this document, § 53.2(b) of the regulations also provided that the following provisions would apply after a determination of emergency had been declared:

> Upon agreement of the authorities of the State to enforce quarantine restrictions and orders and directives properly issued in the control and eradication of such a disease, the Director of Division [Deputy Administrator, Veterinary Services] is hereby authorized to agree, on the part of the Department, to cooperate with the State in the control and eradication of the disease, and to pay 50 percent (and in the case of exotic Newcastle disease up to 100 percent) of the expenses of purchase, destruction and disposition of animals and materials required to be destroyed because of being contaminated by or exposed to such disease: *Provided, however,* That if the animals were exposed to such disease prior to or during interstate movement and are not eligible to receive indemnity from any State, the Department may pay up to 100 percent of the purchase, destruction, and disposition of animals and materials required to be destroyed: *Provided, further,* That the cooperative program for the purchase, destruction, and disposition of birds shall be limited to birds as referred to in § 82.2(a) of this chapter, and which are identified in documentation pursuant to the Cooperative Agreements,[1] as constituting a threat to the poultry industry of the United States: *And provided further,* That the Secretary may authorize other arrangements for the payment of such expenses upon finding that an extraordinary emergency exists.

[1] Agreements between the Departments and the particular State involved relating to cooperative animal (including poultry) disease prevention, control, and eradication.

In order to encourage the fullest participation by poultry owners with respect to the destruction of poultry and materials affected with or contaminated with lethal avian influenza virus, it is necessary to amend the regulations to specifically provide that the regulations apply to lethal avian influenza and to allow the Department to pay 100 percent of the expenses of purchase, destruction, and disposition of poultry and materials required to be destroyed because of lethal avian influenza.

Clarifications

As noted above, § 53.2(b) provided, in part:

> That the cooperative program for the purchase, destruction, and disposition of birds shall be limited to birds as referred to in § 82.2(a) of this chapter, and which are identified in documentation pursuant to the Cooperative Agreement, as constituting a threat to the poultry industry of the United States:

The term "birds" in the quoted materials was not intended to include poultry. Therefore, for purposes of clarification, the regulations are amended to define a "bird" as "any member of the class of aves other than poultry."

Also, for purposes of clarification, the regulations are amended to define "poultry" as "chickens, ducks, geese, swans, turkeys, pigeons, doves, pheasants, grouse, partridges, quail, guinea fowl, and pea fowl."

Emergency Action

Dr. John K. Atwell, Deputy Administrator of the Animal and Plant Health Inspection Service for Veterinary Services, has determined that an emergency situation exists which warrants publication of this interim rule without prior opportunity for public comment. In order to encourage participation by poultry owners in a program designed to eradicate lethal avian influenza, immediate action is necessary to establish a mechanism for disposal of and payment for certain poultry and other items.

Further, pursuant to the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedures with respect to this interim rule are impracticable and contrary to the public interest; and good cause is found for making this interim rule effective upon signature. Comments have been solicited for 60 days after publication of this document. A final document discussing comments received and any amendments required will be published

in the Federal Register as soon as possible.

Executive Order and Regulatory Flexibility Act

The emergency nature of this action makes it impracticable for the Agency to follow the procedures of Executive Order 12291 and Secretary's Memorandum 1512–1 with respect to this interim rule. In order to encourage participation by poultry owners in a program designed to eradicate lethal avian influenza, immediate action is necessary to establish a mechanism for disposal of and payment for certain poultry and other items.

This emergency situation also makes compliance with section 603 and timely compliance with section 604 of the Regulatory Flexibility Act impracticable. Since this action may have a significant economic impact on a substantial number of small entities, the Final Regulatory Impact Analysis, if required, will address the issues required in section 604 of the Regulatory Flexibility Act.

List of Subjects in 9 CFR Part 53

Animal diseases, Indemnity payments, Livestock and livestock products, Poultry and poultry products.

Exotic newcastle disease, Foot-and-Mouth disease, Highly pathogenic avian influenza, Pleuropneumonia.

PART 53—FOOT-AND-MOUTH DISEASE, PLEUROPNEUMONIA, RINDERPEST, AND CERTAIN OTHER COMMUNICABLE DISEASES OF LIVESTOCK OR POULTRY

Under the circumstances referred to above, 9 CFR Part 53 is amended as follows:

1. In § 53.1 paragraph (f) is revised and new paragraphs (l) and (m) are added to read as follows:

§ 53.1 Definitions

* * * * *

(f) "Disease" means foot-and-mouth disease, rinderpest, contagious pleuropneumonia, or any other communicable disease of livestock or poultry which in the opinion of the Secretary constitutes an emergency and threatens the livestock industry of the country; or any other communicable disease of livestock or poultry referred to in this paragraph:

(1) The communicable disease of poultry presently existing in the States of California, Florida, New Mexico, and Texas and diagnosed as exotic Newcastle-disease, at the time of slaughter, on the basis of clinical or laboratory evidence, by a Veterinary Services employee or representative of the particular State involved.

(2) Lethal avian influenza (a disease of poultry caused by any form of H5 influenza virus that has been determined by the Deputy Administrator, Veterinary Services, to have spread from the 1983 outbreak in poultry in Pennsylvania).

* * * * *

(l) "Bird" means any member of the class aves other than poultry.

(m) "Poultry" means chickens, ducks, geese, swans, turkeys, pigeons, doves, pheasants, grouse, partridges, quail, guinea fowl, and pea fowl. 2. In § 53.2(b) "(and in the case of exotic Newcastle disease up to 100 percent)" is changed to "(and in the case of exotic Newcastle disease or lethal avian influenza, up to 100 percent)".

Authority: Sec. 3, 23 Stat. 32, as amended, sec. 2, 32 Stat. 792, as amended, sec. 11, 58 Stat. 734, as amended; 21 U.S.C. 111, 114, 114a, unless otherwise noted; 7 CFR 2.17, 2.51, and 371.2(d).

Done at Washington, D.C., this 25th day of January, 1984.

J. K. Atwell,

Deputy Administrator, Veterinary Services.

[FR Doc. 84–2447 Filed 1–25–84; 2:35 pm]

BILLING CODE 3410–34–M

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9 CFR Part 78

[Docket No. 83–121]

Brucellosis in Cattle; Change in Status of Arkansas

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Affirmation of interim rule.

SUMMARY: This document affirms the interim rule which amended the regulations governing the interstate movement of cattle because of brucellosis by changing the classification of the State of Arkansas from Class B to Class C. This action is necessary because it has been determined that Arkansas meets the standards for Class C but no longer meets the standards for Class B. The effect of this action is to impose more stringent restrictions on the interstate movement of cattle from Arkansas and thereby help prevent the interstate spread of brucellosis.

EFFECTIVE DATE: January 27, 1984.

FOR FURTHER INFORMATION CONTACT: Dr. Thomas J. Holt, Cattle Diseases Staff, VS, APHIS, USDA, Room 811, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301–436–5961.

SUPPLEMENTARY INFORMATION:

Background

A document published in the Federal Register on August 2, 1983 (48 FR 34943–34944) amended the brucellosis regulations (contained in 9 CFR Part 78) by changing the classification of the State of Arkansas from Class B to Class C. The amendment, which was made effective August 1, 1983, imposed more stringent restrictions on the interstate movement of cattle from Arkansas in order to prevent the interstate spread of brucellosis.

Comments were solicited for 60 days after publication of the amendment. No comments were received. The factual situation which was set forth in the document of August 2, 1983, still provides a basis for the amendment.

Executive Order 12291 and Regulatory Flexibility Act

This rule is issued in conformance with Executive Order 12291 and Secretary's Memorandum 1512–1, and has been determined to be not a "major rule." Based on information compiled by the Department, it has been determined that this action will not have a significant effect on the economy; will not cause a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; and will not cause adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

For this rulemaking action, the Office of Management and Budget has waived its review process required by Executive Order 12291 and the Department of Agriculture has waived the requirements of Secretary's Memorandum 1512–1.

This action affirms an interim rule which amends the regulations governing the interstate movement of cattle because of brucellosis by changing the classification of the State of Arkansas from Class B to Class C.

There are approximately 2 million head of cattle in Arkansas distributed among approximately 51,000 herds. The herds range in size from several head to over a thousand head. For purposes of action under the Regulatory Flexibilty Act, most of the cattle producers in Arkansas are considererd to be small entities.

Changing the status of Arkansas from Class B to Class C imposes additional testing requirements on the interstate movement of certain cattle. Records concerning the movement, testing, and

slaughter of cattle indicate that most of the cattle sold at markets in Arkansas remain in Arkansas. Cattle moved interstate from Arkansas are moved for slaughter, for use as breeding stock, or for feeding. Under the regulations, cattle moved interstate for immediate slaughter, or to quarantined feedlots will not be subject to the additional testing requirements. Also, calfhood vaccinates and cattle from Certified Brucellosis-free herds moving interstate are not subject to the additional testing under the regulations.

Although this amendment is extremely significant for helping to prevent the interstate spread of brucellosis, the number of cattle moved interstate from Arkansas which will be affected by this amendment is insignificant compared to the number of cattle moved interstate within the United States.

Under these circumstances, Mr. Bert W. Hawkins, Administrator of the Animal and Plant Health Inspection Service, has determined that this action will not have a signficant economic impact on a substantial number of small entities.

List of Subjects in 9 CFR Part 78

Animal diseases, Cattle, Quarantine, Transportation, Brucellosis.

Accordingly, the interim rule published at 48 FR 34944, August 2, 1983 is adopted as a final rule.

Authority: Secs. 4, 5, 6, 23 Stat. 32, as amended; secs. 1 and 2, 32 Stat. 791–792, as amended; sec. 3, 33 Stat. 1265, as amended; sec. 2, 65 Stat. 693; and secs. 3 and 11, 76 Stat. 130, 132 (21 U.S.C. 111–113, 114a–1, 115, 120, 121, 125, 134b, 134f); 7 CFR 2.17, 2.51, and 371.2(d).

Done at Washington, D.C. this 24th day of January 1984.

J. K. Atwell,

Deputy Administrator, Veterinary Service.

[FR Doc. 84–2380 Filed 1–26–84; 8:45 am]

BILLING CODE 3410–34–M

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9 CFR Part 94

[Docket No. 83–101]

Change in Disease Status of Chile Because of Foot-and-Mouth Disease

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Affirmation of interim rule.

SUMMARY: This document affirms the interim rule which added Chile to the list in 9 CFR 94.1(a)(2) of countries declared to be free of rinderpest and foot-and-mouth disease and added Chile to the list in 9 CFR 94.11(a) of countries free of rinderpest and foot-and-mouth disease which are subject to special restrictions on the importation of their meat and other animal products into the United States. Chile was not listed as free of rinderpest and foot-and-mouth disease only because it was infected with foot-and-mouth disease. Data furnished to the Department establishes that foot-and-mouth disease has now been eradicated from Chile. This rule allows importation of cattle, sheep, or other ruminants, or swine, or fresh, chilled or frozen meats of such animals into the United States from Chile under certain restrictions.

EFFECTIVE DATE: January 27, 1984.

FOR FURTHER INFORMATION CONTACT: Dr. R. L. Costigan, Import/Export Animals and Products Staff, VS, APHIS, USDA, Room 841, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301–436–8499.

SUPPLEMENTARY INFORMATION:

Background

A document published in the **Federal Register** on July 6, 1983 (48 FR 31005–31007) amended 9 CFR Part 94 by adding Chile to the list in § 94.1(a)(2) of countries declared to be free of rinderpest and foot-and-mouth disease and to the list in § 94.11(a) of countries free of rinderpest and foot-and-mouth disease which are subject to special restrictions on the importation of their meat and other animal products into the United States.

The interim rule became effective on the date it was signed, June 29, 1983.

Comments were solicited for 60 days after publication of the amendments. One comment, which was favorable, was received. The factual situation which was set forth in the document of July 6, 1983, still provides a basis for the amendment.

Executive Order 12291

This action has been reviewed in conformance with Executive Order 12291 and Secretary's Memorandum 1512–1, and has been determined to be not a "major rule." The Department has determined that this rule will not have an annual effect on the economy of $100 million or more; will not cause a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; and will not have any significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

For this rulemaking action, the Office of Management and Budget has waived its review process required by Executive Order 12291 and the Department of Agriculture has waived the requirements of Secretary's Memorandum 1512–1.

Certification Under the Regulatory Flexibility Act

Mr. Bert W. Hawkins, Administrator of the Animal and Plant Health Inspection Service, has determined that this action will not have a significant economic impact on a substantial number of small entities. It is anticipated that meat and other animal products offered for importation into the United States from Chile will be less than one percent of such products imported into the United States. It is also anticipated that the number of Chilean sheep, cattle, and other ruminants and swine imported into the United States will be negligible.

List of Subjects in 9 CFR Part 94

Animal diseases, Imports, Livestock and livestock products, Meat and meat products, Milk, Poultry and poultry products, Foot-and-mouth disease, Rinderpest.

Accordingly, the interim rule published at 48 FR 31007, July 6, 1983 is adopted as a final rule.

Authority: Sec. 2, 32 Stat. 792, as amended; sec. 306, 46 Stat. 689, as amended; secs. 4 and 11, 76 Stat. 130, 132; 19 U.S.C. 1306, 21 U.S.C. 111, 134c, 134f; 7 CFR 2.17, 2.51, and 371.2(d).

Done at Washington, D.C., this 24th day of January 1984.

J. K. Atwell,

Deputy Administrator, Veterinary Services.

[FR Doc. 84–2379 Filed 1–26–84; 8:45 am]

BILLING CODE 3410–34–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 83–NM–77–AD; Amdt. 39–4799]

Airworthiness Directives; McDonnell Douglas Model DC–10 and KC–10A (Military) Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adds a new airworthiness directive (AD) applicable to McDonnell Douglas DC–10 and KC–10A series airplanes. This AD requires the installation of a teflon sleeve in the fuel pump harness conduits on aircraft with over 20,000 flight hours. This

modification is needed to reduce the possibility of electrical wire chafing which may produce holes in the conduits within the tanks. Arcing in the presence of liquid fuel or fuel vapor-air mixture could lead to a fire or explosion.

DATES: Effective March 2, 1984. Compliance schedule as prescribed in the body of the AD, unless already accomplished.

ADDRESSES: The applicable service information may be obtained from: McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Director, Publications and Training, C1–750 (54–60). This information also may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington or at 4344 Donald Douglas Drive, long Beach, California.

FOR FURTHER INFORMATION CONTACT: Mr. Roy A. McKinnon, Aerospace Engineer, Propulsion Branch, ANM–140L, FAA, Northwest Mountain Region, Los Angeles Aircraft Certification Office, 4344 Donald Douglas Drive, Long Beach, California 90808, telephone (213) 548–2835.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include a new airworthiness directive (AD) requiring installation of teflon sleeves in the fuel pump harness conduits on airplanes with over 20,000 flight hours in accordance with the Accomplishment Instructions of McDonnell Douglas DC–10 Service Bulletin 24–123, Revision 1, dated November 22, 1983, or later revisions approved by the Manager, Los Angeles Aircraft Certification Office, FAA, Northwest Mountain Region, was published as a Notice of Proposed Rulemaking (NPRM) in the **Federal Register** (48 FR 37425) dated August 18, 1983. This proposal was prompted by a reported finding of two small holes in a wing tank aft fuel boost pump electrical conduit which had been removed from a high-time airplane. These holes, 5 mils and 15 mils in diameter, were caused both by chafing and by bare-wire electrical arcing to the conduit wall. Based upon inspections of conduits having .020-inch thick teflon inner linings that were removed from a wing also having high-time in service, the manufacturer estimated the normal wear to be approximately 1 mil. Although other incidents of this type have not been reported, the potential fire hazard requires precautionary measures to be taken on airplanes exceeding 20,000 hours.

Interested persons have been afforded an opportunity to participate in the making of this amendment. A total of four comments were received, one from a domestic operator, one from a foreign operator, one from the manufacturer and one from the Air Transport Association (ATA). All comments requested an increase in compliance time from 3000 flight hours to 4000 hours or more (4500 hours by the foreign operator). The domestic operator suggested that the effective date could be established to result effectively in that amount of time. The FAA agrees that an extension of time to 4000 flight hours, or one year, whichever occurs later, will not adversely impact safety. In addtion, the manufacturer suggested additional clarification of the wording in the proposed Ad and issued a telex, DC–10–COM–24/RJM dated 10/21/83, to all DC–10 operators advising them of an error in the original issuance of McDonnell Douglas DC–10 Service Bulletin 24–123. Therefore, accomplishment of the modifications described in McDonnell Douglas DC–10 Service Bulletin 24–123, Revision 1, dated November 22, 1983, constitutes compliance with this AD.

It is estimated that 171 airplanes of U.S. Registry and 22 Military airplanes will be affected by this AD. The cost for parts and labor is estimated to be $267,188 for U.S. operators and $48,950 for military airplanes. For these reasons, the rule is not considered to be a major rule under the criteria of Executive Order 12291. No small entities within the meaning of the Regulatory Flexibility Act will be affected.

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require that the rule be adopted as proposed except with the minor changes noted above.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

PART 39—[AMENDED]

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR39.13) is amended by adding the following new airworthiness directive:

McDonnell Douglas: Applies to McDonnel Douglas Model DC–10 and KC–10A (Military) series airplanes, certificated in all categories. Compliance required as indicated, unless previously accomplished.

To prevent chafing and electrical arcing in fuel tank pump electrical conduits, accomplish the following:

A. Prior to the accumulation of 20,000 hours time in service, or within the next 4000 hours time in service, or one year after the effective date of this AD, whichever occurs later, install teflon tubing in all aft fuel tank pump harness conduits (main tank aft pumps and center wing tank pumps) in accordance with the Accomplishment Instructions in McDonnell Douglas DC–10 Service Bulletin 24–123, Revision 1, dated November 22, 1983, or later revisions approved by the Manager, Los Angeles Aircraft Certification Office, FAA, Northwest Mountain Region.

B. Prior to the accumulation of 30,000 hours time in service, or within the next 4000 hours time in service, or one year after the effective date of this AD, whichever occurs later, install teflon tubing in all remaining fuel tank pump harness conduits in accordance with the Accomplishment Instructions in McDonnell Douglas DC–10 Service Bulletin 24–123, Revision 1, dated November 22, 1983, or later revisions approved by the Manager, Los Angeles Aircraft Certification Office, FAA, Northwest Mountain Region.

C. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

D. Alternate means of compliance providing an equivalent level of safety may be used when approved by the Manager, Los Angeles Aircraft Certification Office, FAA, Northwest Mountain Region.

All persons affected by this amendment who have not already received these documents from the manufacturer may obtain copies upon request to the McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Director, Publications and Training, C1–750 (54–60). These documents also may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington or at 4344 Donald Douglas Drive, Long Beach, California.

This Amendment becomes effective March 2, 1984.

(Secs. 313(a), 314(a), 601 through 610, and 1102 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421 through 1430, and 1502); 49 U.S.C. 106(g) (Revised, Pub. L. 97–449, January 12, 1983); and 14 CFR 11.89)

Note.—For the reasons discussed earlier in the preamble, the FAA has determined that this regulation is not considered to be major under Executive Order 12291 or significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979) and it is further certified under the criteria of the Regulatory Flexibility Act that this rule will not have a significant economic effect on a substantial number of small entities because few, if any, Model DC–10 and KC–10A series airplanes are operated by small entities. A final evaluation has been prepared for this regulation and has been placed in the docket. A copy of it may be obtained by contacting the person identified under the caption "**FOR FURTHER INFORMATION CONTACT.**"

Issued in Seattle, Washington on January 17, 1984.

Wayne J. Barlow,

Acting Director, Northwest Mountain Region.

[FR Doc. 84-2285 Filed 1-26-84; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 82-NM-72-AD, Amdt. 39-4798]

Airworthiness Directives; Boeing Model 747 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that requires revision to the limitations section in the FAA approved Boeing Model 747 Airplane Flight Manual (AFM) and installation of a LOW N_1 engine rpm caution indication on the pilots' forward panel. The LOW N_1 caution and AFM information are needed to insure engines are not operated below a safe level during icing conditions. Engine operation below this minimum rpm has caused multiple engine thrust loss and engine damage during certain airplane operation in icing conditions.

DATES: Effective March 2, 1984. Compliance schedule as prescribed in the body of the AD.

ADDRESS: The applicable Service Bulletins may be obtained from The Boeing Company, P.O. Box 3707, Seattle, Washington 98124, or may be examined at the address shown below.

FOR FURTHER INFORMATION CONTACT: Mr. Kanji K. Patel, Propulsion Branch, ANM-140S, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington, telephone (206) 431-2973. Mailing Address: Federal Aviation Administration, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 (14 CFR Part 39) of the Federal Aviation Regulations to include an AD requiring revision to the limitations section in the FAA approved Model 747 AFM and installation on the pilots' forward panel of LOW N_1 rpm caution indication was published in the **Federal Register** on September 30, 1982 (47 FR 43072). Two additional notices were also published. The first invited the public to meet and present comments and the second reopened and extended the comment period. Interested persons have been afforded the opportunity to participate in the making of this amendment and due consideration has been given to all relevant data and comments provided. A total of thirteen responses were received concerning the proposed rule from the airframe manufacturer, domestic and foreign operators of the affected airplane models, engine manufacturers, and other interested parties. Based on the responses received and upon further review within the FAA, several substantive changes and changes of an editorial and clarifying nature have been made to the proposed rule.

Discussion of Comments

A discussion of the major comments received and the FAA position thereon follows:

Four commenters addressed the definition of icing conditions published in the NPRM. One agreed with the FAA proposed definition of icing conditions while the other three agreed to the changes to the definition proposed by the Air Transport Association (ATA). The ATA considered the FAA definition of icing conditions too restrictive for operators exposed to colder environment since it would have required operation of the anti-icing system during conditions of packed snow where the threat of ingestion is remote. The FAA has agreed with this assessment, and the rule as adopted, has been revised accordingly. The ATA proposed definition of icing conditions also introduced two levels of temperature, 8°C OAT and 10°C TAT for ground and inflight operations, respectively. The FAA does not agree with this change. The FAA considers the standard 10°C, either OAT or TAT, that has been in use for some time is appropriate and that it represents an accepted industry standard. A minor variation like this is also likely to cause improper operation of the anti-ice system, the crew to err, and it does not represent a significant restriction or economic burden to operators. Therefore, the ATA proposed definition is adopted in the final rule, except the temperature reference has been changed from 8°C OAT to 10°C OAT.

One commenter stated that either definition is going to increase fuel cost. FAA agrees with the assessment of fuel cost increase, however, the FAA considers the fuel cost impact would be insignificant and necessary in the interest of safety.

Four commentators addressed and agreed to the proposed revision to the AFM Limitation Section to incorporate the N_1 limitations for operations in icing conditions and a definition of icing conditions.

Eight commenters stated that the requirement of continuous ignition during icing conditions should be withdrawn since the continuous ignition requirement would reduce the igniter service life. This would have a negative impact on the availability of the system when needed and would also increase the cost of maintenance. Additionally, no sufficient service experience data are available to substantiate that continuous ignition in icing conditions will prevent engine flameouts or would enhance the restart capability. The FAA agrees with the assessment and the continuous ignition requirement is deleted from the final rule.

Eight commenters addressed the requirement for the LOW N_1 rpm indication system. Out of eight, two had no objection and one stated that the installation is not burdensome. One is pursuing alternative means of compliance which would require less time and expense. The FAA will consider all alternative means of compliance based on equivalent safety. One stated that the altitude bias switch (Baro-Switch for 10,000 feet) should be an option for those who want to use 50% N_1 for all altitudes. The FAA agrees as it would be a conservative approach to ice protection. The Australian Department of Aviation disagreed with the Low N_1 indication requirement and stated that it would not be made manadatory in Australian registered aircraft. Three proposed to implement a comprehensive crew training program instead of the Low N_1 indication system. The FAA does not agree. The evidence presented by the reported incidents indicates that the training has not prevented the crew from entering the icing conditions with engines at lower than the required N_1 speed and/or with the anti-icing system "OFF."

Two commenters suggested development of reliable ice detectors by the (airframe) manufacturers. The FAA has no comment on this as the subject of development of a reliable ice detector is outside the scope of this AD.

Two commenters suggested, in addition to comprehensive crew training, installation of minimum N_1 placards next to the engine anti-ice switches in lieu of a low N_1 alerting system. The FAA disagrees. The placards are considered to have the same effect as the AFM limitations. They are inactive visual cues. They do not have the same effect as the conspicuous flashing alert signal, an annunciation in the cockpit which is not likely to be ignored by the crew.

One commenter stated that the low N_1 indication system installation penalizes all airlines because some do not follow the AFM published procedures. The FAA disagrees with this statement. It is ot FAA's intention to penalize any operator. The AFM procedures are designed to enhance the safety of the airplane. Strict adherence to the approved procedures is required. However, service experience has shown that the AFM procedural requirement has not prevented operation of engines at lower than the required N_1 rpm. Therefore, the FAA believes that the low N_1 indication requirement is necessary in the interest of safety.

Three commenters objected to the 12-month compliance period proposed in the NPRM. All three of them thought the 12-month compliance period would impose an undue economic burden by having to require scheduling an airplane into maintenance solely for the purpose of the LOW N_1 system installation. These commenters preferred a compliance schedule that would be compatible with the "C" check of the airplane. The FAA agrees with this assessment and the compliance period in the rule as adopted has been revised upward to 24 months.

Cost Estimate

It has been estimated that approximately 160 airplanes will be affected by this AD, that it will involve less than 100 man hours per airplane to accomplish the modification and AFM revisions, and the average labor cost will be less than $35 per manhour. Necessary modification components are estimated to cost less than $4000 per airplane. Based upon these estimates, the total cost impact of this AD is estimated to be less than $7500 per airplane for a total cost of $1,200,000 for U.S. registered airplanes. For these reasons, the rule is not considered to be a major rule under the criteria of Executive Order 12291. No small entities within the meaning of the Regulatory Flexibility Act would be affected.

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and public interest require the adoption of the proposed rule wih the changes previously noted.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Regulations (14 CFR 39.13) is amended by adding the following new airworthiness directive:

Boeing: Applies to Boeing Model 747 series airplanes certificated in all categories. Compliance required as indicated, unless already accomplished.

A. To clarify the operation of the anti-icing system, emphasize the need to maintain the specified minimum N_1 engine rpm during icing conditions, and expand the definition of icing conditions, accomplish the following: Within 120 days from the effective date of this AD, unless already accomplished, revised the FAA approved Airline Flight Manual (AFM) Certificate Limitations Section by adding:

"ENGINE ANTI-ICE SYSTEM

When penetrating or operating in Icing Conditions, maintain a minimum of 50% N_1 rpm at 10,000 feet and above, and 45% N_1 rpm for Pratt & Whitney JT9D and General Electric CF6 engines, and 42% N_1 for Rolls Royce RB211 engines, below 10,000 feet altitude, except as required for landing.

Nacelle anti-ice must be ON during all ground and flight operations when icing conditions exist or are anticipated, except during climb and cruise when the temperature is below −40°C SAT. Nacelle anti-ice must be ON prior to and during descent in all icing conditions, including temperatures below −40°C SAT.

Note: Icing Conditions—Icing Conditions exist when the OAT on the ground and for takeoff, or TAT inflight is 10°C or below and visible moisture in any form is present (such as clouds, fog with visibility of one mile or less, rain, snow, sleet, and ice crystals).

Icing conditions also exist when the OAT on the ground and for takeoff is 10°C or below when operating on ramps, taxiways or runways where surface snow, ice, standing water, or slush may be ingested by the engines or freeze on engines, nacelles or engine sensor probes."

B. To alert the flight crew of engine operation at a lower N_1 than required for icing condition, install a LOW N_1 rpm caution indication system as follows:

Within 24 months from the effective date of this AD, unless already accomplished, provide "LOW N_1" indication that will alert the flight crew that the nacelle anti-ice is "ON and N_1 is less than 45% N_1 (42% N_1 for RB211 engines) blow 10,000 feet, and is less than 50% N_1 above 10,000 feet altitude.

Note.—The LOW N_1 indication may be provided by incorporating Boeing Service Bulletin S/B 747–77–2060 for the JT9D Pratt & Whitney powered airplanes and S/B 747–77–2063 for General Electric CF6 and Rolls Royce RB211 powered airplanes.

Both service bulletins have been approved by the FAA and were released on February 14, 1983. The service bulletins may be obtained from the Boeing Company at the following address: The Boeing Company, P.O. Box 3707, Seattle, Washington 98124.

C. Alternate means of compliance with the AD which provide an equivalent level of safety may be used when approved by the Manager, Seattle Aircraft Certification Office, FAA, 9010 East Marginal Way South, Seattle, Washington.

D. A special flight permit may be issued in accordance with FAR 21.197 and 21.199 for the purpose of flying the aircraft which has exceeded the compliance period to a maintenance facility where the modification can be performed.

This amendment becomes effective on March 2, 1984.

(Sec. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.89)

Note.—For the reasons discussed earlier in the preamble, the FAA has determined that this regulation is not considered to be major under Executive Order 12291 or significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979) and it is further certified under the criteria of the Regulatory Flexibility Act that this rule will not have a significant economic effect on a substantial number of small entities because few, it any, small entities operate the model 747 aircraft. A final evaluation has been prepared for this regulation and has been placed in the docket. A copy of it may be obtained by contacting the person identified under the caption **"FOR FURTHER INFORMATION CONTACT."**

Issued in Seattle, Washington on January 17, 1984.

Wayne J. Barlow,

Acting Director, Northwest Mountain Region.

[FR Doc. 84–2208 Filed 1–26–84; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR PART 71

[Airspace Docket Number 83–ACE–19]

Alteration of Transition Area, Storm Lake, Iowa

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The nature of this Federal action is to alter the 700-foot transition area at Storm Lake, Iowa, to revise the instrument approach procedure utilizing the Storm Lake, Iowa, Nondirectional Radio Beacon (NDB). The final approach bearing has been realigned to improve the procedure, which necessitates this change. The intended effect of this action is to ensure segregation of aircraft using the new approach procedure under Instrument Flight Rules (IFR) and other aircraft operating under Visual Flight Rules (VFR).

EFFECTIVE DATE: May 10, 1984.

FOR FURTHER INFORMATION CONTACT:

Dwaine Hiland, Airspace Specialist, Operations, Procedures and Airspace Branch, Air Traffic Division, ACE–532, FAA, Central Region, 601 East 12th

Street, Kansas City, Missouri 64106, Telephone (816) 374–3408.

SUPPLEMENTARY INFORMATION: To enhance airport usage an instrument approach procedure to the Storm Lake, Iowa, Municipal Airport utilizing the Storm Lake NDB as a navigational aid is being revised by realigning the final approach bearing which will improve the present procedure. The revised approach procedure entails alteration of the transition area at Storm Lake, Iowa, at and above 700 feet above the ground (AGL), within which aircraft are provided air traffic control service. The intended effect of this action is to ensure segregation of aircraft using the new approach procedure under Instrument Flight Rules (IFR) and other aircraft operating under Visual Flight Rules (VFR).

Discussion of Comments

On Pages 52322 and 52323 of the **Federal Register**, dated November 17, 1983, the FAA published a Notice of Proposed Rulemaking which would amend Section 71.181 of Part 71 of the Federal Aviation Regulations so as to alter the transition area at Storm Lake, Iowa. Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No objections were received as a result of the Notice of Proposed Rulemaking.

List of Subjects in 14 CFR Part 71

Aviation safety, Transition areas.

Accordingly, pursuant to the authority delegated to me, § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, effective 0901 GMT, May 10, 1984, by altering the following transition area:

Storm Lake, Iowa

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the Storm Lake, Iowa, Municipal Airport (Latitude 42°36′00″N, Longitude 95°15′00″W) and within three (3) miles each side of the 185° bearing from the Storm Lake NDB (Latitude 42°36′00″N, Longitude 95°14′30″W) extending from the 6.5-mile radius area to 8.5 miles south of the airport.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); 49 U.S.C. 106(g) (Revised, Pub. L. 97–449, January 12, 1983); and Sec. 11.69 of the Federal Aviation Regulations (14 CFR 11.69)

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Kansas City, Missouri, on January 19, 1984.

John E. Shaw,

Acting Director, Central Region.

[FR Doc. 84–2269 Filed 1–26–84; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 71

[Airspace Docket No. 83–AWA–33]

Alteration of VOR Federal Airway V–508; Wichita, KS

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment alters the description of VOR Federal Airway V–508 located in the vicinity of Wichita, KS. The Wichita VORTAC has been relocated and appropriate airspace action completed (ASD 83–ACE–2). During a recent airways review, we found a 9-mile segment of V–508, located between CHARI, KS, Intersection and Manhattan, KS, VORTAC that had been inadvertently overlooked during the realignment of airspace associated with the Wichita VORTAC. This amendment corrects that omission. It was intended that V–508 and V–261, between CHARI Intersection and Manhattan, KS, should coincide.

DATES: Effective date—March 15, 1984.

Comments must be received on or before March 12, 1984.

ADDRESSES: Send comments on the rule in triplicate to: Director, FAA, Central Region, Attention: Manager, Air Traffic Division, Docket No. 83–AWA–33, Federal Aviation Administration, 601 East 12th Street, Federal Building, Kansas City, MO 64106.

The official docket may be examined in the Rules Docket, weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m. The FAA Rules Docket is located in the Office of the Chief Counsel, Room 916, 800 Independence Avenue, SW., Washington, D.C.

An informal docket may also be examined during normal business hours at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Lewis W. Still, Airspace and Air Traffic Rules Branch (AAT–230), Airspace-Rules and Aeronautical Information Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426–8626.

SUPPLEMENTARY INFORMATION:

Request for Comments on the Rule

Although this action is in the form of a final rule, which involves amending the description of a segment of V–508 located in the vicinity of Wichita, KS, that is also codesignated with V–261, and, thus, was not preceded by notice and public procedure, comments are invited on the rule. When the comment period ends, the FAA will use the comments submitted, together with other available information, to review the regulation. After the review, if the FAA finds that changes are appropriate, it will initiate rulemaking proceedings to amend the regulation. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in evaluating the effects of the rule and determining whether additional rulemaking is needed. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy aspects of the rule that might suggest the need to modify the rule.

The Rule

The purpose of this amendment to § 71.123 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is to alter the description of V–508 that was inadvertently overlooked during the realignment of airways associated with the relocation of the Wichita, KS, VORTAC (ASD 83–ACE–2). Section 71.123 of Part 71 of the Federal Aviation Regulations was republished in Advisory Circular AC 70–3A dated January 3, 1983.

Since this action merely makes a small change to the description of a 9–mile segment of VOR Federal Airway V–508, I find that notice or public procedure under 5 U.S.C. 553(b) is unnecessary and that good cause exists for making this amendment effective on the next charting date.

List of Subjects in 14 CFR Part 71

Aviation safety, VOR Federal airways

Adoption of the Amendment

PART 71—[AMENDED]

Accordingly, pursuant to the authority delegated to me, § 71.123 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, effective 0901 G.m.t., March 15, 1984, as follows:

V–508 [Amended]

By deleting the words "Salina, KS; INT Salina 080° and Manhattan, KS, 213° radials; Manhattan;" and substituting the words "Salina, KS, INT Salina 080° and Manhattan, KS, 207° radials; Manhattan;"

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); (49 U.S.C. 106(g) (Revised, Pub. L. 97–449, January 12, 1983)); and 14 CFR 11.69)

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Washington, D.C., on January 19, 1984.

B. Keith Potts,

Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 84-2280 Filed 1-25-84; 8:45 am]

BILLING CODE 4910-01-M

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14 CFR Part 71

[Airspace Docket No. 83-ANE-26]

Amend the Description of the Hartford, Connecticut 700-Foot Transition Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment alters the description of the 700-foot transition area at Hartford, Connecticut. The microwave landing system/distance measuring equipment (MLS/DME) Runway 22 instrument approach procedure (SIAP) to Rentschler Field, East Hartford, Connecticut, is being changed and, as a result, this alteration of the Hartford 700-foot transition area is required to contain Instrument Flight Rules (IFR) arrival procedures.

EFFECTIVE DATE: May 10, 1984.

FOR FURTHER INFORMATION CONTACT: David Hurley, Operations Procedures and Airspace Branch, ANE–530, Federal Aviation Administration, Air Traffic Division, 12 New England Executive Park, Burlington, Massachusetts 01803; telephone (617) 273–7385.

SUPPLEMENTARY INFORMATION:

History

On Tuesday, December 6, 1983, a notice of proposed rulemaking was published in the **Federal Register** [48 FR 54645] stating that the FAA proposed to change the description of the 700-foot transition area at Hartford, Connecticut. This amendment is necessary due to a change in the MLS/DME Runway 22 instrument approach procedure to Rentschler Field, East Hartford, Connecticut. Interested persons were invited to participate in the rulemaking process by submitting written comments on the proposal to the FAA. No objections were received.

List of Subjects in 14 CFR Part 71

Aviation safety, Transition areas.

Adoption of the Amendment

PART 71—[AMENDED]

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration amends Section 71.181 of the Federal Aviation Regulations [14 CFR Part 71] as follows:

Hartford, Connecticut

Delete after the words "runway threshold" the following:

"* * * and within 4.5 miles each side of Runway 22 centerline extended from the 9 mile radius to 10 miles northeast of the runway threshold;"

Insert after the words "runway threshold" the following:

"* * * and within 5 miles each side of Runway 22 centerline extended from the 9 miles radius to 11 miles northeast of the runway threshold;"

(Secs. 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); (49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983)), and 14 CFR 11.69)

Note.—The FAA has determined that this regulation involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, it is certified that this (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal; (4) the rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Burlington, Massachusetts, on January 17, 1984.

Robert E. Whittington,

Director, New England Region.

[FR Doc. 84-2284 Filed 1-26-84; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 83-ASO-38]

Designation of Transition Area, Jefferson, Georgia

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment designates the Jefferson, Georgia, transition area in the vicinity of Jackson County Airport. This action will lower the base of controlled airspace from 1,200 to 700 feet above the surface to provide controlled airspace for Instrument Flight Rule (IFR) operations in the vicinity of the airport. An instrument approach procedure, predicated on the Athens VORTAC facility, has been developed to serve the airport and additional controlled airspace is required for protection of IFR operations.

EFFECTIVE DATE: 0901 G.m.t., March 15, 1984.

FOR FURTHER INFORMATION CONTACT: Donald Ross, Airspace and Procedures Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone: (404) 763–7646.

SUPPLEMENTARY INFORMATION:

History

On Friday, November 25, 1983, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) by designating the Jefferson, Georgia, transition area to provide controlled airspace for protection of IFR operations in the vicinity of Jackson County Airport (48 FR 53130). An instrument approach procedure has been developed to serve the airport and this action will designate controlled airspace for containment of instrument flight activities in the vicinity of the airport. Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. All comments received were favorable. Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in Advisory Circular AC 70–3A dated January 3, 1983.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations designates the Jefferson, Georgia, transition area and lowers the base of controlled airspace in the vicinity of Jackson County Airport from 1,200 to 700 feet above the surface.

List of Subjects in 14 CFR Part 71

Aviation safety, Airspace, Transition area.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, the Jefferson, Georgia, transition area is designated under § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) (as amended) effective 0901 G.m.t., March 15, 1984, as follows:

Jefferson, GA—[New]

That airspace extending upwards from 700 feet above the surface within a 6.5-mile radius of Jackson County Airport (Lat. 34 34°11'00"N., Long. 83°33'00"W.).

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); 49 U.S.C. 106(g) (Revised, Public Law 97-449, January 12, 1983))

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in East Point, Georgia, on January 13, 1984.

George R. LaCaille,

Acting Director, Southern Region.

[FR Doc. 84-2281 Filed 1-26-84; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 84-ASO-1]

Alteration of Transition Area, Alabaster, Alabama

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment alters the Alabaster, Alabama, transition area by revising the coordinates of two airports and revoking two transition area arrival extensions. The geographical coordinates of the airports are improperly listed and this action will correct the deficiency. The arrival extensions were previously designated to provide controlled airspace for aircraft executing instrument approach procedures to Shelby County Airport and Bessemer Airport. However, as the non-Federal radio beacons which were to support the procedures have never been commissioned, the arrival extensions are not required.

DATES: Effective date: 0901 G.m.t., April 12, 1984. Comments must be received on or before March 12, 1984.

ADDRESSES: Send comments on the rule in triplicate to: Federal Aviation Administration, ATTN: Manager, Airspace and Procedures Branch, ASO-530, Air Traffic Division, P.O. Box 20636, Atlanta, Georgia 30320.

The official docket may be examined in the Office of the Regional Counsel, Room 652, 3400 Norman Berry Drive, East Point, Georgia 30344, telephone: (404) 763-7646.

FOR FURTHER INFORMATION CONTACT: Donald Ross, Airspace and Procedures Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone (404) 763-7646.

SUPPLEMENTARY INFORMATION:

Request for Comments on the Rule

Although this action is in the form of a final rule, which involves revising the geographical coordinates of two airports and revoking two transition area arrival extensions and was not preceded by notice and public procedure, comments are invited on the rule. When the comment period ends, the FAA will use the comments submitted, together with other available information, to review the regulation. After the review, if the FAA finds that changes are appropriate, it will initiate rulemaking proceedings to amend the regulation. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in evaluating the effects of the rule and determining whether additional rulemaking is needed. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy aspects of the rule that might suggest the need to modify the rule.

The Rule

The purpose of this amendment to § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is to revise the coordinates of two airports and to raise the floor of controlled airspace from 700 feet to 1,200 feet above the surface in an area of approximately 15 square miles southwest of Bessemer Airport and 36 square miles south of Shelby County Airport. Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in Advisory Circular AC 70-3A dated January 3, 1983. Under the circumstances presented, the FAA concludes that there is a need to properly list the coordinates of two airports and raise the floor of controlled airspace in the vicinity of the airports. The changes relieve a restriction and are so minor I find that notice or public procedure under 5 U.S.C. 553(b) is unnecessary.

List of Subjects in 14 CFR Part 71

Aviation safety, Airspace, Transition area.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, the Alabaster, Alabama, transition area under § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) (as amended) is further amended, effective 0901 G.m.t., April 12, 1984, as follows:

Alabaster, AL [Revised]

That airspace extending upward from 700 feet above the surface within a 7-mile radius of Shelby County Airport (Lat. 33°10'41"N., Long. 86°47'01"W.), within a 6.5-mile radius of Bessemer Airport (Lat. 33°18'52"N., Long. 86°55'24"W.); excluding that portion that coincides with the Birmingham transition area.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); 49 U.S.C. 106(g) (Revised, Public Law 97-449, January 12, 1983.)

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in East Point, Georgia, on January 18, 1984.

George R. LaCaille,

Acting Director, Southern Region.

[FR Doc. 84-2282 Filed 1-26-84; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 157

[Docket No. RM81-19]

Natural Gas Pipeline Certificates

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Order of the Director, OPPR.

SUMMARY: Pursuant to the authority delegated by 18 CFR 375.307 (t), the Director of the Office of Pipeline and Producer Regulation computes and publishes the project cost and annual limits for projects relating to natural gas sales and transportation specified in Table I of § 157.208(d) and Table II of § 157.215(a) for each calendar year.

EFFECTIVE DATE: January 1, 1984.

FOR FURTHER INFORMATION CONTACT: Kenneth A. Williams, Director, OPPR (202) 357-8500.

SUPPLEMENTARY INFORMATION:

Issued: January 23, 1984.

Section 157.208(d) of the Commission's Regulations provides for project cost limits applicable to construction, acquisition, operation and miscellaneous rearrangement of facilities (Table I) authorized under the blanket certificate procedure (Order No. 234, 19 FERC ¶ 61,216). Section 157.215(a) specifies the calendar year dollar limit which may be expended on underground storage testing and development (Table II) authorized under the blanket certificate. Section 157.208(d) requires that the "limits specified in Tables I and II shall be adjusted each calendar year to reflect the 'GNP implicit price deflator' published by the Department of Commerce for the previous calendar year."

Pursuant § 375.307(t) of the Commission's Regulations, the authority for the publication of such cost limits, as adjusted for inflation, is delegated to the Director of the Office of Pipeline and Producer Regulation. The cost limits for calendar years 1982 through 1984, as published in Table I of § 157.208(d) and Table II of § 157.215(a), are hereby issued.

List of Subjects in 18 CFR Part 157

Natural gas.

Kenneth A. William,

Director, Office of Pipeline and Producer Regulation.

PART 157—[AMENDED]

1. In § 157.208(d) table I is revised to read as follows:

§ 157.208 Construction, acquisition, operation, and miscellaneous rearrangement of facilities.

* * * * *

(d) * * *

TABLE I

Year	Limit	
	Auto. proj. cost limit (col. 1)	Prior notice proj. cost limit (col. 2)
1982	$4,200,000	$12,000,000
1983	4,500,000	12,800,000
1984	4,700,000	13,300,000

* * * * *

2. In section 157.215(a) table II is revised to read as follows:

§ 157.215 Underground storage testing and development.

(a) * * *

Table II

Year	Limit
1982	$2,700,000
1983	2,900,000
1984	3,000,000

* * * * *

Authority: Natural Gas Act, 15 U.S.C. 717-717w.

[FR Doc. 84-2245 Filed 1-26-84; 8:45 am]

BILLING CODE 6717-01-M

18 CFR Part 271

[Docket No. RM80-53]

Natural Gas Policy Act; Ceiling Prices; Maximum Lawful Prices

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Order of the Director, OPPR.

SUMMARY: Pursuant to the authority delegated by 18 CFR 357.307(1), the Director of the Office of Pipeline and Producer Regulation revises and publishes the maximum lawful prices prescribed under Title I of the Natural Gas Policy Act (NGPA) for the months of February, March and April 1984, section 101(b)(6) of the NGPA requires that the Commission compute and publish the maximum lawful prices before the beginning of each month for which the figures apply.

EFFECTIVE DATE: February 1, 1984.

FOR FURTHER INFORMATION CONTACT: Kenneth A. Williams, Director, OPPR (202) 357-8500.

SUPPLEMENTARY INFORMATION: Section 101(b)(6) of the Natural Gas Policy Act of 1978 (NGPA) requires that the Commission compute and make available maximum lawful prices and inflation adjustments prescribed in Title I of the NGPA before the beginning of any month for which such figures apply.

Pursuant to this requirement and § 375.307(1) of the Commission's regulations, which delegates the publication of such prices and inflation adjustments to the Director of the Office of Pipeline and Producer Regulation, the maximum lawful prices for the months of February, March and April 1984, are issued by the publication of the price tables for the applicable quarter. Pricing tables are found in § 271.101(a) of the Commission's regulations. Table I of § 271.101(a) specifies the maximum lawful prices for gas subject to NGPA sections 102, 103, 106(b)(1)(B), 107(c)(5), 108 and 109. Table II of § 271.101(a) specifies the maximum lawful prices for sections 104 and 106(a) of the NGPA. Table III of § 271.102(c) contains the inflation adjustment factors. The maximum lawful prices and the inflation adjustment factors for the periods prior to February 1984 are found in the tables in §§ 271.101 and 271.102.

List of Subjects in 18 CFR Part 271

Natural gas.

Kenneth A. Williams,

Director, Office of Pipeline and Producer Regulation.

PART 271—[AMENDED]

§§ 271.101 and 271.102 [Amended]

1. Section 271.101(a) is amended by inserting the maximum lawful prices for February, March and April 1984 in Tables I and II.

2. Section 271.102(c) is amended by inserting the inflation adjustment for the months of February, March and April 1984 in Table III.

TABLE I.—NATURAL GAS CEILING PRICES (OTHER THAN NGPA SECTIONS 104 AND 106(A))

[Maximum lawful price per MMBtu for deliveries in:]

Subpart of part 271	NGPA section	Category of gas	February 1984	March 1984	April 1984
B	102	New natural gas, certain OCS gas	$3.609	$3.632	$3.656
C	103	New, onshore production wells	2.859	2.880	2.879
F	106(b)(1)(B)	Alternative maximum lawful price for certain intrastate rollover gas.	1.633	1.638	1.643
G	107(c)(5)	Gas produced from tight formations	5.716	5.738	5.758
H	108	Stripper gas	3.898	3.891	3.916
I	109	Not otherwise covered	2.367	2.375	2.383

TABLE II.—NATURAL GAS CEILING PRICES: NGPA SECTIONS 104 AND 106 (A) (SUBPART D, PART 271)

[Maximum lawful price per MMBtu for deliveries made in:]

Category of natural gas	Type of sale or contract	February 1984	March 1984	April 1984
Post 1974 gas	All producers	$2.367	$2.375	$2.383
1973–74 biennium gas	Small producer	2.004	2.011	2.018
	Large producer	1.530	1.535	1.540
Interstate rollover gas	All producers	.879	.882	.885
Replacement contract gas or recompletion gas	Small producer	1.124	1.128	1.132
	Large producer	.851	.854	.857
Flowing gas	Small producer	.568	.570	.572
	Large producer	.480	.482	.484
Certain Permian Basin gas	Small producer	.672	.674	.676
	Large producer	.591	.593	.595
Certain Rocky Mountain gas	Small producer	.672	.674	.676
	Large producer	.568	.570	.572
Certain Appalachian Basin gas	North subarea contracts dated after 10–7–69.	.537	.539	.541
	Other contracts	.498	.500	.502
Minimum rate gas [1]	All producers	.293	.294	.295

[1] Prices for minimum rate gas are expressed in terms of dollars per Mcf, rather than MMBtu.

TABLE III.—INFLATION ADJUSTMENT

Month of delivery 1984	Factor by which price in preceding month is multiplied
February	1.00335
March	1.00336
April	1.00395

[FR Doc. 84–2244 Filed 1–26–84; 8:45 am]
BILLING CODE 6717–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 440, 539, and 540

[Docket No. 81N–0072]

Iodometric Assay Method for Ampicillin and Amoxicillin

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the antibiotic drug regulations by revising the iodometric assay method for ampicillin and amoxicillin for human and veterinary use. The agency is taking this action to improve the iodometric assay for these antibiotic drugs.

DATES: Effective February 27, 1984; comments, notice of participation, and request for hearing by February 27, 1984; data, information, and analyses to justify a hearing by March 27, 1984.

ADDRESS: Written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Joan M. Eckert, National Center for Drugs and Biologics (HFN–140), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4290.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of April 17, 1981 (46 FR 22389), corrected on May 5, 1981 (46 FR 25107), FDA proposed to amend the antibiotic drug regulations by revising the iodometric assay method for ampicillin and amoxicillin for human and veterinary use.

As discussed in the proposal, the iodometric assay in § 436.204 (21 CFR 436.204) of the antibiotic regulations is a residual titration procedure used to determine the potency of penicillin antibiotic drugs. The amount of intact penicillin is determined by measuring the difference between the volume of titrant (iodine) consumed in a titration of a control sample (blank) and that consumed in a titration with an alkaline hydrolyzed (inactivated) sample, in which penicillin is hydrolyzed to penicilloic acid. The agency has determined that the iodine is also bound to intact ampicillin and amoxicillin in the blank solutions thereby causing false results. To obtain valid results, it is necessary to add a few drops of acid to the blank solutions to release the iodine bound to these antibiotic drugs.

In addition, the agency proposed to amend several individual monographs for these antibiotic drugs by making corrections in the diluent used for sample preparation in the iodometric assay.

Interested persons were given until June 16, 1981, to submit written comments on this proposal and to May 18, 1981, to submit requests for an informal conference. No comments or requests for an informal conference were received.

The agency has considered the economic impact of this final rule and has determined that it does not require a regulatory flexibility analysis, as defined in the Regulatory Flexibility Act (Pub. L. 96–354). Specifically, the final rule would refine an existing technical provision without imposing a more stringent requirement. Accordingly, the agency certifies that the final rule will not have a significant economic impact on a substantial number of small entities.

List of Subjects

21 CFR Part 440

Antibiotics, penicillin.

21 CFR Part 539

Animal drugs, Antibiotics, bulk.

21 CFR Part 540

Animal drugs, Antibiotics, penicillin.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 507, 512(n), 701 (f) and (g), 52 Stat. 1055–1056 as amended, 59 Stat. 463 as amended, 82 Stat. 350–351 (21 U.S.C. 357, 360b(n), 371 (f) and (g))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), Parts 440, 539, and 540 are amended as follows:

PART 440—PENICILLIN ANTIBIOTIC DRUGS

1. Part 440 is amended:

a. In § 440.3 by revising paragraph (b)(1)(ii) to read as follows:

§ 440.3 Amoxicillin trihydrate.

* * * * *

(b) * * *

(1) * * *

(ii) *Iodometric assay.* Proceed as directed in § 436.204 of this chapter, except in paragraph (d) of that section, add 3 drops of 1.2*N* hydrochloric acid to both the sample and working standard solutions after the addition of 0.01*N* iodine solution.

* * * * *

b. In § 440.5 by revising paragraph (b)(1)(ii) to read as follows:

§ 440.5 Ampicillin.

* * * * *

(b) * * *

(1) * * *

(ii) *Iodometric assay.* Proceed as directed in § 436.204 of this chapter, except in paragraph (d) of that section, add 3 drops of 1.2*N* hydrochloric acid to both the sample and working standard solutions after the addition of 0.01*N* iodine solution.

* * * * *

c. In § 440.7 by revising paragraph (b)(1)(ii) to read as follows:

§ 440.7 Ampicillin trihydrate.

* * * * *

(b) * * *

(1) * * *

(ii) *Iodometric assay.* Proceed as directed in § 436.204 of this chapter, except in paragraph (d) of that section, add 3 drops of 1.2*N* hydrochloric acid to both the sample and working standard solutions after the addition of 0.01*N* iodine solution.

* * * * *

d. In § 440.7a by revising paragraph (b)(1)(ii) to read as follows:

§ 440.7a Sterile ampicillin trihydrate.

* * * * *

(b) * * *

(1) * * *

(ii) *Iodometric assay.* Proceed as directed in § 436.204 of this chapter, except in paragraph (d) of that section, add 3 drops of 1.2*N* hydrochloric acid to both the sample and working standard solutions after the addition of 0.01*N* iodine solution.

* * * * *

e. In § 440.9a by revising paragraph (b)(1)(ii)(*b*) to read as follows:

§ 440.9a Sterile ampicillin sodium.

* * * * *

(b) * * *

(1) * * *

(ii) * * *

(*b*) *Iodometric assay.* Proceed as directed in § 436.204 of this chapter, except in paragraph (d) of that section, add 3 drops of 1.2*N* hydrochloric acid to both the sample and working standard solutions after the addition of 0.01*N* iodine solution.

* * * * *

f. In § 440.103a by revising paragraph (b)(1)(ii) to read as follows:

§ 440.103a Amoxicillin trihydrate capsules.

* * * * *

(b) * * *

(1) * * *

(ii) *Iodometric assay.* Proceed as directed in § 436.204 of this chapter, except in paragraph (d) of that section, add 3 drops of 1.2*N* hydrochloric acid to both the sample and working standard solutions after the addition of 0.01*N* iodine solution. Prepare the sample as follows: Place the contents of a representative number of capsules into a high-speed glass blender jar and add sufficient distilled water to give a convenient concentration. Blend for 3 to 5 minutes. Further dilute an aliquot with distilled water to the prescribed concentration.

* * * * *

g. In § 440.103b by revising paragraph (b)(1)(ii) to read as follows:

§ 440.103b Amoxicillin trihydrate for oral suspension.

* * * * *

(b) * * *

(1) * * *

(ii) *Iodometric assay.* Proceed as directed in § 436.204 of this chapter, except in paragraph (d) of that section, add 3 drops of 1.2*N* hydrochloric acid to both the sample and working standard solutions after the addition of 0.01*N* iodine solution. Prepare the sample as follows: Reconstitute the drug as directed in the labeling. Place an accurately measured aliquot (usually a single dose) into an appropriately sized volumetric flask and dilute to volume with distilled water. Mix well. Further dilute with distilled water to the prescribed concentration.

* * * * *

h. In § 440.105a by revising paragraph (b)(1)(ii) to read as follows:

§ 440.105a Ampicillin tablets.

* * * * *

(b) * * *

(1) * * *

(ii) *Iodometric assay.* Proceed as directed in § 436.204 of this chapter, except in paragraph (d) of that section, add 3 drops of 1.2*N* hydrochloric acid to both the sample and working standard solutions after the addition of 0.01*N* iodine solution. Prepare the sample as follows: Place a representative number of tablets in a high-speed glass blender jar and add sufficient distilled water to give a convenient concentration. Blend for 3 to 5 minutes. Further dilute an aliquot with distilled water to the prescribed concentration.

* * * * *

i. In § 440.105b by revising paragraph (b)(1)(ii) to read as follows:

§ 440.105b Ampicillin chewable tablets.

* * * * *

(b) * * *

(1) * * *

(ii) *Iodometric assay.* Proceed as directed in § 436.204 of this chapter, except in paragraph (d) of that section, add 3 drops of 1.2*N* hydrochloric acid to both the sample and working standard solutions after the addition of 0.01*N* iodine solution. Prepare the sample as follows: Blend a representative number of tablets in a high-speed blender with sufficient distilled water to give a stock solution of convenient concentration. Blend for 3 to 5 minutes. Further dilute an aliquot of the stock solution with distilled water to the prescribed concentration.

* * * * *

j. In § 440.105c by revising paragraph (b)(1)(ii) to read as follows:

§ 440.105c Ampicillin capsules.

* * * * *

(b) * * *

(1) * * *

(ii) *Iodometric assay.* Proceed as directed in § 436.204 of this chapter, except in paragraph (d) of that section, add 3 drops of 1.2*N* hydrochloric acid to both the sample and working standard solutions after the addition of 0.01*N* iodine solution. Prepare the sample as follows: Place the contents of a representative number of capsules into a high-speed glass blender jar and add sufficient distilled water to give a convenient concentration. Blend for 3 to 5 minutes. Filter through Whatman No. 2 filter paper. Further dilute an aliquot of the filtrate with distilled water to the prescribed concentration.

* * * * *

k. In § 440.105d by revising paragraph (b)(1)(ii) to read as follows:

§ 440.105d Ampicillin for oral suspension.

* * * * *

(b) * * *

(1) * * *

(ii) *Iodometric assay.* Proceed as directed in § 436.204 of this chapter, except in paragraph (d) of that section, add 3 drops of 1.2*N* hydrochloric acid to both the sample and working standard solutions after the addition of 0.01*N* iodine solution. Prepare the sample as follows: Reconstitute the drug as directed in the labeling. Place an accurately measured aliquot (usually a

single dose) into an appropriately sized volumetric flask and dilute to volume with distilled water. Mix well. Further dilute with distilled water to the prescribed concentration.

* * * * *

l. In § 440.107a by revising paragraph (b)(1)(ii) to read as follows:

§ 440.107a Ampicillin trihydrate chewable tablets.

* * * * *

(b) * * *

(1) * * *

(ii) *Iodometric assay.* Proceed as directed in § 436.204 of this chapter, except in paragraph (d) of that section, add 3 drops of 1.2*N* hydrochloric acid to both the sample and working standard solutions after the addition of 0.01*N* iodine solution. Prepare the sample as follows: Place a representative number of tablets into a high-speed glass blender jar containing sufficient distilled water to give a convenient concentration. Blend for 5 minutes. Further dilute with distilled water to the prescribed concentration.

* * * * *

m. In § 440.107b by revising paragraph (b)(1)(ii) to read as follows:

§ 440.107b Ampicillin trihydrate capsules.

* * * * *

(b) * * *

(1) * * *

(ii) *Iodometric assay.* Proceed as directed in § 436.204 of this chapter, except in paragraph (d) of that section, add 3 drops of 1.2*N* hydrochloric acid to both the sample and working standard solutions after the addition of 0.01*N* iodine solution. Prepare the sample as follows: Place the contents of a representative number of capsules into a high-speed glass blender jar and add sufficient distilled water to give a convenient concentration. Blend for 3 to 5 minutes. Filter through Whatman No. 2 filter paper. Further dilute an aliquot of the filtrate with distilled water to the prescribed concentration.

* * * * *

n. In § 440.107c by revising paragraph (b)(1)(ii) to read as follows:

§ 440.107c Ampicillin trihydrate for oral suspension.

* * * * *

(b) * * *

(1) * * *

(ii) *Iodometric assay.* Proceed as directed in § 436.204 of this chapter, except in paragraph (d) of that section, add 3 drops of 1.2*N* hydrochloric acid to both the sample and working standard solutions after the addition of 0.01*N* iodine solution. Prepare the sample as follows: Reconstitute the drug as directed in the labeling. Place an accurately measured aliquot (usually a single dose) into an appropriately sized volumetric flask and dilute to volume with distilled water. Mix well. Further dilute with distilled water to the prescribed concentration.

* * * * *

o. In § 440.107d by revising paragraph (b)(1)(ii)(*b*) to read as follows:

§ 440.107d Ampicillin trihydrate-probenecid for oral suspension.

* * * * *

(b) * * *

(1) * * *

(ii) * * *

(b) *Iodometric assay.* Proceed as directed in § 436.204 of this chapter, except in paragraph (d) of that section, add 3 drops of 1.2*N* hydrochloric acid to both the sample and working standard solutions after the addition of 0.01*N* iodine solution. Dilute an aliquot of the aqueous solution to the prescribed concentration.

* * * * *

p. In § 440.107e by revising paragraph (b)(1)(ii) to read as follows:

§ 440.107e Ampicillin trihydrate-probenecid capsules.

* * * * *

(b) * * *

(1) * * *

(ii) *Iodometric assay.* Proceed as directed in § 436.204 of this chapter, except in paragraph (d) of that section, add 3 drops of 1.2*N* hydrochloric acid to both the sample and working standard solutions after the addition of 0.01*N* iodine solution. Prepare the sample as follows: Place the contents of a representative number of capsules into a high-speed glass blender jar with sufficient distilled water to give a convenient concentration. Blend for 8 to 10 minutes. Filter through Whatman No. 2 filter paper. Further dilute an aliquot of the filtrate with distilled water to the prescribed concentration.

* * * * *

q. In § 440.207 by revising paragraph (b)(1)(ii)(*b*) to read as follows:

§ 440.207 Sterile ampicillin trihydrate for suspension.

* * * * *

(b) * * *

(1) * * *

(ii) * * *

(b) *Iodometric assay.* Proceed as directed in § 436.204 of this chapter, except in paragraph (d) of that section, add 3 drops of 1.2*N* hydrochloric acid to both the sample and working standard solutions after the addition of 0.01*N* iodine solution. Dilute an aliquot of the stock solution with distilled water to the prescribed concentration.

* * * * *

PART 539—BULK ANTIBIOTIC DRUGS SUBJECT TO CERTIFICATION

2. Part 539 is amended in § 539.3 by revising paragraph (b)(1)(ii) to read as follows:

§ 539.3 Sterile amoxicillin trihydrate.

* * * * *

(b) * * *

(1) * * *

(ii) *Iodometric assay.* Proceed as directed in § 436.204 of this chapter, except in paragraph (d) of that section, add 3 drops of 1.2*N* hydrochloric acid to both the sample and working standard solutions after the addition of 0.01*N* iodine solution.

* * * * *

PART 540—PENICILLIN ANTIBIOTIC DRUGS FOR ANIMAL USE

3. Part 540 is amended:

a. In § 540.103a by revising paragraph (b)(1)(ii) to read as follows:

§ 540.103a Amoxicillin trihydrate film-coated tablets.

* * * * *

(b) * * *

(1) * * *

(ii) *Iodometric assay.* Proceed as directed in § 436.204 of this chapter, except in paragraph (d) of that section, add 3 drops of 1.2*N* hydrochloric acid to both the sample and working standard solutions after the addition of 0.01*N* iodine solution. Prepare the sample as follows: Place the contents of a representative number of tablets into a high-speed glass blender jar. Add sufficient distilled water to give a stock solution of convenient concentration. Blend for 3 to 5 minutes. Further dilute an aliquot with distilled water to the prescribed concentration.

* * * * *

b. In 540.103b by revising paragraph (b)(1)(ii) to read as follows:

§ 540.103b Amoxicillin trihydrate for oral suspension.

* * * * *

(b) * * *

(1) * * *

(ii) *Iodometric assay.* Proceed as directed in § 436.204 of this chapter, except in paragraph (d) of that section, add 3 drops of 1.2*N* hydrochloric acid to both the sample and working standard solutions after the addition of 0.01*N* iodine solution. Prepare the sample as follows: Reconstitute the drug as directed in the labeling. Place an

accurately measured aliquot (usually a single dose) in a suitable volumetric flask. Dilute to volume with distilled water. Mix well. Further dilute with distilled water to the prescribed concentration.

* * * * *

c. In § 540.103c by revising paragraph (b)(1)(ii) to read as follows:

§ 540.103c Amoxicillin trihydrate oral suspension.

* * * * *

(b) * * *

(1) * * *

(ii) *Iodometric assay.* Proceed as directed in § 436.204 of this chapter, except in paragraph (d) of that section, add 3 drops of 1.2*N* hydrochloric acid to both the sample and working standard solutions after the addition of 0.01*N* iodine solution. Prepare the sample as follows: Place an accurately measured aliquot (usually 5 pump doses) in a separatory funnel containing 100 milliliters of petroleum ether. Shake vigorously until homogeneous. Add 140 milliliters of distilled water. Shake for 5 minutes. Allow the layers to separate. Drain the lower aqueous layer into a 250-milliliter volumetric flask. Repeat the extraction twice with 50-milliliter portions of distilled water. Combine the second and third extractives with the first. Dilute to volume with distilled water.

* * * * *

d. In § 540.105 by revising paragraph (b)(1)(ii) to read as follows:

§ 540.105 Ampicillin capsules.

* * * * *

(b) * * *

(1) * * *

(ii) *Iodometric assay.* Proceed as directed in § 436.204 of this chapter, except in paragraph (d) of that section, add 3 drops of 1.2*N* hydrochloric acid to both the sample and working standard solutions after the addition of 0.01*N* iodine solution. Prepare the sample as follows: Place the contents of a representative number of capsules into a high-speed glass blender jar. Add sufficient distilled water to give a stock solution of convenient concentration. Blend 3 to 5 minutes. Filter through Whatman No. 2 filter paper. Further dilute an aliquot of the filtrate with distilled water to the prescribed concentration.

* * * * *

e. In § 540.107a by revising paragraph (b)(1)(ii) to read as follows:

§ 540.107a Ampicillin trihydrate tablets.

* * * * *

(b) * * *

(1) * * *

(ii) *Iodometric assay.* Proceed as directed in § 436.204 of this chapter, except in paragraph (d) of that section, add 3 drops of 1.2*N* hydrochloric acid to both the sample and working standard solutions after the addition of 0.01*N* iodine solution. Prepare the sample as follows: Place a representative number of tablets into a high-speed glass blender jar. Add sufficient distilled water to give a stock solution of convenient concentration. Blend for 3 minutes. Further dilute an aliquot of the stock solution with distilled water to give the prescribed concentration.

* * * * *

f. In § 540.107b by revising paragraph (b)(1)(ii) to read as follows:

§ 540.107b Ampicillin trihydrate capsules.

* * * * *

(b) * * *

(1) * * *

(ii) *Iodometric assay.* Proceed as directed in § 436.204 of this chapter, except in paragraph (d) of that section, add 3 drops of 1.2*N* hydrochloric acid to both the sample and working standard solutions after the addition of 0.01*N* iodine solution. Prepare the sample as follows: Place the contents of a representative number of capsules into a high-speed glass blender jar. Add sufficient distilled water to give a stock solution of convenient concentration. Blend for 3 minutes. Filter through Whatman No. 2 filter paper. Further dilute an aliquot of the filtrate with distilled water to the prescribed concentration.

* * * * *

g. In § 540.107c by revising paragraph (b)(1)(ii) to read as follows:

§ 540.107c Ampicillin trihydrate for oral suspension.

* * * * *

(b) * * *

(1) * * *

(ii) *Iodometric assay.* Proceed as directed in § 436.204 of this chapter, except in paragraph (d) of that section, add 3 drops of 1.2*N* hydrochloric acid to both the sample and working standard solutions after the addition of 0.01*N* iodine solution. Prepare the sample as follows: Reconstitute the drug as directed in the labeling. Place an accurately measured aliquot, usually a single dose, in a suitable volumetric flask. Dilute to volume with distilled water. Mix well. Further dilute with distilled water to the prescribed concentration.

* * * * *

h. In § 540.107d by revising paragraph (b)(1)(ii) to read as follows:

§ 540.107d Ampicillin trihydrate soluble powder.

* * * * *

(b) * * *

(1) * * *

(ii) *Iodometric assay.* Proceed as directed in § 436.204 of this chapter, except in paragraph (d) of that section, add 3 drops of 1.2*N* hydrochloric acid to both the sample and working standard solutions after the addition of 0.01*N* iodine solution. Prepare the sample as follows: Dissolve an accurately weighed sample, usually 1 gram, in sufficient distilled water to give a stock solution of convenient concentration. Further dilute an aliquot of the stock solution with distilled water to the prescribed concentration.

* * * * *

i. In § 540.107e by revising paragraph (b)(1)(ii) to read as follows:

§ 540.107e Ampicillin trihydrate boluses.

* * * * *

(b) * * *

(1) * * *

(ii) *Iodometric assay.* Proceed as directed in § 436.204 of this chapter, except in paragraph (d) of that section, add 3 drops of 1.2*N* hydrochloric acid to both the sample and working standard solutions after the addition of 0.01*N* iodine solution. Prepare the sample as follows: Place a representative number of boluses into a high-speed glass blender jar. Add sufficient distilled water to give a stock solution of convenient concentration. Blend for 3 to 5 minutes. Further dilute an aliquot of the stock solution with distilled water to the prescribed concentration.

* * * * *

j. In § 540.203 by revising paragraph (b)(1)(ii)(*b*) to read as follows:

§ 540.203 Sterile amoxicillin trihydrate for suspension.

* * * * *

(b) * * *

(1) * * *

(ii) * * *

(*b*) *Iodometric assay.* Proceed as directed in § 436.204 of this chapter, except in paragraph (d) of that section, add 3 drops of 1.2*N* hydrochloric acid to both the sample and working standard solutions after the addition of 0.01*N* iodine solution. Dilute an aliquot of the stock solution with distilled water to the prescribed concentration.

* * * * *

k. In § 540.207a by revising paragraph (b)(1)(ii) to read as follows:

§ 540.207a Sterile ampicillin trihydrate suspension.

* * * * *

(b) * * *
(1) * * *
(ii) *Iodometric assay.* Proceed as directed in § 436.204 of this chapter, except in paragraph (d) of that section, add 3 drops of 1.2*N* hydrochloric acid to both the sample and working standard solutions after the addition of 0.01*N* iodine solution. Prepare the sample as follows: Using a suitable syringe and needle, transfer a 2.5-milliliter portion of the sample to a separatory funnel containing 100 milliliters of diethyl ether. Extract twice with 150 milliliters of 0.2*N* hydrochloric acid. Collect the extracts in a 500-milliliter volumetric flask. Bring to volume with distilled water to obtain a concentration of 1 milligram per milliliter (estimated).
* * * * *

l. In § 540.207b by revising paragraph (b)(1)(ii)(*b*) to read as follows:

§ 540.207b Sterile ampicillin trihydrate for suspension.

* * * * *
(b) * * *
(1) * * *
(ii) * * *
(*b*) *Iodometric assay.* Proceed as directed in § 436.204 of this chapter, except in paragraph (d) of that section, add 3 drops of 1.2*N* hydrochloric acid to both the sample and working standard solutions after the addition of 0.01*N* iodine solution. Dilute an aliquot of the stock solution with distilled water to the prescribed concentration.
* * * * *

Any person who will be adversely affected by this regulation may file objections to it, request a hearing, and show reasonable grounds for the hearing. Any person who decides to seek a hearing must file (1) on or before February 27, 1984, a written notice of participation and request for hearing, and (2) on or before March 27, 1984, the data, information, and analyses on which the person relies to justify a hearing, as specified in 21 CFR 430.20. A request for a hearing may not rest upon mere allegations or denials, but must set forth specific facts showing that there is a genuine and substantial issue of fact that requires a hearing. If it conclusively appears from the face of the data, information, and factual analyses in the request for hearing that no genuine and substantial issue of fact precludes the action taken by this order, or if a request for hearing is not made in the required format or with the required analyses, the Commissioner of Food and Drugs will enter summary judgment against the person(s) who request(s) the hearing, making findings and conclusions and denying a hearing. All submissions under this order must be filed in three copies, identified with the docket number appearing in the heading of this order, and filed with the Dockets Management Branch (address above).

The procedures and requirements governing this order, a notice of appearance and request for hearing, a submission of data, information, and analyses to justify a hearing, other comments, and grant or denial of a hearing are contained in 21 CFR 430.20.

All submissions under this order, except for data and information prohibited from public disclosure under 21 U.S.C. 331(j) or 18 U.S.C. 1905, may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Effective date. This regulation shall become effective February 27, 1984.

(Secs. 507, 512(n), 701(f) and (g), 52 Stat. 1055–1056 as amended, 59 Stat. 463 as amended, 82 Stat. 350–351 (21 U.S.C. 357, 360b(n), 371(f) and (g)))

Dated: January 20, 1984.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 84–2258 Filed 1–26–84; 8:45 am]
BILLING CODE 4160–01–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[T.D. 7937 LR–1386]

Income Tax; Taxable Years Beginning After December 31, 1953; Consolidated Return Accumulated Earnings and Profits Regulations

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulations relating to the tax imposed with respect to certain accumulated earnings of an affiliated group of corporations that makes a consolidated income tax return. The purpose of the regulations is to provide rules for the application of the accumulated earnings tax on a consolidated basis. The regulations will affect affiliated groups of corporations filing consolidated income tax returns.

DATE: The regulations are effective for taxable years for which the due date (without extensions) for filing returns is after January 26, 1984.

FOR FURTHER INFORMATION CONTACT: Charles M. Whedbee of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, D.C. 20224, Attention CC:LR:T (202–566–3487 not a toll-free call).

SUPPLEMENTARY INFORMATION:

Background

On May 14, 1979, the **Federal Register** published proposed amendments to the Income Tax Regulations (26 CFR Part 1) under section 1502 of the Internal Revenue Code of 1954 (44 FR 28001). The amendments were proposed to provide rules for the application of the accumulated earnings tax on a consolidated basis. A public hearing was held on October 3, 1979. After consideration of all comments regarding the proposed amendments, those amendments are adopted as revised by this Treasury decision.

General Description

The purpose of the amendments is to provide rules for the application of the accumulated earnings tax imposed by section 531 of the Code on a consolidated basis.

Under the regulations, the consolidated accumulated earnings tax applies to any affiliated group of corporations making a consolidated income tax return that is formed or availed of to avoid or prevent the imposition of the individual income tax on the shareholders of any member of the group, or any other corporation, by failing to distribute earnings and profits.

If it is determined that the group is formed or availed of to avoid the individual income tax on shareholders, the tax imposed by section 531 is applied against the group's consolidated accumulated taxable income. This income is defined as the excess of consolidated taxable income for the taxable year (adjusted in the manner required by section 535 (b) of the Code) over the consolidated dividends paid deduction and the consolidated accumulated earnings credit.

Reconsideration of Certain Rules

Under the notice of proposed rulemaking published on May 14, 1979, special rules would apply if the personal holding company tax is computed on a member-by-member basis under section 542(b) (2) or (3) of the Code. Certain of these rules have been reconsidered. These are the rules relating to the treatment of intercompany dividends and distributions when a personal holding company is a member, the accumulated earnings credit, and the presumption of the proscribed purpose when earnings and profits are allowed to accumulate beyond the reasonable

business needs. The Internal Revenue Service expects to publish a new notice of proposed rulemaking on these subjects. Accordingly, portions of the regulations adopted by this document are reserved for rules on these subjects.

Discussion of Comments Received

Several comments related to the proper treatment of intercompany dividends and distributions when a personal holding company is a member. These comments will be considered in connection with the new notice of proposed rulemaking.

The only other comment related to taxable years before 1976. On July 9, 1968, there was published in the **Federal Register** (33 FR 9830) a notice of proposed rulemaking containing proposed amendments to the income tax regulations under section 1502 of the Code, relating in part to the determination of the accumulated earnings tax on a consolidated basis. The relevant portion of the 1968 proposed regulations was withdrawn on August 25, 1971 (36 FR 1661).

The regulations adopted by this document are substantially similar in many respects to the 1968 proposed regulations that related to the consolidated accumulated earnings tax and are effective for taxable years for which the due date (without extensions) for filing returns is after January 26, 1984. However, the regulations adopted by this document, when proposed in May, 1979, did not contain certain provisions in the 1968 proposed regulations that would have applied only to the determination of the consolidated accumulated earnings tax for taxable years beginning after July 9, 1968, and before January 1, 1976. These provisions provided in effect that liability for the accumulated earnings tax for these pre-1976 years should be computed on the basis of the separate accumulated taxable income of each member if the group did not elect under § 1.1502–33(c)(4)(iii) to adjust earnings and profits currently. Thus, under the 1968 proposed regulations, in the absence of such an election, the dividends paid deduction of each member would be computed under sections 561 and 562 without regard to consolidation.

The commentator argued that, in the absence of final regulations on the application of the accumulated earnings tax when consolidated returns were filed, the 1968 proposed regulations may have been taken into account in tax planning. Accordingly, the Internal Revenue Service should allow taxpayers to follow these provisions in the 1968 proposed regulations for transactions which occurred prior to January 1, 1976 (or, alternatively, during the period July 9, 1968, to August 25, 1971, while the 1968 proposed regulations were outstanding).

The commentator's suggestion was not adopted. Section 1503(a) provides that, if a consolidated return is made, the tax is determined, computed, etc., in accordance with the regulations prescribed before the last day prescribed by law for filing the return. In accordance with section 1503(a), it is the general practice not to prescribe consolidated return regulations that apply rules to taxable years for which the return is due before the Treasury decision is prescribed. In this case, section 1503(a) requires that new consolidated return regulations not be prescribed for prior years.

Executive Order 12291 and Regulatory Flexibility Act

The Commissioner of Internal Revenue has determined that this final rule is not a major rule as defined in Executive Order 12291 and that a Regulatory Impact Analysis is therefore not required. Because the notice of proposed rulemaking for this regulation was filed with the Office of the Federal Register on May 11, 1979, no regulatory flexibility analysis is required.

Drafting Information

The principal author of these regulations is Charles M. Whedbee of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulations, both on matters of substance and style.

List of Subjects

26 CFR 1.531–1–1.565–5

Income taxes, Corporations, Tax avoidance, Holding companies, Accumulated earnings tax.

26 CFR 1.1501–1–1.1564–1

Income taxes, Controlled group of corporations, Consolidated returns.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR Part 1 is amended as follows:

PART 1—[AMENDED]

Paragraph 1. The second sentence of § 1.531–1 is amended by removing "§ 1.1502–2(d)" and inserting in lieu thereof "§ 1.1502–43".

Par. 2. Paragraph (d) of § 1.1502–2 is revised to read as follows:

§ 1.1502–2 Computation of tax liability

* * * * * *

(d) If paragraph (b) of this section does not apply, the tax imposed by section 531 on the consolidated accumulated taxable income (see § 1.1502–43);

* * * * *

Par. 3. Immediately after § 1.1502–42, add the following new section :

§ 1.1502–43 Consolidated accumulated earnings tax

(a) *Group subject to tax*—(1) *General rule.* For a group filing a consolidated return for the taxable year, the accumulated earnings tax under section 531 is imposed on consolidated accumulated taxable income (as defined in paragraph (b) of this section). This tax applies to any group that is formed or availed of to avoid or prevent the imposition of the individual income tax on the shareholders of either any of its members or any other corporation by permitting earnings and profits to accumulate instead of dividing or distributing them. Section 531 and this section do not apply to a group that is treated as a "personal holding company" under section 542(a)(1) as a result of the application of section 542(b)(1). Special rules are provided in this section for other groups which include one or more personal holding companies.

(2) *Evidence of purpose to avoid income tax.* (i) Under section 533(a), the fact that the group's earnings and profits are permitted to accumulate beyond the reasonable needs of its business is determinative of the purpose to avoid the income tax with respect to shareholders, unless the group by the preponderance of the evidence proves to the contrary.

(ii) The fact that a group is a mere holding or investment group is prima facie evidence of the group's purpose to avoid the income tax with respect to the shareholders. The activities of a member which is a personal holding company are not taken into account in determining if the group is a mere holding or investment group.

(3) *Earnings and profits.* For purposes of this paragraph (a) and paragraph (d) of this section, the following rules apply:

(i) If no member of the group is a personal holding company, the group's earnings and profits are the aggregate of the earnings and profits (or deficit) of each corporation that is a member at the close of the taxable year, determined in accordance with § 1.1502–33.

(ii) Earnings and profits resulting from the application of § 1.1502–33(c)(4)(ii) are not taken into account.

(iii) Earnings and profits resulting from the disposition of a member's stock are determined under § 1.1502–33(c)(4)(i)(*b*) whether or not it otherwise applies.

(4) *Reasonable needs of the business.* The reasonable needs of the group's business include the reasonable needs of the business of any corporation (other than a personal holding company) that is a member at the close of the taxable year. Thus, the earnings and profits of one member may be accumulated with respect to the reasonable business needs of another member. If under § 1.537–3(b) the business of a nonmember corporation is considered the business of a member, then the earnings and profits of any member may be accumulated with respect to such nonmember's reasonable business needs.

(5) *Burden of proof.* The notification described in section 534(b) and the statement described in section 534(c) are made to or by the common parent corporation in accordance with § 1.1502–77.

(b) *Consolidated accumulated taxable income*—(1) *In general.* "Consolidated accumulated taxable income" is the group's consolidated taxable income determined under § 1.1502–11 adjusted in the manner provided in paragraph (b)(2) of this section, minus the sum of—

(i) The consolidated dividends paid deduction determined under paragraph (c) of this section and

(ii) The consolidated accumulated earnings credit determined under paragraph (d) of this section.

(2) *Adjustments to consolidated taxable income.* For purposes of paragraph (b)(1) of this section, consolidated taxable income is adjusted as follows:

(i) Under section 535(b)(1), the deduction for taxes is the excess of—

(A) The consolidated liability for tax determined without § 1.1502–2 (b) through (d) and without the foreign tax credit provided by section 33, over

(B) The consolidated foreign tax credit determined pursuant to § 1.1502–4. Foreign taxes deductible under § 1.535–2(a)(2) are also allowed as a deduction under section 535(b)(1).

(Ii) The consolidated charitable contributions deduction under § 1.1502–24 does not apply. Under section 535(b)(2), there shall be allowed the aggregate charitable contributions of the members allowable under section 170, determined without section 170 (b)(2) and (d)(2).

(iii) Under section 535(b)(3), the deductions provided in §§ 1.1502–26 and 1.1502–27 are not allowed.

(iv) Under section 535(b)(4), the consolidated net operating loss deduction described in § 1.1502–21(a) is not allowed.

(v) Under section 535(b)(5), there is allowed as a deduction the consolidated net capital loss, determined under § 1.1502–22(a).

(vi) Under section 535(b)(6), there is allowed as a deduction an amount equal to (A) the excess of the consolidated net long-term capital gain (determined under § 1.1502–41(a)) over the consolidated net short-term capital loss (determined under § 1.1502–41(b)), minus (B) the taxes attributable to this excess. This consolidated net short-term capital loss is determined without the consolidated net capital loss carryovers or carrybacks to the taxable year.

(vii) Under section 535(b)(7), the consolidated net capital loss carryovers and carrybacks are not allowed. See § 1.1502–22(b).

(viii) Section 1.1502–15 (built-in deductions) does not apply.

(3) *Personal holding company a member.* If a member is a personal holding company for the taxable year—

(i) [Reserved]

(ii) In applying paragraph (b)(2)(i) of this section, consolidated liability for tax (as determined under that paragraph (b)(2)(i)) is reduced by the portion thereof allocable to that member under section 1552(a) (1), (2), (3), or (4) (or § 1.1502–33(d)), whichever is applicable. The consolidated foreign tax credit is computed by excluding the taxable income and any foreign taxes paid or accrued by that member, and foreign taxes deductible under § 1.535–2(a)(2) do not include foreign taxes attributable to that member.

(c) *Consolidated dividends paid deduction*—(1) *General rule.* For purposes of this section, the consolidated dividends paid deduction is the aggregate of the members' deductions under section 561(a) (1) and (2). This deduction is determined by excluding deductions for dividends paid to other members.

(2) *Exception for certain personal holding companies.* [Reserved]

(3) *Dividends paid defined.* For purposes of this paragraph (c), "dividends paid" and "dividend (or portion thereof) paid" include amounts treated as dividends paid during the taxable year under sections 562(b)(1), 563, and 565 (relating respectively to liquidating distributions, dividends paid after year end, and consent dividends).

(4) *Examples.* This paragraph (c) can be illustrated by the following examples:

Example (1). Corporations P and S constitute an affiliated group which files a consolidated return on a calendar year basis for 1984 and 1985. P owns all of S's stock and two individuals own all of P's stock. Neither member of the group is a personal holding company for 1984. Assume that on December 15, 1984, S pays a dividend (as defined in section 316 (a)) of $2,000 to P, and P pays a dividend (as so defined) of $3,000 on January 15, 1985, to its individual shareholders. All dividends are paid in cash and are pro rata with no preference as to any shares or class of stock. For purposes of this paragraph (c), the consolidated dividends paid deduction for 1984 is $3,000, *i.e.*, the dividend paid on January 15, 1985, by P to its nonmember shareholders. See section 563 (a). The $2,000 dividend paid by S to P is not taken into account in computing the consolidated dividends paid deduction.

Example (2).—[Reserved].

(d) *Consolidated accumulated earnings credit*—[Reserved].

(This Treasury decision is issued under the authority contained in sections 1502 and 7805 of the Internal Revenue Code of 1954 (68A Stat. 637, 917; 26 U.S.C. 1502, 7805))

Roscoe L. Egger, Jr.,

Commissioner of Internal Revenue.

Approved: January 9, 1984.

John E. Chapoton,

Assistant Secretary of the Treasury.

[FR Doc. 84–2397 Filed 1–26–84; 8:45 am]

BILLING CODE 4830–01–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[Region II Docket No. 23; AD–FRL 2515–2]

Approval and Promulgation of Implementation Plans; Revision to the State of New Jersey Implementation Plan

AGENCY: Evironmental Protection Agency.

ACTION: Final rule.

SUMMARY: This notice announces that the Environmental Protection Agency (EPA) is approving a request from New Jersey to revise its State Implementation Plan (SIP) to include revisions that the State has made to three of its regulations which control air pollution from stationary sources. The State made these changes, which are considered minor, in order to make these regulations clearer and consistent with other State regulations.

EFFECTIVE DATE: This action will be effective on March 27, 1984 unless notice is received within 30 days of today that someone wishes to submit adverse or critical comments.

ADDRESSES: All comments should be addressed to: Jacqueline E. Schafer, Regional Administrator, Environmental Protection Agency, Region II Office, 26 Federal Plaza, New York, New York 10278.

Copies of the State's submittal are available for inspection during normal business hours at the following locations:

Environmental Protection Agency, Air Programs Branch, Room 1005, Region II Office, 26 Federal Plaza, New York, New York 10278

Environmental Protection Agency, Public Information Reference Unit, 401 M Street, SW., Washington, D.C. 20460

New Jersey Department of Environmental Protection, Labor and Industry Building, John Fitch Plaza, Trenton, New Jersey 08625

Office of the Federal Register, Room 8401, 1100 L Street NW., Washington, D.C. 20406.

FOR FURTHER INFORMATION CONTACT: William S. Baker, Chief, Air Programs Branch, Environmental Protection Agency, Region II Office, 26 Federal Plaza, Room 1005, New York, New York 10278, (212) 264–2517.

SUPPLEMENTARY INFORMATION:

A. Background

Only July 11, 1983, the State of New Jersey submitted to the Environmental Protection Agency (EPA) a proposed revision to the New Jersey State Implementation Plan (SIP). The State's submittal consisted of the following three revised State regulations which are contained in Title 7, Chapter 27 of the New Jersey Administrative Code (NJAC):

- Subchapter 3—"Control and Prohibition of Smoke from Combustion of Fuel," dated October 12, 1977,
- Subchapter 4—"Control and Prohibition of Particles from Combustion of Fuel," dated October 12, 1977, and
- Subchapter 5—"Prohibition of Air Pollution," dated October 12, 1977.

The State's submittal also included an "Order of Adoption" signed by the Commissioner of the New Jersey Department of Environmental Protection, a "Report of the Public Hearing" and the "Basis for the Proposed Amendments."

New Jersey held public hearings on these revisions on September 29 and 30, 1976 and they became effective on October 12, 1977, however, they inadvertently were not submitted to EPA at that time for inclusion in the New Jersey SIP. Nevertheless, they have been implemented by the State since that date and do not represent new requirements. The revisions to these three regulations change the regulatory part of the New Jersey SIP which had been approved previously by EPA on May 31, 1972 (37 FR 10880).

B. Regulatory Revisions

1. Subchapter 3—Control and Prohibition of Smoke from Combustion of Fuel

The following changes to Subchapter 3 were made:

- In the "Definitions" section of the regulation, the definition of "smoke" has been modified to include the term "visible condensed" before "water vapor." Elsewhere in this regulation where the term "water vapor" is used it is also modified to include the term "visible condensed."
- The definition of "stack or chimney" has been modified to include the phrase "and /or utilized" after "constructed."
- The section on "Smoke Emissions From Stationary Indirect Heat Exchanges" has been modified to prohibit all indirect heat exchangers from emitting visible smoke, except as provided for in § 3.2(b). Section 3.2(b) allows indirect heat exchangers to emit up to 20 percent opacity if they have an hourly capacity of 200 million British Thermal Units (BTU) or greater gross heat input and they discharge through a stack or chimney with an internal cross-sectional dimension greater than 60 inches.

2. Subchapter 4—Control and Prohibition of Solid Particles from Combustion of Fuel

The following changes to Subchapter 4 were made:

- The title of Subchapter 4 has been modified by deleting the word "solid" as a modifier of "particles." This deletion has also been made wherever the word "particles" appears in the Subchapter.
- A definition for "direct heat exchanger" has been added to Section 4.1, "Definitions," and Section 4.6, "Exceptions," has been clarified to indicate that direct heat exchangers are not controlled by Subchapter 4.
- The definition of "particles" has been modified by eliminating the phrase "in a finely divided form."
- The definition of "stack or chimney" has been modified to include the phrase "and/or utilized" after "constructed."
- Section 4.3, "Performance Test Principle," has been modified to indicate that measured emission weight is to be determined using sampling and analytical procedures adopted by the State.

3. Subchapter 5—Prohibition of Air Pollution

The following changes to Subchapter 5 were made:

- A definition for "air pollution" has been added.
- Section 5.2, "General Provisions," has been modified to cover all sources regardless of whether they are also affected by other State regulations.

C. Findings

Since May 31, 1972, when the original regulations were incorporated into the SIP, minor changes have occurred in the use of some technical terms contained in the regulations and minor points of confusion have arisen in the use of the regulations. In addition, test procedures for determining compliance with the regulations have been updated to reflect current practices by professionals.

Some of the revisions that the State made to its regulations update definitions and terms to current usage. These revisions are consistent with EPA guidance and policy. Other changes clarify points of confusion, and do not reflect new requirements. These changes are also consistent with EPA guidance and policy. New Jersey also made other minor changes to these regulations which made them consistent with the terms and requirements used in other regulations which are currently in the New Jersey SIP. These changes generally improve the clarity of the regulations and make the regulations consistent with current terminology.

Based on its review of the State's SIP revision request, EPA finds that the changes to Subchapters 3, 4, and 5 are acceptable and, therefore, EPA is approving the State's revision request.

This notice is issued as required by section 110 of the Clean Air Act, as amended. The Administrator's decision regarding approval of this proposed SIP revision was based on its meeting the requirements of section 110 of the Clean Air Act and 40 CFR 51.

EPA is approving this SIP revision request without prior proposal because it is viewed as noncontroversial and no adverse comments are anticipated. The public should be advised that this action will be effective 60 days from today's date. However, if notice is received within 30 days that someone wishes to submit adverse or critical comments, this action will be withdrawn and two subsequent notices will be published before the effective date. One notice will withdraw the final action and the other will begin a new rulemaking by announcing a proposal of the action and establishing a comment period.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of the Executive Order 12291.

Under section 307(b)(1) of the Clean Air Act, judicial review of this action is available only by the filing of a petition for review in the U.S. Court of Appeals for the appropriate circuit within 60 days of today. Under section 307(b)(2) of the Clean Air Act, the requirements which are the subject of today's notice may not be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

Under 5 U.S.C. 605(b), I certify that SIP approvals do not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709.)

List of Subjects in 40 CFR Part 52

Intergovernmental relations, Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons.

Dated: January 23, 1984.

William D. Ruckelshaus,

Administrator, Environmental Protection Agency.

(Section 110, 172, and 301, Clean Air Act, as amended (42 U.S.C.) 7410, 7502, and 7601)

Note.—Incorporation by reference of the Implementation Plan for the State of New Jersey was approved by the Director of the Federal Register on July 1, 1982.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Title 40, Chapter I, Subchapter C, Part 52, Code of Federal Regulations is amended as follows:

Subpart FF—New Jersey

1. Section 52.1570 is amended by adding new paragraph (c)(35) as follows:

§ 52.1570 Identification of plan.

* * * * *

(c) The plan revision listed below was submitted on the date specified.

* * * * *

(35) A supplementary submittal dated July 11, 1983, from the Department of Environmental Protection consisting of adopted revisions to: Subchapter 3—"Control and Prohibition of Smoke from Combustion of Fuel," dated October 12, 1977, Subchapter 4—"Control and Prohibition of Particles from Combustion of Fuel," dated October 12, 1977, and Subchapter 5—"Prohibition of Air Pollution," dated October 12, 1977, of Title 7, Chapter 27 of the New Jersey Administrative Code; the proposed Regulatory Amendments; the Report of the Public Hearing; and the Order of Adoption.

2. Section 52.1605 is amended by revising the entries for subchapter 3, 4, and 5 in the table as follows:

§ 52.1605 EPA-Approved New Jersey regulations.

State regulation	State effective date	EPA approved date	Comments
• •	•	•	•
Subchapter 3, "Control and Prohibition of Smoke from Combustion of Fuel.	10/12/77	Date & Citation of this notice.	
Subchapter 4, "Control and Prohibition of Particles from Combustion of Fuel.	10/12/77	do	
Subchapter 5, "Prohibition of Air Pollution.	10/12/77	do	
• •	•	•	•

[FR Doc. 84-2316 Filed 1-26-84; 8:45 am]

BILLING CODE 6560-50-M

GENERAL SERVICES ADMINISTRATION

41 CFR Part 101-47

[FPMR Amdt. H-146]

Public Benefit Disposals

AGENCY: General Services Administration.

ACTION: Final rule.

SUMMARY: This regulation describes procedures for the assignment and for the transfer of surplus Federal real property for public benefit purposes. This revision is necessary to clarify these procedures.

EFFECTIVE DATE: January 27, 1984.

FOR FURTHER INFORMATION CONTACT: James H. Pitts, Office of Real Property (202)-535-7067.

SUPPLEMENTARY INFORMATION: GSA has determined that this rule is not a major rule for the purposes of Executive Order 12291 of February 17, 1981, because it is not likely to result in an annual effect on the economy of $100 million or more; a major increase in cost to consumers or others; or significant adverse effects. GSA has based all administrative decisions underlying this rule on adequate information concerning the need for, and consequences of, this rule; has determined that the potential benefits to society from this rule outweigh the potential costs and has maximized the net benefits; and has chosen the alternative approach involving the least net cost to society.

Current regulations prescribing procedures for the assignment and for the transfer of surplus Federal real property for educational or public health purposes contain references to the former Department of Health, Education, and Welfare (HEW). The reorganization of HEW into the Department of Education and the Department of Health and Human Services necessitates a revision of the regulations. Also, the amendment changes procedures for the assignment and for the transfer of surplus real property for public park and recreational purposes.

List of Subjects in 41 CFR Part 101-47

Surplus government property and government property management.

PART 101-47—[AMENDED]

Accordingly, 41 CFR Part 101-47 is amended as follows:

Subpart 101-47.3—Utilization and Disposal of Real Property

1. Section 101-47.308-4 is revised to read as follows:

§ 101-47.308-4 Property for educational and public health purposes.

(a) The head of the disposal agency or his designee is authorized, at his discretion: (1) To assign to the Secretary of the Department of Education (ED) for disposal under section 203(k)(1) of the Act such surplus real property, including buildings, fixtures, and equipment situated thereon, as is recommended by the Secretary as being needed for school, classroom, or other educational use, or (2) to assign to the Secretary of Health and Human Services (HHS) for disposal under section 203(k)(1) of the Act such surplus real property, including buildings, fixtures, and equipment situated thereon, as is recommended by the Secretary as being needed for use in the protection of public health, including research.

(b) With respect to real property and related personal property which may be made available for assignment to ED or HHS for disposal under section 203(k)(1) of the Act for educational or public health purposes, the disposal agency shall notify eligible public agencies, in accordance with the provisions of § 101-47.303-2, that such property has been determined to be surplus. Such notice to eligible public agencies shall state that any planning for an educational or public health use, involved in the development of the comprehensive and coordinated plan of use and procurement for the property, must be coordinated with ED or HHS, as

appropriate, and that an application form for such use of the property and instructions for the preparation and submission of an application may be obtained from ED or HHS. The requirement for educational or public health use of the property by an eligible public agency will be contingent upon the disposal agency's approval under (i), below, of a recommendation for assignment of Federal surplus real property received from ED or HHS and any subsequent transfer shall be subject to the disapproval of the head of the disposal agency as stipulated under section 203(k)(1) (A) or (B) of the Act and referenced in (j) below.

(c) With respect to surplus real property and related personal property which may be made available for assignment to either Secretary for disposal under section 203(k)(1) of the Act for educational or public health purposes to nonprofit institutions which have been held exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1954 (26 U.S.C. 501(c)(3)), ED or HHS may notify eligible nonprofit institutions, in accordance with the provisions of § 101–47.303–2(e), that such property has been determined to be surplus. Any such notice to eligible nonprofit institutions shall state that any requirement for educational or public health use of the property should be coordinated with the public agency declaring to the disposal agency an intent to develop and submit a comprehensive and coordinated plan of use and procurement for the property. The requirement for educational or public health use of the property by an eligible nonprofit institution will be contingent upon the disposal agency's approval, under (i) below, of an assignment recommendation received from ED or HHS and any subsequent transfer shall be subject to the disapproval of the head of the disposal agency as stipulated under section 203(k)(1) (A) or (B) of the Act and referenced in (j) below.

(d) ED and HHS shall notify the disposal agency within 20-calendar days after the date of the notice of determination of surplus if it has an eligible applicant interested in acquiring the property. Whenever ED or HHS has notified the disposal agency within the said 20-calendar day period of a potential educational or public health requirement for the property, ED or HHS shall submit to the disposal agency within 25-calendar days after the expiration of the 20-calendar day period, a recommendation for assignment of the property, or shall inform the disposal agency, within the 25-calendar day period, that a recommendation will not be made for assignment of the property.

(e) Whenever an eligible public agency has submitted a plan of use for property for an educational or public health requirement, in accordance with the provisions of § 101–47.303–2, the disposal agency shall transmit two copies of the plan to the regional office of ED or HHS as appropriate. ED or HHS shall submit to the disposal agency, within 25-calendar days after the date the plan is transmitted, a recommendation for assignment of the property to the Secretary of ED or HHS, or shall inform the disposal agency, within the 25-calendar day period, that a recommendation will not be made for assignment of the property to ED or HHS as appropriate.

(f) Any assignment recommendation submitted to the disposal agency by ED or HHS shall set forth complete information concerning the educational or public health use, including: (1) Identification of the property, (2) the name of the applicant and the size and nature of its program, (3) the specific use planned, (4) the intended public benefit allowance, (5) the estimate of the value upon which such proposed allowance is based, and, (6) if the acreage or value of the property exceeds the standards established by the Secretary, an explanation therefor. ED or HHS shall furnish to the holding agency a copy of the recommendation, unless the holding agency is also the disposal agency.

(g) Holding agencies shall cooperate to the fullest extent possible with representatives of ED or HHS in their inspection of such property and in furnishing information relating thereto.

(h) In the absence of an assignment recommendation from ED or HHS submitted pursuant to § 101–47.308–4 (d) or (e), and received within the 25-calendar day time limit specified therein, the disposal agency shall proceed with other disposal action.

(i) If, after considering other uses for the property, the disposal agency approves the assignment recommendation from ED or HHS, it shall assign the property by letter or other document to the Secretary of ED or HHS as appropriate. If the recommendation is disapproved, the disposal agency shall likewise notify the appropriate Department. The disposal agency shall furnish to the holding agency a copy of the assignment, unless the holding agency is also the disposal agency.

(j) Subsequent to the receipt of the disposal agency's letter of assignment, ED or HHS shall furnish to the disposal agency a Notice of Proposed Transfer in accordance with section 203(k)(1) (A) or (B) of the Act. If the disposal agency has not disapproved the proposed transfer within 30-calendar days of the receipt of the Notice of Proposed Transfer, ED or HHS may proceed with the transfer.

(k) ED or HHS shall furnish the Notice of Proposed Transfer within 35-calendar days after the disposal agency's letter of assignment and shall prepare the transfer documents and take all necessary actions to accomplish the transfer within 15-calendar days after the expiration of the 30-calendar day period provided for the disposal agency to consider the notice. ED or HHS shall furnish the disposal agency two conformed copies of deeds, leases or other instruments conveying the property under section 203(k)(1) (A) or (B) of the Act and all related documents containing restrictions or conditions regulating the future use, maintenance or transfer of the property.

(l) ED or HHS, as appropriate, has the responsibility for enforcing compliance with the terms and conditions of transfer; for the reformation, correction, or amendment of any transfer instrument; for the granting of releases; and for the taking of any necessary actions for recapturing such property in accordance with the provisions of section 203(k)(4) of the Act. Any such action shall be subject to the disapproval of the head of the disposal agency. Notice to the head of the disposal agency by ED or HHS of any action proposed to be taken shall identify the property affected, set forth in detail the proposed action, and state the reasons therefor.

(m) In each case of repossession under a terminated lease or reversion of title by reason of noncompliance with the terms or conditions of sale or other cause, ED or HHS shall, at or prior to such repossession or reversion of title, provide the appropriate GSA regional office with an accurate description of the real and related personal property involved. Standard Form 118, Report of Excess Real Property, and the appropriate schedules shall be used for this purpose. Upon receipt of advice from ED or HHS that such property has been repossessed or title has reverted, GSA will assume custody of and accountability for the property. However, the grantee shall be required to provide protection and maintenance for the property until such time as the title reverts to the Federal Government, including the period of any notice of intent to revert. Such protection and maintenance shall, at a minimum, conform to the standards prescribed in § 101–47.4913.

2. Section 101–47.308–7 is amended by revising paragraphs (i) through (p) and adding paragraph (q) to read as follows:

§ 101–47.308–7 Property for use as public park and recreation areas.

* * * * *

(i) If, after considering other uses for the property, the disposal agency approves the assignment recommendation from the Department of the Interior, it shall assign the property by letter or other document to the Secretary of the Interior. If the recommendation is disapproved, the disposal agency shall likewise notify the Secretary. The disposal agency shall furnish to the holding agency a copy of the assignment, unless the holding agency is also the disposal agency.

(j) Subsequent to the receipt of the disposal agency's letter of assignment, the Secretary of the Interior shall furnish to the disposal agency a Notice of Proposed Transfer, in accordance with section 203(k)(2)(A) of the Act. If the disposal agency has not disapproved the proposed transfer within 30-calendar days of the receipt of the Notice of Proposed Transfer, the Secretary may proceed with the transfer.

(k) The disposal agency may, where appropriate, make the assignment subject to the Department of the Interior requiring the applicant to bear the cost of any out-of-pocket expenses necessary to accomplish the transfer of the property, such as surveys, fencing, security of the remaining property or otherwise.

(l) In the absence of the notice of disapproval by the disposal agency upon expiration of the 30-day period, or upon earlier advice from the disposal agency of no objection to the proposed transfer, the Department of the Interior may place the applicant in possession of the property as soon as practicable in order to minimize the Government's expense of protection and maintenance of the property. As of the date of assumption of possession of the property, or the date of conveyance, whichever occurs first, the applicant shall assume responsibility for care and handling and all risks of loss or damage to the property, and shall have all obligations and liabilities of ownership.

(m) The Department of the Interior shall furnish the Notice of Proposed Transfer within 35-calendar days after the disposal agency's letter of assignment and shall take all necessary actions to accomplish the transfer within 15-calendar days after the expiration of the 30-calendar day period provided for the disposal agency to consider the notice.

(n) The deed of conveyance of any surplus real property transferred under the provision of section 202(k)(2) of the Act shall provide that all such property be used and maintained for the purpose for which it was conveyed in perpetuity, and that in the event that such property ceases to be used or maintained for such purpose during such period, all or any portion of such property shall in its then existing condition, at the option of the United States, revert to the United States and may contain such additional terms, reservations, restrictions, and conditions as may be determined by the Secretary of the Interior to be necessary to safeguard the interest of the United States.

(o) The Department of the Interior shall furnish the disposal agency two conformed copies of deeds, leases, or other instruments conveying property under section 203(k)(2) of the Act and related documents containing reservations, restrictions, or conditions regulating the future use, maintenance or transfer of the property.

(p) The Secretary of the Interior has the responsibility for enforcing compliance with the terms and conditions of transfer; the reformation, correction, or amendment of any transfer instrument; the granting of releases; and any necessary actions for recapturing such property in accordance with the provisions of section 202(k)(4) of the Act. Any such action shall be subject to the disapproval of the head of the disposal agency. Notice to the head of the disposal agency by the Secretary of any action proposed to be taken shall identify the property affected, set forth in detail the proposed action, and state the reasons therefor.

(q) The Department of the Interior shall notify the appropriate GSA regional office immediately by letter when title to property transferred for use as a public park or recreation area is to be revested in the United States for noncompliance with the terms or conditions of disposal or for other cause. The notification shall cite the legal and administrative actions that the Department must take to obtain full title and possession of the property. In addition, it shall include an adequate description of the property, including any improvements constructed thereon since the original conveyance to the grantee. Upon receipt of a statement from the Department that title to the property has revested, GSA will assume custody of and accountability for the property. However, the grantee shall be required to provide protection and maintenance for the property until such time as the title reverts to the Federal Government, including the period of any notice of intent to revert. Such protection and maintenance shall, at a minimum, conform to the standards prescribed in § 101–47.4913.

* * * * *

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c))

Dated: December 19, 1983.

Ray Kline,

Acting Administrator of General Services.

[FR Doc. 84-2288 Filed 1-26-84; 8:45 am]

BILLING CODE 6820-96-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 65

[Docket No. FEMA-6343]

Final Flood Elevation Determinations; Indiana; Correction

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule; correction.

SUMMARY: This document corrects a Notice of Final Determinations of modified base (100-year) flood elevations for selected locations in the City of Jeffersonville, Clark County, Indiana, previously published at 48 FR 4288 on January 31, 1983.

FOR FURTHER INFORMATION CONTACT: Dr. Brian R. Mrazik, Chief, Risk Studies Division, Federal Insurance Administration, Washington, D.C. 20472; (202) 287–0230.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency gives notice of the correction to the Notice of Final Determinations of modified base (100-year) flood elevations for selected locations in the City of Jeffersonville, Clark County, Indiana, previously published at 48 FR 4288 on January 31, 1983, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 44 CFR 67).

The effective date of the modified Flood Insurance Rate Map read February 18, 1982; it should read February 18, 1983.

The listing appears correctly as follows:

State and county	Location	Date and name of newspaper where notice was published	Chief Executive Officer of community	Effective date of modification	Community No.
Indiana: Clark	City of Jeffersonville	*The Evening News* July 2, 1982 and July 9, 1982.	Hon. Richard Vissing, Mayor, City of Jeffersonville, City-County Building, Suite 404, 500 East Court Avenue, Jeffersonville, Indiana 47130.	Feb. 18, 1983	180027C

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; E. O. 12127, 44 FR 19367; and delegation of authority to the Administrator)

Issued: January 11, 1984.

Jeffrey S. Bragg,

Administrator, Federal Insurance Administration.

[FR Doc. 84-2275 Filed 1-26-84; 8:45 am]

BILLING CODE 6718-03-M

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Parts 173 and 179

[Docket No. HM-175; Amdt. Nos. 173-173, 179-35]

Specifications for Railroad Tank Cars Used To Transport Hazardous Materials

AGENCY: Materials Transportation Bureau (MTB), Research and Special Programs Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment makes changes in the construction and maintenance standards for railroad tank cars used to transport hazardous materials. References to various specification tank cars are to DOT specifications. The changes are as follows:

(1) After December 31, 1986, specification 105 tank cars built before September 1, 1981, that have a capacity exceeding 18,500 U.S. gallons and are carrying a flammable gas, anhydrous ammonia, or ethylene oxide must be equipped with lower half tank head protection (such as a head shield);

(2) After December 31, 1986, specification 105 tank cars built before September 1, 1981, that have a capacity exceeding 18,500 U.S. gallons and are carrying a flammable gas or ethylene oxide must be equipped with either: (a) High temperature thermal insulation (800° material) and safety relief valves sized according to the requirements for specification 112 and 114 tank cars, or (b) high temperature thermal insulation (550° material) and currently installed safety relief valves; and

(3) After December 31, 1986, specification 111 tank cars that have a capacity exceeding 18,500 U.S. gallons and are carrying a flammable gas or ethylene oxide must be equipped with lower half tank head protection and either (a) high temperature thermal insulation (800° material) and safety relief valves sized according to the requirements for specification 112 and 114 tank cars, or (b) high temperature thermal insulation (550° material) and currently installed safety valves.

The rule requires that all large capacity specification 105 and 111 tank cars used to transport specifically identified hazardous materials must be equipped with the same tank head and thermal safety systems that are required on newly built specification 105 tank cars and on all specification 112 and 114 tank cars used to transport those same hazardous materials.

This action is being taken to increase the safety of transportation by rail of hazardous materials.

EFFECTIVE DATE: March 1, 1984.

FOR FURTHER INFORMATION CONTACT: Mr. Philip Olekszyk, Office of Safety, Federal Railroad Administration, Washington, D.C. 20590, (202) 426-0897.

SUPPLEMENTARY INFORMATION: In the early 1970's DOT commenced its review of specifications for pressure tank cars. There were a number of serious railroad accidents involving rail transportation of flammable compressed gases, toxic compressed gases, and other hazardous materials. Most of these accidents involved uninsulated pressure tank cars of large capacity (over 18,500 U.S. gallons) built to specifications 112 and 114.

Since the specification 112 and 114 tank car shipments of hazardous material were determined to present a more serious threat to public safety, MTB and the Federal Railroad Administration (FRA) assigned first priority to improving the construction standards applicable to those cars. It was further decided that after these specification 112 and 114 tank cars had been structurally upgraded, the MTB and FRA would consider a revision of the standards applicable to the specification 105 tank cars.

Accordingly, on September 15, 1977, MTB published a final rule in Docket HM-144 (42 FR 46306). In summary, the rule requires that:

(1) Existing and newly built specification 112 and 114 tank cars used to transport flammable gases such as propane, vinyl chloride, and butane have both thermal protection (large capacity safety relief valves and high temperature thermal insulation) and tank head protection (such as a head shield);

(2) Existing and newly built specification 112 and 114 tank cars used to transport anhydrous ammonia have tank head protection; and

(3) All specification 112 and 114 tank cars be equipped with special couplers designed to resist coupler vertical disengagement (shelf couplers).

After the upgrading of specification 112 and 114 tank cars was substantially completed, MTB initiated rulemaking for specification 105 tank cars. On January 26, 1981, MTB published a final rule in Docket HM-174 (46 FR 8005) affecting new construction of specification 105 tank cars. The rule requires that:

(1) Specification 105 tank cars built before March 1, 1981, be retrofitted over a one-year period ending on February 28, 1982, with a coupler vertical restraint system equivalent to that required on specification 112 and 114 tank cars;

(2) After February 28, 1985, all other specification tank cars be equipped with a coupler vertical restraint system equivalent to that required on specification 112 and 114 tank cars;

(3) After February 28, 1981, newly built specification 105 tank cars be equipped with a coupler vertical restraint system equivalent to that required on specification 112 and 114 tank cars;

(4) After August 31, 1981, newly built specification 105 tank cars transporting flammable gases, anhydrous ammonia, and ethylene oxide be equipped with a tank head puncture resistance system equivalent to that required on certain specification 112 and 114 tank cars (S, T, and J cars);

(5) After August 31, 1981, newly built specification 105 tank cars transporting flammable gases and ethylene oxide be equipped with high temperature thermal insulation equivalent to that required on certain specification 112 and 114 tank cars (T and J cars); and

(6) After August 31, 1981, newly built specification 105 tank cars transporting flammable gases and ethylene oxide be

equipped with safety relief valves sized according to the requirements for specification 112 and 114 tank cars.

On July 21, 1980, the same day the notice of proposed rulemaking in Docket HM–174 (45 FR 48671) was issued, MTB also issued an advance notice of proposed rulemaking (ANPRM) in Docket HM–175 (45 FR 48668). That notice sought additional information to allow an evaluation of the need, means, and cost to extend the specified puncture and thermal protection levels of specification 112 and 114 tank cars to:

(1) Existing specification 105 tank cars used to transport the same hazardous materials permitted in specification 112 and 114 tank cars;

(2) Existing specification 105 tank cars used to transport other hazardous materials such as ethylene oxide, butadiene, poisons, and combustible and flammable liquids or solids; and

(3) All other new and existing specification tank cars used to transport the same hazardous materials permitted in specification 105 tank cars, *e.g.*, specification 111 tank cars.

After analyzing the comments received in response to the ANPRM and comprehensively evaluating the costs and benefits of a variety of potential regulatory options, MTB issued a notice of proposed rulemaking (NPRM) in HM–175 on April 14, 1983 (48 FR 16188). The NPRM, which is substantially the same as the final rule, proposed the following requirements:

(1) After December 31, 1986, specification 105 tank cars built before September 1, 1981, that have a capacity exceeding 18,500 U.S. gallons and are carrying a flammable gas, anhydrous ammonia, or ethylene oxide would have to be equipped with lower half tank head protection (such as a head shield);

(2) After December 31, 1986, specification 105 tank cars built before September 1, 1981, that have a capacity exceeding 18,500 U.S. gallons and are carrying a flammable gas or ethylene oxide would have to be equipped with:

(a) High temperature thermal insulation; and

(b) Safety relief valves sized according to the requirements for specification 112 and 114 tank cars; and

(3) After December 31, 1986, specification 111 tank cars that have a capacity exceeding 18,500 U.S. gallons and are carrying flammable gas or ethylene oxide would have to be equipped with: (a) Lower half tank head protection; (b) high temperature thermal insulation; and (c) safety relief valves sized according to the requirements for specification 112 and 114 tank cars.

A total of 25 comments in response to the NPRM were received, representing a diverse group of interested persons. The commenters include the Association of American Railroads (AAR), major chemical and petroleum companies, tank car leasing companies, manufacturers of high temperature insulating materials, shippers, several fire chiefs and one state association of fire chiefs, numerous trade associations of shippers, tank car owners, and the National Transportation Safety Board (NTSB).

A number of commenters generally endorsed the proposed rule since it would increase the level of safety in the transportation of the affected hazardous materials. One such commenter, NTSB, urged that consideration be given to further rulemaking to address other hazardous materials and the smaller capacity specification 105 tank cars (under 18,500 U.S. gallons) transporting liquified flammable gases (LFG), anhydrous ammonia, and ethylene oxide. In that regard, FRA and MTB will continue to evaluate the need for new rules which exceed the current requirement that all tank cars transporting a hazardous material, after March 1, 1985, be equipped with shelf couplers. As indicated in the preamble to the notice of proposed rulemaking in this docket, retrofitting the smaller capacity specification 105 tank cars does not appear to be justified on a benefit/cost basis.

Several commenters, including the AAR and a major ethylene oxide shipper/tank car owner, supported the proposed tank head and thermal insulation requirements, but opposed the requirement to retrofit with a large capacity safety relief valve.

A number of commenters opposed the proposed rule on the belief, without explanation, that the costs exceed the benefits. Other commenters who opposed the rule in whole or in part, or who believed that the rule is premature, more fully explained the basis of their objections. These objections also related generally to the cost/benefit issue, principally by challenging the accuracy of both the cost estimates (cost of retrofit and number of cars involved) and the benefit estimates (effectiveness rate, statistical base for accident frequency, and impact of prior rulemakings). No commenters disputed the technical feasibility of retrofitting tank cars with the safety systems proposed. Apart from a question about the need for a large capacity safety relief valve in addition to high temperature thermal insulation (800°F material in the simulation pool fire test), no commenters disputed the belief that tank head and thermal protection would improve safety; some questioned how much improvement would be achieved.

Several commenters stated that FRA's $12,000 cost estimate to retrofit a tank car is too low. They suggested a $14,000 to $15,000 range as reflecting the true current cost. FRA agrees that the $12,000 cost in the economic impact analysis developed for the NPRM is lower than the current cost. That analysis which is comprehensive and detailed, was begun at the time of the 1980 ANPRM and uses 1980 dollars for *both* the costs and benefits. The final economic impact analysis includes an updating to 1983 dollars for *both* costs and benefits. In 1983 dollars, the cost of retrofitting a car is estimated to be approximately $14,000. Adopting a conservative approach, the same inflation factor (Department of Labor's Consumer Price Index) was applied on the benefit side, even though many of the constituent parts of the benefit side were rising at a faster pace, *e.g.*, medical costs.

The result of the update is that the benefit/cost ratio remains the same and would still be highly favorable (1.42) even if a $15,000 retrofit cost figure were used.

Some commenters felt that FRA had not adequately considered the cost of valve changes in its estimation of retrofit costs. FRA is not convinced that its earlier cost estimate is too low. However, under the final rule appropriate thermal protection may be achieved either by a given level of insulation and the larger safety valve or by a greater level of insulation without any changes to the existing valve. In its initial analysis (Economic Impact Analysis of the Retrofit of 105 and 111 Tank Cars Carrying Hazardous Materials, Exhibits FRA–10,300, FRA–10,310) FRA showed that the cost of the two options is the same. According to the figures used in that study, which represent costs in 1980 dollars, it would cost $6,000 to provide the required level of thermal protection. If the larger valve is installed, the valve cost per car is $1,000 and the installation cost is $5,000. If the smaller valve is not replaced, $6,000 worth of insulation must be installed. In the proposed rule, the option was limited to those cars with a manway less than 18 inches in diameter. The extra insulation option, therefore, was not available for most of the cars to be retrofitted. This limitation is not in the final rule.

Several of the commenters believe that FRA's estimate of retrofit costs is too low. This is based on the commenters' estimates of the number of cars required to be retrofitted. However, these commenters did not provide FRA

with details as to the source of their information or the methods by which they calculated their estimates. FRA can only reiterate the methodology it employed in arriving at the estimate of 3,026 cars requiring retrofit.

FRA based its estimates on two tank car studies—"Characteristics of 103, 104 and 111 tank Cars," Arthur D. Little, Incorporated, 1981, and "Tank Car Study, Task 9—Additional Data Analysis," Dynatrend Incorporated, 1981. The starting point was the 21,378 type 105 and 111 cars identified in the Dynatrend study as being involved in the transportation of the subject hazardous materials. FRA then excluded those cars with a capacity under 18,500 U.S. gallons (15,688 cars). Of the remaining 5,690 cars, 2,618 were found to have adequate safety features, leaving 3,072 cars which would require the retrofit. Forty-six of these cars were judged to have a value too low to justify the cost of the retrofit, and were therefore assumed to be retired or placed in other service. (The cost of purchasing new cars to replace those to be retired is included in the total cost estimate of the retrofit program.)

Several opponents of the proposed rule thought FRA and MTB gave inadequate consideration in its estimation of the benefits to be derived from the additional safeguards to the protection afforded by the double shelf couplers. We do not agree. In preparing its estimation of the incidents/accidents which could be prevented by the proposed requirements, FRA reduced the expected benefits to eliminate those benefits attributable to double shelf couplers. In other words, the estimated HM–175 benefits are in addition to the benefits expected from the couplers.

According to a study by the AAR (Phase 02 Report on Effectiveness of Shelf Couplers, Head Shields and Thermal Shields, Supplement AAR R–482, August 20, 1981), the HM–144 retrofit of Class 112 (114) tank cars with double shelf couplers, head shields, and thermal protection has proven to be approximately 95 percent effective in preventing head punctures and ruptures due to fire. Since the HM–144 retrofit for 112/114 cars is very similar to the proposed retrofit for 105/111 cars, this effectiveness rate could have been used in our HM–175 analysis if double shelf couplers had not already been installed on 105 and 111 cars. FRA believes 80 percent to be a reasonable estimate of effectiveness for thermal head protection beyond that protection provided by the couplers. This effectiveness rate would have to drop to 51.5 percent before there would be a break-even benefit/cost ratio, even ignoring the chances of a catastrophic event.

Indeed, the estimate of benefits does not include the possibility that a major catastrophic event may be prevented, even though at least one catastrophic accident involving a 105/111 car carrying hazardous materials would be likely in the absence of the HM–175 requirements. Had the analysis included the likelihood of a catastrophic accident, the benefit/cost ratios of all alternatives would have increased substantially. This is especially so in light of the fact that HM–175 deals with the larger (over 18,500 U.S. gallon) tank cars which, because of both size and rate of utilization, would be most likely to be involved in a catastrophic event.

Several commenters recommended that this rule be postponed to permit further testing and evaluation of the performance of existing specification 105 tank cars in accident situations. MTB and FRA do not concur with this recommendation. Since 1970, FRA has sponsored an extensive research program on the performance of flammable gas tank cars in simulated accident situations. The Railway Progress Institute (RPI) and the AAR have also sponsored their own research program on flammable gas tank cars, and FRA, the RPI, and the AAR have collaborated on many projects.

Most of the tests in these programs utilized specification 112/114 tank cars. However, because of the similarities between flammable gas specification 112/114 cars and flammable gas specification 105 cars, FRA does not believe that the results would have been significantly different.

FRA did conduct fire simulation tests of representative insulation systems used in existing specification 105 tank cars and concluded that, while these systems provide more protection than is present on uninsulated specification 112/114 cars, the protection is much less than now required by 49 CFR 179.105–4 for specification 112/114 tank cars. Section 179.105–4 requires that a thermal shield provide sufficient protection so that the back face temperature of a test plate not exceed 800°F in a 100 minute pool fire simulation. By contrast, most of the existing insulation systems on specification 105 cars reached 800° in only 20–40 minutes of testing. While the time period is longer than for the uninsulated 112 and 114 tank cars prior to being retrofitted, the difference is not considered significant enough to reduce the benefits expected from a high temperature thermal retrofit of specification 105 tank cars.

Instead of repeating its past testing program on flammable gas tank cars to address specification 105 tank cars, FRA plans to focus its limited research resources on determining what, if any, additional protection is required for materials and tank cars not addressed in Dockets HM–144, HM–174, and HM–175.

Several commenters recommended that no changes in safety valve sizes on existing specification 105 tank cars be mandated until MTB and FRA analyzed an AAR report entitled, "A Study of Pressure Tank Car Safety Relief Valve Sizing Requirements." MTB and FRA have analyzed that report, both for this rulemaking and in the related docket, HM–174. A detailed assessment of the AAR report is in the docket. A detailed discussion of the report is included in the preamble to Amendment No. 173–172, 179–34, Docket HM–174, which is published in today's **Federal Register**.

Based on our analysis of the AAR report and on an independent study of safety valve sizing sponsored by the FRA and conducted by the IIT Research Institute (IITRI), MTB and FRA conclude that the valves on existing 105 and 111 tank cars carrying flammable gases and ethylene oxide are not adequate even if the tank cars are equipped with a thermal protection system that results in a maximum temperature of 800°F in a 100-minute simulated pool fire test. However, based on the IITRI calculations, MTB and FRA are allowing an option whereby additional thermal protection can be provided so that the currently sized safety valves on all existing specification 105 and 111 tank cars carrying flammable gases or ethylene oxide may continue in use.

One commenter requested that an exception be made for its specification 105 anhydrous ammonia tank cars that have thick (⅜" or ½") heads jackets. These jackets apparently do not satisfy the requirements of either § 179.100–23 or § 179.105–5. The commenter provided insufficient information (*e.g.*, type of steel used for the jacket) to enable MTB and FRA to evaluate the merits of this request.

Section-by-Section Analysis

Section 173.124 Ethylene Oxide

Paragraph (a)(5) of § 173.124 is amended to require that each specification 105 tank car built before September 1, 1981, with a capacity in excess of 18,500 U.S. gallons, conform to specification 105J when transporting ethylene oxide after December 31, 1986. (As a result of earlier actions taken in Docket HM–174, specification 105 tank

cars built after August 31, 1981, are currently required to have tank head and high temperature thermal insulation when transporting ethylene oxide.) Requiring a specification 105J tank car for ethylene oxide means that by December 31, 1986, existing specification 105 tank cars is excess of 18,500 U.S. gallons must be retrofitted with high temperature thermal protection, tank head protection, and larger capacity safety relief valves (or additional thermal protection).

Paragraph (a)(5) is also amended to require that each specification 111 tank car, with capacity in excess of 18,500 U.S. gallons, conform to specification 111J when transporting ethylene oxide after December 31, 1986. Thus, by December 31, 1986, each existing large capacity specification 111 tank car in ethylene oxide service must be retrofitted with high temperature thermal protection, tank head protection, and larger safety valves (or additional thermal protection). A new subparagraph (a)(5)(v) is added to specify that specification 111 tank cars built after March 1, 1984 are not permitted to transport ethylene oxide.

Section 173,314 Requirements for Compressed Gases in Tank Cars

This section is amended to require that existing specification 105 tank cars (those built prior to September 1, 1981) used to transport anhydrous ammonia, and with a capacity exceeding 18,500 U.S. gallons capacity, be retrofitted by December 31, 1986, with lower half tank head protection, *i.e.*, conform to specification 105S. The final rule further requires that existing specification 105 tank cars with a capacity exceeding 18,500 U.S. gallons, used to transport flammable gases, be retrofitted by December 31, 1986, to conform to specification 105J. Consistent with the proposed rule, the final rule also requires that by December 31, 1986, each specification 111 tank car with a capacity exceeding 18,500 U.S. gallons, used to transport flammable gases, shall conform to specification 111J. In response to a comment by AAR, the final rule includes a sentence in "Note 23" that provides that specification 111 tank cars built after March 1, 1984 are not authorized to transport flammable gases.

Section 179.102–12 Ethylene Oxide

Section 179.102–12 is amended to require that each existing specification 105 tank car (built prior to September 1, 1981, and with a capacity exceeding 18,500 gallons) used to transport ethylene oxide be retrofitted by December 31, 1986, with high temperature thermal protection, tank head protection, and a safety valve sized in accordance with § 179.105–7 if it is to continue in ethylene oxide service. The safety valve sizing requirement means that either a large capacity valve or additional high temperature insulation must be installed.

Section 179.105–7 Safety Relief Valves

Section 179.105–7 is amended by adding paragraph (d) to permit continued use of the currently installed valve on specification 105 cars transporting flammable gases if the thermal protection exceeds the minimum thermal protection required in § 179.105–4. This provision as proposed has been modified in several respects. First, the performance requirement for the additional thermal protection has been revised to require that, in the simulation pool fire tests required in § 179.105–4, none of the thermocouples on the uninsulated side of the steel plates indicate a plate temperature in excess of 550°F (instead of 540°F in the proposed rule). This minor change reflects additional data developed by FRA after publication of the notice of proposed rulemaking.

Second, all existing specification 105 and 111 tank cars carrying flammable gases and ethylene oxide (instead of only those cars with a manway cover of less than 18 inches diameter as proposed) will be allowed to use the option of additional thermal protection in lieu of a larger capacity safety relief valve. This change has been made to give tank car owners additional flexibility in satisfying the safety objectives of this rulemaking.

Third, the option to use additional thermal insulation instead of using a larger capacity safety relief valve is limited in paragraph (d) to cars transporting flammable gases. This has been done because today's amendment to the final rule in Docket HM–174 provides a similar option specifically developed for cars transporting ethylene oxide. Under that provision (§ 179.105–7(c)), the use of 550°F material permits a safety valve sized with a flow capacity as low as 1100 scfm at 85 psi, which corresponds to the currently utilized valve.

Fourth, the final rule permits the use of the currently installed valve if the additional thermal insulation is provided, rather than the use of a valve sized in accordance with the formula for compressed gases in insulated tanks. This change has been made to make clear that the currently installed valves are acceptable. The change has also been made because most valves on the tank cars are sized with a capacity greater then the minimum capacity required under the formula. FRA wants to make clear that the valve capacity may not be reduced below its current level. (Nothing in the rule would preclude increasing the capacity of the safety relief valve.)

Section 179.106–1 General

Section 179.106–1 is amended to require that existing specification 105 tank cars manufactured to the specifications of the Canadian Transport Commission conform to the same standards prescribed for DOT specification 105 tank cars.

Section 179.106–3 Previously Build Cars

Section 179.106–3 is amended to establish performance requirements for specification 105S and 105J tank cars built before September 1, 1981. The requirements for the 105S and 105J tank cars in this section are identical to the requirements in §179.106–2 for new cars.

Section 179.200–27 Alternative Requirements for Tank Head Puncture Resistance Systems

This section is added to clarify that specification 111 tank cars may utilize a head shield as prescribed in § 179.100–23 instead of meeting the puncture resistance requirements in § 179.105–5.

Section 179.202–18 Ethylene Oxide

Paragraph (a)(10) is added in § 179.202–18 to require that each specification 111 tank car used after December 31, 1986, for the transportation of ethylene oxide, with a capacity exceeding 18,500 U.S. gallons, conform to class 111J. Paragraph (a)(11), though not included in the NPRM, is also added. It specifies that specification 111 tank cars built after March 1, 1984, are not permitted for the transportation of ethylene oxide. This addition merely reflects the previous action of the AAR Tank Car Committee and is added in response to the AAR's comment.

Section 179.203 Special Requirements for Specification 111 Tank Cars

The final rule adds § 179.203 which sets out special requirements for specification 111 tank cars that parallels section 179.106 for specification 105 tank cars. One change from the proposed rule is the deletion of the words "before October 1, 1981" from paragraph (d). Paragraph (d) requires that specification 111 tank cars built to specifications promulgated by the Canadian Transport Commission must be equipped in accordance with § 179.203–2 by December 31, 1986. The change means

that all specification 111 cars over 18,500 U.S. gallons transporting flammable gases or ethylene oxide, after December 31, 1986, must conform to specification 111J. Also, a paragraph (e) is added to specify that specification 111 tank cars built after March 1, 1984 are not permitted for the transportation of flammable gases or ethylene oxide.

Economic Impact

MTB has determined this final rule is not a "major rule" under the terms of Executive Order 12291, but it is "significant" under DOT procedures (44 FR 11034). A regulatory evaluation and environmental assessment is available in the Docket at the address shown above. Based on the comments received in response to the NPRM and the information contained in the regulatory evaluation, I certify that this final rule will not have a significant economic impact on a substantial number of small entities under the provisions of the Regulatory Flexibility Act.

List of Subjects in 49 CFR Parts 173 and 179

Railroad safety, Hazardous materials transportation.

In consideration of the foregoing, Parts 173 and 179 of Title 49 Code of Federal Regulations are amended as follows:

PART 173—SHIPPERS—GENERAL REQUIREMENTS FOR SHIPMENTS AND PACKAGINGS

1. In § 173.124, is amended by adding paragraphs (a)(5) (iii), (iv), and (v) to read as follows:

§ 173.124 Ethylene oxide.

(a) * * *

(5) * * *

(iii) After December 31, 1986, each specification 105 tank car built before September 1, 1981, having a water capacity (shell full volume, including manways) exceeding 18,500 U.S. gallons and used for the transportation of ethylene oxide shall conform to specification 105J.

(iv) After December 31, 1986, each specification 111 tank car with a water capacity (shell full volume, including manways) exceeding 18,500 U.S. gallons, used for the transportation of ethylene oxide, shall conform to DOT specification 111J.

(v) Specification 111 tank cars built after March 1, 1984, are not permitted for the transportation of ethylene oxide.

* * * * *

2. In § 173.314, notes 23 and 24 to the table in paragraph (c) are revised to read as follows:

§ 173.314 Requirements for compressed gases in tank cars.

* * * * *

(c) * * *

Note 23.—Each specification 105 tank car built after August 31, 1981, shall conform to class DOT–105J. After December 31, 1986, each specification 105 tank car built before September 1, 1981, and with a water capacity (shell full volume, including manways) exceeding 18,500 U.S. gallons shall conform to class DOT–105J. After December 31, 1986, each specification 111 tank car with a water capacity (shell full volume, including manways) exceeding 18,500 U.S. gallons shall conform to class DOT–111J. Specification 111 tank cars built after March 1, 1984 are not authorized for the transportation of flammable gases.

Note 24.—Each specification 105 tank car built after August 31, 1981, shall conform to class DOT–105S. After December 31, 1986, each specification 105 tank car built before September 1, 1981, and with a water capacity (shell full volume including manways) exceeding 18,500 U.S. gallons, shall conform to class DOT–105S.

* * * * *

PART 179—SPECIFICATIONS FOR TANK CARS

3. In § 179.102–12, paragraph (a)(10) is added to read as follows:

§ 179.102–12 Ethylene oxide.

(a) * * *

(10) After December 31, 1986, each tank built before September 1, 1981, having a water capacity (shell full volume, including manways) exceeding 18,500 U.S. gallons and used for the transportation of ethylene oxide shall conform to class DOT–105J.

4. In § 179.105–7, paragraph (d) is added to read as follows:

§ 179.105–7 Safety relief valves.

* * * * *

(d) Notwithstanding paragraph (a) of this section, and §§ 179.100–15, 179.102–11, and 179.200–18, a specification 105 or 111 tank car built before March 1, 1984 to transport any flammable gas may use the currently installed safety relief valves, if—

(1) The tank car is equipped with a thermal protection system in accordance with § 179.105–4; and

(2) In all of the three consecutive simulation pool fire tests required by paragraph (d) of § 179.105–4, none of the thermocouples on the uninsulated side of the steel plate indicates a plate temperature in excess of 550°F.

5. In § 179.106–1, paragraph (e) is added to read as follows:

§ 179.106–1 General.

* * * * *

(e) Notwithstanding the provisions of § 173.8 of this subchapter, no specification 105 tank car manufactured before September 1, 1981, to specifications promulgated by the Canadian Transport Commission having a water capacity (shell full volume, including manways) exceeding 18,500 U.S. gallons may be used after December 31, 1986, to transport hazardous materials unless it is equipped in accordance with § 179.106–3.

6. Section 179.106–3 is revised to read as follows:

§ 179.106–3 Previously built cars

(a) Each specification 105A tank car built before March 1, 1981, shall be equipped with a coupler restraint system that meets the requirements of § 179.105–6.

(b) Each specification 105S tank car built before September 1, 1981, shall be equipped with:

(1) A coupler restraint system that meets the requirement of § 179.105–6; and

(2) A tank head puncture resistance system that meets the requirements of § 179.105–5.

(c) Each specification 105J tank car built before September 1, 1981, shall be equipped with:

(1) A coupler restraint system that meets the requirements of § 179.105–6;

(2) A thermal protection system that meets the requirements of § 179.105–4;

(3) A safety relief valve that meets the requirements of § 179.105–7; and

(4) A tank head puncture resistance system that meets the requirements of § 179.105–5.

7. Section 179.200–27 is added to read as follows:

§ 179.200–27 Alternative requirements for tank head puncture resistance systems.

Class DOT 111 tank cars required to have puncture resistance systems in accordance with § 179.105–5 may, as an alternative, be equipped with a head shield at each end of the car conforming to the requirements of § 179.100–23.

8. In § 179.202–18, paragraphs (a)(10) and (a)(11) are added to read as follows:

§ 179.202–18 Ethylene oxide.

(a) * * *

(10) After December 31, 1986, each tank built with a water capacity (shell full volume, including manways) exceeding 18,500 U.S. gallons shall conform to class DOT–111J.

(11) Specification 111 tank cars built after March 1, 1984, are not authorized for the transportation of ethylene oxide.

9. Sections 179.203 and 179.203–1 and 179.203–3 are added to read as follows:

§ 179.203 Special requirements for specification 111 tank cars.

§ 179.203–1 General.

(a) In addition to the requirements of this section, each tank car built under specification 111 shall meet the applicable requirements of §§ 179.200, 179.201, and 179.202.

(b) Notwithstanding the provisions of §§ 179.3, 179.4, and 179.6, AAR approval is not required for changes in or additions to specification 111 tank cars in order to comply with this section.

(c) Notwithstanding the provisions of § 173.8 of this subchapter, no specification 111 tank car manufactured to specifications promulgated by the Canadian Transport Commission may be used after February 28, 1985, to transport hazardous materials in the United States unless it is equipped with a coupler vertical restraint system that meets the requirements of § 179.105–6.

(d) Notwithstanding the provisions of § 173.9 of this subchapter, no specification 111 tank car manufactured to specifications promulgated by the Canadian Transport Commission and with a water capacity (shell full volume, including manways) exceeding 18,500 U.S. gallons, may be used after December 31, 1986, to transport flammable gases or ethylene oxide unless it is equipped in accordance with § 179.203–2.

(e) Specification 111 tank cars built after March 1, 1984 are not permitted for the transportation of flammable gases or ethylene oxide.

§ 179.203–2 Previously built cars.

(a) Each specification 111J tank car built before March 1, 1984, shall be equipped with:

(1) A coupler vertical restraint system that meets the requirements of § 179.105–6;

(2) A thermal protection system that meets the requirements of § 179.105–4;

(3) A safety relief valve that meets the requirements of § 179.105–7; and

(4) A tank head puncture resistance system that meets the requirements of § 179.105–5.

§ 179.203–3 Stenciling.

Each specification 111 tank car built before March 1, 1984 that is equipped as prescribed in § 179.203–2(a) shall be stenciled by having the letter "J" substituted for the letter "A" in the specification marking.

(49 U.S.C. 1803, 1804, 1806; 49 CFR 1.53, Appendix A to Part 1)

Issued in Washington, D.C., on January 24, 1984.

L. D. Santman,

Director, Materials Transportation Bureau.

[FR Doc. 84–2377 Filed 1–26–84; 8:45 am]

BILLING CODE 4910–60–M

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49 CFR Parts 173 and 179

[Docket No. HM–174; Amdt. No. 173–172, 179–34]

Shippers; Specifications for Railroad Tank Cars

AGENCY: Materials Transportation Bureau (MTB), Research and Special Programs Administration, DOT.

ACTION: Amendment of final rule.

SUMMARY: This document amends a final rule issued under this Docket which established certain construction standards for railroad tank cars used to transport hazardous materials. This amendment provides an option for safety relief valve sizing for DOT specification 105J tank cars built after February 29, 1984 to transport ethylene oxide. Under current requirements, those class 105J cars must be equipped with a safety relief valve that has a discharge capacity calculated in accordance with a formula designed for compressed gases in uninsulated tanks. This amendment provides that specification 105J tank cars used to transport ethylene oxide may be equipped with a safety relief valve of lesser discharge capacity when additional high temperature thermal protection of the tank is provided. This action is taken by MTB in response to a petition for reconsideration of the final rule submitted by the Association of American Railroads (AAR).

EFFECTIVE DATE: This amendment is effective on March 1, 1984.

FOR FURTHER INFORMATION CONTACT: Philip Olekszyk, Office of Safety, Federal Railroad Administration, 400 Seventh Street, SW., Washington, D.C. 20590, (202) 426–0897.

SUPPLEMENTARY INFORMATION: On January 26, 1981 (46 FR 8005), MTB issued a final rule establishing certain construction standards for DOT specification 105 tank cars built to carry specified hazardous materials. The construction standards include a safety valve sizing requirement for those tank cars built to carry ethylene oxide. The final rule required that each DOT specification 105 tank car used to transport ethylene oxide and constructed after August 31, 1981, must have a safety valve sized in accordance with 49 CFR 179.105–7.

MTB received several petitions for reconsideration of the final rule. These petitions addressed, among other things, the safety valve sizing requirement for tank cars used to transport ethylene oxide. The petitioners argued that the larger safety valve for ethylene oxide would be less safe because of that commodity's peculiar characteristics. They also argued that the valve sizing equation in the rule should not be applied because ethylene oxide is a liquid while the equation is designed for gases.

While MTB and the Federal Railroad Administration (FRA) were not persuaded that these arguments were adequately supported, the compliance date was extended from September 1, 1981, until September 1, 1982 (46 FR 42678), then from September 1, 1982, until September 1, 1983 (47 FR 38697), and finally from September 1, 1983, until March 1, 1984 (48 FR 39630).

The extensions were granted to permit the AAR Tank Car Committee (AAR Committee) and other interested parties an opportunity to study the question of safety valve sizing for ethylene oxide and to submit the results for review and consideration. During the past two years, the AAR Committee conducted an extensive study of safety valve sizing. A final report was furnished to MTB and FRA earlier this year and has been placed in the Docket.

AAR Safety Relief Valve Report

The AAR Report is a comprehensive study of safety valve sizing and of the railroad accident environment. The report does address ethylene oxide safety valve sizing, but the overall analysis and conclusions of the AAR Report have equal validity for other materials. The AAR Report does not attempt to make the case, originally offered to justify the extension of the compliance date, that ethylene oxide should be treated differently as a result of peculiar chemical or physical properties. Rather, the AAR Report attempts to make the case that the safety relief valves currently used on DOT specification 105 and 111 tank cars transporting ethylene oxide and liquefied flammable gases (LFG) are adequately sized for railroad accident fire environments when used in conjunction with high temperature thermal insulation that meets the requirements of 49 CFR 179.105–4.

FRA and MTB have determined that the data and analysis do not support the conclusion that the current valves are adequately sized and, therefore, will not further extend the compliance date for equipping new construction ethylene

oxide tank cars with large capacity safety relief valves. However, as a result of the extensive analyses by AAR and FRA on the relationship of thermal insulation and safety valve sizing, adequate data are available to establish an optional approach that will permit continued use of the current valves on new ethylene oxide tank cars if additional thermal insulation is added.

Summary Technical Analysis of the AAR Report

The AAR Report discusses the functions of safety relief valves and design considerations for these valves; summarizes the equations that govern the flow of nonflashing liquids, saturated vapors, and flashing liquids through valves; reviews 49 technical papers dealing with various aspects of safety relief valves; reviews the results from selected pool fire simulation tests; and summarizes the results of subcooled water flow tests of two safety relief valves. The report also includes a description of computer programs developed by the AAR Committee to analyze the effects of fire engulfment on a tank car. The programs predict the temperatures and pressures of the tank car and the flow rate through the valves. The programs can treat both the case of the tank car remaining upright and the case of its being overturned. The programs can take account of a wide variety of fire environments, loading conditions, and insulation properties. The report includes selected case studies using the computer programs which purport to show the adequacy of the safety relief valves used on existing propane and ethylene oxide tank cars.

FRA and MTB Assesment of the AAR Report

The FRA and MTB assessment of the AAR Report, which has been placed in the docket, is summarized below.

The AAR Report confirms two key findings of a 1970 research study sponsored by FRA: (1) The overturned tank car accident scenario, in which the safety valve releases liquid rather than vapor, should be considered in the sizing of relief valves, and (2) the thermal conductance of insulation systems should be estimated at elevated temperatures. The report also contains useful information on design considerations and functions of safety relief valves.

The AAR Report makes two general recommendations with which MTB and FRA concur. First, the AAR recommends basing the allowable tank pressure on a percentage of the tank test pressure. Second, the AAR recommends that either (a) the theoretical burst strength of the tank not exceed the tank pressure within a reasonable time or (b) if the theoretical burst strength does exceed the tank pressure, the tank should be empty when this occurs.

The computer program developed by the AAR for propane tank cars could be a useful guide for sizing relief valves. The computer program developed by the AAR for ethylene oxide greatly simplifies the physical phenomena; despite this simplification, that program could also be a useful guide for sizing relief valves if the results are cautiously interpreted.

MTB and FRA's primary reservations about the AAR Report are the assumptions made concerning (a) the heat flux from the fire to the tank car, (b) the effective thermal conductance of the jacket insulation in a fire, and (c) the allowable test pressure.

The AAR Report assumes that the tank car is only one fourth engulfed in the fire and, therefore, that the heat flux to the tank is about 8,000 BTU/(hr ft^2). In a study sponsored by FRA and conducted by IIT Research Institute (IITRI), it was found that a heat flux of about 25,000 BTU/(hr ft^2) is necessary to correlate the data obtained in full-scale fire tests of liquefied petroleum gas tank cars. The IITRI results are also consistent with a fire data analysis sponsored by FRA and conducted by Cornell Aeronautical Laboratory.

The AAR Report assumes a value of 2.3 BTU/(hr ft^2 °F) for the effective thermal conductance of the jacket insulation satisfying the requirements of 49 CFR 179.105–4. The report does not explain how this 2.3 value was derived. However, in separate correspondence, the AAR has stated that they based this 2.3 value on a preliminary evaluation by IITRI. In this preliminary evaluation, IITRI assumed small heat losses from the back of the test plates used in pool fire simulation test. In a later evaluation of these tests, IITRI has revised the plate heat loss estimates and has obtained a conductance value of 4.0.

The AAR has also submitted a report dated May 27, 1983, and entitled "Thermal Conductances of Fire Protection Insulations for Tank Cars." This report concludes that, based on laboratory thermal conductivity measurements, two thermal shield systems that passed the 800°F/100 minute pool fire simulation test would result in an overall system conductance of 2.3 BTU/(hr ft^2 °F) in a fire environment. MTB and FRA believe that these laboratory tests have not been demonstrated to be an acceptable simulation of railroad pool fires and that the DOT pool fire simulation tests are the best available simulation.

The AAR Report uses an allowable tank pressure of 120 percent of the tank test pressure. MTB and FRA believe it is illogical to specify a tank test pressure for undamaged, unheated tank cars and then optimistically assume that tank cars in an accident environment can withstand 120 percent of tank test pressure.

Using these extremely optimistic assumptions, the AAR Report concludes that the safety valves on existing propane and ethylene oxide tank cars are adequate. Using the more fully analyzed and conservative safety assumptions of the IITRI study, the MTB and FRA conclude that the existing valves are not adequate. MTB and FRA conclude that the safety valve/thermal protection combinations mandated in the final rules for Dockets HM–144 (42 FR 46306) and HM–174, and proposed in the NPRM for Docket HM–175 (48 FR 16188), are justified. However, based on the IITRI calculations, MTB and FRA are allowing an option whereby additional thermal protection can be provided so that the ethylene oxide safety valve currently used can continue to be used.

Optional Approach for Ethylene Oxide

For pressure tank cars, DOT requires (49 CFR 179.100–15) that the total safety relief valve discharge capacity must be sufficient to prevent building up pressure in the tank in excess of 82½ percent of the tank test pressure or 10 psi above the start-to-discharge pressure, whichever is higher. There are similar requirements (49 CFR 179.200–18, 49 CFR 179.300–15, 49 CFR 179.400–18, and 49 CFR 179.500–12) for other types of tank cars. (The Department permits certain pressure tank cars carrying certain compressed gases to have a valve discharge capacity that would allow a build up of pressure to 90 percent of the tank test pressure. (49 CFR 179.102–11)) The DOT safety valve requirements for rail tank cars are similar to the valve requirements for stationary tanks in the American Society of Mechanical Engineers (ASME) Code Section VIII, Division 1. The ASME Code requires that, if a tank may be exposed to a fire or other unexpected external source of heat, the pressure-relieving capacity must limit the pressure to 80 percent of the hydrostatic test pressure.

In the DOT regulations cited above, the fire characteristics and accident situations that the safety valves must protect against are not explicitly stated. In 1973 FRA conducted a full-scale fire test of a DOT specification 112A 340W tank car, without thermal protection,

filled with propane. In this test the tank car was upright, the safety valve was discharging vapor, and the car was engulfed in a pool fire. The maximum pressure attained was 357 psig (105 percent of the test pressure).

A study by the Railway Progress Institute and AAR of eight DOT specification 112 and 114 tank cars without thermal protection that were involved in actual railroad fires indicates that in several of those cases the tank car pressure apparently exceeded the DOT pressure specifications. In an analytical study sponsored by FRA and conducted by Cornell Aeronautical Laboratory, it was concluded that "the consequences of inadequate relief capacity—overpressure—as a contributor to car failure could be effectively masked by evidence of fire and mechanical damage. Common post-accident test * * * will not reveal this condition." It was further concluded in the study that "reputed observations at derailment sites of relief flow from cars which subsequently ruptured indicated that the flow may have been substantially reduced from that anticipated for a fully-opened valve."

To mitigate the problems with inadequate safety relief valve capacity, the Department undertook research and then initiated regulatory action. In 1973 FRA sponsored a full-scale pool fire test of an upright DOT specification 112 tank car filled with propane and equipped with thermal protection and a large capacity safety valve. In this test the maximum pressure reached was 320 psig (94 percent of the tank test pressure), and the thermal protection used was less than that required in 49 CFR 179.105–4. MTB and FRA believe that had the tank car in this test been equipped with the 49 CFR 179.105–4 thermal protection, the pressure would not have exceeded the permissible pressure limits.

Based on the IITRI calculations discussed above, MTB and FRA believe that the standard safety valve/thermal protection requirements promulgated in the final rules of Dockets HM–144 and HM–174 and proposed in the NPRM of Docket HM–175 will result in compliance with 49 CFR 179.100–15 or 49 CFR 179.102–11 for tank cars that remain upright in railroad fires.

Research sponsored by FRA and conducted at Cornell Aeronautical Laboratory, U.S. Air Force Rocket Propulsion Laboratory, the University of Maryland, and IITRI demonstrates that, for the same fire environment, the valve sizing requirements for a tank car that is overturned and therefore discharging liquid from the safety valve will usually be greater than the valve sizing requirements for a tank car that is upright. In promulgating past valve sizing requirements, MTB and FRA believed (and still believe) that strict compliance with the requirements of 49 CFR 179.100–15 or 49 CFR 179.102–11 for overturned tank cars in fires would lead to unreasonably large relief valves. The IITRI calculations indicate that the large capacity safety valve/thermal protection will result in satisfactory safety for overturned ethylene oxide tank cars. For 105A 100W or 111A 100W ethylene oxide tank cars the maximum tank pressure will slightly and temporarily exceed the prescribed pressure limit of 85 psig, but the predicted pressures quickly recede to below the 85 psig level. For 105A 200W and 105A 300W ethylene oxide tank cars there are no predicted pressure problems using the large capacity safety valve/thermal protection.

FRA and MTB have analyzed the IITRI calculations to determine if an acceptable option can be developed to allow the use of 1100 standard cubic feet per minute (scfm) (at 85 psig) safety relief valves on new ethylene oxide tank cars. The IITRI calculations indicate that if the thermal protection were increased, the safety performances would be satisfactory. These thermal protection/safety valve combinations would result in excessive pressures, but by the time these pressures are reached, the fires should be greatly diminished in intensity or under control. In addition, the use of the additional thermal protection would provide more protection in torch fires and less chance of an autoignition of ethylene oxide in torch and pool fires than would the standard thermal protection/safety valve combination. MTB and FRA believe these benefits compensate for the higher pressures.

MTB and FRA have selected a minimum value of 550°F in the 100 minute pool fire test for the thermal protection required if the small 1100 scfm valve is used on ethylene oxide tank cars. The IITRI calculations indicate no clear cut break point in the range between 500°F and 600°F in terms of dramatic safety differences. MTB and FRA believe that the 550°F valve will provide a margin of safety to compensate for the simplifying assumptions made in the IITRI calculations.

Section-By-Section-Analysis

Section 173.124 Ethylene oxide

Paragraph (a)(5)(ii) of § 173.124 is revised to clarify that DOT specification 105 tank cars built after August 31, 1981, and before March 1, 1984, are not required to have a safety valve sized in accordance with § 179.106–2(c)(4). The several extensions of the compliance date for the large capacity safety relief valve for new construction ethylene oxide cars (49 CFR 179.102(a)(9)) could create confusion about the application of § 173.124(a)(5)(ii). The language change does not result in any substantive change, but merely clarifies the relationship between § 173.124 and § 179.102–12.

Section 179.105–7 Safety relief valves

Current § 179.105–7 establishes safety valve sizing requirements. The requirements are applicable to DOT specification 105 tank cars by virtue of § 179.106–2(c)(4), which requires that DOT specification 105J tank cars be equipped with a safety relief valve that meets the requirements of § 179.105–7. Thus, the § 179.105–7 safety valve sizing requirements will apply to DOT specification 105 tank cars built after February 29, 1984, to transport ethylene oxide since those tank cars must be constructed in accordance with specification 105J.

The amendment to § 179.105–7 in this document provides an optional method to meet the safety valve sizing requirement. In addition to sizing the valve according to the formula prescribed in section A8.02 of Appendix A of the AAR Specifications for Tank Cars applicable to compressed gases in non-insulated tanks, a valve with a capacity of at least 1100 scfm at 85 psi may be used in conjunction with a thermal protection system that will pass the pool fire simulation tests prescribed in § 179.105–4(d) with none of the thermocouples on the uninsulated scale of the steel plate indicating a temperature in excess of 550°F. According to the industry, an 1100 scfm valve is the size currently used on ethylene oxide tank cars.

Note that the option is not related to date of construction. Thus, any DOT specification 105 tank car used to transport ethylene oxide could be modified to specification 105J. Similarly, cars currently being built may be fitted with the option and marked as DOT specification 105J cars.

Note also that revised § 179.105–7 includes DOT specification 111 tank cars. Inclusion of specification 111 tank cars does *not* impose any burden. Section 179.105–7 does not require any specification 111 tank car to be equipped with a valve sized according to § 179.105–7. The requirement for any specification 111 tank car to have a valve sized in accordance with

§ 179.105–7 would result only from a separate regulatory action where that issue is fully addressed. Inclusion of the reference to specification 111 tank cars means only that the option of using additional thermal insulation instead of a larger capacity safety relief valve would be available for a specification 111 tank car in the same way as it is available for specification 105 tank cars.

List of Subjects in 49 CFR Parts 173 and 179

Railroad safety.

In consideration of the foregoing, Parts 173 and 179 of Title 49, CFR, are amended as follows:

PART 173—SHIPPERS—GENERAL REQUIREMENTS FOR SHIPMENTS AND PACKAGINGS

1. In § 173.124, paragraph (a)(5)(ii) is revised to read as follows:

§ 173.124 Ethylene oxide.

(a) * * *

(5) * * *

(ii) Each specification 105 tank car built after August 31, 1981, and before March 1, 1984, used for the transportation of ethylene oxide, must conform to DOT specification 105J, except for the safety relief valve requirements of § 179.106–2(c)(4). Each specification 105 tank car built after February 29, 1984, used for the transportation of ethylene oxide, must conform to DOT specification 105J.

* * * * *

PART 179—SPECIFICATIONS FOR TANK CARS

2. In § 179.105–7, paragraph (c) is added to read as follows:

§ 179.105–7 Safety relief valves.

* * * * *

(c) Notwithstanding paragraph (a) of this section, § 179.100–15, and § 179.200–18, the relieving or discharge capacity of the safety relief valve on a specification 105 or 111 tank car built to transport ethylene oxide may be as low as 1100 scfm at 85 psi if—

(1) The tank is equipped with a thermal protection system in accordance with § 179.105–4; and

(2) In all of the three consecutive simulation pool fire tests required by paragraph (d) of § 179.105–4, none of the thermocouples on the uninsulated side of the steel plate indicates a plate temperature in excess of 550°F.

(49 U.S.C. 1803, 1804, 1808; 49 CFR 1.53, Appendix A to Part 1)

Note.—MTB has determined that this document is not a "major rule" under the terms of Executive Order 12291 or a significant regulation under DOT's regulatory policy and procedures (44 FR 11034) and does not require an environmental impact statement under the National Environmental Policy Act (49 U.S.C. 4321, *et seq.*). I certify that this final rule does not have a significant economic impact on a substantial number of small entities because the overall economic impact of this amendment is minimal. A regulatory evaluation and environmental assessment for the action taken in HM–174 are available for review in the docket.

Issued in Washington, D.C. on January 24, 1984.

L. D. Santman,

Director, Materials Transportation Bureau.

[FR Doc. 84–2379 Filed 1–26–84; 8:45 am]

BILLING CODE 4910–60–M

Federal Highway Administration

49 CFR Part 350

[BMCS Docket No. MC–106; Amdt. No. 83–4]

Motor Carrier Safety Assistance Program

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Amendment to interim final rule; request for comments.

SUMMARY: The FHWA is amending its interim final rule, published August 31, 1983 (48 FR 39455), establishing the Motor Carrier Safety Assistance Program (MCSAP), at 49 CFR Part 350, authorized by Sections 401–404 of the Surface Transportation Assistance Act of 1982 (Pub. L. 97–424) (STAA of 1982). This amendment will provide for discretionary redistribution by the Federal Highway Administrator of appropriated funds unallocated in the first year of the MCSAP for State enforcement plans that have demonstrated a particular need. The FHWA invites comments on this amendment to the interim final rule.

DATES: This final rule is effective January 27, 1984. Comments must be received by March 27, 1984.

ADDRESS: All written comments should refer to the docket number that appears at the top of this document and should be submitted, preferably in triplicate, to Room 3404, Bureau of Motor Carrier Safety, 400 Seventh Street, SW., Washington, D.C. 20509. Those desiring notification of receipt of comments must include a self-addressed, stamped post card.

FOR FURTHER INFORMATION CONTACT: Mr. W. R. Fiste, Bureau of Motor Carrier Safety, (202) 426–0701 or Mr. Thomas P. Hoilan, Office of the Chief Counsel, (202) 426–0346, Federal Highway Administration, 400 Seventh Street, SW., Washington, D.C. 20509. Office hours are from 7:45 a.m to 4:15 p.m. ET, Monday through Friday, except legal holidays.

SUPPLEMENTARY INFORMATION: In the interim final rule, published on August 31, 1983, the FHWA exercised the discretion provided in the authorizing statute to distribute the subsequently appropriated sum of $8,000,000 among the States according to an allocation formula based on certain factors enunciated in the rule. It was anticipated that many States would not be prepared to implement an enforcement plan in the first year of the program. Therefore, provision was made for development grants (not to exceed $50,000) to provide assistance in preparing those States for future implementation. Further, it was anticipated that those States that were prepared to implement a program, particularly the States that participated in the demonstration program on which the MCSAP was, in part, modeled, would require more than the amount allocated by formula. Provision was therefore made in the interim final rule to permit any State to apply for three times its allocated share.

The FHWA has now determined that, after obligating grants to approximately 47 States and Territories, a balance will remain. This balance is available for redistribution to qualified States which have implemented an effective program, and which are in a position to further expand their efforts in the area of motor carier safety. Without this amendment, the interim final rule would unnecessarily limit the extent to which the FHWA could participate with MCSAP funds in these further expanded efforts. This amendment is consistent with the Congressional intent of section 402 of the Act authorizing the MCSAP, and will promote the objectives of that section.

The FHWA has determined that this action does not contain a major rule under Executive Order 12291 or a significant regulation under the reglatory policies and procedures of the Department of Transportation. The amendment, however, is important in order to provide a means of distributing appropriated funds in a manner that will be consistent with the legislative mandate. The economic impact of this action is minimal, and such impact as may occur is primarily mandated by the provisions of the authorizing statute, and not by this rulemaking action. Accordingly, a full regulatory evaluation is not required.

For the foregoing reasons, under the criteria of the Regulatory Flexibility Act, it is certified that this action will not have a significant economic impact on a substantial number of small entities.

The FHWA recognizes that any delay in publishing this amendment rule would prevent the effective use of a portion of the appropriated funds to carry out the statutory purposes of improving motor carrier safety enforcement during fiscal year 1984. For this reason, and since the rule imposes no additional burdens on the States, the FHWA finds good cause to make this regulation effective without prior notice and opportunity for comment and without a 30-day delay in the effective date. Neither a general notice of proposed rulemaking nor a 30-day delay of the effective date is required under the Administrative Procedures Act because the matters affected relate to grants, benefits or contracts pursuant to 5 U.S.C. 553(a)(2). Accordingly, the regulation is effective upon publication. The FHWA will accept comments on this action which will be evaluated in determining the need for future revisions to the interim final rule as amended herein.

Since this amendment is being published in order to carry out the legislative objectives of sections 401–404 of the STAA of 1982, publication of this amendment without an opportunity for prior comment, but with a request for comment following publication is consistent with the Department of Transportation's regulatory policies.

List of Subjects in 49 CFR Part 350

Highways and roads, Motor carriers, Motor vehicle safety, Reporting and recordkeeping requirement.

In consideration of the foregoing, and under the authority of Sections 401–404 of the Surface Transportation Assistance Act of 1982 (Pub. L. 97–424), the FHWA hereby amends Title 49, Code of Federal Regulations, Part 350, by adding paragraph (e) to § 350.13 to read as set forth below.

PART 350—COMMERCIAL MOTOR CARRIER SAFETY ASSISTANCE PROGRAM [AMENDED]

§ 350.13 Distribution of funds.

* * * * *

(e) Notwithstanding any other provisions of this section, funds which have not been awarded to States, under application of the allocation formula and the provisions for increased allocations contained in this section, may be redistributed, at the discretion of the Administrator.

(Catalog of Federal Domestic Assistance Program Number 20.217, Motor Carrier Safety)

Issued on: January 24, 1984.

R. A. Barnhart,

Federal Highway Administrator, Federal Highway Administration.

[FR Doc. 84-2307 Filed 1-26-84; 8:45 am]

BILLING CODE 4910-22-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1220

[No. 38849]

Review of Preservation of Records Rules

AGENCY: Interstate Commerce Commission.

ACTION: Final rule.

SUMMARY: This proceeding, which emanates from the Commission's periodic review of the preservation of records regulations, modifies the current Preservation of Records Rules, 49 CFR Part 1220. These changes allow each carrier's management more autonomy in establishing a recordkeeping program, while reducing costs and burdens.

DATES: The revised rules will become effective upon approval by the Office of Management and Budget. A Notice of that effective date will be issued at a later date.

ADDRESS: Copies of this rule may be purchased from: T. S. InfoSystems, Inc., Room 2227, Interstate Commerce Commission, Washington, D.C. 20423, 289–4357 (D.C. Metropolitan area), 800–424–5403 (toll free).

FOR FURTHER INFORMATION CONTACT: Andrew J. Lee, (202) 275–7448.

SUPPLEMENTARY INFORMATION: This proceeding emanates from the Commission's periodic review of the preservation of records regulations. Also, under Section 610 of the Regulatory Flexibility Act (Pub. L. 96–354), the Commission is required to review its rules to consider the effect of the rules on small entities. On November 3, 1981, the Commission published its 10-year plan for the review of its regulations. A specific Notice of Review of Regulations was published on December 31, 1981 (46 FR 63358), giving notification that the review was underway. On December 10, 1982, the Commission served the Notice of Proposed Rulemaking on the review of Preservation of Records Rules, (47 FR 56152, December 15, 1982).

The purpose of the preservation of record rules is to assure that carriers' records are secure, readily accessible, and adequately maintained for a prescribed period of time. The regulations instruct carriers to maintain their corporate, treasury, property, personnel, insurance and claims, inventory, transportation, tariff, statistical, and miscellaneous records in hard paper copy, microfiche, or machine-readable form for certain periods.

Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to T. S. InfoSystems, Inc., Room 2227, Interstate Commerce Commission, Washington, D.C. 20423, or call 289–4357 (D.C. Metropolitan area) or toll free (800) 424–5403.

The revised collection of information requirements included in this Final Rule do not become effective until approved by the Office of Management and Budget as provided by the Paperwork Reduction Act of 1980.

Regulatory Flexibility Act

As noted above, this proceeding stems from the Commission's review of rules pursuant to 5 U.S.C. 610. We have determined that this rule will have a significant economic impact upon a substantial number of small entities. The economic impact is beneficial because many cost reducing provisions have been adopted such as eliminating duplicative records, allowing management more autonomy in deciding which records to keep and for how long, and requiring only records and retention periods that would further the Commission's regulatory mission. The effect of these revisions will be a lessening of the expense and burden of recordkeeping.

This final rule will not have a significant effect on the quality of the human environment or the conservation of energy resources.

List of Subjects in 49 CFR Part 1220

Express companies, Freight forwarders, Motor carriers and brokers, Railroads, Ratemaking organizations subject to Commission oversight, Reporting and recordkeeping requirements. Water carriers.

This rule is made under the authority of 49 U.S.C. 10321 and 11145 and 5 U.S.C. 553.

Decided: November 29, 1983.

By the Commission, Chairman Taylor, Vice Chairman Sterrett, Commissioners Andre and Gradison.

James H. Bayne,

Acting Secretary.

Appendix

Part 1220 of Title 49 of the Code of Federal Regulations is revised to read as follows:

PART 1220—PRESERVATION OF RECORDS

Sec.

1220.0 Applicability.
1220.1 Purpose.
1220.2 Designation of supervisory official.
1220.3 Availability of records.
1220.4 Protection and storage of records.
1220.5 Preservation of records.
1220.6 Destruction of records.
1220.7 Photographic copies.
1220.8 Companies going out of business.
1220.9 Waiver of requirements of these regulations.
1220.10 Schedule of records and periods of retention.

Authority: 49 U.S.C. 10321 and 11145, and 5 U.S.C. 553.

§ 1220.0 Applicability.

Before destroying any operating, accounting, or financial papers, records, books, blanks, tickets, stubs, correspondence, reports, or documents the following companies and persons subject to the provisions of the Interstate Commerce Act shall comply with the regulations in this part:

Railroad companies
Electric railway companies
Express companies
Persons furnishing cars to railroads
Motor carriers and brokers
Water carriers
Freight forwarders
Rate-making organizations

This part applies also to the preservation of accounts, records and memoranda of traffic associations, demurrage and car service bureaus, weighing and inspection bureaus, and other joint activities maintained by or on behalf of companies listed in the above paragraph of this subpart.

§ 1220.1 Purpose.

The regulations in this part prescribe the minimum length of time records shall be preserved, after which they may be destroyed at the discretion of each company's management. Every possible record that could provide valuable information might not be included in § 1220.10. However, it shall be the obligation of the subject company to maintain records that adequately support financial and operational data required by the Commission. The company may request a ruling from the Commission on any record or retention period not covered in this Part. The general guideline shall be that if the record has a direct applicability to future events, then it should be retained. The provisions of this part shall not be construed as excusing compliance with the lawful requirements of any other governmental body, Federal or State, prescribing longer retention periods for any category of records.

§ 1220.2 Designation of supervisory official.

(a)(1) Each company subject to the provisions of this part shall appoint an officer or other responsible employee to supervise the preservation and authorized destruction of records. Such appointment shall be by formal corporate act of the Board of Directors or its executive committee or, if the company is not incorporated, by formal designation of the owners.

(2) Designation may be made by title only, rather than by name and title, and thus obviate the necessity for a new resolution or order each time a successor is appointed.

(b) If the property of the company is in the hands of a trustee, executor, administrator, or assignee, the officer or other responsible employee supervising the preservation and destruction of records shall be designated by such trustee, executor, administrator, or assignee.

(c) Authority to supervise the destruction of company records maintained by an association, joint bureau, etc. may be delegated to the manager or other chief officer.

(d) A company, at its option, may by a formal act of appointment delegate to a bank, trust company, or similar institution having custody of its records in the normal course of business, the authority to destroy such records upon compliance with the requirements of regulations in this Part.

(e) Copies of the resolution or orders of appointment need not be filed with the Commission but shall be available for inspection by the Commission's duly authorized representatives.

§ 1220.3 Availability of records.

At each office where records are kept or stored, such records as are herein required to be preserved shall be so arranged and filed so that they may be readily identified and made available to representatives of the Commission.

§ 1220.4 Protection and storage of records.

(a) The company shall protect records subject to the regulations in this part from fires, floods, and other hazards, and safeguard the records from unnecessary exposure to deterioration from excessive humidity, dryness, or lack of ventilation.

(b) The company shall notify the Commission if prescribed records are substantially destroyed or damaged as specified in Part 1220.6(d).

§ 1220.5 Preservation of records.

(a) All records prescribed by § 1220.10 may be preserved on hard-copy paper stock, microfilm or other forms of micrographics. It is not necessary to create paperstock or micrographic media if the records are initially prepared on machine-readable media such as punch cards, magnetic tape, disks and so on. However, these machine-readable media shall be preserved for the prescribed retention periods, if this option is chosen.

(b) Each machine-readable form of media shall be accompanied by a statement clearly indicating the type of data included in the media. This statement shall be executed by a person having personal knowledge of the facts contained in the records. The records shall be indexed and retained in such a manner as will render them readily accessible. The company shall have facilities available to locate, identify and reproduce legible paper copies of the records. The designated records supervisory official shall be responsible for implementing safeguards to assure that the information contained on the machine-readable media is complete, accurate, indexed, and accessible.

§ 1220.6 Destruction of records.

(a) *General authority.* Records described in these regulations may be destroyed after having been preserved for the prescribed periods.

(b) *Special authority.* Special authority is required before records described in these regulations may be destroyed prior to the end of the prescribed retention periods. Applications for special authority shall be filed with the Commission's Bureau of Accounts and must describe in detail the nature and purpose of the records in question and the reasons continued retention is no longer considered necessary. (see § 1220.9).

(c) *Method of destruction.* These regulations require that records be preserved for specified periods. Upon expiration of these periods, records may be destroyed in any manner if the company so elects. Precaution should be taken, however, to shred or otherwise destroy the legibility of any records, the content of which is forbidden by law to be divulged to unauthorized persons.

(d) *Premature destruction or loss of records.* When records are destroyed or lost before the expiration of the prescribed retention periods, a statement shall be prepared listing as accurately as possible, the records destroyed or lost and describing the circumstances under which they were destroyed or lost. The statement shall be certifed by an officer of the carrier and filed with the officer having supervision over preservation of records. A copy of the statement shall also be filed with the Secretary's Office of this Commission within ninety (90) days from the discovery of the premature destruction of loss.

§ 1220.7 Photographic copies.

(a) Any record may be transferred to micrographics (including microfiche, computer output microfilm, and aperture cards) at any time. Records so maintained shall satisfy the minimum requirements listed in paragraphs (b) through (f) of this section.

(b) The micrographics used shall be of a quality that can be easily read and that reproduction in paperstock can be similar in size of any original and sufficient clarity of detail during the periods the records are required to be retained in § 1220.10.

(c) These records shall be indexed and retained in such a manner as will render then readily accessible, and the company shall have facilities available to locate, identify and read the microfilm, and reproduce in paper form.

(d) Any significant characteristic, feature, or other attribute which micrographic media will not preserve shall be clearly indicated at the beginning of the applicable micrographic records as appropriate.

(e) The printed side of forms, such as instructions, need not be preserved for each record as long as the printed matter is common to all such forms and an identified specimen of the form is maintained on the film for reference.

(f) The responsible supervisory official designated in § 1220.2 shall be responsible for the overall micrographic program of the company. He shall assure that proper directives are issued and procedures implemented at the various micrographic locations so that records are reproduced in accordance with these regulations. Either the designated official or a company official having personal knowledge of the micrographic procedures shall execute a certificate of authenticity, stating that the micrographics are direct facsimiles of the original records, and they have been made in accordance with prescribed regulations, and they are accurate and complete. A copy of each certificate shall be retained by the responsible official designated under § 1220.2.

§ 1220.8 Companies going out of business.

The records referred to in these regulations may be destroyed after business is discontinued and the company is completely liquidated. The records may not be destroyed until dissolution is final and all transactions are completed. When a company is merged with another company under jurisdiction of the Commission, the successor company shall preserve records of the merged company in accordance with these regulations.

§ 1220.9 Waiver of requirements of these regulations.

A waiver from any provision of these regulations may be made by the Commission upon its own initiative or upon submission of a written request by the company. Each request for waiver shall demonstrate that unusual circumstances warrant a departure from prescribed retention periods, procedures, or techniques, or that compliance with such prescribed requirements would impose an unreasonable burden on the company.

§ 1220.10 Schedule of records and periods of retention.

The following schedule shows periods that designated records shall be preserved. The descriptions specified under the various general headings are for convenient reference and identification, and are intended to apply to the items named regardless of what the records are called in individual companies and regardless of departmental organization. Records other than those listed below may be destroyed at the option of the company, provided they do not have future applicability for Commission regulatory purposes. See § 1220.0 for record obligation of subject companies. The retention periods represent the precribed number of years from the date on the document and not calendar years.

SCHEDULE OF RECORDS AND PERIODS OF RETENTION

Item and category of records	Retention period
A. CORPORATE AND GENERAL	
1. Incorporation and reorganization:	
(a) Charter or certificate or incorporation and amendments	Until business termination + 3 years.
(b) Legal document related to mergers, consolidations, reorganization, receiverships and similar actions which affect the identity or organization of the company.	Do.
2. Minutes of Directors, Executive Committees, Stockholders and other corporate meetings	Do.
3. Titles, franchises and authorities:	
(a) Certificates of public convenience and necessity issued by regulating bodies	Until expiration or cancellation.
(b) Operating authorizations and exemptions to operate issued by regulating bodies	Do.
(c) Copies of formal orders of regulatory bodies served upon the company	Until expiration or cancellation + 1 year.
(d) Deeds, charters, and other title papers	Until disposition of property + 3 years.
(e) Patents and patent records	Until expiration 1 year.
4. Annual reports or statements to stockholders	3 years.
5. Contracts and agreements:	
(a) Service contracts, such as for operational management, accounting, financial or legal services, and agreements with agents	Until expiration or termination + 3 years.
(b) Contracts and other agreements relating to the construction, acquisition or sale of real property and equipment except as otherwise provided in (a) above.	Do.
(c) Contracts for the purchase or sale of material and supplies except as provided in (a) above	Until expiration.
(d) Shipping contracts for transportation or caretakers of freight	Do.
(e) Contracts with employees and employee bargaining groups	Do.
(f) Contracts, leases and agreements, not specifically provided for in this section	Until expiration or termination.
6. Accountant's, auditor's, and inspector's reports:	
(a) Certifications and reports of examinations and audits conducted by public accountants	3 years.
(b) Reports of examinations and audits conducted by internal auditors, time inspectors, and others	Do.

SCHEDULE OF RECORDS AND PERIODS OF RETENTION—Continued

Item and category of records	Retention period
7. Other: (See Note A.)	
B. TREASURY	
1. Capital stock records:	
(a) Capital stock ledger	3 years.
(b) Capital stock certificates, records of or stubs of. Note: If the information shown on the stubs is recorded in item 1(a), the stubs may be retained according to Note A.	Do.
(c) Stock transfer register	Do.
2. Long-term debt records:	
(a) Bond indentures, underwritings, mortgages, and other long-term credit agreements	Until redemption + 3 years.
(b) Registered bonds and debenture ledgers	Do.
(c) Stubs or similar records of bonds or other long-term debt issued. Note If the information shown on the stubs is provided in items (2) (a) or (b) above, then retention period shall be determined according to Note A.	Do.
3. Authorizations from regulatory bodies for issuances of securities including applications, reports, and supporting papers	Until all securities covered are retired.
4. Records of securities owned, in treasury or held by custodians, detailed ledgers and journals, or their equivalent	Until the securities are sold, redeemed or otherwise disposed of + 3 years.
5. Other: (See Note A).	
C. FINANCIAL AND ACCOUNTING	
1. Ledgers:	
(a) General and subsidiary ledgers with indexes	Until discontinuance of use + 3 years.
(b) Balance sheets and trial balance sheets of general and subsidiary ledgers	3 years.
2. Journals:	
(a) General journals	Until discontinuance of use + 3 years.
(b) Subsidiary journals and any supporting data, except as otherwise provided for, necessary to explain journal entries	3 years.
3. Cash books:	
(a) General cash books	Until discontinuance of use + 3 years.
(b) Subsidiary cash books	3 years.
4. Vouchers:	
(a) Voucher registers, indexes, or equivalent	3 years.
(b) Paid and canceled vouchers, expenditure authorizations, detailed distribution sheets and other supporting data including original bills and invoices, if not provided for elsewhere.	Do.
(c) Paid drafts, paid checks, and receipts for cash paid out	3 years.
5. Accounts receivable:	
(a) Record or register of accounts receivable, indexes thereto, and summaries of distribution	3 years after settlement.
(b) Bills issued for collection and supporting data	Do.
(c) Authorizations for writing off receivables	1 year.
(d) Reports and statements showing age and status of receivables	Do.
6. Records of accounting codes and instructions	3 years after discontinuance.
7. Other: (Note A).	
D. PROPERTY AND EQUIPMENT [1]	
1. Property records:	
(a) Records which maintain complete information on cost or other value of all real and personal property or equipment	3 years after disposition of property.
(b) Records of additions and betterments made to property and equipment	Do.
(c) Records pertaining to retirements and replacements of property and equipment	Do.
(d) Records pertaining to depreciation	Do.
(e) Records of equipment number changes	Do.
(f) Records of motor and engine changes	Do.
(g) Records of equipment lightweighted and stenciled	Only current or latest records.
2. Engineering records of property changes actually made	3 years after disposition of property.
3. Other: (Note A).	
E. PERSONNEL AND PAYROLL	
1. Personnel and payroll records. (See Note A).	
F. INSURANCE AND CLAIMS	
1. Insurance records:	
(a) Schedules of insurance against fire, storms, and other hazards and records of premium payments	Until expiration + 1 year.
(b) Records of losses and recoveries from insurance companies and supporting papers	1 year after settlement.
(c) Insurance policies	Until expiration of coverage + 1 year.
2. Claims records:	
(a) Claim registers, card or book indexes, and other records which record personal injury, fire and other claims against the company, together with all supporting data.	1 year after settlement.
(b) Claims registers, card or book indexes, and other records which record overcharges, damages, and other claims filed by the company against others, together with all supporting data.	Do.
(c) Records giving the details of authorities issued to agents, carriers, and others for participation in freight claims	3 years.
(d) Reports, statements and other data pertaining to personal injuries or damage to property when not necessary to support claims or vouchers	Do.
(e) Reports, statements, tracers, and other data pertaining to unclaimed, over, short, damaged, and refused freight, when not necessary to support claims or vouchers.	1 year.
(f) Authorities for disposal of unclaimed, damaged, and refused freight	3 years.
3. Other: (See Note A).	
G. TAXES	
1. Taxes. (Note A).	
H. PURCHASES AND STORES	
1. Purchases and stores. (Note A).	
I. SHIPPING AND AGENCY DOCUMENTS	
1. Bills of lading and releases:	
(a) Consignors' shipping orders, consignors' shipping tickets, and copies of bills of lading freight bills from other carriers and other similar documents furnished the carrier for movement of freight.	1 year.
(b) Shippers' order-to-notify bills of lading taken up and cancelled	Do.
2. Freight waybills:	
(a) Local waybills	Do.
(b) Interline waybills received from and made to other carriers	Do.

SCHEDULE OF RECORDS AND PERIODS OF RETENTION—Continued

Item and category of records	Retention period
(c) Company freight waybills	Do.
(d) Express waybills	Do.
3. Freight bills and settlements:	
(a) Paid copy of freight bill retained to support receipt of freight charges:	
(1) Bus express freight bills provided no claim has been filed	Do.
(2) All other freight bills	Do.
(b) Paid copy of freight bill retained to support payment of freight charges to other carriers:	
(1) Bus express freight bills provided no claim has been filed	Do.
(2) All other freight bills	Do.
(c) Records of unsettled freight bills and supporting papers	1 year after disposition.
(d) Records and reports of correction notices	1 year
4. Other freight records:	
(a) Records of freight received, forwarded, and delivered	Do.
(b) Notice to consignees of arrival of freight; tender of delivery	Do.
5. Agency records (to include conductors, pursers, stewards, and others):	
(a) Cash books	Do.
(b) Remittance records, bank deposit slips, and supporting papers	Do.
(c) Balance sheets and supporting papers	Do.
(d) Statements of correction in agents' accounts	Do.
(e) Other records and reports pertaining to ticket sales, baggage handled, miscellaneous collections, refunds, adjustments, etc	Do.
J. TRANSPORTATION	
1. Records pertaining to transportation of household goods:	
(a) Estimate of charges	1 year.
(b) Order for service	Do.
(c) Vehicle-load manifest	Do.
(d) Descriptive inventory	Do.
2. Records and reports pertaining to operation of marine and floating equipment:	
(a) Ship log	3 years.
(b) Ship articles	Do.
(c) Passenger and room list	Do.
(d) Floatmen's barge, lighter, and scow captains' reports, demurrage records, towing reports and check sheets	2 years.
3. Car distribution and movement-railroads only:	
(a) Records of car allotment and distribution	2 years.
(b) Records of cars ordered, furnished and loaded	Do.
(c) Records showing dates and numbers of trains, initials and number of cars, movement of cars, and mileage of cars and trains	Do.
(d) Report of cars interchanged with connecting lines	Do.
(e) Reports of unfilled car orders	1 year.
(f) Per diem and mileage reports made and received, including reclaims and discrepancy and adjustment reports	2 years.
(g) Demurrage and storage records	Do.
4. Dispatchers' sheets, registers, and other records pertaining to movement of transportation equipment	3 years.
5. Import and export records including bonded freight and steamship engagements	2 years.
6. Records, reports, orders and tickets pertaining to weighting of freight	3 years.
7. Records of loading and unloading of transportation equipment	2 years.
8. Records pertaining to the diversion or reconsignment of freight, including requests, tracers, and correspondence	Do.
9. Other: (See Note A).	
K. TARIFFS AND RATES	
1. Official file copies of tariffs, classifications, division sheets, and circulars relative to the transportation of persons or property	3 years after expiration or cancellation.
2. Authorities and supporting papers for transportation of property or passengers free or at reducted rates	3 years.
3. Records and documents required by provisions of sec. 1253.20 to be maintained	2 years.
L. SUPPORTING DATA FOR REPORTS AND STATISTICS	
1. Supporting data for reports filed with the Interstate Commerce Commission and regulatory bodies:	
(a) Supporting data for annual financial, operating and statistical reports	3 years.
(b) Supporting data for periodical reports of operating revenues, expenses, and income	Do.
(c) Supporting data for reports detailing use of proceeds from issuance or sale of company securities	Do.
(d) Supporting data for valuation inventory reports and records. This includes related notes, maps and sketches, underlying engineering, land, and accounting reports, pricing schedules, summary or collection sheets, yearly reports of changes and other miscellaneous data, all relating to the valuation of the company's property by the Interstate Commerce Commission or other regulatory body.	3 years after disposition of the property.
2. Supporting data for periodical reports of accidents, inspections, tests, hours of service, repairs, freight car locations, etc	3 years
3. Supporting data for periodical statistics of operating results or performance by tonnage, mileage, passengers carried, piggyback traffic, commodities, costs, analyses of increases and decreases, or otherwise.	Do.
M. MISCELLANEOUS	
1. Index of records	Until revised as record structure changes.
2. Statement listing records prematurely destroyed or lost	For the remainder of the period as prescribed for record destroyed.

[1] All accounts, records, and memoranda necessary for making a complete analysis of the cost or value of property shall be retained for the periods shown. If any of the records elsewhere provided for in this schedule are of this character, they shall be retained for the periods shown below, regardless of any lesser retention period assigned.

NOTE A.—Other records under this category shall be maintained as determined by the designated records supervisory official. Companies should be mindful of the record retention requirements of the Internal Revenue Service, Securities and Exchange Commission, state and local jurisdictions and other regulatory agencies. Companies shall exercise reasonable care in choosing retention periods, and the choice of retention periods shall reflect past experiences, company needs, pending litigation, and regulatory requirements.

[FR Doc. 84-2173 Filed 1-26-84; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration

50 CFR Part 611

[Docket No. 40120-06]

Foreign Fishing

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Rule-related notice; initial specifications.

SUMMARY: 50 CFR 611.20(c) requires that the specifications of optimum yield (OY) and initial estimates of U.S. harvests and TALFFs (total allowable level of foreign fishing) be published at the beginning of the relevant fishing year. Therefore, NOAA issues this notice presenting the numbers, as of January 1, 1984, for 1984 for all foreign fisheries.

EFFECTIVE DATE: January 1, 1984.

FOR FURTHER INFORMATION CONTACT: Donna D. Turgeon (Regulations Coordinator), 202-634-7432.

SUPPLEMENTARY INFORMATION:

INITIAL (AS OF JANUARY 1, EACH YEAR) OPTIMUM YIELD (OY) OR TOTAL ALLOWABLE CATCH [1] (TAC), ESTIMATED DOMESTIC ANNUAL HARVEST (DAH), ESTIMATED DOMESTIC ANNUAL PROCESSING (DAP), JOINT VENTURE PROCESSING (JVP), DOMESTIC NONPROCESSED FISH (DNP), RESERVE, AND TOTAL ALLOWABLE LEVEL OF FOREIGN FISHING (TALFF), ALL IN METRIC TONS.

Species	Species code	Areas	OY or TAC [1]	DAH	DAP	JVP	Reserve	TALFF
1. NORTHWEST ATLANTIC OCEAN FISHERIES								
A. Hake fishery:								
Hake, silver	104	NW Atlantic 1-4 [2]	30,000	20,600	5,500		0	9,400
		NW Atlantic 5	13,000	9,000	2,000		0	4,000
Hake, red	105	NW Atlantic 1-4	16,000	13,000	13,000	0	0	3,000
		NW Atlantic 5	5,000	500	500	0	3,000	2,500
B. Mackerel fishery:								
Atlantic mackerel	204		101,700	30,000	5,000	25,000	35,850	35,850
C. Trawl fishery:								
Herring, river	309		8,000	7,900	7,900	0	0	100
Other finfish	499		247,000	200,200	180,000	20,200	0	46,800
D. Squid fishery:								
Squid, long-finned	502		44,000	22,000	10,300	11,700	834	21,166
Squid, short-finned	504		30,000	27,100	5,000	22,100	0	2,900
E. Butterfish fishery:								
Butterfish [3]	212		up to 18,000	up to 13,800	11,000		0	up to 2,200
2. ATLANTIC AND GULF FISHERIES								
A. Atlantic billfish and sharks fishery:								
Sharks	489		6,150	5,000			0	1,150
B. Royal red shrimp fishery	630		177.8	111.6			0	66.2
3. WESTERN PACIFIC OCEAN FISHERIES								
A. Seamount Groundfish Fishery [4]			2,000	0	0	0	0	2,000
Armorheads	200							
Alfonsins	201							
Other groundfish	499							
B. Pacific billfish and sharks fishery:								
Swordfish	264	West Coast	318.4	[15] 350.2			0	0
		Hawaii & Midway	93.6	5.0			8.8	78.9
		Guam & N. Marianas	4.1	0.2			0.4	3.5
		American Samoa	2.4	0			0	2.4
		U.S. Possessions	28.1	0			0	28.1
Blue marlin	260	West Coast						
		Hawaii & Midway	612.0	603.4			8.6	0
		Guam & N. Marianas	26.0	3.0			23.0	0
		American Samoa	37.2	2.3			0	34.9
		U.S. Possessions	76.3	0			0	76.3
Black marlin	253	West Coast						
		Hawaii & Midway	97.7	[15] 104.7			0	0
		Guam & N. Marianas	5.6	0			0.1	0.5
		American Samoa	5.3	0			0	5.3
		U.S. Possessions	6.2	0			0	6.2
Striped marlin	261	West Coast	43.2	[15] 47.5			0	0
		Hawaii & Midway	223.2	67.9			15.5	139.8
		Guam & N. Marianas	5.0	0.3			0.5	4.2
		American Samoa	7.8	0			0	7.8
		U.S. Possessions	46.6	0			0	46.6
Sailfish	252	West Coast						
Spearfish	262	Hawaii & Midway	42.7	23.4			1.9	17.4
		Guam & N. Marianas	4.8	0.2			0.5	4.1
		American Samoa	3.5	1.3			0	2.2
		U.S. Possessions	14.3	0			0	14.3
Sharks	263, 265, 266, 267, 409	West Coast	27.8	[15] 30.4			0	0
		Hawaii & Midway	1,111.6	0			111.1	1,000.5
		Guam & N. Marianas	31.9	0			0	31.9
		American Samoa	101.6	0			0	101.6
		U.S. Possessions	651.4	0			0	651.4
Wahoo	255	West Coast						
		Hawaii & Midway	288.9	[15] 317.8				0
		Guam & N. Marianas	25.1	27.6				0
		American Samoa	4.8	2.8				2.0
		U.S. Possessions						
Mahi mahi	237	West Coast						
	238	Hawaii & Midway	105.0	[15] 115.5			0	0

INITIAL (AS OF JANUARY 1, EACH YEAR) OPTIMUM YIELD (OY) OR TOTAL ALLOWABLE CATCH [1] (TAC), ESTIMATED DOMESTIC ANNUAL HARVEST (DAH), ESTIMATED DOMESTIC ANNUAL PROCESSING (DAP), JOINT VENTURE PROCESSING (JVP), DOMESTIC NONPROCESSED FISH (DNP), RESERVE, AND TOTAL ALLOWABLE LEVEL OF FOREIGN FISHING (TALFF), ALL IN METRIC TONS.—Continued

Species	Species code	Areas	OY or TAC [1]	DAH	DAP	JVP	Reserve	TALFF
		Guam & N. Marianas	16.9	[15] 20.8			0	0
		American Samoa	6.4	4.4			0	2.0
		U.S. Possessions						
4. ALASKA FISHERIES								
A. Bering Sea and Aleutian Islands Groundfish Fishery (Source: 49 FR 1061; January 9, 1984):								
Pollock	701	[2] Bering Sea	[1] 1,200,000	271,200	19,200	253,000	(*)	748,800
		[2] Aleutians	[1] 100,000	3,500	500	3,000	(*)	81,500
Yellowfin sole	720		[1] 230,000	37,660	1,360	36,500	(*)	157,840
Turbots	721,118		[1] 58,610	120	20	100	(*)	52,550
Other flatfish	129		[1] 111,490	23,360	1,360	22,000	(*)	71,410
Pacific cod	702		[1] 210,000	131,600	104,400	27,200	(*)	61,900
Pacific ocean perch [6]	780	Bering Sea	[1] 1,780	700	550	150	(*)	810
		Aleutians	[1] 2,700	2,295	550	1,745	(*)	[9] 850
Other rockfish	849	Bering Sea	[1] 1,550	70	50	20	(*)	1,245
		Aleutians	[1] 5,500	4,050	50	4,000	(*)	625
Sablefish	703	Bering Sea	[1] 3,740	2,640	2,540	100	(*)	[9] 900
		Aleutians	[1] 1,600	150	50	100	(*)	1,210
Atka mackerel	207		[1] 23,130	19,660	230	19,430	(*)	[9] 1,000
Squid	509		[1] 8,900	40	20	20	(*)	7,525
Other species [4]	499		[1] 40,000	5,000	3,000	2,000	(*)	29,000
B. Snail fishery:								
Snails (meats)	873		3,000	0	0	0	0	3,000
C. Gulf of Alaska Groundfish fishery (Source: 49 FR 1063; January 9, 1984):								
Pollock	701	[6] Western	57,000	530	230	300	11,400	45,070
		[6] Central	143,000	138,000	5,360	132,620	0	5,000
		[6] Eastern	16,600	300	300	0	3,320	12,980
Pacific cod	702	Western	16,560	750	500	250	3,312	12,498
		Central	33,540	26,906	11,700	14,606	3,708	3,533
		Eastern	9,900	120	120	0	1,980	7,800
Flatfish	129	Western	10,400	10	0	10	2,080	8,310
		Central	14,700	8,720	100	8,620	2,940	3,040
		Eastern	8,400	300	300	0	1,680	6,420
Pacific ocean perch [5]	780	Western	2,700	1,770	0	1,770	540	390
		Central	7,900	2,525	525	2,000	1,580	3,700
		Eastern	875	460	460	0	175	240
Other rockfish [7]	548		7,600	895	395	500	1,520	5,185
Sablefish [8]	703	Western	1,670	300	100	200	334	1,036
		Central	3,060	1,650	1,360	290	612	798
		West Yakutat [6]	1,680	1,344	1,344	0	296	40
		East Yakutat [6]	850 to 1,135	850 to 1,135	850 to 1,135	0		
		Southeast Outside [6]	470 to 1,435	470 to 1,435	470 to 1,435	0		
Atka mackerel	207	Western	4,678	800	400	400	936	2,942
		Central	20,836	1,500	0	1,500	4,167	15,169
		Eastern	3,186	0	0	0	637	2,549
Squid	509		5,000	110	100	10	1,000	3,890
Thornyhead rockfish	749		3,750	200	150	50	750	2,800
Other species [4]	499		18,718	500	100	400	3,744	14,474
5. NORTHEAST PACIFIC OCEAN FISHERY (Source: 49 FR 1080; January 9, 1984)								
Pacific whiting	704		175,500	110,000	10,000	100,000	35,100	30,500
Sablefish	703		17,400	17,400	17,400	([10])	0	([10])
Pacific ocean perch (POP)	780		1,550	1,550	1,550	([10])	0	([10])
Shortbelly rockfish	850		10,000	3,400	3,400	([10], [12])		[10], [12] 6,600
Jack mackerel	208		([10], [13])			0		[10] 0
Rockfish, other than POP	849		([13])			0		[10] 0
Other species	499		([13])					
Flatfish	129		([13])			0		([10])

[1] *TAC* means total allowable catch determined annually within an established range of a multi-year, multi-species OY for the Bering Sea and Aleutian Islands area groundfish complex.
[2] *Bering Sea* means fishing areas I, II, and III in Figure 2, Appendix II of 50 CFR 611.9; *Aleutian* means fishing area IV in Figure 2, Appendix II of 50 CFR 611.9; *Northwest Atlantic* means foreign fishing areas 1 to 4 or 5 in Figure 1, Appendix II of 50 CFR 611.9.
[3] For the butterfish fishery, JVP is conditional and TALFF is determined by a fixed percentage of the amount of other species allocated to foreign fishing vessels under § 655.21(b)(3)(iii).
[4] The category "other species" includes sculpins, sharks, skates, euclachon, smelts, capelin, and octopus. The OY for Gulf of Alaska "other species" equals 5% of the OYs for target species.
[5] The category "Pacific ocean perch" includes *Sebastes alutus* (Pacific ocean perch), *S. polyspinus* (northern rockfish), *S. aleutianus* (rougheye rockfish), *S. borealis* (shortraker rockfish), and *S. zacentrus* (sharpchin rockfish).
[6] See Figure 1 of § 611.92(a) for description of regulatory areas and districts.
[7] The category "other rockfish" includes all fish of the genus *Sebastes* except the category "Pacific ocean perch" as defined in footnote 5 above, and *Sebastolobus* (thornyhead rockfish).
[8] Excludes values for the Southeast Inside District, which is not governed by these regulations.
[9] 15% of the TAC, or 300,000 metric tons, is apportioned to the initial pooled reserve and the remaining TAC is apportioned to DAP, JVP, and TALFF. The reserve may be apportioned to DAP, JVP, or TALFF as needed. TALFFs in the Aleutians of Pacific ocean perch, other rockfish, and sablefish contain amounts from the initial pooled reserve.
[10] In the foreign trawl and joint venture fisheries for Pacific whiting, incidental catch allowance percentages (based on TALFF) and incidental retention allowance percentages (based on JVP) follow: sablefish 0.173%, Pacific ocean perch 0.062%, rockfish excluding POP 0.738%, flatfish 0.1%, jack mackerel 3.0%, and other species 0.5%. In foreign trawl and joint venture fisheries, "other species" means all species, including nongroundfish species, except Pacific whiting, sablefish, Pacific ocean perch, rockfish excluding POP, flatfish, jack mackerel, and prohibited species. In a foreign trawl or joint venture fishery for species other than Pacific whiting, incidental allowance percentages will be stated in the conditions of the foreign fishing permit. See § 611.70(c)(2) for application of incidental retention allowance percentages to joint venture fisheries.

[11] Of this 1,550 metric tons, 600 metric tons is for the Vancouver subarea and 950 metric tons is for the Columbia subarea. Pacific ocean perch from other subareas are included in the OY for "other species". See § 663.21(a)(3).
[12] If no joint venture processing or foreign directed fishery is conducted, shortbelly rockfish will be included in the "rockfish, other than POP" category.
[13] No numerical OY; no JVP or TALFF is allowed. See footnote 10 for incidental catch.
[14] OY includes all seamount groundfish resources.
[15] Estimated DAH exceeds OY for this fishery.

Authority: 16 U.S.C. 1801 *et seq.*, unless otherwise noted.

Dated: January 20, 1984.

Carmen J. Blondin,

Deputy Assistant Administrator for Fisheries Resource Management, National Marine Fisheries Service.

[FR Doc. 84-2411 Filed 1-26-84; 8:45 am]
BILLING CODE 3510-22-M

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 910

[Lemon Reg. 448; Lemon Reg. 447, Amdt. 1]

Lemons Grown in California and Arizona; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This action establishes the quantity of fresh California-Arizona lemons that may be shipped to market at 225,000 cartons during the period January 29–February 4, 1984, and increases the quantity of lemons that may be shipped to 235,000 cartons during the period January 22–28, 1984. Such action is needed to provide for orderly marketing of fresh lemons for the periods specified due to the marketing situation confronting the lemon industry.

DATES: The regulation becomes effective January 29, 1984, and the amendment is effective for the period January 22–28, 1984.

FOR FURTHER INFORMATION CONTACT: William J. Doyle, Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone 202–447–5975.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under Secretary's Memorandum 1512–1 and Executive Order 12291 and has been designated a "non-major" rule. William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this action will not have a significant economic impact on a substantial number of small entities.

This final rule is issued under Marketing Order No. 910, as amended (7 CFR Part 910) regulating the handling of lemons grown in California and Arizona. The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C 601–674). The action is based upon the recommendations and information submitted by the Lemon Administrative Committee and upon other available information. It is hereby found that this action will tend to effectuate the declared policy of the Act.

This action is consistent with the marketing policy currently in effect. The committee met publicly on January 24, 1984, at Bakersfield, California, to consider the current and prospective conditions of supply and demand and recommended a quantity of lemons deemed advisable to be handled during the specified weeks. The committee reports the demand for lemons is similar to last week.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation and amendment are based and the effective date necessary to effectuate the declared policy of the Act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting, and the amendment relieves restrictions on the handling of lemons. It is necessary to effectuate the declared purposes of the Act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

List of Subjects in 7 CFR Part 910

Agricultural Marketing Service, Marketing agreements and orders, California, Arizona, Lemons.

1. Section 910.748 is added as follows:

§ 910.748 Lemon Regulation 448.

The quantity of lemons grown in California and Arizona which may be handled during the period January 29, 1984, through February 4, 1984, is established at 225,000 cartons.

2. Section 910.747 Lemon Regulation 447 (49 FR 2465) is revised to read as follows:

§ 910.747 Lemon Regulation 447.

The quantity of lemons grown in California and Arizona which may be handled during the period January 22, 1984, through January 28, 1984 is established at 235,000 cartons.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: January 25, 1984.

Russell L. Hawes,

Acting Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 84-2554 Filed 1-26-84; 12:02 pm]
BILLING CODE 3410-02-M

Proposed Rules

Federal Register
Vol. 49, No. 19
Friday, January 27, 1984

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Federal Grain Inspection Service

7 CFR Part 810

U.S. Standards for Sunflower Seed

AGENCY: Federal Grain Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: The Federal Grain Inspection Service (FGIS) proposes that official U.S. Standards for Sunflower Seed be established to facilitate inspection, weighing, and marketing. Under such standards, sunflower seed shipped outside the United States must be officially inspected and weighed, expect under certain provisions of the United States Grain Standards Act. Official inspection and weighing would be available, upon request, for domestic shipments. Production of sunflower seed in the U.S. has increased and the oil-type seed has become a major agricultural corp in some areas, especially in the North Central States. One major buyer and a number of United States industry members have requested development of official standards. Comments are solicited from interested parties on proposed official standards for this oilseed.

DATE: Comments must be submitted on or before March 27, 1984.

ADDRESS: Comments must be submitted in writing, in duplicate, to Lewis Lebakken, Jr., Information Resources Management Branch, USDA, FGIS, Room 0667, South Building, 1400 Independence Avenue SW., Washington, D.C. 20250; telephone (202) 382–1738. All comments received will be made available for public inspection at the above address during regular business hours (7 CFR 1.27(b)).

FOR FURTHER INFORMATION CONTACT: Lewis Lebakken, Jr., (address as above), telephone (202) 382–1738.

S–A27012 0001(00)(26–JAN–84–12:18:03)

SUPPLEMENTARY INFORMATION:

Exective Order 12291

This proposed rule has been issued in conformance with Executive Order 12291 and Secretary's Memorandum 1512–1. The action has been classified as "Nonmajor" because it does not meet the criteria for a major regulation as established in the Order.

Regulatory Flexibility Act Certification

Dr. Kenneth A. Gilles, Administrator, FGIS, has determined that this proposed rule will not have a significant economic impact on a substantial number of small entities because most potential users of official sunflower seed inspection services do not meet the requirements for small entities as defined in the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*)

Standards Review

Sunflower seed is a major source of edible vegetable oil. Although production has been centered in the Soviet Union and Eastern Europe, sunflower seed has become as important agricultural crop in other countries including the United States. Markets for the oil-type seed were firmly established in the 1960's, and production in the U.S. has generally increased over the last two decades. Major export markets have been developed for Mexico and Europe.

Sunflower can be grown throughout the United States. They are particularly adapted to the Great Plains area. North and South Dakota, Minnesota, and Texas are the major producing states. Both the oil-type and nonoil-type (confectionary) sunflower seed are grown in these states with the oil-type accounting for approximately 90 to 95 percent of the total production. The 1983 U.S. production for oil-type seed was approximately 3.2 billion pounds

While the quality of marketed sunflower seed generally has been established through the use of Minnesota State Standards, separate industry trading rules have also been used to determine quality and establish price in the marketing system.

In the December 28, 1979, **Federal Register** (44 FR 76835), FGIS requested public comments on nine proposed grain standardization studies. One of the nine studies addressed the need for official U.S. Standards for Sunflower Seed. The majority of comments that addressed this issue favored study and/or development of official standards. However, subsequent discussions with the sunflower industry indicated the majority of producers, processors, and merchandisers did not support this proposed study. The FGIS Advisory Committee also recommended no action be taken to develop sunflower seed standards. As a result, FGIS determined that a study should not be initiated at that time.

No further action was taken by FGIS to develop official U.S. Standards for Sunflower Seed until inquiries were received from industry members and the Government of Mexico. In meetings with representatives from the sunflower industry, university researchers, and representatives from Mexico, it was concluded that official standards were needed to provide uniform Federal inspection procedures and to facilitate marketing of the crop. Industry representatives provided information on composition of the standards and indicated preference for establishment under the U.S. Grain Standards Act (7 U.S.C. 71, *et seq.*, the Act). Both the Minnesota Standards and industry trading rules as well as the sunflower seed domestic and export marketing system were reviewed in preparation of the proposed standards.

Section 2 of the Act (7 U.S.C. 74) provides, in part, that "it is declared to be the policy of Congress, for the promotion and protection of such interstate or foreign commerce in the interests of producers, merchandisers, warehousemen, processors, and consumers of grain, and the general welfare of the people of the United States, to provide for the establishment of official United States standards for grain * * * with the objectives that grain may be marketed in an orderly and timely manner and that trading in grain may be facilitated * * *

Section 4(a) of the Act (7 U.S.C. 76(a)) provides, in part, that "the Administrator is authorized * * * to fix and establish (1) standards of kind, class, quality, and condition for * * * each other grains as in his judgement the usages of the trade may warrant and permit * * *

Further, when grain standards are established under the Act, pursuant to section 5 of the Act (7 U.S.C. 77) such grain must be officially inspected and weighed by FGIS or a delegated state if the grain is shipped outside the United

States. There are certain exceptions to this requirement including when parties to a contract mutually agree not to have official inspection and the grain is not sold by grade. Also, when there is a domestic shipment of such grain, it may, upon request, be officially inspected and weighed by a designated agency.

Accordingly, it is proposed that official U.S. Standards for Sunflower Seed be established under the U.S. Grain Standards Act as authorized pursuant to section 4(a) of the Act (7 U.S.C. 76(a)). The format and structure of the proposed standards are uniform with other standards under the Act.

Specifically, the proposal divides the standards into three parts, and into sections, which are generally the same or similar to sections in other U.S. Standards for Grain. Part I, *Terms Defined* would consist of § 810.701, *Definition of sunflower seed,* and § 810.702, *Definition of other terms* which includes the terms distinctly low quality, foreign material, heat damaged, moisture, stones and test weight per bushel. Part II, *Principles Concerning the Application of the Standards* would consist of § 810.703, *Basis of determination* which references distinctly low quality and certain other quality determinations together with all other determinations; § 810.704, *Temporary modifications in equipment and procedures;* § 810.705, *Percentages;* § 810.706, *Grades and grade requirements for sunflower seeds;* § 810.707, *Grade designation* which includes optional grade designations. Part III, *Special Grades, Special Grade Requirements and Special Grade Designations* would consist of § 810.708, *Special grade and special grade requirements* and § 810.709, *Special grade designations.*

The definition of sunflower seed in § 810.701 provides, in part, that it shall be any grain which consists of 50.0 percent or more of cultivated sunflower seed. The term cultivated sunflower seed is defined in § 810.702 as sunflower seed grown for high oil content. Oil is also defined in the section together with the dehulled seed, hull, kernel, as well as those terms previously references above.

In § 810.73, *Basis of determination,* distinctly low quality and certain referenced quality determinations would be upon the basis of the lot as a whole and the sample as a whole, respectively. All other determination would be upon the basis stated in § 800.703(e) with odor as an exception. When abnormal environmental conditions exist, section 810.704 would permit minor temporary modifications in equipment or procedures to obtain results expected under normal conditions.

Percentages (section 810.705) would be determined on the basis of weight, would be rounded if necessary and stated in a whole or tenth of a percent. Exceptions are when determining the identity of the seed stated in whole percent or foreign material stated in increments of .25 percent, for example, 0.26 to 0.75 would be expressed as 0.5.

The proposed § 810.706 includes two numerical grades and a Sample grade. The grading factors in the proposed standards are test weight per bushel, heat damaged seed, total damaged seed, and dehulled seed. Moisture, foreign material, and oil content are not grade determining factors but would be ascertained during the inspection process and shown on the inspection certificate as official factors pursuant to § 800.162(a) of the regulations. This section will be amended in separate rulemaking to reflect the addition of foreign material and oil content. "Infested" would be a special grade in the proposed standards and would be included in the grade designation when the condition exists. The percent of admixture would be determined and certified on a request basis according to procedures prescribed in the Grain Inspection Handbook.

Comments including data, views, and arguments are solicited from interested persons. Pursuant to section 4(b), the U.S. Grain Standards Act (7 U.S.C. 76(b)), upon request, such information may be presented orally in an informal manner.

It should be noted that pursuant to section 4(b) of the Act, no standards established or amendments or revocations of standards under the Act are to become effective less than one calendar year after promulgation unless, in the judgment of the Administrator, the public health, interest or safety requires that they become effective sooner. FGIS is considering that in the public interest an effective date of less than one calendar year after promulgation is warranted. An early effective date would facilitate domestic and export marketing and allow implementation of the standards prior to the 1984 crop year. FGIS therefore, anticipates that the proposed standards, if adopted, will be made effective 30 days after promulgation.

List of Subjects in 7 CFR Part 810

Exports, Grain.

PART 810—OFFICIAL U.S. STANDARDS FOR GRAIN

Accordingly, it is proposed that § 810.701—810–709 be added to the Official U.S. Standards for Grain to provide for the establishment of official U.S. Standards for Sunflower Seed.

United States Standards for Sunflower Seed

Terms Defined

Sec.
810.701 Definition of sunflower seed.
810.702 Definition of other terms.

Principles Governing the Applications of the Standards

810.703 Basis of determination.
810.704 Temporary modifications in equipment and procedures.
810.705 Percentages.
810.706 Grades and grade requirements for sunflower seed.
810.707 Grade designations.

Special Grades Special Grade Requirements, and Special Grade Designations

810.708 Special grades and special grade requirements.
810.709 Special grade designation.

Authority: Sec. 5, 18, Pub. L. 94–582, 90 Stat. 2869, 7 U.S.C. 76, 87e.

UNITED STATES STANDARDS FOR SUNFLOWER SEED [1]

Terms Defined

§ 810.701 Definition of sunflower seed.

Sunflower seed (*Helianthus annuus* L.) shall be any grain which, before the removal of foreign material, consists of 50.0 percent or more of cultivated sunflower seed and not more than 10.0 percent of other grains for which standards have been established by the Administrator pursuant to section 4(a) of the Act (7 U.S.C. 76) such as wheat, corn, barley, oats, rye, sorghum, flaxseed, soybeans, and triticale.

§ 810.702 Definition of other terms.

For the purpose of these standards, the following terms shall have the meanings stated below:

(a) *Cultivated sunflower seed.* Sunflower seed grown for high oil content.

(b) *Dehulled seed.* Sunflower seed which has the hull completely removed from the sunflower kernel.

(c) *Damaged sunflower seed (total).* Seed and pieces of seed that are heat-damaged, sprout-damaged, frost-damaged, badly weather-damaged,

[1] Compliance with the provisions of these standards shall not excuse failure to comply with provisions of the Federal Food, Drug, and Cosmetic Act or other Federal laws.

mold-damaged, diseased, or otherwise materially damaged.

(d) *Distinctly low quality.* Sunflower seed which is obviously of inferior quality because it contains foreign substances or because it is in an unusual state or condition and which cannot be properly graded by use of the other grading factors provided in the standards. Distinctly low quality shall include any objects too large to enter the sampling device (for example, large, stones, wreckage, and the like).

(e) *Foreign Material.* All matter other than whole sunflower seeds containing kernels which may be removed from a test portion of the original sample by use of an approved device and by handpicking a portion of the sample in accordance with procedures prescribed in the Grain Inspection Handbook.[2]

(f) *Heat-damaged sunflower seed.* Seed and pieces of seed which have been materially discolored and damaged by heat.

(g) *Hull (Husk).* The ovary wall of the sunflower seed.

(h) *Kernel.* The interior contents of the sunflower seed which are surrounded by the hull.

(i) *Moisture.* Water content in sunflower seed as determined by an approved device in accordance with procedures prescribed in the Equipment Handbook.[2] For the purpose of this paragraph "approved device" shall include any equipment or method approved by the Administrator.[3]

(j) *Oil.* The fatty substance in sunflower seed soluble in petroleum ether as determined on a mechanically cleaned portion of the original sample by a method or device approved by the Administrator.[3]

(k) *Stones.* Concreted earthy or mineral matter and other substances of similar hardness that do not disintegrate readily in water.

(l) *Test weight per bushel.* The weight per Winchester bushel (2,150.42 cubic-inch capacity) as determined on a mechanically cleaned portion of the original sample by an approved device in accordance with procedures prescribed in the Grain Inspection Handbook. Test weight per bushel shall be expressed to the nearest tenth of a pound. For the purpose of this paragraph, "approved device" shall include any equipment or method that is approved by the Administrator.[3]

Principles Governing the Application of the Standards

§ 810.703 Basis of determination.

(a) *Distinctly low quality.* The determination of distinctly low quality shall be made on the basis of the lot as a whole at the time of sampling when a condition exists that may not appear in the representative sample and/or the sample as a whole.

(b) *Certain quality determinations.* Each determination of rodent pellets, bird droppings, other animal filth, broken glass, castor beans, crotalaria seeds, foreign material, live weevils or insects injurious to sunflower seed, moisture, temperature, unknown foreign substance, and any commonly recognized harmful or toxic substance shall be upon the basis of the sample as a whole.

(c) *All other determinations.* All other determinations shall be upon the basis of the grain after removal of foreign material by an approved device, except the determination of odor shall be upon either the basis of the grain as a whole or the grain after removal of foreign material by an approved device.

§ 810.704 Temporary modifications in equipment and procedures.

The equipment and procedures referenced in the sunflower standards are applicable to sunflower seed produced and harvested under normal environmental conditions. Abnormal environmental conditions during the production and harvesting of sunflower seed may require minor temporary modifications in equipment or procedures to obtain results expected under normal conditions. When these adjustments are necessary, Federal Grain Inspection Service Offices, official inspection agencies, and interested parties in the grain trade will be notified promptly in writing of the modification. Adjustments in interpretations (i.e., identity, quality, and condition) are excluded and shall not be made.

§ 810.705 Percentages.

(a) Percentages shall be determined on the basis of weight and shall be rounded as follows:

(1) When the figure to be rounded is followed by a figure greater than 5, round to the next higher figure; e.g., state 0.46 as 0.5

(2) When the figure to be rounded is followed by a figure less than 5, retain the figure; e.g., state 0.54 as 0.5.

(3) When the figure to be rounded is even and it is followed by the figure 5, retain the even figure. When the figure to be rounded is odd and it is followed by the figure 5, round the figure to the next highest number; e.g. state 0.45 as 0.4; state 0.55 as 0.6.

(b) Percentages shall be stated in whole and tenth percent to the nearest tenth percent, except when determining the identity of sunflower seed and the percentage of foreign material. The percentage when determining the identity of sunflower seed shall be stated to the nearest whole percent. The percentage of foreign material shall be stated in terms of half percent, whole percent, or whole and half percent, as the case may be, as shown in the following examples: Foreign material ranging from 0.0 to 0.25 shall be expressed as 0.0 percent, from 0.26 to 0.75 shall be expressed as 0.5 percent, from 0.76 to 1.25 percent as 1.0 percent, from 1.26 to 1.75 percent as 1.5 percent, etc.

§ 810.706 Grades and grade requirements for sunflower seed. (See also § 810.708)

Grade	Minimum test weight per bushel (pounds)	Maximum limits of—		
		Damaged Sunflower Seed		Dehulled seed (percent)
		Heat damage (percent)	Total (percent)	
U.S. No. 1	25.0	0.5	5.0	5.0
U.S. No. 2	25.0	1.0	10.0	5.0

U.S. Sample grade—U.S. Sample grade shall be sunflower seed which:

(1) Does not meet the requirements for the grades U.S. Nos. 1 or 2; or (2) in a 1000 gram sample, contains 8 or more stones which have an aggregate weight in excess of 0.20 percent of the sample weight, 2 or more pieces of glass, 3 or more crotalaria seeds (*Crotalaria* spp.), 2 or more castor beans (*Ricinus communis*), 4 or more particles of an unknown substance(s) or a commonly recognized harmful or toxic substance(s), or 10 or more rodent pellets, bird droppings, or an equivalent quantity of other animal filth; or (3) has a musty, sour, or commercially objectionable foreign odor; or (4) is heating or otherwise of distinctly low quality.

§ 810.707 Grade designations.

(a) *Grade designation for sunflower seed.* The grade designation for sunflower seed shall include in the following order: (1) the letters "U.S."; (2) the number of the grade or the words "Sample grade"' (3) the words "Sunflower Seed"; and (4) the special grade, if applicable (see also § 810.709).

(b) *Optional grade designations.* Sunflower seed may be certificated (under certain conditions outlined in the Grain Inspection Handbook [2]) when supported by official analysis, as "U.S. No. 2 or better Sunflower Seed." The

[2] The following publications are referenced in these standards. Copies may be obtained from the U.S. Department of Agriculture, Federal Grain Inspection Service, 1400 Independence Avenue, SW., Washington D.C. 20250.

(a) Equipment Handbook, as amended, U.S. Department of Agriculture, Federal Grain Inspection Service.

(b) Grain Inspection Handbook, as amended, U.S. Department of Agriculture, Federal Grain Inspection Service.

[3] Requests for information concerning approved devices and procedures, criteria for approved devices, and requests for approval of devices should be directed to the Federal Grain Inspection Service, U.S. Department of Agriculture, 1400 Independence Avenue SW., Washington, D.C. 20250.

special grade designation, when applicable, also shall be included (under certain conditions outlined in the Grain Inspection Handbook [2]) in the certification.

Special Grades, Special Grade Requirements, and Special Grade Designations

§ 810.708 Special Grades and special grade requirements.

A special grade, when applicable, is supplemental to the grade assigned under § 810.706. The special grade is established and determined as follows:

Infested sunflower seed. Sunflower seed which is infested with live weevils or other insects injurious to stored sunflower seed and/or other grain. As applied to sunflower seed the meaning of the term "infested" is set forth in the Grain Inspection Handbook.[3]

§ 810.709 Special grade designation.

The special grade designation shall be made in addition to all other information prescribed in § 810.707. The grade designation for infested sunflower seed shall, following the words "Sunflower Seed," be signified by the word "Infested."

January 12, 1984.

Kenneth A. Gilles,

Administrator.

[FR Doc. 84-2309 Filed 1-26-84; 8:45 am]

BILLING CODE 3410-EN-M

FEDERAL RESERVE SYSTEM

12 CFR Part 205

[Reg. E; Docket No. R-0502]

Electronic Fund Transfers; Proposed Rule and Proposed Update to Official Staff Commentary

Correction

In FR Doc. 84-1299 beginning on page 2204 in the issue of Wednesday, January 18, 1984, make the following corrections.

1. In "Supplement II", on page 2209, Q and A's 6-6.5, 7-5.5, 7-6.5, 7-15.5, 9-31, 9-31.5, 9-40.5, and 10-18.5 should have been indicated with bold-face arrows as new language.

2. On pages 2209 and 2210, Q and A's 10-19 and 12-1 should have appeared as set forth below:

Section 205.10—Preauthorized transfers.

* * * * *

Q10-19: *Preauthorized debits—stop-payment order.* On October 10, a consumer orally orders the financial institution to stop payment on a $30 utility bill that is scheduled to be paid on October 15. The payment is stopped. The consumer properly confirms the order in writing on October 17. On October 30 the utility company resubmits the $30 debit. [Must the financial institution stop payment on the resubmitted item?] ►How might the financial institution comply with the consumer's stop-payment request?◄

A: [Yes. The institution may accomplish this, for example, by suspending all subsequent payments to the designated payee until the consumer notifies the institution that payments should resume.] ►The act and regulation establish the consumer's right to stop payment of preauthorized electronic fund transfers. The institution may comply with the regulation and respond to the consumer's request by determining, when the consumer orally requests the financial institution to stop payment on an item, whether (1) the consumer wishes to revoke the payment authorization to the designated payee for all future payments, in which case the institution may suspend all subsequent payments to the designated payee until the consumer notifies the institution that payments should resume; or (2) the consumer wishes only the particular payment to be stopped, in which case the payment must be stopped even if it is resubmitted.◄ (§ 205.10(c))

* * * * *

Section 205.12—Relation to State Law.

Q12-1: *Preemption of state EFT laws—specific determinations.* The regulation prescribes standards for determining whether state laws that govern electronic fund transfers are preempted by the act and the regulation. If, under these standards, ►a◄ state law is inconsistent with the federal law, is [the state law] ►it◄ automatically preempted ►by operation of law, absent a Board determination of preemption◄?

A: [No. A specific determination of preemption will be made by the Board. Interested parties seeking a determination should follow the procedures set forth in the regulation.] ►If the state law is inconsistent with the federal law and is not more protective than the federal, the state law is preempted even if the Board has not issued a determination on the question.◄ (§ 205.12 (a) and (b))

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BILLING CODE 1505-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 84-ASW-3]

Proposed Alteration of Transition Area; Warren, AR

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Aviation Administration proposes to alter the transition area at Warren, AR. The intended effect of the proposed action is to provide controlled airspace for aircraft executing a new standard instrument approach procedure (SIAP) to the Warren Municipal Airport. This action is necessary since the Airport Commission is proposing to install a nonfederal nondirectional radio beacon (NDB) on the Warren Municipal Airport.

DATE: Comments must be received on February 27, 1984.

ADDRESSES: Send comments on the proposal in triplicate to: Manager, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, TX 76101.

The official docket may be examined in the Rules Docket, weekdays, except Federal holidays, between 8 a.m. and 4:30 p.m. The FAA Rules Docket is located in the Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, 4400 Blue Mound Road, Fort Worth, TX.

FOR FURTHER INFORMATION CONTACT: Kenneth L. Stephenson, Airspace and Procedures Branch, ASW-535, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, TX 76101; telephone: (817) 877-2630.

SUPPLEMENTARY INFORMATION:

History

Federal Aviation Regulation Part 71, Subpart G, § 71.181 as republished in Advisory Circular AC 70-3A dated January 3, 1983, contains the description of transition areas designated to provide controlled airspace for the benefit of aircraft conducting instrument flight rules (IFR) activity. Alteration of the transition area at Warren, AR, will necessitate an amendment of this subpart. This amendment will be required at Warren, AR, since there is a proposed change in IFR procedures to the Warren Municipal Airport. There is a proposal by the Airport Commission to establish a nonfederal NDB on the airport, and an SIAP will be developed for this facility.

Comments Invited

Interested persons are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposals. (Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposals.) Communications should identify the airspace docket and be submitted in triplicate to the address listed above.

Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 84–ASW–3." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Manager, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, TX 76101, or by calling (817) 877–2630. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should contact the office listed above.

List of Subjects in 14 CFR Part 71

Aviation safety, Control zones, Transition areas.

Proposed Amendment

PART 71—[AMENDED]

Accordingly, pursuant to the authority delegated to me, the FAA proposes to amend § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

Warren, AR [Revised]

That airspace extending upwards from 700 feet above the surface within a 6.5-mile radius of the Warren Municipal Airport (latitude 33°33'50"N., longitude 92°05'00"W.) and within 3 miles each side of a 214° bearing of the NDB (latitude 33°32'49"N., longitude 92°05'45"W.) extending from the 6.5-mile radius area to 8.5 miles southwest of the NDB.

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a)); Sec. 6(c), 49 U.S.C. 106(g) (Revised, Pub. L. 97–449, January 12, 1983); and 14 CFR 11.61(c))

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Fort Worth, TX, on January 16, 1984.

F. E. Whitfield,

Acting Director, Southwest Region.

[FR Doc. 84–2288 Filed 1–26–84; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 71

[Airspace Docket No. 84–ASW–1]

Proposed Designation of Transition Area; Perry, OK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Aviation Administration proposes to designate a transition area at Perry, OK. The intended effect of the proposed action is to provide controlled airspace for aircraft executing a new standard instrument approach procedure (SIAP) to the Perry Municipal Airport. This action is necessary since a new SIAP utilizing the Pioneer VORTAC is being developed and the proposed 700-foot transition area will provide protection for aircraft arriving/departing the airport under instrument flight rules (IFR). Coincident with this action, the airport will change from visual flight rules (VFR) to IFR.

DATE: Comments must be received on February 27, 1984.

ADDRESSES: Send comments on the proposal in triplicate to: Manager, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, TX 76101.

The official docket may be examined in the Rules Docket, weekdays, except Federal holidays, between 8 a.m. and 4:30 p.m. The FAA Rules Docket is located in the Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, 4400 Blue Mound Road, Fort Worth, TX.

FOR FURTHER INFORMATION CONTACT: Kenneth L. Stephenson, Airspace and Procedures Branch, ASW–535, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, TX 76101; telephone: (817) 877–2630.

SUPPLEMENTARY INFORMATION:

History

Federal Aviation Regulation Part 71, Subpart G, § 71.181 as republished in Advisory Circular AC 70–3A dated January 3, 1983, contains the description of transition areas designated to provide controlled airspace for the benefit of aircraft conducting instrument flight rules (IFR) activity. Designation of the transition area at Perry, OK, will necessitate an amendment to this subpart. This amendment will be required at Perry, OK, since there is a proposed SIAP to the Perry Municipal Airport utilizing the Pioneer VORTAC.

Comments Invited

Interested persons are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposals. (Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposals.) Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 84–ASW–1." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Manager, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, TX 76101, or by calling (817) 877–2630. Communications

must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should contact the office listed above.

List of Subjects in 14 CFR Part 71

Aviation safety, Control zones, Transition areas.

Proposed Amendment

PART 71—[AMENDED]

Accordingly, pursuant to the authority delegated to me, the FAA proposes to amend 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

Perry, OK [New]

That airspace extending upwards from 700 feet above the surface within a 6.5-mile radius of the Perry Municipal Airport (latitude 36°23'06"N., longitude 97°16'22"W.).

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a)); sec. 6(c), 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); and 14 CFR 11.61(c))

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore: (1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Fort Worth, TX, on January 16, 1984.

F. E. Whitfield,

Acting Director, Southwest Region.

[FR Doc. 84-2261 Filed 1-26-84; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 182 and 184

[Docket No. 81N-0369]

Hydrogen Peroxide; Proposed Affirmation of GRAS Status as a Direct Human Food Ingredient With Specific Limitations; Extension of Comment Period

AGENCY: Food and Drug Administration.

ACTION: Proposed rule; extension of comment period.

SUMMARY: The Food and Drug Administration (FDA) is extending the period for submitting comments on its proposal to affirm that hydrogen peroxide is generally recognized as safe (GRAS) as a direct human food ingredient with specific limitations. The Whey Products Institute and Thomas J. Lipton, Inc., requested an extension, and FDA is granting it.

DATE: Comments by April 26, 1984.

ADDRESS: Written comments to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Leo F. Mansor, Bureau of Foods (HFF-335), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-426-8950.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of November 17, 1983 (48 FR 52323), FDA published a proposal to affirm that hydrogen peroxide is GRAS as a direct human food ingredient with specific limitations. Comments on the proposal were to be filed by January 16, 1984.

By letter dated January 5, 1984, attorneys for the Whey Products Institute requested a 60-day extension of the comment period to provide the whey processing industry adequate time to present a coordinated response to the agency regarding the use of hydrogen peroxide as a bleaching agent in whey processing.

By letter dated January 9, 1984, Thomas J. Lipton, Inc., requested a 90-day extension of the comment period to provide the corporation with sufficient time to develop technical information that would be necessary to support the use of hydrogen peroxide as a bleaching agent in the processing of instant tea. Lipton commented that the production of instant tea would be adversely affected unless the proposed rule was revised to permit such a use.

After carefully evaluating the requests, FDA concluded that an extension is appropriate to provide additional time to prepare responses to the proposed regulation. FDA recognizes the significance of the issues involved in this matter and wishes to ensure that all interested parties have adequate time to comment. Therefore, FDA is granting a 90-day extension of the comment period.

Interested persons may, on or before April 26, 1984, submit to the Dockets Management Branch (address above) written comments regarding this proposal. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: January 23, 1984.

William F. Randolph,

Acting Associate Commissioner, for Regulatory Affairs.

[FR Doc. 84-2257 Filed 1-26-84; 10:40 am]

BILLING CODE 4160-01-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[LR-144-76]

Farming Syndicate Expenditures; Public Hearing on Proposed Regulations

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of public hearing on proposed regulations.

SUMMARY: This document provides notice of a public hearing on proposed regulations relating to farming syndicate expenditures.

DATES: The public hearing will be held on Thursday, March 8, 1984, beginning at 10:00 a.m. Outlines of oral comments must be delivered or mailed by Thursday, February 23, 1984.

ADDRESS: The public hearing will be held in the I.R.S. Auditorium, Seventh Floor, 7400 Corridor, Internal Revenue Building, 1111 Constitution Avenue NW., Washington, D.C. The requests to speak and outlines of oral comments should be submitted to the Commissioner of Internal Revenue, Attn: CC:LR:T (LR-144-76), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: Lou Ann Craner of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, D.C. 20224, telephone 202-566-3935 (not a toll-free call).

SUPPLEMENTARY INFORMATION: The subject of the public hearing is proposed regulations under sections 464 and 278(b) of the Internal Revenue Code of 1954. The proposed regulations appeared in the **Federal Register** for Tuesday, November 15, 1983 (48 FR 51936).

The rules of § 601.601(a)(3) of the "Statement of Procedural Rules" (26 CFR Part 601) shall apply with respect to the public hearing. Persons who have submitted written comments within the

time prescribed in the notice of proposed rulemaking and who also desire to present oral comments at the hearing on the proposed regulations should submit, not later than February 23, 1984, an outline of the oral comments to be presented at the hearing and the time they wish to devote to each subject.

Each speaker will be limited to 10 minutes for an oral presentation exclusive of the time consumed by questions from the panel for the government and answers to these questions.

Because of controlled access restrictions, attendees cannot be admitted beyond the lobby of the Internal Revenue Building until 9:45 a.m.

An agenda showing the scheduling of the speakers will be made after outlines are received from the speakers. Copies of the agenda will be available free of charge at the hearing.

By direction of the Commission of Internal Revenue.

James J. McGovern,

Acting Director, Legislation and Regulations Division.

[FR Doc. 84-2399 Filed 1-26-84; 8:45 am]

BILLING CODE 4830-01-M

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26 CFR Parts 1 and 5

[LR-218-81]

Credit for Employment of Certain New Employees; Public Hearing on Proposed Regulations

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of public hearing on proposed regulations.

SUMMARY: This document provides notice of a public hearing on proposed regulations relating to the credit for employment of individuals qualifying as members of a targeted group.

DATES: The public hearing will be held on Wednesday, February 29, 1984, beginning at 10:00 a.m. Outlines of oral comments must be delivered or mailed by Wednesday, February 15, 1984.

ADDRESS: The public hearing will be held in the I.R.S. Auditorium, Seventh Floor, 7400 Corridor, Internal Revenue Building, 1111 Constitution Avenue, N.W., Washington, D.C. The requests to speak and outlines of oral comments should be submitted to the Commissioner of Internal Revenue, Attn: CC:LR:T (LR-218-81), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: Lou Ann Craner of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, telephone 202-566-3935 (not a toll-free call).

SUPPLEMENTARY INFORMATION: The subject of the public hearing is proposed regulations under sections 51 and 381 of the Internal Revenue Code of 1954. The proposed regulations appeared in the **Federal Register** for Wednesday, November 23, 1983 (48 FR 52943). That notice of proposed rulemaking stated that a notice of hearing was being published on the same day. Due to an oversight, however, no notice of hearing was published on that day.

The rules of § 601.601(a)(3) of the "Statement of Procedural Rules" (26 CFR Part 601) shall apply with respect to the public hearing. Persons who have submitted written comments within the time prescribed in the notice of proposed rulemaking and who also desire to present oral comments at the hearing on the proposed regulation should submit, not later than February 15, 1984, an outline of the oral comments to be presented at the hearing and the time they wish to devote to each subject.

Each speaker will be limited to 10 minutes for an oral presentation exclusive of the time consumed by questions from the panel for the government and answer to these questions.

Because of controlled access restrictions, attendees cannot be admitted beyond the lobby of the Internal Revenue Building until 9:45 a.m.

An agenda showing the scheduling of the speakers will be made after outlines are received from the speakers. Copies of the agenda will be available free of charge at the hearing.

By direction of the Commissioner of Internal Revenue.

James J. McGovern,

Acting Director, Legislation and Regulations Division.

[FR Doc. 84-2398 Filed 1-26-84; 8:45 am]

BILLING CODE 4830-01-M

DEPARTMENT OF DEFENSE

Department of the Army, Corps of Engineers

33 CFR Part 207

San Diego Bay, Calif., Naval Restricted Area

AGENCY: U.S. Army Corps of Engineers, DoD.

ACTION: Notice of proposed rulemaking.

SUMMARY: The U.S. Navy has requested the Corps of Engineers establish a naval restricted area in the Pacific Ocean in Middle San Diego Bay, California. The proposed restricted area surrounds the existing Naval Amphibious Base where extensive special operations take place. The restricted area would protect persons and property from the dangers associated with naval operations within the area.

DATE: Written comments must be received on or before March 12, 1984.

ADDRESS: HQDA, DAEN-CWO-N, Washington, D.C. 20314.

FOR FURTHER INFORMATION CONTACT: Mr. Glenn C. Lukos at (213) 688-5606 or Mr. Ralph T. Eppard at (202) 272-0200.

SUPPLEMENTARY INFORMATION: The Corps of Engineers proposes to establish a naval restricted area at the Naval Amphibious Base, Coronado. The restricted area is necessary for the safety of lives and property due to growing congestion of military and private vessels in those waters. A portion of the restricted area extending 120 feet from the pierheads and from the shoreline where no piers exist, will be closed to all persons and vessels except those owned by; under hire to, or performing work for the Naval Amphibious Base. The remainder of the restricted areea will be open to vessel traffic provided transit through the area is made by the most direct route and without unnecessary delay.

Note.—This proposed regulation is issued with respect to a military function of the Defense Department; is not a major rule within the meaning of Executive Order 12291, and accordingly, the provisions of Executive Order 12291 do not apply. The Corps of Engineers certifies pursuant to Section 605(b) of the Regulatory Flexibility Act of 1980, that this regulation will not have a significant economic impact on a substantial number of entities.

List of Subjects in 33 CFR Part 207

Transportation, Water transportation, Marine safety.

Navigation, water transportation and marine carriers.

Dated: January 16, 1984.

Michael Volpe,

Colonel, Corps of Engineers, Executive Director of Civil Works.

PART 207—[AMENDED]

Section 207.611 is added to 33 CFR to read as follows:

§ 207.611 San Diego Bay, California; naval restricted area.

(a) *The Area.* The water of the Pacific Ocean in Middle San Diego Bay in an

area extending from the northern and eastern boundary of the Naval Amphibious Base about 0.1 nautical miles and 0.6 nautical miles from the southern shoreline and basically outlined as follows:

Station	Latitude	Longitude
1	32°40'33" N.	117°10'02.4" W.
2	32°40'34.7" N.	117°09'54" W.
3	32°40'46" N.	117°09'44.2" W.
4	32°41'00" N.	117°09'24.6" W.
5	32°40'20" N.	117°08'36.7" W.
6	32°40'00" N.	117°09'00" W.
7	32°39'18" N.	117°08'4" W.
8	32°39'18" N.	117°08'46." W.

(b) *The Regulations.*

(1) Swimming, fishing, mooring or anchoring shall not be allowed within the restricted area.

(2) A portion of the restricted area extending 120 feet from pierheads and from the low water mark on shore, where piers do not exist is closed to all persons and vessels except those owned by, under hire to, or performing work for the Naval Amphibious Base.

(3) All vessels entering the restricted area shall proceed across the area by the most direct route and without unnecessary delay.

(4) The regulations in this section shall be enforced by the Commanding Officer, Naval Amphibious Base, Coronado, California and such agencies as he/she shall designate.

Authority: (33 U.S.C. 1)

[FR Doc. 84-2410 Filed 1-26-84; 8:45 am]
BILLING CODE 3710-92-M

DEPARTMENT OF THE INTERIOR

National Park Service

36 CFR Parts 1, 2 and 7

General and Special Regulations for Areas Administered by the National Park Service

AGENCY: National Park Service, Interior.

ACTION: Extension of the comment period.

SUMMARY: On December 27, 1983 (48 FR 56971) the National Park Service published proposed amendments dealing with trapping, the use and possession of weapons, definitions and information collection. Several organizations and individuals have requested an additional period of time in which to comment. This notice extends the comment period on that proposed rulemaking.

DATES: The National Park Service will consider, until February 25, 1984, all comments received on those proposed rules.

ADDRESS: Comments should be addressed to: Associate Director, Park Operations, National Park Service, Department of the Interior, 18th and C Streets, NW., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Weston P. Kreis, Acting Chief, Branch of Ranger Activities, National Park Service, Washington, D.C. 20240, telephone (202) 343–5607.

SUPPLEMENTARY INFORMATION: Several organizations and individuals have requested an additional period of time in which to comment. Because of the widespread public interest in these rules and in an effort to ensure maximum public involvement on a nationwide basis, the National Park Service is extending the comment period until February 25, 1984.

Dated: January 23, 1984.

G. Ray Arnett,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 84-2259 Filed 1-26-84; 8:45 am]
BILLING CODE 4310-70-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

[Docket No. FEMA-6333]

Revision of Proposed Flood Elevation Determinations; Rhode Island

AGENCY: Federal Emergency Management Agency.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Cranston, Providence County, Rhode Island.

Due to recent engineering analysis, this proposed rule revises the proposed determinations fo base (100-year) flood elevations published in the **Federal Register** at 47 FR 24369 on June 4, 1982, and hence supersedes those previously published proposed rules.

DATES: The period for comment will be ninety (90) days following the second publication of this notice in a newspaper of local circulation in each community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed flood elevations are available for review at the City Planner's Office, City Hall, 869 Park Avenue, Cranston, Rhode Island.

Send comments to:

Honorable Edward D. DiPrete, Mayor of the City of Cranston, City Hall, 869 Park Avenue, Cranston, Rhode Island 02910.

FOR FURTHER INFORMATION CONTACT: Dr. Brian R. Mrazik, Chief, Risk Studies Division, Federal Insurance Administration, Federal Emergency Management Agency, Washington, D.C. 20472; (202) 287–0230.

SUPPLEMENTARY INFORMATION: Proposed base (100-year) flood elevations are listed below for selected locations in the City of Cranston, Providence County, Rhode Island, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448)), 42 U.S.C. 4001–4128, and 44 CFR 67.4(a)).

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

These modified elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

List of Subjects in 44 CFR Part 67

Flood insurance, Flood plains.

The proposed base (100-year) flood elevations are:

Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Pawtuxet River.	Broad Street (upstream side)	*16
	AMTRAK (downstream side)	*18
	Approximately 75 feet upstream of Elmwood Avenue.	*21
	At confluence of Pocasset River	*23
	State Route 37 (eastbound)	*24
	Approximately 3,500 feet upstream State Route 37 (eastbound).	*26
	Upstream corporate limits	*28
Furnace Hill Brook.	At confluence with Meshanticut Brook.	*55
	Furnace Hill Road (upstream side)	*72
	Phenix Avenue (upstream side)	*147
	Private Drive (upstream side)	*263
	Pippin Orchard Road (downstream side).	*322
Furnace Hill Brook Tributary.	At confluence with Furnace Hill Brook.	*147
	Approximately 3,700 feet upstream of confluence with Furance Hill Brook.	*247

Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Focasset River.	At confluence with Pawtuxet River	*23
	Approximately 150 feet upstream of Reservoir Avenue.	*35
	Approximately 100 feet upstream of Park Avenue.	*48
	Print Works Pond Dam (upstream side).	*72
	Access Road (upstream side)	*74
	At upstream corporate limits	*81
Meshanticut.	At downstream corporate limits	*40
	AMTRAK bridge (upstream side)	*45
	Scituate Avenue (upstream side)	*123
	Wilbur Avenue	*51
	Lakeview Drive dam (upstream side).	*82

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; E.O. 12127, 44 FR 19367; and delegation of authority to the Administrator)

Issued: January 12, 1984.

Jeffrey S. Bragg,

Administrator, Federal Insurance Administration.

[FR Doc. 84–2276 Filed 1–26–84; 8:45 am]

BILLING CODE 6718–03–M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1220

[No. 38849 (Sub-1)]

Elimination of Preservation of Records Rules

AGENCY: Interstate Commerce Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Commission is proposing to eliminate 49 CFR Part 1220, Preservation of Records Rules. These rules dictate the minimum length of time records must be preserved. The Commission believes the rules contained in that part no longer are necessary and that their elinimation will reduce costs and burdens substantially.

DATES: Comments are due no later than March 12, 1984. The Commission does not intend to grant any extensions of the comment due date and will issue a final decision and notice by May 11, 1984.

ADDRESSES: An original and 10 copies of comments should be sent to: No. 38849 (Sub–1); Case Control Branch, Office of the Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT: Andrew J. Lee, (202) 275–7448.

SUPPLEMENTARY INFORMATION: The Commission is proposing to eliminate 49 CFR Part 1220. The rules in that part prescribe the minimum length of time records must be preserved by carriers. They also require carriers formally to designate personnel to supervise their record retention programs and prescribe other related formalities. The rules also include certain constraints on the use of micrographics.

Apparently the Commission originally adopted the rules in Part 1220 to assure that the records of carriers would be secure, readily accessible, and adequately maintained for a prescribed period of time. However, as we recognized today in our notice, in No. 38849, *Review of Preservation of Records Rules,* adopting certain revisions to those rules, we must continue to review the Commission's regulations and eliminate those provisions which are unnecessary. Although the amended rules may be somewhat less burdensome than the earlier version of the rules, after further study we have determined preliminarily that there is no justification for continuing to maintain those record retention rules and that they should be rescinded.

Other Federal agencies, as well as State and local authorities, also require carriers to maintain a wide array of documents and other records, generally for designated minimum periods of time. Because most of the Commission's record retention rules merely duplicate the requirements of those other government entities, their perpetuation is needless and wasteful. Furthermore, we believe carriers are far better equipped than the Commission to devise programs to meet those record retention requirements. We would like to receive information from commentors regarding the record retention regulations that other agencies impose on carriers that are subject to our jurisdiction. Any Federal or State agencies with specific information on this subject are especially requested to file comments on this question.

Carriers are the real beneficiaries of well planned record retention programs. Information derived from adequately kept records can be exceedingly useful for purposes of litigation, tax audits, defense against insurance and other claims, proof of compliance with laws, as well as for marketing and financial planning and other purposes. Thus, carriers have very strong incentives to retain adequate records and there is no reason for the Commission to prescribe the minimum length of time carriers must preserve their records. Accordingly, we propose to rescind 49 CFR Part 1220.

At this time, we propose to elininate the preservation of record rules for all modes of carriers. We request comments on whether we should differentiate between the modes in eliminating the record retention rules, for example, by elininating the rules for one mode and retaining them for another. In the alternative, we request comments on whether any specific type of record, peculiar to Commission practice, should be required to be retained by carriers.

We invite public comment on our proposed elimination of the preservation of records rules. Within 60 days after the deadline for filing comments, we will issue a final decision.

Regulatory Flexibility Act Analysis

The proposed rescission of 49 CFR Part 1220 will have a significant economic impact upon a substantial number of small entities. The economic impact is beneficial because it gives carriers more autonomy in deciding which records to keep and for how long. The elimination of this part also frees carriers from the burdens of performing other related formalities. This proposal should reduce the expense and burden of recordkeeping.

This action will not significantly affect either the quality of the human environment or conservation of energy resources.

List of Subjects in 49 CFR Part 1220

Freight forwarders, maritime carriers, motor carriers, railroads, reporting and recordkeeping requirements.

(49 U.S.C. 10321 and 11145 and 5 U.S.C. 53)

Decided: November 29, 1983.

By the Commission, Chairman Taylor, Vice Chairman Sterrett, Commissioners Andre and Gradison.

James H. Bayne,

Acting Secretary.

[FR Doc. 84–2172 Filed 1–26–84; 8:45 am]

BILLING CODE 7035–01–M

Notices

Federal Register
Vol. 49, No. 19
Friday, January 27, 1984

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Office of the Secretary

Declaration of Extraordinary Emergency Because of Avian Influenza

Serious outbreaks of avian influenza have recently occurred in poultry in New Jersey and Pennsylvania. These outbreaks were caused by forms of H5 avian influenza virus initially found in poultry in Pennsylvania in 1983. Further, it appears that all forms of H5 avian influenza that have resulted from the virus found in poultry in Pennsylvania in 183, including highly pathogenic avian influenza and other forms of avian influenza, are capable of causing extemely high levels of morbidity and mortality in poultry. Such a serious outbreak of avian influenza has not occurred in the United States since 1929.

Previosuly, notices of declarations of extraordinary emergencies were issued because of highly pathogenic avian influenza in New Jersey and Pennsylvania. This document supercedes those notices.

Avian influenza resulting from the H5 avian influenza virus found in poultry in Pennsylvania in 1983 is a dangerous communicable disease of poultry and it is hereby determined that an extraordinary emergency exists because of outbreaks of the disease in New Jersey and Pennsylvania and that such outbreaks threaten the poultry of the United States, constitute a real danger to the national economy, and seriously burden interstate and foreign commerce. It is further determined that adequate measures to control such outbreaks cannot be taken by New Jersey and Pennsylvania. This declaration of extraordinary emergency authorizes the Secretary to seize, quarantine, and dispose of, in such manner as he deems necessary, any animals which he finds are or have been affected with or exposed to such disease, and carcasses of any such animals and any products and articles which he finds were so related to such animals as to be likely to be a means of disseminating such disease and otherwise to carry out the provisions and purposes of the Act of July 2, 1962, (21 U.S.C. 134–134h). The Secretary of Agriculture of New Jersey and the Commissioner of Agriculture of Pennsylvania have been informed of these facts.

Further, in accordance with the provisions of the Act of September 25, 1981, 95 Stat. 953 (7 U.S.C. 147b); section 11 of the Act of May 29, 1884, 23 Stat 33, as amended (21 U.S.C. 114a); and the provisions of the appropriation items for the Animal and Plant Health Inspection Service in the Agriculture, Rural Development, and Related Agencies Appropriation Act, 1983 (Pub. L. 97–370) as extended by House Joint Resolution, H.J. Res. 368, 98th Cong., 1st Sess. (97 Stat. 733)(1983), and any additional appropriations enacted into law, I authorize the use of the funds available under the said appropriation items for all proper purposes in a program conducted independently or in cooperation with States and political subdivisions thereof, farmers' associations, and similar organizations and individuals, to control and eradicate the disease wherever found.

Dated: January 25, 1984.

John R. Block,

Secretary of Agriculture.

[FR Doc. 84-2448 Filed 1-25-84; 2:35 pm]
BILLING CODE 3410-01-M

Food and Nutrition Service

[Amdt. No. 241]

Food Stamp Program: Policy Interpretation Response System

AGENCY: Food and Nutrition Service, USDA.

ACTION: Notice.

SUMMARY: On August 20, 1982, a notice was published in the **Federal Register** requesting comments on proposed revisions to the Policy Interpretation Response System currently being used by the Food Stamp Program. This final action addresses the comments received on the proposed Operational Guidance System and establishes a revised system.

EFFECTIVE DATE: January 27, 1984.

FOR FURTHER INFORMATION CONTACT: Mr. Russ Gardiner, Supervisor, Policy Support Section, Policy Support and Training Branch, Program Planning, Development, and Support Division, Family Nutrition Programs, Food and Nutrition Service, Alexandria, Virginia 22302, telephone (703) 756–3457.

SUPPLEMENTARY INFORMATION:

OMB Submittal

This final action does not contain reporting and recordkeeping requirements subject to approval by OMB under the Paperwork Reduction Act.

Regulatory Flexibility Act

The Administrator of the Food and Nutrition Service (FNS) has certified that this final action will not have a significant economic impact on a substantial number of small entities. This action will mainly affect State and local agencies which administer the Food Stamp Program.

Classification

This final action has been reviewed under Executive Order 12291 and Secretary's Memorandum No. 1512–1, and has been classified not major because the provisions will not result in: 1) An annual effect on the economy of $100 million or more; 2) A major increase in costs or prices for consumers, individual industries; Federal, State, or local government agencies; or geographic regions; or 3) Significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. Therefore, the Department has determined that this notice is not a major rule.

Background

The Food Stamp Program is required by law to have National eligibility standards. The standards are set forth clearly in regulations. Experience has shown, however, that differing interpretations of the regulatory standards can result in inconsistent and incorrect standards being applied by the various States. Thus, there is a need to interpret or clarify the meaning of and

correct application of the National standards.

Subsequent to enactment and implementation of the Food Stamp Act of 1977, a policy system was developed internally to facilitate responding to the substantial number of Regional and State inquiries. Both because of FNS' concern about public notification and because of the need for a system for keeping track of the inquiries, FNS developed a formal policy response system, the Policy Interpretation Response System (PIRS). A notice describing this system was published for public comment in the **Federal Register** on December 26, 1979, (44 FR 76329) and a final notice was published on August 1, 1980. These notices should be referred to for background information. The system provides a mechanism for identifying those issues of such importance as to require regulatory amendment. For those issues which are more limited in scope, the system provides a mechanism for identification and quick handling in the form of policy memoranda.

As the Department began to use the PIRS, there was concern regarding the amount of time necessary to provide indexed responses. Initially, there were delays due to the newness of the system and the substantial backlog of inquiries from the 1978 regulations. However, within a year, the problem of lengthy response time was substantially resolved and the majority of responses were and are provided promptly.

Another area of concern was the timing for implementation of the substance of these interpretations. In as much as policy memoranda reflected explanations and clarifications of existing regulatory requirements, and were not new policy, the Department's position was that the memoranda should be effective upon release. However, for those State agencies that needed to change their procedures, the Department provided a 30-day period before charging the States with quality control errors based on the policy memoranda.

Additionally, there were concerns about the volume of memoranda being released. This was attributed again to the backlog from the 1978 regulations and the newness of many of the program requirements.

Changes to the system itself were proposed in the **Federal Register** on August 20, 1982 (47 FR 36463). The proposed changes signaled that fewer questions would need to be handled through a formal system. Mandatory policy would be established only where national consistency in applying a particular regulatory requirement was critical. The agency would continue to review inquiries to identify those which would necessitate a regulatory change. The proposal would also have established timeframes for State implementation. This was intended to provide a reasonable time for making changes to State manual materials, and a consistent understanding of when State agency actions would be reviewed against a particular policy.

Nineteen comment letters were received in response to the August 20 notice. These letters came primarily from State agencies administering the Food Stamp Program. Additionally, five Regional Offices and one public interest group provided comments.

System

As a result of the comment letters and informal discussions with State agency personnel, the need for a formal system was clearly affirmed.

The original system classified inquiries into four categories:

1. Inquiries that require rulemaking;
2. Inquiries that embody interpretation of the Act or regulation, or statements of policy of major importance and general applicability and that require publication as a notice in the **Federal Register**;
3. Inquiries that embody interpretations or clarifications of the Act or regulations of a limited nature, or dealing with particular factual situations which are common to a group of households which are responded to by an indexed policy memorandum; and
4. Inquiries that can be answered by direct reference to the Act or regulations or refer to the application of the regulations to the factual circumstances of a particular household.

The August 20, 1982 notice proposed that requests for regulatory clarification which have national application be placed into two classes.

1. Inquiries that require rulemaking; and
2. Inquiries that require clarifications of existing rules that do not provide latitude for deviation and must, therefore, be handled consistently by all States agencies.

There are very few issues which require publication of a **Federal Register** notice. Therefore, it was proposed that the second category of inquiries be removed. Inquiries that can be addressed by direct reference to the regulations or involve a particular household were also removed because of their limited applicability. Some of the comments indicated a misunderstanding as to why these categories were deleted. While the categories would have been removed from the system, FNS would still have considered these options as appropriate even though they were not part of the system.

To make it clear that all of the original four categories will be retained in concept, the Department has decided to list them as part of the system. The Department has, however, changed the wording of the categories slightly to more accurately reflect the intent. Since the current system is being retained with only minor modifications, the Department has decided not to change the name of the system. It will continue to be referred to as the PIRS system.

An overwhelming majority of the commentors supported streamlining the system so that States would have to incorporate less material into their manuals. This is consistent with the Administration's goals of simplifying the program, providing State agencies with more flexibility in procedural areas and reducing paperwork. The Department believes this can be done within the existing framework. Much of this goal has already been accomplished as the need for and numbers of policy memoranda issued have declined. Specifically, between January 1979 and October 1980, some 400 indexed policy memoranda were issued. In Fiscal Year 1981, 65 were issued. Many of these have become obsolete with regulatory changes or have been withdrawn, as it was determined a policy memorandum was not really needed. In Fiscal Year 1982, 29 memoranda were issued. As of March 17, 1983, a total of 210 policy memoranda were in effect. Some of these will be deleted from the index as subsequent regulations are published and as opportunities for State agency discretion and flexibility increase.

One commenter suggested an alternative system which would require the inclusion of policy guidance in the body of the regulations. The Department believes such a system would be unwieldy and would not allow for timely responses.

Two commenters requested that an explanation of the procedures for routing and classifying inquiries be provided. There is no change from the current method, but an explanation has been added for clarity. Additionally, some concern has been raised about the proper classification of inquiries. State agencies and Regional Offices are encouraged to recommend a category for each inquiry they submit. On inquiries transmitted to the National Office, a final decision on the appropriate level of response will be made by the National Office.

Two commenters requested clarification on how the current category

3 policy memoranda would be classified under the new system. Existing category 3 memoranda will remain in effect. As noted above, all four categories have been retained.

Some commenters indicated that the 60-day implementation period would not be sufficient, and several recommended the period be extended to 90 days. Others recommended the implementation period be tied to State Administrative Procedures Act (APA) requirements and that less than 60 days, in any case, would be impossible to meet. Two commenters expressed concern that establishing an implementation period for policy memoranda implies that the issues being addressed are really regulatory in nature. One commenter indicated that no implementation period should be provided, as a State agency is not of compliance with regulations until it amends its procedures to comply with the Department's guidance.

The Department believes that in most cases State agencies will already be following procedures in line with the guidance provided. Where this is not the case, it is reasonable to allow some time for a State agency to make any necessary revisions. It should not be implied that this is the result of a change in program requirements, but is only the result of an incorrect interpretation of existing requirements.

The Department has decided to make the policy memoranda effective upon release and to continue its current policy of not holding States liable for quality control errors based on these memoranda for up to 30 days after transmittal of the memoranda to the State. FNS may, however, extend the grace period to 45 days in an individual policy memorandum when complex issues are involved.

One commenter also expressed concern about the implementation timeframes for inquiries classified in category 1, requiring rulemaking. This will vary depending upon the rulemaking which contains the response.

Lastly in the area of implementation, two commenters asked how often the policy memoranda would be distributed. Category 3 memoranda will be distributed as prepared, on an as-needed basis rather than periodically. Once a question has been raised by a State agency, the Department believes the answer should be provided as soon as possible. Additionally, the Department has chosen not to adopt the suggestion by one commenter that indexed policy memoranda be provided concurrently to FNS Regional Offices and State agencies. The Department believes it is important for FNS Regional Offices to first review such memoranda in order to insure that they are adequately and appropriately addressed to the concern raised, not only in the State asking the question but possibly in respect to other States as well.

One commenter requested clarification as to how the indexed policy memoranda are to be retained by State agencies. As is currently the procedure for policy memoranda, State agencies may add the material to the body of the State manual, but they are not required to do so. As long as the information is provided to the appropriate personnel, the State agency may choose the method of dissemination.

Based on comments received, the Department has decided to include inquiries concerning the QC system and the Management Evaluation (ME) system through the PIRS the same as all other inquiries. Category 3 response on QC and ME procedures that must be applied nationwide will be identified by referring to Section 275 of the regulations.

A list of category 3 memoranda will continue to be included in the first section of the quarterly FNS Index of Records which is available to the public.

The PIRS system is revised to read as follows:

Policy Interpretation Response System

All policy inquiries in the areas of eligibility, issuance, general program guidelines, quality control, and management evaluation which are submitted by State agencies to the Food and Nutrition Service (FNS) will be screened and responded to in accordance with the four categories listed below.

1. Inquiries that require rulemaking. This class includes those issues which are not addressed by existing provisions in the Act or regulations.

2. Inquiries that are of sufficient importance or widespread applicability and that FNS believes should be given special emphasis. These interpretations or clarifications will be published as notices in the **Federal Register**.

3. Inquiries that can be answered through particularized interpretations or clarifications of the Act or regulations. These responses will explain the proper application of particular regulatory requirements in situations which could arise in any State. These clarifications of regulations must be applied in similar circumstances by all State agencies to ensure nationwide consistency. Responses to these inquiries will be distributed to all State agencies in the form of indexed Policy Memoranda.

4. Inquiries that can be answered by direct reference to the Act or regulations or refer to the application of regulations to the factual circumstances of a particular household. Responses to such inquiries will be made only to the State initiating the inquiry, either orally or in writing as appropriate.

State agencies should submit all inquiries to the appropriate Regional Office. At that time, the State may suggest a proper classification to expedite the processing, but the Regional Office will have responsibility for categorizing inquiries. The Regional Office will refer inquiries to the National Office as appropriate.

The National Office will provide copies of category 3 responses to FNS Regional Offices for distribution. The memoranda will be numbered sequentially by fiscal year and refer to the relevant regulatory provision. A list of the numbers and subjects of the category 3 policy memoranda will be included in the quarterly FNS Index of Records which is available to the public.

Category 3 procedures are effective upon release. However, FNS will not hold States liable for quality control errors based on category 3 memoranda for up to 30 days.

(19 Stat. 958 (7 U.S.C. 2011–2029))

(Catalog of Federal Domestic Assistance Programs No. 10.551, Food Stamps)

Dated: January 20, 1984.

Robert E. Leard,

Administrator, Food and Nutrition Service.

[FR Doc. 84–2387 Filed 1–26–84; 8:45 am]

BILLING CODE 3410-30-M

Availability of Surplus Commodities

Correction

In FR Doc. 84–1784 appearing on page 2904 in the issue of Monday, January 23, 1984, make the following correction: In the middle column, in the third complete paragraph, the entry for butter should read "Butter—144 million pounds".

BILLING CODE 1505-01-M

Forest Service

Northwest Region; Ochoco National Forest Grazing Advisory Board; Meeting

The Ochoco National Forest Grazing Advisory Board will meet at 10:00 a.m., April 13, 1984, in the Forest Supervisor's Office, Federal Building, Prineville, Oregon.

The purpose of this meeting is to discuss subjects concerning the development of allotment management

plans and utilization of range betterment funds as presented by board members, permittees, and the general public.

The meeting will be open to the public. Persons who wish to attend should notify Jack Royle, P.O. Box 490, Prineville, Oregon 97754; phone (503) 447–6247. Written statements may be filed with the committee before or after the meeting.

Dated: January 17, 1984.

William L. McCleese,

Forest Supervisor.

[FR Doc. 84–2290 Filed 1–26–84; 8:45 am]

BILLING CODE 3410–11–M

Soil Conservation Service

Calumet Township; Florida Location Flood Prevention RC&D Measure, Michigan

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of finding of no significant impact.

SUMMARY: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines, (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Calumet Township-Florida Location RC&D Measure, Houghton County, Michigan.

FOR FURTHER INFORMATION CONTACT: Mr. Homer R. Hilner, State Conservationist, Soil Conservation Service, 1405 South Harrison Road, East Lansing, Michigan 48823, telephone 517–337–6702.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. A contact has been made with the State Historical Preservation Officer and concludes that it will have no effect on any cultural resources either eligible for or listed on the National Register of Historic Places. The State Archaeologist will be contacted if any land disturbance associated with this project and archaeological sites, features, or materials are encountered during actual construcion. As a result of these findings, Mr. Homer R. Hilner, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

This measure concerns a plan for the installation of measures for flood prevention. The planned works of improvement include the following items: 1,500 feet of diversion, 1,850 feet of outlet channel, 1.7 acres of clearing and grubbing, and 7.7 acres of seeding. Total construction cost is estimated to be $53,800, of which RC&D funds will pay 100%.

The Notice of a Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Homer R. Hiler. The FONSI has been sent to various federal, state, and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address.

Implementation of the proposal will not be initiated until 30 days after the date of this publication in the **Federal Register.**

(Catalog of Federal Domestic Assistance Program No. 10.901, Watershed Protection and Flood Prevention Program. Office of Management and Budget Circular A–95 regarding state and local clearinghouse review of federal and federally assisted programs and projects is applicable)

Dated: January 19, 1984.

Homer R. Hilner,

State Conservationist.

[FR Doc. 84–2290 Filed 1–26–84; 8:45 am]

BILLING CODE 3410–16–M

Bellingham Plant Materials Land Exchange; Bellingham, Washington

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of a finding of no significant impact.

SUMMARY: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines, (40 CFR Part 1500); and the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Bellingham Plant Materials Land Transfer, Whatcom County, Washington..

FOR FURTHER INFORMATION CONTACT: Mr. Lynn A. Brown, State Conservationist, Soil Conservation Service, Room 360 U.S. Courthouse, Spokane, Washington 99201; telephone 509–456–3711.

SUPPLEMENTARY INFORMATION: The environmental assessment of this land exchange action indicates that the transfer will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Lynn A. Brown, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The planned action consists of exchanging the existing 60-acre nursery site, having an urban location in the City of Bellingham, of which the United States Department of Agriculture, Soil Conservation Service, has clear title for 14.48 acres and a restricted deed with a reversionary clause for 45.35 acres, and related nursery buildings to the Trillium Corporation for fee simple ownership with an unencumbered title to 60 acres and other considerations associated with nursery operations, having a rural location on the Siper Road, one mile north of Nugent's Corner and the Mt. Baker Highway, Whatcom county, Washington.

The Finding of No Significant Impact (FONSI) has been forwarded to various federal, state, and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address. Basic data developed during the environmental assessment are on file and may be reviewed by contacting Lynn A. Brown.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the **Federal Register.**

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program. Office of Management and Budget Circular A-95 regarding state and local clearinghouse review of federal and federally assisted programs and projects is applicable)

Dated: January 20, 1984.

Lynn A. Brown,

State Conservationist.

[FR Doc. 84–2296 Filed 1–26–84; 8:45 am]

BILLING CODE 3410–16–M

Horseneck Point Critical Area Treatment Measure Resource Conservation and Development Program, Massachusetts; Finding of No Significant Impact

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of finding of no significant impact.

SUMMARY: Pursuant to Section 102(2)(c) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40

CFR Part 1500); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Horseneck Point Critical Area Treatment Measure, Bristol County, Massachusetts.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of the findings, Rex O. Tracy, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The project concerns controlling erosion and sedimentation on a 65 acre parcel located at the southernmost end of the town of Westport as described in the Horseneck Point Critical Area Treatment RC&D Measure Plan. The planned works of improvement include the planting of approximately seven acres of beachgrass, and the installation of 300 feet of sand fence, 8 boulders (Boulder Barrier) and 1 permanent gate.

The Notice of a Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various federal, state, and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single requests at the above address. Basic data developed during the environmental assessment are on file and may be reviewed by contacting Rex O. Tracy.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the **Federal Register.**

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program, Executive Order 12372 "Intergovernmental Review of Federal Programs," issued July 14, 1982, and amended April 8, 1983 regarding state and local clearinghouse review of federal and federally assisted programs and projects is applicable)

Dated: January 20, 1984.

Rex O. Tracy,

State Conservationist.

[FR Doc. 84-2287 Filed 1-26-84; 8:45 am]

BILLING CODE 3410-16-M

CIVIL AERONAUTICS BOARD

[84-1-86]

Application of Atlantic Gulf Airlines, Inc. for Certificate Authority

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Order to Show Cause 84-1-86.

SUMMARY: The Board is proposing to find Atlantic Gulf Airlines, Inc. fit, willing, and able and to issue a certificate of public convenience and necessity to it authorizing scheduled interstate and overseas air transportation of persons, property, and mail between all points in the United States, its territories and possessions.

DATES: Objections: All interested persons having objections to the Board issuing the proposed certificate shall file, and serve upon all persons listed below no later than February 10, 1984, a statement of objections, together with a summary of testimony, statistical data, and other material expected to be relied upon to support the objections.

ADDRESSES: Objections to the issuance of a final order should be filed in Docket 41790 and should be addressed to the Docket Section, Civil Aeroinautics Board, Washington, D.C. 20428, and should be served upon the parties listed in Attachment A to the order.

FOR FURTHER INFORMATION CONTACT: Carolyn S. Kramp, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428 (202) 673-5090.

SUPPLEMENTARY INFORMATION: The complete text of Order 84-1-86 is available from the Distribution Section, Room 100, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428. Persons outside the metropolitan area may send a postcard request for Order 84-1-86 to that address.

By the Civil Aeronautics Board: January 20, 1984.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 84-2375 Filed 1-26-84; 8:45 am]

BILLING CODE 6320-01-M

[Order 84-1-84; Docket 41696]

Application of Hawaiian Pacific Airlines for Certificate Authority

AGENCY: Civil Aeronautics Board.

ACTION: Notice of order instituting the Hawaiian Pacific Airlines Fitness Investigation, 84-1-84, Docket 41696.

SUMMARY: The Board is instituting an investigation to determine the fitness of Hawaiian Pacific Airlines to engage in interstate and overseas scheduled charter air transportation of persons, property, and mail.

DATES: Persons wishing to intervene and/or proposing to request additional evidence in the Hawaiian Pacific Airlines Fitness Investigation shall file their petitions in Docket 41696 by February 27, 1984.

ADDRESSES: Requests for additional evidence and petitions to intervene should be filed in Docket 41696 and addressed to the Docket Section, Civil Aeronautics Board, Washington, D.C. 20428.

FOR FURTHER INFORMATION CONTACT: Joseph W. Bolognesi, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428 (202) 673-5333.

SUPPLEMENTARY INFORMATION: The complete text of Order 84-1-84 is available from our Distribution Section, Room 100, 1825 Connecticut Ave., N.W., Washington, D.C. 20428. Persons outside the metropolitan area may send a postcard request for Order 84-1-84 to that address.

By the Civil Aeronautics Board: January 20, 1984.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 84-2376 Filed 1-26-84; 8:45 am]

BILLING CODE 6320-01-M

[Order 84-1-68]

Fitness Determination of William L. Perry d.b.a. Maine Instrument Flight School

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Commuter Air Carrier Fitness Determination—Order 84-1-68, Order to Show Cause.

SUMMARY: The Board is proposing to find that William L. Perry d.b.a. Maine Instrument Flight is fit, willing, and able to provide commuter air carrier service under section 419(c)(2) of the Federal Aviation Act, as amended, and that the aircraft used in this service conform to applicable safety standards The complete text of this order is available, as noted below.

DATES: Responses: All interested persons wishing to respond to the Board's tentative fitness determination shall serve their responses on all persons listed below no later than February 8, 1984, together with a summary of the testimony, statistical data, and other material relied upon to support the allegations.

ADDRESSES: Responses or additional data should be filed with the Special Authorities Division, Room 915, Civil Aeronautics Board, Washington, D.C. 20428, and with all persons listed in Attachment A to the order.

FOR FURTHER INFORMATION CONTACT: Joseph W. Bolognesi, Bureau of

Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428 (202) 673–5333.

SUPPLEMENTARY INFORMATION: The complete text of Order 84–1–68 is available from the Distribution Section, Room 100, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428. Persons outside the metropolitan area may send a postcard request for Order 84–1–68 to that address.

By the Civil Aeronautics Board: January 18, 1984.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 84–2373 Filed 1–26–84; 8:45 am]

BILLING CODE 6320–01–M

[Docket 41637]

National Express Fitness Investigation; Hearing

Notice is hereby given that a hearing in the above-titled matter is assigned to commence on February 13, 1984, at 10:00 a.m. (local time), in Room 1027, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C., before the undersigned.

Dated at Washington, D.C., January 23, 1984.

William A. Kane, Jr.,

Administrative Law Judge.

[FR Doc. 84–2371 Filed 1–26–84; 8:45 am]

BILLING CODE 6320–01–M

Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits

Filed under subpart Q of the board's procedural regulations (See, 14 CFR 302.1701 et seq.).

Week Ended January 20, 1984.

Subpart Q Applications

The due date for answers, conforming application, or motions to modify scope are set forth below for each application. Following the answer period the board may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Date filed	Docket No.	Description
Jan. 16, 1984	41944	Pilgrim Aviation & Airlines, Inc. dba Pilgrim Airlines, c/o Theodore I. Seamon, Seamon, Wasko & Ozment, 1211 Connecticut Avenue NW., Suite 300, Washington, D.C. 20036. Application of Pilgrim Aviation & Airlines, Inc., pursuant to section 401(d)(1) of the Act and Subpart Q of the Board's Procedural Regulations applies for authority to engage in interstate and overseas scheduled air transportation of persons, property, and mail between any point in any State of the United States or the District of Columbia, or any territory or possession of the United States and any other point in any State of the United States or the District of Columbia, or any territory or possession of the United States. Conforming Applications, Motions to Modify Scope and Answers may be filed by February 13, 1984.
Do	41946	Federal Express Corporation, c/o Nathaniel P. Breed, Jr., Shaw, Pittman, Potts & Trowbridge, 1800 M Street NW., Washington, D.C. 20036. Application of Federal Express Corporation pursuant to section 401(d)(1) of the Act and Subpart Q of the Board's Procedural Regulations applies for a certificate of public convenience and necessity authorizing it to engage in scheduled foreign air transportation with respect to property and mail on a permissive basis over the following route: (1) Between a point or points in the United States, Puerto Rico, and the Virgin Islands, on the one hand, and a point or points in: Algeria, *Austria, Bahrain, *Belgium, *Denmark, Egypt, *France, *Federal Republic of Germany, Greece, India, *Ireland, Israel, *Italy, Kenya, Kuwait, Liberia, Libya, Luxembourg, *The Netherlands, Nigeria, Oman, Pakistan, Poland, Portugal, Romania, Senegal, South Africa, *Spain, *Sweden, *Switzerland, Syria, Tunisia, Turkey, United Arab Emirates, United Kingdom, Yugoslavia, Zimbabwe on the other hand; and *(2) Between the coterminal points Seattle, WA; Portland, OR; Denver, CO; Minneapolis/St. Paul, MN; Cleveland, OH; Detroit, MI; Buffalo, NY; Syracuse, NY; Rochester, NY; and Memphis, TN, and the coterminal points Montreal, Quebec; Toronto, Ontario; Winnipeg, Manitoba; Calgary and Edmonton, Alberta; and Vancouver, British Columbia. Conforming Applications, Motions to Modify Scope and Answers may be filed by February 13, 1984.
Jan. 19, 1984	41950	Transavia Holland B.V., c/o John J. McLaughlin, Poston, Taylor & McLaughlin, Suite 400, 313 Park Avenue, Falls Church, Virginia 22046. Application of Transavia Holland B.V., pursuant to section 402 of the Act and Subpart Q of the Board's Procedural Regulations requests the Board to renew its aforesaid permit to authorize it, on a permanent and/or temporary basis, to engage in charter foreign air transportation, subject to such terms, conditions and limitations as the public interest may require, as follows: (a) Charter flights with respect to persons and their accompanied baggage between any points in the Netherlands and any point or points in the United States. (b) Planeload charter flights with respect to property between any point or points in the Netherlands and any point or points in the United States. (c) Inclusive tour charter flights with respect to persons and their accompanied baggage between any point or points in the Netherlands and any point or points in the United States. (d) Circle tour charter flights, including: one-stop, two-stop and three-stop inclusive tour charters, travel group charter, special events charter, affinity group charter, single entry charter, study group charter, advance-booking charter, with respect to persons and their accompanied baggage which originate and terminate at a point or points in the Netherlands and serve a point or points in the United States and a point or points in any country other than the Netherlands and the United States. (e) Charter flights (including inclusive tour charter with respect to persons and their accompanied baggage between any point or points in Algeria, Austria, Belgium, Bulgaria, Cyprus, Czechoslovakia, Denmark, Finland, France, Federal Republic of Germany, Greece, Ireland, Italy, Kenya, Lebanon, Luxembourg, Malta, Morocco, Netherlands Antilles, Norway, Portugal, Spain, Sweden, Switzerland, Tanzania, Turkey, Uganda, United Kingdom, Great Britain and Northern Ireland, Yugoslavia and Zambia, and any point or points in the United States, limited to charter flights which originate in a named country other than the United States. (f) Circle tour charter flights, including: one-stop inclusive tour charter, three-stop inclusive tour charter, travel group charter, special events charter, affinity group charter, advance-booking charter, with respect to persons and their accompanied baggage which originate and terminate at a point or points in Algeria, Austria, Belgium, Bulgaria, Cyprus, Czechoslovakia, Denmark, Finland, France, Federal Republic of Germany, Greece, Ireland, Italy, Kenya, Lebanon, Luxembourg, Malta, Morocco, Netherlands Antilles, Norway, Portugal, Spain, Sweden, Switzerland, Tanzania, Turkey, Uganda, United Kingdom of Great Britain and Northern Ireland, Yugoslavia and Zambia, and serve a point or points in the United States and a point or points in any country other than a named country and the United States. Answers may be filed by February 16, 1984.
Do	41951	Flight International Airlines, Inc., c/o James M. Burger, Shaw, Pittman, Potts & Trowbridge, 1800 M Street NW., Washington, D.C. 20036. Application of Flight International Airlines, Inc., pursuant to section 401 of the Act and Subpart Q of the Board's Procedural Regulations requests permanent authority to provide foreign air transportation of persons, property, mail, as follows: (a) Between any point in any State of the United States or the District of Columbia, or any territory or possession of the United States, on the one hand, and points in Canada, on the other; (b) Between any point in any State of the United States or the District of Columbia, or any territory or possession of the United States, on the one hand, and points in Mexico, on the other;

Date filed	Docket No.	Description
		(c) Between any point in any State of the United States or the District of Columbia, or any territory or possession of the United States, on the one hand, and points in Jamaica, the Bahama Islands, Bermuda, Haiti, the Dominican Republic, Trinidad, Aruba, the Leeward and Windward Islands, and any other foreign place located in the Gulf of Mexico or the Caribbean Sea, on the other hand; (d) Between any point in any State of the United States or the District of Columbia, or any territory or possession of the United States, on the one hand, and points in British Honduras, the Canal Zone, Guatemala, Honduras, El Salvador, Nicaragua, Costa Rica, Panama, and in the countries on the continent of South America, on the other hand; (e) Between any point in any State of the United States or the District of Columbia, or any territory or possession of the United States, on the one hand, and American Samoa, Guam, Johnson Island, the Marshall Islands, Okinawa, Wake Island, and points in Australia, Indonesia, and Asia as far west as longitude 70 degrees east via a transpacific routing, on the other hand; (f) Between any point in any State of the United States or the District of Columbia, or any territory or possession of the United States, on the one hand, and points in Greenland, Iceland, the Azores, Europe, Africa, and Asia, as far east as (and including) India, on the other hand. Conforming Applications, Motions to Modify Scope and Answers may be filed by February 16, 1984.
Do	41851	Flight International Airlines, Inc., c/o James M. Burger, Shaw, Pittman, Potts & Trowbridge, 1800 M Street NW., Washington, D.C. 20036. Application of Flight International Airlines, Inc., pursuant to section 401 of the Act and Subpart Q of the Board's Procedural Regulations requests permanent authority to engage in interstate and overseas charter air transportation of persons, property, and mail: Between any point in any State in the United States or the District of Columbia, or any territory or possession of the United States and any other point in any State of the United States or the District of Columbia, or any territory or possession of the United States. Conforming Applications, Motions to Modify Scope and Answers may be filed by February 16, 1984.
Do	41954	Quebecair, c/o Robert Reed Gray, Hale Russell & Gray, 1025 Connecticut Avenue NW., Suite 400, Washington, D.C. 20036. Application of Quebecair pursuant to section 402 of the Act and Subpart Q of the Board's Procedural Regulations applies for renewal of its foreign air carrier permit conferring limited fifth freedom charter authority (issued pursuant to Order 79-1-124) and asks that such renewal be accomplished through show cause or other expedited procedures. Answers may be filed by February 16, 1984.
Jan. 20, 1984	41725	Pacific Air Express, Inc., c/o Stephen A. Alterman, 1050 Seventeenth Street NW., Twelfth Floor, Washington, D.C. 20036. Supplemental Exhibits of Pacific Air Express, Inc. Answers may be filed by February 17, 1984.
Jan. 6, 1984	41885	C.A.L. Cargo Air Lines Ltd., c/o Melvin Rishe, Fried, Frank, Harris, Shriver & Kampleman, 600 New Hampshire Ave., NW., Suite 1000, Washington, D.C. 20037. Amended Application of C.A.L. Cargo Air Lines Ltd. for a Foreign Air Carrier Permit. Answers may be filed by February 3, 1984.

Asterisks (*) denote existing authority held by Federal Express.

Phyllis T. Kaylor,
Secretary.

[FR Doc. 84-2372 Filed 1-26-84; 8:45 am]
BILLING CODE 6320-01-M

[Docket 41864]

United States-Venezuela All-Cargo Proceeding; Hearing

Notice is hereby given that a hearing in the above-entitled matter is assigned to commence on March 27, 1984, at 9:30 a.m. (local time) in Room 1027, Universal Building, 1825 Connecticut Ave., NW., Washington, D.C., before the undersigned Chief Administrative Law Judge.

Dated at Washington, D.C., January 23, 1984.

Elias C. Rodriguez,
Chief Administrative Law Judge.

[FR Doc. 84-2374 Filed 1-26-84; 8:45 am]
BILLING CODE 6320-01-M

DEPARTMENT OF COMMERCE

Office of the Secretary

Agency Forms Under Review by the Office of Management and Budget (OMB)

DOC has submitted to OMB for clearance the following proposals for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: Bureau of the Census
Title: School Enrollment Report
Form numbers: Agency—P-3, P-4; OMB—0607-0173
Type of request: Extension of a currently approved collection
Burden: 110 respondents; 55 reporting hours
Needs and uses: School enrollment data is needed to produce annual estimates of the population of states for application to current Federal programs. The data are used to estimate population migration and to estimate total state population.
Affected public: State or local governments (educational agencies) non-profit institutions (educational agencies)
Frequency: Annually
Respondent's obligation: Voluntary
OMB desk officer: Timothy Sprehe, 395-4814.

Agency: Bureau of the Census
Title: Cotton Ginned
Form numbers: Agency—CAg-1A et. al.; OMB— 0607-0015 and 0607-0016
Type of request: Revison of a currently approved collection
Burden: 2,332 respondents; 4,198 reporting hours
Needs and uses: Survey is used to collect data on current cotton ginnings. Data are needed by the U.S. Department of Agriculture in making cotton product production, classification, and production cost estimates.
Affected public: Businesses or other for-profit organizations, small businesses or organizations
Frequency: On occasion, monthly
Respondent's obligation: Mandatory
OMB desk officer: Timothy Sprehe, 395-4814.

Agency: Bureau of the Census
Title: Report of Building or Zoning Permits Issued and Local Public Construction
Form numbers: Agency—C404; OMB—0607-0094
Type of request: Extension of a currently approved collection
Burden: 17,200 respondents; 25,900 reporting hours
Needs and uses: Information collected provides detailed geographic data to planners, policymakers, economists, and others. The data are used to prepare monthly estimates and annual totals of the number and value of residential buildings and housing units, nonhousekeeping residential (hotels and motels), and nonresidential construction authorized by building permits.
Affected public: State or local governments
Frequency: Monthly, annually
Respondent's obligation: Voluntary
OMB desk officer: Timothy Sprehe, 395-4814.

Agency: Bureau of Economic Analysis
Title: Transactions of U.S. Affiliate, Except an Unincorporated Bank, with Foreign Parent

Form numbers: Agency—BE–605; OMB—0608–0009
Type of request: Revision of a currently approved collection
Burden: 3,500 respondents; 14,000 reporting hours
Needs and uses: This survey secures data on current and capital account transactions between foreign persons and U.S. business enterprises, except banking branches and agencies, in which they have an equity interest of 10 percent or more. These data are required for the preparation of the balance of payment accounts of the United States.
Affected public: Businesses or other for-profit institutions
Frequency: Quarterly
Responent's obligation: Mandatory
OMB desk officer: Timothy Sprehe, 395–4814.

Agency: Bureau of Economic Analysis
Title: Transactions of U.S. Banking Branch or Agency with Foreign Parent
Form numbers; Agency—BE–606B; OMB—0608–0023
Type of request: Revision of a currently approved collection
Burden: 325 respondents; 1,300 reporting hours
Needs and uses: This survey secures data on current and capital account transactions between foreign persons and unincorporated U.S. banks in which they have an equity interest of 10 percent or more. These data are required for the preparation of the balance of payments account of the United States.
Affected public: Businesses or other for-profit institutions
Frequency: Quarterly
Respondent's obligation: Mandatory
OMB desk officer: Timothy Sprehe, 395–4814.

Agency: International Trade Administration (ITA)
Title: Information Services Order Form
Form numbers: Agency—ITA–4096P; OMB—0625–0046
Type of request: Revision of a currently approved collection
Burden: 20,500 respondents; 6,750 reporting hours
Need and uses: The Office of Trade Information Services manages export marketing information programs and services for ITA. This form is used to identify what the clients interests and needs are so that ITA can provide a useful end product for the client.
Affected public: State of local governments; businesses or other for-profit organizations, federal agencies or employees, small businesses or organizations
Frequency: On occasion
Respondent's obligation: Required to obtain or retain a benefit
OMB desk officer: Ken Allen, 395–3785

Agency: National Oceanic and Atmospheric Administration
Title: Oceanic Gamefish Investigations Big Game Fishing Log
Form numbers: Agency—NOAA–88–904; OMB—0648–0031
Type of request: Extension of the expiration date or a currently approved collection
Burden: 1,515 respondents; 500 reporting hours
Needs and uses: Data are used to assess the status of billfish populations and propose management strategies through international commissions for the conservation of these species.
Affected public: Individuals or households
Frequency: On occasion
Respondent's obligation: Voluntary
OMB desk officer: Ken Allen, 395–3785.

Agency: National Oceanic and Atmospheric Administration
Title: Monthly Cold Storage Fish Report
Form numbers: Agency—NOAA–88–16; OMB—0648–0015
Type of request: Extension of the expiration date of a currently approved collection
Burden: 340 respondents; 1,700 reporting hours
Needs and uses: This form is used to collect information on the quantity of fish and shellfish in cold storage in the United States. The information is used by the National Marine Fisheries Service for fishery management and development purposes and by industry for the distribution and purchase of fishery products.
Affected public: Businesses or other for-profit organizations, small businesses or organizations
Frequency: Monthly
Respondent's obligation: Voluntary
OMB desk officer: Ken Allen, 395–3785

Agency: National Oceanic and Atmospheric Administration
Title: Financial Reports and Application for Grant-in-Aid
Form numbers: Agency—NOAA–36–29 et al.; OMB—0648–0102
Type of request: Revision of a currently approved collection
Burden: 140 respondents; 2,540 reporting hours
Needs and uses: The application for grant-in-aid funds is used to determine respondent eligibility and project merit. Financial reports are used to request reimbursement or advance or to report expenditures.
Affected public: State or local governments, businesses or other for-profit organizations
Frequency: On occasion
Respondent's obligation: Required to obtain or retain a benefit
OMB desk officer: Ken Allen, 395–3785.

Agency: National Oceanic and Atmospheric Administration
Title: Pacific Tuna Fisheries
Form numbers: Agency—N/A; OMB—N/A
Type of request: Exsisting collection in use without an OMB control number
Burden: 200 respondents; 1,910 reporting hours
Needs and uses: Data are used by the National Marine Fisheries Service and the Inter-American Tropical Tunas Convention biologists in determining the effects of fishing on tuna abundance. Results of the biological analyses are used to recommend management measures so that tuna stocks can be maintained at "maximum sustainable yield" levels.
Affected public: Businesses or other for-profit organizations, small businesses or organizations
Frequency: On occasion, weekly
Respondent's obligation: Mandatory
OMB desk officer: Ken Allen, 395–3785.

Copies of the above information collection proposals can be obtained by calling or writing DOC Clearance Officer, Edward Michals (202) 377–4217, Department of Commerce, Room 6622, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

Written comments and recommendations for the proposed information collections should be sent to the respective OMB Desk Officer, Room 3235, New Executive Office Building, Washington, D.C. 20503.

Edward Michals,

Departmental Clearance Officer.

[FR Doc. 84–2302 Filed 1–26–84; 8:45 am]
BILLING CODE 3510–CW–M

International Trade Administration

Elemental Sulphur From Canada; Revocation of Antidumping Finding in Part

Correction

In FR Doc. 84–1109 beginning on page 1920, in the issue of Monday, January 16, 1984, make the following corrections:

1. On page 1920, third column, first complete paragraph, first line, "we are not" should read "we are now".

2. Same paragraph, last line insert a period after "Limited".

3. Same column, under **"FOR FURTHER INFORMATION CONTACT"**, "Robert J.

Marenic" Should read "Robert J. Marenick".

BILLING CODE 1505-01-M

Stanford University; Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897; 15 CFR Part 301). Related records can be viewed between 8:30 AM and 5:00 PM in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C.

Docket No.: 83–3. Applicant: Stanford University, Stanford, CA 94305. Instrument: Centerless Grinder, Type FB 40, Diamond Wheel and other Accessories. Manufacturer: Boccadora, S.A., Switzerland. Intended use: See notice at 47 FR 52408.

Comments: None received.

Decision: Denied. An instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States.

Reasons: The National Bureau of Standards advises in its memorandum of February 28, 1983 that there are domestic instruments that are scientifically equivalent to the foreign instrument for the applicant's intended use. (See § 301.5(d)(1) of the Regulations.)

The domestic instrument (available from Royal Master Grinders, Inc., Oakland, N.J.) is capable of handling specimens from 0.1 millimeters to 38.0 millimeters diameter which is significantly better than the foreign instrument's capability, 0.5 millimeters to 6.0 millimeters diameter.

The applicant claims on items 8.c.2. and 8.c.3. of form ITA–338P that ". . .the Royal Master machine is far larger than the Boccadoro grinder, has higher operating costs and double the purchase cost" and that the Royal Master machine is ". . .too large to fit in our crystal fabrication shop." Section 301.2(s) states that:

> Specifications of features (even if guaranteed) which afford greater convenience, satisfy personal preferences, accommodate institutional commitments or limitations, or assure lower costs of acquisition, installation, operation, servicing or maintenance are not pertinent.

It also states that:

> Unless the applicant demonstrates it necessary for the accomplishment of its specific scientific purposes, the terms do not extend to such characteristics as size, weight appearance, durability, reliability, complexity or (simplicity), ease of operation, ease of maintenance, productivity, versatility, "state of the art" design, specific design, or other such characteristics.

and that:

> The ability to fit an instrument into a small room, when the required operations could be performed in a larger room, would be either a cost consideration or a matter of convenience and not a pertinent specification.

In conclusion, since the specifications which we have determined pertinent to the applicant's scientific purposes can be met by a domestic instrument, duty-free entry of the foreign instruments is denied.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 84–2303 Filed 1–26–84; 8:45 am]

BILLING CODE 3510-DS-M

Associated Universities, et al; Applications for Duty-Free Entry of Scientific Instruments

Pursuant to section 6(c) of the Educational, Scientific and Cultural Materials Improtation Act of 1966 (Pub. L. 89–651; 80 Stat. 897; 15 CFR Part 301), we invite comments on the question of whether instruments of equivalent scientific value, for the purposes for which the instruments shown below are intended to be used, are being manufactured in the United States.

Comments must comply with § 301.5(a) (3) and (4) of the regulations and be filed within 20 days with the Statutory Import Programs Staff, U.S. Department of Commerce, Washington, D.C. 20230. Applications may be examined between 8:30 A.M. and 5:00 P.M. in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C.

Docket No. 82–00382R. Applicant: Associated Universities, Inc., National Radio Astronomy Observatory, Edgemont Road, Charlottesville, VA 22901. Instrument: Hydrogen Master Frequency Standard. Original notice of this resubmitted application was published in the **Federal Register** of November 15, 1982.

Docket No. 84–47. Applicant: Drexel University, 32nd & Chestnut Streets, Philadelphia, PA 19104. Instrument: Scanning Electron Microscope, Model JSM–35CF. Manufacturer: JEOL Ltd., Japan. INTENDED USE: Studies of aluminum alloys, as ingot castings, wrought alloys and atomized powders, nickel based alloy and tool steels, as both cast ingots and atomized powders. The objectives in these various investigations will be to characterize the microstructure in the alloys in order to understand (a) the transformations that they have been subject to during processing—solidification, deformation, recrystallization, precipitation and (b) the resultant properties that the various microstructures display. Educational uses will include Ph. D. and M.S. thesis research by graduate students, Senior Thesis research by seniors and undergraduates and laboratory instruction of senior undergraduates in the techniques of materials characterization. Application received by Commissioner of Customs: December 15, 1983.

Docket No. 84–48. Applicant: Harvard Medical School, 25 Shattuck Street, Boston, MA 02115. Instrument: Electron Microscope, Model JEM–100CX with Accessories. Manufacturer: Jeol Co., Japan. Intended use:High resolution investigations of:

1. Cytochemical localization of neurotransmitter-related properties in the peripheral nervous system and examination of synaptic connections formed between tissue culture neurons.

2. Mapping of cholinergic synapses in the central nervous system, in particular in the visual system.

3. Mapping of neurotransmitter and cell type-related markers in the sensory system.

4. Mapping of monoamine and peptide terminals in the lobster invertebrate nervous system.

In addition, it will be used to train graduate and postgraduate students in electron microscopy. Application Received by Commissioner of Customs: December 15, 1983.

Docket No. 84–49. Applicant: University of Miami, Rosenstiel School of Marine & Atmospheric Science, 4600 Rickenbacker Cswy., Miami, FL 33149. Instrument: Oxygen Meter, Radiometers, Model #781b and Accessories. Manufacturer: Strathkelvin Instruments, Scotland. Intended use: Studies of respiration and photosynthesis of marine invertebrates, primarily corals and their zooxanthellae. Both laboratory and field experiments will be conducted to understand the effects of different experimental conditions (feeding frequency, light intensity, depth nutrient availability, etc.) on the metabolic functions. Application Received by Commissioner of Customs: December 15, 1983.

Docket No. 84–50. Applicant: The University of Texas Medical School at Houston, Department of Physiology & Cell Biology, 6431 Fannin (P.O. Box

20708), Houston, TX 77225. Instrument: Micromanipulator, Model PM 20N. Manufacturer: Biomedical Instrumente, West Germany. Intended use: Research—Examination in detail of the electrophysiology of carrier-mediated H transport by the urinary bladder of the freshwater turtle, Pseudemys scripta using recently developed electrophysiologic techniques. The results of the proposed studies will markedly advance the understanding of the mechanisms of H transport and its regulation at the membrane level. The instrument will make it possible to penetrate single cell membranes with the very fine tips of glass microelectrodes in order to make measurements of the voltage across the membrane. Application received by Commissioner of Customs: December 15, 1983.

Docket No. 84–51. Applicant: U.S. Department of Agriculture, Veterinary Toxicology & Entomology Res. Lab. (ARS), F & B Road, P.O. Drawer GE, College Station, TX 77841. Instrument: Mass Spectrometer and Date System, Model MM 7250 HF and Accessories. Manufacturer: VG Analytical Ltd., United Kingdom. Intended use: Studies of compounds that are polar, have high molecular weight, and low volatility (e.g. polypeptides, glycopeptides, glycolipids, antibiotics, polar metabolites, and plant and microorganism natural products. The principal objective will be to characterize compounds by mass spectrometry. Initially the molecular weight of the compound of interest will be determined, followed by its molecular formula. Fragmentation data and linked scan experiments will aid in structure determination. This instrument will be used frequently in conjunction with the peptide work carried out at the laboratory. Application received by Commissioner of Customs: December 16, 1983.

Docket No. 84–52. Applicant: The University of Chicago, Department of Chemistry, 5735 S. Ellis Avenue, Chicago, IL 60637. Instrument: GC/Mass Spectrometer/Data System, Model 7250 EHF. Manufacturer: VG Analytical, United Kingdom. Intended Use: Studies of materials that range from difficult natural mixtures such as coal and oil to structurally complex organic compounds isolated from plants and animals to the non-natural organic, organometallic and inorganic compounds prepared in the laboratories of the investigators. The instrument will be used for essential analytical purposes in the following experiments:

(1) Natural Product Identification.

(2) The Synthesis of Novel Polycyclic Compounds.

(3) The Chemistry of Short Lived Organic Molecules.

(4) The Synthesis of Prostaglandins and Antitumor Agents.

(5) Coordination Chemistry and Homogeneous Catalysis.

(6) Organometallic Chemistry.

(7) Synthesis of Amino Acid and Peptide Esters of Cephalothin.

(8) The Structure and Reactivity of Bituminous Coal.

(9) The Synthesis of Natural Products and Enzyme Models.

(10) The Use of Chromium Carbene Complexes in Synthesis.

(11) Chemistry of Dimers of Aromatic Hydrocarbons.

Educational purposes in courses designed to prepare students to do independent research in chemistry and related fields in either industrial or academic laboratories. Application received by Commissioner of Customs: December 16, 1983.

(Catalog of Federal Domestic Assitance Program No 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 84–2304 Filed 1–26–84; 8:45 am]

BILLING CODE 3510–DS–M

[A–432–013 and A–428–018]

Carbon Steel Plate From Belgium and the Federal Republic of Germany; Rescission of Notice Announcing Initiation of Antidumping Investigations and Dismissal of Petition

ACTION: Notice.

SUMMARY: We are rescinding our notice announcing antidumping investigations of carbon steel plate from Belgium and the Federal Republic of Germany (FRG) which we published on October 25, 1983, and we are dismissing the petition with respect to this merchandise. We have determined that the petitioner for these cases, the Gilmore Steel Corporation (Gilmore), cannot be said to have filed its petition on behalf of an industry.

EFFECTIVE DATE: January 26, 1984.

FOR FURTHER INFORMATION CONTACT: William Kane, Office of Investigations, Import Administration, International Trade Administration, United States Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230; telephone (202) 377–1766.

SUPPLEMENTARY INFORMATION: On September 29, 1983, we received a petition from counsel for Gilmore. Gilmore, claiming to have filed its petition on behalf of the domestic carbon steel plate industry, alleged that imports of carbon steel plate (plate-cut-to-length) and hot-rolled carbon steel sheet (plate-in-coil) from Belgium and the FRG are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Tariff Act of 1930, as amended (19 U.S.C. 1673) (the Act), and that these imports are materially injuring a United States industry. After reviewing the petition, we determined that it contained sufficient grounds upon which to initiate antidumping investigations. We announced initiation of the investigations on October 25, 1983 (48 FR 49322 and 49326), and notified the United States International Trade Commission (ITC) of this action so that it could determine whether imports of these products were materially injuring, or were threatening to materially injure a United States industry.

On November 7, 1983, the ITC determined that there is a reasonable indication that an industry in the United States is materially injured by reason of imports of both carbon steel plate and hot-rolled carbon steel sheet from Belgium and the FRG.

On November 16, 1983, the Department rescinded its initiation notice and dismissed Gilmore's petition with respect to hot-rolled carbon steel sheet from Belgium and the FRG on the grounds that Gilmore did not produce this merchandise and did not have legal standing to file a petition against this merchandise (48 FR 52757).

Subsequently, the Department has determined that Gilmore's petition was not filed on behalf of a United States industry and that this earlier initiation was not well founded. This conclusion is based on the following facts, which came to light only after our initial decision to initiate.

At an ITC public conference held on October 26, 1983, Gilmore was the only producer of this merchandise to testify in support of the petition. Conversely, letters were submitted by Armco Inc., to the Department and by United States Steel Corp., to the ITC specifically indicating that these firms do not support Gilmore's petition. Given this absence of support from Armco Inc., and United States Steel Corp., the Department had reason, for the first time, to question whether the petition was, in fact, properly filed on behalf of a domestic industry, and asked other U.S. carbon steel plate producers if they supported Gilmore's petition. Written replies were received from: Bethlehem Steel Corp., Inland Steel Co., Jones and Laughlin Steel Inc., Lukens Steel Co.,

National Steel Corp., Phoenix Steel Corp., U.S. Steel Corporation and Republic Steel Corp. All of these—except Bethlehem, which did not take a position—indicated that they do not support Gilmore's petition.

Since Armco Inc., Bethlehem Steel Corp., Inland Steel Co., Jones and Laughlin Steel Inc., Lukens Steel Co., National Steel Corp., Phoenix Steel Corp., Republic Steel Corp., and United States Steel Corp., are believed by the Department to collectively account for well over 95 percent of the production of this merchandise in the United States; we have concluded that Gilmore's petition was not filed on behalf of an industry as required by section 732(b) of the Act. As such, our earlier initiations are in error and should be rescinded.

Although Gilmore had alleged that imports of this merchandise from the FRG had caused injury to a regional industry as defined in section 771(4)(C) of the Act, the conclusion of the ITC, as reflected in its report with respect to this merchandise (USITC Publication 1451 dated November 1983), contained only the views of Chairman Alfred Eckes on the regional injury question and did not include a determination that there was a regional industry or that there was a resonable indication of injury to such a regional industry. Since the ITC did not decide whether a regional industry existed within the meaning of section 771(4)(C) of the Act, the Department cannot conclude that Gilmore has properly filed its petition on behalf of a regional industry.

Accordingly, we are rescinding our notice announcing investigations of hot-rolled carbon steel plate from Belgium and the FRG and dismissing Gilmore's petition with respect to this merchandise.

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

January 23, 1984.

[FR Doc. 84-2361 Filed 1-25-84; 8:45 am]

BILLING CODE 3510-DS-M

National Oceanic and Atmospheric Administration

Gulf of Mexico Fishery Management Council; Shrimp/Stone Crab Public Hearings

AGENCY: National Oceanic and Atmospheric Administration, National Marine Fisheries Service, Commerce.

ACTION: Notice of public hearings.

SUMMARY: The Gulf of Mexico Fishery Management Council, established by Section 302 of the Magnuson Fishery Conservation and Management Act (Pub. L. 94-265, as amended), will convene Shrimp/Stone Crab Public Hearings to discuss a proposed amendment to the Shrimp and Stone Crab Fishery Management Plans. (FMPs). The amendment establishes a mechanism for resolution of a gear conflict between shrimp and stone crab fishermen off Pasco, Hernando and Citrus Counties, Florida, by providing procedures for creating fishing areas for shrimping or for crabbing. These fishing areas would be set for each season and may be modified during the season (October 5–May 20).

DATES: The hearings will be convened at 7:00 p.m., and will adjourn at approximately 10:00 p.m., on February 15–16, 1984.

ADDRESS: The February 15 hearing will take place at St. Benedict's Church, Annex, U.S. 19, Homosassa, Florida, and the February 16 hearing will take place at the Franklin County Court House, Main Street (U.S. 98), Apalachicola, Florida.

FOR FURTHER INFORMATION CONTACT: Gulf of Mexico Fishery, Management Council, Lincoln Center, Suite 881, 5401 West Kennedy Boulevard, Tampa, Florida 33609, Telephone: (813) 228–2815.

Roland Finch,

Director, Office of Fisheries Management, National Marine Fisheries Service.

January 24, 1984.

[FR Doc. 84-2367 Filed 1-26-84; 8:45 am]

BILLING CODE 3510-22-M

Fishery Market News Reports; Annual Subscription Rates

Notice is hereby given that annual subscription rates for Fishery Market News Reports will be increased as of February 1, 1984. The subscription rate for the full service report (issued Monday, Wednesday, and Friday) will be $50 per year and the weekly summary, including the Friday report, will remain at $20 per year. The current rate for full service is $45. The rates for changing from a weekly to a full service report during a subscription year will be provided by the following issuing offices:

Boston, 470 Atlantic Avenue, First Floor, Rear, Boston, MA 02210
New York, 201 Varick Street, Room 1144, New York, NY 10014
New Orleans, 600 South Street, Room 1046, New Orleans, LA 70130
Terminal Island, 300 South Ferry Street, P.O. Box 3266, Terminal Island, CA 90731
Seattle, 7600 Sand Point Way N.W., BIN C15700, Seattle, WA 98115

Persons subscribing to these reports should make checks (drawn on a U.S. bank) and money orders, in U.S. dollars, payable to: U.S. Department of Commerce, NOAA. For further information contact Donald R. Whitaker (202) 634–7451.

Effective July 1, 1975, the National Marine Fisheries Service (NMFS) made the Fishery Market News Report available on a paid subscription basis (40 FR No. 69, April 9, 1975). Subscription rates for the report were established to recover the expenses for printing, distribution, and mailing of the reports, depreciation of equipment used to produce the reports, associated overhead charges, and postage. Collection of the data is conducted through the use of appropriated funds.

The last subscription rate increase for Fishery Market News Reports was in 1981. Increases in costs of supplies and labor since 1981 necessitate the need for the rate increase. The rates being charged represent the cost to the government only for providing the printed reports to its subscribers.

Dated: January 12, 1984.

Carmen J. Blondin,

Deputy Assistant Administrator For Fisheries Resource Management, National Marine Fisheries Service.

[FR Doc. 84-2335 Filed 1-26-84; 8:45 am]

BILLING CODE 3510-22-M

Receipt of Permit Applications

AGENCY: National Oceanic and Atmospheric Administration, Commerce.

ACTION: Notice of Receipt of Permit Applications.

SUMMARY: This document publishes for public review a summary of applications received by the Secretary of State requesting permits for foreign vessels to fish in the fishery conservation zone under the Magnuson Fishery Conservation and Management Act (Magnuson Act).

ADDRESSES: Send comments on applications to: Fees, Permits and Regulations Division (F/M12), National Marine Fisheries Service, Department of Commerce, Washington, D.C. 20235 or, send comments to the following fishery management councils which review the applications, as specified below:

Douglas G. Marshall, Executive Director, New England Fishery Management Council, Suntaug Office Park, 5 Broadway, (Route 1), Saugus, MA 01906, 617–231–0422.
John C. Bryson, Executive Director, Mid-Atlantic Fishery Management Council,

Federal Building Room 2115, 300 South New Street, Dover, DE 19901, 302–674–2331.

David H. G. Gould, Executive Director, South Atlantic Fishery Management Council, Southpark Building, Suite 306, 1 Southpark Circle, Charleston, SC 29407, 803–571–4366.

Omar Munoz-Roure, Executive Director, Caribbean Fishery Management Council, Banco De Ponce Building, Suite 1108, Hato Rey. PR 00918, 809–735–6910.

Wayne E. Swingle, Executive Director, Gulf of Mexico Fishery Management Council, Lincoln Center, Suite 881, 401 West Kennedy Blvd., Tampa, FL 33609, 813–228–2815.

Joseph C. Greenley, Executive Director, Pacific Fishery Management Council, 526 S.W. Mill Street, Portland, OR 97201, 503–221–6352.

Jim H. Branson, Executive Director, North Pacific Fishery Management Council, 605 W. Fourth Avenue, Anchorage, AK 99510, 907–271–4064.

Kitty M. Simonds, Executive Director, Western Pacific Fishery Management Council, 1164 Bishop Street, Room 1608, Honolulu, HI 98613, 808–523–1368.

FOR FURTHER INFORMATION CONTACT: Shirley Whitted or John D. Kelly (Fees, Permits, and Regulations Division) 202–634–7432.

SUPPLEMENTARY INFORMATION: The Magnuson Act specifies that no fishing is allowed by foreign fishing vessels in the fishery conservation zone except in accordance with a valid and applicable permit issued under section 204 (16 U.S.C. 1801 *et seq.*).

The Magnuson Act also requires the Secretary of State to publish a notice of receipt of all applications for such permits summarizing the contents of the applications in the **Federal Register**. The National Marine Fisheries Service, under the authority granted in a memorandum of understanding with the Department of State effective November 29, 1983, issues this notice on behalf of the Secretary of State.

Individual vessel application for fishing in 1984 have been received between January 16, 1984, and January 26, 1984, from the government(s) shown below.

Dated: January 26, 1984.

Carmen J. Blondin,

Deputy Assistant Administrator for Fisheries Resource Management, National Marine Fisheries Service, NMFS.

Fishery codes and designation of regional councils which review applications for individual fisheries are as follows:

Code, Fishery, and Regional Council

ABS Atlantic Billfishes and Sharks, New England, Mid-Atlantic, South Atlantic, Gulf of Mexico, Caribbean
BSA Bering Sea and Aleutian Islands Groundfish, North Pacific
GOA Gulf of Alaska, North Pacific
NWA Northwest Atlantic Ocean, New England, Mid-Atlantic, South Atlantic, Gulf of Mexico, Caribbean
SMT Seamount Groudfish (Pacific Ocean), Western Pacific
SNA Snails (Bering Sea), North Pacific
WOC Pacific Groundfish (Washington, Oregon, and California), Pacific
PBS Pacific Billfishes and Sharks, Western Pacific

Activity codes which specify categories of fishing operations applied for are as follows:

Activity Code and Fishing Operations

1—Catching, processing, and other support.
2—Processing and other support, only.
3—Other support, only.
4—"Joint Venture" in support if U.S. vessels.

Nation	Vessel name	Vessel type	Application No.	Fishery	Activity
Norway	Ole sestremyr	Medium stern trawler	No-84-0003	BSA	1

The government of Norway has applied for a fishing permit to engage in joint venture activities between Broedrene Saetremyr, a Norwegian fishing company, and ocean trawl corporation, 955 Park Avenue, New York, New York. The application requests that 5,000 mt of Pacific cod and 2,000 mt of Alaska pollock harvested by a U.S. vessel in the transshipment to the foreign vessel between March and December 1984. The application also requests a permit for the foreign vessel to harvest identical amounts of Pacific cod and Alaska pollock.

For information of the readers, the receipt notice of two joint venture applications published in the **Federal Register** December 2, 1983, between Japan and Whitney-Fidalgo Seafoods, Inc., and Japan and Mr. Clinton E. Atkinson, was modified to include an additional vessels are the OHTORI MARU and CHIKUBU MARU respectively. A directed fishing permit application receipt notice was published in the **Federal Register** for these vessels on December 22, 1983.

[FR Doc. 84-2343 filed 1-26-84; 11:57 am]
BILLING CODE 3510-22-M

National Technical Information Service

Intent to Grant; Exclusive Patent License

The National Technical Information Service (NTIS), U.S. Department of Commerce, intends to grant to Hoffrel Instruments, Inc., having a place of business at 345 Wilson Avenue, South Norwalk, Connecticut 06854 an exclusive right to manufacture, use, and sell products embodied in the invention, "Realtime Two-Dimensional Mechanical Ultrasonic Sector Scanner with Electronic Control of Sector Width," U.S. Patent No. 4,106,492. The patent rights in this invention have been assigned to the United States of America, as represented by the Secretary of Commerce.

The proposed exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 41 CFR 101-4.1. The proposed license may be granted unless, within sixty days from the date of this Notice, NTIS receives written evidence and argument which establishes that the grant of the proposed license would not serve the public interest.

Inquiries, comments and other materials relating to the proposed license must be submitted to the Office of Government Inventions and Patents, NTIS, Box 1423, Springfield, VA 22151.

Dated: January 19, 1984.

Douglas J. Campion,

Patent Licensing, Office of Government Inventions and Patents, Department of Commerce, National Technical Information Service.

[FR Doc. 84-2295 Filed 1-26-84; 8:45 am]
BILLING CODE 3510-04-M

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

Procurement List 1984; Additions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Additions to Procurement List.

SUMMARY: This action adds to Procurement List 1984 commodities to be produced by workshops for the blind and other severely handicapped.

EFFECTIVE DATE: January 27, 1984.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, Crystal Square 5, Suite 1107, 1755 Jefferson Davis Highway, Arlington, Virginia 22202.

FOR FURTHER INFORMATION CONTACT: C. W. Fletcher, (703) 557-1145.

SUPPLEMENTARY INFORMATION: On October 14, 1983, the Committee for Purchase from the Blind and Other Severely Handicapped published a notice (48 FR 46832) of proposed additions to Procurement List 1984, October 18, 1983 (48 FR 48415).

After consideration of the relevant matter presented, the Committee has determined that the commodities listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46-48c, 85 Stat. 77.

I certify that the following actions will not have a significant impact on a substantial number of small entities. The major factors considered were:

a. The actions will not result in any additional reporting, recordkeeping or other compliance requirements.

b. The actions will have a serious economic impact on any contractors for the commodities listed.

c. The actions will result in authorizing small entities to produce commodities procured by the Government.

Accordingly, the following commodities are hereby added to Procurement List 1984:

Class 8455

Medal, Good Conduct, Marine Corps: 8455-00-261-4501
Medal Set, Good Conduct, Air Force: 8455-00-082-5528
Medal Set, Good Conduct, Army: 8455-00-269-5764
Medal Set, WW II Victory: 8455-00-269-5782.
Medal Set, Women's Army Corps: 8455-00-269-5783
Medal Set, Army of Occupation, WW II: 8455-00-269-5763
Medal Set, Asiatic-Pacific Campaign: 8455-00-269-5762.

C. W. Fletcher,

Executive Director.

[FR Doc. 84-2327 Filed 1-26-84; 8:45 am]
BILLING CODE 6820-33-M

DEPARTMENT OF DEFENSE

Department of the Air Force

USAF Scientific Advisory Board; Meeting

January 25, 1984.

Change of date in meeting of the USAF Scientific Advisory Board Ad Hoc Committee Study on the Feasibility of Air Force Logistics Command's Network Architecture published in **Federal Register** on January 17, 1984, 49 FR 2006. It will be held on 11 February 1984 (previously scheduled 10 February 1984). Everything else remains the same.

For further information, contact the Scientific Advisory Board Secretariat at 202-697-8845.

Harry C. Waters,

Alternate Air Force, Federal Register, Liaison Officer.

[FR Doc. 84-2429, Filed 1-27-84; 8:45 am]
BILLING CODE 3910-01-M

Department of the Army

Privacy Act of 1974; Amendments to and Deletion of Notices for Systems of Records

AGENCY: Department of the Army, DOD.

ACTION: Amendments to and deletion of notices for system notices.

SUMMARY: The Department of the Army is deleting the notice for one system and amending and updating the notices for five system of records subject to the Privacy Act of 1974. The significant changes are summarized below and the systems notices as amended are set forth below.

DATES: The amendment will be effective February 27, 1984, unless public comments are received which result in a contrary determination.

ADDRESS: Send comments to: The Adjutant General, Headquarters, Department of the Army, ATTN: DAAC-AMR-S, 2461 Eisenhower Ave., Alexandria, VA 22331.

FOR FURTHER INFORMATION CONTACT: Contact Ms. Dorothy Karkanen at the above address or telephone: 703/325–6163.

SUPPLEMENTARY INFORMATION: The Department of the Army notices for systems of records subject to the Privacy Act of 1974, as amended (5 U.S.C. 552a) have been published in the **Federal Register.**

None of the changes require an altered system report (5 U.S.C. 552a(o)).

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

January 23, 1984.

Deletions

AO225.11aDAAG

System Name: Master Index (48 FR 25557, June 6, 1983).

Reason: In that this is only an index, it has been added to the notice for the relevant system of records, AO708.02aDAPC, which is set forth below.

Amendments

AO708.02aDAPC

System Name: Official Military Personnel File (48 FR 23686, May 26, 1983).

System Location:

A third paragraph to read as follows has been added:

"An automated index is maintained at the U.S. Army Reserve Components Personnel and Administrative Center showing the actual location of the official Military Personnel File of retired and separated service members".

Purposes:

Caption has been added and the purpose and uses of the information within the Department of Defense are set forth.

Routine Uses of Records Maintained in the System, Including Categories of Users and the Purposes for such Uses:

Purpose of the system and uses within DoD have been deleted as they are now listed in the *Purposes* caption. A routine use for disclosure of address information to military banking facilities overseas has been added.

AO708.03aDAPE

System Name: Special Review Board Appeal Case Summary File.

Categories of Individuals Covered by the System:

"Cases referred for promotion reconsideration" has been added.

Purposes:

Caption has been added and the purpose of the system and the uses of the information within DoD set forth.

Routine Uses of Records Maintained in the System, Including Categories of Users and Purposes of Such Uses:

Purpose of the system and uses of the information within DoD deleted as they are now set forth under the *Purposes* caption.

A091204DASG

System Name: Medical Staff Credential Files.

Purposes:

Caption has been added and the purpose of the system and the uses of the information within DoD set forth.

Routine Uses of Records Maintained in the System, Including Categories of Users and the Purposes of Such Uses:

The purpose for the system and the uses within the DoD have been deleted as they are set forth under the *Purpose* Caption.

Retention and Disposal:

Entry has been updated.

A0917.09aDAPE

System Name: Alcohol and Drug Abuse Rehabilitation Files.

Puposes:

Caption added and purpose of the system and uses of the information DoD set forth.

Routine Uses of Records Maintained in the System, Including Categories of Users and Purposes of Such Uses:

Purpose of the system and the uses of the information within DoD deleted as they are set forth under the *Purposes* caption.

Notification Procedures:

Address has been updated.

A1010.07aTRADOC

System Name: Army School Files.

This system has been redesignated "A1005.01 TRADOC" and renamed "Junior ROTC/NDCC Instructor Files".

System Location:

Location of Army ROTC Regions have been set forth.

Purposes:

Caption has added and the purpose of the system and the uses of the information within DoD set forth.

Routine Uses of Records Maintained in the System, Including Categories of Users and the Purposes of Such Uses:

Purpose of the system and uses within DoD have been deleted as they are set forth under the *Purposes* caption.

Note that the ROTC Regions have been added to the *Records Access Procedures* and *Records Source Categories.*

A0708.02aDAPC

SYSTEM NAME:

Official Military Personnel File.

SYSTEM LOCATION:

Primary Location: Personnel Information Systems Directorate, U.S Army Military personnel Center (MILPERCEN), 200 Stovall Street, Alexandria, VA 22332.,

Secondary Location: U.S. Army Enlisted Records and Evaluation Center; U.S. Army Reserve Components Personnel and Administration Center; and National Personnel Records Center, General Services Administration.

An automated index exists at the U.S. Army Reserve Components Personnel and Administration Center showing physical location of the Official Military Personnel File of retired and separated service members.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Each individual on active duty in the U.S. Army in enlisted, appointed, or commissioned status; and each individual who was an enlisted, appointed, or commissioner member of the U.S. Army and who was completely separated by discharge, death, or other termination of his/her military status.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records include enlistment contract; Veterans Administration benefit forms; physical evaluation board proceedings; military occupational specialty data; statement of service; qualification record; group life insurance election; emergency data; application for appointment; qualification/evaluation report; oath of office; medical examination; security questionnaire; application for retired pay; application for correction of military records; application for active duty; transfer or dischange report; active duty report; voluntary reduction; line of duty and misconduct determinations; discharge or separation reviews; police record checks; consent/declaration of parent/guardian; Army ROTC supplemental agreement; award recommendations; academic reports; casualty reports; U.S. field medical card; retirement points; deferments; pre-induction processing and commissioning data; transcripts of military records summary sheets; reviews of conscientions objector status applications; elections of options; oathes of enlistment; enlistment extensions; survivor benefit plans; efficiency reports; records of proceeding, Title 10 U.S.C. 815 appeal actions; determinations of moral eligibility; waiver of disqualifications; temporary disability records; changes of name; statements for enlistment; acknowledgements of service; retired benefits data; applications for review by

physical evaluations boards and disability boards; appointments; designations; evaluations; extensions; birth certificates; photographs; citizenship statements and status; educational constructive credits/ transcripts; flight status board reviews; assignment agreements/limitations/ waivers/election and travel; efficiency appeals; promotion/reduction commendations/approvals, declinations/announcements/ notifications/reconsiderations/ worksheets/elections/letters of notification to deferred officers and promotion passover notifications; absence without leave and desertion records; FBI reports; Social Security Administration (SSA) corresponsence; miscellaneous correspondence, documents, and military orders relating to militray service including information pertaining to dependents, inter-service actions, inservice details, determinations, reliefs, components; awards, pay entitlements, releases, transfers, and other military service data.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301.

PURPOSE:

These records are created and maintained to: (a) Manage the member's Army service effectively, (b) document a memoer's military service, and (c) safeguard the rights of the member and the Army.

Used by the Department of the Army: To maintain , use, collect, correct and disseminate information with respect to an individual's military status or former military status, including regular reserve, retired, separated, or deceased.

Used by Department of Defense: To authorize and consummate interdepartmental actions relating to inter-service requirements.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Department of State: To issue passport/visa, to document, persona non grata status, attache assignments, and related administration of personnel assigned and performing duty with the Department of State.

Department of Justice: To file fingerprints and to perform investigative and judical functions.

Department of Agriculture: To coordinate matters related to its advanced education program.

Department of Labor: To accomplish actions required under Federal Employees Compensation Act.

Department of Health and Human Services: To provide services authorized by medical, health, and related functions pursuant to 10 U.S.C. 1074–1079.

Nuclear Regulatory Commission: To accomplish requirements incident to nuclear accident/incident control officer functions.

American Red Cross: To accomplish coordination and service functions including blood donor programs and emergency investigative support and notifications.

Civil Aeronautics Board: To accomplish flight qualifications, certification, and licensing actions.

Federal Aviation Agency: To determine rating and certification (including medical) of in-service aviators.

General Services Adminstration: To records storage and archival services and for printing of directories and related material which inlcude personal data.

US Postal Service: To accomplish postal service authorization involving postal officers and mail clerk authorizations.

Veterans Administration: To provide information relating to service, benefits, pensions, in-service loans, insurance, and appropriate hospital support.

Bureau of Immigration and Naturalization: To comply with statutes relating to alien registration and annual residence location.

Office of the President of the United States: To exchange required information relating to White House Fellows, regular Army promotions, aides, and related support functions staffed by Army members.

Federal Maritime Commission: To obtain licenses for military members accredited as captian, mate, and harbor master for duty as transportation Corps warrant officer.

Each of the Several States, and U.S. Possessions: To support state bonus applications; to fulfill income tax requirements appropriate to service member's home of record; to record name changes in state bureaus of vital statistics; and for National Guard affairs.

Civilian Educational and Training Institutions: To accomplish student registration, tuition support, tests, and related requirements incident to in-service education programs in compliance with 10 U.S.C., Chapters 102 and 103.

Social Security Administration: To obtain or verify Social Security Account Number; to transmit Federal Insuarance Compensation Act deductions from member's wages.

Department of Transportation: To coordinate and exchange necessary information pertaining to inter-service relationships between US Coast Guard and US Army when service members perform duty with USCG.

Civil Authorities: for compliance with 10 U.S.C. 814.

Federal Emergency Management Agency: To facilitate participation of Army members in civil defense planning, training, and emergency operations pursuant to the military support of civil defense as prescribed by DoD Directive 3025.10 and Army Regulation 500–70.

Director of Selective Service System: Report of Non-Registration at time of separation processing, of individuals who decline to register with Selective Service System; such report will contain name of individual, date of birth, Social Security Number, and mailing address at time of separation.

Other elements of the Federal Government pursuant to their respective authority and responsibility.

Record of the identity, diagnosis, prognosis, or treatment of any client/ patient, irrespective of whether or when he/she cases to be a client/patient, maintained in connection with the alcohol or drug abuse prevention and treatment function conducted, regulated, or directly or indirectly assisted by any department or agency of the U.S. shall, except as provided therein, be confidential and be disclosed only for the purposes and under the circumstances expressly authorized in 21 U.S.C. 1175 and 42 U.S.C. 4582. These statutes take precedence over the Privacy Act of 1974 in regard to accessiblity of such records except to the individual about whom the record pertains. Blanket Routine Uses of general applicability identified in 48 FR 25503, June 6, 1983 do not apply to certain alcohol and drug abuse treatment records.

Military Banking Facilities Overseas: Information as to current military addresses and assignments may be provided to military banking facilities who provide banking services overseas and who are reimbursed by the Government for certain checking and loan losses. For personnel separated, discharged or retired from the Armed Forced information as to last known residential or home of record address may be provided to the military banking facility upon certification by a banking facility officer that the facility has a returned or dishonored check negotiated by the individual on the individual has defaulted on a loan and that if restitution is not made by the individual

the United States Government will be liable for the losses the facility may incur.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Microfiche stored randomly in electromechanical storage/retrieval devices. Temporary files consist of paper records in file folders; selected data automated for management purposes on tapes, discs, cards, and other computer media.

RETRIEVABILITY:

Alphabetically by surname; automated date retrieved by name, SSN or ADP parameter; records of reserve, retired, and deceased persons retrieved by SSN terminal digit sequence.

SAFEGUARDS:

Records are maintained in areas accessible only to authorized personnel; automated records are further protected by authorized password system for access terminals, contolled access to operations locations, and controlled output distribution.

RETENTION AND DISPOSAL:

Microfiche and paper records are permanent; retained in active file until termination of service, following which they are retired to the U.S. Army Reserve Components Personnel and Administration Center, St. Louis, MO 63132.

SYSTEM MANAGER(S) AND ADDRESS:

Commander, U.S. Army Military Personnel Center, 200 Stovall Street, Alexandria, VA 22332.

NOTIFICATION PROCEDURE:

Inquiries for records of commissioned or warrant officers (including members of Reserve Components serving on active duty) should be sent to the System Manager.

Inquiries for records of enlisted members (including members of Reserve Components serving on active duty) should be sent to Commander, U.S. Army Enlisted Records and Evaluation Center, Ft. Benjamin Harrison, IN 46249.

Inquiries for records of commissioned officers or warrant officers in a reserve status not on active duty, or Army enlisted reservists not on active duty, or members of the National Guard who performed active duty, or commissioned officers, warrant officers, or enlisted members in a retired status should be sent to: Commander, U.S. Army Reserve Components Personnel and Administration Center, 9700 Page Boulevard, St. Louis, MO 63132.

Inquiries for records of commissioned officers and warrant officers who were completely separated from the service after June 30, 1917, or enlisted members who were completely separated after October 31, 1912 should be sent to: Chief, National Personnel Records Center, GSA 9700 Page Boulevard, St. Louis, MO 63132.

RECORD ACCESS PROCEDURES:

Individuals desiring access to their record must provide full name, service identification number, SSN, military status, and mailing address. The SSN is required to retrieve and identify the record sought. Failure to provide the SSN can result in an incomplete search. The Army rules for access and for appealing initial denial decisions are contained in Army Regulation 340–21 (32 CFR Part 505).

CONTESTING RECORD PROCEDURES:

The Army's rules for contesting contents and appealing initial determinations not granting amendment are contained in Army Regulation 340–21 (32 CFR part 505).

RECORD SOURCE CATEGORIES:

Enlistment, appointment, or commission related forms pertaining to individual's military status; academic, training, or qualifications records acquired prior to or during military service; correspondence, forms, records, documents, and other relevant papers in Department of the Army, other Federal Agencies, or state and local governmental entities; civilian education and training institutions; and members of the public when information is relevant to the service member.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

A0708.03aDAPE

SYSTEM NAME:

Special Review Board Appeal Case Summary File.

SYSTEM LOCATION:

Office of the Deputy Chief of Staff for Personnel Special Review Board (SRB) (DAPE–MPD–CD), Washington, D.C. 20310.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Army officer personnel who have submitted substantive, as opposed to administrative, appeal of Officer Evaluation Reports, Academic Evaluation Reports, and cases referred for promotion reconsideration.

CATEGORIES OF RECORDS IN THE SYSTEM:

Appeal Files Containing: Identification data on individual, date of appeal, dates of contested OER/AEF period, and supporting documentation; promotion reconsideration referrals including information provided by the promotion board and relevant documents from individual's OMPF: names of voting SRB members, names of persons contacted by SRB, summary of evidence considered, discussion, recommendations, conclusions, final determination of appeal, and disposition.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 3012.

PURPOSE:

To review and adjudicate appeals of Officer Evaluation Ratings, Academic Ratings, and promotion board reconsideration cases.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See blanket routine uses of general applicability for all Army systems.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in folders.

RETRIEVABILITY:

By individual's surname.

SAFEGUARDS:

Records are maintained in areas accessible only to designated authorized persons in buildings which are protected by security guards.

RETENTION AND DISPOSAL:

Records are retained by the Special Review Board for 20 years. Records are destroyed by tearing, burning, pulping, shredding, or macerating.

SYSTEM MANAGER(S) AND ADDRESS:

Deputy Chief of Staff for Personnel, Headquarters, Department of the Army, mailing address: Deputy Chief of Staff for Personnel, Headquarters, Department of the Army, ATTN: DAPE-MAD-CD, Room: 2C–749, The Pentagon, Washington, D.C. 20310.

NOTIFICATION PROCEDURE:

Information may be obtained from the System Manager, either by writing or calling; (telephone: 202/697–7619).

RECORD ACCESS PROCEDURES:

Individuals desiring access to records in this system of records pertaining to

them should write to or visit the System Manager. The request should include full name, current address and telephone number. For personal visits, individual must provide acceptable identification such as military identification card. The Army rules for access and appealing denials of access are contained in Army Regulation 340–21 (32 CFR Part 505).

CONTESTING RECORD PROCEDURES:

The Army's rules for contesting contents and appealing initial denials of amendment are contained in Army Regulation 340–21 (32 CFR Part 505).

RECORD SOURCE CATEGORIES:

From the individual, relevant Army records and reports.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

A0912.04DASG

SYSTEM NAME:

Medical Staff Credentials File.

SYSTEM LOCATION:

Medical treatment facilities at Army commands, installations and activities.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals performing clinical practice in medical treatment facilities.

CATEGORIES OF RECORDS IN THE SYSTEM:

Documents reflecting delineation of clinical privileges and clinical performance.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 10 U.S.C. 1071.

PURPOSE:

To determine and assess capability of practitioner's clinical practice and, in specific instances, to provide clinical privilege information to other military medical facilities.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information may be provided to certain civilian hospitals, the Federation of State Medical Boards of the U.S., State Licensure Authorities, and other appropriate professional regulating bodies. See also the blanket routine uses of general applicability for all Army systems.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORD IN THE SYSTEM:

STORAGE:

Paper records in file folders.

RETRIEVABILITY:

By individual's surname.

SAFEGUARDS:

Records are maintained in areas accessible only to the medical treatment facility commander and credentials committee members.

RETENTION AND DISPOSAL:

Records are retained at medical treatment facility of individual's last assignment. Records of military members are transferred to individual's Military Personnel Records Jacket upon separation or retirement. Records pertaining to civilian personnel are retained in the medical treatment facility where last employed and destroyed 5 years after employment terminates. Records are destroyed by tearing, burning, pulping, shredding or macerating.

SYSTEM MANAGER(S) AND ADDRESS:

The Surgeon General, Headquarters, Department of the Army, The Pentagon, Washington, D.C. 20310.

NOTIFICATION PROCEDURE:

Information may be requested from the commander of the medical treatment facility where practitioner provided clinical service.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information from this system should contact the commander of the medical treatment facility where clinical service was provided, furnishing full name, and signature. The Army rules for access and appealing initial denials of access are contained in Army Regulation 340–21 (32 CFR Part 505).

CONTESTING RECORD PROCEDURES:

The Army's rules for contesting contents and appealing initial denials of amendment are contained in Army Regulation 340–21 (32 CFR Part 505).

RECORD SOURCE CATEGORIES:

Interview, individual's application, medical audit results, other administrative or investigative records obtained from civilian or military sources.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

A0917.09aDAPE

SYSTEM NAME:

Alcohol and Drug Abuse Rehabilitation Files.

SYSTEM LOCATION:

Primary: Alcohol and Drug Abuse Prevention and Control Program (ADAPCP) rehabilitation/counseling facilities (e.g., Community Counseling Centers/ADAPCP Counseling Facilities) at Army installations and activities.

Secondary: U.S. Army Safety Center (PESC–D), Ft. Rucker, AL 36362.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Any individual (military, civilian, family member) who is eligible for care and is referred to and enrolled in the ADAPCP for rehabilitation, pursuant to Army Regulation 600–85.

CATEGORIES OF RECORDS IN THE SYSTEM:

Primary: Copies of client intake records, progress reports, psychosocial histories, counselor observations and impressions of client's behavior and rehabilitation progress, copies of medical consultation and laboratory procedures performed, results of biochemical urinalysis for alcohol/drug abuse, and similar or related documents.

Secondary: Copies of client intake records, progress reports, and demographic composites thereof.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301 and 10 U.S.C. 1071, Note (1976)

PURPOSE:

Primary: To treat, counsel, and rehabilitate individuals who participate in the Army's Alcohol and Drug Abuse Prevention and Control Program.

Secondary: Client intake and progress reports are used to provide essential management information concerning the ADAPCP to measure the magnitude of alcohol and other drug abuse within the Army, to measure progress in the Army prevention program, to measure progress in the rehabilitative medical treatment aspect of the program, to provide statistical trends of support policy and procedural changes, to support and justify funding and manpower requirements for the program, and to provide statistical information (not individually identifiable data) in response to the public media, members of Congress, or other government agencies.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in this system of records is exempt from the Army blanket routine uses of general applicability. Information is disclosable only to the following persons/agencies:

a. To health care components of the Veterans Administration.

b. To qualified personnel conducting scientific research or audits or program evaluations, provided that a patient may not be identified in such reports, or his or her identify further disclosed by such personnel.

c. In response to a court order based on the showing of good cause in which the need for disclosure and the public's interest is shown to exceed the potential harm that would be incurred by the patient, the physician-patient relationship, and the Army's treatment program.

Note.—Records of identify, diagnosis, prognosis or treatment of any client/patient, irrespective of whether or when he/she ceases to be a client/patient, maintained in connection with the performance of any alcohol or drug abuse prevention and treatment function conducted, regulated, or directly or indirectly assisted by any department or agency of the United States, shall, except as provided therein, be confidential and be disclosed only for the purposes and subjected to standard executive and system control program plus the aduit/edit and data base management system designed by the U.S. Army Safety Center.

RETENTION AND DISPOSAL:

Primary: Records are destroyed 1 year after termination of the patient's treatment, unless the Army Medical Department Activity/Facility commander authorized retention for an additional 6 months.

Secondary: Manual records are retained up to 18 months or until information taken therefrom and entered into computer records is transferred to the "history" file, whichever is sooner. Disposal of manual records is by burning or shredding. Computer records are retained permanently for historical and/or research purposes.

SYSTEM MANAGER(S) AND ADDRESS:

The Deputy Chief of Staff for Personnel, Headquarters, Department of the Army (DAPE–HRA), The Pentagon, Washington, D.C. 20310.

NOTIFICATION PROCEDURE:

Individuals wishing to inquire whether this system contains information about them should contact either the commander of the medical center/medical department activity where treatment for alcohol/drug abuse was obtained, or the U.S. Army Drug and Alcohol Technical Activity, Room 323, Nassif Building, Falls Church VA 22041. Individuals should furnish their full name, date of birth, Social Security Number, current address and telephone number, and signature. The furnishing of this personal data is voluntary. However, record searches will be limited by the data furnished.

RECORD ACCESS PROCEDURE:

Individual seeking access to their records should contact the appropriate official as specified in the "Notification Procedure" section, furnishing the information required by that section. The Army rules for access and appeal of initial denials of access are contained in Army Regulation 340–21 (32 CFR Part 505).

CONTESTING RECORD PROCEDURES:

The Army's rules for contesting contents and appealing initial denial of amendment actions are contained in Army Regulation 340–21 (32 CFR Part 505).

RECORD SOURCE CATEGORIES:

From the individual by interviews and history statements; abstracts or copies of pertinent medical records; abstracts from personnel records; results of tests; physicians' notes, observation of client's behavior; related notes, papers, and forms from counselor, clinical director, and/or commander.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

SYSTEM NAME:

Junior ROTC/NDCC Instructor Files

SYSTEM LOCATION:

Headquaters, Army Training and Doctrine (TRADOC) schools, colleges, training centers, and ROTC Regions at Fort Bragg, NC; Fort Knox, KY; Fort Riley, KS; and Fort Lewis, WA.

CATEGORIES OF INDIVIDUALS IN THE SYSTEM:

Assigned and potential instructors and guest speakers at the above locations.

CATEGORIES OF RECORDS IN THE SYSTEM:

Instructor evaluation forms, qualification data, biographic sketches and similar and related documents.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 2031 and 4651.

PURPOSES:

To record qualifications, experience, effectiveness, and other similar related information about potential and assigned instructions and guest speakers.

Used by Army schools and ROTC Regions to determine assignment or employment of instructors and their utilization, and to access their need for additional training.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

See blanket routine uses of general applicability for all Army systems of records.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders and card files.

RETRIEVABILITY:

By name, Social Security Number (SSN), and year.

STORAGE:

Records are stored in locked cabinets or rooms depending on location.

RETENTION AND DISPOSAL:

Retained for two years after instructor is transferred or after the guest speaker speaks. Records on potential instructors or speakers who are not assigned or who do speak are destroyed when they are no longer considered of interest. Records are destroyed by tearing, burning, pulping, shredding, or macerating.

SYSTEM MANAGER AND ADDRESS:

Commander, U.S. Army Training and Doctrine Command. Mailing Address: Commander, U.S. Army Training and Doctrine command, ATTN: ATAC-FCIA, Fort Monroe, VA 23651.

NOTIFICATION PROCEDURE:

Written request should be addressed to the commander of the appropriate school, college, training center, or ROTC Region. Individuals should furnish their full names, SSNs, duty position, academic department, and dates of service at the training activity. Furnishing the personal data is voluntary, however, records searches will be limited to the data furnished.

RECORD ACCESS PROCEDURES:

Provide the information listed under the "Notification Procedures" caption to the appropriate commander.

The Army rules for access and appealing initial denials of access under the Privacy Act of 1974, as amended (5 U.S.C. 552a) are contained in Army Regulation 340–21 (32 CFR Part 505).

CONTESTING RECORD PROCEDURES:

The Army rules for contesting the contents of records and appealing initial denials of amendment are contained in Army Regulation 340–21 (32 CFR Part 505). For further information contact the System Manager.

RECORD SOURCE CATEGORIES:

Staff and faculty of the appropriate school, college, training center, or ROTC Region.

SYSTEM EXEMPED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 84-2331 Filed 1-26-84; 8:45 am]
BILLING CODE 3710-08-M

DEPARTMENT OF EDUCATION

National Diffusion Network Program; Application Notice Establishing Closing Dates for Fiscal Year 1984

Correction

In FR Doc. 84-2022 beginning of page 2929 in the issue of Tuesday, January 24, 1984, make the following correction.

On page 2930, third column, in the table, the closing dates now reading "Dec. 1, 1984" and "Dec. 9, 1984" should read "March 1, 1984" and "March 9, 1984" respectively.

BILLING CODE 1505-01-M

National Advisory Council on Bilingual Education; Meeting

AGENCY: National Advisory Council on Bilingual Education, Ed.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the National Advisory Council on Bilingual Education. Notice of this meeting is required under Section 10(a)(2) of the Federal Advisory Committee Act. This document is intended to notify the general public of their opportunity to attend.

DATES:

October 10, 1984—Review Comment on first draft of Annual Report 9:00 a.m.–4:30 p.m.

October 11, 1984—Business Meeting 9:00 a.m.–4:30 p.m.

ADDRESS: The two day meeting will take place in the Mercury Room of the Capitol Holiday Inn, 550 C Street SW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Ramon Ruiz, Designated Federal Official, Room 421, Reporter's Building, 400 Maryland Avenue SW., Washington, D.C. 20202, (202) 245-2600.

SUPPLEMENTARY INFORMATION: The National Advisory Council on Bilingual Education is established under Section 732(a) of the Bilingual Education Act (20 U.S.C. 3242). The Council is established to advise the Secretary of the Department of Education concerning matters arising in the administration of the Bilingual Education Act and other laws affecting the education of limited English proficient populations.

The meeting of the Council is open to the public. The proposed agenda includes the following:

October 10, 1984—The Council will review and comment on the first draft of the Annual Report.

October 11, 1984—The Agenda for the second day includes:

I. Introductions
II. Old Business
III. New Business
—Plans for the participating of NACBE during the NABE Convention in San Antonio, Texas.
—Plans for the Houston, Texas Forum during NSBA Convention.
—Dates for Public Hearings.

Dated: January 23, 1984.

Jesse M. Soriano,

Director, Office of Bilingual Education and Minority Languages Affairs.

[FR Doc. 84-2332 Filed 1-26-84; 8:45 am]
BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

National Petroleum Council, Costs and Economics Task Group of the Committee on Enhanced Oil Recovery; Meeting

Notice is hereby given that the Costs and Economics Task Group of the Committee on Enhanced Oil Recovery will meet in January 1984. The National Petroleum Council was established to provide advice, information, and recommendations to the Secretary of Energy on matters relating to oil and natural gas or the oil and natural gas industries. The Committee on Enhanced Oil Recovery will investigate the technical and economic aspects of increasing the Nation's petroleum production through enhanced oil recovery. Its analysis and findings will be based on information and data to be gathered by the various task groups. The time, location and agenda of the Costs and Economics Task Group meeting follows:

The Costs and Economics Task Group will hold its fifteenth meeting on Monday, January 30, 1984, starting at 9:00 a.m., in Room 1820 of the Stouffer's Greenway Plaza Hotel, Six East Greenway Plaza, Houston, Texas.

The tentative agenda for the Costs and Economics Task Group meeting follows:

1. Opening remarks by the Chairman and Government Cochairman.

2. Review progress of Task Group study assignments.

3. Discuss any other matters pertinent to the overall assignment from the Secretary of Energy.

The meeting is open to the public. The Chairman of the Costs and Economics Task Group is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Costs and Economics Task Group will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements should inform G. J. Parker, Office of Oil, Gas, and Shale Technology, Fossil Energy, 301/353-3032, prior to the meeting and reasonable provision will be made for their appearance on the agenda.

Summary minutes of the meeting will be available for public review at the Freedom of Information Public Reading Room, Room 1E-190, DOE Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. between the hours of 8:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, D.C. on January 17, 1984.

Donald L. Bauer,

Principal Deputy Assistant Secretary for Fossil Energy.

[FR Doc. 84-2413 Filed 1-26-84; 8:45 am]
BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket No. RP81-61-015]

ANR Pipeline Co. (Formerly Michigan Wisconsin Pipe Line Co.); Proposed Amendments to Post Audit Reports

January 23, 1984.

Take notice that on January 13, 1984, ANR Pipeline Company (ANR) tendered for filing the following amendments to its Post Audit Report to reflect an additional credit to Other Operating Revenues for the locked-in period:

Amended Schedule 1—Derivation of Company's Resale Revenue Underrecovery
Amended Schedule 1a—Detail of Company's Resale Revenue Underrecovery, Identifying No Refund to Resale Customers
Amended Schedule 2—Overall Cost of Service—Statement A
Amended Schedule 8—Allocation of Overall Cost of Service—Statement I
Amended Schedule 10—Other Operating Revenues

Amended Schedule 12—Derivation of Resale Rates

ANR asserts that its Resale Revenue Underrecovery, as exhibited in Schedule 1a, prevents refunds to its resale customers.

ANR states that copies of its filing were sent to its customers, all parties to the proceeding, and the following state commissions: Illinois Commerce Commission, Public Service Commission of Indiana, Iowa State Commerce Commission, Kansas State Corporation Commission, Michigan Public Service Commission, Missouri Public Service Commission, Public Utilities Commission of Ohio, Tennessee Public Service Commission and Public Service Commission of Wisconsin.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before January 30, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-2337 Filed 1-26-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-481-008]

Arizona Public Service Co.; Compliance Report

January 24, 1984.

Take notice that on November 30, 1983, Arizona Public Service Company (Arizona) submitted for filing its Compliance Report pursuant to a Commission Order dated October 19, 1983.

Arizona states that copies of its Compliance Report have been mailed to each party to the proceeding.

Any person desiring to be heard or to protest this filing should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, on or before January 31, 1984. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-2336 Filed 1-26-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-60-001]

Arkansas Louisiana Gas Co.; Proposed Changes in FERC Gas Tariff

January 23, 1984.

Take notice that on January 11, 1984, Arkansas Louisiana Gas Company (Arkla) tendered for filing the following sheets to its FERC Gas Tariff First Revised Volume No. 2:

Original Sheets No. 212 through 220.

Arkla cites the Commission order dated December 2, 1983, in Docket No. CP83-60-001 (the order) and intends that its filing be deemed as in compliance therewith.

According to Arkla, the order requires Arkla to submit its Rate Schedule No. XT-55.

Arkla proposes an effective date of January 11, 1984, and requests all waivers required thereto. In the alternative, if a waiver is disallowed, Arkla requests an effective date of February 9, 1984.

Arkla states that copies of its filing have been sent to the Southwestern Electric Power Company.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before January 30, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-2338 Filed 1-26-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-206-000]

The Empire District Electric Co.; Filing

January 24, 1984.

The filing Company submits the following:

Take notice that The Empire District Electric Company (Empire) on January 11, 1984 tendered for filing FERC Electric Tariff 1st Revised Volume No. 1, Section 6, 8th Revised Sheet No. 22, Index of Purchasers; and an unexecuted service agreement with Saken Electric Cooperative, Inc. of Girard, Kansas.

Empire states that the filing is being made to change Sekan to the W-2 rate schedule. This change was anticipated and agreed to in FERC Case ER82-465-000. The annual revenue increase will be $51,344 based on the 12 months ended October 31, 1984.

Empire requests an effective date of November 1, 1983, and therefore requests waiver of the Commission's notice requirements.

Any person desiring to be heard or to protest said application should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before February 6, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-2340 Filed 1-26-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP84-41-000]

Great Lakes Gas Transmission Co.; Proposed Waiver of Terms in FERC Gas Tariff

January 23, 1984.

Take notice that Great Lakes Gas Transmission Company (Great Lakes) on January 12, 1984, tendered for filing a proposal to waive the minimum annual bill provision contained in section 4.1(b) of Rate Schedule CQ to Great Lakes FERC Gas Tariff, First Revised Volume No. 1. This waiver is for the contract year ending October 31, 1983.

Great Lakes asserts that an agreement has been made with one of its Resale Customers, Natural Gas Pipeline Company of America (Natural), regarding the deferral of a payment owed by Natural to Great Lakes under section 4.1(b). The deferral is to be for a

four year period ending December 20, 1987, but has conditions including monthly interest payments, and the occurence of appropriate regulatory authorization. The agreement is attached to their filing as Appendix A.

Great Lakes states that its agreement with Natural is made possible by a similar agreement between Great Lakes and TransCanada Pipelines Limited (TransCanada). TransCanada has offered similar concessions to Great Lakes that enable Great Lakes to enter into the agreement with Natural. Great Lakes argues that the chain of agreements, between TransCanada, itself, and Natural, are in the public interest, and require waiver for the contract year ending October 31, 1983, of section 4.1(b) of its FERC Gas Tariff.

Great Lakes states that a copy of this document has been served on all of its customers and the Public Service Commissions of the states of Minnesota, Wisconsin and Michigan.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before January 30, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-2340 Filed 1-26-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CI75-66-001]

Hunt Petroleum Corp.; Applications To Amend Certificates To Establish Entitlement to Section 109 Price [1]

January 24, 1984.

Take notice that each of the Applicants listed herein has either filed a petition to amend certificate pursuant to section 7 of the Natural Gas Act or a notice of change in rate which is being treated as a petition to amend certificate to establish Applicant's right to collect the section 109 price consistent with the court order issued in *Tenneco Exploration Ltd. v. FERC*, 649 F.2d 376, all as more fully described in the respective applications and amendments which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before February 6, 1984, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or to be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

Docket No. and date filed	Applicant	Purchaser and location	Price per 1,000 ft.³	Pressure base
CI75-66-001, Jan. 9, 1984	Hunt Petroleum Corp., 2400 Thanksgiving Tower, Dallas, Tex. 75201.	Trunkline Gas Co., South Marsh Island 266, Offshore Louisiana.	(1)	
CI75-67-001, Jan. 9, 1984	Hunt Industries, 2400 Thanksgiving Tower, Dallas, Tex. 75201.	do	(1)	
CI75-92-000, Jan. 9, 1984	Prosper Energy Corp., 2400 Thanksgiving Tower, Dallas, Tex. 75201.	Southern Natural Gas Co., South Marsh Island 268, Offshore Louisiana.		
CI81-195-002, Dec. 27, 1983	ARCO Oil & Gas Co., Division of Atlantic Richfield Co., P.O. Box 2819, Dallas, Tex. 75221.	Northern Natural Gas Co., West Cameron Block 238 "B" Area, Offshore Louisiana.	(1)	
CI81-205-001, Dec. 27, 1983	do	Tennessee Gas Pipeline Co., East Cameron Block 47, Offshore Louisiana.	(1)	
CI81-320-001, Dec. 27, 1983	do	Northern Natural Gas Co., West Cameron Block 249 Field, Offshore Louisiana.	(1)	
CI81-490-001, Dec. 27, 1983	do	Transco Gas Supply Co., Eugene Island Block 242 and 243 Field, Offshore Louisiana.	(1)	
CI79-422-001, Jan. 16, 1984	Hamilton Bros. Exploration Co., 1600 Broadway, Suite 2600, Denver, Colo. 80202.	Trunkline Gas Co., South Marsh Island 261, Offshore Louisiana.	(1)	
CI79-423-001, Jan. 16, 1984	do	Trunkline Gas Co., South Marsh Island 266 and 269, Offshore Louisiana.	(1)	
CI79-424-001, Jan. 16, 1984	do	Trunkline Gas Co., South Marsh Island 266, 269, and 261, Offshore Louisiana.	(1)	
CI79-425-001, Jan. 16, 1984	do	Trunkline Gas Co., South Marsh Island 261, Offshore Louisiana.	(1)	

[1] Applicant proposes to amend certificate to establish Applicant's entitlement to collect Section 109 price consistent with court order in *Tenneco Exploration, Ltd.* v. *FERC* 649 F2d 376.
Filing Code: A—Initial Service. B—Abandonment. C—Amendment to add acreage. D—Amendment to delete acreage. E—Total Succession. F—Partial Succession.

[FR Doc. 84-2350 Filed 1-26-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. EC84-10-000]

Interstate Power Co.; Application

January 24, 1984.

The filing Company submits the following:

Take notice that on January 12, 1984, Interstate Power Company (Applicant) of Dubuque, Iowa, filed an Application pursuant to section 203 of the Federal Power Act seeking authority to purchase a 4.16% undivided interest in the George Neal Generating Unit #4, located near Sioux City, Iowa.

The facilities proposed to be purchased by Applicant for a base purchase price of $16,875,000, consist of property and real estate located near Sioux City, Iowa.

Applicant represents that after the purchase there will be no change in the use of the facilites.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before February 8, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-2351 Filed 1-26-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP84-15-004]

MIGC, Inc.; Request to File Updated Data

January 24, 1984.

Take notice that on January 17, 1984, MIGC, Inc. (MIGC) tendered for filing a request to file updated data to supplement its Base Tariff Rate Restatement filing, Docket No. RP84-15-000. MIGC notes that it has already requested permission to submit updated data, and is now submitting the data in question, notwithstanding the Commission's inaction on their request.

MIGC feels that the submitted data will be helpful to the Staff in evaluating its Base Tariff Rate Restatement filing. It notes that Colorado Interstate Gas Company (CIG) objects to its request to submit updated data. CIG, according to MIGC, claims that the data would cause a duplication of effort in this proceeding. MIGC claims that the data covers a test period and will not result in duplicated efforts.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before January 31, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-2352 Filed 1-26-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA84-1-26-002]

Natural Gas Pipeline Company of America; Filing of Substitute Tariff Sheet

January 24, 1984.

Take notice that on January 18, 1984, Natural Gas Pipeline Company of America (Natural) filed Second Substitute Fifty-third Revised Sheet No. 5 to be a part of its FERC Gas Tariff, Third Revised Volume No. 1 to be effective January 1, 1984.

Natural requests that its Second Substitute Fifty-third Revised Sheet No. 5 supersede Substitute Fifty-third Revised Sheet No. 5, filed December 23, 1983, the purpose of which was to set out at the bottom of the sheet, the currently effective GRI surcharge. The base rates set out on that sheet were submitted as part of Natural's compliance filing in accordance with the October 6, 1983, Commission order in Docket No. CP82-355-000. That compliance filing was subsequently rejected by letter order issued January 6, 1984 in Docket No. CP82-355-003.

Natural states that its Second Substitute Fifty-third Revised Sheet No. 5 reflects the currently effective base rate levels which were accepted for filing and became effective, subject to refund, on October 1, 1983 by letter order issued November 3, 1983 in Docket No. RP83-68-000. The PGA unit adjustments and the GRI surcharge shown on the tariff sheet are at the levels previously filed and accepted to be effective by Commission order.

Natural further states that copies of this filing have been mailed to Natural's jurisdictional customers and interested state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before February 1, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-2353 Filed 1-26-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-647-002]

New England Power Co.; Compliance Filing

January 24, 1984.

Take notice that on January 4, 1984, New England Power Company (NEP) submitted for filing its Compliance report to a Commission's deficiency letter of December 7, 1983.

Any person desiring to be heard or to protest this filing should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, on or before January 31, 1984. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-2354 Filed 1-26-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. TA84-1-59-002 and TA84-1-59-001]

Northern Natural Gas Co.; Proposed Changes in FERC Gas Tariff

January 23, 1984.

Take notice that on January 13, 1984, Northern Natural Gas Company (Northern) tendered for filing revised sheets to its FERC Gas Tariff, Original Volume No. 2 and Third Revised Volume No. 1:

Third Revised Volume No. 1

Substitute Fifth Revised Sheet No. 69
Substitute Fourth Revised Sheet No. 70
Substitute First Revised Sheet No. 74e
Substitute First Revised Sheet No. 74f

Original Volume No. 2

Substitute Fourth Revised Sheet No. 1q

Substitute Third Revised Sheet No. 1h
Substitute First Revised Sheet No. 1g
Substitute First Revised Sheet No. 1r

These proposed revisions, along with Appendices A and B discussed below, intend to comply with a Commission order dated December 15, 1983, entitled "Order Accepting for Filing and Suspending Proposed Tariff Sheets Subject To Refund and Conditions" (the order) in Docket Nos. TA84–1–59–002 and TA84–1–59–001. That order directed Northern to file certain revisions to its FERC Gas Tariffs.

Specifically, Northern is attempting compliance with Paragraphs D, E, F and H of the order. Paragraph D concerns a credit to Account No. 191, which Northern's revision proposes to defer to its next PGA filing, with interest. Paragraph E concerns revisions of accounting terminology required for exchange transactions, of which Northern's proposed revision intends to comply. Paragraph F concerns the removal of certain proposed revisions as well as other modifications concerning the recovery of ANGTS transportation costs. Northern's proposed revision intends to comply fully therewith. Finally, Paragraph H of the order directs Northern to file an explanation of purchased gas costs projection. Intending to comply with this, Northern has included in its filing Appendices A and B.

Northern requests that the proposed revisions and the Appendices A and B contained in its filing be accepted in compliance with the order.

Northern states that copies of the filing have been served on all parties to the proceeding.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before January 30, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 84–2341 Filed 1–26–84; 8:45 am]
BILLING CODE 6717–01–M

[Docket No. RP82–71–013]

Northern Natural Gas Company Division of InterNorth, Inc.; FERC Gas Tariff Filing

January 23, 1984.

Take notice that on January 16, 1984, Northern Natural Gas Company, Division of InterNorth, Inc. (Northern) tendered for filing to become a part of Northern's FERC Gas Tariff, Third Revised Volume No. 1:

Tenth Revised Sheet No. 21. Fourth Revised Sheet No. 22.

These sheets reflect a revised Minimum Commodity Charge approved by Commission order dated April 28, 1983 in Docket No. RP82–71.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before January 30, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. An person wishing to become a part must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 84–2342 Filed 1–26–84; 8:45 am]
BILLING CODE 6717–01–M

[Docket No. GP84–1–000]

Northwest Central Pipeline Corp.; Joint Motion of Conoco Inc., and Northwest Central Pipeline Corporation for Withdrawal of Pleadings and for Dismissal of Proceedings

January 24, 1984.

On December 29, 1983, Conoco Inc., (Conoco) and Northwest Central Pipeline Corporation (Northwest Central) filed a joint motion with the Federal Energy Regulatory Commission (Commission) for withdrawal of pleadings and for dismissal of the proceedings concerning Northwest Central's complaint protesting the application for stripper well determination by Conoco for the Burnett 5a Well. The subject well is located in the West Panhandle field, Carson County, Texas. Conoco had filed with the Texas Railroad Commission (Texas) an application for stripper well determination for the subject well which was approved by Texas. The Commission received notice of Texas' approval on September 2, 1983. The well determination by Texas became a final well determination on October 17, 1983. On October 13, 1983, Northwest Central filed a protest to Texas' section 108 determination for the subject well. Notice of Northwest Central's complaint concerning the Burnett 5a Well was issued November 3, 1983, (48 FR 51515; November 9, 1983).

Northwest Central filed its complaint with the Commission alleging that the Burnett 5a Well did not qualify for the section 108 stripper well category because for the 90-day period of February 1983 through April 1983, the Burnett 5a Well had only 10 production days, whereas in its application for the Burnett 5a Well, Conoco asserted that all of the calendar days in the 90-day production period constituted production days. This assertion, according to Conoco, was based upon the fact that Conoco had maintained all valves under Conoco's control in an open position during the periods in question and upon Conoco's understanding of the manner in which Northwest Central operated its facilities in the West Panhandle Field.

In the course of preparing for hearing, new information became available to Conoco from Northwest Central which indicates that the subject well was shut in by certain line valves under the control of Northwest Central during the production period in question. The parties assert that recalculation of the average daily production applicable to the Burnett 5a Well, on the basis of the revised production day data, indicates that the subject well could not at the time of the application qualify as a stripper well under section 108 of the NGPA.

Conoco states that it filed an interim collection notice with its stripper well determination application for the Burnett 5a Well and has made interim collections pursuant to such notices for a portion of the gas delivered to Northwest Central since the filing date of such initial applications. Conoco further states that pursuant to §§ 275.202(d)(4) and 273.302 of the Commission's regulations, Conoco will compute and make the required refunds to Northwest Central and file a refund report with the Commission.

Conoco seeks to withdraw its application for a stripper well determination for the Burnett 5a Well and both Conoco and Northwest Central join in requesting that the Commission dismiss or reopen and vacate the

determination and allow withdrawal of the application for determination in this docket.

Any person desiring to be heard or to make protest to this filing should file within 30 days after notice is published in the **Federal Register**, with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of Rules 211 or 214 of the Commission's Rules of Practice and Procedure. All protests filed will be considered but will not make the protestants parties to the proceeding.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-2355 Filed 1-26-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. GP83-55-000]

Northwest Central Pipeline Corp.; Joint Motion of Conoco Inc., and Northwest Central Pipeline Corporation for Withdrawal of Pleadings and for Dismissal of Proceedings

January 24, 1984.

On December 29, 1983, Conoco Inc. (Conoco) and Northwest Central Pipeline Corporation (Northwest Central) filed with the Federal Energy Regulatory Commission (Commission) a joint motion for withdrawal of pleadings and for dismissal of the proceedings concerning Northwest Central's complaint protesting the application for stripper well determination by Conoco for the Burnett 32A Well, the Burnett 52A Well, the Burnett 83A Well and the JJ Crutchfield No. 1 Well. These wells are located in the West Panhandle Field, Carson County, Texas. Conoco had filed with the Texas Railroad Commission (Texas) applications for stripper well determinations for the subject wells which were approved by Texas, and noticed in the Federal Register on August 22, 1983. The well determinations by Texas became final well determinations on September 12, 1983. On September 6, 1983, Northwest Central filed a protest of Texas' section 108 determinations for the subject wells. Notice of Northwest Central's complaint concerning the subject wells was issued November 3, 1983 (48 FR 51514, November 9, 1983).

Northwest Central filed its complaint with the Commission alleging that the subject wells did not qualify for the section 108 stripper well category because for the 90-day period of February 1983 through April 1983, the Burnett 32A Well had only 21 days of actual production, the Burnett 52A Well had only 21 days of actual production, the Burnett 83A Well had only 24 actual production days and the JJ Crutchfield had only 31 actual production days, whereas in its application for the subject wells, Conoco asserted that all of the calendar days in each three month production period constituted production days. This assertion, according to Conoco, was based on the fact that Conoco, had maintained all valves under Conoco's control in an open position during the periods in question and upon Conoco's understanding of the manner in which Northwest Central operated its facilities in the West Panhandle Field.

In the course of preparing for hearing, new information became available to Conoco from Northwest Central which indicates that the subject wells were shut in by certain line valves under the control of Northwest Central during the production period in question. The parties assert that recalculation of the average daily production applicable to the subject wells, on the basis of the revised production data, indicates that the subject wells could not at the time of the application qualify as stripper wells under section 108 of the NGPA.

Conoco states that it filed interim collection notices with its stripper well determination applications for the subject wells and has made interim collections pursuant to such notices for a portion of the gas delivered to Northwest Central since the filing date of such initial applications. Conoco further states that pursuant to §§ 275.202(d)(4) and 273.302 of the Commission's regulations, Conoco will compute and make the required refunds to Northwest Central and file a refund report with the Commission.

Conoco seeks to withdraw its application for stripper well determinations for the subject wells and both Conoco and Northwest Central join in requesting that the Commission dismiss or reopen and vacate the determination and allow withdrawal of the application for determination in this docket.

Any person desiring to be heard or to make protest to this filing should file within 30 days after notice is published in the **Federal Register**, with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of Rules 211 or 214 of the Commission's Rules of Practice and Procedure. All protests filed will be considered but will not make the protestants parties to the proceeding.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-2356 Filed 1-25-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. GP84-16-000]

Northwest Central Pipeline Corp.; Joint Motion of Conoco Inc., and Northwest Central Pipeline Corporation for Withdrawal of Pleadings and for Dismissal of Proceedings

Issued: January 24, 1984.

On December 29, 1983, Conoco Inc., (Conoco) and Northwest Central Pipeline Corporation (Northwest Central) filed a joint motion with the Federal Energy Regulatory Commission (Commission) for withdrawal of pleadings and for dismissal of the proceedings concerning Northwest Central's complaint protesting the application for stripper well determination by Conoco for the Barrett No. 1 Well, the Burnett No. 50-A Well and the A. H. Hexter No. 2 Well. These wells are all located in the West Panhandle Field, Carson County, Texas. Conoco had filed with Texas applications for stripper well determinations for the subject wells which were approved by Texas and noticed in the Federal Register on November 1, 1983. The determinations by Texas became final on December 16, 1983. On November 15, 1983, Northwest Central filed a protest concerning the Texas Railroad Commission's (Texas) section 108 stripper well determinations for the subject wells.

Northwest Central filed its complaint with the Commission alleging that the subject wells did not qualify for the section 108 stripper well category because for the 91-day period between April through June, 1983, the Burnett No. 50a well had only 52 actual production days, the A. H. Hexter No. 2 well had only 51 actual production days and the Barrett No. 1 well had only 24 actual production days, whereas in its application for the subject wells, Conoco asserted that all of the calendar days in each 91-day production period constituted production days. This assertion, according to Conoco, was based upon the fact that Conoco had maintained all valves under Conoco's control in an open position during the periods in question and upon Conoco's understanding of the manner in which Northwest Central operated its facilities in the West Panhandle Field.

In the course of preparing for hearing, new information became available to Conoco from Northwest Central which indicates that the subject wells were shut in by certain line valves under the control of Northwest Central during the production period in question. The parties assert that recalculation of the average daily production applicable to the subject wells, on the basis of the revised production day data, indicates that the subject wells could not at the time of the application qualify as stripper wells under section 108 of the NGPA.

Conoco states that it filed interim collection notices with its stripper well determination applications for the subject wells and has made interim collections pursuant to such notices for a portion of the gas delivered to Northwest Central since the filing date of such initial applications. Conoco further states that pursuant to §§ 275.202(d)(4) and 273.302 of the Commission's regulations, Conoco will compute and make the required refunds to Northwest Central and file a refund report with the Commission.

Conoco seeks to withdraw its application for a stripper well determination for the subject wells and both Conoco and Northwest Central join in requesting that the Commission dismiss or reopen and vacate the determination and allow withdrawal of the applications for determination in this docket.

Any person desiring to be heard or to make protest to this filing should file within 30 days after notice is published in the **Federal Register**, with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of Rules 211 or 214 of the Commission's Rules of Practice and Procedure. All protests filed will be considered but will not make the protestants parties to the proceeding.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-2357 Filed 1-26-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-206-000]

Pacific Gas and Electric Co.; Filing

January 24, 1984.

The filing Company submits the following:

Take notice that on January 16, 1984, Pacific Gas and Electric Company (PG&E) tendered for filing as an initial rate schedule a December 13, 1983 Letter Agreement for interruptible transmission service by PG&E for the Western Area Power Administration (Western).

PG&E states that the agreement provides that PG&E will transmit non-firm energy obtained by Western, from entities in the Pacific Southwest, from Midway Substation to Tracy, subject to the availability of transmission capacity in the PG&E system. The transmission rate of 1.34 mills/kWh is a system average rate, which will be adjusted for transmission losses.

PG&E further states that Western will also pay a daily spinning reserve charge associated with such nonfirm energy at a rate of 2.74 mills/kWh.

PG&E indicates that excess non-firm energy not required for Western's preference customers shall be sold to PG&E at Tracy Substation for banking at Western's cost for such energy (including wheeling and losses) or 85 percent of PG&E's Partial Requirement Rate including applicable Fuel Cost Adjustment, whichever is less.

PG&E requests an effective date of January 1, 1984, and therefore requests waiver of the Commission's notice requirements.

Copies of the filing were served upon Western and the California Public Utilities Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before February 7, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-2358 Filed 1-26-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP84-20-001]

Panhandle Eastern Pipe Line Co.; Proposed Changes in FERC Gas Tariff

January 23, 1984.

Take notice that on January 13, 1984, Panhandle Eastern Pipe Line Company (Panhandle) tendered for filing the following revisions to its FERC Gas Tariff, Original Volume No. 1:

First Substitute Original Sheet Nos. 3-E, 32-U and 32-V.

Panhandle requests that these revisions be regarded as being in compliance with the December 2, 1983 Commission order, Docket No. RP84-20-001 (the order). According to Panhandle, the order requires Panhandle to set forth its gathering charges, on a unit basis, which would be applicable under its Rate Schedule AIC.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before January 30, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-2343 Filed 1-26-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-207-000]

Public Service Company of New Hampshire; Filing

January 24, 1984.

The filing Company submits the following:

Take notice that on January 12, 1984, Public Service of New Hampshire (PSNH) tendered for filing a System Exchange Agreement between PSNH and New England Power Company (NEP).

PSNH states that the service to be furnished under the System Exchange Agreement is an exchange of excess capacity and associated energy from the PSNH system (system power) for an equal amount of capacity from certain units owned or leased by NEP (exchange units). PSNH further states that the generating units expected to supply the system power are required to be specified by PSNH at least twelve hours prior to the commencement of each exchange. Similarly, the exchange units expected to supply the capacity to PSNH are to be specified by NEP at least 12 hours prior to the commencement of each exchange.

PSNH requests an effective date of September 18, 1983, and therefore requests waiver of the Commission's notice requirements.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before February 6, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-2350 Filed 1-26-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-205-000]

San Diego Gas & Electric Co.; Filing

January 24, 1984.

The filing Company submits the following:

Take notice that on January 11, 1984, San Diego Gas & Electric Company (SDG&E) tendered for filing an agreement "San Diego—Edison Firm Transmission Service Agreement" which has been executed by SDG&E and Southern California Edison Company (Edison).

SDG&E states that under the terms and conditions of the agreements, SDG&E will make available to Edison firm transmission service from two points on the United States-Mexico border to San Onofre.

SDG&E requests an effective date of May 1, 1984.

Copies of the filing were served upon the Public Utilities Commission of the State of California and Edison.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before February 6, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-2360 Filed 1-26-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. RP73-89-000 and TA84-1-6-002]

Sea Robin Pipeline Co.; Proposed Adjustment to Account No. 191

January 23, 1984.

Take notice that on January 13, 1984, Sea Robin Pipeline Company (Sea Robin) tendered for filing a proposed adjustment to Account No. 191 as a response to the December 30, 1983 order of the Commission, Docket Nos. TA84-1-6-000, *et al.* (the order).

According to Sea Robin, some confusion as to certain technical aspects of crediting interest from Part 284 transportation credits exists. Sea Robin's position is that no adjustment to Account No. 191 is required, whereas they point out that the order requests additional information concerning adjustments to Account No. 191.

Sea Robin proposes that no change is necessary and further, that it is willing to have a technical conference with the Commission Staff to resolve any questions relating to its proposal.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before January 30, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-2344 Filed 1-26-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-204-000]

Southwestern Public Service Co.; Filing

January 24, 1984.

The filing Company submits the following:

Take notice that on January 11, 1984, Southwestern Public Service Company (Southwestern) tendered for filing a contract agreement and rates for electric power service to Midwest Electric Cooperative, Inc. The service is to be rendered through Southwestern's 69 kV transmission system to its connection with Garza and Justiceburg Substations.

Southwestern states that Midwest is a Full Requirements customer and the new contract provides for Firm Power Service at the same rate currently filed and allowed by this Commission for Full Requirement customers.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before February 6, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-2361 Filed 1-26-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ES84-27-000]

Texas-New Mexico Power Co; Application

January 24, 1984.

Take notice that on January 13, 1984, Texas-New Mexico Power Company (Applicant) filed an application pursuant to Section 204 of the Federal Power Act, with the Federal Energy Regulatory Commission, seeking authority to issue up to $50 million of unsecured promissory notes and other evidence of indebtness, with maturity dates of less than twelve months, but not later than April 1, 1986.

Any person desiring to be heard or to make any protest with reference to the application should file a petition to intervene or protest with the Federal

Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, or 385.214) on or before February 13, 1984. The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-2382 Filed 1-26-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA84-1-30-002]

Trunkline Gas Co.; Change in Tariff

January 23, 1984.

Take notice that on January 16, 1984 Trunkline Gas Company (Trunkline) tendered for filing the following revised sheets to its FERC Gas Tariff, Original Volume No. 1:

Forty-Fifth Revised Sheet No. 3–A
Tenth Revised Sheet No. 3–B

The proposed effective date of these revised tariff sheets is March 1, 1984.

Trunkline states that these revised tariff sheets reflect rate adjustments as follows:

(1) A decrease in commodity rates of 0.15¢ to reflect the effect of the Gas Purchase Prepayments tracking adjustment pursuant to Article III of the Stipulation and Agreement dated March 25, 1983 in Docket Nos. RP81–103 and RP82–130 which was approved by the Commission's Order issued July 8, 1983. This adjustment gives effect to changes in the interest rate and sales units from the previous tracker filing. There were no additional gas purchases repayments made during the period June 1, 1983 through November 30, 1983; and

(2) An increase in demand rates of $0.97 and in commodity rates of 2.22¢ to reflect the elimination of a Purchased Gas Transmission and Compression tracking adjustment which tracking authority terminated at December 1, 1983 when rates filed in Docket No. RP83–93 became effective (see Article V of the Stipulation and Agreement dated August 26, 1981 in Docket No. RP80–106 and Paragraph (E) of the Commission's Order issued June 30, 1983 in Docket No. RP83–93), Trunkline's current rates reflect a negative rate for this tracker; thus, the elimination of such negative rates causes the increase. The credit balance in the Deferred Transmission and Compression Account has been transferred to the Deferred Purchased Gas Cost Account; and

(3) Projected Incremental Pricing Surcharges in accordance with Section 21 of the General Terms and Conditions of Trunkline's FERC Gas Tariff, Original Volume No. 1.

The above described rate changes adjust Trunkline's rates effective pursuant to Commission's order of December 28, 1983 in Docket No. TA84–1–30–001.

To the extent required, Trunkline requests that the Commission grant such waivers as may be necessary for the acceptance of these tariff sheets to become effective March 1, 1984.

Trunkline states that copies of this filing have been served on all customers subject to the tariff sheets and applicable state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such petitions or protests should be filed on or before January 30, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-2345 Filed 1-26-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. RP84–42–000 and RP72–133, et al.*]

United Gas Pipe Line Co.; Order To Show Cause and Setting Matters for Hearing

Issued: January 23, 1984.

I

In 1980, the Commission's Office of the Chief Accountant and the Commission's Office of Pipeline and Producer Regulation concluded that United Gas Pipe Line Company (United) had included unpaid and/or unpayable amounts in its purchased gas adjustment (PGA) filings with the Commission and that such inclusions may have violated the Natural Gas Act, 15 U.S.C. 717 *et seq.* (NGA), Commission rules, regulations and orders issued thereunder, and United's PGA tariff. Thereafter, on January 19, 1981, the Commission ordered United to prepare a Special Report and directed the then Office of Enforcement (now Enforcement Divsion, Office of the General Counsel) (Enforcement) to undertake a private, formal investigation to determine "whether [United] or any person, firm or entity, have improperly included or are improperly including amounts in [United's] Purchased Gas Adjustment filings with the Commission and whether rates have been charged by [United], and filings have been made, in violation of the Natural Gas Act, * * * and the rules, regulations and orders of the Commission promulgated thereunder."

II

As a result of the investigation, information has been reported to the Commission from which it appears that:

1. On April 14, 1972, the Commission issued Order No. 452 [1] which established a procedure whereby natural gas pipelines could elect to collect their rapidly increasing costs of purchased gas by including a PGA provision in their tariffs which would allow them to collect from their customers the changes in their actual costs of purchased gas without the necessity of a full proceeding pursuant to section 4 of the NGA.

2. On May 30, 1972, United indicated its intention to use the PGA mechanism by filing its first PGA tariff. United requested a waiver of the Commission's PGA regulations (18 CFR 154.38(d)) to the extent that its PGA clause failed to conform to the Commission's requirements.

3. By Letter Order dated June 30, 1972, the Commission rejected United's proposed PGA tariff on several grounds, including the following: "[1] The [proposed] PGA clause provides for rate changes to be based on rates claimed [by United's suppliers] rather than rates which will be in effect prior to the effective date of United's PGA rate increase; . . . and [2] the amounts to be recorded in the Unrecovered Purchase Gas Account will not be based on per books costs * * *" [1]

4. On July 18, 1972, United filed a revised PGA tariff, eliminating the "rates claimed" language from the surcharge adjustment portion of its tariff (§ 19.8) and substituting "suppliers' rates booked by [United] for the month."

5. United stated during the course of this investigation that it intended the "suppliers' rates booked by [United] * * *" language to allow it to record in its books and use in its PGA filings,

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* See page 6, Ordering Paragraph (B), for complete listing of docket nos.

[1] Order No. 452 has been supplemented by Order No. 452–A, Order No. 452–B, Order 18, and Order 47. Reference hereafter to Order No. 452 includes all orders supplemental thereto.

[1] Letter Order to United Dated June 30, 1972 at 1.

what it believed to be its eventual liability for the gas, rather than the rate it was legally obligated to pay or was actually paying as of the effective date of its PGA filings.

6. On August 25, 1972, the Commission issued an order accepting United's revised PGA tariff, subject to revisions not relevant here.[2]

7. Laclede Gas Company and Mississippi Valley Gas Company filed Petitions for Rehearing of the August 25, 1972 order, alleging that the current adjustment portion of United's tariff (§ 19.4), which was approved in the Commission's August 25th order, would allow United to "bill its customers on the basis of future estimated costs of gas purchased which are not being experienced by United at the effective date of the change in rate in contravention of the requirements of Order Nos. 452 and 452-A * * *." [3]

8. United replied that its PGA tariff "will reflect neither changes in supplier rates which occur after Current Adjustments are made effective, nor the effect of the cost of new supplies which United is able to connect after Current Adjustments are made effective." [1]

9. In response, the Commission stated: 'While United's understanding of Section 19.4 appears consistent with the requirements of Order Nos. 452 and 452-A, the language of the proposed Section 19.4 is unclear in this regard. Accordingly, United will be required to file tariff sheets reflecting a revised Section 19.4." [2]

10. Section 19.4 of United's PGA tariff, as revised by the Commission, required that the current adjustment "be computed on the basis of actual rates which are payable to [United's] suppliers as of the effective date of the Current Adjustment and [that] such total cost shall reflect the annualization of changes in takes from existing suppliers and the purchases of new supplies . . ., provided, however, that such changes in takes and purchase of such new supplies occur as of the effective date of the Current Adjustment." [3]

11. Since 1972, United has used unpaid accruals [4] in determining its current adjustment.

12. Since 1972, United has used unpaid accruals in determining its monthly cost of purchased gas.

13. Since 1972, United has used unpaid accruals in determining Account No. 191.

14. Since 1972, United has used unpaid accruals in determining its surcharge adjustments.

15. United's inclusion of unpaid accruals in its PGA filings resulted in United's collection of amounts from its customers prior to the time the Commission's PGA rules, regulations, orders and its PGA tariff allowed United to collect them.

16. United's inclusion of unpaid accruals in its PGA filings resulted in United's collection of amounts from its customers based on rates which were not established until after the effective date of the respective PGA filing.

17. United's inclusion of unpaid accruals in its PGA filings resulted in United's collection of amounts from its customers prior to the time it actually paid its suppliers or determined that it was not required to pay these amounts.

18. United's representations to the Commission that its proposed PGA rates were calculated in accordance with its PGA tariff and applicable Commission rules, regulations and orders, may have constituted material misrepresentations of fact to the Commission.

19. Pursuant to Order No. 452 and the Commission's PGA rules, regulations and orders, the Commission issued a series of orders requiring United to remove unincurred (unpaid accruals) amounts from its PGA filings. For example, United has been required to:

(a) Refile its tariff sheets:

(i) Eliminating from PGA No. 76-2 producer rates reflected in, but not incurred, in both the deferred account and the current cost of gas account (United Gas Pipe Line, Docket No. RP72-133 (PGA 76-2), April 30, 1976);

(ii) Eliminating from PGA Nos. 77-1, 77-1a, 77-2, 78-1, 78-2 and 79-1 all anticipated producer increases not incurred by the effective date of the PGA (United Gas Pipe Line, Docket No. RP72-133 (PGA Nos. 77-1 & 77-1a), December 29, 1976; United Gas Pipe Line, Docket No. RP72-133 (PGA 77-2), June 30, 1977; United Gas Pipe Line, Docket No. RP72-133 (PGA 78-1), December 30, 1977; United Gas Pipe Line, Docket No. RP72-133 (PGA 133) (PGA 79-1), December 28, 1978); and

(iii) Reflecting the discontinuation in PGA No. 77-2 of the recovery of emergency natural gas costs (United Gas Pipe Line, Docket No. RP72-133 (PGA 77-2), July 18, 1979);

(b) Pay interest on refunds of amounts which represented unpaid accruals and which were included in PGA No. 80-2 (United Gas Pipe Line, Docket No. TA80-2-11, 11 FERC ¶61,349 (June 30, 1980));

(c) Remove from its deferred account all estimated payments related to BTU contract adjustments in PGA No. 81-2 (United Gas Pipe Line, Docket No. TA81-2-11, 15 FERC ¶61,314 (June 30, 1981)); and

(d) Remove unpaid accruals from its deferred account in PGA No. 82-1 (United Gas Pipe Line, Docket No. TA82-1-11, 17 FERC ¶61,567 (December 31, 1981)).

20. United has continued to include unpaid accruals in its PGA filings notwithstanding orders such as those cited above.

21. Based on the foregoing, it appears that by its inclusion of unpaid accruals in its PGA calculations, filings and rates, United may have violated sections 4 and 8 of the NGA, related Commission rules, regulations and orders, including but not limited to 18 CFR 154.38 and United's PGA tariff.

III

In addition to the matters set forth in the previous paragraphs, which involve all of United's PGA filings from 1972 to the present, there are also several of United's PGA filings which have not been finally approved or disapproved by the Commission. It appears that it would be appropriate to consolidate all open PGA dockets, together with the issues raised above, in one proceeding.

IV

At this time, the Commission takes no position with regard to the matters set forth above. Specifically, the Commission herein neither makes findings of fact nor reaches conclusions of law with regard to United or the matters set forth above. However, the Commission finds it appropriate that these matters be set for hearing, in order that these issues may be fully resolved in an adjudicatory proceeding.

The Commission finds:

Good cause exists for requiring, and the public interest in administering the NGA demands, that United be ordered to show cause why it should not be found to have violated sections 4 and 8 of the NGA, related Commission rules, regulations and orders thereunder, including but not limited to 18 CFR

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[2] United amended its PGA tariff in 1977 and subsequent to the passage of the NGPA.

[3] "Order Denying Application for Rehearing," Docket No. RP72-133, 48 F.P.C. 749 (October 6, 1972).

[1] *Id.*

[2] *Id.*

[3] *Id.*

[4] Unpaid accruals may include, but are not limited to, estimated or anticipated unpaid amounts and estimated or anticipated unpayable amounts which may never be paid or which may be due at some unspecified time in the future (*e.g.*, the difference between the current contract prices being paid, and a new price which is being negotiated) (Accrue-But-Don't-Pay) and known and measurable amounts which are not paid for some reason (*e.g.*, the death of an interest owner whose heirs are unknown) (Suspended Payables).

154.38, and its PGA tariff by its inclusion of unpaid accruals in its PGA calculations, filings and rates charged to its customers from 1972 to the present; and why the Commission should not order any and all appropriate remedies, including but not limited to (a) disgorgement of an amount representing the time value or other benefits which United may have realized as a result of its improper collections; and (b) exclusion of unpaid accruals from United's PGA filings; or (c) inclusion of a carrying charge reflecting the use of unpaid accruals in United's PGA filings.

Good cause exists for the review and reevaluation of all of United's PGA tariff filings since 1972 for the inclusion of unpaid accruals together with the consolidation into this proceeding, of all United's pending PGA filings in Docket Nos. RP72–133, TA80–1–11, TA80–2–11, TA81–1–11, TA81–2–11, TA82—11, TA82–2–11, TA83–1–11, TA83–1–11–001, TA83–2–11, TA83–2–11–001, and TA84–1–11.

The Commission orders:

(A) United shall file an answer to this Order To Show Cause pursuant to Rule 213 of the Commission's Rules of Practice and Procedure, (18 CFR 385.213) and show cause, in writing and under oath on or before February 22, 1984, as to why it should not be found to have violated Sections 4 and 8 of the NGA, related Commission rules, regulations and orders issued thereunder, including but not limited to 18 CFR 154.38, and its PGA tariff as a result of its inclusion of unpaid accrual amounts in its PGA calculations, filings and rates charged its customers from 1972 to the present; and why the Commission should not order any and all appropriate remedies. Accordingly, United shall admit or deny, specifically and in detail, each allegation of this Order to Show Cause and shall set forth every defense relied upon.

(B) Docket Nos. RP72–133, TA80–1–11, TA80–2–11, TA81–2–11, TA83–1–11, TA83–1–11–001, TA83–2–11, TA83–2–11–001, and TA84–1–11 are hereby consolidated for the purpose of hearing and decision together with the issues set forth in the preceding paragraph. In addition, TA81–1–11, TA82–1–11, and TA82—11, which are the subject of pending Commission orders granting rehearing for purposes of further consideration, are hereby consolidated in this proceeding, and the pending petitions for rehearing are hereby granted. The Presiding Administrative Law Judge shall have the authority to amend this Order for the purpose of including any other appropriate United PGA docket(s), if any, which may have been inadvertently omitted.

(C) Pursuant to sections 4, 14, 15, and 16 of the NGA and Rule 601 of the Commission's Rules of Practice and Procedure (18 CFR 385.601), a prehearing conference shall be convened in this proceeding in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, at a date and time to be established by the Chief Administrative Law Judge. Respondents should be fully prepared, as set forth in Rule 601(b) of the Commission's Rules of Practice (18 CFR 385.601(b)), to discuss any and all matters to be considered at the conference.

(D) A Presiding Administrative Law Judge, to be designated by the Chief Administrative Law Judge, shall preside at the prehearing conference in this proceeding, with authority to establish the hearing date, to establish and change procedural dates and to rule on motions, all as provided for in the Commission's Rules of Practice, 18 CFR Part 385. The designated Administrative Law Judge shall conduct the hearing pursuant to 18 CFR 385.501 *et seq.*, and shall have all authority delegated by 18 CFR 385.504. Because information concerning inclusion of unpaid accruals in PGA calculations, filings and rates, is critical to the resolution of this proceeding, the Presiding Administrative Law Judge shall allow liberal discovery on those and all related matters. In addition, the Presiding Administrative Law Judge shall divide the proceeding into two phases: the first phase to be concerned with whether or not United's inclusion of unpaid accruals in its PGA calculations, filings and rates at any time from 1972 to the present, violates Sections 4 and 8 of the NGA, related Commission rules, regulations and orders, including but not limited to 18 CFR 154.38, and United's PGA tariff and, if so, the appropriate remedy, if any, to be applied; the second phase to be concerned with the resolution of any other issues remaining in the pending United PGA dockets, and if so, the appropriate remedy, if any, to be applied. The Presiding Administrative Law Judge shall render a decision pursuant to 18 CFR 385.701.

(E) Petitions for intervention shall be filed no later than February 3, 1984.

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84–2346 Filed 1–25–84; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER84–208–000]

The Washington Water Power Co.; Filing

January 24, 1984.

The filing Company submits the following:

Take notice that The Washington Water Power Company (WWP) on January 13, 1984, tendered for filing proposed changes in its FERC Electric Service Tariff, Schedule 61. The proposed changes would increase revenues from jurisdictional sales and service by approximately $998,000 based on the 12-month period ending September 30, 1983.

WWP states that the proposed rate change is submitted for the purpose of compensating The Washington Water Power Company primarily for the addition of two production facilities to plant in service and also for increases in its cost of capital, labor, materials, supplies and taxes.

According to WWP copies of the filing have been served upon the five Washington Water Power wholesale customers affected by this filing.

Any person desiring to be heard or to protest said application should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before February 6, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84–2363 Filed 1–26–84; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. QF84–109–000]

The City of San Diego; Application for Commission Certification of Qualifying Status of a Cogeneration Facility

January 23, 1984.

On December 19, 1983, The City of San Diego, 202 "C" Street, San Diego, California, submitted for filing an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the

Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The proposed topping-cycle cogeneration facility will be located in the City of San Diego's metropolitan sewer pump station site. The system will consist of two gas turbines, each driving an electric generator, two waste heat boilers, and a steam turbine driver pump. The gross electric power production capacity will be 5,300 kilowatts.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. An person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-2339 Filed 1-26-84; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPTS-51498; TSH FRL 2495-4]

Certain Chemicals; Premanufacture Notices

Correction

In FR Doc. 83-34081, beginning on page 56846, in the issue of Friday, December 23, 1983, on page 56847, in the first column, under "PMN 84-262", in the fifth line, "3a,4,7,7,a-" should read "3a,4,7,7a-".

BILLING CODE 1505-01-M

[PF-353; PH-FRL 2469-3]

Certain Companies; Pesticide Petitions

Correction

In FR Doc. 83-33483, appearing on page 56436, in the issue of, Wednesday, December 21, 1983, in the second column, in the first complete paragraph, *"PP 4F2980"*, in the sixth line, "(2,4,5,5-" should read "(2,4,5,6-".

BILLING CODE 1505-01-M

[OPTS-59137A/59138A; TSH-FRL 2490-4]

Certain Chemicals; Approval of Test Marketing Exemptions

Correction

In FR Doc. 83-33478, appearing on page 55916, in the issue of Friday, December 16, 1983, in the second column, in the entry TME 84-1, the fourteenth and fifteenth lines should read: "Commencing on: December 9, 1983."

BILLING CODE 1505-01-M

[ER-FRL-2514-4]

Availability of Environmental Impact Statements Filed January 16 Through January 20, 1984, Pursuant to 40 CFR 1506.9

Responsible Agency

Office of Federal Activities, General Information, (202) 382-5073 or (202) 382-5075.

EIS No. 840012, DRevised, COE, FL, Amelia Island Beach Erosion Control, Nassau County, Due: March 12, 1984.

EIS No. 840013, Draft, NRC, IL, Braidwood Station Units 1 and 2, Operating License, Will County, Due: March 12, 1984.

EIS No. 840014, Draft, NRC, WA, WPPSS Nuclear Project No. 3, Operating License, Grays Harbor County, Due: March 12, 1984.

EIS No. 840015, Draft, MMS, AK, 1984, Gulf of Alaska/Cook Inlet OCS Oil and Gas Sale, Leasing, Due: March 12, 1984.

EIS No. 840016, Draft, COE, VA, Roanoke River Upper Basin Flood Damage Reduction, Headwaters Area, Roanoke, Botetourt, Floyd, and Montgomery Counties, Due: March 12, 1984.

EIS No. 840017, DRevised, COE, FL, Key Biscayne Beach, Erosion Control and Shore Protection, Key Biscayne County, Due: March 12, 1984.

EIS No. 840018, Final, FHW, DC, Barney Circle Freeway/I-295 Modification, Southeast Freeway to Anacostia Freeway, Washington, DC, Due: February 27, 1984.

EIS No. 840019, Final, BLM, NV, Shoshone-Eureka Resource Area, Resource Mgmt. Plan, Lander, Nye and Eureka Counties, Due: February 27, 1984.

EIS No. 840020, Draft, FHW, UT, West Valley Highway Construction, 9000 South Street to 2100 South Street, Salt Lake County, Due: March 16, 1984.

EIS No. 840021, DSuppl, ICC, MT, Tongue River Railroad, Construction/Operation, Certificate, Custer, Rosebud, and Powder River Counties, Due: March 12, 1984.

EIS No. 840022, Final, USPS, CT, U.S. Postal Service General Mail Facility and Vehicle Maintenance Facility Relocation, Fairfield County, Due: February 27, 1984.

Amended Notices

EIS No. 830628, Draft, HI, Kahawainui Stream Flood Control, Laie, Island of Oahu, Honolulu County, Due: January 31, 1984. Published FR December 9, 1983, Review Extended.

EIS No. 840003, Draft, NOA, HI, Hawaii Humpback Whale National Marine Sanctuary, Designation, Due: March 12, 1984. Published FR January 13, 1984, Filing Date Reestablished Due to Noncompletion of Distribution.

Dated: January 24, 1984.

Allan Hirsch,

Director, Office of Federal Activities.

[FR Doc. 84-2380 Filed 1-26-84; 8:45 am]

BILLING CODE 6560-50-M

[OPTS-51503, TSH FRL 2514-6]

Certain Chemicals; Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in EPA statements of the final rule published in the **Federal Register** of May 13, 1983 (48 FR 21722). This notice announces receipt of seventeen PMNs and provides a summary of each.

DATES:

Close of Review Period:

PMN 84-328, 84-329, 84-330, 84-331, 84-332, and 84-333—April 15, 1984.

PMN 84-334, 84-335, 84-336, 84-337, 84-338, 84-339 and 84-340—April 16, 1984.

PMN 84-341, 84-342, 84-343, and 84-344—April 17, 1984.

Written comments by:

PMN 84-328, 84-329, 84-330, 84-331, 84-332, and 84-333—March 16, 1984.

PMN 84–334, 84–335, 84–336, 84–337, 84–338, 84–339, and 84–340—March 17, 1984.

PMN 84–341, 84–342, 84–343, and 84–344—March 18, 1984.

ADDRESS: Written comments, identified by the document control number "[OPTS–51503]" and the specific PMN number should be sent to: Document Control Officer (TS–793), Office of Toxic Substances, Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E–409, 401 M St., SW., Washington, DC 20460, (202–382–3532).

FOR FURTHER INFORMATION CONTACT: Margaret Stasikowski, Acting Chief, Premanufacturing Notice Branch, Chemical Control Division (TS–794), Office of Toxic Substances, Environmental Protection Agency, Rm. E–216, 401 M St., SW., Washington, DC 20460, (202–382–3729).

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the non-confidential version of the submission provided by the manufacturer on the PMNs received by EPA. The complete non-confidential document is available in the Public Reading Room E–107 at the above address.

PMN 84–328

Manufacturer. Confidential.

Chemical. (G) Modified linseed alkyd.

Use/Production. (G) The new substance will function as an ingredient in ink which are commercially applied to various substrates in an open use. Prod. range: 50,000–110,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. Manufacture and processing: dermal, a total of 51 workers, up to 8 hrs/da, up to 250 da/yr.

Environmental Release/Disposal. 0.05–50 kg/batch released to land. Disposal by incineration and landfill.

PMN 84–329

Manufacturer. Confidential.

Chemical. (G) Substituted heteropolycyclic sulfonic acid.

Use/Production. (G) Destructive use. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Confidential.

Environmental Release/Disposal. Confidential.

PMN 84–330

Manufacturer. Confidential.

Chemical. (G) Substituted aryl heteropolycycle sulfonic acid, sodium salt.

Use/Production. (G) Destructive use. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Confidential.

Environmental Release/Disposal. Confidential.

PMN 84–331

Manufacturer. General Electric Company.

Chemical. (G) Terephthalic acid, polymer with polytetramethylene ether glycol and alkane diols.

Use/Production. (S) Consumer and sporting goods, automotive and industrial fasteners for industrial, commercial and consumer goods. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture: dermal, a total of 130 workers, up to 10 hrs/da, up to 100 da/yr.

Environmental Release/Disposal. 10 kg/batch released to land. Disposal by Resource Conservation and Recovery Act (RCRA) regulations.

PMN 84–332

Manufacturer. Ashland Chemical Company.

Chemical. (G) Acrylic ester copolymer.

Use/Production. (G) Pressure sensitive adhesive for commercial applications. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture: dermal, a total of 3 workers, up to 8 hrs/da, up to 3 da/yr.

Environmental Release/Disposal. Less than 10 kg/batch released. Disposal by publicly owned treatment works (POTW).

PMN 84–333

Manufacturer. Ashland Chemical Company.

Chemical. (S) Acrylic ester copolymer.

Use/Production. (G) Pressure sensitive adhesive for commercial applications. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture: dermal, a total of 3 workers, up to 8 hrs/da, up to 3 da/yr.

Environmental Release/Disposal. Less than 10 kg/batch released. Disposal by (POTW).

PMN 84–334

Manufacturer. Confidential.

Chemical. (G) Polyester-imide resin.

Use/Production. (G) Intermediate for electrical insulation coatings. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Confidential.

Environmental Release/Disposal. Confidential.

PMN 84–335

Manufacturer. Confidential.

Chemical. (G) Metal carboxylate.

Use/Production. (G) Polymeric dispersant for printing ink materials. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture: dermal.

Environmental Release/Disposal. No release. Disposal by POTW.

PMN 84–336

Manufacturer. Westinghouse Electric Corporation.

Chemical. (S) Polymer of: Melamine, formaldehyde, o,p toluenesulfonamide, methyl glucoside, sodium hydroxide, guanidine carbonate, magnesium bromide.

Use/Production. (S) Site-limited thermosetting resin for manufacturing laminated plastics. Prod. range: 10,000,000–15,000,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. Manufacture and use: dermal, a total of 178 workers, up to 8 hrs/da, up to 260 da/yr.

Environmental Release/Disposal. No data submitted.

PMN 84–337

Manufacturer. Westinghouse Electric Corporation.

Chemical. (S) Polymer of: Phenol, nonyl phenol, formaldehyde, methyl glucoside, sodium carbonate, ammonium sulfamate.

Use/Production. (S) Site-limited thermosetting resin for manufacturing laminated plastics. Prod. range: 12,000,000–15,000,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. Manufacture and use: dermal, a total of 160 workers, up to 8 hrs/da, up to 260 da/yr.

Environmental Release/Disposal. No data submitted.

PMN 84–338

Manufacturer. Westinghouse Electric Corporation.

Chemical. (S) Polymer of: Melamine, formaldehyde, methyl glucoside, sodium hydroxide, guanidine carbonate.

Use/Production. (S) Site-limited thermosetting resin for manufacturing laminated plastics. Prod. range: 10,000,000–15,000,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. Manufacture and use: dermal, a total of 178 workers, up to 8 hrs/da, up to 260 da/yr.

Environmental Release/Disposal. No data submitted.

PMN 84–339

Manufacturer. Westinghouse Electric Corporation.

Chemical. (S) Polymer of: Phenol, nonyl phenol, formaldehyde Reax 27D, methyl glucoside, sodium carbonate.

Use/Production. (S) Site-limited thermosetting resin for manufacturing laminated plastics. Prod. range: 12,000,000–15,000,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. Manufacture and use: dermal, a total of 160 workers, up to 8 hrs/da, up to 260 da/yr.

Environmental Release/Disposal. No data submitted.

PMN 84–340

Manufacturer. Westinghouse Electric Corporation.

Chemical. (S) Polymer of: Phenol, nonyl phenol, formaldehyde Reax 27D, sodium carbonate.

Use/Production. (S) Site-limited thermosetting resin for manufacturing laminated plastics. Prod. range: 12,000,000–15,000,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. Manufacture and use: dermal, a total of 160 workers, up to 8 hrs/da, up to 260 da/yr.

Environmental Release/Disposal. No data submitted.

PMN 84–341

Importer. Confidential.

Chemical. (S) Poly[oxy(1-oxo-1,6-hexanediyl)], alpha-hydro-omega-hydroxy-, ester with 3-hydroxy-2,2-dimethylpropyl 3-hydroxy-2,2-dimethylpropanoate (2:1), di-2-propenoate.

Use/Import. (S) Industrial reactive diluent for UV curable resins. Import range: Confidential.

Toxicity Data. Irritation: Skin—0.1~0.3; Ames Test: Negative.

Exposure. No data subimtted.

Environmental Release/Disposal. No data submitted.

PMN 84–342

Importer. Confidential.

Chemical. (S) Poly[oxy(1-oxo-1,6-hexanediyl)], alpha-(1-oxo-2-propenyl)-omega-[(tetrahydro-2-furanyl)methoxy]-.

Use/Import. (S) Industrial reactive diluent for UV curable resins. Import range: Confidential.

Toxicity Data. Irritation: Skin—1.3~3.5; Ames Test: Negative.

Exposure. No data submitted.

Environmental Release/Disposal. No data submitted.

PMN 84–343

Importer. Confidential.

Chemical. (S) Poly[oxy(1-oxo-1,6-hexanediyl)], alpha-hydro-omega-hydroxy-, ester with 2,2'[oxybis(methylene)]bis[2-(hydroxymethyl)-1,3-propanediol] 2-propenoate, 2-propenoate.

Use/Import. (S) Industrial reactive diluent for UV curable resins. Import range: Confidential.

Toxicity Data. Acute oral: 10,000 mg/kg; Irritation: Skin—0.0~0.2; Ames Test: Negative.

Exposure. No data submitted.

Environmental Release/Disposal. No data submitted.

PMN 84–344

Importer. Confidential

Chemical. (S) 2-propenoic acid, [2-[1,1-dimethyl-2-[(1-oxo-2-propenyl)oxy]ethyl]-5-ethyl-1,3-dioxan-5-yl]methyl ester.

Use/Import. (S) Industrial reactive diluent for UV curable resins. Import range: Confidential.

Toxicity Data. Irritation: Skin—0.3; Ames Test: Negative.

Exposure. No data submitted.

Environmental Release/Disposal. No data submitted.

Dated: January 23, 1984.

Linda A. Travers,

Acting Director, Information Management Division.

[FR Doc. 84–2319 Filed 1–26–84; 8:45 am]

BILLING CODE 6560–50–M

[OPTS–59143; TSH–FRL 2514–7]

Certain Chemicals; Premanufacture Exemption Applications

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA may upon application exempt any person from the premanufacturing notification requirements of section 5 (a) or (b) of the Toxic Substances Control Act (TSCA) to permit the person to manufacture or process a chemical for test marketing purposes under section 5(h)(1) of TSCA. Requirements for test marketing exemption (TME) applications, which must either be approved or denied within 45 days of receipt, are discussed in EPA's final rule published in the **Federal Register** of May 13, 1983 (48 FR 21722. This notice, issued under section 5(h)(6) of TSCA, announces receipt of two applications for exemptions, provides a summary, and requests comments on the appropriateness of granting each of the exemptions.

DATE: Written comments by February 13, 1984.

ADDRESS: Written comments, identified by the document control number "[OPTS–59143]" and the specific TME number should be sent to: Document Control Officer (TS–793), Information Management Division, Office of Toxic Substances, Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E–409, 401 M Street, SW, Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Margaret Stasikowski, Acting Chief, Premanufacture Notice Management Branch, Chemical Control Division (TS–794), Office of Toxic Substances, Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E–216, 401 M Street, SW, Washington, DC 20460.

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the non-confidential version of the submission provided by the manufacturer on the TME received by EPA. The complete non-confidential document is available in the Public Reading Room E–107 at the above address.

TME 84–23

Close of Review Period. March 2, 1984.

Manufacturer. Halocarbon.

Chemical. (S) 3,3,3-trifluoropropanol.

Use/Production/Import. (S) To be used for laboratory testing by interested chemist in the pharmaceutical and agricultural fields. Prod. range: Confidential.

Toxicity Data. No data on the TME substances submitted.

Exposure. Manufacturer: a total of 50 workers minimal.

Environmental Release/Disposal. No data submitted.

TME 84–24

Close of Review Period. March 2, 1984.

Manufacturer. Cordova Chemical Company of Michigan.

Chemical. (G) Alkylated Polyethylenimine

Use/Production. (S) Used in applications where it is desirable to disperse hydrocarbons in aqueous medias. Prod. range: 1,000 gallons per year.

Toxicity Data. Acute oral: Female rats, 867 mg/kg, male rats, 713 mg/kg; Irritation: Skin—Slightly,

Exposure. Manufacture: dermal and inhalation, a total of 400 workers.

Environmental Release/Disposal. Negligible. Disposal by incineration.

Dated: January 20, 1984.

V. Paul Fuschini,

Acting Director, Information Management Division.

[FR Doc. 84–2320 Filed 1–26–84; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA-682-DR]

California; Amendment to Notice of Major-Disaster Declaration

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: This notice amends the Notice of a major disaster for the State of California (FEMA–682–DR), dated May 5, 1983, and related determinations.

DATED: January 19, 1984.

FOR FURTHER INFORMATION CONTACT: Sewall H. E. Johnson, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, D.C. 20472; (202) 287–0501.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the State of California dated May 5, 1983, is hereby amended to include the following area among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of May 5, 1983:

Fresno County is designated eligible for Federal assistance to disaster-damaged public schools under Pub. L. 81–815 and Pub. L. 81–874, as appropriate.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance. Billing Code 6718–02)

Samuel W. Speck,

Associate Director, State and Local Programs and Support, Federal Emergency Management Agency.

[FR Doc. 84–2274 Filed 1–25–84; 8:45 am]

BILLING CODE 6718–02–M

FEDERAL MARITIME COMMISSION

[Docket No. 84–1]

Exportran, Inc. v. Texas Gulf Iberia Navigation Co. Inc.; Filing of Complaint and Assignment

Notice is given that a compliant filed by Exportran, Inc. against Texas Gulf Iberia Navigation Company, Incorporated was served January 16, 1984. Complainant alleges that respondent has violated section 44 of the Shipping Act, 1916, in connection with ocean freight forwarding services it performed for various ocean shipments of complainant.

This proceeding has been assigned to Administrative Law Judge Joseph N. Ingolia. Hearing in this matter, if any is held, shall commence within the time limitations prescribed in 46 CFR 502.61. The hearing shall include oral testimony and cross-examination in the discretion of the presiding officer only upon proper showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions, or other documents or that the nature of the matter in issue is such that oral hearing and cross-examination are necessary for the development of an adequate record.

Francis C. Hurney,

Secretary.

[FR Doc. 84–2306 Filed 1–26–84; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

First Neodesha Bancshares, Inc.; Formation of Bank Holding Company

The company listed in this notice has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring voting shares or assets of a bank. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated. With respect to the application, interested persons may express their views in writing to the address indicated. Any comment on the application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. Board of Governors of the Federal Reserve System (William W. Wiles, Secretary), Washington, D.C. 20551:

1. *First Neodesha Bancshares, Inc.*, Neodesha, Kansas; to become a bank holding company by acquiring 95.3 percent of the voting shares of The First National Bank of Neodesha, Neodesha, Kansas. This application may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of Kansas City. Comments on this application must be received not later than February 22, 1984.

Board of Governors of the Federal Reserve System, January 23, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84–2282 Filed 1–26–84; 8:45 am]

BILLING CODE 6210–01–M

Mellon National Corp., et al.; Engaging De Novo in Permissible Nonbanking Activities

The bank holding companies listed in this notice have filed a notice under § 225.23(a)(1) of the Board's Regulation Y (49 FR 794) for the Board's approval under § 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (49 FR 794) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated for that application. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. With respect to each notice, interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated for the application or the offices of the Board of Governors not later than February 17, 1984.

A. Federal Reserve Bank of Cleveland (Lee S. Adams, Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. *Mellon National Corporation*, Pittsburgh, Pennsylvania; to expand the geographic scope of permissible insurance underwriting activities (such insurance underwriting activity being a permissible activity under Subparagraph A of Title VI of the Garn-St Germain Depository Institutions Act of 1982).

2. *Provident Bancorp, Inc.*, Cincinnati, Ohio; To engage *de novo* through its subsidiary, Provident Securities &

Investment Company, Cincinnati, Ohio, in discount securities activities solely as agent for the account of customers.

B. **Federal Reserve Bank of St. Louis** (Delmer P. Weisz, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *First Kentucky National Corporation,* Louisville, Kentucky; To engage *de novo* through its subsidiary NPC of Arizona, Inc., Phoenix, Arizona, in data (remittance) processing activities.

C. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *A.S.B. Bancshares, Inc.,* Archie, Missouri; To engage, through its subsidiary, a corporation proposed to be formed for such purposes, in the sale of general insurance, except life insurance and annuities, in a town with a population not exceeding 5,000.

2. *Metro Bank Corp.,* Denver, Colorado; To engage *de novo* through its subsidiary, Metro Insurance Corporation, Denver, Colorado, in the sale of credit life and accident and health insurance as permitted by state law.

3. *Union Bancshares, Inc.,* Wichita, Kansas; To engage *de novo,* through its subsidiary, UBI Leasing, Inc., Wichita, Kansas, in the making of consumer and commercial leases in accordance with the Board's Regulation Y.

4. *Union Bancshares, Inc.,* Wichita, Kansas; To engage *de novo,* through its subsidiary, UBI Mortgage Banking, Inc., Wichita, Kansas, in the making or acquiring for its own account, or to be packaged and sold to others, mortgage loans, such as would be made or acquired by a mortgage banking company.

Board of Governors of the Federal Reserve System, January 23, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-2246 Filed 1-26-84; 8:45 am]

BILLING CODE 6210-01-M

Liberty Bancorp, Inc., et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulatory Y (49 FR 794) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated for that application. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. With respect to each application, interested persons may express their views in writing to the Reserve Bank indicated for that application or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than February 21, 1984.

A. **Federal Reserve Bank of Richmond** (Lloyd W. Bostian, Jr., Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. *Liberty Bancorp, Inc.,* Charleston, South Carolina; to become a bank holding company by acquiring 80 percent of the voting shares of Liberty National Bank, Charleston, South Carolina.

B. **Federal Reserve Bank of St. Louis** (Delmer P. Weisz, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *Jeff City Bancorp, Inc.,* (Jeffco), Woodlawn, Illinois; to become a bank holding company by acquiring 78.7 percent of the voting shares of The First National Bank of Woodlawn, Woodlawn, Illinois.

2. *Landmark Bancshares Corporation,* St. Louis Missouri; to acquire 80 percent or more of the voting shares or assets of The First National Bank of St. Charles, St. Charles, Missouri.

C. **Federal Reserve Bank of Minneapolis** (Bruce J. Hedblom, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *McKenzie County Bancorp,* Watford City, North Dakota; to become a bank holding company by acquiring 93 percent of the voting shares of McKenzie County National Bank, Watford City, North Dakota.

D. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Security Corporation,* Duncan, Oklahoma; to acquire 52.37 percent of the voting shares or assets of Cache Road National Bank of Lawton, Lawton, Oklahoma.

E. **Federal Reserve Bank of Dallas** (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Marble Falls National Bancshares, Inc.,* Marble Falls, Texas; to become a bank holding company by acquiring 100 percent of the voting shares of Marble Falls National Bank, Marble Falls, Texas.

2. *Mercantile Texas Corporation,* Dallas, Texas; to acquire 100 percent of the voting shares or assets of Corpus Christi National Bank-South, Corpus Christi, Texas.

F. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President) 101 Market Street, San Francisco, California 94105:

1. *Burlingame Bancorp,* Burlingame, California; to become a bank holding company by acquiring 100 percent of the voting shares of Burlingame Bank & Trust Co. (In Organization), Burlingame, California.

Board of Governors of the Federal Reserve System, January 23, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-2251 Filed 1-26-84; 8:45 am]

BILLING CODE 6210-01-M

Northwest Georgia Financial Corp.; Engaging De Novo in Permissible Nonbanking Activities

The bank holding company listed in this notice has filed a notice under § 225.23(a)(1) of the Board's Regulation Y (49 FR 794) for the Board's approval under § 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (49 FR 794) to commence or to engage *de novo,* either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. With respect to the notice, interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or grains in efficiency, that outweigh possible adverse effects, such as undue concentration or resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any

request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding this application must be received at the Reserve Bank indicted for the application or the offices of the Board of Governors not later than February 21, 1984.

A. Federal Reserve Bank of Atlanta (Robert E. Heck, Vice President) 104 Marietta Street, NW., Atlanta, Georgia 30303:

1. *Northwest Georgia Financial Corporation,* Dallas, Georgia, to engage *de novo* through its subsidiary, West Georgia Mortgage Co., Inc., Dallas, Georgia, in the origination of mortgage loans in Paulding County and contiguous areas.

Board of Governors of the Federal Reserve System, January 23, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-2246 Filed 1-26-84; 8:45 am]

BILLING CODE 6210-01-M

Old Stone Corp., et al.; Engaging de novo in Permissible Nonbanking Activities

The bank holding companies listed in this notice have filed a notice under § 225.23(a)(1) of the Board's Regulation Y (49 FR 794) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (49 FR 794) to commence or to engage *de novo,* either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated for that application. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. With respect to each notice, interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated for the application or the offices of the Board of Governors not later than February 16, 1984.

A. Federal Reserve Bank of Boston (Richard E. Randall, Vice President) 600 Atlantic Avenue, Boston, Massachusetts 02106:

1. *Old Stone Corporation,* Providence, Rhode Island; To engage *de novo,* through its subsidiary UniMortgage Corporation of Tennessee, Memphis, Tennessee, in the origination, sale and servicing of first and second mortgage loans and the sale through American Standard Insurance Agency of credit-related life, health and accident insurance to be underwritten through reinsurance by The Motor Life Insurance Company, Jacksonville, Florida, an affiliated bank holding company subsidiary.

2. *Old Stone Corporation,* Providence, Rhode Island; To engage *de novo,* through its subsidiary, The Motor Life Insurance Company, Jacksonville, Florida, in the underwriting through reinsurance of credit-related life, health, and accident insurance written in connection with extensions of credit in the State of Tennessee by an affiliated bank holding company subsidiary, UniMortgage Corporation of Tennessee.

B. Board of Governors of the Federal Reserve System (William W. Wiles, Secretary) Washington, D.C. 20551:

1. *Depositors Corporation,* Augusta, Maine; To engage, through a joint venture with Graphics/Firestone Leasing Company, Newton Center, Massachusetts in commercial leasing activities on a non-operating basis, including the making and purchasing of leases of personal property in accordance with Regulation Y. This application may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of Boston.

Board of Governors of the Federal Reserve System, January 23, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-2247 Filed 1-26-84; 8:45 am]

BILLING CODE 6210-01-M

Preferred Equity Investors of Florida, Inc., et al.; Acquisition of Bank Shares by Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire voting shares or assets of a bank. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. Federal Reserve Bank of Atlanta (Robert E. Heck, Vice President) 104 Marietta Street, NW., Atlanta, Georgia 30303:

1. *Preferred Equity Investors of Florida, Inc.,* Knoxville, Tennessee, to indirectly acquire, and Landmark Banking Corporation of Florida, Ft. Lauderdale, Florida, to directly acquire 100 percent of the voting shares or assets of Landmark Bank of Palm Beach County, Boca Raton, Florida. Comments on this application must be received not later than February 22, 1984.

B. Board of Governors of the Federal Reserve System (William W. Wiles, Secretary) Washington, D.C. 20551:

1. *First Railroad & Banking Company of Georgia,* Augusta, Georgia; to acquire 100 percent of the voting shares or assets of the successor by merger to SBT Corporation, Savannah, Georgia and thereby acquire Savannah Bank & Trust Company, Savannah, Georgia; Bank of Screven County, Sylvania, Georgia; Commercial Bank, Waycross, Georgia; First National Bank & Trust Company, Vidalia, Georgia; The First National Bank of Valdosta, Valdosta, Georgia; and Central Bank of Georgia, Macon, Georgia. Comments on this application

must be received not later than February 22, 1984.

Board of Governors of the Federal Reserve System, January 23, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-2250 Filed 1-26-84; 8:45 am]

BILLING CODE 6210-01-M

Society Corp.; Merger of Bank Holding Companies

Society Corporation, Cleveland, Ohio, has applied for the Board's approval under section 3(a)(5) of the Bank Holding Company Act (12 U.S.C. 1842(a)(5)) to merge with Interstate Financial Corporation, Dayton, Ohio ("Interstate") and indirectly The Third National Bank, Dayton, Ohio, and the Waynesville National Bank, Waynesville, Ohio. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Society Corporation, Dayton, Ohio, has also applied to engage in the following nonbank activities: operation of a savings and loan association, through acquisition of Interstate's subsidiary, Scioto Savings Association; the underwriting of credit life and credit accident and health insurance directly related to extensions of credit by its subsidiary banks, through acquisition of Interstate's subsidiary, Financial Interstate Life Insurance Company; and data processing activities through acquisition of shares in Green Machine Network Corporation. Interstate had previously been granted approval to engage in the operation of a savings and loan association and to engage in the above mentioned data processing activities.

The application may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of Cleveland. Any person wishing to comment on the application should submit views in writing to William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than February 21, 1984. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, January 23, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-2249 Filed 1-25-84; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Agency Forms Submitted to the Office of Management and Budget for Clearance

Each Friday the Department of Health and Human Services (HHS) publishes a list of information collection packages it has submitted to the Office of Management and Budget (OMB) for clearance in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). The following are those packages submitted to OMB since the last list was published on January 20.

Public Health Service

Alcohol, Drug Abuse, and Mental Health Administration

Subject: Inventory of Mental Health Organizations (0930-0081)—Reinstatement
Respondents: Mental health organizations exclusive of general hospitals
OMB Desk Officer: Fay S. Iudicello

Centers for Disease Control

Subject: Respirator Use Under Conditions of High Metabolic Demand—New
Respondents: Individuals and businesses
OMB Desk Officer: Fay S. Iudicello

Social Security Administration

Subject: Child Relationship Statement (0960-0116)—Revision
Respondents: Guardians of children entitled to social security benefits
Subject: Intensive Case Management for Drug Addicts and Alcoholics—Supplemental Security Income (SSI) Residential/Nonresidential Questionnaire (SSA-1190/1191)—New
Respondents: A sample of SSI recipients
OMB Desk Officer: Milo Sunderhauf

Health Care Financing Administration

Subject: Information Collection Requirements in 42 CFR 431.804(d) (3) and (4) (HCFA-R-37)—New
Respondents: Single State Medicaid agencies
OMB Desk Officer: Fay S. Iudicello

Office of Human Development Services

Subject: Section IV, Narrative, of Form 424, Application for Grant under Title VI of the Older Americans Act (0980-0050)—Reinstatement
Respondents: Indian tribes
OMB Desk Officer: Milo Sunderhauf

Office of the Secretary

Subject: Rural Development Loan Fund (RDLF) Reporting Forms—New
Respondents: RDLF recipients
OMB Desk Officer: Milo Sunderhauf

Copies of the above information collection clearance packages can be obtained by calling the HHS Reports Clearance Officer on 202-245-6511.

Written comments and recommendations for the proposed information collections should be sent directly to the appropriate OMB Desk Officer designated above at the following address: OMB Reports Management Branch, New Executive Office Building, Room 3208, Washington, D.C. 20503. ATTN: (name of OMB Desk Officer).

Dated: January 19, 1984.

Robert F. Sermier,

Deputy Assistant Secretary for Management Analysis and Systems.

[FR Doc. 84-2253 Filed 1-26-84; 8:45 am]

BILLING CODE 4150-04-M

Centers for Disease Control

Project Grants—Health Programs for Refugees; Availability of Funds for Fiscal Year 1984

The Centers for Disease Control announces the availability of funds for Fiscal Year 1984 for Project Grants for Health Programs for Refugees, Catalog of Federal Domestic Assistance Number 13.987. This grant program is authorized by section 412(b)(5) of the Immigration and Nationality Act (50 U.S.C. app. 1211(b)(5)), as amended by the Refugee Act of 1980, Pub. L. 96-212; the Refugee Amendments of 1982, Pub. L. 97-363; and the Futher Continuing Appropriations for Fiscal Year 1984, Pub. L. 98-151.

The purpose of the program is to augment State and local resources in providing public health and general health assessments for refugees newly arrived in the United States. The term "refugee" is defined in section 101(a)(42) of the Immigration and Nationality Act. Any person so classified, regardless of national origin (except Soviet refugees for whom there is another special program to promote their private care and resettlement), shall be eligible for health assessment services under this program.

Eligible applicants are the official State health agencies and, in consultation with the State health agency, health agencies of political subdivisions of a State. Direct grants to health agencies of political subdivisions will not be considered for funding in 1984 where the State health agency applies for and receives a grant for programs within the State, except in special situations which are clearly justified to the Regional Health Administrator, Public Health Service, of the appropriate Department of Health and Human Services Regional Office. States are expected to work with agencies and organizations in localities with significant refugee populations to identify their health needs and to develop programs to meet these needs.

Based upon the Continuing Resolution for Fiscal Year 1984, $2,212,000 is available to award approximately 45 continuation grants with the average award expected to be $49,000, ranging from $2,000 to $635,000. The President's budget request, however, is for $5,810,000, which may be available in Fiscal Year 1984 to award approximately 1 new and 45 continuation grants with the average award expected to be $126,000, ranging from $5,000 to $1,600,000. Applications are currently invited based on the President's budget request; however, it may be necessary to fund them at the $2,212,000 Continuing Resolution amount. Initial grants are usually funded for 12 months in a 1- to 3-year project period. Continuation awards within the project period are made on the basis of satisfactory progress in meeting project objectives and on the availability of funds. Funding estimates outlined above may vary and are subject to change.

Priority for funding new grants will be placed on: (1) The extent of unmet public health needs associated with refugees; and (2) the need for general health assessments for refugees, with particular attention given to the identification of health problems which might affect employability, the referral of refugees for appropriate diagnostic and treatment services, and the identification of funding sources for needed services.

Applications for new grants will be reviewed on the basis of: (1) The size of the refugee population; (2) the extent of health problems among refugees; (3) the need for assistance in addressing health problems; (4) the capability of the applicant agencies to deliver or coordinate the delivery of needed services, particularly in those areas with high concentration of refugees needing intensified outreach and followup services for tuberculosis preventive therapy, including the identification of providers of services, the establishment of referral programs, and the identification of financing arrangements for services; and (5) consistency with the State's comprehensive plan for refugee resettlement activities.

Applications are subject to review as governed by Executive Order 12372, Intergovernmental Review of Federal Programs. Information on application and review procedures, deadlines, the consequences of late submission, and other materials may be obtained from the appropriate Department of Health and Human Services Regional Office as set forth below.

Dated: January 18, 1984.

James O. Mason,

Director, Centers for Disease Control.

Department of Health and Human Services (HHS) Regional Offices

Regional Health Administrator, PHS, HHS Region I, John Fitzgerald Kennedy Building, Boston, Massachusetts 02203; (617) 223–6827

Regional Health Administrator, PHS, HHS Region II, Federal Building, 26 Federal Plaza, Room 3337, New York, New York 10278; (212) 264–2561

Regional Health Administrator, PHS, HHS Region III, Gateway Building #1, 3521–35 Market Street, Mailing Address: P.O. Box 13716, Philadelphia, Pennsylvania 19101; (215) 596–6637

Regional Health Administrator, PHS, HHS Region IV, 101 Marietta Towers, Suite 1007, Atlanta, Georgia 30323; (404) 221–2316

Regional Health Administrator, PHS, HHS Region V, 300 South Wacker Drive, 33rd Floor, Chicago, Illinois 60606; (312) 353–1385

Regional Health Administrator, PHS, HHS Region VI, 1200 Main Tower Building, Room 1835, Dallas, Texas 75202; (214) 767–3879

Regional Health Administrator, PHS, HHS Region VII, 601 East 12th Street, Kansas City, Missouri 64106; (816) 374–3291

Regional Health Administrator, PHS, HHS Region VIII, 1185 Federal Building, 1961 Stout Street, Denver, Colorado 80294; (303) 837–6163

Regional Health Administrator, PHS, HHS Region IX, 50 United Nations Plaza, San Francisco, California 94102; (415) 556–5810

Regional Health Administrator, PHS, HHS Region X, 2901 Third Avenue, MS. 402, Seattle, Washington 98121; (206) 442–0430

[FR Doc. 84-2292 Filed 1-25-84; 8:45 am]

BILLING CODE 4160-15-M

Food and Drug Administration

[Docket No. 84M-0008]

Polymer Technology Corp.; Premarket Approval of The Boston Lens® II (Itafocon A) Contact Lens (Clear), The Boston™ Cleaner, and the Boston™ Conditioning Solution

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing its approval of the applications for premarket approval under the Medical Device Amendments of 1976 of The Boston Lens® II (itafocon A) Contact Lens (Clear), The Boston™ Cleaner, and The Boston™ Conditioning Solution, sponsored by Polymer Technology Corp., Wilmington, MA. After reviewing the recommendations of the Ophthalmic Device Section of the Ophthalmic; Ear, Nose, and Throat; and Dental Devices Panel, FDA notified the sponsor that the applications were approved because the devices had been shown to be safe and effective for use as recommended in the submitted labeling.

DATE: Petitions for administrative review by February 27, 1984.

ADDRESS: Requests for copies of the summary of safety and effectiveness data and petitions for administrative review may be sent to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Charles H. Kyper, National Center for Devices and Radiological Health (HFZ–402), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910; 301–427–7445.

SUPPLEMENTARY INFORMATION: On January 24, 1983, Polymer Technology Corp., Wilmington, MA 01887, submitted to FDA applications for premarket approval of The Boston Lens® II (itafocon A) Contact Lens (Clear), The Boston™ Cleaner, and The Boston™ Conditioning Solution. The lens is a spherical lens that ranges in powers from −20.00 diopters (D) to +20.00 D. It is indicated for daily wear for the correction of visual acuity for not-aphakic persons with myopia, hyperopia, or keratoconus and for the correction of corneal astigmatism of up to 4.00 D. The Boston™ Cleaner is

indicated for cleaning The Boston Lens® II, and The Boston® Conditioning Solution is indicated for enhancing the wettability characteristics of The Boston Lens® II and reducing lens friction against the cornea. The Boston™ Conditioning Solution also is indicated for relieving the minor irritation, discomfort, and blurring that can occur during lens wear and for disinfecting The Boston Lens® II after cleaning and rinsing. The applications were reviewed by the Ophthalmic Device Section of the Ophthalmic; Ear, Nose, and Throat; and Dental Devices Panel, an FDA advisory committee, which recommended approval of the applications. On November 17, 1983, FDA approved the applications by a letter to the sponsor from the Associate Director for Device Evaluation of the National Center for Devices and Radiological Health. The approval covers the production and distribution of the lens by Polymer Technology Corp., and 61 contact lens finishing laboratories. Also, the approval covers the production and distribution of the lens cleaner and the lens conditioning solution by Polymer Technology Corp.

Before enactment of the Medical Device Amendments of 1976 (the amendments) (Pub. L. 94–295, 90 Stat. 539–583), contact lenses made of polymers other than polymethylmethacrylate (PMMA) and solutions for use with such contact lenses were regulated as new drugs. Because the amendments broadened the definition of the term "device" in section 201(b) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 321(h)), contact lenses made of polymers other than PMMA and solutions for use with such lenses are now regulated as class III medical devices (premarket approval). As FDA explained in a notice published in the **Federal Register** of December 16, 1977 (42 FR 63472), the amendments provide transitional provisions to ensure continuation of premarket approval requirements for class III devices formerly regulated as new drugs. Furthermore, FDA requires, as a condition to approval, that sponsors of applications for premarket approval of contact lenses or solutions for use with such lenses comply with the records and reports provisions of Subpart D of Part 310 (21 CFR Part 310) until these provisions are replaced by similar requirements under the amendments.

A summary of the safety and effectiveness data on which FDA's approval is based is on file with the Dockets Management Branch (address above) and is available upon request from that office. A copy of all approved final labeling (which may be a draft of the final labeling) is available for public inspection at the National Center for Devices and Radiological Health—contact Charles H. Kyper (HFZ–402), address above. Requests should be identified with the name of the device and the docket number found in brackets in the heading of this document.

The approved labeling for The Boston Lens ® II (itafocon A) Contact Lens (Clear) states that only The Boston ™ Cleaner and The Boston ™ Conditioning Solution may be used to clean and disinfect the lens. The approved labeling for The Boston ™ Cleaner and The Boston™ Conditioning Solution states that they are to be used only with The Boston Lens® II (itafocon A) Contact Lens (Clear). The restrictive labeling informs new users that they must avoid using certain products, such as solutions intended only for use with hard contact lenses.

Opportunity for Administrative Review

Section 515(d)(3) of the act (21 U.S.C. 360e(d)(3)) authorizes any interested person to petition, under section 515(g) of the act (21 U.S.C. 360e(g)), for administrative review of FDA's decision to approve these applications. A petitioner may request either a formal hearing under Part 12 (21 CFR Part 12) of FDA's administrative practices and procedures regulations or a review of the applications and FDA's action by an independent advisory committee of experts. A petition is to be in the form of a petition for reconsideration of FDA's action under § 10.33(b) (21 CFR 10.33(b)). A petitioner shall identify the form of review requested (hearing or independent advisory committee) and shall submit with the petition supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through administrative review. After reviewing the petition, FDA will decide whether to grant or deny the petition and will publish a notice of its decision in the **Federal Register**. If FDA grants the petition, the notice will state the issues to be reviewed, the form of review to be used, the persons who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may, at any time on or before February 27, 1984, file with the Dockets Management Branch (address above) two copies of each petition and supporting data and information, identified with the name of the device and the docket number found in brackets in the heading of this document. Received petitions may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: January 23, 1984.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 84–2254 Filed 1–26–84; 8:45 am]
BILLING CODE 4160–01–M

Health Professional Organization Participation; Open Meeting

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing a forthcoming meeting with health professional organizations to be chaired by Mark Novitch, M.D., Acting Commissioner of Food and Drugs.

DATE: The meeting will be held from 1 p.m. to 3 p.m., Thursday, February 23, 1984.

ADDRESS: The meeting will be held at the Hubert H. Humphrey Bldg., Auditorium, 200 Independence Ave. SW., Washington, DC 20201.

FOR FURTHER INFORMATION CONTACT: Robert Veiga, Office of Health Affairs (HFY–40), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857; 301–443–5470.

SUPPLEMENTARY INFORMATION: The Commissioner of Food and Drugs meets periodically with executives of the health professional organizations to share mutual concerns and facilitate dissemination of FDA proposals and decisions affecting the country's health care.

The purpose of this meeting is to provide for a discussion and demonstration of electronic communications between FDA and representatives of the health professions.

Dated: January 20, 1984.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 84–2255 Filed 1–26–84; 8:45 am]
BILLING CODE 4160–01–M

Public Health Service

Health Resources and Services Administration; Statement of Organization, Functions and Delegations of Authority

Part H, Chapter HB (Health Resources and Services Administration) of the Statement of Organization, Functions and Delegations of Authority of the

Department of Health and Human Services (47 FR 38409–24, August 31, 1982, as most recently amended at 48 FR 54538, December 5, 1983) is amended to reflect a reorganization of the Headquarters component of the Indian Health Service.

Under Section HB–10. Organization and Functions, delete all of the statement for the *Indian Health Service (HBN)* through *Division of Resource Coordination (HBND)* and substitute the following:

Indian Health Service (HBN). The Indian Health Service (IHS) assures a comprehensive health services delivery system for American Indians and Alaska Natives with sufficient options to provide for maximum tribal involvement in meeting their health needs. The goal for IHS is to raise the health level of the Indian and Alaska Native people to the highest possible level.

To carry out its mission and to attain its goal, IHS: (1) Assists Indian Tribes in developing their capacity to man and manage their health programs through activities including health management training, technical assistance and human resource development; (2) facilitates and assists Indian Tribes in coordinating health planning, in obtaining and utilizing health resources available through Federal, State and local programs, in operating comprehensive health programs, and in health program evaluation; (3) provides comprehensive health care services, including hospital and ambulatory medical care, preventive and rehabilitative services, and development of community sanitation facilities; and (4) serves as the principal Federal advocate for Indians in the health field to assure comprehensive health services for American Indians and Alaska Natives.

Office of the Director (HBN1). Provides overall direction and leadership for IHS by: (1) Establishing goals, objectives, policies and priorities in pursuit of the IHS mission; (2) providing leadership to ensure the delivery of high quality, comprehensive health services; (3) coordinating IHS activities and resources internally and externally with those of other governmental and nongovernmental programs, promoting optimum utilization of all available health resources; (4) developing and demonstrating alternative methods and techniques of health services management and delivery with a view to providing Indian Tribes and other Indian community groups with optional ways of participating in the Indian health program; (5) developing individual and tribal capacities to participate in Indian health programs through means and modalities which they deem appropriate to their needs and circumstances; (6) affording Indian people an opportunity to enter a career in the IHS by applying Indian preference; (7) keeping the public fully informed on the activities of the IHS; and (8) encouraging full application of the principles of EEO.

Office of Administration and Management (HBN13). Under the direction of the Associate Director for Administration and Management: (1) Provides IHS-wide leadership, program direction, and coordination of all phases of management; (2) provides management expertise and staff advice and support to the Director in program and policy formulation and execution; (3) plans, directs, and coordinates IHS activities in the areas of management policy, financial management, personnel management, facilities management, debt management, third-party reimbursement, manpower management, grants and contracts management, procurement, real and personal property accountability and management, administrative services, and data systems management, development and operations.

Office of Planning, Evaluation and Legislation (HBN15). Under the direction of the Associate Director for Planning, Evaluation and Legislation: (1) Serves as the IHS's primary staff element and principal source of advice on program planning, program evaluation, and legislative affairs; (2) develops, in collaboration with financial management staff, the long-range program and financial plan for the IHS; (3) oversees, in coordination with the Office of the Administration, HRSA, communications between IHS and higher levels of the Department on all matters that involve long-range plans, evaluations of program performance, or legislative affairs; (4) develops long-range goals, objectives, and priorities for the IHS; (5) directs all activities within the IHS which compare the costs of the Agency's programs with their benefits, including the preparation and implementation of comprehensive program evaluation plans; (6) directs all the legislative affairs of IHS, including the development of legislative proposals and a legislative program; (7) plans, develops, directs and coordinates an analytical statistical reporting system providing data for measuring health status and appraising program activities; (8) conducts policy analyses and develops policy positions in programmatic areas for IHS, and (9) acts as the focal point in the agency for the preparation, development, and monitoring of IHS regulations.

Office of Program Operations (HBNE). Under the direction of the Associate Director for Program Operations: (1) Provides consultation and technical assistance to all operating and management levels of the IHS and Indian Tribes in the design and implementation of health management and health delivery systems; (2) coordinates health research and development activities within the IHS directed to the improvement of the health of Indian people; (3) provides guidance and support to all field activities related to the day-to-day delivery of health care; (4) provides Service-wide leadership in health program operations in relation to IHS goals, objectives, policies, and priorities; (5) directs the development and implementation of health services, standards, quality control, operational planning activities and program reviews of health programs; and (6) provides leadership, guidance, and coordination of the environmental health, and occupational health and safety programs.

Division of Clinical and Environmental Services (HBNE2). (1) Provides direction for the operation of the health delivery activities of the IHS; (2) handles all logistics associated with the conduct of program reviews of Service Units, Area Offices, and Headquarters units; (3) advises on assessment findings for potential implications for IHS policy, plans, programs and operations; (4) develops quality of care criteria for evaluation, standards of care, and guidelines for the maintenance of the quality assurance program of the IHS; (5) conducts monitoring activities to assess the quality of care provided by the Indian Health Service; and (6) provides leadership, guidance and coordination of the environmental health, and occupational health and safety programs.

Division of Health Support Activities (HBNE3). (1) Directs and manages the Contract Health Services function; (2) coordinates recruiting activities; (3) assesses professional staffing needs and develops strategies and systems to see that these needs are satisfied; and (4) interfaces with other organizations on all matters related to the professional staffing requirements of the IHS.

Division of Health Systems Development (HBNE4). (1) Develops and demonstrates methods and techniques for the improved operation and management of the health program; (2) provides consultation and technical

assistance to all operating and management levels of the IHS and Indian Tribes in the design and implementation of health management and service delivery systems; (3) coordinates health research and development activities within the Service directed to improving the health of the Indian people; and (4) manages the clinical training function.

Office of Tribal Activities (HBNG). Under the direction of the Associate Director for Tribal Activities: (1) Serves as the focal point to provide policy guidance to Tribes, tribal organizations, and urban Indian organizations; (2) identifies the needs for and characteristics of optional methods and techniques for Indian program participation; (3) implements new methods and techniques for Indian community participation in and management of their health programs; (4) assists Tribes, as appropriate, that do not want to manage their own health programs to gain greater influence over their community's health programs by providing the Tribes with technical assistance, training, and guidance; (5) advises on the Indian community development implications of the Service's plans, programs and operations; (6) develops standards and policy for all tribal contracts; and (7) provides broad guidance on the conduct of tribal contract reviews by the Area Offices.

Division of Community Development and Tribal Support (HBNG2). (1) Identifies the best means for increasing Indian program participation; (2) implements methods and techniques to enable Indian communities that want to, to participate more fully in the management of their health programs; and (3) assists Tribes that do not wish to magage their own health programs to develop their ability to influence the health programs in their communities by providing the Tribes with technical assistance, training and consultation.

Division of Indian Resources Liaison (HBNG3). (1) Implements special Indian legislation and authorities; (2) formulates policies to ensure effective implementation of tribally/urban operated administrative management systems, including contracts, grants, personnel, leasing, and human resource development activities; (3) develops, plans, and implements a policy information system for dissemination to and use by Tribes, tribal/urban Indian organizations, and IHS staff; and (4) coordinates development of various policy guidance material to transmit standards and criteria methodology, and general understanding across IHS concerning the elements of administrative systems.

Dated: January 23, 1984.

Edward N. Brandt, Jr.,

Assistant Secretary for Health.

[FR Doc. 84-2323 Filed 1-26-84; 8:45 am]

BILLING CODE 4160-15-M

Privacy Act of 1974; Systems of Records

AGENCY: Public Health Services, HHS.

ACTION: Notification of a proposal to add three routine uses and a special disclosure statement to four existing systems of records:

09–30–0027, "Grants and Cooperative Agreements: Research, Research Training, Research Scientist Development, Education, Demonstration, Fellowships, Clinical Training, Community Service, HHS/ADAMHA/OA," formerly titled "Grants: Research, Research Training, Research Scientist Development, Education, Demonstration, Fellowships, Clinical Training, Community Service, Cooperative Agreements, HHS/ADAMHA/OA."

09–30–0023, "Records of Contracts Awarded to Individuals, HHS/ADAMHA/OA."

09–30–0014, "Saint Elizabeths Hospital Finacial System, HHS/ADAMHA/NIMH."

09–30–0031, "Saint Elizabeths Hospital Management Information Reporting System, HHS/ADAMHA/NIMH."

SUMMARY: In accordance with the requirements of the Privacy Act and the Debt Collection Act of 1982 (Pub. L. 97–365), the Public Health Service (PHS) is publishing a notice of a proposal to add three routine uses and a "special disclosure" statement to four systems of records in the Alcohol, Drug Abuse, and Mental Health Administration (ADAMHA). PHS invites interested persons to submit comments on the proposed routine uses on or before February 27, 1984.

DATE: ADAMHA will adopt the new routine uses without further notice 30 days after the date of publication (February 27, 1984) unless comments are received which would result in a contrary determination. The "special disclosure" provision is effective on the date of publication (January 27, 1984). This disclosure is so named because it does not require a public comment period.

ADDRESS: Please address comments to: Ms. Betty J. Cook, Privacy Act Officer, ADAMHA, Room 6C–02, 5600 Fishers Lane, Rockville, MD 20857.

Comments received will be available for inspection at the same address from 8:00 a.m. to 4:30 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Mr. Kent Augustson, Division of Financial Management, ADAMHA, Room 12C–10, 5600 Fishers Lane, Rockville, MD 20857 (301) 443–2094. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: ADAMHA has awarded National Research Service Awards since 1975 under Section 472 of the Public Health Service Act (PHSA) (42 U.S.C. 2891–1), and clinical traineeships under Section 303 of the PHSA (42 U.S.C. 242a), as amended. The recipients of the awards are required to pay back their training support through service by engaging in research/teaching or working in a clinical setting. In exceptional cases where the individual does not/can not pay back through service, financial compensation must be made to the Government in an amount determined in accordance with a recovery formula specified in the legislation. Records pertaining to those individuals are found in Privacy Act system of records, 09–30–0027, "Grants and Cooperative Agreements: Research, Research Training, Research Scientist Development, Education, Demonstration, Fellowships Clinical Training, Community Services, HHS/ADAMHA/OA." (The system has been renamed to more accurately include cooperative agreements with grants as an instrument of financial assistance.)

A second system of records, 09–30–0023, "Records Awarded to Individuals, HHS/ADAMHA/OA," contains information on contractors furnishing administrative or miscellaneous services. These procurements were made under Section 301 of the PHSA.

A third system of records, 09–30–0014, "Saint Elizabeths Hospital Financial System, HHS/ADAMHA/NIMH," contains data maintained on billings, reimbursement claim forms, payroll, travel expenses, etc. The authority for maintaining the system is the Hospitalization of the Mentally Ill Act, 21 D.C. Code 501 *et seq.*

A fourth system of records, 09–30–0031, "Saint Elizabeths Hospital Management Information Reporting System, HHS/ADAMHA/NIMH," is used for patient billing and the generation of special and recurrent reports for a variety of program managment and research purposes. The authority for this system is 24 U.S.C. 161, *et seq.*

Adding the first proposed routine use to these systems of records will permit the disclosure, under the authority of subsection (b)(3) of the Privacy Act, of personal information such as taxpayer's address to debt collection agencies for the purposes of locating such taxpayer to collect debts owed to the Federal Government.

The second proposed routine use will permit disclosure, under the authority of subsection (b)(3) of the Privacy Act, of personal information such as taxpayer's address for the purpose of obtaining a consumer credit report for systems of records 09–30–0027 and 09–30–0023: To verify the credit worthiness of grant, cooperative agreement, or contract applicants; for systems of records 09–30–0014 and 09–30–0031: To assess the ability of delinquent debtors to repay their debts.

The third proposed routine use will permit disclosure, under the authority of subsection (b)(3) of the Privacy Act, to the Internal Revenue Servcie of the written-off amount of debts owed to the Federal Government which have become partly or wholly uncollectable. Such written-off debts are taxable income of the subject individual.

The addition of the "special disclosure" statement to the four systems of records, under the authority of subsection (b)(12) of the Privacy Act (added by Pub. L. 97–365, the Debt Collection Act of 1982), will permit the disclosure of personal information to consumer reporting agencies to encourage repayment of overdue debts owed to the Federal Government.

However, prior to making any actual disclosures under either the first routine use, which will permit disclosure to contractors for debt collection services, or the "special disclosure" statement, ADAMHA will take the following due process steps: Verify the existence of the debt, take reasonable action to locate an individual to send written notice to the debtor that the claim is overdue, that the agency intends to disclose information to debt collection agencies, or consumer reporting agencies, of what the disclosure(s) will consist, and what his/her rights are with respect to the claim as set forth in Guidelines issued by the Office of Management and Budget (48 FR 15556 and at page 15559, April 11, 1983). For example, ADAMHA will allow the debtor to examine agency documentation of the debt, provide for the debtor to seek agency review of the debt; and provide an opportunity for the individual to enter into a written agreement satisfactory to the agency for repayment of any outstanding debts.

Furthermore, before making any disclosures under the first routine use, ADAMHA will obtain assurance from debt collection agencies that they will comply with the Fair Credit Reporting Act (15 U.S.C. 1681 *et seq.*) and any other Federal law governing the provision of consumer credit information such as the Internal Revenue Code, 26 U.S.C. 7213(a)(2). Assurances to this effect will be incorporated in service contracts between the Government and debt collection agencies under contract to the Government. In addition, contracts between the Government and debt collection agencies will contain a provision subjecting the contractors to Section (m) of the Privacy Act, which indicates that such contractors are liable under the criminal provisions of the Privacy Act as "employees of the (Federal) agency."

We are not changing the language in any of the other categories in the system notices because this information continues to be correct.

The four system notices were last published in the **Federal Register**, November 29, 1983, as follows:

09–30–0014—pp. 53809–53810
09–30–0023—pp. 53817–53818
09–30–0027—pp. 53819–53821
09–30–0031—pp. 53824–53825

We are publishing all four notices in their entirety below to incorporate the proposed changes, which are printed in italics for ready identification.

Dated: January 23, 1984.

Wilford J. Forbush,

Deputy Assistant Secretary for Health Operations and Director, Office of Management.

09–30–0027

SYSTEM NAME:

Grants and Cooperative Agreements: Research, Research Training, Research Scientist Development, Education, Demonstration, Fellowships, Clinical Training, Community Services. HHS/ADAMHA/OA.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

National Institute on Drug Abuse, Grants Management Branch, Room 10–29, Parklawn Bldg., 5600 Fishers Lane, Rockville, Maryland 20857
National Institute on Alcohol Abuse and Alcoholism, Grants Management Branch, Room 16–86, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857
National Institute of Mental Health, Grants Management Branch, OPS, Room 7C–26 Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857
Washington National Records Center 4205 Suitland Road Washington, D.C. 20409

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Principal investigators, program directors, trainees, fellows, research scientist development awardees, and other employees of applicant or grantee institutions.

CATEGORIES OR RECORDS IN THE SYSTEM:

Grant and cooperative agreement applications and review history, including curriculum vitae, salary information, summary of review committee deliberations and supporting documents, progress reports, financial records, payback records of research training awardees (i.e., recipients under the National Research Services Awards Programs), and payback records of clinical training awardees.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 301 (42 U.S.C. 241) Public Health Service Act, Section 410, Drug Abuse Prevention, Treatment, and Rehabilitation Act (42 U.S.C. 1177), Section 301 (42 U.S.C. 241) and Section 303 (42 U.S.C. 242a); Public Health Service Act, Sections 101, 311, Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act, (42 U.S.C. 4591), Sections 301, 303, 433(a), 455, and 472(a)(1)(a), Public Health Service Act, (42 U.S.C. 241, 242a, 289C, 289k–1 and 289l–1), and Federal Grant and Cooperative Agreement Act of 1977 (41 U.S.C. 501 et seq.).

PURPOSE(S):

Records are maintained as official documentation relevant to the review, award, and administration of grant programs. Specifically, records are: 1. Used by staff program and management specialists for purpose of awarding and monitoring grant funds; 2. used to maintain communication with former trainees/fellows who have incurred an obligation for research training under the National Research Service Awards Program (42 U.S.C. 289l–1) or for clinical training (42 U.S.C. 242a).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. Referrals may be made of assignments of research investigators and project monitors on specific research projects to the National

Technical Information Service (NTIS), Department of Commerce, to contribute to the Smithsonian Science Information Exchange.

2. Disclosure may be made to qualified experts not within the definition of Department employees for opinion during the application review process.

3. Disclosure may be made to ADAMHA contractors for the purpose of carrying out quality assessment, program evaluation, and management reviews. Contractors are required to maintain Privacy Act safeguards with respect to the records.

4. In the event that a system of records maintained by this agency to carry out its functions indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether Federal (e.g., the Department of Justice) or State (e.g., the State's Attorney's Office), charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto for litigation.

5. Disclosure may be made to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issue of a license, grant, or other benefit by the requesting agency, to the extent that the record is relevant and necessary to the requesting agency's decision on the matter.

6. Where federal agencies having the power to subpoena other federal agencies' records, such as the Internal Revenue Service or the Civil Rights Commission, issue a subpoena to the Department for records in this system of records, the Department will make such records available.

7. Disclosure may be made to a congressional office from the record of an individual in response to a verified inquiry from the congressional office made at the written request of that individual.

8. In the event of litigation where the defendant is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to present an effective defense, provided such disclosure is compatible with the purpose for which the records were collected (e.g., to the Department of Justice or other appropriate Federal agencies in defending claims against the United States when the claim is based upon an individual's mental or physical condition and is alleged to have arisen because of activities of the Public Health Service in connection with such individual).

9. ADAMHA may disclose information from its records in the system to contractors for debt collection services in order to locate an individual to collect or compromise a Federal claim. Permissible disclosures include name, social security number, address (including taxpayer mailing address), other information necessary to establish the identity of the individual, the amount, status, history of the claim, and the agency or program under which the claim arose. Permissible disclosures include name, address, Social Security Number or other information necessary to identify the individual; the funding being sought; and the program for which the information is being obtained.

10. ADAMHA may disclose information from its records in this system to consumer reporting agencies in order to obtain credit reports to verify credit worthiness of grant/cooperative agreement applicants. Permissible disclosures include name, address, Social Security Number or other information necessary to identify the individual; the funding being sought; and the program for which the information is being obtained.

11. When a debt becomes partly or wholly uncollectable, either because the time period for collection under the statute of limitations has expired or because the Government agrees with the individual to forgive or compromise the debt, a record from this system of records may be disclosed to the Internal Revenue Service to report the written-off amount as taxable income to the individual.

DISCLOSURES TO CONSUMER REPORTING AGENCIES

Disclosures pursuant to 5 U.S.C. 552a(b)(12). Disclosures may be made from this system to "consumer reporting agencies" as defined in the Fair Credit Reporting Act (15 U.S.C. 1681(f)) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)). The purpose of such disclosures is to provide an incentive for debtors to repay delinquent Federal Government debts by making these debts part of their credit records. Information disclosed will be limited to name, social security number, address, other information necessary to establish the identity of the individual, the amount, status, and history of the claim, and the agency or program under which the claim arose. Such disclosures will be made only after the procedural requirements of 31 U.S.C. 3711(f) have been met.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Noncomputerized documents are filed in folders in enclosed file cabinets and open shelves. Information on 3 x 5 cards in file cabinets. Computerized records exist in tape and disk form.

RETRIEVABILITY:

By grant by numbers and cross-indexed by name.

SAFEGUARDS:

Personnel authorized to have access to the files are limited to: The chief of the Grants Management Branch and staff authorized by him/her: Grants specialists, grants technicians, program officials, assigned computer personnel and possible contractor staff including the project director and research associates. Computerized records are password protected; passwords are changed from time to time. Contractors working on computerized records are given passwords to access data only on a need to know basis. Computerized records are maintained in a secured area. During normal work hours, this area is staffed by authorized personnel who must show identification for entry. At other times, the computer area is locked. Hard copy files are stored in rooms which are locked at night. There is 24-hour guard patrol in the building. These safeguards are in accordance with DHHS Chapter 45–13, and supplementary Chapter PHS.hf: 45–13 in the General Administrative Manual, and Part 6, 'ADP System Security' in the HHS ADP Systems Manual.

RETENTION AND DISPOSAL:

Records are retired to a Federal Records Center two years after termination of support and the completion of final audit.

SYSTEM MANAGER(S) AND ADDRESS:

National Institute on Drug Abuse, Chief, Grants Management Branch, OA, Room 10–29, Parklawn Building, 5600 Fisher's Lane, Rockville, Md. 20857
National Institute on Alcohol Abuse and Alcoholism, Chief, Grants Management Branch, Room 16–86, Parklawn Building, 5600 Fishers Lane, Rockville, Md. 20857
National Institute of Mental Health, Chief, Grants Management Branch, Room 7C–26, Parklawn Building, 5600 Fishers Lane, Rockville, Md. 20857

NOTIFICATION PROCEDURE:

To determine if a record exists, write to the System Manager at the above address. Verifiable proof of identity is required.

RECORD ACCESS PROCEDURES:

Same as notification procedure. Requesters should also reasonably specify the record contents being sought, and should provide the official grant number when possible.

CONTESTING RECORD PROCEDURES:

Contact the appropriate system manager at the address specified above and reasonably identify the record, specify the information to be contested, and state the corrective action sought, with supporting justification.

RECORD SOURCE CATEGORIES:

Applicants, grantees, fellows, trainees, personnel at grantee institution on whom the record is maintained, Federal advisory committees, site visitors, consultants, references.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09–30–0023

Records of Contracts Awarded to Individuals. HHS/ADAMHA/OA.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

National Institute on Drug Abuse, Contracts Management Branch, Room 10–49, Parklawn Bldg., 5600 Fishers Lane, Rockville, MD 20857
National Institute on Alcohol Abuse and Alcoholism, Contracts Management Branch, Room 14–C–06, Parklawn Bldg., 5600 Fishers Lane, Rockville, MD 20857
National Institute of Mental Health, Contracts Management Branch, OPS, Room 18–101, Parklawn Bldg., 5600 Fishers Lane, Rockville, MD 20857
Procurement Section, Saint Elizabeths Hospital, Washington, D.C. 20032.
Washington National Records Center, 4205 Suitland Road, Washington, D.C. 20409.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

An individual who receives a contract as well as individuals who apply or compete for an award but do not receive the award and their consultants.

CATEGORIES OF RECORDS IN THE SYSTEM:

Curriculum vitae, salary information, evaluations of proposals by contract review committees.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Public Health Service Act Section 301 (42 U.S.C. 241 and 41 U.S.C. 252(c)). NIDA: Drug Abuse Prevention, Treatment and Rehabilitation Act, Sections 410 and 501 (21 U.S.C. 1177 and 1191). NIAAA: Community Mental Health Centers Act, Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 Sections 101 and 311 (42 U.S.C. 4551 and 4577). NIMH: Public Health Service Act Section 455 (42 U.S.C. 289(k-l)).

PURPOSE(S):

To document the history of each contract procurement action and award made within ADAMHA to an individual. The records are also used by contract review committee members when evaluating a proposal submitted by an individual.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. Disclosure may be made to a congressional office from the record of an individual in response to a verified inquiry from the congressional office made at the written request of that individual.

2. In the event of litigation where the defendent is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to present an effective defense, provided such disclosure is compatible with the purpose for which the records were collected.

3. ADAMHA may disclose information from its records in the system to contractors for debt collection services in order to locate an individual to collect or compromise a Federal claim. Permissible disclosures include name, social security number, address (including taxpayer mailing address), other information necessary to establish the identity of the individual, the amount, status, history of the claim, and the agency or program under which the claim arose.

4. ADAMHA may disclose information from its records in this system to consumer reporting agencies in order to obtain credit reports to verify credit worthiness of contract applicants. Permissible disclosures include name, address, Social Security Number or other information necessary to identify the individual; the funding being sought; and the program for which the information is being obtained.

5. When a debt becomes partly or wholly uncollectable, either because the time period for collection under the statute of limitations has expired or because the Government agrees with the individual to forgive or compromise the debt, a record from this system of records may be disclosed to the Internal Revenue Service to report the written-off amount as taxable income to the individual.

DISCLOSURES TO CONSUMER REPORTING AGENCIES

Disclosures pursuant to 5 U.S.C. 522a(b)(12). Disclosures may be made from this system to "consumer reporting agencies" as defined in the Fair Credit Reporting Act (15 U.S.C. 1681(f)) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)). The purpose of such disclosures is to provide an incentive for debtors to repay delinquent Federal Government debts by making these debts part of their credit records. Information disclosed will be limited to name, social security number, address, other information necessary to establish the identity of the individual, the amount, status, and history of the claim, and the agency or program under which the claim arose. Such disclosures will be made only after the procedural requirements of 31 U.S.C. 3711(f) have been met.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Documents filed in folders in enclosed and/or locked file cabinets

RETRIVABILITY:

By contract number and cross-indexed by individual's name.

SAFEGUARDS:

Released only to authorized Federal contract and support personnel. These safeguards are in accordance with DHHS Chapter 45–13 and supplementary chapter PHS.hf: 45–13 in the General Administration Manual.

RETENTION AND DISPOSAL:

Records are retired to a Federal Records Center and subsequently disposed of in accordance with the ADAMHA Records Control Schedule. The records control schedule and disposal standard for these records may be obtained by writing the System Manager at the address below.

SYSTEM MANAGER(S) AND ADDRESS:

National Institute on Drug Abuse, Chief, Contracts Management Branch, OPS, Room 10–49, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857

National Institute on Alcohol Abuse and Alcoholism, Chief, Contracts Management Branch, Room 14–C–06, Parklawn Building, 5600 Fishers Lane, Rockville, Md 20857

National Institution of Mental Health, Chief, Contracts Management Branch, Room 18–101, Parklawn Building, 5600 Fishers Lane, Rockville, Md. 20857

Procurement Officer, Saint Elizabeths Hospital, Washington, D.C. 20032

NOTIFICATION PROCEDURE:

To determine if a record exists, write to the System Manager at the address above. An individual may learn if a record exists about himself/herself upon written request with notarized signature. The request should include, if known, contractor's name, contract number, and approximate date contract was awarded.

RECORD ACCESS PROCEDURES:

Same as notification procedures. Requesters should reasonably specify the record contents being sought.

CONTESTING RECORD PROCEDURES.

Contact the official at the address specified under notification procedures above and reasonably identify the record, specify the information to be contested and state the corrective action sought, with supporting justification.

RECORD SOURCE CATEGORIES:

Contract proposals and supporting contract documents, contract review committees, site visitors.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09–30–0014

SYSTEM NAME:

Saint Elizabeths Hospital Financial Sytem. HHS/ADAMHA-NIMH.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Finance Office, Room 200, Administration Building, Saint Elizabeths Hospital, Washington, D.C. 20032, and

Washington National Records Center, 4205 Suitland Road, Washington, D.C. 20409. Billing records may also be located at contractor site.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Present and former employees and patients.

CATEGORIES OF RECORDS IN THE SYSTEM:

Deposits; receipts; disbursements; balances; NCR ledger cards; vouchers; information on expenses of travel and education; billings; background history; reimbursement claims; Industrial Therapy Program data: Internal Revenue Service Form W–4 and D.C. Government Form D–4, Payroll Summary sheets and individual patient ledger cards for patient workers in Patient Worker Industrial Therapy Program (PWITP), and indebtedness letters.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Hospitalization of the Mentally Ill Act, 21 DC Code 511 et seq.; 24 USC 165 and 166; 31 USC 68A and 628a.

PURPOSE(S):

To record expenditures and reimbursements for services and goods and all other financial transactions consistent with the management of the Hospital. Information in these records is also used within the Finance Office to determine the amount of pay a patient earns for his Industrial Therapy assignment, and for completing patients' time sheets, payroll summary sheets, income tax withholding forms, and monthly or quarterly earnings and tax returns.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. Disclosure may be made to a congressional office from the record of an individual in response to a verified inquiry from the congressional office at the written request of that individual.

2. Disclosures may be made in order to pay travel claims and educational institutions, expenses; to collect from the D.C. Government and Federal agencies for care and treatment; and to collect for quarters, lost or damaged property & other indebtedness to the Government.

3. Disclosures may be made to references for outside employment, to referral sources for determining if job placement meets a patient's therapeutic needs, and to outside agencies in order to obtain referrals.

4. Disclosures may be made to prospective employers and other similar recipients as evidence of the individual's increased responsibility, and to followup reasons for a patient's absence from his Industrial Therapy assignments.

5. In the event that a system of records maintained by this agency to carry out its functions indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether federal (e.g., Department of Justice), State or local (e.g., State and local licensing boards), charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto.

6. Where federal agencies having the power to subpoena other federal agencies' records, such as the Internal Revenue Service or the Civil Rights Commission, issue a subpoena to the Department for records in this system of records, the Department will make such records available.

7. In the event of litigation where the defendant is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the

Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to present an effective defense, provided such disclosure is compatible with the purpose for which the records were collected (e.g., to the Department of Justice or other appropriate Federal agencies in defending claims against the United States when the claim is based upon individual's mental or physical condition and is alleged to have arisen because of activities of the Public Health Service in connection with such individual).

8. ADAMHA may disclose information from its records in the system to contractors for debt collection services in order to locate an individual to collect or compromise a Federal claim. Permissible disclosures include name, social security number, address (including taxpayer mailing address), other information necessary to establish the identity of the individual, the amount, status, history of the claim, and the agency or program under which the claim arose.

9. ADAMHA may disclose information from its records in this system to consumer reporting agencies in order to obtain credit reports to assess the ability of delinquent debtors to repay their debts. Permissible disclosures include name, address, Social Security Number or other information necessary to identify the individual; the amount of debt; and the program for which the information is being obtained.

10. When a debt becomes partly or wholly uncollectable, either because the time period for collection under the statute of limitations has expired or because the Government agrees with the individual to forgive or compromise the debt, a record from this system of records may be disclosed to the Internal Revenue Service to report the written-off amount as taxable income to the individual.

DISCLOSURES TO CONSUMER REPORTING AGENCIES

Disclosures pursuant to 5 U.S.C. 552a(b)(12). Disclosures may be made from this system to "consumer reporting agencies" as defined in the Fair Credit Reporting Act (15 U.S.C. 1681(f)) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)). The purpose of such disclosures is to provide an incentive for debtors to repay delinquent Federal Government debts by making these debts part of their credit records. Information disclosed will be limited to name, social security number, address, other information necessary to establish the identity of the individual, the amount, status, and history of the claim, and the agency or program under which the claim arose. Such disclosures will be made only after the procedural requirements of 31 U.S.C. 3711(f) have been met.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

File folders in metal filing cabinets, index cards, and IBM cards.

RETRIEVABILITY:

Voucher date and number; numerically (receipts for patient's funds); alphabetically by name; Health Insurance Number and Hospital Case Number (Health Insurance records); bill number (for billings).

SAFEGUARDS:

Access is limited to personnel who process the data. Offices are locked when not occupied. These safeguards are in accordance with DHHS Chapter 45–13 and supplementary Chapter PHS.hf: 45–13 in the General Administration Manual.

RETENTION AND DISPOSAL:

Records may be retired to a Federal Records Center and subsequently disposed of in accordance with the ADAMHA Records Control Schedule. The records control schedule and disposal standard for these records may be obtained by writing the System Manager at the address below.

SYSTEMS MANAGER(S) AND ADDRESS:

Finance Officer, Administration Building, Room 200, St. Elizabeths Hospital, Washington, D.C. 20032.

NOTIFICATION PROCEDURE:

An individual may learn if a record exists about himself/herself upon written request, with notarized signature if request is made by mail, or with suitable identification if request is made in person, directed to: Privacy Act Coordinator, Finance Office, Room 200, Administration Building, Saint Elizabeths Hospital, Washington, D.C. 20032.

All of the following information must be provided when requesting notification:

(a) Full name;

(b) Dates of the contact with Saint Elizabeths Hospital;

(c) The Branch Division, or Office with which the requester had contact;

(d) The capacity in which the requester had contact with the hospital, e.g., patient, employee, vendor, representative of professional organization, etc.

(e) The nature of the material desired. A parent or guardian who requests notification of a child's/incompetent person's record shall designate a family physician or other health professional (other than a family member) to whom the record, if any, must be sent. The parent or guardian must verify relationship to the child/incompetent person as well as his/her own identity.

RECORD ACCESS PROCEDURES:

Same as notification procedures.

CONTESTING RECORD PROCEDURES:

Contact the official at the address specified under Notification Procedures above and reasonably identify the record, specify the information to be contested, and state the corrective action sought with supporting justification.

RECORD SOURCE CATEGORIES:

Patient name plates, patient's accounts, receipts for patients funds (generated when cash or other funds are accepted from a patient), patients' payroll data from the Industrial Therapy Section.

Patients' clinical records, interviews with ward staff, patient and work supervisor. Patient vouchers from patient, employees, Finance Section, Personnel Branch, Agency Cashier, patients' relative, committees, conservators and other Government agencies. Patients' account data from the Agent Cashier.

Health insurance data from the Patient's Medical Record, Social Security Administration, relatives and conservators, and Registrar.

Billings for care and treatment, quarters, etc. and indebtedness to the Government, Information Systems Branch, Housekeeping Section, Agent Cashier, and Administrative Services Section.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09–30–0031

SYSTEM NAME:

Saint Elizabeths Hospital Management Information Reporting System. HHS/ADAMHA/NIMH.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Management Information Reporting Branch, Saint Elizabeths Hospital.

Administration Building. Billing records may also be located at contractor sites.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Former & Current Patients.

CATEGORIES OF RECORDS IN THE SYSTEM:

Patient name, hospital number, demographic and individual characteristics, tracking or patient movement and billing information.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

24 U.S.C. 161, et seq.

PURPOSE(S):

Data is used for patient billing and to generate special and recurring reports for administrators, health professionals, managers, and researchers for their program managment, planning, analysis, evaluation and research.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. Information is disclosed to D.C. Mental Health Areas for continuity of care, after care and community follow-up.

2. A record may be disclosed for a research purpose, when the Department:

(a) Has determined that the use or disclosure does not violate legal or policy limitations under which the record was provided, collected, or obtained;

(b) Has determined that the research purpose (1) cannot be reasonably accomplished unless the record is provided in individually identifiable form, and (2) warrants the risk to the privacy of the individual that additional exposure of the record might bring;

(c) Has required the recipient to—(1) establish reasonable administrative, technical, and physical safeguards to prevent unauthorized use or disclosure of the record, and (2) remove or destroy the information that identifies the individual at the earliest time at which removal or destruction can be accomplished consistent with the purpose of the research project, unless the recipient has presented adequate justification of a research or health nature for retaining such information, and (3) make no further use or disclosure of the record except—(A) in emergency circumstances affecting the health or safety of any individual, (B) for use in another research project, under these same conditions, and with written authorization of the Department, (C) for disclosure to a properly identified person for the purpose of an audit related to the research project, if information that would enable research subjects to be identified is removed or destroyed at the earliest opportunity consistent with the purpose of the audit, or (D) when required by law;

(d) Has secured a written statement attesting to the recipient's understanding of, and willingness to abide by, these provisions.

3. Data is provided to volunteers involved in the treatment process of the hospital.

4. Disclosure may be made to a congressional office from the record of an individual in response to a verified inquiry from the congressional office made at the written request of the individual.

5. In the event of litigation where the defendant is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to present an effective defense, provided such disclosure is compatible with the purpose for which the records were collected.

6. ADAMHA may disclose information from its records in the system to contractors for debt collection services in order to locate an individual to collect or compromise a Federal claim. Permissible disclosures include name, social security number, address (including taxpayer mailing address), other information necessary to establish the identity of the individual, the amount, status, history of the claim, and the agency or program under which the claim arose.

7. ADAMHA may disclose information from its records in this system to consumer reporting agencies in order to obtain credit reports to assess the ability of delinquent debtors to repay their debts. Permissible disclosures include name, address, social security number or other information necessary to identify the individual; the amount of debt; and the program for which the information is being obtained.

8. When a debt becomes partly or wholly uncollectable, either because the time period for collection under the statute of limitations has expired or because the Government agrees with the individual to forgive or compromise the debt, a record from this system of records may be disclosed to the Internal Revenue Service to report the written-off amount as taxable income to the individual.

DISCLOSURES TO CONSUMER REPORTING AGENCIES

Disclosures pursuant to 5 U.S.C. 552a(b)(12). Disclosures may be made from this system to "consumer reporting agencies" as defined in the Fair Credit Reporting Act (15 U.S.C. 1681(f)) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)). The purpose of such disclosures is to provide an incentive for debtors to repay delinquent Federal Government debts by making these debts part of their credit records. Information disclosed will be limited to name, social security number, address, other information necessary to establish the identity of the individual, the amount, status, and history of the claim, and the agency or program under which the claim arose. Such disclosures will be made only after the procedural requirements of 31 U.S.C. 3711(f) have been met.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Saint Elizabeths Hospital forms, file folders, punch cards and magnetic tape.

RETRIEVABILITY:

Hospital case number, name, pre-determined codes. Some subsystems kept in chronological order.

SAFEGUARDS:

Employee training, restricted access, locked at night. For computerized records there is a password system in effect. These safeguards are in accordance with DHHS Chapter 45–13 and Supplementary Chapter PHS.hf: 45–13 in the General Administration Manual and Part 6, "ADP System Security" in the HHS ADP Systems Manual.

RETENTION AND DISPOSAL:

Records may be retired to a Federal Records Center and subsequently disposed of in accordance with the ADAMHA Records Control Schedule. The records control schedule and disposal standard for these records may be obtained by writing the System Manager at the address below.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Management Information Reporting Branch, Administration Bldg., St. Elizabeths Hospital, Washington, D.C. 20032.

NOTIFICATION PROCEDURE:

A patient or former patient may learn if a record exists upon written request, with notarized signature, directed to: Privacy Act Coordinator, Management Information Reporting Branch, Administration Bldg., Saint Elizabeths Hospital, Washington, D.C. 20032.

All of the following information must be provided:

(a) Full name;

(b) Approximate dates of enrollment at Saint Elizabeths Hospital;

(c) The nature of the material desired. A parent or guardian who requests notification of a childs/incompetent person's record shall designate a family physician or other health professional (other than a family member) to whom the record, if any, must be sent. The parent or guardian must verify relationship to the child/incompetent person as well as his/her own identity.

RECORD ACCESS PROCEDURES:

Same as notification procedures.

CONTESTING RECORD PROCEDURES:

Contact the official at the address specified under notification procedures above and reasonably identify the record, specify the information to be contested, and state the corrective action sought, with supporting justification.

RECORD SOURCE CATEGORIES:

Saint Elizabeths Hospital forms prepared by staff.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 84-2418 Filed 1-26-84; 8:45 am]

BILLING CODE 4160-20-M

INTERAGENCY COMMITTEE ON WOMEN'S BUSINESS ENTERPRISE

PRESIDENT'S ADVISORY COMMITTEE ON WOMEN'S BUSINESS OWNERSHIP

Information Collection Questionnaire Under Review by Office of Management and Budget

Upon written request copy available from Executive Director, Interagency Committee on Women's Business Enterprise, Room 414, Small Business Administration, 1441 L Street, NW., Washington, D.C. 20416.

Notice is hereby given that pursuant to the Paperwork Reduction Act (44 U.S.C. 350 et seq.), the Interagency Committee on Women's Business Enterprise together with the President's Advisory Committee on Women's Business Ownership has submitted a request for clearance of a questionnaire to be given to attendees at the National Initiative Conferences for potential and current women business owners. The questionnaire will gather information concerning problems experienced by women business owners plus information on existing resources available. The questionnaire will be distributed at 20 conferences with an expected attendance of 1,000 at each conference. The data collected will provide a basis for the Committees to make decisions and plan activities on behalf of women business owners.

Submit comments to OMB Desk Officer, Office of Information and Regulatory Affairs, New Executive Office Building, Room 3235, Washington, D.C. 20503.

Dated: January 25, 1984.

Carolyn Doppelt Gray,

Executive Director, Interagency Committee on Women's Business Enterprise and President's Advisory Committee on Women's Business Ownership.

[FR Doc. 84-2455 Filed 1-25-84; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Review of Tar Sand Program; Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Informal meeting to Review Tar Sand Program.

SUMMARY: As part of the ongoing Federal Tar Sand Program, there will be an informal meeting to review possible changes in the tar sand program. This notice is to advise the public that there will be a meeting of Washington Office, BLM Utah State Office, State and local representatives as well as any interested public and industry representatives to analyze and make recommendations on the Federal Tar Sand Program. Among topics that will be considered are paying quantities and production levels as they apply to Federal combined hydrocarbon leases.

DATE: The meeting will be held at 7:00 p.m., on February 23, 1984.

ADDRESS: Room 127, Salt Palace, Salt Lake City, Utah.

FOR FURTHER INFORMATION CONTACT: Edward E. Coggs, (202) 343-3258 or Richard J. Aiken, (202) 343-3258.

Dated: January 23, 1984.

Arnold E. Petty,

Acting Associate Director.

[FR Doc. 84-2273 Filed 1-25-84; 8:45 am]

BILLING CODE 4310-84-M

Colorado Federal Coal Lease Sale in the Uinta-Southwestern Utah Federal Coal Production Region

AGENCY: Bureau of Land Management, Interior.

ACTION: Announcement of regional coal lease decision and notice of sale.

SUMMARY: In accordance with 43 CFR 3420.4-3, 3420.5 and 3422.2 and in compliance with 40 CFR 1505.2, this notice announces the decision by the Secretary of the Interior to offer Federal coal in west-central Colorado, the availability of the Record of Decision, and the Notice of Sale. The tract was specifically exempted by Congress from the leasing moratorium imposed by Pub. L. 98-146. Potential bidders are alerted to the announcement at the end of this notice which states that the final recommendations of the Commission on Fair Market Value Policy for Federal Coal Leasing, if available, may vary the conditions of the sale.

DATE: The coal lease sale will be held at 2:00 p.m., Thursday, February 16, 1984.

ADDRESS: Bureau of Land Management's (BLM) Colorado State Office, 1037 20th Street, Denver, Colorado 80202.

RECORD OF DECISION: Single copies of the Record of Decision, including the alternatives that were considered, are available upon request from Kenneth Smith, at the address above, Telephone No. (303) 234-2855.

SUPPLEMENTARY INFORMATION: This notice, as required by 43 CFR 3420.4-3 and 3420.5 and by 40 CFR 1505.2, informs the public that the Secretary of the Interior has decided to offer Federal coal in the Paonia D Seam Tract located near Paonia in Delta County in west-central Colorado. In legislation imposing a coal leasing moratorium until 90 days after a report of the Commission on Fair Market Value Policy for Federal Coal Leasing (Pub. L. 98-146), Congress specifically exempted this tract from the moratorium.

Section 112 of Pub. L. 98-146 reads as follows:

Section 112. None of the funds in this Act shall be expended for the sale or lease of coal on public lands, except for emergency leasing as defined in 43 CFR 3425.1-4, lease modifications as defined in 43 CFR Part 3432, and lease exchanges as defined in 43 CFR Part 3435 or as specified in Pub. L. 96-401, until the Commission on Fair Market Value Policy for Federal Coal Leasing has submitted its report to the Congress and ninety days have subsequently elapsed: Provided that not withstanding any other provision to this section, the

following federal coal maintenance tracts may be leased: *the Paonia D Coal Bed Tract (not to exceed 5,000 acres)* (emphasis added), and the Colstrip Area C and Colstrip Maintenance Tract (not to exceed an aggregate total of 1,721 acres): Provided further, that the Paonia Tract may not be leased prior to February 1984, and Colstrip tracts may not be leased prior to August 1984.

The Paonia D Seam Tract was analyzed along with 26 other tracts in the second round of leasing in the Uinta-Southwestern Utah Federal Coal Region. The Regional Coal Team has recommended to the Secretary that this tract be offered as soon as possible. The tract is adjacent to an existing operation, the Orchard Valley Mine of Colorado Westmoreland Inc., which is rapidly depleting reserves suitable for underground mining on an advance mining plan. Further reserves are required by the operation by October 1984, or retreat mining will be initiated, rendering these facilities useless as access for the Paonia D Seam reserves and thereby necessitating added surface disturbance if the tract is mined later. The lease sale must occur by February of this year to accommodate the State of Colorado permitting timeframes and allow mining by October 1984. Closure of the Orchard Valley Mine would result in the loss of approximately 250 existing jobs and 25 new jobs by 1987. The area has been heavily impacted by the current slowdown in coal demand.

The Uinta-Southwestern Utah Coal Region Round Two Environmental Impact Statement (EIS) identified site specific subsidence impacts on water as the only significant impact attributable to leasing the tract. Lease stipulations for the protection of water resources have been developed to mitigate the impact. Mitigating measures presented in the EIS will be translated into lease and permit stipulations for the protection of other resources as well.

In response to consultation, pursuant to 43 CFR 3420.4–3, the Governor of Colorado concurred with the special stipulations for protection of water resources, developed by the Bureau of Land Management's Colorado State Office in consultation with State agencies and local residents, to be adopted into the proposed lease.

Certain Coal resources in the tract will be offered for competitive lease by sealed bid in accordance with the provisions of the Mineral Leasing Act of 1920 (30 U.S.C. 181 *et seq.*), as amended, at the time and place given above.

The tract will be leased to the qualified bidder of the highest cash amount provided that the high bid meets the fair market value determination of the tract. The minimum bid is $100 per acre, or fraction thereof. No bid less than $100 per acre, or fraction thereof, will be considered. The minimum bid is not intended to represent fair market value. The fair market value will be determined by the authorized officer after the sale. Sealed bids must be submitted on or before 1:00 p.m., Thurday, February 16, 1984, to the Colorado State Office, 1037 20th Street, Denver, CO. 80202. Bids received after that time will not be considered.

If identical high sealed bids are received, the tying high bidders will be requested to submit follow-up sealed bids until a high bid is received. All tie-breaking sealed bids must be submitted within five minutes following the sale official's announcement at the sale that identical high bids have been received.

Paonia "D" Coal Seam Lease Tract (C–37210)

Coal Offered: The coal resource to be offered is limited to coal recoverable by underground mining methods from the "D" Seam and any overlying seams in the following lands located approximately 3 miles northeast of Paonia, Colorado:

T. 13 S., R. 91 W., 6th P.M.,
Sec. 6, lots 5, 6, 7, SW¼NE¼, SE¼NW¼, E½SW¼, SE¼;
Sec. 7, lots 1, 2, NE¼, E½NW¼, SE¼;
Sec. 8, W½;
Sec. 17, N½NW¼;
Sec. 18, NE¼NE¼, N½NW¼NE¼, SE¼NW¼NE¼.
T. 13 S., R. 92 W., 6th P.M.,
Sec. 1, S½;
Sec. 2, SE¼;
Sec. 10, lots 10, 11, 14, 15, 16;
Sec. 11, E½, S½SW¼;
Sec. 12, lots 1 to 8, inclusive, lots 10 to 14, inclusive, SW¼SW¼;
Sec. 13, lots 2, 7 to 10, inclusive, NW¼;
Sec. 14;
Sec. 15, lots 1, 2, 3, 6 to 11, inclusive, 14, 15, and 16;
Sec. 22, lots 1, 2, 3, 6, 7, and 8;
Sec. 23, lots 1 to 8, inclusive.

The area described contains 4,998.85 acres. (Sealed bids should be formulated on the basis of 4,999 acres.)

the "D" bed tract contains an estimated 36,700,000 short tons of recoverable coal with the following analyses: BTU 9,600 to 12,300; Sulfur 0.4 to 0.7 percent; Ash 5 to 20 percent; Moisture 5 to 15 percent; Type of coal—Steam coal; and Rank of coal—High volatile C Bituminous.

Rental and Royalty: The lease issued as a result of this offering will provide for payment of an annual rental of $3.00 per acre or fraction thereof and a royalty payable to the United States of 8 percent of the value of coal to be mined by underground methods. The value of the coal shall be determined in accordance with 43 CFR 3485.2 (formerly 30 CFR 211.63).

Notice to Potential Bidders: In legislation imposing a coal leasing moratorium until 90 days after a report of the Commission on Fair Market Value for Federal Coal Leasing (Pub. L. 98–146), Congress specifically exempted the Paonia "D" Seam Tract from the moratorium, Section 112 of the Act is printed above. Before the sale, however, the final recommendations of the Coal Commission, if available, will be reviewed and a determination made concerning the applicability of any or all of the recommendations to the sale. The final recommendations are expected on or before January 29, 1984.

Notice of Availability: Bidding instructions for the offered tract are included in the Detailed Statement of Lease Sale. Copies of the Statement and of the proposed coal lease are available at Colorado State Office. Case file documents are also available at that office for public inspection.

Paul W. Arrasmith,

Acting Associate State Director.

[FR Doc. 84–2294 Filed 1–26–84; 8:45 am]
BILLING CODE 4310–JB–M

[OR–35017]

Oregon: Notice of Realty Action; Recreation and Public Purposes Classification and Lease of Public Land in Klamath County, Oregon

Notice is hereby given that Klamath County, Oregon has submitted an application to lease public land for an agricultural experiment station. The experiment station's goal would be to develop salt tolerant cereal and forage crops.

The followng described land has been examined and classified as suitable for lease or sale under the Recreation and Public Purposes Act of June 14, 1926, as amended (43 U.S.C. 869 et seq.).

Willamette Meridian, Oregon

T. S., R. 10 E.
Sec. 15, lot 3, SE¼NE¼.
Comprising 88.20 acres.

This decision/notice is based on the following reasons:

1. The land has been found valuable for public purposes.

2. The land is not of national significance and not essential to any Bureau of Land Management program.

3. The proposed use is in conformance with existing land use plans.

4. The proposed action will have no significant, including controversial,

effects on the human or natural environment.

5. Leasing of the above described land to Klamath County will serve important public objectives, i.e, the development of salt tolerant forage and cereal crops by the agricultural experiment station.

6. The classification, lease and/or patenting of the land to Klamath County, Oregon is in conformance with the Secretary of the Interior's "Good Neighbor Program".

7. The subject lands are isolated, irregular in size and shape and receive only custodial management.

Until March 30, 1984, interested parties may submit comments to the District Manager, Bureau of Land Management, Lakeview District, P.O. Box 151, Lakeview, Oregon 97630. Any adverse comments will be evaluated by the State Director, who may vacate or modify this realty action and issue a final determination. In the absence of any action by the State Director, this realty action will become the final determination of this department.

Information related to this Recreation and Public Purposes Application, including the environmental assessment record, land report, terms and conditions and special stipulations that will be included in the lease, is available for review at the Lakeview District Office, Lakeview, Oregon 97630.

Supplementary Information: The classification and granting of the lease for a maximum of 25 years with the option to purchase/patent the land will not be adverse to any public or private interests.

Classification of these lands for public purposes under the Recreation and Public Purposes Act of June 14, 1926, as amended, segregates them from all appropriations, including the mining laws, except as the applications under the mineral leasing laws and applications under the Recreation and Public Purposes Act.

This Recreation and Public Purposes application is consistent with Bureau of Land Management policies and planning and has been discussed with State and local officials.

Petition for classification OR-35017 is approved as to the land described above.

Name of Petitioner: Klamath County by its Commissioners.

Type of Petition: Recreation and Public Purposes under the Recreation and Public Purposes Act of June 14, 1926, as amended.

Dated: January 17, 1984.

Jerry Asher,

District Manager.

[FR Doc. 84-2301 Filed 1-26-84; 8:45 am]

BILLING CODE 4310-33-M

Colorado; Craig District Advisory Council; Meeting

In accordance with Pub. L. 94-579, notice is hereby given that there will be a meeting of the Craig District Advisory Council on March 6, 1984.

The meeting will begin at 10:00 a.m. at the Craig District Office, 455 Emerson Street, Craig, Colorado.

The agenda of the meeting will include:

1. Annual Work Plan
2. Discussion of Cross Mountain Wilderness Study Area Field Trip
3. Emergency Wildlife Feeding Program
4. Anabrus Simples
5. Recommendations on issues and problems to be addressed by the Advisory Council
6. Statement from the public

The meeting will be open to the public and interested persons may make oral statements to the Council beginning at 1:30 p.m. The District Manager may establish a time limit for oral statements, depending on the number of people wishing to speak. Anyone wishing to address the Council or file a written statement should notify the District Manager, Bureau of Land Management, 455 Emerson Street, Craig, Colorado 81625, by March 2, 1984.

Summary minutes of the Council Meeting will be maintained in the Craig District Office and will be available for public inspection and reproduction during regular business hours.

Dated: January 16, 1984.

Lee Carie,

District Manager.

[FR Doc. 84-2280 Filed 1-26-84; 8:45 am]

BILLING CODE 4310-JB-M

Nevada; Airport Lease Application N-38849

January 19, 1984.

Notice is hereby given that pursuant to the Act of May 24, 1928 (49 U.S.C. 211-214), the Lahontan Airport Development Association has applied for an airport lease for the following land:

Mount Diablo Meridian

T. 18 N., R. 24 E.,
Sec. 24, S½SW¼,
Sec. 26, N½NE¼, SW¼NE¼, NE¼NW¼, S½NW¼.

The area described is located in Lyon County, Nevada. The application was filed on October 8, 1983, and on that date the land was segregrated from all other forms of appropriation under the public land laws.

For a period of 45 days from the date of this notice, interested persons may submit comments to the District Manager, Bureau of Land Management, Carson City District Office, 1050 East William Street, Suite 335, Carson City, Nevada 89701.

Thomas J. Owen,

District Manager, Carson City District Office.

[FR Doc. 84-2281 Filed 1-26-84; 8:45 am]

BILLING CODE 4310-HC-M

[N-38122, N-38122-A]

Nevada; Notice of Conveyance

January 16, 1984.

Notice is hereby given that, pursuant to the Act of December 23, 1980, 94 Stat. 3381; 43 U.S.C. 1701 and Section 209(b) of the Act of October 21, 1976 (90 Stat. 2757; 43 U.S.C. 1719), Calvin Q. Morrison, Boulder City, Nevada has purchased, by competitive sale, public lands in Clark County described as:

Mount Diablo Meridian, Nevada

T. 22 S., R. 61 E.,
Sec. 6, lot 128.
Containing 2.5 acres.

The purpose of this notice is to inform the public and interested State and local governmental officials of the issuance of a conveyance document to Calvin Q. Morrison.

Wm. J. Malencik,

Deputy State Director, Operations.

[FR Doc. 84-2282 Filed 1-26-84; 8:45 am]

BILLING CODE 4310-HC-M

[N-34756, N-34756A]

Nevada; Notice of Conveyance

January 16, 1984.

Notice is hereby given that, pursuant to the Act of October 21, 1976 (90 Stat. 2750, 43 U.S.C. 1713), Joseph and Juanita Miller, purchased, by noncompetitive sale, public lands in White Pine County described as:

Mount Diablo Meridian, Nevada

T. 13 N., R. 66 E.,
Sec. 5, lots 17, 19, 20, 22, and 23.
Containing 17.04 acres.

The purpose of this notice is to inform the public and interested State and local governmental officials of the issuance of

a conveyance document to Joseph and Juanita Miller.

Wm J. Malencik,

Deputy State Director, Operations.

[FR Doc. 84-2283 Filed 1-26-84; 8:45 am]

BILLING CODE 4310-HC-M

[N-35362, N-35362-A]

Nevada; Notice of Conveyance

January 16, 1984.

Notice is hereby given that, pursuant to the Act of October 21, 1976 (90 Stat. 2750, 2757; 43 U.S.C. 1719), Carry B. Baker and Elizabeth L. Baker, Lund, Nevada have purchased, by noncompetitive sale, public lands in White Pine County described as:

Mount Diablo Meridian, Nevada

T. 13 N., R. 61 E.,
Sec. 9, E½SE¼NE¼SE¼SW¼, NE¼NE¼SW¼SE¼SW¼, N½SE¼SE¼SW¼, NE¼SW¼SE¼SE¼SW¼, SE¼SE¼SE¼SW¼.

Containing 10 acres.

The purpose of this notice is to inform the public and interested State and local governmental officials of the issuance of a conveyance document to Carry B. Baker and Elizabeth L. Baker.

Wm. J. Malencik,

Deputy State Director, Operations.

[FR Doc. 84-2284 Filed 1-26-84; 8:45 am]

BILLING CODE 4310-HC-M

New Mexico; Emergency Closure of Public Lands

AGENCY: Bureau of Land Management, Interior.

ACTION: Emergency closure of public lands.

SUMMARY: Notice is hereby given that effective immediately the following described public lands within the Roswell District are closed to all vehicle access except for travel on designated routes:

New Mexico Principal Meridian

T. 20 S., R. 25 E.,
Sec. 24, N½NE¼, N½S½NE¼NW¼, N½SE¼NW¼.
T. 20 S., R. 26 E.,
Sec. 19, N½, N½N½SE¼.

The areas described above contain 540 acres of public land, more or less. The area which is closed to vehicle use and routes that are designated as open to vehicular travel are identified on maps available upon request from the following Bureau of Land Management offices: Roswell District Office, 1717 W. 2nd Street, P.O. Box 1397, Roswell, NM 88201; or Carlsbad Resource Area Office, 101 E. Mermod, P.O. Box 1778, Carlsbad, NM 88220.

The purpose of this closure is to prevent considerable adverse effects to a Federal listed threatened plant species and prevent watershed damage on steep slopes.

The authority for this closure is 43 CFR 8341.2. This closure will remain in effect until off-road vehicle designations for the Carlsbad Resource Management Plan are implemented.

Dated: January 19, 1984.

Timothy R. Kreager,

Acting District Manager, Roswell, New Mexico.

[FR Doc. 84-2278 Filed 1-26-84; 8:45 am]

BILLING CODE 4310-FB-M

[NM-A 40792—(Okla.)]

New Mexico; Proposed Reinstatement of Terminated Oil and Gas Lease

Under the provisions of Pub. L. 97-451, Samson Resources Company petitioned for reinstatement of oil and gas lease NM-A 40792—(Okla.) covering the following described lands located in Pittsburg County, Oklahoma:

T. 3 N., R. 12 E., I.M.,
Sec. 2, lots 3, 4, S½NW¼, SW¼.

Containing 322.67 acres, more or less.

It has been shown to my satisfaction that failure to make timely payment of rental was due to inadvertence.

No valid lease has been issued affecting the lands. Payment of back rentals and administrative cost of $500.00 has been paid. Future rentals shall be at the rate of $10.00 per acre per year and royalties shall be at the rate of 16⅔ percent, computed on a sliding scale four percentage points greater than the competitive royalty schedule attached to the lease. Reimbursement for the cost of publication of this notice shall be paid by the lessee.

Reinstatement of the lease will be effective as of the date of termination, August 1, 1981.

S. Gene Day,

Acting State Director.

[FR Doc. 84-2285 Filed 1-26-84; 8:45 am]

BILLING CODE 4310-FB-M

Planning Criteria for Susanville District, Eagle Lake/Cedarville Wilderness; Environmental Impact Statement and Subsequent Management Framework Plan Amendment

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of availability.

SUMMARY: Notice is hereby given that the Planning Criteria for the Eagle Lake/Cedarville Wilderness EIS, Study Report and Subsequent Management Framework Plan Amendment is available for public review and comment.

DATES: Comments are being accepted from the public until February 27, 1984.

FOR FURTHER INFORMATION CONTACT: Larry Teeter, Wilderness Coordinator, Susanville District Office, Bureau of Land Management, P.O. Box 1090, Susanville, California 96130.

SUPPLEMENTARY INFORMATION: This plan will address 13 Wilderness Study Areas (WSA's) numbers CA-020-311, 609, 612, 615, 619, 619A, 805, 913A, 913B, 1012, 1013, 913/NV-020-008 and 914/NV-020-006A.

Ben F. Collins,

Associate District Manager.

[FR Doc. 84-2279 Filed 1-26-84; 8:45 am]

BILLING CODE 4310-84-M

Wyoming; Intent To Hold Public Scoping Meetings and To Prepare an Environmental Impact Statement for Sixty-five (65) Coal Preference Right Lease Applications (PRLAs); Casper District, Wyoming

AGENCY: Bureau of Land Management, Interior.

ACTION: Public scoping meetings and notice to prepare an EIS (Powder River Preference Right Lease Applications Environmental Impact Statement).

SUMMARY: This notice advises the public that the Bureau of Land Management (BLM) intends to prepare an EIS addressing sixty-five coal preference right lease applications (PRLAs) in the Powder River Basin of Wyoming. Public involvement to determine the scope and significant issues to be analyzed is invited. Public participation will be sought in public scoping meetings in Douglas, Wyoming, February 28 and Gillette, Wyoming, February 29, 1984.

FOR FURTHER INFORMATION CONTACT: Charles F. Wilkie, Special Projects Team Leader, Casper District Office, Bureau of Land Management, 951 Rancho Road, Casper, Wyoming 82601; (307) 261-5598.

SUPPLEMENTARY INFORMATION: Notice is hereby given in accordance with the National Environmental Policy Act and the Council on Environmental Quality regulations (43 CFR 1508.22) that the BLM will prepare an EIS to address potential affects of leasing 65 PRLAs organized into 15 groups located in Converse, Campbell, Johnson and Sheridan counties Wyoming. The EIS is

intended to analyze various alternatives including rejection of application, leasing with special stipulations, exchange or legislative resolution.

Identification of mitigating meaqures and special stipulations that the applicants must take into consideration when preparing the PRLAs final showing is of prime importance. Alternatives tentatively identified include: (1) No Action, or no development alternative, (2) Applicants Proposed Action (initial showning), and (3) Applicants Proposed Action Incorporating Mitigating Measures and Special Stipulations. The purpose of the scoping meetings in to encourage participation from interested persons in defining significant environmental issues and concerns which may result from the issuance of noncompetitive coal leases on the 15 areas.

Preparation of the EIS is scheduled to begin in March 1984. A draft EIS should be available for public review and comment in September 1984. A final EIS is to be filed with the Environmental Protection Agency in February 1985. Decisions upon acceptance or rejection of the PRLAs are to be made during the period between March 1985 and May 1986.

Public involvement is invited to determine the scope and significant issues to be analyzed in the EIS. Public participation will be sought by direct contact and mailings to interested and affected parties, announcements in local media and review of the EIS and decision documents.

Public meetings will be held in areas that would be directly affected. These meetings are a part of the overall scoping process and they will be held at the Holiday Inn, Douglas, Wyoming on February 28, 1984, at 7:00 p.m., and the Holiday Inn, Gillette, Wyoming on February 29, 1984 at 7:00 p.m. Notices of date, time, and location will be published in local newspapers prior to the scoping meetings.

Any individual company, group or agency who wishes to be included on the mailing list for notifications, to submit information that would be useful in preparing the EIS, or to provide comments and suggestions should contact the BLM District Manager, Casper District Office, 951 Rancho Road, Casper, Wyoming 82601. Telephone inquires should be directed to Chuck Wilkie, EIS Team Leader at the following numbers: (307) 261–5598 (commercial number) or 328–5598 (Federal Telecommunications System).

Dated: January 18, 1983.

James W. Monroe,

District Manager.

[FR Doc. 84–2277 Filed 1–26–84; 8:45 am]
BILLING CODE 4310–84–M

Bureau of Reclamation

Tucson Division, Central Arizona Project, Arizona; Intent to Prepare an Environmental Impact Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior in cooperation with the Western Area Power Administration (Western), intends to prepare an environmental impact statement (EIS) for a proposed action to construct and operate Phase B of the Tucson Aqueduct, a feature of the Central Arizona Project.

The purpose of the proposed action is to deliver Central Arizona Project Colorado River water to agricultural, municipal, and industrial users in Pima County, Arizona. The Tucson Aqueduct—Phase B will consist of a 50 mile long (approximate) aqueduct, six (approximate) pumping plants, and transmission facilities to deliver electrical energy to the pumping plants. The aqueduct will begin at the terminus of the authorized Tucson Aqueduct—Phase A in Pima County. Terminal points are described for each of five identified alternatives. Three alternatives have been identified on the west side of the Tucson Mountains, one on the east side, and the fifth alternative is no action.

Alternatives are as follows:

(1) *West Side Plan.* This is the agency proposed action and includes approximately 33 miles of open canal, 16 miles of pipe, a 2 mile pipe delivery line to the Papago Indian Reservation, 6 pumping plants, and a total right-of-way area of about 2,350 acres.

(2) *Sandario Road Plan.* This plan is alined on the west side of the Tucson Mountains and includes approximately 23 miles of open canal, 22 miles of pipe, a 2 mile pipe delivery line to the Papago Indian Reservation, 5 pumping plants, and a total right-of-way are of about 1,830 acres.

(3) *Sandario-San Joaquin Road Plan.* This plan is alined on the west side of the Tucson Mountains and includes approximately 11 miles of open canal, 34 miles of pipe, a 3 mile pipe delivery line to the Papago Indian Reservation, 5 pumping plants, and a total right-of-way area of about 1,015 acres.

(4) *East Side Plan.* This plan in alined on the east side of the Tucson Mountains and includes approximately 12 miles of open canal, 24 miles of pipe, a 10 mile pipe delivery line to the Papago Indian Reservation, an 18 mile Avra Valley delivery line with 14 miles of open canal and 4 miles of pipe, 6 pumping plants, and a total right-of-way area of 1,910 acres.

Each of the four alternatives above would convey an average annual volume of 161,900 acre feet of water to the service area. Each alternative would also have two termini, one at a proposed City of Tucson water facility, and a second at the south boundary of the San Xavier Indian Reservation.

(5) *No Action Plan.* This plan would simply terminate the Tucson Aqueduct without constructing the proposed Phase B. Water users would be individually responsible for obtaining their allotments from the terminus of Phase A.

Electrical power would be supplied to the water pumps by the Western Area Power Administration. Alternative methods of providing power which are being considered include construction of a project transmission line parallel to the water delivery system and use of existing transmission lines in the area with construction of tap lines to each pump. Construction alternatives include underground transmission systems. Several transmission line structures are being considered for the overhead transmission line alternatives and routing alternatives are also being considered.

Reclamation and Western intend to make available an expanded outline of the EIS to all interested members of the public. The outline will identify alternatives, significant environmental issues, and how environmental issues will be addressed on the EIS. Scoping of alternatives and significant environmental issues has been an integral part of past and ongoing public involvement activities. Considerable input has been received over the past 2 years from the interested public, government agencies, and affected Indian tribes; therefore, no scoping meetings will be held.

To insure that the full range of issues related to the proposed action are identified and addressed, comments concerning the proposed action and the EIS should be directed to: Bruce Ellis, Chief, Environmental Division, Arizona Projects Office, Bureau of Reclamation, Valley Center, Suite 2200, 201 N. Central Avenue, Phoenix, Arizona 85073, Telephone (602) 261–3577.

Dated: January 23, 1984.

Robert A. Olson,

Acting Commissioner of Reclamation.

[FR Doc. 84-2200 Filed 1-26-84; 8:45 am]

BILLING CODE 4310-09-M

[INT-DES 84-3]

Gallup-Navajo Indian Water Supply Project, New Mexico-Arizona-Utah; Availability of Planning Report/Draft Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared a Draft Environmental Statement for the Gallup-Navajo Indian Water Supply Project, New Mexico-Arizona-Utah.

The document presents alternative actions to provide a water supply to meet present and future water needs of the city of Gallup and 32 communities on the Navajo Reservation in northwestern New Mexico, extreme northeastern Arizona, and southeastern Utah. The nature of and probable impacts of the alternatives are presented.

Copies are available for inspection at the following locations:

Office of Environmental Affairs, Bureau of Reclamation, Department of the Interior, Room 7622, Washington, D.C. 20240, Telephone (202) 343-4991

Library Branch, Division of Management Support, E&R Center, Denver Federal Center, Denver, Colorado 80225, Telephone (303) 234-3019

Office of the Regional Director, Bureau of Reclamation, 714 South Tyler Street, Suite 201, Amarillo, Texas 79101, Telephone (806) 378-5467

Albuquerque Public Library, 423 Central Avenue NE. Albuquerque, New Mexico 87101

New Mexico State Library, Post Office Box 1629, Sante Fe, New Mexico 87501

University Library, New Mexico State University, Las Cruces, New Mexico 88001

Zimmerman Library, University of New Mexico, University Hill NE., Albuquerque, New Mexico 87106

Farmington Library, Farmington, New Mexico 87401

Window Rock Library, Window Rock, Arizona 86515

Navajo Community College Library, Shiprock, New Mexico 87420

Gallup Public Library, Post Office Box 1270, Gallup, New Mexico 87301

Government Documents Department, University of Arizona Library, Tucson, Arizona 85721.

Single copies of the draft statement may be obtained on request to the Office of Environmental Affairs or Regional Director. Please refer to the statement number above.

Written comments may be submitted to the Regional Director within 90 days of this notice.

Dated: January 24, 1984.

Bruce Blanchard,

Director, Office of Environmental Project Review.

[FR Doc. 84-2330 Filed 1-26-84; 8:45 am]

BILLING CODE 4310-RB-M

Minerals Management Service

Plan of Development and Production

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the receipt of a proposed Plan of Development/Production (POD/P).

SUMMARY: Notice is hereby given that ENSTAR Petroleum, Inc. has submitted a POD/P describing the activities it proposes to conduct on Lease OCS-G 3794, Block 26, West Delta Area, offshore Louisiana. Proposed plans for the above area provide for the development and production of hydrocarbons with support activities to be conducted from and onshore base located at Venice, Louisiana.

DATE: The subject POD/P was deemed submitted on December 15, 1983. Comments must be received within 15 days of the date of this Notice or 15 days after the Coastal Management Section receives a copy of the plan from the Minerals Management Service.

ADDRESSES: A copy of the subject POD/P is available for public review at the Office of the Regional Manager, Gulf of Mexico Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana (Office Hours: 9 a.m. to 3:30 p.m., Monday through Friday). A copy of the POD/P and the accompanying Consistency Certification are also available for public review at the Coastal Management Section Office located on the 10th Floor of the State Lands and Natural Resources Building, 625 North 4th Street, Baton Rouge, Louisiana (Office Hours: 8 a.m. to 4:30 p.m., Monday through Friday). The public may submit comments to the Coastal Management Section, *Attention OCS Plans,* Post Office Box 44396, Baton Rouge, Louisiana 70805.

FOR FURTHER INFORMATION CONTACT: Hossein Hekmatdoost, Minerals Management Service; Gulf of Mexico Region; Rules and Production, Plans, Platform and Pipeline Section; Exploration/Development Plans Unit; Phone (504) 838-0873.

SUPPLEMENTARY INFORMATION: The purpose of this Notice is to inform the public, pursuant to Sec. 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the POD/P and that it is available for public review. Additionally, this Notice is to inform the public, pursuant to § 930.61 of Title 15 of the CFR, that the Coastal Management Section/Louisiana Department of National Resources is reviewing the POD/P for consistency with the Louisiana Coastal Resources Program.

Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in POD/Ps available to affected states, executives of affected local governments, and other interested parties became effective December 13, 1979 (44 FR 53685). Those practices and procedures are set out in revised § 250.34 of Title 30 of the CFR.

Dated: January 16, 1984.

John L. Rankin,

Regional Manager, Gulf of Mexico Region.

[FR Doc. 84-2290 Filed 1-26-84; 8:45 am]

BILLING CODE 4310-MR-M

Plan of Development and Production

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the receipt of a proposed Plan of Development/Production (POD/P).

SUMMARY: Notice is hereby given that Marathon Oil Company has submitted a POD/P describing the activities it proposes to conduct on Lease OCS-G 2233, Block 619, West Cameron Area, offshore Louisiana. Proposed plans for the above area provide for the development and production of hydrocarbons with support activities to be conducted from an onshore base located at Cameron, Louisiana.

DATE: The subject POD/P was deemed submitted on January 19, 1984.

ADDRESSES: A copy of the subject POD/P is available for public review at the Office of the Regional Manager, Gulf of Mexico Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana (Office Hours: 9 a.m. to 3:30 p.m., Monday through Friday).

FOR FURTHER INFORMATION CONTACT: Mr. Warren Williamson, Minerals Management Service, Gulf of Mexico Region; Rules and Production; Plans Platform and Pipeline Section,

Exploration/Development Plans Unit; Phone (504) 838–0817.

SUPPLEMENTARY INFORMATION: The purpose of this Notice is to inform the public, pursuant to § 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the POD/P and that it is available for public review.

Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in POD/Ps available to affected states, executives of affected local governments, and other interested parties became effective December 13, 1979 (44 FR 53685). Those practices and procedures are set out in revised § 250.34 of Title 30 of the CFR.

Dated: January 19, 1984.

John L. Rankin,

Regional Manager, Gulf of Mexico Region.

[FR Doc. 84-2280 Filed 1-26-84; 8:45 am]

BILLING CODE 4310-MR-M

INTERSTATE COMMERCE COMMISSION

[Finance Docket No. 30353]

Rail Carriers; Burlington Northern Railroad Co.—Abandonment Exemption—Bellingham, WA

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Interstate Commerce Commission exempts from the requirement of prior approval under 49 U.S.C. 10903 *et seq.*, the abandonment by the Burlington Northern Railroad Company of a 2.73-mile segment of rail line in the city of Bellingham, WA, subject to standard employee protective conditions and a public use condition.

DATES: This exemption shall be effective on February 27, 1984. Petitions for reconsideration must be filed by February 16, 1984. Petitions to stay must be filed by February 6, 1984.

ADDRESSES: Send pleadings referring to Finance Docket No. 30353 to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, D.C. 20423

(2) Petitioner's representative: Thomas A. Ehlinger, Burlington Northern Railroad Company, 176 East Fifth Street, St. Paul, MN 55101.

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer, (202) 275–7245.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to T.S. InfoSystems, Inc., Room 2227, Interstate Commerce Commission, Washington, DC 20423, or call 289–4357 (DC Metropolitan area) or toll free (800) 424–5403.

Decided: January 19, 1984.

By the Commission, Chairman Taylor, Vice Chairman Andre, Commissioners Sterrett and Gradison.

James H. Bayne,

Acting Secretary.

[FR Doc. 84-2326 Filed 1-26-84; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-31 (Sub-No. 9)]

Rail Carriers; Grand Trunk Western Railroad Co.—Abandonment—In Huron, Lapeer and Tuscola Counties, MI; Findings

The Commission has found that the public convenience and necessity permit Grand Trunk Western Railroad Company to abandon its 50.24 mile rail line between Kings Mill, MI (milepost 42.60) and Pigeon, MI (milepost 92.84) in Huron, Lapeer and Tuscola Counties, MI. A certificate will be issued authorizing this abandonment unless within 15 days after this publication the Commission also finds that (1) financially responsible person has offered assistance (through subsidy or purchase) to enable the rail service to be continued; and (2) it is likely that the assistance would fully compensate the railroad.

Any financial assistance offer must be filed with the Commission and the applicant no later than 10 days from publication of this Notice. The following notation shall be typed in bold face on the lower left-hand corner of the envelope containing the offer: "Rail Section, AB–OFA." Any offer previously made must be remade within this 10-day period.

Information and procedures regarding financial assistance for continued rail service are contained in 49 U.S.C. 10905 and 49 CFR 1152.27(b).

James H. Bayne,

Acting Secretary.

[FR Doc. 84-2324 Filed 1-26-84; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-43 (Sub-105)]

Rail Carriers; Illinois Central Gulf Railroad Co.—Abandonment—In Perry and Jackson Counties, IL; Findings

The Commission has issued a certificate authorizing Illinois Central Gulf Railroad Company to abandon its 7.4 mile rail line between Pyatts (exclusing Pyatts) (milepost 66.44) and Vergennes (milepost 73.84) in Perry and Jackson Counties, IL. The abandonment certificate will become effective 30 days after this publication unless the Commission also finds that: (1) A financially responsible person has offered financial assistance (through subsidy or purchase) to enable the rail service to be continued; and (2) it is likely that the assistance would fully compensate the railroad.

Any financial assistance offer must be filed with the Commission and the applicant no later than 10 days from publication of this Notice. The following notation shall be typed in bold face on the lower left-hand corner of the envelope containing the offer: "Rail Section, AB–OFA". Any offer previously made must be remade within this 10-day period.

Information and procedures regarding financial assistance for continued rail service are contained in 49 U.S.C. 10905 and 49 CFR Part 1152.

James H. Bayne,

Acting Secretary.

[FR Doc. 84-2325 Filed 1-26-84; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF LABOR

Office of the Secretary

Agency Forms Under Review by the Office of Management and Budget (OMB)

Background

The Department of Labor, in carrying out its responsibility under the Paperwork Reduction Act (44 U.S.C. Chapter 35), considers comments on the proposed forms and recordkeeping requirements that will affect the public.

List of Forms Under Review

On each Tuesday and/or Friday, as necessary, the Department of Labor will publish a list of the Agency forms under review by the Office of Management and Budget (OMB) since the last list was published. The list will have all entries grouped into new collections, revisions, extensions, or reinstatements. The Departmental Clearance Officer will, upon request, be able to advise members of the public of the nature of any particular revision they are interested in.

Each entry will contain the following information:

The Agency of the Department issuing this form.

The title of the form.

The OMB and Agency form numbers, if applicable.

How often the form must be filled out.

Who will be required to or asked to report.

Whether small businesses or organizations are affected.

An estimate of the number of responses.

An estimate of the total number of hours needed to fill out the form.

The number of forms in the request for approval.

An abstract describing the need for and uses of the information collection

Comments and Questions

Copies of the proposed forms and supporting documents may be obtained by calling the Departmental Clearance Officer, Paul E. Larson, Telephone 202–523–6331. Comments and questions about the items on this list should be directed to Mr. Larson, Office of Information Management, U.S. Department of Labor, 200 Constitution Avenue, NW., Room S–5526, Washington, D.C. 20210. Comments should also be sent to the OMB reviewer, Arnold Strasser, Telephone 202–395–6880, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 3208, NEOB, Washington, D.C. 20503.

Any member of the public who wants to comment on a form which has been submitted to OMB should advise Mr. Larson of this intent at the earliest possible date.

New

Occupational Safety and Health Administration
Construction Posting and Labeling Requirements: Posting Signs for Emergency Phones and Allowable Low Weight
OSHA 269
On occasion
Businesses or other for profit; small businesses or organizations
212,777 responses; 8,866 hours; 0 forms

Phone numbers of physicians, hospitals or ambulances must be posted to expedite obtaining medical attention for injured construction employees. Posting maximum safe load limits for storage areas should reduce floor overload hazards for construction employees.

Extension

Occupational Safety and Health Administration
Post Inspection Employer Questionnaire; Post Inspection Employee Questionnaire
1218–0049; OSHA 164
When inspection occurs
Farms; business or other for-profit; small businesses or organizations
5,500 responses; 825 hours; 2 forms

OSHA's goal is to foster cooperative relationships with employers and employees to promote safety and health most effectively. To achieve this OSHA must rely on the professional conduct of its Compliance Officers. This survey will allow employers and employees representatives to react to OSHA's inspections and provide the information needed to develop a cooperative, non-adversarial program.

Occupational Safety and Health Administration
4-Dimethylaminoazobenzene
1218–0044; OSHA 223
On occasion
Businesses or other for profit; small businesses or organizations
50 responses; 170 hours; 0 forms

These requirements are necessary to protect and monitor the health of employees who work in establishments where the carcinogenic chemical, 4-dimethylaminoazobenzene, is used or produced.

Reinstatement

Employment and Training Administration
ETA Validation Handbook No. 361
1205–0055
Quarterly
State or local governments
472 Responses; 53,408 hours

The ETA program management information system must provide sufficiently credible information upon which management can make policy decisions, insure credible reports to congress and the president and insure fair distribution of funds. The validation process attempts to insure the accuracy and comparability of data reported to the system.

Signed at Washington, D.C. this 24th day of January 1984.

Paul E. Larson,
Departmental Clearance Officer.

[FR Doc. 84-2294 Filed 1-26-84; 8:45 am]
Billing Code 4510-26-M

Employment and Training Administration

Abingdon Steel Fabrication Corp., et al; Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to Section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than February 6, 1984.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than February 6, 1984.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 601 D Street NW., Washington, D.C. 20213.

Signed at Washington, D.C., this 23rd day of January 1984.

Marvin M. Fooks,
Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner: Union workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Abingdon Steel Fabrication Corp. (workers)	Abingdon, VA	1/16/84	1/12/84	TA-W-15	176 Structural steel beams & columns.
Basic Microelectronic Div. of Textron, Inc. (workers)	Lake Park, FL	1/17/84	1/13/84	TA-W-15	177 Glass photomasks.
Bessemer & Lake Erie Railroad Co. (IBFOU)	No. Bessemer, PA	1/16/84	1/11/84	TA-W-15	178 Transporting steel & steel products.
Bridgeport Brass Co. (Assoc. of Machinists & Aerospace Wrks).	So. Norwalk, CT	1/17/84	1/13/84	TA-W-15	179 Brass forgings.
Carolina Glove Co., Williston Plant (company)	Williston, SC	1/13/84	1/6/84	TA-W-15	180 Work gloves.
Corning Glass Works (Amer. Flint Glass Wkrs Union)	Blacksburg, VA	1/13/84	1/10/84	TA-W-15	181 Microwave oven shelves, black smoothtop sheets, wood burning stove window glass.
Goodyear Tire & Rubber Co. (URW)	Jackson, Michigan	1/16/84	1/9/84	TA-W-15	182 Radial light truck tires & single-bead bias belted truck tires.
The Timken Co. (workers)	Bucyrus, Ohio	1/13/84	1/5/84	TA-W-15	183 Produce & distributes tapered roller bearings.

[FR Doc. 84-2395 Filed 1-26-84; 8:45 am]
BILLING CODE 4510-30-M

Copeland Corp., et al.; Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for adjustment assistance issued during the period January 16, 1984–January 20, 1984

In order for an affirmative determination to be made and a certification of eligibility to apply for adjustment assistance to be issued, each of the group eligibility requirements of Section 222 of the Act must be met.

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated,

(2) That sales or production, or both, of the firm or subdivision have decreased absolutely, and

(3) That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determinations

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customs indicated that increased imports did not contribute importantly to worker separations at the firm.

TA-W-14,960; Copeland Corp., West Union, OH

TA-W-14,730-A; Kaiser Steel Corp., Fontana Fabrication Plant, Fontana, CA

TA-W-14,726; Ward Leonard Electric Corp., Mount Vernon, NY

In the following cases the investigation revealed that criterion (3) has not been met. Increased imports did not contribute importantly to workers separations at the firm.

TA-W-14,988; Vulcan Corp., Brockton, MA

TA-W-14,521; Eaton Corp., Shelbyville, TN

In the following cases the investigation revealed that criterion (3) has not been met for the reasons specified.

TA-W-14,947; Kanawha Coal Co., Madison Mines, Ashford, WV

Aggregate U.S. imports of metallurgical coke are negligible.

TA-W-15,074; Central Appalachian Coal Co., Montgomery, WV

Aggregate U.S. imports of steam coal are negligible.

TA-W-15,093; Evans Coal Co., Poteau, OK

Aggregate U.S. imports of metallurgical coal are negligible.

TA-W-14,895; Beals, McCarthy & Rogers, Inc., Buffalo, NY

Aggregate U.S. imports of fabricated platework are negligible.

TA-W-14,720; Delta Associated Industries Corp., Ferndale, MI

Aggregate U.S. imports of arc welding apparatus are negligible.

Affirmative Determinations

TA-W-14,963; Goodyear Tire & Rubber Co., Rotary Hose Department, Plant II, Akron, OH

A certification was issued covering all workers separated on or after August 22, 1982.

TA-W-14,979; Jacobson Mfg. Co., Inc., Union, NJ

A certification was issued covering all workers separated on or after September 1, 1982.

TA-W-14,980; Jacobson Mfg. Co., Inc., Kenilworth, NJ

A certification was issued covering all workers separated on or after Septmeber 1, 1982.

TA-W-14,813; McInnes Steel Co., Corry, PA

A certification was issued covering all workers separated on or after June 30, 1982 and before January 31, 1983.

TA-W-14,884; Atlas Foundry & Machine Co., Tacoma, WA

A certification was issued covering all workers separated on or after July 11, 1982 and before January 1, 1983.

TA-W-14,634; Shure Electronics of Arizona, Phoenix, AZ

A certification was issued covering all workers separated on or after January 1, 1983.

TA-W-14,956; Eaton Corp., Kalamazoo, MI

A certification was issued covering all workers of the Kalamazoo, Michigan plant of the Transmission Div. of Eaton Corp. separated on or after August 15, 1982.

TA-W-14,792; Whittaker Corp., Fort Worth Pipe & Supply Div., Fort Worth, TX

A certification was issued covering all workers separated on or after June 23, 1982.

TA-W-14,793; Whittaker Corp., Fort Worth Pipe & Supply Div., Conroe, TX

A certification was issued covering all workers separated on or after June 23, 1982.

TA-W-14,794; Whittaker Corp., Fort Worth Pipe & Supply Div., Fort Morgan, CO

A certification was issued covering all workers separated on or after June 23, 1982.

TA-W-14,795; Whittaker Corp., Fort Worth Pipe & Supply Div., Abilene, TX

A certification was issued covering all workers separated on or after June 23, 1982.

TA–W–14,796; Whittaker Corp., Fort Worth Pipe & Supply Div., Midland, TX

A certification was issued covering all workers separated on or after June 23, 1982.

TA–W–14,798; Ampco-Pittsburgh Corp., Pittsburgh Forgings Co., Corapolis, PA

A certification was issued covering all workers separated on or after June 28, 1982 and before January 1, 1983.

TA–W–14,839; Kaiser Steel Corp., Sunnyside Coal Mines, Sunnyside, UT

A certification was issued covering all workers separated on or after July 8, 1982.

TA–W–14,730; Kaiser Steel Corp., Fontana Works, Fontana, CA

A certification was issued covering all workers of the Fontana Works of the Kaiser Steel Corp., Fontana, CA engaged in employment related to the production of steel plate, hot rolled sheet and strip, galvanied sheet, electric weld pipe and basic and semi-finished steel separated on or after May 31, 1982 and all workers of the Fontana Works of the Kaiser Steel Corp., Fontana CA engaged in employment related to the production of tin plate separated on or after May 20, 1983.

TA–W–14,730–B; Kaiser Steel Corp., Eagle Mountain Mine, Eagle Mountain, CA

A certification was issued covering all workers separated on or after May 31, 1982.

I hereby certify that the aforementioned determinations were issued during the period January 16, 1984–January 20, 1984. Copies of these determinations are available for inspection in Room 9120, U.S. Department of Labor, 601 D. Street, NW., Washington, D.C. 20213 during normal business hours or will be mailed to persons who write to the above address.

Dated: January 24, 1984.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 84–2386 Filed 1–26–84; 8:45 am]
BILLING CODE 4510–30–M

Employment Transfer and Business Competition Determinations Under the Rural Development Act; Applications

The organizations listed in the attachment have applied to the Secretary of Agriculture for financial assistance in the form of grants, loans, or loan guarantees in order to establish or improve facilities at the locations listed. The financial assistance would be authorized by the Consolidated Farm and Rural Development Act, as amended, 7 U.S.C. 1924(b), 1932, or 1942(b).

The Act requires the Secretary of Labor to determine whether such Federal assistance is calculated to or is likely to result in the transfer from one area to another of any employment or business activity provided by operations of the applicant. It is permissible to assist the establishment of a new branch, affiliate or subsidiary, only if this will not result in increased unemployment in the place of present operations and there is no reason to believe the new facility is being established with the intention of closing down an operating facility.

The Act also prohibits such assistance if the Secretary of Labor determines that it is calculated to or is likely to result in an increase in the production of goods, materials, or commodities, or the availability of services or facilities in the area, when there is not sufficient demand for such goods, materials, commodities, services, or facilities to employ the efficient capacity of existing competitive commercial or industrial enterprises, unless such financial or other assistance will not have an adverse effect upon existing competitive enterprises in the area.

The Secretary of Labor's review and certification procedures are set forth at 29 CFR Part 75. In determining whether the applications should be approved or denied, the Secretary will take into consideration the following factors:

1. The overall employment and unemployment situation in the local area in which the proposed facility will be located.

2. Employment trends in the same industry in the local area.

3. The potential effect of the new facility upon the local labor market with particular emphasis upon its potential impact upon competitive enterprises in the same areas.

4. The competitive effect upon other facilities in the same industry located in other areas (where such competition is a factor).

5. In the case of application involving the establishment of branch plants or facilities, the potential effect of such new facilities in other existing plants or facilities operated by the applicant.

All persons wishing to bring to the attention of the Secretary of Labor any information pertinent to the determinations which must be made regarding these applications are invited to submit such information in writing within two weeks of publication of this notice. Comments received after the two-week period may not be considered. Send comments to: Richard C. Gilliland, Director, U.S. Employment Service, Employment and Training Administration, 601 D Street, NW., Room 8000, Patrick Henry Building, Washington, D.C. 20213.

Signed at Washington, D.C. this 23rd day of January 1984.

Joseph Seiler,

Director, Office of Program Operations.

APPLICATIONS RECEIVED DURING THE WEEK ENDING JAN. 26, 1984

Name of Applicant and location of enterprise	Principal product or activity
The Upson Company Lockport, New York.	Processing of vinyl lining of panel materials.
Dakota Crackin', Inc. Devil's Lake, North Dakota.	Egg Processing plant (breaking and dehydration).

[FR Doc. 84–2228 Filed 1–26–84; 8:45 am]
BILLING CODE 4510–30–M

Occupational Safety and Health Administration

New Mexico State Standards; Notice of Approval

1. *Background.* Part 1953 of Title 29, code of Federal Regulations, prescribes procedures under section 18 of the Occupational Safety and Health Act of 1970 (hereinafter called the Act) by which the Regional Administrator for Occupational Safety and Health (hereinafter called the Regional Administrator), under a delegation of authority from the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter called the Assistant Secretary) (29 CFR 1953.4) will review and approve standards promulgated pursuant to a State plan which has been approved in accordance with section 18(c) of the Act and 29 CFR Part 1902. On December 10, 1975, notice was published in the **Federal Register** (40 FR 57455) of the approval of the New Mexico State plan and the adoption of Subpart DD to Part 1952 containing the decision.

The New Mexico State plan provides for the adoption of Federal standards as State standards (or "for the adoption of State standards which are at least as effective as the comparable Federal standards" where relevant). On November 4, 1983, the Occupational Safety and Health Administration (OSHA) adopted, pursuant to section 6(c) of the Act, an Emergency Temporary Standard for Occupational Exposure to Asbestos (48 FR 51086–51140). By letter dated December 7, 1983, from Carol Oppenheimer, Bureau Chief,

to Gilbert Saulter, Regional Administrator, and incorporated as part of the plan, the State submitted its Emergency Temporary Standard. This standard which is contained in Environmental Improvement Division Emergency Regulation 1, Emergency Temporary Occupational Health and Safety Standard—Asbestos, was promulgated on November 30, 1983, in accordance with applicable State law.

2. *Decision.* Having reviewed the State submission in comparison with the Federal standard, it has been determined that the State standard is at least as effective as the comparable Federal standard and accordingly should be approved.

3. *Location of supplement for inspection and copying.* A copy of the State Emergency Temporary Standard, along with the approved plan, may be inspected and copied during normal business hours at the following locations: Office of the Regional Administrator, U.S. Department of Labor, OSHA, Room 602, 555 Griffin Square Building, Dallas, Texas 75202; Environmental Improvement Division, Crown Building, 725 St. Michael's Drive, Santa Fe, New Mexico 87503; and the Office of State Programs, Room N3700, 200 Constitution Ave. NW., Washington, D.C. 20210.

4. *Public participation.* 29 CFR 1953.22(b)(1) provides that temporary emergency standards which are identical to or "at least as effective as" the comparable Federal standards may be effective upon publication under the Administrative Procedure Act requirements for good cause, 5 U.S.C. 553(b)(3)(B), for the following reasons:

1. The standard was adopted in accordance with the procedural requirements of State law which authorized promulgations, without public participation for emergency standards, and participation at the Federal level would be impracticable.

2. The emergency nature of the standard requires that its approval be implemented immediately.

This decision is effective January 27, 1984.

(Sec. 18, Pub. L. 91–596, 84 Stat. 1608 (29 U.S.C. 667))

Signed at Dallas, Texas, this 30th day of December 1983.

Gilbert J. Saulter,

Regional Administrator.

[FR Doc. 84-2393 Filed 1-26-84; 8:45 am]

BILLING CODE 4510-26-M

New Mexico State Standards; Notice of Approval

1. *Background.* Part 1953 of Title 29, Code of Federal Regulations, prescribes procedures under section 18 of the Occupational Safety and Health Act of 1970 (hereinafter called the Act) by which the Regional Administrator for Occupational Safety and Health (hereinafter called the Regional Administrator) under a delegation of authority from the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter called the Assistant Secretary) (29 CFR 1953.4) will review and approve standards promulgated pursuant to a State plan which has been approved in accordance with section 18(c) of the Act and 29 CFR Part 1902. On December 10, 1975, notice was published in the **Federal Register** (40 FR 57455) of the approval of the New Mexico State plan and the adoption of Subpart DD to Part 1952 containing the decision.

The New Mexico State plan provides for the adoption of Federal standards as State standards after:

1. Technical Advisory Committee recommendation to the Environmental Improvement Division.

2. Notice of public hearing published in a newspaper of general circulation in the State at least thirty (30) days prior to the date of such hearing.

3. Public hearing conducted by the Environmental Improvement Board.

4. Filing of adopted regulations, amendments or revocations under the State Rules Act.

Section 1952.363 of Subpart DD sets forth the State's schedule for adoption of Federal standards. By letter dated November 1, 1983, from Carol Oppenheimer, Bureau Chief, to Gilbert J. Saulter, Regional Administrator, and incorporated as part of the plan, the State submitted State standards comparable to 29 CFR 1910.106, Flammable and Combustible Liquids, Amendment; 29 CFR 1910.401 and .402, Educational and Scientific Diving, Amendment; and 29 CFR 1910.1002, Occupational Exposure to Coal Tar Pitch Volatiles, Modification of Interpretation. 29 CFR 1910.106 was published in the **Federal Register** (47 FR 39161–39164) dated September 7, 1982; 29 CFR 1910.401 and .402 were published in the **Federal Register** (47 FR 53365) dated November 26, 1982; 29 CFR 1910.1002 was published in the **Federal Register** (48 FR 2768) dated January 21, 1983.

These standards which are contained in New Mexico Occupational Health and Safety Regulation, Section 200—General Industry Standards, were promulgated after a public hearing held on September 8, 1983.

2. *Decision.* Having reviewed the State submission in comparison with the Federal standards, it has been determined that the State standards are identical to the Federal standards and accordingly should be approved.

3. *Location of supplement for inspection and copying.* A copy of the standards supplement, along with the approved plan, may be inspected and copied during normal business hours at the following locations: Office of the Regional Administrator, U.S. Department of Labor—OSHA, Room 602, 555 Griffin Square Building, Griffin and Young Streets, Dallas, Texas 75202; Director, Environmental Improvement Division, Crown Building, 725 St. Michael's Drive, Santa Fe, New Mexico 87503; and the Office of State Programs, Room N3700, 200 Constitution Ave., NW., Washington, D.C. 20210.

4. *Public participation.* Under 29 CFR 1953.2(c), the Assistant Secretary may prescribe alternative procedures to expedite the review process or for other good causes which may be consistent with applicable laws. The Assistant Secretary finds that good cause exists for not publishing the supplements to the New Mexico State plan as proposed changes and making the Regional Administrator's approval effective upon publication for the following reasons:

1. The standards are identical to the Federal standards which were promulgated in accordance with Federal law including meeting requirements for public participation.

2. The standards were adopted in accordance with the procedural requirements of State law and further participation would be unnecessary.

This decision is effective January 27, 1984.

(Sec. 18, Pub. L. 91–596, 84 Stat. 1608 (29 U.S.C. 667))

Signed at Dallas, Texas this 30th day of December, 1983.

Gilbert J. Saulter,

Regional Administrator.

[FR Doc. 84-2392 Filed 1-26-84; 8:45 am]

BILLING CODE 4510-26-M

NATIONAL SCIENCE FOUNDATION

Advisory Panel for Physiology, Cellular and Molecular Biology Subpanel on Cell Biology; Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92–463, the National Science Foundation announces the following meeting:

Name: Subpanel on Cell Biology, of the Advisory Panel for Physiology, Cellular, and Molecular Biology.

Date and Time: February 15, 16, and 17, 1984; 9:00 a.m. to 5:00 p.m. each day.

Place: Room 338, National Science Foundation, 1800 G Street NW., Washington, DC 20550.

Type of Meeting: Closed.

Contact Person: Dr. Wallace M. LeStourgeon, Program Director, Cell Biology Program, Room 332, National Science Foundation, Washington DC 20550 Telephone: 202/357–7474.

Purpose of Subpanel: To provide advice and recommendations concerning support for research in Cell Biology.

Agenda: To review and evaluate research proposals as part of the selection process of awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemption (4) and (6) of the 5 U.S.C. 552b(c) Government in the Sunshine Act.

Authority to Close: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92–463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF, on July 6, 1979.

M. R. Winkler,

Committee Management Coordinator.

January 24, 1984.

[FR Doc. 84–2288 Filed 1–26–84; 8:45 am]

BILLING CODE 7555–01–M

DOE/NSF Nuclear Science Advisory Committee; Open Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, the National Science Foundation announces the following meeting:

Name: DOE/NSF Nuclear Science Advisory Committee.

Date and Time: February 13, 1984, 9:00 am–6:00 pm; February 14, 1984, 9:00 am–6:00 pm.

Place: Room 540, National Science Foundation, 1800 G Street NW., Washington, D.C. 20550.

Type of Meeting: Open.

Contact Person: Dr. Harvey B. Willard, Head, Nuclear Science Section, National Science Foundation, Washington, D.C. 20550, 202/357–7993.

Summary Minutes: May be obtained from Ms. Dawn Frohlich, Physics Division, National Science Foundation, Washington, D.C. 20550.

Purpose of Committee: To provide advice on a continuing basis to both DOE and NSF on the management of and long range planning for basic nuclear science in the United States.

Agenda: *February 13, 1984, 9:00 am–6:00 pm*—Opening remarks by the Chairman, remarks by the Chairman of the DOE High Energy Physics Advisory Panel, remarks by Federal officials, discussion of the FY year 1984 and FY 1985 budgets, and progress reports on facility construction and upgrades; *February 14, 1984, 9:00 am–6:00 pm*—Continuation of progress reports on facility construction and upgrades, Subcommittee activities, and other business.

M. Rebecca Winkler,

Committee Management Coordinator.

January 24, 1984.

[FR Doc. 84–2300 Filed 1–26–84; 8:45 am]

BILLING CODE 7555–01–M

Subpanel on Molecular Biology, Group A, of the Advisory Panel for Physiology, Cellular, and Molecular Biology; Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, as amended, the National Science Foundation announces the following meetings:

Name: Subpanel on Biophysics/Biochemistry Programs, Group A, of the Advisory Panel for Physiology, Cellular, and Molecular Biology.

Date and Time: February 13 & 14, 1984, 9:00 a.m. to 5:00 p.m. each day.

Place: Room 338, National Science Foundation, 1800 G Street NW., Washington, DC 20550.

Type of Meeting: Closed.

Contact Person: Dr. Arthur Kowalsky, Program Director, Biophysics Program, Room 329, National Science Foundation, Washington, DC 20550.

Purpose of Subpanel: To provide advice and recommendations concerning support for research in Biophysics/Biochemistry Programs.

Agenda: To review and evaluate research proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information, financial data, such as salaries and personal information concerning individuals associated with the proposals. These matters are with exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Authority to Close Meeting: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92–463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF, on July 6, 1979.

Dated: January 24, 1984.

M. R. Winkler,

Committee Management Coordinator.

[FR Doc. 84–2289 Filed 1–26–84; 8:45 am]

BILLING CODE 7555–01–M

Program Announcement; U.S.-Spain Cooperative Progam in Basic Sciences

Introduction

Basic research in science and engineering is considered an essential element of balanced technological development and, therefore, cooperative research activities in selected fields of mutual benefit to Spain and the United States are to be encouraged. Complementary Agreement Seven of the Agreement of Friendship, Defense, and Cooperation between the U.S. and Spain provides for the establishment of a research grant program to promote cooperative efforts in basic research between these countries. Consequently, the U.S.-Spain Joint Committee for Scientific and Technological Cooperation announces a program of grants for cooperation in basic scientific research.[1] The collaborating government agencies, acting through the Joint Committee, are the Ministerio de Educacion y Ciencia (MEC) on the Spanish side and the National Science Foundation (NSF) on the U.S. side.

Scope of the Program

The grants program of the Joint Committee will support basic research activities of the following four types:

- Cooperative Research Projects.
- Joint Workshops (Seminars).
- Exchange of Senior Scientists.
- Short-term Research Development Visits.

Each of these is described in more detail below.[2] All awards are designed to stimulate cooperative reserach of mutual benefit. Developmental support of cooperative programs is based on the supposition that parallel or complementary research is being conducted at the cooperating institutions of the two countries. Because financial support from the Joint Committee is limited to those budgetary items necessary to establish or strengthen an international research linkage, applicant researchers are expected to have sufficient staff and facilities available to carry out all related domestic research at the home institution.

- Cooperative Research Projects are intended to provide for collaboration

[1] The Joint Committee has also announced a separate program of cooperative activities in applied sciences. A detailed announcement is available by writing to the Secretariat. The NSF is not a participating agency in applied sciences.

[2] Details of these programs for Spanish scientists are described in two separate announcements, one dealing with cooperative research projects, and the second dealing with seminars, exchange of scientists, and short-term visits.

between research groups with the research being shared between the scientists' home laboratories. It is therefore expected that research trips between the countries for cooperative research purposes will typically be relatively short and primarily for planning, consultation, data collection, analysis, and review. Projects of one to three years' duration may be proposed. Parallel and simultaneous proposals with a common, unified budget (identical, single budget sheets) must be submitted to the MEC and NSF. The limit for the combined budget for a 1–3 year cooperative project is $60,000. Primary criteria for selection will be scientific merit, cost-effectiveness, and opportunity for benefit from international collaboration.

• Exchange of Scientists grants will be provided to facilitate long-term research visits (6–15 months) for established scientists. Awards consist of travel funds, stipend/living allowance, and institutional administrative allowance. Awards are limited to a minimum of $25,000, but may be supplemented by home-institution funds as, for example, in the case of sabbatical leaves. Evidence of acceptance by the host institution and a plan of how this exchange would benefit both sides must be provided in the proposal.

• For Joint Seminars (Workshops), the U.S.-Spain Program will fund small (10–20 total participants) bilateral working conferences on timely research topics of mutual interest. Sufficient expertise and interest in the research area should exist in both countries to make a bilateral meeting mutually beneficial. Publication of conference report is expected. Awards are limited to $20,000.

• Short-term Visits for development of research programs are intended for Spanish and American scientists as a vehicle for establishing an effective level of bilateral, reciprocal communication and coordination in research. Visits of 1–3 weeks' duration may be proposed either for carrying out a brief, self-contained research activity, or for refining and completing plans for long-term cooperative projects. Awards are limited to travel and per diem expenses.

Eligibility

Proposals may be submitted by U.S. scientists (and engineers) through their home institution. Eligible institutions include academic institutions, nonprofit public and private scientific institutions, associations, and foundations. On the Spanish side, central, state, and local government entities are also eligible applicants if their principal function is the conduct of basic research. Applications will be submitted through the home institution and will include the endorsement of the appropriate institutional grants office.

The Foundation welcomes proposals on behalf of all qualified scientists and engineers, and strongly encourages women, minorities, and the handicapped to compete fully in any of the research and research-related programs described in this document.

Report Requirements

Final reports are required on all funded projects within 90 days of the termination date. For projects extending in duration beyond one year, annual reports (scientific and financial) are required. The due date for annual reports is two months in advance of the completion of each 12-month activity period. Continued funding of long-term projects will be contingent upon favorable evaluation of annual reports. Semiannual financial reports are also required for long-term (sabbatical) grants for the exchange of senior scientists.

How to Apply

Application forms may be obtained from the Secretariat of the Joint Committee for Science and Technology, Calle Cartagena 83–85, 3°, Madrid 28, Spain.

Spanish scientists must submit four copies of the completed application to the Ministerio de Educación y Ciencia, Dirección General de Política Científica, Calle Cartagena, 5°, Madrid 28, Spain.

On the U.S. side, ten copies of the completed application, endorsed as appropriate by institutional officials, must be submitted to the National Science Foundation, U.S.-Spain Program, Division of International Programs, 1800 G Street NW., Washington, D.C. 20550. United States scientists may also obtain application forms at this address. United States scientists should submit an additional information copy of the completed proposal directly to the Secretariat of the Joint Committee.

For cooperative research and joint seminar proposals, parallel and simultaneous submissions containing a common, unified budget are required for eligibility.

Applicants should be aware that grants will be made by the Joint Committee and not by the National Science Foundation. The terms and conditions of these awards will be prescribed by the Joint Committee.

Review and Selection Criteria

The principal criteria for selection of projects will be scientific merit (excellence) and cost-effectiveness. Proposals will be reviewed by the MEC (Spain) and NSF (United States), acting as reviewing agencies for the Joint Committee. From among the group of proposals highly recommended by the MEC and NSF jointly, the Joint Committee will make awards. Such secondary criteria as geographic distribution, program scientific balance, and aggregate bilateral budgetary distribution may influence the final selections. The Joint Committee has established the following scientific areas for priority consideration: electrical, computer, and systems engineering; physiology; cellular and molecular biology; chemistry, catalysis and surface science; chemical and process engineering; physics; materials research; geochemistry and geophysics; mathematics and computer science. This list is not exclusive, however.

Submission and Review Deadlines

The deadline for receipt of all cooperative research proposals is March 31, for activities commencing in the following calendar year. Agency review, recommendation to the Joint Committee, and action by the Joint Committee will typically require 4–7 months.

There are two annual deadlines, March 31 and September 15, for proposals in the other three proposal categories, i.e., joint seminars, exchange of senior scientists, and short-term visits for research development.

Proposal Format

Proposals for cooperative research and joint seminars will include the following essential items.

• Cover Page. A suitable cover page should include all of the following: (1) Program and Type of Activity (U.S.-Spain Joint Program/type of included activity); (2) Identification of Submitting Individual and Institution (with mailing address, telephone number); (3) Project Title; (4) Requested Amount, Duration, and Starting Date; (5) Institutional Endorsements.

• Proposal Information Page. This should identify the name and institutional affiliation of the principal Spanish and U.S. collaborators.

• Table of Contents.

• Project Summary (Abstract). Two copies should be provided, one in Spanish, one in English. The abstract should include an introductory paragraph in nontechnial terms and a second paragraph providing a technical summary. The summary should make clear the importance of the collaboration.

• Project Description. For cooperative research, this section should be a detailed statement of the work to be undertaken and should include: objectives for the period of the proposed work and expected significance; relation to the present state of knowledge in the field; relation of the proposed international cooperation to the investigator's domestic research; and relation of the proposed international cooperation to previous international contacts, if any. The statement should also include the broad design of experiments or studies to be undertaken and an adequate description of methods and procedures.

For joint seminars, this section should present a thorough scientific justification for convening the meeting and also discuss the reasons for its support on a bilateral basis. Information on other international meetings that have been held and are planned on this topic, and a discussion of the specific timeliness of the proposed meeting between U.S. and foreign scientists should be included. The location and dates should be specified. The scientific scope and program of the meeting must be outlined in detail. Since the Program can only support a small number of participants, the organizers should give careful consideration to the breadth and depth of coverage, the proposed topics to be discussed, and the selection of participants.

• Expected Scientific Benefits. This section should specifically address the prospective benefit from international cooperation and should also include any applications and practical results that might be expected.

• Budget. Inclusion of a single, unified budget common to both Spanish and U.S. proposals is required. The budget must conform to the specified dollar limits and must be allocated among allowable budget categories. Distribution of funds among Spanish and U.S. institutions (parallel columns) should be clearly indicated and should reflect an awareness of the selection criteria of the Joint Committee. Budget components allowed for cooperative research would be restricted to those necessary to facilitate international linkage: i.e., travel, staff time (salary and/or per diem), communication costs, supplies, publication costs, computer time, analytical services, and indirect costs as appropriate. Equipment in general would not be provided. In the case of seminars, typical costs would include transportation, per diem at standard government rates, modest organizational expenses, and administrative costs.

• Current Support. Applicants should provide a summary of other financial support available to assist research in this and related activities. A summary should identify supporting agency, grant title, duration, amount, and relationship to the proposed project.

• Biographic Information. Pertinent biographic information, including experience and publications should be included.

• Facilities. A brief description of essential facilities on both sides should be provided.

Format for Proposals for Exchange of Scientists and Short-Term Visits

Proposals in these categories should be prepared as specified in the Cooperative Research Guidelines above, with modifications as necessary.

• Expected Scientific Benefits. The justification for the choice of foreign host institution and the special advantages of the facilities to the proposed research plan should be clearly stated. A description of the relevance of the proposed research visits to the applicant's research career should also be provided.

• For long-term Exchange of Scientists, a copy of the written invitation from the proposed foreign scientific host should be provided including an indication of support available, if any, from the foreign side. This is not needed for short-term visits.

• Budget. Requests for subsistence should reflect actual anticipated costs, but in no case may they exceed the U.S. Government local maximum per diem rate for the first thirty days and 50% of that rate thereafter. A statement of other sources of support for the visit/sabbatical leave must be provided.

• The size of awards for exchange-of-scientists grants will be based on the duration of the stay abroad (6–15 months), as follows: $1300/month living allowance, travel expenses (maximum $3000), and a prorated portion of a $2500 miscellaneous expense allowance, to a maximum award of $25,000.

Dissemination of Information. Emphasis is placed on making results of research, seminars, and other cooperative activities supported by the Joint Committee through the Spain-U.S. Program in Basic Sciences known to a wide circle of interested scientists. Accordingly, scientists planning joint research or workshops should expect to develop methods for timely reporting and publication, in the appropriate language(s), of information developed. It is desirable to include these plans in the proposal.

Catalog of Federal Domestic Assistance Number 47.053, Scientific, Technological, and International Affairs.

For further information, contact Dr. Kenneth G. Hancock, Division of International Programs (202/357–7554).

Dated: January 24, 1984.

Bodo Bartocha,

Director, Division of International Programs.

[FR Doc. 84–2287 Filed 1–26–84; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

Documents Containing Reporting or Recordkeeping Requirements; Office of Management and Budget Review

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of the Office of Management and Budget review of information collection.

SUMMARY: The Nuclear Regulatory Commission has recently submitted to the Office of Management and Budget (OMB) for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

1. Type of submission, new, revision or extension: Revision.

2. The title of the information collection: 10 CFR Part 70—Domestic Licensing of Special Nuclear Material.

3. The form number if applicable: Not applicable.

4. How often the collection is required: New fundamental nuclear material control plans are submitted one time. Other reports are submitted as events occur. Nuclear material control and accounting information is submitted in accordance with specified instructions.

5. Who will be required or asked to report: Licensees authorized to possess five or more formula kilograms of strategic special nuclear material.

6. An estimate of the number of responses: 17.

7. An estimate of the total number of hours needed to complete the requirement or request: 12,000.

8. An indication of whether Section 3504(h), Pub. L. 96–511 applies: Not applicable.

9. Abstract: The proposed rule would require licensees authorized to possess five or more formula kilograms of strategic special nuclear material to submit new fundamental nuclear material control plans which describe how they intend to comply with the new performance-oriented requirements.

Copies of the submittal may be inspected or obtained for a fee from the NRC Public Document Room, 1717 H Street, NW., Washington, DC 20555.

Comments and questions should be directed to the OMB reviewer, Jefferson B. Hill, (202) 395–7340.

The NRC Clearance Officer is R. Stephen Scott, (301) 492–8585.

Dated at Bethesda, Maryland, this 23rd day of January 1984.

For the Nuclear Regulatory Commission.

Patricia G. Norry,

Director, Office of Administration.

[FR Doc. 84–2380 Filed 1–26–84; 8:45 am]

BILLING CODE 7590–01–M

[Docket Nos. 50–413, 50–414; ASLBP No. 81–463–01 OL]

Duke Power Company, et al. (Catawba Nuclear Station, Units 1 and 2); Order Postponing Evidentiary Hearing

January 20, 1984.

The Board and parties participated in a telephone conference today concerning whether the evidentiary hearing scheduled for January 26–27, 1984 should be postponed in view of some delay in service on Palmetto Alliance of certain Staff documents. This Order confirms the Board's decision to postpone the hearing until January 30–31, 1984. The hearing will be at the same place and hour, namely, the fourth floor conference room of the Branch Bank and Trust Building on Tryon Street in Charlotte, North Carolina, beginning at 9:30 a.m.

The parties were notified of this postponement by telephone on the date below.

January 20, 1984, Bethesda, Maryland.

James L. Kelly,

Chairman, Administrative Judge.

[FR Doc. 84–2382 Filed 1–26–84; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–277]

Philadelphia Electric Company, et al.; Denial of Amendment to Facility Operating License and Opportunity for Hearing

The U.S. Nuclear Regulatory Commission (the Commission) has received a request dated December 9, 1983, for an exemption from requirements of 10 CFR Part 50, Appendix J, and for an amendment to Facility Operating License No. DPR–44 issued to Philadelphia Electric Company, Public Service Electric and Gas Company, Delmarva Power and Light Company and Atlantic City Electric Company (the licensees), for operation of the Peach Bottom Atomic Power Station, Unit No. 2, located in York County, Pennsylvania. The licensees requested an extension of approximately two months to the local leak rate test interval for seven primary containment isolation valves.

Although the licensees have initiated an improved maintenance program which has resulted in a substantial improvement in the "as found" leakage rates over the previous leakage history of the valves in question, the Commission has concluded that the improvement is not sufficient to justify extending the test interval requested by the licensees. Accordingly, the Commission has denied this request for an exemption from the requirements of 10 CFR Part 50, Appendix J, and request for amendment to the license.

By February 27, 1984, the licensees may file a request for a hearing with respect to denial of the amendment to the subject facility operating license and any person whose interest may be affected by this denial and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Requests for hearings and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2.

A request for a hearing or petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., by the above date. Where petitions are filed the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325–6000 (in Missouri (800) 342–6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to John Stolz: petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to Mr. Troy B. Conner, Jr., 1747 Pennsylvania Avenue NW., Washington, D.C. 20006, attorney for Philadelphia Electric Company.

For further details with respect to this section, see (1) the application for an exemption request and amendment dated December 9, 1983, and (2) the Commission's letter to Philadelphia Electric Company dated January 20, 1984, which are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., and at the Government Publications Section, State Library of Pennsylvania, Education Building, Commonwealth and Walnut Streets, Harrisburg, Pennsylvania.

Dated at Bethesda, Maryland, this 20th day of January 1984.

For the Nuclear Regulatory Commission.

John F. Stolz,

Chief, Operating Reactors Branch No. 4, Division of Licensing.

[FR Doc. 84–2383 Filed 1–26–84; 8:45 am]

BILLING CODE 7590–01–M

[License Nos. 13–09649–01, 13–09649–02; EA 83–95]

Terre Haute Regional Hospital; Order Imposing Civil Monetary Penalties

I

Terre Haute Regional Hospital (the "licensee"), 601 Hospital Lane, Terre Haute, IN 57802, is the holder of Byproduct Material Licenses No. 13–09649–01 and No. 13–09649–02 (the "licenses") issued by the Nuclear Regulatory Commission (the "Commission") which authorizes medical diagnostic and therapeutic treatment. License No. 13–09649–01 was issued on January 15, 1979 and expires on January 31, 1984. License No. 13–09649–02 was issued on October 18, 1978 and expires on March 31, 1984.

II

As a result of a routine inspection conducted on July 25 and 26, 1983 by the Nuclear Regulatory Commission's Region III Office, the NRC staff determined that the licensee had not conducted its activities in full compliance with NRC requirements. A written Notice of Violation and Proposed Imposition of Civil Penalties was served on the licensee by letter dated October 19, 1983. The Notice stated the nature of the violations, the provisions of the Commission's requirements that the licensee had violated, and the cumulative amount of the proposed civil penalties. The licensee responded to the Notice of Violation and Proposed Imposition of Civil Penalties with a letter dated November 7, 1983.

III

Upon consideration of the licensee's response and the statements of fact, explanation, and arguments for

remission or mitigation of the proposed civil penalties contained therein, as set forth in the Appendix to this Order, the Director of the Office of Inspection and Enforcement has determined that the penalties proposed for the violations set out in the Notice of Violation and Proposed Imposition of Civil Penalties should be imposed.

IV

In view of the foregoing, and pursuant to Section 234 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2282, Pub. L. 96–295), and 10 CFR 2.205, it is hereby ordered that:

The licensee pay civil penalties in the cumulative amount of Two Thousand Five Hundred Dollars within 30 days of the date of this Order, by check, draft, or money order payable to the Treasurer of the United States and mailed to the Director of the Office of Inspection and Enforcement, USNRC, Washington, D.C. 20555.

V

The licensee may, within 30 days of the date of this Order, request a hearing. A request for a hearing shall be addressed to the Director, Office of Inspection and Enforcement. A copy of the hearing request shall also be sent to the Executive Legal Director, USNRC, Washington, D.C. 20555. If a hearing is requested, the Commission will issue an Order designating the time and place of hearing. Should the licensee fail to request a hearing within 30 days of the date of this order, the provisions of this Order shall be effective without further proceedings and, if payment has not been made by that time, the matter may be referred to the Attorney General for collection.

VI

In the event the licensee requests a hearing as provided above, the issues to be considered at such a hearing shall be:

(a) Whether the licensee was in violation of the Commission's requirements as set forth in the Notice of Violation and Proposed Imposition of Civil Penalties as modified by the Appendix to this Order, and

(b) Whether on the basis of such violations, this Order should be sustained.

Dated at Bethesda, Maryland this 17th day of January 1984.

For the Nuclear Regulatory Commission.

Richard C. DeYoung,

Director, Office of Inspection and Enforcement.

Appendix—Evaluation and Conclusions

The violations and associated civil penalties are identified in the Notice of Violation and Proposed Imposition of Civil Penalties dated October 19, 1983. The Office of Inspection and Enforcement's evaluations and conclusions regarding the licensee's response dated November 7, 1983 are presented herein.

In its response, the licensee admits that, with the exception of Item D, each violation occurred as described in the Notice of Violation. Additionally, the licensee offered several reasons why the civil penalties should not be imposed. For Item D, the original violation and licensee rsponse are stated and the NRC's evaluations and conclusions regarding the licensee's response are presented. With respect to the licensee's request that the civil penalties not be imposed, the licensee's reasons are given and NRC's evaluations regarding the licensee's reasons are presented. A final conclusion regarding the civil penalties is also presented.

Item D

Statement of Violation

Condition No. 12 of License No. 13–09649–02 requires that licensed material be used only by, or under the supervision of, individuals specifically named in the license.

Contrary to the above, licensed material was used for Groups II, III, IV, V, and VI uses by individuals, or under the supervision of individuals, not specifically named in the license.

Licensee's Response

The licensee stated that amendment No. 13 and amendment No. 15 of the license authorize Dr. Ko to use or supervise the use of material. The licensee further stated that Dr. Ko has supervised the rare uses of Group IV and V anti-cancer treatments by the Radiation Oncologists. Dr. Ko supervised Dr. Robison's use of iodine-131 in the treatment of five thyroid cancer patients and the use of phosphorus-32 in the treatment of two cases of lung cancer. In a view of Dr. Ko's supervising activities, the licensee submits it was not in violation of its license or NRC regulations.

NRC's Evaluation

Based on information provided by the licensee, the NRC is deleting the reference to Groups IV and V in this violation. However, the NRC maintains that the licensee has provided no information to show that Groups II, III, and VI uses were conducted by or under the supervision of authorized individuals. Therefore, Item D, as modified, remains a violation with a civil penalty for the violation as orginally proposed.

Licensee's Reasons for Not Imposing the Civil Penalties

The licensee offered essentially two reasons why the civil penalties should not be imposed in this matter. These reasons are presented below along with the NRC's evaluation.

1. Licensee's Reason

The licensee states that the violations cited in the 1980 inspection dealt primarily with the nuclear medicine program, while most of the violations cited in the 1983 inspection involved the brachytherapy program. The licensee further states that the problems in the nuclear medicine program were corrected and, since the brachytherapy program is a separate program, the violations in that program should not have been considered as indicative of a failure to take effective corrective action for prior similar problems.

NRC's Evaluation

Organizations may be established in any way a licensee wishes for administrative control; however, the NRC considers all program activities authorized under a single license (13–09649–02) to be an integrated whole. In the 1983 inspection, five of the violations were similar to violations identified in a 1980 inspection. Specifically, these violations included: 1) use of byproduct materials by unauthorized individuals, 2) failure to leak test sealed sources at required intervals, 3) failure to provide personnel monitoring devices, 4) failure to calibrate survey meters at required intervals, and 5) failure to post certain documents or notices. Even though these violations in the 1983 inspection occurred in a different program than in the 1980 inspection (the brachytherapy program versus the nuclear medicine program), the violations indicate a failure to take effective corrective action with regard to previously identified violations since the licensee is responsible for ensuring corrective action is taken throughout its organization regardless of its structure.

2. Licensee's Reason

The licensee suggests that a civil penalty is not appropriate since several violations resulted from confusion over amendments in the license and the oversight of items in the license.

NRC's Evaluation

Any confusion resulting from amendments to the license and the oversight of items in the license was of

the licensee's own doing. The licensee is responsible for ensuring that the requirements of its license are understood and carried out. The NRC expects meticulous attention to detail in the conduct of licensed activities. Under the NRC's Enforcement Policy, licensees who cannot achieve and maintain adequate levels of compliance will not be permitted to continue licensed activities.

Conclusion

After reviewing the licensee's reasons why the civil penalties should not be imposed, the staff had determined that the licensee has not provided a basis for reduction of the civil penalties.

[FR Doc. 84-2384 Filed 1-26-84; 8:45 am]
BILLING CODE 7590-01-M

[Docket No. 50-537-CP]

United States Department of Energy, Project Management Corporation, Tennessee Valley Authority (Clinch River Breeder Reactor Plant); Conference With Parties

January 20, 1984.

The Appeal Board on December 15, 1983, entered an Order in this proceeding granting a motion of Natural Resources Defense Council, Inc. (NRDC) "* * * insofar as it requests termination of appellate proceedings and vacation of the Licensing Board's partial initial decision." [1] The Clinch River Breeder Reactor Plant (CRBRP) project has been terminated by Congress' refusal to appropriate any more funds for its construction.[2] The parties to the project had then concluded that "* * * there appears no substantial likelihood that such funds will be appropriated", and they subsequently executed a termination agreement on December 27, 1983.[3]

The Appeal Board Order went on to hold that "* * * the issue of revocation of the LWA is better left to the Licensing Board, which still retains jurisdiction over the application for a construction permit." It further stated that "[w]e anticipate that the Board will determine if any conditions to ameliorate the environmental impacts of the site preparation activities are needed."[4]

[1] ALAB-755, 18 NRC—(1983), slip opinion at page 3.

[2] 129 *Cong. Rec.* H10529 (November 18, 1983).

[3] Applicants' Notification Concerning Project Termination, dated December 27, 1983.

[4] ALAB-755, slip opinion on pages 3-4. *See also* authorities cited in footnote 4, page 4.

In view of these statements by the Appeal Board, a conference with the parties on those subjects will be held on Wednesday, March 14, 1984. The Board notes that discussions are in progress among the Applicants and the Staff as to the appropriate measures for site redress.[5] Former intervenors in this proceeding, such as NRDC and the Sierra Club, will be permitted to participate in the conference by making appropriate limited appearance statements (10 CFR 2.715). All filings that are to be considered at the conference shall be in the hands of the Licensing Board at its Bethesda, Maryland office not later than 3:00 PM, Thursday, March 8, 1984.

Please take notice that a Conference With Parties will be held at 9:00 AM, local time, at the Nuclear Regulatory Commission Hearing Room located at 4350 East-West Highway, 5th Floor, Bethesda, Maryland on Wednesday, March 14, 1984.

Dated at Bethesda, Md., this 20th day of January 1984.

For the Atomic Safety and Licensing Board.

Marshall E. Miller,

Chairman, Administrative Judge.

[FR Doc. 84-2385 Filed 1-26-84; 8:45 am]
BILLING CODE 7590-01-M

Advisory Panel for the Decontamination of Three Mile Island, Unit 2; Meeting

Notice is hereby given pursuant to the Federal Advisory Committee Act that the Advisory Panel for the Decontamination of Three Mile Island, Unit 2 will be meeting on February 3, 1984, from 10:00 a.m. to 11:00 a.m. in Room 1167 of the Matomic Building, 1717 H Street, NW., Washington, D.C. The meeting will be open to the public.

The purpose of this meeting is to allow the Panel to meet prior to meeting with the Chairman and Commissioners of the U.S. Nuclear Regulatory Commission. The Panel will discuss issues they plan to raise during the Panel's meeting with the Commission.

Scheduling constraints were responsible for the short notice of this meeting.

Further information on the meeting may be obtained from Dr. Michael T. Masnik, Three Mile Island Program Office, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, telephone 301/492-7466.

Dated: January 25, 1984.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 84-2405 Filed 1-26-84; 8:45 am]
BILLING CODE 7590-01-M

[5] *See* Letter from J. Nelson Grace (CRBR Program Office, Office of Nuclear Reactor Regulation) to Francis X. Gavigan (Department of Energy), dated December 8, 1983.

Advisory Panel for the Decontamination of Three Mile Island, Unit 2; Meeting

Notice is hereby given pursuant to the Federal Advisory Committee Act that the Advisory Panel for the Decontamination of Three Mile Island, Unit 2 will be meeting on February 9, 1984, from 7:00 p.m. to 10:00 p.m. at the Holiday Inn, 23 South Second Street, Harrisburg, Pennsylvania 17101. The meeting will be open to the public.

At this meeting, representatives from General Public Utilities Nuclear Corporation (GPUNC), the Commonwealth of Pennsylvania and the NRC will describe to the Panel their respective offsite radiation monitoring programs. Mr. G. L. Sjoblom, Director, Office of Radiation Programs, U.S. Environmental Protection Agency, will address the Panel on the possible termination of the EPA Radiation Monitoring Program in the area around the damaged reactor.

Also the Panel will hold a discussion on the U.S. Nuclear Regulatory Commission's recent Supplement to the Programmatic Environmental Impact Statement, addressing occupational radiation exposure. GPUNC will describe their exposure control program.

Organizations or individuals that have specific questions or wish to make a statement at the Panel meeting on either issue should contact Mr. Joel Roth, 4705 Carlisle Pike, Mechanicsburg, PA 17055.

Further information on the meeting may be obtained from Dr. Michael T. Masnik, Three Mile Island Program Office, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone 391/492-7466.

Dated: January 25, 1984.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 84-2406 Filed 1-26-84; 8:45 am]
BILLING CODE 7590-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-20582; File No. SR-AMEX-84-1]

Self-Regulatory Organizations; Proposed Rule Change; American Stock Exchange, Inc.; Relating to AUTOCLEAR

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on January 9, 1984, the American Stock Exchange filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

1. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

(a) The American Stock Exchange, Inc. (the "Exchange") has decided to implement a clearance enhancement to the Exchange's Post Execution Reporting (PER) system, called AUTOCLEAR, which uses universal contra clearing names ("universal contras") in the reporting and comparison of equity market orders executed through PER.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Self-regulatory organization has prepared summaries, set forth in Sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(a) *Purpose.*

The Exchange has decided to implement a clearance enhancement to the PER system, AUTOCLEAR, which is designed to eliminate uncompared trades, or "DK's," for participating member organizations' PER trades.

AUTOCLEAR will provide an automatic comparison of all executed post-opening market orders up to 300 shares (the present PER parameter) entered through PER by substituting universal contras for actual clearing names of the parties in the reporting and comparison procedures. Universal contras currently are used by the Exchange for pre-opening PER trades processed by the Opening Automated Report Service (OARS) and for trades executed through the Intermarket Trading System.

The attached Information Circular 83-143 explains in detail the purpose of the proposed rule change and the benefits which the Exchange expects its membership to realize as a result of it. Trading and comparison procedures are also described.

AUTOCLEAR will commence as a pilot in selected equities of one specialist unit. Approximately one month thereafter, it will be expanded to selected equities of a second unit and, after further evaluation by the Exchange, will be established as a permanent floor-wide enhancement to PER.

(b) *Basis.*

The implementation of AUTOCLEAR is consistent with Section 6(b) of the Act in general and furthers th objectives of Section 6(b)(5) in particular in that it is designed to facilitate transactions in securities and perfect the mechanism of a free and open market. Further, by eliminating uncompared trades, the use of universal contras will afford more accurate reporting of small routine orders and will thus result in more efficient and effective market operations, consistent with Section 11A(a)(1)(B) of the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change will create no burden on competition and in fact will enhance the Exchange's competitive status by providing the Exchange with a faster, more efficient, and more accurate order-handling system.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Commission has approved on a temporary and accelerated basis the effectiveness of the proposed pilot program until the Commission takes final action on SR-Amex-84-1. Within thirty-five days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) by order approve such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 5th Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule changes that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 5th Street, N.W., Washington, D.C. All submissions should refer to the file number in the caption above and should be submitted within 21 days after the date of this publication.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: January 19, 1984.

George A. Fitzsimmons,

Secretary.

Exhibit A—Information Circular 83-143

January 3, 1984

To: Members and Member Organizations
From: Victor A. Ricciardelli, Senior Vice President
Subject: Introduction of AUTOCLEAR

Effective January 19, 1984, the Amex will introduce a clearance pilot program called AUTOCLEAR which is designed to use universal contra names to report and compare executions of market orders processed through the PER system.

The use of universal contra names will benefit the membership in the following ways:

- The entering firm is assured a compared trade, even if the other side fails to submit correctly.
- Imput submitted by the party on the opposite side of a PER trade will be identified by a unique clearing name, thereby facilitating trade error resolution.
- The comparison error rate will be reduced. The use of universal contra names

has successfully reduced comparison errors in Amex's Opening Automated Reporting System (OARS) and in the NYSE's DOT/TOD program.

AUTOCLEAR Trading Procedures

Specialists will represent PER market orders (i.e., 100 to 300 shares) in the pilot stocks to the crowd as they do today. However, upon execution of a PER market order, the "give-up" to the crowd, or to the specialist's own account, will be the universal contra name *APEX*. Brokers in the crowd will accept APEX as the contra clearing name for purposes of comparison, and will give up an *actual clearing name* as usual to the specialist.

When reporting the execution of a PER market order in a pilot stock to the entering firm through an AUTOPER terminal or mark sense card, the specialist will report the *actual clearing name* received from a borker in the crowd, from an order on the book, or his own account. If two PER market orders are crossed, then the universal contra *APEX* will be reported as the contra on each order.

In the pilot stocks, PER subscribers will receive system reports of executions' showing the universal contra *PER* as the opposite side.

Member firms should adjust their records and clearance procedures to recognize the new clearing symbols and numbers:

APEX 821
PER 820

Autoclear Comparison Procedures

All PER executions in the pilot stocks will be automatically reported to NSCC on behalf of the PER user. Accordingly, it is not necessary for a firm which receives the contra name *PER* to submit input to comparison on these trades. In the event a clearing firm does submit an item with the contra *PER*, NSCC will suppress that item.

Clearing Members involved in a trade with a PER order will submit comparison input ot NSCC on T + 1 using the universal contra *APEX* supplied by the specialists.

A SIAC P&S group will administer AUTOCLEAR operations as it does for OARS. This group will contact clearing firms' P&S departments to resolve any uncompared *APEX* trades.

In the event any *APEX* imbalances remain unresolved by the evening of T + 3, these items will be temporarily placed in the specialists' accounts. Any such items will be identified to specialists' firms.

Commencing with trades of January 19, the following stocks specialized in by the Dritz, Goldring unit will be included in the AUTOCLEAR pilot:

BIC Corp. (BIC)
Chicago Rivet and Machine Co. (CVR)
Connelly Containers, Inc. (CON)
Crown Industries, Inc. (KRO)
Dunlop Holdings, LTD ADR (DLP)
Johnson Products, Inc. (JPC)
Killearn Properties, Inc. (KPH)
Lumex, Inc (LUM)
Nuclear Data, Inc. (NDI)
Pall Corporation (PLL)
Ranchers & Development Corporation (RAN)
Standard Havens, Inc. Cl A (SHV)
Vermont Research Corp. (VRE)

As soon as possible, the pilot will be expanded to include securities of a second specialist unit, and following an evaluation period, to all securities.

Questions concerning the AUTOCLEAR pilot should be addressed to Mr. Warren Kaiser at (202) 306–1720 or Mr. Angelo Pisani at (212) 306–1724.

[FR Doc. 84–2315 Filed 1–26–84; 8:45 am]
BILLING CODE 8010–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Anniston-Calhoun County Airport; Acceptance of Noise Exposure Map

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice.

SUMMARY: The Federal Aviation Administration (FAA) announces its acceptance of noise exposure maps submitted by Anniston-Calhoun County Airport (ANB) the provisions of Title I of the Aviation Safety and Noise Abatement Act of 1979 (Pub. L. 96–193) and 14 CFR Part 150.

EFFECTIVE DATE: The effective date of the FAA's acceptance of the ANB noise exposure maps is December 30, 1983.

FOR FURTHER INFORMATION CONTACT: Mr. Elton Jay, Civil Engineer, Jackson, Mississippi, Airports District Office, P.O. Box 6111, Pearl Branch, Jackson, Mississippi 39208; (601) 960–4628.

SUPPLEMENTARY INFORMATION: This notice announces that the FAA has accepted the noise exposure maps for Anniston-Calhoun Airport, effective December 30, 1983.

Under Section 103 of Title I of the Aviation Safety and Noise Abatement Act of 1979 (hereinafter referred to as "the Act"), an airport operator may submit to the FAA a noise exposure map which meets applicable regualtions and which depicts noncompatible land uses as of the date of submission of such map, a description of projected aircraft operations, and the ways in which such operations will affect such map. The Act requires such maps to be developed in consultation with interested and affected parties in the local community, government agencies and persons using the airport.

An airport operator who has submitted a noise exposure map that is accepted by FAA as meeting Federal Aviation Regulation Part 150, promulgated pursuant to Title I of the Act, may submit a noise compatibility program for FAA approval which sets forth the measures the operator has taken or proposes for the reduction of existing noncompatible uses and for the prevention of the introduction of additional noncompatible uses.

Anniston-Calhoun County Airport submitted to the FAA on January 5, January 20, August 11, and December 16, 1983, noise exposure maps, descriptions and other documentation which were produced during an airport noise control and land use compatibility (ANCLUC) study conducted at ANB from February 1981 to October 1982. It was requested that the FAA accept this material as a noise exposure map as decribed in Section 103(a)(1) of the Act.

The FAA has completed its review of the noise exposure maps and related descriptions submitted by Anniston-Calhoun County Airport. The specific maps under consideration are depicted in the Ldn contour maps entitled "Existing Land Use," dated October 1982 and "Proposed Land Use," dated November 1982 contained in the final report, "ANNISTON ANCLUC STUDY."

The FAA has accepted these materials as the noise exposure maps for Anniston-Calhoun County Airport, effective on December 30, 1983.

FAA's acceptance of an airport operator's noise exposure map is limited to the determination that the map was developed in accordance with the procedures contained in Appendix A of FAR Part 150. Such acceptance does not constitute approval of the applicant's data, information or plans, or a commitment to approve a noise compatibility program or to fund the implementation of that program. If questions arise concerning the precise relationship of specific properties to noise exposure contours depicted on a noise exposure map submitted under Section 103 of the Act, it should be noted that the FAA is not involved in any way in determining the relative locations of specific properties with regard to the depicted noise contours, or in interpreting the noise exposure map to resolve questions concerning, for example, which properties should be covered by the provisions of Section 107 of the Act. These functions are inseparable from the ultimate land use control and planning responsibilities of local government. These local responsibilities are not changed in any way under Part 150 or through FAA's acceptance of noise exposure maps. Therefore, the responsibility for the detailed overlaying of noise exposure contours onto the map depicting properties on the surface rests exclusively with the airport operator which submitted those maps, or with those public agencies and planning agencies with which consultation is required under Section 103 of the Act.

The FAA has relied on the certification by the airport operator, under Section 150.21 of FAR Part 150, that the statutorily required consultation has been accomplished.

Copies of the accepted noise exposure maps and the FAA's evaluation of the maps are available for examination at the following locations:

Federal Aviation Administration, National Headquarters, 800 Independence Avenue, SW, Room 615, Washington, D.C;

Federal Aviation Administration, Southern Regional Office, 3400 Norman Berry Drive, Room 673, East Point, Georgia 30344;

Federal Aviation Administration, Jackson Airports District Office, FAA Building, Jackson Municipal Airport, Jackson, Mississippi; and

Director of Public Works, City of Anniston, City Hall, Anniston, Alabama 36202

Questions may be directed to the individual named above under the heading, "**FOR FURTHER INFORMATION CONTACT.**"

Issued in Atlanta, Georgia, on January 3, 1984.

Jonathan Howe,

Director, Southern Region.

January 4, 1984

[FR Doc. 84-2272 Filed 1-26-84; 8:45 am]

BILLING CODE 4910-13-M

Radio Technical Commission for Aeronautics (RTCA) Special Committee 142—Air Traffic Control Radar Beacon System/Mode S (ATCRBS/MODE S) Airborne Equipment; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. I) notice is hereby given of a meeting of RTCA Special Committee 142 on Air Traffic Control Radar Beacon System/Mode S (ATCRBS/MODE S) Airborne Equipment to be held on February 16-17, 1984, in the RTCA Conference Room, One Farragut Square, 1425 K Street N.W., Suite 500, Washington, D.C. commencing at 9:30 a.m.

The Agenda for this meeting is as follows: (1) Chairman's Introductory Remarks; (2) Review of Proposed Mode S Format Modifications; (3) Discussion of Data Link Operational Capabilities; (4) Discussion of Proposed Options for Avionic Architecture; (5) Review of Data Link Coding Proposals; (6) Establish Future Special Committee Activities; and (7) Other Business.

Attendance is open to the interested public but limited to space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the RTCA Secretariat, One McPherson Square, 1425 K Street, N.W., Suite 500, Washington, D.C. 20005; (202) 682-0266. Any member of the public may present a written statement to the committee at any time.

Issued in Washington, D.C. on January 18, 1984.

Karl F. Bierach,

Designated Officer.

[FR Doc. 84-2271 Filed 1-26-84; 8:45 am]

BILLING CODE 4910-13-M

Radio Technical Commission for Aeronautics (RTCA); Special Committee 152—Digital Avionics Software; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. I) notice is hereby given of a meeting of RTCA Special Committee 152 on Digital Avionics Software to be held on February 14-16, 1984, in the RTCA Conference Room, One Farragut Square, 1425 K Street N.W., Suite 500, Washington, D.C. commencing at 9:30 a.m.

The Agenda for this meeting is as follows: (1) Chairman's Introductory Remarks; (2) Approval of Minutes of the Second Meeting Held on November 7-9 1983; (3) Report of the System Design Working Group; (4) Report of the Software Design and Testing Working Group; (5) Report of the Full Flight Regime Systems Working Group; (6) Report of the Configuration Management and Documentation Working Group; (7) Report on European Organization for Civil Aviation Electronics (EUROCAE) Working Group-12 Activities; (8) Working Groups Meet in Sepafate Sessions; (9) Special Committee Plenary Session; and (10) Other Business.

Attendence is open to the interested public but limited to space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the RTCA Secretariat, One McPherson Square, 1425 K Street, N.W., Suite 500, Washington, D.C. 20005; (202) 682-0266. Any member of the public may present a written statement to the committee at any time.

Issued in Washington, D.C. on January 18, 1984.

Karl F. Bierach,

Designated Officer.

[FR Doc. 84-2270 Filed 1-26-84; 8:45 am]

BILLING CODE 4910-13-M

National Highway Traffic Safety Administration

National Highway Safety Advisory Committee; Public Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463, 5 U.S.C., App. I), notice is hereby given of a National Highway Safety Symposium co-sponsored by the Department of Transportation and the National Highway Safety Advisory Committee. The Symposium will take place at the Colonial Williamsburg Conference Center on February 28, 29 and March 1, 1984. The theme of the Symposium is "Emerging Issues in Highway Safety" and will be developed through a series of panels and workshops.

In addition, the Committee will meet from 2:00-5:00 p.m. on March 1 to discuss results from the Symposium, and past and future activities.

All meetings are open to the interested public, but may be limited to the space available. Members of the public may present a written statement to the Committee at any time. This meeting is subject to the approval of the appropriate DOT officials. Additional information and full agendas may be obtained from the NHTSA Executive Secretariat, 400 Seventh Street, SW., Washington, D.C., 20590, telephone 202-426-2870.

Issued in Washington, D.C. on: January 24, 1984.

Robert E. Doherty,

Executive Secretary.

[FR Doc. 84-2310 Filed 1-26-84; 8:45 am]

BILLING CODE 4910-59-M

DEPARTMENT OF THE TREASURY

Customs Service

[T.D. 84-23]

Customhouse Broker's Licenses; Suspension of Customhouse Broker's Licenses Nos. 3245, 3421, 3916, and 4303

Notice is hereby given that, pursuant to section 641, Tariff Act of 1930, as amended (19 U.S.C. 1641), and Part 111 of the Customs Regulations, as amended (19 CFR Part 111), the Assistant

Secretary of the Treasury and the parties listed below have agreed to the suspension of their customhouse broker's licenses as follows: the individual customhouse broker's license No. 3245 issued to Nicholas DeFonte for two weeks beginning February 6, 1984; the individual customhouse broker's license No. 3421 issued to Vito Pepitone for two weeks beginning January 16, 1984; the corporate customhouse broker's license No. 3916 issued to N. J. DeFonte Co., Inc., for three days beginning January 16, 1984; and the corporate customhouse broker's license No. 4303 issued to John F. Kilroy Co., Inc., for three days beginning January 11, 1984.

Dated: January 11, 1984.

John M. Walker, Jr.,

Assistant Secretary (Enforcement and Operations).

[FR Doc. 84-2333 Filed 1-26-84; 8:45 am]

BILLING CODE 4810-22-M

Fiscal Service

[4-00236]

Treasury Current Value of Funds Rate

AGENCY: Bureau of Government Financial Operations, Treasury.

ACTION: Notice of rate for use in Federal debt collection and discount evaluation.

SUMMARY: Pursuant to section 11 of the Debt Collection Act of 1982 (31 U.S.C. 3717), the Secretary of the Treasury is responsible for computing and publishing the percentage rate to be used in assessing interest charges for outstanding debts on claims owed the Government. Treasury's Cash Management Regulations (1 TFM 6-8000) also prescribe use of this rate by agencies as a comparison point in evaluating the cost-effectiveness of a cash discount. Notice is hereby given that the applicable rate is 9% for the third quarter of FY 1984.

DATES: The rate will be in effect for the period beginning on April 1, 1984 and ending on June 30, 1984.

FOR FURTHER INFORMATION CONTACT: Inquiries should be directed to the Cash Management Program Staff, Bureau of Government Financial Operations, Department of the Treasury, Treasury Annex No. 1, PB-711, Washington, D.C. 20226 (Telephone: 202/634-5131).

SUPPLEMENTARY INFORMATION: The rate reflects the current value of funds to the Treasury for use in connection with Federal cash management systems and is based on investment rates set for purposes of Pub. L. 95-147, 91 Stat. 1227. Computed each year by averaging investment rates for the twelve-month period ending every December 31 for applicability effective April 1, the rate is subject to quarterly revisions if the annual average, on a moving basis, changes by 2 per centum. The rate in effect for the third quarter of FY 1984 reflects the average investment rates for the twelve-month period ended December 31, 1983. The applicable rate will be published on or around the end of the first month of a given quarter for use during the succeeding calendar quarter.

Dated: January 24, 1984.

Russell D. Morris,

Assistant Commissioner.

[FR Doc. 84-2336 Filed 1-26-84; 8:45 am]

BILLING CODE 4810-35-M

VETERANS ADMINISTRATION

Agency Form Under OMB Review

AGENCY: Veterans Administration.

ACTION: Notice.

SUMMARY: The Veterans Administration has submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). This document contains a proposed reinstatement and lists the following information: (1) The department or staff office issuing the form; (2) The title of the form; (3) The agency form number, if applicable; (4) How often the form must be filled out; (5) Who will be required or asked to report; (6) An estimate of the number of responses; (7) An estimate of the total number of hours needed to fill out the form; and (8) An indication of whether section 3504(h) of Pub. L. 96-511 applies.

ADDRESSES: Copies of the proposed form and supporting documents may be obtained from Patricia Viers, Agency Clearance Officer (004A2), Veterans Administration, 810 Vermont Avenue, NW, Washington, DC 20420, (202) 389-2146. Comments and questions about the items on this list should be directed to the VA's OMB Desk Oficer, Dick Eisinger, Office of Management and Budget, 726 Jackson Place, NW, Washington, DC 20503, (202) 395-6880.

DATES: Comments on the form should be directed to the OMB Desk Officer within 60 days of this notice.

Dated: January 24, 1984.

By direction of the Administrator.

Dominick Onorato,

Associate Deputy Administrator for Information Resources Management.

Reinstatement

1. Department of Veterans Benefits.
2. Quarterly Report of State Approving Agency Activities (Under Chapter 36, United States Code).
3. VA Form 22-7398.
4. Quarterly.
5. State or local governments.
6. 76 responses.
7. 304 hours.
8. Section 3504 does apply.

[FR Doc. 84-2329 Filed 1-26-84; 8:45 am]

BILLING CODE 8320-01-M

Information Collections Under OMB Review

AGENCY: Veterans Administration.

ACTION: Notice.

SUMMARY: The Veterans Administration has submitted to OMB for review the following collections of information requirements under the provisions of 5 CFR 1320.14 (Paperwork Reduction Act, Pub. L. 96-511). These collections of information requirements are already in use but do not have OMB control numbers. The following information is listed for each: (1) The regulation containing the collections of information requirements; (2) The subject of the collections of information requirements; and (3) Who will be required or asked to report or record information.

ADDRESSES: Information on and copies of the collections of information requirements can be obtained from Nancy C. McCoy, Information & Regulations Staff (004A1), Veterans Administration, 810 Vermont Avenue NW., Washington, DC 20420. Comments and questions about the items on this list should be directed to the Office of Information and Regulatory Affairs of OMB, Attention: Dick Eisinger, Desk Officer for VA, 726 Jackson Place NW., Washington, DC 20503, (202) 395-6880.

DATES: Comments on the information collections should be directed to the OMB Desk Officer within 60 days of this notice.

Dated: January 24, 1984.

By Direction of the Administrator.

Dominick Onorato,

Associate Deputy Administrator for Information Resources Management.

Information Collections Contained in Current Regulations (Recordkeeping Requirements)

(1) 38 CFR 18.406(c) and 18.422(e).

(2) Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefiting from Federal Financial Assistance.

(3) State or local governments, Businesses or other for-profit, non-profit institutions, small businesses or organizations.

* * * * *

(1) 38 CFR 21.4252(h).

(2) Veterans Education; Erroneous, Deceptive and Misleading Practices.

(3) State or local governments, Businesses or other for-profit.

* * * * *

(1) 38 CFR 36.4215.

(2) Records Maintained by Holders of Loans for Mobile Homes and Lots.

(3) Businesses or other for-profit.

* * * * *

(1) 38 CFR 36.4600(c)(11)

(2) Records Maintained by Holders of Vendee Accounts Sold by VA with Repurchase Agreement.

(3) Business or other for-profit.

* * * * *

(1) 38 CFR 36.4330.

(2) Records Maintained by Holders of Guaranteed or Insured Home Loans.

(3) Businesses or other for-profit.

[FR Doc. 84-2328 Filed 1-26-84; 8:45 am]

BILLING CODE 6325-01-M

Station Committee on Educational Allowances; Meeting

Notice is hereby given pursuant to Section V, Review Procedure and Hearing Rules, Station Committee on Educational Allowances that on February 21, 1984 at 1:00 P.M. the Chicago Station Committee on Educational Allowances shall at Room #508, 536 South Clark Street, Chicago, Illinois 60605, conduct a hearing to determine whether Veterans Administration benefits to all eligible persons enrolled in Olive Harvey College, 10001 South Woodlawn, Chicago, Illinois 60628 should be discontinued, as provided in 38 CFR 21.4134, because a requirement of law is not being met or a provision of the law has been violated. All interested persons shall be permitted to attend, appear before, or file statements with the committee at that time and place.

Dated: January 17, 1984.

Grady W. Horton,

Director, VA Regional Office, 536 South Clark Street, Chicago, ILL 60605.

[FR Doc. 84-2291 Filed 1-26-84; 8:45 am]

BILLING CODE 8320-01-M

Sunshine Act Meetings

Federal Register
Vol. 49, No. 19
Friday, January 27, 1984

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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Nuclear Regulatory Commission	4

1

CIVIL AERONAUTICS BOARD

[M-398, Amdt. 2, Jan. 26, 1984]

Addition and Closure of Item to the January 26, 1984 Meeting

TIME AND DATE: 10 a.m., January 26, 1984

PLACE: Room 1027 (open), room 1012 (closed), 1825 Connecticut Avenue, NW., Washington, D.C. 20428.

SUBJECT:

30. Developments on Canada. (BIA)

STATUS: Closed.

PERSON TO CONTACT FOR MORE INFORMATION: Phyllis T. Kaylor, the Secretary (202) 673-5068.

Phyllis T. Kaylor,

Secretary.

[FR Doc 84-2486 Filed 1-25-84; 3:58 pm]

BILLING CODE 6320-01-M

2

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

DATE AND TIME: TUESDAY, JANUARY 31, 1984, 9:30 A.M. (EASTERN TIME).

PLACE: Commission Conference Room No. 200-C, Second Floor, Columbia Plaza Office Building, 2401 "E" Street, NW., Washington, D.C. 20507.

STATUS: Part will be open to the public and part will be closed to the public.

MATTERS TO BE CONSIDERED:

1. Announcement of Notation Votes.
2. A Report on Commission Operations (Optional).
3. Proposed Criteria for Designation of Field Offices.

Closed:

1. Proposed Litigation Authorization.
2. Consideration of Commissioner Charges and Commissioner Charge Decisions.
3. Consideration of certain ORA Decisions.
4. Consideration of Certain Subpoenas.

Note.—Any matter not discussed or concluded may be carried over to a later meeting. (In addition to publishing notices on EEOC Commission Meetings in the **Federal Register**, the Commission also provides recorded announcements a full week in advance on future Commission sessions. Please telephone (202) 634-6748 at all times for information on these meetings.)

CONTACT PERSON FOR MORE INFORMATION: Treva McCall, Executive Secretary to the Commission at (202) 634-6748.

This notice issued on January 24, 1984.

Dated: January 24, 1984.

Treva McCall,

Executive Secretary to the Commission.

[FR Doc. 84-2404 Filed 1-25-84; 10:09 am]

BILLING CODE 6570-06-M

3

FEDERAL HOME LOAN BANK BOARD

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: Vol. No. 49, Page No.—None at this time. Date Published—None at this time.

PLACE: Board Room, Sixth Floor, 1700 G Street, NW., Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION: Ms. Gravelee (202-377-6970).

CHANGES IN THE MEETING: The following items have been added to the open portion of the Bank Board Meeting previously scheduled Thursday, February 2, 1984, at 2:30 p.m. which has been changed to Friday, February 3, 1984, at 10:30 a.m.

Insurance Coverage of Accounts Held by Investment Companies, Insurance of Joint Accounts

Deposit Growth

[No. 68, January 25, 1984]

J. J. Finn,

Secretary.

[FR Doc. 84-2497 Filed 1-25-84; 3:56 pm]

BILLING CODE 6720-01-M

4

NUCLEAR REGULATORY COMMISSION

DATE: Week of January 30, 1984.

PLACE: Commissioners' Conference Room, 1717 H Street, NW., Washington, D.C.

STATUS: Open and closed.

MATTERS TO BE DISCUSSED: *Wednesday, February 1:*

2:00 p.m.:
Briefing on Final License Fee Rule (Public Meeting) (*Tentative*)

Thursday, February 2:

2:00 p.m.
Briefing on Quarterly Progress on Safety Goal Evaluation Report and Draft PRA Document (Public Meeting)

Friday, February 3:

11:00 a.m.
Periodic Meeting with Advisory Panel on TMI-2 Cleanup (Public Meeting)

Additional Information: Affirmation of NRC Response to Court Decision Vacating Interim Rule on Environmental Qualification Deadline scheduled for January 26, *postponed*.

To verify the status of meetings call (recording)—(202) 634-1498.

CONTACT PERSON FOR MORE INFORMATION: Walter Magee (202) 634-1410.

January 24, 1984.

Walter Magee,

Office of the Secretary.

[FR Doc. 84-2458 Filed 1-25-84; 3:43 pm]

BILLING CODE 7590-01-M

federal register

Friday
January 27, 1984

Part II

Department of Labor

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions; Notice

DEPARTMENT OF LABOR

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor specify, in accordance with applicable law and on the basis of information available to the Department of Labor from its study of local wage conditions and from other sources, the basic hourly wage rates and fringe benefit payments which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of the character and in the localities specified therein.

The determinations in these decisions of such prevailing rates and fringe benefits have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of subtitle A of title 29 of Code of Federal Regulations. Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's Orders 12–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not uitilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in effective date as prescribed in that section, because the necessity to issue construction industry wage determination frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions are effective from their date of publication in the **Federal Register** withouit limitation as to time and are to be used in accordance with the provisions of 29 CFR Part 1 and 5. Accordingly, the applicable decision together with any modifications issued subsequent to its publication date shall be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR Part 5. The wage rates contained therein shall be minimum paid under such contract by contractors and subcontractors on the work.

Modifications and Supersedeas Decisions to General Wage Determination Decisions

Modifications and Supersedeas determination decisions are based upon information obtained concerning changes in prevailing hourly wage rates and fringe benefit payments since the decisions were issued.

The determinations of prevailing rates and fringe benefits made in the modifications and supersedeas divisions have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of subtitle A of title 29 of Code of Federal Regulations. Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's orders 13–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in foregoing general wage determination decisions, as hereby modified, and/or superseded shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged in contract work of the character and in the localities described therein.

Modifications and supersedeas decisions are effective from their date of publication in the **Federal Register** without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5.

Any person, organization, or governmental agency having an interest in the wages determined as prevailing is encouraged to submit wage rate information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Office of Government Contract Wage Standards, Division of Government Contract Wage Determinations, Washington, D.C. 20210. The cause for not utilizing the rulemaking procedures prescribed in 5 U.S.C. 553 has been set forth in the original General Determination Decision.

Modifications to General Wage Determination Decisions

The numbers of the decisions being modified and their dates of publication in the **Federal Register** are listed with each State.

Louisiana: LA83–4059	Aug. 5, 1983.
Michigan: MI83–2008	Feb. 11, 1983.
Montana: MT83–5101	Feb. 18, 1983.
Nebraska: NE84–4094	Jan. 13, 1984.
New York: NY81–3030	May 1, 1981.
Ohio: OH83–5122	Nov. 25, 1983.
Oregon: OR83–5100	Feb. 18, 1983.
Pennsylvania: PA81–3086	Oct. 23, 1981.
Texas: TX83–4082	Oct. 21, 1983.
Wisconsin:	
WI83–2074	Sept. 21, 1983.
WI83–2075	Sept. 23, 1983.
WI83–2076	Sept. 30, 1983.
WI83–2077	Oct. 7, 1983.
WI83–2079	Oct. 7, 1983.
WI83–2078	Oct. 7, 1983.
WI83–2080	Oct. 7, 1983.
WI83–2081	Oct. 14, 1983.
WI83–2082	Oct. 14, 1983.
WI83–2061	Aug. 5, 1983.
WI83–2083	Oct. 14, 1983.
WI83–2068	Sept. 2, 1983.
WI83–2084	Oct. 28, 1983.
Maryland: MD83–3010	June 3, 1983.
Nebraska: NE83–4085	Dec. 9, 1983.

Supersedes Decisions to General Wage Determination Decisions

The numbers of the decisions being superseded and their dates of publication in the **Federal Register** are listed with each State. Supersedeas decision numbers are in parentheses following the numbers of the decisions being superseded.

Louisiana: LA83–4076(LA94–4003)	Oct. 21, 1983.
South Dakota: SD81–5155(SD–84–5000)	Oct. 2, 1981.
Texas: TX83–4005(TX84–4002)	Jan. 7, 1983.

Signed at Washington, D.C. this 20th day of January 1984.

James L. Valin,

Assistant Administrator.

BILLING CODE 4510-27-M

MODIFICATIONS

DECISION NO. LA83-4059 - MOD. #7
(48 FR 35836 - 8/5/83)
Statewide Louisiana

	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Bricklayers/stonemason:		
Zone 1	$16.75	2.26
Carpenters:		
Zone 3:		
Carpenters/drywall	13.25	2.50
Millwrights	13.95	2.50
Piledrivermen	13.65	2.50
Zone 2:		
Millwrights	18.47	.07
Zone 10:		
Millwrights	18.47	.07
Laborers:		
Zone 5:		
Group 1	11.67	.85
Group 2	11.77	.85
Group 3	11.82	.85
Zone 6:		
Group 1	11.27	.85
Group 2	11.37	.85
Group 3	11.42	.85
Lathers:		
Zone 1	14.78	2.50
Zone 6	13.40	1.78

DECISION NO. MI83-2008
Mod. #3
(48 FR 6456 - February 11, 1983)
Alger, Baraga, Chippewa, Dickinson, Delta, Gogebic, Houghton, Iron, Keweenaw, Luce, Mackinac, Ontonagon and Schoolcraft Counties, Michigan

	Basic Hourly Rates	Fringe Benefits
Change:		
Electricians:		
Remainder of counties:		
Contracts $70,000.00 or more	$14.55	2.10 +4%
Contracts under $70,000.00	11.20	2.10 +4%

DECISION #NE84-4094 - Mod. #1
(49 FR 1851 - January 13, 1984)
Cass, Douglas, Sarpy, and Washington Counties, and that portion of Saunders County East of Highway #109, Nebraska

	Basic Hourly Rates	Fringe Benefits
Change:		
Ironworkers:		
Reinforcing & structural	$12.10	3.90

DECISION NO. MD83-3010-MOD. #2
(48 FR 25100-June 3,1983)
ANNE ARUNDEL (EXCLUDING THE D.C.TRAINING SCHOOL) BALTIMORE & BALTIMORE CITY MARYLAND, & FOR HEAVY CONSTRUCTION IN HARFORD & HOWARD COUNTIES MARYLAND

	Basic Hourly Rates	Fringe Benefits
CHANGE:		
BOILERMAKEPS	$19.575	3.015

DECISION NO. NY81-3030
MOD #12
(46 FR 24850 - May 1, 1981)
CATTARAUGUS, CHAUTAUQUA, & ERIE COUNTIES, NEW YORK

	Basic Hourly Rates	Fringe Benefits
CHANGE:		
PLUMBERS		
CATTARAUGUS, CHAUTAUQUA, (Remainder of county), ERIE COUNTY	$17.62	4.18

MODIFICATIONS

DECISION NO. MT83-5101 - MOD. #4
(48 FR 7370 - February 18, 1983)
Statewide, Montana

	Basic Hourly Rates	Fringe Benefits
Change:		
Bricklayers; Marble Masons:		
Area 8	$14.25	2.10
Carpenters:		
Area 4:		
Carpenters	12.53	2.61
Piledriver	12.83	2.61
Millwrights	13.78	2.61
Electricians:		
Area 7:		
Electricians	18.95	1.35 + 3%%
Cable Splicers	19.89	1.35 + 3%%
Elevator Constructors:		
Mechanic	16.44	2.99+a
Helpers	11.51	2.99+a
Probationary Helper	8.22	
Line Construction:		
Area 1:		
Lineman, Pile Sprayer	16.48	1.15 + 3%%
Cable Splicers	17.61	1.15 + 3%%
Line Equipment Op., Powderman	14.59	1.15 + 3%%
Groundman	11.86	1.15 + 3%%
Painter:		
Area 6	15.42	1.81
Plasterers:		
Area 1	14.00	2.05
Plumbers:		
Area 1	18.63	3.50
Roofer:		
Area 4	13.90	2.20
Ironworkers:		
Area 2	17.74	4.15
Laborers:		
Group 1	10.67	2.50
Group 2	10.92	2.50
Group 3	11.07	2.50
Sheet Metal Workers	16.00	3.05

POWER EQUIPMENT OPERATORS: STATEWIDE	Basic Hourly Rates	Fringe Benefits
A-Frame Truck Crane, Winch Truck and similar	$12.85	$3.19
Air Compressor, single	12.54	3.19
Air compressor, two or more	12.71	3.19
Air Doctor	13.01	3.19
Asphalt Paving Machine Operator	13.21	3.19
Asphalt Paving Machine Screed Operator	13.21	3.19
Automatic Finegrader, Gurries and other similar types	13.34	3.19
Belt Finish Machine Operator	12.71	3.19
Bit Grinder	13.01	3.19
Bituminous Mixer Paving, Travel Plant	13.01	3.19
Boring Machine (small), Jeep, Pickup or Farm Tractor mounted	12.60	3.19
Boring Machine (large)	13.21	3.19
Broom, self-propelled	12.68	3.19
Cableway Highline Operator	13.72	3.19
Cement Silo Operator	12.80	3.19
Central Mixing Plants, Concrete dam and stationary	13.46	3.19
Chain Bucket Loader	12.73	3.19
Chip or Gravel Spreader, self-propelled	12.83	3.19
Concrete Batch Plant, one and two Mixers	13.21	3.19
Concrete Batch Plant, three and four Mixers	13.41	3.19
Concrete Batch Plant, five Mixers and over	13.61	3.19
Concrete Batch Plant Oiler, up to and including two Mixers	12.53	3.19
Concrete Batch Plant Oiler, three Mixers and over	12.84	3.19
Concrete Bucket Dispatcher	13.01	3.19
Concrete Curing Machine	13.01	3.19

MODIFICATIONS

DECISION NO. MT83-5101 (CONT'D) POWER EQUIPMENT OPERATORS: (Cont'd)	Basic Hourly Rates	Fringe Benefits
Concrete Finish Machine Paving	$13.21	$3.19
Concrete Float-Spreader	13.11	3.19
Concrete Mixer, three bags and under	12.60	3.19
Concrete Mixer, four bags and over	12.77	3.19
Concrete Power Saw, self-propelled	13.01	3.19
Concrete Travel Batcher	13.01	3.19
Concrete Conveyor under 40 feet	12.59	3.19
Concrete Conveyor over 40 feet	13.34	3.19
Concrete Pump	13.54	3.19
Conveyor Loader Operator, up to and including 42' belt	12.59	3.19
Conveyor Loader Operator over 42" belt	12.71	3.19
Crane, to and including 80' boom	13.37	3.19
Crane, 81' to 130' boom	13.52	3.19
Crane, 131' to 180' boom	13.57	3.19
Crane Oiler .05 per hour is added for each 50 ft. of boom. Jibs to be included in Boom Length	12.58	3.19
Crater Crane	13.37	3.19
Crusher Operator	13.21	3.19
Crusher Oiler	12.50	3.19
Crusher Conveyor, when required	12.47	3.19
Distributor Operator	13.11	3.19
DW 10, 15, or 20 tractor pulling Roller	12.73	3.19
Electric Overhead Cranes	13.29	3.19
Elevating Grader	13.01	3.19
Farm type Tractor up to and including 50 HP Engine	12.47	3.19
Farm type Tractor, over 50 HP engine	12.55	3.19
Field Equipment Servicemen	13.13	3.19
Fireman	12.60	3.19
Forklift, on construction job site	12.82	3.19
Form Grader Operator	12.78	3.19
Gradall Operator	13.21	3.19
Grade Setter	12.47	3.19

POWER EQUIPMENT OPERATORS: (Cont'd)	Basic Hourly Rates	Fringe Benefits
Heavy Duty Drills, all types	$13.11	$3.19
Herman-Nelson Heaters and similar type	12.55	3.19
Hoist Operator, single drum	12.78	3.19
Hoist, two or more drums	13.01	3.19
Helicopter Hoist Operator	13.51	3.19
Hot Plant Operator	13.21	3.19
Hot Plant Fireman, when in operation	13.11	3.19
Hot Plant Oiler, 100 ton per hour or over	12.50	3.19
Hydra Lift and similar types	12.91	3.19
Industrial Locomotive all classes	13.21	3.19
Mechanic and/or Welder on job	13.31	3.19
Mechanic Shop (Dec. April 1)	12.66	3.19
Mixermobile	13.09	3.19
Motor Patrol Operator	13.34	3.19
Mountain Logger or similar type	13.01	3.19
Mucking Machine Operator	13.21	3.19
Oiler-Driver, Rubber tired Cranes	12.58	3.19
Oilers, other than Shovels and Cranes	12.50	3.19
Oiler, Hoist House, dams	12.91	3.19
Pavement Breakers, Emsco and similar	13.01	3.19
Paving and Mixing Machine	13.34	3.19
Power Auger, large truck or Tractor mounted and Punch	13.21	3.19
Power Mixer, single or double drum	13.01	3.19
Power Saw, multiple cut, self-propelled	13.01	3.19
Pumpcrete or Grout Machine	12.96	3.19
Pumpman	12.54	3.19
Push Tractor, Dozer or Side Boom, Rubber-Tired Dozer	13.21	3.19
Quad Cat	13.51	3.19
Quad Loader and similar type	13.79	3.19

MODIFICAITIONS

DECISION NO. MT83-5101 (CONT'D) POWER EQUIPMENT OPERATORS: (Cont'd)	Basic Hourly Rates	Fringe Benefits
Radiator Repairman	$12.82	$3.19
Raygo Giant	13.79	3.19
Refrigeration Plant Operator	13.01	3.19
Retort Operator	12.60	3.19
Roller, on blade or hot mix oil paving	13.11	3.19
Roller, on other than hot mix oil paving	12.71	3.19
Roller, 25 ton or over	13.01	3.19
Ross and similar type Carriers, on construction site	13.11	3.19
Rubber-tired Front End Loader, 1 cu. yd. and under	12.92	3.19
Rubber-tired Front End Loader, 1 cu. yd. to and including 3 cu. yds.	13.21	3.19
Rubber-tired Front End Loader, over 3 cu. yds. to and including 5 cu. yds.	13.33	3.19
Rubber-tired Front End Loader, over 5 cu. yds. to and including 10 cu. yds.	13.43	3.19
Rubber-tired Front End Loader, over 10 yards to and including 15 yards	13.53	3.19
Rubber-tired Front End Loader, over 15 yards	13.63	3.19
Scraper, DW 15, 20, 21 and similar type if power unit is not used	13.11	3.19
Scraper, single or twin engine pulling Belly Dump Trailer	13.59	3.19
Scraper, single engine	13.34	3.19
Scraper, twin engine	13.44	3.19
Scraper, tandem engine or 3 engine	13.70	3.19
Self-propelled Sheepfoot and similar type	13.11	3.19
Shovels, including all attachments, under 1 cu. yd.	13.21	3.19
Shovels, including all attachments, 1 cu. yd. to and including 3 cu. yds.	13.39	3.19

POWER EQUIPMENT OPERATORS: (Cont'd)	Basic Hourly Rates	Fringe Benefits
Shovels, including all attachments, over 3 cu. yds. to and including 5 cu. yds.	$13.66	$3.19
Shovels, including all attachments over 5 cu. yds.	13.79	3.19
Shovel Oiler, 3 yds. and under	12.50	3.19
Shovel Oiler, over 3 cu. yds.	12.91	3.19
Skyhorse and Ringer Crane:		
250 ton thru 399 ton	14.37	3.19
400 ton thru 599 ton	15.37	3.19
600 ton and over	16.37	3.19
Slip Form Paver Operator	13.34	3.19
Stiff Leg Derrick and Guy Derrick	13.66	3.19
Tower Crane	13.37	3.19
Track-type Front End Loaders, up to and including 5 cu. yds.	13.21	3.19
Track-type Front End Loaders, over 5 cu. yds. to and including 10 cu. yds.	13.44	3.19
Track-type Front End Loaders, over 10 cu. yds. to and including 15 cu. yds.	13.54	3.19
Track-type Front End Loaders, over 15 cu. yds.	13.64	3.19
Track-type Tractor, on Euclid Loader	13.39	3.19
Trenching Machine	13.21	3.19
Turnhead Conveyor, or Head Tower on Batch Plant	13.01	3.19
Wagner Roller and similar type	13.01	3.19
Whirley Crane Operator	13.74	3.19
Whirley Crane Oiler	12.91	3.19
Water Pull when used for compaction	13.01	3.19
Washing and Screening Plant Operator	13.21	3.19
Washing and Screening Plant Oiler	12.50	3.19
Yo-Yo Cat, both ends	13.41	3.19

MODIFICAITONS

DECISION NO. MT83-5101 (CONT'D)	Basic Hourly Rates	Fringe Benefits
TRUCK DRIVERS: STATEWIDE		
COMBINATION TRUCK; Concrete Mixer and Transit Mixer:		
To and including 4 cu. yds.	$13.75	$2.22
Over 4 cu. yds. to and including 6 cu. yds.	13.83	2.22
Over 6 cu. yds. to and including 8 cu. yds.	13.91	2.22
Over 8 cu. yds. to and including 10 cu. yds.	13.99	2.22
Over 10 cu. yds. - additional $.08 per hour each additional 5 Batch increment		
DISTRIBUTOR DRIVER	13.73	2.22
DRY BATCH TRUCKS:		
3 Batch or under	13.50	2.22
Over 3 Batch to and including 5 Batch	13.63	2.22
Over 5 Batch to and including 10 Batch	13.79	2.22
Over 10 Batch to and including 15 Batch	13.95	2.22
Over 15 Batch-additional 15¢ per hour each additional 5 Batch increment		
PICKUP DRIVER, HAULING MATERIALS	13.60	2.22
DUMPMAN, GRAVEL SPREADER BOX OPERATOR; Pilot Car Driver, Teamsters	13.50	2.22
DUMP TRUCKS And SIMILAR EQUIPMENT, DW 20, DW 21, or EUCLID TRACTORS, Pulling P.R. 21 or similar Dump Wagons:		
Water Level Capacity, including Sideboards:		
7 cu. yds. or less	13.50	2.22
Over 7 cu. yds. to and including 10 cu. yds.	13.63	2.22
Over 10 cu. yds. to and including 15 cu. yds.	13.79	2.22
Over 15 cu. yds. to and including 20 cu. yds.	13.93	2.22
Over 20 cu. yds. to and including 25 cu. yds.	13.99	2.22

TRUCK DRIVERS: (Cont'd)	Basic Hourly Rates	Fringe Benefits
Water Level Capacity, including Sideboards: (Cont'd):		
Over 25 cu. yds. to and including 30 cu. yds.	$14.05	$2.22
Over 30 cu. yds. to and including 35 cu. yds.	14.11	2.22
Over 35 cu. yds. to and including 40 cu. yds.	14.17	2.22
Over 40 cu. yds. to and including 45 cu. yds.	14.23	2.22
Over 45 cu. yds. - additional $.10 per hour each additional 5 cu. yds. increment		
DUMPSTERS	13.63	2.22
POWER TRUCK DRIVER (bulk unloader type)	13.68	2.22
FLAT TRUCKS:		
To and including 3 tons	13.65	2.22
Over 3 tons factory rating	13.85	2.22
FUEL TRUCK DRIVERS; TIREMEN	14.09	2.22
LOWBOYS, FOUR-WHEEL TRAILER, FLOAT SEMI-TRAILER	13.85	2.22
LUMBER CARRIERS, LIFT TRUCK and FORK LIFTS	13.75	2.22
POWER BROOM	13.59	2.22
WATER TANK DRIVERS, PETROLEUM PRODUCTS DRIVERS:		
2,500 gallons and under	13.50	2.22
Over 2,500 gallons to and including 4,500 gallons	13.75	2.22
Over 4,500 gallons to and including 6,000 gallons	13.99	2.22
Over 6,000 gallons to and including 8,000 gallons	14.05	2.22
Over 8,000 gallons to and including 10,000 gallons	14.13	2.22
Over 10,000 gallons - additional $.10 per hour each additional 2,000 gallons increment		
TRUCK MECHANIC	14.49	2.22

MODIFICATIONS

DECISION #NE83-4085 - Mod. #2 (48 FR 55258 - December 9, 1983) Douglas, Sarpy, and Cass Counties, Nebraska	Basic Hourly Rates	Fringe Benefits
Change:		
Ironworkers	$12.10	3.90
Laborers:		
Common laborers	10.41	2.80
Buggymobile opers., mortar mixers, mason tenders	10.585	2.80
Plasterers tenders	10.795	2.80
Omit:		
Power Equipment Operators:		
Group 1	8.31	2.40
Group 2	8.40	2.40
Group 3	10.69	2.40
Group 4	11.13	2.40
Group 5	12.17	2.40
Group 6	12.42	2.40
Group 7	12.82	2.40
Group 8	13.01	2.40
POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS		
Add:		
Power Equipment Operators:		
Group 1	9.66	2.55
Group 2	12.65	2.55
Group 3	14.17	2.55
POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS		
Group 1-Oilers, oiler drivers, conveyors, heaters, rubber-tired grading tractors, air compressors, pumps, welding machines, small forklift, electric hammers & extractors.		
Group 2-Spread oiler, bulldozer, concrete pumps, one drum hoist, straddle truck, blades, end loaders, self-propelled scrapers, two drum hoist, trenching machines, dredges, backhoe (1 yd. & under), winch truck & side boom, cat boom, locomotives, refrigeration compressor (where used to solidify ground for excavation), & extended reach forklifts.		

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS (CONT'D)	Basic Hourly Rates	Fringe Benefits
Group 3-Heavy duty mechanics, cranes (including tower & guy derrick, used as excavators or lift cranes), & backhoe (over 1 yd.).		

MODIFICATIONS

DECISION NUMBER OH83-5122 - MOD. #3
(48 FR 53254 - November 25, 1983)
Statewide, Ohio

CHANGE:
Modification Number One in 48 FR 991 - January 6, 1984 to read Modification Number Two
Modification Number Two in 48 FR 57666 - December 30, 1983 to read Modification Number One

	Basic Hourly Rates	Fringe Benefits
Bricklayers & Stonemasons:		
Area 16	$16.60	$2.86
Carpenters & Piledrivermen:		
Area 1:		
Carpenters	15.18	2.05
Piledrivermen	15.47	2.05
Area 7:		
Carpenters	17.55	2.625
Piledrivermen	17.55	2.625
Area 10:		
Carpenters	15.60	3.57
Piledrivermen	15.60	3.57
Area 16:		
Carpenters	17.40	3.48
Piledrivermen	18.00	4.81
Electricians:		
Area 5	19.11	1.51+ 9.7%
Area 10:		
Electricians	18.00	45%
Cable Splicers	18.50	45%
Area 13:		
Within 11 mile radius of 3rd & Main Sts., Dayton, Ohio	16.98	3.40+ 3½%
Beyond 11 mile radius	17.21	3.40+ 3½%
Area 15	18.24	1.30+ 15.5%
Area 18:		
Electricians	20.00	3.00+ 3.3%
Cable Splicers	23.00	3.00+ 3.3%
Area 20	17.78	1.25+ 3.2%
Area 25:		
Electricians	19.51	2.05+ 3.2%
Cable Splicers	20.88	2.05+ 3.2%

Change:	Basic Hourly Rates	Fringe Benefits
Ironworkers:		
Area 12	$19.46	$3.44
Painters:		
Area 19:		
Brush; Roller	16.65	2.42
Structural Steel	17.40	2.42
Spray	17.50	2.42
Sandblasting; Bridges	17.65	2.42
Plumbers; Steamfitters; & Pipefitters:		
Area 14	19.20	3.72
Line Construction:		
Area 5:		
Cable Splicers; Linemen; Operator - Poledigging Equipment	19.50	.85+ 10½%
Groundmen	15.60	.85+ 10½%
Area 10:		
Linemen; Line Equipment Ops.; Truck Drivers	18.00	44½%
Cable Splicers	18.50	44½%
Groundmen	11.70	44½%
Area 17:		
Cable Splicers; Equipment Ops. & Linemen	17.78	1.25+ 3½%
Truck Drivers (Winch), Groundmen; Groundmen	11.46	1.25+ 3½%
Area 23:		
Linemen	19.51	1.99+ 3½%
Cable Splicers	20.88	1.99+ 3½%
Equipment Operators	14.63	1.99+ 3½%
Truck Drivers; Groundman	9.76	1.99+ 3½%
Omit: Power Equipment Operators wage rates and classifications for Zones 2 & 3		
Add: Laborers (Exclu. Railroad Maintenance, Renovation, & Repair): Group 3: Sandblaster Nozzleman		

MODIFICATIONS

DECISION NO. OH83-5122 (Cont'd)

Add: Power Equipment Operators: Zone 2:	Basic Hourly Rates	Fringe Benefits
Master Mechanic	$17.38	$3.36
Class A	17.13	3.36
Class B	17.08	3.36
Class C	15.99	3.36
Class D	15.52	3.36
Class E	11.83	3.36

Add: Power Equipment Operators: Zone 3:	Basic Hourly Rates	Fringe Benefits
Master Mechanic	$16.64	$3.36
Class A	16.39	3.36
Class B	16.27	3.36
Class C	15.23	3.36
Class D	14.90	3.36
Class E	10.94	3.36

CLASS A - Air Compressor on Steel Erection; Asphalt Plant Engineers (Cleveland District only); Boiler Operator on Compressor or Generator when mounted on a rig; Cableways; Combination Concrete Mixer & Tower; Concrete Plants (over 4 yd. capacity); Concrete Pumps; Cranes (including Boom Trucks, Cherry Pickers); Derricks; Draglines; Dredges (dipper, Clam or suction); Elevating Grader or Euclid Loader; Floating Equipment; Gradalls; Helicopter Crew (operator-hoist or winch); Hoes; Hoisting Engines; Hoisting Engines on Shaft or Tunnel Work; Industrial-Type Tractor; Jet Engine Dryer (D8 or D9) Diesel Tractor; Locomotives (Standard Gauge); Maintenance Operator Class A; Mixer, Paving (Single or Double Drum); Mucking Machines; Multiple Scraper; Piledriving Machines; Power Shovels; Quad 9 (double pusher); Refrigerating Machine (Freezer Operation); Rotary Drill on Caisson Work; Side-Booms; Slip-Form Paver; Tower Derrick; Tree Shredder; Trench Machine (over 24" wide); Truck Mounted Concrete Pumps; Tug Boat; Tunnel Machine and/or Mining Machine; Wheel Excavator

CLASS B - Asphalt Paver; Automatic Subgrader Machine, Self-propelled (CMI type); Boring Machine Operator (more than 48"); Bulldozer; Endloader; Kolman-Loader (production type-Dirt); Lead Grease Man; Maintenance Operators Class B (Exclu. Ashtabula, Cuyahoga, Erie, Geauga, Lake, Lorain, & Medina Counties); Power Grader; Power Scrapers; Push Cat; Trench Machine (24" wide & under)

CLASS C - A-Frames; Air Compressor on Tunnel Work (low pressure); Asphalt Plant Engineer (Exclu. Ashtabula, Cuyahoga, Erie, Geauga, Lake, Lorain, & Medina Counties); Locomotive (narrow gauge); Mixers, Concrete (more than one bag capacity); Mixers, one bag capacity (side loader); Power Boilers over 15 lb. pressure; Pump Op. installing & operating Well Points; Pumps (4" & over discharge); Rollers - Asphalt; Utility Operator (Small Equipment); Welding Machine & Generators

CLASS D - Back Filler; Bar, Joint & Mesh Installing Machine; Batch Plant; Boring Machine Operators (48" or less); Bull Floats; Burlap & Curing Machines; Compressor (Portable, Sewer, Heavy, & Highway); Concrete Plant (capacity 4 yd. & under); Concrete Saw (Multiple); Conveyers (highway); Crushers; Deckhand; Drill, highway (with integral power); Farm-type Tractor with attachments (highway); Finishing Machines; Fireman, Floating Equipment; Fork Lift (highway), except masonry; Form Trenchers; Hydro Hammer; Hydro Seeders; Pavement Breaker; Plant Mixers; Post Driver; Post Hole Digger (power auger); Power Brush Burner; Power Form Handling Equipment; Road Widening Trencher; Rollers (brick, grade, macadam); Self-propelled Power Spreaders; Self-propelled Power Subgraders; Steam Fireman; Tractor (pulling sheepfoot roller or grader); Vibratory Compactors (with integral power)

CLASS E - Drum Firgman (asphalt Plant); Forklift (masonry); Inboard-Outboard Motor boat - Launch; Power Scrubber; Power Sweeper; Oil Heaters (asphalt plants); Oilers; Power Driven Heaters; Pumps (under 4" discharge); Tenders; Tire Repairmen; VAC/ALLS

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MODIFICATIONS

DECISION NO. PA81-3066 MOD. NO. 10 (46 FR 52082 - October 23, 1981) Cumberland, Dauphin, Perry, Juniata, New Cumberland Depot, in York County, Pennsylvania	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Carpenters	$14.50	2.25
Elevator Constructors	15.56	3.00+ a+b
Elevator Constructors Helpers	10.89	3.00+ a+b
Elevator Constructors Helpers (Prob.)	7.78	
Millwrights	16.57	2.25
Marble Setters	15.10	2.02
Plasterers	11.90	2.21
Plumbers & Steamfitters	17.05	2.39
Sheet metal workers	15.23	4.39
Soft floor layers	11.94	2.25
Terrazzo workers	13.85	2.02
Tile Setters	13.85	2.02

DECISION NO. TX83-4082 - MOD. #3 (48 FR 48913 - 10/21/83) Jefferson & Orange Cos. Texas	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Bricklayers/stonemason	$19.08	2.20
Carpenters:		
Carpenters-residential const. of not more than 2 units & condominium townhouses of not more than 10 units excluding all apt. const. & multiple bldgs. for rental purposes	15.79	3.065
Tile setters	17.57	2.20

DECISION NO. OR83-5100 - Mod#10 (48 FR 7379 - Feb. 18, 1983) Statewide Oregon	Basic Hourly Rates	Fringe Benefits
OMIT:		
Roofers: Area 1:		
(All classifications and rates)		
ADD:		
Roofers:		
Area 1:		
Roofers	$14.90	$2.60
Handling Coal Tar Pitch	16.39	2.60
CHANGE:		
Electricians:		
Area 5:		
Electricians	18.80	3.50+3%
Cable Splicers	19.55	3.50+3%

MODIFICATIONS

DECISION #WI83-2074-MOD#2 (48 FR 43535-September 21, 1983) Ashland, Bayfield and Douglas Counties, Wisconsin	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Boilermakers	$17.345	3.00
Ironworkers	14.97	3.25
ADD		
WELDERS: Receive rate prescribed for craft performing operation to which welding is incidental.		
Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5(a)(1)(ii)).		

DECISION #WI83-2075-MOD#1 (48 FR 43536-September 23, 1983) Barron, Dunn, Polk and St. Croix Counties, Wisconsin	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Boilermakers	17.345	3.00
Ironworkers:		
Structural, Ornamental and Reinforcing	14.97	3.25
ADD:		
WELDERS: Receive rate prescribed for craft performing operation to which welding is incidental.		

DECISION #WI83-2076-MOD#1 (48 FR 45003-September 30, 1983) Brown, Door, Kewaunee & Oconto Counties, Wisconsin	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Asbestos Workers	$17.75	2.01
Boilermakers	17.345	3.00
Ironworkers:		
Structural, Ornamental & Reinforcing	14.08	3.00
ADD:		
WELDERS: Receive rate prescribed for craft performing operation to which welding is incidental.		

DECISION #WI83-2077-MOD#1 (48 FR 45922-October 7, 1983) Calumet, Fond Du Lac, Manitowoc, Outagamie and Sheboygan, Wisconsin	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Boilermakers	17.345	3.00
ADD:		
WELDERS: Receive rate prescribed for craft performing operation to which welding is incidental.		

DECISION #WI83-2079-MOD#1 (48 FR 45920-October 7, 1983) Chippewa, Eau Claire and Pepin Counties, Wisconsin	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Boilermakers	17.345	3.00
Carpenters, Lathers and Soft Floor Layers	13.61	2.21
Ironworkers	17.10	2.39
Millwrights & Pile-drivermen	14.01	2.21
ADD:		
WELDERS: Receive rate prescribed for craft performing operation to which welding is incidental.		

MODIFICAITONS

DECISION #WI83-2078-MOD#2 (48 FR 45919-October 7, 1983) Columbia,Dane,Iowa and Sauk Counties, Wisconsin	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Boilermakers	$17.345	3.00
Sheet Metal Workers	17.06	2.75
ADD:		
WELDERS: Receive rate prescribed for craft performing operation to which welding is incidental.		

DECISION #WI83-2080-MOD#1 (48 FR 45921-October 7, 1983) Green and Rock Counties, Wisconsin	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Boilermakers	17.345	3.00
Ironworkers:		
Vic. of Edgerton,Milton, Pollville & Evansville	14.08	3.00
ADD:		
WELDERS: Receive rate prescribed for craft performing operation to which welding is incidental.		

DECISION #WI83-2081-MOD#1 (48 FR 46924-October 14, 1983) Green Lake, Marquette, Waupaca, Waushara and Winnebago Counties, Wisconsin	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Boilermakers	17.345	3.00
ADD:		
WELDERS: Receive rate prescribed for craft performing operation to which welding is incidental.		

DECISION #WI83-2082-MOD#1 (48 FR 46925-October 14, 1983) Juneau County,Wisconsin	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Boilermakers	$17.345	3.00
ADD:		
WELDERS: Receive rate prescribed for craft performing operation to which welding is incidental.		

DECISION #WI83-2061-MOD#1 (48 FR 35850-August 5, 1983) Kenosha County,Wisconsin	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Boilermakers	17.345	3.00
ADD:		
WELDERS: Receive rate prescribed for craft performing operation to which welding is incidental		

DECISION #83-2083-MOD#1 (48 FR 46926-October 14, 1983) LaCrosse, Monroe & Vernon Counties, Wisconsin	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Boilermakers	17.345	3.00
Carpenters	13.61	2.21
Millwrights & Pile-drivermen	14.01	2.21
Sheet Metal Workers	14.38	1.84
ADD:		
WELDERS: Receive rate prescribed for craft performing operation to which welding is incidental.		

MODIFICATIONS

DECISION #WI83-2068-MOD#4 (48 FR 400096-September 2, 1983) Milwaukee,Ozaukee, Waukesha and Washington Counties, Wisconsin	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Boilermakers	$17.345	3.00
~~Sheet Metal Workers~~	~~15.78~~	~~4.63~~
Sprinkler Fitters	17.62	3.19
ADD:		
WELDERS: Receive rate prescribed for craft performing operation to which welding is incidental.		
Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5(a)(1)(ii)).		

DECISION #WI83-2084-MOD#1 (48 FR [illegible]0001-October 28, 1983) Racine County,Wisconsin	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Boilermaker[illegible]	17.345	3.00
Electrician[illegible]	17.50	.85+ 3½%
ADD:		
WELDERS: Receive rate prescribed for craft performing operation to which welding is incidental.		

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SUPERSEDEAS DECISION

STATE: Louisiana PARISHES: ZONE 1-Jefferson & Orleans; ZONE 2-Bossier & Caddo; ZONE 3-Calcasieu; ZONE 4-Beauregard, Cameron, & Jefferson Davis; ZONE 5-Allen; ZONE 6-Plaquemines; ZONE 7- St. Bernard; ZONE 8-St. Charles

DECISION NO.LA84-4003 DATE: Date of Publication

Supersedes Decision No. LA83-4076, dated October 21, 1983 in 48 FR 48902.

DESCRIPTION OF WORK: Highway Projects (does not include building structures in rest area projects).

	Basic Hourly Rates	Fringe Benefits
BRICKLAYERS & STONEMASONS:		
ZONES 1, 6, 7 & 8	$14.60	2.04
ZONE 2	12.30	1.70
ZONES 3, 4 & 5	16.10	2.32
CARPENTERS & PILEDRIVERMEN:		
ZONE 1	14.51	2.60
ZONE 2	13.02	1.78
ZONE 3	15.02	1.90
ZONE 4	9.30	1.60
ZONE 5	11.42	1.60
ZONE 6	11.19	2.60
ZONES 7 & 8	12.48	2.60
CEMENT MASONS:		
ZONE 1	13.22	1.68
ZONE 2	12.65	.85
ZONE 3	15.64	
ZONE 4	8.24	
ZONE 5	10.36	
ZONE 6	10.15	1.68
ZONES 7 & 8	11.42	1.68
ELECTRICIANS:		
ZONES 1, 6, 7 & 8:		
Electricians	15.90	1.68 +9%
Cable Splicers	15.90	1.68 +9%
ZONE 2:		
Electricians	15.25	2.40 +4%
Cable Splicers	15.75	2.40 +4%
ZONES 3, 4 & 5:		
Electricians	17.70	2.00+ 3-5/10%
Cable Splicers	18.20	2.00+ 3-5/10%
IRONWORKERS:		
ZONE 1	14.89	2.08
ZONE 2	13.15	2.36
ZONE 3	15.74	1.62
ZONE 4	9.30	2.42
ZONE 5	11.42	2.42
ZONE 6	11.19	2.08
ZONES 7 & 8	12.48	2.08

	Basic Hourly Rates	Fringe Benefits
LABORERS:		
ZONE 1 - GROUP 1	$ 9.57	1.08
GROUP 2	9.77	1.08
GROUP 3	10.17	1.08
GROUP 4	10.42	1.08
ZONE 2 - GROUP 1	8.68	.80
GROUP 2	8.78	.80
GROUP 3	9.23	.80
GROUP 4	9.48	.80
ZONE 3 - GROUP 1	10.29	.94
GROUP 2	10.49	.94
GROUP 3	10.84	.94
GROUP 4	11.09	.94
ZONE 4 - GROUP 1	5.99	.94
GROUP 2	6.19	.94
GROUP 3	6.59	.94
GROUP 4	6.74	.94
ZONE 5 - GROUP 1	7.55	.94
GROUP 2	7.75	.94
GROUP 3	8.15	.94
GROUP 4	8.40	.94
ZONES 6 & 8 - GROUP 1	7.55	1.08
GROUP 2	7.65	1.08
GROUP 3	8.10	1.08
GROUP 4	8.30	1.08
ZONE 7 - GROUP 1	8.24	1.08
GROUP 2	8.44	1.08
GROUP 3	8.84	1.08
GROUP 4	9.09	1.08
LINE CONSTRUCTION:		
ZONES 1, 6, 7 & 8:		
GROUP 1 - Linemen	15.90	1.68 +9%
GROUP 2 - Op. hole digging equip.; op. tractor with winch & derrick; op. line truck with winch & derricks working hot lines	75%JR	1.68 +9%
GROUP 3 - Op. using hole truck & trailer or pole hauling & setting truck not in energized lines)	65%JR	1.68 +9%

DECISION NO.: LA84-4003

	Basic Hourly Rates	Fringe Benefits
LINE CONSTRUCTION (Cont'd)		
GROUP 4 - Op. Using truck without winch	45%JR	1.68 +9%
GROUP 5 - Groundmen	50%JR	1.68 +9%
ZONE 2:		
GROUP 1 - Linemen; ops.	15.25	2.40+ 3-3/4%
GROUP 2 - Cable Splicer	15.75	2.40+ 3-3/4%
GROUP 3 - Groundmen	12.65	2.40+ 3-3/4%
ZONES 3, 4 & 5:		
GROUP 1 - Linemen; ops.	17.70	2.00+ 3-1/10%
GROUP 2 - Cable Splicer	18.20	2.00+ 3-1/10%
GROUP 3 - Groundmen	15.70	2.00+ 3-1/10%
PAINTERS:		
ZONES 1, 6, 7 & 8:		
GROUP 1 - Painters	13.235	2.115
GROUP 2 - Spray	13.61	2.115
GROUP 3 - Industrial	15.535	2.115
ZONE 2 & Allen Parish (northeast corner north of Rt. 10) - All painters	10.50	1.10
ZONES 3, 4 & 5 (Allen Par. except northeast corner):		
GROUP 1 - New Work	16.01	.55
GROUP 2 - Repaint	14.50	.55
GROUP 3 - Bridges	18.30	.55
PLUMBERS & PIPEFITTERS:		
ZONES 1, 6, 7 & 8	16.80	2.43
ZONE 2	15.19	3.09
ZONES 3, 4 & 5	17.98	3.00
POWER EQUIPMENT OPERATORS:		
ZONE 1:		
Asphalt or overlay projects:		
GROUP 1	12.98	2.50
GROUP 2	13.23	2.50
GROUP 3	12.73	2.50
GROUP 4	10.61	2.50
GROUP 5	9.55	2.50
GROUP 6	7.96	2.50
GROUP 7	10.61	2.50
GROUP 8	10.86	2.50
GROUP 9	8.21	2.50

	Basic Hourly Rates	Fringe Benefits
POWER EQUIPMENT OPERATORS (Cont'd):		
Other Work:		
GROUP 1	14.71	2.50
GROUP 2	14.96	2.50
GROUP 3	14.46	2.50
GROUP 4	11.59	2.50
GROUP 5	10.16	2.50
GROUP 6	8.53	2.50
GROUP 7	11.64	2.50
GROUP 8	11.89	2.50
GROUP 9	8.78	2.50
ZONE 2 - GROUP 1	13.33	2.20
GROUP 2	13.58	2.20
GROUP 3	13.08	2.20
GROUP 4	10.87	2.20
GROUP 5	9.49	2.20
GROUP 6	8.47	2.20
GROUP 7	11.25	2.20
GROUP 8	11.50	2.20
GROUP 9	8.78	2.20
ZONE 3 - GROUP 1	15.40	2.50
GROUP 2	15.65	2.50
GROUP 3	15.15	2.50
GROUP 4	12.48	2.50
GROUP 5	10.95	2.50
GROUP 6	8.72	2.50
GROUP 7	12.86	2.50
GROUP 8	13.11	2.50
GROUP 9	8.97	2.50
ZONE 4 - GROUP 1	9.57	2.50
GROUP 2	9.83	2.50
GROUP 3	9.30	2.50
GROUP 4	7.92	2.50
GROUP 5	7.02	2.50
GROUP 6	6.01	2.50
GROUP 7	7.98	2.50
GROUP 8	8.24	2.50
GROUP 9	6.28	2.50
ZONE 5 - GROUP 1	11.69	2.50
GROUP 2	11.95	2.50
GROUP 3	11.42	2.50
GROUP 4	9.78	2.50
GROUP 5	8.66	2.50
GROUP 6	7.39	2.50
GROUP 7	9.83	2.50
GROUP 8	10.10	2.50
GROUP 9	7.66	2.50

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	Basic Hourly Rates	Fringe Benefits
POWER EQUIPMENT OPERATORS (Cont'd):		
ZONE 6		
GROUP 1	$11.46	$2.50
~~GROUP 2~~	~~11.71~~	~~2.50~~
GROUP 3	11.19	2.50
GROUP 4	9.58	2.50
GROUP 5	8.49	2.50
GROUP 6	7.24	2.50
GROUP 7	9.63	2.50
GROUP 8	9.90	2.50
GROUP 9	7.50	2.50
ZONE 7:		
Asphalt or overlay projects:		
GROUP 1	12.98	2.50
GROUP 2	13.23	2.50
GROUP 3	12.73	2.50
GROUP 4	10.61	2.50
GROUP 5	9.55	2.50
GROUP 6	7.96	2.50
GROUP 7	10.61	2.50
GROUP 8	10.86	2.50
GROUP 9	8.21	2.50
Other Work:		
GROUP 1	12.75	2.50
GROUP 2	13.02	2.50
GROUP 3	12.48	2.50
GROUP 4	10.68	2.50
GROUP 5	9.45	2.50
GROUP 6	8.08	2.50
GROUP 7	10.73	2.50
GROUP 8	11.00	2.50
GROUP 9	8.34	2.50
ZONE 8:		
GROUP 1	12.75	2.50
GROUP 2	13.02	2.50
GROUP 3	12.48	2.50
GROUP 4	10.68	2.50
GROUP 5	9.45	2.50
GROUP 6	8.08	2.50
GROUP 7	10.73	2.50
GROUP 8	11.00	2.50
GROUP 9	8.34	2.50
SHEET METAL WORKERS:		
ZONES 1, 6, 7 & 8	15.47	3.03+3%
ZONE 2	13.72	1.78+3%
ZONES 3, 4 & 5	17.28	3.12+3%
TRUCK DRIVERS:		
ZONE 1:		
Asphalt or overlay projects:		
GROUP 1	8.34	1.20
GROUP 2	8.47	1.20
GROUP 3	8.53	1.20

	Basic Hourly Rates	Fringe Benefits
TRUCK DRIVERS (Cont'd):		
ZONE 1 (Cont'd):		
GROUP 4	$ 8.65	$1.20
GROUP 5	8.84	1.20
Other Work:		
GROUP 1	10.13	.70
GROUP 2	10.26	.70
GROUP 3	10.32	.70
GROUP 4	10.40	.70
GROUP 5	10.59	.70
ZONE 2 - GROUP 1	10.14	
GROUP 2	10.19	
GROUP 3	10.43	
GROUPS 4 & 5	11.05	
ZONE 3 - GROUP 1	11.45	.70
GROUPS 2,3, 4 & 5	12.01	.70
ZONE 4	7.18	.70
ZONES 5 & 6	9.30	.70
ZONE 7:		
Asphalt or overlay projects:		
GROUP 1	8.34	1.20
GROUP 2	8.47	1.20
GROUP 3	8.53	1.20
GROUP 4	8.65	1.20
GROUP 5	8.84	1.20
Other Work	10.36	.70
ZONE 8	10.36	.70

WELDERS: Receive rate prescribed for craft performing operation to which welding is incidental.

DECISION NO.: LA84-4003

LABORERS CLASSIFICATION DEFINITIONS

GROUP 1 - Laborers, including but not limited to foundation driller & demolishing & dismantling man

GROUP 2 - Raker, concrete spreader, carpenter tenders, distributor man, finisher tenders, formsetter tenders, jackhammer op., jetting laborer, painter tenders, pit man, pipelayer or tile layer, power monkey tender, tamper, tree pruner, stonemason tenders, stoker, asphalt raker, concrete shovelers, power tool op. & motorized buggy op.

GROUP 3 - Formsetter, head or master--high type pavement

~~GROUP 4 - Powderman~~

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS

GROUP 1 - 60 ton crane & over, crane with 125 ft. boom

GROUP 2 - Crane with 175 ft. boom

GROUP 3 - Crane all types; derricks; deck winches (2); hi-ho & similar type equipment; 3 drums (or more) stabilizers; pulls all types; concrete mixer 1 yd. & over; all pavers; ditching or trenching machines (track type); mechanics & equipment welders; well point system; hoist, 2 drums or more; hoist, 1 drum, 40 vertical ft. or more; scrapers, bulldozers, rubbertired or track other than farmtype; scoopmobiles; motor patrol; gradall, rollers on hot mix; asphalt paving machines, front end loaders, other than farmtype, 1 cu. yd. or over; shovels & backhoes, all types & equivalent equipment; piledrivers; sideboom cats

GROUP 4 - 2 drums & single drum stabilizers; front end loaders under 1 cu. yd.; A-frame truck except when handling steel or pipe; finishing machines (concrete); power subgraders; 2 tractor (crawler type); 1 drum hoist under 40 vertical ft.; firemen; concrete spreader; pugmill, bituminous distributor on surface treatment & equivalent equipment; bullfloats & equivalent equipment; job grease man; unit op.; work boats not requiring licensed ops.; inboard-outboard motored crew boats; concrete mixer under 1 yd.; spray curing machines; roller on subgrade; 1 air compressor over 125 cu. ft.; form graders; asphalt finisher screed man; pump over 4"; scale op.; crusher op.; concrete jointing machines; concrete saw; tack machines & equivalent equipment;pumpcrete; electric elevator (inside); oiler-driver; farmtype rubber tired tractor, with attachment, except backhoes; kolum buff & similar equipment; fork lifts 10 ton capacity & under

GROUP 5 - Batch plant operator

GROUP 6 - Oiler

GROUP 7 - Firemen

GROUP 8 - Fireman operating steam valve

GROUP 9 - Oiler on crane using air to drive piles

TRUCK DRIVERS CLASSIFICATION DEFINITIONS

GROUP 1 - 1 ton & under; warehouseman, material checker, receiving clerk, spotter & dumper

GROUP 2 - 1½ tons to & including 2 tons (exclusive of dump trucks)

GROUP 3 - Single axle dump trucks, single axle water trucks

GROUP 4 - Heavy equipment, tandem axle dump & tandem axle water trucks, winch lift, transit mix, floats, pole trailers, 4 axle trailers & truck mechanic

GROUP 5 - Special equipment, euclids & 5 axle moving equipment

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5(a)(1)(ii)(A).

SUPERSEDEAS DECISION

STATE: South Dakota
DECISION NUMBER: SD84-5000
Supersedes Decision No. SD81-5155 dated October 2, 1981 in 46 FR 48855
DESCRIPTION OF WORK: Heavy and Highway Construction Projects

COUNTIES: Statewide
DATE: Date of Publication

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Concrete Finisher	$9.50				
Form Builder	8.39				
Form Builder Tender	6.86				
Form Setter	8.04				
LABORERS:					
Air Tool Operator	5.92				
Common Laborer	5.92				
Landscape Worker	5.92				
Manhole Builder	7.48				
Piledriver (Leadsman)	7.28				
Pipelayer (other than Culvert)	7.28				
Powderman (Blaster)	8.48				
PAINTERS	7.28				
POWER EQUIPMENT OPERATORS:					
Asphalt Distributor	8.77				
Asphalt Paving Machine	7.88				
Asphalt Paving Machine Tender	6.02				
Asphalt Plant Tender	6.66				
Asphalt Plant, stationary and traveling	8.46				
Auger Operator (truck type)	6.66				
Automatic Finm Gradmr Operator	8.06				
Broom (self-propelled)	6.66				
Bulldozer, 80 HP or less	7.18				
Bulldozer, over 80 HP	8.16				
Bullfloat Machine	7.58				
Concrete Batch Plant	8.16				
Concrete Mixer	6.90				
Concrete Paver	8.46				
Concrete Paving Cure Machine	7.00				
Concrete Paving Form Grader	8.06				

DECISION NO. SD84-5000

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS: (Cont'd)					
Concrete Paving Finishing Machine	$8.06				
Concrete Paving Joint Machine	7.80				
Concrete Paving Joint Sealer	7.00				
Concrete Paving Saw	7.58				
Concrete Paving Spreader	8.06				
Concrete Paving Subgrader	7.88				
Conveyor	6.22				
Cranes, Derricks, Draglines, Piledrivers, Backhoes, and Shovels, 1¼ cu. yds. or less	7.88				
Cranes, Derricks, Draglines, Piledrivers, Backhoes, and Shovels over 1¼ cu. yds.	8.66				
Crusher, including those with integral screening Plant	8.16				
Curb Machine	7.00				
Fireman (Boiler and Rotort)	6.70				
Front End Loader, 1¼ cu. yds. or less	6.90				
Front End Loader, 1¼ cu. yds. to 3¼ cu. yds.	7.58				
Front End Loader, over 3¼ cu. yds.	8.08				
Mechanic, heavy duty	8.46				
Mechanic Tender	6.90				
Mechanic, maintenance	7.58				
Motor Grader, finish	9.11				
Motor Grader, rough	7.80				
Oiler and Greaser	7.80				
Roller, self-propelled (hot mix)	7.00				

DECISION NO. SD84-5000

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS: (Cont'd)					
Roller, self-propelled (other)	$6.68				
Roller, Sheepfoot or 50 ton, pneumatic	7.00				
Scrapers	8.94				
Spreader (materials)	7.58				
Stationary Plant	7.58				
Tractor (Crawler or Pneumatic)	7.00				
Tractor (farm type with attachments including Loader)	7.17				
Tractor, Pusher	8.16				
Traveling Plant (Stabilization)	7.88				
Traveling Plant Tender	6.02				
Trenching Machine	7.58				
Wagon Drill, including Airtrac, Trac-drill, etc.	7.58				
TRUCK DRIVERS:					
Euclid or Dumptor	7.00				
Truck Cranes	6.48				
Truck, single axle	6.79				
Truck, Tandem or Semi-trailer	6.38				
WELDERS receive rate for craft to which the welding is incidental.					

DECISION NO. SD84-5000

	Basic Hourly Rates	Fringe Benefits
Line Construction:		
Linemen; Cable Splicers	$15.50	$.65+ 7½%
Linemen Equipment Operators	13.95	.65+ 7½%
Groundman	8.93	.65+ 7½%

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii)).

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[FR Doc. 84-2001 Filed 1-26-84; 8:45 am]
BILLING CODE 4510-27-C

SUPERSEDEAS DECISION

STATE: Texas
DECISION NO.: TX84-4002
COUNTY: Lubbock
DATE: Date of Publication
Supersedes Decision No. TX83-4005, dated 1/7/83, in 48 FR 934.
DESCRIPTION OF WORK: Building Construction Projects (does not include single family homes & apartments up to & including 4 stories). (Use current heavy & highway general wage determination for Paving & Utilities Incidental to Building Construction).

	Basic Hourly Rates	Fringe Benefits
ASBESTOS WORKERS	$16.00	2.37
BOILERMAKERS	16.40	2.645
BRICKLAYERS & STONEMASONS	13.67	.33
CARPENTERS	12.60	2.13
CEMENT MASONS	8.15	
ELECTRICIANS:		
Electricians	14.85	.80+ 3-1/10%
Cable Splicers	15.10	"
IRONWORKERS:		
Structural, ornamental & reinforcing	12.50	2.95
All ironworkers on jobs 30 miles or more from the city of Lubbock	12.625	2.95
LABORERS:		
GROUP 1 - Construction laborers, including excavation, pouring concrete, carpenter tender, reinforcing, shoring, digging, loading & unloading materials, wrecking bldgs. & all structures & all construction laborers except those named below	7.76	.85
GROUP 2 - Air tool op. (jackhammer, vibrator, tamper, brush hammer, chipping hammer, air or electric), power buggy man, pipelayer (conc. & clay & all non-metallic pipe); handling, laying & cleaning pumpcrete pipe; blaster nozzleman	8.03	.85
GROUP 3 - Mortar mixers, mason tenders, cement finisher tender	7.96	.85
GROUP 4 - Wagon drill	8.11	.85
GROUP 5 - Blasters & powderman	8.36	.85

	Basic Hourly Rates	Fringe Benefits
LINE CONSTRUCTION:		
Linemen	$14.85	.80+ 3-1/10%
Operators	80%JR	"
Groundmen	55%JR	"
Truck drivers	70%JR	"
PAINTERS:		
Brush	10.45	
Spray, sandblasters	11.20	
PLUMBERS & STEAMFITTERS	14.30	1.59
ROOFERS	7.00	
SHEET METAL WORKERS	15.20	1.84+ 3%
POWER EQUIPMENT OPERATOR:		
GROUP 1	12.325	1.425
GROUP 2	13.225	1.425
GROUP 3	13.625	1.425
TRUCK DRIVERS	7.78	.70
WELDERS: Receive rate prescribed for craft performing operation to which welding is incidental.		
Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR 5.5(a)(1)(ii)(A)).		

DECISION NO. TX84-4002

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS

GROUP 1 - Oiler-Fireman
GROUP 2 - Air Compressors, Pumps, Welding Machines, Throttle Valves, Light Plants (3 to 6 machines); Conveyor; Wagon Drill; Elevators Building; Form Graders; Hoist, Single Drum; Ford Tractor including blade and mower on rear; Mixers less than 14 cu. ft.; Screening Plants; Crushing Plants; Fork Lifts (short, under 25 ft.); Concrete Pumps (all types); Bobcat type equipment; Ford tractor or like with any attachments (except blade and mower on rear)
GROUP 3 - Backhoe; Drilling Machines (all types); Scoopmobiles; Hoist, two drums or more; Fork Lifts (over 25 ft.); Winch Truck; Six Wheel Truck, when used continuously for 5 days; Mixermobile; Locomotives; Mixer, 14 cu. ft. or over; Blade Graders, self-propelled; Cableways; Cranes - power operated (to 100 ft. of boom); Derricks, power operated, all types; Gradall; Hy-Ho; Hop-To; Paving Mixer (all types); Pile Drivers; Mobile Concrete Mixers over 14 cu. ft.; Bulldozers, Loaders, Tractorvators; Scrapers and Pulls; Welders; Trenching Machines; Roller, ten tons or over; Air Compressors, Pumps, Welding Machines and Light Plants (7 to 12 machines); Air Compressors & Air Tugger; Boilers, two or more fired by one man; Heavy Duty Mechanic

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federal register

Friday
January 27, 1984

Part III

Federal Emergency Management Agency

Federal Radiological Emergency Response Plan (FRERP); Publication for Public Review, Comment, and as the Basis for a Large-Scale Field Exercise; Notice

FEDERAL EMERGENCY MANAGEMENT AGENCY

Federal Radiological Emergency Response Plan (FRERP); Publication for Public Review, Comment, and as the Basis for a Large-Scale Field Exercise

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: The current plan for a significant Federal response to an accident at a commercial nuclear power plant is the National Radiological Emergency Preparedness/Response Plan for Commercial Nuclear Power Plant Accidents (Master Plan). The Master Plan was published December 23, 1980, in response to the Three Mile Island emergency. The Master Plan does not address other types of radiological emergencies.

In order to consolidate the Federal response to a wide range of potential radiological emergencies, the Federal Emergency Management Agency has coordinated a Federal interagency effort to develop the Federal Radiological Emergency Response Plan (FRERP), which is an expansion of the Master Plan, broadening its scope to include all types of civil radiological emergencies that might require a significant Federal response in support of State and local governments.

The draft FRERP is hereby published for public review and comment and to serve as the basis for a large-scale field exercise to be held in March 1984, to test the operational concepts of the draft FRERP. The test of the draft FRERP will evaluate the effectiveness in coordinating the Federal agencies' responses to this simulated emergency. Lessons learned from the exercise, together with comments submitted during the comment period, will be considered in producing the final FRERP. This Plan will then be published in the **Federal Register** and will supersede the Master Plan.

When published in its final form, the FRERP will become the single Federal plan for coordinating the Federal response to any civil radiological emergency requiring a significant Federal response. The FRERP is intended to facilitate and clarify the Federal role and mechanisms for providing support to State and local governments in a major radiological emergency, if Federal support is required.

The FRERP has been developed as a cooperative effort of the 12 Federal agencies represented on the Subcommittee on Federal Response of the Federal Radiological Preparedness Coordinating Committee (FRPCC). This Subcommittee has responsibility for coordinating Federal interagency emergency planning activities for any type of civil radiological emergency.

The FRERP outlines in detail the individual authorities and responsibilities of each of the 12 Federal agencies that have authorities and/or resources appropriate to a Federal response to a radiological emergency. Each of these agencies is now preparing, or has prepared, response plans to carry out their roles under the FRERP. As stated, Part I of the FRERP is hereby published for public review, comment, and as the basis for a large-scale field exercise of the Plan. Part II, the individual agency plans, will not be included in this printing. However, a summary of the basic provisions of each of those plans is included in Part I.

DATES: Comments on this draft Plan should reach FEMA by March 30, 1984, and will be considered in the publication of the FRERP later in 1984.

ADDRESS: Send comments to Docket Clerk, Federal Emergency Management Agency, 500 C Street, SW., Washington, D.C. 20472.

FOR FURTHER INFORMATION CONTACT: Mr. Vernon Adler, Chief, Federal Response Planning and Exercise Branch, Disaster Assistance Programs, State and Local Programs and Support Directorate, Federal Emergency Management Agency, 500 C Street, SW., Washington, D.C. 20472, telephone 202–287–0508.

SUPPLEMENTARY INFORMATION: Under the provisions of Executive Order 12148 (July 20, 1979), the Director, FEMA, is responsible for establishing Federal policies for, and coordinating, all civil emergency planning, management, mitigation, and assistance functions of executive agencies. Under this mandate, FEMA has assumed the responsibility for coordinating the development of the Federal Radiological Emergency Response Plan.

Pub. L. 96–295, Section 304 (June 30, 1980) requires that the President prepare and publish a National Contingency Plan which provides for an expeditious, efficient, and coordinated Federal response to an accident at a commercial nuclear power plant. Executive Order 12241 (September 29, 1980) delegated this responsibility to the Director, FEMA. This publication of the draft FRERP is a necessary step in the FRERP completion process. When the Plan is completed and approved for publication, such publication will fulfill the requirements of Pub. L. 96–295 and E.O. 12241.

While the Federal Radiological Emergency Response Plan is the result of an intensive interagency effort involving each agency with responsibilities under the Plan, this cooperative effort does not constitute approval by the agencies involved. FEMA is initiating this approval process with the publication of this Notice and will be pursuing this process through the Subcommittee on Federal Response in order that the Plan may be published as a final document during 1984.

Dated: January 27, 1984.

Samuel W. Speck,

Associate Director, State and Local Programs and Support Directorate.

The Federal Radiological Emergency Response Plan

Part I (Pre-Exercise Publication

January 1984.

(Prepared by the Federal Emergency Managment Agency and the other Agencies on the Subcommittee on Federal Response of the Federal Radiological Preparedness Coordianting Committee)

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I. Introduction and Background

A. Purpose

The Federal Radiological Emergency Response Plan (FRERP) is to be used by Federal agencies in peacetime radiological emergencies. It primarily concerns the offsite Federal response in support of State and local governments. The FRERP: (1) Provides the Federal government's concept of operations for responding to radiological emergencies; (2) outlines Federal policies and assumptions that underlie this concept of operations and on which Federal agency response plans were developed (in addition to their agency-specific policies); and (3) specifies authorities and responsibilities of each Federal agency [1] likely to have a significant role in such emergencies. The FRERP includes the Federal Radiological Monitoring and Assessment Plan (FRMAP) for use by Federal agencies with radiological monitoring and assessment capabilities.

Part I of the FRERP also includes executive summaries of Federal agency response plans. Part II, to be maintained by FEMA, provides complete Federal agency response plans. The FRERP will evolve continuously as Federal agencies gain experience from conducting exercises or responding to actual radiological emergencies.

B. Scope

The FRERP covers any radiological emergency that could require a significant response by several Federal agencies. Specifically, emergencies occurring at fixed nuclear facilities or during the transportation of radioactive materials (including nuclear weapons) may fall within the scope of the plan regardless of whether the facility or transportation carrier is publicly or privately owned, Federally regulated, or regulated by an Agreement State.[2] Emergencies occurring at unregulated facilities and carriers may also fall within the scope of this plan if they involve real or potential radiological consequences off site. The time period during which the FRERP is in effect encompasses the Federal response from initial notification of the Federal agencies through the development of a plan of action, when necessary, for helping the State and local governments to recover from the emergency and deactivation of Federal response.

This plan applies to emergencies resulting from the following types of incidents:

- Fixed Nuclear Facility Incidents;
- Transportation Incidents; and
- Other Incidents, e.g., nuclear-powered satellite re-entry.

Sabotage and terrorism are not treated as separate categories of incidents; rather, they are considered a complicating dimension of the incident types listed above. The Atomic Energy Act directs the Federal Bureau of Investigation to investigate all alleged or suspected criminal violations of the Act. The Attorney General, operating through the FBI and other appropriate personnel in the Department of Justice or in other Executive Departments, has the authority to investigate any alleged or suspected weapon, device, or material and for restoring nuclear facilities to their rightful custodians, just as they are responsible for locating and neutralizing conventional weapons such as handguns, rifles, high explosives, etc., involved in Federal criminal offenses.

In view of the FBI's unique responsibilities under The Atomic Energy Act, as affected by The Energy Reorganization Act, it is realistic to expect the Cognizant Federal Agency (CFA)[3]—DOE, NCR or DOD—to assist the FBI in locating and subsequently neutralizing any nuclar weapon or device of unauthorized origin. The FBI will direct all law enforcement aspects related to acts of sabotage and terrorism, with assistance as required from State and local law enforcement agencies. The FBI also will interface with the CFA as needed in responding to such acts. When it is not obvious which Federal agency is the CFA, FEMA will act as the CFA while consulting with other Federal agencies with the appropriate technical expertise to assume the CFA role.

Another aspect of the scope of the FRERP concerns the location of response to the emergency. The FRERP is concerned primarily with Federal support to State and local governments of the site of the emergency, i.e., "off site." For emergencies occuring at fixed nuclear facilities, "off site" generally refers to the area beyond the facility boundary. For other types of emergencies, e.g., transportation, "off site" is defined at the time of the emergency. Offsite support refers to Federal assistance in mitigating the hazards beyond the immediate area associated with the emergency, and in determining and implementing measures to protect the public.

The Federal government can also provide asistance on the site of the emergency, i.e., "on site." The "onsite" Federal support is the primary responsibility of the CFA, which can support State and local efforts by helping the owner or operator of the affected facility or carrier to bring the emergency under control, thereby minimizing offsite consequences.

The plan is designed to accommodate both present, and future, fixed and mobile facilities invloving nuclear materials. However, the Federal response to different types of radiological emergencies under the FRERP may differ somewhat because of the type or amount of radioactive material that may be released, the size of the affected area, or the time available to determine and implement public protective actions.

C. Authorities

The folling list includes the authorities for the response of most Federal agencies participating in this plan:

- *The Automic Energy Act of 1954, as amended, Pub. L. 83–703.* This Act declears that the use of nuclear materials must be regulated in the national interest in order to provide for the common defense and security, and to protect the health and safety of the public.
- *Executive Order 11490, October 28, 1969, as amended.* This Executive Order assigns emergency national planning and preparedness functions to several deprtments and agencies of the Federal government that complement the military readiness planning responsibilities of DOD. The order consolidates assignments of emergency preparedness functions previously contained in 21 Executive Orders and two defense mobilization orders, and assigns them to various departments and agencies.
- *Executive Order 12148, July 20, 1979.* This Executive Order assigns the Director, FEMA, the responsibility for establishing Federal policies for, and coordinating, all civil defense and civil emergency planning, management, mitigation, and assistance functions of executive agencies.
- *Nuclear Regulatory Commission Appropriation Authorization, Pub. L. 96–295, June 30, 1980, Sec. 304.* This authorization requires the President to

[1] The terms "Federal agency" and "Federal department" are used interchangeably throughout this document.

[2] Under the *Atomic Energy of 1954* (subsection 274.b.), the NRC has relinquished to certain States its regulatory authority for licensing the use of source, byproduct, and small quantities of special nuclear material.

[3] A Cognizant Federal Agency is the Federal agency that owns, authorizes, or regulates the facility, carrier, or cargo (including unclear weapons) containing the radioactive materials causing the emergency.

prepare and publish a National Contingency Plan to provide for expeditious, efficient, and coordinated action by appropriate Federal agencies to protect the public health and safety in case of accidents at commercial nuclear power plants.

- *Executive Order 12241, September 29, 1980.* This Executive Order delegates to the Director, FEMA, the responsibility for publishing the National Contingency Plan for accidents at nuclear power facilities and requires that it be published from time to time in the **Federal Register.**
- *44 CFR Part 351, March 11, 1982.* This regulation establishes the Federal Radiological Preparedness Coordinating Committee, the parent of the Subcommittee on Federal Resonse that has developed this plan. It also assigns responsibility to the Department of Energy for the development of the Federal Radiological Monitoring and Assessment Plan.

D. Planning Assumptions and Federal Policies

The following broad assumptions and policies have been used to prepare Part I of this plan and to develop the individual agency response plans and procedures contained in Part II.

1. *Public and Private Sector Response Roles*

The owner or operator of the affected facility or the carrier of the radioactive material has primary responsibility on site for minimizing the radiological hazards to the public. State and local governments have the primary responsibilty off site for implementing measures to protect life, property, and the environment. During an emergency, appropriate Federal resources may be used to support State and local governments' response measure, if requested. Federal agency response plans recognize the primacy of the response roles of owners or operators and State and local agencies.

If the owner or operator of a nuclear activity is licensed or regulated by the State and local government in an "Agreement State," the State of local government would provide onsite monitoring, evaluation, and advice. However, the Federal government will provide any appropriate support requested by the State or local government.

The offsite Federal response role is to respond to requests for assistance from State or local governments or otherwise respond to fulfill statutory responsibilities of the Federal government.

The Federal government has an onsite response role when there exists a Cognizant Federal agency, i.e., when a Federal agency owns, authorizes, or regulates a radiological activity. That agency is primarily responsible for monitoring the owner or operator's activities and for providing needed assistance. For example, in the case of an emergency at a licensed commercial nuclear power plant, the Nuclear Regulatory Commission monitors the situation, evaluates licensee actions, and advises the licensee, as appropriate, on the licensee's efforts to bring the reactor into a stable condition and minimize the offsite radiological consequences.

Volunteer and private relief organizations, such as the American Red Cross and the Salvation Army, may assist State, local, and Federal governments in carrying out some of their responsibilities.

2. *Federal Agency Authorities*

Notwithstanding the primacy of the State for protecting public health and safety off site, many Federal agencies have statutory or other authorities for responding directly to certain situations affecting public health and safety. This plan cites those relevant existing legislative and executive authorities and provides a framework for coordinating Federal actions within those authorities. No new authorities are provided by this plan.

3. *Basis for a Federal Response*

The Federal government will respond when: (1) A State or other governmental or regulated entity requests Federal support, or (2) Federal agencies must respond to meet their statutory responsibilities, e.g., when an emergency significantly affects Federal functions, property, or resources. Any Federal response will be closely coordinated with the State and local governments concerned.

4. *Federal Agency Resource Commitments*

Agencies committing resources under this plan do so with the understanding that a short-term or long-term commitment of those resources may be required, depending on the nature and extent of the emergency.

5. *Protocol for Federal Assistance Requests by Owners or Operators*

The owner or operator of an activity, either private or authorized or regulated by the Federal government, can ask for assistance directly from the appropriate Federal agency. Such requests may be for radiological monitoring, specialized assistance, or both. The affected State and local governments will be informed when such assistance is requested.

6. *Coordination of State and Local Assistance Requests*

FEMA will designate and deploy a Senior FEMA Official (SFO) to provide a single point of contact, as required, for State and local assistance requests. However, State and local government requests for assistance can be made directly to individual Federal agencies. Where State and local authorities are unable to obtain the required assistance, they should direct requests for offsite Federal assistance to the SFO, or, in the absence of such a designated official, to the appropriate FEMA regional office.

The Governor of the affected State will be advised of the designation of the SFO and will be asked to designate a State Coordinating Officer (SCO) as the principal point of State contact. The SFO will promote effective operating relationships among Federal, State, local, volunteer, and private agencies.

7. *Federal and State Communications*

Detecting problems and coordinating their solutions require a continuous flow of information among Federal and State agencies throughout an emergency. This plan makes no attempt to restrict this flow. However, for the SFO to coordinate response actions and maintain the most current information, Federal agencies need to keep the SFO informed of their major response efforts, and activities that might impinge on the actions of other agencies.

8. *Federal Referrals of State and Local Assistance Requests*

State and local authorities will be encouraged to operate through their SCO. Nevertheless, some State and local authorities may contact Federal agencies directly. Accordingly, to facilitate such contact, Federal agency response plans and procedures have:

a. Described the individual agencies' responsibilities in support of the State. This will help States to determine the most appropriate Federal agency to contact for the required assistance. Particular emphasis has been given to describing responsibilities that are closely related to those of other agencies.

b. Provided for referral of inquiries falling within another agency's area of responsibility to the appropriate agency as promptly as possible. Whenever a question exists as to the appropriate agency for referral, agencies should direct the referral to the SFO.

9. *Coordination Among Federal Agencies*

The SFO promotes coordination among Federal agencies to minimize duplication of Federal efforts, avoid inconsistent and incomplete actions, and provide for maximum use of available Federal resources. In addition, Federal agencies are encouraged to communicate freely and interact directly with other Federal agencies. The exchange and use of liaison representatives among agencies can facilitate this interaction and communication.

10. *Public Information Coordination*

Public information on the consequences of an emergency must be accurate, timely, and easily understood. Public information must be closely coordinated with State and local officials and disseminated to the public from official government sources. State officials are responsible for keeping their populace adequately informed. Since the Federal government's role is to help the State, the public information offices of the responding Federal agencies will, if requested, help State information offices prepare news releases and hold press conferences about the health and safety of the public.

When a multi-agency Federal response to an emergency occurs, all Federal public information releases will be coordinated through interagency public information organizations as described in Section II. However, when the Federal response is limited and there is no requirement for an interagency public information organization, public information will be handled solely by the CFA, State, and local officials.

Close working relationships among the public information offices of Federal agencies, their State and local counterparts, and the owner or operator are essential. The Federal government will coordinate with, and obtain concurrence as necessary from, the appropriate State and local officials on any statements to the public that bear on the responsibility of the State.

II. Concept of Operations

A. Response Overview and Summary

The Federal response to a request for radiological assistance can be divided into six major components that may involve as many as three lead Federal agencies at any one time. These components are summarized in Table II–1. As one of the agencies, FEMA is responsible for promoting coordination among the lead Federal agencies in support of State and local government efforts.

TABLE II–1: RESPONSE OVERVIEW

Response component	Lead Federal agency
(1) Conduct onsite actions to support the owner or operator: Monitor; evaluate; advise assistance, if required.	CFA.
(2) Coordinate offsite radiological monitoring and assessment:	
Initial response	DOE
Intermediate and long-term response.	EPA.
(3) Develop or evaluate recommendations for public protective action measures off site.	CFA.
(4) Present recommendations for public protective action measures off site.	CFA, in coordination with the FEMA whenever possible.
(5) Promote coordination of Federal assistance to State and local governments, including implementation of public protective action measures off site, if required.	FEMA.
(6) Coordinate release of information to the public and to Congress.	CFA, in coordination with FEMA.

The CFA, FEMA, and DOE or EPA each has a specific coordination function in relation to the State and the owner or operator of the radiological activity. Other Federal officials may arrive on the scene prior to the arrival of the CFA, FEMA, and DOE/EPA and may act under their own authorities to fulfill their responsibilities. During that brief period, those agencies will coordinate their activities among themselves and with the CFA, FEMA, and DOE as soon as they arrive about the status of ongoing response efforts. The CFA, FEMA, and DOE/EPA personnel on the scene will then provide their counterparts at their regional or headquarters offices all relevant information available from the scene.

The Department of Energy, during the initial phases of the emergency, and the EPA thereafter, will work with State and local radiological health agencies to help coordinate radiological offsite monitoring and assessment activities. DOE or EPA will make assessments of monitoring data and present them to the CFA and appropriate State and Federal agencies. The CFA will use this information, together with its assessment of the current condition and prognosis of the emergency on site, to develop or evaluate public protective action recommendations.

Federal departments and agencies that have day-to-day contacts with State counterparts will continue to use these contacts during an emergency. THE SFO will be informed of the contacts that may impinge on the actions of other Federal agencies. The Department of Health and Human Services (HHS), EPA, DOE, and the U.S. Department of Agriculture (USDA), in coordination with the appropriate State agencies, will provide advice to the CFA, if requested, concerning possible public health impacts and associated protective measures for mitigating them. The CFA will use this advice, as required, to develop a coordinated Federal position on recommendations for public protective action, when requested to do so.

The SFO is responsible for promoting the coordination of the actions of the Federal departments and agencies. The SFO will help to facilitate effective communications among the Federal respondents. The SFO will also coordinate between Federal agencies and the SCO. Finally, through the CFA, the SFO will remain informed of onsite conditions that could have an offsite impact. The SFO's overall coordination function is not intended to replace or supplant existing liaison and communication between Federal departments and agencies and their State counterparts. Rather, the SFO's coordination role is to maintain an overview of Federal actions to help Federal agencies avoid unnecessary duplication or omission of important actions. If Federal agencies need assistance in exchanging information, or in acquiring or releasing public information, the SFO and his staff will help the agencies accomplish these tasks.

The CFA, in conjunction with the SFO whenever possible, will present any Federal recommendations to the State or other appropriate offsite authority responsible for implementing protective actions. In the case of a fixed nuclear facility licensed by the NRC, the licensee is responsible for developing appropriate protective action recommendations and providing those recommendations to State and local authorities. NRC, in the role of CFA, will evaluate the licensee's protective action recommendations and either concur in them or suggest modifications, as appropriate. The SFO is then responsible for promoting coordination among Federal agencies providing assistance to the State in implementing those recommendations if such assistance is requested by the State.

B. General Scheme for Notification, Activation, Recovery Assistance, and Deactivation

FEMA and each CFA will follow a pre-established system for notifying all appropriate Federal agencies.

1. *Notification*

The owner or operator of the affected facility, carrier, or cargo, (including

nuclear weapons), as the first to become aware of a radiological emergency, is responsible for notifying the appropriate State and Federal authorities.

Some owners or operators use an emergency classification scheme to denote the severity of an incident. These schemes are used by the CFAs to initiate intra-agency notifications and responses. The specific classification scheme to be used with the owner or operator varies with the CFA. For example, in the case of an incident at a commercial nuclear power plant, when the utility notifies the NRC (as CFA), the utility will categorize the incident as: (1) a Notifcation of an Unusual Event; (2) Alert; (3) Site Area Emergency; or (4) General Emergency. If the CFA uses the owner or operator's classification scheme in its notification to other Federal agencies, the CFA is responsible for explaining the general and incident-specific meanings of those classifications.

Subsequent to its receipt of a notification of an incident, the CFA will notify FEMA headquarters in Washington, D.C. by contacting the FEMA Emergency Information and Coordination Center (EICC) at (202) 634–7800. CFAs maintain similar emergency operation centers at their headquarters, regional, or field offices.

A notification to FEMA should include a description of the emergency situation that is sufficient for FEMA to carry out its further notification and response duties. The CFA will provide FEMA with a general assessment of the emergency including location and nature of the accident, sufficient details to describe the severity of the problem (if known), a description of the CFA's response, and any follow-on actions anticipated by the CFA.

FEMA and CFA will then notify other appropriate Federal agencies of the emergency in accordance with their notification procedures, pre-established interagency agreements, or interagency operational response procedures. For example, in those cases where Federal lands could be affected, procedures will provide for notifying the Federal agency with jurisdiction. The notifications will incorporate relevant information exchanged between the CFA and FEMA. Individual agencies will then determine their initial response actions, if any, and determine their specific requirements for subsequent information, when those requirements have not been predefined with the CFA or FEMA.

DOE. will notify Federal agencies with FRMAP responsibilities in accordance with agree-upon procedures. Federal agencies that can provide radiological assistance may respond upon receiving a direct request for assistance from the State or owner or operator. Federal agencies so contacted will inform the DOE of the arrival of their response team at the scene.

2. *Activation*

Upon receipt of notification, each agency will assess the need to initiate its response. The response decision will be based on the situation reported and may consist of several steps:

- Activation of appropriate Federal agency response components;
- Activation of agency emergency response teams and their deployment to the scene; and
- Establishment of bases of operation at the scene of the emergency from which to carry out a coordinated Federal response.

A full-scale Federal response begins with the execution of the notification scheme and includes all the above three steps. Since many emergencies will not require a full-scale response, however, the Federal response might reach only the first or second step. When the second or third step is reached an SFO deploys and establishes an offsite base of operation for coordinating the Federal response, i.e., a Federal Response Center (FRC).

As soon as a FEMA Emergency Support Team is activated at headquarters, FEMA assumes responsibility for coordinating the Federal response.

Each Federal agency will decide whether and to what degree to activate its response according to its internal agency procedures and consistent with its responsibilities and role in the overall Federal response. For example, agency responses under FRMAP can be activated without requiring responses by other agencies participating in the FRERP. Once a decision has been made to activate, a Federal agency is encouraged to communicate and interact directly with its counterparts in other Federal and State agencies, recognizing that State agencies will respond first and must be free to communicate with State officials.

If an agency decides to initiate its response, that decision will be communicated to FEMA and will include: (1) The name and location of the lead agency official if one is designated; (2) the telephone number at which he/she can be contacted at headquarters or at the scene; (3) if appropriate, the primary official to deploy to the scene and his/her estimated time of arrival at the emergency site; and (4) intended location at the scene. Similarly, FEMA will provide each Federal agency with the same information when FEMA designates its SFO.

Because of its singular responsibility for Federal support on site, the CFA will determine and implement an efficient means for coordinating Federal support on site with Federal response activities off site. In particular, CFA coordination procedures will be implemented. these procedures concern the coordination of the CFA's activities with those Federal agencies with which it has an interface responsibility off site.

a. *Deployment of Emergency Response Teams*

Agency plans and procedures describe response team deployment and establishment of bases of operations at the scene. Ideally, the SFO and staff, other Federal agency response teams, and State agency respresentatives would be co-located at the scene, but many State plans do not reflect this concept. Accordingly, FEMA and CFA site-specific emergency plans and procedures should be flexible enough to accommodate State operations. Some Federal agencies may immediately deploy their teams to the scene of the emergency to fulfill statutory authorities and responsibilities. This plan is not intended to restrict such activities; however, when the SFO arrives at the scene, the agencies that have already responded will inform the SFO of the offsite actions they have taken.

b. *SFO Designation and Deployment*

Upon activation, FEMA may deploy an Emergency Response Team (ERT) headed by an SFO and composed of one staff component from the appropriate FEMA region and another staff component from FEMA headquarters. The SFO, once at the scene, will be supported by an Emergency Support Team at FEMA headquarters as well as by the ERT staff accompanying him/her. Prior to this deployment, the FEMA region will inform the State of the planned FEMA response. FEMA will also advise the CFA of these actions.

Upon arrival at the scene, the SFO, or the Deputy SFO (DSFO) if the SFO so authorizes, will establish an offsite base of operations, i.e., the Federal Response Center, for promoting coordination of the Federal response. The Deputy SFO, who leads the regional component, is likely to arrive at the scene prior to the arrival of the headquarters component and may have initial responsibility for establishing and operating the FRC until the SFO arrives. The SFO will inform other Federal agencies at the emergency scene of the establishment of the FRC

and request that they provide representation to it. The SFO will establish communications with the CFA to determine the status of onsite Federal response efforts. Other Federal agencies that have responded will inform the SFO and the CFA of their response efforts as soon as communications have been established.

Once the FRC has been established at the scene, the SFO assumes responsibility from FEMA headquarters for promoting the coordination of the Federal response at the scene. The SFO and the Cognizant Federal Agency Officer (CFAO) at the scene will work together closely to ensure that each has an accurate understanding of the situation throughout the emergency.

3. *Recovery Assistance and Response Deactivation*

Prior to the deactivation of the Federal response, the Federal government will assist the State, as requested, in developing an offsite recovery and restoration plan. The CFAO, in coordination with the SFO and other Federal agencies, as appropriate, will recommend in the plan those recovery actions to be taken once the immediate public health and safety and property protecting actions have been accomplished. More specifically, the plan may include actions necessary for decontamination and clean-up, offsite restoration, population re-entry, provision of hardship assistance, and any other long-term recovery actions. In short, the plan describes all actions necessary to restore the affected area to its pre-emergency condition, wherever practical. The offsite recovery and restoration plan will also identify the roles, if any, of the CFA, FEMA, and other Federal agencies in helping the State and owner or operator to implement the plan.

Each agency will discontinue response operations upon request by the State or when its statutory responsibilities have been fulfilled. Agency response deactivation will be carried out in coordination with the CFA and FEMA.

C. General Response Roles of Principal Agencies and Officials

General responses roles are those that independent of the cause, type, or location of the radiological emergency.

1. *Role of the Cognizant Federal Agency*

The CFA is the Federal agency that owns, authorizes, or regulates the facility, carrier or cargo (including nuclear weapons), containing the radioactive materials causing the emergency. When it is necesary for the CFA to deploy to the site, the CFA's role is to manage all Federal actions onsite, develop or evaluate protective action and re-entry recommendations, and help to implement those actions if requested by State and if the CFA's resources permit.

Consistent with this role, the CFA has four general responsibilities:

- Receive notification of the emergency, initiate the CFA response, and notify appropriate Federal, State, and local agencies;
- Manage Federal response actions on site and coordinate these actions, as necessary, with the SFO and monitoring activities off site;
- Assess owner or operator, State, or locally recommended protective action measures and/or develop Federal recommendations for protective action and re-entry; help State and local authorities as resources permit; and
- Serve as the primary Federal source for information of a technical nature regarding the onsite emergency conditions and the potential or real offsite radiological effects.

Each of these responsibilities is outlined in more detail below:

a. *Receive Notification of the Emergency, Initiate the CFA Response, and Notify Appropriate Federal Agencies*

(1) Receive notification of the emergency from the owner or operator of the affected facility, carrier, or cargo and determine the emergency classification of significance of the emergency and the appropriate CFA response to it.

(2) Notify FEMA and DOE of the emergency; include in the notification the CFA's activation mode and actions, a general assessment of the emergency, and any necessary background information.

(3) Deploy a CFA team to the site, when appropriate.

b. *Manage Federal Response Actions On Site*

(1) Designate a lead CFAO at the site of the emergency who will coordinate with the SFO, as necessary, any onsite Federal actions that may have significant impacts off site.

(2) Establish appropriate bases of operation to oversee the onsite response, monitor owner or operator activities, provide technical support to the owner or operator if requested, and serve as the principal source of information about onsite conditions for the Federal government.

(3) Manage the onsite Federal response to the emergency, including an assessment of the conditions on site and the means for mitigating their consequences off site.

(4) Keep other agencies informed of conditions and Federal actions on site.

c. *Protective Action and Re-entry Recommendations*

One of the primary areas where the Federal government can assist State and local governments is in assessing protective action and re-entry recommendations (PARs) developed by the owner or operator, State, and local authorities. In some cases the CFA may develop Federal PARs independently. For example, when the owner or operator is organizationally a part of or is authorized by the CFA, the CFA may develop PARs independently. In providing as assessment or developing a Federal recommendation, the CFA will use, to the extent practicable, appropriate advice and input from other Federal agenices with technical expertise on those matters FEMA, upon request, will assist the CFA as required in its evaluation or development of protective action and re-entry recommendations. Agencies with potential input to the evaluation or devlopment of PARs will use the operational procedures they have developed with CFAs to provide such input.

Similarly, whenever possible, the CFA will coordinate its presentation of comments on PARs with FEMA either prior to, or at the time of, their presentation to the State or other offsite authorities. When imminent peril threatens the public health and safety, the CFA will present comments on PARs directly to the State or other offsite authorities without having to coordinate with any other Federal agency. More specifically, the CFA's responsibilities related to PAR development, and presentation are:

(1) Serve, as required, as a point of contact for State and local government technical impact information and other technical assistance requests.

(2) Provide staff liaison representatives to State authorities and the SFO, if requested, to help interpret the technical aspects of the emergency on site and its potential or real offsite radiological consequences.

(3) Work with DOE in its efforts to provide offsite monitoring data and assessments to appropriate State and Federal agencies.

(4) Prepare a coordinated Federal position on protective action and re-entry recommendations whenever

possible. Consult with HHS, DOE, EPA, USDA, and other Federal agencies as required.

(5) When appropriate, present the Federal assessment or recommendations, in conjunction with the SFO, to the State or other offsite authorities.

(6) Help State and local government agencies implement protective actions, as required, when the CFA has available resources to help provide the needed assistance.

d. *Serve as the Primary Source for Technical Information Regarding the Emergency Conditions On Site and the Potential or Real Offsite Radiological Effects*

(1) Make an initial report to the White House Situation Room covering, if possible, the condition of the affected facility, carrier, or cargo and the actual or potential offsite radiological impact. In coordination with FEMA, keep the White House informed of onsite conditions and actual or potential offsite radiological impacts.

(2) Review and concur in the release of all Federally generated information related to the onsite conditions and remain informed of all information related to offsite radiological effects. Where possible, the CFA should review Federally provided offsite radiological data before release.

(3) Assist the State Public Information Officer in developing coordinated public information releases.

(4) Protect national security by classifying sensitive technical information in a nuclear weapon accident or weapon significant incident.

2. *Role of the Federal Emergency Management Agency*

FEMA's primary responsibilities in the Federal response are to notify participating Federal agencies [4] of the emergency and to serve as a focal point for coordinating Federal response activities at the national level. The Director of FEMA will designate and deploy the SFO for coordinating Federal response activities at the scene of the emergency.

a. *Emergency Support Team Role*

Through its Emergency Support Team at headquarters, FEMA will:

(1) Notify participating agencies of the emergency situation and supply information they need to take appropriate actions.

(2) Coordinate Federal response activities at the national level.

(3) Receive information at the Emergency Information and Coordination Center (EICC) from the CFA and other public and private organizations about the impact of the emergency and the organizations' response.

(4) Prepare periodic reports on the Federal response for the White House.

(5) Provide staff support and other resources to the SFO as required.

b. *Emergency Response Team Role*

At the scene of the emergency, the FEMA response is carried out through its Emergency Response Team, headed by the SFO. The SFO coordinates Federal activities with State offsite activities and promotes the coordination of Federal actions, information, and recommendations. Free interaction among Federal, State, and local agencies is encouraged. The SFO can facilitate information flow among all response elements and help to direct Federal resources to the appropriate State and local government agencies. The SFO will not intervene in the relationships and communications channels that already exist between Federal and State agencies; rather, the SFO provides an additional means for facilitating Federal-State interactions.

The SFO has three major responsibilities:

- Promote coordination among Federal agencies and their interactions with the State, including, in conjunction with the CFA, the provision of Federally developed or evaluated protective action recommendations to the State or other appropriate offsite authorities responsible for implementing public protective actions.
- Coordinate offsite activities with onsite response activities of the Federal agencies; and
- Serve as an information source on the status of the overall Federal response effort. (The public information function is described in Section D.)

Each of these responsibilities is outlined below:

(a) *Promote Coordination among Federal Agencies and Their Interactions with the State:*

(1) Promote coordination of the provision of offsite assistance to State and local government agencies by the Federal agencies, including medical care, food, potable water, shelter, clothing, transportation, security, and any other assistance needed to protect the public health and safety. This coordination function is to be performed in addition to, and does not supplant, the specific coordination functions assigned to other Federal agencies as part of their normal responsibility to provide these specialized forms of assistance.

(2) Establish the Federal Response Center as a base of operations near State operations at the scene of the emergency that can serve as a focal point for Federal response team interactions with the State.

(3) Provide the principal point of contact for State and local government requests for Federal assistance.

(4) Refer all State and local requests to the most appropriate Federal agency.

(5) Refer all Federal agencies to appropriate points of contact in State and local government.

(6) Provide information to the State and local government concerning the status of their assistance requests.

(7) Maintain contact with DOE or EPA to ensure that the offsite Federal radiological monitoring and assessment effort is coordinated with other offsite Federal assistance to the State.

(8) Facilitate the exchange of all other information among Federal agencies.

(9) Make requests through FEMA headquarters for additional Federal resources that cannot be acquired by Federal agencies at the scene.

(10) Refer all interagency policy issues and interagency operational problems that cannot be resolved at the scene to FEMA headquarters for resolution with Federal agencies at the national level.

(11) Promote the provision of information from Federal agencies to the State regarding actions taken or anticipated by them.

(12) Promote the coordination of all formal recommendations and guidance from Federal agencies before they are presented to the State.

(b) *Coordinate the Federal Offsite Response with the Federal Onsite Response:*

(1) Promote the coordination of the Federal offsite response with the Federal onsite response so that any Federal actions off site are taken with full knowledge of current or anticipated Federal actions on site.

(2) Assist and support the CFA, as required, with obtaining needed logistical support through other Federal agencies.

(3) Assist the CFA, as required, in its development or evaluation of protective action recommendations including the provision of needed information to or from other Federal agencies having the required expertise.

(4) Ensure that the CFA is informed of the capabilities and resources of offsite Federal agencies for assisting with the implementation of Federally

[4] Except the CEA (which is notified directly by the owner or operator) and DOE (which is notified by the CFA or the owner or operator or the State).

recommended public protective actions by the State or other offsite authorities.

(5) Assist the CFA and DOE or EPA, as FRMAP coordinator, in disseminating information to, and obtaining information from, other Federal agencies. Facilitate the exchange of all other information among Federal agencies.

(6) Participate in the presentation of a Federally coordinated assessment of the set of protective action recommendations to the State or other responsible offsite authorities in conjunction with the CFAO. When the public health and safety are in imminent peril, the CFAO will present recommendations without consultation with the SFO or other Federal agencies.

(c) *Serve as an Information Source for the Total Federal Response:*

(1) Provide periodic reports on the Federal response to the White House Situation Room as requested, but at least daily. The SFO, in coordination with the CFAO, will maintain an executive level summary of the total Federal response and will provide all subsequent reports to the White House. The SFO's summary will ensure that the White House receives a comprehensive and complete report on the Federal response. This SFO activity does not preclude the White House from contacting any agency for information, nor does it restrict an agency from responding to White House requests. The CFA will remain the source for technical information on the emergency, i.e., the onsite conditions and the potential or real offsite radiological impacts.

(2) Provide information in coordination with the CFA on the status of the Federal response to members of Congress and their staffs both in Washington and in the field when requested.

3. *Role of DOE and EPA*

The Department of Energy [5] and the Environmental Protection Agency have a major role in the Federal response by coordinating Federal radiological monitoring and assessment activities. There are three responsibilities involved, which initially fall to DOE. They are:

- Coordinate the offsite radiological monitoring, assessment, evaluation, and reporting of all Federal agencies during the initial phases of the emergency, including notification of Federal agencies in accordance with the provisions of the FRMAP;
- Maintain liaison and a common set of offsite radiological monitoring data with the facility owner or operator and State and local agencies with similar responsibilities; and
- Provide these data and any interpretations to the CFA and appropriate Federal, State, and local agencies, and assist the CFA in its development or evaluation of recommendations for public protective actions and re-entry recommendations, as required.

After the initial phases of the emergency, DOE will transfer these coordination responsibilities to EPA at a mutually agreeable time. EPA will assume the lead agency responsibility for coordinating the intermediate and long-term offsite radiation monitoring activities only after receiving adequate assurance from the Department of Energy and other Federal agencies that they will commit the required resources, personnel, and funds for the duration of the Federal response effect. After this transfer occurs, EPA will coordinate Federal radiological monitoring and assessment activities.

D. Public Information and Congressional Relations

This section describes the responsibilities for Federal agency public information and Congressional relations that will be implemented under this plan.

1. *General Public Information Responsibilities*

The major roles and responsibilities for public information release during a radiological emergency are as follows.

a. *The facility operators* are responsible for information on facility status and conditions.

b. *The State* is responsible for releasing information relating to the impact of the emergency on the health and safety of its citizens and its emergency response operations.

c. *The CFA*, through the CFAO's Public Information Officer (PIO), and in conjunction with the owner or operator, is responsible for information related to: (a) The onsite conditions of the affected facility, carrier, or cargo and (b) the offsite radiological effects. The CFA is responsible for the security classification of all onsite information in accidents or significant incidents involving nuclear weapons.

d. *Each Federal agency* is responsible for the preparation of public information releases related to its own response activities. Prior to release, information will be coordinated through the public information organizations described in the remainder of section D.

e. *FEMA*, through the SFO's PIO, will work with the CFAO's PIO to promote coordination among all Federal agencies regarding public information generated by them and to promote the coordination of press releases with the State. Coordination does not mean that the language of all releases must be approved by the SFO and CFAO PIOs, but rather that the information content is to be reviewed by them prior to release to ensure its consistency with the total information available. In cases when the public health and safety are in imminent peril, the CFAO's PIO may review and release public information independently.

2. *Coordinated Release of Public Information at the Scene of the Emergency*

Upon arrival at the emergency scene, the CFAO's PIO will establish Federal public information operations at the Joint Information Center (JIC) in cooperation with the owner or operator's pre-established information center, or separately if necessary. The JIC at the scene of the emergency will provide the public and the media with adequate, accurate, and timely public information regarding a radiological emergency. All Federal PIOs will co-locate, and efforts will be made to co-locate the Federal PIOs with, State, local, and owner or operator public information officials in this center as well. Most nuclear power reactor owner or operators have designated JIC locations and have made arrangements to establish and operate these centers in an emergency. Federal PIOs should work within these centers, if possible.

When it is not feasible to establish a single public information center, more than one information center may be used. In such cases, special efforts will be necessary to maintain close coordination between the various press centers and the State's public information center.

The establishment of Federal operations at the JIC will be undertaken in coordination with FEMA, other appropriate Federal agencies, and State and local authorities, when practicable. If FEMA's PIO or any other participating agency's PIO arrives at the scene of the emergency before the CFAO, the FEMA PIO or another agency's PIO may establish and manage Federal operations at the JIC until the CFAO arrives. Upon arrival, the CFAO will assume primary Federal government responsibility for Federal operations at the JIC. The CFAO's PIO will work with

[5] DOE would also serve as the CFA if the emergency involved DOE owned or authorized nuclear facilities, carriers, or cargo (including weapons in DOE custody).

FEMA's PIO to promote the coordination of Federal public information releases. The responsibility for Federal activities at the JIC may be transferred to FEMA, if agreed to by the CFAO's PIO at the scene and FEMA's PIO, at a mutually acceptable time.

3. *Coordinated Release of Public Information at the Headquarters Level*

For some emergency situations it may be necessary to release public information prior to the establishment of Federal operations at the JIC. When this is the case, Federal agencies must coordinate the release of public information through their headquarters with the CFA headquarters PIO. The CFA headquarters PIO who serves as the single point of contact at the national headquarters level for all Federal agency PIOs as well as for the media. The CFA headquarters PIO, in conjunction with FEMA, will establish procedures for the coordinated release of Federal public information to the media.

Prior to the establishment of Federal operations at the JIC, Federal agencies will coordiante releases of public information both at the regional level and near the site of the emergency through their Washington, D.C. headquarters offices.

The agency headquarters points of contact for public information will continue to operate, but once the JIC is established, all Washington-based information must be coordinated through the JIC prior to release. The Washington centers may, however, handle overflow news media inquiries and serve as a platform for carefully selected, Washington-based specialists to supply background information, as required.

4. *Coordinated Release of Information to Congress*

Responses to Congressional requests for information will be coordinated among the Federal agencies whenever possible. The CFA Congressional Liaison Officer (CLO) at the headquarters Congressional Affairs Office will provide a single point of contact for all Federal agency CLOs and Congressional staffs seeking site-specific emergency information. As time and circumstances allow, all agency CLOs will either channel Congressional requests to this single point of contact, or coordinate their intended responses with it. If required, a Congressional relations operation at the headquarters level may be established.

Once the SFO is deployed to the scene, (s)he will arrange for his/her CLO to meet at appropriate intervals with area Congressional field staffs. In conjunction with the CFAO's CLO, the SFO's CLO will brief them on the situation.

This formal procedure does not preclude communication and information exchange between Congressional representatives and Federal agencies. However, Federal responses will be coordinated among Federal agencies in the manner described.

III. Federal Radiological Monitoring and Assessment Plan (FRMAP)

A. Foreword

To coordinate offsite radiological assistance under the FRERP, the U.S. Department of Energy (DOE) developed the Federal Radiological Monitoring and Assessment Plan (FRMAP). The FRMAP, required under a Federal Emergency Management Agency regulation issued on March 11, 1982, is a revised and updated version of the planning and response concepts of the Interagency Radiological Assistance Plan (IRAP). The IRAP was originally published in 1961 to provide Federal technical assistance and response to radiological emergencies. FRMAP and IRAP are very similar in concept, with the most notable changes occurring in the designation of participating Federal agencies and, in some cases, their expanded or revised responsibilities, e.g., FEMA. The FRMAP deals with the initiation and coordiantion of Federal radiological monitoring and assessment assistance, not each Federal agency's individual response.

The FRMAP establishes: (a) A means of requesting and providing Federal radiological assistance from existing Federal resources and (b) an operational framework for coordinating the radiological monitoring and assessment activities of Federal agencies during radiological emergencies occurring within the United States and its territories. The operational guidelines presented here apply to all radiological emergencies in which Federal assistance is reqeusted.

At one end of the range of radiological emergencies, the FRMAP may be implemented without the FRERP. At the other end of the range, the radiological assistance provided through FRMAP may be only a small portion of the total Federal response to a major emergency. FRMAP applies primarily to offsite Federal radiological monitoring and assessment assistance and the technical support for these activities.

B. Purpose

The purposes of the FRMAP are as follows:

- To make needed radiological monitoring and assessment assistance available to the general public, State and local governments, and Federal agencies;
- To provide a framework through which Federal agencies will coordinate their emergency radiological monitoring and assessment activities in support of Federal, State, and local governments radiological monitoring and assessment activities; and
- To assist State and local governments in preparing for radiological emergencies by describing Federal assistance responsibilites and capabilities.

C. Authority and Jurisdiction

DOE is assigned the responsibility for developing the FRMAP under authority of 44 CFR Part 351. The FRMAP is included in the FRERP to provide a single, comprehensive document that describes all Federal offsite assistance responsibilities. The agencies participating in the FRMAP, including agencies that joined FRMAP subsequent to 44 CFR Part 351, are: FEMA, the Nuclear Regulatory Commission (NRC), the Environmental Protection Agency (EPA), the Department of Health and Human Services (HHS); the Department of Energy (DOE); the Department of Agriculture (USDA); the Department of Defense (DOD); the Department of Commerce (DOC); and the Department of the Interior (DOI).

The FRMAP recognizes that the above agencies may have other radiological planning and emergency responsibilities as part of their statutory authority, as well as established working relationships with State counterpart agencies. The provisions of the FRMAP do not limit those responsibilities, but complement them by providing for a coordinated Federal response when emergency radiological assistnce is requested. All FRMAP activities will support the monitoring and assessment programs of the State and those of the owner or operator of the radiological activity.

D. Policy

1. Federal agency plans and procedures for implementing the FRMAP will be consistent with any radiological emergency planning requirements for State and local governments and specific facilities.

2. The participating Federal agencies will maintain facilities, equipment, and personnel to carry out their statutory responsibilities. Existing radiological monitoring and assessment capabilities developed to carry out those responsibilities will be made available to State and local authorities, other Federal agencies, and to the general public in an emergency if other resources are not available.

3. The Federal agencies will make their resources available on request. An agency may decline to provide resources only if doing so would prevent that agency from carrying out its essential missions and emergency functions.

4. During the emergency phase of the Federal response, the DOE will coordinate all Federal radiological monitoring and assessment operations and integrate the data derived from those activities. EPA will assume the lead agency responsibility for coordinating the intermediate and long-term offsite radiation monitoring activities only after receiving adequate assurance from the Department of Energy and other Federal agencies that they will commit the required resources, personnel, and funds for the duration of the Federal response effort. The full FRMAP response will be terminated when the EPA Administrator determines, after consultation with the CFA and State and local officials, that there is no longer a threat to the public health and safety to the environment, or that State and local resources are adequate for the situation, or, when the Federal agencies are carrying out only non-emergency statutory responsibilities.

5. An agency that makes its resources available, although under the general direction of DOE (or later, EPA), does not place itself under the authority of the coordinating agency.

6. The DOE (or later, EPA), will maintain a common and consistent set of all offsite radiological monitoring data and provide it, with interpretation, to the Cognizant Federal Agency, to the State, to Federal agencies having appropriate statutory authorities, and to other groups as required.

7. The Federal radiological monitoring and assessment response will be in support of, and coordinated with, that of the State and local governments. The resources of DOE and the participating agencies will be used only when State and local resources are not adequate. All offsite activites will be coordinated with those of the State.

8. Federal assistance will be initiated when the Federal Radiological Emergency Response Plan is activated, or through a request from a State or local government, another Federal agency or private entity, or (in rare cases) when DOE, after notification of an incident, but in the absence of an activation by the FRERP or State request, believes there is a possibility of a hazard.

9. Federal agencies, to the extent possible, will assist other Federal agencies and State and local governments with planning and training activities designed to improve local response capabilities, and will cooperate in drills, tests, and exercises.

10. Appropriate independent emergency actions may be taken by the participating Federal agencies on their own authority to save lives, minimize immediate hazards, and to gather information about the emergency that might be lost by delay. Such action will not preempt later implementation of the FRMAP.

11. Funding for each agency's participation in support of the FRMAP is the responsibility of that agency unless provided for by other agreements.

E. Maintenance and Revision

The Interagency Committee on Radiological Assistance (ICRA), consisting of representatives from each of the participating agencies, will serve as the continuing coordinating body for the FRMAP. This committee will interpret, maintain, and update the FRMAP. Changes to the plan will be made through ICRA and must have the approval of DOE and any other participating agencies affected by the change. ICRA will also provide a means for coordinating response capabilities, training activities, exercises, and research and development pertinent to the FRMAP. The DOE representative will serve as ICRA chairman. An ICRA meeting will be held at least once each year, with supplemental meetings as needed.

Each agency will report periodically to the ICRA on its radiological response capabilities, training programs, and any research and development activities designed to improve its response.

F. Organization

1. *General Principles*

The FRMAP addresses the coordination of the participating agencies' support of offsite monitoring and assessment efforts. The organization of the FRMAP emergency response and the roles of some agencies under FRMAP will depend on the specific emergency, but will follow the principles outlined in the Federal Radiological Emergency Response Plan. Information generated from the FRMAP response is provided to the CFA and to the appropriate State authorities.

2. *Involvement of Non-Participating Agencies*

In some cases, other Federal agencies may become involved with FRMAP activities. The State Department would be involved if the emergency affected areas outside United States territory and monitoring efforts needed to be coordinated across an international border. The Federal Bureau of Investigation (FBI) would have the principal role in the investigation of all emergencies where terrorism or deliberate release of radioactive materials is suspected or in cases of threats against nuclear facilities or materials. The major FBI interfaces, however, are expected to be with the CFA and FEMA. Even when the FBI is involved, DOE/EPA will coordinate monitoring functions with their State counterparts.

3. *Coordination of a Limited Response*

The FRMAP recognizes that the appropriate response to a request for Federal radiological assistance may take many forms, ranging from advice given by telephone to a large Federal monitoring and assessment operation at the scene of a serious emergency. Most of the following guidelines for participating agencies are designed for the latter situation, but the FRMAP is also applicable to lesser incidents where a limited response, possibly by DOE alone, is sufficient.

G. Responsibilities of Participating Agencies

1. *Responsibilities During Emergencies*

Cognizant Federal Agency: The CFA's primary emergency response responsibilities are stated in the previous chapter at C.1. The CFA will also contribute to the FRMAP as follows:

- Ensure that DOE, State, and local officials are notified quickly of a radiological emergency;
- Provide pertinent onsite technical and radiological data to the DOE Off Site Technical Director (OSTD) and State and local officials;
- Utilize FRMAP data, as appropriate, to develop technical recommendations on protective measures if the facility operator's recommendations are considered inappropriate or insufficient.

Department of Energy: DOE's offsite responsibilities are:

- Coordinate the offsite radiological monitoring, assessment, evaluation,

and reporting activities of all Federal agencies during the initial phases of an emergency while maintaining technical liaison with State and local agencies with similar responsibilities.

- Provide the personnel and equipment required to coordinate and, in cooperation with other Federal components, to perform the offsite radiological monitoring and evaluation activities.
- Request supplemental radiological monitoring assistance from other Federal agencies when needed, when requested to do so by the State, or if considered necessary to maintain the credibility of the offsite assessment.
- Request meteorological, hydrological, geographical, etc., data needed for monitoring and assessment efforts.
- With other appropriate agencies help the CFA to assess the accident potential and to develop technical recommendations on protective action.
- Maintain a common set of all offsite radiological monitoring data and provide these data and interpretation to the CFA and other appropriate Federal, State, and local agencies requiring direct knowledge of radiological conditions.
- Provide consultation and support services to all other entities (e.g., private contractors) with radiological monitoring functions and capabilities.
- Help HHS and other Federal, State, and local agencies by providing technical and medical advice about the treatment of radiological contamination.
- Assist the other Federal, State, and local agencies in early planning for decontamination and recovery of the offsite area and make recommendations to avoid the spread of contamination by improper emergency operations.
- Provide telecommunications support to Federal agencies assisting in offsite radiological monitoring, if necessary.
- Ensure the orderly transfer of responsibility for coordinating the intermediate and long-term radiological monitoring function to EPA at a mutually agreeable time after the initial phases of the emergency if the need for Federal radiological assistance continues.

The DOE Emergency Action and Coordination Team (EACT) at DOE headquarters authorizes the appropriate DOE response for the FRMAP.

Environmental Protection Agency: EPA will assume the lead agency responsibility for coordinating the intermediate and long-term offsite radiaiton monitoring activities only after receiving adequate assurance from the Department of Energy and other Federal agencies that they will commit the requested resources, personnel, and funds for the duration of the Federal response effort. Once the transfer of coordination responsibilities are transferred from DOE to EPA, EPA will assume the DOE role described above except for providing technical and medical advice about treatment of radiological contamination. Prior to assuming coordination responsibility, EPA will function as one of the other participating agencies.

Federal Emergency Management Agency: FEMA has a major role in all situations involving a multi-agency response. In addition to coordinating the offsite (non-technical) response under the FRERP, FEMA may contribute to FRMAP in these ways:

- Obtain telecommunications and logistical support for agencies participating in monitoring and assessment; and
- Provide monitoring assistance to DOE or EPA if requested.

Other Participating Agencies: Each participating agency will carry out its statutory responsibilities and any other responsibilities under the FRERP, if the FRERP is implemented, during the course of the radiological emergency. All radiological monitoring and assessment activities conducted as part of the statutory responsibilities will be coordinated with the other participating agencies through DOE and later, EPA. Each agency will make its radiological resources and capabilities available to the Federal assistance operations to the maximum extent possible.

2. *Responsibilities for Training and Exercises*

To improve the response capability of the participating agencies and the State and local personnel with whom they interact, the FRMAP encourages the development of training materials and presentation of training sessions by all agencies and at all levels. Radiological emergency response training should be oriented toward ensuring proper emergency actions at the scene of a radiological emergency, informing the public, and effecting a prompt return to normalcy. In addition to agency personnel, personnel who may be trained, include those likely to be at the scene of the accident, such as personnel of a fixed nuclear facility, personnel providing emergency services, those experts responding to calls for radiological assistance, and local authorities who need to work with State and Federal emergency radiological assistance personnel. Federal assistance in training State and local government personnel is available through FEMA (under 44 CFR Part 351), using the technical expertise and resources of other FRMAP agencies.

Exercises of the FRMAP aspect of the FRERP are encouraged among Federal, State, and local agencies. Exercises may occur independently or in conjunction with other exercises, such as State/facility emergency plan exercises or exercises of the FRERP. Each agency should coordinate its training programs and exercises through the Federal Radiological Preparedness Coordinating Committee (FRPCC) and ICRA to avoid duplication and to make its training available to other agencies. Each agency is encouraged to furnish training materials and training assistance, if feasible, when requested by other agencies.

H. Categories of Emergencies

Three categories or types of emergencies have been previously described in the FRERP. Each type of emergency may present different types of response problems.

Fixed nuclear facilities, including nuclear power reactors, have the advantages of known locations and existing site-specific emergency plans. Classifications of incident severity have been developed for many of these facilities, and the level of FRMAP response may be guided by these classifications. The NRC has adopted four categories for incidents at commercial nuclear power plants: Notification of Unusual Event; Alert; Site Area Emergency; and General Emergency. DOD and DOE have chosen the same four categories for their nuclear facilities, although the type of possible incident would depend on the type of facility. In general, for facilities using these categories, offsite monitoring and assessment activities would be expected only during a Site Area Emergency or a General Emergency. Substantial offsite radiological problems would be expected only during or following a General Emergency condition. Mobilization and activation could occur under an Alert if degradation of the level of safety at the facility or other conditions (public concern, unfavorable weather, lack of resources) warrant such action.

Response to transportation accidents is more difficult to plan, as such accidents may occur anywhere, may involve a variety of radioactive materials, and may present no hazard or serious threat. In most cases, State

resources or a limited Federal response will suffice.

A nuclear weapon accident or weapon-significant incident overlaps the above two categories in response characteristics. Weapons incidents are most likely to occur at DOD fixed facilities or as the result of a transportation accident.

The category of "other incidents" contains events that do not fit the other two categories. For many of these events, a limited response by DOE alone or with the assistance of another agency will be sufficient. The CFA will be designated in accordance with the FRERP guidelines.

I. Operating Procedures

1. *Notification and Activation*

Notification of DOE and other participating agencies may occur through an alert to a possible problem or a request for radiological assistance. DOE will maintain national and regional coordinating offices as points of access to Federal radiological emergency assistance and response. Requests for Federal radiological assistance will generally be directed to the appropriate DOE Radiological Assistance Regional Coordinating Office. An exception to this is a request from the DOD, which will be made through the DOD–DOE Joint Nuclear Accident Coordinating Center (JNACC) at Kirtland AFB in Albuquerque, New Mexico. Requests might also go directly to DOE's Emergency Operating Center (EOC) in Germantown, Maryland.

Requests for radiological assistance may come from other Federal agencies, State or local governments, licensees for radioactive materials, or the general public. Appropriate requests may also be referred by DOE by the National Response Center, which is operated by the U.S. Coast Guard primarily to receive reports of accidental discharges of petroleum products, and the Chemical Transportation Emergency Center (CHEMTREC), an emergency assistance center sponsored by the Chemical Manufacturers Association.

Although activation of a response under the FRMAP can occur at the request of other agencies, authorities, and coordinating centers, a State request for assistance should be obtained before major offsite operations begin.

The DOE regional office may respond by dispatching a Radiological Assistance Program (RAP) team, by requesting assistance from a regional office of another participating agency, or by referring the request to an appropriate State agency that can provide prompt assistance. In addition, the DOE regional office will notify the Director of DOE's Emergency Action and Coordination Team (EACT) through the Emergency Operating Center (EOC) when the DOE regional office needs assistance or has responded to a request for assistance. EACT may choose to alert or activate major DOE response resources. If the initial request comes directly to the EOC, its staff will alert or dispatch a RAP team from the appropriate regional office.

The DOE EOC will notify other appropriate agencies participating in the FRMAP if significant Federal involvement may be required or to request their assistance. DOE, in its role as coordinator, may choose to contact or may be contacted by any of the participating agencies, but the FRMAP is not intended to provide the primary source of general information about an incident.

Notification of FRMAP agencies may be delayed or omitted if necessary to avoid interfering with investigations of threats against nuclear facilities or materials. In some cases, notification may be made, but information not critical to the monitoring and assessment activities can be restricted by an ongoing criminal investigation. Restrictions on classified information may also prevent total disclosure to other participating agencies.

2. *Coordination at the Emergency Scene*

The DOE's Emergency Action and Coordination Team (EACT) at heardquarters will designate an initial Off Site Technical Director (OSTD) for any emergency requiring more than a limited Federal response. The OSTD ensures that the DOE responsibility for coordinating offsite monitoring and assessment is met. Upon arrival at the scene of the emergency, the OSTD will contact the State or local agency responsible for radiological monitoring and the senior officials of the CFA, FEMA, and EPA present at the emergency scene.

The person designated as OSTD may vary as the nature and degree of response change. For example, the OSTD will generally be the RAP team captain during the early response. As additional resources or additional RAP teams arrive, EACT may designate a higher-level official from a regional office or an official from DOE headquarters as OSTD. DOE will notify the appropriate participating agencies when these designations are made. In emergencies where DOE is also the CFA or has onsite responsibilities by agreement, the OSTD will coordinate the FRMAP activities, reporting to the CFAO through the designated DOE Team Leader.

The OSTD is responsible for establishing a Federal Radiological Monitoring and Assessment Center (FRMAC) to be used as a coordination center for Federal monitoring efforts. This center need not be located near the emergency site or the FEMA-State operations centers as long as its actions can be coordinated with those centers. In some instances, the FRMAC location may have already been chosen and included as part of the State or local emergency plan. The location of the FRMAC will be reported to the CFA, FEMA, and State officials at the scene, and DOE headquarters will inform the headquarters of appropriate participating agencies.

The DOE OSTD will work closely with the EPA radiological response coordinator to facilitate a smooth transition of the coordination responsibility to EPA at a mutually agreeable time. It is difficult to specify in advance when this transfer could occur, but it would generally be expected to take place after the immediate emergency situation is stabilized, offsite releases of radioactive material have ceased, and the offsite radiological conditions have been documented and their consequences have been assessed. In the case of an accident at a nuclear power plant, for instance, the transfer of responsibility might be set at a mutually agreeable time after the NRC has determined the plant to be in stable condition.

After this transfer, a person designated by EPA's Office of Radiation Programs will serve as the OSTD and will assume the responsibilities of the DOE OSTD. Other participating agencies will be responsible for coordinating their monitoring activities through the EPA OSTD as long as the FRMAP response continues.

3. *Public Information*

Public information activities relative to FRMAP operations will be coordinated in accordance with the FRERP. Each participating agency is responsible for preparation of press releases about its own repsonse activities in support of FRMAP. However, information for the public about the results of the Federal radiological monitoring should be coordinated through the CFA and FEMA. The participating agencies may supply public information personnel or technical experts to assist the CFA, FEMA, or State in their public information efforts.

Security considerations may restrict information available when classified nuclear material or facilities are involved. Information may also be temporarily withheld from the public in emergencies involving terrorism or sabotage to avoid interfering with an ongoing criminal investigation.

When the Federal response is limited, public information may be handled locally by appropriate Federal or local officials.

4. *Congressional Information*

Responses to Congressional requests for information will be coordinated among the Federal agencies as provided for in the FRERP. In particular, questions about the emergency, its expected consequences, or the results of the FRMAP activities should be referred to the CFA or answered only after consultation with the CFA. Congressional Liaison Officers and representatives of participating agencies may also participate in coordinated briefings.

5. *Reimbursement*

As states in Section D, funding for each agency's participation in support of FRMAP is the responsibility of that agency, unless other agreements are in effect. This will be the case regardless of whether the activities were initiated by statutory responsibilities or by the request of another agency.

J. Supporting Agreements

Several interagency agreements have been signed that pertain to the offsite monitoring and assessment activities covered by FRMAP. Additional agreements may be concluded with the approval of the signatory agencies if ICRA determines that they are applicable to FRMAP. Authority for each agency's role during a radiological emergency is contained within the authorities cited in each agency's response plan summary in the following chapter.

IV. Federal Agency Interfaces and Response Plan Summaries

To facilitate the coordination of Federal agency response actions, this section lists and defines Federal agency interfaces, those activities for which two or more agencies have related responsibilities. The efficiency and effectiveness of the Federal response is enhanced when agencies act in accordance with these mutual interfaces. This section also contains summaries of the response plans of the participating Federal agencies, which provide agency mission statements, contact points for notification, Federal interfaces, plan references, and sources of authority.

A. Federal Agency Interfaces

Federal agency interfaces are necessary for a coordinated Federal response. These interfaces, describing how various Federal agencies will work together, are the planning elements that promote coordination in the Federal response. Some of these interfaces were described explicitly in the preceding sections; others are implicit in the individual agency response plan summaries that follow in Section B. The interfaces are catalogued alphabetically in this section to provide a comprehensive reference list for participating agencies and other offsite authorities. This catalogue also serves as a glossary, since only the titles of these interfaces are used in the agency response plan summaries that follow.

Congressional Information: As time and circumstances allow, agency Congressional Liaison Officers (CLOs) will either channel Congressional requests to the CFA Congressional Liaison Officer at the CFA headquarters, or coordinate their intended response with him/her. The Senior FEMA Official's CLO, in conjunction with the CFAO's CLO, will brief Congressional field staffs, as appropriate, at the scene of the emergency.

Coordination (Liaison): Agencies will provide or exchange liaison representatives, as required, to assist in the implementation of shared responsibilities.

Coordination (Offsite): Federal agencies will coordinate their provision of offsite assistance to State and local government agencies with the SFO whenever Federal agencies share the implementation of certain responsibilities or when their activities may impinge on the actions of other agencies.

Coordination (Onsite/Offsite): The SFO and the CFAO will work together to coordinate the response efforts of the Federal agencies offsite with the response efforts of the CFA and owner or operator onsite.

Designation of Lead Agency Official: Each agency will provide FEMA with the following information about its designated lead official: (1) Name and location; (2) telephone number at agency headquarters and/or at the scene; (3) if appropriate, the primary official deploying to the scene and his/her estimated time of arrival on scene; and (4) the primary official's intended location at the scene. Similarly, FEMA will provide each Federal agency with the same information when FEMA designates its SFO.

Emergency Shelter Availability: HUD and HHS will coordinate their assistance to State and local government officials in providing emergency shelter for relocated persons.

FRMAP (Coordination with FRERP): The SFO and DOE or EPA will coordinate FRMAP monitoring and assessment activities and results with other Federal offsite assistance being provided to the State.

FRMAP (Liaison): Upon arrival at the scene, the DOE OSTD will establish liaison with State and local officials, the CFA, FEMA, and EPA.

FRMAP (Monitoring Results): DOE will coordiante Federal monitoring activities in support of the State during the initial stages of the emergency. The CFA will work with DOE to develop a comprehensive assessment of the radiological impacts of the emergency using both onsite and offsite monitoring data. The results of the assessment will be provided to the State and CFA (and other Federal agencies that require those results) for the State's and CFA's use in evaluating or confirming recommendations for protective actions.

FRMAP (Notification): DOE will notify Federal agencies that have FRMAP responsibilities in accordance with agreed upon notification procedures.

FRMAP (Resources): In making their resources available to support the FRMAP, all participating Federal agencies will coordiante their activities with DOE. When EPA has assumed the coordination responsibilities from DOE, participating Federal agencies will coordinate their activities with EPA.

FRMAP (Transition): After the emergency phase of the response, DOE will transfer FRMAP coordination responsibilities to EPA at a mutually agreeable time.

Federal Response Center: Upon notification by FEMA of the location and establishment of the Federal Response Center, each Federal agency with representatives at the scene of the emergency will provide representation to the Center as required.

Marine Fishery Product Safety: The Department of Commerce will provide a representative to HHS to coordinate on matters of fishery product safety (marine areas only).

Food/Feed Availability: USDA and HHS will coordinate their assistance to State and local government officials to insure the availability of food and feed during emergencies.

Food/Feed Safety Resources: HHS will provide resources, in coordination with USDA, to insure that food and animal feeds are safe for consumption.

Impact Assessment (Agriculture): USDA will coordinate with HHS and EPA to assist State and local officials, as requested, in the disposition of livestock and poultry contaminated or otherwise affected by radiation.

Impact Assessment (Health): HHS will assist the CFA, if requested, in assessing the impact of the radiological emergency on the health of persons in the affected area.

Information Exchange: A machanism will be established to enable FEMA to facilitate the timely exchange of information among responding Federal agencies.

Information Requirements: CFA and FEMA will satisfy the information requirements specified by each Federal agency during the planning process as mutually agreed.

International Cooperation (CFA): The CFA, in consultation with FEMA and the Department of State, will cooperate with government counterparts in Canada and Mexico as agreed to in site-specific and incident-specific plans to respond to radiological emergencies that may occur near U.S. borders.

International Cooperation (FEMA): FEMA will work with the Department of State and other Federal agencies to implement the Federal response within the agreed-upon framework of international cooperation established during the planning process for radiological emergencies occurring near the borders of Canada and Mexico.

Logistical Support for Other Federal Agencies: The SFO, through FEMA headquarters, will make requests at the national level to obtain resource assistance needed by Federal agencies at the emergency scene.

Logistical Support for the CFA: The SFO will assist and support the CFA in obtaining logistical support or other resources from other Federal agencies when needed.

Monitoring Resources (EPA): EPA will provide resources to assist DOE in monitoring radiactivity levels in the environment during the emergency phase of the incident and, during the intermediate and long-term phase, will coordinate Federal radiological monitoring and the evaluation of actual environmental impact.

Notification (CFA): The CFA, after receiving notification of the emergency, will notify FEMA and DOE of the incident. This notification will include a description of the CFA's response status and current activities, a general assessment of the incident, and any information that FEMA and DOE may need to notify other Federal agencies.

Notification (FEMA): FEMA will notify Federal agencies of the emergency situation and supply them with all relevant information as agreed in the planning process.

Notification (Procedures): FEMA will execute operational response procedures as agreed to with each potential CFA, to ensure that notification of Federal agencies and consequent activation of the Federal response take place in a timely, efficient, and mutually agreeable manner.

PAR (Development): Unless the public health and safety are in imminent peril, the CFA will consult with FEMA, HHS, EPA, USDA, DOE, and other Federal agencies, as necessary, in preparing a coordinated Federal position on Protective Action and Re-entry Recommendations (PARs), when required.

PAR (Presentation): Unless the public health and safety are in imminent peril, the CFAO, in conjunction with the SFO, will prepare and present an evaluation of PARs to the State or other appropriate offsite authority.

Protective Action Measures (Food): USDA, in coordination with HHS, will assist State and local officials in the implementation of protective measures to minimize contamination through food ingestion.

Public Information Releases from Headquarters: Federal agencies' headquarters PIOs will either channel media information requests to the CFA's PIO at the CFA headquarters or coordinate their intended public information releases through him/her prior to release.

Public Information Releases from the JIC: Federal agencies' PIOs will work together to promote the coordinated release of public information through the JIC. The CFA will assume primary responsibility for the Federal government operation at the JIC. Federal operations management at the JIC may be transferred to FEMA at a mutually acceptable time; agencies will then coordinate their releases through the SFO's PIO.

Radiation Victim Care Advice: DOE will provide HHS and other Federal, State, and local agencies with advice on the handling and care of radiation accident victims if requested.

Recovery Plan: Prior to the deactivation of the Federal response, the CFAO, in conjunction with the SFO and other Federal agencies, will assist the State, as requested, in developing an offsite recovery and restoration plan.

Status Reports: Agenices at the scene of the emergency prior to the arrival of the CFA, FEMA, and DOE will provide a status report on their activities when each of these agencies arrives at the scene of the emergency. Subsequent agency status reports will be provided on a recurring basis, as required, by the CFA, FEMA, and DOE.

Transportation to Emergency Housing Advice: HUD may consult with DOT for advice on the best means for transporting persons to emergency housing.

Water: DOI will coordinate its operation of Federal water resource projects with EPA and USDA to ensure protection of municipal (EPA) and agricultural (USDA) water supplies during radiological emergencies.

Weather Support: For radiological emergencies involving civilian facilities, the weather support capabilities of other agencies, such as DOD, will back up DOC when necessary. Conversely, DOC will provide backup support, when required, to DOD for DOD-related radiological emergencies.

White House Information: The CFA will notify the White House of the incident. Subsequently, the CFA will coordinate with the SFO when informing the White House of onsite conditions and actual or potential offsite radiological impacts. The SFO, in coordination with the CFAO, will maintain an executive level summary of the total Federal response and provide all subsequent executive summaries to the White House.

B. Summaries of Federal Agency Response Plans

This section provides summaries of the response plans prepared by participating Federal agencies:

Department of Commerce (DOC)
Department of Defense (DOD)
Department of Energy (DOE), CFA and FRMAP
Department of Health and Human Services (HHS)
Department of Housing and Urban Development (HUD)
Department of the Interior (DOI)
Department of Transportation (DOT)
Environmental Protection Agency (EPA)
Federal Emergency Management Agency (FEMA)
National Communications System (NCS)
Nuclear Regulatory Commission (NRC)
U.S. Department of Agriculture (USDA)

Each summary provides a mission statement, the agency contact point for notification, Federal agency interfaces, assistance responsibilities to State and local governments, agency response plan and procedure references, and sources of agency authority.

Department of Commerce Response Plan Summary

1. *Summary of Response Mission*

The National Oceanic and Atmospheric Administration (NOAA) is the primary agent within the Department of Commerce responsible for providing radiological emergency assistance to responding Federal, State, and local organizations. NOAA's responsibilities include: acquiring weather data and providing weather forecasts in connection with the emergency; disseminating weather and emergency information; and ensuring the safety of marine fishery products from radioactive contamination.

2. *Point of Notification at DoC Headquarters*

Contact Person's Title: Chief, Applied Services Branch
Contact Person's Office: National Weather Service Headquarters
Emergency Phone Number: (301) 427–7858 or (301) 427–7859
Alternate Emergency Point of Contact: NOAA/NWS Communications Branch
Alternate's Phone Number: (301) 581–1818; FTS 763–8189

3. *Federal Department or Agency Interfaces*

Listed below are DoC's interfaces with other Federal departments and agencies in responding to a radiological emergency.

Interface description	Agencies	Responsible DOC organization
Status reports, information requirements, and public information releases from Joint Information Center (JIC).	DOD (CFA), DOE (CFA), NRC (CFA), FEMA.	NOAA.
Federal Response Center	FEMA	NOAA.
Recovery plan	DOD (CFA), DOE (CFA), NRC (CFA), FEMA.	NOAA/National Marine Fisheries Service (NMFS).
Public information from headquarters, and congressional information.	DOD (CFA), DOE (CFA), NRC (CFA).	NOAA.
Notification	FEMA, NRC	NOAA/National Weather Service (NWS).
Fishery product safety	HHS/FDA	NMFS.
Information exchange, logistical support for other Federal agencies, coordination (offsite), and designation of lead agency official.	FEMA	NOAA.
Weather support	DOD	NWS.
FRMAP (notification)	DOE	NWS.
FRMAP (resources)	DOE, EPA	NWS.

4. *Responsibilities for Assistance to State and Local Governments*

- **Prepare and disseminate forecasts and warnings for severe weather such as hurricanes, tornadoes, severe thunderstorms, floods, extreme winter weather, and tsunamis to local officials and the general public.**
- **Broadcast watches and warnings of natural disasters prepared by NOAA, and radiological emergency warnings approved by the States, over NOAA Weather Radio and other NOAA dissemination systems.**
- **Provide current and forecast meteorological information about wind speed and direction, low level stability, precipitation, and other meteorological and hydrological factors affecting the transport or dispersion of radioactive materials (gaseous, liquid, particulate).**
- **Provide information on the marine fisheries resources in any impacted area, through the National Marine Fisheries Service (NMFS), in order to avoid human consumption of contaminated fish. (Marine areas only.)**
- **Through the Federal Coordinator for Meteorological Services and** Supporting Research, and consistent with provisions of the Office of Management and Budget Circular A–62, serve as the coordinating agent for any multi-agency meteorological aspects of planning the Federal radiological emergency response, including requests for assistance from State and local governments.

5. *DOC Response Plan and Procedure References Agency Response Plan*

1. *National Plan for Radiological Emergencies at Commercial Nuclear Power Plants:* Federal Coordinator for Meteorological Services and Supporting Research, National Oceanic and Atmospheric Administration November 1982

6. *DOC Specific Authorities*

- *Department of Commerce Organization Order 25–5B,* as amended August 18, 1980

Department of Defense Response Plan Summary

1. *Summary of Response Mission*

a. The Department of Defense is charged with the safe handling, storage, maintenance, assembly, and transportation of nuclear weapons, nuclear weapon components, and other radioactive material in DOD custody, and with the safe operation of DOD nuclear facilities. Inherent in this responsibility is the requirement to protect life and property from any health or safety hazards that could ensue from an accident or significant incident associated with these materials or activities. To fulfill these responsibilities, the DOD has issued plans and policy guidance requiring the development of a well-trained and equipped nuclear accident response organization. It should be noted that in order to protect national security information, policy guidance prohibits public release of information that identifies storage locations of nuclear materials, schedules of transportation of nuclear materials, or the schedules of nuclear-powered vessels. When DOD is not the CFA for a radiological emergency it will support the CFA and FEMA, as required, through the Directorate of Military Operations Support (DOMS).

b. The responsibility for onsite Command and Control at the scene of a nuclear accident or significant incident is assigned to:

(1) The Service or Agency in charge of a DOD installation, DOE facility, naval ship, or geographic area where the accident or incident occurs.

(2) The Service or Agency having custody of the material at the time of the accident or significant incident if the accident occurs beyond the boundaries of a DOD installation, DOE facility, naval ship, or geographic area.

c. The National Military Command Center (NMCC) is responsible for initial national-level command and control and response of DOD resources and personnel until conditions have stabilized. Command and Control will be transferred to the responsible Service Operations Center, as Directed by the Secretary of Defense, or his authorized representative. The NMCC will continue to provide information and support as required.

2. *Point of Notification at DOD*

Contact Person's Title: Deputy Director of Operations (DDO)
Contact Person's Organization: National Military Command Center, Organization of the Joint Chiefs of Staff
Emergency Phone Number: (202) 697-6340 (24 hours a day), Autovon: 227–6340, FTS: 697–6340.

3. *Federal Department or Agency Interfaces*

Listed below are DOD's interfaces with other Federal departments and agencies in responding to a radiological emergency.

Interface description	Agencies	Responsible DOD organization
Status Reports	White House Situation Room, EPA, FEMA, USDA, HHS, DOE (CFA), NRC, DOJ.	NMCC.
FRMAP (Notification)DEPA, HHS, USDA, DOC, DOE	NMCC	
FRMAP (Coordination with FRERP)	DOE	NMCC.
FRMAP (Liaison)	FEMA, DOE	NMCC.
Recovery Plan	DOE (CFA), FEMA, NRC	Dept. of Army.
Information Exchange:		
Public information releases from the JIC	FEMA, DOE (CFA), NRC, White House Situation Room, DOE (CFA), NRC.	NMCC, OSD or Service Public Affairs.
Public information releases from headquarters	DOE (CFA), NRC, White House Situation Room.	OSD or Service Public Affairs.
Congressional information	FEMA, DOE (CFA), NRC	OSD or Service Public Affairs, Congressional Liaison Offices.
Logistical support for the CFA	FEMA	NMCC or Dept. of Army.
Logistical support for other Federal agencies	FEMA	NMCC or Dept. of Army.
Coordination (onsite/offsite)	FEMA	NMCC.
Designation of lead agency official	FEMA	NMCC.
Federal Response Center	FEMA	NMCC.

4. *Responsibilities for Assistance to State and Local Governments*

a. Offsite authority and responsibilities at a nuclear accident rests with State and local officials. It is important to recognize that for nuclear weapons or weapon component accidents, land may be temporarily placed under effective Federal control by the establishment of a National Defense Area (NDA) or National Security Area (NSA) to protect U.S. government classified materials. These lands will revert back to State control upon disestablishment of the NDA or NSA.

b. The State Governor is responsible for the health, safety, and welfare of individuals within the territorial limits of the State during periods of emergency or crisis and he may be expected to direct measures that must be taken to satisfy that responsibility. The On-scene Commander will assist the State, when possible, in coordination with FEMA, to ensure the public is protected.

c. Within the constraints of national security, provide military assistance in the form of manpower and logistic support, including airlift services, as requested by FEMA.

d. Provide telecommunications support not available from other Federal agencies when requested by FEMA.

5. *DOD Response Plan and Procedures References*

Agency Response Plan

1. *Nuclear Weapon Accident Response Procedures (NARP) Manual*—11 March 1983

2. DOD Directive 5100.52 *Radiological Assistance in the Event of Accident Involving Radiological Materials*—10 March 1983

3. DOD Directive 5230.16 *Nuclear Accident and Incident Public Affairs Guidance*—7 February 1983

6. *DOD SPECIFIC Authorities*

- The Atomic Energy Act of 1954, as amended
- Pub. L. 97–351 "Convention on the Physical Protection of Nuclear Material Implementation Act of 1982"

Department of Energy Response Plan Summary (CFA)

1. *Summary of Response Mission*

The Department of Energy owns and operates a variety of fixed nuclear facilities and activities throughout the United States. Most of these facilities are located on large, government-owned reservations, and are operated by extensive technical staffs under the direction of DOE. Subject to review and concurrence by DOE headquarters, DOE officials at these field facilities are responsible for the preparation of emergency plans and procedures for all nuclear activities under their jurisdiction. DOE field officials have the authority to initiate immediate emergency response procedures, direct emergency shut down operations, or place in safe condition, the nuclear facilities and activities under their cognizance. DOE is a Cognizant Federal Agency for nuclear activities under its jurisdiction. All field emergency activities are coordinated with appropriate headquarters officials, including the Director, Emergency Action and Coordination Team (EACT).

DOE field officials are also required to assist State and local authorities, within the constraints of national security and in coordination with FEMA, in the preparation of those portions of their radiological emergency plans related to DOE nuclear facilities.

As part of its preparedness activities, DOE maintains extensive, field-based radiological emergency response resources for deployment under the FRMAP.

2. *Point of Notification at DOE Headquarters*

Contact Person's Title: Emergency Coordinator
Contact Person's Office: DOE Emergency Operations Center (EOC)
Contact Person's Emergency Location: DOE EOC
Emergency and Office Phone Number: (301) 353–5555; FTS 233–5555

3. *Federal Department or Agency Interfaces*

Listed below are the DOE's interfaces with other Federal departments or agencies in responding to a radiological emergency at a DOE facility:

Interface description	Agencies	Responsible DOE organization
Status Reports	DOC, DOD, NRC, EPA, FEMA, HHS, HUD, DOI, NCS, DOT, USDA.	Emergency action and coordination team (EACT), field.
Information Exchange	DOC, DOD, NRC, EPA, FEMA, HHS, HUD, DOI, NCS, DOT, USDA.	EACT, field.
Public information releases from headquarters, public information releases from JIC.	DOC, DOD, NRC, EPA, FEMA, HHS, HUD, DOI, NCS, DOT, USDA.	EACT, Assistant Secretary for Congressional, Intergovernmental and Public Affairs (ASCP) or field.
Congressional information	DOC, DOD, NRC, EPA, FEMA, HHS, HUD, DOI, NCS, DOT, USDA.	ASCP.
Notification (CFA)	FEMA, NRC, EPA, HHS	EACT, field.
PAR (Development)	FEMA, NRC, EPA, HHS, USDA	
FRMAP (Resources)	NRC, EPA	EACT, field.
Impact assessment (health)	HHS, EPA	Field, EACT.

Interface description	Agencies	Responsible DOE organization
PAR (presentation) Notification (procedures), logistical support for other Federal agencies, coordination (onsite/offsite), information exchange, White House information, designation of agency's lead official, international cooperation (CFA) Federal Response Center.	FEMA	Field, EACT.
Recovery Plan	DOD (CFA), NRC	As designated.

4. *Responsibilities for Assistance to State and Local Governments*

- Assess the nature and extent of the radiological emergency and its potential offsite effects on public health and safety. Advise the State and local agencies based on this assessment.
- Develop Federal recommendations on protective actions for State and local governments that consider, as appropriate, all substantive views of other Federal agencies. Whenever possible, coordinate presentation of protective action recommendations with FEMA prior to or during their presentation to appropriate State and local officials (the State Governor or his designated representative), except in situations of imminent peril to the public health and safety where the DOE may be required to make independent contact with State and local officials.
- Provide for the release of public information concerning the radiological emergency, except for the release of information classified for national security purposes. Coordinate such releases to the extent possible with the Senior FEMA Official, other Federal agencies, and the State to provide consistent and accurate information to the public by the most expeditious means.

5. *DOE Response Plan and Procedure References*

- *Emergency Planning, Preparedness, and Response for Operations,* Order DOE 5500.2, August 1981.
- *Reactor and Nonreactor Facility Emergency Planning, Preparedness and Response Program for Department of Energy Operations,* Order DOE 5500.3, August 1981.
- *Public Affairs Policy and Planning Requirements for Emergencies,* Order DOE 5500.4, August 1981.
- *Response to Accidents and Significant Incidents Involving Nuclear Weapons,* Order DOE 5530.1, January 1983.

6. *DOE Specific Authorities*

- *Atomic Energy Act of 1954* as amended
- *Energy Reorganization Act of 1974*
- *Department of Energy Organization Act of 1977*

Department of Energy Response Plan Summary (FRMAP)

1. *Summary of Response Mission*

Independent of its responsibilities as a CFA, the Department of Energy (DOE) maintains and implements, during the initial phase of a radiological emergency, the Federal Radiological Monitoring and Assessment Plan (FRMAP). Under FRMAP DOE provides and coordinates offsite radiological monitoring and assessment support to State and local governments. DOE's support is augmented by several other Federal agencies including FEMA, NRC, EPA, HHS, USDA, DOC, DOD, and DOI. The FRMAP establishes the framework for coordinting the monitoring and assessment activities of the Federal agencies. DOE is responsible for maintaining the FRMAP and for ensuring its implementation during the emergency phase of a radiological incident.

2. *Point of Notification at DOE Headquarters*

Contact Person's Title: Duty Office
Contact Person's Organization:
Emergency Action and Coordination Team
Contact Person's Emergency location:
Emergency Operations Center
Emergency Phone Number: (301) 353–5555; FTS 233–555 (24 hours a day)

3. *Federal Department or Agency Interfaces*

Listed below are the DOE's interfaces with other Federal agencies and departments in responding to a radiological emergency. DOE's Radiological Control Division is largely responsible for coordinating DOE's response effort within DOE and among the Federal agencies.

Interface description	Agencies	Responsible DOE organization
Status reports	NRC (CFA), EPA FEMA, DOC, USDA, HHS, DOI, DOD (CFA), DOE (CFA).	Radiological assistance program team (RAP).
FRMAP (notification)	EPA, HHS, USDA, DOC, DOT, DOI, DOD (CFA), NRC (CFA), DOE (CFA).	Emergency action and coordination team (EACT).
FRMAP (coordination with FRERP)	EPA, HHS, USDA, DOC, DOI, DOD, NRC, DOE.	RAP team.
FRMAP (liaison)	EPA, FEMA, NRC, DOD, DOE, (CFA).	RAP team.
FRMAP (monitoring results)	NRC (CFA), DOD (CFA), DOE (CFA).	RAP team.
FRMAP (transition)	EPA	EACT, RAP team.
FRMAP (coordination with FRERP)	FEMA	RAP team.
Recovery plan	DOD (CFA), NRC (CFA), DOE (CFA), FEMA.	As designated.
Information exchange, public information releases from the JIC.	FEMA, NRC (CFA), DOD (CFA), DOE (CFA).	RAP team.
Public information releases from headquarters	NRC (CFA), DOD (CFA), DOE (CFA).	EACT.
Congressional information	FEMA, NRC (CFA), DOD (CFA), DOE (CFA).	ASCP.
PAR (development)	NRC (CFA), DOD (CFA), DOE (CFA).	RAP team.
Radiation victim care advice	HHS	Radiological Emergency Assistance Center/training site (REAC/TS).
Logistical support for other Federal agencies	FEMA	RAP team.
Coordination (offsite)	FEMA	
Designation of lead agency official	FEMA	EACT.
Federal Response Center	FEMA	RAP team.

4. *Responsibilities for Assistance to State and Local Governments*

- Coordinate the offsite radiological monitoring, assessment, evaluation, and reporting of all Federal agencies during the initial phases of an incident, and maintain liaison with State and local agencies with similar responsibilities.
- Maintain a common set of offsite radiological monitoring data, and provide it with interpretation to the CFA and to appropriate State and local agencies requiring direct knowledge of radiological conditions.
- Provide HHS and other Federal, State, and local agencies with technical and medical advice concerning treatment of radiological contamination, if requested.

5. *DOE Response Plan and Procedure References*

Agency Response Plan: 1. *The Federal Radiological Monitoring and*

Assessment Plan Chapter III of the FRERP.

Interagency Procedures:

1. *Joint DOD, DOE, and FEMA Agreement for Response to Nuclear Weapons Accidents and Nuclear Weapons Significant Incidents,* January 1981.

2. *Agreement between ERDA and NRC for Planning, Preparedness, and Response to Emergencies,* March 8, 1977.

3. *Operational Response Procedures (ORPs) Developed Between HHS, DOE, EPA, and the NRC,* 1983.

4. *DOE–EPA Letter of Agreement on Notification of Incidents at DOE Facilities,* January 18, 1978.

5. *National Plan for Radiological Emergencies at Commercial Nuclear Power Plants,* DOC–NOAA, November 1982.

6. *DOE Specific Authorities*

- *The Energy Reorganization Act of 1974* (Pub. L. 93–438).
- *The Department of Energy Organization Act of 1977* (Pub. L. 95–91).

Department of Health and Human Services Response Plan Summary

1. *Summary of Response Mission*

In a radiological emergency, the Department of Health and Human Services (HHS) assists with the assessment, preservation, and protection of human health and helps ensure the availability of essential human services. HHS provides technical and nontechnical assistance in the form of advice, guidance, and resources to Federal, State, and local governments.

2. *Point of Notification at HHS Headquarters*

Contact Person's Title: Emergency Coordinator
Contact Person's Division: Division of Emergency Coordination [5]
Contact Person's Emergency Location: Emergency Operating Center, Room 3B–10, Hubert H. Humphrey Building, Washington, D.C. 20201
Emergency and Office Phone Number: (202) 245–0645

3. *Federal Department or Agency Interfaces*

Listed below are HHS's interfaces with other Federal departments and agencies in responding to a radiological emergency.

Interface description	Agencies	Responsible HHS organization
Notification (FEMA)	FEMA	Emergency coordinator, regional emergency Coordinator.
Status reports	FEMA, DOD (CFA), DOE (not as (CFA), DOE (CFA), NRC.	Emergency coordinator, regional emergency coordinator.
Information exchange, logistical support for other Federal agencies.	FEMA	Emergency coordinator, regional emergency coordinator, operating division(s).
Coordination (offsite)	FEMA	Regional emergency coordinator, Social Security Administration (SSA), Office of Program Coordination and Review (OPCR).
Coordination (liaison)	USDA	Public Health Service.
Information requirements	DOD (CFA), DOE (CFA), NRC, FEMA.	Public Health Service, Office of the Secretary.
Designation of lead agency official	FEMA	Office of the Secretary (OS).
Public information releases from headquarters, public information releases from the JIC.	DOD (CFA), DOE (CFA), NRC (CFA), FEMA.	Office of Public Affairs/OS.
Congressional information	DOD (CFA), DOE (CFA), NRC (CFA), FEMA.	Office of Legislative Liaison/OS.
Recovery plan	DOD (CFA), DOE (CFA), NRC (CFA), FEMA.	Public Health Service (CDC/FDH/HRSA), SSA.
Federal Response Center	FEMA	Regional emergency coordinator.
PAR (Development)	DOD (CFA), DOE (CFA), NRC (CFA), USDA.	Public Health Service (CDC/FDA/HRSA).
Impact Assessment (Health)	DOD (CFA), DOE (CFA), NRC (CFA).	Public Health Service (CDC/FDA/HRSA).
Impact Assessment (Agriculture)	USDA	Public Health Service (FDA).
FRMAP (Resources)	DOE, EPA	Public Health Service (FDA).
Radiation Victim Care Advice	DOE	Public Health Service (HRSA).
Fishery Product Safety	DOC	
Food Availability Food/Feed Safety Resources Protective Action Measures (Food).	USDA	Public Health Service HDS/OPCR (SSA/OFA), Public Health Service (FDA).
Emergency Shelter Availability	HUD	HDS/OPCR.

4. *Responsibilities for Assistance to State and Local Governments*

- Assist State and local government officials in evacuating and relocating persons from the affected area as requested. Ensure the availability of health and medical care, food, emergency shelter, clothing, and other human services, especially for the aged, the poor, the infirm, the blind, and others most in need;
- Provide grants for crisis counseling to victims in affected geographic areas;
- Provide guidance to State and local officials on the use of radio-protective substances (e.g., thyroid blocking agents), including dosage and also projected radiation doses that warrant the use of such drugs;
- Based on information from DOE/Oak Ridge REACS personnel, advise medical care pesonnel regarding proper medical treatment of people exposed to or contaminated by redioactive materials;
- Provide advice and guidance to State and local officials and the CFA, if requested, in assessing the impact of the effects of radiological incidents on the health of persons in the affected area;
- Provide resources, in coordination with the U.S. Department of Agriculture, to ensure that food and animal feeds are safe for consumption;
- Assist, in coordination with the U.S. Department of Agriculture, in developing technical recommendations for State and local officials regarding protective measures related to food and animal feed;
- Provide guidance to State and local governments on protective action guides for food and animal feeds; and
- Conduct epidemiological surveys and implement communicable disease control measures.

5. *HHS response Plan and Procedure References*

Agency Response Plan: 1. The Department of Health and Human Services Response Plan for Radiological Emergencies (Draft). Division of Emergency Coordination, March 14, 1983.

Interagency Procedures:

1. *Delegation of Authority—Emergency Preparedness Functions,* Division of Emergency Coordination, December 21, 1981.

[5] The Emergency and Epidemiological Operations Branch (EEOB) and the Office of Health Physics (OHP), Food and Drug Administration (FDA), Public Health Service, have made special arrangements with the Cognizant Federal Agencies (CFAs) for direct notification in a radiological emergency.

2. *Emergency Planning and Operations Manual,* Division of Emergency Coordination, July 1, 1983.

3. *Disaster Response Guides,* Operating Divisions, Various Dates.

6. *HHS Specific Authorities*

- *Older Americans Act.*
- *Public Health Service Act.*
- *Food, Drug, and Cosmetic Act of 1938.*
- *Snyder Act,* 25 U.S.C. 13 (1921).
- *Transfer Act,* Pub. L. 83–568.
- *Indian Health Care and Improvement Act,* (Pub. L. 14–437).
- *Federal Civil Defense Act of 1950.*
- *Disaster Relief Act of 1974* (Pub. L. 93–288), Section 413, Crisis Counseling, Administration, Training.

Department of Housing and Urban Development Respone Plan Summary

1. *Summary of Responses Mission*

The Department of Housing and Urban Development (HUD) provides information on available housing for disaster victims or displaced persons. HUD assists in planning for and placing homeless victims by providing emergency housing and technical and support staff within available resources.

2. *Point of Notification at HUD Headquarters*

Contact Person's Title: Emergency Coordinator
Contact Person's Office: Emergency Preparedness Staff (EPS)
Contact Person's Emergency Location: Emergency Preparedness Staff
Emergency Phone Number: (202) 755–6417 (after hours)
Office Phone Number: (202) 755–6020

3. *Federal Department or Agency Interfaces*

Listed below are HUD's interfaces with other Federal departments or agencies in responding to a radiological emergency.

Interface description	Agencies	Responsible HUD organization
Notification, coordination (offsite), logistical support to other Federal agencies, information exchange, Federal Response Center.	FEMA	Emergency preparedness staff.
Information requirements	FEMA, NRC (CFA), DOD (CFA), DOE (CFA).	Emergency preparedness staff.
Public information releases from headquarters, public information releases from the JIC.	OOD (CFA), DOE (CFA), NRC (CFA), FEMA.	Office of Public Affairs.
Congressional information	DOD (CFA), DOE (CFA), NRC (CFA), FEMA.	Office of Legislation and Congressional Relations.
Emergency shelter availability	HHS	Emergency preparedness staff.
Transportation to emergency housing advice	DOT	Emergency preparedness staff.
Recovery plan	DOD (CFA), DOE (CFA), NRC (CFA), FEMA.	Emergency preparedness staff.

4. *Responsibilities for Assistance to State and Local Governments*

- Review and report on available housing for disaster victims and displaced persons.
- Assist in planning for and placing homeless victims in available housing.
- Provide emergency housing support staff within available resources.
- Provide technical housing assistance and advisory personnel to State and local authorities.

5. *HUD Response Plan and Procedure References*

Agency Response Plan: 1. HUD *FRERP,* Office of Emergency Preparedness, September 30, 1983.

6. *HUD Specific Authorities*

None.

Department of The Interior Response Plan Summary

1. *Summary of Response Mission*

The Department of the Interior manages over 500 million acres of Federal lands and thousands of Federal natural resources facilities, and is responsible for these lands and facilities when they are threatened by a radiological emergency. In addition, the Department coordinates emergency response plans for Interior-managed park and recreation areas with State and local authorities, and operates Interior water resources projects to protect municipal and agricultural water supplies in cases of radiological emergencies. The Department provides advice and assistance concerning hydrologic and natural resources, including fish and wildlife, to Federal, State and local governments upon request. It also has certain responsibilities for the island territories of the United States.

2. *Headquarters Point of Notification*

Contact Person's Title: Director, Office of Environmental Project Review (OEPR)
Contact Person's Office: Office of the Secretary, Department of the Interior, Room 4256, Interior Building, Washington, DC 20240
Emergency Phone Number: FTS 343–3891; COMM 202–343–3891 (Office), COMM 202–248–8259 (Residence), COMM 202–533–0488 (Alternate Residence), FTS 426–6600; COMM 202–426–6600 (U.S. Park Police 24-hour emergency number)

3. *Federal Department or Agency Interfaces*

Description	FRERP Agency	Responsible DOI organization
Notification, coordination (offsite), information exchange, logistical support to other Federal agencies.	FEMA	OEPR.
Designation of lead agency official, status reports, and information requirements.	DOD (CFA), DOE (CFA), NRC	OEPR.
Public information releases from headquarters, public information releases from JIC.	DOD (CFA), DOE (CFA), NRC	Office of Public Affairs.

Description	FRERP Agency	Responsible DOT organization
Congressional information	DOD (CFA), DOE (CFA), NRC	Office of Congressional Liaison.
FRMAP (resources)	DOE, EPA	U.S. Geological Survey.

4. *State and Local Government Assistance*

- Provide hydrologic advice and assistance, including monitoring personnel, equipment, and laboratory support.
- Provide advice and assistance in assessing and minimizing offsite consequences on natural resources, including fish and wildlife.
- Provide economic, social, and political advice and assistance to the territories of Guam, American Samoa, the Virgin Islands and the Trust Territory of the Pacific Islands (interim).

5. *DOI Response Plan and Procedure References*

Agency Response Plan:
1. 910 DM 5 (Draft)—Interior Emergency Operations, Federal Radiological Emergency Response Plan.
2. 296 DM 3 (Draft)—Interior Emergency Delegations, Radiological Emergencies.

6. *DOI Specific Authorities*

- *Act of 1894* providing for gauging streams and determining the water supplies of the U.S. (28 Stat. 398).
- *The Reclamation Act of 1902,* as amended (43 U.S.C. 391), and project authorization acts.
- *National Park Service Act of 1919* (16 U.S.C. 1), and park enabling acts.
- *The Snyder Act of 1921,* as amended (25 U.S.C. 13), including assistance to Indian tribes.
- *National Wildlife Refuge System Administration Act of 1966,* as amended (16 U.S.C. 668), and refuge enabling acts.
- *Federal Land Policy and Management Act of 1976* (43 U.S.C. 1701).

Department of Transportation Response Plan Summary

1. *Summary of Response Mission*

The Department of Transportation Radiological Emergency Response Plan (the plan) provides for assistance to State and local governments when a non-defense radiological emergency occurs that has adversely affected any one or more of the several transportation modes. The assistance will be in response to a request from a state and local jurisdiction when a determination has been made that their civil transportation technical or logistical resources are insufficient to adequately handle the requirements created by a radiological emergency.

2. *Point of Notification at DOT Headquarters*

Contact Person's Title: Director of Transportation
Contact Person's Office: Office of Emergency Transportation
Contact Perons's Emergency Location: Headquarters, U.S. Department of Transportation, Washington, D.C. 20590
Emergency Phone Number: (202) 426–1830, DOT (USCG) Duty Officer
Office Phone Number: (202) 426–4262

3. *Federal Department or Agency Interfaces*

Listed below are DOT's interfaces with other Federal agencies and departments in responding to a non-defense radiological emergency.

Interface description	Agencies	Responsible DOT organization
Status reports	DOE (CFA), DOE (CFA), NRC, FEMA.	Crisis coordinator.
Notification, information exchange, logistical support for other Federal agencies, coordination of lead agency official.	FEMA	Office of Emergency Transportation.
Information requirements	FEMA, DOD (CFA), DOE (CFA), NRC.	Office of Emergency Transportation.
Public information release from the JIC, public information release from headquarters.	DOD (CFA), DOE (CFA), NRC, FEMA.	Office of Public Affairs.
Congressional information	DOD (CFA), DOE (CFA), NRC (CFA), FEMA.	Office of Congressional Affairs.
Federal Response Center	FEMA	Crisis coordinator, regional emergency transportation coordination (RETCO).
Transportation to emergency housing advise	HUD	Office of Emergency Transportation (RETCO).

4. *Responsibilities for Assistance to State and Local Governments*

- Maintain capability and resources to respond to a request for assistance in a non-defense radiological emergency.
- Provide civil transportation technical and/or logistical resources.
- Coordinate the Federal transportation response in support of emergency transportation plans and actions of State and local authorities.
- Provide, through Regional Emergency Transportation Coordinators (RETCOs), representation to State and local transportation authorities.

5. *DOT Response Plan and Procedure References*

Agency Response Plan: 1. Department of transportation (DOT) Radiological Emergency Response Plan for Non-Defense Emergencies, November 1983.
Intra-Agency Procedures:
1. DOT Order 1900.7C, DOT Crisis Action Plan.
2. DOT Order 1950.1A, Reports on Non-Defense Transportation Emergencies.

6. *DOT Specific Authorities*

- Pub. L. 89–670, 1966, the *Department of Transportation Act.*
- Code of Federal Regulations (44 CFR Part 351), Radiological Planning and Preparedness—Final Regulations, § 351.25—the Department of Transportation.

Environmental Protection Agency Response Plan Summary

1. *Summary of Response Mission*

The Environmental Protection Agency (EPA) assists State and local governments during radiological emergencies in environmental and water supply monitoring, consequence assessment, and protective action decisions. These services may be provided at the request of the Federal or State government, or EPA may respond unilaterally to an emergency in order to fulfill its statutory responsibilities.

2. *Point of Notification at EPA Headquarters*

Contact Person's Title: Radiological Response Coordinator
Contact Person's Office: Office of Radiation Programs (ORP)
Contact Person's Emergency Location: Emergency Operations Center

	FTS	Commercial
Emergency phone numbers	557-7390 FAX 235-9027	(703) 557-7390 (DEX-4100)

3. *Federal Department or Agency Interfaces*

Listed below are EPA's interfaces with other Federal departments or agencies in responding to a radiological emergency.

Interface description	Agencies	Responsible EPA organization
Status reports	DOD (CFA), DOE (CFA), NRC (CFA), FEMA.	Office of Radiation Programs (ORP).
FRMAP (notification), FRMAP (resources), FRMAP (monitoring results), FRMAP (coordination with FRERP), FRMAP (transition), FRMAP (liaison).	HHS, DOC, DOD, DOE, DOI, DOT, NRC, USDA.	ORP.
Water	DOI, DOD	ORP.
Impact assessment (Agriculture)	USDA	ORP.
PAR (development)	DOD (CFA), DOE (CFA), NRC (CFA).	ORP.
Information requirements	DOD (CFA), DOE (CFA), NRC (CFA), FEMA.	ORP.
Public information releases from headquarters, public information releases from JIC, congressional information.	DOD, DOE, NRC, FEMA	Office of Press Services.
Information exchange, logistical support for other Federal agencies, coordination (offsite), designation of lead agency official, Federal Response Center.	FEMA	ORP.
Recovery plan	DOD (CFA), DOE (CFA), NRC (CFA), FEMA.	ORP.

4. *Responsibilities For Assistance to State and Local Governments*

- Provide resources including personnel, equipment, and laboratory support to assist DOE in monitoring radioactivity levels in the environment during the emergency phase of the incident.
- Assume responsibility from DOE for coordinating intermediate and longterm radiological monitoring after the intital phase of the emergency after receiving adequate assurance from the Department of Energy and other Federal agencies that they will commit the required resources, personnel, and funds for the duration of the Federal response effort.
- Assess the nature and extent of the environmental radiation hazard.
- Provide guidance to Federal agencies and State and local governments on acceptable emergency levels of radioactivity and radiation in the environment.
- Assist the Cognizant Federal Agency (CFA), as requested, in developing recommendations measures to protect the public health and safety.

5. *EPA Response Plan and Procedure References*

Agency Response Plan: 1. *U.S. Environmental Protection Agency Radiological Emergency Response Plan,* Office of Radiation Programs, January 30, 1981.

Interagency Procedures:

1. *Manual of Protective Action Guides and Protective Actions for Nuclear Incident,* Office of Radiation Programs, September 1975.

2. *Standard Operating Procedures for Radiological Emergency Response,* Appendix 2 to the *EPA Radiological Emergency Response Plan,* Office of Air, Noise, and Radiation, June 1982.

3. *Memorandum of Understanding Between the Federal Emergency Management Agency and the Environmental Protection Agency Concerning the Use of High Frequency Radio for Radiological Emergency Response,* under development), Office of Radiation Programs, Environmental Protection Agency.

6. *EPA Specific Authorities*

- *President's Reorganization Plan No. 3,* December 2, 1970.
- *Public Health Service Act,* as amended, 42 U.S.C. 241, Section 301, and 42 U.S.C. 243, Section 311.
- *Clean Water Act,* as amended in 1977, Section 504 (b)(1).

Federal Emergency Management Agency Response Plan Summary

1. *Summary of Response Mission*

FEMA is responsible for coordinating the Federal response to all radiological emergencies that require a significant, multi-agency Federal presence. FEMA's coordination role promotes an effective and efficient response by Federal agencies at both the national level and at the scene of the emergency. Coordination is achieved at the national level by FEMA through use of FEMA's Emergency Support Team (EST) and at the scene of the emergency between Federal, State, and local agencies by FEFA's Emergency Response Team (ERT).

2. *Point of Notification at FEMA Headquarters*

Contract Person's Title: Emergency Action Officer
Contact Person's Office: Office of Emergency Operations
Contact Person's Emergency Location: Emergency Information and Coordination Center (EICC)
Emergency and Office Phone Number: (202) 634–7800

3. *Federal Department or Agency Interfaces*

List below are FEMA's interfaces with other Federal departments or agencies in responding to a radiological emergency.

Interface description	Agencies	Responsible FEMA organization(s)
Notification (procedures)	DOD (CFA), DOE (CFA), NRC	EICC.
Notification	DOC, DOI, DOT, DOD (CFA), DOE (CFA), EPA, HHS, HUD, NCS, NRC, USDA.	EICC.
Status reports	DOC, DOI, DOT, EPA, HHS, HUD, NCS, USDA.	Emergency response team (ERT), emergency support team (EST).
Federal Response Center	DOC, DOI, DOT, DOD (CFA), DOE (CFA), NRC, EPA, HHS, HUD, NCS, USDA.	ERT.
Information exchange	DOC, DOI, DOT, DOD (CFA), DOE (CFA) EPA, HHS, HUD, NCS, NRC, USDA.	ERT, EST.
Logistical support for CFA and for other Federal agencies	DOC, DOI, DOT, DOD (CFA), DOE (CFA), EPA, HHS, HUD, NCS, NRC, USDA.	ERT, EST.
PAR (development), PAR (presentation)	DOD (CFA), DOE (CFA), NRC	ERT.
FRMAP (coordination with FRERP)	DOE, EPA	ERT.
FRMAP (liaison)	DOE, EPA	ERT.
Coordination (onsite/offsite)	DOD (CFA), DOE (CFA), NRC	ERT.
Coordination (offsite)	DOC, DOI, DOT, EPA, HHS, HUD, NCS, USDA.	ERT, EST.
Information requirements	DOC, DOI, DOT, DOD (CFA), DOE (CFA), EPA, HHS, HUD, NCS, NRC, USDA.	EICC and EST.
Designation of lead agency official	DOC, DOI, DOT, DOD (CFA), DOE (CFA), EPA, HHS, HUD, NCS, NRC, USDA.	Emergency operations.
Public information releases from headquarters, public information releases from JIC.	DOC, DOI, DOT, DOD (CFA), DOE (CFA), EPA, HHS, HUD, NCS, NRC, USDA.	EST, ERT (respectively).

Interface description	Agencies	Responsible FEMA organization(s)
Congressional information	DOC, DOI, DOT, DOD (CFA), DOE (CFA), EPA, HHS, HUD, NCS, NRC, USDA.	EST, ERT.
White House information	DOD (CFA), DOE (CFA), NRC (CFA).	EST.
Recovery plan	DOD (CFA), DOE (CFA), NRC, DOC, DOE (non-CFA) DOI, DOT, EPA, HHS, HUD, USDA.	ERT.
International cooperation	DOS, DOD (CFA), DOE (CFA), NRC.	EST, ERT.

4. *Responsibilities for Assistance to State and Local Governments*

- Coordinate assistance to State and local governments among the Federal agencies.
- Coordinate among the Federal agencies all offsite response activities, except those pertaining to the FRMAP, and coordinate these with the onsite activities of the Cognizant Federal Agency.
- Work with the CFA to coordinate the dissemination of public information concerning Federal emergency response activities. Promote the coordination of public information releases with State and local governments, appropriate Federal agencies, and appropriate private sector authorities.

5. *FEMA Response Plan and Procedure References*

Response Plan:

1. *Headquarters Plan for FEMA Emergency Support Team,* Draft, April 1983.

2. *Guidance for Emergency Response Team Plans,* August 17, 1982.

3. *Emergency Response Team Plans* for FEMA Regions I, II, III, IV, V, VI, VII, VIII, IX, and X. Various dates.

Interagency Procedures:

1. *Operational Response Procedures developed between the Nuclear Regulatory Commission and the Federal Emergency Management Agency* (NUREG–0981; FEMA–51), November 1983.

2. *Memorandum of Understanding* for Incident Response between the Federal Emergency Management Agency and the Nuclear Regulatory Commission, October 22, 1980.

3. Joint Department of Defense, Department of Energy, and Federal Emergency Management Agency *Memorandum of Agreement* for Response to Nuclear Weapon Accidents and Nuclear Weapon Significant Incidents Occurring within the United States, its Territories and Possessions. Undated draft.

6. *FEMA Specific Authorities*

- *Executive Order 11490,* June 15 1976, as amended.
- *Executive Order 12148,* July 20, 1979.
- *Executive Order 12241,* September 29, 1980.

National Communications System Response Plan Summary

1. *Summary of Response Mission*

The National Communications System (NCS) coordinates and manages telecommunications support for FEMA during radiological emergencies. The General Services Administration (GSA), as appropriate, assigns a Federal Emergency Communications Coordinator (FECC) to the FEMA Regional Director or Senior FEMA Official (SFO) for telecommunications matters. The FECC provides technical staff support to the FEMA Regional Director and the GSA Regional Emergency Communications Coordinator during the pre-emergency or extraordinary situation planning phase. The FECC assesses the availability of communications and takes necessary actions to satisfy essential communications requirements in the emergency area. The FECC accomplishes these tasks in conjunction with Federal, State, local, and commercial communications representatives.

2. *Point of Notification at NCS Headquarters*

Contact Person's Title: Operations Officer
Contact Person's Office: Office of Emergency Preparedness (Operations)
Contact Person's Emergency Location: NCS/DCA Operations Center, 8th St. and South Court House Rd., Arlington, VA 22204
Emergency Phone Numbers:
Commercial or FTS: (202) 692–2718, (202) 692–2539
AUTOVON: 231–1787, 851–1790, 851–5740
Office Phone Numbers: 692–2816 (FTS) 222–2816 (AUTOVON)
Commercial or FTS (FAX): (202) 692–2714

3. *Federal Department or Agency Interfaces*

Listed below are NCS's interfaces with other Federal departments or agencies in responding to a radiological emergency.

Interface description	Agencies	Responsible NCS organization
Notification	FEMA	Emergency preparedness.
Logistical support for other Federal agencies	FEMA	Emergency preparedness.
Information exchange	FEMA	Emergency preparedness.
Designation of lead agency official	FEMA	Emergency preparedness.
Federal Response Center	FEMA	Federal Emergency Communications Coordinator (FECC) and staff.
Information requirements	DOD (CFA), DOE (CFA), NRC	Emergency preparedness.
Congressional information	DOD (CFA), DOE (CFA), NRC, FEMA.	Emergency preparedness.
Public information releases from headquarters	DOD (CFA), DOE (CFA), NRC	Emergency preparedness.
Public information releases from the JIC	DOD (CFA), DOE (CFA), NRC, (CFA), FEMA.	Emergency preparedness.
Recovery plan	DOD (CFA), DOE (CFA), NRC, FEMA.	FECC and staff.

4. *Responsibilities for Assistance to State and Local Governments*

- Provide and coordinate, in response to a Senior FEMA Official (SFO) or FCO request, the necessary communications for the Federal government response in accordance with the *National Plan for Communications Support in Emergencies and Major Disasters,* July 1983. Be prepared to provide this support prior to a formal declaration of an emergency or major disaster.
- Provide representation to appropriate State agencies to assist in meeting their communications requirements.

5. *NCS Response Plan and Procedure References*

Agency Response Plan: 1. *National plan for Communications Support for Emergencies and Major Disasters,* Office of Emergency Preparedness (Operations), July 1983

Interagency Procedures:

1. *Memorandum of Understanding,* GSA and FEMA, January 29, 1980.

2. *Executive Order 12046* (Relates to the transfer of telecommunications functions), The White House, March 27, 1978.

6. *NCS Specific Authorities*

- *Establishment of the NCS*, Presidential Memorandum, August 21, 1963.
- *Executive Order 11490*, October 30, 1969.
- *Executive Order 12046*, March 27, 1978.
- White House Memorandum, *National Security and Emergency Preparedness; Telecommunications and Management and Coordination Responsibilities*, July 5, 1978.

U.S. Nuclear Regulatory Commission Response Plan Summary

1. *Summary of Response Mission*

The U.S. Nuclear Regulatory Commission (NRC) regulates the use of by product, source, and special nuclear material, including activities at commercial and research nuclear facilities. If an incident involving NRC-regulated activities poses a significant threat to the public health or safety or environmental quality, the NRC would be the Cognizant Federal Agency (CFA). In such an incident, the NRC is responsible for monitoring the licensee to ensure that appropriate protective action recommendations are being made to offsite authorites in a timely manner. In addition, the NRC will support its licensees and offsite authorities, including confirming the licensee's recommendations to offsite authorities, and will keep the media informed of the NRC's knowledge of the status of the incident. The NRC is also responsible for the development, coordination, and presentation (in conjunction with FEMA) of Federal protective action recommendations and for keeping other Federal agencies and entities informed of the status of the incident.

Consistent with NRC's agreement to participate in FRMAP, the NRC may also be called upon the assist in Federal radiological monitoring and assessment activities during incidents for which it is not the CFA.

2. *Point of Notification at NRC Headquarters*

Contact Person's Title: Duty Officer
Contact Person's Office: Inspection and Enforcement (I&E)
Contact Person's Emergency Location: NRC Operations Center, Bethesda, Maryland
Emergency and Office Phone Number: (202) 951-0550

3. *Federal Department or Agency Interfaces*

Listed below are the NRC's interfaces with other Federal departments or agencies in responding to a radiological emergency.

Interface description	Agencies[1]	Responsible NRC organization
Status reports	DOC, DOD, DOE, EPA, FEMA, HHS, HUD, DOI, NCS, DOT, USDA.	For all interfaces listed: a. Director of executive team (during initial activation). b. Director of site operations (during expanded activation).
Information requirements	DOC, DOD, DOE, EPA, FEMA, HHS, HUD, DOI, NCS, DOT, USDA.	
Public information releases from headquarters, public information releases from JIC.	DOC, DOD, DOE, EPA, FEMA, HHS, HUD, DOI, NCS, DOT, USDA.	
Congressional information	DOC, DOD, DOE, EPA, FEMA, HHS, HUD, DOI, NCS, DOT, USDA.	
Notification (CFA)	FEMA, DOE, EPA, HHS	
PAR (development)	FEMA, DOE, EPA, HHS, USDA	
FRMAP (resources)	DOE, EPA	
Impact assessment (health)	HHS, EPA	
PAR presentation, notification (procedures), logistical support for other Federal agencies, coordination (onsite/offsite), information exchange, White House information, designation of agency's lead official, international cooperation (CFA); Federal Response Center.	FEMA	
Recovery Plan	DOE, EPA, HHS, USDA	

[1] Periodic communications will be conducted with those agencies with which NRC has formal agreements, i.e., FEMA, DOE, EPA, HHS. Interfaces with other agencies will occur as required.

4. *Responsibilities for Assistance to State and Local Governments*

- Assess the nature and extent of the radiological emergency and its potential offsite effects on public health and safety. Advise the State and local agencies based on this assessment.
- Assess the facility operator's recommendations and, if needed, develop Federal recommendations on protective actions for State and local governments that consider, as required, all substantive views of other Federal agencies. Whenever possible, coordinate presentation of protective action recommendations with FEMA prior to or during their presentation to appropriate State and local officials (the State Governor or his designated representative), except in situations of imminent peril to the public health and safety where the NRC may be required to make independent contact with State officials.
- Provide for the release of public information concerning the radiological emergency, except for the release of information classified for national security purposes. Coordinate such releases to the extent possible with the Senior FEMA Official, other Federal agencies, and the State to provide consistent and accurate information to the public by the most expeditious means.

5. *NRC Response Plan and Procedure References*

Response Plan: 1. *NRC Incident Response Plan* Revision 1 (NUREG-0728), NRC Office of Inspection and Enforcement, April 1983.

Interagency Procedures:

1. *Agency Procedures for the NRC Incident Response Plan* (NUREG-0845), NRC Office of Inspection and Enforcement, February 1983.

2. *Operational Response Procedures Developed Between NRC and FEMA* (NUREG-0981; FEMA-51), NRC and FEMA, November 1983.

3. *Operational Response Procedures Developed Between NRC, EPA, HHS, and DOE*, 1982.

6. *NRC Specific Authorities*

- *Atomic Energy Act of 1954*, as amended.
- *Energy Reorganization Act of 1974.*
- 10 CFR Parts 0 to 199.

U.S. Department of Agriculture Response Plan Summary

1. *Summary of Response Mission*

The United States Department of Agriculture (USDA) is responsible for assisting State and local governments in developing agricultural protective measures and damage assessments. Other radiological emergency responsibilities of the USDA include: Providing for the procurement of food for emergency feeding programs; ensuring that meat and meat products, poultry and poultry products, and eggs and egg products are safe for public consumption; and providing technical information and advice to farmers to aid in their recovery from the emergency.

2. *Point of Notification at USDA Headquarters*

Contact Person's Title: USDA Radiological Emergency Coordinator, Director, Intergovernmental Affairs, Room 102–A, Administration Building, Washington, D.C. 20250

Emergency Phone Numbers: FTS 447–6643 (Days) (202) 537–0392 (Residence)

Alternative Contact Person's Title: Lead Agency Official for Radiological Response, Office of Emergency Planning, Food Safety and Inspection Service, 300 12th Street, S.W., Washington, D.C. 20250

Emergency Phone Number: FTS 475–3683 (Days) (301) 461–2237 (Evenings)

Interface description	Agencies	Responsible USDA organization
Notification (FEMA)	FEMA	Governmental and Public Affairs (GPA)/Office of Intergovernmental Affairs (OIA) Food Safety and Inspection Service (FSIS).
Status reports	DOD (CFA), DOE (CFA), NRC, FEMA.	FSIS.
Information requirements	DOD (CFA), DOE (CFA), NRC, FEMA.	GPA/OIA, FSIS.
PAR (development)	DOD (CFA), DOE (CFA), NRC, HHS.	GPA/OIA, FSIS.
Public information releases from headquarters	DOD (CFA), DOE (CFA), NRC	GPA/Office Of Information (OI).
Public information releases from Joint Information Center (JIC).	DOD (CFA), DOE (CFA), NRC, FEMA.	GPA/OI.
Congressional information	DOD (CFA), DOE (CFA), NRC	GPA/congressional relations (CR).
Coordination (offsite)	FEMA, HHS	GPA/OIA, FSIS.
Information exchange, designation of lead agency official, and logistical support for other Federal agencies.	FEMA	GPA/OIA, FSIS, Office of Operations (OO).
FRMAP (notification)	DOE, EPA	GPA/OIA, FSIS food and agriculture councils (FAC) will be activated as necessary. (FAC are composed of the various USDA agencies operating at the State and local levels.)
Impact assessment (Agriculture)	HHS, EPA	GPA/OIA, FSIS FAC will be activated as necessary.
Protective action, food/feed availability, food/feed safety resources.	HHS	GPA/OIA, FSIS FAC will be activated as necessary.
Water	DOI	GPA/OIA, FSIS FAC will be activated as necessary.

4. *Responsibilities for Assistance to State and Local Governments*

- Provide emergency food coupon assistance in officially designated disaster areas whenever local authorities report increasing needs.
- Assist in providing livestock feed.
- Provide assistance through regular USDA programs if legally adaptable to radiological emergencies.
- Ensure the purity and wholesomeness of meat and meat products, poultry and poultry products, and eggs and egg products.
- Provide for the procurement of food.
- Assist State and local officials, in coordination with HHS, in the implementation of protective measures to minimize contamination through food ingestion.
- Monitor, in coordination with HHS, emergency production, processing, and distribution of food during a radiological emergency, and assess damage to agricultural resources.
- Provide advice to State and local officials on how to minimize losses to agricultural resources from radiation effects.
- Advise and assist State and local officials on the disposition of livestock and poultry affected by radiation. Coordinate this action with the EPA and HHS.
- Provide a liaison to State agricultural agencies to keep State and local officials informed of Federal efforts.
- Provide information and assistance to farmers and others in developing disaster plans and returning to normalcy after a disaster.

5. *USDA Response Plan and Procedure References*

1. *USDA Radiological Emergency Preparedness Response Plan*, Food Safety and Inspection Service, April 1983.

6. *USDA Specific Authorities*

- Title 7, U.S.C.

V. Federal Radiological Emergency Preparedness

Federal agencies must be prepared to respond to radiological emergencies. This section addresses those actions Federal agencies must take to maintain a high degree of preparedness. Taking these actions will ensure that the Federal government can respond effectively to a radiological emergency. These actions fall into three categories: emergency planning, training and exercises, and resource maintenance.

A. Emergency Planning

1. *Agency Plans.* Agency plans will show the title or organizational units of personnel responsible for maintaining the plan. Plans should reference all supporting documents and procedures, and describe a process for review and update to accommodate changes suggested either by exercises or by actual responses to radiological emergencies.

To promote continued uniformity and consistency in agency plans and procedures, and to ensure that FEMA has access to the most up-to-date version of each agency's response plan, agencies will periodically provide copies of their most current offsite plans and associated procedures to the Director, FEMA. CFAs in particular will continue to provide FEMA those portions of their response plans that address the interface between the onsite and offsite response activities.

2. *FRERP.* The FRERP will be revised, if necessary, as a result of an actual emergency or multi-agency Federal exercises. Individual Federal agencies' response plans and implementing procedures have been reviewed and are consistent with this overall response plan. Therefore, the Federal government is prepared to respond effectively to a radiological emergency.

B. Training and Exercises

1. *Federal Agency Training.* An effective response to nuclear incidents depends on the availability of skilled, well-trained personnel. Agencies will provide for training and exercises, promulgate training schedules, and supply necessary training materials and resources.

2. *Interagency Exercises.* Agencies will also participate in interagency exercises, including periodic exercises of the FRERP. Such exercises will cover

the following types of emergencies encompassed by the FRERP: NRC-licensed commercial nuclear power plant accidents, transportation of nuclear material accidents, DOD- and DOE-owned nuclear facility accidents, nuclear weapon accidents or nuclear weapon significant incidents, unplanned nuclear powered satellite re-entry incidents, and any other type of radiological emergency for which a State might request Federal assistance. These exercises will be organized and coordinated primarily by FEMA, in conjunction with a CFA, and may include both headquarters and field responses. Such exercises will be designed to determine if Federal agencies can coordinate their response activities effectively with other agencies in carrying out their responsibilities as outlined in the FRERP.

Thus, agency plans should make provisions for exercises that will test:

- Intra-agency procedures and operations; and
- Agency interfaces and coordination points.

C. Emergency Preparedness Resource Maintenance

Federal agencies will maintain adequate resources to carry out all agency responsibilities and interfaces described under this plan. Any limitations in the ability of a Federal agency to implement its responsibilities and interfaces as described in this plan should be brought to the immediate attention of the Director, FEMA.

Abbreviations [6]

ARAC Atmospheric Release Advisory Capability
CFA Cognizant Federal Agency
CFAO Cognizant Federal Agency Official
CFR Code of Federal Regulations
CHEMTREC Chemical Transportation Emergency Center
CLO Congressional Liaison Officer
DOC Department of Commerce
DOD Department of Defense
DOE Department of Energy
DOI Department of the Interior
DOJ/FBI Department of Justice/ Federal Bureau of Investigation
DOT Department of Transportation
DSFO Deputy Senior FEMA Official
DSO Director of Site Operations, NRC
EACT Emergency Action and Coordination Team, DOE
EICC Emergency Information and Coordination Center, FEMA
EOC Emergency Operations Center, DOE
EOF Emergency Operations Facility, Licensee
EPA Environmental Protection Agency
FDA Food and Drug Administration
FEMA Federal Emergency Management Agency
FRERP Federal Radiological Emergency Response Plan
FRMAC Federal Radiological Monitoring and Assessment Center, DOE or EPA
FRMAP Federal Radiological Monitoring and Assessment Plan (DOE)
FRPCC Federal Radiological Preparedness Coordinating Committee
HHS Department of Health and Human Services
HUD Department of Housing and Urban Development
ICRA Interagency Committee on Radiological Assistance
IRAP Interagency Radiological Assistance Plan
JIC Joint Information Center
JNACC Joint Nuclear Accident Coordinating Center
LAO Lead Agency Official
LNO Liaison Officer
NCS National Communications System
NOAA National Oceanic and Atmospheric Administration, DOC
NRC Nuclear Regulatory Commission
NWS National Weather Service
OSTD Offsite Technical Director, DOE
PAR Protective Action and Re-entry Recommendation
PIO Public Information Officer
RAC Regional Assistance Committee
RAP Radiological Assistance Program, DOE
SCO State Coordinating Officer
SFO Senior FEMA Official
USDA U.S. Department of Agriculture
USGS U.S. Geological Survey

Appendix B—Definitions

Accident Response Group (ARG)—A DOE team of scientists, engineers, and technicians that is trained, organized, and equipped to respond to a nuclear weapons accident/incident.

Agreement State—A State that has entered into an Agreement under the *Atomic Energy Act of 1954*, as amended, in which the NRC has relinquished to such States the majority of its regulatory authority over source, byproduct, and special nuclear material in quantities not sufficient to form a critical mass.

Assessment—The interpretation of radiological measurements in such a way that the measurements can form a basis for decision-making. Assessment can include making dose or effect predictions and recommending actions that might be taken to minimize harmful effects.

Carrier—A vehicle used to transport radioactive material whether by land, air, or sea.

Cognizant Federal Agency (CFA)—The Federal agency that owns, authorizes, regulates, or is otherwise deemed responsible for the affected facility, carrier, or cargo in the radiological emergency.

Cognizant Federal Agency Official (CFAO)—The lead official designated by the CFA to coordinate its response at the site of a radiological emergency.

Coordinate—To bring into common action so as not to unnecessarily duplicate or omit important actions. The Senior FEMA Official (SFO), and the CFAO act to promote coordination among the responding Federal agencies. When Federal agencies require assistance in coordinating their exchange of information, acquisition of resources, or release of public information, the SFO and his staff will act to help the agencies accomplish these tasks. Coordination does not involve direction of one agency by another.

DOE Emergency Operations Center (EOC)—The center located at DOE headquarters through which DOE's EACT coordinates a FRMAP multi-agency response to a radiological emergency.

DOE Offsite Technical Director (OSTD)—The DOE official designated to coordinate the Federal radiological monitoring and assessment activities under the Federal Radiological Monitoring and Assessment Plan.

DOE Team Leader—The individual designated by the Director of the Emergency Action and Coordination Team (EACT) to manage all DOE field activities in response to an accident/incident if DOE has onsite responsibilities. The DOE Team Leader primarily supervises onsite operations.

Emergency—Any natural or man-caused emergency that results in or may result in substantial injury or harm to the population or substantial damage to or loss of property.

Emergency Action and Coordination Team (EACT)—The DOE senior management team at headquarters that coordinates the initial FRMAP response to radiological emergencies.

Emergency Response Team (ERT)—FEMA team deployed to a radiological emergency scene by the regional or headquarters office to make an initial assessment of the situation and then provide FEMA's primary response capability.

Federal Radiological Monitoring and Assessment Center (FRMAC)—A center at the scene of a radiological emergency

[6] This Appendix does not include abbreviations that are defined in the Agency Response Plan Summaries (Section IV).

from which the DOE Offsite Technical Director conducts the FRMAP response. This center generally need not be located near the onsite or Federal-State operations centers as long as its operations can be coordinated with them.

Federal Radiological Monitoring and Assessment Plan (FRMAP)—A plan to provide coordinated radiological monitoring and assessment assistance to the State and local governments in response to radiological emergencies. This plan, authorized by 44 CFR Part 351, is a revised version of the Interagency Radiological Assistance Plan.

Fixed Nuclear Facilities—Stationary nuclear installations that use or produce radioactive materials in their normal operations. These facilities include commercial nuclear power plants and other fixed facilities operated, authorized, or regulated by NRC, DOD, DOE, and, in some cases, the States.

Imminent Peril to the Public—A radiological emergency condition where immediate and possibly serious danger threatens the public and time does not permit a fully coordinated response. In these situations, the CFA presents its recommendations for protective actions in accordance with procedures in State emergency plans or, in the absence of such procedures, directly to the Governor or other appropriate offsite authority responsible for implementing public protective actions.

Interagency Committee on Radiological Assistance (ICRA)—A committee consisting of representatives from each of the Federal agencies participating in the FRMAP. ICRA, chaired by DOE, interprets, maintains, and updates the FRMAP, and provides a means for coordination of response capabilities, training activities, exercises, and research and development pertinent to the FRMAP.

Interagency Radiological Assistance Plan (IRAP)—A plan originally published in 1965 by an interagency committee of Federal agency representatives as a means for providing rapid and effective radiological assistance in the event of a peacetime radiological incident.

Joint Information Center (JIC)—A central point of contact for all news media at the scene of the incident. News media representatives are kept informed of activities and events via public information officials from all participating Federal, State, and local agencies who, ideally, are co-located at the JIC.

Joint Nuclear Accident Coordinating Center (JNACC)—A joint DOE/DOD capability at Kirtland Air Force Base, Albuquerque, New Mexico, responsible for maintaining current information on the location of specialized DOE and DOD teams or organizations capable of providing nuclear weapons accident assistance.

Lead Agency Official (LAO)—The designated official in each participating agency authorized to direct that agency's response to the radiological emergency.

Liaison Officer (LNO)—A Federal agency official sent to another agency to facilitate interagency communications and coordination. An exchange of liaison officers helps to promote overall coordination of the Federal response to radiological emergencies.

License—A license issued to a facility owner or operator by a Federal agency pursuant to the conditions of the *Atomic Energy Act of 1954* (as amended), or issued by an Agreement State pursuant to appropriate State laws. NRC licenses certain activities under Section 170(a) of that Act.

Limited Response—Response to a request for radiological assistance that involves limited DOE or other agency resources and does not require the formal field management structure.

Local Government—Any county, city, village, town, district, or political subdivision of any State, including rural communities and unincorporated towns and villages.

Monitoring—The use of detection equipment to determine the levels of radiation or the presence and concentration of radioactive contamination.

National Contingency Plan—An operations plan required to outline the Federal response to radiological emergencies at commercial nuclear power plants. In Executive Order 12241, the President delegated to FEMA the responsibility for the development and promulgation of such a plan in response to Pub. L. 96–295.

National Defense Area (NDA)—An area established by a DOD official, on non-Federal lands located within the United States, its posssessions, or its territories for the purpose of safeguarding classified defense information or protecting DOD equipment or material. Establishment of a National Defense Area temporarily places such non-Federal lands under the effective control of DOD and results only from an emergency event. The senior DOD representative at the scene will define the boundary, mark it with a physical barrier, and post warning signs.

National Radiological Emergency Preparedness/Response Plan for Commercial Nuclear Power Plant Accidents (Master Plan)—Commonly referred to as the Master Plan, this document was published by FEMA for interim use in December 1980 and represented the first step toward developing Federal radiological emergency response plans and procedures.

National Security Area (NSA)—An area established by DOE on non-Federal lands located within the United States, its possessions, or territories, for the purpose of safeguarding classified or restricted data information, or protecting DOE equipment or material. Establishment of a NSA temporarily places such non-Federal lands under the effective control of the DOE and results only from an emergency event. The Senior DOE representative having custody of the material at the scene will define the boundary, mark it with a physical barrier, and post warning signs.

Nuclear Emergency Search Team (NEST)—A DOE team of scientists, engineers, and technicians that is trained and organized to provide rapid technical assistance in locating nuclear weapons or materials.

Nuclear Weapon Accident—An unexpected event involving nuclear weapons or radiological nuclear weapon components that results in any of the following:

- Accidental or unauthorized launching, firing, or use by U.S. forces or U.S.-supported allied forces of a nuclear capable weapons system that could create the risk of an outbreak of war;
- Nuclear detonation;
- Non-nuclear detonation or burning of a nuclear weapon or radiological nuclear weapon component;
- Radioactive contamination;
- Seizure, theft, loss, or destruction of a nuclear weapon or radiological nuclear weapon component, including jettisoning; and
- Public hazard, actual or implied.

Nuclear Weapon Significant Incident—An unexpected event involving nuclear weapons or radiological nuclear weapon components which do not fall in the nuclear weapon accident category but:

- Results in evident damage to a nuclear weapon or radiological nuclear weapon component to the extent that major rework, complete replacement, or examination or recertification by the DOE is required;
- Requires immediate action in the interest of safety or nuclear weapons security;
- May result in adverse public reaction (national or international) or premature release of classified information; and

• Could lead to a nuclear weapon accident and warrants high officials of the signatory agencies being informed or taking action.

Off Site—The area outside of the boundary of the onsite area but within the area that is actually or potentially affected by the radiological emergency.

Offsite Federal Support—Federal assistance in mitigating the offsite consequences of an emergency and protecting the public health and safety, including assistance with determining and implementing public protective action measures.

Offsite Technical Director (OSTD)—The DOE official designated to coordinate the Federal radiological monitoring and assessment activities under the Federal Radiological Monitoring and Assessment Plan.

On Site—The area within the boundary established by the owner or operator of the affected facility or carrier or the CFA for controlling actions related to an emergency. Specifically, it includes the area within the boundary of a nuclear power plant, a DOD installation, a DOE facility, a National Defense Area, or a National Security Area. It also includes the controlled area surrounding a radioactive spill in a transportation incident.

On-Scene Commander—The military officer or senior DOE official who commands DOD and DOE forces and supervises all DOD and DOE operations at the scene of a DOD/DOE nuclear weapon accident or weapon significant incident.

Onsite Federal Support—Federal assistance that is the primary responsibility of the Federal agency that owns, authorizes, regulates, or is otherwise deemed responsible for the radiological facility or material being transported, i.e., the CFA. This response supports State and local efforts by supporting the owner or operator's efforts to bring the incident under control and thereby prevent or minimize offsite consequences.

Owner or Operator—The organization that owns or operates the nuclear facility or carrier, or cargo that causes the radiological emergency. The owner or operator may be a Federal agency, a State or local government, or a private business.

Participating Agencies—44 CFR Part 351 establishes the Federal Radiological Preparedness Coordinating Committee (FRPCC), which has approved the establishment of the Subcommittee on Federal Response. The 12 agencies represented on this Subcommittee are referred to as the participating agencies in the FRERP. They are: FEMA, NRC, EPA, HHS, DOE, USDA, DOC, DOT, DOD, DOI, HUD, and NCS.

Population Dose Projection—An estimate of the total radiation dose to which the population may be exposed.

Projected Dose—An estimate of the radiation dose that affected individuals could receive.

Protective Action or Re-entry Recommendation (PAR)—A recommendation to take action that protects the public from exposure to radiation.

Public Information Officers (PIOs)—Federal agency officials at headquarters and in the field responsible for preparing and coordinating the dissemination of public information in cooperation with other responding Federal, State, and local agencies.

Radiological assistance Program (RAP) Team—A team dispatched to the site of a radiological incident by the DOE regional office responding to the incident under the FRMAP.

Radiological Emergency—A type of radiological incident that poses an actual or potential hazard to public health and safety.

Senior FEMA Official (SFO)—Official appointed by the Director, FEMA, or his representative, to direct the FEMA response at the scene of a radiological emergency.

State Coordinating Officer (SCO)—An official designated by the Governor of the affected State to work with the CFAO and SFO incoordinating the response efforts of Federal, State, local, volunteer, and private agencies.

Subcommittee on Federal Response—A Subcommittee of the Federal Radiological Preparedness Coordinating Committee formed to develop and test the Federal Radiological Emergency Response Plan. Most agencies that would participate in the Federal radiological emergency response are represented on this Subcommittee.

Transportation Incident—Any incident that involves a transportation vehicle or shipment containing radioactive materials.

Transportation of Radioactive Materials—Refers to the loading, unloading, movement, or temporary storage en route of radioactive materials.

[FR Doc. 84–2127 Filed 1–20–84; 8:45 am]

BILLING CODE 6718–01–M

federal register

Friday
January 27, 1984

Part IV

Department of Housing and Urban Development

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

General Prototype Housing Costs for One- to Four-Family Dwelling Units; Notice

VOL 49 ISS 19 JA 27 1984 UMI

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

[Docket No. N-84-1335; FR-1906]

General Prototype Housing costs for One- to Four-Family Dwelling Units

AGENCY: Office of the Assistant Secretary for Housing-Federal Housing Commissioner, HUD.

ACTION: Notice.

SUMMARY: The Housing and Community Development Act of 1977 requires the Department to publish annually prototype housing costs for a variety of one- to four-family dwelling units in each market area throughout the United States. This Notice announces the 1983 prototype costs, and is intended to provide the public with the typical cost of a single family dwelling in a definite area.

EFFECTIVE DATE: January 27, 1984.

FOR FURTHER INFORMATION CONTACT: John J. Coonts, Director, Single Family Development Division, Office of Single Family Housing, Department of Housing and Urban Development, Room 9270, 451 Seventh Street, S.W., Washington, D.C. 20410, telephone (202) 755-6720. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Section 904 of the Housing and Community Development Act of 1977 (42 U.S.C. 3540) requires HUD to prepare and publish annually prototype housing costs for one- to four-family dwelling units for each market area in the United States. The most recent publication of prototype housing costs by the Department was on August 24, 1982 (see 47 FR 36970). These prototype figures are intended to serve as an aid to the general public in estimating typical housing costs in a particular market area. These prototype costs are not the same as those published annually by the Department under section 6(b) of the United States Housing Act of 1937 for use in public housing projects.

The prototype costs are developed by HUD using data submitted from HUD field offices and the public and general data gathered by the Department in administering the National Housing Act section 203(b) single family mortgage insurance program. (Note.—The prototype costs for the market areas of Knoxville, Tennessee and San Francisco, California were determined by Headquarters based on recent historical data and acceptable trend multipliers.) The prototype costs include costs for land and site improvements, and cover both urban and rural areas of each market area. Generally, prototype costs represent the sales price. For those interested, each HUD field office has maps of designated areas available for examination.

The tables that follow this document list the prototype costs for all market areas. Because of the lack of information on two-, three-, and four-family dwelling units, costs generally include figures for one-family dwellings only. In consideration of varying economic situations, prototype costs are divided into three cost ranges: low, medium and high. the typical low-range, one-family dwelling contains three bedrooms and one full bath. The typical medium-range one-family dwelling contains three or four bedrooms and two full baths. The typical high-range one-family dwelling contains three to five bedrooms and two or three full baths.

A Finding of No Significant Impact with respect to the environment required by the National Environmental Policy Act (42 U.S.C. 4321-4347) is unnecessary, since prototype cost notices are categorically excluded under HUD regulations at 24 CFR 50.21(1).

Authority: Section 904, Housing and Community Development Act of 1977 (42 U.S.C. 3540); section 7(d), Department of HUD Act (42 U.S.C. 3535(d)).

Dated: January 18, 1984.

W. Calvert Brand,

General Deputy Assistant Secretary for Housing.

SCHEDULE OF PROTOTYPE HOUSING COSTS: ONE- TO FOUR-FAMILY DWELLINGS

Market area	Low range	Medium range	High range
Field Office: Boston, MA			
Typical square foot area	1,000	1,250	1,450
Boston:			
1-family dwelling	$64,018	$92,220	$126,596
2-family dwelling		98,454	
Pittsfield:			
1-family dwelling	56,937	83,723	114,944
2-family dwelling		87,895	
Worcester:			
1-family dwelling	56,937	84,308	115,464
2-family dwelling		87,895	
Springfield:			
1-family dwelling	57,351	83,822	116,383
2-family dwelling		88,895	
Cape Cod:			
1-family dwelling	57,765	86,002	117,300
2-family dwelling		91,315	
Field Office: Hartford, CT			
Typical square foot area	880	1,000	1,120
Hartford:			
1-family dwelling	$65,428	$71,925	$80,042
New Haven-Milford:			
1-family dwelling	64,383	71,448	80,586
Bridgeport-Fairfield:			
1-family dwelling	68,608	76,185	86,402
Field Office: Manchester, NH			
Typical square foot area	960	1,680	1,960
Portland, ME:			

SCHEDULE OF PROTOTYPE HOUSING COSTS: ONE- TO FOUR-FAMILY DWELLINGS—Continued

Market area	Low range	Medium range	High range
1-family dwelling	$52,866	$69,144	$124,192
Bangor, ME:			
1-family dwelling	51,765	69,419	117,535
Augusta, ME:			
1-family dwelling	52,207	67,631	120,666
Manchester:			
1-family dwelling	51,095	66,517	117,137
Keene:			
1-family dwelling	50,209	62,863	113,759
Portsmouth:			
1-family dwelling	54,556	68,605	117,936
2-family dwelling			
3-family dwelling			
4-family dwelling			
Burlington, VT:			
1-family dwelling	53,063	68,845	118,927
2-family dwelling			
3-family dwelling			
4-family dwelling			
Field Office Providence, RI			
Typical square foot area	1,040	1,250	1,540
Providence:			
1-family dwelling	$63,761	$79,119	$94,696
2-family dwelling			
3-family dwelling			
4-family dwelling			
Field Office: Albany, NY			
Typical square foot area	840	1,090	1,970
Albany-Troy:			
1-family dwelling	$46,242	$58,142	$89,593
2-family dwelling			
3-family dwelling			
4-family dwelling			
Auburn:			
1-family dwelling	46,946	57,448	86,731
2-family dwelling			
3-family dwelling			
4-family dwelling			
Binghamton:			
1-family dwelling	45,888	57,696	92,077
2-family dwelling			
3-family dwelling			
4-family dwelling			
Elmira:			
1-family dwelling	45,888	58,750	96,257
2-family dwelling			
3-family dwelling			
4-family dwelling			
Plattsburgh:			
1-family dwelling	45,888	57,696	91,024
2-family dwelling			
3-family dwelling			
4-family dwelling			
Schenectady			
1-family dwelling	$46,242	$58,142	$91,696
2-family dwelling			
3-family dwelling			
4-family dwelling			
Syracuse:			
1-family dwelling	47,653	59,913	94,394
2-family dwelling			
3-family dwelling			
4-family dwelling			
Utica-Rome:			
1-family dwelling	46,242	58,142	91,696
2-family dwelling			
3-family dwelling			
4-family dwelling			
Watertown:			
1-family dwelling	45,536	55,677	90,350
2-family dwelling			
3-family dwelling			
4-family dwelling			
Field Office: Buffalo, NY			
Typical square foot area	960	1,040	1,140
Buffalo:			
1-family dwelling	$53,342	$70,052	$90,742
2-family dwelling	82,855	99,969	134,693
3-family dwelling			
4-family dwelling			
Rochester:			
1-family dwelling	54,191	71,795	90,281
2-family dwelling	84,792	101,764	136,143

SCHEDULE OF PROTOTYPE HOUSING COSTS: ONE- TO FOUR-FAMILY DWELLINGS—Continued

Market area	Low range	Medium range	High range
3-family dwelling			
4-family dwelling			
Elmira:			
1-family dwelling	44,414	60,493	76,833
2-family dwelling	72,545	87,909	121,475
3-family dwelling			
4-family dwelling			
Jamestown:			
1-family dwelling	46,992	65,170	82,847
2-family dwelling	77,340	92,856	126,754
3-family dwelling			
4-family dwelling			
Field Office: Camden, NJ			
Typical square foot area	1,160	1,320	1,480
Camden, Burlington and Gloucester Counties:			
1-family dwelling	$47,800	$67,500	$81,600
2-family dwelling			
3-family dwelling			
4-family dwelling			
Cumberland and Salem (Atlantic Counties):			
1-family dwelling	48,700	59,350	66,700
2-family dwelling			
3-family dwelling			
4-family dwelling			
Atlantic (Shore) County:			
1-family dwelling	51,150	68,300	86,650
2-family dwelling			
3-family dwelling			
4-family dwelling			
Mercer County:			
1-family dwelling	49,750	66,250	84,700
2-family dwelling			
3-family dwelling			
4-family dwelling			
Ocean County:			
1-family dwelling	49,900	71,650	93,250
2-family dwelling			
3-family dwelling			
4-family dwelling			
Field Office: Newark, NJ			
Typical square foot area	1,000	1,475	1,818
Plainfield:			
1-family dwelling	$61,700	$79,300	$96,200
2-family dwelling			
3-family dwelling			
4-family dwelling			
Morristown:			
1-family dwelling	73,500	91,300	98,200
2-family dwelling			
3-family dwelling			
4-family dwelling			
New Brunswick:			
1-family dwelling	66,800	84,600	91,500
2-family dwelling			
3-family dwelling			
4-family dwelling			
Asbury Park:			
1-family dwelling	62,500	79,600	86,200
2-family dwelling			
3-family dwelling			
4-family dwelling			
Somerville:			
1-family dwelling	64,200	82,000	88,000
2-family dwelling			
3-family dwelling			
4-family dwelling			
Field Office: New York, NY			
Typical square foot area	1,040	1,490	2,440
Dutchess, Ulster, Sullivan:			
1-family dwelling	$46,115	$71,954	$119,968
2-family dwelling	70,426	103,753	148,335
3-family dwelling	109,387	117,858	188,948
4-family dwelling	126,842	188,851	263,019
Orange:			
1-family dwelling	45,364	75,690	130,234
2-family dwelling	69,877	106,562	161,057
3-family dwelling	112,909	120,483	201,684
4-family dwelling	129,790	189,531	274,112
Rockland:			
1-family dwelling	53,070	81,584	132,808
2-family dwelling	70,426	110,706	152,615
3-family dwelling	108,852	129,628	207,573

SCHEDULE OF PROTOTYPE HOUSING COSTS: ONE- TO FOUR-FAMILY DWELLINGS—Continued

Market area	Low range	Medium range	High range
4-family dwelling	129,517	200,621	286,328
Nassau/Suffolk:			
1-family dwelling	44,798	79,529	145,087
2-family dwelling	71,046	107,432	160,292
3-family dwelling	110,214	136,704	215,870
4-family dwelling	148,579	206,579	295,873
New York City:			
1-family dwelling	47,676	89,105	127,166
2-family dwelling	75,867	114,088	161,395
3-family dwelling	124,983	150,494	208,728
4-family dwelling	132,464	195,000	235,368
Field Office: San Juan, PR			
Typical square foot area	860	1,160	1,620
San Juan:			
1-family dwelling	$52,000	$68,000	$76,000
2-family dwelling			
3-family dwelling			
4-family dwelling			
Ponce:			
1-family dwelling	42,700	55,000	67,100
2-family dwelling			
3-family dwelling			
4-family dwelling			
Mayaguez:			
1-family dwelling	44,000	47,000	69,000
2-family dwelling			
3-family dwelling			
4-family dwelling			
Field Office: Baltimore, MD			
Typical square foot area	1,086	1,656	1,944
Baltimore:			
1-family dwelling	$75,200	$91,400	$103,000
2-family dwelling			
3-family dwelling			
4-family dwelling			
Hagerstown:			
1-family dwelling		61,500	90,000
2-family dwelling			
3-family dwelling			
4-family dwelling			
Salisbury:			
1-family dwelling	58,800	66,800	79,800
2-family dwelling			
3-family dwelling			
4-family dwelling			
Waldorf:			
1-family dwelling	60,400	89,000	111,000
2-family dwelling			
3-family dwelling			
4-family dwelling			
Field Office: Charleston, WV			
Typical square foot area	960	1,150	2,600
Charleston:			
1-family dwelling	$57,200	$100,300	$155,700
2-family dwelling			
3-family dwelling			
4-family dwelling			
Beckley-Princeton-Bluefield:			
1-family dwelling	55,500	97,400	151,100
2-family dwelling			
3-family dwelling			
4-family dwelling			
Martinsburg:			
1-family dwelling	50,400	88,400	137,200
2-family dwelling			
3-family dwelling			
4-family dwelling			
Wheeling:			
1-family dwelling	58,400	102,300	158,200
2-family dwelling			
3-family dwelling			
4-family dwelling			
Huntington:			
1-family dwelling	56,700	99,300	154,100
2-family dwelling			
3-family dwelling			
4-family dwelling			
Parkersburg:			
1-family dwelling	$56,700	$99,300	$154,100
2-family dwelling			
3-family dwelling			
4-family dwelling			

SCHEDULE OF PROTOTYPE HOUSING COSTS: ONE- TO FOUR-FAMILY DWELLINGS—Continued

Market area	Low range	Medium range	High range
Upper Monongolia:			
1-family dwelling	57,200	106,300	155,700
2-family dwelling			
3-family dwelling			
4-family dwelling			
Field Office: Philadelphia, PA			
Typical square foot area	1,220	1,790	2,200
Philadelphia:			
1-family dwelling	$53,900	$56,000	$64,700
2-family dwelling	58,300	61,600	71,100
3-family dwelling			
4-family dwelling			
Pottstown-Reading:			
1-family dwelling	52,300	54,800	60,800
2-family dwelling	57,500	60,300	66,800
3-family dwelling			
4-family dwelling			
Allentown-Bethlehem-Easton:			
1-family dwelling	52,800	55,200	61,300
2-family dwelling	58,000	60,700	67,400
3-family dwelling			
4-family dwelling			
Lancaster-York:			
1-family dwelling	50,800	53,900	61,500
2-family dwelling	55,800	58,300	67,600
3-family dwelling			
4-family dwelling			
Harrisburg:			
1-family dwelling	50,300	53,100	58,900
2-family dwelling	55,300	58,400	64,800
3-family dwelling			
4-family dwelling			
Wilkes-Barre-Scranton:			
1-family dwelling	52,300	54,800	60,800
2-family dwelling	57,500	60,300	66,800
3-family dwelling			
4-family dwelling			
Bellefonte:			
1-family dwelling	47,700	53,900	60,800
2-family dwelling	52,400	59,300	66,800
3-family dwelling			
4-family dwelling			
Tioga:			
1-family dwelling	47,700	53,900	60,800
2-family dwelling	52,400	59,300	66,800
3-family dwelling			
4-family dwelling			
Wilmington-State of Delaware:			
1-family dwelling	47,700	54,000	60,800
2-family dwelling	52,400	59,400	66,800
3-family dwelling			
4-family dwelling			
Field Office: Pittsburgh, PA			
Typical square foot area	960	1,440	2,210
Altoona:			
1-family dwelling	$66,911	$93,923	$121,673
2-family dwelling			
3-family dwelling			
4-family dwelling			
Erie:			
1-family dwelling	67,941	95,383	122,703
2-family dwelling			
3-family dwelling			
4-family dwelling			
Johnstown:			
1-family dwelling	67,958	95,702	123,163
2-family dwelling			
3-family dwelling			
4-family dwelling			
Pittsburgh:			
1-family dwelling	69,505	98,277	124,708
2-family dwelling			
3-family dwelling			
4-family dwelling			
Field Office: Richmond, VA			
Typical square foot area	1,090	2,110	2,240
Charlottesville:			
1-family dwelling	43,700	97,500	85,550
2-family dwelling			
3-family dwelling			
4-family dwelling			

SCHEDULE OF PROTOTYPE HOUSING COSTS: ONE- TO FOUR-FAMILY DWELLINGS—Continued

Market area	Low range	Medium range	High range
Danville:			
1-family dwelling	40,700	63,100	88,500
2-family dwelling			
3-family dwelling			
4-family dwelling			
Fredericksburg:			
1-family dwelling	48,850	75,200	106,300
2-family dwelling			
3-family dwelling			
4-family dwelling			
Lynchburg:			
1-family dwelling	43,500	65,100	91,750
2-family dwelling			
3-family dwelling			
4-family dwelling			
Newport News-Hampton:			
1-family dwelling	47,350	72,950	103,150
2-family dwelling			
3-family dwelling			
4-family dwelling			
Norfolk-Virginia Beach:			
1-family dwelling	47,750	73,700	104,150
2-family dwelling			
3-family dwelling			
4-family dwelling			
Petersburg:			
1-family dwelling	45,100	69,500	98,250
2-family dwelling			
3-family dwelling			
4-family dwelling			
Portsmouth-Chesapeake:			
1-family dwelling	47,400	73,000	103,200
2-family dwelling			
3-family dwelling			
4-family dwelling			
Richmond:			
1-family dwelling	47,250	72,850	102,500
2-family dwelling			
3-family dwelling			
4-family dwelling			
Roanoke:			
1-family dwelling	41,000	63,400	89,900
2-family dwelling			
3-family dwelling			
4-family dwelling			
Winchester:			
1-family dwelling	$46,150	$71,250	$100,900
2-family dwelling			
3-family dwelling			
4-family dwelling			

Field Office: Washington, DC

Typical square foot area	1,080	1,380	2,510
Washington Metropolitan Area:			
1-family dwelling	$130,005	$165,736	$224,899
2-family dwelling			
3-family dwelling			
4-family dwelling			

Field Office: Atlanta, GA

Typical square foot area	960	1,420	2,130
Atlanta:			
1-family dwelling	$47,050	$73,250	$103,750
2-family dwelling			
3-family dwelling			
4-family dwelling			
Athens:			
1-family dwelling	41,450	65,900	92,500
2-family dwelling			
3-family dwelling			
4-family dwelling			
Albany:			
1-family dwelling	41,750	65,900	93,350
2-family dwelling			
3-family dwelling			
4-family dwelling			
Augusta:			
1-family dwelling	43,950	67,050	96,900
2-family dwelling			
3-family dwelling			
4-family dwelling			
Columbus:			
1-family dwelling	43,950	66,900	95,650
2-family dwelling			
3-family dwelling			
4-family dwelling			

SCHEDULE OF PROTOTYPE HOUSING COSTS: ONE- TO FOUR-FAMILY DWELLINGS—Continued

Market area	Low range	Medium range	High range
Rome:			
1-family dwelling	44,750	68,150	96,950
2-family dwelling			
3-family dwelling			
4-family dwelling			
Savannah:			
1-family dwelling	44,550	69,200	99,850
2-family dwelling			
3-family dwelling			
4-family dwelling			
Macon:			
1-family dwelling	42,850	66,850	95,850
2-family dwelling			
3-family dwelling			
4-family dwelling			

Field Office: Birmingham, AL

Typical square foot area	1,080	1,820	2,420
Birmingham:			
1-family dwelling	$53,000	$80,150	$103,300
2-family dwelling			
3-family dwelling			
4-family dwelling			
Florence:			
1-family dwelling	49,650	73,150	92,650
2-family dwelling			
3-family dwelling			
4-family dwelling			
Huntsville:			
1-family dwelling	51,550	75,200	97,950
2-family dwelling			
3-family dwelling			
4-family dwelling			
Gadsden:			
1-family dwelling	48,650	74,350	94,750
2-family dwelling			
3-family dwelling			
4-family dwelling			
Anniston:			
1-family dwelling	48,500	73,500	92,850
2-family dwelling			
3-family dwelling			
4-family dwelling			
Tuscaloosa:			
1-family dwelling	$50,590	$72,300	$90,850
2-family dwelling			
3-family dwelling			
4-family dwelling			
Montgomery:			
1-family dwelling	48,150	72,150	95,900
2-family dwelling			
3-family dwelling			
4-family dwelling			
Dothan:			
1-family dwelling	45,800	70,350	96,050
2-family dwelling			
3-family dwelling			
4-family dwelling			
Mobile:			
1-family dwelling	52,200	75,800	98,950
2-family dwelling			
3-family dwelling			
4-family dwelling			

Field Office: Columbia, SC

Typical square foot area	1,070	1,360	1,510
Aiken-Rock Hill:			
1-family dwelling	$48,600	$59,800	$89,300
2-family dwelling	69,000	88,000	
3-family dwelling			
4-family dwelling			
Columbia-Florence-Orangeburg:			
1-family dwelling	48,500	60,700	69,900
2-family dwelling	68,600	88,500	
3-family dwelling			
4-family dwelling			
Charleston-Myrtle Beach:			
1-family dwelling	51,700	64,900	74,300
2-family dwelling	72,700	94,100	
3-family dwelling			
4-family dwelling			
Greenville:			
1-family dwelling	49,600	62,300	70,500
2-family dwelling	70,100	90,800	
3-family dwelling			

SCHEDULE OF PROTOTYPE HOUSING COSTS: ONE- TO FOUR-FAMILY DWELLINGS—Continued

Market area	Low range	Medium range	High range
4-family dwelling			

Field Office: Coral Gables, FL

Typical square foot area	950	1,250	1,970
Miami:			
1-family dwelling	$69,400	$82,400	$129,500
2-family dwelling			
3-family dwelling			
4-family dwelling			
Ft. Lauderdale:			
1-family dwelling	62,000	79,000	118,000
2-family dwelling			
3-family dwelling			
4-family dwelling			
West Palm Beach:			
1-family dwelling	55,000	79,500	116,000
2-family dwelling			
3-family dwelling			
4-family dwelling			
Ft. Myers:			
1-family dwelling	50,800	68,000	105,000
2-family dwelling			
3-family dwelling			
4-family dwelling			
Key West:			
1-family dwelling	51,500	76,000	116,500
2-family dwelling			
3-family dwelling			
4-family dwelling			

Field Office: Greensboro, NC

Typical square foot area	1,150	1,500	21,850
Greensboro:			
1-family dwelling	$55,966	$68,145	$79,580
2-family dwelling			
3-family dwelling			
4-family dwelling			
Asheville:			
1-family dwelling	49,680	61,635	82,635
2-family dwelling			
3-family dwelling			
4-family dwelling			
Charlotte:			
1-family dwelling	47,460	74,265	80,535
2-family dwelling			
3-family dwelling			
4-family dwelling			
Elizabeth City:			
1-family dwelling	42,630	51,135	62,900
2-family dwelling			
3-family dwelling			
4-family dwelling			
Greenville:			
1-family dwelling	42,945	54,800	68,150
1-family dwelling			
3-family dwelling			
4-family dwelling			
Raleigh			
1-family dwelling	$54,900	$74,285	$79,600
2-family dwelling			
3-family dwelling			
4-family dwelling			
Wilmington:			
1-family dwelling	45,570	58,800	78,850
2-family dwelling			
3-family dwelling			
4-family dwelling			

Field Office: Jackson, MS

Typical Square Foot Area	1,170	1,860	2,560
Biloxi-Gulfport:			
1-family dwelling	$48,350	$77,300	$110,350
2-family dwelling	75,950		
3-family dwelling			
4-family dwelling	122,500		
Columbus:			
1-family dwelling	45,600	78,550	111,400
2-family dwelling	77,850		
3-family dwelling			
4-family dwelling	125,000		
Greenville:			
1-family dwelling	45,400	76,100	118,900
2-family dwelling	74,000		
3-family dwelling			
4-family dwelling	119,000		

SCHEDULE OF PROTOTYPE HOUSING COSTS: ONE- TO FOUR-FAMILY DWELLINGS—Continued

Market area	Low range	Medium range	High range
Hattiesburg:			
1-family dwelling	48,650	77,450	111,200
2-family dwelling	77,200		
3-family dwelling			
4-family dwelling	125,700		
Jackson:			
1-family dwelling	49,350	78,000	116,450
2-family dwelling	83,000		
3-family dwelling			
4-family dwelling	134,900		
Typical square foot area	1,170	1,880	2,960
Laurel:			
1-family dwelling	$48,350	$79,850	$108,400
2-family dwelling	79,050		
3-family dwelling			
4-family dwelling	124,550		
Meridian:			
1-family dwelling	46,250	75,900	104,900
2-family dwelling	75,00		
3-family dwelling			
4-family dwelling	120,550		
Natchez:			
1-family dwelling	45,050	75,200	105,000
2-family dwelling	73,150		
3-family dwelling			
4-family dwelling	118,400		
Southhaven:			
1-family dwelling	51,150	81,050	115,600
2-family dwelling	81,050		
3-family dwelling			
4-family dwelling	130,450		
Vicksburg:			
1-family dwelling	47,500	78,350	106,350
2-family dwelling	76,950		
3-family dwelling			
4-family dwelling	123,700		
Field Office: Jacksonville, FL			
Typical square foot area	1,090	1,350	1,620
Jacksonville:			
1-family dwelling	$48,500	$62,000	$77,000
2-family dwelling			
3-family dwelling			
4-family dwelling			
Gainesville-Ocala:			
1-family dwelling	45,500	58,200	70,950
2-family dwelling			
3-family dwelling			
4-family dwelling			
Tallahassee:			
1-family dwelling	43,650	56,600	65,650
2-family dwelling			
3-family dwelling			
4-family dwelling			
Panama City:			
1-family dwelling	46,500	54,350	70,000
2-family dwelling			
3-family dwelling			
4-family dwelling			
Pensacola-Ft. Walton:			
1-family dwelling	49,050	59,800	72,100
2-family dwelling			
3-family dwelling			
4-family dwelling			
Field Office: Knoxville, TN			
Typical square foot area	980	1,030	1,300
Knoxville:			
1-family dwelling	$47,000	$52,500	$64,000
2-family dwelling		65,000	82,000
3-family dwelling			
4-family dwelling	129,000	138,000	
Chattanooga:			
1-family dwelling	46,000	53,000	63,000
2-family dwelling		64,000	81,500
3-family dwelling			
4-family dwelling	126,000	134,000	
Kingsport:			
1-family dwelling	45,800	52,100	62,000
2-family dwelling		63,000	79,000
3-family dwelling			
4-family dwelling	125,300	132,000	
Johnson City:			
1-family dwelling	46,000	52,000	62,000
2-family dwelling		62,000	80,000
3-family dwelling			
4-family dwelling	124,300	124,500	
Field Office: Louisville, KY			
Typical square foot area	930	1,630	1,930
Louisville:			
1-family dwelling	$48,756	$80,092	$92,543
2-family dwelling	81,052	124,014	
3-family dwelling			
4-family dwelling	140,133	180,515	
Owensboro:			
1-family dwelling	49,206	81,856	81,583
2-family dwelling	80,735	123,484	
3-family dwelling			
4-family dwelling	140,133	179,456	
Ashland:			
1-family dwelling	50,968	80,926	84,847
2-family dwelling	83,851	127,425	
3-family dwelling			
4-family dwelling	144,802	185,164	
Covington:			
1-family dwelling	51,371	82,017	86,582
2-family dwelling	83,327	129,090	
3-family dwelling			
4-family dwelling	145,379	187,420	
Paducah:			
1-family dwelling	48,265	59,896	80,216
2-family dwelling	80,809	122,346	
3-family dwelling			
4-family dwelling	138,292	177,731	
Typical square foot area	1,020	2,020	3,050
Memphis:			
1-family dwelling	$49,345	$76,869	$102,196
2-family dwelling			
3-family dwelling			
4-family dwelling			
Jackson:			
1-family dwelling	49,130	76,532	101,430
2-family dwelling			
3-family dwelling			
4-family dwelling			
Field Office: Nashville, TN			
Typical square foot area	1,060	1,300	1,800
Nashville:			
1-family dwelling	$45,000	$71,000	$83,500
2-family dwelling	57,000	82,000	
3-family dwelling			
4-family dwelling			
Field Office: Orlando, FL			
Typical square foot area	1,050	1,200	1,760
Brevard-Indian River-St. Lucie:			
1-family dwelling	$48,250	$55,000	$67,000
2-family dwelling		75,000	
3-family dwelling			
4-family dwelling			
Orange-Seminole-Osceola:			
1-family dwelling	48,250	57,000	75,000
2-family dwelling		80,000	
3-family dwelling			
4-family dwelling			
Volusia County:			
1-family dwelling	48,250	55,000	72,000
2-family dwelling		75,000	
3-family dwelling			
4-family dwelling			
Field Office: Tampa, FL			
Typical square foot area	1,010	1,320	1,680
Tampa:			
1-family dwelling	$44,000	$72,000	$111,000
2-family dwelling			
3-family dwelling			
4-family dwelling			
Manatee-Sarasota:			
1-family dwelling	47,000	67,500	104,000
2-family dwelling			
3-family dwelling			
4-family dwelling			
Polk:			
1-family dwelling	38,500	63,500	110,000
2-family dwelling			
3-family dwelling			
4-family dwelling			
Field Office: Chicago, IL			
Typical square foot area	1,000	1,500	2,000
Chicago:			
1-family dwelling	$83,230	$105,970	$147,490
2-family dwelling	90,160	125,120	153,470
3-family dwelling			
4-family dwelling			
Rockford:			
1-family dwelling	50,000	91,870	125,000
2-family dwelling	87,200	109,810	133,390
3-family dwelling			
4-family dwelling			
Rock Island:			
1-family dwelling	51,300	94,280	131,280
2-family dwelling	91,250	111,360	136,580
3-family dwelling			
4-family dwelling			
Sterling:			
1-family dwelling	49,200	91,280	127,480
2-family dwelling	87,230	107,650	131,970
3-family dwelling			
4-family dwelling			
Field Office: Cincinnati, OH			
Typical square foot area	1,120	1,220	2,080
Cincinnati:			
1-family dwelling	$58,706	$71,400	$105,800
2-family dwelling	105,900		
3-family dwelling			
4-family dwelling	165,600	193,500	
Dayton:			
1-family dwelling	55,400	68,400	104,100
2-family dwelling			
3-family dwelling			
4-family dwelling			
Field Office: Cleveland, OH			
Typical square foot area	1,040	1,320	1,780
Cleveland:			
1-family dwelling	$63,923	$96,234	$161,986
2-family dwelling			
3-family dwelling			
4-family dwelling			
Akron:			
1-family dwelling	61,905	93,339	157,256
2-family dwelling			
3-family dwelling			
4-family dwelling			
Toledo:			
1-family dwelling	63,385	95,985	161,943
2-family dwelling			
3-family dwelling			
4-family dwelling			
Youngstown:			
1-family dwelling	62,257	93,536	158,394
2-family dwelling			
3-family dwelling			
4-family dwelling			
Findlay:			
1-family dwelling	61,815	92,254	153,761
2-family dwelling			
3-family dwelling			
4-family dwelling			
Mansfield:			
1-family dwelling	61,365	92,594	154,929
2-family dwelling			
3-family dwelling			
4-family dwelling			
Lorain:			
1-family dwelling	63,837	96,319	162,529
2-family dwelling			
3-family dwelling			
4-family dwelling			
Field Office: Columbus, OH			
Typical square foot area	940	1,680	2,210
Columbus:			
1-family dwelling	$50,500	$79,300	$121,100
2-family dwelling	91,700	116,200	
3-family dwelling			
4-family dwelling			195,700
Athens:			
1-family dwelling	44,100	62,900	119,900
2-family dwelling			

SCHEDULE OF PROTOTYPE HOUSING COSTS: ONE- TO FOUR-FAMILY DWELLINGS—Continued

Market area	Low range	Medium range	High range
3-family dwelling			
4-family dwelling			
Lima:			
1-family dwelling	49,700	91,100	120,900
2-family dwelling	100,400	124,200	
3-family dwelling			
4-family dwelling			
Zanesville:			
1-family dwelling	49,200	71,400	107,600
2-family dwelling			
3-family dwelling		129,300	
4-family dwelling			
Newark:			
1-family dwelling	55,000	79,200	104,200
2-family dwelling	82,900	105,800	
3-family dwelling		135,900	
4-family dwelling			155,100
Springfield:			
1-family dwelling	50,200	84,000	115,800
2-family dwelling			
3-family dwelling			
4-family dwelling			
Troy:			
1-family dwelling	44,100	83,100	116,200
2-family dwelling			
3-family dwelling			
4-family dwelling			
Field Office: Detroit, MI			
Typical square foot area	900	1,600	2,300
Detroit:			
1-family dwelling	$51,900	$68,400	$99,000
2-family dwelling			
3-family dwelling			
4-family dwelling			
Field Office: Flint, MI			
Typical square foot area	1,000	1,220	1,530
Flint:			
1-family dwelling	$36,000	$58,000	$90,000
2-family dwelling			
3-family dwelling			
4-family dwelling			
Saginaw:			
1-family dwelling	43,000	55,000	80,000
2-family dwelling			
3-family dwelling			
4-family dwelling			
Bay City:			
1-family dwelling	43,000	55,000	80,000
2-family dwelling			
3-family dwelling			
4-family dwelling			
Midland:			
1-family dwelling	50,000	68,000	90,000
2-family dwelling			
3-family dwelling			
4-family dwelling			
Field Office: Grand Rapids, MI			
Typical square foot area	1,600	1,200	1,720
Grand Rapids:			
1-family dwelling	$56,271	$87,147	$148,844
2-family dwelling	106,995	159,748	199,977
3-family dwelling			
4-family dwelling			
Battle Creek:			
1-family dwelling	60,337	96,082	154,005
2-family dwelling	111,306	166,742	209,362
3-family dwelling			
4-family dwelling			
Jackson:			
1-family dwelling	58,390	91,450	155,448
2-family dwelling	111,758	166,827	210,597
3-family dwelling			
4-family dwelling			
Lansing:			
1-family dwelling	61,356	88,933	156,076
2-family dwelling	144,039	168,013	259,761
3-family dwelling			
4-family dwelling			
Muskegon:			
1-family dwelling	56,111	84,059	145,635
2-family dwelling	104,830	156,772	197,709
3-family dwelling			
4-family dwelling			

SCHEDULE OF PROTOTYPE HOUSING COSTS: ONE- TO FOUR-FAMILY DWELLINGS—Continued

Market area	Low range	Medium range	High range
Mount Pleasant:			
1-family dwelling	59,850	89,663	151,628
2-family dwelling	111,536	164,818	206,971
3-family dwelling			
4-family dwelling			
Traverse City:			
1-family dwelling	55,054	83,330	143,828
2-family dwelling	103,922	153,712	194,244
3-family dwelling			
4-family dwelling			
Marquette:			
1-family dwelling	56,028	84,788	143,308
2-family dwelling	103,483	155,284	196,627
3-family dwelling			
4-family dwelling			
Benton Harbor:			
1-family dwelling	54,509	86,413	156,279
2-family dwelling	116,642	168,446	211,008
3-family dwelling			
4-family dwelling			
Field Office: Indianapolis, IN			
Typical square foot area	1,060	1,120	2,100
Indianapolis:			
1-family dwelling	$51,200	$68,000	$101,800
2-family dwelling			
3-family dwelling			
4-family dwelling			
Ft. Wayne:			
1-family dwelling	49,000	69,700	100,500
2-family dwelling			
3-family dwelling			
4-family dwelling			
Gary:			
1-family dwelling	51,500	73,000	109,900
2-family dwelling			
3-family dwelling			
4-family dwelling			
Terre Haute:			
1-family dwelling	52,000	71,600	107,700
2-family dwelling			
3-family dwelling			
4-family dwelling			
Field Office: Milwaukee, WI			
Typical square foot area	1,200	1,500	2,030
Milwaukee:			
1-family dwelling	$74,224	$114,782	$175,664
2-family dwelling	125,733	161,232	230,258
3-family dwelling	185,507	239,538	340,475
4-family dwelling	247,810	322,870	459,207
Madison:			
1-family dwelling	68,418	106,105	163,378
2-family dwelling	115,507	149,413	214,250
3-family dwelling	159,565	221,218	315,547
4-family dwelling	227,425	295,962	424,069
Green Bay:			
1-family dwelling	59,247	90,961	152,726
2-family dwelling	104,997	137,945	201,474
3-family dwelling	159,813	208,912	300,590
4-family dwelling	214,099	279,629	401,896
Eau Claire:			
1-family dwelling	55,923	92,353	144,791
2-family dwelling	101,572	133,965	196,798
3-family dwelling	152,277	200,860	291,902
4-family dwelling	203,957	271,224	395,797
Superior:			
1-family dwelling	56,765	95,325	151,329
2-family dwelling	105,639	140,054	206,710
3-family dwelling	158,694	210,278	306,502
4-family dwelling	212,012	282,050	412,799
Field Office: Minneapolis-St. Paul, MN			
Typical square foot area	1,090	1,260	2,010
Minneapolis:			
1-family dwelling	$68,342	$91,180	$124,100
2-family dwelling			
3-family dwelling			
4-family dwelling			
St. Paul:			
1-family dwelling	68,342	91,180	124,100
2-family dwelling			
3-family dwelling			
4-family dwelling			
Hibbing:			
1-family dwelling	62,205	83,307	113,820

SCHEDULE OF PROTOTYPE HOUSING COSTS: ONE- TO FOUR-FAMILY DWELLINGS—Continued

Market area	Low range	Medium range	High range
2-family dwelling			
3-family dwelling			
4-family dwelling			
Duluth:			
1-family dwelling	62,746	88,908	114,659
2-family dwelling			
3-family dwelling			
4-family dwelling			
Moorhead:			
1-family dwelling	59,531	80,143	109,440
2-family dwelling			
3-family dwelling			
4-family dwelling			
Rochester-Austin:			
1-family dwelling	63,719	85,186	116,374
2-family dwelling			
3-family dwelling			
4-family dwelling			
St. Cloud:			
1-family dwelling	62,457	85,500	114,374
2-family dwelling			
3-family dwelling			
4-family dwelling			
Mankato-Worthington:			
1-family dwelling	62,457	83,500	114,070
2-family dwelling			
3-family dwelling			
4-family dwelling			
Field Office: Springfield, IL			
Typical square foot area	1,130	1,350	2,020
Springfield-Peoria-Perkin:			
1-family dwelling	$62,366	$70,617	$74,057
2-family dwelling	60,332	62,819	81,337
3-family dwelling	85,568	88,358	122,343
4-family dwelling	116,229	135,070	167,758
Bloomington-Normal:			
1-family dwelling	62,366	70,617	74,057
2-family dwelling	60,332	62,819	81,337
3-family dwelling	85,568	88,358	122,343
4-family dwelling	116,229	135,070	167,758
Champaign-Urbana:			
1-family dwelling	61,366	70,617	74,057
2-family dwelling	60,332	62,819	81,337
3-family dwelling	85,568	88,358	122,343
4-family dwelling	116,229	135,070	167,758
Belleville-Alton:			
1-family dwelling	61,366	70,617	74,057
2-family dwelling	60,332	62,819	81,337
3-family dwelling	85,568	88,358	122,343
4-family dwelling	116,229	135,070	167,758
Field Office: Albuquerque, NM			
Typical square foot area	1,160	1,680	2,000
Albuquerque:			
1-family dwelling	$60,750	$87,122	$122,009
2-family dwelling			
3-family dwelling		120,061	
4-family dwelling		143,662	
Santa Fe:			
1-family dwelling	63,279	91,588	125,659
2-family dwelling			
3-family dwelling		126,494	
4-family dwelling		152,717	
Clovis:			
1-family dwelling	46,322	66,157	90,323
2-family dwelling			
3-family dwelling		100,414	
4-family dwelling		118,448	
Hobbs:			
1-family dwelling	53,471	76,899	101,015
2-family dwelling			
3-family dwelling		114,913	
4-family dwelling		137,802	
Las Cruces:			
1-family dwelling	54,470	77,262	102,474
2-family dwelling			
3-family dwelling		113,906	
4-family dwelling		134,277	
Field Office: Dallas, TX			
Typical square foot area	1,090	1,660	2,390
Dallas:			
1-family dwelling	$51,500	$67,250	$159,000
2-family dwelling			
3-family dwelling			
4-family dwelling			

SCHEDULE OF PROTOTYPE HOUSING COSTS: ONE- TO FOUR-FAMILY DWELLINGS—Continued

Market area	Low range	Medium range	High range
Waco:			
1-family dwelling	45,550	72,600	140,250
2-family dwelling			
3-family dwelling			
4-family dwelling			
Tyler:			
1-family dwelling	44,500	86,700	141,800
2-family dwelling			
3-family dwelling			
4-family dwelling			
Field Office: Fort Worth, TX			
Typical square foot area	1,400	1,600	2,200
1-family dwelling	$69,000	$77,800	$96,950
2-family dwelling			
3-family dwelling			
4-family dwelling			
San Angelo:			
1-family dwelling	51,650	60,350	81,750
2-family dwelling			
3-family dwelling			
4-family dwelling			
Brownwood:			
1-family dwelling	51,000	61,200	81,200
2-family dwelling			
3-family dwelling			
4-family dwelling			
Abilene:			
1-family dwelling	55,000	72,300	94,500
2-family dwelling			
3-family dwelling			
4-family dwelling			
Wichita Falls:			
1-family dwelling			
2-family dwelling			
3-family dwelling			
4-family dwelling			
Field Office: Houston, TX			
Typical square foot area	1,100	1,620	2,150
Houston:			
1-family dwelling	$80,700	$83,400	$107,800
2-family dwelling	96,200	117,800	129,300
3-family dwelling			
4-family dwelling			
Galveston-Texas City:			
1-family dwelling	80,500	82,400	105,700
2-family dwelling	96,100	111,100	128,100
3-family dwelling			
4-family dwelling			
Beaumont-Port Arthur:			
1-family dwelling	59,200	81,100	104,600
2-family dwelling	86,000	109,000	126,900
3-family dwelling			
4-family dwelling			
Field Office: Little Rock, AR			
Typical square foot area	1,200	1,260	2,420
Little Rock:			
1-family dwelling	$45,700	$54,800	$95,100
2-family dwelling		93,500	103,400
3-family dwelling			
4-family dwelling	117,500	129,500	152,500
Texarkana:			
1-family dwelling	46,300	53,900	90,000
2-family dwelling		91,900	100,200
3-family dwelling			
4-family dwelling	119,100	129,400	151,000
Jonesboro:			
1-family dwelling	44,100	52,100	90,100
2-family dwelling		88,400	96,900
3-family dwelling			
4-family dwelling	112,700	124,000	147,300
Forth Smith:			
1-family dwelling	45,100	54,300	94,500
2-family dwelling		91,100	103,400
3-family dwelling			
4-family dwelling	116,100	129,300	150,800
Fayetteville:			
1-family dwelling	45,100	54,300	94,500
2-family dwelling		90,000	101,700
3-family dwelling			
4-family dwelling	116,100	127,500	150,800

SCHEDULE OF PROTOTYPE HOUSING COSTS: ONE- TO FOUR-FAMILY DWELLINGS—Continued

Market area	Low range	Medium range	High range
Field Office: Lubbock, TX			
Typical square foot area	1,036	1,390	1,886
Amarillo:			
1-family dwelling	$43,873	$58,056	$94,405
2-family dwelling			
3-family dwelling			
4-family dwelling			
El Paso:			
1-family dwelling	46,121	73,789	97,697
2-family dwelling			
3-family dwelling			
4-family dwelling			
Lubbock:			
1-family dwelling	43,816	67,332	92,432
2-family dwelling			
3-family dwelling			
4-family dwelling			
Midland-Odessa:			
1-family dwelling	44,527	72,345	103,032
2-family dwelling			
3-family dwelling			
4-family dwelling			
Field Office: New Orleans, LA			
Typical square foot area	980	1,470	2,260
New Orleans:			
1-family dwelling	$45,700	$70,850	$121,200
2-family dwelling	71,500	114,800	
3-family dwelling	122,000	131,500	
4-family dwelling	140,600	222,800	
Baton Rouge:			
1-family dwelling	40,500	69,500	110,550
2-family dwelling	67,100	107,100	
3-family dwelling	101,500	116,600	
4-family dwelling	126,000	217,200	
Houma:			
1-family dwelling	41,000	60,000	107,550
2-family dwelling	63,600	96,100	
3-family dwelling	101,500	107,200	
4-family dwelling	120,900	201,700	
Lafayette:			
1-family dwelling	39,250	65,000	120,550
2-family dwelling	66,600	104,100	
3-family dwelling	100,000	117,800	
4-family dwelling	126,400	212,200	
Lake Charles:			
1-family dwelling	33,650	57,500	110,450
2-family dwelling	61,100	94,000	
3-family dwelling	96,300	103,700	
4-family dwelling	120,000	202,400	
Field Office: Oklahoma City, OK			
Typical square foot area	1,600	1,420	1,730
Oklahoma City:			
1-family dwelling	$52,300	$66,800	$76,500
2-family dwelling			
3-family dwelling			
4-family dwelling			
Enid:			
1-family dwelling	50,100	66,500	73,400
2-family dwelling			
3-family dwelling			
4-family dwelling			
Lawton:			
1-family dwelling	49,400	63,900	70,900
2-family dwelling			
3-family dwelling			
4-family dwelling			
Woodward:			
1-family dwelling	50,900	66,500	73,400
2-family dwelling			
3-family dwelling			
4-family dwelling			
Ardmore:			
1-family dwelling	49,700	64,600	72,400
2-family dwelling			
3-family dwelling			
4-family dwelling			
Field Office: San Antonio, TX			
Typical square foot area	900	1,310	1,900
San Antonio:			
1-family dwelling	$44,100	$63,900	$87,500
2-family dwelling	67,400	74,100	86,300
3-family dwelling			
4-family dwelling			

SCHEDULE OF PROTOTYPE HOUSING COSTS: ONE- TO FOUR-FAMILY DWELLINGS—Continued

Market area	Low range	Medium range	High range
Austin:			
1-family dwelling	44,900	64,700	89,800
2-family dwelling	67,400	73,800	96,300
3-family dwelling			
4-family dwelling			
Corpus Christi:			
1-family dwelling	47,000	66,400	89,800
2-family dwelling	69,200	74,400	96,900
3-family dwelling			
4-family dwelling			
Rio Grande Valley:			
1-family dwelling	$43,000	$61,300	$82,400
2-family dwelling	65,300	69,900	91,900
3-family dwelling			
4-family dwelling			
Field Office: Shreveport, LA			
Typical square foot area	1,090	1,650	2,350
Shreveport:			
1-family dwelling	$57,200	$86,200	$114,400
2-family dwelling			123,500
3-family dwelling			
4-family dwelling			153,200
Monroe:			
1-family dwelling	52,700	80,300	104,300
2-family dwelling			113,200
3-family dwelling			
4-family dwelling			142,900
Alexandria:			
1-family dwelling	55,700	86,900	110,400
2-family dwelling			119,400
3-family dwelling			
4-family dwelling			147,230
Marshall:			
1-family dwelling	50,100	82,600	107,850
2-family dwelling			117,000
3-family dwelling			
4-family dwelling			147,100
Field Office: Tulsa, OK			
Typical square foot area	1,220	1,530	1,820
Tulsa:			
1-family dwelling	$62,660	$80,036	$101,725
2-family dwelling			
3-family dwelling			
4-family dwelling			
Bartlesville:			
1-family dwelling	59,502	77,841	97,063
2-family dwelling			
3-family dwelling			
4-family dwelling			
McAlester:			
1-family dwelling	54,868	72,589	91,799
2-family dwelling			
3-family dwelling			
4-family dwelling			
Muskogee:			
1-family dwelling	59,881	74,010	93,612
2-family dwelling			
3-family dwelling			
4-family dwelling			
Field Office: Des Moines, IA			
Typical square foot area	860	1,360	2,100
Cedar Rapids:			
1-family dwelling	$47,200	$69,700	$114,400
2-family dwelling	81,800	124,300	
3-family dwelling			
4-family dwelling	113,000	150,500	
Council Bluffs:			
1-family dwelling	46,500	68,400	112,900
2-family dwelling	80,600	122,900	
3-family dwelling			
4-family dwelling	113,600	151,700	
Davenport:			
1-family dwelling	48,600	71,100	117,500
2-family dwelling	84,000	127,900	
3-family dwelling			
4-family dwelling	117,300	156,600	
Des Moines:			
1-family dwelling	46,500	68,400	112,900
2-family dwelling	80,600	122,500	
3-family dwelling			
4-family dwelling	111,200	148,000	
Mason City:			
1-family dwelling	46,200	67,900	112,100

SCHEDULE OF PROTOTYPE HOUSING COSTS: ONE- TO FOUR-FAMILY DWELLINGS—Continued

Market area	Low range	Medium range	High range
2-family dwelling	80,100	121,700	
3-family dwelling			
4-family dwelling	111,100	149,000	
Sioux City:			
1-family dwelling	65,900	87,500	111,300
2-family dwelling	79,500	120,800	
3-family dwelling			
4-family dwelling	113,000	150,500	
Waterloo:			
1-family dwelling	47,200	68,300	114,400
2-family dwelling	81,900	124,300	
3-family dwelling			
4-family dwelling	112,100	149,300	
Field Office: Kansas City, MO.			
Typical square foot area	1,080	1,700	2,150
Kansas City:			
1-family dwelling	$54,400	$92,400	$130,700
2-family dwelling			
3-family dwelling			
4-family dwelling			
Joplin:			
1-family dwelling	55,200	76,300	115,500
2-family dwelling			
3-family dwelling			
4-family dwelling			
Sedalia:			
1-family dwelling	48,800	71,250	117,950
2-family dwelling			
3-family dwelling			
4-family dwelling			
Springfield:			
1-family dwelling	54,300	67,700	106,500
2-family dwelling			
3-family dwelling			
4-family dwelling			
St. Joseph:			
1-family dwelling	50,500	83,900	130,250
2-family dwelling			
3-family dwelling			
4-family dwelling			
Topeka:			
1-family dwelling	52,700	79,500	98,600
2-family dwelling			
3-family dwelling			
4-family dwelling			
Pittsburg:			
1-family dwelling	53,400	83,750	111,700
2-family dwelling			
3-family dwelling			
4-family dwelling			
Wichita:			
1-family dwelling	51,500	77,200	107,800
2-family dwelling			
3-family dwelling			
4-family dwelling			
Garden City:			
1-family dwelling	55,000	81,500	108,600
2-family dwelling			
3-family dwelling			
4-family dwelling			
Field Office: Omaha, NB			
Typical square foot area	880	980	1,400
Omaha:			
1-family dwelling	43,150	83,000	106,200
2-family dwelling			
3-family dwelling			
4-family dwelling			
Lincoln:			
1-family dwelling	49,450	67,050	111,400
2-family dwelling			
3-family dwelling			
4-family dwelling			
Grand Island:			
1-family dwelling	41,250	59,450	105,750
2-family dwelling			
3-family dwelling			
4-family dwelling			
Norfolk:			
1-family dwelling	43,200	64,100	107,150
2-family dwelling			
3-family dwelling			
4-family dwelling			
North Platte-Scottsbluff:			
1-family dwelling	39,400	58,400	103,850
2-family dwelling			

SCHEDULE OF PROTOTYPE HOUSING COSTS: ONE- TO FOUR-FAMILY DWELLINGS—Continued

Market area	Low range	Medium range	High range
3-family dwelling			
4-family dwelling			
Field Office: St. Louis, MO			
Typical square foot area	1,050	1,800	2,360
St. Louis:			
1-family dwelling	$51,500	$67,100	$110,100
2-family dwelling		85,000	121,200
3-family dwelling			
4-family dwelling			
Kirksville:			
1-family dwelling	46,800	62,600	105,000
2-family dwelling		80,300	111,900
3-family dwelling			
4-family dwelling			
Columbia:			
1-family dwelling	48,000	62,600	106,100
2-family dwelling		81,500	115,800
3-family dwelling			
4-family dwelling			
Rolla:			
1-family dwelling	48,300	63,100	104,700
2-family dwelling		83,600	114,100
3-family dwelling			
4-family dwelling			
Cape Girardeau:			
1-family dwelling	47,400	63,100	104,300
2-family dwelling		80,000	113,900
3-family dwelling			
4-family dwelling			
Field Office: Casper, WY			
Typical square foot area	900	1,930	1,700
Casper:			
1-family dwelling	$59,923	$99,762	$114,949
2-family dwelling			
3-family dwelling			
4-family dwelling			
Cheyenne:			
1-family dwelling	55,061	93,183	106,108
2-family dwelling			
3-family dwelling			
4-family dwelling			
Cody-Powell:			
1-family dwelling	56,929	91,289	101,965
2-family dwelling			
3-family dwelling			
4-family dwelling			
Gillette:			
1-family dwelling	56,437	95,917	109,713
2-family dwelling			
3-family dwelling			
4-family dwelling			
Jackson:			
1-family dwelling	72,321	107,578	131,917
2-family dwelling			
3-family dwelling			
4-family dwelling			
Laramie:			
1-family dwelling	55,946	94,444	107,461
2-family dwelling			
3-family dwelling			
4-family dwelling			
Riverton:			
1-family dwelling	55,846	92,960	104,589
2-family dwelling			
3-family dwelling			
4-family dwelling			
Rock Springs:			
1-family dwelling	53,397	101,412	115,469
2-family dwelling			
3-family dwelling			
4-family dwelling			
Field Office: Denver, CO			
Typical square foot area	860	1,610	2,110
Aspen-Carbondale:			
1-family dwelling	$60,291	$130,464	$175,971
2-family dwelling			
3-family dwelling			
4-family dwelling			
Colorado Springs:			
1-family dwelling	58,367	93,051	130,905
2-family dwelling			
3-family dwelling			
4-family dwelling			

SCHEDULE OF PROTOTYPE HOUSING COSTS: ONE- TO FOUR-FAMILY DWELLINGS—Continued

Market area	Low range	Medium range	High range
Durango-Cortez:			
1-family dwelling	59,297	99,589	149,425
2-family dwelling			
3-family dwelling			
4-family dwelling			
Denver:			
1-family dwelling	80,673	103,058	143,771
2-family dwelling			
3-family dwelling			
4-family dwelling			
Fort Collins:			
1-family dwelling	62,517	101,978	140,978
2-family dwelling			
3-family dwelling			
4-family dwelling			
Georgetown:			
1-family dwelling	77,765	124,187	168,655
2-family dwelling			
3-family dwelling			
4-family dwelling			
Grand Junction:			
1-family dwelling	58,724	99,339	142,392
2-family dwelling			
3-family dwelling			
4-family dwelling			
Greeley:			
1-family dwelling	58,300	97801	139,309
2-family dwelling			
3-family dwelling			
4-family dwelling			
Leadville:			
1-family dwelling	59,387	101,047	140,918
2-family dwelling			
3-family dwelling			
4-family dwelling			
Pueblo:			
1-family dwelling	49,386	86,572	121,864
2-family dwelling			
3-family dwelling			
4-family dwelling			
Rangely:			
1-family dwelling	56,019	94,555	125,816
2-family dwelling			
3-family dwelling			
4-family dwelling			
Field Office: Fargo, ND			
Typical square foot area	960	970	1,330
Bismarck:			
1-family dwelling	$64,504	$89,751	$110,593
2-family dwelling			
3-family dwelling			
4-family dwelling			
Dickinson:			
1-family dwelling	67,774	94,137	119,822
2-family dwelling			
3-family dwelling			
4-family dwelling			
Fargo:			
1-family dwelling	67,276	92,740	113,310
2-family dwelling			
3-family dwelling			
4-family dwelling			
Grand Forks:			
1-family dwelling	65,601	91,066	110,809
2-family dwelling			
3-family dwelling			
4-family dwelling			
Minot:			
1-family dwelling	66,295	92,549	109,516
2-family dwelling			
3-family dwelling			
4-family dwelling			
Field Office: Helena, MT			
Typical square foot area	860	1,330	1,600
Billings:			
1-family dwelling	$51,145	$83,073	$111,137
2-family dwelling			
3-family dwelling			
4-family dwelling			
Bozeman:			
1-family dwelling	54,415	90,399	116,016
2-family dwelling			
3-family dwelling			
4-family dwelling			

SCHEDULE OF PROTOTYPE HOUSING COSTS: ONE- TO FOUR-FAMILY DWELLINGS—Continued

Market area	Low range	Medium range	High range
Butte:			
1-family dwelling	51,645	84,738	111,519
2-family dwelling			
3-family dwelling			
4-family dwelling			
Great Falls:			
1-family dwelling	52,506	83,634	111,861
2-family dwelling			
3-family dwelling			
4-family dwelling			
Helena:			
1-family dwelling	52,962	83,634	111,861
2-family dwelling			
3-family dwelling			
4-family dwelling			
Lewistown:			
1-family dwelling	49,958	80,784	107,718
2-family dwelling			
3-family dwelling			
4-family dwelling			
Missoula:			
1-family dwelling	52,508	85,762	111,861
2-family dwelling			
3-family dwelling			
4-family dwelling			

Field Office: Salt Lake City, UT

Typical square foot area	890	1,110	1,640
Salt Lake City:			
1-family dwelling	$53,000	$69,350	$112,000
2-family dwelling			
3-family dwelling			
4-family dwelling		146,500	
Provo:			
1-family dwelling	52,950	62,700	114,350
2-family dwelling			
3-family dwelling			
4-family dwelling		150,450	
Logan:			
1-family dwelling	51,900	57,350	112,000
2-family dwelling			
3-family dwelling			
4-family dwelling		146,350	
Cedar City:			
1-family dwelling	49,350	63,750	107,700
2-family dwelling			
3-family dwelling			
4-family dwelling		135,750	

Field Office: Sioux Falls, SD

Typical square foot area	900	1,450	1,700
Aberdeen:			
1-family dwelling	$49,843	$64,305	$118,326
2-family dwelling			
3-family dwelling			
4-family dwelling			
Mitchell:			
1-family dwelling	49,380	82,302	117,313
2-family dwelling			
3-family dwelling			
4-family dwelling			
Pierre:			
1-family dwelling	51,516	85,477	119,544
2-family dwelling			
3-family dwelling			
4-family dwelling			
Rapid City:			
1-family dwelling	56,962	87,588	122,799
2-family dwelling			
3-family dwelling			
4-family dwelling			
Sioux Falls:			
1-family dwelling	52,120	87,744	122,955
2-family dwelling			
3-family dwelling			
4-family dwelling			
Watertown:			
1-family dwelling	49,531	83,535	117,464
2-family dwelling			
3-family dwelling			
4-family dwelling			

Field Office: Fresno, CA

Typical square foot area	1,150	1,560	2,000
Fresno:			
1-family dwelling	$64,000	$90,750	$150,500

SCHEDULE OF PROTOTYPE HOUSING COSTS: ONE- TO FOUR-FAMILY DWELLINGS—Continued

Market area	Low range	Medium range	High range
2-family dwelling	97,500	148,000	243,500
3-family dwelling			
4-family dwelling			
Modesto:			
1-family dwelling	62,000	88,000	148,000
2-family dwelling	94,750	143,750	235,500
3-family dwelling			
4-family dwelling			
Visalia:			
1-family dwelling	58,750	84,500	139,500
2-family dwelling	92,250	141,250	229,750
3-family dwelling			
4-family dwelling			
Bakersfield			
1-family dwelling	61,000	89,000	144,000
2-family dwelling	94,250	143,750	235,000
3-family dwelling			
4-family dwelling			

Field Office: Honolulu, HI

Typical square foot area	900	1,400	1,800
Honolulu:			
1-family dwelling	$120,000	$200,000	$275,000
2-family dwelling			
3-family dwelling			
4-family dwelling			
Maui:			
1-family dwelling	125,000	190,000	250,000
2-family dwelling			
3-family dwelling			
4-family dwelling			
Hawaii:			
1-family dwelling	105,000	150,000	190,000
2-family dwelling			
3-family dwelling			
4-family dwelling			
Kauai:			
1-family dwelling	115,000	155,000	195,000
2-family dwelling			
3-family dwelling			
4-family dwelling			
Guam:			
1-family dwelling	65,000	115,000	140,000
2-family dwelling			
3-family dwelling			
4-family dwelling			

Field Office: Las Vegas, NV

Typical square foot area	900	1,390	2,200
Las Vegas:			
1-family dwelling	$60,050	$87,250	$117,100
2-family dwelling			
3-family dwelling			
4-family dwelling			

Field Office: Los Angeles, CA

Typical square foot area	1,230	1,280	2,760
Los Angeles:			
1-family dwelling	$102,800	$129,700	$209,500
2-family dwelling	145,900		
3-family dwelling			
4-family dwelling	229,700	275,100	
Lancaster-Palmdale:			
1-family dwelling	75,200	100,100	173,500
2-family dwelling	111,500		
3-family dwelling			
4-family dwelling	192,100	233,900	
Ventura-Oxnard:			
1-family dwelling	76,800	104,000	185,000
2-family dwelling	115,900		
3-family dwelling	202,700	247,700	
4-family dwelling			
Santa Barbara-Ojai-Piru:			
1-family dwelling	97,000	124,100	202,700
2-family dwelling	136,000		
3-family dwelling			
4-family dwelling	222,800	268,000	
San Luis Obispo-Santa Maria-Paso Robles:			
1-family dwelling	73,400	96,000	171,000
2-family dwelling	109,500		
3-family dwelling			
4-family dwelling	189,500	226,900	

SCHEDULE OF PROTOTYPE HOUSING COSTS: ONE- TO FOUR-FAMILY DWELLINGS—Continued

Market area	Low range	Medium range	High range

Field Office: Phoenix, AZ

Typical square foot area	848	1,240	2,370
Phoenix:			
1-family dwelling	$39,100	$75,400	$149,000
2-family dwelling	72,500	106,200	146,900
3-family dwelling	103,700	125,800	
4-family dwelling	122,900	156,400	204,400
Flagstaff:			
1-family dwelling	43,400	79,100	155,700
2-family dwelling	73,500	110,300	150,700
3-family dwelling	103,700	129,200	
4-family dwelling	124,300	156,100	209,000
Prescott:			
1-family dwelling	42,000	74,100	142,400
2-family dwelling	73,400	101,000	144,700
3-family dwelling	106,300	125,500	
4-family dwelling	129,300	158,300	211,900
Yuma:			
1-family dwelling	37,600	67,400	140,000
2-family dwelling	71,000	100,200	139,900
3-family dwelling	97,300	118,900	
4-family dwelling	118,900	145,400	195,400

Field Office: Reno, NV

Typical square foot area	1,160	1,380	2,190
Reno-Sparks:			
1-family dwelling	$71,900	$105,300	$143,600
2-family dwelling			
3-family dwelling			
4-family dwelling			

Field Office: Sacramento, CA

Typical square foot area	840	1,190	1,810
Sacramento:			
1-family dwelling	$55,900	$77,500	$114,900
2-family dwelling		107,200	130,500
3-family dwelling			
4-family dwelling		218,700	
Placerville:			
1-family dwelling	59,900	70,800	122,300
2-family dwelling			
3-family dwelling			
4-family dwelling			
Chico:			
1-family dwelling	55,000	65,000	119,100
2-family dwelling			
3-family dwelling			
4-family dwelling			
Yreka:			
1-family dwelling	56,700	75,100	
2-family dwelling	89,900		
3-family dwelling			
4-family dwelling			

Field Office: San Diego, CA

Typical square foot area	940	1,640	2,640
San Diego:			
1-family dwelling	$80,824	$123,932	$159,032
2-family dwelling			
3-family dwelling			
4-family dwelling			

Field Office: San Francisco, CA

Typical square foot area	1,260	1,470	2,090
San Francisco:			
1-family dwelling	$113,000	$157,000	$249,900
2-family dwelling			
3-family dwelling			
4-family dwelling			
San Jose:			
1-family dwelling	105,000	139,000	212,000
2-family dwelling			
3-family dwelling			
4-family dwelling			
San Rafael:			
1-family dwelling	129,000	157,300	232,700
2-family dwelling			
3-family dwelling			
4-family dwelling			
Salinas:			
1-family dwelling	77,300	96,100	156,600
2-family dwelling			
3-family dwelling			

SCHEDULE OF PROTOTYPE HOUSING COSTS: ONE- TO FOUR-FAMILY DWELLINGS—Continued

Market area	Low range	Medium range	High range
4-family dwelling			
Field Office: Santa Ana, CA			
Typical square foot area	1,120	1,710	2,190
Santa Ana:			
1-family dwelling	$70,500	$125,500	$196,500
2-family dwelling			
3-family dwelling			
4-family dwelling			
Orange County:			
1-family dwelling		187,750	
2-family dwelling			
3-family dwelling			
4-family dwelling			
Victorville:			
1-family dwelling	82,750	120,250	
2-family dwelling		155,250	
3-family dwelling			
4-family dwelling			
Indio:			
1-family dwelling	85,250	120,250	
2-family dwelling		158,500	
3-family dwelling			
4-family dwelling			
Blythe:			
1-family dwelling	83,500	121,000	
2-family dwelling		154,500	
3-family dwelling			
4-family dwelling			
Big Bear:			
1-family dwelling	$98,500	$130,000	
2-family dwelling		163,500	
3-family dwelling			
4-family dwelling			
Bishop:			
1-family dwelling	64,500	124,000	
2-family dwelling		158,000	
3-family dwelling			
4-family dwelling			
Field Office: Tucson, AZ			
Typical square foot area	1,190	1,560	1,820
Tucson:			
1-family dwelling	$62,189	$80,258	$102,327
2-family dwelling			
3-family dwelling			
4-family dwelling			
Sierra Vista-Douglas Nogales:			
1-family dwelling	59,209	78,815	95,254

SCHEDULE OF PROTOTYPE HOUSING COSTS: ONE- TO FOUR-FAMILY DWELLINGS—Continued

Market area	Low range	Medium range	High range
Field Office: Anchorage, AK			
Typical square foot area	1,020	1,450	1,800
Anchorage:			
1-family dwelling	$108,600	$148,400	$209,300
2-family dwelling	178,300	216,600	275,300
3-family dwelling	237,900	316,100	390,800
4-family dwelling	293,100	400,000	493,100
Fairbanks:			
1-family dwelling	92,600	132,300	178,300
2-family dwelling	144,900	188,200	248,700
3-family dwelling	205,000	275,000	349,700
4-family dwelling	257,400	356,000	441,100
Juneau:			
1-family dwelling	100,000	139,000	189,600
2-family dwelling	174,300	218,400	274,900
3-family dwelling	229,200	308,100	383,600
4-family dwelling	278,600	382,900	471,600
Field Office: Boise, ID			
Typical Square Foot Area	910	1,220	2,340
Boise:			
1-family dwelling	$52,969	$63,510	$102,385
2-family dwelling	69,264	77,305	
4-family dwelling		161,152	
Idaho Falls:			
1-family dwelling	51,482	61,405	98,847
2-family dwelling	66,597	74,021	
4-family dwelling		156,520	
McCall:			
1-family dwelling	52,794		
Pocatello:			
1-family dwelling	53,754	64,052	103,026
2-family dwelling	70,008	77,703	
4-family dwelling		163,497	
Lewiston:			
1-family dwelling	52,179		
Coeur d'Alene:			
1-family dwelling	54,104	65,427	104,643
2-family dwelling	70,875	78,177	
4-family dwelling		166,072	
Twin Falls:			
1-family dwelling	52,617	63,007	102,869
2-family dwelling	72,502	77,310	
4-family dwelling		164,455	
Field Office: Seattle, WA			
Typical Square Foot Area	1,090	1,130	1,340
Seattle:			
1-family dwelling	$72,790	$83,149	$91,274
2-family dwelling	93,558	114,480	147,326
3-family dwelling		171,684	
4-family dwelling		229,444	

SCHEDULE OF PROTOTYPE HOUSING COSTS: ONE- TO FOUR-FAMILY DWELLINGS—Continued

Market area	Low range	Medium range	High range
Bellingham:			
1-family dwelling	70,802	80,906	89,017
2-family dwelling	91,289	111,864	144,169
3-family dwelling		167,657	
4-family dwelling		225,226	
Olympia-Port Angeles:			
1-family dwelling	66,901	80,212	88,316
2-family dwelling	90,557	111,733	144,799
3-family dwelling		169,226	
4-family dwelling		227,271	
Aberdeen:			
1-family dwelling	67,869	78,156	86,230
2-family dwelling	88,401	101,265	141,832
3-family dwelling		166,018	
4-family dwelling		223,354	
Longview:			
1-family dwelling	67,063	77,175	84,874
2-family dwelling	87,237	107,462	139,143
3-family dwelling		162,474	
4-family dwelling		219,090	
Yakima:			
1-family dwelling	66,640	76,371	82,700
2-family dwelling	86,241	105,776	136,517
3-family dwelling		159,996	
4-family dwelling		214,650	
Field Office: Spokane, WA			
Typical Square Foot Area	1,000	1,000	1,000
Spokane:			
1-family dwelling	$50,122	$66,744	$80,766
2-family dwelling	67,164	83,824	122,134
4-family dwelling	108,575	125,192	148,109
Pullman:			
1-family dwelling	49,824	59,207	95,125
2-family dwelling	58,435	86,724	116,799
4-family dwelling	111,148	130,164	156,405
Kennewick:			
1-family dwelling	50,296	77,011	103,077
2-family dwelling	75,873	95,051	125,946
4-family dwelling	126,049	142,944	166,237
Field Office: Portland OR			
Typical Square Foot Area	1,160	1,700	2,160
Portland:			
1-family dwelling	$62,090	$72,580	$88,079
2-family dwelling	95,880	105,680	121,160
3-family dwelling	145,500	159,020	182,089
4-family dwelling	175,670	192,800	221,220
Bend-Coos Bay-Eugene:			
1-family dwelling	60,000	71,060	85,160
2-family dwelling	82,150	104,380	118,240
3-family dwelling	143,290	155,170	177,540
4-family dwelling	170,670	187,320	214,230
Medford:			
1-family dwelling	60,340	70,250	82,830
2-family dwelling	91,560	102,750	118,360
3-family dwelling	142,710	156,100	178,940
4-family dwelling	172,650	189,480	217,730

[FR Doc. 84-2153 Filed 1-26-84; 8:45 am]

BILLING CODE 4210-27-M

federal register

Friday
January 27, 1984

Part V

Department of Energy

Federal Energy Regulatory Commission

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978; Notice

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Vol. 1052]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: January 24, 1984.

The following notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" before the section code. Estimated annual production (PROD) is in million cubic feet (MMCF).

The applications for determination are available for inspection except to the extent such material is confidential under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol St., Washington, D.C. Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 275.204, file a protest with the Commission within fifteen days after publication of notice in the **Federal Register.**

Source data from the Form 121 for this and all previous notices is available on magnetic tape from the National Technical Information Service (NTIS). For information, contact Stuart Weisman (NTIS) at (703) 487–4808, 5285 Port Royal Rd, Springfield, Va 22161.

Categories within each NGPA section are indicated by the following codes:

Section 102–1: New OCS lease
102–2: New well (2.5 Mile rule)
102–3: New well (1000 Ft rule)
102–4: New onshore reservoir
102–5: New reservoir on old OCS lease
Section 107–DP: 15,000 feet or deeper
107–GB: Geopressured brine
107–CS: Coal Seams
107–DV: Devonian Shale
107–PE: Production enhancement
107–TF: New tight formation
107–RT: Recompletion tight formation
Section 108: Stripper well
108–SA: Seasonally affected
108–ER: Enhanced recovery
108–PB: Pressure buildup

Kenneth F. Plumb,
Secretary.

NOTICE OF DETERMINATIONS
ISSUED JANUARY 24, 1984

VOLUME 1052

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
KENTUCKY DEPARTMENT OF MINES & MINERALS									
-J W KINZER				RECEIVED:	12/02/83	JA: KY			
8410243	505993	1619500000		107-DV		GRANT PHILLIPS #4	PIKEVILLE	0.0	COLUMBIA GAS TRAN
TEXAS RAILROAD COMMISSION									
-AMERADA HESS CORPORATION				RECEIVED:	12/27/83	JA: TX			
8413933	F-7C-075832	4238300000		108		G L ALDWELL #401	SPRABERRY TREND	2.6	EL PASO NATURAL G
8413932	F-7C-075831	4238300000		108		G L ALDWELL #4501	SPRABERRY TREND	3.8	EL PASO NATURAL G
8413931	F-7C-075830	4238300000		108		G L ALDWELL #4701	SPRABERRY TREND	2.2	EL PASO NATURAL G
-AMOCO PRODUCTION CO				RECEIVED:	12/27/83	JA: TX			
8413846	F-08-075170	4230130339		102-4	107-DP	A G HILL-HALEY #1-A	HALEY (MORROW)	5.4	AMOCO GAS CO
8413970	F-8A-075951	4227930263		103		ANTON IRISH CLEARFORK UNIT #432	ANTON IRISH	20.0	WESTAR TRANSMISSI
8413968	F-8A-075949	4207931745		103		DEAN "B" OPERATING AREA UNIT #153	SLAUGHTER	6.0	AMOCO PRODUCTION
8413974	F-8A-075955	4221933983		108		ELLWOOD "A" #157	SMYER	3.0	AMOCO PRODUCTION
8413976	F-8A-075957	4221934039		103		ELLWOOD "A" #158	SMYER	2.0	AMOCO PRODUCTION
8413966	F-08-075947	4200333499		103		J E PARKER - H - #19	PARKER (PENNSYLVANIAN	90.0	PHILLIPS PETROLEU
8413967	F-7C-075948	4210534537		108		J S TODD "A" R/A "A" #15	WYATT	462.0	PERMIAN CORP
8413971	F-8A-075952	4221934013		103		LEVELLAND UNIT #795	LEVELLAND	146.0	AMOCO PRODUCTION
8413972	F-8A-075953	4221934007		103		LEVELLAND UNIT #802	LEVELLAND	92.0	AMOCO PRODUCTION
8414027	F-08-076128	4237134365		103		LOUIS RATHJEN #3	ABELL (CLEARFORK)	280.0	PERRY PIPELINE CO
8413975	F-8A-075956	4221933958		103		MAY MONTGOMERY UNIT #81	LEVELLAND	0.0	AMOCO PRODUCTION
8413973	F-8A-075954	4221933957		103		MAY MONTGOMERY UNIT #82	LEVELLAND	45.0	AMOCO PRODUCTION
8413965	F-08-075946	4213534208		108		NORTH COWDEN UNIT #1135	COWDEN NORTH	1.0	AMOCO PRODUCTION
8413874	F-08-075397	4213534236		103		NORTH COWDEN UNIT #1146	COWDEN NORTH	0.1	AMOCO PRODUCTION
8413969	F-8A-075950	4221934041		103		SLAUGHTER ESTATE UNIT #1-24	SLAUGHTER	156.0	AMOCO PRODUCTION
8413977	F-8A-075958	4221934042		103		SLAUGHTER ESTATE UNIT #3-59	SLAUGHTER	85.0	AMOCO PRODUCTION
-ARCO OIL AND GAS COMPANY				RECEIVED:	12/27/83	JA: TX			
8413849	F-08-075174	4213534173		108		GOLDSMITH CUMMINS (DEEP) UNIT #180	GOLDSMITH (CLEARFORK)	20.0	PHILLIPS PETROLEU
8413850	F-08-075175	4213534174		108		GOLDSMITH CUMMINS (DEEP) UNIT #181	GOLDSMITH (CLEARFORK)	25.0	PHILLIPS PETROLEU
-ANS PETROLEUM CO				RECEIVED:	12/27/83	JA: TX			
8414028	F-7B-076129	4213334384		102-4		NORRIS (19395)	FLATWOOD EAST (GARDNE	0.0	FLATWOOD GAS INC
-BAR-MAC & MOLLUB DRILLING CO				RECEIVED:	12/27/83	JA: TX			
8413962	F-03-075922	4205132500		102-4		SUN-WILLARD #1	INEZ JAMESON (NAVARRO	17.0	FERGUSON CROSSING
-BEARD OIL COMPANY				RECEIVED:	12/27/83	JA: TX			
8414020	F-06-076102	4241930322		103		CRANE A-95 #1	EARNEST HILL FIELD	100.0	
8414008	F-06-076061	4241930433		103		THOMAS J MCKEE U S A #1	DUNCAN CEMETARY (JAME	360.0	
8413957	F-06-075892	4241930429		108		U S A WILLIAM WILLIAMS #1	SHELBYVILLE EAST (PAL	10.0	
8413956	F-06-075891	4241930451		103		VERNON BARTLE #3	SHELBYVILLE (PALUXY)	385.0	
-BILL FENN INC				RECEIVED:	12/27/83	JA: TX			
8413853	F-03-075202	4228731446		102-2		PEGGY "J" #1	GIDDINGS (AUSTIN CHAL	0.0	CLAJON GAS CO
-BJB EXPLORATION CO				RECEIVED:	12/27/83	JA: TX			
8413905	F-02-075710	4246900000		103		SCHNEIDER-BRANDT #2	COLOGNE (1650)	85.0	HOUSTON PIPELINE
-BTA OIL PRODUCERS				RECEIVED:	12/27/83	JA: TX			
8413901	F-08-075594	4213534323		103		RATLIFF #59	COWDEN NORTH	3.6	AMOCO PRODUCTION
-BURK ROYALTY CO				RECEIVED:	12/27/83	JA: TX			
8413930	F-09-075828	4248731661		108		LANCASTER #2	WILBARGER COUNTY REGU	0.0	KIBO COMPRESSOR C

BILLING CODE 6717-01-M

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME
8413981	F-09-075976	4250335785		103		MAC WILLIAMS "SU" #3
-CAPROCK ENGINEERS INC				RECEIVED:	12/27/83	JA: TX
8413939	F-10-075846	4206541477		103		TINA #1 (ID#05528)
8413938	F-10-075845	4206531476		103		TINA #2 (ID# 05528)
-CHAMPLIN EXPLORATION INC				RECEIVED:	12/27/83	JA: TX
8413983	F-8A-075979	4206731811		103		RJR RANCH-YOUNG 5-3
-CIRCLE SEVEN PRODUCTION CO				RECEIVED:	12/27/83	JA: TX
8414009	F-09-076045	4223734304		102-4		HAMPTON #1 ID #23093
8413897	F-09-075541	4223735448		103		HILTON #1
-CITIES SERVICE OIL & GAS CORP				RECEIVED:	12/27/83	JA: TX
8413949	F-8A-075874	4216532612		103		WEST SEMINOLE SAN ANDRES UNIT #810
-CLARK EXPLORATION & PRODUCTION CO			I	RECEIVED:	12/27/83	JA: TX
8413936	F-03-075843	4205132506		102-2		WILLARD BROCK #1 REC #16932
-CMC ENERGY INC				RECEIVED:	12/27/83	JA: TX
8414001	F-04-076027	4213100000		104		MILLER RUTLEDGE 1A 093915
8413995	F-04-076004	4213100000		104		V M HOOPER #1 091485
-CONOCO INC				RECEIVED:	12/27/83	JA: TX
8413895	F-8A-075533	4216932133		102-4	103	SOUTH HUNTLEY UNIT #48 I D 64383
-CORPUS CHRISTI OIL AND GAS CO				RECEIVED:	12/27/83	JA: TX
8413947	F-02-075866	4260330217		102-4		STATE TRACT 731-S WELL #1
-DELTA OIL & GAS CO				RECEIVED:	12/27/83	JA: TX
8413848	F-7B-075173	4242900000		104		BLANCHE WINSTON RRC#14840
8413958	F-7B-075909	4242900000		103		GARLAND COODY "A"
8413873	F-7B-075387	4242900000		103		MRS D M STANFORD
-DIEKEMPER RAY J JR				RECEIVED:	12/27/83	JA: TX
8413866	F-8A-075360	4216900000		102-4		EFFIE DUNN #1 I D #09677
8413867	F-8A-0756362	4216900000		102-4	103	EFFIE DUNN #3 I D #09677
8413868	F-8A-075363	4216930913		102-4	103	EFFIE DUNN #4 I D #09677
8413869	F-8A-075364	4216931724		102-4	103	EFFIE DUNN #5 I D #09677
8413870	F-8A-075365	4216931723		102-4	103	EFFIE DUNN #6 I D #09677
-DURANGO OPERATING CO INC				RECEIVED:	12/27/83	JA: TX
8413884	F-7B-075491	4205934348		102-4		A A WILLIAMS #4 (18676)
8413887	F-7B-075494	4205934189		102-4		FRANK WINDHAM #5 (18978)
8413886	F-7B-075493	4205934190		102-4		FRANK WINDHAM #6 (18978)
8413885	F7B-075492	4205934274		102-4		FRANK WINDHAM #7 (18978)
-ENERGY RESERVES GROUP INC				RECEIVED:	12/27/83	JA: TX
8413896	F-7C-075535	4208131134		103		J E CHAPPELL "A" #19
-EXXON CORPORATION				RECEIVED:	12/27/83	JA: TX
8413923	F-01-075819	4201300000		108		E J PRUITT 3 (03269)
8413996	F-8A-076007	4221933804		103		JAMES I DELOACHE #1
8413988	F-04-075990	4226130835		102-4		KING RANCH BADENO 16 (107421)
8413907	F-04-075734	4227331779		102-4		KING RANCH BORREGOS M-39-B (06544)
8413989	F-04-075991	4227331766		102-4		KING RANCH BORREGOS ME-36 (107471)
8413924	F-04-075821	4204700000		108		MCGILL BROS 353-D (063740)
8413927	F-04-075824	4204700000		108		MCGILL BROS 469 (094616)
8413925	F-04-075822	4242700000		108		MCGILL BROS 472 (093737)
8414026	F-04-076126	4226130505		102-4		MRS S K EAST 103 (10336)
8413991	F-04-075994	4226130564		102-4		MRS S K EAST 111-D (107521)
8413910	F-08-075783	4227733062		102-4		S WALDRON #7
8413928	F-04-075825	4226100000		104		SARITA FIELD OIL & GAS UNIT 117 (0#
841392	F-04-075823	4204700000		108		SCOTT & HOPPER FIELD GAS UNIT 1 WEM
8413851	F-08-075179	4200333545		103		STATE UNIVERSITY FE #1
-FORTUNE PRODUCTION CO				RECEIVED:	12/27/83	JA: TX
8413929	F-7C-075827	4223532134		103		MURPHEY #2
-GEODYNE RESOURCES INC				RECEIVED:	12/27/83	JA: TX
8413856	F-10-075238	4219530863		103		CROOKS #1
-GERALD STEINBERGER				RECEIVED:	12/27/83	JA: TX
8413894	F-09-075532	4207700008		103		KINDER "C" WELL #1
-GHR ENERGY CORP				RECEIVED:	12/27/83	JA: TX
8413917	F-04-075801	4247931477		108		ALEX #1 ID #071161
8413916	F-04-075799	4247930997		108		ALEXANDER #5 ID #063379
-GRAHAM PRODUCTION CO				RECEIVED:	12/27/83	JA: TX
8413876	F-03-075429	4248132263		102-4		OUTLAR UNIT #1
-GULF OIL CORPORATION				RECEIVED:	12/27/83	JA: TX
8413937	F-08-075844	4247522933		103		HUTCHINGS STOCK ASSN #1117
8413915	F-8A-075792	4221933950		103		M G GORDON #36
8413860	F-8A-075290	4221933949		103		MALLET LAND & CATTLE CO #104
-H L BROWN JR				RECEIVED:	12/27/83	JA: TX
8413838	F-7C-075101	4244330296		102-4		G CHANDLER #1
-HINTON PRODUCTION COMPANY				RECEIVED:	12/27/83	JA: TX
8413862	F-06-075329	4240131614		102-4		LANGFORD #1
-HOWELL DRILLING INC				RECEIVED:	12/27/83	JA: TX
8413847	F-02-075171	4223931486		103		ALLNOCH #4
-HUGHES & HUGHES OIL AND GAS				RECEIVED:	12/27/83	JA: TX
8413877	F-04-075431	4247933680		102-4		BRUNI-MARSHALL GAS UNIT #1
-HUTCHCO PRODUCTION INC				RECEIVED:	12/27/83	JA: TX
8413891	F-7C-075528	4238300000		103		UNIVERSITY #1 09584
8413892	F-7C-075529	4238300000		103		UNIVERSITY A #1 10112
8413893	F-7C-075530	4238300000		103		UNIVERSITY 11 #1 09546
8413890	F-7C-075527	4238300000		103		UNIVERSITY 3 #2 09583
-J C DANIELS ENERGY				RECEIVED:	12/27/83	JA: TX
8413875	F-10-075428	4217931459		103		HENDRIX #1
8413904	F-10-075702	4217931456		103		HENDRIX #4
-J M HUBER CORPORATION				RECEIVED:	12/27/83	JA: TX
8413964	F-10-075929	4223331555		103		BRYAN MAYFIELD UNIT #9-31
8413963	F-10-075928	4223331554		103		BRYAN MAYFIELD UNIT #9-32
8414022	F-10-076104	4206500000		104		BURNETT "R" #2
8414021	F-10-076103	4206500000		108		BURNETT "R" #6
8414025	F-10-076107	4223300000		108		CHEATHAM "B" #3
8414024	F-10-076106	4234130531		108		PRITCHARD "A" #1A
8414023	F-10-076105	4234100000		108		RUSSELL #5
-JENNINGS EXPLORATION CO				RECEIVED:	12/27/83	JA: TX
8413918	F-01-075807	4250731979		102-4		H&F PROPERTIES "33" #1 107524
-JONES CO				RECEIVED:	12/27/83	JA: TX
8414007	F-7B-076040	4241734512		102-4		DILLER "42A" #1
-KAARI OIL CO				RECEIVED:	12/27/83	JA: TX
8413911	F-10-075784	4206531456		103		W E COBB #4 (ID #05414)
-L & B OIL CO INC				RECEIVED:	12/27/83	JA: TX
8413858	F-08-075267	4217331336		102-4		DEVENTER #1
8413857	F-08-075266	4217331435		102-4		HALFMANN #1
-LAMBERT HOLLUB DRILLING CO				RECEIVED:	12/27/83	JA: TX
8414016	F-03-076089	4205132492		102-4		MORTON - WILLARD #1
8414017	F-03-076090	4205132492		102-4		RAYMOND WILLARD #1
-LAYTON ENTERPRISES INC				RECEIVED:	12/27/83	JA: TX

FIELD NAME	FVOO	PURCHASER
YOUNG COUNTY REGULAR	0.0	KIBO COMPRESSOR C
PANHANDLE CARSON	40.0	CABOT PIPELINE CO
PANHANDLE CARSON	93.0	CABOT PIPELINE CO
BONANZA (SAN ANDRES)	4.8	WARREN PETROLEUM
GENNIFER M (CONGLOMER	1.2	LONE STAR GAS CO
DEARING (STRAWN LOWER	0.0	SOUTHWESTERN GAS
SEMINOLE WEST	74.0	CITIES SERVICE OI
GIDDINGS (AUSTIN CHAL	0.0	
BENAVIDES (4530)	15.8	ESPERANZA TRANSMI
BENAVIDES (JACKSON)	11.8	ESPERANZA TRANSMI
HUNTLEY 3400	0.4	MID PLAINS PETROC
PANTHER POINT (5480')	0.0	HOUSTON PIPELINE
STEPHENS COUNTY REGUL	0.0	LONE STAR GAS CO
STEPHENS COUNTY REGUL	0.0	LONE STAR GAS CO
CADDO (ELLENBURGER MI	0.0	LONE STAR GAS CO
P H D	3.3	MID PLAINS PETROC
P H D	3.3	MID PLAINS PETROC
P H D	3.3	MID PLAINS PETROC
P H D	3.3	MID PLAINS PETROC
P H D	3.3	MID PLAINS PETROC
DURANGO (COOK)	65.0	LONE STAR GAS CO
DURANGO (COOK)	51.0	LONE STAR GAS CO
DURANGO (COOK)	73.0	LONE STAR GAS CO
DURANGO (COOK)	43.0	LONE STAR GAS CO
JAMESON (STRAWN)	8.6	UNION TEXAS PETRO
CHARLOTTE (EDWARDS LI	3.0	VALERO TRANSMISSI
LEVELLAND	12.0	
SAN JOSE SOUTH (G-35	464.0	ARMCO STEEL CORP
BORREGOS (ZONE M-25 N	58.0	ARMCO STEEL CORP
BORREGOS (ZONE P-8 SE	644.0	ARMCO STEEL CORP
KELSEY (MCGILL 3 & 4)	18.0	TRUNKLINE GAS CO
KELSEY DEEP (22-C S)	17.0	TRUNKLINE GAS CO
KELSEY SOUTH (26-A S)	13.0	TRUNKLINE GAS CO
RITA (5-M SEG II)	14.0	NATURAL GAS PIPEL
RITA M E (M-73)	200.0	ARMCO STEEL CORP
MOORE (DEEP FSLM)	21.0	EL PASO HYDROCARB
SARITA (2-A)	15.0	NATURAL GAS PIPEL
SCOTT & HOPPER (I-14	12.0	TENNESSEE GAS PIP
ANDREWS SOUTH (WOLFCA	20.0	
CAL SOUTH (CANYON)	95.3	FARMLAND INDUSTRI
HANSFORD (DES MOINES	6.6	PHILLIPS PETROLEU
SCALING RANCH SO (ELL	20.0	FAGADAU ENERGY CO
LAREDO (LOBO)	2.0	UNITED TEXAS TRAN
LAREDO (LOBO)	3.0	UNITED TEXAS TRAN
WHARTON WEST (FRIO 54	186.0	NATURAL GAS PIPEL
WAGON WHEEL (PENN)	127.0	CABOT CORP
SLAUGHTER (CLEARFORK	0.0	AMOCO PRODUCTION
SLAUGHTER	0.0	AMOCO PRODUCTION
CHANDLER (WOLFCAMP)	357.7	REATA INDUSTRIAL
MT ENTERPRISE (RODESS	550.0	TEJAS GAS CORP
TEXANA N	0.0	HOUSTON PIPE LINE
TOM SHEARMAN (11150)	548.0	HOUSTON PIPE LINE
SPRABERRY TREND	5.0	EL PASO HYDROCARB
SPRABERRY TREND AREA	5.0	EL PASO HYDROCARB
SPRABERRY TREND AREA	5.0	EL PASO HYDROCARB
SPRABERRY TREND AREA	5.0	EL PASO HYDROCARB
PANHANDLE	2.0	CABOT PIPELINE CO
PANHANDLE	2.0	CABOT PIPELINE CO
PANHANDLE	12.4	COLORADO INTERSTA
PANHANDLE	8.0	COLORADO INTERSTA
WEST PANHANDLE	9.4	NORTHERN NATURAL
WEST PANHANDLE	17.4	COLORADO INTERSTA
WEST PANHANDLE	8.5	COLORADO INTERSTA
WEST PANHANDLE	11.5	COLORADO INTERSTA
WEST PANHANDLE	10.5	COLORADO INTERSTA
RANDOLPH WEST FIELD B	83.0	REATA INDUSTRIAL
DILLER (GARDNER)	73.0	DELMI GAS PIPELIN
PANHANDLE CARSON	40.0	CABOT PIPELINE CO
DEWEY LAKE S (STRAWN)	54.0	PHILLIPS PETROLEU
DEWEY LAKE S (STRAWN)	170.0	PHILLIPS PETROLEU
INEZ JAMESON (NAVARRO	10.5	FERGUSON CROSSING
INEZ JAMESON (NAVARRO	40.8	FERGUSON CROSSING

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8413994	F-8A-076083	4207931685		103		REED WRIGHT #B-15	LEVELLAND	8.9	CITIES SERVICE CO
8413999	F-8A-076019	4207931689		103		REED WRIGHT #C-18	LEVELLAND	8.9	CITIES SERVICE CO
-LIVEOAK PRODUCTION CO				RECEIVED:	12/27/83	JA: TX			
8413844	F-7B-075139	4208333659		102-4		TED TAYLOR ET AL #3 (NEW WELL)	TRICKHAM (CROSSCUT LO	18.5	ENSERCH CO
-M S KLOTZMAN EXPLORATION				RECEIVED:	12/27/83	JA: TX			
8413854	F-03-075283	4248132508		102-4		GANGL UNIT #1	HILLJE EAST (5670' FR	109.0	HOUSTON PIPELINE
-MARSHALL R YOUNG OIL CO				RECEIVED:	12/27/83	JA: TX			
8413840	F-8A-075121	4250132231		103		WILMA JOHNSON #1	JANICE (WOLFCAMP)	0.0	WARREN PETROLEUM
8413839	F-8A-075120	4250132325		103		WILMA JOHNSON A #1	JANICE (WOLFCAMP)	985.5	
-MID-AMERICA PETROLEUM INC				RECEIVED:	12/27/83	JA: TX			
8413863	F-7C-075346	4238332258		103		SLAUGHTER #2	SPRABERRY (TREND AREA	9.0	NORTHERN NATURAL
-MISTEX PETROLEUM				RECEIVED:	12/27/83	JA: TX			
8414003	F-10-076038	4223331632		103		HUBER-PRITCHARD #12	PANHANDLE	90.0	J M HUBER CORP
-MITCHELL ENERGY CORPORATION				RECEIVED:	12/27/83	JA: TX			
8413879	F-09-075448	4223734547		102-4	103	FORT WORTH NATIONAL BANK #1	JERMYN WEST (CADDO-MF	5.7	
8413845	F-09-075165	4249732533		103		J M ROBINSON #5	BOONSVILLE (BEND CONG	302.9	NATURAL GAS PIPEL
8413996	F-09-075993	4223735322		103		M D HUTTON #4 22329	WOODKIRK (STRAWN)	7.9	BRAZOS FUEL CO IN
8413930	F-09-075875	4249732607		103		T C M B #36 17160	CAP YATES (CONSOLIDAT	51.6	NATURAL GAS PIPEL
8414030	F-09-076136	4249700008		136		TARRANT COUNTY WATER BD #10 17160	CAP YATES (CONSOLIDAT	0.0	NATURAL GAS PIPEL
8413880	F-09-075471	4249732594		102-4	103	W L MACKEY #6	NEWARK EAST (BARNETT	405.0	NATURAL GAS PIPEL
-MOBIL PRDG TEXAS & NEW MEXICO INC				RECEIVED:	12/27/83	JA: TX			
8413842	F-8A-075135	4221933915		103		EAST MALLET UNIT #116	SLAUGHTER	1.0	EL PASO NATURAL G
8413959	F-8A-075912	4221933912		103		EAST MALLET UNIT #120	SLAUGHTER	4.4	AMOCO PRODUCTION
8413960	F-8A-075914	4221933911		103		EAST MALLET UNIT #121	SLAUGHTER	5.8	AMOCO PRODUCTION
8413954	F-08-075888	4222733088		103		MARY CHALK #62	HOWARD-GLASSCOCK (GLO	0.4	PHILLIPS PETROLEU
8413953	F-08-075887	4222733087		103		MARY CHALK #63	HOWARD-GLASSCOCK (GLO	0.4	PHILLIPS PETROLEU
8414015	F-08-076055	4222733086		103		MARY CHALK #64	HOWARD-GLASSCOCK (GLO	0.4	PHILLIPS PETROLEU
8413961	F-08-075915	4222733085		103		MARY CHALK #65	HOWARD-GLASSCOCK (GLO	0.4	PHILLIPS PETROLEU
8414019	F-8A-076097	4221934075		103		NORTH CENTRAL LEVELLAND UNIT NO 396	LEVELLAND	11.7	AMOCO PRODUCTION
8413943	F-08-075860	4222733081		103		OWEN CHALK #60	HOWARD GLASSCOCK (GLO	0.4	PHILLIPS PETROLEU
8413843	F-08-075136	4230130438		102-4		RITCHEY SEC 36 #1	WHEAT (CHERRY CANYON)	18.0	INTRATEX GAS CO
8413921	F-08-075813	4210330341		148		TEXAS UNIVERSITY SEC 1 & 2 #37	DUNE	0.4	WARREN PETROLEUM
8413920	F-08-075812	4210303933		148		TEXAS UNIVERSITY SEC 15 & 16 #1607	DUNE	8.5	PHILLIPS PETROLEU
8413922	F-08-075814	4210330881		148		U-TEX BB #5	DUNE	1.1	PHILLIPS PETROLEU
8413919	F-08-075811	4210300000		128		UNIVERSITY WADDELL DEVONIAN #284C	UNIVERSITY WADDELL (D	3.6	EL PASO NATURAL G
8413992	F-08-075997	4230130425		102-4		W D JOHNSON D #5	DIMMIT (CHERRY CANYON	25.2	INTRATEX GAS CO
8413942	F-08-075859	4230130424		102-4		W D JOHNSON ET AL L #4	DIMMIT (CHERRY CANYON	25.2	INTRATEX GAS CO
-MOSBACHER PRODUCTION CO				RECEIVED:	12/27/83	JA: TX			
8413982	F-8A-075977	4216532585		102-4	103	HAMILTON MCRAE #1	MCRAE (CLEARFORK L) F	46.0	
-NEUMIN PRODUCTION CO				RECEIVED:	12/27/83	JA: TX			
8413955	F-02-075889	4205731251		103		STATE TRACT 27 WELL #2	LAVACA BAY (F-31)	840.0	ALUMINUM CO OF AM
-NEWHALL RESOURCES				RECEIVED:	12/27/83	JA: TX			
8413878	F-7C-075444	4239931703		133		DAMON DOUGLAS ET AL #2	TALPA SW (DOG BEND)	0.0	EL PASO HYDROCARB
-O B OIL INC				RECEIVED:	12/27/83	JA: TX			
8413871	F-7B-075375	4239932817		102-4		FAUBION #2 (OIL)	HRUBETZ (ELLENBURGER)	1.0	UNION TEXAS PETRO
8413872	F-7B-075376	4239932819		102-4		ROSSON #1 (20177)	HRUBETZ (ELLENBURGER)	0.0	UNION TEXAS PETRO
-PALEOSEARCH				RECEIVED:	12/27/83	JA: TX			
8413941	F-7B-075857	4205933868		102-4		TOMMIE HARRIS #1 (106442)	HARRIS (ELLENBURGER)	198.0	PECOS GATHERING S
-PANHANDLE PLUGGERS INC				RECEIVED:	12/27/83	JA: TX			
8413914	F-10-075788	4217931422		103		GORMAN (05434) #4	PANHANDLE GRAY COUNTY	6.0	KERR-MCGEE CORP
8413913	F-10-075787	4217931380		103		GORMAN (05434) #5	PANHANDLE GRAY COUNTY	2.0	KERR-MCGEE CORP
8413912	F-10-075786	4217931395		103		GORMAN (05434) #6	PANHANDLE GRAY COUNTY	18.0	KERR-MCGEE CORP
-PANSTAR OIL & GAS INC				RECEIVED:	12/27/83	JA: TX			
8413945	F-10-075864	4206531478		103		FIELDS #1 (ID# 05524)	PANHANDLE CARSON	69.0	CABOT PIPELINE CO
-PHILLIPS PETROLEUM COMPANY				RECEIVED:	12/27/83	JA: TX			
8413861	F-08-075335	4222733067		103		(11100) GILLIHAN #3	BIG SPRING (FUSSELMAN	11.0	GETTY OIL CO
8413952	F-10-075878	4217900000		148		PHIL-PAMPA #21-1	PANHANDLE GRAY	0.0	GETTY OIL CO
-PHYLKO ENERGY CORP				RECEIVED:	12/27/83	JA: TX			
8414006	F-03-076038	4232131301		102-4		GERALD G FARR #1	SARGENT	100.0	DOW CHEMICAL CO
-R A W ENERGY CORP				RECEIVED:	12/27/83	JA: TX			
8413898	F-7B-075542	4208333481		102-4		SEALY-SMITH #7	LAKE COLEMAN (MORRIS	150.0	UNION TEXAS PETRO
-REGAL OPERATING CO INC				RECEIVED:	12/27/83	JA: TX			
8413888	F-7B-075497	4213335486		102-4		HARGRAVE #1 (GAS)	T E C (CADDO)	365.0	EL PASO HYDROCARB
-RIDGE OIL CO				RECEIVED:	12/27/83	JA: TX			
8413948	F-7B-075873	4213335350		102-4	103	HIGGINBOTHAM #2	REBECCA (MARBLE FALLS	38.3	COMPRESSOR RENTAL
-SCARTH OIL & GAS CO				RECEIVED:	12/27/83	JA: TX			
8413951	F-10-075877	4229530611		136		PIPER 601-2	BRADFORD (CLEVELAND)	21.5	TRANSWESTERN PIPE
-SEELY OIL CO				RECEIVED:	12/27/83	JA: TX			
8413852	F-7B-075189	4242933736		102-4		T P ROBERTSON-METCALF #3	ANN T (MISS)	26.0	GREAT WESTERN GAS
-SNOW OIL CO				RECEIVED:	12/27/83	JA: TX			
8413940	F-7B-075856	4213331560		102-4		CONARD MILLER #1 (16023)	PAT KAHAN (MISS)	177.0	LONE STAR GAS CO
8413997	F-7B-076014	4213332287		102-4		HARPER #1 (18460)	REB (MARBLE FALLS)	3.0	LONE STAR GAS CO
8413998	F-7B-076015	4213335395		102-4		KINCAID-NORTH #2 (18725)	REBECCA (MARBLE FALLS	29.0	LONE STAR GAS CO
8413993	F-7B-076000	4213300000		102-4		LOWRANCE #1 (18961)	REB (MARBLE FALLS)	21.0	LONE STAR GAS CO
-SOCORRO ENERGY INC				RECEIVED:	12/27/83	JA: TX			
8413906	F-02-075712	4225531054		102-4		B P GREEN #5	JOBYRD	0.0	REATA INDUSTRIAL
-SOHIO PETROLEUM CO				RECEIVED:	12/27/83	JA: TX			
8413978	F-08-075968	4237134257		103		CANON "61" #1	YUCCA BUTTE W (ELLENB	126.0	INTRATEX GAS CO
-SOUTHLAND ROYALTY CO				RECEIVED:	12/27/83	JA: TX			
8413865	F-08-075358	4243131322		103	107-TF	FLINT ESTATE #11	CONGER PENN	35.0	VALERO TRANSMISSI
8413903	F-7C-075694	4238301445		148		W E BOYD ET AL #3-9	CALVIN DEAN	15.0	UNION TEXAS PETRO
-SUE-ANN OIL & GAS CO				RECEIVED:	12/27/83	JA: TX			
8413934	F-03-075834	4216730632		103		KAHLA UNIT #1	CAPLEN (FB-3 1-B)	30.0	WINNIE PIPELINE C
-SUN EXPLORATION & PRODUCTION CO				RECEIVED:	12/27/83	JA: TX			
8413908	F-04-075775	4242700000		128		J F HALL #18	N RINCON	20.0	FLORIDA GAS TRANS
8413899	F-8A-075548	4216500000		136		M S DOSS -B- #6	ROBERTSON NORTH	4.0	PHILLIPS PETROLEU
8413935	F-7C-075835	4210500000		148		RUBY HELBING #1-C & 1-T	OZONA SOUTH HUNT-BAGG	18.0	NORTHERN NATURAL
-SUPERIOR OIL CO				RECEIVED:	12/27/83	JA: TX			
8414008	F-08-076021	4247533055		102-4	103	WILLIAMS PAUL J WELL #3	COLLIE (DELAWARE)	34.0	WESTAR TRANSMISSI
-TAYLOR, CLAYTON & HAWLEY				RECEIVED:	12/27/83	JA: TX			
8414005	F-10-076037	4217931392		103		TAYLOR "GO" #6	PANHANDLE GRAY COUNTY	1.2	PHILLIPS PETROLEU
8414004	F-10-076036	4217931271		103		TAYLOR FEE "A" #6	PANHANDLE GRAY COUNTY	1.2	PHILLIPS PETROLEU
-TEXACO INC				RECEIVED:	12/27/83	JA: TX			
8413864	F-8A-075354	4221934056		103		MONTGOMERY ESTATE DAVIES NCT-2 #103	LEVELLAND	14.2	AMOCO PRODUCTION
-TEXLAND-RECTOR & SCHUMACHER				RECEIVED:	12/27/83	JA: TX			
8413946	F-8A-075845	4221933947		103		J O HAYMES #6	SLAUGHTER	6.0	AMOCO PRODUCTION
-THOMPSON J CLEO & JAMES CLEO JR				RECEIVED:	12/27/83	JA: TX			
8413900	F-7C-075552	4210536542		103	107-TF	THOMPSON FEE #17	OZONA (CANYON SAND)	210.0	
-TOM BROWN INC				RECEIVED:	12/27/83	JA: TX			
8413881	F-7C-075473	4243500000		103	107-TF	HILL-EDWIN S MAYER JR "AA" #1	SAWYER (CANYON)	73.0	LONE STAR GAS CO
8413882	F-7C-075474	4243532948		103	107-TF	HILL-EDWIN S MAYER JR "Y" #1	SAWYER (CANYON)	73.0	LONE STAR GAS CO
8413883	F-7C-075475	4243532914		103	107-TF	HILL-MINNIE H MAYER "B" #1	SAWYER (CANYON)	73.0	LONE STAR GAS CO
-TOM L INGRAM				RECEIVED:	12/27/83	JA: TX			
8413841	F-08-075132	4208333161		148		NORA #1	FUHRMAN-MASCHO	18.3	PHILLIPS PETROLEU

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME
-TREPEL PETROL EXPLOR & DEV CORP				RECEIVED:	12/27/83	JA: TX
8413980	F-8A-075962	4211531773		103		KILGORE #2
8413979	F-8A-075961	4211531771		103		KILGORE #3
-TRIPLE J INVESTMENTS INC				RECEIVED:	12/27/83	JA: TX
8413985	F-06-075987	4240131624		103		SANDERS #1
8413984	F-06-075985	4240131666		103		WILTON FAIR #1-A
8413986	F-06-075988	4240131752		103		WILTON FAIR #2-A
8413987	F-06-075989	4240131702		103		WILTON FAIR JR #1-B
-TXO PRODUCTION CORP				RECEIVED:	12/27/83	JA: TX
8413909	F-08-075780	4237134485		103		WOODWARD 64 #3
-UNION OIL COMPANY OF CALIF				RECEIVED:	12/27/83	JA: TX
8414013	F-08-076053	4238900000		108		H F ANTHONY #4
8414010	F-08-076050	4238900000		108		N T EVANS #4
8414011	F-08-076051	4238900000		108		N T EVANS #5
8414012	F-08-076052	4238900000		108		N T EVANS #6
8414014	F-7C-076054	4238331261		108		UNIVERSITY "49-6" #1
8414002	F-7C-076029	4238331330		108		UNIVERSITY "49-7" #1
-W B D OIL & GAS CO				RECEIVED:	12/27/83	JA: TX
8414018	F-10-076094	4234130939		103		SANDRA #3 (ID# 05396)
-WAYNE HARPER				RECEIVED:	12/27/83	JA: TX
8413944	F-09-075862	4209732082		103		WM HOWELL "B" WELL #9
-WESLEY SENKEL INC				RECEIVED:	12/27/83	JA: TX
8413859	F-09-075283	4250300000		102-4		LOFTIN #9
-WILBROOK EXPLORATION INC				RECEIVED:	12/27/83	JA: TX
8413889	F-7B-075500	4242933617		102-4		S & E REAL ESTATE #1
-WILSON MINERALS INC				RECEIVED:	12/27/83	JA: TX
8413855	F-7B-075209	4208333647		102-4		RUTHERFORD-WILSON #4
-WY-VEL CORP				RECEIVED:	12/27/83	JA: TX
8414029	F-10-076130	4217931439		103		AEBERSOLD (84904) #11
-3-M ENERGY CORP				RECEIVED:	12/27/83	JA: TX
8413902	F-7C-075672	4238332666		103		C E HAM "3" #1

FIELD NAME	PROD	PURCHASER
ACKERLY (DEAN SAND)	19.1	GETTY OIL CO
ACKERLY (DEAN SAND)	16.2	GETTY OIL CO
TALIAFERRO (PETTIT UP	70.0	PARADE CO
TALIAFERRO (PETTIT UP	35.0	PARADE CO
TALIAFERRO (PETTIT UP	15.0	PARADE CO
TALIAFERRO (UPPER PET	35.0	PARADE CO
CHENOT (WOLFCAMP)	700.0	DELHI GAS PIPELIN
WORSHAM (CHERRY CANYO	15.0	EL PASO NATURAL G
WORSHAM (CHERRY CANYO	9.0	EL PASO NATURAL G
WORSHAM (CHERRY CANYO	1.0	EL PASO NATURAL G
WORSHAM (CHERRY CANYO	7.0	EL PASO NATURAL G
BLOCK 49 (2450')	0.0	J L DAVIS
BLOCK 49 (2450')	1.5	J L DAVIS
PANHANDLE MOORE	40.0	DIAMOND CHEMICAL
SIVELLS BEND FIELD	3.6	SIVELLS GAS LTD
SENKEL (CADDO 4600) F	0.0	SOUTHWESTERN GAS
NEELY (BEND CONGL)	384.0	SOUTHWESTERN GAS
ROCKWOOD (FRY SAND)	60.0	CITY OF BRADY
PANHANDLE	81.0	CABOT CORP
SPRABERRY (TREND AREA	91.0	EL PASO NATURAL G

[FR Doc. 84-2365 Filed 1-26-84: 8:45 am]

BILLING CODE 6717-01-C

[Vol. 1053]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: January 24, 1984.

The following notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" before the section code. Estimated annual production (PROD) is in million cubic feet (MMCF).

The applications for determination are available for inspection except to the extent such material is confidential under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol St., Washington, D.C. Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 275.204, file a protest with the Commission within fifteen days after publication of notice in the **Federal Register**.

Source data from the Form 121 for this and all previous notices is available on magnetic tape from the National Technical Information Service (NTIS). For information, contact Stuart Weisman (NTIS) at (703) 487–4808, 5285 Port Royal Rd., Springfield, Va 22161.

Categories within each NGPA section are indicated by the following codes:

Section 102–1: New OCS lease
- 102–2: New well (2.5 Mile rule)
- 102–3: New well (1000 Ft. rule)
- 102–4: New onshore reservoir
- 102–5: New reservoir on old OCS lease

Section 107–DP: 15,000 feet or deeper
- 107–GB: Geopressured brine
- 107–CS: Coal Seams
- 107–DV: Devonian Shale
- 107–PE: Production enhancement
- 107–TF: New tight formation
- 107–RT: Recompletion tight formation

Section 108: Stripper well
- 108–SA: Seasonally affected
- 108–ER: Enhanced recovery
- 108–PB: Pressure buildup

Kenneth F. Plumb,
Secretary.

NOTICE OF DETERMINATIONS
ISSUED JANUARY 24, 1984

VOLUME 1053

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
LOUISIANA OFFICE OF CONSERVATION									
-ALLEN M S				RECEIVED:	01/04/84	JA: LA			
8414149	83-1577	1707321999		103		STANDLEY #2	MONROE	18.3	MID-LOUISIANA GAS
-AMINOIL USA INC				RECEIVED:	01/04/84	JA: LA			
8414143	83-1616	1707523103		103		E COCKRELL JR ETAL #140 LW 15W RASU	LAKE WASHINGTON	51.0	SOUTHERN NATURAL
-ARCO OIL AND GAS COMPANY				RECEIVED:	01/04/84	JA: LA			
8414140	83-1644	1710121306		103		ST MARY 855 ST MARY D RA SUO	BAYOU SALE	420.0	TENNESSEE GAS TRA
-ARKLA EXPLORATION COMPANY				RECEIVED:	01/04/84	JA: LA			
8414134	83-1504	1707522911		102-4		STATE LEASE 8565 #2	LAKE PETIT	550.0	ARKANSAS LOUISIAN
-BETHLAM PRODUCTION CORP				RECEIVED:	01/04/84	JA: LA			
8414166	83-1568	1711123941		103		MONTEREY #2	MONROE	0.0	IMC PIPELINE CO I
8414148	83-1579	1711123943		103		MONTEREY #4	MONROE	0.0	IMC PIPELINE CO I
-BROCK EXPLORATION CORP				RECEIVED:	01/04/84	JA: LA			
8414188	83-1651	1712120108		102-3		A L GASSIE #1	ADDIS	523.4	MONTEREY PIPELINE
-BROCK PETROLEUM CORP				RECEIVED:	01/04/84	JA: LA			
8414156	83-0753	1700720361		102-4		R C MARTIN & SONS INC #2	COTEAU FRENE	1825.0	TEXAS EASTERN TRA
-CHEVRON U S A INC				RECEIVED:	01/04/84	JA: LA			
8414175	83-1704	1771720174		103		SL 1366 #46	BAY MARCHAND BLOCK #2	84.0	TENNESSEE GAS PIP
-CONOCO INC				RECEIVED:	01/04/84	JA: LA			
8414146	83-1631	1704520548		102-4		WILLIAMS INC A #16	BAYOU LONG	2000.0	SOUTHERN NATURAL
-COTTON PETROLEUM CORPORATION				RECEIVED:	01/04/84	JA: LA			
8414182	83-1609	1711321182		102-4		ROSELLA SARVER #1	WILDCAT	0.0	TRANSCONTINENTAL
-CRYSTAL OIL AND LAND COMPANY				RECEIVED:	01/04/84	JA: LA			
8414128	83-1615	1701521898		103		INTERNATIONAL PAPER CO "M" #1	ARKANA	18.3	ARKANSAS LOUISIAN
-D J F PETROLEUM CORP				RECEIVED:	01/04/84	JA: LA			
8414202	83-1556	1703180000		102-4		IVA S BAKER #1 SERIAL #79945	SPIDER	365.0	TEXAS EASTERN TRA
-DAVIS OIL COMPANY				RECEIVED:	01/04/84	JA: LA			
8414155	83-0909	1701921131		102-4		LETA F PHILLIPS ET AL #1	WILDCAT	1277.0	DOW INTRASTATE GA
-DEVON ENERGY CORPORATION				RECEIVED:	01/04/84	JA: LA			
8414201	83-1578	1711123921		103		FROST LUMBER INDUSTRIES #31	MONROE	12.0	TEXAS GAS TRANSMI
-EXXON CORPORATION				RECEIVED:	01/04/84	JA: LA			
8414169	83-1622	1705721477		103		SL 1480 #24	LAKE RACCOURCI	700.0	COLUMBIA GAS TRAN
-FOREST OIL CORPORATION				RECEIVED:	01/04/84	JA: LA			
8414197	83-1098	1700120517		102-2		MICELLE #1 CKF 9 RA SUC	LITTLE BARNES CREEK	270.0	FLORIDA GAS TRANS
-FRONTIER EXPLORATION INC				RECEIVED:	01/04/84	JA: LA			
8414190	83-1241	1706920153		103		ARCO #1	ASHLAND	214.0	UNITED GAS PIPE L
-GETTY OIL COMPANY				RECEIVED:	01/04/84	JA: LA			
8414196	83-1557	1702702138		108		E S MCCALMAN #1 HOSS SUS	ATHENS	15.0	ARKANSAS LOUISIAN
-GRACE PETROLEUM CORPORATION				RECEIVED:	01/04/84	JA: LA			
8414152	83-1043	1701724128		103		MITCHELL WILLIAMS A-1	LONGWOOD	0.0	SOUTHWESTERN ELEC
-GULF OIL CORPORATION				RECEIVED:	01/04/84	JA: LA			
8414151	83-1046	1709720669		103		KU #52-D KZS SU	KROTZ SPRINGS	730.0	MICHIGAN WISCONSI
8414192	83-1565	1705721894		102-4		S L "PP" 192 #287	TIMBALIER BAY	95.0	TENNESSEE GAS PIP
8414135	83-1560	1707522859		102-4		S L 195 QQ WELL #319	QUARANTINE BAY FIELD	120.0	UNITED GAS PIPELI
8414174	83-1561	1707522933		102-4		S L 195 QQ WELL #327	QUARANTINE BAY FIELD	69.0	UNITED GAS PIPELI
8414203	83-1559	1707522793		102-4		S L 195 QQ WELL #81	NORTH BLACK BAY FIELD	182.0	SOUTHERN NATURAL
8414172	83-1705	1707523026		103		S/L 192 PP #148	WEST BAY FIELD	110.0	TEXAS EASTERN TRA

BILLING CODE 6717-01-M

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8414144	83-1617	1707522588		103		S/L 7332 #2	QUARANTINE BAY	700.0	UNITED GAS PIPELI
8414165	83-1569	1707522625		102-4		SL 195 QQ #299	QUARANTINE BAY	36.0	UNITED GAS PIPELI
8414137	83-1548	1707522686		102-1		SL 195 QQ #304-D	QUARANTINE BAY	30.0	UNITED GAS PIPELI
8414130	83-1552	1707522597		102-4		SL 195 QQ #93	WEST BLACK BAY	500.0	SOUTHERN NATURAL
8414131	83-1551	1707522544		102-4		SL 195 QQ #293-D	QUARANTINE BAY	450.0	UNITED GAS PIPELI
8414136	83-1550	1707522558		102-4		SL 195 QQ #308	QUARANTINE BAY	360.0	UNITED GAS PIPELI
8414173	83-1562	1707522873		102-4		WELL #311 S L 195 QQ	QUARANTINE BAY FIELD	32.0	UNITED GAS PIPELI
-H J BONNER				RECEIVED:	01/04/84	JA: LA			
8414164	83-1570	1707320471		108		BUCKLEY #1 - SERIAL #144311	MONROE GAS ROCK	277.0	MID LOUISIANA GAS
-HERD PRODUCING COMPANY INC				RECEIVED:	01/04/84	JA: LA			
8414129	83-1614	1702721062		103		SALE #1 HA RC SUB	COLQUITT	120.0	LOUISIANA INTRAST
-INEXCO OIL COMPANY				RECEIVED:	01/04/84	JA: LA			
8414204	83-1623	1705320744		102-4		EMORY F LYON ET AL #2	SOUTH THORNWELL	900.0	COLUMBIA GAS TRAN
-J M HUBER CORPORATION				RECEIVED:	01/04/84	JA: LA			
8414186	83-0913	1709320196		103		PELTO FEE #2	HESTER	440.0	UNITED GAS PIPE L
-JEEMS BAYOU PRODUCTION CORP				RECEIVED:	01/04/84	JA: LA			
8414191	83-1242	1703121894		103		BISSELL #1 U HOSS RA SUGG	BENSON 1440	127.0	LOUISIANA INTRAST
-JOHN O CLAY EXPLORATION INC				RECEIVED:	01/04/84	JA: LA			
8414179	83-1522	1712720852		102-4		W MCCARTY #2	CROSSROADS	60.0	LOUISIANA INTRAST
-LUVAN BO				RECEIVED:	01/04/84	JA: LA			
8414176	83-1702	1701724936		103		BO LUVAH EDMONSON #1	CADDO PINE ISLAND	15.0	ARKANSAS LOUISIAN
-LYONS PETROLEUM INC				RECEIVED:	01/04/84	JA: LA			
8414187	83-1652	1709920918		103		DR SIDNEY FREDRICK ET AL #1	SOUTH ARNAUDVILLE	182.0	AMOCO PRODUCTION
-M H MARR				RECEIVED:	01/04/84	JA: LA			
8414159	83-0503	1702721113		102-4		SMITH EST #1 M H MARR SMK A RB SUE	LISBON FIELD	400.0	UNITED GAS PIPELI
-MCALESTER FUEL COMPANY				RECEIVED:	01/04/84	JA: LA			
8414145	83-1627	1770020180		102-4		STATE LEASE 8076 #1 (169823)	WILDCAT W CAMERON BLO	912.0	
-MID LOUISIANA GAS COMPANY				RECEIVED:	01/04/84	JA: LA			
8414162	83-1572	1711123980		103		MLGC FEE GAS #1211	MONROE GAS FIELD	18.0	MID LOUISIANA GAS
8414163	83-1571	1711124042		103		MLGC FEE GAS #1220	MONROE GAS FIELD	25.2	MID LOUISIANA GAS
8414183	83-1498	1711124047		103		MLGC FEE GAS #1223	MONROE GAS FIELD	25.2	MID LOUISIANA GAS
8414199	83-1497	1711124048		103		MLGC FEE GAS #1224	MONROE GAS FIELD	25.2	MID LOUISIANA GAS
8414193	83-1576	1711124074		103		MLGC FEE GAS #1240	MONROE GAS FIELD	18.0	MID LOUISIANA GAS
8414194	83-1575	1711124075		103		MLGC FEE GAS #1241	MONROE GAS FIELD	18.0	MID LOUISIANA GAS
8414160	83-1574	1711124088		103		MLGC FEE GAS #1245	MONROE GAS FIELD	226.0	MID LOUISIANA GAS
8414161	83-1573	1711124089		103		MLGC FEE GAS #1246	MONROE GAS FIELD	20.8	MID LOUISIANA GAS
-MINERAL DEVELOPMENT-PRITCHARD				RECEIVED:	01/04/84	JA: LA			
8414177	83-1701	1701722973		103		CITY OF SHREVEPORT #1 HOSS RA SUE	SHREVEPORT	36.0	SOUTHWESTERN ELEC
-MOORE MCCORMACK OIL & GAS CORP				RECEIVED:	01/04/84	JA: LA			
8414141	83-1633	1700320225		103		BEL ESTATE #10	CLEAR CREEK	0.0	TRUNKLINE GAS CO
-MORAN EXPLORATION INC				RECEIVED:	01/04/84	JA: LA			
8414150	83-1149	1701921144		102-4		PRAIRIE LAND CO #1 HBY RA SUB	SOUTH LAKE CHARLES	0.0	DOW INTRASTATE GA
-PENNZOIL COMPANY				RECEIVED:	01/04/84	JA: LA			
8414185	83-1045	1772120357		102-2		SOUTH PASS 57-58 BA-17 SL 6310 A 17	SOUTH PAS 57-58 AREA	1168.0	LOUISIANA INTRAST
-RESOURCES INVESTMENT CORPORATION				RECEIVED:	01/04/84	JA: LA			
8414167	83-1630	1701920866		102-4		PRAIRIE CANAL CO INC #1 VUA	SOUTH LAKE CHARLES	325.0	LOUISIANA INTRAST
8414147	83-1629	1701920866		102-4		PRAIRIE CANAL CO INC #1-D VUA	SOUTH LAKE CHARLES	1200.0	LOUISIANA INTRAST
8414142	83-1632	1701920981		102-4		PRAIRIE CANAL CO INC #2D VUA	SOUTH LAKE CHARLES 51	58.4	LOUISIANA INTRAS
-RUTHERFORD OIL CORP				RECEIVED:	01/04/84	JA: LA			
8414157	83-0748	1701921132		102-4		LAWTON ET AL #2	PINE RIDGE	1095.0	
-SANTANA EXPLORATION INC				RECEIVED:	01/04/84	JA: LA			
8414198	83-1097	1700320237		102-4		JERRY J KING SR #1 VUA	NORTHEAST FONTENOT	730.0	LOUISIANA STATE G
-SHELL OIL CO				RECEIVED:	01/04/84	JA: LA			
8414195	83-1566	1772120335		102-3		SP BLK 42 SL 8431 #4	SOUTH PASS BLOCK 42 F	1095.0	LOUISIANA INTRAST
-SUN EXPLORATION & PRODUCTION CO				RECEIVED:	01/04/84	JA: LA			
8414180	83-1613	1703122067		103		ROY LAFFITTE #8	RED RIVER BULL BAYOU	208.0	
-SUPERIOR OIL CO				RECEIVED:	01/04/84	JA: LA			
8414132	83-1619	1702321823		103		MIAMI CORPORATION S-13	PECAN LAKE FIELD	1080.0	TRUNKLINE GAS CO
8414205	83-1621	1702321704		103		S L 2038 #39	DEEP LAKE	750.0	MICHIGAN-WISCONSI
8414206	83-1620	1702321753		103		S L 6209 #2	DEEP LAKE	1095.0	
8414138	83-1650	1704720646		103		SCHWING L&S CO #79	BAYOU BLEU	1.0	DOW INTRASTATE GA
-TENNECO OIL COMPANY				RECEIVED:	01/04/84	JA: LA			
8414158	83-0705	1703121423		103		FOSTER #1 CV RA SUN	CASPIANA	170.0	J-W OPERATING CO
8414139	83-1646	1705721955		102-2		TENNECO FEE "R" #3	GRANDBOIS	500.0	TEXACO INC
-TEXACO INC				RECEIVED:	01/04/84	JA: LA			
8414189	83-1176	1701724835		102-4	103	IDA C LAWTON ET AL #1 SLI RC SU35	CADDO PINE ISLAND	53.0	
8414154	83-0552	1701725100		102-4	103	PORTER EST #1 SLI RC SU 4	CADDO PINE ISLAND	88.0	ARKANSAS LOUISIAN
8414170	83-1608	1710922585		102-4	103	SL 188 CAILLOU ISLAND #709	CAILLOU ISLAND	7.0	KAISER ALUMINUM &
8414168	83-1624	1708920271		102-4		SUNSET REALTY & PLANTING CO #79	PARADIS	79.0	UNITED GAS PIPE L
8414200	83-0553	1701725132		102-4		WILLIAMS JR ET UX #3 SLI RC SU 2	CADDO PINE ISLAND	110.0	ARKANSAS LOUISIAN
-TIPCO				RECEIVED:	01/04/84	JA: LA			
8414178	83-1700	1772720080		103		STATE LEASE 2220 #50	ELOI BAY	10.0	SOUTHERN NATURAL
-TXO PRODUCTION CORP				RECEIVED:	01/04/84	JA: LA			
8414184	83-1546	1703121886		102-4		COLLINS "B" #1-D PET RA SUF	GRAND CANE	0.0	DELHI GAS PIPELIN
-UNION TEXAS PETROLEUM				RECEIVED:	01/04/84	JA: LA			
8414171	83-1654	1706120288		103	107-TF	HOOD 24 #1 UCV RA SUT	TERRYVILLE (UPPER COT	182.5	SUGAR BOWL GAS CO
8414181	83-1611	1705320749		102-4		TRS#13	LAKE ARTHUR M	365.0	SUGAR BOWL GAS CO
-VERNON E FAULCONER				RECEIVED:	01/04/84	JA: LA			
8414153	83-1155	1703121481		102-4		BAGLEY #1 GRRA SUA 173061	BETHANY - LONGSTREET	36.0	ARKANSAS LOUISIAN
-WEAVER OIL AND GAS CORPORATION				RECEIVED:	01/04/84	JA: LA			
8414133	83-1618	1700121114		103		C B HERNANDEZ #1 F-5 RC SUA	BOSCO	120.0	
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NM DEPARTMENT OF THE INTERIOR, BUREAU OF LAND MANAGEMENT, ALBUQUERQUE,NM									
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-AMOCO PRODUCTION CO				RECEIVED:	12/29/83	JA: NM 4			
8414034	NM0644-83	3004525544		103		FEDERAL GAS COM "H" #1	BLANCO MESAVERDE	0.0	SOUTHERN UNION GA
-BLACKWOOD & NICHOLS CO LTD				RECEIVED:	12/29/83	JA: NM 4			
8414043	NM0526-83	3004522528		108		NORTHEAST BLANCO UNIT #65	BLANCO MESAVERDE NE/4	18.0	EL PASO NATURAL G
8414042	NM1073-83PB	3004501086		108-PB		NORTHEAST BLANCO UNIT WELL #33-12	BLANCO MESAVERDE SW 1	0.0	EL PASO NATURAL G
8414041	NM1075-83PB	3004501057		108-PB		NORTHEAST BLANCO UNIT WELL #61-19	BLANCO MESAVERDE NE 1	16.0	EL PASO NATURAL G
-COTTON PETROLEUM CORPORATION				RECEIVED:	12/29/83	JA: NM 4			
8414056	NM-0703-83PB	3003921764		108-PB		APACHE #12	SOUTH BLANCO	0.0	NORTHWEST PIPELIN
8414055	NM-1464-83PB	3003921271		108-PB		APACHE #17	SOUTH BLANCO	0.0	NORTHWEST PIPELIN
-DUGAN PRODUCTION CORP				RECEIVED:	12/29/83	JA: NM 4			
8414051	NM-088783107	3004525408		103	107-TF	POLE'S PARADISE #2	BASIN DAKOTA	10.0	NORTHWEST PIPELIN
8414032	NM0597-83107	3004525430		103	107-TF	TURKS TOAST #1	BASIN DAKOTA	56.0	NORTHWEST PIPELIN
-EL PASO EXPLORATION CO				RECEIVED:	12/29/83	JA: NM 4			
8414038	NM-0446-83	3003920089		108		JICARILLA 119 M #13	TAPACITO-PICTURED CLI	18.0	NORTHWEST PIPELIN
8414056	NM-1573-83PB	3004506443		108-PB		SAN JUAN 27-8 B #4	SOUTH BLANCO	0.0	NORTHWEST PIPELIN
-EL PASO NATURAL GAS COMPANY				RECEIVED:	12/29/83	JA: NM 4			
8414110	NM-1583-83PB	3004520589		108-PB		ATLANTIC B #10	BLANCO	0.0	EL PASO NATURAL G
8414068	NM-1572-83PB	3004520758		108-PB		ATLANTIC C #9	BLANCO	0.0	EL PASO NATURAL G
8414124	NM-1600-83PB	3004506857		108-PB		BLANCO #13	SOUTH BLANCO	0.0	EL PASO NATURAL G
8414065	NM-1568-83PB	3003920271		108-PB		CANYON LARGO UNIT #151	UTERO	0.0	EL PASO NATURAL G

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8414066	NM-1570-83PB	3003920278		108-PB		CANYON LARGO UNIT #154	OTERO	0.0	EL PASO NATURAL G
8414108	NM-1586-83PB	3003920741		108-PB		CANYON LARGO UNIT #205	SOUTH BLANCO	0.0	EL PASO NATURAL G
8414119	NM-1597-83PB	3003920789		108-PB		CANYON LARGO UNIT #227	SOUTH BLANCO	0.0	EL PASO NATURAL G
8414075	NM-1542-83PB	3004521114		108-PB		CASE #17	BLANCO	0.0	EL PASO NATURAL G
8414114	NM-1590-83PB	3004520864		108-PB		DAUM #8	AZTEC	0.0	EL PASO NATURAL G
8414127	NM-0617-83PB	3004520987		108-PB		DAY A #14	BLANCO	0.0	EL PASO NATURAL G
8414088	NM-1521-83PB	3004520986		108-PB		DAY A #15	BLANCO	0.0	EL PASO NATURAL G
8414111	NM-1589-83PB	3004521111		108-PB		DRYDEN #7	SOUTH BLANCO	0.0	EL PASO NATURAL G
8414103	NM-1579-83PB	3004520462		108-PB		FLORANCE #8	BLANCO	0.0	EL PASO NATURAL G
8414064	NM-1553-83PB	3004506398		108-PB		FLORANCE D #8	BLANCO	0.0	EL PASO NATURAL G
8414072	NM-1580-83PB	3004520460		108-PB		GRAMBLING #6	BLANCO	0.0	EL PASO NATURAL G
8414062	NM-1551-83PB	3004521563		108-PB		HANCOCK A #10	OTERO	0.0	EL PASO NATURAL G
8414099	NM-1516-83PB	3004506954		108-PB		HANCOCK A #3	SOUTH BLANCO	0.0	EL PASO NATURAL G
8414123	NM-1601-83PB	3004521151		108-PB		HARDIG #10	BLANCO	0.0	EL PASO NATURAL G
8414082	NM-1531-83PB	3004510087		108-PB		HEATON COM A #13	AZTEC	0.0	EL PASO NATURAL G
8414089	NM-1524-83PB	3004521522		108-PB		HOWELL F #2 CH & PC	LARGO & SOUTH BLANCO	0.0	EL PASO NATURAL G
8414117	NM-1595-83PB	3004521458		108-PB		HUBBELL #13	AZTEC	0.0	EL PASO NATURAL G
8414109	NM-1587-83PB	3004521809		108-PB		HUERFANO UNIT #265	ANGELS PEAK & BASIN	0.0	EL PASO NATURAL G
8414120	NM-1596-83PB	3004521049		108-PB		KING #2	BLANCO	0.0	EL PASO NATURAL G
8414071	NM-1574-83PB	3003920254		108-PB		KLEIN #13	OTERO	0.0	EL PASO NATURAL G
8414105	NM-1585-83PB	3003920255		108-PB		KLEIN #14	OTERO	0.0	EL PASO NATURAL G
8414087	NM-1525-83PB	3004520861		108-PB		LACKEY A #6	AZTEC	0.0	EL PASO NATURAL G
8414063	NM-1552-83PB	3004513258		108-PB		LACKEY B #2	AZTEC	0.0	EL PASO NATURAL G
8414085	NM-1533-83PB	3004513259		108-PB		LACKEY B #3	AZTEC	0.0	EL PASO NATURAL G
8414097	NM-0924-83PB	3004513259		108-PB		LACKEY B #3	AZTEC	0.0	EL PASO NATURAL G
8414122	NM-1598-83PB	3003920919		108-PB		LINDRITH UNIT #77	SOUTH BLANCO	0.0	EL PASO NATURAL G
8414090	NM-1520-83PB	3004509246		108-PB		LUDWICK #17	BASIN	0.0	EL PASO NATURAL G
8414096	NM-1018-83PB	3004509246		108-PB		LUDWICK #17	BASIN	0.0	EL PASO NATURAL G
8414107	NM-1581-83PB	3004509329		108-PB		LUDWICK #6	AZTEC	0.0	EL PASO NATURAL G
8414104	NM-0665-83PB	3004509028		108-PB		LUDWICK #8	BLANCO	0.0	EL PASO NATURAL G
8414086	NM-1526-83PB	3004507017		108-PB		MICHENER B #1	SOUTH BLANCO	0.0	EL PASO NATURAL G
8414098	NM-1519-83PB	3004513208		108-PB		MUDGE #20	BASIN	0.0	EL PASO NATURAL G
8414078	NM-1537-83PB	3004521083		108-PB		MUDGE #37	BLANCO	0.0	EL PASO NATURAL G
8414067	NM-1554-83PB	3004521028		108-PB		MUDGE #41	BLANCO	0.0	EL PASO NATURAL G
8414061	NM-1550-83PB	3004507698		108-PB		NEUDECKER #2	AZTEC	0.0	EL PASO NATURAL G
8414124	NM-1095-83PB	3003906985		108-PB		RINCON UNIT #113	BLANCO	0.0	EL PASO NATURAL G
8414121	NM-1599-83PB	3003920713		108-PB		RINCON UNIT #195	SOUTH BLANCO	0.0	EL PASO NATURAL G
8414093	NM-1528-83PB	3003921716		108-PB		RINCON UNIT #212	OTERO	0.0	EL PASO NATURAL G
8414074	NM-1541-83PB	3003922223		108-PB		RINCON UNIT #232	OTERO	0.0	EL PASO NATURAL G
8414092	NM-1527-83PB	3003906909		108-PB		RINCON UNIT #39	SOUTH BLANCO	0.0	EL PASO NATURAL G
8414083	NM-1532-83PB	3003906807		108-PB		RINCON UNIT #50	SOUTH BLANCO	0.0	EL PASO NATURAL G
8414076	NM-1539-83PB	3003906924		108-PB		RINCON UNIT #60	SOUTH BLANCO	0.0	EL PASO NATURAL G
8414081	NM-1534-83PB	3003906864		108-PB		RINCON UNIT #62	SOUTH BLANCO	0.0	EL PASO NATURAL G
8414091	NM-1529-83PB	3003906893		108-PB		RINCON UNIT #69	SOUTH BLANCO	0.0	EL PASO NATURAL G
8414073	NM-1536-83PB	3003906925		108-PB		RINCON UNIT #70	BLANCO	0.0	EL PASO NATURAL G
8414080	NM-1796-83PB	3004521090		108-PB		ROELOFS A #6	BASIN	0.0	EL PASO NATURAL G
8414100	NM-1179-83PB	3003920106		108-PB		SAN JUAN UT #77	BLANCO	0.0	EL PASO NATURAL G
8414126	NM-0571-83PB	3003907442		108-PB		SAN JUAN 28-5 UNIT #27	SOUTH BLANCO	0.0	EL PASO NATURAL G
8414115	NM-1594-83PB	3003920856		108-PB		SAN JUAN 28-6 UNIT #190	LARGO & SOUTH BLANCO	0.0	EL PASO NATURAL G
8414069	NM-1578-83PB	3003920960		108-PB		SAN JUAN 28-7 NP UNIT #202	OTERO	0.0	EL PASO NATURAL G
8414077	NM-1540-83PB	3003920406		108-PB		SAN JUAN 28-7 UNIT #160	BASIN	0.0	EL PASO NATURAL G
8414116	NM-1593-83PB	3003920875		108-PB		SAN JUAN 28-7 UNIT #216	BLANCO & SOUTH BLANCO	0.0	EL PASO NATURAL G
8414060	NM-1567-83PB	3003907124		108-PB		SAN JUAN 28-7 UNIT #86	BLANCO	0.0	EL PASO NATURAL G
8414102	NM-0808-83PB	3003907869		108-PB		SAN JUAN 30-6 #31	BLANCO	0.0	EL PASO NATURAL G
8414079	NM-1538-83PB	3004511314		108-PB		SAN JUAN 32-9 UNIT #27	SOUTH BLANCO	0.0	EL PASO NATURAL G
8414084	NM-1535-83PB	3004506766		108-PB		SCHWERDTFEGER A #4	BASIN	0.0	EL PASO NATURAL G
8414101	NM-1518-83PB	3004509161		108-PB		SELLERS #6	BLANCO	0.0	EL PASO NATURAL G
8414095	NM-1530-83PB	3004513231		108-PB		STOREY B #3	BLANCO	0.0	EL PASO NATURAL G
8414070	NM-1576-83PB	3004520791		108-PB		SUNRAY #4	BLANCO	0.0	EL PASO NATURAL G
8414112	NM-1588-83PB	3004521135		108-PB		SUNRAY H #3	BLANCO	0.0	EL PASO NATURAL G
8414118	NM-1592-83PB	3004521136		108-PB		SUNRAY H #5	BLANCO	0.0	EL PASO NATURAL G
8414113	NM-1591-83PB	3004521050		108-PB		TURNER #6	OTERO	0.0	EL PASO NATURAL G
8414106	NM-1582-83PB	3003920258		108-PB		VAUGHN #10	BLANCO	0.0	EL PASO NATURAL G
8414125	NM-0484-83PB	3004520489		108-PB		WOODRIVER #3			
-ENERGY RESERVES GROUP INC				RECEIVED:	12/29/83	JA: NM 4			
8414050	NM0552-83	3004525144		108		E W PIPKIN #18	FULCHER KUTZ PICTURED	3.4	SOUTHERN UNION GA
-GETTY OIL COMPANY				RECEIVED:	12/29/83	JA: NM 4			
8414033	NM-0537-83	3004505988		108		J W GODDARD #4	GALLEGOS GALLUP	20.0	EL PASO NATURAL G
8414033	NM-0520-83	3003905766		108		JICARILLA "B" #20	BASIN DAKOTA	10.0	EL PASO NATURAL G
-HUSKY OIL COMPANY				RECEIVED:	12/29/83	JA: NM 4			
8414059	NM-0765-83PB	3004566244		108-PB		FRONTIER AZTEC B #1-D	BASIN	0.0	EL PASO NATURAL G
-JOHN E SCHALK				RECEIVED:	12/29/83	JA: NM 4			
8414040	NM-0541-83	3003921057		108		SCHALK 29-4 WELL #1	BLANCO MESA VERDE	0.0	NORTHWEST PIPELIN
-MOBIL PRDG TEXAS & NEW MEXICO INC				RECEIVED:	12/29/83	JA: NM 4			
8414057	NM-1523-83PB	3003921811		108-PB		JICARILLA E #2A	BLANCO	0.0	NORTHWEST PIPELIN
8414058	NM-1298-83PB	3004509323		108-PB		STEVENS UNIT #2	BASIN	0.0	NORTHWEST PIPELIN
-NORTHWEST PIPELINE CORPORATION				RECEIVED:	12/29/83	JA: NM 4			
8414047	NM1275-83PB	3003906897		108-PB		JICARILLA 92 #2	BLANCO MESAVERDE	0.0	NORTHWEST PIPELIN
8414044	NM1276-83PB	3003920019		108-PB		JICRILLA 92 #3	TAPCITO PICTURED CLIF	0.0	NORTHWEST PIPELIN
8414046	NM1272-83PB	3003907962		108-PB		ROSA UNIT 16	BLANCO MESAVERDE	0.0	NORTHWEST PIPELIN
8414045	NM1277-83PB	3003907567		108-PB		SAN JUAN 29-5 UNIT 16	BLANCO MESAVERDE	0.0	NORTHWEST PIPELIN
8414053	NM-0660-83	3003921805		108		SAN JUAN 29-5 UNIT 87	GOBERNADOR PICTURED C	0.0	NORTHWEST PIPELIN
8414049	NM1270-83PB	3004511184		108-PB		SAN JUAN 32-8 UNIT 25	BLANCO MESAVERDE	0.0	NORTHWEST PIPELIN
8414048	NM 1271-83PB	3004511231		108-PB		SAN JUAN 32-8 UNIT 31	BLANCO MESAVERDE	0.0	NORTHWEST PIPELIN
-PETRO-LEWIS CORPORATION				RECEIVED:	12/29/83	JA: NM 4			
8414037	NM0510-83	3003922866		103		FLORANCE #10 (9-A)	BLANCO MESAVERDE	6.0	EL PASO NATURAL G
8414036	NM0511-83	3003922865		103		FLORANCE #11 (8-A)	BLANCO MESAVERDE	10.0	EL PASO NATURAL G
8414051	NM0512-83	3003922831		103		FLORANCE #9	BLANCO MESAVERDE	6.0	EL PASO NATURAL G
-ROBERT L BAYLESS				RECEIVED:	12/29/83	JA: NM 4			
8414052	NM-0688-83	3004525586		103		MORTON #1	BASIN DAKOTA	175.0	NORTHWEST PIPELIN
-SOUTHLAND ROYALTY CO				RECEIVED:	12/29/83	JA: NM 4			
8414039	NM-0165-83	3004500008		108		NYE #17	WILDCAT GALLUP	14.0	SOUTHERN UNION GA

[FR Doc. 84-2368 Filed 1-26-84; 8:45 am]

BILLING CODE 6717-01-C

federal register

Friday
January 27, 1984

Part VI

Department of Energy

Office of Conservation and Renewable Energy

10 CFR Part 440

Weatherization Assistance for Low-Income Persons; Final Rule

DEPARTMENT OF ENERGY

Office of Conservation and Renewable Energy

10 CFR Part 440

[Docket No. CAS-RM-80-508]

Weatherization Assistance for Low-Income Persons

AGENCY: Department of Energy.

ACTION: Final rule.

SUMMARY: The Department of Energy is issuing a final rule today amending the regulation for weatherization assistance for low-income persons. The principal amendments in this action are: incorporating new weatherization measures to the authorized list; updating the standards for the materials for the authorized measures; simplifying the guidance for preparing State applications; making the energy audit procedures more flexible; and reducing the sixty-six percent eligibility requirement on weatherizing duplexes and four-unit buildings to fifty percent. No change to the provisions of the regulation relating to the maximum allowable expenditure per dwelling unit, or the priority in providing weatherization assistance is contained in this action.

The amendments in this final rule give the States additional flexibility to develop and implement their weatherization programs and increase their ability to conserve energy and assist low-income persons.

EFFECTIVE DATE: February 27, 1984.

FOR FURTHER INFORMATION CONTACT:

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Ted Pulliam, Office of General Counsel, Department of Energy, Mail Stop 6B-144, Forrestal Building, 100 Independence Avenue SW., Washington, D.C. 20585 (202) 252-9507.

SUPPLEMENTARY INFORMATION:

I. Introduction and Description of the Program
II. Amendments to the Weatherization Assistance Program
III. Environmental, Regulatory Impact, Small Entity Impact, Paperwork Reduction Act, and Coordinating Agency Reviews

I. Introduction and Description of the Program

The Department of Energy (DOE) is amending the regulation for the program for weatherization assistance for low-income persons (program, Weatherization Assistance Program, or WAP), 10 CFR Part 440, issued under Title IV of the Energy Conservation and Production Act, as amended (Act or program statute) Pub. L. 94-385, 90 Stat. 1150 (42 U.S.C. 6861 *et seq.*).

The purpose of today's action is to improve the operation of the Weatherization Assistance Program. The Department is taking this action based in part on the response to a Notice of Inquiry (NOI) published by DOE in the **Federal Register** on July 14, 1983 (48 FR 32273) and to a Notice of Proposed Rulemaking (NOPR) published by DOE in the **Federal Register** on November 4, 1983 (48 FR 51068). The NOI and NOPR solicited public comments about the general direction and scope of the program and its regulation, together with specific suggestions about modifying the program.

Description of the Program

The Act authorized DOE to establish a program to weatherize the homes of low-income persons, particularly those who are elderly or handicapped. The program is intended to reduce national energy consumption, particularly of imported oil, and to reduce the impact of higher fuel costs on low-income families. Funds are provided to install insulation, storm windows, caulking, weatherstripping, and to make other improvements to conserve energy.

DOE currently makes grants to States, the District of Columbia, and, under certain circumstances, Indian tribal organizations. The Governor, or his appointed designee, applies for, receives, and administers the grant funds. The funds are distributed by the States and the District of Columbia to local governments and nonprofit organizations to weatherize homes. Certain Indian tribal organizations also administer Federal funds and perform weatherization activities under this program.

Funds are allocated by DOE on a formula basis, determined by the relative need for weatherization assistance among the States. The formula takes into account the number of low-income households, the percentage of total residential energy used for space heating and cooling, and the number of heating and cooling degree days in each State.

The Act permits grant funds to be spent for weatherization materials, program support, labor, administration, and training and technical assistance. Program support includes salaries of on-site supervisors, purchase or lease of equipment, and other operating costs such as transportation, rental of warehouse space, and insurance of vehicles.

Overall administrative costs are limited to not more than ten percent of a grant. A State may use not more than five percent of a grant for its administrative expenses. The remainder is to be used by the subgrantee(s) for their administrative expenses.

The legislation also mandates the use, to the maximum extent practicable, of volunteers and labor funded in accordance with the Comprehensive Employment and Training Act of 1973 (CETA). However, the CETA program has now been repealed by Section 194 of the Job Training Partnership Act (JTPA). (Pub. L. 97-300, 96 Stat. 1357). Section 183 of the JTPA provided that references to CETA in other statutes, such as the program statute, shall be deemed to refer to the JTPA. Changes to the regulations have been made to comply with this statute.

II. Amendments to the Weatherization Assistance Program

In this document, DOE has made several changes to the regulation which will give the States more flexibility in operating the program, and will better enable the program to achieve its purposes of conserving energy and benefiting low-income persons. The principal changes are: adding new weatherization measures to the authorized list, updating the standards for materials for the authorized measures, simplifying the guidance for preparing State applications, making the energy audit procedures more flexible, and reducing the sixty-six percent eligibility requirement on weatherizing duplexes and four-unit buildings to fifty percent. Some technical changes are also made; however, no change has been made to the provisions of the regulations relating to the maximum allowable expenditure per dwelling unit or the priority in providing weatherization assistance. The changes are in response to experience gained in administering the program since 1980 and to comments submitted in response to the NOI and the NOPR.

DOE encourages State grantees and subgrantees to take full advantage of the flexibility made available to them in this rule. Because of the unique characteristics and capabilities of each State and its local agencies, DOE believes that the State and local agencies are in the best position to determine the needs of their low-income populations. Consequently, this regulation is written to provide a range

of choices for State and local agencies which will enable them to select those options which best serve the needs of their eligible populations. The program, however, has certain legislative and regulatory requirements which must be met. Some of the comments received in response to the NOPR have indicated some uncertainty regarding the boundaries of State flexibility under the proposed amendments to the regulation. (Almost all of these amendments have been incorporated into the final rule issued today.) In order to ensure that legislative and regulatory parameters are adhered to, while allowing State grantees and subgrantees as much flexibility as possible, DOE has included the following discussion concerning its approach to implementing these regulations.

The Weatherization Assistance Program is a State grant program. Its goal is to save energy for low-income families. Grantees, therefore, should maximize energy savings for the lowest possible cost. Increased spending by a grantee should always result in additional homes being weatherized or proportionately greater energy savings. The Department has provided a regulatory framework within which this goal can be accomplished. However, State and local agencies must apply the flexibility introduced into this regulation in order to fully achieve this objective.

The Department views the approved State plan and annual application as the agreement between itself and the grantee which sets forth the manner in which the State will conduct the program. The State plan must be developed to meet minimum legislative and regulatory requirements. However, a grantee must go further if it wishes to take full advantage of the range of regulatory flexibilities. For example, if the State plan does not address the need to exceed the $1,000 on expenditures per dwelling unit limit, then $1,000 per dwelling unit automatically applies; if the State plan does not propose an alternative energy audit, then Project Retro-Tech applies; if the State plan does not provide for additional services, optional approaches, or alternative delivery mechanisms, then the State cannot adopt such procedures. The State plan is the vehicle through which a weatherization program can be tailored to meet the needs of the low-income clients.

The regulation provides two methods for obtaining waivers to the $1,000 per unit limit. One, found in Section 440.19(b), provides that the $1,000 per unit limit may be raised to a level not to exceed $1,600 per unit where there are properly documented, severe labor shortages. This is the so-called "labor waiver." The second waiver, found in § 440.18(d)(1), permits waiver of the $1,000 per unit limit for specific categories of units or materials. This is the so-called "material waiver." These waivers are completely independent of each other, and must be requested as separate actions, although they may be requested in the same document.

The labor waiver has a $1,600 limit ($1,000+600=$1,600). The material waiver is limited to an amount approved by DOE. The material waiver *must* be requested by the Policy Advisory Committee, while the labor waiver may be requested by the grantee.

The Department does not consider that there is a need for extensive justification to establish a lack of availability of JTPA workers in order to obtain a labor waiver. However, grantees are expected to justify the amount requested above $1,000 per unit by indicating how the amounts necessary for average program support and labor amount are determined. Grantees should address, for example, the size and number of crews to be used, vehicle and equipment acquisitions that must be made, and similar program support and labor expenses. Use of volunteers or their unavailability should also be addressed. Reasonable requests and explanations concerning the labor waiver will be accepted; however, monitoring will take place to determine whether the amounts requested are reasonable. The information supporting a labor waiver should be in the State plan; however, a waiver request may be submitted at any time.

A material waiver request must be justified based on unusual circumstances which require a higher amount to be expended for materials because of such things as an unusual type of material that must be installed or an unusual dwelling construction. For example, homes that require 10 or more storm windows as well as attic and perimeter insulation may be good candidates for the material waiver. Likewise, homes that require furnace modification as well as measures which tighten the building envelope may be good candidates for the material waivers.

The type of material and dwelling unit to be covered by the waiver must be determined and applied for in advance of installation, preferably in the State plan. The material waiver may not be used to cover situations where a subgrantee inadvertently exceeds the material maximum established in the State plan.

Many comments suggested that adding materials to the approved list is a step forward for the program. However, they were concerned that the new materials would shift the program toward mechanical measures, that not enough money would be available to address the new measures, and that overall energy savings could very well decrease if DOE does not provide adequate guidance and control to prevent abuses in this area.

The final selection of materials and their application is a matter of State choice. Such selections must be arrived at and documented using the energy audit procedures selected by the State and approved by DOE. State grantees should provide in their audit procedures methods for examining the relative costs and benefits of installing the different measures such as storm windows, attic insulation, heating and cooling system tune-ups, burner replacement, and other furnace upgrading techniques, and allow only those measures to be installed which are most cost-effective. However, decisions regarding how and when a measure will be used, within the parameters of the audit procedures, must rest with the grantee. It is expected that in making these decisions, grantees will examine the need for "special case" use of materials. For example, movable insulation systems are not expected to replace storm windows as an insulation material, nor is it expected that storm windows and movable insulation systems will be installed on the same window. However, where the audit procedure indicates that storm windows are a high priority item, but they cannot be installed for some reason, such as construction barriers, as in the case of many mobile homes or casement windows, the alternate material should be utilized.

A number of comments suggested that the new measures were useless without an increase in the maximum expenditure level. DOE will not allow a blanket increase in the maximum expenditure level. As explained above, a grantee may request an increase in the $1,000 per unit limit for a "specific category of units or materials." This allows a grantee to request a reasonable increase in the maximum for a type of home which is likely to need furnace efficiency modifications in addition to weatherization measures which tighten the building envelope. Likewise, this authority may be obtained for very large homes (over 1,600 square feet, for example). The only requirement is that a grantee identify the type of structures to be weatherized and make provisions for

unusual situations when developing the State plan.

A number of comments referred to the heavy paperwork requirements on subgrantees imposed by grantees. DOE would point out that all paperwork requirements should be carefully considered. DOE is attempting to keep its requirements to a minimum and urges grantees to do likewise.

The following discussion describes DOE's proposed change(s) to each section, comments received regarding those proposed changes and DOE's final action.

Section 440.1—Purpose and Scope: DOE proposed to amend this section by referencing the Energy Security Act, Pub. L. 96–294, which was passed after the last major revision of these rules. There were no comments to this proposed change. Therefore, the final rule retains the change as proposed.

Section 440.2—Administration of Grants: DOE proposed to amend this section by deleting references to the circulars published by the Office of Management and Budget and other branches of the Executive Department which are covered by the DOE Financial Assistance Rules, 10 CFR Part 600. There were no comments to this proposed change. Therefore, it has been adopted in the final regulation.

Section 440.3—Definitions: DOE proposed deleting the definition of "CETA" and adding a new definition for "JTPA." Two commenters suggested that this change might have an adverse impact on the program since JTPA labor was not generally available. Since Section 183 of the Job Training Partnership Act (JTPA), Pub. L. 97–300, 96 Stat. 1357 directed that all references to CETA in statutes be deemed to refer to JTPA, DOE has retained the proposed language in the final regulation. As indicated in a previous discussion, DOE does not consider extensive documentation to be necessary to justify a waiver of the maximum amount per home due to a lack of JTPA labor.

DOE proposed adding and defining a new term, "Incidental Repairs" and eliminating the old term "Repair Materials." The addition of this new term, in conjunction with a change to § 440.18(a)(1)(iii), was proposed in order to clarify the types of repairs to which the $150 limitation in § 440.18 applies. The comments were all in agreement with the proposed change, although one comments suggested that DOE give more examples of what might be considered to be "incidential repairs." DOE believes, however, that the definition includes sufficient examples of permissible repairs and prefers not to be more specific in order to allow the definition to be sufficiently flexible. However, DOE wishes to make clear that fasteners needed to apply the materials, and ancillary hardware (such as latches and hinger) to install the materials, may be purchased as either weatherization materials, or incidental repair materials, as applicable.

In addition, a number of comments suggested that DOE raise or eliminate the $150 repair limit. Since the $150 limit is written into the legislation, DOE has retained it.

Several of the comments received in response to the NOI and the NOPR advocated amending the definition of "Low-Income" to raise the eligibility limits for participation in the program from 125 percent of the poverty level to 150 percent. This change was suggested by the comments in order to make the eligibility level of the program the same as that of the Low-Income Home Energy Assistance Program of the Department of Health and Human Services. However, as indicated in the NOPR, there are still over 13 million dwelling units eligible for weatherization benefits at the current eligibility levels. DOE continues to believe that these units house the neediest families, and that the current eligibility limits should be retained for the present so that the program will weatherize the most needy units.

DOE also proposed to amend the definition of "Weatherization Materials" to incorporate several new materials as eligible weatherization measures. DOE has finalized the materials list as proposed. DOE feels that the additional measures will give the grantee realistic yet broadened options, after completing the energy audit, to select the most energy-efficient and cost-effective measures for installation.

Many comments were received concerning the new measures. All comments were in favor of an expanded list, but some questioning the advisability of some individual measures or proposed additional measures.

Several comments suggested including sun screens and window screens to the measures list. DOE believes that these items should not be a separate item. Window screens may be installed only if they are included as part of the storm window. Two comments suggested that DOE should not include hot water heat pumps because the installation would be too costly, and one comment suggested "integral" over "detached" hot water heat pumps. DOE believes that in certain climatic areas, a "detached", or "retrofit", hot water pump is the most cost-effective measure that can be installed; however, an "integral" system would be too costly. Several comments suggested that DOE allow replacement of furnaces and boilers, particularly in multi-family homes. However, such replacement is costly, and given the program's per-home expenditure limits, it does not appear to be a viable option.

Other proposed changes to the definitions section received no substantive comments, and have been incorporated into the final rule.

Section 440.10—Allocation of Funds: DOE proposed to amend this section by adding the word "tentatively" to paragraph (b)(2) in order to make it clear that the initial allocation under the formula is tentative, and by making a slight change to paragraph (b)(2)(iv) to clarify a reference within the section. These proposed amendments have been adopted in the final regulation.

Several comments suggested that the allocation formula be changed in a variety of ways: eliminating the use of squaring degree days, giving more priority to cold regions, and giving renters equal weight with owners. DOE continues to believe that the present formula is both fair and equitable within the present legislative goals. Therefore only technical changes were made to this section.

Section 440.11—Native Americans: DOE proposed to amend paragraph (c) of this section in order to clarify its meaning. The time limit within which a State must apply before DOE need make a determination under this section was also proposed to be changed from 90 to 60 days to be consistent with other changes made in the regulation. No comments were received on these proposed changes and § 440.11 has been finalized as proposed.

Section 440.12—State Application: DOE proposed to revise and restructure this section to reduce paperwork requirements and allow a more straightforward approach to preparing the application and the final State plan. Some requirements were proposed for deletion. Others were proposed as part of the State plan rather than part of the application. No significant comments were received on this proposed section. It has been adopted as proposed.

Section 440.13—Local Applications: DOE proposed to amend this section to be consistent with the earlier change of the application period for States from 90 to 60 days. Two favorable comments were received on this proposed change and no unfavorable comments were received. Therefore, DOE has finalized the change as proposed.

Section 440.14—State Plans: DOE proposed to amend § 440.14 by

separating those provisions relating to subgrantees into a new § 440.15 entitled "Subgrantees", and renaming § 440.14 "State Plans." This reorgainzation eliminated the indefinite heading "Administrative Requirements" and put in its place two headings which give a more precise indication of the subjects discussed in those sections. The proposed amendments also restructured this section to eliminate redundant provisions, transfer some provisions from the application section to this section, and require some information on a State-wide rather than a subgrantee basis. In keeping with this shift in emphasis to grantee responsibility, § 440.14(b)(8)(i) has been changed in the final rule to require information on only the amount tentatively allocated to each subgrantee, instead of requiring a tentative budget for each subgrantee.

Most comments received pertaining to this section were supportive. However, two comments suggested that DOE should place more emphasis on the public role in the formation of the State plan. Other comments suggested that there be a formal procedure which permits the public to appeal aspects of the State plan to DOE. In the final rule, DOE is amending subsection (a) to require that all the elements of the final State plan be in the proposed State plan, which is subject to a public hearing. For the most part, this change only makes specific in the regulations what has generally been the practice. Also, DOE is moving certain requirements for furnishing planning information from the application section to the State plan section, where they would be subject to a public hearing. DOE believes that these changes will ensure the public's role in the State weatherization program. However, DOE is not establishing a formal appeals procedure concerning the State plan because it believes that the expanded public hearing and DOE's review of the State plan and application are sufficient to provide for a State plan which complies with the program.

Section 440.15—Subgrantees: This is a new, separate section composed of paragraphs (c), (d), (e), and (f) of the old § 440.14. This change now groups the provisions dealing with subgrantees into a separate section. The paragraphs are unchanged, except to change references to previous paragraphs which are now renumbered, and to emphasize the grantee's responsibility to ensure certain actions.

Two comments were received. One comment suggested that the public have greater input to the process of selecting subgrantees, and the other comment suggested that potential subgrantees not be limited to CAA or other public or nonprofit entities.

DOE believes that the language of § 440.15(a)(2) makes clear that public input to the subgrantee selection process is necessary. However, the enabling legislation restricts subgrantee selections to CAA's or other public or nonprofit entities. Therefore, DOE has implemented this change as proposed.

Section 440.16—Minimum Program Requirements: DOE proposed to renumber this section in accordance with changes to previous sections. DOE also proposed to simplify this section by eliminating certain requirements which are already imposed in other sections of the regulation and by transferring paragraphs relating to eligibility requirements for rental dwelling units to § 440.22. DOE proposed to make paragraph (c), which concerns the Policy Advisory Council, into a separate section. Finally, DOE proposed to amend this section by adding a new paragraph (g), requiring a State to publish procedures for ensuring that no dwelling unit may be reported to DOE as completed until the subgrantee or its authorized representative has performed a final inspection on the dwelling unit and certified that the applicable work has been completed in a workmanlike manner and in accordance with the priority determined by the audit procedures required by § 440.21(b).

DOE received no adverse comments on these proposed changes and has implemented these changes as proposed. DOE would like to point out that the inspection requirement is not intended to dictate the particular person to perform the inspection or the hiring of new staff. Those subgrantees which already have a responsible person performing this inspection do not need to change their procedure to comply with this requirement.

One comment suggested that dwellings that meet certain size and energy cost criteria be given the same priority as those containing the elderly and the handicapped. However, the elderly and handicapped are required by the program statute to be given first priority. A State, in its State plan, can provide for priority based on a dwelling unit size and energy cost after the needs of the elderly and handicapped have been met.

Section 440.17—Policy Advisory Council: This is a new section composed of paragraph (c) from the old § 440.15. That paragraph is unchanged, except to substitute "Operations Office Manager" for "Regional Representative."

Section 440.18—Allowable Expenditures: This section is renumbered in accordance with changes to previous sections.

DOE proposed to add a reference to § 440.19(b) to paragraph (a)(1) in order to make clear that there are two exceptions to the $1,000 limit per dwelling unit. DOE also proposed to add storage of weatherization tools and equipment as an allowable expenditure under paragraph (a)(1)(ii)(G).

Several comments suggested raising the $1,000 limit per dwelling unit and clarifying the procedures for obtaining a waiver. These issues are discussed earlier in Section II of this preamble.

Comments received were favorable to the proposed revisions. Therefore, DOE has implemented this section as proposed.

Section 440.19—Labor: This section was renumbered because of previous renumbering of other sections. No other changes were made.

Section 440.20—Low-Cost/No-Cost Weatherization Activities: DOE proposed to amend this section to include furnace or cooling unit filters as eligible low-cost/no-cost items. Furnace or cooling unit filters are inexpensive and easily installed. The regulation has been interpreted to allow them as a permissible expense in the past. Including furnace or cooling unit filters now makes this interpretation explicit. This section has been renumbered.

Comments were evenly split for and against low-cost/no-cost activities. Some believed DOE should go further in encouraging low-cost/no-cost activities, especially in multifamily buildings. Others believed that low-cost/no-cost activities could divert needed resources away from their intended purpose. DOE believes the section as proposed presents a balanced approach with sufficient flexibility for those agencies that want to pursue low-cost activities and also adequate safeguards (the limits of ten percent of the grant to the subgrantee and $50 per dwelling) to prevent abuses in this area. Therefore, the final rule retains the change as proposed.

Several comments expressed support for reweatherizing homes previously completed under the program. DOE amends paragraph (c)(1) to clarify that houses which have previously been weatherized before the maximum expenditure per dwelling unit was increased to $1,000, can have additional weatherization work done on them under the low-cost/no-cost provisions of § 440.20.

Section 440.21—Standards and Techniques for Weatherization: This

section has been renumbered. DOE proposed to amend paragraph (b) of this section by establishing a new and more flexible approach to audits used in determining the most cost-effective weatherization materials to be applied to a dwelling unit.

Comments favored the flexibility being added to this section. However, two comments pointed out problems in using the RCS audits. These comments suggested that RCS audits not be used because they provide insufficient information to prioritize measures without a trip back to each home by the agency auditor. Another comment suggested the Project Retro-Tech and RCS audits be updated to properly evaluate new measures. Comments also suggested that DOE provide States with guidance concerning developing the alternative procedures.

DOE believes that the flexibility added to the regulation will allow State and local agencies to develop alternative approaches on energy audits best adapted to that State. As a result of this action DOE will not update Project Retro-Tech. In fact, one reason for providing alternative procedures was to allow grantees to address local situations. The new measures are designed to give the grantee additional options to choose the most energy-efficient and cost-effective measures to a dwelling unit in its area.

If the RCS audit in a State does not provide sufficient information to allow prioritizing of measures, it should not be made a part of the audit procedures. For further discussion of energy audits, see earlier in Section II of this preamble.

Section 440.22—Eligible Dwelling Units: This section has been renumbered.

The paragraph concerning the eligibility requirements of persons living in rental dwelling units has been transferred from the old § 440.15 to this section because it pertains to the subject of this section. Some amendments have been made to this section to bring it into conformance with the addition of this paragraph.

The paragraph concerning rental units previously required that 66 percent of the units of a multifamily building be occupied by income-eligible persons or families in order for the entire building to qualify for weatherization assistance. DOE amends this paragraph to reduce the proportion of duplexes (two-unit buildings) and four-unit buildings which have to be occupied by income-eligible persons or families to 50 percent.

Twenty-two comments supported the proposed change of reducing eligibility requirements for duplexes and four-unit buildings. Other comments suggested that reduced percentaged be adopted for buildings with various numbers of units above four or that a lesser amount of work be permitted on buildings with fewer than 66 percent eligible units. DOE believes that adopting the rule as proposed will provide for the most efficient use of program funds to serve the most needy people.

One comment suggested that DOE clarify what can be done to an eligible multifamily building. If a multifamily building is eligibile, the measures to be applied to the entire building are those recommended as a result of the energy audit performed on the building. Several comments suggested the use of census tract data to establish whether a multifamily building is eligible. DOE opposes such use, because it is necessary to determine the eligibility of each building. The census tract data is usually not broken down to the level that would enable DOE to determine the income on a building-by-building basis.

Section 440.23—Oversight, Training, and Technical Assistance: This section has been renumbered because of the renumbering of previous sections. The Secretary of Health and Human Services has been substituted for the Director of the Community Services Administration in order to accurately reflect the transfer of authority between those two entities.

DOE proposed to amend this section by allowing training and technical assistance (T&TA) funds to be used for providing information concerning conservation practices to individuals who had received assistance under the program. The eleven comments received were supportive of this change. However, they felt DOE should go further to allow client information to be distributed to all eligible under the program. This proposed change has been adopted in the final rule. This information will provide helpful ways to maximize energy savings before and after the measures are applied to the home.

Section 440.24—Recordkeeping: This section was proposed to be renumbered because of the renumbering of previous sections. A reference to Federal Management Circular 74–7 was changed to refer to the DOE Financial Assistance Rules (10 CFR Part 600), because those rules set DOE policy concerning recordkeeping after taking into consideration the applicable OMB and other Federal documents. These changes have been adopted in the final rule.

Section 440.25—Reports: This section has been renumbered because of the renumbering of previous sections.

Four comments suggested that DOE require the grantee to collect data on energy savings associated with the measures installed on an eligible dwelling unit. Another comment suggested that DOE develop a uniform method of measuring energy savings for use by grantees and subgrantees and pass on to grantees and subgrantees any information obtained concerning energy savings. While DOE does not discourage the collection of energy savings data, it is reluctant to impose any additional data requirements on grantees and subgrantees. DOE has recently undertaken a national sample of fuel use before and after weatherization as part of a national program evaluation effort. DOE is also considering doing further evaluations of the energy savings produced by the program.

Section 440.30—Administrative Review: This section is amended to allow the Secretary to designate some other entity to perform his functions under paragraph (h) of this section. DOE also amends paragraph (j) to allow the Operations Office Manager greater flexibility in choosing remedies where there has been a failure to comply with the regulations. DOE intends that this appeal procedure, rather than the one specified in 10 CFR Part 600, apply to this grant program.

Appendix A—Standards for Weatherization Materials: Based on criteria set by the National Bureau of Standards (NBS), DOE is extensively amending Appendix A to update the standards for weatherization materials and to include new standards for the additional measures proposed in the NOPR. Additionally, standards that were updated by NBS since the NOPR was published have been included in this final rulemaking. DOE has corrected the standard for thermal insulating materials for building elements to include materials used as a patch to reduce infiltration through the building envelope. This standard is part of the present regulation, but was erroneously omitted from the proposed regulation.

One comment suggested that DOE provide for a more abbreviated method of updating this standards. The program statute provides that the standards must be updated by rule. However, DOE will establish a procedure for an annual review of standards and complete the rulemaking procedure as necessary. Two comments noted that the standards from Federal Standard to American Society for Testing and Materials (ASTM) standards might cause confusion. DOE is making this change because NBS is gradually eliminating the Federal Standards and adopting the ASTM standards for Federal specifications. One comment noted that American Refrigeration Institute (ARI)

on longer has a program for certifying heat pump hot water heaters. NBS has indicated that ARI still has a published standard for these devices, but otherwise is inactive in this area.

Response to Additional Comments: DOE received comments in response to the NOPR which it was not able to incorporate in this final rulemaking, including: (1) Combining DOE and HHS weatherization funds into a single program. These funds are separate and distinct by statute and cannot be changed by regulation. However, DOE and HHS continue to discuss means of achieving better coordination between the two programs. (2) Allowing work crews compensation for using their own vehicles on the job. This expenditure is allowed under the present regulation. However, individual State policy may not permit this activity. (3) Use of certain solar devices as acceptable weatherization measures. DOE has not evaluated those solar devices sufficiently at this time to be able to add them as approved measures.

III. Environmental, Regulatory Impact, Small Entity Impact, Paperwork Reduction Act, and Coordinating Agency Reviews

A. Environmental Review

Pursuant to the requirements of the National Environmental Policy Act of 1969 (NEPA), Pub. L. 91–190, 83 Stat. 852 (42 U.S.C. 4321 *et seq.),* DOE published a Notice of Availability of an Environmental Assessment (EA) (DOE/EA–0085) of the Grants Program for Weatherization Assistance for Low-Income Persons in the **Federal Register** on April 10, 1979 (44 FR 21323). At the same time, DOE published notice of its determination, based on the EA, that the proposed action would not constitute a major Federal action significantly affecting the quality of the human environment, and that therefore, no Environmental Impact Statement (EIS) was required.

DOE has reviewed the environmental impacts of the program amendment issued today. It is DOE's judgment that the program amendment will result in no environmental impacts not previously analyzed in the EA on the program. Accordingly, DOE has determined that the environmental impacts of the program as modified by today's amendment have been adequately analyzed in the April 1979 EA, and that these impacts are not significant. Hence, no additional EA or EIS is required.

B. Review Under Executive Order 12291

Today's issuance was reviewed under Executive Order 12291 (46 FR 13193), February 27, 1981. DOE has concluded that the rule is not a "major rule" under the Executive Order, because it will not result in: (1) An annual effect on the economy of $100 million or more; (2) A major increase in costs or prices for consumers, individual industries, State, Federal, or local government agencies, or geographic regions; or (3) Significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of the United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. Pursuant to Section 3(c)(3) of Executive Order 12291, this rule was submitted to the Director of OMB for a ten-day review. The Director has concluded his review under that Executive Order.

C. Regulatory Flexibility Act

The Regulatory Flexibility Act, Pub. L. 96–354, 94 Stat. 1164 (5 U.S.C. 601 *et seq.),* requires, in part, that an agency prepare a final regulatory flexibility analysis for any final rule, unless it determines that the rule will not have a "significant economic impact on a substantial number of small entities." In the event that such an analysis is not required for a particular rule, the agency must publish a certification and an explanation of that determination in the **Federal Register.** The changes proposed in this action primarily add flexibility to the existing program. The only additional regulatory requirements placed on small entities are placed only on those nonprofit organizations which are subgrantees. Thus, these changes have only a minimal effect on only a few small entities. Accordingly, pursuant to Section 605(b) of the Regulatory Flexibility Act, DOE certifies that this rule will not have a significant economic impact on a substantial number of small entities.

D. Paperwork Reduction Act

Recently, the information collection requirements contained in §§ 440.12, 440.13, 440.14, 440.16, and 440.24 of this rule were approved by the Office of Management and Budget (OMB) under Control Number 1904–0047. The information collection requirements contained in § 440.25 have been approved by OMB under Control Number 1901–0127.

E. Catalogue of Federal Domestic Assistance

The Catalogue of Federal Domestic Assistance number for the Weatherization Assistance Program is 81.042.

F. Consultation

In developing these final regulations, DOE has consulted with the Secretary of Housing and Urban Development, the Secretary of Health and Human Services, and the Secretary of Agriculture, pursuant to Section 413(b) of the Act.

List of Subject in 10 CFR Part 440

Administrative practice and procedures, Aged, Energy conservation, Grant Programs—Energy, Grant Programs—Housing and Community Development, Handicapped, Housing standards, Indians, Reporting and recordkeeping requirements.

In consideration of the foregoing, DOE hereby amends Chapter II of Title 10, Code of Federal Regulations, as set forth below.

Issued in Washington, D.C., January 17, 1984.

Pat Collins,

Acting Assistant Secretary, Conservation and Renewable Energy.

Part 440 is revised to read as set forth below:

PART 440—WEATHERIZATION ASSISTANCE FOR LOW-INCOME PERSONS

Sec.

440.1 Purpose and scope.
440.2 Administration of grants.
440.3 Definitions.
440.10 Allocation of funds.
440.11 Native Americans.
440.12 State application.
440.13 Local application.
440.14 State plan.
440.15 Subgrantees.
440.16 Minimum program requirements.
440.17 Policy Advisory Council.
440.18 Allowable expenditures.
440.19 Labor.
440.20 Low-cost/no-cost weatherization activities.
440.21 Standards and techniques for weatherization.
440.22 Eligible dwelling units.
440.23 Oversight, training, and technical assistance.
440.24 Recordkeeping.
440.25 Reports.
440.30 Administrative review.
Appendix A—Standards for Weatherization Materials

Authority: Title IV, Energy Conservation and Production Act, as amended, Pub. L. 94–385, 90 Stat. 1150 (42 U.S.C. 6851 *et seq.;* Department of Energy Organization Act, Pub. L. 95–91, 91 Stat. 565 (42 U.S.C. 7101 *et seq.*).

§ 440.1 Purpose and scope.

This part contains the regulation adopted by the Department of Energy to carry out a program of weatherization assistance for low-income persons

established by Part A of the Energy Conservation in Existing Buildings Act of 1976, 42 U.S.C. 6861 *et seq.*, enacted as Title IV of the Energy Conservation and Production Act, Pub. L. 94–385, 90 Stat. 1150 *et seq.*, and amended by Title II, Part 2 of the National Energy Conservation Policy Act, Pub. L. 95–619, 92 Stat. 3206 *et seq.*, and by the Energy Security Act, Pub. L. 96–294, 94 Stat. 611 *et seq.*

§ 440.2 Administration of grants.

Grant awards under this part shall comply with applicable law including, without limitation, the requirements of:

(a) Executive Order 12372 entitled "Intergovernmental Review of Federal Programs", 48 FR 3130, and the DOE Regulation implementing this Executive Order entitled "Intergovernmental Review of Department of Energy Programs and Activities" (10 CFR Part 1005);

(b) Office of Management and Budget Circular A–97, entitled "Rules and Regulations Permitting Federal Agencies to Provide Specialized or Technical Services to State and Local Units of Government under Title III of the Inter-Governmental Coordination Act of 1968;"

(c) Unless in conflict with provisions of this part, the DOE Financial Assistance Rule (10 CFR Part 600); and

(d) Such other procedures applicable to this part as DOE may from time to time prescribe for the administration of financial assistance.

§ 440.3 Definitions.

As used in this part:

"Act" means the Energy Conservation in Existing Buildings Act of 1976, as amended, 42 U.S.C. 6851 *et seq.*

"CAA" means a Community Action Agency.

"Community Action Agency" means a private corporation or public agency established pursuant to the Economic Opportunity Act of 1964, Pub. L. 88–452, which is authorized to administer funds received from Federal, State, local, or private funding entities to assess, design, operate, finance, and oversee antipoverty programs.

"Cooling Degree Days" means a population-weighted annual average of the climatological cooling degree days for each weather station within a State, as determined by DOE.

"DOE" means the Department of Energy.

"Dwelling Unit" means a house, including a stationary mobile home, an apartment, a group of rooms, or a single room occupied as separate living quarters.

"Elderly Person" means a person who is 60 years of age or older.

"Family Unit" means all persons living together in a dwelling unit.

"Governor" means the chief executive officer of a State, including the Mayor of the District of Columbia.

"Grantee" means the State or other entity named in the Notification of Grant Award as the recipient.

"Handicapped Person" means any individual (1) who is a handicapped individual as defined in Section 7(6) of the Rehabilitation Act of 1973, (2) who is under a disability as defined in Section 1614(a)(3)(A) or 223(d)(1) of the Social Security Act or in Section 102(7) of the Developmental Disabilities Services and Facilities Construction Act, or (3) who is receiving benefits under Chapter 11 or 15 of Title 38, U.S.C.

"Heating Degree Days" means a population-weighted seasonal average of the climatological heating degree days for each weather station within a State, as determined by DOE.

"Incidental Repairs" means those repairs necessary for the effective performance or preservation of weatherization materials. Such repairs include, but are not limited to, framing or repairing windows and doors which could not otherwise be caulked or weather-stripped and providing protective materials, such as paint, used to seal materials installed under this program.

"Indian Tribe" means any tribe, band, nation, or other organized group or community of Native Americans, including any Alaskan native village, or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act, Pub. L. 92–203, 85 Stat. 688, which (1) is recognized as eligible for the special programs and services provided by the United States to Native Americans because of their status as Native Americans, or (2) is located on, or in proximity to, a Federal or State reservation or rancheria.

"JTPA" means the Job Training Partnership Act, 29 U.S.C. 1501 *et seq.*

"Local Applicant" means a CAA or other public or non profit entity unit of general purpose local government.

"Low Income" means that income in relation to family size which:

(1) Is at or below 125 percent of the poverty level determined in accordance with criteria established by the Director of the Office of Management and Budget, except that the Secretary may establish a higher level if the Secretary, after consulting with the Secretary of Agriculture and the Secretary of Health and Human Services, determines that such a higher level is necessary to carry out the purposes of this part and is consistent with the eligibility criteria established for the weatherization program under Section 222(a)(12) of the Economic Opportunity Act of 1964 or

(2) Is the basis on which cash assistance payments have been paid during the preceding twelve-month period under Titles IV and XVI of the Social Security Act or applicable State or local law.

"Native American" means a person who is a member of an Indian tribe.

"Number of Low-Income, Owner-Occupied Dwelling Units in the State" means the number of such dwelling units in a State, as determined by DOE.

"Number of Low-Income, Renter-Occupied Dwelling Units in the State" means the number of such dwelling units in a State, as determined by DOE.

"Operations Office Manager" means the manager of a DOE Operations Office or his or her designee.

"Percentage of Total Residential Energy Used for Space Cooling" means the national percentage of total energy used for space cooling, as determined by DOE.

"Percentage of Total Residential Energy Used for Space Heating" means the national percentage of total energy used for space heating, as determined by DOE.

"Rental Dwelling Unit" means a dwelling unit occupied by a person who pays rent for the use of the dwelling unit.

"Secretary" means the Secretary of the Department of Energy.

"Separate Living Quarters" means living quarters in which the occupants do not live and eat with any other persons in the structure and which have either (1) direct access from the outside of the building or through a common hall or (2) complete kitchen facilities for the exclusive use of the occupants. The occupants may be a single family, one person living alone, two or more families living together, or any other group of related or unrelated persons who share living arrangements.

"Single-Family Dwelling Unit" means a structure containing no more than one dwelling unit.

"Skirting" means material used to border the bottom of a dwelling unit to prevent infiltration.

"State" means each of the States and the District of Columbia.

"Subgrantee" means an entity managing a weatherization project which receives a grant of funds awarded under this part from a grantee.

"Tribal Organization" means the recognized governing body of any Indian tribe or any legally established

organization of Native Americans which is controlled, sanctioned, or chartered by such governing body.

"Unit of General Purpose Local Government" means any city, county, town, parish, village, or other general purpose political subdivision of a State.

"Vestibule' means an enclosure built around a primary entry to a dwelling unit.

"Weatherization Materials" mean:

(1) Caulking and weatherstripping of doors and windows;

(2) Furnace efficiency modifications limited to:

(i) Replacement burners designed to substantially increase the energy efficiency of the heating system;

(ii) Devices for modifying flue openings which will increase the energy efficiency of the heating system; and

(iii) Electrical or mechanical furnace ignition systems which replace standing gas pilot lights;

(3) Clock thermostats;

(4) Ceiling, attic, wall, floor, and duct insulation;

(5) Water heater insulation;

(6) Storm windows and doors, multiglazed windows and doors, heat-absorbing or heat-reflective window and door materials; and

(7) The following insulating or energy conserving devices or technologies:

(1) Skirting;

(ii) Items to improve attic ventilation;

(iii) Vapor barriers;

(iv) Matrials used as a patch to reduce infiltration through the building envelope;

(v) Water flow controllers;

(vi) Movable insulation systems for windows;

(vii) Materials to construct vestibules;

(viii) Pipe and boiler insulation;

(ix) Heat exchangers;

(x) Thermostat control systems;

(xi) Replacement windows and doors;

(xii) Materials used for water heater modifications which will result in improved energy efficiency;

(xiii) Hot water heat pumps;

(xiv) Waste heat recovery devices;

(xv) Materials used for heating and cooling system tuneups, repairs, and modifications which will result in improved energy efficiency; and

(xvi) Materials used for boiler tuneups, repairs, and modifications which will result in improved energy efficiency.

"Weatherization Project" means a project conducted in a single geographical area which undertakes to weatherize dwelling units that are energy inefficient.

§ 440.10 Allocation of funds.

(a) DOE shall allocate finanical assistance for each State from sums appropriated for any fiscal year, only upon annual application.

(b) DOE shall determine the tentative allocation for each State from available funds as follows:

(1) The first $5,100,000 appropriated shall be divided equally among the States; an additional $100,000 shall be allocated to Alaska.

(2) The percentage of the remaining available funds tentatively allocated to each State shall be determined by the following formula:

(i) The square of the number of heating degree days in a State multiplied by the percentage of total residential energy used for space heating;

(ii) Plus the square of the number of cooling degree days in the State multiplied by the percentage of total residential energy used for space cooling;

(iii) Multiplied by the sum of the number of low-income, owner-occupied dwelling units in the State and one-half of the number of low-income, renter-occupied dwelling units in the State;

(iv) Divided by the sum of the result produced for all States by the computation outlined in paragraphs (b)(2) (i), (ii) and (iii) of this section; and

(v) Multiplied by 100.

(c) DOE may reduce the tentative allocation for a State by the amount DOE determines cannot be reasonably expended by a grantee to weatherize dwelling units during the budget period for which financial assistance is to be awarded. In reaching this determination, DOE will consider the amount of unexpended financial assistance currently available to a grantee under this part and the number of dwelling units which remain to be weatherized with the unexpended financial assistance.

(d) DOE may increase the tentative allocation of a State by the amount DOE determines the grantee can expend to weatherize additional dwelling units during the budget period for which financial assistance is to be awarded.

(e) The Operations Office Manager shall notify each State of the tentative allocation for which that State is eligible to apply.

§ 440.11 Native Americans.

(a) Notwithstanding any other provision of this part, the Operations Office Manager may determine, after taking into account the amount of funds made available to a State to carry out the purposes of this part, that:

(1) The low-income members of an Indian tribe are not receiving benefits under this part equivalent to the assistance provided to other low-income persons in the State under this part and

(2) The low-income members of such tribe would be better served by means of a grant made directly to provide such assistance.

(b) In any State for which the Operations Office Manager shall have made the determination referred to in paragraph (a) of this section, the Operations Office Manager shall reserve from the sums that would otherwise be allocated to the State under this part not less than 100 percent, or more than 150 percent, of an amount which bears the same ratio to the State's allocation for the fiscal year involved as the population of all low-income Native Americans for whom a determination under paragraph (a) of this section has been made bears to the population of all low-income persons in the State.

(c) The Operations Office Manager shall make the determination prescribed in paragraph (a) of this section in the event a State:

(1) Does not apply within the sixty-day time period prescribed in §440.12(a);

(2) Recommends that direct grants be made for low-income members of an Indian tribe as provided in § 440.12(b)(5);

(3) Files an application which DOE determines, in accordance with the procedures in § 440.30, not to make adequate provision for the low-income members of an Indian tribe residing in the State; or

(4) Has received grant funds and DOE determines, in accordance with the procedures in § 440.30, that the State has failed to implement the procedures required by § 440.16(6).

(d) Any sums reserved by the Operations Office Manager pursuant to paragraph (b) of this section shall be granted to the tribal organization serving the individuals for whom the determination has been made, or where there is no tribal organization, to such other entity as the Operations Office Manager determines is able to provide adequate weatherization assistance pursuant to this part. Where the Operations Office Manager intends to make a grant to an organization to perform services benefiting more than one Indian tribe, the approval of each Indian tribe shall be a prerequisite for the issuance of a notice of grant award.

(e) Within 30 days after the Operations Office Manager has reserved funds pursuant to paragraph (b) of this section, the Operations Office Manager shall give written notice to the tribal organization or other qualified entity of the amount of funds reserved and its eligibility to apply therefor.

(f) Such tribal organization or other qualified entity shall thereafter be

treated as a unit of general purpose local government eligible to apply for funds hereunder, pursuant to the provisions of § 440.13.

§ 440.12 State application.

(a) To be eligible for financial assistance under this part, a State shall submit an application to DOE in conformity with the requirements of this part not later than 60 days after the date of notice to apply is received from the Operations Office Manager. The Operations Office Manager shall review each timely State application and, if the submission otherwise complies with the applicable provisions of this part, approve a budget and issue a notice of financial assistance award.

(b) Each application shall include:

(1) The name and address of the State agency or office responsible for administering the program;

(2) A copy of the final State plan prepared after notice and a public hearing in accordance with § 440.14(a), except that an application by a local applicant need not include a copy of the final State plan;

(3) The budget for total funds applied for under the Act, which shall include a justification and explanation of any amounts requested for expenditure pursuant to § 440.18(b) for State administration;

(4) The total number of dwelling units proposed to be weatherized with grant funds during the budget period for which assistance is to be awarded, (i) with financial assistance previously obligated under this part, and (ii) with the tentative allocation to the State;

(5) A recommendation that a tribal organization be treated as a local applicant eligible to submit an application pursuant to § 440.13(b), if such a recommendation is to be made;

(6) A monitoring plan which shall indicate the method used by the State to insure the quality of work and adequate financial management control at the subgrantee level;

(7) A training and technical assistance plan which shall indicate how funds for training and technical assistance will be used; and

(8) Any further information which the Secretary finds necessary to determine whether an application meets the requirements of this part.

(Approved by the Office of Management and Budget under Control Number 1904–0047)

§ 440.13 Local applications.

(a) The Operations Office Manager shall give written notice to all local applicants throughout a State of their eligibility to apply for financial assistance under this part in the event:

(1) A State, within which a local applicant is situated, fails to submit an application within 60 days after notice in accordance with § 440.12(a) or

(2) The Operations Office Manager finally disapproves the application of a State pursuant to § 440.30 of this part.

(b) To be eligible for financial assistance, a local applicant shall submit an application pursuant to § 440.12(b) to the Operations Office Manager within 30 days after receiving the notice referred to in paragraph (a) of this section.

(c) In the event one or more local applicants submit applications, the Operations Office Manager shall combine the hearing on the proposed plan pursuant to § 440.14(a) with a hearing on the intention to deny the timely application of one or more local applicants, as provided in § 440.30, to the maximum extent practicable. Based upon the final plan developed by the Operations Office Manager, the hearing, and information submitted by a local applicant and other interested persons, the Operations Office Manager shall determine whether or not to award a grant to a local applicant, and the amount thereof. The Operations Office Manager may provide financial assistance to a local applicant to carry out one or more weatherization projects.

(Approved by the Office of Management and Budget under Control Number 1904–0047)

§ 440.14 State plans

(a) Before submitting an application, a State shall give not less than 10 days notice of hearing, reasonably calculated to inform prospective subgrantees, and shall conduct one or more public hearing for the purpose of receiving comments on a proposed State plan. The proposed State plan shall identify and describe proposed weatherization projects, including a statement of proposed subgrantees and the amount each will receive; shall address the other items contained in paragraph (b) of this section; and shall be made available throughout the State prior to the hearing. The notice for the hearing shall specify that copies of the plan are available and how they may be obtained. A transcript of the hearings shall be prepared and written submission of views and data shall be accepted for the record.

(b) Subsequent to the hearing, the State shall prepare a final State plan which shall identify and describe:

(1) The production schedule for the State which shall indicate projected expenditures and the number of dwelling units which are expected to be weatherized each month during the program year;

(2) An estimate of the number of dwelling units expected to be weatherized during the program year by category to include:

(i) Single family and multi family residences;

(ii) Elderly persons residences;

(iii) Handicapped persons residences;

(iv) Renters residences; and

(v) If Native Americans do not receive direct grants under § 440.11, Native American residences.

(3) The climatic conditions within the State;

(4) The type of weatherization work to be done;

(5) An estimate of the amount of energy to be conserved;

(6) An estimate of the number of eligible dwelling units in which the elderly reside;

(7) An estimate of the number of eligible dwelling units in which the handicapped reside;

(8) Each area to be served by a weatherization project within the State, and shall include for each area:

(i) The tentative allocation;

(ii) The number of dwelling units expected to be weatherized during the program year;

(iii) The estimated number of rental dwelling units to be weatherized; and

(iv) Sources of labor.

(9) The manner in which the State plan is to be implemented, and shall include:

(i) An analysis of the existence and effectiveness of any weatherization project being carried out by a subgrantee;

(ii) An explanation of the method used to select each area to be served by a weatherization project;

(iii) The extent to which priority will be given to the weatherization of single-family or other high energy consuming dwelling units;

(iv) The amount of non-Federal resources to be applied to the program;

(v) The amount of Federal resources, other than DOE weatherization grant funds, to be applied to the program;

(vi) The amount of weatherization grant funds tentatively allocated to the State under this part;

(vii) The expected average cost per dwelling to be weatherized, taking into account the total number of dwellings to be weatherized and the total amount of funds, Federal and non-Federal, expected to be applied to the program;

(viii) The maximum amount to be applied to any dwelling unit from DOE funds;

(ix) The amount to be spent per dwelling unit for program support and

labor in accordance with § 440.18(a)(1)(ii); and

(x) Procedures for determining the most cost-effective measures in a dwelling unit or a statement that Project Retro-Tech will be used.

(Approved by the Office of Management and Budget under Control Number 1904–0047)

§ 440.15 Subgrantees.

(a) The grantee shall ensure that:

(1) Each subgrantee is a CAA or other public or nonprofit entity;

(2) Each subgrantee is selected on the basis of public comment received during a public hearing conducted pursuant to § 440.14(a) and other appropriate findings regarding:

(i) The subgrantee's experience and performance in weatherization or housing renovation activities;

(ii) The subgrantee's experience in assisting low-income persons in the area to be served; and

(iii) The subgrantee's capacity to undertake a timely and effective weatherization program.

(3) In selecting a subgrantee, preference is given to any CAA or other public or nonprofit entity which has, or is currently administering, an effective program under this part or under Title II of the Economic Opportunity Act of 1964, with program effectiveness evaluated by consideration of factors including, but not necessarily limited to, the following:

(i) The extent to which the past or current program achieved or is achieving weatherization goals in a timely fashion;

(ii) The quality of work performed by the subgrantee;

(iii) The number, qualifications, and experience of the staff members of the subgrantee; and

(iv) The ability of the subgrantee to secure volunteers, training participants, and public service employment workers pursuant to JTPA.

(b) The grantee shall ensure that the funds received under this part will be allocated to the entities selected in accordance with paragraph (a) of this section, such that funds will be allocated to areas on the basis of the relative need for a weatherization project by low-income persons.

(c) If DOE finds that a subgrantee selected to undertake weatherization activities under this part has failed to comply substantially with the provisions of the Act or this part and should be replaced, such finding shall be treated as a finding under § 440.30(d) for purposes of § 440.30.

(d) Any new or additional subgrantee shall be selected at a hearing in accordance with § 440.14(a) and upon the basis of the criteria in paragraph (a) of this section.

§ 440.16 Minimum program requirements.

Prior to the expenditure of any grant funds each grantee shall develop, publish, and implement procedures to ensure that:

(a) No dwelling unit may be weatherized without documentation that the dwelling unit is an eligible dwelling unit as provided in § 440.22;

(b) Priority is given to identifying and providing weatherization assistance to elderly and handicapped low-income persons, and such priority as the applicant determines is appropriate is given to single-family or other high-energy-consuming dwelling units;

(c) Financial assistance provided under this part will be used to supplement, and not supplant, State or local funds, and, to the maximum extent practicable as determined by DOE, to increase the amounts of these funds that would be made available in the absence of Federal funds provided under this part;

(d) To the maximum extent practicable, the grantee will secure the services of volunteers, training participants and public service employment workers, pursuant to JTPA, to work under the supervision of qualified supervisors and foremen;

(e) To the maximum extent practicable, the use of weatherization assistance shall be coordinated with other Federal, State, local, or privately funded programs in order to improve energy efficiency and to conserve energy;

(f) The low-income members of an Indian tribe shall receive benefits equivalent to the assistance provided to other low-income persons within a State unless the grantee has made the recommendation provided in § 440.12(b)(5); and

(g) No dwelling unit may be reported to DOE as completed until the subgrantee, or its authorized representative, has performed a final inspection and certified that applicable work has been completed in a workmanlike manner and in accordance with the priority determined by the audit procedures required by § 440.21(b).

(Approved by the Office of Management and Budget under Control Number 1904–0047).

§ 440.17 Policy Advisory Council.

(a) Prior to the expenditure of any grant funds, a State policy advisory council shall be established by a State or by the Operations Office Manager if a State does not participate in the program which:

(1) Has special qualifications and sensitivity with respect to solving the problems of low-income persons, including the weatherization and energy conservation problems of these persons;

(2) Is broadly representative of organizations and agencies, including consumer groups that represent low-income persons, particularly elderly and handicapped low-income persons and low-income Native Americans, in the State or geographical area in question; and

(3) Has responsibility for advising the appropriate official or agency administering the allocation of financial assistance in the State or area with respect to the development and implementation of a weatherization assistance program.

§ 440.18 Allowable expenditures.

(a) To the maximum extent practicable, the grant funds provided under this part shall be used for the purchase of weatherization materials and related matter described in paragraph (a)(1) of this section. Allowable expenditures under this part include only:

(1) A maximum of $1,000 for any dwelling unit, except as provided in paragraph (d) of this section and § 440.19(b), for:

(i) The cost of purchase and delivery of weatherization materials;

(ii) The amount per dwelling unit, determined by a grantee and approved by the Operations Office Manager for the cost of program support and labor consisting of:

(A) Transportation of weatherization materials, tools, equipment, and work crews to a storage site and to the site of weatherization work;

(B) Maintenance, operation, and insurance of vehicles used to transport weatherization materials;

(C) Maintenance of tools and equipment;

(D) Purchase or annual lease of tools, equipment, and vehicles, except that any purchase of vehicles shall be referred to DOE for prior approval in every instance;

(E) Employment of on-site supervisory personnel;

(F) Labor costs, in accordance with § 440.19; and

(G) Storage of weatherization materials, tools and equipment.

(iii) The cost, not to exceed $150 per dwelling unit, of incidental repairs.

(2) The cost of liability insurance for weatherization projects for personal injury and for property damage;

(3) Allowable administration expenses under paragraph (b) of this section; and

(4) The cost of carrying out low-cost/no-cost weatherization activities in accordance with § 440.20.

(b) Not more than 10 percent of any grant made to a State may be used by the grantee and subgrantees for administrative purposes in carrying out duties under this part, except that not more than 5 percent may be used by the State for such purposes.

(c) No grant funds awarded under this part shall be used for any of the following purposes:

(1) To install or otherwise provide weatherization materials for a dwelling unit weatherized previously with grant funds under paragraph (a)(1) of this section, except as provided under § 440.20, unless such dwelling unit has been damaged by fire, flood, or act of God and repair of the damage to weatherization materials is not paid for by insurance or

(2) To weatherize a dwelling unit which is designated for acquisition or clearance by a Federal, State, or local program within twelve months from the date weatherization of the dwelling unit would be scheduled to be completed.

(d) The limitation of $1,000 described in paragraph (a) of this section:

(1) Shall not apply if the State policy advisory council requests a greater amount be provided for specific categories of units or materials in the State and the Operations Office Manager approves the request and

(2) Shall be deemed to have been requested and approved under section 415(c)(2) of the Act, unless the State policy advisory council notifies the Operations Office Manager to the contrary in writing within 30 days of submission of the annual State application.

§ 440.19 Labor.

(a) Payments for labor costs under § 440.18(a)(1)(ii)(F) shall consist of:

(1) Payments permitted by the Department of Labor to supplement wages paid to training participants and public service employment workers pursuant to JTPA and

(2) Payments to employ labor (particularly persons eligible for training under JTPA) or to engage a contractor (particularly a nonprofit organization or a business owned by disadvantaged individuals which performs weatherization services), to install weatherization materials provided a grantee has determined an adequate number of volunteers, training participants, and public service employment workers, assisted pursuant to JTPA, are not available to weatherize dwelling units for a subgrantee under the supervision of qualified supervisors.

(b) The Operations Office Manager may increase the limitation of $1,000 per dwelling unit described in § 440.18(a) to not more than $1,600 per dwelling unit to cover costs referred to in paragraph (a) of this section in an area where the Operations Office Manager, based upon satisfactory documentation, determines that there are an insufficient number of volunteers, training participants, and public service employment workers, assisted pursuant to JTPA, available to weatherize dwelling units for a subgrantee under the supervision of qualified supervisors.

§ 440.20 Low-cost/no-cost weatherization activities.

(a) An eligible dwelling unit may be weatherized without regard to the limitations contained in § 440.18(c)(1) or § 440.21(b) from funds designated by the grantee for carrying out low-cost/no-cost weatherization activities provided:

(1) Inexpensive weatherization materials are used, such as water flow controllers, furnace or cooling filters, or items which are primarily directed toward reducing infiltration, including weatherstripping, caulking, glass patching, and insulation for plugging and

(2) No labor paid with funds provided under this part is used to install weatherization materials referred to in paragraph (a)(1) of this section.

(b) A maximum of 10 percent of the amount allocated to a subgrantee, not to exceed $50 in materials costs per dwelling unit, may be expended to carry out low-cost/no-cost weatherization activities, unless the Operations Office Manager approves a higher expenditure per dwelling unit.

§ 440.21 Standards and techniques for weatherization.

(a) Only weatherization materials which meet or exceed standards prescribed in Appendix A to this part shall be purchased with funds provided under this part.

(b) The most cost-effective weatherization materials for each dwelling unit shall be determined by audit procedures using the following formula:

(1) The cost of fuel saved per year by installing a weatherization material in a dwelling unit;

(2) Multiplied by the appropriate lifetime of the weatherization material; and

(3) Divided by the cost of the weatherization material and the cost of the installation of the weatherization material.

(c) The computation of the cost of fuel saved per year must take into account the number of heating or cooling degree days in the area for which the computation is being made and must otherwise use reasonable methods and assumptions.

(d) The figures used for the lifetime of the materials and for the costs of materials and cost of the installation of the materials must be generally accepted in the relevant trade.

(e) The weatherization materials which shall be installed first are those:

(1) Which are determined using the formula in paragraph (b) of this section to be the most cost-effective and

(2) Whose costs are within the allowable cost limits prescribed in § 440.18 or approved by the Operations Office Manager under § 440.18(d)(1) or 440.19(b).

(f) The audit procedures used in Project Retro-Tech to determine the most cost-effective weatherization materials comply with this section. The grantee or subgrantee may use other audit procedures to determine the most cost-effective weatherization materials, provided that these procedures comply with this section and are approved by the Operations Office Manager prior to their use. A grantee or subgrantee may use results obtained from audits conducted under the Residential Conservation Service Program as part of the audit procedures which have been approved by the Operations Office Manager.

§ 440.22 Eligible Dwelling Units

(a) A dwelling unit shall be eligible for weatherization assistance under this part if it is occupied by a family unit:

(1) Whose income is at or below 125 percent of the poverty level determined in accordance with criteria established by the Director of the Office of Management and Budget; or

(2) Which contains a member who has received cash assistance payments under Title IV or XVI of the Social Security Act or applicable State or local law during the twelve-month period preceding the determination of eligibility for weatherization assistance.

(b) A subgrantee may weatherize a building containing rental dwelling units using financial assistance for dwelling units eligible for weatherization assistance under paragraph (a) of this section, where:

(1) The subgrantee has obtained the written permission of the owner or his agent:

(2) Not less than 66 percent (50 percent for duplexes and four-unit

buildings) of the dwelling units in the building:

(i) Are eligible dwelling units, or

(ii) Will become eligible dwelling units within 180 days under a Federal, State or local government program for rehabilitating the building or making similar improvements to the building; and

(3) The grantee has established procedures approved by the Operations Office Manager to insure that:

(i) Rents shall not be raised because of the increased value of dwelling units due solely to weatherization assistance provided under this part and

(ii) No undue or excessive enhancement shall occur to the value of the dwelling units.

§ 440.23 Oversight, training, and technical assistance.

(a) The Secretary and the appropriate Operations Office Manager, in coordination with the Secretary of Health and Human Services, shall monitor and evaluate the operation of projects carried out by CAA's receiving financial assistance under this part through on-site inspections, or through other means, in order to ensure the effective provision of weatherization assistance for the dwelling units of low-income persons.

(b) DOE shall also carry out periodic evaluations of a program and weatherization projects that are not carried out by a CAA and that are receiving financial assistance under this part.

(c) The Secretary and the appropriate Operations Office Manager, the Comptroller General of the United States, and for a weatherization project carried out by a CAA, the Secretary of Health and Human Services or any of their duly authorized representatives, shall have access to any books, documents, papers, information, and records of any weatherization project receiving financial assistance under the Act for the purpose of audit and examination.

(d) Each grantee shall ensure that audits by or on behalf of subgrantees are conducted with reasonable frequency, on a continuing basis, or at scheduled intervals, usually annually, but not less frequently than every two years, in accordance with OMB Circular A-102, Attachment P, and OMB Circular 110, Attachment F, as applicable.

(e) The Secretary may reserve from the funds appropriated for any fiscal year an amount not to exceed 10 percent to provide, directly or indirectly, training and technical assistance to any grantee or subgrantee. Such training and technical assistance may include providing information concerning conservation practices to occupants of eligible dwelling units.

§ 440.24 Recordkeeping.

Each grantee or subgrantee receiving Federal financial assistance under this part shall keep such records as DOE shall require, including records which fully disclose the amount and disposition by each grantee and subgrantee of the funds received, the total cost of a weatherization project or the total expenditure to implement the State plan for which assistance was given or used, the source and amount of funds for such project or program not supplied by DOE, and such other records as DOE deems necessary for an effective audit and performance evaluation. Such recordkeeping shall be in accordance with the DOE Financial Assistance Rule, 10 CFR Part 600 and any further requirements of this regulation.

(Approved by the Office of Management and Budget under Control Number 1904-0047)

§ 440.25 Reports.

DOE may require any recipient of financial assistance under this part to provide, in such form as may be prescribed, such reports or answers in writing to specific questions, surveys, or questionnaires as DOE determines to be necessary to carry out its responsibilities or the responsibilities of the Secretary of Health and Human Services under this part.

(Approved by the Office of Management and Budget under Control Number 1901-0127)

§ 440.30 Administrative review.

(a) If a timely application submitted by a State fails to meet the requirements of this part and the Operations Office Manager intends to deny the application, the Operations Office Manager shall return the application to the State together with a written statement of reasons for the denial.

(b) The State will have a reasonable period, as determined by the Operations Office Manager, to amend its application and to resubmit it by a specified date for reconsideration.

(c) The Operations Office Manager shall give notice to the applicant in the event that the Operations Office Manager determines that:

(1) Any application resubmitted by a State in accordance with paragraph (b) of this section fails to comply with this regulation;

(2) Any application returned to a State pursuant to paragraph (a) of this section is not resubmitted in a timely manner as provided in paragraph (b) of this section; or

(3) The Operations Office Manager intends to deny the application of a local applicant.

(d) The Operations Office Manager shall give notice to a grantee in the event that the Operations Office Manager finds there is a failure by the grantee to comply substantially with the provisions of the Act or this part.

(e) The Operations Office Manager shall issue such notice in the form of written notice mailed by registered mail, return receipt requested, to the State, local applicant grantee, and other interested parties, including:

(1) A statement of reasons for a determination referred to in paragraph (c) or (d) of this section which the Operations Office Manager intends to make, including an explanation whether any amendments or other actions would result in compliance with the regulation;

(2) The date, place, and time of the public hearing to be held by the Operations Office Manager, one subject of which shall be the proposed determination, which hearing shall in no event be later than 15 working days after the receipt of such notice; and

(3) The manner in which views may be presented.

(f) A party which has received notice under paragraph (e) of this section:

(1) May make a written submission of its views with supporting data and arguments to the Operations Office Manager on or prior to the date of the public hearing; and

(2) Shall be afforded an opportunity to make an oral presentation at the public hearing.

(g) The Operations Office Manager shall consider all relevant views and data, including arguments and other submissions made at the public hearing. The Operations Office Manager shall make, a final determination in writing, stating the reasons for the determination no later than five working days after the public hearing.

(h) A State or local applicant or grantee may appeal in writing from an adverse final determination made by the Operations Office Manager under paragraph (g) of this section to the Secretary not later than 10 working days after receipt of the Operations Office Manager determination. The Secretary shall have 21 working days to consider the appeal and take any action with respect thereto which he deems appropriate. Any action taken by the Secretary shall be the final determination of DOE. If no action has been taken by the Secretary after the expiration of the 21 working day period, the Secretary shall be deemed to have approved the determination of the

Operations Office Manager. The Secretary may delegate his authority under this section.

(i) Notwithstanding anything herein, the public hearing referred to in paragraph (e)(2) of this section may be combined, with any other public hearing in the State conducted pursuant to this part at the discretion of the Operations Office Manager.

(j) Upon issuance of the notice provided in paragraph (d) of this section, the Operations Office Manager may take any or all of the actions specified in 10 CFR 600.121(b). If the Operations Office Manager makes a final determination of failure to comply, the grantee will be ineligible to participate in the program under this part unless and until the Operations Office Manager is satisfied that there is no longer a failure to comply.

Appendix A—Standards for Weatherization Materials

The following Government standards are produced by the Consumer Products Safety Commission and are published in Title 16, Code of Federal Regulations.

Thermal Insulating Materials for Building Elements Including Walls, Floors, Ceilings, Attics and Roofs Insulation—organic fiber—conformance to Interim Safety Standard 16 CFR Part 1209

Fire Safety Requirements for Thermal Insulating Materials According to Insulation Use—Attic Floor—insulation materials intended for exposed use in attic floors shall be capable of meeting the same flammability requirements given for cellulose insulation in 16 CFR Part 1209

Enclosed spaces—insulation materials intended for use within enclosed stud or joist spaces shall be capable of meeting the smoldering combustion requirements in 16 CFR Part 1209

The following standards which are not otherwise set forth in Part 440 are incorporated by reference and made a part of Part 440. The following standards have been approved for incorporation by reference by the Director of the Federal Register. These materials are incorporated as they exist on February 27 and a notice of any change in these materials will be published in the **Federal Register**. The standards incorporated by reference are available for inspection at the Office of the Federal Register Information Center, Room 8301, 1100 L Street, NW., Washington, D.C. 20408.

Materials incorporated by reference are also available from the following sources:

American Society for Testing and Materials, 1916 Race Street, Philadelphia, Pa. 19103

FS-Federal Specifications, General Services Administration, Specifications Section, Room 6039, 7th and D Streets, SW., Washington, D.C. 20407

American National Standards Institute, Inc., 1430 Broadway, New York, N.Y. 10018

Architectural Aluminum Manufacturers Association, 35 East Wacker Drive, Chicago, Ill. 60601

National Woodwork Manufacturers Association, 205 West Touhy Ave., Park Ridge, Ill. 60068

Fir and Hemlock Door Association, Yeon Building, Portland, Oregon 97204

Steel Door Institute, 712 Lakewood Center North, 14600 Detroit Ave., Cleveland, Ohio 44107

Steel Window Institute, 1230 Keith Building, Cleveland, Ohio 44115

National Electrical Manufacturers Association, 2101 L St., NW., Washington, D.C. 20037

American Society of Mechanical Engineers, United Engineering Center, 345 East 47th Street, New York, N.Y. 10017

American Gas Association, 1515 Wilson Boulevard, Arlington, Va. 22209

National Fire Protection Association, Batterymarch Park, Quincy, Mass. 02269

Air-Conditioning and Refrigeration Institute, 1501 Wilson Blvd., Arlington, Va. 22209

Sheet Metal and Air Conditioning Contractor's Association, 8224 Old Courthouse Road, Vienna, Va. 22180

Environmental Protection Agency, 401 M Street, NW., Washington, D.C. 20460

American Society of Heating, Refrigeration and Air-Conditioning Engineers, Inc., 2029 K Street, NW., Washington, D.C. 20006

Underwriters Laboratories, Inc., 333 Pfingsten Road, Northbrook, Ill. 60062

Office of Weatherization Assistance Program, Conservation and Renewable Energy, Department of Energy, Mail Stop 5G-023, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585

Thermal Insulating Materials for Building Elements Including Walls, Floors, Ceilings, Attics, and Roofs

	Standards
Insulation—mineral fiber:	
Blanket	Conformance to ASTM [1] C665-78.
Roof insulation	Conformance to ASTM C726-81.
Loose-fill	Conformance to ASTM C764-73 (1979)
Insulation—mineral cellular:	
Vermiculite loose-fill	Conformance to ASTM C516-80.
Perlite loose-fill	Conformance to ASTM C549-81.
Cellular glass block	Conformance to ASTM C552-79
Perlite board	Conformance to ASTM C728-82.
Insulation—organic fiber:	
Cellulosic fiber board	Conformance to ASTM C208-82.
Cellulose loose-fill	Conformance to Interim Safety Standard 16 CFR [2] Part 1209.
Insulation—organic cellular:	
Preformed block-type polystyrene.	Conformance to ASTM C578-83.
Rigid preformed urethane board.	Conformance to ASTM C591-69.
Polyurethane or polyisocyanurate board faced with aluminum foil.	Conformance to F.S. [3] HH-I-1972/1.
Polyurethane or polyisocyanurate board faced with felts.	Conformance to F.S. HH-I-1972/2.
Insulation—composite boards:	
Mineral fiber and rigid cellular polyurethane composite board.	Conformance to ASTM C726-81.
Perlite and rigid cellular polyurethane composite board.	Conformance to ASTM C728-82.
Gypsum board and polyurethane or polyisocyanurate composite board.	Conformance to F.S. HH-I-1972/4.
Materials used as a patch to reduce infiltration through the building envelope.	Commercial availability.

[1] ASTM indicates American Society for Testing and Materials.
[2] CFR indicates Code of Federal Regulations.
[3] F.S. indicates Federal Specification.

Thermal Insulating Materials for Pipes, Ducts, and Equipment Such as Boilers and Furnaces

	Standards
Insulation—mineral fiber:	
Preformed pipe	Conformance to ASTM [1] C547-77.
Blanket and felt (industrial type).	Conformance to ASTM C553-70 (1977)
Blanket insulation and blanket type pipe insulation (metal-mesh covered) (industrial type).	Conformance to ASTM C592-80.
Block and board	Conformance to ASTM C612-77.
Spray-applied fibrous for elevated temperature.	Conformance to ASTM C720-72 (1979).
High temperature fiber blanket.	Conformance to ASTM C892-78.
Duct work	Conformance to ASTM C971-82.
Insulation—mineral cellular:	
Diatomaceous earth block and pipe.	Conformance to ASTM C517-71 (1979).
Calcium silicate block and pipe.	Conformance to ASTM C533-80.
Cellular glass block and pipe.	Conformance to ASTM C552-79.
Expanded perlite block and pipe.	Conformance to ASTM C610-67 (1974).
Insulation—organic cellular:	
Preformed flexible elastomeric cellular in sheet and tubular form.	Conformance to ASTM C534-77.
Rigid preformed cellular urethane.	Conformance to ASTM C591-69.
Insulation—skirting	Commercially available.

[1] ASTM indicates American Society for Testing and Materials.

FIRE SAFETY REQUIREMENTS FOR THERMAL INSULATING MATERIALS ACCORDING TO INSULATION USE

	Standards
Attic floor	Insulation materials intended for exposed use in attic floors shall be capable of meeting the same flammability requirements given for cellulose insulation in 16 CFR [1] Part 1209.
Enclosed spaces	Insulation materials intended for use within enclosed stud or joist spaces shall be capable of meeting the smoldering combustion requirements in 16 CFR Part 1209.
Exposed interior walls and ceilings.	Insulation materials, including those with combustible facings, which remain exposed and serve as wall or ceiling interior finish shall have a flame spread classification not to exceed 150 (per ASTM [2] E84.
Exterior envelope walls and roofs.	Exterior envelope walls and roofs containing thermal insulations shall meet applicable building code requirements for the complete wall or roof assembly.

Fire Safety Requirements for Thermal Insulating Materials According to Insulation Use—Continued

	Standards
Pipes, ducts, and equipment	Insulation materials intended for use on pipes, ducts, and equipment shall be capable of meeting a flame spread classification not to exceed 150 (per ASTM E84).

[1] CFR indicates Code of Federal Regulations.
[2] ASTM indicates American Society for Testing and Materials.

Storm Windows

	Standards
Storm Windows:	
Aluminum Combination Unit.	Conformance to ANSI/AAMA [1] 1002.10–83.
Aluminum Frame	Conformance to Sections 1.2, 1.3, 1.4, and 1.6 of ANSI/AAMA 1002.10–83.
Wood Frame	Conformance to Section 3 of ANSI/NWMA [2] I.S. 2–80.
Rigid Vinyl Frame	Conformance to Sections 6.1 through 6.7; 6.12, and 6.13 of ASTM [3] D 4099–82.
Frameless Plastic Glazing	Required minimum thickness, 6 mil (0.006 inches).
Movable Insulation Systems for windows.	Commercial Availability.

[1] ANSI/AAMA indicates American National Standards Institute/Architectural Aluminum Manufacturers Association.
[2] ANSI/NWMA indicates American National Standards Institute/National Woodwork Manufacturers Association.
[3] ASTM indicates American Society for Testing and Materials.

Storm Doors

	Standards
Storm Doors:	
Aluminum:	
—Frame	Conformance to ANSI/AAMA [1] 1102.7–1977.
—Sliding	Conformance to ANSI/AAMA 1002.10–83.
Wood:	
—Pine	Conformance to Section 3 of ANSI/NWMA [2] I.S. 5–83.
—Fir, Hemlock, Spruce	Conformance to Section 3 of FHDA [3] /7–79.
Rigid Vinyl	Conformance to ASTM [4] D 3678–81.
Vestibule:	
Materials to construct vestibules.	Commercially available.

[1] ANSI/AAMA indicates American Standards Institute/Architectural Aluminum Manufacturers Association.
[2] ANSI/NWMA indicates American National Standards Institute/National Woodwork Manufacturers Association.
[3] FHDA indicates Fir and Hemlock Door Associations.
[4] ASTM indicates American Society for Testing and Materials.

Replacement Windows

	Standards
Replacement Windows:	
Aluminum frame	Conformance to ANSI/AAMA [1] 302.9–1977.
Steel frame	Conformance to Steel Window Institute Recommended Specifications for steel windows 1953.
Wood frame	Conformance to ANSI/NWMA [2] I.S.2–80.
Rigid vinyl frame	Conformance to ASTM [3] D 4099–82.

[1] ANSI/AAMA indicates American National Standards Institute/Architectural Aluminum Manufacturers Association.
[2] ANSI/NWMA indicates American National Standards Institute/National Woodwork Manufacturers Association.
[3] ASTM indicates American Society for Testing and Materials.

Replacement Doors

	Standards
Replacement Doors:	
Hinged Doors:	
—Steel	Conformance to SDI [1] 100–81.
—Wood	
Flush	Conformance to exterior door provisions of ANSI/NWMA [2] 1–80 Series.
Pine	Conformance to ANSI/NWMA I.S. 5–83.
Fir, hemlock, spruce	Conformance to FHDA [3] /7–79.
Sliding Patio Doors:	
—Aluminum	Conformance to ANSI/AAMA [4] 402.9–1977.
—Wood	Conformance to ANSI/NWMA I.S. 3–70.

[1] SDI indicates Steel Door Institute.
[2] ANSI/NWMA indicates American National Standards Institute/National Woodworkers Manufacturers Association.
[3] FHDA indicates Fir and Hemlock Door Association.
[4] If multiple glazing is used, sealed insulating glass units are preferred and should conform to ASTM E 774–81, "Standard Specifications for Sealed Insulating Glass Units."

Caulks and Sealants

	Standards
Caulks and Sealants:	
Putty	Conformance to F.S. [1] TT–P–00791B.
Glazing Compound	Conformance to ASTM [2] C669–75 (1981).
Oil and Resin Base	Conformance to ASTM C570–72 (1978).
Acrylic (Solvent Type)	Conformance to F.S. TT–S–00230C.
Butyl Rubber	Conformance to F.S. TT–S–001657.
Chlorosulfonated Polyethylene.	Conformance to F.S. TT–S–00230C.
Latex Sealing Compounds	Conformance to ASTM C834–76 (1981).
Elastomeric Joint Sealants (normally considered to include polysulfide, polyurethane, and silicone).	Conformance to ASTM C920–79.
Preformed Gasket and Sealing Materials.	Conformance to ASTM C509–79.

[1] F.S. indicates Federal Specification.
[2] ASTM indicates American Society for Testing and Materials.

Weatherstripping

	Standards
Weatherstripping	Commercial availability.

Vapor Barriers

	Standards
Vapor Barrier	Selected according to the provisions cited in ASTM [1] C755–73 (1979); permeance not greater than 1 perm when determined according to the desiccant method described in ASTM E96–80.
Items to improve Attic ventilation.	Commercially available.

[1] ASTM indicates American Society for Testing and Materials.

Clock Thermostats

	Standards
Clock Thermostats	Conformance to NEMA [1] DC 3–1978 or NEMA DC 15–1979 and performance test requirements. [2]

[1] NEMA indicates National Electrical Manufacturers Association.
[2] The performance tests requirements are: (1) the operating differential should not exceed 2°F, and (2) the effective operating droops should not exceed 4°F when determined according the applicable procedures in DC 3–1978 or DC 15–1979.

Heat Exchangers

	Standards
Heat Exchangers	ASME [1] Pressure Code provisions, as applicable to pressure levels. Standards of Tubular Exchanger Manufacturers Association (last edition with 1983 Addenda, TEMA).
With Gas Fired Appliances*	AGA [2] Requirement 70–1 for Gas Fueled Equipment. ANSI Z–21. AGA Laboratories Certification Seal.

*The heat reclaimer is for installation in a section of the vent connector from appliances equipped with draft hoods or appliances equipped with powered burners or induced draft and not equipped with a draft hood.
[1] ASME indicates American Society of Mechanical Engineers.
[2] AGA indicates American Gas Association.

Hot Water Heat Pumps

	Standards
Heat Pump Water Heaters	Listed by Underwriters Laboratories (UL) Standard for Electric Water Heaters Under Development Efficiency Certification per Gas Appliance Manufacturers Association (GAMA) or Air Conditioning and Refrigeration Institute (ARI).

Thermostat Control Systems

	Standards
Automatic Set Back Thermostats.	Listed by Underwriters Laboratories (U.L.). Conformance to NEMA DC 15–1979.
Line Voltage or Low Voltage Room Thermostats.	NEMA DC 3–1978.
Automatic Gas Ignition Systems.	Conformance to ANSI Z21.21. AGA Laboratories Certification Seal.
Energy Management Systems.	Listed by Underwriters Laboratories (U.L.). Commercial Availability.
Hydronic Boiler Control	Commercial Availability.
Microcomputer Burner Control.	Commercial Availability.

Water Heater Modifications

	Standards
Insulate Tank and Distributing Piping.	(See Insulation Standards).
Install Heat Traps on Inlet and Outlet Piping.	Applicable local plumbing code.
Hot Water Pipe Heater Strips	Listed by Underwriters Laboratories (U.L.).
Reduce Thermostat Settings	State or Local Recommendations.

WATER HEATER MODIFICATIONS—Continued

	Standards
Install Stack, Damper, Gas Fueled.	ANSI Z21.66–1978. ANSI Z21.67, including Addendas A and B. ANSI Z223.1–1980.
Install Stack, Damper, Oil Fueled.	UL–17 NFPA [1] 31–1983.
Water flow modifiers	Commercially available.

[1] NFPA indicates National Fire Protection Association.

WASTE HEAT RECOVERY DEVICES

	Standards
Desuperheater/Water Heaters.	Conformance to ARI [1] 470–80. Conformance to ARI 1060–80.
Condensing Heat Exchangers.	Commercially available components and in new heating furnace systems to manufacturers specifications.
Condensing Heat Exchangers (Commercial, Multi-Story Building Institutional).	Commercially available with teflon lined tubes to manufacturer specifications.
Energy Recovery Equipment	Energy recovery equipment and systems Air-to-Air (1978) Sheet Metal and Air Conditioning Contractor's National Association (SMACNA).

[1] ARI indicates Air-Conditioning and Refrigeration Institute.

BOILER REPAIR AND MODIFICATIONS/ EFFICIENCY IMPROVEMENTS

	Standards
Installation of Gas Conversion Power Burners (for Gas or Oil Fired Systems).	In conformance with, or latest, ANSI Z21.8a, ANSI Z21.17 and Installation ANSI Z223.1–1980. AGA Laboratories Certification Seal.
Replacement Oil Burner	ANSI Z96.2 (UL 296). ANSI Z91.2. NFPA 31–1983.
Power Burners (Oil/Gas)	Conformance to ANSI Z223.1, National Fuel Gas Code; ANSI Z83.1 Gas Installations; NFPA 31 Oil Equipment.
Furnaces, Oil	Installation of oil burning equipment, NFPA 31–1976.

BOILER REPAIR AND MODIFICATIONS/ EFFICIENCY IMPROVEMENTS—Continued

	Standards
Furnaces, Gas	Gas fired central furnaces, ANSI Z21.47–1978.
Re-Adjustment Boiler Water Temperature or Installation of Automatic Boiler Temperature Reset Control.	ANSI/ASME CSD.1–1982, applicable section of ANSI Z223.1–1980 and NFPA 31–1983.
Boilers	Boiler and pressure vessel code (eleven sections) ASME 1980 or latest Testing and Ratings Hydronics Institute (HYDI).
Clean Heat Exchangers, Adjust Burner Air Shutter(s), Check Smoke No. on Oil Fueled Equipment. Check Operation of Pump(s) and Replace Filters.	Per manufacturer's instructions.
Combustion Chambers	Refractory linings may be required for conversions.
Heat Exchangers, Tubes	Protection from flame contact with conversion burners by refractory shield.
Thermostatic Radiator Valves	Commercially available. One pipe steam systems require steam air vents on each radiator, see manufacturer requirements.
Boiler Duty Cycle Control System.	Commercially available. National Electrical Code (NEC) and local electrical codes provisions for wiring.

HEATING AND COOLING SYSTEM REPAIRS AND TUNE-UPS/EFFICIENCY IMPROVEMENTS

	Standards
Duct Insulation	Conformance to FS HH–I–558B (See Insulation Section).
Reduced Input of Burner, Derating Gas Fueled [1].	In Conformance with Local Utility Company Procedures if applicable for gas fueled furnaces and Appendix H of NFPA 54 ANSI Z223.1.
Oil-Fired	Conformance to NFPA 31–1983, Standard for the Installation of Oil Burning Equipment.
Replacement Combustion Chamber, in Oil-Fired Furance, Boiler.	Conformance to NFPA 31–1983.

HEATING AND COOLING SYSTEM REPAIRS AND TUNE-UPS/EFFICIENCY IMPROVEMENTS—Continued

	Standards
Clean Heat Exchanger and Adjust. Burner: Adjust air shutter and check CO_2 and stack temperature—clean or replace air filter on forced air furnace.	See ANSI Z223.1, Appendix H.
Gas Fueled Heating Systems, Vent Dampers.	Conformance with applicable sections, National Fuel Gas Code including Appendices H, I, J and K. ANSI Z21.66–1977 and addenda A and B for Electrically Operated Dampers. ANSI Z21.66–1978 and Appendices A and B for Thermally Activated Vent Dampers. ANSI Z21.67–1978 and Appendices A and B for mechanically actuated vent dampers.
Oil Fueled Systems, Vent Dampers.	Conformance with applicable sections of NFPA 31–1983 for installation and in conformance with UL 17.
Reduce Excess Dilution Air: (a) Reduction of Vent Connector Size of Gas Fueled Appliances. (b) Adjustments of Barometric Draft Regulator for Oil Fuels.	See Part 9 of ANSI Z223.1–1980 and Appendix G and H. NFPA 31–1980 for Air Fueled and per manufacturers' (furnace or burner) instructions.
Replacement of constant burning pilot with electric ignition device on gas fueled furnaces or boilers.	ANSI Z21.71–1981.
Readjustment of Fan Switch on Forced Air Gas or Oil Fueled Furnaces [2].	In conformance with applicable sections; ANSI Z223.1–1980. Appendix H for Gas Furnaces and NFPA 31–1983 for Oil Furnaces.
Burners—See power burners, gas oil:	
Duct Furnaces (Gas)	ANSI Z223.1–1980, National Fuel Gas Code.
Heat Pumps	Listed by Underwriters Laboratories (U.L.).
Air Diffusing Equipment	Commercially Available.
Outlets, Inlets, Air Flow	Do.
Warm Air Heating Metal Ducts.	Do.
Air Ducts and Connectors	Factory made air ducts and connectors (1981), UL 181.

[1] This may be prohibited by local jurisdiction—it may also void the manufacturers warranty. The National Fuel Gas Code does not specifically endorse this.
[2] Applies also to forced air systems category.

[FR Doc. 84–1821 Filed 1–26–84; 8:45 am]
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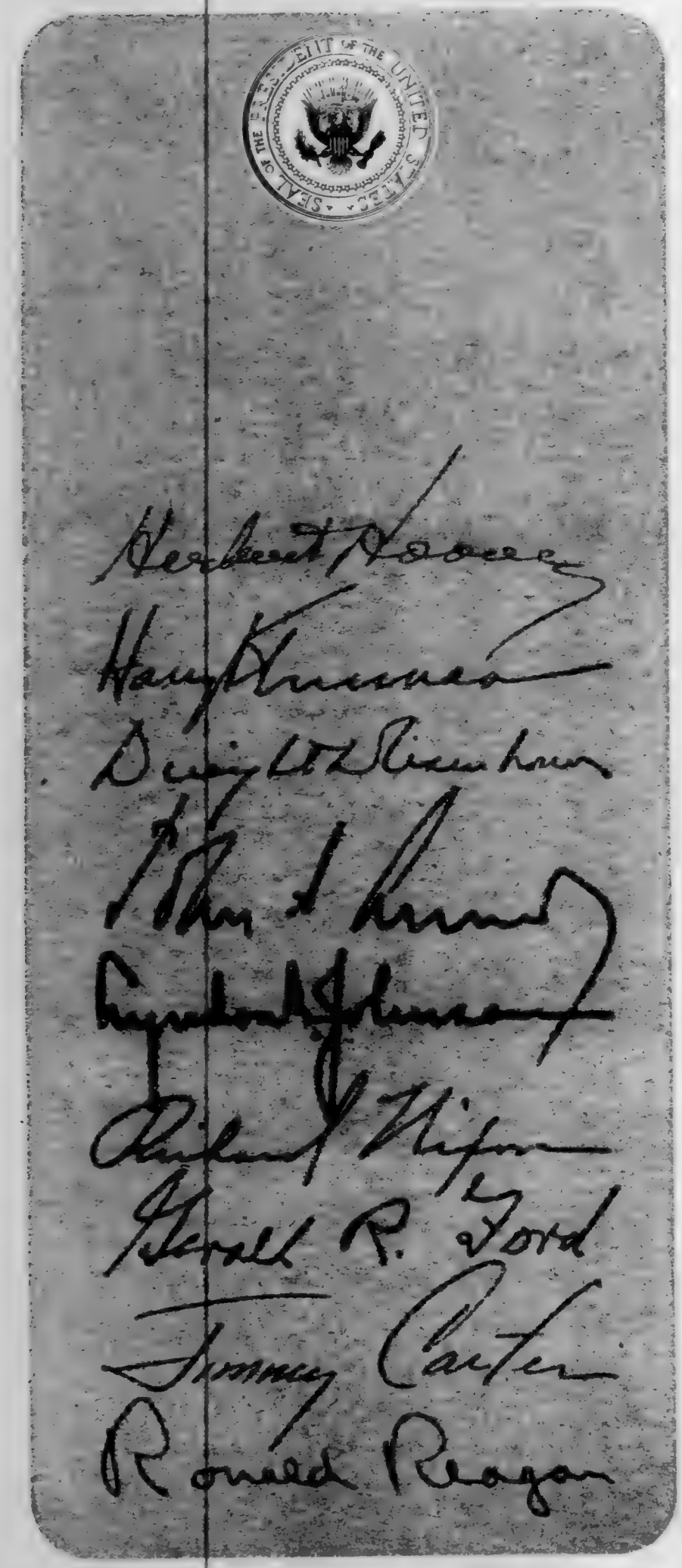

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federal register

Monday
January 30, 1984

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Federal Register
Vol. 49, No. 20
Monday, January 30, 1984

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The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 101

Federally Licensed Cotton Warehouses; Fees for Services

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This rule specifies increases to the fees and charges to be paid by cotton warehouses licensed under provisions of the United States Warehouse Act, as amended, which traditionally have been paid by such warehousemen. Increases are in keeping with the mandate of the Omnibus Budget Reconciliation Act of 1981 (Pub. L. 97–35) and the amendment to the U.S. Warehouse Act (7 U.S.C. 241, *et seq.*). This increase in fees will bring charges for the same services at cotton warehouses to the same level charged for other agricultural commodities eligible for license under the Warehouse Act.

EFFECTIVE DATE: February 29, 1984.

FOR FURTHER INFORMATION CONTACT: Dr. Orval Kerchner, 202–447–3616.

SUPPLEMENTARY INFORMATION: This action has been reviewed under the USDA procedure established in accordance with Executive Order 12291 and Secretary's Memorandum 1512–1 and has been classified "non-major" because the proposal does not meet the criteria contained therein for major regulatory actions.

William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this action will not have a significant economic impact on a substantial number of small entities because: (i) The amount of the new fees are the minimal amount necessary, and as nearly as practicable cover costs; and the amount of the fee increase is too small to have a significant economic impact; (ii) further, if there is any impact, the Secretary has to recover the costs of the services from the users of the services; and (iii) the use of the services is voluntary.

A proposed rule published in the August 18, 1983, **Federal Register**, 48 FR 37417, proposed fees for annual cotton warehouse licenses issued to warehousemen and a fee increase in the existing fees charged for: (1) Licensing persons to classify, sample, or weigh cotton; and (2) original examinations or inspections and/or reinspections of cotton warehouses when made upon application of a warehouseman.

The fee for licensing persons to classify, sample, or weigh cotton and the fees for original inspection and/or reinspection of a cotton warehouse when made upon application of a warehouseman are all increased. All of these fees are to cover, as nearly as practicable, the costs of providing such services or licenses, including administrative and supervisory costs. The proposed annual warehouse license fee is withdrawn.

The annual warehouse license fee was a new fee mandated by the Omnibus Budget Reconciliation Act of 1981, Pub. L. 97–35 and the amendment to the U.S. Warehouse Act (7 U.S.C. 241 *et seq.*) as a part thereof effective October 1, 1981. This fee was waived for fiscal years 1982 and 1983 when the Secretary in accordance with 156(d) of the Omnibus Budget Reconciliation Act determined that fees and charges to cotton warehouses licensed pursuant to the U.S. Warehouse Act should be waived to insure that the licensing and inspection procedures for cotton warehouses would be preserved. Funds were appropriated to pay for this service. Since the August 18, 1983, proposed rulemaking action was published, the necessary funds have been appropriated for fiscal year 1984. The proposal noted that if Congress did appropriate funds to pay for such services, the proposed fee schedule would be revised and appropriately modified. In view of the foregoing and in accordance with 156(d) of the Omnibus Budget Reconciliation Act the Secretary has determined that these fees and charges to cotton warehouses licensed pursuant to the U.S. Warehouse Act should be waived and not finalized. Therefore, this action omits the proposed charge for this service.

However, the increases in existing fees will be made as proposed. Specifically, the proposed increases; (1) In the existing fees charged for licensing persons to classify, sample, or weigh cotton; and (2) in fees for original inspection and/or reinspection of a cotton warehouse when made upon application of a warehouseman are implemented in this action. All of these fees are to cover, as nearly as practicable, the costs of providing such services or licenses including administrative and supervisory costs.

All of the comments received in response to the August 18, 1983, proposed rulemaking pertained to the annual warehouse fee. The majority of these comments opposed the assessment of this fee or the method used to compute it or both. The increased fees for licenses and inspection costs were not the subject of any letter of comment.

License Fees

The Warehouse Act provides that the Secretary may charge, assess, and cause to be collected a reasonable fee for each license issued to a warehouseman or to any person to classify, inspect, grade, sample, and/or weigh agricultural products stored or to be stored under provisions of the Warehouse Act. Accordingly, fees were always assessed pursuant to regulation (7 CFR 101.50) for each original warehouseman's license issued, for each amended or reinstated warehouseman's license issued and for each license issued to classify, sample, and/or weigh cotton.

The present fee for issuance of an original warehouseman's license is a modest one-time charge, and was intended to cover only the costs of issuance. The license is continued each year without a new license being issued but may be terminated any year should the warehouseman fail to furnish annually on or before the anniversary date such bond for the ensuing year as is required by the Act and regulations. The present fee has been in effect since 1952. Based upon present and projected costs, an increase from $20 to $50 is provided in this action for each original warehouseman's license, an increase from $10 to $50 for each amended or reinstated license and an increase from

$6 to $20 for each license, or amendment, issued to a sampler, classifier, and/or weigher. The changes reflect increases in several cost factors, including salaries, rent, and miscellaneous overhead, and include applicable administrative and supervisory costs. Such fees will increase the charges to the same level charged for other agricultural commodities eligible for license under the Warehouse Act.

Inspection of a Warehouse

The Warehouse Act provides that the Secretary may charge, assess, and cause to be collected a reasonable fee for every examination or inspection of a warehouse when such examination or inspection is made upon application of a warehouseman.

Accordingly, fees were assessed and collected pursuant to regulation (7 CFR 101.51) for each original inspection and/or reinspection when such inspection was made upon application of a warehouseman. This is a voluntary service in which the present fee for each original inspection or reinspection of a warehouse is based upon a flat $20, per 1,000 bales of cotton storage capacity of the warehouse with a $40 minimum and $500 maximum fee range. This fee has been in effect since 1969 and has not been increased since that time. Based upon present and projected costs, the fee is increased to $50 per 1,000 bales of cotton storage capacity with a $100 minimum to $1,000 maximum range. This increase reflects increases in several cost factors, including salaries, rent, miscellaneous overhead, and includes applicable administrative and supervisory costs.

Implementation of Fees

All of the fees specified in this final rule shall be assessed and collected as the service covered is performed.

Necessary, conforming amendments are made to §§ 101.52 and 101.53 to change the entity to which advance fee deposits are paid. The change is from the Treasurer of the United States to Agricultural Marketing Service, USDA to reflect the changes made by the Omnibus Budget Reconciliation Act of 1981. The amendment to § 101.53 was not included in the proposal but is included in this final action for the purpose of consistency. Furthermore, such changes merely reflect rules of agency, organization, procedure or practice under section 553 of the Administrative Procedures Act.

The rule contains no additional reporting or information collection requirements pursuant to Office of Management and Budget (OMB) regulations, 5 CFR Part 1320 Controlling Paperwork Burdens on the Public, which implements the Paperwork Reduction Act of 1980, Pub. L. 96–511. The additional reporting or information collection requirements contained in the proposed rule of August 18, 1983, were pertinent to the annual warehouse license fee. Because this fee will not be established, this rule does not contain these requirements.

List of Subjects in 7 CFR Part 101

Administrative practice and procedure, Cotton, Fees, Warehouses.

PART 101—COTTON WAREHOUSES

Therefore, 7 CFR Part 101—Cotton Warehouses is amended as follows:

1. Section 101.50 is revised as follows:

Fees

§ 101.50 License fees.

There shall be charged and collected a fee of $50 for each original warehouseman's license, and a fee of $50 for each amended, modified, extended, reinstated or duplicate warehouseman's license applied for by a warehouseman, and a fee of $20 for each license or amendment thereto issued to any person to classify, sample, or weigh agricultural products stored or to be stored under provisions of this act.

2. Section 101.51 is revised as follows:

§ 101.51 Warehouse inspection fee.

There shall be charged and collected for each original examination or inspection, or reexamination or reinspection of a warehouse under the Act a fee at the rate of $50 for each 1,000 bales of storage capacity, or fraction thereof, determined in accordance with § 101.5, but in no case less than $100 nor more than $1,000.

3. Section 101.52 is revised as follows:

§ 101.52 Advance deposit.

Before any license is granted, or an original examination or inspection is made, or reexamination or reinspection for modification of an existing license is made, pursuant to the regulation in this part, the applicant or licensee shall deposit with the service the amount of the fee prescribed. Such deposit shall be made in the form of a check, certified if required by the Service, draft, or post office or express money order, payable to the order of "Agricultural Marketing Service, USDA."

4. Section 101.53 is revised as follows:

§ 101.53 Return of excess deposit.

The Service shall hold in its custody each advance deposit made under § 101.52 until the fee, if any, is assessed. Any part of such advance deposit which is not required for the payment of any fee assessed shall be returned to the party depositing the same.

(Sec. 28, 39 Stat. 490; 7 U.S.C. 268)

Done at Washington, D.C., January 23, 1984.

William T. Manley,

Deputy Administrator, Marketing Program Operations.

[FR Doc. 84–2389 Filed 1–27–84; 8:45 am]

BILLING CODE 3410–02–M

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7 CFR Part 907

[Navel Orange Reg. 591; Navel Orange Reg. 590, Amdt. 1; Navel Orange Reg. 589, Amdt. 2]

Navel Oranges Grown in Arizona and Designated Part of California; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: Regulation 591 establishes the quantity of fresh California-Arizona navel oranges that may be shipped to market during the period February 3–9, 1984. Regulation 590, Amendment 1, increases the quantity of such oranges that may be shipped during the period January 27–February 2, 1984, and Regulation 589, Amendment 2, increases the quantity of such oranges that may be shipped during the period January 20–26, 1984. Such action is needed to provide for the orderly marketing of fresh navel oranges for the period specified due to the marketing situation confronting the orange industry.

DATES: This regulation 591 becomes effective February 3, 1984, and the amendments are effective for the periods January 27–February 2, 1984, and January 20–26, 1984.

FOR FURTHER INFORMATION CONTACT: William J. Doyle, 202–447–5975.

SUPPLEMENTARY INFORMATION: *Findings.* This rule has been reviewed under USDA procedures and Executive Order 12291 and has been designated a "non-major" rule. William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this action will not have a significant economic impact on a substantial number of small entities.

This regulation and amendments are issued under the marketing agreement, as amended, and Order No. 907, as amended (7 CFR Part 907), regulating the handling of navel oranges grown in Arizona and designated part of California. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as

amended (7 U.S.C. 601–674). The action is based upon the recommendation and information submitted by the Navel Orange Administrative Committee and upon other available information. It is hereby found that these actions will tend to effectuate the declared policy of the Act.

These actions are consistent with the marketing policy for 1983–84. The marketing policy was recommended by the committee following discussion at a public meeting on September 27, 1983. The committee met again publicly on January 24, 1984 at Bakersfield, California, to consider the current and prospective conditions of supply and demand and recommended a quantity of navel oranges deemed advisable to be handled during the specified week. The committee reports the demand for navel oranges is good.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation and amendment are based and the effective date necessary to effectuate the declared policy of the Act. Interested persons were given an opportunity to submit information on views on the regulation at an open meeting, and the amendment relieves restrictions on the handling of navel oranges. It is necessary to effectuate the declared purposes of the Act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

List of Subjects in 7 CFR Part 907

Marketing agreements and orders, California, Arizona, Oranges (Navel).

1. § 907.891 is added as follows:

§ 907.891 Navel Orange Regulation 591.

The quantities of navel oranges grown in California and Arizona which may be handled during the period February 3, 1984, through February 9, 1984, are established as follows:

(a) District 1: 1,500,000 cartons;
(b) District 2: Unlimited cartons;
(c) District 3: Unlimited cartons;
(d) District 4: Unlimited cartons.

2. § 907.890 Navel Orange Regulation 590 paragraphs (a) through (d) are hereby revised to read:

§ 907.890 Navel Orange Regulation 590.

(a) District 1: 1,650,000 cartons;
(b) District 2: Unlimited cartons;
(c) District 3: Unlimited cartons;
(d) District 4: Unlimited cartons.

3. § 907.889 Navel Orange Regulation 589 (49 FR 1980) paragraphs (a) through (d) are hereby revised to read:

§ 907.889 Navel Orange Regulation 589.

(a) District 1: 2,000,000 cartons;
(b) District 2: Unlimited cartons;
(c) District 3: Unlimited cartons;
(d) District 4: Unlimited cartons.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: January 25, 1984.

Russell L. Hawes,

Acting Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 84-2502 Filed 1-27-84; 8:45 am]

BILLING CODE 3410-02-M

Food Safety and Inspection Service

9 CFR Part 381

[Docket No. 80-084F]

Removal of Kidneys From Mature Chickens and Mature Turkeys

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: This is a final rule amending the Federal poultry products inspection regulations by requiring the removal of kidneys from mature chicken and mature turkey carcasses after the inspectors complete post-mortem inspection of the poultry viscera, but before completion of eviscerating operations, and to prohibit the use of such kidneys for human food. High concentrations of cadmium, a heavy metal injurious to human health, are found in these kidneys causing them to be adulterated under the Poultry Products Inspection Act. Prohibiting kidneys from mature chicken and mature turkey carcasses to be used for human food will prevent a substantial amount of cadmium from entering the American diet. Additionally, the Department is amending the definition of "Ready-to-cook poultry" to include the removal of kidneys from mature chickens and mature turkeys.

EFFECTIVE DATE: February 29, 1984.

FOR FURTHER INFORMATION CONTACT: Dr. John C. Prucha, Director, Slaughter Inspection Standards and Procedures Division, Meat and Poultry Inspection Technical Services, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250; (202) 447–3219.

SUPPLEMENTARY INFORMATION:

Executive Order 12291

The Department has determined in accordance with Executive Order 12291 that this final rule is not a "major rule." It will not result in an annual effect on the economy of $100 million or more. There will be no major increase in cost or prices for consumers; individual industries; Federal, State, or local government agencies; or geographic regions. It will not have a significant adverse effect on competition, employment, investment, productivity, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Five options were considered during the developmental phase of this regulatory action. These options included removal of kidneys from all poultry; or from all poultry destined for mechanical deboning; or from all mature chickens and mature turkeys destined for mechanical deboning; or from all mature poultry; or from all mature chickens and mature turkeys. The option of removal of kidneys from all mature chickens and mature turkey carcasses was selected as the most efficient and least costly option. This option will be relatively easy to enforce without being burdensome to the industry. It focuses on only those birds with a high probability of having kidneys contaminated with unacceptably high levels of cadmium and which comprise the vast majority of mature birds used commercially.

There are two types of costs which would be incurred by the poultry industry due to the removal of kidneys. The first is increased personnel costs for additional manpower on the production line to remove the kidneys. The second is product cost due to the loss of yield from the absence of kidney weight. Total industry costs are estimated to range between $1.5 million and $1.9 million annually. These figures assume total recovery of such kidneys (i.e., that all mature chickens and turkeys are sold with kidneys) compared with total loss. The figures may be inflated because the costs do not reflect that kidneys are presently being removed from some poultry. No significant impacts are expected on competition, innovation or foreign trade since the final rule will affect less than 5 percent of the poultry slaughtered under Federal inspection (less than 5 percent of all chickens slaughtered and only 1 percent of all turkeys slaughtered).

Effect on Small Entities

The Administrator, Food Safety and Inspection Service, has determined that this final rule will not have a significant economic impact on a substantial number of small entities as defined by the Regulatory Flexibility Act, Pub. L. 96–354 (5 U.S.C. 601), because the rule only requires the removal of kidneys from mature chickens and mature turkeys at the time of slaughter. It does not address all processed poultry products. It is not anticipated to have a significant economic impact because it affects less than 5 percent of the poultry slaughtered under Federal inspection (less than 5 percent of all chickens slaughtered and only 1 percent of all turkeys slaughtered).

Proposal

In the March 2, 1983, **Federal Register** (48 FR 8821) the Department published a proposal to amend the Federal poultry products inspection regulations to provide for the removal of kidneys from the carcasses of mature chickens and mature turkeys after USDA inspectors complete their post-mortem inspection of the poultry viscera, but before completion of eviscerating operations, and to prohibit the use of such kidneys for human food. The action resulted from a review of data that indicated that the kidneys of mature poultry are an adulterant because of their high cadmium concentration and should therefore be considered to be unfit for human food.

Cadmium is associated with acute and chronic health problems in humans. Acute toxic effects have been manifested in man through kidney, lung, and bone disorders. However, chronic kidney disease is the principal human health hazard associated with ingestion. The human body does not excrete all the cadmium ingested which results in its accumulation primarily in the kidneys and liver. Because of the low rate of excretion, once cadmium induced kidney disease begins, it is likely to continue even when exposure to the cadmium has stopped.

Comments

The Department received nine comments in response to the proposal. Two comments were submitted by trade associations, two by poultry processors, one by a nutritionist and four by private citizens. All of the comments expressed general support of the Department's intention to reduce dietary cadmium levels that could result in significant health problems. However, the comments from the trade associations and the processors raised three issues. Three of the comments questioned the validity of the data relied upon by the Department. Two of these three went on to suggest that mandatory kidney removal should only be applied to birds destined for mechanical separation. Finally, one of the poultry processors recommended that an Acceptable Quality Level (AQL) be established that would provide for those instances when kidney fragments were left in the carcass.

1. *Validity of the relied upon data.* Three of the commenters questioned the data the Department relied upon in formulating the proposal. One of the commenters argues that the inclusion of poultry kidneys in processed products does not result in a significant increase in dietary cadmium. This comment continues that "[b]eef, lamb and pork kidneys are readily available and consumed as a complete meat product." A second commenter states that the data does not support the cost of the requirement when examined in light of the anticipated benefit.

The Department takes the position that the reliance on the data referenced in the proposal is proper in the absence of any contradictory data. The commenter's arguments are judgmental, and unsupported by additional data.

The Department recognizes that cadmium is widespread in the environment and that exposure is unavoidable. However, the present levels of cadmium in the American diet are approaching the maximum tolerable levels proposed by the Food and Agriculture Organization/World Health Organization. It is the Department's position that the removal of mature chicken and mature turkey kidneys will eliminate an unnecessary source of dietary cadmium.

The Department is also aware that organ meats, particularly beef, lamb and pork kidneys, contain measurable amounts of cadmium. However, its data show that such levels are lower than those found in mature chicken and mature turkey kidneys. There remains the possibility that new evidence, including increased cadmium levels, will put the wholesomeness of such products into question. The Department will continue to be alert to the occurrence and the health implications of cadmium in organ meats, especially beef, lamb and pork kidneys. In any event, the status of cadmium in organ meats from other food animal species does not bear on this rule, nor does it preclude rulemaking in other areas should it be deemed appropriate.

Additionally, the overall cost of the requirement is being kept to a minimum in that only mature birds will be affected, and in that the removal can be accomplished without added equipment. The worst case total industry costs are estimated to range between $1.5 and $1.9 million, annually. As previously noted, these figures assume all mature chickens and turkeys are sold with kidneys, which is not the case because the kidneys of some poultry destined for export are now removed.

The Department has determined that the potential human health hazards associated with high cadmium ingestion justify the prohibition of mature chicken and mature turkey kidneys as a human food, particularly since such kidneys are not considered traditional items of human food, nor are they an expected product ingredient. Furthermore, this prohibition can be accomplished without resulting in unreasonable costs to producers.

2. *Application only to mechanically separated poultry.* Two of the commenters suggested that the removal of mature kidneys should only apply to those birds that will be mechanically separated. One of the commenters supported the suggestion on the basis that the rule was designed to prohibit the use of such kidneys in mechanically separated product; therefore, the requirement should only apply to those birds. The commenter also points to the fact that when mature chickens are marketed as whole birds, the kidneys are not consumed and thus there is no potential health risk.

Making the kidney removal requirement applicable only to mature chickens and turkeys destined for mechanical separation would require additional control procedures on the part of the inspection program and the industry. The slaughterer would have to know the ultimate destination and use of all mature poultry. The additional controls needed under such conditions would have a more onerous impact on industry and the inspection program than that being implemented under this rule. Further, such a limited removal requirement could not adequately prevent these kidneys from contributing cadmium to other products made from the carcasses of mature birds, e.g., commercial soup stock.

3. *Establishment of an AQL program.* A poultry processor supported the proposal provided an AQL sampling system was developed that would address questions likely to occur when the rule was implemented. For example, would a mature bird be considered ready to cook (R.T.C.) if kidney fragments were present in the carcass?

If not, would all birds from that lot be subject to reprocessing?

The inspection program is developing additional criteria for kidneys and kidney fragments which will address these and similar concerns. These criteria will be included in the poultry carcass inspection program directive 918.1 which currently applies to the R.T.C. reinspection procedures.

After careful consideration of the available data and the comments received, the Department has determined that the high concentration of cadmium in the kidneys of mature chickens and mature turkeys render each such kidney unfit for human food and otherwise adulterated under the Poultry Products Inspection Act (21 U.S.C. 453(g)), and, therefore, the kidneys of mature chickens and mature turkeys should not be permitted to be used for human food.

The Department is revising section 381.1(b)(44) of the regulations (9 CFR 381.1(b)(44)) which defines "Ready-to-cook poultry." This is poultry which has undergone processing to remove all unsuitable parts and organs and is ready for marketing. This change merely references the requirement that the kidneys of mature poultry be removed, as stated in the new section 381.65(d) of the regulations (9 CFR 381.65(d)) which requires that the kidneys of mature chickens and mature turkeys be removed from their carcasses after the inspectors complete their post-mortem inspection of the viscera, but before completion of the eviscerating operations, and would prohibit the use of such kidneys for human food.

List of Subjects in 9 CFR Part 381

Definitions, Mature poultry, Meat inspection, Poultry and poultry products, Poultry products inspection, Preparation of poultry products.

PART 381—POULTRY PRODUCTS INSPECTION REGULATIONS

Accordingly, Part 381 of the Federal poultry products inspection regulations is amended as follows:

1. The authority citation for Part 381 reads as follows:

Authority: Section 14 of the Poultry Products Inspection Act, as amended by the Wholesome Poultry Products Act (21 U.S.C. 451 et seq.); the Talmadge-Aiken Act of September 28, 1962 (7 U.S.C. 450); and Subsection 21(b) of the Federal Water Pollution Control Act, as amended by Pub. L. 91–224 and by other laws (33 U.S.C. 1254).

2. Section 381.1(b)(44) is revised to read as follows:

§ 381.1 Definitions.

* * * * *

(44) Ready-to-cook poultry. "Ready-to-cook poultry" means any slaughtered poultry free from protruding pinfeathers, vestigial feathers (hair or down as the case may be) and from which the head, feet, crop, oil gland, trachea, esophagus, entrails, mature reproductive organs, and lungs have been removed, and in the case of certain mature poultry, as defined in § 381.170(a) (1)(vi), (vii) and (2)(iv), the kidneys have been removed in accordance with the requirements of § 381.65(d), and with or without the giblets, and which is suitable for cooking without need of further processing. Ready-to-cook poultry also means any cut-up or disjointed portion of poultry or other parts of poultry such as reproductive organs, head, or feet that are suitable for cooking without need of further processing.

* * * * *

3. Section 381.65 is amended by adding a new paragraph (d) to read as follows:

§ 381.65 Operations and procedures, generally.

* * * * *

(d) Kidneys of mature chickens and mature turkeys (poultry defined in § 381.170(a) (1)(vi) and (vii) and (2)(iv)) shall be removed from their carcasses after the inspectors complete their post-mortem inspection of the poultry viscera, but before completion of the eviscerating operations, and shall not be used for human food.

* * * * *

Done at Washington, DC, on January 13, 1984.

Donald L. Houston,

Administrator, Food Safety and Inspection Service.

[FR Doc. 84–2427 Filed 1–27–84; 8:45 am]

BILLING CODE 3410–DM–M

CIVIL AERONAUTICS BOARD

14 CFR Part 241

Approval of Extension of Reporting Requirements by OMB

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Approval of Extension of Reporting Requirements by the Office of Management and Budget.

SUMMARY: The Civil Aeronautics Board has extended the Form 41 reporting requirements found in Section 22 and the Service Segment Data reporting requirements found in Section 19–3 of Part 241 of the Board's Economic Regulations governing accounting and reporting by certificated air carriers. The Office of Management and Budget approved the extension of these requirements through October 31, 1984, under OMB Nos. 3024–0013 and 3024–0014, respectively. OMB approval is required under the Paperwork Reduction Act of 1980.

DATES: Effective: January 11, 1984 (Service Segment Data), January 16, 1984 (Form 41 Report).

DATED: January 25, 1984.

FOR FURTHER INFORMATION CONTACT: Jack Calloway, Data Requirements Section, Information Management Division, Office of Comptroller, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428, (202) 673–6042.

SUPPLEMENTARY INFORMATION:

List of Subjects in 14 CFR Part 241

Air carriers, and Uniform System of Accounts and Reports.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 84–2501 Filed 1–27–84; 8:45 am]

BILLING CODE 6320–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Parts 154 and 273

[Docket No. RM77–22–000]

Rate of Interest on Amounts Held Subject to Refund for Oil Pipelines, and Eliminating Undertaking Requirements for Gas Pipelines and Producers

Issued: January 23, 1984.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final rule; technical amendments.

SUMMARY: This document amends the portions of the final rule concerning the rate of interest on amounts held subject to refund for oil pipelines and eliminating the undertaking requirements for gas pipelines and procedures in Docket No. RM77–22–000, by making certain additional conforming changes that were inadvertently omitted from the final rule issued on December 28, 1982 (48 FR 1279, January 12, 1983).

FOR FURTHER INFORMATION CONTACT: Cathy Ciaglo, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426; (202) 357–8033.

Accordingly, the Federal Energy Regulatory Commission is making the following technical amendments to Title 18 of the Code of Federal Regulations:

PART 154—[AMENDED]

§ 154.102 [Amended]

1. In § 154.102(c)(1), the reference to "paragraph (d)(2)" is revised to read "paragraph (c)(2)."

2. In § 154.102(c)(2)(iii)(B), the reference to "paragraph (d)(2)(iii)(A)" is revised to read "paragraph (c)(2)(iii)(A)."

PART 273—[AMENDED]

§ 273.204 [Amended]

3. In § 273.204(c)(5), the reference to "§ 154.102(d)" is revised to read "§ 154.102(c)."

(Department of Energy Organization Act, 42 U.S.C. 7101–7352; E.O. 12009, 43 CFR 142; Interstate Commerce Act, 49 U.S.C. 1, *et seq.*; Natural Gas Act, 15 U.S.C. 717–717w)

Kenneth F. Plumb,

Secretary.

[FR Doc. 84–2384 Filed 1–27–84; 8:45 am]

BILLING CODE 6717-01-M

18 CFR Part 282

[Docket No. RM79–14]

Natural Gas Policy Act of 1978; Publication of Incremental Pricing Acquisition Cost Thresholds

January 24, 1984.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Order prescribing incremental pricing thresholds.

SUMMARY: The Director of the Office of Pipeline and Producer Regulation is issuing the incremental pricing acquisition cost thresholds prescribed by Title II of the Natural Gas Policy Act and 18 CFR 282.304. The Act requires the Commission to compute and publish the threshold prices before the beginning of each month for which the figures apply. Any cost of natural gas above the applicable threshold is considered to be an incremental gas cost subject to incremental pricing surcharging.

EFFECTIVE DATE: February 1, 1984.

FOR FURTHER INFORMATION CONTACT: Kenneth A. Williams, Federal Energy Regulatory Commission, 825 N. Capitol Street NE., Washington, D.C. 20426, (202) 357–8500.

SUPPLEMENTARY INFORMATION: Section 203 of the NGPA requires that the Commission compute and make available incremental pricing acquisition cost threshold prices prescribed in Title II before the beginning of any month for which such figures apply.

Pursuant to that mandate and pursuant to § 375.307(1) of the Commission's regulations, delegating the publication of such prices to the Director of the Office of Pipeline and Producer Regulation, the incremental pricing acquisition cost threshold prices for the month of February 1984 is issued by the publication of a price table for the applicable month. See FERC Statutes and Regulations ¶ 24,764.

List of Subjects in 18 CFR Part 282

Natural gas.

Kenneth A. Williams,

Director, Office of Pipeline and Producer Regulation.

TABLE I—INCREMENTAL PRICING ACQUISITION COST THRESHOLD PRICES

	January	February	March	April	May	June	July	August	September	October	November	December
Calendar Year 1980												
Incremental pricing threshold	$1.702	$1.738	$1.750	$1.762	$1.776	$1.790	$1.804	$1.819	$1.834	$1.849	$1.863	$1.877
NGPA section 102 threshold	2.358	2.381	2.404	2.428	2.453	2.478	2.504	2.532	2.560	2.588	2.614	2.640
NGPA section 109 threshold	1.786	1.799	1.812	1.825	1.839	1.853	1.867	1.883	1.899	1.915	1.929	1.943
130 percent of No. 2 fuel oil in New York City threshold	7.170	7.260	7.410	7.110	7.380	8.040	7.840	7.360	7.400	7.400	7.450	7.580
Calendar Year 1981												
Incremental pricing threshold	1.891	1.908	1.925	1.942	1.954	1.967	1.980	1.990	2.000	2.010	2.025	2.041
NGPA section 102 threshold	2.667	2.688	2.729	2.761	2.787	2.813	2.840	2.863	2.886	2.909	2.940	2.971
NGPA section 109 threshold	1.957	1.975	1.993	2.011	2.024	2.037	2.050	2.060	2.070	2.080	2.096	2.112
130 percent of No. 2 fuel oil in New York City threshold	7.610	7.760	8.260	9.010	9.510	9.430	9.360	9.260	8.860	8.700	8.930	8.990
Calendar Year 1982												
Incremental pricing threshold	2.057	2.071	2.085	2.099	2.106	2.113	2.120	2.129	2.139	2.149	2.159	2.169
NGPA section 102 threshold	3.003	3.033	3.063	3.093	3.112	3.132	3.152	3.176	3.200	3.224	3.249	3.274
NGPA section 109 threshold	2.128	2.143	2.158	2.173	2.180	2.187	2.194	2.204	2.214	2.224	2.234	2.244
130 percent of No. 2 fuel oil in New York City threshold	9.180	9.340	9.470	9.340	9.280	9.000	8.170	8.670	8.660	8.950	8.640	8.890
Calendar Year 1983												
Incremental pricing threshold	2.179	2.187	2.195	2.203	2.214	2.225	2.236	2.245	2.254	2.263	2.270	2.277
NGPA section 102 threshold	3.299	3.321	3.344	3.367	3.394	3.421	3.448	3.472	3.496	3.520	3.542	3.564
NGPA section 109 threshold	2.254	2.262	2.270	2.278	2.289	2.300	2.311	2.320	2.329	2.338	2.345	2.352
130 percent of No. 2 fuel oil in New York City threshold	9.420	9.320	8.820	8.120	7.550	6.950	7.540	7.610	7.440	7.550	7.670	7.660
Calendar Year 1984												
Incremental pricing threshold	2.253	2.291										
NGPA section 102 threshold	3.586	3.609										
NGPA section 109 threshold	2.359	2.367										
130 percent of No. 2 fuel oil in New York City threshold	7.730	7.570										

[FR Doc. 84–2400 Filed 1–27–84; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 558

New Animal Drugs for Use in Animal Feeds; Tylosin

AGENCY: Food and Drug Administration.
ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a supplemental new animal drug application (NADA) filed for V.P.O., Inc., providing for the manufacture of a 20-gram-per-pound tylosin premix. The premix will subsequently by used to make finished feeds for swine, beef cattle, and chickens.

EFFECTIVE DATE: January 30, 1984.

FOR FURTHER INFORMATION CONTACT: Benjamin A. Puyot, Bureau of Veterinary Medicine (HFV–130), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857; 301–443–4913.

SUPPLEMENTARY INFORMATION: V.P.O., Inc., 4444 South 76th St., Omaha, NE 68127, is the sponsor of a supplement to NADA 98–431 submitted on its behalf by Elanco Products Co. This supplement provides for the manufacture of a 20-gram-per-pound tylosin premix subsequently to make complete feeds for swine, beef cattle, and chickens for use as in 21 CFR 558.625(f)(1) (i) through (vi). The supplement is approved and the regulations are amended to reflect the approval.

The firm presently holds an approval for the manufacture of a 40-gram-per-pound tylosin premix for such use. The basis for approval of the 20-gram-per-pound premix is the same as for the approval of the 40-gram-per-pound premix. The supplement to NADA 98–431 providing for the 40-gram-per-pound premix was approved by a final rule published in the **Federal Register** of July 26, 1983 (48 FR 33865). The freedom of information summary made available under the provisions of Part 20 (21 CFR Part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), which consisted of a summary of safety and effectiveness data and information submitted to support approval of the 40-gram-per-pound premix, applies also to this application and may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

The Bureau of Veterinary Medicine has determined pursuant to 21 CFR 25.24(d)(1)(i) (proposed December 11, 1979; 44 FR 71742) that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects in 21 CFR Part 558

Animal drugs, Animal feeds.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83), § 558.625 is amended by revising paragraph (b)(25) to read as follows:

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

§ 558.625 Tylosin.

* * * * *

(b) * * *

(25) To 043743: 4, 8, and 10 grams per pound, paragraph (f)(1)(vi)(*a*) of this section; 20 and 40 grams per pound, paragraph (f)(1) (i) through (vi) of this section.

* * * * *

Effective date. January 30, 1984.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)))

Dated: January 23, 1984.

Robert A. Baldwin,

Associate Director for Scientific Evaluation.

[FR Doc. 84–2415 Filed 1–27–84; 8:45 am]

BILLING CODE 4160–01–M

21 CFR Part 808

[Docket No. 83N–0335]

Exemption From Federal Preemption of State and Local Medical Device Requirements; Number of Copies of Application

AGENCY: Food and Drug Administration.
ACTION: Final rule and request for comments.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule reducing the number of copies required to be submitted in an application for an exemption from Federal preemption of State and local requirements applicable to medical devices. The procedure is being changed to conform to Office of Management and Budget guidelines.

DATES: Effective March 30, 1984. Comments by February 29, 1984.

ADDRESS: Written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Les Weinstein, National Center for Devices and Radiological Health (HFK–140), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4874.

SUPPLEMENTARY INFORMATION: Section 521(a) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360k(a)) (the act) contains special provisions governing the regulation of devices by States and localities. That section prescribes a general rule that after May 28, 1976, no State or political subdivision of a State may establish or continue in effect any requirement with respect to a medical device intended for human use having the force and effect of law (whether established by statute, ordinance, regulation, or court decision), which is different from, or in addition to, any requirement applicable to such device under any provision of the act and which relates to the safety or effectiveness of the device or to any other matter included in a requirement applicable to the device under the act.

Section 521(b) of the act provides that, upon application by a State or political subdivision, the Commissioner of Food and Drugs may allow imposition of a requirement that is different from, or in addition to, any requirement applicable under the act to the device (and which is thereby preempted) by promulgating a regulation exempting the State or local requirement from preemption.

Part 808 of FDA's regulations (21 CFR Part 808) prescribes procedures for the submission, review, and approval of applications for exemption from Federal preemption of any State or local requirement applicable to medical devices. Section 808.20(b) requires that the application be in the form of a letter to the Commissioner of Food and Drugs and be signed by an individual who is authorized to request the exemption on behalf of the State or political subdivision (Office of Management and Budget (OMB) approval number 0910–0129). Section 808.20(b) also requires that the State or political subdivision applying for the exemption submit to FDA four copies of the application and all accompanying material, as well as any subsequent reports or correspondence concerning the application.

In the **Federal Register** of March 31, 1983 (48 FR 13666), OMB published a final rule (5 CFR Part 1320)

implementing the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96–511), which establishes policies and procedures for controlling paperwork burdens imposed by Federal agencies on the public. Section 1320.6(c) of OMB's general information collection guidelines, which are codified as part of its final rule, provides that an agency should not require persons to submit to the agency more than one original and two copies of any document unless the agency demonstrates that the requirement is necessary to satisfy a statutory requirement or some other substantial need.

Therefore, FDA is changing its procedure to conform to OMB's guideline by requiring an applicant to submit only an original and two copies of an application for exemption from preemption, accompanying materials, and any subsequent reports or correspondence concerning the application.

In accordance with 5 U.S.C. 553 (b) and (d) and 21 CFR 10.40, FDA has determined that there is good cause not to follow the usual requirements of prior notice and comment and delayed effective date. The reasons for this determination are that reducing the number of copies of applications for exemption required to be submitted to the agency will not affect the public health and will be less burdensome on, and less costly for, the applicant. Also, FDA has learned from experience that two copies are adequate for the agency to review and make a decision on an application. The agency, nevertheless, is providing a 30-day period during which it will accept comments on its change to the rule. If FDA decides on the basis of comments received that the changes should be modified or revoked, it will provide further notice in the Federal Register.

List of Subjects in 21 CFR Part 808

Exemption of specific State requirement, Medical devices.

PART 808—[AMENDED]

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 521, 701, 52 Stat. 1055–1056 as amended, 90 Stat. 574 (21 U.S.C. 360k, 371)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), Part 808 is amended in § 808.20 by revising paragraph (b) to read as follows:

§ 808.20 Application.

* * * * *

(b) An application for exemption shall be in the form of a letter to the Commissioner of Food and Drugs and shall be signed by an individual who is authorized to request the exemption on behalf of the State or political subdivision. An original and two copies of the letter and any accompanying material, as well as any subsequent reports or correspondence concerning an application, shall be submitted to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857. The outside wrapper of any application, report, or correspondence should indicate that it concerns an application for exemption from preemption of device requirements.

* * * * *

Interested persons may, on or before February 29, 1984, submit to the Dockets Management Branch (address above), written comments about the changes to this final rule. Such comments will be considered in determining whether further amendments, modifications, or revisions to the final rule are warranted. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. to 4 p.m., Monday through Friday.

Effective date. This regulation shall become effective March 30, 1984.

(Secs. 521, 701, 52 Stat. 1055–1056, as amended, 90 Stat. 574 (21 U.S.C. 360k, 371))

Dated: January 12, 1984.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 84–2417 Filed 1–27–84; 8:45 am]

BILLING CODE 4160–01–M

VETERANS ADMINISTRATION

38 CFR Part 17

Grants to States for Construction of State Home Facilities

AGENCY: Veterans Administration.

ACTION: Final regulation amendment.

SUMMARY: This revision to the appendix of a medical regulation updates the estimates of veteran population for each State to reflect 1980 census data. As a result of these changes, the revision also adjusts the maximum number of beds required to provide adequate nursing home care to veterans residing in each State to reflect the 4 bed per thousand veteran population limit. The Administrator is required to prescribe the maximum number of such beds by 38 U.S.C. 5034(1). A State home construction grant application may not be approved if it will result in more than the maximum number of beds prescribed in Appendix A (see 38 U.S.C. 5035(b)(4)). Although Appendix A to 38 CFR 17.171, prescribes the maximum number of such beds, when the beds to be constructed in a State will result in more than 2.5 beds per thousand veterans, the State shall provide sufficient justification for the Administrator to determine that the additional beds are required in that State.

EFFECTIVE DATE: This revision is effective January 13, 1984.

FOR FURTHER INFORMATION CONTACT: Rita Frampton, State Home Program Coordinator, Department of Medicine and Surgery (182), Veterans Administration, 810 Vermont Avenue, NW., Washington, D.C. 20420, 202–389–3679.

SUPPLEMENTARY INFORMATION: This proposed regulation revision was published at 48 FR 38253 to 38254 of the Federal Register of August 23, 1983. Interested persons were given 30 days to submit comments, however no comments were received, and the proposed revision is hereby being adopted as final.

The Administrator hereby certifies that this revision to the regulation is nonmajor in accordance with the requirements of Executive Order 12291, Federal Regulation. It will not have an annual effect on the economy of $100 million or more, will not cause a major increase in cost or prices and will not have other significant adverse effects on the economy.

The Administrator hereby certifies that this revision will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601–612. Pursuant to 5 U.S.C. 605(b), this revision is therefore exempt from the initial and final regulatory flexibility analyses requirements of sections 603 and 604. The reason for this certification is that this rule will regulate only States planning construction of nursing home care beds at State Veterans Homes. States do not come within the RFA definition of "small entities" according to 5 U.S.C. 601(5). It will therefore have no significant economic impact on small entities (i.e., small businesses, small private and nonprofit organizations, and small governmental jurisdictions).

The Catalog of Federal Domestic Assistance Number is 64.005.

List of Subjects in 38 CFR Part 17

Government contracts, grants programs—health, health care, health facilities, nursing homes, veterans.

Approved: January 13, 1984.

By direction of the Administrator.

Everett Alvarez, Jr.,

Deputy Administrator.

PART 38—[AMENDED]

38 CFR Part 17, *Medical,* is amended by revising APPENDIX A to § 17.171 to read as follows:

Appendix A—(See Sec. 17.171) State Home Facilities for Furnishing Nursing Home Care

The maximum number of beds, as required by 38 U.S.C. 5034(1), to provide adequate nursing home care to veterans residing in each State not to exceed four beds per 1,000 veteran population is established as follows:

State	Veteran population[1]	Number of beds
Alabama	436,000	1,744
Alaska	50,000	200
Arizona	383,000	1,532
Arkansas	270,000	1,080
California	3,003,000	12,012
Colorado	401,000	1,604
Connecticut	413,000	1,652
Delaware	77,000	308
District of Columbia	65,000	260
Florida	1,392,000	5,568
Georgia	632,000	2,528
Hawaii	99,000	396
Idaho	121,000	484
Illinois	1,348,000	5,392
Indiana	680,000	2,720
Iowa	354,000	1,416
Kansas	300,000	1,200
Kentucky	405,000	1,620
Louisiana	453,000	1,812
Maine	154,000	616
Maryland	544,000	2,176
Massachusetts	720,000	2,880
Michigan	1,117,000	4,468
Minnesota	525,000	2,100
Mississippi	245,000	980
Missouri	647,000	2,588
Montana	108,000	432
Nebraska	191,000	764
Nevada	137,000	548
New Hampshire	138,000	552
New Jersey	925,000	3,700
New Mexico	162,000	648
New York	1,951,000	7,804
North Carolina	660,000	2,640
North Dakota	69,000	276
Ohio	1,385,000	5,540
Oklahoma	397,000	1,588
Oregon	400,000	1,600
Pennsylvania	1,593,000	6,372
Rhode Island	126,000	504
South Carolina	351,000	1,404
South Dakota	80,000	320
Tennessee	543,000	2,172
Texas	1,732,000	6,928
Utah	155,000	620
Vermont	64,000	256
Virginia	664,000	2,656
Washington	628,000	2,512
West Virginia	243,000	972
Wisconsin	574,000	2,296
Wyoming	67,000	268

[1] Estimate as of March 31, 1983.

Source: Office of Reports and Statistics, Veterans Administration. (Based on last available Bureau of the Census data.) (June 1983.)

(38 USC 50 503(l); 38 U.S.C. 5035(b)(4))

[FR Doc. 84-2445 Filed 1-27-84; 8:45 am]

BILLING CODE 8320-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA Docket Nos. AW043/044VA; A-3-FRL 2513-4]

Approval of Revisions to the Virginia State Implementation Plan

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: On December 30, 1982, the Commonwealth of Virginia submitted an alternate compliance schedule for the Ford Motor Company's plant in Norfolk, Virginia as a revision to the State Implementation Plan (SIP). The schedule provides for compliance with the volatile organic compound (VOC) emission regulations through the installation of an electrophoretic deposition process (EDP) and the development of low solvent coating technology by November 30, 1984. EPA approves this alternative compliance schedule as a revision to the Virginia State Implementation Plan (SIP), as the schedule meets all of the necessary requirements of the Clean Air Act, and 40 CFR Part 51.

The Commonwealth submitted a variance for the Oyster Point Municipal Incinerator in Newport News, Virginia. However, EPA is withdrawing this SIP revision from further consideration, as Virginia has notified EPA that operation of the incinerator terminated on July 1, 1983.

EFFECTIVE DATE: February 29, 1984.

ADDRESSES: Copies of the revision and accompanying support material are available for public inspection during normal business hours at the following locations:

U.S. Environmental Protection Agency, Air Management Branch, Curtis Building, Sixth and Walnut Streets, Philadelphia, PA 19106; ATTN: Mr. Harold Frankford.

Public Information Reference Unit, Room 2922, EPA Library, U.S. Environmental Protection Agency, 401 "M" Street, SW. (Waterside Mall), Washington, D.C. 20460.

Virginia State Air Pollution Control Board, Room 801, Ninth Street Office Building, Richmond, Virginia 23219, ATTN: Mr. John M. Daniel, Jr.

Office of the Federal Register, 1100 L Street, NW., Room 8401, Washington, D.C. 20408.

FOR FURTHER INFORMATION CONTACT: Mr. Harold Frankford at the Region III address stated above or telephone 215/597-8392.

SUPPLEMENTARY INFORMATION: The Ford Motor Company, located in Norfolk, Virginia, is engaged in the assembly of light duty trucks. The coating operations at the Ford plant are subject to the provisions of Section 4.55(e) of the Virginia regulations which prescribe the emission standards for the prime coat, top coat and final repair. Specifically, Ford is requesting an extension of two years to comply with the prime coat emissions standard in Section 4.55(e)(1).

Originally, Ford had planned to use high solids coatings applied by the conventional spray method to achieve the desired reduction by the end of 1982. However, response to customer demands for better product quality in the automotive industry led Ford to abandon the spray method for a combination of the dip and spray method. Ford now plans to control emissions by use of the electrophoretic deposition process (EDP) followed by a spray (guide coat) primer system to smooth out the rough spots. This new method will use low solvent coatings. While the change is directed primarily at quality control, the new approach will also significantly reduce emissions over the original approach. Current regulations set a standard of 3.2 lbs. of VOC per gallon of coating and the use of EDP will meet a standard of 1.9 lbs. of VOC per gallon of coating.

However, Ford cannot complete installation of the new equipment by the end of 1982 and wishes an extension until the end of 1984. The delay did not affect the attainment of the ozone standard in Southeastern Virginia by the end of 1982. The Commonwealth has certified that, after adequate public notice, a public hearing was held with respect to the Ford Motor Company SIP revision on March 15, 1982 in Virginia Beach, as required by 40 CFR 51.4.

The Commonwealth's attainment strategy for the Ford Motor Company's alternate compliance schedule is based upon a maximum allowable emission rate of 3188 tons per year by the end of 1982. In 1977 the actual emissions for the plant were 2,396 tons. Since production levels are now much lower and unlikely to return to 1977 levels before the end of 1984, the delay in compliance did not affect the attainment date. In a separate action apart from this rulemaking, EPA will determine whether the line and

process modifications should be subject to New Source Performance Standards (NSPS) requirements. Agency policy on this matter discussed in the October 21, 1981 Federal Register notice, 46 FR 51386.

On June 28, 1983, 48 FR 29716, EPA proposed approval of the alternate compliance schedule for Ford Motor Company, Norfolk and requested public comment. During the public comment period, ending July 28, 1983, no comments were received.

The Commonwealth had also submitted to EPA a variance request for the Oyster Point Municipal Incinerator in Newport News. EPA had proposed approval of this variance request and requested public comment on June 28, 1983, 48 FR 19176. However, on October 27, 1983, Virginia informed EPA that the Oyster Point Municipal Incinerator closed down permanently on July 1, 1983, and requested that the variance request be withdrawn from further consideration as a revision to the Virginia SIP. Accordingly, EPA withdraws this variance request from further rulemaking action.

Conclusion

The Administrator is approving this SIP revision based on a determination that it meets the requirements of Section 110(a)(2) of the Clean Air Act and 40 CFR Part 51. Requirements for Preparation, Adoption, and Submittal of State Implementation Plans.

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

Under Section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by March 30, 1984. This action may not be challenged later in proceedings to enforce its requirements. (See 307(b)(2).)

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons, Intergovernmental relations, Incorporation by reference.

Dated: January 19, 1984.

William D. Ruckelshaus,

Administrator.

Note.—Incorporation by reference of the State Implementation Plan for the Commonwealth of Virginia was approved by the Director of the Federal Register on July 1, 1982.

PART 52—[AMENDED]

Title 40, Part 52, Subpart VV of the Code of Federal Regulations is amended as follows:

Subpart VV—Virginia

1. Section 52.2420 is revised by adding paragraph (c)(82) as follows:

§ 52.2420 Identification of plan.

* * * * *

(c) * * *

(82) Amendment for an alternate compliance schedule for the Ford Motor Company plant in Norfolk, Virginia submitted on December 30, 1982 by the Virginia State Air Pollution Control Board.

(Clean Air Act, Sec. 110 (42 U.S.C. 7401–7642))

[FR Doc. 84-2284 Filed 1-27-84; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Parts 400, 405 and 421

Medicare Program; Reduction in the Number of Providers Dealing Directly With HCFA

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Final rule.

SUMMARY: These regulations modify current Medicare rules concerning the option that allows Medicare providers to elect to receive payment directly from us, rather than through an intermediary, for covered services furnished to beneficiaries. The regulations also give us the authority to make other arrangements to service health care prepayment plans (health maintenance organizations (HMOs) and group practice prepayment plans (GPPPs)) that are presently dealing directly with us. The regulations clarify under what circumstances we may contract out for the purpose of making payments to providers. In addition, although this is a final rule, we are requesting public comment on the impact analysis.

EFFECTIVE DATE: These regulations are effective February 29, 1984.

FOR FURTHER INFORMATION, CONTACT: Norman Fairhurst, 301–594–9498.

SUPPLEMENTARY INFORMATION:

I. Background

In the Medicare program, the Secretary is responsible for making payment to providers of services and other entities for the covered services they furnish to Medicare beneficiaries.

Section 1816 of the Social Security Act (the Act) gives groups of providers the option of nominating an intermediary to determine the proper amount of reimbursement and to make such payments. Alternatively, if the provider declines to exercise the option of dealing with an intermediary, it submits its claims directly to the Secretary under section 1815. In such instances, section 1874 authorizes the Secretary to reimburse such providers either directly or by contract.

Section 1816 of the Act was amended in 1977 by the Medicare-Medicaid Anti-Fraud and Abuse Amendments (Pub. L. 95–142). The amendments authorize the Secretary to assign and reassign providers who had nominated intermediaries to other intermediaries. The amendments also authorize the Secretary to designate regional or national intermediaries with respect to a class or classes of providers.

Section 930(o) of the Omnibus Reconciliation Act of 1980 (Pub. L. 96–499) further amended section 1816(e) of the Act by adding a new paragraph (4), which requires the Secretary to designate regional agencies or organizations that have entered into an agreement under section 1816 of the Act to perform functions under that agreement for freestanding HHAs (that is, HHAs that are not a subdivision of a hospital) in the region. The statute further requires that if an HHA is hospital-affiliated (that is, the hospital and HHA are under common control), the Secretary shall assign that HHA to a regional intermediary only if the Secretary, after applying published criteria relating to administrative efficiency and effectiveness, determines that the assignment would result in the more effective and efficient administration of the Medicare program.

As of October 1, 1983, about 154 hospitals, 34 skilled nursing facilities (SNFs), 480 home health agencies (HHAs), 75 health maintenance organizations (HMOs), 42 group practice prepayment plans, (GPPPS), 361 Federal hospitals, 21 providers of outpatient physical therapy services and seven end-stage renal disease facilities, out of the approximately 12,800 providers and other entities that currently participate in the program, receive payment and "deal directly" with us.

On August 2, 1983 we published a proposed rule (48 FR 34979) that complied with certain court-imposed requirements that we carry out a full rulemaking process before contracting out the direct-deal freestanding HHA

workload. (For a full summary of legislative and legal actions, see 48 FR 34979.) The proposed rule also expanded on a previous NPRM (47 FR 7269) concerning contracting out our direct-dealing function for other types of providers such as hospitals, SNFs, providers of outpatient physical therapy services, end-stage renal disease facilities, and HMOs.

II. Provisions of the Proposed Rule

A. Reductions in the Number of Providers Dealing Directly With Us

Section 1874 of the Social Security Act gives the Secretary the authority to perform directly or by contract any of his or her functions under Medicare. Under that authority, we proposed to modify 42 CFR 421.103 to specify that we may contract out the functions of making payment determinations, disbursing payments, and related activities with respect to providers and other entities that we currently service directly. Thus, we would have required providers and other entities that currently deal directly with us to deal instead with fiscal intermediaries that already are under contract with us. However, we stated our intention to review carefully each type of provider or other entity now dealing directly with us to determine the least disruptive and most cost effective arrangement for the long term.

We also included in the preamble to that rule a detailed discussion of our tentative implementation plan. The implementation plan discussed: intermediary selection, transfer schedule, procedures during the change-over period, assurance of cash flow, and transition costs. The list of designated regional intermediaries to service freestanding HHAs published in a preamble to a final rule on September 1, 1982 (47 FR 38535) was repeated for information purposes.

Finally, we announced that the contracting out of certain functions that we presently perform for HMOs is currently under study. HMOs, while they are not providers with an election right, are presently serviced by us. The proposed rule announced our intention to establish our authority to modify this practice should we, in the future, choose to contract out some or all of that workload.

B. Contracting Out the Workload of Hospitals, Skilled Nursing Facilities, Outpatient Physical Therapy Providers and End-Stage Renal Disease Facilities

We stated that the proposed rule would be applicable to all direct-dealing providers, including hospitals, skilled nursing facilities, outpatient physical therapy providers, and end-stage renal disease facilities. The regional ombudsman (see section III. below) would have been available to address any concerns providers may have other than those that are the province of the Provider Reimbursement Review Board.

C. Contracting Out the Workload of Freestanding HHAs to Regional Intermediaries

Currently, we designate regional intermediaries under section 1816(e)(4) of the Act to serve those freestanding HHAs that have elected to nominate an intermediary. We proposed to modify 42 CFR 421.117 by requiring that freestanding HHAs that had been receiving payment directly from us would instead receive payments from the same regional intermediaries designated under section 1816(e)(4) of the Act; thus, each statewide regional intermediary would service all freestanding HHAs within its State.

We service approximately 12 percent of the HHAs participating in the Medicare program. We stated that approximately 425 freestanding HHAs were to be serviced under contract with designated intermediaries as a result of implementation of these regulations. This decision was reached after considering the following:

1. *Consolidating the workload*—In each State an intermediary under contract had already been designated to service freestanding HHAs that had elected to be reimbursed by a nominated intermediary (47 FR 38535).

We stated that we believe that contracting out the workload of those freestanding HHAs that had previously elected to be reimbursed directly by us would improve the administration of the home health benefit under the Medicare program, as discussed below.

We stated that we believe the use of statewide intermediaries would facilitate onsite review of HHAs by the intermediaries. This review has proven to be a significant tool for assuring improved reimbursement determinations and controlling overutilization of services and overpayments that have been of concern to us and the Congress for some time.

Finally, we stated that the use of one intermediary for each State would result in consistent application of Medicare policies with respect to HHAs within each State and would enhance delivery of necessary services by providing a consistent approach to medical policy interpretation and reimbursement for providers, beneficiaries and the home health community.

2. *Impact on Multi-State (Chain) Organizations*—We stated our preference that chain organizations choose to deal with designated regional intermediaries. We recognized that there may be cases in which the degree of centralization of the chain would make it more efficient for a lead intermediary to handle the home office audit and desk review of the chain's provider cost reports, determine the scope of provider audits, and perform final settlement of individual HHA cost reports. We included in the preamble to the NPRM our intention to consider that the designated regional intermediaries would have responsibility for provider reimbursement for the reporting period based on necessary input from the lead intermediary, would provide input to the lead intermediary in terms of provider audit and cost report settlement, and would perform the actual field audit work required.

We announced that any chain wishing to avail itself of this alternative would have to present its request in writing to the HCFA regional office serving the home office. The request would have to provide information concerning the chain's degree of centralization, such as is now required for a single intermediary to service an entire chain of any type. The regional office would evaluate each request and notify the chain in writing of our determination.

We also stated that we would consider allowing HHA chains to be serviced by a single intermediary and, to the extent appropriate, we would make provisions for audit and coverage determinations.

When evaluating the potential of single intermediaries to accommodate home health chains, we stated that we would consider: the capacity of the intermediary as it is affected by changes in data processing technology; the cost and/or savings to providers to transfer and operate; economy and timeliness in the delivery of services; conflict of interest between an intermediary and provider; and any additional pertinent factors.

D. Technical Clarifications

1. We proposed to modify 42 CFR 421.104 to clarify that a provider that does not belong to a provider association, or a provider that does not concur with its association's nomination for intermediary, may elect to receive payments from an intermediary with which we already have an agreement if both the intermediary and we agree to it. Current regulations at § 421.104(b) do not specifically state that a single provider may elect to receive payment

from an intermediary but rather imply that it may only form a group of two more providers to nominate an intermediary or receive payment directly from us.

2. We proposed a technical revision to § 421.104(b) that would change the title of § 421.104(b) from "Nomination by members or nonconcurring members" to "Action by nonmembers or nonconcurring members" to reflect that a single provider may elect to deal with an intermediary or with HCFA. The use of the word "action" instead of "nomination" is consistent with the language in § 421.103, which concerns provider options to elect to deal through an intermediary or directly with HCFA. "Nomination" is a more restrictive term in these regulations and concerns only provider associations' choice of intermediary.

3. We proposed to add language to § 421.1, Basis and Scope, to clarify that Section 1874 of the Act is one of the bases of Part 421 and that the statute and regulations permit us to perform certain functions directly or by contract.

4. We proposed to delete the definition of "the Administrator" from the definitions section (§ 421.3) and to revise all references to "the Administrator" to "HCFA". For consistency, we were going to change all references to "he or she" and "his or her" to "it" and "its", respectively.

III. Analysis and Response to Comments

We received 31 comments, primarily from freestanding HHAs or associations that represent freestanding HHAs. The commenters consisted of: 19 HHAs (18 freestanding and one hospital-based), six associations representing the HHAs, three intermediaries, two HMOs and one union (representing HCFA employees).

Most comments furnished the providers' views of the effects of using designated intermediaries and making greater use of contracting out. Two commenters endorsed the proposed rule. A number of providers that submit bills and claims to our Office of Direct Reimbursement (ODR) wrote in to express satisfaction with the present arrangement, especially with HHA electronic bill processing aspects, and to raise questions about how the proposed changes would be implemented.

Many HHAs, both those served by ODR and those served by intermediaries, have been opposed to the designated regional intermediary concept because the freestanding HHAs have no alternative to the designated intermediary. After discussions with provider associations and after evaluating the comments received, we have determined that freestanding HHAs should be allowed an opportunity to request an alternate intermediary. Consequently, we have designated (under section 1816(e)(4)) three intermediaries already serving as designated regional intermediaries to be additionally available as a group on a national basis to serve as alternative designated regional intermediaries.

All freestanding HHAs are being advised by this notice of the existence of the alternative designated intermediaries.

We will send the HHAs now served by ODR a separate notification and give them an opportunity to select the alternate intermediary in their area. Those ODR HHAs not wishing to receive payment from the designated regional intermediary may request to receive payment from the alternative designated regional intermediary. This request must be made within 30 days from the date of receipt of our notification.

Freestanding HHAs now served by designated regional intermediaries will also be allowed an opportunity to request a change from the designated regional intermediary to the alternative designated regional intermediary. Such requests will not be granted automatically; rather, an HHA will be required to demonstrate that the change to the alternative designated regional intermediary would be consistent with the effective and efficient administration of the Medicare program. (This policy is consistent with existing regulations at § 421.106(b) where HCFA is currently empowered to permit a provider to change to another intermediary or to direct payment if HCFA concludes that such change is in the best interest of the Medicare program.) Requests for such change must be made in accordance with the existing change-of-intermediary timeframe (§ 421.106(a)); i.e., at least 120 days before the end of the provider's current fiscal year.

In summary, the policy regarding which intermediary serves HHAs is that HHAs will deal with the designated regional intermediary except that:

- Chains may deal with a single intermediary where they meet the criteria stated elsewhere in this notice.
- HHAs currently serviced by ODR may request, within 30 days of receipt of our notification, to be serviced by the alternative designated regional intermediary.
- All other freestanding HHAs may request the opportunity to switch to the alternative designated regional intermediary. These requests must be made within the timeframe set forth at § 421.106 and will be evaluated consistent with the criteria set forth in that section.

All future HHA requests to transfer from the designated regional intermediary to an alternative designated regional intermediary or vice versa must be filed, and will be evaluated, in accordance with § 421.106.

A summary of the comments and our responses follow:

Comment: Several commenters expressed the view that assigning HHAs currently serviced by ODR to designated intermediaries was contrary to the intent of the Omnibus reconciliation Act of 1980. These commenters alleged that the 1980 amendments required the designation of intermediaries to serve HHAs but did not remove a provider's option to deal directly with the Federal government. The commenters placed great reliance on the following statement from the Conference Committee Report which accompanied Pub. L. 96-499: ". . . In requiring the designation of regional intermediaries for home health agencies, it is not the intent of the conferees that home health agencies would be precluded from contracting directly with the Health Care Financing Administration." (H.R. Rep. No. 1479, 96th Cong., 2nd Sess. 129 (1980).)

Response: As noted in the preamble to the NPRM, on September 14, 1982 the United States Court of Appeals for the District of Columbia Circuit held that, under Section 1874 of the Social Security Act, the Secretary has the authority to contract out reimbursement responsibilities and could thereby require direct-dealing freestanding home health agencies to seek reimbursement from designated regional intermediaries. The Court of Appeals' ruling indicated that the aforementioned statement in the Conference Committee Report did not mean that the Congress intended to give HHAs an unlimited right to deal directly with the Secretary. Rather, the Court found that this language merely indicated that the 1980 amendments did not mandate that the Secretary was absolutely required to designate regional intermediaries for direct-dealing HHAs. The Court found that the statement in the Conference Report did not limit, and in fact preserved, the Secretary's discretion to continue to perform his reimbursement function for the direct deal HHAs, either directly or by contract.

Comment: A number of commenters questioned that the transfer of providers currently serviced by ODR would result in efficiency or economy and asked that we further explain this change in light of anticipated costs that surely would have

to accompany transferring providers and in light of increased costs to intermediaries. A few commenters stated that the absence of a detailed cost comparison study is contrary to requirements of OMB Circular No. A–76.

Response: Currently, contractor intermediaries process 95 percent of the Part A bill volume. Our decision to contract out the ODR workload is based upon the general policy of the Federal Government to rely on commercial sources to supply the products and services the Government needs. Many of the ODR personnel have a good understanding and knowledge of the Medicare program and the impact of HCFA decisons on beneficiaries, providers and contractors. We believe that this knowlege would be better used in the overall administration of the Medicare and Medicaid programs.

Based on the consolidations and resulting transitions completed in the past, we have estimated that these transfers will not increase overall costs. There will be some one-time costs, of approximately $1 million, because of the need of some intermediaries to change their automated systems to accept bills using ODR's format. Costs to providers will be very minimal and such provider costs are reimbursable.

The requirements of OMB Circular A–76 are not applicable to this decision. Section 8 of the Revised Circular states that a decision for *in-house* performance is authorized only if a comparative cost analysis demonstrates that the Government is operating or can operate the activity at a lower cost. There is no comparable requirement for analysis concerning contracting out work performed in-house to the private sector.

Several of the commenters that questioned our conclusion raised specific issues involving implementation of a transfer, especially involving automated billing procedures. We do not intend to place automated providers in a position where they must forego efficiencies acquired via automation. For automated providers, the designated regional intermediary or alternative designated regional intermediary will be able to accommodate the automated functions currently provided by ODR. There should be no, or extremely minor, adjustments for paper-billing providers who constitute the majority of ODR providers. Any costs these providers incur will, at most be negligible.

We recognized that a major item of concern to providers would be the impact of a transfer on individual providers' automated data systems (i.e., billing, admission notices, discharge data, plans of treatment and denial notices). Of the 480 HHAs dealing with ODR, only 185 submit or receive automated data. Ninety-three of the 185 providers represent two multi-State chains that have each chosen to be served by a single intermediary for their entire chain. The remaining 92 HHAs scattered in 14 States may elect to be serviced by the designated regional intermediary or the alternative designated regional intermediary for that area. Most of the designated regional intermediaries and all of the alternative designated regional intermediaries are currently capable of accepting automated data. They will be required to write an interface program to accept data in the ODR format and modify their EDP systems to accept and respond to admission notices, starts of care, and billing formats used by ODR.

As we stated before, no provider will be asked to abandon its automated procedures to conform to the operations of a nonautomated intermediary in its area. Currently, all but eight intermediaries are capable of receiving and sending provider data via electronic media. An automated provider whose regional intermediary cannot process automated billing may deal with the alternative designated regional intermediary that can.

Comment: Nearly one-half of the commenters stated that we are not following the recommendations of the President's Private Sector Task Force (Grace Commission). The Grace Commission Report indicated three concerns—the basis for the decision to contract out, the value of ODR as an in-house laboratory and the value of ODR as a competitor.

Several other commenters requested, in a related comment, that we reconsider our plans to contract out our intermediary function, noting that ODR is reported to be efficient in its claim processing operations. These commenters stated numerous benefits to us of retaining an intermediary function. For example:

(a) ODR could be used as a testing ground for us to try innovative intermediary activities;

(b) ODR could be used as the intermediary for a host of demonstrations or experimental projects, such as hospice care;

(c) The ongoing availability of ODR creates a competitive environment for other intermediaries, since providers dissatisfied with their intermediary's performance could transfer to ODR; and

(d) ODR experience could be used to establish benchmarks to measure all intermediary performance.

Response: Our decision to contract out the intermediary functions for servicing providers now dealing directly with us is based upon a determination of our proper role. We do not believe the agency should perform operations which the private sector has demonstrated it can perform as well as we can.

On the basis of a wide range of measures, such as costs, timeliness, and accuracy, we concluded that the performance of private sector intermediaries usually ranks as well as or better than ODR. Hence, the providers being transferred to contractor intermediaries can be assured that they will continue to receive good service.

Our ongoing intermediary performance evaluation plans, the Contractor Performance Evaluation Program and the Annual Contractor Evaluation Report, help us to monitor intermediary performance and take action to assure that providers receive good service.

Concerning the issue of our having an in-house laboratory, we believe that our plans and ongoing operations are compatible with the tone of the Grace Commission. We recognize the need for a laboratory to test new methodologies. We will retain, within our Office of Research and Demonstrations, a claims processing capacity for multi-State demonstration projects and a limited capacity for new methodology testing.

ODR has never been our sole source for special analyses and testing; moreover, many of our contractors are engaged, on their own initiative or with our direct support, in billing initiatives and other productivity investments. We will also continue to experiment, demonstrate and improve operations through our private sector contractors.

The practicality of ODR's role as a competitor and alternative to intermediaries in a given area is at best marginal. ODR currently works at full capacity and would have little capability under any conditions to serve as a competitor and/or alternative for any substantial block of providers. Such alternatives can be better provided through the capacities of our private sector contractors than through any available HCFA resources.

Contrary to the opinion expressed by some providers, the claims workload of ODR does not lend itself to be used as a benchmark to evaluate other intermediaries. ODR processed only about 5 percent of the total Medicare intermediary volume in fiscal year 1982 and half of that volume was generated in one State. Benchmarks derived from this workload would not fairly and accurately assess other intermediaries.

Comment: Several HHAs reported that they had previously used other intermediaries and were pleased with

ODR's processing of their claims. They expressed dissatisfaction with a change and felt that their nomination rights were restricted with the assignment of the ODR providers to other intermediaries. The providers believe that phasing out ODR gives the Blue Cross Plans a monopoly in administering the Medicare program.

Response: After evaluating the comments received, we have determined that ODR's freestanding HHAs should be allowed an alternative to the designated regional intermediary. Before transferring the freestanding HHAs away from ODR, we are giving them the opportunity to choose either the designated intermediary for their region or the alternative regional intermediary designated by HCFA. Other freestanding HHAs now assigned to designated regional intermediaries may also request a transfer to the alternative designated regional intermediary. In addition, individual HHA chain organizations will have the opportunity to request lead and local intermediaries, or a single intermediary, to process their entire workload.

We are developing policy for use by the various regional designated, single, and lead and local intermediaries. The policy will address postpayment coverage compliance reviews, adequate onsite reviews of HHAs and consistent decisions pertaining to medical utilization and reimbursement.

The view that the phasing our of ODR will leave the Blue Cross Plans with a monopoly in the program is erroneous. We also have contracts with Aetna Life and Casualty Company, Hawaii Medical Service Association, Mutual of Omaha, The Prudential Insurance Company of America and the Travelers Insurance Company. With the exception of the Travelers Insurance Company, all of these intermediaries have also been designated to service freestanding HHAs. The performance of all intermediaries is monitored to assure adequacy of performance, and we are committed to assuring that the ODR providers receive the same as or a better level of service than is being provided by ODR. Furthermore, we are taking a number of steps to assure and measure good performance as discussed in Section V, Implementation.

Comment: Several commenters questioned our conclusions that using regional (usually statewide) intermediaries would permit a consistent application of coverage and reimbursement rules by auditors in those cases where all providers in an area have the same intermediary or intermediaries. In their view, use of statewide intermediaries would undermine Medicare as a national program.

Response: The commenters assume a rigidity in interpreting the application of coverage rules that is not borne out by the experience. They also disregard the benefits of centralization of bill processing expected to result from combining many small scale operations.

Some degree of latitude in judgment is allowed on how intermediaries are to implement coverage policy in the light of local medical practice. When individual judgment is applied, it can lead to differences among intermediaries in a small percentage of decisions. As we review this situation and meet regularly with providers, their associations and intermediaries, we will further reduce the instances, if any remain, of inconsistencies occurring in an area.

Comment: A few freestanding HHAs commented that HHA chain organizations are being granted preferential treatment by having opportunities in selecting an intermediary. Chains are to be granted an appeal mechanism through the lead intermediary alternative and the single intermediary concept gives chains the opportunity to select the most desirable intermediary.

Response: We define a chain as a group of providers under common ownership or control. The chain has effective central management controls such as:

(a) The parent company owns the controlling financial interest in each component facility;

(b) The home office controls the hiring, training, and discharging of individual facility administrators;

(c) The chain has an effective program of utilization controls ensuring proper utilization of services; and

(d) The chain management effectively oversees the individual facilities to assure compliance with company policies and procedures (e.g., periodic home office visits to facilities).

Our proposed plans for transferring freestanding HHAs announced in the preamble to the NPRM and our alternatives for chains were not developed to provide better service to one group or the other. Rather, the plans are based on our determination of the most cost effective and least disruptive approach for all concerned. In some instances it is logical that chains, because of their fiscal or operational makeup and degree of centralization, be allowed to deal with lead and local intermediaries, or with a single intermediary, to service the entire chain. These alternatives are not guaranteed. The chain must establish the need for an alternative.

We are giving HHAs an opportunity to request an alternative designated regional intermediary to assure that HHAs not belonging to a chain also have an alternative.

Comment: Several commenters expressed concern over the use of a contractor to carry out activities we presently perform for HMOs. They cite possible loss of competitive proprietary information if they are audited by intermediaries or carriers. Others suggested that we defer contracting out this function until a number of operational issues are addressed, such as whether risk-basis HMOs and cost-basis HMOs should be treated differently.

Response: As we stated in the preamble to the NPRM, we are announcing our option to perform our functions for HMOs and, by implication, other prepayment plans such as GPPPs, directly or by contract. We will continue to consult with health care prepayment plans to discuss concerns such as maintaining the confidentiality of proprietary information. No firm decision to contract out the health care prepayment plan workload has been made at this time.

Comment: Two commenters were concerned with our statement in the NPRM that we intend to contract with existing or newly established Medicare fiscal intermediaries or "other organizations" whose accountants are specialists in Medicare principles of reimbursement. They believed that the proposal to contract with organizations other than fiscal intermediaries does not follow the intent of Congress in sections 1816(e) and 1874 of the Act or the opinion of the Court of Appeals for the District of Columbia Circuit in *National Association of Home Health Agencies v. Schweiker.*

Response: We do not agree with this comment. Section 1816 of the Act merely authorizes (subject to restrictions) the Secretary to enter into an agreement with any organization or agency that is nominated as intermediary by a group of providers.

Section 1874 of the Act, on the other hand, concerns the Secretary's ability to perform Medicare functions either directly or by contract; there are no restrictions on the type of organization that we may choose to perform a given function by contract. The Court of Appeals found that we have the statutory authority to contract out the direct dealing providers; the Court did not limit us to contracting out with existing intermediaries.

Nevertheless, while we assert that we have the legal ability and right to

contract out with *any* entity under the authority of section 1874, our present intent, as we have announced previously, is to limit the contracting out of the direct-deal provider workload to current fiscal intermediaries (i.e., organizations who have entered into an agreement with the Secretary under section 1816).

Comment: Three commenters were concerned about our policy regarding appointment of an ombudsman for each HCFA regional office. One was concerned that the ombudsman would be biased because he or she would be a HCFA employee. Another commenter believed the ombudsman should not be another step in the appeals process. The third commenter stated that the provision for an ombudsman should be in the regulations.

Response: The concept of regional ombudsman was developed as a result of meetings with various provider groups and their association representatives who believed their views and concerns were seldom considered. They believed the elimination of ODR would deprive them of the one source receptive to their concerns.

We have appointed individuals and alternates to ombudsman-type positions. These individuals will have the authority to investigate and facilitate the resolution of issues that have not been settled by discussion between the provider and intermediary. They will continue to be available after the transition process to assure provider views are heard and considered in HCFA's management process. They will address all issues *except* Provider Reimbursement Review Board appeals. These individuals are knowledgeable with respect to program, operational and administrative concerns affecting HCFA, as well as the providers and intermediaries. As such, we expect them to make responsible decisions. The selection or appointment of individuals to various functions or positions, such as the ombudsman functions, are a part of HCFA's ongoing administrative processes; therefore, we see no need to include the appointment of individuals to this position in regulations.

Comment: One commenter requested that we define "chain organization" to (a) include two or more agencies under common ownership or control or (b) be subject to common operating manuals or procedures, and/or to common support services such as data processing, cost report preparation and tax return preparation.

Response: We do not agree with all of this comment. We have defined a chain elsewhere in the preamble. Example (a) of the comment falls under that definition but example (b) does not. The commenter's definition under (b) could include franchise providers. By definition a franchise is run independently of the franchisor and may have separate accounting and billing procedures in this instance. While the chain may provide general guidelines and support, the acutal decisionmaking and responsibility for adhering to program requirements lie with the franchisee.

We have agreed to the lead intermediary and single intermediary concepts to accommodate a chain's highly centralized accounting or common billing systems. While we wish to facilitate administrative simplicity for providers, we must also be concerned about program safeguards and, consequently, we do not feel it would serve any program purpose to broaden the definition of chain to encompass franchise providers.

Comment: One commenter wanted the fiscal impact of transfers to be minimized by guaranteeing reimbursement of "pass through" costs when HCFA requires a transfer to an organization not of the provider's choosing and that there be a transition plan to which the old and new intermediaries, HCFA and the provider all agree. Another commenter wanted us to state in our regulations that we will reimburse costs incurred because of the transfer.

Response: Provider costs incurred due to the transfer will be allowable and reimbursable under established Medicare reimbursement principles. If an HHA's costs exceed cost limits as a result of the intermediary transfer from ODR to an intermediary, an exception may be granted under § 405.460(f)(2). As § 405.460(f)(2) deals with excess costs, there is no need to include a statement in Part 421 indicating these costs may be allowable.

We anticipate few, if any, costs to be incurred by a provider because of the transition and these costs will be reimbursable under the usual rules.

We normally follows a transition procedure whenever providers are transferred from one intermediary to another. The procedure is followed whether one provider or a large group of providers is involved. From January 1982 through July 1983 we transferred almost 500 home health agencies to designated intermediaries. These transitions were completed successfully with no interruption to cash flow.

Comment: One commenter requested assurance that HAA chain providers' choices of a single intermediary would not be subjected to arbitrary rejection.

Response: Our decision will not be arbitrary; instead, it will be based upon whether a change improves the effective and efficient administration of the program.

Comment: One commenter suggested we reorganize the regulations to more closely follow the actual process we will follow. He gave specific suggestions for recodifying the regulation sections.

Response: We are not accepting this comment as we believe the order and format of the provisions are adequate for our purposes. However, we will consider the commenter's suggestions when contemplating further revisions or recodification of Part 421 in the future.

Comment: One commenter thought that providers should have at least 120 days lead time to transfer to an intermediary. Another commenter believed that it should not have to transfer until 1985.

Response: We do not believe that providers need 120 days, or more, to transfer. Previous transfers have been made in as little as two weeks without major disruption. For the impending transfers, providers will have at least 60 days notice, and we believe this is adequate to facilitate smooth transfers.

Comment: One commenter wanted us to add a performance measure to the Contractor Performance Evaluation Plan (CPEP) now instead of to the 1984 CPEP.

Response: The CPEP is a performance evaluation program designed to assess the effectiveness and efficiency with which Medicare contractors administer the Medicare program. The CPEP is comprised of criteria containing measures for evaluating levels of performance demonstrated by contractors in carrying out essential operations such as bill processing, provider reimbursement, and beneficiary services. It also contains statistical standards against which performance is measured in terms of cost, timeliness and quality.

The CPEP evaluation periods are based on the Federal government's fiscal year (i.e., October 1 through September 30). Thus, the performance elements that will measure an intermediary's responsiveness to provider concerns were effective October 1, 1983.

Comment: One commenter wanted us to guarantee cash flow by arranging a fixed regular monthly payment during the transition period.

Response: We believe existing payment procedures under ongoing operations and special circumstances are adequate to meet provider cash flow requirements.

IV. Provisions of the Final Regulations

A. We Are Adopting the NPRM as Final With the Changes as Summarized Below

As proposed, we are amending 42 CFR Part 421 to clarify the application of Section 1874 of the Act to providers that choose not to nominate or elect fiscal intermediaries. The amendments clarify our authority to contract with intermediaries or other organizations to make payments to those providers that have not elected to exercise the option to deal with an intermediary.

As proposed, we are redesignating § 421.103 (a) and (b) as § 421.103(a) (1) and (2). We are adding a clause to the contents of § 421.103(a)(1) to indicate that a provider's election to receive payment directly from HCFA is subject to a new § 421.103(b) (which states that we may contract out our direct payment functions). We are making a technical revision to § 421.105(b) as well, to show that a provider's option to receive payment directly from us as provided in § 421.103(a)(1) is subject to § 421.103(b). In addition to these proposed revisions, we are changing the word "shall" to "must" to be consistent with other such changes in Title 42, Chapter IV.

As proposed, we are adding a paragraph (b) to § 421.103 to state that FCFA may, as it determines to be appropriate, contract with any organization (including an intermediary with which we have previously entered into an agreement under 42 CFR 421.105 or designated as a regional or alternative designated intermediary under § 421.117) to make payments to any provider or group of provider. The amendments preserve the option now available to most providers to choose to receive payment through nominated intermediaries, but would modify the providers' option to deal directly with us.

As proposed, we are revising the contents of the current 42 CFR 421.104(b)(2) and redesignating the paragraph as § 421.104(b)(3). Current § 421.104(b)(2) states that providers may exercise their right to receive payment from the Administrator. As we stated earlier, we have the right under section 1874 of the Act to contract out the functions required to service providers; thus, providers do not have the absolute right to receive payment directly from us. Instead, they may elect to receive payment from us directly, and we may then either make those payments or contract out the responsibility. Section 421.104(b)(3) is revised to show that providers may elect to receive payment directly from HCFA as provided in § 421.103, which states that we may contract out our direct-payment function.

Again, as proposed, we are also making a technical revision to 42 CFR 421.104(b), by changing the title of § 421.104(b) from *Nomination by members or nonconcurring members* to *Action by nonmembers or nonconcurring members* to reflect that a single provider, as opposed to a group, may elect to deal with an intermediary or with us. We are also adding a new paragraph (b)(2) to clarify that a provider that does not belong to a provider association, or a provider that does not concur with its association's nomination for intermediary, may elect to receive payments from an intermediary with which we already have an agreement if both we and the intermediary agree to it.

In the proposed rule, we proposed two revisions to § 421.117, which concerns designation of intermediaries for freestanding home health agencies, to give section 1874 of the Act as a basis for the section and to require all freestanding HHAs to receive payment through HCFA-designated regional intermediaries. In this final rule, we are making four revisions to 42 CFR 421.117. First, as proposed, as stated in § 421.117(a), we are changing the basis for the section to include section 1874 of the Act; that is, intermediaries (both regional and alternative designated regional intermediaries) are designated under both section 1816(e)(4) and section 1874 of the Act.

The second revision to 42 CFR 421.117 revises paragraph (b) to require all freestanding HHAs to receive payment through regional intermediaries designated by us, except as permitted by new paragraphs (d), (e), and (f).

We are adding a paragraph (d) to § 421.117 to give each HHA chain the opportunity to deal with a lead and local intermediary, or a single intermediary, of its choice, subject to our approval.

Next, we are adding a new paragraph (e) to § 421.117 that offers freestanding HHAs an opportunity to request an alternative designated regional intermediary.

We are adding a new paragraph (f) to show that we will evaluate an HHA's request to change from its designated regional intermediary to the alternative designated regional intermediary in accordance with § 421.106(a) and that the request must be filed within the time frames set forth in § 421.106(a). We also state that there is an exception to the rules set forth in the new paragraph (f); the exception follows in a new paragraph (g).

The new paragraph (g) will give each of ODR's HHAs 30 days from the date it is notified that it will be transferred to the designated intermediary to request to be serviced by the alternative designated regional intermediary for its area.

As conforming changes, we are adding the concept of "alternative designated regional intermediary" to the definition of "intermediary" in § 421.3, and to § 421.103(b), and we are adding a necessary clarification to show that we do not designate alternative regional intermediaries for hospices, which were added to the definition on December 16, 1983 (48 FR 56008). We are also revising the latter section's title to show that the section discusses options available to both providers and to us.

In addition, we are revising § 421.128(f) to show clearly that intermediary rights to an appeals process do not include the right to appeal our designation of an alternative regional intermediary. We are revising § 421.1, Basis and Scope, as well, to show that in the regulations we state under what circumstances an intermediary or carrier may appeal an adverse action. This change is necessary to conform this section with § 421.128(f), which does not give an intermediary the right to appeal our designation of intermediaries as regional or alternative regional intermediaries for freestanding HHAs or as intermediary for hospices.

(In the regulations concerning hospices, the word "regional" was deleted in §§ 421.3, 421.103, and 421.128(f). We have revised these three sections to more clearly delineate the procedural differences between hospices and freestanding HHAs.)

We are amending 42 CFR Part 405, Subpart T, as proposed, to show that HCFA may, at its option, use a contractor to carry out the activities it presently performs for HMOs.

We are also adopting as proposed some technical changes to 42 CFR Part 421:

1. We are adding language to 42 CFR 421.1, *Basis and Scope*, to clarify that Section 1874 of the Act is one of the bases of Part 421 and that the statute and regulations permit us to perform certain functions, directly or by contract.

2. We are deleting the definition of "the Administrator" from the definitions section (§ 421.3) and revising all references to "the Administrator" to "HCFA." For consistency, we are changing all references to "he or she" and "his or her" to "it" and "its," respectively.

B. Other Technical Changes

1. In the proposed rule as published on August 2, 1983, there were numerous

typographical errors, most of which are obvious. However, we wish to point out the more technical and less obvious errors at this time:

A. Page 34980, column 2, last line: The letters "EB" in the parenthetical reference should be "FR".

B. Page 34981, column 2, line 8 of paragraph 2: The section number of the Omnibus Reconciliation Act of 1980 should read "930", not "940".

C. Page 34982, column 3: Under "III. Public Comments," the year in line 2 should read "1982", not "1981".

2. On March 25, 1983, we published definitions applicable to all regulations in 42 CFR Chapter IV, unless otherwise noted in particular rules (48 FR 12526). Although we deleted the definition in 42 CFR 421.3 of "Administrator", we did not delete or conform the other definitions to those in § 400.202.

We are deleting from § 421.3 the definitions of "Act", "carrier", "provider" and "Secretary" since they are now defined in Part 400. We are retaining the definition of "intermediary" since it has a broader meaning in § 421.3 than in § 400.202, but we are also revising it so that its wording conforms to that in Part 400 where the meanings of the two definitions are the same. We are changing "Blue Cross Association", in § 421.3 to the more accurate title of Blue Cross and Blue Shield Association. We are also revising 42 CFR 400.202 to eliminate references to ODR as part of the definitions of intermediaries and carriers.

V. Implementation

A. Notification to Providers

HCFA will send a notice to each affected provider (other than freestanding HHAs) serviced by ODR, requesting a preference of intermediary, where applicable.

Each freestanding HHA will be transferred to the appropriate designated regional intermediary. The notice to the HHAs will include the name of the alternative designated regional intermediary. Those ODR HHAs not wishing to receive payment from the designated regional intermediary may choose to receive payment from the alternative designated regional intermediary.

In addition, each HHA chain may choose, subject to our approval, to use local intermediaries from member HHAs and a lead intermediary for the chain as a whole. Alternatively, each HHA chain may also select a single intermediary to service the entire chain, subject to our approval. All single intermediaries and lead and local intermediaries must be designated regional intermediaries.

B. Classification of Intermediaries

The classifications of intermediaries to service HHAs are as follows:

1. Designated regional intermediary: The intermediary we designate to service freestanding HHAs under section 1816(e)(4) and 1874 of the Act.

2. Alternative designated regional intermediary: The designated regional intermediary we select as being available in an area to service a freestanding HHA in its area, as an alternative to the designated regional intermediary.

3. Lead and local intermediaries: An option available to a chain whose degree of centralization makes it more efficient for a lead intermediary to conduct the home office audit and final settlement of individual cost reports. The lead and local intermediaries are selected from the designated regional intermediaries. In cooperation with the lead intermediary, the designated regional intermediaries (the local intermediaries) are responsible for provider reimbursement throughout the year in the individual States.

4. Single intermediary: A designated regional intermediary we approve to service an HHA chain.

C. Ombudsman

As we indicated earlier in the Analysis and Response to Comments section, we have arranged for ombudsmen-type positions in each HCFA region. These individuals will assist providers in resolving any problems encountered during the transition or thereafter.

D. Transfer Schedule

In the proposed rule we announced that we planned to begin the transfer process on October 1, 1983 and, when possible, to transfer providers at the beginning of their fiscal year. The transfer schedule is primarily affected by the necessity to complete the transfer process in FY 1984 and by our commitment to a smooth orderly transition with adequate notice to providers.

1. All providers will receive at least 60 days notice of the date of transfer.

2. A preliminary transfer schedule has been prepared and will be made available upon request.

3. Providers may request an accelerated transfer date and approval will be granted unless the movement would create a burden on either ODR or the receiving intermediary.

4. Providers having a choice of intermediary will be notified shortly after this final rule is published and given 30 days to indicate their intermediary preference.

E. Procedures During the Change-Over Period

Each provider serviced by ODR will be notified by mail of procedures to follow during the change-over process. We will arrange for an orderly transition of service. As providers are transferred to intermediaries, the entire workload for that provider will be transferred, including pending claims, unsettled cost reports, outstanding appeals, etc.

F. Assurance of Cash Flow

We will make every effort to assure that there will be no interruption of cash flow to providers. We will work closely with the intermediaries and providers to identify and try to resolve problems that might interrupt the cash flow.

G. Transition Cost

Provider costs incurred due to the transfer will be allowable and reimbursable under established Medicare reimbursement principles.

We will be responsible for only those costs directly attributable to Medicare. As provided in 42 CFR 405.460(f)(2), administrative cost limits may be adjusted upward for a provider that shows that the additional costs are due to the transition. Where providers' costs exceed the limits as the result of the transfers to an intermediary, we will grant an exception, provided that the costs are reasonable, attributable to the circumstances specified, separately identified by the provider, and verified by its intermediary.

H. List of Designated Regional Intermediaries to Service Freestanding Home Health Agencies

Below is the list of intermediaries we have previously designated as the regional intermediaries to service freestanding HHAs. These designations were published in the preamble to a final rule on September 1, 1982 (47 FR 38535). The notifications sent to the individual HHAs will include the name of the designated regional intermediary as well as the alternative designated regional intermediary listed in section I below.

Alabama—Blue Cross and Blue Shield of Alabama
Alaska—Blue Cross and Blue Shield of Washington and Alaska
Arizona—Aetna Life and Casualty
Arkansas—Arkansas Blue Cross and Blue Shield, Inc.
California—Blue Cross of California
Colorado—Blue Cross of Colorado

Connecticut—Blue Cross and Blue Shield of Connecticut, Inc.
Delaware—Blue Cross of Delaware
District of Columbia—Group Hospitalization, Inc. (Washington, D.C.)
Florida—Aetna Life and Casualty (Clearwater, Florida)
Georgia—Blue Cross of Georgia/Columbus, Inc.
Hawaii—Hawaii Medical Service Association
Idaho—Blue Cross of Idaho Health Service
Illinois—Health Care Service Corporation, a Mutual Legal Reserve Company (Chicago, Illinois)
Indiana—Mutual Hospital Insurance, Inc. (Indianapolis, Ind.)
Iowa—Blue Cross of Iowa, Inc.
Kansas—Blue Cross of Kansas, Inc.
Kentucky—Blue Cross and Blue Shield of Kentucky, Inc.
Louisiana—Blue Cross of Louisiana
Maine—Associated Hospital Service of Maine
Maryland—Blue Cross of Maryland, Inc.
Massachusetts—Blue Cross of Massachusetts, Inc.
Michigan—Blue Cross and Blue Shield of Michigan
Minnesota—Blue Cross and Blue Shield of Minnesota
Mississippi—Blue Cross and Blue Shield of Mississippi, Inc.
Missouri—Blue Cross Hospital Service, Inc. of Missouri (St. Louis, Missouri)
Montana—Blue Cross of Montana
Nebraska—Mutual of Omaha Insurance Company
Nevada—Aetna Life and Casualty (Reno, Nevada)
New Hampshire—New Hampshire-Vermont Health Services, Inc.
New Jersey—The Prudential Insurance Company of America
New Mexico—New Mexico Blue Cross and Blue Shield, Inc.
New York—Blue Cross and Blue Shield of Greater New York
North Carolina—Blue Cross and Blue Shield of North Carolina
North Dakota—Blue Cross of North Dakota
Ohio—Hosiptal Care Corporation (Cincinnati, Ohio)
Oklahoma—Blue Cross and Blue Shield of Oklahoma
Oregon—Blue Cross of Oregon
Puerto Rico —Cooperative De Seguros De Vida De Puerto Rico
Pennsylvania—Blue Cross of Greater Philadelphia
Rhode Island—Hospital Service Corporation of Rhode Island
South Carolina—Blue Cross and Blue Shield of South Carolina
South Dakota—Blue Cross of Western Iowa and South Dakota
Tennessee—Blue Cross and Blue Shield of Tennessee (Chattanooga, Tennessee)
Texas—Group Hospital Service, Inc. (Dallas, Texas)
Utah—Blue Cross of Utah
Vermont—New Hamsphire-Vermont Health Services, Inc.
Virginia—Blue Cross of Southeastern Virginia (Roanoke, Virginia)
Washington—Blue Cross of Washington and Alaska
West Virginia—Blue Cross Hospital Service, Inc. (Charleston, West Virginia)
Wisconsin—Blue Cross/Blue Shield United of Wisconsin
Wyoming—Blue Cross of Wymong

Certain designated intermediaries service HHAs across State lines in keeping with their longstanding service areas in the following cases:

- Group Hospitalization, Inc., which services the District of Columbia; Prince Georges and Montgomery Counties in Maryland; Arlington County, Fairfax County, and the cities of Alexandria, Falls Church and Fairfax in Virginia;
- Blue Cross of Western Iowa and South Dakota, which services all of South Dakota and 26 counties in Iowa;
- Oregon Blue Cross, which services Oregon and Clark County in Washington, a suburb of Portland;
- St. Louis Blue Cross, which services Missouri, and Johnson and Wyandotte Counties in Kansas; and
- Chattanooga Blue Cross, which services Walker, Dade and Catoosa Counties in Georgia.

These service areas do not overlap with those of other designated intermediaries and thus meet the intent of the legislative mandate in Pub. L. 96-499.

I. Alternative Designated Regional Intermediaries

The alternate intermediaries and the States in which they will serve as alterntes are as follows:

The Prudential Insurance Company of America—Alabama, Connecticut, Delaware, the District of Columbia, Florida, Georgia, Iowa, Kentucky, Maine, Maryland, Massachusetts, Mississippi, New Hampshire, New York, North Carolina, Pennsylvania, Puerto Rico, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, and West Virginia.
Blue Cross of Iowa—Arkansas, California, Illinois, Indiana, Kansas, Louisiana, Michigan, Minnesota, Missouri, Nebraska, New Jersey, New Mexico, Ohio, Oklahoma, Texas, and Wisconsin.
Blue Cross of California—Alaska, Arizona, Colorado, Hawaii, Idaho, Montana, Nevada, North Dakota, Oregon, South Dakota, Utah, Washington, and Wyoming.

J. Other Entities Dealing Directly with HCFA

The contracting out of certain functions presently performed by HCFA for health care prepayment plans (HMOs and GPPPs) is currently under study. Health care prepayment plans, while they are not providers with a nomination right, are presently serviced by HCFA. This regulation establishes our authority to modify this practice should we, in the future, choose to contract out some or all of the work.

VI. Impact Analyses

Executive Order 12291 requires us to prepare and publish a regulatory impact analysis for any regulations that are likely to have an annual effect on the economy of $100 million or more, cause a major increase in costs or prices, or meet other threshold criteria that are specified in that order. In addition, the Regulatory Flexibility Act of 1980 (Pub. L. 96-354) requires us to prepare and publish a regulatory flexibility analyses for regulations unless the Secretary certifies that the regulations will not have a significant economic impact on a substantial number of small entities. (For purposes of the Regulatory Flexibility Act, small entities include all nonprofit and most for-profit providers.) Under both the Executive Order and the Regulatory Flexibility Act, such analysis must, when prepared, show that the agency issuing the regulations has examined alternatives that might minimize unnecessary burden or otherwise ensure the regulations to be cost-effective.

In this final rule, we are responding to public comments concerning the Impact Analysis published in the August 2, 1983 NPRM and are making several changes and technical clarifications to provisions of the NPRM. Because of the concerns expressed by many commenters about this transfer, we are also providing the following analysis, that when combined with the rest of the preamble, constitutes a voluntary regulatory flexibility analysis.

A. Executive Order 12291

Executive Order 12291 requires us to prepare and make available to the public a regulatory impact analysis for any regulations likely to have an annual effect on the economy of $100 million or more, cause a major increase in costs or prices, or meet other threshold criteria specified in section 1(b) of the Order. We had determined that the proposed

rules did not meet the criteria for a "major rule" in section 1(b). Therefore, a regulatory impact analysis was not required.

In the proposed rule we also stated that these rules would increase our ability to improve administration and program effectiveness. We expected relatively minor one-time implementation costs substantially smaller than $100 million per year. Changes made in this final rule to the NPRM also do not meet the threshold criteria.

Under these final regulations, provision is made for all 185 automated HHAs to transfer to those regional intermediaries with capability to process their claims. We estimate that the one-time cost for intermediary assumption of these automated HHAs and the estimated transfer cost for the remaining providers will be approximately $1 million. This estimate incorporates costs for bill processing operations, audits, reimbursement for hearings and medical and utilization review functions. We are controlling contractor costs to assure operations in the private sector are no more costly than in ODR. Our discussions with other designated and alternative designated regional intermediaries and those intermediaries assuming the workload of the ODR hospitals and SNFs indicate that, in most cases, we can transfer the ODR workload at reasonable marginal rates.

We believe that extending to all freestanding HHAs the option of selecting one of the alternatives designated regional intermediaries, rather than the designated regional intermediary, will probably also result, at most, in a negligible economic impact. Each of the alternative designated regional intermediaries is properly equipped for automated billing procedures, thus mitigating any increase in operational costs. Also, the annual cost to process the bill volume generated by the freestanding HHAs will not increase overall but will simply shift among the intermediaries.

Therefore, we believe that the budgetary impact of this transfer will not be significant and we have determined that these final regulations will not meet the threshold criteria noted in section 1(b) of the Executive Order.

B. Regulatory Flexibility Act

In the proposed rule we stated that the Regulatory Flexibility Act requires us to prepare and make available to the public an initial regulatory flexibility analysis, under 5 U.S.C. 603(b), unless the Secretary certifies that an analysis is not required. The purpose of the analysis would be to explain the expected impact of the proposed regulations and to analyze alternatives that might reduce negative effects of regulations on small entities. (A small entity is a small business, a nonprofit enterprise, or a governmental jurisdiction with a population of less than 50,000.)

For purposes of regulatory flexibility analysis, we consider all providers and other entities participating in Medicare to be small entities. In the NPRM it was clear that a substantial number of small entities would be affected. However, we also determined that the impact on affected entities would not be significant. In the proposed rule we stated that we would minimize the impact of the rule change by making every effort to assure continued cash flow, basing reassignment on established cost reporting periods, and providing exceptions for providers that have costs exceeding their cost limits as a result of reassignment. Furthermore, changes made in these final rules result in additional efforts to minimize the impact of our decision to contract out the bill processing functions of ODR.

We continue to believe, as was discussed in the NPRM, that the impact of these regulations will not be significant and that an analysis is not required under 5 U.S.C. 603. Nevertheless, a number of commenters, including several members of Congress, expressed concern that no analysis of the impact on small businesses was completed prior to publication of the proposed rule. Therefore, we are providing a voluntary analysis to clarify our choice and to respond to concerns expressed. We are providing the public an opportunity to comment on the analysis.

(a) *Number of providers (Hospitals, SHFs, HHAs).* As of October 1, 1983, there were 1,057 providers remaining in ODR that would be affected by this transfer: 154 hospitals, 34 skilled nursing facilities, 480 home health agencies, 361 Federal hospitals and emergency hospitals, 21 providers of outpatient physical therapy services and 7 end-stage renal disease services facilities. (We are not contracting out the functions HCFA performs for health care prepayment plans at this time. These functions are performed by a component different from ODR.)

(b) *Efforts to minimize impact.* We believe these providers could be significantly affected by this rule if: (1) providers were not granted adequate time to prepare for a transfer; (2) a disruption in cash flow occurs; (3) chain organizations were forced to deal with multiple intermediaries; or, (4) automated providers were transferred to nonautomated intermediaries.

In their comments, providers also stated that they could be significantly affected by less tangible factors, such as perceived poor communications with certain intermediaries, previous differences of opinions (which may have led to their switching from an intermediary to ODR) or a general perference for a commercial intermediary over a Blue Cross Plan or *vice versa.*

To address all concerns, we developed three options: a single national alternative intermediary to the designated regional intermediaries; a small number of alternative designated intermediaries that providers could select, regardless of the providers' location; or a small number of alternative designated regional intermediaries that service designated areas.

The single national alternative intermediary would seem to preserve for providers a choice most similar to their present choice to select ODR. We did not select this option for several reasons. Unrestricted access to a designated national alternative intermediary could result in inefficient and expensive claims processing, audit and communications due to the distance and need for travel. (This is one of the problems that led Congress to require us to designate regional intermediaries for freestanding HHAs.) The potential for lack of timely response to provider concerns is high. Furthermore, this approach would be least compatible with our efforts to encourage consistent medical review and coverage decisions since the intermediary may be at a great distance from the provider. Finally, the choice of a single national intermediary runs counter to our future plans to regionalize our intermediary configuration.

The second option, a small number of alternative designated regional imtermediaries from which all providers could freely choose would be most responsive to those providers that felt it important to select a commercial intermediary instead of a Blue Cross Plan or vice verse. We rejected this option for many of the reasons stated above, since it is very likely that selections resulting in a great distance between the provider and intermediary could occur. In fact, if all selected the same intermediary, the result could be identical to the first option.

We selected the opton of three alternative designated regional intermediaries to service designated

areas and also developed operational provisions to minimize impact.

Included within the selected alternative are the following provisions that seek to minimize the affect of this rule change. First, all providers will receive at least 60 days' notice prior to transfer. This will give the provider and intermediary adequate time to conduct meetings, address concerns and complete any training the provider may require.

Second, we will work with the various intermediaries to assure that there is no disruption to providers' cash flow. We have experience in transferring large numbers of providers from one intermediary to another (HHA intermediary reconfiguration of 1982–July 1983; consolidation of Mutual of Omaha workload; consolidation of Blue Cross Plans and consolidation of The Travelers workload). In none of these instances did providers suffer a disruption in cash flow.

Third, with regard to chain organizations, each organization may request to use a single intermediary for its entire workload or to use local and lead intermediaries. Because of the fiscal or operational organizations of some chains and because of their degree of centralization, certain chains may find service by a single intermediary, or lead and local intermediaries, to be preferable to being serviced by the designated regional intermediary or the alternative designated regional intermediary.

Finally, we are responding to the needs of the 250 automated providers in several ways. We have begun transition activities with some hospitals and home health agencies. The intermediaries elected by these provider are automated. Where necessary the intermediaries are making adjustments to their system to accommodate billing procedures.

Automated HHAs will not have to transfer to an intermediary that cannot accept their automated billing. All three alternative designated regional intermediaries have the same systems capacity as ODR and may be chosen instead of a nonautomated regional intermediary. Automated billers represent only 185 of the 480 HHAs dealing with ODR; 93 of the 185 are members of two multi-State chains that have each chosen to be serviced by a single intermediary for the entire chain. The remaining 92 will each be transferred to one of 14 intermediaries or an alternative designated regional intermediary if selected by the HHA.

The remaining providers affected by the ODR transfer all submit paper bills to their intermediaries. These providers will experience few, if any, transition costs as the procedures for completing and submitting bills will remain the same. The primary changes will be learning the new intermediary contacts and the intermediary's address for mailing purposes.

A few providers commented that the Medicare regulations on cost apportionment may result in an impact on them, as they may not be totally reimbursed for administrative costs associated with the transfer. We agree that the lack of significant impact on a substantial number of providers does not preclude the fact that some individual providers could be affected, especially HHAs as noted by several commenters. However, the increased costs incurred by these providers because of the transition are allowable for Medicare reimbursement purposes under the usual rules. An appropriate portion will be reimbursed by Medicare. If increased costs subject the provider to the cost limits, the provider may request an exception to its cost limits for that fiscal year. By keeping overall transfer costs to a minimum, we also minimize the share of administrative costs not reimbursed using the cost apportionment rules. Further, we believe that expected intermediary improvements and increases in efficiency will diminish the impact of this transfer on individual providers.

Therefore, the Secretary certifies under 5 U.S.C. 605(b), as enacted by Pub. L. 96–354 (the Regulatory Flexibility Act of 1980), that these final regulations will not have a significant impact on a substantial number of small providers.

Although these regulations are final, we are providing interested parties an opportunity to comment on the Impact Analyses. If additional information results in changes to announced policies the comments and our responses will be published in a subsequent **Federal Register**. To assure consideration, comments on this impact analysis should be received by February 29, 1984.

Address comments in writing to: Health Care Financing Administration, Department of Health and Human Services, Attention: BPO–28–F, P.O. Box 26676, Baltimore, Maryland 21207.

If you prefer, you may deliver your comments to Room 309–G, Hubert H. Humphrey Building, 200 Independence Ave., SW., Washington, D.C., or to Room 132, East High Rise Building, 6325 Security Boulevard, Baltimore, Maryland 21207.

In commenting, please refer to file code BPO–28–F.

Comments will be availabe for public inspection as they are received, beginning approximately three weeks after publication, in Room 309–G of the Department's offices at 200 Independence Ave., SW., Washington, D.C. 20201, on Monday through Friday of each week from 8:30 a.m. to 5:00 p.m. (202–245–7890).

List of Subjects

42 CFR Part 400

Medicare, Medicaid.

42 CFR Part 405

Administrative practice and procedure, Certification of compliance, Clinics, Contracts (Agreements), End-Stage Renal Disease (ESRD), Health care, Health facilities, Health maintenance organizations (HMO), Health professions, Health suppliers, Home health agencies, Hospitals, Inpatients, Kidney diseases, Laboratories, Medicare, Nursing homes, Onsite surveys, Outpatient providers, Reporting requirements, Rural Areas, X-rays.

42 CFR Part 421

Administrative practices and procedure, Contracts (Agreements), Courts, Health care, Health facilities, Health maintenance organizations (HMO), Health professions, Information (Disclosure), Lawyer, Medicare, Professional Standards Review Organizations (PSRO), Reporting requirements.

A. 42 CFR Part 400 is amended as set forth below:

PART 400—INTRODUCTION: DEFINITIONS

Part 400, Subpart B is amended as follows:

Subpart B—Definitions

Authority: Secs. 1102 and 1871 of the Social Security Act (42 U.S.C. 1302 and 1395hh).

Section 400.202 is amended by revising the definitions "Carrier and "Intermediary" as follows:

§ 400.202 Definitions specific to Medicare.

As used in connection with the Medicare program, unless the context indicates otherwise—

"Carrier" means an entity that has a contract with HCFA to determine and make Medicare payments for Part B benefits payable on a charge basis and to perform other related functions.

* * * * *

Intermediary" means an entity that has a contract with HCFA to determine and make Medicare payments for Part A or Part B benefits payable on a cost

basis and to perform other related functions.

* * * * *

B. 42 CFR Part 405 is amended as set forth below:

PART 405—FEDERAL HEALTH INSURANCE FOR THE AGED AND DISABLED

Part 405, Subpart T is amended as follows:

Subpart T—Health Maintenance Organizations

1. The authority citation is revised to read as follows:

Authority: Sec. 1102, 1833(a)(1)(A), 1871, 1874, and 1876 (42 U.S.C. 1302, 1395l(a)(1)(A), 1395hh, 1395kk and 1395mm).

2. Section 405.2001 is amended by revising paragraph (a) as follows:

§ 405.2001 Health maintenance organizations; general.

(a) *Introduction.* The regulations in this Subpart T set forth the requirements which an organization must meet in order to be eligible to enter into a contract with the Secretary as a health maintenance organization (HMO) under the health insurance program for the aged and disabled (title XVIII of the Social Security Act) and to be reimbursed through capitation payments for covered items or services the organization furnishes title XVIII beneficiaries who have enrolled with it. Any references in this subpart to functions being performed by HCFA may at HCFA's option be performed directly by HCFA or by contract.

C. 42 CFR Part 421 is amended as set forth below:

PART 421—INTERMEDIARIES AND CARRIERS

1. The Table of Contents is amended as follows:

* * * * *

Subpart B—Intermediaries

* * * * *

Sec.

421.103 Options available to providers and HCFA.

* * * * *

421.114 Assignment and reassignment of providers by HCFA.

* * * * *

421.117 Designation of Regional and Alternative Designated Regional Intermediaries for Freestanding Home Health Agencies and for Hospices.

* * * * *

2. The authority citation is revised as follows:

Authority: Sec. 1102, 1815, 1816, 1833, 1842, 1861(u), 1871, 1874, and 1875 of the Social Security Act (42 U.S.C. 1302, 1395g, 1395h, 1395, 1395u, 1395x(u), 1395hh, 1395kk, and 1395ll), and 42 U.S.C. 1395b–1.

3. In addition to revisions noted below, all references to "the Administrator" in Part 421 are revised to read "HCFA."

4. Part 421, Subpart A is amended as follows:

Subpart A—Scope, Definitions, and General Provisions

a. Section 421.1 is revised to read as follows:

§ 421.1 Basis and scope.

(a) This part is based on sections 1815, 1816, 1842, and 1874 of the Social Security Act and 42 U.S.C. 1395b–1 (experimental authority).

(b) The provisions of this part apply to agreements with Part A (Hospital Insurance) intermediaries and contracts with Part B (Supplementary Medical Insurance) carriers. They also state that HCFA may perform certain functions directly or by contract. They specify criteria and standards to be used in selecting intermediaries and evaluating their performance; in assigning or reassigning a provider or providers to particular intermediaries, and in designating regional or national intermediaries for certain classes of providers. The provisions set forth the instances where there is the opportunity for a hearing for intermediaries and carriers affected by certain adverse actions. In some circumstances, the adversely affected intermediaries may request a judicial review of hearings decisions on (1) assignment or reassignment of a provider or providers or (2) designation of an intermediary or intermediaries to serve a class of providers.

b. Section 421.3 is amended by removing the definitions of Act, Administrator, Carrier, Provider and Secretary and revising the definition of Intermediary as follows:

§ 421.3 Definitions.

"Intermediary" means an entity that has a contract with HCFA to determine and make Medicare payments for Part A or Part B benefits payable on a cost basis and to perform other related functions. For purposes of designating regional or alternative regional intermediaries for freestanding home health agencies and of designating intermediaries for hospices under § 421.117 as well as for applying the performance criteria in § 421.120 and the statistical standards in § 421.122 and any adverse action resulting from such application, the term intermediary also means a Blue Cross Plan which has entered into a subcontract approved by HCFA with the Blue Cross and Blue Shield Association to perform intermediary functions.

5. Part 421, Subpart B is amended as follows:

Subpart B—Intermediaries

a. Section 421.100 is amended by revising paragraph (g) as follows:

§ 421.100 Intermediary functions.

* * * * *

(g) *Information and reports.* The intermediary must furnish to HCFA any information and reports that HCFA requests in order to carry out its responsibilities in the administration of the Medicare program.

* * * * *

b. Section 421.103 is revised as follows:

§ 421.103 Option available to providers and HCFA.

(a) Except for hospices (which are covered under § 421.117), a provider may elect to receive payment for covered services furnished to Medicare beneficiaries:

(1) Directly from HCFA (subject to the provisions of paragraph (b) of this section); or

(2) Through an intermediary, when both HCFA and the intermediary consent.

(b) Whenever HCFA determines it appropriate, it may contract with any organization (including an intermediary with which HCFA has previously entered into an agreement under § 421.105 and § 421.110 or designated as a regional or alternative regional intermediary under § 421.117) for the purposes of making payments to any provider that does not elect to receive payment from an intermediary.

c. Section 421.104 is amended by revising the heading of paragraph (b), by revising paragraph (b)(2), and by adding a new paragraph (b)(3) as follows:

§ 421.104 Nominations for intermediary.

* * * * *

(b) *Action by nonmembers or nonconcurring members.* Providers that nonconcur in their association's nomination, or are not members of an association, may:

* * * * *

(2) Elect to receive payments from a fiscal intermediary with which HCFA already has an agreement, if HCFA and the intermediary agree to it (see § 421.106); or

(3) Elect to receive payment from HCFA as provided in § 421.103.

d. Section 421.105 is amended by revising paragraph (b) as follows:

§ 421.105 Notification of action on nomination.

* * * * *

(b) Any member of a group or association having more than one nominated intermediary approved by HCFA to act on its behalf must withdraw its nomination from all but one or exercise the option provided in § 421.103(a), subject to § 421.103(b), to receive payment directly from HCFA.

e. Section 421.106 is amended by revising paragraph (b) as follows:

§ 421.106 Change to another intermediary or to direct payment.

* * * * *

(b) If HCFA finds the change is consistent with effective and efficient administration of the program and approves the request under paragraph (a) of this section, it will notify the provider, the outgoing intermediary and the newly elected intermediary (if any) that the change will be effective on the first day following the close of the fiscal year in which the request was filed.

f. Section 421.114 is amended by revising the title and introductory paragraph as follows:

§ 421.114 Assignment and reassignment of providers by HCFA.

HCFA may assign or reassign any provider to any intermediary if it determines that the assignment or reassignment will result in more effective and efficient administration of the Medicare program. Before making this determination HCFA will consider—

* * * * *

g. Section 421.116 is amended by revising paragraph (a) as follows:

§ 421.116 Designation of national or regional intermediaries.

(a) After considering intermediary performance measured against the criteria and standards specified in §§ 421.120 and 421.122, HCFA may designate a particular intermediary to serve a class of providers nationwide or in any geographic area it defines. HCFA may make this designation if it determines that the designation will result in a greater degree of effectiveness and efficiency in the administration of the Medicare program than could be achieved by an assignment of providers to an intermediary preferred by the providers.

* * * * *

h. Section 421.117 is revised by revising the title and paragraphs (a) and (b), and by adding paragraphs (d), (e), (f), and (g) as follows:

§ 421.117 Designation of Regional and Alternative Designated Regional Intermediaries for Freestanding Home Health Agencies and for Hospices.

(a) This section is based on section 1816(e)(4) of the Social Security Act, which requires the Secretary to designate regional intermediaries for freestanding home health agencies (HHAs), on section 1816(e)(5) of the Social Security Act, which requires the Secretary to designate intermediaries for hospices, and on Section 1874 of the Act, which permits HCFA to contract with any organization for the purpose of making payments to any provider that elects to receive payment directly from HCFA.

(b) Except as provided in paragraphs (d), (e), and (f) of this section, freestanding HHAs that elect to receive payment for covered services furnished to Medicare beneficiaries through an intermediary under § 421.103(a)(2) of this subpart and HHAs that elect to receive payment directly from HCFA under § 421.103(a)(1) of this subpart must receive payment through a regional intermediary designated by HCFA.

* * * * *

(d) An HHA chain not desiring to receive payment from designated regional intermediaries may request service by one lead intermediary with the assistance of a local designated regional intermediary. Alternatively, the chain may request to be serviced by a single intermediary. A lead, local, or a single intermediary must be an organization that is a designated regional intermediary. Any request made under this paragraph is evaluated by HCFA in accordance with the critiera contained at § 421.106 of the subpart.

(e) An HHA not wishing to receive payment from a regional intermediary designated under paragraph (b) of this section may submit a request to the HCFA Regional Office to receive payment through an alternative regional intermediary designated by HCFA.

(f) Except as provided in paragraph (g) of this section, any request that an HHA may make to change from a designated regional intermediary to an alternative designated regional intermediary, in accordance with paragraph (e) of this section, is evaluated by HCFA in accordance with the criteria set forth at § 421.106(b) of this subpart and must be filed within the timeframe established at § 421.106(a) of this subpart.

(g) Exception: An HHA that is receiving payment directly from HCFA under § 421.103(a)(1) of this subpart as of January 30, 1984 is eligible to request that it receive payments from an alternative designated regional intermediary without regard to the limitations contained in § 421.106 of this subpart. However, each such HHA will have only 30 days after the date of receipt of HCFA's notification that the HHA will be transferred to a designated regional intermediary to request the alternative designated regional intermediary.

i. Section 421.128(f) is revised to read as follows:

§ 421.128 Intermediary's opportunity for a hearing and right to judicial review.

* * * * *

(f) Exception. An intermediary adversely affected by the designation of a regional intermediary or an alternative regional intermediary for freestanding HHAs, or an intermediary for freestanding hospices, under § 421.117 of this subpart is not entitled to a hearing or judicial review concerning adverse effects caused by the designation of an intermediary.

6. Part 421, Subpart C is amended as follows:

Subpart C—Carriers

Section 421.200 is amended by revising paragraph (g) as follows:

§ 421.200 Carrier functions.

* * * * *

(g) *Information and reports.* The carrier must furnish to the Administrator any information and reports that HCFA requests in order to carry out its responsibilities in the administration of the Medicare program. The carrier must be responsive to requests for information from the public.

* * * * *

(Catalog of Federal Domestic Assistance Program No. 13.773, Medicare-Hospital Insurance)

Dated: November 26, 1983.

Carolyne K. Davis,

Administrator, Health Care Financing Administration.

Approved: December 27, 1983.

Margaret M. Heckler,

Secretary.

[FR Doc. 84-2424 Filed 1-27-84; 8:45 am]

BILLING CODE 4120-03-M

DEPARTMENT OF THE INTERIOR

Office of the Secretary

43 CFR Part 20

Employee Responsibilities and Conduct

AGENCY: Department of the Interior.

ACTION: Notice of availability.

SUMMARY: This notice announces the availability of Appendix C to 43 CFR Part 20. This Appendix lists all positions within the Department of the Interior for which Statements of Employment and Financial Interests (Form DI–212) are required to be filed. This Appendix has been updated as of December 1, 1983 and has been printed as an agency document. This document will not be published in the **Federal Register** but will be available to the public upon request.

EFFECTIVE DATE: January 30, 1984.

ADDRESS: Copies of Appendix C may be obtained through the Deputy Ethics Counselor for each bureau or office within the Department of the Interior. The address is 18th and C Streets, NW., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Mr. Gabriele J. Paone or Mr. Mason Tsai, Departmental Ethics and Audit Coordination Staff, U.S. Department of the Interior, Washington, D.C. 20240; (202) 343–3932 or (202) 343–5916.

SUPPLEMENTARY INFORMATION: The Department of the Interior requested and received approval from the Office of Government Ethics, Office of Personnel Management, to publish Appendix C to 43 CFR Part 20 as an agency document. The availability of this document is announced in the **Federal Register**. Notice of this arrangement was initially provided with the publication of 43 CFR Part 20 as a proposed rule on October 6, 1980 (45 FR 66370). This arrangement meets administrative requirements which affect only Department of the Interior employees and at the same time defrays the cost of publishing the Appendix C listing in the **Federal Register**. Copies of the Appendices are available from the above address.

Appendix C lists Department of the Interior positions, in addition to GS (or GM)–15's for which a Confidential Statement of Employment and Financial Interests (Form DI–212) is required to be filed by Executive Order 11222. Positions identified in Appendix C are effective for the February 1, 1984 filing deadline. Appendix C was approved by the Office of Government Ethics, Office of Personnel Management, on December 15, 1983.

List of Subjects in 43 CFR Part 20

Conflicts of interest, Government employees.

Authorities: Appendix C to Part 20 of Title 43 of the Code of Federal Regulations is published under Executive Order 11222, 30 FR 6469, 3 CFR, 1964–65 Comp., as amended (18 U.S.C. 201 Note); 5 CFR 735.104; and 5 U.S.C. 301.

Appendix C was compiled by Bureau and Office Ethics Counselors and consolidated by Gabriele J. Paone and Mason Tsai of the Departmental Ethics and Audit Coordination Staff.

Dated: January 20, 1984.

Richard R. Hite,

Deputy Assistant Secretary of the Interior.

[FR Doc. 84–2423 Filed 1–27–84; 8:45 am]

BILLING CODE 4210–10–M

OFFICE OF PERSONNEL MANAGEMENT

45 CFR Part 801

Voting Rights Program; Appendix A; Mississippi

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This notice identifies the location of a new office for filing applications or complaints under the Voting Rights Act of 1965, as amended. The Attorney General has determined that this designation is necessary to enforce the guarantees of the Fourteenth and Fifteenth amendments to the Constitution.

EFFECTIVE DATE: January 30, 1984.

FOR FURTHER INFORMATION CONTACT: Mr. Michael D. Clogston, Coordinator, Voting Rights Program, Office of Personnel Management, Washington, D.C. 20415; 202–632–5691.

SUPPLEMENTARY INFORMATION: The Attorney General has designated Copiah County, Mississippi, as an additional examination point coming under the provisions of the Voting Rights Act of 1965, as amended. He has determined that this designation is necessary to enforce the guarantees of the Fourteenth and Fifteenth amendments to the Constitution. Accordingly, pursuant to Section 6 of the Voting Rights Act of 1965, as amended, 42 U.S.C. 1973d, the U.S. Office of Personnel Management will appoint Federal examiners to review the qualifications of applicants to be registered to vote and Federal observers to observe local elections.

Pursuant to Section 553(b)(3)(B) of title 5 of the United States Code, the Director finds that good cause exists for waiving the general notice of proposed rulemaking. The notice is being waived because of OPM's legal responsibilities under 42 U.S.C. 1973e(a) and other parts of the Voting Rights Act of 1965, as amended, which require OPM to publish counties certified by the U.S. Attorney General and locations within these counties where citizens can be federally listed and become eligible to vote, and where Federal observers can be sent to observe local elections.

Pursuant to Section 553(d)(3) of title 5 of the United States Code, the Director finds that good cause exists to make this amendment effective in less than 30 days. The regulation is being made effective immediately to allow Federal examiners to immediately register voters and Federal observers to observe elections under the authority of the Voting Rights Act of 1965, as amended.

E.O. 12291, Federal Regulation

OPM has determined that this is not a major rule as defined under Section 1(b) of E.O. 12291, Federal Regulation.

Regulatory Flexibility Act

I certify that this regulation will not have a significant economic impact on a substantial number of small entities because its purpose is the addition of one new location to the list of counties in the regulation concerning OPM's responsibilities under the Voting Rights Act.

List of Subjects in 45 CFR Part 801

Administrative practice and procedures, Voting rights.

U.S. Office of Personnel Management.

Donald J. Devine,

Director.

Accordingly, the Office of Personnel Management amends § 801.202 of 45 CFR Part 801, Appendix A, by alphabetically adding Copiah County, Mississippi, to read as follows:

PART 801—VOTING RIGHTS PROGRAM

§ 801.202 Times and places for filing and forms of application

* * * * *

Appendix A

* * * * *

Mississippi

County; Place for filing; Beginning date.

* * * * *

Copiah; Hazelhurst—W.S. Henley Building, 122 South Lowe Street; December 13, 1983.

* * * * *

(5 U.S.C. 1103; secs. 7, 9, 79 Stat. 440, 441 (42 U.S.C. 1973c, 1973g)).

[FR Doc. 84-2603 Filed 1-27-84; 8:45 am]
BILLING CODE 6325-01-M

Proposed Rules

Federal Register
Vol. 49, No. 20
Monday, January 30, 1984

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Federal Grain Inspection Service

7 CFR Part 810

Proposed Revision of the U.S. Standards for Rye

AGENCY: Federal Grain Inspection Service. USDA.

ACTION: Proposed rule.

SUMMARY: According to the requirements for the periodic review of existing regulations, the Federal Grain Inspection Service (FGIS) has reviewed the U.S. Standards for Rye, and proposes to revise the format of the standards to conform to other grain standards, delete the special grade "Tough", revise certain definition of terms, add a section for temporary modification of equipment and procedures, revise the section on percentages to clarify its scope, revise the Sample grade requirements for rye, and make other miscellaneous changes including revisions referencing FGIS handbooks.

DATE: Comments must be submitted on or before March 30, 1984.

ADDRESS: Comments must be submitted in writing, in duplicate, to Lewis Lebakken, Jr., Information Resources Management Branch, USDA, FGIS, Room 0667 South Building, 1400 Independence Avenue, SW., Washington, D.C. 20250, telephone (202) 382–1738. All comments received will be made available for public inspection at the above address during regular business hours (7 CFR 1.27(b)).

FOR FURTHER INFORMATION CONTACT: Lewis Lebakken, Jr., address as above, telephone (202) 382–1738.

SUPPLEMENTARY INFORMATION:

Executive Order 12291

This proposed rule has been issued in conformance with Executive Order 12291 and Secretary's Memorandum 1512–1. The action has been classified as nonmajor, because it does not meet the criteria for a major regulation established in the order.

Regulatory Flexibility Act Certification

Dr. Kenneth A. Gilles, Administrator, FGIS, has determined that this proposed rule will not have a significant economic impact on a substantial number of small entities because most users of rye inspection services do not meet the requirements for small entities as defined in the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*)

Review of Standards

This review of the standards included a determination of the continued need for the standards; the potential for clarifying or simplifying the language of the standards; changes in marketing practices and functions affecting the standards; changes in technology and economic conditions in the area affected by the standards; and a determination of the potential for improving the standards and their application through the incorporation of grading factors or tests which better indicate quality attributes. The objective is to assure that the standards continue to serve the needs of the market to the greatest possible extent.

A notice requesting public comment on the U.S. Standards for Rye was published in the March 17, 1983 **Federal Register** (48 FR 11276). Within the 60-day comment period, 6 comments were received. All comments addressed two primary issues:

1. Should the format of the rye standards (7 CFR 810.401 *et seq.*) be updated to conform to the current arrangement of the sections as in the wheat standards?

2. Should the special grade "Tough" be deleted from the standard? All 6 commenters agreed that the format of the rye standards should be updated. Five commenters agreed that the special grade "Tough" should be deleted, and one favored the retention of the special grade so as to reference moisture. One commenter offered an additional suggestion, which was to delete the special dockage procedure when an excessive amount of wild buckwheat seed is present in a sample. A study is needed to explore alternate approaches and procedures that would minimize the variability in test results. If the study indicates that changes are needed, appropriate action will be taken to amend the procedure.

A review of all related information indicates that certain revisions in the standards would increase the clarity and effectiveness of the standards and reflect current marketing practices. As a result of this review FGIS is proposing changes to the U.S. Standards for Rye.

Comments including data, views, and arguments are solicited from interested persons. Pursuant to section 4(b) of the United States Grain Standards Act (7 U.S.C. 76(b)), upon request, such information may be orally presented in an informal manner. It should be noted that pursuant to section 4(b) of the Act no standards established or amendments or revocations of standards under the Act are to become effective less than one calendar year after promulgation, unless in the judgment of the Administrator the public health, interest, or safety requires that they become effective sooner.

1. To enhance clarity and uniformity between standards, FGIS proposes to revise the U.S. Standards for Rye by dividing the standards into 4 parts, and into sections such as currently exist in the U.S. Standards for Wheat. Specifically, in addition to the changes discussed below, Part I, *Terms Defined* would consist of a new § 810.401, *Definition of Rye* and a new § 810.402, *Definition of other terms*. Part II, *Principles Governing Application of Standards* would consist of a new § 810.403, *Basis of determination*, a new § 810.404, *Temporary modifications in equipment and procedures*, and a new § 810.405, *Percentages*. Part III, *Grades, Grade Requirements, and Grade Designations* would consist of a new § 810.406, *Grades and grade requirements* and a new § 810.407, *Grade designations*. Part IV, *Special Grades, Special Grade Requirements, and Special Grade Designations* would consist of a new § 810.408, *Special grades and special grade requirements* and a new § 810.409, *Special grade designations*. Incidental to this revision, paragraph (a), *Grades and grade requirements for rye* of the current § 810.402, *Grades, grade requirements, and grade designations* is included in the new § 810.406, *Grades and grade requirements*, and paragraphs (b), *Grade designations for rye* and (c), *Optional grade designations* are included in the new § 810.407, *Grade designations*; the

current § 810.403, *Dockage* is included in the new § 810.402, *Definition of other terms*; the current § 810.403a, *Special grade; Plump rye*, § 810.406, *Special grade; Smutty rye*, § 810.406, *Special grade; Garlicky rye*, § 810.407, *Special grade; Weevily rye*, and § 810.408, *Special grade; Ergoty rye*, are included in the new § 810.408, *Special grades and special grade requirements* and the new § 810.409, *Special grade designations*; the current § 810.404, *Special grade; Tough rye* is deleted; and in the current § 810.409, *Grade factors; definitions*, paragraph (a), *Basis of grade determinations* is clarified and included in the new § 810.403, *Basis of determination*, paragraph (b), *Percentages* is clarified and included in the new § 810.405, *Percentages*, and paragraphs (c), *Percentage of moisture*, (d), *Test weight per bushel*, (e), *Foreign material*, (f), *Other grains*, (g), *Damaged kernels*, and (h), *Heat-damaged kernels* are clarified and included in the new § 810.402, *Definition of other terms*, as are definitions for 4 new terms, *Distinctly low quality, Sieve, 0.064 x ⅜ oblong hole, Stones*, which are similar to those terms which appear in other standards so as to specify its definition, and *Thin rye*.

2. The special grade Tough is not indicative of grain quality and is only utilized when the moisture content is more than 14.0 percent, but not more than 16.0 percent.

Moisture content is an indicator of storability. However, storability is also affected by many other factors such as temperature, aeration, and cleanliness of the rye. Moisture content is required by regulations (7 CFR 800.162(a)) to be shown on official certificates when an official grade determination is made, and knowledge of the actual moisture content of a lot of rye is useful to the buyer. Discounts for moisture in most markets are based on the percentage of moisture. While it is true that the presence of excess moisture in grain may support the growth of undesirable organisms and the development of odors, moisture content is not deleterious to the quality of grain, and should not be a criterion in designating grain Sample grade.

3. The current definitions in the rye standards for moisture and test weight per bushel contain obsolete references, including former organizational and handbook references. This proposal includes revised definitions for these and the terms rye, damaged kernels, dockage, foreign material, heat damage, and other grain so as to clarify the same.

4. The equipment and procedures referred to in the rye standards are applicable to grain produced and harvested under normal environmental conditions. FGIS proposes to provide that, when adverse growing or harvesting conditions make impractical the use of routine procedures, minor temporary modifications in the equipment or procedures may be required to obtain results expected under normal conditions. Accordingly, the addition of a new § 810.404 on temporary modifications in equipment and procedures is proposed. Adjustments in interpretations (i.e., identity, quality, and condition) shall not be made. This section is similar to sections which apply in other grain standards.

5. In the interest of promoting clarity and uniformity between the various grain standards, it is proposed that a new § 810.405, *Percentages* be added to clarify and specify the application of current rounding and recording procedures for all percentage determinations.

6. FGIS proposes to add the limit of two crotalaria seeds in a 1000-gram sample to the new § 810.406 to more clearly define U.S. Sample grade rye. This limit currently is included in § 810.901 which considers grain exceeding this limit as distinctly low quality. 7 CFR 810.901 still is applicable to certain other grains but no longer will apply to rye.

7. FGIS proposes to amend § 810.901 since the provision will be included in the Sample grade definition; and the section will not be referenced in the rye standards.

8. FGIS proposes to include in the definition of Sample grade, the limits for stones, pieces of glass, castor beans, and particles of an unknown foreign substance(s) or a commonly recognized harmful or toxic substance(s). The limits of 8 or more stones, 2 or more pieces of glass, 2 or more castor beans, and 4 or more particles of an unknown foreign substance(s) or a commonly recognized harmful or toxic substance(s) are specified in the Inspection Handbook and have been followed in the inspection process for many years and do not constitute new limits. The limits are added to the definition of U.S. Sample grade for clarity and to conform to other updated grain standards.

9. Other changes to the rye standards which result from the revision in format and updated definitions include: (a) Smut balls, in addition to being considered in determining the special grades "Smutty" or "Light smutty", also are considered foreign material; additionally, the presence of a quantity of smut so great that one or more grade requirements cannot be accurately determined will not be a factor grading rye U.S. Sample grade; (b) ergot will be stated in hundredth percent, (c) the maximum limit for heat-damaged kernels in grade U.S. No. 1 will be 0.2 percent, (d) the maximum number of rodent or bird pellets or other animal filth permitted in the numerical grades will be reduced from 2 to 1.

Smut balls are foreign to grain and should be considered as foreign material. Smut balls are light and weigh very little, therefore will not make a significant impact on the calculated percentage of foreign material; however, for uniformity with other standards, they will be considered foreign material. A proposal being considered would amend the wheat standards so that the presence of a quantity of smut so great that one or more grade requirements cannot be accurately determined will not be a factor grading wheat U.S. Sample grade. If the proposal is accepted, then the rye standards should conform because of the simularities between the grains. Moreover, the special grades "Light smutty" and "Smutty" are retained. Also, for uniformity between standards, ergot will be certificated in terms of a hundredth percent instead of the current tenth percent. Heat-damaged limits in the wheat standards for grades U.S. No. 1 and 2 are 0.2 percent for both grades. The previous limits of 0.1 percent and 0.2 percent in grades U.S. No. 1 and 2, respectively, were found to be too restrictive for practical application under current sampling and inspection procedures. In wheat, the allowable limits of rodent or bird pellets or other animal filth in the numerical grades were reduced from 2 to 1 to agree more closely with limits applied under the Food, Drug, and Cosmetic Act (21 U.S.C. 342 *et seq.*).

It is therefore proposed that the above changes be made for the purpose of uniformity to conform to the wheat standard.

10. Incorporated also into this proposal are nonsubstantive changes to update references to handbooks and FGIS's organizational structure.

List of Subjects in 7 CFR Part 810

Export, Grain.

PART 810—[AMENDED]

Accordingly, it is proposed that the United States Standards for Rye (7 CFR 810.401—810.409 and 810.901) be revised to read as follows:

United States Standards for Rye[1]

Terms Defined

§ 810.401 Definition of rye.

The grain of common rye (*Secale cereale* L.) which, before the removal of the dockage, consists of 50 percent or more of rye and not more than 10 percent of other grains for which standards have been established under the United States Grain Standards Act and which, after the removal of the dockage, contains 50 percent or more of whole kernels of rye.

§ 810.402 Definition of other terms.

For the purpose of these standards, the following terms shall have the meanings stated below:

(a) *Damaged kernels.* Kernels, pieces of rye kernels, and other grains that are badly ground-damaged, badly weather-damaged, diseased, frost-damaged, heat-damaged, insect-bored, mold-damaged, sprout-damaged, or otherwise materially damaged.

(b) *Distinctly low quality.* Rye which is obviously of inferior quality because it contains foreign substances or because it is in an unusual state or condition, and which cannot be properly graded by use of the other grading factors provided in the standards. Distinctly low quality shall include the presence of any objects too large to enter the sampling device; i.e., large stones, wreckage, etc.

(c) *Dockage.* All matter other than rye which can be readily removed from a portion of the original sample by use of an approved device in accordance with procedures prescribed in the Grain Inspection Handbook.[2] Also, underdeveloped, shriveled, and small pieces of rye kernels removed in separating the material other than rye and which cannot be recovered by properly rescreening or recleaning. (See also § 810.405 and § 810.407.) For the purpose of this paragraph, "approved device" shall include the Carter Dockage Tester and any other equipment that is approved by the Administrator as giving equivalent results.[3]

(d) *Foreign material.* All matter other than rye which remains in the sample after the removal of dockage.

(e) *Heat-damaged kernels.* Kernels, pieces of rye kernels, and other grains that are materially discolored and damaged by heat which remain in the same after the removal of dockage.

(f) *Moisture.* Water content in rye as determined by an approved device in accordance with procedures prescribed in the Equipment Handbook.[2] For the purpose of this paragraph, "approved device" shall include the Motomco Moisture Meter and any other equipment that is approved by the Administrator as giving equivalent results.[3]

(g) *Other grains.* Barley, corn, cultivated buckwheat, einkorn, emmer, flaxseed, guar, hull-less barley, nongrain sorghum, oats, Polish wheat, popcorn, poulard wheat, rice, safflower, sorghum, soybeans, spelt, sunflower, sweet corn, triticale, wheat, and wild oats.

(h) *Sieve, 0.064 × ⅜ oblong-hole.* A metal sieve 0.032 inch thick with oblong perforations 0.064 inch by 0.375 inch.

(i) *Stones.* Concreted earthy or mineral matter and other substances of similar hardness that do not disintegrate readily in water.

(j) *Test weight per bushel.* The weight per Winchester bushel (2,150.42 cubic-inch capacity) as determined on a dockage-free test portion of the original sample using an approved device in accordance with instructions in the Grain Inspection Handbook.[2] Test weight per bushel shall be expressed to the nearest tenth of a pound. For the purpose of this paragraph, "approved device" shall include the Fairbanks-Morse or Ohaus Test Weight Per Bushel Apparatus and any other equipment that is approved by the Administrator as giving equivalent results.[3]

(k) *Thin rye.* Rye and other matter that will readily pass through a 0.064 × ⅜ inch oblong-hole sieve.

Principles Governing Application of Standards

§ 810.403 Basis of determination.

(a) *Distinctly low quality.* The determination of distinctly low quality shall be made on the basis of the lot as a whole at the time of sampling when a condition exists that may not appear in the representative sample and/or the sample as a whole.

(b) *Certain quality determinations.* Each determination of rodent pellets, bird droppings, other animal filth, broken glass, castor beans, crotalaria seeds, dockage, garlic, live weevils or other insects injurious to stored grain, moisture, temperature, an unknown foreign substance(s), and a commonly recognized harmful or toxic substance(s) shall be upon the basis of sample as a whole.

(c) *All other determinations.* All other determinations shall be upon the basis of the grain when free from dockage, except the determination of odor shall be upon either the basis of the grain as a whole or the grain when free from dockage.

§ 810.404 Temporary modifications in equipment and procedures.

The equipment and procedures referred to in the rye standards are applicable to rye produced and harvested under normal environmental conditions. Abnormal environmental conditions during the production and harvest of rye may require minor temporary modifications in the equipment or procedures to obtain results expected under normal conditions. When these adjustments are necessary, proper notification will be made in a timely manner. Adjustments in interpretations (i.e., identity, quality, and condition) are excluded and shall not be made.

§ 810.405 Percentages.

(a) Percentages shall be determined on the basis of weight and shall be rounded off as follows:

(1) When the figure to be rounded is followed by a figure greater than 5, round to the next higher figure; e.g., state 0.46 as 0.5.

(2) When the figure to be rounded is followed by a figure less than 5, retain the figure; e.g., state 0.54 as 0.5.

(3) When the figure to be rounded is even and is followed by the figure 5, retain the even figure. When the figure to be rounded is odd and is followed by the figure 5, round the figure to the next higher number, e.g., state 0.45 as 0.4; state 0.55 as 0.6.

(b) Percentages shall be stated in whole and tenth percent to the nearest tenth percent, except when determining the identity of rye and the percentage of dockage and ergot. The percentage when determining the identity of rye shall be stated to the nearest whole percent. The percentage of dockage when equal to one percent or more shall be stated in terms of whole percent, and when less than one percent shall not be stated. A fraction of a percent shall be disregarded. The percentage of ergot shall be stated to the nearest hundredth percent.

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[1] Compliance with the provisions of the standards does not excuse failure to comply with the provisions of the Federal Food, Drug, and Cosmetic Act, or other Federal laws.

[2] The Equipment Handbook and the Grain Inspection Handbook copies may be obtained from the Federal Grain Inspection Service, U.S. Department of Agriculture, 1400 Independence Avenue, SW., Washington, DC 20250.

[3] Requests for information on approved devices and procedures, criteria for approved devices, and requests for approval of devices should be directed to the Federal Grain Inspection Service, U.S. Department of Agriculture, 1400 Independence Avenue, SW., Washington, DC 20250.

Grades, Grade Requirements, and Grade Designations

§ 810.406 Grades and grade requirements for rye (See also § 810.408).

Grade No.	Minimum test weight per bushel (pounds)	Maximum limits of—			
		Damaged kernels (rye and other grains)		Foreign material	
		Total (percent)	Heat damaged (percent)	Total (percent)	Foreign matter other than wheat (percent)
U.S. No. 1 [1]	56.0	2.0	0.2	3.0	1.0
U.S. No. 2 [1]	54.0	4.0	0.2	8.0	2.0
U.S. No. 3 [1]	52.0	7.0	0.5	10.0	4.0
U.S. No. 4 [1]	49.0	15.0	3.0	10.0	5.0

U.S. Sample grade—U.S. Sample grade shall be rye which:

(1) Does not meet the requirements for the grades U.S. Nos. 1, 2, 3, or 4, or

(2) Contains 8 or more stones, 2 or more pieces of glass, 3 or more crotalaria seeds (*Crotalaria* spp.), 2 or more castor beans (*Ricinus communis*), 4 or more particles of an unknown foreign substance(s) or a commonly recognized harmful or toxic substance(s), or 2 or more rodent pellets, bird droppings, or an equivalent quantity of other animal filth per 1,000 grams or rye; or

(3) Has a musty, sour, or commercially objectionable foreign odor (except smut or garlic odor); or

(4) Is heating or otherwise of distinctly low quality.

[1] Rye in grade U.S. No. 1 may contain not more than 10.0 percent, in grade U.S. No. 2 not more than 15.0 percent, and in grade U.S. No. 3 not more than 25.0 percent of thin rye.

§ 810.407 Grade designations.

(a) *Grade designations for rye.* The grade designations for rye shall include in the following order: (1) The letters "U.S."; (2) the number of the grade or the words "Sample grade"; (3) the special grade "Plumb", if applicable (see also §810.409); (4) the word "Rye"; (5) each applicable special grade except "Plump" (see also § 810.409) and, when applicable, the word "dockage" together with the percentage thereof.

(b) *Optional grade designations.* Rye may be certificated (under certain conditions[4], when supported by official analysis, as "U.S. No. 2 or better Rye," "U.S. No. 3 or better Rye," etc. The special grade designation and dockage, when applicable, also shall be included (under certain conditions[4]) in the certification.

Special Grades, Special Grade Requirements, and Special Grade Designations

§ 810.408 Special grades and special grade requirements.

A special grade, when applicable, is supplemental to the grade assigned under § 810.406. Such special grades are established and determined as follows:

(a) *Plump rye.* Rye which contains no more than 5.0 percent of rye and other matter that will pass through a 0.064 × ⅜ oblong-hole sieve.

(b) *Ergoty rye.* Rye which contains more than 0.30 percent of ergot.

(c) *Light garlicky rye.* Rye which contains in a 1,000-gram portion two or more, but not more than six, green garlic bulblets or an equivalent quantity of dry or partly dry bulblets.

(d) *Garlicky rye.* Rye which contains in a 1,000-gram portion more than six green garlic bulblets or an equivalent quantity of dry or partly dry bulblets.

(e) *Light smutty rye.* Rye which has an unmistakable odor of smut, or which contains in a 250-gram portion smut balls, portions of smut balls, or spores of smut in excess of a quantity equal to 14 smut balls, but not in excess of a quantity equal to 30 smut balls of average size.

(f) *Smutty rye.* Rye which contains in a 250-gram portion smut balls, portions of smut balls, or spores of smut in excess of a quantity equal to 30 smut balls of average size.

(g) *Weevily rye.* Rye which is infested with live weevils or other insects injurious to stored grain. As applied to rye, the meaning of the term "infested" is set forth in the Grain Inspection Handbook.[2]

§ 810.409 Special grade designations.

Special grade designations shall be made in addition to all other information prescribed in § 810.407.

(a) The grade designation for plump rye shall include, preceding the word "Rye", the word "Plump", as warranted, and all other information prescribed in § 810.407. The grade designation for ergoty, light garlicky, garlicky, light smutty, smutty, and weevily rye shall include, following the word "Rye", the word(s) "Ergoty", "Light garlicky", "Garlicky", "Light smutty", "Smutty", or "Weevily", as warranted, and all other information prescribed in § 810.407.

[4] The conditions are listed in the Grain Inspection Handbook. Copies may be obtained from the Federal Grain Inspection Service, U.S. Department of Agriculture, 1400 Independence Avenue, SW., Washington, D.C. 20250.

Interpretations

§ 810.901 Interpretation with respect to the term distinctly low quality.

The term *distinctly low quality,* when used in the United States Standards for Soybeans and Flaxseed, shall be construed to include grain which contains more than two crotalaria seeds (*Crotalaria* spp.) in 1,000 grams of grain.

(Secs. 5 and 18, Pub. L. 94–582, 90 Stat. 2869 and 2884 (7 U.S.C. 76 and 87e))

Dated: January 17, 1984.

Kenneth A. Gilles,

Administrator.

[FR Doc. 84–2503 Filed 1–27–84; 8:45 am]

BILLING CODE 3410-EN-M

Farmers Home Administration

7 CFR Part 1945

Emergency Loans

AGENCY: Farmers Home Administration, USDA.

ACTION: Proposed rule.

SUMMARY: The Farmers Home Administration (FmHA) proposes to amend its Emergency (EM) regulation to require crop insurance, if available, as a loan closing condition when EM loan funds are to be used as the primary source of financing for the ensuing year's crop production expenses; or when FmHA has a security interest in the crop(s). This action is needed because crop insurance is a feasible management tool that affords farmers relief from crop production losses caused by natural disaster; and assures those farmers, who carry full coverage, of at least getting back a substantial portion of their investment in their insured crop(s). The intended effect of this action is to eliminate EM borrower discretion of maintaining available crop insurance when they depend on EM loan assistance to continue their farming operations.

EFFECTIVE DATE: Comments must be received on or before February 29, 1984.

ADDRESSES: Submit written comments in duplicate to Carl Opstad, Chief, Directive Management Branch, Farmers Home Administration, USDA, Room 6348–S, Washington, D.C., 20250, telephone 202–382–9725. All written comments made pursuant to this notice will be available for public inspection during regular work hours at the above address.

FOR FURTHER INFORMATION CONTACT: Chester Bailey, Emergency Loan Officer, Emergency Division, Farmers Home Administration, USDA Room 5346–S,

Washington, D.C. 20250, telephone (202) 382–1642.

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA procedures established by Secretary's Memorandum 1512–1, which implements Executive Order 12291, and it has been determined to be nonmajor because there is no substantial change from practices under existing rules, and no annual effect on the economy of $100 million or more, or a major increase in cost or prices for consumers, individual industries, Federal, State, or local government agencies or geographic regions; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of the United States based enterprises to compete with foreign-based enterprises in domestic or export markets.

Intergovernmental Consultation should be carried out in accordance with 7 CFR Part 3015 Subpart V, "Intergovernmental Review of Department of Agriculture Programs and Activities." See FmHA Instruction 1940–J, available in any FmHA Office.

This document has been reviewed in accordance with 7 CFR Part 1901, Subpart G, "Environmental Impact Statements." It is the determination of FmHA that the proposed action does not constitute a major Federal action significantly affecting the quality of the human environment and in accordance with the National Environmental Policy Act of 1969, Pub. L. 91–190, and Environmental Impact Statement is not required.

Need for Government Action

FmHA has found that some farmers believe it is financially advantageous for them to avoid maintaining crop insurance because the federally subsidized EM disaster loan program is available to help them recover from a natural disaster. The availability of subsidized EM disaster loans provides an incentive for some farmers to assume otherwise unacceptable financial risk. FmHA believes Federal disaster compensation programs should provide farmers with incentives to reduce their risk of sustaining severe financial loss. Comprehensive crop insurance offers a financially acceptable means for most farmers to protect themselves and the Government from economic losses, when crop(s) are primary security for FmHA EM loan assistance.

The publishing of this action as a proposed rule with a shortened 30 day comment period is warranted to enable farmers sufficient time to adequately develop their production and financial plans for the 1984 crop season. This action is consistent with the Administration's mandate to provide supervised credit. The implementation of this action will enhance the potential of EM borrowers to return more quickly to their normal sources of credit, since the increased financial risk caused by adverse weather conditions will be reduced by crop insurance.

The Catalog of Federal Domestic Assistance number for emergency loans is 10.404.

Major Alternative Actions Considered Are as Follows

Alternative No. 1: Continue with existing regulations. If the regulation is not amended, EM borrowers will not be be required to maintain crop insurance, thus allowing them to use their discretion in obtaining crop insurance coverage. FmHA borrowers, who provide crops as collateral for EM loans, will have little incentive to carry crop insurance; and the Government will bear the full risk of the EM loan when a natural disaster affects the loan security.

Alternative No. 2: Amend regulations to require FmHA EM borrowers to maintain crop insurance, if available, when crops are relied on as security for FmHA EM loans. FmHA has determined that crop insurance is a useful management tool and should not be discretionary when EM borrowers pledge crops as security for EM loan assistance. This alternative will reduce the Government's financial responsibilities in assisting farmers who fail to utilize Federal or other crop insurance programs by reducing crop yield risk due to natural disasters.

The Agency selects alternative No. 2

List of Subjects in 7 CFR Part 1945

Agriculture, Disaster assistance, Loan programs—Agriculture.

PART 1945—[AMENDED]

Therefore, as proposed, §1945.169(o) of Subpart D of Part 1945, Chapter XVIII, Title 7, Code of Federal Regulations is revised to read as follows:

§ 1945.169 Security requirements.

* * * * *

(o) *Crop insurance.* Crop insurance is a good farm management tool. Loan approval officials will, therefore, encourage all borrowers, who grow crops, to obtain and maintain FCIC crop insurance or multi-peril crop insurance, if it is available.

(1) When EM loan funds (EM production loss loans and/or EM annual production loans to grandfathered borrowers as defined in § 1945.167(e) of this subpart) are to be used as the primary source of financing for the ensuing year's crop production expenses, and those crops will serve as basic security for the loan, crop insurance will be required, if available, as a loan closing condition; and FmHA will require an "Assignment of Indemnity" on the borrower's crop insurance policy(ies).

(2) Even if FmHA is *not* the primary lender for annual crop production expenses, but has or will have a security interest in the crop(s), FmHA will require the borrower to carry crop insurance, even if the primary lender will be the beneficiary under the "Assignment of Indemnity."

(3) When actual loss loans are based on physical losses only, crop insurance will not be required unless the EM loan funds are to be used for annual crop production expenses.

(4) When the payment of crop insurance premiums is not required until after harvest, the premiums will be paid by releasing insured crop(s) sale proceeds notwithstanding the limits in 1962.17(a) of Subpart A of Part 1962 of this chapter. If the borrower's crop losses are sufficient to warrant an indemnity payment, the premium due will be deducted by the insurance carrier from such payment. The FmHA County Office will maintain a record on Form FmHA 1905–12, "Monthly Expirations," of the dates which borrower's crop insurance premiums must be paid. This is in accordance with FmHA Instruction 1905–A, a copy of which is available in any FmHA office, and will assure that a crop insurance policy is not terminated while insured crop(s) serve as basic security for FmHA loans.

* * * * *

(7 U.S.C. 1989; 7 CFR 2.23; 7 CFR 2.70)

Dated: January 16, 1984.

Frank W. Naylor, Jr.,

Under Secretary for Small Community and Rural Development.

[FR Doc. 84-2504 Filed 1-27-84; 8:45 am]

BILLING CODE 3410-07-M

NUCLEAR REGULATORY COMMISSION

10 CFR Part 20

[Docket No. PRM–20–14]

University of Utah; Filing of Petition for Rulemaking

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of receipt of petition for rulemaking from the University of Utah.

SUMMARY: The Commission is publishing for public comment this notice of receipt of a petition for rulemaking dated November 29, 1983, which was filed with the Commission by the University of Utah. The petition was docketed by the Commission on December 1, 1983, and has been assigned Docket No. PRM–20–14. The petitioner requests that the Commission amend its regulations to provide additional options for the disposal of very low concentrations of short-lived radionuclides.

DATE: Comment period expires March 30, 1984. Comments received after this date will be considered if it is practical to do so, but assurance of consideration cannot be given except as to comments received on or before this date.

ADDRESSES: A copy of the petition for rulemaking is available for public inspection and copying at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC 20555.

All persons who desire to submit written comments concerning the petition for rulemaking should send their comments to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch.

FOR FURTHER INFORMATION CONTACT: John Philips, Chief, Rules and Procedures Branch, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Telephone: 301–492–7086 or Toll Free: 800–368–5642.

SUPPLEMENTARY INFORMATION: Section 20.306 of 10 CFR, published on March 11, 1981 (46 FR 16230), was designed to grant licensees greater leeway in disposing of liquid scintiallation media and animal carcasses containing tracer levels of hydrogen-3 (tritium) and carbon-14. According to the petitioner, the rule provided substantial relief from some of the financial and operational burdens of low-level radioactive waste disposal. However, the petitioner seeks further relief through additional options in order to alleviate a number of problems associated with the disposal of experimental animal waste material and certain radionuclide components, discussed below, that many licensees apparently are experiencing under the current regulations.

At present, § 20.306 addresses the disposal of hydrogen-3 and carbon-14 only. The petitioner points out that other radionuclides (i.e., phosphorus-32, sulfur-35, iron-59, iodine-125, and iodine-131(are other used in combination with hydrogen-3 and carbon-14 in medical and biological research. Further, these radionuclides have half-lives of between 8 and 87 days. Because these other radionuclides are not mentioned specifically in the regulations, some licensees currently preserve, freeze and store all animal carcasses containing radionuclides other than hydrogen-3 anc carbon-14. Those licensees with authorized incinerators retain the carcasses for a short period of time prior to batch incineration. However, licensees who do not have appropriate incinerators must store wastes for a long period of time to allow the radioactivity to decay before disposing of the wastes as nonradioactive. The petitioner states that this practice of storing radionuclides prior to decay could result in risks from flammability, toxicity and infection.

Licensees must dispose of another type of radioactive waste, scintillation vials. In the past, these licensees have been accustomed to shipping intact scintillation vials in approved containers to the radioactive waste disposal site in the State of Washington, the only site accepting liquid waste. However, as the petitioner indicated, after December 31, 1983, the Washington disposal site will no longer accept unsolidified liquid scintillation media.

In order to overcome the problems that the petitioner has itemized, he has recommended the following revision and addition to the regulations:

Proposed Revision

Section 20.306 Disposal of specific wastes.

(b) 0.05 microcuries of hydrogen-3 or carbon-14, per gram of *biodegradable animal bedding material, animal excreta or* animal tissue, averaged over the weight of the entire animal; provided however, tissue may not be disposed of under this section in a manner that would permit its use either as food for humans for as animal feed.

Proposed Addition

Section 20.307 Disposal of short-lived radionuclides by burial.

Any licensee may dispose of licensed material consisting of any mixture of hydrogen-3, carbon-14 and redionuclides with half-lives of less than 100 days, in the types of waste media, at the concentration limits and to the types of burial facilities specified below:

(a) 0.05 microcuries per gram of biodegradable animal bedding material, animal excreta or animal tissue, averaged over the mass of such materials generated per animal, may be disposed of in a sanitary landfill;

(b) 0.05 microcuries per gram of medium used for liquid scintillation counting may be disposed of in an approved hazardous waste landfill without regard to the radioactivity contained in medium;

(c) Wastes that are disposed of under the provisions of this section are not be labeled as radioactive and, for purposes of collection and transport, may be treated as nonradioactive;

(d) Nothing in this section, however, relieves the licensee of maintaining records showing the receipt, transfer and disposal of such licensed material as specified in seciton 30.51 of this chapter; and

(e) Nothing in this section relieves the lciensee from complying with other applicable Federal, State and local regulations governing any other toxic or hazardous property of these materials.

According to the petitioner, these changes would substantially reduce non-radiological risk related to the collection, storage, packaging, and shipping of certain biological and chemical wastes without compromising or reducing radiation protection. It is also stated that these changes would also allow significant reductions in costs for waste disposal by NRC licensees involved in extensive biomedical research. These reduction in risk would be achieved, under these proposed amendments, in the following manner:

1. Because these wastes would be disposed of on a site that has Federal and State requirements for the control of chemical and biological hazards and that will contain waste materials for many years, the burial of radionuclides with half-lives of less than 100 days would not result in any migration into the human environment prior to decaying into innocuous levels.

2. By limiting the wastes that can be buried under this proposal to materials that have no attraction for human contact, the risk of potential salvage of contaminated articles is eliminated.

3. The biological and chemical characteristics of the specified wastes rule out inputs to human food chains.

4. The low concentrations permitted for the proposed methods of disposal would preclude significant exposures to personnel involved in the collection and transportation of the wastes. Because of this, there would be not restrictions on handling of the waste and there would be no need for special containers or labels.

The petitioner concludes by stating that handling and disposal of the specified wastes in the manner

proposed in the petition would reduce overall risk from flammable and toxic chemicals and from pathogenic organisms without significantly changing the risk from radiation exposure.

In order to help evaluate the merits of this petition, the NRC staff requests biomedical research institutions and other users of the short-lived radionuclides, in addition to their comments on the petition itself, to provide information on:

(1) Their usual inventory of these short-lived radionuclides;

(2) The amounts used and the activity, volume, and types of materials disposed of annually or monthly;

(3) Estimates of the cost of packaging, storage, transportation, and disposal of this material; and

(4) The costs of any alternative methods of disposal which have been examined. In particular, the amount of any cost savings resulting from methods of disposal which would become available if the petition were granted would be extremely helpful.

Dated at Washington, DC this 25th day of January, 1984.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 84-2457 Filed 1-27-84; 8:45 am]

BILLING CODE 7590-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 83-AAL-5]

Proposed Revocations and Amendments to Federal Colored Airways

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to revoke two Colored Federal Airways and delete certain segments of five others in the State of Alaska. This action is being proposed because pilots no longer request these airways and air traffic control (ATC) no longer assigns them in ATC clearances. Information in the affected areas of the associated aeronautical charts would be more discernible if these airways were no longer depicted.

DATES: Comments must be received on or before March 14, 1984.

ADDRESSES: Send comments on the proposal in triplicate to: Director, FAA, Alaskan Region, Attention: Manager, Air Traffic Division, Docket No. 83-AAL-5, Federal Aviation Administration, 701 C Street, Box 14, Anchorage, AK 99513.

The official docket may be examined in the Rules Docket, weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m. The FAA Rules Docket is located in the Office of the Chief Counsel, Room 916, 800 Independence Avenue, SW., Washington, D.C.

An informal docket may also be examined during normal business hours at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: William C. Davis, Airspace and Air Traffic Rules Branch (AAT-230), Airspace-Rules and Aeronautical Information Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426-8783.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to achnowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 83-AAL-5." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, SW., Washington, D.C. 20591, or by calling (202) 426-8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2 which describes the application procedure.

The Proposal

The FAA is considering an amendment to §§ 71.103, 71.105, and 71.107 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to: Revoke Red Federal Airways R-27 and R-40; delete segments of Amber Federal Airways A-15 and A-2 between Delta Junction, AK, RBN and Chena, AK, RBN; delete segments of Green Federal Airways G-6 and G-9 between Aniak, AK, NDB and Sparrevohn, AK, NDB (the description incorrectly refers to Cairn Mountain, AK, NDB as Sparrevohn, AK, NDB), and between Sparrevohn, AK, RBN (the description incorrectly refers to Cairn Mountain, AK, NDB as Sparrevohn, AK, RBN) and Campbell Lake, AK, RBN, respectively; and delete the segment of Red Federal Airway R-39 between Julius, AK, RBN and Chena, AK, RBN. Aircarft operators planning or conducting flight under IFR no longer request or use these route segments except as alternate routes. The Colored Federal Airways in the State of Alaska are in existence today only as alternate airways for use during periods when any VOR or VORTAC making up the VOR Fedeal Airway segments that exist parallel to them is out of service due to routine maintenance. Additionally, the VOR's or VORTAC's that make up these parallel VOR Federal Airways have been replaced with more reliable solid-state equipment virtually eliminating the need for these airway segments as alternate airways. Further, ATC radar surveillance has been expanded covering these airways and airway segments and enabling ATC to provide alternate routes with radar guidance when a navigational aid is out of service. Sections 71.103, 71.105, and 71.107 of Part 71 of the Federal Aviation Regulations were republished in Advisory Circular AC 70-3A dated January 3, 1983.

List of Subjects in 14 CFR Part 71

Aviation safety, Colored federal airways.

The Proposed Amendment

PART 71—[AMENDED]

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend §§ 71.103, 71.105, and 71.107 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

§71.105

A–15 [Amended]
By deleting the words "RBN; Delta Junction, AK, RBN; Chena, AK, RBN;" and substituting the words "NDB; to Delta Junction, AK, NDB. From Chena, AK, NDB via"

A–2 [Amended]
By deleting the words "RBN; Delta Junction, AK, RBN; Chena, AK, RBN;" and substituting the words "NDB; to Delta Junction, AK, NDB. From Chena, AK, NDB via"

§71.103

G–6 [Amended]
By deleting the words "via Aniak, AK, NDB to Sparrevohn NDB." and substituting the words "; to Aniak, AK, NDB."

G–9 [Amended]
By deleting the words "Sparrevohn, AK, RBN; 24 miles, 29 miles, 53 MSL, 14 miles, 10,500 MSL, 42 miles, 12,500 MSL, to Campbell Lake, AK, RBN." and substituting the words "to Cairn Mountain, AK, NDB."

§71.107

R–27 [Revoked]

R–39 [Amended]
By deleting the words "RBN; Julius, AK, RBN; Chena, AK, RBN." and substituting the words "NDB; to Julius, AK, NDB."

R–40 [Revoked]

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); (49 U.S.C. 106(g) (revised, Pub. L. 97–449, January 12, 1983)); and 14 CFR 11.65)

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore: (1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Washington, D.C., on January 23, 1984.

John W. Baier,
Acting Manager, Airspace—Rules and Aeronautical Information Division.

[FR Doc. 84–2421 Filed 1–27–84; 8:45 am]
BILLING CODE 4910–13–M

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14 CFR Part 71

[Airspace Docket No. 83–AGL–26]

Proposed Alteration of Transition Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The nature of this Federal Action is to designate an additional amount of controlled airspace determined necessary as a result of the relocated Marysville NDB at Union County Airport, Marysville, Ohio.

The intended effect of this action is to insure segregation of the aircraft using approach procedures in instrument weather conditions from other aircraft operating under visual weather conditions in controlled airspace.

DATES: Comments must be received on or before March 2, 1984.

ADDRESS: Send comments on the proposal in triplicate to FAA Office of Regional Counsel, AGL–7, Attention: Rules Docket Clerk, Docket No. 83–AGL–26, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

The official docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

An informal docket will also be available for examination during normal business hours in the Airspace, Procedures, and Automation Branch, Air Traffic Division, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

FOR FURTHER INFORMATION CONTACT: Edward R. Heaps, Airspace, Procedures, and Automation Branch, Air Traffic Division, AGL–530, FAA, Great Lakes Region, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (312) 694–7360.

SUPPLEMENTARY INFORMATION: The relocation of the Marysville NDB requires that the FAA alter the designated airspace to insure that the procedure will be contained within controlled airspace. The additional designated airspace includes two areas, one approximately 1 mile x 3 miles located southeast of Union County Airport, and the other approximately 1 mile x 1 mile located northeast of the airport.

Minimum descent altitudes may be established below the floor of the 700-foot controlled airspace.

Aeronautical maps and charts will reflect the defined areas which will enable other aircraft to circumnavigate the area in order to comply with applicable visual flight rule requirements.

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 83–AGL–26." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA–430, 800 Independence Avenue, SW., Washington, D.C. 20591, or by calling (202) 426–8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future

NPRM's should also request a copy of Advisory Circular No. 11–2, which describes the application procedures.

The Proposal

The FAA is considering an amendment to § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter the transition area airspace near Marysville, Ohio.

Section 71.181 of Part 71 of the Federal Aviation Regulations was published in Advisory Circular AC 70–3A dated January 3, 1983.

List of Subjects in 14 CFR Part 71

Transition areas, Aviation safety.

The Proposed Amendment

PART 71—[AMENDED]

Accordingly, Pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend Section 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

Marysville, OH

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Union County Airport, Marysville, Ohio (latitude 40°13'29"N., longitude 83°21'00"W.); and within 3 miles either side of the 091° bearing from the Marysville NDB (latitude 40°13'31"N., longitude 83°20'54"W.) extending from the NDB to 12 miles east of the NDB, excluding the portions overlying the Delaware Ohio, and the Columbus, Ohio, transition areas.

(Sec. 313(a), 314(a), 601 through 610, and 1102 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421 through 1430, and 1502); 49 U.S.C. 106(g) (Revised, Pub. L. 97–449, January 12, 1983))

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, it is certified that this—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Des Plaines, Illinois, on January 9, 1984.

Paul K. Bohr,

Director, Great Lakes Region.

[FR Doc. 84–2420 Filed 1–27–84; 8:45 am]

BILLING CODE 4910–13–M

CIVIL AERONAUTICS BOARD

14 CFR Part 252

Smoking Aboard Aircraft

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Oral Argument on proposals to amend 14 CFR Part 252—Smoking Aboard Aircraft.

SUMMARY: The CAB will hold oral argument on its proposals to amend its rules concerning smoking aboard aircraft. The CAB proposed to ban smoking on small aircraft, ban the smoking of cigars and pipes on all U.S. airlines, ban smoking when the aircraft ventilation is not adequate, and provide special protections for those especially sensitive to smoke, EDR–461, 48 FR 24918, June 3, 1983. The CAB additionally proposed to ban smoking on short flights and to require additional protections for those especially sensitive to smoke, EDR–461B, 48 FR 43341, September 23, 1983.

DATE: Oral Argument will be held Tuesday, February 14, 1984, at 10:00 a.m. (local time).

ADDRESSES: Oral Argument will be held in Room 1027, Universal Building, 1825 Connecticut Ave., NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: David Schaffer, Office of General Counsel, Rules & Legislation Division, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 28420; (202) 673–5442.

Dated: January 25, 1984.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 84–2505 Filed 1–27–84; 8:45 am]

BILLING CODE 6320–01–M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 134

Country Of Origin Marking of Certain Unfinished Sweaters

AGENCY: U.S. Customs Service, Treasury.

ACTION: Notice of proposed change in country of origin marking; solicitation of comments.

SUMMARY: Customs has previously ruled that New Zealand was the correct country of origin of sweaters made by sending New Zealand yarn to the People's Republic of China where it was knitted into sweater parts, partially sewn together, then finished in New Zealand by completing the sewing and subjecting the garments to a process called "Super Wash".

Customs has been requested to rescind this ruling on the basis that the completion of the sewing and the "Super Wash" process do not result in a substantial transformation of the partially completed garment. Without a substantial transformation, the People's Republic of China is the correct country of origin, not New Zealand.

Since any change in the sweaters' country of origin will have an effect on their status for textile quota purposes, and because this matter is of sufficient importance to involve the interests of the domestic industry, this notice invites public comments on it before any change is made.

DATE: Comments must be received on or before March 30, 1984.

ADDRESS: Comments (preferably in triplicate) should be addressed to the Commissioner of Customs, Attention: Regulations Control Branch, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT: Darrell D. Kast, Entry, Licensing and Restricted Merchandise Branch, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229 (202–566–5765).

SUPPLEMENTARY INFORMATION:

Background

Section 304 of the Tariff Act of 1930, as amended (19 U.S.C. 1304), provides that all articles of foreign origin, or their containers, imported into the United States, shall be legibly and conspicuously marked to indicate the English name of the country of origin to an ultimate purchaser in the United States, unless specifically exempted. Part 134, Customs Regulations (19 CFR Part 134), sets forth the country of origin marking requirements of 19 U.S.C. 1304. Section 134.1(b), Customs Regulations (19 CFR 134.1), defines "country of origin" as the country of manufacture, production or growth of any article of foreign origin entering the United States. Further work or material added to an article must effect a substantial transformation in order to render a second country the "country of origin" within the meaning of Part 134.

The importance of determining an article's correct country of origin lies not only in informing the ultimate purchaser but also in the effect it has on any import quota that may pertain to that article. An import quota is a quantity control system, usually based on bilateral agreements with the countries concerned, which limits the amount of certain merchandise that may enter the United States from a foreign country. Quotas vary according to the country doing the exporting, and the specific type of merchandise involved.

An article which enters the United States marked with the wrong country of origin may be incorrectly charged to that country's import quota. The incorrectly marked articles may cause the quota for that country to fill faster than it should, resulting in fewer articles entering the United States from the exporting country than would otherwise be permitted. Conversely, more articles than the quota permits may enter the United States from the actual country of origin than are permitted. Wool sweaters which are the product of the People's Republic of China are subject to quota restraints agreed upon in a bilateral agreement between that country and the United States.

The finishing process used by New Zealand sweater producers on sweaters they export to the United States has aroused a controversy concerning the sweaters' correct country of origin. These producers purchase raw New Zealand wool and have it spun into yarn and dyed in New Zealand. They then send the yarn on consignment to the People's Republic of China where it is then knitted into sweater parts, namely the fronts, backs and sleeves which are joined together only at the shoulders. The partially joined parts are then returned to New Zealand to be finished into sweaters by sewing the side seams and sleeve seams, undergoing a proprietary process called "Super Wash," and when specifications so require, adding buttons, zippers, shoulder pads, elbow pads, etc.

It is Customs understanding that the function of the "Super Wash" process is to chemically treat the wool material so that the finished garment may be cleaned in a household washing machine. "Super Washing" is also supposed to assist in the sizing of the garment, and give it a softer touch, lighter color and greater durability than it would otherwise have had had it not undergone this process.

In a ruling #719580 dated June 15, 1982, on this matter, the issue before Customs was whether the importer's process of sewing, "Super Washing" and otherwise finishing the sweaters in New Zealand effected a substantial transformation of the sweater from unfinished parts into a finished garment. Without a substantial transformation, the country where the parts were originally produced and partially joined is the country of origin, not New Zealand where the sweater was completed. Customs held that the completion of the sewing, "Super Washing" and other finishing in New Zealand, was in fact a substantial transformation.

The U.S. Department of Commerce has requested that Customs rescind this ruling on the basis that the completion of the sewing and the "Super Wash" process do not result in a substantial transformation. Therefore, Commerce contends that New Zealand is not the correct country of origin and as a result, these incorrectly marked sweaters are entering the United States free of the textile import quotas imposed on sweaters of Chinese origin. In view of the concern of the Commerce Department and U.S. sweater manufacturers, Customs has determined that a review of the above ruling is warranted.

Authority

Because the change in position, if implemented, would result in a restriction on the importation of the subject sweaters, and because the issue is of significant importance to the domestic industry, Customs is giving interested parties notice and an opportunity to comment in accordance with § 177.10(c)(2), Customs Regulations (19 CFR 177.10(c)(2)).

Comments

Consideration will be given to any written comments timely submitted to the Commissioner of Customs. Comments submitted will be available for public inspection in accordance with § 103.11(b), Customs Regulations (19 CFR 103.11(b)), on normal business days between the hours of 9:00 a.m. and 4:30 p.m. at the Regulations Control Branch, Headquarters, U.S. Customs Service, 1301 Constitution Avenue, NW., Room 2426, Washington, D.C. 20229.

Drafting Information

The principal author of this document was Glen E. Vereb, Regulations Control Branch, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

Approved: January 11, 1984.

Alfred R. De Angelus,

Acting Commissioner of Customs.

John M. Walker, Jr.,

Assistant Secretary of the Treasury.

[FR Doc. 84-2446 Filed 1-27-84; 8:45 am]

BILLING CODE 4820-02-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Social Security Administration

20 CFR Part 404

[Reg. No. 4]

Federal Old-Age Survivors, and Disability Insurance Benefits; Nonpayment of Benefits to Prisoners

AGENCY: Social Security Administration, HHS.

ACTION: Proposed rules.

SUMMARY: Section 339 of the Social Security Amendments of 1983, Pub. L. 98–21, suspends payments of old-age, survivors, and disability insurance benefits to persons in prison for conviction of a felony. Benefits will continue to be paid to family members entitled to benefits as dependents of prisoners. This provision extends to all other title II Social Security benefits the statutory prohibition against payment of benefits to prisoners which already applied to disability insurance benefits and childhood disability benefits.

DATES: We will consider your comments if we receive them no later than March 30, 1984.

ADDRESSES: Send your written comments to the Commissioner of Social Security, Department of Health and Human Services, P.O. Box 1585, Baltimore, Maryland 21203, or deliver them to the Office of Regulations, Social Security Administration, 3–A–3 Operations Building, 6401 Security Boulevard, Baltimore, Maryland 21235 between 8:00 a.m. and 4:30 p.m. on regular business days. Comments received may be inspected during these same hours by making arrangements with the contact person shown below.

FOR FURTHER INFORMATION CONTACT: W. Ziegler, Legal Assistant, Office of Regulations, Social Security Administration, 6401 Security Boulevard, Baltimore, Maryland 21235, Telephone 301–594–7415.

SUPPLEMENTARY INFORMATION: In section 339 of Pub. L. 98–21, enacted April 20, 1983, Congress amended section 202 of the Social Security Act (the Act) to eliminate all monthly benefit

payments under section 202 or 223 of the Act to any person for any month during which that person is confined in a jail, prison, or other penal institution or correctional facility pursuant to his or her conviction of a felony. This provision of the law extends to the other title II insurance benefits the basic restriction on payment of benefits to prisoners that already applied to disability insurance benefits and childhood disability benefits under section 5(c) of Pub. L. 96–473, which was effective with monthly benefits payable beginning October 1, 1980. The new nonpayment provision, which applies to title II insurance benefits including disability and childhood disability benefits, is effective for benefits payable for months beginning on or after May 1, 1983.

To conform with this change in the law, we are proposing to amend 20 CFR 404.468 to explain that if a person is confined in a jail, prison, or other penal institution or correctional facility for conviction of a felony committed at any time, monthly Social Security benefits to which he or she is otherwise entitled, on his or her own earnings record or on another person's earnings record, will not be paid for any month after April 1983 (or after September 1980 in the case of disability or childhood disability benefits), during all or part of which the person is so confined. The only exception to the nonpayment of a prisoner's benefits will be if the person is entitled to benefits on the basis of a disability and is actively and satisfactorily participating in a vocational rehabilitation program which is specifically approved by a court of law for that person and which the Secretary of Health and Human Services expects will result in the person's being able to do substantial gainful work upon release and within a reasonable time.

Although benefits are not payable to the prisoner during confinement, payment of benefits will be made to other persons entitled to benefit payments on the prisoner's earnings record (who are not themselves subject to the prisoner provision) as if the prisoner were still receiving benefits.

Benefits will be restored to the prisoner effective with the first full month after release from prison if he or she is otherwise still entitled to these benefits.

The proposed rules implementing section 339 of Pub. L. 96–21 will generally follow the rules adopted in the implementation of section 5(c) of Pub. L. 96–473 except that the nonpayment provision will now apply to all monthly Social Security benefits and not just to certain benefits based on disability. Those rules, 20 CFR 404.468, were published in the **Federal Register** (48 FR 5711) on February 8, 1983.

Thus, a crime will be considered a felony if it is an offense which constitutes a felony under applicable law. In jurisdictions which do not classify any crime as a felony, such as the State of New Jersey, the U.S. military under the Uniform Code of Military Justice, and some foreign countries, an offense punishable by death or imprisonment for a term exceeding one year will be considered a felony for purposes of these regulations. (See 20 CFR 404.468(b).) This latter rule is the same as the definition of a felony in 18 U.S.C. Sec. 1(1), the U.S. Criminal Code.

A jail, prison, or other penal institution or correctional facility includes any facility which is under the control and jurisdiction of the agency in charge of the penal system or any facility in which convicted criminals can be incarcerated. This includes, for example, a mental hospital for the criminally insane which is used as a place for incarcerating convicted criminals, regardless of whether that institution is operated by the correctional authority. A person under sentence of confinement to any of these facilities is considered "confined" even though he or she is temporarily hospitalized outside the facility or is temporarily or intermittently outside the facility to work, attend school, or for some other reason. However, a prisoner who is released on parole or because his or her sentence has ended, been suspended or overturned would no longer be considered confined in the penal facility. (See 20 CFR 404.468(c).)

These proposed regulations will amend § 404.468 to apply the prohibition against payment of benefits to prisoners to all monthly Social Security benefits.

Executive Order 12291: These proposed regulations have been reviewed under Executive Order 12291 and do not meet any of the criteria for a major regulation. The implementation of section 339 of Pub. L. 98.21 will produce a negligible reduction in benefit payments each year. Program costs will be minimal. Therefore, a regulatory impact analysis is not required.

Regulatory Flexibility Act: We certify that these proposed regulations will not, if promulgated, have a significant economic impact on a substantial number of small entities because they only affect a small number of beneficiaries.

Paperwork Reduction Act: These proposed regulations impose no reporting/recordkeeping requirements necessitating clearance by the Office of Management and Budget.

(Catalog of Federal Domestic Program Nos. 13.802, Social Security Disability Insurance; 13.803, Social Security Retirement Insurance; 13.805, Social Security Survivors Insurance)

List of Subjects in 20 CFR Part 404

Administrative practice and procedure, Death benefits, Disabled, Old-Age, Survivors and Disability Insurance.

Dated: September 27, 1983.

Louis D. Enoff,

Acting Commissioner of Social Security.

Approved: January 10, 1984.

Margaret M. Heckler,

Secretary of Health and Human Services.

PART 404—FEDERAL OLD-AGE, SURVIVORS AND DISABILITY INSURANCE (1950– ——)

For the reasons set out in the preamble, Part 404, Subpart E, Chapter III of Title 20, Code of Federal Regulations, is proposed to be amended as set forth below.

Subpart E—Deductions; Reductions; and Nonpayments of Benefits

20 CFR Part 404, Subpart E is amended as follows:

1. The authority citation for Subpart E reads as follows:

Authority: Secs. 205, 207, and 1102; 53 Stat. 1368, as amended, 79 Stat. 379, as amended, 49 Stat. 647, as amended; sec. 5 of Reorganization Plan No. 1 of 1953, 67 Stat. 18; 42 U.S.C. 405, 407, 1302, unless otherwise noted.

2. Section 404.468 is revised to read as follows:

§ 404.468 Nonpayment of benefits to prisoners.

(a) *General.* No monthly benefits will be paid to any individual for any month any part of which the individual is confined in a jail, prison, or other penal institution or correctional facility for conviction of a felony. This rule applies to disability benefits (§ 404.315) and child's benefits based on disability (§ 404.350) effective with benefits payable for months beginning on or after October 1, 1980. For all other monthly benefits, this rule is effective with benefits payable for months beginning on or after May 1, 1983. However, it applies only to the prisoner; benefit payments to any other person who is entitled on the basis of the prisoner's wages and self-employment income are payable as though the prisoner were receiving benefits.

(b) *Felonious offenses.* An offense will be considered a felony if—

(1) It is a felony under applicable law: or

(2) In a jurisdiction which does not classify any crme as a felony, it is an offense punishable by death or imprisonment for a term exceeding one year.

(c) *Confinement.* In general, a jail, prison, or other penal institution or correctional facility is a facility which is under the control and jurisdiction of the agency in charge of the penal system or in which convicted criminals can be incarcerated. Confinement in such a facility continues as long as the individual is under a sentence of confinement and has not been released due to parole or pardon. An individual is considered confined even though he or she is temporarily or intermittently outside of that facility (e.g., on work release, attending school, or hospitalized).

(d) *Vocational rehabilitation exception.* The nonpayment provision of paragraph (a) of this section does not apply if a prisoner who is entitled to benefits on the basis of disability is actively and satisfactorily participating in a rehabilitation program which has been specifically approved for the individual by a court of law. In addition, the Secretary must determine that the program is expected to result in the individual being able to do substantial gainful activity upon release and within a reasonable time. No benefits will be paid to the prisoner for any month prior to the approval of the program.

[FR Doc. 84-2509 Filed 1-27-84; 8:45 am]
BILLING CODE 4190-11-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 264 and 265

[SWH-FRC 2515-4]

Hazardous Waste Management System; Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities

AGENCY: Environmental Protection Agency.

ACTION: Extension of comment period.

SUMMARY: The Environmental Protection Agency noticed on December 28, 1983 (48 FR 57144), the availability of a final contractor report, *Test Protocols for Determining the "Free Liquid" Content of Hazardous Waste*, for public comment. The report summarizes the results of laboratory tests on a number of test protocols, including the paint filter test that the Agency proposed in the **Federal Register** on February 25, 1982. The Agency is hereby extending the comment period for this report until February 17, 1984, in order to give everyone interested in commenting on the report adequate time to do so.

DATES: Comments on the report must be submitted on or before February 17, 1984.

ADDRESS: Comments should be addressed to the Docket Clerk, Office of Solid Waste (WH-562), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460, Telephone (202) 382-4672. Comments should identify the regulatory docket and report title as follows: "Section 3004, *Test Protocol for Determining The "Free Liquid" Content of Hazardous Waste*".

A copy of the report is available for reading in the EPA Library and the Subtitle C Docket Room (Room S-212A), both located at the above address, during the hours of 9:00 a.m. to 4:00 p.m. Monday through Friday excluding holidays. Copies of the report are also available for reading at the EPA Regional Libraries.

FOR FURTHER INFORMATION CONTACT: For a single copy of the report contact the RCRA Hotline at (800) 424-9346 (toll free) or at (202) 382-3000. For additional information contact Paul Cassidy at (202) 382-4682.

SUPPLEMENTARY INFORMATION: The Agency published a notice of availability of information and request for comments on December 28, 1983, concerning a report titled, *Test Protocols for Determining the "Free Liquid" Content of Hazardous Waste*. The Agency specifically requested comments on the accuracy and completeness of the information presented in the report, especially regarding the paint filter test parts of the report. The Agency is extending the original comment date from January 27, 1984 until February 17, 1984 for a number of reasons. There has been tremendous interest in this report and as such there was a period of time when the Agency did not have copies of the report available for those persons interested in obtaining a copy. There has been a backlog of requests for this report, due to the large amount of interest, and as such many people who would like to comment may not have an adequate period of time in which to do so. Therefore, the Agency has extended the comment period until February 17, 1984.

Under Executive Order 12291, EPA must judge whether a regulation or rule, including any implementation guidance, is "Major" and therefore subject to the requirement of a Regulatory Impact Analysis. This notification is not a rule.

This notification simply extends an original comment date.

Dated: January 20, 1984.

Jack McGraw,

Acting Assistant Administrator for Solid Waste and Emergency Response.

[FR Doc. 84-2432 Filed 1-27-84; 8:45 am]
BILLING CODE 6560-50-M

DEPARTMENT OF COMMERCE

National Oceanic and Atomospheric Administration

50 CFR Parts 611 and 655

[Docket No. 30920-192]

Foreign Fishing and Atlantic Mackerel, Squid and Butterfish Fisheries

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of proposed allocation of reserve.

SUMMARY: NOAA proposes to allocate the entire reserve of 35,850 metric tons (mt) of Atlantic mackerel to the total allowable level of foreign fishing (TALFF). This action is allowed by procedures established in the regulations implementing the Fishery Management Plan for the Atlantic Mackerel, Squid, and Butterfish Fisheries (FMP). The intended effect of the allocation is to achieve full utilization of the optimum yield for the fishery.

DATE: Comments must be submitted in writing on or before February 14, 1984.

ADDRESS: Comments should be sent to Salvatore A. Testaverde, National Marine Fisheries Service, State Fish Pier, Gloucester, Massachusetts 01930-3097. Mark "Comments on Atlantic Mackerel Reserve" on the outside of the envelope.

FOR FURTHER INFORMATION CONTACT: Salvatore A. Testaverde, 617-281-3600 extension 273.

SUPPLEMENTARY INFORMATION: The emergency interim rule that merged the three separate regulations implementing the fishery management plans for the Atlantic Mackerel, Squid, and Butterfish fisheries into 50 CFR Part 655 (48 FR 14554, April 4, 1983) established a mechanism to allocate all or part of the mackerel reserve to TALFF on or about November 1 of each year. A reserve of 35,850 mt of Atlantic mackerel was established for the 1983-1984 fishing

year (48 FR 33001), July 20, 1983). The regulations made final on September 30, 1983, at 48 FR 44834, direct the Director of the Northeast Region, National Marine Fisheries Service (Regional Director, NMFS), to project total domestic mackerel harvest for the entire fishing year, April 1 through March 31, based on U.S. landings through September and on the results of a survey of the intent of domestic fishermen to harvest mackerel during the remainder of the year. Based upon this projection, the Regional Director determines the disposition of the reserve allocation.

The reported domestic commercial landings of Atlantic mackerel from April 1, 1983 through September 30, 1983 were 1,568 mt, and this figure was used to project the total catch for the entire fishing year. The Regional director estimated that U.S. landings, including an estimated recreational catch of 4,000 mt, would total between 6,000 and 7,000 mt. Also, the November–December 1983 survey of processors of Atlantic mackerel indicates that the processors intend to take 5,300 mt for the entire fishing year. Based upon this information, the Regional Director has estimated that the total U.S. havest of Atlantic mackerel, including recreational catches, will total between 9,000 and 10,000 mt.

NOAA is presently considering two mackerel joint ventures (JV) for the current fishing year. One JV is a renewal, first approved at the beginning of this fishing year, and the second JV is to begin in January 1984. Both JVs have requested mackerel amounts for directed fisheries. Since the 1983–1984 fishig year ends on March 31, 1984, the amounts expected for "over-the-side" purchase from U.S. vessels is accommodated within the 30,000 mt domestic annual harvest. The new TALFF of 71,700 mt is expected to accommodate directed fishing by foreign nations within the fishery conservation zone.

Comments on this proposed allocation of reserve should be submitted by the date indicated above to the address provided, and will be considered by the Regional Director in the final allocation decision.

Classification

This action is required by 50 CFR Part 655, and complies with E.O. 12291.

List of Subjects

50 CFR Part 611

Fisheries, Foreign relations, Reporting and recordkeeping requirements.

50 CFR Part 655

Fisheries, Reporting and recordkeeping requirements.

(16 U.S.C. 1801 *et seq.*)

Dated: January 25, 1984.

Carmen J. Blondin,

Deputy Assistant Administrator for Fisheries Resource Management, National Marine Fisheries Service.

[FR Doc. 84–2428 Filed 1–27–84; 8:45 am]

BILLING CODE 3510-22-M

Notices

Federal Register
Vol. 49, No. 20
Monday, January 30, 1984

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Federal Grain Inspection Service

Advisory Committee Meeting

Pursuant to the provisions of section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), a notice is hereby given of the following committee meeting:

Name: Federal Grain Inspection Service Advisory Committee.

Date: February 15, 1984.

Place: U.S. Department of Agriculture, 1400 Independence Avenue, SW., Room 2096 South Building, Washington, D.C. 20250.

Time: 8:30 a.m.

Purpose: To provide advice to the Administrator of the Federal Grain Inspection Service on the efficient and economical implementation of the U.S. Grain Standards Act of 1976 (the Act), to assure the normal movement of grain in an orderly and timely manner.

The agenda includes: (1) Discussion of the pending reauthorization of certain provisions of the Act; (2) financial matters; (3) inspection and weighing issues; (4) standards proposals; and (5) other matters.

The meeting will be open to the public. Public participation will be limited to written statements unless otherwise requested by the Committee Chairman. Persons, other than members, who wish to address the Committee at the meeting or submit written statements before or at the meeting should contact Dr. Kenneth A. Gilles, Administrator, FGIS, U.S. Department of Agriculture, Washington, D.C. 20250, telephone (202) 382–0219.

Dated: January 25, 1984.

Kenneth A. Gilles,

Administrator.

[FR Doc. 84–2428 Filed 1–2–84; 8:45 am]

BILLING CODE 3410–EN–M

Packers and Stockyards Administration

Pates Stockyards, Inc. and Union Stock Yards; Depositing of Stockyards

It has been ascertained, and notice is hereby given, that the livestock markets named herein, originally posted on the respective dates specified below as being subject to the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 *et seq.*), no longer come within the definition of a stockyard under said Act and are, therefore, no longer subject to the provisions of the Act.

Facility No., name, and location of stockyard	Date of posting
NC–140 Pates Stockyards, Inc., Whitesville, North Carolina.	July 11, 1959.
VA–131 Union Stock Yards, Richmond, Virginia.	Oct. 31, 1921.

Notice or other public procedure has not preceded promulgation of the foregoing rule. There is no legal justification for not promptly deposting a stockyard which is no longer within the definition of that term contained in the Act.

The foregoing is in the nature of a change relieving a restriction and may be made effective in less than 30 days after publication in the **Federal Register**. This notice shall become effective upon publication in the **Federal Register**.

(42 Stat. 159, as amended and supplemented; 7 U.S.C. 181 *et seq.*)

Done at Washington, D.C., this 25th day of January 1984.

Jack W. Brinckmeyer,

Chief, Financial Protection Branch, Livestock Marketing Division.

[FR Doc. 84–2499 Filed 1–27–84; 8:45 am]

BILLING CODE 3410–KD–M

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

Cancellation of Meeting

AGENCY: Architectural and Transportation Barriers Compliance Board.

ACTION: Notice of Cancellation of ATBCB Meeting.

SUMMARY: The Architectural and Transportation Barriers Compliance Board (ATBCB) has cancelled its Board and Committee meetings scheduled for February 9 and 10, 1984 (January 9, 1984; 49 FR 1103) in accordance with Section II.A.2 of the ATBCB's Statement of Organization and Procedures.

FOR FURTHER INFORMATION CONTACT: Larry Allison, Special Assistant for External Affairs (202) 245–1591 (voice or TDD).

Robert M. Johnson,

Executive Director.

[FR Doc. 84–2430 Filed 1–27–84; 8:45 am]

BILLING CODE 6820–BP–M

CIVIL AERONAUTICS BOARD

Application of Royale Airlines, Inc., for Certificate Authority

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Order To Show Cause 84–1–90.

SUMMARY: The Board is proposing to find Royale Airlines, Inc., fit, willing, and able and to issue a certificate of public convenience and necessity to it authorizing scheduled interstate and overseas air transportation of persons, property, and mail between all points in the United States, its territories and possessions.

DATE: Objections: All interested persons having objections to the Board issuing the proposed certificate shall file, and upon all persons listed below no later than February 10, 1984, a statement of objections, together with a summary of testimony, statistical data, and other material expected to be relied upon to support the objections.

ADDRESSES: Objections to the issuance of a final order should be filed in Docket 41882 and should be addressed to the Docket Section, Civil Aeronautics Board, Washington, D.C. 20428, and should be served upon the parties listed in Attachment A to the order.

FOR FURTHER INFORMATION CONTACT: Carolyn S. Kramp, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428 (202) 673–5090.

SUPPLEMENTARY INFORMATION: The complete text of Order 84–1–90 is available from the Distribution Section, Room 100, 1825 Connecticut Avenue, NW., Washington, D.C. 20428. Persons outside the metropolitan area may send

a postcard request for Order 84–1–90 to that address.

By the Civil Aeronautics Board: January 24, 1984.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 84–2500 Filed 1–27–84; 8:45 am]

BILLING CODE 6320–01–M

DEPARTMENT OF COMMERCE

International Trade Administration

Export Trade Certificate of Review; Application

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of Application.

SUMMARY: The Office of Export Trading Company Affairs, International Trade Administration, Department of Commerce has received an application for an Export Trade Certificate of Review. This notice summarizes the conduct for which certification is sought and invites interested parties to submit information relevant to the determination of whether a certificate should be issued.

DATES: Comments on this application must be submitted on or before Feburary 21, 1984.

ADDRESS: Interested parties should submit their written comments, original and five (5) copies, to: Office of Export Trading Company Affairs, International Trade Administration, Department of Commerce, Room 6711, Washington, D.C. 20230.

Comments should refer to this application as "Export Trade Certificate of Review, application number 84–00004."

FOR FURTHER INFORMATION CONTACT: Charles S. Warner, Director, Office of Export Trading Company Affairs, International Trade Administration, 202/377–5131, or Eleanor Roberts Lewis, Assistant General Counsel for Export Trading Companies, Office of General Counsel, 202/377–0937. These are not toll-free numbers.

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 (Pub. L. 97–290) authorizes the Secretary of Commerce to issue Export Trade Certificates of Review. the Regulations implementing Title III are found at 48 FR 10596–10604 (March 11, 1983) (to be codified at 15 CFR Part 325). A certificate of review protects its holder and the members identified in it from private treble damage actions and civil and criminal liability under Federal and state antitrust laws for the export trade, export trade activities and methods of operation specified in the certificate and carried out during its effective period in compliance with its terms and conditions.

Standards for Certification

Proposed export trade, export trade activities, and methods of operation may be certified if the applicant establishes that such conduct will:

1. Result in neither a substantial lessening of competition or restraint of trade within the United States nor a substantial restraint of the export trade of any competitor of the applicant,
2. Not unreasonably enhance, stabilize, or depress prices within the United States of the goods, wares, merchandise, or services of the class exported by the applicant,
3. Not constitute unfair methods of competition against competitors engaged in the export of goods, wares, merchandise, or services of the class exported by the applicant, and
4. Not include any act that may reasonably be expected to result in the sale for consumption or resale within the United States of the goods, wares, merchandise, or services exported by the applicant.

The Secretary will issue a certificate if he determines, and the Attorney General concurs, that the proposed conduct meets these four standards. For a further discussion and analysis of the conduct eligible for certification and of the four certification standards, see "Guidelines for the issuance of Export Trade Certificates of Review," 48 FR 15937–40 (April 13, 1983).

Request for Public Comments

The Office of Export Trading Company Affairs (OETCA) and the applicant have agreed that this notice fairly represents the conduct proposed for certification. Through this notice, OETCA seeks written comments from interested persons who have information relevant to the Secretary's determination to grant or deny the application summarized below. Information submitted by any person in connection with the application(s) is exempt from disclosure under the Freedom of Information Act (5 U.S.C. 552).

The OETCA will consider the information received in determining whether the proposed conduct is "export trade," an "export trade activity" or a "method of opeation" as defined in the Act, regulations and guidelines and whether it meets the four certification standards. Based upon the public comments and other information gathered during the analysis period, the Secretary may deny the application or issue the certificate with any terms or conditions necessary to assure compliance with the four standards.

The OETCA has received the following application for an Export Trade Certificate of Review:

Applicant: Harold L. Porter Associates International, Ceredo, WV 25507
Application No.: 84–00004
Date Received: January 16, 1984.
Date Deemed Submitted: January 18, 1984.
Members in Addition to Applicant: None.
Summary of Application: Applicant proposes to act primarily as a commission agent for small to medium-sized firms desiring to export arts and crafts native to West Virginia; chemicals; coal; mining machinery and spare parts; and timber, lumber and wood products. Efforts to find interested firms will focus on the area within 250 miles of Ceredo, West Virginia. Markets for their products will be sought worldwide.

In addition to acting purely as commission agent, the applicant may undertake to arrange export financing for clients, and, in some cases, take title to goods. Exclusive agreements with both domestic suppliers and overseas sellers or agents are comtemplated.

The OETCA is issuing this notice in compliance with section 302(b)(1) of the Act which requires the Secretary to publish a notice of the application in the **Federal Register** identifying the persons submitting the application and summarizing the conduct proposed for certification. Interested parties have twenty (20) days from the publication of this notice in which to submit written information relevant to the determination of whether a certificate should be issued.

Dated: January 25, 1984.

Irving P. Margulies,

Acting General Counsel.

[FR Doc. 84–2437 Filed 1–27–84; 8:45 am]

BILLING CODE 3510–25–M

[A–428–062]

Animal Glue and Inedible Gelatin From West Germany; Preliminary Results of Administrative Review of Antidumping Finding and Tentative Determination To Revoke in Part

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of Preliminary Results of Administrative Review of Antidumping

Finding and Tentative Determination to Revoke in Part.

SUMMARY: The Department of Commerce has conducted an administrative review of the antidumping finding on animal glue and inedible gelatin from West Germany. The review covers the eight known manufacturers and/or exporters and one third-country reseller of West German animal glue and inedible gelatin to the United States and the period December 1, 1981 through November 30, 1982. Seven firms and the third-country reseller did not export to the United States during the period. The review indicates the existence of no dumping margins for the eighth firm, Fritz Hacker & Sohn GmbH, during the period.

As a result of the review the Department has preliminarily determined to require cash deposits of estimated antidumping duties on future entries equal to the margins calcuated on the last know shipments for the non-shipping firms. The Department has also tentatively determined to revoke the finding with respect to Hacker.

Interested parties are invited to comment on these preliminary results and tentative determination to revoke in part.

EFFECTIVE DATE: January 30, 1984.

FOR FURTHER INFORMATION CONTACT: Elizabeth L. Wright or Robert J. Marenick, Office of Compliance, International Trade Administration, U. S. Department of Commerce, Washington, D.D. 20230, telephone: (202) 377–5255.

SUPPLEMENTARY INFORMATION:

Background

On September 9, 1983, the Department of Commerce ("the Department") published in the Federal Register (48 FR 40759) the final results of its last administrative review of the antidumping finding on animal glue and inedible gelatin from West Germany (42 FR 64116, December 22, 1977) and announced its intent to immediately conduct its next administrative review. As required by section 751 of the Tariff Act of 1930 ("the Tariff Act"), the Department has now conducted that administrative review.

Scope of the Review

Imports covered by the review are shipments of animal glue and inedible gelatin, of which there are two principal types, hide glue and bone glue. Animal glue is an organic colloid of protein derivation. There is no significant difference between animal glue and inedible gelatin. Animal glues are odorless , dry, hard, hornlike materials. They are used as general purpose adhesives in industries producing abrasives, paper containers, book and magazine bindings, and leather goods. They are also used as sizing agents and as colloids in emulsions and cleaning compounds. Animal glue and inedible gelatin are currently classifiable under items 455.4000 and 455.4200 of the Tariff Schedules of the United States Annotated.

The review covers the eight known manufacturers and/or exporters and one third-country reseller of West German animal glue and inedible gelatin to the United States and the period December 1, 1981 through November 30, 1982.

Seven firms and the one third-country reseller did not export West German animal glue and inedible gelatin to the United States during the period. The estimated antidumping duties cash deposit rates for these firms will be based on the most recent rate for each firm.

United States Price

In calculating United States price the Department used purchase price, as defined in section 772 of the Tariff Act, since all sales were made to unrelated purchasers in the United States prior to importation. Purchase price was based on the c.i.f. packed price. Where applicable, deductions were made for foreign inland freight, ocean freight, and marine insurance. No other adjustments were claimed or allowed.

Foreign Market Value

In calculating foreign market value the Department used home market price, as defined in section 773 of the Tariff Act, since sufficient quantities of such or similar merchandise were sold in the home market to provide a basis for comparison. Home market price was based on the ex-factory, packed price with an adjustment for cash discounts. No other adjustments were claimed or allowed.

Preliminary Results of the Review and Tentative Determination To Revoke in Part

As a result of our comparison of United States price to foreign market value, we preliminarily determine that for the period December 1, 1981 through November 30, 1982, the following margins exist:

	Margin (percent)
Manufacturer/exporter:	
Chemische Dungerfabriek Rendsburg	*158.00
G. Conradt & Sohn	*67.00
Johannes Martens K–G	*0
Ph. Carl Weiss	*16.34
Nienburger Gelatin GmbH	*158.00
Fritz Hacker & Sohn GmbH	0
Deutsche Gelatin-Fabrieken Stoess & Co./ Gould-Metall	*158.00
Third-country reseller: Marcuse, Dorme & Company Limited (U.K.)	*16.34

* No shipments during the period.

The Department has concluded that all sales of West German animal glue and inedible gelatin y Fritz Hacker & Sohn GmbH were made at not less than fair value for at least a two-year period. As provided for in § 353.54(e) of the Commerce Regulations, Hacker has agreed in writing to an immediate suspension of liquidation and reinstatement of the finding if circumstances develop which indicate that West German animal glue and inedible gelatin manufactured and exported by Hacker to the United States is being sold by Hacker at less than fair value.

Therefore, we tentatively determine to revoke the finding on animal glue and inedible gelatin from West Germany with regard to Fritz Hacker & Sohn GmbH. If this partial revocation is made final, it will apply to entries of this merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice.

Interested parties may submit written comments on these preliminary results and tentative determination to revoke in part within 30 days of the date of publication of this notice and may request disclosure and/or a hearing within 10 days of the date of publication. Any hearing, if requested, will be held 45 days after the date of publication or the first workday thereafter. Any request for an administrative protective order must be made no later than 5 days after the date of publication. The Department will publish the final results of the administrative review including the results of its analysis of any such comments or hearing.

Further, as provided for in § 353.48(b) of the Commerce Regulations, a cash deposit of estimated antidumping duties based upon the above margins shall be required. For any future entries from a new exporter not covered in this or prior administrative reviews, whose first shipments of animal glue and inedible gelatin occurred after November 30, 1982 and who is unrelated to any covered firm, no cash deposit shall be required. These deposit requirements are effective for all shipments of West German animal glue and inedible gelatin entered,

or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this review.

This administrative review, tentative determination to revoke in part, and notice are in accordance with sections 751 (a)(1) and (c) of the Tariff Act (19 U.S.C. 1675 (a)(1), (c)) and §§ 353.53 and 353.54 of the Commerce Regulations (19 CFR 353.53, 353.54).

Dated: January 19, 1984.

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 84-2450 Filed 1-27-84; 8:45 am]

BILLING CODE 3510-DS-M

Mayo Foundation; Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897; 15 CFR Part 301). Related records can be viewed between 8:30 AM and 5:00 PM in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C.

Docket No. 83-310. Applicant: Mayo Foundation, Rochester, MN 55905. Instrument: Titanium Product System for Osseointegration. Manufacturer: Bofors Nobelpharma, Sweden. Intended use: See notice at 48 FR 45279.

Comments: None receieved.

Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States.

Reasons: The foreign instrument is a unique system of bone compatible titanium tools and fixtures for anchoring bridges to the jawbone. The National Institutes of Health advises in its memorandum dated December 6, 1983 that (1) the capability of the foreign instrument described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument of apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

We know of no other instrument or apparatus of equivalent scientific value to the foreign instrument which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 84-2453 Filed 1-27-84; 8:45 am]

BILLING CODE 3510-DS-M

National Bureau of Standards; Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897; 15 CFR Part 301). Related records can be viewed between 8:30 AM and 5:00 PM in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C.

Docket No. 83-268. Applicant: National Bureau of Standards, Washington, D.C. 20234. Instrument: Accessories for a Laser Microprobe Mass Analzyer. Manufacturer: Leybold-Heraeus, GmBH, West Germany. Intended use: See notice at 48 FR 38870.

Comments: None received.

Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States.

Reasons: This is a compatible accessory for an instrument previously imported for the use of the applicant. The instrument and accessory were made by the same manufacturer.

The National Institutes of Health advises in its memorandum dated November 2, 1983 that the accessory is pertinent to the intended uses and that it knows on no comparable domestic accessory.

We know of no domestic accessory which can be readily adapted to the instrument.

(Catalog of Federal Domestic Assistance Progrm No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 84-2451 Filed 1-27-84; 8:45 am]

BILLING CODE 3510-DS-M

Trustees of the University of Pennsylvania; Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897; 15 CFR Part 301). Related records can be viewed between 8:30 AM and 5:00 PM in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C.

Docket No. 83-299. Applicant: Trustees of the University of Pennsylvania, Philadelphia, PA 19104. Instrument: GX-13 Single Cathode Rotating Anode X-ray Generator and Accessories. Manufacturer: Marconi Avionics Ltd., United Kingdom. Intended use: See notice at 48 FR 40933.

Comments: None received.

Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States.

Reasons: The foreign instrument provides the required intensity (up to 27 kW/mm ^{2}) and small spot size (<0.3 mm × 0.3 mm). The National Institutes of Health advises in its memorandum dated November 2, 1983 that (1) the capability of the foreign instrument described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

We know of no other instrument or apparatus of equivalent scientific value to the foreign instrument which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 84-2452 Filed 1-27-84; 8:45 am]

BILLING CODE 3510-DS-M

DEPARTMENT OF DEFENSE

Department of the Army

Intent To Prepare Environmental Impact Statements and to Initiate the Public Scoping Process for the Construction and Operation of Chemical Munition Disposal Systems

AGENCY: Department of the Army, Department of Defense.

ACTION: Notice of Intent to Prepare Environmental Impact Statements (EISs) on the potential impact from the design, construction, operation, and decontamination of proposed chemical agent demilitarization facilities at Anniston Army Depot (ANAD), Alabama; Lexington-Blue Grass Depot Activity (LBDA), Lexington, Kentucky;

and US Army Depot Activity Umatilla (UMDA), Hermiston, Oregon. The proposed facilities would be used to demilitarize M55 Rockets and other obsolete/unserviceable chemical agents/munitions currently stored at the above locations. Alternatives to the proposed action include:

a. Continued storage of obsolete/unserviceable chemical agents/munitions at ANAD, LBDA and UMDA.

b. Construction of a chemical agents/munitions demilitarization facility at an alternate location and shipment of the chemical agents/munitions stored at ANAD, LBDA, and UMDA to the demilitarization facility.

2. The Department of the Army recognizes its responsibility to demilitarize obsolete/unserviceable chemical warfare agents and munitions in a safe and environmentally acceptable manner. The Army further recognizes the need under National Environmental Policy Act (NEPA) to discuss and analyze in a ppropriate environmental documentation, the potential impact from construction, operation and subsequent decontamination of the proposed demilitarization facilities at ANAD, LBDA, and UMDA.

3. Notice is further given to the Army's intention to initiate the scoping process for these environmental impact statements. The purposes of this scoping process are those stated in 32 CFR 651.32 and are designed to aid the Army in determining the significant issues related to the proposed action. The process incorporates appropriate public participation including Federal, State and local agencies, as well as residents within the affected environment.

4. Questions and comments regarding both the scope of and the issues to be analyzed in the environmental documentation may be addressed to Dr. John A. Akinyemi, US Army Toxic and Hazardous Materials Agency, ATTN: DRXTH-ES, Aberdeen Proving Ground, MD 21010. Initial scoping meetings will be held at later dates to be announced in local news media so that interested individuals and agencies may assist the Department of the Army in scoping the environmental documentation. Individuals wishing individual notification of meetings may request this service by writing to Dr. Akinyemi at the address above. As specific issues are identified through the receipt of comments, additional public meetings and seminars may be scheduled if required.

Dated: January 20, 1984.

Lewis D. Walker,

Deputy for Environment, Safety and Occupational Health, OASA (IL&FM).

[FR Doc. 84-2612 Filed 1-27-84; 8:45 am]

BILLING CODE 3710-92-M

Department of the Navy

Naval Research Advisory Committee, Panel on Man-in-the-Loop Targeting; Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. App. I), notice is hereby given that the Naval Research Advisory Committee Panel on Man-in-the-Loop Targeting will meet on February 22, 1984, at the Naval Ocean Systems, Center, San Diego, California and on February 23, 1984, at Commander Third Fleet Analysis Division, Ford Island, Hawaii. Sessions of the meeting will commence at 8:00 a.m. and terminate at 12:30 p.m. on February 22, 1984. All sessions of the meeting will be closed to the public.

The entire agenda for the meeting will consist of discussions relating to insights into command and control and battle management decision processes and observation of a demonstration of the automated mission planning system for the TOMAHAWK Land Attack Missile. In addition, exposure to human factors and targeting tactics and training will be provided. These matters constitute classified information that is specifically authorized under criteria established by Executive order to be kept secret in the interest of national defense and is in fact properly classified pursuant to such Executive order. The classified and non-classified matters to be discussed are so inextricably interwined as to preclude opening any portion of the meeting. Accordingly, the Secretary of the Navy has determined in writing that the public interest requires that all sessions of the meeting be closed to the public because they will be concerned with matters listed in section 552b(c)(1) of title 5, U.S.C.

For further information concerning this meeting contact: Commander M. B. Kelley, U.S. Navy, Office of Naval Research (Code 100N), 800 North Quincy Street, Arlington, VA 22217, Telephone number (202) 696-4870.

Dated: January 19, 1984

William F. Roos, Jr.,

Lieutenant, JAGC, U.S. Naval Reserve, Alternate Federal Register Liaison Officer.

[FR Doc. 84-2458 Filed 1-27-84; 8:45 am]

BILLING CODE 3810-AE-M

DEPARTMENT OF EDUCATION

Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Notice of Proposed Information Collection Requests.

SUMMARY: The Deputy Under Secretary for Management invites comments on the proposed information collection requests as required by the Paperwork Reduction Act.

DATES: Interested persons are invited to submit comments on or before February 29, 1984.

ADDRESSES: Written comments or requests should be addressed to Desk Officer, Department of Education, Office of Management and Budget, 726 Jackson Place, NW., Room 3208 New Executive Office Building, Washington, D.C. 20503 and/or Margaret Webster, Department of Education, 400 Maryland Avenue, SW., Room 4074, Switzer Building, Washington, D.C. 20202.

FOR FURTHER INFORMATION CONTACT: Margaret B. Webster (202) 426-7304.

SUPPLEMENTARY INFORMATION: Section 3517 of the Paperwork Reduction Act (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OBM) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. The requirement for public consultation may be amended or waived by OBM to the extent that the public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform the statutory obligations.

The Deputy Under Secretary for Management publishes this notice containing proposed information requests prior to the submission of these requests to the Office of Management and Budget. Public comment is invited and copies of the requests may be obtained from the addresses named above.

Dated: January 25, 1984.

Charles L. Heatherly,

Deputy Under Secretary for Management.

OFFICE OF EDUCATION RESEARCH AND IMPROVEMENT

Extension

State-Level Personnel Exchange (Elementary-Secondary)

ED 2428-1;-2
Quarterly
State or Local Governments

Reporting Burden: Responses: 32; Burden Hours: 48

Abstract: The forms are used to obtain minimal administrative information needed for responsible operation of the Personnel Exchange program. It is used to establish the identity of the requestor, to check State authorization for travel, and to determine if the purpose of the request is within the scope of the program.

New

Library Services and Construction Act (LSCA), Application, Title II (Public Library Construction) Under Authorization of the Emergency Jobs Bill (P.L. 98–8) and Administered Under LSCA, Title II
Non-recurring
State or Local Governments
Reporting Burden: Responses: 52; Burden Hours: 156

Abstract: This form allows for the submission of the Annual Program Plan as authorized under the statutory provisions of Sections 201 through 203 of P.L. 91–600, as amended.

OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

Extension

Indian Fellowship Application (New and Continuation)

ED 501
Annually
Individuals or Households
Reporting Burden: Responses: 880; Burden Hours: 2,250

Abstract: This application enables students to enter professional fields of medicine, law, education, business administration, engineering, natural resources, and related fields. It is used to obtain information needed to determine eligibility for funds, select Fellows, and determine the amount to be awarded each applicant. Applicants are Indian graduate and undergraduate students.

Application for Federal Assistance (Non-Construction Programs) Migrant Education Program

ED 362
Annually
State or Local Governments
Reporting Burden: Responses: 51; Burden Hours: 408
Recordkeeping Burden: Recordkeepers: 51; Burden Hours: 408

Abstract: Under Chapter I, Education Consolidation and Improvement Act, the Migrant Education Program determines eligibility on the basis of the annual submission of a State Migrant Education Program application. The Department of Education's Migrant Education Division conducts a comprehensive application review and approval process prior to awarding a grant to each State.

OFFICE OF MANAGEMENT

Extension

Computer Generated "Recipient Cash Advance Request"

ED 874
State or Local Governments; Non-Profit Institutions; Small Businesses or Organizations
Reporting Burden: Responses: 84,000; Burden Hours: 84,000

Abstract: The form is used by recipients to obtain funds for grants received from the Department of Education. It is used by those recipients who do not qualify for a Letter of Credit. Recipients request advances so Federal funds are available only immediately prior to the actual disbursement for award activity in accordance with General Accounting Office and U.S. Treasury regulations.

OFFICE OF POSTSECONDARY EDUCATION

Extension

Application for Certification for Participation in Programs Under Title IV of the Higher Education Act of 1965, as amended

ED 633
Annually
State or Local Governments; Businesses or Other for Profit; Non-Profit Institutions; Small Businesses or Organizations
Reporting Burden: Responses: 2,800; Burden Hours: 5,600

Abstract: This form is used by colleges, universities, and vocational schools to apply to the Department of Education to be certified to participate in student financial assistance programs under Title IV, of the Higher Education Act of 1965, as amended.

New

Higher Education Act Title IV, Quality Control Project

On Occasion
State or Local Governments; Businesses or Other For-Profit; Non-Profit Institutions; Small Businesses or Organizations
Reporting Burden: Responses: 8,400; Burden Hours: 8,400

Abstract: The purpose of the study is to identify which procedures or practices in the delivery system are prone to error and to suggest corrective actions. Information from audits and program reviews indicate that the payment errors may be higher than the $624 million found in the Pell Grant program in 1982–83. The purpose of this project is to determine the program-wide error rates, the types, and probable causes.

Residence and Migration of College Students, Fall 1984

ED 2300–2.8
Biennually
Individuals or Households; State or Local Governments; Non-Profit Institutions
Reporting Burden: Responses: 3,325; Burden Hours: 4,988

Abstract: The Department of Education and States use residence and migration data for use in economic and financial planning and policy formulation, particularly in regard to tracking the migration of students from State to State, which has a direct impact on college costs, student financial needs, and sources of such funds. This is of special importance in recruiting for many institutions.

Institutional Payment Summary for Pell Grants

On Occasion
Businesses or Other For-Profit; Non-Profit Institutions; Small Businesses or Organizations
Reporting Burden: Responses: 5,200; Burden Hours: 31,200
Recordkeeping Burden: Recordkeepers: 5,200; Burden Hours: 832

Abstract: The Institutional Payment Summary along with the Student Aid Report Part 3 is replacing the functions of the Progress Report, ED 255–3 and the Student Validation Roster, ED 255–4. The Institutional Payment Summary is the vehicle through which the Higher Education community reports cumulative payment data for the students at their institutions eligible to receive a Pell Grant. Adjustments to an institution's Pell Grant funding level will be made based on the information contained on this form and Student Aid Report, ED 255–1 that accompanies the Institutional Payment Summary.

[FR Doc. 84–2449 Filed 1–27–84; 8:45 am]
BILLING CODE 4000–01–M

Discretionary Grant Programs Under the Rehabilitation Act of 1973, as Amended; Application Notices Establishing Closing Dates for Transmittal of Fiscal Year 1984 Applications

AGENCY: Department of Education.

ACTION: Application notices establishing closing dates for transmittal of Fiscal Year 1984 applications.

SUMMARY: The purpose of this application notice is to inform potential applicants of fiscal and programmatic information and closing dates for transmittal of applications for new projects under certain grant programs awarded by the Department of Education under Titles I and III of the Rehabilitation Act of 1973, as amended.

Organization of Notice

This notice covers certain discretionary grant programs administered by the Rehabilitation Services Administration within the Department of Education in which there is expected to be competition for new projects in Fiscal Year 1984.

This notice contains two parts. Part I includes, in chronological order, the list of all closing dates covered by this notice. Part II consists of the individual application announcements for each program. These announcements are in the same order as the closing dates listed in Part I.

Instructions for Transmittal of Applications

Applicants should note specifically the following instructions for the transmittal of applications:

Transmittal of Applications: Applications for all projects must be mailed or hand delivered on or before the closing date given in the individual program announcements included in this document.

Applications Delivered by Mail: Applications for new projects must be addressed to the Department of Education, Application Control Center, Attention: (Appropriate CFDA No.), 400 Maryland Avenue, SW., Washington, D.C. 20202.

An applicant must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other evidence of mailing acceptable to the U.S. Secretary of Education.

If an application is sent through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing: (1) A private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

Applicants are encouraged to use registered or at least first class mail.

Each late applicant for a new award will be notifed that its application will not be considered.

Applications Delivered by Hand: Hand-delivered applications must be taken to the U.S. Department of Education, Application Control Center, Room 5673, Regional Office Building #3, 7th and D Streets, SW., Washington, D.C.

The Application Control Center will accept hand-delivered applications between 8:00 a.m. and 4:30 p.m. (Washington, D.C. time) daily, except Saturdays, Sundays and Federal hoildays. Hand-delivered applications will not be accepted after 4:30 p.m. on the closing date.

Intergovernmental Review

On June 24, 1983, the Secretary published in the **Federal Register** final regulations (34 CFR Part 79, published at 48 FR 29158 *et seq.*) implementing Executive Order 12372 entitled "Intergovernmental Review of Federal Programs." The regulations took effect September 30, 1983.

These programs are subject to the requirements of the Executive Order and the requlations in 34 CFR Part 79. The objective of Executive Order 12372 is to foster an intergovernmental partnership and a strengthened federalism by relying on State and local processes for State and local government coordination and review of proposed Federal financial assistance.

The Executive Order—

- Allows States, after consultation with local officials, to establish their own process for review and comment on proposed Federal financial asistance,
- Increases Federal responsiveness to State and l;ocal officials by requiring Federal agencies to accommodate State and local views or explain why those views will not be accommodated, and
- Revokes OMB Circular A–95.

Transactions with nongovernmental entities, including State postsecondary educational institutions and federally recognized Indian tribal governments, are not covered by Executive Order 12373. Also excluded from coverage are research, development, or demonstration projects that do not have a unique geographic focus and are not directly relevant to the governmental responsibilities of a State or local government within that geographic area.

The following is the current list of States that have established a process, designated a single point of contact, and have selected these programs for review.

State		
Arizona	Massachusetts	South Carolina
Arkansas	Michigan	South Dakota
California	Missisippi	Tennessee
Colorado	Missouri	Texas
Connecticut	Montana	Utah
Delaware	Nebraska	Vermont
District of Columbia	Nevada	Virginia
Florida	New Hampshire	Washington
Hawaii	New Jersey	West Virginia
Illinois	New Mexico	Wisconsin
Indiana	New York	Wyoming
Kansas	North Carolina	Northern Mariana Islands
Kentucky	Ohio	Virgin Islands
Louisiana	Oklahoma	
Maine	Oregon	
Maryland	Pennsylvania	
	Rhode Island	

Immediately upon receipt of this notice, applicants that are governmental entities, including local educational agencies, must contact the appropriate State single point of contact to find out about, and to comply with, the State's process under the Executive Order. Applicants proposing to perform activities in more than one State should contact, immediately upon receipt of this notice, the single point of contact for each State and follow the procedures established in the States under the Executive Order. A list containing the single point of contact for each State is included in the application package for these programs.

In States not listed above, State, areawide, regional, and local entities may submit comments directly to the Department.

Any State process recommendation and other comments submitted by a State single point of contact and any comments from State, areawide, regional, and local entities must be mailed or hand delivered by May 23, 1984 for the Client Assistance Projects (84.128F) and Handicapped Migratory Agricultural and Seasonal Farmworker Vocational Rehabilitation Service Projects (84.128G), to the following address:

The Secretary, U.S. Department of Education, Room 4181, (Appropriate CFDA No. 84.128F or 84.128G), 400 Maryland Avenue, SW., Washington, D.C. 20202. Telephone Number (202) 245–8862. (Proof of mailing will be determined on the same basis as applications).

PLEASE NOTE THAT THE ABOVE ADDRESS IS NOT THE SAME ADDRESS AS THE ONE TO WHICH THE APPLICANT SUBMITS ITS COMPLETED APPLICATION. *DO NOT*

SEND APPLICATIONS TO THE ABOVE ADDRESS.

Part I—List of Program Application Announcements Published in This Notice

CFDA No.	Program	Closing date
84.128F ...	Client Assistance Projects	Mar. 23, 1984.
84.128G...	Handicapped Migratory Agricultural and Seasonal Farmworker Vocational Rehabilitation Service Projects.	Mar. 23, 1984.

Part II—Application Announcements for Each Program

84.128F—Client Assistance Projects—New Projects

Closing date: March 23, 1984.

Authority for this program is contained in Section 112 of the Rehabilitation Act of 1973, as amended. (29 U.S.C. 732).

Awards are made under this program to State vocational rehabilitation agencies.

The purpose of this program is to provide counselors to inform and advise all clients and client applicants in a project area of all available benefits and their rights to seeking these benefits under the Rehabilitation Act of 1973, as amended.

Available funds: The total amount of funds awarded under this grant program for Fiscal Year 1983 was $1,734,000. The total amount of funds available for Client Assistance Projects in Fiscal Year 1984 is $3,500,000. An estimated 58 new projects will be awarded with the average grant totalling approximately $60,000. These estimates do not bind the Department of Education to a specific number of grants or to the amount of any grant unless that amount is otherwise specified by statute or regulations.

It is expected that new projects funded under this program in Fiscal Year 1984 will be limited to one year of support.

Application forms: Application forms and program information packages are available and may be obtained by writing to the Office of Developmental Programs, Rehabilitation Services Administration, Office of Special Education and Rehabilitative Services, U.S. Department of Education, 400 Maryland Avenue, SW., Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package. The program information is intended to aid applicants in applying for assistance under this competition. Nothing in the program information package is intended to impose any paperwork, application content, reporting, or grantee performance requirement beyond those specifically imposed under the statute and regulations governing the competitions.

The Secretary strongly urges that the narrative portion of the application not exceed 25 pages in length. The Secretary further urges that applicants not submit information that is not requested.

Applicable regulations: Regulations applicable to this program include the following:

(a) Regulations governing the Client Assistance Projects Program (34 CFR Parts 369 and 370); and

(b) Education Department General Administrative Regulations (EDGAR) (34 CFR Parts 74, 75, 77, 78, and 79.)

Further Information: Leslie B. Cole, Division of Special Projects, Office of Developmental Programs, Rehabilitation Services Administration, Office of Special Education and Rehabilitative Services, U.S. Department of Education, 400 Maryland Avenue, SW., Room 3324, Mary E. Switzer Building, Washington, D.C. 20202. Telephone: (202) 245–0552.

84.128G—Handicapped Migratory Agricultural and Seasonal Farmworker Vocational Rehabilitation Service Projects

Closing date: February 15, 1984—New Projects.

Authority for this program is contained in Section 312 of the Rehabilitation Act of 1973, as amended. (29 U.S.C.777b).

Awards are made under this program to State vocational rehabilitation agencies or local agencies administering a vocational rehabilitation program under written agreements with State agencies.

The purpose of this program is to support projects for providing vocational rehabilitation services to handicapped migratory agricultural workers or handicapped seasonal farmworkers.

Available funds: The total amount of funds awarded under this program for Fiscal Year 1983 was $951,000. The total amount of funds available for Handicapped Migratory Agricultural and Seasonal Farmworkers Vocational Rehabilitation Service Projects in Fiscal Year 1984 is $950,000. An estimated 9 new projects will be awarded with the average grant totalling $106,000. An estimated 9 new projects will be awarded with the average grant totalling $106,000. These estimates do not bind the Department of Education to a specific number of grants or to the amount of any grant unless that amount is otherwise specified by statute or regulations.

Subject to the conditions set forth in EDGAR regarding continuation of multi-year projects, it is expected that new projects funded under this program in Fiscal Year 1984 will receive continuation support for up to two additional budget periods.

Application forms: Application forms and program information packages are available and may be obtained by writing to the Office of Developmental Programs, Rehabilitation Services Administration, Office of Special Education and Rehabilitation Services, U.S. Department of Education, 400 Maryland Avenue, SW., Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package. The program information is intended to aid applicants in applying for assistance under this competition. Nothing in the program information package is intended to impose any paperwork, application content, reporting, or grantee performance requirement beyond those specifically imposed under the statute and regulations governing the competition.

The Secretary strongly urges that the narrative portion of the application not exceed 25 pages in length. The Secretary further urges that applicants not submit information that is not requested.

Applicable regulations: The following regulations are applicable to this program:

(a) Regulations governing Handicapped Migratory Agricultural and Seasonal Farmworker Vocational Rehabilitation Service Projects (34 CFR Parts 369 and 375); and

(b) Education Department General Administrative Regulations (EDGAR) (34 CFR Parts 74, 75, 77, 78, and 79).

Further information: Frank S. Caracciolo, Division of Special Projects, Rehabilitation Services Administration, Office of Special Education and Rehabilitative Services, U.S. Department of Education, Room 3327, Mary E.

Switzer Building, 400 Maryland Avenue, SW., Washington, D.C. 20202. Telephone: (202) 245–0389.

Dated: January 24, 1984.

Madeleine Will,

Assistant Secretary of Special Education and Rehabilitative Services.

[FR Doc. 84–2434 Filed 1–27–84; 8:45 am]

BILLING CODE 4000–01–M

National Advisory Council on Women's Educational Programs; Meeting

AGENCY: Department of Education.

ACTION: Amendment of Notice.

SUMMARY: This notice sets forth the schedule and proposed agenda of a meeting of the National Advisory Council on Women's Educational Programs and its Executive, Civil Rights, Federal Policies, Practices and Programs, and Women's Educational Equity Act Committees. This notice also describes the function of the Council. Notice of this meeting is required under Section 10(a)(2) of the Federal Advisory Committee Act. This document is to notify the general public of their opportunity to attend and that a portion of the meeting will be closed.

DATE: February 14, 1984, 7:30 p.m. until business is completed. February 15, 1984, 9:00 a.m. to 12:15 p.m. and 1:45 p.m. to 5:00 p.m.

February 16, 1984, 9:00 a.m. until business is completed (approximately 11:30 a.m.).

ADDRESS: The meetings will be at the Hotel Washington, Pennsylvania Avenue at 15th Street, NW. (See details below for exact location and times of meetings.)

FOR FURTHER INFORMATION CONTACT: Sharon Petersen, Special Assistant to the Executive Director, National Advisory Council on Women's Educational Programs, 425 13th, NW., Suite 416, Washington, D.C. 20004, (202) 376–1038.

SUPPLEMENTARY INFORMATION: The National Advisory Council on Women's Educational Programs is established pursuant to Pub. L. 95–561. The Council is mandated to (a) advise the Secretary on matters relating to equal education opportunities for women and policy matters relating to the administration of the Women's Educational Equity Act of 1978; (b) make recommendations to the Secretary with respect to the allocation of any funds pursuant to the Act, including criteria developed to insure an appropriate geographical distribution of approved programs and projects throughout the Nation; (c) recommend criteria for the establishment of program priorities; (d) make such reports as the Council determines appropriate to the President and Congress on the activities of the Council; and (e) disseminate information concerning the activities of the Council.

The Executive Committee will meet February 14, 1984 from 7:30 p.m. to 8:30 p.m. Agenda will include discussion of the Annual Report and WEEA Evaluation, proposed forums and policy and procedure amendments. The Executive Committee meeting will be closed at 8:30 p.m. and continue until business is completed. The Executive Committee will be completing a review of staff performance. The review and subsequent discussion will include information that relates solely to the internal personnel rules and practices of the agency and will disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy. Such matters are protected by exemptions (2) and (6) of Section 552b(c) of Title 5 U.S.C.

The Civil Rights, Women's Educational Equity Act, and Federal Policies, Practices and Programs Committee will meet February 15, 1984, from 9:00 a.m. to 10:45 a.m.

The meeting of the National Advisory Council on Women's Educational Programs will take place February 15, 1984, from 11:00 a.m. to 12:15 p.m. and from 1:45 p.m. to 5:00 p.m. and February 16, 1984, from 9:00 a.m. to 11:00 a.m. The meeting will be closed to the public for staff performance reports from 11:00 a.m. and continuing until business is completed. The agenda will include committee reports, proposed forums, and the Annual Report and WEEA Evaluation.

A portion of the meeting will be open to the public. Records will be kept of the proceedings and will be available for public inspection at the office of the National Advisory Council on Women's Educational Programs. A summary of the activities of the closed sessions and related matters which would be informative to the public consistent with the policy of Section 552b(c) of Title 5 U.S.C. will be available to the public within 14 days of the meeting at the Council's office, 425 13th Street, NW., Suite 416, Washington, D.C. 20004.

Signed at Washington, D.C., on January 25, 1984.

Rosemary Thomson,

Executive Director.

[FR Doc. 84–2513 Filed 1–27–84; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Office of Conservation and Renewable Energy

Solicitation for a Cooperative Agreement Award; Financing Energy Conservation in Municipal and Non-Profit Institutional Buildings Site Demonstrations Program

AGENCY: Office of Conservation and Renewable Energy, Department of Energy.

ACTION: Notice of Solicitation for a Cooperative Agreement Award.

SUMMARY: DOE announces that pursuant to the DOE Financial Assistance Rules, 10 CFR 600.7(b), it is restricting eligibility for the award of a cooperative agreement to organize and manage four site demonstrations to show the feasibility of using a variety of comprehensive energy service agreements to finance, install, and maintain energy conservation measures in municipal and non-profit institutional buildings.

FOR FURTHER INFORMATION CONTACT: Frank M. Stewart, CE–26, U.S. Department of Energy, Division of Institutional Conservation Programs, Washington, D.C. 20585.

Solicitation No.: DE–F601–84CE–65600.

Authority: Title III, Part II of the National Conservation Policy Act of 1978, Pub. L. 95–619; DOE Financial Assistance Rules, 10 CFR Part 600 and 600.7(b) (47 FR 44076, October 5, 1982).

Project Scope: This cooperative agreement will provide a representative demonstration of the feasibility of using comprehensive energy service agreements in public sector buildings by developing and overseeing four site demonstrations, and by disseminating the results of those demonstrations by means of reports and training sessions. Eligibility for award of this cooperative agreement is being limited to the Energy Task Force Management Corporation, Inc., because of its unique capability to enlist the participation of municipal and local governments in an energy management demonstration project. The terms of the cooperative agreement shall be from January 30, 1984 to April 15, 1986. The amount of DOE funds awarded shall be $193,000.

Issued in Washington, D.C., on January 17, 1984.

Pat Collins,

Acting Assistant Secretary, Conservation and Renewable Energy.

[FR Doc. 84–2435 Filed 1–27–84; 8:45 am]

BILLING CODE 6450–01–M

Energy Information Administration

Secondary and Tertiary Storage Task Group of the Coordinating Subcommittee of the National Petroleum Council's Committee on Petroleum Inventories and Storage Capacity; Meeting Change

This notice is to advise of the new time and location of the meeting of the Secondary and Tertiary Storage Task Group of the Coordinating Subcommittee of the National Petroleum Council's Committee on Petroleum Inventories and Storage Capacity (February 1–2, 1984) as published in the issue of January 19, 1984 (49 FR 2291).

The Secondary and Tertiary Storage Task Group will hold its meeting starting at 8:30 a.m., in the San Felipe—B Room of the Warwick Post Oak Hotel, 2001 Post Oak Boulevard, Houston, Texas.

Issued at Washington, D.C. on January 24, 1984.

J. Erich Evered,

Administrator, Energy Information Administration.

[FR Doc. 84–2434 Filed 1–25–84; 1:35 pm]

BILLING CODE 6450–01–M

[Proposed Form EIA–714A]

Annual Electric Power System Report

AGENCY: Energy Information Administration, Department of Energy.

ACTION: Request for comment on proposed Form EIA–714A, "Annual Electric Power System Report."

SUMMARY: The Energy Information Administration (EIA) and the Federal Energy Regulatory Commission (FERC) of the Department of Energy are proposing 3 forms to collect information that was previously collected on FPC Form 12, "Power System Statement," Form EIA–119M, "Monthly Report of Electric Energy, Capability, and Peak Load," and Form EIA–119A, "Annual Projection of System Changes." The replacement forms are Form EIA–714A, "Annual Electric Power System Report," Form EIA–714P, "Annual Electric Power Plant Report," and Form EIA–714S, "Annual Electric Utility Report." Form EIA–714A will be filed by all electric utilities that, based on the reporting period, generate all or part of system requirements, and own operable generating capacity greater than 25 megawatts, and whose net energy for system plus firm sales for resale are greater than 100,000 megawatthours.

This **Federal Register** notice pertains to the Form EIA–714A. Forms EIA–714P and EIA–714S are currently under development and are expected to be published in the **Federal Register** for comment in mid 1984.

The Form EIA–714P will collect static plant and equipment information from each utility that operates a power plant or plans to operate a power plant within 10 years of the filing date of the report.

The Form EIA–714S will collect electric utility generation and sales data.

DATES: Written comments must be received by EIA within 60 days of the publication of this notice.

ADDRESSES: Comments should be sent to Mr. Albert A. Breuel at the address listed below.

FOR FURTHER INFORMATION CONTACT: To obtain additional information or copies of the proposed Form EIA–714A, contact: Al Breuel, Office of Coal, Nuclear, Electric and Alternate Fuels, Energy Information Administration, Department of Energy, MS–2F021, 1000 Independence Avenue, SW., Washington, D.C. 20585, (202) 252–6541.

SUPPLEMENTARY INFORMATION:

I. Background
II. Current Action
III. Request for Comments

I. Background

In order to fulfill its responsibilities under the Federal Energy Administration Act of 1974 (Pub. L. 93–275), and the Department of Energy Organization Act (Pub. L. 95–91), the Department of Energy (DOE) finds it necessary to continue the collection of data previously reported in portions of the FPC Form 12, "Power System Statement," Form EIA–119M, "Monthly Report of Electric Energy, Capability, and Peak Load," and Form EIA–119A, "Annual Projection of System Changes."

FERC requires the data under the provisions of the Federal Power Act (FPA) to implement its responsibilities under the Act. The Commission must consider whether certain proposed actions are in the public interest. These areas of concern include the following: hydropower licensing, interconnection and coordination of facilities, rates and charges, and wheeling. Prior to deciding whether a proposed action is in the public interest, the Commission must perform analyses of power system operations. Some examples of the uses of the data for these analyses are electric utility load simulation and modeling, determining levels and trends in small power production and cogeneration, and transmission line determinations associated with hydroelectric licensing functions.

EIA requires the data to provide the DOE and others with timely electric systems data that would facilitate electric power systems reliability and adequacy analyses, to prepare status reports on the electric utility industry, to monitor electric utility forecasts of loads and plans for system expansion, and to obtain a comprehensive picture of energy generation, transfers, and load distributions.

II. Current Action

The new Form EIA-714A, "Annual Electric Power System Report," is designed to collect information for use by the EIA, the FERC, and other interested parties on the status of electric utilities and their generation, transmission, and distribution of electric energy in the United States and its possessions. The form is comprised of the following nine schedules:

Schedule 1—Capability and Output of System Generating Plants
Schedule 2—Energy Transfers
Schedule 3—System Net Generation, Energy Transfers, and Peaks by Months
Schedule 4—System Hydroelectric Data
Schedule 5—System Load Data by Specified Week
Schedule 6—Summer and Winter Peak Load and Annual Energy Forecasts
Schedule 7—Distribution of System Load by Service Area
Schedule 8—High Voltage Line Data
Schedule 9—System Maps and Diagrams

III. Request for Comments

EIA invites the public to comment on the new form within 60 days of the publication of this notice. The following general guidelines are provided to assist in the preparation of responses:

(As a potential respondent)

A. Are the instructions and definitions clear and sufficient?

B. Can the data be submitted using the definitions included in the instructions?

C. Can the data be submitted within the response time specified in the instructions?

D. How many hours, including time for preparation and administrative review, will your utility require to complete and submit a form?

E. What is the estimated cost of completing this form, including the direct and indirect costs associated with the data collection? Direct costs should include all costs, such as administrative costs, directly attributable to providing this information.

F. How can the form be improved?

G. Do you know of other Federal, State, or local agencies that collect similar data? If you do, specify the agency and the means of collection.

H. Would your company collect and organize the data required in the proposed form if the form were not required?

(As a potential user)

A. Can you use data at the levels of detail indicated on the form?

B. For what purpose would you use these data? (Be specific.)

C. How could the form be improved to better meet your specific data needs?

D. Are there alternative sources of data and do you use them? What are their deficiencies?

EIA is also interested in receiving comments from other persons regarding their views on the need for the collection of this information.

Comments submitted in response to this notice will be included in the request for Office of Management and Budget approval of this data collection and will become a matter of public record.

Issued in Washington, D.C. January 24, 1984.

Yvonne M. Bishop,

Director, Statistical Standards, Energy Information Administration.

[FR Doc. 84-2506 Filed 1-27-84; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket No. ER84-212-000]

Carolina Power & Light Co.; Filing

January 25, 1984.

The filing Company submits the following:

Take notice that on January 16, 1984, Carolina Power & Light Company (CP&L) tendered for filing changes outlined below in its agreement with Brunswick Electric Membership Corporation.

1. Brunswick EMC—The termination and cancellation of the Southport 23 KV Point of Delivery.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rule of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before February 7, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-2473 Filed 1-27-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. EC84-11-000]

Consumers Power Co.; Application

January 25, 1984.

Take notice that on January 16, 1984, Consumers Power Company (Applicant) filed an Application pursuant to Section 203 of the Federal Power Act seeking authority to sell a 64% undivided ownership interest to Wolverine Power Supply Cooperative, Inc. (Wolverine) in Applicant's 345 kv double circuit transmission line extending from its Tittabawassee Substation to its Kenowa-Thetford 345 kv Transmission Line.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before February 10, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-2474 Filed 1-27-84; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 2413-006]

Georgia Power Co.; Application for Approval of Amended Exhibit S

January 25, 1984.

Take notice that the Georgia Power Company, the Licensee for the Lauren Shoals Project, FERC No. 2413, filed on August 22, 1983, an application for approval of an Amended Exhibit S in compliance with Article 53 of the project license. The project is located on the Oconee and Apalachee Rivers in Greene, Hancock, Morgan, Oglethorpe and Putman Counties, Georgia.

The Licensee proposes to designate three parcels of the land, totaling about 10,000 acres, for wildlife management. The parcels, which would be managed by the Georgia Department of Natural Resources, would be in exchange for 10,300 acres of land that are presently being managed for wildlife. The land proposed for wildlife management would include: (1) approximately 5,000 acres of land adjacent to the project in Greene and Hancock Counties (Oconee Wildlife Management Area); (2) approximately 200 acres in the Wallace Dam tailrace area in Putnam County (Oconee Waterfowl Management Area); and (3) approximately 5,000 acres of land in Harris County, Georgia adjacent to the Licensee's Bartletts Ferry Project, FERC No. 485 (Blanton Creek Wildlife Management Area).

Correspondence with the Licensee should be directed to: Mr. W. L. Westbrook, Senior Vice President, Georgia Power Company, P.O. Box 4545, Atlanta, Georgia.

Agency Comments—Federal, State, and local agencies are invited to file comments on the described application. (A copy of the application may be obtained by agencies directly from the Licensee). If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Motion to Intervene—Anyone may file comments, a protest, or a motion to intervene in accordance with the requirements of Rules 211 or 214, 18 CFR 385.211 or 385.214, 47 FR 19025-26 (1983). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be filed on or before March 12, 1984.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS, "PROTEST", or "MOTION To INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capital Street, N.E., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Deputy Director, Project Management Branch, Division of Hydropower Licensing, Federal Energy

Regulatory Commission, Room 208 RB at the above address.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-2475 Filed 1-27-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-55-001]

Montaup Electric Co.; Compliance Report

January 25, 1984.

Take notice that on January 6, 1984, Montaup Electric Company (Montaup) submitted for filing its Compliance Report pursuant to A Commission's Order issued on December 28, 1983.

Any person desiring to be heard or to protest said filing should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, on or before February 10, 1984. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-2476 Filed 1-27-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP84-151-000]

Panhandle Eastern Pipe Line Co.; Application

January 25, 1984.

Take notice that on December 27, 1983, Panhandle Eastern Pipe Line Company (Applicant), P.O. Box 1642, Houston, Texas 77001, filed in Docket No. CP84-151-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas on behalf of the Kansas Power and Light Company (Kansas Power and Light), all as more fully set forth in the application which is on file with the Commission and open for public inspection.

Applicant requests certificate authorization to implement a certain transportation agreement between Applicant and Kansas Power and Light dated August 12, 1983. Pursuant to this agreement, Applicant proposes to transport on behalf of Kansas Power and Light a daily volume of natural gas not to exceed 25,000 Mcf on an interruptible basis from an existing point of receipt in Kingfisher County, Oklahoma to an existing interconnection of the facilities of Kansas Power and Light and Applicant in Reno County, Kansas. Applicant indicates that the gas to be transported is gas purchased by Kansas Power and Light from Phillips Petroleum Company pursuant to a gas purchase contract dated August 12, 1983.

Applicant states that no new facilities are required to implement the service. Applicant also indicates that the term of the transportation contract extends until December 31, 1984, and for successive terms of six months, unless cancelled by either party giving three months written notice to the other.

Applicant also indicates that Kansas Power and Light would pay a transportation charge of 8.02 cents per Mcf.

Any person desiring to be heard or to make protest with reference to said application should on or before February 13, 1984, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-2477 Filed 1-27-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP84-152-000]

Panhandle Eastern Pipe Line Co.; Application

January 25, 1984.

Take notice that on December 27, 1983, Panhandle Eastern Pipe Line Company (Applicant), P.O. Box 1642, Houston, Texas 77001, filed in Docket No. CP84-152-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public covenience and necessity authorizing the transportation of natural gas on behalf of the Kansas Power and Light Company (Kansas Power and Light), all as more fully set forth in the application which is on file with the Commission and open for public inspection.

Applicant requests authorization to implement a certain transportation agreement between Applicant and Kansas Power and Light, dated October 13, 1983. Pursuant to this agreement, Applicant proposes to transport on behalf of Kansas Power and Light a daily volume of natural gas not to exceed 1,000 Mcf on an interruptible basis from a proposed point of receipt in Kiowa County, Kansas to an existing interconnection of the facilities of Kansas Power and Light and Applicant in Reno County, Kansas. Applicant indicates that the gas to be transported is gas purchased be Kansas Power and Light from Rine Exploration Company pursuant to a gas purchase contract dated October 13, 1983.

Applicant indicates that the only new facilities required to implement the service are measurement facilities at the point of receipt and that those facilities would be constructed under Applicant's blanket authorization issued in Docket No. CP83-83-000.

Applicant states that the term of the transportation contract extends until October 13, 1985, and for successive terms of six months thereafter, unless cancelled by either party giving three months prior written notice to the other.

Applicant also indicates that Kansas Power and Light would pay a transportation charge of 4.01 cents per Mcf.

Any person desiring to be beard or to make any protest with reference to said application should on or before February 13, 1984, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests

filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-2478 Filed 1-27-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP84-153-000]

Panhandle Eastern Pipe Line Co.; Application

January 25, 1984.

Take notice that on December 27, 1983, Panhandle Eastern Pipe Line Company (Applicant), P.O. Box 1642, Houston, Texas 77001, filed in Docket No. CP84-153-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas on behalf of the Kansas Power and Light Company (Kansas Power and Light), all as more fully set forth in the application which is on file with the Commission and open for public inspection.

Applicant requests certificate authorization to implement a certain transportation agreement between Applicant and Kansas Power and Light dated August 23, 1983. Pursuant to this agreement, Applicant proposes to transport on behalf of Kansas Power and Light a daily volume of natural gas not to exceed 3,000 Mcf on an interruptible basis from existing points of receipt in Dewey County, Oklahoma to an existing interconnection of the facilities of Kansas Power and Light and Applicant in Reno County, Kansas.

Applicant indicates that the gas to be transported is gas purchased by Kansas Power and Light from Fitkin Oil Company (Fitkin) pursuant to a gas purchase agreement dated August 8, 1983. Applicant also indicates that Fitkin is a producer-supplier of Applicant's and has granted Applicant temporary relief from its take-or-pay obligations and has temporarily released this gas from prior commitment to Applicant.

Applicant states that no new facilities are required to implement the service and that the term of the transportation contract extends until December 31, 1984, and for successive terms of six months, unless cancelled by either party giving three months prior written notice to the other.

Applicant also indicates that Applicant would charge Kansas Power and Light a transportation charge of 40.37 cents per Mcf, including an 8.02-cent per Mcf transmission charge and a 32.35-cent per Mcf gathering charge.

Any person desiring to be heard or to make any protest with reference to said application should on or before February 13, 1984, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-2479 Filed 1-27-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-211-000]

Southern California Edison Co.; Filing

January 25, 1984.

The filing Company submits the following:

Take notice that on January 16, 1984, Southern California Edison Company (Edison) tendered for filing an agreement entitled "Agreement For Interruptible Transmission of Non-Firm Energy Purchased by Vernon From the State of California Department of Water Resources", which has been executed by Edison and The City of Vernon, California (Vernon).

Edison states that under the terms and conditions of the Agreement, Edison is willing to provide to Vernon interruptible transmission service for delivery of Non-Firm Energy purchased by Vernon from the State of California Department of Water Resources (CDWR) over Edison's electrical transmission facilities from the Point of Attachment to the Point of Delivery.

Edison requests an effective date of January 3, 1984, and therefore requests waiver of the Commission's notice requirements.

Copies of this filing were served upon the Public Utilities Commission of the State of California and the City of Vernon, California.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 384.211, 385.214). All such motions or protests should be filed on or before February 7, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file

with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-2480 Filed 1-27-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-210-000]

Southern Company Services, Inc.; Filing

January 25, 1984.

The filing Company submits the following:

Take notice that on January 12, 1984, Southern Company Services, Inc. (SCS) tendered for filing an Agreement among Arkansas Power & Light Company, Louisiana Power & Light Company, Mississippi Power & Light Company, New Orleans Public Service Inc. (hereinafter collectively referred to as Middle South Companies) and Middle South Services, Inc. (MSS); Gulf States Utilities Company (GSU); and Alabama Power Company, Georgia Power Company, Gulf Power Company and Mississippi Power Company (hereinafter collectively referred to as Southern Companies), and Southern Company Services, Inc. (SCS). The Agreement provides that GSU and Southern Companies will install one or more fixed tap phase shifters, with a minimum capacity of 1500 MVA, as an integral part of the proposed 500 KV interconnection between Southern Companies and GSU. The installation of such equipment is intended to reduce any adverse parallel power flows on the electric systems of Middle South Companies. The Agreement contains other reliability provisions unique to such interconnection and its effect upon the electric systems of Middle South Companies.

SCS states that it reserves the right to contest jurisdiction of this Commission over the terms of the Agreement.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before February 7, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-2481 Filed 1-27-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-213-000]

Tucson Electric Power Co.; Filing

January 25, 1984.

The filing Company submits the following:

Take notice that on January 16, 1984, Tucson Electric Power Company (Tucson) tendered for filing Amendment No. 3 to the Tucson-San Diego Ten Year Power Sale and Interconnection Agreement between Tucson and San Diego Gas & Electric Company (San Diego). Tucson states that the primary purpose of this Amendment is to provide the terms and conditions under which the parties will proceed through the remaining terms of the Tucson-San Diego Ten Year Power Sale and Interconnection Agreement dated November 29, 1978.

Tucson requests an effective date of January 6, 1984.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before February 7, 1984. Protests will be considered by the Commission in determining the appropriate action taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-2482 Filed 1-27-84; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPPE-FRL 2512-3]

Agency Information Collection Activities Under OMB Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 3507(a)(2)(B) of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.) requires the Agency to publish in the **Federal Register** a notice of proposed information collection requests that have been forwarded to the Office of Management and Budget (OBM) for review. The information collection requests listed are available to the public for review and comment.

FOR FURTHER INFORMATION CONTACT: David Bowers; Office of Standards and Regulations; Information Management Section (PM-223); U.S. Environmental Protection Agency; 401 M Street, S.W.; Washington, D.C. 20460, telephone (202) 382-2742 or FTS 382-2742.

SUPPLEMENTARY INFORMATION:

Air Programs

• Title: Lead Additive Reports for Refineries and Importers and for Manufacturing Facility or Site (EPA #0232).

Abstract: EPA uses the information in these reports to verify compliance of individual refineries, gasoline importers and lead additive manufacturers with the lead phasedown regulations.

Respondent: Petroleum product refiners and importers.

* * * * *

Agency PRA Clearance Requests Completed by OBM

Except as noted, the following requests were cleared on 5 January 1984:

EPA #0015, Application for Thermal Effluent Variance, (OMB #2000-0197)

EPA #0016, Application for Innovative Pollution Control Technology Variance (OMB #2000-0196)

EPA #0017, Application for Nonconventional Pollutant Waiver (OMB #2000-0195)

EPA #0021, Permittee Notice of Regulated Discharge Cessation (OMB #2000-0203)

EPA #0022, Wastewater Permittee Report on Inaccurate Previous Information (OMB #2000-0202)

EPA #0024, Facility and Permit Transfer Report (OMB #2000-0200)

EPA #0025, Permit Consolidation Request (OMB #2000-0182)

EPA #0029, Request for Modification, Revocation and Reissuance, or Termination of Permit (OMB #2000-0199)

EPA #0077, Request for Fundamentally Different Factors Variance (OMB #2000-0194)

EPA #0128, State Request for NPDES Program Revision (OMB #2000-0181)

EPA #0131, State Report of Wastewater Permits (OMB #2000-0179)

EPA #0132, State Recordkeeping for NPDES Compliance Evaluation Programs (OMB #2000–0180)
EPA #0136, Modification of Permit Application (OMB #2000–0499)
EPA #0137, State Certification of EPA-Issued Permits (OMB #2000–0185)
EPA #0168, State Report on NPDES Compliance Evaluation Program (OMB #2000–0239)
EPA #1047, National Inorganic/ Radionuclide Survey of Public Water Systems, was cleared January 11 (OMB #2040–0055)

* * * * *

Comments on all parts of this notice should be sent to:

David Bowers (PM–223), U.S. Environmental Protection Agency, Office of Standards and Regulations, 401 M Street, S.W., Washington, D.C. 20460; and

Wayne Leiss, Carlos Tellez or Rick Otis, Office of Management and Budget, Office of Information and Regulatory Affairs, New Executive Office Building (Room 3228), 726 Jackson Place, N.W., Washington, D.C. 20503.

Dated: January 20, 1983.

Daniel J. Fiorino,

Acting Director, Regulation and Information Management Division.

[FR Doc. 84–2317 Filed 1–27–84; 8:45 am]

BILLING CODE 6560–50–M

[OW–FRL–2516–3]

Pretreatment Implementation Review Task Force (Proposed); Open Meeting

Pursuant to Pub. L. 92–463, notice is hereby given that a preliminary meeting of the (proposed) Pretreatment Implementation Review Task Force will be held on February 14 & 15, 1984. The meeting times on February 14 are from 10:30 a.m. to 5:00 p.m. and on February 15, from 9:00 a.m. to 4:30 p.m. in Room S353, Waterside Mall, 401 M Street, SW., Washington, D.C.

The principal agenda items will be to identify the implementation problems for the EPA Regions and States, municipalities, and individual publicly owned treatment works (POTWs) associated with the pretreatment regulations 1984 deadline. The agenda will also include briefings and discussions on other topics of interest to the Task Force. Any member of the public wishing to make comments is invited to submit them in writing to Mr. Richard Kinch no later than February 25, 1984. The meeting will be open to the public. Any member of the public wishing additional information should contact Mr. Richard Kinch or Mr. Jerry Parker (EN–336) U.S. EPA, 401 M Street, SW., Washington, D.C. 20460 ((202) 426–7035.).

Currently, this Committee and its functions are under review by the Office of Management and Budget (OMB). EPA is continuing to coordinate with OMB to assure the most expeditious review and concurrence on establishment of this committee.

Dated: January 26, 1984.

Jack E. Ravan,

Assistant Administrator, Office of Water.

[FR Doc. 84–2679 Filed 1–27–84; 9:44 am]

BILLING CODE 6560–50–M

FEDERAL RESERVE SYSTEM

First Security Corp., et al.; Engaging de Novo in Permissible Nonbanking Activities

The bank holding companies listed in this notice have filed a notice under § 225.23(a)(1) of the Board's Regulation Y (49 FR 794) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (49 FR 794) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated for that application. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. With respect to each notice, interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated for the application or the offices of the Board of Governors not later than February 23, 1984.

A. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President) 101 Market Street, San Francisco, California 94105:

1. *First Security Corporation,* Salt Lake City, Utah, to engage through its subsidiary, First Security Financial, Salt Lake City, Utah, in making consumer, business and mortgage loans; lease financing; and acting as agent of selling credit life and credit disability insurance related to extensions of credit, where the insuance is limited to assuring repayment of the outstanding balance due on a specific extension of credit in the event of death, disability or involuntary unemployment of the debtor.

2. *Olympic National Bancorp,* Los Angeles, California, to engage through its proposed subsidiary, O.N.B. Mortgage Company, Los Angeles, California, in the activities of making or acquiring for its own account and for the account of others loans and other extensions of credit and servicing loans and other extensions of credit by any person.

Board of Governors of the Federal Reserve System, January 24, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84–2409 Filed 1–27–84; 8:45 am]

BILLING CODE 6210–01–M

Norwest Corp.; Correction

This notice corrects a previous **Federal Register** document (FR Doc. 84–1646), published at page 2528 of the issue for Friday, January 20, 1984. Norwest Corporation, Minneapolis, Minnesota has also applied for permission to relocate an existing office within Jacksonville, Florida.

Board of Governors of the Federal Reserve System, January 24, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84–2407 Filed 1–27–84; 8:45 am]

BILLING CODE 6210–01–M

Upper Valley Bancorp, Inc., et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and section 225.14 of the Board's Regulation Y (49 FR 794) to become a bank holding

company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated for that application. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. With respect to each application, interested persons may express their views in writing to the Reserve Bank indicated for that application or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than February 23, 1984.

A. **Federal Reserve Bank of Philadelphia** (Thomas K. Desch, Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105:

1. *Upper Valley Bancorp, Inc.*, Olyphant, Pennsylvania; to become a bank holding company by acquiring 100 percent of the voting shares of The National Bank of Olyphant, Olyphant, Pennsylvania.

B. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Rural Financial Services, Inc.*, Dousman, Wisconsin; to become a bank holding company by acquiring 86 percent or more of the voting shares of Dousman State Bank and Mansfield State Bank, Dousman, Wisconsin and Johnson Creek, Wisconsin. Comments on this application must be received not later than February 19, 1984.

C. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Citizens Dimension Bancorp, Inc.*, Muskogee, Oklahoma; to acquire 12.4 percent of the voting shares or assets of Charter Bancshares, Inc., Oklahoma City, Oklahoma and Charter National Bank, Oklahoma City, Oklahoma.

2. *First York Ban Corp.*, York, Nebraska; to acquire 100 percent of the voting shares or assets of the First National Bank of Bradshaw, Bradshaw, Nebraska; The Blue River Bank, McCool Junction, Nebraska; and Farmers & Traders Bank, Waco, Nebraska.

3. *High Country Investment Corporation*, Evergreen, Colorado; to acquire 93.5 percent of the voting shares or assets of Bank of Glendale, N.A., Denver, Colorado (a *de novo* bank).

4. *Waverly Bancshares, Inc.*, Waverly, Missouri; to become a bank holding company by acquiring 100 percent of the voting shares of Waverly Investment Company, Kansas City, Missouri, and thereby indirectly acquire The Bank of Waverly, Waverly, Missouri.

Board of Governors of the Federal Reserve System, January 24, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-2408 Filed 1-27-84; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 84N-0004]

Clinical Studies of Safety and Effectiveness of Orphan Products; Availability of Grants

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of funds for Fiscal Year 1984 for awarding grants to support clinical trials on safety and effectiveness of orphan products. FDA has funds to award approximately 10 to 20 grants ranging from $20,000 to $70,000. The agency will consider awarding grants greater than $70,000 if they extend over a 2- or 3-year period. In adition, FDA maintains a list of nongovernmental organizations interested in funding orphan products research. Applicants who do not receive awards under this announcement may wish to apply to those organizations.

DATE: Applications must be received by April 30, 1984. The earliest beginning date for awards is September 25, 1984.

ADDRESSES: Applications should be submitted to, and application kits are available from, Helen M. Crown, State Contracts and Assistance Agreements Branch (HFA-520), Food and Drug Administration, Rm. 12A-27, 5600 Fishers Lane, Rockville, MD 20857; 301-443-6170. The list of nongovernmental organizations is available from the Office of Orphan Products Development (HF-35), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Benjamin P. Lewis, Office of Orphan Products Development (HF-35), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857; 301-443-4903.

SUPPLEMENTARY INFORMATION: FDA will support the clinical studies covered by this notice under section 301 of the Public Health Service Act (42 U.S.C. 241). FDA's research program is described in the Catalog of Federal Domestic Assistance, No. 13.103.

I. Background

FDA has established an Office of Orphan Products Development to identify and facilitate the availability of orphan products. Orphan products are drugs, biologics, medical devices (including in vitro diagnostics), foods for medical purposes, and veterinary products that may be useful in an uncommon or common disease but lack committed commercial sponsorship because they are not considered commercially attractive for marketing. A subcategory of orhan products consists of those marketed products for which there is evidence suggesting usefulness in an uncommon, serious disease but which are not labeled for that disease because substantial evidence is lacking.

One way to make orphan products more easily available is to support research to determine whether the porducts are safe and effective. FDA has allocated funds to support such research.

II. Research Goals and Objectives

A. Clinical Studies

FDA will consider only clinical studies for determining whether the products are safe and effective for premarket approval under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.), including the addition of new uses for marketed drugs. Ordinarily, there should already be available at least some preliminary clinical research suggesting effectiveness and relative safety. FDA will also consider applications where persuasive pharmacologic evidence is available that a product has a reasonable possibility of being effective even though no clinical trials have yet been performed. All studies subject to requirements for clinical investigations under the Federal Food, Drug, and Cosmetic Act are to be conducted in accordance with those requirements in addition to the requirements of the request for application (RFA).

Because funds are relatively limited, FDA cannot consider large research projects involving many subjects (human, or animal in the case of a veterinary drug) and long-term followup.

The typical study considered for support may involve up to several dozen subjects, will be well-controlled, and directed to providing substantial evidence of the product's safety and effectiveness. Pharmacokinetic studies will also be considered if they are necessary to determine safe and effective doses in subjects with serious organ disease that might affect drug disposition. But pharmacokinetic studies will be considered only if they are part of studies for determining effectiveness of a drug or are proposed as desirable information to obtain for drugs that are already shown to be effective. In designing a well-controlled study, the investigator should keep in mind that historical controls or use of the subject as his or her own control are generally less desirable and reliable than active control or, when ethical, placebo controls.

B. Statistical Support

Statistical expertise is helpful in the planning, design, execution, and analysis of clinical investigations and clinical pharmacology to ensure the validity of estimates of safety and efficacy obtained from human studies. Applicants will be expected to provide a statistical basis for the number of patients chosen for the trial based upon the proposed outcome measures. Applicants should also document the appropriateness of the statistical procedures to be used in analysis of the results.

C. Informed Consent of Human Subjects

Consent and/or assent forms and any additional information that might be given to a subject must accompany the grant submission (Form PHS 398). Information that is given to the subject or the representative shall be in language understandable to the subject or the representative. No informed consent, whether oral or written, may include any exculpatory language through which the subject or the representative is made to waive any of the subject's legal rights, or releases or appears to release the investigator, the sponsor, the institution, or its agents from liability for negligence.

If a study involves both adults and children, separate consent forms should be provided for the adults and the parents or guardians of the children.

1. *Elements of informed consent (21 CFR 50.25)*—(a) *Basic elements of informed consent.* In seeking informed consent, the following information shall be provided to each subject:

(1) A statement that the study involves research, an explanation of the purposes of the research and the expected duration of the subject's participation, a description of the procedures to be followed, and identification of any procedures which are experimental.

(2) A description of any reasonably foreseeable risks or discomforts to the subject.

(3) A description of any benefits to the subject or to others which may reasonably be expected from the research.

(4) A disclosure of appropriate alternative procedures or courses of treatment, if any, that might be advantageous to the subject.

(5) A statement that describes the extent, if any, to which confidentiality of records identifying the subject will be maintained and that notes the possibility that the Food and Drug Administration may inspect the records.

(6) For research involving more than minimal risk, an explanation as to whether any compensation and any medical treatments are available if injury occurs and, if so, what they consist of, or where further information may be obtained.

(7) An explanation of whom to contact for answers to pertinent questions about the research and research subjects' rights, and whom to contact in the event of a research-related injury to the subject.

(8) A statement that participation is voluntary, that refusal to participate will involve no penalty or loss of benefits to which the subject is otherwise entitled, and that the subject may discontinue participation at any time without penalty or loss of benefits to which the subject is otherwise entitled.

(b) *Additional elements of informed consent.* When appropriate, one or more of the following elements of information shall also be provided to each subject:

(1) A statement that the particular treatment or procedure may involve risks to the subject (or to the embryo or fetus, if the subject is or may become pregnant) which are currently unforeseeable.

(2) Anticipated circumstances under which the subjects's participation may be terminated by the investigator without regard to the subject's consent.

(3) Any additional costs to the subject that may result from participation in the research.

(4) The consequences of a subject's decision to withdraw from the research and procedures for orderly termination of participation by the subject.

(5) A statement that significant new findings developed during the course of the research which may relate to the subject's willingness to continue participation will be provided to the subject.

(6) The approximate number of subjects involved in the study.

(c) The informed consent requirements are not intended to preempt any applicable Federal, State, or local laws which require additional information to be disclosed for informed consent to be legally effective.

(d) Nothing here is intended to limit the authority of a physician to provide emergency medical care to the extent the physician is permitted to do so under applicable Federal, State, or local law.

III. Reporting Requirements

Financial status reports will be required at the end of each budget period. The progress reports required under a grant award (45 CFR Part 74) should be submitted by the principal investigator or project manager.

IV. Mechanism of Support

A. *Award instrument.* Support will be in the form of grant awards. These awards will be subject to all policies and requirements that govern the research grant programs of the Public Health Service including the provisions of 42 CFR Part 52, 45 CFR Part 74, and requirements for cost sharing.

B. *Eligibility.* These grants are available to any public or private nonprofit entity (including State and local units of government) and any for-profit entity.

C. *Length of support.* The length of support will depend upon the nature of the study and may extend beyond 1 year. For studies where the expected date of completion is more than 1 year, however, continuation of support beyond the first year will be based upon review of performance during the preceding year and availability of funds.

D. *Funding plan.* The number of studies funded will depend on the quality of the applications received and the availability of funds.

V. Review Procedure and Criteria

A. *Review methods.* Applications will undergo initial review by experts in the field relative to the specific application. The experts will review and evaluate each application based on its scientific merit. The applications will be subject to a second-level review to evaluate them based on their relevance to the aims of the Orphan Products Development Program. Applications will also be reviewed before issuance of an FDA grant award to ensure to the extent practicable that proposed studies are consistent with requirements for

approval under the Federal Food, Drug, and Cosmetic Act.

B. *Review criteria.* Applications must be responsive to this request for applications. Those judged not to be responsive will be forwarded to the Division of Research Grants, National Institutes of Health, for review and consideration as unsolicited applications. Applications that are judged to be unresponsive will not be considered for funding under this RFA. Applications will be reviewed according to the following criteria.

1. Responsiveness of the RFA.
2. The soundness of the rationale for the study.
3. The appropriateness of the study design to answer the question posed.
4. The evidence presented by the applicant that it will be able to recruit the proposed number of subjects and complete the study during the allotted period.
5. The plans for complying with regulations for protection of human and animal subjects as applicable to the proposed study.
6. The research experience, training, and competence of the principal investigator and the support staff.

VI. Format for Application

Applications must be submitted on Form PHS 398, Application for Public Health Service Grant. The face page of the application must reflect the RFA Number RFA–FDA–OP–84–1. To ensure confidentiality of individual salary information, applicants may choose to include that information on the original application only. In that case, all copies of the application should reflect only a total amount for salaries and fringe benefits. The application checklist should reflect whether this is a new application or a revision. No action will be taken by the funding agency to delete confidential information. Data included in the application, if restricted with the legend specified below, may be entitled to confidential treatment as trade secret or confidential commercial information within the meaning of the Freedom of Information Act (5 U.S.C. 552(b)(4)) and the rgulations of the Food and Drug Administration implementing that act (21 CFR 20.61).

The collection of information requested on Form PHS 398 and the instructions have been submitted by the Public Health Service to the Office of Management and Budget (OMB), and were approved and assigned OMB control number 0925–0001.

Legend

Unless disclosure is required by the Freedom of Information Act as amended (5 U.S.C. 552) as determined by the freedom of information officials of the Department of Health and Human Services, data contained in the portions of this application which have been specifically identified by page number, paragraph, etc., by the applicant as containing restricted information shall not be used or disclosed except for evaluation purposes.

The original and six copies of the completed application should be delivered to, and application kits are available from, Helen M. Crown (address above).

Label the outside of the mailing package and the top of the application face page "Response to RFA–FDA–OP–84–1."

Applications must be received by 4 p.m. on April 30, 1984. Applications received after that time will be considered only if they arrive in time to permit orderly processing. Applications received too late for orderly processing will be referred to the Division of Research Grants, National Institutes of Health, for review as unsolicited applications.

FDA's Office of Orphan Products Development maintains a list of nongovernmental organizations interested in funding orphan products research. Applicants may request this list from the Office of Orphan Products Development (HF–35), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857. Applicants who do not receive awards under this announcement may wish to apply to those organizations.

Dated: January 24, 1984.

Mark Novitch,

Acting Commissioner of Food and Drugs.

[FR Doc. 84–2418 Filed 1–25–84; 11:27 am]

BILLING CODE 4160–01–M

Public Health Service

Health Resources and Services Administration; Statement of Organization, Functions, and Delegations of Authority

Part H, Chapter HB (Health Resources and Services Administration), of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health and Human Services (47 FR 38409–24, August 31, 1982 as amended at 48 FR 6784, February 15, 1983) is amended to reflect a change in the title of the United Southeastern Tribal Program Office (USET), Indian Health Service (IHS).

Under section HB–10, Organization and Functions, the Indian Health Service (HBN), change the title of the United Southeastern Tribal Program Office (HBNFU) to read the Nashville Program Office (HBNFU).

Dated: January 20, 1984.

Edward N. Brandt,

Assistant Secretary for Health.

[FR Doc. 84–2425 Filed 1–27–84; 8:45 am]

BILLING CODE 4160–16–M

Alcohol, Drug Abuse, and Mental Health Administration

Advisory Committee Meeting; Correction

In FR Doc. 84–1833, beginning on page 2957 in the issue of Tuesday, January 24, 1984, make the following correction:

On page 2958, third column, under Pharmacology Research Subcommittee of the Drug Abuse Biomedical Research Review Committee, the date now reading "February 21–13" should read "February 21–23."

Dated: January 24, 1984.

Sue Simons,

Committee Management Officer, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc. 84–2414 Filed 1–27–84; 8:45 am]

BILLING CODE 4160–20–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Incandescent Rocks Scenic Area of Critical Environmental Concern, Reno Planning Area; Designation of Public Lands

AGENCY: Bureau of Land Management, Interior.

ACTION: Designation of public lands within the Reno Planning Area as the Incandescent Rocks Scenic Area of Critical Environmental Concern (ACEC).

SUMMARY: Pursuant to the authorities in the Federal Land Policy and Management Act (FLPMA) of 1976 and the authorization from the Director, I have designated the following described public lands within the Reno Planning Area as an Area of Critical Environmental Concern:

Mt. Diablo Meridian, Nevada

T. 23 N., R. 20 E.,
Sec. 1, NE¼NE¼, S½NE¼, E½SW¼, SE¼.
T. 23 N., R. 21 E.,
Sec. 6, all.
T. 24 N., R. 21 E.,
Sec. 31, Lot 4, SE¼SW¼.

The area described totals about 1,072 acres of public land.

EFFECTIVE DATE: The Incandescent Rocks Scenic Area ACEC designation became effective on the same day the Reno Management Framework Plan was officially adopted—January 19, 1983. The designation was authorized by regulation (43 CFR Part 1600) effective September 6, 1979.

ADDRESSES: For further information about this designation, contact either of the following Bureau of Land Management officials:

Edward F. Spang, Nevada State Director, Bureau of Land Management, Nevada State Office, 300 Booth Street, P.O. Box 12000, Reno, Nevada 89520, (702) 784–5451.

Tom Owen, District Manager, Carson City District, Bureau of Land Management, 1050 E. William, Suite 335, Carson City, Nevada 89701, (702) 882–1631.

SUPPLEMENTARY INFORMATION: An ACEC as defined by FLPMA is an area "within the public lands where special management attention is needed (when such areas are developed or where no development is required) to protect and prevent irreparable damage to important historical, cultural, or scenic values, fish and wildlife resources, or other natural systems or processes, or to protect life and safety from natural hazards."

The Incandescent Rocks area contains outstanding scenic geologic features that are currently under threat from mining exploration and off-road vehicle activities. Protection measures will include limiting the area to off-road vehicles, and requiring mining plans of operations for all surface disturbing activities.

Opportunity for public comment on this ACEC designation occurred during the period between March 1981 and January 1983, when comments were requested on the Reno Management Framework Plan and the accompanying Reno Environmental Impact Statement. A series of open houses and public meetings were conducted for the purpose of receiving public comments.

Dated: January 19, 1984.

Edward F. Spang,

State Director, Nevada.

[FR Doc. 84–2439 Filed 1–27–84; 8:45 am]

BILLING CODE 4310–HC–M

Steamboat Hot Springs Geyser Basin Area of Critical Environmental Concern, Reno Planning Area; Designation of Planning Area

AGENCY: Bureau of Land Management, Interior.

ACTION: Designation of public lands within the Reno Planning Area as the Steamboat Hot Springs Geyser Basin Area of Critical Environmental Concern (ACEC).

SUMMARY: Pursuant to the authorities in the Federal Land Policy and Management Act (FLPMA) of 1976 and the authorization from the Director, I have designated the following described public lands within the Reno Planning Area as an Area of Critical Environmental Concern:

Mt. Diablo Meridian, Nevada

T. 18 N., R. 20 E.,
Sec. 33, NE¼NW¼.

The area described totals about 40 acres of public land.

EFFECTIVE DATE: The Steamboat Hot Springs Geyser Basin ACEC designation became effective on the same day the Reno Management Framework Plan was officially adopted—January 19, 1983. The designation was authorized by regulation (43 CFR Part 1600) effective September 6, 1979.

ADDRESSES: For further information about this designation, contact either of the following Bureau of Land Management officials:

Edward F. Spang, Nevada State Director, Bureau of Land Management, Nevada State Office 300 Booth Street, P.O. Box 12000, Reno, Nevada 89520, (702) 784–5451.

Tom Owen, District Manager, Carson City District, Bureau of Land Management, 1050 E. William, Suite 335, Carson City, Nevada 89701, (702) 882–1631.

SUPPLEMENTARY INFORMATION: An ACEC as defined by FLPMA is an area "within the public lands where special management attention is needed (when such areas are developed or where no development is required) to protect and prevent irreparable damage to important historical, cultural, or scenic values, fish and wildlife resources, or other natural systems or processes, or to protect life and safety from natural hazards. ".

The Steamboat Hot Springs Geyser Basin is one of the few remaining active geyser areas in the United States and the oldest known location of continuous hot springs deposition in the world. Unique geologic and botanical features have been threatened by vehicle use, vandalism and unauthorized surface occupancy. Protection measures will include curtailing off-road vehicle and unauthorized surface occupancy activities, and development of interpretive/recreation facilities.

Opportunity for public comment on this ACEC designation occurred during the period between March 1981 and January 1983, when comments were requested on the Reno Management Framework Plan and the accompanying Reno Environmental Impact Statement. A series of open houses and public meetings were conducted for the purpose of receiving public comments.

Dated: January 19, 1984.

Edward F. Spang,

State Director, Nevada.

[FR Doc. 84–2440 Filed 1–27–84; 8:45 am]

BILLING CODE 4310–HC–M

National Park Service

Availability Draft Land Protection Plan; Big Thicket National Preserve, Texas

Pursuant to the National Environmental Policy Act of 1969, Title 40 of the Code of Federal Regulations, Part 516 of the Departmental Manual, Charpter 1 of Title 36 of the Code of Federal Regulations, and the policy statement for Preparation of Land Protection Plans printed in the **Federal Register** on May 11, 1983 (48 FR 21121), the National Park Service has prepared a Draft Land Protection Plan for Big Thicket National Preserve, Polk, Hardin, Liberty, Jasper, Tyler, Orange and Jefferson Counties, Texas.

The Draft Land Protection Plan addresses the protection of 6,479 acres within the established boundaries that have not been acquired. It considers alternate means of protection, establishes priorities, provides for public use and safety and identifies what land or interest in land needs to be in Federal ownership in order to achieve management purposes consistent with the intent of Congress in authorizing the preserve. Any request for or expenditure of acquisition funds and subsequent activities will be based on the approved plan.

Copies of the Draft Land Protection Plan are available from Big Thicket National Preserve, Post Office Box 7408, Beaumont, Texas 77706; and the Southwest Regional Office, National Park Service, Post Office Box 728, Santa Fe, New Mexico 87501, and will be sent upon request.

Anyone wishing to comment on the Draft Land Protection Plan should provide them to the Superintendent, Big Thicket National Preserve, at the address provided above, within 30 days from the publication date of this notice.

Dated: January 17, 1984.

Robert I. Kerr,

Regional Director, Southwest Region.

[FR Doc. 84–24363 Filed 1–27–84; 8:45 am]

BILLING CODE 4310–70–M

Chesapeake and Ohio Canal National Historical Park Commission; Meeting

Notice is hereby given in accordance with Federal Advisory Committee Act that a meeting of the Chesapeake and Ohio Canal National Historical Park Commission will be held Saturday, March 3, 1984, at 1:00 p.m. at the Brookmont Baptist Church, Brookmont, Maryland.

The Commission was established by Pub. L. 91–664 to meet and consult with the Secretary of the Interior on general policies and specific matters related to the administration and development of the Chesapeake and Ohio Canal National Historical Park.

The members of the Commission are as follows:

Miss Carrie Johnson, Chairman, Arlington, Virginia
Mr. Carl L. Shipley, Washington, D.C.
Ms. Polly Bloedorn, Bethesda, Maryland
Mr. James B. Coulter, Annapolis, Maryland
Mrs. Constance Lieder, Baltimore, Maryland
Mr. William H. Ansel, Jr., Romney, West Virginia
Mr. Silas Starry, Shepherdstown, West Virginia
Ms. Bonnie Troxell, Cumberland, Maryland
Mr. John D. Millar, Cumberland, Maryland
Mr. Rockwood H. Foster, Washington, D.C.
Mr. Barry Passett, Washington, D.C.
Ms. Barbara Yeaman, Brookmont, Maryland
Ms. Joan LaRock, Lovettsville, Virginia
Ms. Elise Heinz, Arlington, Virginia
Ms. Marjorie Stanley, Silver Spring, Maryland
Mrs. Minny Pohlmann, Dickerson, Maryland
Dr. James H. Gilford, Frederick, Maryland
Mr. R. Lee Downey, Williamsport, Maryland
Mr. Edward K. Miller, Hagerstown, Maryland

Matters to be discussed at this meeting include:

Old and new business
Superintendent's report
Committee reports
  Plans and Projects Committee
  Recreation Policies and Issues Committee
  Resource Protection Committee
Public Comments

The meeting will be open to the public. Any member of the public may file with the Commission a written statement concerning the matters to be discussed.

Persons wishing further information concerning this meeting, or who wish to submit written statements, may contact Richard L. Stanton, Superintendent, C&O Canal National Historical Park, P.O. Box 4, Sharpsburg, Maryland 21782.

Minutes of the meeting will be available for public inspection six (6) weeks after the meeting at Park Headquarters, Sharpsburg, Maryland.

Dated: January 23, 1984.

Robert Stanton,

Acting Regional Director, National Capital Region.

[FR Doc. 84–2464 Filed 1–27–84; 8:45 am]

BILLING CODE 4310–70–M

Santa Monica National Recreation Area Advisory Commission; Meeting

Notice is hereby given that the Santa Monica Mountains National Recreation Area Advisory Commission will hold a public meeting on Wednesday, February 8, 1984 at 7:30 p.m. in the hall of St. Columbus Episcopal Church, 1251 Las Posas Road, Camarillo, CA.

The topic for discussion will include:

Superintendent's Status Report of the Santa Monica Mountains National Recreation Area.
Election of the Vice Chairperson for 1984.
Recommendations on the Draft Land Protection Plan.
Recommendations on the Development Concept Plan for Rancho Sierra Vista.

Persons wishing to receive further information on this meeting or who wish to submit written statements may contact the Superintendent, Santa Monica Mountains National Recreation Area, 22900 Ventura Boulevard, Suite 140, Woodland Hills, California 91364.

A summary of public comment will be available by April 10, 1984.

Dated: January 3, 1984.

William Webb,

Acting Superintendent.

[FR Doc. 84–2465 Filed 1–27–84; 8:45 am]

BILLING CODE 4310–70–M

INTERSTATE COMMERCE COMMISSION

[Docket No. AB–43 (Sub-102)]

Illinois Central Gulf Railroad Company—Abandonment—In Tunica County, MS; Findings

The Commission has issued a certificate authorizing illinois Central Gulf Railroad Company to abandon 28.4 miles ot rail line between milepost 27.00 near Clack, MS (excluding Clack) and milepost 55.40 near Lula, MS (excluding Lula), in Tunica County, MS.

The abandonment certificate will become effective 30 days after this publication unless the Commission also finds that: (1) A financially responsible person has offered financial assistance (through subsidy or purchase) to enable the rail service to be continued; and (2) it is likely that the assistance would fully compensate the railroad.

Any financial assistance offer must be filed with the Commission and the applicant no later than 10 days from publication of this Notice. The following notation shall be typed in bold face on the lower left-hand corner of the envelope containing the offer: "Rail Section, AB–OFA." Any offer previously made must be remade within this 10-day period.

Information and procedures regarding financial assistance for continued rail service are contained in 49 U.S.C. 10905 and 49 CFR 1152.27.

James H. Bayne,

Acting Secretary.

[FR Doc. 84–2467 Filed 1–27–84; 8:45 am]

BILLING CODE 7035–01–M

[Finance Docket No. 30394]

Missouri-Kansas-Texas Railroad Company-Operation—Tarrant and Dallas Counties, TX; Modified Rail Certificate

January 23, 1984.

On January 16, 1984, a notice was filed by the Missouri-Kansas-Texas Railroad Company (MKT) for a modified certificate of public convenience and necessity under 49 CFR Part 1150 Subpart C. The line to be operated is the former line of the Chicago, Rock Island and Pacific Railroad Company between milepost 611.9 and milepost 646.1 (essentially between Dallas and Ft. Worth), a distance of 34.2 miles in Tarrant and Dallas Counties, TX. The cities of Dallas and Fort Worth, TX, have acquired the line formerly abandoned in No. AB–46 (Sub-No. 22), *Chicago, Rock Island and Pacific Railroad Company, Debtor (William M. Gibbons, Trustee)—Abandonment—Entire System* (not printed), served May 27, 1980.

MKT will operate the line pursuant to a service agreement with Dallas and Fort Worth.

This notice shall be served upon the Association of American Railroads (Car Service Division) as agent of all railroads subscribing to the car-service and car-hire agreement, and upon the

American Short Line Railroad Association.

By the Commission, Richard Lewis, Acting Director, Office of Proceedings.

James H. Bayne,

Acting Secretary.

[FR Doc. 84-2483 Filed 1-27-84; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket Nos. 30348 and 30359]

Rail Carriers; Northern Missouri Railroad, Inc. and Colorado and Eastern Railroad Co.

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemptions.

SUMMARY: The Commission exempts from the requirement of prior approval under: (1) 49 U.S.C. 10901, the lease and operation by Northern Missouri Railroad, Inc. (NM) of 156.15 miles of railroad between Kelly, MO and the Iowa/Missouri state line, and by Colorado and Eastern Railroad Company (C&E) of 65.15 miles of railroad between the Iowa/Missouri state line and Council Bluffs, Iowa; (2) 49 U.S.C. 11343, the exchange of overhead trackage rights between NM and C&E over the above-described lines, and the acquisition of trackage rights by NM over a segment of Norfolk and Western Railway Company between Kelly and Brunswick, MO, a distance of 2.86 miles, subject to conditions for the protection of employees described in *Norfolk and Western Ry. Co.—Trackage Rights—BN*, 354 I.C.C. 605 (1978), as modified by *Mendocino Coast Ry., Inc.—Lease and Operate*, 360 I.C.C. 653 (1980); and (3) 49 U.S.C. 11301, the issuance by NM of 15,000 shares of $10 par value common stock and $99,000 in subordinated debentures.

DATES: This exemption is effective on January 27, 1984. Petitions to reopen must be filed by February 16, 1984.

ADDRESSES: Send pleadings referring to Finance Docket Nos. 30348 and 30359 to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423
(2) Northern Missouri Railroad, Inc., John D. Heffner, 1776 K Street, NW, Suite 700, Washington, DC 20006
(3) Colorado and Eastern Railroad Company, Thomas F. McFarland, Jr., 20 North Wacker Drive, Chicago, IL 60606

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer, (202) 275-7245.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to T.S. InfoSystems, Inc., Interstate Commerce Commission, Room 2227, Washington, DC 20423, or call toll free (800) 424-5403 or 289-4357 (DC Metropolitan area).

Decided: January 24, 1984.

By the Commission, Chairman Taylor, Vice Chairman Andre, Commissioners Sterrett and Gradison.

James H. Bayne,

Acting Secretary.

[FR Doc. 84-2486 Filed 1-27-84; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 30186]

Tongue River Railroad Company—Rail Construction and Operation—in Custer, Powder River, and Rosebud Counties, MT

AGENCY: Interstate Commerce Commission.

ACTION: Notice accepting construction and securities applications.

SUMMARY: The Tongue River Railroad Company (TRRC), a limited partnership consisting of Transportation Properties, D.S. Cartage Corporation, Otter Creek Transportation Company, and Tongue River Holdings, Inc., has filed an application under 49 U.S.C. 10901, as supplemented January 6, 1984, seeking authority to construct and to operate an 89-mile rail line between Miles City, MT, and two terminal points, one in Rosebud County, and one in Powder River County, MT. The proposed line would begin in Miles City and extend approximately 72.3 miles south to a point near Ashland, MT. There it would divide, with one branch proceeding 8.9 miles up the Tongue River Valley to the proposed Montco Mine, and the other branch extending 7.7 miles up the Otter Creek drainage.

The purpose of the rail line is to transport sub-bituminous coal from several proposed mine sites in Rosebud and Powder River Counties to the terminus in Miles City.

The proposed transaction will be financed by applicant's issuance of two series of notes: (a) Three series of short-term notes for the interim construction financing of the rail line and necessary working capital in the amount of $175 million (including interest during construction and all fees and expenses) and (b) a series of long-term notes for the same purpose and amounts as permanent replacement financing for the short-term notes. An application under 49 U.S.C. 11301 and 11302 has been filed.

The construction and securities applications are complete and have been accepted for consideration.

Copies of the applications are available for inspection at the Commission's Office of the Secretary.

DATES: (1) Comments (five copies) must be filed by February 10, 1984. (2) TRRC may file replies by February 15, 1984.

ADDRESSES: Send comments referring to Finance Docket No. 30186 to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423
(2) Applicant's representatives:
Thomas E. Ebzery, Village Center 1, 1500 Poly Drive, Billings, MT 59102
Robert L. Calhoun, 1025 Connecticut Avenue, N.W., Washington, DC 20036

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer, (202) 275-7245

Decided: January 19, 1984.

By the Commission, Richard Lewis, Acting Director, Office of Proceedings.

James H. Bayne,

Acting Secretary.

[FR Doc. 84-2484 Filed 1-27-84; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Pursuant to Clean Air Act

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that on January 5, 1984 a proposed Consent Decree in *United States* v. *Kansas City Power & Light Company and Babcock & Wilcox Company*, Civil Action No. 84-2006 was lodged with the United States District Court for the District of Kansas. The proposed Consent Decree concerns control of asbestos emissions in connection with the renovation of equipment in a utility power generating plant near La Cygne, Kansas.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General of the Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States* v. *Kansas City Power & Light Company and Babcock & Wilcox Company*, D.J. Ref. No. 90-5-2-1-608.

The proposed Consent Decree may be examined at the office of the United States Attorney, District of Kansas, Federal Building, 812 North 7th Street, Kansas City, Kansas 66101, and at the Region VII Office of the Environmental Protection Agency, 324 East 11th Street, Kansas City, Missouri 64106. Copies of the Consent Decree may be examined at

the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice, Room 1517, Ninth Street and Pennsylvania Avenue, NW., Washington, D.C. 20530. A copy of the proposed Consent Decree may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice.

F. Henry Habicht II,

Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 84-2442 Filed 1-27-84; 8:45 am]

BILLING CODE 4410-01-M

Drug Enforcement Administration

Manufacturer of Controlled Substances; Western Fher Laboratories, Inc.; Registration

By notice dated November 15, 1983, and published in the **Federal Register** on November 23, 1983, (48 FR 52988), Western Fher Laboratories, Inc., Carretera 132, KM 25.3, P.O. Box 7468, Ponce, Puerto Rico 00732, made application to the Drug Enforcement Administration to be registered as a bulk manufacturer of Phenmetrazine (1630), a basic class of controlled substance listed in Schedule II.

No comments or objections have been received. Therefore pursuant to Section 303 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 and Title 21, Code of Federal Regulations, 1301.54(e), the Deputy Assistant Administrator hereby orders that the application submitted by the above firm for registration as a bulk manufacturer of the basic class of controlled substance listed above is granted.

Dated: January 24, 1984.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 84-2458 Filed 1-27-84; 8:45 am]

BILLING CODE 4410-09-M

Wyeth Laboratories, Inc.; Manufacturer of Controlled Substances; Registration

By Notice dated November 15, 1983, and published in the **Federal Register** on November 23, 1983 (48 FR 52988), Wyeth Laboratories, Inc., 611 East Nield Street, West Chester, Pennsylvania 19380, made application to the Drug Enforcement Administration to be registered as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Schedule
Pethidine (Meperidine) (9230)	II
Pethidine-Intermediate-A (9232)	II

No comments or objections have been received. Therefore pursuant to Section 303 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 and Title 21, Code of Federal Regulations, § 1301.54(e), the Deputy Assistant Administrator hereby orders that the application submitted by the above firm for registration as a bulk manufacturer of the basic classes of controlled substances listed above is granted.

Dated: January 24, 1984.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 84-2469 Filed 1-27-84; 8:45 am]

BILLING CODE 4410-09-M

[Docket No. 83-5]

Anthony J. Crisanti, D.D.S.; Revocation of Registration

On January 5, 1983, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA) directed an Order to Show Cause to Anthony J. Crisanti, D.D.S. (Respondent), 347 W. 24th Place, Chicago, Illinois 60616. The Order to Show Cause proposed to revoke DEA Certificate of Registration AC7813860 and deny an application for renewal executed by Respondent on August 4, 1982. Respondent, through counsel, requested a hearing on the issues raised by the Order to Show Cause. The hearing in this matter was held June 7, 1983, in Chicago, Illinois. Administrative Law Judge Francis L. Young presided. On October 5, 1983, Judge Young issued his opinion and recommended findings of fact, conclusions of law, ruling and decision. In compliance with 21 CFR 1316.65(b) as amended, copies of the Administrative Law Judge's opinion were served on the Respondent and on Government counsel. Respondent, through counsel, filed exceptions to the Administrative Law Judge's opinion and recommended decision. On November 1, 1983, the Administrative Law Judge transmitted the record of these proceedings, including Respondent's exceptions and a supplement to his opinion and recommended decision, to the Administrator. The Administrator has considered this record in its entirety and, pursuant to 21 CFR 1316.67, hereby issues his final order in this matter based upon findings of fact and conclusions of law as hereinafter set forth.

Respondent pled guilty on April 1, 1982, in the Circuit Court of Cook County, Illinois, to three counts of delivery of controlled substance, a felony relating to controlled substances. This plea stemmed from an investigation of Respondent conducted by members of the DEA Chicago Task Force. DEA Special Agent Cesar Palma and Chicago Police Officer Herbert Milton testified at the hearing in Chicago. They learned from a cooperating individual that a dentist was selling "T's and Blues" on the street. "T's and Blues" are a combination of pentazocine (Talwin), a Schedule IV controlled substance and pyribenzamine. Judge Young found that these two substances were widely available and very popular on the street in Chicago at the time. They were used in combination by addicts primarily as a substitute for heroin, the supply of which had become restricted.

The cooperating individual (CI) arranged a meeting between Respondent and Officer Milton for the afternoon of March 4, 1981, so that Officer Milton, then operating undercover, could purchase a quantity of "T's and Blues" from Respondent. Officer Milton testified that he met Respondent in the parking lot of a fast food restaurant. The CI introduced Officer Milton to Respondent, who gave the CI a brown package which the CI in turn gave to Officer Milton. The officer opened the package and found a bottle of Talwin and a bottle of pyribenzamine. After opening the bottles, Officer Milton gave Respondent $1500 for the bottles and their contents. Officer Milton inquired of Dr. Crisanti how continuous his source of supply could be. Respondent replied that his supply was relatively unlimited but he preferred to sell in lots of 1200 since that is how the bottles were packaged by the pharmaceutical company.

On March 12, 1982, Officer Milton telephoned Respondent at his office and asked if he had T's and Blues available. Respondent stated that he did and they agreed on a price of $2500 for one thousand sets of Talwin and pyribenzamine. (One Talwin and one pyribenzamine tablet comprise a set.) Officer Milton proceeded to Respondent's office, where Respondent sold him 1,000 sets (2,000 pills) of "T's and Blues". Respondent told Officer Milton that he was distributing to the Disciples street gang in Chicago and he wanted to break away from them. When

Officer Milton told Respondent that he could purchase the quantity Respondent had been dealing to the street gang, Respondent was pleased.

On March 27, 1981, Officer Milton visited Respondent's office. Dr. Crisanti escorted him back to his private office where Dr. Crisanti placed a shoe box atop his desk and asked if Officer Milton wanted 1,000 or 2,000 sets. The officer asked for 2,000 sets. Respondent told Officer Milton he could supply him with unlimited quantitites of Talwin and pyribenzamine for the next nine months. Respondent was pleased to hear Officer Milton tell him that he could buy 5,000 sets for the remaining nine months. At this point DEA Special Agents appeared and arrested Respondent. Judge Young found that while Officer Milton was operating undercover he wore a ragged jacket and frayed blue jeans and gym shoes without laces and that Officer Milton had never been a dental patient of Dr. Crisanti. Judge Young also found that the arresting Agents adequately apprised Respondent of his rights against self-incrimination and that Respondent freely gave a statement in which he admitted the illegal distribution.

Respondent called Dr. Robert Damptz to testify. Dr. Damptz is a psychiatrist who has been treating Respondent since September, 1981. Dr. Damptz testified that when he began his treatment Respondent was suffering from methaqualone addiction. Dr. Damptz opined that the addiction to methaqualone effected Respondent's behavior and the illegal sales of Talwin were an outcome of that addiction. While Dr. Damptz testified that he found Respondent's mind to have cleared, he also testified that he made no physical examination or test of Respondent other than one surprise urinalysis, approximately two weeks before the hearing in June, 1983. Further, while Dr. Damptz was of the opinion that there is but "slim" likelihood of Respondent again abusing a controlled substance, he did testify that relapse is always possible since methaqualone is a physically addicting substance similar to alcohol.

Respondent testified in his own behalf at the hearing. Judge Young found that Respondent began taking methaqualone shortly after setting up his dental practice upon graduation from dental school. Respondent testified that he could not sleep at night due to the sudden slowing of the pace of his life. Dr. Crisanti ordered the methaqualone from dental supply houses using the DEA official order form for Schedule II controlled substances. He testified that he had abused methaqualone for approximately four years, including five months while he was under the treatment of Dr. Damptz. Respondent also testified that during the period he was taking methaqualone he was making illegal bets with a bookmaker, wagering approximately $50 on sporting events sometimes as often as once a week. Judge Young recommended that Respondent's present registration be revoked and his pending application should be denied.

The Administrative Law Judge further recommended that a new application submitted by the Respondent be considered in a positive manner provided that the Respondent satisfy nine conditions. The conditions which Judge Young suggested are as follows:

a. Such application is received no sooner than two years after the effective date of the final order in this proceeding;

b. No new or additional unlawful conduct othe than that disclosed on the record in this proceeding becomes known to DEA;

c. Within three months of the effective date of the final order in this proceeding Respondent ceases to practice alone and resumes dental practice in association with at least one other licensed dentist registered by DEA;

d. Each and every prescription or dispensing or administering of a controlled substance for one of Respondent's patients is effected by a dentist with whom Respondent is practicing, as described in c., above, using his own judgment, after considering Respondent's recommendation in the case;

e. A dentist with whom Respondent is practicing as described in c., above, certifies in a writing accompanying the application that for at least twenty-one months immediately preceding the date of application Respondent has exercised a high degree of good professional judgment in recommending controlled substances for his patients and that Respondent has shown no indication of abuse or unlawful handling of controlled substances;

f. The certificate provided for e., above, includes a statement of the controlled substances Respondent needs to use in his dental practice, detailing the patient conditions actually encountered by Respondent which require those substances;

g. Respondent's court probation officer certifies in a writing accompanying the application that Respondent has successfully completed his court-ordered probation, complying with all of the terms and conditions thereof;

h. Dr. Damptz, or another qualified psychiatrist, certifies in a writing accompanying the application that Respondent continued in active psychotherapy at least until the end of his court-imposed probationary period, the writing to include a description of Respondent's mental condition as of the date of the application, said condition being such as to give reasonable assurance that there is no basis for anticipating controlled substance abuse by Respondent in the future; and

i. In all other respects, Respondent meets the requirements imposed by law for the DEA registration applied for.

Respondent, through counsel, filed exceptions to the opinion and recommended ruling in which he asked that the exceptions not be taken in opposition to the opinion and recommended ruling but rather as a petition for clarification of the opinion. The gist of Respondent's exceptions is that the recommended ruling did not expressly mention a choice in which Respondent either practices dentistry without prescribing or dispensing controlled substances or practices dentistry in association with another dentist who would be responsible for prescribing and dispensing these drugs. Judge Young responded to the exceptions by writing a supplement to his opinion in which he stated that the arrangement proposed in the recommended ruling would permit Respondent to make a record of demonstrated care and responsibility in the handling of controlled substances. The Administrative Law Judge correctly pointed out that Respondent always has the option of practicing without a DEA registration and without utilizing any controlled substances. Should Respondent not enter into an association with another dentist, then the Administrative Law Judge states that he would not be able to present a record of compliance with the recommendations if he applied for DEA registration in the future.

After examining the record in this case, the Administrator agrees with the Administrative Law Judge's recommendation that the Respondent's registration be revoked and his pending application denied. However, the Administrator is unwilling to adopt the Administrative Law Judge's recommendation that a future application filed by the Respondent be given positive consideration if the suggested conditions are met. While those conditions are well considered and while compliance with them will be indicative of the Respondent's good faith and the sincerity of his desire to

handle controlled substances responsibly in the future, the Administrator will not commit this agency to registering this individual again without a complete review of his intervening conduct. If it is necessary to issue another Order to Show Cause and to convene another hearing in order to properly evaluate the Respondent at that time, then such proceedings will be initiated. In all other respects the Administrator adopts the findings of fact and conclusions of law recommended by the Administrative Law Judge.

Having concluded that there is a lawful basis for the revocation of Respondent's registration and the denial of his application for renewal, and having further concluded that under the facts presented in this case, the registration should be revoked and the registration denied, the Administrator of the Drug Enforcement Administration, under the authority vested in him by 21 U.S.C. 823, 824 and 28 CFR 0.100(b), hereby orders that DEA Certificate of Registration AC7813860 previously issued to Anthony J. Crisanti, D.D.S., be revoked and an application executed by Respondent on August 4, 1982, and any other pending applications for renewal be denied.

Dated: January 24, 1984.

Francis M. Mullen, Jr.,

Administrator.

[FR Doc. 84-2470 Filed 1-27-84; 8:45 am]

BILLING CODE 4410-09-M

[Docket No. 83-8]

Nam Jin Park, M.D.; Denial of Application

On February 22, 1983, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA) issued to Nam Jin Park, M.D. (Respondent), 14 Barry Park Court, Searingtown, New York 11507, an Order to Show Cause proposing to deny the Respondent's pending application for DEA registration under 21 U.S.C. 823 (f) Respondent, through counsel, requested a hearing on the issues raised by the Order to Show Cause.

The hearing in this matter was held in Washington, D.C. on June 30, 1983. Administrative Law Judge Francis L. Young presided. On November 3, 1983, Judge Young issued his opinion and recommended findings of fact, conclusions of law, ruling and decision. On November 18, 1983, Government counsel filed exceptions to the recommended ruling of the Administrative Law Judge. Judge Young transmitted the record of these proceedings, including the Government's exceptions, to the Administrator on December 2, 1983. The Administrator has considered this record in its entirety and pursuant to 21 CFR 1316.67, hereby issues his final order in this matter based upon findings of fact and conclusions of law as hereinafter set forth.

The Administrator found that in early 1979 Respondent was employed as a psychiatrist at the Unity Health Center in the Bronx, New York and at the Creedmor Psychiatric Center, a facility operated by the State of New York. In early 1979, an informant told DEA Special Agent Richard Bell that the physicians at Unity Health Center were dispensing prescriptions for controlled substances with no physical examination. In February, March and April, 1979, five or six DEA Special Agents, working alone and undercover, went to the Unity Health Center on several occasions. On each occasion the Agent informed the receptionist that he had come for some pills or merely "the usual." After a short wait the Agent was directed to a small cubiclue in which Respondent was waiting. The Agent told Respondent that he, the Agent, had come for some pills or "the usual." On each occasion Dr. Park gave the Agent prescriptions for Tuinal, Elavil and Valium or for two of the three. Dr. Park was represented to be a psychiatrist but there was no trace of psychotherapy or any other form of physician-patient relationship existing between Respondent and any of the Agents. None of them was given a medical examination. None of them displayed any symptoms of a physical or mental or emotional condition calling for substances for which Respondent gave them prescriptions. At no time did an Agent spend more than ten minutes with Respondent. The Agent told Respondent on two dates that he was giving some of his pills to a girl friend but Respondent gave the Agent the requested prescriptions anyway. Respondent did say once that the girl friend should cut down. Yet on another occasion Respondent gave the Agent a larger prescription than the Agent requested so that there would be a few extra pills for the girl friend. During the two years the Respondent was employed at the Unity Health Center he wrote 5,200 prescriptions for controlled substances. His employment there was only part-time working ten to twenty hours per week.

Respondent was convicted on May 13, 1980 in the United States District Court for the Southern District of New York of one count of conspiracy to dispense and distribute Schedule II and Schedule IV controlled substances in violation of 21 U.S.C. § 846, a felony conviction relating to controlled substances. Respondent was also convicted on May 13, 1980 of one count of tax evasion. Imposition of sentence on these two convictions was suspended and Respondent was placed on probation for two years. Therefore, there is a lawful basis for denial of Respondent's application for registration under 21 U.S.C. 824(a)(2). *Serling Drug Company*, Docket No. 74-12, 40 FR 11918 (1975); *Norman Bridge Drug Co., Inc.*, Docket No. 74-22, 41 FR 3108 (1976); *Raphael C. Cilento, M.D.*, Docket No. 79-2, 44 FR 30466 (1979); and *Aaron A. Moss, D.D.S.*, Docket No. 80-2, 45 FR 72850 (1980).

In a prior DEA administrative proceeding an Order to Show Cause was issued to Respondent in July 1980. In a final agency order dated November 4, 1980, then-Administrator Bensinger revoked Dr. Park's DEA registration but waived the applicability of 21 CFR 1301.76(a) so that Dr. Park might continue to be employed at the Creedmor Psychiatric Center. (21 CFR 1301.76(a) prohibits any DEA registered entity from employing a person with access to controlled substances whose own registration has been revoked.)

Creedmor discharged Respondent shortly after the 1980 DEA final order was entered. In 1981, Dr. Park resumed practice as a psychiatrist full-time in Brooklyn, New York. Dr. Park has been maintaining a private practice in an office there not utilizing any controlled substances in his practice. So far he has been able adequately to treat his patients, but he wishes to be able to obtain employment in a state or city hospital. To do this he desires to have a DEA registration.

The Administrative Law Judge does not believe that Respondent should be granted a DEA registration. However, Judge Young does recommend that the Administrator waive 21 CFR 1301.76(a) without one of the conditions imposed by Administrator Bensinger and recommended by Government counsel: that Dr. Park be permitted only to administer or order the administration, rather than the prescribing, of controlled substances. The Government also recommended that Dr. Park make complete disclosure of his past controlled substances related offenses to each registrant who employs him or contemplates employing him. Judge Young bases his recommendation on his belief that Respondent has been rehabilitated since he successfully completed his probationary period.

The Government filed exceptions to the Administrative Law Judge's opinion stating that there is no evidence in the

record that Respondent has been sufficiently rehabilitated to responsibly handle controlled substances. The Government recommends the waiver of 21 CFR 1301.76(a) should Respondent find employment in a state or municipal institution. However, the Government suggests that Respondent be permitted only to administer or order the administration of controlled substances. Government counsel recommended this condition based on Respondent's inability to articulate at the hearing the crucial difference between administering and prescribing controlled substances.

The Administrator has reviewed this record in its entirety and agrees with the Government's recommendation. Respondent should not be granted a DEA certificate of registration but 21 CFR 1301.76(a) should be waived to allow any DEA registrant to employ Respondent. The Administrator feels however, that given the lack of sufficient evidence of rehabilitation and Respondent's linguistic difficulties, the Respondent should only be allowed to administer or order the administration of controlled substances.

Having concluded that there is a lawful basis for the denial of the Respondent's application for registration and having further concluded that under the facts and circumstances presented in this case the application should be denied, the Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 824 and 28 CFR 0.100(b), hereby orders that the application of Nam Jin Park, M.D., for registration under the Controlled Substances Act, be, and it hereby is, denied. The Administrator further orders that a waiver of 21 CFR 1301.76(a) will be granted to any DEA registrant employing him to allow Nam Jin Park, M.D. to administer or order the administration of controlled substances provided Dr. Park makes complete disclosure of his past controlled substances related offenses to such registrant.

Dated: January 23, 1984.

Francis M. Mullen, Jr.,

Administrator.

[FR Doc. 84-2472 Filed 1-27-84; 8:45 am]

BILLING CODE 4410-09-M

[Docket No. 82-34]

Ray Roya, M.D.; Denial of Application

On September 28, 1982, the then-Acting Administrator of the Drug Enforcement Administration (DEA) directed an Order to Show Cause to Ray Roya, M.D. (Respondent), 3429 North Harlem, Chicago, Illinois, proposing to deny Dr. Roya's application for DEA registration under 21 U.S.C. 823(f). Respondent, through counsel, requested a hearing on the issues raised by the Order to Show Cause.

The hearing in this matter was held in Chicago, Illinois on June 8, 1983. Administrative Law Judge Francis L. Young presided. Respondent represented himself at the hearing when is counsel, although duly notified of the hearing, failed to appear. On November 1, 1983, Judge Young issued his opinion and recommended findings of fact, conclusions of law, ruling and decision. No exceptions were filed and on December 2, 1983, Judge Young transmitted the record of these proceedings to the Administrator. The Administrator has considered this record in its entirety and pursuant to 21 CFR 1316.67, hereby issues his final order based upon findings of fact and conclusions of law as hereinafter set forth.

The Administrative Law Judge found that Respondent had been convicted in the United States District Court for the Northern District of Illinois on 24 counts of illegal distribution of controlled substances. Therefore, there are lawful grounds for denial of Respondent's application under 21 U.S.C. 824(a)(2).

Judge Young also cited as grounds for the denial of this most recent application the reasons set out in the final order of the then-Acting Administrator in *Ray Roya, M.D.*, Docket No. 80-22, 46 FR 45842 (September 15, 1981). The Administrative Law Judge adopted all of the findings of fact and conclusions he recommended to the Administrator in the earlier case.

Judge Young found that nothing presented at the hearing on June 8, 1983 shows any reason to change the final decision in the instant proceeding from the final decision made in 1981. Dr. Roya has wholly failed to address the matter of his fitness to hold a DEA registration. He has not shown that he recognizes that his prior illegal acts were wrongful. He has given no basis whatever for a belief that he would refrain from future abuse of a DEA registration. The Administrative Law Judge has recommended that the Respondent's application be denied.

The core of Dr. Roya's earlier presentation appeared to be that Nazis and Nazi sympathizers in the United States are conspiring against him. This conspiracy, according to Dr. Roya, resulted in his conviction and other legal problems. Without abandoning this theory, Dr. Roya perceives the conspiracy to have widened to include members of the Masonic Order and all persons with "sick genes."

The Administrator wholeheartedly adopts the recommended rulings, findings of fact, conclusions of law and decision of the Administrative Law Judge in their entirety. The Administrator is aware that the State of Illinois restored Respondent's complete license to practice medicine in Illinois. However, this fact does not alter the Administrator's conclusion that Respondent is totally incapable of responsibly handling controlled substances. Protection of the public health and safety requires that the application be denied.

Having concluded that there is a lawful basis for the denial of the Respondent's application for registration and having further concluded that under the facts and circumstances presented in this case the application should be denied, the Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 824 and 28 CFR 0.100(b), hereby orders that the application of Ray Roya, M.D., for registration under the Controlled Substances Act, be, and it hereby is, denied.

Dated: January 23, 1984.

Francis M. Mullen, Jr.,

Administrator.

[FR Doc. 84-2471 Filed 1-27-84; 8:45 am]

BILLING CODE 4410-09-M

Office of Juvenile Justice and Delinquency Prevention

Grants; Private Sector Corrections Initiative for the Chronic Serious Juvenile Offender; Change of Date for Submission of Applications

AGENCY: Office of Juvenile Justice and Delinquency Prevention, Justice.

ACTION: Notice of issuance of amendment to the above noted guideline, changing the date for submission of applications.

SUMMARY: Because of the delay between completion of the guideline and actual publication and the resulting short turn-around time for submission of applications, OJJDP has determined that it will change the date for submission of applications from February 17, 1984, for hand delivery and February 10, 1984 for mailing to March 16, 1984. Applications must be mailed or hand delivered to Office of Juvenile Justice and Delinquency Prevention (OJJDP), Room 786, 633 Indiana Avenue, N.W., Washington, D.C. 20531, by 5:30 p.m. on

or before March 16, 1984. Applications sent by mail will be considered to be received on time if sent by registered or certified mail no later than March 16, 1984, as evidenced by the U.S. Postal Service postmark.

The original announcement was published January 6, 1984 on page 952.

Alfred S. Regnery,

Administrator.

[FR Doc. 84-2402 Filed 1-29-84; 8:45 am]

BILLING CODE 4410-18-M

DEPARTMENT OF LABOR

Employment and Training Administration

Federal Supplemental Compensation; Change 3 to General Administration Letter No. 2-83, and GAL No. 1-84

Part A of Title V of the Social Security Amendments of 1983 (Pub. L. 98-21) amended the Federal Supplemental Compensation (FSC) Act of 1982 to extend the FSC program to September 30, 1983, and to provide additional weeks of benefits to prior FSC recipients. The Department of Labor issued implementing instructions to all State employment security agencies with Change 2 to General Administration Letter No. 2-83. GAL 2-83 was published in the **Federal Register** on December 3, 1982 (47 FR 54706); Change 2 was published in the **Federal Register** on April 19, 1983 (48 FR 16772).

Two subsequent telegraphic messages corrected the instructions in Change 2 relating to the maximum FSC payable in a State. These corrections were incorporated into Change 3 to GAL 2-83. Pub. L. 98-92 amended the FSC Act, requiring modification to the instructions in Change 3. Instructions for implementing Pub. L. 98-92 were issued to the State employment security agencies in General Administration Letter No. 1-84, which is published below. Change 3 and the two telegraphic messages are also published below.

Dated: January 23, 1984.

Patrick J. O'Keefe,

Acting Deputy Assistant Secretary of Labor.

Directive: General Administration Letter No. 2-83, Change 3

Classification: UI.
Correspondence symbol: TEUMI.
Date: July 15, 1983.
Expiration date: November 30, 1983.

To: All State Employment Security Agencies.
From: Royal S. Dellinger, Administrator, for Regional Management.
Subject: Federal Supplemental Compensation.

1. *Purpose.* To provide revisions to GAL 2-83, Change 2, implementing Part A of Title V of the Social Security Amendments of 1983.

2. *Reference.* Pub. L. 98-21, Part A of Title V of the Social Security Amendments of 1983; telegraphic messages dated May 24, 1983, and June 10, 1983.

3. *Background.* The referenced Messages to ETA Regional Administrators provided further instructions on implementation of Pub. L. 98-21. These messages apply to sections of GAL 2-83, Change 2, concerning the Maximum FSC Benefits Payable.

4. *Effect of Changes.* The May 24, 1983, telegraphic message clarified the beginning date of one FSC period and the ending date of another FSC period. It provided that any new period whether the new period is for more or less weeks than the old period, begins with the beginning of the third week following the FSC indicator week. The old period ends at the end of the second week after the indicator week. This clarification took effect on the date of the telegraphic message.

The June 10, 1983, telegraphic message reinterpreted Section 602(e)(2)(B) of the Federal Supplemental Compensation Act of 1982 (as amended by Section 502(a) of Pub. L. 98-21, the Social Security amendments of 1983). This section relates to the 4-week limitation on a drop in the maximum number of weeks of FSC payable in a State. The reinterpretation provides that the 4-week rule applies only to States where the maximum FSC payable for the first week beginning *after* March 27, 1983, would have been reduced by more than 4 weeks when compared to the maximum FSC payable for the week beginning March 27, 1983. Based on this criterion, only one State meets the 4-week limitation.

The reinterpretation of Section 602(a)(2)(B) took effect the week beginning June 19, 1983, and did not require SESAs to make *retroactive* redeterminations of FSC monetary entitlement. However, SESAs must provide affected claimants with advance written notice of the change in duration of FSC benefits. The requirement of advance notice is met when the SESA provides such notice before an individual actually claims the week the change in duration takes effect. Monetary redeterminations of FSC entitlement must be issued promptly following the advance notice to claimants.

5. *Action Required.* Administrators should provide the above information and attached instructions to appropriate staff.

6. *Inquiries.* Direct questions to the appropriate Regional Office.

7. *Attachment.* Changes to the attachment to GAL 2-83, Change 2.

FSC Amendments by Pub. L. 98-21 to the Federal Supplemental compensation Act of 1982; Implementing Instructions

Part I. Explanation of the FSC Amendments in Pub. L. 98-21

Section A. *"Maximum FSC Payable" is changed to read as follows:*

1. *Maximum FSC Payable.* The number of weeks of FSC payable in a State—for weeks whcih begin after March 31, 1983—are 14, 12, 10 or 8 weeks. A State's extended benefit status is no longer a criterion in determining the number of weeks payable in a State. The State's extended benefit trigger rate for a week (i.e., the most recent 13-week insured unemployment rate) determines the maximum FSC payable.

In determining when an FSC period of one duration begins and another ends, any such period, whether the new period is for more or less weeks than the old period, begins with the beginning of the third calendar week and the old period ends at the end of the second calendar week after the FSC indicator week. Beginning on April 3, 1983, each State will begin a new FSC benefit period and establish the maximum payable to each FSC claimant as follows:

a. *14 weeks.* States in a "6-percent period" pay up to 14 weeks of FSC. A 6-percent period begins when the FSC indicator rate equals or exceeds 6.0 percent and ends when the State's FSC indicator rate drops below 6.0 percent. A 6-percent period must last at least 4 weeks and may begin as early as the first calendar week which begins after March 31, 1983 (i.e., April 3, 1983).

b. *12 weeks.* States in a "5-percent period" pay up to 12 weeks of FSC. A 5-percent period begins when the State's FSC indicator rate equals or exceeds 5.0 percent but is less than 6.0 percent and ends when the State's FSC indicator rate drops below 5.0 percent or equals or exceeds 6.0 percent. A State must stay in a 5-percent period for at least 4 weeks, except that it may move to a 6-percent period at any time after one week in a 5-percent period. A 5-percent period may begin as early as the first calendar week which begins after March 31, 1983 (i.e., April 3, 1983).

c. *10 weeks.* States in a "4-percent period" pay up to 10 weeks of FSC. A 4-percent period begins when the State's FSC indicator rate equals or exceeds 4.0 percent but is less than 5.0 percent and ends when the State's FSC indicator rate drops below 4.0 percent or equals or exceeds 5.0 percent. A State must stay in a 4-percent period for at least 4 weeks, except that it may move to a higher period at any time after one week in a 4-percent period. A 4-percent period may begin as early as the first calendar week which begins after March 31, 1983 (i.e., April 3, 1983).

d. *8 weeks.* The base level of FSC payable is up to 8 weeks. Eight weeks of FSC are payable in States in a "low-unemployment period." A low-unemployment period begins when the State's FSC indicator rate is less than 4.0 percent, and may begin as early as the first calendar week which begins after March 31, 1983 (i.e., April 3, 1983). A State is not required to remain in a low-unemployment period longer than one week, and after one week may move to a higher period.

e. *Base Maximun.* The FSC amendments specify that notwithstanding the above levels of FSC, the maximum weeks of FSC payable in a State shall not be more than 4 weeks lower than the maximum FSC payable in the State for the week beginning March 27, 1983. However, this limitation applies only to States where the maximum number of weeks of FSC payable would have been more than 4 weeks less for the first week beginning after

March 27, 1983, than the maximum FSC payable for the week beginning March 27, 1983. For any State to which this 4-week limitation applies, it will continue to apply to all weeks which begin before October 1, 1983.

Part II. Procedures for Implementing FSC

Subsection 1 of Section E, "*Maximum FSC Benefits Payable*" is changed to read as follows:

1. *Maximum FSC Payable in a State.* The number of weeks of FSC payable in a State are 14, 12, 10 or 8 weeks. The State's FSC indicator rate for a week (i.e., the most recent 13-week insured unemployment rate) determines the maximum FSC payable. In determining when one FSC period begins and another ends, any new FSC period, whether the new period is for more or less weeks than the old, begins with the beginning of the third calendar week following the FSC indicator week. The old period ends at the end of the second calendar week after the FSC indicator week. Each State begins a new FSC benefit period on April 3, 1983, and establishes the maximum payable to each FSC claimant as follows:

a. *Fourteen weeks.* States which are in a "6-percent period" will pay up to 14 weeks (i.e., 14 times the weekly benefit amount) of FSC benefits.

b. *Twelve weeks.* States which are in a "5-percent period" pay up to 12 weeks (i.e., 12 times the weekly benefit amount) of FSC benefits.

c. *Ten weeks.* States which are in a "4-percent period" will pay up to 10 weeks (i.e., 10 times the weekly benefit amount) of FSC benefits.

d. *Eight weeks.* States which are in a "low unemployment period" will pay up to 8 weeks (i.e., 8 times the weekly benefit amount) of FSC benefits.

e. *Base Maximum.* The maximum weeks of FSC payable in a State for any week beginning on or after April 3, 1983 (and prior to October 1, 1983) shall not be more than 4 weeks lower than the maximum FSC payable in the State for the week beginning March 27, 1983. However, this 4-week limitation applies only to a State where the maximum FSC payable for the *first* week beginning after March 27, 1983, is more than 4 weeks less than the maximum FSC payable for the week beginning March 27, 1983. Accordingly, the maximum FSC payable in a State can drop more than 4 weeks below the maximum for the week beginning March 27, 1983, provided the change occurs beginning with any week after April 3, 1983.

There is no minimum "off" period for States which drop below the 4.0, 5.0 or 6.0 percent indicator rates. For example, a State may drop below 4.0, 5.0 or 6.0 percent and remain in such lower period for the remainder of the FSC program, or a State which drops to a 4.0 or 5.0 percent period may remain in such lower period for as few as 4 weeks and drop again to an even lower period. On the other hand, a State which drops to a lower period may at anytime after one week in such lower period move up to a higher period.

Determinations of the beginning and ending of 6-percent, 5-percent, 4-percent, and low-unemployment periods shall be made by the head of the State agency, according to these instructions and 20 CFR Part 615. Public notice shall be given of any such determination, and each individual affected by the change shall be given a written notice of the change in the maximum FSC payable to the individual.

Telegraph Message

Accounting classification: 3172–1–2–A–220–15220–2330–000.

Date prepared: June 10, 1983.

To: All Regional Administrators.
From: Royal S. Dellinger, Administrator, for Regional Management.
Subject: FSC Base Maximum.

GAL 2–83, Change 2, Section E, Subsection 2e. *Base Maximum* Interpreted Section 602(e)(2)(B) of the Federal Supplemental Compensation act of 1982 (as amended by Section 502(a) of Pub. L. 98–21, the Social Security Amendments of 1983) relating to the base maximum weeks of FSC payable in a State. The GAL states that "The maximum weeks of FSC payable in a state for any week beginning on or after April 3, 1983, shall not be more than 4 weeks lower than the maximum FSC payable in the State for the week beginning March 27, 1983."

Closer examination of the Conference Report that accompanies Pub. L. 98–21 necessitates a reinterpretation of Section 602(e)(2)(B). The Conference Report states that: "This provision would apply only in those States where the maximum number of FSC weeks payable for the first week beginning after March 27, 1983, or, if later, the first week FSC benefits provided under this bill are payable was more than 4 weeks less than the maximum number of weeks payable under the FSC law in effect on March 27, 1983." Accordingly, the 4-week rule applies to States where the maximum FSC payable would have been 4 weeks less for the week beginning *after* March 27, 1983, than the maximum FSC payable for the week beginning March 27, 1983. Thus, States can drop more than 4 weeks below the level of FSC payable for the week beginning March 27, 1983, if the drop in the maximum FSC payable occurs for a week beginning *after* the first week beginning after March 27, 1983. Based on this criterion only Delaware meets the 4-week limitation.

This reinterpretation of Section 602(a)(2)(B) immediately impacts Arizona, Kansas, Massachusetts and North Carolina. In each of these States, the maximum FSC payable should be 8 rather then 10 weeks. However, this reinterpretation does *not* require retroactive and redeterminations should not be made retroactive. This change is effective beginning with the first day of the week after the week the States are given actual notice by the regional offices of this reinterpretation. States should make redeterminations of monetary entitlements based on the 8-week maximum FSC payable as of the effective date of this reinterpretation and provide affected claimants with advance notice of such change and advance notice of such redeterminations.

Regional offices *must* provide all States with written notice of the information contained in this TWX *immediately.* All States must be notified in the time for the change to be effective with the week beginning June 19, 1983. All States when affected by this change must provide claimants with advance notice of the change and advance notice of any redeterminations.

We are preparing a revision to GAL 2–83, Change 2 to reflect this new interpretation of Section 602(e)(2)(B). We will issue and publish it in the **Federal Register** as soon as possible.

Direct questions to Irene Lynn on 8–376–7062.

Telegraphic Message

Accounting classification: 3172–1–2–A–220–15220–2330–000.

Date prepared: May 17, 1983.

To: All Regional Administrators.
Cite: TEUMI.
Subject: FSC Trigger Notice.

A question has arisen about the FSC trigger with respect to the beginning date of a new FSC period and the ending date of an old FSC period. The beginning date shown on the trigger notice is the first day of the third week after the indicator week. Section 502(3)(A) of Pub. L. 98–21 provides that an FSC period will begin with the third week after the indicator week. This same section of the law provides that an FSC period ends with the third week after the trigger week. Obviously, there would be an overlap of one week in the beginning and ending dates of an FSC period if both provisions are viewed independently. Since two periods cannot be applicable to the same week, any new FSC period, whether the new period is for more or less weeks than the old period, will begin with the beginning of the third week and the old period will end at the end of the second week after the indicator week.

Regions are reminded that trigger notices showing the applicable duration levels in States for a given week are available on the VAX system on the Tuesday of the week prior to the week for which a claim can be filed.

Questions may be directed to Ed Kerley on 8–376–6194.

Royal S. Dellinger,
Administrator for Regional Management.

Directive: General Administration Letter 1–84

Classification: UI.
Correspondence symbol: TEUMI.
Date: November 2, 1983.
Expiration date: October 31, 1984.

To: All State Employment Security Agencies.
From: Royal S. Dellinger, Deputy Assistant Secretary for Employment and Training.
Subject: Federal Supplemental Compensation.

1. *Purpose.* To provide instructions for implementing Pub. L. 98–92.

2. *References.* Pub. L. 98–21, Part A of Title V of the Social Security Amendments of 1983, GAL 2–83, Change 3, Pub. L. 98–92, signed September 2, 1983.

3. *Background.* GAL 2–83, Change 3. Issued revised instructions relating to the 4-week limitation on a drop in the maximum number of weeks of FSC payable in a State. The revised instructions narrowed the applicability of the 4-week rule so that only

one State met the 4-week limitation. Section 1(a) of Pub. L. 98–92 amended Section 602(e)(2)(B) of the FSC Act and, thus, requires modification of the instructions contained in GAL 2–83, Change 3. Section 1(c) of Pub. L. 98–92 contained another amendment to the FSC program.

4. *Summary of Amendments.* Pub. L. 98–92 amended Section 602(e)(2)(B) of the FSC Act of 1982, relating to the 4-week limitation on the drop in the maximum number of weeks of FSC payable in a State. This amendment freezes from dropping further the maximum FSC payable in States where the maximum for the week beginning July 24, 1983, is 4 or more weeks less than the maximum FSC payable for the week beginning March 27, 1983. States meeting this criterion are frozen at their July 24, 1983, level, effective August 7, 1983, and remain frozen through the remainder of the FSC program, i.e. through October 18, 1983.

Section 1(c) of Pub. L. 98–92 provides extra weeks of benefits to certain individuals in States where the FSC maximum payable has dropped more than 4 weeks from the level payable for the week beginning March 27, 1983.

This amendment specifies that in determining the maximum weeks of FSC payable to an individual who established an FSC account with an effective date before June 5, 1983, the maximum shall not be more than 4 weeks less than the maximum in the State for the week beginning March 27, 1983. This provision is effective for weeks of unemployment beginning on or after the date of enactment, that is, weeks of unemployment beginning on or after September 4, 1983.

Section 1(d) of Pub. L. 98–92 also contains a special rule for determining eligibility under these amendments for prior exhaustees of FSC. This rule prohibits States from applying any eligibility requirements to prior exhaustees for the period after the date of their exhaustion and before the first week beginning after the date of enactment, i.e., September 4, 1983.

5. *Modified Instructions.*

a. *Limitation on Reduction of Maximum FSC Weeks Payable in a State.* The maximum FSC payable is frozen in those States where the maximum FSC payable for *the* week beginning July 24, 1983, is 4 or more weeks less than the maximum FSC payable for *the* week beginning March 27, 1983. States meeting this criterion are frozen at their July 24, 1983, level beginning with the week of August 7, 1983, and they remain frozen throughout the remainder of the FSC program (i.e. through October 18, 1983) unless the State moves to a higher FSC level. A state may move to a higher FSC level whenever its insured unemployment rate equals or exceeds the rate specified for such higher level. Twenty-one States are directly affected by this new rule in that the FSC maximum payable in these States in frozen at a level above 8 weeks, the lowest maximum FSA payable. The States and the level at which they are frozen are:

State	Maximum FSC payable
Alabama	10
Arkansas	10
California	10
Delaware	10
Idaho	10
Illinois	12
Kentucky	10
Louisiana	12
Maine	10
Michigan	10
Mississippi	12
Montana	10
New Mexico	10
Ohio	10
Oregon	12
Rhode Island	10
Utah	10
Vermont	10
Washington	12
Wisconsin	10
Wyoming	12

Any State which met the criterion and, for the week beginning on July 31, 1983, dropped below its July 24 level is restored to the higher level effective August 7, 1983. However, any State which drops 4 or more weeks below the maximum FSC payable for the week beginning March 27, 1983, subsequent to the week beginning July 24, 1983, is not frozen at the higher maximum payable.

b. *Effect on Additional Entitlement.* Nothing in Pub. L. 98–92 affects the additional entitlement, i.e. the 10, 8, or 6 weeks provided for in Section 602(e)(D)(ii) of the FSC Act. Thus, a State's base FSC maximum may be frozen at 10 weeks but the additional entitlement is set at 6 weeks if the State's IUR falls below 4 percent.

c. *Individual Eligibility for Extra Weeks of FSC.* Certain individuals in States where the FSC maximum had dropped more than 4 weeks from their March 27, 1983, level may be eligible for extra weeks of FSC. To be eligible, an individual must have established an FSC account with an effective date before June 5, 1983. Establishing an account means that the effective date when an individual was determined monetarily eligible for FSC is before June 5, 1983.

In determining the maximum weeks of FSC payable to an individual who established an FSC account with an effective date before June 5, 1983, the maximum shall not be more than 4 weeks less than the maximum number of FSC weeks payable in the State for the week beginning March 27, 1983. This provision requires States to identify individuals whose FSC accounts were made effective before June 5, 1983. Once these individuals are identified, the SESA must determine whether the individual's last FSC monetary entitlement was more than 4 weeks less than the maximum payable for the week beginning March 27, 1983. Any individual who meets these conditions will be eligible for further FSC benefits for weeks of unemployment beginning on or after September 4, 1983, the effective date of this provision.

The SESA must notify each individual in writing of his/her potential entitlement. The SESA must also issue monetary redeterminations to all individuals affected by the 4-week limitation who file claims for further FSC under this provision.

d. *Special Eligibility Rule.* A special rule applies in determining eligibility of individuals who exhausted FSC prior to September 4, 1983. This rule specifies that an individual's eligibility for any further weeks of FSC under these amendments shall not be limited or terminated by reason of any event or failure to meet any requirements of State or Federal law relating to eligibility for unemployment benefits occurring after the date of exhaustion of FSC and before the first week beginning after the date of enactment, i.e., September 4, 1983.

The eligibility requirements to which this provision applies include but are not limited to an issue which might arise with respect to:

1. Separations from work;
2. Refusal of referrals or offer of work; and
3. Ability to work and availability and active search for work.

e. *Effect on Interstate Claims.* The limitation on payments of FSC to interstate claimants still applies (Section 602(d)(3) of the FSC Act), and is not affected by the changes in Pub. L. 98–92. Claimants are entitled to the lesser of the amount payable in the liable or agent State. Thus, for the affected interstate claims, the liable State must insure that the maximum payable does not exceed the maximum FSC payable in the liable or agent State, whichever is lower.

f. *Effect on Agreements.* The amendments in Pub. L. 98–92 do not require any modification to the existing agreements for administering the FSC program.

6. *Effect on Prior Issuances.* The instructions contained in this directive supersede any prior issuances containing instructions for implementing Section 602(e)(2)(B) of the Federal Supplemental Compensation Act of 1982, and any prior issuance inconsistent with the amendments in Sections 1(c) and 1(d) of Pub. L. 98–92.

7. *Action Required.* Administrators should provide the above information to appropriate staff.

8. *Inquiries.* Direct questions to the appropriate Regional Office.

[FR Doc. 84–2381 Filed 1–27–84; 8:45 am]
BILLING CODE 4510–30–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 84–08]

Intent To Grant an Exclusive Patent License

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of Intent to Grant an Exclusive Patent License.

SUMMARY: NASA hereby gives notice of intent to grant to Standard Oil Company of Cleveland, Ohio, a limited, exclusive, royalty-bearing, revocable license to practice the following inventions.

U.S. Patent No. 3,996,064: Electrically Rechargeable REDOX Flow Cell; issued December 7, 1976

U.S. Patent No. 4,159,366: Electrochemical Cell for Rebalancing REDOX Flow System; issued on June 26, 1979
U.S. Patent No. 4,192,910: Catalyst Surfaces for the Chromous/Chromic REDOX Couple; issued March 11, 1980
U.S. Patent No. 4,270,984: Catalyst Surfaces for the Chromous/Chromic REDOX Couple; issued on June 2, 1981
U.S. Patent No. 4,382,116: Zirconium Carbide as the Electrocatalyst for the Chromous/Chromic REDOX Couple; issued May 3, 1983
U.S. Application Patent No. 352,821: Improved Chromium Electrodes for REDOX Cells; filed February 26, 1982
NASA Case No. LEW-14,028: Negative Electrode Catalyst for the Fe/Cr Redox Energy Storage System

The proposed exclusive license will be for a limited number of years and will contain appropriate terms and conditions to be negotiated in accordance with the NASA Patent Licensing Regulations, 14 CFR 1245.2. NASA will negotiate the final terms and conditions and grant the exclusive license unless, within 60 days of the date of this Notice, the Director of Patent Licensing receives written objections to the grant, together with supporting documentations. The Director of Patent Licensing will review all written responses to the Notice and then recommend to the Assistant General Counsel for Patent Matters whether to grant the exclusive license.

DATE: Comments to this notice must be received by 60 days from the date of publication in the Federal Register).

ADDRESS: National Aeronautics and Space Administration, Code GP, Washington, D.C. 20546.

FOR FURTHER INFORMATION CONTACT: Mr John G. Mannix (202) 453–2430.

Dated: January 20, 1984.

S. Neil Hosenball,

General Counsel.

[FR Doc. 84–2401 Filed 1–27–84; 8:45 am]

BILLING CODE 7510–01–M

[Notice 84–09]

NASA Advisory Council, History Advisory Committee; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council, History Advisory Committee.

DATE AND TIME: February 14, 1984, 9 a.m. to 4:45 p.m.

ADDRESS: National Aeronautics and Space Administration, 400 Maryland Avenue, Room 6004, Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Dr. Sylvia D. Fries, Code LBH, National Aeronautics and Space Administration, Washington, DC 20546; (202/453–2999).

SUPPLEMENTARY INFORMATION: The History Advisory Committee was established to provide advice and guidance to the NASA history program, which maintains an archives and publishes works in the history of aeronautics and space science and technology. The Committee, chaired by Dr. Melvin Kranzberg, is comprised of 8 members.

This meeting will be closed to the public from 3:20 to 4:30 p.m. on February 14 for a discussion of the qualifications of those who have submitted proposals to prepare a program history as the first project in a new series of histories. Such a discussion would invade the privacy of the proposers and other individuals involved. Since this session will be concerned with matters listed in 5 U.S.C. 552b(c)(6), it has been determined that the meeting be closed to the public for this period of time. The remainder of the meeting will be open to the public up to the seating capacity of the room (approximately 50 persons including the Committee members and participants). Visitors will be requested to sign a visitor's register.

Type of Meeting: Open, except for a closed session as noted in the agenda below.

Agenda

February 14, 1984:

9 a.m.—Welcome and Introduction of New Members.

10 a.m.—History Program Review.

10:45 a.m.—Publishing and Contracting Issues.

1:30 p.m.—Discussion of Proposal to do NASA Lewis Research Center History.

2:20 p.m.—New Series.

3:20 p.m.—Evaluation of proposals for First Volume, New Series (Closed Session).

4:30 p.m.—History Advisory Committee Planning.

4:45 p.m.—Adjourn.

Dated: January 24, 1984.

Richard L. Daniels,

Deputy Director, Logistics Management and Information Programs Division, Office of Management.

[FR Doc. 84–2430 Filed 1–27–84; 8:45 am]

BILLING CODE 7510–01–M

[Notice 84–10]

NASA Advisory Council; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council.

DATE AND TIME: February 15, 1984, 9 a.m. to 5 p.m., and February 16, 1984, 8:30 a.m. to 3 p.m.

ADDRESS: National Aeronautics and Space Administration, Federal Building 6, 400 Maryland Avenue SW, Washington, DC 20546, on February 15 from 9 a.m. to 12:15 p.m., Room 7002; from 1:15 p.m. to 5 p.m., Room 6004—on February 16, Room 7002.

FOR FURTHER INFORMATION CONTACT: Mr. Nathaniel B. Cohen, Code LB, National Aeronautics and Space Administration, Washington, DC 20546; (202/453–8335).

SUPPLEMENTARY INFORMATION: The NASA Advisory Council was established as an interdisciplinary group to advise senior management on the full range of NASA's programs, policies, and plans. The Council is chaired by Mr. Daniel J. Fink and is composed of twenty-five members. Standing committees containing additional members report to the Council and provide advice in the substantive areas of aeronautics, life sciences, space applications, space and earth science, space systems and technology, and history, as they relate to NASA's activities..

This meeting will be closed to the public from 2:30 p.m. to 3 p.m. on Fegruary 16 for a discussion of the qualifications of candidates for membership. Such a discussion would invade the privacy of the candidates and other individuals involved. Since this session will be concerned with matters listed in 5 U.S.C. 552b(c)(6), it has been determined that the meeting be closed to the public for this period of time. the remainder of the meeting will be open to the public up to the seating capacity of the room, which is approximately 60 persons including Council members and other participants. Visitors will be requested to sign a visitor's register.

Type of Meeting: Open—except for a closed session as noted in the agenda below.

Agenda:

9: a.m.—Introductory Remarks.
9:15 a.m.—FY 1985 President's Budget and NASA Planning.
1:15 p.m.—Space Station.
2:30 p.m.—Commercialization of Space.
3:30 p.m.—Results of Recent Space Science Missions.
5 p.m.—Adjourn.

February 16, 1987:

8:30 a.m.—Reports of NAC committees.
10:30 a.m.—NASA Response to NAC Study Recommendations.
1 p.m.—Council Discussion and Issues for Letter Report to Administrator.
2:30 p.m.—Closed Session on Membership.
3 p.m.—Adjourn.

Dated: January 24, 1984.

Richard L. Daniels,

Deputy Director, Logistics Management and Information Programs Division, Office of Management.

[FR Doc. 84-2431 Filed 1-27-84; 8:45 am]

BILLING CODE 7515-01-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Council on the Arts; Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the National Council on the Arts will be held on February 10–11, 1984, from 9:00 a.m.–5:30 p.m. in room M–09 of the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, D.C. 20506.

A portion of this meeting will be open to the public on February 10, from 9:00 a.m.–5:30 p.m. and on February 11, from 9:00 a.m.–12:30 p.m. Topics for discussion will include: Program Review and Guidelines for the Expansion Arts, Folk Arts, Opera-Musical Theater, Music Ensembles and Endowment Fellows Programs; Five-Year Planning; Service Organizations; Local Arts Support; and the Arts Education.

The remaining sessions of this meeting on February 11, from 1:30–5:30 p.m. are for the purpose of Council review, discussion, evaluation and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c) (4), (6) and 9(b) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 682–5433.

John H. Clark,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

January 20, 1984.

[FR Doc. 84-2441 Filed 1-27-84; 8:45 am]

BILLING CODE 7537-01-M

Visual Arts Advisory Panel; Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Visual Arts Advisory Panel (Forums/Residencies Section) to the National Council on the Arts will be held on February 15–16, 1984, from 9:00 a.m.–6:00 p.m. in Room 730 of the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW, Washington, D.C. 20506.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c) (4), (6) and 9(b) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 682–5433.

John H. Clark,

Director, Council and Panel Operations, National Endowment for the Arts.

January 25, 1984.

[FR Doc. 84-2438 Filed 1-27-84; 8:45 am]

BILLING CODE 7537-01-M

Conservation Project Support Program; Grant Application for Fiscal Year 1984

AGENCY: Institute of Museum Services, NFAH.

ACTION: Grant Application Notice for Fiscal Year 1984.

This grant application announcement applies only to the Conservation Project Support Program (CP).

Applications are invited by the Institute of Museum Services (IMS) for Conservation Project (CP) awards under 45 CFR Part 1180 for Fiscal Year 1984.

Nature of program: IMS makes awards under the CP grant program to allow museums to conduct conservation activities that they are not currently performing. The activities include, but are not limited to, the following, as applied to art, history, natural history, science and technology, and living collections:

(1) Technical examination of materials and surveys of environmental and collection conditions;

(2) Provision, insofar as practicable, of optimum environmental conditions for housing, exhibition, monitoring, reformating, nurturing and transportation of objects;

(3) Physical treatment of objects, specimens and organisms, for the purpose of stabilizing, conserving and preserving their condition, removal of inauthentic additions or accretions, and physical compensation for losses; species survival activities; and

(4) Research and training in conservation. Section 206 of the Museum Services Act, Title II of Pub. L. 94–462, as amended, contains authority for this program. (20 U.S.C. 965)

Deadline date for transmittal of applications: An application for a grant must be mailed or hand-delivered by April 6, 1984.

Applications delivered by mail: An application sent by mail must be addressed to the Institute of Museum Services, 1100 Pennsylvania Avenue, NW., Room 609, Washington, D.C. 20506.

An applicant must be prepared to show one of the following as proof of timely mailing:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other dated proof of mailing acceptable to the Director of IMS.

If an application is mailed through the U.S. Postal Service, the Director does not accept either of the following as proof of mailing: (1) A private metered postmark; or (2) a mail receipt that is not date-cancelled by the U.S. Postal Service.

Aplications delivered by hand: An application that is hand-delivered must

be taken to the Institute of Museum Services, Old Post Office Building, 1100 Pennsylvania Avenue, NW., Room 609, Washington, D.C. 20506.

IMS will accept a hand-delivered application between 9:00 a.m. and 4:30 P.M. (Washington, D.C. time) daily, except Saturdays, Sundays, and Federal holidays.

An application that is hand-delivered will not be accepted after 4:30 p.m. on the deadline date.

Program information: Program information is contained in the guidelines and standards for the Conservation Project program. Applicable final regulations were published on June 17, 1983 in FR Vol. 48, No. 118, pages 27727–27734 and in the application forms and accompanying instructions in the Application Package. See paragraph on *Application Forms.*

Available funds: An appropriation for the Institute of Museum Services for Fiscal Year 1984 is contained in the Department of the Interior and Related Agencies Appropriation Act, 1984 Pub. L. 98–146 (November 4, 1983).

IMS makes a conservation grant for not more than $25,000 for Fiscal Year 1984. Museums are required to provide a match which is at least equal to the amount of the grant.

Application forms: IMS is mailing application forms and program information in an Application Packet to museums and other institutions on its General Operating Support mailing list. Applicants may obtain Application Packets by writing to the Institute of Museum Services, 1100 Pennsylvania Avenue, NW., Room 609, Washington, D.C. 20506.

Applicable regulations: Published in this issue of the **Federal Register** are the guidelines and standards for the Conservation Project grants for Fiscal Year 1984 which are contained in a new section 1180.20 of Title 45 of the Code of Federal Regulation.

FOR FURTHER INFORMATION CONTACT: For further information contact Ruth Weant, Program Director, Institute of Museum Services, 1100 Pennsylvania, NW., Room 609, Washington, D.C. 20506. Telephone: (202) 786–0539.

(Catalog of Federal Domestic Assistance No. 45.301 Institute of Museum Services)

Susan E. Phillips,

Director, Institute of Museum Services.

[FR Doc. 84–2512 Filed 1–27–84; 8:45 am]

BILLING CODE 7036–01–M

Special Project Support Program, Grant Application for Fiscal Year 1984

AGENCY: Institute of Museum Services, NFAH.

ACTION: Grant Application Notice for Fiscal Year 1984.

This grant application announcement applies only to the Special Project Program (SP).

Applications are invited by the Institute of Museum Services (IMS) for Special Project (SP) awards under 45 CFR Part 1180 for Fiscal Year 1984.

Nature of program: IMS makes awards under the SP Program to museums for one-year projects which will be carried out in addition to the museum's usual operating programs. The purpose of these awards is to support innovative or exemplary projects which will increase or improve museum services for the public, or that will provide a general, unique, model or financial benefit to the museum field. Section 206 of the Museum Services Act, Title II of Pub. L. 94–462, as amended, contains authority for this program. (20 U.S.C. 965)

Deadline date for transmittal of applications: An application for a new grant must be mailed or hand-delivered by April 6, 1984.

Applications delivered by mail: An application sent by mail must be addressed to the Institute of Museum Services, 1100 Pennsylvania Avenue, NW., Room 609, Washington, D.C. 20506.

An applicant must be prepared to show one of the following as proof of timely mailing:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other dated proof of mailing acceptable to the Director of IMS.

If an application is mailed through the U.S. Postal Service, the Director does not accept either of the following as proof of mailing: (1) A private metered postmark; or (2) a mail receipt that is not date-cancelled by the U.S. Postal Service.

Applications delivered by hand: An application that is hand-delivered must be taken to the Institute of Museum Services, Old Post Office Building, 1100 Pennsylvania Avenue, NW., Room 609, Washington, D.C. 20506.

IMS will accept a hand-delivered application between 9:00 a.m. and 4:30 p.m. (Washington, D.C. time) daily, except Saturdays, Sundays and Federal holidays.

An application that is hand-delivered will not be accepted after 4:30 p.m. on the deadline date.

Program information: Program information is contained in the final regulations published on June 17, 1983 in FR Vol. 48, No. 118, pages 27727–27734 and in the application forms and accompanying instructions in the Application Package. See paragraph on *Application Form.*

Available funds: An appropriation for the Institute of Museum Services for Fiscal Year 1984 is contained in the Department of the Interior and Related Agencies Appropriation Act, 1984 Pub. L. 98–146 (November 4, 1983). This Act appropriates $20,150,000 for the IMS for Fiscal Year 1984, $720,000 of which is expected to be available for SP grants.

It is anticipated that no museum will receive more than $50,000 under the Act for Fiscal Year 1984 and than most museums which are funded will receive a smaller amount. (45 CFR 1180.9). In addition, IMS normally does not make grants for more than 10 percent of a museum's most recently completed fiscal year's actual non-federal operating income.

Application forms: IMS is mailing application forms and program information in an Application Packet to museums and other institutions by request only. Applicants may obtain Application Packets by writing to the Institute of Museum Services, 1100 Pennsylvania Avenue, NW., Room 609, Washington, D.C. 20506.

Applicable regulations: Final regulations for the General Operating Support and Special Project grant programs were published in the **Federal Register** on June 17, 1983 FR Vol. 48, No. 118, pages 27727–27734. The National Museum Services Board has approved the issuance of a limited number of technical amendments to these regulations to reflect legislative changes or requests for clarification. These amendments will be set forth in a future publication in the **Federal Register.** These amendments are expected to apply to the Fiscal Year 1984 GOS and SP competitions.

FOR FURTHER INFORMATION CONTACT: For further information contact Ruth Weant, Program Director, Institute of Museum Services, 1100 Pennsylvania Avenue, NW., Room 609, Washington, D.C. 20506. Telephone: (202) 786–0539.

(Catalog of Federal Domestic Assistance No. 45.301 Institute of Museum Services)

Dated: January 24, 1984.

[FR Doc. 84–2511 Filed 1–27–84; 8:45 am]

BILLING CODE 7036–01–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-373

Commonwealth Edison Company; Consideration of Issuance of Amendment to Facility Operating License and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. NPF-11, issued to Commonwealth Edison Company (the licensee), for operation of the La Salle County Station, Unit 1 located in La Salle County, Illinois.

The amendment would change the La Salle Unit 1 technical specification requirements for fast starts on the diesel generators, consistent with the provisions of the Unite 2 Technical Specifications. The changes would minimize mechanical stress and wear on the diesel generators in that the fast starts will only be required on a semi-annual basis. Other starts required by the Technical Specifications to meet the surveillance requirements will be preceded by an engine prelube period and/or other warm-up procedures recommended by the manufacturer. Recent analyses by the NRC staff indicates that two fast starts per year is a sufficient number to assure the required diesel generator start capabliity under design basis conditions. In addition the reliability and availablility will be increased by the major reduction in the required fast starts from a nominal once-a-month basis to once every six months. The licensee by letter of December 9, 1983, as modified by letter of January 11, 1984, requested these changes be made in an amendment to the Unit 1 Technical Specifications.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the proposed amendment involves no significant hazards consideration, as defined by the Commission's regulation in 10 CFR 50.92. This means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The proposed changes do not affect reactor operations or accident analyses and have no radiological consequences. Therefore, operation in accordance with the proposed amendment clearly involves no significant hazards consideration because the changes will not (1) involve a significant increase in the probability or consequence of an accident previously evaluated because the reliability of the diesel generators will be increased due to decreased wear and stress on the diesel engine while verifying the fast start only on a semi-annual basis; (2) create the possibility of a new or different kind of accident from and accident previously evaluated because the same surveillances are performed and only the time period of the fast starts has changed; and (3) involve a significant reduction in the margin of safety because the overall reliability of the diesel generators will be maintained and no reduction in availability of the diesel generators will be made.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination. The Commission will not normally make a final determination unless it receives a request for a hearing.

Comments should be addressed to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attn: Docketing and Service Branch.

By February 29, 1984, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Request for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be issued in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisifies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and state comments received. Should the Commission take this action, it will publish a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attn: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. by the above date. Where petitions are filed duing the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325–6000 (in Missouri (800) 342–6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to A. Schwencer: petitioner's name and telephone number; date petition was mailed; plant name, and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to Isham, Lincoln, Beale, Suite 840, 1120 Connecticut Avenue, NW., Washington, D.C. 20036, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or request for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board designated to rule on the petition and/or request, that the petitioner has made a substantial showing of good cause for the granting of a late petition and/or request. That determination will be based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment which is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., and at the Public Library of Illinois Valley Community College, Rural Route No. 1, Ogelsby, Illinois 61348.

Dated at Bethesda, Maryland this 20th day of January 1984.

For the Nuclear Regulatory Commission.

A. Schwencer,

Chief, Licensing Branch No. 2, Division of Licensing.

[FR Doc. 84–2459 Filed 1–27–84; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–312]

Sacramento Municipal Utility District; Issuance of Amendment to Facility Operating License and Negative Declaration

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 52 to Facility Operating License No. DPR–54, issued to Sacramento Municipal Utility District (the licensee), which revised the Technical Specifications for operation of Rancho Seco Nuclear Generating Station, located in Sacramento County, California. The amendment is effective as of its date of issuance.

The amendment allows an increase in the spent fuel storage capacity from 579 spaces to 1080 spaces through the use of high density storage racks.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Notice of Consideration of Issuance of Amendment to Facility Operating License in connection with this action was published in the **Federal Register** on December 9, 1982 (47 FR 55440).

No request for a hearing or petition for leave to intervene was filed following notice of the proposed action. The Commission has prepared an environmental impact appraisal for this action and has concluded that an environmental impact statement for this particular action is not warranted because it will not significantly affect the quality of the human environment.

For further details with respect to this action, see (1) the application for amendment dated September 28, 1982, as supplemented by letters dated March 8, 1983, March 29, 1983, May 2, 1993, July 22, 1983, October 3, 1983, November 10, 1983, and December 22, 1983, (2) Amendment No. 52 to License No. DPR–54, (3) the Commission's related Safety Evaluation, and (4) the Commission's Environmental Impact Appraisal. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the Sacramento City-County Library, 828 I Street, Sacramento, California. A copy of items (2), (3) and (4) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 20th day of January 1984.

For the Nuclear Regulatory Commission.

John F. Stolz,

Chief, Operating Reactors Branch No. 4, Division of Licensing.

[FR Doc. 84–2460 Filed 1–27–84; 8:45 am]

BILLING CODE 7590–01–M

Advisory Committee on Reactor Safeguards, Subcommittee on Regulatory Policies and Practices; Changes

The ACRS Subcommittee on Regulatory Policies and Practices scheduled for February 8, 1984 has been *rescheduled for Tuesday, February 7, 1984, 10:00 a.m., Room 1167, 1717 H Street, NW, Washington, DC.* The Subcommittee will discuss the Proposed General Statement of Policy and Procedures for Enforcement Actions (SECY–83–487) and other matters related to enforcement activities.

All other items regarding this meeting remain the same as announced in the **Federal Register** published Tuesday, January 24, 1984 (49 FR 2973).

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant Designated Federal Employee, Mr. M.C. Gaske (telephone 202/634–3265) between 8:15 a.m. and 5:00 p.m., EST.

Dated: January 25, 1984.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 84-2401 Filed 1-27-84; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards; Meeting

In accordance with the purposes of Sections 29 and 182b. of the Atomic Energy Act (42 U.S.C. 2039, 2232b.), the Advisory Committee on Reactor Safeguards will hold a meeting on February 9–11 1984, in Room 1046, 1717 H Street, NW., Washington, DC. Notice of this meeting was published in the **Federal Register** on January 25, 1984.

The agenda for the subject meeting will be as follows:

Thursday, February 9, 1984

8:30 A.M.–8:45 A.M.: Opening Remarks (Open)—The ACRS Chairman will report briefly on matters of current interest regarding ACRS activities.

8:45 A.M.–11:30 A.M.: Radiological Effects (Open)—The members will hear and discuss a report of its Subcommittee on Reactor Radiological Effects regarding occupational doses associated with reactor operations and recovery from accidents (TMI–2) and the establishment of a de minimums level of radiation exposure.

11:30 A.M.–12:30 P.M.: Probabilistic Risk Assessment (Open)—The Committee will hear and discuss a report by representatives of the NRC Staff regarding the application of PRA in the regulatory process.

1:30 P.M.–2:15 P.M.: Consideration of Severe Accidents (Open)—The members will hear and discuss a report by members of the NRC Staff regarding a proposed NRC policy statement regarding consideration of severe accidents in the regulation of nuclear reactors.

2:15 P.M.–3:00 P.M.: Activities of the NRC Office of International Programs (Open)—The members will hear a report from members of the NRC Staff regarding the activities of the Office of International Programs.

3:00 P.M.–3:15 P.M.: Congressional Activities (Open)—The members will hear a report from ACRS Chairman and Subcommittee Chairman on Reactor Research Programs regarding testimony before the Congressional Subcommittee on Energy and the Environment.

3:15 P.M.–5:30 P.M.: NRC Safety Research Program (Open)—The members will discuss the proposed ACRS report to the U.S. Congress on the proposed NRC safety research program and budget for FY 1985–86.

Friday, February 10, 1984

8:30 A.M.–12:30 P.M.: Diablo Canyon Nuclear Power Station (Open/Closed)—The ACRS members will hear and discuss reports regarding proposed plant changes and related matters regarding deficiencies in the design and construction of this station. Representatives of the NRC Staff and applicants will participate as appropriate.

Portions of the session will be closed as necessary to discuss Proprietary Information applicable to the matter, information which involves accusing persons of a crime, and information which would disclose investigatory records.

12:30 P.M.–1:00 P.M.: Future Committee Activities (Open)—The members will discuss anticipated activities of ACRS subcommittees and items proposed for consideration by the full Committee.

1:30 P.M.—4:30 P.M.: Preparation of ACRS Reports (Open/Closed)—The members will discuss proposed reports to the U.S. Congress and the NRC regarding matters considered during this meeting.

Portions of this session will be closed as necessary to discuss items involved in an adjudicatory proceeding, information which involves accusing a person of a crime, and information which would disclose investigatory records.

4:30 P-M.–5:30 P.M.: ARCS Subcommittee Activities (Open) The members will hear and discuss reports of designated ACRS subcommittees regarding recent activities including consideration of proposed changes in NRC enforcement policy and implementing requirements for emergency response capability.

Saturday, February 11, 1984

8:30 A.M.—12:30 P.M.: Preparation of ACRS Reports (Open/Closed)—The members of the Committee will discuss proposed Committee comments/and reports regarding matters considered during this meeting.

Portions of this session will be closed as necessary to discuss information involved in an adjudicatory proceeding, information which involves accusing a person of a crime, and information which would involve investigatory records.

Procedurs for the conduct of and participation in ACRS meetings were published in the **Federal Register** on September 28, 1982 (48 FR 44291). In accordance with these procedures, oral or written statments may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Committee, its consultants, and Staff. Persons desiring to make oral statements should notify the ACRS Executive Director as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements. Use of still, motion picture and television cameras during this meeting may be limited to selected portions of the meeting as determined by the Chairman. Information regarding the time to be set aside for this purpose may be obtained by a telephone call to the ACRS Executive Director, R. F. Fraley, prior to the meeting. In view of the possibility that the schedule for ACRS meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should check with the ACRS Executive Director if such rescheduling would result in major inconvenience.

I have determined in accordance with Subsection 10(d) Pub. L. 92–463 that it is necessary to close portions of this meeting as noted above to discuss Proprietary Information [5 U.S.C. 552b(c)(4)], information involved in an adjudicatory proceeding [5 U.S.C. 552b(c)(10), information which involves accusing a person of a crime [5 U.S.C. 552b(c)(5)], and information which would disclose investigatory records [5 U.S.C. 552b(c)(7)].

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted can be obtained by a prepaid telephone call to the ACRS Executive Director, Mr. Raymond F. Fraley (telephone 202/634–3265), between 8:15 A.M. and 5:00 P.M. EST.

Dated: January 25, 1984.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 84-2402 Filed 1-27-84; 8:45 am]

BILLING CODE 7590-01-M

SECURITIES AND EXCHANGE COMMISSION

Agency Forms Under Review by Office of Management and Budget

Agency Clearance Officer: Kenneth A. Fogash (202) 272–2700.

Upon Written Request Copy Available From: Securities and Exchange Commission, Office of Consumer Affairs and Information Services, Washington, D.C. 20549.

Extension

Form 8

No. 270–279

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.), the Securities and Exchange Commission has submitted for an extension of clearance Form 8, for amendments to applications for registration or reports filed pursuant to Section 12, 13 and 15(d) of the Securities Exchange Act of 1934. The form provides a basis for the Commission to fulfill its statutory responsibility to ensure that issuers of publicly-traded securities provide investors and the marketplace with adequate information.

Submit comments to OMB Desk Officer, Ms. Katie Lewin (202) 395–7231, Office of Information and Regulatory Affairs, Room 3235 NEOB, Washington, D.C. 20503.

George A. Fitzsimmons,

Secretary.

January 20, 1984.

[FR Doc. 84–2486 Filed 1–27–84; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. 13731A; 812–5707]

Capital T Money Fund and The Travelers Indemnity Co.; Errata

January 20, 1984.

In the Matter of Capital T Money Fund, The Travelers Indemnity Company, 99 High Street, Boston, Massachusetts 02110.

This is to correct an error made in Investment Company Act Release No. 13731, issued January 18, 1984, In the Matter of Capital T Money Fund, et al. In the above referenced notice of filing of application it was stated that interested persons may request a hearing until 5:30 p.m., February 13, 1984. The expiration of the notice period should have read 5:30 p.m., February 7, 1984.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84–2493 Filed 1–27–84; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. 23207; 70–6943]

Central and South West Corp.; Proposed Issuance and Sale of Common Stock Pursuant to Restricted Stock Plan and Solicitation of Proxies

January 24, 1984.

Central and South West Corporation ("CSW"), 2400 San Jacinto Tower, Dallas, Texas 75222, a registered holding company, has filed a declaration with this Commission pursuant to Sections 6(a), 7, and 12(e) of the Public Utility Holding Company Act of 1935 ("Act") and Rules 50(a)(5), 62, and 65 thereunder.

CSW proposes to issue and sell shares of its common stock pursuant to a Restricted Stock Plan ("Plan"). Pursuant to the Plan and in order to aid in securing and retaining key executive employees of outstanding ability for CSW and its subsidiaries, employees selected by the Board of Directors (or a committee thereof) will be eligible from time to time during the term (10 years) of the Plan to be awarded shares of CSW common stock. The number of shares is to be determined by the Board or a committee thereof. No more than 500,000 shares of common stock will be awarded under the Plan, subject to certain adjustments to reflect combinations, reclassifications, or subdivisions of such shares. Any shares granted pursuant to the Plan will be subject to forfeiture if the recipient thereof, otherwise than by reason of his death, total disability, or normal retirement, ceases to render substantial services on a regular basis to CSW or its subsidiaries during a restricted period following the grant, which period will be established by the Board, or a committee thereof, in connection with each grant. Subject to this risk of forfeiture, the recipient of shares under the Plan will have all rights as a stockholder with respect to the shares, including but not limited to the right to receive dividends thereon and the right to vote such shares; provided, however, that with respect to any shares still within the respective restrictive period, the recipient will be precluded from selling, pledging, or otherwise transferring such shares. The Plan is subject to approval by CSW stockholders, and CSW proposes to solicit proxies with respect thereto in connection with the Company's annual meeting to be held on April 19, 1984.

The declaration and any amendments thereto are available for public inspection through the Commission's Office of public reference. Interested persons wishing to comment or request a hearing should submit their views in writing by February 21, 1984, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the declarant at the address specified above. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the declaration, as filed or as it may be amended, may be permitted to become effective.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84–2487 Filed 1–27–84; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. 23206; 70–6942]

Consolidated Natural Gas Co.; Proposal To Redeem Outstanding Shares of Preferred Stock

January 24, 1984.

Consolidated Natural Gas Company, ("Consolidated") Four Gateway Center, Pittsburgh, Pennsylvania 15222, a registered holding company has filed a declaration with this Commission pursuant to Sections 6(a)(2), 7 and 12(c) of the Public Utility Holding Company Act of 1935 ("Act") and Rule 42 thereunder.

As of January 1, 1984 Consolidated had outstanding 300,000 shares of its 10.96% cumulative preferred stock, Series A, $100 par value. Consolidated now proposes to call all of these shares for redemption, effective on or before March 30, 1984. The redemption would be at the optional redemption price of $110.17 per share, plus accrued dividends from January 1, 1984 to the redemption date.

Consolidated will deposit amounts sufficient to redeem the shares and accrued dividends with the redemption agent, Manufacturers Hanover Trust Company, in trust, for payment to the holders of the preferred stock, upon surrender of the stock certificates. Upon the deposit of funds, the shares called for redemption shall no longer be deemed outstanding, and all rights with respect to the shares shall cease and terminate, except the right to receive the redemption price and accrued dividends, without interest, upon

presentation and surrender of the certificates.

The declaration and any amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by February 17, 1984, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the declarant at the address specified above. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the declaration, as filed or as it may be amended, may be permitted to become effective.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84-2490 Filed 1-27-84; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 13733; 812-5684]

E. F. Hutton & Company Inc. and Hutton Telephone Trust, First Tax-Free Exchange Series and Subsequent Series; Application

January 20, 1984.

Notice is hereby given that Hutton Telephone Trust, First Tax-Free Exchange Series and Subsequent Series ("Trust") One Battery Park Plaza, New York, New York 10004, registered under the Investment Company Act of 1940 ("Act"), and E. F. Hutton & Company Inc. ("E. F. Hutton"), the sponsor, depositor and principal underwriter of the Trust (Trust and Hutton together, "Applicants"), filed an application on October 24, 1983, and an amendment thereto on December 27, 1983, pursuant to Section 6(c) of the Act, certain proposed purchases of securities by E. F. Hutton, acting as principal, from the Trust in conjunction with the dividend reinvestment arrangements in which the Trust may participate. All interested persons are referred to the application on file with the Commission for statement of the representations contained therein, which are summarized below, and to the Act for a statement of the relevant statutory provisions.

Applicants represent that the First Tax-Free Exchange Series of the Trust was created under the laws of the State of Massachusetts by execution of a trust agreement between E. F. Hutton, as sponsor, and the Bank of New England, N.A., as trustee, on September 26, 1983. It is stated that the First Series has been created, and that Subsequent Series of the Trust will be created, for the purpose of providing current holders of American Telephone & Telegraph Company ("AT&T") common stock, through an exchange of their AT&T shares for units of the Trust, a practical method of maintaining their equity interests in AT&T and, after the implementation of the proposed plan of reorganization of AT&T (scheduled to take effect on January 1, 1984), as summarized hereinafter, their investment in AT&T and the seven regional holding companies to be divested by AT&T ("Regional Companies"). Applicants state further that E.F. Hutton is registered with the Commission as a broker-dealer and as an investment adviser; that the Trust's Notification of Registration on Form N-8A and its registration statement on Form N-8B-2 under the Act as well as the registration statement of the First Tax-Free Exchange Series on Form S-6 under the Securities Act of 1933, were filed on June 15, 1983; and that the registration statement of the First Tax-Free Exchange Series on Form S-6 became effective, and the initial deposit of AT&T shares was made, on September 26, 1983.

It is further represented that in December, 1982, AT&T submitted a proposal for reorganization designed to effectuate a consent decree entered into earlier that year relating to certain antitrust proceedings brought by the United States Department of Justice in 1974. As part of the plan, AT&T intends to group its twenty-two operating companies under the Regional Companies and transfer ownership of the Regional Companies to stockholders of AT&T pursuant to a reorganization. AT&T stockholders, it is stated, will retain their AT&T shares, and will be entitled to receive, in the reorganization, one share in each of the Regional Companies for every ten AT&T shares they hold. Applicants state that units of the Trust are offered to holders of AT&T shares on the basis of 100 units for each AT&T share validly tendered for exchange pursuant to the exchange offer described in the current prospectus of the Trust. The minimum purchase for Trust units is 100, it is represented, and E. F. Hutton sells, as sponsor, 1.5% of the AT&T shares tendered for exchange prior to depositing the remaining AT&T shares in the Trust, retaining the proceeds as a sales charge on the sale of units.

It is further stated that subsequent to the initial deposit of AT&T shares in the Trust, E. F. Hutton intends to deposit additional AT&T shares tendered pursuant to the exchange offer on various "exchange dates." In order to be exchanged for Trust units, Applicants state, AT&T shares must be placed in the custody of E. F. Hutton, the sponsor, no later than two business days prior to any exchange date. E. F. Hutton also may register and form additional series of the Trust, either before or after implementation of the reorganization plan, it is stated, and a series of the Trust that is formed after implementation of the reorganization plan would be created by the deposit of shares of the Regional Companies in addition to shares of AT&T, it is noted.

Applicants further state that, beginning in April 1984, holders of Trust units will receive monthly income distributions from the Trust, the record dates for such distributions being the first day of each month, and the date of distribution being the fifteenth day of each month or the next business day if the fifteenth day is not a business day. Prior to April 1984, it is stated, the Trust will pay the net income from any dividends received on the AT&T shares in the Trust immediately upon its receipt of the dividends, applying the same record date as that of AT&T. It is contemplated, in addition, that the Trust will participate in the dividend reinvestment plans of AT&T and the Regional Companies, provided that the trust determines that participation is likely to increase the net dividend income of the Trust; the shares received pursuant to such plans are to be sold to generate cash for payment of dividends to Trust unitholders.

To illustrate the probable characteristics of the dividend reinvestment arrangements in which the Trust will be participating, Applicants note that under AT&T's current reinvestment plan, the price of AT&T shares purchased with reinvested dividends is equivalent to 95% of the average of the daily high an low sale prices at AT&T shares of common stock on the New York Stock Exchange ("NYSE") for the period of five trading days ending on the day of purchase (which is the dividend payment date on the AT&T shares). Applicants state further that although the price of the shares is determined by reference to the NYSE daily high and low sale prices over a five-day period, a ruling by the Internal Revenue Service has provided

that the tax basis for each AT&T share purchased with reinvested dividends pursuant to the present AT&T reinvestment plan is equal to the average of the high and low sale price on the NYSE on the dividend payment date. If no trading occurs on that date, it is stated, the basis for such shares is determined by the average of the high and low sales prices on the trading days immediately preceding and following the dividend payment date.

Applicants maintain that the purpose of the Trust's participation in the AT&T dividend reinvestment plan, and in similar plans, is to obtain dividend income for distribution to Trust unitholders greater than that which would be obtained if the trustee were to elect to receive quarterly dividends in cash, without participation. Since the purpose of said participation is not to acquire additional AT&T shares (or Regional Company Stock) to be retained in the portfolio of the Trust, it is stated, all shares received pursuant to such plans will be sold immediately. However, because the "price" of the shares "purchased" with reinvested cash dividends cannot be ascertained until the date of purchase, Applicants state, the trustee must make the decision to participate in the AT&T reinvestment plan for each quarterly dividend without being certain that the net proceeds of the liquidation of the shares to be acquired will exceed the amount which could have been received as a cash dividend. It is further stated, however, that because of the 5% discount available upon the purchase of AT&T shares with reinvested dividends, and the relatively stable price of these securities, it is believed that the net proceeds generally will exceed the cash dividend that would be received in the absence of participation in the dividend reinvestment plans.

Applicants not further that in addition to the uncertainty pertaining to the price to be paid for shares purchased with reinvested dividends, uncertainty faces the trustee in arranging to dispose of the shares thus acquired following their receipt. Accordingly, in order to minimize the expense and uncertainty attending the Trust's participation in the reinvestment plans, Applicants propose to adopt an arrangement pursuant to which E. F. Hutton would be permitted to purchase the shares being acquired by the Trust under the dividend reinvestment plans, immediately upon receipt, at a price equal to the Trust's tax basis in the shares (without payment of transaction costs). Applicants believe that the reinvestment plans of the Regional Companies will provide for similar methods of determining the purchase price and tax basis of the reinvestment shares, and Applicants propose for each such plan to use the tax basis of the shares received as the purchase price to E. F. Hutton. With the risk of loss and transaction costs upon disposition of shares thus eliminated, Applicants assert, the trustee's capability of making the decision as to whether or not to participate in a particular dividend reinvestment arrangement should be augmented, thus benefitting all holders of Trust units through increased dividend income.

Applicants request an order of the Commission issued purusant to Section 6(c), based upon the criteria set forth in that section, and in Section 17(b) of the Act, exempting from the prohibitions of Section 17(a), the proposed class of transactions pursuant to which E. F. Hutton is to purchase from the Trust such shares as the Trust receives in accordance with its participation in the dividend reinvestment plans of AT&T and the Regional Companies under the arrangement described above. Applicants submit that the terms of the class of transactions proposed are reasonable and fair, and do not involve overreaching, and that the exemptions requested are necessary or appropriate in the public interest and consistent with the protection of investors, the policy of the Trust and the purposes fairly intended by the policy and provisions of the Act. They further contend that although, as the result of the method of determining the purchase price an tax basis of the shares under the dividend reinvestment plans, the current market price of the reinvestment shares at the time of the sale to E. F. Hutton may be more or less than the Trust's tax basis (or the purchase price), the Trust would benefit by being enabled to establish the price at which it will dispose of such shares at an amount which does not include any brokerage commissions and which will eliminate taxable gain or loss on the disposition. In addition, it is asserted that there would be no opportunity for E. F. Hutton to overreach the Trust under the proposal, as the purchase price would be determined solely by external market forces, rather than by negotiation between buyer and seller. Finally, Applicants state taht they have not been able to find a party not affiliated with the Trust who would be willing to enter into the purchase arrangments contemplated.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than February 14, 1984, at 5:30 p.m., do so by submitting a written request setting forth the nature of his/her interest, the reasons for the request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicants at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date, an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84-2494 Filed 1-27-84; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 23204; 70-5925]

Indiana & Michigan Electric Co. and American Electric Power Co., Inc.; Proposed Amendments to Nuclear Fuel Leases

January 20, 1984.

In the Matter of Indiana & Michigan Electric Company, One Summit Square, P.O. Box 60, Fort Wayne, Indiana 46801 and American Electric Power Company, Inc., 1 Riverside Plaza, Columbus, Ohio 43216.

American Electric Power Company, Inc. ("American"), a registered holding company, and its electric utility subsidiary company, Indiana & Michigan Electric Company ("I&MECo"), has filed with this Commission a post-effective amendment to the declaration in this proceeding pursuant to Sections 9(a), 10, 12(b) of the Public Utility Holding Company Act of 1935 ("Act") and Rule 45 promulgated thereunder.

By order in this proceeding dated November 1, 1978 (HCAR No. 20759), authorization was granted to I&MECo and Indiana & Michigan Power Company ("I&MECo"), then a wholly-owned subsidiary of I&MPCo, to enter into amendments to the separate Nuclear Material Lease Agreements between I&MPCo, as lessee, and PruLease, Inc. ("PruLease"), as lessor, relating to the acquisition of nuclear material for use at Units No. 1 and 2 of the Donald C. Cook Nuclear Plant. Among other things, the Commission approved amendments to the Unit No. 1 Nuclear Material Lease Agreement (the "1971 Lease") that would permit

I&MPCo to lease nuclear material having a maximum Stipulated Casualty Value of $75 million and amendments to the Unit No. 2 Nuclear Material Lease Agreement (the "1977 Lease") that would permit I&MPCo to lease nuclear material having a maximum Stipulated Casualty Value of $100 million. The lease amendments also substantially conformed the material terms of the 1971 Lease and 1977 Lease, including the calculation of rent formula and termination of lease provisions.

On November 30, 1979, I&MPCo was merged into I&MECo, and, as a result of said merger, I&MECo assumed all rights and obligations of I&MPCo under the separate Nuclear Material Lease Agreements. Although I&MECo's obligations under the 1971 Lease and 1977 Lease are separate and distinct, PruLease and I&MECo, recognizing that all material terms of the two leases are identical, have agreed to an increase in the separate lease limits on the maximum Stipulated Casualty Value of nuclear material that may, at any one time, be leased by I&MECo, provided that the aggregate maximum Stipulated Casualty Value of leased nuclear material shall not exceed $175 million. Specifically, by Letter Agreement dated November 1, 1983, I&MECo and PruLease have agreed that I&MECo may lease nuclear material having a maximum Stipulated Casualty Value under the 1971 Lease of up to $100 million and nuclear material having a maximum Stipulated Casualty Value of up to $125 million under the 1977 Lease, provided that the aggregate Stipulated Casualty Value of nuclear material leased under the two leases may not exceed $175 million at any one time. The Letter Agreement provides I&MECo with flexibility in acquiring nuclear material for the two units of the Cook Plant, based on the current requirements of the separate units, without the associated expense (in the form of "nonusage" fees) of maintaining unnecessarily high lease lines under the separate leases. American proposes to extend to PruLease, Inc. the unconditional guaranty of the obligations of I&MECo under the 1977 Lease, as amended.

The post-effective amendment to the declaration and any further amendments are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by February 16, 1984, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the declarants at the addresses specified above. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the declaration, as now amended or as it may be further amended, may be permitted to become effective.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84-2492 Filed 1-27-84; 8:45 am]

BILLING CODE 8010-01-M

[File No. 1-4924]

LaMaur, Inc.; Application To Withdraw From Listing and Registration

The above named issuer has filed an application with the Securities and Exchange Commission pursuant to Section 12(d) of the Securities Exchange Act of 1934 ("Act") and Rule 12d2-2(d) promulgated thereunder, to withdraw the specified security from listing and registration on the American Stock Exchange, Inc. ("Amex").

The reasons alleged in the application for withdrawing this security from listing and registration include the following:

1. The common stock of LaMaur Inc. ("Company") is listed and registered on the Amex. Pursuant to a Registration Statement on Form 8-A which became effective on January 9, 1984, the Company is also listed and registered on the New York Stock Exchange ("NYSE"). The Company has determined that the direct and indirect costs and expenses do not justify maintaining the dual listing of the common stock on the Amex and the NYSE.

2. This application relates solely to withdrawal of the common stock from listing and registration on the Amex and shall have no effect upon the continued listing of such stock on the NYSE. The Amex has posed no objection to this matter.

Any interested person may, on or before February 14, 1984, submit by letter to the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549, facts bearing upon whether the application has been made in accordance with the rules of the Exchange and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84-2485 Filed 1-27-84; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 13734; 811-3538]

Rodger and Sparks General Investments Inc.; Application

January 23, 1984.

Notice is hereby given that Rodger and Sparks General Investments Inc. ("Applicant") 150 Diana Street, Placerville, California, registered under the Investment Company Act of 1940 ("Act"), as a closed-end, diversified management investment company, filed an application on December 2, 1983, for an order of the Commission pursuant to Section 8(f) of the Act, declaring that Applicant has ceased to be an investment company. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below, and to the Act for the text of the relevant provisions thereof.

Applicant states that it filed its notification of registration under the Act on July 30, 1982, but did not subsequently file any registration statement pursuant to Section 8(b) of the Act. Applicant represents that it has not filed any registration statement, with respect to securities issued by Applicant, pursuant to the Securities Act of 1933. Applicant further states that there have been no distributions to securityholders of Applicant in connection with the winding-up of Applicant's affairs pursuant to its deregistration.

Applicant represents that it has no debts or other outstanding liabilities; it has no assets or securityholders; and it is not a party to any litigation or administrative proceedings. Applicant states that within the last 18 months it has not for any reason transferred any of its assets to a separate trust. Finally, Applicant states that it currently exists as a corporation in the State of Oregon and will continue as such, but will change its name to Rodger and Sparks, Inc., and will trade in commodities futures contracts only.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than February 17, 1984, at 5:30 p.m., do so by submitting a written request setting forth the nature of his/her interest, the reasons for the request, and the specific issues of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date, an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.

[FR Doc. 84-2480 Filed 1-27-84; 8:45 am]
BILLING CODE 8010-01-M

[Rel. No. 13735; 812-5722]

Sundsvallsbanken and Sundsvallsbanken North America, Inc., Filing of Application

January 23, 1984.

Notice is hereby given that Sundsvallsbanken ("Bank"), a Swedish commercial bank, and Sundsvallsbanken North America, Inc., ("SNA") c/o Robert W. Cleveland, Esq., Sullivan & Cromwell, 125 Broad Street, New York, NY 10004, it wholly-owned United States subsidiary (collectively "Applicants"), filed an application on December 12, 1983, for an order of the Commission pursuant to Section 6(c) of the Investment Company Act of 1940 ("Act") exempting Applicants from all provisions of the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below, and to the Act for the text of all applicable sections.

According to the application, the Bank is the fifth largest commercial bank in Sweden. Applicants state that as of December 31, 1982, the Bank's total assets were approximately $1,218 million (at the rate of exchange prevailing on December 7, 1983); its deposits were approximately $734 million; and its equity capital was approximately $22 million. The Bank states that its structure is similar to that of international banks in the United States and that its principal business consists of making loans and receiving deposits. The application states that as of December 31, 1982, loans represented approximately 56% of the Bank's assets and provided approximately 64% of interest earned. The application also states that deposits represent 60% of the Bank's total liabilities.

Applicants represent that the Bank is regulated by the Swedish Bank Inspection Board ("Inspection Board") and the Swedish Central Bank, Sveriges Riksbank. Applicants represent that the Bank's business is subject to inspection and supervision by the Inspection Board under the Swedish Bank Companies Act ("Bank Act"). Applicants state that the Inspection Board prescribes accounting principles to be followed by banks, requires monthly financial statements and conducts periodic inspections to ensure compliance with the Bank Act. The Inspection Board has various enforcement powers under the Bank Act and may in exceptional cases actively intervene in management decisions to ensure compliance or to preserve the solvency of a bank. Applicants state that the Bank Act requires each bank to maintain a capital base in an amount which is not less than the total specified percentages of the book value of various types of assets and the face amount of certain guarantees issued by that bank. Assets (other than cash, government securities and certain low-risk assets) and guarantees must be matched by capital in amounts ranging form 1% to 8% of their book or face value, depending on specified risk criteria. According to the application, the Bank is also subject to the equivalent of reserve requirements in the form of cash deposits maintained with Sveriges Riksbank. This deposit requirement is currently set at 1% of total deposits, but may be raised to a maximum of 15%.

The Bank proposed to cause SNA to issue and sell unsecured prime quality commercial paper notes ("Notes") in bearer form, denominated in United States dollars and in an amount not intended to exceed an aggregate of $50 million at any one time outstanding. Applicants propose to issue and sell the Notes for the purpose of providing supplemental United States dollars for use in their current transactions. Applicants represent that the Notes will contain no provisions for payment on demand, extension, renewal or automatic rollover at the option of either the Bank, SNA or the holder. Applicants state that the Notes will be issued and sold to a commercial paper dealer in the United States which will reoffer the Notes as principal to institutional and other sophisticated investors who ordinarily buy commercial paper. Applicants represent that the offering of the Notes will not be advertised or otherwise offered for sale to the general public. Applicants state that they will undertake to ensure that the dealer will provide each offeree who has indicated an interest in the Notes with a memorandum prior to purchase, which describes the business of the Bank and contains its most recent audited public annual financial statements, including a balance sheet and profit and loss statement. The memorandum will also describe the material differences, if any, between the accounting principles applied in the preparation of the Bank's financial statements and generally accepted accounting principles applicable to United States banks. Applicants state that the memorandum will be at least as comprehensive as those customarily used by United States bank holding companies in offering commercial paper in the United States, and will be undated periodically to reflect material changes in Applicant's business and financial condition.

According to the application, payment of the principal, interest and premium, if any, on the Notes will be unconditionally guaranteed by the Bank. The proceeds of the Notes which are not used for the repayment of maturing Notes or the payment of minimal current expenses, will be placed on short-term deposit with, or loaned to, the Bank and will be withdrawn by, or repaid to, SNA on terms which will allow SNA to make timely payments on the Notes.

Applicants state that the Notes will rank *pari passu* among themselves, prior to equity securities of SNA and equally with all other unsecured indebtedness of SNA. Applicants also state that the Bank's guarantees of the Notes will rank *pari passu* among themselves, prior to equity securities of the Bank and equally with all other unsecured indebtedness of the Bank, including liabilities to depositors. Applicants represent that the terms and manner of offering the Notes will be such that the Notes will qualify for the exemption from registration under the Securities Act of 1933 ("1933 Act") provided by Section 3(a)(3) of the 1933 Act. Applicants further represent that SNA will not offer, issue or sell the Notes until it has received an opinion of its United States counsel to the effect that the Notes would be entitled to exemption under Section 3(a)(3) of the 1933 Act. Applicants do not request Commission review or approval of the opinion letter and the Commission expresses no opinion concerning availability of any such exemption.

Applicants represent that the proposed issue of Notes and any future issuance of Notes by Applicants in the United States shall have received, prior to issuance, one of the three highest investment grade ratings from at least one nationally recognized statistical rating organization and that its United States legal counsel will certify that such rating has been received.

Applicants state that SNA may appoint a bank or other financial institution in the United States as its authorized agent to issue its Notes from time to time. The Bank will appoint either that financial institution, SNA or some other United States person which normally acts in such capacity to accept any process which may be served in any action based on a Note and instituted by a holder thereof in any state or Federal Court. Applicants further state that the Bank will expressly accept the jurisdiction of any State or Federal Court in the City and State of New York in respect of any such action, and that this appointment and consent will be irrevocable until all amounts due and to become due in respect of the Notes have been paid by the Bank. Applicants state that they will also be subject to suit in any other court in the United States which would have jurisdiction.

Applicants state that the Bank and SNA may, from time to time, offer other debt securities for sale in the United States. Applicants represent that any such future offering will be accompanied by disclosure documents at least as comprehensive in their description of the Bank's business and its financial condition as those disclosure documents customarily used by United States bank holding companies in offerings of similar securities in the United States. Applicants represent that they will undertake to ensure that each offeree will be provided with the disclosure documents prior to sale. In connection with any future offering in the United States of its debt securities, Applicants make the same representations with regard to appointment of an authorized agent to accept service of process and consent to jurisdiction that Applicants make with regard to their proposed commercial paper offerings. Applicants also consent to having an order pursuant to Section 6(C) of the Act being expressly conditioned on its compliance with the undertakings and representations set forth in its application.

Applicants request an order pursuant to Section 6(c) of the Act exempting them from all provisions of the Act. Applicants contend that the Bank would be effectively precluded from selling securities in the United States through a financing subsidiary if it or the financing subsidiary were required to register as an investment company and comply with the provisions of the Act. Applicants assert that the Bank is extensively regulated by Swedish governmental authorities under a regulatory structure comparable to that imposed on United States banks. Applicants also assert that the Bank and SNA, like United States commercial banks which do not have to register under the Act, are not the type of entities which Congress intended to regulate under the Act.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than February 17, 1984, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date, an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84-2496 Filed 1-27-84; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 23205; 70-6911]

Vermont Yankee Nuclear Power Corp.; Proposal To Enter Into Revolving Credit Agreement; Exception From Competitive Bidding

January 20, 1984.

Vermont Yankee Nuclear Power Corporation ("Company"), R.D. 5, Ferry Road, Box 169, Brattleboro, Vermont 05301, a subsidiary of New England Electric System ("NEES") and Northeast Utilities ("NU"), registered holding companies, have filed an application-declaration with this Commission pursuant to Section 6(b) of the Public Utility Holding Company Act of 1935 ("Act") and Rules 50(a)(5) thereunder.

The Company operates a 540 MW nuclear powered generating plant which has been in commercial operation since November 30, 1972. Outstanding shares of its common stock are owned by ten companies ("Sponsors") including NEES and NU.

The Company proposes to establish an intermediate term revolving credit facility of up to $50 million to meet its short term financing needs and for general corporate purposes. The notes issued under the revolving credit facility may be secured by a lien on the Company's nuclear fuel at the plant site.

The Company states that it may need to retain an experienced investment banking firm to negotiate the terms of a borrowing which would not require that Sponsors guarantee the Company's obligations. Further, the Company states the Eurodollar market may offer the type of arrangement needed. Insofar as it is unknown in the Eurodollar market, the Company believes that an investment banking firm could be of material assistance in facilitating negotiations with that market. Thus, the Company proposes to solicit proposals from potential from potential lenders willing to provide, and from firms willing to act as agent in negotiating, available facilities meeting the Company's requirements. The Company requests and is hereby granted an exception pursuant to Rule 50(a)(5) from the competitive bidding requirement of Rule 50(b) in order to solicit proposals from lenders and two or more investment banking firms.

The application-declaration and any amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by February 13, 1984 to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the applicant-declarant at the address specified above. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the application-declaration, as filed or as it may be amended, may be granted and permitted to become effective.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84-2491 Filed 1-27-84; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 20586; File No. SR-MSRB-84]

Municipal Securities Rulemaking Board; Filing and Order Granting Accelerated Approval of Proposed Rule Change

Janaury 23, 1984.

The Municipal Securities Rulemaking Board ("MSRB") 1150 Connecticut Avenue, NW., Washington, D.C. 20036, on January 12, 1984 filed with the Securities and Exchange Commission a proposed rule change pursuant to Section 19(b)(1) of the Securities Exchange Act ("Act") and Rule 19(b)(4) thereunder. The Commission is soliciting comments on the proposed rule change.

The proposed rule change amends MSRB Rule G-12(e)(xiv)(H) by changing the reference to securities "traded flat" to securities "in default," and by stating that "in default" means failing to make payments of principal as well as of interest. Rule G-12(e)(xiv)(H) governs the payment of interest checks on deliveries between dealers of registered securities in default. The provision specifies that deliveries in transactions in such securities, in which the recipient will be unable to have the securities transferred prior to the record date and an interest payment is due on or after the trade date, must be accompanied by a draft or bank check for the amount of interest due, unless the securities are traded "ex-interest."

As currently written, Rule G-12(e)(xiv(H), equates the term "traded flat" with "in default." The MSRB states that the term "traded flat" is broader in meaning than "in default." While securities in default are traded flat, *i.e.*, without accrued interest, bonds not in default also are "traded flat" on the last day of a month prior to an interest payment. The proposed rule change amends Rule G-12(e)(xiv)(H) to refer only to the narrower "in default" situation. It also conforms the terminology used in this provision of Rule G-12 with the terminology used in the confirmation disclosure requirements of Rules G-12(c)(vi)(E) and G-12(a)(iii)(F).

Persons desiring to make written comment should file six written copies with the Secretary of the Commission, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549, within 21 days of publication of this proposal in the **Federal Register**. Comments should refer to File No. SR-MSRB-84-1.

Copies of the submission and any related documents, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room. Copies of the filing and of any subsequent amendments also will be available for inspection and copying at the principal office of the MSRB.

The Commission finds that the propsed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to the MSRB and, in particular, the requirements of Section 15B and the rules and regulations thereunder. Section 15B(b)(2)(C) of the Act states that rules promulgated by the MSRB should facilitate transactions in municipal securities, and help perfect the mechanism of a free open market in municipal securities. By making the language of MSRB Rule G-12(e)(xiv)(H) more precise and consistent with related provisions of the MSRB rules, the proposed rule change furthers these statutory goals. Specifically, the Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing in order to clarify the scope of the delivery provision at the earliest date possible.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change by, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[1]

George A. Fitzsimmons,

Secretary.

[FR Doc. 84-2485 Filed 1-27-84; 8:45 am]

BILLING CODE 8010-01-M

Midwest Stock Exchange, Inc.; Applications for Unlisted Trading Privileges and of Opportunity for Hearing

January 24, 1984.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to Section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the following stocks:

Echo Bay Mines
Common Stock, No Par Value (File No. 7-7329)

LaMaur Inc.
Common Stock, $.03 ⅓ Par Value (File No. 7-7330)

Shoe Town Inc.
Common Stock, $.01 Par Value (File No. 7-7331)

Bolt Beranek & Newman Inc.
Common Stock, $1 Par Value (File No. 7-7332)

Temple-Inland Inc.
Common Stock, No Par Value (File No. 7-7334)

Vishay Intertechnology
Common Stock, $.10 Par Value (File No. 7-7335)

J.M. Tull Industries, Inc.
Common Stock, $1 Par Value (File No. 7-7336)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before February 14, 1984 written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 24-2489 Filed 1-27-84; 8:45 am]

BILLING CODE 8010-01-M

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[1] 17 CFR 200.30-3(a)(12).

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE-84-2]

Petitions for Exemption; Summary of Petitions Received and Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemption received and of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the

application, processing, and disposition of petitions for exemption (14 CFR Part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR Chapter I), dispositions of certain petitions previously received and corrections. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATE: Comments on petitions received must identify the petition docket number involved and must be received on or before: February 20, 1984.

ADDRESS: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-204), Petition Docket No.———, 800 Independence Avenue, SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT: The petition, any comments received and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination of the Rules Docket (AGC-204), Room 916, FAA Headquarters Building (FOB 10A), 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 426-3644.

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, D.C., on January 24, 1984.

Richard C. Beitel,

Acting Assistant Chief Counsel, Regulations and Enforcement Division.

Petitions for Exemption

Docket No.	Petitioner	Regulations affected	Description of relief sought
23801	Globe Air, Inc	14 CFR 135.159(a) (b) and (c)	To permit petitioner to operate its helicopters, which weigh in excess of 6,000 pounds, under VFR day and night, without a gyroscopic rate-of-turn indicator, combined with a slip skid indicator, a gyroscopic bank-and-pitch indicator, and a gyroscopic direction indicator.
18884	Continental Helicopters Inc	14 CFR 135.261(b)	Extension of Exemption 2701A to permit petitioner to operate a helicopter in a hospital emergency service without meeting the flight and duty time limitations of this section, subject to conditions and limitations.
23752	Mall Airways	14 CFR 135.225(e)(1)	To permit petitioner to takeoff at Canadian airports using minima set by Canadian authorities rather than the 1-mile visibility requirement.
23875	Beech Aircraft Corp	14 CFR 45.25(b)(2)	To permit petitioner to display registration marks on its new 300 A model aircraft on the engine nacelles which are attached to the wing rather than the fuselage.
22576	Ray's Flight Systems	14 CFR 61.157(d)(1), and 61.63(d)(2)	To amend Exemption 3544 to allow trainees to complete a practical test for issuance of a type rating to be added to any grade airplane simulator as set forth in Appendix A of Part 61.
23880	Fritz Air Systems Transport, Inc	14 CFR 121.3	To permit petitioner to operate as a domestic all-cargo carrier without having its own FAA air carrier operating certificate when using aircraft wet-leased from Challenge Air Transport, Inc.
20314	Flight Training Device	14 CFR 61.157(e)	To permit petitioner to complete a practical test using FAA-approved Phase II simulators for issuance of an Airline Transport Pilot Certificate with a type rating or the addition of a type rating to an airline transport pilot certificate without meeting certain requirements of Appendix H of Part 121.
23869	Strong Enterprises and the Relative Workshop	14 CFR 105.43(a)	To permit the petitioner's employees and representatives and other volunteer experimental parachute test jumpers under their direction and control to make parachute jumps while wearing a dual harness dual parachute pack.

Dispositions of Petitions for Exemption

Docket No.	Petitioner	Regulations affected	Description of relief sought disposition
18920	Transamerican Airlines	14 CFR portions of Parts 65 and 121	To reconsider Partial Grant of Exemption 2947C to the extent necessary to permit petitioner to conduct scheduled passenger service for a 90-day period over certain routes, authorized by the CAB, utilizing the flight control/dispatch procedures, communication procedures, and enroute servicing and maintenance procedures of Part 121 that are applicable to supplemental air carriers. *Denied Nov. 21, 1983.*
23659	Ports of Call Travel Club	14 CFR 91.303	To allow petitioner to operate its Boeing 707 and Convair 990 aircraft until Jan. 10, 1985, in noncompliance with the operating noise limit requirements. *Denied Dec. 12, 1983.*
23666	Lockheed Aircraft Service Co	14 CFR portions of Part 121	To permit petitioner to become certificated without full aircraft proving tests, operating experience and certain crewmember qualifications. *Denied Nov. 25, 1983.*
22190	Vieques Air Link, Inc	14 CFR 135.243(a)	To extend exemption 3479, which expires Dec. 12, 1983, to allow petitioner's commuter air carrier operations to be conducted by pilots in command who are not holders of airline transport pilot certificates, Subject to certain limitations. *Denied Nov. 29, 1983.*
23191	Amerford Airways, Inc	14 CFR 135.5	To permit petitioner to engage in air transportation in accordance with a wet-lease agreement with Air Vectors. *Denied Nov. 29, 1983.*
23597	Action AIR Cargo Corp	14 CFR 121.3 (c) and (e)	To permit petitioner to operate as a flag air carrier and a supplemental air carrier without having its own air carrier opreating certificate when using aircraft wet leased from Trans Air Link Corp. (DC-6A certificated under Part 121), or Seagreen Air Transport (DC-7C and C7-880 under Part 129) both of Miami, FL. *Denied Nov. 22, 1983.*
23759	Edward M. Helsley	14 CFR 121.383(c)	To permit petitioner to continue to serve as a pilot under Part 121 operations beyond the date of his 60th birthday. *Denied Nov. 16, 1983.*
23658	Lansing Community College	14 CFR portions of Part 65, Subpart D	To permit petitioner to administer the FAA-required tests for general curriculum subjects seperately from the airframe and powerplant curriculum testing. *Denied Nov. 18, 1983.*

DISPOSITIONS OF PETITIONS FOR EXEMPTION—Continued

Docket No.	Petitioner	Regulations affected	Description of relief sought disposition
[illegible]	Embry-Riddle Aeronautical University	14 CFR 147.21, 147.38a, and 183.1	To permit petitioner to: (1) Develop and administer its own written, oral, and practical examinations; subject to FAA-approval; (2) specify required hours of instruction; (3) issue temporary A & P licenses to students upon successful completion of the program; and (4) be designated as a maintenance examiner with responsibility for administering oral and practical examinations in accordance with designated maintenance examiner standards and criteria and with responsibility for administering FAA-approved written examinations. *Denied Dec. 28, 1983.*
23743	Interstate Airlines, Inc	14 CFR 121.623 and 121.643	To permit petitioner, a supplemental air carrier, to operate its B-727 aircraft in accordance with the domestic air carrier alternate airport provisions of § 121.619 and fuel requirements of § 121.639. *Denied Jan. 3, 1984.*
23701	Harold's Air Service	14 CFR 121.1(a)(5)(ii), 135.1(a)(3), and 135.2	To permit petitioner to operate DC-3 Turbo Express aircraft under Part 135 with a payload exceeding 7,500 pounds. *Denied Dec. 29, 1983.*
[illegible]	Northern Air Cargo, Inc	14 CFR 91.39 and 121.157	To amend and permanently extend Exemption 770M, which terminates on Dec. 31, 1983, and which permits petitioner to use its restricted category C-82 airplanes to carry only out-sized cargo for compensation or hire subject to certain other conditions and limitations. The petitioner requests relief from the out-size cargo conditions of the present exemption. *Denied Dec. 27, 1983.*
23574	Gordon Plaskett	14 CFR 45.22(b)	To permit petitioner to display 2-inch in place of 12-inch high nationality and registration marks (N-numbers) on a restored aircraft, Grumman TBM-E. *Denied Dec. 21, 1983.*
[illegible]	Wesley Kyle	14 CFR 45.21(c)(3)	To permit display of low color contrast nationality and registration marks (N-numbers) on the Piper L-4J, N33576, that would not distract from the authentic World War II markings. *Denied Dec. 19, 1983.*
23427	Kitty Hawk Aero Tours	14 CFR 45.29	To allow operation of petitioner's Cessna 172 aircraft with 3-inch high nationality and registration marks (N-numbers) in place of 12-inch N numbers now required. *Denied Dec. 19, 1983.*
[illegible]	Franklin T. Barker	14 CFR 45.29(b)(1)(i)	To permit petitioner to continue to display 3-inch high nationality and registration marks (N-numbers) in place of marks at least 12 inches high. *Denied Dec. 19, 1983.*
[illegible]	ACM Aviation, Inc	14 CFR 135.89(b)(3)	To allow petitioner to operate Gates Learjet 36A aircraft up to flight level 410 without either pilot being required to wear his/her oxygen mask so long as there are two pilots at the controls, and each pilot has a quickdonning type of oxygen mask. *Granted Nov. 23, 1983.*
23672	Pacific Southwest	14 CFR portions of Part 121	To permit petitioner to utilize certain highly qualified British Aerospace (BAe) pilots for training and checking certain of petitioner's check airmen, flight instructors, and flight crewmembers in the BAe 146 aircraft, such training and checking to be conducted in the United Kingdom in UK-registered BAe 146 aricraft. *Granted Jan. 9, 1984.*
[illegible]	Executive Helicopter, Inc	14 CFR 135.261(b)	To permit petitioner to operate its helicopters in a hospital emergency medical evacuation service without complying with the duty-time limitations of that section. *Granted Nov. 28, 1983.*
23775	Million Air, Inc	14 CFR 121.342	To permit petitioner to operate its Douglas DC-7C airplane in a Part 121 supplemental air carrier operation without the airplane being equipped with an operable pilot heat indication system that complies with § 25.1326 of the FAR's. *Granted Dec. 1, 1983.*
[illegible]	Swiss Air Transport Co., LTD. (SWISSAIR)	14 CFR 21.181, 91.27(a)(1), 91.29, and 91.165.	To permit petitioner to obtain a supplemental type certificate covering the operation of two B-747 aircraft, N221GE and N221GF, in accordance with an FAA-approved minimum equipment list and an approved maintenance program. *Garnted Nov. 21, 1983.*
23186	Air Illinois, Inc	14 CFR 91.307	To amend Exemption No. 3576a to add 1 aircraft. The present exemption allows operation in the United States, under a service to small communities exemption, of specified two-engine airplanes, identified by registration and serial number, that have not been shown to comply with the applicable operating noise limits as follows: Until not later than January 1, 1988: 2 BAC-1-11-200: N1547, & N1542. *Granted Nov. 29, 1983.*
23845	American West Airlines	14 CFR 91.307	To allow operation in the United States, under a service to small communities exemption, of specified two-engine airplanes identified by registration and serial number, that have not been shown to comply with the applicable operating noise limits as follows: Until not later than January 1, 1985: 2 B-737: N135AW, & N136AW. *Granted Nov. 29, 1983.*
22473	Ransome Airlines	14 CFR 93.123, 93.125, and 93.129	To extend Exemption 3752 until June 1, 1985, in which scheduled air taxi operators are authorized a limited number of operations at Washington National Airport using portions of runways under certain conditions for the purpose of conducting operational evaluation flights. *Extension to July 1, 1984. Granted Nov. 28, 1983.*
[illegible]	Continental Divide Helicopters, Inc	14 CFR 135.261(b)	To allow petitioner to operate its helicopters in a hospital emergency medical evacuation service without complying with the duty-time limitations of that section. *Granted Dec. 12, 1983.*
[illegible]	Emerald Air, Inc	14 CFR 91.307	To amend Exemption No. 3470c to add 1 aircraft. The present exemption allows operation in the United States, under a service to small communities exemption, of specified two-engine airplanes, identified by registration and serial number, that have not been shown to comply with the applicable operating noise limits as follows: Until not later than January 1, 1988: 3 DC-9-15F: N50AF, N72AF and N66AF; and 3 DC-9-14: N38641, N626TX, and N930EA. *Granted Dec. 13, 1983.*
19911	Aerovias Nacionales de Colombia, S.A. (AVIANCA).	14 CFR portions of Parts 21 and 91	To permit petitioner to operate five U.S.-registered B-727-259 aircraft using an FAA-approved master minimum equipment list and a continuous airworthiness maintenance and inspection program, and a Boeing 727 Master Minimum Equipment List. *Granted Dec. 9, 1983.*
[illegible]	Dow Corning Corp	14 CFR portions of Parts 21 and 91	To permit petitioner to operate its Falcon 10-026, Falcon 10-180, and King Air 200-BB547 in accordance with a minimum equipment list. *Granted Dec. 16, 1983.*
[illegible]	Mountain West Helicopters	14 CFR 135.261(b)	To permit petitioner to operate its helicopters in a hospital emergency medical evacuation service without complying with the duty time limtations. *Granted Dec. 9, 1983.*

DISPOSITIONS OF PETITIONS FOR EXEMPTION—Continued

Docket No.	Petitioner	Regulations affected	Description of relief sought disposition
18920	Transamerica Airlines	14 CFR portions of Parts 65 and 121	To permit petitioner to conduct scheduled passenger service over certain routes, authorized by the Civil Aeronautics Board utilizing the flight control/dispatch procedures, and communication procedures of Part 121 that are applicable to supplemental air carriers while it makes the adjustments to its operations necessary to bring it into full compliance with the Part 121 rules applicable to domestic and flag operators. *Granted Dec. 27, 1983.*
21792	Aeronaves de Mexico, S. A. (AM)	14 CFR portions of Parts 21 and 91	Amendment to Exemption No. 3266A to permit petitioner to operate four new DC-9-80 U.S.-registered aircraft using an FAA-approved master minimum equipment list and an FAA-approved continuous airworthiness maintenance program. *Granted Dec. 22, 1983*
22770	HCI Helicopters, Inc.	14 CFR 43.3(h)	To amend Exemption 3570, issued on July 2, 1982, which permitted pilots of petitioner to remove, check, reinstall, and safety wire magnetic chip detector plugs on Allison 250C series engines. This amendment is to reflect the recent change in the petitioner's name to HCI Helicopters, Inc., in lieu of Helicopter Charter, Inc. *Granted Dec. 27, 1983.*
23789	Prince Corp	14 CFR 21.181	To allow petitioner to operate two Dassault DA-10 aircraft, N654PC and N656PC, using an FAA-approved minimum equipment list. *Granted Dec. 23, 1983.*
12506	Guyana Airways Corp	14 CFR portions of Parts 21 and 91	To amend Exemption 3434B to include a leased U.S.-registered B-707-3121BB advanced aircraft, N495PA. The exemption permits GAC to operate certain aircraft using an FAA-approved minimum equipment list. *Granted Dec.51983.*
23452	Alitalia Airlines	14 CFR 21.181	To amend Exemptions 3675 and 3675A by adding two additional Douglas DC-9-30 aircraft, serial numbers 47225 and 47128. These exemptions allow petitioner and its two subsidaries, Aero Transporti Italiani and Aermediterranea-Linee Aeree Mediterranee, S.P.A., to operate nine leased U.S.-registered DC-9-30 aircraft, utilizing an FAA-approved minimum equipment list. *Granted Dec. 8, 1983.*
23748	Airpac, Inc.	14 CFR portions of Parts 61 and 121	To extend Exemption 3658, which terminates on Dec. 31, 1983, and which permits foreign airmen to train certain pilot employees in certain UK-registered BAe 146 aircraft operated in the United Kingdom. *Granted Dec. 30, 1983.*
12638	Capital Air, Inc.	14 CFR 121.99 and 121.351.(a)	To amend Exemption 2081F to include Capital Air, Inc., in the provisions of the exemption to operate turbojet airplanes on certain routes between certain New York oceanic control area reporting points and San Juan with one of two installed high frequency communications systems inoperative at the time of departure and without maintaining two-way radio communications between each airplane, and the dispatch office along with named routes subject to certain conditions. *Granted Dec. 29, 1983.*
15194	Compania Mexicana de Aviacion, S.A. (CMA)	14 CFR Parts 61.63 and 91	To extend the expiration date of Exemption 2195, as amended, to allow petitioner to continue to operate two leased, U.S.-registered B-727-2J7 aircraft, N127NA and N129NA, using an FAA-approved continuous airworthiness maintenance program and an FAA-approved minimum equipment list. *Granted Dec. 29, 1983.*
23707	Ford Motor Co.	14 CFR 21.181	To permit petitioner to operate four Convair 580 aircraft using an FAA-approved minimum equipment list. *Granted Dec. 28, 1983.*
22457	American Airlines Flight Safety	14 CFR portions of Part 121	To extend Exemption 3462, which expires Jan. 31, 1984, to permit petitioner to operate its airplanes in extended overwater operations over the Gulf of Mexico to the Yucatan Peninsula with one of two installed high frequency communication radio systems inoperative at the time of departure and with only one long-range navigational radio system as the primary means of navigation for the extended overwater operations, subject to certain limitations. *Granted Jan. 6, 1984.*
23728	Houston Helicopters, Inc.	14 CFR para. 5(a) of SFAR 29-4	To allow petitioner to operate three newly acquired helicopters, which are not otherwise certified for IFR operations, in a limited IFR configuration under SFAR 29. *Granted Jan. 6, 1984.*

[FR Doc. 84-2419 Filed 1-27-84; 8:45 am]
BILLING CODE 4910-13-M

Sunshine Act Meetings

Federal Register
Vol. 49, No. 20
Monday, January 30, 1984

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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1

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

January 25, 1984.

TIME AND DATE: 10 a.m., Wednesday, February 1, 1984.

PLACE: Room 600, 1730 K Street, NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will consider and act upon the following:

1. Secretary of Labor, MSHA v. U.S. Steel Mining Co., Inc., Docket Nos. PENN 82-218, PENN 82-219; Petition for Discretionary Review. (Issues include whether the judge erred in finding violations of 30 CFR 75.1405 and 75.1725(a)).

CONTACT PERSON FOR MORE INFORMATION: Jean Ellen (202) 653-5632.

Jean H. Ellen,

Agenda Clerk.

[FR Doc. 84-2535 Filed 1-26-84; 11:44 am]

BILLING CODE 6820-12-M

2

FEDERAL RESERVE SYSTEM

TIME AND DATE: 10 a.m., Thursday, February 2, 1984.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, NW., Washington, D.C. 20551.

STATUS: Open.

MATTERS TO BE CONSIDERED: *Summary Agenda:*

Because of its routine nature, no substantive discussion of the following item is anticipated. This matter will be voted on without discussion unless a member of the Board requests that the item be moved to the discussion agenda.

1. Proposed response to the Securities and Exchange Commission on its proposal to require banks that conduct certain securities activities to register as broker/dealers.

Discussion Agenda:

2. Proposed Federal Reserve cash service standards and prices.

3. Proposals with respect to Regulation K (International Banking Operations): (A) Final amendments requiring banking institutions to establish and maintain reserves against certain international assets (proposed earlier for public comment; Docket No. R-0498); and (B) Publication for comment of proposed amendments prescribing (1) uniform rules for the accounting of fees associated with international lending by banking institutions, and (2) reporting and disclosure requirements concerning international assets subject to transfer risk.

4. Relevance of capital adequacy considerations in foreign bank acquisitions of domestic banks.

5. Any items carried forward from a previously announced meeting.

Note.—This meeting will be recorded for the benefit of those unable to attend. Cassettes will be available for listening in the Board's Freedom of Information Office, and copies may be ordered for $5 per cassette by calling (202) 452-3684 or by writing to: Freedom of Information Office, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board (202) 452-3204.

Dated: January 26, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-2574 Filed 1-26-84; 1:06 pm]

BILLING CODE 6210-01-M

3

FEDERAL RESERVE SYSTEM

TIME AND DATE: Approximately 12 noon, Thursday, February 2, 1984, following a recess at the conclusion of the open meeting.

PLACE: 20th Street and Constitution Avenue, NW., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Issues relating to Federal Reserve notes.

2. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

3. Any times carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board (202) 452-3204.

Dated: January 26, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-2575 Filed 1-26-84; 1:07 pm]

BILLING CODE 6210-01-M

4

FEDERAL RESERVE SYSTEM

TIME AND DATE: 2:30 p.m., Friday, February 3, 1984.

PLACE: 20th Street and Constitution Avenue, NW., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

2. Any item carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board (202) 452-3204.

Dated: January 26, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-2576 Filed 1-26-84; 1:08 pm]

BILLING CODE 6210-01-M

5

FEDERAL TRADE COMMISSION

TIME AND DATE: 2 p.m., Thursday, February 2, 1984.

PLACE: Room 532, (open); room 540 (closed) Federal Trade Commission Building, Sixth Street and Pennsylvania Avenue, NW., Washington, D.C. 20580.

STATUS: Parts of this meeting will be open to the public. The rest of the meeting will be closed to the Public.

MATTERS TO BE CONSIDERED: Portions Open to the Public:

(1) Oral Argument in Rentacolor, Inc., Docket 9163.

Portions closed to the Public:

(2) Executive Session to follow Oral Argument in Rentacolor, Inc., Docket 9163.

CONTACT PERSON FOR MORE INFORMATION: Susan B. Ticknor, Office

of Public Information (202) 523–1892; Recorded Message: (202) 523–3806.

Emily H. Rock,

Secretary.

[FR Doc. 84–2584 Filed 1–26–84; 1:23 pm]

BILLING CODE 6760–01–M

6

FEDERAL TRADE COMMISSION

TIME AND DATE: 2 p.m., Wednesday, February 15, 1984.

PLACE: Room 532, (open); room 540 (closed) Federal Trade Commission Building, Sixth Street and Pennsylvania Avenue, NW., Washington, D.C. 20580.

STATUS: Parts of this meetings will be open to the public. The rest of the meeting will be closed to the Public.

MATTERS TO BE CONSIDERED: Portions Open to Public:

(1) Oral Argument in American Medical International, Inc., Docket 9158.

Portions closed to the Public:

(2) Executive Session to follow Oral Argument in American Medical International Docket 9158.

CONTACT PERSON FOR MORE INFOMATION: Susan B. Ticknor, Office of Public Information (202) 523–1892; Recorded Message: (202) 523–3806.

Emily H. Rock,

Secretary.

[FR Doc. 84–2585 Filed 1–26–84; 1:23 pm]

BILLING CODE 6760–01–M

7

LEGAL SERVICES CORPORATION

Board of Directors Meeting

TIME AND DATE: It will commence at 10 a.m. and continue until all official business is completed; Monday, February 6, 1984.

PLACE: Hilton Inn Orlando, LaBodega Room, 3200 West Colonial Drive, Orlando, Florida.

STATUS OF MEETING: Open (Portion of Meeting is to be closed to discuss personnel, personal, criminal, litigation, and investigatory matters under 45 CFR 1622.5 (a), (d), (e), (f), and (h)).

MATTERS TO BE CONSIDERED:

1. Approval of Agenda
3. Approval of Draft Minutes of January 6, 1984 Board Meeting
4. Election of Chairman and Vice Chairman
5. Report from the President
   —Report of Executive Session of January 6, 1984
   —Update on Legal Needs Study
6. Report from Appropriations and Audit Committee
   —Acceptance of Audit
   —Allocation of 1983 Carryover Funds
   —Final Fiscal Year 1983 Consolidated Operating Budget
   —Proposed Fiscal Year 1984 Consolidated Operating Budget Including Carryover
   —Selection of Auditor for 1984
7. Report from the Office of General Counsel
   —Final Publication of 45 CFR 1606.2(a)—Definition of Termination
   —Proposed Regulations 1600.1—Definitions 1612—Lobbying 1619—Disclosure of Information
9. Report from the Office of Program Development
   —IOLTA Grants
   —Law School Clinics
   —Legal Clinics
   —NORC Report
10. Report from the Office of Government Relations

CONTACT PERSON FOR MORE INFORMATION: LeaAnne Berstein, Office of the President (202) 272–4040.

Dated: January 25, 1984.

Donald P. Bogard,

President.

[FR Doc. 84–2506 Filed 1–25–84; 4:25 pm]

BILLING CODE 6820–35–M

8

PACIFIC NORTHWEST ELECTRIC POWER AND CONSERVATION PLANNING COUNCIL

(Northwest Power Planning Council)

TIME AND DATE: 10 a.m., February 1–2, 1984.

PLACE: North Shore Resort Hotel, North Shore Plaza, Coeur d'Alene, Idaho.

STATUS OF MEETING: Open. A portion of this meeting will be closed to the public to discuss pending litigation and other legal matters.

MATTERS TO BE CONSIDERED:

Presentation on Federal Energy Regulatory Commissions' Salmon River Basin Ruling
Status Report on Section 200 Goals Study of the Columbia River Basin Fish and Wildlife Program
Presentation on Willamette River Basin Plan
Status Report on the Amendment Schedule for the Columbia River Basin Fish and Wildlife Program
Model Conservation Standards
Status Report on Northwest-Southwest Intertie Access Policy
Public Comment on Proposed Amendments to the Council's Study of Large Thermal Plant Planning and Conservation Schedules
Council Business
Public Comment will follow each item

CONTACT PERSON FOR MORE INFORMATION: Ms. Bess Wong (503) 222–5161.

Edward Sheets,

Executive Director.

[FR Doc. 84–2580 Filed 1–26–84; 1:50 pm]

BILLING CODE 0000–00–M

2

PAROLE COMMISSION

The Commissioners presently maintaining offices at Chevy Chase, Maryland Headquarters.

TIME AND DATE: 2 p.m., Thursday, January 26, 1984.

PLACE: Room 420–F, One North Park Building, 5550 Friendship Boulevard, Chevy Chase, Maryland 20815.

STATUS: Closed pursuant to a vote to be taken at the beginning of the meeting.

MATTERS TO BE CONSIDERED: Referrals from Regional Commissioners of approximately 3 cases in which inmates of Federal prisons have applied for parole or are contesting revocation of parole or mandatory release.

CONTACT PERSON FOR MORE INFORMATION: Linda Wines Marble, Chief Case Analyst, National Appeals Board, United States Parole Commission, (301) 492–5987.

Dated: January 25, 1984.

Joseph A. Barry,

General Counsel, United States Parole Commission.

[FR Doc. 84–2530 Filed 1–26–84; 11:22 am]

BILLING CODE 4410–01–M

VOL
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ISS
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federal register

Monday
January 30, 1984

Part II

Department of Agriculture

Farmers Home Administration

7 CFR Parts 1901, 1924, 1940, 1941, 1942, 1943, 1944, 1945, 1948, and 1980

Revision of Policies and Procedures for Considering the Environmental Impacts of Proposed Agency Actions; Final Rule

VOL 49 ISS 20 JA 30 1984 UMI

DEPARTMENT OF AGRICULTURE

Farmers Home Administration

7 CFR Parts 1901, 1924, 1940, 1941, 1942, 1943, 1944, 1945, 1948, and 1980

Revision of Policies and Procedures for Considering the Environmental Impacts of Proposed Agency Actions

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule.

SUMMARY: The Farmers Home Administration (FmHA) amends its regulation for implementing the National Environmental Policy Act. These amendments are necessary in order to comply with the Council on Environmental Quality's (CEQ) "Regulations for Implementing the Procedural Provisions of the National Environmental Policy Act." The intended effect of these amendments is to make FmHA's regulation consistent with CEQ's regulation as well as serve as a reference point for those environmental laws, Executive Orders and regulations applicable to FmHA programs.

EFFECTIVE DATE: This regulation is effective as follows: Its requirements must be met for those applications for financial assistance, requests for subdivision approval, and other covered actions that are not approved (i.e. Form FmHA 1940–1 has not been issued for an application for financial assistance) on or before March 30, 1984. However, all applicants filing pre-applications, applications, and requests for subdivision approvals after January 30, 1984, must provide the environmental information required by this regulation.

FOR FURTHER INFORMATION CONTACT: John Hansel, Environmental Protection Specialist, telephone (202) 382–9628, Farmers Home Administration, U.S. Department of Agriculture, Room 6305, South Agriculture Building, Washington, D.C. 20250.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under USDA procedures established in Secretary's Memorandum No. 1512–1 which implements Executive Order 12291 and has been determined to be non-major. The rule will not result in (1) an annual effect on the economy of $100 million or more; (2) a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The FmHA programs and projects which are affected by this rule are subject to intergovernmental consultation in the manner delineated in 7 CFR Part 3015. The affected programs are as follows: CFDA Nos. 10.404, Emergency Loans; 10.405, Farm Labor Housing Loans and Grants; 10.406, Farm Operating Loans; 10.407, Farm Ownership Loans; 10.408, Grazing Association Loans; 10.409, Irrigation, Drainage, and other Soil and Water Conservation Loans; 10.411, Rural Housing Site Loans; 10.413, Recreation Facility Loans; 10.414, Resource Conservation and Development Loans; 10.415, Rural Rental Housing Loans; 10.416, Soil and Water Loans; 10.418, Water and Waste Disposal Systems for Rural Communities; 10.419, Watershed Protection and Flood Prevention Loans; 10.420, Rural Self-Help Housing Technical Assistance; 10.422, Business and Industrial Loans; 10.423, Community Facility Loans; 10.424, Industrial Development Grants; 10.426, Area Development Assistance Planning Grants; 10.427, Rural Rental Assistance Programs; 10.430, Energy Impacted Area Development Assistance Programs; 10.431, Technical and Supervisory Assistance Grants; and 10.432, Biomass Energy and Alcohol Fuels Loans and Loan Guarantees.

This document has been reviewed in accordance with 7 CFR Part 1901, Subpart G, "Environmental Impact Statements." It is the determination of FmHA that the proposed action does not constitute a major Federal action significantly affecting the quality of the human environment and in accordance with the National Environmental Policy Act of 1969, Pub. L. 91–190, an Environmental Impact Statement is not required.

In compliance with the Regulatory Flexibility Act (Pub. L. 96–354), Mr. Charles W. Shuman, Administrator of the Farmers Home Administration, has determined that this action will not have a significant economic impact on a substantial number of small entities because in terms of the Agency's grant programs, less than 30 grants will be affected annually.

These amendments are necessary in order to comply with the Council on Environmental Quality's (CEQ) "Regulations for Implementing the Procedural Provisions of the National Environmental Policy Act." A basic objective of this rule, then, is to update FmHA's environmental review requirements in order to conform to the CEQ Regulations. Like FmHA's existing requirements, this rule affects all of the Agency's financial assistance programs but it provides more specific guidance in how to complete environmental reviews than previous regulations.

This rule also incorporates the concept of using the environmental impact assessment, and, when necessary, the environmental impact statement (EIS) as the basic mechanism for completing and demonstrating compliance with other major Federal environmental laws, regulations and policies. This concept is utilized by other Federal agencies and encouraged by CEQ. Additionally, the rule provides specific procedures for implementing Departmental Regulation 9500–3, "Land Use Policy."

The major element of this rule is the provision of specific guidance for the preparation of environmental assessments and impact statements, including formats for preparing assessments. Those actions undertaken by the Agency that do not require an environmental assessment are specifically defined under the heading of categorical exclusions. For those actions subject to environmental assessments, two levels or degrees of assessment have been established. Therefore, this procedure differs from the former requirements. The first level of assessment consists of a minimal checklist type review and is done for smaller scale construction projects which are specifically defined under the heading, Class I actions. A more detailed narrative assessment is done for larger construction projects defined as Class II actions. Within this review structure, housing projects of less than 25 units, which were not covered by the former regulation, will now undergo the minimal assessment for a Class I action. Additional major elements include guidance on how the Agency's compliance with environmental laws will be documented in the environmental assessment, or, if necessary, the EIS for the project.

The responsible officials for carrying out the requirements of this rule are identified and each State Director is required to designate a staff member as the State Environmental Coordinator who thereafter will be directly responsible to the State Director for the effective implementation of this rule at the State and field office level. Several other major elements of the rule are discussed in the paragraphs below that address the responses to comments received on the proposed rule.

The Office of Management and Budget's (OMB) clearance has been obtained for the reporting and record

keeping requirement which this rule places on the public. This requirement stems from Form FmHA 1940–20, "Request for Environmental Information". As indicated in Section 1940.309, certain applicants must complete this Form as part of their application for financial assistance. The OMB approval number is 0575–0094.

In considering alternatives to the promulgation of this rule, initial consideration was given to whether or not there was a need to change our existing rule on preparing environmental assessments and EISs. Since that rule does not conform to the CEQ Regulations issued subsequent to it, and it must so conform, FmHA had no choice but to prepare a revision. In completing this revision, FmHA faced two major sub-options. The first was to promulgate a rule that dealt only with implementing the National Environmental Policy Act (NEPA). The second option was to address not only the requirements of NEPA but also those of the other major environmental laws and regulations that apply to Federal financial assistance programs. FmHA chose the second option because of its management advantages and related cost-effectiveness. Since an environmental assessment can be used as the vehicle for considering and documenting compliance with other applicable environmental laws, the incorporation of these laws into this rule and the assessment process mandated under it eliminate the need for separate rules for these other requirements. Such incorporation also vividly demonstrates the relationship of these other environmental requirements to the NEPA process. Also, this method of incorporation provides both Agency staff and the public with a centralized reference document for these requirements.

This type of broader rule, then, becomes a statement of the Agency's environmental program. Compliance with it early in the processing of an application will minimize potential delays in project approval and construction that can result from piecemeal review of environmental requirements at random points in the application process. Also, the selected alternative avoids duplicative and recurring requests for environmental information from applicants since the rule contains a uniform data request that covers all major environmental mandates, not just NEPA. For these reasons, FmHA decided to broaden the rule beyond just NEPA compliance.

The selected alternative has the potential for both cost increases and cost savings with the net effect determinable only on a project-by-project basis. With respect to applicants who seek assistance to build residential, commercial, or industrial facilities, land acquisition costs will be somewhat higher in some instances. This rule increases the Agency's emphasis on the utilization of adequate sites for construction projects. Applicants who plan to use sites for non-farm purposes that are located in floodplains, wetlands, or outside of rural settlement patterns will be discouraged from doing so unless there is no practicable alternative to such a location. Since these types of sites are generally less attractive for construction projects, they are normally cheaper. Land costs, therefore, should increase as fewer of these unattractive sites are used. Higher land costs, however, can be offset by lower development costs. For example, floodplain sites require special construction and protective features. FmHA will participate in increased land costs as permitted by program regulations. This increased cost, however, is often short-term when compared to the useful life of the project. Certainly reducing the potential for flood damage over useful life of a project can result in a cost savings. Also, by locating projects and public facilities within established communities, there is a reduction in public service costs and transportation costs and an increase in the positive economic impact on the community. From another perspective, some applicants will have their costs increased because the environmental review will disclose the need for environmental mitigation measures which the applicant did not originally foresee. Such measures could include establishing a vegetative buffer strip or erosion control measures, for example.

As a result of the more specific guidance provided in this rule and the revised CEQ Regulations, FmHA may prepare more environmental impact statements than in the past. The cost of these statements, however, will not be borne by the applicant. The EIS often pays for itself by identifying potentially serious site problems or health and safety problems and providing methods to avoid them. The EIS may also show that a smaller scale project is adequate to meet the applicant's needs, thereby greatly reducing project costs.

All applicants will generally benefit from the cost savings associated with completing comprehensive environmental reviews early in the application review process. This procedure prevents delays in project approval and construction since environmental issues are less likely to surface in these later stages or affected citizens raise unaddressed issues. Such delays can result in both escalated costs or even major project revisions. The occurrence of such delays are minimized by this rule.

On January 12, 1981, a proposed rule was published in the **Federal Register** (46 FR 2900) for a 60-day review and comment period. On February 19, 1981, a public information meeting was held in Washington, D.C. for the purposes of discussing the proposed rule as well as considering comments and questions of interested parties. Following is a summary of the comments received from this public review process and FmHA's responses.

a. The Department of the Interior requested several changes and clarifications in the rule were particular laws under its jurisdiction are discussed, such as the Endangered Species Act. The proposed rule failed to address the legislative requirements that exist for proposed species and critical habitats as opposed to listed species and critical habitats. These changes have been made in the appropriate sections.

b. Several commenters suggested that the proposed thresholds for categorical exclusions be increased. Categorical exclusions, Section 1940.310, are those types of Agency actions or projects that do not require an environmental assessment because, either individually or commulatively, they do not have the potential to significantly affect the quality of the human environment. The thresholds relating to the housing programs and farm programs were referenced in these comments. Several changes have been made to the categorical exclusions for the Farm Programs and they are discussed below in paragraph d. With regard to housing, CEQ has worked with FmHA, the Veterans Administration and the Department of Housing and Urban Development and determined that housing projects of one to four units can be categorically excluded. Therefore, we have not increased this threshold. The proposed and final rule, however, recognizes that small housing projects above four units do not normally require either detailed environmental assessments or the submission of extensive environmental data from applicants. Therefore, a minimal, checklist-type assessment is required for smaller housing projects, 5 to 25 units, for which applicants need only furnish basic site descriptive materials. The final rule also broadens the use of this checklist type assessment to a greater

variety of applications under the Farm Programs and the Community and Business Programs.

c. One State agency, a national farm organization and two of its State-level affiliates objected to the proposed requirement that FmHA State Directors prepare natural resource management guides for their respective States. These commenters believe this requirement amounts to Federal land use planning. This is not the case. As can be seen in Section 1940.305(b), the guide will consist of two major elements; (1) a location inventory of designated, important land uses and environmental resources within the State; and (2) a policy statement listing the existing standards and regulations that protect these resources. FmHA officials play no role in designating the resources on the inventory. Designation is accomplished by the Agency having jurisdiction over the resource. For example, in the case of critical habitats for endangered species, the Department of Interior (DOI) is the designating agency. FmHA State Offices must simply maintain up-to-date listings for their States as periodically published in the **Federal Register** by DOI. This is not land use planning on FmHA's part. In some cases, maintaining a current listing of an important resource is required by Federal regulation. The Advisory Council on Historic Preservation requires in its regulations for implementing Section 106 of the National Historic Preservation Act that every Federal agency review the National Register of Historic Places as a first step in considering a project's potential impacts. This review is necessary to determine if any listed historic properties are within the project's area of environmental impact. The reviewer, consequently, must have a current copy of the National Register to do this. In all cases, FmHA staff must have an inventory of designated, sensitive environmental areas within the State in order to prepare environmental assessments.

The second major aspect of the natural resource management guide is a brief document that enumerates the standards and review requirements, if any, that apply to the land uses and resources that make up the inventory. This document is available to the public and includes those major environmental standards and review requirements that have been promulgated at the Federal level as well as those that are particular to the State. This document is intended to served two purposes. First, it provides FmHA State Office staff with a concise listing of the environmental and land use considerations and constraints that they must address in the review and approval of applications for funding assistance. Second, it serves as a useful planning tool for prospective applicants. CEQ's Regulations require that all Federal agencies integrate the environmental impact review process with other planning at the earliest possible time to insure that planning and decisions reflect environmental values, to avoid delays later in the process, and to head off potential conflicts. The CEQ Regulations go on to stipulate that where projects are planned by private applicants or other non-federal entities before Federal involvement, which is the case for FmHA, that such entities be made aware of what environmental requirements will have to be met to gain Federal approval of the project. (See Section 1501.2 of CEQ's Regulations.) The natural resource management guide provides these entities with this information for use in their project planning process and minimizes the potential for applicants expending energy and local funds on projects that are either not fundable or require substantial redesign and resultant processing delays.

Because the preparation of the natural resource management guide is not Federal land use planning and the guide provides the benefits described above, the requirement has been maintained in the final rule. This position conicides with that of seven commenters on the proposed rule which included two Federal agencies, four State-level agencies, and two national organizations. All of these comments strongly endorsed the national resource management guide because of the further interaction, coordination and communication that it would promote between FmHA State Offices and State governments. A national organization representing county governments was supportive as long as it was clearly spelled out in the rule that FmHA shall not exercise land use powers traditionally reserved to local governments. Since this was never FmHA's intent nor is it within our jurisdiction, we have added this clarification to § 1940.305(b). We have also attempted to clarify in that same Section the responsibilities of FmHA approving officials in reviewing the acceptability of sites for FmHA funded projects as opposed to the land use powers of local and State governments.

d. Two Federal agencies believed that modifications could be made to the thresholds that apply to applications under the Farm Programs without increasing the potential for adverse environmental impacts. Accordingly, some actions have been exempted from review that originally were subject to environmental assessments. For example, any applications that involve changes in land use from an intensive use such as crop production to a less intensive use such as pastures or forestland are now exempt from review regardless of the amount of acreage. Additionally, proposals for creating farm ponds of less than five acres in size are normally exempt from review. The previous threshold was two acres.

Also, a concern was raised that there could be a duplication of environmental reviews between FmHA and the Soil Conservation Service (SCS) for applications under the Farm Programs. Section 1940.311 has been revised to emphasize that if an application under the Farm Programs has initially received technical assistance from SCS or any other Federal agency with respect to the elements of the application, FmHA will review any environmental analysis conducted by the other Federal agency and will adopt it as FmHA's assessment if the requirements of Section 1940.324 are met. If these requirements are not met, FmHA will work with the other Federal agency to supplement the initial environmental review as necessary. For large scale farm projects for which the applicant has not requested SCS's technical assistance before filing an application with FmHA, the Agency will request the applicant to seek SCS assistance. If the applicant does seek such assistance, FmHA will work with SCS to adopt the environmental review conducted as part of the assistance and to incorporate SCS's conservation plan for the application within the loan approval requirements.

A final major change in the manner that applications under the Farm Programs will be processed relates to environmental data submission requirements. FmHA recognizes that any burden that these requirements may cause will fall most seriously upon these applicants. Therefore, this rule contains the provision that no environmental information need be submitted as part of an application meeting the definitions of a Class I action under the Farm Programs (see Section 1940.311(c)) when, as an alternative, a site visit by the FmHA official preparing the environmental assessment suffices. Since for almost all of these actions this official will be the County Supervisor, site visits should be the norm and not the exception. Also, the applicant need not submit any environmental information whenever another Federal agency's environmental assessment is adopted by FmHA.

e. Several commenters raised the concern that FmHA was proposing to do too much in the area of environmental impact review given budget and manpower constraints. Other commenters welcomed the changes over present procedures. FmHA recognizes that this rule increases its workload with respect to environmental matters. It also recognizes that FmHA's existing procedures must be changed thereby ensuring that FmHA's financial assistance programs meet rural America's economic and housing needs while providing a safe and healthy environment. We believe this regulation strikes an effective balance between providing an effective environmental review process and tailoring this process to fit our management system, thereby minimizing workload implications.

f. A national housing organization criticized the proposed rule's policy for indicating that in certain circumstances rehabilitation of housing would be favored over new construction of housing. FmHA has decided not to take a position on rehabilitation versus new construction except on a project by project basis. Therefore, this policy has been deleted from the final rule.

g. The policy contained in the proposed rule regarding financial assistance for projects located on barrier islands has been modified in light of the passage of the Coastal Barrier Resources Act, Pub. L. 97-348. The draft language has been replaced with a brief summary of the Act's requirements along with implementation guidance.

h. Finally, the organization of the final regulation has been modified. Most of the guidance material contained in the proposed rule has been slightly expanded and removed and segregated into appropriately titled exhibits.

List of Subjects for Subpart G of Part 1940

Endangered and threatened wildlife, Environmental protection, Floodplains, National wild and scenic river system, Natural resources, Recreation, Water supply.

Therefore, Chapter XVIII, Title 7, Code of Federal Regulations is amended as follows:

PART 1901—PROGRAM RELATED INSTRUCTIONS

Subpart G—Environmental Impact Statements [Removed and Reserved]

1. Subpart G (§§ 1901.301—1901.309 and Exhibits A–D) of Part 1901 is removed and reserved.

PART 1924—CONSTRUCTION AND REPAIR

Subpart O—Planning and Performing Construction and Other Development

§ 1924.6 [Amended]

2. In § 1924.6, paragraph (a)(9) is revised to read as follows:

§ 1924.6 Performing development work.

* * * * *

(a) * * *

(9) The provisions of Subpart G of Part 1940 of this chapter concerning environmental requirements will apply to all loans and grants including those being assisted under the HUD Section 8 housing assistance payment program for new construction.

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PART 1940—GENERAL

3. Subpart G is added to Part 1940 to read as follows:

Subpart G—Environmental Program

Sec.

1940.301 Purpose.
1940.302 Definitions.
1940.303 General Policy.
1940.304 Special Policy.
1940.305 Policy Implementation.
1940.306 Environmental responsibilities within the National Office.
1940.307 Environmental responsibilities within the State Office.
1940.308 Environmental responsibilities at the District and County Office levels.
1940.309 Responsibilities of the prospective applicant.
1940.310 Categorical exclusions from National Environmental Policy Act (NEPA) reviews.
1940.311 Environmental assessments for Class I actions.
1940.312 Environmental Assessments for Class II actions.
1940.313 Actions that normally require the preparation of an Environmental Impact Statement (EIS).
1940.314 Criteria for determining a significant enviromental impact.
1940.315 Timing of the environmental review process.
1940.316 Responsible officials for the environmental review process.
1940.317 Methods for ensuring proper implementation of categorical exclusions.
1940.318 Completing environmental assessments for Class II actions.
1940.319 Completing environmental assessments for Class I actions.
1940.320 Preparing EIS's.
1940.321 Use of completed EIS.
1940.322 Record of decision.
1940.323 Preparing supplements to EIS's.
1940.324 Adoption of EIS or environmental assessment prepared by other Federal Agency.
1940.325 FmHA as a cooperating Agency.
1940.326 FmHA as a lead Agency.
1940.327 Tiering.
1940.328 State Environmental Policy Acts.
1940.329 Commenting on other agencies' EIS's.
1940.330 Monitoring.
1940.331 Public involvement.
1940.332 Emergencies.
1940.333 Applicability to planning assistance.
1940.334 Direct participation of State agencies in the preparation of FmHA EIS's.
1940.335 Environmental review of FmHA proposals for legislation.
1940.336 Contracting for professional services.
1940.337—1940.349 [Reserved]
1940.350 Office of Management and Budget (OMB) control number.

Exhibits

A—Departmental Regulation 9500-3, Land Use Policy.
B—Development and Implementation of National Resource Management Guide.
C—Implementation Procedures for the Farmland Protection Policy Act; Executive Order 11988, Floodplain Management; Executive Order 11990, Protection of Wetlands; and Departmental Regulation 9500-3, Land Use Policy.
D—Implementation Procedures for the Endangered Species Act.
E—Implementation Procedures for the Wild and Scenic Rivers Act.
F—Implementation Procedures for the Coastal Barrier Resources Act.
G—Timing of FmHA Environmental Impact Review Process.
H—Enviromental Assessment for Class II Actions.
I—Finding of No Significant Environmental Impact.
J—Locations and Telephone Number of Federal Emergency Management Administration's Regional Offices.
K—Locations and Telephone Numbers of U.S Fish and Wildlife Service's Wetland Coordinators.
L—Exceptions to Restrictions of Coastal Barrier Resources Act.

Authority: 7 U.S.C. 1989; 42 U.S.C. 1480; 7 CFR 2.23; 7 CFR 2.70.

Subpart G—Environmental Program

§ 1940.301 Purpose.

(a) This subpart contains the major environmental policies of the Farmers Home Administration (FmHA). It also provides the procedures and guidelines for preparing the environmental impact analyses required for a series of Federal laws, regulations, and Executive orders within one environmental document. The timing and use of this environmental document within the FmHA decisionmaking process is also outlined.

(b) This subpart is intended to be consistent with the Council on Environmental Quality's (CEQ) Regulations for Implementing the

Procedural Provisions of the National Environmental Policy Act (NEPA), 40 CFR Parts 1500–1508. CEQ's regulations are incorporated by reference as part of this subpart. CEQ's regulations will not be repeated in this subpart except when essential for clarification of important procedural or substantive points. Otherwise, citations to applicable sections of the regulations will be provided. The CEQ regulations will be available at all FmHA offices.

(c) This subpart is designed to integrate the requirements of NEPA with other planning and environmental review procedures required by law, or by Agency practice, so that all such procedures run concurrently rather than consecutively. The environmental document, which results from the implementation of this subpart, provides on a project basis a single reference point for the Agency's compliance and/or implementation of the following requirements and policies:

(1) The National Environmental Policy Act, 42 U.S.C. 4321.

(2) Safe Drinking Water Act—Section 142 (e), 42 U.S.C. 300h.

(3) Endangered Species Act, 16 U.S.C. 1531.

(4) Wild and Scenic Rivers Act, 16 U.S.C. 1271.

(5) The National Historic Preservation Act, 16 U.S.C 470 (See Subpart F of Part 1901 of this Chapter for more specific implementation procedures).

(6) Archaeological and Historic Preservation Act, 16 U.S.C. 469 (See Subpart F of Part 1901 of this Chapter for more specific implementation procedures).

(7) Coastal Zone Management Act—Section 307(c) (1) and (2), 16 U.S.C. 1456.

(8) Farmland Protection Policy Act, Subtitle I, Pub. L. 97–98.

(9) Coastal Barrier Resources Act, Pub. L. 97–348.

(10) Executive Order 11593, Protection and Enhancement of the Cultural Environment (See Subpart F of Part 1901 of this Chapter for more specific implementation procedures).

(11) Executive Order 11514, Protection and Enhancement of Environmental Quality.

(12) Executive Order 11988, Floodplain Management.

(13) Executive Order 11990, Protection of Wetlands.

(14) Title 7, Part 1b and 1c, Code of Federal Regulations, Department of Agriculture's National Environmental Policy Act; Final Policies and Procedures.

(15) Title 7, Part 3100, Code of Federal Regulations, Department of Agriculture's Enhancement, Protection, and Management of the Cultural Environment (See Subpart F of Part 1901 of this Chapter for more specific implementation procedures).

(16) Departmental Regulation 9500–3, Land Use Policy (See Exhibit A).

(17) Secretary of Agriculture's Memorandum 9500–3, Policy on Fish and Wildlife.

(d) The primary objectives of this subpart are for the Agency to make better decisions by taking into account potential environmental impacts of proposed projects and by working with FmHA applicants, other Federal agencies, Indian tribes, State and local governments, and interested citizens and organizations in order to formulate actions that advance the program goals in a manner that will protect, enhance, and restore environmental quality. To accomplish these objectives, the identification of potentially significant impacts on the human environment is mandated to occur early in the Agency's planning and decisionmaking processes. Important decision points are identified. The completion of the environmental review process is coordinated with these decision points, and this review must be completed prior to the Agency's first major decision on whether or not to participate in the proposal. This early availability of the results of the environmental review process is intended to ensure that Agency decisions are based on an understanding of their environmental consequences, as well as the consequences of alternative courses of action.

(e) Reducing delays, duplication of effort, and superfluous analyses are provided for in this Subpart. FmHA environmental documents are to be supported by accurate analyses and will concentrate on the issues that are timely and relevant to the action in question, rather than amassing needless detail. Such documents and their preparation and review will be coordinated with other Federal or State agencies jointly participating in proposed actions or related actions, in order to avoid duplication of effort, and to achieve a coordinated and timely response.

(f) Public involvement is desirable, and to facilitate public involvement, environmental documents will be available to interested citizens as early in the decisionmaking process as possible and before decisions are made. Provisions are included for citizens or interested parties to express their views and any concerns.

(g) The FmHA officials responsible for the environmental review process are identified.

§ 1940.302 Definitions.

Following is a list of definitions that apply to the implementation of this Subpart. Please note that § 1940.301(b) incorporates by reference the Council on Environmental Quality's Regulations for Implementing the Procedural Provisions of the National Environmental Policy Act, 40 CFR Parts 1500 through 1508. Consequently, the definitions contained in Part 1508 of the Council's regulations apply to this subpart, as well as those listed below.

(a) *Emergency circumstance.* One involving an immediate or imminent danger to public health or safety.

(b) *Evironmental reviewer.* The FmHA official who is primarily responsible for reviewing the potential environmental impacts of the proposed action, and for completing the appropriate environmental review document, i.e., Environmental Checklist For Categorical Exclusions, environmental assessment or Environmental Impact Statement (EIS). Under the circumstances indicated, the following Agency positions and divisions shall act as the environmental reviewer for the actions and documents covered by this Subpart.

(1) County Supervisor or District Director—Checklists and assessments for actions for which this position is the approving official, and the concurrence of the next higher Agency level is not required.

(2) State Office Program Chief or Loan Specialist—Checklists and assessments for actions approved within the State Office or concurred in by the State Office.

(3) State Environmental Coordinator—EISs for actions within the approval authority of County Supervisors, District Directors, and State Office officials.

(4) Assistant Administrators for Programs—Checklists, assessments, and EISs for all actions initiated within their program office.

(5) Program Support Staff—Checklists, assessments, and EISs that the Deputy Administrator for Program Operations requests be done.

(c) *Flood or flooding.* A general and temporary condition of partial or complete inundation of land areas, from the overflow of inland and/or tidal waters, and/or the rapid accumulation or runoff of surface waters from any source. Two important classifications of floods are as follows.

(1) A 1-percent chance flood or base flood—A flood of a magnitude that occurs once every 100 years on the average. Within any 1-year period there is one chance in 100 of the occurrence of such a flood. Most importantly,

however, the cumulative risk of flooding increases with time. Statistically, there is about one chance in five that a flood of this magnitude will occur within a 20-year period, the length of time commonly defined as the useful life of a facility. Over a 30-year period, the life of a typical mortgage, the probability of such a flood occurring increases to greater than one chance in four.

(2) A 0.2-percent chance flood—A flood of a magnitude that occurs once every 500 years on the average. (Within any 1-year period there is one chance in 500 of the occurrence of such a flood.) As with the 1-percent chance flood, the cumulative risk of this flood occurring also increases with time.

(d) *Floodplains.* Lowland and relatively flat areas adjoining inland and coastal waters, including flood-prone areas of offshore islands. At a minimum, floodplains, consist of those areas subject to a 1 percent or greater chance of flooding in any given year. The term floodplain shall be taken to mean the base floodplain, unless the action involves a critical action, in which case the critical action floodplain is the minimum floodplain of concern.

(1) Base floodplain (or 100-year floodplain)—The area subject to inundation from a flood of a magnitude that occurs once every 100 years on the average (the flood having a 1-percent chance of being equalled or exceeded in any given year).

(2) Critical action floodplain (or 500-year floodplain)—The area subject to inundation from a flood of a magnitude that occurs once every 500 years on the average (the flood having a 0.2-percent chance of being equalled or exceeded in any given year).

(e) *Indirect impacts.* Those reasonably foreseeable environmental impacts that result from the additional public facility, residential, commercial, or industrial development or growth that a federally financed project may cause, induce or accommodate. Consequently, indirect impacts often occur later in time than the construction of the Federal project and can be removed in distance from the construction site. For example, a water transmission line may be designed to serve additional residential development. The environmental impacts of that residential development represent an indirect impact of the federally funded water line. Those indirect impacts which deserve the greatest consideration include changes in the patterns of land use, population density or growth rate, and the corresponding changes to air and water quality and other natural systems.

(f) *Mitigation measure.* A measure(s) included in a project or application for the purpose of avoiding, minimizing, reducing or rectifying identified, adverse environmental impacts. Examples of such measures include (1) the deletion, relocation, redesign or other modifications of the project's elements; (2) the dedication to open space of environmentally sensitive areas of the project site, which would otherwise be adversely affected by the action or its indirect impacts; (3) soil erosion and sedimentation plans to control runoff during land-disturbing activities; (4) the establishment of vegetative buffer zones between project sites and adjacent land uses; (5) protective measures recommended by environmental agencies having jurisdiction or special expertise regarding the project's impacts; (6) storm water management plans to control potential downstream flooding effects that would result from a project; (7) zoning; and (8) reuse of existing facilities as opposed to new construction.

(g) *No-action alternative.* The alternative of not approving an application for financial assistance, a subdivision feasibility analysis, or an Agency proposal.

(h) *Practicable alternative.* An alternative that is capable of attainment within the confines or relevant constraints. The test of practicability, therefore, depends upon the particulars of the situation under consideration and those constraints imposed by environmental, economic, legal, social and technological parameters. This test, however, is not limited by the temporary unavailability of sufficient financial resources to implement an alternative. That is, alternatives cannot be rejected solely on the basis of moderately increased costs. The range of alternatives that must be analyzed to determine if a practicable alternative exists includes the following three categories of alternatives:

(1) Alternative project sites or designs,

(2) Alternative projects with similar benefits as the proposed action, and

(3) The no-action alternative.

(i) *Water resource project.* Includes any type of construction which would result in any change in the free-flowing characteristics of a particular river to include physical, chemical, and biological characteristics of the waterway. This definition encompasses construction projects within and along the banks of rivers, as well as projects involving withdrawals from, and discharges into such rivers. Projects which require Corps of Engineers dredge and fill permits are also water resource projects.

§ 1940.303 General policy.

(a) FmHA shall consider environmental quality as equal with economic, social, and other relevant factors in program development and decisionmaking processes.

(b) In assessing the potential environmental impacts of its actions, FmHA shall consult early with appropriate Federal, State, and local agencies and other organizations to provide decisionmakers with both the technical and human aspects of environmental planning.

(c) When adverse environmental impacts are identified, either direct or indirect, an examination shall be made of alternative courses of action, including their potential environmental impacts. The objective of the environmental review shall be to develop a feasible alternative with the least adverse environmental impact. The alternative of not proceeding with the proposal shall also be considered particularly with respect to the need for the proposal.

(d) If no feasible alternative exists, including the no-action alternative, measures to mitigate the identified adverse environmental impacts shall be included in the proposal.

(e) The performance of environmental reviews and the consideration of alternatives shall occur as early as possible in the FmHA decisionmaking process so that the Agency will be in the most flexible and objective position to deal with these considerations.

§ 1940.304 Special policy.

(a) *Important land resources.* (1) FmHA recognizes that its specific mission of assisting rural areas, composed of farms and rural towns, goes hand-in-hand with protecting the environmental resources upon which these systems are dependent. Basic resources necessary to both farm and rural settlements include important farmlands and forestlands, prime rangelands, wetlands, and floodplains. The definitions of these areas are contained in the Appendix to Departmental Regulation 9500–3, Land Use Policy, which is included as Exhibit A. For assistance in locating and defining floodplains and wetlands, the locations and telephone numbers of the Federal Emergency Management Administration's regional offices have been included as Exhibit J, and similar information for the U.S. Fish and Wildlife Service's Wetland Coordinators has been included as Exhibit K. Given the importance of these resources, as emphasized in the Departmental Regulation, Executive Order 11988,

"Floodplain Management," and Executive Order 11990, "Protection of Wetlands," it is FmHA's policy not to approve or fund any proposals that, as a result of their identifiable impacts, direct or indirect, would lead to or accommodate either the conversion of these land uses or encroachment upon them. The only exception to this policy is if the approving official determines that (i) there is no practicable alternative to the proposed action, (ii) the proposal conforms to the planning criteria identified in Paragraph (a)(2) of this section, and (iii) the proposal includes all practicable measures for reducing the adverse impacts and the amount of conversion/encroachment.

(2) It is also recognized that unless carefully reviewed, some proposals designed to serve the needs of rural communities can adversely affect the existing economic base and settlement patterns of the community, as well as create development pressures on land and environmental resources essential to farm economies. An example of such a proposal might be the extension of utilities and other types of infrastructure beyond a community's existing settlement pattern and into important farmlands for the purpose of commercial or residential expansion, even though there is available space within the existing settlement pattern for such expansion. Not only may the loss of important farmlands unnecessarily result, but the community may be faced with the economic costs of providing public services to outlying areas, as well as the deterioration of its cental business or commercial area; the latter may not be able to compete with the newer, outlying commercial establishments. These results are undesirable, and to avoid their occurrence, projects designed to meet rural community needs (i.e., residential, industrial, commercial, and public facilities) will not be approved unless the following conditions are met.

(i) The project is planned and sited in a manner consistent with the policies of this section, the Farmland Protection Policy Act, and Departmental Regulation 9500–3. (Exhibit A)

(ii) The project is not inconsistent with an existing comprehensive and enforceable plan that guides growth and reflects a realistic strategy for protecting natural resources, and the project is compatible, to the extent practicable, with State, unit of local government, and private programs and policies to protect farmland. (If no such plan or policies exist, there is no FmHA requirement that either be prepared and adopted, as further specified in paragraph (a)(3) of this section.)

(iii) The project will encourage long-term, economically viable public investment by fostering or promoting development patterns that ensure compact community development, that is, development that is limited to serving existing settlement patterns or is located in existing settlement patterns, e.g., the rehabilitation and renovation of existing structures, systems and neighborhoods; infilling of development; the provision of a range of moderate-to-high residential densities appropriate to local and regional needs. When these development patterns or types are not practicable, the development must be contiguous with the existing settlement pattern and provide for a range of moderate-to-high residential densities appropriate to local and regional needs. It is recognized that some FmHA Community Programs projects are designed to serve rural residents, such as rural water and waste disposal systems and, therefore, cannot be limited in service area to those areas contiguous with existing settlement patterns. These types of projects will be designed to primarily serve existing structures and rural residents in noncontiguous areas. Any additional capacity within the system will be limited to meet reasonable growth needs and, to the extent practicable, be designed to meet such needs within existing settlements and areas contiguous to them.

(3) The conditions specified in paragraph (a)(2) of this section should not be construed as advocating excessive densities, congestion, or loss of open space amenities within rural communities. Desirable living conditions can be obtained under these objectives, along with economic and social benefits for the community and the surrounding farm operations. Additionally, these conditions should not be construed as requiring localities to develop plans which contain the conditions or to so amend existing plans to incorporate the conditions. In any instance in which these planning conditions or criteria do not exist within the project area, project reviews will not be postponed until the criteria are adopted. Rather, projects shall be reviewed and funding decisions made in light of a project's consistency with the contents of this subpart (excluding Item (ii) of paragraph (a)(2) of this section, which would not be applicable).

(b) *Endangered species.* FmHA shall not authorize, fund, or carry out any proposal or project that is likely to (1) jeopardize the continued existence of any plant or wildlife species listed by the Secretary of the Interior or Commerce as endangered or threatened; or (2) destroy or adversely modify the habitats of listed species when such habitats have been determined critical to the species' existence by the Secretary of the Interior or Commerce, unless FmHA has been granted an exemption for such proposal by the Endangered Species Committee pursuant to subsection (h) of Section 7 of the Endangered Species Act.

(c) *Wild and scenic rivers.* FmHA shall not provide financial assistance or plan approval for any water resource project that would have a direct and adverse effect on the values for which a river has been either included in the National Wild and Scenic Rivers System or is designated for potential addition. Additionally, FmHA shall not approve or assist developments (commercial, industrial, residential, farming or community facilities) located below or above a wild, scenic or recreational river area, or on any stream tributary thereto which will invade the area or unreasonably diminish the scenic, recreational, and fish and wildlife values present in the area.

(d) *Historic and cultural properties.* At the earliest stages of consideration of an application, FmHA shall identify any properties that are listed in, or may be eligible for, listing in the National Register of Historic Places, and are located within the project's area of potential environmental impacts. Consultations will be undertaken with State Historic Preservation Officers and the Advisory Council on Historic Preservation, through the implementation of Subpart F of Part 1901 of this chapter, in order to determine the most appropriate course of action for protecting such identified properties or mitigating potential adverse impacts to them.

(e) *Coastal Barriers.* Under the requirements of the Coastal Barrier Resources Act, FmHA shall not provide financial assistance for any activity to be located within the Coastal Barrier Resources System unless (1) such activity meets the criteria for an exception, as defined in Section 6 of the Act, and (2) consultation regarding the activity has been completed with the Secretary of the Interior.

(f) *Water and energy conservation.* FmHA shall encourage the conservation of water and energy in the development of its programs and policies and shall encourage applicants to incorporate all economically feasible water and energy-saving features and designs within their proposals.

(g) *Intergovernmental initiatives on important land resources.* On a broader scale, FmHA shall advocate, in coordination with other USDA agencies (through the USDA State-level committee system), the retention of important farmlands and forestlands, prime rangeland, wetlands and floodplains whenever proposed conversions to other uses (1) are caused or encouraged by actions or programs of a Federal Agency, or (2) require licensing or approval by a Federal Agency, unless other needs clearly override the benefits derived from retention of such lands.

§ 1940.305 Policy implementation.

(a) *Environmental impact analysis.* The implementation of the environmental impact analysis requirements described in this Subpart serves as the primary mechanism for FmHA (1) incorporating environmental quality considerations into FmHA program and decisionmaking processes, (2) obtaining the views of the public and government agencies on potential environmental impacts associated with FmHA projects, and (3) using all practicable means to avoid or minimize any possible adverse environmental effects of FmHA actions.

(b) *Natural resource management.* The State Director shall develop a natural resource management guide. This guide will serve as an essential mechanism for implementing § 1940.304 of this Subpart; and, therefore, the guide must be consistent with and reflect the objectives and policies contained in § 1940.304. At the same time, however, it must be tailored to take into account important State, regional, and local natural resource management objectives. The guide shall be issued as a State Supplement for prior approval. The basic content, purposes, and uses of the guide are enumerated in Exhibit B and can be summarized as follows:

(1) The guide shall serve as a mechanism for assembling an inventory of the locations within the State of those natural resources, land uses, and environmental factors that have been specified by Federal, State and local authorities as deserving some degree of protection or special consideration;

(2) The guide shall summarize the various standards or types of Federal, State, or local protection that apply to the natural resources, land uses, and environmental factors listed in the inventory;

(3) The contents of the guide, particularly the inventory, shall be considered by the State Director in deciding how FmHA's various program funds will be generally allocated across the State, on a fiscal year basis; and

(4) Applications for individual projects must be reviewed for consistency with the guide.

(c) *Intergovernmental initiatives.* When commenting on proposed Federal actions subject to environmental impact statements, FmHA commentors will focus on the consistency of these actions with the appropriate State natural resource management guide. A similar focus or element shall be addressed in FmHA's review of the Environmental Protection Agency's 201 Wastewater Management Plans.

(d) *Farmland Protection Policy Act and Departmental Regulation 9500–3, Land Use Policy.* The natural resource management guide serves as a tool for implementing the requirements of the Act and the Departmental Regulation at the broad level of implementing the Agency's programs at the State level. These requirements must also be followed in the review of applications for financial assistance or subdivision approval, as well as the disposal of real property. FmHA's implementation procedures for the project review process are contained in Exhibit C.

(e) *Endangered species.* FmHA shall implement the consultation procedures required under Section 7 of the Endangered Species Act as specified in 50 CFR 402. It is important to note that these consultation procedures apply to the disposal of real property and all FmHA applications for financial assistance and subdivision approval, including those applicants which are exempt from environmental assessments. FmHA's implementation procedures are contained in exhibit D of this Subpart.

(f) *Wild and scenic rivers.* Each application for financial assistance or subdivision approval and the proposed disposal of real property shall be reviewed to determine if it will affect a river or portion of it, which is either included in the National Wild and Scenic Rivers System, designated for potential addition to the system, or identified in the Nationwide Inventory prepared by the National Park Service (NPS) in the Department of the Interior (DOI). FmHA's procedures for completing this review are contained in Exhibit E of this subpart.

(g) *Historic and cultural properties.* (1) At the earliest stages of consideration of an application, FmHA shall identify any properties that are listed in or may be eligible for listing in the National Register of Historic Places, and located within the area of potential environmental impact. Identification shall consist of consulting the published lists of the National Register and formally contacting and seeking the comments of the appropriate State Historic Preservation Officer (SHPO). Since it is not always possible from the consultation with the SHPO to determine whether historic and cultural properties are present within the project's area of environmental impact, it may be necessary for FmHA to consult public records and other individuals and organizations, such as university archeologists, local historical societies, etc. These latter discussions should take place before initiating a detailed site survey since they may provide reliable information that obviates the need for a survey. However, whenever insufficient information exists to document the presence or absence of potentially eligible National Register properties and where the potential for previously unidentified properties is recognized by FmHA, the SHPO, or other interested parties, FmHA shall conduct the necessary investigations to determine if such properties are present within the area of potential environmental impact. FmHA will involve the SHPO in the planning and formulation of any historic, cultural, architectural or archeological testing, studies or surveys conducted to investigate the presence of such properties and will utilize persons with appropriate knowledge and experience.

(2) If the information obtained, as a result of the consultation and investigations conducted by FmHA, indicates the presence of historic and cultural properties within the area of potential environmental impact that, in the opinion of the SHPO or FmHA, appear to meet the National Register Criteria (36 CFR 1202.6), FmHA shall request a determination of eligibility from the keeper of the National Register in accordance with 36 CFR 1204. Consultations shall be initiated with the SHPO and the Advisory Council on Historic Preservation in accordance with 36 CFR 800, through the implementation of Subpart F of Part 1901 of this chapter, to determine the most appropriate course of action to protect all National Register and eligible properties within the area of potential environmental impact.

(3) Further instructions detailing the procedures to be followed in considering and protecting historic and cultural properties and the responsible Agency officials are contained in Subpart F of Part 1901 of this Chapter. These procedures shall be followed whenever a proposal, considered by FmHA, has

the potential to affect National Register or eligible properties.

(h) *Coastal barriers.* In those States having coastal barriers within the Coastal Barrier Resources System, each application for financial assistance or subdivision approval, as well as the proposed disposal of real property, shall be reviewed to determine if it would be located within the system and, if so, whether the action must be denied on this basis or meets the Act's criteria for an exception. To accomplish the review, all affected State, District and County Offices shall maintain a current set of maps, as issued by DOI, which depict those coastal barriers within their jurisdiction that have been included in the system. FmHA's implementation procedures for accomplishing this review requirement and for consulting as necessary with DOI are contained in exhibit F. The exceptions to the restrictions of the Coastal Barrier Resources Act are contained in Exhibit L.

(i) *Water and energy conservation.* Water and energy conservation measures will be considered at both the program and project level in a manner consistent with program regulations.

§ 1940.306 Environmental responsibilities within the National Office.

(a) *Administrator.* The Administrator of FmHA has the direct responsibility for Agency compliance with all environmental laws, Executive orders, and regulations that apply to FmHA's program and administrative actions. As such, the Administrator ensures that this responsibility is adequately delegated to Agency staff and remains informed on the general status of Agency compliance, as well as the need for any necessary improvements. The Administrator is also responsible for ensuring that the Agency's manpower and financial needs for accomplishing adequate compliance with this Subpart are reflected and documented in budget requests for departmental consideration.

(b) *Deputy Administrator for Program Operations.* (1) The Deputy Administrator for Program Operations has the delegated overall Agency responsibility for developing and implementing environmental policies and compliance procedures, monitoring their effectiveness, and advising the Administrator on the status of compliance, to include recommendations for any necessary changes in this Subpart. The incumbent is also responsible for developing and documenting, as part of the Agency's budget formulation process, the manpower and financial needs necessary to implement this Subpart.

(2) The specific responsibilities of the Deputy Administrator Program Operations are as follows:

(i) Provide for the Agency an interdisciplinary approach to environmental impact analysis and problem resolution, as required by the CEQ regulations;

(ii) Provide the leadership and technical expertise for the implementation of the Agency's environmental policies with special emphasis being placed on those policies relating to natural resource management, energy conservation, and orderly community development;

(iii) Coordinate the implementation of this Subpart with affected program offices;

(iv) Provide policy direction and advice on the implementation of this Subpart to Agency staff, particularly to State Environmental Coordinators and technical support personnel within State Offices;

(v) Consult and coordinate, as needed or upon request, with the Department's interagency committees dealing with environmental, land use, and historic preservation matters;

(vi) Monitor the Agency's record in complying with this Subpart;

(vii) Provide training programs and materials for the Agency staff assigned the functions identified in this Subpart;

(viii) Review, as necessary, applications for funding assistance, proposed policies and regulations, and recommend their approval, disapproval, or modification after analyzing and considering their anticipated adverse environmental impacts, their benefits, and their consistency with the requirements of this Subpart;

(ix) Develop and direct Agency procedures for complying with environmental legislation, Executive orders, and regulations, including, but not limited to, those listed in § 1940.301(c) of this subpart;

(x) Maintain a position identified as the Senior Environmental Specialist (hereafter called the Environmental Specialist), who shall serve as the responsible Agency official under the National Environmental Policy Act and the National Historic Preservation Act, maintain liaison on environmental matters with interested public groups and Federal agencies, and serve as the focal point for developing and coordinating the Agency's procedures for the requirements listed in § 1940.301(c) of this subpart; and

(xi) Review and evaluate legislative and administrative proposals in terms of their environmental impact.

(c) *Assistant Administrators for Programs.* The Assistant Administrators for Programs shall:

(1) Ensure, as necessary, that environmental assessments and EIS's for proposed program regulations are prepared by their staff;

(2) Ensure that all proposed actions that fall under the requirements of this subpart, and that are submitted to the National Office, contain adequate analyses and documentation of their potential environmental impacts;

(3) Consider and include in the development of program regulations feasible policies and mechanisms that promote program goals in a manner that either enhances environmental quality or reduces unnecessary adverse environmental impacts; and

(4) Designate one or more staff members to serve as a program environmental coordinator, having generally the same duties and responsibilities within the program office as the State Environmental Coordinator has within the State Office (See § 1940.307(b) of this Subpart).

§ 1940.307 Environmental responsibilities within the State Office.

(a) *State Director.* The State Director shall:

(1) Serve as the responsible FmHA official at the State Office level for ensuring compliance with the requirements of this subpart; and

(2) Appoint one individual to serve as the State Environmental Coordinator (SEC). Thereafter, the SEC shall report directly to the State Director on the environmental matters contained in this Subpart.

(b) *State Environmental Coordinator (SEC)* The SEC shall:

(1) Act as advisor to the State Director on environmental matters and coordinate the requirements of this Subpart;

(2) Review those Agency actions which are not categorically excluded from this subpart (see §§ 1940.311 and 1940.312) and which require the approval and/or clearance of the State Office and recommend to the approving official either project approval, disapproval, or modification after analyzing and considering the

(i) Anticipated adverse environmental impacts,

(ii) The anticipated benefits, and

(iii) The action's consistency with this Subpart's requirements;

(3) Represent the State Director at conferences and meetings dealing with environmental matters of a State Office nature;

(4) Maintain liaison on State Office environmental matters with interested public groups and local, State, and other Federal agencies;

(5) Serve as the State Director's alternate on State-level USDA committees dealing with environmental, land use and historic preservation matters;

(6) Solicit, whenever necessary, the expert advice and assistance of other professional staff members within the State Office in order to adequately implement this Subpart;

(7) Provide technical assistance as needed on a project-by-project basis to State, District, and County Office staffs;

(8) Develop controls for avoiding or mitigating adverse environmental impacts and monitor their implementation;

(9) Provide assistance in resolving post-approval environmental matters at the State Office level;

(10) Maintain records for those actions required by this Subpart;

(11) Coordinate for the State Director the development of the State Office natural resource management guide; and

(12) Provide direction and training to State, District, and County Office staffs on the requirements of this Subpart.

(c) *Program Chiefs.* State Office Program Chiefs shall:

(1) Be responsible for preparing the environmental impact reviews required by this Subpart for all program actions to be approved at the State Office level or concurred in at that level;

(2) Coordinate the above reviews as early as possible with the SEC, so that the latter can assist in addressing the resolution of any unresolved or difficult environmental issues in a timely manner; and

(3) Incorporate into projects and actions measures to avoid or reduce potential adverse environmental impacts identified in environmental reviews.

§ 1940.308 Environmental responsibilities at the District and County Office levels.

(a) The District Director shall be responsible for carrying out the actions required by this Subpart to be completed at the District Office level.

(b) The County Supervisor shall be responsible for carrying out the actions required by this Subpart to be completed at the County Office level.

(c) In discussing FmHA assistance programs with potential applicants, District Directors and County Supervisors shall inform them of the Agency's environmental requirements, as well as the environmental information needs and responsibilities that FmHA applicants are expected to address. (See § 1940.309.)

§ 1940.309 Responsibilities of the prospective applicant.

(a) FmHA expects prospective applicants (*and in the case of the loan guarantee programs, prospective borrowers and transferees*) to consider the potential environmental impacts of their requests at the earliest planning stages and to develop proposals that minimize the potential to adversely impact the environment. Prospective applicants should contact County Supervisors or District Directors, as appropriate, to determine FmHA's environmental requirements as soon as possible after they decide to pursue FmHA financial assistance.

(b) As specified in paragraph (c) of this section, applicants for FmHA assistance shall be required to provide information necessary to FmHA to evaluate their proposal's potential environmental impacts and alternatives to them. For example, the applicant shall be required to provide a complete description of the project elements and the proposed site(s) to include location maps, topographic maps, and photographs when needed. The applicant shall also be required to provide data on any expected gaseous, liquid, and solid wastes to be produced and all permits and/or correspondence issued by the appropriate local, State, and Federal agencies which regulate such disposal practices.

(c) Form FmHA 1940–20, "Request for Environmental Information," shall be used for obtaining environmental information from applicants whose proposals require an environmental assessment under the requirements of this Subpart. These same applicants must notify the appropriate State Historic Preservation Officer of the filing of the application and provide a detailed project description as specified in Item 2 of Form FmHA 1940–20 and the FMI. If the applicant's proposal meets the definition of a Class II action as defined in § 1940.312, all of Form FmHA 1940–20 must be completed. If the applicant's proposal meets the definition of a Class I action as defined in § 1940.311, the entire form need not be completed, but just the face of the form and categories (1), (2), (13), (15), (16), and (17) of Item 1b of the FMI. Additionally, for Class I actions within the Farm Programs, a site visit by the FmHA official completing the environmental assessment obviates the need for the applicant to complete any of the form and the adoption by FmHA of a Soil Conservation Service (SCS) environmental assessment or evaluation for the action obviates the need to complete the form for either a Class I or Class II action.

(d) Applicants shall ensure that all required materials are current, sufficiently detailed and complete, and are submitted directly to the FmHA office processing the application. Incomplete materials or delayed submittals may seriously jeopardize consideration or postponement of a proposed action by FmHA.

(e) During the period of application review and processing, applicants shall not take any actions with respect to their proposed undertakings which are the subject of the application and which would have an adverse impact on the environment or limit the range of alternatives. This requirement does not preclude development by applicants of preliminary plans or designs or performance of other work necessary to support an application for Federal, State, or local permits or assistance. However, the development of detailed plans and specifications is discouraged when the costs involved inhibit the realistic consideration of alternative proposals.

(f) Applicants are required to provide public notification and to fully cooperate in holding public information meetings as described in § 1940.318(e), § 1940.320 (c) and (g), and § 1940.331 (c) and (e) of this subpart.

(g) Any applicant that is directly and adversely affected by an administrative decision made by FmHA under this Subpart may appeal that decision under the provisions of Subpart B of Part 1900 of this chapter.

§ 1940.310 Categorical exclusions from National Environmental Policy Act (NEPA) reviews.

(a) *General guidelines.* The following actions have been determined not to have a significant impact on the quality of the human environment, either individually or cumulatively. They will not be subject to environmental assessments or impact statements. It must be emphasized that even though these actions are excluded from further environmental reviews under NEPA, they are not excluded from either the policy considerations contained in § 1940.303 through § 1940.305 or from compliance with other applicable local, State, or Federal environmental laws. Also, the actions preceded by an asterisk (*) are not excluded from environmental reviews when located in, or potentially affecting, (1) a floodplain, (2) a wetland, (3) important farmlands, or prime forestlands or rangelands, (4) a listed species or critical habitat for an endangered species, (5) a property that

is listed on or may be eligible for listing on the National Register of Historic Places, (6) an area within an approved state coastal zone management program, (7) a coastal barrier or a portion of a barrier within the Coastal Barrier Resources System, (8) a river or portion of a river included in, or designated for, potential addition to the Wild and Scenic Rivers System, or (9) a sole source aquifer recharge area. When one or more of these conditions is present, the action must be reviewed under the requirements of § 1940.311. This requirement serves to implement Section 1508.4 of the CEQ regulations which requires Federal agencies to detect extraordinary circumstances in which a normally excluded action may have a significant environmental effect. Further guidance on the use of these exclusions is contained in § 1940.317.

(b) *Housing assistance.* *(1) The provision of financial assistance for construction of a single family dwelling or a multifamily project serving no more than four families, i.e. units;

*(2) The approval of an individual building lot that is located on a scattered site and not part of a subdivision;

*(3) Rehabilitation and renovation of any existing housing units, with no expansion in the number of units;

(4) Self-Help Technical Assistance Grants;

*(5) The approval of a subdivision that consists of four or fewer lots and is not part of, or associated with, building lots or subdivisions;

(6) Techical Supervisory Assistance Loans and Grants;

(7) Weatherization of any existing housing unit(s) , unless the property is listed in the National Register of Historic Places or may be eligible for listing, or is located either within the Coastal Barriers Resources System or in a listed or potentially eligible historic district, in which case the application shall fall under Class I as defined in § 1940.311;

(8) The financing of housing construction or the approval of lots in a previously approved FmHA subdivision provided that (i) the action is consistent with all previously adopted stipulations for the multifamily housing project or subdivision, and (ii) the environmental impact review that was previously completed for the original application is still current with respect to applicable environmental requirements and conditions present at the site, and it assessed the lots or expansion for which approval is being requested; and

(9) Appraisals of nonfarm tracts and small farms for rural housing loans.

(c) *Community and business programs.* *(1) Financial assistance directed to existing businesses, facilities, and/or structures that does not involve new construction or large increases in employment, and does not result in the increased production of gaseous, liquid, or solid wastes, or a change in the type or content of such wastes;

*(2) Projects that solely involve the acquisition, construction, reconstruction, renovation, or installation of facilities, structures or businesses, for replacement or restoration purposes, with minimal change in use, size, capacity, purpose or location from the original facility (e.g., replacement in-kind of utilities such as water or sewer lines and appurtenances, reconstruction of curbs and sidewalks, street repaving, and building modifications, renovations, and improvements);

(3) Project management actions relating to invitation for bids, contract award, and the actual physical commencement of construction activities;

(4) Projects that solely involve the purchase and installation of office equipment, health care equipment, public safety equipment, or motor vehicles; and

(5) Amendments to approved projects meeting the criteria of paragraph (e)(2) of this section.

(d) *Farm programs.* (1) Financial assistance for the purchase of an existing farm, or an enlargement to one, provided no shifts in land use are proposed beyond the limits stated in paragraphs (d) (9) and (10) of this section;

(2) Financial assistance for the purchase of livestock and essential farm equipment, including crop storing and drying equipment, provided such equipment is not to be used to accommodate shifts in land use beyond the limits stated in paragraphs (d) (9) and (10) of this section;

(3) Financial assistance for (i) the payment of annual operating expenses, which does not cover activities specifically addressed in this section or § 1940.311 or 1940.312; (ii) family living expenses, and (iii) refinancing debts;

*(4) Financial assistance for the construction of essential farm dwellings and service buildings of modest design and cost, as well as repairs and improvements to them;

(5) Financial assistance for on site water supply facilities to serve a farm dwelling, farm buildings, and livestock needs;

(6) Financial assistance for the installation, rehabilitation or enlargement of irrigation facilities, including storage reservoirs, diversion dams, wells, pumping plants, canals, pipelines, and sprinklers designed to irrigate less than 80 acres, provided that neither a property listed or potentially eligible for listing on the National Register of Historic Places, a river or portion of a river included in, or designated for, potential addition to the Wild and Scenic Rivers System, nor a wetland is affected. (If a wetland is affected, the application shall fall under Class II as defined in § 1940.312. Potential effects to an historic property or the Wild and Scenic Rivers System require that a review be initiated under a Class I action as defined in § 1940.311.);

(7) Financial assistance for the development of farm ponds or lakes of no more than 5 acres in size, provided that, neither a property listed or potentially eligible for listing on the National Register of Historic Places, a river or portion of a river included in or designated for potential addition to the Wild and Scenic Rivers System, nor a wetland is affected. If a wetland is affected, the application shall fall under Class II as defined in § 1940.312. Potential effects on a historic property or the Wild and Scenic Rivers System require that a review be initiated under a Class I action as defined in § 1940.311.);

(8) Financial assistance for the conversion of (i) land in agricultural production to pastures or forest, or (ii) pastures to forests;

*(9) Financial assistance for land-clearing operations of no more than 15 acres, and financial assistance for any amount of land involved in tree harvesting conducted on a sustained yield basis and according to a Federal, State or other governmental unit approved forestry management and marketing plan; and

(10) Financial assistance for the conversion of no more than 160 acres of pasture to agricultural production, provided that in a conversion to agricultural production no wetlands are affected, in which case the application shall fall under Class II as defined in § 1940.312.

(e) *General exclusions.* (1) The award of financial assistance for planning purposes, management and feasibility studies, or environmental impact analyses;

(2) Loan-closing and servicing activities, transfers, assumptions, subordinations, and amendments and revisions to approved projects, including the provision of additional financial assistance or their approval documents, that do not alter the purpose, operation,

location, or design of the project as originally approved;

(3) The issuance of regulations and instructions, as well as amendments to them, describing administrative and financial procedures for processing, approving, and implementing the Agency's financial assistance programs;

(4) Procurement activities for goods and services, routine facility operations, personnel actions, and other such management activities related to the operation of the Agency;

(5) Reduction in force or employee transfers resulting from workload adjustments, reduced personnel or funding levels, skill imbalances, or other similar circumstances; and

*(6) The disposal of real property by FmHA whenever the conveyance is either not controversial for environmental reasons or will not result in a change in use of the real property within the reasonably foreseeable future.

§ 1940.311 Environmental assessments for Class I actions.

The Agency's proposals and projects that are not identified in § 1940.310 of this Subpart as categorical exclusions require the preparation of an environmental assessment in order to determine if the proposal will have a significant impact on the environment. For purposes of implementing NEPA, the actions listed in this section are presumed to be major Federal actions. If an action has a potential to create a significant environmental impact, an EIS must be prepared. (In situations when there is clearly a potential for a significant impact, the EIS may be initiated directly without the preparation of an assessment.) It is recognized that many of the applications funded annually by FmHA involve small-scale projects having limited environmental impacts. However, because on occasion they have the potential to create a significant impact, each must be assessed to determine the degree of impact. The scope and level of detail of an assessment for a small-scale action, though, need only be sufficient to determine whether the potential impacts are minimal and no further study is required or the potential impacts are substantial and further analysis is necessary. Therefore, for the purpose of implementing NEPA, FmHA has classified its smaller scale approval actions as Class I actions. The format which shall be used for accomplishing the environmental assessment of a Class I action is provided in Form FmHA 1940–21, "Environmental Assessment for Class I Actions." An important aspect of this classification method is that it allows FmHA's environmental review staff to concentrate most of its time and efforts on those actions having the potential for more serious or complex environmental impacts. Following is a listing of Class I actions. Additional guidance on the application of NEPA to Class I actions is provided in § 1940.319.

(a) *Housing assistance.* If either of the following actions is an expansion of a previously approved FmHA housing project, see § 1940.310(b)(8) to determine if it meets the requirements for a categorical exclusion. In the case of an expansion for which an environmental assessment was not done for the original FmHA project, the size of the proposal for assessment purposes is determined by adding the number of units in the original project(s) to those presently being requested.

(1) Financial assistance for a multifamily housing project, including labor housing which comprises at least 5 units, but no more than 25 units; and

(2) Financial assistance for or the approval of a subdivision, as well as the expansion of an existing one which involves at least 5 lots but no more than 25 lots.

(b) *Community and business programs.* Class I assessments will be prepared for the following categories:

(1) Financial assistance for water and waste disposal facilities and natural gas facilities that meet all of the following criteria:

(i) There will not be a new discharge to surface or ground waters, or a substantial increase in the volume of discharge or the loading of pollutants from any existing or expanded sewage treatment facilities, or a new water withdrawal from surface or ground water or a substantial increase from an existing withdrawal. A substantial increase may be evidenced by an increase in hydraulic capacity or the need to obtain a new or amended discharge or withdrawal permit. In making this determination, cluster facilities serving 15 or so existing homes or adjacent lots would not be considered a new discharge or withdrawal.

(ii) There is no extension, enlargement or construction of interceptors, collection, transmission, or distribution lines beyond either (A) the corporate limits of a community, or (B) the developed areas immediately contiguous to the corporate limits, or (C) if an unincorporated area, beyond the developed areas.

(iii) The proposal is designed for predominantly residential use with other new or expanded users being small-scale, commercial enterprises having limited secondary impacts.

(iv) For towns with populations of less than 10,000, a proposed expansion of sewage treatment or water supply facilities that would serve a population that is no more than 20 percent greater than the existing population.

(v) The service area for any new or enlarged collection, transmission, or distribution lines is composed of largely built-up, nonfloodplain areas, and the undeveloped portions of the service area do not contain a sensitive environmental land use as listed in Item 2 of the Class I assessment.

(vi) The proposal is not controversial for environmental reasons, nor have relevant questions been raised regarding its environmental impact which cannot be addressed in a Class I assessment.

(2) Financial assistance for group homes, detention facilities, nursing homes, or hospitals, providing a net increase in beds of not more than 25 percent or 25 beds, whichever is greater; and

(3) Financial assistance for the construction or expansion of facilities, such as fire stations, retail stores, libraries, outpatient medical facilities, service industries, additions to manufacturing plants, office buildings, and wholesale industries, that:

(i) Are confined to single, small sites;

(ii) Are not a source of substantial traffic generation; and

(iii) Do not produce unusual types or amounts of gaseous, liquid or solid wastes.

(c) *Farm programs.* In completing environmental assessments for the following Class I actions and the Class II actions listed in § 1940.312(d), special attention will be given to avoiding a duplication of effort with other Department agencies, particularly SCS. For applications in which the applicant is receiving assistance from other agencies, technical assistance from SCS, for example, FmHA shall request from that Agency a copy of any applicable environmental review conducted by it and shall adopt that review if the requirements of § 1940.324 are met. FmHA shall work closely with the other Federal Agencies to supplement previous or ongoing reviews whenever they cannot be readily adopted.

(1) Financial assistance for the installation, rehabilitation or enlargement of irrigation facilities including storage reservoirs, diversion dams, wells, pumping plants, canals, pipelines, and sprinklers designed to irrigate at least 80 acres, but no more than 160 acres and provided that no wetlands are to be drained, in which case the application shall fall under Class II as defined in § 1940.312;

(2) Financial assistance for the development of farm ponds or lakes of more than 5 acres in size, but no more than 10 acres, provided that no wetlands are inundated. If wetlands are inundated, the application shall fall under Class II as defined in § 1940.312;

(3) Financial assistance for land-clearing operations encompassing over 15 acres, but no more than 35 acres;

(4) Financial assistance for the construction of energy producing facilities designed for on-farm needs such as methane digestors and fuel alcohol production facilities;

(5) Financial assistance for the conversion of more than 160 acres of pasture to agricultural production, but no more than 320 acres, provided that in a conversion to agricultural production no wetlands are affected, in which case the application shall fall under Class II as defined in § 1940.312;

(6) Financial assistance to grazing associations;

(7) Financial assistance for the use of a farm or portion of a farm for recreational purposes or nonfarm enterprises utilizing no more than 10 acres; and

(8) Financial assistance for a livestock-holding facility or feedlot having a capacity of at least one-half of those listed in § 1940.312(c)(9). (If the facility is located near a populated area, it shall be treated as a Class II action as required by § 1940.312(c)(10).)

(d) *General.* (1) Any action which is defined in § 1940.310 as a categorical exclusion, but which is controversial for environmental reasons, or which is the subject of an environmental complaint raised by a government agency, interested group, or citizen;

(2) Loan-closing and servicing activities, transfers, assumptions, subordinations, and amendments and revisions to all approved actions listed in this section which do not meet the criteria for a categorical exclusion pertaining to amendments as defined in § 1940.310 (e)(2) or (e)(3); and

(3) The disposal of real property by FmHA which meets either of the following criteria:

(i) The disposal may result in a change in use of the real property in the reasonably foreseeable future, and such change is equivalent in magnitude or type to the Class I actions defined in this section, or

(ii) The disposal is controversial for environmental reasons, and the real property is equivalent in size or type to the Class I actions defined in this section.

§ 1940.312 Environmental assessments for Class II actions.

Class II actions are basically those which exceed the thresholds established for Class I actions and, consequently, have the potential for resulting in more varied and substantial environmental impacts. A more detailed environmental assessment is, therefore, required for Class II actions in order to determine if the action requires an EIS. The format that shall be used for completing this assessment is included as Exhibit H. Further guidance on Class II actions is contained in § 1940.318. Class II actions are presumed to be major Federal actions and are defined as follows:

(a) *Housing assistance.* If either of the following actions is an expansion of a previously approved FmHA housing project, see § 1940.310(b)(8) to determine if it meets the requirements for a categorical exclusion, otherwise it is a Class II action.

(1) Financial assistance for a multifamily housing project, including labor housing, which comprises more than 25 units; and

(2) Financial assistance for, or the approval of, a subdivision as well as the expansion of an existing one, which involves more than 25 lots.

(b) *Community and business programs.* Class II actions will be taken for any request for financial assistance which either does not meet the criteria for a categorical exclusion as stated in § 1940.310, a Class I action as stated in § 1940.311, or does not involve a livestock-holding facility or feedlot meeting the criteria for a Class I action as defined in § 1940.311(c)(8).

(c) *Farm programs.* In completing environmental assessments for the following actions, FmHA shall first determine if the applicant has sought technical assistance from SCS. If not, the applicant shall be requested to do so. Subsequently, an approved loan shall be structured so as to be consistent with any conservation plan developed with the applicant by SCS. However, the FmHA approving official need not include an element of the conservation plan within the loan agreement if that official determines that the element is both nonessential to the accomplishment of the plan's objectives and so costly as to prevent the borrower from being able to repay the loan. The SCS environmental review shall be adopted by FmHA if the requirements of § 1940.324 are met.

(1) Financial assistance for the installation, rehabilitation, or enlargement of irrigation facilities including storage reservoirs, diversion dams, wells, pumping plants, canals, pipelines, and sprinklers either designed to irrigate more than 160 acres or serving any amount of acreage that involves the drainage of or withdrawal from a wetland for irrigation purposes;

(2) Financial assistance for the development of farm ponds or lakes either larger than 10 acres in size or for any smaller size that would inundate a wetland;

(3) Financial assistance for land-clearing operations encompassing more than 35 acres;

(4) Financial assistance for the construction or enlargement of aquaculture facilities;

(5) Financial assistance for the conversion of more than 320 acres of pasture to agricultural production or for any smaller conversion of pasture to agricultural production that affects a wetland;

(6) Financial assistance to an individual farmer or an association of farmers for water control facilities such as dikes, detention reservoirs, stream channels, and ditches;

(7) Financial assistance for the use of a farm or portion of a farm for recreational purposes or nonfarm enterprises utilizing more than 10 acres;

(8) Financial assistance for alteration of a wetland;

(9) Financial assistance for a livestock-holding facility or feedlot located in a sparsely populated farming area having a capacity as large or larger than one of the following capacities: 1,000 slaughter steers and heifers; 700 mature dairy cattle (whether milkers or dry cows); 2,500 swine; 10,000 sheep; 55,000 turkeys; 100,000 laying hens or broilers when facility has unlimited continuous flow watering systems; 30,000 laying hens or broilers when facility has liquid manure handling system; 500 horses; and 1,000 animal units from a combination of slaughter steers and heifers, mature dairy cattle, swine and sheep; and

(10) Financial assistance for a livestock-holding facility or feedlot located near a town or collection of rural homes which could be impacted by the facility, particularly with respect to noise, odor, water quality, visual, or transportation impacts and having a capacity of at least one-half of those listed in paragraph (c)(9) of this section.

(d) *General.* (1) Any action which meets the numerical criteria or other restriction for a Class I action contained in § 1940.311, but is controversial for environmental reasons. If the action is the subject of isolated environmental complaints or any questions/concerns that focus on a single impact, air quality, for example, the analysis of such a complaint or questions can be handled

under the assessment format for a Class I action, Form FmHA 1940–21, as explained in § 1940.319. When several potential impacts are questioned, however, the assessment format (Exhibit H) for a Class II action must be used to address these questions;

(2) Loan-closing and servicing activities, transfers, assumptions, subordinations and amendments and revisions to all approved actions listed in this Section that alter the purposes, operation, location, or design of the project as originally approved;

(3) The approval of plans and State Investment Strategies for Energy Impacted Areas, designated under Section 601 Energy Impacted Areas Development Assistance Program, as well as the applications for financial assistance (excluding the award of planning funds) for Energy Impact Areas;

(4) Proposals for legislation as defined in CEQ's regulations, § 1508.17;

(5) The issuance of regulations and instructions, as well as amendments to these, that describe either the entities, proposals and activities eligible for FmHA financial assistance, or the manner in which such proposals and activities must be located, constructed, or implemented; and

(6) The disposal of any real property by FmHA which either does not meet the criteria for a categorical exclusion as stated in § 1940.310(e)(6) or a Class I action as stated in § 1940.311(d)(3).

§ 1940.313 Actions that normally require the preparation of an Environmental Impact Statement (EIS).

The environmental assessment process will be used, as defined in this subpart, to identify on a case-by-case basis those actions for which the preparation of an EIS is necessary. Given the variability of the types and locations of actions taken by FmHA, no groups or set of actions can be identified which in almost every case would require the preparation of an EIS.

§ 1940.314 Criteria for determining a significant environmental impact.

(a) EISs shall be done for those Class I and Class II actions that are determined to have a significant impact on the quality of the human environment. The criteria for determining significant impacts are contained in section 1508.27 of the CEQ regulations.

(b) In utilizing the criteria for a significant impact, the cumulative impacts of other FmHA actions planned or recently approved in the proposal's area of environmental impact, other related or similarly located Federal actions, and non-federal related actions must be given consideration. This is particularly relevant for frequently recurring FmHA actions that on an individual basis may have relatively few environmental impacts but create a potential for significant impacts on a cumulative basis. Housing assistance is one such example. Consequently, in reviewing proposals for subdivisions and multifamily housing sites, consideration must be given to the cumulative impacts of other federally assisted housing in the area, including FmHA's. The boundaries of the area to be considered should be based upon such factors as common utility or public service districts, common watersheds, and common commuting patterns to central employment or commercial areas. Additionally, the criteria for significant impacts utilized by the other involved housing agency(s) (VA and HUD, for example) must be reviewed when there is a potential for cumulative impacts. FmHA shall consult with HUD for determining a significant impact whenever the total of HUD and FmHA housing units being planned within a common area of environmental impact exceeds the HUD thresholds listed in its NEPA regulations. (See 47 FR 56273.)

(c) Because the environmental values and functions of floodplains and wetlands are of critical importance to man, and because these areas are often extremely sensitive to man-induced disturbances, actions which affect wetlands and floodplains will be considered to have a significant environmental impact whenever one or more of the following criteria are met:

(1) The public health and safety are identifiably affected, that is, whenever the proposed action may potentially result in a change in stream classification or affect any standards promulgated under the Safe Drinking Water Act (42 U.S.C. 300f et seq.) or similar State authority.

(2) The preservation of natural systems is identifiably affected, that is, whenever the proposed action or related activities may potentially create or induce changes in the existing habitat that may affect species diversity and stability (both flora and fauna and over the short and long term) or affect ecosystem productivity over the long term.

(3) The proposal, if located or carried out within a floodplain, poses a greater than normal risk for flood-caused loss of life or property. Examples of such actions include facilities which produce, use, or store highly volatile, toxic, or water-reactive materials or facilities which contain occupants who may not be sufficiently mobile to avoid the loss of life or injury during flood and storm events (i.e., hospitals, nursing homes, schools).

§ 1940.315 Timing of the environmental review process.

(a) The FmHA office to which a potential applicant would go to seek program information and request application materials shall notify the applicant of the major environmental requirements applicable to the type of assistance being sought. Emphasis should be placed on describing FmHA's natural resource management policies, the nature and purpose of the environmental impact assessment process, and the permissible actions of the applicant during this process.

(b) When a preapplication is either filed by the applicant or required by FmHA, a formal application to FmHA will not be invited until (1) the applicant has properly completed Form FmHA 1940.20, and (2) the environmental impact review (whether an environmental assessment or EIS) is completed by FmHA. In this manner, there will be as much flexibility as possible to consider alternatives to the project and to develop methods for mitigating identified adverse environmental impacts. Exhibit G, Item I, contains the list of those programs or actions to be processed in this manner.

(c) When a preapplication is not filed, the prospective applicant shall be required to complete Form FmHA 1940–20 at the earliest possible time after FmHA is contacted for assistance but no later than when the application is filed with the appropriate FmHA office. (For the exception to this statement as regards Farm Programs' Class I actions, see § 1940.309(c) of this Subpart.) FmHA shall not consider the application to be complete, until FmHA staff have completed the environmental impact review, whether an assessment or EIS. Exhibit G, Item II, lists programs and actions to be processed in this manner.

(d) For those applications that meet the requirements of a categorical exclusion, Form FmHA 1940–22, "Environmental Checklist for Categorical Exclusions," shall be completed by FmHA as early as possible after receipt of the application. The application shall not be considered complete until either the checklist is successfully completed or the need for any further environmental review is identified and completed.

§ 1940.316 Responsible officials for the environmental review process.

(a) *Approving official.* The FmHA official responsible for executing the environmental impact determination

and environmental findings for a Class I or Class II action shall be the official having approval authority for the action as specified in Subpart A of Part 1901 of this chapter (available in FmHA office).

(b) *State Office level.* (1) When the approving official is at the State Office level, the responsible Program Chief or Loan Specialist shall complete the environmental assessment and execute the recommendations contained in either Form FmHA 1940–21 or Exhibit H, depending on whether the action is Class I or II. Before the assessment is submitted to the approving official for final determinations, it must be provided to the SEC for review. The SEC shall review the assessment and provide recommendations to the State Director.

(2) Whenever the assessment is completed at the State Office level and the preparer and the SEC do not concur on either the adequacy of the assessment or the recommendations reached, the State Director, whether or not the approving official, shall make the final decision on the matter or matters in disagreement. The State Director shall also make the final decision whenever a State Office approving official disagrees with the joint recommendations of the preparer and the SEC. In either case, should the State Director desire, the matter may be forwarded to the National Office for resolution. The Program Support Staff shall coordinate its resolution with the appropriate Assistant Administrator. Failure of these parties to resolve the matter shall require a final decision by the Administrator. The State Director should also request the assistance of the National Office on actions that are too difficult to analyze at the State Office level.

(c) *District or County Office level.* When the District Director is the approving official, the District Director shall normally perform both the tasks of preparing the assessment and completing the environmental findings and impact determination, except for the circumstances outlined in paragraph (d) of this section. The County Supervisor shall have the same responsibilities as the District Director when the County Supervisor is an approving official. Both District Directors and County Supervisors shall contact, as needed, the SEC for technical assistance in preparing specific assessments.

(d) *Multilevel review.* When either (1) the approving official is the County Supervisor or the District Director but the project must be forwarded to the State Office for concurrence or (2) the application process is initiated at the County or District Office but the approving official is at the State Office level, a preliminary or draft assessment shall be prepared by the District Director. The approrpriate State Office Program Chief or Loan Specialist, however, shall be responsible for the completion and content of the assessments sent to the State Office, and the SEC shall review the assessment in a similar manner as indicated in paragraph (b) of this section. The District Director shall also ensure that the applicant properly completes Form FmHA 1940–20, and shall assist, upon request, the State Office in assembling additional information and performing coordination at the local level. Similar responsibilities and working relationships shall exist between the County Supervisor and District Director when the former forwards a project to the District Director for either concurrence or approval.

(e) *Reservation of authority.* The Administrator reserves the right to request a State Director to forward to the National Office for review and approval any action which is highly controversial for environmental reasons, involves the potential for unique or extremely complex environmental impacts or is of national, regional, or great local significance. State Directors have a similar right with respect to District and County Offices.

§ 1940.317 Methods for ensuring proper implementation of categorical exclusions.

(a) The use of categorical exclusions exempts properly defined actions or proposals from the review requirements of NEPA. It does not exempt proposals from the requirements of other environmental laws, regulations or Executive orders. Each proposal must be reviewed to determine the applicability of other environmental requirements. Extraordinary circumstances may cause an application to lose its categorical exclusion and require a Class I environmental assessment. Section 1508.4 of CEQ's regulations state that "any procedures under this section shall provide for extraordinary circumstances in which a normally excluded action may have a significant environmental effect." For example, an application for approval of a subdivision of four lots is normally excluded from a NEPA review (see § 1940.310(b)(5)) but is not exempt from the requirements of Executive Order 11990, "Protection of Wetlands." In the processing of this application, FmHA must determine if a wetland is to be impacted. Assuming that the development of the proposed subdivision site necessitates the filing of 2 acres of wetland, such a potential wetland impact, under the requirements of Section 1940.310(a), represents an extraordinary circumstance that causes the application to lose its categorical exclusion. An environmental assessment for a Class I action must then be initiated. This assessment serves the purposes of providing for the extraordinary circumstance by analyzing the degree of potential impact and the need for further study as well as completing and documenting FmHA's compliance with the Executive order. In this particular example, unless an alternative site could not be readily located and the approving official wanted to further pursue consideration of the application, the environmental assessment would determine that there was a significant impact and an EIS would be required. (See § 1940.314.)

(b) The approving official for an action shall be responsible for ensuring that no action which requires an environmental assessment is processed as a categorical exclusion. In order to fulfill this responsibility, Form FmHA 1940–22 shall be completed for those actions that would normally be categorically excluded and as further defined in paragraph (c) of this section. In completing this checklist, if any block is checked "yes," an environmental assessment for a Class I action must be prepared. If all blocks are checked "no," the checklist is filed with the application and serves as FmHA's documentation of compliance with the environmental laws, regulations and Executive orders listed on the checklist. The checklist shall be completed by the person who is responsible for completing environmental reviews within the County, District, or program approving office. If the approving official is within the State Office or is the Administrator, the FmHA office where the processing of the application was initiated is responsible for providing sufficient site and project information in order to complete the checklist.

(c) Form FmHA 1940–22 shall be used for all categorical exclusions, e.g., the disposal of real property and the approval of financial assistance, subdivisions, or amendments to these which meet the requirements of § 1940.310. The checklist shall not be completed for loan-closing and servicing activities, construction management activities, or the general exclusions listed in § 1940,310(e), except for real property disposal.

(d) In applying the definition of a categorical exclusion to a project activity, the reviewer must consider the following two elements in addition to the specific project elements for which approval is requested.

(1) If the application represents one of several phases of a larger proposal, the application shall undergo the environmental review required for the elements or the size of the total proposal. For example, if approval of a 4-lot subdivision is requested and the application evidences of the reviewer knows that additional phases are planned and will culminate in a 16-lot subdivision, the categorical exclusion does not apply and an environmental assessment for a Class I action must be initiated and must address the impact of developing 16 lots. Should the applicant subsequently apply for approval of any of these additional phases, no further environmental assessment shall be required as long as the original assessment still accurately reflects the environmental conditions found at the project site and the surrounding areas.

(2) If the application represents one segment of a larger project being funded by private parties or other government agencies, the size and elements of the entire project are used in determining the proper level of environmental assessment to be conducted by FmHA. If an environmental assessment is required, it shall address the environmental impacts of the entire project.

§ 1940.318 Completing environmental assessments for Class II actions.

(a) The first step for the environmental reviewer (as defined in § 1940.302(a) and § 1940.316) is to examine Form FmHA 1940–20 submitted by the applicant to determine if it is complete, consistent, fully responsive to the items, signed, and dated. If not, it shall be returned to the applicant with a request for necessary clarifications or additional data.

(b) Once adequate data has been obtained, the assessment shall be initiated in the format and manner described in Exhibit H. In so doing, appropriate experts from State and Federal agencies, universities, local and private groups shall be contacted for their views. The environmental reviewer should communicate with these agencies or parties in the most appropriate and expeditious manner possible, depending upon the seriousness of the potential impacts and the need for formal documentation. When correspondence is exchanged, it shall be appended to the assessment. Oral discussions should be documented in the manner indicated in Exhibit H.

(c) At the earliest possible stage in the assessment process, the environmental reviewer shall identify the Federal, State, and local parties which are carrying out related activities, either planned or under way. Discussions with the applicant and FmHA staff familiar with the project area should assist in this identification effort. If there is a potential for cumulative impacts, the reviewer shall consult with the involved Federal agencies to determine the nature, timing and results of their environmental analysis. These consultations shall be documented in the assessment and considered or adopted when making the environmental impact determination. (See § 1940.324 of this Subpart concerning adoption of assessments.) If it is determined that the cumulative impacts are significant, the environmental reviewer shall further contact the involved Federal agencies and attempt to determine the lead Federal Agency as discussed in §§ 1940.320(b) and 1940.326.

(d) Consultations similar to those discussed in paragraph (c) of this section shall also be undertaken with those Federal and State agencies which are directly involved in the FmHA action, either through the provision of financial assistance or the review and approval of a necessary plan or permit. For example, a construction permit from the U.S. Army Corps of Engineers may be required for a project. In such an instance, the environmental assessment cannot be completed until the environmental reviewer has either reviewed the other Agency's completed environmental analysis or consulted with the other Agency and is reasonably sure of the scope, content, and expected environmental impact determination of the forthcoming analysis and has so documented for the FmHA assessment this understanding. If the other Agency believes that the project will have a significant impact, a joint or lead impact statement shall be prepared. If the other agency does not believe a significant impact will occur, the environmental reviewer shall consider this finding and its supporting analysis in completing the FmHA environmental impact determination. Guidance in adoping an environmental assessment prepared by another Federal Agency is provided in § 1940.324.

(e) For actions having a variety of complex or interrelated impacts that are difficult for the environmental reviewer to assess, consideration should be given to holding a public meeting in the manner described in § 1940.331(e). Such meetings should not be assumed as being limited to projects for which EISs are being prepared. Such a meeting can serve a useful purpose in better defining and identifying complex impacts, as well as locating expertise with respect to them. The results of a public meeting and the followup from it can also serve as a valuable tool in reaching an early understanding on the potential need for an EIS. When identified impacts are difficult to quantify (such as odor and visual and community impacts) or controversial, a public information meeting should be held near the project site in order to reach a better understanding of the magnitude of the impact and the local area's concern about it. Whenever held, it should be announced and organized in the manner described in Section 1940.331(e). However, a transcript of the meeting need not be prepared, but the environmental reviewer shall make detailed notes for incorporation in the assessment. (See § 1940.331(e).)

(f) Throughout this assessment process, the enviromental reviewer shall keep in mind the criteria for determining a significant environmental impact. If at any time in this process it is determined that a significant impact would result, the reviewer shall so notify the approving official. Those actions specified in § 1940.320 shall then be initiated, unless the approving official disagrees with the reviewer's recommended determination, in which case further review of the determination may be required as explained in § 1940.316(e) of this Subpart. As soon as possible after the need for an EIS is determined, the applicant shall also be advised of this in writing, as well as reinformed of the limitations on its actions during the period that the EIS is being completed. (See § 1940.309(e).) The applicant's failure to comply with these limitations shall be considered as grounds for postponement of further consideration of the application until such problem is alleviated.

(g) Similarly, throughout the assessment process, consideration shall be given to incorporating mechanisms into the proposed action for reducing, mitigating or avoiding adverse impacts. Examples of such mechanisms which are commonly referred to as mitigation measures include (1) the deletion, relocation, redesign or other modifications of the project elements, (2) the dedication of environmentally sensitive areas which would otherwise be adversely affected by the action or its indirect impacts, (3) soil erosion and sedimentation plans to control runoff during land-disturbing activities, (4) the establishment of vegetative buffer zones between project sites and adjacent land uses, (5) protective measures recommended by environmental agencies having jurisdiction or special expertise regarding the action's impacts, and (6) zoning. Mitigation measures

must be tailored to fit the specific needs of the action, and they must also be practical and enforceable. Mitigation measures which will be taken must be documented in the assessment (Item XIX of Exhibit H) and placed in the offer of financial assistance as special conditions or in the implementation requirements when the action does not involve financial assistance. These measures shall be consistent with the basic goal of the proposed action and developed in consultation with the appropriate program office.

(h) As part of the assessment process, the reviewer shall initiate the consultation and compliance requirements for the environmental laws, regulations, and Executive orders specified in the assessment format. The assessment cannot be completed until compliance with these laws and regulations is appropriately documented. The project's failure to meet the requirements specified in Item 9b of Form FmHA 1940–21 for a Class I action and Item XXIb of Exhibit H for a Class II action shall result in postponement of further consideration of the application until such problem is alleviated.

(i) When the environmental reviewer has completed the assessment, the related materials and correspondence utilized shall be attached. The environmental reviewer shall then either recommend to the approving official that the action has the potential for significantly affecting the quality of the human environment or shall recommend that the action does not have this potential and, therefore, the preparation of an EIS is not necessary. (Item 9a of Form FmHA 1940–21 for Class I action and Item XXIa of Exhibit H for a Class II action.) The recommended environmental findings shall also be completed. (Item 9b of Form FmHA 1940–21 for a Class I action and Item XXIb of Exhibit H for a Class II action.) In those instances specified in § 1940.316, the assessment shall then be forwarded to the SEC for review. The SEC shall coordinate, as necessary, with the environmental reviewer any questions, concerns or clarifications and complete and document the review prior to the assessment being submitted to the approving official.

(j) The approving official shall review the environmental file and recommendations. The official shall then execute the environmental impact determination and findings. If the conclusions reached are that there is no significant impact and there is compliance with the listed requierments, the format contained in Exhibit I will be used. If a significant impact is determined, the steps specified in § 1940.320 shall be initiated for the preparation of the EIS. If a determination is made that the proposed action does not comply with the environmental requirements that are explained in this Subpart and listed in Item 9b of Form FmHA 1940–21 for a Class I action or Item XXIb of Exhibit H for a Class II action and there are no feasible alternatives or modifications which could comply, the action shall be denied or disapproved. If the approving official's determination or findings differ from the recommendations of the environmental reviewer or the SEC, this difference shall be addressed in the manner specified in § 1940.316.

(k) When there is no need for further review as discussed in paragraph (j) of this section and findings of compliance and a determination of no significant impact are reached, the assessment process is conditionally concluded. The applicant shall then be requested to provide public notification of these results as indicated in § 1940.331(c). The approving official shall not approve the pending application for at least 15 days from the date the notification is last published. If comments are received as a result of the notification, they shall be included in the environmental assessment and considered. Any necessary changes resulting from this consideration shall be made in the assessment, impact determinations, and findings. If the changes require further implementation steps, such as the preparation of an EIS, they shall be undertaken. If there are no changes in the findings and determinations, the approving official may continue to process the application. The environmental documents, i.e., the assessment, related correspondence, Form FmHA 1940–20, and the finding of no significant impact shall be included with the approval documents which are assembled for review and clearance within the approving office.

(l) When comments are received after the action has been approved, the approving official will consider the environmental importance of the comments and the necessity and ability to amend both the action, with respect to the issue raised and the action's stage of implementation. The National Office may be consulted to assist in determining whether there are any remaining environmental requirements which need to be met under the specific circumstances. A similar procedure shall be followed when new or changed information is received after project approval. Amendments and revisions to actions will be handled as specified in §§ 1940.310 to 1940.313.

§ 1940.319 Completing environmental assessments for Class I actions.

(a) As stated in this Subpart, a main purpose of Form FmHA 1940–21, is to provide a mechanism for reviewing actions with normally minimal impacts and for documenting a finding of no significant impact, as well as compliance determinations for other applicable environmental laws, regulations, and policies. The second major purpose is to serve as a screening tool for identifying those Class I actions which have more than minimal impacts and which, therefore, require a more detailed environmental review.

(b) The approach to reviewing a Class I action under the assessment format of Form FmHA 1940–21 is exactly the same as for a Class II action. The environmental reviewer (as defined in §§ 1940.302(a) and 1940.316) must become familiar with the elements of the action, the nature of the environment to be affected, the relationship to any other Federal actions or related nonfederal actions, and the applicable environmental laws and regulations.

(c) The data submission requirements placed on the applicant for a Class I action are not as extensive as for a Class II action. The requirements are limited to completing the face of Form FmHA 1940–21, as well as categories (1), (2), (13), (15), (16), and (17) of Item 1b of the FMI, whenever a previously completed environmental analysis covering these categories is not available. Should it later be determined that the magnitude of the Class I action's impact warrants a more detailed assessment, the applicant shall be required to submit the remaining items of the data request.

(d) The environmental reviewer must ensure that the data received from the applicant is complete, consistent, signed and dated before initiating the assessment. If it is not, the applicant shall be required to make the necessary changes and clarification. The reviewer must also ensure that the application properly meets the definition of a Class I action. Phased or segmented projects, as discussed in §1940.317(d), shall be identified and the elements and the size of the entire project used to classify the action.

(e) An important element of this assessment is to determine if the action affects an environmental resource which is the subject of a special Federal consultation or coordination requirement. Such resources are listed in the assessment format, Form FmHA

1940–21, and include wetlands, floodplains, and historic properties, for example. If one of the listed resources is to be affected, the reviewer must demonstrate the required compliance by accomplishing the review and coordination requirements for that resource. Documentation of the steps taken and coordination achieved shall be attached. However, if more than one listed resource is to be affected, this shall be viewed as the action having more than minimal impacts and the environmental assessment format for a Class II action shall be initiated.

(f) Similarly in completing item 3, General Impacts of Form FmHA 1940–21, the assessment format for a Class II action must be initiated if more than one category of impacts cannot be checked as minimal. If there is a single category which needs analysis, this can be accomplished by attaching an appropriate exhibit addressing the questions and issues for that impact, as specified in the environmental assessment format for a Class II action.

(g) The comments of State, regional, and local agencies obtained through applicable permit reviews or the implementation of Executive Order 12372, Intergovernmental Review of Federal Programs, shall be incorporated into the assessment, if this review applies to the action. The receipt of negative comments of an environmental nature shall warrant the initiation of a more detailed assessment under the format for a Class II action, Exhibit H. Also, the issue of controversy must be addressed, and if the action is controversial for environmental reasons, the environmental assessment format for a Class II action, Exhibit H, shall be completed. However, if the action is the subject of isolated environmental complaints or any questions or concerns that focus on a single impact, air quality, for example, the analysis of such complaints or questions can be handled under the assessment format for a Class I action. This analysis shall then be provided by the approving official to the party or parties which raised the matter with FmHA. When several potential impacts are questioned, however, the more detailed assessment format shall be accomplished to address these questions.

(h) The potential cumulative impacts of this action, particularly as it relates to other FmHA actions recently approved in the area or planned, shall be analyzed. If the cumulative impact is not minimal and, for example, cumulatively exceeds the criteria and thresholds discussed in paragraphs (e), (f), and (g) of this section, the environmental assessment format for a Class II action shall be completed. The actions of other Federal agencies and related nonfederal actions must also be assessed on this basis. When there is a Federal action involved, the environmental review conducted by that Agency shall be requested and, if it sufficiently addresses the cumulative impact, can be utilized by the environmental reviewer as the FmHA assessment, assuming the impacts are not significant. (See § 1940.324 of this Subpart.) If the other Agency is doing or planning an EIS, the environmental reviewer shall inform that Agency of our action and request to be a cooperating agency.

(i) The environmental reviewer shall have the responsibility of initiating the assessment format for a Class II action, Exhibit H, whenever the need is identified. This should be done as early as possible in the review process. the reviewer should not complete the assessment for a Class I action when it is obvious that the assessment format for a Class II action will be needed. The reviewer shall simply start the more detailed assessment and inform the applicant of the additional data requirements.

(j) Public notification of the environmental finding completed as part of a Class I assessment shall not be required. All other procedural requirements of the assessment process, such as the timing of the assessment and the limitations on the applicant's actions, do apply, however.

§ 1940.320 Preparing EISs.

(a) *Responsibility.* Whenever the District Director or County Supervisor determines there is a need to prepare an EIS, the State Director shall be notified. The EIS will be prepared at the State Office and the State Director shall assume the responsibility for preparing it. The State shall in turn notify the Administrator of these EISs, as well as those needed EISs identified by a State Office review. EISs will be prepared according to this section. The State Director shall be responsible for actions initiated within the State. However, in so doing, the State Director shall consult with the National Office to determine that the document meets the requirements of NEPA. State Directors shall be responsible for issuing such EISs. However, unless delegated authority by the Administrator, based upon a demonstrated capability and experience in preparing EISs, the State Director shall not issue the EIS until reviewed and approved by the Administrator.

(b) *Organizing the EIS process.* Prior to initiating the scoping process outlined below, the environmental reviewer shall take several organizational steps to ensure that the EIS is properly coordinated and completed as efficiently as possible. To accomplish this, the below-listed parties need to be identified in advance; the list should be expanded as familiarity with the project increases. Those parties falling within the first four groups should be formally requested to serve as cooperating agencies. If any of these agencies appear to be a more appropriate lead Agency than FmHA (using the criteria contained in § 1501.5(c) of the CEQ regulations), consultations should be initiated with that agency to determine the lead Agency. If difficulties arise in completing this determination, the National Office shall be consulted for assistance. All of the parties identified below shall be sent a copy of the notice of intent to prepare the EIS and an invitation to the scoping meeting, as discussed in paragraph (c) of this section.

(1) All Federal and State agencies that are being requested to provide financial assistance for the project or related projects;

(2) All Federal agencies that must provide a permit for the project should it be approved;

(3) All Federal agencies that have a specific environmental expertise in the major environmental issues identified to date;

(4) The Agency responsible for the implementation of the state's environmental impact analysis requirement, if one has been enacted or promulgated by the State;

(5) All Federal, State and local agencies that will be requested to comment on the draft EIS;

(6) All individuals and organizations that have expressed an interest in the project; and

(7) National, regional, or local environmental organizations whose particular area of interest corresponds to the major impacts identified to date.

(c) *Scoping process.* As soon as possible after a decision has been made to prepare an EIS, the following process shall be initiated by the State Director for identifying the major issues to be addressed in the EIS and for developing a coordinated government approach to the preparation and review of the EIS.

(1) The first step in this process shall be the publication of a notice of intent to prepare the EIS. The notice will indicate that an EIS will be prepared and will briefly describe the proposed action and possible alternatives; state the name, address, and phone number of the environmental reviewer, indicating that

this person can answer questions about the proposed action and the EIS; list any cooperating agencies, and include the date and time of the scoping meeting. If the latter information is not known at the time the notice of intent is prepared, it shall be incorporated into a special notice, when available, and published and distributed in the same manner as the notice of intent. It shall be the responsibility of the environmental reviewer to inform the National Office of the need to publish a notice of intent which will coordinate the publication of the notice in the **Federal Register**. For requirements relating to the timing and publication of the notice of intent within the project area, as well as the applicant's responsibilities for the notice, see § 1940.331(b).

(2) A scoping meeting will be held. To the extent possible, the scoping meeting should be integrated with any other early planning meetings of the Agency or other involved agencies. The scoping meeting shall be chaired by the environmental reviewer and shall be organized to accomplish the following major purposes (as well as other purposes listed in Part 1501.7 of the CEQ regulations).

(i) Invite the participation of affected Federal, State, and local agencies, any affected Indian Tribe, the proponent of the action, and any interested parties including those who may disagree with the action for environmental reasons;

(ii) Determine the scope and the significant issues to be analyzed in depth in the environmental impact statement;

(iii) Identify and eliminate, from detailed study, the issues which are not significant or which have been covered by prior environmental review, narrowing the discussion of these issues in the statement to a brief presentation of why they will not have a significant effect on the human environment or providing a reference to their coverage elsewhere;

(iv) Allocate assignments for preparation of the environmental impact statement among the lead and cooperating agencies, with the lead Agency retaining responsibility for the statement;

(v) Indicate any public environmental assessments and other EISs which are being or will be prepared that are related to, but are not part of, the scope of the impact statement under consideration;

(vi) Identify other environmental review and consultation requirements so the lead and cooperating agencies may prepare other required analyses and studies concurrently with, and integrated with, the environmental impact statement; and

(vii) Indicate the relationship between the timing of the preparation of environmental analyses and the Agency's tentative planning and decisionmaking schedule;

(3) Minutes of the scoping meeting, including the major points discussed and decisions made, shall be prepared and retained by the environmental reviewer as part of the environmental file. The environmental reviewer shall offer, during the scoping meeting, to send copies of the minutes to any interested party upon written request.

(d) *Interdisciplinary approach.* The EIS shall be prepared using an interdisciplinary approach that will ensure the integrated use of the natural and social sciences and the environmental design arts. The disciplines of the preparers shall be appropriate to address the potential environmental impact associated with the project. This can be accomplished both in the information collection stage and the analysis stage by communication and coordination with environmental experts at local, State, and Federal agencies (particularly cooperating agencies) and universities near the project site. When needed information or expertise is not readily available, these needs should be met through procurement contracts with qualified consulting firms. Consulting firms can be utilized to prepare the entire EIS or portions of it as specified in § 1940.336.

(e) *Content and format of EIS.* The EIS shall be prepared in the format and manner described in Part 1502 of the CEQ regulations. There is a great deal of specific guidance in that Part which will not be repeated here.

(f) *Circulation of the EIS.* FmHA shall circulate for review and comment the draft and final EIS as broadly as possible. Therefore, it will be necessary for the environmental reviewer to have sufficient copies printed or reproduced for this purpose. In identifying the parties to receive a draft EIS, the same process should be utilized as is employed for inviting participants to the scoping meeting. (See paragraph (b) of this section.) Special emphasis should be given to transmitting the draft to those agencies with jurisdiction or expertise on the proposed action's major impacts, as well as those parties who have expressed an interest in the action. The final EIS shall be provided to all parties that commented on the draft EIS.

(g) *Public information meetings.* A public information meeting, as specified in § 1940.331(e)(1), shall be held near the project site to discuss and receive comments on the draft EIS.

(h) *Response to comments.* The environmental reviewer shall respond to comments on the draft EIS as required by Part 1503.4 of the CEQ regulations. The major and most frequently raised issues during the public information meeting shall also be identified and addressed.

(i) *Timing of review.* The environmental reviewer shall be responsible for ensuring that the timing requirements for FmHA actions and the review periods for draft and final EISs are fully met (Part 1506.10 of CEQ regulations).

§ 1940.321 Use of completed EIS.

(a) The final EIS shall be a major factor in the Agency's decisionmaking process. Agency staff making recommendations on the action and the approving official shall be familiar with the contents of the EIS and its conclusions and shall consider these in formulating their respective positions with respect to the action. The final EIS and all comments received on the draft shall accompany the proposal through the FmHA decisionmaking and clearance process. The alternatives considered by the approving official shall be those addressed in the final EIS.

(b) As part of this review process, the environmental reviewer shall complete the recommendations listed in Item XXI b and c of Exhibit H and provide them to the approving official prior to a final decision.

§ 1940.322 Record of decision.

Upon completion of the EIS and its review within FmHA and before any action is taken on the decision reached on the proposal, the approving official shall prepare, in consultation with the environmental reviewer, a concise record of the decision which will be available for public review. The record shall:

(a) State the decision reached;

(b) Certify that the timinig requirements for the EIS process have been fully met;

(c) Identify all alternatives considered in reaching the decision specifying the alternative or alternatives that were considered to be environmentally preferable and discuss the relevant factors (environmental, economic, technical, statutory mission and, if applicable, national policy) that were considered in the decision;

(d) State whether all practicable means to avoid or minimize environmental harm from the alternative

selected have been adopted, and if not, why not; and

(e) If any mitigation measures have been adopted, specify the monitoring and enforcement program that will be utilized.

§ 1940.323 Preparing supplements to EIS's.

(a) Either the State Office or the National Office as appropriate shall prepare supplements to either draft or final EIS's if:

(1) A substantial change or changes occur in the proposed action and such changes are relevant to the environmental impacts previously presented; and

(2) Significant new circumstances or information arise which are relevant to environmental concerns and bear on the proposed action or its impacts.

(b) If the environmental reviewer determines that the changes or new circumstances referenced in paragraph (a) of this section do not require the preparation of a supplemental EIS, the reviewer shall prepare an environmental assessment for a Class II action which shall document the reasons for this determination.

(c) The environmental reviewer shall be responsible for advising the approving official of the need for a supplement. The latter shall make the Agency's formal determination in a manner consistent with § 1940.316.

(d) All of the requirements of this Subpart that apply to the completion of an initial EIS apply to the completion of a supplement with the exception of the scoping process, which is optional. Additionally, if the approving official believes that there is a need for expedited or special procedures in the completion of a supplement, the approval of CEQ must first be obtained for any alternative procedures. The final supplement shall be included in the project file or docket and shall be used in the Agency's decisionmaking process in the same manner as a final EIS. (See § 1940.321.)

§ 1940.324 Adoption of EIS or environmental assessment prepared by another Federal Agency.

(a) FmHA may adopt an EIS or portion thereof prepared by another Federal Agency after completion if:

(1) An independent review of the document is conducted by the environmental reviewer and it is concluded that the document meets the requirements of this Subpart; or

(2) If the actions covered in the EIS are substantially the same as those proposed by FmHA and the environmental conditions in the project area have not substantially changed since its publication, FmHA will recirculate the EIS as a "final." The final EIS will contain an appropriate explanation of the the FmHA involvement and will be sent to all parties who would typically receive a draft EIS published by FmHA. If there are differences between the actions or the environmental conditions as discussed in the original EIS, that EIS shall be updated to cover these differences and recirculated as a draft EIS. From that point, it shall be reviewed and processed in the same manner as any other FmHA EIS.

(b) If the adopted EIS is not final within the agency that prepared it, or if the action it assesses is the subject of a referral under Part 1504 of the CEQ regulations, or if the statement's adequacy is the subject of a judicial action which is not final, FmHA must so specify and provide an explanation in the recirculated EIS.

(c) After recirculation (whether as a draft or final), the EIS shall be reviewed and processed in the same manner as any other FmHA EIS.

(d) FmHA may also adopt all or part of environmental assessments or environmental reviews prepared by other Federal agencies. In this case, only paragraph (a)(1) of this section applies.

§ 1940.325 FmHA as a cooperating Agency.

(a) FmHA shall serve as a cooperating Agency when requested to do so by the lead Agency for an action in which FmHA is directly involved or for an action which is directly related to a proposed FmHA action. An example of the latter would be a request from EPA to participate in an EIS covering its sewage treatment plans for a community, as well as the community's water system plans pending before FmHA. The State Director shall coordinate FmHA's participation as a cooperating Agency for an action at the State Office level. The Administrator shall have the same responsibility at the National Office level.

(b) When requested to be a cooperating Agency on a basis other than that discussed above, the environmental reviewer at the level receiving the request shall consider the expertise which FmHA could add to the particular EIS process in question and existing workload commitments. If a decision is made on either of these two bases not to participate as a cooperating Agency, a copy of the letter signed by the State Director or Administrator and so informing the lead Agency shall be sent to CEQ.

(c) As a cooperating Agency, FmHA shall participate in the development and implementation of the scoping process period. If requested by the lead Agency, provide the lead Agency with staff support and descriptive materials with respect to the analyses of the FmHA portion of the action(s) to be covered, review and comment on all preliminary draft materials prior to their circulation for public review and comment, and attend and participate in public meetings called by the lead Agency concerning the EIS.

(d) The State Director shall request the lead Agency to fully identify the Agency's involvement in all public documents and notifications.

(e) FmHA shall use the EIS as its own as long as (1) FmHA's comments and concerns are adequately addressed by the lead Agency and (2) the final EIS is considered to meet the requirement of this Subpart. It shall be the responsibility of the environmental reviewer to formally advise the approving official on these two points. The failure of the lead Agency's EIS to meet either of these stipulations shall require FmHA to follow the steps outlined in § 1940.324 prior to the approving official's decision on the FmHA action.

§ 1940.326 FmHA as a lead Agency.

(a) When other Federal agencies are involved in an FmHA action or related actions that require the preparation of an EIS, the environmental reviewer shall consult with these agencies to determine a lead Agency for preparing the EIS. The criteria for making this determination shall be those contained in Part 1505.5 of the CEQ regulations. If there is a failure to reach a determination within a reasonably short time after consultation is initiated, the National Office shall be contacted. The assistance of CEQ shall then be requested by the Administrator in order to conclude the determination of a lead Agency.

(b) When acting as lead Agency, the FmHA environmental reviewer shall request other Federal and State agencies to serve as cooperating agencies on the basis of the guidance provided in § 1940.320(b).

§ 1940.327 Tiering.

To the extent possible, FmHA may consider the concept of tiering in the preparation of environmental assessments and EISs. Tiering refers to the coverage of general matters in broader environmental impact statements, such as one done for a national program or regulation, with subsequent narrower statements or

environmental analyses incorporating by reference the broader matters and concentrating on the issues specific to the action under consideration. Tiering can be used when the sequence of analysis is from the program level to site-specific actions taken under that program or from an initial EIS to a supplement which discusses the issues requiring supplementation.

§ 1940.328 State Environmental Policy Acts.

(a) Numerous States have enacted environmental policy acts or regulations similar to NEPA, hereafter referred to as State NEPA's. It is important that FmHA staff have an understanding of which States have such requirements and how they apply to applicant's proposals. It shall be the responsibility of each State Director to determine the applicable State requirements and to establish a working relationship with the State personnel responsible for their implementation.

(b) In processing projects located within States having State NEPA's, the environmental reviewer shall determine as early as possible in the assessment process whether the project falls under the requirements of the State NEPA. If it does, one of the following cases will exist and the appropriate actions specified shall be taken.

(1) The applicant has complied with the State's NEPA, and it was determined under the State's requirements that the proposed project would not result in sufficient potential impacts to warrant the preparation of an impact statement or other detailed environmental report required by the State NEPA. This finding or conclusion by the State shall be considered in the FmHA's review, and any supporting information used by the State shall be requested. However, the State's finding can never be the total basis for FmHA's environmental impact determination. An independent and thorough review in accordance with the requirements of this Subpart must be conducted by the environmental reviewer.

(2) The applicant has complied with the State NEPA, and it was determined under its implementing guidelines that a significant impact will result. This fact shall be given great weight in the Agency's environmental determination. However, the State's definition of significant environmental impact may encompass a much lower threshold of impacts compared to FmHA's. In such a case, if the environmental reviewer does not believe that a significant impact will result under Agency guidelines for determining significant impacts, the environmental assessment should be prepared and include a detailed discussion with supporting information as to why the environmental reviewer's recommendation differs from that of the State's. However, the assessment cannot be completed until the State's impact statement requirements have been fulfilled by the applicant and the resulting impact statement has been reviewed by the environmental reviewer. An environmental impact determination shall then be executed based upon the assessment and the statement.

(c) It should be emphasized that at no time does the completion of an impact statement under the requirements of a State NEPA obviate the requirement for FmHA to prepare an impact statement. Consequently, as soon as it is clear to the environmental reviewer that the Agency will have to prepare a statement, every attempt should be made to accomplish the statement simultaneously with the State's. Coordination with State personnel is necessary so that data and expertise can be shared. In this manner, duplication of effort and of the review periods for the separate statements can be minimized. This process clearly requires a close working relationship with the appropriate state personnel.

§ 1940.329 Commenting on other Agencies' EIS's.

(a) State Directors are authorized to comment directly on EIS's prepared by other Federal agencies. In so doing, comments should be as specified as possible. Any recommendations for the development of additional information or analyses should indicate why there is a need for the material.

(b) Comments should concentrate on those matters of primary importance to FmHA and on areas of Agency expertise, such as rural planning and development. Any potential conflicts with FmHA programs, plans, or actions should be clearly identified. Special attention should be given to the relationship of the alternatives under study to the State Office's natural resource management guide and the objectives of the Department's land use regulation, Exhibit A. Copies of comments addressing land use questions should be provided to the appropriate chairman of the USDA State-level committee dealing with land use matters.

(c) Whenever a State Director has serious concerns over the acceptability of the anticipated environmental impacts, the State Director shall notify the Administrator.

§ 1940.330 Monitoring.

(a) FmHA staff who normally have responsibility for the postapproval inspection and monitoring of approved projects shall ensure that those measures which were identified in the preapproval stage and required to be undertaken in order to reduce adverse environmental impacts are effectively implemented.

(b) This staff, as identified in paragraph (a) of this section, shall review the action's approval documents and consult with the environmental reviewer prior to making site visits or requesting project status reports in order to determine if there are environmental requirements to be monitored.

(c) The environmental reviewer should directly monitor actions containing difficult or complex environmental special conditions.

(d) Before certifying that conditions contained within offers of financial assistance have been fully met, the responsible monitoring staff shall obtain the position of the environmental reviewer for those conditions developed as a result of the environmental review.

(e) Whenever noncompliance with an environmental special condition is detected by FmHA staff, the environmental reviewer shall be immediately informed. The approving official shall then take appropriate steps, in consultation with the responsible program office and environmental reviewer, to bring the action into compliance.

§ 1940.331 Public involvement.

(a) The basic objective of FmHA's public involvement process is threefold. It is to ensure that interested citizens (1) can readily obtain knowledge of the environmental review status of FmHA's funding applications, (2) have the opportunity to input into this review process before decisions are made, and (3) have access to the environmental documents supporting FmHA decisions.

(b) For projects that undergo the preparation of an environmental impact statement, the first element of formal public participation in the EIS process involves the publication of the notice of intent to prepare an EIS. The content of the notice of intent and its publication by FmHA in the **Federal Register** are explained in § 1940.320. With respect to notification within the project area, the applicant shall be requested to publish a copy of the notice of intent and the date of the scoping meeting in the newspaper of general circulation in the vicinity of the proposed action and in any local or community-oriented newspapers within the proposed action's area of

environmental impact. The notice shall be published in easily readable type in the nonlegal section of the newspaper(s). It shall also be bilingual if the affected area is largely non-English speaking or bilingual. Individual copies of the notice shall be sent by the applicant to the appropriate regional EPA office, any State and regional review agencies established under Executive Order 12372; the State Historic Preservation Officer; local radio stations and other news media; any State or Federal agencies planning to provide financial assistance to this or related actions or required to review permit applications for this action, any potentially affected Indian Tribe; any individuals, groups, local, State, and Federal agencies known to be interested in the project; owners and occupants of nearby or affected property; and to any other parties that the environmental reviewer has identified to be so notified. It shall also be posted at a readable location on the project site. The applicant shall provide FmHA with a copy of the notice as it appeared in the newspaper(s), the date(s) published, and a list of all parties receiving an individual notice. Publication and individual transmittal of the notice for the scoping meeting shall be accomplished at least 14 days prior to the date of the meeting.

(c) For projects that are determined not to have a significant environmental impact, the Agency will require the applicant to publish a notification of this determination. This notice shall be published in the same manner as a notice of intent to prepare an EIS but shall appear for at least 3 consecutive days if published in a daily newspaper or otherwise in two consecutive publications. Individual copies shall be sent to the same parties as specified in a notice of intent with the exception of local radio stations and other news media. Also, there is no requirement to post this notice on the project site. The applicant shall provide FmHA with a copy of this notice, the dates the notice was published, and a list of all parties receiving an individual notice.

(d) The above notification procedure will not apply to actions reviewed solely on the basis of a Class I assessment.

(e) Public information meetings shall be held for an action undergoing environmental impact statements as specified in § 1940.320. Such meetings may also be held in the completion of environmental assessments as indicated in § 1940.318.

(1) As part of the EIS process, a public information meeting shall be held near the project site to discuss and receive comments on the draft EIS. It shall be scheduled no sooner than 15 days after the release of the draft EIS. It shall be announced in the same manner as the scoping meeting, and the list of parties receiving an individual notification should also be developed in the same manner. The meeting shall be chaired by the State Director or a designee and shall be fully recorded so that a transcript can be produced. The applicant shall be requested to assist in obtaining a facility for holding the meeting. To the extent possible, this meeting shall be combined with public meetings required by other involved agencies.

(2) Whenever a public information meeting is held as part of the competition of an environmental assessment, it shall be scheduled, announced, and held in generally the same manner as a public information meeting for an EIS. However, a minimum of 7 days advance notice of the meeting is sufficient, and a transcript of the meeting shall not be required. Rather, a summary of the meeting to include the major issues raised shall be prepared by the environmental reviewer.

(f) FmHA Officials shall promptly provide to interested parties, upon request, copies of environmental documents, including environmental assessments, draft and final environmental impact statements, and records of decision. Interested parties can request these materials from the appropriate State Director for project activities and from the Administrator on other activities subject to environmental review.

(g) The public notification procedures for actions that will affect floodplains, wetlands, important farmlands, prime rangelands or prime forest lands are contained in Exhibit C of this Subpart.

§ 1940.332 Emergencies.

When an emergency circumstance makes it necessary to take an action with significant environmental impact without observing the provisions of this Subpart or the CEQ regulations, the Administrator shall be so notified. If possible, the Administrator shall consult with CEQ about alternative arrangements before the proposed action is taken. It must be recognized that CEQ's regulations limit such arrangements to actions necessary to control the immediate impacts of the emergency. Other actions remain subject to NEPA review. For purposes of this Subpart, an emergency circumstance is defined as one involving an immediate of imminent danger to public health or safety.

§ 1940.333 Applicability to planning assistance.

The award of FmHA funds for the purpose of providing technical assistance or planning assistance shall not be subject to any environmental review. However, applicants shall be expected to consider in the development of their plans and to generally document within their plans:

(a) The existing environmental quality and the important environmental factors within the planning area, and

(b) The potential environmental impacts on the planning area of the plan as well as the alternative planning strategies that were reviewed.

§ 1940.334 Direct participation of State Agencies in the preparation of FmHA EISs

FmHA may be assisted by a State Agency in the preparation of an EIS subject to the conditions indicated below. At no time, however, is FmHA relieved of its responsibilities for the scope, objectivity, and content of the entire statement or any other responsibility under NEPA.

(a) The FmHA applicant for financial assistance is a State Agency having statewide jurisdiction and responsibility for the proposed action;

(b) FmHA furnishes guidance to the State Agency as to the scope and content of the impact statement and participates in the preparation;

(c) FmHA independently evaluates the statement and rectifies any major deficiencies prior to its circulation by the Agency as an EIS;

(d) FmHA provides, early in the planning stages of the project, notification to and solicits the views of any land management entity (State or Federal Agncy responsible for the management or control of public lands) concerning any portion of the project and its alternatives which may have significant impacts upon such land management entities; and

(e) If there is any disagreement on the impacts addressed by the review process outlined in paragraph (d) of this section, FmHA prepares a written assessment of these impacts and the views of the land management entities for incorporation into the draft impact statement.

§ 1940.335 Environmental review of FmHA proposals for legislation.

(a) As stated in § 1940.312(d)(4), all FmHA proposals for legislation shall receive an environmental assessment. The definition of such a proposal is contained in § 1508.17 of the CEQ regulations.

(b) The environmental assessment and, when necessary, the EIS shall be prepared by the responsible Agency staff that is developing the legislation.

(c) If an EIS is required, it shall be prepared according to the requirements of § 1506.8 of the CEQ Regulations.

§ 1940.336 Contracting for professional services.

(a) Assistance from outside experts and professionals can be secured for the purpose of completing EISs, assessments, or portions of them. Such assistance shall be secured according to the Federal and Agriculture Procurement Regulations contained in Chapters 1 and 4 of Title 41 of the Code of Federal Regulations.

(b) The contractor shall be selected by FmHA in consultation with any cooperating agencies. In order to avoid any conflict of interest, contractors competing for the work shall be required to execute a disclosure statement specifying that they have no financial or other interest in the outcome of the project.

(c) The Administrator shall provide the State Director with a proposed scope of work for use in securing such professional services.

(d) Applicants shall not be required to pay the costs of these professional services.

§§ 1940.337—1940.349 [Reserved]

§ 1940.350 Office of Management and Budget (OMB) control number.

The collection of information requirements in this regulation have been approved by the Office of Management and Budget and have been assigned OMB control number 0575–0094.

Exhibit A to Subpart G

Departmental Regulation

Number: 9500–3.
Subject: Land Use Policy.
Date: March 22, 1983.
OPI: Land Use Staff, Soil Conservation Service.

Section

1 Purpose
2 Cancellation
3 Policy
4 Abbreviations
5 Definitions
6 Responsibilities
7 Appendix A

1 Purpose

The Nation's farmlands, forest lands, rangelands, flood plains, and wetlands are unique natural resources providing food, fiber, wood, and water necessary for the continued welfare of the people of the United States and protection from floods. Each year, large amounts of these lands are converted to other uses. Continued conversion of the Nation's farmlands, forest lands, and rangelands may impair the ability of the United States to produce sufficient food, fiber, and wood to meet domestic needs and the demands of export markets. Continued conversion of the Nation's wetlands may reduce the availability of adequate supplies of suitable-quality water, indigenous wildlife species, and the productive capacity of the Nation's fisheries. Continued encroachments on flood plains decrease the natural flood-control capacity of these land areas, create needs for expensive manmade flood-control measures and disaster-relief activities, and endanger both lives and property.

Land use allocation decisions are matters of concern to USDA. Decisions concerning land use arise from needs to accommodate needed growth and development; prevent unwarranted and costly sprawl; avoid unwarranted conversion of farm, range, and forest lands and wetlands from existing uses and unwarranted encroachment on flood plains; maintain and enhance agricultural and forest production capabilities; maintain wildlife, fish, and seafood habitat; provide or improve community services and facilities; assure appropriate environmental quality; and assure adequate supplies of suitable-quality water. These needs are highly interdependent and often compete with each other for the limited supply of available land and water.

It is Departmental policy to promote land use objectives responsive to current and long-term economic, social, and environmental needs. This policy recognizes the rights and responsibilities of State and local governments for regulating the uses of land under their jurisdiction. It also reflects the Department's responsibility to (a) assure that the United States retains a farm, range, and forest land base sufficient to produce adequate supplies, at reasonable production costs of high-quality food, fiber, wood, and other agricultural products that may be needed; (b) assist individual landholders and State and local governments in defining and meeting needs for growth and development in such ways that the most productive farm, range, and forest lands are protected from unwarranted conversion to other uses; and (c) assure appropriate levels of environmental quality.

In accordance with the authority contained in 7 U.S.C. 1010 and 7 U.S.C. 2204 and consistent with 7 CFR 2.19(f) and provisions of the Farmland Protection Policy Act, Subtitle I, Title XV, Pub. L. 97–98, the Department sets forth this statement of policy on land use.

2 Cancellations

This regulation supersedes Secretary's Memorandum 9500–2 dated March 10, 1982.

3 Policy

Federal agencies, in implementing programs, make decisions that affect current and potential uses of land. The Department will:

a. Promote and support planning procedures that allow landholders, interest groups, and State and local governments to have input at all appropriate stages of the decisionmaking process for public projects, programs, or activities; that recognize the rights and responsibilities of landholders in making private land use decisions; and that recognize the responsibility of governments in influencing how land may be used to meet public needs.

b. Assure that programs of the agencies within the Department discourage the unwarranted conversion to other uses of prime and unique farmlands, farmlands of statewide or local importance, and prime rangelands, as defined in appendix A; the unwarranted alteration of wetlands or flood plains; or the unwarranted expansion of the peripheral boundaries of existing settlements.

c. Manage both its land use-related programs and USDA-administered land in such manner as to (1) demonstrate leadership in meeting short- and long-term needs for growth and development, while assuring adequate supplies of needed food, fiber, and forest products; (2) assure appropriate levels of environmental quality and adequate supplies of water; and (3) discourage unwarranted expansion of peripheral boundaries of existing settlements. Whenever practicable, management of USDA-administered lands shall be coordinated with the management of adjacent private and other public lands.

d. Conduct multidisciplinary land use research and education programs responsive to identified State, local, and national needs and, when requested, assist State and local governments, citizens groups, and individual landholders in determining a alternative land use values, thereby enabling local officials to make judicious choices to meet growth and development needs and to protect the community's farm- and forest-related economic base.

e. Assist landowners and State and Federal agencies in the reclamation of abandoned surface-mined lands. This reclamation will help eliminate safety, health, and environmental problems.

f. Assist in planning for the extraction of coal and other nonrenewable resources in such manner as to facilitate restoration. This restoration would reestablish or enhance food, fiber, or forest productivity or contribute to other beneficial uses of the land as mining is completed in defined areas as sites.

g. Advocate among Federal agencies:

(1) The retention of important farmlands, rangelands, forest lands, and wetlands, whenever proposed conversions to other uses (a) are caused or encouraged by actions or programs of a Federal agency or (b) require licensing or approval by a Federal agency, unless other needs clearly override the benefits derived from retention of such lands; and

(2) Actions that reduce the risk of flood loss and soil erosion; that minimize impacts of floods on human safety, health, and welfare; that preserve natural flood-control and other beneficial functions and values of wetlands and flood plains; and that reduce future need for expensive manmade flood-control systems, disaster-relief assistance, or Federal rehabilitation assistance in the event of flooding.

4 Abbreviations

USDA—U.S. Department of Agriculture.

NRE—Natural Resources and Environment Committee.

5 Definitions

Complete definitions for the terms "farmlands," "forest lands," "rangelands," "wetlands," and "flood plains" are found in appendix A.

6 Responsibilities

a. The Office of the Secretary is responsible for (1) encouraging, assisting, and coordinating efforts of other Federal departments and agencies to implement policies and procedures supportive of the objectives of this regulation; (2) resolving issues and acting on recommendations raised to the Secretary's Policy and Coordination Council by the Departmental committees; and (3) raising unresolved issues and recommending actions to the appropriate Cabinet Council.

b. The NRE Committee, created under the Secretary's memorandum dated July 22, 1981, will provide departmentwide leadership for the implementation of this policy statement. In implementing this policy, the NRE Committee will:

(1) Recommend Departmental guidelines to the Secretary and schedule reviews of each agency's procedures for implementation;

(2) Monitor implementation of this policy;

(3) Encourage, support, and provide guidance to State- and local-level USDA committees in implementing this policy;

(4) Coordinate the work of USDA agencies in carrying out the provisions of this regulation; and

(5) Advise the Secretary annually as to progress and problems encountered.

c. Each USDA agency will review and make the necessary administrative changes in existing and proposed rules, regulations, guides, practices, or policies and propose needed legislative changes to bring agency programs into compliance with the provisions of this regulation.

d. Each USDA agency having programs that will be affected by this regulation shall develop implementing procedures, consistent with the guidelines provided by the NRE Committee, and shall provide to all offices of the agency copies of this policy statement, Departmental guidelines, and agency procedures to implement this policy.

e. USDA agencies will encourage State and local governments and individual landholders to retain important farmlands, rangelands, forest lands, and wetlands and to avoid encroachments on flood plains when practicable alternatives exist to meet developmental needs. Appropriate agencies will assist State and local governments, citizens groups, and individual landholders in identifying options and determining alternative land use values as the basis for making judicious choices in meeting growth and development needs.

f. USDA agencies will encourage other Federal, State, and local government agencies to exchange information on plans or projects that may impact on important farmlands, rangelands, forest lands, wetlands, or flood plains and to involve appropriate USDA agencies early in the planning process. USDA agencies will participate in a timely manner at appropriate stages in the planning process on Federal or federally assisted projects or activities when requested. Where opportunity for such participation is not forthcoming, the Department may intercede, consistent with policy contained in this regulation, at appropriate stages in the decisionmaking process through review and comments on plans, as provided for in authorized administrative review procedures for such projects, activities, or actions.

g. When land held either in public or private ownership will be directly affected by USDA actions, the implementing agency will notify the affected landholders at the earliest time practicable of the proposed action and provide such landholders an opportunity to review the elements of the action and to comment on the action's feasibility and alternatives to it.

h. Agencies of USDA will assure that their actions, investments, and programs on nonfederal lands will conform, to the extent practicable, with the uses permitted under land use regulations adopted by State or local governments.

i. When land use regulations or decisions are inconsistent with USDA policies and procedures for the protection of important farmlands, rangelands, forest lands, wetlands, or flood plains, USDA agencies shall not assist in actions that would convert these lands to other uses or encroach upon flood plains, unless (1) there is a demonstrated, significant need for the project, program, or facility, and (2) there are no practicable alternative actions or sites that would avoid the conversion of these lands or, if conversion is unavoidable, reduce the number of acres to be converted or encroached upon directly and indirectly.

Appendix A.—Definitions

The following definitions apply to this Departmental Regulation.

1 Important Farmlands [1]

a. Prime Farmlands [1]

(1) *General Criteria.* Prime farmland is land that has the best combination of physical and chemical characteristics for producing food, feed, forage, fiber, and oilseed crops and is also available for these uses (the land could be cropland, pastureland, rangeland, forest land, or other land, but not urban built-up land or water). It has the soil quality, growing season, and moisture supply needed to produce, economically, sustained high yields of crops when treated and managed, including water management, according to acceptable farming methods. In general, prime farmlands have an adequate and dependable water supply from precipitation or irrigation, a favorable temperature and growing season, acceptable acidity or alkalinity, acceptable salt and sodium content, and few or no rocks. They are permeable to water and air. Prime farmlands are not excessively erodible or saturated with water for a long period of time, and they either do not flood frequently or are protected from flooding. Examples of soils that qualify as prime farmland are Palouse silt loam, 0- to 7-percent slopes; Brookston silty clay loam, drained; and Tama silty clay loam, 0- to 5-percent slopes.

(2) *Specific Criteria.* Prime farmlands must meet all the following criteria. Terms used in this section are defined in these USDA publications: "Soil Taxonomy, Agriculture Handbook 436," "Soil Survey Manual, Agriculture Handbook 18," "Rainfall-Erosion Losses from Cropland, Agriculture Handbook 282," "Wind Erosion Forces in the United States and Their Use in Predicting Soil Loss, Agriculture Handbook 346," and "Saline and Alkali Soils, Agriculture Handbook 60."

(a) The soils have:

1. Aquic, udic, ustic, or xeric moisture regimes and sufficient available water capacity within a depth of 40 inches, or in the root zone (root zone is the part of the soil that is penetrated by plant roots) if the root zone is less than 40 inches deep, to produce the commonly grown cultivated crops (cultivated crops include but are not limited to grain, forage, fiber, oilseed, sugar beets, sugarcane, vegetables, tobacco, orchard, vineyard, and bush fruit crops) adapted to the region in 7 or more years out of 10; or

2. Xeric or ustic moisture regimes in which the available water capacity is limited, but the area has a developed irrigation water supply that is dependable (a dependable water supply is one in which enough water is available for irrigation in 8 out of 10 years for the crops commonly grown) and of adequate quality; or

3. Acidic or torric moisture regimes, and the area has a developed irrigation water supply that is dependable and of adequate quality; and

(b) The soils have a temperature regime that is frigid, mesic, thermic, or hyperthermic (pergelic and cryic regimes are excluded). These are soils that, at a depth of 20 inches, have a mean annual temperature higher than 32 degrees Fahrenheit. In addition, the mean summer temperature at this depth in soils with an O horizon is higher than 47 degrees Fahrenheit; in soils that have no O horizon, the mean summer temperature is higher than 59 degrees Fahrenheit; and

(c) The soils have a pH between 4.5 and 8.4 in all horizons within a depth of 40 inches or in the root zone if the root zone is less than 40 inches deep; and

(d) The soils either have no water table or have a water table that is maintained at a sufficient depth during the cropping season to allow cultivated crops common to the area to be grown; and

(e) The soils can be managed so that in all horizons within a depth of 40 inches or in the root zone if the root zone is less than 40 inches deep, during part of each year the conductivity of the saturation extract is less than 4 mmhoc/cm and the exchangeable sodium percentage is less than 15; and

(f) The soils are not flooded frequently during the growing season (less often than once in 2 years); and

(g) The product of K (erodibility factor) times the percent slope is less than 2.0, and the product of I (soils erodibility) times C (climatic factor) does not exceed 60; and

[1] 7 CFR 657.5.

(h) The soils have a permeability rate of at least 0.06 inch per hour in the upper 20 inches, and the mean annual soil temperature at a depth of 20 inches is less than 59 degrees Fahrenheit or higher; and

(i) Less that 10 percent of the surface layer (upper 6 inches) in these soils consists of rock fragments coarser than 3 inches.

b. Unique Farmland [1]

(1) *General Criteria.* Unique farmland is land other than prime farmland that is used for the production of specific high-value food and fiber crops. It has the special combination of soil quality, location, growing season, and moisture supply needed to produce, economically, sustained high-quality and/or high yields of a specific crop when treated and managed according to acceptable farming methods. Examples of such crops are citrus, tree nuts, olives, cranberries, fruit, and vegetables.

(2) *Specific Characteristics.* Unique farmland is used for a specific high-value food or fiber crop. It has a moisture supply that is adequate for the specific crop; the supply is from stored moisture, precipitation, or a developed irrigation system. It combines favorable factors of soil quality, growing season, temperature, humidity, air drainage, elevation, aspect, or other conditions, such as nearness to market, that favor the growth of a specific food or fiber crop.

c. Additional Farmland of Statewide Importance [1]

This is land, in addition to prime and unique farmlands, that is of statewide importance for the production of food, feed, fiber, forage, and oilseed crops. Criteria for defining and delineating this land are to be determined by the appropriate State agency or agencies. Generally, additional farmlands of statewide importance include those that are nearly prime farmland and that economically produce high yields of crops when treated and managed according to acceptable farming methods. Some may produce as high a yield as prime farmlands if conditions are favorable. In some States, additional farmlands of statewide importance may include tracts of land that have been designated for agriculture by State law.

d. Additional Farmland of Local Importance [1]

In some local areas, there is concern for certain additional farmlands for the production of food, feed, fiber, forage, and oilseed crops, even though these lands are not identified as having national or statewide importance. Where appropriate, these lands are to be identified by the local agency or agencies concerned.

2 Prime Forest Lands [1]

Because of the multiple use of forested lands, several categories, e.g., timber, wildlife, and recreation, may be developed. For purposes of this regulation only, the following timberland definitions will apply.

a. Prime Timberland [2]

Prime timberland is land that has soil capable of growing wood at the rate of 85 cubic feet or more/acre/year (at culmination of mean annual increment) in natural stands and is not in urban or built-up land uses or water. Generally speaking, this is land currently in forest, but does not exclude qualifying lands that could realistically be returned to forest. Delineation of these lands will be in accordance with national criteria.

b. Unique Timberland [2]

Unique timberlands are lands that do not qualify as prime timberland on the basis of producing less than 85 cubic feet/acre/year, but are growing sustained yields of specific high-value species or species capable of producing specialized wood products under a silvicultural system that maintains soil productivity and protects water quality. Delineation of these lands will be in accordance with national criteria.

c. Timberland of Statewide Importance [2]

This is land, in addition to prime and unique timberlands, that is of statewide importance for the growing of wood. Criteria for defining and delineating these lands are to be determined by State forestry planning committees or appropriate State organizations.

d. Timberlands of Local Importance [2]

In some local areas, there is concern for certain additional forest lands for the growing of wood, even though these lands are not identified as having national or statewide importance. Where appropriate, these lands are to be identified by a local agency or agencies concerned.

3 Wetlands [3]

Wetlands are those areas that are inundated by surface or ground water with a frequency sufficient to support and, under normal circumstances, do or would support a prevalence of vegetative or aquatic life that requires saturated or seasonally saturated soil conditions for growth and reproduction. Wetlands generally include swamps, marshes, bogs, and similar areas, such as sloughs, potholes, wet meadows, river overflows, mudflats, and natural ponds.

4 Flood Plains [3]

The term "flood plain" means the lowland and relatively flat areas adjoining inland and coastal waters, including floodprone areas of offshore islands, including, at a minimum, those that are subject to a 1-percent or greater chance of flooding in any given year.

4 Prime Rangeland [4]

Prime rangeland is rangeland which, because of its soil, climate, topography, vegetation, and location, has the highest quality or value for grazing animals. The (potential) natural vegetation is palatable, nutritious, and available to the kinds of herbivores common to the area.

[1] Prime Forest Land Definition and Criteria, U.S. Forest Service, May 26, 1977.

[2] Definitions contained in Executive Orders 11988 and 11990.

[3] USDA proposed definition for intradepartmental use only.

Exhibit B to Subpart G.—Development and Implementation of Natural Resource Management Guide

1. The State Director shall complete the natural resource management guide within 12 months from the effective date of this Subpart and issue the guide as a State supplement after prior approval by the Administrator. A summary of the basic content, purposes, and uses of the guide is contained in § 1940.305 of this Subpart. The guide shall be prepared in draft form and be provided for review and comment to USDA agencies, appropriate Federal and State agencies, State and regional review agencies assigned the consulation requirements of Executive Order 12372, as well as interested localities, groups, and citizens. Also at least one public information meeting shall be held on the draft which shall be followed by a 30-day period for the submission of public comments. Public notification of this meeting shall be made in the same manner as the notification process for a scoping meeting. (See § 1940.320(c) of this Subpart). Additionally, the public shall be informed that copies of the draft guide will be made available from the State Office upon request. After completion of this public review, the draft will be revised as necessary in light of the comments received and provided as a final draft State Supplement to the Administrator for review and approval. Any concerns and comments of the Administrator will be addressed by the State Director and the guide completed. Upon the Administrator's approval and the fulfillment of the requirements of paragraph 4. of this Exhibit, the natural resource management guide shall then become part of any program investment strategies developed by the State Director for the purpose of addressing the rural needs of the State. Although a 12-month period has been established for the completion of a natural resource management guide, this deadline is not to be construed as curtailing or postponing the implementation of existing environmental laws, regulations, Executive orders or the Departmental Regulation 9500–3, Land Use Policy, with respect to individual project reviews, nor giving anyone any rights or claims with respect to the completion or content of the guide.

2. The natural resource management guide needs to be developed in full recognition of its role as an internal Agency planning tool and with sensitivity to the Agency's mission.

3. After the Administrator approves the natural resource management guide, it will become effective 4 months from that date. This interim period shall be used to inform local, State, and Federal agencies, localities, organizations, and interested citizens of the content of the guide. In this manner, those parties intending to seek FmHA assistance or to coordinate FmHA assistance programs with their own programs will be able to gain for their planning needs an understanding of our guide.

4. Completed natural resource management guides shall be reviewed every 2 years and updated by the State Director to reflect newly identified geographical areas of concern or policy revisions at the national, State, regional or local level. They will also be

revised, as necessary, through appropriate guidance from the Administrator. Revisions shall be transmitted to the Administrator for postapproval and shall be considered approved if either no comments are raised by the Administrator within 30 days of receipt of the State Director's transmittal letter or the administrator specifically approves them before the 30 days expire. Public review of a revision will not be required. However, if in the opinion of the State Director the proposed revision will substantially change the previously adopted natural resource management guide, a public review shall be conducted of the revision in the same manner as that described in paragraph 1 of this Exhibit for the development of the original guide. Such review shall occur prior to the transmittal of the revision to the Administrator. If the State Director believes that at the expiration of any 2-year review period there is need to update the guide, a statement to this effect shall be filed with the Administrator.

5. The foundation for the natural resource management guide is the identification of the types of land uses or environmental factors deserving attention and their geographical location within the State. An inventory or listing shall be developed, therefore, of the important land uses within the State. This inventory will be accomplished by assembling existing data and information compiled by those Federal, State, and local agencies that have jurisdiction or expertise regarding the land uses or environmental factors. At a minimum, the inventory shall consist of available documents, listings, maps, or graphic materials describing the location of the following:

a. National Register of Historic Places to include monthly supplements as designated by the Department of the Interior (DOI), and the State Historic Preservation Plans. This list is issued as a State supplement to Subpart F or Part 1901 of this Chapter;

b. Rivers designated as part of the Wild and Scenic Rivers System and rivers under study for inclusion in the system, as published by DOI;

c. Important farmlands;

d. Prime rangelands.

e. Prime forestlands;

f. Wetland inventory;

g. Floodplain inventory as issued by the Federal Emergency Management Administration;

h. Endangered Species and Critical Habitats as listed or proposed for listing by the Department of Commerce (DOC) and DOI;

i. Sole source aquifer recharge areas as designated by the Environmental Protection Agency (EPA);

j. Air Quality Control Regions as designated by EPA;

k. National Registry of Natural Landmarks at published by DOI;

l. Coastal Barrier Resources System;

m. State inventories or planning documents identifying important land uses, particularly those not covered by the above items, such as wildlife refuges, important habitats, and areas of high water quality, or scenic or recreational value;

n. Agricultural districts or other similar zoning classifications for agricultural land protection; and

o. Coastal Zone Management Areas.

6. The Administrator shall be responsible for assisting State Directors in obtaining listings and inventories of resources protected by Federal statutes and regulations. The State Director has the responsibility for assembling documents on important environmental resources or areas identified in State and substate laws, regulations, plans, and policies.

7. Development of the inventory by the State Director will require consultation and assistance from a variety of agencies and experts. This consultation should begin with Department agencies and be accomplished through appropriate, State-level USDA committees. The objective should be to determine the land classification data that has been compiled and that which is in the process of being compiled either by USDA agencies or their counterparts at the state level. The Memorandum of Understanding executed in May 1979 between the Soil Conservation Service (SCS) and FmHA should be utilized as the basis for seeking SCS's assistance in this data collection effort. (See FmHA Instruction 2000–D, Exhibit A, which is available in any FmHA Office.) Direct contacts should then be made with State agencies, in particular with the appropriate office of State planning, to determine the availability of State inventories and State land use policies and priorities. Similar discussions should be held with substate regional planning agencies and clearinghouses with assistance being provided in this effort by District Directors. County Supervisors shall contact local officials and shall be responsible for being familiar with and for assembling similar inventories, land use policies, or protective requirements developed by the local government agencies within the supervisor's territorial jurisdiction.

8. Another important element of the natural resource management guide shall be the examination of any major environmental impacts on the State or a substate area resulting from the cumulative effects of FmHA-assisted project over the last several years. In this examination, particular emphasis should be given to the cumulative impacts of water resource projects such as irrigation systems. This should be done in consultation with experts within the appropriate State agencies and the U.S. Geological Survey. The housing programs should also be given a particular emphasis with respect to their cumulative impacts. More detailed guidance on the accomplishment of this cumulative impact section of the natural resource management guide, as well as the overall content of the guide, shall be provided by the Administrator. In preparing the State's natural resource management guide and in assembling inventories of critical resources, Agency staff should not lose sight of the basic purposes of this effort. The development of lengthy and complex guides and the amassing of huge inventories is not our goal. In the end, the material must be useable and serve as a tool for better decisionmaking. The basic purposes of this guide and inventory, then, are to provide a basis for developing comprehensive, statewide, rural development investment strategies that (i) do not conflict with Federal, State, and local mandates to preserve and protect important land and environmental resources, (ii) that do not create short- or long-term development pressures which would lead to the unnecessary conversion of these resources, and (iii) which effectively support and enhance Federal, State, and local plans to preserve these resources.

Exhibit C.—Implementation Procedures for the Farmland Protection Policy Act; Executive Order 11988, Floodplain Management; Executive Order 11990, Protection of Wetlands; and Departmental Regulation 9500–3, Land Use Policy

1. *Background.* The Subtitle I of the Agriculture and Food Act of 1981, Pub. L. 97–98, created the Farmland Protection Policy Act. The Act requires the consideration of alternatives when an applicant's proposal would result in the conversion of important farmland to nonagricultural uses. The Act also requires that Federal programs, to the extent practicable, be compatible with State, local government, and private programs and policies to protect farmland. The Departmental Regulation 9500–3, Land Use Policy (the Departmental Regulation), also requires the consideration of alternatives but is much broader than the Act in that it addresses the conversion of land resources other than farmland. The Departmental Regulation is included as Exhibit A to this Subpart.

2. *Implementation.* Each proposed disposal of real property by FmHA and application for financial assistance or subdivision approval shall be reviewed to determine if it would result in the conversion of a land resource addressed in the Act, Executive Orders, or Departmental Regulation and as further specified below. Those actions that are determined to result in the disposal or financing of an existing farm, residential, commercial or industrial property with no reasonably foreseeable change in land use and those actions that solely involve the renovation of existing structures or facilities would require no further review.* Since these actions have no potential to convert land uses, this finding would simply be made by the environmental reviewer in completing the environmental assessment for the action. For other actions, the following implementation steps must be taken.

a. Determine whether important land resources are involved. The Act comes into play whenever there is a potential to affect important farmland. The Departmental Regulation covers important farmland as well as the following land resources: prime forest land, prime rangeland, wetlands and floodplains. Hereafter, these land resources are referred to collectively as important land resources. Definitions for these land resources are contained in the Appendix to the Departmental Regulation. It is important

*See special procedures in item 3. of this Exhibit if the existing structure is located in a floodplain or wetland.

to note the definition of important farmland because it includes not only prime and unique farmland but additional farmland that has been designated by a unit of State or local government of statewide or local importance and such designation has been concurred in by the Secretary acting through SCS. In completing the environmental assessment or Form FmHA 1940-22, "Environmental Checklist For Categorical Exclusions," the environmental reviewer must determine if the project is either located in or will affect one of more of the land resources covered by the Act or the Departmental Regulation. Methods for determining the location of important land resources on a project-by-project basis are discussed immediately below. As reflected several times in this discussion, SCS personnel can be of great assistance in making agricultural land and natural resource evaluation, particularly when there is no readily available documentation of important land resources within the project's area of environmental impact. It should be remembered that FmHA and SCS have executed a Memorandum of Understanding in order to facilitate site review assistance. (See FmHA Instruction 2000-D, Exhibit A, available in any FmHA office.) Many local units of government, with technical assistance from SCS, have or will be developing Agricultural Land Evaluation and Site Assessment (LESA) systems. The LESA systems are designed for two purposes: (i) to evaluate the agricultural lands in a local area by placing each soil in one of about 10 groups, assigning a numerical value to each group, and indicating the important farmland category into which the soils have been placed; and (ii) to assess sites by determining the agricultural viability of the site based on community development apart from soils. Factors considered in the site assessment part of the system include location, land use surrounding the site, existence of agricultural and urban support systems, present land use plans and regulations, effects that land use changes would have on agriculture in the area, plus any other factors that may be selected by local officials. Points are assigned to both the land evaluation and site assessment parts of the system. The higher the points for any given site, the more viable the site is for agriculture. The LESA system can be used in evaluating alternative sites that would involve conversion in order to determine which site has the least negative impact on agriculture. Assistance for the development and use of LESA is available from SCS.

(1) *Important Farmland, Prime Forest Land, Prime Rangeland.*—Review available SCS important farmland maps to determine if the general area within which the project is located contains important farmland. If the general area has important farmland, consult with the SCS field office having jurisdiction over the project area and obtain a detailed copy of the SCS soil survey for the site and a list of the important farmland soils for the area. Because of the large scale of the important farmland maps, the maps should be used for general review purposes only and not to determine if sites of 40 acres or less contain important farmland. For this reason and the fact that important farmland can lose its designation as a result of previous urbanization, direct consultation with SCS personnel is always recommended.

(2) *Floodplain.*—Review the most current Flood Insurance Rate Map or Flood Insurance Study issued for the project area by the Federal Emergency Management Agency (FEMA). Information on the most current map available or how to obtain a map free of charge is available by calling FEMA's toll free number 800-638-6620. When more specific information is needed on the location of a floodplain, for example, the project site may be near the boundary of a floodplain; or for assistance in analyzing floodplain impacts, it is often helpful to contact FEMA's regional office staff. Exhibit J contains a listing of these regional offices and the appropriate telephone numbers.

If a FEMA floodplain map has not been prepared for a project area, detailed assistance is normally available from the following agencies: SCS, Corps of Engineers, U.S. Geological Survey (USGS), or appropriate regional or State agencies established for flood prevention purposes.

(3) *Wetlands.*—There is no central data source or inventory for determining the location of wetlands. Many government agencies are in the process of completing wetland surveys. The U.S. Fish and Wildlife Service (FWS) is presently preparing the National Wetlands Inventory. Each FWS regional office has a staff member called a Wetland Coordinator. These individuals can provide updated information concerning existing State and local wetland surveys and Federal inventories. Exhibit K contains a listing of Wetland Coordinators arranged by FWS regional office and geographical area of jurisdiction. If the proposed project area has not been inventoried, information is available from other sources. Topographic maps prepared by USGS often depict the general existence of wetlands. A site visit can disclose evidence of vegetation typically associated with wetland areas. Also, the assistance of SCS field staff in reviewing the site can often be the most effective means.

b. Findings.

(1) *Scope.*—Although information on the location and the classification of important land resources should be gathered from appropriate expert sources, as well as their views on possible ways to avoid or reduce the adverse effects of a proposed conversion, it must be remembered that it is FmHA's responsibility to weigh and judge the feasibility of alternatives and to determine whether any proposed land use change is in accordance with the policies of the Act and the Departmental Regulation. Consequently, after reviewing as necessary, the project site, applicable land classification data, or the results of consultations with appropriate expert agencies, the FmHA reviewer must determine, as the second implementation step, whether the applicant's proposal:

(a) Is compatible with State, unit of local government, and private programs and policies to protect farmland; and

(b) Either will have no effect on important land resources; or

(c) If there will be a direct or indirect conversion of such a resource, (i) whether practicable alternatives exist to avoid the conversion; and

(d) If there are no alternatives, whether there are practicable measures to reduce the amount of the conversion.

(2) *Determination of No Effect.*—If the environmental reviewer determines that there is no potential for conversion and that the proposal is compatible, this determination must be so documented in the environmental assessment for a Class II action or the appropriate compliance blocks checked in the Class I assessment or Checklist for Categorical Exclusion based on whichever document is applicable to the action being reviewed.

(3) *Determination of Effect or Incompatibility.*—Whenever the reviewer determines that an applicant's proposal may result in the direct or indirect conversion of an important land resource or may be incompatible with State, unit of local government, or private programs and policies to protect farmland, the following further steps must be taken:

(a) *Search for Practicable Alternatives* *—In consultation with the applicant and the interested public, the environmental reviewer shall carefully analyze the availability of practicable alternatives that avoid the conversion or incompatibility. Possible alternatives include:

(i) The selection of an alternative site;

(ii) The selection of an alternative means to meet the applicant's objectives; or

(iii) The denial of the application, i.e., the no-action alternative.

When the resource that may be converted is important farmland, the environmental reviewer shall contact SCS to determine if the LESA system can be used to examine alternatives.

(b) *Inform the Public.*—The Departmental Regulation requires us in Section 6, Responsibilities, to notify the affected landholders at the earliest time practicable of the proposed action and to provide them an opportunity to review the elements of the action and to comment on the action's feasibility and alternatives to it. This notification requirement only applies to Class I and Class II actions and not to categorical exclusions that may convert an important land resource. The notification shall be published and documented in the manner specified in § 1940.331 of this Subpart and shall contain the following information:

(i) A brief description of the application or proposal and its location;

(ii) The type(s) and amount of important land resources to be affected;

(iii) A statement that the application or proposal is available for review at an FmHA field office (specify the one having jurisdiction over the project area); and

(iv) A statement that any person interested in commenting on the application or proposal's feasibility and alternatives to it may do so by providing such comments to FmHA within 30 days following the date of

* When the action involves the disposal of real property determined not suitable for disposition to persons eligible for FmHA's financial assistance programs, the consideration of alternatives is limited to those that would result in the best price.

publication. (Specify the FmHA office processing the application or proposal for receipt of comments.)

Further consideration of the application or proposal must be delayed until expiration of the public comment period. Consequently, publication of the notice as early as possible in the review process is both in the public's and the applicant's interest. Any comments received must be considered and addressed in the subsequent Agency analysis of alternatives and mitigation measures. It should be understood that scheduling a public information meeting is not required but may be helpful based on the number of comments received and types of issues raised.

(c) *Determine Whether Practicable Alternative Exists.*—

(i) Alternative Exists—If the environmental reviewer concludes that a practicable alternative exists, the reviewer shall complete step (3)(e)(ii) immediately below and provide the assessment for the approving official's review in the manner specified in § 1940.316 of this subpart. If the findings of this review are similar to the environmental reviewer's recommendation, FmHA shall inform the applicant of such findings and processing of the application shall be discontinued. Should the applicant still desire to pursue the proposal, the applicant is certainly free to do so but not with the further assistance of FmHA. Should the applicant be interested in amending the application to reflect the results of the alternative analysis, the reviewer shall work closely with the applicant to this end. Upon receipt of the amended application, the reviewer must reinstitute this implementation process at that point which avoids the duplication of analysis and data collection undertaken in the original review process.

If the results of the approving official(s) review differs from the environmental reviewer's recommendations, the former shall ensure that the findings are appropriately documented in step (e)(ii) and any remaining consideration given to mitigation measures, step (d).

(ii) No Practicable Alternative Exists—On the other hand, if the environmental reviewer concludes that there is no practicable alternative to the conversion, the reviewer must then continue with step (d) immediately below.

(d) *Search for Mitigation Measures.*—Once the reviewer determines that there is no practicable alternative to avoiding the conversion of incompatibility, including the no-action alternative, all practicable measures for reducing the direct and indirect amount of the conversion must be included in the application. Some examples of mitigation measures would include reducing the size of the project which thereby reduces the amount of the important land resource to be converted. This is a particularly effective mitigation measure when the resource is present in a small area, as is often the case with wetlands or floodplains. A corresponding method of mitigation would be to maintain the project size or number of units but decrease the amount of land affected by increasing the density of use. Finally, mitigation can go as far as the selection of an alternative site. For example, in a housing market area composed almost entirely of important farmland, any new proposed subdivision site would result in conversion. However, a proposed site within or contiguous to an existing community has much less conversion potential, especially indirect potential, than a site a mile or two from the community. The LESA system can also be used to identify mitigation measures when the conversion of important farmland cannot be avoided.

(e) *Document Findings.*—Upon completion of the above steps, a written summary of the steps taken and the reasons for the recommendations reached shall be included in the environmental assessment along with either one of the following recommendations as applicable. The following example assumes that important farmland is the affected resource and that the inappropriate phrase within the brackets would be deleted.

(i) The application would result in the direct or indirect conversion of important farmland and [is/is not] compatible with State, unit of local government, or private programs and policies to protect farmland. It is recommended that FmHA determine, based upon the attached analysis, that there is no practicable alternative to this and that the application contains all practicable measures for reducing the amount of conversion (or limiting the extent of any identified incompatibility.)

(ii) The application would result in direct or indirect conversion of important farmland and [is/is not] incompatible with State, unit of local government, or private programs and policies to protect farmland. It is recommended that FmHA determine, based upon the attached analysis, that there is a practicable alternative to this action, and that processing of this application be discontinued.

(f) *Implement Findings.*—The completed environmental assessments and the Agency's determination of compliance with the Act, the Departmental Regulation and Executive orders shall be processed and made according to § 1940.316 of this Subpart. Whenever this determination is as stated in step (e)(i) above, the action shall be so structured as to ensure that any recommended mitigation measures are accomplished. See § 1940.316(g) of this Subpart. Whenever the determination is as stated in step (e)(ii) above, the applicant shall be so informed and processing of the application discontinued. Any further FmHA involvement shall be as specified in Item (c)(i) above.

3. *Special Procedures and Considerations When a Floodplain or Wetland Is The Affected Resource Under Executive Order 11988 and 11990.*

a. *Scope.*

(1) Geographical Area.—The geographical area that must be considered when a floodplain is affected varies with the type of action under consideration. Normally the implementation procedures beginning in Item 2a of this Exhibit are required when the action will impact, directly or indirectly, the 100-year floodplain. However, when the action is determined by the environmental reviewer to be a critical action, the minimum floodplain of concern is the 500-year floodplain. A critical action is an action which, if located or carried out within a floodplain, poses a greater than normal risk for flood-caused loss of life or property. Critical actions include but are not limited to actions which create or extend the useful life of the following facilities:

(a) Those facilities which produce, use, or store highly volatile, flammable, explosive, toxic or water-reactive materials;

(b) Schools, hospitals, and nursing homes which are likely to contain occupants who may not be sufficiently mobile to avoid the loss of life or injury during flood and storm events;

(c) Emergency operation centers or data storage centers which contain records or services that may become lost or inoperative during flood and storm events; and

(d) Multifamily housing facilities designed primarily (over 50 percent) for handicapped individuals.

(2) Threshold of Impact.—The Executive orders differ from the Act and the Departmental Regulation in that the Executive orders' requirements apply not only to the conversion of floodplains or wetlands but to any impacts upon them. Impacts are defined as changes in the natural values and functions of a wetland or floodplain. Therefore, should any portion of an action or its related activities require construction activities in a floodplain, for example, there would be an impact to a floodplain. The only exception to this statement is when the reviewer determines that the locational impact is minor to the extent that the floodplain's or wetland's natural values and functions are not affected.

b. *Treatment of Existing Structures.*

(1) Non-FmHA-Owned Properties.—The Executive orders can apply to actions that are already located in floodplains or wetlands; that is, where the conversion has already occurred. The implementation procedures beginning in Item 2a of this Exhibit must be accomplished for any action involving the rehabilitation, renovation, or adaptive reuse of an existing structure or facility when the work to be done amounts to a substantial improvement. A substantial improvement means any repair, reconstruction, or improvement of a structure the cost of which equals or exceeds 50 percent of the market value of the structure either (a) before the improvement or repair is started, or (b) if the structure has been damaged, and is being restored, before the damage occurred. The term does not include (a) any project for improvement of a structure to comply with existing State or local health, sanitary or safety code specifications which are solely necessary to assure safe living conditions or (b) any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

(2) FmHA-Owned Real Property.—The requirement in paragraph (1) immediately above also applies to any substantial improvements made to FmHA-owned real property. Irrespective of any improvements, whenever FmHA real property located in a floodplain or wetland is proposed for lease or sale, the official responsible for the

conveyance must determine if the property can be safely used. If not, the property should not be sold or leased. Otherwise, the conveyance must specify those uses that are restricted under identified Federal, State, and local floodplains or wetlands regulations as well as other appropriate restrictions, as determined by the FmHA official responsible for the conveyance, to the uses of the property by the lessee or purchaser and any successors, except where prohibited by law. Applicable restrictions shall be incorporated into quitclaim deeds with the consent and approval of the Regional Attorney, Office of the General Counsel. Upon application by the owner of any property so affected and upon determination by the appropriate FmHA official that the condition for which a deed restriction was imposed no longer exists, the restriction clause may be released. A listing of any restrictions shall be included in any notices announcing the proposed sale or lease of the property. At the time of first inquiry, prospective purchasers must be informed of the property's location in a floodplain or wetland and the use restrictions that will apply. A written notification to this effect must be provided to the prospective purchaser who must acknowledge the receipt of the notice. See Item 3d below and Subpart C of Part 1955 of this Chapter for guidance on the proper formats to be used with respect to notices and deed restrictions.

c. *Mitigation measures.*

(1) Alternative Sites.—As with the Act and the Departmental Regulation, the main focus of the review process must be to locate an alternative that avoids the impact to a floodplain or wetland. When this is not practicable, mitigation measures must be developed to reduce the impact which in the case of a floodplain or wetland can include finding another site, ie., a safer site. The latter would be a site at a higher elevation within the floodplain and/or exposed to lower velocity floodflows.

(2) Nonstructural Mitigation Measures.—Mitigation measures under the Executive orders are intended to serve the following three purposes: reduce the risks to human safety, reduce the possible damage to structures, and reduce the disruption to the natural values and functions of floodplains and wetlands. More traditional structural measures, such as filling in the floodplain, cannot accomplish these three purposes and, in fact, conflict with the third purpose. Nonstructural flood protection methods, consequently, must be given priority consideration. These methods are intended to preserve, restore, or imitate natural hydrologic conditions and, thereby, eliminate or reduce the need for structural alteration of water bodies or their associated floodplains and wetlands. Such methods may be either physical or managerial in character. Nonstructural flood protection methods are measures which:

(a) Control the uses and occupancy of floodplains and wetlands, e.g., floodplain zoning and subdivision regulation;

(b) Preserve floodplain and wetland values and functions through public ownership, e.g., fee title, easements and development rights;

(c) Delay or reduce the amount of runoff from paved surfaces and roofed structures discharged into a floodway, e.g., construction of detention basins and use of flow restricting barriers on roofs;

(d) Maintain natural rates of infiltration in developed or developing areas, e.g., construction of seepage or recharge basins and minimization of paved areas;

(e) Protect streambanks and shorelines with vegetative and other natural cover, e.g., use of aquatic and water-loving woody plants;

(f) Restore and preserve floodplain and wetland values and functions and protect life and property through regulation, e.g., flood-proofing building codes which require all structures and installations to be elevated on stilts above the level of the base flood; and

(g) Control soil erosion and sedimentation, e.g., construction of sediment basins, stabilization of exposed soils with sod and minimization of exposed soil.

(3) Avoid Filling in Floodplains.—As indicated above, the Executive orders place a major emphasis on not filling in floodplains in order to protect their natural values and functions. Executive Order 11988 states "agencies shall, wherever practicable, elevate structures above the base flood level rather than filling in land."

d. *Additional Notification Requirement.*

(1) Final Notice.—Where it is not possible to avoid an impact to a floodplain or wetland and after all practicable mitigation measures have been identified and agreed to by the prospective applicant, a final notice of the proposed action must be published. This notice will either be part of the notice required for the completion of a Class II assessment or a separate notice if a Class I assessment or an EIS has been completed for the action. The notice shall be published and distributed in the manner specified in § 1940.331 of this Subpart and contain the following information.

(a) A description of the proposed action, its location, and the surrounding area;

(b) A description of the floodplain or wetland impacts and the mechanisms to be used to mitigte them;

(c) A statement of why the proposed action must be located in a floodplain or a wetland;

(d) A description of all significant facts considered in making this determination;

(e) A statement indicating whether the actions conform to applicable State or local floodplain protection standards; and

(f) A statement listing other involved agencies and individuals.

(2) Private Party Notification.—For all actions to be located in floodplains or wetlands in which a private party is participating as an applicant, purchaser, or financier, it shall be the responsibility of the approving official to inform in writing all such parties of the hazards associated with such locations.

4. *The Relationship of the Executive Orders to the National Flood Insurance Program.*

The National Flood Insurance Program establishes the flood plain management criteria for participating communities as well as the performance standards for building in floodplains so that the structure is protected against flood risks. As such, flood insurance should be viewed only as a financial mitigation measure that must be utilized only after FmHA determines that there is no practicable alternative for avoiding construction in the floodplain and that all practicable mitigation measures have been included in the proposal. That is, for a proposal to be located in the floodplain, it is not sufficient simply to require insurance. The Agency's flood insurance requirements are explained in Subpart B or Part 1806 of this chapter (FmHA Instruction 426.2) It should be understood that an applicant proposing to build in the floodplain is not even eligible for FmHA financial assistance unless the project aren is participating in the National Flood Insurance Program.

Exhibit D.—Implementation Procedures for the Endangered Species Act

1. FmHA shall implement the consultation procedures required under Section 7 of the Endangered Species Act as specified in 50 CFR 402. It is important to note that these consultation procedures apply to the disposal of real property by FmHA and to all FmHA applications for financial assistance and subdivision approval, including those applications which are exempt from environmental assessments. (See § 1940.310.) Unless repeated in this paragraph, the definitions for the terms utilized are found in 50 CFR 402.02.

2. State Directors shall ensure that State, District, and County Offices maintain current publications of listed and proposed species as well as critical habitats found in their respective jurisdictions.

3. When an application to FmHA involves financial assistance or permit approval from another Federal agency(s), the FmHA reviewer shall work with the other Agency to determine a lead Agency for the consultation process. When FmHA is not the lead Agency, the reviewer shall ensure that the lead Agency informs the approporiate Area Manager, U.S. Fish and Wildlife Service (FWS), or Regional Director, National Marine Fisheries Service (NMFS), of FmHA's involvement.

4. Each disposal action, application for financial assistance or subdivision approval shall be reviewed by the FmHA official responsible for completing environmental assessments in order to determine if the proposal either may affect a listed species or critical habitat or is likely to jeopardize the continued existence of a proposed species or result in the destruction or adverse modification of a proposed critical habitat.

a. For applications subject to environmental assessments, this review shall be accomplished as part of the assessment.

b. For those applications that are excluded from an environmental assessment, this review shall be documented as part of Form FmHA 1940–22, "Environmental Checklist For Categorical Exclusions," and shall be accomplished as early as possible after receipt of the application and prior to approval of the application.

c. For applications subject to an environmental impact statement, FmHA shall request from the Area Manager, FWS, and the Regional Director, NMFS, a list of the proposed and listed species that may be in

the area of the proposal. Within 30 days, the FWS and NMFS will respond to FmHA with this list. FmHA shall then conduct, as part of the process of preparing the draft environmental impact statement, a biological assessment of these species to determine which species are in the area of the proposal and how they may be affected. This biological assessment should be completed within 180 days or a time mutually agreed upon between FmHA and FWS or NMFS. Upon completion of the biological assessment, if FmHA determines either that the proposal may affect a listed species or critical habitat or is likely to jeopardize the continued existence of proposed species or result in the destruction or adverse modification of proposed critical habitat, the formal consultation procedures shall be initiated as specified in paragraph 7b below. To the extent practical, these procedures shall be concluded and their results reflected in the draft EIS. For all draft EISs in which FmHA determines there will be no effect upon a listed or proposed species or critical habitat and FWS or NMFS indicated the presence of such species upon the initial inquiry, a copy of the draft shall be provided to that agency for review and comment.

5. As indicated in paragraph 4 above, the focus of this review process is to determine if the proposal will affect a listed species or critical habitat or is likely to jeopardize the continued existence of a proposed species or result in the destruction or adverse modification of a proposed critical habitat. Because this impact terminology is specific to the Act, it is important to understand its meaning.

a. To jeopardize the continued existence of a species means to engage in a project which reasonably would be expected to reduce the reproduction, numbers, or distribution of a listed species to such an extent as to appreciably reduce the likelihood of the survival and recovery of that species in the wild. The level of reduction necessary to constitute jeopardy would be expected to vary among listed species.

b. The destruction or adverse modification of a critical habitat means a direct or indirect alteration of critical habitat which appreciably diminishes the value of that habitat for survival and recovery of a listed species. Such alterations include but are not limited to those diminishing the following requirements for:

(i) Space for individual and population growth and for normal behavior;

(ii) Food, water, air, light, minerals, or other nutritional or physiological requirements;

(iii) Cover or shelter;

(iv) Sites for breeding, reproduction, or rearing of offspring; and

(v) Habitats that are protected from disturbances or are representative of the geographical distribution of listed species.

6. It is also important to note that the consultation procedures differ when the subject of the consultation is a listed species or critical habitat as opposed to a proposed species or critical habitat. The latter are defined as those that the Secretary of Interior or Commerce are considering for listing and have so proposed through notification in the Federal Register. When listed species or critical habitats are invloved, FmHA shall initiate formal consultation procedures whenever it determines that a proposed project may affect them, either beneficially or adversely. For proposed species or critical habitats, FmHA shall first determine if the proposed project is likely to jeopardize the continued existence of proposed species or result in the destruction or adverse modification of proposed critical habitat. Whenever this determination is made, FmHA shall confer with the appropriate agency identified in paragraph 7 of this Exhibit and, in so doing, shall focus on (i) determining the status of the listing process, and (ii) attempting to cooperatively develop alternatives or measures for inclusion in the project that avoid or mitigate the identified adverse impacts. The results of this process shall be documented in the environmental review being done for the proposed project and, if this review is an environmental assessment, shall be an important factor in determining the need for an environmental impact statement. No action shall be taken by the approving official on the application unitl the requirement to confer on proposed species or critical habitat has been completed. Paragraphs 7 through 9 of this Exhibit outline the formal consultation procedure for listed species or critical habitats.

7. In initiating the review process for a project, the list of species and critical habitats, including proposed, shall be examined to determine the potential for impacts. Projects planned within established communities are less likely to affect listed or proposed species or their critical habitat. Projects to be located in remote areas, heavily forested areas and/or previously undisturbed areas are more likely to affect these species. For projects located in such areas, the reviewer shall, at a minimum, discuss the project's potential impact on listed or proposed species with officials of the appropriate State wildlife protection agency or the Area Manager, FWS, or the Regional Director, NMFS, as appropriate. The latter organization generally has responsibility for marine species. The specific list of species under NMFS's jurisdiction can be found at 50 CFR 222.23(a) and 227.4. Such discussions shall be considered as informal consultations and are not a substitute for the required consultation process outlined below.

a. Whenever the reviewer, after reviewing the list and contacting appropriate experts, formally determines that the proposal will have no effect on a listed or proposed species or its critical habitat, these review procedures are completed, unless new information comes to light as discussed in paragraph 9 of this Exhibit, or consultation is requested by the appropriate Area Manager, FWS, or Regional Director, NMFS.

b. If the reviewer determines there may be an effect on a listed species or a critical habitat or is unable to make a clear determination, the reviewer shall so inform the SEC (assuming the reviewer is not the SEC). The latter shall either (i) convey a written request for consultation, along with available information to the appropriate Area Manager, FWS or Regional Director, NMFS, for the Federal region where the proposal will be carried out, or (ii) request Program Support Staff (PSS) to perform such consultation. FmHA shall initiate this formal consultation process and not the applicant. See paragraph 4.c. of this Exhibit for initiating consultation where an environmental impact statement is being done for the application. Until the consultation process is completed, as outlined in 50 CFR 402.04, FmHA shall not approve the application. Should the need for consultation be identified after application approval, FmHA shall refrain from making any irreversible or irretrievable commitment of resources which would foreclose the consideration of modifications or alternatives to the identified activity or program.

8. Several possible responses may result from initiation of the formal consultation process with each requiring further specific actions.

a. Whenever the Area Manager, FWS, or Regional Director, NMFS, informs FmHA that insufficient information exists to conclude the consultation process, the SEC with assistance as feasible from the FWS or NMFS and State sources of expertise shall then obtain additional information and conduct, as needed, biological surveys or studies to determine how the proposal may affect listed species or their critical habitat. The cost and performance of such studies shall be handled in the same manner as in the preparation of an Environmental Impact Statement. (See § 1940.336 of this Subpart.)

b. Whenever the Area Manager, FWS, or Regional Director, NMFS, responds that the proposal will either promote the conservation of a listed species or is not likely to jeopardize the continued existence of a listed or proposed species or result in the destruction or adverse modification of its critical habitat, the FmHA reviewer shall formally make a similar determination, attaching the response as documentation. This concludes the formal consultation process unless new information comes to light as discussed in paragraph 9 of this Exhibit.

c. Whenever the results of the consultation process include recommendations by the Area Manager, FWS, or Regional Director, NMFS, for modifications to the project which would enhance the conservation and protection of a listed species or its critical habitat, the State Director shall review these recommendations and require that they be incorporated into the project as either design changes or special conditions to the offer of assistance. If the State Director does not believe the recommendations can be so adopted, the Administrator shall be requested to review the recommendations and to assist in the further resolution of the matter.

d. Whenever the appropriate Area Manager, FWS, or Regional Director, NMFS, determines that the proposal is likely to jeopardize the continued existence of a listed species or result in the destruction or adverse modification of its critical habitat, the FmHA applicant shall be so informed and the project denied on this basis. However, if the State Director believes that funding or approval of the application is (i) of national,

regional, or great local significance, and (ii) that there are no reasonable and prudent alternatives to avoiding the listed species impact, the State Director can request the Administrator, through PSS, to review the proposal and the results of the consultation process. Based upon this review, the Administrator shall either inform the State Director that a request for an exemption from Section 7 of the Endangered Species Act is not warranted and the application shall be denied or, if the Administrator believes it is warranted, shall request an exemption from the Endangered Species Committee established by Section 7(e) of the Act. No action shall be taken by the State Director on the application until the Administrator informs the State Director of the results of the exemption request.

9. Once completed, the consultation process shall be reinitiated by FmHA or upon request of the appropriate Area Manager, FWS, or Regional Director, NMFS, if:

a. New information or modification of the proposal reveals impacts that may affect listed or proposed species or their habitats; or

b. A new species is listed that may be affected by the proposal.

Exhibit E.—Implementation Procedures for the Wild and Scenic Rivers Act

1. Each application for financial assistance or subdivision approval as well as the proposed disposal of real property by FmHA shall be reviewed to determine if it will affect a river or portion of it which is either included in the National Wild and Scenic Rivers System, designated for potential addition to the system, or identified in the Nationwide Inventory prepared by the National Park Service (NPS) in the Department of the Interior. The Nationwide Inventory identifies those river segments that, after preliminary review, appear to qualify for inclusion in the system. (For purposes of this Subpart, river segments in the Nationwide Inventory shall be treated the same as segments within the system with the exception of paragraph 8.) For applications subject to environmental assessments, the review shall be accomplished as part of the assessment. For applications that are excluded from an environmental assessment, this review shall be documented as part of Form FmHA 1940–22, "Environmental Checklist For Categorical Exclusions," within the reviewing office and shall be accomplished as early as possible after receipt of the application and prior to approval of the application. The FmHA official responsible for completing the environmental assessment shall accomplish this review. (See § 1940.316 of this Subpart.)

2. In order to effectively implement this review, State Directors shall ensure that State, District and County Offices maintain current listings of rivers within their respective States that are included in or designated for potential addition to the system as well as those identified in the Nationwide Inventory prepared by NPS.

3. For applications for water resources projects, as defined in § 1940.302(i) of this Subpart, the purpose of this review shall be to determine whether the proposal would have a direct and adverse effect on the values which served as the basis for the river's inclusion in the system or designation for potential addition. For other applications, the purpose of the review shall be to determine if the proposal would invade the river area or unreasonably diminish the scenic, recreational, and fish and wildlife values present in the area. To make these determinations, the reviewer shall consult with the appropriate regional office of NPS if the proposal (i) would be located within one-quarter mile of the banks of the river, (ii) involves withdrawing water from the river or discharging water to the river via a point source, or (iii) would be visible from the river. The appropriate regional office of the Forest Service (FS) shall be contacted under similar circumstances when the effected river is on FS lands. Consultation shall be initiated by a written request for comments on the potential impacts accompanied by a description of the project and its location. The reviewer shall consult in other instances when the likelihood of an impact on a river in the system is identified as part of the environmental review. When the reviewer determines there is no potential impact on such a river, the documentation of this determination concludes the review process, unless reinitiation is required under paragraph 10 of this Exhibit. In all other cases, the review is completed as specified below in paragraphs 4 through 9 of this Exhibit.

4. If the review is at the County or District Office level, the reviewer can request the State Director (see § 1940.307 of this subpart) to perform the above consultation. The State Director can in turn make a similar request of the National Office. If not requested to perform the consultation for applications approvable at the County and District Office levels, the SEC shall be informed whenever NPS or FS advises that there is a potential for an adverse impact on a river within the system or that protective measures need to be included or designed into the proposal. In all cases, consultation shall be initiated by FmHA and not the applicant. Until consultation is complete, FmHA shall not approve the application. Should the need for consultation be identified after application approval, FmHA shall, if still within its power at the time of identification, refrain from making any irreversible or irretrievable commitments of resources which would foreclose the consideration of modifications or alternatives to the project.

5. If NPS or FS advises there is no potential for an adverse effect as described in paragraph 3 of this Exhibit, this review process is concluded, unless the need to reinitiate arises. (See paragraph 10 of this Exhibit.)

6. Whenever the results of the consultation process include recommendations by NPS or FS to modify the proposal in order to avoid an adverse effect, as described in paragraph 3 above, the State Director shall review these recommendations and require that they be incorporated into the project as either design changes or special conditions to the offer of assistance. If the State Director does not believe that the Regional Director's recommendations can be so adopted, the Administrator shall be requested to review the recommendations and to assist in the further resolution of the matter.

7. If NPS or FS advises that the proposal will have an unavoidable adverse effect, as described in paragraph 3 of this Exhibit, on a river segment which is either included in the National Wild and Scenic Rivers System or designated for potential addition to the system, the FmHA applicant will be informed by the reviewing office and the application denied on this basis. However, if the State Director disagrees with this determination, the State Director can request the Administrator to review the proposal and attempt to further resolve the matter. The specific reasons for disagreement along with supporting documentation must be included in such a request. Based upon a review of this request, the Administrator shall either inform the State Director that no further consultation is warranted and the application shall be denied or shall request the headquarters staff of NPS or FS to further review the matter. No action shall be taken by the State Director on the application until the Administrator informs the State Director of the results of this further review and consultation.

8. If NPS or FS advises that the proposal will have an adverse effect, as described in paragraph 3 of this Exhibit, on a river segment identified in the Nationwide Inventory, the reviewer shall further consult with NPS or FS in order to formulate adequate measures or modification to avoid or mitigate the potential adverse effect. The purposes of such measures or modifications is to ensure that the proposal does not effectively foreclose the designation of a wild, scenic, or recreational river segment. Once concurrence is reached and documented with NPS or FS regarding modifications, the State Director shall require that they be incorporated into the proposal as either design changes or special conditions to the offer of assistance. If the State Director is not able to reach an agrement with NPS or FS on appropriate modifications, the Administrator shall be requested to assist in the further resolution of the matter.

9. If an application involves financial assistance or permit approval from another Federal Agency, the FmHA reviewer shall work with the other agency(s) to determine a lead Agency for the consultation process. When FmHA is not the lead Agency, the reviewer shall ensure that the lead Agency informs NPS or FS of FmHA's involvement.

10. Once completed, the consultation process shall be reinitiated by FmHA if new information or modification of the proposal reveals impacts to a river within the System or Nationwide Inventory.

Exhibit F.—Implementation Procedures for the Coastal Barrier Resources Act

1. The Act applies to barrier islands that Congress has designated for inclusion in the Coastal Barrier Resources System. Since coastal barriers are only found in East and Gulf Coast States, no other State Offices fall under the requirements of the Act and, therefore, need be concerned with these implementation procedures.

2. On coastal barriers that are included in the system, the Act prohibits any new

expenditures or new financial assistance by the Federal Government. There are some limited exceptions that are contained in Section 6 of the Act and listed in Exhibit L of this Subpart. Consequently, all of the following actions must be reviewed by the environmental reviewer to determine if they would be located within the System: any application for financial assistance, any proposed direct expenditure of FmHA funds for construction or maintenance purposes, any request for subdivision approval, and any proposed disposal of real property that includes any form of financial assistance or subsidy to the purchaser. The boundaries of the system can be determined by reviewing a series of maps passed with the legislation and distributed by the Department of the Interior. Each State Director is responsible for ensuring that those field offices having components of the system within their jurisdictions are aware of the system's boundaries therein.

3. Exhibit L lists the six categories of exceptions, that is, those actions that may be taken within the system. No exception may be implemented, however, without first consulting with the Secretary of the Interior. It should also be noted that the sixth category is more limited than the first five. Besides meeting the consultation requirement for this sixth category, the sponsoring Agency must also determine whether the proposed exception is consistent with the purposes of the Act.

4. For those actions that are reviewed and determined not to be within the System, the environmental reviewer must document this result by checking the appropriate compliance blocks on either Form FmHA 1940–22, "Environmental Checklist for Categorical Exclusions," or Form FmHA 1940–21, "Environmental Assessment for Class I actions," or by so stating this result in the environmental assessment for Class II Actions (Exhibit H), depending upon whichever format is applicable to the action under review.

5. For those actions that would be located within the system, one of the following two steps must be taken:

a. If the environmental reviewer concludes that the action does not meet the criteria for an exception, as listed in Exhibit L, the reviewer shall so inform the approving official and a final determination made in the manner indicated in § 1940.316 of this Subpart. If this determination is consistent with the environmental reviewer's conclusion, the action must be denied by the approving official and the affected applicant or party informed of the reason for denial. If it is determined that the action may qualify for an exception, the steps identified in Item b immediately below must be implemented prior to a decision on this question.

b. If the environmental reviewer concludes that the proposed action may meet the exception criteria, the approving official must be so informed. Whenever the approving official agrees or makes a similar determination as a result of the review conducted in Item a immediately above, consultation shall be initiated with the Secretary of the Interior by either the State Director or the Administrator for a National Office activity. FmHA shall request the Secretary's views as to whether the exception criteria are met and shall provide the Secretary with the following information:

(1) A detailed description of the action and its location;

(2) A description of the affected environment within the System and the impacts of the proposed action;

(3) The applicable exception criteria and FmHA's reasons for believing they apply to this action; and

(4) If a Section 6(a)(6) exception is claimed, FmHA's reasons for believing the action to be consistent with the purposes of the Act.

Should the Secretary concur in the exception criteria being met, that portion of the environmental assessment relating to compliance with the Act shall be completed and the corresponding documentation attached. Should the Secretary not concur, a final decision on the approval or denial of the action must be made by the Administrator.

Exhibit G.—Timing of FmHA Environmental Impact Review Process

Item I.—Whenever a preapplication is either filed or required under the following programs, completion of the environmental impact review process shall be required prior to the authorization of an application.

Business and Industry Guaranteed and Insured Loans.
Multi-Family Housing Programs.
Water and Waste Disposal Loan and Grant Program.
Community Facilities Loan Program.
Industrial Development Grant Program.
Watershed Loan Program.
Resource, Conservation and Development Loan Program.
Financial Assistance for Energy Impact Areas (excluding the award of planning funds).

Item II.—For the following programs and actions, completion of the environmental impact review process shall be required prior to the application being considered complete.

Farm Programs.
Single Family Housing Financial Assistance.
Request for Subdivision Feasibility Analysis.

Exhibit H.—Environmental Assessment for Class II Actions

In completing this assessment, it is important to understand the comprehensive nature of the impacts which must be analyzed. Consideration must be given to all potential impacts associated with the construction of the project, its operation and maintenance, the operation of all identified primary beneficiaries, and the attainment of the project's major objectives, whether they be an increased housing stock, community improvement, economic development, or greater agricultural productivity. This last category, the attainment of the project's major objectives, often induces or supports changes in population densities, land uses, community services, transportation systems and resource consumption. The scope of the assessment is broadened even further when there are related activities involved. The impacts of these activities must also be assessed.

The environmental reviewer shall consult with appropriate experts from Federal, State, and local agencies, universities, and other organizations or groups whose views could be helpful in the assessment of potential impacts. In so doing, each discussion which is utilized in reaching a conclusion with respect to the degree of an impact shall be summarized in the assessment as accurately as possible and include the name, title, phone number, and organization of the individual contacted, plus the date of contact. Related correspondence should be attached to the assessment.

The FmHA environmental assessment shall be prepared in the following format. It shall address the listed items and questions and contain as attachments the indicated descriptive materials, as well as the environmental information submitted by the applicant, Form FmHA 1940–20, "Request for Environmental Information."

The assessment has been designed to cover the wide variety of projects and environments with which the Agency deals. Consequently, not every issue or potential impact raised in the assessment may be relevant to each project. The purpose of the format is to give the preparer an understanding of a standard range of impacts, environmental factors, and issues which may be encountered. In preparing an assessment, each topic heading identified by a Roman numeral and each environmental factor listed under topic heading IV, such as air quality, for example, must be addressed.

The amount of analysis and material that must be provided will depend upon the type and size of the project, the environment in which it is located, and the range and complexity of the potential impacts. The amount of analysis and detail provided, therefore, must be commensurate with the magnitude of the expected impact. The analysis of each environmental factor (i.e., water quality) must be taken to the point that a conclusion can be reached and supported concerning the degree of the expected impact with respect to that factor.

For example, a small community center may not require detailed information on air emissions or solid waste management, but an industrial facility would. Similarly, an irrigation project for a farming operation would concentrate on such factors as water quality and fish and wildlife, rather than land use changes. The extension of a water or sewer system or the approval of a subdivision, on the other hand, would have to give close attention to all factors, with potential land use changes being a particularly important one.

I. Project Description and Need

Identify the name, project number, location, and specific elements of the project along with their sizes, and, when applicable, their design capacities. Indicate the purpose of the project, FmHA's position regarding the need for it, and the extent or area of land to be considered as the project site.

II. Primary Beneficiaries and Related Activities

Identify any existing businesses or major developments that will benefit from the project and those which will expand or locate in the area because of the project. Specify by

name, product, service, and operations involved.

Identify any related activities which are defined as interdependent parts of a FmHA action. Such undertakings are considered interdependent parts whenever they either make possible or support the FmHA action or are themselves induced or supported by the FmHA action or another related activity. These activities may have been completed in the very recent past and are now operational, or they may reasonably be expected to be accomplished in the near future. Related activities may or may not be federally permitted or assisted. When they are, identify the involved Federal Agency(s).

In completing the remainder of the assessment, it must be remembered that the impacts to be addressed are those which stem from the project, the primary beneficiaries, and the related activities.

III. Description of Project Area

Describe the project site and its present use. Describe the surrounding land uses; indicate the directions and distances involved. The extent of the surrounding land to be considered depends on the extent of the impacts of the project, its related activities, and the primary beneficiaries. Unique or sensitive areas must be pointed out. These include residential, schools, hospitals, recreational, historical sites, beaches, lakes, rivers, parks, floodplains, wetlands, dunes, estuaries, barrier islands, natural landmarks, unstable soils, steep slopes, aquifer recharge areas, important farmlands and forestlands, prime rangelands, endangered species habitats or other delicate or rare ecosystems.

Attach adequate location maps of the project area, as well as (1) a U.S. Geological Survey "15 minute" ("7½ minute," if available,) topographic map which clearly delineates the area and the location of the project elements, (2) the Department of Housing and Urban Development's floodplain map(s) for the project area, (3) site photos, (4), if completed, a standard soil survey for the project, and (5), if available, an aerial photograph of the site. When necessary for descriptive purposes or environmental analysis, include land use maps or other graphic information. All graphic materials shall be of high quality resolution.

IV. Environmental Impact

1. Air Quality.—Discuss, in terms of the amounts and types of emissions to be produced, all aspects of the project including beneficiaries' operations and known indirect effects (such as increased motor vehicle traffic) which will affect air quality. Indicate the existing air quality in the area. Indicate if topographical or meteorological conditions hinder or affect the dispersal of air emissions. Evaluate the impact on air quality given the types and amounts of projected emissions, the existing air quality, and topographical and meterological conditions. Discuss the project's consistency with the State's air quality implementation plan for the area, the classification of the air quality control region within which the project is located, and the status of compliance with air quality standards within that region. Cite any contacts with appropriate experts and agencies which must issue necessary permits.

2. Water Quality.—Discuss, in terms of amounts and types of effluents, all aspects of the project including primary beneficiaries' operations and known indirect effects which will affect water quality. Indicate the existing water quality of surface and/or underground water to be affected. Evalute the impacts of the project on this existing water quality. Indicate if an aquifer recharge area is to be adversely affected. If the project lies within or will affect a sole source aquifer recharge area as designated by EPA, contact the appropriate EPA regional office to determine if its review is necessary. If it is, attach the results of its review.

Indicate the source and available supply of raw water and the extent to which the additional demand will affect the raw water supply. Describe the wastewater treatment system(s) to be used and indicate their capacity and their adequacy in terms of the degree of treatment provided. Discuss the characteristics and uses of the receiving waters for any sources of discharge. If the treatment systems are or will be inadequate or overloaded, describe the steps being taken for necessary improvements and their completion dates. Compare such dates to the completion date of the FmHA project. Analyze the impacts on the receiving water during any estimated period of inadequate treatment.

Discuss the project's consistency with the water quality planning for the area, such as EPA's Section 208 areawide waste treatment management plan. Describe how surface runoff is to be handled and the effect of erosion on streams.

Evaluate the extent to which the project may create shortages for or otherwise adversely affect the withdrawal capabilities of other present users of the raw water supply, particularly in terms of possible human health, safety, or welfare problems.

For projects utilizing a groundwater supply, evaluate the potential for the project to exceed the safe pumping rate for the aquifer to the extent that it would (1) adversely affect the pumping capability of present users, (2) increase the likelihood of brackish or saltwater intrusion, thereby decreasing water quality, or (3) substantially increase surface subsidence risks.

For projects utilizing a surface water supply, evaluate the potential for the project to (1) reduce flows below the minimum required for the protection of fish and wildlife or (2) reduce water quality standards below those established for the stream classification at the point of withdrawal or the adjacent downstream section.

Cite contacts with appropriate experts and agencies that must issue necessary permits.

3. Solid Waste Management.—Indicate all aspects of the project including primary beneficiaries' operations, and known indirect effects which will necessitate the disposal of solid wastes. Indicate the kinds and expected quantities of solid wastes involved and the disposal techniques to be used. Evaluate the adequacy of these techniques especially in relationship to air and water quality. Indicate if recycling or resource recovery programs are or will be used. Cite any contacts with appropriate experts and agencies that must issue necessary permits.

4. Land Use.—Given the description of land uses as previously indicated, evaluate (a) the effect of changing the land use of the project site and (b) how this change in land use will affect the surrounding land uses and those within the project's area of environmental impact. Particularly address the potential impacts to those unique or sensitive areas discussed under Section III, Description of Project Area, which are not covered by the specific analyses required in Sections V–XI. Describe the existing land use plan and zoning restrictions for the project area. Evaluate the consistency of the project and its impacts with these plans.

5. Transportation.—Describe available facilities such as highways and rail. Discuss whether the project will result in an increase in motor vehicle traffic and the existing roads' ability to safely accommodate this increase. Indicate if additional traffic control devices are to be installed. Describe new traffic patterns which will arise because of the project. Discuss how these new traffic patterns will affect the land uses described above, especially residential, hospitals, schools, and recreational. Describe the consistency of the project's transportation impacts with the transportation plans for the area and any air quality control plans. Cite any contact with appropriate experts.

6. Natural Environment.—Indicate all aspects of the project including construction, beneficiaries' operations, and known indirect effects which will affect the natural environment including wildlife, their habitats, and unique natural features. Cite contacts with appropriate experts. If an area listed on the National Registry of Natural Landmarks may be affected, consult with the Department of Interior and document these consultations and any agreements reached regarding avoidance or mitigation of potential adverse impacts.

7. Human Population.—Indicate the number of people to be relocated and arrangements being made for this relocation. Discuss how impacts resulting from the project such as changes in land use, transportation changes, air emissions, noise, odor, etc. will affect nearby residents and users of the project area and surrounding areas. Discuss whether the proposal will accommodate any population increases and, if so, describe the potential impacts of these increases on the area's public and community services such as schools, health care, social services, and fire protection. Cite contacts with appropriate experts.

8. Construction.—Indicate the potential effects of construction of the project on air quality, water quality, noise levels, solid waste disposal, soil erosion and siltation. Describe the measures that will be employed to limit adverse effects. Give particular consideration to erosion, stream siltation, and clearing operations.

9. Energy Impacts.—Indicate the project's and its primary beneficiaries' effects on the area's existing energy supplies. This discussion should address not only the direct energy utilization, but any major indirect utilization resulting from the siting of the project. Describe the availability of these supplies to the project site. Discuss whether

the project will utilize a large share of the remaining capacity of an energy supply or will create a shortage of such supply. Discuss any steps to be taken to conserve energy.

10. Discuss any of the following areas which may be relevant: noise, vibrations, safety, seismic conditions, fire-prone locations, radiation, and aesthetic considerations. Cite any-disucssion with appropriate experts.

V. Coastal Zone Management Act*

Indicate if the project is within or will impact a coastal area defined as such by the State's approved Coastal Zone Management Program. If so, consult with the State agency responsible for the Program to determine the project's consistency with it. The results of this coordination shall be included in the assessment and considered in completing the environmental impact determination and environmental findings (Item XXI below).

VI. Compliance With Advisory Council on Historic Preservation's Regulations

In this Section, the environmental reviewer shall detail the steps taken to comply with the above regulations as specified in Subpart F of Part 1901 of this Chapter. First, indicate that the National Register of Historic Places, including its monthly supplements, has been reviewed and whether there are any listed properties located within the area to be affected by the project. Second, indicate the steps taken such as historical/archeological surveys to determine if there are any properties eligible for listing located within the affected area. Summarize the results of the consultation with the State Historic Preservation Officer (SHPO) and attach appropriate documentation of the SHPO's views. Discuss the views of any other experts contacted. Based upon the above review process and the views of the SHPO, state whether or not an eligible or listed property will be affected.

If there will be an effect, discuss all of the steps and protective measures taken to complete the advisory Council's regulations. Describe the affected property and the nature of the effect. Attach to the assessment the results of the coordination process with the Advisory Council on Historic Preservation.

VII. Compliance With the Wild and Scenic Rivers Act

Indicate whether the project will affect a river or portion of it which is either included in the National Wild and Scenic Rivers System or designated for potential addition to the system. This analysis shall be conducted through discussions with the appropriate regional office of the National Park Service or the Forest Service when its lands are involved, as well as the appropriate State agencies having implementation authorities. See Exhibit E for specific implementation instructions for this Act. A summary of discussions held or any required formal coordination shall be included in the assessment and considered in completing the environmental impact determination and environmental findings (Item XXI below).

* Complete only if coastal or Great Lakes State.

VIII. Compliance With the Endangered Species Act

Indicate whether the project will either (1) affect a listed endangered or threatened species or critical habitat or (2) adversely affect a proposed critical habitat for an endangered or threatened species or jeopardize the continued existence of a proposed endangered or threatened species. This analysis shall be conducted in consultation with the Fish and Wildlife Service and the National Marine Fisheries Service, when appropriate. See Exhibit D for specific implementation instructions for this Act.

The results of any required coordination shall be included in the assessment along with any completed biological opinion and mitigation measures to be required for the project. These factors shall be considered in completing the environmental impact determination.

IX. Compliance With Farmland Protection Policy Act and Departmental Regulation 9500-3, Land Use Policy

Indicate whether the project will either directly or indirectly convert an important land resource(s) identified in the Memorandum other than floodplains or wetlands which should be addressed below in Item X. If a conversion may result, determine if there is a practicable alternative to avoiding it. If there is no such alternative, determine whether all practicable mitigation measures are included in the project. Document as an attachment these determinations and the steps taken to inform the public, locate alternatives, and mitigate potential adverse impacts. See Exhibit C of this Subpart for specific implementation guidance.

X. Compliance With Executive Order 11988, Floodplain Management, and Executive Order 11990, Protection of Wetlands

Indicate whether the project is either located within a 100-year floodplain (500-year floodplain for a critical action) or a wetland or will impact a floodplain or wetland. If so, determine if there is a practicable alternative project or location. If there is no such alternative, determine whether all practicable mitigation measures are included in the project and document as an attachment these determinations and the steps taken to inform the public, locate alternatives, and mitigate potential adverse impacts. See the U.S. Water Resources Council's *Floodplain Management Guidelines* for more specific guidance as well as Exhibit C of this Subpart.

XI. Compliance With Coastal Barrier Resources Act

Indicate whether the project is located within the Coastal Barrier Resources System. If so, indicate whether or not the project meets an exception criteria under the Act and the results of any consultation with the Secretary of the Interior regarding its qualification as an exception. See Exhibit F of this Subpart for specific implementation instructions as well as Exhibit L for a listing of the exception criteria. (Those States not having any components of the system within their jurisdiction need not reference this item in their assessments.)

XII. State Environmental Policy Act

Indicate if the proposed project is subject to a State environmental policy act or similar regulation. Summarize the results of compliance with these requirements and attach available documentation. (See § 1940.328 of this Subpart for further guidance.)

XIII. Consultation Requirements of Executive Order 12372, Intergovernmental Review of Federal Programs

Attach the comments of State, regional, or local agencies (if this review process is required for the project) and respond to all comments that deal with the subject matters discussed in this assessment format or are otherwise of an environmental nature.

XIV. Environmental Analysis of Participating Federal Agency

Indicate if another Federal Agency is participating in the project either through the provision of additional funds, a companion project, or a permit review authority. Summarize the results of the involved Agency's environmental impact analysis and attach available documentation. (See § 1940.318(d) of this Subpart for further guidance.)

XV. Reaction to Project

Discuss any negative comments or public views raised about the project and the consideration given to these comments. Indicate whether a public hearing or public information meeting has been held either by the applicant or FmHA to include a summary of the results and any objections raised. Indicate any other examples of the community's awareness of the project, such as newspaper articles or public notifications.

XVI. Cumulative Impacts

Summarize the cumulative impacts of this project and the related activities. Give particular attention to land use changes and air and water quality impacts. Summarize the results of the environmental impact analysis done for any of these related activities and/or your discussion with the sponsoring agencies. Attach available documentation of the analysis.

XVII. Adverse Impact

Summarize the potential adverse impacts of the proposal as pointed out in the above analysis.

XVIII. Alternatives

Discuss the feasibility of alternatives to the project and their environmental impacts. These alternatives should include (a) alternative locations, (b) alternative designs, (c) alternative projects having similar benefits, and (d) no project. If alternatives have been fully discussed above in any of Items VI through X, simply reference that discussion.

XIX. Mitigation Measures

Describe any measures which will be taken or required by FmHA to avoid or mitigate the identified adverse impacts. Such measures shall be included as special requirements or provisions to the offer of financial assistance.

XX. Consistency With FmHA Environmental Policies

Discuss the project's consistencies and inconsistencies with the Agency's environmental policies and the State Office's Natural Resource Management Guide. See §§ 1940.304 and 1940.305 for a discussion of these policies and Exhibit B for a discussion of the guide.

XXI. Environmental Determinations

The following recommendations shall be completed:

a. Based on an examination and review of the foregoing information and such supplemental information attached hereto, I recommend that the approving official determine that this project will have (#) a significant effect on the quality of the human environment and an Environmental Impact Statement must be prepared; will not have (#) a significant effect on the quality of the human environment.

b. I recommend that the approving official make the following compliance determinations for the below-listed environmental requirements.

Not in compliance	In compliance	
_____	_____	Clean Air Act.
_____	_____	Federal Water Pollution Control Act.
_____	_____	Safe Drinking Water Act—Section 1424(e).
_____	_____	Endangered Species Act.
_____	_____	Coastal Barrier Resources Act.
_____	_____	Coastal Zone Management Act—Section 307(c) (1) and (2).
_____	_____	Wild and Scenic Rivers Act.
_____	_____	National Historic Preservation Act.
_____	_____	Archeological and Historic Preservation Act.
_____	_____	Executive Order 11988, Floodplain Management.
_____	_____	Executive Order 11990, Protection of Wetlands.
_____	_____	Farmland Protection Policy Act.
_____	_____	Departmental Regulation 9500-3, Land Use Policy.
_____	_____	State Office Natural Resource Management Guide.

c. I have reviewed and considered the types and degrees of adverse environmental impacts identified by this assessment. I have also analyzed the proposal for its consistency with FmHA environmental policies, particularly those related to important farmland protection, and have considered the potential benefits of the proposal. Based upon a consideration and balancing of these factors, I recommend from an environmental standpoint that the project

——— be approved.

——— not be approved because of the attached reasons.

Signature of preparer* _____

Date _____

Title _____

*See § 1940.316 of this Subpart for listing of officials responsible for preparing assessment.

State Environmental Coordinator's Review (When required by § 1940.316 of this Subpart)

I have reviewed this environmental assessment and supporting documentation. Following are my positions regarding its adequacy and the recommendations reached by the preparer. For any matter in which I do not concur, my reasons are attached as Exhibit ——.

Do not concur	Concur	
_____	_____	Adequate Assessment.
_____	_____	Environmental Impact Determination.
_____	_____	Compliance Determinations.
_____	_____	Project Recommendation.

Signature of State Environmental Coordinator

Date _____

Exhibit I

SUBJECT: Finding of No Significant Environmental Impact and Necessary Environmental Findings for (insert name, location, and any identification number of project).

TO: Project File.

The attached environmental assessment has been completed for the subject proposal by the FmHA environmental reviewer. After reviewing the assessment and the supporting materials attached to it, I find that the subject proposal will not significantly affect the quality of the human environment. Therefore, the preparation of an environmental impact statement is not necessary.

I also find that the assessment properly documents the proposal's status of compliance with the environmental laws and requirements listed therein.

Insert signature and title of approving official as specified in § 1940.316 of this Subpart.

Exhibit J

LOCATIONS AND TELEPHONE NUMBERS OF FEDERAL EMERGENCY MANAGEMENT ADMINISTRATION'S REGIONAL OFFICES

Federal region	Location	FTS No.*	Commercial No.
I	Boston, MA	223-4741	(617) 223-4741
II	New York, NY	264-8980	(212) 264-8980
III	Philadelphia, PA	597-9416	(215) 597-9416
IV	Atlanta, GA	257-2400	(404) 881-2400
V	Chicago, IL	353-1500	(312) 353-1500
VI	Dallas, TX	749-9201	(817) 387-5811
VII	Kansas City, MO	758-5912	(816) 374-5912
VIII	Denver, CO	234-2553	(303) 234-2553
IX	San Francisco, CA	556-8794	(415) 556-8794
X	Seattle, WA	396-0294	(206) 481-8800

*This is the main number for the regional office. For floodplain information, ask for the Natural and Technological Hazards Division.

Exhibit K—Locations and Telephone Numbers of U.S. Fish and Wildlife Service's Wetland Coordinators

The U.S. Fish and Wildlife Service (FWS) is presently preparing the National Wetlands Inventory. Each regional office of the FWS has named a staff member as a Wetland Coordinator. These individuals can provide updated information concerning existing State and local wetland surveys and Federal inventories. Listed below are the FWS regional offices and their areas of responsibility.

Region I

Portland, OR—FTS 429-6154; Commercial (503) 231-6154.

Areas Covered: California, Hawaii, Idaho, Nevada, Oregon, Washington, U.S. Pacific Trust, Territories and Possessions.

Region II

Albuquerque, NM—FTS 474-3152; Commercial (505) 766-2914.

Areas Covered: Arizona, New Mexico, Oklahoma, Texas.

Region III

Twin Cities, MN—FTS 725-3593; Commercial (612) 725-3593.

Areas Covered: Illinois, Indiana, Michigan, Minnesota, Ohio, Wisconsin.

Region IV

Atlanta, GA—FTS 242-6343; Commercial (404) 221-6343.

Areas Covered: Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, Panama Canal Zone, Puerto Rico, South Carolina, Tennessee, Virgin Islands.

Region V

Newton Corner, MA—FTS 829-9379; Commercial (617) 965-5100, Ext. 379.

Areas Covered: Connecticut, Delaware, District of Columbia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia.

Region VI

Denver, CO—FTS 234-5586; Commercial (303) 234-5586.

Areas Covered: Colorado, Iowa, Kansas, Missouri, Montana, Nebraska, North Dakota, South Dakota, Utah, Wyoming.

Alaska Area Office

Anchorage, AK—Commercial (907) 263-3403.

National Office

St. Petersburg, FL—FTS 826-3624; Commercial (813) 893-3624.

Exhibit L—Exceptions to Restrictions of Coastal Barrier Resources Act

*Section 6 Exceptions**

(a) Notwithstanding Section 5, the appropriate Federal officer, after consultation with the Secretary, may make Federal expenditures or financial assistance available within the Coastal Barrier Resources System for—

(1) Any use or facility necessary for the exploration, extraction, or transportation of energy resources which can be carried out only on, in, or adjacent to coastal water areas because the use or facility requires access to the coastal water body;

*Quoted from Section 6 of the Act, Pub. L. 97-348.

(2) The maintenance of existing channel improvements and related structures, such as jetties, and including the disposal of dredge materials related to such improvements;

(3) The maintenance, replacement, reconstruction, or repair, but not the expansion, of publicly owned or publicly operated roads, structures, or facilities that are essential links in a larger network or system;

(4) Military activities essential to national security;

(5) The construction, operation, maintenance, and rehabilitation of Coast Guard facilities and access thereto; and

(6) Any of the following actions or projects, but only if the making available of expenditures or assistance therefor is consistent with the purposes of this Act:

(A) Projects for the study, management, protection and enhancement of fish and wildlife resources and habitats, including, but not limited to, acquisition of fish and wildlife habitats and related lands, stabilization projects for fish and wildlife habitats, and recreational projects.

(B) The establishment, operation, and maintenance of air and water navigation aids and devices, and for access thereto.

(C) Projects under the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601–4 through 11) and the Coastal Zone Management Act of 1972 (16 U.S.C. 1452 et seq.).

(D) Scientific research, including but not limited to aeronautical, atmospheric, space, geologic, marine, fish and wildlife and other research, development and applications.

(E) Assistance for emergency actions essential to the saving of lives and the protection of property and the public health and safety, if such actions are performed pursuant to Sections 305 and 306 of the Disaster Relief Act of 1974 (42 U.S.C. 5145 and 5146) and Section 1362 of the National Flood Insurance Act of 1968 (42 U.S.C. 4103) and are limited to actions that are necessary to alleviate the emergency.

(F) The maintenance, replacement, reconstruction, or repair, but not the expansion, of publicly owned or publicly operated roads, structures, or facilities.

(G) Nonstructural projects for shoreline stabilization that are designed to mimic, enhance, or restore natural stabilization systems.

(b) For purposes of Subsection (a)(2), a channel improvement or a related structure shall be treated as an existing improvement or an existing related structure only if all, or a portion, of the moneys for such improvement or structure was appropriated before the date of the enactment of this Act.

PART 1941—OPERATING LOANS

Subpart A—Operating Loan Policies, Procedures, and Authorizations

4. In § 1941.23, paragraph (a)(1) is revised to read as follows:

§ 1941.23 General provisions.

(a) *Compliance requirements.* * * *

(1) *Environmental assessments and statements.* Subpart G of Part 1940 of this Chapter should be referred to for these requirements. The State Environmental Coordinator should be consulted for assistance in preparing any required statements.

* * * * *

5. In Exhibit A, paragraph C, the list of forms under "Docket preparation" is revised to read as follows:

Exhibit A—Processing Guido—Insured Operating Loans

* * * * *

C. Eligibility Determination.

* * * * *

Docket Preparation.

* * * * *

Form No.	Name	
400–4	Assurance Agreement	C
427–8	Agreement with Prior Lienholder	C
1940–1	Request for Obligation of Funds	C
440–4	Security Agreement (Chattels and Crops).	C
440–4A	Security Agreement (Crops)	C
440–6	Severance Agreement	C
440–9	Supplementary Payment Agreement	C
1940–20	Request For Environmental Information.	C
440–25/ 440A25	Financing Statement	C
440–26	Consent and Subordination Agreement.	C
1940–21, 1940–22, or Exhibit H, Subpart G of Part 1940.	Environmental Review	C
441–5	Subordination Agreement	O
1941–7	OL and Other Credit Analysis	O
441–8	Assignment of Proceeds from the Sale of Products.	O
441–10	Nondisturbance Agreement	O
441–12	Agreement for Disposition of Jointly Owned Property.	O
441–13	Division of Income and Nondisturbance Agreement.	O
441–17	Certification of Obligation to Landlord	O
441–18	Consent to Payment of Proceeds from Sale of Farm Products.	O
441–25	Assignment of Proceeds from the Sale of Dairy Products and Release of Security Interest.	O
492–19	Characteristics of Approved Applicants.	O

* * * * *

PART 1942—ASSOCIATIONS

Subpart A—Community Facility Loans

6. In § 1942.2, paragraph (d) is removed; paragraphs (b) and (c) are redesignated as paragraphs (c) and (d) respectively; paragraphs (a)(3), (4) and (b) are added and paragraphs (a)(1), (a)(2)(iii) and (c) are revised, to read as follows:

§ 1942.2 Processing preapplications.

(a) Preapplications. (1) The County Office may handle initial inquiries and provide basic information about the program. They are to provide the preapplication, Form AD–621, "Preapplication for Federal Assistance." The County Supervisor will assist applicants as needed in completing Form AD–621, and in filing written notice of intent and request for priority recommendation with the appropriate clearinghouse (except Federally recognized Indian tribes which will be dealt with in accordance with § 1901.352(c) of Subpart H of Part 1901 of this chapter). The County Supervisor will inform the applicant that it may be necessary to apply for credit from commercial sources. It will be explained that if credit for the project is available from commercial sources at reasonable rates and terms that applicant is not eligible for FmHA financing. Preapplications will be filed in the County Office and forwarded immediately to the District Office. The applicant will be informed that further processing will be handled by the District Office. An information folder will be established and maintained by the County Office once a preapplication is received. In the event the preapplication is filed in the District Office, the District Director may assist the applicant in completing the preapplication requirements. The District Director will meet with the applicant whenever appropriate to discuss FmHA preapplication processing. The appropriate information to set up the County Office information file will be sent to the County Supervisor by the District Director. Guidance and assistance will be provided by the State Director, as needed, for orderly application processing. The District Director will determine that the preapplication is properly completed and fully review it. The District Director will then forward to the State Director:

(i) Eligibility determination and recommendations.

(ii) One copy of Form AD–621.

(iii) Clearinghouse comments.

(iv) Priority recommendations.

(2) * * *

(iii) The State Director will review the District Director's eligibility determination and recommendations in sufficient time for the District Director's use in preparing and issuing Form AD–622 "Notice of Preapplication Review Action."

* * * * *

(3) The following statement must be added to Form AD–622 when notifying preapplicants who are eligible and can compete with similar applications from other applicants:

You are advised against taking any actions or incurring any obligations which would either limit the range of alternatives to be considered or which would have an adverse effect on the environment. You will be

notified whether or not to proceed with a full application after you have provided the following materials to this office and FmHA has completed its review.

(i) Form FmHA 1940–20, "Request for Environmental Information."

(ii) Preliminary Engineering or Architectural Report.

(iii) Professional services agreement for engineering or architectural services.

(4) The following statement must be added to Form AD–622 when notifying preapplicants who are eligible but do not have the priority necessary for further consideration at this time.

You are advised against incurring obligations which would limit the range of alternatives to be considered or which cannot be fulfilled without FmHA funds until the funds are actually made available. Therefore, you should refrain from such actions as initiating engineering and legal work; taking actions which would have an adverse effect on the environment, taking options on land rights, developing detailed plans and specifications; or inviting construction bids until notified by Farmers Home Administration (FmHA) to proceed.

(b) *Environmental review.* Environmental requirements will be documented in accordance with Subpart G of Part 1940 of this chapter and submitted to the State Director. Prior to requesting an application, the State Director will ensure that the appropriate environmental review is completed. Preapplicants must submit the following additional information:

(1) Form FmHA 1940–20.

(2) Preliminary engineering or architectural report.

(3) Professional services agreement for engineering or architectural services.

(c) *Applications.* The District Director should assist the applicant in application assembly and processing.

(1) State Directors should have applications in process representing approximately 150 percent of the current State allocation.

(2) The application docket will include Form AD–624, "Application for Federal Assistance" (for construction programs), and other related forms, materials, and information. The application will be assembled in accordance with Guide 15 of this Subpart or appropriate State guides developed in accordance with § 1942.16 of this subpart.

(3) When an applicant is notified to proceed with an application, the District Director should arrange for a conference with the applicant to provide copies of appropriate appendices and forms; furnish guidance necessary for orderly application processing; and to initiate a processing checklist for establishing a time schedule for completion of items using Form FmHA 442–39, "Processing Check List (Other Than Public Bodies)," or Form FmHA 442–40, "Processing Check List (Public Bodies)," or other checklist adopted for use in the State. The District Director will confirm decisions made at this conference by letter to the applicant and by a copy of the processing checklist. The original and a copy of the processing checklist will be retained in the District Office and a copy will be forwarded to the State Office. The original and copy of the checklist retained in the District Office will be kept current as application processing actions are taken. The copy will be sent to the State Office to use in updating its copy of this form. The State Office will then return the District Office's copy. As the application is being processed, and the need develops for additional conferences, the District Director will arrange with the applicant for such conferences to extend and update the processing checklist.

* * * * *

7. In § 1942.17, paragraphs (j)(7) and (m)(1) are revised to read as follows:

§ 1942.17 Appendix A—Community facilities.

* * * * *

(j) * * *

(7) *Environmental requirements.* Environmental requirements will be documented by FmHA in accordance with Subpart G of Part 1940 of this chapter. The applicant will provide any information required.

* * * * *

(m) * * *

(1) *Preapplications.* Applicants desiring loans will file Form AD–621, "Preapplication for Federal Assistance," and comments from the appropriate A–95 clearinghouse agency normally with the appropriate FmHA County Office. The County Supervisor will immediately forward all documents to the District Office. The District Director has prime responsibility for all community program loan making and servicing activities within the District.

* * * * *

Subpart G—Industrial Development Grants

8. In § 1942.310, paragraph (b) is revised to read as follows:

§ 1942.310 Other considerations.

* * * * *

(b) *Environmental requirements.* Environmental assessments and statements will be prepared in accordance with Subpart G of Part 1940 of this chapter.

* * * * *

Subpart I—Resource Conservation and Development (RCD) Loans and Watershed (WS) Loans and Watershed Advances

9. In § 1942.411, paragraph (g) is revised to read as follows:

§ 1942.411 Other considerations.

* * * * *

(g) *Environmental requirements.* Actions will be taken to comply with the National Environmental Policy Act in accordance with Subpart G of Part 1940 of this chapter. When environmental assessments and environmental impact statements have been prepared on WS plans or RCD area plans by SCS, a separate environmental impact statement or assessment on WS works of improvement or RCD measures for which a WS loan, WS advance, or RCD loan is requested will not be necessary unless the SCS environmental review fails to meet the requirements of Subpart G of Part 1940 of this chapter. The FmHA State Director should document the action taken by SCS in compliance with the requirements of the National Environmental Policy Act and fomally adopt the impact statement or assessment, if satisfactory. If a determination is made that a further analysis of the environmental impact is needed, the FmHA State Director will make necessary arrangements with the State SCS Conservationist for such action to be taken before a loan is made.

* * * * *

PART 1943—FARM OWNERSHIP, SOIL AND WATER AND RECREATION

Subpart A—Insured Farm Ownership Loan Policies, Procedures, and Authorizations

10. In § 1943.23, paragraphs (d)(1), (d)(2) and (d)(3) are removed and introductory paragraph (a) and paragraphs (a)(2), and (d) are revised to read as follows:

§ 1943.23 General provisions.

(a) *Flood or mudslide hazard areas.* Flood or mudslide hazards will be evaluated whenever the farm to be financed is located in special flood or mudslide prone areas as designated by the Federal Emergency Management Administration (FEMA). Subpart B of Part 1806 of this Chapter (FmHA Instruction 426.2) as well as Subpart G of Part 1940 of this chapter will be complied with when loan funds are used to construct or improve buildings located in such areas. This will not prevent making loans on farms if the farmstead is located in a flood or

mudslide prone area and funds are not included for building improvements. However, buildings will need to meet the standards set out in § 1943.24 of this Subpart. The flood or mudslide hazard will be recognized in the appraisal report. When land development or improvements such as dikes, terraces, fences, and intake structures are planned to be located in special flood or mudslide prone areas, loan funds may be used subject to the following:

* * * * *

(2) FmHA representatives will evaluate the proposal and record the decision in the loan docket in accordance with Subpart G, Part 1940 of this chapter.

* * * * *

(d) *Environmental requirements.* See Subpart G of Part 1940 of this chapter for applicable environmental requirements.

* * * * *

§ 1943.32 [Amended]

11. In § 1943.32 the table of forms in paragraph (a) is amended as follows: In the entry for FmHA Form number 400–4, by changing the name of the form from "Nondiscrimination Agreement" to " Assurance Agreement"; In the entry for FmHA Form number 440–1, by changing the form number from "440–1" to "1940–1";

In the entry for FmHA form number 440–46, by changing the form number from "440–46" to "1940–21, 1940–22," or Exhibit H, Subpart G, Part 1940, and changing the form name from "Environmental Impact Assessment" to "Environmental Review";

In the entry for FmHA form number 449–10, by changing the form number from "449–10" to "1940–20" and changing the form name from "Applicants Environmental Impact Evaluation" to "Request for Environmental Information."

Subpart B—Insured Soil and Water Loan Policies, Procedures, and Authorizations

12. In § 1943.73, paragraphs (d)(1), (d)(2) and (d)(3) are removed and the introductory text of paragraph (a), and paragraphs (a)(2), and (d), are revised to read as follows:

§ 1943.73 General provisions.

(a) *Flood and mudslide hazard areas.* Flood and mudslide hazards will be evaluated whenever the farm to be financed is located in special flood or mudslide prone areas as designated by the Federal Emergency Management Administration (FEMA). Subpart B of Part 1806 of this chapter (FmHA Instruction 426.2) as well as Subpart G of Part 1940 of chapter will be complied with when loan funds are used to construct, modify, or relocate buildings in such areas. This will not prevent making loans on farms when the farmstead is located in a flood or mudslide prone area and if funds are not included in the loan for building improvements. However, the hazard will need to be noted in the appraisal report. When land development or improvements such as dikes, terraces, fences, and intake structures are planned to be located in special flood or mudslide prone areas, loan funds may be used subject to the following:

* * * * *

(2) FmHA representatives will evaluate the proposal and record the decision in the loan docket in accordance with Subpart G of Part 1940 of this chapter.

* * * * *

(d) *Environmental requirements.* See Subpart G of Part 1940 of this chapter for applicable environmental requirements.

* * * * *

§ 1943.82 [Amended]

13. In § 1943.82 the table of forms in paragraph (a) is amended as follows:

In the entry for FmHA form number 400–4, by changing the name of the form from "Nondiscrimination Agreement" to "Assurance Agreement";

In the entry for FmHA Form number 440–1, by changing the form number from "440–1" to "1940–1";

In the entry for FmHA form number 440–46, by changing the form number from "440–46" to "1940–21, 1940–22, or Exhibit H, Subpart G, Part 1940" and changing the form name from "Environmental Impact Assessment" to "Environmental Review";

In the entry for FmHA form number 449–10, by changing the form number from "449–10" to "1940–20" and changing the form name from "Applicants Environmental Impact Evaluation" to "Request for Environmental Information."

Subpart C—Insured Recreation Loan Policies, Procedures and Authorizations

14. In § 1943.123, paragraphs (d)(1), (d)(2) and (d)(3) are removed and the introductory text of paragraph (a) and paragraphs (a)(2) and (d) are revised to read as follows:

§ 1943.123 General provisions.

(a) *Flood and mudslide hazard areas.* Flood and mudslide hazards will be evaluated whenever the farm to be financed is located in special flood or mudslide prone areas as designated by the Federal Emergency Management Administration (FEMA). Subpart B of Part 1806 of this chapter (FmHA Instruction 426.2) as well as Subpart G of Part 1940 of this chapter will be complied with when loan funds are used to construct or improve buildings located in such areas. This will not prevent making loans on farms if the farmstead is located in a flood or mudslide prone area and funds are not included for building improvements. The hazard will be noted in the appraisal report. When land development or improvements such as dikes, terraces, fences, and intake structures are planned to be located in special flood or mudslide prone areas, loan funds may be used subject to the following:

* * * * *

(2) FmHA representatives will evaluate the proposal and record the decision in the loan docket in accordance with Subpart G of Part 1940 of this chapter.

* * * * *

(d) *Environmental requirements.* See Subpart G of Part 1940 of this chapter for applicable environmental requirements.

* * * * *

§ 1943.132 [Amended]

15. In § 1943.132, the table of forms in paragraph (a) is amended as follows:

In the entry for FmHA form number 400–4, by changing the name of the form from "Nondiscrimination Agreement" to "Assurance Agreement";

In the entry for FmHA form number 440–1, by changing the form number from "440–1," to "1940–1";

In the entry for FmHA form number 440–46, by changing the form number from "440–46" to "1940–21, 1940–22, or Exhibit H, Subpart G, Part 1940" and changing the form name from "Environmental Impact Assessment" to "Environmental Review";

In the entry for FmHA form number 449–10, by changing the form number from "449–10," to "1940–20" and changing the form name from "Applicants Environmental Impact Evaluation" to "Request for Environmental Information."

PART 1944—HOUSING

Subpart D—Farm Labor Housing Loan and Grant Policies, Procedures, and Authorizations

16. In § 1944.164, paragraphs (l), and (m) are revised to read as follows:

§ 1944.164 Limitations and conditions.

* * * * *

(l) *Guidelines for preparing environmental assessments and environmental impact statements.* All projects shall comply with Subpart G of Part 1940 of this chapter.

(m) *Guidelines for projects affecting floodplains.* The provisions of the National Flood Insurance Act of 1968 as amended by the Flood Disaster Protection Act of 1973 apply to FmHA authorities permitting financing of LH now located in or to be located in special flood or mudslide prone areas as designated by the Federal Emergency Management Agency. Subpart B of Part 1806 of this chapter (FmHA Instruction 426.2) applies. It should be emphasized, however, that FmHA's response to floodplain development is not limited to the Flood Insurance Program. Pursuant to Executive Order 11988, "Floodplain Management," FmHA shall not fund any housing projects which impact a floodplain unless there is no practicable alternative siting of the project. Applicants, therefore, should concentrate in the early planning stages of this proposal to locating sites which do not impact floodplains. See Subpart G of Part 1940 of this chapter for applicable environmental requirements.

* * * * *

17. In § 1944.171, the table in paragraph (d) is revised to read as follows:

§ 1944.171 Preparation of completed loan and/or grant docket.

* * * * *

(d) * * *

Form No.	Name of form or document	Total No. of copies	Signed by borrower	Number for docket	Copy for borrower
AD-621	Preapplication for Federal Assistance	3	1	2-O and 1C	1-C.
Exhibit A-1 (or Exhibit A-2)[2]	Information to be Submitted for Labor Housing (LH) Loan or Grant	2	0	1-O	1-C.
	Memorandum from the National Office authorizing development of loan docket and loan or grant approval if required by § 1944.170(c).[2]	1		1-O	
AD-622	Notice or Preapplication Review Action	3		2-C	1-O.
AD-625	Application for Federal Assistance (Short Form)	3	1	2-O and 1C	1-C.
Exhibit A-1 (or Exhibit A-2)[2]	Information to be Submitted for an LH Loan or Grant	2	0	1-O	1-C.
FmHA 444-5	Multiple Family Housing Fund Analysis	4		4-O and 3C	1q
FmHA 1940-1	Request for Obligation of Funds	4	2-O and 1C	3-O and 2C	1.
FmHA 400-1	Equal Opportunity Agreement	2		1-O	1-C.
FmHA 400-3[2]	Notice to Contractors and Applicants	3		2-O and 1C	1-C.
FmHA 400-4	Assurance Agreement	2	1	1	1.
FmHA 400-6[2]	Compliance Statement	3		2-O and 1C	1-C.
HUD 935.2	Affirmative Fair Housing Marketing Plan	2		2-O and 1C	
	Evidence of Legal Authority (copies or citation of specific provisions of State constitution and statutory authority).[2]	2	1	1-O	1-C.
FmHA 1940-20[3]	Appraisal report with attachments	1		1-O	
FmHA 1940-21	Request for Environmental Information	1	1	1-O	
FmHA 1940-22[3]	Environmental Assessment For Class I Actions	1		1-O	
Exhibit H Subpart G of Part 1940[3]	Environmental Checklist For Categorical Exclusions	1		1-O	1.
FmHA 426-1	Class II Environmental Assessment	1		1-O	1.
FmHA 440-9[3]	Valuation of Buildings	1		1-O	
	Supplementary Payment Agreement	2	1	1-O	1-C.
Other Loan Docket Items. Preliminary Title Opinion or a title insurance binder, and a copy of deed, purchase contract, or other instrument of ownership, or an option.					
	Proof of Organization (certified copy of charter or articles of incorporation)[1]	2	1	1-O	1-C.
	Certified copies of bylaws or regulations[1]	2	1	1-O	1-C.
	List of names and addresses of officers, directors, and members and membership interest held by each.[1]	2	1	1-O	1-C.
	Certified copy of Loan Resolution[1]	1	1	1-O	1-C.
	Loan Agreement[2]	2	1	1-O	1-C.
	Survey of land given as security, plans, specifications, cost estimates, and proposed manner of construction.[2]	2	1	1-O	1-C.
Exhibit A-5[2]	Statement of Budget and cash flow	2	1	1-O	1-C.
FmHA 431-2[2]	Farm and Home Plan	2	1	1-O	1-C.
When applicable, include copy of lease or occupancy agreement to be used, report of lien search, option or foreclosure notice agreement, and items of information concern prior mortgage(s).					

[1] When applicant is an organization.
[2] When applicable.

Exhibit A-1—[Amended]

18. In Exhibit A-1, paragraph I.C. is revised to read as follows:

Exhibit A-1—Information To Be Submitted by Organizations and Associations of Farmers for Labor Housing Loan or Grant

I. * * *

C. *Environmental Information.* The applicant will complete Form FmHA 1940-20, "Request for Environmental Information," as required by Subpart G of Part 1940 of this chapter. The applicant shall provide all information requested; the District Office will provide any assistance necessary in completing this form.

* * * * *

Exhibit A-2—[Amended]

19. In Exhibit A-2, paragraph I.I. is revised to read as follows:

Exhibit A-2—Information To Be Submitted by Individuals, Farmowners and Family Farm Corporations or Partnerships for Labor Housing Loans

I. * * *

I. *Environmental Information.* The District Office will advise the applicant of the applicability of FmHA's environmental requirements under Subpart G of Part 1940 of this chapter, which are primarily based on the size of the proposed project. If applicable, the applicant will complete Form FmHA 1940-20, "Request for Environmental Information." The District Office will provide assistance and guidance to the applicant in completing this form.

* * * * *

Subpart E—Rural Rental Housing Loan Policies, Procedures, and Authorizations

20. In § 1944.215, paragraphs (o) and (p) are revised to read as follows:

§ 1944.215 Special conditions.

* * * * *

(o) *Guidelines for preparing environmental assessments and environmental impact statements.* All projects shall comply with Subpart G of Part 1940 of this chapter. Projects involving Section 8/515 loans shall also comply with Exhibit H of this Subpart.

(p) *National flood insurance.* The provisions of the National Flood Insurance Act of 1968 as amended by the Flood Disaster Protection Act of 1973 and Executive Order 11988 are applicable to FmHA authorities permitting financing of rental housing now located in or to be located in, special flood or mudslide-prone areas as designated by the Federal Emergency Management Administration (FEMA).

Subpart B of Part 1806 of this Chapter (FmHA Instruction 426.2) will apply as well as the review and implementation requirements of E.O. 11988 as specified in Subpart G of Part 1940 of this chapter.

* * * * *

Exhibit A–6—[Amended]

21. In Exhibit A–6, paragraph 5 is revised to read as follows:

Exhibit A–6—Information To Be Submitted With Preapplication for Rural Rental Housing (RRH) Loans

* * * * *

5. *Form FmHA 1940–20, "Request for Environmental Information."*

22. In Exhibit H, paragraph V.E.1. is revised to read as follows:

Exhibit H—RRH Loans and the HUD Section 8 Housing Assistance Payments Program (New Construction)

* * * * *

V. * * *

E. *Environmental Standards.* 1. Subpart G of Part 1940 of this chapter outlines the program actions requiring environmental assessment and, if found necessary, an environmental impact statement. Consideration must also be given to the effects of the environment and neighborhood activity on the project. The proposal will be rejected if, after appropriate modifications, there would remain environmental impacts which are unacceptable under FmHA policies.

* * * * *

Subpart K—Technical and Supervisory Assistance Grants

23. In § 1944.523, paragraph (b) is revised to read as follows:

§ 1944.523 Other administrative requirements.

* * * * *

(b) The policies and regulations contained in Subpart G of Part 1940 of this chapter regarding Environmental Assessments.

24. In § 1944.526, paragraphs (a)(5), (b)(1)(i), and (c)(1)(i) are revised to read as follows:

§ 1944.526. Preapplication procedure.

(a) * * *

(5) An original and one copy of Form FmHA 1940–20, "Request for Environmental Information."

(b) * * *

(1) * * *

(i) Complete any required environmental review procedures as specified in Subpart G of Part 1940 of this chapter and attach to the application.

* * * * *

(c) * * *

(1) * * *

(i) Make a determination on Form FmHA 1940–21, Form FmHA 1940–22 or Class II Environmental Assessment in accordance with Subpart G of Part 1940 of this chapter.

* * * * *

25. In § 1944.531, paragraphs (c)(10) and (c)(11) are revised to read as follows:

§ 1944.531 Application submission.

* * * * *

(c) * * *

(10) Form FmHA 1940–20, "Request for Environmental Information."

(11) Form FmHA 1940–22, "Environmental Checklist for Categorical Exclusions," Form FmHA 1940–21, "Environmental Assessment for Class I Actions" or Exhibit H, Subpart G of Part 1940 entitled, Environmental Assessment for Class II Actions.

* * * * *

26. In Exhibit B, paragraph A–4 is revised to read as follows:

Exhibit B—Administrative Instructions for State Offices Regarding Their Responsibilities in the Administration of the Technical and Supervisory Assistance Grant Program

A. * * *

4. Form FmHA 1940–20, "Request for Environmental Information."

* * * * *

27. In Exhibit C, paragraph A–4 is revised to read as follows:

Exhibit C—Instructions for District Offices Regarding Their Responsibilities in the Administration of the Technical and Supervisory Assistance Grant Program

A. * * *

4. Form FmHA 1940–20, "Request for Environmental Information."

* * * * *

PART 1945—EMERGENCY

Subpart D—Emergency Loan Policies, Procedures and Authorizations

28. In § 1945.173, paragraphs (e)(1), (e)(2) and (e)(3) are removed and the introductory text of paragraph (b), and paragraphs (b)(2)(ii), and (e) are revised to read as follows:

§ 1945.173 General provisions-compliance requirements.

* * * * *

(b) *Flood or mudslide hazard areas.* Flood or mudslide hazards will be evaluated whenever the farm to be financed is located in special flood or mudslide prone areas as designated by the Federal Emergency Management Agency (FEMA). Supart B of Part 1806 of this chapter (FmHA Instruction 426.2) and Subpart G of Part 1940 of this chapter will be complied with when loan funds are used to construct or improve buildings located in such areas. This will not prevent making loans on farms if the farmstead is located in a flood or mudslide prone area and funds are not included for building improvements. The flood or mudslide hazard will be recognized in the appraisal report.

* * * * *

(2) * * *

(ii) FmHA representatives will evaluate the proposal and record the decision in the loan docket in accordance with the requirements of Subpart G of Part 1940 of this chapter.

* * * * *

(e) *Environmental requirements.* See Subpart G of Part 1940 of this chapter for applicable requirements.

* * * * *

29. In Exhibit A, paragraph IV, D. is revised to read as follows:

Exhibit A—Processing Guide—Insured Emergency (EM) Loans

* * * * *

IV. * * *

D. Use the following FmHA Forms as appropriate:

Form No.	Name	Use
400–4	Assurance Agreement	[A]
427–8	Agreement With Prior Lienholder	(*)
440–4	Security Agreement (Chattels and Crops).	(*)
440–4A	Security Agreement (Crops)	(*)
440–6	Severance Agreement	(*)
440–15	Security Agreement (Insured Loans to Individuals).	(*)
1940–20	Request for Environmental Information.	(*)
440–25	Financing Statement	(*)
440–A25	Financing Statement (Carbon-Interleaved).	(*)
440–26	Consent and Subordination Agreement.	(*)
1940–21, 1940–22, or Exhibit H, Subpart G, Part 1940.	Environmental Review	(*)
441–5	Subordination Agreement	(*)
441–8	Assignment of Proceeds From the Sale of Products.	(*)
441–10	Nondisturbance Agreement	(*)
441–12	Agreement for Disposition of Jointly-Owned Property.	(*)
441–13	Division of Income and Nondisturbance Agreement.	(*)
441–17	Certification of Obligation to Landlord	(*)
441–18	Consent to Payment of Proceeds From Sale of Farm Products.	(*)
441–25	Assignment of Proceeds From the Sale of Dairy Products and Release of Security Interest.	(*)
443–16	Assignment of Income From Real Estate Security.	(*)
443–17	Agreement To Sell Nonessential Real Estate.	(*)
1940–1	Request for Obligation of Funds	(*)

* * * * *

PART 1948—RURAL DEVELOPMENT

Subpart A—Area Development Assistance Planning Grants

30. Section 1948.23 is revised to read as follows:

§ 1948.23 Environmental requirements.

The policies and regulations contained in Part 1940, Subpart G of this chapter apply to grants made under this part.

31. Section 1948.29 is amended by removing paragraph (d)(4); redesignating paragraph (d)(5) as (d)(4); removing paragraphs (j)(12) and (j)(13); redesignating paragraph (j)(14) as (j)(12) and revising paragraph (e)(2) as follows:

§ 1948.29 Application procedure.

* * * * *

(e) * * *

(2) Complete environmental review as required by Subpart G of Part 1940 of this chapter.

* * * * *

Exhibit B—[Amended]

32. Exhibit B is amended by removing the fourth item under Paragraph I. 2 copies of Form FmHA 449–10, "Applicants Environmental Impact Evaluation."

33. In Exhibit B, the material titled "Administrative Instructions for FmHA State Offices Regarding Their Responsibilities in the Administration of the Area Development Assistance Planning Grant Program" is amended by removing in the first undesignated paragraph, first sentence, the phrase "Form FmHA 449–10, 'Applicant's Environmental Impact Evaluation,' "; in the third undesignated paragraph by removing the second sentence; in the ninth undesignated paragraph, item number 3, and renumbering items 4. and 5. to 3. and 4. respectively.

34. In Exhibit B, the material titled "Instructions for FmHA County Offices Regarding Their Responsibilities in the Administration of the Area Development Assistance Planning Grant Program" is amended by removing from the first undesignated paragraph, first sentence, the phrase "Form FmHA 449–10, 'Applicant's Environmental Impact Evaluation' ", and removing the last sentence in the second undesignated paragraph.

PART 1948—RURAL DEVELOPMENT

Subpart B—Section 601—Energy Impacted Area Development Assistance Program

35. In § 1948.62, paragraph (a) is revised to read as follows:

§ 1948.62 Environmental requirements.

(a) The policies and regulations contained in Subpart G of Part 1940 of this chapter apply to grants made and other actions under this program.

* * * * *

§ 1948.79 [Amended]

36. In § 1948.79, paragraphs (d)(4), (k)(11) and (k)(12) are removed and the remaining paragraphs under paragraphs (d) and (k) renumbered accordingly.

37. In § 1948.84, paragraphs (d), (e), and (i) are amended by removing paragraphs (d)(11) and (e)(5) and renumbering the remaining paragraphs in paragraph (d) accordingly and revising paragraphs (d)(8), (e)(2), (i)(13), and (i)(14) as follows:

§ 1948.84 Application procedure for site development and acquisition grants.

* * * * *

(d) * * *

(8) An original and one copy of Form FmHA 1940–20;

* * * * *

(e) * * *

(2) Comply with environmental requirements set forth in Subpart G of Part 1940 of this chapter;

* * * * *

(i) * * *

(13) Form FmHA 1940–20, if required by Subpart G of Part 1940 of this chapter;

(14) A copy of the appropriate FmHA environmental review required by Subpart G of Part 1940 of this chapter;

* * * * *

PART 1980—GENERAL

Subpart A—General

38. Section 1980.40 is revised to read as follows:

§ 1980.40 Environmental requirements.

The need for an Environmental Impact Statement (EIS) will be determined by the FmHA State Director. The determination will be based upon FmHA's review of Form FmHA 1940–20, "Request for Environmental Information." If an EIS is necessary, applicants and lenders will be required to provide essential data for use in its preparation. The FmHA State Director will coordinate preparation and processing of any required EIS. If joint agency financing for the proposal is involved, the lead agency will be responsible for preparation of the EIS. In all cases FmHA is responsible for assuring that the requirement of Section 102(2)(c) of the National Environmental Policy Act of 1969 (NEPA), and 7 CFR Subpart G of Part 1940 of this chapter are met.

39. In § 1980.42(a), paragraph (3) is added to read as follows:

§ 1980.42 Flood or mudslide hazard area precautions.

(a) * * *

(3) The requirements of Subpart G of Part 1940 of this chapter have been met.

* * * * *

PART 1980—GENERAL

Subpart B—Farmer Program Loans

40. In § 1980.114, paragraph C. under the heading "Administrative" is revised to read as follows:

§ 1980.114 FmHA evaluation of applications.

* * * * *

Administrative:

* * * * *

C. When Form FmHA 1940–20, "Request for Environmental Information" is required, follow the requirements of Subpart G of Part 1940 of this chapter.

Subpart E—Business and Industrial Loan Program

41. Section 1980.432 is revised to read as follows:

§ 1980.432 Environmental requirements.

(See Subpart A, § 1980.40 and Subpart G of Part 1940 of this chapter)

Administrative:

When required by Subpart G of Part 1940 of this chapter, the approving official will review Form FmHA 1940–20, "Request for Environmental Information," submitted by the applicant and the environmental impact assessment prepared by the environmental reviewer. The approving official will indicate his/her decision as part of the assessment, when required. If the approving official determines that an EIS is required, he/she will notify the applicant and lender in writing.

42. In § 1980.451, paragraph (i)(3) is revised to read as follows:

§ 1980.451 Filing and processing applications.

* * * * *

(i) * * *

(3) Form FmHA 1940–20, "Request for Environmental Information," when

required by Subpart G of Part 1940 of this chapter.

* * * * *

43. In § 1980.451, the table entitled, "Description of Record or Form Number and Title," following Administrative paragraph C. 7 is amended as follows: by changing the number for Form FmHA "440–1" to "1940–1"; by adding immediately below the entry for Form FmHA 1940–1 the following entry:

"FmHA 1940–22 Environmental Checklist for Categorical Exclusions by changing the entry for Form FmHA "440–46" to read	3";
"FmHA 1940–21 Environmental Assessment for Class I Action by adding immediately below the entry for Form FmHA 1940–21 the following entry:	3";
"Exhibit H, Subpart G, of Part 1940 — Environmental Assessment for Class II Action	3";
by changing the entry for Form FmHA "449–10" to read as follows: "FmHA 1940–20 Request for Environmental Information	3".

Authority: 7 U.S.C. 1989; 42 U.S.C. 1480; 5 U.S.C. 301; Sec. 10 P.L. 93–357, 88 Stat. 392; 7 CFR 2.23; 7 CFR 2.70.

Dated: October 5, 1983.

Charles W. Shuman,

Administrator, Farmers Home Administration.

[FR Doc. 84–1849 Filed 1–27–84: 8:45 am]

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VOL
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federal register

Monday
January 30, 1984

Part III

Department of Commerce

Patent and Trademark Office

37 CFR Part 1

Patent Interference Proceedings; Proposed Rule

DEPARTMENT OF COMMERCE

Patent and Trademark Office

37 CFR Part 1

[Docket No. 40104–03]

Patent Interference Proceedings

AGENCY: Patent and Trademark Office, Commerce.

ACTION: Notice of proposed rulemaking.

SUMMARY: This Administration on July 18, 1983, forwarded to the Congress a legislative proposal to combine the Board of Appeals and the Board of Patent Interferences into a single Board of Appeals and Interferences. This legislation is now being considered in the House (H.R. 4462) and Senate (S. 1538, as amended and reported by the Subcommittee on Patents, Copyrights and Trademarks of the Senate Committee on the Judiciary). In order to afford the public the maximum time for studying and comment, this proposed notice of rulemaking sets forth changes that the Patent and Trademark Office (PTO) is proposing to the rules governing interferences should the legislation be enacted. The proposing of rule changes on the assumption that the legislation will be passed is not in any way intended to usurp the prerogatives of the Congress to act as it wishes in regard to the proposed legislation. Should the Congress amend the proposed legislation, this notice of proposed rulemaking will be revised to satisfy Congressional intent. Should Congress fail to enact the proposed legislation, this notice will likewise be revised to streamline interference proceedings without the merger of the two Boards. Interested persons are invited to comment on the proposed rules.

DATES: Comments must be submitted on or before May 7, 1984; a public hearing will be held on May 15, 1984, at 9:30 A.M.; requests to present oral testimony should be received on or before May 7, 1984.

ADDRESS: Address written comments and requests to present oral testimony to Box 8, Commissioner of Patents and Trademarks, Washington, D.C. 20231, Attention: Fred E. McKelvey. The hearing will be held in the Commissioner's Conference Room, 11th Floor, Crystal Plaza Building 3, Room 11–C–10, 2021 Jefferson Davis Highway, Arlington, Virginia. Written comments and a transcript of the public hearing will be available for public inspection in Room 12B10, Crystal Gateway II, 1225 Jefferson Davis Highway, Arlington, Virginia.

FOR FURTHER INFORMATION CONTACT: Fred E. McKelvey by telephone at (703) 557–4025 (if no answer, message may be left at 703–557–4103) or by mail marked to his attention and addressed to Box 8, Commissioner of Patents and Trademarks, Washington, D.C. 20231.

SUPPLEMENTARY INFORMATION: The Patent and Trademark Office (PTO) conducts interference proceedings to determine who as between two or more applicants for patent or one or more applicants and a patentee is the first inventor of a patentable invention. Currently, the determination is made by a Board of Patent Interferences. Proposed legislation to combine the Board of Appeals and the Board of Patent Interferences into a single Board of Appeals and Interferences (Board) and to give the Board authority to consider patentability in an interference is pending before the Congress. See H.R. 4462 and S. 1538, as amended and reported out by the Subcommittee on Patents, Copyrights and Trademarks of the Senate Committee on the Judiciary (reprinted in BNA's Patent, Trademark & Copyright Journal, Vol. 27, No. 656, pp. 94 to 97 (November 24, 1983)). Should the proposed legislation not be enacted, it will be necessary to revise this notice of proposed rulemaking and to hold further hearings. The proposed rules presuppose that the proposed legislation will be enacted.

Through the proposed rules the PTO seeks to improve interference procedure so that the rights of parties in interferences may be settled at an early date and the overall process of examing patent applications which become involved in interferences may be simplified.

In order to obtain maximum input from the public prior to formally proposing these regulations, on August 1, 1983, the PTO published in the **Federal Register** an advanced notice of proposed rulemaking for interference rules, 48 FR 34836–34855. The advanced notice was not published in the *Official Gazette*. Twenty-one written comments were received. All comments were thoroughly analyzed and are available for public inspection in room 12B10, Crystal Gateway II, 1225 Jefferson Davis Highway, Arlington, Virginia.

The proposed rules for interferences are set forth herein in §§ 1.601 through 1.688. The proposed rules would replace entirely the present interference rules (37 CFR 1.201 through 1.288). A "six hundred" number series is used for the proposed rules. If adopted, the use of a six hundred number series for the rules would permit interested individuals to research published decisions (e.g., F.2d, USPQ) or computerized legal research services (e.g., LEXIS) citing the rules.

An index of the headings of proposed §§ 1.601–1.688 and a table correlating the present rules (37 CFR 1.201 through 1.288) to the proposed rules (CFR 1.601 through 1.688) appear below.

Under the proposed rules, interferences would be decided by the Board. The Board would have jurisdiction to determine (1) priority of invention, (2) patentability of any claim corresponding to a count both as to applicants and patentees, (3) any issue of interference-in-fact as to any count, and (4) any other issue necessary to resolve the interference. The proposed rules would permit an interference to be declared on the basis of a single count defining one patentable invention in interferences involving patents as well as applications. The Board would also have jurisdiction to determine whether counts are patentably distinct.

When an interference is declared, an examiner-in-chief would be assigned to handle the interlocutory stages of the interference. An examiner having full signatory authority would determine when one or more applications or one or more applications and a patent claim the same patentable invention. When the examiner makes such determination, the examiner would forward any involved applications or patents to the Board. The examiner would designate, at the time the involved applications or patents are sent to the Board, the claims of any application and patent which correspond to each count. The examiner-in-chief could subsequently designate additional claims to correspond to a count. The examiner-in-chief assigned to handle the interference would issue a notice to the parties declaring the interference.

The object of the interference would be to resolve all controversies as to all interfering subject matter defined by one or more counts. A final decision in the interference would determine who, if anyone, is entitled to claims which correspond to a count. Any decision adverse to an applicant by the Board would be a final refusal by the PTO to that applicant of the claims involved. Any decision adverse to a patentee would constitute cancellation from the patent of the claims involved.

Any decision by the Board on any issue would be binding on the examiner and would govern further proceedings in the PTO.

The appointment of a single examiner-in-chief to handle the interlocutory phases of an interference would permit better management of, and control over, interference proceedings. The proposed

rules would provide that times be set and the examiner-in-chief exercise control over proceedings in the interference such that pendency of the interference before the Board from declaration to final decision does not normally exceed 24 months. The examiner-in-chief would be familiar with the history of the interference and would be accessible to counsel for the parties. For example, an examiner-in-chief, where appropriate, would be able to conduct telephone conference calls to obtain agreement of the parties on the setting of schedules. The proposed rules would also permit the examiner-in-chief to hold hearings in the PTO or by conference telephone call in order to expedite or settle interlocutory issues in interference. Any hearing could be transcribed by a court reporter under such conditions as an examiner-in-chief or the Board deems appropriate. The examiner-in-chief, where appropriate, would be available by phone to rule on the admissibility of evidence in the event parties encounter unusual problems during the taking of depositions. The examiner-in-chief would also be available to rule on requests for production of documents which take place during cross-examination. Oral orders given by phone would be followed by written orders.

At the time an interference is declared, the examiner-in-chief would set a time for filing preliminary motions. The preliminary motions would include:

(1) A motion for judgment on the ground that a claim corresponding to the count is not patentable to an opponent under 35 U.S.C. 102, 103, 112, or any other provision of law.

(2) A motion for judgment on the ground that there is no interference-in-fact between the claims of the opponents in the interference.

(3) A motion to add or to substitute new counts, amend a claim corresponding to a count, designate an application or patent claim to correspond to a count, or designate an application or patent claim as not corresponding to a count.

(4) A motion to substitute another application for the application involved in the interference or to add an application for reissue to the interference.

(5) A motion to declare another interference.

(6) A motion to be accorded the benefit of an earlier application or to attack the benefit of an earlier application which has been accorded to an opponent.

Other motions would be permitted as necessary, such as a motion to amend the count and/or a claim corresponding to the count in response to a motion for judgement.

Oppositions to motions would be permitted if filed within a time set by the examiner-in-chief. Replies would be permitted for some motions. Papers which are not authorized by the rules or requested by the examiner-in-chief could be returned unfiled.

A preliminary statement would be filed prior to or concurrently with the preliminary motions outlined above.

Motions would be decided by an exaiminer-in-chief, who could consult with an examiner on questions of patentability which has not previously been decided by the examiner. The examiner-in-chief would be authorized to grant a motion, deny a motion, defer consideration on the merits of a motion to final hearing, or take such other action with respect to a motion as may be appropriate, e.g., dismiss an entirely inappropriate motion.

At the time preliminary motions are decided, the examiner-in-chief would open any preliminary statement. If a decision on a motion or inspection of the preliminary statement results in entry of an order to show cause why a judgement should not be entered, the party against whom judgement might be entered could request a hearing before the examiner-in-chief and two additional examiners-in-chief. The decision would govern further proceedings. If adverse, the decision would constitute a final agency action. If favorable, the interference would again proceed before the examiner-in-chief.

After preliminary motions are decided and assuming judgement does not result, a period would be set for the parties to file motions for discovery. The scope of the discovery would be the same as under current practice.

When a time period is set for filing discovery motions, or after discovery has closed, the examiner-in-chief would set a period for taking testimony. Any party wishing to take the testimony of a witness could elect to have the testimony of the witness taken by deposition or presented by affidavit. A transcript of an *ex parte* deposition could be used as an affidavit. If an affidavit is presented, the opposing party could then cross-examine on oral deposition. Any redirect would take place at the deposition. The party calling the witness would be responsible for securing a court reporter and filing the transcript and record associated with cross-examination of its witness.

In the event a party would need testimony from a third-party who would not appear unless a subpoena is issued, including a hostile witness, direct and cross-examination testimony would be taken on oral deposition. The proposed rules provide that prior authorization of an examiner-in-chief would be required before a party could seek testimony by issuance of a subpoena under 35 U.S.C 24. The proposed rule being considered thus adopts the policy of *Sheehan* v. *Doyle*, 513 F.2d 895, 898, 185 USPQ 489, 492 (1st Cir.), *cert. denied*, 423 U.S. 874 (1975), and *Sheehan* v. *Doyle*, 529 F.2d 38, 40, 188 USPQ 545, 546 (1st Cir.), *cert. denied*, 429 U.S. 870 (1976), *rehearing denied*, 429 U.S. 987 (1976), while rejecting the policy announced in *Brown* v. *Braddick*, 595 F.2d 961, 967, 203 USPQ 95, 101–102 (5th Cir. 1979). Testimony obtained in other proceedings, e.g., another interference or an infringement action, would continue to be used if otherwise admissible.

Under the proposed rules, the Federal Rules of Evidence would be applicable to interferences, except for those portions which relate to criminal actions, juries, and other matters not relevant to interferences. Those portions include:

(1) Rule 103(c).

(2) Rule 104 (c), (d), and (e).

(3) The language in Rule 105 which reads "and instruct the jury accordingly."

(4) Rule 201(g).

(5) The language in Rule 403 which reads "or misleading the jury."

(6) Rule (4)(a) (1) and (2).

(7) The word "charge" in Rule 405(b).

(8) The language "or criminal" and proviso (ii) in Rule 410.

(9) Rule 412.

(10) Rule 606.

(11) The language "whether by an accused" and "other" in the last sentence of Rule 607.

(12) The provisions of the first sentence of Rule 611(c) relating to leading questions on direct examination shall not apply to statements made in an affidavit authorized to be filed under this subpart.

(13) The language "Except as otherwise provided in criminal proceedings by section 3500 of title 18, United States Code" and "except that in criminal cases when the prosecution elects not to comply, the order shall be one striking the testimony or, if the court in its discretion determines that the interests of justice so require, declaring a mistrial" in Rule 612.

(14) Rule 614.

(15) Rule 706.

(16) The language "excluding, however, in criminal cases matters observed by police officers and other law enforcement personnel" and "and

against the Government in criminal cases" in Rule 803(8).

(17) The language "but not including, when offered by the Government in a criminal prosecution for purposes other than impeachment, judgments against persons other than the second" in Rule 803(22).

(18) The language "prosecution for homicide or in a" in Rule 804(b)(2).

(19) The language "A statement tending to expose the declarant to criminal liability and offered to exculpate the accused is not admissible unless corroborating circumstance clearly indicate the trustworthiness of the statement" in Rule 804(b)(3).

(20) Rule 1101 (a), (b), (d)(2), (d)(3), and (e).

The examiner-in-chief would set a period for filing the record and briefs. Oral hearing normally would be held before a panel consisting of the examiner-in-chief assigned to the interference and two other examiners-in-chief. The panel would render a final decision in the interference. Requests for reconsideration would continue to be permitted.

A final decision of the Board would be reviewable in the U.S. Court of Appeals for the Federal Circuit or an appropriate U.S. district court. Any reviewing court could review all aspects of the decision including patentability, priority, and all relevant interlocutory orders, such as denials of discovery.

The proposed rules, if adopted, would be applicable to interferences declared thereafter. Interferences declared prior thereto would continue to be governed by the present rules and would be handled by personnel of the Board of Appeals and Interferences. Actions presently taken by a patent interference examiner would be taken by an examiner-in-chief.

A proposed time schedule for a two-party interference follows.

The procedures discussed above and being proposed in §§ 1.601 through 1.688 would introduce new concepts in interference practice. Some of the more significant aspects of the proposed rules, as well as some of the new concepts, include the following.

Section 1.1, as proposed to be amended, codifies a practice announced in a Commissioner's Notice of November 28, 1983, "Mailing of Papers to the PTO in Patent Interference Proceedings," 1037 *Official Gazette* 25 (December 27, 1983) and authorizes a party in an interference to direct mail to the PTO intended for an interference to a special box in the Mail Room for interference papers. Amendments copying claims which are filed prior to the time an interference is declared would continue to be addressed to Commissioner of Patents and Trademarks, Washington, D.C. 20231.

Section 1.5, as proposed to be amended, provides that when a paper filed in the PTO concerns an interference which has been declared, it should state the names of the parties (e.g., Smith v. Jones) and the number of the interference. The name of the examiner-in-chief assigned to the interference under proposed § 1.610 and the name of the party filing the paper should also appear conspicuously on the first page of the paper. Identification of the examiner-in-chief assigned to the interference and the name of the party filing the paper would greatly assist the Board in its administration of interference cases.

Section 1.8, as proposed to be amended, excludes from the certificate of mailing practice any paper in an interference which an examiner-in-chief orders filed by hand or "Express Mail." Papers filed by "Express Mail" in an interference case would be addressed as set forth in § 1.1(d) as proposed to be amended.

Section 1.11, as proposed to be amended, sets forth when decisions of the Board would become available to the public without a petition for access.

Section 1.48, as proposed to be amended, provides that when a request is filed to correct inventorship of an application involved in an interference, the request shall comply with the requirements of § 1.48 and shall be accompanied by a motion under proposed § 634. The request would be placed in the file of the application and the motion would be placed in the file of the interference. The request would be decided as part of the interference.

Section 1.138, as proposed to be amended, would permit an attorney or agent to sign and file a paper abandoning an application involved in an interference.

Section 1.196, as proposed to be amended, more clearly sets forth the options to an applicant when the Board makes a new ground of rejection under § 196(b). The last sentence of paragraph (b)(1), as proposed to be amended, is intended to clarify practice in certain situations. One situation involves a case where (1) the Board affirms an examiner's rejection of a "first" claim and makes a new ground of rejection under § 1.196(b) of a "second" claim, (2) the applicant elects to have further proceedings before the examiner on the new ground of rejection on the second claim, and (3) those proceedings do not result in a further appeal (i.e., the second claim is allowed or is cancelled). The last sentence of proposed § 1.196(b) would permit the Board to make its decision final on the first claim. By making its decision final on the first claim, the time period under § 1.304 for seeking judicial review would start. Another situation involves a case where (1) the Board affirms an examiner's rejection of a claim over reference A, (2) the Board also enters a new ground of rejection of the claim over reference B, (3) the applicant elects to have further proceedings before the examiner on the new ground of rejection, and (4) those proceedings result in applicant overcoming the new ground of rejection based on reference B. The last sentence of proposed § 1.196(b) would permit the Board to make its decision final as to its affirmance of the rejection over reference A. Entry of an order making its decision final would start the period under § 1.304 for seeking judicial review. Thus, an applicant would not forego possible judicial review by electing further prosecution before the examiner when a new ground of rejection is made by the Board. Under paragraph (d), as proposed to be amended, a recommendation by the Board that an allowed claim be rejected is binding on the examiner (rather than being a mere recommendation as is now the case) in the absence of (1) an amendment, (2) showing of facts by affidavit or other appropriate evidence, or (3) both. The last sentence of paragraph (d), as proposed to be amended, is intended to clarify that the Board may enter a final decision in certain circumstances. When the Board affirms an examiner's rejection of a "first" claim and makes a recommendation under paragraph (d) as to a "second" claim, the application is remanded to the examiner and the Board's decision affirming the rejection of the first claim is not a final decision. If proceedings before the examiner on remand do not result in a further appeal (i.e., the second claim is allowed or is cancelled), the Board may make its decision final as to the first claim. By making its decision final as to the first claim, the time period under § 1.304 for seeking judicial review would start. Thus, an applicant would not forego judicial review on the first claim merely because of the remand proceedings with respect to the second claim.

While it is proposed to remove most of the current interference rules (§§ 1.201 through 1.247 and 1.251 through 1.288), it is proposed to retain § 1.248 as the rule governing service of papers in all patent cases except interference proceedings. Section 1.646, as proposed, would govern service of papers in interference proceedings.

Under § 1.292, as proposed to be amended, it is intended to modify public use proceedings only to the extent that public use and on sale issues which arise during an interference shall be raised by a preliminary motion under proposed § 1.633(a). There would be no fee for filing the motion in the interference, but a fee would continue to be necessary when a petition is filed for institution of a public use proceeding apart from an interference. When a public use proceeding is instituted apart from an interference, the Commissioner would designate an appropriate official to conduct the proceeding including the setting of times for taking testimony under proposed §§ 1.671 through 1.685.

Section 1.304, as proposed to be amended, would make it clear that the provisions of § 1.136 do not apply when judicial review is sought of a decision of the Board of Appeals and Interferences in (1) a reexamination proceeding or (2) an interference. An extension of time to seek judicial review of a decision of the Board in a reexamination proceeding may be obtained under § 1.550(c). An extension of time to seek judicial review of a decision of the Board in an interference proceeding may be obtained under § 1.645. Section 1.304, as proposed to be amended, would also establish a procedure and an "excusable neglect" standard for seeking judicial review when a notice of appeal is untimely filed or a civil action is not timely commenced. The excusable neglect standard is intended to be the same as the standard under Rule 4(a)(5) of the Federal Rules of Appellate Procedure.

Section 1.322, as proposed to be amended, provides that when a request for a certificate of correction under 35 U.S.C. 254 (PTO mistake) is filed to make a correction of a patent involved in an interference, the request shall comply with the requirements of § 1.322 and shall be accompanied by a motion under proposed § 1.635. The request would be placed in the file of the patent and the motion would be placed in the file of the interference. The request would be decided as part of the interference.

Section 1.323, as proposed to be amended, provides that when a request for a certificate of correction under 35 U.S.C. 255 (patentee's mistake) is filed to make a correction of a patent involved in an interference, the request shall comply with the requirements of § 1.323 and shall be accompanied by a motion under proposed § 1.635. The request would be placed in the file of the patent and the motion would be placed in the file of the interference. The request would be decided as part of the interference.

Section 1.324, as proposed to be amended, provides that when a request is filed to correct inventorship of a patent involved in an interference, the request shall comply with the requirements of § 1.324 and shall be accompanied by a motion under proposed § 1.634. The request would be placed in the file of the patent and the motion would be placed in the file of the interference. The request would be decided as part of the interference.

Section 1.565, as proposed to be amended, would provide that when a patent is involved in an interference proceeding and a reexamination proceeding, both the interference proceeding and the reexamination proceeding would continue unless one of the proceedings is stayed. A stay of a reexamination proceeding would be made by the Commissioner. A stay of an interference proceeding would be made by an examiner-in-chief, subject to review by the Commissioner. Section 1.565, as proposed to be amended, would continue the present practice of the Commissioner determining in every instance whether to stay a reexamination proceeding when the patent involved in the reexamination proceeding is sought to be reissued or becomes involved in litigation.

Under § 1.601, as proposed, the rules shall be construed to secure the just, speedy, and inexpensive determination of interferences. Section 1.601 defines various terms used in proposed Subpart E including "additional discovery," "affidavit," "case-in-chief," "case-in-rebuttal," "count," "effective filing date," "filing date," "interference," "interference-in-fact," "junior party," "lead attorney," "party," "phantom count," "same patentable invention," "separate patentable invention," "senior party," "sworn," and "United States." "Affidavits" include declarations under 35 U.S.C. 25 and 37 CFR 1.68 as well as statutory declarations under 28 U.S.C. 1746. The definition of "United States" is the same as the definition of United States in 35 U.S.C. 100(c).

The definition of "interference" permits an interference between one or more applications and one or more patents. In view of the statutory requirement for the presence of at least one application in an interference, if an applicant were to concede priority or otherwise be terminated from an interference involving only one application and more than one patent, the interference would have to be dissolved for lack of subject matter jurisdiction unless one or more of the patentees filed an application for reissue which could be added to the interference under proposed § 1.633(h). A "count" defines interfering subject matter. An interference would have two counts only if the second count defines a "separate patentable invention" from the first count. The reason the second count must define a separate patentable invention is to permit the PTO to lawfully issue separate patents to different parties in an interference when a single party does not prevail as to all counts. A "separate patentable invention" is defined in § 1.601(n): "Invention (A) is a 'separate patentable invention' with respect to invention (B) when invention (A) is new (35 U.S.C. 102) and non-obvious (35 U.S.C. 103) in view of invention (B) assuming invention (B) is prior art with respect to invention (A)."

Section 1.602(a), as proposed, would continue the present PTO practice (37 CFR 1.201(c)) of not declaring or continuing an interference between (1) two or more applications owned by the same party or (2) an application and a patent owned by a single party unless good cause is shown. A corporation and its wholly-owned subsidiary are considered a "single party" within the meaning of proposed § 1.602(a). Paragraphs (b) and (c) of § 1.602 would continue the present PTO practice (37 CFR 1.201(c)) of requiring a party to notify the PTO of any real party in interest not apparent on the face of the notice declaring the interference (see § 1.611) or of any change in the real party in interest after the interference is declared. The PTO needs to know the identity of any real party in interest to properly enforce § 1.602(a) and to enable an examiner-in-chief to determine whether recusal is necessary or appropriate. A new requirement in paragraphs (b) and (c), not present in 37 CFR 1.201(c), is a 20-day time period for advising the PTO of the identity of, or any change in, the real party in interest.

Under §§ 601(f), 1.603, and 1.606, as proposed, the interfering subject matter would be defined by one or more counts. All the claims in an application or a patent which define the same patentable invention as a count would be designated to correspond to the count. An interference would have two counts only if one count defines a separate patentable invention from another count. Under § 1.606, at the time an interference is declared between a patent an application, a count would not be narrower in scope than any patent claim which corresponds to the count. Thus, a patent claim would be presumed, subject to a motion under

§ 1.633(c), to define a single patentable invention. Some examples illustrate how the PTO would formulate counts and designate patent and application claims to correspond to counts.

Example 1

Application A contains patentable claim 1 (engine). Application B contains patentable claim 8 (engine). If an interference is declared, there would be one count (engine). Claim 1 of application A and claim 8 of application B would correspond to the count.

Example 2

Application C contains patentable claims 1 (engine) and 2 (6-cylinder engine). Application D contains patentable claim 8 (engine). An engine and 6-cylinder engine define the same patentable invention. If an interference is declared, there would be one count (engine). Claims 1 and 2 of application C and claim 8 of application D would be designated to correspond to the count.

Example 3

Application E contains patentable claims 1 (engine), 2 (6-cylinder engine), and 3 (engine with a platinum piston). Application F contains patentable claims 11 (engine) and 12 (8-cylinder engine). Claims 1 and 2 of application E and claims 11 and 12 of application F define the same patentable invention. Claim 3 of application E defines a separate patentable invention from claims 1 and 2 of application E and claims 11 and 12 of application F. If an interference is declared, there would be one count (engine). Claims 1 and 2 application E and claims 11 and 12 of application F would be designated to correspond to the count. Claim 3 of application E would not be designated to correspond to the count.

Example 4

Application G contains patentable claims 1 (engine), 2 (6-cylinder engine), and 3 (engine with a platinum piston). Application H contains patentable claims 11 (engine) and 15 (engine with a platinum piston). Claims 1 and 2 of application G and claim 11 of application H define the same patentable invention. Claim 3 of application G and claim 15 of application H define a separate patentable invention from claims 1 and 2 of application G and claim 11 of application H. If an interference is declared, there would be two counts: Count 1 (engine) and Count 2 (engine with a platinum piston). Claims 1 and 2 of application G and claim 11 of application H would be designated to correspond to Count 1. Claim 3 of application G and claim 15 of application H would be designated to correspond to Count 2.

Example 5

Application J contains patentable claims 1 (engine), 2 (combination of an engine and a carburetor) and 3 (combination of an engine, a carburetor, and a catalytic converter). Application K contains patentable claims 31 (engine), 32 (combination of an engine and a carburetor), and 33 (combination of an engine, a carburetor, and an air filter). The engine, combination of an engine and carburetor, and combination of an engine, carburetor, and air filter define the same patentable invention. The combination of an engine, carburetor, and catalytic converter define a separate patentable invention from engine. If an interference is declared, there would be one count (engine). Claims 1 and 2 of application J and claims 31, 32, and 33 of application K would be designated to correspond to the count. Claim 3 of application J would not be designated as corresponding to the count.

Example 6

Under the proposed rules, the PTO would continue to follow *Waldeck* v. *Lewis*, 120 USPQ 88 (Comm'r. Pat. 1955). Application L contains patentable claims 1 (Markush group of benzene or toluene), 2 (benzene), and 3 (toluene). Application M contains patentable claim 11 (benzene). Benzene and toluene define the same patentable invention. If an interference is declared, there would be one count (Markush group of benzene or toluene). Claims 1, 2, and 3 of application L and claim 11 of application M would be designated to correspond to the count.

Example 7

Application N contains patentable claim 1 (benzene). Application P contains patentable claim 11 (xylene). Benzene and xylene define the same patentable invention. If an interference is declared, there would be one count (benzene or xylene). Claim 1 of application N and claim 11 of application P would be designated to correspond to the count.

Example 8

Application Q contains patentable claims 1 (Markush group of benzene or chloroform), 2 (benzene), and 3 (chloroform). Application R contains patentable claim 33 (benzene). If benzene and chloroform define the same patentable invention and an interference is declared, there would be one count (Markush group of benzene or chloroform). Claims 1, 2, and 3 of application Q and claim 33 of application R would be designated to correspond to the count. If chloroform defines a separate patentable invention from benzene and an interference is declared, there would be one count (benzene). Claims 1 and 2 of application Q and claim 33 of application R would be designated to correspond to the count. Claim 3 of application Q would not be designated to correspond to the count.

Example 9

Application S contains patentable claims 1 (Markush group of benzene or chloroform), 2 (benzene), and 3 (chloroform). Application T contains patentable claims 11 (Markush group of benzene or chloroform), 12 (benzene), and 13 (chloroform). If benzene and chloroform define the same patentable invention and an interference is declared, there would be one count (Markush group of benzene or chloroform). Claims 1, 2, and 3 of application S and claims 11, 12, and 13 of application T would be designated to correspond to the count. Under the proposed rules, the PTO would adhere to *Becker* v. *Patrick*, 47 USPQ 314 (Comm'r. Pat. 1939). An interference would have two counts only if one count defines a separate patentable invention from another count. If chloroform defines a separate patentable invention from benzene and an interference is declared, there would be two counts: Count 1 (benzene) and Count 2 (chloroform). Claims 1 and 2 of application S and claims 11 and 12 of application T would be designated to correspond to Count 1. Claims 1 and 3 of application S and claims 11 and 13 of application T would be designated to correspond to Count 2.

Example 10

Patent A Contains claim 1 (engine). Application U contains patentable claim 11 (engine). If an interference is declared, there would be one count (engine). Claim 1 of patent A and claim 11 of application U would be designated to correspond to the count.

Example 11

Patent B contains claims 1 (engine) and 2 (6-cylinder engine). Application V contains patentable claim 8 (engine). An engine and a 6-cylinder engine define the same patentable invention. If an interference is declared, there would be one count (engine). Claims 1 and 2 of patent B and claim 8 of application V would be designated to correspond to the count.

Example 12

Patent C contains claims 1 (engine), 2 (6-cylinder engine), and 3 (engine with a platinum piston). Application W contains patentable claims 11 (engine) and 12 (8-cylinder engine). Claims 1 and 2 of patent C and claims 11 and 12 of application W define the same patentable invention. Claim 3 of patent C defines a separate patentable invention from claims 1 and 2 of patent C and claims 11 and 12 of application W. If an interference is declared, there would be one count (engine). Claims 1 and 2 of patent C and claims 11 and 12 of application W would be designated to correspond to the count. Claim 3 of patent C would not be designated to correspond to the count.

Example 13

Patent D contains claims 1 (engine), 2 (6-cylinder engine), and 3 (engine with a platimum piston). Application X contains patentable claims 11 (engine) and 15 (engine with a platinum piston). Claims 1 and 2 of patent D and claim 11 of appliction X define the same patentable invention. Claim 3 of patent D and claim 15 of application X define a separate patentable invention from claims 1 and 2 of patent D and claim 11 of application X. If an interference is declared, there would be two counts: Count 1 (engine) and Count 2 (engine with a platinum piston). Claims 1 and 2 of patent D and claim 11 of application X would be designated to correspond to Count 1. Claim 3 of patent D and claim 15 of application X would be designated to correspond to Count 2.

Example 14

Patent E contains claims 1 (Markush group of benzene or toluene), 2 (benzene), and 3 (toluene). Application Y contains patentable claim 11 (benzene). Benzene and toluene define the same patentable invention. If an interference is declared, there would be one count (Markush group of benzene or toluene). Claims 1, 2, and 3 of patent E and claim 11 of application Y would be designated to correspond to the count.

Example 15

In this example, the claims of patent E and application Y in Example 14 are reversed. Patent E contains claim 1 (benzene). Application Y contains patentable claims 11 (Markush group of benzene or toluene), 12 (benzene), and 13 (toluene). If an interference is declared, the count would be the same as the count in Example 14—(Markush group of benzene or toluene). Claim 1 of patent E and claims 11, 12, and 13 of application Y would be designated to correspond to the count.

Example 16

Under the proposed rules, the PTO would continue to follow cases such as *Aelony* v. *Arni*, 547 F.2d 566, 192 USPQ 486 (CCPA 1977), and declare interferences where interfering patent and application claims are mutually exclusive provided the claims define the same patentable invention. patent F contains claim 1 (benzene). Application Z contains patentable claim 11 (xylene). Benzene and xylene define the same patentable invention. If an interference is declared, there would be one count (benzene or xylene). Claim 1 of patent F and claim 11 of application Z would be designated to correspond to the count.

Example 17

It would be the practice of the PTO under proposed § 1.606 to initially declare interferences with counts which are indentical to or broader than patent claims which correspond to the counts. A single patent claim would be presumed, subject to a motion under proposed § 1.633(c), to define one patentable invention. Patent G contains claims 1 (Markush group of benzene or chloroform), 2 (benzene), and 3 (chloroform). Application AA contains patentable claim 33 (benzene). If an interference is declared, initially it would be presumed by the PTO, subject to a later motion under proposed § 1.633(c), that benzene and chloroform define the same patentable invention. There would be one count (Markush group of benzene or chloroform). Claims 1, 2, and 3 of patent G and claim 33 of application AA would be designated to correspond to the count. If a party believes benzene and chloroform define separate patentable inventions, that party could file a motion under proposed § 1.633(c) to redefine the count and the claims corresponding to the counts.

Example 18

Patent H contains claims 1 (Markush group of benzene or chloroform), 2 (benzene), and 3 (chloroform). Application AB contains patentable claims 11 (Markush group of benzene or chloroform), 12 (benzene), and 13 (chlorform). Benzene and chloroform initially would be presumed, subject to a motion under § 1.633(c), to define the same patentable invention, because they are recited as a Markush group in a single patent claim. If an interference is declared, there would be one count (Markush group of benzene or chloroform). Claims 1, 2, and 3 of patent H and claims 11, 12, and 13 of application AB would be designated to correspond to the count. If a party believes benzene and chlorform define separate patentable inventions, the party could move under proposed § 1.633(c) to substitute a count (benzene) for (Markush group of benzene or chloroform) and to add a second count (chloroform).

Example 19

Under proposed § 1.606, the PTO would continue to follow the practice announced in *Ex parte Card and Card*, 1904 C.D. 383 (Comm'r. Pat. 1904). Patent J contains claim 1 (method of mixing, grinding, and heating). Application AC contains patentable claim 8 (method of mixing and heating) and does not disclose or claim a grinding step. In the context of the inventions disclosed in patent J and application AC, a method of mixing, grinding, and heating is the same patentable invention as a method of mixing and heating. Under current practice, it would be said that "grinding" is an "immaterial" limitation in claim 1 of patent J. Under proposed § 1.606, the fact application AC does not disclose grinding would not preclude an interference. If an interference is declared, there would be one count (method of mixing and heating). Claim 1 of patent J and claim 8 of application AC would be designated to correspond to the count.

Under § 1.605, as proposed, timely filing of an amendment presenting a claim suggested by the examiner for purposes of an interference would stay *ex parte* proceedings in the application in which the claim is presented pending a determination by the examiner of whether an interference will be declared.

Under § 1.607(b), as proposed, when an applicant seeks an interference with a patent, e.g., by copying claims from the patent, examination of the application including any appeal would be handled with special dispatch within the PTO. "Special dispatch" would be construed to be the same as special dispatch in a reexamination proceeding.

Under § 1.608, as proposed, the PTO would continue current practice (37 CFR § 1.204(c)) of requiring an applicant seeking to provoke an interference with a patent to submit evidence which demonstrates that the applicant is *prima facie* entitled to a judgment relative to the patentee. Evidence would be submitted only when the earlier of the filing date or effective filing date of the application is more than three months after the earlier of the filing date or effective filing date under 35 U.S.C. 120 of the patent. The evidence may relate to patentability and need not be

restricted to priority. When the evidence (1) consists of prior printed publications and patents and (2) shows that the claims of the application are not patentable, the claims in the application would be rejected and the applicant could file a request for reexamination of the patent.

Section 1.609, as proposed, sets forth what an examiner shall forward to the Board when an interference is declared. For the most part, proposed § 1.609 continues current practice. However, under proposed § 1.609(b)(3), the examiner would identify all claims in an application which the examiner believes are patentable over the proposed counts. Thus, a claim in an application would either correspond to a count or would be indicated as being patentable over the count. For instance, in Example 3, *supra*, the examiner would indicate that (1) claims 1 and 2 of application E and claims 11 and 12 of application F correspond to the count and (2) claim 3 of application E defines a separate patentable invention from the count.

Under § 1.610, as proposed, each interference would be declared by an examiner-in-chief. The examiner-in-chief would enter all interlocutory orders in the interference. As necessary, another examiner-in-chief could act in place of the examiner-in-chief assigned to the interference. At the discretion of the examiner-in-chief assigned to the interference, a panel of two or more examiners-in-chief could enter an interlocutory order. The examiner-in-chief would set times and control proceedings such that pendency of the interference would not normally exceed 24 months. Under § 1.610(d), as proposed, the examiner-in-chief is authorized to hold conferences. Any conference could be by a telephone conference call. Under proposed § 1.610(e), an examiner-in-chief is authorized to determine a proper course of conduct for any situation not specifically covered by the rules.

Under § 1.611(a), as proposed, the PTO would normally notify each party at its correspondence address (37 CFR § 1.33(a)) that an interference is declared. This proposed practice would save the PTO the administrative burden of sending multiple notices as is required by the present rules. Under § 1.611(a), as proposed, the PTO could, in an appropriate circumstance, also send a notice to a patentee or an assignee. An appropriate circumstance for sending an additional notice would be a situation where a patent was issued on the basis of an application filed under 37 CFR § 1.47. The matters to be specified in a notice declaring an interference are set out in proposed § 1.611(c). One item to be set out is the "order of the parties," meaning the order in which the parties have the burden of proof. If Jones is the junior party and Smith is the senior party, the order of the parties is: Jones v. Smith. The order of the parties may change as a result of the granting of a motion under proposed § 1.633 (d), (f), or (g). Under § 1.611(d), as proposed, the notice declaring the interference may also set dates for filing preliminary statements, notices that preliminary statements have been filed, motions under proposed § 1.633, oppositions to those motions, and replies to the oppositions. Alternatively, an examiner-in-chief may set those times in a separate order before or after consultation with counsel for the parties. Under § 1.611(e), as proposed, the PTO would place a notice in the *Official Gazette* each time an interference is declared involving a patent. The notice would make it easier for patent practitioners throughout the country to determine whether a given patent is or has been involved in an interference.

Section 1.612, as proposed, differs considerably from § 1.612 as set out in the advanced notice. Under § 1.612(a), as proposed, parties would not be required to serve copies of their files. Except for affidavits under § 1.131 and any evidence and explanation under § 1.608(b) filed separate from an amendment, each party shall have access to the file of every other party after an interference is declared. The files of applications and patents involved in an interference would be maintained in the Service Branch of the Board of Appeals and Interferences for inspection and copying. Any explanation which is filed as part of an amendment or an amendment which discusses details contained in an affidavit under § 1.131 would not be sealed under § 1.612(a). Thus, § 1.612(a) proposes to continue the practice discussed in *Moorman* v. *Martin*, 103 USPQ 273 (Comm'r.Pat. 1950) and Calvert, *An Overview of Interference Practice*, 62 J. Pat. Off. Soc'y. 290, 293 (1980). Under § 1.612(b), as proposed, each party would have access to an opponent's affidavit under § 1.131 or an opponent's evidence and explanation under § 1.608(b) when a decision is rendered on motions under § 1.633. Under § 1.612(c), as proposed a party would be required to serve any evidence and explanation under § 1.608(b) if an order to show cause is issued under § 1.617(a) and the party responds to the order under § 1.617(b). Under § 1.612(d), the parties may agree to exchange copies of their respective files.

Under § 1.613(a), as proposed, when a party has appointed more than one attorney or agent of record, the party may be required to designate a "lead" attorney or agent. A lead attorney or agent would be a registered attorney or agent of record who is primarily responsible for prosecuting an interference on behalf of a party and is the individual whom an examiner-in-chief would contact to set times and take other action in the interference. Section 1.613(b), as proposed, would continue the practice of not permitting the same attorney or agent to represent two or more parties in an interference except as permitted by § 1.344. Under § 1.613(c), as proposed, an examiner-in-chief could make an appropriate inquiry to determine whether an attorney or agent should be disqualified from representing a party. A final decision to disqualify an attorney or agent would be made by the Commissioner under 35 U.S.C. 32.

Section 1.614, as proposed, specifies when the Board gains jurisdiction over an interference. The section also indicates when an interference becomes a contested case within the meaning of 35 U.S.C. 24. A remand to the examiner is authorized and may be useful in certain situations, such as, when a party moves under proposed § 1.633(c) to add a proposed count which is broader than any count in an interference. Alternatively, an examiner-in-chief would be able to obtain informal opinions from examiners during the course of an interference. Nothing in this proposed section is intended to authorize informal conferences between an examiner-in-chief and an examiner with respect to the merits of an application before the Board in an *ex parte* appeal from an adverse decision of the examiner.

Section 1.616, as proposed, would permit an examiner-in-chief or the Board to impose appropriate sanctions against a party who fails to comply with the rules or with an order entered in the interference. Paragraphs (a) through (e) set forth some of the possible sanctions which might be entered. The particular sanction to be entered would depend on the facts of a given case and ordinarily would not be entered prior to giving the affected Party an opportunity to present its views. An individual examiner-in-chief could not impose a sanction granting judgment inasmuch as entry of a judgment requires action by the Board. See proposed § 1.610(a). A party desiring sanctions imposed against an opponent could move under proposed

§ 1.635 for entry of an order imposing sanctions.

Section 1.617, as proposed, retains summary judgment proceedings in those cases where a junior party applicant would be required to file evidence and an explanation under proposed § 1.608(b). To avoid summary judgment, the junior party applicant must establish that it is *prima facie* entitled to judgment relative to the senior party patentee. For the most part, practice under proposed § 1.617 would be the same as the current practice under § 1.228. The major changes would be the following. (1) A *prima facie* case could be based on patentability as well as priority. (2) A stricter standard would be imposed for presenting additional evidence after entry of an order to show cause. Under current practice (37 CFR 1.228), additional evidence may be submitted with a response to an order to show cause "when a showing in excuse of their [its] omission from the original" showing is made. The "good cause" showing proposed in § 1.617(b) would impose a stricter standard. The stricter standard is believed to be necessary to encourage applicants copying claims from a patent to better prepare their initial showings under proposed § 1.608(b). Under current practice, the Board of Patent Interferences has found that substantial time is lost in issuing orders to show cause based on an inadequate initial showing only to have an adequate showing made with the response to the order to show cause. Under the proposed "good cause" standard, ignorance by a party or counsel of the provisions of the rules or the substantive requirements of the law would not constitute good cause. (3) When an interference involves more than two parties, all parties would be permitted to participate in summary judgment proceedings. (4) An applicant must file two copies of its initial showing under 37 CFR 1.204(c). Under proposed § 1.608(b), a party would have to file in the PTO only one copy of the showing. However, any party responding to an order to show cause would be required to serve a copy of its initial showing under § 1.608(b) with any response to the order to show cause.

Consideration was given to proposing expanding "summary judgment" proceedings to cases where a patentee is a junior party by more than three months. It has been decided not to propose expansion of summary judgment proceedings because (1) a patentee would be required to make its showing after an interference is declared, (2) considerable delay would occur while a patentee gathered and presented its evidence, and (3) currently very few summary judgments are entered against applicants who are junior party to a patentee by more than three months.

Under § 1.618, as proposed, the PTO would have authority to return to a party any paper presented in an interference which is not authorized by, or is not in compliance with the requirements of, proposed Subpart E. When an improper paper is filed, a party may be given an opportunity to file a proper paper under such conditions as an examiner-in-chief may deem appropriate. Two examples of improper papers are: (1) Replies to oppositions which are not authorized by the rules and (2) papers presented which have attached thereto a paper previously filed in the interference.

Proposed §§ 1.621 through 1.629 govern preliminary statements which would continue to be required in interference cases.

Under § 1.621, as proposed, a preliminary statement could be signed by any individual having knowledge of the facts (e.g., the inventor) or by an attorney or agent of record. Permitting an attorney or agent of record to sign a preliminary statement should eliminate unnecessary mailing of papers between parties and their attorney or agent.

Under § 1.622, as proposed, the preliminary statement would identify the inventor who made the invention defined by each count. If the inventor named in the application or patent involved in the interference and the inventor identified in the preliminary statement are not the same, a motion under proposed § 1.634 would have to be promptly filed to correct inventorship.

Sections 1.623, 1.624, and 1.625, as proposed, respectively set out the allegations which should be made in, and the attachments which should accompany, a preliminary statement when (1) the invention was made in the United States, (2) the invention was made abroad and was introduced into the United States, and (3) derivation by an opponent from a party is to be an issue.

Section 1.626, as proposed, would permit a party to file a preliminary statement which states that the party only intends to rely on the filing date of an earlier United States or foreign application. Ordinarily, a junior party who fails to file a preliminary statement would not be entitled to access to any other preliminary statement filed (see proposed § 1.631(b)). Proposed § 1.626 would permit a junior party who only intends to rely on an earlier application to have access to any opponent's preliminary statement.

Section 1.628, as proposed, sets out how an error in a preliminary statement may be corrected.

Section 1.629, as proposed, sets out the effect of a preliminary statement. A party who fails to file a preliminary statement would not be permitted to prove that the party made the invention defined by a count prior to the party's filing date or that an opponent derived the invention from the party.

Under § 1.631, as proposed, preliminary statements normally would be opened for inspection when an examiner-in-chief decides preliminary motions filed under proposed § 1.633. A junior party who does not file a preliminary statement would not be entitled to access to a preliminary statement of any other party. When an interference is terminated before preliminary statements are opened, any preliminary statement which has been filed would be returned unopened to the party who submitted the statement.

Under § 1.633, as proposed, a party could file preliminary motions for judgment, to redefine the interference, to substitute a different application in the interference, to declare an additional interference, to be accorded the benefit of an earlier application, to attack benefit previously accorded an opponent, or to add a reissue application to the interference. The motions are proposed to be called "preliminary motions" in order to distinguish the motions from other motions which might be filed during the course of an interference. The preliminary motions would replace motions currently authorized by 37 CFR 1.231.

Under § 1.633(a), as proposed, a motion to dissolve would be replaced with a motion for judgment. A party could file a motion for judgment on the ground that an opponent's *claim* corresponding to a count is unpatentable to the opponent. With two exceptions, unpatentability could be based on prior art (35 U.S.C. 102, 103), insufficiency of disclosure (35 U.S.C. 112, first paragraph), indefiniteness of claims (35 U.S.C. 112, second paragraph), double patenting, estoppel, or any other ground which would support a holding that claims corresponding to a count are not patentable. The two exceptions would be (1) priority of invention of the subject matter of a count by the moving party as against any opponent and (2) derivation of the subject matter of a count by the opponent from the moving party. The two exceptions are directed to issues which are traditional "priority" issues,

e.g., which inventor made the invention defined by a count first or, when derivation is an issue, who made the invention. Resolution of those "priority" issues almost always requires the taking of testimony. A motion for judgment, however, would be proper when a party believed an individual not involved in the interference made the invention defined by the count prior to an opponent in the interference, but subsequent to the moving party. Thus, a patentability issue, such as that raised under 35 U.S.C. 102(g) in *Sutter Products Co.* v. *Pettibone Mulliken Corp.*, 428 F. 2d 639, 166 USPQ 100 (7th Cir. 1970), properly could be raised with a motion for judgment under proposed § 1.633(a). Derivation by an opponent from an individual not involved in the interference could also be raised under proposed § 1.633(a).

Under § 1.633(b), as proposed, a party could move for a judgment when the party believed there is no interference-in-fact. A motion for judgment on the ground of no interference-in-fact is only proper under one of three conditions: (1) When an interference involves designs, (2) when the interference involves plant applications or a plant application and plant patent, or (3) when no claim of a party which corresponds to a count is identical to any claim of an opponent which corresponds to that count. An example illustrates when a motion under proposed § 1.636(b) is proper.

Example 20

Application AD contains patentable claim 1 (6-cylinder engine). Application AE contains patentable claim 3 (8-cylinder engine). An interference is declared with a single count (6- or 8-cylinder engine). Claim 1 of application AD and claim 3 of application AE are designated to correspond to the count. Applicant AD believes that a 6-cylinder engine is a "separate patentable invention" (see proposed § 1.601(n)) from an 8-cylinder engine. Applicant AD would file a motion under proposed § 1.633(b) for a judgment on the ground of no interference-in-fact stating why a 6-cylinder engine is patentably distinct from an 8-cylinder engine. If the Board ultimately agrees with applicant AD, a patent could issue to AD containing claim 1 of application AD and a second patent could issue to AE containing claim 3 of application AE.

Under § 1.633(c), as proposed, a party may move to redefine interfering subject matter. One way to redefine interfering subject matter would be to add a count. When a party seeks to add a count under the proposed rules, the party would be required to demonstrate that the proposed count to be added is directed to a "separate patentable invention" from every other count in the interference. Another way to redefine interfering subject matter would be to designate a claim as corresponding or not corresponding to a count. Examples 21 and 22 illustrate this latter point.

Example 21

Application AF contains patentable claim 1 (engine). Patent K contains claims 3 (engine) and 5 (6-cylinder engine). Claim 1 of application AF and claim 3 of patent K are designated to correspond to the count. Applicant AF believes a 6-cylinder engine is the "same patentable invention" (see proposed § 1.601(n)) as engine. Applicant AF would file a motion under proposed § 1.633(c)(3) to designate claim 5 of patent K as corresponding to the count. If the motion is granted and applicant AF prevails in the interference on the count, judgment would be entered against patentee K on the count and both claims 3 and 5 of patent K would be cancelled under 35 U.S.C. 135(a).

Example 22

Application AG contains patentable claim 1 (engine). Patent L contains claims 3 (engine) and 5 (8-cylinder engine). An interference is declared with one count (engine). Claim 1 of application AG and claims 3 and 5 of patent L are designated to correspond to the count. Patentee L believes that an 8-cylinder engine defines a "separate patentable invention" (see proposed § 1.601(n)) from engine. Patentee L should file a motion under proposed § 1.633(c)(4) to designate claim 5 of patent L as "not corresponding" to the count. If the motion is granted and an adverse judgment is entered against patentee L on the count, only claim 3 would be cancelled from the patent pursuant to 35 U.S.C. 135(a).

Section 1.633(i), as proposed, would continue present practice (37 CFR 1.231) of allowing a party to move to redefine the subject matter of the interference or substitute a different application when an opponent moves for judgment (see proposed § 1.633 (a) and (b)) or to attack benefit (see proposed § 1.633(g)).

Section 1.634, as proposed, authorizes a motion to correct inventorship in an application (see § 1.48) or a patent (see § 1.324) involved in an interference.

Section 1.635, as proposed, authorizes the filing of motions other than those specified in proposed § 1.634 or 1.635. Motions filed under proposed § 1.635 would be referred to as "miscellaneous motions" to distinguish from "preliminary motions" under proposed § 1.633. Instances where a miscellaneous motion would be filed include motions to correct an error in a preliminary statement, to extend time for taking action or to seek judicial review, to obtain permission to proceed under 35 U.S.C. 24, or to obtain additional discovery.

Section 1.636, as proposed, sets out the times within which a motion would be filed.

Section 1.637, as proposed, sets out the content of motions. In prior interference practice, parties and their attorneys or agents have had difficulty meeting all the "unwritten" requirements for motions under 37 CFR 1.231. Proposed § 1.637 is quite specific in setting out the requirements for each type of motion, particularly the preliminary motions. By setting out with specificity the requirements for each type of motion, it is intended to minimize disposition of motions on technicalities. A vast majority of the comments in response to the advanced notice commenting on proposed § 1.637 were in favor of the requirements for motions being specifically set out in the regulations.

Section 1.638, as proposed, would authorize oppositions to motions and replies to oppositions in some instances. Any oppositions would have to identify any material fact in dispute. A reply to an opposition would be authorized for motions filed under proposed §§ 1.633 and 1.634. If an unauthorized reply is submitted, it would be returned unfiled under proposed § 1.618.

Section 1.639, as proposed, sets forth the evidence which may accompany a motion, opposition, or reply (assuming a reply is authorized). Every material fact alleged in a motion, opposition, or an authorized reply would have to be supported by proof. Proposed § 1.639(b) authorizes affidavits to be used as proof for any motion. The affidavit may later be used by a party during the testimony period (see proposed §§ 1.671(e) and 1.672(b)). When a party believes that testimony is necessary to decide a preliminary motion under proposed § 1.633, the party would have to describe the nature of the testimony needed. If an examiner-in-chief agrees that testimony is needed, appropriate interlocutory relief would be granted and testimony would be ordered.

Example 23

An interference is declared with one count between application AH and application AJ. Applicant AH files a preliminary motion under proposed § 1.633(c)(1) to redefine the interference by adding a second count. In order to succeed, applicant AH must show that the proposed count to be added is

directed to a "separate patentable invention" (see proposed § 1.601(n)) from the count already in the interference. In the motion, applicant AH sets forth in detail the testimony which would be required to prove that the subject matter of the proposed count is to a separate patentable invention from the subject matter of the count in the interference. Applicant AJ opposes the motion on the ground that the proposed and present counts define the "same patentable invention" (see proposed § 1.601(n)). An examiner-in-chief determines that a material fact is in dispute and that applicant AH has established testimony is needed to properly rule on the motion. Under the circumstances, the motion would be granted without prejudice to applicant AJ renewing its opposition at final hearing and a testimony period would be ordered. The questions of (1) whether the proposed and present counts define the same patentable invention and (2) priority would be decided at final hearing.

Under § 1.640, as proposed, an examiner-in-chief would decide all motions. A hearing could be held on a motion in the discretion of an examiner-in-chief. Where appropriate, an examiner-in-chief could consult with an examiner on a question of patentability which arises in the first instance in the interference. Consultation would not be necessary where the examiner had already ruled on the patentability question which comes before the examiner-in-chief or the Board. Moreover, nothing in proposed § 1.640 authorizes conferences between examiners-in-chief and examiners in *ex parte* appeals under 35 U.S.C. 134 from an adverse decision of an examiner. A party is entitled to request reconsideration of a decision on a motion by a single examiner-in-chief. An opposition to a request for reconsideration could not be filed unless ordered by an examiner-in-chief or the Board, but a request for reconsideration would not normally be granted unless an opposition has been requested. The request for reconsideration would be decided by a panel of the Board consisting of at least three examiners-in-chief, one of which would normally be the examiner-in-chief who decided the motion. Several comments were received questioning why the examiner-in-chief who decided in the motion would form part of the panel deciding the request for reconsideration. The decision to propose a regulation which would permit the examiner-in-chief who decided the motion to participate in the decision on reconsideration was made after careful balancing of all the factors involved. It could have been proposed to permit the examiner-in-chief to individually decide the request for reconsideration. However, it is believed that parties in interference cases would feel that their requests for reconsideration are being more fully considered if more than one person considers their request. The two additional examiners-in-chief would be able to consult with the examiner-in-chief most familiar with the case, but would be able to control the decision on reconsideration by a majority vote. Use of the examiner-in-chief who decided the motion and two additional examiners-in-chief would (1) minimize delay which would occur if three new examiners-in-chief were used who were unfamiliar with the record and (2) minimize the possibility that reversible error occurred if only the examiner-in-chief who decided the motion also individually decided the request for reconsideration.

Under § 1.644, as proposed, petitions to the Commissioner would be authorized in interference cases under certain restricted conditions. Petitions in interferences have been the source of substantial delay. Proposed § 1.644 attempts to minimize those delays. Proposed § 1.644 authorizes a petition to the Commissioner from a decision of an examiner-in-chief or a panel when the examiner-in-chief or the panel shall be of the opinion (1) that the decision involves a controlling question of procedure or an interpretation of a rule as to which there is a substantial ground for a difference of opinion and (2) that an immediate decision on petition would materially advance the ultimate termination of the interference. The standard is intended to be analogous to that of a district court certifying a question to a court of appeals under 28 U.S.C. 1292(b). A petition could be filed seeking to invoke the supervisory authority of the Commissioner. However, the petition could not be filed prior to entry of judgment and could not relate to the merits of priority or patentability or the admissibility of evidence under the Federal Rules of Evidence. A petition could also be filed seeking waiver of a rule. A fee of $120 would be charged for each petition and for each request for reconsideration of a decision on petition. Any petition would be decided on the record made before the examiner-in-chief or the Board and additional evidence could not be submitted with the petition. An opposition could not be filed unless ordered by the Commissioner. Where reasonably possible, service of a petition would have to be such that delivery is accomplished within one day. Service by hand or "Express Mail" would comply with this requirement.

Section 1.645, as proposed, would permit a party to file a motion to seek an extension of time to take action in an interference or to seek judicial review. The motion would have to be filed within sufficient time to actually reach an examiner-in-chief prior to expiration of the time for taking action. Under § 1.645, as proposed, a moving party would not be able to assume that a motion for an extension of time would be granted. Under proposed § 1.610(d)(6), a request for an extension of time could be made orally and an appropriate order would then be entered thus eliminating considerable paper work. The order would be the written record of the request and decision. See § 1.2. Extensions of time have caused numerous delays in interference cases. Under present interference practice, some delays are caused because attorneys and agents on many occasions unexpectedly receive orders setting times. Under the practice as proposed, attorneys and agents can expect times to be set for filing preliminary statements, preliminary motions, motions for additional discovery, testimony, and briefs after a conference call. It would be expected that use of conference calls would permit an examiner-in-chief and attorneys or agents for parties to set a time schedule which is mutually satisfactory. A motion to extend time would not be granted unless a party shows good cause. The use of conference calls would allow schedules to be set before orders setting time are entered and therefore the press of other business which arises after the examiner-in-chief and attorneys and agents agree to times would not normally be considered good cause.

Under § 1.647, as proposed, when a party relies on a document in a foreign language, an English language translation of the document and an affidavit attesting to the accuracy of the translation would be required. The rule, as proposed, would apply to any document, including evidence submitted with motions, foreign applications for which a party seeks benefits, testimony, and exhibits introduced in evidence during testimony.

Under § 1.651, as proposed, after a decision is entered on preliminary motions, an examiner-in-chief would set times for filing motions for additional discovery and for taking testimony. Any motion for additional discovery would be to obtain documents and things

necessary for a party to prepare its case-in-chief.

Section 1.653, as proposed, sets out what shall be in the record to be considered by the Board at final hearing. The record would continue to be printed or typed on paper 8½" by 11" in size. Accordingly, when a party files an affidavit, the party may wish to use 8½" by 11" paper for the affidavit.

Section 1.654, as proposed, continues the practice of holding a final hearing where oral argument may be presented by all parties. No fee would be charged for appearing at oral argument at final hearing in an interference.

Section 1.655, as proposed, specifies the matters which would be considered in rendering a final decision. Patentability would be an issue which could be raised. The Board could also consider whether any interlocutory order was manifestly erroneous or an abuse of discretion, although any interlocutory order would be presumed to be correct and burden of showing error shall be on the party attacking the order. This last procedural provision would permit the Board to correct any manifest error before a party seeks judicial review of an interlocutory order along with judicial review of the Board's final decision.

Section 1.656, as proposed, sets forth the requirements for briefs for final hearing. In large measure, proposed § 1.656 follows the requirements of Rule 28 of the Federal Rules of Appellate Procedure. An original and three copies of a brief would be required. Under § 1.656(h), as proposed, if a party wants the Board in rendering its final decision to rule on the admissibility of any evidence, the party would file with its opening brief an original and three copies of a motion to suppress the evidence. Any previous objection to the admissibility of evidence would be waived unless the motion to suppress is filed. This procedural provision would make it clear that an objection to the admissibility of evidence must be renewed for final hearing and would be considered by the Board in rendering its final decision. When a junior party fails to file a brief, an order could be issued requiring the junior party to show cause why failure to file the brief should not be taken as a concession of priority.

Under § 1.658, as proposed, the Board would enter a final decision. The decision could (1) enter judgment, in whole or in part, (2) remand the interference to an examiner-in-chief, or (3) take further action not inconsistent with law. A judgment as to a count shall state whether or not each party is entitled to a patent containing claims which correspond to the count. When judgment is entered as to all counts, the decision of the Board would be considered final for the purpose of judicial review. Under § 1.658(c), as proposed, the PTO would expand the doctrine of estoppel as applied to interference proceedings. The purpose for expanding the applicability of estoppel is to encourage parties in interference cases to settle all issues in one proceeding. Proposed § 1.658(c) creates an estoppel both as to senior and junior parties unlike the present practice (37 CFR 1.257) which limits estoppel in some instances to junior parties. An estoppel would not apply against a party awarded a favorable judgment as to all counts. A few examples illustrate how estoppel would be applied.

Example 24

Junior party applicant AL and senior party applicant AK both disclose separate patentable inventions "A" and "B" and claim invention A in their respective applications. An interference is declared with a single count to invention A. Neither party files a preliminary motion (see proposed § 1.633(c)(1)) to add a count to invention B. Judgment as to the sole count is awarded to junior party applicant AL. Senior party applicant AK would be estopped to thereafter obtain a patent containing claims to invention B, because applicant AK failed to move to add a count to invention B in the interference. Junior party applicant AL would not be estopped to obtain a patent containing claims to invention B.

Example 25

In this example, the facts are the same as in Example 24 except that judgment is awarded to senior party applicant AK. Junior party applicant AL would be estopped to obtain a patent containing claims to invention B in the interference. Senior party applicant AK would not be estopped to obtain a patent containing claims to invention B.

Example 26

Junior party applicant AM and senior party applicant AP both disclose separate patentable inventions "C", "D", and "E" and claim inventions C and D in their respective applications. An interference is declared with two counts. Count 1 is to invention C and Count 2 is to invention D. Neither party files a preliminary motion to add a proposed Count 3 to invention E. Judgment as to Counts 1 and 2 is awarded to junior party applicant AM. Senior party applicant AP would be stopped to thereafter obtain a patent containing claims to invention E, because applicant AP failed to move to add a count to invention E in the interference. Junior party applicant AM would not be estopped to obtain a patent containing claim to invention E.

Example 27

In this example, the facts are the same as in Example 26 except that judgment is awarded on Counts 1 and 2 to senior party applicant AP. Junior party applicant AM would be estopped to obtain a patent containing claims to invention E, because applicant AM failed to move to add a count to invention E in the interference. Senior party applicant AP would not be estopped to obtain a patent containing claims to invention E.

Example 28

In this example, the facts are the same as in Example 26 except that judgment is awarded on Count 1 to junior party applicant AM and judgment is awarded on Count 2 to senior party applicant AP. Both parties would be estopped to obtain a patent containing claims to invention E, because neither moved to add a count to invention E during the interference.

Example 29

Applicant AQ discloses and claims invention "F." Applicant AR discloses and claims separate patentable inventions "F" and "G." The assignee of applicant AQ also owns an application AS which discloses and claims invention "G." An interference is declared between applicant AQ and applicant AR. The sole count is directed to invention F. No motion is filed by applicant AQ or its assignee to declare an additional interference between applicant AR and applicant AS with a count to invention G. A judgment as to the sole count is awarded to applicant AR. Applicant AS and the assignee would be estopped to obtain a patent containing claims to invention G, because applicant AR and the assignee failed to move to declare an additional interference with a count to invention G.

Example 30

The facts in this example are the same as the facts in Example 29 except that judgment as to the sole count is awarded to applicant AQ. Applicant AS and the assignee would not be estopped, because applicant AQ was awarded a judgment as to all counts.

Example 31

Applicant AT discloses a generic invention to "solvent" and a species to "benzene." Application AT contains a

patentable claim 1 (solvent) and no other claims. Applicant AU discloses the generic invention to "solvent" and species to "benzene" and "toluene." Application AU contains patentable claim 3 (solvent) and no other claims. An interference is declared with a single count (solvent). Claim 1 of application AT and claim 3 of application AU are designated to correspond to the count. No preliminary motions are filed. A judgment is entered in favor of applicant AT on the sole count. Applicant AU would be estopped to obtain a patent containing a claim to benzene, because applicant AU failed to file a preliminary motion seeking to add a count to benzene. Applicant AU would not be estopped to obtain a patent containing claims to toluene, because applicant AU could not have properly moved to add a count to toluene (toluene was not disclosed by applicant AT). However, to obtain a patent containing claims to toluene, applicant AU would have to establish that toluene is a separate patentable invention from solvent. See *Smith* v. *Watson*, 95 U.S. App. D.C. 52, 218 F.2d 883, 104 USPQ 160 (1955).

Under § 1.659, as proposed, the Board would be able to make recommendations to examiners and the Commissioner, including recommendations that application claims not involved in the interference be rejected and that a patent be reexamined as to patent claims not involved in the interference.

Under § 1.660, as proposed, a party would be required to notify the Board when the party's patent or application becomes involved in other PTO proceedings (reexamination, reissue, or protest) or litigation.

Section 1.661, as proposed, sets forth when an interference is considered terminated after a judgment is entered in the interference.

Section 1.662, as proposed, provides that a party may request that an adverse judgment be entered. The section, as proposed, also provides that when a written disclaimer (not a statutory disclaimer), concession of priority or unpatentability, abandonment of the invention, abandonment of an application, or abandonment of the contest is filed, the disclaimer, concession, or abandonment would be construed as a request for entry of an adverse judgment. Section 1.662(b), as proposed, provides that when a patentee files a reissue and omits all claims of a patent corresponding to the counts of an interference for the purpose of avoiding the interference, judgment would be entered against the patentee. Under § 1.662(c), as proposed, the filing of a statutory disclaimer would not be construed as a request for entry of an adverse judgment. However, the filing of a statutory disclaimer would, in subsequent proceedings, have the same effect with respect to the patentee filing the statutory disclaimer as an adverse judgment. Under § 1.662(d), as proposed, if after entry of a judgment or after filing of a statutory disclaimer no interference exists, the interference would be dissolved as to any party against whom judgment has not been entered and any further prosecution of any application involved in the interference would be *ex parte* before the examiner.

Section 1.666, as proposed, sets out the procedure for filing settlement agreements in interference cases.

Section 1.671, as proposed, sets out what would be considered evidence. The Federal Rules of Evidence, with certain exceptions, would be applicable to interference cases. Under § 1.671(e), as proposed, a party could not rely on a previously filed affidavit unless the affidavit is served and notice is given that the party intends to rely on the affidavit. The purpose for the notice is to permit an opponent to determine whether a deposition for cross-examination is necessary (see proposed §§ 1.672(b) and 1.673(e)). Under § 1.671(f), as proposed, the significance of documentary and other exhibits would have to be discussed with particularity by a witness during oral deposition or in an affidavit. Proposed § 1.671(f) would set out in the regulations an evidentiary requirement imposed by precedent. See *Popoff* v. *Ochin*, 144 USPQ 762 (Bd.Pat.Int. 1963) (unexplained experimental data should not be considered); *Chandler* v. *Mock*, 150 F.2d 563, 66 USPQ 209 (CCPA 1945) (records standing alone were held to be meaningless), and *Smith* v. *Bousquet*, 111 F.2d 157, 45 USPQ 347 (CCPA 1940) (unexplained tests in stipulated testimony are entitled to little weight). See also *In re Borkowski*, 505 F.2d 713, 184 USPQ 29 (CCPA 1974) and *Triplett* v. *Steinmayer*, 129 F.2d 869, 54 USPQ 409 (CCPA 1942). Under § 1.671(g), as proposed, a party would be required to obtain permission from an examiner-in-chief prior to proceeding under 35 U.S.C. § 24. This requirement would insure that a subpoena is necessary (e.g., a subpoena ordinarily should not be necessary where testimony of an opponent is sought) and that testimony sought through a 24 subpoena is relevant before a subpoena is issued. The motion seeking permission to proceed under § 24, any opposition thereto, and the order of an examiner-in-chief authorizing the moving party to proceed under § 24 would be of assistance to a federal court in the event a party is required to resort to a court to enforce the subpoena or to compel answers to questions propounded at any deposition where a witness is appearing pursuant to a subpoena. See *Sheehan* v. *Doyle*, 529 F.2d 38, 188 USPQ 545 (1st Cir.), *cert. denied*, 429 U.S. 870 (1976), *rehearing denied*, 429 U.S. 987 (1976). Under § 1.671(h), as proposed, any evidence which is not taken or sought and filed in accordance with the regulations would not be admissible.

Section 1.672, as proposed, sets forth the manner in which testimony shall be taken. Testimony would be taken by deposition or affidavit at the election of the party presenting the testimony. If the party presents testimony by affidavit and an opponent elects to cross-examine the affiant, the party would be required to notice a deposition for the purpose of cross-examination. Re-direct and re-cross would take place at the deposition. Where the parties agree, testimony would be presented by affidavit without opportunity for cross-examination (see proposed § 1.672(e)) or by an agreed statement of facts (see proposed § 1.672(f)).

Section 1.673, as proposed, sets out how a deposition would be noticed. A deposition could be noticed for any reasonable place in the United States. The extent to which parties, witnesses, and attorneys or agents would have to travel would be considered in determining whether a place is reasonable. Prior to serving a notice for a deposition, a party would be required to take two procedural steps. Under proposed § 1.673(b), a party would be required to serve a copy of the documents and a list of the things in its possession, custody, and control upon which it intended to rely. Under proposed § 1.673(g), at least three days after service of documents and lists (an examiner-in-chief could require service by "Express Mail"—see proposed § 1.646(d)), the party would be required to have an oral conference (in person or by telephone) with all opponents to attempt to agree on a mutually acceptable time and place for taking the deposition. An examiner-in-chief would set the time and place if agreement is not reached. A single notice listing all the witnesses and the general nature of their expected testimony would then be served. Under proposed § 1.673(c) and except as provided, a party would not be able to rely on any witness not mentioned in the notice, any document not served, or any thing not listed. Under proposed § 1.673(h), a copy of any notice would be attached to the certified transcript of each deposition filed.

Section 1.674, as proposed, sets out the persons before whom depositions would be taken.

Section 1.675, as proposed, sets out how a deposition would be taken.

Section 1.676, as proposed, sets out how a court reporter would prepare and file a certified transcript of a deposition. Section 1.676(d), as proposed, sets out how exhibits may be marked for identification, used at depositions, and filed. Provisions similar to those of Rule 30(f)(1) (A) and (B) of the Federal Rules of Civil Procedure would be applicable to interferences.

Section 1.677, as proposed, sets out the form of a transcript of a deposition.

Under § 1.678, as proposed, a transcript of a deposition would have to be filed in the PTO within 45 days of the date of the deposition.

Section 1.682, as proposed, sets out how a party may introduce in evidence, if otherwise admissible, official records or printed publications. When a notice is served, a party would also be required to serve (but not file) copies of the official records and printed publications. Any objection to the notice or to the admissibility of any official record or publication would have to be filed within 15 days of the date of service of the notice.

Section 1.683, as proposed, sets out how a party may use testimony from another interference or proceeding.

Section 1.684, as proposed, sets out how a party may take testimony in a foreign country.

Section 1.685, as proposed, set out how objections during the taking of depositions would be raised. Under § 1.685(a), as proposed, an error in a notice of deposition would be waived unless a motion to quash the notice is filed as soon as the error is, or could have been, discovered. Under § 1.685(b), as proposed, any objection to the qualifications of an officer would be waived unless (1) the objection is noted on the record of the deposition before a witness begins to testify or (2) if discovered after the deposition, a motion to suppress is filed as soon as the objection is, or could have been, discovered. Under § 1.685(c), as proposed, any error in the manner in which testimony is transcribed, the transcript is signed by a witness, or the transcript is prepared or otherwise handled by the court reporter is waived unless a motion to suppress is filed as soon as the error is, or could have been, discovered. Under § 1.685(d), as proposed, any objection on the merits to the admissibility of evidence (e.g., under the Federal Rules of Evidence) is wavied unless an objection is made on the record at the deposition stating the specific ground of objection. Often objections are cured by subsequent testimony. Accordingly, any objection which a party wants the Board to consider at final hearing must also be made the subject of a motion under proposed § 1.656(h).

Section 1.687, as proposed, sets out how a party could seek and obtain additional discovery. "Additional discovery" is defined in proposed § 1.601(a). As proposed, section 1.687 would not change the standard ("interest of justice") for obtaining discovery. Accordingly, precedent interpreting the present additional discovery rule (37 CFR 1.287(c)) would still be viable.

Section 1.688, as proposed, sets out how a party could introduce into evidence admissions and answers to interrogatories obtained as a result of additional discovery.

The following is a proposed time schedule for a two-party interference:

[In months]

Event in interference	Time from last event in the interference	Total time in interference
Interference declared (1.611)		
Filing of preliminary statements (1.621) and preliminary motions (1.633)	3	3
Filing oppositions to preliminary motions (1.638(a))	½	3½
Filing replies to oppositions (1.638(b))	½	4
Decision on preliminary motions (1.640(b)(1)), open preliminary statements (1.631), set times for filing motions for discovery (1.687(c) and testimony (1.651(a))	1	5
Filing of motions for discovery (1.635, 1.651(a), 1.687(c))	1	6
Filing of opposition to motion for discovery (1.638(a))	½	7
Decision on motion for discovery	½	7½
Time for compliance with any discovery ordered	½	8
Junior party testimony (case-in-chief; 1.672(b)):		
Testimony	2	10½
Senior party cross-examination of affiants if needed	1	11½
Senior party testimony (case-in-chief and case-in-rebuttal, 1.672(b)):		
Testimony	2	13
Junior party cross-examination of affiants if needed	1	14
Junior party testimony (case-in-rebuttal):		
Testimony	½	15½
Senior party cross-examination of affiants if needed	½	16
Filing of record (1.653(c))	1½	17½
Brief for junior party (1.656)	1	18½
Brief for senior party (1.656)	1	19½
Reply brief for junior party (1.656)	½	20
Final hearing (1.654)	1	21
Decision (1.656)	2	23

The following is an index for proposed §§ 1.601 through 1.688:

Rule Index

Sec.
1.601 Scope of rules, definitions.
1.602 Interest in applications and patents involved in interference.
1.603 Interference between applications; subject matter of the interference.
1.604 Request for interference between applications by an applicant.
1.605 Suggestion of claim to applicant by examiner.
1.606 Interference between an application and a patent; subject matter of the interference.
1.607 Request by applicant for interference with patent.
1.608 Interference between an application and a patent; *prima facie* showing by applicant.
1.609 Preparation of interference papers by examiner.
1.610 Assignment of interference to examiner-in-chief time period for completing interference.
1.611 Declaration of interference.
1.612 Access to applications.
1.613 Lead attorney, same attorney representing different parties in an interference, withdrawal of attorney or agent.
1.614 Jurisdiction over interference.
1.615 Suspension of *ex parte* prosecution.
1.616 Sanctions for failure to comply with rules or order.
1.617 Summary judgment against applicant.
1.618 Return of unauthorized papers.
1.621 Preliminary statement, time for filing, notice of filing.
1.622 Preliminary statement, who made invention, where invention made.
1.623 Preliminary statement, invention made in United States.
1.624 Preliminary statement; invention made abroad.
1.625 Preliminary statement; derivation by an opponent.
1.626 Preliminary statement; earlier application.
1.627 Preliminary statement, sealing before filing, opening of statement.
1.628 Preliminary statement, correction of error.
1.629 Effect of preliminary statement.
1.630 Reliance on earlier application.
1.631 Access to preliminary statement, service of preliminary statement.
1.633 Preliminary motions.
1.634 Motion to correct inventorship.
1.635 Miscellaneous motions.
1.636 Motions, time for filing.
1.637 Content of motions.
1.638 Opposition and reply, time for filing opposition and reply.
1.639 Evidence in support of motion, opposition, or reply.
1.640 Motions, hearing and decision, redeclaration of interference, order to show cause.
1.641 Unpatentability discovered by examiner-in-chief.
1.642 Addition of new application to interference.
1.643 Prosecution of interference by assignee.
1.644 Petitions in interference.

1.645 Extension of time, late papers, stay of proceedings.
1.646 Service of papers, proof of service.
1.647 Translation of documents in foreign language.
1.651 Setting times for discovery and taking testimony, parties entitled to take testimony.
1.652 Judgment for failure to take testimony or file record.
1.653 Record.
1.654 Final hearing.
1.655 Matters considered in rendering a final decision.
1.656 Briefs for final hearing.
1.657 Burden of proof as to date of invention.
1.658 Final Decision.
1.659 Recommendation.
1.660 Notice of reexamination, reissue, protest, or litigation.
1.661 Termination of interference after judgment.
1.662 Request for entry of adverse judgment; reissue filed by patentee.
1.663 Status of claim of defeated applicant after interference.
1.664 Action after interference.
1.665 Second interference.
1.666 Filing of interference settlement agreements.
1.671 Evidence must comply with rules.
1.672 Manner of taking testimony.
1.673 Notice of examination of witness.
1.674 Persons before whom depositions may be taken.
1.675 Examination of witness, reading and signing tanscript of deposition.
1.676 Certification and filing by officer, marking exhibits.
1.677 Form of a transcript of deposition.
1.678 Transcript of deposition must be filed.
1.679 Inspection of transcripts.
1.682 Official records and printed publications.
1.683 Testimony in another interference, proceeding, or action.
1.684 Testimony in a foreign country.
1.685 Errors and irregularities in depositions.
1.687 Additional Discovery.
1.688 Use of discovery.

The following is a table correlating the present rules (37 CFR 1.201 through 1.288) to the proposed rules (proposed 37 CFR 1.601 through 1.688).

RULE CORRELATION TABLE

Old	New
1.201 (a)	1.601 (a)
1.201 (b)	1.601 (b), (c)
1.201 (c)	1.602
1.202	None
1.203 (a)	1.603 (a), (b)
1.203 (b)	1.605 (a)
1.203 (c)	1.605 (b)
None	1.604 (a)
1.203 (d)	1.604 (b)
1.204 (a)	None
1.204 (b)	1.606 (b)
1.204 (c)	1.606 (c)
1.205 (a)	1.606 (a), (b)
1.205 (b)	1.607 (a), (c)
1.205 (c)	1.607 (d)
None	1.608 (a)
1.206 (a)	1.607 (b)
1.207 (a)	1.609

RULE CORRELATION TABLE—Continued

Old	New
None	1.610
1.207 (b)	1.611
1.208	1.613
1.211	1.614
1.212	1.615
None	1.616
1.228	1.617
None	1.618
1.215 (a)	1.621 (a)
1.215 (b)	1.621 (b)
1.215 (c)	1.629 (c)
1.216 (a)	1.622 (a), (b)
1.216 (a) (1)-(6)	1.623 (a)
1.216 (b)	1.623 (b), 1.624 (b), 1.625 (b)
1.216 (c)	1.626
1.217 (a)	1.624 (a), 1.625 (a)
1.217 (b)	1.623 (a)
1.218	1.621 (a)
1.219	1.627
1.222	1.628
1.223	1.629
1.224	1.630
1.225	1.640 (d), (e), and 1.651 (c) (4)
1.226	1.612
1.227	1.631
1.231	1.633, 1.634
1.237	1.641
1.238	1.642
1.242	1.643
1.243	1.635, 1.636, 1.637 (b) 1.638 through 1.640
1.244	1.644
1.245	1.645
1.246	1.645
1.247	1.645
1.248	1.646
None	1.647
1.251	1.651
1.252	1.652
1.253	1.653
1.254	1.656
1.255	1.656 (c)
1.256	1.654
1.257 (a)	1.657
1.257 (b)	1.658 (c), (d)
1.258	1.655
1.259	1.659
New	1.660
1.262	1.662 (a)
1.263	1.662 (a) and (d)
1.264	1.662 (b) and (c)
New	1.662 (e)
1.265	1.663
1.266	1.664
1.267	1.665
1.268	1.666
1.271	1.671
New	1.671 (g)
1.272 (a)	1.672 (a), (b)
1.272 (b)	1.672 (c)
1.272 (c)	1.672 (d), (e)
1.273 (a)	1.673 (a), (c), (d),
New	1.673 (e)
1.273 (b)	1.673 (f)
1.274	1.674
1.275	1.675
1.276	1.676
1.277	1.677
1.278	1.678
1.279	1.679
1.281	1.645
1.282	1.682
1.283	1.683
1.285	1.685
1.286	Eliminated
1.287 (a) (1) (i), (ii)	1.673 (b)
1.287 (a) (1) (iii)	1.673 (a)
1.287 (a) (2), (3)	Eliminated
1.287 (b)	Eliminated
1.287 (c)	1.687
1.287 (d) (1)	1.673 (c)
1.287 (d)(2)	1.616
1.287 (e)	1.687 (d)
1.288	1.688

Other Considerations

The proposed rule change would not have a significant impact on the quality of the human environment or the conservation of energy resources.

The proposed rule change is in conformity with the requirements of the Regulatory Flexibility Act (Pub. L. 96–354), Executive order 12291, and the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 et seq.

The Patent and Trademark Office has determined that this proposed rule change is not a major rule under Executive Order 12291. The annual effect on the economy would be less than $100 million. There would be no major increase in costs or prices for consumers, individual industries, federal state, or local government agencies, or geographic regions. There would be no significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

This proposed rule change would not impose a burden under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 et seq., since no significant additional record keeping or reporting requirements are placed upon the public. It is anticipated that less paperwork would be involved under the proposed rule change. Likewise, it is anticipated that the cost of an interference should be less under the proposed rule change.

List of Subjects in 37 CFR Part 1

Administrative practice and procedure, Authority delegations (Government agencies), Conflict of interests, Courts, Inventions and patents, Lawyers.

Notice is hereby given that, pursuant to the authority granted to the Commissioner of Patents and Trademarks by 35 U.S.C. 6, 23, 41, and 135, the Patent and Trademark Office proposes to amend Title 37 of the Code of Federal Regulations as set forth below:

PART 1—RULES OF PRACTICE IN PATENT CASES

It is proposed to amend 37 CFR, Chapter I, as follows with deletions indicated by brackets and additions by arrows:

1. Section 1.1 is proposed to be amended by adding a new paragraph (d) to read as follows:

§ 1.1 All communications to be addressed to Commissioner of Patents and Trademarks.

* * * * *

(d) Communications relating to interferences and applications or patents involved in an interference should be additionally marked "BOX INTERFERENCE."

2. Section 1.4 is proposed to be amended by revising paragraph (a)(2) and reprinting the introductory text of paragraph (a) to read as follows:

§ 1.4 Nature of correspondence.

(a) Correspondence with the Patent and Trademark Office comprises:

* * * * *

(2) Correspondence in and relating to a particular application or other proceeding in the Office. See particularly the rules relating to the filing, processing, or other proceedings of national applications in Subpart B, §§ 1.31 to 1.352; of international applications in subpart C, §§ 1.401 to 1.482; of reexamination of patents in Subpart D, §§ 1.501 to 1.570; ►of interferences in Subpart E, §§ 1.601 to 1.688;◄ and of trademark applications §§ 2.11 to 2.189.

* * * * *

3. Section 1.5 is proposed to be amended by adding a new paragraph (e) to read as follows:

§ 1.5 Identification of application, patent or registration.

* * * * *

(e) When a paper concerns an interference, it should state the names of the parties and the number of the interference. The name of the examiner-in-chief assigned to the interference (§ 1.610) and the name of the party filing the paper should appear conspicuously on the first page of the paper.

4. Section 1.8 is proposed to be amended by adding to paragraph (a) a new subparagraph (xii) to read as follows:

§ 1.8 Certificate of mailing.

(a) * * *

(xii) The filing of a paper in an interference which an examiner-in-chief orders to be filed by hand or "Express Mail."

* * * * *

5. Section 1.9 is proposed to be amended by adding a new paragraph (g) to read as follows:

§ 1.9 Definitions.

* * * * *

(g) For definitions in interferences see § 1.601.

6. Section 1.11 is proposed to be amended by revising paragraph (a) as follows:

§ 1.11 Files open to the public.

(a) After a patent has been issued, the specification, drawings and all papers relating to the case in the file of the patent are open to inspection by the general public, and copies may be obtained upon paying the fee therefor. After [an award of priority by the Board of Patent Interferences as to all parties, or after termination if no such award is made] ►entry of a judgment in an interference by the Board of Appeals and Interferences as to all parties or after termination of an interference without an award of judgment◄ the file of any interference which involved a patent, or an application on which a patent has issued, is similarly open to public inspection and procurement of copies. See § 2.27 for trademark files.

* * * * *

§ 1.14 [Amended]

7. Section 1.14 is proposed to be amended by removing from paragraph (d) the words "Board of Appeals or the Board of Patent Interferences" and inserting, in their place, the words "Board of Appeals and Interferences."

8. Section 1.17 is proposed to be amended by revising paragraphs (e) and (g)–(i) as follows:

§ 1.17 Patent application processing fees.

* * * * *

(e) For filing a notice of appeal from the examiner to the Board of Appeals ►and Interferences◄:

By a small entity (§ 1.9(f)).....$57.50
By other than a small entity.....115.00

* * * * *

(g) For filing a request for an oral hearing before the Board of Appeals ►and Interferences in appeal under 35 U.S.C. § 134◄:

By a small entity (§ 1.9(f)).....$50.00
By other than a small entity.....100.00

(h) For filing a petition to the Commissioner under a section of this part listed below which refers to this paragraph—$120.00.

—§ 1.47—for filing by other than all the inventors or a person not the inventor
—§ 1.48—for correction of inventorship
—§ 1.182—for decision on questions not specifically provided for
—§ 1.183—to suspend the rules
►—§ 1.644(e)—for petition or request for reconsideration of a decision on petition in an interference◄
—[1.268] ►§ 1.666(c)◄—for late filing of interference settlement agreement.

(i) For filing a petition to the Commissioner under a section of this part listed below which refers to this paragraph—$80.00.

—§ 1.12—for access to an assignment record
—§ 1.14—for access to an application
—§ 1.55—for entry of late priority papers
—§ 1.102—to make application special
—§ 1.103—to suspend action in application
—§ 1.177—for divisional reissues to issue separately
[—§ 1.268—for access to interference settlement agreement]
—§ 1.312—for amendment after payment of issue fee
—§ 1.313—to withdraw an application from issue
—§ 1.314—to defer issuance of a patent
—§ 1.334—for patent to issue to assignee, assignment recorded late
►—§ 1.666(b)—for access to interference settlement agreement◄

* * * * *

9. Section 1.36 is proposed to be revised as follows:

§ 1.36 Revocation of power of attorney or authorization; withdrawal of attorney or agent.

A power of attorney or authorization of agent may be revoked at any stage in the proceedings of a case, and an attorney or agent may withdraw, upon application to and approval by the Commissioner. An attorney or agent, except an associate attorney or agent whose address is the same as that of the principal attorney or agent, will be notified of the revocation of [his or her] ►the◄ power of attorney or authorization, and the applicant or patent owner will be notified of the withdrawal of the attorney or agent. An assignment will not of itself operate as a revocation of a power or authorization previously given, but the assignee of the entire interest may revoke previous powers and be represented by an attorney or agent of [his or her] ►the assignee's◄ own selection. ►See § 1.613(d) for withdrawal of an attorney or agent of record in an interference.◄

10. Section 1.48 is proposed to be revised as follows:

§ 1.48 Correction of inventorship.

If the correct inventor or inventors are not named in an application for patent through error without any deceptive intention on the part of the actual inventor or inventors, the application may be amended to name only the actual inventor or inventors. Such amendment must be diligently made and must be accompanied by (a) a petition including a statement of facts verified by the original named inventor or inventors establishing when the error without deceptive intention was discovered and how it occurred; (b) an oath or declaration by each actual inventor or inventors as required by § 1.63; (c) the fee set forth in §1.17(h); and (d) the written consent of any assignee.

►When the application is involved in an interference, the petition shall comply with the requirements of this section and shall be accompanied by a motion under § 1.634.◄

§ 1.55 [Amended]

11. Section 1.55 is proposed to be amended by removing from paragraph (a) "1.224" and inserting, in its place, "1.630".

12. Section 1.59 is proposed to be revised as follows:

§ 1.59 Papers of application with filing date not to be returned.

Papers in an application which has received a filing date pursuant to § 1.53 will not be returned for any purpose whatever. If applicants have not preserved copies of the papers, the Office will furnish copies at the usual cost of any application in which either the required basic filing fee (§ 1.16) or the processing and retention fee (§ 1.21(1)) has been paid. ►See § 1.618 for return of unauthorized and improper papers in interferences.◄

13. Section 1.68 is proposed to be revised as follows:

§ 1.68 Declaration in lieu of oath.

Any document to be filed in the Patent and Trademark Office and which is required by any law, rule, or other regulation to be under oath may be subscribed to by a written declaration [with the exception of testimony relating to interferences and other contested cases covered by §§ 1.271 to 1.286]. Such declaration may be used in lieu of the oath otherwise required, if, and only if, the declarant is on the same document, warned that willful false statements and the like are punishable by fine or imprisonment, or both (18 U.S.C. 1001) and may jeopardize the validity of the application or any patent issuing thereon. The declarent must set forth in the body of the declaration that all statements made of [his] ►the declarant's◄ own knowledge are true and that all statements made on information and belief are believed to be true.

14. Section 1.103 is proposed to be amended by revising paragraph (d) as follows:

§ 1.103 Suspension of action.

* * * * *

(d) Action on applications in which the Office has accepted a request filed under◄ 1.139 will be suspended for the entire pendency of these applications except for purposes relating to [proceedings under § 1.201(b)] ►interference proceedings under §§ 1.601 through 1.688◄.

15. Section 1.122 is proposed to be amended by revising paragraph (b) as follows:

§ 1.122 Entry and consideration of amendments.

* * * * *

(b) Ordinarily all amendments presented in a paper filed while the application is open to amendment are entered and considered, subsequent cancellation or correction being required of improper amendments. Untimely amendatory papers may be refused entry and consideration in whole or in part. ►For amendments presented during an interference see § 1.664.◄

§ 1.136 [Amended].

16. Section 1.136 is proposed to be amended by removing "§ 1.207" and inserting, in its place, "§ 1.610(a)" and by removing "§ 1.245" and inserting, in its place, "§ 1.645".

17. Section 1.138 is proposed to be revised as follows:

§ 1.138 Express abandonment.

An application may be expressly abandoned by filing in the Patent and Trademark Office a written declaration of abandonment signed by the applicant [himself] and the assignee of record, if any, and identifying the application. [Except as provided in § 1.262 and an] ►An◄ application may also be expressly abandoned by filing a written declaration of abandonment signed by the attorney or agent of record. Express abandonment of the application may not be recognized by the Office unless it is actually received by appropriate officials in time to act thereon before the date of issue.

18. Section 1.181 is proposed to be amended by revising paragraph (a) as follows:

§ 1.181 Petition to the Commissioner.

(a) Petition may be taken to the Commissioner: (1) From any action or requirement of any examiner in the *ex parte* prosecution of an application which is not subject to appeal to the Board of Appeals ►and Interferences◄ or to the court; (2) in cases in which a statute or the rules specify that the matter is to be determined directly by or reviewed by the Commissioner; and (3) to invoke the supervisory authority of the Commissioner in appropriate circumstances. ►For petitions in interferences, see § 1.644.◄

* * * * *

19. It is proposed to revise the center heading preceding § 1.191 to read "Appeal to the Board of Appeals and Interferences".

20. Section 1.191 is proposed to be amended by revising paragraphs (a) and (c) as follows:

§ 1.191 Appeal to Board of Appeals ►and Interferences◄.

(a) Every applicant for a patent or for reissue of a patent, or every owner of a patent under reexamination, any of the claims of which have been twice rejected or who has been given a final rejection (§ 1.113), may, upon the payment of the fee set forth in § 1.17(e), appeal from the decision of the examiner to the Board of Appeals ►and Interferences◄ within the time allowed for response.

* * * * *

(c) [Except as otherwise provided by § 1.206,] ►An◄ appeal when taken must be taken from the rejection of all claims under rejection which the applicant or patent owner proposes to contest. Questions relating to matters not affecting the merits of the invention may be required to be settled before an appeal can be considered.

* * * * *

§ 1.194 [Amended]

21. Section 1.194 is proposed to be amended by removing the words "Board of Appeals" and inserting, in their place, the words "Board of Appeals and Interferences."

22. Section 1.196 is proposed to be revised as follows:

§ 1.196 Decision by the Board of Appeals ►and Interferences◄.

(a) The Board of Appeals ►and Interferences◄, in its decision, may affirm or reverse the decision of the [primary] examiner in whole or in part on the grounds and on the claims specified by the examiner. The affirmance of the rejection of a claim on any of the grounds specified constitutes a general affirmance of the decision of the [primary] examiner on that claim, except as to any ground specifically reversed.

(b) Should the Board of Appeals ►and Interferences◄ have knowledge of any grounds not involved in the appeal for rejecting any appealed claim, it may include in the decision a statement to that effect with its reasons for so holding, which statement shall constitute a ►new◄ rejection of the claims. ►When the Board of Appeals and Interferences makes a new rejection of an appealed claim, the appellant may exercise any one of the following three options:

(1) ◄The appellant may submit an appropriate amendment of the claims so rejected or a showing of facts, or both, and have the matter reconsidered by the [primary] examiner►in which event the application will be remanded to the examiner and the decision of the Board of Appeals and Interferences shall not be considered final for the purpose of judicial review◄. The statement shall be binding upon the [primary] examiner unless an amendment or showing of facts not previously of record be made which, in the opinion of the [primary] examiner, [avoids] ►overcomes◄ the [additional] ►new◄ ground for rejection stated in the decision. ►When appropriate, upon conclusion of proceedings on remand before the examiner, the Board of Appeals and Interferences may enter an order otherwise making its decision final.◄

►(2)◄ The appellant may [waive such reconsideration before the primary examiner and] have the case reconsidered ►under § 1.197(b)◄ by the Board of Appeals ►and Interferences◄ upon the same record [before them]. Where request for such reconsideration is made the Board of Appeals ►and Interferences◄ shall, if necessary, render a new decision which shall include all grounds upon which a patent is refused.

►(3)◄ The appellant may [waive reconsideration by the Board of Appeals and] treat the decision, including the [added] ►new◄ grounds for rejection given by the Board of Appeals ►and Interferences◄, as a final decision in the case.

(c) Should the decision of the Board of Appeals ►and Interferences◄ include an explicit statement that a claim may be allowed in amended form, appellant shall have the right to amend in conformity with such statement which shall be binding on the [primary] examiner in the absence of new references or grounds of rejection.

(d) Although the Board of Appeals ►and Interferences◄ normally will confine its decision to a review of rejections made by the [primary] examiner, should it have knowledge of any grounds for rejecting any allowed claim [that it believes should be considered] it may include in its decision a [statement to that effect] ►recommended rejection of the claim◄ and remand the case to the [primary] examiner [for consideration thereof]. In such event, the Board shall set a period, not less than [one month] ►thirty days◄, within which the appellant may submit to the [primary] examiner an appropriate amendment, [or] a showing of facts or reasons, or both, in order to avoid the grounds set forth in the [statement] ►recommendation◄ of the Board of Appeals ►and Interferences◄. [If the primary examiner rejects the previously allowed claim or claims on the basis of such statement, the appellant may appeal to the Board of Appeals from the rejection.] ►The examiner shall be bound by the recommendation and shall enter and maintain the recommended rejection unless an amendment or showing of facts not previously of record is filed which, in the opinion of the examiner, overcomes the recommended rejection. Should the examiner make the recommended rejection final the applicant may again appeal to the Board of Appeals and Interferences.◄ Whenever a decision of the Board of Appeals ►and Interferences◄ includes a remand, that decision shall not be considered a final decision [in the case, but the Board of Appeals shall, upon conclusion of the proceedings before the examiner on remand, either adopt its decision as final or render a new decision on all of the claims on appeal, as it may deem appropriate]. ►When appropriate, upon conclusion of proceedings on remand before the examiner, the Board of Appeals and Interferences may enter an order otherwise making its decision final.◄

23. Section 1.197 is proposed to be amended by revising paragraphs (a) and (b) as follows:

§ 1.197 Action following decision.

(a) After decision by the Board of Appeals ►and Interferences◄, the case shall be returned to the [primary] examiner, subject to the appellant's right of appeal or other review, for such further action by the appellant or by the [primary] examiner, as the condition of the case may require, to carry into effect the decision.

(b) A single request for [rehearing or] reconsideration[,] or modification of the decision[,] may be made if filed within thirty days from the date of the original decision unless that decision is so modified as to become, in effect, a new decision, and the Board of Appeals ►and Interferences◄ so states.

* * * * *

§ 1.198 [Amended]

24. Section 1.198 is proposed to be amended by removing the words "Board of Appeals" and inserting, in their place, the words "Board of Appeals and Interference."

§§ 1.201–1.212 [Removed]

25. It is proposed to remove the center heading preceding § 1.201.

§§ 1.201–1.212 [Removed]

26. It is proposed to remove §§ 1.201 through 1.212.

27. It is proposed to remove the center heading preceding § 1.215.

§§ 1.215–1.228 [Removed]

28. It is proposed to remove §§ 1.215 through 1.228.

29. It is proposed to remove the center heading preceding § 1.231.

§§ 1.231–1.238 [Removed]

30. It is proposed to remove §§ 1.231 through 1.238.

31. It is proposed to remove the center heading preceding § 1.242.

§§ 1.242–1.247 [Removed]

32. It is proposed to remove §§ 1.242 through 1.247.

33. It is proposed to add a center heading preceding § 1.248 to read "Miscellaneous Provisions".

34. Section 1.248 is proposed to be amended by adding paragraph (c) and revising the section heading as follows:

§ 1.248 Service of Papers; manner of service; proof of service ►in cases other than interferences◄

* * * * *

►(c) See § 1.646 for service of papers in interferences.◄

35. It is proposed to remove the center heading preceding § 1.251.

§§ 1.251–1.259 [Removed]

36. It is proposed to remove §§ 1.251 through 1.259.

37. It is proposed to remove the center heading preceding § 1.261.

§§ 1.261–1.268 [Removed]

38. It is proposed to remove §§ 1.261 through 1.268.

39. It is proposed to remove the center heading preceding § 1.271.

§§ 1.271–1.288 [Removed]

40. It is proposed to remove §§ 1.271 through 1.288.

41. Section 1.292 is proposed to be amended by revising paragraph (a) and adding paragraph (c) as follows:

§ 1.292 Public use proceedings.

(a) When a petition for the institution of public use proceedings, supported by affidavits or declarations and the fee set forth in § 1.17(j) is filed by one having information of the pendency of an application and is found, on reference to the [primary] examiner, to make a prima facie showing that the invention [involved in an interference or] claimed

in an application believed to be on file had been in public use or on sale ►more than◄ one year before the filing of the application, [or before the date alleged by an interfering party in his or her preliminary statement or the date of invention established by such party,] a hearing may be had before the Commissioner to determine whether a public use proceeding should be instituted. If instituted, [times may be set] ►the Commissioner may designate an appropriate official to conduct the public use proceeding, including the setting of times◄ for taking testimony, which shall be taken as provided by [§§ 1.271 to 1.286] ►§§ 1.671 through 1.685.◄ The petitioner will be heard in the proceedings but after decision therein will not be heard further in the prosecution of the application for patent.

* * * * *

►(c) A petition for institution of public use proceedings shall not be filed by a party to an interference as to an application involved in the interference. Public use and on sale issues in an interference shall be raised by a preliminary motion under § 1.633(a).◄

§ 1.301 [Amended]

42. Section 1.301 is proposed to be amended by removing the words "Board of Appeals" and the words "Board of Patent Interferences" and inserting, in each of their places, the words "Board of Appeals and Interferences."

§ 1.302 [Amended]

43. Section 1.302 is proposed to be amended by removing from paragraph (b) "1.248" and inserting, in its place, "1.646" and by removing "and other contested cases".

§ 1.303 [Amended]

44. Section 1.303 is proposed to be amended by removing from paragraph (a) the words "Board of Appeals" and the words "Board of Patent Interferences" and inserting, in each of their places, the words "Board of Appeals and Interferences" and by removing from paragraph (c) "1.248" and inserting, in its place, "1.646".

45. Section 1.304 is proposed to be amended by revising paragraph (a) as follows:

§ 1.304 Time for appeal or civil action.

(a) The time for filing the notice and reasons of appeal to the U.S. Court of Appeals for the Federal Circuit (§ 1.302) or for commencing a civil action (§ 1.303) is sixty days from the date of the decision of the [Board of Appeals or the Board of Patent Interferences] ►Board of Appeals and Interferences◄. If a request for [rehearing or] reconsideration[,] or modification of the decision[,] is filed within the time provided [pursuant to] ►under◄ § 1.197(b) or [§ 1.256(b)] ►§ 1.658(b)◄, the time for filing an appeal or commencing a civil action shall expire at the end of the sixty-day period or thirty days after action on the request, whichever is later. ►Except for an appeal from or commencing a civil action after a decision of the Board of Appeals and Interferences in a reexamination proceeding or an interference proceeding, the◄ [The] time periods set forth herein are subject to the provisions of § 1.136. ►See § 1.550(c) for extensions of time to appeal or commence a civil action in a reexamination proceeding. See § 1.645(a) for extensions of time to appeal or commence a civil action in an interference. The Commissioner, upon a showing of excusable neglect, may extend the time for seeking judicial review when a request is untimely filed after expiration of the time prescribed by this section.◄

* * * * *

46. Section 1.322 is proposed to be amended by revising paragraph (a) as follows:

§ 1.322 Certificate of correction of Office mistake.

(a) A certificate of correction under 35 U.S.C. 254 may be issued at the request of the patentee or [his] ►the patentee's◄ assignee. Such certificate will not be issued at the request or suggestion of anyone not owning an interest in the patent, nor on motion of the Office, without first notifying the patentee (including any assignee of record) and affording [him] ►the patentee◄ an opportunity to be heard. ►When the request relates to a patent involved in an interference, the request shall comply with the requirements of this section and shall be accompanied by a motion under § 1.635.◄

* * * * *

47. Section 1.323 is proposed to be revised as follows:

§ 1.323 Certificate of correction of applicant's mistake.

Whenever a mistake of a clerical or typographical nature or of minor character which was not the fault of the Office, appears in a patent and a showing is made that such mistake occurred in good faith, the Commissioner may, upon payment of the [required] fee ►set forth in § 1.20(a)◄, issue a certificate, if the correction does not involve such changes in the patent as would constitute new matter or would require reexamination. ►A request for a certificate of correction of a patent involved in an interference shall comply with the requirements of this section and shall be accompanied by a motion under §◄ 1.635.◄

48. Section 1.324 is proposed to be revised as follows:

§ 1.324 Correction of inventorship in patent.

Whenever a patent is issued and it appears that the correct inventor or inventors were not named through error without deceptive intention on the part of the actual inventor or inventors, the Commissioner may, on petition of all the parties and the assignees and satisfactory proof of the facts and payment of the fee set forth in § 1.20(b), or on order of a court before which such matter is called in question, issue a certificate naming only the actual inventor or inventors. ►A request to correct inventorship of a patent involved in an interference shall comply with the requirements of this section and shall be accompanied by a motion under § 1.634.◄

§ 1.550 [Amended]

49. Section 1.550 is proposed to be amended by removing from paragraph (a) "Board of Appeals" and inserting, in its place, "Board of Appeals and Interferences."

50. Section 1.565 is proposed to be amended by revising paragraph (b) and adding paragraph (e) as follows:

§ 1.565 Concurrent office proceedings.

* * * * *

(b) If a patent in the process of reexamination is or becomes involved in [interference proceedings or] litigation[,] or a reissue application for the patent is filed or pending, the Commissioner shall determine whether or not to stay the reexamination[,] or reissue [or interference] proceeding.

* * * * *

►(e) If a patent in the process of reexamination is or becomes involved in an interference, the Commissioner may stay reexamination or the interference. The Commissioner will not consider a request to stay an interference unless a motion (§ 1.635) to stay the interference has been presented to, and denied by, an examiner-in-chief and the request is filed within ten (10) days of a decision by an examiner-in-chief denying the motion for a stay or such other time as the examiner-in-chief may set.◄

51. It is proposed to add a new subpart entitled "Subpart E—Interferences" which reads as follows:

Subpart E—Interferences

Sec.
1.601 Scope of rules, definitions.
1.602 Interest in applications and patents involved in an interference.
1.603 Interference between applications; subject matter of the interference.
1.604 Request for interference between applications by an applicant.
1.605 Suggestion of claim to applicant by examiner.
1.606 Interference between an application and a patent; subject matter of the interference.
1.607 Request by applicant for interference with patent.
1.608 Interference between an application and a patent; prima facie showing by applicant.
1.609 Preparation of interference papers by examiner.
1.610 Assignment of interference to examiner-in-chief, time period for completing interference.
1.611 Declaration of interference.
1.612 Access to applications.
1.613 Lead attorney, same attorney representing different parties in an interference, withdrawal of attorney or agent.
1.614 Jurisdiction over interference.
1.615 Suspension of ex parte prosecution.
1.616 Sanctions for failure to comply with rules or order.
1.617 Summary judgment against applicant.
1.618 Return of unauthorized papers.
1.621 Preliminary statement, time for filing, notice of filing.
1.622 Preliminary statement, who made invention, where invention made.
1.623 Preliminary statement; invention made in United States.
1.624 Preliminary statement; invention made abroad.
1.625 Preliminary statement; derivation by an opponent.
1.626 Preliminary statement; earlier application.
1.627 Preliminary statement, sealing before filing, opening of statement.
1.628 Preliminary statement, correction of error.
1.629 Effect of preliminary statement.
1.630 Reliance on earlier application.
1.631 Access to preliminary statement, service of preliminary statement.
1.633 Preliminary motions.
1.634 Motion to correct inventorship.
1.635 Miscellaneous motions.
1.636 Motions, time for filing.
1.637 Content of motions.
1.638 Opposition and reply, time for filing opposition and reply.
1.639 Evidence in support of motion, opposition, or reply.
1.640 Motions, hearing and decision, redeclaration of interference, order to show cause.
1.641 Unpatentability discovered by examiner-in-chief.
1.642 Addition of new application to interference.
1.643 Prosecution of interference by assignee.
1.644 Petitions in interference.
1.645 Extension of time, late papers, stay of proceedings.
1.646 Service of papers, proof of service.
1.647 Translation of documents in foreign language.
1.651 Setting times for discovery and taking testimony, parties entitled to take testimony.
1.652 Judgment for failure to take testimony or file record.
1.653 Record and exhibits.
1.654 Final hearing.
1.655 Matters considered in rendering a final decision.
1.656 Briefs for final hearing.
1.657 Burden of proof as to date of invention.
1.658 Final Decision.
1.659 Recommendation.
1.660 Notice of reexamination, reissue, protest, or litigation.
1.661 Termination of interference after judgment.
1.662 Request for entry of adverse judgment; reissue filed by patentee.
1.663 Status of claim of defeated applicant after interference.
1.664 Action after interference.
1.665 Second interference.
1.666 Filing of interference settlement agreements.
1.671 Evidence must comply with rules.
1.672 Manner of taking testimony.
1.673 Notice of examination of witness.
1.674 Persons before whom depositions may be taken.
1.675 Examination of witness, reading and signing transcript of deposition.
1.676 Certification and filing by officer, marking exhibits.
1.677 Form of a transcript of deposition.
1.678 Transcript of deposition must be filed.
1.679 Inspection of transcript.
1.682 Official records and printed publications.
1.683 Testimony in another interference, proceeding, or action.
1.684 Testimony in a foreign country.
1.685 Errors and irregularities in depositions.
1.687 Additional Discovery.
1.688 Use of discovery.

Authority: 35 U.S.C. 6, 23, 41, and 135.

Subpart E—Interferences

§ 1.601 Scope of rules, definitions.

This subpart governs the procedure in patent interferences in the Patent and Tradmark Office. This subpart shall be construed to secure the just, speedy, and inexpensive determination of every interference. For the meaning of terms in the Federal Rules of Evidence as applied to interferences, see § 1.671(c). Unless otherwise clear from the context, the following definitions apply to this subpart:

(a) "Additional discovery" is discovery to which a party may be entitled under § 1.687 in additional to discovery to which the party is entitled as a matter of right under § 1.673(a) and (b).

(b) "Affidavit" means affidavit, declaration under § 1.68, or statutory declaration under 28 U.S.C. 1746. A transcript of an *ex parte* deposition may be used as an affidavit.

(c) "Board" means the Board of Appeals and Interferences.

(d) "Case-in-chief" means that portion of a party's case where the party has the burden of going forward with evidence.

(e) "Case-in-rebuttal" means that portion of a party's case where the party presents evidence in rebuttal to the case-in-chief of another party.

(f) A "count" defines the interfering subject matter between (1) two or more applications or (2) one or more applications and one or more patents. When there is more than one count, each count shall define a separate patentable invention. Any claim of an application or patent which corresponds to a count is a claim involved in the interference within the meaning of 35 U.S.C. 135(a). A claim of a patent or application which is identical to a count is said to "correspond exactly" to the count. A claim of a patent or application which is not identical to a count, but which defines the same patentable invention as the count, is said to "correspond substantially" to the count. When a count is broader in scope than all claims which correspond to the count, the count is a "phantom count." A phanton count is not patentable to any party.

(g) The "effective filing date" of an application or a patent is the filling date of an earlier application accorded to the application or patent under 35 U.S.C. 119, 120, or 365.

(h) In the case of an application, "filing date" means the filing date assigned to the application. In the case of a patent, "filing date" means the filing date assigned to the application which issued as the patent.

(i) An "interference" is a proceeding instituted in the Patent and Trademark Office before the Board of Appeals and Interferences to determine any question of patentability and priority of invention between two or more parties claiming the same patentable invention. An interference may be declared between two or more pending applications naming different inventors when, in the opinion of an examiner, the applications contain claims for the same patentable invention. An interference may be declared between one or more pending applications and one or more unexpired patents naming different inventors when, in the opinion of an examiner, any application and any unexpired patents contain claims for the same patentable invention.

(j) An "interference-in-fact" exists when all the claims of a party which correspond to a count and all the claims of an opponent which correspond to the count define the same patentable invention.

(k) A "lead" attorney or agent is a registered attorney or agent of record who is primarily responsible for prosecuting an interference on behalf of a party and is the attorney or agent whom an examiner-in-chief may contact to set times and take other action in the interference.

(l) A "party" is (1) an applicant or patentee involved in the interference or (2) a legal representative or an assignee of an applicant or patentee involved in an interference. Where acts of a party are normally performed by an attorney or agent, "party" may be construed to mean the attorney or agent. An "inventor" is the individual named as inventor in an application involved in an interference or the individual named as inventor in a patent involved in an interference.

(m) A "senior party" is the party with earliest effective filing date as to all counts or, if there is no party with the earliest filing date as to all counts, the party with the earliest filing date. A "junior party" is any other party.

(n) Invention "A" is the "same patentable invention" as an invention "B" when invention "A" is the same as (35 U.S.C. 102) or is obvious (35 U.S.C. 103) in view of invention "B" assuming invention "B" is prior art with respect to invention "A". Invention "A" is a "separate patentable invention" with respect to invention "B" when invention "A" is new (35 U.S.C. 102) and non-obvious (35 U.S.C. 103) in view of invention "B" assuming invention "B" is prior art with respect to invention "A".

(o) "Sworn" means sworn or affirmed.

(p) "United States" means the United States of America, its territories and possesssions.

§ 1.602 Interest in applications and patents involved in an interference.

(a) Unless good cause is shown, an interference shall not be declared or continued between (1) applications owned by a single party or (2) applications and an unexpired patent owned by a single party.

(b) The parties, within 20 days after an interference is declared, shall notify the Board of any and all right, title, and interest in any application or patent involved or relied upon in the interference unless the right, title, and interest is set forth in the notice declaring the interference.

(c) If a change of any right, title, and interest in any application or patent involved or relied upon in the interference occurs after notice is given declaring the interference and before the time expires for seeking judicial review of a final decision of the Board, the parties shall notify the Board of the change within 20 days of the change.

§ 1.603 Interference between applications; subject matter of the interference.

Before an interference is declared between two or more applications, the examiner must be of the opinion that there is interfering subject matter claimed in the applications which is patentable to each applicant subject to a judgment in the interference. The interfering subject matter shall be defined by one or more counts. Each count shall define a separate patentable invention. Each application must contain, or be amended to contain, at least one claim which corresponds to each count. All claims in the applications which define the same patentable invention as a count shall be designated to correspond to the count.

§ 1.604 Request for interference between applications by an applicant.

(a) An applicant may seek to have an interference declared with an application of another by (1) suggesting a proposed count and presenting a claim corresponding to the proposed count, (2) identifying the other application and, if known, a claim in the other application which corresponds to the proposed count, and (3) explaining why an interference should be declared.

(b) When an applicant presents a claim known to the applicant to define the same patentable invention claimed in a pending application of another, the applicant shall identify that pending application, unless the claim is presented in response to a suggestion by the examiner. The examiner shall notify the Commissioner of any instance where it appears an applicant may have failed to comply with the provisions of this paragraph.

§ 1.605 Suggestion of claim to applicant by examiner.

(a) The examiner may suggest that an applicant present a claim in an application for the purpose of an interference with another application or a patent. The applicant to whom the claim is suggested shall amend the application by presenting the suggested claim within a time specified by the examiner, not less than 30 days. Failure or refusal of an applicant to timely present a claim which is the same or substantially the same as the suggested claim shall be taken without further action as a disclaimer by the applicant of the invention defined by the suggested claim.

(b) The suggestion of a claim by the examiner for the purpose of an interference will not stay the period for response to any outstanding Office action. When a suggested claim is timely presented, *ex parte* proceedings in the application will be stayed pending a determination of whether an interference will be declared.

§ 1.606 Interference between an application and a patent; subject matter of the interference.

Before an interference is declared between an application and an unexpired patent, an examiner must determine that there is interfering subject matter claimed in the application and the patent which is patentable to the applicant subject to a judgment in the interference. The interfering subject matter will be defined by one or more counts. Each count shall define a separate patentable invention. Any application must contain, or be amended to contain, at least one claim which corresponds to each count. All claims in the application and patent which define the same patentable invention as a count shall be designated to correspond to the count. At the time an interference is initially declared (§ 1.611), a count shall not be narrower in scope than any patent claim which corresponds to the count and any single patent claim will be presumed, subject to a motion under § 1.633(c), to define one patentable invention.

§ 1.607 Request by applicant for interference with patent.

(a) An applicant may seek to have an interference declared between an application and an unexpired patent by (1) presenting a proposed count and a claim corresponding to the proposed count and, if any claim of the patent or application does not correspond exactly to the proposed count, explaining why an interference should be declared, (2) identifying the patent and indicating which claim in the application and which claim or claims of the patent correspond to the proposed count, (3) applying the terms of the application claim corresponding to the count to the disclosure of the application.

(b) When an applicant seeks an interference with a patent, examination of the application, including any appeal to the Board, shall be conducted with special dispatch within the Patent and Trademark Office. The examiner shall determine whether there is interfering subject matter claimed in the application and the patent which is

patentable to the applicant subject to a judgment in an interference. If the examiner determines that there is any interfering subject matter, an interference will be declared. If the examiner determines that there is no interfering subject matter, the examiner shall state the reasons why an interference is not being declared and otherwise act on the application.

(c) When an applicant presents a claim which corresponds exactly or substantially to a claim of a patent, the applicant must identify the patent and the number of the patent claim, unless the claim is presented in response to a suggestion by the examiner. The examiner shall notify the Commissioner of any instance where an applicant fails to identify the patent.

(d) A notice that an applicant is seeking to provoke an interference with a patent will be placed in the file of the patent and a copy of the notice will be sent to the patentee. The identity of the applicant will not be disclosed unless an interference is declared. If a final decision is made not to declare an interference, a notice to that effect will be placed in the patent file and will be sent to the patentee.

§ 1.608 Interference between an application and a patent; prima facie showing by applicant.

(a) When the earlier of the filing date or effective filing date of an application is three months or less after the earlier of the filing date or effective filing date of a patent, the applicant, before an interference will be declared, shall file an affidavit alleging that there is a basis upon which applicant is entitled to a judgment relative to the patentee.

(b) When the earlier of the filing date or the effective filing date of an application is more than three months after the earlier of the filing date or the effective filing date under 35 U.S.C. 120 of a patent, the applicant, before an interference will be declared, shall file (1) evidence which may consist of patents or printed publications, other documents, and one or more affidavits which demonstrate that applicant is *prima facie* entitled to a judgment relative to the patentee and (2) an explanation stating with particularity the basis upon which the applicant is *prima facie* entitled to the judgment. The significance of any printed publication or other document which is self-authenticating within the meaning of Rule 902 of the Federal Rules of Evidence or § 1.671(d) and any patent shall be discussed in an affidavit or the explanation. Any printed publication or other document which is no: self-authenticating shall be authenticated and discussed with particularity in an affidavit. Upon a showing of sufficient cause, an affidavit may be based on information and belief. If an examiner finds an application to be in condition for declaration of an interference, the examiner will consider the evidence and explanation only to the extent of determining whether a basis upon which the applicant would be entitled to a judgment relative to the patentee is alleged and, if a basis is alleged, an interference may be declared.

§ 1.609 Preparation of interference papers by examiner.

When the examiner determines that an interference should be declared, the examiner shall forward to the Board:

(a) All relevant application and patent files and

(b) A statement identifying:

(1) The count or counts;

(2) The claims of any application or patent which correspond to the count, stating whether the claims correspond exactly or substantially to the count;

(3) The claims in any application which are deemed by the examiner to be patentable over any count; and

(4) Whether an applicant or patentee is entitled to the benefit of the filing date of an earlier application and, if so, sufficient information to identify the earlier application.

§ 1.610 Assignment of interference to examiner-in-chief, time period for completing interference.

(a) Each interference will be declared by an examiner-in-chief who may enter all interlocutory orders in the interference, except that only a panel consisting of at least three members of the Board shall (1) hear oral argument at final hearing, (2) enter a decision under §§ 1.617, 1.640 (c) or (e), 1.652, 1.656(i) or 1.658 or (3) enter any other order which terminates the interference.

(b) As necessary, another examiner-in-chief may act in place of the one who declared the interference. Unless otherwise provided in this section, at the discretion of the examiner-in-chief assigned to the interference, a panel consisting of two or more members of the Board may enter interlocutory orders.

(c) Unless otherwise provided in this subpart, times for taking action by a party in the interference will be set on a case-by-case basis by the examiner-in-chief assigned to the interference. Times for taking action shall be set and the examiner-in-chief shall exercise control over the interference such that the pendency of the interference before the Board does not normally exceed two years.

(d) An examiner-in-chief may hold a conference with the parties to consider: (1) Simplification of any issues, (2) the necessity or desirability of amendments to counts, (3) the possibility of obtaining admissions of fact and genuineness of documents which will avoid unnecessary proof, (4) any limitations on the number of expert witnesses, (5) the time and place for conducting a deposition (§ 1.673(g)), and (6) any other matter as may aid in the disposition of the interference. After a conference, the examiner-in-chief may enter any order which may be appropriate.

(e) The examiner-in-chief may determine a proper course of conduct in an interference for any situation not specifically covered by this part.

§ 1.611 Declaration of interference.

(a) Notice of declaration of an interference will be sent to each party.

(b) When a notice of declaration is returned to the Patent and Trademark Office undelivered, or in any other circumstance where appropriate, an examiner-in-chief may (1) send a copy of the notice to a patentee named in a patent involved in an interference or the patentee's assignee of record in the Patent and Trademark Office or (2) order publication of an appropriate notice in the *Official Gazette*.

(c) The notice of declaration shall specify:

(1) The name and residence of each party involved in the interference;

(2) The name and address of record of any attorney or agent of record in any application or patent involved in the interference;

(3) The name of any assignee of record in the Patent and Trademark Office;

(4) The identity of any application or patent involved in the interference;

(5) Where a party is accorded the benefit of the filing date of an earlier application, the identity of the earlier application;

(6) The count or counts;

(7) The claim or claims of any application or any patent which correspond to each count; and

(8) The order of the parties.

(d) The notice of declaration may also specify the time for: (1) Filing a preliminary statement as provided in § 1.621(a); (2) serving notice that a preliminary statement has been filed as provided in § 1.621(b); and (3) filing preliminary motions authorized by § 621(b); and (3) filing preliminary motions authorized by § 1.633, oppositions to the motions, and replies to the oppositions.

(e) Notice may be given in the *Official Gaxette* that an interference has been declared involving a patent.

§ 1.612 Access to applications.

(a) After an interference is declared, each party shall have access to and may obtain copies of the files of any application set out in the notice declaring the interference, except for affidavits filed under § 1.131 and any evidence and explanation under § 1.608(b) filed separate from an amendment.

(b) After preliminary motions under § 1.633 are decided (§ 1.640(b)), each party shall have access to and may obtain copies of any affidavit filed under § 1.131 and any evidence and explanation filed under § 1.608(b) in any application set out in the notice declaring the interference.

(c) Any evidence and explanation filed under § 1.608(b) in the file of any application identified in the notice declaring the interference shall be served when required by § 1.617(b).

(d) The parties at any time may agree to exchange copies of papers in the files of any application identified in the notice declaring the interference.

§ 1.613 Lead attorney, same attorney representing different parties in an interference, withdrawal of attorney or agent.

(a) Each party may be required to designate one attorney or agent of record as the lead attorney or agent.

(b) The same attorney or agent may not represent two or more parties in an interference except as may be permitted under § 1.344.

(c) An examiner-in-chief may make necessary inquiry to determine whether an attorney or agent should be disqualified from representing a party in an interference. If an examiner-in-chief is of the opinion that an attorney or agent should be disqualified, the examiner-in-chief shall refer the matter to the Commissioner. The Commissioner will make a final decision as to whether any attorney or agent should be disqualified.

(d) No attorney or agent of record in an interference may withdraw as attorney or agent of record except with the approval of an examiner-in-chief and after reasonable notice to the party on whose behalf the attorney or agent has appeared. A request to withdraw as attorney or agent of record in an interference shall be made by motion (§ 1.635).

§ 1.614 Jurisdiction over interference.

(a) The Board shall assume jurisdiction over an interference when the interference is declared under § 1.611.

(b) When the interference is declared the interference is a contested case within the meaning of 35 U.S.C. 24.

(c) The examiner shall have jurisdiction over any pending application until the interference is declared. An examiner-in-chief, where appropriate, may for a limited purpose restore jurisdiction to the examiner over any application involved in the interference.

§ 1.615 Suspension of ex parte prosecution.

(a) When an interference is declared, *ex parte* prosecution of an application involved in the interference is suspended. Amendments and other papers related to the application which are received during pendency of the interference will not be entered or considered without the consent of an examiner-in-chief.

(b) Ex parte prosecution as to specified matters may be continued concurrently with the interference with the consent of the examiner-in-chief.

§ 1.616 Sanctions for failure to comply with rules or order.

An examiner-in-chief or the Board may impose an appropriate sanction against a party who fails to comply with the regulations of this part or any order entered by an examiner-in-chief or the Board. An appropriate sanction may include among others entry of an order:

(a) Holding certain facts to have been established in the interference;

(b) Precluding a party from filing a motion or a preliminary statement;

(c) Precluding a party from presenting or contesting a particular issue;

(d) Precluding a party from requesting, obtaining, or opposing discovery; or

(e) Granting judgment in the interference.

§ 1.617 Summary judgment against applicant.

(a) An examiner-in-chief shall review any evidence filed by an applicant under § 1.608(b) to determine if the applicant is *prima facie* entitled to a judgment relative to the patentee. If the examiner-in-chief determines that the evidence shows the applicant is *prima facie* entitled to a judgment relative to the patentee, the interference shall proceed before the examiner-in-chief. If in the opinion of the examiner-in-chief the evidence fails to show that the applicant is *prima facie* entitled to a judgment relative to the patentee, the examiner-in-chief shall, concurrently with the notice declaring the interference, enter an order stating the reasons for the opinion and directing the applicant, within a time set in the order, to show cause why summary judgment should not be entered against the applicant.

(b) The applicant may file a response to the order and state any reasons why summary judgment should not be entered. A response may include a request by the applicant for a hearing before the Board. Additional evidence shall not be presented by the applicant or considered by the Board unless the applicant shows good cause why any additional evidence was not initially presented with the evidence filed under § 1.608(b). At the time an applicant files a response, the applicant shall serve a copy of any evidence filed under § 1.608(b) and this paragraph.

(c) If a response is not timely filed by the applicant, the Board shall enter a final decision granting summary judgment against the applicant.

(d) If a response is timely filed by the applicant, all opponents may file a statement within a time set by the examiner-in-chief. The statement shall set forth any views as to why summary judgment should be granted against the applicant. Evidence shall not be filed by any opponent. An opponent may not request an oral hearing.

(e) Unless authorized by the examiner-in-chief, no reply shall be filed by the applicant to the statement by the patentee.

(f) When more than two parties are involved in an interference, all parties may participate in summary judgment proceedings under this section.

(g) If a response by the applicant is timely filed and the time for all opponents to file a statement has expired, the Board shall decide whether the evidence submitted under § 1.608(b) and any additional evidence properly submitted under paragraph (b) of this section shows that the applicant is *prima facie* entitled to a judgment relative to the patentee. If the Board decides that the applicant is not *prima facie* entitled to a judgment relative to the patentee, the Board shall enter a final decision granting summary judgment against the applicant. If the Board decides otherwise, an interlocutory order shall be entered authorizing the interference to proceed before the examiner-in-chief.

(h) Only an applicant who filed evidence under § 1.608(b) may request a hearing. If that applicant requests a hearing, the Board may hold a hearing prior to entry of a decision under paragraph (g) of this section. The examiner-in-chief shall set a date and time for the hearing. Unless otherwise ordered by the examiner-in-chief or the

Board, the applicant and patentee will each be entitled to no more than 30 minutes of oral argument at the hearing.

§ 1.618 Return of unauthorized papers.

(a) The Patent and Trademark Office shall return to a party any paper presented by the party when the filing of the paper is not authorized by, or is not in compliance with the requirements of, this subpart. Any paper returned will not thereafter be considered by the Patent and Trademark Office in the interference. A party may be permitted to file a corrected paper under such conditions as may be deemed appropriate by an examiner-in-chief.

(b) When presenting a paper in an interference, a party shall not submit with the paper a copy of a paper previously filed in the interference.

§ 1.621 Preliminary statement, time for filing, notice of filing.

(a) Within the time set for filing preliminary motions under § 1.633, each party may file a preliminary statement. The preliminary statement may be signed by any individual having knowledge of the facts recited therein or an attorney or agent of record.

(b) When a party files a preliminary statement the party shall also simultaneously file and serve on all opponents in the interference a notice stating that a preliminary statement has been filed. A copy of the preliminary statement need not be served until ordered by an examiner-in-chief.

§ 1.622 Preliminary statement, who made invention, where invention made.

(a) A party's preliminary statement must identify the name of the inventor who made the invention defined by each count and must state on behalf of the inventor the facts required by paragraph (a) of §§ 1.623, 1.624, and 1.625 as may be appropriate. When the inventor identified in the preliminary statement is not identical to the inventor named in the party's application or patent, the party shall file a motion under § 1.634 to correct inventorship.

(b) The preliminary statement shall state whether the invention was made in the United States or abroad. If made abroad, the preliminary statement shall state whether the party is entitled to the benefit of the second sentence of 35 U.S.C. 104.

§ 1.623 Preliminary statement; invention made in United States.

(a) When the invention was made in the United States or a party is entitled to the benefit of the second sentence of 35 U.S.C. 104, the preliminary statement must state the following facts as to the invention defined by each count:

(1) The date on which the first drawing of the invention was made.

(2) The date on which the first written description of the invention was made.

(3) The date on which the invention was first disclosed by the inventor to another person.

(4) The date on which the invention was first conceived by the inventor.

(5) The date on which the invention was first actually reduced to practice. If the invention was not actually reduced to practice by or on behalf of the inventor prior to the party's filing date, the preliminary statement shall so state.

(6) The date after the inventor's conception of the invention when active exercise of reasonable diligence toward reducing the invention to practice began.

(b) If a party intends to prove derivation, the preliminary statement must also comply with § 1.625.

(c) When a party alleges under paragraph (a)(1) of this section that a drawing was made, a copy of the drawing shall be filed with an identified in the preliminary statement. When a party alleges under paragraph (a)(2) of this section that a written description of the invention was made, a copy of the written description shall be filed with and identified in the preliminary statement. See § 1.628(b) when a drawing or written description cannot be filed with the preliminary statement.

§ 1.624 Preliminary statement; invention made abroad.

(a) When the invention was made abroad and a party intends to rely on introduction of the invention into the United States, the preliminary statement must state the following facts as to the invention defined by each count:

(1) The date on which a drawing of the invention was first introduced into the United States.

(2) The date on which a written description of the invention was first introduced into the United States.

(3) The date on which the invention was first disclosed to another person in the United States.

(4) The date on which the inventor's conception of the invention was first introduced into the United States.

(5) The date on which an actual reduction to practice of the invention was first introduced into the United States.

(6) The date after introduction of the inventor's conception into the United States when active exercise of reasonable diligence toward reducing the invention to practice began.

(b) If a party intends to prove derivation, the preliminary statement must also comply with § 1.625.

(c) When a party alleges under paragraph (a)(1) of this section that a drawing was made a copy of the drawing shall be filed with and identifies in the preliminary statement. When a party alleges under paragraph (a)(2) of this section that a written description of the invention was made, a copy of the written description shall be filed with and identified in the preliminary statement. See § 1.628(b) when a drawing or written description cannot be filed with the preliminary statement.

§ 1.625 Preliminary statement; derivation by an opponent.

(a) When the invention was made in the United States or abroad and a party intends to prove derivation by an opponent from the party, the preliminary statement must state the following as to the invention defined by each count:

(1) The name of the opponent.

(2) The date on which the first drawing of the invention was made.

(3) The date on which the first written description of the invention was made.

(4) The date on which the invention was first disclosed by the inventor to another person.

(5) The date on which the invention was first conceived by the inventor.

(6) The date on which the invention was first communicated to the opponent.

(b) If a party intends to prove priority, the preliminary statement must also comply with § 1.623 or § 1.624.

(c) When a party alleges under paragraph (a)(2) of this section that a drawing was made, a copy of the drawing shall be filed with and identified in the preliminary statement. When a party alleges under paragraph (a)(3) of this section that a written description of the invention was made, a copy of the written description shall be filed with and identified in the preliminary statement. See § 1.628(b) when a drawing or written description cannot be filed with the preliminary statement.

§ 1.626 Preliminary statement; earlier application.

When a party does not intend to present evidence to prove a conception or an actual reduction to practice and the party intends to rely solely on the filing date of an earlier application filed in the United States or abroad to prove a constructive reduction to practice, the preliminary statement may so state and identify the earlier application with particularity.

§ 1.627 Preliminary statement, sealing before filing, opening of statement.

(a) The preliminary statement and copies of any drawing or written description shall be filed in a sealed envelope bearing only the name of the party filing the statement and the style (e.g., Jones v. Smith) and number of the interference. The sealed envelope should contain only the preliminary statement and copies of any drawing or written description. If the preliminary statement is filed through the mail, the sealed envelop should be enclosed in an outer envelope addressed to the Commissioner of Patents and Trademarks in accordance with § 1.1(d).

(b) A preliminary statement may be opened only at the direction of an examiner-in chief.

§ 1.628 Preliminary statement, correction of error.

(a) A material error arising through inadvertence or mistake in connection with (1) a preliminary statement or (2) drawings or a written description submitted therewith or omitted therefrom, may be corrected by a motion (§ 1.635) for leave to file a corrected statement. The motion shall be supported by an affidavit and shall show that the correction is essential to the ends of justice and shall be accompanied by the corrected statement. The motion shall be filed as soon as practical after discovery of the error.

(b) When a party cannot attach a copy of a drawing or a written description to the party's preliminary statement as required by §§ 1.623(c), 1.624(c), or 1.625(c) because the drawing or written description is not in the party's possession, custody, or control, the party may file a motion (§ 1.635) to amend its preliminary statement promptly after it secures possession, custody, or control of a copy of the drawing or written description. A copy of the drawing or written description may be obtained, where appropriate, by a motion (§ 1.635) for additional discovery under § 1.687 or during a testimony period.

§ 1.629 Effect of preliminary statement.

(a) A preliminary statement should be carefully prepared. A party shall be strictly held to any date alleged in the preliminary statement. Doubts as to (1) definiteness or sufficiency of any allegation in a preliminary statement or (2) compliance with formal requirements will be resolved against the party filing the statement by restricting the party to the earlier of its filing date or effective filing date or to the latest date of a period alleged in the preliminary statement as may be appropriate. A party may not correct a preliminary statement except as provided by § 1.628.

(b) Evidence which shows that an act alleged in the preliminary statement occurred prior to the date alleged in the statement shall establish only that the act occurred no earlier than the date alleged in the statement.

(c) If a party does not file a preliminary statement, the party:

(1) Shall be restricted to the earlier of the party's filing date or effective filing date and

(2) Will not be permitted to prove that:

(i) The party made the invention prior to the party's filing date or

(ii) Any opponent derived the invention from the party.

(d) If a party files a preliminary statement which contains an allegation of a date of first drawing or first written description and the party does not file a copy of the first drawing or written description with the preliminary statement as required by § 1.623(c), § 1.624(c), or § 1.625(c), the party will be restricted to the earlier of the party's filing date or effective filing date as to that allegation. The content of any drawing or written description submitted with a preliminary statement will not normally be evaluated or considered by the Board.

(e) A preliminary statement shall not be used as evidence on behalf of the party filing the statement.

§ 1.630 Reliance on earlier application.

A party shall not be entitled to rely on the filing date of an earlier application filed in the United States or abroad unless (a) the earlier application is identified (§ 1.611(c)(5)) in the notice declaring the interference or (b) the party files a preliminary motion under § 1.633 seeking the benefit of the filing date of the earlier application.

§ 1.631 Access to preliminary statement, service of preliminary statement.

(a) Unless otherwise ordered by an examiner-in-chief, concurrently with entry of a decision by the examiner-in-chief on preliminary motions filed under § 1.633, any preliminary statement filed under § 1.621(a) shall be opened to inspection by the senior party and any junior party who filed a preliminary statement. Within a time set by the examiner-in-chief, a party shall serve copies of its preliminary statement on every opponent who served a notice under § 1.621(b).

(b) A junior party who does not file a preliminary statement shall not have access to the preliminary statement of any other party.

(c) If an interference is terminated before the preliminary statements have been opened, the preliminary statements will remain sealed and will be returned to the respective parties who submitted the statements.

§ 1.633 Preliminary motions.

A party may file the following preliminary motions:

(a) A motion for judgment on the ground that an opponent's claim corresponding to a count is not patentable to the opponent. In determining a motion filed under this paragraph, a claim may be construed by reference to the prior art of record. A motion under this paragraph shall not be based on: (1) Priority of invention of the subject matter of a count by the moving party as against any opponent or (2) derivation of the subject matter of a count by an opponent from the moving party. See § 1.637(a).

(b) A motion for judgment on the ground that there is no interference-in-fact. A motion under this paragraph is proper only if: (1) the interference involves a design application or patent or a plant application or patent or (2) no claim of a party which corresponds to a count is identical to any claim of an opponent which corresponds to that count. See § 1.637(a).

(c) A motion to redefine the interfering subject matter by (1) adding or substituting a count, (2) amending an application claim corresponding to a count, (3) designating an application or patent claim to correspond to a count, or (4) designating an application or patent claim as not corresponding to a count. See § 1.637 (a) and (c).

(d) A motion to substitute a different application owned by a party for an application involved in the interference. See § 1.637 (a) and (d).

(e) A motion to declare an additional interference (1) between an additional application not involved in the interference and owned by a party and an opponent's application or patent involved in the interference or (2) when an interference involves three or more parties, between less than all applications and any patent involved in the interference. See § 1.637 (a) and (e).

(f) A motion to be accorded the benefit of the filing date of an earlier application filed in the United States or abroad. See § 1.637 (a) and (f).

(g) A motion to attack the benefit accorded an opponent in the notice declaring the interference of the filing date of an earlier application filed in the United States or abroad. See § 1.637 (a) and (g).

(h) When a patent is involved in an interference and the patentee has on file or files an application for reissue under § 1.171, a motion to add the application for reissue to the interference. See § 1.637 (a) and (h).

(i) When a motion is filed under paragraph (a), (b), or (g) of this section an opponent, in addition to opposing the motion, may file a motion to redefine the interfering subject matter under paragraph (c) of this section or a motion to substitute a different application under paragraph (d) of this section.

§ 1.634 Motion to correct inventorship.

A party may file a motion to (a) amend its application involved in an interference to correct inventorship as provided by § 1.48 or (b) correct inventorship of its patent involved in an interference as provided in § 1.324. See § 1.637(a).

§ 1.635 Miscellaneous motions.

A party seeking entry of an order relating to any matter other than a matter which may be raised under §§ 1.633 or 1.634 may file a motion requesting entry of the order. See § 1.637 (a) and (b).

§ 1.636 Motions, time for filing.

(a) A preliminary motion under § 1.633 (a) through (h) shall be filed within a time period set by an examiner-in-chief.

(b) A preliminary motion under § 1.633(i) shall be filed within 20 days of the service of the preliminary motion under § 1.633 (a), (b), or (g) unless otherwise ordered by an examiner-in-chief.

(c) A motion under § 1.634 shall be filed as soon as practical after an error is discovered in the inventorship of an application or patent involved in an interference unless otherwise ordered by an examiner-in-chief.

(d) A motion under § 1.635 shall be filed as specified in this subpart or when appropriate unless otherwise ordered by an examiner-in-chief.

§ 1.637 Content of motions.

(a) Every motion shall include (1) a statement of the precise relief requested, (2) a statement of the material facts in support of the motion, and (3) a full statement of the reasons why the relief requested should be granted.

(b) A motion under § 1.635 shall contain a certificate by the moving party stating that the moving party has conferred with all opposing parties in an effort in good faith to resolve by agreement the issues raised by the motion. A moving party shall indicate in the motion whether any other party plans to oppose the motion. The provisions of this paragraph do not apply to a motion to suppress evidence (§ 1.656(h)).

(c) A preliminary motion under § 1.633(c) shall explain why the interfering subject matter should be redefined.

(1) A preliminary motion seeking to add or substitute a count shall:

(i) Propose each count to be added or substituted.

(ii) When the moving party is an applicant, show the patentability to the applicant of all claims in, or proposed to be added to, the party's application which correspond to each proposed count and apply the terms of the claims to the disclosure of the party's application; when necessary a moving party applicant shall file with the motion an amendment adding any proposed claim to the application.

(iii) Identify all claims in an opponent's application which should be designated to correspond to each proposed count; if an opponent's application does not contain such a claim, the moving party shall propose a claim to be added to the opponent's application. The moving party shall show the patentability of any proposed claims to the opponent and apply the terms of the claims to the disclosure of the opponent's application.

(iv) Designate the claims of any patent involved in the interference which define the same patentable invention as each proposed count.

(v) Show that each proposed count defines a separate patentable invention from every other count in the interference.

(vi) Where appropriate, be accompanied by a motion under § 1.633(f) requesting the benefit of the filing date of any earlier application filed in the United States or abroad.

(2) A preliminary motion seeking to amend an application claim corresponding to a count shall:

(i) Propose an amended claim.

(ii) Apply the terms of each proposed claim to the disclosure of the application.

(iii) Show the patentability to the applicant of each proposed amended claim and apply the terms of the proposed amended claim to the disclosure of the application; when necessary a moving party applicant shall file with the motion an amendment adding the proposed claim to the application.

(iv) Where appropriate, be accompanied by a motion under § 1.633(f) requesting the benefit of the filing date of any earlier application filed in the United States or abroad.

(3) A preliminary motion seeking to designate an application or patent claim to correspond to a count shall:

(i) Identify the claim and the count.

(ii) Show the claim defines the same patentable invention as the count.

(iii) Where appropriate, be accompanied by a motion under § 1.633(f) requesting the benefits of the filing date of any earlier application filed in the United States or abroad.

(4) A preliminary motion seeking to designate an application or patent claim as not corresponding to a count shall:

(i) Identify the claim and the count.

(ii) Show the claim does not define the same patentable invention as any other claim designated in the notice declaring the interferences as corresponding to the count.

(d) A preliminary motion under § 1.633(d) to substitute a different application shall:

(1) Identify the different application.

(2) Certify that a complete copy of the file of the different application, except for documents filed under § 1.131 or § 1.608(b), has been served on all opponents.

(3) Show the patentability to the applicant of all claims in, or proposed to be added to, the different application which correspond to each count and apply the terms of the claims to the disclosure of the different application; when necessary the applicant shall file with the motion an amendment adding a claim to the different application.

(4) Where appropriate, be accompanied by a motion under § 1.633(f) requesting the benefit of the filing date of an earlier application filed in the United States or abroad.

(e) A preliminary motion to declare an additional interference under § 1.633(e) shall explain why an additional interference is necessary.

(1) when the preliminary motion seeks an additional interference under § 1.633(e)(1), the motion shall:

(i) Identify the additional application.

(ii) Certify that a complete copy of the file of the additional application, except for documents filed under §§ 1.131 or 1.608(b), has been served on all opponents.

(iii) Propose a count for the additional interference.

(iv) Show the patentability to the applicant of all claims in, or proposed to be added to, the additional application which correspond to each proposed count for the additional intereference and apply the terms of the claims to the disclosure of the additional application; when necessary the applicant shall file with the motion an amendment adding a claim to the additional application.

(v) When the opponent is an applicant, show the patentability to the opponent of any claims in, or proposed to be added to, the opponent's application which correspond to the proposed count and apply the terms of the claims to the disclosure of the opponent's application.

(vi) When the opponent is a patentee, designate the claims of the patent which define the same patentable invention defined by the proposed count.

(vii) Show that each proposed count for the additional interference defines a separate patentable invention from all counts of the interference in which the motion is filed.

(viii) Where appropriate, be accompanied by a motion under § 1.633(f) requesting the benefit of the filing date of an earlier application filed in the United States or abroad.

(2) When the preliminary motion seeks an additional interference under § 1.633(e)(2), the motion shall:

(i) Identify any application or patent to be involved in the additional interference.

(ii) Propose a count for the additional interference.

(iii) When the moving party is an applicant, show the patentability to the applicant of all claims in, or proposed to be added to, the party's application which correspond to each proposed count and apply the terms of the claims to the disclosure of the party's application; when necessary a moving party applicant shall file with the motion an amendment adding any proposed claim to the application.

(iv) Identify all claims in any opponent's application which should be designated to correspond to each proposed count; if an opponent's application does not contain such a claim, the moving party shall propose a claim to be added to the opponent's application. The moving party shall show the patentability of any proposed claims to the opponent and apply the terms of the claims to the disclosure of the opponent's application.

(v) Designate the claims of any patent involved in the interference which define the same patentable invention as each proposed count.

(vi) Show that each proposed count for the additional interference defines a separate patentable invention from all counts in the interference in which the motion is filed.

(vii) Where appropriate, be accompanied by a motion under § 1.633(f) requesting the benefit of the filing date of an earlier application filed in the United States or abroad.

(f) A preliminary motion for benefit under § 1.633(f) shall:

(1) Identify the earlier application.

(2) When the earlier application is an application filed in the United States, certify that a complete copy of the file of the earlier application, except for documents filed under § 1.131 or § 1.608(b), has been served on all opponents. When the earlier application is an application filed abroad, certify that a copy of the application filed abroad has been served on all opponents.

(3) Show that the earlier application discloses an embodiment within the scope of each count.

(g) A preliminary motion to attack benefit under § 1.633(g) shall explain, as to each count, why an opponent should not be accorded the benefit of the filing date of the earlier application.

(h) A preliminary motion to add an application for reissue under § 1.633(h) shall:

(1) Identify the application for reissue.

(2) Certify that a complete copy of the file of the application for reissue has been served on all opponents.

(3) Show the patentability of all claims in, or proposed to be added to, the application for reissue which correspond to each count and apply the terms of the claims to the disclosure of the application for reissue; when necessary a moving applicant for reissue shall file with the motion an amendment adding a claim to the application for reissue.

(4) Where appropriate, be accompanied by a motion under § 1.633(f) requesting the benefit of the filing date of an earlier application filed in the United States or abroad.

§ 1.638 Opposition and reply, time for filing opposition and reply.

(a) Unless otherwise ordered by an examiner-in-chief, any opposition to any motion shall be filed within 20 days after service of the motion. An opposition shall (1) identify any material fact set forth in the motion which is in dispute and (2) include an argument why the relief requested in the motion should be denied.

(b) A reply to an opposition shall not be filed unless authorized by this subpart or an examiner-in-chief or the motion was filed under §§ 1.633 or 1.634. Unless otherwise ordered by an examiner-in-chief, any authorized reply shall be filed within 15 days after service of the opposition. A reply shall be directed only to new points raised in the opposition.

§ 1.639 Evidence in support of motion, opposition, or reply.

(a) Proof of any material fact alleged in a motion, opposition, or reply must be filed and served with the motion, opposition, or reply unless the proof relied upon is part of the interference file or the file of any patent or application involved in the interference or any earlier application filed in the United States of which a party has been accorded or seeks to be accorded benefit.

(b) Proof may be in the form of patents, printed publications, and affidavits.

(c) When a party believes that testimony is necessary to support or oppose a preliminary motion under § 1.633, the party shall describe the nature of the testimony needed. If the examiner-in-chief finds that testimony is needed to decide the motion, the examiner-in-chief may grant appropriate interlocutory relief and enter an order authorizing the taking of testimony and deferring a decision on the motion to final hearing.

§ 1.640 Motions, hearing and decision, redeclaration of interference, order to show cause.

(a) A hearing on a motion may be held in the discretion of the examiner-in-chief. The examiner-in-chief shall set the date and time for any hearing. The length of oral argument at a hearing on a motion is a matter within the discretion of the examiner-in-chief. An examiner-in-chief may direct that a hearing take place by telephone.

(b) Motions will be decided by an examiner-in-chief. An examiner-in-chief may consult with an examiner in deciding motions involving a question of patentability. An examiner-in-chief may grant or deny any motion or take such other action which will secure the just, speedy, and inexpensive determination of the interference.

(1) When preliminary motions under § 1.633 are decided, the examiner-in-chief will, when necessary, set a time for filing any amendment to an application involved in the interference and for filing a supplemental preliminary statement as to any new counts involved in the interference. A supplemental preliminary statement shall meet the requirements specified in §§ 1.623, 1.624, 1.625, or 1.626, but need not be filed if a party states that it intends to rely on a preliminary statement previously filed under § 1.621(a). After the time expires for filing any amendment and supplemental preliminary statement, the examiner-in-chief will, if necessary, redeclare the interference.

(2) After a decision is entered on preliminary motions filed under § 1.633, a further motion under § 1.633 will not

be considered except as provided by § 1.655(b).

(c) When a decision on any motion under §§ 1.633, 1.634, or 1.635 is entered which does not result in the issuance of an order to show cause under paragraph (d) of this section, a party may file a request for reconsideration within 14 days after the date of the decision. The filing of a request for reconsideration will not stay any time period set by the decision. The request for reconsideration shall specify with particularity the points believed to have been misapprehended or overlooked in rendering the decision. No opposition to a request for reconsideration shall be filed unless requested by an examiner-in-chief or the Board. A request for reconsideration will ordinarily not be granted unless an opposition has been requested by an examiner-in-chief or the Board. The request for reconsideration shall be decided by a panel of the Board consisting of at least three examiners-in-chief, one of whom will normally be the examiner-in-chief who decided the motion.

(d) An examiner-in-chief may issue an order to show cause why judgment should not be entered against a party when:

(1) A decision on a motion is entered which is dispositive of the interference against the party as to all counts.

(2) The party is a junior party who fails to file a preliminary statement.

(3) The party is a junior party whose preliminary statement fails to overcome the earlier of the filing date or effective filing date of another party.

(e) When an order to show cause is issued under paragraph (d) of this section, the Board shall enter a judgment in accordance with the order unless, within 20 days after the date of the order, the party against whom the order issued files a paper which shows good cause why judgment should not be entered in accordance with the order. Any other party may file a response to the paper within 20 days of the date of service of the paper. If the party against whom the order was issued fails to show good cause, the Board shall enter judgment against the party. If a party wishes to take testimony in response to an order to show cause, the party's response should be accompanied by a motion (§ 1.635) requesting the testimony period. See § 1.651(c)(4).

§ 1.641 Unpatentability discovered by examiner-in-chief.

During the pendency of an interference, if the examiner-in-chief becomes aware of a reason why a claim corresponding to a count may not be patentable, the examiner-in-chief may notify the parties of the reason and set a time within which each party may present its views. After considering any timely filed views, the examiner-in-chief shall decide how the interference shall proceed.

§ 1.642 Addition of new application to interference.

During the pendency of an interference, if the examiner-in-chief becomes aware of an application not involved in the interference which claims the same patentable invention as a count in the interference, the examiner-in-chief may add the application to the interference on such terms as may be fair to all parties.

§ 1.643 Prosecution of interference by assignee.

(a) An assignee of record in the Patent and Trademark Office of the entire interest in an application or patent involved in an interference is entitled to conduct prosecution of the interference to the exclusion of the inventor.

(b) An assignee of a part interest in an application or patent involved in an interference may file a motion (§ 1.635) for entry of an order authorizing it to prosecute the interference. The motion shall show (1) the inability or refusal of the inventor to prosecute the interference or (2) other cause why the ends of justice require that the assignee of a part interest be permitted to prosecute the interference. The examiner-in-chief may allow the assignee of a part interest to prosecute the interference upon such terms as may be appropriate.

§ 1.644 Petitions in interferences.

(a) There is no appeal to the Commissioner in an interference from a decision of an examiner-in-chief or a panel consisting of more than one examiner-in-chief. The Commissioner will not consider a petition in an interference unless:

(1) The petition is from a decision of an examiner-in-chief or a panel and the examiner-in-chief or the panel shall be of the opinion (i) that the decision involves a controlling question of procedure or an interpretation of a rule as to which there is a substantial ground for a difference of opinion and (ii) that an immediate decision on petition by the Commissioner may materially advance the ultimate termination of the interference;

(2) The petition seeks to invoke the supervisory authority of the Commissioner; or

(3) The petition seeks relief under § 1.183.

(b) A petition under paragraph (a)(1) of this section filed more than 15 days after the date of the decision of the examiner-in-chief or the panel may be dismissed as untimely. A petition under paragraph (a)(2) of this section shall not be filed prior to decision by the Board awarding judgment and shall not relate to (1) the merits of priority of invention or patentability or (2) the admissability of evidence under the Federal Rules of Evidence. Any petition under paragraph (a)(3) of this section shall be timely if it is made as part of, or simultaneously with, a proper motion under §§ 1.633, 1.634, or 1.635. Any opposition to a petition shall be filed within 15 days of the date of service of the petition.

(c) The filing of a petition shall not stay the proceeding unless a stay is granted in the discretion of the examiner-in-chief, the panel, or the Commissioner.

(d) Any petition must contain a statement of the facts involved and the point or points to be reviewed and the action requested. Briefs or memoranda, if any, in support of the petition or opposition shall accompany or be embodied therein. The petition will be decided on the basis of the record made before the examiner-in-chief or the panel and no new evidence will be considered by the Commissioner in deciding the petition. Copies of documents already of record in the interference shall not be submitted with the petition or opposition.

(e) Any petition under paragraph (a) of this section shall be accompanied by the petition fee set forth in § 1.17(h).

(f) Any request for reconsideration of a decision by the Commissioner shall be filed within 15 days of the decision of the Commissioner and must be accompanied by the fee set forth in § 1.17(h). No opposition to a request for reconsideration shall be filed unless requested by the Commissioner. A request for reconsideration will ordinarily not be granted unless an opposition has been requested by the Commissioner.

(g) Where reasonably possible, service of any petition, opposition, or request for reconsideration shall be such that delivery is accomplished within one working day. Service by hand or "Express Mail" complies with this paragraph.

(h) An oral hearing on the petition will not be granted except when considered necessary by the Commissioner.

(i) The Commissioner may delegate to appropriate Patent and Trademark Office employees the determination of petitions under this section.

§ 1.645 Extension of time, late papers, stay of proceedings.

(a) A party may file a motion (§ 1.635) seeking an extension of time to take action in an interference, file a notice of appeal (§§ 1.302, 1.304), or commence a civil action (§§ 1.303, 1.304). The motion shall be filed within sufficient time to actually reach the examiner-in-chief before expiration of the time for taking action, filing the notice, or commencing the civil action. A moving party should not assume that the motion will be granted even if there is no objection by any other party. The motion will be denied unless the moving party shows good cause why an extension should be granted. The press of other business arising after an examiner-in-chief sets a time for taking action will not normally constitute good cause. A motion seeking additional time to take testimony because a party has not been able to procure the testimony of a witness shall set forth the name of the witness, any steps taken to procure the testimony of the witness, the dates on which the steps were taken, and the facts expected to be proved through the witness.

(b) Any paper belatedly filed will not be considered except upon motion (§ 1.635), accompanied by an affidavit, which shows sufficient cause why the paper was not timely filed.

(c) The provisions of § 1.136 do not apply to time periods in interferences.

(d) In an appropriate circumstance, an examiner-in-chief may stay proceedings in an interference.

§ 1.646 Service of papers, proof of service.

(a) A copy of every paper filed in the Patent and Trademark Office in an interference or an application or patent involved in the interference shall be served upon all other parties except:

(1) Preliminary statements when filed under § 1.621; preliminary statements shall be served when service is ordered by an examiner-in-chief.

(2) Certified transcripts and exhibits which accompany the transcripts filed under §§ 1.676 or 1.684; copies of transcripts shall be served as part of a party's record under § 1.653(c).

(b) Service shall be on an attorney or agent for a party. If there is no attorney or agent for the party, service shall be on the party. An examiner-in-chief may order additional or waive service where appropriate.

(c) Unless otherwise ordered by an examiner-in-chief, service of a paper may be made as follows:

(1) By handing a copy of the paper to the person served.

(2) By leaving a copy of the paper with someone employed by the person at the person's usual place of business.

(3) When the person served has no usual place of business, by leaving a copy of the paper at the person's residence with someone of suitable age and discretion then residing therein.

(4) By mailing a copy of the paper by first class mail; when service is by mail the date of mailing is regarded as the date of service.

(5) When it is shown to the satisfaction of an examiner-in-chief that none of the above methods of obtaining or serving the copy of the paper was successful, the examiner-in-chief may order service by publication of an appropriate notice in the *Official Gazette*.

(d) An examiner-in-chief may order that a paper be served by hand or "Express Mail".

(e) Proof of service must be made before a paper will be considered in an interference. Proof of service may appear on or be affixed to the paper. Proof of service shall include the date and manner of service. In the case of personal service under paragraphs (c)(1) through (c)(3) of this section, proof of service shall include the names of any person served and the person who made the service. Proof of service may be made by an acknowledgment of service by or on behalf of the person served or a statement signed by the party or the party's attorney or agent containing the information required by this section. A statement of an attorney or agent attached to, or appearing in, the paper stating the time and manner of service will be accepted as *prima facie* proof of service.

§ 1.647 Translation of document in foreign language.

When a party relies on a document in a language other than English, a translation of the document into English and an affidavit attesting to the accuracy of the translation shall be filed with the document.

§ 1.651 Setting times for discovery and taking testimony, parties entitled to take testimony.

(a) At an appropriate stage in an interference, an examiner-in-chief shall set (1) a time for filing motions (§ 1.635) for additional discovery under § 1.687(c) and (2) testimony periods for taking any necessary testimony.

(b) Where appropriate, testimony periods will be set to permit a party to:

(1) Present its case-in-chief and/or case-in-rebuttal and/or

(2) Cross-examine an opponent's case-in-chief and/or case-in-rebuttal.

(c) A party is not entitled to take testimony to present a case-in-chief unless:

(1) The examiner-in-chief orders the taking of testimony under § 1.639(c);

(2) The party alleges in its preliminary statement a date of invention prior to the earlier of the filing date or effective filing date of the senior party;

(3) A testimony period has been set to permit an opponent to prove a date of invention prior to the earlier of the filing date or effective date of the party and the party has filed a preliminary statement alleging a date of invention prior to that date; or

(4) A motion (§ 1.635) is filed showing good cause why a testimony period should be set.

(d) Testimony shall be taken during the testimony periods set under paragraph (a) of this section.

§ 1.652 Judgment for failure to take testimony or file record.

If a junior party fails to timely take testimony authorized under § 1.651, or file a record under § 1.653(c), an examiner-in-chief, with or without a motion (§ 1.635) by another party, may issue an order to show cause why judgment should not be entered against the junior party. When an order is issued under this section, the Board shall enter judgment in accordance with the order unless, within 15 days after the date of the order, the junior party files a paper which shows good cause why judgment should not be entered in accordance with the order. Any other party may file a response to the paper within 15 days of the date of service of the paper. If the party against whom the order was issued fails to show good cause, the Board shall enter judgment against the party.

§ 1.653 Record and exhibits.

(a) Testimony shall consist of affidavits under § 1.672 (b) and (e), transcripts of depositions under § 1.672 (b) and (c), agreed statements of fact under § 1.672(f), and transcripts of interrogatories, cross-interrogatories, and recorded answers under § 1.684(c).

(b) An affidavit shall be filed as set forth in § 1.672 (b) or (e). A certified transcript of a deposition including a deposition cross-examining an affiant, shall be filed as set forth in § 1.676. An original agreed statement shall be filed as set forth in § 1.672(f). A transcript of interrogatories, cross-interrogatories, and recorded answers shall be filed as set forth under § 1.684(c).

(c) In addition to the items specified in paragraph (b) of this section and within a time set by an examiner-in-chief each

party shall file three copies and serve one copy of a record consisting of:

(1) An index of the name of each witness giving the pages of the record where the direct testomony and cross-examination of each witness begins.

(2) An index of exhibits briefly describing the nature of each exhibit and giving the page of the record where each exhibit is first identified and offered into evidence.

(3) The count or counts.

(4) Each (i) affidavit, (ii) transcript, including transcripts of cross-examination of any affiant, (iii) agreed statement relied upon by the party, and (iv) transcript of interrogatories, cross-interrogatories, and recorded answers field under paragraph (b) of this section.

(5) Each notice, official record, and publication relied upon by the party and filed under § 1.682(a).

(6) Any evidence from another interference, proceeding, or action relied upon by the party under § 1.683.

(7) Each request for an admission and the admission and each written interrogatory and the answer upon which a party intends to rely under § 1.688.

(d) The pages of the record shall be consecutively numbered.

(e) The name of each witness shall appear at the top of each page of each affidavit or transcript.

(f) The record may be typewritten or printed.

(g) When the record is printed, it may be produced by standard typographical printing or by any process capable of producing a clear black permanent image. All printed matter except on covers must appear in at least 11 point type on opaque, unglazed paper. Margins must be justified. Footnotes may not be printed in type smaller than 9 point. The page size shall be 8½ by 11 inches (21.8 by 27.9 cm.) with type matter 6½ by 9½ inches (16.5 by 24.1 cm.). The record shall be bound to lie flat when open.

(h) When the record is typewritten, it must be clearly legible on opague, unglazed, durable paper approximately 8½ by 11 inches (21.8 by 27.9 cm.) in size (letter size). Typing shall be double-spaced on one side of the paper in not smaller than pica-type with a margin of 1½ inches (3.8 cm.) on the left-hand side of the page. The pages of the record shall be bound with covers at their left edges in such manner to lie flat when open in one or more volumes of convenient size (approximately 100 pages per volume is suggested). Multigraphed or otherwise reproduced copies conforming to the standards specified in this paragraph may be accepted.

(i) Each party shall file its exhibits with the record specified in paragraph (c) of this section. One copy of each documentary exhibit shall be served. Documentary exhibits shall be filed in an envelope or folder and shall not be bound as part of the record. Physical exhibits, if not filed by an officer under § 1.676(d), shall be filed with the record. Each exhibit shall contain a label which identifies the party submitting the exhibit and an exhibit number, the style of the interference (e.g., Jones v. Smith), and the interference number. Where possible, the label should appear at the bottom right-hand corner of each documentary exhibit. Upon termination of an interference, an examiner-in-chief may return an exhibit to the party filing the exhibit. When any exhibit is returned, the examiner-in-chief shall enter an appropriate order indicating that the exhibit has been returned.

(j) Any testimony, record, or exhibit which does not comply with this section may be returned under § 1.618.

§ 1.654 Final hearing.

(a) At an appropriate stage of the interference, the parties will be given an opportunity to appear before the Board to present oral argument at a final hearing. An examiner-in-chief shall set a date and time for final hearing. Unless otherwise ordered by an examiner-in-chief or the Board, each party will be entitled to no more than 60 minutes of oral argument at final hearing.

(b) The opening argument of a junior party shall include a fair statement of the junior party's case and the junior party's position with respect to the case presented on behalf of any other party. A junior party may reserve a portion of its time for rebuttal.

(c) After final hearing, the interference shall be taken under advisement by the Board. No further paper shall be filed except under § 1.658(b) or as authorized by an examiner-in-chief or the Board. No additional oral argument shall be had unless ordered by the Board.

§ 1.655 Matters considered in rendering a final decision.

(a) In rendering a final decision, the Board may consider any properly raised issue including (1) priority of invention, (2) derivation by an opponent from a party who filed a preliminary statement under § 1.625, (3) patentability of the invention, (4) admissibility of evidence, (5) any interlocutory matter deferred to final hearing, and (6) any other matter necessary to resolve the interference. The Board may also consider whether any interlocutory order was manifestly erroneous or an abuse of discretion. All interlocutory orders shall be presumed to have been correct and the burden of showing manifest error or an abuse of discretion shall be on the party attacking the order.

(b) A party shall not be entitled to raise for consideration at final hearing a matter which properly could have been raised by a motion under §§ 1.633 or 1.634 unless (1) the motion was properly filed, (2) the matter was properly raised by a party in an opposition to a motion under §§ 1.633 or 1.634 and the motion was granted over the opposition, or (3) the party shows good cause why the issue was not timely raised by motion or opposition.

(c) To prevent manifest injustice, the Board may consider an issue even though it would not otherwise be entitled to consideration under this section.

§ 1.656 Briefs for final hearing.

(a) Each party shall be entitled to file briefs for final hearing. The examiner-in-chief shall determine the briefs needed and shall set the time and order for filing briefs.

(b) The opening brief of a junior party shall contain under appropriate headings and in the order indicated:

(1) A table of contents, with page references, and a table of cases (alphabetically arranged), statutes, and other authorities cited, with references to the pages of the brief where they are cited.

(2) A statement of the issues presented for decision in the interference.

(3) A statement of the facts relevant to the issues presented for decision with appropriate references to the record.

(4) An argument, which may be preceded by a summary, which shall contain the contentions of the party with respect to the issues to be decided, and the reasons therefore, with citations to the cases, statutes, other authorities, and parts of the record relied on.

(5) A short conclusion stating the precise relief requested.

(6) An appendix containing a copy of the counts.

(c) The opening brief of the senior party shall conform to the requirements of paragraph (b) of this section except:

(1) a statement of the issues and of the facts need not be made unless the party is dissatisfied with the statement in the opening brief of the junior party and

(2) an appendix containing a copy of the counts need not be made if the copy of the counts in the opening brief of the junior party is correct.

(d) Briefs may be printed or typewritten. If typewritten, legal-size paper may be used. The opening brief of

each party in excess of 50 legal-size double-spaced typewritten pages or any other brief in excess of 25 legal-size double-space typewritten pages shall be printed unless a satisfactory reason be given why the brief should not be printed. Any printed brief shall comply with the requirements of § 1.653(g). Any typewritten brief shall comply with the requirements of § 1.653(h), except legal-size paper may be used and the binding and covers specified are not required.

(e) An original and three copies of each brief must be filed.

(f) Any brief which does not comply with the requirements of this section may be returned under § 1.618(a).

(g) Any party, separate from its opening brief, but filed concurrently therewith, may file an original and three copies of concise proposed findings of fact and conclusions of law. Any proposed findings of fact shall be supported by specific references to the record. Any proposed conclusions of law shall be supported by citation of cases, statutes, or other authority. Any opposing party, separate from its opening or reply brief, but filed concurrently therewith, may file a paper accepting or objecting to any proposed findings of fact or conclusions of law; when objecting, a reason must be given. The Board may adopt the proposed findings of fact and conclusions of law in whole or in part.

(h) If a party wants the Board in rendering its final decision to rule on the admissibility of any evidence, the party shall file with its opening brief an original and three copies of a motion (§ 1.635) to suppress the evidence. The provisions of § 1.637(b) do not apply to a motion to suppress under this paragraph. Any objection previously made to the admissibility of an opponent's evidence is waived unless the motion required by this paragraph is filed. An original and three copies of an opposition to the motion may be filed with an opponent's opening brief or reply brief as may be appropriate.

(i) When a junior party fails to timely file an opening brief, an order may issue requiring the junior party to show cause why the Board should not treat failure to file the brief as a concession of priority. If the junior party fails to respond within a time period set in the order, judgment may be entered against the junior party.

§ 1.657 Burden of proof as to date of invention.

A rebuttable presumption shall exist that, as to each count, the inventors made their invention in the chronological order of the earlier of their filing dates or effective filing dates. The burden or proof shall be upon a party who contends otherwise.

§ 1.658 Final decision.

(a) After final hearing, the Board shall enter a decision resolving the issues raised at final hearing. The decision may (1) enter judgment, in whole or in part, (2) remand the interference to an examiner-in-chief for further proceedings, or (3) take further action not inconsistent with law. A judgment as to a count shall state whether or not each party is entitled to a patent containing the claims in the party's patent or application which correspond to the count. When the Board enters a decision awarding judgment as to all counts, the decision shall be regarded as a final decision.

(b) Any request for reconsideration of a decision under paragraph (a) of this section shall be filed within 14 days after the date of the decision. The request for reconsideration shall specifiy with particularity the points believed to have been misapprehended or overlooked in rendering the decision. Any reply to a request for reconsideration shall be filed within 14 days of the date of service of the request for reconsideration. Where reasonably possible, service of the request for reconsideration shall be such that delivery is accomplished by hand or "Express Mail." The Board shall enter a decision on the request for reconsideration. If the Board shall be of the opinion that the decision on the request for reconsideration significantly modifies its original decision under paragraph (a) of the section, the Board may designate the decision on the request for reconsideration as a new decision.

(c) A judgment in an interference settles all issues which (1) were raised and decided in the interference, (2) could have been properly raised and decided in the interference by a motion under § 1.633 (a) through (d) and (f) through (i) or § 1.634 and (3) could have been properly raised and decided in an additional interference with a motion under § 1.633(e). A party, other than a party awarded a favorable judgment as to all counts, who could have properly moved, but failed to move, under §§ 1.633 or 1.634, shall be estopped to take *ex parte* or inter partes action in the Patent and Trademark Office after the interference which is inconsistent with the party's failure to properly move.

§ 1.659 Recommendation.

(a) Should the Board have knowledge of any ground for rejecting any application claim not involved in the judgment of the interference, it may include in its decision a recommended rejection of the claim. Upon resumption of *ex parte* prosecution of the application, the examiner shall be bound by the recommendation and shall enter and maintain the recommended rejection unless an amendment or showing of facts not previously of record is filed which, in the opinion of the examiner, overcomes the recommended rejection.

(b) Should the Board have knowledge of any ground for reexamination of a patent involved in the interference as to a patent claim not involved in the judgment of the interference, it may include in its decision a recommendation to the Commissioner that the patent by reexamined. The Commissioner will determine whether reexamination will be orderd.

(c) The Board may make any other recommendation to the examiner or the Commissioner as may be appropriate.

§ 1.660 Notice of reexamination, reissue, protest, or litigation.

(a) When a request for reexamination of a patent involved in an interference is filed, the patent owner shall notify the Board within 10 days of receiving notice that the request was filed.

(b) When an application for reissue is filed by a patentee involved in an interference, the patentee shall notify the Board within 10 days of the day the application for reissue is filed.

(c) When a protest under § 1.291 is filed against an application involved in an interference, the applicant shall notify the Board within 10 days of receiving notice that the protest was filed.

(d) A party in an interference shall notify the Board promptly of any litigation related to any patent or application involved in an interference, including any civil action commended under 35 U.S.C. 146.

§ 1.661 Termination of interference after judgment.

After a final decision is entered by the Board awarding judgment as to all counts, an interference is considered terminated when no appeal (35 U.S.C. 141) or other review (35 U.S.C. 146) has been or can be taken or had.

§ 1.662 Request for entry of adverse judgment; reissue filed by patentee.

(a) A party may, at any time during an interference, request and agree to entry of an adverse judgment. The filing by an applicant or patentee of a written disclaimer of the invention defined by a count, concession or priority or unpatentability of the subject matter of

a count, abandonment of the invention defined by a count, or abandonment of the contest as to a count will be construed as a request for entry of an adverse judgment against the applicant or patentee as to all claims which correspond to the count. Abandonment of an application by an applicant, other than an applicant for reissue having a claim of the patent sought to be reissued involved in the interference, will be construed as a request for entry of an adverse judgment against the applicant as to all claims corresponding to all counts. Upon the filing by a party of a request for entry of an adverse judgment, the Board may enter judgment against the party.

(b) If a patentee involved in an interference files an application for reissue during the interference and omits all claims of the patent corresponding to the counts of the interference for the purpose of avoiding the interference, judgment may be entered against the patentee. A patentee who files an application for reissue other than for the purpose of avoiding the interference shall timely file a preliminary motion under § 1.633(h) or show good cause why the motion could not have been timely filed.

(c) The filing of a statutory disclaimer under 35 U.S.C. 253 by a patentee will not be construed as a request for entry of an adverse judgment against the patentee, but will delete any statutorily disclaimed claims from being involved in the interference. A statutory disclaimer of any claim involved in an interference shall in subsequent proceedings have the same effect with respect to the patentee as an adverse judgment.

(d) After judgment is entered under this section or after the filing of a statutory disclaimer, if an interference no longer exists, the interference may be dissolved as to any party against whom judgment has not been entered and any further prosecution of any application involved in the interference shall be *ex parte* before an examiner.

§ 1.663 Status of claim of defeated applicant after interference.

Whenever an adverse judgment is entered as to a count against an applicant from which no appeal (35 U.S.C. 141) or other review (35 U.S.C. 146) has been or can be taken or had, the claims of the application corresponding to the count stand finally disposed of without further action by the examiner. Such claims are not open to further *ex parte* prosecution.

§ 1.664 Action after interference.

(a) After termination of an interference, the examiner will promptly take such action in any application previously involved in the interference as may be necessary. Unless entered by order of an examiner-in-chief, amendments presented during the interference shall not be entered, but may be subsequently presented by the applicant subject to the provisions of this part provided prosecution of the application is not otherwise closed.

(b) After judgment, the application of any party may be held subject to further examination, including an interference with another application.

§ 1.665 Second interference.

A second interference between the same parties will not be declared upon an application not involved in an earlier interference for an invention defined by a count of the earlier interference. See § 1.658(c).

§ 1.666 Filing of interference settlement agreements.

(a) Any agreement or understanding between parties to an interference, including any collateral agreements referred to therein, made in connection with or in contemplation of the termination of the interference, must be in writing and a true copy thereof must be filed before the termination of the interference (§ 1.661) as between the parties to the agreement or understanding.

(b) If any party filing the agreement or understanding under paragraph (a) of this section so requests, the copy will be kept separate from the file of the interference, and made available only to Government agencies on written request, or to any person upon petition accompanied by the fee set forth in § 1.17(i) and on a showing of good cause.

(c) Failure to file the copy of the agreement or understanding under paragraph (a) of this section will render permanently unenforceable such agreement or understanding and any patent of the parties involved in the interference or any patent subsequently issued on any application of the parties so involved. The Commissioner may, however, upon petition accompanied by the fee set forth in § 1.17(h) and on a showing of good cause for failure to file within the time prescribed, permit the filing of the agreement or understanding during the six month period subsequent to the termination of the interference as between the parties to the agreement or understanding.

§ 1.671 Evidence must comply with rules.

(a) Evidence consists of testimony and exhibits official records and publications filed under § 1.682, evidence from another interference, proceeding, or action filed under § 1.683, and discovery relied upon under § 1.688, and the specification (including claims) and drawings of any application or patent:

(1) Involved in the interference.

(2) To which a party has been accorded benefit in the notice declaring the interference or by a preliminary motion granted under § 1.633.

(3) For which a party has sought, but has been denied, benefit by a preliminary motion under § 1.633.

(4) For which benefit was rescinded by a preliminary motion granted under § 1.633.

(b) Except as otherwise provided in this part, the Federal Rules of Evidence shall apply to interference proceedings. Those portions of the Federal Rules of Evidence relating to criminal actions, juries, and other matters not relevant to interferences shall not apply.

(c) Unless the context is otherwise clear, the following terms of the Federal Rules of Evidence shall be construed as follows:

(1) "Courts of the United States," "U.S. Magistrate," "court," "trial court," or "trier of fact" means examiner-in-chief or Board as may be appropriate.

(2) "Judge" means examiner-in-chief.

(3) "Judicial notice" means official notice.

(4) "Civil action," "civil proceeding," "action," or "trial," mean interference.

(5) "Appellate court" means United States Court of Appeals for the Federal Circuit or a United States district court when judicial review is under 35 U.S.C. 146.

(6) "Before the hearing" in Rule 703 means before giving testimony by oral deposition or affidavit.

(7) "The trial or hearing" in Rules 803(24) and 804(5) means the taking of testimony by oral deposition.

(d) Certification is not necessary as a condition to admissibility when the record is a record of the Patent and Trademark Office to which all parties have access.

(e) A party may not rely on an affidavit filed by that party during *ex parte* prosecution of an application, an affidavit under § 1.608(b), or an affidavit under § 1.639(b) unless (1) a copy of the affidavit is or has been served and (2) a written notice is filed prior to the close of the party's relevant testimony period stating that the party intends to rely on the affidavit. When proper notice is given under this paragrah, the affidavit

shall be deemed filed under § 1.672(b). A copy of the affidavit shall be included in the record (§ 1.653).

(f) The significance of documentary and other exhibits shall be discussed with particularly by a witness during oral deposition or in an affidavit.

(g) A party must file a motion (§ 1.635) seeking permission from an examiner-in-chief prior to taking testimony or seeking documents or things under 35 U.S.C. 24. The motion shall describe the general nature and show the admissibility in the interference of the testimony, document, or thing.

(h) Evidence which is not taken or sought and filed in accordance with this subpart shall not be admissible.

§ 1.672 Manner of taking testimony.

(a) Testimony of a witness may be taken by oral deposition or affidavit in accordance with this subpart.

(b) A party wishing to take the testimony of a witness whose testimony will not be compelled under 35 U.S.C. 24 may elect to present the testimony of the witness by affidavit or deposition. A party electing to present testimony of a witness by affidavit shall file an affidavit of the witness or, where appropriate, a notice under § 1.671(e). To facilitate preparation of the record (§ 1.653(g) and (h)), a party should file an affidavit on paper which is 8½ by 11 inches (21.8 by 27.9 cm). After the affidavit is filed and within a time set by an examiner-in-chief, any opponent may file a request to cross-examine the witness on oral deposition. If any opponent requests cross-examination of an affiant, the party shall notice a deposition under § 1.673(e) for the purpose of cross-examination by any opponent. Any redirect and recross shall take place at the deposition. At any deposition for the purpose of cross-examination of a witness whose testimony is presented by affidavit, the party shall not be entitled to rely on any document or thing not mentioned in one or more of the affidavits filed under this paragraph, except to the extent necessary to conduct proper redirect. A party electing to present testimony of a witness by deposition shall notice a deposition of the witness under § 1.673(a). The party who gives notice of a deposition shall be responsible for obtaining a court reporter and for filing a certified transcript of the deposition as required by § 1.676.

(c) A party wishing to take the testimony of a witness whose testimony will be compelled under 35 U.S.C. 24 must first obtain permission from an examiner-in-chief under § 1.671(g). If permission is granted, the party shall notice a deposition of the witness under § 1.673 and may proceed under 35 U.S.C. 24. The testimony of the witness shall be taken on oral deposition.

(d) Notwithstanding the provisions of this subpart, if the parties agree in writing, a deposition may be taken before any person authorized to administer oaths, at any place, upon any notice, and in any manner, and when so taken may be used like other depositions.

(e) If the parties agree in writing, the testimony of any witness may be submitted in the form of an affidavit without opportunity for cross-examination. The affidavit of the witness shall be filed in the Patent and Trademark Office.

(f) If the parties agree in writing, testimony may be submitted in the form of an agreed statement setting forth (1) how a particular witness would testify if called or (2) the facts in the case of one or more of the parties. The agreed statement shall be filed in the Patent and Trademark Office. See § 1.653(a).

§ 1.673 Notice of examination of witness.

(a) A party electing to take testimony of a witness by deposition shall, after complying with paragraphs (b) and (g) of this section, file and serve a single notice of deposition stating the time and place of each deposition to be taken. Depositions may be noticed for a reasonable time and place in the United States. Unless the parties agree in writing, a deposition may not be noticed for any other place without approval of an examiner-in-chief (see § 1.684). The notice shall specify the name and address of each witness and the general nature of the testimony to be given by the witness. If the name of a witness is not known, a general description sufficient to identify the witness or a particular class or group to which the witness belongs may be given instead.

(b) Unless the parties agree otherwise, at least three days prior to the conference required by paragraph (g) of this section, a party shall serve, but not file, the following:

(1) A copy of each document in the party's possession, custody, or control and upon which the party intends to rely at any deposition and

(2) A list of and a proffer of reasonable access to things in the party's possession, custody, or control and upon which the party intends to rely at any deposition.

(c) A party shall not be permitted to rely at any deposition on any witness not listed in the notice, or any document not served or any thing not listed as required by paragraph (b) of this section, (1) unless all opponents agree in writing or on the record to permit the party to rely on the witness, document, or thing or (2) except upon a motion (§ 1.635) promptly filed which is accompanied by any proposed notice, additional documents, or lists and which shows sufficient cause why the notice, documents, or lists were not served in accordance with this section.

(d) Each opposing party shall have a full opportunity to attend a deposition and cross-examine. If an opposing party attends a deposition of a witness not named in a notice and cross-examines the witness or fails to object to the taking of the deposition, the opposing party shall be deemed to have waived any right to object to the taking of the deposition for lack of proper notice.

(e) A party electing to present testimony by affidavit and who is required to notice depositions for the purpose of cross-examination under § 1.672(b), shall, after complying with paragraph (g) of this section, file and serve a single notice of deposition stating the time and place of each cross-examination deposition to be taken.

(f) The parties shall not take depositions in more than one place at the same time or so nearly at the same time that reasonable opportunity to travel from one place of deposition to another cannot be had.

(g) Before serving a notice of deposition and after complying with paragraph (b) of this section, a party shall have an oral conference with all opponents to attempt to agree on a mutually acceptable time and place for conducting the deposition. A certificate shall appear in the notice stating that the oral conference took place or explaining why the conference could not be had. If the parties cannot agree to a mutually acceptable place and time for conducting the deposition at the conference, the parties shall contact an examiner-in-chief who shall then designate the time and place for conducting the deposition.

(h) A copy of the notice of deposition shall be attached to the certified transcript of the deposition filed under § 1.676(a).

§ 1.674 Persons before whom depositions may be taken.

(a) Within the United States or a territory or insular possession of the United States a deposition shall be taken before an officer authorized to administer oaths by the laws of the United States or of the place where the examination is held.

(b) Unless the parties agree in writing, the following persons shall not be competent to serve as an officer: (1) A relative or employee of a party, (2) a

relative or employee of an attorney or agent of a party, or (3) a person interested, directly or indirectly, in the interference either as counsel, attorney, agent, or otherwise.

§ 1.675 Examination of witness, reading and signing transcript of deposition.

(a) Each witness before giving an oral deposition shall be duly sworn according to law by the officer before whom the deposition is to be taken.

(b) The testimony shall be taken in answer to interrogatories with any questions and answers recorded in their regular order by the officer or by some other person, who shall be subject to the provisions of § 1.674(b), in the presence of the officer unless the presence of the officer is waived on the record by agreement of all parties.

(c) All objections made at the time of the deposition to the qualifications of the officer taking the deposition, the manner of taking it, the evidence presented, the conduct of any party, or any other objection to the proceeding shall be noted on the record by the officer. Evidence objected to shall be taken subject to any objection.

(d) Unless the parties agree in writing or waive reading and signature by the witness on the record at the deposition, when the testimony has been transcribed a transcript of the deposition shall be read by the witness and then signed by the witness in the presence of any notary.

§ 1.676 Certification and filing by officer, marking exhibits.

(a) The officer shall prepare a certified transcript of the deposition by attaching to a transcript of the deposition a copy of the notice of deposition, any exhibits to be annexed to the certified transcript, and a certificate signed and sealed by the officer and showing:

(1) The witness was duly sworn by the officer before commencement of testimony by the witness.

(2) The transcript is a true record of the testimony given by the witness.

(3) The name of the person by whom the testimony was recorded and, if not recorded by the officer, whether the testimony was recorded in the presence of the officer.

(4) The presence or absence of any opposing party.

(5) The place where the deposition was taken and the day and hour when the deposition began and ended.

(6) The officer is not disqualified under § 1.674.

(b) If the parties waived any of the requirements of paragraph (a) of this section, the certificate shall so state.

(c) The officer shall note on the certificate the circumstances under which a witness refuses to sign a transcript.

(d) Unless the parties agree otherwise in writing or on the record at the deposition, the officer shall securely seal the certified transcript in an envelope endorsed with the style of the interference (e.g., Smith v. Jones), the interference number, the name of the witness, and the date of sealing and shall promptly forward the envelope to BOX INTERFERENCE, Commissioner of Patents and Trademarks, Washington, D.C. 20231. Documents and things produced for inspection during the examination of a witness, shall, upon request of a party, be marked for identification and annexed to the certified transcript, and may be inspected and copied by any party, except that if the person producing the documents and things desires to retain them, the person may (1) offer copies to be marked for identification and annexed to the certified transcript and to serve thereafter as originals if the person affords to all partries fair opportunity to verify the copies by comparison with the originals or (2) offer the originals to be marked for identification, after giving to each party an opportunity to inspect and copy them, in which event the documents and things may be used in the same manner as if annexed to the certified transcript. The exhibits shall then be filed as specified in § 1.653(i). If the weight or bulk of a document or thing shall reasonably prevent the document or thing from being annexed to the certified transcript, it shall, unless waived on the record at the deposition by all parties, be authenticated by the officer and forwarded to the Commissioner in a separate package marked and addressed as provided in this paragraph.

§ 1.677 Form of a transcript of deposition.

(a) A transcript of a deposition must be typswritten on opaque, unglazed, durable paper approximately 8½ by 11 inches (21.8 by 27.9 cm.) in size (letter size). Typing shall be double-spaced on one side of the paper in not smaller than pica-type with a margin of 1½ inches (3.8 cm.) on the left-hand side of the page. The pages must be consecutively numbered throughout the entire record of each party (§ 1.653(d)) and the name of the witness must be typed at the top of each page (§ 1.653(e)). The questions propounded to each witness must be consecutively numbered unles spaper with numbered lines is used and each question must be followed by its answer.

(b) Exhibits must be numbered consecutively and each must be marked as required by § 1.653(i).

§ 1.678 Transcript of deposition must be filed.

Unless otherwise ordered by an examiner-in-chief, a certified transcript of a deposition must be filed in the Patent and Trademark Office within 45 days from the date of the deposition. If a party refues to file a certified transcript, the examiner-in-chief or the Board may take appropriate action under § 1.616. If a party refues to file a certified transcript, any opponent may move for leave to file the certified transcript and include a copy of the transcript as part of the opponent's record.

§ 1.679 Inspection of transcript.

A certified transcript filed in the Patent and Trademark Office may be inspected by any party. The certified transcript may not be removed from the Patent and Trademark Office for printing (§ 1.653(g)) unless authorized by an examiner-in-chief upon such terms as may be appropriate.

§ 1.682 Official records and printed publications.

(a) A party may introduce into evidence, if otherwise admissible, any official record or printed publication not identified on the record during the taking of testimony of a witness, by filing a notice offering the official record or publication into evidence. If the evidence relates to the party's case-in-chief, the notice shall be filed prior to close of testimony of the party's case-in-chief. If the evidence relates to rebuttal, the notice shall be filed prior to the close of testimony of the party's case-in-rebuttal. The notice shall (1) identify the official record or printed publication, (2) identify the portion thereof to be introduced in evidence, (3) indicate generally the relevance of the portion sought to be introduced in evidence, and (4) be accompanied by a certified copy of the official record or a copy of the printed publication.

(b) A copy of the notice, official record, and publication shall be served.

(c) Unless otherwise ordered by an examiner-in-chief, any written objection to the notice or to the admissibility of the official record or printed publication shall be filed within 15 days of service of the notice. See also § 1.656(h).

§ 1.683 Testimony in another interference, proceeding, or action.

(a) Prior to close of a party's appropriate testimony period or within such time as may be set by an examiner-in-chief, a party may file a motion

(§ 1.635) for leave to use in an interference testimony of a witness from another interference, proceeding, or action involving the same parties, subject to such conditions as may be deemed appropriate by an examiner-in-chief. The motion shall specify with particularity the exact testimony to be used and shall demonstrate its relevance.

(b) Any objection to the admissibility of the testimony of the witness shall be made in an opposition to the motion. See also § 1.656(h).

§ 1.684 Testimony in a foreign country.

(a) An examiner-in-chief may authorize testimony of a witness to be taken in a foreign country. A party seeking to take testimony in a foreign country shall, prior to the close of the party's appropriate testimony period or within such time as may be set by an examiner-in-chief, file a motion (§ 1.635):

(1) Naming the witness.

(2) Describing the particular facts to which it is expected that the witness will testify.

(3) Stating the grounds on which the moving party believes that the witness will so testify.

(4) Demonstrating that the expected testimony is admissible.

(5) Demonstrating that the testimony cannot be taken in this country at all or cannot be taken in this country without hardship to the moving party greatly exceeding the hardship to which all opposing parties will be exposed by the taking of the testimony in a foreign country.

(6) Accompanied by an affidavit stating that the motion is made in good faith and not for the purpose of delay or harassing any party.

(7) Accompanied by written interrogatories to be asked of the witness.

(b) Any opposition under § 1.638(a) shall state any objection to the written interrogatories and shall include any cross-interrogatories to be asked of the witness. A reply under § 1.638(b) may be filed and shall be limited to stating any objection to any cross-interrogatories proposed in the opposition.

(c) If the motion is granted, the moving party shall be responsible for obtaining answers to the interrogatories and cross-interrogatories before an officer qualified to administer oaths in the foreign country under the laws of the United States or the foreign country. The officer shall prepare a transcript of the interrogatories, cross-interrogatories, and recorded answers to the interrogatories and cross-interrogatories and shall transmit the transcript to BOX INTERFERENCE, Commissioner of Patents and Trademarks, Washington, D.C. 20231, with a certificate signed and sealed by the officer and showing:

(1) The witness was duly sworn by the officer before answering the interrogatories and cross-interrogatories.

(2) The recorded answers are a true record of the answers given by the witness to the interrogatories and cross-interrogatories.

(3) The name of the person by whom the answers were recorded and, if not recorded by the officer, whether the answers were recorded in the presence of the officer.

(4) The presence or absence of any party.

(5) The place, day, and hour that the answers were recorded.

(6) A copy of the recorded answers was read by or to the witness before the witness signed the recorded answers and that the witness signed the recorded answers in the presence of the officer. The officer shall state the circumstances under which a witness refuses to read or sign recorded answers.

(7) The officer is not disqualified under § 1.674.

(d) If the parties agree in writing, the testimony may be taken before the officer on oral deposition.

(e) A party taking testimony in a foreign country shall have the burden of proving that false swearing in the giving of testimony is punishable as perjury under the laws of the foreign country. Unless false swearing in the giving of testimony before the officer shall be punishable as perjury under the laws of the foreign country where testimony is taken, the testimony shall not be entitled to the same weight as testimony taken in the United States. The weight of the testimony shall be determined in each case.

§ 1.685 Errors and irregularities in depositions.

(a) An error in a notice for taking a deposition is waived unless a motion (§ 1.635) to quash the notice is filed as soon as the error is, or could have been, discovered.

(b) An objection to a qualification of an officer taking a deposition is waived unless:

(1) The objection is made on the record of the deposition before a witness begins to testify.

(2) If discovered after the deposition, a motion (§ 1.635) to suppress the deposition is filed as soon as the objection is, or could have been, discovered.

(c) An error or irregularity in the manner in which testimony is transcribed, a certified transcript is signed by a witness, or a certified transcript is prepared, signed, certified, sealed, indorsed, forwarded, filed, or otherwise handled by the officer is waived unless a motion (§ 1.635) to suppress the deposition is filed as soon as the error or irregularity is, or could have been, discovered.

(d) An objection to the competency of a witness, admissibility of evidence, manner of taking the deposition, the form of questions and answers, any oath or affirmation, or conduct of any party at the deposition is waived unless an objection is made on the record at the deposition stating the specific ground of objection. Any objection which a party wishes considered by the Board at final hearing shall be included in a motion to suppress under § 1.656(h).

(e) Nothing in this section precludes taking notice of plain errors affecting substantial rights although they were not brought to the attention of an examiner-in-chief or the Board.

§ 1.687 Additional discovery.

(a) A party is not entitled to discovery except as authorized in this subpart.

(b) Where appropriate, a party may obtain production of documents and things during cross-examination of an opponent's witness or during the testimony period of the party's case-in-rebuttal. If the witness refuses to produce a requested document or thing, the party may file a motion (§ 1.635) for additional discovery under paragraph (c) of this section.

(c) Upon a motion (§ 1.635) brought by a party within the time set by an examiner-in-chief under § 1.651 or thereafter as authorized by § 1.645 and upon a showing that the interest of justice so requires, an examiner-in-chief may order additional discovery, as to matters under the control of a party within the scope of the Federal Rules of Civil Procedure, specifying the terms and conditions of such additional discovery.

(d) The parties may agree to discovery among themselves at any time. In the absence of an agreement, a motion for additional discovery shall not be filed except as authorized by this subpart.

§ 1.688 Use of discovery.

(a) A party may introduce into evidence, if otherwise admissible, an admission to a written request for an admission or an answer to a written interrogatory obtained by discovery under § 1.687 by filing a copy of the request for admission and admission or a copy of the written interrogatory and answer. If the admission or answer relates to a party's case-in-chief, the

admission or answer shall be filed prior to the close of testimony of the party's case-in-chief. If the admission or answer relates to the party's rebuttal, the admission or answer shall be filed prior to the close of testimony of the party's case-in-rebuttal. Unless otherwise ordered by an examiner-in-chief, any written objection to the admissibility of an admission or answer shall be filed within 15 days of service of the admission or answer.

(b) A party may not rely upon any other matter obtained by discovery unless it is introduced into evidence under this subpart.

Dated: January 4, 1984.

Gerald J. Mossinghoff,

Commissioner of Patents and Trademarks.

[FR Doc. 84-1979 Filed 1-27-84; 8:45 am]

BILLING CODE 3510-16-M

VOL 49 ISS 20 JA 30 1984 UMI

federal register

Monday
January 30, 1984

Part IV

Department of Health and Human Services

Food and Drug Administration

21 CFR Parts 73, et al.

Incorporation by Reference; Proposed Updating of Text; Proposed Rule

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 73, 74, 103, 105, 131, 133, 135, 136, 137, 139, 145, 146, 150, 155, 160, 161, 163, 164, 166, 168, 169, 172, 173, 175, 176, 177, 178, 179, and 189

[Docket No. 84N-0025]

Incorporation by Reference; Proposed Updating of Text

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is proposing to amend the regulatory text pertaining to materials incorporated by reference in those parts of Title 21 of the Code of Federal Regulations concerned with color additives and food. This action is being taken to meet the requirements for incorporation by reference set forth in Title 1 of the Code of Federal Regulations (1 CFR Part 51).

DATE: Comments by February 29, 1984.

ADDRESS: Written comments to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Michael E. Kashtock, Bureau of Foods (HFF-334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: Title 1 of the Code of Federal Regulations (1 CFR Part 51) requires the filing and updating of material that has been incorporated by reference in the Code of Federal Regulations. The purpose of the requirement is to ensure the public availability and accuracy of material that has been incorporated from other sources.

Accordingly, FDA has reviewed the regulations concerned with color additivies and food (21 CFR Parts 1-199) that include materials incorporated by reference. The agency has concluded that it is necessary to amend a number of these regulations to bring them into compliance with the requirements prescribed in 1 CFR Part 51.

Many of the incorporated materials consist of methods or specifications that were published in compendia such as the Food Chemicals Codex or the Official Methods of Analysis of the Association of Official Analytical Chemists. In many cases, although this material has not been modified in the compendium, the volume of the compendium cited when a regulation was established has been superseded by a subsequent volume. In addition, many of the individual methods have been superseded by updated versions of the methods, which, though updated, do not represent a substantial change in the method. The agency believes that in such cases the most recently published method or compendia should be cited in the incorporating regulatory text.

Additionally, and for similar reasons, the agency is updating several regulations citing U.S. Government-sponsored publications such as the United States Pharmacopeia and the National Formulary. Although these publications do not constitute official incorporations by reference, their updating at this time is appropriate.

The agency believes that the proposed materials that would be incorporated by reference or used to update particular regulations do not include any substantive changes to those regulations.

Under the formal rulemaking procedures, a final rule based on this proposal will result in the updating of nearly all regulations in Parts 1-99 containing material incorporated by reference.

The agency is not proposing to update a small number of analytical methods incorporated by reference in the parts of Title 21 covered by this proposal because the agency has not been able to review the most recent versions of these methods. In addition, the updating of some methods incorporated in the parts of Title 21 covered by this proposal may require changes of a more substantive nature, necessitating additional review by agency scientists. The agency is not proposing to make these more substantive changes at this time.

Although the agency normally provides interested persons with a 60-day comment period, the agency is shortening the comment period to 30 days because these proposed changes are not substantive. Also, the agency would like to publish a final rule prior to the April 1, 1984 revision date for the publication of Title 21 of the Code of Federal Regulations, so that the changes provided can be incorporated in the 1984 edition of Title 21.

The agency has determined pursuant to 21 CFR 25.24(b)(22) (proposed December 11, 1979; 44 FR 71742) that this proposed action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

FDA, in accordance with the Regulatory Flexibility Act, has considered the effect that this proposal would have on small entities including small businesses and has determined that the effect of this proposal will be to improve the availability of the materials incorporated, while not significantly affecting their content or other factors affecting their use. Therefore, FDA certifies in accordance with section 605(b) of the Regulatory Flexibility Act that no significnt economic impact on a substantial number of small entities will derive from this action.

List of Subjects

21 CFR Part 73

Color additives, Cosmetics, Drugs, Medical devices.

21 CFR Part 74

Color additives, Cosmetics, Drugs, Medical devices.

21 CFR Part 103

Quality standards.

21 CFR Part 105

Dietary foods, Food labeling, Infant foods, Nutrition, Vitamins and minerals.

21 CFR Part 131

Cream, Food standards, Milk, Yogurt.

21 CFR Part 133

Cheese, Food standards.

21 CFR Part 135

Food standards, Frozen desserts, Ice cream.

21 CFR Part 136

Bakery products, Bread, Food standards.

21 CFR Part 137

Cereals, Flour, Food standards.

21 CFR Part 139

Food standards, Macaroni, Noodles.

21 CFR Part 145

Canned fruit, Food standards, Fruit.

21 CFR Part 146

Canned fruit juice, Food standards, Fruit juices.

21 CFR Part 150

Food standards, Fruit butter, Jam, Jelly.

21 CFR Part 155

Canned vegetables, Food standards, Vegetables.

21 CFR Part 160

Eggs, Food standards.

21 CFR Part 161

Fish, Food standards, Seafood.

21 CFR Part 163

Cocoa products, Chocolate, Food standards.

21 CFR Part 164

Food standards, Nuts, Peanuts.

21 CFR Part 166

Food standards, Margarine.

21 CFR Part 168

Food standards, Sirups, Sugars.

21 CFR Part 169

Food dressings, Food standards, Vanilla.

21 CFR Part 172

Food additives, Food preservatives, Spices and flavorings.

21 CFR Part 173

Food additives, Food processing aids.

21 CFR Part 175

Adhesives, Food additives, Food packaging.

21 CFR Part 176

Food additives Food packaging, Paper and paperboard.

21 CFR Part 177

Food additives, Polymeric food packaging.

21 CFR Part 178

Food additives, Food packaging, Sanitizing solutions.

21 CFR Part 179

Food additives, Food packaging, Irradiation of food.

21 CFR Part 189

Food ingredients, Prohibited direct food ingredients, Prohibited indirect food ingredients.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 409, 701(e), 706, 70 Stat. 919 as amended, 72 Stat. 1784–1788 as amended, 74 Stat. 399–407 as amended (21 U.S.C. 348, 371(e), 376)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), it is proposed that Title 21 of the Code of Federal Regulations be amended as follows:

PART 73—LISTING OF COLOR ADDITIVES EXEMPT FROM CERTIFICATION

1. Part 73 is amended:

a. In § 73.160 by revising paragraphs (a) and (b), to read as follows:

§ 73.160 Ferrous gluconate.

(a) *Identity.* The color additive ferrous gluconate is the ferrous gluconate defined in the Food Chemicals Codex, 3d Ed. (1981), pp. 122–123, which is incorporated by reference. Copies may be obtained from the National Academy Press, 2101 Constitution Ave. NW., Washington, DC 20418, or may be examined at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408.

(b) *Specifications.* Ferrous gluconate shall meet the specifications given in the Food Chemicals Codex, 3d Ed. (1981), which is incorporated by reference. The availability of this incorporation by reference is given in paragraph (a) of this section.

* * * * *

b. In § 73.450 by revising paragraphs (a)(1) and (b), to read as follows:

§ 73.450 Riboflavin.

(a) *Identity.* (1) The color additive riboflavin is the riboflavin defined in the Food Chemicals Codex, 3d Ed. (1981), pp. 262–263, which is incorporated by reference. Copies may be obtained from the National Academy Press, 2101 Constitution Ave. NW., Washington, DC 20418, or may be examined at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408.

* * * * *

(b) *Specifications.* Riboflavin shall meet the specifications given in the Food Chemicals Codex, 3d Ed. (1981), which is incorporated by reference. The availability of this incorporation by reference is given in paragraph (a)(1) of this section.

* * * * *

c. In § 73.1015 by revising the introductory text of paragrah (c) and by revising paragraph (c)(3), to read as follows:

§ 73.1015 Chromium-cobalt-aluminum oxide.

* * * * *

(c) *Uses and restrictions.* The color additive chromium-cobalt-aluminum oxide may be safely used for coloring linear polyethylene surgical sutures, United States Pharmacopeia (U.S.P.), for use in general surgery, subject to the following restrictions:

* * * * *

(3) The dyed suture shall conform in all respects to the requirements of the U.S.P. XX (1980).

* * * * *

d. In § 73.1025 by revising paragraph (c)(1), to read as follows:

§ 73.1025 Ferric ammonium citrate.

* * * * *

(c) * * *

(1) The dyed suture shall conform in all respects to the requirements of the United States Pharmacopeia XX (1980).

* * * * *

e. In § 73.1070 by revising paragraph (b), to read as follows:

§ 73.1070 Calcium carbonate.

* * * * *

(b) *Specifications.* Calcium carbonate shall meet the specifications for precipitated calcium carbonate in the United States Pharmacopeia XX (1980).

* * * * *

f. In § 73.1375 by revising paragraph (c)(1), to read as follows:

§ 73.1375 Pyrogallol.

* * * * *

(c) * * *

(1) the dyed suture shall conform in all respects to the requirements of the United States Pharmacopeia XX (1980).

* * * * *

§ 73.1550 [Amended]

g. In § 73.1550 *Talc* in paragraph (b) by revising "U.S.P." to read "United States Pharmacopeia XX (1980)".

PART 74—LISTING OF COLOR ADDITIVES SUBJECT TO CERTIFICATION

2. Part 74 is amended:

a. In § 74.1102 by revising paragraph (c)(1)(ii), to read as follows:

§ 74.1102 FD&C Blue No. 2.

* * * * *

(c) * * *

(1) * * *

(ii) The dyed suture shall conform in all respects to the requirements of the United States Pharmacopeia XX (1980).

b. In § 74.1109 by revising paragraph (c)(1), to read as follows:

§ 74.1109 D&C Blue No. 9.

* * * * *

(c) * * *

(1) The dyed suture shall conform in all respects to the requirements of the United States Pharmacopeia XX (1980).

* * * * *

PART 103—QUALITY STANDARDS FOR FOODS WITH NO IDENTITY STANDARDS

3. Part 103 is amended in § 103.35 by revising the introductory text of paragraphs (b) and (c), by revising the first sentence in paragraph (d)(1)(ii), and by revising the first sentence in paragraph (e)(2), to read as follows:

§103.35 Bottled water.

* * * * *

(b) *Microbiological quality.* Bottled water shall, when a sample consisting of analytical units of equal volume is examined by the methods described in applicable sections of "Standard Methods for the Examination of Water and Wastewater," 15th Ed. (1980), American Public Health Association, which is incorporated by reference (copies may be obtained from the Division of Food Technology, Bureau of Foods (HFF-210), 200 C St. SW., Washington, DC 20204, or may be examined at the Office of the Federal Register, 1100 L St. NW., Washington, DC (20408), meet the following standards of microbiological quality:

* * * * *

(c) *Physical quality.* Bottled water shall, when a composite of analytical units of equal volume from a sample is examined by the method described in applicable sections of "Standard Methods for the Examination of Water and Wastewater," 15th Ed. (1980), which is incorporated by reference (the availability of this incorporation by reference is given in paragraph (b) of this section), meet the following standards of physical quality:

* * * * *

(d) * * *

(1) * * *

(ii) Analyses conducted to determine compliance with paragraph (d)(1)(i) of this section shall be made in accordance with the methods described in the applicable sections of "Standard Methods for the Examination of Water and Wastewater," 15th Ed. (1980), or "Methods for Chemical Analysis of Water and Wastes," Environmental Monitoring and Support Laboratory, EPA-600/4-82-055, March 1983, U.S. Environmental Protection Agency, both of which are incorporated by reference.

* * *

* * * * *

(e) * * *

(2) Analyses conducted to determine compliance with paragraph (e)(1) of this section shall be made in accordance with the methods described in the applicable sections of "Standard Methods for the Examination of Water and Wastewater," 15th Ed. (1980), and "Interim Radiochemical Methodology for Drinking Water," Environmental Monitoring and Support Laboratory EPA-600/4-75-008 (Revised), March 1976, U.S. Environmental Protection Agency, both of which are incorporated by reference.

* * * * *

PART 105—FOODS FOR SPECIAL DIETARY USE

4. Part 105 is amended in § 105.65 by revising paragraph (c)(4)(i), to read as follows:

§ 105.65 Infant foods.

* * * * *

(c) * * *

(4) * * *

(i) For the purpose of this paragraph (c)(4), the method for determining biological quality of protein shall be the method prescribed in sections 43.212-43.216 under "Biological Evaluation of Protein Quality—Official Final Action" of "Official Methods of Analysis of the Association of Official Analytical Chemists," 13th Ed. (980), which is incorporated by reference. Copies may be obtained from the Association of Official Analytical Chemists, P.O. Box 540, Benjamin Franklin Station, Washington, DC 20044, or may be examined at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408.

* * * * *

PART 131—MILK AND CREAM

5. Part 131 is amended:

(a) In § 131.110 by revising the introductory text in paragraph (d) and by revising paragraph (d)(1) and (3), to read as follows:

§ 131.110 Milk.

* * * * *

(d) *Methods of analysis.* Referenced methods are from "Official Methods of Analysis of the Association of Official Analytical Chemists," 13th Ed. (1980), which is incorporated by reference. Copies may be obtained from the Association of Official Analytical Chemists, P.O. Box 540, Benjamin Franklin Station, Washington, DC 20044, or may be examined at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408.

(1) Milkfat content—"Fat, Roese-Gottlieb Method—Official Final Action," section 16.059.

(2) * * *

(3) Vitamin D content—"Vitamin D—Official Final Action," sections 43.195-43.208.

* * * * *

b. In § 131.115 by revising paragraph (d), to read as follows:

§ 131.115 Concentrated milk.

* * * * *

(d) *Methods of analysis.* Referenced methods are from "Official Methods of Analysis of the Association of Official Analytical Chemists," 13th Ed. (1980), which is incorporated by reference. Copies may be obtained from the Association of Official Analytical Chemists, P.O. Box 540, Benjamin Franklin Station, Washington, DC 20044, or may be examined at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408.

(1) Milkfat content—"Fat—Official Final Action," section 16.172.

(2) Total milk solids—"Total Solids—Official Final Action," section 16.169.

(3) Vitamin D content—"Vitamin D in Milk—Official Final Action," sections 43.195-43.208.

* * * * *

c. In §131.120 by revising paragraph (c), to read as follows:

§ 131.120 Sweetened condensed milk.

* * * * *

(c) *Methods of analysis.* The milkfat content is determined by the method prescribed in "Official Methods of Analysis of the Association of Official Analytical Chemists," 13th Ed. (1980), section 16.185, under "Fat—Official Final Action," which is incorporated by reference. Copies may be obtained from the Association of Official Analytical Chemists, P.O. Box 540, Benjamin Franklin Station, Washington, DC 20044, or may be examined at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408.

* * * * *

d. In §131.122 by revising paragraph (c), to read as follows:

§ 131.122 Sweetened condensed skimmed milk.

* * * * *

(c) *Methods of analysis.* The milkfat content is determined by the method prescribed in "Official Methods of Analysis of the Association of Official Analytical Chemists," 13th Ed. (1980), section 16.185, under "Fat—Official Final Action," which is incorporated by reference. Copies may be obtained from the Association of Official Analytical Chemists, P.O. Box 540, Benjamin Franklin Station, Washington, DC 20044, or may be examined at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408.

* * * * *

e. In §131.123 by revising paragraph (d), to read as follows:

* * * * *

§ 131.123 Lowfat dry milk.

(d) *Methods of analysis.* The following referenced methods of analysis are from "Official Methods of Analysis of the Association of Official Analytical Chemists," 13th Ed. (1980), which is incorporated by reference. Copies may be obtained from the

Association of Official Analytical Chemists, P.O. Box 540, Benjamin Franklin Station, Washington, DC 20044, or may be examined at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408.

(1) Milkfat content—"Fat in Dried Milk—Official Final Action," sections 16.199–16.200.

(2) Moisture content—"Moisture—Official Final Action," section 16.192.

(3) Vitamin D content—"Vitamin D—Official Final Action," sections 43.195–43.208.

* * * * *

f. In § 131.125 by revising paragraph (c), to read as follows:

§ 131.125 Nonfat dry milk.

* * * * *

(c) *Methods of analysis.* The following referenced methods of analysis are from "Official Methods of Analysis of the Association of Official Analytical Chemists," 13th Ed. (1980), which is incorporated by reference. Copies may be obtained from the Association of Official Analytical Chemists, P.O. Box 540, Benjamin Franklin Station, Washington, DC 20044, or may be examined at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408.

(1) Milkfat content—"Fat in Dried Milk—Official Final Action," sections 16.199–16.200.

(2) Moisture content—"Moisture—Official Final Action," section 16.192.

* * * * *

g. In § 131.127 by revising paragraph (d), to read as follows:

§ 131.127 Nonfat dry milk fortified with vitamins A and D.

* * * * *

(d) *Methods of analysis.* The following referenced methods of analysis are from "Official Methods of Analysis of the Association of Official Analytical Chemists," 13th Ed. (1980), which is incorporated by reference. Copies may be obtained from the Association of Official Analytical Chemists, P.O. Box 540, Benjamin Franklin Station, Washington, DC 20044, or may be examined at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408.

(1) Milkfat content—"Fat in Dried Milk—Official Final Action," sections 16.199–16.200.

(2) Moisture content—"Moisture—Official Final Action," section 16.192.

(3) Vitamin D content—"Vitamin D—Official Final Action," sections 43.195–43.208.

* * * * *

h. In § 131.130 by revising paragraph (d), to read as follows:

§ 131.130 Evaporated milk.

* * * * *

(d) *Methods of analysis.* The following referenced methods of analysis are from "Official Methods of Analysis of the Association of Official Analytical Chemists," 13th Ed. (1980), which is incorporated by reference. Copies may be obtained from the Association of Official Analytical Chemists, P.O. Box 540, Benjamin Franklin Station, Washington, DC 20044, or may be examined at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408.

(1) Milkfat content—"Fat—Official Final Action," section 16.172

(2) Total milk solids—"Total Solids—Official Final Action," section 16.169.

(3) Vitamin D content—"Vitamin D in Milk—Official Final Action," sections 43.195–43.208.

* * * * *

i. In § 131.132 by revising paragraph (d), to read as follows:

§ 131.132 Evaporated skimmed milk.

* * * * *

(d) *Methods of analysis.* The following referenced methods of analysis are from "Official Methods of Analysis of the Association of Official Analytical Chemists," 13th Ed. (1980), which is incorporated by reference. Copies may be obtained from the Association of Official Analytical Chemists, P.O. Box 540, Benjamin Franklin Station, Washington, D.C. 20044, or may be examined at the Office of the Federal Register, 1100 L St. NW., Washington, D.C. 20408.

(1) Milkfat content—"Fat—Official Final Action," section 16.172.

(2) Total milk solids—"Total Solids—Official Final Action," section 16.169.

(3) Vitamin D content—"Vitamin D in Milk—Official Final Action," sections 43.195–43.208.

* * * * *

j. In § 131.135 by revising the introductory text of paragraph (d) and by revising paragraph (d)(1) and (3), to read as follows:

§ 131.135 Lowfat milk.

* * * * *

(d) *Methods of analysis.* Referenced methods are from "Official Methods of Analysis of the Association of Official Analytical Chemists," 13th Ed. (1980), which is incorporated by reference. Copies may be obtained from the Association of Official Analytical Chemists, P.O. Box 540, Benjamin Franklin Station, Washington, D.C. 20044, or may be examined at the Office of the Federal Register, 1100 L St. NW., Washington, D.C. 20408.

(1) Milkfat content—"Fat, Roese-Gottlieb Method—Official Final Action," section 16.059.

(2) * * *

(3) Vitamin D content—"Vitamin D—Official Final Action," sections 43.195–43.208.

* * * * *

k. In § 131.143 by revising the introductory text of paragraph (d) and by revising paragraph (d)(1) and (3), to read as follows:

§ 131.143 Skim milk.

* * * * *

(d) *Methods of analysis.* Referenced methods are from "Official Methods of Analysis of the Association of Official Analytical Chemists," 13th Ed. (1980), which is incorporated by reference. Copies may be obtained from the Association of Official Analytical Chemists, P.O. Box 540, Benjamin Franklin Station, Washington, D.C. 20044, or may be examined at the Office of the Federal Register, 1100 L St. NW., Washington, D.C. 20408.

(1) Milkfat content—"Fat, Roese-Gottlieb Method—Official Final Action," section 16.059.

(2) * * *

(3) Vitamin D content—"Vitamin D—Official Final Action," sections 43.195–43.208.

* * * * *

l. In § 131.147 by revising paragraph (d), to read as follows:

§ 131.147 Dry whole milk.

* * * * *

(d) *Methods of analysis.* The following referenced methods of analysis are from "Official Methods of Analysis of the Association of Official Analytical Chemists," 13th Ed. (1980), which is incorporated by reference. Copies may be obtained from the Association of Official Analytical Chemists, P.O. Box 540, Benjamin Franklin Station, Washington, D.C. 20044, or may be examined at the Office of the Federal Register, 1100 L St. NW., Washington, D.C. 20408.

(1) Milkfat content—"Fat in Dried Milk—Offical Final Action," sections 16.199–16.200.

(2) Moisture content—"Moisture—Official Final Action," section 16.192.

(3) Vitamin D content—"Vitamin D—Official Final Action," sections 43.195–43.208.

* * * * *

m. In § 131.149 by revising paragraph (c), to read as follows:

§ 131.149 Dry cream.

* * * * *

(c) *Methods of analysis.* The following referenced methods of analysis are from "Official Methods of Analysis of the Association of Official Analytical Chemists," 13th Ed. (1980), which is incorporated by reference. Copies may be obtained from the Association of Official Analytical Chemists, P.O. Box 540, Benjamin Franklin Station, Washington, DC 20044, or may be examined at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408.

(1) Milkfat content—"Fat in Dried Milk—Official Final Action," sections 16.199–16.200.

(2) Moisture content—"Moisture—Official Final Action," section 16.192.

* * * * *

n. In § 131.150 by revising paragraph (c), to read as follows:

§ 131.150 Heavy cream.

* * * * *

(c) *Methods of analysis.* The milkfat content is determined by the method prescribed in "Official Methods of Analysis of the Association of Official Analytical Chemists," 13th Ed. (1980), section 16.156, 16.059, under "Fat, Roese-Gottlieb Method—Official Final Action," which is incorporated by reference. Copies may be obtained from the Association of Official Analytical Chemists, P.O. Box 540, Benjamin Franklin Station, Washington, DC 20044, or may be examined at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408.

* * * * *

o. In § 131.155 by revising paragraph (c), to read as follows:

§ 131.155 Light cream.

* * * * *

(c) *Methods of analysis.* The milkfat content is determined by the method prescribed in "Official Methods of Analysis of the Association of Official Analytical Chemists," 13th Ed. (1980), section 16.156, 16.1059, under "Fat, Roese-Gottlieb Method—Official Final Action," which is incorporated by reference. Copies may be obtained from the Association of Official Analytical Chemists, P.O. Box 540, Benjamin Franklin Station, Washington, DC 20044, or may be examined at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408.

* * * * *

p. In § 131.157 by revising paragraph (c), to read as follows:

§ 131.157 Light whipping cream.

* * * * *

(c) *Methods of analysis.* The milkfat content is determined by the method prescribed in "Official Methods of Analysis of the Association of Official Analytical Chemists," 13th Ed. (1980), section 16.156, 16.059, under "Fat, Roese-Gottlieb Method—Official Final Action," which is incorporated by reference. Copies may be obtained from the Association of Official Analytical Chemists, P.O. Box 540, Benjamin Franklin Station, Washington, DC 20044, or may be examined at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408.

* * * * *

q. In § 131.160 by revising paragraph (c), to read as follows:

§ 131.160 Sour cream.

* * * * *

(c) *Methods of analysis.* Referenced methods in paragraph (c) (1) and (2) of this section are from "Official Methods of Analysis of the Association of Official Analytical Chemists," 13th Ed. (1980), which is incorporated by reference. Copies may be obtained from the Association of Official Analytical Chemists, P.O. Box 540, Benjamin Franklin Station, Washington, DC 20044, or may be examined at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408.

(1) Milkfat content—"Fat—Official Final Action," section 16.172.

(2) Titratable acidity—"Acidity—Official Final Action," section 16.023.

* * * * *

r. In § 131.162 by revising paragraph (c), to read as follows:

§ 131.162 Acidified sour cream.

* * * * *

(c) *Methods of analysis.* Referenced methods in paragraph (c)(1) and (2) of this section are from "Official Methods of Analysis of the Association of Official Analytical Chemists," 13th Ed. (1980), which is incorporated by reference. Copies may be obtained from the Association of Official Analytical Chemists, P.O. Box 540, Benjamin Franklin Station, Washington, DC 20044, or may be examined at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408.

(1) Milkfat content—"Fat—Official Final Action," section 16.172.

(2) Titratable acidity—"Acidity—Official Final Action," section 16.023.

* * * * *

s. In § 131.180 by revising paragraph (c), to read as follows:

§ 131.180 Half-and-half.

* * * * *

(c) *Methods of analysis.* The milkfat content is determined by the method prescribed in "Official Methods of Analysis of the Association of Official Analytical Chemists," 13th Ed. (1980), in section 16.156, 16.059, under "Fat, Roese-Gottlieb Method—Official Final Action," which is incorporated by reference. Copies may be obtained from the Association of Official Analytical Chemists, P.O. Box 540, Benjamin Franklin Station, Washington, DC 20044, or may be examined at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408.

* * * * *

t. In § 131.185 by revising paragraph (c), to read as follows:

§ 131.185 Sour half-and-half.

* * * * *

(c) *Methods of analysis.* Referenced methods in paragraph (c)(1) and (2) of this section are from "Official Methods of Analysis of the Association of Official Analytical Chemists," 13th Ed. (1980), which is incorporated by reference. Copies may be obtained from the Association of Official Analytical Chemists, P.O. Box 540, Benjamin Franklin Station, Washington, DC 20044, or may be examined at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408.

(1) Milkfat content—"Fat—Official Final Action," section 16.172.

(2) Titratable acidity—"Acidity—Official Final Action," section 16.023.

* * * * *

u. In § 131.187 by revising paragraph (c), to read as follows:

§ 131.187 Acidified sour half-and-half.

* * * * *

(c) *Methods of analysis.* Referenced methods in paragraph (c)(1) and (2) of this section are from "Official Methods of Analysis of the Association of Official Analytical Chemists," 13th Ed. (1980), which is incorporated by reference. Copies may be obtained from the Association of Official Analytical Chemists, P.O. Box 540, Benjamin Franklin Station, Washington, DC 20044, or may be examined at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408.

(1) Milkfat content—"Fat—Official Final Action," section 16.172.

(2) Titratable acidity—"Acidity—Official Final Action," section 16.023.

* * * * *

PART 133—CHEESES AND RELATED CHEESE PRODUCTS

6. Part 133 is amended:

a. In § 133.102 by revising the second sentence in paragraph (a), to read as follows:

§ 133.102 Asiago fresh and asiago soft cheese.

(a) * * * It contains not more than 45 percent of moisture, and its solids contain not less than 50 percent of milkfat, as determined by the methods prescribed in § 133.5 (a), (b), and (d).
* * *
* * * * * *

b. In § 133.108 by revising the second sentence in paragraph (a) and by revising the last sentence in paragraph (c)(2), to read as follows:

§ 133.108 Brick cheese.

(a) * * * It contains not more than 44 percent of moisture, and its solids contain not less than 50 percent of milkfat, as determined by the methods prescribed in § 133.5 (a), (b), and (d).
* * *
* * * * * *

(c) * * *
(2) * * * Brick cheese shall be deemed not to have been made from pasteurized milk if 0.25 gram shows a phenol equivalent of more than 5 micrograms when tested by the method prescribed in § 133.5(c).
* * * * * *

c. In § 133.111 by revising the third sentence in paragraph (a), to read as follows:

§ 133.111 Caciocavallo siciliano cheese.

(a) * * * It contains not more than 40 percent of moisture, and its solids contain not less than 42 percent milkfat as determined by the methods prescribed in § 133.5 (a), (b), and (d).
* * *
* * * * * *

d. In § 133.118 by revising the second sentence in paragraph (a), by revising the last sentence in paragraph (c)(2), and by revising paragraph (c)(3), to read as follows:

§ 133.118 Colby cheese.

(a) * * * It contains not more than 40 percent of moisture, and its solids contain not less than 50 percent of milkfat, as determined by the methods prescribed in § 133.5 (a), (b), and (d).
* * *
* * * * * *

(c) * * *
(2) * * * Colby cheese shall be deemed not to have been made from pasturized milk if 0.25 gram shows a phenol equivalent of more than 3 micrograms when tested by the method prescribed in § 133.5(c).

(3) During the cheesemaking process the milk may be treated with hydrogen peroxide/catalase as provided in § 133.113(b)(3)(v).
* * * * * *

e. In § 133.123 by revising paragraph (a)(5), to read as follows:

§ 133.123 Cold-pack and club cheese.

(a) * * *
(5) Moisture and fat are determined by the methods prescribed in § 133.5 (a), (b), and (d).
* * * * * *

f. In § 133.124 by revising paragraph (a)(4), to read as follows:

§ 133.124 Cold-pack cheese food.

(a) * * *
(4) Moisture and fat are determined by the methods prescribed in § 133.5 (a), (b), and (d), except that in determining moisture the loss in weight which occurs in drying for 5 hours, under the conditions prescribed in such method, is taken as the weight of moisture.
* * * * * *

g. In § 133.125 by revising paragraph (a)(3), to read as follows:

§ 133.125 Cold-pack cheese food with fruits, vegetables, or meats.

(a) * * *
(3) When the added fruits, vegetables, or meats contain fat, the method prescribed for the determination of fat by § 133.5 (b) and (d) is not applicable.
* * * * * *

h. In § 133.127 by revising the second and third sentences in paragraph (a), to read as follows:

§ 133.127 Cook cheese, koch kaese.

(a) * * * It contains not more than 80 percent moisture as determined by the method prescribed in § 133.5(a). When tested for phosphatase by the method prescribed in § 133.5(c), 0.25 gram of cook cheese shows a phenol equivalent of not more than 3 micrograms.
* * * * * *

i. In § 133.129 by revising paragraph (a), to read as follows:

§ 133.129 Dry curd cottage cheese.

(a) Cottage cheese dry curd is the soft uncured cheese prepared by the procedure set forth in paragraph (b) of this section. The finished food contains less than 0.5 percent milkfat. It contains not more than 80 percent of moisture, as determined by the method prescribed in § 133.5(a).
* * * * * *

j. In § 133.133 by revising paragraph (a) to read as follows:

§ 133.133 Cream cheese.

(a) Cream cheese is the soft uncured cheese prepared by the procedure set forth in paragraph (b) of this section. The finished cream cheese contains not less than 33 percent of milkfat and not more than 55 percent of moisture, as determined by the methods prescribed in § 133.5 (a) and (b).
* * * * * *

k. In § 133.134 by revising paragraph (b), to read as follows:

§ 133.134 Cream cheese with other foods.
* * * * * *

(b) No water other than that contained in the added food ingredients is used, but the moisture content of the mixture in no case is more than 60 percent. The milkfat is not less than 33 percent of the percent by weight of the cream cheese used, but in no case is it less than 27 percent of the finished food. Mositure and fat are determined by the methods prescribed in § 133.5 (a) and (b), except that when the added food contains fat the method prescribed for the determination of fat is not applicable.
* * * * * *

l. In §133.136 by revising the second sentence in paragraph (a), by revising the second sentence in paragraph (c)(2), and by revising paragraph (c)(3), to read as follows:

§ 133.136 Washed curd and scalded curd cheese.

(a) * * * It contains not more than 42 percent of moisture, and its solids contain not less than 50 percent of milkfat, as determined by the methods prescribed in § 133.5 (a), (b), and (d).
* * *
* * * * * *

(c) * * *
(2) * * * Washed cured cheese shall be deemed not to have been made from pasteurized milk of 0.25 gram shows a phenol equivalent of more than 3 micrograms when tested by the method prescribed in § 133.5(c).
(3) During the cheesemaking process the milk may be treated with hydrogen peroxide/catalase as provided in § 133.113(b)(3)(v).
* * * * * *

m. In § 133.140 by revising the last sentence in paragraph (a), to read as follows:

§ 133.140 Gammelost cheese.

(a) * * * It contains not more than 52 percent of moisture, as determined by the method prescribed in § 133.5(a).
* * * * * *

n. In § 133.141 by revising the fourth sentence in paragraph (a), to read as follows:

§ 133.141 Gorgonzola cheese.

(a) * * * It contains not more than 42 percent moisture, and its solids contain not less than 50 percent milkfat, as determined by the methods prescribed in § 133.5 (a), (b), and (d). * * *

* * * * *

o. In § 133.144 by revising the second sentence in paragraph (a), by revising the second sentence in paragraph (c)(2), and by revising paragraph (c)(3), to read as follows:

§ 133.144 Granular and stirred curd cheese.

(a) * * * It contains not more than 39 percent of moisture, and its solids contain not less than 50 percent of milkfat, as determined by the methods prescribed in § 133.5 (a), (b), and (d).

* * *

* * * * *

(c) * * *

(2) * * * Granular cheese shall be deemed not to have been made from pasteurized milk if 0.25 gram shows a phenol equivalent of more than 3 micrograms when tested by the method prescribed in § 133.5(c).

(3) During the cheesemaking process the milk may be treated with hydrogen peroxide/catalase as provided in § 133.113(b)(3)(v).

* * * * *

p. In § 133.146 by revising paragraph (a)(6), to read as follows:

§ 133.146 Grated cheeses.

(a) * * *

(6) Moisture and fat in grated cheeses are determined by the methods prescribed in § 133.5 (a), (b), and (d).

* * * * *

q. In § 133.147 by revising paragraph (a)(2), to read as follows:

§ 133.147 Grated American cheese food.

(a) * * *

(2) Grated American cheese food contains not less than 23 percent of milkfat, as determined by the method prescribed in § 133.5(b).

* * * * *

r. In § 133.148 by revising the third sentence in paragraph (a), to read as follows:

§ 133.148 Hard grating cheeses.

(a) * * * They contain not more than 34 percent of moisture, and their solids contain not less than 32 percent of milkfat, as determined by the methods prescribed in § 133.5 (a), (b), and (d).

* * *

* * * * *

s. In § 133.150 by revising the third sentence in paragraph (a) and by revising the last sentence in paragraph (c)(2), to read as follows:

§ 133.150 Hard cheeses.

(a) * * * They contain not more than 39 percent of moisture, and their solids contain not less than 50 percent of milkfat, as determined by the methods prescribed in § 133.5 (a), (b), and (d). * * *

* * * * *

(c) * * *

(2) * * * A hard cheese shall be deemed not to have been made from pasteurized milk if 0.25 gram shows a phenol equivalent of more than 3 micrograms when tested by the method prescribed in § 133.5(c).

* * * * *

t. In § 133.153 by revising the last sentence in paragraph (a) and by revising the last sentence in paragraph (c)(2), to read as follows:

§ 133.153 Monterey cheese and monterey jack cheese.

(a) * * * It contains not more than 44 percent of moisture, and its solids contain not less than 50 percent of milkfat, as determined by the methods prescribed in § 133.5 (a), (b), and (d).

* * * * *

(c) * * *

(2) * * * Monterey cheese shall be deemed not to have been made from pasteurized milk if 025 gram shows a phenol equivalent of more than 3 micrograms when tested by the method prescribed in § 133.5(c).

* * * * *

u. In § 133.155 by revising the last sentence in paragraph (a) and by revising the last sentence in paragraph (c)(2), to read as follows:

§ 133.155 Mozzarella cheese and scamorza cheese.

(a) * * * It contains more than 52 percent but not more than 60 percent of moisture, and its milkfat content, calculated on the solids basis, is not less than 45 percent, as determined by the methods prescribed in § 133.5 (a), (b), and (d).

* * * * *

(c) * * *

(2) * * * The finished food shall be deemed not to have been made from pasteurized milk if 0.25 gram shows a phenol equivalent of more than 3 micrograms when tested by the method prescribed in § 133.5(c), provolone modification.

* * * * *

v. In § 133.156 by revising the last sentence in paragraph (a) and by revising the last sentence in paragraph (c)(2), to read as follows:

§ 133.156 Low-moisture mozzarella and scamorza cheese.

(a) * * * Its moisture content is more than 45 percent but not more than 52 percent, and its milkfat content, calculated on the solids basis, is not less than 45 percent, as determined by the methods prescribed in § 133.5 (a), (b), and (d).

* * * * *

(c) * * *

(2) * * * The finished food shall be deemed not to have been made from pasteurized milk if 0.25 gram shows a phenol equivalent of more than 3 micrograms when tested by the method prescribed in § 133.5(c), provolone modification.

* * * * *

w. In § 133.160 by revising the last sentence in paragraph (a) and by revising the last sentence in paragraph (c)(2), to read as follows:

§ 133.160 Muenster and munster cheese.

(a) * * * It contains not more than 46 percent of moisture, and its solids contain not less than 50 percent of milkfat, as determined by the methods prescribed in § 133.5 (a), (b), and (d).

* * * * *

(c) * * *

(2) * * * Muenster cheese shall be deemed not to have been made from pasteurized milk if 0.25 gram shows a phenol equivalent of more than 3 micrograms when tested by the method prescribed in § 133.5(c).

* * * * *

x. In § 133.162 by revising paragraph (a), to read as follows:

§ 133.162 Neufchatel cheese.

(a) Neufchatel cheese is the soft uncured cheese prepared by the procedure set forth in paragraph (b) of this section. The finished neufchatel cheese contains not less than 20 percent but less than 33 percent of milkfat and not more than 65 percent of moisture, as determined by the methods prescribed in § 133.5 (a) and (b).

* * * * *

y. In § 133.164 by revising the third sentence in paragraph (a), to read as follows:

§ 133.164 Nuworld cheese.

(a) * * * It contains not more than 46 percent of moisture and its solids contain not less than 50 percent of milkfat, as determined by the methods prescribed in § 133.5 (a), (b), and (d).

* * * * *

z. In § 133.165 by revising the fourth sentence in paragraph (a), to read as follows:

§ 133.165 Parmesan and reggiano cheese.

(a) * * * It contains not more than 32 percent of moisture, and its solids contain not less than 32 percent of milkfat, as determined by the methods prescribed in § 133.5 (a), (b), and (d).

* * * * *

aa. In § 133.166 by revising paragraph (a)(3), to read as follows:

§ 133.166 Pasteurized blended cheese with fruits, vegetables, or meats.

(a) * * *

(3) When the added fruits, vegetables, or meats contain fat, the method prescribed for the determination of fat by § 133.5(b) is not applicable.

* * * * *

bb. In § 133.169 by revising the second sentence in paragraph (a)(2) and by revising paragraph (a)(5), to read as follows:

§ 133.169 Pasteurized process cheese.

(a) * * *

(2) * * * When tested for phosphatase by the method prescribed in § 133.5(c), the phenol equivalent of 0.25 gram of pasteurized process cheese is not more than 3 micrograms.

* * * * *

(5) Moisture and fat are determined by the methods prescribed in § 133.5 (a), (b), and (d).

* * * * *

cc. In § 133.170 by revising paragraph (a)(3), to read as follows:

§ 133.170 Pasteurized process cheese with fruits, vegetables, or meats.

(a) * * *

(3) When the added fruits, vegetables, or meats contain fat, the method prescribed for the determination of fat by § 133.5(b) is not applicable.

* * * * *

dd. In § 133.173 by revising the second sentence in paragraph (a)(2) and by revising paragraph (a)(4), to read as follows:

§ 133.173 Pasteurized process cheese food.

(a) * * *

(2) * * * When tested for phosphatase by the method prescribed in § 133.5(c), the phenol equivalent of 0.25 gram of pasteurized process cheese food is not more than 3 micrograms.

* * * * *

(4) Moisture and fat are determined by the methods prescribed in § 133.5 (a) and (b), except that in determining moisture the loss in weight which occurs in drying for 5 hours, under the conditions prescribed in such method, is taken as the weight of the moisture.

* * * * *

ee. In § 133.174 by revising paragraph (a)(3), to read as follows:

§ 133.174 Pasteurized process cheese food with fruits, vegetables, or meats.

(a) * * *

(3) When the added fruits, vegetables, or meats contain fat, the method prescribed for the determination of fat by § 133.5(b) is not applicable.

* * * * *

ff. In § 133.176 by revising paragraph (a)(2), to read as follows:

§ 133.176 Pasteurized cheese spread with fruits, vegetables, or meats.

(a) * * *

(2) When the added fruits, vegetables, or meats contain fat, the method prescribed for the determination of fat by § 133.5(b) is not applicable.

* * * * *

gg. In § 133.178 by revising the second sentence in paragraph (a)(2), to read as follows:

§ 133.178 Pasteurized neufchatel cheese spread with other foods.

(a) * * *

(2) * * * When tested for phosphatase by the method prescribed in § 133.5(c), the phenol equivalent of 0.25 gram of such food is not more than 3 micrograms.

* * * * *

hh. In § 133.179 by revising the second sentence in paragraph (a)(2) and by revising paragraph (a)(4), to read as follows:

§ 133.179 Pasteurized process cheese spread.

(a) * * *

(2) * * * When tested for phosphatase by the method prescribed in § 133.5(c), the phenol equivalent of 0.25 gram of pasteurized process cheese spread is not more than 3 micrograms.

* * * * *

(4) Moisture and fat are determined by the methods prescribed in § 133.5 (a) and (b), except that in determining moisture the loss in weight which occurs in drying for 5 hours, under the conditions prescribed in such method, is taken as the weight of the moisture.

* * * * *

ii. In § 133.180 by revising paragraph (a)(2), to read as follows:

§ 133.180 Pasteurized process cheese spread with fruits, vegetables, or meats.

(a) * * *

(2) When the added fruits, vegetables, or meats contain fat, the method prescribed for the determination of fat by § 133.5(b) is not applicable.

* * * * *

jj. In § 133.182 by revising the third sentence in paragraph (a), to read as follows:

§ 133.182 Soft ripened cheeses.

(a) * * * Their solids contain not less than 50 percent of milkfat, as determined by the methods prescribed in § 133.5 (a), (b), and (d).

* * * * *

kk. In § 133.183 by revising the third sentence in paragraph (a), to read as follows:

§ 133.183 Romano cheese.

(a) * * * It contains not more than 34 percent of moisture, and its solids contain not less than 38 percent of milkfat, as determined by the methods prescribed in § 133.5 (a), (b), and (d).

* * * * *

ll. In § 133.184 by revising the third sentence in paragraph (a), to read as follows:

§ 133.184 Roquefort, sheep's milk blue-mold, blue-mold cheese from sheep's milk.

(a) * * * It contains not more than 45 percent moisture, and its solids contain not less than 50 percent milkfat, as determined by the methods prescribed in § 133.5 (a), (b), and (d).

* * * * *

mm. In § 133.186 by revising the last sentence in paragraph (a), to read as follows:

§ 133.186 Sap sago cheese.

(a) * * * It contains not more than 38 percent of moisture, as determined by the method prescribed in § 133.5(a).

* * * * *

nn. In § 133.187 by revising the third sentence of paragraph (a) and by revising the last sentence in paragraph (c)(2), to read as follows:

§ 133.187 Semisoft cheeses.

(a) * * * They contain more than 39 percent, but not more than 50 percent, of moisture, and their solids contain not less than 50 percent of milkfat, as determined by the methods prescribed in § 133.5 (a), (b), and (d).

* * * * *

(c) * * *

(2) * * * A semisoft cheese shall be deemed not to have been made from pasteurized milk if 0.25 gram shows a phenol equivalent of more than 5 micrograms when tested by the method prescribed in § 133.5(c).

* * * * *

oo. In § 133.188 by revising the third sentence in paragraph (a) and by revising the last sentence in paragraph (c)(2), to read as follows:

§ 133.188 Semisoft part-skim cheeses.

(a) * * * They contain not more than 50 percent of moisture, and their solids contain not less than 45 percent, but less than 50 percent, of milkfat, as determined by the methods set forth in § 133.5 (a), (b), and (d).

* * * * *

(c) * * *

(2) * * * A semisoft part-skim cheese shall be deemed not to have been made from pasteurized milk if 0.25 gram shows a phenol equivalent of more than 5 micrograms when tested by the method prescribed in § 133.5(c).

* * * * *

pp. In § 133.189 by revising the second sentence in paragraph (a), to read as follows:

§ 133.189 Skim milk cheese for manufacturing.

(a) * * * It contains not more than 50 percent of moisture, as determined by the method prescribed in § 133.5(a).

* * * * *

qq. In § 133.190 by revising the third sentence in paragraph (a) and by revising the last sentence in paragraph (c)(2), to read as follows:

§ 133.190 Spiced cheeses.

(a) * * * Their solids contain not less than 50 percent of milkfat as determined by the methods prescribed in § 133.5 (a), (b), and (d).

* * * * *

(c) * * *

(2) * * * Spiced cheeses shall be deemed not to have been made from pasteurized milk if 0.25 gram shows a phenol equivalent of more than 3 micrograms when tested by the method prescribed in § 133.5(c).

* * * * *

PART 135—FROZEN DESSERTS

7. Part 135 is amended:

a. In § 135.110 by revising paragraph (d), to read as follows:

§ 135.110 Ice cream and frozen custard.

* * * * *

(d) *Methods of analysis.* The fat content shall be determined by the method prescribed in "Official Methods of Analysis of the Association of Official Analytical Chemists," 13th Ed. (1980), sections 16.287, 16.059, under "Fat, Roese-Gottlieb Method—Official Final Action," which is incorporated by reference. Copies may be obtained from the Association of Official Analytical Chemists, P.O. Box 540, Benjamin Franklin Station, Washington, DC 20044, or may be examined at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408.

* * * * *

b. In § 135.130 by revising paragraph (c), to read as follows:

§ 135.130 Mellorine.

* * * * *

(c) *Methods of analysis.* Fat and protein content, and the PER shall be determined by following the methods contained in "Official Methods of Analysis of the Association of Official Analytical Chemists," 13th Ed. (1980), which is incorporated by reference. Copies may be obtained from the Association of Official Analytical Chemists, P.O. Box 540, Benjamin Franklin Station, Washington, DC 20044, or may be examined at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408.

(1) Fat content shall be determined by the method: "Fat, Roese-Gottlieb Method—Official Final Action," section 16.287.

(2) Protein content shall be determined by one of the following methods: "Nitrogen—Official Final Action," Kjeldahl Method, section 16.285, or Dye Binding Method, section 16.286.

(3) PER shall be determined by the method: "Biological Evaluation of Protein Quality—Official Final Action," sections 43.212–43.216.

* * * * *

PART 136—BAKERY PRODUCTS

8. Part 136 is amended:

a. In § 136.110 by revising paragraph (d), to read as follows:

§ 136.110 Bread, rolls, and buns.

* * * * *

(d) Total solids are determined by the method prescribed in "Official Methods of Analysis of the Association of Official Analytical Chemists," 13th Ed. (1980), section 14.091(a), which is incorporated by reference, except that if the baked unit weighs 1 pound or more, one entire unit is used for the determination; if the baked unit weighs less than 1 pound, enough units to weigh 1 pound or more are used. Copies of the material incorporated by reference may be obtained from the Association of Official Analytical Chemists, P.O. Box 540, Benjamin Franklin Station, Washington, DC 20044, or may be examined at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408.

* * * * *

b. In § 136.160 by revising paragraph (a)(5), to read as follows:

§ 136.160 Raisin bread, rolls, and buns.

(a) * * *

(5) The total solids are determined by the method prescribed in § 136.110(d), except that section 14.091(b) of "Official Methods of Analysis of the Association of Official Analytical Chemists," 13th Ed. (1980), which is incorporated by reference, will apply. Copies may be obtained from the Association of Official Analytical Chemists, P.O. Box 540, Benjamin Franklin Station, Washington, DC 20044, or may be examined at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408.

* * * * *

PART 137—CEREAL FLOURS AND RELATED PRODUCTS

9. Part 137 is amended:

a. In § 137.105 by revising the fourth and fifth sentences in the introductory text of paragraph (a) and by revising paragraph (c), to read as follows:

§ 137.105 Flour.

(a) * * * When tested for granulation as prescribed in paragraph (c)(4) of this section, not less than 98 percent of the flour passes through a cloth having openings not larger than those of woven wire cloth designated "212 m (No. 70)" complying with the specifications for such cloth set forth in "Official Methods of Analysis of the Association of Official Analytical Chemists" (AOAC), 13th Ed. (1980), Table 1, "Nominal Dimensions of Standard Test Sieves (U.S.A. Standard Series)," under the heading "Definitions of Terms and Explanatory Notes," which is incorporated by reference. Copies may be obtained from the Association of Official Analytical Chemists, P.O. Box 540, Benjamin Franklin Station, Washington, DC 20044, or may be examined at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408.

* * * * *

(c) For the purposes of this section:

(1) Ash is determined by the method prescribed in the AOAC, 13th Ed. (1980), section 14.006, "Direct Method—Official Final Action," under the heading "Ash (5)," which is incorporated by reference.

The availability of this incorporation by reference is given in paragraph (a) of this section. Ash is calculated to a moisture-free basis by subtracting the percent of moisture in the flour from 100, dividing the remainder into the percent of ash, and multiplying the quotient by 100.

(2) Protein is 5.7 times the nitrogen as determined by the method prescribed in section 2.057, "Improved Kjeldahl Methods for Nitrate-Free Samples (20)—Official Final Action," AOAC, 13th Ed. (1980), which is incorporated by reference. The availability of this incorporation by reference is given in paragraph (a) of this section. Protein is calculated to a moisture-free basis by subtracting the percent of moisture in the flour from 100, dividing the remainder into the percent of protein, and multiplying the quotient by 100.

(3) Moisture is determined by the method prescribed in the AOAC, 13th Ed. (1980), sections 14.002 and 14.003, "Vacuum Oven Method (2)—Official Final Action," under the heading "Total Solids Moisture, Indirect Method," which is incorporated by reference. The availability of this incorporation by reference is given in paragraph (a) of this section.

(4) Granulation is determined as follows: Use No. 70 sieve complying with the specifications for "Nominal Dimensions of Standard Test Sieves (U.S.A. Standard Series)" prescribed in paragraph (a) of this section. Attach bottom pan to sieve in Ro-Tap sifter (or an equivalent sifter). Place half of a rubber ball or other sieving aid in the sieve. Pour 100 grams of the sample in the sieve and turn on the sifter with knocker. Sift exactly 5 minutes. Weigh the residue on the No. 70 sieve and convert to percentage.

b. In § 137.180 by revising the introductory text in paragraph (c) and by revising the next to last sentence in paragraph (c)(1), to read as follows:

§ 137.180 Self-rising flour.

* * * * *

(c) The method referred to in paragraph (a) of this section is the method prescribed in "Official Methods of Analysis of the Association of Official Analytical Chemists" (AOAC), 13th Ed. (1980), section 8.002, "Reagent (Displacement soln.)," and section 8.003, "Chittick apparatus," under the heading "Total Carbon Dioxide (1)—Official Final Action," which is incorporated by reference. Copies may be obtained from the Association of Official Analytical Chemists, P.O. Box 540, Benjamin Franklin Station, Washington, DC 20044, or may be examined at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408. The following procedure is substituted for the procedure specified in the AOAC, under section 8.004, "Determination":

(1) * * * Observe the temperature of the air surrounding the apparatus and also the barometric pressure and multiply the number of cc. of gas evolved by the factor given in section 52.007, "Correction factors for gasometric determination or carbon dioxide," AOAC, 13th Ed. (1980), which is incorporated by reference (the availability of this incorporation by reference is given in paragraph (c) of this section, for the temperature and pressure observed.

* * * * *

c. In § 137.190 by revising the last two sentences in the section, to read as follows:

§ 137.190 Cracked wheat.

* * * Cracked wheat contains not more than 15 percent of the moisture as determined by the method prescribed in "Official Methods of Analysis of the Association of Official Analytical Chemists," 13th Ed. (1980), section 7.002 under "Preparation of Sample—Official Final Action," and section 7.003 under "Moisture—Official Final Action. I. Drying in Vacuo at 95–100° (2)," which is incorporated by reference. Copies may be obtained from the Association of Official Analytical Chemists, P.O. Box 540, Benjamin Franklin Station, Washington, DC 20044, or may be examined at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408.

d. In § 137.195 by revising the last two sentences in the section, to read as follows:

§ 137.195 Crushed wheat.

* * * Crushed wheat contains not more than 15 percent of moisture as determined by the method prescribed in "Official Methods of Analysis of the Association of Official Analytical Chemists," 13th Ed. (1980), section 7.002 under "Preparation of Sample—Official Final Action," and section 7.003 under "Moisture—Official Final Action. I. Drying in Vacuo at 95–100° (2)," which is incorporated by reference. Copies may be obtained from the Association of Official Analytical Chemists, P.O. Box 540, Benjamin Franklin Station, Washington, DC 20044, or may be examined at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408.

e. In § 137.200 by revising paragraph (c)(1) and by revising the first two sentences in paragraph (c)(2), to read as follows:

§ 137.200 Whole wheat flour.

* * * * *

(c) * * *

(1) Moisture is determined by the method prescribed in "Official Methods of Analysis of the Association of Official Analytical Chemists" (AOAC), 13th Ed. (1980), section 14.002 "Vacuum Oven Method—Official Final Action," and section 14.003, "Determination," which is incorporated by reference. Copies may be obtained from the Association of Official Analytical Chemists, P.O. Box 540, Benjamin Franklin Station, Washington, DC 20044, or may be examined at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408.

(2) The method referred to in paragraph (a) of this section is as follows: Use No. 8 and No. 20 sieves, having standard 8-inch full-height frames, complying with the specifications set forth in the AOAC, Table 1, "Nominal Dimensions of Standard Test Sieves (U.S.A. Standard Series)," under the heading "Definitions of Terms and Explanatory Notes," which is incorporated by reference. The availability of this incorporation by reference is given in paragraph (c)(1) of this section.

* * * * *

f. In § 137.211 by revising the first, second, and sixth sentences in paragraph (b)(2), to read as follows:

§ 137.211 White corn flour.

* * * * *

(b) * * *

(2) The method referred to in paragraph (a) of this section is as follows: Weigh 5 grams of sample into a tared truncated metal cone (top diameter 5 centimeters, bottom diameter 2 centimeters, height 4 centimeters), fitted at bottom with 70-mesh wire cloth complying with the specifications for No. 70 wire cloth in "Official Methods of Analysis of the Association of Official Analytical Chemists," 13th Ed. (1980), Table 1, "Nominal Dimensions of Standard Test Sieves (U.S.A. Standard Series)," under the heading "Definitions of Terms and Explanatory Notes," which is incorporated by reference. Copies may be obtained from the Association of Official Analytical Chemists, P.O. Box 540, Benjamin Franklin Station, Washington, DC 20044, or may be examined at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408. * * * Transfer the residue from cone to a No. 50 sieve having a standard 8-inch diameter full-height frame, complying with the specifications for wire cloth and sieve frame in "Nominal Dimensions of

Standard Test Sieves (U.S.A. Standard Series)."

* * * * *

g. In § 137.230 by revising the first and second sentence in paragraph (b)(2), to read as follows:

§ 137.230 Corn grits.

* * * * *

(b) * * *

(2) The method referred to in paragraph (a) of this section is as follows: Use No. 10 and No. 25 sieves, having standard 8-inch diameter full-height frames, complying with the specifications for wire cloth and sieve frames in "Official Methods of Analysis of the Association of Official Analytical Chemists", 13th Ed. (1980), Table 1, "Nominal Dimensions of Standard Test Sieves (U.S.A. Standard Series)," under the heading "Definitions of Terms and Explanatory Notes," which is incorporated by reference. Copies may be obtained from the Association of Official Analytical Chemists, P.O. Box 540, Benjamin Franklin Station, Washington, DC 20044, or may be examined at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408.

* * * * *

h. In § 137.250 by revising paragraph (b)(1) and by revising the first and second sentences of paragraph (b)(2), to read as follows:

§ 137.250 White corn meal.

* * * * *

(b)(1) For the purposes of this section, moisture, fat, and crude fiber content will be determined by the following methods of analysis from "Official Methods of Analysis of the Association of Official Analytical Chemists," 13th Ed. (1980), which is incorporated by reference (copies may be obtained from the Association of Official Analytical Chemists, P.O. Box 540, Benjamin Franklin Station, Washington, DC 20044, or may be examined at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408):

(i) Moisture content—sections 14.062 and 14.063 (Official Final Action).

(ii) Fat content—sections 14.062 and 14.067 (Official Final Action).

(iii) Crude fiber content—sections 14.062 and 14.065 (Official Final Action).

(2) The method referred to in paragraph (a) of this section is as follows: Use No. 12 and No. 25 sieves, having standard 8-inch diameter full-height frames, complying with the specifications for wire cloth and sieve frames in "Nominal Dimensions of Standard Test Sieves (U.S.A. Standard Series)" prescribed in § 137.105(a), which is incorporated by reference. Copies may be obtained from the Association of Official Analytical Chemists, P.O. Box 540, Benjamin Franklin Station, Washington, DC 20044, or may be examined at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408.

* * * * *

i. In § 137.270 by revising the introductory text in paragraph (b) and by revising the next to last sentence in paragraph (b)(1), to read as follows:

§ 137.270 Self-rising white corn meal.

* * * * *

(b) The method referred to in paragraph (a) of this section is the method prescribed in "Official Methods of Analysis of the Association of Official Analytical Chemists" (AOAC), 13th Ed. (1980), section 8.002, "Reagent (Displacement soln.)," and section 8.003, "Chittick apparatus," under the heading "Total Carbon Dioxide (1)—Official Final Action," which is incorporated by reference. Copies may be obtained from the Association of Official Analytical Chemists, P.O. Box 540, Benjamin Franklin Station, Washington, DC 20044, or may be examined at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408. The following procedure is substituted for the procedure specified in the AOAC, under section 8.004, "Determination".

(1) * * * Observe the termperature of the air surrounding the apparatus and also the barometric pressure and multiply the number of cc. of gas evolved by the factor given in the AOAC, 13th Ed. (1980), section 52.007 under "Reference tables for the temperature and pressure observed," which is incorporated by reference. The availability of this incorporation by reference is given in paragraph (b) of this section. * * *

* * * * *

j. In §137.300 by revising the first and second sentences in paragraph (b)(2), to read as follows:

§ 137.300 Farina.

* * * * *

(b) * * *

(2) The method referred to in paragraph (a) of this section is as follows: Use No. 20 and No. 100 sieves, having standard 8-inch full-height frames, complying with the specifications for such cloth set forth in "Official Methods of Analysis of the Association of Official Analytical Chemists," 13th Ed. (1980), Table 1, "Nominal Dimensions of Standard Test Sieves (U.S.A. Standard Series)," under the heading "Definitions of Terms and Explanatory Notes," which is incorporated by reference. Copies may be obtained from the Association of Official Analytical Chemists, P.O. Box 540, Benjamin Franklin Station, Washington, DC 20044, or may be examined at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408.

* * * * *

k. In § 137.350 by revising the 13th sentence to the end in paragraph (e), to read as follows:

§ 137.350 Enriched rice.

* * * * *

(e) * * * Dilute an aliquot of filtrate with 0.1 *N* hydrochloric acid, so that each milliliter contains about 0.2 microgram of thiamine, and determine thiamine by the "Rapid Fluorometric Method—Official Final Action," in section 43.034 of "Official Methods of Analysis of the Association of Official Analytical Chemists" (AOAC), 13th Ed. (1980), which is incorporated by reference. Copies may be obtained from the Association of Official Analytical Chemists, P.O. Box 540, Benjamin Franklin Station, Washington, DC 20044, or may be examined at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408. With a suitable aliquot determine riboflavin by the method prescribed in section 43.041(a) by the "Fluorometric Method—Official Final Action," AOAC, 13th Ed. (1980), beginning with the third sentence of the second paragraph, "Adjust, with vigorous agitation * * *." Determined niacin in a 200-milliliter aliquot of the filtrate by the "Colorimetric Method—Official final Action," in section 43.045, AOAC, 13th Ed. (1980), beginning with the sixth sentence of the first paragraph, "Adjust to pH 4.5 with * * *." Evaporate to dryness a 100-milliliter aliquot of the nonfiltered material withdrawn while agitating, and determine iron using the method "Iron—Official Final Action," in sections 14.011, 14.012, and 14.013, AOAC, 13th Ed. (1980), and, if required, determine calcium as directed in section 14.014 under the heading "Calcium—Official Final Action," AOAC, 13th Ed. (1980).

* * * * *

PART 139—MACARONI AND NOODLE PRODUCTS

10. Part 139 is amended:

a. In § 139.110 by revising paragraph (a)(5), to read as follows:

§ 139.110 Macaroni products.

(a) * * *

(5) Gum gluten, in such quantity that the protein content of the finished food is not more than 13 percent by weight.

The finished macaroni product contains not less than 87 percent of total solids as determined by the method prescribed in "Official Methods of Analysis of the Association of Official Analytical Chemists," 13th Ed. (1980), in section 14.133, under the heading "Vacuum Oven Method—Official Final Action," which is incorporated by reference. Copies may be obtained from the Association of Official Analytical Chemists, P.O. Box 540, Benjamin Franklin Station, Washington, DC 20044, or may be examined at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408.

* * * * *

b. In § 139.117 by revising paragraph (a)(2), to read as follows:

§ 139.117 Enriched macaroni products with fortified protein.

(a) * * *

(2) Each such finished food, when tested by the methods described in the cited sections of "Official Methods of Analysis of the Association of Official Analytical Chemists," 13th Ed. (1980), which is incorporated by reference (copies may be obtained from the Association of Official Analytical Chemists, P.O. Box 540, Benjamin Franklin Station, Washington, DC 20044, or may be examined at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408) meets the following specification:

(i) The protein content (N × 6.25) is not less than 20 percent by weight (on a 13 percent moisture basis) as determined by the method in section 14.142. The protein quality is not less than 95 percent that of casein as determined on the cooked food by the method in sections 43.212 through 43.216 of the official methods.

(ii) The total solids content is not less than 87 percent by weight as determined by the method in section 14.133 of the official methods.

* * * * *

c. In § 139.150 by revising the second and third sentences in paragraph (a)(4), to read as follows:

§ 139.150 Noodle products.

(a) * * *

(4) * * * The finished noodle product contains not less than 87 percent of total solids as determined by the method prescribed in "Official Methods of Analysis of the Association of Official Analytical Chemists," 13th Ed. (1980), in section 14.133, under the heading "Vacuum Oven Method—Official Final Action," which is incorporated by reference. Copies may be obtained from the Association of Official Analytical Chemists, P.O. Box 540, Benjamin Franklin Station, Washington, DC 20044, or may be examined at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408.* * *

* * * * *

PART 145—CANNED FRUITS

11. Part 145 is amended:

a. In § 145.3 by revising paragraph (m) and by revising the third sentence in paragraph (n), to read as follows:

§ 145.3 Definitions.

* * * * *

(m) The procedure for determining the densities of the packing medial means the following: The density of the packing medium, when measured 15 days or more after packing, or the denisty of the blended homogenized slurry of the comminuted entire contents of the container, when measured less than 15 days after canning, is determined according to "Official Methods of Analysis of the Association of Official Analytical Chemists," 13th Ed. (1980), which is incorporated by reference, section 31.011 (Solids) "By Means of the Refractometer—Official Final Action" (and sections 52.012 and 52.015) with result expressed as percent by weight of sucrose (degrees Brix) with correction for temperature to the equivalent at 20° C, but without correction for invert sugar or other substances. Copies of the material incorporated by reference may be obtained from the Association of Official Analytical Chemists, P.O. Box 540 Benjamin Franklin Station, Washington, DC 20044, or may be examined at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408.

(n) * * * The bottom of the sieve is woven-wire cloth which complies with the specifications for the No. 8 sieve set forth in the "Definitions of Terms and Explanatory Notes" of the "Official Methods of Analysis of the Association of Official Analytical Chemists," 13th Ed. (1980), which is incorporated by reference. * * *

* * * * *

(b). In § 145.110 by revising the fifth and sixth sentences in paragraph (a)(1), to read as follows:

§ 145.110 Canned applesauce.

(a) * * * (1) * * * The soluble solids content, measured by refractometer and expressed as percent sucrose (degrees Brix) with correction for temperature to the equivalent at 20° C (68° F), is not less than 9 percent (exclusive of the solids of any added optional nutritive carbohydrate sweeteners) as determined by the method prescribed in "Official Methods of Analysis of the Association of Official Analytical Chemists," 13th Ed. (1980), section 22.024, "Soluble Solids by Refractometer in Fresh and Canned Fruits, Jams, Marmalades, and Preserves—Official First Action," which is incorporated by reference, but without correction for invert sugar or other substances. Copies may be obtained from the Association of Official Analytical Chemists, P.O. Box 540, Benjamin Franklin Station, Washington, DC 20044, or may be examined at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408.

* * * * *

c. In § 145.125 by revising the third and fourth sentences in paragraph (b)(2)(ii), to read as follows:

§ 145.125 Canned cherries.

* * * * *

(b) * * *

(2) * * *

(ii) * * * The bottom of the sieve is No. 8 woven-wire cloth that complies with the specifications for such cloth set forth in the "Official Methods of Analysis of the Association of Official Analytical Chemists," 13th Ed. (1980), Table 1, "Nominal Dimensions of Standard Test Sieves (U.S.A. Standard Series)," under the heading "Definitions of Terms and Explanatory Notes," which is incorporated by reference. Copies may be obtained from the Association of Official Analytical Chemists, P.O. Box 540, Benjamin Franklin Station, Washington, DC 20044, or may be examined at the Office of the Federal Register, 1100 L St., NW., Washington, DC 20408.

* * * * *

d. In § 145.135 by revising the first and second sentences in paragraph (b)(1)(i) and by revising the fourth and fifth sentences in paragraph (c)(1), to read as follows:

§ 145.135 Canned fruit cocktail.

* * * * *

(b) * * *

(1) * * *

(i) Not more than 20 percent by weight of the units in the container of peach or pear, or of pineapple if the units thereof are diced, are more than ¾ inch in greatest edge dimension, or pass through the meshes of a sieve designated as 5/16 inch that complies with the specifications for such cloth set forth in the "Official Methods of Analysis of the Association of Official Analytical Chemists," 13th Ed. (1980), Table 1, "Nominal Dimensions of Standard Test Sieves (U.S.A. Standard Series)," under the heading "definitions of Terms and

Explanatory Notes," which is incorporated by reference. Copies may be obtained from the Association of Official Analytical chemists, P.O. Box 540, Benjamin Franklin Station, Washington, DC 20044, or may be examined at the Office of the Federal Register, 1100 L St., NW., Washington, DC 20408. * * *

* * * * *

(c) * * *

(1) * * * The bottom of the sieve is woven-wire cloth that complies with the specifications for such cloth set forth under "2380 Micron (No. 8)" in Table 1, "Nominal Dimensions of Standard Test Sieves (U.S.A. Standard Series)," prescribed in paragraph (b)(1)(i) of this section, which is incorporated by reference. The availability of this incorporation by reference is given in paragraph (b)(1)(i) of this section. * * *

* * * * *

e. In § 145.145 by revising the introductory text of paragraph (a)(3)(iii) and by revising the third and fourth sentences in paragraph (c)(2), to read as follows:

§ 145.145 Canned grapefruit.

(a) * * *

(3) * * *

(iii) The respective densities of packing media in paragraph (a)(3)(i) (*d*) to (*i*) of this section as measured on the refractometer, expressed as percent by weight sucrose (degrees Brix) with correction for temperature to the equivalent at 20° C (68° F), 15 days or more after the grapefruit are canned or the blended homogenized slurry of the comminuted entire contents of the container if canned for less than 15 days, according to the "Official Methods of Analysis of the Association of Official Analytical Chemists" (AOAC), 13th Ed. (1980), section 31.011 under "Solids By Means of Refractometer—Official Final Action," and Reference Tables, section 52.012 (Refractive indices (n) of sucrose solutions at 20°) and section 52.015 (Refractive indices of invert sugar solutions), which is incorporated by reference (copies may be obtained from the Association of Official Analytical Chemists, P.O. Box 540, Benjamin Franklin Station, Washington, DC 20044, or may be examined at the Office of the Federal Register, 1100 L St., NW., Washington, DC 20408), but without correction for invert sugar or other substances, are as follows:

* * * * *

(c) * * *

(2) * * * The bottom of the sieve is woven-wire cloth that complies with the specifications for the No. 8 sieve set forth in the "Definitions of Terms and Explanatory Notes" of the AOAC, 13th Ed. (1980), Table 1, which is incorporated by reference. The availability of this incorporation by reference is given in paragraph (a)(3)(iii) of this section. * * *

* * * * *

PART 146—CANNED FRUIT JUICES

12. Part 146 is amended:

a. In § 146.113 by revising the third and fourth sentences in paragraph (a) and by revising the seventh and eighth sentences in paragraph (b)(3), to read as follows:

§ 146.113 Canned fruit nectars.

(a) * * * The consistency of the finished product is such that the time of flow is not less than 30 seconds when tested by the method set forth in "Official Methods of Analysis of the Association of Official Analytical Chemists" (AOAC), 13th Ed. (1980), sections 22.009–22.011, under "Apparent Viscosity (Consistency), Official Final Action," which is incorporated by reference. Copies may be obtained from the Association of Official Analytical Chemists, P.O. Box 540, Benjamin Franklin Station, Washington, D.C. 20044, or may be examined at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408. * * *

(b) * * *

(3) * * * The weight of any fruit ingredient shall be determined as follows: Determine the percent of soluble solids in such fruit ingredient by the method prescribed in the AOAC, 13th Ed. (1980), section 31.011, under "Solids," which is incorporated by reference. The availability of this incorporation by reference is given in paragraph (a) of this section. * * *

* * * * *

b. In § 146.114 by revising the fifth and sixth sentences in paragraph (a)(1), to read as follows:

§ 146.114 Lemon juice.

(a) * * * (1) * * * When prepared from concentrated lemon juice, the finished food contains not less than 6 percent, by weight, of soluble solids taken as the refractometric sucrose value (of the filtrate), corrected to 20° C, but uncorrected for acidity, in accordance with the "International Scale of Refractive Indices of Sucrose Solutions" in table 52.012 of "Official Methods of Analysis of the Association of Official Analytical Chemists," 13th Ed. (1980), which is incorporated by reference, and has a titratable acidity content of not less than 4.5 percent, by weight, calculated as anhydrous citrus acid. Copies of the incorporation by reference may be obtained from the Association of Official Analytical Chemists, P.O. Box 540, Benjamin Franklin Station, Washington, DC 20044, or may be examined at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408. * * *

* * * * *

c. In § 146.120 by revising the second and third sentences in paragraph (a), to read as follows:

§ 146.120 Frozen concentrate for lemonade.

(a) * * * The product contains not less than 48.0 percent by weight of soluble solids taken as the sucrose value determined by refractometer and corrected for acidity prescribed in "Official Methods of Analysis of the Association of Official Analytical Chemists," 13th Ed. (1980), section 22.025, "Frozen Concentrate for Lemonade (12)," under the heading "Soluble Solids by Refractometer—Official First Action," which is incorporated by reference. Copies may be obtained from the Association of Official Analytical Chemists, P.O. Box 540, Benjamin Franklin Station, Washington, DC 20044, or may be examined at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408. * * *

* * * * *

d. In § 146.185 by revising paragraph (b)(2)(i), to read as follows:

§ 146.185 Canned pineapple juice.

* * * * *

(b) * * *

(2) * * *

(i) Determine the degrees Brix of the canned pineapple juice by the method prescribed in "Official Methods of Analysis of the Association of Official Analytical Chemists," 13th Ed. (1980), section 31.009, "Solids by Means of Spindle—Official Final Action," which is incorporated by reference. Copies may be obtained from the Association of Official Analytical Chemists, P.O. Box 540, Benjamin Franklin Station, Washington, DC 20044, or may be examined at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408.

* * * * *

PART 150—FRUIT BUTTERS, JELLIES, PRESERVES, AND RELATED PRODUCTS

13. Part 150 is amended:

a. In § 150.110 by revising paragraph (d) (3) and (5), to read as follows:

§ 150.110 Fruit butter.

* * * * *

(d) * * *

(3) The soluble solids content of the finished fruit butter is not less than 43 percent, as determined by the method prescribed in "Official Methods of Analysis of the Association of Official Analytical Chemists" (AOAC), 13th Ed. (1980), section 22.024, under "Soluble Solids by Refractometer in Fresh and Canned Fruits, Fruit Jellies, Marmalades, and Preserves—Official Final Action," which is incorporated by reference, except that no correction is made for water-insoluble solids. Copies may be obtained from the Association of Official Analytical Chemists, P.O. Box 540, Benjamin Franklin Station, Washington, DC 20044, or may be examined at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408.

* * * * *

(5) The weight of fruit juice or diluted fruit juice or concentrated fruit juice (optional ingredient, paragraph (c)(6)) from a fruit specified in paragraph (b)(1) of this section is the weight of such juice, as determined by the method prescribed in paragraph (d)(2) of this section, except that the precent of soluble solids is determined by the method prescribed in the AOAC, 13th Ed. (1980), section 31.011, under "Solids by Means of Refractometer—Official Final Action," which is incorporated by reference; the weight of diluted concentrated juice from any other fruits is the original weight of the juice before it was diluted or concentrated. The availability of this incorporation by reference is given in paragraph (d)(3) of this section.

* * * * *

b. In § 150.140 by revising paragraph (d)(3), to read as follows:

§ 150.140 Fruit jelly.

* * * * *

(d) * * *

(3) The soluble solids content of the finished jelly is not less than 85 percent, as determined by the method prescribed in "Official Methods of Analysis of the Association of Official Analytical Chemists," 13th Ed. (1980), section 31.011, under "Solids by Means of Refractometer—Official Final Action," which is incorporated by reference. Copies may be obtained from the Association of Official Analytical Chemists, P.O. Box 540, Benjamin Franklin Station, Washington, DC 20044, or may be examined at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408.

* * * * *

c. In § 150.160 by revising paragraph (d)(5), to read as follows:

§ 150.160 Fruit preserves and jams.

* * * * *

(d) * * *

(5) The soluble solids content of the finished jam or preserve is not less than 85 percent, as determined by the method prescribed in "Official Methods of Analysis of the Association of Official Analytical Chemists," 13th Ed. (1980), section 22.024, under "Soluble Solids by Refractometer in Fresh and Canned Fruits, Jellies, Marmalades, and Preserves—Official Final Action," which is incorporated by reference, except that no correction is made for water-insoluble solids. Copies may be obtained from the Association of Officials Analytical Chemists, P.O. Box 540, Benjamin Franklin Station, Washington, DC 20044, or may be examined at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408.

* * * * *

PART 155—CANNED VEGETABLES

14. Part 155 is amended:

a. In § 155.120 by revising the fourth and fifth sentences in paragraph (b)(2)(i), to read as follows:

§ 155.120 Canned green beans and canned wax beans.

* * * * *

(b) * * *

(2) * * *

(i) * * * The bottom of the sieve is woven-wire cloth that complies with the specifications for such cloth set forth in "Official Methods of Analysis of the Association of Official Analytical Chemists," 13th Ed. (1980), Table 1, "Nominal Dimensions of Standard Test Sieves (U.S.A. Standard Series)," under the heading "Definitions of Terms and Explanatory Notes," which is incorporated by reference. Copies may be obtained from the Association of Official Analytical Chemists, P.O. Box 540, Benjamin Franklin Station, Washington, DC 20044, or may be examined at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408. * * *

* * * * *

b. In § 155.130 by revising the fourth and fifth sentences in paragraph (b)(2)(i) and by revising paragraph (c)(1)(ii), to read as follows:

§ 155.130 Canned corn.

* * * * *

(b) * * *

(2) * * *

(i) * * * The bottom of the sieve is woven-wire cloth that complies with the specifications for such sieve set forth in the "Definitions of Terms and Explanatory Notes" prescribed in "Official Methods of Analysis of the Association of Official Analytical Chemists," 13th Ed. (1980), Table 1, "Nominal Dimensions of Standard Test Sieves (U.S.A. Standard Series)," under the heading "Definitions of Terms and Explanatory Notes," which is incorporated by reference. Copies may be obtained from the Association of Official Analytical Chemists, P.O. Box 540, Benjamin Franklin Station, Washington, DC 20044, or may be examined at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408. * * *

* * * * *

(c) * * *

(1) * * *

(ii) In whole kernel corn, the drained weight of the corn ingredient, determined by the procedure set forth in § 155.3, shall not be less than 61 percent of the water capacity of the container.

* * * * *

PART 160—EGGS AND EGG PRODUCTS

15. Part 160 is amended in § 160.180 by revising the first and second sentences, to read as follows:

§ 160.180 Egg yolks.

Egg yolks, liquid egg yolks, yolks, liquid yolks are yolks of eggs of the domestic hen, so separated from the whites thereof as to contain not less than 43 percent total egg solids, as determined by the method prescribed in "Official Methods of Analysis of the Association of Official Analytical Chemists," 13th Ed. (1980), sections 17.006 and 17.007 under "Total Solids, Vacuum Method (3)—Official Final Action," which is incorporated by reference. Copies may be obtained from the Association of Official Analytical Chemists, P.O. Box 540, Benjamin Franklin Station, Washington, DC 20044, or may be examined at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408. * * *

* * * * *

PART 161—FISH AND SHELLFISH

16. Part 161 is amended:

a. In § 161.145 by revising the fourth and fifth sentences in paragraph (c)(3), to read as follows:

§ 161.145 Canned oysters.

* * * * *

(c) * * *

(3) * * * The bottom of the sieve is woven-wire cloth that complies with the specifications for such cloth set forth under "2380 Micron (No. 8)" in "Official Methods of Analysis of the Association of Official Analytical Chemists," 13th Ed. (1980), Table 1, "Nominal Dimensions of Standard Test Sieves (U.S.A. Standard Series)," under the heading "Definitions of Terms and Explanatory Notes," which is incorporated by reference. Copies may be obtained from the Association of Official Analytical Chemists, P.O. Box 540, Benjamin Franklin Station, Washington, DC 20044, or may be examined at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408. * * *

* * * * *

b. In § 171.173 by revising the sixth and seventh sentences in paragraph (c)(1), to read as follows:

§ 161.173 Canned wet pack shrimp in transparent or nontransparent containers.

* * * * *

(c) * * *

(1) * * * The bottom of the sieve is woven-wire cloth that complies with the specifications for such cloth set forth as a 2.36-millimeter (No. 8) sieve in the "Definitions of Terms and Explanatory Notes" of the "Official Methods of Analysis of the Association of Official Analytical Chemists," 13th Ed. (1980), which is incorporated by reference. Copies may be obtained from the Association of Official Analytical Chemists, P.O. Box 540, Benjamin Franklin Station, Washington, DC 20044, or may be examined at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408. * * *

* * * * *

c. In § 161.175 by revising paragraph (g)(1)(v), to read as follows:

§ 161.175 Frozen raw breaded shrimp.

* * * * *

(g) * * *

(1) * * *

(v) U.S. Standard Sieve No. 20, 12 inch diameter. The sieves shall comply with the specifications for such cloth set forth in "Official Methods of Analysis of the Association of Official Analytical Chemists," (AOAC), 13th Ed. (1980), Table 1, "Nominal Dimensions of Standard Test Sieves (U.S.A. Standard Series)," under the heading "Definitions of Terms and Explanatory Notes," which is incorporated by reference. Copies may be obtained from the Association of Official Analytical Chemists, P.O. Box 540, Benjamin Franklin Station, Washington, DC 20044, or may be examined at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408.

* * * * *

d. In § 161.190 by revising the second and third sentences of the introductory text of paragraph (a)(7) and by revising the second sentence and by removing the third sentence in paragraph (c)(3)(iv), to read as follows:

§ 161.190 Canned tuna.

(a) * * *

(7) * * * Pass the combined portions through a sieve fitted with woven-wire cloth of ¼-inch mesh complying with the specifications for such cloth set forth in "Official Methods of Analysis of the Association of Official Analytical Chemists," 13th Ed. (1980), Table 1, "Nominal Dimensions of Standard Test Sieves (U.S.A. Standard Series)," under the heading "Definitions of Terms and Explanatory Notes," which is incorporated by reference. Copies may be obtained from the Association of Official Analytical Chemists, P.O. Box 540, Benjamin Franklin Station, Washington, DC 20044, or may be examined at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408. * * *

* * * * *

(c) * * *

(3) * * *

(iv) * * * The mesh in the top sieve complies with the specifications for 1 ½-inch woven-wire cloth as prescribed in paragraph (a)(7) of this section. * * *

* * * * *

PART 163—CACAO PRODUCTS

17. Part 163 is amended:

a. In § 163.110 by revising the last two sentences of paragraph (a), to read as follows:

§ 163.110 Cacao nibs.

(a) * * * The cacao shell content of cacao nibs is not more than 1.75 percent by weight (calculated to an alkali-free basis if they or the cacao beans from which they were prepared have been processed with alkali), as determined by the method prescribed under "Shell in Cacao Nibs—Official final Action" prescribed in the "Official Methods of Analysis of the Association of Official Analytical Chemists," 12th Ed. (1975), sections 13.010–13.014, which is incorporated by reference. Copies may be obtained from the Association of Official Analytical Chemists, P.O. Box 540, Benjamin Franklin Station, Washington, DC 20044, or may be examined at the Office of the Federal Register, 1100 L St. NE., Washington, DC 20408.

* * * * *

b. In § 163.111 by revising the last two sentences of the paragraph that follows paragraph (a)(5), to read as follows:

§ 163 111 Chocolate liquor.

(a) * * *

(5) * * *

* * * Unless the chocolate liquor is seasoned with butter, milkfat, or ground nut meats, the percentage of cacao fat is determined by the method prescribed under "Fat Method I—Official Final Action" in the "Official Methods of Analysis of the Association of Official Analytical Chemists," 13th Ed. (1980), section 13.031, which is incorporated by reference. Copies may be obtained from the Association of Official Analytical Chemists, P.O. Box 540, Benjamin Franklin Station, Washington, DC 20044, or may be examined at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408.

* * * * *

c. In § 163.112 by revising the last two sentences of the text that follows paragraph (a)(4), to read as follows:

§ 163.112 Breakfast cocoa.

(a) * * *

(4) * * *

* * The finished breakfast cocoa contains not less than 22 percent of cacao fat, as determined by the method prescribed under "Fat Method I—Official Final Action" prescribed in the "Official Methods of Analysis of the Association of Official Analytical Chemists," 13th Ed. (1980), section 13.031, which is incorporated by reference. Copies may be obtained from the Association of Official Analytical Chemists, P.O. Box 540, Benjamin Franklin Station, Washington, DC 20044, or may be examined at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408.

* * * * *

PART 164—TREE NUT AND PEANUT PRODUCTS

18. Part 164 is amended in § 164.150 by revising the last two sentences of paragraph (a), to read as follows:

§ 164.150 Peanut butter.

(a) * * * The fact content of the finished food shall not exceed 55 percent when determined as prescribed in "Official Methods of Analysis of the Association of Official Analytical Chemists," 13th Ed. (1980), section 27.006(a) under "Crude Fat—Official First Action, Direct Method," in

paragraph (a), which is incorporated by reference. Copies may be obtained from the Association of Official Analytical Chemists, P.O. Box 540, Benjamin Franklin Station, Washington, DC 20044, or may be examined at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408.

* * * * *

PART 166—MARGARINE

19. Part 166 is amended in § 166.110 by revising the first and second sentences in paragraph (a), to read as follows:

§ 166.110 Margarine.

(a) Margarine (or oleomargarine) is the food in plastic form or liquid emulsion, containing not less than 80 percent fat determined by the method prescribed in "Official Methods of Analysis of the Association of Official Analytical Chemists," 13th Ed. (1980), section 16.206, "Indirect Method," under the heading "Fat (47)—Official Final Action," which is incorporated by reference. Copies may be obtained from the Association of Official Analytical Chemists, P.O. Box 540, Benjamin Franklin Station, Washington, DC 20044, or may be examined at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408.

* * * * *

PART 168—SWEETENERS AND TABLE SIRUPS

20. Part 168 is amended:

a. In § 168.111 by revising the introductory text of paragraph (d) and by revising paragraphs (d) (2), (3), and (4), to read as follows:

§ 168.111 Dextrose monohydrate.

* * * * *

(d) For purpose of this section, the methods of analysis to be used to determine if the food meets the specifications of paragraph (b) (1) and (2) of this section are the following sections in "Official Methods of Analysis of the Association of Official Analytical Chemists," 13th Ed. (1980), which is incorporated by reference. Copies may be obtained from the Association of Official Analytical Chemists, P.O. Box 540, Benjamin Franklin Station, Washington, DC 20044, or may be examined at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408.

* * * * *

(2) Reducing sugar content, § 31.220(a).

(3) Sulfated ash content, § 31.216.

(4) Sulfur dioxide content, §§ 20.106–20.111.

* * * * *

b. In § 168.120 by revising paragraph (d), to read as follows:

§ 168.120 Glucose sirup.

* * * * *

(d) For purposes of this section, the methods of analysis to be used to determine if the food meets the specifications of paragraphs (b) (1) and (2) of this section are the following sections in "Official Methods of Analysis of the Association of Official Analytical Chemists," 13th Ed. (1980), which is incorporated by reference. Copies may be obtained from the Association of Official Analytical Chemists, P.O. Box 540, Benjamin Franklin Station, Washington, DC 20044, or may be examined at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408.

(1) Total solids content, §§ 31.206–31.209.

(2) Reducing sugar content, § 31.220(a).

(3) Sulfated ash content, § 31.216.

(4) Sulfur dioxide content, sections 20.106–20.111.

* * * * *

c. In § 168.122 by revising the introductory text of paragraph (d)(1) and by revising paragraph (d)(1)(i), to read as follows:

§ 168.122 Lactose.

* * * * *

(d)(1) The methods of analysis to be used to determine whether the food meets the requirements of paragraph (b)(1), (2), and (3) of this section are the following sections in "Official Methods of Analysis of the Association of Official Analytical Chemists," 13th Ed. (1980), which is incorporated by reference. Copies may be obtained from the Association of Official Analytical Chemists, P.O. Box 540, Benjamin Franklin Station, Washington, DC 20044, or may be examined at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408.

(i) Lactose content, § 31.061.

* * * * *

PART 169—FOOD DRESSINGS AND FLAVORINGS

21. Part 169 is amended in § 169.3 by revising the third and fourth sentences in paragraph (b), to read as follows:

§ 169.3 Definitions.

* * * * *

(b) * * * The moisture content of vanilla beans is determined by the method prescribed in "Official Methods of Analysis of the Association of Official Analytical Chemists," 13th Ed. (1980), sections 7.004 and 7.005, which is incorporated by reference, except that the toluene used is blended with 20 percent by volume of benzene and the total distillation time is 4 hours. Copies of the material incorporated by reference may be obtained from the Association of Official Analytical Chemists, P.O. Box 540, Benjamin Franklin Station, Washington, DC 20044, or may be examined at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408.

* * * * *

PART 172—FOOD ADDITIVES PERMITTED FOR DIRECT ADDITION TO FOOD FOR HUMAN CONSUMPTION

22. Part 172 is amended.

a. In § 172.215 by revising paragraph (b)(1), to read as follows:

§ 172.215 Coumarone-indene resin.

* * * * *

(b) * * *

(1) Softening point, ring and ball: 126° C minimum as determined by ASTM method E28–67 (1977), "Standard Test Method for Softening Point by Ring and Ball Apparatus," which is incorporated by reference. Copies may be obtained from the American Society for Testing Materials, 1916 Race St., Philadelphia, PA 19103, or may be examined at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408.

* * * * *

b. In § 172.250 by revising the entries for "Determination of boiling-point range" and "Determination of nonvolatile residue" in paragraph (b)(3), to read as follows:

§ 172.250 Petroleum naphtha.

* * * * *

(b) * * *

(3) * * *

Analytical Specifications for Petroleum Naphtha

* * * * *

Determination of boiling-point range. Use ASTM method D86–78, "Standard Method of Test for Distillation of Petroleum Products," which is incorporated by reference. Copies may be obtained from the American Society for Testing Materials, 1916 Race St., Philadelphia, PA 19103, or may be examined at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408.

Determination of nonvolatile residue. For hydrocarbons boiling below 250° F, determine the nonvolatile residue by ASTM method D1353–78, "Standard Method of Test for Nonvolatile Matter in Volatile Solvents for Use in Paint, Varnish, Lacquer, and Related Products;" for those boiling above 250° F, use ASTM method D381–80, "Standard Method of

Test for Existent Gum in Fuels by Jet Evaporation," which methods are incorporated by reference. Copies may be obtained from the American Society for Testing Materials, 1916 Race St. Philadelphia, PA 19103, or may be examined at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408.

* * * * *

c. In § 172.280 by revising paragraph (a), to read as follows:

§ 172.280 Terpene resin.

* * * * *

(a) The food additive is the betapinene polymer obtained by polymerizing terpene hydrocarbons derived from wood. It has a softening point of 112° C–118° C, as determined by ASTM method E28–67 (1977), "Standard Test Method for Softening Point By Ring and Ball Apparatus," which is incorporated by reference. Copies may be obtained from the American Society for Testing Materials, 1916 Race St. Philadelphia, PA 19103, or may be examined at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408.

* * * * *

d. In § 172.320 by revising paragraph (b)(1) and by revising the first and second sentences in paragraph (d), to read as follows:

§ 172.320 Amino acids.

* * * * *

(b) * * *

(1) As found in "Food Chemicals Codex," National Academy of Sciences/National Research Council (NAS/NRC), 3d Ed. (1981), which is incorporated by reference (copies may be obtained from the National Academy Press, 2101 Constitution Ave. NW., Washington, DC 20418, or may be examined at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408) for the following:

L-Alanine
L-Arginine
L-Arginine Monohydrochloride
L-Cysteine Monohydrochloride
L-Cystine
Aminoacetic acid (glycine)
L-Leucine
DL-Methionine
L-Methionine
L-Tryptophan
L-Phenylalanine
L-Proline
L-Serine
L-Threonine
Glutamic Acid Hydrochloride
L-Isoleucine
L-Lysine Monohydrochloride
Monopotassium L-glutamate
L-Tyrosine
L-Valine

* * * * *

(d) Compliance with the limitations concerning PER under paragraph (c) of this section shall be determined by the method described in § 43.212, "Official Methods of Analysis of the Association of Official Analytical Chemists," 13th Ed. (1980), which is incorporated by reference. Copies may be obtained from the Association of Official Analytical Chemists, P.O. Box 540, Benjamin Franklin Station, Washington, D.C. 20044, or may be examined at the Office of the Federal Register, 1100 L St. NW., Washington, D.C. 20408.

* * * * *

e. In § 172.372 by revising the first and second sentences in paragraph (d), to read as follows:

§ 172.372 N-Acetyl-L-methionine.

* * * * *

(d) Compliance with the limitations concerning PER under paragraph (c) of this section shall be determined by the method described in § 43.212, "Official Methods of Analysis of the Association of Official Analytical Chemists," 13th Ed. (1980), which is incorporated by reference. Copies may be obtained from the Association of Official Analytical Chemists," P.O. Box 540, Benjamin Franklin Station, Washington, D.C. 20044, or may be examined at the Office of the Federal Register, 1100 L St. NW., Washington, D.C. 20408.

* * * * *

f. In § 172.385 by revising paragraph (c) (1), (2) and (3), to read as follows:

§ 172.385 Whole fish protein concentrate.

* * * * *

(c) * * *

(1) Protein content (N x 6.25) shall not be less than 75 percent by weight of the final product, as determined by the method described in section 2.057 in "Official Methods of Analysis of the Association of Official Analytical Chemists" (AOAC), 13th Ed. (1980). Protein quality shall not be less than 100, as determined by the method described in section 43.212 of the AOAC. The 13th Ed. is incorporated by reference, and copies may be obtained from the Association of Official Analytical Chemists, P.O. Box 540, Benjamin Franklin Station, Washington, D.C. 20044, or may be examined at the Office of the Federal Register, 1100 L St. NW., Washington, D.C. 20408.

(2) Moisture content shall not exceed 10 percent by weight of the final product, as determined by the method described in section 24.003 of the AOAC. See paragraph (c)(1) of this section for availability of the material incorporated by reference.

(3) Fat content shall not exceed 0.5 percent by weight of the final product, as determined by the method described in section 24.005 of the AOAC. See paragraph (c)(1) of this section for availability of the material incorporated by reference.

* * * * *

g. In § 172.510 by revising the footnote at the end of the section, to read as follows:

§ 172.510 Natural flavoring substances and natural substances used in conjunction with flavors.

* * * * *

[1] As determined by using the method (or, in other than alcoholic beverages, a suitable adaptation thereof) in section 9.129 of the "Official Methods of Analysis of the Association of Official Analytical Chemists," 13th Ed. (1980), which is incorporated by reference. Copies may be obtained from the Association of Official Analytical Chemists, P.O. Box 540, Benjamin Franklin Station, Washington, D.C. 20044 or may be examined at the Office of the Federal Register, 1100 L St. NW., Washington, D.C. 20408.

* * * * *

h. In § 172.615 by revising the entries for "Paraffin" and "Natural resin" in the table in paragraph (a), to read as follows:

§ 172.615 Chewing gum base.

* * * * *

(a) * * *

Synthetic	Specifications
* * * * *	
Paraffin	Synthesized by Fischer-Tropsch process from carbon monoxide and hydrogen which are catalytically converted to a mixture of paraffin hydrocarbon. Lower molecular weight fractions are removed by distillation. The residue is hydrogenated and further treated by percolation through activated charcoal. The product has a congealing point of 200°–210° F as determined by ASTM method D938–71 (1981), "Congealing Point of Pharmaceutical Petrolatums," ASTM method D721–56T "Tentative Method of Test for Oil Content of Petroleum Waxes," and ASTM method E131–81(a), "Standard Definitions of Terms and Symbols Relating to Molecular Spectroscopy," which are incorporated by reference. Copies may be obtained from the American Society for Testing Materials, 1916 Race St., Philadelphia, PA 19103, or may be examined at the Office of the Federal Register 1100 L St. NW., Washington, D.C. 20408.
* * * * *	
Terpene Resins[1]	
* * * * *	
Natural resin	Consisting of polymers of -pinene; softening point minimum 155° C, determined by U.S.P closed-capillary method, United States Pharmacopeia XX (1980) (page 961).
* * * * *	

i. In § 172.810 by revising the introductory text, to read as follows:

§ 172.810 Dioctyl sodium sulfosuccinate.

The food additive dioctyl sodium sulfosuccinate, which meets the specifications of the Food Chemicals Codex, 3d Ed. (1981), pp. 102–104, which is incorporated by reference (copies may be obtained from the National Academy Press, 2101 Constitution Ave. NW., Washington, D.C. 20418, or may be examined at the Office of the Federal Register, 1100 L St. NW., Washington, D.C. 20408), may be safely used in food in accordance with the following prescribed conditions:

* * * * *

j. In § 172.812 by revising paragraph (a), to read as follows:

§ 172.812 Glycine.

* * * * *

(a) The additive complies with the specifications of the "Food Chemicals Codex," 3d Ed. (1981), p. 140, which is incorporated by reference. Copies may be obtained from the National Academy Press, 2101 Constitution Ave. NW., Washington, DC 20418, or may be examined at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408.

* * * * *

k. In § 172.820 by revising paragraph (b)(1), to read as follows:

§ 172.820 Polyethylene glycol (mean molecular weight 200–9,500).

* * * * *

(b) *Analytical method.* (1) The analytical method prescribed in the United States Pharmacopeia XX (1980), page 1244, for polyethylene glycol 400 shall be used to determine the total ethylene and diethylene glycol content of polyethylene glycols having mean molecular weights of 450 or higher.

* * * * *

l. In § 172.846 by revising paragraph (b), to read as follows:

§ 172.846 Sodium stearoyl lactylate.

* * * * *

(b) The additive meets the specifications of the "Food Chemicals Codex," 3d Ed. (1981), pp. 300–301, which is incorporated by reference. Copies may be obtained from the National Academy Press, 2101 Constitution Ave. NW., Washington, DC 20418, or may be examined at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408.

* * * * *

m. In § 172.860 by revising paragraph (c)(2), to read as follows:

§ 172.860 Fatty acids.

* * * * *

(c) * * *

(2) Chick-edema factor shall be determined by the bioassay method described in "Official Methods of Analysis of the Association of Official Analytical Chemists," 13th Ed. (1980), §§ 28.127–28.128, which is incorporated by reference. Copies may be obtained from the Association of Official Analytical Chemists, P.O. Box 540, Benjamin Franklin Station, Washington, DC 20044, or may be examined at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408.

* * * * *

n. In § 172.862 by revising paragraph (b) (1) and (2), to read as follows:

§ 172.862 Oleic acid derived from tall oil fatty acids.

* * * * *

(b) * * *

(1) Specifications for oleic acid prescribed in the "Food Chemicals Codex," 3d Ed. (1981), pp. 207–208, which is incorporated by reference, except that titer (solidification point) shall not exceed 13.5° C and unsaponifiable matter shall not exceed 0.5 percent. Copies of the material incorporated by reference may be obtained from the National Academy Press, 2101 Constitution Ave. NW., Washington, DC 20418, or may be examined at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408.

(2) The resin acid content does not exceed 0.01 as determined by ASTM method D1240–54 (Reapproved 1981), "Standard Method of Test for Rosin Acids in Fatty Acids," which is incorporated by reference. Copies may be obtained from the American Society for Testing Materials, 1916 Race St., Philadelphia, PA 19103, or may be examined at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408.

* * * * *

o. In § 172.864 by revising paragraph (b)(2), to read as follows:

§ 172.864 Synthetic fatty alcohols.

* * * * *

(b) * * *

(2) Use ASTM method D86–78, "Standard Method of Test for Distillation of Petroleum Products," which is incorporated by reference, to determine boiling point range. Copies of the material incorporated by reference may be obtained from the American Society for Testing Materials, 1916 Race St., Philadelphia, PA 19103, or may be examined at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408.

* * * * *

p. In § 172.874 by revising paragraph (a), to read as follows:

§ 172.874 Hydroxypropyl methylcellulose.

* * * * *

(a) The additive complies with the definition and specifications prescribed in the National Formulary XV (1980).

* * * * *

q. In § 172.876 by revising paragraph (a), to read as follows:

§ 172.876 Castor oil.

* * * * *

(a) The additive meets the specifications of the United States Pharmacopeia XX (1980).

* * * * *

r. In § 172.878 by revising paragraph (a)(1), to read as follows:

§ 172.878 White mineral oil.

* * * * *

(a) * * *

(1) It meets the test requirements of the United States Pharmacopeia XX (1980) for readily carbonizable substances (page 532).

* * * * *

s. In § 172.880 by revising paragraph (a), to read as follows:

§ 172.880 Petrolatum.

* * * * *

(a) Petrolatum complies with the specifications set forth in the United States Pharmacopeia XX (1980) for white petrolatum or in the National Formulary XV (1980) for petrolatum.

* * * * *

t. In § 172.882 by revising the entries for "Boiling point" and "Synthetic isoparaffinic petroleum hydrocarbons" in paragraph (a), to read as follows:

§ 172.882 Synthetic isoparaffinic petroleum hydrocarbons.

* * * * *

(a) * * *

Boiling point 200°–500° F as determined by ASTM method D86–78, "Standard Method of Test for Distillation of Petroleum Products," which is incorporated by reference. Copies may be obtained from the American Society for Testing Materials, 1916 Race St., Philadelphia, PA 19103, or may be examined at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408.	

* * * * *

Synthetic isoparaffinic petroleum hydrocarbons containing antioxidants shall meet the specified ultraviolet absorbance limits after correction for any absorbance due to the antioxidants. The ultraviolet absorbance shall be determined by the procedure described for application of	

mineral oil, disregarding the last sentence of the procedure, under "Specifications" on page 66 of the *Journal of the Association of Official Analytical Chemists*, Volume 45 (February 1962), which is incorporated by reference. Copies are available from the Division of Food and Color Additives, Bureau of Foods (HFF-330), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, or available for inspection at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408. For hydrocarbons boiling below 250° F, the nonvolatile residue shall be determined by ASTM method D1353–78, "Standard Method of Test for Nonvolatile Matter in Volatile Solvents for Use in Paint, Varnish, Lacquer, and Related Products;" for those boiling above 250° F, ASTM method D381–80, "Standard Method of Test for Existent Gum in Fuels by Jet Evaporation" shall be used. These methods are incorporated by reference. Copies may be obtained from the American Society for Testing Materials, 1916 Race St., Philadelphia, PA 19103, or may be examined at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408.

* * * * *

PART 173—SECONDARY DIRECT FOOD ADDITIVES PERMITTED IN FOOD FOR HUMAN CONSUMPTION

23. Part 173 is amended as follows:

a. In § 173.160 by revising paragraph (d), to read as follows:

§ 173.160 Candida guilliermondii.

* * * * *

(d) The additive is so used that the citric acid produced conforms to the specifications of the "Food Chemicals Codex," 3d Ed. (1981), under "Citric acid," which is incorporated by reference. Copies may be obtained from the National Academy Press, 2101 Constitution Ave. NW., Washington, DC 20418, or may be examined at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408.

b. In § 173.165 by revising the first and second sentences in paragraph (d), to read as follows:

§ 173.165 Candida lipolytica.

* * * * *

(d) The additive is so used that the citric acid produced conforms to the specifications of the "Food Chemicals Codex," 3d Ed. (1981), which is incorporated by reference. Copies may be obtained from the National Academy Press, 2101 Constitution Ave. NW., Washington, DC 20418, or may be examined at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408.* * *

* * * * *

c. In § 173.280 by revising paragraph (c), to read as follows:

§ 173.280 Solvent extraction process for citric acid.

* * * * *

(c) The citric acid so produced meets the specifications of the "Food Chemicals Codex," 3d Ed. (1981), pp. 86–87, which is incorporated by reference (copies may be obtained from the National Academy Press, 2101 Constitution Ave. NW., Washington, DC 20418, or may be examined at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408), and the polynuclear aromatic hydrocarbon specifications of § 173.165.

* * * * *

d. In § 173.310 by revising the limitations for 'Sodium carboxymethylcellulose" in the table in paragraph (c), to read as follows:

§ 173.310 Boiler water additives.

* * * * *

(c) * * *

Substances	Limitations
* * *	* * *
Sodium carboxymethylcellulose.	Contains not less than 95 percent sodium carboxymethylcellulose on a dry-weight basis, with maximum substitution of 0.9 carboxymethylcellulose groups per anhydroglucose unit, and with a minimum viscosity of 15 centipoises for 2 percent by weight aqueous solution at 25° C; by method prescribed in the "Food Chemicals Codex," 3d Ed. (1981), pp. 280–282, which is incorporated by reference. Copies may be obtained from the National Academy Press, 2101 Constitution Ave. NW., Washington, DC 20418, or may be examined at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408.
* * *	* * *

* * * * *

e. In § 173.340 by revising the limitations for "Polyoxyethylene 40 monostearate" in the table in paragraph (a)(2), to read as follows:

§ 173.340 Defoaming agents.

* * * * *

(a) * * *
(2) * * *

Substances	Limitation
* * *	* * *
Polyoxyethylene 40 monostearate.	As defined in the United States Pharmacopeia XX.
* * *	* * *

* * * * *

f. In § 173.395 by revising paragraph (d), to read as follows:

§ 173.395 Trifluoromethane sulfonic acid.

* * * * *

(d) No residual catalyst may remain in the product at a detection limit of 0.2 part per million fluoride as determined by the method described in "Official Methods of Analysis of the Association of Official Analytical Chemists," section 25.049, 13th Ed. (1980), which is incorporated by reference. Copies may be obtained from the Association of Official Analytical Chemists, P.O. Box 540, Benjamin Franklin Station, Washington, DC 20044, or may be examined at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408.

PART 175—INDIRECT FOOD ADDITIVES: ADHESIVE COATINGS AND COMPONENTS

24. Part 175 is amended:

a. In § 175.250 by revising paragraphs (b) (1) and (3), to read as follows:

§ 175.250 Paraffin (synthetic).

* * * * *

(b) * * *

(1) *Congealing point.* The substance has a congealing point of not less than 200° F nor more than 210° F as determined by ASTM method D938–71 (1981), "Congealing Point of Pharmaceutical Petrolatums," which is incorporated by reference. Copies may be obtained from the American Society for Testing Materials, 1916 Race St., Philadelphia, PA 19103, or may be examined at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408.

* * * * *

(3) *Absorptivity.* The substance has an absorptivity at 290 millimicrons in decahydronaphthalene at 190° F not exceeding 0.01 as determined by ASTM method E131–81(a), "Definition of Terms and Symbols Relating to Absorption-Spectroscopy," which is incorporated by reference. See paragraph (b)(1) of this section for availability of the incorporation by reference.

* * * * *

b. In § 175.270 by revising the introductory text of paragraph (b) and by revising the first sentence in paragraph (b)(5), to read as follows:

§ 175.270 Poly(vinyl fluoride) resins.

* * * * *

(b) The poly(vinyl fluoride) basic resins have an intrinsic viscosity of not less than 0.75 deciliter per gram as determined by ASTM method D1243–79, "Standard Method of Test for Dilute Solution Viscosity of Vinyl Chloride Polymers," which is incorporated by reference. Copies may be obtained from the American Society for Testing Materials, 1916 Race St., Philadelphia, PA 19103, or may be examined at the

Office of the Federal Register, 1100 L St. NW., Washington, DC 10408.

* * * * *

(5) *Calculation.* The calculation method used is that described in appendix X 1.3 (ASTM method D1243–79, "Standard Method of Test for Dilute Solution Viscosity of Vinyl Chloride Polymers," which is incorporated by reference; see paragraph (b) of this section for availability of the incorporation by reference) with the reduced viscosity determined for three concentration levels not greater than 0.5 gram per deciliter and extrapolated to zero concentration for intrinsic viscosity. * * *

c. In § 175.300 by revising the entry for "Poly[2-(diethylamino) ethyl methacrylate] phosphate" in paragraph (b)(3)(xxix) and the entry for "Cyclohexanone-formaldehyde resin" in paragraph (b)(3)(xxxiii), to read as follows:

§ 175.300 Resinous and polymeric coatings.

* * * * *

(b) * * *

(3) * * *

(xxix) *Surface active agents:*

* * * * *

Poly [2-(diethylamino) ethyl methacrylate] phosphate (minimum intrinsic viscosity in water at 25° C is not less than 9.0 deciliters per gram as determined by ASTM method D1243–79, "Standard Method of Test for Dilute Solution Viscosity of Vinyl Chloride Polymers," which is incorporated by reference (copies may be obtained from the American Society for Testing Materials, 1916 Race St., Philadelphia, PA 19103, or may be examined at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408), for use only as a suspending agent in the manufacture of vinyl chloride copolymers and limited to use at levels not to exceed 0.1 percent by weight of the copolymers.

* * * * *

(xxxiii) Miscellaneous materials:

* * * * *

Cyclohexanone-formaldehyde resin produced when 1 mole of cyclohexanone is made to react with 1.65 moles of formaldehyde such that the finished resin has an average molecular weight of 600–610 as determined by ASTM method D2503–57, "Standard Method of Test for Molecular Weight of Hydrocarbons by Thermoelectric Measurement of Vapor Pressure" (Reapproved 1977), which is incorporated by reference. Copies may be obtained from the American Society for Testing Materials, 1916 Race St., Philadelphia, PA 19103, or may be examined at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408. For use only in contact with nonalcoholic and nonfatty foods under conditions of use E, F, and G, described in table 2 of paragraph (d) of this section.

* * * * *

PART 176—INDIRECT FOOD ADDITIVES: PAPER AND PAPERBOARD COMPONENTS

25. Part 176 is amended in § 176.170 in paragraph (a)(5) in the "List of substances" column by revising the entries for "Petroleum asphalt" and "Poly[(methylimino) (2-hydroxytrimethylene) hydrochloride]" and by revising the first and second sentences in the entry for "Poly[oxyethylene(dimethylimino) ethylene (dimethylimino) ethylene dichloride];" in paragraph (b)(2) in the "List of substances" column by revising the entries for "Cyclized rubber" and "Ethylene-acrylic acid copolymers," by revising the first and second sentences in the entry for "Petroleum alicyclic hyrocarbon resins," and by revising the entry for "Styrene-dimethylstyrene-α-methylstyrene copolymers;" and by revising the first sentence in the introductory text in paragraph (d)(3), to read as follows:

§ 176.170 Components of paper and paperboard in contact with aqueous and fatty foods.

* * * * *

(a) * * *

(5) * * *

List of substances	Limitations
* * * * *	
Petroleum asphalt, steam and vacuum refined to meet the following specifications: Softening point 190° F to 200° F, as determined by ASTM method D36-76, "Standard Test Method for Softening Point of Bitumen (Ring and Ball Apparatus);" penetration at 77° F not to exceed .3 mm, as determined by ASTM Method D5-73 (Reapproved 1978), "Standard Method of Test for Penetration of Bituminous Materials," which are incorporated by reference (copies may be obtained from the American Society for Testing Materials, 1916 Race St., Philadelphia, PA 19103, or may be examined at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408); and maximum weight loss not to exceed 3% when distilled to 700° F, nor to exceed an additional 1.1% when further distilled between 700° F and thermal decomposition	* * *
* * * * *	
Poly[(methylimino)(2-hydroxytrimethylene)hydrochloride] produced by reaction of 1:1 molar ratio of methylamine and epichlorohydrin so that a 31-percent aqueous solution at 25° C has a Stokes viscosity range of 2.5–4.0 as determined by ASTM method D1545–76 (Reapproved 1981), "Standard Method of Test for Viscosity of Transparent Liquids by Bubble Time Method," which is incorporated by reference. Copies may be obtained from the American Society for Testing Materials, 1916 Race St., Philadelphia, PA 19103, or may be examined at the Office of Federal Register, 1100 L St. NW., Washington, DC 20408	* * *
* * * * *	
Poly[oxyethylene (dimethylimino) ethylene (dimethylimino)ethylene dichloride] produced by reacting equimolar quantities of *N,N,N,N*-tetramethylethylene-diamine and dichlorethyl ether to yield a solution of the solid polymer in distilled water at 25° C with a reduced viscosity of not less than 0.15 deciliter per gram as determined by ASTM method D1243-79, "Standard Method of Test for Dilute Solution Viscosity of Vinyl Chloride Polymers," which is incorporated by reference. Copies may be obtained from the American Society for Testing Materials, 1916 Race St., Philadelphia, PA 19103, or may be examined at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408	* * *
* * * * *	

(b) * * *

(2) * * *

List of substances	Limitations
* * * * *	
Cyclized rubber produced when natural pale crepe rubber dissolved in phenol is catalytically cyclized so that the finished cyclized rubber has a melting point of 293° F to 311° F as determined by ASTM method E28–67 (Reapproved 1977), "Standard Method of Test for Softening Point by Ring and Ball Apparatus," which is incorporated by reference (copies may be obtained from the American Society for Testing Materials, 1916 Race St., Philadelphia, PA 19103, or may be examined at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408), and contains no more than 4000 ppm of residual-free phenol as determined by a gas liquid chromatographic procedure titled "Determination of Free Phenol in Cyclized Rubber Resin," which is incorporated by reference. Copies are available from the Division of Food and Color Additives, Bureau of Foods (HFF-330), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, or available for inspection at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408	* * *
* * * * *	
Ethylene-acrylic acid copolymers produced by the copolymerization of ethylene and acrylic acid and/or their partial ammonium salts. The finished copolymer shall contain no more than 25 weight percent of polymer units derived from acrylic acid and no more than 0.35 weight percent of residual monomeric acrylic acid, and have a melt index not to exceed 350 as determined by ASTM method D1238–79, "Standard Method of Measuring Flow Rates of Thermoplastics by Extrusion Plastometer," which is incorporated by reference. Copies may be obtained from the American Society for Testing Materials, 1916 Race St., Philadelphia, PA 19103, or may be examined at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408	
* * * * *	
Petroleum alicyclic hydrocarbon resins, or the hydrogenated product thereof, meeting the following specifications: Softening point 97° C minimum, as determined by ASTM method E28–67 (Reapproved 1977), "Standard Method of Test for Softening Point by Ring and Ball Apparatus;" aniline point 120° C minimum, as determined by ASTM method D611–77, "Standard Method of Test for Aniline Point and Mixed Aniline Point of Petroleum Products and Hydrocarbon Solvents," which are incorporated by reference (copies may be obtained from the American Society for Testing Materials, 1916 Race St., Philadelphia, PA 19103, or may be examined at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408), aniline point 120° C minimum, as determined by ASTM method D611–77, and specific gravity 0.96–0.99 (20° C/20° C) * * *	

List of substances	Limitations
* * * * *	
Styrene-dimethylstyrene-α-methylstyrene copolymers produced by polymerizing equimolar ratios of the three comonomers such that the finished copolymers have a minimum average molecular weight of 835 as determined by ASTM method D2503-67, "Standard Method of Test for Molecular Weight of Hydrocarbons by Thermoelectric Measurement of Vapor Pressure" (Reapproved 1977), which is incorporated by reference. Copies may be obtained from the American Society for Testing Materials, 1916 Race St., Philadelphia, PA 19103, or may be examined at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408	
* * * * *	

(d) * * *

(3) *Selection of test method.* Paper or paperboard ready for use in packaging shall be tested by use of the extraction cell described in "Official Analytical Chemists," 13th Ed. (1980), section 27.010, under "Exposing Flexible Barrier Materials for Extraction," which is incorporated by reference (copies may be obtained from the Association of Official Analytical Chemists, P.O. Box 540, Benjamin Franklin Station, Washington, DC 20044, or may be examined at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408); also described in ASTM method F34-76 (Reapproved 1980), "Standard Method for Exposing Flexible Barrier Materials to Liquids for Extraction," which is incorporated by reference (copies may be obtained from the American Society for Testing Materials, 1916 Race St., Philadelphia, PA 19103, or may be examined at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408), except that formed paper and paperboard products may be tested in the container by adapting the in-container methods described in § 175.300(e) of this chapter.* * *

* * * * *

PART 177—INDIRECT FOOD ADDITIVES: POLYMERS

26. Part 177 is amended as follows:

a. In § 177.1010 by revising paragraph (c)(3), to read as follows:

§ 177.1010 Acrylic and modified acrylic plastics, semirigid and rigid.

* * * * *

(c) * * *

(3) *Preparation of solvents.* The water used shall be double-distilled water, prepared in a still using a block tin condenser. The 8 and 50 percent (by volume) alcohol solvents shall be prepared from ethyl alcohol meeting the specifications of the United States Pharmacopeia XX and diluted with double-distilled water that has been prepared in a still using a tin block condenser. The *n*-heptane shall be spectrophotometric grade. Adequate precautions must be taken to keep all solvents dust-free.

* * * * *

b. In § 177.1320 by revising paragraph (c)(1)(iii), to read as follows:

§ 177.1320 Ethylene-ethyl acrylate copolymers.

* * * * *

(c) * * *

(1) * * *

(iii) *Specific gravity.* Ethylene-ethyl acrylate copolymers have a specific gravity of not less than 0.920 nor more than 0.935, as determined by ASTM method D1505-68 (Reapproved 1975), "Test for Density of Plastic Gradient Technique," which is incorporated by reference. Copies may be obtained from the American Society for Testing Materials, 1916 Race St., Philadelphia, PA 19103, or may be examined at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408.

* * * * *

c. In § 177.1330 by revising paragraph (e)(4), to read as follows:

§ 177.1330 Ionomeric resins.

* * * * *

(e) * * *

(4) *Selection of test method.* The finished food-contact articles shall be tested either by the extraction cell described in the *Journal of the Association of Official Agricultural Chemists*, Vol. 47, No. 1, p. 177-179 (February 1964), also described in ASTM method F34-76 (Reapproved 1980), "Standard Test Methods for Liquid Extraction of Flexible Barrier Materials," which are incorporated by reference, or by adapting the in-container methods described in § 175.300(e) of this chapter. Copies of the material incorporated by reference are available from the Division of Food and Color Additives, Bureau of Foods (HFF-330), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, and the American Society for Testing and Materials, 1916 Race St., Philadelphia, PA 19103, respectively, or available for inspection at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408.

* * * * *

d. In § 177.1360 by revising the second and third sentences of the introductory text in paragraph (b), by revising the second sentence in paragraph (c), and by revising the second sentence in pararaph (d), to read as follows:

§ 177.1360 Ethylene-vinyl acetate-vinyl alcohol copolymers.

* * * * *

(b) * * * Film samples of 0.013 centimeter (0.005) inch thickness representing the finished article shall meet the following extractive limitation when tested by ASTM method F34-76 (Reapproved 1980), "Exposing Flexible Barrier Materials to Liquids for Extraction," which is incorporated by reference. Copies may be obtained from the American Society for Testing Materials, 1916 Race St., Philadelphia, PA 19103, or may be examined at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408.

* * * * *

(c) * * * Film samples of 0.0076 centimeter (0.003 inch) thickness representing the finished articles shall meet the following extractive limitation when tested by ASTM method F34-76 (Reapproved 1980), "Exposing Flexible Barrier Materials to Liquids for Extraction," which is incorporated by reference. * * *

(d) * * * Film samples of .018 centimeter (0.007 inch) thickness representing the finished articles shall meet the following extractive limitation when tested by ASTM method F34-76 (Reapproved 1980), "Exposing Flexible Barrier Materials to Liquids for Extraction," which is incorporated by reference. * * *

* * * * *

e. In § 177.1430 by revising paragraph (a)(1) and (3), to read as follows:

§ 177.1430 Isobutylene-butene copolymers.

* * * * *

(a) * * *

(1) Average molecular weight is in the range 300-5,000 as determined by ASTM method D2503-67 (Reapproved 1977), "Standard Method of Test for Molecular Weight of Hydrocarbons by Thermoelectric Measurement of Vapor Pressure," which is incorporated by reference. Copies may be obtained from the American Society for Testing Materials, 1916 Race St., Philadelphia, PA 19103, or may be examined at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408.

* * * * *

(3) Maximum bromine value is 40 as determined by ASTM method D1492-78, "Standard Method of Test for Bromine Index of Aromatic Hydrocarbons by Coulometric Titration," which is incorporated by reference. The availability of this incorporation by reference is given in paragraph (a)(1) of this section.

* * * * *

f. In § 177.1480 by revising paragraph (b)(1)(ii), to read as follows:

§ 177.1480 Nitrile rubber modified acrylonitrile-methyl acrylate copolymers.

* * * * *

(b) * * *

(1) * * *

(ii) Intrinsic viscosity in acetonitrile at 25° C is not less than 0.29 deciliter per gram as determined by ASTM method D1243–79, "Standard Method of Test for Dilute Solution Viscosity of Vinyl Chloride Polymers," which is incorporated by reference. Copies may be obtained from the American Society for Testing Materials, 1916 Race St., Philadelphia, PA 19103, or may be examined at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408.

* * * * *

g. In § 177.1520 by revising paragraph (d)(1), (2), and (6), to read as follows:

§ 177.1520 Olefin polymers.

* * * * *

(d) * * *

(1) *Density.* Density shall be determined by ASTM method D1505–68 (Reapproved 1975), "Test for Density of Plastics—Gradient Technique," which is incorporated by reference. Copies may be obtained from the American Society for Testing Materials, 1916 Race St., Philadelphia, PA 19103, or may be examined at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408.

(2) *Melting point or softening point*—(i) *Melting point.* The melting point shall be determined by ASTM method D2117–64 (1978), "Standard Method of Test for Melting Point of Semicrystalline Polymers," which is incorporated by reference. The availability of this incorporation by reference is given in paragraph (d)(1) of this section.

(ii) *Softening point.* The softening point shall be determined by ASTM method E28–67 (1977), "Standard Method of Test for Softening Point by Ring and Ball Apparatus," which is incorporated by reference. The availability of this incorporation by reference is given in paragraph (d)(1) of this section.

* * * * *

(6) *Mooney viscosity—olefin copolymers described in paragraph (a)(3)(iii) of this section.* Mooney viscosity is determined by ASTM method D1646–81, "Standard Method of Test for Viscosity and Curing Characteristic of Rubber by the Shearing Disc Viscometer," which is incorporated by reference (the availability of this incorporation by reference is given in paragraph (d)(1) of this section), using the large rotor at a temperature of 212° F, except that a temperature of 260° F shall be used for those copolymers whose Mooney viscosity cannot be determined at 212° F. The apparatus containing the sample is warmed for 1 minute, run for 8 minutes, and viscosity measurements are then made.

* * * * *

h. In § 177.1550 by revising the first and second sentences in paragraph (d)(2)(i), to read as follows:

§ 177.1550 Perfluorocarbon resins.

* * * * *

(d) * * *

(2) * * *

(i) The perfluorocarbon resins identified in paragraph (a)(1) of this section shall have a melt viscosity of not less than 10^4 poises at 380° C (716° F) as determined by ASTM method D1238–79, "Standard Method of Test for Melt Viscosity in Perfluorocarbon," which is incorporated by reference. Copies may be obtained from the American Society for Testing Materials, 1916 Race St., Philadelphia, PA 19103, or may be examined at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408. * * *

* * * * *

i. In § 177.1570 by revising the paragraph (b)(1) (ii), (iii), and (iv), to read as follows:

§ 177.1570 Poly-1-butene resins and butene/ethylene copolymers.

* * * * *

(b) * * *

(1) * * *

(ii) *Viscosity.* Poly-1-butene resins and the butene/ethylene copolymers have an intrinsic viscosity 1.0 to 3.2 as determined by ASTM method D1601–78, "Standard Method of Test for Dilute Solution Viscosity of Ethylene Polymers," which is incorporated by reference. Copies may be obtained from the American Society for Testing Materials, 1916 Race St., Philadelphia, PA 19103, or may be examined at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408.

(iii) *Density.* Poly-1-butene resins have a density of 0.904 to 0.920 gms/cm^3, and butene/ethylene copolymers have a density of 0.890 to 0.916 gms/cm^3 as determined by ASTM method D1505–68 (Reapproved 1975), "Test for Density of Plastics—Gradient Technique," which is incorporated by reference. The availability of this incorporation by reference is given in paragraph (b)(1)(ii) of this section.

(iv) *Melt index.* Poly-1-butene resins have a melt index of 0.1 to 24 and the butene/ethylene copolymers have a melt index of 0.1 to 20 as determined by ASTM method D1238–79, condition E, "Standard Method of Measuring Flow Rates of Thermoplastics by Extrusion Plastometer," which is incorporated by reference. The availability of this incorporation by reference is given in paragraph (b)(1)(ii) of this section.

* * * * *

j. In § 177.1590 by revising paragraph (c), to read as follows:

§ 177.1590 Polyester elastomers.

* * * * *

(c) An appropriate sample of the finished polyester elastomer in the form in which it contacts food when subjected to ASTM method D968–51 (Reapproved 1976), "Standard Test Method for Abrasion Resistance of Coatings of Paint, Varnish, Lacquer, and Related Products by the Falling Sand Method," which is incorporated by reference (copies may be obtained from the American Society for Testing Materials, 1916 Race St., Philadelphia, PA 19103, or may be examined at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408), using No. 50 emery abrasive in lieu of Ottawa sand, shall exhibit an abrasion coefficient of not less than 100 liters per mil of thickness.

k. In § 177.1610 by revising the second sentence in paragraph (a), to read as follows:

§ 177.1610 Polyethylene, chlorinated.

* * * * *

(a) * * * Such chlorinated polyethylene contains a maximum of 60 percent by weight of total chlorine, as determined by ASTM method D1303–55 (1979), "Standard Method of Test for Total Chlorine in Vinyl Chloride Polymers and Copolymers," which is incorporated by reference (copies may be obtained from the American Society for Testing Materials, 1916 Race St., Philadelphia, PA 19103, or may be examined at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408), and has a 7.0 percent maximum extractable fraction in *n*-hexane at 50° C, as determined by the method in contact with all types of food, except that when used in contact with fatty food of types III, IV–A, V, VII–A, and IX described in table 1 of § 176.170(c) of this chapter, chlorinated polyethylene is limited to use only as a modifier admixed at levels not exceeding 15 weight percent in plastic articles prepared from polyvinyl chloride and/or from vinyl chloride copolymers complying with § 177.1980.

* * *

1. In § 177.1630 by revising the entries "Melting Point" and "Density" under the entry "1,4-Benzenedicarboxylic acid" in paragraph (e)(4)(v), to read as follows:

§ 177.1630 Polyethylene phthalate polymers.

* * * * *

(e) * * *
(4) * * *
(v) * * *

1,4-Benzenedicarboxylic acid * * *.
Melting point: 200° to 215° C as determined by ASTM method D2117–64 (1978), "Standard Test Method for Melting Point of Semicrystalline Polymers," which is incorporated by reference. Copies may be obtained from the American Society for Testing Materials, 1916 Race St., Philadelphia, PA 19103, or may be examined at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408.
Density: 1.15 to 1.20 as determined by ASTM method D1505–68 (Reapproved 1975), "Test for Density of Plastics—Gradient Technique," which is incorporated by reference. Copies may be obtained from the American Society for Testing Materials, 1916 Race St., Philadelphia, PA 19103, or may be examined at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408.

* * * * *

m. In § 177.1650 by revising paragraph (c), to read as follows:

§ 177.1650 Polysulfide polymer-polyepoxy resins.

* * * * *

(c) An appropriate sample of the finished resin in the form in which it contacts food, when subjected to ASTM method D965–51 (1976), "Standard Test Method for Abrasion Resistance of Coatings of Paint, Varnish, Lacquer, and Related Products by the Falling Sand Method," which is incorporated by reference (copies may be obtained from the American Society for Testing Materials, 1916 Race St., Philadelphia, PA 19103, or may be examined at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408), using No. 50 Emery abrasive in lieu of Ottawa sand, shall exhibit an abrasion coefficient of not less than 20 liters per mil of film thickness.

n. In § 177.1670 by revising paragraph (b), to read as follows:

§ 177.1670 Polyvinyl alcohol film.

* * * * *

(b) The finished food-contact film for use in contact with food types V or IX, when extracted with the solvent characterizing the type of food and under the conditions of time and temperature characterizing its intended use as determined from tables 1 and 2 of § 176.170(c) of this chapter, yields total extractives not to exceed 0.5 milligram per square inch of food-contact surface when tested by ASTM method F34–76 (Reapproved 1980), "Standard Test Method for Liquid Extraction of Flexible Barrier Materials," which is incorporated by reference. Copies may be obtained from the American Society for Testing Materials, 1916 Race St., Philadelphia, PA 19103, or may be examined at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408

* * * * *

o. In § 177.1680 by revising paragraph (c), to read as follows:

§ 177.1680 Polyurethane resins.

* * * * *

(c) An appropriate sample of the finished resin in the form in which it contacts food, when subjected to ASTM method D965–51 (1976), "Standard Test Method for Abrasion Resistance of Coatings of Paint, Varnish, Lacquer, and Related Products By the Falling Sand Method,"which is incorporated by reference (copies may be obtained from the American Society for Testing Materials, 1916 Race St., Philadelphia, PA 19103, or may be examined at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408), using No. 50 Emery abrasive in lieu of Ottawa sand, shall exhibit an abrasion coefficient of not less than 20 liters per mil of film thickness.

p. In § 177.1950 by revising paragraph (c)(1)(ii), to read as follows:

§ 177.1950 Vinyl chloride-ethylene copolymers.

* * * * *

(c) * * *
(1) * * *

(ii) Intrinsic viscosity in cyclohexanone at 30° C is not less than 0.50 deciliter per gram as determined by ASTM method D1243–79, "Standard Method of Test for Dilute Solution Viscosity of Vinyl Chloride Polymers," which is incorporated by reference. Copies may be obtained from the American Society for Testing Materials, 1916 Race St., Philadelphia, PA 19103, or may be examined at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408.

* * * * *

q. In § 177.1960 by revising paragraph (b)(1)(ii), to read as follows:

§ 177.1960 Vinyl chloride-hexene-1 copolymers.

* * * * *

(b) * * *
(1) * * *

(ii) Inherent viscosity in cyclohexanone at 30° C is not less than 0.59 deciliters per gram as determined by ASTM method D1243–79, "Standard Method of Test for Dilute Solution Viscosity of Vinyl Chloride Polymers," which is incorporated by reference. Copies may be obtained from the American Society for Testing Materials, 1916 Race St., Philadelphia, PA 19103, or may be examined at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408.

* * * * *

r. In § 177.1970 by revising paragraph (c)(1)(ii), to read as follows:

§ 177.1970 Vinyl chloride-lauryl vinyl ether copolymers.

* * * * *

(c) * * *
(1) * * *

(ii) Inherent viscosity in cyclohexanone at 30° C is not less than 0.60 deciliter per gram as determined by ASTM method D1243–79, "Standard Method of Test for Dilute Solution Viscosity of Vinyl Chloride Polymers," which is incorporated by reference. Copies may be obtained from the American Society for Testing Materials, 1916 Race St., Philadelphia, PA 19103, or may be examined at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408.

* * * * *

s. In § 177.1980 by revising paragraph (c)(1)(ii), to read as follows:

§ 177.1980 Vinyl chloride-propylene copolymers.

* * * * *

(c) * * *
(1) * * *

(ii) Intrinsic viscosity in cyclohexanone at 30° C is not less than 0.50 deciliter per gram as determined by ASTM method D1243–79, "Standard Method of Test for Dilute Solution Viscosity of Vinyl Chloride Polymers," which is incorporated by reference. Copies may be obtained from the American Society for Testing Materials, 1916 Race St., Philadelphia, PA 19103, or may be examined at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408.

* * * * *

t. In § 177.2210 by revising the flush paragraph following paragraph (b)(3), to read as follows:

§ 177.2210 Ethylene polymer, chlorosulfonated.

* * * * *

(b) * * *
(3) * * *

Methods for the specifications in this paragraph (b), titled "Chlorine and Bromine--Coulometric Titration Method

by Aminco Chloridometer," "Hypolon® Synthetic Rubber—Determination of Sulfur by Parr Bomb," and ASTM method D2857–70 (1977), "Standard Method of Test for Dilute Solution Viscosity of Polymers," are incorporated by reference. Copies of the ASTM method may be obtained from the American Society for Testing Materials, 1916 Race St., Philadelphia, PA 19103. Copies of the other two methods are available from the Division of Food and Color Additives, Bureau of Foods (HFF–330), Food and Drug Administration, 200 C St. SW., Washington, DC 20204. Copies of all three methods may be examined at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408.

* * * * *

u. In § 177.2440 by revising paragraph (a), to read as follows:

§ 177.2440 Polyethersulfone resins.

* * * * *

(a) For the purpose of this section, polyethersulfone resins are poly(oxy-*p*-phenylenesulfonyl-p-phenylene) resins (CAS Reg. No. 25667–42–9), which have a minimum number average molecular weight of 16,000, as determined by reduced viscosity in dimethyl formamide in accordance with ASTM method D2857–70 (1977), "Standard Method of Test Dilute Solution Viscosity of Polymers," which is incorporated by reference. Copies may be obtained from the American Society for Testing Materials, 1916 Race St., Philadelphia, PA 19103, or may be examined at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408.

* * * * *

v. In § 177.2450 by revising paragraph (b)(1), to read as follows:

§ 177.2450 Polyamide-imide resins.

* * * * *

(b) * * *

(1) Nitrogen content: Not less than 7.80 weight percent and not more than 8.20 weight percent, as determined by the Dumas Nitrogen Determination as set forth in "Official Methods of Analysis of the Association of Official Analytical Chemists," 13th Ed. (1980), which is incorporated by reference. Copies may be obtained from the Association of Official Analytical Chemists, P.O. Box 540, Benjamin Franklin Station, Washington, DC 20044, or may be examined at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408.

* * * * *

w. In § 177.2460 by revising the introductory text in paragraph (c)(1) and by revising the first sentence in paragraph (c)(1)(iv), to read as follows:

§ 177.2460 Poly(2,6-demethyl-1,4-phenylene) oxide resins.

* * * * *

(c) * * *

(1) *Specifications.* Intrinsic viscosity is not less than 0.40 deciliter per gram as determined by ASTM method D1243–79, "Standard Method of Test for Dilute Solution Viscosity of Vinyl Chloride Polymers," which is incorporated by reference, modified as follows. Copies of the incorporation by reference may be obtained from the American Society for Testing Materials, 1916 Race St., Philadelphia, PA 19103, or may be examined at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408.

* * * * *

(iv) Calculation. The calculation method used is that described in Appendix X.1.3 (ASTM method D1243–79, cited and incorporated by reference in paragraph (c)(1) of this section) with the reduced viscosity determined for three concentration levels (0.4, 0.2, and 0.1 gram per deciliter) and extrapolated to zero concentration for intrinsic viscosity.

* * * * *

x. In § 177.2480 by revision paragraph (c)(3), to read as follows:

§ 177.2480 Polyoxymethylene homopolymer.

* * * * *

(c) * * *

(e) Density of the homopolymer is between 1.39 and 1.44 as determined by ASTM method D1505–68 (Reapproved 1975), "Test for Density of Plastics—Gradient Technique," which is incorporated by reference. Copies may be obtained from the American Society for Testing Materials, 1916 Race St., Philadelphia, PA 19103, or may be examined at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408.

* * * * *

y. In § 177.2600 by revising the entry for "Silicone basic polymer" in paragraph (c)(4)(i), to read as follows:

§ 177.2600 Rubber articles intended for repeated use.

* * * * *

(c) * * *
(4) * * *
(i) * * *

* * * * *

Substances	Limitations
Silicone basic polymer as described in ASTM method D1418–79, "Standard Recommended Practice for Rubber and Rubber Latices—Nomenclature," which is incorporated by reference. Copies may be obtained from the American Society for Testing Materials, 1916 Race St., Philadelphia, PA 19103, or may be examined at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408.	

* * * * *

PART 178—INDIRECT FOOD ADDITIVES: ADJUVANTS, PRODUCTION AIDS, AND SANITIZERS

27. Part 178 is amended as follows:

a. In § 178.1005 by revising paragraph (c), to read as follows:

§ 178.1005 Hydrogen peroxide solution.

* * * * *

(c) *Specifications.* Hydrogen peroxide solution shall meet the specifications of the "Food Chemicals Codex," 3d Ed. (1981), pp. 146–147, which is incorporated by reference (copies may be obtained from the National Academy Press, 2101 Constitution Ave. NW., Washington, DC 20418, or may be examined at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408), and the United States Pharmacopeia XX (1980), except that hydrogen peroxide may exceed the concentration specified therein.

* * * * *

b. In § 177.2010 by revising in the "Substances" column in paragraph (b) the entries for "Butylated, styrenated cresols," "Dicetyl thiodipropionate," and "Dimyristyl thiodipropionate," to read as follows:

§ 178.2010 Antioxidants and/or stabilizers for polymers.

* * * * *

(b) * * *

Substances	Limitations
. . .	
Butylated, styrenated cresols produced when equal moles of isobutylene, styrene, and a metacresol-paracresol mixture having a no more than 3° C distillation range including 202° C are made to react so that the final product meets the following specifications: Not less than 95 percent by weight of total alkylated phenols consisting of 13–25 percent by weight of butylated *m*- and *p*-cresols, 26–38 percent by weight of styrenated *m*- and *p*-cresols, 37–49 percent by weight of butylated styrenated *m*- and *p*-cresols, and not more than 10 percent by weight total of alkylated xylenols, alkylated *o*-cresol, alkylated phenol, and alkylated ethylphenol; acidity not more than 0.003 percent; and refractive index at 25° C of 1.5550–1.5650, as determined by ASTM method D1218–61 (1977), "Standard Method for Measurement of Refractive Index and Refractive Dispersion of Hydrocarbon Liquids," which is incorporated by reference. Copies may be obtained from the American Society for Testing Materials, 1916 Race St., Philadelphia, PA 19103, or may be examined at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408	. . .

Substances	Limitations
* * * * *	
Dicetyl thiodipropionate having a melting point of 59°–62° C as determined by ASTM method E324–69 (Reapproved 1974), "Relative Initials and Final Melting Points and the Melting Range of Organic Chemicals," and a saponification value in the range 176–183 as determined by ASTM method D1962–67 (Reapproved 1973), "Saponification Value of Drying Oils, Fatty Acids, and Polymerized Fatty Acids," which are incorporated by reference. Copies may be obtained from the American Society for Testing Materials, 1916 Race St., Philadelphia, PA 19103, or may be examined at the Office of the Federal Register, 1100 L St. NW, Washington, DC 20408	* * *
* * * * *	
Dimyristyl thiodipropionate having a melting point of 48°–52° C as determined by ASTM method E324–79, "Relative Initials and Final Melting Points and the Melting Range of Organic Chemicals," and a saponification equivalent in the range 280–290 as determined by ASTM method D1962–67 (1979), "Saponification Values of Drying Oils, Fatty Acids, and Polymerized Fatty Acids," which are incorporated by reference. Copies may be obtained from the American Society for Testing Materials, 1916 Race St., Philadelphia, PA 19103, or may be examined at the Office of the Federal Register, 1100 St. NW., Washington, DC 20408	* * *
* * * * *	

c. In § 178.3530 by revising the entry for "Boiling point 145°–500°" and by revising the last two sentences in the entry for "Synthetic isoparaffinic petroleum hydrocarbons" in paragraph (a), to read as follows:

§ 178.3530 Isoparaffinic petroleum hydrocarbons, synthetic.

* * * * *

(a) * * *

Boiling point 145°–500° F, as determined by ASTM method D86–78, "Standard Method of Test for Distillation of Petroleum Products," which is incorporated by reference. Copies may be obtained from the American Society for Testing Materials, 1916 Race St., Philadelphia, PA 19103, or may be examined at the Office of the Federal Register, 1100 L St. NW., Washington, D.C. 20408.

* * * * *

Synthetic isoparaffinic petroleum hydrocarbons * * *. For hydrocarbons boiling below 250° F, the nonviolatile residue shall be determined by ASTM method D1353–79, "Standard Method of Test for Nonvolatile Matter in Volatile Solvents for Use in Paint, Varnish, Lacquer, and Related Products"; for those boiling above 250° F, ASTM procedure D381–80, Standard Method of Test for Existent Gum in Fuels for Jet Evaporation," which are incorporated by reference. Copies may be obtained from the American Society for Testing Materials, 1916 Race St., Philadelphia, PA 19103, or may be examined at the Office of the Federal Register, 1100 L St. NW., Washington, D.C. 20408.

* * * * *

d. In § 178.3620 by revising paragraphs (b)(1)(i), (c)(1)(ii), (d)(1)(i), and by revising the first and second sentences in V.B.19.b. in the method in paragraph (d)(3), to read as follows:

§ 178.3620 Mineral oil

* * * * *

(b) * * *

(1) * * *

(i) Saybolt color 20 minimum as determined by ASTM method D156–81, "Standard Method of Test for Saybolt Color of Petroleum Products," which is incorporated by referencer. Copies may be obtained from the American Society for Testing Materials, 1916 Race St., Philadelphia, PA 19103, or may be examined of at the Office of the Federal Register, 1100 L St., NW., Washington, D.C. 20408.

* * * * *

(c) * * *

(1) * * *

(ii) Color 5.5 maximum as determined by ASTM method D1500–64 (1977), "Standard Method of Test for ASTM Color of Petroleum Products," which is incorporated by reference. The availability of this incorporation by reference is given in paragraph (b)(1)(i) of this section.

* * * * *

(d) * * *

(1) * * *

(i) Distillation endpoint at 760 millimeters pressure not to exceed 700° F, with a maximum residue not to exceed 2 percent, as determined by ASTM method D86–78, "Standard Method of Test for Distillation of Petroleum Products," which is incorporated by reference. The availability of this incorporation by reference is given in paragraph (b)(1)(i) of this section.

(3) * * *

V. * * *

B. * * *

19. * * *

b. If such a peak is evident in the spectrum of the sample solution, and the spectrum as a whole is not incompatible with that of a pyrene contaminant yielding such a peak of the observed absorbance, calculate the concentration of pyrene that would yield this peak (334 mμ) by the base-line technique described in ASTM method E169–63 (Reapproved 1977), "Standard Recommended Practices for General Techniques of Ultraviolet Quantitative Analysis," which is incorporated by reference. The availability of this incorporation by reference is given in paragraph (b)(1)(i) of this section.

* * * * *

e. In § 178.3690 by revising the paragraphs (b) (1) and (4), to read as follows:

§ 178.3690 Pentaerythritol adipate-stearate.

* * * * *

(b) * * *

(1) Melting point (dropping) of 49°–52° C as determined by ASTM method D566–76, "Standard Test Method for Dropping Point of Lubricating Grease," which is incorporated by reference. Copies may be obtained from the American Society for Testing Materials, 1916 Race St., Philadelphia, PA 19103, or may be examined at the Office of the Federal Register, 1100 L St. NW., Washington, D.C. 20408.

* * * * *

(4) Iodine number not to exceed 2 as determined by Iodine Absorption Number, Hanus Method, of the "Official Methods of Analysis of the Association of Official Analytical Chemists," §§ 28.018–28.020, 13th Ed. (1980), which is incorporated by reference. Copies may be obtained from the Association of Official Analytical Chemist, P.O. Box 540, Benjamin Franklin Station, Washington, D.C. 20044, or may be examined at the Office of the Federal Register, 1100 L St. NW., Washington, D.C. 20408.

* * * * *

f. In § 178.3700 by revising paragraph (a), to read as follows:

§ 178.3700 Petrolatum.

* * * * *

(a) Petrolatum complies with the specifications set forth in the United States Pharmacopeia XX (1980) for white petrolatum or in the National Formulary XV (1980) for yellow petrolatum.

* * * * *

g. In § 178.3740 by revising the entry for "Polybutene, hydrogenated" in the list of substances in paragraph (b), to read as follows:

§ 178.3740 Plasticizers in polymeric substances.

* * * * *

(b) * * *

Substances	Limitations
* * * * *	
Polybutene, hydrogenated (minimum viscosity at 210° F, 39 Saybolt Universal seconds, as determined by ASTM methods D445–79 ("Test for Kinematic Viscosity of Transparent and Opaque Liquids") and D2161–74 ("Standard Method of Test for Conversion of Kinematic Viscosity of Saybolt Universal Viscosity or to Saybolt Furol Viscosity"), and bromine number of 3 or less, as determined by ASTM method D1492–78 ("Standard Method of Test for Bromine Index of Aromatic Hydrocarbons by Coulometric Titration"), which are incorporated by reference. Copies may be obtained from the American Society for Testing Materials, 1916 Race St., Philadelphia, PA 19103, or may be examined at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408)	* * *
* * * * *	

h. In § 178.3770 by revising paragraphs (a)(1) and (b)(1), to read as follows:

§ 178.3770 Polyhydric alcohol diesters of oxidatively refined (Gersthoffen process) montan wax acids.

* * * * *

(a) * * *

(1) Dropping point 77°–82° C, as determined by ASTM method D566–76, "Standard Method for Dropping Point of Lubricating Grease," which is incorporated by reference. Copies may be obtained from the American Society for Testing Materials, 1916 Race St., Philadelphia, PA 19103, or may be examined at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408.

* * * * *

(b) * * *

(1) Dropping point 77°–82° C, as determined by ASTM method D566–76, "Standard Method for Dropping Point of Lubricating Grease," which is incorporated by reference. The availability of this incorporation by reference is given in paragraph (a)(1) of this section.

* * * * *

i. In § 178.3870, by revising paragraph (f)(1), (2), (3), and (4), to read as follows:

§ 178.3870 Rosins and rosin derivatives.

* * * * *

(f) * * *

(1) Color: Color shall be as determined by ASTM method D509–70 (1981), "Standard Method of Sampling and Grading Rosin," which is incorporated by reference. Copies may be obtained from the American Society for Testing Materials, 1916 Race St., Philadelphia, PA 19103, or may be examined at the Office of the Federal Register, 1100 L St., NW., Washington, DC 20408.

(2) Refractive index: Refractive index shall be as determined by ASTM method D1747–62, "Standard Method for Refractive Index of Viscous Materials" (Reapproved 1978), which is incorporated by reference. The availability of this incorporation by reference is given in paragraph (f)(1) of this section.

(3) Acid number: Acid number shall be as determined by ASTM method D465–59 (Reapproved 1975), "Standard Test Method of Test for Acid Number of Rosin," which is incorporated by reference. The availability of this incorporation by reference is given in paragraph (f)(1) of this section.

(4) Viscosity: Viscosity in poises shall be as determined by ASTM method D1824–66, "Standard Test Method for Apparent Viscosity of Plastisols" (Reapproved 1972), and in Saybolt seconds by ASTM method D88–56, "Standard Methods of Test for Saybolt Viscosity" (Reapproved 1973), which are incorporated by reference. The availability of this incorporation by reference is given in paragraph (f)(1) of this section.

* * * * *

j. In § 178.3910 by revising paragraph (a)(4)(i)(*a*), (*b*), and (*c*), to read as follows:

§ 178.3910 Surface lubricants used in the manufacture of metallic articles.

* * * * *

(a) * * *

(4) * * *

(i) * * *

(*a*) Initial boiling point is 75° F minimum and final boiling point is 550° F maximum, as determined by ASTM method D86–78, "Standard Method of Test for Distillation of Petroleum Products," which is incorporated by reference. Copies may be obtained from the American Society for Testing Materials, 1916 Race St., Philadelphia, PA 19103, or may be examined at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408.

(*b*) Nonvolatile residue is 0.005 gram per 100 milliliters, maximum, as determined by ASTM method D381–80, "Standard Method of Test for Existent Gum in Fuels by Jet Evaporation," when the final boiling point is 250° F or above and by ASTM method D1353–78, "Standard Method of Test for Nonvolatile Matter in Volatile Solvents for Use in Paint, Varnish, Lacquer, and Related Products," when the final boiling point is below 250° F. These ASTM methods are incorporated by reference. The availability of these incorporations by reference is given in paragraph (a)(4)(i)(*a*) of this section.

(c) Saybolt color 20 minimum as determined by ASTM method D156–81, "Standard Method of Test for Saybolt Color of Petroleum Products: Saybolt Chromometer Method," which is incorporated by reference. The availability of this incorporation by reference is given in paragraph (a)(4)(i)(*a*) of this section.

* * * * *

PART 179—IRRADIATION IN THE PRODUCTION, PROCESSING, AND HANDLING OF FOOD

28. Part 179 is amended in § 179.45 by revising the first and second sentences in paragraph (b)(9) and by revising the first and second sentences in paragraph (c)(2)(iv), to read as follows:

§ 179.45 Packaging materials for use during the irradiation of prepackaged foods.

* * * * *

(b) * * *

(9) Vinylidene chloride-vinyl chloride copolymer film prepared from vinylidene chloride-vinyl chloride basic copolymers containing not less than 70 weight percent of vinylidene chloride and having a viscosity of 0.50–1.50 centipoises as determined by ASTM method D729–81, "Standard Specifications for Vinylidene Chloride Molding Compounds," which is incorporated by reference. Copies may be obtained from the American Society for Testing Materials, 1916 Race St., Philadelphia, PA 19103, or may be examined at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408.* * *

* * * * *

(c) * * *

(2) * * *

(iv) Vinyl chloride-vinyl acetate copolymer film prepared from the basic copolymer containing 88.5 to 90.0 weight percent of vinyl chloride with 10.0 to 11.5 weight percent of vinyl acetate and having a maximum volatility of not over 3.0 percent (1 hour at 105° C) and viscosity not less than 0.30 determined by ASTM method D1243–79, "Standard Method of Test for Dilute Solution Viscosity of Vinyl Chloride Polymers," Method A, which is incorporated by reference. The availability of this incorporation by reference is given in paragraph (b)(9) of this section.* * *

PART 189—SUBSTANCES PROHIBITED FROM USE IN HUMAN FOOD

29. Part 189 is amended as follows:

a. In § 189.130 by revising paragraph (c), to read as follows:

§189.130 Coumarin.

* * * * *

(c) The analytical methods used for detecting coumarin in food are in §§ 19.016–19.024 of the "Official Methods of Analysis of the Association of Official Analytical Chemists," 13th Ed. (1980), which is incorporated by reference. Copies may be obtained from the Association of Official Analytical Chemists, P.O. Box 540, Benjamin Franklin Station, Washington, DC 20044, or may be examined at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408.

b. In § 189.135 by revising paragraph (c), to read as follows:

§189.135 Cyclamate and its derivatives.

* * * * *

(c) The analytical methods used for detecting cyclamate in food are in sections 20.162–20.172 of the "Official Methods of Analysis of the Association of Official Analytical Chemists," 13th Ed. (1980), which is incorporated by

reference. Copies may be obtained from the Association of Official Analytical Chemists, P.O. Box 540, Benjamin Franklin Station, Washington, DC 20044, or may be examined at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408.

c. In § 189.145 by revising paragraph (c), to read as follows:

§ 189.145 Dulcin.

* * * * *

(c) The analytical methods used for detecting dulcin in food are in sections 20.173–20.176 of the "Official Methods of Analysis of the Association of Official Analytical Chemists," 13th Ed. (1980), which is incorporated by reference. Copies may be obtained from the Association of Official Analytical Chemists, P.O. Box 540, Benjamin Franklin Station, Washington, DC 20044, or may be examined at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408.

d. In § 189.155 by revising paragraph (c), to read as follows:

§ 189.155 Monochloroacetic acid.

* * * * *

(c) The analytical methods used for detecting monochloroacetic acid in food are in sections 20.068–20.072 of the "Official Methods of Analysis of the Association of Official Analytical Chemists," 13th Ed. (1980), which is incorporated by reference. Copies may be obtained from the Association of Official Analytical Chemists, P.O. Box 5540, Benjamin Franklin Station, Washington, DC 20044, or may be examined at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408.

e. In § 189.165 by revising paragraph (c), to read as follows:

§ 189.165 Nordihydroguaiaretic acid (NDGA).

* * * * *

(c) The analytical method used for detecting NDGA in food is in section 20.008(b) of the "Official Methods of Analysis of the Association of Official Analytical Chemists," 13th Ed. (1980), which is incorporated by reference. Copies may be obtained from the Association of Official Analytical Chemists, P.O. Box 540, Benjamin Franklin Station, Washington, DC 20044, or may be examined at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408.

f. In § 189.175 by revising paragraph (c), to read as follows:

§ 189.175 P–4000.

* * * * *

(c) The analytical methods used for detecting P–4000 in food are in sections 20.177–20.181 of the "Official Methods of Analysis of the Association of Official Analytical Chemists," 13th Ed. (1980), which is incorporation by reference. Copies may by obtained from the Association of Official Analytical chemists, P.O. Box 540, Benjamin Franklin Station, Washington, DC 20044, or may be examined at the Office of the Federal Register, 1100 L ST. NW., Washington DC 20408.

g. In § 189.190 by revising paragraph (c), to read as follows:

§ 189.190 Thiourea.

* * * * *

(c) The analytical methods used for detecting thiourea are in sections 20.115–20.126 of the "Official Methods of Analysis of the Association of Official Analytical Chemists," 13th Ed. (1980), which is incorporated by reference. Copies may be obtained from the Association of Official Analytical Chemists, P.O. Box, 540 Benjamin Franklin Station, Washington, DC 20044, or may be examined at the Office of the Federal Register, 1100 L ST. SW., Washington, DC 20408.

Interested persons may, on or before February 29, 1984, submit to the Dockets Management Branch (address above) written comments regarding this proposal. Two copies of any comments are to be submitted, except that indiciduals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: January 23, 1984.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 84–2258 Filed 1–27–84; 8:45 am]

BILLING CODE 4160–01–M

federal register

Monday
January 30, 1984

Part V

Environmental Protection Agency

Publicly-Owned Treatment Works; National Municipal Policy; Notice

VOL 49 ISS 20 JA 30 1984 UMI

ENVIRONMENTAL PROTECTION AGENCY

[WH-FRL 2515-6]

Notice of National Municipal Policy on Publicly-Owned Treatment Works.

AGENCY: Environmental Protection Agency.

ACTION: Notice of National Municipal Policy.

SUMMARY: This notice sets forth the Environmental Protection Agency's policy on ensuring that all publicly-owned treatment works (POTW) comply with the statutory requirements and compliance dead-lines in the Clean Water Act (CWA). The policy describes the Agency's intention to focus its efforts on POTWs that previously received Federal funding assistance and are not in compliance, on all other major POTWs, and on minor POTWs that are contributing significantly to an impairment of water quality. It also describes how the Agency expects EPA Regions and States to carry out the intent of the policy. The purposes of the policy are to achieve maximum improvement in water quality in accordance with the goals of the CWA, and to protect the public's investment in wastewater treatment facilities.

The Agency has recently proposed a regulation that redefines secondary treatment pursuant to the 1981 amendments to section 304(d) of the CWA, 48 FR 52258, November 16, 1983. This related action will help provide reasonable certainty regarding POTWs applicable effluent limits and will facilitate implementation of this policy.

EFFECTIVE DATE: This policy will be effective January 30, 1984.

FOR FURTHER INFORMATION CONTACT: Robert W. Zeller, Ph. D., U.S. Environmental Protection Agency, EN-338, 401 M Street, SW., Washington, D.C., 20460 (202) 475-8304.

Dated: January 23, 1984.

William D. Ruckelshaus,

Administrator.

Statement of Policy

When the Clean Water Act (CWA) was passed in 1972, Congress gave municipalities until 1977 to comply with its requirements. Congress authorized the Environmental Protection Agency (EPA) to extend the deadline to 1983 and then again to July 1, 1988, for some municipalities. In addition, Congress amended the Act in 1981 to modify the basic treatment requirements. Therfore, Congress has authorized EPA to give some municipalities several additional years to achieve compliance and has also provided more reasonable treatment requirements for certain types of facilities.

The CWA requires all publicly-owned treatment works (POTWs) to meet the statutory compliance deadlines and to achieve the water quality objectives of the Act, whether or not they receive Federal funds. The EPA will focus on POTWs that previously received Federal funding assistance and are not currently in compliance with their applicable effluent limits, on all other major POTWs, and on minor POTWs that are contributing significantly to an impairment of water quality. EPA's goal will be to obtain compliance by POTWs as soon as possible, and no later than July 1, 1988. Where there are extraordinary circumstances that preclude compliance of such facilities by July 1, 1988, EPA will work with States and the affected municipal authorities to ensure that these POTWs are on enforceable schedules for achieving compliance as soon as possible thereafter, and are doing all they can in the meantime to abate pollution to the Nation's waters.

Implementation Strategy

The Agency is committed to pursuing a clear course of action that fulfills the intent of Congress and results in the maximum improvement in water quality. The Agency is also committed to protecting the public's financial investment in wastewater treatment facilities. To meet these objectives, the Agency expects EPA Regions and States to adhere to the National policy stated above and to use the following mechanisms to carry out the intent of this policy.

EPA Regions will cooperate with their respective States to develop strategies that describe how they plan to bring noncomplying facilities into compliance. These strategies should include a complete inventory of all noncomplying facilities, should identify the affected municipalities consistent with the National policy, and should describe a plan to bring these POTWs into compliance as soon as possible. Regions and States will then use the annual State program grant negotiation process to reach agreement on the specific activities they will undertake to carry out the plan.

Based on the information in the final strategies, the permitting authority (Region or approved NPDES State) will require affected municipal authorities to develop one of the following as necessary:

Composite Correction Plan: An affected municipality that has a constructed POTW that is not in compliance with its NPDES permit effluent limits will be required to develop a Composite Correction Plan (CCP). The CCP should describe the cause(s) of noncompliance, should outline the corrective actions necessary to achieve compliance, and should provide a schedule for completing the required work and for achieving compliance.

Municipal Compliance Plan: An affected municipality that needs to construct a wastewater treatment facility in order to achieve compliance will be required to develop a Municipal Compliance Plan (MCP). The MCP should describe the necessary treatment technology and estimated cost, should outline the proposed sources and methods of financing the proposed facility (both construction and O&M), and should provide a schedule for achieving compliance as soon as possible.

The permitting authority will use the information in these plans and will work with the affected municipality to develop a reasonable schedule for achieving compliance. In any case where the affected municipal authority is unable to achieve compliance promptly, the permitting authority will, in addition to setting a schedule for achieving full compliance, ensure that the POTW undertakes appropriate interim steps that lead to full compliance as soon as possible. Where there are extraordinary circumstances that make it impossible for an affected municipal authority to meet a July 1, 1988 compliance date, the permitting authority will work with the affected municipality to establish a fixed date schedule to achieve compliance in the shortest, reasonable period of time thereafter, including interim abatement measures as appropriate. The general goal is to establish enforceable compliance schedules for all affected municipalities by the end of FY 1985. Once schedules for affected municipalities are in place, the permitting authority will monitor progress towards compliance and will take follow-up action as appropriate. Nothing in this policy is intended to

impede or delay any ongoing or future enforcement actions.

Overview

EPA Headquarters will overview the implementation of this policy to ensure that actions taken by Regions and States are consistent with National policy and that the Agency as a whole is making progress towards meeting the statutory deadlines and achieving the water quality objectives of the Act.

Dated: January 23, 1984.

William D. Ruckelshaus,

Administrator.

[FR Doc. 84-2433 Filed 1-27-84; 8:45 am]

BILLING CODE 6560-50-M

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ISS
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JA
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Federal Register

Vol. 49, No. 20

Monday, January 30, 1984

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[3] Refer to September 19, 1983, FEDERAL REGISTER, Book II (Federal Acquisition Regulation).

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Rules and Regulations

Federal Register
Vol. 49, No. 21
Tuesday, January 31, 1984

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

7 CFR Part 445

Pepper Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Final rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) hereby issues a new Part 445 in Chapter IV of Title 7 of the Code of Federal Regulations prescribing procedures for insuring peppers. The intended effect of this rule is to be responsive to producers growing peppers who have expressed a desire for crop insurance protection. This rule is promulgated under the authority contained in the Federal Crop Insurance Act, as amended.

EFFECTIVE DATE: March 1, 1984.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C., 20250, telephone (202) 447–3325.

The Impact Statement describing the options considered in developing this proposed rule and the impact of implementing each option are available upon request from Peter F. Cole.

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA procedures established in Departmental Regulation 1512–1 (June 11, 1981). This action constitutes a review as to the need, currency, clarity, and effectiveness of these regulations under the provisions of that Memorandum. The sunset review date established for these regulations is April 1, 1988.

Merritt W. Sprague, Manager, FCIC, has determined that (1) this action is not a major rule as defined by Executive Order No. 12291 (February 17, 1981), (2) this action does not increase the Federal paperwork burden for individuals, small businesses, and other persons, and (3) this action conforms to the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), and other applicable law.

The title and number of the Federal Assistance Program to which this proposed rule applies is: Title—Crop Insurance; Number 10.450.

This action will not have a significant impact specifically upon area and community development; therefore, review as established in Executive Order No. 12372 (July 14, 1982), was not used to assure that units of local government are informed of this action.

It has been determined that this action is exempt from the provisions of the Regulatory Flexibility Act; therefore, no Regulatory Impact Statement was prepared.

In the past, crop insurance protection has not been available to growers producing peppers. Such crops are exposed to similar hazards as other crops insured by FCIC. Following several meetings with producers, FCIC determined that a program of crop insurance protection was needed. On February 23, 1983, the Board of Directors of FCIC, responding to requests for such an insurance program, authorized the Manager of FCIC to develop a pepper crop insurance program. The regulations contained in this proposed rule are to become effective for the 1984 and succeeding crop years in certain counties in Florida where peppers are grown. The pepper crop insurance program will offer protection against crop damage or loss due to adverse weather conditions, fire, or wildlife.

On Wednesday, July 27, 1983, FCIC published a notice of proposed rulemaking in the **Federal Register** at 48 FR 34051, to issue a new Part 445 in Chapter IV of Title 7 of the Code of Federal Regulations prescribing procedures for insuring peppers. The public was given 60 days in which to submit written comments, data, and opinions on the rule, but none were received. Therefore, with the exception of minor and non-substantive changes in language, the proposed rule as published is hereby issued as a final rule to be effective with the 1984 crop year.

List of Subjects in 7 CFR Part 445

Crop insurance, Peppers.

Final Rule

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation hereby issues a new part in Chapter IV of Title 7 of the Code of Federal Regulations to be known as 7 CFR Part 445 Pepper Crop Insurance Regulations, effective for the 1984 and succeeding crop years, to read as follows:

PART 445—PEPPER CROP INSURANCE REGULATIONS

Subpart—Regulations for the 1984 and Succeeding Crop Years

Sec.

445.1 Availability of pepper insurance.
445.2 Premium rates, coverage levels, and amounts of insurance.
445.3 (OMB) control numbers.
445.4 Creditors.
445.5 Good faith reliance on misrepresentation.
445.6 The contract.
445.7 The application and policy.

Appendix A—Counties designated for Pepper Crop Insurance

Authority: Secs. 506, 516, Pub. L. 75–430, 52 Stat. 73, 77, as amended (7 U.S.C. 1506, 1516).

Subpart—Regulations for the 1984 and Succeeding Crop Years

§ 445.1 Availability of pepper insurance.

Insurance shall be offered under the provisions of this subpart on peppers in counties within limits prescribed by, and in accordance with the provisions of the Federal Crop Insurance Act, as amended. The counties shall be designated by the Manager of the Corporation from those approved by the Board of Directors of the Corporation. Before insurance is offered in any county, there shall be published by appendix to this part the names of the counties in which pepper insurance shall be offered.

§ 445.2 Premium rates, coverage levels, and amounts of insurance.

(a) The Manager shall establish premium rates, coverage levels, and amounts of insurance which shall be shown by the county actuarial table on file in the service office and may be changed from year to year.

(b) At the time the application for insurance is made, the applicant shall elect an amount of insurance per acre and a coverage level from among those

levels and amounts shown by the actuarial table for the crop year.

§ 445.3 OMB control numbers.

The information collection requirements contained in these regulations (7 CFR Part 445) have been approved by the Office of Management and Budget (OMB) under the provisions of 44 U.S.C. Chapter 35 and have been assigned OMB Nos. 0563–0003 and 0563–0007.

§ 445.4 Creditors.

An interest of a person in an insured crop existing by virtue of a lien, mortgage, garnishment, levy, execution, bankruptcy, an involuntary transfer or other similar interest shall not entitle the holder of the interest to any benefit under the contract except as provided by the policy.

§ 445.5 Good faith reliance on misrepresentation.

Notwithstanding any other provision of the pepper insurance contract, whenever (a) an insured person under a contract of crop insurance entered into under these regulations, as a result of a misrepresentation or other erroneous action or advice by an agent or employee of the Corporation (1) is indebted to the Corporation for additional premiums, or (2) has suffered a loss to a crop which is not insured or for which the insured person is not entitled to an indemnity because of failure to comply with the terms of the insurance contract, but which the insured person believed to be insured, or believed the terms of the insurance contract to have been complied with or waived, and (b) the Board of Directors of the Corporation, or the Manager in cases involving not more than $100,000.00, finds (1) that an agent or employee of the Corporation did in fact make such misrepresentation or take other erroneous action or give erroneous advice, (2) that said insured person relied thereon in good faith, and (3) that to require the payment of the additional premiums or to deny such insured's entitlement to the indemnity would not be fair and equitable, such insured person shall be granted relief the same as if otherwise entitled thereto.

§ 445.6 The contract.

(a) The insurance contract shall become effective upon the acceptance by the Corporation of a duly executed application for insurance on a form prescribed by the Corporation. The contract shall cover the pepper crop as provided by the policy. The contract shall consist of the application, the policy, the appendix, and the county actuarial table. Any changes made in the contract shall not affect its continuity from year to year. Copies of forms referred to in the contract are available at the service office.

§ 445.7 The application and policy.

(a) Application for insurance on a form prescribed by the Corporation may be made by any person to cover such person's share in the pepper crop as landlord, owner-operator, or tenant. The application shall be submitted to the Corporation at the service office on or before the applicable closing date for the county on file in the service office.

(b) The Corporation may discontinue the acceptance of applications in any county upon its determination that the insurance risk is excessive, and also, for the same reason, may reject any individual application. The Manager of the Corporation is authorized in any crop year to extend the closing date for submitting applications or contract changes in any county by placing the extended date on file in the service office and publishing a notice in the **Federal Register** upon the Manager's determination that no adverse selectivity will result during the period of such extension. However, if adverse conditions should develop during such period, the Corporation will immediately discontinue the acceptance of applications.

(c) In accordance with the provisions governing changes in the contract contained in policies issued under FCIC regulations for the 1984 and succeeding crop years, a contract in the form provided for in this subpart will come into effect as a continuation of a pepper contract issued under such prior regulations, without the filing of a new application.

(d) The application for the 1983 and succeeding crop years is found at Subpart D of Part 400—General Administrative Regulations (7 CFR 400.37; 400.38, first published at 48 FR 1023, January 10, 1983) and may be amended from time to time for subsequent crop years. The provisions of the Pepper Insurance Policy are as follows:

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

Pepper—Crop Insurance Policy

(This is a continuous contract. Refer to Section 15.) AGREEMENT TO INSURE: We shall provide the insurance described in this policy in return for the premium and your compliance with all applicable provisions.

Throughout this policy, "you" and "your" refer to the insured shown on the accepted Application and "we," "us" and "our" refer to the Federal Crop Insurance Corporation.

Terms and Conditions

1. Causes of Loss.

a. The insurance provided is against unavoidable loss of production resulting from the following causes occurring within the insurance period:

(1) Adverse weather conditions;

(2) Fire; or

(3) Wildlife

Unless those causes are excepted, excluded, or limited by the actuarial table or section 9f(8).

b. We shall not insure against any loss of production due to:

(1) Damage resulting from insects or disease;

(2) The neglect or malfeasance of you, any member of your household, your tenants or employees;

(3) The failure to follow recognized good pepper farming practices;

(4) Damage resulting from the impoundment of water by any governmental, public or private dam or reservoir project;

(5) Any cause not specified in section 1a as an insured loss;

(6) The failure to carry out a good pepper irrigation practice, except failure of the water supply after planting due to an unavoidable cause; or

(7) The breakdown of irrigation equipment or facilities.

2. Crop, Acreage, and Share Insured.

a. The crop insured shall be peppers: (1) Which are planted for harvest as fresh market peppers; (2) in which you have a share as reported by you or as determined by us, whichever we shall elect; (3) which are grown on insured acreage; and (4) for which an amount of insurance and premium rate provide by the actuarial table.

b. The acreage insured for each crop year shall be irrigated acreage as designated by the actuarial table.

c. The insured share shall be your share as landlord, owner-operator, or tenant in the insured peppers at the time of each planting period.

d. We shall not insure any acreage of peppers grown by any person if the person had not:

(1) Grown peppers for commercial sales the previous crop year; or

(2) Participated in the management of the pepper farming operation the previous crop year.

e. We do not insure any acreage:

(1) Where the farming practices carried out are not in accordance with the farming practices for which the premium rates have been established;

(2) Which is not irrigated;

(3) On which peppers are not grown on plastic mulch;

(4) On which tomatoes, peppers, eggplants or tobacco have been grown and the soil was not fumigated or properly treated before planting the peppers;

(5) Which was planted to peppers the preceding planting period, unless the pepper plants of the preceding planting period were destroyed less than 30 days after the date of planting;

(6) Which is destroyed and which is practical to replant to peppers and such acreage is not replanted;

(7) Initially planted after February 15 of the crop year;

(8) Of volunteer peppers;

(9) Planted to a type or variety of peppers not established as adapted to the area or excluded by the actuarial table;

(10) Planted for experimental purposes; or

(11) Planted with a crop other than peppers.

f. We may limit the insured acreage to any acreage limitation established under any Act of Congress, if we advise you of the limit prior to planting.

3. Report of acreage, share, and practice.

You shall report at the time of each planting period on our form:

a. All the acreage of fall, winter and spring planted peppers in the county in which you have a share;

b. The practice, including the bed size; and

c. Your share.

You shall designate separately any acreage that is not insurable. You shall report if you do not have a share in any pepper plantings in the county. This report shall be submitted for each planting period on or before the reporting date established by the actuarial table. We may determine all indemnities on the basis of information you have submitted on this report. If you do not submit this report by the reporting date, we may elect to determine by unit for each planting period the insured acreage, share, and practice or we may deny liability on any unit for any planting. Any report submitted by you may be revised only upon our approval.

4. Coverage levels and amounts of insurance.

a. The coverage levels and amounts of insurance shall be contained in the actuarial table.

b. Coverage level 2 will apply if you have not elected a coverage level.

c. You may change the coverage level and amount of insurance before the closing date for submitting applications for the crop year as established by the actuarial table.

5. Annual premium.

a. The annual premium is earned and payable at the time of planting. The amount is computed by multiplying the amount of insurance, times the premium rate, times the insured acreage, times your share at the time of each planting, times the applicable premium adjustment percentage contained in the following table.

PREMIUM ADJUSTMENT TABLE [1]

[Percent adjustments for favorable continuous insurance experience]

	Numbers of years continuous experience through previous year															
	0	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15 or more
	Percentage adjustment factor for current crop year															
Loss ratio [2] through previous crop year																
.00 to .20	100	95	95	90	90	85	80	75	70	70	65	65	60	60	55	50
.21 to .40	100	100	95	95	90	90	90	85	80	80	75	75	70	70	65	60
.41 to .60	100	100	95	95	95	95	95	90	90	90	85	85	80	80	75	70
.61 to .80	100	100	95	95	95	95	95	95	90	90	90	90	85	85	85	80
.81 to 1.09	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100

[Percent adjustments for unfavorable insurance experience]

	Numbers of loss years through previous year [3]															
	0	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
	Percentage adjustment factor for current crop year															
Loss ratio [2] through previous crop year																
1.10 to 1.19	100	100	100	102	104	106	108	110	112	114	116	118	120	122	124	126
1.20 to 1.39	100	100	100	104	108	112	116	120	124	128	132	136	140	144	148	152
1.40 to 1.69	100	100	100	108	116	124	132	140	148	156	164	172	180	188	196	204
1.70 to 1.99	100	100	100	112	122	132	142	152	162	172	182	192	202	212	222	232
2.00 to 2.49	100	100	100	116	128	140	152	164	176	188	200	212	224	236	248	260
2.50 to 3.24	100	100	100	120	134	148	162	176	190	204	218	232	246	260	274	288
3.25 to 3.99	100	100	106	124	140	156	172	188	204	220	236	252	268	284	300	300
4.00 to 4.99	100	100	110	128	146	164	182	200	218	236	254	272	290	300	300	300
5.00 to 5.99	100	100	115	132	152	172	192	212	232	252	272	292	300	300	300	300
6.00 and up	100	100	120	136	156	180	202	224	246	268	290	300	300	300	300	300

[1] For premium adjustment purposes, only the years during which premiums were earned shall be considered.

[2] Loss Ratio means the ratio of indemnity(ies) paid to premium(s) earned.

[3] Only the most recent 15 crop years shall be used to determine the number of "Loss Years". (A crop year is determined to be a "Loss Year" when the amount of indemnity for the year exceeds the premium for the year.)

b. Interest shall accrue at the rate of one and one-half percent (1½%) simple interest per calendar month, or any part thereof, on any unpaid premium balance starting on the first day of the month following the first premium billing date.

c. Any premium adjustment applicable to the contract shall be transferred to:

(1) The contract of your estate or surviving spouse in case of your death;

(2) The contract of the person who succeeds you if such person had previously participated in the farming operation; or

(3) Your contract if you stop farming in one county and start farming in another county.

d. If participation is not continuous, any premium shall be computed on the basis of previous unfavorable insurance experience but no premium reduction under section 5a shall be applicable.

6. Deductions for debt.

Any unpaid amount due us may be deducted from any indemnity payable to you or from any loan or payment due you under any Act of Congress or program administered by the United States Department of Agriculture or its Agencies.

7. Insurance period.

Insurance attaches when the peppers are planted in each planting period and ends at the earliest of:

a. Total destruction of the peppers on the unit;

b. Discontinuance of harvest on the unit;

c. The date harvest should have started on the unit, on any acreage which will not be harvested;

d. Final harvest; or

e. Final adjustment of a loss.

8. Notice of damage or loss.

a. In case of damage or probable loss:

(1) You must give us written notice if:

(a) You want our consent to replant peppers damaged due to any insured cause (To qualify for a replanting payment, the acreage replanted shall have sustained a loss in excess of 50 percent of the plant stand on the unit and shall.); be at least the lesser of 10 acres or 10 percent of the insured acreage.

(b) During the period before harvest, the peppers on any unit are damaged and you

decide not to further care for or harvest any part of the peppers;

(c) You want our consent to put the acreage to another use; or

(d) After consent to put acreage to another use is given, additional damage occurs.

Insured acreage may not be put to another use until we have appraised the peppers and given written consent. We shall not consent to another use until it is too late to replant. You must notify us when such acreage is replanted or put to another use.

(2) You must give us notice at least 15 days before the beginning of harvest if you anticipate a loss on any unit.

(3) If probable loss is later determined and you are going to claim an indemnity on any unit, notice shall be given not later than 48 hours:

(a) After total destruction of the peppers on the unit;

(b) After discontinuance of harvest on the unit; or

(c) Before harvest would normally start if any acreage on the unit is not to be harvested.

b. You may not destroy or replant any of the peppers on which a replanting payment will be claimed until we give consent.

c. You must obtain written consent from us before you destroy any of the peppers which are not to be harvested.

d. We may reject any claim for indemnity if any of the requirements of this section or section 9 are not complied with.

9. Claim for indemnity.

a. Any claim for indemnity on a unit shall be submitted to us on our form not later than 60 days after the earliest of:

(1) Total destruction of the peppers on the unit;

(2) Discontinuance of harvesting on the unit; or

(3) The date harvest should have started on the unit, on any acreage which will not be harvested.

b. We shall not pay any indemnity unless you:

(1) Establish the total production and the value received for all peppers on the unit and that any loss of production or value has been directly caused by one or more of the insured causes during the insurance period; and

(2) Furnish all information we require concerning the loss.

c. The indemnity shall be determined on each unit by:

(1) Multiplying the insured acreage by the amount of insurance times the percentage for the stage of production defined by the actuarial table;

(2) Subtracting therefrom the total value of production to be counted (see section 9f);

(3) Multiplying this result by your share;

d. If the information reported by you results in a lower premium than the actual premium determined to be due, the indemnity shall be reduced proportionately.

e. The indemnity shall be reduced by the amount of any replanting payment.

f. The total value of production to be counted for a unit shall include all harvested and appraised production.

(1) The total value shall include any amount received for peppers on the unit minus the allowable cost as designated by the actuarial table.

(2) The amount of insurance per acre shall be the value of production to count for any acreage:

(a) On which production was lost due to uninsured causes;

(b) On which recognized good pepper farming practices were not carried out;

(c) Which is abandoned without our prior written consent; or

(d) Which was put to another use without our prior written consent.

(3) The value of appraised production to be counted shall include:

(a) The value is excess of the amount of insurance per acre for potential production lost due to uninsured causes and failure to follow recognized good pepper farming practices;

(b) Unharvested production of mature green and red peppers; and

(c) Any appraised production of peppers on unharvested acreage.

(4) Unharvested peppers injured or with defects due to insurable causes which cannot be marketed shall not be counted.

(5) Any appraisal we have made on insured acreage for which we have given written consent to be put to another use shall be considered production unless such acreage:

(a) Is not put to another use before harvest of peppers becomes general in the county for the planting period;

(b) Is harvested; or

(c) Is further damaged by an insured cause before the acreage is put to another use.

(6) We may determine the amount and value of production of any unharvested peppers on the basis of field appraisals conducted after the end of the insurance period.

(7) The value of unsold harvested or appraised production shall be determined by multiplying such production by the simple average F.O.B. shipping point price per 1⅑ bushel (minus allowable marketing cost as shown by the actuarial table), as reported by the Federal-State Market News Service, for the seven consecutive market days commencing the earlier of:

(a) The date harvest starts; or

(b) The date harvest could have started, as determined by us, on any acreage which will not be harvested.

The price for such peppers shall not be less than $7.00 per 1⅑ bushel minus allowable cost shown by the actuarial table.

(8) When you have elected to exclude hail and fire as insured causes of loss and the peppers are damaged by hail or fire, appraisals for uninsured causes shall be made in accordance with Form FCI–78–A, "Request to Exclude Hail and Fire".

(9) The value of commingled production of units shall be allocated to such units in proportion to our liability on the harvested acreage of each unit.

g. A replanting payment may be made on any insured peppers replanted after we have given consent and the acreage replanted is at least the lesser of 10 acres or 10 percent of the insured acreage sustaining a loss in excess of 50 percent of the plant stand for the unit.

(1) No replanting payment shall be made on acreage on which a replanting payment has been made during the current crop year.

(2) The replanting payment per acre shall be your actual cost for replanting, but shall not exceed the product obtained by multiplying $175.00 by your share.

(3) Any replanting payment shall be considered as an indemnity

h. If the information reported by you results in a lower premium than the actual premium determined to be due, the replanting payment and the indemnity shall be reduced proportionately.

i. You shall not abandon any acreage to us.

j. You may not bring suit or action against us unless you have complied with all policy provisions. If a claim is denied, you may sue us in the United States District Court under the provisions of 7 U.S.C. 1508(c). You must bring suit within 12 months of the date notice of denial is mailed to and received by you.

k. We shall pay the loss within 30 days after we reach agreement with you, or entry of a final judgment. In no instance shall we be liable for interest or damages in connection with any claim for indemnity, whether we approve or disapprove such claim.

l. If you die, disappear, or are judicially declared incompetent, or if you are an entity other than an individual and such entity is dissolved after the peppers are planted for any crop year, any indemnity shall be paid to the person(s) we determine to be beneficially entitled thereto.

m. If you have other fire insurance and fire damage occurs during the insurance period, and you have not elected to exclude fire insurance from this policy, we shall be liable for loss due to fire only for the smaller of:

(1) The amount of indemnity determined pursuant to this contract without regard to any other insurance; or

(2) The amount by which the loss from fire exceeds the indemnity paid or payable under such other insurance. For the purposes of this section, the amount of loss from fire shall be the difference between the fair market value of the production on the unit before the fire and after the fire.

10. Concealment or fraud.

We may void the contract on all crops insured without affecting your liability for premiums or waiving any right, including the right to collect any amount due us if, at any time, you have concealed or misrepresented any material fact or committed any fraud relating to the contract, and such voidance shall be effective as of the beginning of the crop year with respect to which such act or omission occurred.

11. Transfer or right to indemnity on insured share

If you transfer any part of your share during the crop year, you may transfer your right to an indemnity. The transfer must be on our form and approved by us. We may collect the premium from either you or your transferee or both. The transferee shall have all rights and responsibilities under the contract.

12. Assignment of indemnity.

You may assign to another party your right to an indemnity for the crop year only on our form and with our approval. The assignee shall have the right to submit the loss notices and forms required by the contract.

13. Subrogation. (Recovery of loss from a third party.)

Because you may be able to recover all or a part of your loss from someone other than us, you must do all you can to preserve any such rights. If we pay you for your loss then your right of recovery shall at our option belong to us. If we recover more than we paid you plus our expenses, the excess shall be paid to you.

14. Records and Access to Farm

You shall keep, for two years after the time of loss, records of the harvesting, storage, shipment, sale, or other disposition of all peppers produced on each unit including separate records showing the same information for production from any uninsured acreage. Any person designated by us shall have access to such records and the farm for purposes related to the contract.

15. Life of Contract: Cancellation and termination

a. This contract shall be in effect for the crop year specified on the application and may not be canceled for such crop year. Thereafter, the contract shall continue in force for each succeeding crop year unless canceled or terminated as provided in this secton.

b. This contract may be canceled by either you or us for any crop year by giving written notice on or before the cancelllation date preceding such crop year.

c. This contract shall terminate as to any crop year if any amount due us on this or any other contract with you is not paid on or before the termination date preceding such crop year for the contract on which the amount is due. The date of payment of the amount due:

(1) If deducted from an indemnity shall be the date you sign the claim; or

(2) If deducted from payment under another program administered by the United States Department of Agriculture shall be the date such payment was approved.

d. The cancellation and termination dates are July 31.

e. If you die or are judicially declared incompetent, or if you are an entity other than an individual and such entity is dissolved, the contract shall terminate as of the date of death, judicial declaration, or dissolution. If such event occurs after insurance attaches for any crop year, the contract shall continue in force through the crop year and terminate at the end thereof. Death of a partner in a partnership shall dissolve the partnership unless the partnership agreement provides otherwise. If two or more persons having a joint interest are insured jointly, death of one of the persons shall dissolve the joint entity.

f. The contract shall terminate if no premium is earned for five consecutive years.

16. Contract Changes.

We may change any terms and provisions of the contract from year to year. If your amount of insurance at which indemnities are computed is no longer offered, the actuarial table shall provide the amount of insurance which you shall be deemed to have elected. All contract changes shall be available at your service office by April 30 preceding the cancellation date. Acceptance of any changes shall be conclusively presumed in the absence of any notice from you to cancel the contract.

17. Meaning of Terms.

For the purposes of pepper crop insurance:

a. "Actuarial table" means the forms and related material for the crop year approved by us which are available for public inspection in your service office, and which show the amount of insurance, coverage levels, premium rates, practices, insurable and uninsurable acreage, and related informaton regarding pepper insurance in the county.

b. "County" means the county shown on the application and any additional land located in a local producing area bordering on the county, as shown by the actuarial table.

c. "Crop year" means the period within which the peppers are normally grown beginning August 1 and continuing through the harvesting of the spring planted peppers and shall be designated by the calendar year in which the spring planted peppers are normally harvested.

d. "Harvest" means the final picking of marketable peppers on the unit.

e. "Insurable acreage" means the land classified as insurable by us and shown as such by the actuarial table.

f. "Insured" means the person who submitted the application accepted by us.

g. "Mature green pepper" means a pepper which has reached the stage of development that will withstand normal handling and shipping.

h. "Person" means an individual, partnership, association, corporation, estate, trust, or other business enterprise or legal entity, and wherever applicable, a State, a political subdivision of a State, or any agency thereof.

i. "Planting" means transplanting the pepper plant into the field or direct seeding in the field.

j. "Planting Period." Unless other dates are specified by the actuarial table, planting period means peppers planted:

(1) From August 1 through October 15 (fall planted);

(2) From October 16 through December 15 (winter planted); or

(3) From December 16 through February 15 (spring planted).

k. "Plant Stand" means the number of live plants per acre before the plants were damaged due to insurable causes.

l. "Replanting" means performing the cultural practices necessary to replant insured acreage to peppers.

m. "Service office" means the office servicing your contract as shown on the application for insurance or such other approved office as may be selected by you or designated by us.

n. "Tenant" means a person who rents land from another person for a share of the peppers or a share of the proceeds therefrom.

o. "Unit" means all insurable acreage of peppers for each planting period in the county on the date of planting for the crop year:

(1) In which you have a 100 percent share, or

(2) Which is owned by one entity and operated by another entity on a share basis.

Land rented for cash, a fixed commodity payment, or any consideration other than a share in the peppers on such land shall be considered as owned by the lessee. Land which would otherwise be one unit may be divided according to applicable guidelines on file in your service office or by written agreement between you and us. We shall determine units as herein defined when the acreage is reported. Errors in reporting such units may be corrected by us to conform to applicable guidelines when adjusting a loss. We may consider any acreage and share thereof reported by or for your spouse or child or any member of your household to be your bona fide share or the bona fide share of any other person having an interest therein.

18. Descriptive headings.

The descriptive headings of the various policy terms and conditions are formulated for convenience only and are not intended to affect the constuction or meaning of any of the provisions of the contract.

19. Determinations.

All determinations required by the policy shall be made by us. If you disagree with our determinations you may obtain reconsideration of or appeal those determinations in accordance with FCIC's Appeal Regulations.

20. Notices.

All notices required to be given by you must be in writing and received by your service office within the designated time unless otherwise provided by the notice requirement. Notices required to be given immediately may be by telephone or in person and confirmed in writing. Time of the notice will be determined by the time of our receipt of the written notice.

Appendix A—Counties Designated for Pepper Crop Insurance

The following counties are designated for Pepper Crop Insurance under the provisions of 7 CFR 445.1.

Crop: Peppers, State: Florida

Collier	Hendry
Glades	Lee

Done in Washington, D.C., on November 15, 1983.

Peter F. Cole,

Secretary, Federal Crop Insurance Corporation.

Date: January 23, 1984.

Approved by:

Michael A. Bronson,

Acting Manager.

[FR Doc. 84-2610 Filed 1-30-84; 8:45 am]

BILLING CODE 3410-08-M

Animal and Plant Health Inspection Service

9 CFR Part 81

[Docket No. 84-002]

Lethal Avian Influenza

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule.

SUMMARY: This document revises the "Highly Pathogenic Avian Influenza" interim rule by expanding its provisions to cover certain other forms of avian influenza in addition to highly pathogenic avian influenza (all of these forms of avian influenza, including highly pathogenic avian influenza, are collectively referred to in the interim rule as "lethal avian influenza"). The revisions also include the addition of portions of Maryland and Virginia to the list of quarantined areas. This action is necessary to help prevent the spread of forms of avian influenza that can cause high levels of morbidity and mortality in poultry.

DATES: Effective date is January 27, 1984. Written comments must be received on or before April 2, 1984.

ADDRESS: Written comments should be submitted to Thomas O. Gessel, Director, Regulatory Coordination Staff, APHIS, USDA, Room 728, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782. Written comments received may be inspected at Room 728 of the Federal Building, 8 a.m. to 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Dr. William W. Buisch, Chief, National Emergency Field Operations Staff, VS, APHIS, USDA, Room 747, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301–436–8973.

SUPPLEMENTARY INFORMATION:

Background

This document revises the "Highly Pathogenic Avian Influenza" interim rule which is set forth in 9 CFR Part 81. The interim rule was designed to help prevent the spread of highly pathogenic avian influenza from infected premises in Pennsylvania and New Jersey (48 FR 51422–51423, 52420–52427, 52885–52887, 53678–53679; 53679–53681, 53997, 54574–54575, 55402–55405, 55722, 57474–57475, 49 FR 368–369, 2742–2744, 3446–3448, 3494).

Lethal Avian Influenza

Various forms of H5 avian influenza were found to occur in the 1983 avian influenza outbreak in poultry in Pennsylvania. These forms of avian influenza included highly pathogenic avian influenza and other forms of avian influenza. Highly pathogenic avian influenza spread from Pennsylvania to a premises in New Jersey.

The interim rule was established solely to help prevent the spread of highly pathogenic avian influenza, which had been found to cause high levels of morbidity and mortality in poultry. The interim rule did not cover other forms of avian influenza from the Pennsylvania outbreak because the other forms of avian influenza had been found to cause only mild reactions in poultry. However, it now appears that all forms of avian influenza that have resulted from the virus found in poultry in Pennsylvania, including highly pathogenic avian influenza and other forms of avian influenza, are capable of causing extremely high levels of morbidity and mortality in poultry. These forms of avian influenza that have resulted from the 1983 outbreak in poultry in Pennsylvania are the only forms of avian influenza known to produce high levels of morbidity and mortality in poulty in the United States. Therefore, in order to protect against high levels of morbidity and mortality in poultry from avian influenza, it is necessary to revise the interim rule by expanding its provisions to cover any form of H5 avian influenza virus determined by the Deputy Administrator, Veterinary Services, to have spread from the 1983 outbreak in poultry in Pennsylvania.

The forms of H5 influenza virus determined by the Deputy Administrator, Veterinary Services, to have spread from the 1983 outbreak in poultry in Pennsylvania are collectively named "lethal avian influenza."

The revised interim rule is set forth in full in the text portion of this document and is recaptioned "Lethal Avian Influenza." The interim rule is divided into four subparts: Subpart A—Definitions, Subpart B—General Provisions, Subpart C—Quarantined Area Provisions, and Subpart D—Extraordinary Emergency Provisions. These are the same provisions that were in effect prior to the effective date of this document except for changes explained below and for certain changes to reflect that the provisions are revised to cover lethal avian influenza rather than only highly pathogenic avian influenza.

Quarantined Area Provisions

In order to protect against the interstate spread of lethal avian influenza, it has been determined that it is necessary to establish quarantined areas based on the same criteria that were established for highly pathogentic avian influenza. Under these criteria it does not appear that it is necessary to make changes in the descriptions of the quarantined areas in New Jersey or Pennsylvania.

However, in order to help prevent the spread of lethal avian influenza it is necessary to add portions of Maryland and Virginia to the list of quarantined areas. Outbreaks of H5 avian influenza which are causing morbidity and mortality in poultry on infected premises in Maryland and Virginia have been traced to the 1983 outbreak in Pennsylvania.

It has been determined that it is necessary that a quarantined area with infected poultry have easily understood boundary lines, include the premises where lethal avian influenza is found, and include at least a five-mile buffer zone in every direction from premises where the disease is found. Also, if the boundary line under the above criteria would be contiguous to areas containing high concentrations of poultry, it has been determined that it is necessary that the quarantined area include the contiguous areas containing high concentrations of poultry. Further, if the boundary line under the above criteria would encompass and be contiguous to large areas in which there is no poultry production, it has been determined that the quarantined areas should be adjusted to exclude any such areas.

Under the circumstances and criteria explained above, it is necessary to add the following area in Albemarle, Augusta, Frederick, Greene, Madison, Page, Rappahannock, Rockingham, Shenandoah, and Warren Counties in Virginia to the list of quarantined areas:

That portion of Virginia beginning at the intersection of U.S. Highway 250 with the Highland-Augusta County line; then southeasterly on U.S. Highway 250 to its intersection with Interstate Highway 81; then southerly along Interstate Highway 81 to its intersection with Interstate Highway 64; then southeasterly on Interstate Highway 64 to its intersection with Skyline Drive; then northerly along Skyline Drive to its intersection with U.S. Highway 340 North and State Highway 55; then westerly on State Highway 55 to the Virginia-West Virginia State line, then southwesterly along the Virginia-West Virginia State line to the Highland-Augusta County line; then southerly along the Highland-Augusta County line to its intersection with U.S. Highway 250.

It is also necessary to add the following area in Cecil County in Maryland to the list of quarantined areas:

That portion of Maryland beginning at the intersection of the Maryland, Delaware, and Pennsylvania State lines; then southerly along the Maryland-Delaware State line to its intersection with the Chesapeake and Delaware Canal; then westerly along the northern edge of the Chesapeake and Delaware Canal to its intersection with the Chesapeake Bay; then westerly along the irregular northern shoreline of the Chesapeake Bay to its intersection with the eastern edge of the mouth of the Susquehanna River; then northwesterly along the eastern edge of the Susquehanna River to its intersection with the Maryland-Pennsylvania State line; then easterly along

the Maryland-Pennsylvania State line to its intersection with the Delaware State line.

Effect of Designation as a Quarantined Area

With certain exceptions, the interim rule provides that the following articles designated as prohibited articles are prohibited from being moved interstate from a quarantined area:

(1) Live poultry,

(2) Manure from poultry, and

(3) Litter that has been used by poultry.

The interim rule also provides, with certain exceptions, that the following articles designated as restricted articles are allowed to be moved interstate from a quarantined area only in accordance with certain conditions:

(1) Poultry carcasses or parts thereof,

(2) Eggs from poultry, and

(3) Coops, containers, troughs, or other accessories that have been used in the handling of poultry or poultry eggs.

Extraordinary Emergency Provisions

With respect to the extraordinary emergency provisions it should be noted that these provisions are designed to apply to activities only in States for which an extraordinary emergency has been declared because of lethal avian influenza. These provisions apply to activities in New Jersey and Pennsylvania because an extraordinary emergency has been declared for these States because of lethal avian influenza.

The declaration of extraordinary emergency authorizes the Secretary to seize, quarantine, and dispose of, in such manner as he deems necessary, any animals which he finds are or have been affected with or exposed to such disease, and carcasses of any such animals and any products and articles which he finds were so related to such animals as to be likely to be a means of disseminating such disease and otherwise to carry out the provisions and purposes of the Act of July 2, 1962 (21 U.S.C. 134–134h).

The interim rule contains extraordinary emergency provisions which are applicable to States for which an extraordinary emergency has been declared. In this connection, the extraordinary emergency provisions provide for inspections and seizures upon premises; disposal of poultry and other items; cleaning of pens, coops, containers, troughs, other accessories, and means of conveyance; and appraisal and payment for destruction of poultry and other items.

Also, it should be noted that under the provisions of 9 CFR Part 53 there is authority for the Department to cooperate in the control and eradication of lethal avian influenza with States for which an extraordinary emergency has not been declared. This includes authority to pay up to 100 percent of the expenses of "purchase, destruction, and disposition of animals and materials required to be destroyed because of being contaminated by or exposed to" lethal avian influenza.

Miscellaneous

The interim rule also contains provisions for determining when poultry are "infected poultry" (see the definitions of "infected poultry" and "clinical evidence" in Subpart A—Definitions of the interim rule). These provisions, which were designed for highly pathogenic avian influenza, do not need to be changed since they are also appropriate for determining when poultry are infected with lethal avian influenza.

Emergency Action

Dr. John K. Atwell, Deputy Administrator of the Animal and Plant Health Inspection Service for Veterinary Services, has determined that an emergency situation exists which warrants publication of this interim rule without prior opportunity for public comment. Immediate action is warranted to protect against the spread of lethal avian influenza.

Further, pursuant to the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that prior notice and other public procedures with respect to this interim rule are impracticable and contrary to the public interest; and good cause is found for making this interim rule effective upon signature. Comments are solicited for 60 days after publication of this document. A final document discussing comments received and any amendments required will be published in the **Federal Register**.

Executive Order and Regulatory Flexibility Act

The emergency nature of this action makes it impracticable for the Agency to follow the procedures of Executive Order 12291 and Secretary's Memorandum 1512–1 with respect to this interim rule. Immediate action is warranted to protect against the spread of lethal avian influenza.

This emergency situation also makes compliance with section 603 and timely compliance with section 604 of the Regulatory Flexibility Act impracticable. Since this action may have a significant economic impact on a substantial number of small entities, the Final Regulatory Impact Analysis, if required, will address the issues required in section 604 of the Regulatory Flexibility Act.

List of Subjects in 9 CFR Part 81

Animal diseases, Poultry and poultry products, Transportation.

Under the circumstances referred to above, 9 CFR Part 81 is revised to read as follows:

PART 81—LETHAL AVIAN INFLUENZA

Subpart A—Definitions

Sec.

81.1 Definitions.

Subpart B—General Provisions

81.2 Interstate movement of infected or exposed live poultry or materials.
81.3 Contaminated means of conveyance, premises, containers, and other accessories; not to be used for interstate movement of poultry until cleaned and disinfected.

Subpart C—Quarantined Area Provisions

81.4 Quarantined areas.
81.5 Prohibited articles.
81.6 Restricted articles.
81.7 Permits for movement of restricted articles.
81.8 Movement by United States Department of Agriculture for diagnostic or experimental purposes; other movements.
81.9 (Reserved)

Subpart D—Extraordinary Emergency Provisions

81.10 Determination of extraordinary emergency; related determinations.
81.11 Inspections and seizures.
81.12 Disposal.
81.13 Cleaning and disinfecting.
81.14 Appraisal.
81.15 Payment.

Authority: Sec. 2, 23 Stat. 31, as amended; secs. 4–8, 23 Stat. 31–33, as amended; secs. 1–3, 32 Stat. 791, 792, as amended; secs 1–4, 33 Stat. 1264, 1265, as amended; 41 Stat. 699; sec. 2, 65 Stat. 693; secs. 2–3, 5–6 and 11, 76 Stat. 129–132; 76 Stat. 663, 7 U.S.C. 450, 21 U.S.C. 111–113, 114a–1, 115–117, 119–126, 130, 134a, 134b, 134d, 134e, 134f; 7 CFR 2.17, 2.51, and 371.2(d).

Subpart A—Definitions

§ 81.1 Definitions.

The following terms shall be construed respectively to mean:

Clinical evidence. Evidence, such as decreased feed and water consumption, depression, unusual movements or positions, increased mortality, hemorrhage beneath the skin on the lower legs and feet, severe decrease in egg production; post mortem lesions; and history of the disease occurance in the flock.

Deputy Administrator. The Deputy Administrator, Veterinary Services, or

any other official to whom authority has heretofore been delegated or may hereafter be delegated to act in the Deputy Administrator's stead.

Director of the Task Force. The veterinary official of Veterinary Services designated by the Deputy Administrator to supervise and perform the disease control and eradication work of the Task Force.

Exposed poultry. Poultry which, through the movement of poultry, individuals, feed, or other vectors has been determined by a Federal or State inspector to have had contact, directly or indirectly, with lethal avian influenza.

Federal inspector. An inspector of the Animal and Plant Health Inspection Service, the Agricultural Marketing Service, or the Food Safety and Inspection Service, United States Department of Agriculture, responsible for the performance of the function involved.

Infected poultry. Poultry determined by the Director of the Task Force, in such person's judgment, as being infected with lethal avian influenza on the basis of clinical evidence, epidemiological evidence,[1] or diagnostic tests.[2]

Interstate. From one State into or through any other State.

Lethal avian influenza. A disease of poultry caused by any form of H5 influenza virus that is determined by the Deputy Administrator to have spread from the 1983 outbreak in poultry in Pennsylvania.

Moved. Shipped, transported or otherwise moved, or delivered or received for movement, by any person.

Permit. An official document issued by a State or federal inspector for interstate movement of a restricted article.

Person. Any individual, partnership, corporation, association, joint venture, or any other legal entity.

Poultry. Chickens, ducks, geese, swans, turkeys, pigeons, doves, pheasants, grouse, partridges, quail, guinea fowl, and pea fowl.

State. Any State, Territory, the District of Columbia, or Puerto Rico.

State inspector. An inspector of a State or a political subdivision thereof, who is authorized by such State or political subdivision to perform the function involved.

Task Force. Special force of Federal and State personnel designated by the Deputy Administrator to control and eradicate lethal avian influenza.

Veterinary Services. The Veterinary Services unit of the Animal and Plant Health Inspection Service, United States Department of Agriculture.

[1] Epidemiological evidence—evaluation of clinical evidence and the degree of risk posed by the potential spread of infection based on population and exposure factors.

[2] Protocol for such diagnostic tests can be found in the "Recommended Uniform Diagnostic Procedures" published by the Committee of the American Association of Veterinary Laboratory Diagnosticians. Copies of the test protocols may be obtained from the Deputy Administrator, Veterinary Services, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Hyattsville, MD 20782.

Subpart B—General Provisions

§ 81.2 Interstate movement of infected or exposed live poultry or materials.

(a) No live poultry infected with or exposed to lethal avian influenza, no manure from such poultry, and no litter which has been used by such poultry shall be moved interstate.

(b) No carcasses or parts thereof from poultry infected with or exposed to lethal avian influenza shall be moved interstate unless heated throughout to at least 160° F. (71° C.) or unless moved interstate from a quarantined area for incineration, rendering, or burial in a landfill in accordance with § 81.6.

(c) No eggs from poultry infected with or exposed to lethal avian influenza shall be moved interstate unless moved interstate from a quarantined area for incineration, rendering, or burial in a landfill in accordance with § 81.6.

(d) Poultry coops, containers, troughs, or other accessories that have been used in the handling of poultry infected with or exposed to lethal avian influenza or in the handling of eggs from such poultry shall not be moved interstate unless cleaned and disinfected prior to movement with a permitted disinfectant specified in §§ 71.10 or 71.11 of this Subchapter.

§ 81.3 Contaminated means of conveyance, premises, containers, and other accessories; not to be used for interstate movement of poultry until cleaned and disinfected.

No means of conveyance or premises which have contained any poultry which have been found infected with lethal avian influenza, and no coops, containers, troughs, or other accessories used in the handling of such infected poultry, shall be used in connection with the interstate movement of poultry until the said means of conveyance, premises, coops, containers, troughs, or other accessories have been cleaned and disinfected under the supervision of a Federal or State inspector with a permitted disinfectant, as provided in §§ 71.4, 71.6, 71.7, 71.10, and 71.11 of this Subchapter, or with a 3 percent solution cresol compound, U.S.P.

Subpart C—Quarantined Area Provisions

§ 81.4 Quarantined areas.

(a) The following area in Cecil County in Maryland is designated as a quarantined area: That portion of Maryland beginning at the intersection of the Maryland, Delaware and Pennsylvania State lines; then southerly along the Maryland-Delaware State line to its intersection with the Chesapeake and Delaware Canal; then westerly along the northern edge of the Chesapeake and Delaware Canal to its intersection with the Chesapeake Bay; then westerly along the irregular northern shoreline of the Chesapeake bay to its intersection with the eastern edge of the mouth of the Susquehanna River; then northwesterly along the eastern edge of the Susquehanna River to its intersection with the Maryland-Pennsylvania State line; then easterly along the Maryland-Pennsylvania State line to its intersection with the Delaware State line.

(b) The following area in Cumberland, Gloucester, and Salem Counties in New Jersey is designated as a quarantined area: That portion of New Jersey beginning at the intersection of U.S. Highway 40 with NJ Highway 55; then southerly along NJ Highway 55 to its intersection with County Road 690; then westerly along County Road 690 to its intersection with County Road 655; then northerly along County Road 655 to its intersection with County Road 639; then northwesterly along County Road 639 to its intersection with County Road 553; then northerly along County Road 553 to its intersection with U.S. Highway 40; then easterly along U.S. Highway 40 to its intersection with NJ Highway 55.

(c) The following area in Adams, Berks, Chester, Cumberland, Dauphin, Franklin, Lancaster, Lebanon, and York Counties of Pennsylvania is designated as a quarantined area: That portion of Pennsylvania beginning at the intersection of Interstate Highway 81 with the Pennsylvania-Maryland State Line; then northeasterly along Interstate Highway 81 to its intersection with Interstate Highway 78; then northeasterly along Interstate Highway 78 to its intersection with the Berks-Lehigh County Line; then southeasterly along the Berks-Lehigh County Line to its intersection with the Berks-Montgomery County Line; then southwesterly along the Berks-Montgomery County Line to its intersection with U.S. Highway 422; then southeasterly along U.S. Highway 422 to its intersection with PA Highway 100; then southerly along PA Highway 100 to

its intersection with the Pennsylvania-Delaware State Line; then southwesterly along the Pennsylvania-Delaware State Line to its intersection with the Pennsylvania-Maryland State Line; then westerly along the Pennsylvania-Maryland State Line to its intersection with Interstate Highway 81.

(d) The following area in Albemarle, Augusta, Frederick, Greene, Madison, Page, Rappahannock, Rockingham, Shenandoah, and Warren Counties in Viriginia is designated as a quarantined area: That portion of Virginia beginning at the intersection of U.S. Highway 250 with the Highland-Augusta County line; then southeasterly on U.S. Highway 250 to its intersection with Interstate Highway 81; then southerly along Interstate Highway 81 to its intersection with Interstate Highway 64; then southeasterly on Interstate Highway 64 to its intersection with Skyline Drive; then northerly along Skyline Drive to its intersection with U.S. Highway 340 North and State Highway 55 to the Virginia-West Virginia State line, then southwesterly along the Virginia-West Virginia State line to the Highland-Augusta County line; then southerly along the Highland-Augusta County line to its intersection with U.S. Highway 250,

§ 81.5 Prohibited articles.

(a) The following are designated as prohibited articles:

(1) Live poultry,

(2) Manure from poultry, and

(3) Litter that has been used by poultry.

(b) A prohibited article shall not be moved interstate from a quarantined area.

§ 81.6 Restricted articles.

(a) The following are designated as restricted articles:

(1) Poultry carcasses or parts thereof,

(2) Eggs from poultry, and

(3) Coops, containers, troughs, or other accessories that have been used in the handling of poultry or poultry eggs.

(b) A restricted article shall not be moved interstate from a quarantined area except in accordance with the provisions in this Part.

(c) Poultry carcasses or parts thereof may be moved interstate from a quarantined area:

(1) If from a poultry flock inspected by a Federal or State inspector prior to movement for slaughter and not found to have been exposed to lethal avian influenza or to have clinical evidence of lethal avian influenza, and if from poultry slaughtered at a federally inspected slaughtering establishment; or

(2) If heated throughout to at least 160° F. (71° C.); or

(3) If moved under the supervision of a Federal or State inspector for incineration, rendering, or burial in a landfill (the incinerator, rendering facility, or landfill must have equipment and use procedures that are determined by the Deputy Administrator to be adequate to prevent the dissemination of lethal avian influenza and must comply with the applicable laws for environmental protection).

(d) Eggs may be moved interstate from a quarantined area as follows:

(1) Poultry eggs for use as food which are from poultry not found to be infected with or exposed to lethal avian influenza may be moved interstate from a quarantined area pursuant to a permit if prior to movement they are washed free of adhering material and rinsed with warm water containing not less than 50 p/m nor more than 200 p/m of available chlorine or its equivalent, and if moved in unused flats and cases, or in plastic flats and cases washed free of adhering material since last use and rinsed with warm water containing not less than 50 p/m of available chlorine or its equivalent.

(2) Any poultry eggs may be moved interstate from a quarantined area under the supervision of a Federal or State inspector for incineration, rendering, or burial in a landfill (the incinerator, rendering facility, or landfill must have equipment and use procedures that are determined by the Deputy Administrator to be adequate to prevent the dissemination of lethal avian influenza and must comply with the applicable laws for environmental protection).

(e) Poultry coops, containers, troughs, or other accessories that have been used in the handling of poultry or poultry eggs may be moved interstate from a quarantined area if prior to movement they are cleaned and disinfected with a permitted disinfectant specified in §§ 71.10 or 71.11 of this Subchapter.

§ 81.7 Permits for movement of restricted articles.

(a) A permit for the interstate movement of a restricted article in accordance with provisions in this Part may be obtained from a State or Federal inspector [3] for movement. It shall list the name and address of the consignor and consignee, the origin and destination locations, the number and type of articles covered, and the purpose of the movement.

(b) Any permit which has been issued may be withdrawn by a State or Federal inspector or the Deputy Administrator if he/she determines that the holder thereof has not complied with any condition for the use of the permit. The reasons for the withdrawal shall be confirmed in writing as promptly as circumstances allow. Any person whose permit has been withdrawn may appeal the decision in writing to the Deputy Administrator within ten (10) days after receiving the written notification of the withdrawal. The appeal shall state all of the facts and reasons upon which the person relies to show that the permit was wrongfully withdrawn. The Deputy Administrator shall grant or deny the appeal, in writing, stating the reasons for the decision as promptly as circumstances allow. If there is a conflict as to any material fact, a hearing shall be held to resolve such conflict.

§ 81.8 Movement by United States Department of Agriculture for diagnostic or experimental purposes; other movements.

(a) Notwithstanding other provisions in this Subchapter, a prohibited article or restricted article may be moved interstate by the United States Department of Agriculture for diagnostic or experimental purposes under conditions found by the Deputy Administrator to be adequate to prevent the spread of lethal avian influenza.

(b) Notwithstanding other provisions in this Subchapter, the Deputy Administrator may in specific cases allow the movement of prohibited articles or restricted articles interstate, other than as provided for in this Subchapter, under such conditions as the Deputy Administrator may prescribe in each case to prevent the spread of lethal avian influenza. The Deputy Administrator will promptly notify the appropriate officials of the States involved of any such action.

§ 81.9 [Reserved]

Subpart D—Extraordinary Emergency Provisions

§ 81.10 Determination of extraordinary emergency; related determinations.

Lethal avian influenza is a dangerous, communicable disease of poultry and it has been determined that an extraordinary emergency exists because of outbreaks of the disease in New Jersey and Pennsylvania, and that such outbreaks threaten the poultry of the United States and seriously burden interstate and foreign commerce. It has further been determined that adequate measures to control such outbreaks cannot be taken by New Jersey and Pennsylvania, and that the regulations

[3] Inspectors may be contacted at telephone numbers available from local county agricultural extension agents.

in this Subpart are necessary to enable the identification of poultry that are or have been affected with or exposed to such disease, and to seize, quarantine, and dispose of such poultry and other items, and to otherwise carry out the provisions and purposes of the Act of July 2, 1962 (21 U.S.C. 134–134h). The Secretary of Agriculture of New Jersey, and the Commissioner of Agriculture of Pennsylvania have been informed of these facts.

§ 81.11 Inspections and seizures.

State inspectors (appointed as employees of the United States Department of Agriculture) and Federal inspectors, designated by the Deputy Administrator and identified by an official identification card, shall have authority to enter, with a warrant obtained under section 5 of the Act of July 2, 1962 (21 U.S.C. 134d), upon any premises in New Jersey and Pennsylvania for the purpose of making inspections and seizures necessary under the laws and regulations administered by the Secretary for the prevention of the introduction or dissemination of lethal avian influenza. This shall include authority for such inspectors to require that they be allowed to collect blood samples and cloacal and tracheal swabs from live poultry on such premises and to collect tissue samples and cloacal and tracheal swabs from dead poultry on such premises. Such inspectors may enter upon any premises without a warrant if the person in possession of the premises voluntarily consents to their entry.

§ 81.12 Disposal.

(a) Whenever the Director of the Task Force finds that any poultry upon any premises in New Jersey and Pennsylvania are or have been infected with or exposed to lethal avian influenza, or that any carcasses or parts thereof, eggs, or other products or articles were so related to such poultry as to be likely to be a means of disseminating the disease, the Director of the Task Force will order the owner thereof, or the owner's agent in possession thereof, to maintain them in quarantine on such premises for such period and dispose of them within such time, and in such manner as the Director of the Task Force shall prescribe in accordance with section 2 of the Act of July 2, 1962 (21 U.S.C. 134a). The order shall be served upon the owner of the poultry, carcasses or parts thereof, eggs, products or articles, or the owner's agent, in person by a State inspector (appointed as an employee of the United States Department of Agriculture) or by a Federal inspector. If the owner or the owner's agent does not comply with such order, after such notice thereof, the Director of the Task Force may seize, quarantine, and dispose of the poultry, carcasses or parts thereof, eggs, products, or articles as provided in section 2 of the Act of July 2, 1962.

(b) When any poultry, carcasses or parts thereof, eggs, products, or articles are ordered to be quarantined on any premises under paragraph (a) of this section, they shall not be moved from such premises unless authorized by the Director of the Task Force.

(c) A premises quarantine shall remain in effect until the following conditions are met:

(1) All poultry on such premises are depopulated;

(2) All carcasses and parts thereof from the depopulated poultry, and any other poultry carcasses and parts thereof, eggs, products, and articles so related to the depopulated poultry as to be likely to be a means of disseminating lethal avian influenza, are disposed of by incineration, rendering, burial in a landfill or other place, or by such other means as the Deputy Administrator determines would be adequate to prevent the spread of lethal avian influenza (the incinerator, rendering facility, place of burial, or other place of disposal must have equipment and use procedures that are determined by the Deputy Administrator to be adequate to prevent the dissemination of lethal avian influenza and must comply with the applicable laws for environmental protection);

(3) The premises are found by a Federal or State inspector to have been cleaned and disinfected in accordance with § 81.13 after the carcasses or parts thereof, eggs, products, or articles are disposed of as specified in paragraph (c)(2) of this section.

(4) No live poultry are taken onto the premises for a 30-day period after the premises have been found to meet the cleaning and disinfection provisions of paragraph (c)(3) of this section, and for any additional time period determined necessary by the Director of the Task Force to ensure that the premises are free of lethal avian influenza; and

(5) The Director of the Task Force has determined (by means which may include testing with test birds and evaluation of epidemiological conditions) that lethal avian influenza has been eradicated and that the premises can be safely repopulated.

§ 81.13 Cleaning and disinfecting requirements.

All pens, coops, containers, troughs, other accessories, or means of conveyance found by a Federal or State inspector to have been used in the handling of any poultry or related products, carcasses or parts thereof, eggs, products, or articles subject to an order under § 81.12 shall be cleaned and disinfected in accordance with the provisions in §§ 71.7, 71.10, and 71.11 of this Subchapter, or with a 3 percent solution cresol compound, U.S.P., unless other disposal is ordered under § 81.12.

§ 81.14 Appraisal.

Poultry, carcasses or parts thereof, eggs, products, or articles required to be destroyed in accordance with § 81.12 shall be appraised by a Veterinary Services employee. The appraisal shall be the fair market value at the time of destruction as determined by such employee.

§ 81.15 Payment.

(a) A claim for payment for destruction of poultry, carcasses or parts thereof, eggs, products, or articles must be presented to the Director of the Task Force before payment will be made. The claimant must state whether the items for which payment is requested are, or are not, subject to a mortgage, lien, or other security or beneficial interest held by any person other than the claimant. If the claimant is the owner and states that there is no mortgage, lien, or other such interest on the items, payment will be made to the owner. If the claimant states that there is a mortgage, lien, or other such interest, a VS Form 1–23 shall be signed by the claimant and by each person holding a mortgage, lien, or other such interest on the items, consenting to the payment of any indemnity allowed to the person specified thereon, and payment will be made to such person.

(b) Section 2 of the Act of July 2, 1962 (21 U.S.C. 134a(e)) provides that:

> No payment shall be made by the Secretary for any animal, carcass, product, or article which has been moved or handled by the owner thereof or his agent knowingly in violation of a law or regulation administered by the Secretary for the prevention of the interstate dissemination of the communicable disease, for which the animal, carcass, product, or article was destroyed or a law or regulation for the enforcement of which the Secretary enters or has entered into a cooperative agreement for the control and eradication of such disease, or for any animal which has moved into the United States contrary to such law or regulation administered by the Secretary for the prevention of the introduction of a communicable disease of livestock or poultry.

Done at Washington, D.C., this 27th day of January 1984.

J. K. Atwell,

Deputy Administrator, Veterinary Services.

[FR Doc. 84-2743 Filed 1-27-84; 2:00 pm]

BILLING CODE 3410-34-M

TENNESSEE VALLEY AUTHORITY

18 CFR Part 1308

Contract Disputes

AGENCY: Tennessee Valley Authority (TVA).

ACTION: Final rule.

SUMMARY: TVA is amending the rules governing dismissal of appeals before the TVA Board of Contract Appeals (Board) under the Contract Disputes Act of 1978 (the Act). As presently stated, the Board's rules adopt the procedures of Rule 41 of the Federal Rules of Civil Procedure. Those procedures are in part inconsistent with the procedures required by the Act, and the Board's rules are being amended to eliminate the inconsistency and to state directly the appropriate procedures to be followed.

EFFECTIVE DATE: January 31, 1984.

FOR FURTHER INFORMATION CONTACT: Herbert S. Sanger, Jr., General Counsel, Tennessee Valley Authority, 400 West Summit Hill Drive, Knoxville, Tennessee 37902, (615) 632-2241, FTS 856-2241.

SUPPLEMENTARY INFORMATION: The present procedural rules of the Board adopt Rule 41 of the Federal Rules of Civil Procedure to govern dismissal of appeals. Under the Act appeals to the Board under sections 7 and 8 are an alternative to, and in lieu of, direct actions in Federal district court under section 10. Board decisions (including dismissals) are final and reviewable in court only under section 8(g)(2). To ensure that the Board's procedures are clear on this matter, and to avoid confusion from the language of Rule 41, the Board's procedural rules are being amended to delete reference to that rule and to prescribe the procedure for and effect of dismissals of appeals or counterclaims by the Board. This is a clarifying amendment to a procedural rule, as to which public rulemaking proceedings are unnecessary.

For the reasons set out in the preamble and by virtue of authority granted by the Contract Disputes Act of 1978 and the Tennessee Valley Authority Act of 1933, Subpart D of Part 1308 of Chapter XIII of Title 18, Code of Federal Regulations, is amended as set forth below.

Dated: January 23, 1984.

W. F. Willis,

General Manager.

List of Subjects in 18 CFR Part 1308

Administrative practice and procedure, Contract Disputes Act of 1978, Fraud, Government procurement, Surplus Government property, Lawyers.

PART 1308—[AMENDED]

1. Section 1308.32 is amended by revising paragraph (a) and adding paragraph (e) to read as follows:

§ 1308.32 Prehearing procedures.

(a) Unless otherwise provided in this part, prehearing procedures, including discovery, shall be conducted in accordance with Rules 6, 7(b), 16, 26, 28–37, and 56 of the Federal Rules of Civil Procedure, except that the Hearing Officer may modify those Rules to meet the needs of the parties in a particular case.

* * * * *

(e) No appeal of counterclaim may be dismissed except by order of the Hearing Officer. The Hearing Officer may order at any time, with or without a motion by a party, that an appeal or counterclaim, or any part thereof, be dismissed because the matter has been settled, because the party no longer desires to pursue the matter, or because of the party's failure to prosecute the matter or to comply with the regulations in this part or with any order of the Hearing Officer. Any dismissal under this paragraph operates as an adjudication on the merits of the matter which is dismissed, and is a decision within the meaning of § 1308.23, but does not affect the Hearing Officer's jurisdiction over any matter not so dismissed.

2. Section 1308.33 is amended by revising paragraph (c) to read as follows:

§ 1308.33 Hearings.

* * * * *

(c)(1) Conduct of hearings shall generally be governed by Rules 42–44, 44.1, and 46 of the Federal Rules of Civil Procedure, except that the Hearing Officer may modify those Rules to meet the needs of the parties in a particular case. The terms "court," "plaintiff," "defendant," and "action" as used in those Rules shall be deemed to have the meaning given them in § 1308.32.

(2) After the Contractor has completed the presentation of his evidence, TVA, without waiving the right to offer evidence in the event the motion is not granted, may move for a dismissal on the ground that upon the facts and the law the Contractor has shown no right to relief. The Hearing Officer as the trier of the facts may then determine them and render a decision against the Contractor, or take the matter under advisement, or decline to render any decision until the close of all the evidence. Any decision rendered under this paragraph shall conform to § 1308.37, and is a decision within the meaning of § 1308.23.

* * * * *

Authority. The Tennessee Valley Authority Act of 1933, as amended, 16 U.S.C. 831–831dd; Contract Disputes Act of 1978, 92 Stat. 2383–2391.

[FR Doc. 84-2813 Filed 1-30-84; 8:45 am]

BILLING CODE 8120-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 556 and 558

New Animal Drugs for Use in Animal Feeds; Tolerances for Residues of New Animal Drugs in Food; Fenbendazole

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a new animal drug application (NADA) filed by American Hoechst Corp., for fenbendazole premix for making medicated feed for use as an anthelmintic in swine. The regulations are also amended to establish the safe concentrations for fenbendazole residues in edible swine tissues.

EFFECTIVE DATE: January 31, 1984.

FOR FURTHER INFORMATION CONTACT: Adriano R. Gabuten, Bureau of Veterinary Medicine (HFV-135), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4913.

SUPPLEMENTARY INFORMATION: American Hoechst Corp., Animal Health Division, Route 202-206 North, Somerville, NJ 08876, is sponsor of NADA 131-675 for Safe-Guard™ premixes (fenbendazole 4 percent premix and fenbendazole 20 percent premix) for making medicated swine feed. The medicated fee is to be used for the removal and control of large roundworms (*Ascaris suum*); lungworms (*Metastrongylus apri*); nodular worms (*Oesophagostomum dentatum, O. quadrispinulatum*); small stomach worms (*Hyostrongylus rubidus*);

whipworms (*Trichuris suis*); and kidney worms (*Stephanurus dentatus*—mature and immature). The application is approved, and the regulations are amended accordingly. The basis for approval is discussed in the freedom of information summary.

Additionally, the regulations are amended to establish the safe concentrations for fenbondazole residues in edible tissues of swine. The safe concentrations refer to the concentrations of total residues considered safe in edible tissues. The agency has determined that a tolerance for a marker residue in a target tissue is not necessary because the level of residues in the edible tissues would not exceed the safe concentrations even with any foreseeable misuse of the drug.

In accordance with the freedom of information provisions of Part 20 (21 CFR Part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm 4–62, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

The Bureau of Veterinary Medicine has carefully considered the potential environmental effects of this action and has concluded that the action will not have a significant impact on the human environment and that an environmental impact statement therefore will not be prepared. The Bureau's finding of no significant impact and the evidence supporting this finding, contained in an environmental impact analysis report (pursuant to 21 CFR 25.1(j)) may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects

21 CFR Part 556

Animal drugs; Foods; Residues.

21 CFR Part 558

Animal drugs; Animal feeds.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83), Parts 556 and 558 are amended as follows:

PART 556—TOLERANCES FOR RESIDUES OF NEW ANIMAL DRUGS IN FOOD

1. Part 556 is amended by revising § 556.275 to read as follows:

§ 556.275 Fenbendazole.

(a) *Cattle.* The marker residue selected to monitor for total residues of fenbendazole in cattle is parent fenbendazole and the target tissue selected is liver. A tolerance [1] is established in cattle of 0.8 part per million for parent fenbendazole in liver. A marker residue concentration of 0.8 part per million in liver corresponds to a concentration for total residues of fenbendazole of 10 parts per million in liver. The safe concentrations [2] for total residues of fenbendazole in the uncooked edible tissues of cattle are 5 parts per million in muscle, 10 parts per million in liver, 15 parts per million in kidney, and 20 parts per million in fat.

(b) *Swine.* A tolerance [1] for marker residues of fenbendazole in swine is not needed. The safe concentrations [2] for the total residues of fenbendazole in the uncooked edible tissues of swine are 5 parts per million in muscle, 15 parts per million in liver, 20 parts per million in kidney, and 20 parts per million in skin and fat.

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

2. Part 558 is amended by adding new § 558.258 to read as follows:

§ 558.258 Fenbendazole.

(a) *Approvals.* Premix levels of 4 percent (18.1 grams per pound) fenbendazole and 20 percent (90.7 grams per pound) fenbendazole to No. 012799 in § 510.600(c) of this chapter.

(b) *Assay limits.* Complete feed 75 to 125 percent of labeled amount.

(c) *Related tolerances.* See § 556.275 of this chapter.

(d) *Conditions of use.* It is used in swine feed as follows:

(1) *Amount.* 3 milligrams fenbendazole per kilogram body weight per day (1.36 milligrams per pound per day).

(2) *Indications for use.* For the removal and control of large roundworms (*Ascaris summ*); lungworms (*Metastrongylus apri*); nodular worms (*Oesophagostomum dentatum, O. quadrispinulatum*); small stomach worms (*Hyostrongylus rubidus*); whipworms (*Trichuris suis*); and kidney worms (*Stephanurus dentatus*—mature and immature).

(3) *Limitations.* Feed as sole ration for 3 consecutive days.

Effective date. This regulation is effective January 31, 1984.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)))

Dated: January 25, 1984.

Lester M. Crawford,

Director, Bureau of Veterinary Medicine.

[FR Doc. 84–2523 Filed 1–30–84; 8:45 am]

BILLING CODE 4160–01–M

[1] As used in this section: "Tolerance" refers to a concentration of a marker residue in the target tissue selected to monitor for total residues of the drug in the target animal.

[2] "Safe concentrations" refer to the concentrations of total residues considered safe in edible tissues.

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 53

[T.D. 7938]

Set-Asides Made by Private Foundations

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final regulations.

SUMMARY: This document provides final regulations relating to set-asides made by private foundations. Changes to the applicable tax law were made by the Tax Reform Act of 1976. This document also provides final regulations relating to certain leasing arrangements that are excepted from the self-dealing rules generally applicable to transactions between private foundations and disqualified persons. Changes to the applicable tax law were made by section 5 of the Act of December 28, 1980 (Pub. L. 96–608, 94 Stat. 3553). The regulations provide necessary guidance to foundation managers and disqualified persons for compliance with these Acts, and affect private foundations that made set-asides and certain disqualified persons leasing office space to private foundations.

DATES: The regulations relating to set-asides (§ 53.4942(a)–3(b)) are generally effective for taxable years beginning after December 31, 1974. The regulations relating to certain leasing arrangements excepted from the self-dealing rules (§§ 53.4941(d)–2(b) and 53.4941(d)–3(a)) are effective for taxable years beginning after December 31, 1979.

The information requirement (§ 53.4942(a)–3(b)(7)(ii)) is made effective for taxable years ending after April 2, 1984.

FOR FURTHER INFORMATION CONTACT: George Baker of the Employee Plans and Exempt Organizations Division, Office of Chief Counsel, Internal Revenue

Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224, Attention: CC: EE–156–78 (202–566–3422).

SUPPLEMENTARY INFORMATION:

Background

On August 26, 1980, the **Federal Register** published proposed amendments to the Regulations on Foundation and Similar Excise Taxes (26 CFR Part 53) under section 4942 (g)(2) of the Internal Revenue Code of 1954 (45 FR 56840). The amendments were proposed to conform the regulations to section 1302 (a) of the Tax Reform Act of 1976 (90 Stat. 1713). No public hearing was requested or held. After consideration of the comments received in response to the notice of proposed rulemaking, the amendments are adopted, as revised, by this Treasury decision.

Explanation of Provisions

Set-Asides; In General

Section 4942(a) imposes an excise tax on private foundations for failure to distribute income for charitable purposes. To avoid liability, a private foundation must make "qualifying distributions" each year equal to the foundation's "distributable amount." An amount "set-aside" in one year for a specific project, but actually paid out in future years, may be treated as a qualifying distribution if the requirements of section 4942(g)(2) are satisfied.

Old Law

Under section 4942(g)(2) as it existed prior to the Tax Reform Act of 1976 and § 53.4942(a)–3(b) of the regulations, a set-aside was treated as a qualifying distribution if it was approved in advance by the Commissioner of Internal Revenue. To obtain such approval, section 4942(g)(2) required a private foundation to (1) establish that the amount set-aside would be paid for the specific project within five years, and (2) establish the "suitability" of the set-aside to achieve the goals of the specific project.

New Law

As amended by section 1302 of the Tax Reform Act of 1976, section 4942(g)(2) now provides an alternative means of treating a set-aside as a qualifying distribution under which a private foundation must distribute minimum amounts of cash or its equivalent during specific "test" years.

Final Regulations

Approval Requirements

The regulations, as proposed, provided that a set-aside made by a private foundation must be approved in advance by the Commissioner, regardless of whether the set-aside is made under the "suitability test" or the "cash distribution test." Three comments objected to the requirement that a set-aside made under the cash distribution test be approved in advance by the Commissioner. The commentators urged that the cash distribution test was intended by Congress to permit a private foundation to make set-asides without obtaining prior Service approval. See S. Rep. No. 94–938, 94th Cong., 2d Sess. 594 (1976); H.R. Rep. No. 94–1515, 94th Cong., 2d Sess. 522 (1976).

In response to these comments, the final regulations do not require a private foundation to obtain prior Service approval for a set-aside made under the cash distribution test. Rather, the regulations require a foundation to supply certain information regarding a set-aside made under the cash distribution test with the foundation's annual information return for the taxable year in which the set-aside is made and for certain subsequent taxable years.

The regulations provide that the submission of this information will satisfy the requirement of section 4942(g)(2)(B) that a foundation establish to the satisfaction of the Commissioner that the amount set aside will be paid within 5 years. This information requirement (§ 53.4942(a)–3(b)(7)(ii)) is made effective for taxable years ending after April 2, 1984.

Definition of Start-Up Period

Under the cash distribution test, a private foundation must distribute certain minimum amounts of cash during an initial "start-up period." The proposed regulations generally defined a foundation's start-up period as the four taxable years following the taxable year in which the foundation was "created." One commentator noted that many foundations are technically "created" long before they receive funds and become subject to the distribution requirements of section 4942. For example, it is not an uncommon practice to establish (or create) a foundation during an individual's lifetime and fund it under that individual's will. To ensure that such foundations are not precluded from using the cash distribution test to qualify set-asides, the final regulations provide that, for purposes of determining a foundation's start-up period, a foundation will be considered "created" in the taxable year in which the foundation's distributable amount first exceeds $500.

Failures to Distribute Required Amounts

The proposed regulations provided that a private foundation would incur substantial penalties if it failed to make a distribution required in connection with a set-aside made under the cash distribution test. These penalties provided that (1) any set-asides previously made by the foundation that were not approved under the suitability test would not be treated as qualifying distributions and (2) any set-asides made by the foundation subsequent to the failure to distribute would be treated as qualifying distributions only if the set-asides were approved under the suitability test. Two commentators objected to the first penalty as being unclear and unduly punitive. Accordingly, the final regulations clarify this provision and limit its application.

The proposed regulations also provided an exception from the penalty provisions if a foundation's failure to distribute the full-payment period minimum amount during a taxable year of the full-payment period was not willful and was due to reasonable cause. In this regard, the regulations provided that a "willful failure to distribute" does not occur if a foundation cannot determine the full-payment period minimum amount for a taxable year in the full-payment period until after the end of that year and the foundation makes the required distribution within a reasonable time after the end of the year. One commentator advocated expanding this exception to include failures to distribute the start-up period minimum amount during the start-up period. Another commentator requested that the final regulations define the "reasonable time" in which a foundation may make the required distribution.

It is clear that under section 4942(g)(2)(C), the exception provided for certain failures to distribute applies only to a failure to distribute the full-payment period minimum amount. However, a valid question is raised whether a similar but more limited exception should apply to a failure to distribute the start-up period minimum amount. In the typical case, a new foundation will not be able to definitely determine its start-up period minimum amount until after the expiration of the fourth taxable year of the start-up period.

In response to these concerns, the final regulations provide a limited exception for certain failures to distribute the start-up period minimum

amount during the start-up period. In addition, the final regulations provide that when the full-payment period minimum amount cannot be determined before the end of a taxable year in the full-payment period, no "willful failure to distribute" will occur if the foundation makes the required distribution within 5½ months after the end of the year.

Certain Leasing Arrangements

In general, the leasing of property between a disqualified person and a private foundation constitutes an act of self-dealing under section 4941(d)(1)(A). As added by section 5 of Pub. L. 96-608, section 4941(d)(2)(H) provides, subject to certain conditions, a limited exception to this rule for leases of office space by a disqualified person to a private foundation. The regulations amend § 53.4941(d)-2 and § 53.4941(d)-3 to reflect this new exception. Because the exception is of limited applicability, the amendments are adopted, without notice, as final regulations.

Non-Applicability of Executive Order 12291

The Treasury Department has determined that this regulation is not subject to review under Executive Order 12291 or the Treasury and OMB implementation of the Order dated April 29, 1983.

Regulatory Flexibility Act

No general notice of proposed rulemaking is required by 5 U.S.C. 553(b) for interpretative regulations. Accordingly, the Regulatory Flexibility Act (5 U.S.C. Chapter 6) does not apply and no Regulatory Flexibility Analysis is required for this rule.

Drafting Information

The principal author of these regulations is Charles K. Kerby, III of the Employee Plans and Exempt Organizations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulations, both on matters of substance and style.

List of Subjects in 26 CFR Part 53

Excise taxes, Private foundations.

Adoption of Amendments of the Regulations

Accordingly, 26 CFR Part 53 is amended as follows:

PART 53—[AMENDED]

Paragraph 1. Section 53.4941(d)-2(b) is amended by removing "subparagraph (2)" from the first sentence of subparagraph (1), inserting in lieu thereof "subparagraphs (2) and (3)", and by adding a new subparagraph (3) to read as follows:

§ 53.4941(d)-2 Specific acts of self-dealing.

* * * * *

(b) *Leases.* * * *

(3) *Certain leases of office space.* For taxable years beginning after December 31, 1979, the leasing of office space by a disqualified person to a private foundation shall not be an act of self-dealing if—

(i) The leased space is in a building in which there are other tenants who are not disqualified persons,

(ii) The lease is pursuant to a binding lease which was in effect on October 9, 1969, or pursuant to renewals of such a lease,

(iii) The execution of the lease was not a prohibited transaction (within the meaning of section 503(b) or the corresponding provisions of prior law) at the time of such execution, and

(iv) The terms of the lease (or any renewal) reflect an arm's length transaction.

A lease or renewal of such lease is described in this subparagraph (3) only if it satisfies the requirements of § 53.4941(d)-4(c) (1) and (2), applied without regard to the December 31, 1979 deadline described therein.

* * * * *

Par. 2. Section 53.4941(d)-3(a) is amended by revising the first two sentences thereof to read as follows:

§ 53.4941(d)-3 Exceptions to self-dealing.

(a) *General rule.* In general, a transaction described in section 4941(d)(2) (B), (C), (D), (E), (F), (G), or (H) is not an act of self-dealing. Section 4941(d)(2) (B), (C), and (H) provide limited exceptions to certain specific transactions, as described in paragraphs (b)(2), (b)(3), (c)(2), and (d)(3) of § 53.4941 (d)-2.* * *

Par. 3. Section 53.4942(a)-3(b) is revised to read as follows:

§ 53.4942(a)-3 Qualifying distributions defined.

* * * * *

(b) *Certain set-asides*—(1) *In general.* An amount set aside for a specific project that is for one or more of the purposes described in section 170(c) (1) or (2)(B) may be treated as a qualifying distribution in the year in which set aside (but not in the year in which actually paid), if the requirements of section 4942(g)(2) and this paragraph (b) are satisfied. The requirements of this paragraph (b) are satisfied if the private foundation establishes to the satisfaction of the Commissioner that the amount set aside will be paid for the specific project within 60 months after it is set aside, and

(i) The set-aside satisfies the suitability test described in subparagraph (2) of this paragraph, or

(ii) With respect to a set-aside made in a taxable year beginning after December 31, 1974, the private foundation satisfies the cash distribution test described in subparagraph (3) of this paragraph.

If the suitability test or cash distribution test is otherwise satisfied, the 60 month period for paying the amount set aside may, for good cause shown, be extended by the Commissioner.

(2) *Suitability test.* The suitability test is satisfied if the private foundation establishes to the satisfaction of the Commissioner that the specific project for which the amount is set aside is one that can be better accomplished by the set-aside than by the immediate payment of funds. Specific projects that can be better accomplished by the use of a set-aside include, but are not limited to, projects in which relatively long-term grants or expenditures must be made in order to assure the continuity of particular charitable projects or program-related investments (as defined in section 4944(c)) or where grants are made as part of a matching-grant program. Such projects include, for example, a plan to erect a building to house the direct charitable, educational, or other similar exempt activity of the private foundation (such as a museum building in which paintings are to be hung), even though the exact location and architectural plans have not been finalized; a plan to purchase an additional group of paintings offered for sale only as a unit that requires an expenditure of more than one year's income; or a plan to fund a specific research program that is of such magnitude as to require an accumulation of funds before beginning the research, even though not all of the details of the program have been finalized.

(3) *Cash distribution test; in general.* The cash distribution test is satisfied if—

(i) The specific project for which the amount is set aside will not be completed before the end of the taxable year in which the set-aside is made,

(ii) The private foundation actually distributes, in cash or its equivalent and for one or more of the purposes described in section 170(c) (1) or (2)(B), the "start-up period minimum amount" described in subparagraph (4) of this

paragraph during the private foundation's start-up period, and

(iii) The private foundation actually distributes, in cash or its equivalent and for one or more of the purposes described in section 170(c) (1) or (2)(B), the "full-payment period minimum amount" described in subparagraph (5) of this paragraph in each taxable year of the private foundation's full-payment period.

For purposes of the cash distribution test, an amount set aside will be treated as distributed in the year in which actually paid and not in the year in which set aside.

(4) *Minimum distribution required during start-up period*—(i) *Start-up period.* For private foundations created before January 1, 1972, the start-up period is the four taxable years immediately preceding the taxable year beginning in calendar year 1976. For private foundations created after December 31, 1971 (or for organizations that first become private foundations after that date), the start-up period is the four taxable years following the taxable year in which the private foundation was created (or otherwise became a private foundation). For purposes of this subparagraph (4), a private foundation will be considered "created" in the taxable year in which the private foundation's distributable amount (as determined under section 4942(d)) first exceeds $500.

(ii) *Start-up period minimum amount.* The amount that a private foundation must actually distribute in cash or its equivalent during the private foundation's start-up period is not less than the sum of—

(*a*) Twenty percent of the private foundation's distributable amount (as determined under section 4942(d)) and the first taxable year of the start-up period,

(*b*) Forty percent of the private foundation's distributable amount for the second taxable year of the start-up period,

(*c*) Sixty percent of the private foundation's distributable amount for the third taxable year of the start-up period, and

(*d*) Eighty percent of the private foundation's distributable amount for the fourth taxable year of the start-up period.

(iii) *Timing of distributions.* The requirement that a private foundation distribute the start-up period minimum amount during the start-up period is a requirement that such amount be distributed before the end of the start-up period, and is not a requirement that any portion of such amount be distributed in any one taxable year of the start-up period.

(iv) *Distribution actually made during start-up period.* In general, only a distribution actually made during the start-up period is taken into account in determining whether a private foundation has distributed the start-up period minimum amount. However, in the case of a private foundation created after December 31, 1971 (or an organization that first became a private foundation after that date), a distribution actually made during the taxable year in which the foundation was created (the year immediately preceding the first taxable year of the private foundation's start-up period) may be treated as a distribution actually made during the start-up period. In addition, a distribution actually made by a private foundation within 5½ months after the end of the start-up period will be treated as a distribution actually made during the start-up period if—

(*a*) The private foundation was unable to determine the distributable amount for the fourth taxable year of the start-up period until after the end of such period, and

(*b*) The private foundation actually made distributions prior to the end of the start-up period based upon a reasonable estimate of the private foundation's distributable amount for the fourth taxable year of the start-up period.

(v) *Examples.* The provisions of this subparagraph (4) may be illustrated by the following examples:

Example (1). F, a private foundation created on January 1, 1975, uses the calendar year as its taxable year. The start-up period for F is January 1, 1976 through December 31, 1979. F has distributable amounts under section 4942(d) for taxable years 1976 through 1979 in the following amounts: 1976, $100,000; 1977, $120,000; 1978, $150,000; 1979, $200,000. F's start-up period minimum amount is the sum of the following amounts: 20% of $100,000 ($20,000); 40% of $120,000 ($48,000); 60% of $150,000 ($90,000); and 80% of $200,000 ($160,000); which equals $318,000. Thus F is required to actually distribute at least $318,000 in cash or its equivalent during the start-up period.

Example (2). F, a private foundation created in 1969, uses the calendar year as its taxable year. F's start-up period is the calendar years 1972 through 1975. F makes two cash distributions in 1972. The first distribution is made on account of a set-aside made in 1969. Under section 4942(g), that distribution is treated as a qualifying distribution made in 1969. The second distribution is treated under section 4942(h) has made out of F's undistributed income for 1971. In addition, F makes a cash distribution in 1976 that is treated under section 4942(h) as made out of F's undistributed income for 1975. In determining whether F has distributed its start-up period minimum amount within the start-up period, the 1972 distributions are both taken into account because they were actually made during F's start-up period. The 1976 distribution is not taken into account, however, because that distribution was not actually made during F's start-up period.

(5) *Minimum distribution required during full-payment period*—(i) *Full-payment period.* A private foundation's full-payment period includes each taxable year that begins after the end of the private foundation's start-up period.

(ii) *Full-payment period minimum amount.* The amount that a private foundation must actually distribute in cash or its equivalent in a taxable year of the private foundation's full-payment period is not less than 100 percent of the private foundation's distributable amount determined under section 4942(d) (without regard to section 4942(i) with respect to the taxable year.

(iii) *Carryover of distributions in excess of full-payment period minimum amount.* If, in a taxable year beginning after December 31, 1975, a private foundation distributes an amount in excess of the full-payment period minimum amount for the taxable year, the excess shall be used to reduce the full-payment period minimum amount in the taxable years in the adjustment period. The amount of the excess distribution used to reduce the full-payment period minimum amount in each successive taxable year of the adjustment period shall be equal to the amount of such excess less the sum of the full-payment period minimum amounts for all prior taxable years in the adjustment period to which the excess was previously applied. The taxable years in the adjustment period are the five taxable years immediately following the taxable year in which the excess distribution is made. Any distribution in excess of the full-payment period minimum amount made during a taxable year of the adjustment period shall not be taken into account under this subparagraph (iii) until any earlier excess has been completely applied against full-payment period minimum amounts during its adjustment period.

(iv) *Distributions actually made during a taxable year.* Except as described in subdivision (ii) of subparagraph (6), only a distribution actually made during a taxable year of the full-payment period is taken into account in determining whether a private foundation has distributed the full-payment period minimum amount for such year.

(v) *Examples.* The provisions of this subparagraph (5) may be illustrated by the following examples:

Example (1). F, a private foundation created on January 1, 1973, uses the calendar year as its taxable year. F has a start-up period of January 1, 1974, through December 31, 1977, and a full-payment period that includes every taxable year beginning after December 31, 1977. F's distributable amount (as determined under section 4942(d)) for 1978 is $500,000. Thus, F's full-payment period minimum amount for 1978 is $500,000. During 1978 F distributes $100,000 in cash to Charity X and $400,000 in cash to Charity Y on account of a set-aside made in 1973. F has distributed its full-payment period minimum amount for 1978 because it has made actual cash distributions during that year which total $500,000. However, F has made qualifying distributions (as determined under section 4942(g)) with respect to 1978 of only $100,000. In order to avoid liability for the tax on undistributed income under section 4942(a), F must distribute or set aside an additional $400,000 before January 1, 1980.

Example (2). Assume the facts as stated in Example (1) except that in 1978 F makes cash distributions totaling $600,000. Since the total cash distributions made in 1978 ($600,000) exceed the full-payment period minimum amount for 1978 ($500,000), there exists a $100,000 excess which must be used by F to reduce its full-payment period minimum amounts for the years 1979–1983 (the taxable years in the adjustment period with respect to the 1978 excess). Therefore, if F's distributable amount (as determined under section 4942(d)) for 1979 is $500,000, F's full-payment period minimum amount for 1979 is $400,000 ($500,000–$100,000).

(6) *Failure to distribute minimum amounts*—(i) *In general.* If a private foundation fails to actually distribute the start-up period minimum amount during the start-up period or, except as described in subdivision (ii) of this subparagraph (6), if a private foundation fails to actually distribute the full-payment period minimum amount during a taxable year of the full-payment period, then any set-aside made by the private foundation during the start-up period (if the failure relates to the start-up period) or during the taxable year (if the failure relates to the full-payment period) that was not approved by the Commissioner under the suitability test described in subparagraph (2) of this paragraph will not be treated as a qualifying distribution. Further, any set-aside made after the year of such a failure to so distribute a minimum amount will be treated as a qualifying distribution only if the Commissioner approves the set-aside under the suitability test. In any case in which a set-aside ceases to be treated as a qualifying distribution as a result of a failure to distribute the full-payment period minimum amount, a private foundation may be assessed a deficiency under section 4942(a) within the period described in section 6501(n)(3).

(ii) *Correction of certain failures to distribute.* If a private foundation's failure to distribute the full-payment period minimum amount during a taxable year of the full-payment period was not willful and was due to reasonable cause, the private foundation may correct the failure to so distribute. Correction will be achieved if the private foundation distributes within the correction period cash or its equivalent in an amount not less than the difference between the full-payment period minimum amount for the taxable year and the amount actually distributed during the taxable year. The correction period is the correction period as defined in section 4962(e), determined with respect to the earliest occurring taxable event (as defined in section 4962(e)(2)(A)) that would result if the failure to distribute a full-payment period minimum amount were not corrected. The additional distribution will be treated for purposes of subparagraph (5) of this paragraph as made during the taxable year with respect to which the failure occurred. If a private foundation fails to distribute the full-payment period minimum amount during a taxable year of the full-payment period because such amount can be determined only after the end of the taxable year, no "willful failure to distribute" the full-payment period minimum amount will occur if the private foundation makes an additional distribution within 5½ months after the end of the taxable year.

(7) *Approval and information requirements*—(i) *Suitability test.* If an amount is set aside under the suitability test of section 4942(g)(2)(B)(i) and subparagraph (2) of this paragraph, the private foundation must apply for the Commissioner's approval of the set-aside before the end of the taxable year in which the amount is set aside. The Commissioner will either approve or disapprove the set-aside in writing. An otherwise proper set-aside will not be treated as a qualifying distribution under this paragraph (b) with respect to a taxable year if the Commissioner's approval is not sought before the end of the taxable year in which the amount is actually set aside. To obtain approval by the Commissioner for a set-aside under the suitability test, the private foundation must write to Commissioner of Internal Revenue, Attention: OP:E:EO:T, 1111 Constitution Avenue, NW., Washington, D.C. 20224, and include—

(*a*) A statement describing the nature and purposes of the specific project and the amount of the set-aside for which approval is requested;

(*b*) A statement describing the amounts and approximate dates of any planned additions to the set-aside after its initial establishment;

(*c*) A statement of the reasons why the project can be better accomplished by a set-aside than by the immediate payment of funds;

(*d*) A detailed description of the project, including estimated costs, sources of any future funds expected to be used for completion of the project, and the location or locations (general or specific) of any physical facilities to be acquired or constructed as part of the project; and

(*e*) A statement by an appropriate foundation manager (as defined in section 4946(b)) that the amounts to be set aside will actually be paid for the specific project within a specified period of time that ends not more than 60 months after the date of the first set-aside, or a statement showing good cause why the period for paying the amount set aside should be extended (including a showing that the proposed project could not be divided into two or more projects covering periods of no more than 60 months each) and setting forth the extension of time required.

(ii) *Cash distribution test.* If an amount is set aside under the cash distribution test of section 4942(g)(2)(B)(ii) and subparagraphs (3), (4), and (5) of this paragraph, then for taxable years ending after April 2, 1984, the private foundation must submit an attachment with the return required by section 6033 for the taxable year in which the amount is set aside and for certain subsequent taxable years. For the taxable year in which the amount is set aside the attachment must include—

(*a*) A statement describing the nature and purposes of the specific project for which amounts are to be set aside;

(*b*) A statement that the amounts set aside for the specific project will actually be paid for the specific project within a specified period of time that ends not more than 60 months after the date of the set-aside;

(*c*) A statement that the project will not be completed before the end of the taxable year of the private foundation in which the set-aside is made;

(*d*) A statement showing the distributable amounts determined under section 4942(d) for any past taxable years in the private foundation's start-up and full-payment periods; and

(*e*) A statement showing the aggregate amount of actual payments made in cash or its equivalent, for purposes described in section 170(c) (1) or (2)(B),

during each taxable year in the private foundation's start-up and full-payment periods. This statement should include a detailed description of any payments that are to be treated, pursuant to the rules of subparagraphs (4)(iv) and (6)(ii) of this paragraph (b), as distributed during a taxable year prior to the taxable year in which such payments were actually made and, in addition, should explain the circumstances that justify the application of those rules.

For the five taxable years following the taxable year in which the amount is set aside (or, if longer, for each taxable year in the extended period for paying the amount set aside), the attachment must include the statements required by (*d*) and (*e*) of this subdivision (ii). The submission of the statement required by (*b*) of this subdivision (ii) will satisfy the requirement of section 4942(g)(2)(B) and subparagraph (1) of this paragraph (b) that the private foundation establish to the satisfaction of the Commissioner that the amount set aside will be paid for the specific project within 60 months after it is set aside.

(8) *Evidence of set-aside.* A set-aside that is approved by the Commissioner or which satisfies the cash distribution test shall be evidenced by the entry of a dollar amount on the books and records of a private foundation as a pledge or obligation to be paid at a future date or dates. Any amount which is set aside shall be taken into account for purposes of determining the private foundation's minimum investment return under § 53.4942(a)–2 (c)(1), and any income attributable to such set-aside shall be taken into account in computing adjusted net income under § 53.4942(a)–2(d).

(9) *Contingent set-aside.* In the event a private foundation is involved in litigation and may not distribute assets or income because of a court order, the private foundation may (except as provided in § 53.4942(a)–2 (e)(1)(i) or (ii)) seek and obtain a set-aside for a purpose described in § 53.4942(a)–3 (a)(2). The amount to be set aside shall be equal to that portion of the private foundation's distributable amount which is attributable to the assets or income that are held pursuant to court order and which, but for the court order precluding the distribution of such assets or income, would have been distributed. In the event that the litigation encompasses more than one taxable year, the private foundation may seek additional contingent set-asides. Such amounts must actually be distributed by the last day of the taxable year following the taxable year in which the litigation is terminated. Amounts not distributed by the close of the appropriate taxable year shall be treated as described in § 53.4942(a)–2 (d)(2)(iii)(*c*) for the succeeding taxable year.

* * * * *

This Treasury decision is issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805). (Approved by the Office of Management and Budget under control number 1545–0792.)

Roscoe L. Egger, Jr.,
Commissioner of Internal Revenue.

Approved: January 20, 1984.

John E. Chapoton,
Assistant Secretary of the Treasury.

[FR Doc. 84-2507 Filed 1-30-84; 8:45 am]
BILLING CODE 4830-01-M

POSTAL SERVICE

39 CFR Part 10

International Express Mail Service to West Germany and Uruguay

AGENCY: Postal Service.

ACTION: Final action on International Express Mail Service to West Germany and Uruguay.

SUMMARY: Pursuant to agreements with the postal administrations of West Germany and Uruguay, the Postal Service intends to begin International Express Mail Service with West Germany and Uruguay at postage rates indicated in the tables below. Service is scheduled to begin on March 1, 1984.

EFFECTIVE DATE: March 1, 1984.

FOR FURTHER INFORMATION CONTACT: Leon W. Perlinn, (202) 245–4414.

SUPPLEMENTARY INFORMATION: By a notice published in the **Federal Register** on December 27, 1983 (48 FR 56979), the Postal Service announced that it was proposing to begin International Express Mail Service to West Germany and Uruguay. Comments were invited on published rate tables, which are proposed amendments to the International Mail Manual (incorporated by reference in the Code of Federal Regulations, 39 CFR 10.1), and which are to become effective on the date service begins. One comment was received which supported the proposal.

Accordingly, the Postal Service states that it intends to begin International Express Mail Service with West Germany and Uruguay on March 1, 1984 at the rates indicated in the tables below.

List of Subjects in 39 CFR Part 10

Postal service, Foreign relations.

WEST GERMANY—INTERNATIONAL EXPRESS MAIL ON DEMAND SERVICE [1]

Up to and including—		Up to and including—	
Pounds	Rate	Pounds	Rate
1	19.00	23	[illegible]
2	21.90	24	88.70
3	24.80	25	89.50
4	27.70	26	91.50
5	30.60	27	94.40
6	33.50	28	97.30
7	36.40	29	100.20
8	39.30	30	103.10
9	42.20	31	106.00
10	45.10	32	108.80
11	48.00	33	111.80
12	50.90	34	114.70
13	53.80	35	117.60
14	56.70	36	120.50
15	59.60	37	123.40
16	62.50	38	126.30
17	65.40	39	129.20
18	68.30	40	132.10
19	71.20	41	135.00
20	74.10	42	137.90
21	77.00	43	140.80
22	79.90	44	143.70

[1] Pickup is available under a Service Agreement for an added charge of $5.60 for each pickup stop, regardless of the number of pieces picked up. Domestic and international Express Mail picked up together under the same Service Agreement incurs only one pickup charge.

Uruguay—International Express Mail

Custom designed service [1] [2]		On demand service [1]	
Up to and including—		Up to and including—	
Pounds	Rate	Pounds	Rate
1	$29.00	1	$20.00
2	31.70	2	23.70
3	35.40	3	27.40
4	39.10	4	31.10
5	42.80	5	34.80
6	46.50	6	38.50
7	50.20	7	42.20
8	53.90	8	45.90
9	57.60	9	49.60
10	61.30	10	53.80
11	65.00	11	57.00
12	68.70	12	60.70
13	72.40	13	64.40
14	76.10	14	68.10
15	79.80	15	71.80
16	83.50	16	75.50
17	87.20	17	79.20
18	90.90	18	82.90
19	94.60	19	86.60
20	98.30	20	90.30
21	102.00	21	94.00
22	105.70	22	97.70
23	109.40	23	101.40
24	113.10	24	105.10
25	116.80	25	108.80
26	120.50	26	112.50
27	124.20	27	116.20
28	127.90	28	119.90
29	131.60	29	123.60
30	135.30	30	127.30
31	139.00	31	131.00
32	142.70	32	134.70
33	146.40	33	138.40
34	150.10	34	142.10
35	153.80	35	145.80
36	157.50	36	149.50
37	161.20	37	153.20
38	164.90	38	156.90
39	168.60	39	160.60
40	172.30	40	164.30
41	176.00	41	168.00
42	179.70	42	171.70
43	183.40	43	175.40
44	187.10	44	179.10

[1] Rates in this table are applicable to each piece of International Custom Designed Express Mail shipped under a

Service Agreement providing for tender by the customer at a designated Post Office.

[1] Pickup is available under a Service Agreement for an added charge of $5.60 for each pickup stop, regardless of the number of pieces picked up. Domestic and International Express Mail picked up together under the same Service Agreement incurs only one pickup charge.

A transmittal letter making these changes in the pages of the International Mail Manual will be published in the **Federal Register** as provided in 39 CFR 10.3 and will be transmitted to subscribers automatically.

(39 U.S.C. 401, 404, 407)

W. Allen Sanders,

Associate General Counsel, Office of General Law and Administration.

[FR Doc. 84-2587 Filed 1-30-84; 8:45 am]

BILLING CODE 7710-12-M

39 CFR Part 111

ZIP+4 First-Class Mail

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: This rule establishes final regulations for the mailing of First-Class Mail at ZIP+4 and ZIP+4 Presort rates. The rule prescribes the eligibility criteria and preparation requirements for ZIP+4 mailings, including minimum quantity per mailing, minimum and maximum size dimensions, envelope aspect ratios, Presort annual fee payment, optical character recognition readability requirements, a bar code clear zone requirement, and rate category endorsements.

The major change this rule makes to the current interim regulations is that it allows mailers to combine Presort First-Class and ZIP+4 Presort mailings under limited conditions during a transition period designed to enable mailers to achieve complete conversion of their mailing lists to ZIP+4 code usage.

EFFECTIVE DATE: February 1, 1984.

FOR FURTHER INFORMATION CONTACT: Ernest Collins (202) 245-4749.

SUPPLEMENTARY INFORMATION: On October 7, 1983, the Postal Service published for comment in the **Federal Register** interim regulations implementing discounted rates for bulk mailings of First-Class Mail addressed with ZIP+4 codes, 48 FR 45762-45765. Those rates were established by action of the Governors of the Postal Service. See 48 FR 45864 (October 7, 1983). Interested persons were invited to submit written comments concerning the interim regulations by November 7, 1983.

Written comments were received from 19 individuals.

Of these 19 comments, 16 expressed concerns about the requirement that all pieces in a Presort mailing must bear a ZIP+4 code. They suggested some form of allowance for pieces having only a 5-digit ZIP Code. It was also suggested that the Postal Service allow Presort First-Class mailings to be combined with ZIP+4 mailings and to provide some form of relief from the requirement to endorse the pieces so as to reflect the postage actually paid on each piece.

In reviewing these comments it was recognized that mailers currently mailing at Presort First-Class rates would, in particular, experience greater problems than anticipated with the interim regulations during the time they are converting their mailing list to use ZIP+4 codes. Some mailers could actually experience increased postage costs as the result of the reduced presortation densities that would occur when the ZIP+4 pieces are separated from a Presort First-Class mailing. In addition, many potential users of ZIP+4 rates will be dependent upon third-party mailing list service companies to convert their mailing lists to ZIP+4 codes. The mailing list service companies have reported some problems with matching mailing lists with ZIP+4 code tapes. A large number of addresses will require correction or verification before they can be converted. Some addresses have incorrect or missing ZIP Codes or an address line which contains misspelled or abbreviated words and, in some cases, no address at all other than city, state and ZIP Code.

For these reasons, the Postal Service has decided to permit, during a short period, combined Presort mailings to minimize the impact on mailing list processing companies that sell mailing list services including address conversion to usage of the ZIP+4 code, presort service companies that presort mail for their clients, and on other mailers that want to mail at the ZIP+4 Presort postage rates. The final rule adds a new section 365, Domestic Mail Manual (DMM), which establishes a transition period during which mailers may combine ZIP+4 Presort and Presorted First-Class mailings. The transition period will run until October 1, 1985. This will enable mailers to maximize their presort densities, thus realizing immediate postage savings, to review their addressing practices, and to make any necessary changes so that all of their addresses can be converted to ZIP+4 codes.

One commenter argued that Federal agencies should be permitted to mail envelopes bearing standard penalty indicia at the ZIP+4 rates. Current regulations required agencies to use meters or permit imprint to qualify for ZIP+4 discounts. The Postal Service wishes to maximize the flexibility available to Federal mailers which plan to use the ZIP+4 code. Therefore, we are studying the commenter's proposal and will deal with the question of use of standard penalty indicia at a later time.

Two commenters believe the optical character recognition (OCR) read area required by the interim regulations is too large in that it limits the mailer's use of envelopes for advertising. No action can be taken on this proposal at this time, but the Postal Service will study the feasibility of allowing mailers to print extraneous matter in parts of the area which is currently set aside as the OCR read area.

One commenter stated that business reply mail should be included in the ZIP+4 program. This comment cannot be considered at this time because it goes beyond the interim rule and proposes the establishment of a ZIP+4 postage rate for business reply mail.

One commenter believes the Postal Service should issue guidelines relative to the OCR read percentage necessary to qualify for mailing at the ZIP+4 or ZIP+4 Presort postage rate. It seems this commenter is under the impression that mailing at the ZIP+4 rates will not be allowed if the Postal Service's OCR equipment does not read the city, state and ZIP+4 code line of the mail at some prescribed percentage rate. This is not the case. The Postal Service considers that such criteria would be too dependent upon the capability of the individual OCR equipment used to test a mailing. The Postal Service believes mailers should have more clearly defined requirements. For this reason, ZIP+4 mailings will be accepted or rejected solely on the basis of whether they meet the prescribed mandatory preparation requirements set forth in these regulations. The OCR "read rate" will not be considered.

One person commented that the Postal Service should allow mailers of ZIP+4 and ZIP+4 Presort mail to use pouches or other suitable containers in addition to trays because trays increase the cubic size of a mailing. This proposal will not be adopted because trayed mail can be processed more efficiently. Pouching tends to destroy machinability of mail, and it requires additional processing time to open pouches and orientate the mail. In addition, the use of trays facilitates loading mail on the machines' stackers.

One commenter suggested that ZIP+4 codes be provided on all address corrections furnished by the Postal Service. While this suggestion goes beyond the scope of this rulemaking, we note that the Postal Service has implemented this policy when providing

change of address information under the endorsement Address Correction Requested.

Two commenters expressed concern about the requirement to print the correct rate category endorsement on each piece of mail because they do not know prior to enveloping which piece will qualify for ZIP+4 or ZIP+4 Presort rates, and if they were to order envelopes with rate category endorsements preprinted, they would have to include two more types of envelopes in their inventory. All pieces which are part of a ZIP+4 Presort mailing and which are mailed at ZIP+4 or ZIP+4 Presort rates may be endorsed ZIP+4 Presort. In addition, mailers who use computers to print postage rate category endorsements on their mail need not stock additional envelopes if, for example, the words "First-Class" are in the permit imprint and the computer prints the proper endorsement on each piece of mail. Also, during the transition period, mailers may combine Presorted First-Class and ZIP+4 Presort mailings under limited conditions and print ZIP+4 Presort on all pieces.

The following minor changes have also been made to the interim regulations:

1. The reference to carrier route First-Class Mail in Exhibit 310E has been eliminated since there is no distinct ZIP+4 carrier route mail rate. A new DMM section 367.424 specifies that nonqualifying pieces of a carrier route mailing may qualify for the ZIP+4 rate if all pieces in the mailing bear a ZIP+4 code.

2. Section 324B has been eliminated and old sections 324 C through F are redesignated as 324 B through E. Postage payment methods for ZIP+4 mail are now in 382.1.

3. The nonmandatory guidelines for OCR read-ability in the interim regulations 324F(2)(i) have been corrected and renumbered 324E(2)(i) to request that only 1 to 2 spaces be put between the last character of the state name or abbreviation and the first digit of the ZIP+4 code.

4. Sections 368.3 and 368.4 have been modified by cross-referencing to sections 367.1, 367.2 and 367.5 for packaging and traying requirements. In addition, the second line of the tray label has been modified to require "FCM ZIP+4 Presort" instead of "FCM ZIP+4 Presorted."

For the above reasons, and after careful consideration of all the comments, the Postal Service hereby repeals the current interim regulations on ZIP+4 First-Class Mail and adopts the following final regulations on this subject as amendments to the Domestic Mail Manual, which is incorporated by reference in the **Federal Register**. See 39 CFR 111.1.

List of Subjects in 39 CFR Part 111

Postal Service.

A transmittal letter making these changes in the pages of the Domestic Mail Manual will be published and will be transmitted to subscribers automatically. Notice of issuance of the transmittal letter will be published in the **Federal Register** as provided in 39 CFR 111.3.

(39 U.S.C. 401(a), 403)

W. Allen Sanders,

Associate General Counsel, Office of General Law and Administration.

The following changes have been made to the Domestic Mail Manual:

PART 111—[AMENDED]

Chapter 3—First-Class Mail

310 Rates and Fees

(See Exhibit 310)

* * * * *

Exhibit 310

Insert E

Subparts E and F are relettered F and G, respectively, and a new Subpart E is inserted, as follows:

E. ZIP+4 First-Class Mail

To mail at the ZIP+4 Presort rate, the Presort annual fee of $40 must be paid. (Payment of one $40 fee allows the mailer to mail qualifying matter at all First-Class Presort rates including carrier route presort.) No fee is required to mail at the ZIP+4 (nonpresorted) rate.

Rates	Postage rate unit	Nonpresorted	Presorted
ZIP+4 Rate Cards	Piece	12.1	11.5
ZIP+4 Rate Letters	First ounce	19.1	16.5
	Each additional ounce.	17	17

320 Classification

* * * * *

Parts 324–326

Parts 324 First-Class Zone Rated (Priority) Mail and 325 (E–COM Service) are renumbered 325 and 326 respectively, and a new Part 324 is inserted as follows:

324—ZIP+4 First-Class Mail

ZIP+4 First-Class Mail consists of First-Class letters and post cards which are part of a mailing of at least 500 pieces of a ZIP+4 Presort mailing or at least 250 pieces of a ZIP+4 nonpresort mailing, and the pieces meet all of the following criteria:

A. Each piece in a mailing must bear the correct ZIP+4 code.

B. Each First-Class letter piece must meet the following machinability criteria:

(1) Its length must be at least 5 inches and not more than 11½ inches.

(2) Its height must be at least 3½ inches and not more than 6⅛ inches.

(3) Its thickness must be at least .007 of an inch and not more than ¼ of an inch.

(4) Its aspect ratio (length divided by height) must fall between 1 to 1.3 and 1 to 2.5.

C. Each First-Class post card must meet the following criteria:

(1) Its length must be at least 5 inches and not more than 6 inches.

(2) Its height must be at least 3½ inches and not more than 4¼ inches.

(3) Its thickness must be at least .007 of an inch and not more than .0095 of an inch.

D. Bar Code Clear Zone.

No printing or markings whatsoever can be placed within an imaginary rectangle on the front of the mail piece formed by the following boundaries:

(1) ⅝ of an inch from the bottom edge.

(2) 4½ inches from the right edge.

(3) The bottom edge.

(4) The right edge.

E. OCR Readability.

(1) Mandatory Requirements:

(a) The entire city, state, and ZIP+4 code line of the address must be visible and must be located within an imaginary rectangle, which is the OCR read area, on the front of the mail piece formed by the following boundaries:

(i) 1 inch from the right edge.

(ii) 1 inch from the right edge

(iii) ⅝ inch from the bottom edge (bottom line of rectangle).

(iv) 2¼ inches from the bottom edge (top line of rectangle).

(b) No extraneous printing or markings (other than the address) shall be placed within the OCR read area below the delivery address line (e.g., street address or post office box number).

(c) The address must be machine printed with uniform character size and line spacing.

(d) A reasonable degree of color contrast must be maintained between the address and the background of the mail piece. Black ink on a white background is strongly preferred, but other color combinations may be used. Brilliant colors and reverse printing are not permitted.

Note.—The Postal Service may treat as unacceptable any mail piece with color combinations which do not provide a print

reflectance difference of at least 40 percent measured at a wavelength of 650 nanometers.

(2) Nonmandatory Guidelines.

In order to insure the highest degree of address readability, mailers are encouraged to conform with as many of the following guidelines as possible:

(a) Maintain a uniform left margin for the name and address.

(b) Use the standard two-letter state abbreviation.

(c) Do not use italic, artistic, cyrillic, and script-like fonts. Characters or numbers should not touch or overlap within a word or the ZIP+4 code.

(d) Use upper case characters.

(e) Use line spacing of 6 lines per inch.

(f) Use a character pitch in the range of 7 to 12 characters per inch.

Note.—Total character space may be conserved by eliminating punctuation in the address.

(g) Use a uniform character height in the range of .08 or (1.28/16 or 2.56/32 or 5.12/64) of an inch to .20 (or 3.2/16 or 6.4/32 or 12.8/64) of an inch.

(h) Use a character height to width ratio of 1.1:1 to 1.7:1.

(i) Use 1 to 2 character spaces between words and between the last character of the state name or abbreviation and the first digit of the ZIP+4 code.

(j) Use a space between address lines no less than .025 of an inch (1 millimeter). The space is the vertical distance from the bottom most point of either an upper or lower case character to the highest point reached by the tallest character in the line below.

(k) Maintain a character and line skew of the address relative to the bottom edge of the mail piece of no more than plus or minus five degrees.

* * * * *

Part 360—Preparation Requirements

Part 361—Addressing

* * * * *

A new Section 361.4 is added as follows:

361.4 ZIP+4 First-Class Mail

The address of each piece must include the ZIP+4 code.

* * * * *

Part 362—Marking Requirements

* * * * *

A new 362.4 is added as follows:

362.4—ZIP+4 First-Class Mail

362.41 All pieces which are mailed at ZIP+4 rates must be marked ZIP+4. If the pieces mailed at the ZIP+4 rates are presorted, they must be endorsed ZIP+4 Presort.

362.42 When a permit imprint is used, the identification "ZIP+4" or "ZIP+4 Presort," as applicable, must be part of the permit imprint or printed or rubber stamped by the mailer above the address and immediately below or to the left of the permit imprint.

362.43 When a meter stamp is used, the identification "ZIP+4" or "ZIP+4 Presort," as applicable, must be printed or rubber stamped by the mailer above the address and immediately below or to the left of the meter stamp.

362.44 The appropriate marking may be printed by a postage meter, special slug, ad plate, computer or other suitable means which will ensure a legible endorsement.

* * * * *

Part 365

365 Combined Presort Mailings

365.1 General

In order to maintain the level of presortation during the conversion of Presort mail to use of the ZIP+4 code, mailers may combine Presort ZIP+4 Mail (bearing a ZIP+4 code) (see 368) and Presort First-Class Mail (bearing a 5-digit ZIP Code) (see 367), under the conditions in 365.2 and 365.3. Only those pieces which bear a ZIP+4 code are eligible for ZIP+4 rates.

365.2 Transition Period

Until February 1, 1985, at least 85 percent of the pieces in a combined Presort mailing must bear a ZIP+4 code. Effective February 1, 1985, and until October 1, 1985, at least 90 percent of the pieces in a combined Presort mailing must bear a ZIP+4 code. This section expires October 1, 1985. At that time Presort ZIP+4 mailings must be made separate from regular Presort First-Class mailings.

365.3 Requirements for Combined Presort Mailings

.31 In all instances, a combined mailing must contain at least 500 pieces which bear a ZIP+4 code and otherwise qualify for mailing as a Presort ZIP+4 mailing under 324 and 368.

.32 All pieces which do not bear a ZIP+4 code must bear a 5-digit ZIP code and meet all the ZIP+4 mailing requirements of 324 except 324(A).

33. All pieces in a combined mailing must be presorted together to maximize the level of presortation.

.34 Although it is permissible to endorse all pieces in a combined mailing "ZIP+4 Presort," it is recommended that mail bearing a 5-digit ZIP Code be endorsed "Presorted First-Class" as specified in 362.2. Endorsements may be printed by computer.

.35 The mailer must present a listing at the time of mailing showing by 5-digit and 3-digit ZIP Code separations, the number of pieces which qualify for the Presort First-Class rate and the number of pieces which qualify for the Presort ZIP+4 rate. A summary must also be provided showing the number of pieces which qualify for the Presort ZIP+4 rate, Presort First-Class rate, the nonpresorted ZIP+4 rate, and the full First-Class rate. In addition the summary must show the amount of postage due for each rate category and the total postage due for the mailing.

.36 Residual pieces must be physically separated from pieces qualifying for Presort rates. The mailer must either separate the 5-digit residual from the ZIP+4 residual or sort the residual by 3-digit ZIP Codes and submit a listing for the residual portion. This listing must show, by 3-digit ZIP Code prefix, the number of residual pieces being mailed at the nonpresorted ZIP+4 rate and the number being mailed at the full First-Class rate.

.37 If metered postage is affixed, all pieces may be metered at the lowest applicable rate. Additional postage will be paid at the time of mailing.

.38 The provisions of this section also apply to carrier route First-Class mailings, where a portion of a carrier route First-Class mailing qualifies for a ZIP+4 rate. In this event, the listing required by 365.35 must also include the number of carrier route pieces with and without a ZIP+4 code.

367 Preparation of Presort First-Class and First-Class Carrier Route Mailings

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367.4 Carrier Route First-Class Mail (Sortation Requirements)

* * * * *

.42 Nonqualifying Pieces.

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.424 Nonqualifying pieces of a carrier route mailing may qualify for the ZIP+4 rate if all pieces in the mailing bear a ZIP+4 code. Pieces qualifying for the ZIP+4 rate may be endorsed Carrier Route Presort or CAR–RT SORT.

Part 368

A new part is added as follows:

368—ZIP+4 First-Class Mail

368.1—General Requirements

.11—Machinability

Each piece must meet the criteria in 324(C) or 324(D), as appropriate.

.12—OCR Readability

Each piece must meet the OCR readability requirements in 324.

368.2—Nonpresorted ZIP+4 Mail

.21—Sortation and Packaging

Requirements (None).

.22—Traying Requirements

Nonpresorted ZIP+4 Mail must be presented for mailing in trays bearing labels endorsed "ZIP+4."

368.3—Presorted ZIP+4 First-Class Mail

ZIP+4 Presort mailings will be packaged and trayed in accordance with procedures prescribed for Presorted First-Class Mail in 367.1, 367.2, and 367.5 with one exception. The second line of tray labels shall identify the contents as ZIP+4 Presort in the following manner:

Line 1: City, State, 5-digit ZIP Code
Line 2: Class, Contents
Line 3: Mailer, Mailer Location
Sample:

Philadelphia PA 19118

FCM ZIP+4 Presort

FR JC Company Boston MA

368.4—Separation of Rate Categories

When a mailing consists of more than one rate category (*e.g.*, ZIP+4 Presort, nonpresort ZIP+4), trays for each rate category must be physically separated by rate category at the time of mailing.

* * * * *

Part 370—Mailing

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Part 372

The first line of 372.1 is changed to read "Matter mailed at the Presort First-Class or ZIP+4 rates must be deposited at."

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Part 380—Payment of Postage

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Part 382

Title is changed to read "ZIP+4, Presort and Carrier Routes Rates."

* * * * *

382.1 Method of Payment

Postage on mailings made at Presort or carrier route rates must be paid by meter stamps, permit imprints, or precanceled postage. Postage on mailings at ZIP+4 rates must be paid by meter stamps or permit imprints. Permit imprints may be used on mailings of nonidentical weight only under the provisions of 145.8 or 145.9.

* * * * *

The first two lines of section 382.4 (Mailing Statement) are changed to read, "Mailers who qualify for the First-Class presort rate or ZIP+ rates (see 323 and 324 must complete and submit one of the following mail-."

* * * * *

[FR Doc. 84-2602 Filed 1-30-84; 8:45 am]

BILLING CODE 7715-12-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 62

[AD-4-FRL 2515-1; GA-006]

Approval and Promulgation of State Plans for Designated Facilities and Pollutants; Georgia: Fluoride Emissions From Existing Primary Aluminum Reduction Plants—Negative Declaration

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: This notice approves the Georgia Environmental Protection Division's (EPD) negative declaration, submitted on October 19, 1983, that the State of Georgia does not contain any primary aluminum reduction plants subject to the requirements of section 111(d) of the Clean Air Act and EPA's implementing regulations and guidance.

EFFECTIVE DATE: This action will be effective on April 2, 1984, unless notice is received within 30 days that someone wishes to submit adverse or critical comments.

ADDRESSES: Copies of the material submitted by the State may be examined during normal business hours at the following locations:

Air Management Branch, A&WMD, EPA Region IV, 345 Courtland Street, NE., Atlanta Georgia 30365.

Georgia Department of Natural Resources, Environmental Protection Division, 270 Washington Street, SW., Atlanta, Georgia 30334.

FOR FURTHER INFORMATION CONTACT: Mr. Barry Gilbert, Air Management Branch, EPA Region IV at the above address and telephone number 404/881-2864 or FTS 257-2864.

SUPPLEMENTARY INFORMATION: Section 111(d) of the Clean Air Act of 1977, as amended, requires States to submit a plan which establishes emission standards for designated pollutants from designated facilities and provides for the implementation and enforcement of such emission standards. If there are no such facilities in a State, that State may submit a negative declaration in lieu of a plan, as provided in EPA's implementing regulations (40 CFR 62.06).

On October 19, 1983, EPD submitted a negative declaration certifying that the State of Georgia does not contain any primary aluminum reduction plants. EPA accepts the declaration and is approving this revision to the Georgia Designating Facility Plan.

Because EPA considers today's action to be noncontroversial and routine, we are approving it today without prior proposal. The public should be advised that this action will be effective 60 days from the date of this **Federal Register** notice. However, if notice is received within 30 days that someone wishes to submit adverse or critical comments, this action will be withdrawn and two subsequent notices will be published before the effective date. One notice will withdraw the final action and another will begin a new rulemaking by announcing a proposal of the action and establishing a comment period.

Under Section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by April 2, 1984. This action may not be challenged later in proceedings to enforce its requirements.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Under 5 U.S.C. 605(b), the Administrator has certified that section 111(d) plan approvals do not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709.)

List of Subjects in 40 CFR Part 62

Air pollution control, Fluoride, Sulfur, Administrative practice and procedure, Intergovernmental relations, Reporting and recordkeeping requirements.

(Sec. 111(d) of the Clean Air Act (42 U.S.C. 7411(d)).)

Dated: January 23, 1984.

William D. Ruckelshaus,

Administrator.

PART 62—[AMENDED]

Part 62 of Chapter I, Title 40, Code of Federal Regulations, is amended as follows:

Subpart K—Georgia

Subpart K is amended by adding a new § 62.2605 as follows:

Fluoride Emissions From Existing Primary Aluminum Reduction Plants

§ 62.2605 Identification of sources—Negative declaration.

The Georgia Environmental Protection Division submitted a letter on October 19, 1983, certifying that there are no

existing primary aluminum reduction plants in the State of Georgia subject to 40 CFR Part 60, Subpart B, of this chapter.

[FR Doc. 84-2569 Filed 1-30-84; 8:45 am]
BILLING CODE 6560-50-M

DEPARTMENT OF THE INTERIOR

Office of the Secretary

41 CFR Part 14-1

Interior Procurement Regulations

AGENCY: Department of the Interior, Office of the Secretary.

ACTION: Final rule

SUMMARY: Pursuant to 5 U.S.C. 301, the Department of the Interior proposes to revise and simplify its policies for small business class set-asides of construction (including alteration, maintenance or repair) procurements by raising the threshold for set-asides from $750,000 to $1,000,000 and by providing that construction procurements over $1,000,000 will be set aside on a case-by-case basis. Inflation in the construction industry since implementation of the existing threshold has substantially reduced their effectiveness. The intended effect is to restore the threshold to a more meaningful level.

The proposed rule was published on July 13, 1983 (48 FR 32033). Comments were requested by August 12, 1983. No comments were received, and no changes to the proposed rule have been made in this final version.

EFFECTIVE DATE: March 1, 1984.

FOR FURTHER INFORMATION CONTACT:
Kenneth T. Kelly, Office of Small and Disadvantaged Business Utilization, Room 2626, 18th & C Sts., NW., Washington, D.C. 20240, (202) 343-4907;
David C. Metz, Office of Acquisition and Property Management, Room 5528, 18th & C Sts., NW., Washington, D.C. 20240, (202) 343-3345.

SUPPLEMENTARY INFORMATION:

Construction class set-asides are being revised to reflect the impact of inflation upon the small business construction community. According to the GNP Implicit Price Deflator Index for Government purchase of non-Defense goods and services during the period 1977 through 1982, the cost of these goods and services increased by 65.8%. When applying this percentage increase to the current threshold of $750,000, it became apparent that the threshold should be raised to at least $1,000,000. In addition, although small businesses comprise 99.2% of all construction firms they received only 43.5% of direct construction procurement dollars awarded by Interior in FY 1980, only 50% in FY 1981, and only 53.6% in FY 1982. Finally, the Small Business Act states that it is the policy of the Congress that a fair proportion of the total Federal purchases, including construction (15 U.S.C. 631(a)), be awarded to small businesses. The proposed rule will support this Congressional policy and strengthen the competitive market-place by ensuring the continued viability of a greater number of small construction firms.

Paragraph (b) of IPR 14-1. 706-1 is being deleted to eliminate confusion on discretionary set-asides. Paragraph (c) of 14-1. 706-1 is being revised and redesignated paragraph (b). Pub. L. 96-302, which was enacted in 1980, reinforces small business set-aside priorities for those procurements not covered by a class set-aside.

The Director, Office of Management and Budget, by memorandum dated October 4, 1982, exempted agency procurement regulations from the requirements of Executive Order 12291. The Department of the Interior certifies that this document will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.). This certification is based on the small percentage of the total public sector construction contracting market which Interior's projects represent and also on the moderate increase proposed herein relative to the total amount of inflation in the industry. The maximum estimated impact of the proposed change, based on actual Fiscal Year 1982 procurement data, will be approximately 20 to 25 contract actions in the range between $750,000 and $1 million, for a total dollars impact of approximately $20 million. This dollar value is less than four hundredths of one percent (.04%) of the value of new construction put in place in 1982 by the public sector according to the 1983 U.S. Industrial Outlook, published by the Bureau of Industrial Economics, Department of Commerce, and according to the Bureau of Census report, "Value of New Construction Put in Place," March 1983. Although the intent of the change is to assist small construction businesses, the actual impact, relative to the overall market size, is such that the Department has determined that a significant economic effect on a substantial number of small entities will not occur.

This rule does not contain information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3501 et seq.

Primary Author

The primary author of this rule is Wiley W. Horsley Jr., Office of Acquisition and Property Management, telephone (202) 343-3345.

List of Subjects in 41 CFR Part 14-1

Government procurement, Administrative practices and procedures, Environmental protection, Indian business and finance, Labor surplus area, Minority businesses, and Small businesses.

Accordingly, pursuant to the authority of 5 U.S.C. 301 and 40 U.S.C. 486(c), 41 CFR 14-1.7 is amended as follows:

Dated: January 17, 1984.

Richard R. Hite,

Assistant Secretary of the Interior.

PART 14-1—GENERAL

Subpart 14-1.7—Small Business Concerns

Under Subpart 14-1.7, § 14-1.706-1 is revised to read as follows:

§ 14-1.706-1 General.

(a) Pursuant to FPR §§ 1.706-1 and 1-3.201 it shall be the policy of the Department of Interior to set aside on a class basis for small business all procurements of construction (including alteration, maintenance, and repair) estimated to cost $1,000,000 or less, except individual procurements for which emergency repair work is required. Contracting officers may deviate from this class set-aside policy only as provided in FPR § 1-1.706-3.

(b) Construction procurements (including alteration, maintenance, and repair) estimated to cost in excess of $1,000,000 shall be considered for small business set-aside on a case-by-case basis in accordance with the priorities established in FPR § 1-1.706-1.

[FR Doc. 84-2617 Filed 1-30-84; 8:45 am]
BILLING CODE 4310-10-M

Bureau of Land Management

43 CFR Public Land Order 6503

[M 41502]

Montana; Partial Revocation and Partial Modification of Secretarial Order of March 18, 1918, as Amended

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order revokes a Stock Driveway Withdrawal No. 11, Montana No. 1, as to 7,756.35 acres and partially

modifies the same withdrawal to establish a 20-year term for the remaining 32,812.91 acres. Of the 7,756.35 acres, 7,449.33 acres will be opened to surface entry, and 307.02 acres, privately owned, are not subject to the public land laws. The 32,812.91 acres being modified remain closed to surface entry. The public lands have been and remain open to mining and mineral leasing.

EFFECTIVE DATE: March 1, 1984.

FOR FURTHER INFORMATION CONTACT: Roland F. Lee, Montana State Office, 406–657–6474.

SUPPLEMENTARY INFORMATION: By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. The Secretarial Order dated March 18, 1918, as amended, which withdrew lands for stock driveway purposes, is hereby modified to expire 20 years from the effective date of this order insofar as it affects the following described lands:

Principal Meridian

Stock Driveway Withdrawal No. 11

(Montana No. 1)

T. 6 S., R. 2 W.,
Sec. 4, lots 3 and 4, SW¼ NW¼ and W½SW¼;
Sec. 8, E½ and S½SW¼;
Sec. 18, lots 1, 2, and 3, NE¼, E½NW¼, NE¼SW¼, and N½SE¼;
Sec. 20, E½.
T. 7 S., R. 2 W.,
Sec. 7, SE¼SE¼;
Sec. 8, W½;
Sec. 17, W½;
Sec. 18, all;
Sec. 19, lots 1, 2, 3, and 4, E½W½, and W½E½;
Sec. 30, lots 1, 2, 3, and 4, E½W½, and W½E½;
Sec. 31, lots 1, 2, 3, and 4, E½W½, W½E½, and SE¼SE¼.
T. 6 S., R. 3 W.,
Sec. 26, E½ and E½W½;
Sec. 35, E½.
T. 7 S., R. 3 W.,
Sec. 1, E½ and NW¼.
T. 7 S., R. 6 W.,
Sec. 2, lots 3 to 8, inclusive, SE¼NW¼ and NE¼SW¼;
Sec. 3, lots 1 and 2, S½NE¼ and SE¼;
Sec. 10, E½;
Sec. 11, NW¼;
Sec. 14, SW¼;
Sec. 15, E½;
Sec. 23, all;
Sec. 26, NW¼ and NW¼SW¼;
Sec. 27, lots 13, 14, and 17, SW¼SE¼;
Sec. 32, S½S½;
Sec. 33, NE¼ and SW¼;
Sec. 34, W½ NW¼.
T. 8 S., R. 6 W.,
Sec. 6, lots 2, 3, 4, and 5, SE¼NW¼.
T. 9 S., R. 6 W.,
Sec. 4, S½;
Sec. 5, W½ and SE¼;
Sec. 6, lots 1 to 5, inclusive, S½NE¼, SE¼NW¼, and SE¼;
Sec. 9, E½;
Sec. 10, W½ and SE¼;
Sec. 13, all;
Sec. 14, N½;
Sec. 15, N½;
Sec. 23, SE¼;
Sec. 24, N½ and SW¼;
Sec. 26, all;
Sec. 35, all.
T. 10. S., R. 6 W.,
Sec. 2, lots 1, 2, 3, and 4;
Sec. 3, lots 1, 2, 3, and 4, S½N½, SW¼, E½ SE¼, and SW¼SE¼;
Sec. 10, N½, SW¼, and W½SE¼;
Sec. 15, N½NE¼ and NW¼.
T. 11 S., R. 6 W.,
Sec. 5, lots 3 and 4, S½NW¼, NE¼SW¼, and S½SW¼;
Sec. 6, W½SE¼;
Sec. 7, E½;
Sec. 8, W½;
Sec. 17, W½;
Sec. 18, NW¼NE¼, S½NE¼, and SE¼;
Sec. 19, E½;
Sec. 20, W½;
Sec. 29, W½;
Sec. 30, E½;
Sec. 31, E½;
Sec. 32, W½.
T. 12 S., R. 6 W.,
Sec. 5, lot 4, SW¼NW¼ and SW¼;
Sec. 6, all;
Sec. 7, NE¼;
Sec. 8, W½;
Sec. 17, E½ and NW¼;
Sec. 20, E½;
Sec. 21, SW¼;
Sec. 27, SW¼;
Sec. 28, E½ and NW¼;
Sec. 34, N½;
Sec. 35, W½ and SE¼.
T. 13 S., R. 6 W.,
Sec. 1, all;
Sec. 2, lots 1 and 2, S½NE¼ and S½.
T. 8 S., R. 7 W.,
Sec. 1, lot 1, S½NE¼ and SE¼;
Sec. 11, NE¼;
Sec. 23, SE¼;
Sec. 26, E½;
Sec. 35, all.
T. 9 S., R. 7 W.,
Sec. 1, all;
Sec. 2, all.
T. 13 S., R. 7 W.,
Sec. 7, lots 1 and 2, NE¼ and E½NW¼;
Sec. 8, W½NE¼, SE¼NE¼, NW¼;
Sec. 9, SW¼NW¼.
T. 13 S., R. 8 W.,
Sec. 11, N½;
Sec. 12, N½.
T. 6 S., R. 10 W.,
Sec. 34, NE¼SE¼ and SW¼SE¼.
Sec. 35, W½E½ and N½SW¼.
T. 7 S., R. 10 W.,
Sec. 3, lot 2, SW¼NE¼ and NW¼SE¼;
Sec. 7, lot 4, SE¼SW¼ and S½SE¼;
Sec. 8, SE¼SW¼ and S½SE¼;
Sec. 9, SW¼SW¼;
Sec. 10, W½E½;
Sec. 15, NW¼NE¼ and N½NW¼;
Sec. 17, N½N½;
Sec. 18, lot 1, N½NE¼ and NE¼NW¼.
T. 14 S., R. 10 W.,
Sec. 15, SE¼;
Sec. 22, NE¼ and E½SE¼.
T. 15 S., R. 10 W.,
Sec. 4, SE¼;
Sec. 9, NE¼NE¼ and S½NE¼;
Sec. 10, W½;
Sec. 15, W½W½;
Sec. 22, W½NW¼, N½SW¼, and SE¼ SW¼.
T. 7 S., R. 11 W.,
Sec. 11, S½S½;
Sec. 12, S½S½;
Sec. 13, N½N½;
Sec. 14, N½N½.
T. 7 S., R. 7 E.,
Sec. 10, E½E½;
Sec. 14, W½W½;
Sec. 22, E½E½.
T. 6 S., R. 8 E.,
Sec. 22, lots 1, 2, 3, 4, 6, 7 and 10;
Sec. 32, lots 5, 11, and 12.
T. 7 S., R. 8 E.,
Sec. 5, Lot 4, SW¼NW¼ and W½SW¼;
Sec. 8, W½W½.

The area described aggregates 32,812.91 acres in Park, Beaverhead and Madison Counties.

2. The Secretarial Order dated March 18, 1918, as amended, which withdrew lands for stock driveway purposes, is hereby revoked insofar as it affects the following described lands:

Principal Meridian

T. 6 S., R. 3 W.,
Sec. 9, lot 3, W½SW¼ and SE¼SW¼.
T. 5 S., R. 4 W.,
Sec. 34, S½NW¼ and S½
T. 11 S., R. 5 W.,
Sec. 27, SW¼ and SW¼SE¼;
Sec. 28, NE¼SE¼;
Sec. 34, NE¼, NE¼NW¼, and NE¼SE¼;
Sec. 35, SW¼NW¼, SW¼, and SW¼ SE¼.
T. 8 S., R. 7 W.,
Sec. 2, lots 3 and 4, S½NW¼ and SW¼ (private lands).
T. 12. S., R. 7 W.,
Sec. 1, all;
Sec. 11, E½;
Sec. 12, NW¼;
Sec. 14, E½;
Sec. 23, E½;
Sec. 26, N½;
Sec. 27, N½;
Sec. 28, N½ and SW¼;
Sec. 33, W½.
T. 13 S., R. 8 W.,
Sec. 10, NE¼ and W½;
Sec. 15, W½;
Sec. 20, S½;
Sec. 21, lots 3 and 4, E½SW¼ and SE¼;
Sec. 22, W½;
Sec. 29, NE¼ and NE¼SE¼.
T. 6 S., R. 10 W.,
Sec. 22, N½NE¼;
Sec. 23, N½NW¼ and W½E½;
Sec. 26, W½E½.
T. 14 S., R. 10 W.,
Sec. 28, S½S½;
Sec. 27, S½SW¼ and SW¼SE¼.
T. 6., R. 12 W.,
Sec. 14, W½W½;
Sec. 23, W½W½;
Sec. 26, W½W½.

T. 3 S., R. 16 E.,
Sec. 5, lot 3, SE¼NW¼, N½SW¼, SW¼ SW¼;
Sec. 7, E½NE¼, SE¼SW¼, NE¼SE¼ and S½SE¼;
Sec. 8, NW¼Nw¼;
Sec. 18, E½NW¼.
T. 8 S., R. 25 E.,
Sec. 3, lots, 1, 2, 3, and 4;
Sec. 4, lots, 1, 2, 3, and 4;
Sec. 5, lots, 1, 2, 3, and 4.

The area described aggregates 7,756.35 acres in Madison and Beaverhead Counties.

3. This action will not restore lots 3 and 4, S½NW¼ and SW¼, Section 2, T. 8 S., R. 7 W., to operation of the public land laws as they are in private ownership.

4. At 8 a.m. on March 1, 1984, the lands in paragraph 2, except for the lands described in paragraph 3, shall be open to operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals and the requirements of applicable law. The lands have been and continue to be open to location and entry under the mining laws and to applications and offers under the mineral leasing laws.

5. Pursuant to Section 204(f) of the Federal Land Policy and Management Act of 1976, this withdrawal of lands in paragraph 1 will be reviewed within 20 years from the effective date of this order and, if appropriate, at subsequent 20-year intervals to ensure that the lands are still being used for the purpose for which they were originally withdrawn.

Inquiries concerning the lands should be addressed to the Chief, Branch of Land Resources, Bureau of Land Management, P.O. Box 30157, Billings, Montana 59107.

Dated: January 24, 1984.

Garrey E. Carruthers,
Assistant Secretary of the Interior.

[FR Doc. 84-2599 Filed 1-30-84; 8:45 am]
BILLING CODE 4310-84-M

43 CFR Public Land Order 6504

[I-19025]

Idaho; Partial Revocation of Secretarial Order of July 3, 1919

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order revokes a Secretarial order as to 400 acres of national forest lands withdrawn for stock driveway purposes. This action will restore the lands to such forms of disposition as may by law be made of national forest lands. The lands have been and remain open to mining and mineral leasing.

EFFECTIVE DATE: March 1, 1984.

FOR FURTHER INFORMATION CONTACT: Larry Lievsay, Idaho State Office, 208-334-1735.

SUPPLEMENTARY INFORMATION: By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; U.S.C. 1714, it is ordered as follows:

1. The Secretarial Order of July 3, 1919, which withdrew national forest lands for use by the U.S. Forest Service as Stock Driveway No. 86, is hereby revoked insofar as it affects the following described lands:

Boise Meridian

Targhee National Forest

T. 12 N., R. 32 E.
Sec. 14, W½E½;
Sec. 23, NW¼NE¼, S½NE¼, E½SE¼;
Sec. 26, NE¼NE¼.

The area described contains 400 acres in Clark County.

2. At 9 a.m. on March 1, 1984, the lands will be opened to such forms of disposition as may by law be made of national forest lands. The lands have been and remain open to location and entry under the United States mining laws and to applications and offers under the mineral leasing laws.

Inquiries concerning the lands should be addressed to the Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, 3380 Americana Terrace, Boise, Idaho 83706.

Dated: January 24, 1984.

Garrey E. Carruthers,
Assistant Secretary of the Interior.

[FR Doc. 84-2604 Filed 1-30-84; 8:45 am]
BILLING CODE 4310-84-M

43 CFR Public Land Order 6505

[Nev-051745; 054523]

Nevada; Partial Revocation of Powersite Cancellation No. 366; Partial Revocation of Powersite Classification No. 210, and Partial Revocation of Secretarial Order of May 8, 1919

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order revokes two overlapping Secretarial orders as they affect 40.24 acres of land withdrawn for powersite classification and reclamation project purposes. This action will restore 35.18 acres to surface entry and mining. The remaining 5.06 acres will be classified under the Recreation and Public Purposes Act for eventual transfer to Clark County, and, consequently, will not be opened to surface entry and mining. The entire acreage affected by this order has been and will remain open to mineral leasing.

EFFECTIVE DATE: March 1, 1984.

FOR FURTHER INFORMATION CONTACT: Vienna Wolder, Nevada State Office, 702-784-5703.

SUPPLEMENTARY INFORMATION:

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, and pursuant to the determination of the Federal Energy Regulatory Commission in DA-26-Nevada, it is ordered as follows:

1. The Secretarial Order of January 7, 1929, which created Powersite Classification No. 210, and the Secretarial Order of May 8, 1919, which withdrew land for reclamation project purposes, are hereby revoked as they affect the following described land:

Mount Diablo Meridian—Powersite Classification No. 210

T. 16 S., R. 68 E.,
Sec. 30, lots 5, 6, 7, E½NW¼NW¼.

The area described aggregates 40.24 acres in Clark County.

2. The State of Nevada has waived its preference right for highway rights-of-way or material sites as provided by the Federal Power Act of June 10, 1920, 16 U.S.C. 818.

3. The land described below, which is utilized as a cemetery, will be transferred to Clark County under the Recreation and Public Purposes Act, and, consequently, will not be subject to operation of the public land laws, including the mining laws.

Mount Diablo Meridian

T. 16 S., R. 68 W.,
Sec. 30, lot 5.

The area described aggregates 5.06 acres in Clark County.

4. At 9 a.m. on March 1, 1984, the land described in paragraph 1 will be opened to operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals and classifications, and requirements for applicable law, except as provided in paragraph 3. All valid applications received at or prior to 9 a.m. on March 1, 1984, will be considered as simultaneously filed at that time. Those received thereafter will be considered in the order of filing.

5. At 9 a.m. on March 1, 1984, the land described in paragraph 1 will be opened to operation of the mining laws, except as provided in paragraph 3. Appropriation of lands under the

general mining laws prior to the date and time of restoration is unauthorized. Any such attempted appropriation, including attempted adverse possession under 30 U.S.C. Section 38, shall vest no rights against the United States. Acts required to establish a location and to initiate a right of possession are governed by State law where not in conflict with Federal laws. The Bureau of Land Management will not intervene in disputes between rival locators over possessory rights since Congress has provided for such determinations in local courts.

6. The land has been and remains open to applications and offers under the mineral leasing laws.

Inquiries concerning this land should be addressed to the Deputy State Director, Operations, Bureau of Land Management, P.O. Box 12000, Reno, Nevada 89520.

Dated: January 24, 1984.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

[FR Doc. 84-2605 Filed 1-30-84; 8:45 am]

BILLING CODE 4310-84-M

43 CFR Public Land Order 6506

[OR-17241B, OR-36343A]

Oregon; Partial Revocation of Executive Orders of September 11, 1854, and June 8, 1866

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order revokes two Executive orders as to 66.48 acres of public lands withdrawn for use by the U.S. Coast Guard for lighthouse purposes. The lands have been conveyed out of Federal ownership and will not be restored to surface entry, mining, or mineral leasing. Thus, the effect of this order is record clearing only.

EFFECTIVE DATE: March 1, 1984.

FOR FURTHER INFORMATION CONTACT: Champ C. Vaughan, Jr., Oregon State Office, 503–231–6905.

SUPPLEMENTARY INFORMATION: By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. The Executive Orders of September 11, 1854, and June 8, 1866, which withdrew public lands for use by the U.S. Coast Guard for lighthouse purposes, are hereby revoked insofar as they affect the following described lands:

Willamette Meridian

T. 3 N., R. 11 W.,
Sec. 12, those portions of lots 1 and 2 as delineated upon the official records of the Oregon State Office, Bureau of Land Management.
T. 33 S., R. 15 W.,
Sec. 8, lot 1.
T. 36 S., R. 15 W.,
Sec. 36, lot 1.

The areas described aggregate 66.48 acres in Curry and Tillamook Counties.

2. The lands have been conveyed from Federal ownership and will not be restored to operation of the public land laws, including the mining and mineral leasing laws.

Inquiries concerning the lands should be addressed to the Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, P.O. Box 2965, Portland, Oregon 97208.

Dated: January 24, 1984.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

[FR Doc. 84-2606 Filed 1-30-84; 8:45 am]

BILLING CODE 4310-84-M

43 CFR Public Land Order 6507

[AR 032133]

Arizona; Partial Revocation of Air Navigation Site Withdrawal

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order partially revokes a Departmental order and a public land order as they affect 4.53 acres of land withdrawn for an air navigation site. This parcel is classified for private exchange pursuant to a pending application, and will remain closed to surface entry and mining. The land has been and will remain open to mineral leasing.

EFFECTIVE DATE: February 1, 1984.

FOR FURTHER INFORMATION CONTACT: Mario L. Lopez, Arizona State Office, (602) 261–4774.

SUPPLEMENTARY INFORMATION: By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. Those portions of Departmental Order of October 9, 1952, and Public Land Order No. 3468 of November 25, 1964, which withdrew public land for maintenance of Air Navigation Site, Arizona No. 1, are hereby revoked insofar as they affect the following described land:

Gila and Salt River Meridian

T. 16 N., R. 21 W.,
Sec. 14, lot 7.

The area described contains 4.53 acres in Mohave County.

2. The above described public land is classified for exchange under Section 206 of the Act of October 21, 1976, 90 Stat. 2756; 43 U.S.C. 1716, and remains segregated from operation of other public land laws including location and entry under the United States mining laws, but not the mineral leasing laws.

The land has been and will remain open to applications and offers under the mineral leasing laws.

Inquiries concerning the land should be addressed to the State Director, Bureau of Land Management, 2400 Valley Bank Center, Phoenix, Arizona 85073.

Dated: January 24, 1984.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

[FR Doc. 84-2601 Filed 1-30-84; 8:45 am]

BILLING CODE 4310-84-M

43 CFR Public Land Order 6508

[OR-20260]

Revocation of Secretarial Order of June 22, 1939

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order revokes a Secretarial order which withdrew 120 acres of public land for use by the Bureau of Reclamation for the Klamath Project. The land has been conveyed out of Federal ownership and will not be restored to surface entry, mining, or mineral leasing. Thus, the effect on this order is record clearing only.

EFFECTIVE DATE: March 1, 1984.

FOR FURTHER INFORMATION CONTACT: Champ C. Vaughan, Jr., Oregon State Office, 503–231–6905.

SUPPLEMENTARY INFORMATION: By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. The Secretary's First Form Reclamation Withdrawal Order of June 22, 1939, which withdrew public land for use by the Bureau of Reclamation for the Klamath Project, is hereby revoked:

Willamette Meridian

Klamath Project

T. 40 S., R. 14 E.,

Sec. 19, SE¼NE¼, NE¼SW¼, and NE¼SE¼.

The area described contains 120 acres in Klamath County.

2. The land has been conveyed from Federal ownership and will not be restored to operation of the public land laws, including the mining and mineral leasing laws.

Inquiries concerning the land should be addressed to the Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, P.O. Box 2965, Portland, Oregon 97208.

Dated: January 24, 1984.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

January 24, 1984.

[FR Doc. 84-2800 Filed 1-30-84; 8:45 am]

BILLING CODE 4310-84-M

43 CFR Public Land Order 6509

[OR-20256]

Oregon; Revocation of Secretarial Order of August 26, 1920

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order revokes a Secretarial order which withdrew 320 acres of public land for use by the Bureau of Reclamation for the Klamath Project. The land has been conveyed out of Federal ownership with reservations for ditches and canals only and thus will not be restored to surface entry, mining, or mineral leasing. The effect of this order is record clearing only.

EFFECTIVE DATE: March 1, 1984.

FOR FURTHER INFORMATION CONTACT: Champ C. Vaughan, Jr., Oregon State Office, 503–231–6905.

SUPPLEMENTARY INFORMATION: By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. The Secretarial Order of August 26, 1920, which withdrew land for use by the Bureau of Reclamation for the Klamath Project, is hereby revoked:

Willamette Meridian

Klamath Project

T. 38 S., R. 6 E.,
Sec. 13, SW¼ and W½SE¼;
Sec. 14, E½SE¼.

The area described contains 320 acres in Marion County.

2. The land has been conveyed from Federal ownership, with reservations for ditches and canals only, and will not be restored to operation of the public land laws, including the mining and mineral leasing laws.

Inquiries concerning the land should be addressed to the Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, P.O. Box 2965, Portland, Oregon 97208.

Dated: January 24, 1984.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

[FR Doc. 84-2802 Filed 1-30-84; 8:45 am]

BILLING CODE 4310-84-M

43 CFR Public Land Order 6510

[OR-20319]

Revocation of Bureau of Land Management Order of October 18, 1954; Oregon

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order revokes a Bureau of Land Management order which withdrew 30.53 acres of public land for use by the Bureau of Reclamation for the Deschutes Project. The land has been conveyed out of Federal ownership and will not be restored to surface entry, mining, or mineral leasing. Thus, the effect of this order is record clearing only.

EFFECTIVE DATE: March 1, 1984.

FOR FURTHER INFORMATION CONTACT: Champ C. Vaughan, Jr., Oregon State Office, 503–231–6905.

SUPPLEMENTARY INFORMATION: By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. The Bureau of Land Management's First Form Reclamation Withdrawal Order of October 18, 1954, which withdrew the following described land for use by the Bureau of Reclamation for the Deschutes Project, is hereby revoked:

Willamette Meridian

T. 12 S., R. 12 E.,
Sec. 27, lots 12, 13, and 14.

The area described contains 30.53 acres in Jefferson County.

2. The land has been conveyed from Federal ownership and will not be restored to operation of the public land laws, including the mining and mineral leasing laws.

Inquiries concerning the land should be addressed to the Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, P.O. Box 2965, Portland, Oregon 97208.

Dated: January 24, 1984.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

[FR Doc. 84-2803 Filed 1-30-84; 8:45 am]

BILLING CODE 4310-84-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

45 CFR Part 1180

Institute of Museum Services; Conservation Grants to Museums

AGENCY: Institute of Museum Services, NFAH.

ACTION: Final guidelines and standards.

SUMMARY: The Institute of Museum Services issues final guidelines and standards relating to a program of Federal financial assistance for museum conservation for fiscal year 1984. The guidelines and standards implement the Museum Services Act. They state eligibility conditions and other terms for the administration of the museum conservation program for fiscal year 1984.

EFFECTIVE DATE: These guidelines and standards are effective January 31, 1984.

FOR FURTHER INFORMATION CONTACT: Michele Rossi, Executive Assistant to the Director, Institute of Museum Services, Room 510, 1100 Pennsylvania Ave., NW., Washington, D.C. 20506 (786–0536).

SUPPLEMENTARY INFORMATION:

1. General Background

The Museum Services Act ("the Act"), which is Title II of the Arts, Humanities and Cultural Affairs Act of 1976, was enacted on October 8, 1976 and amended on December 4, 1980.

The purpose of the Act is stated in section 202 as follows:

> It is the purpose of [the Museum Services Act] to encourage and assist museums in their educational role, in conjunction with formal systems of elementary, secondary, and post-secondary education and with programs of nonformal education for all age groups; to assist museums in modernizing their methods and facilities so that they may be better able to conserve our cultural, historic, and scientific heritage; and to ease the financial burden borne by museums as a result of their increasing use by the public.

The Act establishes an Institute of Museum Services (IMS) consisting of a National Museum Services Board and a Director.

The Act provides that the National Museum Services Board shall consist of fifteen members appointed for fixed terms by the President with the advice

and consent of the Senate. The Chairman of the Board is designated by the President from the appointed members. Members are broadly representative of various museums, including museums relating to science, history, technology, art, zoos, and botanical gardens; of the curatorial, educational and cultural resources of the United States, and of the general public. In addition to the members appointed by the President, the following serve as members of the Board: The Chairman of the National Endowment for the Arts, the Chairman of the National Endowment for the Humanities, the Secretary of the Smithsonian Institution, the Director of the National Science Foundation, and the Secretary of Education. The Board has the responsibility for establishing the general policies of the Institute. The Director is authorized, subject to the policy direction of the Board, to make grants under the Act to museums.

IMS is an independent agency placed in the National Foundation on the Arts and the Humanities (National Foundation). Pub. L. 97–100, December 23, 1981, Pub. L. 97–394, December 30, 1982.

The Act lists a number of illustrative activities for which grants may be made, including assisting museums to meet their administrative costs for preserving and maintaining their collections, exhibiting them to the public, and providing educational programs to the public. Other activities are designed to aid museums in developing and maintaining professionally trained staff, developing and carrying out specialized museum programs for specific segments of the public, and cooperating with other museums in developing traveling exhibitions, meeting transportation costs for these exhibitions, and identifying and locating collections available for loan. Assisting museums to carry out conservation activities is expressly authorized in the Act.

2. Need for These Guidelines and Standards

The fiscal year 1984 appropriation for IMS, contained in the Department of the Interior and Related Agencies Appropriations Act, 1984, Pub. L. No. 98–146, makes available $3,000,000 for conservation. H.R. Rept. No. 98–399, 98th Cong. 1st Sess. 50 (1983). Of this amount $150,000 is available for a contract with the American Association of Museums, the American Institute of Conservation, and the National Institute for the Conservation of Cultural Property for the development of a conservation program.

Because IMS has not previously operated a program exclusively targeted on conservation, it is necessary to establish guidelines and standards for the conduct of the program in fiscal year 1984 to facilitate proper and efficient administration of the appropriated funds. Guidelines and standards of general applicability with respect to such matters as eligibility, use of funds, funding criteria and post-award conditions have therefore been developed by the Board and are appropriately published in this document.

The guidelines and standards are included as part of the IMS regulations (which are codified in 45 CFR Part 1180) but apply only to fiscal year 1984 grants. Further information regarding the program is contained in the agency's application package.

3. Highlights of the Program

In recommending an appropriation for this activity, the report of the House Appropriations Committee on the Department of the Interior and Related Agencies stated:

> The amount recommended by the Committee includes a new initiative for conservation grants in the amount of $3,000,000. This will provide a maximum of $25,000 to be matched equally, in addition to any general operating support grant an institution may receive. This will provide support to at least 120 institutions to provide for conservation of art objects either by hiring new staff or through contracting. The Committee expects the Board to develop program guidelines which may include the use of a special panel for this grant program. (H.R. Rept. No. 98–253, 98th Cong. 1st Sess. 113 (1983)).

The development of the guidelines and standards has been carried out in light of this language.

In summary, the program provides grants to museums of up to $25,000 for conservation projects on a matching basis. Therefore, a museum must supply 50 percent of the project costs from non-federal sources. Grants are made only to museums for a period of one year, although provision is made for extensions (at no additional cost to the government) if needed.

4. Paragraph by Paragraph Analysis

The following paragraphs describe the guidelines on a paragraph by paragraph basis.

Paragraph (a) sets forth the scope of the guidelines and standards. They apply to conservation grants for fiscal year 1984.

Paragraph (b) indicates which of the existing regulations of IMS apply to the program. With stated exceptions, these regulations generally apply. However, a conservation grant is not counted in determining whether a museum has received three grants in a five year period and does not preclude a grantee from also receiving a General Operating Support (GOS) or Special Project (SP) Support Grant (SR). See 45 CFR 1180.5 (e) and (f).

Paragraph (c) contains the definition of conservation and is based upon prior regulations of the Institute which contained such a definition.

Paragraph (d) indicates that only museums as defined in § 1180.3 of the IMS regulations may apply and only one conservation grant may be awarded to a museum.

Paragraph (e) sets forth examples of the types of projects which may be assisted, including:

—Projects to conduct or obtain training in conservation;
—Projects to conduct research in conservation;
—Projects to develop improved or less costly methods of conservation or both;
—Projects related to museum conservation needs not regularly addressed by other Federal funding agencies;
—Projects to meet the conservation needs of museums which are unable to maintain their own individual conservation facilities; and
—Projects to conserve particular objects in a museum's collection.

Paragraph (f) indicates that a grant may not be made for more than $25,000 and that conservation grants do not count toward the maximum ceiling of $50,000 for GOS and SP. Matching requirements in the Act apply but not the rule that IMS normally makes grants for only 10 percent of a museum's budget.

Paragraph (g) provides for application requirements. In general, application requirements applicable to other IMS programs apply. Requirements relating to long-range plans and maintenance of effort are inapplicable.

Paragraph (h) describes application review procedures. IMS expects to use panels of experts. However, depending on the number of applications and other factors, field reviewers may be used to evaluate applications before submission to panels, and, in this event, it is anticipated that not all applications will be reviewed by the panels.

Paragraph (i) sets forth both technical and programmatic funding criteria by which applications are judged.

Paragraph (j) describes allowable and unallowable costs.

5. Public Participation

IMS has followed the practice of obtaining public participation in the development of its regulations and guidelines and normally first publishes them in the form of a notice of proposed rulemaking inviting public comment. In the case of the instant guidelines and standards, this practice is not being followed because this process could not be completed in time to permit orderly review of applications for conservation grants. The appropriation to which these guidelines and standards relate was not enacted until November 4, 1983. The appropriation must be obligated during fiscal year 1984. The steps necessary to that obligation could not be completed in an orderly and efficient manner if *final* guidelines and standards could not be put in place at this time. If applications are not invited early in calendar year 1984, IMS believes that it would be impracticable to meet its funding schedule. In particular the need of applicants for established final guidelines in order to provide a frame of reference for early application and the need of IMS to organize and convene panelists in addition to field reviewers preclude resort to the proposed rulemaking process. In brief, it is necessary that final guidelines and standards be in place promptly to support the conduct of the conservation program for fiscal year 1984 in accordance with the intent of Congress. Under these circumstances, it has been determined that resort to public participation procedures is not necessary and would be impracticable for the instant guidelines and standards. If guidelines and standards are needed for future fiscal years, IMS will invite public comment on its proposals. See 5 U.S.C. 553(b).

6. Executive Order 12291

These guidelines and standards have been reviewed in accordance with Executive Order 12291. They are classified as non-major because they do not meet the criteria for major regulations established in the order.

7. Regulatory Flexibility Act Certification

The Director certifies that these guidelines and standards will not have a significant economic impact on a substantial number of small entities.

To the extent that they affect States and State agencies they will not have an impact on small entities because States and State agencies are not considered to be small entities under the Regulatory Flexibility Act.

These guidelines and standards will affect certain museums receiving Federal financial assistance under the Museum Services Act. However, they will not have a significant economic impact on the small entities affected because they do not impose excessive regulatory burdens or require unnecessary Federal supervision. They impose minimal requirements to ensure the proper expenditure of grant funds.

List of Subjects in 45 CFR Part 1180

Museums, National boards.

(Catalog of Federal Domestic Assistance No. 43.301, Museum Services Program)

Dated: January 24, 1984.

Susan Phillips,

Director, Institute of Museum Services.

Dated: January 24, 1984.

C. Douglas Dillon,

Chairman, National Museum Services Board.

The Institute of Museum Services amends Subchapter E of Chapter XI of Title 45 of the Code of Federal Regulations by revising the heading of Subpart A, adding § 1180.20 and reserving §§ 1180.18 and 1180.19 as set forth below:

SUBCHAPTER E—INSTITUTE OF MUSEUM SERVICES

PART 1180—GRANTS REGULATIONS

Subpart A—General Operating Support; Special Project Support; Conservation Grants

* * * * *

Sec.
1180.18 [Reserved]
1180.19 [Reserved]
1180.20 Guidelines and standards for fiscal year 1984 for conservation projects.

* * * * *

Subpart A—General Operating Support; Special Project Support; Conservation Grants

* * * * *

§ 1180.18 [Reserved]

§ 1180.19 [Reserved]

§ 1180.20 Guidelines and standards for fiscal year 1984 for conservation projects.

(a) *Scope.* The guidelines and standards in this document apply to all aspects of the IMS conservation grant program including the submission of applications by museums for conservation grants for fiscal year 1984, to the award, review and approval of such applications by IMS, and to the carrying out of conservation grants awarded by IMS.

(b) *Applicability of regulations.* (1) Except as otherwise provided in these guidelines, subparts A–C of this part, part 1180 of Title 45 CFR, (45 CFR 1180.1–1180.58) (IMS Grants Regulations), as amended, including provisions applicable to Special Projects, apply to the IMS conservation grant program. (These regulations were published on June 17, 1987, 48 FR 27727; IMS is issuing amendments to reflect legislation and technical changes made by the Board, including an amendment to render inapplicable § 1180.5(g) (relating to receipt of Challenge Grants)).

(2) § 1180.5(e) does not apply. Therefore, a museum may apply for a conservation grant and a general operating support or special project grant and receive funding under the conservation grant and the general operating support or special project grant in the same fiscal year.

(3) Section 1180.5(f) does not apply. Therefore a conservation grant awarded under these guidelines is not considered a grant for the purpose of determining whether a museum has received an award in more than three out of five years.

(4) Section 1180.11(d) does not apply. A museum which applies for a conservation grant need not submit a long-range plan.

(5) Section 1180.11(e) (relating to maintenance of effort) does not apply.

(6) Section 1180.16(b), which provides that IMS normally does not make grants for more than 10 percent of a museum's operating budget, does not apply to conservation grants.

(c) *Definition.* As used in these guidelines, the term "conservation" includes, but is not limited to, the following functions, as applied to art, history, natural history, science and technology, and living collections:

(1) Technical examination of materials and surveys of environmental and collection conditions;

(2) Provision, insofar as practicable, of optimum environmental conditions for housing, exhibition, monitoring, reformating, nurturing and transportation of objects;

(3) Physical treatment of objects, specimens and organisms, for the purpose of stabilizing, conserving and preserving their condition, removal of inauthentic additions or accretions, and physical compensation for losses; species survival activities; and

(4) Research and training in conservation.

(d) *Applicants.* Under the Museum Services Act only a museum may receive a grant. (20 U.S.C. 965(a)). See § 1180.3 of the IMS regulations for the definition of "museum". A museum may

receive only one conservation grant under this program in a fiscal year.

(e) *Types of conservation projects funded.* IMS considers applications to carry out conservation projects such as:

(1) Projects to conduct or obtain training in conservation (including training of persons for careers as professional conservators; training or upgrading of practicing conservators and conservation technicians in the use of new materials and techniques; and training of persons to become conservation technicians).

(2) Projects to conduct research in conservation (including developmental and basic research).

(3) Projects to develop improved or less costly methods of conservation or both.

(4) Projects related to museum conservation needs not regularly addressed by other Federal funding agencies.

(5) Projects to meet the conservation needs of museums which are unable to maintain their own individual conservation facilities, such as the operation or use of regional conservation centers or mobile conservation facilities. Because grants are made only to museums, organizations which operate regional conservation centers but which are not museums are ineligible for a direct grant. However, a museum or a group of museums may use a grant to obtain services from a center. *See* § 1180.35 (relating to group applications).

(6) Projects to conserve particular objects in a museum's collection (including plants and animals) or to meet the conservation needs of a particular museum (through such activities as the employment of conservators and the procurement of conservation services or equipment).

(f) *Limits on Federal funding.* See also paragraph (j) (allowable costs) (1) IMS makes a conservation grant which obligates no more than $25,000 in Federal funds. A conservation grant is not included in the $50,000 maximum amount which a museum may expect to receive from IMS for a fiscal year, as set forth in § 1180.9 of the regulations. Therefore, a museum may receive, for example, a GOS grant for $50,000 and an additional $25,000 for a conservation grant in a fiscal year. A museum may not receive more than $25,000 for a conservation grant.

(2) IMS makes conservation grants only on a matching basis. This means that at least 50% of the costs of a conservation project must be met from non-federal funds. Principles in applicable OMB circulars regarding cost sharing or matching apply. See, e.g. OMB Circular A–102, Attachment F.

(g) *Application requirements.* Application requirements in § 1180.11 (a), (b),(c) and (f) apply. Where appropriate, IMS may require an applicant to submit a dissemination plan.

(h) *Procedures for review of applications.* (1) For fiscal year 1984, IMS uses the procedures stated in this paragraph to review applications for conservation projects.

(2) IMS evaluates all eligible applications for special projects (including conservation projects) in accordance with applicable criteria. (See paragraph (i) below) The Director expects to use panels of experts to review at least a portion of the applications for conservation grants. Depending upon the number of applications received as well as other factors, the Director may also use field reviewers to evaluate applications before submission of applications to the panels. In addition, the Director may use technical experts to provide technical advice regarding certain applications. See generally § 1180.12 (a) and (c) of the IMS regulations.

(3) IMS evaluates applications for conservation projects separately from applications for general operating support and special projects.

(i) *Criteria.* This paragraph sets forth the criteria which IMS uses in evaluating and reviewing applications for conservation grants.

(1) The following technical criteria apply to the evaluation and review of applications for conservation grants:

(i) What is the nature of the proposed project with respect to project design and management plan?

(ii) What are the qualifications of the personnel the applicant plans to use on the project and the proposed time that each such person is obligated to commit to the project?

(iii) Does the project have an adequate budget to achieve its purpose? Is the budget reasonable and adequate in relation to the objectives of the project?

(iv) Does the applicant plan to devote adequate financial and other resources to the project without inhibiting its ongoing activities?

(2) In addition, the following programmatic criteria apply to the evaluation and review of conservation grants:

(i) The importance of the object or objects (to be conserved) and the significance of the object or objects to the museum's collection and/or audience.

(ii) The extent to which the application exhibits knowledge of the technical area to which the conservation project relates and employs the most promising or appropriate methods or techniques of conservation and/or the extent to which the conservation project is likely to use, develop or demonstrate improved, more efficient, or more economic methods of conservation;

(iii) The applicant's plans to use and maintain the anticipated results or benefits of the project after the expiration of Federal support; and

(iv) The need for the project, including the relationship of the project to the conservation needs and priorities of the applicant museum as reflected in a survey of conservation needs or similar needs assessment.

(j) *Allowable and unallowable costs.*

(1) Section 1180.10 of the IMS regulations, which applies to conservation grants, sets forth the rules applicable to determining the allowability of costs under IMS grants and refers readers to the OMB circulars containing applicable cost principles which govern government grants generally.

(2) In general such costs as compensation for personal services, costs of materials and supplies, rental costs, and other administrative costs specifically related to a conservation project are allowable under a conservation grant in accordance with applicable cost principles.

(3) Costs of alterations, repairs and restoration to an existing facility are allowable when they are related to a conservation project under a conservation grant in accordance with applicable cost principles.

(4) Costs of equipment are generally allowable if related to a conservation project but do require the specific approval of the Director as indicated in the grant award document.

(5) A grantee may award a stipend to an individual for training in connection with a conservation project. Stipends and allowances may be paid at rates and under conditions established by the Director consistent with policies of other agencies in the Foundation or other agencies or instrumentalities of the United States providing comparable assistance with respect to conservation. Salary support will not be included in the stipend. Institutional support in the form of continued salary is expected.

(6) Costs of new construction are unallowable. For example, a museum may not use a conservation grant to construct a new building or an addition to an existing building to improve the

environment in which its collections are housed.

Authority: Museum Services Act, 20 U.S.C. 961–968, Pub. L. 94–462, as amended, 90 Stat. 1975–1978.

[FR Doc. 84-2519 Filed 1-30-84; 8:45 am]
BILLING CODE 7036-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 83-33; RM-4224]

FM Broadcast Station in Lihue, Hawaii; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action substitutes Class C Channel 245 for Channel 224A at Lihue, Hawaii, and modifies the Class A permit for Station KJAD(FM) in response to a petition filed by KUAI, Inc.

DATE: Effective: April 2, 1984.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheurele, Mass Media Bureau, (202) 634–6530.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Report and Order (Proceeding Terminated)

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations (Lihue, Hawaii), MM Docket No. 83–33; RM–4224.

Adopted: January 10, 1984.
Released: January 24, 1984.

By the Chief, Policy and Rules Division.

1. The Commission herein considers the *Notice of Proposed Rule Making*, 48 FR 5971, published February 9, 1983, proposing the substitution of Class C Channel 245 for Channel 224A at Lihue, Hawaii, in response to a request filed by KUAI, Inc.[1] ("petitioner"). The *Notice* also proposed to modify the permit of Station KJAD(FM) to specify operation on the Class C channel. Petitioner filed comments reaffirming its interest in the Class C channel, if assigned. Opposing comments were filed by Kauai Broadcasting Co., permittee of Station KIPO–FM, Lihue, but were later withdrawn.

2. The Commission has determined that the public interest could benefit from the proposal, since it could provide a signal to a wider coverage area. In addition, since the opposition has been withdrawn, and no other interest in the Class C channel has been expressed, we shall modify the petitioner's permit to specify Channel 245. See, *Cheyenne, Wyoming*, 62 F.C.C. 2d 63 (1976). The channel can be assigned in compliance with the minimum distance separation requirements.

3. Accordingly, pursuant to the authority contained in Sections 4(i), 5(c)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is ordered, That effective April 2, 1984, the FM Table of Assignments, § 73.202(b) of the Rules, is amended, with respect to the community listed below:

City and Channel No.
Lihue, Hawaii: 228A, 245.

4. It is further ordered, That pursuant to Section 316(a) of the Communications Act of 1934, as amended, the permit of KUAI, Inc. for Station KJAD(FM), Lihue, Hawaii, is modified, effective 1984, to specify operation on Channel 245 in lieu of Channel 224A, subject to the following conditions:

(a) At least 30 days before operating on Channel 245 the licensee shall submit to the Commission a minor change application for a construction permit (Form 301);

(b) Upon grant of the construction permit program tests may be conducted in accordance with § 73.1620;

(c) Nothing contained herein shall be construed to authorize a major change in transmitter location or to avoid the necessity of filing an environmental impact statement pursuant to § 1.1301 of the Commission's Rules.

5. It is further ordered, That the Secretary shall send a copy of this *Order* by Certified Mail, Return Receipt Requested, to: Steven J. Pena, Becker, Gurman, Lukas, Meyers, O'Brien & McGowan, P.C., 2501 M Street, NW., Suite 400, Washington, D.C. 20036 (counsel for the petitioner).

6. It is further ordered, That this proceeding is terminated.

7. For further information concerning this proceeding, contact Kathleen Scheuerle, Mass Media Bureau, (202) 634–6530.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 84-2340 Filed 1-30-84; 8:45 am]
BILLING CODE 6712-01-M

[1] Petitioner is the permittee of Station KJAD(FM) (Channel 224A) in Lihue, Hawaii.

47 CFR Part 73

[MM Docket No. 83-365; RM 4303]

TV Broadcast Station in Albuquerque, New Mexico; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Action taken herein assigns UHF television Channel 41 to Albuquerque, New Mexico, as its eighth television service, in response to a petition filed by Dennis H. Owen.

DATE: Effective April 2, 1984.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Nancy V. Joyner, Mass Media Bureau, (202) 634–6530.

List of Subjects in 47 CFR Part 73

Television broadcasting.

Report and Order (Proceeding Terminated)

In the matter of amendment of § 73.606(b), Table of Assignments, Television Broadcast Stations (Albuquerque, New Mexico) MM Docket No. 83–365; RM–4303.

Adopted: January 10, 1984.
Released: January 24, 1984.

By the Chief, Policy and Rules Division.

1. The Commission herein considers the *Notice of Proposed Rule Making*, 48 FR 16913, published April 20, 1983, proposing the assignment of UHF television Channel 41 to Albuquerque, New Mexico, as that community's eighth television service, in response to a petition filed by Dennis H. Owen. Petitioner filed supporting comments reiterating his intention to apply for the channel, if assigned. Opposing comments were filed by Graciela Olivarez ("Olivarez").

2. Albuquerque (population 331,767),[1] seat of Bernalillo County (population 419,700), is located in north-central New Mexico. Currently, it is served by commercial television Stations KOB–TV (Channel 4), KOAT–TV (Channel 7), KGGM–TV (Channel 13), KGSW(TV) (Channel 14), and KNAT(TV) (Channel 23); as well as noncommercial educational Station KNME–TV (Channel *5) and Channel *32 (unoccupied).

3. In opposition, Olivarez, licensee of low power television Station K48AM, operating on UHF television Channel 48 in Albuquerque, asserts that petitioner neglected to consider the impact the

[1] Population figures were extracted from the 1980 U.S. Census, Advance Report.

proposal would have on her present operation. Specifically, Olivarez states that because Station K48AM is devoted to providing the community with its only Spanish-language service, the proposal, if granted, would require her to move to another channel, pursuant to the provisions of § 74.702(b) of the Rules, to eliminate interference. Although Olivarez recognizes that low power television service is secondary to a full power operation, she maintains that petitioner should have proposed a channel that would not destroy the community's only Spanish-language service. According to opponent, the impact is particularly significant since the English-speaking segment of the community is presently served by five commercial television stations as well as one licensed educational station. Accordingly, Olivarez urges denial of the proposal. Alternatively, opponent requests that in the event we find that the proposal would be in the public interest, that a non-conflicting channel be assigned to accommodate petitioner's proposal in an effort to avoid a disruption of service to the Hispanic residents of Albuquerque.

4. Olivarez' arguments against the assignment are without merit. Basically, opponent alleges that the existence of other television stations in the community obviates the need for another full service station which would jeopardize her current translator operation. However, the advantages inherent in a full power service, such as proposed herein, far outweigh the limited coverage that is provided by a low power television station. Moreover, as opponent acknowledges, pursuant to the provisions of § 74.703 of the Commission's Rules, a low power television operation is licensed on a secondary basis and is not protected against interference from a regular broadcast station.

5. In view of the above, we believe that the proposed assignment of Channel 41 to Albuquerque would serve the public interest by providing an additional competitive television service for the expression of diverse viewpoints and programming. On the basis of this determination, opponent will be required to specify another frequency in order to continue service to the community.

6. As indicated in the *Notice*, UHF television Channel 41 can be assigned to Albuquerque in conformity with the minimum distance separation requirements of §§ 73.610 and 73.698 of the Commission's Rules.

7. Accordingly, pursuant to the authority contained in §§4(i), 5(c)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.283 and 0.204(b) of the Commission's Rules, It is ordered, That effective April 2, 1984, the Television Table of Assignments, § 73.606(b) of the Commission's Rules, is amended as follows:

City	Channel No.
Albuquerque, New Mexico	4+, °5+, 7+, 13+, 14–23–, °32+, 41.

8. It is further ordered, That this proceeding is terminated.

9. For further information concerning the above, contact Nancy V. Joyner, Mass Media Bureau, (202) 634–6530.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 84–2541 Filed 1–30–84; 8:45 am]

BILLING CODE 6712–01–M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

25 CFR Part 26

Employment Assistance For Adult Indians

Correction

In FR Doc. 84–1231 beginning on page 2097 in the issue of Wednesday, January 18, 1984, third column, the effective date now reading "February 17, 1983" should read "February 17, 1984".

BILLING CODE 1505–01–M

Proposed Rules

Federal Register
Vol. 49, No. 21
Tuesday, January 31, 1984

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Office of the Secretary

7 CFR Part 17

Financing of Commercial Sales of Agricultural Commodities

AGENCY: Foreign Agricultural Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule would revise that portion of the regulations applicable to the financing of the sale and exportation of agricultural commodities pursuant to Title I of the Agricultural Trade Development and Assistance Act of 1954, as amended (Pub. L. 480, 83rd Cong.) which is set forth in §§ 17.1 through 17.8 and 17.16 of Part 17 of Title 7 of the Code of Federal Regulations. The proposed rule incorporates the provisions of "General Modification No. 1 to Appendix A and Appendix B of the Financing Regulations," changes the definition of "time of sale" for commodities purchased under the terms of an Invitation for Bids, and reflects the transfer of authority for the administration of the Pub. L. 480, Title I program from the Office of the General Sales Manager to the Foreign Agricultural Service. The proposal also deletes obsolete provisions, reorganizes the regulations in a more logical order, revises many sections for clarity, and makes a number of minor editorial corrections. This revision will make the regulations clearer and reduce the costs of the program by encouraging more commodity suppliers to participate.

DATES: Comments must be received on or before April 2, 1984.

ADDRESSES: Written comments in duplicate: Melvin R. Sims, General Sales Manager, Foreign Agricultural Service, Room 4073–S, U.S. Department of Agriculture, Washington, D.C. 20250.

Comments available for public inspection during business hours (8:30 a.m. to 5:00 p.m., Monday through Friday: Room 4549 South Building, U.S. Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Robert S. Simpson, Director, P.L. 480 Operations Divisions, Export Credits, Foreign Agricultural Service, U.S. Department of Agriculture, Washington, D.C. 20250. Telephone: (202) 447–3664.

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA procedures established in accordance with Executive Order 12291 and Secretary's Memorandum No. 1512–1 and has been classified "not major." It has been determined that this proposed revision will not result in an annual effect on the economy of $100 million or more; will not cause a major increase in costs to consumers, individual industries, Federal, State or local government agencies or geographic regions; and will not have an adverse effect on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets.

It has been determined that the Regulatory Flexibility Act is not applicable to this rule since the rule involve foreign affairs functions of the United States and therefore neither 5 U.S.C. 553 nor any other provision of law requires publication of a notice of proposed rulemaking with respect to the subject matter of this rule.

Information collection requirements contained in this regulation (Sections 17.5(c), 17.7(b), 17.10(a), 17.10(e), and 17.12(a)) have been submitted to the Office of Management and Budget for review under Section 3504(h) of the Act and have been assigned OMB #0551–0005. Recordkeeping requirements contained in redesignated § 17.22 have been assigned OMB #0551–0013. Comments on these requirements should be submitted to the Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer for Agriculture.

Sections affected by this revision cover general information; definitions of terms; purchase authorizations and subauthorizations; eligible commodities; contracts between suppliers and importers; commodity price provisions; fees, discounts, commissions, brand names, purchasing agents and shipping agents; and ASCS offices.

Major changes made by the proposed rule are explained below.

Section 17.1 "General"

Certain material has been deleted, such as that concerning issuance of purchase authorizations, which is covered in detail elsewhere in the regulations. References to sales for foreign currencies have been deleted here and throughout the regulations, since new agreements of this type have not been authorized since December 31, 1971.

Section 17.2 "Definition of Terms"

Numbers indicating individual definition paragraphs have been removed to facilitate continued alphabetical arrangement of terms whenever the regulations are amended to add or remove terms. Paragraph (b) now contains the definition of "ocean bill of lading" which appears in each commodity purchase authorization. In paragraph (c), the definition of "own or control," formerly in § 17.6(j)(2), has been added to the definition of "affiliate."

Section 17.5 "Approval of Purchasing and Shipping Agents"

This section, as proposed to be revised, would require participants to include in their written nomination a specific time period for which approval by the Assistant General Sales Manager of purchasing or shipping agents is requested. The Assistant General Sales Manager could approve the nomination for the period of time requested or for some shorter period.

Some participants presently do specify in the nomination a time period for which approval is requested, although they are not required to do so. This change is intended to make it clear that in approving purchasing or shipping agents the Department is responding to the request of the participant. In order to keep information received from agents relatively current, approvals will generally not extend beyond the supply period of the current Title I agreement.

Section 17.7 "Eligibility of Commodity Suppliers"

This section would require that, in order to be eligible to supply commodities under Title I, Pub. L. 480, a person must be engaged in the business of selling "agricultural commodities" for

export. This change is intended to assure that experienced and knowledgeable suppliers are involved and reduce the potential for delays or other problems which may affect the foreign policy and market development goals of the program.

Section 17.10 "General Modification No. 1"

These proposed regulations incorporate provisions presently found in "General Modification No. 1 to Appendix A and Appendix B of the Financing Regulations," as revised in October 1982.

These provisions require successful commodity suppliers to immediately notify the Program Operations Division (now P.L. 480 Operations Division), FAS, USDA, regarding Title I sales and to thereafter submit a "Declaration of Sale" form for each sale, providing the information necessary for USDA to approve the sale for financing. In addition, a provision is added requiring that a notice of any contract amendment after initial approval of the sale by USDA must be submitted to USDA. This requirement provides an opportunity for USDA to review the sale's price again, if it is affected by the contract amendment. Section 17.10 of this proposed rule incorporates these requirements.

Upon final adoption of this rule, "General Modification No. 1" will be formally withdrawn.

Section 17.11(b) "Time of Sale" Redefined

This proposed rule would define "time of sale" for commodities purchased under the terms of an Invitation for Bids, for the purpose of price review, as the closing date and time for submission of bids unless otherwise provided in Appendix A or the purchase authorization. For amendments to sales contracts, "time of sale" would remain as the date of the amendment.

This redefinition of "time of sale" was proposed for rice contracts on October 9, 1975 (40 FR 47514), but was not implemented as a final rule. At that time, rice was the only commodity required to be purchased under an IFB. Comments received on that proposal universally supported the change. Now that all food commodities are required to be purchased in the United States by open public Invitations for Bids (revised § 17.7(a)(2) of the regulations), it is proposed to expand the definition of "time of sale" to cover all commodities purchased under Invitations for Bids.

Changing the definition of "time of sale" for commodities purchased under IFB's will shorten the period of time elapsing between the supplier's setting the bid price (shortly before the submission of bids) and the time which governs price review (now, the date and time the supplier knows a firm sale has been made). This change will reduce the amount of market price movement possible between the two times and consequently reduce the risk borne by the supplier; more suppliers may thereby be enabled to participate in Title I sales, maximizing competition.

Another reason for proposing to amend the definition of "time of sale" is that it is customary for price bid information under public IFB's to become public knowledge immediately following the opening of bids and preceding actual contract award. Thus, under the current definition of "time of sale," it is possible for the bids themselves to cause market price changes and alter the market price information upon which price review is conducted.

Reorganization (FAS)

The merger of the Office of the General Sales Manager with the Foreign Agricultural Service (45 FR 69045 dated October 15, 1980) was undertaken to strengthen the role of the General Sales Manager and to strengthen the participation of the General Sales Manager in on-going international functions. This proposed rule changes "OGSM" to "FAS" wherever it appears. In April 1983 the "Ocean Transportation Division" was renamed the "P.L. 480 Operations Division" and the P.L. 480 Branch of the former Program Operations Division was transferred to the P.L. 480 Operations Division. This proposed rule reflects this reorganization.

Section 17.16 "ASCS Offices"

Section 17.16 is redesignated § 17.21 and amended to correct the addresses of the ASCS offices involved in the financing procedures under Title I, Pub. L. 480. Currently, all commodity financing operations under the program, and reimbursement of ocean freight differential, are administered by the Washington, D.C. ASCS office on behalf of the Commodity Credit Corporation (CCC). This includes the accounting functions previously handled by the New York ASCS Field Office, which was closed effective May 1, 1970.

The Kansas City ASCS Commodity Office is responsible for certain functions relating to cotton purchased under the program, including price review and approval of vessels. These functions were handled by the New Orleans ASCS Commodity Office before it was closed effective August 31, 1973.

Miscellaneous Changes

Existing sections of the regulations not covered in this proposed revision would be redesignated, and cross-references to revised or redesignated sections of the regulations would be amended as shown in the proposed rule.

On September 13, 1978, the Department published a proposed rule (43 FR 40872) to amend the regulations concerning the financing by CCC of ocean freight costs and procedures governing approval of charter parties and booking notes for vessels carrying commodities purchased under Title I of Pub. L. 480. No further action is intended regarding that notice of proposed rulemaking and the notice should be considered as withdrawn. However, FAS is now in the process of formulating for public comment proposed rules relating to financing commodity purchases and ocean freight contracts, including a revision of § 17.6(b)(4). These proposed rules may incorporate proposal contained in the earlier notice.

List of Subjects in 7 CFR Part 17

Agricultural commodities, Exports, Finance, Maritime carriers.

Proposed Rule

PART 17—[AMENDED]

Accordingly, it is proposed that 7 CFR, Part 17, Subpart A, be amended as follows:

1. The authority citation for Part 17 is revised to read as follows:

Authority: Secs. 101–115, Pub. L. 480, 83rd Cong., as amended, 68 Stat. 455 (7 U.S.C. 1701 *et seq.*); E.O. 12220, 45 FR 44245.

2. Sections 17.9–17.18 are redesignated as §§ 17.14–17.23, respectively.

3. Sections 17.1–17.5 and §§ 17.7–17.8 are revised, § 17.6 (a), (b)(1)–(3) and (c)–(g) are revised, § 17.6 (h)–(j) are removed, and §§ 17.9–17.13 are added as follows:

Sec.

17.1 General.
17.2 Definition of terms.
17.3 Eligible commodities.
17.4 Purchase authorizations.
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§ 17.1 General.

(a) *What this subpart covers.* This subpart contains the regulations governing the financing of the sale and exportation of agricultural commodities by the Commodity Credit Corporation, through private trade channels to the maximum extent practicable, under the authority of Title I of the Agricultural Trade Development and Assistance Act of 1954, as amended (hereinafter called the Act).

(b) *Agricultural Commodities Agreements.* (1) Under the Act, the Government of the United States enters into Agricultural Commodities Agreements with governments of friendly foreign countries or with private trade entities. These agreements cover financing of the sale and exportation of agricultural commodities, including certain ocean transportation costs.

(2) Government-to-government Agricultural Commodities Agreements may provide for: (i) Sales for dollars on credit terms; and/or (ii) sales for foreign currencies on credit terms which permit conversion to dollars. Agreement with private trade entities are limited to sales for dollars on credit terms.

(c) *Purchase authorizations.* These regulations cover, among other things, the issuance by the General Sales Manager of purchase authorizations which authorize the participant to: (1) Purchase agricultural commodities; and (2) procure ocean transportation when U.S. flag vessels are to be used.

(d) *Where information is available.* The Foreign Agricultural Service issues a press release whenever a purchase authorization is issued. General information about purchase authorizations and operations under these regulations is available from the Director, Pub. L. 480 Operations Division, Foreign Agricultural Service, U.S. Department of Agriculture, Washington, D.C. 20250. Information about financing operations under these regulations is available from the Controller, Commodity Credit Corporation, U.S. Department of Agriculture, P.O. Box 2415, Washington, D.C. 20013. A copy of each press release is made available to the Small Business Administration to assist small business firms to have an adequate and a fair opportunity to participate as suppliers.

§ 17.2 Definition of terms.

Terms used in the regulations in this subpart are defined or identified as follows, subject to amplification in subsequent sections:

(a) *Terms relating to the United States, its agencies and officials.*

AMS means the Agricultural Marketing Service, U.S. Department of Agriculture.

ASCS means the Agricultural Stabilization and Conservation Service, U.S. Department of Agriculture.

ASCS offices means the ASCS offices listed in § 17.21 and any other offices or agencies which may succeed to the functions of these offices.

CCC means the Commodity Credit Corporation, U.S. Department of Agriculture.

Controller means the Controller, Commodity Credit Corporation, or the Controller's designee.

FAS means the Foreign Agricultural Service, U.S. Department of Agriculture.

FGIS means the Federal Grain Inspection Service, U.S. Department of Agriculture.

General Sales Manager and *GSM* mean the General Sales Manager, FAS, or the General Sales Manager's designee.

Secretary means the Secretary of Agriculture of the United States, or the Secretary's designee.

USDA means the U.S. Department of Agriculture and includes all or any of the agencies mentioned in this paragraph (a).

United States means the 50 States, the District of Columbia, and Puerto Rico.

(b) *Terms relating to ocean transportation.*

Dry bulk carrier means an irregularly scheduled vessel, other than a tanker, commonly referred to as a "tramp." Rates are negotiated covering the movement of a specific quantity of a specific commodity, at a specific time from a specific port or ports to a specific destination port or ports.

Dry cargo liners and *liners* are interchangeable terms meaning regularly scheduled vessels on specific trade routes. Shipments can be made on this service of part-cargoes (parcels) generally not exceeding 60 percent of the capacity of the vessel.

Form CCC–106 means the various forms entitled "Advice of Vessel Approval," and refers to either the Form CCC–106–1 (Supplier of Commodity); Form CCC–106–2 (Ocean Carrier); Form CCC–106–3 (Cotton); or any or all of them, as applicable. Colors of the original forms are: Form CCC–106–1, yellow; Form CCC–106–2, blue; and Form CCC–106–3, white.

Notice of arrival means a written notice or copy of cablegram in accordance with § 17.14(f) stating that the vessel has arrived at the first port of discharge.

Ocean bill of lading means:

(1) *In the case of cargo carried on a vessel other than LASH or Seabee barges:* An "on-board" bill of lading, or a bill of lading with an "on-board" endorsement, which is dated and signed or initialed on behalf of the carrier, or

(2) *In the case of cargo carried in a LASH or Seabee barge:*

(i) For the purpose of financing commodity price, an "on-board" bill of lading showing the date the commodity was loaded on board barges, which is dated and signed or initialed on behalf of the carrier, or a bill of lading or a LASH or Seabee barge bill of lading with an "on-board barge" endorsement which is dated and signed or initialed on behalf of the carrier.

(ii) For the purpose of financing ocean freight or ocean freight differential, an "on-board" bill of lading which is dated and signed or initialed on behalf of the carrier indicating that the barge containing the cargo was placed aboard the vessel named in the Form CCC–106 not later than eight (8) running days after the last LASH or Seabee barge loading date (contract layday) specified in the Form CCC–106, or

A bill of lading or a LASH or Seabee barge bill of lading with an "on-board ocean vessel" endorsement which is dated and signed or initialed on behalf of the carrier indicating that the barge containing the cargo was placed aboard the vessel named in the Form CCC–106 not later than eight (8) running days after the last LASH or Seabee barge loading date (contract layday) specified in the Form CCC–106.

(3) Documentary requirements for a copy of an "ocean bill of lading" refer to a non-negotiable copy thereof.

Ocean transportation means and is interchangeable with the term "ocean freight."

Tanker means a vessel which is designed to carry full cargoes of liquids. Because of compartmentalization, tankers can carry a combination of cargoes, including bulk grain. Rates are negotiated in the same manner as with dry bulk carrier.

(c) *Other terms.*

Affiliate and *associated company* mean any legal entity which owns or controls, or is owned or controlled by, another legal entity. For a corporation, ownership of the voting stock is the controlling criterion. a legal entity is considered to own or control a second legal entity if—

(1) The legal entity owns an interest of 50 percent or more in the second legal entity, or

(2) The legal entity and one or more other legal entities, in which it owns an interest of 50 percent or more, together own an interest of 50 percent or more in the second legal entity, or

(3) The legal entity owns an interest of 50 percent or more in another legal entity which in turns owns an interest of 50 percent or more in the second legal entity.

Approved applicant means the bank in the importing country, or other agency acceptable to CCC, designated by the participant and named in a letter of commitment issued to a banking institution. This term includes any agent authorized to act on behalf of the approved applicant.

Banking institution means a banking institution organized under the laws of the United States, any State, or the District of Columbia.

Commodity means an agricultural commodity produced in the United States, or product thereof produced in the United States, as specified in the applicable purchase authorization.

Copy means a photocopy or other type of copy of an original document showing all data shown on the original, including a signature or the name of the person signing the original, or, if the signature or name is not shown on the copy, a statement that the original was signed.

Delivery means the transfer to or for the account of an importer of custody and right of possession of the commodity at U.S. ports or Canadian transshipment points in accordance with the delivery terms of the contract and purchase authorization. For purposes of financing, delivery is deemed to occur as of the on-board date shown on the ocean bill of lading.

Destination country means the foreign country to which the commodity is exported.

Foreign currency and *local currency* are interchangeable terms and mean the currency of the importing country.

Form CCC–329 means the signed original of Form CCC–329, "Supplier's Certificate."

Importer means the person which contracts with the supplier for the importation of the commodity. The importer may be the participant or any person to which a participant has issued a subauthorization.

Importing country means any nation with which an agreement has been signed under the Act.

Invitation for bids and *IFB* mean a publicly advertised request for offers.

Legal entity includes, but is not limited to, an individual (except that an individual and his or her spouse and their minor children are considered as one legal entity), partnership, association, company, corporation and trust.

Letter of Credit means an irrevocable commercial letter of credit issued, confirmed, or advised by a banking institution on behalf of an approved applicant.

Long-term credit sale is the collective term used to denote either or both of the following: (1) Sales to an importing country or a private trade entity for dollars on credit terms; or (2) sales to an importing country for local currency on credit terms which permit conversion to dollars.

Participant is the collective term used to denote the importing country or the private trade entity with which an agreement has been negotiated under the Act.

Person means an individual or other legal entity.

Purchase authorization means Form FAS–480 (Commodity), "Authorization to Purchase Agricultural Commodities," issued to a participant under these regulations.

Purchasing agent means any person engaged by a participant to procure agricultural commodities.

Private trade entity means the individual or other nongovernmental legal entity with which an agreement has been negotiated under the Act.

Selling agent means any person who operates as a bona fide representative for the supplier of the commodity and who is not employed by or otherwise connected with the importer or the importing country.

Shipping agent means any person engaged by a participant to arrange ocean transportation.

Ships broker means any person engaged by a supplier of ocean transportation to arrange employment of vessels.

Supplier means any person who sells a commodity to an importer under the terms of a purchase authorization, or who sells ocean transportation to an importer or supplier of the commodity under the terms of a purchase authorization.

§ 17.3 Eligible commodities.

(a) *General.* Commodities eligible for financing are those commodities determined by the Secretary to be available for disposition under the Act.

(b) *Commodity description and specification.* The commodity and quantity thereof to be financed shall be as described and specified in the relevant purchase authorization.

(c) *Cotton textiles.*

(1) Except as provided in paragraph (c)(2) of this section, financing of textiles under these regulations is limited to cotton yarns and fabrics processed up to and including the dyed and printed state, and preshrinking. Any processing of such yarns and fabrics beyond this stage will be at the expense of the participant.

(2) Purchase authorizations may permit cotton textiles processed beyond the stage described in paragraph (c)(1) of this section to be purchased, but the maximum financing by CCC is limited to the equivalent value of the cotton yarns and fabrics described in paragraph (c)(1) of this section, contained in the textiles, plus eligible ocean transportation costs.

(3) Financing is available only for textiles manufactured entirely of U.S. cotton in the United States. The General Sales Manager will not issue a purchase authorization for a textile of a specification not produced in the United States, but may issue a purchase authorization for the financing of a textile produced in the United States which has a specification reasonably close to that requested by the participant.

§ 17.4 Purchase authorizations.

(a) *Application.* For each purchase authorization, the participant shall submit to the General Sales Manager an application for authorization to purchase the commodity, on Form FAS–480 (Application). The application must state the usual marketing requirements for the commodity in accordance with the applicable agreement, and must include any other information required by the General Sales Manager.

(b) *Issuance of purchase authorization.* When the application has been approved by the General Sales Manager, the GSM shall issue a purchase authorization to the participant. The form used is Form FAS–480 (Commodity), "Authorization to Purchase Agricultural Commodities."

(c) *Purchase authorizations.* Each purchase authorization includes the following information:

(1) The commodity to be purchased, approximate quantity and maximum dollar value;

(2) Contracting requirements in addition to or in lieu of those in Appendix A of this subpart, if any;

(3) The contracting period, during which suppliers and importers must enter into contracts; and the delivery period, during which the commodity must be delivered;

(4) The terms of delivery to the importer;

(5) Documentation required in support of drafts presented to banks by suppliers in addition to or in lieu of the

documentation specified in Appendix B of this subpart;

(6) Provisions relating to payment to CCC, if applicable;

(7) The ASCS office which administers the financing operation on behalf of CCC;

(8) The method of financing;

(9) Any limitation relating to financing by CCC in addition to or in lieu of those specified in these regulations;

(10) Authorization to procure ocean transportation, and provisions relating to the financing of ocean freight or ocean freight differential, as applicable;

(11) Any other provisions considered necessary by the General Sales Manager.

(d) *Applicability of this subpart.* In addition to the provisions of a particular purchase authorization, each purchase authorization, unless otherwise provided, is subject to the provisions of this subpart to the same extent as if the provisions were fully set forth in the purchase authorization.

(e) *Modification or revocation.* The General Sales Manager reserves the right at any time for any reason or cause whatsoever to supplement, modify, or revoke any purchase authorization, including the termination of deliveries, if it is determined to be in the interest of the U.S. government. CCC shall reimburse suppliers who would otherwise be entitled to be financed by CCC for costs which were incurred as a result of such action by the General Sales Manager in connection with firm sales or shipping contracts, and which were not otherwise recovered by the supplier after a reasonable effort to minimize such costs: Provided, however, That such reimbursement shall not be made to a supplier if the General Sales Manager determines that the GSM's action was taken because the supplier failed to comply with the requirements of the regulations in this subpart or the appicable purchase authorization; *Provided further,* That reimbursement to suppliers of ocean transportation shall not exceed the ocean freight differential when the purchase authorization provides only for financing the differential.

(f) *Extension of delivery period in a purchase authorization.* The General Sales Manager will consider a request for extension of the delivery period in a purchase authorization only if the participant submits the request. The request should be submitted as soon as the participant knows that delivery may not be completed, or was not completed, within the period specified in the purchase authorization. The request for extension must establish to the satisfaction of the GSM that failure to complete delivery was due to a cause other than the fault or negligence of the importer or the supplier. The GSM may also approve the request for extension if the GSM determines that an extension would be in the interest of the U.S. government.

(g) *Subauthorizations.* (1) The participant may issue subauthorizations to importers consistent with the terms of the applicable purchase authorization. The participant, in subauthorizing, shall instruct importers to use the applicable purchase authorization number in placing orders and shall specify to importers all the provisions of the applicable purchase authorization which apply to the subauthorization.

(2) Each importer granted a subauthorization shall inform the supplier that the transaction is to be financed under the provisions of the regulations in this subpart. The importer shall also provide the supplier with the applicable purchase authorization number. The importer shall inform the supplier of any special provisions which affect the supplier in carrying out the transaction.

(h) *Letter of conditional reimbursement.* The General Sales Manager may choose to issue a letter of conditional reimbursement to an importing country or private trade entity with which an Agricultural Commodities Agreement is being considered. This letter authorizes the importing country or private trade entity to apply for a purchase authorization under which it may obtain reimbursement for certain costs it incurs in the procurement of the commodity and ocean freight before the Agricultural Commodities Agreement is signed. The reimbursement is conditioned on the signing of an Agricultural Commodities Agreement with the participant, providing for the financing of the commodity and ocean freight, and on the participant's complying with the terms and conditions set forth in the agreement, the letter of conditional reimbursement, and the purchase authorization.

§ 17.5 Approval of purchasing and shipping agents.

(a) *General.* A participant is not required to use a purchasing agent or shipping agent; however, if a purchasing or shipping agent is to be used, the participant shall submit the nomination(s) of the purchasing agent or shipping agent to the GSM in writing along with a copy of the proposed agency agreement. The participant shall also specify in the nomination the period of time for which such approval is requested. A person may not act as purchasing or shipping agent, or as both, if disapproved in writing by the Assistant General Sales Manager in accordance with the provisions of this section.

(b) *"Affiliate" defined.* For purposes of this section, the term "affiliate" has the meaning provided in § 17.2(c), in addition, persons will also be considered to be affiliates if any of the following conditions are met:

(1) There are any common officers or directors.

(2) There is any investment by ships brokers, ocean transportation suppliers, approved commodity suppliers, or selling agents, or their officers or directors, in the purchasing agent or shipping agent.

(3) There is any investment by the purchasing agent or shipping agent, or its officers or directors, in ships brokers, ocean transportation suppliers, approved commodity suppliers, or selling agents.

These conditions include those cases in which investment has been concealed by the utilization of any scheme or device to circumvent the purposes of this section but does not include investment in any mutual fund.

(c) *Information to be furnished.* A person whose nomination has been submitted to act as a purchasing agent or shipping agent, or both, shall furnish to the Assistant General Sales Manager the following information or documentation as may be applicable: (OMB No. 0551–0005)

(1) The names of all incorporators;

(2) The names and titles of all officers and directors;

(3) The names and proportinate share interest of all stockholders;

(4) If beneficial interest in stock is held by persons other than the named shareholders, the names of the holders of the beneficial interest and the proportionate share of each;

(5) The amount of the subscribed capital;

(6) A written undertaking signed by such person agreeing that, if approved, neither the person nor any affiliates, as defined in this section, will act as a ships broker, ocean transportation supplier, commodity supplier, or selling agent in any Title I transactions with the participant during the term of the agency agreement; and

(7) A certification that the person has not arranged to give or receive any payment or other benefit in connection with the person's selection as agent.

(d) *Approval.* Consideration will be given to approval of a person to act as a shipping or purchasing agent, or both, when the documents required to be submitted by this section are received

by the Assistant General Sales Manager. Approval of a nomination for purchasing agent or shipping agent may be withheld for a period not to exceed 30 calendar days pending completion of any investigation considered appropriate.

(e) *Duration of approval.* The approval of a purchasing agent or shipping agent to act for a participant shall remain in effect for the period of time requested by the participant or such shorter period as the Assistant General Sales Manager may determine. Generally, the Assistant General Sales Manager will not issue approvals extending beyond the supply period of the current Title I agreement. Such approval will be automatically terminated if the shipping or purchasing agent or any of the affiliates of such agent, acts as ships broker, ocean transportation supplier, commodity supplier or selling agent in connection with any Title I transaction for such participant during the term of the agency agreement.

(f) *Notification.* The Assistant General Sales Manager shall promptly notify persons seeking approval as purchasing or shipping agents of the determination or of the need for further investigation. If such person is disapproved, the notification shall state the reasons therefor. The determination of the Assistant General Sales Manager is effective immediately and continues in effect pending the result of any appeal to the General Sales Manager.

(g) *Disapproval or termination of approval.* Any person whose nomination has been disapproved or whose approval has been terminated pursuant to the provisions of this section may, within 30 calendar days, present to the General Sales Manager, orally or in writing, any reasons as to why such action should not stand. Nothing herein shall be construed as to prohibit a shipping agent or purchasing agent, whose application has been disapproved or whose approval has been terminated, from being nominated at a later time.

(h) *Unapproved purchasing agent.* If, in the procurement of commodities made available under Title I, Pub. L. 480, a participant uses a purchasing agent which has not been approved in writing by the Assistant General Sales Manager, USDA may withhold sales approval.

(i) *Unapproved shipping agent.* If, in the shipping of commodities made available under Title 1, Pub. L. 480, a participant uses a shipping agent which has not been approved in writing by the Assistant General Sales Manager, USDA may withhold vessel approval or may deduct from the ocean freight differential to be paid, the amount of the shipping agent's commission in connection with the shipment.

§ 17.6 Contracts between commodity suppliers and importers.

(a) *Contracts—eligibility for financing.* To be eligible for financing, commodity contracts must comply with the following requirements unless otherwise specified in the purchase authorization.

(1) Commodity contracts between suppliers and importers are considered to be conditioned on the approval by USDA of the supplier; the selling agent, if any; the contract price; and, whenever purchases are made on the basis of an IFB, responsiveness of the offer to IFB terms.

(2) Importers and suppliers must enter into contracts within the contracting period specified in the purchase authorization. The contracts must provide for deliveries to the importer in accordance with the delivery terms and during the delivery period specified in the purchase authorization, or any amendment or modification thereto. (See § 17.4(f).)

(3) Contracts for a commodity, under a purchase authorization which limits contracting to f.o.b. or f.a.s. terms, must be separate and apart from the contracts for ocean transportation of the commodity.

(4) The contracted price may not be on a cost plus a percentage-of-cost basis.

(b) *Contracting procedures*—(1) *Purchasing—general.* (i) Importers may purchase through negotiation with commodity suppliers of the importer's choice unless the regulations or the purchase authorization requires that purchases be made on the basis of Invitations for Bids (IFB's).

(ii) The participant shall maintain a record of all offers received from suppliers either as a result of IFB's or negotiation, until the expiration of three years after final payment under contracts awarded under the purchase authorization. The GSM may examine these records or request specific information in connection with the offers.

(2) *Purchasing—food commodities.* The importer shall purchase food commodities on the basis of IFB's.

(3) *Invitations for bids.* The following conditions shall apply on all purchases of commodities on the basis of IFB's.

(i) The General Sales Manager must approve the terms of the IFB before it is issued by the importer.

(ii) The importer shall issue the IFB in the United States and shall open all offers in public in the United States at the time and place specified in the IFB.

(iii) The IFB must permit submission of offers from all suppliers who meet the requirements of the regulations.

(iv) The IFB may not preclude offers for shipment from any United States port(s) unless the purchase authorization provides for exportation only from certain ports.

(v) The IFB may not establish minimum quantities to be offered or which will be considered.

(vi) The IFB must be in compliance with the regulations, the purchase authorization, and sound commercial standards.

(4) * * *

(c) *Contract quantity eligible for financing.* The quantity eligible for financing in the contract between the supplier and the importer may not exceed that quantity approved by the P.L. 480 Operations Divisions, FAS, including any approved contract tolerance.

(d) *Contract disputes.* Contracts between suppliers and importers should stipulate the responsibility of each party for payment of any costs not eligible for financing by CCC. Questions as to payment of ineligible costs should be resolved between the contracting parties.

(e) *Special contracting provisions.* The general provisions for contracting set forth in this section are supplemented by special contracting provisions in Appendix A applicable to individual commodities. Each purchase authorization, unless otherwise provided, is subject to the special provisions of Appendix A for the specific commodity named in the purchase authorization as though such special provisions were fully set forth in the purchase authorization. Each contract entered into for financing under these regulations is deemed to include all terms and conditions required by the regulations in this subpart.

(f) *Export Trade Act (Webb-Pomerene Law).* A supplier who is a member of Webb-Pomerene Association and who enters into contracts with importers as a member of such an association shall so indicate in a statement on, or attached to, the copy of the supplier's detailed invoice referred to in § 17.18(c)(2).

(g) *Shipment before letter of credit.* If the supplier of the commodity permits shipment, or the supplier of ocean transportation accepts the commodity, before receipt of an acceptable letter of credit from a bank, the supplier takes such action at its own risk. This action in itself does not affect eligibility for CCC financing provided acceptable documentation is presented within the

time limitations prescribed in the regulations in this subpart.

§ 17.7 Eligibility of commodity suppliers and selling agents.

(a) *Commodity suppliers (requirements).* (1) The commodity supplier must be engaged in the business of selling agricultural commodities for export from the United States.

(2) The commodity supplier must maintain a bona fide business office in the United States, and shall have a person, principal or agent, on whom service of judicial process may be had in the United States.

(3) A person which is more than 50 percent owned by a foreign government, or which is controlled by a foreign government, may not act as a commodity supplier.

(b) *Commodity suppliers (approval).* (1) Commodity suppliers must be approved by USDA as eligible under the Pub. L. 480, Title I program in order for their contracts to be eligible for CCC financing.

(2) Persons who wish to participate as commodity suppliers may be required to submit the following information to USDA, which will determine their eligibility: (OMB No. 0551–0005)

(i) A current financial statement of the person as evidence of financial responsibility.

(ii) A statement containing general background information about the person, with particular reference to experience as an exporter of U.S. agricultural commodities, and any other information requested relating to whether the person is a responsible person and able to perform its obligations under this subpart and the purchase authorization.

(3) A commodity supplier's sales will not be approved unless the supplier has submitted a statement listing name, address and chief executive officers of all legal entities, foreign and domestic, which the supplier owns or controls. The supplier shall submit similar information for all legal entities which own or control the supplier and for all legal entities which are owned or controlled by any legal entity which owns or controls the supplier.

(i) The term "chief executive officers" includes:

(A) The president, or if no president, the chairman of the board of directors, and

(B) The vice president, but in cases of multiple vice presidents only the principal vice president, and then only if one is so designated, and

(C) Any other person who is designated as, or who acts in the capacity of, a chief executive officer.

(ii) If a person has been approved as an eligible supplier, the statement required in (b)(3) of this section must be kept current; that is, all changes must be reported within three months after they have occurred. If an approved supplier does not keep this statement current, USDA may disapprove the supplier's sales.

(iii) A statement filed by a subsidiary is considered complete as to the legal entities which it owns or controls and any other legal entities owned or controlled by the parent (including the chief executive officers for all such companies) if the subsidiary certifies thereon that such information has been furnished to USDA in a separate statement filed by the parent.

(4) The supplier shall submit the information required in this section to the appropriate office listed below:

(i) For all commodities except tobacco and cotton, to the Director, P.L. 480 Operations Division, FAS, USDA, Washington, D.C. 20250.

(ii) For tobacco, to the Director, Tobacco and Peanuts Division, ASCS, USDA, P.O. Box 2415, Washington, D.C. 20013.

(iii) For cotton, to the Director, Kansas City ASCS Commodity Office, P.O. Box 8510, Kansas City, Missouri 64114.

(5) The General Sales Manager, FAS, is responsible for approval of suppliers of all commodities except tobacco and cotton. The Administrator, ASCS, is responsible for approval of suppliers of tobacco and cotton.

(6) USDA may permit a person to act as a commodity supplier only on submission of acceptable performance security in the form of a letter of credit which will assure that the person and the person's selling agents will perform the obligations required under this subpart and the purchase authorization.

(c) *Selling agents (requirements).* If, at the time the commodity supplier reports the sale for price approval, it is determined that an agent employed or engaged by a commodity supplier to obtain a contract is not a selling agent as defined in § 17.2(c), the sale will not be eligible for financing. (See § 17.8(c) regarding commissions to selling agents for food commodities.)

(d) *Disapproval; approval under certain conditions.* USDA shall notify promptly a prospective supplier or a selling agent who is not approved, or who is approved under certain conditions established under these regulations. The notification will state the reasons for the action taken or conditions established. The prospective supplier or selling agent may appeal the action to a designated USDA official and submit further information, orally or in writing, bearing on the determination.

§ 17.8 Fees, discounts, commissions, brand names.

(a) *Consular fees.* CCC will not finance consular fees imposed for the issuance or legalization of consular invoices or certificates in connection with the importation of commodities into a foreign country.

(b) *Discounts.* If a contract provides for one or more discounts (including but not limited to trade or quantity discounts and discounts for prompt payment) whether expressed as such or as "commissions" to the importer, only the invoice amount after discount (supplier's contracted price less all discounts) is eligible for financing.

(c) *Commissions.* (1)(i) For non-food commodities, a commission to a selling agent as defined in § 17.2(c), employed or engaged by the supplier to obtain a contract, is eligible for financing to the extent that such commission is included in the contract price, except as stated in this paragraph.

(ii) For food commodities, a commission, fee or other payment to a selling agent as defined in § 17.2(c), employed or engaged by the supplier to obtain a contract, is prohibited.

(A) Any act by a person on behalf of a commodity supplier, which would influence or tend to influence a buyer to award a contract to the supplier, or which may result in the supplier's having a competitive advantage in relation to other potential suppliers, constitutes an act "to obtain a contract." Furthermore, any act by a person on behalf of a commodity supplier to influence USDA to approve a contract for financing constitutes an act "to obtain a contract."

(B) Services on behalf of a supplier which are purely ministerial in nature and do not require the exercise of personal influence, judgment, or discretion, such as attending bid openings or presenting offers at bid openings, would not in themselves be considered acts "to obtain a contract."

(C) Services to implement a contract after it has been entered into by the parties thereto, such as handling documentation problems or contract disputes, would not constitute acts "to obtain a contract."

(D) Payments of any kind to a person who has acted as a selling agent to obtain a contract, including payments for services that may be performed in connection with such contract which in

themselves are not services to obtain a contract, are prohibited.

(2) A commission paid or to be paid to any agency, including a corporation, owned or controlled by the participant or the government of the destination country is not eligible for financing.

(3) A commission paid or to be paid to any agent, broker or other representative of the participant or the importer is not eligible for financing. This limitation does not apply to ocean transportation brokerage commissions which do not exceed 2½ percent of the freight financed.

(4) For ocean transportation, in addition to this paragraph, see also §17.14(i)(8).

(5) If a commission is paid in violation of paragraph (c) (2) or (3) of this section, CCC may demand dollar refund of the entire amount financed by CCC under the contract.

(6) The supplier should be aware of § 17.12 regarding reports required on certain commissions paid.

(d) *Brand names.* Brand names are not required to be shown on packaged commodities. If, however, a brand name is used, it must be a bona fide U.S. brand. The container or attached label must show the name and U.S. business address of the supplier or the manufacturer. Any reference on the container or attached label to foreign addresses of suppliers or foreign brand names is prohibited and will make the sale ineligible for financing. If the markings on the shipping container include a brand name, such brand name must be identical with the brand name on the unit container.

§ 17.9 Notice of sale procedures (tobacco and cotton).

The notice of sale procedures for tobacco and cotton are contained in Appendix A of the regulations and the purchase authorization.

§ 17.10 Notice of sale procedures (commodities other than tobacco and cotton).

(a) *Submission of notice of sale.* The supplier shall, immediately upon making a firm sale, telephone a notice of sale to P.L. 480 Operations Division, FAS, (202) 447–5780. (OMB No. 0551–005)

(1) A sale is considered firm under the regulations when the supplier has been notified by the importer of an award, even though the contract is conditioned on approval by FAS of the price; the supplier; the selling agent, if any; conformance of the sale to the provisions of the purchase authorization; and responsiveness of the offer to the IFB terms.

(2) The supplier shall not withhold the notice of sale because of the existence of contract provisions which make a contract conditional on the occurence of certain events, i.e., on approval of the price by FAS, on the receipt of acceptable letter(s) of credit, or receipt of delivery instructions.

(3) Each notice of sale shall cover only a single sale contract. If a sale is made under two or more purchase authorizations, separate notices of sale shall be submitted for each purchase authorization.

(4) If the supplier fails to furnish a notice of sale within 5 calendar days after the date of sale, CCC has the right to refuse to finance the sale.

(5) The following information must be included in the notice of sale. (Contracts containing options for the items listed in this paragraph (a)(5) are acceptable only as provided in paragraph (a)(5)(vii) or the purchase authorization.)

(i) Purchase authorization number.

(ii) Name and address of supplier.

(iii) Date and time of sale. (See § 17.11(b)(2).)

(iv) Country to which export is to be made (destination).

(v) Name of importer.

(vi) Contract quantity expressed in the contract unit and in the quantity unit in which the commodity normally trades.

(vii) Contract tolerance, if any, expressed in percentage, but not in excess of 5 percent more or less. This tolerance must be at buyer's option and must include any loading tolerance. If the contract does not provide a tolerance, show "No tolerance."

(viii) Price contract unit and per quantity unit in which to commodity normally trades.

(ix) Coast or port of export (e.g., East coast, West coast, Gulf coast, Great Lakes port) or Canadian transshipment point in the case of bulk grain.

(x) Delivery period specified in the contract.

(xi) Delivery terms (f.o.b., f.a.s., etc.).

(xii) Complete commodity description.

(xiii) Complete packaging description and packaging material specifications if export is other than in bulk.

(xiv) Supplier's contract number, sale number, or order number, if any.

(xv) Name and address of selling agent (supplier's agent) if any. If none, show "None."

(xvi) Import license number when required by the purchase authorization.

(xvii) Any other terms of the contract between the supplier and importer not specifically provided for in this paragraph (a)(5) which would affect the delivery of the commodity to be exported.

(xviii) Any additional information requested by the purchase authorization.

(b) *Sale approval.* (1) Pub. L. 480 Operations Division, FAS, will notify the supplier by telephone as to whether it has been determined on the basis of the information submitted in the notice of sale—

(i) That the price is approved for financing;

(ii) That the supplier and the selling agent, if any, are approved under the program;

(iii) That the sale conforms to the provisions of the purchase authorization; and

(iv) That the offer is responsive to the terms of the IFB.

(2) The supplier shall prepare Form FAS–359 (or CCC–359), "Declaration of Sale," and shall mail or otherwise deliver it to P. L. 480 Operations Division, FAS, promptly as soon as FAS has provided the CCC Registration Number to the supplier.

(3) The supplier shall enter on the Declaration of Sale form the same information as provided in paragraph (a)(5) of this section. Each Declaration of Sale form covers only a single sale contract. The supplier shall submit the Declaration of Sale form in an original and 4 copies, and it must be signed by the supplier or the supplier's authorized representative.

(4) USDA will return two copies of the Declaration of Sale form to the supplier, signed for the General Sales Manager by an authorized official, confirming the telephonic approval given as provided in paragraph (b)(1) of this section.

(5) Declaration of Sale forms are available from P.L. 480 Operations Division, FAS, USDA, Washington, D.C. 20250. Telephone (202) 447–5780.

(c) *Sale disapproval.* (1) P.L. 480 Operations Division, FAS, will notify the supplier by telephone and telegraph when a sale is disapproved for financing. The related contract between the supplier and importer shall, for purposes of financing, be considered null and void.

(2) On receipt of a notice of disapproval, the suplier shall promptly notify the importer.

(d) *Contract delivery period.* Price approval is limited to exports made during the delivery period stated in the notice of sale or any amendment thereto submitted to P.L. 480 Operations Division, FAS, even though the purchase authorization may authorize a final delivery date later than that stated in the sale. If the supplier cannot complete delivery on or before the terminal delivery date of the contract delivery period, the supplier shall submit a notice

of contract amendment as provided in paragraph (e) of this section. If the supplier fails to comply, § 17.17(d) of the regulations shall apply.

(e) *Contract amendments.* (1) The supplier shall submit a notice of each contract amendment to the Director, Pub. L. 480 Operations Division, FAS/EC, by telephone or telegraph immediately after the amendment to the contract is made. (Telex: 89 491; TWX: 710 822 9424 or 9425.) This includes not only any change in the contract delivery period or any other terms and conditions of the contract as provided in the information given in the original notice of sale or any amendment thereto, but also any change in any other terms and conditions of the contract. (OMB No. 0551–0005)

(2) If a notice of an amendment is made by telephone, the supplier shall confirm immediately in writing (by telegraph).

(3) The supplier shall include only amended items pertaining to a single sale in one amendment notice.

(4) The notice of contract amendment must contain the following:

(i) A request that USDA approve an amendment to the specifically identified sale contract between the Government of (country) and (commodity supplier).

(ii) A statement of what the amendment consists of (as, extension of delivery period through (date)) and a detailed explanation of the reasons for the amendment.

(iii) A statement that the contract amendment has been agreed to by both buyer and seller.

(5) Any amendment to a contract for which FAS has given price approval subjects the terms of the contract, as amended, to reexamination by FAS for the purpose of financing under Pub. L. 480.

(6) Pub. L. 480 Operations Division, FAS, will notify the supplier by telegraph and telephone as to whether the amendment is approved or disapproved.

(7) Any amendment must be consistent with the provisions of the purchase authorization and the regulations and must otherwise be acceptable to Pub. L. 480 Operations Division, FAS.

(8) The supplier shall furnish a copy of the USDA telegraphic approval of the amendment with other documentation submitted to obtain payment.

(9) If the supplier fails to furnish notice of a contract amendment to P.L. 480 Operations Division, FAS, within five calendar days after the date of such amendment, CCC has the right to refuse to finance the sale or to finance such portion of the contract price or contract quantity as it may determine to be in the interest of the U.S. government.

§ 17.11 Commodity price provisions.

(a) *USDA price approval.* In order for a sale to be eligible for CCC financing, the commodity price must be approved by USDA. (See §§ 17.9 and 17.10).

(b) *Maximum price.* (1) The supplier's sales price may not exceed the prevailing range of export market prices as applied to the terms of sales at the time of sale, as determined by USDA.

(2) The "time of sale," unless otherwise defined for specific commodities in Appendix A of this subpart or the purchase authorization, means

(i) For commodities purchased under an Invitation for Bids, the date and time specified in the IFB for submisson of offers; or

(ii) For all other commodities, the date as of which the sales price is established in or under the contract between the importer and the supplier.

(iii) For contract amendments for all commodities, the "time of sale" means the date of any amendment if the amendment in any manner affects the sale price as determined by USDA.

(3) If USDA is unable to ascertain the prevailing range of export market prices for a specific commodity, USDA will determine a maximum export market price, representing the top of the range of export market prices, for the commodity at the time of sale for the time and place of delivery provided for in the contract. In so determining a maximum export market price USDA will use, as needed, available domestic or export market information for the same or other quality descriptions, packagings, locations, and dates; will apply appropriate market differentials and other factors as would be reflected in the export market price at the time of sale for the time and place of delivery; and will take into account CCC export sales prices when appropriate.

(4) When the purchase authorization provides for a maximum price, expressed in dollars and cents or computed on a stated basis, the supplier's sales price may not exceed this maximum price.

(c) *Refund of excess price.* If the sale has been financed and the sales price is determined to exceed the maximum price permissible under this section, the supplier shall refund the amount of the excess in accordance with § 17.17(d).

§17.12 Reports required from suppliers of commodities and ocean transportation.

(a) *General.* Suppliers of: (1) Agricultural commodities financed under the Act; and (2) U.S. flag vessels on which such commodities are transported, if ocean freight differential payments are made by CCC with respect thereto, shall report to the General Sales Manager any commission, fee or other compensation of any kind (hereinafter referred to as "payment") which, in connection with the supplying of such commodities or vessels, is paid or to be paid by the supplier to any agent, broker, or other representative of the importer or importing country, including a corporation owned or controlled by the importer or importing country, to which the supplier furnishes such commodities or vessels. (OMB No. 0551–0005)

(b) *Compensation.* The term "other compensation of any kind" in paragraph (a) above means anything given in return for any consideration, services, or benefits received or to be received by the supplier in connection with the supplying of commodities or vessels financed under the Act.

(c) *Reporting.* The supplier shall report in writing as soon as this supplier knows that a payment as described in paragraph (a) of this section is made or to be made. Reports must be submitted to the General Sales Manager, Room 4073–S, Foreign Agricultural Service, Export Credits, U.S. Department of Agriculture, Washington, D.C. 20250.

(d) *Information to report.* The supplier shall include in the report the following information with respect to each payment reported under paragraph (a):

(1) The name and address of the person to whom the payment was made or is to be made, and the person's relationship to the importer or importing country.

(2) The date payment made or approximate date when payment is to be made, and amount or approximate amount of payment.

(3) An explanation of the transaction in connection with which the payment was made or is to be made.

(4) The number(s) of the purchase authorization(s) providing for the financing under the Act of the sale of agricultural commodities to the importer or importing country to whose agent, broker or other representative the payment was made or is to be made.

(e) *Knowledge imputed.* Knowledge of any fact material to obligations under this section shall be imputed to the supplier if the supplier should reasonably have known that such fact existed.

(f) *Information available for public inspection.* The information in reports filed hereunder will be available for public inspection by contacting the General Sales Manager, FAS, USDA, at

the address given in paragraph (c) of this section.

(g) *Failure to file a report or filing a false report.* Failure to file a required report or the filing of a false report hereunder constitutes a cause for debarment pursuant to 7 CFR 1407.5(c). Whenever the GSM believes, or has reason to believe, that a supplier has failed to file a report as required by this section or has filed a false report thereunder, the GSM is authorized to institute suspension or debarment proceedings against the supplier in accordance with the provisions of 7 CFR Part 1407.

(h) *Debarment.* If a final determination has been made under 7 CFR Part 1407 that a supplier has failed to file a report as required by this section or has filed a false report thereunder, the supplier shall be debarred, for a period of five years from the date of such final determination, from furnishing—directly or indirectly—commodities financed under the Act or U.S. flag vessels on which such commodities are to be transported if ocean freight differential payments are to be made by CCC with respect thereto. Such supplier may also be debarred (in accordance with 7 CFR Part 1407) from participating in other programs administered or financed by CCC.

§ 17.13 Refund to CCC by the participant for failure to comply.

The participant shall pay in U.S. dollars promptly to CCC on demand by the General Sales Manager the entire amount financed by CCC (or such lesser amount as the GSM may demand) whenever the GSM determines that the participant has failed to comply with any agreement or commitment made by the participant in connection with the transaction financed.

4. The terms "Office of the General Sales Manager" and "OGSM" are changed to read "Foreign Agricultural Service" and "FAS" respectively, wherever they appear in the Regulations and Appendices A and B.

5. The terms "Program Operations Division" and "Ocean Transportation Division" are changed to read "P.L. 480 Operations Division" wherever they appear in the Regulations and Appendices A and B.

§ 17.14 [Amended]

6. In newly redesignated § 17.14, the first sentence of paragraph (a)(1) is revised to read as follows: "This section applies to the financing of ocean freight or ocean freight differential for long-term credit sales."

7. The address of the Director, ASCS Commodity Office, U.S. Department of Agriculture, is changed from "Wirth Building, 120 Marais Street, New Orleans, La. 70112" to "P.O. Box 8510, Kansas City, Missouri 64114" in newly redesignated § 17.14, paragraph (b)(1); and in Appendix A, Sections (V) (1), (6), and (10), and Sections (W) (1) and (10).

8. The term "New Orleans ASCS Commodity Office" is changed to read "Kansas City ASCS Commodity Office" in newly redesignated § 17.14, paragraphs (c)(1), (h), (j)(3)(ii), (j)(4), and (j)(6); and in Appendix A, Sections (V) (5) and (9)(b), and Sections (W) (5), (6), and (9)(b).

9. In newly redesignated § 17.14, paragraph (d)(4) is amended by changing "§ 17.9(1)" to "§ 17.14(1)."

10. In newly redesignated § 17.14, paragraph (k)(6) is amended by changing "§ 17.13(d)(2)" to "§ 17.18(d)(2)."

11. In newly redesignated § 17.14, paragraph (k)(8)(ii) is removed and reserved.

§ 17.15 [Amended]

12. In newly redesignated § 17.15, paragraph (h)(4) is amended by changing "§ 17.13" to "§ 17.18."

13. In newly redesignated § 17.15, paragraph (j) is amended by changing "§ 17.7" to "§ 17.11" and "§ 17.15(b)(7)" to "§ 17.20(b)(7)."

14. In newly redesignated § 17.15, paragraph (o) is removed and reserved.

§ 17.16 [Amended]

15. In newly redesignated § 17.16, paragraph (a) is amended by changing the heading to read "(a) General." and changing "§ 17.13(c)" to read "§ 17.18 (c) and (d)."

16. In newly redesignated § 17.16, paragraphs (b) and (h) are revoved and reserved.

§ 17.17 [Amended]

17. In newly redesignated § 17.17, paragraph (d) is ameded by changing "§ 17.7" to "§ 17.11."

18. In newly redesignated § 17.17, paragraph (e) is amended by revising it to read as follows:

§ 17.17 Adjustment refunds and insurance.

* * * * *

(e) *Refunds received by CCC.* For refunds received by CCC under long-term credit agreements, the participant's account shall be credited with the dollar amount refunded or otherwise recovered, and the participant notified accordingly.

19. In newly redesignated § 17.18, paragraph (b)(1)(ii) is amended by revising it to read as follows:

§ 17.18 Documentation.

* * * * *

(b) * * *

(1) * * *

(ii) Documents submitted to CCC to obtain reimbursement under a purchase authorization which provides financing for ocean freight, or ocean freight differential.

* * * * *

20. In newly redesignated § 17.18, paragraph (d)(6) is amended by changing "§ 17.9(m)" to "§ 17.14(m)."

21. In newly redesignated § 17.18, paragraph (d)(7) is amended by changing "§ 17.9(j)(1)" to "§ 17.14(j)(1)."

§ 17.19 [Amended]

22. In newly redesignated § 17.19, paragraph (a) is amended by changing "§ 17.13" to "§ 17.18."

23. In newly redesignated § 17.19, paragraph (b)(2) is amended by changing "§ 17.15(a)(7)" to "§ 17.20(a)(7)."

24. The first paragraph of newly redesignated § 17.20 is amended by changing "§§ 17.10 and 17.14" to "§§ 17.15 and 17.19."

25. In newly redesignated § 17.20, paragraph (a)(1) is amended by changing "§ 17.13" to "§ 17.18."

26. In newly redesignated § 17.20, paragraphs (a)(2) and (7)(iii) are revised to read as follows:

§ 17.20 Responsibilities of banking institutionss for transactions under letters of commitment.

(a) * * *

(2) *Advice to approved applicant.* The banking institution shall airmail advice of the amount of dollar disbursement or the dollar amount and maturity date of time drafts accepted to the approved applicant or to the bank or agency authorized by the approved applicant to open related letters of credit. If documents and advice of payment are sent to such bank or agency, another advice of payment shall be airmailed to the approved applicant. The transmittal shall include a request that the approved applicant or the bank or agency authorized by the approved applicant to open related letters of credit notify the participant that "the net amount of the supplier's invoice financed by CCC under the transaction is $_____."

* * * * *

(7) * * *

(iii) Include with the advice of dollar disbursement or time draft accepted under the letter of credit, advice of the net dollar amount for which the participant is indebted to the government of the United States. Such notice shall be in substantially the following language:

The amount of $——— paid to the beneficiary includes an ocean freight differential of $———. The participant is indebted to the government of the United States for the net amount of $———.

* * * * *

27. In newly redesignated § 17.20, paragraph (a)(6) is amended by changing "§ 17.10(h)(3)" to "§ 17.15(h)(3)."

28. In newly redesignated § 17.20, paragraph (a)(9)(ii) is amended by changing "§ 17.12" to "§ 17.17."

29. In newly redesignated § 17.20, paragraph (b)(4) is amended by changing "§ 17.13(c)(4)" to "§ 17.18(c)(4)."

30. In newly redesignated § 17.20, paragraph (b)(7) is amended by changing "§ 17.7" to "§ 17.11."

31. In newly redesignated § 17.20, paragraph (b)(8) is amended by changing "§ 17.9" to "§ 17.14."

32. In newly redesignated § 17.20, paragraph (c)(1) is amended by changing "§§ 17.15(a) and 17.15(b)" to "§§ 17.20(a) and 17.20(b)."

33. In newly redesignated § 17.20, paragraph (c)(4) is amended by changing "§ 17.10(j)" to "§ 17.15(j)."

34. In newly redesignated § 17.20, paragraph (c)(6) is amended by changing "§§ 17.3 and 17.5" to "§§ 17.3 and 17.4."

35. Newly redesignated § 17.21 is revised to read as follows:

§ 17.21 ASCS Offices.

Kansas City ASCS Commodity Office, P.O. Box 8510, Kansas City, Missouri 64114; and
Fiscal Division, ASCS, U.S. Department of Agriculture, P.O. Box 2415, Washington, D.C. 20013.

§ 17.22 [Amended]

36. Newly redesignated § 17.22 is amended to add after the text "(OMB No. 0005–0013)"

37. Newly redesignated § 17.23 is revised to read as follows:

§ 17.23 Effective date.

The regulations in this subpart become effective as to financing of the sale and exportation of commodities pursuant to Agricultural Commodities Agreements dated on or after October 1, 1984. The financing of the sale and exportation of commodities pursuant to Agricultural Commodities Agreements dated before October 1, 1984, continue to be subject to the provisions of the regulations which were applicable before October 1, 1984, unless made subject to the regulations in this subpart by the applicable purchase authorization.

Appendix A [Amended]

38. In Appendix A the following paragraphs are removed and reserved:

(A) (1), (2) and (3); (B) (1), (4) and (5); (C) (1) and (2); (D) (1) and (2);

(E) (1) and (2); (F) (1) and (2); (H) (1), (2) and (3); (I) (1) and (2);

(J) (1) and (2); (K) (1) and (2); (L) (1) and (2); (M) (1) and (2);

(N) (1) and (2); (O) (1) and (2); (P) (1) and (2); (Q) (1) and (2); and

(R) (1) and (2); (S) (1) and (2); (T) (1) and (2); and (U) (1) and (2).

39. In Appendix A, paragraphs (B)(2) and (B)(7) are amended by changing "Form CCC–362" to "Form CCC–359 or Form FAS–359."

40. The references to "Form NOCO–467" are changed to "Form KC–467" in Appendix A, Sections (V)(2)(a) and (W)(2)(a); and in Appendix B, Sections (V)(7) and (W)(7).

41. In Appendix A, the references to "section 17.7" and "section 177 (a)" are changed to "section 17.11(b)" in Sections (V)(2), (V)(2) (a) and (b), (W)(2) and (W)(2) (a) and (b).

42. In Appendix A, the references in "section 17.12(a)" are changed to "section 17.17(a)" in Sections (V)(3)(d) and (W)(3)(d).

43. In Appendix A, the references to "section 17.12(b)" are changed to "section 17.17(b)" in Sections (V)(3)(e) and (W)(3)(e).

44. In Appendix A, Sections (V)(3)(a)(ii) and (b)(ii), and (W)(3) (a)(ii) and (b)(ii) are removed and reserved.

Appendix B [Amended]

45. In Appendix B, paragraphs (A)(1)(g) and (A)(2)(g), (B)(7), (C)(1)(g) and (C)(2)(g), (D)(7), (E)(7), (F)(1)(g) and (F)(2)(g), (H)(1)(g) and (H)(2)(g), (I)(7), (J)(7), (K)(1)(g) and (K)(2)(g), (L)(7), (M)(7), (N)(7), (O)(7), (P)(7), (Q)(7), (R)(7), (S)(7), (T)(7) and (U)(7), are revised to read as follows: "One copy of Form CCC–359 or Form FAS–359, 'Declaration of Sale,' signed for the General Sales Manager, by which the supplier was notified that the sale was approved for financing."

Signed at Washington, D.C. on January 25, 1984.

Melvin E. Sims,

General Sales Manager, Foreign Agricultural Service.

[FR Doc. 84–2598 Filed 1–26–84; 2:22 pm]
BILLING CODE 3410–10–M

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 31

Fees for Audits of Leverage Transaction Merchants

AGENCY: Commodity Futures Trading Commission.

ACTION: Proposed schedule fo fees.

SUMMARY: As part of the Futures Trading Act of 1982, Congress amended Section 26 of the Futures Trading Act of 1978 to allow the Commission to promulgate a schedule of fees "to be charged for services rendered and activities and functions performed by the Commission in conjunction with its administration and enforcement of the Commodity Exchange Act." In this regard, the Commission proposes to establish an annual fee for its audits of leverage transaction merchants which are not members of a self-regulatory organization which has adopted rules approved by the Commission providing for the auditing of such a firm by the self-regulatory organization. Initially the annual fee would be set at $8,000.

DATE: Comments must be received on or before March 1, 1984.

ADDRESS: Comments should be sent to: Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581. Attention: Secretary.

FOR FURTHER INFORMATION CONTACT: Daniel S. Goodman, Esquire, Office of General Counsel, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581. Telephone (202) 254–9880.

SUPPLEMENTARY INFORMATION:

I. Introduction

Section 237 of the Futures Trading Act of 1982, 7 U.S.C. 16a(c), amended Section 26 of the Futures Trading Act of 1978 to provide the Commission with specific authority:

> To promulgate, after notice and opportunity for hearing, a schedule of appropriate fees to be charged for services rendered and activities and functions performed by the Commission in conjunction with its administration and enforcement of the Commodity Exchange Act: *Provided,* That the fees for any specified service or activitiy or function shall not exceed the actual costs thereof to the Commission.

The Conference Report accompanying the legislation, H.R. Rept. No. 964, 97th Cong. 2d Sess. 57 (1982), states that "the conferees intend that the fee schedule addressed by the Conference substitute be strictly limited to Commission activities directly related to; (1) Commission audits of firms which are not members of contract markets or of a registered futures association * * *."[1]

[1] The term "member of a contract market" is defined in Section 2(a)(1)(A) of the Commodity Exchange Act, 7 U.S.C. 2. *See* Section 5 of the Commodity Exchange Act, 7 U.S.C. 7 (setting forth

Continued

Pursuant to this authority, the Commission proposes to add an Appendix B to Part 31 of its regulations to establish an annual fee for audits of leverage transaction merchants which are not members of a contract market or of a registered futures association. Initially, the Commission proposes to establish this fee at $8,000, a figure which the Commission believes will be below the actual average annual cost of auditing a leverage transaction merchant.

II. Audits of Leverage Transaction Merchants

On January 16, 1984, the Commission adopted interim final rules governing the regulation of leverage transactions. Those rules will be published in the Federal Register in the near future. Under those rules, a "leverage transaction merchant" is required to be registered by the Commission, and each leverage commodity upon which a leverage contract is sold or offered for sale is required to be registered separately by the Commission. Commission rules §§ 3.17, 31.5, 31.6.[2]

Leverage transaction merchants which are not members of contract markets or a registered futures association will be subject to the Commission's audit and financial surveillance program ("Program"), which is designed to monitor compliance with the financial and segregation regulations.[3] The Program consists of full-scope audits, limited-scope audits, and routine reviews of financial reports filed on Form 2 FR. The audits are conducted on a surprise basis. Actual audits are scheduled at the discretion of the Commission staff, with the objective of maximizing audit effectiveness and efficiency. The Commission anticipates that in the usual case, one full-scope financial audit of each leverage transaction merchant and two limited-scope audits will be conducted during any two-year period. Audits may be varied in frequency, however, to take into account the financial condition and prior audit results of each particular firm.

Based on its experience in auditing futures commission merchants, the Commission estimates that it will cost an average of a least $8,000 annually to audit a leverage transaction merchant. This figure includes the estimated compensation and benefit costs of the staff time devoted to auditing a leverage transaction merchant, travel costs associated with the audits, and a 32 percent overhead cost.[4] It is likely that the full-scope audits of leverage transaction merchants, including the initial audits, will entail costs considerably in excess of $8,000. As noted above, however, the Commission anticipates that in some years a leverage transaction merchant will be subject only to audits which are limited in scope. The $8,000 figure represents a conservative estimate of the average annual cost of all audit work to be performed with respect to a leverage transaction merchant. The Commission believes that a fee based on actual average annual costs will have the virtue of administrative simplicity and will provide leverage transaction merchants with advance knowledge of their audit fees for each year.

The Commission will review the $8,000 figure in subsequent fiscal years when actual Commission cost data become available, to be sure that the fee is not too high. If, however, the Commission finds that the actual average annual cost of auditing a leverage transaction merchant greatly exceeds $8,000, it may increase the fee in future years. In any event, the fee will not exceed the actual average annual cost of auditing a leverage transaction merchant.

Under the proposed fee schedule, a leverage transaction merchant would be required to pay the initial $8,000 audit fee with its application for registration as a leverage transaction merchant. The leverage transaction merchant would pay the fee annually thereafter. Failure to pay the audit fee in a timely manner would result in the Commission's refusal to process any new applications for registration of a leverage commodity submitted by that leverage transaction merchant and would be a sufficient ground for the Commission to revoke the registration of any previously registered leverage commodity. *See* Commission rule § 31.5(f).

The Commission has determined that should it decide to adopt the proposed fee schedule as a final fee schedule, good cause would exist for making the fee schedule effective immediately. *See* 5 U.S.C. 553(d)(3). An immediate effective date for the fee schedule would insure that all leverage transaction merchants subject to the audit fee would be treated equally and would enable the federal government to begin to recover the significant costs associated with such audits.

III. Regulatory Flexibility Act

The Commission has determined that leverage transaction merchants are not "small entities" for purposes of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* Previously the Commission determined that futures commission merchants ("FCMs") are not "small entities." 47 FR 18618 (April 30, 1982). This determination was based upon both the minimum financial requirements established for FCMs and the fiduciary nature of the FCM-customer relationship. *Id.* at 18619. The same reasoning applies to leverage transaction merchants. Indeed, the minimum financial requirements for leverage transaction merchants include a base adjusted net capitalization figure of $2,500,000, Commission rule § 31.9, as compared to $50,000 for FCMs, 17 CFR 1.17.

Thus, the requirements of the Regulatory Flexibility Act do not apply to leverage transaction merchants. Accordingly, the Chairman, on behalf of the Commission, hereby certifies pursuant to 5 U.S.C. 605(b) that the rule proposed herein, if promulgated, would not have a significant economic impact on a substantial number of small entities.

List of Subjects in 17 CFR Part 31

Audits of leverage transaction merchants, Fees, Commodity futures.

In consideration of the foregoing, and pursuant to the authority contained in the Commodity Exchange Act, and in particular in Sections 8, 8a(5), and 19, 7 U.S.C. 12, 12a(5), and 23; and in Section 26 of the Futures Trading Act of 1978, as amended by Section 237 of the Futures Trading Act of 1982, 7 U.S.C. 16a, the Commission hereby proposes to amend Part 31 of Chapter 1 of Title 17 of the Code of Federal Regulations by adding Appendix B. In taking this action, the Commission has considered the public interest to be protected by the antitrust laws and has endeavored to take the least anticompetitive means of achieving the regulatory objectives of the Commodity Exchange Act.

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the criteria by which the Commission designates a board of trade as a "contract market.) Section 17 of the Commodity Exchange Act, 7 U.S.C. 21, sets forth the terms and conditions under which the Commission may register an association of persons as a "registered futures association."

[2] The term "leverage transaction merchant" is defined in Commission rule § 1.3(oo).

[3] Applicants for registration as a leverage transaction merchant will also be subject to the Program. Prior to registering a leverage transaction merchant which is not a member of a contract market or a registered futures association or to registering a leverage commodity offered for sale by such a leverage transaction merchant, the Commission must determine whether the firm meets the Commission's net capital requirements.

[4] The overhead figure represents the Commission's actual overhead percentage for space, supplies, utilities, etc.

PART 31—REGULATION OF LEVERAGE TRANSACTIONS

Appendix B—Schedule of Fees for Audits of Leverage Transaction Merchants

(a) Each leverage transaction merchant which is not a member of a self-regulatory organization with rules approved by the Commission providing for the auditing of such a firm shall pay an annual audit fee of $8,000. The initial fee must accompany the firm's application for registration as a leverage transaction merchant. The fee shall be paid by check or money order in the amount of $8,000 made payable to the Commodity Futures Trading Commission.

(b) Checks or money orders should be sent to the attention of the Office of the Secretariat, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581. No checks or money orders may be accepted by personnel other than those in the Office of the Secretariat.

(c) Failure of a leverage transaction merchant to submit an audit fee in a timely manner will result in the Commission's refusal to process any new applications for registration of a leverage commodity submitted by that leverage transaction merchant and will be a sufficient ground for the Commission to revoke the registration of any previously registered leverage commodity.

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Issued in Washington, D.C., on January 25, 1984, by the Commission.

Jane K. Stuckey,

Secretary of the Commission.

[FR Doc. 84-2573 Filed 1-30-84; 8:45 am]

BILLING CODE 6351-01-M

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17 CFR Part 31

Fees for Leverage Commodity Registration

AGENCY: Commodity Futures Trading Commission.

ACTION: Proposed schedule of fees.

SUMMARY: The Commission recently promulgated a rule requiring leverage transaction merchants to apply for registration for all leverage commodities upon which a leverage contract is sold or offered for sale. The Commission hereby proposes to charge a $7,500 fee for each application for registration of a leverage commodity.

DATE: Comments must be received on or before March 1, 1984.

ADDRESS: Comments should be sent to: Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581. Attention: Secretariat.

FOR FURTHER INFORMATION CONTACT: Daniel S. Goodman, Esquire, Office of General Counsel, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581. Telephone (202) 254-9880.

SUPPLEMENTARY INFORMATION:

I. Registration of Leverage Commodities

On January 16, 1984, the Commission adopted interim final rules governing the regulation of leverage transactions. Those rules will be published in the **Federal Register** in the near future. Section 31.6 of those rules, 17 CFR 31.6, provides that the Commission must register each leverage commodity upon which a leverage transaction merchant offers a leverage contract for sale. The Commission has spent considerable time and effort in devising a set of rules which will assure that basic tenets of the Commodity Exchange Act have been met and will provide those firms desiring to offer to sell or to sell these leverage commodity contracts with a comprehensive regulatory structure. To this end, the Commission's process for the registering of a leverage commodity entails a detailed review of the leverage commodity and of the terms and conditions of the leverage contracts based on it to assure that they comport with the applicable rules.

Although there is no economic purpose test associated with the review of a leverage commodity registration application, such a review and the designation of a futures contract are similar in many other ways. *Compare* § 31.6(a) *with* Guideline No. 1, 17 CFR Part 5, Apendix A. In each case, the Commission's staff must perform an analysis of the proposed trading instrument, the underlying cash market, and the entity submitting the application. In registering a leverage commodity, as in designating a futures contract market, the Commission and its staff perform a valuable and costly service which directly benefits the applicant.

The Commission currently charges a non-refundable $10,000 fee to process each application for designation as a futures contract market which it receives. 17 CFR Part 5, Appendix B. *See* 48 FR 38214 (Aug. 23, 1983) final schedule of fees). The $10,000 figure was based on the average costs incurred by the Commission staff in reviewing 91 applications for contract market designation during fiscal year ("FY") 1981, FY 1982, and the first six months of FY 1983. As noted in the supplementary information accompanying the proposed contract market designation fee schedule, the $10,000 figure is well below the actual average cost to the Commission of reviewing a contract market designation application. 48 FR 27411, 27412-13 (June 15, 1983).

In like manner, and pursuant to the same authority, the Commission is now proposing to charge a $7,500 fee to process each application for registration of a leverage commodity. The $7,500 figure is based on a Commission staff estimate that on average it will take at least three-fourths as much staff time to process an application for registration of a leverage commodity as it takes to process an application for designation as a futures contract market.[1] The Commission will review this figure in subsequent fiscal years when actual Commission cost data become available. In any event, the Commission will not assess more than the actual average costs of registering a leverage commodity.

As with futures contract market designations, the Commission believes that it is appropriate to charge a single fee for each application for leverage commodity registration. *See* 48 FR 38215. Based upon experience in the contract market designation process, the Commission expects to spend much more time analyzing the first leverage commodity registration applications that it processes than it will spend analyzing subsequent, similar applications. If the Commission charged a fee based solely upon the cost of reviewing each registration application, the first applicants would be charged substantially higher fees than subsequent applicants. The former applicants would be unduly penalized, while the latter applicants would reap the benefits of the earlier reviews.

Under the proposed fee schedule, an application for registration as a leverage commodity must be accompanied by a check or money order in the amount of $7,500 made payable to the Commodity Futures Trading Commission. The Commission has determined that the $7,500 application fee should not be refundable in the event that the application is denied or that the leverage transaction merchant withdraws the application. The application and fee should be sent to the Commission's Office of the Secretariat in Washington, D.C. Applications received without fees will be returned to the submitting leverage transaction merchant.

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[1] The $7,500 figure includes the estimated compensation and benefit costs of the staff time devoted to review and analysis of applications for registration of leverage commodities (including review of the leverage contracts proposed to be offered pursuant to registration of the leverage commodities), travel costs associated with the review, and a 32% overhead cost, which represents the Commission's actual overhead precentage for space, supplies, utilities, etc.

The Commission has determined that should it decide to adopt the proposed fee schedule as a final fee schedule, good cause would exist for making the fee schedule effective prior to the registration of any leverage commodity under § 31.6. *See* 5 U.S.C. 553(d)(3). No application for registration of a leverage commodity would be processed until the fee was received. An immediate effective date for the fee schedule would assure that all those subject to the registration fee would be treated equally and would enable the federal government to begin to recover the costs associated with the costly service of reviewing the applications for registration of leverage commodities in a manner consistent with the purposes of the Act. Moreover, the Commission believes that such an effective date would assure equal treatment in the application of the new rules and would otherwise discourage the hasty submission of applications for leverage commodity registration before the new fee becomes effective.

II. Regulatory Flexibility Act

The Commission has determined that leverage transaction merchants are not "small entitites" for purposes of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* Previously, the Commission determined that futures commission merchants ("FCMs") are not "small entities." 47 FR 18618 (April 30, 1982). This determination was based upon both the minimum financial requirements established for FCMs and the fiduciary nature of the FCM-customer relationship. *Id.* at 18619. The same reasoning applies to leverage transaction merchants. Indeed, the minimum financial requirements for leverage transaction merchants include a base net capitalization figure of $2,500,000, 17 CFR 31.9, as compared to $50,000 for FCMs, 17 CFR 1.17.

Thus, the requirements of the Regulatory Flexibility Act do not apply to leverage transaction merchants. Accordingly, the Chairman, on behalf of the Commission, hereby certifies pursuant to 5 U.S.C. 605(b) that the rule proposed herein, if promulgated, would not have a significant economic impact on a substantial number of small entities.

List of Subjects in 17 CFR Part 31

Applications for leverage commodity registration, Commodity futures, Fees.

In consideration of the foregoing, and pursuant to the authority contained in the Commodity Exchange Act, and in particular in Sections 5, 5a, 8a(5), and 19, 7 U.S.C. 7, 7a, 12a(5), and 23; in Section 26 of the Futures Trading Act of 1978, as amended by Section 237 of the Futures Trading Act of 1982, 7 U.S.C. 16a; and in the Independent Offices Appropriation Act of 1952, as amended by Pub. L. 97-258, 96 Stat. 1051 (Sept. 13, 1982) (see 31 USCA 9701), the Commission hereby proposes to amend Part 31 of Chapter 1 of Title 17 of the Code of Federal Regulations by adding Appendix A. In taking this action, the Commission has considered the public interest to be protected by the antitrust laws and has endeavored to take the least anticompetitive means of achieving the regulatory objectives of the Commodity Exchange Act.

PART 31—REGULATION OF LEVERAGE TRANSACTIONS

Accordingly, Part 31 is amended by adding Appendix A to read as follows:

Appendix A—Schedule of Fees for Registration of Leverage Commodities

(a) Each application for registration of a leverage commodity must be accompanied by a check or money order in the amount of $7,500 made payable to the Commodity Futures Trading Commission.

(b) Checks and applications should be sent to the attention of the Office of the Secretariat, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581. No checks or money orders may be accepted by personnel other than those in the Office of the Secretariat.

(c) Failure to submit the fee with the application for registration of a leverage commodity will result in return of the application. Fees will not be returned after receipt.

* * * * *

Issued in Washington, D.C. on January 25, 1984, by the Commission.

James K. Stuckey,

Secretary of the Commission.

[FR Doc. 84-2572 Filed 1-30-84; 8:45 am]

BILLING CODE 6351-01-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 917

Public Comment and Opportunity for Public Hearing on the Modification to the Kentucky Permanent Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Proposed rule.

SUMMARY: OSM is announcing procedures for the public comment period and for a public hearing on the substantive adequacy of a program amendment submitted by the State of Kentucky as a modification to the Kentucky Permanent Regulatory program (hereinafter referred to as the Kentucky program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The amendment pertains to changes in the repermitting schedule previously approved by the Secretary of the Interior on May 13, 1983, to satisfy condition (1) of the approval of the Kentucky program.

OSM is also soliciting public comment on certain proposed conditions on the approval of Kentucky's proposed amendment. Additionally, OSM is proposing to preempt a State requirement that new permit applications be processed in 65 days.

This notice sets forth the times and locations that the Kentucky program and the proposed amendment are available for public inspection, the comment period during which interested persons may submit written comments on the proposed program elements, and the procedures that will be followed regarding the public hearing.

DATES: Written comments must be received on or before 4:00 p.m., March 1, 1984 to be considered.

If requested, a public hearing on the proposed modifications will be held on February 27, 1984, beginning at 10:00 a.m. at the location shown below under "**ADDRESSES**."

ADDRESSES: Written comments should be mailed or hand delivered to: W. H. Tipton, Lexington Field Office, Office of Surface Mining, 340 Legion Drive, Suite 28, Lexington, Kentucky 40504.

If a public hearing is held its location will be at: The Harley Hotel, 2143 North Broadway, Lexington, Kentucky 40505.

FOR FURTHER INFORMATION CONTACT: W. H. Tipton, Lexington Field Office, Office of Surface Mining, 340 Legion Drive, Suite 28, Lexington, Kentucky 40504, Telephone: (606) 233-7327.

SUPPLEMENTARY INFORMATION:

I. Public Comment Procedures

Availability of Copies

Copies of the Kentucky program, the proposed modifications to the program, a listing of any scheduled public meeting and all written comments received in response to this notice will be available for review at the OSM Offices and the Offices of the State regulatory authority listed below, Monday through Friday, 8:00 a.m. to 4:00 p.m., excluding holidays.

Lexington Field Office, Office of Surface Mining, 340 Legion Drive, Suite 28, Lexington, Kentucky 40504
Office of Surface Mining, Reclamation and Enforcement, Room 5315, 1100 "L" Street, NW., Washington, D.C. 20240
Department for Surface Mining Reclamation and Enforcement, Capitol Plaza Tower, Franfort, Kentucky 40601.

Written Comments

Written comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of the commenter's recommendations. Comments received after the time indicated under "**DATES**" or at locations other than Lexington, Kentucky, will not necessarily be considered and included in the Administrative Record for this final rulemaking.

Public Hearing

Persons wishing to comment at a public hearing should contact the person listed under "**FOR FURTHER INFORMATION CONTACT**" by the close of business February 15, 1984. If no one requests to comment at a public hearing, the hearing will not be held.

If only one person requests to comment, a public meeting, rather than a public hearing, may be held and the results of the meeting included in the Administrative Record.

Filing of a written statement at the time of the hearing is requested and will greatly assist the transcriber. Submission of written statements in advance of the hearing will allow OSM officials to prepare appropriate questions.

The public hearing will continue on the specified date until all persons scheduled to comment have been heard. Persons in the audience who have not been scheduled to comment and wish to do so will be heard following those schedule. The hearing will end after all persons scheduled to comment and persons present in the audience who wish to comment, have been heard.

Public Meeting

Persons wishing to meet with OSM representatives to discuss the proposed amendments may request a meeting at the OSM office listed in "**ADDRESSES**" by contacting the person listed under "**FOR FURTHER INFORMATION CONTACT.**"

All such meetings are open to the public and, if possible, notices of meetings will be posted in advance in the Administrative Record. A written summary of each public meeting will be made a part of the Administrative Record.

II. Background on the Kentucky State Program

On May 18, 1982, following a review of the proposed program as outlined in 30 CFR Part 732, the Secretary approved the Kentucky program subject to the correction of 12 minor deficiencies. Information pertinent to the general background, revisions, modifications, and amendments to the proposed permanent program submission, as well as the Secretary's findings, the disposition of comments and a detailed explanation of the conditions of approval of the Kentucky program can be found in the May 18, 1982 **Federal Register** notice (47 FR 21404–21435).

One of these deficiencies pertained to the plan submitted as part of the State regulatory program for receiving and processing transition permits in lieu of the two month/eight month deadlines established in section 502(d) of SMCRA. The Secretary recognized in conditionally approving the Kentucky program that Kentucky has a unique repermitting situation in that a large number of applications were expected for processing which would preclude the meeting of the statutory deadline of eight months for reviewing such applications. The Secretary found that Kentucky's proposal did not adequately demonstrate that the receipt and review of complete applications would not be pushed forward indefinitely because of work on new applications and therefore imposed condition (1) on the approval of the program.

Condition (1) required Kentucky to submit a plan which included: (1) A process for prompt completeness determinations on full applications from existing operators expecting to continue mining past the eighth month of primacy; (2) assurances that operators who have not submitted complete applications by eight months after primacy will be immediately advised that they may not continue mining until a permit is approved; and (3) a policy that applications for new operations will not be given priority for processing over applications for existing operations which are continuing under interim program permits when such existing mine applications are one year old or older. Kentucky submitted material (KY–417 and KY 475) to satisfy condition (1) and the Secretary found that these materials taken together satisfied condition (1). The State proposed a process for prompt completeness determinations for transitioning applications and provided assurances that operators who had not submitted a complete application within eight months after primacy would not be able to continue mining until a permit is issued. The policy also provided that repermitting applications still backlogged as of January 18, 1984, would become the first priority of review with new permit applications taking a second priority. A complete discussion of the amendment approved to satisfy condition (1) can be found in the May 13, 1983 **Federal Register** (47 FR 21575).

III. Submission of Program Amendment

Due to OSM's continuing concern about the backlog of transitioning permits for processing, and as a result of a meeting on January 9, 1984, Kentucky submitted to OSM in a letter dated January 10, 1984 pursuant to 30 CFR 732.17, a revision to its approved program pertaining to the unique repermitting schedule approved to satisfy condition (1).

In the amendment, Kentucky proposes to amend its repermitting schedule by substituting the following deadlines for similar goals approved on May 13, 1983.

1. The Natural Resources and Environmental Protection Cabinet (Cabinet) would make final technical decisions on 270 transitioning applications per month beginning January 19, 1984, with completion of the entire repermitting effort by September 15, 1984;

2. The Cabinet would establish a policy through an Order of the Secretary, effective March 16, 1984, to implement the applicable permanent program performance standards for all transitioning permits;

3. The Cabinet would advise Office of Surface Mining officials every two weeks of progress made in the review of transitioning applications;

4. The Cabinet would review staffing levels and make adjustments as necessary to ensure effective program implementation;

5. The Cabinet would continue to process new applications.

IV. Director's Findings and Proposed Action

1. *Conditional Approval of Proposed Amendment.* The Director is proposing to conditionally approve Kentucky's amendment for transitioning permits. A meeting was held on January 9, 1984, to discuss the potentially serious impacts upon Kentucky's program should an extension to the January 18, 1984, repermitting deadline not be approved. The Director believes that Kentucky's proposal is a realistic approach to the transitioning permit schedule but believes that certain safeguards must be imposed to ensure that OSM is advised of Kentucky's progress in a timely

manner and that the agreement be implemented as proposed and approved. In addition to the items proposed by Kentucky, the conditions of approval being proposed are:

(a) That item 2 of the Kentucky proposal be construed to mean that Kentucky must require, effective March 16, 1984, that all operations in Kentucky operating under interim program permits be subject to permanent program performance standards, and

(b) That, if for any reason Kentucky cannot meet any part of items 1–4 of its proposed amendment, including item 3 as interpreted by proposed condition (a), that the processing of new permits must cease and permitting be limited to only transitioning permits until such time as the deficient condition(s) is satisfied.

Failure to implement any part of items 1–4 of the proposed amendment or satisfy any proposed condition on the approval of the amendment could result in OSM implementing a Federal program under which OSM would issue or deny all permits for surface coal mining operations in Kentucky.

2. *Federal Preemption.* Pursuant to section 505(b) of SMCRA and 30 CFR 730.11(a), the Director proposes to preempt and supersede KRS 350.090 and 405 KAR 8:010 E, section 16, pertaining to the requirement that Kentucky process new permit applications within 65 days.

The specific wording of 405 KAR 8:010 E, section 16, proposed for preemption and supersession as it pertains to the processing of new permits is as follows:

405 KAR 8:010 E, Section 16

(b) 1. Except as provided for in paragraph (c) of this subsection, a complete application submitted under Section 2(2) (a), (b), (d) and (e) shall be approved or denied within sixty-five (65) working days after the notice of completeness under section 13(1), except that periods of temporary withdrawal under Section 13(2)(b) shall not be counted against the sixty-five (65) working day period available to the department.

2. Except as provided in paragraph (c) of this subsection, a complete application submitted under section 2(2)(c) for a major revision as provided in Section 20, shall be approved or denied within forty-five (45) working days after the notice of completeness under Section 13(1), except that periods of temporary withdrawal under Section 13(2)(b) shall not be counted against the forty-five (45) working day period available to the department.

3. A complete application submitted under section 2(2)(c) for a minor revision as provided in Section 20, shall be approved or denied within fifteen (15) working days after the notice of completeness under section 13(1), except that periods of temporary withdrawal under section 13(2)(b) shall not be counted against the fifteen (15) working day period available to the department.

(c) In the event that the notice, hearing, and conference procedures as mandated by KRS Chapter 350 and this Title prevent a decision from being issued within the time period specified in paragraph (b) of this subsection, the department shall have additional time to issue its decision, but not to exceed twenty (20) days from the completion of the notice, hearing and conference procedures.

(d) Where an application submitted under section 2(2)(f)2 also contains, within the proposed permit area, new lands which are not covered by a valid interim program permit, that application shall be processed under paragraph (a) of this subsection.

The specific working of KRS 350:090(1) proposed for preemption and supersession as it pertains to the processing of new permits is as follows:

The permit application containing the required plans and other information as required shall be submitted to the department and, except for applications or renewals submitted in compliance with KRS 350.060(2), the department shall notify the applicant by certified mail, return receipt requested within sixty-five (65) working days after receipt for complete application if it is or is not acceptable. Provided, however, that in the event that applicable notice, hearing and conference procedures prevent a decision from being issued within the sixty-five (65) working day period, the department shall have additional reasonable time to issue its decision, but not to exceed twenty (20) days from the completion of the notice, hearing and conference procedures.

OSM has always held that the extended schedule approved for Kentucky to process transitioning permits was never intended as a means to delay the implementation of permanent program performance standards by pushing forward indefinitely the processing of transitioning permits while working on new permits. The Director proposes to preempt these provisions if for any reason Kentucky cannot satisfy the proposed conditions on the proposed amendment of if it becomes necessary to ensure that all mining operations in Kentucky are subject to permanent program performance standards.

Therefore, OSM is soliciting comment on whether to preempt KRS 350.090 and 405 KRS 8:010 E, section 16, as it relates to the State's requirement to process new permit applications within 65 days. Additionally, if OSM preempts this requirement, it solicits comment on whether the preemption should have a fixed termination date. Alternatively, OSM is considering a termination date effective when the State completes processing all transitioning permit applications or some other date pertinent to the transitioning process.

Therefore, the Secretary is seeking public comment on (1) the adequacy of the proposed program amendment, (2) the proposed conditions of approval of the amendment, and (3) the proposed Federal preemption, if necessary, of the State's requirement to process new permits within 65 days. If the amendment, conditions and preemption are approved these provisions will become part of the approved State program.

V. Additional Determinations

1. *Compliance with the National Environmental Policy Act:* The Secretary has determined that, pursuant to Section 702(d) of SMCRA, 30 U.S.C. 1292(d), no environmental impact statement need be prepared on this rulemaking.

2. *Executive Order No. 12291 and the Regulatory Flexibility Act:* On August 28, 1981, the Office of Management and Budget (OMB) granted OSM an exemption from Sections 3, 4, 7, and 8 of Executive Order 12291 for actions directly related to approval or conditional approval of State regulatory programs. Therefore, this action is exempt from preparation of a Regulatory Impact Analysis and regulatory review by OMB.

The Department of the Interior has determined that this rule would not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This rule would not impose any new requirements; rather, it would ensure that existing requirements established by SMCRA and the Federal rules would be met by the State.

3. *Paperwork Reduction Act:* This rule does not contain information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3507.

List of Subjects in 30 CFR Part 917

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

Authority: Pub. L. 95–87, Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201 *et seq.*).

Dated: January 25, 1984.

James R. Harris,

Director, Office of Surface Mining.

[FR Doc. 84-2823 Filed 1-30-84; 8:45 am]

BILLING CODE 4310-05-M

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30 CFR Part 946

Public Comment Period and Opportunity for Public Hearing on Proposed Amendment to the Virginia Permanent Regulatory Program

Correction

In FR Doc. 84-1983 beginning on page 3095 in the issue of Wednesday, January 25, 1984, make the following correction:

On page 3095, second column, second paragraph under **"DATES"**, third line, "February 20, 1984" should read "February 21, 1984."

BILLING CODE 1505-01-M

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30 CFR Part 948

Public Comment Period and Opportunity for Public Hearing on an Amendment to the West Virginia Permanent Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Proposed rule.

SUMMARY: OSM is announcing procedures for a public comment period and for a public hearing on an amendment submitted by the State of West Virginia to amend its permanent regulatory program which was conditionally approved by the Secretary of the Interior under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The proposed program amendment consists of proposed provisions to implement a blaster training, examination and certification program as required by the Federal regulations at 30 CFR Part 850.

This notice sets forth the times and locations that the proposed amendment is available for public inspection, the comment period during which interested persons may submit written comments on the proposed program amendment and information pertinent to the public hearing.

DATES: Written comments must be received on or before 4 p.m. on March 1, 1984. A public hearing on the proposal will be held from 7:00 p.m. to 9:00 p.m. on February 27, 1984, at the OSM Charleston Field Office listed below under **"ADDRESSES"**. Any person interested in making an oral or written presentation at the hearing should contact Mr. David H. Halsey at the OSM Charleston Field Office by 4:00 p.m. on February 15, 1984. If no one has contacted Mr. Halsey to expres an interest in participating in the hearing by that date, the hearing will not be held. If only one person has so contacted Mr. Halsey, a public meeting, rather than a hearing may be held and the results of the meeting included in the Administrative Record.

ADDRESSES: Written comments should be mailed or hand delivered to: Office of Surface Mining Reclamation and Enforcement, Charleston Field Office, Attention: West Virginia Administrative Record, 603 Morris Street, Charleston, West Virginia 25301.

See **SUPPLEMENTARY INFORMATION** for addresses where copies of the West Virginia program amendment and administrative record on theWest Virginia program are available. Each requestor may receive, free of charge, one single copy of the proposed program amendment by contacting the OSM Charleston Field Office listed above.

FOR FURTHER INFORMATION CONTACT: Mr. David H. Halsey, Director, Charleston Field Office, Office of Surface Mining, 603 Morris Street, Charleston, West Virginia 25301, Telephone: (304) 347-7158.

SUPPLEMENTARY INFORMATION: Copies of the West Virginia program amendment, the West Virginia program and the administrative record on the West Virginia program are available for public review and copying at the OSM offices and the office of the State regulatory authority listed below, Monday through Firday, 9:00 a.m. to 4:00 p.m., excluding holidays.

Office of Surface Mining, Charleston Field Office, 603 Morris Street, Charleston, West Virginia 25301, Telephone: (304) 347-7158

Office of Surface Mining, 1100 L Street NW., Room 5315, Washington, D.C. 20240, Telephone: (202) 343-7896

West Virginia Department of Natural Resources, Room 630, Building 3, 1800 Washington Street, East, Charleston, West Virginia 25305, Telephone (304) 348-9160

In addition, copies of the amendment are available for inspection during regular business hours at the following locations:

Office of Surface Mining, Morgantown Area Office, Post Office Box 886, Morgantown, West Virginia 26505, Telephone: (304) 291-4004

Office of Surface Mining, Beckley Area Office, Post Office Box 487, Skelton, West Virginia 25919, Telephone: (304) 255-5285

Background

On March 3, 1984, the Secretary of the Interior received a proposed regulatory program from the State of West Virginia. On October 22, 1980, following a review of the proposed program as outlined in 30 CFR Part 732, the Secretary approved in part and disapproved in part the proposed program (45 FR 69249-69271). West Virginia resubmitted its proposed program on December 19, 1980, and after a subsequent review the Secretary approved the program conditioned on the correction of thirty-five minor deficiencies. The approval was effective upon publication of the notice of conditional approval in the January 21, 1981 **Federal Register** (46 FR 5915-5956).

Information pertinent to the general background of the permanent program submission, as well as the Secretary's findings, the disposition of comments and explanations of the conditions of approval of the West Virginia program, can be found in the January 21, 1981 **Federal Register** (46 FR 5915-5956).

Proposed Amendment

On January 12, 1984, the State of West Virginia submitted to OSM an amendment to its conditionally approved permanent regulatory program. The proposed amendment is intended to implement the provisions of 30 CFR Part 850 relating to blaster training, examination and certification. The proposed amendment consists of current surface mining law and regulations providing authority for a blaster certification and training program; proposed regulations governing the standards for certification of blasters; current mining law providing authority and procedures for withdrawal of certification and penalties; current regulations providing administrative procedures relating to appeals; current mining regulations defining certain terms used throughout the proposed blaster program; current regulations specifying safety training requirement for West Virginia miners; a proposed training outline for blaster certification; a study guide for blaster certification and examination; and, a comparison of State and Federal regulations for blaster certification.

At the time of the Secretary's approval of the West Virginia program, OSM had not yet promulgated Federal rules governing the training and certification of blasters. Therefore, the State was not required to include such requirements in its program. However, in this notice announcing conditional approval of the West Virginia program, the Secretary specified that West

Virginia would be required to adopt such provisions following promulgation of the Federal standards (46 FR 5931, January 21, 1981).

On March 4, 1983, OSM issued final rules effective April 14, 1983, establishing the Federal standards for the training and certification of blasters at 30 CFR Chapter M (48 FR 9486). OSM is seeking comment on whether the West Virginia proposed modifications are consistent with and meet the requirements of the revised Federal standards and satisfy the criteria for approval of State program amendment at 30 CFR 732.15 and 732.17.

The full text of the program modification submitted by West Virginia for OSM's consideration is available for public review at the addresses listed under **ADDRESSES.**

Additional Determinations

1. Compliance with the National Environmental Policy Act: The Secretary has determined that, pursuant to Section 702(d) of SMCRA, 30 U.S.C. 1292(d), no environmental impact statement need be prepared on this rulemaking.

2. *Executive Order No. 12291 and the Regulatory Flexibility Act:* On August 28, 1981, the Office of Management and Budget (OMB) granted OSM an exemption from Sections 3, 4, 7, and 8 of Executive Order 12291 for actions directly related to approval or conditional approval of State regulatory programs. Therefore, this action is exempt from preparation of a Regulatory Impact Analysis and regulatory review by OMB.

The Department of the Interior has determined that this rule would not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This rule would not impose any new requirements; rather, it would ensure that existing requirements established by SMCRA and the Federal rules will be met by the State.

3. *Paperwork Reduction Act:* This rule does not contain information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3507.

List of Subjects in 30 CFR Part 948.

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

Authority: Pub. L. 95–87, Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201 *et seq.*).

Dated: January 25, 1984.

James R. Harris,

Director, Office of Surface Mining.

[FR Doc. 84–2624 Filed 1–30–84; 8:45 am]

BILLING CODE 4310–05–M

VETERANS ADMINISTRATION

38 CFR Part 21

Veterans Education; Recovery of Overpayments

AGENCY: Veterans Administration.

ACTION: Proposed regulation.

SUMMARY: Educational institutions may be held liable under certain circumstances for payments of educational assistance allowance made to veterans and eligible persons. If an educational institution pays an amount for which it has been held liable and the money later is collected from veterans and eligible persons, the money is refunded to the educational institution. This proposal provides that any money recovered from veterans and eligible persons that is applied toward marshal fees, court costs, administrative costs of collection, and interest will not be considered when determining if the educational institution is due a refund. This proposal will better inform educational institutions of the effect the VA's (Veterans Administration's) recent policy of charging interest on veterans' education debts will have upon any refunds which may be due educational institutions.

DATES: Comments must be received on or before March 1, 1984. It is proposed to make this regulation effective the date of final approval.

ADDRESSES: Send written commens to the Administrator of Veterans Affairs (271A), Veterans Administration, 810 Vermont Avenue, NW., Washigton, DC 20420. All written comments received will be available for public inspection at the above address only between the hours of 8 a.m. and 4:30 p.m., Monday through Friday (except holidays) until March 12, 1984. Anyone visiting Central Office in Washington, DC for the purpose of inspecting any of these comments will be received by the Central Office Veterans Service Unit in room 132. Visitors to VA field stations will be informed that the records are available for inspection only in Central Office and will be furnished the address and room number.

FOR FURTHER INFORMATION CONTACT: June C. Schaeffer (225), Assistant Director for Policy and Program Administration, Education Service, Department of Veterans Benefits, Veterans Administration, Washington, DC 20420 (202–389–2092).

SUPPLEMENTARY INFORMATION: Section 21.4009, Title 38, Code of Federal Regulations is amended to exclude marshal fees, court costs, administrative costs of collection and interest recovered from veterans and eligible persons from consideration when the VA determines whether or not money must be refunded to an educational institution.

For the reasons discussed below, the VA has determined that this proposed regulation is not a major rule as that term is defined by Executive Order 12291, entitled "Federal Regulation." The annual effect on the economy will be less than $100 million. The proposal will not cause a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions. It will have no significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The Administrator of Veterans' Affairs hereby certifies that the proposed regulation, if promulgated, will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (RFA), 5 U.S.C. 601–612. Pursuant to 5 U.S.C. 605(b), this proposed regulation, therefore, is exempt from the initial and final regulatory flexibility analyses requirements of sections 603 and 604.

This certification can be made because the VA does not expect, based on past experience, that the economic impact of this proposal will be significant. Since March 8, 1979 the total amount of money refunded to schools under 38 CFR 21.4009 has been $26,255. If courts costs, marshal fees and administrative costs had been collected, and if interest had been charged on debts of veterans and eligible persons during this entire period the additional costs would have amounted to a few thousand dollars. Furthermore, a majority of the educational institutions which have been found liable for overpayments of educational assistance are not small entities within the meaning of the RFA. This proposal, therefore, should have a total economic impact on all small entities of a few thousand dollars. The VA does not believe that this is significant. Consequently, the proposal will have no significant economic impact on small

entities, i.e., small businesses, small private and nonprofit organizations, and small governmental jurisdictions.

The Catalog of Federal Domestic Assistance number for the program affected by this regulation is 64.111.

List of Subjects in 38 CFR Part 21

Civil rights, Claims, Education, Grant programs-education, Loan programs-education, Reporting and recordkeeping requirements, Schools, Veterans, Vocational education, Vocational rehabilitation.

Approved: January 10,. 1984.

By direction of the Administrator.

Everett Alvarez, Jr.,

Deputy Administrator.

PART 21—VOCATIONAL REHABILITATION AND EDUCATION

The Veterans Administration proposes to amend Part 21 as set forth below:

In § 21.4009, paragraph (a)(4) is revised as follows:

§ 21.4009 Overpayments—waiver or recovery.

(a) *General.* * * *

(4) If the Veterans Administration recovers any part of the overpayment from the educational institution, it may reimburse the educational institution, if the Veterans Administration subsequently collects the overpayment from a veteran or eligible person. The reimbursement—

(i) Will be made when the total amount collected from the educational institution and from the veterans and eligible persons (less any amount applied toward marshal fees, court costs, administrative cost of collection and interest) exceeds the total amount for which the educational institution is liable, and

(ii) Will be equal to the excess. (38 U.S.C. 1785)

* * * * *

[FR Doc. 84-2589 Filed 1-30-84; 8:45 am]

BILLING CODE 8320-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 721

[OPTS-50510; TSH-FRL 2446-5]

Substituted Polyglycidyl Benzeneamine; Proposed Determination of Significant New Uses

Correction

In FR Doc. 83-34449, beginning on page 57440 in the issue of Thursday, December 29, 1983, make the following correction on page 57443: In the third column, eight lines from the bottom of the first paragraph, "§ 720.7(g)" should read "§ 710.7(g)".

BILLING CODE 1505-01-M

40 CFR Part 799

[OPTS-42051; TSH-FRL 2480-7]

Toxic Substances; Glycidol and its Derivatives; Response to the Interagency Testing Committee

Correction

In FR Doc. 83-34496, beginning on page 57562 of the issue Friday, December 30, 1983, make the following correction on page 57563: In the first column, third line following the chemical formula, "thper" should read "type".

BILLING CODE 1505-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Part 5000

Administration of Forest Management Decisions; Proposed Rulemaking Adding a New Part 5000 and Subpart 5003—Administrative Remedies

AGENCY: Bureau of Land Management, Interior.

ACTION: Proposed Rulemaking Concerning Effects of Timber Management Decisions and Protests of Advertised Timber Sales.

SUMMARY: The proposed rulemaking would enable an authorized officer of the Bureau of Land Management to implement decisions relating to timber management without being automatically stayed by the filing of an appeal to the Interior Board of Land Appeals. In addition, the proposed rulemaking would provide procedures for protesting advertised timber sales in a timely manner.

DATE: Comments should be submitted by April 2, 1984. Comments postmarked or received after the above date may not be considered in the decisionmaking process on issuance of a final rulemaking.

ADDRESS: Written comments should be sent to: Director (140), Bureau of Land Management, 1800 C Street, NW., Washington, D.C. 20240. Comments will be available for public review in Room 5555 of the above address during regular business hours (7:45 a.m. to 4:15 p.m.), Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Charles Frost, (202) 653-8864.

SUPPLEMENTARY INFORMATION: The proposed rulemaking would expedite implementation of decisions relating to timber management. It would increase the probability that private businesses dependent upon the Bureau of Land Management's timber management contracts would be able to accomplish their regularly scheduled activities. Where the authorized officer determines that the public interest requires, timber management decisions may be published in advance of their implementation, and the public provided with the opportunity to protest the decision.

The proposed rulemaking would provide that the filing of an appeal of a timber management decision would not automatically stay the implementation of that decision. The right to appeal a timber management decision to the Interior Board of Land Appeals would not be affected by the proposed regulation.

The proposed rulemaking would also provide procedures for protesting advertised timber sales. In the case of advertised timber sales the notice of sale would be the document of a decision which is subject to protest. Protests could be filed only within a period of 15 days following first public advertisement of the sale, after which they would be reviewed and decided by the authorized officer. This would allow sufficient time for a party to protest an advertised timber sale, yet would ensure that protests are made at an appropriate time during the sale process.

The principal author of this proposed rulemaking is Debbie Pietrzak, Bureau of Land Management, Division of Forestry, assisted by the staff of the Office of Legislation and Regulatory Management, Bureau of Land Management.

It is hereby determined that this rulemaking does not constitute a major Federal action significantly affecting the quality of the human environment and that no detailed statement pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) is required.

The Department of the Interior has determined that this document is not a major rule under Executive Order 12291 and will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.).

The changes made by this proposed rulemaking are minor in nature and would have equal impact on all parties participating in timber sales conducted by the Bureau of Land Management. Costs to timber firms which are

attributable to delays in scheduled activities because of automatic stays should be reduced under this proposed rulemaking.

This proposed rulemaking contains no information collection requirements requiring approval from the Office of Management and Budget as specified in 44 U.S.C. 3507.

List of Subjects in 43 CFR Part 5000

Administrative practice and procedure, Forest and forest products, Public lands.

Under the authority of the Act of August 28, 1937 (43 U.S.C. 1181(a)), the Act of July 31, 1947 (30 U.S.C. 601 et seq.), and the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701), it is proposed to amend Part 5000, group 5000, Subchapter E, Chapter II, Subtitle B of title 43 of the Code of Federal Regulations by adding a new Part 5000 and subpart 5003 as set forth below:

1. Group 5000 is amended by adding a new part 5000 to read:

PART 5000—ADMINISTRATION OF FOREST MANAGEMENT DECISIONS

Subpart 5003—Administrative Remedies

Sec.
5003.1 Effect of decisions; general.
5003.2 Notice of timber management decisions.
5003.3 Protests.

Authority: 43 U.S.C. 1181(a); 30 U.S.C. 601 et seq.; 43 U.S.C. 1701.

Subpart 5003—Administrative Remedies

§ 5003.1 Effect of decisions; general.

The filing of a notice of appeal under part 4 of this title shall not automatically suspend the effect of a decision governing or relating to timber management.

§ 5003.2 Notice of timber management decisions.

(a) The authorized officer shall, when the public interest requires, specify when a decision governing or relating to timber management shall be implemented through the publication of a notice of decision in a newspaper of general circulation in the area where the lands affected by the decision are located, establishing the effective date of the decision.

(b) When a decision is made to conduct an advertised timber sale, the notice of such sale shall constitute the decision document.

(c) For all decisions relating to timber management except advertised timber sales, the notice and decision document shall contain a concise statement of the circumstances requiring the action.

§ 5003.3 Protests.

(a) Protests of a timber management decision, including advertised timber sales, may be made within 15 days of the publication of a notice of decision or notice of sale in a newspaper of general circulation.

(b) Protests shall be filed with the authorized officer and shall contain a written statement of reasons for protesting the decision.

(c) Protests received more than 15 days after the publication of the notice of decision or the notice of sale are not timely filed and may not be considered.

(d) Upon timely filing of a protest, the authorized officer shall reconsider the decision to be implemented in light of the statement of reasons for the protest and other pertinent information available to him/her.

(e) The authorized officer shall, at the conclusion of his/her review, serve his/her decision in writing on the protesting party.

(f) Upon denial of a protest filed under paragraph (a) of this section the authorized officer may proceed with implementation of the decision.

Dated: December 5, 1983.

Harold W. Furman II,

Acting Assistant Secretary of the Interior.

[FR Doc. 84-2524 Filed 1-30-84; 8:45 am]

BILLING CODE 4310-84-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 84-15; RM-4616]

FM Broadcast Station in Palmer, Alaska; Proposed Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes to assign FM Channel 239 to Palmer, Alaska, in response to a petition filed by Matanuska Broadcasting Co. The proposed assignment could provide a first local service to that community.

DATES: Comments must be filed on or before March 16, 1984, and reply comments on or before April 2, 1984.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau (202) 634-6530.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Notice of Proposed Rulemaking

In the matter of amendment of section 73.202(b), table of assignments, FM broadcast stations. (Palmer, Alaska) (MM Docket No. 84-15, RM-4616).

Adopted: January 10, 1984.

Released: January 25, 1984.

By the Chief, Policy and Rules Division.

1. A petition for rule making has been filed by Matanuska Broadcasting Co. ("petitioner"), proposing the assignment of FM Channel 243 to Palmer, Alaska, as that community's first local service. Petitioner expressed an interest in applying for the channel, if assigned. Recently the Commission assigned Channel 243 to Soldotna, Alaska (MM Docket 83-410), adopted November 21, 1983. That action foreclosed the use of the channel at Palmer consistent with the Commission's mileage separation requirements. Section 73.207 of the Rules. A staff engineering study indicates that Channel 239 is available for assignment to Palmer. The channel can be assigned in compliance with the minimum distance separation requirements of Section 73.207 of the Commission's Rules.

2. In view of the fact that the proposed assignment could provide a first local FM service to Palmer, Alaska, the Commission believes it is appropriate to propose amending the FM Table of Assignments, Section 73.202(b) of the Commission's Rules, with respect to the following community:

City	Channel No.	
	Present	Proposed
Palmer, Alaska		239

3. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

4. Interested parties may file comments on or before March 16, 1984, and reply comments on or before April 2, 1984, and are advised to read the Appendix for the proper procedures. Additionally, a copy of such comments should be served on the petitioners, or their counsel or consultant, as follows: Ronald A. Siegel, Cohn and Marks, 1333 New Hampshire Avenue, NW., Washington, D.C. 20036 (counsel for the petitioner).

5. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules. See, *Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend Sections 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 FR 11549, published February 9, 1981.

6. For further information concerning this proceeding, contact Kathleen Scheuerle, Mass Media Bureau, (202) 634–6530. However, members of the the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making, other than comments officially filed at the Commission, or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes an *ex parte* presentation and shall not be considered in the proceeding.

(Secs. 4, 303, 48 stat., as amended, 1066, 1082; 47 U.S.C. 154, 303.)

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

Appendix

1. Pursuant to authority found in §§ 4(i), 5(c)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules and Regulations, as set forth in the Notice of Proposed Rule Making to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the Notice of Proposed Rule Making to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 84–2537 Filed 1–30–84; 8:45 am]
BILLING CODE 6712–01–M

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47 CFR Part 73

[MM Docket No. 84–26; RM–4627]

FM Broadcast Station in Ukiah, California; Proposed Change Made in Table of Assigments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes a third FM channel assignment to Ukiah, California, in respose to a petition filed by Theodore S. Storck.

DATES: Comments must be filed on or before March 16, 1984, and reply comments on or before April 2, 1984.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554

FOR FURTHER INFORMATION CONTACT: Montrose H. Tyree, Mass Media Bureau (202) 634–6530.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Notice of Proposed Rulemaking

In the matter of amendment of section 73.202(b), table of assignments, FM broadcast stations. (Ukiah, California) (MM Docket No. 84–16, RM–4627).

Adopted: January 10, 1984.
Released: January 25, 1984.

By the Chief, Policy and Rules Division.

1. On October 4, 1983, Theodore S. Storck ("petitioner") filed a petition for rule making seeking to assign Class B Channel 290 to Ukiah, California, as its third FM channel. Petitioner did not state his willingness to apply for the channel, if assigned. He is requeted to do so in comments to this proposal.

2. In view of the fact that the proposal could provide a third broadcast service to Ukiah, we shall seek comments on the request to amend the FM Table of Assignments (Section 73.202(b) of the Rules) with respect to the following city:

City	Channel No.	
	Present	Proposed
Ukiah, California	233, 277	233, 277, and 290

3. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in

the attached Appendix and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

4. Interested parties may file comments on or before March 16, 1984, and reply comments on or before April 2, 1984, and are advised to read the Appendix for the proper procedures. Additionally, a copy of such comments should be served on the petitioners, or their counsel or consultant, as follows: Theodore S. Storck c/o John Wells Kings, Suite 600, 2000 M Street, NW., Washington, D.C. 20554.

5. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules. See, *Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's Rules,* 46 FR 11549, published February 9, 1981.

6. For further information concerning this proceeding, contact Montrose H. Tyree, Mass Media Bureau, (202) 634–6530. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making, other than comments officially filed at the Commission, or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes an *ex parte* presentation and shall not be considered in the proceeding.

(Secs. 4, 303, 48 stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division Mass Media Bureau.

1. Pursuant to authority found in Sections 4(i), 5(c)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, It is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules and Rugulations, as set forth in the Notice of Proposed Rule Making to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which the Appendix is attached. Proponent(s) wil be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment of them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the Notice of Proposed Rule Making to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.402 (a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleading, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, DC.

[FR Doc. 84–2538 Filed 1–30–84; 8:45 am]
BILLING CODE 6712–01–M

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47 CFR Part 73

[MM Docket No. 84–17; RM–4624]

FM Broadcast Station in Billings, Montana; Proposed Change Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed Rule.

SUMMARY: This action proposes to assign FM Channel 231 to Billings, Montana, as that community's sixth allocation, in response to a petition filed by Charles Joseph Thompson.

DATES: Comments must be filed on or before March 16, 1984, and reply comments on or before April 2, 1984.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 634–6530.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Notice of Proposed Rule Making

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations (Billings, Montana), MM Docket No. 84–17; RM–4624.

Adopted: January 10, 1984.
Released: January 25, 1984.

By the Chief, Policy and Rules Division.

1. A petition for rule making has been filed by Charles Joseph Thompson ("petitioner"), proposing the assignment of Class C FM Channel 231 to Billings, Montana, as that community's sixth FM allocation. The petitioner expressed an interest in applying for the channel, if assigned. The channel can be assigned in conformity with the minimum distance separation requirements of § 73.207 of the Commission's Rules.

2. In view of the fact that the proposed assignment could provide a sixth FM

service to Billings, Montana, the Commission believes it is appropriate to propose amending the FM Table of Assignments, § 73.202(b) of the Rules, with respect to the following community:

City	Channel No.	
	Present	Proposed
Billings, Montana	227, 246, 253, 275, 279.	227, 231, 246, 253, 275, 279.

3. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein. NOTE: A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

4. Interested parties may file comments on or before March 16, 1984, and reply comments on or before April 2, 1984, and are advised to read the Appendix for the proper procedures. A copy of such comments should be served on the petitioner, as follows: Charles Joseph Thompson, c/o Edward M. Johnson & Associates, Inc., One Regency Square, Suite 450, Knoxville, TN 37915.

5. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Assignments, §§ 73.202(b) of the Commission's Rules. See, *Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 FR 11549, published February 9, 1981.

6. For further information concerning this proceeding, contact Kathleen Scheuerle, Mass Media Bureau, (202) 634–6530. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment to which the reply is directed constitutes an *ex parte* presentation and shall not be considered in the proceeding.

(Secs. 4, 303, 48 Stat., as amended 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(c)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, IT IS PROPOSED TO AMEND the FM Table of Assignments, §§ 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filing in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See §§ 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See §§ 1.420 (a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of Section 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, N.W., Washington, D.C.

[FR Doc. 84–2539 Filed 1–30–84; 8:45 am]
BILLING CODE 6712–01–M

GENERAL SERVICES ADMINISTRATION

48 CFR Ch. 5

GSA Implementation of the Federal Acquisition Regulation (FAR); General Services Administration Acquisition Regulation (GSAR)

AGENCY: Office of Acquisition Policy, GSA.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice invites written comments on the General Services Administration proposal to establish the General Services Administration Acquisition Regulation (GSAR) as Chapter 5 of the Federal Acquisition Regulations System. The GSAR will implement and supplement the Federal Acquisition Regulation. The new GSAR will supersede the current General Services Administration Procurement Regulations. The following Parts of the proposed GSAR are available for review and comment:

Part 537—Service Contracting
Part 552—Solicitation Provisions and Contract Clauses

Part 553—Forms

DATE: Comments are due not later than March 1, 1984.

ADDRESS: Requests for copies of the proposals and comments should be addressed to the Office of GSA Aquisition Policy and Regulations, Office of Acquisition Policy, Room 4026, 18th and F Streets, NW, Washington, D.C. 20405.

FOR FURTHER INFORMATION CONTACT: Ida Ustad, Office of GSA Acquisition Policy and Regulations, Office of Acquisition Policy (202) 523–4754.

SUPPLEMENTARY INFORMATION:

Impact

The Director, Office of Management and Budget (OMB), by memorandum dated October 4, 1982, exempted agency procurement regulations from Executive Order 12291. The General Services Administration (GSA) certifies that these documents will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.). The rule does not contain information collection requirements which require approval by OMB under 44 U.S.C. 3501 et seq. This rule provides uniformity with other Federal agencies and reduces the administrative impact on bidders as set forth in OFPP Policy Letter 83–2.

List of Subjects in 48 CFR Chapter 5

General Services Administration Acquisiton Regulation, Government procurement.

Dated: January 12, 1984.

Richard H. Hopf III,

Director, Office of GSA Acquisition Policy and Regulations.

[FR Doc. 84–2612 Filed 1–30–84; 8:45 am]

BILLING CODE 6820–61–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Proposed Threatened Status for the Ozark Cavefish (Amblyopsis rosae)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The Service proposes to determine the Ozark cavefish (*Amblyopsis rosae*) to be a threatened species under the authority contained in the Endangered Species Act of 1973, as amended. This cavefish is presently known from only 13 caves in 6 counties of the Springfield Plateau of southwest Missouri, northwest Arkansas, and northeast Oklahoma. This cavefish has apparently disappeared from over 40 percent of its historic locations. The causes of the decline appear to be habitat alteration and collectors. The Service was petitioned by Dr. A. V. Brown, University of Arkansas, to consider adding this fish to the List of Endangered and Threatened Wildlife based on his status survey of the species in Missouri. This proposal, if made final, would implement needed protection provided by the Endangered Species Act of 1973, as amended. The Service is requesting comments and data from the public on this proposal.

DATES: Comments from all interested parties must be received by April 2, 1984. Public hearings requests must be received by March 16, 1984.

ADDRESSES: Comments and materials concerning this proposal should be sent to the Endangered Species Field Station, U.S. Fish and Wildlife Service, Jackson Mall Office Center, Suite 3185, 300 Woodrow Wilson Avenue, Jackson, Mississippi 39213. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Mr. Dennis B. Jordan, Endangered Species Field Supervisor, U.S. Fish and Wildlife Service, Jackson Mall Office Center, Suite 3185, 300 Woodrow Wilson Avenue, Jackson, Mississippi 39213 (601/960–4900).

SUPPLEMENTARY INFORMATION:

Background

The Ozark cavefish was described by Dr. C. H. Eigenmann in 1898 as *Typhlichthys rosae*. Woods and Inger, in a treatment of the Amblyopsidae, placed the species in the genus *Amblyopsis* in 1957. The only other species in the genus *Amblyopsis* is the northern cavefish *Amblyopsis spelea*, which occurs in southern Indiana and west central Kentucky.

The Service received a petition to list the Ozark cavefish from Dr. A. V. Brown of the University of Arkansas on September 9, 1982. The species was included in the Service's Notice of Review of Vertebrate Wildlife in the **Federal Register** of December 30, 1982 (47 FR 58454), and the petition was subsequently accepted by a Notice of Findings on February 15, 1983 (48 FR 6752). The petition was based upon a survey of the Missouri portion of the Ozark cavefish range in which cavefish were observed in only 4 of the over 20 caves where he expected to find it (Brown, 1982). Following acceptance of the petition, the Arkansas and Oklahoma range was surveyed by Service personnel and a biologist from the University of Arkansas.

The Ozark cavefish is a true troglobitic cavefish reaching 50mm total length. It has an elongate, flattened head, body nearly devoid of pigment, and a projecting lower jaw. The dorsal and anal fins are located far back on the body, the caudal fin is rounded, and the pelvic fins are absent. The sensory papillae occur in 2 or 3 rows on the upper and lower half of the caudal fin (Poulson, 1961). It is the only cavefish within the Springfield Plateau of southwest Missouri, northwest Arkansas, and northeast Oklahoma. The literature records of the southern cavefish (*Typhlichthys subterraneus*) within the Ozark cavefish range have been determined to be erroneous (Mayden and Cross, in press; Jones, pers. Com.). The Ozark cavefish historically occurred in at least nine counties with unconfirmed reports in five additional counties. There are reports of the Ozark cavefish occurring in 52 caves; however, only 23 historic localities are confirmed. Most of the range is in highly soluble limestones which are honeycombed by subsurface drainage in the Boone and Burlington formations.

The surveys included 17 counties with actual cave visits in 16 counties. The currently known populations occur in 13 caves in 6 counties. Although these include much of the historic range, the frequency of sightings of fish is decreasing. In only 8 of the 13 known populations could you expect to see any cavefish on a given visit. In only two populations could you expect to see more than five cavefish per visit. In one of three remaining populations in Oklahoma, the only two cavefish ever observed were collected with the most recent collection in 1982 (Black, pers. comm.). In the past, scientific collecting appears to have reduced some cavefish populations. In Greene County, Missouri, there are six historic sites where cavefish are no longer observed, and in the only current population there have been only two cavefish observations in 15 years. This decline may be due to degradation of subsurface or ground water as evidenced by high levels of nickel in some cave systems in Greene County where the species formerly occurred (Jones, pers. comm.).

Summary of Factors Affecting the Species

Section 4(a)(1) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*) and regulations promulgated to implement the listing provisions of the Act (codified at 50 CFR Part 424; under revision to accommodate 1982 amendments) set forth the procedures for adding species to the Federal lists. A species shall be determined to be an endangered or threatened species due to one or more of the five factors described in Section 4(a)(1) of the Act. These factors and their application to the Ozark cavefish, *Amblyopsis rosae*, are as follows:

A. *The present or threatened destruction, modification, or curtailment of its habitat or range.* The sinkholes found in the soluble limestone bedrocks in the Ozark cavefish range make this species especially susceptible to contamination. Development of the Greene County, Missouri, area has resulted in highly hazardous water contamination in this portion of Ozark cavefish range (Aley, 1982). The documentation of high levels of nickel in one cave system in Greene County supports this finding (Jones, pers. comm.). Pollution of cave stream systems in rural areas due to highway, railroad, and pipeline spills; landfills and dump discharges; human and animal waste disposal; and the use of toxic chemicals, is an ever present threat.

B. *Overutilization for commercial, recreational, scientific, or educational purposes.* The low reproductive abilities, confined habitat, and inability to elude captors make the Ozark cavefish very vulnerable to overutilization. Offers to purchase cavefish have appeared in various publications.

Pet stores often display blind cavefish for sale to aquarists. There are several documented instances of scientific collectors taking large numbers of Ozark cavefish. A scientific collection in the 1930's from one Arkansas cave may be responsible for reducing that population to a very low level, and in recent years only an occasional cavefish has been observed (Aley and Aley, 1979).

C. *Disease or predation.* Disease in Ozark cavefish has not been studied but it is reasonable to assume that they are susceptible to disease outbreaks, especially when the water quality deteriorates. Predation may pose a more significant threat. Raccoons and epigean fishes are known to prey upon cavefish as are salamanders and cave crayfish. Raccoons are known to venture for great distances into caves feeding upon whatever they catch. There is one observation of a smallmouth bass entering a cave for a distance of a half mile (Willis, pers. comm.). The use of cave water systems for trout hatcheries increases the density and probability of trout entering the cave and feeding upon cavefish.

D. *The inadequacy of existing regulatory mechanisms.* Current regulations protecting this cavefish are limited to the non-game regulations of the concerned States. These regulations require a permit for collecting fish species. Enforcement of the permit restrictions is very difficult and often non-existent. This can result in the taking of the species by individuals if they can gain entrance to a cave system inhabited by the Ozark cavefish.

E. *Other natural or manmade factors affecting its continued existence.* The energy source supporting the food supply in a cave is limited in diversity and quantity. The loss or diminution of this energy source affects the existence of the Ozark cavefish. The better populations of this cavefish occur in caves used by the endangered gray bat, *Myotis grisescens*, where bat guano is the primary energy source (Poulson, 1963). The decline of bat populations in caves where Ozark cavefish occur is probably followed by a decline in the cavefish population. The low reproductive capabilities and apparent small populations are natural limitations to the ability of this species to recover from any adversity.

Critical Habitat

The Endangered Species Act, as amended, in Section 4(a)(3) requires that to the maximum extent prudent and determinable the Secretary must designate any habitat of the species which is considered to be critical habitat at the time the species is determined to be endangered or threatened. The Service finds that designation of critical habitat is not prudent for the Ozark cavefish at this time.

The Ozark cavefish is a unique rare cavefish that is highly adapted to the cave environment. As such, it is sought by scientific and recreational collectors. Publication of the exact location of cavefish populations could lead to collection of this easily captured cavefish. Due to the small populations and very low reproductive capability of this species, the removal of any individuals from the population could be detrimental to the species' survival. Because there is a threat from exploitation if the location of caves supporting populations of this species are disclosed, critical habitat is not being determined for the Ozark cavefish.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Endangered Species Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing encourages and results in conservation actions by Federal, State, and private agencies, groups, and individuals. The Endangered Species Act provides for land acquisition and cooperation with the Sates and requires that recovery actions be carried out for all listed species; such recovery actions are initiated by the Service following listing. The protection which will be offered to the Ozark cavefish once it is listed is discussed below.

The Act and its implementing regulations in §§ 17.21 and 17.31 of 50 CFR set forth a series of general prohibitions and exceptions which apply to all threatened wildlife. With respect to the Ozark cavefish, all prohibitions of Section 9(a)(1) of the Act, as implemented by § 17.31, would apply. These prohibitions, in part, would make it illegal for any person subject to the jurisdiction of the United States to take, import or export, ship in interstate commerce in the course of a commercial activity, or sell or offer for sale this species in interstate or foreign commerce. It would also be illegal to possess, sell, deliver, carry, transport, or ship any such wildlife which was illegally taken. Certain exceptions would apply to agents of the Service and State conservation agencies. The Act provides for the issuance of permits to carry out otherwise prohibited activities involving threatened species under certain circumstances. Regulations governing permits are codified at 50 CFR 17.32.

Section 7(a) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any species which is proposed or listed as endangered or threatened. Regulations implementing this provision of the Act are codified at 50 CFR Part 402 and are now under revision (see proposed rule at 48 FR 29989; June 29, 1983). Agencies are required under Section 7(a)(4) to confer informally with the Service on any action that is likely to jeopardize the continued existence of a proposed species. If the species is subsequently listed, Section 7(a)(2) would require Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of the Ozark cavefish.

Public Comments Solicited

The Service intends that any final rule adopted will be as accurate and as effective as possible in the conservation of any endangered or threatened species. Therefore, any comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, private interests, or any other interested party concerning any aspect of this proposed rule are hereby solicited. Comments particularly are sought concerning:

1. Biological, commercial trade, or other relevant data concerning any threat (or the lack thereof) to the Ozark cavefish;

2. The location of any populations of the Ozark cavefish, and the reasons why any habitat of this species should or should not be determined to be critical habitat as provided by Section 4 of the Act;

3. Additional information concerning the range and distribution of this species; and

4. Current or planned activities in the range of the fish and the possible impact of such activities on the Ozark cavefish.

Final promulgation of the regulation on the Ozark cavefish will take into consideration the comments and any additional information received by the Service, and such communications may lead to adoption of a final regulation that differs from this proposal.

The Endangered Species Act provides for a public hearing on this proposal, if requested. Requests must be filed within 45 days of the date of the proposal. Such requests should be made in writing to the Endangered Species Field Supervisor, U.S. Fish and Wildlife Service, Jackson Mall Office Center, Suite 3185, 300 Woodrow Wilson Avenue, Jackson, Mississippi 39213 (601/960–4900).

National Environmental Policy Act

In accordance with a recommendation from the Council on Environmental Quality (CEQ), the Service has not prepared any NEPA documentation for this proposed rule. The recommendation from CEQ was based, in part, upon a decision in the Sixth Circuit Court of Appeals [*PLF v. Andrus* 657 F.2d 829 (6th Cir. 1981)] which held that the preparation of NEPA documentation was not required as a matter of law for Section 4(a) actions under the Endangered Species Act.

References

Aley, Thomas. 1973. Reconnaissance survey for the cavefish *Amblyopsis rosae* on the Mark Twain National Forest, Missouri. A report submitted to the Forest Service.

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Aley, Thomas and Catherine Aley. 1979. Prevention of adverse impacts on endangered, threatened and rare animal species in Benton and Washington counties, Arkansas. Contract report for the Northwest Arkansas Regional Planning Commission.

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Woods, Loren P. 1954. Blind fishes found in cave pools and streams. Chicago Nat. Hist. Mus. Bull., Nov.–Dec. 1954.

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Author

The primary author of this proposed rule is Mr. James H. Stewart, U.S. Fish and Wildlife Service, Jackson Mall Office Center, Suite 3185, 300 Woodrow Wilson Avenue, Jackson, Mississippi 39213.

List of Subjects in 50 CFR Part 17

Endangered and threatened wildlife, Fish, Marine mammals, Plants (agriculture).

Proposed Regulation Promulgation

PART 17—[AMENDED]

Accordingly, it is hereby proposed to amend Part 17, Subchapter B of Chapter I, Title 50 of the U.S. Code of Federal Regulations, as set forth below:

1. The authority citation for Part 17 reads as follows:

Authority: Pub. L. 93–205, 87 Stat. 884; Pub. L. 94–359, 90 Stat 911; Pub. L. 95–632, 92 Stat. 3751; Pub. L. 96–159, 93 Stat. 1225; Pub. L. 97–304, 96 Stat. 1411 (16 U.S.C. 1531 *et seq.*).

2. It is proposed to amend Section 17.11(h) by adding, in alphabetical order, the following to the List of Endangered and Threatened Wildlife under "Fishes":

§ 17.11 Endangered and threatened wildlife.

* * * * *

(h)* * *

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
Fishes							
Cavefish, Ozark	*Amblyopsis rosae*	U.S.A. (MO, OK, AR)	Entire	T	NA	NA	

Dated: January 5, 1984.

G. Ray Arnett,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 84–2857 Filed 1–30–84; 8:45 am]

BILLING CODE 4310–55–M

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Proposed Endangered Status and Critical Habitat for the Modoc Sucker ("Catostomus Microps")

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The Service proposes to determine the Modoc sucker, a small fish, to be an endangered species. This action is being taken because pure populations of Modoc suckers have been reduced to approximately 1,300 individuals in four streams. Formerly, the Modoc sucker was present in many tributary streams of the Pit River in Lassen and Modoc Counties of northeastern California. Habitat destruction and hybridization with the Sacramento sucker (*Catostomus occidentalis*) are the major reasons for the rapid decline of the Modoc sucker. Introduced brown trout (*Salmotrutta*) also prey on Modoc suckers in some areas. Critical habitat is included with this proposed rule. If finalized, the proposed rule would provide protection to populations of this species and its habitat under provisions of the Endangered Species Act. Comments and information are sought from the public, State, and Federal agencies.

DATES: Comments from all interested parties must be recieved by April 2, 1984. Public hearing requests must be received by March 16, 1984.

ADDRESSES: Interested persons or organizations are requested to submit materials and comments to Mr. Gail C. Kobetich, Endangered Species Office, U.S. Fish and Wildlife Service, 1230 "N" Street, 14th Floor, Sacramento, California 95814. Comments and materials relating to this rule are available for public inspection by appointment during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: For further information on the proposed rule contact Dr. Jack Williams, Endangered Species Office U.S. Fish and Wildlife Service, 1230 N Street, 14th Floor, Sacramento, California 95814; (916/440–2791, FTS 8/448–2791).

SUPPLEMENTARY INFORMATION:

Background

The Modoc sucker (*Catostomus microps*) was originally described from specimens collected in Rush Creek, Modoc County, California (Rutter, 1908). The Modoc sucker is a dwarf species of the family Catostomidae. Individuals begin to mature at 70 to 85 mm standard length with few individuals exceeding 160 mm standard length (Boccone and Mills, 1979). Martin (1972) describes the colors of the Modoc sucker as greenish-brown to deep grey olive above, lighter-colored on the sides with some light yellowish pigment below, cream-colored to white ventrally, and with the caudal, pelvic, and pectoral fins light yellowish-orange. Three dark lateral spots also characterize this species.

The historic range of the Modoc sucker was small tributary streams of the Pit River in Lassen and Modoc Counties, California. At present, they are found only in four small streams in Modoc County, California, characterized by low flows and large shallow pools with cover, soft sediments, and clear water (Moyle and Marciochi, 1975). The diet of Modoc suckers consists primarily of benthic organisms and detritus as described by Moyle and Marciochi (1975). They also reported that Modoc suckers usually mature at 3 years of age and live for approximately 5 years. Boccone and Mills (1979) describe spawning characteristics for this species.

The recent decline of the Modoc sucker has caused widespread concern in the scientific community. The Modoc sucker is classified as endangered by the American Fisheries Society (Deacon *et al.*, 1979). The State of California has recently recognized the severe plight of this species by changing its classification from rare to endangered. Mills (1980) provides further documentation that the Modoc sucker should be listed as endangered. A recent publication (Cooper, 1983) on the fishes of the Pit River system indicated that the Modoc sucker should be added to the Federal list of endangered species and pointed out the need for recovery actions.

The Modoc sucker was included in the Service's December 30, 1982, Review of Vertebrate Wildlife for Listing as Endangered or Threatened Species (47 FR 58454–60). In this review, the Modoc sucker was listed as a category 1 species indicating that the Service currently has substantial information on hand to support a proposed rule to list the species as endangered or threatened. On April 12, 1983, the Service was petitioned by the Desert Fishes Council to list the Modoc sucker. After evaluation of this petition, the Service found that the petitioned action was warranted. A notice of finding for this petition was published on June 14, 1983 (48 FR 27273–74).

Summary of Factors Affecting the Species

Section 4(a)(1) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*) and regulations promulgated to implement the listing provisions of the Act (codified at 50 CFR Part 424; under revision to accommodate 1982 amendments) set forth the procedures for adding species to the Federal lists. A species may be determined to be an endangered or threatened species due to one or more of the five factors described in Section 4(a)(1). These factors and their application to the Modoc sucker (*Catostomus microps*) are as follows.

A. *The present or threatened destruction, modification, or curtailment of its habitat or range.* In a 1978 California Department of Fish and Game survey, Modoc suckers were found in eight creeks: Washington, Hulbert, Turner, Willow, Ash, Dutch Flat, Johnson, and Rush. Modoc suckers probably inhabited more streams historically, although their numbers may never have been great because of the small, often intermittent, stream habitat. However, current information indicates that genetically pure Modoc suckers exist only in Hulbert, Washington, Turner, and Johnson Creeks. These four creeks are estimated to contain 1,300 Modoc suckers. Pure Modoc suckers have been eliminated from other creeks by hybridization with the Sacramento sucker as well as general habitat degradation. Sacramento suckers inhabit large streams and reservoirs, but ascend small trubutaries to spawn. Historically, natural instream barriers such as falls and steep gradient, prevented the movement of spawning Sacramento suckers into Modoc sucker habitat (Mills, 1980; Moyle and Marciochi, 1975). However, these natural barriers have been eliminated by siltation, channelization, and other agricultural activities. Cattle have compacted and denuded several meadow areas causing severe erosion and stream incision (Mills, 1980). Similarly, channelization has eliminated some natural instream barriers in Rush and Johnson Creeks. Channelization not only allows Sacramento suckers access to headwater areas but otherwise degrades habitat and results in reduced populations of most invertebrates and fishes (Moyle, 1976b). The presence of Modoc suckers is positively correlated with natural conditions, and the species does poorly in environments that have been degraded by physical habitat alteration or the presence of exotic species (Moyle, 1976c; Moyle and Marciochi, 1975).

In summary, the Modoc sucker has been eliminated from Dutch Flat, Willow, Ash and Rush Creeks and smaller tributaries to these creeks. Pure populations of the species are currently known only from Hulbert, Washington, Turner, and Johnson Creeks. Overgrazing by cattle, channelization, and water diversion have eliminated much of the former habitat and have precipitated the decline of the Modoc sucker. Physical habitat alteration has reduced habitat and eliminated natural barriers separating the Modoc sucker from the Sacramento sucker.

B. *Overutilization for commercial, recreational, scientific, or educational purposes.* The Modoc sucker is not known to be overutilized for any purpose.

C. *Disease or predation.* In addition to the problems of hybridization with the Sacramento sucker, other fishes not naturally occurring in Modoc sucker habitat have contributed to the decline of the Modoc sucker. Brown trout (*Salmo trutta*) have been introduced into the Pit River and tributaries inhabited by the Modoc sucker. These introductions have reduced numbers of Modoc suckers by predation (Moyle, 1976c).

D. *The inadequacy of existing regulatory mechanisms.* The State of California lists the Modoc sucker as endangered which protects the species from taking. However, this protection is not adequate because State classification does not provide for habitat protection or the formulation of recovery plans.

E. *Other natural or manmade factors affecting its continued existence.* The Modoc sucker is threatened by the loss of genetic uniqueness through hybridization with the closely related Sacramento sucker. Historically, the presence of instream barriers, such as falls, prevented the Sacramento sucker from invading the Modoc sucker habitat. Stream alterations have eliminated barriers on several streams and has led to the hybridization of the two suckers. Modoc sucker populations in several creeks have been lost due to hybridization with the Sacramento sucker and the remaining populations are threatened.

Critical Habitat

Critical Habitat as defined by Section 3 of the Act and at 50 CFR Part 424 means: (i) The specific areas within the geographical area occupied by a species, at the time it is listed in accordance with the Act, on which are found those physical or biological features (I) essential to the conservation of the species and (II) that may require special management considerations or protection, and (ii) specific areas outside the geographical area occupied by a species at the time it is listed upon a determination that such areas are essential for the conservation of the species.

The Act requires that critical habitat be designated to the maximum extent prudent and determinable concurrent with the determination that a species is endangered or threatened. Critical habitat is being proposed for the Modoc sucker in portions of Hulbert, Washington, Turner, and Johnson Creeks in Modoc County, California. The areas proposed include approximately 12 miles of stream channel with a buffer zone of 50 feet on each side of the stream channel. The 50 foot buffer zone is deemed to be necessary because of the direct impact of activities affecting the immediate stream channel and the quality of the aquatic habitat for the species. The areas proposed as critical habitat satisfy all known criteria for the ecological, behavioral, and physiological requirements of the species. The species successfully reproduces in Hulbert, Washington, Turner, and Johnson Creeks. Viable populations existed in the other creeks near the proposed critical habitat prior to habitat degradation and invasion of Sacramento suckers. The areas proposed includes the entire known habitat of this species and modifications to critical habitat descriptions may be proposed in the future.

Section 4(b)(8) requires that for any proposed or final regulation which designates critical habitat a brief description and evaluation of those activities (public and private) which may adversely modify such habitat or may be affected by such designation, be provided.

1. Overgrazing of cattle in meadow areas adjacent to streams causes compacting and denuding of soils which leads to erosion and stream incision. This is presently occurring and may pose a serious threat.

2. Channelization, impoundment, and water diversion activities along streams could reduce available habitat and allow Sacramento suckers access to Modoc sucker spawning areas. This has occurred in the past but is not significant at the moment.

3. Introduction of exotic species which may compete with or prey on Modoc suckers. This is both a historical and a present threat.

4. Pollution of streams by silt or other pollutants would reduce the suitability of the stream environment for Modoc suckers. This is mainly a consequence of overgrazing, discussed above.

The Service is required to consider economic and other impacts of specifying a particular area as Critical Habitat. A final impact analysis will be prepared prior to preparing the final rule and will be used as the basis for deciding whether or not to exclude any area from critical habitat for the Modoc sucker.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Endangered Species Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing encourages and results in conservation actions by other Federal, State, and private agencies, groups, and individuals. The Endangered Species Act requires that recovery actions be carried out for all listed species and these are initiated by the Service following listing. The protection required by Federal agencies and taking and harm prohibitions are discussed in part below.

Section 7(a) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened. Section 7(a)(4) requires Federal agencies to informally confer with the Service on any action that is likely to jeopardize the continued existence of a proposed species or result in the destruction or adverse modification of proposed critical habitat. When a species is listed, Section 7(a)(2) requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of such a species or to destroy or adversely modify its critical habitat. If a "may affect" determination is expected, the Federal agency must enter into consultation with the Service.

The Service is notifying Federal agencies that have any jurisdiction over the land and water under consideration in this proposed action. These Federal agencies and other interested persons or organizations are requested to submit information related to this proposed action.

There are several activities within the critical habitat involving Federal agencies which may have an impact on the habitat of the Modoc sucker. These activities include grazing leases and timber harvesting by the Forest Service. Moreover, the Allen Camp Unit, a reservoir project, was planned by the

Bureau of Reclamation on the Pit River but this impoundment was recently declared economically unfeasible and is considered halted by the Bureau of Reclamation. Such a reservoir would have provided excellent habitat for the Sacramento sucker and would have provided this species greater access to Modoc sucker habitat thus increasing the threat to that species. Sacramento suckers are known to readily ascend tributary streams to newly filled reservoirs (Wales, 1950).

The Act and its implementing regulations found at 50 CFR 17.21 set forth a series of general prohibitions and exceptions that apply to all endangered wildlife. These prohibitions, in part, would make it illegal for any person subject to the jurisdiction of the United States to take, import or export, ship in interstate commerce in the course of commercial activity, or sell or offer for sale in interstate or foreign commerce listed species. It also would be illegal to possess, sell, deliver, carry, transport, or ship any such wildlife that was illegally taken. Certain exceptions would apply to agents of the Service and State conservation agencies.

Permits may be issued to carry out otherwise prohibited activities involving endangered animal species under certain circumstances. Regulations governing permits are at 50 CFR 17.22 and 17.23. Such permits are available for scientific purposes, to enhance the propagation or survival of the species or to authorize incidental take pursuant to an approved conservation plan. In some instances, permits may be issued during a specified period of time to relieve undue economic hardship that would be suffered if such relief were not available.

Public Comments Solicited

The Service intends that any final rule adopted will be accurate and as effective as possible in the conservation of any endangered or threatened species. Therefore, any comments or suggestions from the public, concerned governmental agencies, the scientific community, industry, or any other interested party concerning any aspect of these proposed rules are hereby solicited. Comments particular are sought concerning:

(1) Biological or other relevant data concerning any threat (or lack thereof) to the Modoc sucker;

(2) The location of any additional populations of the Modoc sucker and the reasons why any habitat of this species should or should not be determined to be critical habitat as provided by Section 4 of the Act;

(3) Additional information concerning the range and distribution of this species;

(4) Current or planned activities in the subject area and their possible impacts on the Modoc sucker; and

(5) Any forseeable economic and other impacts resulting from determining critical habitat.

Final promulgation of the regulations on the Modoc sucker will take into consideration the comments and any additional information received by the Service, and such communications may lead to adoption of a final regulation that differs from this proposal.

The Endangered Species Act provides for a public hearing on this proposal, if requested. Requests must be filed within 45 days of the date of the proposal. Such requests must be made in writing and addressed to the Regional Director, U.S. Fish and Wildlife Service, Lloyd 500 Building, 500 Multnomah Street, Portland, Oregon 97232.

National Environmental Policy Act

In accordance with a recommendation from the Council on Environmental Quality (CEQ), the Service has not prepared any NEPA documentation for this proposed rule. The recommendation from CEQ was based, in part, upon a decision in the Sixth Circuit Court of Appeals which held that the preparation of NEPA documentation was not required as a matter of law for listings under the Endangered Species Act. *PLF v. Andrus* 657 F. 2d (6th Cir., 1981).

References

The following sources were used in the preparation of this proposed rule:

Boccone, V. M. and T. J. Mills. 1979. Spawning behavior and spawning substrat preference of the Modoc sucker, *Catostomus microps* (Rutter). California Dept. Fish and Game, Inland Fish. Endangered Species Program Spec. Publ. 79–2

Cooper, James J. 1983. Distributional ecology of native and introduced fishes of the Pit River system, northeastern California, with notes on the Modoc sucker. California Fish and Game 69(1):39–53.

Deacon, J. E., G. Kobetich, J. D. Williams, S. Contreras, and other members of the Endangered Species Committee of the American Fisheries Society. 1979. Fishes of North America endangered, threatened, or of special concern: 1979. Fisheries 4(2):29–44.

Martin, M. 1972. Morphology and variation of the Modoc sucker, *Catostomus microps* Rutter, with notes on feeding adaptations. California Fish and Game 58(4):277–284.

Mills, T. J. 1980. Life history, status, and management of the Modoc sucker, *Catostomus microps* (Rutter) in California, with a recommendation for endangered classification. California Dept. Fish and Game, Inland Fish. Endangered Species Program Spec. Publ. 80–6.

Moyle, P. B. 1976a. Inland fishes of California. University of California Press. Berkeley. 405 pp.

Moyle, P. B. 1976b. Some effects of channelization on the fishes and invertebrates of Rush Creek, Modoc County, California. California Fish and Game 62(3):179–186.

Moyle, P. B. 1976c. Fish introduction in California: history and impact on native fishes. Biol. Conserv. 9:101–118.

Moyle, P. B. and A. Marciochi. 1975. Biology of the Modoc sucker, *Catostomus microps*, in northern California. Copeia 1975(3): 556–560.

Rutter, C. 1908. The fishes of the Sacramento-San Joaquin basin, with a study of their distribution and variation. Bull. U.S. Bur. Fish 27:103–152.

Wales, J. H. 1950. Swimming speed of the western sucker, *Catostomus occidentalis* Ayres. California Fish and Game 36(4):433:434.

Author

The primary author of this rule is Dr. Jack E. Williams, U.S. Fish and Wildlife Service, Department of the Interior, Endangered Species Office, 1230 "N" Street, 14th Floor, Sacramento, California 95814; (916/440–2791).

List of Subjects in 50 CFR Part 17

Endangered and threatened wildlife, Fish, Marine mammals, Plants (agriculture).

Proposed Regulation Promulgation

Accordingly, it is hereby proposed to amend Part 17, Subchapter B of Chapter I, Title 50 of the Code of Federal Regulations, as set forth below:

PART 17—[AMENDED]

1. The authority citation for Part 17 reads as follows:

Authority: Pub. L. 93–205, 87 Stat. 884; Publ. L. 94–359, 90 Stat. 911; Pub. L. 95–632, 92 Stat. 3751; Pub. L. 96–159, 93 Stat. 1225; Pub. L. 97–304, 96 Stat. 1411 (16 U.S.C. 1531 *et seq.*).

§ 17.11 [Amended]

2. It is proposed to amend § 17.11(h) by adding the following, in alphabetical order, to the List of Endangered and Threatened Wildlife under "Fishes."

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
•	•	•	•	•	•		•
Sucker, Modoc	*Catostomus microps*	U.S.A. (CA)	Entire	E		17.95(e)	NA
•	•	•	•	•	•		•

§ 17.95 [Amended]

3. It is further proposed to amend § 17.95(e) by adding critical habitat of the Modoc sucker as follows: (The position of the following critical habitat description in § 17.95(e) will be determined at the time of publication of a final rule).

* * * * *

Modoc sucker

Catostomus microps

California: Modoc County.

1. *Turner Creek.* Approximately 4 stream miles and 50 feet on either side of the stream channel from the juncture of Turner Creek with the Pit River upstream to T42N, R8E, Section 21; including those areas of the stream channel in: T41N, R8E, Sections 1 and 2; T42N, R8E, Sections 21, 27, 28, 34, and 35.

2. *Washington Creek.* Approximately 4 stream miles and 50 feet on either side of the stream channel from the juncture of Washington Creek with Turner Creek upstream to T42N, R8E, Section 14; including those areas of the stream channel in Sections: T42N, R8E, Sections 14, 23, 24, 25, 26, and 35.

3. *Hulbert Creek.* Approximately 4 stream miles and 50 feet on either side of the stream channel from the juncture of Hulbert Creek with Turner Creek upstream to T42N, R8E, Section 31; including those areas of the stream channel in: T42N, R8E, Sections 29, 30, 31, 32, 33, 34, and 35.

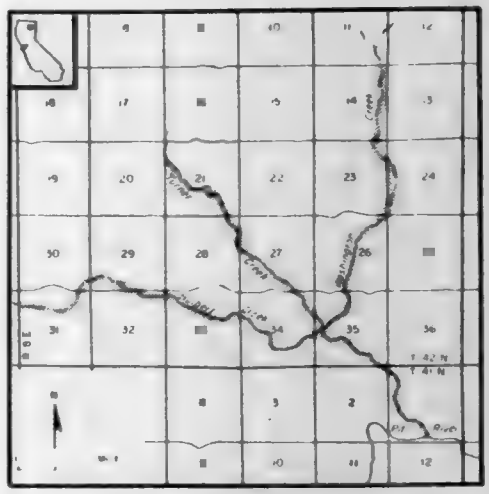

4. *Johnson Creek.* Approximately 4.5 stream miles and 50 feet on either side of the stream channel from the juncture of Johnson Creek with Rush Creek upstream to T40N, R10E, Section 6; including those areas of the stream channel in: T40N, R10E, Section 6; T40N, R9E, Sections 1, 11, 12, 14, 23, and 24. Unnamed tributary of Johnson Creek in Rice Flat, approximately 1 stream mile and 50 feet on either side of the stream channel from the juncture of this tributary with Johnson Creek upstream to T40N, R9E, Section 11; including those areas of the stream channel in: T40N, R9E, Sections 11 and 14. Unnamed tributary of Johnson Creek in Higgins Flat, approximately 1 stream mile and 50 feet on either side of the stream channel from the juncture of this tributary with Johnson Creek upstream to T40N, R9E,, section 15; including those areas of the stream channel in: T40N, R9E, Sections 14 and 15.

5. *Rush Creek.* Approximately 5 stream miles and 50 feet on either side of the stream channel from the gaging station at the Highway 299 crossing upstream to T40N, R10E, Section 17; including those areas of stream channel in: T40N, R9E, Sections 24, 25, 26, 35, and 36; T40N, R10E, Sections 17, 18, and 19.

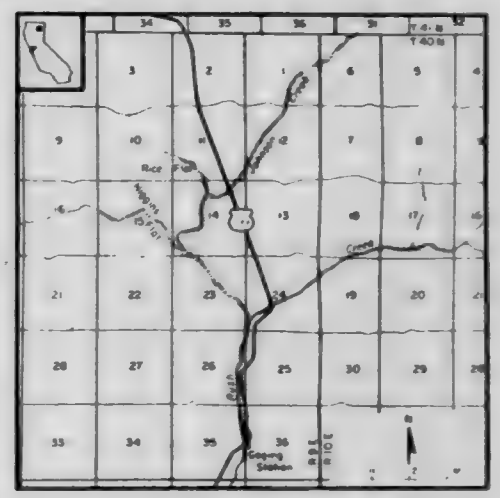

Known constituent elements include small clear, cool, gravel and rubble bottomed streams with riffle and pool areas at 4,000–5,000 feet in elevation with raparian vegetation and instream barriers at lower elevations.

* * * * *

Dated: December 20, 1983.

J. Craig Potter,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 84-2814 Filed 1-30-84; 8:45 am]

BILLING CODE 4310-55-M

Notices

Federal Register
Vol. 49, No. 21
Tuesday, January 31, 1984

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

ADVISORY COUNCIL ON HISTORIC PRESERVATION

Proposed Memorandum of Agreement between the Advisory Council on Historic Preservation and the U.S. Army Training and Doctrine Command

AGENCY: Advisory Council on Historic Preservation.

ACTION: Notice.

SUMMARY: This notice announces the availability of and invites comment on a proposed Memorandum of Agreement for consideration of historic properties on installations of the United States Army Training and Doctrine Command (TRADOC).

Comments Due: Comments must be submitted on or before March 1, 1984.

ADDRESS: Executive Director, Advisory Council on Historic Preservation, The Old Post Office, 1100 Pennsylvania Avenue NW., Suite 809, Washington, DC 20004.

FOR FURTHER INFORMATION: Copies of the Agreement and additional information are available from Dr. Thomas King, Advisory Council on Historic Preservation, The Old Post Office, 1100 Pennsylvania Avenue NW., Suite 803, Washington, DC 20004, (202) 786–0505.

Dated: January 26, 1984.

Robert R. Garvey, Jr.,
Executive Director.

[FR Doc. 84–2560 Filed 1–30–84; 8:45 am]
BILLING CODE 4310–10–M

DEPARTMENT OF AGRICULTURE

Forest Service

Rogue National Wild and Scenic River, and Siskiyou National Forest, Josephine County, Grants Pass, Oregon; Change in Definition of Passenger Boat

The revised development and management plan for the Rogue National Wild and Scenic River, Oregon, as published in the **Federal Register** in Volume 37, Number 131, on Friday, July 7, 1972, has a statement on page 13413 that defines boat size. This statement specified that the boat size in the Agness and Skookumhouse areas will be limited to the 49-passenger jet boat. It also states the 49-passenger boat will be permitted above Snout Creek.

The 49 passenger size was a common term used in 1972 to describe the boats in use at that time but it did not define the physical dimensions of such boats. Research has shown that the 49-passenger boat is actually capable of hauling more than 49 passengers. The following wording removes the term 49-passenger boat and replaces it with a physical dimension:

Boat size in the Agness-Skookumhouse areas will not exceed 43 feet in length and/or 14 feet in width. These boats will not be allowed above Snout Creek. No boat in excess of 31 feet, 0 inches in length and/or 12 feet in width or with a capacity of more than 42 passengers will be allowed above Snout Creek.

All boats operating on the river today meet these size limitations.

Dated: January 18, 1984.

Carlin B. Jackson,
Acting Deputy Regional Forester.

[FR Doc. 84–2594 Filed 1–30–84; 8:45 am]
BILLING CODE 3410–11–M

Soil Conservation Service

Brusly Flood Prevention RC&D Measure, Louisiana; Finding of No Significant Impact

AGENCY: Soil Conservation Service USDA.

ACTION: Notice of a Finding of No Significant Impact.

SUMMARY: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Brusly Flood Prevention RC&D Measure, West Baton Rouge Parish, Louisiana.

FOR FURTHER INFORMATION CONTACT: Harry S. Rucker, State Conservationist, Soil Conservation Service, 3737 Government Street, Alexandria, La. 71302, telephone (318) 473–7751.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicated that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Harry S. Rucker, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for the improvement of approximately six miles of existing channels to provide for flood protection. The majority of the construction activity will be in open land on ephemeral channels.

Associated measures include pipe drops and vegetation for erosion control.

The Notice of a Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various Federal, State, and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address. Basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Harry S. Rucker.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the **Federal Register.**

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program. Office of Management and Budget Circular A–95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects is applicable)

Harry S. Rucker,
State Conservationist.
January 20, 1984.

[FR Doc. 84–2552 Filed 1–30–84; 8:45 am]
BILLING CODE 3410–16–M

DEPARTMENT OF COMMERCE

Office of the Secretary

Agency Forms Under Review by the Office of Management and Budget (OMB)

DOC has submitted to OMB for clearance the following proposals for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: Bureau of the Census
Title: Quarterly Survey of the Finances of Public-Employee Retirement System
Form numbers: Agency—F-10; OMB—0607-0143
Type of request: Revision of a currently approved collection
Burden: 85 respondents; 340 reporting hours
Needs and uses: The collected data are needed to survey the recipients, payments, and asset balances of major public-employee retirement systems. The data are used to analyze factors affecting the securities market.
Affected public: State or local governments
Frequency: Quarterly
Respondent's obligation: Voluntary
OMB desk officer: Timothy Sprehe, 395-4814.

Agency: Bureau of the Census
Title: Survey of Income and Program Participation (Pretest—Wave 4)
Form numbers: Agency—SIPP-4400X, SIPP-4403X, SIPP-4405X; OMB—0607-0425
Type of request: Revision of a currently approved collection
Burden: 300 respondents; 150 reporting hours
Needs and uses: This survey is needed to improve and expand data that are currently available on the income and general economic and financial situation of the U.S. population. Wave 4 of this survey is used to add topical module questions on assets and liabilities, retirement and pension coverage, and housing conditions/energy usage.
Affected public: Individual or households
Frequency: Other (pretest)
Respondent's obligation: Voluntary
OMB desk officer: Timothy Sprehe, 395-4814.

Agency: National Oceanic and Atmospheric Administration
Title: Application for Fishing Vessel Guarantee
Form numbers: Agency—NOOA-88-1; OMB—0648-0012
Type of request: Reinstatement of a previously approved collection for which approval has expired
Burden: 3,570 respondents; 14,280 reporting hours
Needs and uses: Information provided on the application is used to determine the risk to the Federal government of guaranteeing a loan to the applicant, as well as the eligibility of the applicant for the program.
Affected public: Businesses or other for-profit, small businesses or organizations
Frequency: On occasion
Respondent's obligation: Required to obtain or retain a benefit
OMB desk officer: Ken Allen, 395-3785.

Agency: National Oceanic and Atmospheric Administration
Title: Data Documentation Form
Form numbers: Agency—NOOA-24-13; OMB—0648-0024
Type of request: Extension
Burden: 300 respondents; 750 reporting hours
Needs and uses: The National Oceaniographic Data Center is the national archive and permanent data base for marine environmental data. Marine scientists provide data and the Data Document Form is used to describe the information submitted.
Affected public: State and local governments, Federal agencies or employees, non-profit institutions
Frequency: On occasion
Respondent's obligation: Voluntary
OMB desk officer: Ken Allen, 395-3785.

Agency: National Oceanic and Atmospheric Administration
Title: Pacific Billfish Angler Survey
Form numbers: Agency—NOAA-88-10; OMB—0648-0020
Type of request: Extension
Burden: 2,143 respondents; 150 reporting hours
Needs and uses: Information is used to assess the annual trend in the catch rate for billfish by marine recreational fishermen in the Pacific. Data is used for research and management purposes.
Affected public: Individuals or households
Frequency: Annually
Respondent's obligation: Voluntary
OMB desk officer: Ken Allen, 395-3785.

Agency: National Oceanic and Atmospheric Administration
Title: Federal Fisheries Permit (Amendment A)
Form numbers: Agency—NOAA-88- 155 and 156; OMB—0648-0097
Type of request: Revision of a currently approved collection
Burden: 10,018 respondents; 5,095 reporting hours
Needs and uses: Application provides information required for issuance of fisheries permits. The permit is used to enumerate the number of participants and monitor level of fishing activities. This collection is being revised to include experimental groundfish permits for the Pacific Fishery Management Plan.
Affected public: Businesses or other for-profit, small businesses or organizations
Frequency: On occasion
Respondent's obligation: Required to obtain or retain a benefit
OMB desk officer: Ken Allen, 395-3785.

Copies of the above information collection proposals can be obtained by calling or writing DOC Clearance Officer, Edward Michals (202) 377-4217, Department of Commerce, Room 6622, 14th and Constitution Avenue, NW., Washington, D.C. 20230.

Written comments and recommendations for the proposed information collections should be sent to the respective OMB Desk Officer, Room 3235, New Executive Offcie Building, Washington, D.C. 20503.

Linda Engelmeier,
Management Analyst.

FR Doc. 84-2869 Filed 1-30-84; 8:45 am]
BILLING CODE 3510-CW-M

International Trade Administration

[A-570-001]

Antidumping Duty Order; Potassium Permanganate From the People's Republic of China

AGENCY: International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: In separate investigations concerning potassium permanganate from the People's Republic of China (PRC), the United States Department of Commerce (the Department) and the United States International Trade Commission (the ITC) have determined that potassium permanganate from the PRC is being sold at less than fair value and that sales of potassium permanganate from the PRC are materially injuring a United States industry. Additionally, both the Department of Commerce and the ITC found that "critical circumstances" did exist with respect to potassium permanganate from the PRC. Therefore, based on these findings, all unliquidated entries, or warehouse withdrawals, for consumption of potassium permanganate from the PRC made 90 days before August 9, 1983, the date on which the Department published its

"Preliminary Determination of Sales At Less Than Fair Value" notice in the **Federal Register**, will be liable for the possible assessment of antidumping duties. Further, a cash deposit of estimated antidumping duties must be made on all such entries, and withdrawals from warehouse, for consumption made on or after the date of publication of this antidumping duty order in the **Federal Register**.

EFFECTIVE DATE: January 31, 1984.

FOR FURTHER INFORMATION CONTACT: John Brinkmann, Office of Investigations, International Trade Administration, United States Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230, telephone: (202) 377–4929.

SUPPLEMENTARY INFORMATION: The merchandise covered by this order is potassium permanganate, an inorganic chemical produced in free flowing, technical, and pharmaceutical grades. Potassium permanganate is currently classifiable under item 420.2800 of the *Tariff Schedules of the United States Annotated* (TSUSA).

In accordance with section 733 of the Tariff Act of 1930, as amended (the Act) (19 U.S.C. 1673b), on August 9, 1983, the Department published its preliminary determination that there was reason to believe or suspect that potassium permanganate from the PRC was being sold at less than fair value and that "critical circumstances" existed (48 FR 36175). On December 29, 1983, the Department published its final determination that these imports were being sold at less than fair value and that "critical circumstances" existed with respect to potassium permanganate from the PRC (48 FR 57347).

On January 20, 1984, in accordance with section 735(b) of the Act (19 U.S.C. 1673d(b)), the ITC notified the Department that such importations are materially injuring a United States industry. The ITC also made an affirmative determination regarding "critical circumstances".

Therefore, in accordance with sections 736 and 751 of the Act (19 U.S.C. 1673e and 1675), the Department directs United States Customs officers to assess, upon further advice by the administering authority pursuant to section 736(a)(1) of the Act (19 U.S.C. 1673e(a)(1)), antidumping duties equal to the amount by which the foreign market value of the merchandise exceeds the United States price for all entries of potassium permanganate from the PRC. These antidumping duties will be assessed on all unliquidated entries of potassium permanganate entered, or withdrawn from warehouse, for consumption 90 days before August 9, 1983, the date on which the Department published its "Preliminary Determination of Sales At Less Than Fair Value" notice in the **Federal Register**.

On and after the date of publication of this notice, United States Customs officers must require, at the same time as importers would normally deposit estimated Customs duties on this merchandise, a cash deposit equal to the estimated weighted-average antidumping duty margins as noted below:

Manufacturers/producers/exporters	Weighted-average margins (percent)
China National Chemicals Import and Export Corporation (SINOCHEM)	39.63
All other Manufacturers/Producers/Exporters	39.63

This determination constitutes an antidumping order with respect to potassium permanganate from the People's Republic of China, pursuant to section 736 of the Act (19 U.S.C. 1673e) and § 353.48 of the Commerce Regulations (19 CFR 353.48).

We have deleted from the Commerce Regulations, Annex 1 of 19 CFR Part 353, which listed antidumping findings and orders currently in effect. Instead, interested parties may contact the Office of Information Services, Import Administration, for copies of the updated list of orders currently in effect.

Notice of Review

In accordance with section 751(a)(1) of the Act (19 U.S.C. 1675(a)(1)) the Department hereby gives notice that it is commencing an administrative review of this order on January 31, 1984. For further information regarding this review, contact Mr. William Matthews at (202) 377–5253.

This notice is published in accordance with section 736 of the Act (19 U.S.C. 1673e) and section 353.48 of the Commerce Regulations (19 CFR 353.48).

Dated: January 24, 1984.

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 84–2534 Filed 1–30–84; 8:45 am]

BILLING CODE 3510–DS–M

University of Washington; Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897; 15 CFR Part 301). Related records can be viewed between 8:30 AM and 5:00 PM in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C.

Docket No. 83–28. Applicant: University of Washington, Seattle, WA 98195. Instrument: (10) Recording Current Meters, Model RCM–4 and (4) Conductivity Cells, Model 2105. Manufacturer: Anaderaa Instruments, Norway. Intended use: See notice at 47 FR 53083.

Comments: None received.

Decision: Denied. An instrument or apparatus of equivalent scientific value to the foreign instrument, for such purposes as this instrument is intended to be used, is being manufactured in the United States.

Reasons: In its request for duty-free entry, the applicant states that the foreign instrument provides three features, pertinent to its intended uses (within the meaning of § 301.2(s) of the joint Commerce and Treasury regulations) and not available in any domestic instrument:

(a) Deployment capability of greater than one year.

(b) Ability to measure conductivity and expanded-scale temperature in addition to velocity.

(c) A serial 10 bit word long and short pulse, capable of interfacing with the university's translation system.

The National Oceanographic and Atmospheric Administration (NOAA) advises in its memorandum dated January 31, 1983 that these features are pertinent but that the Model 9021 recording current meter manufactured by the U.S. firm Grundy Environmental Systems is of equivalent scientific value to the foreign instrument for such purposes as the instrument is intended to be used. We concur with NOAA's advice, except that we do not find data compatibility with the University's translation system to be a pertinent feature within the meaning of Schedule 8, Pt. 4, headnote 6 (19 U.S.C. 1202) of the Tariff Schedules of the U.S.

Discussion of Features Alleged Pertinent

(a) *Deployment capability of greater than one year.*

NOAA advises that the Grundy Model 9021 current meter is capable of one-year deployments and matches this pertinent feature of the foreign instrument. We note that the domestic instrument provides 70,000 complete words on 600 feet of triple-play tape stored on a 3-inch spool. The foreign instrument provides 60,000 complete words using 600 feet of magnetic tape on

3-inch spools. The most obvious limiting factor is battery life. In this respect, we note that, for 10,000 samples at a 10-minute sampling rate, the battery life claimed for both instruments is basically equivalent (69 hours for the foreign instrument, 72.7 hours for the domestic instrument).

The domestic instrument is also equipped with an external cable for battery charging. At any rate, we note that both recording current meters can be usefully deployed for a period of more than one year by scaling down the number of samples or words collected per day.

(b) *Ability to measure conductivity and expanded-scale temperature in addition to velocity.*

The foreign instrument with its temperature and optional conductivity sensors can measure temperature and conductivity in addition to velocity. The domestic Grundy Model 9021 is available with optional sensors which give it the ability to measure temperature and conductivity in addition to velocity.

(c) *A serial 10-bit-word long and short pulse, capable of interfacing with the university's translation system.*

The foreign instrument provides data in serial 10-bit binary words (short and long pulses). The domestic instrument also outputs serial data in10-bit binary code with short and long pulses of 4 and 12 milliseconds, respectively. Grundy also offers tape translation by means of its Grundy Model 8321 Tape Translator, which converts the tape data from series to parallel in seven or nine track format. This service is also offered by mail by Grundy Environmental Systems. Although the data may not be compatible with the applicant's translation system and this could be a very expensive and time-consuming problem for the applicant, such costs or inconvenience are not pertinent within the meaning of § 301.2(s) of the regulations. NOAA, we note, routinely processes data at a central processing site from both Grundy and Anaderaa instruments.

Based on the foregoing considerations, NOAA advice and our own review of the application, we find that the Grundy Model 9021 is of equivalent scientific value to the foreign instrument for such purposes as this instrument is intended to be used.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel

Acting Director, Statutory Import Programs Staff.

[FR Doc. 84-2560 Filed 1-30-84; 8:45 am]

BILLING CODE 3510-DS-M

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

Procurement List 1984; Additions

Correction

In FR Doc. 84-2327, appearing on page 3506, in the issue of Friday, January 27, 1984, make the following corrections:

1. On page 3506, in the third column, the second line should read, "269-5761".

2. Also in the third column, in the ninth line, "5782" should read "5784".

BILLING CODE 1505-01-M

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[Docket No. CRT 80-4]

1979 Cable Royalty Distribution Proceeding; Remand Issues; Allocation of Sports Royalties Order

We are gratified that the National Association of Broadcasters (NAB) and the Joint Sports Claimants (JSC) have come to us with the proposal that the allocation of royalty fees between each station and the sports club whose games it telecasts be left to private resolution by them. As we believe we made clear during the course of the hearings, it is our view that this issue is best resolved privately between station and club. Such a marketplace approach has the great advantage of allowing individual cases to be resolved differently depending on the circumstances. Our allocation decisions are, after all, by their very nature, imperfect attempts to approximate the workings of the marketplace. Where the marketplace can be relied on directly, it should be, rather than looking to us for dispute resolution.

For these reasons, we embrace and adopt the proposal of NAB and JSC, to which the Canadian Claimants have also agreed. We will continue to distribute the sports telecasts portion of the Phase I royalty fee allocation to JSC, for their redistribution to individual club or league claimants. We will determine what that aggregate portion shall be in each distribution proceedings, but there our function ends. JSC will promptly advise any broadcaster which produces the telecasts of a sports club's games, upon the broadcaster's request, as to the amount of royalty fees distributed (1) to that club or, (2) if no separate distribution has been made to the individual club, to the league, conference, or other entity of which the club is a member. Any subsequent sharing of royalties between these sports interests and broadcasters will be left to their private resolution.

As we and the Court of Appeals have previously recognized, it is clear that a sports club owns a copyright in the telecasts of its games if simultaneously "fixed"; it is equaly clear that a broadcaster who produces the telecasts of such games also owns a copyright in such telecasts. These copyrightable interests have relative market values, the determination of which may be addressed in any royalty distribution proceedings. By adopting the approach of NAB and JSC, it is not necessary that we make such a valuation; rather, we are simply allowing the parties themselves to do so in the context of their private negotiaitons.

In many instances, the parties have already negotiated such valuations as a part of their contractual relationships; these arrangements will not be disturbed by today's disposition. Insofar as the Tribunal is concerned, unless and until such valuations are negotiated or otherwise resovled a sports club and a broadcaster, the share distributed to the sports club incident to Phase I allocations shall remain the sports club's property.

We agree with NAB and JSC that any future negotiations between a particular sports club and a particular broadcaster should be made in a free, open, and arm's-length marketplace environment. Accordingly, we do not intimate any views as to how, if at all, the royalities should be shared in any specific case. Moreover, we wish to emphasize that nothing in any of our prior decisions should be interpreted as constituting a final judgment with regard to the comparative values of the contributions made by sports clubs and broadcasters to sports telecasts. We believe that the parties affected are in a better position than we to place the appropriate value on their respective contributions.

Dated: January 20, 1984.

Thomas C. Brennan,

Chairman.

[FR Doc. 84-2566 Filed 1-30-84; 8:45 am]

BILLING CODE 3410-06-M

DEPARTMENT OF DEFENSE

Defense Logistics Agency

Privacy Act of 1974; Amendments to the Notices for Two Systems of Records

AGENCY: Defense Logistics Agency, DOD.

ACTION: Amendments to the Notices for Two Systems of Records.

SUMMARY: The Defense Logistics Agency proposes to amend the notices for two systems of records subject to the Privacy Act of 1974. The proposed amendments as well as the notice as amended are set forth below.

DATE: This action will be effective without further notice on March 6, 1984.

ADDRESS: Send any comments to Cheryl Morrisey, Headquarters, Defense Logistics Agency, (ATTN: DLA–XAM), Cameron Station, Alexandria, VA 22314.

FOR FURTHER INFORMATION CONTACT: Cheryl Morrisey, Headquarters, Defense Logistics Agency, (ATTN: DLA–XAM), Cameron Station, Alexandria, VA 22314. Telephone: (703) 274–6606.

SUPPLEMENTARY INFORMATION: The Defense Logistics Agency systems notices for systems of records subject to the Privacy Act of 1974, as amended (5 U.S.C. 552a), were published in the **Federal Register** at 48 FR 25876 (FR Doc. 83–12048) June 6, 1983.

Altered system reports (see 5 U.S.C. 552a(o)) were submitted on December 27, 1983.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

January 25, 1984.

Amendments

S255.01 DLA–G

System Name

Fraud & Irregularities.

Changes

System Location

Delete the current entry and insert:

"Primary System—Case files on actual or suspected fraud, criminal conduct and antitrust violations which arise from procurement, the disposal of surplus property, the administration of contracts or any other operation of DLA are filed at the Office of the General Counsel, DLA.

"Decentralized segments—corresponding files at Office of Counsel for field activities".

Categories of Individuals Covered by the System

At the end of the sentence, add the phrase "or other DLA activities."

Purpose(s)

Add caption and insert:

"Information is used in the investigation and prosecution of criminal or civil actions involving fraud, criminal conduct and antitrust violations and is used in determinations to suspend or debar individuals or other entities from DLA procurements and sales.

"Information may be referred to and used by DOD investigators and Government attorneys in DLA and other activities of the Department of Defense".

Routine Uses of Records Maintained in the System, Including Categories of Users and the Purposes of Such Uses

Delete present entry and insert:

"Information may be referred to and used by Federal investigators, Department of Justice, and other contracting, audit, inspection, investigative, and legal activities of other agencies to include State and local law enforcement agencies, as appropiriate.

"See also blanket routine use set forth above."

Policies and Practices for Storing, Retrieving, Accessing, and Disposing of Records in the System

Storage

Delete the present sentence and insert: "Maintained in combination of paper and automated files".

Safeguards

Delete the present sentence and insert: "Records, as well as computer terminals, are maintained in areas accessible only to DLA personnel. In addition, access to and retrieval from computerized files is limited to authorizied users and is password protected."

System Manager(s) and Address

At the beginning of the sentence, add the word "General."

The amended portions of System S255.01 DLA–G read as follows:

S255.01 DLA–G

SYSTEM NAME:

Fraud & Irregularities

SYSTEM LOCATION:

Primary System—Case files on actual or suspected fraud, criminal conduct and antitrust violations which arise from procurement, the disposal of surplus property, the administration of contracts or any other operation of DLA; includes investigated incidents of violations of standards of conduct by DLA and other government Employees are filed at Office of General Counsel, Headquarters, DLA.

Decentralized segments—corresponding files at Offices of Counsel for field activities.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Any individual or group or other entity, involved in or suspected of being involved in any fraud, criminal conduct or antitrust violation relating to DLA procurement, property disposal or contract administration or other DLA activities.

* * * * *

PURPOSE(S):

Information is used in the investigation and prosecution of criminal or civil actions involving fraud, criminal conduct and antitrust violations and is used in determinations to suspend or debar individuals or other entities from DLA procurements and sales.

Information may be referred to and used by DOD investigators and Government attorneys in DLA and other activities of the Department of Defense.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information may be referred to and used by Federal Investigators, Department of Justice, and other contracting, audit, inspection, investigative, and legal activities of other agencies to include State and local law enforcement agencies as appropriate.

See also blanket routine use set forth above.

* * * * *

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in combination of paper and automated files.

* * * * *

SAFEGUARDS:

Records, as well as computer terminals, are maintained in areas accessible only to DLA personnel. In addition, access to and retrieval from computerized files is limited to authorized users and is password protected.

* * * * *

SYSTEM MANAGER(S) AND ADDRESS:

General Counsel, Headquarters, DLA; DLA Field Activity Counsels.

* * * * *

Amendments

S252.50 DLA–G

System Name

Claims & Litigation, other than Contractual.

Changes

System Location

Add:

After the phrase "of the Defense Logistics Agency (DLA); Office of", add the word "General."

Purpose(s)

Add caption and insert: "Information is used in settlement of claims or lawsuits. Information is used in the defense and prosecution of lawsuits involving DLA.

"Information is used by DLA attorneys and representatives of the Department of Defense in the conduct of litigation and administrative settlement of claims."

Routine Uses of Records Maintained in the System, Including Categories of Users and the Purposes of Such Uses

Delete present entry and insert:

"Information is used by individual claimants or litigants or their representatives, the Department of Justice and the investigative, audit, inspection and legal staffs of other Executive agencies as appropriate and the General Accounting Office in the conduct of litigation and administrative settlement of claims.

"See also blanket routine use set forth above."

Storage

Delete the current entry and substitute therefor:

"Maintained in combination of paper and automated files".

Safeguards

Delete the current entry and insert: "Records, as well as computer terminals, are maintained in areas accessible only to DLA Personnel. In addition, access to the computerized information in the system is limited to authorized users and is password protected".

System Manager(s) and Address

Add: At the beginning of the first sentence add the word "General."

The amended portions of System S252.50 DLA–G read as follows:

S252.50 DLA–G

SYSTEM NAME:

Claims & Litigation, other than Contractual.

SYSTEM LOCATION:

Primary System-Case files on claims or potential claims against ther Government, lawsuits and potential suits arising from the non-contractual operation of the Defense Logistics Agency (DLA); Office of General Counsel, Headquarters, DLA. Decentralized segments—corresponding files at Offices of Counsel, DLA Field Activities.

* * * * *

PURPOSE(S):

Information is used in settlement of claims or lawsuits. Information is used in the defense and prosecution of lawsuits involving DLA.

Information is used by DLA attorneys and representatives of the Department of Defense in the conduct of litigation and administrative settlement of claims.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information is used by individual claimants or litigants or their representatives, the Department of Justice and the investigative, audit, inspection and legal staffs of other Executive agencies as appropriate and the General Accounting Office in conducting litigation and administrative settlement of claims.

See also the blanket routine use set forth above.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in combination of paper and automated files.

* * * * *

SAFEGUARDS:

Records, as well as computer terminals, are maintained in areas accessible only to DLA personnel. In addition, access to the computerized information in the system is limited to authorized users and is password protected.

* * * * *

SYSTEM MANAGER(S) AND ADDRESS:

General Counsel, Headquarters, DLA; Counsel, DLA Field Activities.

* * * * *

[FR Doc. 84–2532 Filed 1–30–84; 8:45 am]
BILLING CODE 3820–01–M

Department of the Navy

Privacy Act of 1974; Amended Systems of Records

AGENCY: Department of the Navy, DOD.

ACTION: Notice of amended systems of records.

SUMMARY: The Department of the Navy proposes to amend six systems of records in its inventory of systems of records subject to the Privacy Act of 1974. The proposed amendments and system notices as amended are set forth below.

DATES: The proposed actions will be effective without further notice on March 1, 1984.

ADDRESS: Send any comments to the system managers identified in the systems notices.

FOR FURTHER INFORMATION CONTACT: Mrs. Gwendolyn R. Aitken, Privacy Act Coordinator, Office of the Chief of Naval Operations (OP–09B30), Department of the Navy, The Pentagon, Washington, D.C. 20350. Telephone: 202/694–2004.

SUPPLEMENTARY INFORMATION: The Department of the Navy systems notices for records systems subject to the Privacy Act of 1974, as amended, (5 U.S.C. 552a) were published in the **Federal Register** as follows: FR Doc. 83–109 (48 FR 26029) June 6, 1983.

The proposed amendments are not within the purview of the provision of 5 U.S.C. 552a(o) which requires the submission of an altered system report.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

January 25, 1984.

N01900–1

System Name

Naval Discharge Review Board Proceedings (48 FR 26070) June 6, 1983.

Changes

Purpose(s)

Add the following paragraph: "The collected information is used to defend the Department to the Navy in civil suits filed against it in the State and/or Federal courts system. This information will permit officials and employees of the Board to consider former member's applications for review of discharge or dismissal and any subsequent application by the member; to answer inquiries on behalf of or from the former member of counsel regarding the action taken in the former member's case. The file is used by members of the Board for Correction of Naval Records when

reviewing any subsequent application by the former member for a correction of records relative to the former member's discharge or dismissal".

Routine Uses of Records Maintained in the System, Including Categories of Users and the Purpose of Such Uses

Delete the first 15 lines and the phrase: "* * * discharge or dismissal" in line 16. Add the following at the end of the entry: "Officials of the Department of Justice and the United States Attorneys offices assigned to the particular case".

Policies and Practices for Storing, Retrieving, Accessing, Retaining and Disposing of Records in the System

Retrievability

Delete the entire entry and substitute with the following: "The records are filed by name and by year of review. Although social security number and/or service number appears on the records, records cannot be retrieved thereby."

Retention and Disposal

In the fifth line after the word "the", delete the phrase: "* * * Federal Records Center * * *" and substitute with the phrase: "* * * Washington National Records Center, * * *"

System Manager(s) and Address

In the second line, delete the phrase: "* * * Department of the Naval * * *" and substitute with the phrase: "* * * Room 914, Ballston Tower 2, * * *"

Notification Procedures

Delete the entire entry and substitute with the following: "Information may be obtained from the Naval Discharge Review Board, Room 905, Ballston Tower 2, 801 North Randolph Street, Arlington, Virginia 22203."

N05330-1

System Name

Manhour Accounting System (48 FR 26089) June 6, 1983.

Changes

System Location

Delete the entire entry and substitute with the following: "Organizational elements of the Department of the Navy as indicated in the directory of Department of the Navy mailing addresses".

Categories of Individuals Covered by the System

Delete the second and third lines of the entry.

Categories of records in the system

Delete the entire entry and substitute with the following: "Record could contain any of the following: Assigned organization code, work center code, name, grade code, pay rate, social security number, NEC/MOS, labor code, type transaction, hours assigned".

Authority for Maintenance of the System

Delete the entire entry and substitute with the following: "10 U.S.C. 5031".

Purpose(s)

Add the following entry: "To maintain a data base which will permit officials and employees of the respective naval commands to effectively manage and administer the workforce such as scheduling and assigning work; identifying individual's skill level; tools issued; planned absents and temporary assignments to other areas".

Routine Uses of Records Maintained in the System, Including Categories of Users and the Purposes of Such Uses

Delete the entire entry and substitute with the following: "The blanket routine uses that appear at the beginning of the Department of the Navy's compilation apply to this system".

Policies and Practices for Storing, Retrieving, Accessing, Retaining and Disposing of Records in the System

Retrievability

Add the word "Name, * * *" at the beginning of the entry.

Retention and Disposal

In the third line of the entry, delete the phrase: " * * * to or is supporting a training evolution or activity".

System Manager(s) and Address

Delete the entire entry and substitute with the following: "The commanding officer of the activity in question. See directory of Navy activities mailing addresses".

Record Source Categories

Delete the entire entry and substitute with the following: "Input provided by command employing individual".

N07220-1

System Name

Armed Forces Health and Professional Scholarship System (48 FR 26133) June 6, 1983.

Changes

Purpose(s)

Add the following paragraph: "To maintain a data base which will permit officials and employees of the Department of the Navy to prepare checks, leave and earnings statements, and financial reports".

Routine Uses of Records Maintained in the System, Including Categories of Users and the Purpose of Such Uses

Delete the entire entry and substitute with the following: "To the Department of the Treasury, Social Security Administration, and Veterans Administration when needed to provide payment or service to member.

To federal, state, or local government agencies when payments received through the Armed Forces Health and Professional Scholarship System impact on payments or benefits issued by those agencies and/or when a specific matching program has been requested by the agency and approved by the Office of Management and Budget.

To the American Red Cross, Navy Relief Society and U.S.O. for personal assistance to the member."

N07220-2

System Name

Retired Pay System (48 FR 26133) June 6, 1983

Changes

Purpose(s)

Add the following paragraph: "To be used by officials and employees of the Department of the Navy or the Department of Defense in the performance of their official duties relating to the computation of retirement and annuity payments and to investigate and reconcile any underpayments, overpayments or claims. Data is used for fiscal reports and the extraction and compilation of statistical analyses and reports for management studies for internal use as required by the Department of Defense".

Routine Uses of Records Maintained in the System, Including Categories of Users and the Purpose of Such Uses

Delete the first nine lines in the entry. In the Second paragraph, line 5, delete the phrase: "* * * internally or * * *" In the second paragraph, line 6, delete the phrase, "* * * Department of Defense * * *" In the second paragraph, line 36, after the word "* * * agencies.", add the following phrase: "* * * and/or when a specific matching program has been requested by the agency and approved by the Office of Management and Budget * * *"

N07220-3

System Name

Reserve Pay System (48 FR 26134) June 6, 1983.

Changes

Purpose(s)

Add the following paragraph: "This information is used by officials and employees of the Navy Finance Center to issue checks and leave and earning statements, investigate claims and overpayments, and to prepare financial reports. This information may be used by officials and employees in the Department of Defense, and the Naval Military Personnel Command to assist in updating, verifying or correcting their records".

Routine Uses of Records Maintained in the System, Including Categories of Users and the Purpose of Such Uses

Delete the entire entry and substitute with the following: "To the Internal Revenue Service and state or local tax authorities for use in computing or resolving member's tax liability; to the Social Security Administration to determine member's coverage under that program; to the Department of the Treasury for issuance of checks; to the Veterans Administration or to the Navy Family Allowance Activity, when needed to process cases in the courts upon court order; to the designated beneficiaries of deceased members; to federal, state, or local government agencies when payments received through the Reserve Pay System impact on payments or benefits issued by those agencies and/or when a specific matching program has been requested by the agency and approved by the Office of Management and Budget; to the American Red Cross, Navy Relief Society, and U.S.O. for personal assistance to the member".

N07220-4

System Name

Naval Reserve Officer Training Corps Pay System (48 FR 26134) June 6, 1983.

Changes

Purpose(s)

Add the following paragraph: "This information is used by officials and employees of the Navy Finance Center to issue checks and leave and earning statements, investigate claims and overpayments, and to prepare financial reports. This information may be used by officials and employees in the Department of Defense, and the Naval Military Personnel Command to assist in updating, verifying or correcting their records or to process cases".

Routine Uses of Records Maintained in the System, Including Categories of Users and the Purpose of Such Uses

Delete the entire entry and substitute with the following: "To the Internal Revenue Service and state or local tax authorities for use in computing or resolving member's tax liability; to the Social Security Administration to determine member's coverage under that program; to the Department of the Treasury for issuance of checks; to the Veterans Administration or to the Navy Family Allowance Activity, when needed to process cases; to the courts upon court order; to the designated beneficiaries of deceased members; to federal, state, or local government agencies when payments received through the Naval Reserve Officer Training Corps Pay System impact on payments or benefits issued by those agencies and/or when a specific matching program has been requested by the agency and approved by the Office of Management and Budget; to the American Red Cross, Navy Relief Society, and U.S.O. for personal assistance to the member".

The amended systems of records read as follows:

N01900-1

SYSTEM NAME:

Naval Discharge Review Board Proceedings.

* * * * *

PURPOSE(S):

The collected information is used to defend the Department of the Navy in civil suits filed against it in the State and/or Federal courts system. This information will permit officials and employees of the Board to consider former member's applications for review of discharge or dismissal and any subsequent application by the member; to answer inquiries on behalf of or from the former member or counsel regarding the action taken in the former member's case. The file is used by members of the Board for Correction of Naval Records when reviewing any subsequent application by the former member for a correction of records relative to the former member's discharge or dismissal.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

The file is used by counsel for the former member, and by accredited representatives of veterans' organizations recognized by the Administrator of Veterans' Affairs under 38 U.S.C. 3402 and duly designated by the former member as his or her representative before the Naval Discharge Review Board. Officials of the Department of Justice and the United States Attorneys offices assigned to the particular case.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

* * * * *

RETRIEVABILITY:

The records are filed by name and by year of review. Although social security number and/or service number appear on the records, records cannot be retrieved thereby.

* * * * *

RETENTION AND DISPOSAL:

Files are permanent. They are retained in the Naval Discharge Review Board's administrative office for two years. After that time, they are sent to the Washington National Records Center, 4205 Suitland Road, Suitland, Maryland 20409.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Naval Council of Personnel Boards, Room 914, Ballston Tower 2, 801 North Randolph Street, Arlington, Virginia 22203.

* * * * *

NOTIFICATION PROCEDURES:

Information may be obtained from the Naval Discharge Review Board, Room 905, Ballston Tower 2, 801 North Randolph Street, Arlington, Virginia 22203.

* * * * *

N05330-1

SYSTEM NAME:

Manhour Accounting System.

SYSTEM LOCATION:

Organizational elements of the Department of the Navy as indicated in the directory of Department of the Navy mailing addresses.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Active military and civilian personnel.

CATEGORIES OF RECORDS IN THE SYSTEM:

Record could contain any of the following: Assigned organization code, work center code, name, grade code, pay rate, social security number, NEC/MOS, labor code, type transaction, hours assigned.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 5031.

PURPOSE(S):

To maintain a data base which will permit officials and employees of the respective naval commands to effectively manage and administer the workforce such as scheduling and assigning work; identifying individual's skill level; tools issued; planned absents and temporary assignments to other areas.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

By officials and employees of respective commands in the execution of assigned duties pertaining to management and administration of workforce.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

* * * * *

RETRIEVABILITY:

Name, organization code, social security number, and work center.

* * * * *

RETENTION AND DISPOSAL:

Individual personal data are retained only for that period of time that an individual is assigned. Upon departure of an individual, personal data are deleted from the records and history records are not maintained.

SYSTEM MANAGER(S) AND ADDRESS:

The commanding officer of the activity in question. See directory of Navy activities mailing addresses.

* * * * *

RECORD SOURCE CATEGORIES:

Input provided by command employing individual.

* * * * *

N07220-1

SYSTEM NAME:

Armed Forces Health and Professional Scholarship System.

* * * * *

PURPOSE(S):

To maintain a data base which will permit officials and employees of the Department of the Navy to prepare checks, leave and earnings statements, and financial reports.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

To the Department of the Treasury, Social Security Administration, and Veterans Administration when needed to provide payment or service to member.

To federal, state, or local government agencies when payments received through the Armed Forces Health and Professional Scholarship System impact on payments or benefits issued by those agencies and/or when a specific matching program has been requested by the agency and approved by the Office of Management and Budget.

To the American Red Cross, Navy Relief Society and U.S.O. for personal assistance to the member.

* * * * *

N07220-2

SYSTEM NAME:

Retired Pay System.

* * * * *

PURPOSE(S):

To be used by officials and employees of the Department of the Navy or the Department of Defense in the performance of their official duties relating to the computation of retirement and annuity payments and to investigate and reconcile any underpayments, overpayments or claims. Data is used for fiscal reports and the extraction and compilation of statistical analyses and reports for management studies for internal use as requried by the Department of Defense.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Data in this system is used for fiscal reports and the extraction and compilation of statistical analyses and reports for management studies for use externally required by Department of Labor, Department of Commerce or by other government agencies. Records may be released to the Comptroller General of any of his authorized representatives in the course of the performance of duties of the Comptroller General; the General Accounting Office for audits and determinations relating to military pay entitlements expenditures and accounting procedures; the Department of the Treasury in connection with check or Electronic Fund Transfer (EFT) payment issuance; the Veterans Administration in regard to Disability and Severance Pay and Educational benefits; the Social Security Administration for FICA Wage reporting; the Internal Revenue Service and state and local taxing authorities for computing or resolving tax liability; the Federal Reserve Banks for the distribution of payments made through the Direct Deposit System; to financial organizations or their processing agents authorized by individuals to receive and deposit payments in their accounts; and federal, state, or local government agencies when payments received through the Retired Pay system impact payments or benefits issued by those agencies and/or when a specific matching program has been requested by the agency and approved by the Office of Management and Budget. To designated beneficiaries of deceased member. To the American Red Cross, Navy Relief Society, or U.S.O. personnel for assistance to the member or annuitant.

* * * * *

N07220-3

SYSTEM NAME:

Reserve pay System.

* * * * *

PURPOSE(S):

This information is used by officials and employees of the Navy Finance Center to issue checks and leave and earning statements, investigate claims and overpayments, and to prepare financial reports. This information may be used by officials and employees in the Department of Defense, and the Naval Military Personnel Command to assist in updating, verifying or correcting their records.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

To the internal Revenue Service and state or local tax authorities for use in computing or resolving member's tax liability; to the Social Security Administration to determine member's coverage under that program; to the Department of the Treasury for issuance of checks; to the Veterans Administration or to the Navy Family Allowance Activity, when needed to process cases in the courts upon court order; to the designated beneficiaries of deceased members; to federal, state, or local government agencies when payments received through the Reserve Pay System impact on payments or benefits issued by those agencies and/or when a specific matching program has been requested by the agency and approved by the Office of Management and Budget; to the American Red Cross, Navy Relief Society, and U.S.O. for personal assistance to the member.

* * * * *

N07220-4

SYSTEM NAME:

Naval Reserve Officer Training Corps Pay System.

* * * * *

PURPOSE(S):

This information is used by officials and employees of the Navy Finance Center to issue checks and leave and earning statements, investigate claims and overpayments, and to prepare financial reports. This information may be used by officials and employees in the Department of Defense, and the Naval Military Personnel Command to assist in updating, verifying or correcting their records or to process cases.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

To the Internal Revenue Service and state or local tax authorities for use in computing or resolving member's tax liability; to the Social Security Administration to determine member's coverage under that program; to the Department of the Treasury for issuance of checks; to the Veterans Administration or to the Navy Family Allowance Activity, when needed to process cases; to the courts upon court order; to the designated beneficiaries of deceased members; to federal, state, or local government agencies when payments received through the Naval Reserve Officer Training Corps Pay System impact on payments or benefits issued by those agencies and/or when a specific matching program has been requested by the agency and approved by the Office of Management and Budget; to the American Red Cross, Navy Relief Society, and U.S.O. for personal assistance to the member.

* * * * *

[FR Doc. 84-2533 Filed 1-30-84; 8:45 am]

BILLING CODE 3810-01-M

DEPARTMENT OF EDUCATION

Office of Postsecondary Education

Law School Clinical Experience Program; Application Notice for New Projects for Fiscal Year 1984

Applications are invited for new projects under the Law School Clinical Experience Program.

Authority for this program is contained in Title IX, Part E of the Higher Education Act of 1965, as amended. (20 U.S.C. 1134n–1134p).

This program issues awards to accredited law schools or combinations or consortiums of accredited law schools.

The purpose of the Law School Clinical Experience Program is to establish or expand projects at accredited law schools to provide supervised clinical experience to students in the practice of law.

Closing Date for Transmittal of Applications: Applications for awards must be mailed or hand-delivered by March 16, 1984.

Applications Delivered by Mail: An application sent by mail must be addressed to the U.S. Department of Education, Application Control Center, Attention: 84.097, Washington, D.C. 20202.

An applicant must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the U.S. Secretary of Education.

If an application is sent through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing: (1) a private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first class mail. Each late applicant will be notified that its application will not be considered.

Applications Delivered by Hand: An application that is hand-delivered must be taken to the U.S. Department of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets, SW., Washington, D.C.

The Application Control Center will accept hand-delivered applications between 8:00 a.m. and 4:30 p.m. (Washington, D.C. time) daily, except Saturdays, Sundays, and Federal holidays.

Applications that are hand-delivered will not be accepted after 4:30 p.m. on the closing date.

Program Information

Available Funds: For Fiscal Year 1984, $1 million has been appropriated in the Department of Education Appropriation Act, 1984 for the Law School Clinical Experience Program.

The program legislation permits the Secretary to pay up to 90 percent of the costs of projects at law schools. The program regulations permit the Secretary to establish annually a lower maximum Federal share. In Fiscal Year 1983 with a $605,000 appropriation, the maximum Federal share was 50 percent. With a funding level of $1 million for Fiscal Year 1984, the Secretary is once again establishing a maximum Federal share of 50 percent. A major objective of this program is to increase the financial commitment of a law school to clinical legal education. Support of clinical legal education is not considered a permanent Federal responsibility. The setting of the Federal share at 50 percent supports the program's objective. The Secretary expects to make between 35 and 40 awards, with no individual grant exceeding $30,000.

These estimates do not bind the Department of Education to a specific number of grants or to the amount of any grant unless that amount is otherwise specified by statute or regulations.

Final regulations governing the Law School Clinical Experience Program were published in the **Federal Register** on July 14, 1981. These regulations broadly define the types of projects the Secretary intends to support under this program. The regulations also specify the selection criteria to be used in evaluating applications.

Application Forms: Application forms and program information packages are expected to be ready for mailing by January 31, 1984. They may be obtained by writing to the Graduate Programs Branch, U.S. Department of Education (Room 3044, Regional Office Building 3), 400 Maryland Avenue, SW., Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with regulations, instructions, and forms included in the program information packages.

The program information is intended to aid applicants in applying for assistance under this competition. Nothing in the program information package is intended to impose any paperwork, application content, reporting, or grantee performance requirement beyond those specifically imposed under the statute and regulations governing the competition.

Applicable Regulations: The regulations applicable to this program are:

(a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR Parts 74, 75, 77, and 78; and

(b) The regulations in 34 CFR Part 639.

Further Information: For further information contact Dr. Louis J. Venuto, Acting Chief, Graduate Programs Branch, U.S. Department of Education (Room 3044, Regional Office Building 3), 400 Maryland Avenue, SW., Washington, D.C. 20202.

(20 U.S.C. 1134n–1134p)

(Catalog of Federal Domestic Assistance Number 84.097, Law School Clinical Experience Program)

Dated: January 24, 1984.

T. H. Bell,

Secretary of Education.

[FR Doc. 84-2610 Filed 1-30-84; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Office of the Secretary

Dose Assessment Advisory Group; Open Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770), notice is hereby given of the following meeting:

Name: Dose Assessment Advisory Group (DAAG).

Date and Time: Thursday, February 16, 1984—8:30 a.m.–4:30 p.m. Friday, February 17, 1984—8:30 a.m.–12.00 p.m.

Place: U.S. Department of Energy, Nevada Operations Office Auditorium, 2753 South Highland Drive, Las Vegas, Nevada 89114.

Contact: Marshall Page, Jr., Deputy Project Manager, Off-Site Radiation Exposure Review Project, Nevada Operations Office, U.S. Department of Energy, P.O. Box 14100, Las Vegas, Nevada 89114, Telephone: 702/295–0991.

Purpose of the Group: To provide the Secretary of Energy and the Manager, Nevada Operations Office (NV), with advice and recommendations pertaining to the Off-Site Radiation Exposure Review Project (ORERP). This project concerns the evaluation and assessment of the amount of radiation received by members of the off-site population surrounding the Nevada Test Site (NTS) as a result of the nuclear test operations conducted at the NTS.

Tentative Agenda

February 16, 1984:

—Welcome and introductions
—DAAG recommendations
—Population dose estimates resulting from external component of fallout exposures
—Uncertainty of human ingestion model and update of PATHWAY validation studies
—Uncertainty in the estimates of organ doses resulting from the ingestion and inhalation of fallout particles
—Progress in development of the Individual Dose Assessment model
—Analysis of the NANCY fallout pattern
—Status of data bases containing historical environmental measurements
—Status of population data base
—Update on CIC activities
—Report on efforts to collect cloud tracking data for 1950's
—Update on EML activities
—Quality assurance plan for radiochemical analysis of Phase II soil samples
—General discussion and comment
—Public comment (10 minute rule)

February 17, 1984:

—Time scale for completion of project, publishing reports, etc.
—Results of Lifestyle survey to 11 counties
—Reports on milk distribution studies in Nevada, Utah, and neighboring states
—Update on "Hot Spot" report
—Report on plutonium isotopic ratios
—Progress report on meteorological modeling
—Budget projection for OREPP wrap-up
—Special announcements and other business
—General discussion and comment
—Public comment (10 minute rule)

Public Participation: The meeting is open to the public. The Chairperson of the Group is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Group will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact Marshall Page, Jr., at the address or telephone number listed above.

Transcripts: Available for public review and copying at the Public Reading Room, Room 1E–190, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC between 8 a.m. to 4 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC on January 26, 1984.

Howard H. Raiken,

Deputy Advisory Committee Management Officer.

[FR Doc. 84-2589 Filed 1-30-84; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket No. TA84-1-20-002]

Algonquin Gas Transmission Co.; Rate Filing Under Rate Schedule S–IS

January 25, 1984.

Take notice that Algonquin Gas Transmission Company ("Algonquin Gas") on January 18, 1984 tendered for filing Fourth Revised Sheet No. 213 to its FERC Gas Tariff, Second Revised Volume No. 1.

Algonquin Gas states that Fourth Revised Sheet No. 213 is being filed to reflect in Algonquin Gas' Rate Schedule S–IS an increase in Texas Eastern Transmission Corporation's ("Texas Eastern") underlying Rate Schedule ISS–III Withdrawal Charge.

Algonquin Gas request that the Commission accept such tariff sheet to be effective February 1, 1984, to coincide with the proposed effective date of Texas Eastern's ISS–III rate change.

Algonquin Gas notes that a copy of this filing is being served upon each affected party and interested state commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practive and Procedure (18 CFR 385.211, 385.214). All such motions or protest should be filed on or before February 1, 1984. Protest will be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-2626 Filed 1-30-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP84–172–000, Docket Nos. CP84–178–000 and CP84–178–001]

ANR Pipeline Co. and Columbia Gas Transmission Corp.; Requests Under Blanket Authorization

January 25, 1984.

Take notice that on January 4, 1984, as supplemented on January 23, 1984, and January 24, 1984, ANR Pipeline Company (ANR), 500 Renaissance Center, Detroit, Michigan 48243, filed in Docket No. CP84–172–000, and on January 6, 1984, as amended January 18, 1984, Columbia Gas Transmission Corporation (Columbia), 1700 MacCorkle Avenue, S.E., Charleston,

West Virginia 25314, filed in Docket Nos. CP84–178–000 and CP84–178–001, requests pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) that ANR and Columbia propose to transport natural gas on behalf of Bethlehem Steel Company (Bethlehem) under the authorizations issued in Docket No. CP82–480–000 and Docket No. CP83–76–000, respectively, pursuant to Section 7 of the Natural Gas Act, all as more fully described in the requests on file with the Commission and open to public inspection.

ANR and Columbia propose to transport up to 30,000 dt equivalent of natural gas per day for Bethlehem for a term ending June 30, 1985, and one year, respectively. It is stated that the gas to be transported would be purchased from Caliche Pipeline Company (Caliche) by Bethlehem and would be use primarily for boiler fuel and to reheat furnaces in Bethlehem's plant in Sparrows Point, Maryland.

It is explained that ANR would receive quantities of gas at proposed points of interconnection of the pipeline systems of ANR and Caliche in Beckham, Caddo, Custer, Harper, Roger Mills, and/or Washita Counties, Oklahoma, and would deliver equivalent volumes to Columbia at an existing pointof interconnection of the pipelines of Columbia and ANR in Paulding County, Ohio. Columbia then would redeliver these volumes to Baltimore Gas & Electric Company for ultimate delivery to Bethlehem at Sparrows Point, Maryland.

ANR states that in order to provide Bethlehem with a sufficient amount of gas Caliche has entered into an agreement with ANR Production Company, whereby Caliche, as buyer, shall purchase additional gas, up to 30,000 dt from ANR Production Company to supplement its gas supply to Bethlehem. It is stated that these volumes have been released on a short-term basis by Oklahoma Natural Gas Company and are subject to the ceiling price provisions of Section 105 of the Natural Gas Policy Act of 1978. It is further stated that the volumes tendered by Caliche to ANR for transportation on behalf of Bethlehem are neither released or previously dedicated volumes of natural gas.

For this transportation, it is stated that ANR would receive 49.8 cents per dt equivalent for all gas delivered by ANR to Columbia for Bethlehem's account which ANR receives from Caliche at receipt points identified as numbers 1 through 11 inclusive, and 15 and 16 and would receive 51.7 cents per dt equivalent for all gas delivered to Columbia which ANR receives from Caliche at receipt points identified as numbers 12 through 14 inclusive. Further, it is stated that for quantities received at receipt point number 9, ANR would receive a compression fee of 5.0 cents per dt for all gas delivered to Columbia for Bethlehem's account. Additionally, ANR would receive 2.0 cents per dt as a metering charge for all gas delivered to Columbia for Bethlehem's account at the Paulding delivery point, it is explained.

Also, for this transportation, it is stated that Columbia would charge Bethlehem its average system-wide storage and transmission costs, exclusive of company-use and unaccounted-for gas, currently 40.11 cents per dt. In addition, Columbia states that it would retain a percentage of the gas delivered for company-use and unaccounted-for gas, which percentage is currently 2.85 percent.

It is indicated that the gas proposed to be transported hereunder has been flowing since September 1, 1983, pursuant to Section 284.202 of the Commission's Regulations and that since November 4, 1983, the transportation is pursuant to Section 157.209 of the Regulations.

The proceedings in the subject dockets are not consolidated.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and, pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant requests shall be treated as applications for authorization pursuant to Section 7 of the Natural Gas Act.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84–2827 Filed 1–30–84; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP84–187–000]

Columbia Gas Transmission Corp. and Columbia Gulf Transmission Co.; Request Under Blanket Authorization

January 26, 1984.

Take notice that on January 10, 1984, Columbia Gas Transmission Corporation (Columbia Gas), P.O. Box 1273, Charleston, West Virginia 25325–1273, and Columbia Gulf Transmission Company (Columbia Gulf), P.O. Box 683, Houston, Texas 77001, filed in Docket No. CP84–187–000 an application pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) that they propose to transport natural gas for United States Steel Corporation (US Steel) under authorizations issued in Docket Nos. CP83–76–000 and CP83–496–000 respectively, pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Columbia Gas and Columbia Gulf state that Columbia Gulf proposes to transport up to a maximum of 35,000 Mcf of natural gas per day for US Steel from an interconnection with Natural Gas Pipeline Company of America (Natural) near Pecan Lake, Cameron Parish, Louisiana, to an interconnection with Columbia Gas which in turn would transport such gas to an interconnection with Columbia Gas of Ohio, Inc. near Lorain, Ohio, and Haverhill, Ohio, for delivery to US Steel. Columbia Gulf and Columbia Gas indicate the gas to be purchased by US Steel involves gas supplies released by Columbia Gas and that such supplies are subject to the ceiling price provisions of Sections 102 and 103 of the Natural Gas Policy Act of 1978. For the proposed transportation service, it is stated that Columbia Gulf would charge its average system-wide unit onshore current rate[1] of 26.19 cents per dt equivalent and that Columbia Gas would charge its average systemwide current storage and transportation rate of 40.11 cents per dt equivalent. In addition, Columbia Gulf and Columbia Gas would retain for company use and unaccounted-for gas volumes of 2.58 percent and 2.85 percent of the quantity of gas delivered into their systems for transportation.

Applicants state the transportation service was commenced August 8, 1983, pursuant to 18 CFR 284.202. Further, it is indicated that the instant transportation service, commenced under a self-implementing basis pursuant to Section 157.209 would expire upon termination of 120 days duration on February 29, 1984. Applicants' current agreement for the transportation of gas for US Steel terminates August 8, 1984, it is explained.

Any person or the Commission's staff may, within 45 days after issuance of

[1] Columbia Gulf's current offshore transportation charge is 44.63 cents per dt, it is explained.

the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest if filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-2632 Filed 1-30-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP84-199-000]

Columbia Gas Transmission Corp.; Request Under Blanket Authorization

January 25, 1984.

Take notice that on January 18, 1984, Columbia Gas Transmission Corporation (Columbia), 1700 MacCorkle Avenue, S.E., Charleston, West Virginia 25314, filed on Docket No. CP84-199-000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) that Columbia proposed to transport natural gas on behalf of Mt. Savage Refractories, Inc., (Mt. Savage) under authorization issued in Docket No. CP83-76-000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Specifically, Columbia proposes to transport up to 6 billion Btu of natural gas per day for Mt. Savage for a term of one year. Columbia states that the gas to be transported would be purchased from Energy Production Co., by Mt. Savage, and that Mt. Savage would use those volumes in Allied Tunnel Kiln, an equipment end use in its Mt. Savage, Maryland, plant. Columbia states that it would receive the gas at existing delivery points on its system in Pennsylvania, and redeliver such gas to Columbia Gas of Maryland, Inc., the distribution company serving Mt. Savage. Columbia states that the gas to be purchased by Mt. Savage involves gas supplies released by Columbia and that such supplies are subject to the ceiling price provisions of Sections 103 of the Natural Gas Policy Act of 1978.

Further, Columbia states that depending upon whether its gathering facilities are involved, it would charge either (1) its average system-wide storage and transmission charge, currently 40.11 cents per dt equivalent, exclusive of company-use and unaccounted-for gas, or (2) its average system-wide storage, transmission and gathering charge, currently 44.93 cents per dt equivalent, exclusive of company-use and unaccounted-for gas. Columbia states the it would retain 2.85 percent of the total quantity of gas delivered into its system for company-use and unaccounted-for gas.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-2628 Filed 1-30-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-219-000]

Consolidated Edison Company of New York, Inc.; Filing

January 26, 1984.

The filing Company submits the following:

Take notice that on January 20, 1984, Consolidated Edison Company of New York, Inc. (Con Edison) tendered for filing as an initial rate schedule an agreement to provide transmission service to the Power Authority of the State of New York (Authority). The agreement, dated October 21, 1983, provides for a transmission charge of $0.84 per kilowatt for firm transmission of power and energy sold by the Authority to Grumman Corporation.

Con Edison requests an effective date of October 1, 1983, and therefore requests waiver of the Commission's notice requirements.

A copy of this filing has been served upon the Authority.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before February 13, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-2637 Filed 1-30-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP84-175-000]

Crown Zellerbach Corp.; Petition and Application

January 25, 1984.

Take notice that on January 5, 1984, Crown Zellerbach Corporation (Applicant), One Bush Street, San Francisco, California 94104, filed in Docket No. CP84-175-000 a petition pursuant to § 385.207(a)(2) of the Commission's Rules of Practice and Procedure (18 CFR 385.207(a)(2)) for a declaratory order removing uncertainty concerning the application of Section 7(c) of the Natural Gas Act to the construction of tap facilities on Applicant's existing, certificated interstate pipeline to connect with an interstate gas transmission company as a new source of supply when Applicant's total receipt of gas does not exceed the maximum volume specified in the Commission's order issued December 10, 1979, in Docket No. CP73-322. If Applicant does not receive the requested declaratory order, Applicant, in the alternative, requests a certificate of public convenience and necessity pursuant to Section 7(c) of the Natural Gas Act authorizing the construction and operation of tap facilities to enable receipt of off-system sales of natural gas from Southern Natural Gas Company (Southern). The proposals are more fully set forth in the application and petition which are on file with the Commission and open to public inspection.

Specifically, pursuant to a gas sales agreement dated September 20, 1983, as amended October 27, 1983, Applicant proposes to purchase from Southern on

a best-efforts interruptible basis up to 10,000 Mcf of natural gas per day to be delivered in Marion County, Mississippi. The proposed sales agreement is for a primary term of one year and would continue in effect through the end of the month in which the primary term ends and for successive periods of one month until canceled by Applicant or Southern, it is explained.

Applicant proposes to pay Southern at an initial rate of $3.92405 per Mcf to be redetermined periodically to reflect changes in Southern's Rate Schedule OCD–1 when calculated at a 100-percent load factor, but would never be less than the higher of Southern's system average load factor rate or its average gas acquisition cost under Section 102 of the Natural Gas Policy Act of 1978.

Applicant estimates the cost of the proposed facilities to be $850.

Any person desiring to be heard or to make any protest with reference to said application and petition should on or before February 13, 1984, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropiate action to be taken but will not serve to make the protestants parties to be proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary

[FR Doc. 84–2629 Filed 1–30–84; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER84–215–000]

Duke Power Co.; Filing

January 26, 1984.

The filing Company submits the following:

Take notice that on January 18, 1984, Duke Power Company (Duke) tendered for filing a contract between Duke and Yadkin, Inc. Duke states that that contract, including Service Schedules A, B, C and E, supersedes the prior contract on file with the Commission and contains proposed changes in its rates for power and energy. Duke further states that the most significant change is in Service Schedule C, which now provides for interruptible rates with no demand charge for off-peak sales. Based on a 12-month period ending December 31, 1984, Duke estimates that the proposed change in rates will decrease annual revenues to Duke from Yadkin by approximately $5 million.

Duke requests an effective date of October 17, 1983, and therefore requests waiver of the Commission's notice requirements.

Copies of this filing were served on the North Carolina Utilities Commission and the South Carolina Public Service Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before February 13, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84–2630 Filed 1–30–84; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RA84–1–000]

Golden Eagle Refining Company, Inc.; Filing of Petition

January 26, 1984.

Take notice that Golden Eagle Refining Company, Inc., on November 23, 1983, filed a Petition for Review under 42 U.S.C. section 7194(b) from an order of the Secretary of Energy (Secretary).

Copies of the petition for review have been served on the Secretary and all participants in prior proceedings before the Secretary.

Any person who participated in the prior proceedings before the Secretary may be a participant in the proceeding before the Commission without filing a motion to intervene. However, any such person wishing to be a participant must file a notice of participation on or before February 10, 1984, with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. Any other person who was denied the opportunity to participate in the prior proceedings before the Secretary or who is aggrieved or adversely affected by the contested order, and who wishes to be a participant in the Commission proceeding, must file a motion to intervene on or before February 10, 1984, in accordance with the Commission's Rules of Practice and Procedure (18 CFR 385.214 and 385.1005(c)).

A notice of participation or motion to intervene filed with the Commission must also be served on the parties of record in this proceeding and on the Secretary of Energy through the Office of General Counsel, the Assistant General Counsel for Regulatory Litigation, Department of Energy, Room 6H–025, 1000 Independence Avenue, SW., Washington, D.C. 20585.

Copies of the petition for review are on file with the Commission and are available for public inspection at Room 1000, 825 North Capitol St., NE., Washington, D.C. 20426.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84–2633 Filed 1–30–84; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER84–218–000]

Gulf Power Comp.; Filing

January 26, 1984.

The filing Company submits the following:

Take notice that on January 20, 1984, Gulf Power Company (Gulf) tendered for filing a Wholesale Electric Service

Contract and supplements to its EPC Electric Tariffs providing for a new delivery point for service by Gulf to the City of Blountstown (Calhoun County), located in Florida.

Gulf requests an effective date of June 4, 1984, and therefore requests waiver of the Commission's notice requirements.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NW., Washington, D.C. 20426, in accordanced with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before February 13, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-2839 Filed 1-30-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-1-217-000]

Iowa-Illinois Gas and Electric Co.; Filing

January 26, 1984.

The filling Company submits the following:

Take notice that on January 19, 1984, Iowa-Illinois Gas and Electric (Company) tendered for filing Participation Power Transaction No. 3, under an Interchange Agreement of November 15, 1971, as supplemented and amended, with the City of Geneseo, Illinois (City). Said Transaction is dated January 11, 1984, and is proposed to become effective February 1, 1984, for a period of two years. Accordingly, a waiver of the notice requirements is requested.

Company states Service Schedule K of said Interchange Agreement provides that transactions for participation power may be negotiated by the parties for each transaction and attached thereto. Company further states that said Transaction No. 3, provides for the sale of 3 MW to City from Company's share of Ottumwa Unit 1 and Louisa Generating Station Unit 1, utilizing weithted cost-based rates related to the participating units, and provides for substitute energy, at Company's option, and establishes rates therefore. It is stated that no new or additional facilities are required to effectuate the transaction.

According to the Company, copies of the filing have been mailed to the City and the Illinois Commerce Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before February 13, 1984. Protest will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-2840 Filed 1-30-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. EC84-7-000]

Louisville Gas and Electric Co.; Application

January 26, 1984.

Take notice that on December 9, 1983, Louisville Gas and Electric Company (LG&E) filed an Application pursuant to Section 203 of the Federal Power Act seeking authority to sell to East Kentucky Power Cooperative (East Kentucky) a transmission circuit line.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before February 8, 1984. Protest will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-2841 Filed 1-30-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA84-1-26-003]

Natural Gas Pipeline Company of America; Change in Rates

January 26, 1984.

Take notice that on January 20, 1984, Natural Gas Pipeline Company of America (Natuarl) submitted for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, below listed tariff sheets to be effective March 1, 1984.

Fifty-fourth Revised Sheet No. 5
Ninth Revised Sheet No. 5C
Ninth Revised Sheet No. 5D
Thirteenth Revised Sheet No. 119
Tenth Revised Sheet No. 120
Eleventh Revised Sheet No. 120A

Natural states the purpose of the filing is to reflect rate adjustments under the PGA and incremental pricing sections of its tariff together with an adjustment in compliance with the Commission order issued October 4, 1983, in Docket No. RP79-28 (Marine Construction Antitrust Litigation). In addition Natural is seeking to implement changes to Section 18 of the General terms and Conditions of its tariff dealing with the computation of the unit adjustment for pipeline and producer supplier cost changes.

The overall effect of the filed for adjustment is to decrease Natural's DMQ-1 commodity rate by 22.90¢ and to decrease the DMQ-1 demand rate by $.01. Appropriate adjustments were also made to Natural's other sales rate schedules. These adjustments reflect an annualized revenue decrease due to lower gas costs of $102.2 million. This decrease is coupled with a decrease in the deferred account recovery rate and the Marine Litigation adjustment. The effect of these rate decreases over the next six month deferred account recovery period is a net revenue decrease of $83.0 million. This net rvenue decrease is comprised of a $42.5 million decrease due to lower gas costs and a $40.4 million decrease due to the reduction in the deferred account recovery rate. The effect of the Marine Litigation adjustment was $.1 million ovre the six month period.

Sheets Nos. 5C and 5D reflect no projected incremental pricing surcharges (MSAC) for the six month period beginning March 1, 1984.

Natural requests any additional waivers of the Commission's regulations to the extent, if any, required to put the proposed tariff sheets into effect on March 1, 1984.

A copy of this filing has been mailed to Natural's jurisdictional customers and interested state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with the requirements of Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests must be filed on or before February 3, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-2634 Filed 1-30-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF84-129-000]

Natural Power, Inc.; Application for Commission Certification of Qualifying Status of a Small Power Production Facility

January 27, 1984.

On January 12, 1984, Natural Power, Inc., 3000 Greshams Lake Road, Raleigh, North Carolina 27609, submitted for filing an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

Natural Power, Incorporated's Rowland facility is a small power production biomass facility powered by landfill gas. Two Cat. 63306 internal combustion engines will drive one 85 KW generator each for a total capacity of 170 KW. Plant capacity may be expanded to as much as 600 KW in the future.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-2646 Filed 1-30-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP77-363-008]

National Fuel Gas Supply Corp. and Gas Transmission Corp.; Petition To Amend

January 27, 1984.

Take notice that on January 11, 1984, National Fuel Gas Supply Corporation (National Fuel), Ten Lafayette Square, Buffalo, New York 14203, filed in Docket No. CP77-363-008 a petition pursuant to Section 7(c) of the Natural Gas Act to amend the order issued November 17, 1983, in Docket Nos. CP77-363-006, *et al.*, to authorize the addition and deletion of receipt points in Forest County, Pennsylvania, and to perform the transportation service it provides for UGI Corporation, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

National Fuel seeks authorization for such changes in receipt points to continue to transport, on an interruptible basis, up to 5,000 Mcf of natural gas per day on behalf of UGI Corporation. National Fuel proposes to report such changes in receipt points on an annual basis.

National Fuel asserts that the proposed modification would permit it to respond promptly to changes in operating conditions without the delays involved with continuously filing for authorization to add or delete receipt points. National Fuel adds that the proposal would also eliminate the Commission's administrative burden related to the processing of each individual application.

Columbis Gas Transmission Corporation, a joint applicant in the original proceeding, states that it has no objection to National Fuel's proposal.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before Feb. 15, 1984, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Comission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All proteset filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-2645 Filed 1-30-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-214-000]

Northern States Power Co.; Filing

January 26, 1984.

Take notice that on January 18, 1984, Northern States Power Company (NSP) tendered for filing the Interconnection & Interchange Agreement (Leland Olds to Logan 230 kV Transmission Line Project and Logan to Mallard 115 kV Transmission Line Project Among NSP, Montana-Dakota Utilities Co. and Basin Electric Power Cooperative) (Interconnection Agreeement).

NSP states that the Interconnection Agreement replaces the Interconnection and Interchange Agreement between NSP, Basin Electric and Montana-Dakota Utilities dated June 18, 1982, identified as Northern States Power Company Rate Schedule FERC No. 418. The Interconnection Agreement also replaces the Interchange and Interconnection Agreement dated March 1, 1978, between NSP and Basin Electric, designated as Northern States Power Company Rate Schedule FERC No. 405.

NSP further states that the Interconnection Agreement consolidates previous agreements and provides for interconnecting facilities of the parties at 115 kV and 230 kV at Basin's Logan Substation and at 230 kV at Survey Station 2962 on the line from Leland Olds to Logan, North Dakota.

NSP requests an effective date of March 20, 1984, and therefore requests waiver of the Commission's notice requirements.

Any person desiring to be heard or to protest said filing a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rule 211 or 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before February 13, 1984.

Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-2835 Filed 1-30-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF84-116-000]

Pioneer Hydropower, Inc.—Ware Upper Dam; Application for Commission Certification of Qualifying Status of a Small Power Production Facility

January 27, 1984.

On December 22, 1983, Pioneer Hydropower, Inc. of 148 State Street, Boston, Massachusetts 02109 submitted for filing an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The 950 kW hydroelectric facility is located on the Ware River in Ware, Massachusetts.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NW., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 14 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

A separate application is required for a hydroelectric project license, preliminary permit or exemption from licensing. Comments on such applications are requested by separate public notice. Qualifying status serves only to establish eligibility for benefits provided by PURPA, as implemented by the Commission's regulations, 18 CFR Part 292. It does not relieve a facility of any other requirements of local, State or Federal law, including those regarding siting, construction, operation, licensing and pollution abatement.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-2847 Filed 1-30-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF84-114-000]

Pioneer Hydropower, Inc.—Ware Lower Dam; Application for Commission Certification of Qualifying Status of a Small Power Production Facility

January 27, 1984.

On December 21, 1983, Pioneer Hydropower, Inc. of 148 State Street, Boston, Massachusetts 02109 submitted for filing an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The 250 kW hydroelectric facility is located on the Ware River in Ware, Massachusetts.

Any person desiring to be heard or objecting to the granting of qualifying status should fine a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions of protests must be filed within 15 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

A separate application is required for a hydroelectric project license, preliminary permit or exemption from licensing. Comments on such applications are requested by separate public notice. Qualifying status serves only to establish eligibility for benefits provided by PURPA, as implemented by the Commission's regulations, 18 CFR Part 292. It does not relieve a facility of any other requirements of local, State or Federal law, including those regarding siting, construction, operation, licensing and pollution abatement.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-2247 Filed 1-30-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF84-126-000]

Reynolds Irrigation District; Application for Commission Certification of Qualifying Status of a Small Power Production Facility

January 27, 1984.

On January 4, 1984, Reynolds, Irrigation District of 750 Warm Springs Avenue, Boise, Idaho 83712 submitted for filing an application for certification of a facility as a qualifying facility small power production pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The 270 kW hydroelectric facility will be located on the north side of the Snake River at the Walters Ferry Bridge which is south of Nampa, Idaho.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 15 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

A separate application is required for a hydroelectric project license, preliminary permit or exemption from licensing. Comments on such applications are requested by separate public notice. Qualifying status serves only to establish eligibility for benefits provided by PURPA, as implemented by the Commission's regulations, 18 CFR Part 292. It does not relieve a facility of any other requirements of local, State or Federal law, including those regarding siting, construction, operation, licensing and pollution abatement.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-2849 Filed 1-30-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ID-2091-000]

Robert R. Fortune; Application

January 26, 1984

The filing individual submits the following:

Take notice that on January 18, 1984, Robert R. Fortune filed an application for an order that the noted interlock is not jurisdictional or for an order pursuant to Section 305(b) of the Federal Power Act to hold the following positions:

Vice President—Pennsylvania Power & Light Company
Director—Prudential-Bache Tax-Managed Utility Fund, Inc.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with the Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.314). All such motions or protests should be filed on or before February 15, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-2843 Filed 1-30-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ID-2090-000]

Robert J. Schultz; Application

January 26, 1984.

The filing individual submits the following:

Take notice that on January 18, 1984, Robert J. Schultz filed an application for an order that the noted interlock is not jurisdictional or for an order pursuant to Section 305(b) of the Federal Power Act to hold the following positions:

Vice President—Commonwealth Edison Company
Director—Money Mart Assets Inc.
Director—Prudential-Bache Tax-Managed Utility Fund, Inc.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with the Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before February 15, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-2842 Filed 1-30-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF84-49-000]

San Diego State University; Application for Commission Certification of Qualifying Status of a Cogeneration Facility

January 27, 1984.

On November 16, 1983, San Diego State University of Zura Hall, East Residence Hall Complex, San Diego, California 42182 submitted for filing an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The topping-cycle cogeneration facility is located at the San Diego State University. The primary energy source is natural gas. The thermal output is used to generate hot water for space heating and domestic hot water. The power production capacity is 292 kilowatts.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with rule 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests should be filed within 15 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-2850 Filed 1-30-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER80-573-000]

Southwestern Public Service Co.; Refund Report

January 26, 1984.

Take notice that on December 19, 1984, Southwestern Public Service Company (Southwestern) submitted for filing its Refund Report pursuant to a Commission Letter Order dated November 2, 1983.

Any person desiring to be heard or to protest this filing should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before February 6, 1984. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-2844 Filed 1-30-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF84-115-000]

Swift River Company, Inc.—Collins Dam, Application for Commission Certification of Qualifying Status of a Small Power Production Facility

January 27, 1984.

On December 22, 1983, Swift River Company, Inc. of 148 State Street, Boston, Massachusetts 02109 submitted for filing an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The 1,500 kW hydroelectric facility is located on the Chicopee River in Wilbraham and Ludlow, Massachusetts.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. in accordance with Rule 211 or 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 15 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file

with the Commission and are available for public inspection.

A separate application is required for a hydroelectric project license, preliminary permit or exemption from licensing. Comments on such applications are requested by separate public notice. Qualifying status serves only to establish eligibility for benefits provided by PURPA, as implemented by the Commission's regulations, 18 CFR Part 292. It does not relieve a facility of any other requirements of local, State or Federal law, including those regarding siting, construction, operation, licensing and pollution abatement.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-2851 Filed 1-30-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF84-117-000]

Swift River Company, Inc.—Chicopee Falls Dam; Application for Commission Certification of Qualifying Status of a Small Power Production Facility

January 27, 1984.

On December 22, 1983, Swift River Company, Inc. of 148 State Street, Boston, Massachusetts 02109 submitted for filing an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The 2,000 kW hydroelectric facility is located on the Chicopee River in Chicopee Massachusetts.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rule 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 15 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

A separate application is required for a hydroelectric project license, preliminary permit or exemption from licensing. Comments on such applications are requested by separate public notice. Qualifying status serves only to establish eligibility for benefits provided by PURPA, as implemented by the Commission's regulations, 18 CFR Part 292. It does not relieve a facility of any other requirements of local, State or Federal law, including those regarding siting, construction, operation, licensing and pollution abatement.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-2852 Filed 1-30-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF83-78-000]

Swift River Company, Inc., Sebec Hydro Company; Application for Commission Certification of Qualifying Status of a Small Power Production Facility

January 27, 1984.

On December 5, 1983, Sebec Hydro Company, (Applicant), Inc., 44 Exchange Street, Portland, Maine 04101, submitted for filing an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The hydroelectric small power production facility is known as the Sebec Lake Outlet Dam located in Sebec Village, Maine. The electric power production capacity of the facility is 720 kilowatts. Applicant is leasing an existing dam from Bangor Hydroelectric Company, improving the site and constructing the power house.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestant parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

A separate application is required for a hydroelectric project license, preliminary permit or exemption from licensing. Comments on such applications are requested by separate public notice. Qualifying status serves only to establish eligibility for benefits provided by PURPA, as implemented by the Commission's regulations, 18 CFR Part 292. It does not relieve a facility of any other requirements of local, State or Federal law, including those regarding siting, construction, operation, licensing and pollution abatement.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-2853 Filed 1-30-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP84-180-000]

Tennessee Gas Pipeline Co.; a Division of Tenneco Inc.; Application

January 27, 1984.

Take notice that on January 6, 1984, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee), P.O. Box 2511, Houston, Texas 77001, filed in Docket No. CP84-180-000 an application pursuant to Section 7(b) of the Natural Gas Act for permission and approval to abandon certain inactive gas pipeline facilities in offshore Louisiana, all as more fully set forth in the application which is on file with the Commission and open for public inspection.

Tennessee proposes to abandon by sale to Conoco, Inc. (Conoco), 7.95 miles of 12¾-inch pipeline No. 526A-300 extending from the West Delta (WD) Block 58A platform to the WD 54 Tank Battery #3 (WD58A Line) and abandon in place 1.73 miles of 12-inch pipeline No. 526A-300 located between Block WD58A platform and Block WD 59A platform (WD59A Line), both in offshore Louisiana. Tennessee states it would sell its WD58A Line to Conoco, the producer, for $100,000, for the transportation of low-pressure liquids.

Tennessee states that all production from WD58A and WD59A platforms has ceased, the wells have been plugged and no resumption of old production is planned or anticipated.

Any person desiring to be heard or to make any protest with reference to said application should on or before February 15, 1984, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person

wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Tennessee to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-2854 Filed 1-30-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP84-173-000]

Tennessee Gas Pipeline Company, a Division of Tenneco Inc.; Request Under Blanket Authorization

January 26, 1984.

Take notice that on January 4, 1984, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee), P.O. Box 2511, Houston, Texas 77001, filed in Docket No. CP84-173-000 a request pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) that Tennessee proposes to transport natural gas for an end-user under the authorization granted in Docket No. CP82-413-000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

Tennessee proposes to transport up to 50,000 Mcf of natural gas per day, pursuant to the terms of a transportation agreement dated November 4, 1983, that is purchased by United States Steel (U.S. Steel) from Delhi Gas Pipeline Corporation (Delhi) which would deliver the gas to the Ozark Gas Transmission System (Ozark) for the account of Tennessee. Tennessee states that it would use its capacity entitlement in Ozark to transport the gas for delivery to Natural Gas Pipeline Company of America (Natural) at an existing point of interconnection in White County, Arkansas, for further transportation. It is indicated that the gas would be used by U.S. Steel in its Lorain and Haverhill Plants in Ohio and in the Fairless Plant in Pennsylvania.

Tennessee proposes to charge U.S. Steel 35.0 centers per Mcf comprised of Ozark's commodity charge of 29.12 cents and 5.88 cents demand component plus an added incentive charge of 2.5 cents per million Btu of the gas delivered by Tennessee for the account of U.S. Steel.

Tennessee requests the Commission waive § 284.103(b) of its Regulations and Article 3.2 of Tennessee's Rate Schedule ITEU in order to permit Tennessee to charge a volume charge. Tennessee proposes to retain the 29.12 cents per Mcf to recover the commodity charge attributable to Ozark and Tennessee states that this amount represents its out-of-pocket expense in rendering the proposed transportation expense. Tennessee would credit the 5.88 cents per Mcf remaining transportation cost to its Account No. 191, it is indicated.

Tennessee states that no new pipeline facilities are required and that it commenced the transportation service pursuant to § 157.209(e)(1) on November 4, 1983, and would continue the service until October 31, 1984.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-2838 Filed 1-30-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP78-328-004]

Transcontinental Gas Pipe Line Corp.; Petition To Amend

January 27, 1984.

Take notice that on January 10, 1984, Transcontinental Gas Pipe Line Corporation (Petitioner), Post Office Box 1396, Houston, Texas 77251, filed in Docket No. CP78-328-004 a petition to amend the order issued in Docket No. CP78-328-000, *et al.*, on August 8, 1978, as amended on January 22, 1980, so as to authorize an increase maximum delivery obligation at a delivery point under a transportation service for Consolidated Gas Supply Corporation (Consolidated), all as more fully set forth in the petition which is on file with the Commission and open to public inspection.

Petitioner states it is presently providing firm and interruptible transportation services for Consolidated from sixteen points on Petitioner's system, onshore and offshore Louisiana, to a redelivery point on Consolidated's system at Leidy, Clinton County, Pennsylvania. One of the points of delivery to Petitioner for firm transporation is the point of interconnection of Petitioner's Southwest Louisiana Gathering System and the tailgate of U-T Offshore System's Johnson's Bayou Plant in Cameron Parish, Louisiana (U-TOS delivery point), where the maximum delivery obligation is presently 55,000 dekatherms (dt) equivalent of gas per day, it is asserted.

Petitioner states that Consolidated desires that the maximum delivery obligation at the U-TOS delivery point be increased from 55,000 dt per day to 70,000 dt per day and requests that its certificate be amended accordingly. It is asserted that the requested increase at the U-TOS delivery point would not affect the aggregate firm long-haul transportation demand volume. No other changes to present authorization is sought.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before February 15, 1984, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in deterinming the appropriate action to be taken but will not serve to make the protestants partics to the

proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-2855 Filed 1-30-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP80-440-003]

Transcontinental Gas Pipe Line Corp.; Proposed Change in FERC Gas Tariff

January 25, 1984.

Take notice that on January 13, 1984, Transcontinental Gas Pipe Line Corporation (Transco) tendered for filing the following sheets to its FERC Gas Tariff, Original Volume No. 2:

First Revised Sheet Nos. 2279 through 2283 and Original Sheet Nos. 2283-A and 2283-B.

Transco states that subject filing reflects a revision of its Rate Schedule X-231, which is a transportation agreement with Tennessee Gas Pipeline Company, a Division of Tenneco, Inc. (Tennessee), dated April 21, 1980, as amended February 15, 1983, and initially authorized by the Commission in a certificate issued in Transco, Docket No. CP80-440 on November 6, 1980. In the amendatory agreement dated February 15, 1983, Transco and Tennessee agreed to revise their transportation arrangement to increase the contract quantity from 12,000 to 20,000 Mcf per day, include an additional point of delivery by Tennessee to Transco on Transco's Southeast Louisiana Gathering System in Township 19 South, Range 16 East, Terrebonne Parish, Louisiana, and to include provisions related to redelivery gas pressures and charges for transportation of liquefiables, if any. On April 6, 1983, Transco filed its petition to amend certificate to obtain authorization for the aforementioned changes, and the February 15, 1983 amendatory agreement was included therein as Amended Exhibit P. On June 30, 1983, the Commission issued an order amending order authorizing the changes. A copy of the instant filing has been served upon Tennessee.

The tariff sheets are proposed to become effective June 30, 1983.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before January 31, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-2830 Filed 1-30-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP84-174-000]

Western Gas Interstate Co.; Application

January 27, 1984.

Take notice that on January 4, 1984, Western Gas Interstate Company (Western), 900 United Bank Tower, 400 West 15th Street, Austin, Texas 78701, filed in Docket No. CP84-174-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of certain natural gas transmission facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Western states that during a recent overall assessment of the operating condition of its Northern Division, two segments of the transmission facilities were identified as showing significant deterioration. It is further stated that those segments require immediate replacement.

Western indicates that one of the segments is currently suspended under an aging bridge which crosses the Beaver River in the State of Oklahoma and that the Beaver River consists of a dry riverbed, except during periods of substantial rainfall or run-off from snow. Western further indicates these facilities, which are part of Western's East Line, have deteriorated primarily due to the shifting and sagging of the bridge. Western states that the deterioration presents a potential hazard and the possibility of a disruption in service to the town of Beaver, Oklahoma. Western proposes to replace the current facilities with approximately 1,300 feet of 6-inch, 0.237-inch W.T. pipe, at an estimated cost of $79,250. The new facilities would run under the riverbed, it is explained.

Western states that the second segment is part of its West Line that runs through the town of Stratford, Texas. Western further states that approximately 1,300 feet of pipeline running under sidewalks in front of commercial establishments and through a residential area has deteriorated to the point where immediate replacement is required. Western proposes to replace the existing facilities with 8-inch, 0.250 W.T. pipe, at an estimated cost of $38,700.

In both cases, Western indicates that it proposes to replace existing facilities with larger diameter pipe. Western states that, from a cost standpoint, such replacement would benefit those customers served in Beaver, Oklahoma, and Stratford, Texas. Western further states the difference in the cost of replacing current facilities with the larger diameter pipe and replacing them with the same diameter pipe is not significant.

Western proposes to finance the cost of the construction through internally generated funds on short-term loans.

Any person desiring to be heard or to make any protest with reference to said application should on or before February 15, 1984, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Section 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Western to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-2558 Filed 1-30-84; 8:45 am]

BILLING CODE 6717-01-M

FEDERAL COMMUNICATIONS COMMISSION

Public Information Collection Requirements Submitted to Office of Management and Budget for Review

December 30, 1983.

The Federal Communications Commission has submitted the following information collection requirements to OMB for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96-511. These are existing information collection requirements in use without OMB numbers. No changes are proposed.

Copies of these submissions are available from Richard D. Goodfriend, Agency Clearance Officer, (202) 632-7513. Persons wishing to comment on any of these information collections should contact David Reed, Office of Management and Budget, Room 3235 NEOB, Washington, D.C. 20503, (202) 395-7231.

Part or section No.	Title
Part 61	Tariffs.
Part 69	Access Charges.
Section 74.1281	Station records.
Section 76.12	Registration statement required.
Section 76.54	Significantly viewed signals; method to be followed for special showings.
Section 76.205	Origination cablecasts by candidates for public office.
Section 76.209	Fairness doctrine; personal attacks; political editorials.
Section 76.221	Sponsorship identification; list retention; related requirements.
Section 76.305	Records to be maintained locally by cable television system operators for public inspection.
Section 76.311	Equal employment opportunity.
Section 76.601	Performance tests.
Section 78.33	Special temporary authority.
Section 78.69	Station records.
Section 78.75	Equal employment opportunity.
Section 81.36(d)	Modification of license.
Section 81.74	Notice of involuntary discontinuance, reduction, or impairment of service.
Section 81.76	Cancellation of license.
Section 81.115	Retention and availability of radio station logs.
Section 81.193	Inspections and maintenance of tower markings and associated control equipment.
Section 81.223	Station documents.
Section 81.224	Station logs.
Section 81.313	Station documents.
Section 81.314	Station logs.
Section 81.352	Cooperative use of facilities.
Section 81.704	Alaska-public fixed station records.
Section 90.437	Posting of station license.
Section 90.443	Content of station records.
Section 90.477(b)	Interconnected systems.
Section 90.505	Developmental operation, showing required.
Section 90.517	Developmental operation—report of operation.
Section 90.607 (b)(1) and (c)(1).	Supplemental information to be furnished by applicants for facilities under this subpart.
Section 90.629(a)	Extended implementation schedules.
Section 90.633 (f) and (g).	Conventional system loading requirements (wide area systems).
Section 90.651	Supplemental reports required of licensees authorized under this subpart.
Section 94.17(d)	Cooperative use records.
Section 94.17(e)	Add-ons notification.
Section 94.25	Filing of applications.
Section 94.27(b)	Application and standard forms.
Section 94.31	Supplemental information.
Section 94.43	Special temporary authority.
Section 94.45	Modification of license.
Section 94.51	Time to construct.
Section 94.107	Posting of station authorization.
Section 94.113	Station records.
Section 97.82	Availability of operator license.
Section 97.83	Availability of station license.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 84-2525 Filed 1-30-84; 8:45 am]

BILLING CODE 6712-01-M

[CC Docket No. 80-742; Docket No. 20828; FCC 83-601]

License Contract Agreements and Other Intrasystem Arrangements of the Major Telephone Systems; and American Telephone and Telegraph Co; Report on Services To Be Shared Between Fully Separated Subsidiary and Affiliated Companies and Associated Costing Methodology

AGENCY: Federal Communications Commission.

ACTION: Report and order.

SUMMARY: This action terminates the License Contract Inquiry and concludes that the American Telephone and Telegraph Company's (AT&T) accounting systems, with certain modifications, provide reasonable assurance that administrative services and provided to the AT&T Information Systems on a cost compensatory basis.

This action is taken by the Commission because the principal subject of the License Contract Inquiry, the Bell System License Contract, will be terminated shortly and because other issues raised in the Inquiry are being addressed in other Commission proceedings.

The action requires that AT&T make certain modifications in its accounting systems and report back to the Commission on those modifications within 60 days of the release date of the Report and Order.

FOR FURTHER INFORMATION CONTACT: Pat McQuie Nagle, Common Carrier Bureau, (202) 632-4887.

Report and Order

In the matter of License Contract Agreements and other Intrasystem Arrangements of the Major Telephone Systems (CC Docket No. 80-742), and in the matter of American Telephone and Telegraph Company; Report on Services to be Shared Between Fully Separated Subsidiary and Affiliated Companies and Associated Costing Methodology (Docket No. 20228).

Adopted: December 22, 1983.

Released: January 16, 1984.

By the Commission: Commissioner Patrick not participating.

I. Introduction

1. In this *Order* we consider two separate but related proceedings concerned with the provision of services by the major telephone companies to their affiliates.

2. We first consider the status of our inquiry into the license contract agreements, and other intrasystem arrangements utilized by the American Telephone and Telegraph Company (AT&T), General Telephone and Electronics Corp. (GTE), United Telecommunications, Inc. (United) and Continental Telephone Corp. (Continental). *License Contract Agreements and Other Intrasystem Arrangements of the Major Telephone Systems, (License Contract Inquiry)*, 84 FCC 2d 259 (1981). Under these agreements, a designated organization within each telephone system provides some services for all affiliates of the system. The *License Contract Inquiry* sought methods to ensure that carriers would incur only reasonable expenses, and that these expenses would be properly allocated between monopoly and competitive operations. We sought comment on the funding formulae, allocation of costs, methods of separating basic research from applied research, and impact of these agreements on competitive markets.

3. We next consider the impact of the *Modified Final Judgment (MFJ)*[1] and the *Computer II Inquiry*[2] on AT&T's

[1] United States v. AT&T, 52 F. Supp. 131 (D.D.C. 1982), *aff'd sub nom.* Maryland v. United States, 103 S. Ct. 1240 (1983).

[2] Amendment of Section 64.702 of the Commission's Rules and Regulations (Computer II), 77 FCC 2d 384 (1980) (Final Decision), *reconsideration*, 84 FCC 2d 50 (1980), *further reconsideration*, 88 FCC 2d 512 (1981), *aff'd sub nom. Computer & Communications Industry Ass'n v. FCC*, 693 F.2d 198 (D.C. Cir. 1982), *cert. denied*, 103 S. Ct. 2103 (1983).

provision of administrative services to its affiliates. In the *Further Reconsideration in the Second Computer Inquiry (Computer II)*, we required that AT&T file a description of those administrative services which it planned to provide to AT&T Information Systems (ATTIS) its separate subsidiary formed to provide enhanced services and customer premises equipment. We also requested AT&T to include with this description an explanation as to how the costs of such services were to be allocated to the subsidiary. *Further Reconsideration* at 548–549. In response AT&T filed a *Report on Services to be Shared Between Fully Separated Subsidiary and Affiliated Companies and Associated Costing Methodology (Report)*.

4. The Commission considered and acted upon AT&T's *Report* in two subsequent orders, the *General Departments Order*, 90 FCC 2d 184 (1982) and the *Shared Services Order*, 92 FCC 2d 676 (1983), reconsideration granted in part, FCC 83–355, released July 29, 1983. These *Orders* define the extent of services which may be provided to AT&T Information Systems by AT&T and its affiliates. The *Orders* also establish certain accounting and reporting requirements on the part of AT&T and direct the Commission staff to monitor and report to the Commission concerning the effectivenes of the accounting system AT&T developed to account for the expenses of administrative services provided to ATTIS.

5. We conclude herein that the issues raised in the *License Contract Inquiry* have been, or will be, more appropriately addressed in other proceedings. In the interests of regulatory efficiency, and to avoid undue burdens to carriers, therefore, we terminate the *License Contract Inquiry*. We also review the attached Staff Report on Shared Administrative Services and adopt its findings and recommendations. We conclude that AT&T has provided services to ATTIS in a manner consistent with our decisions and that, with certain modification, AT&T's accounting system provides a reasonable method of accounting for the costs of those services. We further recognize that changes in AT&T's corporate structure will require modifications to its previously filed *Report* concerning services to be provided ATTIS and we direct AT&T to file a supplement to the *Report*.

II. License Contract Inquiry

6. In the Notice of Inquiry initiating the *License Contract* proceeding we discussed at length the License Contract agreements between AT&T and the Bell Operating Companies (BOCs), and the similar agreements which exist between AT&T and AT&T's Long Lines Departments. We noted that the Bell System license contract expenditures "dwarf" those of other integrated telephone companies. Under the Bell System License Contract agreements, AT&T's General Departments provide advisory, supervisory and technical services to the BOCs. More specifically, the General Departments have provided the BOCs and Long Lines with (1) the right to use equipment under patents owned or controlled by AT&T and protection by AT&T against suits; (2) fundamental research and systems engineering (R&SE); and (3) financial, legal and technical advice and assistance, as well as other administrative services. Expenses incurred by AT&T in providing these license contract services are charged to the BOCs based on annual cost studies. Under the License Contract, charges to a BOC must not exceed a fixed percentage of that BOC's revenues. AT&T Long Lines has traditionally received the same services and is billed under the same annual cost studies.

7. The *License Contract Inquiry* is no longer the appropriate proceeding in which to review the contractual relationships between the General Departments and AT&T affiliates. The MFJ entered into by AT&T and the Department of Justice calls for "termination of the License Contracts between AT&T and the BOCs and other subsidiaries . . ." *MFJ* § I(A)(3). In the *Plan of Reorganization (POR)* filed with the Court on Dec. 16, 1982 by AT&T and approved by the court on August 5, 1983, AT&T stated that the License Contract would be terminated as of the date of divestiture, January 1, 1984, by means of termination agreements between the BOCs and AT&T. AT&T reports that work on agreements to terminate the License Contract, the Standard Supply Contract and the Cost Sharing Agreement is expected to be complete by the fourth quarter of 1983. *See* September 30, 1983 letter from Frank C. Minter, Assistant Comptroller, AT&T to the Chief, Common Carrier Bureau. We will review the scope of these successor agreements and take appropriate action in their regard as necessary. Furthermore, in our implementation of Computer II we are addressing AT&T's methods of accountng for the costs of administrative services and research incurred by the General Departments and Bell Labs on behalf of ATTIS.

8. As discussed below, the *License Contract Inquiry* also was to determine whether procedures adopted with respect to the Bell System License Contract arrangements should apply to similar arrangements within GTE, United and Continental. With the termination of the AT&T License Contracts, the *License Contract Inquiry* no longer appears to provide a useful forum for consideration of the intercorporate arrangements of the other companies (*See* below at paras. 13 through 16.)

9. When the BOCs are divested on January 1, 1984, the General Departments and associated accounting procedures will undergo substantial changes. At paragraph 32 we have instructed the staff to continue monitoring the General Departments accounting for administrative services to ensure that ratepayers are not billed for expenses that should be attributed to unregulated affiliates. In the process of monitoring those billings, the staff will review the classifications of, and billings for, all Bell Labs research and development. Finally, we have recently directed the Regional Bell Operating Companies to file with the Commission a report describing in detail the planned operations and support functions to be provided by the Central Service Organization to the BOCs and, if such are planned, to ATTIS.[3]

Monitoring Administrative Services and Fundamental research

10. As noted above we have established limits on service when AT&T may provide to ATTIS, and directed the staff to monitor AT&T's implementation of the new expense accounting system.

11. The Staff Report on Shared Administrative Services (Staff Report) is attached to this *Order*. Based on this report, we conclude below that the General Departments' new accounting system adequately identifies the expenses of administrative service expenses which benefit ATTIS. With the introduction of certain modifications to the General Departments' accounting system, we are satisfied that AT&T's charges to ATTIS for these administrative services will be reasonable. In a November 16, 1983, letter from William R. Stamp to the Chief of the Common Carrier Bureau, AT&T describes changes in its corporate structure that will occur on January 1,

[3] Policy and Rules Concerning the Furnishing of Customer Premises Equipment, Enhanced Services and Cellular Communications Services by the Bell Operating Companies, FCC 83–552, released December 30, 1983.

1984. The General Departments will be replaced by a smaller Corporate Headquarters organization. AT&T states in its letter that all costs associated with this organization will be charged to AT&T affiliates using procedures "similar or identical to procedures the Commission has approved in the course of the CI–II decisions."

12. Under § 64.702(c)(4) of the Commission's Rules, ATTIS may engage in joint research and development efforts with its AT&T affiliates. AT&T however, chose to transfer to ATTIS all Bell Telephones Laboratories, Inc. (Bell Labs) employees engaged in enhanced services and CPE research and development. This greatly reduces the potential for misassignment of joint research and development expenses. In a companion item, the Commission has reviewed AT&T's allocation of fundamental research expenses to ATTIS. *Allocation of Fundamental Research Expenses*, ENF 83–14, adopted December 22, 1983. Therein, we adopt AT&T's proposal to bill post-divestiture fundamental research expenses based on a composite allocator. In addition, in that *Order* we have directed the staff to monitor AT&T's charges to ATTIS for such research.[4]

Independent Telephone Companies

13. In the *License Contract Inquiry*, we recognized that GTE, United, and Continental had service agreements that were comparable to the Bell System License Contract. Under the agreements used by these carriers, services such as legal, management and accounting assistance are provided centrally, costs are allocated to affiliated operating companies, and the allocated costs become part of each affiliated operating company's revenue requirement. We noted however that there were significant differences between the agreements of the independents and the Bell System License Contract. For example, AT&T's License Contract expenses are far greater than the corresponding expenses of the independent telephone companies. In addition, the independent telephone companies do not fund research and systems engineering through these agreements.

14. The scope of the *License Contract Inquiry* included the agreements of GTE, United, and Continental because of state and federal concerns over the increasing expense associated with the services provided under these contracts. *License Contract Inquiry* at para. 25. We noted, however, that our major focus would remain on the Bell System License Contract, and we sought comment on whether proposals affecting that agreement should be applied to independent telephone company agreements as well. *Id.*

15. More recently, we initiated a proceeding in order to address the appropriate regulatory treatment for embedded (regulated) customer premises equipment (CPE) owned by the independent telephone companies and to address the accounting by these companies for expenses associated with the provision of unregulated enhanced services and CPE.[5] In response to that Notice of Inquiry, several independent telephone companies, including GTE, United, and Continental, filed specific accounting proposals. We have recently adopted on *Order* in that proceeding permitting AT&T to transfer embedded CPE to ATTIS.[6] Therein we stated that in a subsequent action we would address accounting requirements for the independent companies in connection with their embedded CPE activities, the sale of CPE under regulation, and the valuation of CPE supporting assets transferred to unregulated activities.

16. In sum, as the preceding discussion indicates, there is no longer a reason for continuation of the *License Contract Inquiry*. The principal subject of the Inquiry, the Bell System License Contract, will be terminated shortly. We are addressing AT&T's administrative and research and development expenses in our review of AT&T's compliance with our Computer II rules and policies. Those proceedings are well suited for the resolution of any concerns that arise from arrangements that succeed the License Contract. Similarly, the *License Contract Inquiry* is no longer useful or necessary for consideration of similar arrangements of the independent telephone companies. The independents were originally included as subjects of the inquiry in order to determine if procedures adopted for the Bell System License Contract would also be applicable to the independent telephone companies. Cost allocation for the independents is now being addressed in the *Implementation Proceeding*, and will be covered in the revised Uniform System of Accounts, which we plan to implement in 1986. We will decide in the course of those proceedings whether further action with respect to the independents is necessary.[7] Accordingly, we will terminate the *License Contract Inquiry*.

III. Staff Report on Shared Administrative Services

17. The attached Staff Report reviews AT&T's provision of administrative services to its subsidiary, ATTIS. The report describes services provided to ATTIS by the General Departments and Bell Labs and analyzes AT&T's system of identification and accounting for the costs of services supporting ATTIS. The General Departments, which functions as AT&T's corporate headquarters, provides AT&T and its affiliates with a wide variety of services. Bell Labs is the primary research and development organization within the Bell System and does not normally provide administrative services to other AT&T affiliates. We have authorized Bell Labs to temporarily provide physical space and transitional support services to ATTIS.

18. In our Computer II decisions we permitted AT&T to furnish ATTIS with accounting, auditing, legal, personnel recruitment and management services, financial, tax, insurance and pension services. *Reconsideration* at para. 102. AT&T is obligated to ensure that such services are provided only on a cost compensatory basis. As noted earlier, we subsequently reviewed and in large part approved more detailed plans submitted to AT&T describing services to be provided and the methods to be used in accounting for ATTIS' share of their costs. We further directed the staff to monitor AT&T's implementation of its new accounting system.

[4] We note that while we have permitted AT&T to distribute 1982–83 expenses for some administrative services by means of the composite allocator, we decline, in a companion item, to permit use of the composite for fundamental research expenses incurred during that same period. We do not regard these decisions as inconsistent. AT&T uses the composite allocator to distribute only those expenses for which no alternate allocator is clearly available. AT&T applies a more precise allocator whenever possible. For example, personnel and medical services are distributed through the employee allocator and banking services are distributed through the total capital allocator. See Appendix A, Table I. AT&T has also historically used a more precise allocator than the composite in distributing research costs. We patterned our requirement that fundamental research expenses for 1982–83 be distributed on the basis of non-fundamental research and systems engineering on AT&T's traditional method of allocating those expenses to the BOCs and to AT&T Communications.

[5] This proceeding was initiated through the release of a Notice of Inquiry on April 13, 1982. Procedures for Implementing the Detariffing of Customer Premises Equipment and Enhanced Services (Second Computer Inquiry) CC Docket No. 81–893, Notice of Inquiry, 89 FCC 2d 694 (1982) (hereinafter Notice of Inquiry).

[6] Procedures for Implementing the Detariffing of Customer Premises Equipment and Enhanced Services (Second Computer Inquiry), Report and Order, FCC 83–551, released December 15, 1983 (hereinafter Implementation Proceeding).

[7] The Revision of the Uniform System of Accounts and Financial Reporting Requirements for Telephone Companies, 88 FCC 2d 83 (1981).

19. Much of AT&T's administrative support to ATTIS is provided through the General Departments. Work in the General Departments is performed under both License Contract and non-License Contract agreements. Non-License Contract projects provide a direct product or service to participating companies, rather than the general advice and assistance provided under the License Contract. ATTIS is charged for its participation in non-License Contract projects by means of the same allocators and through the same accounting system used to charge other AT&T affiliates. AT&T, however, developed a new accounting system, the Activity Based Cost Billing System (ABBS), to ensure that ATTIS is charged its full share of the costs of License Contract services.

20. Bell Labs also provides administrative support to ATTIS. These services include tenant support services, such as medical and custodial services, in facilities which it shares with ATTIS pending completion of ATTIS' own research facility in December, 1985. Bell Labs also has provided training, education, employee recruitment and library services. The provision of many of these services has terminated or will shortly terminate. See Table III in the Appendix. Charges to ATTIS for such services are collected through Bell Labs' "case" system which establishes the authorization and billings for costs by charging the individual services to defined programs of work.

21. The staff has reviewed AT&T's compliance with our *Orders* and the accounting procedures AT&T has employed to ensure that ATTIS provides reasonable compensation for the services it receives from other AT&T affiliates. In doing so, the staff familiarized itself with the regular and special accounting systems in the General Departments and at Bell Labs, reviewed internal and external audits and accompanying workpapers and interviewed AT&T managers and directors of departments. The staff ascertained the criteria used to identify work as properly performed and billed to ATTIS, reviewed the computation of the bills submitted to ATTIS and verified that ATTIS paid those charges in a timely fashion.

22. The staff has concluded that AT&T's accounting systems, in general provide for proper reimbursement for the costs of services provided to ATTIS. There are, however, certain segments of the acconting process to which we direct AT&T's further attention. Those areas include procedures used by AT&T to identify work which benefits ATTIS, procedures used to bill and ensure timely payment of bills by ATTIS and the calculation of allocators used in distributing expenses incurred for a service benefitting both ATTIS and other AT&T affiliates.

23. The staff concluded that all services benefitting ATTIS were properly identified at Bell Labs. Further, in the General Departments, License Contract services which benefit ATTIS as well as other affiliates are, with the exceptions noted in para. 24 below, also properly identified. AT&T's procedures for identification of License Contract services to be directly billed to ATTIS are less satisfactory. AT&T relies first, upon managerial decisions that work benefits ATTIS solely or primarily, and secondly, upon a complex system which requires that employees file exception time reports (ETRs) whenever they perform work outside their normal routines. Expenses are changed directly for projects which primarily benefit ATTIS and for work which employees perform under the ETR process. Few projects have been directly billed to ATTIS during the past year and managers appear to misinterpret the guidelines which AT&T issued regarding work to be directly charged to ATTIS. We have previously expressed our concern regarding direct billing to ATTIS and therefore we direct AT&T to obtain from its independent auditors, Coopers and Lybrand (Coopers), a further review of its system, including an examination of the ETR process, for purposes of determining whether AT&T's procedures have provided for all appropriate direct billing to ATTIS. On the basis of Coopers' review we will decide whether the budget decision package process is adequate in tracking the costs of direct services. We reserve judgment, therefore, and may require further modifications in AT&T's procedures. We also instruct AT&T to review all ETRs filed by General Departments organizations and to issue bills within 30 days of the date of this *Order* for all work performed on behalf of ATTIS for which that company has not been billed. See Staff Report at paras. 31 and 60 through 64.

24. The staff has identified four projects in the legal department which were not identified by AT&T as services benefitting ATTIS. Those projects should be reclassified and ATTIS should be charged its appropriate share of their expenses to insure that ratepayers are not unduly burdened. See Staff Report at paras. 31 through 37.

25. AT&T's procedures permit affiliates to decide whether they will participate in non-License Contract cost-share projects. Many such projects provide an overall corporate benefit, and, therefore, permitting affiliates to decide whether they will share the costs is inappropriate. ATTIS' decisions regarding non-License Contract projects were not transmitted to the General Department until May 1, June and July 1983. ATTIS thus received benefits from projects, many of which began in January, for which it paid no compensation until, at the earliest, September. We direct AT&T to revise its procedures to (a) eliminate the prior approval required for ATTIS participation in, and financial responsibility for, non-License Contract projects which provide clear corporate benefits to ATTIS and (b) to provide for billing for all non-License projects within 30 days of their initiation. See Staff Report at paras. 38 through 43.

26. The staff identified a number of bills for services to ATTIS which had been unpaid for more than 180 days. AT&T corrected this deficiency when the bills were brought to its attention. On December 1, 1983, AT&T began implementation of new billing procedures which provide for billing to ATTIS on the 1st of each month with payment due on or before the 15th day of that month. AT&T will apply a late payment charge to any bill not paid by the due date. We instruct AT&T to conduct a regular review of accounts receivable in order to ensure that late payment charges are consistently applied. See Staff Report at para. 66.

27. Finally, AT&T determines ATTIS' share of the expenses of License Contract services by applying an allocation factor to the total costs of those services which it has previously identified as supporting ATTIS. AT&T has included in the calculation of those allocators data for every Bell System affiliate, whether or not those affiliates pay a proportionate share of those License Contract expenses. The result of such calculations is to undercharge ATTIS and to shift the burden of costs onto the operating companies and eventually to the ratepayer. AT&T is directed to recalculate the allocators and the billings for 1982–83 using data only for the BOCs, Long Lines, CBI, SNET and ATTIS. See Staff Report at paras. 51 through 56. As noted below however, at the time of divestiture, AT&T will modify its accounting for services providing company-wide benefits in a manner which should eliminate the flaw in its present method of distributing expenses of ATTIS.

Changes in AT&T Corporate Structure

28. AT&T has advised the Bureau, by letters dated November 16 and December 14, 1983, regarding certain structural changes which it will make on January 1, 1984. AT&T states that the General Departments will be eliminated and replaced, in part, by a Corporate Headquarters organization of approximately 1,700 people whose operations will be limited to financial and policy activities. Expenses for these activities will be allocated to each of the AT&T entities, including AT&T Communications, Inc., the new corporation which replaces the Long Lines department. AT&T also states that, under a further restructuring, all unregulated activities will be under the direction of AT&T Technologies. Administrative services now provided by the General Departments will, in the future, be provided by AT&T Technologies, Corporate Headquarters and, to a lesser extent, AT&T Communications. Allocation procedures used to distribute expenses will be, according to AT&T, "similar or identical to procedures the Commission has approved in the course of the CI–II decisions."

29. AT&T's letters provide an overview of the services which will be provided by the Corporate Headquarters and by AT&T Technologies and AT&T Communications to ATTIS and the methods that will be used in accounting for them. With the reorganization of its Corporate Headquarters and of AT&T Technologies, we direct AT&T to file a detailed supplement to its earlier Report on Services to be Shared, including details of the accounting systems it will rely upon in allocating expenses to the several AT&T entities which will bear the costs. The supplement should also describe the structures of the Corporate Headquarters entity and of AT&T Technologies, the services each organization will provide, any revisions to the services now provided ATTIS by the General Departments, and an explanation as to how the new organizations comply with the Computer II separation requirements. Pending our analysis of this report we grant AT&T a temporary waiver to provide administrative services to ATTIS through AT&T Technologies, AT&T Communications and Corporate Headquarters.

Bell Labs Administrative Support to ATTIS

30. Bell Labs provides administrative services in addition to those provided by the General Departments. These services are primarily transition services and services associated with physical space that ATTIS temporarily shares with Bell Labs. Provision of these services will terminate when ATTIS occupies its own research and development facility. Construction of this building is scheduled for completion in December 1985. Table III attached to the Staff Report lists the termination date for each service now provided to ATTIS by Bell Labs. The staff review at Bell Labs focused on verification that only authorized services were provided to ATTIS and on the billing and payment for such services. The staff concluded that Bell Labs has provided services to ATTIS in a manner consistent with our *Orders* and that ATTIS has compensated Bell Labs for these services in a timely fashion.

IV. Conclusions and Ordering Clauses

31. The public interest is best served when agencies ensure that their resources and those of the regulated industries are utilized with maximum efficiency. As discussed in detail above, the concerns which led us to open the *License Contract Inquiry* have been, or will be, more efficiently addressed in other, more carefully focused proceedings. We will therefore terminate the *License Contract Inquiry* and devote our resources to those areas where changing circumstances require our continued attention.

32. We have also concluded that AT&T's provision of administrative services to ATTIS comports with our decisions. AT&T's accounting systems, modified as we have described above, provide a proper system of accounting for the ATTIS share of the expenses associated with those services. We recognize, however, that AT&T's changing internal structure will result in modifications to these systems and to the services provided to ATTIS. We therefore charge the staff of the Common Carrier Bureau with continued monitoring of AT&T's provision of administrative services to ATTIS. The Bureau shall report to the Commission regarding AT&T's plans for providing services to affiliates under the unified accounting system described above in paragraphs 26 and 29.

33. Accordingly, it is ordered, That the License Contract Inquiry, CC Docket No. 80–742, is terminated.

34. It is further ordered, pursuant to Section 4 (i) and (j) of the Communications Act, That the American Telephone and Telegraph Company shall take all actions set forth herein and shall file a report on its actions within 60 days of the release of this Order.

35. It is further ordered that the American Telephone and Telegraph Company shall file a report describing the organization and services of its newly formed Corporate Headquarters and AT&T Technologies entities and the manner in which the AT&T companies will receive these services and be charged for them no later than 60 days following the release of the Order.

Federal Communications Commission.

William J. Tricarico,

Secretary.

Note: The Staff Report and Tables accompanying this document are filed as a part of the original document and will not be printed herein due to our continuing effort to minimize publishing costs. However, they may be viewed in the FCC Dockets Branch, Rm. 239, and the FCC Library, Rm. 639, both located at 1919 M. St., NW., Washington, D.C. 20554. In addition, copies of this Report and Order in its entirety may be obtained from the International Transcription Service, also located at 1919 M St., NW., Tel. No. (202) 296–7322.

[FR Doc. 84–2527 Filed 1–30–84; 8:45 am]

BILLING CODE 6712–01–M

FEDERAL MARITIME COMMISSION

Agreements Filed

The Federal Maritime Commission hereby gives notice that the following agreements have been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and may request a copy of each agreement and the supporting statement at the Washington, D.C. Office of the Federal Maritime Commission, 1100 L Street, NW., Room 10325. Interested parties may submit protests or comments on each agreement to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after the date of the **Federal Register** in which this notice appears. The requirements for comments and protests are found in § 522.7 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Any person filing a comment or protest with the Commission shall, at the same time, deliver a copy of that document to the person filing the agreement at the address shown below.

Agreement No. 9845–2.

Title: Global Container Services, Inc. Container Interchange Agreement.

Parties:

Columbus Line.
DC Holdings, Ltd.
Universal Express Container Services, Inc.

Synopsis: The proposed amendment reflects the sale and transfer of stock in Global Container Services by Dart Container Line to DC Holdings, Ltd.

Filing party: Edward F. Brimo, Treasurer, Global Terminal & Container Services, Inc., P.O. Box 273, Jersey City, N.J. 07303.

Agreement No. 10071–2.

Title: Cruise Lines International Association.

Parties:

American Hawaii Cruises
Bahama Cruise Lines, Inc.
Carnival Cruise Lines
Commodore Cruise Lines, Ltd.
Costa Cruises
Cunard Line Ltd.
Delta Queen Steamboat Co.
Eastern-Western Curise Lines
Epirotiki Lines, Inc.
Hellenic Mediterranean Lines, Ltd.
Holland America Line, USA Inc.
Home Lines Cruises Inc.
Norwegian American Cruises
Norwegian Caribbean Lines
Paquet Cruises, Inc.
Pearl Cruises Of Scandinavia
Princess Cruises
Royal Caribbean Cruise Line, Inc.
Royal Cruise Line
Royal Viking Line
Sun Line Cruises
Sitmar Cruises

Synopsis: Agreement No. 10071–2 would modify the basic agreement (1) to provide a forum for discussion of matters of common interest to Member Companies and for development of activities aimed at promoting and marketing shipboard holidays; (2) to represent Member Companies in dealing with conferences, trade associations and governmental agencies in matters related to operating and marketing passenger liner or cruise vessels; (3) to represent Member Companies in matters relating to independent travel agencies, including educational and promotional programs and a program to provide for securing the performance of and a code of conduct for independent travel agencies; (4) to promote and market shipboard vacations through travel agency training, public relations, advertising and market research; (5) to expand the description of the Association's purposes, providing for an enlarged organizational table and setting out terms specifying the fiscal management of the Association; and (6) to add provisions concerning expulsion or withdrawal from the Association.

Filing party: Edward Schmeltzer, Esquire, Schmeltzer, Aptaker & Sheppard, P.C., 1800 Massachusetts Avenue NW., Washington, D.C. 20036.

Agreement No. 10495.

Title: Star Shipping A/S/Totem Ocean Trailer Express, Inc. Equipment Interchange Agreement.

Parties:

Star Shipping A/S
Totem Ocean Trailer Express, Inc.

Synposis: Agreement No. 10495 would provide for the interchange of empty and loaded equipment between the parties in the Far East/United States trade.

Filing party: Joseph H. Dettmar, Esquire, Garvey, Schubert, Adams & Barer, 1000 Potomac Street, NW., Washington, D.C. 20007.

Agreement No. 10496.

Title: The Mex-Bras Liner Service.

Parties:

Transportacion Maritima Mexicana S.A.
Companhia de Navegacao Lloyd Brasileiro.
Companhia Maritima Nacional.

Synposis: The Mex-Bras Liner Service, in addition to operating in the parties' bilateral trades between Mexico and Brazil, would include service to importers and exporters in the Puerto Rico-Brazil trade by providing incidental calls at San Juan, Puerto Rico.

Filing party: Peter J. King, Esquire, Hoppel, Mayer & Coleman, 1000 Connecticut Avenue, NW., Washington, D.C. 20036.

Agreement No. 10497.

Title: Lykes Bros. Steamship Co., Inc./Southern Steamship Agency, Inc. Agency Agreement.

Parties:

Lykes Bros. Steamship Co., Inc.
Southern Steamship Agency, Inc.

Synposis: Agreement No. 10497 is a [illegible] agency arrangement whereby Southern Steamship Agency, Inc. is appointed as Lykes Agent to handle release of bills of lading at the port of Charleston, South Carolina.

Filing party: R. J. Finnan, Pricing, Lykes Bros. Steamship Co., Inc., 300 Poydras Street, New Orleans, Louisiana 70130.

By Order of the Federal Maritime Commission.

Dated: January 26, 1984.

Francis C. Hurney,

Secretary.

[FR Doc. 84–2551 Filed 1–30–84; 8:45 am]

BILLING CODE 6730–01–M

[Independent Ocean Freight Forwarder License No. 2096–R]

Aduana International Corp.; Order of Revocation

Section 44(c), Shipping Act, 1916, provides that no independent ocean freight forwarder license shall remain in force unless a valid bond is in effect and on file with the Commission. Rule § 510.15(d) of Federal Maritime Commission General Order 4 further provides that a license shall be automatically revoked for failure of a licensee to maintain a valid bond on file.

The bond issued in favor of Aduana International Corporation, c/o Francisco Perez, 1946 SW. 18th Avenue, Miami, FL 33125, was cancelled effective January 11, 1984.

By letter dated January 6, 1984, Aduana International Corporation was advised by the Federal Maritime Commission that Independent Ocean Freight Forwarder License No. 2096–R would be automatically revoked unless a valid surety bond was filed with the Commission.

Aduana International Corporation has failed to furnish a valid bond.

Therefore, by virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 1 (Revised), § 9.09(f) dated September 27, 1983;

Notice is hereby given, that Independent Ocean Freight Forwarder License No. 2096–R be and is hereby revoked effective January 11, 1984.

It is ordered, that Independent Ocean Freight Forwarder License No. 2096–R issued to Aduana International Corporation be returned to the Commission for cancellation.

It is further ordered, that a copy of this Order be published in the **Federal Register** and served upon Aduana International Corporation.

Robert G. Drew,

Director, Bureau of Tariffs.

[FR Doc. 84–2548 Filed 1–30–84; 8:45 am]

BILLING CODE 6730–01–M

[Independent Ocean Freight Forwarder License No. 1961]

Cargo Express, Inc.; Order of Revocation

On January 16, 1984, Cargo Express, Inc., 10415 S. La Cienega Blvd., Los Angeles, CA 90045, voluntarily surrendered its Independent Ocean Freight Forwarder License No. 1961 for revocation.

Therefore, by virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 1 (Revised), § 9.09(e) dated September 27, 1983;

It is ordered, that Independent Ocean Freight Forwarder License No. 1961, be revoked effective January 16, 1984, without prejudice to reapplication for a license in the future.

It is further ordered, that a copy of this Order be published in the **Federal Register** and served upon Cargo Express, Inc.

Robert G. Drew,

Director, Bureau of Tariffs.

[FR Doc. 84-2547 Filed 1-30-84; 8:45 am]

BILLING CODE 6730-01-M

[Independent Ocean Freight Forwarder License No. 2495]

C.I.F., Inc.; Order of Revocation

On January 16, 1984, C.I.F., Inc., P.O. Box 524276, Miami, FL 33152, voluntarily surrendered its Independent Ocean Freight Forwarder License No. 2495 for revocation.

Therefore, by virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 1 (Revised), § 9.09(e) dated September 27, 1983;

It is ordered, that Independent Ocean Freight Forwarder License No. 2495, be revoked effective January 16, 1984 without prejudice to reapplication for a license in the future.

It is further ordered, that a copy of this Order be published in the **Federal Register** and served upon C.I.F., Inc.

Robert G. Drew,

Director, Bureau of Tariffs.

[FR Doc. 84-2546 Field 1-30-84; 8:45 am]

BILLING CODE 6730-01-M

[Independent Ocean Freight Forwarder License No. 847]

C. J. Hanlon Co., Inc.; Order of Revocation

Section 44(c), Shipping Act, 1916, provides that no independent ocean freight forwarder license shall remain in force unless a valid bond is in effect and on file with the Commission. Rule § 510.15(d) of Federal Maritime Commission General Order 4 further provides that a license shall be automatically revoked for failure of a licensee to maintain a valid bond on file.

The bond issued in favor of C. J. Hanlon Co., Inc., 139-11 95th Avenue, Jamaica, NY 11434, was cancelled effective January 19, 1984.

By letter dated January 6, 1984, C. J. Hanlon Co., Inc. was advised by the Federal Maritime Commission that Independent Ocean Freight Forwarder License No. 847 would be automatically revoked unless a valid surety bond was filed with the Commission.

C. J. Hanlon Co., Inc., has failed to furnish a valid bond.

Therefore, by virture of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 1 (Revised), § 9.09(f) dated September 27, 1983;

Notice is hereby given, that Independent Ocean Freight Forwarder License No. 847 be and is hereby revoked effective January 19, 1984.

It is ordered, that Independent Ocean Freight Forwarder License No. 847 issued to C. J. Hanlon Co., Inc. be returned to the Commission for cancellation.

It is further ordered, that a copy of this Order be published in the **Federal Register** and served upon C. J. Hanlon Co., Inc.

Robert G. Drew,

Director, Bureau of Tariffs.

[FR Doc. 84-2550 Filed 1-30-84; 8:45 am]

BILLING CODE 6730-01-M

[Independent Ocean Freight Forwarder License No. 2534]

Logistics International, Inc.; Order of Revocation

On January 16, 1984, Logistics International, Inc., 8508 Cedar Street, Silver Spring, MD 20910, requested the Commission to revoke its Independent Ocean Freight Forwarder License No. 2534.

Therefore, by virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 1 (Revised), § 9.09(e) dated September 27, 1983;

It is ordered, that Independent Ocean Freight Forwarder License No. 2534, be revoked effective January 16, 1984 without prejudice to reapplication for a license in the future.

It is further ordered, that Independent Ocean Freight Forwarder License No. 2534 issued to Logistics International, Inc. be returned to the Commission for cancellation.

It is further ordered, that a copy of this Order be published in the **Federal Register** and served upon Logistics International, Inc.

Robert G. Drew,

Director, Bureau of Tariffs.

[FR Doc. 84-2549 Filed 1-30-84; 8:45 am]

BILLING CODE 6730-01-M

Independent Ocean Freight Forwarder License Applicants; Universal Sea/Air Express, et al.

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as independent ocean freight forwarders pursuant to section 44(a) of the Shipping Act, 1916 (75 Stat. 552 and 46 U.S.C. 841(c)).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to communicate with the Director, Bureau of Tariffs, Federal Maritime Commission, Washington, D.C. 20573.

Universal Sea/Air Express, Inc., 5534 Armour Drive, Suite A, Houston, TX 77020, Officers; F. Carlos Maidana, President, Raymond R. Ruiz, Treasurer, D'Ann Brown, Secretary.

Freight-A-Ranger, Inc., 5500 West 47th Street, Chicago, IL 60638, Officers: James F. Nettles, President, Mark F. Urban, Vice President, Richard J. Citro.

Amex International Shipping, Inc., 983 South New Hampshire Avenue, Los Angeles, CA 90006, Officers: Steven P. Young-uk Lee, President, Joyce Young-sook Lee, Secretary, Pyong Kon Lee, Chief Fin. Officer.

Deborah J. Puglisi (d.b.a. Lincoln Customhouse Brokers & International Freight Forwarders), 321 NE. 29th Street, Pompano Beach, FL 33064.

Paul Cavazos (d.b.a. Cav Transport and Forwarding Co.), 9019 Neenah, Morton Grove, IL 60053.

By the Federal Maritime Commission.

Dated: January 28, 1984.

Francis C. Hurney,

Secretary.

[FR Doc. 84-2545 Filed 1-30-84; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

American Bancorporation Holding Co.; Acquisition of a Company Engaged in Permissible Nonbanking Activities

The bank holding company listed in this notice has applied under § 225.23 (a)(2) or (f) of the Board's Regulation Y (49 FR 794) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C.

1843(c)(8)) and § 225.21(a) of Regulation Y (49 FR 794) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. With respect to the application, interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding this application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than February 23, 1984.

A. Federal Reserve Bank of Minneapolis (Bruce J. Hedblom, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *American Bancorporation Holding Company*, Brainerd, Minnesota, through its nonbank subsidiary, Credit American Lending Company, Brainerd, Minnesota, which engages in consumer and commercial finance and loan servicing, proposes to become an industrial loan company through the assumption of the depository obligations of the Brainerd, Minnesota office of Thorp Credit and Thrift.

Board of Governors of the Federal Reserve System, January 25, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-2520 Filed 1-30-84; 8:45 am]

BILLING CODE 6210-01-M

BOJ Bancshares, Inc., et al.; Formation of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become bank holding companies by acquiring voting shares or assets of a bank. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each applicantion, interested persons may express their views in writing to the same address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written representation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. Federal Reserve Bank of Atlanta (Robert E. Heck, Vice President) 104 Marietta Street, NW., Atlanta, Georgia 30303:

1. *BOJ Bancsares, Inc.*, Jackson, Louisiana; to become a bank holding company by acquiring 100 percent of the voting shares of Bank of Jackson, Jackson, Louisiana. Comments on this application must be received not later than February 22, 1984.

B. Federal Reserve Bank of Dallas (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Herring Bancorp, Inc.*, Vernon, Texas; to become a bank holding company by acquiring 80 percent or more of the voting stock of The Herring National Bank of Vernon, Vernon, Texas. Comments on this application must be received not later than February 24, 1984.

C. Federal Reserve Bank of San Francisco (Harry W. Green, Vice President) 101 Market Street, San Francisco, California 94105:

1. *ENB Holding Company*, Escondido, California; to become a bank holding company by acquiring at least 80 percent of the voting shares of Escondido National Bank, Escondido, California. Comments on this application must be received not later than February 24, 1984.

2. *HNB Financial Group*, Huntington Beach, California; to become a bank holding company by acquiring 100 percent of the voting shares of the successor by merger to Huntington National Bank, Huntington Beach, California. Comments on this application must be received not later than February 24, 1984.

Board of Governors of the Federal Reserve System, January 25, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-2521 Filed 1-30-84; 8:45 am]

BILLING CODE 6210-01-M

Acquisition of Bank Shares by a Bank Holding Company; Duke Financial Group, Inc.

The company listed in this notice has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire voting shares or assets of a bank. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated. With respect to the application, interested persons may express their views in writing to the address indicated. Any comment on the application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. Board of Governors of the Federal Reserve System (William W. Wiles, Secretary) Washington, D.C. 20551:

1. *Duke Financial Group, Inc.*, New Prague, Minnesota; to acquire 80 percent of the voting shares or assets of Flag, Inc., Cambridge, Minnesota, thereby indirectly acquiring Peoples State Bank of Cambridge, Cambridge, Minnesota. This application may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of Minneapolis. Comments on this application must be received not later than February 24, 1984.

Board of Governors of the Federal Reserve System, January 25, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-2518 Filed 1-30-84; 8:45 am]

BILLING CODE 6210-01-M

M & M Financial Corporation, et al.; Formation of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C.

1842(a)(1)) to become bank holding companies by acquiring voting shares or assets of a bank. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. **Federal Reserve Bank of Richmond** (Lloyd W. Bostian, Jr., Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. *M & M Financial Corporation,* Oak Hill, West Virginia; to become a bank holding company by acquiring 100 percent of the voting shares of the successor by merger to The Merchants and Miners National Bank of Oak Hill, Oak Hill, West Virginia. Comments on this application must be received not later than February 22, 1984.

B. **Federal Reserve Bank of Dallas** (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Tensas Bancshares, Inc.,* Newellton, Louisiana; to become a bank holding company by acquiring at least 80 percent of the voting shares of Tensas State Bank, Newellton, Louisiana. Comments on this application must be received not later than February 24, 1984.

Board of Governors of the Federal Reserve System, January 25, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-2519 Filed 1-30-84; 8:45 am]

BILLING CODE 6210-01-M

Maple Lake Bancorp; Formation of; Acquisition by; and Merger of Bank Holding Companies and Acquisitions of Nobanking Companies

The company listed in this notice has applied under § 225.14 of the Board's Regulation Y (49 FR 794) for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) to become a bank holding company or to acquire voting securities of a bank or bank holding company. The listed company has also applied under § 225.23(a)(2) of Regulation Y (49 FR 794) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(a)(8)) and § 225.21(a) of Regulation Y (49 FR 794) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the Offices of the Board of Governors. With respect to the application, interested persons may express their views in writing on the question whether consummation of the proposal can "reasolnable be expected to produce benfits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding this application must be received at the Reserve Bank indicating for the application or the offices of the Board of Governors not later than February 23, 1984.

A. **Federal Reserve Bank of Minneapolis** (Bruce J. Hedblom, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Maple Lake Bancorporation,* Minneapolis, Minnesota to become a bank holding company by acquiring 90.6 percent of the voting shares of Security State Bank of Maple Lake, Maple Lake, Minnesota, to engage in general insurance agency activities in a community with a population not exceeding 5,000.

Board of Governors of the Federal Reserve System, January 25, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-2522 Filed 1-30-84; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Privacy Act of 1974: Amendment of Existing System of Records

AGENCY: Office of the Assistant Secretary for Management and Budget, Office of the Secretary, HHS.

ACTION: Notice of intent to amend a Privacy Act system of record for purposes of the Debt Collection Act of 1982.

SUMMARY: The Department of Health and Human Services is amending system of records 09-90-0024 to add new routine uses for the purpose of collecting debts owed the Federal Government, and to add a disclosure to consumer reporting agencies as authorized by 5 U.S.C. 552a(b) (12) as added by the Debt Collection Act of 1982 (Pub. L. 97-365). A number of other amendments have been made to reflect changes of organization and titles. We invite public comment on these routine uses.

EFFECTIVE DATE: The notice of disclosure under 5 U.S.C. 552a(b) (12) is effective immediately.

The proposed new routine uses shall be effective without further notice March 1, 1984, unless public comments are received on or before that date that result in a contrary determination.

ADDRESS: Comments should be addressed to: Deputy Assistant Secretary, Finance, Room 705D, Hubert Humphrey Building, 200 Independence Avenue, SW., Washington, D.C., 20201.

FOR FURTHER INFORMATION CONTACT: Sue Mundstuk, DASF Privacy Act Coordinator, telephone (202) 245-6841.

SUPPLEMENTARY INFORMATION: The Debt Collection Act was established to increase the efficiency of the Government-wide effort to collect debts owed the United States and to prescribe certain means for the collection of such debts. These procedures authorize agencies to use private debt collection agencies, to disclose bad debt information to credit bureaus, and to collect claims by administrative offset and salary deduction. To implement these techniques and services, agencies are authorized to disclose the names, addresses, and Social Security numbers of individuals from systems of records and to provide other debt collection information.

System of records 09-90-0024 which follows this notice is amended to provide a new general disclosure

authority, under subsection (b)(12) of the Privacy Act, for disclosing certain personal information to consumer reporting agencies. Before disclosing debtor information, claims collection officers will ensure that due process procedural requirements established in Section 3 of the Debt Collection Act (codified at 31 U.S.C. 3711(f)) have been followed. This authority does not apply to claims arising under the Social Security Act, but new routine use 13, described below, provides the authority for such disclosures regarding some claims under this Act.

We are also amending the system to add six new routine uses. Most of these are for disclosures pursuant to the Debt Collection Act of 1982. The first use (number 9 below) is for disclosures to credit reporting agencies to determine creditworthiness of loan applicants and potential contractors and grantees. On most occasions, these disclosures will be pursuant to OMB Bulletin No. 83–21 (Sept. 21, 1983). The second use (number 10 below) allows disclosures to IRS to find out whether a loan applicant is delinquent in tax payments (Section 7 of the Debt Collection Act, codified at I.R.C. 6103(1)(3)). This use applies at present with the DHHS only to loan programs under the Public Health Service Act. If other loan programs are later added, they will be included without further specific notice. The third use (number 11 below) is for disclosures to collect debts owed the United States. It allows disclosure of limited information to another federal agency so that agency can effect a salary or administrative offset (Sections 5 & 10 of the Act, codified at 5 U.S.C. 5514(a) and 31 U.S.C. 3716, and common law); to the Treasury Department so as to obtain a mailing address (Section 8, codified at I.R.C. 6103(m)(2)); to agents of the Department so as to locate the individual; to debt collection agents under contract to help collect or compromise the debt (Section 13, codified at 31 U.S.C. 3718, and common law); and to the Justice Department to bring suit or take further administrative action to collect, compromise, suspend or terminate a debt. It allows disclosure to a credit reporting agency of addresses supplied by Treasury, but only in order to obtain a credit report from that agency (Section 8, codified at I.R.C. 6103(m)(2)). Section 5 of the Act does not apply to claims arising under or payable under the Social Security Act (see Section 8(e) of the Act), so disclosures for salary offsets may be made only when the individual consents in writing to the offset. The fourth use (number 12 below) is for disclosure of limited information to another federal agency that has asked this Department to effect an administrative offset to help collect a debt owed the United States by an individual to whom we owe money or for whom we are holding money. The fifth use (number 113 below) is to disclose certain information on delinquent debtors under the Social Security Act to consumer reporting agencies. However, this routine use will not apply to debts from overpayment to beneficiaries under Title II (Old-Age Survivors, and Disability Insurance) and Title XVI (Supplemental Security Income) of the Act; and we will not be disclosing delinquent debts of this type to consumer reporting agencies. The sixth use (number 14 below) is to inform the Internal Revenue Service when a debt becomes uncollectible or when certain payments are made to an individual so that IRS can include these amounts as income to the individual under I.R.C. 61.

These new routine uses are compatible with the purposes for which the information is collected. The information is collected in order to keep correct accountings of the Department's financial dealings (other than salaries) and to manage the Department's funds properly. Routine uses 9–13 help the Department consider the financial reliability of applicants in awarding loans, contracts, and grants, and they improve the Government's ability to recover money owed to it. The compatibility is supported by Sections 5, 7, 8, 10, and 13 of the Debt Collection Act; by the OMB guidance on relationship of this act to the Privacy Act (48 FR 15556 (Apr. 11 1983)); and by OMB Bulletin No. 83–21. Routine use 14, for reporting taxable income payments and written-off debts to IRS, improves proper accounting of the financial relationship resulting from the dealing between the Department and the individual, by ensuring that when a payment or the writing-off of a debt to the Department adds to the individual's gross income, the Govenment can more easily collect any resulting tax obligation.

These actions do not require a report of an altered system notice pursuant to 5 U.S.C. 552(o).

Dated: January 25, 1984.

David V. Dukes,

Deputy Assistant Secretary, Finance.

09-90-0024

SYSTEM NAME:

Accounting Records of Payments to Individuals from Operating Division, Agency and Regional Financial Management and Disbursing Office. HHS/OS/ASMB/.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

See Appendix 1.

Memoranda copy of claims submitted for reimbursement of travel and other expenditures while on official business may also be maintained at the administrative office of the HHS employee.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons authorized to travel on official HHS business; persons awarded an HHS grant, contract or loan; persons authorized travel and salary, and housing allowances advances; and consultants furnishing administrative and miscellaneous services.

CATEGORIES OR RECORDS IN THE SYSTEM:

Name, identification number, address, purpose of payment, accounting classification and amount paid.

Also, in the event of an overpayment, the amount of the indebtedness, the repayment status and the amount to be collected.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Budget and Accounting Act of 1950 (Pub. L. 81–784).

PURPOSE(S):

These records are an integral part of the accounting systems at principal operating component, agency, regional office and specific area locations. The records are used to keep track of all payments to individuals, exclusive of salaries and wages, based upon priof entry into the systems of the official commitment and obligation of government funds. When an individual is to repay funds advanced as a loan or scholarship, etc., the records will be used to establish a receivable record and to track repayment status. In the event of an overpayment to an individual, the record is used to establish a receivable record for recovery of the amount claimed. The records are also used internally to develop reports to the Internal Revenue Service and applicable state and local taxing officials of taxable income. Direct access to these records is restricted to authorized persons in performance of official duties. This is a Department-wide notice covering payments made from all locations listed in Appendix 1.

ROUTINE USES OF RECORDS MAINTANIED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. Records will routinely disclosed to the Treasury Department for check preparation.

2. Records may be disclosed to members of Congress concerning a Federal financial assistance program. Also, disclosure may be made to a congressional office from an individual's record in response to an inquiry from the congressional office made at the request of that individual.

3. In the event the Department deems it desirable or necessary, in determining whether particular records are required to be disclosed under the Freedom of Information Act, disclosure may be made to the Department of Justice for the purpose of obtaining its advice.

4. A record from this system of records may be disclosed as a "routine use" to a federal, state or local agency maintaining civil, criminal or other relevant enforcement records or other pertinent records, such as current licenses, if necessary to obtain a record relevant to an agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant or other benefit.

5. A record from this system of records may be disclosed to a federal agency, in response to its request, in connection with the hiring or retention of an employee the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the record is relevant and necessary to the requesting agency's decision on the matter.

6. Where federal agencies having the power to subpoena other federal agencies' records, such as the Internal Revenue Service or the Civil Rights Commission, issue a subpoena to the Department for records in this system of records, the Department will make such records available.

7. Where a contract between a component of the Department and a labor organization recognized under E.O. 11491 provides that the agency will disclose personal records relevant to the organization's mission, records in this system of records may be disclosed to such organization.

8. In the event of litigation where the defendant is (a) the Department any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department of any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to present an effective defense provided such disclosure is compatible with the purpose for which the records were collected.

9. A record about a loan applicant or potential contractor or grantee may be disclosed to credit reporting agencies to obtain a credit report in order to determine his/her creditworthiness.

10. When an individual applies for a loan under a loan program as to which the OMB has made a determination under I.R.C. 6103(1)(3), a record about his/her application may be disclosed to the Treasury Department to find out whether he/she has a delinquent tax account, for the sole purpose of determining his/her creditworthiness.

11. A record from this system may be disclosed to the following entities in order to help collect a debt owed the United States:

a. To another Federal agency so that agency can effect a salary offset;

b. To another Federal agency so that agency can effect an administrative offset under common law or under 31 U.S.C. 3716 (withholding from money payable to, or held on behalf of, the individual);

c. To the Treasury Department to request his/her mailing address under I.R.C. 6103(m)(2) in order to locate him/her or in order to have a credit report prepared;

d. To agents of the Department and to other third parties to help locate him/her in order to help collect or compromise a debt;

e. To debt collection agents under 31 U.S.C. 3718 or under common law to help collect a debt; and

f. To the Justice Department for litigation or further administrative action.

Disclosure under part (d) of this use is limited to the individual's name, address, Social Security number, and other information necessary to identify him/her. Disclosure under parts (a)–(c) and (e) is limited to those items; the amount, status, and history of the claim; and the agency or program under which the claim arose. An address obtained from IRS may be disclosed to a credit reporting agency under part (d) only for purposes of preparing a commercial credit report on the individual. Part (a) applies to claims or debts arising or payable under the Social Security Act if and only if the employee consents in writing to the offset.

12. A record from this system may be disclosed to another Federal agency that has asked the Department to effect an administrative offset under common law or under 31 U.S.C. 3716 to help collect a debt owed the United States. Disclosure under this routine use is limited to: Name, address, Social Security number, and other information necessary to identify the individual, information about the money payable to or held for the individual, and other information concerning the administrative offset.

13. Disclosures with regard to claims or debts arising under or payable under the Social Security Act may be made from this system to "consumer reporting agencies" as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)). However, this disclosure will not be made with regard to debts from overpayments to beneficiares under Title II (Old-Age, Survivors, and Disability Insurance) and Title XVI (Supplemental Security Income) of this Act. The purpose of this disclosure is to aid in the collection of outstanding debts owed the Federal Government. Disclosure of records is limited to the individual's name, address, Social Security number, and other information necessary to establish the individual's identity; the amount, status, and history of the claim; and the agency or program under which the claim arose.

14. Information in this system of records is used to prepare W–2 and 1099 Forms to submit to the Internal Revenue Service and applicable state and local governments items considered to be included as income to an individual: certain travel related payments to employees, all payments made to persons not treated as employees (e.g. fees to consultants and experts), and amounts written-off as legally or administratively uncollectable, in whole or in part.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosure pursuant to 5 U.S.C. 552a(b)(12): Disclosure may be made from this system to "consumer reporting agencies" as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)). The purpose of this dislcosure is to aid in the collection of outstanding debts owed to the Federal Government, typically, to provide an incentive for debtors to repay delinquent Federal Government

debts by making these debts part of their credit records. Disclosure of records is limited to the individual's name, address, Social Security number, and other information necessary to establish the individual's identity; the amount, status, and history of the claim; and the agency or program under which the claim arose. This disclosure will be made only after the procedural requirements of 31 U.S.C. 3711(f) have been followed.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Hard copy documents are manually filed at agency and regional office sites; and on disc pack and magnetic tape at central computer sites.

RETRIEVABILITY:

This varies according to the particular operating accounting system within the Operating Division, Agency and Regional Office. Usually the hard copy document is filed by name within accounting classification. Computer records may be indexed by social security number and voucher number. Intra-departmental uses and transfers concern the validation and certification for payment, and for HHS internal audits.

SAFEGUARDS:

Safeguards to insure integrity of record, and that required to provide protection against loss by accident of carelessness. The safeguards include restricted access to authorized personnel, locked files and offices, and technical safeguards of computer records in accordance with Part 6, HHS ADP Systems Manual.

RETENTION AND DISPOSAL:

Records are purged from automated files once the accounting purpose has been served; printed copy and manual documents are retained and disposed of in accord with General Accounting Office principles and standards.

SYSTEM MANAGER(S) AND ADDRESS:

See Appendix 2.

NOTIFICATION PROCEDURE:

Inquiries are to be made, either in writing or in person, to the organizations listed under "Location" in appendix 1, with the exception of Food and Drug Administration contact:

FDA Privacy Coordinator (HFW–50) Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

Given name and social security number, purpose of payment (travel, grant, etc.) and, if possible, the agency accounting classification.

RECORD ACCESS PROCEDURE:

Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR 5b.5(a)(2)) **Federal Register,** October 8, 1975, page 47410.)

CONTESTING RECORD PROCEDURES:

Contact the official at the address specified under notification procedures above, and reasonably indentify the record and specify the information to be contested. State the reason for contesting it, i.e., why it is inaccurate, irrelevant, incomplete or not current.

RECORD SOURCE CATEGORIES:

Travel vouchers submitted by the individual; grant, contract or loan award document; consultant invoice of services rendered; and application for travel advance.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Appendix 1

Location

Payments to Individuals records are located at the following HHS Regional Offices:

Regional Office 01, John F. Kennedy Federal Bldg., Government Center, Boston, MA 02203.

Regional Office 02, 26 Federal Plaza, New York, NY 10007.

Regional Office 03, 3535 Market Street, P.O. Box 13716, Philadelphia, PA 19101.

Regional Office 04, 101 Marietta Tower, Atlanta, GA 30323.

Regional Office 05, 300 South Wacker Drive, Chicago, IL 60606.

Regional Office 06, 1200 Main Tower, Dallas, TX 75202.

Regional Office 07, Federal Office Bldg., 601 East 12th Street, Kansas City, MO 64106.

Regional Office 08, 19th & Stout Streets, Denver, CO 80294.

Regional Office 09, Federal Office Buildings, 50 United Nations Plaza, San Francisco, CA 94102.

Regional Office 010, Arcade Plaza Bldg, 1319 Second Avenue, Seattle, WA 98101.

Payments to Individuals records are located at the following HHS Operating Division and Agency Headquarters and Field Offices:

Office of the Secretary (to include Office of Human Development Services records), Hubert H. Humphrey Bldg., 200 Independence Ave., SW., Div. of Accounting Operations, Washington, DC 20201.

Health Resources and Services Administration, Office of Fiscal Services, Parklawn Bldg., 5600 Fishers Lane, Rockville, MD 20857.

Health Resources and Services Administration, Addiction Research Center, Leestown Pike—Box 2009, Lexington, KY 40501.

Health Resources and Services Administration, National Hansen's Disease Center, Carville, LA 70721.

Health Resources and Services Administration, PHS Indian Health Area Office, Federal Office Bldg. and U.S. Court House, 500 Gold Avenue SW., Albuquerque, NM 87101.

Health Resources and Services Administration, PHS Indian Health Area Office, 338 Post Office and Court House Bldg., Oklahoma City, OK 73102.

Health Resources and Services Administration, PHS Indian Health Area Office, Indian Health Service, Federal Bldg., Aberdeen, SD 57401.

Health Resources and Services Administration, PHS Indian Health Area Office 03 at 7th West Central Avenue, Post Office Box 2143, Billings, MT 59103.

Health Resources and Services Administration, PHS Indian Health Area Office, 801 East Indian School Road, Phoenix, AZ 85014.

Health Resources and Services Administration, Alaska Area Native Health Service, Post Office Box 7–741, Anchorage, AK 99510.

Health Resources and Services Administration, PHS Area Office, 1220 S.W. 3rd Ave., Portland, OR 97204.

Health Resources and Services Administration, U.S.E.T. Program Office, Indian Health Service, 1101 Kermet Drive, Nashville, TN 37217.

Health Resources and Services Administration, Navajo Area, Indian Health Service, P.O. Box G, Window Rock, AZ 86515

Public Health Service, Nat'l. Institute for Occupational Safety and Health, CDC, 532 U.S. Post Office and Courthouse Bldg., Cincinnati, OH 45202.

Public Health Service Center for Disease Control, 1600 Clifton Rd., Atlanta, GA 30333.

Food and Drug Adm., HFA–120, 5600 Fishers Lane, Rockville, MD 20857.

Food and Drug Adm., 880 W. Peachtree St., NW., Atlanta, GA 30309.

Food and Drug Adm., 585 Commercial Street, Boston, MA 02109.

Food and Drug Adm., 599 Delaware Avenue, Buffalo NY 14202.

Food and Drug Adm., Room 700—Federal Office Bldg., 850 3rd Avenue (at 30th Street), Brooklyn, NY 11232.

Food and Drug Adm., 20 Evergreen Pl., East Orange, NJ 07018.

Food and Drug Adm., Room 1204, U.S. Customhouse, 2nd and Chestnut Streets, Philadelphia, PA 19106.

Food and Drug Adm., 900 Madison Avenue, Baltimore, MD 21201.

Food and Drug Adm., P.O. Box S–4427, San Juan, P.R. 00905.

Food and Drug Adm., Room 1222, Main Post Office Bldg., 433 West Van Buren Street, Chicago, IL 60607.

Food and Drug Adm., 1560 East Jefferson Avenue, Detroit, MI 48207.

Food and Drug Adm., 1141 Central Parkway, Cincinnati, OH 45202.

Food and Drug Adm., 240 Hennepin Avenue, Minneapolis, MN 55401.

Food and Drug Adm., 3032 Bryan Street, Dallas, TX 75204.

Food and Drug Adm., Room 222, U.S. Customhouse Building, 423 Canal Street, New Orleans, LA 70130.

Food and Drug Adm., National Center for Toxicological Research, Jefferson, AR 72079.

Food and Drug Adm., 1009 Cherry Street, Kansas City, MO 64106.

Food and Drug Adm., Room 1002, U.S. Courthouse and Courthouse Building, 1114 Market Street, St. Louis, MO 63101.

Food and Drug Adm., Room 573, New Customhouse Building, 721 19th Street, Denver, CO 80202.

Food and Drug Adm., Room 518, Federal Office Building, 50 Fulton Street, San Francisco, CA 94102.

Food and Drug Adm., 1521 West Pico Boulevard, Los Angeles, CA 90015.

Food and Drug Adm., 5033 Federal Office Bldg., 909 First Avenue, Seattle, WA 98174.

National Institutes of Health, Operations Accounting Branch, Bldg. 31, Room B1B07, 9000 Rockville Pike, Bethesda, MD 20014.

National Institutes of Health, Rocky Mountain Laboratory, Hamilton, MT 59840.

Alcohol, Drug Abuse, and Mental Health Administration, Saint Elizabeths Hospital, Finance Office, Administration Bldg., Washington, D.C. 20032.

Social Security Administration, Program and Fiscal Operations Offices, Post Office Box 47, Baltimore, MD 21203.

Social Security Administration, Bureau of Supplemental Income, 4–M–5 Annex Bldg., Baltimore, MD 21235.

Social Security, Administration, Bureau of Disability Payments, 1506 Woodlawn Drive, 1J2, Baltimore, MD 21241.

Social Security Administration, Northeastern Program Center, 9605 Horace Harding Expressway, Flushing, NY 11366.

Social Security Administration, Midatlantic Program Center, 401 North Broad Street, Philadelphia, PA 19108.

Social Security Administration, Southeastern Program Centr, 225 Third Avenue North, Birmingham, AL 35285.

Social Security Administration, Great Lakes Program Center, 165 North Canal Street, Chicago, IL 60606.

Social Security Administration, MidAmerica Program Center, 601 East 12th Street, Kansas City, MO 64106.

Social Security Administration, Western Program Center, Post Office Box 100, San Francisco, CA 94101.

Health Care Financing Administration, Gwynn Oak Building, 1710 Gwynn Oak Avenue, Baltimore, MD 21235.

For Payments to Individuals records at the following central payments office for grants and contracts:

Office of the Secretary, Federal Assistance Financing Branch, Box 6021, Rockville, MD 20857.

Appendix 2

System Manager, Departmental principles and standards concerning the system of records are the responsibility of:

Department of Health, and Human Services, Assistant Secretary for Management and Budget, Office of the Secretary, Room 510A, Humphrey Building, Washington, DC 20201.

Operational responsibilities are as follows:

For Payments to Individual records at Department and Regional Office:

HHS, Office of Secretary and Regional Offices, Office of Secretary, Deputy Assistant Secretary, Finance, Room 70D1, Humphrey Building, Washington, DC 20201.

For payments to Individual records at Principal Operating Component Offices:

Health (CDC, FDA, NIH, ADAMHA, HRSA, ASH)

Public Health Service, Director, Division of Financial Management, Room 16–17, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857.

Social Security Administration, Director, Office of Financial Management, Room 840 Annex Social Bldg., Baltimore, MD 21235.

Office of Human Development, Services Director, Office of Management Services, Room 309D, HHH Building, 200 Independence Ave., S.W., Washington, D.C. 20201.

Health Care Financing, Administration Director, Office of Management and Budget, Room 4408, HHS North Building, 300 Independence Ave., S.W., Washington, D.C. 20201.

[FR Doc. 84–2531 Filed 1–30–84; 8:45 am]

BILLING CODE 4150–04–M

Health Resources and Services Administration

Availability of Funds for Maternal and Child Health Projects

AGENCY: Public Health Service, HHS.

ACTION: General notice.

SUMMARY: The Health Resources and Services Administration (HRSA) announces that funds are now available for grants for carrying out the following groups of activities: (1) Special projects of regional and national significance; (2) maternal and child health research; (3) maternal and child health training; (4) genetic disease testing, counseling and information projects; and (5) hemophilia diagnostic and treatment centers. Awards will be made under the authority of section 502(a) of Social Security Act, as amended by the Omnibus Budget Reconciliation Act of 1981 (Pub. L. 97–35), which is commonly referred to as the Maternal and Child Health (MCH) Federal Set-Aside Program. Because of the diverse nature of the section 502(a) grants and their varying funding cycles, HRSA, through this notice, invites potential applicants to inquire about specific application requirements for the particular grant activity in which they are interested and then, after receiving application information from HRSA, to make their applications for funding.

FOR FURTHER INFORMATION CONTACT: Potential applicants wishing to inquire about possible grant support should address their inquiries in writing to the Office of the Director, Division of Maternal and Child Health, Bureau of Health Care Delivery and Assistance, Room 6–05, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–2170.

DATES: Dates by which applications must be received differ for the several categories of grants, but range from April 1 to August 1, 1984. Specific information on filing deadlines will be included in the program guidelines which are part of the application kit which will be mailed to interested applicants. Applicants should forward their written inquiries to the address reflected above as soon as possible.

SUPPLEMENTARY INFORMATION: The Omnibus Budget Reconciliation Act of 1981 revised Title V of the Social Security Act to establish the Maternal and Child Health Services Block Grant. Between 10 and 15 percent of the funds appropriated for Title V in each fiscal year are to be retained by the Secretary for the award of grants for the purposes specified above. These programs were previously supported under sections 503(2), 504(2), 511 and 512 of the Social Security Act and under sections 1101 and 1131 of the Public Health Service Act as in effect prior to the enactment of Pub. L. 97–35.

Approximately $13.7 million is anticipated to be available for support of new and competitive renewal projects. Of the $13.7 million available, approximately $3.1 million has been allocated for genetics, $300,000 for hemophilia, $1.8 million for research, $2.3 million for training, and $6.2 million for other special projects.

A Notice of Proposed Rulemaking (NPRM) proposing rules for implementing this set-aside program was published on January 12, 1983 (48 FR 1323). That NPRM proposes revising 42 CFR Part 51a (Grants for Maternal and Child Health and Crippled Childrens Services), Part 51d (Grants for Hemophilia Treatment Centers), and Part 51f (Project Grants for Genetic Diseases Testing and Counseling Programs) by eliminating repetitive and unnecessary provisions in those regulations and by providing for a single regulation to govern the various grants included in the set-aside program. The comment period on the NPRM ended on February 11, 1983.

On June 25, 1982, 42 CFR Parts 51a and 51d, and 51f, which were initially issued under the authorities of Title V of the Social Security Act and sections 1101 and 1131 of the Public Health Service Act, as in effect prior to the 1981 Pub. L. 97–35 amendments, were

amended to make them applicable to grants awarded under the new section 502(a) authority (see 47 FR 27824). The preamble to that amending document states that until a concise new regulation governing the set-aside grant program can be developed, the amended regulations issued under the former categorical authorities (42 CFR Parts 51a, 51d and 51f) are to govern the award of set-aside funds. However, the Department notes that 42 CFR Part 51a was removed from the Code of Federal Regulations effective October 1, 1982 (see 47 FR 48593).

In terms of what types of entities may apply for the various types of set-aside grants, it should be noted that the statute at section 502(a)(2) provides that training grants may be made only to public or nonprofit private institutions of higher learning and that research grants may be made only to public or nonprofit private institutions of higher learning or to nonprofit agencies and organizations engaged in research or in maternal and child health or crippled children's programs. Under the applicable provisions of 42 CFR Part 51d, governing comprehensive hemophilia diagnostic and treatment center grants, only public and nonprofit private entities are eligible to receive such grants (see 42 CFR 51d.101). Similarly, with respect to genetic diseases testing and counseling program grants, only public and nonprofit private entities are eligible to receive such grants (see 42 CFR 51f.103). There are no statutory or regulatory limitations on the type of entity which may apply for special project grants of regional and national significance.

Under the January 12, 1983, NPRM discussed above, grants for hemophilia diagnostic and treatment centers, grants for genetic diseases testing and counseling and grants for special projects of regional and national significance, would be made available to private, for-profit organizations.

All requests for application information must be in writing and must specify clearly the type of applicant organization or agency, the specific type of activity for which information is desired, and a brief one paragraph description of the project for which support will be requested. It is essential that all interested applicants responding to this announcement specify either research, training, genetic disease testing, counseling and information, hemophilia diagnostic and treatment centers or special projects of regional and national significance as the primary purpose of their applications.

This announcement is exempt from the intergovernmental review procedure under Executive Order 12372 (45 CFR 100).

The MCH program is listed as No. 13.110 in the OMB Catalog of Federal Domestic Assistance.

Dated: January 25, 1984.

Robert Graham,

Administrator Assistant Surgeon General.

[FR Doc. 84-2620 Filed 1-30-84; 8:45 am]

BILLING CODE 4160-17-M

National Institutes of Health

Meeting of Board of Scientific Counselors

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Board of Scientific Counselors, National Institute of Allergy and Infectious Diseases, on February 22, 23 and 24. On February 22 and 23, the meeting will be held in the Conference Room, Building 7, National Institutes of Health. On February 24, the meeting will be held in Conference Room 7A-24, Building 31, National Institutes of Health, Bethesda, Maryland. The meeting will be open to the public on February 22 from 8:30 a.m. until recess and on February 23 from 8:30 a.m. until noon. During this open session, the permanent staff of the Laboratory of Infectious Diseases will present and discuss their immediate past and present research activities.

In accordance with the provisions set forth in Section 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Pub. L. 92-463, the meeting of the Board will be closed to the public on February 23 from 1:00 p.m. until recess and again on February 24 from 8:30 a.m. until adjournment for the review, discussion, and evaluation of individual intramural programs and projects conducted by the National Institute of Allergy and Infectious Diseases, including consideration of personal qualifications and performance, the competence of individual investigators, and similar items, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mr. Thomas Flavin, Office of Research Reporting and Public Response, National Institute of Allergy and Infectious Diseases, Building 31, Room 7A-32, National Institutes of Health, Bethesda, Maryland 20205, telephone (301) 496-5717, will provide summaries of the meeting and rosters of the Board members.

Dr. Kenneth W. Sell, Executive Secretary, Board of Scientific Counselors, NIAID, National Institutes of Health, Building 10, Room 11C103, telephone (301) 496-3006, will provide substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13-301, National Institutes of Health)

Dated: January 23, 1984.

Betty J. Beveridge,

NIH Committee Management Officer.

[FR Doc. 84-2571 Filed 1-30-84; 8:45 am]

BILLING CODE 4140-01-M

Clinical Trials Committee; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Clinical Trials Committee, National Cancer Institute, February 23-24, 1984, Building 31, Conference Room 6, National Institutes of Health, Bethesda, Maryland 20205. This meeting will be open to the public on February 23 from 9:00 a.m. to 9:30 a.m. to review administrative details. Attendance by the public will be limited to space available.

In accordance with provisions set forth in Sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Pub. L. 92-463, the meeting will be closed to the public on February 23, from approximately 9:30 a.m. to adjournment and on February 24 from 9:00 a.m. to adjournment, for the review, discussion and evaluation of individual contract proposals. These proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the proposals, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mrs. Winifred Lumsden, the Committee Management Officer, National Cancer Institute, Building 31, Room 10A06, National Institutes of Health, Bethesda, Maryland 20205 (301/496-5708) will provide summaries of the meeting and rosters of committee members, upon request.

Dr. Richard A. Rhoden, Executive Secretary, Clinical Trials Committee, National Cancer Institute, Westwood Building, Room 804, National Institutes of Health, Bethesda, Maryland 20205 (301/496-7030) will furnish substantive program information.

Dated: Janaury 19, 1984.

Betty J. Beveridge,

Committee Management Officer, National Institutes of Health.

[FR Doc. 84-2570 Filed 1-30-84; 8:45 am]

BILLING CODE 4140-01-M

Meeting of the Epilepsy Advisory Committee

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Epilepsy Advisory Committee, National Institute of Neurological and Communicative Disorders and Stroke, March 26 and 27, 1984, in Room B119, Federal Building, National Institutes of Health, Bethesda, Maryland.

The meeting will be open to the public from 9:00 a.m. to 1:00 p.m. on March 26, 1984, to discuss research progress and research plans related to the Institute's epilepsy program. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in Section 552b(c)(4), and 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Pub. L. 92–463, the meeting will be closed to the public from 1:00 p.m. on March 26, 1984 to adjournment on March 27, 1984, for review of preclinical and clinical compounds of the Antiepileptic Drug Development program. This review and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Dr. Roger J. Porter, Chief, Epilepsy Branch, Convulsive, Developmental, and Neuromuscular Disorders program, NINCDS (Federal Building, Room 114), National Institutes of Health, Bethesda, MD 20205; telephone 301/496–6691, will provide summaries of the meeting, rosters of the committee members, and substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.853, Clinical Basis Research; No. 13.854, Biological Basis Research)

Dated: January 19, 1984.

Betty Beveridge,

Committee Management Officer, NIH.

[FR Doc. 84–2564 Filed 1–30–84; 8:45 am]

BILLING CODE 4140–01–M

Meeting of Heart, Lung, and Blood Research Review Committee B

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Heart, Lung, and Blood Research Review Committee B, National Heart, Lung, and Blood Institute, National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland 20205, on March 29, 1984, in Building 31, Conference Room 9.

This meeting will be open to the public on March 29, 1984, from 8:30 AM to approximately 10:00 AM to discuss administrative details and to hear reports concerning the current status of the National Heart, Lung, and Blood Institute. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in Section 552b(c)(6), Title 5, U.S. Code, and Section 10(d) of Pub. L. 92–463, the meeting will be closed to the public on March 29, 1984, from approximately 10:00 AM to adjournment for the review, discussion, and evaluation of individual grant applications. These applications and the discussions could reveal personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Terry Bellicha, Chief, Public Inquiry Reports Branch, National Heart, Lung, and Blood Institute, Building 31, Room 4A21, National Institutes of Health, Bethesda, Maryland 20205, (301) 496–4236, will provide summaries of the meetings and rosters of the committee members.

Dr. Louis M. Ouellette, Executive Secretary, NHLBI, Westwood Building, Room 554, National Institutes of Health, Bethesda, Maryland 20205, phone (301) 496–7915, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.837, Heart and vascular Diseases Research; and 13.839, Blood Diseases and Resources Research, National Institutes of Health)

Dated: January 19, 1984.

Betty J. Beveridge,

NIH Committee Management Officer.

[FR Doc. 84–2569 Filed 1–30–84; 8:45 am]

BILLING CODE 4140–01–M

Heart, Lung, and Blood Research Review Committee A; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Heart, Lung, and Blood Research Review Committee A, National Heart, Lung, and Blood Institute, National Institutes of Health, on March 29–30, 1984, in Building 31, Conference Room 7, 9000 Rockville Pike, Bethesda, Maryland 20205.

This meeting will be open to the public on March 29, 1984 from 8:30 AM to approximately 9:30 AM to discuss administrative details and to hear reports concerning the current status of the National Heart, Lung, and Blood Institute. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in Section 552b(c)(6), Title 5, U.S. Code, and Section 10(d) of Pub. L. 92–463, the meeting will be closed to the public on March 29, from approximately 9:30 AM until recess, and from 8:30 AM to adjournment on March 30, for the review, discussion, and evaluation of individual grant applications. These applications and the discussions could reveal personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Terry Bellicha, Chief, Public Inquiry Reports Branch, National Heart, Lung, and Blood Institute, Building 31, Room 4A21, National Institutes of Health, Bethesda, Maryland 20205, (301) 496–4236, will provide summaries of the meeting and rosters of the committee members.

Dr. Peter M. Spooner, Executive Secretary, Heart, Lung, and Blood Research Review Committee A, Westwood Building, Room 554, National Institutes of Health, Bethesda, Maryland 20205, phone (301) 496–7265, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program Nos. 13.837, Heart and Vascular Diseases Research; 13.838, Lung Diseases Research; National Institutes of Health.)

Dated: January 19, 1984.

Betty J. Beveridge,

NIH Committee Management Officer.

[FR Doc. 84–2568 Filed 1–31–84; 8:45 am]

BILLING CODE 4140–01–M

Meeting of the Minority Biomedical Research Support Subcommittee of the General Research Support Review Committee

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Minority Biomedical Research Support Subcommittee of the General Research Support Review Committee, Division of Research Resources, March 22–23, 1984 at the National Institutes of Health. The meeting will be held in Conference Room 9, Building 31, 9000 Rockville Pike, Bethesda, Maryland 20205.

This meeting will be open to the public from 9:00 a.m. to approximately 1:30 p.m. on March 22, 1984, to discuss policy matters relating to the Minority Biomedical Research Support Program. Attendance by the public will be limited to space available.

In accordance with provisions set forth in Sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Pub. L. 92–463, the meeting will be closed to the public on March 22, 1984, from approximately 1:30 p.m. to 5:00 p.m. and on March 23, 1984, from 8:30 a.m. to adjournment for the review, discussion and evaluation of individual grant applications submitted to the

Minority Biomedical Research Support Program. These applications and discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mr. James Augustine, Information Officer, Division of Research Resources, National Institutes of Health, Building 31, Room 5B10, Bethesda, Maryland 20205, telephone (301) 496–5545, will provide summaries of meeting and rosters of committee members. Dr. Ethel B. Jackson, Executive Secretary of the Minority Biomedical Research Support Subcommittee of the General Research Support Review Committee, Building 31, Room 5B–11, Bethesda, Maryland 20205, telephone (301) 496–4390 will furnish substantive program information.

(Catalog of Federal Domestic Assistance Programs No. 13.375, Minority Biomedical Research Support Program, National Institutes of Health)

Dated: January 19, 1984.

Betty J. Beveridge,

NIH Committee Management Officer.

[FR Doc. 84-2562 Filed 1-30-84; 8:45 am]

BILLING CODE 4140-01-M

National Institute of Allergy and Infectious Diseases; Research Committees; Meetings

Pursuant to Pub. L. 92–463, notice is hereby given of the meetings of committees of the National Institute of Allergy and Infectious Diseases for February and March 1984.

Portions of these meetings will be open to the public to discuss administrative details relating to committee business and for program review. Attendance by the public will be limited to space available. Portions of these meetings will be closed to the public in accordance with provisions set forth in Section 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code, and Section 10(d) of Pub. L. 92–463, for the review, discussion, and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mr. Thomas Flavin, Office of Research Reporting and Public Response, National Institute of Allergy and Infectious Diseases, Building 31, Room 7A–32, National Institutes of Health, Bethesda, Maryland 20205, telephone (301) 496–5717, will provide summaries of the meetings and rosters of the committee members.

Substantative program information may be obtained from each executive secretary whose name, room number, and telephone number are listed below each committee.

Name of Committee: Microbiology and Infectious Diseases Research Committee
Executive Secretary: Dr. Susan B. Spring, Room 706, Westwood Building, Telephone: (301) 496–7465
Dates of Meeting: February 16–17, 1984
Place of Meeting: Conference Room 8, Building 31, National Institutes of Health, Bethesda, Maryland 20205
Open: February 17, 1984, 3:30 p.m.–4:30 p.m.
Closed: February 16, 1984, 8:30 a.m.–8:00 p.m.; February 17, 1984, 9:00 a.m.–3:15 p.m.

Name of Committee: Transplantation Biology and Immunology Subcommittee of the Allergy, Immunology, and Transplantation Research Committee
Executive Secretary: Dr. Nirmal Das, Room 706, Westwood Building, Telephone: (301) 496–7966
Date of Meeting: March 1, 1984
Place of Meeting: Conference Room 7, Building 31, National Institutes of Health, Bethesda, Maryland 20205
Open: March 1, 1984, 1:30 p.m. to adjournment
Closed: March 1, 1984, 8:30 a.m.–12:30 p.m.

Name of Committee: Allergy and Clinical Immunology subcommittee of the Allergy, Immunology, and Transplantation Research Committee
Executive Secretary: Dr. Nirmal Das, Room 706, Westwood Building, Telephone: (301) 496–7966
Date of Meeting: March 14, 15, 16, 1984
Place of Meeting: Conference Room 10, Building 31, National Institutes of Health, Bethesda, Maryland 20205
Open: March 16, 1984—8:00 a.m.–9:15 a.m.
Closed: March 14, 1984—8:30 a.m.–6:30 p.m.; March 15, 1984—8:30 a.m.–10:30 p.m.; March 16, 1984—9:15 a.m.–6:15 p.m.

(Catalog of Federal Domestic Assistant Programs Nos. 13.855, Pharmacological Sciences; 13.856, Microbiology and Infectious Diseases Research, National Institute of Health)

Dated: January 19, 1984.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 84-2563 Filed 1-30-84; 8:45 am]

BILLING CODE 4140-01-M

National Institute of Child Health and Human Development; Research Committees; Meetings

Pursuant to Pub. L. 92–463, notice is hereby given of meetings of the first-level review committees of the National Institute of Child Health and Human Development for March 1984.

These meetings will be open to the public to discuss items relative to committee activities including announcements by the Director, Associate Director for Scientific Review, and executive secretaries, for approximately one hour at the beginning of the first session of the first day of the meeting. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in Sections 552b(c)(4) and 552b(c)(6) Title 5, U.S. Code and Section 10(d) of Pub. L. 92–463, these meetings will be closed to the public for the review, discussion, and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mrs. Marjorie Neff, Committee Management Officer, NICHD, Landow Building, Room 6C08, National Institutes of Health, Bethesda, Maryland, Area Code 301, 496–1485, will provide a summary of the meeting and a roster of committee members.

Substantive program information may be obtained from each executive secretary whose name, room number, and telephone number are listed below each committee.

Name of Committee: Maternal and Child Health Research Committee
Executive Secretary: Dr. Jane Showacre, Room 6C03, Landow Building, Telephone: 301, 496–1696
Date of Meeting: March 13–14, 1984
Place of Meeting: Landow Building, Conference Room A
Open: March 13, 1984, 9:00 a.m.–10:15 a.m.
Closed: March 13, 1984, 10:30 a.m.–5:00 p.m., March 14, 1984, 9:00 a.m.–adjournment

Name of Committee: Mental Retardation Research Committee

Executive Secretary: Dr. Stanley Slater, Room 6C03, Landow Building, Telephone: 301, 496–1696
Date of Meeting: March 15–16, 1984
Place of Meeting: Landow Building, Conference Room A
Open: March 15, 1984, 9:00 a.m.–10:00 a.m.
Closed: March 15, 1984, 10:00 a.m.–5:00 p.m., March 16, 1984, 9:00 a.m.–adjournment

Name of Committee: Population Research Committee
Executive Secretary: Dr. Dinesh Sharma, Room 6C03, Landow Building, Telephone: 301, 496–1696
Date of Meeting: March 8–9, 1984
Place of Meeting: Landow Building, Conference Room A
Open: March 8, 1984, 9:00 a.m.–10:30 a.m.
Closed: March 8, 1984, 10:30 a.m.–5:00 p.m., March 9, 1984, 9:00 a.m.–adjournment

(Catalog of Federal Domestic Assistance Program No. 13.864, Population Research and No. 13.865, Research for Mothers and Children, National Institutes of Health)

Dated: January 19, 1984.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 84–2565 Filed 1–30–84; 8:45 am]

BILLING CODE 4140–01–M

National Institute of General Medical Sciences; Review Committees; Meetings

Pursuant to Pub. L. 92–463, notice is hereby given of the meetings of the committees of the National Institute of General Medical Sciences for March 1984.

These meetings will be open to the public to discuss administrative details relating to committee business for approximately two hours at the beginning of the first session of the first day of the meeting. Attendance by the public will be limited to space available. These meetings will be closed thereafter in accordance with provisions set forth in Section 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Pub. L. 92–463, for the review, discussion, and evaluation of individual research training grant and research center grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mrs. Ann Dieffenbach, Public Information Officer, National Institute of General Medical Sciences, National Institutes of Health, Building 31, Room 4A52, Bethesda, Maryland 20205 (Telephone: 301–496–7301), will provide a summary of the meeting and a roster of committee members.

Substantive program information may be obtained from each executive secretary whose name, room number, and telephone number are listed below each committee.

Name of Committee: Cellular and Molecular Basis of Disease Review Committee
Executive Secretary: Dr. Helen Sunshine, Room 950 Westwood Building, Telephone: 301–496–7125
Dates of Meeting: March 12–13, 1984
Place of Meeting: Building 31C, Conference Room 6, National Institutes of Health, Bethesda, Maryland
Open: March 12, 1984, 8:30 a.m.–10:30 a.m.
Closed: March 12, 1984, 10:30 a.m.–5:00 p.m., March 13, 1984, 8:30 a.m.–adjournment

Name of Committee: Genetic Basis of Disease Review Committee
Executive Secretary: Dr. Helen Sunshine, Room 950 Westwood Building, Telephone: 301–496–7125
Date of Meeting: March 2, 1984
Place of Meeting: Forest Hills Conference Room Linden Hill Hotel, 5400 Pooks Hill Road, Bethesda, Maryland
Open: March 2, 1984, 8:30 a.m.–10:30 a.m.
Closed: March 2, 1984, 10:30–adjournment

Name of Committee: Minority Access to Research Careers Review Committee
Executive Secretary: Dr. Harriet Gordon, Room 949 Westwood Building, Telephone: 301–496–7585
Dates of Meeting: March 5–6, 1984
Place of Meeting: Building 31C, Conference Room 7, National Institutes of Health, Bethesda, Maryland
Open: March 5, 1984, 9:00 a.m.–10:30 a.m.
Closed: March 5, 1984, 10:30 a.m.–5:00 p.m., March 6, 1984, 9:00 a.m.–adjournment

Name of Committee: Pharmacological Sciences Review Committee
Executive Secretary: Dr. Anthony Demsey, Room 904 Westwood Buiding, Telephone: 301–496–4772
Dates of Meeting: March 8–9, 1984
Place of Meeting: Building 31C, Conference Room 10, National Institutes of Health, Bethesda, Maryland
Open: March 8, 1984, 8:30 a.m.–10:30 a.m.
Closed: March 8, 1984, 10:30 a.m.–5:00 p.m., March 9, 1984, 8:30 a.m.–adjournment

(Catalog of Federal Domestic Assistance Program Nos. 13–863, 13–862, 13–860, 13–859, National Institute of General Medical Sciences, National Institutes of Health)

Dated: January 19, 1984.

Betty J. Beveridge,

Committee Management Officer, National Institutes of Health.

[FR Doc. 84–2566 Filed 1–30–84; 8:45 am]

BILLING CODE 4140–01–M

President's Cancer Panel; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the President's Cancer Panel, March 9, 1984, at the Southern Research Institute, 2000 Ninth Avenue, South, Birmingham, Alabama 35255.

The entire meeting will be open to the public from 9:00 a.m. to adjournment. Agenda items include reports by the Chairman, President's Cancer Panel, and the Director, National Cancer Institute; and discussions to obtain information regarding centers programs supported by the National Cancer Institute. Attendance by the public will be limited to space available.

Mrs. Winifred Lumsden, Committee Management Officer, National Cancer Institute, Building 31, Room 10A06, National Institutes of Health, Bethesda, Maryland 20205 (301/496–5708) will provide summaries of the meeting and rosters of Panel members, upon request.

Dr. Elliott Stonehill, Executive Secretary, President's Cancer Panel, National Cancer Institute, Building 31, Room 11A23, National Institutes of Health, Bethesda, Maryland 20205 (301/496–1148) will furnish substantive program information.

Dated: January 19, 1984.

Betty J. Beveridge,

Committee Management Officer, National Institutes of Health.

[FR Doc. 84–2567 Filed 1–30–84; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

[Docket No. N–84–1137]

Notice of Submission of Proposed Information Collections to OMB

AGENCY: Office of Administration, HUD.

ACTION: Notices.

SUMMARY: The proposed information collection requirements described below have been submitted to the Office of Management and Budget (OMB) for

review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposals.

ADDRESS: Interested persons are invited to submit comments regarding these proposals. Comments should refer to the proposal by name and should be sent to: Robert Neal, OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, D.C. 20503.

FOR FURTHER INFORMATION CONTACT: David S. Cristy, Acting Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, SW., Washington, D.C. 20410, telephone (202) 755–5310. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposals described below for the collection of information to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The Notices list the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the agency form number, if applicable; (4) how frequently information submissions will be required; (5) what members of the public will be affected by the proposal; (6) an estimate of the total number of hours needed to prepare the information submission; (7) whether the proposal is new or an extension or reinstatement of an information collection requirement; and (8) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Copies of the proposed forms and other available documents submitted to OMB may be obtained from David S. Cristy, Acting Reports Management Officer for the Department. His address and telephone number are listed above. Comments regarding the proposals should be sent to the OMB Desk Officer at the address listed above.

The proposed information collection requirements are described as follows:

Notice of Submission of Proposed Information Collection to OMB

Proposal: Report on Low Occupancy, Low-Income Public Housing
Office: Public and Indian Housing
Form Number: HUD–51237
Frequency of Submission: On Occasion
Affected Public: State or Local Governments
Estimated Burden Hours: 7,168
Status: New
Contact: Edward C. Whipple, HUD, (202) 426–0744, Robert Neal, OMB, (202) 395–7316

Proposal: Nonjudicial Foreclosure of Multifamily Mortgages—Notice of Application
Office: General Counsel
Form Number: None
Frequency of Submission: On Occasion
Affected Public: Individuals or Households, Businesses or Other For-Profit, and Small Businesses or Organizations
Estimated Burden Hours: 250
Status: New
Contact: John P. Kennedy, HUD, (202) 755–6568, Robert Neal, OMB, (202) 395–7316.

Authority: Sec. 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: January 12, 1984.

Lee Hamilton,

Director, Office of Information Policies and Systems.

[FR Doc. 84–2516 Filed 1–30–84; 8:45 am]

BILLING CODE 4210–01–M

[Docket No. N–84–1338]

Notice of Submission of Proposed Information Collections to OMB

AGENCY: Office of Administration, HUD

ACTION: Notices.

SUMMARY: The proposed information collection requirements described below have been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposals.

ADDRESS: Interested persons are invited to submit comments regarding these proposals. Comments should refer to the proposal by name and should be sent to: Robert Neal, OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, D.C. 20503.

FOR FURTHER INFORMATION CONTACT: David S. Cristy, Acting Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, SW., Washington, D.C. 20410, telephone (202) 755–5310. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposals described below for the collection of information to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The Notices list the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the agency form number, if applicable; (4) how frequently information submissions will be required; (5) what members of the public will be affected by the proposal; (6) an estimate of the total number of hours needed to prepare the information submission; (7) whether the proposal is new or an extension or reinstatement of an information collection requirement; and (8) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Copies of the proposed forms and other available documents submitted to OMB may be obtained from David S. Cristy, Acting Reports Management Officer for the Department. His address and telephone number is listed above. Comments regarding the proposals should be sent to the OMB Desk Officer at the address listed above.

The proposed information collection requirements are described as follows:

Notice of Submission of Proposed Information Collection to OMB

Proposal: Financially Troubled Public Housing Agencies: Financial Workout Plan (FWP) and Quarterly Report on FWP Progress
Office: Public and Indian Housing
Form Number: HUD–53331 and HUD–53332
Frequency of Submission: Quarterly, Semi-Annually, and Annually
Affected Public: State or Local Governments
Estimated Burden Hours: 8,000
Status: Revision
Contact: Roger Braner, HUD, (202) 755–7970; Robert Neal, OMB, (202) 395–7316.

Proposal: Survey of Shelters for Homeless Persons
Office: Policy Development and Research
Form Number: None
Frequency of Submission: On Occasion
Affected Public: Non-Profit Institutions
Estimated Burden Hours: 100
Status: New
Contact: Martin Abravanel, HUD, (202) 755–5531; Robert Neal, OMB, (202) 395–7316.

Authority: Sec. 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: January 13, 1984.

Lee Hamilton,

Director, Office of Information Policies and Systems.

[FR Doc. 84-2415 Filed 1-30-84; 8:45 am]

BILLING CODE 4210-01-M

[Docket No. D-84-727]

Delegation of Authority to Assistant Secretary for Community Planning and Development

AGENCY: Office of the Secretary, HUD.

ACTION: Notice of delegation of authority.

SUMMARY: The Secretary of Housing and Urban Development ("the Secretary") is delegating his functions, powers, and duties to the Assistant Secretary for Community Planning and Development with respect to section 413 of the Housing and Urban Development Act of 1968, section 726 of the Housing and Urban Development Act of 1970, section 474 of the Housing and Urban-Rural Recovery Act of 1983 and any other functions, powers and duties which may affect the liquidation of the new communities program.

EFFECTIVE DATE: January 18, 1984.

FOR FURTHER INFORMATION CONTACT: Grant E. Mitchell, Assistant General Counsel for New Communities, Room 10248, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410. Telephone (202) 755-6550 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION: Section 474(a) of the Housing and Urban-Rural Recovery Act of 1983, Pub. L. 98-181, 97 Stat. 1153, provides for the management and orderly liquidation of the assets, and discharge of the liabilities, acquired or incurred in connection with the new communities program authorized pursuant to title IV of the Housing and Urban Development Act of 1968 and title VII of the Housing and Urban Development Act of 1970 (hereafter referred to as "title IV" and "title VII", respectively). The liquidation of the new communities program is to be carried out pursuant to the provisions of law applicable to the Revolving Fund (Liquidating Programs) established pursuant to title II of the Independent Offices Appropriations Act, 1955, upon the transfer by the Secretary of the assets and liabilities in the revolving fund authorized under section 717 of title VII to such revolving fund, as required in title I of the Department of Housing and Urban Development-Independent Agencies Appropriations Act, 1984. Section 474(e) of the Housing and Urban-Rural Recovery Act of 1983 repealed title IV, except for sections 408, 411, 413, 414, 416, and part B of title VII, except for sections 724, 725, 726, and subsections (b) through (e) of section 727. The New Community Development Corporation was abolished. Therefore, all remaining functions, powers and duties related to the new communities program are vested by statute in the Secretary.

Albert R. Diehl, by delegation of authority from the Secretary, has been exercising the interim new communities functions. These functions are now being transferred to the Assistant Secretary for Community Planning and Development.

Accordingly, the Secretary delegates as follows:

Section A. Authority delegated. The Assistant Secretary for Community Planning and Development is hereby delegated the authority of the Secretary with respect to the new communities program including the functions, powers and duties in section 413 of the Housing and Urban Development Act of 1968 (42 U.S.C. 3912), section 726 of the Housing and Urban Development Act of 1970 (42 U.S.C. 4527), section 474 of the Housing and Urban-Rural Recovery Act of 1983 (Pub. L. 98-181, 97 Stat. 1153) and any other functions, powers and duties which may affect the liquidation of the new communities program.

Section B. Authority to redelegate. Any of the authority delegated to the Assistant Secretary for Community Planning and Development under Section A may be redelegated by the Assistant Secretary to other employees of the Department.

Section C. Supersedure This delegation revokes and supersedes the delegation of authority from the Secretary to Albert R. Diehl at 48 FR 55340, December 12, 1983.

(Sec. 7(d), Department of Housing and Urban Development Act, 42 U.S.C. 3535(d))

Dated: January 18, 1984.

Samuel R. Pierce, Jr.,

Secretary of Housing and Urban Development.

[FR Doc. 84-2514 Filed 1-30-84; 8:45 am]

BILLING CODE 4210-32-M

[Docket No. N-84-1339]

Privacy Act of 1974; Deletion of System of Records

AGENCY: Department of Housing and Urban Development.

ACTION: Deletion of system of records.

SUMMARY: Notice is given that a Privacy Act system of records is deleted.

EFFECTIVE DATE: Date of publication.

ADDRESS: Rules Docket Clerk, Room 10278, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410.

FOR FURTHER INFORMATION CONTACT: Arthur L. Stokes, Departmental Privacy Act Officer, Telephone 202-755-5320. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: HUD/DEPT-61, Mobile Home Standards Complaint, Production and Compliance Analysis System, does not meet the Privacy Act criteria and will no longer be maintained as a Privacy Act System of Records. The system was described in the **Federal Register** at 47 FR 54896 (November 4, 1981) and amended at 47 FR 17337 (April 22, 1982).

(5 U.S.C. 552a, 88 Stat. 1896, sec. 7(d) Department of HUD Act (42 U.S.C. 3535(d)))

Issued at Washington, D.C., January 17, 1984.

Judith L. Tardy,

Assistant Secretary for Administration.

[FR Doc. 84-2517 Filed 1-30-84; 8:45 am]

BILLING CODE 4210-32-M

DEPARTMENT OF THE INTERIOR

Office of the Secretary

Commission on Fair Market Value Policy for Federal Coal Leasing; Meeting

AGENCY: Commission on Fair Market Value Policy for Federal Coal Leasing, Interior.

ACTION: Notice of meeting.

SUMMARY: Notice is hereby given that the Commission on Fair Market Value Policy for Federal Coal Leasing will meet on February 1, 1984, to review and approve the final draft of its report to Congress. The location has not yet been confirmed. The meeting will begin at 8:00 a.m.

FOR FURTHER INFORMATION CONTACT: Wiley Horsley, Special Assistant to the Chairman, Commission on Fair Market Value Policy for Federal Coal Leasing, Suite 400, 1015 20th Street, NW., Washington, D.C. 20036. Phone: (202) 632-6501.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to the authority and requirements of Pub. L. 98-63, approved July 30, 1983, making supplemental appropriations for fiscal year 1983, and for other purposes, and in accordance with the Federal Advisory Committee Act (Pub. L. 92-463).

The Commission will meet at 8:00 a.m. on February 1, 1984, to review and approve the final draft of its report to

Congress. The location of the meeting has not yet been confirmed. Interested parties should call the Commission office (632–6501) for details.

Dated: January 30, 1984.

David F. Linowes,

Chairman.

[FR Doc. 84–2735 Filed 1–30–84; 10:30 am]

BILLING CODE 4310–10–M

Bureau of Land Management

[AA–5680–B]

Alaska Native Claims Selection; Paug-Vik Inc., Ltd.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice is hereby given that a decision to issue conveyance under the provisions of Sec. 12(a) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601 (1976)) (ANCSA), will be issued to Paug-Vik Incorporated. Limited, for approximately 2.41 acres. The lands involved are within T. 17 S., R. 45 W., Seward Meridian, U.S. Survey No. 4688, Alaska:

The decision to issue conveyance will be published once a week, for four (4) consecutive weeks, in the Anchorage Times upon issuance of the decision. For information on how to obtain copies, contact the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513.

Any party claiming a property interest in lands affected by this decision, an agency of the Federal Government, or regional corporation may appeal the deicision to the Interior Board of Land Appeals, Office of Hearings and Appeals, in accordance with the regulations in 43 Code of Federal Regulation (CFR), Part 4, Subpart E, as revised.

If an appeal is taken, the notice of appeal must be filed in the Bureau of Land Management, Alaska State Office, Division of Conveyance Management (960), 701 C Street, Box 13, Anchorage, Alaska 99513. Do not send the appeal directly to the Interior Board of Land Appeals. The appeal and copies of pertinent case files will be sent to the Board from this office. A copy of the appeal must be served upon the Regional Solicitor, 701 C Street, Box 34, Anchorage, Alaska 99513.

The time limits for filing an appeal are:

1. Parties receiving service of the decision by personal service or certified mail, return receipt requested, shall have thirty days from the receipt of the decision to file an appeal.

2. Unknown parties, parties unable to be located after reasonable efforts have been expended to locate, parties who failed or refused to sign their return receipt, and parties who recevied a copy of the decision by regular mail which is not certified, return receipt requested, shall have until March 1, 1984 to file an appeal.

Any party known or unknown who is adversely affected by the decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Bureau of Land Management, Alaska State Office, Division of Conveyance Management.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeal. Further information on the matter of and requirements for filing an appeal may be obtained from the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513.

If an appeal is taken, the parties to be served with a copy of the notice of appeal are:

Regional Director, National Oceanic and Atmospheric Administration, National Marine Fisheries Service, Box 1668, Juneau, Alaska 99802.

Paug-Vik Incorporated, Limited, P.O. Box 61, Naknek, Alaska 99633.

Bristol Bay Native Corporation, P.O. Box 198, Dillingham, Alaska 99752.

Helen Burleson,

Acting Chief, Branch of ANCSA Adjudication.

[FR Doc. 84–2553 Filed 1–30–84; 8:45 am]

BILLING CODE 4310–JA–M

[A–18634]

Public Lands Exchange; Mohave County, Arizona

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Notice of realty action.

SUMMARY: The following described lands have been determined to be suitable for disposal by exchange under Section 206 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1716:

Gila and Salt River Meridian, Arizona

T. 20 N., R. 18 W.
Section 6: Lots 1 thru 7, S½NE¼,SE¼ NW¼, E½SW¼, and SE¼ (Excluding the following millsites: E½SE¼SE¼ SE¼, N½NW¼NW¼NW¼, and W½ SW¼SW¼SW¼);
Section 8: All (Excluding millsite in W½ NW¼NW¼NE¼);
Section 18: Lots 1 thru 4, E½W½, and E½ (Excluding millsite in W½NW¼NW¼ NW¼).
Section 20: All;
Section 28: All;
Section 30: Lots 1 thru 4, E½W½, and E½.
T. 20 N., R. 19 W.
Section 2: Lots 1 thru 4, S½N½, and S½;
Section 12: All;
Section 14: All;
Section 24: All;
Section 26: All;
Section 36: All.
T. 21 N., R. 19 W.
Section 22: All;
Section 28: All.
Comprising 8,931.01 acres, more or less.

In exchange for these lands, the United States will acquire the following described land from Jack Wilson of Kingman, Arizona.

Gila and Salt River Meridian, Arizona

T. 14 N., R. 15 W.
Section 1: Lots 1 thru 4, S½N½, and S½;
Section 13: N½, SW¼, W½SE¼, N½NE¼ SE¼, and S½SE¼SE¼.
T. 14 N., R. 14 W.
Section 1: Lots 1 thru 4, S½N½, and S½;
Section 3: Lots 1 thru 4, S½N½, and S½;
Section 5: Lots 1 thru 4, S½N½, and S½.
T. 15 N., R. 14 W.
Section 5: Lots 2, 3, 4, SW¼NE¼, and S½ NW¼;
Section 7: Lots 1 thru 4, E½W½, and E½;
Section 15: All;
Section 17: N½, SW¼, NE¼, SE¼, and W½SE¼;
Section 19: All;
Section 21: All;
Section 23: E½, E½, W½, N½NW¼NW¼, S½SW¼NW¼, and W½SW¼;
Section 25: All;
Section 27: All;
Section 29: All;
Section 31: Lots 1 thru 4, E½W½, and E½;
Section 33: All;
Section 35: All.
T. 15 N., R. 15 W.
Section 1: Lots 1 thru 4, S½NE¼, SW¼ NW¼, and S½;
Section 13: All;
Section 25: E½W½NW¼, and SW¼.
Comprising 12,767.23 acres, more or less.

The purpose of the exchange is to acquire the non-federal land that contains highly diversified wildlife habitat and provides potential for recreation management opportunities near the southern expanse of the Hualapai Mountains southeast of Kingman, Arizona. The exchange is consistent with the Black Mountain Management Framework Plan and the public interest will be well served.

The above lands will be subject to an appraisal to determine the value of the lands to be exchanged. The listed lands may change to reflect equal value following the completion of the appraisal.

Lands to be transferred from the United States will be subject to the following reservations:

1. A right-of-way for ditches and canals constructed by the authority of the United States, pursuant to the Act of August 30, 1890 (26 Stat. 391; U.S.C. 945).

2. A reservation to the United States of all minerals together with the right to prospect for, mine and remove same under the applicable laws and regulations.

3. Reservations to the United States for the fenceline and pipeline rights-of-way, A–18996 and A–18997, issued under the authority of Title V, Section 507 of the Act of October 21, 1976 (43 U.S.C. 1767).

4. A reservation for powerline right-of-way PHX–083786 as provided under the authority of the Act of December 5, 1924 (43 Stat. 704; 43 U.S.C. 417).

5. A reservation for powerline right-of-way A–16998 as provided under the Act of October 21, 1976 (90 Stat. 2776; 43 U.S.C. 1761).

6. Subject to such rights for coal slurry pipeline right-of-way A–438 as provided under the authority of the Act of February 15, 1901 (31 Stat. 790, as amended; 43 U.S.C. 959).

7. Subject to such rights for powerline right-of-way A–16822 as provided under the authority of the Act of October 21, 1976 (90 Stat. 2776; 43 U.S.C. 1761).

8. Subject to such rights for telephone line right-of-way PHX–079765 as provided under the authority of the Act of March 4, 1911 (36 Stat. 1253; 43 U.S.C. 961).

9. Subject to such road rights-of-way secured under the authority of RS 2477 by Mohave County Board of Supervisor's Resolution No. 947 (Bk. 380 of O.R., Pg. 874).

10. Subject to such rights for roadway right-of-ways A–18998 thru A–19012, inclusive, as provided under the authority of the Act of October 21, 1976 (90 Stat. 2776; 43 U.S.C. 1761).

11. Subject to whatever restrictions may be imposed by the County Floodplain Administrator in accordance with the "Amended Floodplain Regulations For The Unincorporated Area of Mohave County, Arizona," as adopted by the Mohave County Board of Supervisors by Resolution No. 82–1 of May 17, 1982, and Recorded in Book 824, Page 895 of Official Records, Mohave County, Arizona.

12. Subject to oil and gas leases A–11262, A11893, A–11894, A–13838, A–13838A, A–13839, A–13853, A–13853A, and A–14776 and any authorized extensions thereof.

Private lands to be acquired by the United States will be subject to the following reservations, terms and conditions:

1. All minerals in the subject are reserved to the Santa Fe Pacific Railroad Company as set forth in Book 71 of Deeds, page 495, Mohave County, Arizona.

Publication of this Notice will segregate the subject lands from all appropriations under the public land laws, including the mining laws, but not the mineral leasing laws. This segregation will terminate upon the issuance of a patent or two years from the date of this Notice, or upon publication of a Notice of Termination.

Detailed information concerning this exchange can be obtained from the Kingman Resource Area Office, 2475 Beverly Avenue, Kingman, Arizona 86401. For a period of forty-five (45) days from the date of this Notice, interested parties may submit comments to the District Manager, Phoenix District Office, 2015 West Deer Valley Road, Phoenix, Arizona 85027. Any adverse comments will be evaluated by the District Manager who may vacate or modify this Realty Action, and issue a final determination. In the absence of any action by the District Manager, this Realty Action will become the final determination of the Department of the Interior.

Dated: January 19, 1984.

Marlyn V. Jones,

District Manager.

[FR Doc. 84–2528 Filed 1–30–84; 8:45 am]

BILLING CODE 4310–32–M

Realty Action; Noncompetitive Lease of Public Lands in Rio Blanco County, Colorado

The following described public land is being considered for lease under Section 302 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2762, 93 U.S.C. 1732) at the appraised fair market rental:

Sixth Principal Meridian

T. 2 N., R. 93 W.,
  Sec. 5, lot 4;
  Sec. 6, N½.
T. 3 N, R. 93 W.,
  Sec. 29, lots 3, 5, 8, 9, 12, N½NW¼, SE¼SW¼, S½SE¼;
  Sec. 30, lot 4, NE¼, E½SW¼, SE¼;
  Sec. 31, all;
  Sec. 32, NW¼NW¼, S½NW¼, SW¼.

The area described aggregates approximately 2,040 acres in Rio Blanco County, Colorado. The land is located approximately 10 miles north of Meeker, Colorado.

Lease of the above-described lands has been proposed by Consolidation Coal Company of Englewood, Colorado, for the permanent stockpiling of overburden generated by their proposed coal mining operations. Their proposed mine involves Federal lands and minerals within the Danforth Hills No. 3 tract and is located immediately north of the proposed stockpile area.

The proposed lease would be dependent upon Consolidation Coal filing a lease application including information required by Title 43 Code of Federal Regulations, § 2920.52. The terms and conditions applicable to any lease issued under this notice are those in 43 CFR 2920.7.

Information about the proposal can be reviewed in the Bureau of Land Management, Craig District Office, 455 Emerson Street, Craig, Colorado 81625, telephone (303) 824–8261.

The applicant will be required to reimburse the United States for reasonable administrative and other cost incurred by the United States in processing the application and for monitoring use, construction, operation, maintenance and rehabilitation of the proposed lease area. The reimbursement of cost would be in accordance with the provisions of 43 CFR 2920.6.

For a period of 45 days from the date of publication of this notice in the **Federal Register**, interested parties may submit comments to the District Manager, Bureau of Land Management, Craig District Office, 455 Emerson street, Craig, Colorado 81625. Any adverse comments will be evaluated by the District Manager, who may vacate or modify this realty action and issue a final determination.

Dated: January 16, 1984.

Lee Carie,

District Manager, Craig District Office.

[FR Doc. 84–2565 Filed 1–30–84; 8:45 am]

BILLING CODE 4310–JB–M

Federal-State Coal Advisory Board; Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of meeting.

SUMMARY: This notice is to inform the public that the Federal-State Coal Advisory Board will be meeting in Denver, Colorado, on February 15, 1984, and, if needed, on February 16, 1984. The public is welcome to attend. The board will review the report of the Commission on Fair Market Value Policy for Federal Coal Leasing and will prepare its findings for consideration by the Secretary of the Interior.

DATE: The board will meet at 8:30 a.m. on February 15, 1984, and, if necessary,

will continue at 8:30 a.m. on February 16, 1984.

ADDRESS: The meeting will be held at the Holiday Inn—Downtown, 1450 Glenarm Place, Denver, Colorado 80202, telephone (303) 573-1450.

FOR FURTHER INFORMATION CONTACT: Myra Musialkiewicz, Division of Solid Mineral Leasing (202/FTS 343-6821), or Erick Kaarlela, Resource Evaluation and Program Development Staff (202/FTS 343-4537), Bureau of Land Management, 18th and C Streets, NW., Washington, D.C. 20240.

SUPPLEMENTARY INFORMATION: The Federal-State Coal Advisory Board is chartered under the Federal Advisory Committee Act and advises the Secretary and the Director on the Federal coal management program.

The advisory board will meet on February 15, 1984, and, if necessary, on February 16, 1984, to review the report of the Commission on Fair Market Value Policy for Federal Coal Leasing, particularly future leasing schedules. This meeting is the result of a recommendation made by the board at its December 1983 meeting to provide the Secretary with its findings on the report in accordance with the board's responsibilities for providing advice on the Federal coal program and a recommendation to review future leasing schedules.

Copies of the Commission's report are to be requested from: Commission on Fair Market Value Policy for Federal Coal Leasing, Suite 400, 1015 20th Street, NW., Washington, D.C. 20036 (202) 632-6501.

The public will have the opportunity to address the board regarding the Commission's report during the public comment period that is currently scheduled for early afternoon on February 15, 1984. However, the time for the comment period can either be advanced or delayed depending on the flow of board business.

Written copies of a speaker's remarks, although not required, would be appreciated. All comments will become part of the permanent record of the advisory board meeting. The chairperson may impose a time limit to ensure that all those wishing to address the board are heard.

Dated: January 26, 1984.

Arnold E. Petty,

Acting Associate Director, Bureau of Land Management.

[FR Doc. 84-2561 Filed 1-30-84; 8:45 am]

BILLING CODE 4310-84-M

Fairbanks District Advisory Council; Meeting

The Advisory Council for the Fairbanks District of the Bureau of Land Management will have a general meeting on March 2, 1984. The location of the meeting will be the second floor training room at the BLM offices at Fort Wainwright, Gaffney and Marks Road. The meeting will convene at 8:30 a.m. and conclude at 5 p.m. Public comments will be received by the Council from 2 p.m. to 3 p.m.

The following topics will be discussed at the meeting:

1. Access and rights-of-way in the Steese National Conservation Area and the White Mountains National Recreation Area.
2. The 1008 study process.
3. The Environmental Impact Statements for the Steese and White Mountains areas.
4. The Central Yukon Resource Management Plan.
5. The Koyukuk-Seward and Koyuk Fire Management Plans.
6. Activities within the National Petroleum Reserve-Alaska.
   a. Preference rights coal lease for Morgan Coal Company.
   b. Fourth NPR-A lease sale.
   c. The Habitat Management Plan for the Teshukpuk Lake area.
7. Activities within the oil pipeline utility corridor.
8. The Fortymile Resource Area reorganization.

All meetings and activities of the Council are open to the public.

Carl D. Johnson,

District Manager.

[FR Doc. 84-2598 Filed 1-30-84; 8:45 am]

BILLING CODE 4310-84-M

[U-48012]

Order Providing for Opening of Public Lands; Utah

In an exchange of lands made under the provisions of Section 206 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2756, 43 U.S.C. 1716, the surface estate only of the following described lands has been reconveyed to the United States:

Salt Lake Meridian, Utah

T. 5 S., R. 3 E.,
Sec. 33, lot 2, excluding that portion deeded to the Utah State Road Commission, recorded 1-21-1971 as entry No. 752 in Utah County.
T. 6 S., R. 3 E.,
Sec. 8, N½NE¼.
Aggregating 117.08 acres in Utah County.

Upon acceptance of title (dated May 18, 1982) to the lands, they became part of the Uinta National Forest, and are subject to all the laws, rules, and regulations applicable thereto.

At 10:00 a.m., on February 24, 1984, the lands shall be open to such forms of disposition as may by law be made of national forest lands.

Inquiries concerning the lands should be addressed to the Forest Supervisor, Uinta National Forest, 88 West 100 North, Provo, Utah 84601.

Dated: January 23, 1984.

Orval L. Hadley,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 84-2560 Filed 1-30-84; 8:45 am]

BILLING CODE 4310-DQ-M

Filing of Plat of Survey; New Mexico

January 20, 1984.

The plat of survey described below was officially filed in the New Mexico State Office, Bureau of Land Management, Santa Fe, New Mexico, effective at 10 a.m. on January 16, 1984.

New Mexico Principal Meridian

A dependent resurvey of a portion of the east boundary, a portion of the subdivisional lines in T. 3 N., R 5 E., NMPM, under Group 825, and was accepted January 16, 1984.

This survey was requested by the Cibola National Forest, Albuquerque, New Mexico.

The plat will be placed in the open files of the New Mexico State Office, Bureau of Land Management, P.O. Box 1449, Santa Fe, New Mexico 87501. Copies of the plat may be obtained from that office upon payment of $2.50 per sheet.

Gary S. Speight,

Chief, Branch of Cadastral Survey.

[FR Doc. 84-2507 Filed 1-30-84; 8:45 am]

BILLING CODE 4310-FB-M

Geological Survey

Revision of Terminology for Geologic Hazard Warnings

AGENCY: U.S. Geological Survey, Interior.

ACTION: Notice.

SUMMARY: This notice describes changes in the terms and criteria used by the U.S. Geological Survey for issuing statements concerning geologic-related hazards to public officials and the public.

For the purpose of this statement, a geologic hazard is a geologic condition,

process, or potential event, such as an earthquake, volcanic eruption, or landslide, that poses a threat to the health, safety, or welfare of the public or to the functions or economy of a community or larger governmental entity. In this context a Geologic Hazard Warning is a formal statement by the Director of the U.S. Geological Survey that discusses a specific geologic condition, process, or potential event that poses a significant threat to the public, and for which some timely response would be expected. Directives or advisories to the public to take action, based on a Geologic Hazard Warning, may be issued by officials of State and local governments, and other Federal agencies, with authority and responsibility to use such statements.

The term Hazard Warning is reserved for those situations posing a risk greater than normal and warranting considerations of a timely response in order to provide for public safety. Information regarding hazardous conditions that do not meet the criteria for a Hazard Warning may, however, also be sent to public officials as it becomes available. Transmittal of such information would not constitute a Hazard Warning.

1. The criteria for a Geologic Hazard Warning are:

a. A degree of risk greater than normal for the area; or a hazardous condition that has recently developed or has only been recently recognized; and

b. A threat that warrants consideration of a near-term public response.

2. A Geologic Hazard Warning consists of:

a. A description of the geologic or other pertinent conditions that cause the concern;

b. Factors that indicate that such conditions constitute a potential hazard;

c. Location or area that may be affected;

d. Estimated severity and time of occurrence, if such estimates are justified by available information;

e. If possible, a probabilistic statement on the likelihood of a given event or events within a specified time period; and

f. A description of continued Geological Survey involvement and estimate of what and when additional information might be available.

If a life or property-threatening event is thought to be imminent, and immediate response is warranted by the public and public officials, the emergency nature of the Hazard Warning will be stated clearly either in the heading or the first sentence of the text of the warning statement. If the immediate crisis passes, either with or without the anticipated event, a revised statement will be issued to reflect the changed conditions and a re-evaluation of the geologic hazard.

These changes in the terms and criteria do not entail or imply any changes to the *procedures* the U.S. Geological Survey uses to notify State and local governments, other Federal agencies, the public, or the news agencies and services.

SUPPLEMENTARY INFORMATION: The **Federal Register** of April 12, 1977, Vol. 42, No. 70, pages 19292 to 19296 describes the previous terminology as well as the U.S. Geological Survey's authority to issue warnings of geologic-related hazards, capabilities to predict hazardous events, and provisional procedures to report hazardous conditions.

Dated: January 24, 1984.

James F. Devine,

Assistant Director for Engineering Geology.

[FR Doc. 84-2592 Filed 1-30-84; 8:45 am]

BILLING CODE 4310-31-M

National Park Service

Golden Gate National Recreation Area Advisory Commission; Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of the Golden Gate National Recreation Area Advisory Commission will be held at 7:30 p.m. (PST) on Wednesday, February 22, 1984, at the Student Center, Tamalpais High School, Mill Valley, California.

The Advisory Commission was established by Pub. L. 92-589 to provide for the free exchange of ideas between the National Park Service and the public and to facilitate the solicitation of advice or other counsel from members of the public on problems pertinent to the National Park Service systems in Marin and San Francisco counties.

Members of the Commission are as follows:

Mr. Frank Boerger, Chairman
Ms. Amy Meyer, Vice Chair
Mr. Ernest Ayala
Mr. Richard Bartke
Mr. Fred Blumberg
Ms. Margot Patterson Doss
Mr. Jerry Friedman
Ms. Daphne Greene
Mr. Peter Haas, Sr.
Mr. Burr Heneman
Mr. John Jacobs
Mr. John Mitchell
Ms. Gimmy Park Li
Mr. Merritt Robinson
Mr. John J. Spring
Dr. Edgar Wayburn
Mr. Joseph Williams

The major agenda items for this meeting will be the Mill Valley Air Force Station and the Point Reyes Committee report.

The meetings are open to the public. Any member of the public may file with the Commission a written statement concerning the matters to be discussed.

Persons wishing to receive further information on this meeting or who wish to submit written statements may contact John H. Davis, General Superintendent of the Golden Gate National Recreation Area, Building 201, Fort Mason, San Francisco, CA 94123; telephone (415) 556-2920.

Minutes of the meeting will be available for public inspection by March 22, 1984 in the Office of the General Superintendent, Golden Gate National Recreation Area, Fort Mason, San Francisco, CA 94123.

Dated: January 20, 1984.

W. Lowell White,

Acting Regional Director, Western Region.

[FR Doc. 84-2619 Filed 1-30-84; 8:45 am]

BILLING CODE 4310-70-M

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before January 20, 1984. Pursuant to section 60.13 of 36 CFR Part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, U.S. Department of the Interior, Washington, DC 20243. Written comments should be submitted by March 15, 1984.

Carol D. Shull,

Chief of Registration National Register.

ARIZONA

Maricopa County

Phoenix vicinity, *Hedgpeth Hills Petroglyph Site*, N of Beardsley Rd. and 43rd Ave.
Phoenix, *Encanto-Palmcroft Historic District*, Bounded by N. 7th and N. 15th Aves., McDowell and Thomas Rds.

COLORADO

Boulder County

Boulder vicinity, *Swedish Evangelical Lutheran Church of Ryssby*, N. 63rd St.

Denver County

Denver, *Orlando Flats*, 2330 Washington St.

Pueblo County

Pueblo, *Star Journal Model Home*, 2920 High St.

CONNECTICUT

Fairfield County

Ridgefield, *Hyatt, Thomas, House*, 11 Barlow Mountain Rd.
Ridgefield, *June, Lewis, House*, 478 N. Salem Rd.

Litchfield County

Salisbury, *Scoville Powerhouse*, Twin Lakes and Beaver Dam Rds.
Thomaston, *Trinity Church*, Main St.
Torrington, *Warner Theater*, 68–82 Main St.

Tolland County

Vernon, *Minterburn Mill*, 215 E. Main St.

Windham County

Woodstock, *Woodstock Academy Classroom Building*, Academy Rd.

GEORGIA

Habersham County

Cornelia vicinity, *Chenocetah Fire Tower*, Chenocetah Mountain

IDAHO

Camas County

Fairfield vicinity, *Skillern, John, House*, NW of Fairfield

ILLINOIS

Kane County

Aurora, *Aurora College Complex (Eckhart, Davis and Wilkinson Halls)*, 347 S. Gladstone Ave.

IOWA

Black Hawk County

Waterloo, *Highland Historic District*, Roughly bounded by Independence Ave., Steely, Idaho, and Vine Sts.

MAINE

Cumberland County

Portland, *Western Promenade Historic District*, Roughly bounded by Western Promenade and Bramhall, Brackett, Emery, and Danforth Sts.

MICHIGAN

Genesee County

Flint, *Paterson, William A., Factory Complex*, 126 E. 3rd St.

Oakland County

Pontiac, *Central School*, 101 E. Pike St.
Pontiac, *Eagle Theater*, 11–15 S. Saginaw St.
Pontiac, *Pontiac Commercial Historic District*, 1–29 N. Saginaw St., 5–29 W. Lawrence St. and 10–18 W. Pike St.

MINNESOTA

Mahnomen County

Mahnomen, *Mahnomen County Courthouse*, Main St. at Washington Ave.

Nobles County

Worthington, *Hotel Thompson*, 300–310 10th St.

Otter Tail County

Elizabeth, *Elizabeth City Hall and Jail*, Broadway Ave.

Pelican Rapids, *Blyberg, O.A.E., House*, 22 5th Ave. SW

Ramsey County

St. Paul, *Lee, Olof, House*, 955 N. Jessie St.
St. Paul, *Schneider, Charles W., House*, 1750 E. Ames Pl.
St. Paul *Schornstein Grocery and Saloon*, 707 E. Wilson Ave. and 223 N. Bates Ave.

MISSOURI

Marion County

Hannibal vicinity, *Barkley, Levi, House*, W of Hannibal
Palmyra, *Walker-Woodward-Schaffer House*, 1425 S. Main St.

St. Louis (Independent City)

Liggett and Myers (Rice-Stix) Building, 1000 Washington Ave.
Sugar Loaf Mound, 4414 and 4420 Ohio Ave.

St. Louis County

Pine Lawn, *Pine Lawn Carriage House*, 6292–94 Stillwell Dr.
St. Louis vicinity, *Jarville*, 1723 Mason Rd.
University City/St. Louis (Independent City), *Delmar Loop-Parkview Gardens Historic District*, Roughly bounded by Kingsland Ave., North Dr., Delmar Blvd., and Eastgate

NEW JERSEY

Camden County

Merchantville, *Collins and Pancoast Hall*, 4–8 S. Centre St.

Passaic County

Paterson, *Danforth Memorial Library*, 250 Broadway

NEW MEXICO

Bernalillo County

Albuquerque, *Hilton Hotel*, 125 2nd St., NW

Eddy County

Artesia, *Acord, John, House (Artificial Stone Houses of Artesia TR)*, 801 W. Main St.
Artesia, *Atkeson, Willie D., House (Artificial Stone Houses of Artesia TR)*, 303 W. Grand Ave.
Artesia, *Baskin, William, House (Artificial Stone Houses of Artesia TR)*, 811 W. Quay Ave.
Artesia, *Gesler, Edward R., House (Artificial Stone Houses of Artesia TR)*, 411 W. Missouri Ave.
Artesia, *Hodges-Runyan-Brainard House (Artificial Stone Houses of Artesia TR)*, 504 W. Quay Ave.
Artesia, *Hodges-Sipple House (Artificial Stone Houses of Artesia TR)*, 804 W. Missouri Ave.
Artesia, *Lukins, F. L., House (Artificial Stone Houses of Artesia TR)*, 801 W. Richardson Ave.
Artesia, *Mauldin-Hall House (Artificial Stone Houses of Artesia TR)*, 501 S. Roselawn Ave.
Artesia, *Moore-Ward Cobblestone House*, 505 W. Richardson Ave.
Artesia, *Ross, Dr. Robert M., House (Artificial Stone Houses of Artesia TR)*, 1002 S. Roselawn Ave.

OREGON

Coos County

Coos Bay, *Tower-Flanagan House*, 476 Newmark Ave.

Jackson County

Medford, *Hillcrest Orchard Historic District*, 3285 Hillcrest Rd.

Multnomah County

Portland, *Harmon-Neils House*, 2642 NW Lovejoy St.
Portland, *New Heathman Hotel*, 712 SW Salmon St.
Troutdale, *Harlow, Fred, House*, 728 E. Columbia St.

PUERTO RICO

San Juan County

Guaynabo, *Caparra*, PR 2

TENNESSEE

Davidson County

Nashville, *Longleat*, 5819 Hillsboro Rd.

TEXAS

Harris County

Spring, *Wunsche Bros. Saloon and Hotel*, 103 Midway St.

Liberty County

Liberty, *Cleveland-Partlow House*, 2131 Grand Ave.

Tarrant County

Fort Worth, *Fort Worth Elks Lodge 124*, 512 W. 4th St.

VIRGINIA

Charlottesville (Independent City)

Rugby Road-University Corner Historic District, Roughly bounded by University Ave., Wayside Pl., 14th St., and US 29

WISCONSIN

La Crosse County

La Crosse, *Roosevelt, W. A., Company*, 230 N. Front St.

[FR Doc. 84–2618 Filed 1–30–84; 8:45 am]
BILLING CODE 4310–70–M

Office of Surface Mining Reclamation and Enforcement

Determination of Valid Existing Rights Within the Otter Creek Wilderness Area of the Monongahela National Forest

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Request for additional comments.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement (OSM) is

reopening the comment period on the request of the Otter Creek Coal Company that OSM determine that the company's proposed underground coal mining operation on Federal lands in the Otter Creek Wilderness Area, West Virginia, is not prohibited or limited by Section 522(e) of the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act). The company has specifically requested that OSM determine that Otter Creek has valid existing rights under that section of the Act. On April 19, 1983, OSM gave notice of receipt of the request and established a comment period through July 18, 1983. See 48 FR 16763 (April 19, 1983). OSM solicited additional public comments on the application in the June 3, 1983, **Federal Register** (48 FR 25012). Further, OSM promulgated revised criteria for determining the existence of valid existing rights (VER) (48 FR 41312; September 14, 1983). On October 6, 1983, OSM reopened the comment period until November 7, 1983, so that the public could review the complete administrative record and comment on Otter Creek's application in light of the revised criteria for VER and various other material placed in the administrative record in the intervening time period (48 FR 45622). On November 14, 1983, counsel for the Otter Creek Coal Company filed additional comments by letter.

OSM is reopening the comment period so that the public may review the November 14, 1983, letter and comment thereon. Comments on other matters will not be considered.

DATE: Written comments will be accepted until 5:00 p.m., e.s.t., on February 15, 1984.

ADDRESSES: Documents comprising the administrative record are available for public review and copying during regular business hours at the address below. Copies of relevant notices may be obtained at the same location.

Administrative Record Room, Room 5315, Office of Surface Mining, Department of the Interior, 1100 L Street NW., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Richard Robinson, Branch of Regulatory Programs, Office of Surface Mining, 1951 Constitution Avenue, NW., Washington, D.C. 20240; Telephone (202) 343–5866.

SUPPLEMENTARY INFORMATION: Otter Creek Coal Company (the company or Otter Creek) initially filed an action in the United States Court of Claims pursuant to the just compensation clause of the Fifth Amendment to the U.S. Constitution and 28 U.S.C. 1491, seeking compensation for the alleged taking by inverse condemnation by the United States of its mineral estate underlying the Otter Creek Wilderness Area (OCWA) in Randolph and Tucker counties, West Virginia. Among other things, the company alleged that the Act prohibits all surface coal mining within the OCWA, thereby depriving Otter Creek of all use or enjoyment of its property, requiring the payment of compensation.

In subsequent judicial proceedings, the United States Court of Claims ordered the company to file an application for a valid existing rights (VER) determination pursuant to Section 522(e) of the Act. If OSM grants Otter Creek's VER application, then the company would be exempt from the Section 522(e) restrictions on mining in the OCWA; however, its operations would remain subject to the permitting and performance standards of the Act.

Otter Creek complied with the court order by filing its VER application on January 28, 1983; OSM announced receipt of the application and solicited public comment in the April 19, 1983, **Federal Register**, 48 FR 16763. OSM subsequently published a second notice in the **Federal Register** (June 3, 1983; 48 FR 25012) identifying and soliciting comments on certain related matters.

On October 6, 1983, OSM reopened the comment period until November 7, 1983, so that the public could review the complete administrative record and comment on Otter Creek's VER application in light of OSM's revised VER criteria and various other material placed in the administrative record in the intervening time period since the publication of the June 6, 1983, notice. On November 14, 1983, after the close of the comment period, counsel for the Otter Creek Coal Company filed additional comments by letter.

OSM is reopening the coment period to ensure that the public has an adequate opportunity to review and comment on the November 14, 1983 letter. Comments relating to other matters wil not be considered. This announcement is made in keeping with OSM's commitment to public participation as a vital component in fulfilling the purposes of SMCRA.

Dated: January 26, 1984.

William B. Schmidt,

Assistant Director Program Operations and Inspection

[FR Doc. 84–2625 Filed 1–30–84; 8:45 am]

BILLING CODE 4310–05–M

INTERSTATE COMMERCE COMMISSION

[Finance Docket No. 30349]

Colorado and Eastern Railroad; Purchase Exemption; Colorado and Eastern Railway; Exemption

Colorado and Eastern Railroad (C&ERR) and Colorado and Eastern Railway (C&ERy) filed a notice of exemption for C&ERR to purchase 3 rail lines from C&ERy. C&ERR and C&ERy are controlled by Gary W. Flanders.

C&ERR was created to acquire and operate the involved lines because of questions regarding whether C&ERy was correctly incorporated under the applicable Colorado incorporation laws and could thus lawfully conduct operations.

This is a transaction within a corporate family of the type specifically exempted from the necessity of prior review and approval under 49 CFR 1180.2(d)(3). It will not result in adverse changes in service levels, significant operational changes or a change in the competitive balance with carriers outside the corporate family.

As a condition to use of this exemption, any employee affected by the purchase shall be protected pursuant to New York *Dock Ry.-Control-Brooklyn Eastern Dist.*, 360 I.C.C. 60 (1979).

Decided: January 20, 1984.

By the Commission, Richard Lewis, Acting Director, Office of Proceedings.

James H. Bayne,

Acting Secretary.

[FR Doc. 84–2579 Filed 1–30–84; 8:45 am]

BILLING CODE 7035–01–M

[AB 228 SDM]

Chelatchie Prairie Railroad, Inc.; Amended System Diagram Map

Notice is hereby given that, pursuant to the requirements contained in Title 49 of the Code of Federal Regulations, § 1152.13, that the Chelatchie Prairie Railroad, Inc. has filed with the Commission its amended color-coded system diagram map in docket No. AB 228 SDM. The Commission on January 16, 1984, received a certificate of publication as required by said regulation which is considered the effective date on which the system diagram map was filed.

Color-coded copies of the map have been served on the Governor of each state in which the railroad operates and the Public Service Commission or similar agency and the State designated agency. Copies of the map may also be

requested from the railroad at a nominal charge. The maps also may be examined at the office of the Commission, Section of Dockets, by requesting docket No. AB 228 SDM.

James H. Bayne,

Acting Secretary.

[FR Doc. 84-2581 Filed 1-30-84; 8:45 am]

BILLING CODE 7035-01-M

[AB 18 SDM]

Chessie System Railroad; Amended System Diagram Map

Notice is hereby given that, pursuant to the requirements contained in Title 49 of the Code of Federal Regulations, § 1152.13, that the Chessie System Railroad has filed with the Commission its amended color-coded system diagram map in docket No. AB 18 SDM. The Commission on January 14, 1984, received a certificate of publication as required by said regulation which is considered the effective date on which the system diagram map was filed.

Color-coded copies of the map have been served on the Governor of each state in which the railroad operates and the Public Service Commission or similar agency and the State designated agency. Copies of the map may also be requested from the railroad at a nominal charge. The maps also may be examined at the office of the Commission, Section of Dockets, by requesting docket No. AB 18 SDM.

James H. Bayne,

Acting Secretary.

[FR Doc. 84-2580 Filed 1-30-84; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 30372]

Railroad Services; Virginia Central Railway Abandonment Exemption; in Fredericksburg, VA

AGENCY: Interstate Commerce Commission.

ACTION: Notice of Exemption.

SUMMARY: The Interstate Commerce Commission exempts from the requirements of prior approval under 49 U.S.C. 10903 *et seq.*, the abandonment by Virginia Central. Railway in the City of Fredericksburg, VA.

DATES: This exemption will be effective on March 1, 1984. Petitions to stay must be filed by February 10, 1984, and petitions for reconsideration must be filed by February 21, 1984.

ADDRESSES: Send pleadings referring to Finance Docket No. 30372 to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423

(2) Petitioner's representative: David E. Wasserstrom, Suite 318, Noble Plaza, 801 Old York Road, Jenkintown, PA 19046

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer (202) 275-7245.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision write to T.S. InfoSystems, Inc., Room 2227, Interstate Commerce Commission, Washington, DC 20423, or call 289-4357 (DC Metropolitan area) or toll free (800) 424-5403.

Decided: January 23, 1984.

By the Commission, Chairman Taylor, vice Chairman Andre, Commissioners Sterrett and Gradison.

James H. Bayne,

Acting Secretary.

[FR Doc. 84-2582 Filed 1-30-84; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF LABOR

Office of the Secretary

Steering Subcommittee of the Labor Advisory Committee for Trade Negotiations and Trade Policy; Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463 as amended), notice is hereby given of a meeting of the Steering Subcommittee of the Labor Advisory Committee for Trade Negotiations and Trade Policy.

Date, Time and Place

February 14, 1984, 9:30 a.m., Rm. S4215 A & B Frances Perkins, Department of Labor Building, 200 Constitution Avenue, NW., Washington, D.C. 20210.

Purpose: To discuss trade negotiations and trade policy of the United States.

This meeting will be closed under the authority of section 10(d) of the Federal Advisory Committee Act. The Committee will hear and discuss sensitive and confidential matters concerning U.S. trade negotiations and trade policy.

For further information, contact: Fernand Lavallee, Acting Executive Secretary, Labor Advisory Committee, *Phone*: (202) 523-6565, January 20, 1984.

Signed at Washington, D.C., this 20th day of January 1984.

Robert W. Searby,

Deputy Under Secretary, International Affairs.

[FR Doc. 84-2678 Filed 1-30-84; 8:45 am]

BILLING CODE 4510-28-M

Employment and Training Administration

[Employment and Training Order No. 2-84;]

Federal-State Unemployment Compensation Program; Redelegation of Authority; Correction

Employment and Training Order No. 2-84, redelegating certain authority to the Director of the Unemployment Insurance Service in the Employment and Training Administration, was published in the **Federal Register** on December 16, 1983, 48 FR 55931. As issued and published the ET Order carried the date "November 15, 1984" as the date of issuance. This date is in error, and by this notice is corrected to read "November 15, 1983". The ET Order was, by its terms, effective on the date of publication in the **Federal Register**, December 16, 1983, and it remains effective as of that date.

Date: January 25, 1984.

Patrick J. O'Keefe,

Acting Deputy Assistant Secretary of Labor.

[FR Doc. 84-2677 Filed 1-30-84; 8:45 am]

BILLING CODE 4510-30-M

Job Training Partnership Act; Program Year 1984 Transition Period; State Allotments for Migrant and Seasonal Farmworker Programs

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice.

SUMMARY: This Notice announces the Program Year 1984, July 1, 1984 through June 30, 1985, allocations to States for programs funded under Title IV, Section 402 of the Job Training Partnership Act (JTPA) (Pub. L. 97-300) of October 13, 1982.

Direct questions and comments to: Paul A. Mayrand, Acting Director, Office of Special Targeted Programs, 601 D Street, NW., Room 6122, Washington, D.C. 20213, Phone: 202/376-6225. Written comments are to be postmarked no later than 30 days from the date of publication of this Notice.

SUPPLEMENTARY INFORMATION: This Fiscal Year 1984 Department of Labor (DOL) appropriation, Pub. L. 98-139 was signed by the President on October 31,

1983. This appropriation provides funds for the 9 month transition period of October 1, 1983 through June 30, 1984, and for the program year July 1, 1984 through June 30, 1985, for programs under JTPA and for the Employment Service under Wagner-Peyser Act, as amended.

On December 7, 1983, the Department published Migrant and Seasonal Farmworker State allocations for the 9 month transition period. For that period, 75 percent of the annualized allocation of $57,986,000 or $43,489,739 was distributed to the States. In the December 7, announcement the Department expressed its intent to publish the 12 month State allocations at a later date. This Notice hereby contains the State allocations for that 12 month period, i.e., July 1, 1984 through June 30, 1985. These allocations reflect the second year application of a 75 percent hold-harmless factor. The 9 month transitional allocations represented the first year application of a hold-harmless factor. It is proposed that Program Year 1985 allocations will incorporate a third and final hold-harmless factor. All allocations after that year will result from an unrestricted application of 1980 Census data. Therefore, no State allocation will receive less than 75 percent of the annualized amount contained in the Notice of December 7, 1983. All States for which population entitlement would provide a level of $60,000 but less than $120,000 have been allocated at a minimum level of $120,000. States which would receive less than $60,000 by application of the formula will receive on allocation (Rhode Island, Alaska, and the District of Columbia) since the amount they would receive is deemed insufficient to run an effective program. Individual State allocations are as follows:

Alabama	$827,645
Arizona	802,913
Arkansas	1,204,809
California	7,880,963
Colorado	700,356
Connecticut	253,519
Delaware	120,000
Florida	2,804,843
Georgia	1,666,956
Hawaii	120,000
Idaho	792,910
Illinois	1,412,789
Indiana	1,075,489
Iowa	1,942,257
Kansas	1,192,945
Kentucky	1,149,561
Louisiana	784,681
Maine	305,878
Maryland	289,099
Massachusetts	232,425
Michigan	1,022,158
Minnesota	1,839,420
Mississippi	1,420,697
Missouri	1,207,101
Montana	689,989
Nebraska	1,436,952
Nevada	120,000
New Hampshire	120,000
New Jersey	316,913
New Mexico	352,583
New York	1,432,988
North Carolina	2,891,199
North Dakota	862,171
Ohio	1,210,046
Oklahoma	799,964
Oregon	802,913
Pennsylvania	1,289,454
South Carolina	986,034
South Dakota	557,183
Tennessee	1,034,635
Texas	4,425,933
Utah	218,240
Vermont	214,072
Virginia	982,080
Washington	1,352,250
West Virginia	225,080
Wisconsin	1,784,395
Wyoming	187,460
Puerto Rico	2,644,052
National total	57,986,000

The allocations announced herein are consistent with the Act and the regulations and are based on the best data available to the Department as determined by the Secretary. Organizations eligible to receive these funds were previously selected and designated through a competitive process for the performance period of October 1, 1983 through June 30, 1985. Planning instructions to accompany the allocations published herein will be made available to organizations concerned on February 10, 1984.

To insure timely negotiations and funding by July 1, 1984, grant applications are due at the Department by April 2.

Signed at Washington, D.C., this 24th day of January, 1984.

Paul A. Mayrand,

Acting Director, Office of Special Targeted Programs.

[FR Doc. 84-2868 Filed 1-30-84; 8:45 am]

BILLING CODE 4510-30-M

Federal-State Unemployment Compensation Program; Extended Benefits; Period in Alaska

This notice announces the beginning of a new Extended Benefit Period in Alaska, effective on January 22, 1984.

Background

The Federal-State Extended Unemployment Compensation Act of 1970 (26 U.S.C. 3304 note) established the Extended Benefit Program as a part of the Federal-State Unemployment Compensation Program. The Extended Benefit Program takes effect during periods of high unemployment in a State, to furnish up to 13 weeks of extended unemployment benefits to eligible individuals who have exhausted their rights to regular unemployment benefits under permanent State and Federal unemployment compensation laws. The Act is implemented by State unemployment compensation laws and by Part 615 of Title 20 of the Code of Federal Regulations (20 CFR Part 615).

In accordance with section 203(d) of the Act, each State unemployment compensation law provides that there is a State "on" indicator in the State for a week if the head of the State employment security agency determines that, for the period consisting of that week and the immediately preceding 12 weeks, the rate of insured employment under the State unemployment compensation law equalled or exceeded the State trigger rate. The Extended Benefit Period actually begins with the third week following the week for which there is an "on" indicator. A benefit period will be in effect for a minimum of 13 consecutive weeks, and will end the third week after there is an "off" indicator.

Determination of "On" Indicator

The head of the employment security agency of the State named above has determined that the rate of insured unemployment in the State, for the period consisting of the week ending on January 7, 1984, and the immediately preceding 12 weeks, rose to a point that equals or exceeds the State trigger rate, so that for that week there was an "on" indicator in the State.

Therefore, a new Extended Benefit Period commenced in the State with the week beginning on January 22, 1984.

Information for Claimants

The duration of extended benefits payable in the new Extended Benefit Period, and the terms and conditions on which they are payable, are governed by the Act and the State unemployment compensation law. The State employment security agency will furnish a written notice of potential entitlement to extended benefits to each individual who has established a benefit year in the State that will expire after the new Extended Benefit Period begins, and who has exhausted all rights under the

State unemployment compensation law to regular benefits before the beginning of the new Extended Benefit Period. 20 CFR 615.13(d)(1). The State employment security agency also will provide such notice promptly to each individual who exhausts all rights under the State unemployment compensation law to regular benefits during the Extended Benefit Period, including exhaustion by reason of the expiration of the individual's benefit year. 20 CFR 615.13(d)(2).

Persons who believe they may be entitled to extended benefits in the State named above, or who wish to inquire about their rights under the Extended Benefit Program, should contact the nearest State employment service office or unemployment compensation claims office in their locality.

Signed at Washington, D.C., on January 25, 1984.

Patrick J. O'Keefe,

Acting Deputy Assistant Secretary for Employment and Training.

Mine Safety and Health Administration

[Docket No. M-83-163-C]

Eastern Coal Corporation; Petition for Modification of Application of Mandatory Safety Standard

Eastern Coal Corporation, P.O. Box 219, Stone, Kentucky 41567 has filed a petition to modify the application of 30 CFR 75.1710 (cabs and canopies) to its A-5 Mine (I.D. No. 15-07132) located in Pike County, Kentucky. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that cabs or canopies be installed on the mine's electric face equipment.

2. Present coal mining height ranges from 41½ to 60½ inches. Two by eight inch wooden cap blocks are used in conjunction with six by six inch bearing plates where needed. Undulations, dips and rolls have been encountered numerous times in the coal seam.

3. Petitioner states that the use of canopies on the mine's electric face equipment in mining heights 50 inches and below would result in a diminution of safety for the miners affected because:

a. The canopies dislodge roof support and curtain boards;

b. The operator can strike his or her head, neck, and body parts against the canopy;

c. The canopies damage suspended cables, increasing fire and shock hazards;

d. The canopies hinder the equipment operator's visibility, forcing the operator to lean out from under the canopy, exposing body parts to potential injury; and

e. The canopies cause a cramped operator compartment, increasing operator fatigue and the chances of an accident.

4. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before March 1, 1984. Copies of the petition are available for inspection at that address.

Dated: January 24, 1984.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 84-2871 Filed 1-30-84; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-84-2-C]

Jim Walter Resources, Inc.; Petition for Modification of Application of Mandatory Safety Standard

Jim Walter Resources, Inc., P.O. Box C-79, Birmingham, Alabama 35283 has filed a petition to modify the application of 30 CFR 75-326 (aircourses and belt haulage entries) to its No. 7 Mine (I.D. No. 01-01401) located in Tuscaloosa County, Alabama. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. On November 21, 1980, petitioner was granted a modification of 30 CFR 75.326 to use belt haulage entries as intake aircourses to ventilate active working places (docket number M-80-100-C).

2. This petition concerns that requirement of 30 CFR 75.326 that intake and return aircourses be separated from belt haulage entries.

3. Conditions in the mine require high volumes of intake air to dilute the large quantity of methane liberated from the coal at the working face, and to remove the methane from the return airways.

4. As an alternate method, petitioner proposes to install haulage tracks in the same entries with the belts. Petitioner will isolate the belt entries used as intake entries from other intake and return entries with continuous permanent-type stoppings. In heavy or caving areas, timbers laid longitudinally "skin to skin" may be use. Such permanent stoppings will be erected between the intake and return aircourses in entries and will be maintained to and including the third connecting crosscut outby the face of the entries, except that when the belt haulage entry and the track entry are in the same entry, the stopping immediately outby the belt feeder separating the intake escapeway from the belt haulage/track entry will not be constructed. An early warning fire detector sensor will be installed to monitor the airstream in the belt/track immediately outby the stopping not constructed. The signal from the monitor sensor will be transmitted automatically to the working section and to a manned location on the surface where personnel on duty have two-way communications with all persons who may be endangered. Such signal will be activated when the level of carbon monoxide exceeds 10 ppm above the ambient level for the mine.

5. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before March 1, 1984. Copies of the petition are available for inspection at that address.

Dated: January 17, 1984.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 84-2873 Filed 1-30-84; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-83-171-C]

Monterey Coal Company; Petition for Modification of Application of Mandatory Safety Standard

Monterey Coal Company, P.O. Box 496, Carlinville, Illinois 62626 has filed a petition to modify the application of 30 CFR 77.216-3 (water, sediment, or slurry impoundments and impounding

structures, inspection requirements; correction of hazards; program requirements) to its Wayne Mine (I.D. No. 46–05121) located in Wayne County, West Virginia. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that all water, sediment, or slurry impoundments which meet the requirements of 30 CFR 77.216(a) be examined by a qualified person at intervals not exceeding seven days for appearances of structural weakness or other hazardous conditions, and that all instruments be monitored at intervals not exceeding seven days.

2. Petitioner has drained all of the water impounded by its Fresh Water Dam, and proposes as an alternate method, an inspection interval of every three months in lieu of every seven days as required by the standard.

3. In support of this request, petitioner states that:

a. The water level in the Fresh Water Lake has been lowered from the normal pool elevation of 867 feet above sea level (ASL) to 823 feet ASL, leaving only puddles of water in the impoundment area;

b. Although the water level will fluctuate upward during rainfall, the volume of water is expected to exceed 20 acre feet only infrequently, and for short periods of time until the water drains out through a sluice gate that is left in an open position;

c. All operations at the Wayne Mine have been temporarily suspended, thereby significantly reducing exposure of personnel to potential embankment distress; and

d. When mining operations resume and the Fresh Water Lake is filled, this proposed alternate inspection and monitoring interval would no longer apply.

4. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before March 1, 1984. Copies of the petition are available for inspection at that address.

Dated: January 23, 1984.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 84–2875 Filed 1–30–84; 8:45 am]

BILLING CODE 4510–43–M

[Docket No. M–83–148–C]

Olaf Coal Company; Petition for Modification of Application of Mandatory Safety Standard

Olaf Coal Company, 1475 Scott Street, Kulpmont, Pennsylvania 17834 has filed a petition to modify the application of 30 CFR 75.1714 (self-contained self-rescue devices) to its No. 1 Slope (I.D. No. 36–07469) located in Northumberland County, Pennsylvania. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that each operator make available to each person who goes underground a self-rescue device or devices approved by the Secretary which is adequate to protect such person for one hour or longer.

2. The deepest penetration from the mine portal to the actual working face is less than 2,000 feet; the mine can be evacuated in less than 15 minutes.

3. The mine is always damp to very wet and all underground equipment is operated by compressed air; therefore, the possibility of a fire is remote. However, should a fire occur anywhere on the intake side of the mine, it would be discovered immediately because one miner is always on the gangway level loading and transporting coal. If a fire should occur in the return airways, the miners could escape out the gangway and up the haulage slope in intake air.

4. Petitioner states that the devices are too heavy, bulky and cumbersome to be worn safely in the heavily pitching anthracite mine. Sections of the mine are subjected to freezing temperatures, making constant availability of the devices questionable. The wet mine conditions make it very difficult to locate a suitable, dry storage location for the devices. The miners are equipped with filter-type self-rescue devices.

5. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before March 1, 1984. Copies of the petition are available for inspection at that address.

Dated: January 24, 1984.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 84–2870 Filed 1–30–84; 8:45 am]

BILLING CODE 4510–43–M

[Docket No. M–83–170–C]

Saginaw Mining Company; Petition for Modification of Application of Mandatory Safety Standard

Saginaw Mining Company, P.O. Box 275, St. Clairsville, Ohio 43950 has filed a petition to modify the application of 30 CFR 75.305 (weekly examinations for hazardous conditions) to its Saginaw Mine (I.D. No. 33–00941) located in Belmont County, Ohio. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that intake and return aircourses be examined in their entirety on a weekly basis.

2. High humidity and the amount of airways to be maintained (more than nine miles) has caused excessive deterioration of the mine roof in the abandoned sections of the mine, making travel throughout the entries extremely hazardous. These airways are not designated escape routes.

3. As an alternate method, petitioner proposes to establish two checkpoints at specific locations to examine the abondoned sections on a weekly basis. Tests for air flow direction, air velocity and volume, and for methane and oxygen deficiency will be made at each checkpoint.

4. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before March 1, 1984. Copies of the petition are available for inspection at that address.

Dated: January 24, 1984.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 84-2072 Filed 1-30-84; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-83-153-C]

Zeigler Coal Company; Petition for Modification of Application of Mandatory Safety Standard

Zeigler Coal Company, 2700 River Road, Des Plaines, Illinois 60018 has filed a petition to modify the application of 30 CFR 75.1105 (housing of underground transformer stations, battery-charging stations, substations, compressor stations, shops, and permanent pumps) to its Murdock Mine (I.D. No. 11-00586) and its Zeigler No. 5 Mine (I.D. No. 11-01845), both located in Douglas County, Illinois, its Zeigler No. 11 Mine (I.D. No. 11-02408) and its Spartan Mine (I.D. No. 11-00612), both located in Randolph County, Illinois. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that underground battery-charging stations be housed in fireproof structures or areas.

2. Petitioner uses battery-operated shuttle cars or "unihaulers" for coal haulage and states that electrical shock and fire hazards associated with cable-powered shuttle cars are eliminated.

3. The battery-charging stations are located in active working sections and are portable in nature. Air currents used to ventilate the stations are coursed directly into the return aircourse.

4. As an alternate method, petitioner proposes to construct portable battery-charging stations. Three permanent metal stoppings separating the return aircourse from the neutral air will be constructed. Sufficient batteries for three uni-haulers plus chargers will be placed at each station. Each station will be saturated with rock dust, at least one-fourth inch on the ribs and three inches on the floor. Three portable fire extinguishers will be provided at each portable battery-powered station.

5. Petitioner states that the alternate method outlined above will provide the dame degree of safety for the miners affected as that afforded by the standard. It will allow the charging station to be moved during each power and belt move. This will maintain the station within close proximity to the working face and in direct line of sight of workers throughout each shift, greatly reducing the possibility of fire hazards.

6. For these reasons, Petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before March 1, 1984. Copies of the petition are available for inspection at that address.

Dated: January 23, 1984.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 84-2674 Filed 1-30-84; 8:45 am]

BILLING CODE 4510-43-M

NATIONAL SCIENCE FOUNDATION

Permit Issued Under the Antarctic Conservation Act of 1978; Gerald L. Kooyman

AGENCY: National Science Foundation.

ACTION: Notice of permit issued under the Antarctic Conservation Act of 1978, Pub. L. 95-541.

SUMMARY: The National Science Foundation (NSF) is required to publish notice of permits issued under the Antarctic Conservation Act of 1978. This is the required notice of permits issued.

FOR FURTHER INFORMATION CONTACT: Charles E. Myers, Permit Office, Division of Polar Programs, National Science Foundation, Washington, D.C. 20550. Telephone (202) 357-7934.

SUPPLEMENTARY INFORMATION: On December 1, 1983, the National Science Foundation published a notice in the **Federal Register** of a permit application received. On January 23, 1984 a permit was issued to: Gerald L. Kooyman.

Charles E. Myers,

Permit Office, Division of Polar Programs.

[FR Doc. 84-2593 Filed 1-30-84; 8:45 am]

BILLING CODE 7555-01-M

PACIFIC NORTHWEST ELECTRIC POWER AND CONSERVATION PLANNING COUNCIL

Industrial Conservation Advisory Task Force; Regular Meeting

AGENCY: Industrial Conservation Advisory Task Force of the Pacific Northwest Electric Power and Conservation Planning Council (Northwest Power Planning Council).

ACTION: Notice of meeting to be held pursuant to the Federal Advisory Committee Act, 5 U.S.C. Appendix I, 1-4. Activities will include:

- Survey form.
- Phase II of Industrial Conservation Assessment.

Status: Open.

SUMMARY: The Northwest Power Planning Council hereby announces a forthcoming meeting of its Industrial Conservation Advisory Task Force.

DATE: Tuesday, February 7, 1984, 9:30 a.m.

ADDRESS: The meeting will be held at the Council Hearing Room at 700 SW. Taylor; Suite 200, in Portland, Oregon.

FOR FURTHER INFORMATION CONTACT: Tom Foley, (503) 222-5161.

Edward Sheets,

Executive Director.

[FR Doc. 84-2591 Filed 1-30-84; 8:45 am]

BILLING CODE 6000-06-M

PENSION BENEFIT GUARANTY CORPORATION

Request for Extension of Approval Under the Paperwork Reduction Act of the Information Collection Requirement

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Notice of request for OMB approval of extension.

SUMMARY: The Pension Benefit Guaranty Corporation has requested approval by the Office of Management and Budget for an extension of the expiration date of a currently approved information collection requirement (1212-0023) without any change in the substance or in the method of collection. The information collection, which is scheduled to expire on March 31, 1984, is contained in PBGC's procedural regulation on Extension of Special Withdrawal Liability Rules (29 CFR Part 26450). As part of an application for PBGC approval of special withdrawal rules, the regulation requires the submission of certain information that is necessary in order to determine whether the request satisfies the statutory tests contained in ERISA section 4203(f). The effect of this notice is to advise the public of PBGC's request for OMB approval of this extension.

ADDRESSES: All written comments (at least three copies) should be addressed to: Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer

for the Pension Benefit Guaranty Corporation, 3208 New Executive Office Building, Washington, D.C. 20503. The request for extension will be available for public inspection at the PBGC Communications and Public Affairs Department, Suite 7100, 2020 K Street, NW., Washington, D.C. 20006, between the hours of 9:00 a.m. and 4:00 p.m.

FOR FURTHER INFORMATION CONTACT: James M. Graham, Attorney, Corporate Planning and Program Development Department (611), Pension Benefit guaranty Corporation, 2020 K Street, NW., Washington, D.C. 20006; (202) 254–4862. (this is not a toll-free number.)

Issued at Washington, D.C. on this 25th day of January, 1984

Edwin M. Jones,

Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 84–2578 Filed 1–30–84; 8:45 am]

BILLING CODE 7708–01–M

Pendency of Request for Exemption From Bond/Escrow Requirement Relating to Sale of Assets by an Employer That Contributes to a Multiemployer Plan; S. E. Rykoff & Co.

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Notice of pendency of request.

SUMMARY: This notice advises interested persons that the Pension Benefit Guaranty Corporation has received a request from S. E. Rykoff & Co. for an exemption from the bond/escrow requirement of section 4204(a)(1)(B) of the Employee Retirement Income Security Act of 1974. Section 4204(a)(1) provides that the sale of assets by an employer that contributes to a multiemployer pension plan will not constitute a complete or partial withdrawal from the plan if certain conditions are met. One of these conditions is that the purchaser post a bond or deposit money in escrow for five plan years beginning after the sale. The PBGC is authorized to grant exemptions from this requirement. Before granting an exemption, the PBGC is required to give interested persons an opportunity to comment on the exemption request. The effect of this notice is to advise interested persons of this exemption request and to solicit their views on it.

DATE: Comments must be submitted on or before March 16, 1984.

ADDRESSES: All written comments (at least three copies) should be addressed to: Director, Corporate Planning and Program Development Department (611), Pension Benefit Guaranty Corporation, 2020 K Street, NW., Washington, D.C. 20006. The request for exemption and the comments received will be available for public inspection at the PBGC Public Affairs Office, Suite 7100, at the above address, between the hours of 9:00 a.m. and 4:00 p.m.

FOR FURTHER INFORMATION CONTACT: Deborah Murphy, Attorney, Corporate Planning and Program Development Department (611), Pension Benefit Guaranty Corporation, 2020 K Street, NW., Washington, D.C. 20006; (202) 254–4862 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

Section 4204(a)(1) of the Employee Retirement Income Security Act of 1974, as amended ("ERISA"), 29 U.S.C. 1384, provides that a bona fide arm's-length sale of assets of a contributing employer to an unrelated party will not be considered a withdrawal if three conditions are met. These conditions, enumerated in section 4204(a)(1)(A)–(C), are that—

(A) the purchaser has an obligation to contribute to the plan for substantially the same number of contribution base units for which the seller was obligated to contribute;

(B) the purchaser obtains a bond or places an amount in escrow, for a period of five plan years after the sale, in an amount equal to the greater of the seller's average required annual contribution to the plan for the three plan years preceding the year in which the sale occurred or the seller's required annual contribution for the plan year preceding the year in which the sale occurred; and

(C) the contract of sale provides that if the purchaser withdraws from the plan within the first five plan years beginning after the sale and fails to pay any of its liability to the plan, the seller shall be secondarily liable for the liability it (the seller) would have had but for section 4204.

The bond or escrow described above would be paid to the plan if the purchaser withdraws from the plan or fails to make any required contributions to the plan within the first five plan years beginning after the sale.

Section 4204(c) of ERISA authorizes the Pension Benefit Guaranty Corporation ("PBGC") to grant individual or class variances or exemptions from the purchaser's bond/escrow requirement of section 4204(a)(1)(B) and the contract-provision requirement of section 4204(a)(1)(C). The legislative history of section 4204 indicates a Congressional intent that the sales rules be administered in a manner that assures protection of the plan with the least practicable intrusion into normal business transactions. The granting of an exemption or variance from the requirements of section 4204(a)(1) (B) or (C) does not constitute a finding by PBGC that the transaction satisfies the other requirements of section 4204(a)(1).

Under § 2643.3(a) of the PBGC's regulation on procedures for variances for sales of assets, 29 CFR 2643.3(a) (1982), the PBGC shall approve a request for a variance or exemption if it determines that approval of the request is warranted, in that it—

(1) Would more effectively or equitably carry out the purposes of Title IV of ERISA; and

(2) Would not significantly increase the risk of financial loss to the plan.

Section 4204(c) of ERISA and § 2643.3(b) of the regulation require the PBGC to publish a notice of the pendency of a request for a variance or exemption in the Federal Register, and to provide interested parties with an opportunity to comment on the proposed variance or exemption.

The Request

The PBGC has received a request from S. E. Rykoff & Co. ("Rykoff") for an exemption from the bond/escrow requirement of ERISA section 4204(a)(1)(B). In connection with the request, Rykoff represents, among other things, that:

1. On May 27, 1982, Rykoff purchased substantially all of the business and operating assets of C. W. Stoffers Co. ("Stoffers").

2. Stoffers contributed to the Western Conference of Teamsters Pension Trust Fund ("Western Conference Fund"). (Before January 1, 1982, Stoffers also contributed to the San Francisco Local 85 Pension Trust Fund ("Local 85 Fund"), which was merged into the Western Conference Fund as of the close of business on December 31, 1981.) Under the sale contract, Rykoff agreed to incur an obligation to contribute to the Western Conference Fund for substantially the same number of contribution base units for which Stoffers had an obligation to contribute.

3. Stoffer's potential withdrawal liability to the Western Conference Fund is estimated to be not more than $274,717. That amount would be subject to a reduction under ERISA section 4225(a), relating to the liquidation of a withdrawing employer. The amount of the bond or escrow required under ERISA section 4204(a)(1)(B) is $39,429.

4. Rykoff contributed to the Western Conference Fund (and, before January 1,

1982, to the Local 85 Fund) before its acquisition of Stoffers' assets. Rykoff's contributions to the Western Conference Fund and the Local 85 Fund in its fiscal year ending April 30, 1982, totaled $1,297,587. Rykoff's potential withdrawal liability to the two Funds as of the end of the 1981 plan year was $2,820,366.

5. According to its audited financial statements, Rykoff's net income (after taxes) for its fiscal years ending April 30, 1980–82, and its net assets as of the end of the same fiscal years, were as follows:

	1980	1981	1982
Net income	$4,758,000	$5,737,000	$6,385,000
Net assets	38,574,000	42,844,000	47,416,000

6. A copy of Rykoff's request has been sent to the Western Conference Fund and to the collective bargaining representatives of the former Stoffers employees by certified mail.

Comments

All interested persons are invited to submit written comments on the pending exemption to the above address, by March 16, 1984. All comments will be made a part of the record. Comments received, as well as the application for exemption, will be available for public inspection at the address set forth above.

Issued at Washington, D.C., on this 25th day of January, 1984.

Edwin M. Jones,

Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 84-2577 Filed 1-30-84; 8:45 am]

BILLING CODE 7708-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 20590; File No. 4-208]

American Stock Exchange, Inc., et al.; Approval of an Amendment to the Intermarket Trading System Plan

January 25, 1984.

In the matter of American Stock Exchange, Inc., Boston Stock Exchange, Inc., Cincinnati Stock Exchange, Inc., Midwest Stock Exchange, Inc., National Association of Securities Dealers, Inc., New York Stock Exchange, Inc., Pacific Stock Exchange, Inc., Philadelphia Stock Exchange, Inc.

The Securities and Exchange Commission has issued an order, pursuant to Section 11A of the Securities Exchange Act of 1934 ("Act") and Rule 11Aa3–2 ("National Market System ("NMS") Plan Rule") thereunder, approving an amendment ("Amendment") to the "Plan for the Purpose of Creating and Operating an Intermarket Communication Linkage ("Intermarket Trading System ("ITS") Plan").[1]

I. Background and Description of Amendment

The Commission initially approved the Amendment on a temporary basis on October 21, 1983.[2] The Amendment provides for: (1) Revised ITS pre-opening application procedures; (2) an enhanced computer interface between ITS and three regional stock exchanges; (3) modifications to the model trade-through rule and block policy; and (4) standards for assessing damages under the ITS Plan.[3]

II. Approval of Amendment

In its order autorizing ITS to operate on an indefinite basis, the Commission applauded the ITS participants' continous efforts in improving the system through technical and procedural modifications. The Commission believes that the Amendment represents these types of improvements. In particular, the Commission believes that the proposed development of the interface between ITS and three regional exchanges represents a positive technical enhancement to ITS which creates opportunities for more "efficient and effective market operations." [4] Accordingly,the Commission finds that approval of the Amendment is in furtherance of the purposes of Act, in the public interest, and appropriate for the protection of investors.

In accordance with the above, it is ordered, pursuant to Section 11A of the Act, and paragraph (c)(2) of Rule 11Aa3–2 thereunder, that the amendment to the ITS Plan be, and hereby is, approved.

For the Commission by the Division of Market Regulation pursuant to delegated authority.[5]

George A. Fitzsimmons,

Secretary.

[FR Doc.84-2663 Filed 1-30-84; 8:45 am]

BILLING CODE 8010-01-M

[1] The ITS Plan and subsequent amendments are contained in File No. 4–208. The Commission initially approved the ITS Plan on an interim basis on April 14, 1978. Subsequently, the Commission authorized the ITS participants to act jointly in operating the ITS for a further period of indefinite duration. *See* Securities Exchange Act Release No. 19456 (January 23, 1983), 48 FR 4938.

[2] *See* Securities Exchange Act Release No. 20319 (October 21, 1983), 48 FR 29953 ("Temporary Approval Release").

[3] For further information on the Amendment *see* the Temporary Approval Release.

[4] *See* Section 11A(a)(1)(B) of the Act.

[5] *See* 17 CFR 200.30–3(a)(29).

[Release No. 23209; 70-6790]

Central and South West Corp., CSW Financial, Inc.; Proposed Transaction Related to Investment in Equity Portion of "Leveraged Leases"

January 25, 1984.

Central and South West Corporation ("CSW"), 2400 San Jacinto Tower, Dallas, Texas 75222, a registered holding company, and its nonutility subsidiary company, CSW Financial, Inc. ("CSWF"), have filed with this Commission a post-effective amendment to the application-declaration in this proceeding pursuant to Sections 6(a), 7, 9(a), 10, and 12(b) of the Public Utility Holding Company Act of 1935 ("Act") and Rule 45 thereunder.

By order in this proceeding dated November 4, 1982 (HCAR No. 22695), CSWF was authorized to acquire tax benefits as the lessor pursuant to safe harbor leases involving so-called tax benefit transfer ("TBT"). It is stated that recent changes in the Internal Revenue Code have effectively eliminated standard TBTs for CSWF. However, in order to continue the tax-savings program, CSWF and CSW propose to invest in the equity portion of leveraged leases, *i.e.*, CSWF would act, directly or indirectly, as lessor or as co-lessor with other equity investors in leased property. With leveraged leases, the tax benefits associated with certain property are transferred pursuant to a lease from the user corporation to the equity investor or lessor, as with TBTs. The lessor is entitled to the investment tax credits and depreciation deductions in respect of the leased property. The major difference is that, in a TBT, the lessor does not have a property interest in the property while, in a leveraged lease, the lessor has an interest in the property and receives rental income.

CSWF is proposing what, in effect, is a joint venture with Manufacturers Hanover Leasing Corporation ("Manufacturers"), whereby a trust or a separate new corporation would be formed (collectively referred to as the "Joint venture company"), to be 80% owned by CSW or CSWF and 20% owned by Manufacturers. The trust or the new corporation would invest in and lease equipment to credit-worthy third parties, and the tax benefits (and rental income) would be shared pursuant to agreements to be entered into between Manufacturers and CSWF, with CSWF receiving a minimum of 80% of the tax benefits and income. CSWF will reimburse Manufacturers for a pro rata share of origination and administrative costs based on a formula to be

negotiated. In no event will Manufacturers' origination fee exceed 1.25% of the equipment cost of each transaction closed, and its administrative annual costs will be on a sliding scale but will not exceed .25% of all new business up to $250,000,000 annually with a minimum administration fee to be negotiated.

CSWF seeks authority to invest in up to 80% of the stock of the joint venture company and to make equity contributions thereto in order to allow the joint venture company to engage in transactions during 1984 and 1985 of up to $240,000,000 of leveraged lease transaction. CSWF's share of such capitalization will be 80% of a maximum of $200,000,000. Manufacturers would contribute the remaining $40,000,000. In the event the full $200,000,000 is used by CSWF, $60,000,000 would come from equity contributions from CSW and $140,000,000 would be from borrowings pursuant to lines of credit or loan agreements ("Loans") with one or more commercial banks to CSW, CSWF, or the joint venture company. These loans would be unsecured; but it is contemplated, and CSW requests authority, that CSW will be required to guarantee the principal and interest of loans to CSWF and the joint venture company to the extent of CSW's interest therein. Because of the length of the leveraged leases, a portion of the loans may be outstanding for more then three years. It is anticipated that the loans would bear interest at not more then the prime commercial lending rate of the respective banks, and CSWF would be required to maintain compensating balances in an amount equal to 5% of the bank's commitment and to pay a commitment fee not in excess of ½ of 1% of the commitment amount.

The amended application-declaration and any further amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by February 21, 1984, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the applicants-declarants at the address specified above. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the application-declaration, as amended or as it may be further amended, may be granted and permitted to become effective.

For the Commission, by the Office of Public Utility Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84-2865 Filed 1-30-84; 8:45 am]

BILLING CODE 8010-01-M

Midwest Stock Exchange, Inc.; Applications for Unlisted Trading Privileges and of Opportunity for Hearing

January 25, 1984.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to Section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the following stocks:[1]

Atlanta Richfield Company (File No 7-7336)

Common Stock, $2.50 Par Value

$2.80 Cumulative Convertible Preference Stock $1 Par Value

First Interstate Bancorp. (File No. 7-7337)

Capital Stock, $2 Par Value

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before February 15, 1984 written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

[1] These companies are currently listed and registered on the Midwest Stock Exchange, Inc. ("MSE"). However, at the request of Atlanta Richfield and First Interstate, the MSE filed applications on January 24, 1984 to remove the above securities from listing and registration on the MSE. The MSE has indicated to the Commission staff that it wishes to continue to trade the above securities pursuant to unlisted trading privileges to avoid any lapse in trading.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84-2864 Filed 1-30-84; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-20585; File No. SR-MSRB-84-3]

Self-Regulatory Organizations; Proposed Rule Change By Municipal Securities Rulemaking Board; Relating to Customer Confirmations

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on January 12, 1984, the Municipal Securities Rulemaking Board filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

(a) The Municipal Securities Rulemaking Board (the "Board") is filing proposed amendments to rule G-15 on customer confirmations (hereafter referrred to as the "proposed rule change"). The Board has requested that the Commission delay the effectiveness of the proposed rule change until September 1, 1984, to provide time for the industry to prepare for compliance with the requirements of the proposed rule change. The text is as follows: [1]

Rule G-15. Confirmation, Clearance and Settlement or Transactions with Customers.

(a) Customer Confirmations.

(i) Through (iv) No change.

(v) The confirmation for a transaction in securities maturing in more than two years and paying investment return solely at redemption:

(i) shall not show the par value of the securities specified in subparagraph (D) of paragraph (a) (i) [and];

(ii) shall not be required to show the amount of accrued interest specified in subparagraph (J) of paragraph (a)(i)[.];

(iii) [Such confirmation] shall [, however,] show the maturity value of the securities and specify that the interest rate on the securities is "0%"[.];

[1] Italics indicate new language, [brackets] indicate deletions.

(iv) shall indicate that the customer will not receive periodic payments;

(v) if applicable, shall indicate that the securities are callable at a price below the maturity value; and

(vi) if the securities are callable and available in bearer form, shall indicate that unless the securities are registered it maybe difficult for the customer to determine whether the securities have been called.

A statement in the description field of the confirmation or contained as a legend on the reverse side of the confirmation to the following effect will be deemed to satisfy the requirements of subparagraphs (iv), (v) and (vi) above: "No periodic payments—callable below maturity value without notice by mail to holder unless registered." Notwithstanding the foregoing, if the requisite information is set forth on the reverse side of the confirmation, its presence must be highlighted by a statement in the description field (e.g., "Important—See legend Below").

(vi) through (ix) No change.

II. Self-Regulatory Organization's Statement on Purpose of, and Statutory Basis for, the Proposed Rule Change

A. Self-Regulatory Organization's Statement on the Purpose of, and Statutory Basis for, the Proposed Rule Change

(a) Board rule G–15(a) requires disclosure on confirmations of transactions with customers of certain information about the securities involved as well as the terms of the transactions. Certain new issues of municipal securities sold in recent years have had several maturities with a stated interest rate of 0% ("zero coupon" securities); such securities are sold at deep discounts, with the investor's return received in the form of an accretion of this discount to par at the rate represented by the original offering yield. Other securities, often described as "compound interest" or "multiplier" securities, are issued with a stated rate of investment return; an investor purchasing such a security would receive at maturity a single payment (the "maturity value") representing both return of the initial principal value and payment of an investment return accrued over the life of the instrument at a stated compounded rate. The Board has adopted the proposed rule change in order to supplement certain recent amendments to its confirmation rules, rules G–12 and G–15, to accommodate transactions in zero coupon, compound interest and multiplier securities.[2]

In response to industry inquiries, the Board published a notice dated October 8, 1982, concerning the application of Board rules to transactions in zero coupon, compound interest and multiplier securities.[3] Among other things, the Board's notice reminded dealers that the Board's fair dealing rule, rule G–17, imposes an obligation on persons selling zero coupon and similar securities to the public to adequately disclose their important characteristics. For example, it is essential that investors be made aware that, unlike more traditional municipal bonds, these securities do not pay interest on a periodic basis. Further, the call features applicable to these securities usually permit them to be called at a price substantially below the maturity value. In the October notice, the Board took the position that this was material information which should be disclosed at or before the time of trade in order to enable the purchaser of the securities to make an informed investment decision. The Board has since determined that the fact that zero coupon and similar securities do not pay periodic interest is such an unusual feature, and the implications to customers of this fact as well as the facts concerning call features are so significant, that it is necessary to require that this information, in addition to being disclosed at or before the time of trade, also be included on the written confirmations which are sent to customers.

The proposed rule change would apply to transactions in municipal bonds which mature in more than two years and pay investment return solely at redemption. It would require that municipal securities brokers and municipal securities dealers which sell these securities to customers include on the final customer confirmation the following information:

—That the customer will not receive periodic interest payments;
—If applicable, that the securities are callable at a price below maturity value; and
—If the securities are callable and available in bearer form, that unless the securities are in registered form, the absence of periodic payments may make it difficult for the customer to determine whether the securities have been called.

The proposed rule change provides that the following statement appearing in the description field of the confirmation or contained as a legend on the reverse side of the confirmation (if the presence of the legend is highlighted by a statement in the description field) would be deemed to satisfy these requirements: "No periodic payments—callable below maturity value without notice by mail to holder unless registered."

(b) The Board has adopted the proposed rule change pursuant to section 15B(b)(2)(C) of the Securities Exchange Act of 1934, which directs the Board to propose and adopt rules which are

designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in municipal securities, to remove impediments to and perfect the mechanism of a free and open market in municipal securities, and, in general, to protect investors and the public interest * * *

B. Self-Regulatory Organization's Statement on Burden on Competition

The Board does not believe that the proposed rule change will impose any burden on competition since it applies equally to all municipal securities brokers and dealers.

C. Self-Regulatory Organization's Statement of Comments on Proposed Rule Change Received from Members, Participants and Others

On August 15, 1983, the Board released for comment an exposure draft of an amendment to rule G–15 regarding confirmations of transactions in zero coupon, compound interest and multiplier securities.

The Board received nine comment letters. The commentators generally agreed that customer confirmations should call attention to the unusual features of zero coupon, compound interest and multiplier securities. One commentator was opposed to the proposed disclosure statement and stated that it would be unreasonably costly and time consuming to initiate.

Three commentators suggested that the Board allow each dealer to choose where it will place the requisite disclosures stating that the availability of space in description and legend fields varies from dealer to dealer depending on the particular form of confirmation used. One commentator stated that this course of action would provide dealers with the opportunity to select the least

[2] *See* File No. SR–MSRB–83–12, approved by the Commission October 12, 1983, effective December 12, 1983.

[3] See *MSRB Reports*, vol. 2, no. 2 (October/November 1982) at pp. 13–15.

burdensome alternative from both operation and cost standpoint.

The Board has considered all of the comments it has received to date and has determined that the proposed disclosure statement, which emphasizes the fact that zero coupon and similar securities do not pay periodic interest and may be called below maturity value, contains material information which in addition to being disclosed at or before the time of trade, should also be included and highlighted on customer confirmations. The Board also agrees with the commentators that dealers should be given the option of the proposed (descriptive field) or alternative (legend) forms of disclosure.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule changes,

or

(B) Institute proceedings to determine whether the proposed rule changes should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section. Copies of such filing also will be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted within 21 days after the date of this publication.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

January 23, 1984.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84-2666 Filed 1-30-84; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Regulatory Negotiation Advisory Committee; Meeting

[Docket No. 23634]

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C., App. I), notice is hereby given of an upcoming meeting of the Regulatory Negotiation Advisory Committee for flight and duty time rulemaking to be held February 14 and 15, 1984, at the Sheraton Crystal City Hotel, Ball Room C, 1800 Jefferson Davis Highway, Arlington, Virginia, commencing at 10:00 a.m.

The agenda for the meeting is as follows: Review of a draft notice of proposed rulemaking based on proposals submitted by Committee members at previous Regulatory Negotiation Advisory Committee meetings on flight time, duty time, and rest requirements for flight crewmembers utilized by air carriers.

Every attempt was made to publish notice of this meeting at least 15 days prior to the scheduled meeting dates, however, timely notice was impossible because the site of the meeting was not established until recently.

Attendance is open to the interested public, but limited to space available. With the approval of the Chairperson, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact Mr. William J. Sullivan, Executive Secretary, Regulatory Negotiation Advisory Committee, Office of Aviation Safety, ASF-400, 800 Independence Avenue, SW., Washington, D.C. 20591, telephone 202-426-7815.

Any member of the public may present a written statement to the Committee at any time.

Issued in Washington, D.C., on January 27, 1984.

William J. Sullivan,

Executive Secretary, United States Regulatory Negotiation Advisory Committee.

[FR Doc. 84-2723 Filed 1-30-84; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF THE TREASURY

Office of the Secretary

[Supplmt. To Dptmnt. Cir.—Public Debt Series—No. 1-84]

Treasury Notes; Series Q-1986

January 26, 1984.

The Secretary announced on January 25, 1984, that the interest rate on the notes designated Series Q-1986, described in Department Circular—Public Debt Series—No. 1-84 dated January 19, 1984, will be 10⅝ percent. Interest on the notes will be payable at the rate of 10⅝ percent per annum.

Carole Jones Dineen,

Fiscal Assistant Secretary.

[FR Doc. 84-2858 Filed 1-30-84; 8:45 am]

BILLING CODE 4810-40-M

UNITED STATES INFORMATION AGENCY

Reporting and Information Collection Requirement Under OMB Review

AGENCY: United States Information Agency.

ACTION: Notice of reporting requirement submitted for OMB review.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35) agencies are required to submit proposed or established reporting and recordkeeping requirements to OMB for review and approval and to publish a notice in the **Federal Register** notifying the public that such a submission has been made. USIA is requesting approval of a form used to certify the eligibility of foreign people for J-1 visas, so that they may visit the United States under one of USIA's exchange-visitor programs. This is a resubmission. The current clearance number is 3116-0008, expiration date July 31, 1984.

DATE: Comments must be received by February 29, 1984.

Copies: Copies of the request for clearance (SF-83), supporting statement, instructions, transmittal letter and other documents submitted to OMB for review may be obtained from the USIA Clearance Officer. Comments on the item listed should be submitted to the Office of Information and Regulatory Affairs of OMB, Attention Desk Officer for USIA.

FOR FURTHER INFORMATION CONTACT: Agency Clearance Officer, Charles N. Canestro, United States Information Agency, M/M, 301 Fourth Street SW., Washington, D.C. 20547, telephone (202)

485–8676. And OMB Review: David S. Reed, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, D.C. 20503, telephone (202) 395–7231.

SUPPLEMENTARY INFORMATION: Title: "Certificate of Eligibility for Exchange Visitor (J–1) Status", Form IAP–66. This form is provided to an exchange-visitor sponsor, who in turn sends it to the individual abroad so that he or she may take it to the nearest American Consul to receive a J–1 visa.

Dated: January 25, 1984.

Charles N. Canestro,

Federal Register Liaison

[FR Doc. 84–2557 Filed 1–30–84; 8:45 am]

BILLING CODE 6230–01–M

VOL 49 ISS 21 JAN 31 1984 UMI

Sunshine Act Meetings

Federal Register
Vol. 49, No. 21
Tuesday, January 31, 1984

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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1

CIVIL AERONAUTICS BOARD

[M-398, Admt. 3; Jan. 26, 1984]

Addition and Closure of Item to the January 26, 1984 Meeting

TIME AND DATE: 10 a.m., January 26, 1984.

PLACE: Room 1027 (open), room 1012 (closed), 1825 Connecticut Avenue, NW., Washington, D.C. 20428.

SUBJECT:

31. Discussion of Switzerland. (BIA)

STATUS: Closed.

PERSON TO CONTACT FOR MORE INFORMATION: Phyllis T. Kaylor, the Secretary (202) 673–5068.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 84-2756 Filed 1-27-84; 3:58 pm]

BILLING CODE 6320-01-M

2

CIVIL AERONAUTICS BOARD

[M-398, Admt. 4; Jan. 26, 1984]

Additions and Closure of Items to the January 26, 1984 Meeting

TIME AND DATE: 10 a.m., January 26, 1984.

PLACE: Room 1027 (open), room 1012 (closed), 1825 Connecticut Avenue, NW., Washington, D.C. 20428.

SUBJECT:

32. Discussion on Luxembourg. (BIA)
33. Discussion on Puerto Rico-Caracas, Venezuela. (BIA)

STATUS: Closed.

PERSON TO CONTACT FOR MORE INFORMATION: Phyllis T. Kaylor, the Secretary (202) 673–5068.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 84-2755 Filed 1-27-84; 3:58 pm]

BILLING CODE 6320-01-M

3

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 11 a.m., Friday, February 3, 1984.

PLACE: 2033 K Street, NW., Washington, D.C., Eighth Floor Conference Room.

STATUS Closed.

MATTERS TO BE CONSIDERED:

Surveillance Briefing

CONTACT PERSON FOR MORE INFORMATION: Jane Stuckey, 254–6314.

Jane K. Stuckey,

Secretary of the Commission.

[FR Doc. 84-2705 Filed 1-27-84; 11:55 am]

BILLING CODE 6351-01-M

4

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 10 a.m., Thursday, February 9, 1984

PLACE: 2033 K Street, NW., Washington, D.C., Fifth Floor Hearing Room.

STATUS: Open.

MATTER OF BE CONSIDERED:

Second Quarter Objectives

CONTACT PERSON FOR MORE INFORMATION: Jane Stuckey, 254–6314.

Jane K. Stuckey,

Secretary of the Commission.

[FR Doc. 84-2706 Filed 1-27-84; 11:55 am]

BILLING CODE 6351-01-M

5

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 11 a.m., Friday, February 10, 1984.

PLACE: 2033 K Street, NW., Washington, D.C., Eighth Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

Surveillance Briefing

CONTACT PERSON FOR MORE INFORMATION: Jane Stuckey, 254–6314.

Jane K. Stuckey,

Secretary of the Commission.

[FR Doc. 84-2707 Filed 1-27-84; 11:55 am]

BILLING CODE 6351-01-M

6

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 10 a.m., Tuesday, February 14, 1984.

PLACE: 2033 K Street, NW., Washington, D.C., Fifth Floor Hearing Room.

STATUS: Open.

MATTERS TO BE CONSIDERED:

Briefing by the National Futures Association Final Rules on Reparations

CONTACT PERSON FOR MORE INFORMATION: Jane Stuckey, 254–6314.

Jane K. Stuckey,

Secretary of the Commission.

[FR Doc. 84-2708 Filed 1-27-84; 11:56 am]

BILLING CODE 6351-01-M

7

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 11 a.m., Friday, February 17, 1984.

PLACE: 2033 K Street, NW., Washington, D.C., Eighth Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

Surveillance Briefing

CONTACT PERSON FOR MORE INFORMATION:
Jane Stuckey, 254–6314.

Jane K. Stuckey,

Secretary of the Commission.

[FR Doc. 84-2709 Filed 1-27-84; 11:56 am]

BILLING CODE 6351-01-M

8

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 10 a.m., Wednesday, February 22, 1984.

PLACE: 2033 K Street, NW., Washington, D.C., Fifth Floor Hearing Room.

STATUS: Open.

MATTERS TO BE CONSIDERED:

Temporary Licenses; Statutory Disqualification from Registration: Notice

of Statutory Disqualification and Other Regulatory Requirements—final rules

CONTACT PERSON FOR MORE INFORMATION: Jane Stuckey, 254–6314.

Jane K. Stuckey,

Secretary of the Commission.

[FR Doc. 84–2710 Filed 1–27–84; 11:56 am]

BILLING CODE 6351–01–M

9

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 11 a.m. Friday, February 24, 1984.

PLACE: 2033 K Street, NW., Washington, D.C., Eighth Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

Surveillance Briefing

CONTACT PERSON FOR MORE INFORMATION: Jane Stuckey, 254–6314.

Jane K. Stuckey,

Secretary of the Commission.

[FR Doc. 84–2711 Filed 1–27–84; 11:56 am]

BILLING CODE 6351–01–M

10

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 10 a.m., Tuesday, February 28, 984.

PLACE: 2033 K Street, NW., Washington, D.C., Fifth Floor Hearing Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

Rule enforcement review

CONTACT PERSON FOR MORE INFORMATION: Jane Stuckey, 254–6314.

Jane K. Stuckey,

Secretary of the Commission

[FR Doc. 84–2712 Filed 1–27–84; 11:56 am]

BILLING CODE 6351–01–M

11

FEDERAL RESERVE SYSTEM:

ACTION: "Federal Register" Citation of Previous Announcement: Notice forwarded to Federal Register on January 26, 1984.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10 a.m., Thursday, February 2, 1984.

CHANGES IN THE MEETING: Deletion of the following open item(s) from the agenda:

Proposed Federal Reserve cash service standards and prices

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board (202) 452–3204.

Dated: January 26, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84–2867 Filed 1–26–84; 5:13 pm]

BILLING CODE 6210–01–M

12

NATIONAL TRANSPORTATION SAFETY BOARD

[NM–84–5]

TIME AND DATE: 9 a.m., Tuesday, February 7, 1984.

PLACE: NTSB Board Room, eighth floor, 800 Independence Ave., SW., Washington, D.C. 20594.

STATUS: The first three items will be open to the public; the remaining item will be closed under Exemption 10 of the Government in the Sunshine Act.

MATTERS TO BE CONSIDERED:

1. *Railroad Accident Report*—Derailment of Burlington Northern Railroad Train No. MTC—0718 near Crystal City, Missouri, July 18, 1983.
2. *Highway Accident Report*—Valley Supply Company Truck Towing Farm Plows/Anchor Motor Freight, Inc., Car Carrier Truck/N.Y. Association for Retarded Children Bus Collisions and Fire, State Route 8, near Holmesville, New York, April 5, 1983.
3. *Pipeline Accident Report*—Mid-America Pipeline Company Liquefied Petroleum Gas Pipeline Rupture Near West Odessa, Texas, March 15, 1983.
4. *Opinion and Order:* Administrator v. Hill, Docket SE–5529; disposition of the Administrator's appeal. (Calendared at the request of Member Bursley.)

CONTACT PERSON FOR MORE INFORMATION: Sharon Flemming (202) 382–6525.

January 27, 1984.

H. Ray Smith, Jr.,

Federal Register Liaison Officer.

[FR Doc. 84–2700 Filed 1–27–84; 11:17 am]

BILLING CODE 4910–58–M

13

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

TIME AND DATE: 10 a.m., on February 9, 1984.

PLACE: Suite 316, 1825 K Street, NW., Washington, D.C.

STATUS: Because of the subject matter, it is likely that this meeting will be closed.

MATTERS TO BE CONSIDERED: Discussion of specific cases in the Commission adjudicative process.

CONTACT PERSON FOR MORE INFORMATION: Mr. Earl R. Ohman, Jr. (202) 634–4015.

Dated: January 27, 1984.

Earl R. Ohman, Jr.,

Acting General Counsel.

[FR Doc. 84–2741 Filed 1–27–84; 2:08 am]

BILLING CODE 7600–01–M

14

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

TIME AND DATE: 10 a.m. on February 23, 1984.

PLACE: Suite 316, 1825 K Street, NW., Washington, D.C.

STATUS: Because of the subject matter, it is likely that this meeting will be closed.

MATTERS TO BE CONSIDERED: Discussion of specific cases in the Commission adjudicative process.

CONTACT PERSON FOR MORE INFORMATION: Mr. Earl R. Ohman, Jr. (202) 634–4015.

Dated: January 27, 1984.

Earl R. Ohman, Jr.,

Acting General Counsel.

[FR Doc. 84–2742 Filed 1–27–84; 2:08 pm]

BILLING CODE 7600–01–M

15

POSTAL SERVICE

The Board of Governors of the United States Postal Service, pursuant to its Bylaws (39 CFR 7.5) and the Government in the Sunshine Act (5 U.S.C 552b), hereby gives notice that it intends to hold meetings at 1 p.m., on Wednesday, February 8, 1984, in Los Angeles, CA, and at 8:30 a.m., on Thursday, February 9, 1984, in Room 9, Terminal Annex/PEDC, 900 North Alameda Street, Los Angeles, CA. As indicated in the following paragraph, the February 8 meeting is closed to public observation. The February 9 meeting is open to the public. The Board expects to discuss the matters stated in the agenda which is set forth below. Requests for information about the meetings should be addressed to the Secretary of the Board, David F. Harris, at (202) 245–3734.

At its meeting on January 9–10, 1984, the Board voted in accordance with the provisions of the Government in the Sunshine Act to close to public observation its meeting scheduled for February 8. (See 49 FR 2342, January 19, 1984.) The agenda item of the meeting to be closed concerns strategic planning in connection with collective bargaining negotiations involving parties to the 1981 National Agreements, between the Postal Service and four labor organizations representing certain

postal employees, which are scheduled to expire in July 1984.

Agenda

Wednesday Session, February 8 (Closed)

1. Strategic Planning—Collective Bargaining.

Thursday Session, February 9 (Open)

1. Minutes of the Previous Meeting, January 9–10, 1984.
2. Remarks of the Postmaster General.
   (In keeping with its consistent practice, the Board's agenda provides this opportunity for the Postmaster General to inform the Members of miscellaneous current developments concerning the Postal Service. Nothing that requires a decision by the Board is brought up under this item.)
3. Officer Compensation.
   (The Board will consider approval of a recommendation by the Postmaster General regarding adjustments in officer compensation.)
4. Election of the Vice Chairman of the Board.
5. Appointment of Committee Members by the Chairman.
   (The Bylaws provide that the Chairman of the Board shall select and appoint the Chairman and members of the several committees of the Board.)
6. Amendments to the Bylaws of the Board of Governors.
   (The Board will consider proposed revisions to its Bylaws to clarify the description of matters that the Board reserves for its approval and for other purposes.)
7. Quarterly Report on Financial Performance.
   (Mr. Coughlin, Senior Assistant Postmaster General, Finance Group, will present the quarterly summary of financial performance.)
8. Quarterly Report on Service Performance.
   (Mr. Finch, Deputy Postmaster General, will present the quarterly summary on service performance.)
9. Quarterly Report on Administration Group Programs.
   (Mr. Biglin, Senior Assistant Postmaster General, Administration Group, will provide a report on certain programs of the Administration Group.)
10. Report of the Regional Postmaster General.
    (Mr. Caraveo, Regional Postmaster General, will report on postal conditions in the Western Region.)
11. Capital Investment Projects:
    a. Construction of new General Mail Facility and Vehicle Maintenance Facility at Los Angeles, CA
    b. Construction of a new "Encino Branch" of the Van Nuys (CA) Post Office.
    (Mr. Biglin will present the proposal for the new GMF/VMF in Los Angeles and Mr. Carvaeo will present the proposal for the Encino Branch facility.)
12. Consideration of a Tentative Agenda for the March 5–6, 1984, meeting of the Board in Washington, D.C.

David F. Harris,

Secretary.

[FR Doc. 84–2661 Filed 1–28–84; 5:14 pm]

BILLING CODE 7710–12–M

'16

TENNESSEE VALLEY AUTHORITY

[Meeting No. 1325]

TIME AND DATE: 5 p.m. (CST), Wednesday, February 1, 1984.

PLACE: Itawamba Junior College, 653 Eason Boulevard, Tupelo, Mississippi.

STATUS: Open.

AGENDA ITEMS: Approval of minutes of meetings held on January 4 and January 18, 1984.

New Business Items

B—*Purchase Awards*

B1. Requisition 86—Coal for Johnsonville and Widows Creek Steam Plants.

B2. Requisition 78—Barge Service to Transport Coal to Widows Creek Steam Plant.

C—*Power Items*

C1. Letter agreement with East Kentucky Power Cooperative modifying settlement provisions for emergency assistance under TVA's Interconnection Agreement with East Kentucky Power Cooperative.

E—*Real Property Transactions*

E1. Grant of permanent easement to the State of Tennessee for the construction, operation, and maintenance of a highway affecting approximately 0.2 acre of Melton Hill Reservoir land in Anderson County, Tennessee—Tract No. XTMHR–15H.

E2. Agreement (TV–63252A) between TVA and Fannin County, Georgia, providing for widening the bridge across the spillway bays at Blue Ridge Reservoir.

F—*Unclassified*

F1. Revised TVA code relating to procurement of personal property and of services.

F2. Supplement to contract (TV–61177A) between TVA and Southeast Oklahoma Public Facilities Authority for the purpose of furthering economic development in the southeast Oklahoma area.

F3. Cooperative agreement (TV–61990A) between TVA and the U.S. Department of Agriculture, Science and Education Administration, covering arrangements for tick studies at Land Between The Lakes.

F4. Fertilizer distribution agreement between AgriBasics Company, a Conagra Company, and TVA providing for the company's participation in TVA fertilizer industry demonstration program.

F5. Consideration of TVA Retirement System investment management agreement with Aetna Capital Management and a revised trust agreement with Citibank.

CONTACT PERSON FOR MORE INFORMATION: Craven H. Crowell, Jr., Director of Information, or a member of his staff can respond to requests for information about this meeting. Call (615) 632–8000, Knoxville, Tennessee. Information is also available at TVA's Washington Office (202) 245–0101.

Dated: January 25, 1984.

W. F. Willis,

General Manager.

[FR Doc. 84–2731 Filed 1–31–84; 1:25 pm]

BILLING CODE 8120–01–M

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federal register

Tuesday
January 31, 1984

PART II

Department of Education

National Direct Student Loan, College Work-Study, and Supplemental Education Opportunity Grant Programs; Applications Deadline; Notice

VOL
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DEPARTMENT OF EDUCATION

National Direct Student Loan, College Work-Study, and Supplemental Educational Opportunity Grant Programs; Apeals Deadline

AGENCY: Department of Education.

ACTION: Notice of deadline date for submitting appeals for funds; and notice of average program expenditures by type of institution.

SUMMARY: The Secretary gives notice of the deadline date for institutions of higher education wishing to file appeals of their initial allocations of funds (tentative awards) for award year 1984–85 under the National Direct Student Loan (NDSL), College Work-Study (CWS), and Supplemental Educational Opportunity Grant (SEOG) programs. Under these programs, the Secretary allocates funds to institutions for students who need financial aid to meet the cost of postsecondary education.

The Secretary also announces the average 1982–83 expenditure of funds per enrolled student for the NDSL, CWS, and SEOG programs by type of institution. The Secretary uses these average expenditures in calculating the 1984–85 NDSL, CWS, or SEOG award of an institution that is participating in that program for the first or second time.

The NDSL, CWS, and SEOG programs are authorized by Parts E, C, and Subpart A–2, respectively, of title IV of the Higher Education Act of 1965, as amended

(20 U.S.C. 1087aa–1087ii, 42 U.S.C. 2751–2756b; and 20 U.S.C. 1070b–1070b–3)

Closing date for transmittal of appeals: The deadline date for an institution of higher education to submit an appeal of its 1984–85 tentative NDSL, CWS, or SEOG award is March 2, 1984.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Coates, Chief, Campus and State Grant Branch, Division of Program Operations, Office of Student Financial Assistance, U.S. Department of Education, 400 Maryland Avenue SW., (Room 4621, ROB–3), Washington, D.C. 20202. Telephone (202) 245–2432.

SUPPLEMENTARY INFORMATION: An institution that wishes to participate in the NDSL, CWS, or SEOG program must submit an application for funds to the Secretary before an established closing date. The information the institution provides on the application is evaluated according to the appropriate funding criteria to determine the institution's appropriate funding level. Each institution is informed of its funding level. However, the regulations for each of these programs permit an institution to appeal its funding level.

Regulations containing the procedures for calculating institutional awards and appeals of those awards for the three programs were published in the **Federal Register** on August 2, 1982 (47 FR 33398–33410). The specific appeal procedures are contained in 34 CFR 674.7 for the NDSL program, 34 CFR 675.7 for the CWS program, and 34 CFR 676.7 for the SEOG program.

Average 1982–83 Expenditure of Funds per Enrolled Student by Program and Type of Institution

Listed below are the types of institutions and the average program expenditure per enrolled student for each type of institution. The Secretary uses this information to calculate the 1984–85 award of an institution that is participating in the NDSL, CWS, or SEOG program for the first or second time.

Type of institution	NDSL expenditure	SEOG	CWS Federal share
Cosmetology	$77.00	$77.00	$13.00
Business	131.00	78.00	39.00
Trade & Technical	117.00	56.00	48.00
Art	81.00	70.00	100.00
Other proprietary	119.00	38.00	31.00
Other non-proprietary	83.00	54.00	42.00

Appeals Delivered by Mail

An appeal sent by mail must be addressed to Appeals, NDSL/CWS/SEOG, Post Office Box 23914, L'Enfant Plaza, Washington, D.C. 20026.

An institution must show proof of mailing its appeal by the deadline date. Proof of mailing must consist of one of the following:

(1) A legible receipt with the date of mailing stamped by the U.S. Postal Service.

(2) A legibly dated U.S. Postal Service postmark.

(3) A dated shipping label, invoice or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the U.S. Secretary of Education.

If an appeal is sent through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing: (1) A private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service.

An institution should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an institution should check with its local post office.

An institution is encouraged to use registered or at least first-class mail.

Appeals Delivered by Hand

An appeal that is hand-delivered must be taken to the U.S. Department of Education, Office of Student Financial Assistance, Division of Program Operations, Campus and State Grant Branch, Room 4621, Regional Office Building 3, 7th and D Streets, SW., Washington, D.C. The Campus and State Grant Branch will accept hand-delivered appeals between 8:00 a.m. and 4:30 p.m. daily (Eastern Standard Time), except Saturdays, Sundays, and Federal Holidays.

An appeal that is hand-delivered will not be accepted after 4:30 P.M. on March 2, 1984.

Applicable Regulations

The following regulations apply to the campus-based programs:

34 CFR Part 668—Student Assistance General Provisions.
34 CFR Part 674—National Direct Student Loan Program.
34 CFR Part 675—College Work-Study Program.
34 CFR Part 676—Supplemental Educational Opportunity Grant Program.

(20 U.S.C. 1087aa–1087ii, 42 U.S.Cl. 2751–2756b; and 20 U.S.C. 1070b–1070b–3)

(Catalog of Federal Domestic Assistance No. 84.038, National Direct Student Loan Program; 84.033, College Work-Study Program and 84.007, Supplemental Eucational Opportunity Grant Program)

Dated: January 26, 1984.

Edward M. Elmendorf,

Assistant Secretary for Postsecondary Education.

[FR Doc. 84–2615 Filed 1–30–84; 8:45 am]

BILLING CODE 4000–01–M

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federal register

Tuesday
January 31, 1984

Part III

Department of Energy

Federal Energy Regulatory Commission

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978; Notice

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Vol. 1054]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: January 25, 1984.

The following notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" before the section code. Estimated annual production (PROD) is in million cubic feet (MMCF).

The applications for determination are available for inspection except to the extent such material is confidential under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol St., Washington, D.C. Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 275.204, file a protest with the Commission within fifteen days after publication of notice in the Federal Register.

Source data from the Form 121 for this and all previous notices is available on magnetic tape from the National Technical Information Service (NTIS). For information, contact Stuart Weisman (NTIS) at (703) 487–4808, 5285 Port Royal Rd, Springfield, Va 22161.

Categories within each NGPA section are indicated by the following codes:

Section 102–1: New OCS lease
102–2: New well (2.5 Mile rule)
102–3: New well (1000 Ft rule)
102–4: New onshore reservoir
102–5: New reservoir on old OCS lease

Section 107–DP: 15,000 feet or deeper
107–GB: Geopressured brine
107–CS: Coal Seams
107–DV: Devonian Shale
107–PE: Production enhancement
107–TF: New tight formation
107–RT: Recompletion tight formation

Section 108: Stripper well
108–SA: Seasonally affected
108–ER: Enhanced recovery
108–PB: Pressure buildup

Kenneth F. Plumb,
Secretary.

NOTICE OF DETERMINATIONS
ISSUED JANUARY 25, 1984
VOLUME 1054

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
CALIFORNIA DEPARTMENT OF CONSERVATION									
-CHEVRON U S A INC				RECEIVED:	01/03/84	JA: CA			
8414377	83-6-0069	0409520598		102-4		EMIGH #1	DENVERTON CREEK	365.0	TOSCO PRODUCTION
8414378	83-6-0068	0409520598		102-4		EMIGH #1	DENVERTON CREEK	365.0	TOSCO PRODUCTION
8414375	83-5-0008	0403120248		102-2		SALYER 608X	TULARE LAKE	146.0	HUSKY OIL & GAS C
-MCOR OIL & GAS CORP				RECEIVED:	01/03/84	JA: CA			
8414376	83-4-0282	0402900000		102-4		KERR #1-3	S W RIO BRAVO	27.0	GETTY OIL CO
LOUISIANA OFFICE OF CONSERVATION									
-JEEMS BAYOU PRODUCTION CORP				RECEIVED:	01/03/84	JA: LA			
8414306	83-1092	1703122084		102-2		RIEMER CALHOUN B #1	BUFFALO BAYOU	146.0	MID-LOUISIANA GAS
-PEND OREILLE OIL & GAS CO				RECEIVED:	01/03/84	JA: LA			
8414302	83-0997	1707523104		102-4		S L 8512 #1	BAY BATISTE (PREV KNO	1162.0	LOUISIANA STATE G
8414303	83-0998	1707523150		102-4		S L 8512 #2	BAY BATISTE (PREV KNO	13.0	LOUISIANA STATE G
8414300	83-0995	1707523167		102-4		S L 9570 #3	BAY BATISTE (PREV KNO	620.0	LOUISIANA STATE G
8414305	83-1000	1707523003		102-4		STATE LEASE 9570 #1	BAY BATISTE (PREV KNO	65.7	LOUISIANA STATE G
8414304	83-0999	1707523003		102-4		STATE LEASE 9570 #1 (ALT)	BAY BATISTE (PREV KNO	2.9	LOUISIANA STATE G
8414301	83-0996	1707523088		102-4		STATE LEASE 9570 #2	BAY BATISTE (PREV KNO	8.0	LOUISIANA STATE G
-TEXAS GENERAL PETROLEUM CORP				RECEIVED:	01/03/84	JA: LA			
8414307	83-1093	1772820002		102-2		STATE LEASE 9203 #2	WILDCAT	480.0	
NORTH DAKOTA INDUSTRIAL COMMISSION									
-AXEM RESOURCES INC				RECEIVED:	01/03/84	JA: ND			
8414207	885	3300700921		102-2		WEST FRANKS CREEK STATE #2-16	TR	1.5	WESTERN GAS PROCE
-PLACID OIL COMPANY				RECEIVED:	01/03/84	JA: ND			
8414209	887	3305301551		102-4		EIDE #35-11	JUNIPER	540.0	
-PUMA PETROLEUM CO				RECEIVED:	01/03/84	JA: ND			
8414210	888	3305301685		102-2		AMERADA STATE #1-16X	WINTER BUTTE	0.0	SHELL OIL CO
-TEXACO INC				RECEIVED:	01/03/84	JA: ND			
8414208	886	3305301743		108		BLUE BUTTES MADISON WELL #E332X	BLUE BUTTES	117.0	AMERADA HESS CORP
NEW MEXICO DEPARTMENT OF ENERGY & MINERALS									
-AMAX PETROLEUM CORPORATION				RECEIVED:	01/04/84	JA: NM			
8414353		3003905796		108-PB		BISHOP #2	SOUTH BLANCO	0.0	EL PASO NATURAL G
-AMERADA HESS CORPORATION				RECEIVED:	01/04/84	JA: NM			
8414336		3002500000		108		SARAH PHILLIPS GAS COM #2	EUMONT	21.3	NORTHERN NATURAL
8414337		3002500000		108		STATE DA #4 (DUAL)	EUNICE	18.9	GETTY OIL CO
8414338		3002523274		108		STATE WE "L" COM #1	DSUDD	21.2	PHILLIPS PETROLEU
-AMOCO PRODUCTION CO				RECEIVED:	01/04/84	JA: NM			
8414364		3004521147		108-PB		CANDELARIA GAS COM #1	AZTEC	0.0	EL PASO NATURAL G
8414340		3004509071		108		DUFF GAS COM #1	BASIN-DAKOTA	11.0	EL PASO NATURAL G
8414360		3004507951		108-PB		GALLEGOS CANYON UNIT #150	BASIN	0.0	EL PASO NATURAL G
8414363		3004511650		108-PB		GALLEGOS CANYON UNIT #212	BASIN	0.0	EL PASO NATURAL G
8414366		3004507996		108-PB		GARCIA GAS COM B #1	BASIN	0.0	EL PASO NATURAL G

BILLING CODE 6717-01-M

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PPOD	PURCHASER
8414368		3004508552		108-PB		HEATH GAS COM F #1	BLANCO	0	0 EL PASO NATURAL G
8414362		3004508963		108-PB		LIKENS GAS COM A #2	BLANCO	0	0 EL PASO NATURAL G
8414367		3004500000		108-PB		MADDOX GAS COM A #1	AZTEC	0	0 EL PASO NATURAL G
8414365		3004508104		108 PB		MARTINEZ GAS COM D	AZTEC	0	0 EL PASO NATURAL G
8414361		3004521079		108-PB		NYE GAS COM C #1	BLANCO	0	0 EL PASO NATURAL G
8414369		3004509476		108-PB		STATE GAS COM BE #1	BASIN	0	0 EL PASO NATURAL G
-ARCO OIL AND GAS COMPANY		RECEIVED:		01/04/84	JA: NM				
8414328		3002523632		108		J R PHILLIPS "A" #9	MONUMENT-MCKEE	5	2 EL PASO NATURAL G
-C & E OPERATORS INC		RECEIVED:		01/04/84	JA: NM				
8414355		3004500000		108-PB		BROWN #1	AZTEC	0	0 EL PASO NATURAL G
-CHAMPLIN PETROLEUM COMPANY		RECEIVED:		01/04/84	JA: NM				
8414322		3000500000		108		LEVICK-STATE "1" #1	CHAVEROO (SAN ANDRES)	6	2 CITIES SERVICE OI
8414325		3000500000		108		LEVICK-STATE "6" #1	CHAVEROO (SAN ANDRES)	3	0 CITIES SERVICE OI
8414319		3000500000		108		STATE "6" #4	CHAVEROO (SAN ANDRES)	68	1 CITIES SERVICE OI
8414324		3004100000		108		STATE UNIT 32 #12	CHAVEROO (SAN ANDRES)	3	9 CITIES SERVICE OI
8414317		3004100000		108		STATE UNIT 32-7-33 #15	CHAVEROO (SAN ANDRES)	1	9 CITIES SERVICE OI
8414316		3004100000		108		STATE 32 #14	CHAVEROO (SAN ANDRES)	3	8 NORTHWEST CENTRAL
8414327		3004100000		108		STATE 32-7-33 #7	CHAVEROO (SAN ANDRES)	4	6 CITIES SERVICE OI
8414326		3000500000		108		STATE 5-8-33 #6	CHAVEROO (SAN ANDRES)	2	6 CITIES SERVICE OI
8414323		3000500000		108		STATE 5-8-33 #8	CHAVEROO (SAN ANDRES)	6	8 CITIES SERVICE OI
8414318		3000500000		108		STATE 6 #6	CHAVEROO (SAN ANDRES)	2	9 CITIES SERVICE OI
-CONSOLIDATED OIL & GAS INC		RECEIVED:		01/04/84	JA: NM				
8414320		3004523636		108		ROBSINSON BROTHERS 1-M	BLANCO MESAVERDE/BASI	11	0 SOUTHERN UNION GA
-EL PASO NATURAL GAS COMPANY		RECEIVED:		01/04/84	JA: NM				
8414370		3004521320		108-PB		ALLISON	BASIN	0	0 EL PASO NATURAL G
8414339		3004511814		108		BURROUGHS COM C #5	BASIN-DAKOTA	16	0 EL PASO NATURAL G
8414373		3003905573		108-PB		LINDRITH UNIT #49	BLANCO SOUTH	0	0 EL PASO NATURAL G
8414372		3003906979		108-PB		SAN JUAN 27-5 UNIT #41 PC & MV	TAPACITO & BLANCO	0	0 EL PASO NATURAL G
8414371		3004510988		108-PB		SAN JUAN 32-9 #64	BLANCO	0	0 EL PASO NATURAL G
8414374		3004511137		108-PB		SAN JUAN 32-9 UNIT #36	BLANCO	0	0 EL PASO NATURAL G
-JEROME P MCHUGH		RECEIVED:		01/04/84	JA: NM				
8414352		3003922495		108-PB		JELLY DOG JERRY #2	SOUTH BLANCO	0	0 EL PASO NATURAL G
-MERRION OIL & GAS CORP		RECEIVED:		01/04/84	JA: NM				
8414321		3004500000		108		CARNAHAN COM #1	FLORA VISTA MESAVERDE	12	7 EL PASO NATURAL G
-NORTHWEST PIPELINE CORPORATION		RECEIVED:		01/04/84	JA: NM				
8414336		3003907952		108-PB		ROSA UNIT 17	BLANCO MESAVERDE	0	0 NORTHWEST PIPELIN
8414335		3003907472		108-PB		SAN JUAN 29-5 #38	BLANCO MESAVERDE	0	0 NORTHWEST PIPELIN
8414332		3003922678		108-PB		SAN JUAN 30-5 UNIT 41	BLANCO MESAVERDE	0	0 NORTHWEST PIPELIN
8414333		3004522165		108-PB		SAN JUAN 32-7 COM 24	BLANCO MESAVERDE	0	0 NORTHWEST PIPELIN
-PHILLIPS OIL CO		RECEIVED:		01/04/84	JA: NM				
8414343		3002502142		108		LEA WELL #5	VACUUM GB/SA	1	0 EL PASO NATURAL G
-PHILLIPS PETROLEUM COMPANY		RECEIVED:		01/04/84	JA: NM				
8414350		3002502908		108		E VAC GB/SA U TR 2801 #013	VACUUM GB/SA	1	0 EL PASO NATURAL G
8414345		3002508527		108		E VAC GB/SA U TR 2819 #003	VACUUM GB/SA	1	0 EL PASO NATURAL G
8414346		3002526775		108		E VAC GB/SA UNIT TRACT 2658 #001	VACUUM GB/SA	1	0 EL PASO NATURAL G
8414344		3002502851		108		EAST VACUUM GB/SA UN TR 2207 #005	VACUUM GB/SA	1	0 EL PASO NATURAL G
8414330		3002527421		108		EAST VACUUM GB/SA UT TR 1953 #001	VACUUM GB/SA	1	0 EL PASO NATURAL G
8414348		3002502838		108		EAST VACUUM GB/SA UNIT TR 2059 #002	VACUUM GB/SA	3	0 EL PASO NATURAL G
8414349		3002524541		108		LEAMEX #17	MALJAMAR GB/SA	8	0 EL PASO NATURAL G
8414329		3002520794		108		SANTA FE #100	VACUUM GLORIETA	9	0 EL PASO NATURAL G
8414347		3002502994		108		VACUUM ABO UNIT #11-08	VACUUM ABO REEF	10	0 EL PASO NATURAL G
-SIMS OIL CO INC		RECEIVED:		01/04/84	JA: NM				
8414356		3004513089		108-PB		COOK #2	AZTEC	0	0 EL PASO NATURAL G
-SUN EXPLORATION & PRODUCTION CO		RECEIVED:		01/04/84	JA: NM				
8414331		3002500000		108		S E EATON #13	JUSTIN BLINEBRY	4	0 EL PASO NATURAL G
8414342		3002500000		108		STATE "A" A/C-2 #37	SO EUNICE 7 RVRS QN	0	6 PHILLIPS PETROLEU
-TENNECO OIL COMPANY		RECEIVED:		01/04/84	JA: NM				
8414357		3004520382		108-PB		STATE COM C #5	AZTEC	0	0 EL PASO NATURAL G
8414358		3004520382		108-PB		STATE COM C #5	AZTEC	0	0 EL PASO NATURAL G
8414359		3004520382		108-PB		STATE COM C #5	AZTEC	0	0 EL PASO NATURAL G
8414341		3004500000		108		STATE COM K #11	BLANCO PICTURED CLIFF	13	0 EL PASO NATURAL G
-TEXACO INC		RECEIVED:		01/04/84	JA: NM				
8414351		3002500000		108		W L NIX #6	DRINKARD	2	9 CETTY OIL CO
UNICON PRODUCING CO		RECEIVED:		01/04/84	JA: NM				
8414354		3004567745		108-PB		PIERCE #1A	AZTEC	0	0 EL PASO NATURAL G
**********									
WEST VIRGINIA DEPARTMENT OF MINES									
**********									
-ATLAS ENERGY CORP		RECEIVED:		01/03/84	JA: WV				
8414252		4704700897		107-DV		ROBERT TYSON JR #1	WELCH QUAD (BROWN'S C	0	0 CITY OF WELCH W V
8414250		4704700898		103		ROBERT TYSON JR #3	WELCH QUAD (BROWN'S C	0	0 CITY OF WELCH W V
8414251		4704700898		107-DV		ROBERT TYSON JR #3	WELCH QUAD (BROWN'S C	0	0 CITY OF WELCH W V
-BLAUSER WELL SERVICE INC		RECEIVED:		01/03/84	JA: WV				
8414258		4708526119		103		TED ROGERS #4	MURPHY DISTRICT	41	0 CONSOLIDATED GAS
8414259		4708526119		107-DV		TED ROGERS #4	MURPHY DISTRICT	41	0 CONSOLIDATED GAS
-C E RICHNER		RECEIVED:		01/03/84	JA: WV				
8414256		4704501037		103		MCDONALD LAND CO #15	ROAD FK OF SAND LICK	5	0 CONSOLIDATED GAS
8414255		4704501038		103		WINTERS & ROBINSON #1	GUYANDOTTE RIVER	15	0 CONSOLIDATED GAS
-CONTINENTAL PETROLEUM CO		RECEIVED:		01/03/84	JA: WV				
8414257		4702104063		103		MARKS #1	GLENVILLE NORTH	24	0 CONSOLIDATED GAS
8414261		4702104022		107-DV		MOORE-MESSENGER #1-A	GLENVILLE NORTH	14	0 COLUMBIA GAS TRAN
8414262		4702104023		107-DV		MOORE-MESSENGER #2-A	GLENVILLE NORTH	37	0 COLUMBIA GAS TRAN
8414260		4702104020		107-DV		ROGERS #3-A	GLENVILLE NORTH	24	0 COLUMBIA GAS TRAN
-H D WELLS OIL & GAS		RECEIVED:		01/03/84	JA: WV				
8414253		4703501821		103		L G BURDETTE FOUR	POND CREEK	7	0 GAS TRANSPORT INC
8414254		4703501820		103		L G BURDETTE THREE	POND CREEK	7	0 GAS TRANSPORT INC
-J & J ENTERPRISES INC		RECEIVED:		01/03/84	JA: WV				
8414263		4703325400		103		J-251	SARDIS	0	0 CARNEGIE NATURAL
8414226		4708506254		103		J-415	CLAY	0	0 CONSOLIDATED GAS
8414225		4708506255		103		J-416	CLAY	0	0 CONSOLIDATED GAS
8414230		4704103330		103		J-602	COURTHOUSE	0	0 CONSOLIDATED GAS
8414229		4708505984		103		J-682	CLAY	0	0 CONSOLIDATED GAS
8414228		4708505985		103		J-683	CLAY	0	0 CONSOLIDATED GAS
8414227		4708506196		103		J-744	CLAY	0	0 CONSOLIDATED GAS
-PEAKE OPERATING CO		RECEIVED:		01/03/84	JA: WV				
8414231		4708100619		102-2		NEW RIVER #20-AR	TOWN DISTRICT	5	0 COLUMBIA GAS TRAN
8414239		4708100619		107-DV		NEW RIVER #20-AR	TOWN DISTRICT	5	0 COLUMBIA GAS TRAN
8414235		4708100589		102-2		NEW RIVER 10 AR	TOWN DISTRICT	5	0 COLUMBIA GAS TRAN
8414232		4708100614		102-2		NEW RIVER 14-AR	TOWN DISTRICT	5	0 COLUMBIA GAS TRAN
8414234		4708100573		102-2		NEW RIVER 4 AR	TOWN DISTRICT	5	0 COLUMBIA GAS TRAN
8414238		4708100560		102-2		NEW RIVER 6-AR	TOWN DISTRICT	5	0 COLUMBIA GAS TRAN
8414236		4708100590		102-2		NEW RIVER 7 AR	TOWN DISTRICT	5	0 COLUMBIA GAS TRAN
8414233		4708100535		102-2		NEW RIVER 8 AR	TOWN DISTRICT	5	0 COLUMBIA GAS TRAN
8414237		4708100591		102-2		NEW RIVER 9 AR	TOWN DISTRICT	5	0 COLUMBIA GAS TRAN

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
PETROLEUM DEVLLOPMENT	CORP			RECEIVED: 01/03/84	JA: WV				
8414266		4708506130		107-DV		DANIEL DONNELLY #2	GOOSE CREEK POOL	72.0	CONSOLIDATED GAS
8414269		4708506130		102-2		DANIEL DONNELLY #2	GOOSE CREEK POOL	72 0	CONSOLIDATED GAS
8414277		4708506130		103		DANIEL DONNELLY #2	GOOSE CREEK POOL	72 0	CONSOLIDATED GAS
8414267		4708506023		107-DV		FRANK DEEM #1	GRIFFINS	67 0	CONSOLIDATED GAS
8414273		4708506023		102-4		FRANK DEEM #1	GRIFFINS	67 0	CONSOLIDATED GAS
8414278		4708506023		103		FRANK DEEM #1	GRIFFINS	67.0	CONSOLIDATED GAS
8414265		4708506199		107-DV		GRIFFIN PRODUCING B#2	GRIFFINS	38.0	CONSOLIDATED GAS
8414271		4708506199		102-3		GRIFFIN PRODUCING B#2	GRIFFINS	38.0	CONSOLIDATED GAS
8414276		4708506199		103		GRIFFIN PRODUCING B#2	GRIFFINS	38 0	CONSOLIDATED GAS
8414268		4708505775		107-DV		PHILLIP STEARNS #1	GOOSE CREEK	59.0	CONSOLIDATED GAS
8414272		4708505775		103		PHILLIP STEARNS #1	GOOSE CREEK	59.0	CONSOLIDATED GAS
8414274		4708505775		102-4		PHILLIP STEARNS #1	GOOSE CREEK	59.0	CONSOLIDATED GAS
8414264		4708506319		107-DV		W G SANDY #1	GRIFFINS	55.0	CONSOLIDATED GAS
8414270		4708506319		102-3		W G SANDY #1	GRIFFINS	55 0	CONSOLIDATED GAS
8414275		4708506319		103		W G SANDY #1	GRIFFINS	55.0	CONSOLIDATED GAS
RIMROCK PRODUCTION COR				RECEIVED: 01/03/84	JA: WV				
8414244		4708506238		107-DV		BERDINE #2	DOG COMFORT RUN	22 0	KOBER OIL INC
8414246		4708506238		103		BERDINE #2	DOG COMFORT RUN	22 0	KOBER OIL INC
8414245		4707301623		103		KOBERNIK #1	DOG COMFORT RUN	14 6	TECHWELL INC
8414247		4707301623		107-DV		KOBERNIK #1	DOG COMFORT RUN	14 6	TECHWELL INC
SHILO RESOURCES (USA)	INC			RECEIVED: 01/03/84	JA: WV				
8414290		4702103742		107-DV		H S WESTFALL #1	GLENVILLE SOUTH	10 0	
8414292		4702103742		103		H S WESTFALL #1	GLENVILLE SOUTH	10 0	
8414291		4702103759		107-DV		H S WESTFALL #2	GLENVILLE SOUTH	30 0	
8414293		4702103759		103		H S WESTFALL #2	GLENVILLE SOUTH	30 0	
8414289		4702103761		107-DV		H S WESTFALL #4	GLENVILLE SOUTH	10 0	
8414294		4702103761		103		H S WESTFALL #4	GLENVILLE SOUTH	10 0	
STERLING DRILLING AND	PROD CO INC			RECEIVED: 01/03/84	JA: WV				
8414243		4701303561		107-DV		PRICE #781	LEE DISTRICT	6 7	
8414242		4701303557		107-TF		ROMINE #772	LEE DISTRICT	11 6	
STONEWALL GAS CO				RECEIVED: 01/03/84	JA: WV				
8414299		4703302663		108		RICHARD K BROWN 66-B (SB-435)	LOST CREEK GRANT DIST	15 0	CONSOLIDATED GAS
8414298		4703302693		108		S W CURRY #1 114-S	SARDIS DISTRICT	20 0	CONSOLIDATED GAS
-STONEWALL GAS CO INC				RECEIVED: 01/03/84	JA: WV				
8414241		4700101457		108		JOHN M REED JR 67-B (SB-387)	MITCHELL RUN PLEASANT	22 0	CONSOLIDATED GAS
8414240		4703302631		108		JOHN R MARTIN #1 81-S	TENMILE DISTRICT	2 5	CONSOLIDATED GAS
-SWIFT ENERGY CO				RECEIVED: 01/03/84	JA: WV				
8414279		4709100285		107-DV		M SHAFFER #2	FETTERMAN DISTRICT	50 M	TENNESSEE GAS PIP
8414284		4709100285		102-2		D SHAFFER #2	FETTERMAN DISTRICT	50 M	TENNESSEE GAS PIP
8414280		4709100321		107-DV		M BENNETT #1	FETTERMAN DISTRICT	35 0	TENNESSEE GAS PIP
8414283		4709100321		102-2		M BENNETT #1	FETTERMAN DISTRICT	35 0	TENNESSEE GAS PIP
8414285		4709100328		102-2		L FRANK #1	FETTERMAN DISTRICT	50 0	TENNESSEE GAS PIP
8414286		4709100323		107-DV		L FRANK #1	FETTERMAN DISTRICT	50 0	TENNESSEE GAS PIP
8414281		4709100341		107-DV		MULLIN #1	FETTERMAN DISTRICT	25 M	TENNESSEE GAS PIP
8414282		4709100341		102-2		MULLIN #1	FETTERMAN DISTRICT	25 0	TENNESSEE GAS PIP
8414287		4709100328		102-2		R BRYAN #1	FETTERMAN DISTRICT	50 0	TENNESSEE GAS PIP
8414288		4709100328		107-DV		R BRYAN #1	FETTERMAN DISTRICT	50.0	TENNESSEE GAS PIP
-UNION DRILLING INC				RECEIVED: 01/03/84	JA: WV				
8414297		4709702562		103		LUCILE MEARNS AGT #3 1870	BANKS DISTRICT	0 0	COLUMBIA GAS TRAN
8414295		4709702563		103		LUCILE MEARNS AGT #5 1872	BANKS DISTRICT	0 0	COLUMBIA GAS TRAN
8414296		4709702534		103		R R COLERIDER ESTATE #3 1854	MEADE DISTRICT	0 0	EQUITABLE GAS CO
-WACO OIL AND GAS CO INC				RECEIVED: 01/03/84	JA: WV				
8414248		4702103973		103		MOORE #2A	BEARPEN RUN	8 0	CONSOLIDATED GAS
8414249		4702104054		107-DV		ZINN #1A	BRAKE HOLLOW	25.0	COLUMBIA GAS TRAN

DEPARTMENT OF THE INTERIOR, BUREAU OF LAND MANAGEMENT, ALBUQUERQUE,NM

-BTA OIL PRODUCERS				RECEIVED: 01/03/84	JA: NM 4				
8414221	RNM 0083-83	3002527941		103		MADDOX FEDERAL-B-8016 JV-P #1	ANTELOPE RIDGE (MORRO	878.6	PHILLIPS PETROLEU
-CONOCO INC				RECEIVED: 01/03/84	JA: NM 4				
8414222	DNRNM0001483	3002526486		103		BRITT B #26	NMFU - MONUMENT TUBB	15.3	WARREN PETROLEUM
-DEPCO INC				RECEIVED: 01/03/84	JA: NM 4				
8414223	RNM 0021-83	3000561928		102-2	107-TF	ROSE FEDERAL #7	PECOS SLOPES ABO	300.0	TRANSWESTERN PIPE
-EXXON CORPORATION				RECEIVED: 01/03/84	JA: NM 4				
8414309	NM0414-83	3002520888		103		ISLER FEDERAL #4	UNDESIG MANY GATES	120.0	
-GULF OIL CORPORATION				RECEIVED: 01/03/84	JA: NM 4				
8414315	RNM0070-83	3000520863		102-3		EAST WHITE RANCH DEEP UNIT #1	EAST WHITE RANCH ATOK	0.0	CABOT CORP
8414310	NM0546-83	3002510833		108		LAMUNYON FEDERAL "A" #2	LANGLIE MATTIX	9.1	EL PASO NATURAL G
-HIGHLAND PRODUCTION CO				RECEIVED: 01/03/84	JA: NM 4				
8414220	RNM-0017-83	3002528181		103		RUSSELL FEDERAL #9 WELL	EAST MASON (DELAWARE)	36.5	PHILLIPS PETROLEU
-LIBERTY OIL & GAS CORP				RECEIVED: 01/03/84	JA: NM 4				
8414213	NM 0578-83	3001524209		103		LEE FEDERAL #1	BURTON FLAT-MORROW	365.0	TRANSWESTERN PIPE
8414218	RNM-0040-83A	3001524349		103		LEE FEDERAL 'COM' #2	BURTON FLAT-MORROW	1095.0	TRANSWESTERN PIPE
8414219	RNM-0040-83B	3001524349		103		LEE FEDERAL "COM" #2	WILDCAT-ATOKA	730.0	TRANSWESTERN PIPE
-MCKAY OIL CORP				RECEIVED: 01/03/84	JA: NM 4				
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Rules and Regulations

Federal Register
Vol. 49, No. 22
Wednesday, February 1, 1984

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

7 CFR Part 421

[Amdt. No. 1]

Cotton Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Final rule.

SUMMARY: This action makes final an extension of cancellation dates contained in these regulations effective for the 1983 crop year only. The extension of cancellation dates was implemented by the Federal Crop Insurance Corporation (FCIC) on an interim basis to provide sufficient time for insured policyholders to consider changes in the cotton crop insurance regulations for the 1983 crop year. The intended effect of this action is to confirm the interim rule as published.

EFFECTIVE DATE: February 1, 1984.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C., 20250, telephone (202) 447–3325.

SUPPLEMENTARY INFORMATION: On Friday, September 2, 1983, FCIC published an interim rule in the **Federal Register** at 48 FR 39911, amending the Cotton Crop Insurance Regulations (7 CFR Part 421), effective for the 1983 crop year only by extending the cancellation dates in certain counties in South Texas in order to provide sufficient time for insured policyholders to consider changes in the regulations for insuring cotton. In accordance with the regulations for insuring cotton, any amendments must be placed on file in the service office by a date 15 days prior to the cancellation date. The earliest cancellation date for the cotton crop insurance program was September 30 in these South Texas counties. There would not have been sufficient time for notice and public comment prior to the implementation of this rule and still comply with the regulations with respect to placing this rule on file by the required date in order to be effective for the 1983 crop year. However, comments were requested for 60 days after publication but none were received.

Merritt W. Sprague, Manager, FCIC, has determined that (1) this action is not a major rule as defined by Executive Order No. 12291 (February 17, 1981), (2) this action will not increase the Federal paperwork burden for individuals, small businesses, and other persons, and (3) this action conforms to the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), and other applicable law.

The title and number of the Federal Assistance program to which this rule applies are: Title-Crop Insurance; Number 10.450.

This action will not have a significant impact specifically upon area and community development; therefore, review as determined by Executive Order No. 12372 (July 14, 1982), was not used to assure that units of local government are informed of this action.

It has been determined that this action is exempt from the provisions of the Regulatory Flexibility Act; therefore, no Regulatory Impact Statement has been prepared.

It has also been determined that this action does not constitute a review as to the need, currency, clarity, and effectiveness of these regulations under the provisions of Departmental Regulation 1512–1 (June 11, 1981).

The sunset review date established for these regulations is October 1, 1987.

List of Subjects in 7 CFR Part 421

Crop insurance, Cotton.

Final rule

Accordingly, the Interim Rule, published in the **Federal Register** of Friday, September 2, 1983, on page 39911, is hereby adopted as final.

Done in Washington, D.C. on December 16, 1983.

Peter F. Cole,

Secretary, Federal Crop Insurance Corporation.

Dated: January 23, 1984.

Approved by:
Michael Bronson,
Acting Manager.

[FR Doc. 84–2811 Filed 1–31–84; 8:45 am]
BILLING CODE 3410–01–M

7 CFR Part 423

[Amdt. No. 3]

Flax Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Final rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) hereby amends the Flax Crop Insurance Regulations (7 CFR Part 423), effective for the 1984 and succeeding crop years by: (1) Changing the policy to make it easier to read; (2) eliminating the substitute crop provision; (3) eliminating the reduction in production guarantee for unharvested acreage provision and its related provisions; (4) adding a provision which permits the determination of indemnities based on the acreage report rather than at loss adjustment time; (5) adding of a provision to provide a coverage level if the insured does not select one; (6) adding a 60-day claim for indemnity provision; (7) adding a section regarding appraisals following the end of the insurance period of unharvested acreage; (8) adding a hail/fire provision for appraisals of uninsured causes; (9) changing the cancellation/termination dates to conform with farming practices; (10) providing that any change in the policy will be available in the service office by a certain date; (11) adding a definition for "service office;" (12) providing for unit definition when the acreage report is filed, and (13) adding three sections concerning "descriptive headings," "determinations," and "notices."

In addition, FCIC issues a new subsection in the flax crop insurance regulations to contain the control numbers assigned by the Office of Management and Budget (OMB) to information collection requirements of these regulations. The intended effect of this rule is to update the policy for insuring flax in accordance with Departmental Regulation 1512–1, requiring a review of the regulations as to need, currency, clarity, and effectiveness, and to comply with OMB

regulations requiring publication of OMB control numbers assigned to information collection requirements in these regulations.

EFFECTIVE DATE: March 2, 1984.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C., 20250, telephone (202) 447-3325.

The Impact Statement describing the options considered in developing this rule and the impact of implementing each option is available upon request from Peter F. Cole.

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA procedures established in Departmental Regulation 1512-1 (June 11, 1981). This action constitutes a review under such procedures as to the need, currency, clarity, and effectiveness of these regulations. The sunset review date established for these regulations is April 1, 1988.

Merritt W. Sprague, Manager, FCIC, has determined that (1) this action is not a major rule as defined by Executive Order No. 12291 (February 17, 1981), (2) this action will not increase the Federal paperwork burden for individuals, small businesses, and other persons, and (3) this action conforms to the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), and other applicable law.

The title and number of the Federal Assistance Program to which these regulations apply are: Title—Crop Insurance; Number 10.450.

This action will not have a significant impact specifically upon area and community development; therefore, review as established by Executive Order No. 12372 (July 14, 1982) was not used to assure that units of local government are informed of this action.

It has been determined that this action is exempt from the provisions of the Regulatory Flexibility Act; therefore, no Regulatory Impact Statement was prepared.

On Thursday, August 4, 1983, FCIC published a notice of proposed rulemaking in the Federal Register at 48 FR 35439, amending the policy for insuring flax in accordance with the provisions of Departmental Regulation 1512-1, and issuing a subsection to contain control numbers assigned by the Office of Management and Budget (OMB) to information collection requirements of these regulations. The public was given 60 days in which to submit written comments, data, and opinions of the proposed rule, but none were received. Therefore, with the exception of minor and non-substantive changes in language, the proposed rule as published is hereby issued as a final rule to be effective with the 1984 crop year.

List of Subjects in 7 CFR Part 423

Crop insurance, Flax.

PART 423—[AMENDED]

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation hereby amends the Flax Crop Insurance Regulations (7 CFR Part 423), effective for the 1984 and succeeding crop years, in the following instances:

1. The Authority citation for 7 CFR Part 423 is:

Authority: Secs. 506, 516, Pub. L. 75-430, 52 Stat. 73, 77, as amended (7 U.S.C. 1506, 1516).

2. 7 CFR Part 423 is amended by adding § 423.3 to read as follows:

§ 423.3 OMB control numbers.

The information collection requirements contained in these regulations (7 CFR Part 423) have been approved by the Office of Management and Budget (OMB) under the provisions of 44 U.S.C. Chapter 35 and have been assigned OMB Nos. 0563-0003 and 0563-0007.

3. 7 CFR 423.7(d) is amended by revising the Flax Crop Insurance Policy therein to read as follows:

§ 423.7 The application and policy.

* * * * *

(d) * * *

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

Flax—Crop Insurance Policy

(This is a continuous contract. Refer to Section 15.) AGREEMENT TO INSURE: We shall provide the insurance described in this policy in return for the premium and your compliance with all applicable provisions.

Throughout this policy, "you" and "your" refer to the insured shown on the accepted Application and "we," "us" and "our" refer to the Federal Crop Insurance Corporation.

Terms and Conditions

1. Causes of loss.

a. The insurance provided is against unavoidable loss of production resulting from the following causes occurring within the insurance period:

(1) Adverse weather conditions;
(2) Fire;
(3) Insects;
(4) Plant disease;
(5) Wildlife;
(6) Earthquake; or
(7) Volcanic eruption;

unless those causes are excepted, excluded, or limited by the actuarial table or section 9e(5).

b. We shall not insure against any loss of production due to:

(1) The neglect or malfeasance of you, any member of your household, your tenants or employees;

(2) The failure to follow recognized good flax farming practices;

(3) Damage resulting from the impoundment of water by any governmental, public or private dam or reservoir project; or

(4) Any cause not specified in section 1a as an insured loss.

2. Crop, acreage, and share insured.

a. The crop insured shall be flaxseed ("flax") which is planted for harvest as seed; which is grown on insured acreage; and for which a guarantee and premium rate are provided by the actuarial table.

b. The acreage insured for each crop year shall be flax planted on insurable acreage as designated by the actuarial table and in which you have a share, as reported by you or as determined by us, whichever we shall elect.

c. The insured share shall be your share as landlord, owner-operator, or tenant in the insured flax at the time of planting.

d. We do not insure any acreage:

(1) Where the farming practices carried out are not in accordance with the farming practices for which the premium rates have been established;

(2) Which is irrigated and an irrigated practice is not provided for by the actuarial table unless you elect to insure the acreage as nonirrigated by reporting it as insurable under section 3;

(3) Which is destroyed and it is practical to replant to flax and such acreage is not replanted;

(4) Initially planted after the final planting date contained in the actuarial table, unless you agree in writing on our form to coverage reduction;

(5) Of volunteer flax;

(6) Planted to a type or variety of flax not established as adapted to the area or excluded by the actuarial table; or

(7) Planted with another crop except perennial grasses or legumes other than vetch.

e. Where insurance is provided for an irrigated practice:

(1) You shall report as irrigated only the acreage for which you have adequate facilities and water to carry out a good flax irrigation practice at the time of planting; and

(2) Any loss of production caused by failure to carry out a good flax irrigation practice, except failure of the water supply from an unavoidable cause occurring after the beginning of planting, shall be considered as due to an uninsured cause. The failure or breakdown of irrigation equipment or facilities shall not be considered as a failure of the water supply from an unavoidable cause.

f. Acreage which is planted for the development or production of hybrid seed or for experimental purposes is not insured unless we agree in writing to insure such acreage.

g. We may limit the insured acreage to any acreage limitation established under any Act of Congress, if we advise you of the limit prior to planting.

3. Report of acreage, share, and practice.

You shall report on our form:

a. All the acreage of flax in the county in which you have a share;

b. The practice; and

c. Your share at the time of planting.

You shall designate separately any acreage that is not insurable. You shall report if you do not have a share in any flax planted in the county. This report shall be submitted annually on or before the reporting date established by the actuarial table. We may determine all indemnities on the basis of information you have submitted on this report. If you do not submit this report by the reporting date, we may elect to determine by unit the insured acreage, share, and practice or we may deny liability on any unit. Any report submitted by you may be revised only upon our approval.

4. Production guarantees, coverage levels, and prices for computing indemnities.

a. The production guarantees, coverage levels, and prices for computing indemnities are in the actuarial table.

b. Coverage level 2 will apply if you do not elect a coverage level.

c. You may change the coverage level and price election on or before the closing date for submitting applications for the crop year as established by the actuarial table.

5. Annual premium.

a. The annual premium is earned and payable at the time of planting. The amount is computed by multiplying the production guarantee times the price election, times the premium rate, times the insured acreage, times your share at the time of planting, times the applicable premium adjustment percentage contained in the following table.

PREMIUM ADJUSTMENT TABLE [1]

[Percent adjustments for favorable continuous insurance experience]

	Numbers of years continuous experience through previous year															
	0	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15 or more
	Percentage adjustment factor for current crop year															
Loss ratio [2] through previous crop year																
.00 to .20	100	95	95	90	90	85	80	75	70	70	65	65	60	60	55	50
.21 to .40	100	100	95	95	90	90	90	85	80	80	75	75	70	70	65	60
.41 to .60	100	100	95	95	95	95	95	90	90	90	85	85	80	80	75	70
.61 to .80	100	100	95	95	95	95	95	95	90	90	90	90	85	85	85	80
.81 to 1.09	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100

[Percent adjustments for unfavorable insurance experience]

	Numbers of loss years through previous year [3]															
	0	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
	Percentage adjustment factor for current crop year															
Loss ratio [2] through previous crop year																
1.10 to 1.19	100	100	100	102	104	106	108	110	112	114	116	118	120	122	124	126
1.20 to 1.39	100	100	100	104	108	112	116	120	124	128	132	136	140	144	148	152
1.40 to 1.69	100	100	100	108	116	124	132	140	148	156	164	172	180	188	196	204
1.70 to 1.99	100	100	100	112	122	132	142	152	162	172	182	192	202	212	222	232
2.00 to 2.49	100	100	100	116	128	140	152	164	176	188	200	212	224	236	248	260
2.50 to 3.24	100	100	100	120	134	148	162	176	190	204	218	232	246	260	274	288
3.25 to 3.99	100	100	105	124	140	156	172	188	204	220	236	252	268	284	300	300
4.00 to 4.99	100	100	110	128	146	164	182	200	218	236	254	272	290	300	300	300
5.00 to 5.99	100	100	115	132	152	172	192	212	232	252	272	292	300	300	300	300
6.00 and up	100	100	120	136	156	180	202	224	246	268	290	300	300	300	300	300

[1] For premium adjustment purposes, only the years during which premiums were earned shall be considered.
[2] Loss Ratio means the ratio of indemnity(ies) paid to premium(s) earned.
[3] Only the most recent 15 crop years shall be used to determine the number of "Loss Years". (A crop year is determined to be a "Loss Year" when the amount of indemnity for the year exceeds the premium for the year.)

b. Interest shall accrue at the rate of one and one-half percent (1½%) simple interest per calendar month, or any part thereof, on any unpaid premium balance starting on the first day of the month following the first premium billing date.

c. Any premium adjustment applicable to the contract shall be transferred to:

(1) The contract of your estate or surviving spouse in case of your death;

(2) The contract of the person who succeeds you if such person had previously participated in the farming operation; or

(3) Your contract if you stop farming in one county and start farming in another county.

d. If participation is not continuous, any premium shall be computed on the basis of previous unfavorable insurance experience but no premium reduction under section 5a shall be applicable.

6. Deductions for debt.

Any unpaid amount due us may be deducted from any indemnity payable to you or from any loan or payment due you under any Act of Congress or program administered by the United States Department of Agriculture or its Agencies.

7. Insurance period.

Insurance attaches when the flax is planted and ends at the earliest of:

(a) Total destruction of the flax;

(b) Combining, threshing or removal from the field;

(c) Final adjustment of a loss; or

(d) October 31 following planting.

8. Notice of damage or loss.

a. In case of damage or probable loss:

(1) You must give us written notice if:

(a) During the period before harvest, the flax on any unit is damaged and you decide not to further care for or harvest any part of it;

(b) You want our consent to put the acreage to another use; or

(c) After consent to put acreage to another use is given, additional damage occurs.

Insured acreage may not be put to another use until we have appraised the flax and given written consent. We shall not consent to another use until it is too late to replant. You must notify us when such acreage is put to another use.

(2) You must give us notice at least 15 days before the beginning of harvest if you anticipate a loss on any unit.

(3) If probable loss is later determined, immediate notice shall be given and a representative sample of the unharvested flax (at least 10 feet wide and the entire length of the field) shall be left intact for a period of 15 days from the date of notice, unless we give you written consent to harvest the sample.

(4) In addition to the notices required by this section, if you are going to claim an indemnity on any unit, we must be given notice not later than 30 days after the earliest of:

(a) Total destruction of the flax on the unit;

(b) Harvest of the unit; or

(c) October 31 following planting.

b. You must obtain written consent from us before you destroy any of the flax which is not to be harvested.

c. We may reject any claim for indemnity if any of the requirements of this section or section 9 are not complied with.

9. Claim for indemnity.

a. Any claim for indemnity on a unit shall be submitted to us on our form not later than 60 days after the earliest of:

(1) Total destruction of the flax on the unit;

(2) Harvest of the unit; or

(3) October 31 following planting.

b. We shall not pay any indemnity unless you:

(1) Establish the total production of flax on the unit and that any loss of production has been directly caused by one or more of the insured causes during the insurance period; and

(2) Furnish all information we require concerning the loss.

c. The indemnity shall be determined on each unit by:

(1) Multiplying the insured acreage by the production guarantee;

(2) Subtracting therefrom the total production of flax to be counted (see section 9e);

(3) Mutiplying the remainder by the price election; and

(4) Multiplying this product by your share.

d. If the information reported by you results in a lower premium than the actual premium determined to be due, the indemnity shall be reduced proportionately.

e. The total production to be counted for a unit shall include all harvested and appraised production.

(1) Mature flax which, due to insurable causes, does not grade No. 2 or better, in accordance with the Official United States Grain Standards, shall be adjusted by:

(a) Dividing the value per bushel of such flax by the price per bushel of U.S. No. 2 flax; and

(b) Multiplying the result by the number of bushels of such flax. The applicable price for No. 2 flax shall be the local market price on the earlier of the day the loss is adjusted or the day such flax was sold.

(2) Appraised production to be counted shall include:

(a) Unharvested production on harvested acreage and potential production lost due to uninsured causes and failure to follow recognized good flax farming practices;

(b) Not less than the guarantee for any acreage which is abandoned or put to another use without our prior written consent or damaged solely by an uninsured cause;

(c) Any appraised production on unharvested acreage.

(3) Any appraisal we have made on insured acreage for which we have given written consent to be put to another use shall be considered production unless such acreage:

(a) Is not put to another use before harvest of flax becomes general in the county;

(b) Is harvested; or

(c) Is further damaged by an insured cause before the acreage is put to another use.

(4) We may determine the amount of production of any unharvested flax on the basis of field appraisals conducted after the end of the insurance period.

(5) When you have elected to exclude hail and fire as insured causes of loss and the flax is damaged by hail or fire, appraisals for uninsured causes shall be made in accordance with Form FCI–78, "Request to Exclude Hail and Fire".

(6) The commingled production of units shall be allocated to such units in proportion to our liability on the harvested acreage of each unit.

f. You shall not abandon any acreage to us.

g. You may not bring suit or action against us unless you have complied with all policy provisions. If a claim is denied, you may sue us in the United States District Court under the provisions of 7 U.S.C. 1508(c). You must bring suit within 12 months of the date notice of denial is mailed to and received by you.

h. We shall pay the loss within 30 days after we reach agreement with you or entry of a final judgment. In no instance shall we be liable for interest or damages in connection with any claim for indemnity, whether we approve or disapprove such claim.

i. If you die, disappear, or are judicially declared incompetent, or if you are an entity other than an individual and such entity is dissolved after the flax is planted for any crop year, any indemnity shall be paid to the person(s) we determine to be beneficially entitled thereto.

j. If you have other fire insurance and fire damage occurs during the insurance period, and you have not elected to exclude fire insurance from this policy, we shall be liable for loss due to fire only for the smaller of:

(1) The amount of indemnity determined pursuant to this contract without regard to any other insurance; or

(2) The amount by which loss from fire exceeds the indemnity paid or payable under such other insurance. For the purposes of this section, the amount of loss from fire shall be the difference between the fair market value of the production on the unit before the fire and after the fire.

10. Concealment or fraud.

We may void the contract on all crops insured without affecting your liability for premiums or waiving any right, including the right to collect any amount due us if, at any time, you have concealed or misrepresented any material fact or committed any fraud relating to the contract, and such voidance shall be effective as of the beginning of the crop year with respect to which such act or omission occurred.

11. Transfer of right to indemnity on insured share.

If you transfer any part of your share during the crop year, you may transfer your right to an indemnity. The transfer must be on our form and approved by us. We may collect the premium from either you or your transferee or both. The transferee shall have all rights and responsibilities under the contract.

12. Assignment of indemnity.

You may only assign to another party your right to an indemnity for the crop year on our form and with our approval. The assignee shall have the right to submit the loss notices and forms required by the contract.

13. Subrogation. (Recovery of loss from a third party.)

Because you may be able to recover all or a part of your loss from someone other than us, you must do all you can to preserve any such rights. If we pay you for your loss then your right of recovery shall at our option belong to us. If we recover more than we paid you plus our expenses, the excess shall be paid to you.

14. Records and access to farm.

You shall keep, for two years after the time of loss, records of the harvesting, storage, shipment, sale or other disposition of all flax produced on each unit including separate records showing the same information for production from any uninsured acreage. Any person designated by us shall have access to such records and the farm for purposes related to the contract.

15. Life of contract: Cancellation and termination.

a. This contract shall be in effect for the crop year specified on the application and may not be canceled for such crop year. Thereafter, the contract shall continue in force for each succeeding crop year unless canceled or terminated as provided in this section.

b. This contract may be canceled by either you or us for any succeeding crop year by giving written notice on or before the cancellation date preceding such crop year.

c. This contract shall terminate as to any crop year if any amount due us on this or any other contract with you is not paid on or before the termination date preceding such crop year for the contract on which the amount is due. The date of payment of the amount due:

(1) If deducted from an indemnity shall be the date you sign the claim; or

(2) If deducted from payment under another program administered by the United States Department of Agriculture shall be the date such payment was approved.

d. The cancellation and termination dates are April 15.

e. If you die or are judicially declared incompetent, or if you are an entity other than an individual and such entity is dissolved, the contract shall terminate as of the date of death, judicial declaration, or dissolution. *However*, if such event occurs after insurance attaches for any crop year, the contract shall continue in force through the crop year and terminate at the end thereof. Death of a partner in a partnership shall dissolve the partnership unless the partnership agreement provides otherwise. If two or more persons having a joint interest are insured jointly, death of one of the persons shall dissolve the joint entity.

f. The contract shall terminate if no premium is earned for five consecutive years.

16. Contract changes.

We may change any terms and provisions of the contract from year to year. If your price election at which indemnities are computed is no longer offered, the actuarial table will provide the price election which you shall be deemed to have elected. All contract changes shall be available at your service office by December 31 preceding the cancellation date. Acceptance of any changes shall be conclusively presumed in the absence of any notice from you to cancel the contract.

17. Meaning of terms.

For the purposes of flax crop insurance:

a. "Actuarial table" means the forms and related material for the crop year approved by us which are available for public inspection in your service office, and which show the production guarantees, coverage levels, premium rates, prices for computing indemnities, practices, insurable and uninsurable acreage, and related information regarding flax insurance in the county.

b. "County" means the county shown on the application and any additional land located in a local producing area bordering on the county, as shown by the actuarial table.

c. "Crop year" means the period within which the flax is normally grown and shall be designated by the calendar year in which the flax is normally harvested.

d. "Harvest" means the completion of combining or threshing of flax on the unit.

e. "Insurable acreage" means the land classified as insurable by us and shown as such by the actuarial table.

f. "Insured" means the person who submitted the application accepted by us.

g. "Person" means an individual, partnership, association, corporation, estate, trust, or other business enterprise or legal entity, and wherever applicable, a State, a political subdivision of a State, or any agency thereof.

h. "Service office" means the office servicing your contract as shown on the application for insurance or such other approved office as may be selected by you or designated by us.

i. "Tenant" means a person who rents land from another person for a share of the flax or a share of the proceeds therefrom.

j. "Unit" means all insurable acreage of flax in the county on the date of planting for the crop year:

(1) In which you have a 100 percent share; or

(2) Which is owned by one entity and operated by another entity on a share basis.

Land rented for cash, a fixed commodity payment, or any consideration other than a share in the flax on such land shall be considered as owned by the lessee. Land which would otherwise be one unit may be divided according to applicable guidelines on file in your service office or by written agreement between you and us. Units will be determined when the acreage is reported. Errors in reporting such units may be corrected by us to conform to applicable guidelines when adjusting a loss. We may consider any acreage and share thereof reported by or for your spouse or child or any member of your household to be your bona fide share or the bona fide share of any other person having an interest therein.

18. Descriptive headings.

The descriptive headings of the various policy terms and conditions are formulated for convenience only and are not intended to affect the construction or meaning of any of the provisions of the contract.

19. Determinations.

All determinations required by the policy shall be made by us. If you disagree with our determinations, you may obtain reconsideration of or appeal those determinations in accordance with our Appeal Regulations.

20. Notices.

All notices required to be given by you must be in writing and received by your service office within the designated time unless otherwise provided by the notice requirement. Notices required to be given immediately may be by telephone or in person and confirmed in writing. Time of the notice will be determined by the time of our receipt of the written notice.

4. Part 423 is further amended by removing "Appendix To 423.7—Additional Terms and Conditions".

5. Appendix A to Part 423 is revised to read as set forth below:

Appendix A—Counties Designated for Flax Crop Insurance

The following counties are designated for Flax Crop Insurance under the provisions of 7 CFR 423.1.

Crop: Flax, State: Minnesota

Becker	Lyon	Pope
Big Stone	Mahnomen	Red Lake
Chippewa	Marshall	Redwood
Clay	Murray	Roseau
Clearwater	Nobles	Stevens
Douglas	Norman	Swift
Grant	East Otter Tail	Traverse
Kittson	West Otter Tail	Wilkin
Lac qui Parle	Pennington	Yellow Medicine
Lake of the Woods	Pipestone	
Lincoln	East Polk	
	West Polk	

Crop: Flax, State: North Dakota

Barnes	Kidder	Ransom
Benson	La Moure	Renville
Bottineau	Logan	Richland
Burke	McHenry	Rolette
Burleigh	McIntosh	Sargent
Cass	McLean	Sheridan
Cavalier	Mercer	Steele
Dickey	Morton	Stutsman
Eddy	Mountrail	Towner
Emmons	Nelson	Traill
Foster	Oliver	Walsh
Grand Forks	Pembina	Ward
Griggs	Pierce	Wells
Hettinger	Ramsey	

Crop: Flax, State: South Dakota

Brookings	Faulk	Moody
Brown	Grant	Potter
Campbell	Haakon	Roberts
Clark	Hamlin	Spink
Codington	Kingsbury	Stanley
Corson	Lake	Sully
Day	McPherson	Walworth
Deuel	Marshall	
Edmunds	Miner	

Approved by the Board of Directors on April 20, 1983.

Peter F. Cole,

Secretary, Federal Crop Insurance Corporation.

Dated: January 23, 1984.

Approved by:

Michael Bronson,

Acting Manager.

[FR Doc. 84-2807 Filed 1-31-84; 8:45 am]

BILLING CODE 3410-08-M

7 CFR Part 439

[Amdt. No. 2]

Almond Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Final rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) hereby amends the Almond Crop Insurance Regulations (7 CFR Part 439), effective for the 1984 and succeeding crop years, by: (1) Changing the policy to make it easier to read; (2) adding volcanic eruption as an insured cause of loss; (3) addition of a provision permitting the determination of indemnities based on the acreage report rather than at loss adjustment time; (4) adding a provision to provide a coverage level if the insured does not select one; (5) adding a 60-day claim for indemnity provision; (6) adding a hail/fire provision for appraisals on uninsured causes; (7) changing the cancellation and termination dates to conform with farming practices; (8) providing that any change in the policy will be available in the service office by a certain date; (9) adding of a definition of "service official;" (10) providing for unit determination when the acreage report is filed; and, (11) adding of a section on "descriptive headings."

In addition, FCIC deletes a section in the almond crop insurance regulations requiring the posting of indemnities paid that is no longer required by the Federal Crop Insurance Act and issues a new section to contain the control numbers assigned by the Office of Management and Budget (OMB) to information collection requirements of these regulations. The intended effect of this rule is to update the policy for insuring almonds in accordance with Departmental Regulation 1512–1, requiring a review of the regulations as to need, currency, clarity, and effectiveness, and to comply with OMB regulations requiring publication of OMB control numbers assigned to information collection requirements in these regulations.

EFFECTIVE DATE: March 2, 1984.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C. 20250, telephone (202) 447–3325.

The Impact Statement describing the options considered in developing this rule and the impact of implementing each option is available upon request from Peter F. Cole.

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA procedures established in Departmental Regulation 1512–1 (June 11, 1981). This action constitutes a review under such procedures as to the need, currency, clarity, and effectiveness of these regulations. The sunset review date established for these regulations is April 1, 1988.

Merritt W. Sprague, Manager, FCIC, has determiend that: (1) This action is not a major rule as defined by Executive Order No. 12291 (February 17, 1981); (2) this action will not increase the Federal paperwork burden for individuals, small businesses, and other persons; and (3) this action conforms to the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), and other applicable law.

The title and number of the Federal Assistance Program to which these regulations apply are: Title—Crop Insurance; Number 10.450.

This action will not have a significant impact specifically upon area and community development; therefore, review as established by Executive Order No. 12372 (July 14, 1982) was not used to assure that units of local government are informed of this action.

It has been determined that this action is exempt from the provisions of the Regulatory Flexibility Act; therefore, no Regulatory Impact Statement was prepared.

On Thursday, July 28, 1983, FCIC published a notice of proposed rulemaking in the **Federal Register** at 48 FR 34282, amending the policy for insuring almonds in accordance with the provisions of Departmental Regulation 1512–1, and issuing a new subsection to contain control numbers assigned by the Office of Management and Budget (OMB) to information collection requirements of these regulations. The public was given 60 days in which to submit written comments, data, and opinions on the proposed rule but none were received. Therefore, except for minor and non-substantive corrections to language, the proposed rule is hereby issued as a final rule to be effective with the 1984 crop year.

List of Subjects in 7 CFR Part 439

Crop insurance, Almonds.

Final Rule

PART 439—[AMENDED]

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation hereby amends the Almond Crop Insurance Regulations (7 CFR Part 439), effective for the 1984 and succeeding crop years, in the following instances:

1. The Authority citation for 7 CFR Part 439 is:

Authority: Secs. 506, 516, Pub. L. 75–430, 52 Stat. 73, 77, as amended (7 U.S.C. 1506, 1516).

2. 7 CFR 439.3 is revised to read as follows:

§ 439.3 OMB control numbers.

The information collection requirements contained in these regulations (7 CFR Part 439) have been approved by the Office of Management and Budget (OMB) under the provisions of 44 U.S.C. Chapter 35 and have been assigned OMB Nos. 0563–0003 and 0563–0007.

§ 439.7 [Amended]

3. 7 CFR 439.7 is amended by revising the Almond Crop Insurance Policy in paragraph (c) and by removing the appendix to § 439.7.

* * * * *

(c) * * *

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

Almond Crop Insurance Policy

(This is a continuous contract. Refer to Section 15)

Agreement to insure: We shall provide the insurance described in this policy in return for the premium and your compliance with all applicable provisions.

Throughout this policy, "you" and "your" refer to the insured shown on the accepted Application and "we," "us" and "our" refer to the Federal Crop Insurance Corporation.

Terms and Conditions

1. Causes of loss.

a. The insurance provided is against unavoidable loss of production resulting from the following causes occurring within the insurance period:

(1) Adverse weather conditions;
(2) Fire;
(3) Wildlife;
(4) Earthquake;
(5) Volcanic eruption; or
(6) Direct Mediterranean Fruit Fly damage;

unless those causes are excepted, excluded, or limited by the actuarial table or section 9e(4). Direct Mediterranean Fruit Fly damage shall be actual physical damage to the almonds which causes such almonds to be considered unmarketable and shall not include unmarketability of such almonds as a direct result of a quarantine, boycott or refusal to accept the almonds by any entity without regard to actual physical damage to such almonds.

b. We shall not insure against any loss of production due to:

(1) The neglect or malfeasance of you, any member of your household, your tenants or employees;

(2) The failure to follow recognized good almond farming practices;

(3) Damage resulting from the impoundment of water by any governmental, public or private dam or reservoir project;

(4) Any cause not specified in section 1a as an insured loss;

(5) The failure to carry out a good almond irrigation practice, except failure of the water supply after insurance attaches due to an unavoidable cause; or

(6) The breakdown of irrigation equipment or facilities.

2. Crop, acreage, and share insured.

a. The crop insured shall be almonds which are grown on insured acreage and for which a guarantee and premium rate are provided by the actuarial table.

b. The acreage insured for each crop year shall be almonds grown on insurable acreage as designated by the actuarial table and in which you have a share, as reported by you or as determined by us, whichever we shall elect.

c. The insured share shall be your share as landlord, owner-operator, or tenant in the insured almonds at the time insurance attaches.

d. We do not insure any acreage:

(1) which is not irrigated; or

(2) on which the trees have not reached the seventh growing season after being set out.

e. Insurance may attach only by written agreement with us on any acreage with less than 90 percent of a stand, based on he original planting pattern.

f. We may limit the insured acreage to any acreage limitation established uder any Act of Congress, if we advise you of the limit prior to the date insurance attaches.

3. Report of acreage, share, yield, and practice.

You shall report on our form:

a. All the acreage of almonds in the county in which you have a share;

b. The practice;

c. Your share at the time insurance attaches; and,

d. The total production from the preceding crop year's insurance acreage on each unit.

You shall designate separately any acreage that is not insurable. You shall report if you do not have a share in any almonds grown in the county. This report shall be submitted annually on or before December 31. We may determine all indemnities on the basis of information you have submitted on this report. If you do not submit this report by the reporting date, we may elect to determine by unit the insured acreage, share, and practice or we may deny liability on any unit. Any report submitted by you may be revised only upon our approval.

4. Production guarantees, coverage levels, and prices for computing indemnities.

a. The production guarantees, coverage levels, and prices for computing indemnities shall be contained in the actuarial table.

b. Coverage level 2 will apply if you have not elected a coverage level.

c. You may change the coverage level and price election on or before the closing date for submitting application for the crop year as established by the actuarial table.

5. Annual premium.

a. The annual premium is earned and payable on the date insurance attaches. The

amount is computed by multiplying the production guarantee times the price election, times the premium rate, times the insured acreage, times your share on the date insurance attaches, times the applicable premium adjustment percentage contained in the following table.

PREMIUM ADJUSTMENT TABLE [1]

[Percent adjustments for favorable continuous insurance experience]

	Numbers of years continuous experience through previous year															
	0	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15 or more
	Percentage adjustment factor for current crop year															
Loss ratio [2] through previous crop year																
.00 to .20	100	95	95	95	90	85	80	75	70	70	65	65	60	60	55	50
.21 to .40	100	100	95	95	90	90	90	85	80	80	75	75	70	70	65	60
.41 to .60	100	100	95	95	95	95	95	90	90	90	85	85	80	80	75	70
.61 to .80	100	100	95	95	95	95	95	95	90	90	90	90	85	85	85	80
.81 to 1.09	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100

[Percent adjustments for unfavorable insurance experience]

	Numbers of loss years through previous year [3]															
	0	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
	Percentage adjustment factor for current crop year															
Loss ratio [2] through previous crop year																
1.10 to 1.19	100	100	100	102	104	106	108	110	112	114	116	118	120	122	124	126
1.20 to 1.39	100	100	100	104	108	112	116	120	124	128	132	136	140	144	148	152
1.40 to 1.69	100	100	100	108	116	124	132	140	148	156	164	172	180	188	196	204
1.70 to 1.99	100	100	100	112	122	132	142	152	162	172	182	192	202	212	222	232
2.00 to 2.49	100	100	100	116	126	140	152	164	176	188	200	212	224	236	248	260
2.50 to 3.24	100	100	100	120	134	148	162	176	190	204	218	232	246	260	274	288
3.25 to 3.99	100	100	105	124	140	156	172	188	204	220	236	252	268	284	300	300
4.00 to 4.99	100	100	110	128	146	164	182	200	218	236	254	272	290	300	300	300
5.00 to 5.99	100	100	115	132	152	172	192	212	232	252	272	292	300	300	300	300
6.00 and up	100	100	120	136	158	180	202	224	246	268	290	300	300	300	300	300

[1] For premium adjustment purposes, only the years during which premiums were earned shall be considered.
[2] Loss Ratio means the ratio of indemnity(ies) paid to premium(s) earned.
[3] Only the most recent 15 crop years shall be used to determine the number of "Loss Years". (A crop year is determined to be a "Loss Year" when the amount of indemnity for the year exceeds the premium for the year.)

b. Interest shall accrue at the rate of one and one-half percent (1½%) simple interest per calendar month, or any part thereof, on any unpaid premium balance starting on the first day of the month following the first premium billing date.

c. Any premium adjustment applicable to the contract shall be transferred to:

(1) The contract of your estate or surviving spouse in case of your death;

(2) The contract of the person who succeeds you if such person had previously participated in the orchard operation; or

(3) Your contract if you stop orchard operations in one county and start orchard operations in another county.

d. If participation is not continuous, any premium shall be computed on the basis of previous unfavorable insurance experience but no premium reduction under section 5a shall be applicable.

6. Deductions for debt.

Any unpaid amount due us may be deducted from any indemnity payable to you or from any loan or payment due you under any Act of Congress or program administered by the United States Department of Agriculture or its Agencies.

7. Insurance period.

Insurance on insured acreage attaches for each crop year on December 11 and ends at the earliest of:

a. Total destruction of the almonds;

b. Harvest of the almonds;

c. Final adjustment of a loss; or

d. November 30.

8. Notice of damage or loss.

a. In case of damage or probable loss:

(1) You must give us written notice if during the period before harvest, the almonds on any unit are damaged and you decide not to further care for or harvest any part of them.

(2) You must give us notice at least 15 days before the beginning of harvest if you anticipate a loss on any unit.

(3) If probable loss is later determined or if damage occurs during harvest, immediate notice shall be given.

(4) In addition to the notices required by this section, if you are going to claim an indemnity on any unit, we must be given notice not later than 30 days after the earliest of:

(a) Total destruction of the almonds on the unit;

(b) Harvest of the unit; or

(c) November 30.

b. You must obtain written consent from us before you destroy any of the almonds which are not to be harvested.

c. We may reject any claim for indemnity if any of the requirements of this section or section 9 are not complied with.

9. Claim for indemnity.

a. Any claim for indemnity on a unit shall be submitted to us on our form not later than 60 days after the earliest of:

(1) Total destruction of the almonds on the unit;

(2) Harvest of the unit; or

(3) November 30.

b. We shall not pay any indemnity unless you:

(1) Establish the total production of almonds on the unit and that any loss of production has been directly caused by one or more of the insured causes during the insurance period; and

(2) Furnish all information we require concerning the loss.

c. The indemnity shall be determined on each unit by:

(1) Multiplying the insured acreage by the production guarantee;

(2) Subtracting therefrom the total production of almonds to be counted (see section 9e);

(3) Multiplying the remainder by the price election; and

(4) Multiplying this product by your share.

d. If the information reported by you results in a lower premium than the actual premium determined to be due, the indemnity shall be reduced proportionately.

e. The total production to be counted for a unit shall include all harvested and appraised production.

(1) Appraised production to be counted shall include:

(a) Unharvested production on harvested acreage and potential production lost due to uninsured causes and failure to follow recognized good almond farming practices;

(b) Not less than the guarantee for any acreage which is abandoned, or damaged solely by an uninsured cause or destroyed by you without our consent; and

(c) Any appraised production on unharvested acreage.

(2) Any appraisal we have made on insured acreage shall be considered production to count unless such appraised production:

(a) Is marketed; or

(b) Is further damaged by an insured cause.

(3) Almonds which cannot be marketed due to insureble causes shall not be considered production.

(4) When you have elected to exclude hail and fire as insured causes of loss and the almonds are damaged by hail or fire, appraisals for uninsured causes shall be made in accordance with Form FCI–78, "Request to Exclude Hail and Fire."

(5) The commingled production of units shall be allocated to such units in proportion to our liability on the harvested acreage of each unit.

f. You shall not abandon any acreage to us.

g. You may not bring suit or action against us unless you have complied with all policy provisions. If a claim is denied, you may sue us in the United States District Court under the provisions of 7 U.S.C. 1508(c). You must bring suit within 12 months of the date notice of denial is mailed to and received by you.

h. We shall pay the loss within 30 days after we reach agreement with you or entry of a final judgment. In no event shall we be liable for interest or damages in connection with any claim for indemnity, whether we approve or disapprove such claim.

i. If you die, disappear, or are judicially declared incompetent, or if you are an entity other than an individual and such entity is dissolved after insurance attaches for any crop year, any indemnity shall be paid to the person(s) we determine to be beneficially entitled thereto.

j. If you have other fire insurance and fire damage occurs during the insurance period, and you have not elected to exclude fire insurance from this policy, we shall be liable for loss due to fire only for the smaller of:

(1) The amount of indemnity determined pursuant to this contract without regard to any other insurance; or

(2) The amount by which the loss from fire exceeds the indemnity paid or payable under such other insurance. For the purposes of this section, the amount of loss from fire shall be the difference between the fair market value of the production on the unit before the fire and after the fire.

10. Concealment or fraud.

We may void the contract on all crops insured without affecting your liability for premiums or waiving any right, including the right to collect any amount due us if, at any time, you have concealed or misrepresented any material fact or committed any fraud relating to the contract, and such voidance shall be effective as of the beginning of the crop year with respect to which such act or omission occurred.

11. Transfer of right to indemnity on insured share.

If you transfer any part of your share during the crop year, you may transfer your right to an indemnity. The transfer must be on our form and approved by us. We may collect the premium from either you or your transferee or both. The transferee shall have all rights and responsibilities under the contract.

12. Assignment of indemnity.

You may only assign to another party your right to an indemnity for the crop year on our form and with our approval. The assignee shall have the right to submit the loss notices and forms required by the contract.

13. Subrogation. (Recovery of loss from a third party.)

Because you may be able to recover all or a part of your loss from someone other than us, you must do all you can to preserve any such rights. If we pay you for your loss then your right of recovery shall at our option belong to us. If we recover more than we paid you plus our expenses, the excess shall be paid to you.

14. Records and access to farm.

You shall keep, for two years after the time of loss, records of the harvesting, storage, shipment, sale or other disposition of all almonds produced on each unit including separate records showing the same information for production from any uninsured acreage. Any person designated by us shall have access to such records and the farm for purposes related to the contract.

15. Life of contract: Cancellation and termination.

a. This contract shall be in effect for the crop year specified on the application and may not be canceled for such crop year. Thereafter, the contract shall continue in force for each succeeding crop year unless canceled or terminated as provided in this section.

b. This contract may be canceled by either you or us for any succeeding crop year by giving written notice on or before the cancellation date preceding such crop year.

c. This contract shall terminate as to any crop year if any amount due us on this or any other contract with you is not paid on or before the termination date preceding such crop year for the contract on which the amount is due. The date of payment of the amount due:

(1) If deducted from an indemnity claim shall be the date you sign the claim; or

(2) If deducted from payment under another program administered by the United States of Agriculture shall be the date such payment was approved.

d. The cancellation and termination dates are December 10.

e. If you die or are judicially declared incompetent, or if you are an entity other than an individual and such entity is dissolved, the contract shall terminate as of the date of death, judicial declaration, or dissolution. *However,* if such event occurs after insurance attaches for any crop year, the contract shall continue in force through the crop year and terminate at the end thereof. Death of a partner in a partnership shall dissolve the partnership unless the partnership agreement provides otherwise. If two or more persons having a joint interest are insured jointly, death of one of the persons shall dissovle the joint entity.

f. The contract shall terminate if no premium is earned for five consecutive years.

16. Contract changes.

We may change any terms and provisions of the contract from year to year. If your price election at which indemnities are computed is no longer offered, the actuarial table will provide the price election which you shall be deemed to have elected. All contract changes shall be available at your service office by August 31 preceding the cancellation date. Acceptance of any changes shall be conclusively presumed in the absence of any notice from you to cancel the contract.

17. Meaning of terms.

For the purposes of almond crop insurance:

a. "Actuarial table" means the forms and related material for the crop year approved by us which are available for public inspection in your service office, and which show the production guarantees, coverage levels, premium rates, prices for computing indemnities, practices insurable and uninsurable acreage, and related information regarding almond insurance in the county.

b. "Contiguous land" means land which is touching at any point, except that land which is separated by only a public or private right-of-way shall be considered contiguous.

c. "County" means the county shown on the application and any additional land located in a local producing area bordering on the county, as shown by the actuarial table.

d. "Crop year" means the period beginning with the date insurance attaches and extending through the normal harvest time and shall be designated by the calendar year in which the almonds are normally harvested.

e. "Harvest" means picking up the almonds for the purpose of removal from the orchard.

f. "Insurable acreage" means the land classified as insurable by us and shown as such by the actuarial table.

g. "Insured" means the person who submitted the application accepted by us.

h. "Person" means an individual, partnership, association, corporation, estate, trust, or other business enterprise or legal entity, and wherever applicable, a State, a political subdivision of a State, or any agency thereof.

i. "Service office" means the office servicing your contract as shown on the application for insurance or such other approved office as may be selected by you or designated by us.

j. "Tenant" means a person who rents land from another person for a share of the almonds or a share of the proceeds therefrom.

k. "Total meat pounds" means the total pounds of good almond meats (loose whole and chipped meats, and inshell meats) and rejects which do not result from insurable causes. Unshelled almonds shall be converted to meat pounds.

l. "Unit" means all insurable acreage of almonds in the county located on contiguous land on the date insurance attaches for the crop year:

(1) In which you have a 100 percent share; or

(2) Which is owned by one entity and operated by another entity on a share basis.

Land rented for cash, a fixed commodity payment, or any consideration other than a share in the almonds on such land shall be considered as owned by the lessee. Land which would otherwise be one unit may be divided according to applicable guidelines on file in your service office or by written agreement between you and us. Units will be determined when the acreage is reported. Errors in reporting such units may be corrected by us to conform to applicable guidelines when adjusting a loss and we may consider any acreage and share of or reported by or for your spouse or child or any member of your household to be your bona fide share or the bona fide share of any other person having an interest therein.

18. Descriptive headings.

The descriptive headings of the various policy terms and conditions are formulated for convenience only and are not intended to affect the construction or meaning of any of the provisions of the contract.

19. Determinations.

All determinations required by the policy shall be made by us. If you disagree with our determinations you may obtain reconsideration of or appeal those determinations in accordance with FCIC Appeal Regulations.

20. Notices.

All notices required to be given by you must be in writing and received by your service office within the designated time unless otherwise provided by the notice requirement. Notices required to be given immediately may be by telephone or in person and confirmed in writing. Time of the notice will be determined by the time of our receipt of the written notice.

Appendix B to Part 439 is redesignated as Appendix A and revised to read as follows:

Appendix A—Counties Designated for Almond Crop Insurance—7 CFR Part 439

The following counties are designated for Almond Crop Insurance under the provisions of 7 CFR 439.1.

California

Butte	San Joaquin
Colusa	San Luis Obispo
Contra Costa	Solano
Fresno	Stanislaus
Glenn	Sutter
Kern	Tehama
Kings	Tulare
Madera	Yolo
Merced	Yuba

Approved by the Board of Directors on April 26, 1983.

Dated: January 23, 1984.

Peter F. Cole,

Secretary, Federal Crop Insurance Corporation

Approved by:

Michael Bronson,

Acting Manager.

[FR Doc. 84-2909 Filed 1-31-84; 8:45 am]

BILLING CODE 3410-08-M

7 CFR Part 444

Fresh Tomato Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Final rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) hereby issues a new Part 444 in Chapter IV of Title 7 of the Code of Federal Regulations prescribing procedures for insuring fresh market tomatoes. The intended effect of this rule is to be responsive to producers growing tomatoes for fresh market consumption who have expressed a desire for crop insurance protection. This rule is promulgated under the authority contained in the Federal Crop Insurance Act, as amended.

EFFECTIVE DATE: March 2, 1984.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C., 20250, telephone (202) 447-3325.

The Impact Statement describing the options considered in developing this proposed rule and the impact of implementing each option are available upon request from Peter F. Cole.

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA procedures established in Departmental Regulation 1512-1 (June 11, 1981). This action constitutes a review as to the need, currency, clarity, and effectiveness of these regulations under the provisions of that Memorandum. The sunset review date established for these regulations is April 1, 1988.

Merritt W. Sprague, Manager, FCIC, has determined that (1) this action is not a major rule as defined by Executive Order No. 12291 (February 17, 1981), (2) this action does not increase the Federal paperwork burden for individuals, small businesses, and other persons, and (3) this action conforms to the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), and other applicable law.

The title and number of the Federal Assistance Program to which this proposed rule applies is: Title—Crop Insurance; Number 10.450.

This action will not have a significant impact specifically upon area and community development; therefore, review as established in Executive Order No. 12372 (July 14, 1982), was not used to assure that units of local government are informed of this action.

It has been determined that this action is exempt from the provisions of the Regulatory Flexibility Act; therefore, no Regulatory Impact Statement was prepared.

In the past, crop insurance protection has not been available to growers producing tomatoes for fresh market consumption. Such crops are exposed to similar hazards as other crops insured by FCIC. Following several meetings with producers, FCIC determined that a program of crop insurance protection was needed. On February 23, 1983, the Board of Directors of FCIC, responding to requests for such an insurance program, authorized the Manager of FCIC to develop a fresh tomato crop insurance program. The regulations contained in this rule become effective for the 1984 and succeeding crop years in certain counties in Florida where tomatoes are grown. The fresh tomato insurance program offers protection against crop damage or loss due to adverse weather conditions, fire, or wildlife.

On Thursday, July 7, 1983, FCIC published a notice of proposed rulemaking in the **Federal Register** at 48 FR 31227, to issue a new Part 444 in Chapter IV of Title 7 of the Code of Federal Regulations prescribing procedures for insuring fresh market tomatoes, effective for the 1984 and succeeding crop years. The public was given 60 days in which to submit written comments, data, and opinions on the rule, but none were received.

Therefore, with the exception of minor and non-substantive language, the proposed rule was published is hereby issued as a final rule to be effective with the 1984 crop year.

List of Subjects in 7 CFR Part 444

Crop insurance, Fresh tomatoes.

Final Rule

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation hereby issues a new Part 444 in Chapter IV of Title 7 of the Code of Federal Regulations to be known as 7 CFR Part 444—Fresh Tomato Crop Insurance Regulations, effective for the 1984 and succeeding crop years, to read as follows:

PART 444—FRESH TOMATO CROP INSURANCE REGULATIONS

Subpart—Regulations for the 1984 and Succeeding Crop Years

Sec.

444.1 Availability of fresh tomato crop insurance.
444.2 Premium rates, coverage levels, and amounts of insurance.
444.3 OMB control numbers.
444.4 Creditors.

Sec.
444.5 Good faith reliance on misrepresentation.
444.6 The contract.
444.7 The application and policy.
Appendix A—Counties Designated for Fresh Tomato Crop Insurance

Authority: Secs. 506, 516, Pub. L. 75–430, 52 Stat. 73, 77, as amended (7 U.S.C. 1506, 1516).

Subpart—Regulations for the 1984 and Succeeding Crop Years

§ 444.1 Availability of fresh tomato crop insurance.

Insurance shall be offered under the provisions of this subpart on fresh tomatoes in counties within limits prescribed by, and in accordance with the provisions of the Federal Crop Insurance Act, as amended. The counties shall be designated by the Manager of the Corporation from those approved by the Board of Directors of the Corporation. Before insurance is offered in any county, there shall be published by appendix to this part the names of the counties in which fresh tomato insurance shall be offered.

§ 444.2 Premium rates, coverage levels, and amounts of insurance.

(a) The Manager shall establish premium rates, coverage levels, and amounts of insurance for fresh tomatoes which will be included in the actuarial table on file in the applicable service offices and may be changed from year to year.

(b) At the time the application for insurance is made, the applicant shall elect an amount of insurance per acre and a coverage level from among those levels and amounts contained in the actuarial table for the crop year.

§ 444.3 OMB control numbers.

The information collection requirements contained in these regulations (7 CFR Part 444) have been approved by the Office of Management and Budget (OMB) under the provisions of 44 U.S.C. Chapter 35 and have been assigned OMB Nos. 0563–0003 and 0563–0007.

§ 444.4 Creditors.

An interest of a person in an insured crop existing by virtue of a lien, mortgage, garnishment, levy, execution, bankruptcy, an involuntary transfer, or similar interest shall not entitle the holder of the interest to any benefit under the contract except as provided by the policy.

§ 444.5 Good faith reliance on misrepresentation.

Notwithstanding any other provision of the fresh tomato insurance contract, whenever

(a) An insured person under a contract of crop insurance entered into under these regulations, as a result of a misrepresentation or other erroneous action or advice by an agent or employee of the Corporation (1) is indebted to the Corporation for additional premiums, or (2) has suffered a loss to a crop which is not insured or for which the insured person is not entitled to an indemnity because of failure to comply with the terms of the insurance contract, but which the insured person believed to be insured, or believed the terms of the insurance contract to have been complied with or waived, and

(b) The Board of Directors of the Corporation, or the Manager in cases involving not more than $100,000.00, finds (1) that an agent or employee of the Corporation did in fact make such misrepresentation or take other erroneous action or give erroneous advice, (2) that said insured person relied thereon in good faith, and (3) that to require the payment of the additional premiums or to deny such insured's entitlement to the indemnity would not be fair and equitable, such insured person shall be granted relief the same as if otherwise entitled thereto.

§ 444.6 The contract.

The insurance contract shall become effective upon the acceptance by the Corporation of a duly executed application for insurance on a form prescribed by the Corporation. The contract shall cover the fresh tomato crop as provided in the policy. The contract shall consist of the application, the policy, the appendix, and the county actuarial table. Any changes made in the contract shall not affect its continuity from year to year. The forms referred to in the contract are available at the service office.

§ 444.7 The application and policy.

(a) Application for insurance on a form prescribed by the Corporation may be made by any person to cover such person's share in the fresh tomato crop as landlord, owner-operator, or tenant. The application shall be submitted to the Corporation at the service office on or before the applicable closing date for the county on file in the service office.

(b) The Corporation may discontinue the acceptance of applications in any county upon its determination that the insurance risk is excessive, and also, for the same reason, may reject any individual application. The Manager of the Corporation is authorized in any crop year to extend the closing date for submitting applications or contract changes in any county by placing the extended date on file in the applicable service offices and publishing a notice in the **Federal Register** upon the Manager's determination that no adverse selectivity will result during the period of such extension. However, if adverse conditions should develop during such period, the Corporation will immediately discontinue the acceptance of applications.

(c) In accordance with the provisions governing changes in the contract contained in policies issued under FCIC regulations for the 1984 and succeeding crop years, a contract in the form provided for in this subpart will come into effect as a continuation of a fresh tomato contract issued under such prior regulations, without the filing of a new application.

(d) The application for the 1983 and succeeding crop years is found at Subpart D of Part 400—General Administrative Regulations (7 CFR 400.37 and 400.38, first published at 48 FR 1023, January 10, 1983) and may be amended from time to time for subsequent crop years. The provisions of the Fresh Tomato Insurance Policy are as follows:

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

Fresh Market Tomato—Crop Insurance Policy

(This is a continuous contract. Refer to Section 15.) AGREEMENT TO INSURE: We shall provide the insurance described in this policy in return for the premium and your compliance with all applicable provisions.

Throughout this policy, "you" and "your" refer to the insured shown on the accepted Application and "we," "us" and "our" refer to the Federal Crop Insurance Corporation.

Terms and Conditions

1. Causes of loss.

a. The insurance provided is against unavoidable loss of production resulting from the following causes occurring within the insurance period:

(1) Adverse weather conditions;
(2) Fire; or
(3) Wildlife

unless those causes are excepted, excluded, or limited by the actuarial table or section 9f(7).

b. We shall not insure against any loss of production due to:

(1) Damage resulting from insects or disease;

(2) The neglect or malfeasance of you, any member of your household, your tenants or employees;

(3) The failure to follow recognized good tomato farming practices;

(4) Damage resulting from the impoundment of water by any governmental, public or private dam or reservoir project;

(5) Any cause not specified in section 1a as an insured loss;

(6) The failure to carry out a good tomato irrigation practice, except failure of the water supply after planting due to an unavoidable cause; or

(7) The breakdown of irrigation equipment or facilities.

2. Crop, acreage, and share insured.

a. The crop insured shall be tomatoes (excluding cherry type tomatoes) which are planted for harvest as fresh market tomatoes in which you have a share as reported by you or as determined by us, whichever we shall elect, which are grown on insured acreage and for which an amount of insurance and premium rate provided by the actuarial table.

b. The acreage insured for each crop year shall be irrigated acreage designated as insurable by the actuarial table.

c. The insured share shall be your share as landlord, owner-operator, or tenant in the insured tomatoes at the time of each planting period.

d. We shall not insure any acreage of tomatoes grown by any person if:

(1) The person had not grown tomatoes for commercial sales the previous crop year; or

(2) The person had not participated in the management of a tomato farming operation the previous crop year.

e. We do not insure any acreage:

(1) Where the farming practices carried out are not in accordance with the farming practices for which the premium rates have been established;

(2) Which is not irrigated;

(3) On which tomatoes are not grown on plastic mulch;

(4) On which tomatoes, peppers, eggplants or tobacco have been grown and the soil was not fumigated before the planting of the tomatoes sought to be insured;

(5) Which was planted to tomatoes the preceding planting period, unless the tomato plants of the preceding planting period were destroyed less than 30 days after the date of planting;

(6) Which is destroyed and which we determine it is practical to replant to tomatoes and such acreage was not replanted;

(7) Initially planted after February 15 of the crop year;

(8) Of volunteer tomatoes;

(9) Planted to a type or variety of tomatoes not established as adapted to the area or excluded by the actuarial table;

(10) Planted for experimental purposes; or

(11) Planted with a crop other than tomatoes.

f. We may limit the insured acreage to any acreage limitation established under any Act of Congress, if we advise you of the limit prior to planting.

3. Report of acreage, share, and practice.

You shall report at the time of each planting period on our form:

a. All the acreage of fall, winter and spring planted tomatoes in the county in which you have a share;

b. The practice, including the bed size; and

c. Your share.

You shall designate separately any acreage that is not insurable. You shall report if you do not have a share in any tomato plantings in the county. This report shall be submitted for each planting period on or before the reporting date established by the actuarial table for each planting period. We may determine all indemnities on the basis of information you have submitted on this report. If you do not submit this report by the reporting date, we may elect to determine by unit for each planting period the insured acreage, share, and practice or we may deny liability on any unit for any planting. Any report submitted by you may be revised only upon our approval.

4. Coverage levels and amounts of insurance.

a. The coverage levels and amounts of insurance shall be contained in the actuarial table.

b. Coverage level 2 will apply if you have not elected a coverage level.

c. You may change the coverage level and amount of insurance before the closing date for submitting applications for the crop year as established by the actuarial table.

5. Annual premium.

a. The annual premium is earned and payable at the time of planting. The amount is computed by multiplying the amount of insurance, times the premium rate, times the insured acreage, times your share at the time of planting, times the applicable premium adjustment percentage contained in the following table.

PREMIUM ADJUSTMENT TABLE [1]

[Percent adjustments for favorable continuous insurance experience]

	Numbers of years continuous experience through previous year															
	0	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15 or more
	Percentage adjustment factor for current crop year															
Loss ratio [2] through previous crop year																
.00 to .20	100	95	95	90	90	85	80	75	70	70	65	65	60	60	55	50
.21 to .40	100	100	95	95	90	90	90	85	80	80	75	75	70	70	65	60
.41 to .60	100	100	95	95	95	95	95	90	90	90	85	85	80	80	75	70
.61 to .80	100	100	95	95	95	95	95	95	90	90	90	90	85	85	85	80
.81 to 1.00	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100

[Percent adjustments for unfavorable insurance experience]

	Numbers of loss years through previous year [3]															
	0	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
	Percentage adjustment factor for current crop year															
Loss ratio [2] through previous crop year																
1.10 to 1.19	100	100	100	102	104	106	108	110	112	114	116	118	120	122	124	126
1.20 to 1.39	100	100	102	104	106	112	116	120	124	128	132	136	140	144	148	152
1.40 to 1.69	100	100	100	108	116	124	132	140	148	156	164	172	180	188	196	204
1.70 to 1.99	100	100	100	112	122	132	142	152	162	172	182	192	202	212	222	232
2.00 to 2.49	100	100	100	116	128	140	152	164	176	188	200	212	224	236	248	260
2.50 to 3.24	100	100	100	120	134	148	162	176	190	204	218	232	246	260	274	288
3.25 to 3.99	100	100	105	124	140	156	172	188	204	220	236	252	268	284	300	300
4.00 to 4.99	100	100	110	128	146	164	182	200	218	236	254	272	290	300	300	300
5.00 to 5.99	100	100	115	132	152	172	192	212	232	252	272	292	300	300	300	300
6.00 and up	100	100	120	136	156	180	202	224	246	268	290	300	300	300	300	300

[1] For premium adjustment purposes, only the years during which premiums were earned shall be considered.

[2] Loss Ratio means the ratio of indemnity(ies) paid to premium(s) earned.

[3] Only the most recent 15 crop years shall be used to determine the number of "Loss Years". (A crop year is determined to be a "Loss Year" when the amount of indemnity for the year exceeds the premium for the year.)

b. Interest shall accrue at the rate of one and one-half percent (1½%) simple interest per calendar month, or any part thereof, on any unpaid premium balance starting on the first day of the month following the first premium billing date.

c. Any premium adjustment applicable to the contract shall be transferred to:

(1) The contract of your estate or surviving spouse in case of your death;

(2) The contract of the person who succeeds you if such person had previously participated in the farming operation; or

(3) Your contract if you stop farming in one county and start farming in another county.

d. If participation is not continuous, any premium shall be computed on the basis of previous unfavorable insurance experience but no premium reduction under section 5a shall be applicable.

6. Deductions for debt.

Any unpaid amount due us may be deducted from any indemnity payable to you or from any loan or payment due you under any Act of Congress or program administered by the United States Department of Agriculture or its Agencies.

7. Insurance period.

Insurance attaches when the tomatoes are planted in each planting period and ends at the earliest of:

a. Total destruction of the tomatoes on the unit;

b. Discontinuance of harvest on the unit;

c. The date harvest should have started on the unit, on any acreage which will not be harvested;

d. Final harvest; or

e. Final adjustment of a loss.

8. Notice of damage or loss.

a. In case of damage or probable loss:

(1) You must give us written notice if:

(a) You want our consent to replant tomatoes damaged due to any insured cause. (To qualify for a replanting payment, the acreage replanted shall have sustained a loss in excess of 50 percent of the plant stand on the unit and shall be at least the lesser of 10 acres or 10 percent of the insured acreage.);

(b) During the period before harvest, the tomatoes on any unit are damaged and you decide not to further care for or harvest any part of the tomatoes;

(c) You want our consent to put the acreage to another use; or

(d) After consent to put acreage to another use is given, additional damage occurs.

Insured acreage may not be put to another use until we have appraised the tomatoes and given written consent. We will not consent to another use until it is too late to replant. You must notify us when such acreage is replanted or put to another use.

(2) You must give us notice at least 15 days before the beginning of harvest if you anticipate a loss on any unit.

(3) If probable loss is later determined and you are going to claim an indemnity on any unit, notice shall be given not later than 48 hours:

(a) After total destruction of the tomatoes on the unit;

(b) After discontinuance of harvest on the unit; or

(c) Before harvest would normally start if any acreage on the unit is not to be harvested.

b. You may not destroy or replant any of the tomatoes on which a replanting payment will be claimed until we give consent.

c. You must obtain written consent from us before you destroy any of the tomatoes which are not to be harvested.

d. We may reject any claim for indemnity if any of the requirements of this section or section 9 are not complied with.

9. Claim for indemnity.

a. Any claim for indemnity on a unit shall be submitted to us on our form not later than 60 days after the earliest of:

(1) Total destruction of the tomatoes on the unit;

(2) Discontinuance of harvesting on the unit; or

(3) The date harvest should have started on the unit on any acreage which will not be harvested.

b. We shall not pay any indemnity unless you:

(1) Establish the total production and the value received for all tomatoes on the unit and that any loss of production or value has been directly caused by one or more of the insured causes during the insurance period; and

(2) Furnish all information we require concerning the loss.

c. The indemnity shall be determined on each unit by:

(1) Multiplying the insured acreage by the amount of insurance times the percentage for the stage of production defined by the actuarial table;

(2) Subtracting from the product the total value of production to be counted (see section 9f);

(3) Multiplying this difference by your share.

d. If the information reported by you results in a lower premium than the actual premium determined to be due, the indemnity shall be reduced proportionately.

e. The indemnity shall be reduced by the amount of any replanting payment.

f. The total value of production to be counted for a unit shall include all harvested and appraised production.

(1) The total value shall include any amount received for tomatoes on the unit minus the allowable cost as designated by the actuarial table;

(2) The value of production to count shall be the amount of insurance per acre for any acreage:

(a) On which production was lost due to uninsured causes;

(b) On which recognized good tomato farming practices were not carried out;

(c) Which is abandoned without our prior written consent; or

(d) Put to other use without our prior written consent.

(3) The value of appraised production to be counted shall include:

(a) The value in excess of the amount of insurance per acre for potential production lost due to uninsured causes and failure to follow recognized good tomato farming practices; and

(b) Unharvested production of mature green tomatoes with classification size of 7 x 7 (2⅝₃₂ inch Minimum diameter) or larger on harvested or unharvested acreage;

(4) Any appraisal we have made on insured acreage for which we have given written consent to be put to another use shall be considered production unless such acreage:

(a) Is not put to another use before harvest of tomatoes becomes general in the county for the planting period;

(b) Is harvested; or

(c) Is further damaged by an insured cause before the acreage is put to another use.

(5) We may determine the amount and value of production of any unharvested tomatoes on the basis of field appraisals conducted after the end of the insurance period.

(6) The value of unsold harvested or appraised production shall be determined by multiplying such production by the simple average F.O.B. shipping point price per 25-pound carton (minus allowable cost as shown by the actuarial table), as reported by the Federal-State Market News Service, for the classification size, for the seven consecutive market days commencing the earlier of;

(a) The date harvest starts; or

(b) The date harvest could have started, on any acreage which will not be harvested.

The price for such tomatoes shall not be less than $6.00 per 25-pound carton minus allowable cost shown by the actuarial table.

(7) When you have elected to exclude hail and fire as insured causes of loss and the tomatoes are damaged by hail or fire, appraisals for uninsured causes shall be made in accordance with form FCI–78–A, "Request to Exclude Hail and Fire".

(8) The value of commingled production of units shall be allocated to such units in proportion to our liability on the harvested acreage of each unit.

g. A replanting payment may be made on any insured tomatoes replanted after we have given consent. To qualify for replanting payment the acreage replanted must have sustained a loss in excess of 50 percent of the plant stand for the unit and must be at least the lesser of 10 acres or 10 percent of the insured acreage.

(1) No replanting payment shall be made on acreage on which a replanting payment has been made during the current crop year.

(2) The replanting payment per acre shall be your actual cost per acre for replanting, but shall not exceed the product obtained by multiplying $175.00 per acre by your share.

h. If the information reported by you results in a lower premium than the actual premium determined to be due, the replanting payment and the indemnity shall be reduced proportionately.

i. You shall not abandon any acreage to us

j. You may not bring suit or action against us unless you have complied with all policy provisions. If a claim is denied, you may sue us in the United States District Court under the provisions of 7 U.S.C. 1508(c). You must bring suit within 12 months of the date notice of denial is mailed to and received by you.

k. We shall pay the loss within 30 days after we reach agreement with you or entry of a final judgment. In no instance shall we be liable for interest or damages in connection with any claim for indemnity, whether we approve or disapprove such claim.

l. If you die, disappear, or are judicially declared incompetent, or if you are an entity other than an individual and such entity is dissolved after the tomatoes are planted for any crop year, any indemnity shall be paid to the person(s) we determine to be beneficially entitled thereto.

m. If you have other fire insurance and fire damage occurs during the insurance period, and you have not elected to exclude fire insurance from this policy, we shall be liable for loss due to fire only for the smaller of:

(1) The amount of indemnity determined pursuant to this contract without regard to any other insurance; or

(2) The amount by which the loss from fire exceeds the indemnity paid or payable under such other insurance. For the purposes of this section, the amount of loss from fire shall be the difference between the fair market value of the production on the unit before the fire and after the fire.

10. Concealment or fraud.

We may void the contract on all crops insured without affecting your liability for premiums or waiving any right, including the right to collect any amount due us if, at any time, you have concealed or misrepresented any material fact or committed any fraud relating to the contract, and such voidance shall be effective as of the beginning of the crop year with respect to which such act or omission occurred.

11. Transfer of right to indemnity on insured share.

If you transfer any part of your share during the crop year, you may transfer your right to an indemnity. The transfer must be on our form and approved by us. We may collect the premium from either you or your transferee or both. The transferee shall have all rights and responsibilities under the contract.

12. Assignment of indemnity.

You may assign to another party your right to an indemnity for the crop year only on our form and with our approval. The assignee shall have your right to submit the loss notices and forms required by the contract.

13. Subrogation. (Recovery of loss from a third party.)

Because you may be able to recover all or a part of your loss from someone other than us, you must do all you can to preserve any such rights. If we pay you for your loss then your right of recovery shall at our option belong to us. If we recover more than we paid you plus our expenses, the excess shall be paid to you.

14. Records and access to farm.

You shall keep for two years after the time of loss, records of the harvesting, storage, shipment, sale or other disposition of all tomatoes produced on each unit including separate records showing the same information for production from any uninsured acreage. Any persons designated by us shall have access to such records and the farm for purposes related to the contract.

15. Life of contract: Cancellation and termination.

a. This contract shall be in effect for the crop year specified on the application and may not be canceled for such crop year. Thereafter, the contract shall continue in force for each succeeding crop year unless canceled or terminated as provided in this section.

b. This contract may be canceled by either you or us for any succeeding crop year by giving written notice on or before the cancellation date preceding such crop year.

c. This contract shall terminate as to any crop year if any amount due us on this or any other contract with you is not paid on or before the termination date preceding such crop year for the contract on which the amount is due. The date of payment of the amount due:

(1) If deducted from an indemnity shall be the date you sign the claim; or

(2) If deducted from payment under another program administered by the United States Department of Agriculture shall be the date such payment was approved.

d. The cancellation and termination dates are July 31.

e. If you die or are judicially declared incompetent, or if you are an entity other than an individual and such entity is dissolved, the contract shall terminate as of the date of death, judicial declaration, or dissolution. *However*, if such event occurs after insurance attaches for any crop year, the contract shall continue in force through the crop year and terminate at the end thereof. Death of a partner in a partnership shall dissolve the partnership unless the partnership agreement provides otherwise. If two or more persons having a joint interest are insured jointly, death of one of the persons shall dissolve the joint entity.

f. The contract shall terminate if no premium is earned for five consecutive years.

16. Contract changes.

We may change any terms and provisions of the contract from year to year. If your amount of insurance is no longer offered, the actuarial table shall provide the amount of insurance which you shall be deemed to have elected. All contract changes shall be available at your service office by April 30 preceding the cancellation date. Acceptance of any changes shall be conclusively presumed in the absence of any notice from you to cancel the contract.

17. Meaning of terms.

For the purposes of tomato crop insurance:

a. "Actuarial table" means the forms and related material for the crop year approved by us which are available for public inspection in your service office, and which show the amount of insurance, coverage levels, premium rates, practices, insurable and uninsurable acreage, and related information regarding tomato insurance in the county.

b. "County" means the county shown on the application and any additional land located in a local producing area bordering on the county, as shown by the actuarial table.

c. "Crop year" means the period within which the tomatoes are normally grown beginning August 1 and continuing through the harvesting of the spring planted tomatoes and shall be designated by the calendar year in which the spring planted tomatoes are normally harvested.

d. "Harvest" means the final picking of marketable tomatoes on the unit.

e. "Insurable acreage" means the land classified as insurable by us and shown as such by the actuarial table.

f. "Insured" means the person who submitted the application accepted by us.

g. "Mature green tomato" means a tomato which:

(1) Has heightened gloss because of the waxy skin that cannot be torn by scraping;

(2) Has well formed jelly-like substance in the locules;

(3) Has seeds that are sufficiently hard so they are pushed aside and not cut by a sharp knife in slicing; and

(4) Show no red color.

h. "Person" means an individual, partnership, association, corporation, estate, trust, or other business enterprise or legal entity, and wherever applicable, a State, a political subdivision of a State, or any agency thereof.

i. "Planting" means transplanting the tomato plants into the field or direct seeding in the field.

j. "Planting Period," unless other dates are specified by the actuarial table, means tomatoes planted:

(1) From August 1 through October 15 (fall planted);

(2) From October 16 through December 15 (winter planted); or

(3) From December 16 through February 15 (spring planted).

k. "Plant Stand" means the number of live plants per acre before the plants were damaged due to insurable causes.

l. "Replanting" means performing the cultural practices necessary to replant insured acreage to tomatoes.

m. "Service office" means the office servicing your contract as shown on the application for insurance or such other approved office as may be selected by you or designated by us.

n. "Tenant" means a person who rents land from another person for a share of the tomatoes or a share of the proceeds therefrom.

o. "Unit" means all insurable acreage of tomatoes for each planting period in the county on the date of planting for the crop year:

(1) In which you have a 100 percent share; or

(2) Which is owned by one entity and operated by another entity on a share basis.

Land rented for cash, a fixed commodity payment, or any consideration other than a share in the tomatoes on such land shall be considered as owned by the lessee. Land which would otherwise be one unit may be divided according to applicable guidelines on file in your service office or by written agreement with us. We shall determine units as herein defined when the acreage is reported. Errors in reporting such units may be corrected by us to conform to applicable guidelines when adjusting a loss. We may consider any acreage and share thereof reported by or for your spouse or child or any member of your household to be your bona fide share or the bona fide share of any other person having an interest therein.

18. Descriptive headings.

The descriptive headings of the various policy terms and conditions are formulated for convenience only and are not intended to

affect the construction or meaning of any of the provisions of the contract.

19. Determinations.

All determinations required by the policy shall be made by us. If you disagree with our determinations you may obtain reconsideration of or appeal those determinations in accordance with our Appeal Regulations.

20. Notices.

All notices required to be given by you must be in writing and received by your service office within the designated time unless otherwise provided by the notice requirement. Notices required to be given immediately may be by telephone or in person and confirmed in writing. Time of the notice will be determined by the time of our receipt of the written notice.

Appendix A.—Counties Designated for Fresh Tomato Crop Insurance

The following counties are designated for Fresh Tomato Crop Insurance under the provisions of 7 CFR 444.1.

Florida

Collier	Hendry
Glades	Lee

Done in Washington, D.C., on November 15, 1983.

Peter F. Cole,

Secretary, Federal Crop Insurance Corporation.

Approved by:

Michael Bronson,

Acting Manager.

January 23, 1984.

[FR Doc. 84-2808 Filed 1-31-84; 8:45 am]

BILLING CODE 3410-08-M

Animal and Plant Health Inspection Service

9 CFR Part 78

[Docket No. 83-145]

Brucellosis in Cattle; State and Area Classifications

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule.

SUMMARY: This document amends the regulations governing the interstate movement of cattle because of brucellosis by changing the classification of the States of Massachusetts and Pennsylvania and parts of Montana and Wyoming from Class A to Class Free. This action is necessary because it has been determined that these States and parts of States meet the standards for Class Free status. This document also makes a change concerning the classifications for Texas by including Cooke County, Texas, in the portion of the State designated as Class B rather than in the portion of the State designated as Class C. This action is necessary because it has been determined that Cooke County meets the requirements for Class B. The effect of these actions is to relieve certain restrictions on the interstate movement of cattle from these States and parts of States.

DATES: Effective date of the interim rule is February 1, 1984. Written comments must be received on or before April 2, 1984.

ADDRESSES: Written comments should be submitted to Thomas O. Gessel, Director, Regulatory Coordination Staff, APHIS, USDA, Room 728, Federal Building, Hyattsville, MD 20782. Written comments received may be inspected at Room 728 of the Federal Building between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Dr. Thomas J. Holt, Cattle Diseases Staff, VS, APHIS, USDA, Room 817, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301-436-5961.

SUPPLEMENTARY INFORMATION:

Background

The brucellosis regulations (contained in 9 CFR Part 78 and referred to below as the regulations) provide a system for classifying States or portions of States according to the rate of brucellosis infection present and the general effectiveness of a brucellosis control and eradication program. The classifications are Class Free, Class A, Class B, and Class C. States or Areas which do not meet the minimum standards for Class C are required to be placed under Federal quarantine. This document changes the classification of the States of Massachusetts and Pennsylvania and parts of Montana and Wyoming from Class A to Class Free, and also changes the classification of Cooke County, Texas, from Class C to Class B.

With respect to brucellosis infection, the Class Free classification is based on a finding of no known brucellosis infection in cattle for the period of 12 months preceding classification as Class Free. The Class C classification is for States or Areas with the highest rate of brucellosis, with Classes A and B in between. Restrictions on the movement of cattle are more stringent for movements from Class A States or Areas compared to movements from Free States or Areas, and are more stringent for movements from Class B States or Areas compared to movements from Class A States or Areas, and so on. The restrictions include various testing for movement of certain cattle from other than Class Free States or Areas.

The basic standards for the different classifications of States or Areas concern maintenance of: (1) a State or Area-wide accumulated 12 consecutive month herd infection rate not to exceed a stated level; (2) a Market Cattle Identification (MCI) program reactor rate not to exceed a stated rate (this concerns the testing of cattle for movement through auction markets, stockyards, and slaughtering establishments); (3) a surveillance system which includes a testing program for dairy herds and slaughtering establishments, and provisions for identifying and monitoring herds at high risk of infection, including herds adjacent to infected herds and herds from which infected animals have been sold or received under approved action plans; and (4) minimum procedural standards for administering the program.

Prior to the effective date of this document, the entire States of Massachusetts, Montana, Pennsylvania and Wyoming were classified as Class A States. It had been necessary to classify these States as Class A rather than Class Free because of the herd infection rates or MCI program reactor rates, or both. To attain and maintain Class Free status, a State or Area must, among other things, remain free from brucellosis in cattle for the preceding 12 month period and the adjusted MCI reactor prevalence rate for such 12 month period must not exceed one reactor per 2,000 cattle tested (0.050 percent). A reveiw of brucellosis program records establishes that the following States and parts of States should be changed to Class Free since they now meet the criteria for classification as Class Free:

(1) The entire State of Massachusetts,

(2) The entire State of Pennsylvania,

(3) That part of Montana consisting of the following counties: Beaver Head, Big Horn, Blaine, Broadwater, Carbon, Carter, Cascade, Chouteau, Custer, Daniels, Dawson, Deer Lodge, Fallon, Fergus, Gallatin, Garfield, Glacier, Golden Valley, Granite, Hill, Jefferson, Judith Basin, Lewis & Clark, Liberty, Madison, McCone, Meagher, Musselshell, Park, Petroleum, Phillips, Pondera, Powder River, Powell, Prairie, Richland, Roosevelt, Rosebud, Sheridan, Silver Bow, Stillwater, Sweet Grass, Teton, Toole, Treasure, Valley, Wheatland, Wibaux, Yellowstone, and

(4) That part of Wyoming consisting of the following counties: Albany, Big Horn, Campbell, Carbon, Converse, Crook, Goshen, Johnson, Laramie, Natrona, Niobrara, Park, Platte, Sheridan, Sweetwater, Teton, Uinta, and

Weston, Fremont, Hot Springs, Washakie, and that part of Lincoln County south of a line beginning at the northwest quadrant of Sec. 1, T. 28 N., R. 121 W. extending east to the northeast quadrant of Sec. 1, T. 28 N., R. 116 W.

From Class C to Class B

The State of Texas is divided into a Class B Area and a Class C Area. Prior to the effective date of this document, the Area of Texas classified as Class C included Cooke County. The State of Texas has requested that the boundary line for the portion of Texas classified as Class B be changed to include Cooke County. A portion of Texas was classified as Class C rather than a higher classification because of the herd infection rate and the MCI program reactor rate. To attain and maintain Class B status, a State or Area must, among other things, maintain a 12 consecutive month adjusted MCI reactor prevalence rate not to exceed three reactors per 1,000 cattle tested (0.30 percent), and must maintain an accumulated 12-month herd infection rate for brucellosis in cattle not to exceed 15 herds per 1,000 (1.5 percent). A review of brucellosis program records establishes that Cooke County meets the criteria for classification as Class B.

Criteria for Dividing States into Two Classification Areas

In a docment published in the **Federal Register** on December 13, 1982, (47 FR 55636–55656), the Department set forth a basis for dividing States into two brucellosis classification areas. In this connection the document at 47 FR 55638–55639 provided that:

> Some large States have distinctly different rates of infections in different parts of the State. Two classification areas would enable animals moving between such areas to be controlled, and thereby keep brucellosis from spreading from the areas of high infection rate to areas of low infection.
>
> The individual States will have to control such intrastate movements as the Department does not have such authority. This State control will be provided for in cooperative agreements between each State and the Department. If a State with 2 Areas within its boundaries failed to control movements between those areas the higher classified area would be reclassified to be the same as the lower area.

This division of Montana, Wyoming and Texas into two classification Areas as explained above is in compliance with this criteria.

Executive Order and Regulatory Flexibility Act

This rule is issued in conformance with Executive Order 12291 and Secretary's Memorandum No. 1512–1, and has been determined to be not a "major rule." Based on information compiled by the Department, it has been determined that this rule will not have a significant effect on the economy; will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and will not cause adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Changing the status of the States and parts of States affected by this document reduces testing requirements on the interstate movement of certain cattle. Cattle moved interstate are moved for slaughter, for use as breeding stock, or for feeding. Testing requirements for cattle moved interstate for immediate slaughter, or to quarantined feedlots are not affected by the changes in status. Also, cattle from Certified Brucellosis-free herds moving interstate are not affected by this change in status. It has been determined that the changes in brucellosis status made by this document will not affect marketing patterns and will not have a significant economic impact on those persons affected by this document.

Under these circumstances, Mr. Bert W. Hawkins, Administrator of the Animal and Plant Health Inspection Service, has determined that this action will not have a significant economic impact on a substantial number of small entities.

Emergency Action

Dr. John K. Atwell, Deputy Administrator of the Animal and Plant Health Inspection Service for Veterinary Services has determined that an emergency situation exists which warrants publication of this interim rule without prior opportunity for public comment. Immediate action is warranted in order to delete unnecessary restrictions on the interstate movement of certain cattle from affected States and Areas.

Further, pursuant to the administrative procedure provisions in 5 U.S.C. 533, it is found upon good cause that prior notice and other public procedures with respect to this interim rule are impracticable and contrary to the public interest and good cause is found for making this interim rule effective less than 30 days after publication of this document in the **Federal Register**. Comments have been solicited for 60 days after publication of this document. A final document discussing comments received and any amendments required will be published in the **Federal Register** as soon as possible.

List of Subjects in 9 CFR Part 78

Animal diseases, Brucellois, Cattle, Quarantine, Transportation.

PART 78—BRUCELLOSIS

Accordingly, § 78.20 of the Brucellosis regulations in 9 CFR Part 78 is amended as follows:

§78.20 [Amended]

1. Section 78.20(a) is revised to read as follows:

(a) *Class Free.*—Alaska; Connecticut; Delaware; Hawaii; Maine; Maryland; Massachusetts; Michigan; Montana (Counties of Beaver Head, Big Horn, Blaine, Broadwater, Carbon, Carter, Cascade, Chouteau, Custer, Daniels, Dawson, Deer Lodge, Fallon, Fergus, Gallatin, Garfield, Glacier, Golden Valley, Granite, Hill, Jefferson, Judith Basin, Lewis & Clark, Liberty, Madison, McCone, Meagher, Musselshell, Park, Petroleum, Phillips, Pondera, Powder River, Powell, Prairie, Richland, Roosevelt, Rosebud, Sheridan, Silver Bow, Stillwater, Sweet Grass, Teton, Toole, Treasure, Valley, Wheatland, Wibaux, and Yellowstone); New Hampshire; New York; North Dakota; Pennsylvania; Rhode Island; Utah; Vermont; Virgin Islands; and Wyoming (Counties of Albany, Big Horn, Campbell, Carbon, Converse, Crook, Goshen, Johnson, Laramie, Natrona, Niobrara, Park, Platte, Sheridan, Sweetwater, Teton, Unita, Weston, Fremont, Hot Springs, and Washakie, and that portion of Lincoln County south of a line beginning at the northwest quadrant of Sec. 1, T. 28 N., R. 121 W. extending east to the northeast quadrant of Sec. 1, T. 28 N., 116 W.).

2. Section 78.20(b) is revised to read as follows:

(b) *Class A.* Arizona, California, Colorado, Idaho, Illinois, Indiana, Iowa, Minnesota, Montana (Counties of Flathead, Lake, Lincoln, Mineral, Missoula, Ravalli and Sanders), Nebraska, New Jersey, New Mexico, North Carolina, Ohio, Oregon, Puerto Rico, South Carolina, South Dakota, Virginia, Washington, West Virginia, Wisconsin, and Wyoming (Sublette County and that portion of Lincoln County not included as Class Free).

3. Section 78.20(c) is amended by adding "Cooke," after "Choncho," in the list of Texas counties.

4. Section 78.20(d) is amended by removing "Cooke" from the list of Texas counties.

Authority: Secs. 4, 5, and 6, 23 Stat. 32, as amended,; secs. 1 and 2, 32 Stat. 791–792, as amended; sec. 3, 33 Stat. 1265, as amended; sec. 2, 65 Stat. 693; and secs. 3 and 11, 76 Stat. 130, 132, (21 U.S.C. 111–113, 114a–1, 115, 120, 121, 125, 134b, 134f); 7 CFR 2.17, 2.51, and 371.2(d).

Done at Washington, D.C. this 26th day of January, 1984.

K. R. Hook,

Acting Deputy Administrator, Veterinary Services.

[FR Doc. 84-2716 Filed 1-31-84; 8:45 am]

BILLING CODE 3410-34-M

DEPARTMENT OF COMMERCE

Bureau of the Census

15 CFR Part 50

Special Services and Studies by the Bureau of the Census

AGENCY: Bureau of the Census, Commerce.

ACTION: Final rule.

SUMMARY: The Department of Commerce is authorized to conduct special statistical surveys and studies and to perform other specified services upon payment of the cost thereof. This rule amends the regulation to remove those special services and studies that are no longer available, revises the cost of conducting a preliminary investigation, provides the final report for foreign trade and shipping statistics, and deletes references to unpublished data from the 1960 Population and Housing Census.

EFFECTIVE DATE: February 1, 1984.

FOR FURTHER INFORMATION CONTACT: Sherry Courtland, Program and Policy Development Office, Room 2419, Federal Building 3, Bureau of the Census, Washington, D.C. 20233. (301) 763–2758.

SUPPLEMENTARY INFORMATION: The Bureau of the Census announced the review of 15 CFR Part 50, Special Services and Studies by the Census Bureau, in the Department of Commerce's Semi-Annual Agenda of Regulations, published on October 28, 1982, at 47 FR 48314. Based on the review, it was determined that various services under Part 50 were no longer available from the Census Bureau.

A notice of proposed rulemaking concerning these changes was published in the **Federal Register** on May 6, 1983 (48 FR 20432), and comments were invited for 30 days ending June 6, 1983. The Bureau has received no comments concerning the proposed rulemaking.

The Director, Bureau of the Census, has determined that this is not a "major rule" under the requirements of Executive Order 12291. It will not have an annual effect on the economy of $100 million or more and will not have a significant economic effect on a substantial number of small entities, pursuant to the Regulatory Flexibility Act.

The provisions of this Part 50 are issued under 15 U.S.C. 1526 and 13 U.S.C. 8.

List of Subjects in 15 CFR Part 50

Special census services and studies, Statistical and personal census data, Census data.

PART 50—[AMENDED]

Based on the review of 15 CFR Part 50 and the reasons set out in the preamble, 15 CFR Part 50 is amended as follows:

1. Section 50.1—*General.* This section is amended by revising paragraph (a) to read as follows:

§ 50.1 General.

(a) Fee structure for age search and citizenship service, special population censuses, and for foreign trade and shipping statistics.

* * * * *

§ 50.15 [Removed]

2. Section 50.15—*Fee structure for unpublished data from the 1960 Population and Housing Census* is removed.

§ 50.20 [Removed]

3. Section 50.20—*Fee structure for enumeration district maps* is removed.

§ 50.25 [Removed]

4. Section 50.25—*Fee structure for housing data from the 1960 Census of Housing* is removed.

5. Section 50.30—*Fee structure for foreign trade and shipping statistics.* This section is amended by revising paragraph (b) to read as follows:

50.30 Fee structure for foreign trade and shipping statistics.

* * * * *

(b) In instances where information requested is not shown separately or not summarized in the form desired, it is necessary to conduct a prelimary investigation at the requestor's expense to determine whether the information can be compiled from the basic records and what the total cost will be. The preliminary investigation normally costs $250 but may be more depending on the circumstances. The total cost of the final report generally ranges from $500 to several thousand dollars for data covering a 12-month period.

* * * * *

§ 50.35 [Removed]

6. Section 50.35—*Fee structure for seasonal adjustments time series* is removed.

Dated: January 24, 1984.

C. L. Kincannon,

Acting Director, Bureau of the Census.

[FR Doc. 84-2305 Filed 1-31-84; 8:45 am]

BILLING CODE 3510-07-M

FEDERAL TRADE COMMISSION

16 CFR Part 13

[Docket C-3129]

American Express Company; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Consent order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order requires a New York City credit card company, among other things, to cease failing to prevent computerized collection letters from being sent to cardholders who have written the company of a billing error and who are withholding payment pending resolution of the dispute. The company is required to forfeit the amount in dispute, up to $50, should it fail to comply with the Fair Credit Billing Act's billing error resolution procedures and maintain for at least two years, records evidencing compliance with the Act's provisions. The order additionally requires the company to resolve billing errors involving foreign merchants within the lesser of 90 days or 2 complete billing cycles from the date of receiving a billing error notice.

DATES: Complaint and Order issued Jan. 9, 1984.[1]

FOR FURTHER INFORMATION CONTACT: FTC/PD, Anne P. Fortney, Washington. D.C. 20580. (202) 724–1119.

SUPPLEMENTARY INFORMATION: On Tuesday, Oct. 25, 1983, there was published in the **Federal Register**, 48 FR 49299, a proposed consent agreement with analysis in the Matter of American Express Company, a corporation, for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of order.

[1] Copies of the Complaint and the Decision and Order filed with the original document.

No comments having been received, the Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered its order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

The prohibited trade practices and/or corrective actions, as codified under 16 CFR Part 13, are as follows: Subpart—Corrective Actions and/or Requirements: § 13.533 Corrective actions and/or requirements; 13.533–37 Formal regulatory and/or statutory requirements; 13.533–45 Maintain records; 13.533–55 Refunds, rebates and/or credits. Subpart—Delaying or Withholding Corrections, Adjustments or Action Owed: § 13.675 Delaying or withholding corrections, adjustments or action owed. Subpart—Failing To Comply With Affirmative Statutory Requirements: § 13.1048 Failing to comply with affirmative statutory requirements; 13.1048–05 Fair Credit Billing Act; 13.1048–45 Truth In Lending Act.

List of Subjects in 16 CFR Part 13

Credit cards, Trade practices.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; 82 Stat. 146, 147; 15 U.S.C. 45, 1601, *et seq.*)

Emily H. Rock,

Secretary.

[FR Doc. 84–2667 Filed 1–31–84; 8:45 am]

BILLING CODE 6750–01–M

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16 CFR Part 13

[Docket 5655]

Dictograph Products, Inc.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Order to set aside.

SUMMARY: The Federal Trade Commission has set aside the Sept. 24, 1953 order issued against Dictograph Products, Inc. (18 FR 6771), in light of its actions in *Beltone Electronics Corp.*, Dkt. 8928 (47 FR 31681) and *Dahlberg Electronics Corp.*, Dkt. 8229 (48 FR 20046), which set aside prohibitions on the companies' use of exclusive dealing arrangements.

DATES: Order issued Sept. 24, 1953. Order To Set Aside issued Jan. 17, 1984.

FOR FURTHER INFORMATION CONTACT: FTC/CC, Elliot Feinberg, Washington, D.C. 20580.

SUPPLEMENTARY INFORMATION: In the Matter of Dictograph Products, Inc., a corporation. Codification appearing at 18 FR 6771 is deleted.

List of Subjects in 16 CFR Part 13

Hearing aids, Trade practices.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45)

Order To Set Aside Order To Cease and Desist

In the Matter of Dictograph Products, Inc., a corporation. Docket No. 5655.

On September 24, 1953, the Federal Trade Commission issued an order against Dictograph Products, Inc. in Docket No. 5655 prohibiting Dictograph, in the sale of its own brand name hearing aids, from imposing exclusive dealing arrangements upon its dealers.

Two of Dictograph's larger competitors are now permitted by recent Commission actions to engage in the same exclusive dealing practices contained in the order against Dictograph. On July 26, 1982, the Commission dismissed the complaint in *Beltone Electronics Corp.*, Docket No. 8928, challenging, among other things, the same practices prohibited by the order against Dictograph. On April 11, 1983, the Commission in *Dahlberg Electronics, Inc.*, Docket No. 8929, set aside prohibitions on Dahlberg's use of exclusive dealing arrangements, which were similar to those contained in the order against Dictograph.

On December 7, 1983, the Commission, pursuant to § 3.72(b) of the Commission's Rules of Practice, 16 CFR § 3.72(b), issued an order to show cause why the proceeding herein should not be reopened to set aside the final cease and desist order in Docket No. 5655, prohibiting Respondent's use of exclusive dealing arrangements. Respondent was provided an opportunity to object to the proposed set aside of the order against it, and having failed to do so, is now deemed to have consented to such action. In view of the Commission's actions in *Beltone* and *Dahlberg*, the Commission believes that this modification is in the public interest.

Accordingly,

It is hereby ordered that this matter be, and it hereby is, reopened and that the order herein shall be set aside as of the effective date of this order.

By the Commission.

Issued: January 17, 1984.

Emily H. Rock,

Secretary.

[FR Doc. 84–2662 Filed 1–31–84; 8:45 am]

BILLING CODE 6750–01–M

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16 CFR Part 13

[Docket 9138]

Hughes Tool Co.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Consent order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order prohibits Hughes Tool Company from having on its board of directors, any person who is a board member of a competing company whose revenues derived from the relevant product or service exceeds 5 million dollars. The company is required, among other things, to institute an annual monitoring program designed to detect unlawful interlocks; permit only those persons who have submitted the information required by Paragraph III(a) of the order to serve as board members; and provide present and future directors and prospective directors, including those of its subsidiaries, with a copy of the order. The company is bound by the terms of the order for a period of ten years.

DATES: Complaint issued June 17, 1980. Decision issued Jan. 16, 1984.[1]

FOR FURTHER INFORMATION CONTACT: Steven E. Weart, 5R, Dallas Regional Office, Federal Trade Commission, 8303 Elmbrook Dr., Dallas, TX 75247. (214) 767–7050.

SUPPLEMENTARY INFORMATION: On Friday, Oct. 28, 1983, there was published in the **Federal Register**, 48 FR 49865, a proposed consent agreement with analysis In the Matter of Hughes Tool Company, a corporation, for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of order.

No comments having been received, the Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered its order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

The prohibited trade practices and/or corrective actions, as codified under 16 CFR Part 13, are as follows: Subpart—Corrective Actions and/or Requirements: § 13.533 Corrective actions and/or requirements. Subpart—Interlocking Directorates Unlawfully:

[1] Copies of the Complaint and the Decision and Order filed with the original document.

§ 13.1106 Interlocking directorates unlawfully.

List of Subjects in 16 CFR Part 13

Interlocking directorates, Trade practices.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45; sec. 8, 38 Stat. 732; 49 Stat. 717; 15 U.S.C. 19)

Emily H. Rock,

Secretary.

[FR Doc. 84-2686 Filed 1-31-84; 8:45 am]

BILLING CODE 6750-01-M

16 CFR Part 13

[Docket No. 8927]

Maico Hearing Instruments, Inc.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Modifying order.

SUMMARY: The Federal Trade Commission has modified the order issued against Maico Hearing Instruments, Inc. on Aug. 4, 1976 (41 FR 38162). The modified order permits the company to suggest resale prices to its dealers and impose standards on the kinds of customers and territories its dealers can serve. The modification leaves intact the prohibition against resale price maintenance.

DATES: Consent Order issued Aug. 4, 1976. Modifying Order issued Jan. 13, 1984.

FOR FURTHER INFORMATION CONTACT: FTC/CC, Elliot Feinberg, Washington, D.C. 20580. (202) 634–4604.

SUPPLEMENTARY INFORMATION: In the Matter of Maico Hearing Instruments, Inc., a corporation. Codification appearing at 41 FR 38162 is rescinded and replaced with the following: Subpart—Maintaining Resale Prices: § 13.1130 Contracts and agreements; § 13.1150 Penalties; § 13.1160 Refusal to sell.

List of Subjects in 16 CFR Part 13

Hearing aids, Trade practices.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45)

Order Modifying Order To Cease and Desist

In the Matter of Maico Hearing Instruments, Inc., a corporation. Docket No. 8927.

On August 4, 1976, the Federal Trade Commission issued an order against Maico Hearing Instruments, Inc. in Docket No. 8927 prohibiting Maico, in the sale of its own brand name hearing aids, from imposing exclusive dealing arrangements and customer and territorial restraints upon its dealers.

Two of Maico's larger competitors are now permitted by recent Commission actions to engage in the same non-price vertical restraints contained in the order against Maico. On July 26, 1982, the Commission dismissed the complaint in *Beltone Electronics Corp.*, Docket No. 8928, challenging the same practices prohibited by the order against Maico. On April 11, 1983, the Commission modified the order in *Dahlberg Electronics, Inc.*, Docket No. 8929, which is also similar to the order against Maico, to set aside prohibitions on Dahlberg's use of certain non-price vertical restraints. Further, it modified that order's ban on resale price maintenance to permit Dahlberg to suggest retail prices to its dealers.

On December 7, 1983, the Commission, pursuant to § 3.72(b) of the Commission's Rules of Practice, 16 CFR § 3.72(b), issued to Maico an order to show cause why the proceeding herein should not be reopened to set aside provisions of the final cease and desist order in Docket No. 8927, prohibiting Respondent's use of exclusive dealing arrangements and customer and territorial restrictions. Respondent was provided an opportunity to object to the proposed modification of the order against it, but has instead consented to such modification. In view of the Commission's actions in *Beltone* and *Dahlberg*, the Commission believes that this modification is in the public interest.

Accordingly,

It is hereby ordered that this matter be, and it hereby is, reopened and that Paragraphs No. 1, 2, 3, 4, 6, 7, 8 and 9 of Part I shall be set aside as of the effective date of this order.

It is further ordered that Paragraph No. 5 of Part I be modified as of the effective date of this order by striking "5" and "or suggesting" and inserting "or" after "stabilizing,".

By the Commission.

Issued: January 13, 1984.

Emily H. Rock,

Secretary.

[FR Doc. 84-2685 Filed 1-31-84; 8:45 am]

BILLING CODE 6750-01-M

16 CFR Part 13

[Docket C-2419]

Radioear Corp.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Modifying order.

SUMMARY: The Federal Trade Commission has modified the order issued against Radioear Corp. on June 26, 1973 (38 FR 19119). The modified order permits the company to suggest resale prices to its dealers, and impose standards on the kinds of customers and territories its dealers can serve. The modification leaves intact the prohibition against resale price maintenance.

DATES: Consent Order issued June 26, 1973. Modifying Order issued January 13, 1984.

FOR FURTHER INFORMATION CONTACT: FTC/CC, Elliot Feinberg, Washington, D.C. 20580 (202) 634–4604.

SUPPLEMENTARY INFORMATION: In the Matter of Radioear Corporation, a corporation. Codification appearing at 38 FR 19119 is rescinded and replaced with the following: Subpart—Maintaining Resale Prices: § 13.1130 Contracts and agreements; § 13.1150 Penalties; § 13.1160 Refusal to sell.

List of Subjects in 16 CFR Part 13

Hearing aids, Trade practices.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45)

In the Matter of Radioear Corporation, a corporation. Docket No. C–2419.

Order Modifying Order To Cease and Desist

On June 26, 1973, the Federal Trade Commission issued an order against Radioear Corporation in Docket No. C–2419 prohibiting Radioear, in the sale of its own brand name hearing aids, from imposing exclusive dealing arrangements and customer and territorial restraints upon its dealers.

Two of Radioear's larger competitors are now permitted by recent Commission actions to engage in the same non-price vertical restraints contained in the order against Radioear. On July 26, 1982, the Commission dismissed the complaint in *Beltone Electronics Corp.*, Docket No. 8928, challenging the same practices prohibited by the order against Radioear. On April 11, 1983, the Commission modified the order in *Dahlberg Electronics, Inc.*, Docket No.

8929, which is also similar to the order against Radioear, to set aside prohibitions on Dahlberg's use of certain non-price vertical restraints. Further, it modified that order's ban on resale price maintenance to permit Dahlberg to suggest retail prices to its dealers.

On December 7, 1983, the Commission, pursuant to § 3.72(b) of the Commission's Rules of Practice, 16 CFR 3.72(b), issued to Radioear an order to show cause why the proceeding herein should not be reopened to set aside provisions of the final cease and desist order in Docket No. C–2419, prohibiting Respondent's use of exclusive dealing arrangements and customer and territorial restrictions. Respondent was provided an opportunity to object to the proposed modification of the order against it, and having failed to do so, is now deemed to have consented to such modification. In view of the Commission's actions in *Beltone* and *Dahlberg*, the Commission believes that this modification is in the public interest.

Accordingly,

It is hereby ordered that this matter be, and it hereby is, reopened and that Paragraphs No. 1, 2, 3, 4, 6, 7, 8 and 9 of Part I shall be set aside as of the effective date of this order.

It is further ordered that Paragraph No. 5 of Part I be modified as of the effective date of this order by striking "5" and "or suggesting" and inserting "or" after "stabilizing,".

By the Commission.

Issued: January 13, 1984.

Emily H. Rock,

Secretary.

[FR Doc. 84–2981 Filed 1–31–84; 8:45 am]

BILLING CODE 6750–01–M

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16 CFR Part 13

[Docket No. C–2414]

Sonotone Corporation; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Modifying order.

SUMMARY: The Federal Trade Commission has modified the order issued against Sonotone Corp. on June 19, 1973 (38 FR 18651). The modified order permits the company to suggest resale prices to its dealers, and impose standards on the kinds of customers and territories its dealers can serve. The modification leaves intact the prohibition against resale price maintenance.

DATES: Consent Order issued June 19, 1973. Modifying Order issued Jan. 13, 1984.

FOR FURTHER INFORMATION CONTACT: FTC/CC, Elliot Feinberg, Washington, D.C. 20580. (202) 634–4604.

SUPPLEMENTARY INFORMATION: In the Matter of Sonotone Corporation, a corporation. Codification appearing at 38 FR 18651 is rescinded and replaced with the following: Subpart—Maintaining Resale Prices: § 13.1130 Contracts and agreements; § 13.1150 Penalties; § 13.1160 Refusal to sell.

List of Subjects in 16 CFR Part 13

Hearing aids, Trade practices.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45)

Order Modifying Order To Cease and Desist

In the Matter of Sonotone Corporation, a corporation. Docket No. C–2414.

On June 19, 1973, the Federal Trade Commission issued an order against Sonotone Corporation in Docket No. C–2414 prohibiting Sonotone, in the sale of its own brand name hearing aids, from imposing exclusive dealing arrangements and customer and territorial restraints upon its dealers.

Two of Sonotone's larger competitors are now permitted by recent Commission actions to engage in the same non-price vertical restraints contained in the order against Sonotone. On July 26, 1982, the Commission dismissed the complaint in *Beltone Electronics Corp.*, Docket No. 8928 challenging the same practices prohibited by the order against Sonotone. On April 11, 1983, the Commission modified the order in *Dahlberg Electronics, Inc.*, Docket No. 8929, which is also similar to the order against Sonotone, to set aside prohibitions on Dahlberg's use of certain non-price vertical restraints. Further, it modified that order's ban on resale price maintenance to permit Dahlberg to suggest retail prices to its dealers.

On December 7, 1983, the Commission, pursuant to § 3.72(b) of the Commission's Rules of Practice, 16 CFR 3.72(b), issued to Sonotone an order to show cause why the proceeding herein should not be reopened to set aside provisions of the final cease and desist order in Docket No. C–2414, prohibiting Respondent's use of exclusive dealing arrangements and customer and territorial restrictions. Respondent was provided an opportunity to object to the proposed modification of the order against it, and having failed to do so, is now deemed to have consented to such modification. In view of the Commission's actions in *Beltone* and *Dahlberg*, the Commission believes that this modification is in the public interest.

Accordingly,

It is hereby ordered that this matter be, and it hereby is, reopened and that Paragraphs No. 1, 2, 3, 4, 6, 7, 8 and 9 of Part I shall be set aside as of the effective date of this order.

It is further ordered that Paragraph No. 5 of Part I be modified as of the effective date of this order by striking "5" and "or suggesting" and inserting "or" after "stabilizing,".

By the Commission.

Issued: January 13, 1984.

Emily H. Rock,

Secretary.

[FR Doc. 84–2980 Filed 1–31–84; 8:45 am]

BILLING CODE 6750–01–M

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16 CFR Part 13

[Docket 5822]

The Maico Co.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Order to set aside.

SUMMARY: On Jan. 13, 1984, the Federal Trade Commission set aside the May 22, 1955 order issued against The Maico Co. (20 FR 4885), in light of its actions in *Beltone Electronic Corp.*, Dkt. 8928 (47 FR 31681) and *Dahlberg Electronics Corp.*, Dkt. 8229 (48 FR 20046), which set aside prohibitions on the companies' use of exclusive dealing arrangements.

DATES: Consent Order issued May 22, 1955. Order To Set Aside issued Jan. 13, 1984.

FOR FURTHER INFORMATION CONTACT: FTC/CC, Elliot Feinberg, Washington, D.C. 20580. (202) 634–4604.

SUPPLEMENTARY INFORMATION: In the Matter of The Maico Company, a corporation. Codification appearing at 20 FR 4885 is deleted.

List of Subjects in 16 CFR Part 13

Hearing aids, Trade practices.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45)

Order To Set Aside Order To Cease and Desist

In the Matter of The Maico Company, a corporation. Docket No. 5822.

On May 22, 1955, the Federal Trade Commission issued an order against The

Maico Company in Docket No. 5822 prohibiting Maico, in the sale of its own brand name hearing aids, from imposing exclusive dealing arrangements upon its dealers.

Two of Maico's larger competitors are now permitted by recent Commission actions to engage in the same exclusive dealing practices contained in the order against Maico. On July 26, 1982, the Commission dismissed the complaint in *Beltone Electronics Corp.*, Docket No. 8928, challenging, among other things, the same practices prohibited by the order against Maico. On April 11, 1983, the Commission in *Dahlberg Electronics, Inc.*, Docket No. 8929, set aside prohibitions on Dahlberg's use of exclusive dealing arrangements, which were similar to those contained in the order against Maico.

On December 7, 1983, the Commission, pursuant to § 3.72(b) of the Commission's Rules of Practice, 16 CFR § 3.72(b), issued to Maico an order to show cause why the proceeding herein should not be reopened to set aside the final cease and desist order in Docket No. 5822, prohibiting Respondent's use of exclusive dealing arrangements. Respondent was provided an opportunity to object to the proposed set aside of the order against it, and having failed to do so, is now deemed to have consented to such action. In view of the Commission's actions in *Beltone* and *Dahlberg*, the Commission believes that this modification is in the public interest.

Accordingly,

It is hereby ordered that this matter be, and it hereby is, reopened and that the order herein shall be set aside as of the effective date of this order.

By the Commission.

Issued: January 13, 1984.

Emily H. Rock,

Secretary.

[FR Doc. 84-2883 Filed 1-31-84; 8:45 am]

BILLING CODE 6750-01-M

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16 CFR Part 13

[Docket C-2403]

Benton & Bowles, Inc.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Vacating order.

SUMMARY: In response to a request to reopen and vacate on Dec. 28, 1983, the Federal Trade Commission vacated the Decision and Order issued against Benton & Bowles on May 22, 1973 (38 FR 16849).

DATES: Consent Order issued May 22, 1973. Vacating Order issued Dec. 28, 1983.

FOR FURTHER INFORMATION CONTACT: FTC/PC, William S. Sanger, Washington, D.C. 20580. (202) 376-3475.

SUPPLEMENTARY INFORMATION: In the Matter of Benton & Bowles, Inc., a corporation. Codification appearing at 38 FR 16849 is deleted.

List of Subjects in 16 CFR Part 13

Drugs, Trade practices.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45)

Order Granting Request To Reopen the Proceeding and Vacate the Decision and Order

Respondent, Benton & Bowles, Inc., requested on August 30, 1983, that the Commission reopen the proceeding in Docket No. C-2403 and vacate the Decision and Order entered in that matter on May 22, 1973.

The Commission placed this request upon the public record, for a period of thirty days, pursuant to § 2.51 of its Rules of Practice.

The Commission is of the opinion that the public interest would be served by reopening the proceeding and vacating the Decision and Order. The charges against Benton & Bowles in this proceeding were based upon certain advertisements for Vanquish, a non-prescription internal analgesic product manufactured by Sterling Drug, Inc. In its decision in the matter of *Sterling Drug, Inc.*, Docket No. 8919 (July 5, 1983), the Commission dismissed similar charges against Sterling Drug and Lois Holland Callaway, Inc., that were based on advertisements for Vanquish nearly identical to those that were the subject of the complaint against Benton & Bowles. Thus, the Commission's decision in *Sterling Drug, Inc.*, constitutes a change in law which requires that the Order against Benton & Bowles be vacated.

Now therefore, it is ordered, That the proceeding in Docket No. C-2403 is hereby reopened, and the Decision and Order issued on May 22, 1973, is hereby vacated.

By the Commission.

Issued: December 28, 1983.

Emily H. Rock,

Secretary.

[FR Doc. 84-2884 Filed 1-31-84; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 4

[T.D. 84-36]

Prevention of Pollution by Oceangoing Vessels

AGENCY: Customs Service, Treasury.

ACTION: Interim regulations.

SUMMARY: This document amends the Customs Regulations relating to the prevention of oil pollution by oceangoing vessels. It permits a district director of Customs, upon the request of the Coast Guard, to refuse or revoke the clearance or permit to proceed of a vessel until otherwise notified by the Coast Guard. The document will enable Customs to implement the provisions of the Protocol of 1978 Relating to the International Convention for the Prevention of Pollution from Ships, 1973. This action will protect and preserve the marine environment by reducing the amount of oily wastes discharged into the sea by oceangoing vessels of the U.S., and those of foreign countries within the navigable waters of the United States.

EFFECTIVE DATE: February 1, 1984.

Comments: The amendment is being published as an interim regulation, effective on February 1, 1984. However, written comments received on or before April 2, 1984 will be considered in determining whether any changes to the regulation are required before a permanent rule is published.

ADDRESS: Written comments (preferably in triplicate) should be addressed to the Commissioner of Customs, Attention: Regulations Control Branch, Room 2426, U.S. Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT: John Mathis, Carriers, Drawback and Bonds Division, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229 (202-566-5706).

SUPPLEMENTARY INFORMATION:

Background

The Protocol of 1978 Relating to the International Convention for the Prevention of Pollution from Ships, 1973 (MARPOL Protocol) was established to protect the marine environment from pollution caused by the discharge of oil from "oceangoing" vessels. The term "oceangoing" refers to those vessels not operating exclusively on the Great Lakes which are certified for oceans or coastwise service beyond 3 miles from

land. The MARPOL Protocol has already been ratified by the United States and entered into force on October 2, 1983. It requires oceangoing ships of the United States, and those of foreign countries within the navigable waters of the United States, to comply with the preventive provisions contained in the Protocol. The provisions include requirements for the installation of oily-water separating equipment for ships over 400 gross tons, the carrying on board of an International Oil Pollution Prevention [IOPP] Certificate, maintaining a MARPOL Oil Record Book, and observing the limitations on the operational discharge of oil.

The Secretary of Transportation, acting through the U.S. Coast Guard, will administer and enforce the provisions of the MARPOL Protocol. Pursuant to the Act to Prevent Pollution from Ships, 1980 (Pub. L. 96-478, 33 U.S.C. 1901-1911), the Secretary of Transportation may prescribe any necessary or desired regulations to implement the provisions of the MARPOR Protocol.

The Secretary of the Treasury, acting through Customs, and upon request of the Secretary of Transportation, will also administer and enforce the provisions of the MARPOL Protocol. Specifically 33 U.S.C. 1904(f) provides that the Secretary of the Treasury may refuse or revoke the clearance or permit to proceed of a vessel under a detention order (33 U.S.C. 1904(e)) if requested to do so by the Secretary of Transportation.

So that Customs may directly and efficiently implement the provisions of the MARPOL Protocol, Part 4, Customs Regulations, is being amended by adding a new § 4.66c. The new section provides that if a district director of Customs receives a notification from a Coast Guard officer that an order has been issued to detain a vessel required to have an IOPP Certificate, either because the vessel does not have a valid certificate on board, or because the condition of the ship's equipment does not agree with the particulars of the certificate on board, the district director shall refuse or revoke the clearance or permit to proceed to the vessel if requested to do so by the Coast Guard officer. The district director shall not grant clearance or issue a permit to proceed to the vessel until notified by a Coast Guard officer that detention of the vessel is no longer required.

New § 4.66c additionally will provide that a district director shall, upon request by a Coast Guard officer, refuse or revoke the clearance or permit to proceed of a vessel, if the vessel, its owner, operator, or person in charge is liable for a fine, or reasonable cause exists to believe that they may be subject to a fine under the provisions of (1) 33 U.S.C. 1908 for violating the MARPOL Protocol, (2) the Act to Prevent Pollution from Ships, 1980 (33 U.S.C. 1901-1911), or (3) regulations issued thereunder. The district director may grant clearance or a permit to proceed upon notification that a bond or other security satisfactory to the Coast Guard has been filed.

Comments

Before adopting the regulation as a permanent rule, consideration will be given to any written comments timely submitted to the Commissioner of Customs. Comments submitted will be available for public inspection in accordance with § 103.11(b), Customs Regulations (19 CFR 103.11(b)), on normal business days between the hours of 9:00 a.m. to 4:30 p.m. at the Regulations Control Branch, Customs Service Headquarters, Room 2426, 1301 Constitution Avenue, NW., Washington, D.C. 20229.

Inapplicability of Notice and Delayed Effective Date Requirements

Because the MARPOL Protocol has already been ratified by the United States and entered into force on October 2, 1983, the amendment enabling Customs to implement its provisions is an immediate necessity in order to protect the marine environment from further oil pollution from oceangoing vessels. Therefore, it has been determined that, pursuant to 5 U.S.C. 553(b)(B), notice and public procedure are impracticable, unnecessary and contrary to the public interest. For the same reasons, Customs has determined that good cause exists for dispensing with a delayed effective date pursuant to 5 U.S.C. 553(d)(3).

Executive Order 12291

It has been determined that this amendment is not a "major rule" within the criteria provided in section 1(b) of E.O. 12291, and therefore no regulatory impact analysis is required.

Regulatory Flexibility Act

Although Customs does not believe that this amendment will have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act (5 U.S.C. 601-612), we will continue to review this matter and will consider any comments submitted thereon before issuing a final rule.

Drafting Information

The principal author of this document was Glen E. Vereb, Regulations Control Branch, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

List of Subjects in 19 CFR Part 4

Coastal Zone, Oil pollution, Vessels, Water pollution control.

Amendment to the Regulations

Part 4, Customs Regulations (19 CFR Part 4), is amended by adding a new § 4.66c to read as follows:

PART 4—VESSELS IN FOREIGN AND DOMESTIC TRADES

§ 4.66c Oil pollution by oceangoing vessels.

(a) If a district director receives a notification from a Coast Guard officer that an order has been issued to detain a vessel required to have an International Oil Pollution Prevention (IOPP) Certificate (1) which does not have a valid certificate on board or (2) whose condition or whose equipment's condition does not substantially agree with the particulars of the certificate on board, the district director shall refuse or revoke the clearance or permit to proceed of the vessel if requested to do so by a Coast Guard officer. The district director shall not grant clearance or issue a permit to proceed to the vessel until notified by a Coast Guard officer that detention of the vessel is no longer required.

(b) If a district director receives a request from a Coast Guard officer to refuse or revoke the clearance or permit to proceed of a vessel because the vessel, its owner, operator or person in charge is liable for a fine, or reasonable cause exists to believe that they may be subject to a fine under the provisions of (1) 33 U.S.C. 1908 for violating the Protocol of 1978 Relating to the International Convention for the Prevention of Pollution from Ships, 1973 (MARPOL Protocol), (2) the Act to Prevent Pollution from Ships, 1980 (33 U.S.C. 1901-1911), or (3) regulations issued thereunder, such clearance or a permit to proceed shall be refused or revoked. Clearance or a permit to proceed may be granted when the district director is informed that a bond or other security satisfactory to the Coast Guard has been filed.

(Pub. L. 98-478, 94 Stat. 2297 et seq., 33 U.S.C. 1901-1911; 46 U.S.C. 91, 46 U.S.C. 313; 19 U.S.C. 1443)

William von Raab,

Commissioner of Customs.

Approved: January 12, 1984.

John M. Walker, Jr.,

Assistant Secretary of the Treasury.

[FR Doc. 84-2748 Filed 1-31-84; 8:45 am]

BILLING CODE 4820-02-M

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19 CFR Parts 134, 148, 162, 171, and 172

[T.D. 84-18]

Penalties and Penalties Procedures

Correction

In FR Doc. 84-829 beginning on page 1672 in the issue of Friday, January 13, 1984, make the following corrections:

1. On page 1675, in the first column, the twelfth line from the bottom, the word "had" should read "has".

2. On page 1677, in the third column, in the second paragraph, the fourth line from the bottom, the word "guideline" should read "guidelines".

3. On page 1678, in the middle column, in § 148.19, the eleventh line from the top, the word "It" should read "If".

4. On the same page, in the third column, in § 162.71(e)(4), the first line, the word "and" should read "an".

5. In the same column, in § 162.74(a)(2), the third line from the bottom, the citation to "§ 1621.71(e)" should read "§ 162.71(e)".

6. On page 1682, in Appendix B, in the first column, the eighth line from the bottom, the phrase "of eight times" should read "or eight times".

7. On page 1683, in Appendix B, in the first column, the eighteenth and twenty-third lines from the bottom, the term "non-revenue-loss" should read "revenue-loss".

BILLING CODE 1505-01-M

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19 CFR Parts 134, 148, 162, 171, and 172

[T.D. 84-18]

Penalties and Penalties Procedures; Correction

AGENCY: Customs Service, Treasury.

ACTION: Final rule; correction.

SUMMARY: This document corrects an error in a document which amended the Customs Regulations relating to penalties and penalties procedures for violations of title 19, United States Code, section 1592. The document was published in the **Federal Register** on Friday, January 13, 1984 (49 FR 1672).

FOR FURTHER INFORMATION CONTACT: Edward T. Rosse, Chief, Commercial Fraud and Negligence Penalties Branch, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229 (202-566-8317).

SUPPLEMENTARY INFORMATION:

Background

In FR Doc. 84-829, appearing at page 1672 in the issue of Friday, January 13, 1984, on page 1683, in the first column, under the heading "(I) Customhouse Brokers," the first paragraph was incorrectly worded. Specifically, the words "or grossly negligent" should be deleted from the third and fourth lines of the paragraph so that it should read as follows:

PART 171—[CORRECTED]

Appendix B—[Corrected]

* * * * *

(I) *Customhouse Brokers*

A customhouse broker shall be subject to the above guidelines only if he is determined to have (1) committed a fraudulent violation; or (2) committed a grossly negligent or negligent violation and shared in the financial benefits of the violation to an extent over and above the prevailing brokerage fees.

* * * * *

Dated: January 27, 1984.

B. James Fritz,

Director, Regulations Control and Disclosure Law Division.

[FR Doc. 84-2750 Filed 1-31-84; 8:45 am]

BILLING CODE 4820-02-M

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19 CFR Part 177

[T.D. 84-35]

Change of Practice Relating to Tariff Classification of Thread Seal Tape Made of "Teflon"

AGENCY: Customs Service, Treasury.

ACTION: Change of practice.

SUMMARY: This document gives notice of a change in the current uniform and established practice in the tariff classification of merchandise which is a nonfibrous, nonlaminated, nonreinforced, continuous form plastic tape made of polytetrafluoroethylene ("teflon" fluorocarbon resin). The merchandise is also known as thread seal tape made of "teflon", and is currently classified under the tariff provision for articles not specially provided for, of rubber or plastics, other. This change of practice will result in the classification of future importations of the subject merchandise under the provision for strips (in continuous form), whether known as artificial straw, yarns, or by any other name, not laminated, at a higher rate of duty than was previously assessed.

EFFECTIVE DATE: May 1, 1984..

FOR FURTHER INFORMATION CONTACT: Phil Robins, Classification and Value Division, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229 (202-566-8181)..

SUPPLEMENTARY INFORMATION:

Background

This document pertains to the tariff classification of merchandise which is a nonfibrous, nonlaminated, nonreinforced, continuous form plastic tape made of polytetrafluoroethylene ("teflon" fluorocarbon resin). The merchandise is also known as thread seal tape made of "teflon".

On June 6, 1983, a notice was published in the **Federal Register** (48 FR 25224) advising that Customs was reviewing its practice of classifying thread seal tape made of "teflon" under the provision for articles not specially provided for, of rubber or plastics, other, in item 774.55, Tariff Schedules of the United States (TSUS; 19 U.S.C. 1202). As part of its review, Customs requested comments on its proposal to classify future importations of the subject merchandise under the provision for strips (in continuous form), whether known as artificial straw, yarns, or by any other name, not laminated, in item 309.20 and item 309.21, TSUS, depending on its value per pound. Comments were to have been received on or before August 5, 1983.

Discussion of Comment

The writer of the only comment received in response to the notice, an importer of "teflon" thread seal tape, did not believe the subject merchandise "should be considered as a fibrous material." Customs notes that Headnote 2(a), Subpart 1E, Schedule 3, TSUS, states that the term "Man-made fibers" refers to, among other things, strips, and Headnote 2(b) of that subpart provides that strips may be formed by extrusion or other processes. Since the term "strips" is defined in Headnote 3(d) of Subpart 1E in terms of dimensional requirements and the court has stated in *Le Jeune, Inc. v. United States*, 67 Cust. Ct. 301, C.D. 4289 (1971), that Congress intended form rather than use should govern the classification of man-made fibers, it does not appear that whether or not the subject merchandise is a fibrous material is a valid consideration

in determining its classification as man-made fibers strips.

Change of Practice

After consideration of the comment and further review of the matter, Customs has determined that the established and uniform practice of classifying thread seal tape made of "teflon" as articles not specially provided for, or rubber or plastics, other, in item 774.55, TSUS, at a current Column 1 rate of duty of 6.9 percent ad valorem, is clearly wrong and should be changed. It is Customs position that if the merchandise meets the dimensional requirements set out in Headnote 3(d), Subpart 1E, Schedule 3, TSUS, it should be classified under the provision for strips (in continuous form), whether known as artificial straw, yarns, or by any other name, not laminated, in item 309.20 and item 309.21, TSUS, depending on its value per pound. Item 309.20, TSUS, which applies to strips valued not over $1 per pound, currently provides a Column 1 rate of duty of 10¢ per pound, while item 309.21, TSUS, which applies to strips valued over $1 per pound, currently provides a Column 1 rate of duty of 10.5 percent ad valorem. Accordingly, the change of practice is adopted as proposed.

Drafting Information

The principal author of this document was James S. Demb, Regulations Control Branch, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

Alfred R. De Angelus,

Acting Commissioner of Customs.

Approved: January 12, 1984.

John M. Walker, Jr.,

Assistant Secretary of the Treasury.

[FR Doc. 84-2747 Filed 1-31-84; 8:45 am]

BILLING CODE 4820-02-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-9-FRL 2516-6]

Approval and Promulgation of Implementation Plans; California State Implementation Plan Revision

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of final rulemaking.

SUMMARY: Today's notice takes final action to approve revisions to rules of several air pollution control districts. These revisions were submitted by the California Air Resources Board (ARB) as revisions to the California State Implementation Plan (SIP). These revisions generally are administrative and retain the previous emission control requirements. EPA reviewed these rules with respect to the Clean Air Act and determined that they should be approved.

EFFECTIVE DATE: This action is effective April 2, 1984.

ADDRESSES: A copy of the revisions is available for public inspection during normal business hours at the EPA Region 9 office and at the following locations.

Public Information Reference Unit, Environmental Protection Agency, Library, 401 M Street, SW., Room 2404, Washington, D.C. 20460

Library, Office of the Federal Register, 1100 L Street, NW., Room 8401, Washington, D.C. 20460

FOR FURTHER INFORMATION CONTACT: Douglas Grano, Acting Chief, State Implementation Plan Section, Air Programs Branch, Air Management Division, Environmental Protection Agency, Region 9, 215 Fremont Street, San Francisco, CA 94105, (415) 974-7641

SUPPLEMENTARY INFORMATION: The ARB submitted as SIP revisions the following rules on the indicated dates:

July 19, 1983

Kern County

Rule 301.1 Banking Certificate Fees
Rule 302 Permit Fee Schedules

Merced County

Rule 104 Enforcement
Rule 108 Stack Monitoring
Rule 113 Arrests and Notices to Appear
Rule 202 Exemptions
Rule 209.1 Permit Conditions
Rule 301 Permit Fees
Rule 305 Hearing Board Fees
Rule 407 Sulfur Compounds
Rule 519 Emergency Variance

Sacramento County

Rule 7 Ringleman Chart

San Diego County

Rule 10 Permits Required
Rule 40 Permit Fees

San Luis Obispo County

Rule 212 Annual Inspection of Equipment

Shasta County

Rule 2:18 Application Deemed Denied
Rule 3:4 Industrial Use of Organic Solvents
Rule 3:15 Cutback Asphalt Paving Materials

South Coast AQMD

Rule 301.1 (Delete) Emission Reduction Credit
Rule 502 Filing Petitions
Rule 1207 Service and Filing

Ventura County

Rule 41 Hearing Board Fees

January 2, 1979

San Luis Obispo County

Rule 201 Permits

November 10, 1976

San Luis Obispo County

Rule 202 Applications
Rule 205 Conditional Approval
Rule 206 Denial of Applications
Rule 207 Action on Applications—Time Limits
Rule 208 Appeals
Rule 209 Transfer
Rule 210 Cancellation of Applications
Rule 211 Provisions for Sampling and Testing Facilities

These rule revisions are administrative and do not significantly impact current emission control requirements. The above mentioned rules include increased permit and hearing board fees, deleted and added exemptions, established fees for banking certificate, and clarification.

Under Section 110 of the Clean Air Act as amended, and 40 CFR Part 51, EPA is required to approve or disapprove these regulations as SIP revisions. All rules submitted have been evaluated and found to be in accordance with EPA policy and 40 CFR Part 51. EPA's detailed evaluation of the submitted rules is available at the EPA Library in Washington, D.C., and the Region 9 office.

It is the purpose of this notice to approve all the rule revisions listed above and to incorporate them into the California SIP. This is being done without prior proposal because the revisions are noncontroversial, have limited impact, and no comments are anticipated. The public should be advised that this action will be effective 60 days from the date of this **Federal Register** notice. However, if notice is received within 30 days that someone wishes to submit adverse or critical comments, the approval will be withdrawn and a subsequent notice will be published before the effective date. The subsequent notice will indefinitely postpone the effective date, modify the final action to a proposed action, and establish a comment period.

Under 5 U.S.C. 605(b), I have certified that SIP approvals do not have a

significant economic impact on a substantial number of small entities. (See 46 FR 8709.)

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

Under the Clean Air Act, any petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by (60 days from today). This action may not be challenged later in proceedings to enforce its requirements.

Incorporation by reference of the State Implementation Plan for the State of California was approved by the Director of the Federal Register on July 1, 1982.

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons, Intergovernmental relations.

Authority Sections 110 and 301(a) of the Clean Air Act, as amended (42 U.S.C. 7410, 7502 and 7601(a)).

Dated: January 26, 1984.

William D. Ruckelshaus,

Administrator.

PART 52—[AMENDED]

Subpart F of Part 52, Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

Subpart F—California

1. Section 52.220 is amended by adding paragraphs (c)(35)(xii)(E), (c)(47)(vii)(B) and (c)(137) (i)–(viii) to read as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *

(35) * * *

(xii) * * *

(E) New or amended Rules 202, 205, 206, 207, 208, 209, 210, and 211.

* * * * *

(47) * * *

(vii) * * *

(B) New or amended Rule 201.

* * * * *

(137) Revised regulations for the following APCDs was submitted on July 19, 1983 by the Governor's designee.

(i) Kern County APCD.

(A) New or amended Rules 301.1 and 302.

(ii) Merced County APCD.

(A) New or amended Rules 104, 108, 113, 202, 209.1, 301, 305, 407 and 519.

(iii) Sacramento County APCD.

(A) New or amended Rule 7.

(iv) San Diego County APCD.

(A) New or amended Rules 10 and 40.

(v) San Luis Obispo County APCD.

(A) New or amended Rule 212.

(vi) Shasta County APCD.

(A) New or amended Rules 2.18, 3.4, and 3.15.

(vii) South Coast AQMD.

(A) New or amended Rules 502, 1207 and deletion of 301.1.

(viii) Ventura County APCD.

(A) Amended Rule 41.

* * * * *

[FR Doc. 84-2727 Filed 1-31-84; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 52

[A-1-FRL 2516-8]

Approval and Promulgation of Implementation Plans; Connecticut; Revisions Controlling VOC Emissions From Solvent Metal Cleaners and Rescission of the Moratorium on Construction and Modification of Major Stationary Sources

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving State Implementation Plan revisions submitted by the State of Connecticut. The intended effect of these actions is to control emissions of volatile organic compounds from solvent metal cleaners as one element in Connecticut's plan to attain the National Ambient Air Quality Standards for ozone, required under Part D of the Clean Air Act.

EFFECTIVE DATE: March 2, 1984.

ADDRESSES: Copies of the submittal are available for public inspection at Room 2111, JFK Federal Building, Boston, MA 02203; Public Information Reference Unit, EPA Library, 401 M Street, SW, Washington, DC 20460; Office of the Federal Register, 1100 L Street, NW, Room 8401, Washington, DC 20408; and the Connecticut Department of Environmental Protection, Air Compliance Unit, 165 Capitol Avenue, Hartford, CT 06115.

FOR FURTHER INFORMATION CONTACT: Susan S. Hager, (617) 223–5131.

SUPPLEMENTARY INFORMATION: On April 12, 1983 (48 FR 15658) EPA published a Notice of Proposed Rulemaking (NPR) for the Connecticut 1982 Ozone and Carbon Monoxide State Implementation Plan (SIP) revisions. One element of these revisions was a regulation and supporting narrative limiting emissions of volatile organic compounds (VOCs) from metal cleaners submitted on December 10, 1982 and May 19, 1983 by Stanley J. Pac, Commissioner of the Connecticut Department of Environmental Protection (DEP). These submittals correct the remaining deficiency of Connecticut's 1979 plan revisions and allow EPA to rescind the moratorium on construction and modification of major stationary sources of VOCs which has been in effect statewide in Connecticut since October, 1982. In order to take final action as quickly as possible and thus rescind the moratorium, EPA has chosen to separate these revisions from other actions discussed in the NPR. No comments were received on this portion of the NPR and today EPA is approving Connecticut's SIP revisions controlling VOC emissions from solvent metal cleaners.

Background

Part D of the Clean Air Act requires states which could not attain ozone standards by 1982 to apply "Reasonable Available Control Technology" (RACT) to sources of volatile organic compounds. EPA has defined RACT for various categories in a series of publications called "Control Technique Guidelines" (CTGs). One such category published with the first group of CTGs covered solvent metal cleaners. Based on Connecticut's failure to adopt RACT for this category in its 1979 plan revisions, the Second Circuit Court of Appeals ordered EPA to impose a moratorium on the construction and modification of major stationary sources of VOCs in Connecticut (*Connecticut Fund for the Environment, Inc.* vs. *Environmental Protection Agency*, 672 F. 2d 998 (2nd Cir. 1982)). EPA complied on October 12, 1982 with a Notice published in the **Federal Register** at 47 FR 44729.

As part of the 1982 plan revisions, Connecticut proposed regulations controlling emissions from solvent metal cleaners. Exempted from these regulations were cold cleaners at automobile repair facilities. After reviewing source data in Connecticut, EPA determined that as an alternative to regulating this subgroup of sources, adequate control could be achieved through an educational program to teach automobile repair facility workers the proper operation and maintenance of solvent metal cleaning equipment. EPA requested the Connecticut DEP, and DEP has committed, to develop and implement an educational program aimed at these facilities.

The program will consist of a package of material mailed to 8,000 automobile dealers, repair facilities, and vocational education schools. Each package will

include an explanation of why the program is necessary and what the benefits will be; an instruction sheet to be posted on the equipment outlining how the equipment is to be operated; and a graphic illustration showing that the cover should be kept closed. DEP plans to test the package by sending it to a few facilities and checking the facility a week later to see that the material has been read, understood and posted. The full mailing will be sent to facilities in April, 1984, at the beginning of the ozone season.

Regulation 19–508–20(*1*) controlling solvent metal cleaners was submitted to EPA on December 10, 1982 and the supporting narrative committing DEP to an educational program for automobile repair facilities was submitted on May 19, 1983. Approval of these revisions allows EPA to rescind the construction moratorium in Connecticut.

Final Action

(1) EPA is approving Regulation 19–508–20(*1*) controlling solvent metal cleaners and the supporting narrative which describes an educational program for automobile repair facilities.

(2) EPA is rescinding the moratorium on construction and modification of major stationary VOC sources in Connecticut.

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291. Under Section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by (60 days from today). This action may not be challenged later in proceedings to enforce its requirements (see 307(b)(2)).

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons, Intergovernmental relations.

Authority: Section 110(a) and Section 301(a) of the Clean Air Act as amended (42 U.S.C. 7410(a) and 7601(a)).

Note.—Incorporation by Reference of the State Implementation Plan for the State of Connecticut was approved by the Director of the Federal Register on July 1, 1982.

Dated: January 26, 1984.

William D. Ruckelshaus,

Administrator.

PART 52—[AMENDED]

Part 52 of Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

Subpart H—Connecticut

1. Section 52.370 is amended by adding paragraph (c)(29) as follows:

§ 52.370 Identification of plan.

* * * * *

(c) * * *

(29) Attainment plan revisions to meet the requirements of Part D for ozone were submitted by the Department of Environmental Protection on December 10, 1982 and May 19, 1983. These revisions control volatile organic compound (VOC) emissions from solvent metal cleaners through emission limitations contained in Regulation 19–508–20(*1*) and supporting narrative committing the DEP to implement an educational program for automobile repair facilities. Approval of these revisions allowed EPA to rescind the moratorium on construction and modification of major sources of VOCs which had been in effect since October, 1982.

[FR Doc. 84–2729 Filed 1–31–84; 8:45 am]
BILLING CODE 6560–50–M

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40 CFR Part 52

[Docket No. NH 1419; A–1–FRL 2517–1]

Approval and Promulgation of Implementation Plans; New Hampshire; Volatile Organic Compound Exemptions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving State Implementation Plan revisions submitted by the State of New Hampshire. The intended effect of this action is to approve the State list of negligibly reactive volatile organic compounds (VOCs), which is the same as EPA's list, to exempt these VOCs from State air pollution control regulation, and also to revise the State definition of "Process weight". This action is being taken under Section 110 of the Clean Air Act.

EFFECTIVE DATE: This action will be effective April 2, 1984 unless notice is received within 30 days that adverse or critical comments will be submitted.

ADDRESSES: Comments may be mailed to Harley F. Laing, Director, Air Management Division, Room 2312, JFK Federal Building, Boston, MA 02203. Copies of the submittal and EPA's evaluation are available for public inspection during normal business hours at the Environmental Protection Agency, Room 2313, JFK Federal Building, Boston, MA 02203; Public Information Reference Unit, Environmental Protection Agency, 401 M Street, SW., Washington, D.C., Office of the Federal Register, 1100 L Street, NW., Room 8401, Washington, D.C. and the Air Resources Agency, Health and Welfare Building, Hazen Drive, Concord, NH 03301.

FOR FURTHER INFORMATION CONTACT: Betsy Horne (617) 223–4869.

SUPPLEMENTARY INFORMATION: On November 10, 1983, the New Hampshire Air Resources Agency (ARA) submitted revisions to its State Implementation Plan (SIP). These revisions include two changes. The first exempts certain VOCs which have negligible photochemical reactivity, from control under the State's regulations. The State currently exempts methane; ethane; 1, 1, 1 Trichloroethane; Methylene Chloride and Trichlorotrifluoroethane. The revised regulation adds to the exemptions in Air 1204.01 the following fluorocarbons: Trichlorofluoromethane; Dichlorodifluoromethane; Chlorodifluoromethane; Trifluoromethane; Dichlorotetrafluoroethane; and Chloropentafluoroethane. EPA has determined that these compounds are of such low reactivity that they do not appreciably contribute to the formation of ambient ozone (smog) levels. New Hampshire's list of negligibly reactive VOCs will be identical to the list EPA published on July 22, 1980 (45 FR 48941)

The second revision amends the definition of "Process weight". In 1982, the ARA submitted revisions to recodify the State's air pollution control regulations. EPA published an Immediate Final Rulemaking approving this action on March 15, 1983 (48 FR 10830). In the recodification process, the phrase "except uncombined water" was inadvertently omitted from the definition of process weight. The exclusion of uncombined water from the total weight of materials introduced into a source operation had been previously federally approved. Today's action simply restores the definition to its original meaning. The revised definition now reads: " 'Process weight' means the total weight of all materials *except uncombined water* introduced into any source operation. Solid fuel charged shall be considered as part of the process weight but liquid and gaseous fuels and combustion air shall not."

EPA is approving these SIP revisions without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. This action will be effective April 2, 1984 unless, within 30 days of its publication, notice is received that

adverse or critical comments will be submitted. If such notice is received, this action will be withdrawn before the effective date by publishing two subsequent notices. One notice will withdraw the final action and another will begin a new rulemaking by announcing a proposal of the action and establishing a comment period. If no such comments are received, the public is advised that this action will be effective (60 days from today).

Final Action

EPA is approving the list of VOCs exempted from regulation under Air 1204 and the redefinition of "Process weight" submitted on November 10, 1983.

Under 5 U.S.C. 605(b), the Administrator has certified that this action will not have a significant economic impact on a substantial number of small entities (see 46 FR 8709).

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

Under Section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by (60 days from today). This action may not be challenged later in proceedings to enforce its requirements (see 307(b)(2)).

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons, Intergovernmental relations.

Authority: Secs. 110(a) and 301(a) of the Clean Air Act, as amended (42 U.S.C. 7410(a) and 7601(a)).

Note.—Incorporation by Reference of the State Implementation Plan for the State of New Hampshire was approved by the Director of the Federal Register on July 1, 1982.

Dated: January 20, 1984.

William D. Ruckelshaus,

Administrator.

Part 52 of Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

Subpart EE—New Hampshire

1. Section 52.1520, is amended by adding paragraph (c)(28) as follows:

§ 52.1520 Identification of plan.

* * * * *

(c) * * *

(28) Revisions to Air 1204.01, updating the list of volatile organic compounds exempted from PART Air 1204, and a revision to Air 101.74, 'Process weight' were submitted on November 10, 1983.

[FR Doc. 84-2730 Filed 1-31-84; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 145

[WH-FRL-2512-1]

Illinois Department of Mines and Minerals, Underground Injection Control; Program Approval

AGENCY: Environmental Protection Agency.

ACTION: Approval of State Program.

SUMMARY: The State of Illinois has submitted an application under section 1425 of the Safe Drinking Water Act for the approval of an Underground Injection Control (UIC) program governing Class II oil and natural gas related injection wells. After careful review of the application and comments received from the public, the Agency has determined that the State's injection well program for Class II wells meets the requirements of section 1425 of the Act. Therefore, this application covering Class II injections is approved.

EFFECTIVE DATE: This approval is effective February 1, 1984.

FOR FURTHER INFORMATION CONTACT: Robert J. Hilton, Chief, Ground Water Section (5WD-12), Environmental Protection Agency, Region V, 230 Dearborn Street, Chicago, Illinois 60604, (312) 886-6184.

SUPPLEMENTARY INFORMATION: Part C of the Safe Drinking Water Act (SDWA) provides for an Underground Injection Control (UIC) program. Section 1421 of the SDWA requires the Administrator to promulgate minimum requirements for effective State programs to prevent underground injection which endangers drinking water sources. The Administrator is also to list in the **Federal Register** each State for which in his judgment a State UIC program may be necessary. Each State listed shall submit to the Administrator an application which contains a showing satisfactory to the Administrator that the State: (i) Has adopted after reasonable notice and public hearings, a UIC program which meets the requirements of regulations in effect under section 1421 of the SDWA; and (ii) will keep such records and make such reports with respect to its activities under its UIC program as the Administrator may require by regulations. After reasonable opportunity for public comment, the Administrator shall by rule approve, disapprove or approve in part and disapprove in part, the State's UIC program.

The SDWA was amended on December 5, 1980, to include section 1425, which establishes an alternative method by which a State may obtain primary enforcement responsibility for those portions of its UIC program related to the recovery and production of oil and natural gas (Class II wells). Specifically, instead of meeting the Federal Regulations (40 CFR Parts 124, 144, and 145) and related Technical Criteria and Standards (40 CFR Part 146), a State may demonstrate that its program meets the more general statutory requirements of section 1421(b)(1) (A) through (D) and represents an effective program to prevent endangerment of underground sources of drinking water.

The State of Illinois was listed as needing a UIC program on September 25, 1978 (43 FR 43420). The State submitted an application under section 1425 on January 14, 1982, for the approval of a UIC program governing Class II injection wells to be administered by the Illinois Department of Mines and Minerals (IDMM). EPA published notice on February 12, 1982, of its receipt of the application, requested public comments, and scheduled a public hearing on the UIC program submitted by the IDMM (47 FR 6455). Neither requests for public hearing nor requests to offer testimony at such hearing were received by EPA. Therefore, pursuant to the provisions of 40 CFR 145.31 (c), the public hearing was cancelled because of lack of sufficient public interest. After careful review of this application, I have determined that the Illinois UIC program submitted by the IDMM for Class II injection wells meets the requirements of section 1425 of the SDWA, and hereby approve it. The effect of this approval is to establish this program as the applicable underground injection control program under the SDWA for the State of Illinios. The requirements of this program include State statutes and regulations set forth at: Conservation of Oil and Gas, Etc. Act, *Ill. Rev. Stat.* Ch. 96½, Par. 5401-5457 (1981), as amended by P. A. 83-1074 (1983); Illinois Environmental Protection Act, *Ill. Rev. Stat.* Ch 111½, §§ 1001-1051 (1981), as amended by P. A. 82-380, and by P. A. 83-431; Rules and Regulations of the Department of Mines and Minerals for the Oil and Gas Division, Rules I-XIV.

Since this action simply adopts as the Federal program the State laws and regulations already in effect, EPA is publishing this approval effective

immediately. This will enable Illinois to begin immediately issuing UIC permits for Class II injection wells under the Federally approved program.

List of Subjects in 40 CFR Part 145

Indians—lands, Reporting and recordkeeping requirements, Intergovernmental relations, Penalties, Confidential business information, Water supply.

OMB Review

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Certification Under the Regulatory Flexibility Act

Pursuant to the provisions of 5 U.S.C. 605(b), I certify that approval by EPA under section 1425 of the Safe Drinking Water Act of the application by the Illinois Department of Mines and Minerals will not have a significant economic impact on a substantial number of small entities, since this rule only approves State actions. It imposes no new requirements on small entities.

(42 U.S.C. 300)

Dated: January 20, 1984.

William D. Ruckelshaus,

Administrator.

[FR Doc. 84-2728 Filed 1-31-84; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 145

[WH-FRL-2511-8]

Illinois Environmental Protection Agency, Underground Injection Control; Program Approval

AGENCY: Environmental Protection Agency.

ACTION: Approval of State Program.

SUMMARY: The State of Illinois has submitted an application under Section 1422 of the Safe Drinking Water Act for the approval of an Underground Injection Control (UIC) program governing Classes I, III, IV, and V injection wells. After careful review of the application and comments received from the public, the Agency has determined that the State's program to regulate Classes I, III, IV, and V injection wells meets the requirements of section 1422 of the Act. Therefore, this application is approved.

EFFECTIVE DATE: This approval is effective February 1, 1984.

FOR FURTHER INFORMATION CONTACT: Robert J. Hilton, Chief, Ground Water Section (5WD-12), U.S. Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604. PH (312) 886-6184.

SUPPLEMENTARY INFORMATION: Part C of the Safe Drinking Water Act (SDWA) provides for an Underground Injection Control (UIC) program. Section 1421 of the SDWA requires the Administrator to promulgate minimum requirements for effective State programs to prevent underground injection which endangers drinking water sources. The Administrator is also to list in the **Federal Register** each State for which in his judgment a State UIC program may be necessary. Each State listed shall submit to the Administrator an application which contains a showing satisfactory to the Administrator that the State: (i) Has adopted after reasonable notice and public hearings, a UIC program which meets the requirements of regulations in effect under section 1421 of the SDWA; and (ii) will keep such records and make such reports with respect to its activities under its UIC program as the Administrator may require by regulations. After reasonable opportunity for public comment, the Administrator shall by rule approve, disapprove or approve in part and disapprove in part, the State's UIC program.

The State of Illinois was listed as needing a UIC program on September 25, 1978 (43 FR 43420). The State submitted an application under section 1422 on August 5, 1983, for the approval of a UIC program governing Classes I, III, IV, and V injection wells. The program would be administered by the Illinois Environmental Protection Agency (IEPA).

On August 19, 1983, EPA published notice of its receipt of the application, requested public comments, and scheduled a public hearing on the Illinois UIC program submitted by the IEPA (48 FR 37673). A public hearing was held on September 21, 1983, in Springfield, Illinois. After careful review of this application, I have determined that the Illinois UIC program submitted by the IEPA to regulate Classes I, III, IV, and V injection wells meets the requirements of section 1422 of the SDWA, and hereby approve it. The effect of this approval is to establish this program as the applicable Underground Injection Control program under the SDWA for the State of Illinois. The requirements of this program include State statutes and regulations set forth at: *Illinois Revised Statute*, Chapter 111 1/2, §§ 1001-1051 (1979), as amended by P.A. 82-380, and by P.A. 83-431; *Illinois Administrative Regulations*, Title 35, Chapter 1, Parts 702, 704, 705, and 730.

Since this action simply adopts as the Federal program, the State laws and regulations already in effect, EPA is publishing this approval effective immediately. This will enable Illinois to begin issuing UIC permits for Classes I, III, IV, and V injection wells under the Federally approved program.

OMB Review

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Certification Under the Regulatory Flexibility Act

Pursuant to the provisions of 5 U.S.C. 605(b), I certify that approval by EPA under section 1422 of the Safe Drinking Water Act of the application by the Illinois Environmental Protection Agency will not have a significant economic impact on a substantial number of small entities, since this rule only approves State actions. It imposes no new requirements on small entities.

List of Subjects in 40 CFR Part 145

Indians—lands, Water supply, Reporting and recordkeeping requirements, Intergovernmental relations, Penalties, Confidential business information.

(42 USC 300)

Dated: January 26, 1984.

William D. Ruckelshaus,

Administrator.

[FR Doc. 84-2725 Filed 1-31-84; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 2, 5, 15, 21, 73, 74, 78, and 94

[Gen. Docket No. 83-10; FCC 84-21]

Amendment of the Regulations To Expand the Notification and Verification Equipment Authorization Procedures

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document changes the type of equipment authorization required for a number of categories of radio frequency equipment by applicants in obtaining approval for this equipment. The rule changes will place equipment under the recently instituted notification equipment authorization procedure and under the existing verification procedure. The objective is

to reduce the amount of time needed for an applicant to obtain an equipment authorization while, at the same time, allowing the Commission some flexibility with its staff resources. A sampling program will also be instituted to strengthen the equipment authorization program.

EFFECTIVE DATE: March 5, 1984.

FOR FURTHER INFORMATION CONTACT: John A. Reed, Office of Science and Technology (202) 653–6288.

List of Subjects

47 CFR Part 2

Communications equipment, Imports, Radio.

47 CFR Part 5

Research.

47 CFR Part 15

Communications equipment, Labeling, Radio, Reporting requirements.

47 CFR Part 21

Communications common carriers, Point-to-point microwave, Transmissions.

47 CFR Part 73

Communications equipment, Radio broadcast.

47 CFR Part 74

Communications equipment, Television.

47 CFR Part 78

Cable television, Communications equipment, Radio, Reporting requirements.

47 CFR Part 94

Communications equipment, Radio.

Report and Order

In the matter of amendment of the regulations to expand the notification and verification equipment authorization procedures; Gen. Docket No. 83–10; FCC–84–21.

Adopted: January 19, 1984.
Released: January 26, 1984.

By the Commission: Commissioner Quello dissenting in part and issuing a statement.

1. On January 13, 1983, the Commission adopted a Report and Order in Gen. Docket 82–242, instituting a new form of equipment authorization known as notification.[1] That authorization procedure, along with the other forms of equipment authorization, is used to determine if equipment is capable of complying with the appropriate technical regulations. Such a determination must be made and a grant of authorization must be issued before the equipment can be marketed to the public, in accordance with § 2.803 of the regulations (47 CFR 2.803). Notification differs from the other forms of equipment authorization in that the detailed measurement data and other information normally supplied with the application for authorization are not required unless specifically requested. However, the question of which types of equipment should be placed under notification was not addressed in Gen. Docket 82–242. It was stated that the inclusion of equipment under notification, along with an expansion of the application of the verification procedure, would be considered in separate rule making proceedings. The proposal for changing the applicable types of equipment authorization was the subject of the Notice of Proposed Rule Making in this proceeding.[2] A list of the affected equipment is included as Appendix A.

2. Since notification and verification do not normally require the submission of measurement data and the subsequent technical review, a number of the commenters have expressed their concern that some manufacturers, either through error or through intentional manipulation of the equipment design, would begin to produce equipment failing to comply with the regulations. This would increase the probability of the marketing of interference-causing equipment. Naturally, we are concerned at such a prospect. It is clear that the present system of carefully checking test data, circuit diagrams, and equipment capabilities is one designed to minimize the chance that interference-causing devices will be marketed. To the extent we move away from this detailed review, we are obviously taking a risk. Therefore, in addition to the exercise of caution in selecting equipment to be placed under verification and notification, we announced that the changes in authorization would be accompanied by a major increase in the sampling and testing of equipment. Thus, we believe that we have struck a proper balance between relieving the manufacturer's regulatory burden and protecting the public from harmful interference.

3. Equipment sampling, both before and after a grant of authorization, would have one important advantage over the testing of prototype equipment normally submitted for our scrutiny. Our sampling would test marketed equipment, in most cases, thereby obtaining a more accurate assessment of the performance of equipment actually used by the public. Further, the sampling program could be applied flexibility to the equipment types most prone to causing interference.

Comment and Discussion

4. In general, the commenters agreed with the specific proposals made in the NPRM, given the establishment of an effective sampling program.[3] To the extent that questions or concerns were raised regarding specific proposals, these matters are discussed below.

I. Verification

5. The NPRM proposed to expand the use of verification for equipment which seldom undergoes complete or major design changes, which has already demonstrated that it does not cause harmful interference problems, and for which no major changes are expected in the type of radio service being offered. Accordingly, we proposed that, initially, television and FM broadcast receivers be included under verification.

A. Television Broadcast Receivers

6. MST, while not directly opposing verification of television broadcast receivers, expressed its concern that such action would "* * * signal a weakening of the Commission's commitment to enforcement of its rules relating to receiver performance." Similarly, NAB stated that there is a need for continued vigilance in the area of UHF noise figure compliance. These concerns were expressed by the Commission in the NPRM. As stated in the NPRM, we will continue to enforce the all-channel regulations, the peak picture sensitivity standards and the UHF tuner noise figure requirement as well as the other requirements. We will continue to require the reporting to this Commission of the annual UHF noise figure performance report. Our expanded sampling program is one way we will determine if these rules are being violated. In addition, it is likely that a vigilant and highly competitive industry will be quick to bring violations to our attention. Thus, we can assure manufacturers and consumers that the

[1] Gen. Docket 82–242, Report and Order, released January 21, 1983, FCC 83–3, 48 FR 3614 published January 26, 1983.

[2] Gen. Docket 83–10, Notice of Proposed Rule Making, released January 21, 1983, FCC 83–4, 48 FR 4298 published January 31, 1983.

[3] A list of those filing comments and reply comments is included as Appendix B, attached, along with the abbreviations used in this Order for discussion.

receiver performance standards will continue to be enforced.

B. FM Broadcast Receivers.

7. Mura suggested that certification be retained in the case of "personal" FM receivers—defined by Mura as receivers designed for personal, portable use and that include a headphone and a DC battery power source of three volts or less. Mura based its comment on its evaluation of imported FM receivers. They claim they have found that some of these receivers produced spurious emissions falling on frequencies throughout the 80 to 300 MHz region that are as great as ten times the levels permitted under § 15.63 of the regulations. It is argued that the difficulty of complying with this regulation increases as the size of the receiver decreases and, further, that there is a motivation to market noncomplying receivers due to the cost of meeting the specified emission limitations. Mura also points out that interference problems have not resulted in the past because the technical review associated with certification has provided a reasonably high degree of assurance that the manufacturers of noncomplying receivers would not be successful in their attempts to obtain approval for their equipment. Under verification, by the time a sample of a particular model could be obtained and tested, mass market distribution could be well underway. Thus, Mura concludes that there appears to be a need for pre-marketing equipment review for these receivers.

8. While we are sympathetic to the concerns of Mura, our experience is that these receivers do not generate a high level of interference. There are hundreds of thousands of the type of receiver defined by Mura as well as other types of small, inexpensive FM receivers already in use by the public without significant interference problems. We are not convinced that the requirement for certification, by itself, has prevented the marketing and use of noncomplying receivers. As we have had a very limited sampling program for this equipment in the past, relying on the submitted measurement data for evaluation, a manufacturer who wished to market a cheaper, noncomplying receiver could easily have done so. Further, we feel that it is not the size of the receiver that relates to its ability to comply with our regulations but rather the cost of that equipment. Thus, any attempt to add an additional evaluation of FM broadcast receivers should concentrate on the lower cost receivers as opposed to receivers of a specific design style. An extremely large number of these lower cost receivers are already in use by consumers without a significant number of harmful interference problems.[4] Should interference problems develop in the future, our sampling efforts would be increased for this equipment and we would rely on the enforcement process to control the marketing of noncomplying equipment.

II. Notification

9. The equipment proposed for inclusion under notification was limited to low power transmitters which have generated little or no interference problems, certain receivers, fixed point-to-point transmitters, and most broadcast transmitters. Our proposal for the type of equipment to be included under notification was very selective in order to minimize any interference potential which could be caused by a decrease in the technical review of the equipment.

A. Radio Receivers

10. Under Part 15 of the rules (Radio Frequency Devices), we proposed notification for radio receivers in the frequency range of 30 to 890 MHz, excluding receivers associated with garage door openers and security alarm systems, all superregenerative receivers, and "scanners".[5] Comments were requested as to how "scanners" could be differentiated from receivers which scan a priority channel or FM broadcast receivers with "seek and scan" tuning capability. While no comments were received on this latter point, we have attempted to incorporate an appropriate definition in Part 15, retaining "scanners" under certification.

11. Only one comment was received on the inclusion of receivers under notification. OKI urged us to reconsider this portion of our proposal, suggesting the potential of interference to land mobile communications. However, we have not experienced any substantial interference problems from receivers with the exception of superregenerative receivers, scanners and receivers in the Citizens Band (CB) Radio Service. Those specific categories of receivers will be retained under certification. While OKI has not submitted any evidence to indicate that the remaining receiver types present a potential interference problem, we will increase our level of pre-grant and post-grant sampling as well as requiring, in some instances, the submission of measurement data before a grant of notification is issued for those receiver types which are discovered to cause interference. This action should suffice in continuing to keep interference from receivers to a minimum level. Therefore, we will place the specified receivers under notification, as proposed in the NPRM.

B. Fixed Point-to-Point Microwave Transmitters

12. Fixed point-to-point microwave transmitters operated under rule Parts 21, 74, 78 and 94[6] were proposed for inclusion under notification because they are operated at specific locations, and therefore, any interference would be confined to a relatively small area.[7] Thus, it would be a simple matter to locate the source of the interference problems. Harris has requested that notification also be applied to mobile point-to-point microwave transmitters operated under Subpart F of Part 74 because some of the equipment used under that subpart is designed for both mobile and fixed operations. Harris was concerned that should the Commission approve a transmitter under notification, the user would be precluded from using that equipment for mobile operations. The user would have to determine the type of authorization under which the transmitter was approved to see if it could be used for mobile operation. Harris felt that this would require some equipment to obtain two forms of authorization: notification for fixed use and type acceptance for mobile use. However, this is not the case. We desire to retain mobile microwave transmitters under type acceptance, at least in the introductory stages of implementing notification, because of the difficulty in locating this equipment should interference result. However, transmitters designed for both mobile and fixed operation will not be required to obtain two types of equipment authorizations. As shown in Section 2.904(d) in Appendix C, equipment authorized under type acceptance, certification or type approval is also considered to be authorized under

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[4] Usually, when an FM receiver fails to comply with the regulations it is due to a single frequency emission that does not substantially exceed our emission limitations. This may account for the lack of major interference problems. We would welcome any technical information from Mura explaining their concerns.

[5] "Scanners" were retained under certification because their emissions sweep through a broad range of frequencies increasing the likelihood of interfering with another radio service.

[6] Part 21—Domestic Public Fixed Radio Services; Part 74—Experimental Auxiliary, and Special Broadcast and Other Program Distributional Services; Part 78—Cable Television Relay Service; Part 94—Private Operational-Fixed Microwave Service.

[7] Part 74 television pickup stations and other mobile microwave operations were not considered for notification.

notification. Therefore, the manufacturer of a transmitter designed for mobile or for both mobile and fixed operation need only obtain a grant of type acceptance.

13. At this point we would like to note that the recent Second Report and Order in General Docket 79–188[8] authorized the use of 18 GHz for aural broadcast STLs operated under Subpart E of Part 74. That Order required that a grant of type acceptance be obtained for the equipment. While the proposed rule changes in the NPRM to this proceeding did not mention this equipment as it had not yet been approved for operation, the NPRM did propose that fixed point-to-point microwave transmitting equipment under Part 74 be included under notification. We therefore feel that our earlier proposal also encompassed this fixed point-to-point 18 GHz equipment and have amended the regulations to allow approval under notification.

14. Harris has requested that further clarification be given to the proposed § 2.975(a)(2)(v) which requires that the modulated emission utilized for microwave transmissions be described whenever an application for notification was filed.[9] Harris apparently felt that the wording of this rule section did not make it clear as to whether an emission designator was sufficient or if some additional explanation was needed. To avoid any possible confusion, we have changed the wording of that regulation to show that an explanation of the method of modulation is needed.

15. Harris also requested that the Commission require the filing of certain measurement data with an application for notification of a microwave transmitter in order to facilitate radio frequency coordination. Specifically, Harris has requested the filing of the transmitter frequency stability, power output limit, and the emission spectrum data in power density per unit bandwidth. It is argued that this information could be used in the process of new station licensing and could improve the ease of our sampling process. It should be noted immediately that the Commission already requires the submission of frequency stability and rated power output on the application for equipment authorization. We therefore assume that Harris is requesting merely the addition of the emission spectrum data. This request is rejected for a number of reasons. First, the concept of requiring, as a matter of routine, an applicant to submit measurement data whenever a "first time" application is made for a radio service was considered and dismissed an unnecessary in Gen. Docket 82–242.[10] Second, there is no need, on a routine basis, to compare this data with the data obtained from a sample. The sample would only be required to comply with the applicable regulations and would not have to meet or exceed the data obtained by the manufacturer prior to application for notification. Third, a potential licensee can certainly obtain this information from the equipment manufacturer. Thus, the additional paperwork and recordkeeping on the part of both the applicant and the Commission does not appear to be warranted.

III. Other Equipment Categories

16. Some comments to the NPRM requested that verification or notification be extended to cover additional equipment. We are not inclined to adopt those suggestions at this time. We have, as noted above, carefully selected the equipment proposed. Our reasons for selecting the equipment proposed are not applicable to the additional equipment suggested by the commenters. Until we have an opportunity to study our new procedures in practice, we do not believe further relaxation of our equipment authorization requirements is warranted. Nevertheless, this proceeding does not represent our final consideration of equipment to be placed under either notification or verification. As we stated in paragraph 19 of the NPRM, "[o]nce both notification and the sampling program have become firmly established, it is possible that we would reconsider changing the required level of authorization for additional categories of equipment." We will therefore take into account any proposals made by the commenters in such future considerations.

IV. Equipment Sampling

17. The greatest number of comments expressed concern that the equipment sampling program be expanded as indicated in the NPRM. Indeed, most of those supporting the placement of certain equipment under notification or verification did so on the sole condition that the Commission increase its sampling of equipment. As stated by EIA/CEG and reiterated in the reply comment from Harris:

> Consumers expect manufacturer compliance with existing FCC regulations. Manufacturers also depend upon the compliance of their competitors to assure fair product competition in the marketplace. FCC sampling may provide a cost-effective method of assuring compliance.

Harris, MST and NAB have urged us to make a commitment to allocate the necessary resources to institute and maintain a well-designed sampling program. Rockwell states that the sampling program must be strengthened to consider notification and that sampling of equipment actually marketed to the public (as opposed to laboratory prototypes) will improve our ability to determine effective equipment compliance. OKI urges us to increase our sampling for all radio equipment regardless of the type of equipment authorization. MST urges us to describe and give the public an opportunity to comment on the resources that would be devoted to the expanded sampling program and the enforcement sanctions we proposed to utilize. This request has been made only to determine if a sufficient effort would be applied to sampling. MST has stated that (1) "the Commission's commitment to expand its sampling * * * must not be simply an 'initial' commitment, but an ongoing one"; (2) " The Commission must make a public commitment that adequate resources will be provided for the sampling program to make it effective"; (3) "in order to make the sampling program effective as a deterrent, the Commission should make a stronger commitment to enforcement of appropriate sanctions for violations of the regulations."

18. As noted earlier, to minimize the risk of harmful interference the actions taken today are premised on an expanded sampling program. Indeed, these actions have already taken personnel resources into account. It is neither appropriate nor helpful to submit for comment the question of precisely what level of resources we should apply. We intend to increase our level of sampling for all types of radio frequency equipment, regardless of the type of equipment authorization. Sampling will consist of both pre-grant and post-grant testing of equipment and may, in the case of equipment subject to notification

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[8] Gen. Docket 79–188, Second Report and Order, released September 30, 1953, FCC 83–392, 48 FR 50322 published November 1, 1983.

[9] At the present time, an applicant for an equipment authorization is required to submit an emission designator for the equipment. In many cases, that designator is not sufficient to accurately describe the type of modulation (for example, F9 relates to FM modulation of a type not described in the table of emission designators). When this happens, it is necessary for the Commission to contact the applicant and have him submit additional information to fully describe the type of emission employed. This is a common practice with microwave transmitters. In order to avoid the delay that would be caused by having to contact the applicant to submit additional information, this requirement is being placed in the regulations so that the applicant can be alerted before the application for notification is filed.

[10] Gen. Docket 82–242, *op. cit.*, ¶ 14.

or vertification, also consist of requesting and reviewing the measurement data demonstrating compliance with the regulations. The type of equipment to be sampled will be based on interference reports and data on equipment technical violations received from the Field Operations Bureau as well as other information obtained from trade shows, complaints from the public, and any other source of reliable information that may demonstrate a need to test specific equipment. We feel that our commitment will satisfy the concerns of those commenting.

V. Enforcement

19. Our marketing regulations require, with a few exceptions, that radio frequency devices subject to the technical standards in our rules comply with those standards when the devices are marketed.[11] In addition, if the rules require the device to have a grant of equipment authorization, our marketing rules require the manufacturer/vendor to obtain the appropriate equipment authorization as a prerequisite to marketing. The sampling program will be used to ensure that compliance with the appropriate regulations continues. The Communications Act of 1934, as amended (47 U.S.C. 501–503), allows us some flexibility in prosecuting violations of the regulations. We intend to use this authority, especially the direct forfeiture authority contained in Section 503 and implemented in Section 1.80 *et seq.* of the Rules, to the greatest extent possible when noncompliance is found by our sampling program. This action, in combination with the ability to revoke a grant of authorization, should deter the entry into the markeplace of noncomplying equipment.

20. While NAB believes that the probability of a revocation of an equipment authorization encourages manufacturers to comply with our regulations, NAB, along with Harris and MST, also feels that once equipment has been purchased by consumers, there is no effective method of recalling these devices. We share this concern but point out that we are relaxing the type of equipment authorization only for those devices that would cause few interference problems. This, of necessity, has prevented a large number of consumer devices, other than certain receivers, from being included in this proceeding. In addition, should noncomplying devices be marketed, we have the authority to take forfeiture action not only against the manufacturer but against every party in the marketing chain down to the retail level. The threat of such action combined with attendant publicity has proved efficacious in the past. Thus, the degree of proliferation of noncomplying equipment can be minimized. Fortunately, the majority of equipment suppliers attempt to follow our regulations making these enforcement actions unnecessary in most cases.

VI. Implementation

21. As stated in the NPRM, we intend to make these regulations effective at the earliest possible date. These rules will accelerate the issuance of an equipment authorization, will reduce the amount of paperwork required to be submitted to us, and will reduce our processing time for equipment authorizations. These rules will not affect the marketing or operational status of equipment approved under any earlier, more stringent equipment authorization. Applications already on file will be treated in the following manner: equipment subject to verification may be marketed as soon as the applicant is satisfied that the equipment complies with our regulations without waiting for further Commision response; equipment subject to notification must still obtain a grant of authorization prior to marketing but the application on file with the Commission will suffice as the application for notification if the original application is for the procedure required at the time of its filing, i.e., for type acceptance, certification or type approval.

22. *Final Regulatory Analysis*

I. Need for and objective of rules

The rule changes shown in Appendix C will place equipment under the recently instituted notification equipment authorization procedure and under the existing verification procedure. The objective is to reduce the amount of time needed for an applicant to obtain an equipment authorization while, at the same time, allowing the Commission some flexibility with its staff resources. A sampling program will also be instituted to strengthen the equipment authorization program.

II. Summary of Issues Praised in Comments on Initial Analysis

No issues were raised in public comment or in the agency assessment.

III. Significant Alternatives

None.

Rule Amendments

23. The rules being adopted in this proceeding are shown in the attached Appendix C. These regulations are almost identical to those proposed in the earlier notice in this docket with the exception of some changes for clarification and to clear up some ambiguities discovered since the release of the NPRM. A number of benefits to the manufacturer, and ultimately the consumer, include the ability to market equipment at an earlier date and the savings produced from this earlier marketing, the ability to plan more effectively a marketing penetration date, and the deletion of the submission of a measurement data report to the Commission. At the same time, the Commission will be able to concentrate its resources in the areas of the equipment authorization program where they are most needed, i.e., equipment sampling and reduction of equipment authorization application backlog.

Conclusion

24. In view of the foregoing, we find that the amended rules as shown in the attached Appendix C are in the public interest, convenience and necessity. The authority for these amendments is contained in Sections 4(i), 302, 303(e), 303(f) and 303(r) of the Communications Act of 1934, as amended. Accordingly, it is ordered, effective March 5, 1984, that Parts 2, 5, 15, 21, 73, 74, 78 and 94 are amended as set out in Appendix C and that all other requests for amendments, as detailed above, are denied. It is further ordered that the proceeding is terminated.

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix A

The following is a summary of the changes in equipment authorization:

Rule part	Category of equipment	Former authorization	New authorization
5	Wildlife tracking transmitters	Type acceptance	Notification.
	Ocean buoy tracking and telemetry transmitters	Type acceptance	Notification.
15	Receivers from 30 to 890 MHz *excluding* superregenerative receivers, TV and FM broadcast receivers and scanners.	Certification	Notification.
	TV and FM broadcast receivers	Certification	Verification.
21	Fixed point-to-point microwave transmitters	Type acceptance	Notification.
73[1]	AM antenna phase monitors	Type approval	Notification.
	Broadcast transmitters	Type acceptance	Notification.
74	Fixed point-to-point microwave transmitters	Type acceptance	Notification.
78	Fixed point-to-point microwave transmitters	Type acceptance	Notification.

[11] Subpart I, Part 2 of the Rules (47 CFR 2.801 *et seq.*)

Rule part	Category of equipment	Former authorization	New authorization
94	All microwave transmitters	Type acceptance	Notification

[1] All stereophonic exciter-generators and encoders for the Emergency Broadcast System (EBS) are retained under type acceptance. Decoders for the EBS are retained under certification.

Appendix B

Comments in this proceeding were filed by:

1. Association of Maximum Service Telecasters, Inc. (MST).
2. Broadcast Microwave Operations and Farinon Divisions of the Harris Corporation (Harris).
3. Collins Transmission Systems Division; Rockwell International Corporation (Rockwell).
4. Colormax Electronic Corporation (Colormax).
5. Computer and Business Equipment Manufacturers Association (CBEMA).
6. Consumer Electronics Group of the Electronic Industries Association (EIA/CEG).
7. Electrohome, Ltd. (Electrohome).
8. Mura Corporation (Mura).
9. National Association of Broadcasters (NAB).
10. OKI Advanced Communications (OKI).

Reply Comments were filed by:

1. Broadcast Microwave Operations and Farinon Divisions of the Harris Corporation (Harris).

Appendix C

PART 2—[AMENDED]

A. Title 47 of the Code of Federal Regulations, Part 2, is amended as follows:

1. Section 2.904 is amended by adding a new paragraph (d) to read as follows:

§ 2.904 Notification.

* * * * *

(d) For equipment which requires a grant of notification, authorization under type acceptance, type approval, or certification shall be deemed to constitute authorization of the equipment under notification.

§§ 2.911, 2.912, and 2.913 Removed.

2. Sections 2.911, 2.912 and 2.913 are removed.

3. Section 2.975 is amended by adding a new paragraph (a)(2)(v) and by revising paragraphs (a)(2)(iii) and (a)(2)(iv), to read as follows:

§ 2.975 Application for notification.

(a) * * *
(1) * * *
(2) * * *
(i) * * *
(ii) * * *

(iii) Rated frequency tolerance (if applicable);

(iv) Rated radio frequency power output, if applicable (if variable, give the range) and

(v) If the equipment is a microwave transmitter, an explanation of the type of modulation employed and of the resulting emission.

* * * * *

4. Section 2.977 is amended by adding a new paragraph (c) to read as follows:

§ 2.977 Changes in notified equipment

* * * * *

(c) Notwithstanding the provisions of paragraph (b) of this Section, permissive changes to transmitters notified for operation under Part 73 of this Chapter include the following:

(1) The interfacing of a type accepted AM broadcast stereophonic exciter-generator with a notified AM broadcast transmitter in accordance with the manufacturer's instructions and upon completion of equipment performance measurements showing that the modified transmitter meets the minimum performance requirements applicable thereto.

(2) The intercomection of a utility load management exciter with a notified AM broadcast transmitter in accordance with the manufacturer's instructions and completion of equipment performance measurements showing the transmitter meets the minimum performance requirements applicable thereto.

(3) The addition of FM broadcast subcarrier generators under the provisions of §§ 73.293, 73.319 and 73.1690 of Part 73 of the Rules to a notified FM broadcast transmitter provided the transmitter exciter is designed for subcarrier operation without mechanical or electrical alterations to the exciter or other transmitter circuits.

(4) The addition of FM stereophonic sound generators under the provisions of §§ 73.297, 73.597 and 73.1690 of Part 73 of the Rules to a FM broadcast transmitter notified for stereophonic operation provided the transmitter exciter is designed for stereophonic sound operation without mechanical or electrical alterations to the exciter or other transmitter circuits.

(5) The addition of subscription TV encoding equipment for which the FCC has granted advance approval under the provisions of § 2.1400 in Subpart M and § 73.644(c) of Part 73 of this Chapter to a notified transmitter.

PART 5—[AMENDED]

B. Title 47 of the Code of Federal Regulations, Part 5, is amended as follows:

1. Section 5.109 is revised to read as follows:

§ 5.109 Acceptability of transmitters for licensing.

All transmitters used at stations licensed for wildlife and ocean buoy tracking and telemetering operations pursuant to § 5.108 shall be type accepted or notified pursuant to Subpart J of Part 2 of this Chapter. After March 5, 1984, only grants of notification will be issued for equipment authorized for use in this service.

PART 15—[AMENDED]

C. Title 47 of the Code of Federal Regulations, Part 15, is amended as follows:

1. Section 15.4 is amended by adding a new paragraph (t) to read as follows:

§ 15.4 General definitions.

* * * * *

(t) *Scanning receiver.* For the purpose of this rule part, this is a receiver which automatically switches between four or more frequencies in the range of 30 to 890 MHz and which is capable of stopping at and receiving a radio signal detected on the frequency. Receivers designed solely for the reception of the broadcast services under Part 73 of the regulations are exempted from this definition.

2. A new § 15.36 is added to read as follows:

§ 15.36 Notification.

When the rules in this Part require a device to be notified, application therefor shall be filed on FCC Form 731 pursuant to the procedures set out in Subpart J of Part 2 of this Chapter.

3. Section 15.41 is amended by revising paragraph (a) to read as follows:

§ 15.41 Identification of an authorized device.

(a) Each device authorized under a grant of equipment authorization issued by the Commission under this Part shall be labeled pursuant to Subpart J of Part 2 of this Chapter.

* * * * *

4. Section 15.46 is amended by adding a new paragraph (d) to read as follows:

§ 15.46 Photographs required.

* * * * *

(d) Photographs are not required for equipment subject to notification or verification, unless specifically requested.

5. Section 15.49 is amended by adding a new paragraph (c) to read as follows:

§ 15.49 Changes in an authorized device.

* * * * *

(c) Changes in a notified device may be made pursuant to § 2.977 of Part 2 of this Chapter.

6. Section 15.66 is amended by revising paragraphs (b) and (c), to read as follows:

§ 15.66 All-channel television broadcast reception: Noise figure.

* * * * *

(b) *Noise figure to be compiled by the manufacturer.*

(1) The manufacturer shall measure the noise figure of a number of UHF channels of the test sample to give reasonable assurance that the UHF noise figure for each channel complies with the limits in paragraph (a) of this section.

(2) The manufacturer shall insert in his files a statement explaining the basis on which he will rely to insure that at least 97.5 percent of all production units of the test sample that are manufactured have a noise figure within the limits in paragraph (a) of this section.

(c) *Followup proof of performance for a TV receiver certificated or verified after October 1, 1979.* Within one year after a specific TV receiver model has been certificated or verified, the manufacturer shall file a report giving the actual UHF noise figure performance of units of that model actually measured during that year. In the case of verified equipment, the report may be filed by the manufacturer or, alternatively, by the party responsible for the marketing of that model in this country.

* * * * *

7. Section 15.69 is amended by revising the title and text to read as follows:

§ 15.69 Equipment authorization for a receiver.

(a) Each radio receiver that tunes (operates) on a frequency between 30 to 890 MHz and each CB receiver, as defined in Section 15.59, shall have the necessary equipment authorization as listed in paragraph (b) below to show compliance with the technical specifications of this Part. The equipment authorization is a prerequisite of marketing, pursuant to Subpart I of Part 2 of this Chapter.

(b) The necessary form of equipment authorization is listed below:

Type of receiver	Equipment authorization required
1. TV broadcast receiver	Verification.
2. FM broadcast receiver	Verification.
3. CB receiver	Certification.
4. Receiver using superregenerative circuitry.	Certification.
5. Receiver, regardless of the type of circuitry, associated with a garage door opener or a security alarm system.	Certification.
6. Scanning receiver	Certification.
7. All other receivers subject to Part 15, Subpart C.	Notification.

(c) For details concerning the several types of equipment authorizations, see Part 2, Subpart J of this Chapter.

8. Section 15.70 is amended by revising the introductory text to read as follows:

§ 15.70 Comparability of tuning information to be submitted pursuant to § 15.45(b).

In the case of a television receiver designed to meet the requirements of § 15.68, the information required by § 15.45(b) shall include the material listed below. For a television receiver subject to verification, this information need not be reported to the Commission unless specifically requested.

* * * * *

9. Section 15.71 is amended by revising the title and text to read as follows:

§ 15.71 Identification of a receiver.

(a) A receiver subject to notification or certification in accordance with § 15.69 shall be identified pursuant to §§ 2.925, 2.926, 2.979, and 2.1045 of this Chapter.

(b) Receivers subject to verification must be uniquely identified but do not need to follow a format specified by the Commission. The FCC identifier, as defined in § 2.926 of this Chapter, shall not be used on verified receivers.

10. Section 15.72 is amended by revising the title and by adding new paragraphs (a)(4) and (b)(3), to read as follows:

(a) * * *
(1) * * *
(2) * * *
(3) * * *

(4) A television receiver manufactured after March 5, 1984 shall continue to comply with the requirements of this Section except that receiver shall be subject to verification instead of certification.

(b) * * *
(1) * * *
(2) * * *

(3) A receiver manufactured after March 5, 1984 shall be subject to the form of equipment authorization specified in § 15.69.

11. Section 15.75 is amended by revising the introductory text in paragraph (b) to read as follows:

§ 15.75 Measurement procedure.

* * * * *

(b) The following methods of measurement are considered acceptable procedures for testing receivers to demonstrate compliance with the requirements of this subpart:

* * * * *

12. Section 15.76 is amended by revising the introductory text and paragraph (a), to read as follows:

§ 15.76 Report of measurements: FM broadcast receiver.

When specifically requested by the Commission to submit a report of measurements for a FM broadcast receiver or the FM broadcast band in a multiband broadcast receiver, that report shall include the following:

(a) Specific identification of the receiver that was measured including the name and address of the manufacturer, the company responsible for ensuring compliance under verification (if different), the trade name (if any), the model number and the serial number (if any).

* * * * *

13. Section 15.77 is amended by revising the introductory text and paragraph (a), to read as follows:

§ 15.77 Report of measurements: TV receiver.

When specifically requested by the Commission to submit a report of radiated and conducted emission measurements for a TV broadcast receiver or the TV band in a multiband broadcast receiver, that report shall include the following:

(a) Specific identification of the receiver that was measured including the name and address of the manufacturer, the name or the company responsible for ensuring compliance under verification (if different), the trade name (if any), the model number, and the serial number (if any).

* * * * *

14. Section 15.78 is amended by revising the introductory text to read as follows:

§ 15.78 Report of measurements: Multiband broadcast receiver.

When specifically requested by the Commission to submit a report of measurements for a multiband broadcast receiver, i.e., a receiver that includes reception capability in communications bands as well as in one

or more broadcast bands, that report shall include the following:

* * * * *

15. Section 15.79 is amended by revising the introductory text and paragraph (a), to read as follows:

§ 15.79 Report of measurements: Receivers other than FM or TV.

The report of measurements for a receiver other than a FM or TV broadcast receiver and for each band in the range 30–890 MHz in a multiband broadcast receiver shall include the information listed below if the receiver is subject to certification pursuant to § 15.69. If the receiver is subject to notification or verification, that report of measurements, including the information listed below, shall be submitted to the Commission only if it is specifically requested.

(a) Specific identification of the receiver that was measured including the name and address of the manufacturer, the name of the applicant for an equipment authorization or, in the case of verification, the name of the company responsible for ensuring compliance of the equipment (if different from the manufacturer), the trade name (if any), the model number and the serial number (if any).

* * * * *

§ 15.81 Removed.

16. Section 15.81 is removed.

17. Section 15.82 is revised to read as follows:

§ 15.82 Interference from a radio receiver.

The operator of a radio receiver, regardless of tuning range, date of manufacture, or equipment authorization, which causes harmful interference shall promptly take steps to eliminate the harmful interference.

18. Section 15.177 is amended by revising paragraph (d) to read as follows:

§ 15.177 Equipment authorization required.

* * * * *

(d) The receiver associated with a radio telemetering device must be certificated or notified, as shown in § 15.69, pursuant to Subpart B to show compliance with Subpart C of this Part.

19. Section 15.235 is amended by revising the title and text to read as follows:

§15.235 Equipment authorization requirement.

Both the base station and portable handset of a cordless telephone shall be authorized by the Commission pursuant to the procedures in Subpart J of Part 2. Authorization is prerequisite for legal marketing and use. The transmitter portion of the cordless telephone shall be certificated to show compliance with the requirements in §§ 15.231–15.237, inclusive. The receiver portion shall be notified to show compliance with the requirements in Subpart C of this Part. A single application for certification and notification *(FCC Form 731)* may be filed for a cordless telephone system provided it clearly identifies and provides data for all parts of the system to show compliance with the applicable technical requirements.

Note.—A cordless telephone, which is intended to be connected to a public telephone network shall also comply with regulations in Part 68 of this Chapter. A separate application for registration under Part 68 is required.

20. Section 15.236 is revised to read as follows:

§ 15.236 Labelling and identification requirements for a cordless telephone.

Both the base station and portable handset of a cordless telephone system shall be identified and labelling pursuant to §§ 2.925, 2.926, 2.979 and 2.1045 of the Part 2 of this Chapter. In addition, the label attached to the cordless telephone base station shall contain the following statement:

This cordless telephone system operates under Part 15 of FCC Rules. Privacy of communications may not be ensured when using this phone. Operation is subject to two conditions: (1) It may not interfere with radio communications; and (2) it must accept any interference received, including that which may cause undesirable operation.

When a single application for certification and notification of a cordless telephone system is submitted in accordance with § 15.236, both the base station and portable handset may carry the same FCC Identifier.

21. Section 15.333 is amended by revising paragraph (b) to read as follows:

§ 15.333 Operation in the band 72–76 MHz.

* * * * *

(b) A receiver may be operated as part of an auditory assistance system provided it meets the technical specifications in §§ 15.361–15.367 inclusive and is approved pursuant to § 15.345.

22. Section 15.335 is amended by revising paragraph (a) to read as follows:

§ 15.335 Operation in the band 88–108 MHz.

(a) An auditory assistance system may be operated in the band 88–108 MHz provided the transmitter meets the technical specifications in § 15.162 (a), (b), (c) and (d), the receiver meets the technical specifications in § 15.63, the transmitter is certificated, and the receiver is certificated or notified pursuant to the provisions of § 15.69.

* * * * *

23. Section 15.337 is revised to read as follows:

§ 15.337 Operation on other frequencies.

(a) An auditory assistance system may be operated on any frequency available under this part: *Provided,* The transmitter and receiver parts of the system meet the applicable technical specifications of this Part and have obtained the necessary equipment authorizations.

(b) An auditory assistance system may be operated as a licensed station in an authorized radio service: *Provided,* The transmitter meets the applicable regulations of such service and is type accepted and the receiver is approved pursuant to § 15.345.

24. The title and text of § 15.345 are revised to read as follows:

§ 15.345 Authorization of a receiver.

A receiver operating in the range 30–890 MHz as part of an auditory assistance system shall be certificated or notified as shown in § 15.69 pursuant to Subpart B of this Part to show compliance with the technical specifications of this subpart.

25. The text of § 15.375 is revised to read as follows:

§ 15.375 Identification of auditory assistance equipment (72–76 MHz).

Each transmitter and each receiver operated as part of an auditory assistance system in the band 72–76 MHz for which applications for an equipment authorization are filed on or after May 1, 1981 shall be individually identified pursuant to §§ 2.925, 2.926, 2.979 and 2.1045 of this Chapter. The FCC Identifier for such equipment will be validated by the grant of equipment authorization issued by the Commission. The nameplate or label of the transmitter and receiver shall contain the following statement:

This device complies with FCC Rules Part 15. Operation is subject to the following two conditions: (1) This device may not cause harmful interference and (2) this device must accept any interference that may be received including interference that may cause undesired operation.

PART 21—[AMENDED]

D. Title 47 of the Code of Federal Regulations, Part 21, is amended as follows:

1. Section 21.120 is amended by revising the title and paragraphs (a), (b) and (c), to read as follows:

§ 21.120 Authorization of transmitters.

(a) Except for transmitters used at developmental stations or for fixed point-to-point operation pursuant to Subpart I, each transmitter shall be a type which has been type accepted by the Commission for use under the applicable rules of this Part. Transmitters used in the point-to-point microwave service under Subpart I for fixed operation shall be of a type which has been either notified or type accepted by the Commission (see § 2.904(d) of this Chapter). Effective March 5, 1984, only grants of notification will be issued for transmitters used exclusively for fixed point-to-point operation.

(b) Any manufacturer of a transmitter to be produced for use under the rules of this Part may request type acceptance or notification by following the applicable procedures set forth in Part 2 of this Chapter. Type accepted and notified transmitters are included in the Commission's Radio Equipment List. Copies of this list are available for inspection at the Commission's office in Washington, D.C. and at each of its field offices.

(c) Type acceptance or notification for an individual transmitter may also be requested by an applicant for a station authorization, pursuant to the procedures set forth in Part 2 of this Chapter. An individual transmitter will not normally be included in the Radio Equipment List but will be enumerated on the station authorization.

* * * * *

PART 73—[AMENDED]

E. Title 47 of the Code of Federal Regulations, Part 73, is amended as follows:

1. Section 73.44 is amended by revising the introductory text of paragraph (a) to read as follows:

§ 73.44 AM transmission system emission limitations.

(a) Stations using main transmitters type accepted or notified after January 1, 1960 must meet the following emission limitations:

* * * * *

2. Section 73.51 is amended by revising the introductory text of paragraph (c)(2) to read as follows:

§ 73.51 Determining operating power.

* * * * *

(c) * * *

(1) * * *

(2) A showing that the transmitter has been type accepted or notified for operation at the proposed power output level, or, in lieu thereof:

* * * * *

3. Section 73.53 is amended by removing paragraph (b), designating it as [Reserved], and by revising the title, the introductory text of paragraph (c) and paragraphs (a)(1), (a)(2), (c)(9) and (c)(11), to read as follows:

§ 73.53 Requirements for authorization of antenna monitors.

(a) General requirements:

(1) Antenna monitors shall be type approved or notified by the FCC. Effective March 5, 1984, only grants of notification will be issued for antenna monitors.

(2) Notification can be obtained by following the procedures specified in Subpart J of Part 2 of the FCC's Rules.

(b) [Reserved]

(c) An antenna monitor eligible for authorization by the FCC shall meet the following specifications:

* * * * *

(9) The monitor, if intended for use by stations operating directional antenna systems by remote control or using extension meters to observe the monitor indications, shall be designed so that the switching functions required by subparagraph (c)(7) of this Section may be performed from a point external to the monitor and phase and amplitude indications be provided by external meters. The indications of external meters furnished by the manufacturer shall meet the specifications for accuracy and repeatability of the monitor itself, and the connection of these meters to the monitor, or of other indicating instruments with electrical characteristics meeting the specifications of the monitor manufacturer shall not affect adversely the performance of the monitor in any respect. The type approval or notification designations and the instruction manuals for monitors not designated for external switching of the indications as specified in this Paragraph shall clearly show that the monitors are not acceptable for use at stations using remote control for the operation of directional antennas or extension meters to read and log the monitor indications.

(10) * * *

(11) The monitor must be accompanied by complete and correct schematic diagrams and operating instructions when submitted for type approval. When approved under notification, these materials shall be retained by the applicant and not submitted unless otherwise requested by the FCC. For the purpose of the equipment authorization, these diagrams and instructions shall be considered as part of the monitor.

* * * * *

4. Section 73.68 is amended by revising the introductory text of paragraph (b) to read as follows:

§ 73.68 Sampling systems for antenna monitors.

* * * * *

(b) Each license or modified license issued pursuant to an application containing a satifactory showing that a sampling system has been constructed complying with the requirements set forth in Paragraph (a) (1) and (2) of this Section, and that an antenna monitor of a make and type approved or notified by the FCC has been installed, will be conditioned to exempt the licensee from compliance with the rules which require:

* * * * *

5. Section 73.69 is amended by revising the introductory text of paragraph (a) and paragraph (a)(2), to read as follows:

§ 73.69 Antenna monitors.

(a) Each station using a directional antenna must have in operation at the transmitter site an FCC authorized antenna monitor. However, if the station authorization sets specific tolerances within which the phase and amplitude relationships must be maintained, or requires the use of a monitor of specified repeatability, resolution or accuracy, the antenna monitor used will be authorized on an individual basis.

(1) * * *

(2) The antenna monitor installed at a station operating a directional antenna by remote control, using extension meters to read and log the monitor indications, or when the monitor is installed in the antenna field at a distance from the transmitter, must be designed and authorized for such use in accordance with the provisions of § 73.53(c)(9).

* * * * *

6. Section 73.317 is amended by revising paragraph (f)(2) to read as follows:

§ 73.317 Transmission system requirements.

* * * * *

(f) * * *

(1) * * *

(2) The station equipment must be operated, tuned, and adjusted so that any emissions outside of the authorized channel do not cause harmful interference to the reception of other radio stations. FM broadcast stations employing transmitters authorized after January 1, 1960, shall maintain the

bandwidth occupied by their emissions in accordance with the specifications set forth in paragraph (a) of this Section. Stations using transmitters installed or type accepted prior to January 1, 1960 must achieve the highest degree of compliance practicable with their existing equipment. In either case, should harmful interference to the reception of other radio stations occur, the licensee will be required to take such further steps as may be necessary to eliminate the interference.

* * * * *

7. Section 73.1660 is amended by revising the title and paragraphs (a), (b), (d) and (e), to read as follows:

§ 73.1660 Acceptability of broadcast transmitters.

(a) A transmitter may be type accepted or notified upon the request of any manufacturer of transmitters following the procedures described in Part 2 of the FCC Rules. If acceptable, the transmitter will be included in the FCC's "Radio Equipment List, Equipment Acceptable for Licensing". After March 5, 1984, these transmitters shall be authorized under notification. Transmitters authorized under type acceptance or notification are acceptable for use in this service.

(b) A permittee or licensee planning to install and use as a main transmitter one not included on the FCC's "Radio Equipment List" must obtain authority to use such a transmitter by filing an application for a construction permit on FCC Form 301 (FCC Form 340 for noncommercial educational stations). The application must include a complete description and circuit diagram of the transmitter, description of the carrier frequency determining circuits, complete operating parameters, and measurement data as would be required for a grant of type acceptance.

(c) * * *

(d) AM stereophonic exciter-generators for interfacing with type accepted or notified AM transmitters may be type accepted upon request from any manufacturer by the procedures described in Part 2 of the FCC Rules. AM station licensees will not be authorized to use composite or non-type accepted or non-notified AM stereophonic transmitting equipment under the provisions of paragraphs (b) and (c) of this section.

(e) Additional rules covering type acceptance and notification, modification of authorized transmitters, and withdrawal of a grant of authorization are contained in Part 2 of the FCC Rules.

8. Section 73.1665 is amended by revising paragraph (c) to read as follows:

§ 73.1665 Main transmitters.

* * * * *

(c) A licensee may, without further authority or notification to the FCC, replace an existing main transmitter or install additional main transmitter(s) for use with the authorized antenna if the replacement or additional transmitter(s) is type accepted or notified as shown in the FCC's "Radio Equipment List". Within 10 days after commencement of regular use of the replacement or additional transmitter(s), equipment performance measurements, as prescribed for the type of station are to be completed.

9. Section 73.1690 is amended by revising paragraphs (b)(1), (e)(1), (e)(3), (e)(4) and (e)(6), to read as follows:

§ 73.1690 Modification of transmission systems.

* * * * *

(b) * * *

(1) Installation of a main transmitter which is not included on the FCC's "Radio Equipment List" as type accepted or notified for broadcast use.

* * * * *

(e) * * *

(1) Installation of a new transmitter which is included on the FCC's "Radio Equipment List" as type accepted or notified for broadcast use.

(2) * * *

(3) Replacement of the modulator exciter unit of the FM or TV aural transmitter with one that has been authorized for broadcast service through the FCC's type acceptance or notification procedures and that has been demonstrated compatible with the transmitter in use.

(4) Modification of the AM transmitter for stereophonic broadcasting with a stereophonic exciter unit which has been type accepted and designed for interfacing with the type accepted or notified transmitter with which it is to be used.

(5) * * *

(6) Modification of the transmitter for utility load management operations with an exciter unit that has been designed for interfacing with the type accepted or notified transmitter with which it is to be used in accordance with the following:

* * * * *

10. Section 73.3538 is amended by revising paragraph (a)(3) tp read as follows:

§ 73.3538 Application to make changes in an existing station.

* * * * *

(a) * * *

(1) * * *

(2) * * *

(3) The installation of a transmitter which has not been authorized by the FCC for use by licensed broadcast stations.

* * * * *

11. The alphabetical index to Part 73 is amended by making the following deletions and additions in alphabetical sequence:

Remove the following:

Antenna monitors. Requirements for type approval of (AM)	73.53
Transmitters, broadcast, Type acceptance of	73.1660
Type acceptance of broadcast transmitters	73.1660
Type approval of antenna monitors, Requirements for (AM)	73.53

Add the following:

Antenna monitors, Requirements for notification of (AM)	73.53
Authorization of broadcast transmitters	73.1660
Notification of antenna monitors, Requirements for	73.53
Transmitters, broadcast, Authorization of	73.1660

PART 74—[AMENDED]

F. Title 47 of the Code of Federal Regulations, Part 74, is amended as follows:

1. Section 74.550 is amended by revising the title and text to read as follows:

§ 74.550 Equipment authorization.

Type acceptance or notification is required by the FCC for all aural broadcast STL and intercity station transmitters employed in the 18 GHz band. Requirements for obtaining an equipment authorization are contained in Subpart J of Part 2 of this Chapter. As of March 5, 1984 all equipment designed exclusively for fixed operation shall be approved under the notification procedure (see § 2.904(d) of this Chapter).

2. Section 74.655 is amended by revising the title and paragraphs (a) through (g) and by adding a new paragraph (h), to read as follows:

§ 74.655 Authorization of equipment.

(a) Type acceptance or notification is not required for transmitters used in conjunction with TV pickup stations operating with a peak output power not greater than 250 mW. Pickup stations operating in excess of 250 mW licensed pursuant to applications accepted for filing prior to October 1, 1980 may continue operation subject to periodic renewal. If operation of such equipment causes harmful interference the FCC may, at its discretion, require the licensee to take such corrective action as is necessary to eliminate the interference.

(b) The license of a TV auxiliary station may replace transmitting equipment with type accepted or notified equipment, as detailed under Paragraph (h) of this Section, without prior FCC approval, provided the proposed changes will not depart from any of the terms of the station or system authorization or the Commission's technical rules governing this service, and also provided that any changes made to type accepted or notified transmitting equipment is in compliance with the provisions of Part 2 of the FCC Rules concerning modifications to authorized equipment.

(c) Any manufacturer of a transmitter to be used in this service may apply for type acceptance or notification following the procedures set forth in Part 2 of the FCC Rules.

(d) An applicant for a TV broadcast auxiliary station may also apply for type acceptance or notification, as specified in Paragraph (h) of this Section, for an individual transmitter by following the procedures set forth in Subpart J of Part 2 of the FCC Rules and Regulations. Individual transmitters which are authorized will not normally be included in the FCC's Radio Equipment List.

(e) Type acceptance or notification, as detailed in Paragraph (h) of this Section, by the FCC is required for all transmitters first licensed, or marketed as specified in § 2.803 of the FCC Rules, except as provided for in Paragraph (a) (Refer to Subpart I of Part 2 of the FCC's Rules). This paragraph is effective October 1, 1981.

(f) All transmitters marketed for use under this subpart must be type accepted or notified by the FCC, as detailed in paragraph (h). TV broadcast auxiliary station transmitting equipment authorized to be used pursuant to an application accepted for filing prior to October 1, 1985 may continue to be used by the licensee or its successors or assignees, provided, that if operation of such equipment causes harmful interference due to its failure to comply with the technical standards set forth in this subpart, the FCC may, at its discretion, require the licensee to take such corrective action as is necessary to eliminate the interference. However, such equipment may not be further marketed for reuse under Parts 74 or 78. This paragraph is effective October 1, 1985.

(g) Each instrument of authority which permits operation of a TV broadcast auxiliary station or system using equipment which has not been type accepted or notified will specify the particular transmitting equipment which the licensee is authorized to use.

(h) As of March 5, 1984, transmitters designed to be used exclusively for a television STL station, a television intercity relay station or a television translator relay station shall be authorized under the notification procedure. All other transmitters will be authorized under the type acceptance procedure. Transmitters authorized under type acceptance are acceptable for use in all television broadcast auxiliary stations (see § 2.904(d) of this Chapter).

3. The alphabetical index to Part 74 is amended by making the following addition in alphabetical sequence:

Notification of equipment:

Aural STL/Relays	74.550
TV Auxiliaries	74.655

PART 78—[AMENDED]

G. Title 47 of the Code of Federal Regulations, Part 78, is amended as follows:

1. Section 78.107 is amended by revising paragraphs (a) and (b) and (b)(2), to read as follows:

§ 78.107 Equipment and installation.

(a) From time to time the Commission publishes a revised list of type approved, type accepted and certain notified equipment entitled "Radio Equipment List". Copies of this list are available for inspection at the Commission's office in Washington, D.C. and at each of its field offices.

(b) Applications for new cable television relay stations, other than fixed stations, will not be accepted unless the equipment specified therein has been type accepted. In the case of fixed stations, the equipment must be either type accepted or notified for use pursuant to the provisions of this subpart. As of March 5, 1984, transmitters designed to be used exclusively with fixed stations shall be approved under notification (see § 2.904(d) of this Chapter).

(1) * * *

(2) Neither type acceptance nor notification is required for the following transmitters:

(i) Those which have an output power not greater than 250 mW and which are used in a CARS pickup station operating in the 12.7–13.2 GHz band; and

(ii) Those used under a developmental authorization.

* * * * *

PART 94—[AMENDED]

H. Title 47 of the Code of Federal Regulations, Part 94, is amended as follows:

1. Section 94.81 is amended by revising the title and text to read as follows:

§ 94.81 Authorization of microwave equipment.

Except for equipment used under a developmental authorization, all transmitters employed in this service must be either type accepted or notified pursuant to the requirements contained in Subpart J of Part 2 of this Chapter. As of March 5, 1984, all equipment designed exclusively for fixed operation shall be approved under the notification procedure (see § 2.904(d) of this Chapter).

Appendix D

Dissenting Statement of FCC Commissioner James H. Quello

In re: Amendment of the regulations to expand the notification and verification equipment authorization procedures

I generally support the majority's move toward use of the notification procedure to reduce the burden of more onerous equipment authorization requirements. Of the kinds of equipment selected in this first attempt to use the notification procedures, an effort has been made to avoid equipment likely to require close scrutiny because of the way it is used and because of the technical sophistication of those likely to be using it. In most instances, the equipment selected is produced in relatively small numbers and, thus, any problems resulting from poorly designed devices could be resolved quickly and with relatively little effort.

My concern is not with notification. It is with verification. And, it is not with interference so much as it is with performance. The Commission has made a commitment to ensure that television receivers meet certain minimum performance criteria, including mimimum UHF noise figure performance. We also have a responsibility under the all-channel statute. It is unclear to me how we are to discharge these commitments and responsibilities without any information about who is marketing television receivers and whether those sets make any pretense of complying with the statute and with our policies. Under the verification procedure, no information is to be submitted to the Commission and, of course, no grant of authorization is issued.

Given the Commission's concerns about minimum performance standards for television receivers, I do not believe that the present certification requirement is unduly burdensome. Perhaps notification would enable us to at least keep track of the sets being marketed. But, verification offers no hope of catching any problem before it threatens to overwhelm us.

Therefore, I dissent to that portion of the order which moves television receivers from the certification program to verification.

[FR Doc. 84-2927 Filed 1-31-84; 8:45 am]
BILLING CODE 6712-01-M

47 CFR Part 95

[PR Docket No. 82-84, RM-2943, RM-2972, FCC 84-9]

Update and Codification of the General Mobile Radio Service (GMRS) Rules

AGENCY: Federal Communications Commission.

ACTION: Memorandum Opinion and Order; final rules.

SUMMARY: This Memorandum Opinion and Order partially grants Petitions for Reconstruction of the Report and Order in this proceeding, and: (1) Grandfathers existing stations in violation of the new 40 mile separation rule in order to avoid hardship; (2) makes FCC Form 574–B optional for stations near U.S. borders; and (3) modifies the requirement of power tests for remotely controlled stations to permit comparative signal strength measurement instead of absolute signal strength measurement. The rule amendments involving Form 574–B and the power tests have been changed in order to reflect prior FCC policy and practice.

DATE: Effective March 8, 1984.

FOR FURTHER INFORMATION CONTACT: John J. Borkowski, Private Radio Bureau, Washington, D.C. 20554; (202) 632–4964.

List of Subjects in 47 CFR Part 95

Radio.

Memorandum Opinion and Order

In the matter of update and codification of the General Mobile Radio Service (GMRS) Rules (PR Docket No. 82–84, RM–2943, RM–2972).

Adopted: January 12, 1984.
Released: January 24, 1984.

By the Commission.

1. On July 14, 1983, we adopted a Report and Order in this proceeding, 48 FR 35234 (August 3, 1983). The new GMRS rules became effective October 16, 1983. The American Telephone and Telegraph Company (AT&T) and the Personal Radio Steering Group (PRSG) have filed petitions for partial reconsideration of this Report and Order. The issues raised by these petitions are discussed below.

2. *Forty mile limit.* Our old rules limited GMRS applicants to one frequency in a "given area." In the Report and Order we adopted a new rule which says that an "entity may not have a base station or a mobile relay station for that entity's GMRS system within 64.4 kilometers (40 miles) of a base station or a mobile relay station for another GMRS system licensed to the same entity." 47 CFR 95.31. AT&T said that this is a substantive change outside the scope of this proceeding and requested removal of this rule or a grandfathering of existing systems that would otherwise violate the rule. We agree that new Section 95.31 is a substantive change. It was one of the few substantive changes proposed in this proceeding. See Notice of Proposed Rule Making, PR Docket No. 82–84, 46 FR 14178 (April 2, 1982), at paragraph 8. The rule uses a 20-mile radius as an approximation of a 40 dBu field intensity contour to define "given area." See Report and Order, PR Docket No. 81–878, 48 FR 44558 (September 29, 1983). Nonetheless, we recognize that the rule change could work a hardship on existing stations that were the beneficiaries of a more ambiguous rule. Therefore, we will grant AT&T the relief it sought in the alternative—grandfathering of existing stations which would otherwise be in violation of this rule.

3. *Paging.* AT&T stated that paragraphs (g) and (h) in new § 95.181 are not sufficiently clear regarding the propriety of the use of a selective calling tone or tone operated squelch for one-way paging. In the GMRS, we have considered a selective calling tone or tone operated squelch as permissible only with voice communication for all purposes, including one-way paging. We do not allow tone-only paging. We will amend Section 95.181 to clarify this point.

4. *Power test.* PRSG contended the power test required by new Section 95.135 and Appendix A imposed an additional burden. Specifically, PRSG maintained that Appendix A now requires determination of absolute signal levels whereas under the old rules one needed only to measure relative signal levels. PRSG is correct; the imposition of this new burden was not intended and we will remove the reference in paragraph (b) of Appendix A to a measurement in microvolts. This will permit measurement of relative signal levels, instead of requiring measurement of absolute signal levels.

5. *Reciprocal sharing of GMRS repeaters.* PRSG requested that we modify new § 95.33 to permit cooperative use of GMRS repeaters on a reciprocal sharing basis without requiring a written agreement, provided that the users operate according to a national protocol. The requirement that cooperative use arrangements include a written agreement was explicit in old § 95.65(b)(6)(iii). No change was proposed in this proceeding and we will not modify the requirement at this late stage.

6. *Form 400.* PRSG pointed out that while new § 95.71(b) requires a GMRS applicant to use Form 574, GMRS applicants were still using Form 400 in 1983. As indicated in our Public Notice of September 15, 1983 (Mimeo No. 6502), Form 400 may no longer be used after December 31, 1983.

7. *System licensing.* PRSG requested the Commission to permit continuance of non-system licensing in the GMRS rules. As we explained in the Report and Order at paragraph 11, use of the words "system licensing" in the GMRS rules is not synonymous with the term as it applies to the Part 90 private land mobile radio services. In the GMRS, "system licensing" does not preclude inter-licensee communications nor relegate them to secondary status. "System licensing" as used in the new GMRS rules merely minimizes the number of licenses issued and the number of call signs assigned to a given entity for various radio transmitting facilities. It does not constitute imposition of "system licensing" as it is known in the Part 90 private land mobile radio services. Thus a rule change is not necessary to grant PRSG the relief it seeks.

8. *FCC Form 574–B.* PRSG contested new Section 95.85 which requires the filing of Form 574–B by stations near the U.S. borders as a substantive change having no basis in the former GMRS rules. Under various international treaties and agreements technical details of GMRS stations may be reported to the International Telecommunication Union (ITU), Geneva, Switzerland, or to countries which border on or are near the United States. This information, along with data reported by other nations, is used to protect reported stations and to aid in resolution of interference disputes between licensees in different countries. Unless otherwise notified by applicants on FCC Form 574–B, we make certain assumptions about each GMRS station for purposes of international coordination. An applicant who did not notify us of any variation from these assumptions would have a GMRS station protected only to the limit of our assumptions if an interference problem arose involving another country's station. However, we agree with PRSG that this is a risk previously assumed by the applicant and that this information was not previously mandated. Therefore, we will amend § 95.85 to

advise submission of Form 574–B for stations in border regions rather than requiring it. Also with regard to § 95.85 we have reconsidered, *sua sponte*, our previous inclusion of a requirement for additional data on FCC Form 574–B if a land station operates for less than a full twenty-four hour period. This information is not necessary, since our standard coordination with other countries on these frequencies absent additional information presumes twenty-four hour operation, thus assuring maximum interference protection.

9. *Mobile Stations.* Paragraph (b) of § 95.23 states that a mobile station unit may transmit from any point within or over any areas where radio services are regulated by the FCC except where additional restrictions apply. Recently filed applications and telephone inquiries from applicants indicate there is confusion about the reference to "additional restrictions." This reference was intended to incorporate the additional considerations applicable in §§ 95.37 through 95.49. We have reconsidered the wording of paragraph (b) of Section 95.23 *sua sponte* to clarify this intended cross-reference.

10. Accordingly, it is ordered, effective March 8, 1984, that 47 CFR Part 95, Subpart A, is amended as shown in the Appendix attached hereto. The authority for this action is found in Sections 4(i) and 303 of the Communications Act of 1934, as amended 47 U.S.C. 154(i) and 303.

11. It is further ordered that to the extent stated above, the Petition for Partial Reconsideration of the American Telephone and Telegraph Company is granted.

12. It is further ordered that the Petition for Reconsideration of the Personal Radio Steering Group is granted in part and denied in part.

13. It is further ordered that the Secretary shall cause a copy of this Memorandum Opinion and Order to be published in the Federal Register.

14. It is further ordered that this proceeding is terminated.

15. For further information concerning this document, contact John J. Borkowski, Federal Communications Commission, Private Radio Bureau, Washington, D.C. 20554; (202) 632–4964.

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix

Subpart A of Part 95 of the Commission's Rules (47 CFR Part 95, Subpart A) is amended as follows:

1. Paragraph (b) of § 95.23 is revised to read:

§ 95.23 Mobile station description.

* * * * *

(b) A mobile station unit may transmit from any point within or over any areas where radio services are regulated by the FCC *except* where additional considerations apply (see §§ 95.37–95.49).

* * * * *

§ 95.3 [Amended]

2. The following sentence is added to § 95.31: "Base stations and mobile relay stations licensed to the same entity in two different GMRS systems less than 64.4 kilometers (40 miles) apart which were authorized prior to October 16, 1983 are not subject to the provisions of this rule."

3. Paragraph (n) of § 95.75 is revised to read:

§ 95.75 Basic information.

* * * * *

(n) Emission designator. For purposes of applications in the GMRS, F3 will be considered to include use of a *selective calling tone* or *tone operated squelch* (a tone message to call a particular station) in conjunction with voice communications;

* * * * *

4. Section 95.85 is revised to read:

§ 95.85 Additional information for stations near United States borders.

For a new or modified GMRS system having a land station at a point north of line A, east of line C, or at any point close to any United States border where interference to a station in another country could occur, an applicant may include additional data on FCC Form 574–B if the land station:

(a) Does not have vertical polarization;

(b) Does not have an omnidirectional azimuth;

(c) Has an associated control station with other than a directional antenna having its azimuth of maximum radiation directed towards the land station;

(d) Has an associated control station with other than 20 degrees beamwidth; or

(e) Is part of a GMRS system that includes stations or units intended for communication with stations or units in other GMRS systems or in other radio services.

Provision of this information will enable the Commission to seek greater interference protection for the station from foreign stations.

5. Paragraphs (g) and (h) of § 95.181 are revised to read:

§ 95.181 Permissible communications.

* * * * *

(g) A station operator may communicate a selective calling tone or tone operated squelch only in conjunction with a voice communication. If the tone is *subaudible* (300 Hertz or less) it may be communicated during the entire voice message. If the tone is *audible* (more than 300 Hertz) it may be communicated for no more than 15 seconds at a time.

(h) A station operator may communicate a one-way voice page to a paging receiver. A selective calling tone or tone operated squelch may be used in conjunction with a voice page, as prescribed in paragraph (g). A station operator may not communicate a *tone-only page* (tones communicated in order to find, summon or notify someone).

* * * * *

6. Paragraph (b) of Appendix A to Subpart A of Part 95 is amended by removing the parentheses and the words contained therein from the paragraph.

[FR Doc. 84–2542 Filed 1–31–84; 8:45 am]

BILLING CODE 6712–01–M

Proposed Rules

Federal Register
Vol. 49, No. 22
Wednesday, February 1, 1984

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 910

[Docket No. AO-144-A-14-RO1]

Lemons Grown in California and Arizona; Continuation of Formal Rulemaking Proceeding

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice of an additional hearing session.

SUMMARY: A public hearing was held at Oak View, California, during the period February 14–18, 1983. The purpose of the hearing was to consider proposals to amend the marketing order covering California-Arizona lemons (7 CFR Part 910). The U.S. Department of Agriculture reopened the hearing and hearing sessions were convened at Ventura, California, on January 10, 1984; Yuma, Arizona, on January 18, 1984; and Bakersfield, California, on January 23, 1984.

This notice is to advise interested persons that an additional hearing session has been scheduled.

DATES: The additional hearing session will convene at 9:00 a.m. on February 13, 1984, in Ventura, California.

ADDRESS: Holiday Inn, 450 East Harbor Boulevard, Ventura, California.

FOR FURTHER INFORMATION CONTACT: William J. Doyle, Chief, Fruit Branch, Fruit and Vegetable Division, Agricultural Marketing Service, USDA, Washington, D.C., 20250, telephone, 202–447–5975.

SUPPLEMENTARY INFORMATION: Prior documents in this proceeding: Notice of Hearing published January 13, 1983 (48 FR 1508); Amended Notice of Hearing published January 26, 1983 (48 FR 3624); Notice of Opportunity to Comment on Proposed Rulemaking published October 6, 1983 (48 FR 45585); and Notice of Reopened Hearing published December 13, 1983 (48 FR 55472).

List of Subjects in 7 CFR Part 910

Marketing order, California, Arizona, Lemons.

Signed at Washington, D.C. on January 27, 1984.

William T. Manley,

Deputy Administrator, Market Program Operations.

[FR Doc. 84-2719 Filed 1-31-84; 8:45 am]

BILLING CODE 3410-02-M

7 CFR Part 1040

Milk in the Southern Michigan Marketing Area; Proposed Suspension of Certain Provisions of the Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed suspension of rule.

SUMMARY: This notice invites written comments on a proposal to suspend the base and excess plan for paying producers for their milk under the Southern Michigan order. The suspension was requested by Michigan Milk Producers Association a cooperative association of dairy farmers that represents about 70 percent of the producers supplying the market. If the base-excess plan is suspended, the minimum federal order price to producers would be the uniform price during the suspension period. The association believes that the base-excess plan will not result in equitable apportionment of returns among producers because of the new federal program designed to reduce total milk marketings.

DATE: Comments are due on or before March 2, 1984.

ADDRESS: Comments (two copies) should be filed with the Hearing Clerk, Room 1077, South Building; U.S. Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Richard A. Glandt, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250; (202) 447–4829.

SUPPLEMENTARY INFORMATION: William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this proposed action would not have a significant economic impact on a substantial number of small entities. Such action would lessen the regulatory impact of the order on dairy farmers and would not affect milk handlers.

Notice is hereby given that, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), the suspension of the following provisions of the order regulating the handling of milk in the Southern Michigan marketing area is being considered as follows:

A. From August 1, 1984, through January 31, 1986:

1. Section 1040.32(a).

2. In § 1040.61, paragraphs (c), (d), and (e).

3. In § 1040.61(b), the words "the adjusted uniform price, the price for base milk, and the price for excees milk."

4. In § 1040.71(a)(1)(ii) and 1040.73(c), the words "for base milk."

5. In § 1040.75(a)(1), the words "base milk and," and the words "or adjusted unifrom price."

B. From August 1, 1984 through July 31, 1985:

Sections 104.90 through 104.95.

All persons who want to send written data, views or arguments about the proposed suspension should send two copies of them to the Hearing Clerk, U.S. Department of Agriculture, Washington, D.C. 20250, by the 30th day after publication of this notice in the **Federal Register.**

The comments that are sent will be made available for public inspection in the Hearing Clerk's office during normal business hours (7 CFR 1.27(b)).

Statement of Consideration

The proposed suspension would make inoperative the order's 12-month base and excess plan for paying producers for their milk.

Suspension of the base-excess plan for an indefinite period of time was requested by Michigan Milk Producers Association (MMPA), which represents about 70 percent of the producers who supply milk for the market. The cooperative experssed its view that continuance of the base-excess plan will unduly affect the equitable distribution of the value of milk among producers because of another federal program designed to reduce total marketings. Namely, the Dairy and Tobacco Adjustment Act of 1983, which provides for incentive payments to dairy farmers who reduce their marketings between

January 1, 1984, and March 31, 1985, below an established history.

MMPA also stated that allowing the base-paying provisions to operate until August 1, 1984, would further reward those producers who reduce their marketings because they would receive the higher base price for a greater proporting of their milk. Suspension of the program at the start of the base-forming months, MMPA claims, would further support the marketing reduction program by removing any necessity to produce milk in order to establish base. Indpendent Cooperative Milk Producers Association, Inc., has indicated to the Department its support for making the base-excess plan inoperative.

Suspension of order provisions for an indefinite period of time should not be considered. Absent a specific date for expiration of a suspension based on marketing conditions that are expected to be temporary, the more appropriate action would be to terminate the provisions. If a suspension is appropriate and is favored by producers, it should be for a specified period of time.

The program under which producers may choose to reduce their marketings of milk in return for incentive payments will expire on March 31, 1985. Accordingly, the end of a minimum feasible suspension period would appear to coincide with the expiration of the program to obtain reduced milk marketings. Following that date, each producer would establish a new base during the months of August through December 1985. Payments for milk under the base-excess provisions would resume with respect to milk produced on and after February 1, 1986.

In view of the particular circumstances under which the request for a suspension was made, interested parties should have an opportunity to express their views on whether the base plan should be suspended, and if so, what period of time should be covered by the suspension. Commentors also are invited to express their views on whether the base-excess plan will effectuate the policy of the Agricultural Marketing Agreement Act of 1937, as amended, in light of the program to reduce marketings, and the basis for those views.

List of Subjects in 7 CFR Part 1040

Milk marketing orders, Milk, Dairy products.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Signed at Washington, D.C. on: January 27, 1984.

William T. Manley,

Deputy Administrator Marketing Program Operations.

[FR Doc. 84-2718 Filed 1-31-84; 8:45 am]
BILLING CODE 3410-02-M

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7 CFR Part 1124

Milk in the Oregon-Washington Marketing Area; Proposed Termination of Certain Provisions of the Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed termination of rule.

SUMMARY: This notice invites written comments on a proposal to terminate the provisions of the base-excess plan used in distributing returns to producers whose milk is priced under the Oregon-Washington milk order. The action was requested on behalf of Northwest Dairymen's Association, a cooperative association representing a large portion of the producers who supply milk for the Oregon-Washingon market. The cooperative states that operation of the base-excess plan would adversely affect producers because of the impact of the milk diversion program. In the absence of the base-excess plan, producers would be paid on a uniform price basis throughout the year. The proposed action would terminate the plan for milk marketed after January 31, 1984.

DATE: Comments are due on or before February 16, 1984.

ADDRESS: Comments (two copies) should be filed with the Hearing Clerk, Room 1077, South Building, U.S. Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Robert F. Groene, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250; (202) 447–2089.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), the termination of certain provisions of the order regulating the handling of milk in the Oregon-Washington marketing area is being considered.

William T. Manley, Deputy Administrator, Agricultural Marketing Service, has determined that this proposed action would not have a significant economic impact on a substantial number of small entities. Such action would result in reduced reporting requirements for regulated handlers. With respect to producers the action affects only the manner in which the total proceeds from milk sales are distributed among producers.

All persons who want to file written data, views, or arguments in connection with the proposed termination should send two copies of them to the hearing Clerk, Room 1077, South Buidling, U.S. Department of Agriculture, Washington, D.C. 20250, by the 15th day after publication of this notice in the **Federal Register.**

Any comments that are received will be made available for public inspection in the Hearing Clerk's office during normal business hours (7 CFR 1.27(b)).

The provisions proposed to be terminated are as follows:

§ 1124.19 [Removed]

1. Remove § 1124.19 in its entirety.

§ 1124.30 [Amended]

2. In § 1124.30, *Reports of receipts and utilization,* remove the phrase "including the total quantitie of base milk and excess milk" in paragraph (a)(1).

§ 1124.31 [Amended]

3. In § 1124.31, *Payroll reports,* remove paragraph (a)(4) in its entirety.

§§ 1124.65 and 1124.66 [Removed]

4. Remove §§ 1124.65 and 1124.66 in their entirety and the center heading *"Determination of Base"* immediately preceding § 1124.65.

§ 1124.71 [Amended]

5. In § 1124.71, *Computation of uniform and weighted average prices,* remove in paragraph (a)(6) the words "prior to February 1970" and the word "and" at the end of the paragraph; and remove paragraph (b) in its entirety.

§ 1124.82 [Amended]

6. In § 1124.82, *Payments from the producer-settlement fund,* remove in paragraph (a) the words "or (b), whichever is applicable,".

§ 1124.83 [Amended]

7. In § 1124.83, *"Location differentials to producers and on nonpool milk,"* remove in paragraph (a) the words "and the uniform price for base milk computed pursuant to § 1124.71(b)(2)."

Statement of consideration

The proposed action would terminate the base and excess plan for milk marketed after January 31, 1984. The base-excess plan is a method of

apportioning the total value of milk in the market among producers on the basis of their marketings of milk during a representative period.

The plan now provides that for milk delivered during the 12-month period beginning February 1 each year, producers are paid according to the amount of "base" they earn through deliveries during the market's four lowest months of production of the preceding calendar year. Deliveries of producers in excess of their "base" are paid for at a lower price than for base milk.

In the absence of the base-excess plan, a single uniform price would be paid directly to producers or, in the case of producers participating in the Oregon State base plan, to the Director of the Milk Stabilization Division, Oregon State Department of Agriculture, for subsequent payment to the participating producers.

Termination of the base-excess plan was requested on behalf of Northwest Dairymen's Association, a cooperative association representing a large portion of the producers on the market. The request states that the base-excess provisions of the Oregon-Washington milk order may not result in equitable apportionment of returns among producers because of the milk diversion program that is designed to encourage dairy farmers to reduce milk production in order to alleviate the dairy surplus problem. The request expresses concern that the milk diversion program will provide an incentive for dairy farmers to reduce production in a manner not contemplated when the base-excess plan was adopted under the order, and will create inequity between producers participating in the diversion program and producers who do not contract to reduce production.

In view of the potential conflicts and inequities arising from operation of the base-excess plan in conjunction with the diversion program mandated by the Dairy and Tobacco Adjustment Act of 1983, it is questionable whether the base-excess plan should be retained. Accordingly, consideration is being given to termination of the producer payment plan.

List of Subjects in 7 CFR Part 1124

Milk marketing orders, Milk, Dairy products.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Signed at Washington, D.C., on: January 27, 1984.

William T. Manley,

Deputy Administrator, Marketing Program Operations.

[FR Doc. 84–2720 Filed 1–31–84; 8:45 am]

BILLING CODE 3410–02–M

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7 CFR Part 1126

[Docket No. A0–231–A51]

Milk in the Texas Marketing Area; Extension of Time for Filing Exceptions on Proposed Amendments to Tentative Marketing Agreement and to Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Extension of Time for filing exceptions to proposed rule.

SUMMARY: This notice extends the time for filing exceptions to a partial recommended decision issued December 6, 1983, concerning proposed amendments to the Texas milk marketing order. The partial recommended decision concerns proposals Nos. 1 and 2 that were considered on the record of a public hearing held October 4–7, 1983, at Irving, Texas. The request for additional time was made by representatives of proprietary milk plants and a cooperative association.

DATE: Exceptions are now due on or before February 17, 1984.

ADDRESS: Exceptions (four copies) should be filed with the Hearing Clerk, Room 1077, South Building, U.S. Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: John F. Borovies, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250; (202) 447–2089.

SUPPLEMENTARY INFORMATION: Prior documents in this proceeding: Notice of Hearing: Issued, August 29, 1983; published, September 1, 1983 (48 FR 39643).

Correction to Notice of Hearing: Published, September 12, 1983 (48 FR 40894).

Extension of time for Filing Briefs: Issued November 25, 1983; Published December 1, 1983 (48 FR 54243).

Recommended Decision: Issued December 6, 1983; Published December 12, 1983 (48 FR 55290).

Correction to Recommended Decision: Published December 19, 1983 (48 FR 56060).

Extension of Time for Filing Briefs and Exceptions: Issued December 22, 1983; Published December 29, 1983 (48 FR 57310).

Notice is hereby given that the time for filing exceptions to the partial recommended decision issued December 6, 1983 concerning proposals Nos. 1 and 2 pursuant to notice issued August 29, 1983 (48 FR 39643) is hereby extended to February 17, 1984. The decision is based on the record of a public hearing held October 4–7, 1983 at Irving, Texas to consider proposed amendments to the tentative marketing agreement to the order regulating the handling of milk in the Texas marketing area.

This notice is issued pursuant to the provision of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et. seq.*), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900).

List of Subjects in 7 CFR Part 1126

Milk marketing orders, Milk, Dairy products.

Signed at Washington, D.C. on: January 27, 1984.

William T. Manley,

Deputy Administrator, Marketing Program Operations.

[FR Doc. 84–2717 Filed 1–31–84; 8:45 am]

BILLING CODE 3410–02–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

14 CFR Part 1214

Space Transportation System

AGENCY: National Aeronautics and Space Administration.

ACTION: Proposed rule.

SUMMARY: NASA is amending 14 CFR Part 1214 Subpart 1214.6, "Mementos Aboard Space Shuttle Flights," to clarify policy on carrying mementos aboard Space Shuttle flights and use of both official flight kits and personal preference kits. The provisions for both the official flight kit and the personal preference kit have been modified so that they are more nearly parallel, where appropriate. This revision streamlines procedures and establishes civil penalties for violations.

EFFECTIVE DATE: Comments on the proposed rule must be received in writing by March 2, 1984.

ADDRESS: Management Support Division, Office of External Relations, Code LB, National Aeronautics and Space Administration, Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Nathaniel B. Cohen, 202–453–8335.

SUPPLEMENTARY INFORMATION: This revised subpart 1214.6 authorizes mementos to be flown aboard Space Shuttle flights. The mementos will be carried only in official flight kits or personal preference kits aboard flights of the Space Shuttle. Official flight kits carry mementos of specific flights for distribution by NASA. Personal preference kits are assigned to individuals accompanying Space Shuttle flights and carry mementos for their personal disposition. The items carried in both kits are restricted as to their kind, number, weight, and post-flight disposition. The commercialization of items flown in either kit is prohibited. These restrictions apply to all organizations and persons whose mementos are flown aboard the Spqce Shuttle.

List of Subjects in 14 CFR Part 1214

Payload Specialist, Mission, Mission Manager, NASA-related payload, Mission Specialist, Investigator Working Group, Government employees, Government procurement, Security measures, Space transportation and exploration, Space Shuttle.

PART 1214—SPACE TRANSPORTATION SYSTEM

For reasons set out in the Preamble, 14 CFR Part 1214 is amended by revising subpart 1214.6 to read as follows:

Subpart 1214.6—Mementos Aboard Space Shuttle Flights

Sec.

1214.600 Scope.
1214.601 Definitions.
1214.602 Policy.
1214.603 Official flight kit.
1214.604 Personal preference kit.
1214.605 Preflight packing and storing.
1214.606 Postflight disposition.
1214.607 Media and public inquiries.
1214.608 Safety requirements.
1214.609 Loss or theft.
1214.610 Violations.

Authority: Pub. L. 85–568, 72 Stat. 426, 42 U.S.C. 2473(c).

Subpart 1214.6—Mementos Aboard Space Shuttle Flights

§ 1214.600 Scope.

This subpart establishes policy, procedures, and responsibilities for selecting, approving, packing, storing, and disposing of mementos carried on Space Shuttle flights.

§ 1214.601 Definitions.

(a) *Mementos.* Flags, patches, insignia, medallions, minor graphics, and similar items of little commercial value, especially suited for display by the individuals or groups to whom they have been presented.

(b) *Official flight kit (OFK).* A container reserved for carrying official mementos of NASA and other organizations aboard Space Shuttle flights. No personal items will be carried in the OFK.

(c) *Personal preference kit (PPK).* A container separately assigned to each person accompanying a Space Shuttle flight for carrying personal mementos during the flight.

§ 1214.602 Policy.

(a) *Premise.* Mementos are welcome aboard Space Shuttle flights. However, they are flown as a courtesy—not as an entitlement. The Administrator is free to make exceptions to this accommodation without explanation. Moreover, mementos are ballast not payload. They can be reduced or eliminated by the Manager, National Space Transportation Systems Program, Johnson Space Center, for weight, volume, or other technical reasons without reference to higher authority.

(b) *Constraints.* Mementos to be carried on Space Shuttle flights must be approved by the Administrator and stowed only in an OFK or a PPK. Mementos will not be carried within payload containers, including get-away specials.

(c) *Economic gain.* Items carried in an OFK or a PPK will not be sold, transferred for sale, used or transferred for personal gain, or used or transferred for any commercial or fund-raising purpose. Items will not be approved for flight that have a known or suspected commercial value, such as philatelic covers and coins, or that by their nature lend themselves to exploitation by the recipients, or create problems with respect to good taste.

§ 1214.603 Official flight kit.

(a) *Purpose.* The OFK enables NASA and other organizations (representing launch service customers, researchers, and schools) to utilize mementos as awards and commendations, or to preserve them in museums or archives. "Other organizations," as used in this paragraph, includes the aerospace industry, the academic community, and the counterpart institutions of friendly foreign countries.

(b) *Limitations.* U.S. national flags will not be flown as mementos except for U.S. Government sponsors.

(c) *Approval of Contents.* At least 60 days before the launch of a Space Shuttle flight, a representative of each organization desiring mementos to be carried on the flight must submit an Official Flight Kit and Personal Preference Kit Request, NASA Form 1614, Official Flight Kit and Personal Preference Kit Request through the cognizant NASA Headquarters Program or desiring mementos to be carried on the flight must submit an Official Flight Kit and Personal Preference Kit Request, NASA Form 1614, Officials Flight Kit and Personal Preference Kit Request through the cognizant NASA Headquarters Program or Staff Office (e.g., foreign requests through the International Affairs Division, military requests through the DOD Affairs Division, payload requests through the NASA sponsor, and commercial launch service customer requests through the Associate Administrator for Space Flight) to the Associate Director, Johnson Space Center. The Director, Johnson Space Center, will compile the requests and forward them to the Associate Administrator for Space Flight with advice as to whether they can be accommodated within the weight and volume limitations of the specific mission. The Association Administrator for Space Flight will recommend to the Administrator a final list of items to be included in the OFK.

§ 1214.604 Personal preference kit.

(a) *Purpose.* The PPK enables persons accompanying Space Shuttle flights to carry personal items for use as mementos. Only those individuals actually accompanying such flights may request authorization to carry personal items. These items must be carried in individually assigned PPK's.

(b) *Limitations.* The contents of a PPK must be limited to 20 separate items weighing a combined total of 1.5 pounds (680 grams). No more than one article may be given to any one individual. Increases in these limitations will be authorized only by the Administrator.

(c) *Approval of Contents.* At least 60 days before the scheduled launch of a Space Shuttle flight, each person assigned to the flight who desires to carry items in a PPK must submit an Official Flight Kit and Personal Preference Kit Request, NASA Form 1614, to the Associate Director, Johnson Space Center. The Associate Director, Johnson Space Center, will review the requests for compliance with this subpart and submit them with weight data through supervisory channels to the Associate Administrator for Space Flight who will similarly review the requests and forward them with recommendations to the Administrator for final approval. In conducting this review, the Associate Administrator for Space Flight will staff the requests of

payload specialists with the Program Associate Administrators responsible for payload management during the mission, and the requests of passengers (everyone who is not a commander, pilot, mission specialist, or payload specialist) with the Associcate Administrator for External Relations. Upon receipt of the Administrator's action, the Associate Administrator for Space Flight will provide a copy of each approved request to the requestor, the General Counsel, and the Director, Johnson Space Center.

§ 1214.605 Preflight packing and storing.

Items intended for inclusion in OFK's or PPK's must arrive at the Johnson Space Center at least 30 days prior to the flights on which they are scheduled in order for them to be listed on the cargo manifest, packaged, weighed, and stowed aboard the orbiter. Items which do not arrive within the 30-day limit will not be carried on the flight; therefore, they must arrive at the Johnson Space Center even if the Administrator's approval is still pending. Items which do not receive the Administrator's approval will be returned to the persons who submitted them.

The Associate Director, Johnson Space Center, will:

(a) Pack, seal, and weigh the OFK's PPk's according to the requests approved by the Administrator.

(b) Secure the kits while awaiting the launches on which they are manifested.

§ 1214.606 Postflight disposition.

The Associate Director, Johnson Space Center will:

(a) Remove and safeguard all the kits following flight;

(b) Return the contents ofthe PPK's to the persons who submitted them, and

(c) Forward the contents of the OFK to the Administrator through supervisory channels for disposition.

§ 1214.607 Media and public inquiries.

(a) *Routine release.* Information concerning the contents of OFK's and PPK's will be routinely released to the media and public, upon their request, but only after the contents have undergone postflight inventory. The Director of Public Affairs, Johnson Space Center, will respond to all requests for routine release.

(b) *Early release.* Information concerning the contents of PPK's may be released to the media and public, upon their request, prior to postflight inventory. However, before such information is released, the contents must be approved by the Administrator and the release approved or requested by the persons to whom the contents belong. The Associate Administrator, Johnson Space Center, will respond to all requests for early release.

§ 1214.608 Safety requirements.

The contents of OFK's and PPK's must meet the requirements set forth in NASA Handbook 1700.7, "Safety Policy and Requirements for Payloads Using the Space Transportation System (STS)."

§ 1214.609 Loss or theft.

(a) *Responsibility.* The National Aeronautics and Space Administration will not be responsible for the loss or theft of, or damage to, items carried in OFK's or PPK's.

(b) *Report of loss or theft.* Any person who learns that an item contained in an OFK or a PPK is missing shall immediately report the loss to the Johnson Space Center Security Officer and the NASA Inspector General.

§ 1214.610 Violations.

Any item carried in violation of the requirements of this subpart shall become the property of the U.S. Government, subject to applicable Federal laws and regulations, and the violator may be subject to disciplinary action which could include being permanently prohibited from flying aboard the Space Shuttle or any other manned spacecraft of the National Aeronautics and Space Administration.

[FR Doc. 84-2748 Filed 1-31-84; 8:45 am]
BILLING CODE 7510-012-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 100, 182, and 184

[Docket No. 83N-0211]

Copper Gluconate, Copper Sulfate, Cuprous Iodide, and Peptonized Copper; Proposed Actions on GRAS Status as Direct Human Food Ingredients

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: -The Food and Drug Administration (FDA) is proposing to affirm that copper (cupric) gluconate and copper (cupric) sulfate are generally recognized as safe (GRAS) as direct human food ingredients, and that cuprous iodide is GRAS, with specific limitations, when used as a source of dietary iodine in table salt. In addition, FDA is also proposing to find that peptonized copper is not GRAS. The safety of these ingredients has been evaluated under the comprehensive safety review conducted by the agency. The proposal would take no action on the listing of these ingredients as GRAS substances for use in dietary supplements.

DATE: Comments by April 2, 1984.

ADDRESS: Written comments to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Robert L. Martin, Bureau of Foods (HFF-3355), Food and Drug Administration, 200 C St. SW., Washington, D.C. 20204, 202-426-8950.

SUPPLEMENTARY INFORMATION: FDA is conducting a comprehensive review of human food ingredients classified as GRAS or subject to a prior sanction. The agency has issued several notices and proposals (see the **Federal Register** of July 26, 1973 (38 FR 20040)) initiating this review, under which the safety of copper gluconate, copper sulfate, cuprous iodide, and peptonized copper has been evaluated. In accordance with the provisions of § 170.35 (21 CFR 170.35), the agency proposes to affirm the GRAS status of copper gluconate and copper sulfate for use as nutrients in conventional food,[1] infant formula, and special dietary foods. The agency also proposes to affirm the GRAS status of cuprous iodide, with specific limitations, for use as a source of dietary iodine in table salt. Finally, in the absence of adequate biological studies and food use information, FDA is proposing to find that peptonized copper is not GRAS.

The GRAS status of the use of copper gluconate and copper sulfate in dietary supplements (i.e., over-the-counter vitamin preparations informs such as capsules, tablets, liquids, wafers, etc.) is not affected by this proposal. The agency did not request consumer exposure data on dietary supplement uses when it initiated this review. Without exposure data, the agency cannot evaluate the safety of using these ingredients in dietary supplements. The use of copper gluconate in dietary supplements will continue to be authorized under Subpart F of Part 182 (21 CFR Part 182).

Copper is a reddish, lustrous, ductile, malleable metal. It occurs in the free state and is ubiquitous, being found in the soil, atmosphere, water, plants, and animals. It is present in many enzymes

[1] FDA is using the term "conventional food" to refer to food that would fall within any of the 43 categories listed in § 170.3(n) (21 CFR 170.3(n)).

and other biologically important proteins, making it an essential nutrient for most plants and animals.

Copper gluconate (cupric gluconate) is prepared from gluconic acid and basic cupric carbonate. The food-grade product is described in the Food Chemicals Codex, 3d Ed., as light blue to bluish-green crystals or as a fine, light blue powder. It has an astringent taste. It is very soluble in water, slightly soluble in alcohol, and practically insoluble in other organic solvents.

Copper sulfate (cupric sulfate) occurs in nature as the mineral hydrocyanite. The commercial preparation and usual natural form of this substance is the pentahydrate, which occurs as large, deep blue or ultramarine, triclinic crystals; as blue granules; or as a light blue powder. It slowly effloresces in air. It is very soluble in water, soluble in methanol and glycerol, and slightly soluble in ethanol.

Cuprous iodide is prepared by reacting a solution of copper sulfate with potassium iodide at a slightly acid pH. Cuprous iodide is a pure-white crystalline powder. It occurs in nature as the rare mineral marshite. It is insoluble in water but soluble in aqueous solutions of ammonia, alkali cyanides, thiosulfates, and iodides. It decomposes in solutions of oxidizing acids.

Copper (cupric) gluconate was listed as a GRAS nutrient in a regulation published in the Federal Register of November 20, 1959 (24 FR 9368), at levels not exceeding 0.005 percent. Subsequently, it was listed as a GRAS nutrient and dietary supplement in a regulation published in the Federal Register of January 31, 1961 (26 FR 938), at levels not exceeding 0.005 percent. Under a final rule published in the Federal Register of September 5, 1980 (45 FR 58837), FDA divided the nutrient and dietary supplement category into separate listings for GRAS dietary supplements and GRAS nutrients. Therefore, copper gluconate currently is listed as GRAS in § 182.5260 (21 CFR 182.5260) for use in dietary supplements at levels not exceeding 0.005 percent and in § 182.8260 (21 CFR 182.8260) for use in food as a nutrient at levels not exceeding 0.005 percent. However, in 1960, FDA issued a letter that stated that cupric gluconate may be used in deitary supplements at levels of up to 2 milligrams of copper per day.

Cuprous iodide was listed as GRAS as a nutrient for use in table salt in a regulation published in the Federal Register of November 20, 1959 (24 FR 9368). Cuprous iodide was listed as an ingredient to be added to table salt, at a level of 0.01 percent, specifically to provide a source of dietary iodide. Subsequently, cuprous iodide was reclassified and recodified as a nutrient and dietary supplement in a regulation published in the Federal Register of January 31, 1961 (26 FR 938). Finally, in a regulation published in the Federal Register of September 5, 1980 (45 FR 58837), FDA divided the nutrient and dietary supplement category into separate listings for GRAS dietary supplements and GRAS nutrients. Therefore, cuprous iodide is currently listed as GRAS in § 182.5265 (21 CFR 182.5265) for use as a dietary supplement when used as a source of dietary iodine in table salt at levels of 0.01 percent and in § 182.8265 (21 CFR 182.8265) for use in food as a nutrient when used as a source of dietary iodine in table salt at levels of 0.01 percent. Cuprous iodide is also listed under § 100.155 (21 CFR 100.155) for use in table salt as a source of dietary iodine.

Copper (cupric) sulfate was listed as GRAS when used in paper and paperboard products intended for use in food packaging under a final rule published in the Federal Register of June 17, 1961 (26 FR 5421). FDA issued a letter in 1960 stating that the use of cupric sulfate in dietary supplements at levels of up to 2 milligrams of copper per day is GRAS. Additionally, the agency stated in an opinion letter in 1961 that copper sulfate is GRAS for use as a nutrient in food. FDA also issued a letter in 1961 stating that peptonized copper may be used as a nutrient in food to the same extent as other copper salts.

In addition to the GRAS approvals listed above, copper sulfate is listed in 27 CFR 240.1051 as a processing aid to clarify and stabilize wine; cuprous iodide is listed in 21 CFR 178.2010 as a stabilizer in polymers contacting food; and a tolerance of 1 part per million residual copper is permitted in potable water (21 CFR 193.90) when copper algicides or herbicides are used to control aquatic plants in potable water sources. Various copper salts are also considered GRAS when used as sources of trace minerals added to animal feed in accordance with 21 CFR 582.80. These regulations are not affected by this proposal.

Section 412(g) of the Federal Food, Drug, and Cosmetic Act (the act) lists copper as a required nutrient in infant formula, subject to level restrictions. FDA is reviewing all nutrient levels in infant formulas under a contract with the American Academy of Pediatrics. Any necessary modifications in the nutrient levels of copper in infant formula will be proposed in a separate rulemaking under section 412(a)(2) of the act. Copper also may be used to fortify foods as described in Part 104 (21 CFR Part 104).

In 1971, National Academy of Sciences/National Research Council (NAS/NRC) surveyed a representative cross-section of food manufacturers to determine the specific foods in which copper (cupric) gluconate, copper (cupric) sulfate, peptonized copper, and cuprous iodide were used and the levels of usage. NAS/NRC combined this manufacturing information with information on consumer consumption of foods to obtain an estimate of consumer exposure to these substances. FDA estimates from the NAS/NRC survey that the total amount of copper (cupric) gluconate used by the U.S. food industry in 1970 was 4,800 pounds, and from a later NAS/NRC survey, FDA estimates that, in 1975, the use was 9,900 pounds. The total amount of copper (cupric) sulfate available for food use and dietary supplement use was reported in the 1975 NAS/NRC survey to be 1,800 pounds. However, the agency has no information on the total amount of copper sulfate actually added to conventional food as compared to the total amount of copper sulfate used in dietary supplements. Copper gluconate and copper sulfate were reported to be used as nutrients in milk products, processed fruit juices and drinks, soft candy, snack foods, beverages, chewing gum, and baby and infant formula. In addition, copper sulfate was reported to be used as a processing aid in alcoholic beverages, and copper gluconate was reported to be used as a synergist in soft candy and chewing gum. The survey did not contain any information on the use of cuprous iodide or of peptonized copper in foods.

Copper salts have been the subjects of a search of the scientific literature from 1920 to 1974. The criteria used in the search were chosen to discover any articles that considered (1) chemical toxicity, (2) occupational hazards, (3) metabolism, (4) reaction products, (5) degradation products, (6) carcinogenicity, teratogenicity, or mutagenicity, (7) dose response, (8) reproductive effects, (9) histology, (10) embrylogy, (11) behavorial effects, (12) detection, and (13) processing. A total of 756 abstracts was reviewed, and 75 particularly pertinent reports have been summarized in two scientific literature reviews.

Information from the scientific literature review was updated to 1979 and has been summarized in the report of the Select Committee on GRAS Substances (the Select Committee), which is composed of qualified scientists chosen by the Life Sciences

Research Office of the Federation of American Societies for Experimental Biology (FASEB). The members of the Select Committee have carefully evaluated all the available information on cupric gluconate, cupric sulfate, and cuprous iodide.[2] In the Select Committee's opinion:

Copper is an essential trace element for most plant and animal species, including man. Its deficiency is characterized by specific biochemical and pathological lesions. The customary adult daily diet provides adequate cooper to prevent signs of deficiency. Both copper deficiency and chronic copper intoxication are relatively rare.

The absorption of copper is limited to about one-third to one-half of that ingested under usual circumstances. When large amounts of copper are ingested, the absorptive mechanism becomes ssturated and much of the copper remains unabsorbed. Further limitations are imposed by competition for absorption with cadmium and zinc, by organic complexing with ascorbic acid, and by the alkalinity of intestinal contents.

Much of the copper that is absorbed is later excreted in the bile so that more than 90 percent of ingested copper is found in feces. Cupric gluconate, cyupric sulfate and cuprous iodide are GRAS in foods for specified purposes: Cupric gluconate as a nutrient and/or dietary supplement; cupric sulfate in paper and paperboard products used in food packaging; and cuprous iodide as a source of dietary iodine in table salt.

About 2 mg copper per day is required by the average adult with an acceptable daily intake of 0.5 mg per kg body weight or about 30 mg recommended by international authorities. About 2 to 4 mg copper per day are supplied as natural ingredients in the normal diet. Copper added to food in the form of cupric gluconate is estimated to be about 0.005 mg per capita daily. The amounts added as cupric sulfate or cuprous iodide are unknown but are believed to be less than that from cupric gluconate. Thus, the normal diet supplies several hundred times the amount of copper added to foods. The amount of anions ingested from copper salts added to foods is negiligible compared with that produced physiologically or found in normal diets.

Animal toxicity with copper salts was observed only with quantities several orders of magnitude greater than that used as food supplements.

Cupric gluconate, cupric sulfate and cuprous iodide were all non-mutagenic in various microbial tests.

Cuprc gluconate and sulfate, as well as other copper salts tested, were noncarcinogenic when given by mouth or parenterally. No reports of carcinogenicity studies on cuprous iodide were available to the Select Committee.

Cupric gluconate produced teratogenic effects in the chick embryo, but not in mice or rats. Cupric sulfate was embryotoxic and teratogenic when injected in large amounts into pregnant hamsters.[3]

The Select Committee concludes that no evidence in the available information on copper (cupric) gluconate or copper (cupric) sulfate demonstrates, or suggests reasonable grounds to suspect, a hazard to the public when they are used at levels that are now current or that might reasonably be expected in the future. It also concludes that there is no evidence that creates concern about a hazard from the use of cuprous iodide when it is used in the manner now authorized. The Select Committee further concludes that no evidence in the available information on copper (cupric) sulfate demonstrates, or suggests reasonable grounds to suspect, a hazard when it is used as an ingredient of paper and paperboard materials in food packaging at levels that are now current or that might reasonably be expected in the future.[4]

FDA has undertaken its own evaluation of all available information on cuprous iodide, copper gluconate, and copper sulfate and concurs with the conclusions of the Select Committee. The agency concludes that no change in the current GRAS status of these ingredients is justified. Therefore, the agency proposes to affirm the GRAS status of cuprous iodide, copper gluconate, and copper sulfate as nutrients for direct addition to conventional human foods. However, because the NAS/NRC survey did not specifically request data on dietary supplement use, FDA does not have adequate data upon which to judge the exposure from use of copper gluconate and copper sulfate as dietary supplements. Without such exposure data, the agency cannot evaluate the safety of their use in dietary supplements and therefore can take no action on the GRAS status of copper gluconate and copper sulfate for this use. Therefore, FDA is taking no action on the listing of copper gluconate in § 182.5260 for use as a dietary supplement. However, when Part 182 was recodified (45 FR 58837; September 5, 1980) to separate the listing of substances used in dietary supplements and those used as nutrients in conventional foods, the limitation of 0.005 percent for copper gluconate was included in both listings. FDA erred in including this limitation in the dietary supplement listing. The limitation of 0.005 percent copper gluconate in a dietary supplement would provide only about 0.007 milligram copper in a typical 1 gram tablet. To correct this error, and to make this regulation consistent with the other regulations in 21 CFR Part 182, Subpart F, the agency is proposing to amend § 182.5260 to permit the use of copper gluconate in dietary supplements in accordance with current good manufacturing practice. By this action, the agency is not affirming as GRAS the use of copper gluconate in dietary supplements but is modifying Part 182 to reflect more accurately the conditions of use that the agency considered in its original GRAS determination.

Additionally, FDA is proposing not to include in the GRAS affirmation regulations for copper gluconate and copper sulfate the food categories or levels of use reported in the 1971 NAS/NRC survey for these ingredients. Both FASEB and the agency have concluded that the amount of copper added to food is small as compared to the amount that naturally occurs in food and water, and that a reasonably foreseeable increase in the level of addition of copper gluconate and copper sulfate to food will not adversely affect human health. Therefore, the agency is proposing to affirm the GRAS status of these ingredients when they are used under current good manufacturing practice conditions of use in accordance with § 184.1(b)(1) (21 CFR 184.(b)(1)). To make clear, however, that the affirmation of the GRAS status of these substances is based on the evaluation of currently known uses, the proposed regulations set forth the technical effects that FDA evaluated.

FDA is not proposing to affirm as GRAS one use that was reported for copper gluconate in the 1971 NAS/NRC survey of the food industry. The survey revealed that cupric gluconate was being used to color processed fruit. FDA advises that substances used in food to provide color are color additives and must conform to the color additive provisions of the act and to any color additive regulations issued under the authority of the act. No copper salts are currently approved for use in food as color additives (21 CFR Parts 70–82). Therefore, FDA concludes that the use of copper gluconate as a color additive in food requires approval through a color additive petition. In the absence of

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[2] "Evaluation of the Health Aspects of Copper Gluconate, Copper Sulfate, and Cuprous Iodine as Food Ingredients," Life Sciences Research Office, Federation of American Societies for Experimental Biology, 1979, pp. 9–16. In the past, the agency presented verbatim the Select Committee's discussion of the biological data it reviewed. However, because the Select Committee's report is available at the Dockets Management Branch and from the National Technical Information Service, and because it represents a significant savings to the agency in publication costs, FDA has decided to discontinue presenting the discussion in the preamble to proposals that affirm GRAS status in accordance with current good manufacturing practice.

[3] *Ibid.*, p. 17.

[4] *Ibid.*, p. 18.

such an approval, this use is in violation of sections 402(c) and 706(c) of the act (21 U.S.C. 342(c) and 376(a)).

No use data were available to FDA concerning the food use of cuprous iodide. Because the use of cuprous iodide in §§ 100.155 and 182.8265 is specifically limited to 0.01 percent in table salt, however, the agency finds that it can evaluate the safety of this limited use. In accord with the Select Committee's evaluation, FDA concludes that this use is safe and may be affirmed as GRAS. To make clear, however, that this evaluation is based upon only this use, FDA has specifically limited the proposed GRAS affirmation regulation for cuprous iodide. Additionally, in the reorganization of Part 182 (45 FR 58837; September 5, 1980), the agency listed the use of cuprous iodide (as a source of iodine in salt) under both the nutrient heading and under the dietary supplement heading. However, because coprous iodide is used as a nutrient supplement in conventional food and not in dietary supplements, its listing for use as a dietary supplement was in error. Therefore, FDA is proposing to delete the listing of this substance in 21 CFR 182.5265. To reflect this change, FDA is also proposing to delete the reference to § 182.5265 in § 100.155 and to replace it with a reference to § 184.1265.

FDA has insufficient biological studies and use information to evaluate the safety of peptonized copper. The agency cannot undertake such an evaluation without use and consumer exposure data and relevant biological studies. The agency advises that unless food use information and biological data are submitted as comments on this proposal, it will no longer consider peptonized copper to be GRAS for use as nutrient supplement in food. In order for the agency to make a determination on the GRAS status of the use of peptonized copper, it will be necessary to have a description of the technical effects, the food categories, and the levels for which the use of peptonized copper is claimed to be GRAS.

The Joint Expert Committee on Food Additives (JECFA) of the Food and Agricultural Organization/World Health Organization (FAO/WHO) has proposed a provisional value for maximum tolerable intake of copper from all sources of 0.5 milligram per kilogram body weight (Refs. 1 and 2) (30 milligrams per day for a 60 kilogram person). JECFA proposed this level because it recognized that, for certain segments of the world's population, the normal daily intake of copper from the diet is likely to exceed significantly normal daily requirements, and that that inake could lead to copper toxicity. The agency emphasized that the JECFA proposed value of 0.5 milligram per kilogram is not to be interpreted as being a safe level of consumption for copper in the United States. In accord with its previous opinion letters, the agency concludes that U.S. consumption of copper, from addition to food and from dietary supplement use, should not exceed current daily requirements (2 milligrams) for this essential nutrient.

Because no food-grade specifications exist for copper sulfate or cuprous iodide at the present time, the agency will work with the Committee on Food Chemicals Codex of the National Academy of Sciences to develop specifications for these substances. If acceptable specifications are developed, the agency will incorporate them into the regulations at a later date. Until specifications are developed, FDA has determined that the public health will be adequately protected if commercial copper sulfate and cuprous iodide comply with the description in the proposed regulation and are of food-grade purity (21 CFR 182.1(b)(3) and 170.30(h)(l)).

In the past, when a substance has been listed in Part 182 (21 CFR Part 182) as GRAS for both direct and indirect uses, FDA has proposed separate GRAS affirmation regulations in Parts 184 and 186 (21 Parts and 186) to govern its direct and indirect GRAS uses, respectively. Under § 184.1(a) (21 CFR 184.1(a)), however, ingredients affirmed as GRAS for direct food use in Part 184 are considered to be GRAS for indirect uses without a separate listing in Part 186. Based on § 184.1(a), FDA has reconsidered its traditional practice and has concluded that the duplicative listing in Part 186 is unnecessary, as a general rule, and may cause confusion. Thus, unless safety considerations make it necessary to impose specific purity specifications or other restrictions on the indirect use of a GRAS substance, FDA will no longer list in Part 186 substances that are affirmed as GRAS for direct use in Part 184. In keeping with this change in policy, FDA is not proposing a separate listing in Part 186 for the indirect uses of copper sulfate. The indirect uses of copper sulfate are authorized under § 184.1261 and § 184.1(a).

In the case of copper sulfate, FDA believes that the general requirements that indirect GRAS ingredients be of a purity suitable for their intended use in accordance with § 170.30(h)(l) and used in accordance with current good manufacturing practice are sufficient to ensure the safe use of this ingredient. Therefore, the agency has not proposed any specific purity specifications for its indirect use.

FDA recently amended its procedural regulations in Parts 184 and 186 to reflect clearly these policies (48 FR 48456, October 19, 1983).

Copies of the scientific literature reviews on copper salts, reports of a mutagenic screening test for copper (cupric) gluconate, and the report of the Select Committee are available for review at the Dockets Management Branch (address above) and may be purchased from the National Technical Information Service, 5285 Port Royal RD., Springfield, VA 22161, as follows:

Title	Order No.	Price code	Price*
Copper salts (scientific literature review)	PB 241-861	A05	$10.50
Copper salts (scientific literature review, 1972-1976)	PB 275-749/AS	A03	7.50
Copper gluconate (mutagenic evaluation)	PB 245-490/AS	A03	7.50
Copper gluconate, copper sulfate, and cuprous iodide (Select Committee report)	PB 301-400/AS	A03	7.50

* Price subject to change.

This proposed action does not affect the current use of copper salts in pet food or animal feed.

The format of the proposed regulations is different from that in previous GRAS affirmation regulations. FDA has modified paragraph (c) of §§ 184.1260 and 184.1261 to make clear the agency's determination that GRAS affirmation is based upon current good manufacturing practice conditions of use including the technical efffects listed. Additionally, the agency has modified the form of paragraph (c) of § 184.1265 in which the specific limitations on the use of this ingredient are presented. These changes have no substantive effect but are made merely for clarity.

The agency has determined under 21 CFR 25.24(d)(6) (proposed December 11, 1979; 44 FR 71742) that this proposed action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

FDA, in accordance with the Regulatory Flexibility Act, has

considered the effect that this proposal would have on small entities including small businesses and has determined that the effect of this proposal is to maintain current known uses of the substances covered by this proposal by large and small businesses. Therefore, FDA certifies in accordance with section 605(b) of the Regulatory Flexibility Act that no significant economic impact on a substantial number of small entities will derive from this action.

In accordance with Executive Order 12291, FDA has carefully analyzed the economic effects of this proposal and the agency has determined that the final rule, if promulgated, will not be a major rule as defined by the Order.

References

The following information has been placed on display at the Dockets Management Branch (address above) and may be reviewed in that office between 9 a.m. and 4 p.m., Monday through Friday.

1. Tenth Report of the Joint Expert Committee on Food Additives, FAO/WHO Technical Report Series No. 532, 1973.

2. Twenty-sixth Report of the Joint Expert Committee on Food Additives, FAO/WHO Technical Report Series No. 683, 1982.

List of Subjects

21 CFR Part 100

Administrative practice and procedure, Food labeling, Foods.

21 CFR Part 182

Generally recognized as safe (GRAS) food ingredients, Spices and flavorings.

21 CFR Part 184

Direct food ingredients, Food ingredients, Generally recognized as safe (GRAS) food ingredients.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348, 371(a))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), it is proposed that Parts 100, 182, and 184 be amended as follows:

PART 100—GENERAL

§ 100.155 [Amended]

1. Part 100 is amended in § 100.155 *Salt and iodized salt* by changing in paragraph (a) the reference "§§ 182.5265" to read "§§ 184.1265".

PART 182—SUBSTANCES GENERALLY RECOGNIZED AS SAFE

2. Part 182 is amended:

§ 182.90 [Amended]

(a) In § 182.90 *Substances migrating to food from paper and paperboard products* by removing "copper sulfate" from the list of substances.

b. By revising § 182.5260, to read as follows:

§ 182.5260 Copper gluconate.

(a) *Product.* Copper gluconate.

(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§§ 182.5265, 182.8260, 182.8265 [Removed]

c. By removing § 182.5265 *Cuprous iodide,* § 182.8260 *Copper gluconate,* and § 182.8265 *Cuprous iodide.*

PART 184—DIRECT FOOD SUBSTANCES AFFIRMED AS GENERALLY RECOGNIZED AS SAFE

3. Part 184 is amended:

a. By adding new § 184.1260, to read as follows:

§ 184.1260 Copper gluconate.

(a) Copper gluconate (cupric gluconate, $(CH_2OH(CHOH)_4COO)_2Cu$, CAS Reg. No. 527–09–3) is a substance that occurs as light blue to bluish-green, odorless crystals, or as a fine, light blue powder. It is prepared by the reaction of gluconic acid solutions with cupric oxide or basic cupric carbonate.

(b) The ingredient meets the specifications of the Food Chemicals Codex, 3d Ed. (1981), p. 90, which is incorporated by reference. Copies are available from the National Academy Press, 2101 Constitution Ave. NW., Washington, DC 20418, or available for inspection at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408.

(c) In accordance with § 184.1(b)(1), the ingredient is used in food with no limitation other than current good manufacturing practice. The affirmation of this ingredient as generally recognized as safe (GRAS) as a direct human food ingredient is based upon the following current good manufacturing practice conditions of use:

(1) The ingredient is used as a nutrient supplement as defined in § 170.3(o)(20) of this chapter and as a synergist as defined § 170.3(o)(31) of this chapter.

(2) The ingredient is used in food at levels not to exceed current good manufacturing practice. Copper gluconate may be used in infant formula in accordance with section 412(g) of the Federal Food, Drug, and Cosmetic Act (the act) or with regulations promulgated under section 412(a)(2) of the act.

b. By adding new § 184.1261, to read as follows:

§ 184.1261 Copper sulfate.

(a) Copper sulfate (cupric sulfate, $CuSO_4 \cdot 15H_2O$, CAS Reg. No. 7758–98–7) usually is used in the pentahydrate form. This form occurs as large, deep blue or ultramarine, triclinic crystals; as blue granules; or as a light blue powder. The ingredient is prepared by the reaction of sulfuric acid with cupric oxide or with copper metal.

(b) FDA is developing food-grade specifications for copper sulfate in cooperation with the National Academy of Sciences. In the interim, this ingredient must be of a purity suitable for its intended use.

(c) In accordance with § 184.1(b)(1), the ingredient is used in food with no limitation other than current good manufacturing practice. The affirmation of this ingredient as generally recognized as safe (GRAS) as a direct human food ingredient is based upon the following current good manufacturing practice conditions of use:

(1) The ingredient is used as a nutrient supplement as defined in § 170.3(o)(20) of this chapter and as a processing aid as defined in § 170.3(o)(24) of this chapter.

(2) The ingredient is used in food at levels not to exceed current good manufacturing practice. Copper sulfate may be used in infant formula in accordance with section 412(g) of the Federal Food, Drug, and Cosmetic Act (the act) or with regulations promulated under section 412(a)(2) of the act.

c. By adding new § 184.1265, to read as follows:

§ 184.1265 Cuprous iodide.

(a) Cuprous iodide (Copper (I) iodide, CuI, CAS Reg. No. 7681–65–4) is a pure white crystalline powder. It is prepared by the reaction of copper sulfate with potassium iodide under slightly acidic conditions.

(b) FDA is developing food-grade specifications for cuprous iodide in cooperation with the National Academy of Sciences. In the interim, this ingredient must be of a purity suitable for its intended use.

(c) In accordance with § 184.1(b)(2), the ingredient is used in food only within the following specific limitations:

Category of food	Maximum treatment level in food	Functional use
Table salt	0.01 percent	Source of dietary iodine

The agency is unaware of any prior sanction for the use of these ingredients in foods under conditions different from those identified in this document. Any person who intends to assert or rely on such a sanction shall submit proof of its existence in response to this proposal. The action proposed above will constitute a determination that excluded uses would result in adulteration of the food in violation of section 402 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 342), and the failure of any person to come forward with proof of such an applicable prior sanction in response to this proposal constitutes a waiver of the right to assert or rely on it later. Should any person submit proof of the existence of a prior sanction, the agency hereby proposes to recognize such use by issuing an appropriate final rule under Part 181 (21 CFR Part 181) or affirming it as GRAS under Part 184 or 186 (21 CFR Part 184 or 186), as appropriate.

Interested persons may, on or before April 2, 1984, submit to the Dockets Management Branch (address above) written comments regarding this proposal. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. to 4 p.m., Monday through Friday.

Dated: January 16, 1984.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 84-2695 Filed 1-31-84; 8:45 am]

BILLING CODE 4160-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR parts 156 and 162

[OPP-250043; PH-FRL 2514-6]

Pesticides; Notification to the Secretary of Agriculture of Proposed Regulations on Registration Procedures and Labeling Requirements

AGENCY: Environmental Protection Agency (EPA).

ACTION: Transmittal of proposed rule.

SUMMARY: Notice is given that the Administrator of EPA has forwarded to the Secretary of the U.S. Department of Agriculture proposed regulations on registration procedures and labeling requirements. The proposals would extensively revise and reorganize the Agency's procedural regulations on pesticide registration and would also establish comprehensive regulations for the labeling of pesticide products and devices. This action is required by section 25(a)(2)(A) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended.

FOR FURTHER INFORMATION CONTACT: Jean Frane, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 1114C CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703-557-0592).

SUPPLEMENTARY INFORMATION: Section 25(a)(2)(A) of FIFRA provides that the Administrator shall provide the Secretary of Agriculture with a copy of any proposed regulation at least 60 days prior to signing it for publication in the **Federal Register**. If the Secretary comments in writing regarding the proposed regulation within 30 days after receiving it, the Administrator shall issue for publication in the **Federal Register**, with the proposed regulation, the comments of the Secretary, if requested by the Secretary, and the response of the Administrator concerning the Secretary's comments. If the Secretary does not comment in writing within 30 days after receiving the proposed regulation, the Administrator may sign the regulation for publication in the **Federal Register** anytime after the 30-day period.

As required by FIFRA section 25(a)(3), a copy of this proposed regulation has been forwarded to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

(Sec. 25, Pub. L. 92-516, 86 Stat. 973 as amended; (7 U.S.C. 136 et seq.))

Dated: January 20, 1984.

Edwin L. Johnson,

Director, Office of Pesticide Programs.

[FR Doc. 84-2321 Filed 1-31-84; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 2, 81, and 83

[Gen Docket No. 84-18; RM-4560; FCC 84-8]

Add the Gulf of Mexico to the Authorized Service Areas of Maritime Mobile Systems Operating in the 216-220 MHz Band

AGENCY: Federal Communication Commission.

ACTION: Proposed rule.

SUMMARY: This notice proposes to add the Gulf of Mexico to the authorized service area of maritime mobile systems operating in the 216-220 MHz band. The existing restrictions limit the use of this band beyond the Mississippi River System and Gulf Intracoastal Waterway. This action was requested by the licensee of a maritime communications system utilizing the 216-220 MHz band. The proposed amendments are intended to provide a broader diversity and generally improve maritime communications in the Gulf of Mexico.

DATE: Comments must be received on or before March 1, 1984, and reply comments must be received on or before March 16, 1984.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Robert H. McNamara, Private Radio Bureau (202) 632-7175.

List of Subjects.

47 CFR Part 2

Radio, Treaties.

47 CFR Part 81

Radio, Coast station.

47 CFR Part 83

Radio, Ship station.

Notice of Proposed Rulemaking

In the matter of amendment of Parts 2, 81 and 83 of the rules to add the Gulf of Mexico to the authorized service areas of maritime mobile systems operating in the 216-220 MHz band; Gen. Docket No. 84-18, RM 4560.

Adopted: January 12, 1984.
Released: January 24, 1984.

By the Commission.

1. In this Notice we propose to expand the authorized service area of maritime communications systems operating in the 216-220 MHz band to include the offshore waters of the Gulf of Mexico.

Background

2. In Gen. Docket No. 80–1 [1] the Commission, among other things, allocated the 216.220 MHz band to fulfill a need for automated, integrated maritime communications service on the Mississippi River and connecting waterways. Certain technical requirements were prescribed to prevent potential interference with reception on television channels 10 and 13, and to provide a framework under which development could commence. This allocation was extended to include the Gulf Intracoastal Waterway in Gen. Docket No. 81–822.[2]

3. This allocation of the 216–220 MHz band was consistent with both the international Radio Regulations and Part 2 of the Commission rules, both of which made the band available for mobile use. Further, at the World Adminstrative Radio Conference, Geneva, 1979 (1979 WARC), a primary allocation of the 216–220 MHz band for use in the maritime mobile service in Region 2 was adopted with the support of the United States. The Final Acts of the 1979 WARC were implemented in the proceeding in Gen. Docket No. 80–739.[3]

4. In the Notice of Proposed Rule Making in Gen. Docket No. 80–739, the Commission stated that domestic use of the 216–220 MHz band by the maritime mobile service beyond the Mississippi River System and Gulf Intracoastal Waterway, as provided in footnote NG 121 to the Table of Frequency Allocations, should be considered in a separate rulemaking proceeding.[4] This conclusion was in agreement with comments filed by Fairfield Industries, Inc., and Manufacturer Radio Frequency Advisory Committee (MRFAC) in response to the Second Notice of Inquiry in that docket. In essence, Fairfield and MRFAC expressed concern that expansion of maritime communications beyond the Mississippi River System could pose potential interference problems for certain telemetry operations which are authorized on a secondary basis in the band. A separate rulemaking proceeding was seen to afford all interested parties notice and an opportunity to comment.[5]

Petition

5. Waterway Communications System, Inc. (Watercom) has filed a petition (RM 4560) requesting that the Commission initiate a separate rulemaking proceeding, as envisaged in Gen. Dockets 80–739, to fully implement a primary maritime mobile allocation in the 216–220 MHz band on a nationwide basis. Watercom argues that the need for such an allocation was supported by the United States at the 1979 WARC, and that the Commission has confirmed the need for the allocation for improved, automated maritime communications in the rulemaking proceeding in Gen. Docket No. 80–1. As further evidence of the need for the expanded maritime allocation, Watercom points to the application filed by Petroleum Communications, Inc., seeking authority to construct a development "cellular system" in offshore waters of the Gulf of Mexico.[6]

6. The National Ocean Industries Association (NOIA) representing approximately 450 offshore and ocean-oriented industries, supported Watercom's petition. Viacom International, Inc. (Viacom) the licensee of television station WNYT, Channel 13, Albany, New York,[7] and the Association of Maximum Service Telecasters, Inc. (MST) representing about 250 television braodcast stations opposed the petition. Viacom believes the use of the band should not be extended beyond the presently authorized areas because of a potential for interference with the reception of TV channel 13. Viacom also argues that the use of the 216–220 MHz band is no longer required because equipment for the 806–890 MHz range has been developed and is now available. MST asks that action on Watercom's petition be deferred until data on whether interference to television reception actually occurs in the currently authorized areas can be gathered. MST also points to the possibility that cellular systems may offer an alternative to maritime service in the 216–220 MHz band.

7. In reply to Viacom and MST, Watercom states that in Gen. Docket 80–1 the Commission fully considered the basic allocation issues raised by both Viacom and MST. Reconsideration of these issues in this proceeding, argues Watercom, would be inappropriate. Watercom argues that, in any event, maritime system licensees are required by rule to engineer their systems to avoid potential interference with television reception and, if harmful interference does develop, to eliminate the problem or discontinue operation of the offending transmitter.[8]

Discussion

8. Although the Commission's rules clearly place the responsibility for avoiding interference with television reception on the licensees of maritime systems, we concur with MST's view that it is premature to make the 216–220 MHz band available on a nationwide basis. Such a maritime system has been authorized to serve the Mississippi River System and the Gulf Intracoastal Waterway, but service has not yet been initiated. We believe that prudence requires an evaluation of an operating maritime system before the band is made available nationwide for such systems. Additionally, the Commission is investigating the possibility of employing new technologies in the 216–220 MHz band, among others, for other needed services in various regions of the United States.[9]

9. However, we feel that the authorized service area of maritime systems operating in the 216–220 MHz band can be expanded at this time to include the offshore waters of the Gulf of Mexico. Since maritime use of the band is authorized along the Gulf Intracoastal Waterway, expansion of service into the offshore waters of the Gulf will not present potential interference problems with television reception and represents a logical

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[1] Released March 11, 1981, 84 FCC 2d 875, 46 FR 15690; Errata, released April 29, 1981, mimeo 29348, 46 FR 28486. Reconsidered, *Memorandum Opinion and Order*, released December 4, 1981, 88 FCC 2d 678, 46 FR 61879; *Aff'd. sub nom. WJG Telephone Company, Inc. v. FCC*, No. 81–1401 (D.C. Cir., April 8, 1982).

[2] *Report and Order*, Gen. Docket No. 81–822, released April 22, 47 FR 18661.

[3] See *Second Report and Order*, Gen. Docket No. 80–739, released December 8, 1983.

[4] *Notice of Proposed Rule Making*, released December 30, 1982, 48 FR 3790, at paragraph 57.

[5] The comments filed by Fairfield and MRFAC were filed in response to a petition for reconsideration in Gen. Docket No. 80–1, which requested that the Gulf Intracoastal Waterway (GIWW) be included in the service are authorized in that proceeding. In consideration of these comments, the Commission denied the request and initiated Gen. Docket No. 81–822 to specifically address the expansion of the 216–220 MHz allocation to the GIWW. Neither Fairfield or MRFAC filed comments in that proceeding.

[6] File No. 29000– CL–P–83.

[7] Viacom also notes that it has pending before the Commission an application to become the licensee of WHEC–TV, channel 10, Rochester, New York.

[8] See Section 81.134(j) of the rules, 47 CFR 81.134(j), which among other things requires that when a maritime station is proposed to be located less than 105 miles from a channel 13 TV station or 80 miles from a channel 10 TV station, or when the antenna height will be more than 200 feet, it will only be authorized pursuant to an engineering plan for suitably limiting the interference contour. If harmful interference is in fact caused within the TV station's Grade B contour, the licensee must eliminate the interference or discontinue operation of the station within 90 days of being notified by the Commission.

[9] For example, see Federal Commissions Commission, Private Radio Bureau Planning Staff, *Future Private Land Mobile Telecommunications Requirements*, Washington D.C., August 1983, p. 7–16.

extension of the existing service area. The need for expanded communications in the Gulf of Mexico is well-documented before the Commission.[10] The availability of the 216–220 MHz band in the Gulf would broaden the diversity of services, generally improve maritime communications, and enhance the economic viability of equipment procured for maritime use in this band. Further, if the band is not used by the maritime mobile servic in the offshore waters of the Gulf it will essentially remain unused.

10. We believe that in general the secondary telemetry used in the band will be compatible with automated maritime system operations.[11] Telemetry operations are typically low power and itinerant in nature. Frequency coodination with any existing maritime system operator should be straighforward and relatively easy to accomplish. Nonetheless, because operations are being conducted over a wide area for a multiplicity of purposes by both the Government and civil sectors, a separate review of the potential spectrum impact on such operations should be completed before nationwide expansion of maritime mobile operations in the band is undertaken. However, since telemetry is a secondary service in the band and few telemetry operations are now being conducted in the Gulf of Mexico, the limited expansion proposed herein should not be unduly disruptive.

11. It should be noted that any stations authorized in the maritime mobile service must insure that no harmful interference is caused to the Navy SPASUR system which is currently operating in the southern United States in the frequency band 216.88–217.08 MHz.[12] Additionally, under current circumstances no airborne use of the 216–220 MHz band will be permitted.

12. Further, we are proposing to amend Parts 81 and 83 (Maritime Services) of the rules where necessary to accommodate the operation of automated communications systems in the band in the offshore waters of the Gulf of Mexico. Because the rules require such automated systems to provide coverage over at least 69% of the waterway served,[13] the proposed definitions of the additional service area is important. We propose to define the ofshore waters of the Gulf of Mexico as the area within the 100 fathom line or 40 miles offshore, whichever is greater. This would include the major area of activity along the Continental shelf where offshore petroleum operations are conducted. Such a definition includes the area expected to generate the greatest interest and demand for maritime communications services and is readily determinable. We further propose to delete from the rules the long list of rivers which comprise the Mississippi River System. These rivers are generally recognized and defined navigational waterways. There appears to be no need to list each river in our rules.

13. We are also proposing a number of editorial changes in Parts 81 and 83 of the rules to conform with our primary purpose in this proceeding. Most significant of these changes is the re-titling the subparts governing these automated maritime communications systems. Since the expansion of the frequency allocation to offshore waters would render obsolete the present terminology "Inland Waterways Communications System", we propose to substitute the name "Automated Maritime Telecommunications Service" (abbreviated AMTS).

14. The proposed amendments to the Commission's rules as set forth in the attached Appendix are issued under the authority contained in Sections 4(i) and 303 (c), and (r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i) and 303 (c) and (r).

15. Under procedures set out in § 1.415 of the Rules and Regulations, 47 CFR 1.415, interested persons may file comments on or before March 1, 1984, and reply comments on or before March 16, 1984. All relevant and timely comments will be considered by the Commission before final action is taken into consideration information and ideas not contained in the comments provided that such information or a writing indicating the nature and source of such information is placed in the public file, and provided that the fact of the Commission's reliance on such information is noted in the report and order.

16. In accordance with the provisions of § 1.419 of the Rules and Regulations, 47 CFR 1.419, formal participants shall file an orginal and 5 copies of their comments and other materials. Participants wishing each Commissioner to have a personal copy of their comments should file an original and 11 copies. Members of the general public who wish to express their interest by participating informally may do so by submitting one copy. All commments are given the same consideration, regardless of the number of copies submitted. All documents will be available for public inspection during regular business hours in the Commission's Public Reference Room at its headquarters in Washington, D.C.

17. For purposes of this non-restricted notice and comment rule-making proceeding, members of the public are advised that *ex parte* contacts are permitted from the time the Commission adopts a notice of propose rulemaking until the time a public notice is issued stating that a substantive disposition of the matter is to be considered at a forthcoming meeting or until a final order disposing of the matter adopted by the Commission, whichever is earlier. In general, an *ex parte* presentation is any written, or oral communication (other than formal written comments/ pleadings and formal oral arguments) between a person outside the Commission and a Commissioner or a member of the Commission's staff which addresses the merits of the proceeding. Any person who submits a written *ex parte* presentation must serve a copy of that presentation on the Commission's Secretary for inclusion in the public file. Any person who makes an oral *ex parte* presentation addressing matters not fully covered in any previously-filed written comments for the proceeding must prepare a written summary of that presentation; on the day of oral presentation, that written summary must be served on the Commission's Secretary for inclusion in the public file, with a copy to the Commission official receiving the oral presentation. Each *ex parte* presentation described above must state on its face that the Secretary has been served, and must also state by docket number the proceeding to which it relates. See generally, § 1.1231 of the Commission's rules, 47 CFR 1.1231.

18. Pursuant to Section 605 of the Regulatory Flexibility Act of 1980 (Pub. L. 96–354), we certify that the proposed rules will not have a significant economic impact on a substantial number of small entities. These rules propose to make 80 channels in the 216–220 MHz band available for assignment to automated maritime communications systems for ship-shore communications beyond the current service area limitations of the Mississippi River System and the Gulf Intracoastal Waterway. There is no proposed requirement for any vessel or maritime station to purchase equipment or otherwise participate in such a system.

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[10] See *Memorandum Opinion and Order*, In re Application of Petroleum Comunications, Inc., File No. 29000–CL–P–83, FCC 83–434, released October 7, 1983.

[11] Footnote US210 to § 2.106 of the rules (Table of Frequency Allocations) permits the authorization of stations on a secondary basis for the tracking of and telemetering of scientific data from ocean buoys and wildlife.

[12] see footnote US 229 to § 2.106 of the rules (Table of Frequency Allocations).

[13] See Section 81.913(b), 47 CFR 81.913(b).

19. Regarding questions on matters covered in this document contact Robert H. McNamara (202) 632–7175.

20. It is ordered, That a copy of this Notice of Proposed Rule Making shall be sent to the Chief Counsel for Advocacy of the Small Business Administration.

(Secs. 4, 303, 48 stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix

Parts 2, 81 and 83 of Chapter I of Title 47 of the Code of Federal Regulations are amended as follows:

PART 2—FREQUENCY ALLOCATIONS AND RADIO TREATY MATTERS; GENERAL RULES AND REGULATIONS

In § 2.106 footnote NG 121 is revised to read as follows:

§ 2.106 Table of frequency allocations.

* * * * *

NG 121 The maritime mobile use of this band is limited to operation along the Mississippi River and connecting waterways, the Gulf Intracoastal Waterway, and the offshore waters of the Gulf of Mexico.

PART 81—STATIONS ON LAND IN THE MARITIME SERVICES AND ALASKA-PUBLIC FIXED STATIONS

1. In § 81.3, paragraph (m) is revised to read as follows:

§ 81.3 Maritime mobile serivce.

* * * * *

(m) Automated maritime Telecommunications System (AMTS). An automated, integrated and interconnected maritime communications system serving ship stations along some portion of the Mississippi River and connecting waterways, the Gulf Intracoastal Waterway, and the offshore waters of the Gulf of Mexico.

* * * * *

§ 81.131 [Amended]

2. In § 81.131, subparagraph (c)(3) is amended by removing the letters "IWCS" and inserting in their place "AMTS."

§ 81.132 [Amended]

3. In § 81.132, subparagraph (a)(7) is amended by removing the letters "IWCS" and inserting in their place "AMTS."

§ 81.134 [Amended]

4. In § 81.134, subparagraph (j) is amended by removing the letters "IWCS" and inserting in their place "AMTS."

5. Subpart T is amended by revising the heading revising paragraphs (a), (b) introductory text and (c) of § 81.913; revising § 81.915; and revising the introductory text of §81.917 as follows:

Subpart T—Automated Maritime Telecommunications System (AMTS)

§ 81.913 Service authorized.

(a) An Automated Maritime Telecommunications System (AMTS) will provide vessels with an automated, integrated communication system along some portion of the Mississippi River and conecting waterways, the Gulf Intracoastal Waterway, and the offshore waters of the Gulf of Mexico. an AMTS serving offshore waters of the Gulf of Mexico shall provide service to the 100 fathom line or 40 miles offshore, whichever is greater. Vessels on waters adjacent to any of the above described waterways may communicate with any AMTS station within its service area.

(b) Applicants may us FCC Form 503 (Application For Land Radio Station in the Maritime Services) when seeking authorization to operate an AMTS system, supplemented with a showing consisting of a detailed plan demonstrating that the proposed system will provide continuity of service along a major portion (more than 60%) of each of one or more navigable waterways encompassing the Mississippi River System, the Gulf Intracoastal Waterway, or the offshore waters of the Gulf of Mexico to be served by the applicant. Waterways less than 150 miles (240 kilometers) long must be served in their entirety. A separate form is not required for each station in a system, however, the applicable technical particulars for each proposed station, including transmitter type and location, frequencies, emissions, power, antenna arrangement and location, must be provided.

* * * * *

(c) An applicant desiring to provide a limited corespondence service may seek authorization to operate an AMTS system to provide only operational communications (communications relating to the safe efficient and economical operation of vessels, such as fuel, weather, position reports, essential supplies and service, and the like). However, service shall be provided to any ship station licensee who makes cooperative arrangements for the operation of the stations which are to provide AMTS service. In emergency or distress situations service shall be provided without prior arrangements.

§ 81.915 Points of communication.

(a) Subject of conditions and limitations imposed by the terms of the particular coast station license or by the applicable provisions of this part with respect to the use or particular radio channels, AMTS coast stations are authorized to communicate with ship stations which are authorized to operate in the AMTS.

(b) Licensees authorized to operate in the offshore waters of the Gulf of Mexico may employ frequencies designated for coast station and mobile use in fixed service for operation of the offshore service on a secondary basis to shore station and mobile use. Fixed use of those frequencies will not give rise to or support need for additional channels for rendition of AMTS service.

§ 81.917 Frequencies available.

The following carrier frequencies, paired by transmit and receive frequencies for duplex operation, designated by separate channel numbers, and distributed into Groups A, B, C and D, are available for assignment to coast stations on a station by station basis for communication by means of voice, facsimile and radioteletypewriter with ship stations authorized to operate in the AMTS. Coast stations within 105 miles (169 kilometers) of a TV Channel 13 station will be licensed only for the frequencies of Group A and Group B.

* * * * *

PART 83—STATIONS ON SHIPBOARD IN THE MARITIME SERVICES

1. In § 83.3, paragraph (s) is revised, to read as follows:

§ 83.3 Maritime mobile service.

* * * * *

(s) Automated Maritime Telecommunications System (AMTS). An automated, integrated and interconnected maritime communications system serving ship stations along the Mississippi River and connecting waterways, the Gulf Intracoastal Waterway, and the offshore waters of the Gulf of Mexico.

§ 83.315 [Amended]

2. In § 83.315, paragraph (f) is amended by removing the words "Inland Waterways Communications System" and inserting in their place the words "Automated Maritime Telecommunications System."

§ 83.341 [Amended]

3. Section 83.341 is amended by removing the letters "IWCS" and inserting in their place "AMTS."

§ 83.351 [Amended]

4. In § 83.351, paragraph (b)(11) is amended by removing the words "Inland Waterways Communications System" and inserting in their place the words "Automated Maritime Telecommunications System."

§ 83.373 [Amended]

5. Section 83.373 is amended by removing "§ 83.905" and "IWCS", and inserting in their place "§ 83.1105" and "AMTS", respectively.

Subpart DD is amended by revising the heading; revising §§ 83.1100 and 83.1103, and revising the introductory text of § 83.1105, as follows:

Subpart DD—Automated Maritime Telecommunications System (AMTS)

§ 83.1100 Service authorized.

An Automated Maritime Telecommunications System (AMTS) will provide vessels with an automated, integrated communication system along some portion of the Mississippi River and connecting waterways, the Gulf Intracoastal Waterway, or the offshore waters of the Gulf of Mexico. An AMTS serving offshore waters of the Gulf of Mexico shall provide service to the 100 fathom line or 40 miles offshore, whichever is greater. Vessels on waters adjacent to any of the above described waterways may communicate with any AMTS station within its service area.

§ 83.1103 Supplemental eligibility requirements.

Each application for a ship station or fleet license to operate in the AMTS shall be accompanied by a letter from the AMTS licensee attesting that business arrangements have been completed for the provision of service.

§ 83.1105 Frequencies available.

The following carrier frequencies, paired by transmit and receive frequencies for duplex operation, designated by separate channel numbers, and distributed into Groups A, B, C, and D, are available for communication by means of voice, facsimile and radioteletypewriter by ship stations which are authorized to communicate with coast stations providing AMTS service. However, only Group A and Group B frequencies will be of service within 70 miles of a Channel 13 TV station since coast stations there will not be licensed on other channel groups.

* * * * *

[FR Doc. 84-2544 Filed 1-31-84; 8:45 am]
BILLING CODE 6712-01-M

Notices

Federal Register
Vol. 49, No. 22
Wednesday, February 1, 1984

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forms Under Review by Office of Management and Budget

January 27, 1984.

The Department of Agriculture has submitted to OMB for review the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35) since the last list was published. The list is grouped into new proposals, revisions, extensions, or reinstatements. Each entry contains the following information:

(1) Agency proposing the information collecton; (2) Title of the information collection; (3) Form number(s), if applicable; (4) How often the information is requested; (5) Who will be required or asked to report: (6) An estimate of the number of responses; (7) An estimate of the total number of hours needed to provide the information; (8) An indication of whether section 3504(h) of Pub L. 96–511 applies; (9) Name and telepone number of the agency contact person.

Questions about the items in the listing should be directed to the agency person named at the end of each entry. Copies of the proposed forms and supporting documents may be obtained from: Department Clearance Officer, USDA, OIRM, Room 108–W Admin. Bldg., Washington, D.C. 20250, (292) 447–4414.

Comments on any of the items listed should be submitted to: Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503, ATTN: Desk Officer for USDA.

If you anticipate commenting on a submission but find that preparation time will prevent you from doing so promptly, you should advise the OMB Desk Officer of your intent as early as possible.

New

• Forest Service
Certified Bidder Statement of the Relationship to Other Bidders or Operators
On Occasion
Businesses or Other For-Profit: 200 responses; 20 hours; not applicable under 3504(h)
Rex Baumback (202) 475–3757

• Forest Service
Commercial Use of "Woodsy Owl" Symbol
Quarterly
Businesses or Other For-Profit: 56 responses; 84 hours; not applicable under 3504(h)
Arthur Morrison (202) 447–5060
Reinstatement

• Foreign Agricultural Service
Regulations Covering Export Financing of Sales of Agricultural Commodities Under the Commodity Credit Corporation (CCC)—Export Credit Sales Program (GSM–5)
On Occasion
Businesses or Other For-Profit: 750 responses; 937 hours; not applicable under 3504(h)
L. T. McElvain (202) 447–6225

• Agricultural Research Service
Biological Shipment Record-Beneficial Organisms
AD–941, 942, 943
On Occasion
State or Local Governments, Businesses or Other For-Profit, Federal Agencies or Employees: 800 responses; 400 hours; not applicable under 3504(h)
Jack Coulson (301) 344–3185

• Food and Nutrition Service
Work Registration Forms-Job Search Reporting
Annually
Individuals or Households plus State or Local Governments; 3,902,175 responses; 380,524 hours; not applicable under 3504(h)
Ellen Henigan (703) 756–3429

Susan B. Hess,
Acting Department Clearance Officer.

[FR Doc. 84–2774 Filed 1–31–84 8:45 am]
BILLING CODE 3410–01–M

Federal Grain Inspection Service

Designation Renewal of Columbus Grain Inspection, Inc. (OH)

AGENCY: Federal Grain Inspection Service, USDA.

ACTION: Notice.

SUMMARY: This notice announces the designation renewal of Columbus Grain Inspection, Inc., as an official agency responsible for providing official services under the U.S. Grain Standards Act, as amended (7 U.S.C. 71 *et seq.*) (Act).

EFFECTIVE DATE: March 1, 1984.

ADDRESS: James R. Conrad, Chief, Regulatory Branch, Compliance Division, Federal Grain Inspection Service, U.S. Department of Agriculture, 1400 Independence Avenue SW., Room 1647 South Building, Washington, DC 20250.

FOR FURTHER INFORMATION CONTACT: James R. Conrad, telephone (202) 447–8525.

SUPPLEMENTARY INFORMATION: This action has been reviewed and determined not to be a rule or regulation as defined in Executive Order 12291 and Secretary's Memorandum 1512–1; therefore, the Executive Order and Secretary's memorandum do not apply to this action.

The September 1, 1983, issue of the **Federal Register** (48 FR 39669) contained a notice from the Federal Grain Inspection Service (FGIS) announcing that Columbus' designation terminates on February 28, 1984 (this date should have read February 29), and requesting applications for designation as the agency to provide official services within each specified geographic area. Applications were to be postmarked by October 3, 1983.

Columbus was the only applicant for this designation.

FGIS announced the name of this applicant and requested comments on same in the October 28, 1983, issue of the **Federal Register** (48 FR 49895). Comments were to be postmarked by December 12, 1983.

Five comments were received, all recommending the designation renewal of Columbus.

FGIS has evaluated all available information, regarding the designation criteria in Section 7(f)(1)(A) of the Act

and in accordance with Section 7(f)(1)(B), and has determined that Columbus is able to provide official services in the geographic area for which its designation is being renewed. The assigned area is the entire geographic area, as previously described in the September 1 Federal Register issue.

Effective March 1, 1984, and terminating February 28, 1987, the responsibility for providing official inspection services in its specified geographic area is assigned to Columbus.

A specified service point, for the purpose of this notice, is a city, town, or other location specified by an agency to conduct official inspection services and where the agency and one or more of its licensed inspectors are located. In addition to the specified service points within the assigned geographic area, an agency will provide official services not requiring a licensed inspector to all locations within its geographic area.

Interested persons may contact the Regulatory Branch, specified in the address section of this notice, to obtain a list of the specified service points. Interested persons also may obtain a list of the specified service points by contacting the agency at the following address: Columbus Grain Inspection, Inc., P.O. Box 167, Circleville, OH 43113.

(Sec. 8, Pub. L. 94–582, 90 Stat. 2873 (7 U.S.C. 79))

Dated: January 23, 1984.

J. T. Abshier,

Director, Compliance Division.

[FR Doc. 84–2556 Filed 1–31–84; 8:45 am]

BILLING CODE 3410-EN-M

Request for Comments on Designation Applicants in the Areas Currently Assigned to Bloomington Grain Inspection Department (IL), Lubbock Grain Inspection and Weighing (TX), and Plainview Grain Inspection and Weighing Service, Inc. (TX)

AGENCY: Federal Grain Inspection Service, USDA.

ACTION: Notice.

SUMMARY: This notice requests comments from interested parties on the applicants for official agency designation in the areas currently assigned to Bloomington Grain Inspection Department, Lubbock Grain Inspection and Weighing, and Plainview Grain Inspection and Weighing Service, Inc.

DATE: Comments to be postmarked on or before March 19, 1984.

ADDRESS: Comments must be submitted in writing, in duplicate, to Lewis Lebakken, Jr., Information Resources Management Branch, Resources Management Division, Federal Grain Inspection Service, U.S. Department of Agriculture, Room 0667 South Building, 1400 Independence Avenue SW., Washington, DC 20250. All comments received will be made available for public inspection at the avove address during regular business hours (7 CFR 1.27(b)).

FOR FURTHER INFORMATION CONTACT: Lewis Lebakken, Jr., telephone (202) 382–1738.

SUPPLEMENTARY INFORMATION: This action has been reviewed and determined not to be a rule or regulation as defined in Executive Order 12291 and Secretary's Memorandum 1512–1; therefore, the Executive Order and Secretary's Memorandum do not apply to this action.

The December 1, 1983, issue of the **Federal Register** (48 FR 54258) contained a notice from the Federal Grain Inspection Service requesting applications for designation to perform official services under the U.S. Grain Standards Act, as amended (7 U.S.C. 71 *et seq.*) (Act), in the areas currently assigned to the official agencies. Applications were to be postmarked by January 3, 1984.

Bloomington Grain Inspection Department, Lubbock Grain Inspection and Weighing, and Plainview Grain Inspection and Weighing Service, Inc., the only applicants for each respective designation, requested designation for the entire geographic area currently assigned to each of those agencies.

In accordance with § 800.206(b)(2) of the regulations under the Act, this notice provides interested persons the opportunity to present their comments concerning the applicants for designation. All comments must be submitted to the Information Resources Management Branch, Resources Management Division, specified in the address section of this notice, and postmarked not later than March 19, 1984.

Comments and other available information will be considered in making a final decision. Notice of the final decision will be published in the **Federal Register**, and the applicants will be informed of the decision in writing.

(Sec. 8, Pub. L. 94–582, 90 Stat. 2873 (7 U.S.C. 79)).

Dated: January 23, 1984.

J. T. Abshier,

Director, Compliance Division.

[FR Doc. 84–2558 Filed 1–31–84; 8:45 am]

BILLING CODE 3410-EN-M

Request for Designation Applicants To Perform Official Services in the Geographic Areas Currently Assigned to Georgia Department of Agriculture (GA) and Schneider Inspection Service, Inc. (IN)

AGENCY: Federal Grain Inspection Service, USDA.

ACTION: Notice.

SUMMARY: Pursuant to the provisions of the U.S. Grain Standards Act, as amended (Act), official agency designations shall terminate not later than triennially and may be renewed in accordance with the criteria and procedures prescribed in the Act. This notice announces that the designation of two agencies will terminate, in accordance with the Act, and request applications from parties, including the agencies currently designated, interested in being designated as the official agency to conduct official services in the geographic area currently assigned to each specified agency. The official agencies are Georgia Department of Agriculture and Schneider Inspection Service, Inc.

DATE: Applications to be postmarked on or before March 2, 1984.

ADDRESS: Applications must be submitted to James R. Conrad, Chief, Regulatory Branch, Compliance Division, Federal Grain Inspection Service, U.S. Department of Agriculture, 1400 Independence Avenue SW., Room 1647 South Building, Washington, D.C. 20250. All applications received will be made available for public inspection at the above address during regular business hours.

FOR FURTHER INFORMATION CONTACT: James R. Conrad, telephone (202) 447–8525.

SUPPLEMENTARY INFORMATION: This action has been reviewed and determined not to be a rule or regulation as defined in Executive Order 12291 and Secretary's Memorandum 1512–1; therefore, the Executive Order and Secretary's Memorandum do not apply to this action.

Section 7(f)(1) of the Act (7 U.S.C. 71 *et seq.*, at 79(f)(1) specifies that the Administrator of the Federal Grain Inspection Service (FGIS) is authorized, upon application by any qualified agency or person, to designate such

agency or person to perform official services after a determination is made that the applicant is better able than any other applicant to provide official services in an assigned geographic area.

Georgia Department of Agriculture (Georgia), Agriculture Building, Capitol Square, Atlanta, GA 30334, was designated under the Act as an official agency for the performance of inspection functions on October 20, 1978; weighing functions on May 14, 1981. Schneider Inspection Service, Inc. (Schneider), 15406 White Oak, Lowell, IN 46356, was designated under the Act as an official agency for the performance of inspection functions on October 25, 1978.

The agencies' designations will terminate on July 31, 1984. This date reflects administrative extensions of official agency designations, as discussed in the July 16, 1979, issue of the Federal Register (44 FR 41275). Section 7(g)(1) of the Act states generally that official agencies' designations shall terminate no later than triennially and may be renewed according to the criteria and procedures prescribed in the Act.

The geographic area presently assigned to Georgia, pursuant to Section 7(f)(2) of the Act, and which is the area that may be assigned to the applicant selected for designation, is the entire State of Georgia, except those export port locations within the State.

The geographic area presently assigned to Schneider, in the States of Illinois and Indiana, pursuant to section 7(f)(2) of the Act, and which is the area that may be assigned to the applicant selected for designation, is the following:

Bounded on the North by the northern Will County line from Interstate 57 east to the Illinois-Indiana State line; the Illinois-Indiana State line north to Interstate 94; Interstate 94 east-northeast to the northern Laporte County line; the northern St. Joseph and Elkhart County lines;

Bounded on the East by the eastern and southern Elkhart County lines; the eastern Marshall County line;

Bounded on the South by the southern Marshall and Starke County lines; the eastern Jasper County line south-southwest to U.S. Route 24; U.S. Route 24 west to Indiana State Route 55; Indiana State Route 55 south to the Newton County line; the southern Newton County line west to U.S. Route 41; U.S. Route 41 north to U.S. Route 24; U.S. Route 24 west across the Indiana-Illinois State line to Illinois State Route 1; and

Bounded on the West by Illinois State Route 1 north to Kankakee County; the southern Kankakee County line west to U.S. Route 52; U.S. Route 52 north to Interstate 57; Interstate 57 north to the northern Will County line.

The following locations, outside of the foregoing contiguous geographic area, are presently assigned to Schneider and are part of this geographic area assignment:

1. Central Soya and Farmers Grain, Winamac, Pulaski County, Indiana; and
2. Tidewater Grain Company, Ford Iroquois Supply and Service, and Summer Elevator, Sheldon, Iroquois County, Indiana.

An exception to the described geographic area is the following location situated inside Schneider's area which has been and will continue to be serviced by Champaign-Danville Grain Inspection Departments, Inc.: Gillespie Grain Company, Pittwood, Iroquois County, Illinois.

Interested parties, including Georgia and Schneider, are hereby given opportunity to apply for designation as the official agency to perform the official services in the geographic areas, as specified above, under the provisions of Section 7(f) of the Act and § 800.196(b) of the regulations issued thereunder. Designations in the specified geographic areas are for the period beginning August 1, 1984, and ending June 30, 1987. Parties wishing to apply for designation should contact the Regulatory Branch, Compliance Division, at the address listed above for appropriate forms and information. Applications submitted and other available information will be considered in determining which applicant will be designated to provide official services in a geographic area.

(Sec. 8, Sec. 9, Pub. L. 94-582, 90 Stat. 2873, 2875 (7 U.S.C. 79, 79a))

Dated: January 23, 1984.

J. T. Abshier,

Director, Compliance Division.

[FR Doc. 84-2555 Filed 1-31-84; 8:45 am]

BILLING CODE 3410-EN-M

CIVIL AERONAUTICS BOARD

[Docket 41171; Order 84-1-111]

Application for Certificate Authority; Aeronaves de Puerto Rico; Order To Show Cause

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Order to Show Cause: Application of Aeronaves de Puerto Rico in Docket 41171 for certificate authority to provide scheduled foreign air transportation of persons, property and mail between New York, New York, and points in Puerto Rico, on the other hand, and points in the Dominican Republic, on the other. Order 84-1-111.

SUMMARY: The Board has tentatively found and concluded that Aeronaves' application should be dismissed, because the carrier has not demonstrated its continued fitness as required by section 401(r) of the Act. The board will consider the application further if the carrier supplies data required by § 204.5. The complete text of Order 84-1-111 is available as noted below.

DATES: Objections to the Board's tentative findings and conclusions shall be filed by February 22, 1984.

ADDRESSES: All pleadings should be filed in the Docket section, Civil Aeronautics Board, Washington, D.C. 20428 in Docket 41171.

FOR FURTHER INFORMATION CONTACT: Nicholas Lowry, Bureau of International Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428, (202) 673-5203.

SUPPLEMENTARY INFORMATION: The complete test of Order 84-1-111 is available from our Distribution Section, Room 100, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428. Persons outside the metropolitan area may send a postcard request for Order 84-1-111 to the Distribution Section, Civil Aeronautics Board, Washington, D.C. 20428.

By the Civil Aeronautics Board: January 26, 1984

Phyllis T. Kaylor,

Secretary.

[FR Doc. 84-2758 Filed 1-31-84; 8:45 am]

BILLING CODE 6320-01-M

[Order 84-1-107]

Fitness Investigation of Jet Fleet International Airlines, Inc., Order To Show Cause

AGENCY: Civil Aeronautics Board.

ACTION: Notice.

SUMMARY: The Board is proposing to find Jet Fleet International Airlines, Inc., fit, willing and able to engage in interstate and overseas scheduled air transportation of persons, property and mail.

DATES: Objections: All interested persons having objections to the Board's tentative fitness determination shall file, and serve upon all persons listed below, no later than February 16, 1984, a statement of objections, together with a summary of testimony, statistical data, and other material expected to be relied upon to support the objections.

ADDRESSES: Responses shall be filed in Docket 41804 and should be addressed to Docket Section, Civil Aeronautics Board, Washington, D.C. 20428, and should be served upon the governors of Texas and Colorado, the mayors of Dallas, Texas and Gunnison and Hayden Colorado, the airport managers of Dallas-Fort Worth International Airport, Gunnison Airport and Yampa Valley Airport, and the Federal Aviation Administration.

FOR FURTHER INFORMATION CONTACT: Paul W. Wallig, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428 (202) 673–5333.

SUPPLEMENTARY INFORMATION: The complete text of Order 84–1–107 is available from the Distribution Section, Room 100, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428. Persons outside the metropolitan area may send a postcard request for Order 84–1–107 to that address.

By the Civil Aeronautics Board: January 26, 1984.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 84–2757 Filed 1–31–84; 8:45 am]

BILLING CODE 6320–01–M

DEPARTMENT OF COMMERCE

International Trade Administration

Automated Manufacturing Equipment Technical Advisory Committee; Open Meeting

A meeting of the Automated Manufacturing Equipment Technical Advisory Committee (formerly the Numerically Controlled Machine Tool Technical Advisory Committee) will be held February 16, 1984, at 10:00 a.m., Herbert C. Hoover Building, Room B841, 14th Street and Constitution Avenue, NW., Washington, D.C. The Committee advises the Office of Export Administration with respect to technical questions which affect the level of export controls applicable to automated manufacturing equipment or technology.

General Session

1. Opening remarks by the Chairman.
2. Presentation of papers or comments by the public.
3. Discussion of the work plan for 1984.
4. Discussion for establishing subcommittees.
5. Discussion of possible export control of automated industrial control systems.
6. Discussion of possible export control of robots.
7. Discussion of possible export control of process controllers.
8. Discussion of critical technical data.
9. New Business.
10. Action items underway.
11. Action items due at next meeting.

The general session will be open to the public with a limited number of seats available. For further information or copies of the minutes contact Margaret Cornejo (202) 377–2583.

Dated: January 27, 1984.

Milton M. Baltas,

Director of Technical Programs, Office of Export Administration.

[FR Doc. 84–2783 Filed 1–31–84; 8:45 am]

BILLING CODE 3510–DT–M

[A–588–088]

Lightweight Polyester Filament Fabrics From Japan; Termination of Antidumping Duty Investigation

AGENCY: International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: On January 24 counsel on behalf of the U.S. industry producing lightweight polyester filament fabrics withdrew their antidumping petition, filed on January 4, 1983, on lightweight polyester filament fabrics from Japan. Based on that withdrawal, we are terminating the antidumping investigation (see counsel's letter below).

EFFECTIVE DATE: January 24, 1984.

FOR FURTHER INFORMATION CONTACT: Charles E. Wilson, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 377–5288.

SUPPLEMENTARY INFORMATION:

Case History

On January 4, 1983, we received a petition filed by counsel for Burlington Industries, Inc., Milliken & Co., J. P. Stevens & Co., Inc., Dan River, Inc., Texfi Industries, Frank Ix & Sons, Inc., and Bloomsburg Mills, Inc. on behalf of the U.S. industry producing lightweight polyester filament fabrics (LPFF). In accordance with the filing requirements of § 353.36 of the Commerce Department Regulations (19 CFR 353.36), the petitioner alleged that LPFF fom Japan are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Tariff Act of 1930, as amended (the Act), and that these imports are materially injuring, or are threatening to materially injure, a U.S. industry. The allegations of sales at less than fair value include an allegation that home market sales are being made at less than the cost of production in Japan.

After reviewing the petition, we determined that it contained sufficient grounds upon which to initiate an antidumping investigation. We notified the U.S. International Trade Commission (ITC) of our action and initiated such an investigation on January 24, 1983 (48 FR 3797). The ITC subsequently found, on February 18, 1983, that there is a reasonable indication that imports of LPFF are materially injuring, or are threatening to materially injure, a U.S. industry.

On May 20, 1983, we found this case to be extraordinarily complicated because of the large number of complex transactions and the large number of firms whose activities had to be investigated. We postponed our preliminary determination until August 2, 1983 (48 FR 23471).

On August 2, 1983, we preliminarily determined that LPFF from Japan were being sold in the United States at less than fair value (48 FR 35976). We held a hearing on November 1, 1983, to allow the parties an opportunity to address the issues.

During the period August 4 to September 1, 1983, we received letters from eight of the respondents requesting that the final determination be extended until December 21, 1983. We extended our final determination until that date.

On December 21, 1983, we determined that LPFF from Japan were being sold in the U.S. at less than fair value. (49 FR 472).

Scope of Investigation

The products covered by this investigation are lightweight polyester filament fabrics, currently provided for in items 338.5009, 338.5011, 338.5012, 338.5013, and 338.5015 of the *Tariff Schedules of the United States Annotated (TSUSA).*

Withdrawal of Petition

On January 24, 1984, petitioners notified us that they were withdrawing their petition and requested that the investigation be terminated. Under section 734(a) of the Act, upon withdrawal of a petition, the administering authority may terminate an investigation after giving notice to all parties to the investigation. We have notified all parties to this investigation of petitioners' withdrawal and our intention to terminate, and we have consulted with the International Trade Commission. We have determined that

termination of this case is in the public interest.

For these reasons, we are terminating our investigation of lightweight polyester filament fabrics from Japan.

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

January 24, 1984.

Wilmer, Cutler & Pickering,
1666 K Street, N.W.,
Washington, D.C.
January 24, 1984.

The Honorable Alan F. Holmer,
Deputy Assistant Secretary for Import Administration, International Trade Administration, U.S. Department of Commerce, Room 3099B, 14th & Constitution Avenue, N.W., Washington, D.C.

Re: *Lightweight Polyester Filament Fabric from Japan*

Dear Mr. Holmer: In light of the decision by the Government of Japan to limit licenses for exports of lightweight polyester filament fabric ("LPFF") to the United States to 150 million square yards in 1984 and 151.5 million square yards in 1985, the American Textile Manufacturers Institute, Inc., together with its member companies listed in Appendix 1 to the petition ("Petitioners"), withdraw the antidumping petition they filed on January 3, 1983 against imports of LPFF from Japan.

Sincerely,

John D. Greenwald,
Counsel for Petitioners.

[FR Doc. 84-2786 Filed 1-31-84; 8:45 am]
BILLING CODE 3510-DS-M

[C-588-040]

Certain Fasteners From Japan; Preliminary Results of Administrative Review of Countervailing Duty Order

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of Preliminary Results of Administrative Review of Countervailing Duty Order.

SUMMARY: The Department of Commerce has conducted an administrative review of the countervailing duty order on certain fasteners from Japan. The review covers the period January 1, 1982 through December 31, 1982.

As a result of the review, the Department has preliminarily determined the aggregate net subsidy to be 0.09 percent *ad valorem*, a rate the Department considers to be *de minimis*. Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: February 1, 1984.

FOR FURTHER INFORMATION CONTACT: Al Jemmott or Brian Kelly, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230; telephone: (202) 377-2786.

SUPPLEMENTARY INFORMATION:

Background

On May 26, 1983, the Department of Commerce ("the Department") published in the **Federal Register** (48 FR 23682) the final results of its last administrative review of the countervailing duty order on certain fasteners from Japan (42 FR 23147, May 6, 1977; amended by 44 FR 31972, June 4, 1979) and announced its intent to conduct the next administrative review. As required by section 751(a)(1) of the Tariff Act of 1930 ("the Tariff Act"), the Department has now conducted that administrative review.

Scope of the Review

Imports covered by the review are shipments of all Japanese fasteners currently classifiable under items 646.5400 and 646.5600, and non-metric Japanese fasteners currently classifiable under items 646.1700, 646.4000, 646.4100, 646.4920, 646.4940, 646.5100, 646.5300, 646.5800, 646.6020, 646.6040, 646.6320, 646.6340, 646.6500, 646.7200, 646.7400, 646.7500, 646.7600, and 646.7800 of the Tariff Schedules of the United States Annotated. The review covers the period january 1, 1982 through December 31, 1982 and the following programs: (1) Benefits received under the "Temporary Measures Act for Small and Midsized Businesses with regard to the High Yen Exchange Market" (High Yen law"); (2) the deferral of income taxes on export earnings under the Overseas Market Development Reserve ("OMDR"); and (3) other loans given at preferential rates by the People's Finance Corporation, the Bank of Commerce and Industrial Cooperatives, the Small Business Finance Corporation, and the Japan Development Bank.

Analysis of Programs

(1) High Yen Law

The two methods of assistance available under the High Yen Law and previously used by the fasteners industry, loans at preferrential rates and deferment of payment of interest on these loans, were terminated prior to the period of this review. Loans were for a period of six years and their benefits continued during 1982. The third method of assistance, special government credit guarantees, was not used by the fasteners industry. We have calculated the aggregate benefit from this program to be 0.01 percent *ad valorem*.

(2) OMDR

The OMDR program is offered by the Japanese government to firms with a total capitalization of 500 million yen or less. The program allows a firm the opportunity to set aside a portion of income earned on overseas operations. The amount set aside escapes taxation for up to 5 years. Twenty percent of the amount set aside must be returned to taxable income each year, and the total amount must be returned by the end of the fifth year. We have considered the taxes owed on these amounts set aside to be zero interest loans made by the government. We used as the benchmark, the average short term interest rate charged to small and medium sized enterprises as reported by the Japanese government. We have calculated the benefit under the OMDR program to be 0.08 percent *ad valorem*.

(3) Other Preferential Loan Programs

From information received from the Government of Japan, we conclude that no preferential loans were given to the fasteners industry during the period of review by the People's Finance Corporation, the Small Business Finance Corporation, the Bank of Commerce and Industrial Cooperatives, or the Japan Development Bank.

Preliminary Results of the Review

As a result of the review, we preliminarily determine the aggregate net subsidy to be 0.09 percent *ad valorem* for the period of review. The Department considers any rate less than 0.5 percent *ad valorem* to be *de minimis*. Therefore, the Department intends to instruct the Customs Service not to assess countervailing duties on any shipments of this merchandise exported on or after January 1, 1982 and on or before December 31, 1982.

Further, the Department intends to instruct the Customs Service to continue to waive the collection of a cash deposit of estimated countervailing duties, as provided for by section 751(a)(1) of the Tariff Act, on all shipments of such Japanese fasteners entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of the current review. This deposit waiver shall remain in effect until publication of the final results of the next administrative review.

Interested parties may submit written comments on these preliminary results within 30 days of the date of publication of this notice and may request disclosure and/or a hearing within 10 days of the date of publication. Any hearing, if requested, will be held 45 days after the date of publication or the first workday thereafter. Any request for an administrative protective order must

be made no later than 5 days after the date of publication. The Department will publish the final results of this administrative review including the results of its analysis of issues raised in any such written comments or at a hearing.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 355.41 of the Commmerce Regulations (19 CFR 355.41).

Alan F. Holmer,

Deputy Assistant Secretary, Import Administration.

[FR Doc. 84-2750 Filed 1-31-84; 8:45 am]

BILLING CODE 3510-DS-M

[C-201-016]

Certain Fresh Cut Flowers From Mexico; Preliminary Negative Countervailing Duty Determination

AGENCY: International Trade Administration, Commerce.

ACTION: Preliminary Negative Countervailing Duty Determination.

SUMMARY: We preliminarily determine that no benefits which constitute bounties or gants within the meaning of the countervailing duty law are being provided to producers or exporters in Mexico of fresh cut flowers, as described in the "Scope of Investigation" section of this notice. If this investigation proceeds normally, we will make our final determination by April 10, 1984.

EFFECTIVE DATE: February 1, 1984.

FOR FURTHER INFORMATION CONTACT: Rick Herring, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230, telephone (202) 377-0187.

SUPPLEMENTARY INFORMATION:

Preliminary Determination

Based upon our investigation, we preliminarily determine that there is no reason to believe that benefits which constitute bounties or grants within the meaning of section 303 of the Tariff Act of 1930, as amended (the Act), are being provided to producers or exporters in Mexico of fresh cut flowers, as described in the "Scope of Investigation" section of this notice.

Case History

On September 30, 1983, we received a petition from counsel for the California Floral Council, Floral Trade Council, and Roses, Inc., filed on behalf of the United States industry producing fresh cut flowers. The petition alleges that the government of Mexico bestows bounties or grants upon the production or exportation of fresh cut flowers within the meaning of section 303 of the Act.

We found the petition to contain sufficient grounds upon which to initiate a countervailing duty investigation and on October 20, 1983, we initiated a countervailing duty investigation (48 FR 49531). We stated that we would make our prliminary determination by December 27, 1983.

On December 5, 1983, we received a request by petitioners' counsel to extend the preliminary determination for 30 days. On December 7, 1983, the investigation was extended for the requested period of time (48 FR 55492). We stated we would make our preliminary determination by January 26, 1984.

Mexico is not a "country under the Agreement" within the meaning of section 701(b) of the Act, and therefore section 303 of the Act applies to this investigation. Under this section, since certain of the merchandise being investigated is dutiable, the domestic industry is not required to allege that, and the U.S. International Trade Commission is not required to determine whether, imports of this product cause or threaten material injury to a U.S. industry. Similarly, with respect to the merchandise which is nondutiable, no injury dermination is required by the ITC because there are no "international obligations" within the meaning of section 303(a)(2) of the Act which require such a determination for nondutiable merchandise from Mexico.

On November 2, 1983, we presented a questionnaire concerning the allegations in the petition to the government of Mexico in Washington, D.C. On December 20, 1983, we received the response to our questionnaire from the government of Mexico.

Scope of Investigation

The products covered by this investigation are fresh cut flowers which are currently imported under items numbers 192.1700, 192.2130, 192.2110, 192.2120, 192.1810, and 192.1890 of the *Tariff Schedules of the United States Annotated (TSUSA).* This investigation covers miniature carnations, standard carnations, pompon crysanthemums, standard crysanthemums, sweetheart roses, and hybrid tea and intermediate roses.

The period for which we are measuring bounties or grants is January 1, 1982 to September 30, 1983. For the preliminary determination we are measuring bounties or grants on the basis of benefits received by those companies which exported to the United States.

Analysis of Programs

In its response, the government of Mexico provided data for the applicable periods. Based upon our analysis of the petition and the response to our questionnaire, we determine the following:

I. Program Preliminarily Determined To Be Used but for Which More Information Is Needed

We preliminarily determine that the following programs has been used by a flower exporter, but that more infromation is needed to determine whether the program is countervailable.

A. The Funds Established With Relationship to Agriculture (FIRA)

Petitioners allege that the cut flower industry received benefits under this program. FIRA is a series of trusts administered by the Bank of Mexico. The main objective of FIRA is to develop Mexico's agricultural sector. To meet this objective FIRA provides short- and long-term financing, loan guarantees, and technical support to firms involved in agricultural production. The Fund for Agricultural Finance (FEFA) and the Fund for Technical Assistance and Guarantee for Agriculture Credit (FEGA) are two of the principal funds which operate under FIRA. FEFA was created in August of 1965 and provides investment funding to producers. FEGA was created in December of 1972 and guarantees credits granted to low income growers. FEGA also reimburses banks for technical services provided through the banks to growers..

The government of Mexico stated that only one flower company received a loan through FIRA. The loan was granted to Florex S.P.R. in 1983 to enable it to purchase the assets of another company, Flores de Occidente. In order to determine whether benefits received under FIRA are countervailable, we need to determine whether FIRA benefits may be contingent upon exports and/or whether FIRA is targeted to a "specific enterprise or industry, or group of enterprises or industries" within Mexico as specified in section 771(5)(B) of the Act.

In our "Final Negative Countevailing Duty Determination: Fresh Asparagus From Mexico" (48 F.R. 21618), we stated that the agricultural sector constitutes more than a single group of industries within the meaning of the Act. According to information from the Mexican government, it appears that

FIRA is available to a broad range of agricultural products, and possibly even for some non-agricultural enterprises. If this is the case, FIRA would not be countervailable based on our reasoning in *Fresh Asparagus*. Further, it does not appear that the Florex loan is targeted for exports. However, more information is needed on this program, because it is not clear from the response exactly what types of products are eligible to receive FIRA financing.

In any case, if we determine FIRA to be countervailable, the potential benefit from the Florex loan appears to be *de minimis*. However, petitioners have submitted information which petitioners claim evidences that FIRA has been more widely used by flower companies. Additional information regarding petitioners' claims will be sought, and information verified.

II. Programs Preliminarily Determined Not To Be Used

We preliminarily determine that the following programs have not been used by producers or exporters of cut flowers. Unless otherwise indicated, the basis for this preliminary determination is the Mexican government's statement that flower producers and exporters did not receive benefits under these programs.

A. Import Duty Reduction or Exemption

Petitioners allege that the cut flower industry may receive benefits under a law published on March 25, 1983 in the *Diario Oficial de la Federeacion (Diario Oficial)*. Under this law, duties owed on imported machinery and equipment used in producing fresh cut flowers may be reduced by up to 100 percent of the amount due. In its response to our questionnaire, the government of Mexico stated that none of the companies imported machinery or equipment during the period of investigation.

B. The Mexican Institute of Foreign Trade (IMCE)

IMCE was created by a law published December 31, 1979, in the *Diario Oficial*. IMCE promotes the foreign trade of Mexican products and coordinates efforts to stimulate foreign trade. IMCE performs a number of functions including organizing and directing trade fairs abroad, promoting the visits of foreign trade missions to Mexico, carrying out investigation to identify national products or services which might be in demand abroad, and providing exporters with technical assistance.

Petitioners allege that IMCE has provided assistance to the Mexican flower industry by: (1) Providing it with marketing research; (2) reimbursing the industry for the transportation cost of samples flown to potential U.S. customers; and (3) initiating a special project in 1980 to boost exports of flowers. According to the government of Mexico, the only service provided to the flower industry was a market study conducted in 1975.

C. Grant to the University of Floriculture

Petitioners allege that a grant was given to an institution that services the flower industry by conducting research and development on its behalf and by providing it with manpower training. According to the Mexican government, there is no University of Floriculture. The State University of Morelos offers a degree in ornamental agriculture, but the government of Mexico stated that no grant or special funding was given for this program.

D. Certificates of Fiscal Promotion (CEPROFI's)

In 1979 the government of Mexico introduced a four-year National Industrial Development Plan (NIDP) which sets forth broad economic goals for the country. Tax credits, called CEPROFI's are used to promote the NIDP goals, which include increased employment, encouragement of regional decentralization, and industrial development, particularly of small and medium-sized firms.

CEPROFI certificates are tax certificates of fixed value which may be used for a five-year period to pay federal taxes. Certain CEPROFI certificates are granted for carrying out investments in "priority" industrial activities including investment credits for new machinery; others are available to all industries on equal terms.

E. Guarantee and Development Fund for Medium and Small Industries (FOGAIN)

FOGAIN provides financing at interest rates below prevailing commercial rates to small and medium-sized firms in Mexico.

F. Trust for Industrial Parks, Cities, and Commercial Centers (FIDEIN)

This program is aimed at developing industrial parks and cities.

G. National Preinvestment Fund for Studies and Projects (FONEP)

The primary objective of FONEP is to assist firms to invest in economic feasibility studies.

H. Fondo Nacional de Fomento Industrial (FOMIN)

FOMIN operates as a trust fund, providing funding to certain small and medium-sized companies through either stock acquisition or the provision of loans at rates below those of commercial lending institutions.

I. Preferential State Investment Incentives

Certain Mexican states offer Mexican industries partial or total exemption from state taxes, free or low cost land, or certain local infrastructure improvements as incentives for establishing or expanding industrial facilities or incentives for exporting.

J. Government-financed Technology Development

Certain Mexican industries may receive benefits under the NIDP, in the form of grants to purchase technological services at new plants.

K. Preferential Vessel, Freight, Terminal, and Insurance Benefits

Industries in Mexico may benefit from rebates or other discounts on transporation, storage, and insurance expenses involved in exporting products to the United States.

L. Discounts and Rebates on Energy

Discounts on energy are given by the Mexican government to qualifying enterprises which are located in certain priority development regions established under the NIDP. The criteria for these price differentials available under the NIDP for energy products are contained in the Regulations Regarding Price Differentials published in the *Diario Oficial* on December 29, 1978, and June 19 and 21, 1979. Discounts and rebates on electricity are also available to qualifying industries through the Federal Electricity Commission.

M. Fund for Industrial Development (FONEI)

FONEI is a specialized financial development fund administered by the Bank of Mexico, which grants long-term credit, on terms inconsistent with commercial considerations, for the creation, expansion or modernization of enterprises in order to foster the efficient production of industrial goods, the production of goods capable of competing in the international market, and industrial decentralization.

N. Accelerated Depreciation

Mexican producers or exporters may be eligible for accelerated depreciation of certain equipment.

O. Fund for the Promotion of Exports of Mexican Manufactured Products (FOMEX)

The Fund for the Promotion of Exports of Mexican Manufactured Products (FOMEX) is a trust established by the government of Mexico to promote the manufacture and sale of exported products. The fund is administered by the Mexican Treasury Department with the Bank of Mexico acting as the trustee. The Bank of Mexico administers the financing of FOMEX loans through financial institutions which establish contracts for lines of credit with manufacturers and exporters.

In order for a company to be eligible for FOMEX financing for exports, the following requirements must be met: (1) The product to be manufactured must be included on a list made public by FOMEX; (2) the articles to be exported must have a minimum of 30 percent national content in direct production costs; (3) loans granted for pre-export must be in Mexican currency, while loans for export sales are established in U.S. dollars or any other foreign currency acceptable to the Bank of Mexico; and (4) the exporter must carry insurance against commercial risks to the extent of the loans. The maximum annual interest rate that credit institutions may charge borrowers for FOMEX pre-export financing is 8 percent, in Mexican pesos. The maximum annual interest rate for FOMEX export financing is 6 percent.

We also requested information from the Mexican government on possible FOMEX financing to U.S. importers of Mexican cut flowers. The government of Mexico stated that FOMEX financing is not available either to Mexican cut flower exporters or to U.S. importers of cut flowers because FOMEX financing is only available to manufactured products.

P. Article 94 Loans

The Bank of Mexico has established 12 categories of industries that are eligible to obtain financing under section II of Article 94 of the *General Law of Credit Institutions and Auxiliary Organizations* (the Banking Law). Most categories carry their own maximum interest rate, which is set by the Bank of Mexico. Category 12, which consists of exports of manufactured products, is the only category to carry a maximum interest rate of 8 percent.

This program has been incorrectly referred to as "Encaje Legal". Encaje Legal is the reserve requirements for lending institutions which are set by the Bank of Mexico under the Banking Law.

III. Program Determined To be Suspended

We preliminarily determine that the following program has been suspended.

A. Certificado de Devolucion de Impuesto (CEDI)

The Certificado de Devolucion de Impuesto (CEDI) is a tax certificate issued by the government of Mexico in an amount equal to a percentage of the f.o.b value of the exported merchandise or, if national insurance and transportation are used, a percentage of the c.i.f. value of the exported product. The CEDI's are non-transferable and may be applied against a wide range of federal tax liabilities (including payroll taxes, value-added taxes, federal income taxes, and import duties) over a period of five years from the date of issuance.

The government of Mexico suspended eligibility for CEDI tax certificates by an Executive Order published on August 25, 1982, in the *Diario Oficial*. The order abrogates prior executive orders which contained the list of products eligibile to receive CEDI certificates. Suspension of eligibility to apply for the CEDI was effective one day after publication of the Executive Order in the *Diario Oficial*. Futhermore, the government of Mexico stated that the flower industry did not use the CEDI program when it was in existence.

Verification

In accordance with section 776(a) of the Act, we will verify information used in reaching our final determination.

Public Comment

In accordance with § 355.35 of the Commerce Department Regulations, if requested, we will hold a public hearing to afford interested parties and opportunity to comment on this preliminary determination at 10 a.m. on February 29, 1984, at the U.S. Department of Commerce, Room 1851, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230.

Individuals who wish to participate in the hearing must submit a request to the Deputy Assistant Secretary for Import Administration, Room 3099B, at the above address within 10 days of this notice's publication. Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; (3) the reason for attending; and (4) a list of the issues to be discussed. In addition, prehearing briefs must be submitted to the Deputy Assistant Secretary by February 22, 1984. Oral presentations will be limited to issues raised in the briefs. All written views should be filed in accordance with 19 CFR 335.46 within 30 days of this notice's publication, at the above address and in at least 10 copies.

Dated: January 26, 1984.

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 84-2749 Filed 1-31-84; 8:45 am]
BILLING CODE 3510-DS-M

[A-122-005]

Carbon Steel Bars and Structural Shapes From Canada; Preliminary Results of Administrative Review of Antidumping Finding

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of preliminary results of administrative review of antidumping finding.

SUMMARY: The Department of Commerce has conducted an administrative review of the antidumping finding on carbon steel bars and structural shapes from Canada. The review covers carbon steel bars and structural shapes manufactured by Western Canada Steel Limited, its subsidiary, Vancouver Rolling Mills Ltd., the six other known exporters of this merchandise to the United States, and the period September 1, 1981, through August 31, 1982. The review indicates the existence of dumping margins for certain firms during the period.

As a result of the review, the Department has preliminarily determined to assess dumping duties equal to the calculated differences between United States price and foreign market value on their sales during the period. Where company-supplied information was inadequate or no information was received, we used the best information; available for assessment and estimated antidumping duties cash deposit purposes.

Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: February 1, 1984.

FOR FURTHER INFORMATION CONTACT: Sheila Forbes or Robert Marenick, Office of Compliances, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230, telephone (202) 377-2923/5255.

SUPPLEMENTARY INFORMATION:

Background

On April 8, 1983, the Department of Commerce ("the Department") published in the **Federal Register** (48 FR 15307-8) the final results of its last

administrative review of the antidumping finding on carbon steel bars and structural shapes from Canada (29 FR 13319, September 25, 1964) and announced its intent to immediately conduct its next administrative review. As required by section 751 of the Tariff Act of 1930 ("the Tariff Act"), the Department has now conducted that administrative review.

Scope of the Review

Imports covered by the review are shipments of carbon steel bars, bars-shapes under 3 inches, and structural shapes 3 inches and over, currently classifiable under items 606.8300 and 609.8000 of the Tariff Schedules of the United States Annotated, manufactured by Western Canada Steel Limited and/or its subsidiary, the Vancouver Rolling Mills Limited of Vancouver, Canada. The review covers Western Canada Steel Limited, its subsidiary, Vancouver Rolling Mills Limited, the six other known exporters of this merchandise to the United States, and the period September 1, 1981, through August 31, 1982.

Four firms did not export such Canadian carbon steel bars and structural shapes to the United States during the period. The estimated antidumping duties cash deposit rate for those firms will be the most recent rate for each firm. Western Canada Steel failed to respond to our questionnaire and one exporter provided an inadequate response to our questionnaire. For those two firms we used the best information available to determine the assessment and estimated antidumping duties cash deposit rates. The best information available is the most recent rate for each firm or the rate for the responding firm with shipments in the period, whichever is higher.

United States Price

In calculating United States price, the Department used purchase price, as defined in section 772 of the Tariff Act. Purchase price was based on the delivered packed price to the first unrelated purchaser in the United States. We make deductions for foreign and U.S. inland freight, U.S. duty and commissions to unrelated parties. No other adjustments were claimed or allowed.

Foreign Market Value

In calculating foreign market value, the Department used home market price, as defined in section 773 or the Tariff Act, since sufficient quantities of such or similar merchandise were sold in the home market to provide a basis for comparison. Home market price was based on the delivered packed price to unrelated purchasers, with an adjustment for inland freight. No other adjustments were claimed or allowed.

Preliminary Results of the Review

As a result of our comparison of United States price to foreign market value, we preliminarily determine that the following margins exist for the period September 1, 1981 through August 31, 1982:

Manufacturer/exporter	Margin (percent)
Western Canada Steel Ltd.	40.64
Western Canada/A.J. Forsyth Co., Ltd.	[1]0.01
Western Canada/Mitsubishi Canada Ltd.	[1]0.01
Western Canada/Mitsui & Co. (Canada) Ltd.	[1]0.01
Western Canada/Tudor Sales Ltd.	[1]0.01
Western Canada/Cam Chain Co., Ltd.	3.20
Western Canada/Chatham Steel Ltd.	3.20

[1] No shipments during the period.

Interested parties may submit written comments on these preliminary results within 30 days of the date of publication of this notice and may request disclosure and/or a hearing within 10 days of the date of publication. Any hearing, if requested, will be held 45 days after the date of publication or the first workday thereafter. Any request for an administrative protective order must be made within 5 days of the date of publication. The Department will publish the final results of the administrative review including the results of its analysis of any such comments or hearing.

The Department shall determine, and the Customs Service shall assess, dumping duties on all appropriate entries with purchase dates during the period. Individual differences between United States price and foreign market value may vary from the percentages stated above. The Department will issue appraisement instructions on each exporter directly to the Customs Service.

Further, as provided for in § 353.48(b) of the Commerce Regulations, a cash deposit of estimated antidumping duties based upon the above margins shall be required. Since the margins for A. J. Forsyth Co., Ltd., Mitsubishi Canada Ltd., Mitsui & Co. (Canada) Ltd., and Tudor Sales Ltd. are less than 0.5 percent, and therefore *de minimis* for cash deposit purposes, the Department shall waive the deposit requirement for shipments of carbon steel bars and structural shapes from those firms. For any future entries from a new exporter of carbon steel bars and structural shapes manufactured by Western Canada Steel, Ltd. or its subsidiary, Vancouver Rolling Mills Ltd., not covered in this or prior reviews, whose first shipments occurred after August 31, 1982 and who is unrelated to any reviewed firm, a cash deposit of 3.20 percent shall be required. These deposit requirements and waivers are effective for all shipments of carbon steel bars and structural shapes entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 353.53 of the Commerce Regulations (19 CFR 353.53).

Dated: January 24, 1984.

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 84-2761 Filed 1-31-84; 8:45 am]

BILLING CODE 3510-DS-M

[A-588-029]

Fish Netting of Man-Made Fibers From Japan; Preliminary Results of Administrative Review of Antidumping Finding and Tentative Determination To Revoke in Part

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of preliminary results of administrative review of antidumping finding and tentative determination to revoke in part.

SUMMARY: The Department of Commerce has conducted an administrative review of the antidumping finding on fish netting of man-made fibers from Japan. The review covers the 64 known manufacturers, exporters and eight known third-county resellers of this merchandise to the United States and generally two consecutive periods from June 1, 1980 through May 31, 1982. The review indicates the existence of dumping margins for certain firms in particular periods.

As a result of the review, the Department has preliminarily determined to assess dumping duties equal to the calculated differences between United States price and foreign market value on each of their sales during the periods of review. Where company-supplied information was inadequate or firms failed to respond to our questionnaire, we used the best information available for assessment and estimated antidumping duties cash deposit rates. The Department has also tentatively determined to revoke the finding with respect to Amikan Fishing Net Manufacturing Col., Ltd., Hakodate

Seimo Sengu Co., Ltd., and Ohmi Netting Col., Ltd./MItsui & Co., Ltd.

Interested parties are invited to comment on these preliminary results and tentative determination to revoke in part.

EFFECTIVE DATE: February 1, 1984.

FOR FURTHER INFORMATION CONTACT: Laurie Lucksinger or Susan Crawford, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230, telephone: (202) 377–1130.

SUPPLEMENTARY INFORMATION:

Background

On September 22, 1983, the Department of Commerce ("the Department") published in the Federal Register (48 FR 43210–12) the final results of its last administrative review of the antidumping finding on fish netting of man-made fibers from Japan (37 FR 11560, June 9, 1972) and announced its intent to conduct immediately its next administrative reivew. As required by section 751 of the Tariff Act of 1930 ("the Tariff Act"), the Department has now conducted that administrative review.

Scope of the Review

Imports covered by the review are shipments of fish netting of man-made fibers, currently classifiable under items 355.4520 and 355.4530 of the Tariff Schedules of the United States Annotated.

The review covers the 64 known Japanese manufacturers, exporters, and eight known third-country resellers of Japanese fish-netting of man-made fibers to the United States and generally two consecutive periods from June 1, 1980 through May 31, 1982.

Twelve manufacturers and/or exporters and three third-country resellers covered in the last review are not covered in this review. We found that those firms never exported Japanese fish netting of man-made fibers to the United States or are no longer in business.

Eleven exporters or resellers did not export Japanese fish netting of man-made fibers to the United States from June 1980 throug May 1981 and seventeen exporters or resellers did not export Japanese fish- netting of man-made fibers from June 1981 through May 1982. The estimated antidumping duties cash deposit rates for those firms will be based on the most recent rate for each firm. Twenty-four firms failed to respond to our questionaire for the June 1980 through May 1981 period and sixteen firms did not respond for the June 1981 through May 1982 period. For those non-responsive firms, we used the best information available to determine the assessment and estimated antidumping duties cash deposit rates. The best information available for the June 1980 though May 1981 period is the highest current rate for responding firms with shipments. The best information available for the June 1981 through May 1982 period is the most recent rate for each firm.

United States Price

In calculating United States price the Department used purchase price, as defined in section 772 of the Tariff Act. Purchase price was based on either the packed price to unrelated purchasers in the United States or to unrelated Japanese trading companies for export to the United States, as appropriate. Where applicable, deductions were made for U.S. and foreign inland freight, ocean freight, and marine insurance. No other adjustments were claimed or allowed.

Foreign Market Value

In calculating foreign market value the Department used home market price, as defined in section 773(a) of the Tariff Act when sufficient quantities of such or similar merchandise were sold in the home market to provide a basis for comparison. The Department used the price to unrelated purchasers in third, countries, as defined in section 773(a)(1)(B) of the Tariff Act, when there were insufficient quantities of such or similar merchandise sold in the home market. For comparison with sales to the United States by third-country resellers, we used the resellers' price to purchasers in their domestic markets since sufficient quantities of such or similar merchandise were sold in their domestic markets to provide a basis for comparison. Adjustments were made, where applicable, for foreign inland freight, ocean freight, insurance, duties, differences in credit costs, commissions to unrelated parties, and differences in packing costs. Further adjustments were made, where applicable, for differences in the physical characteristics of the merchandise in accordance with § 353.16 of the Commerce Regulations. No other adjustments were claimed or allowed.

Preliminary Results of the Review and Tentative Determination to Revoke in Part

As a result of our comparison of United States price to foreign market value, we preliminarily determine that the following margins exist:

	Time period	Margin (percent)
Manufacturer/exporter:		
Amikan Fishing Net Mfg. Co., Ltd	06/01/80–05/31/81	0
	06/01/81–05/31/82	0
Amsho Katsushiki Kaisha, Ltd	06/01/80–05/31/81	0
	06/01/81–05/31/82	0
Amita Company, Ltd	06/01/80–05/31/81	11.73
	06/01/81–05/31/82	8.46
Chunichi	06/01/81–05/31/82	4.35
Fukui Fishing Net Co., Ltd	06/01/80–05/31/81	4.90
	06/01/81–05/31/82	1.81
Hakodate Seimo Sengu Co., Ltd	06/01/80–05/31/81	0
	06/01/81–05/31/82	0
Hakodate Seimo Sengu Co., Ltd/ Mitsui & Co., Ltd	06/01/80–05/31/81	0
	06/01/81–05/31/82	0
Hashimoto Sangyo Co	06/01/80–05/31/81	37.83
	06/01/81–05/31/82	37.83
Hiraga Fishing Net Mfg. Co., Ltd	06/01/80–05/31/81	37.83
	06/01/81–05/31/82	37.83
Hiraga Fishing Net Mfg. Co., Ltd./Isanyo Enterprises Co., Ltd	06/01/80–05/31/81	37.83
	06/01/81–05/31/82	37.83
Hiraga Fishing Net Mfg., Co., Ltd./ Yamada Trading Co., Ltd	06/01/80–05/31/81	37.83
	06/01/81–05/31/82	37.83
Hiranka & Co., Ltd	06/01/81–05/31/82	37.83
Hirata Spinning Co., Ltd	06/01/80–05/31/81	37.83
	06/01/81–05/31/82	37.83
Hirata Spinning Co., Ltd./Nichimen Co., Ltd	06/01/80–05/31/81	37.83
	06/01/81–05/31/82	37.83
Ikesen K.K	06/01/80–05/31/81	37.83
	06/01/81–05/31/82	37.83
I.K.K. International Corp	06/01/80–05/31/81	16.07
	06/01/81–05/31/82	16.07
Iseo Co., Ltd	06/01/81–05/31/82	4.35
Inagaki Fishing Net Mfg. Co. Ltd./ Morikuni Shoten	06/01/80–05/31/81	37.83
	06/01/81–05/31/82	37.83
Inagaki Fishing Net Mfg. Co. Ltd./ Nichimen Co., Ltd	06/01/80–05/31/81	37.83
	06/01/81–05/31/82	0
Inagaki Fishing Net Mfg. Co. Ltd./ Shinwa Trading Co	06/01/80–05/31/81	37.83
	06/01/81–05/31/82	37.83
Itoh-Seni Mfg. Co., Ltd./Yamada Trading Co., Ltd	06/01/80–05/31/81	0
	06/01/81–05/31/82	0
Japan Mdse., Ltd	06/01/80–05/31/81	37.83
	06/01/81–05/31/82	37.83
Kasumi Fishing Net Mfg. Co., Ltd	06/01/80–05/31/81	37.83
	06/01/81–05/31/82	37.83
Kasumi Fishing Net Mfg. Co., Ltd./Sanyo Enterprise Co., Ltd	06/01/80–05/31/81	37.83
	06/01/81–05/31/82	47.83
Kataoka Seimo Co., Ltd./K.Y. Corp	06/01/80–05/31/81	1.6
	06/01/81–05/31/82	1.6
Kate Seime	06/01/80–05/31/81	37.83
	06/01/81–05/31/82	37.83
Kinoshita Fishing Net Mfg. Co., Ltd./ Nissho Iwai Corp	06/01/80–05/31/81	0.61
	06/01/81–05/31/82	4.35
K.K. Tanaka Sajke Seimo	06/01/81–05/31/82	4.35
Kokusai Gyomo	06/01/81–05/31/82	4.35
Kyoto Netting Co., Ltd	06/01/80–05/31/81	16.78
	06/01/81–05/31/82	16.78
Matano	06/01/80–05/31/81	37.83
	06/01/81–05/31/82	37.83
Maruhei & Co	06/01/80–05/31/81	37.83
	06/01/81–05/31/82	37.83
Miye Seime Co., Ltd	06/01/80–05/31/81	25.88
	06/01/81–05/31/82	29.88

	Time period	Margin (percent)
Momoi Fishing Net Mfg. Co.	06/01/80–05/31/81	5.43
	06/01/81–05/31/82	0.96
Mumin Co. Ltd.	06/01/80–05/31/81	[1] 18.30
	06/01/81–05/31/82	[1] 18.30
Morishita Fishing Net Mfg. Co., Ltd.	06/01/80–05/31/81	37.83
	06/01/81–05/31/82	37.83
Morishita Fishing Net Mfg. Co., Ltd./Mitsui	06/01/80–05/31/81	37.83
	06/01/81–05/31/82	37.83
Morishita Fishing Net Mfg. Co., Ltd./ Nissho Iwai Corp	06/01/80–05/31/81	37.83
	06/01/81–05/31/82	37.83
Morishita Fishing Net Mfg. Co., Ltd./ Tecnets	06/01/80–05/31/81	37.83
	06/01/81–05/31/82	0
Nagaura Seimosho Co., Ltd	06/01/80–05/31/81	[1] 4.30
	06/01/81–05/31/82	0
Nakazawa Gyomo Co., Ltd./Kanematsu Trading	06/01/80–05/31/81	37.83
	06/01/81–05/31/82	[1] 37.83
Nichimo Co., Ltd.	06/01/80–05/31/81	2.57
	06/01/81–05/31/82	0
Nippon Kensso Co., Ltd	06/01/80–05/31/81	0
	06/01/81–05/31/82	0
Odaka Seimo	06/01/81–05/31/82	4.35
Ogura Trading Co., Ltd.	06/01/80–05/31/81	37.83
	06/01/81–05/31/82	[1] 37.83
Ohmi Netting Co., Ltd./Mitsui & Co., Ltd	06/01/80–05/31/81	0
	06/01/81–05/31/82	0
Ohmi Netting Co., Ltd./ Nichimen Co., Ltd	06/01/80–05/31/81	2.41
	06/01/81–05/31/82	0
Ono Trading	06/01/80–05/31/81	[1] 6.78
	06/01/81–05/31/82	[1] 6.78
Osada Fishing Net Co., Ltd./Moribun Shoten	06/01/80–05/31/81	37.83
	06/01/81–05/31/82	0
Osada Fishing Net Co., Ltd./Nichimen Co., Ltd	06/01/80–05/31/81	37.83
	06/01/81–05/31/82	0
Osada Fishing Net Co., Ltd./Senyo	06/01/80–05/31/81	37.83
	06/01/81–05/31/82	37.83
Sasakura Net Kogyosho	06/01/80–05/31/81	37.83
	06/01/81–05/31/82	[1] 37.83
Taito Seiko Co., Ltd./ Nakamura Susan Co., Ltd	06/01/80–05/31/81	37.83
	06/01/81–05/31/82	37.83
Taiyo Gyogyo K.K	06/01/80–05/31/81	[1] 6.78
	06/01/81–05/31/82	[1] 6.78
Tame Bussan Co., Ltd.	06/01/80–05/31/81	37.83
	06/01/81–05/31/82	37.83
Toyama Fishing Net Mfg. Co	06/01/80–05/31/81	0.83
	06/01/81–05/31/82	0
Toyonen Co., Ltd.	06/01/80–05/31/81	[1] 6.78
	06/01/81–05/31/82	[1] 6.78
Tsugawa Seimo	06/01/80–05/31/81	37.83
	06/01/81–05/31/82	37.83
Tsuzuki Seimoshu/ Maku Enterprises	06/01/81–05/31/82	4.35
Wako Boeki K.K. (Wako Trading)	06/01/80–05/31/81	[1] 0
	06/01/81–05/31/82	4.35
Watanabe Chuzan Shoten	06/01/80–05/31/81	37.83
	06/01/81–05/31/82	37.83
Yagi Fishing Net Co., Ltd	06/01/80–05/31/81	37.83
	06/01/81–05/31/82	[1] 37.83
Yamagen	06/01/80–05/31/81	37.83
	06/01/81–05/31/82	37.83
Yamaji Fishing Net Co., Ltd	06/01/80–05/31/81	37.83
	06/01/81–05/31/82	0.33
Third-Country Reseller (Canada)		
Abco Acadia	06/01/80–05/31/81	[1] 6.78
	06/01/81–05/31/82	6.78
Atlantic Netting, Rope & Twine, Ltd.	06/01/80–05/31/81	[1] 18.30
	06/01/81–05/31/82	18.30
Bay Bulls Trading Co., Ltd	06/01/80–05/31/81	0
	06/01/81–05/31/82	[1] 0
Dennis Rose	06/01/80–05/31/81	37.83
	06/01/81–05/31/82	37.83
Gourock Division, Wire Rope Ind., Ltd.	06/01/80–05/31/81	37.83
	06/01/81–05/31/82	0.19
IMP Group (formerly John Leckie, Ltd.)	06/01/80–05/31/81	37.83
	06/01/81–05/31/82	[1] 37.83
Forsea (formerly J.P. Forgie, Ltd.)	06/01/80–05/31/81	37.83
	06/01/81–05/31/82	[1] 37.83
Pureic Supplies Co., Ltd	06/01/80–05/31/81	37.83
	06/01/81–05/31/82	37.83

[1] No shipments.

The Department has concluded that all sales by Amikan Fishing Net Manufacturing Co., Ltd., Hakodate Seimo Sengu Co., Ltd., and Ohmi Netting Co., Ltd./Mitsui & Co., Ltd., to the United States were made at not less than fair value for a two-year period. As provided for in § 353.54(e) of the Commerce Regulations, the firms have agreed in writing to an immediate suspension of liquidation and reinstatement in the finding if circumstances develop which indicate that Japanese fish netting of man-made fibers manufactured and exported by Amikan, Hakodate, and Ohmi/Mitsui is being sold by them to the United States at less than fair value.

Therefore, we tentatively determine to revoke the finding on fish netting of man-made fibers from Japan with regard to Amikan Fishing Net Manufacturing Co., Ltd., Hakodate Seimo Sengu Co., Ltd., and Ohmi Netting Co., Ltd./Mitsui & Co., Ltd. If this partial revocation is made final, it will apply to all unliquidated entries of this merchandise manufactured and exported by Amikan, Hakodate, and Ohmi/Mitsui, entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice.

The Department received additional requests for revocation from Mitsui & Co., Ltd., Miye Seimo Co., Ltd., Moribun Shoten, Nichimen Co., Ltd., and Toyama Fishing Net Mfg. Co. We are denying these requests with the exception of shipments manufactured by Ohmi and exported by Mitsui because the firms do not meet the requirement for the revocation in that our records show sales at less than fair value for these firms in the last two years.

Interested parties may submit written comments on these preliminary results and tentative determination to revoke in part within 30 days of the date of publication of this notice and may request disclosure and/or a hearing within 10 days of the date of publication. Any hearing, if requested, will be held 45 days after the date of publication or the first workday thereafter. Any request for an administrative protective order must be made no later than 5 days after the date of publication. The Department will publish the final results of the administrative review including the results of its analysis of any such comments or hearing.

The Department shall determine, and the U.S. Customs Service shall assess, dumping duties on all appropriate entries with purchase dates during the period involved. Individuals differences between United States price and foreign market value may vary from the percentage stated above. The Department will issue appraisement instructions on each exporter directly to the Customs Service.

Further, as provided by the § 353.48(b) of the Commerce Regulations, a cash deposit of estimate antidumping duties based upon the most recent of the above margins shall be required. Since the margins for Amita Co., Ltd., Yamaji Fishing Net Co., Ltd., and Gourock Division, Wire Rope Ind., Ltd., Cananda, are less than 0.5 percent and, therefore, *de minimus* for cash deposit purposes, the Department shall waive the deposit requirement for shipments of Japanese fish netting of man-made fibers from those firms. For any future entries from a new exporter not covered in this or prior reviews, whose first shipments occurred after May 31, 1982, and who is unrelated to any reviewed firm, a cash deposit of 4.35 percent shall be required. These deposit requirements and waivers are effective for all shipments of Japanese fish netting of man-made fibers entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this administration review.

This administrative review, tentative determination to revoke in part, and notice are in accordance with sections 751(a)(1) and (c) of the Tariff Act (19 U.S.C. 1675(a)(1), (c)) and § 353.53 and 353.54 of the Commerce Regulations (19 CFR 353.53 and 353.54).

Dated: January 20, 1984.

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 84–2753 Filed 1–31–84; 8:45 am]

BILLING CODE 3510–DS–M

[A-427-075]

Perchlorethylene From France; Final Results of Administrative Review of Antidumping Finding

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of Final Results of Administrative review of Antidumping Finding.

SUMMARY: On August 19, 1983, the Department of commerce published the preliminary results of its administrative review and tentative determination to revoke the antidumping finding on prechlorethylene from France. The review covers the only known exporter of this merchandise to the United States, Atochem (formerly Chloe Chimie), and the period May 1, 1982 through May 18, 1983.

We gave interested parties an opportunity to comment on the preliminary results and tentative determination to revoke. We received the same comment from Atochem and from the petitioners. Based on our analysis of the comment received, the final results of review remain unchanged from those presented in the preliminary results of review.

FOR FURTHER INFORMATION CONTACT: Arthur N. DuBois of Susan Crawford, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230, telephone: (202) 377-3813/1130.

SUPPLEMENTARY INFORMATION:

Background

On August 19, 1983, the Department of Commerce ("the Department") published in the **Federal Register** (48 FR 37678) the preliminary results of its administrative review and tentative determination to revoke the antidumping finding on perchlorethylene from France (44 FR 29045, May 18, 1979). The Department has now completed that administrative review.

Scope of the Review

Imports covered by the review are shipments of perchlorethylene, including technical grade and purified grade perchlorethylene. Perchlorethylene is a clear water-white liquid at ordinary temperature with a sweet ordor and is completely capable of being mixed with most organic liquids. It is a chlorinated solvent used mainly for drycleaning of clothing, but is also used in other applications such as vapor degreasing of metals. Such merchandies is currently classifiable under item 429.3400 of the Tariff Schedules of the United States Annotated.

The reviews covers the only known exporter of French perchlorethylene to the United States, Atochem (formerly Chloe Chimie), and the period May 1, 1982 through May 18, 1983. There were no known shipments of this merchandise to the United States during the period and there are no known unliquidated entries.

Analysis of Comments Received

We invited interested parties to comment on the preliminary results and tentative determination to revoke. We received the same comment from the petitioners and from Atochem.

Comment: The revocation should not apply to other French producers of percholrethylene unitl such producers have submitted a signed statemet, required by § 353.54(e) of the Commerce Regulations, agreeing to reinstatement of the finding in the event of future less than fair value sales.

Department's Positions: The Department concludes that only those companies who have exported merchandise subject to the finding during the period of the fair value investigation or up to the date of the tentative revocation, who have not previously been excluded nor received a revocation, are "parties who are subject to the revocation". Only those firms must sign a written agreement. When the last or the only company subject to a finding receives a revocation, the revocation becomes country-wide.

Final Results of Review

Based on our analysis, the final results of our review are the same as those presented in the preliminary results of review.

As provided for in § 353.48(b) of the Commerce Regulations, a cash deposit of 47.8 percent shall be required on all shipments of French perchlorethylene entered, or withdrawn from warehouse for consumption, on or after the date of publication of this notice.

The Department intends to begin immediately the next administrative review. The Department will examine exports by Atochem made during the period May 19, 1983 to August 19, 1983, the date of our tentative determination to revoke, in our next administrative review.

The Department encourages interested parties to review the public record and submit applications for protective orders, if desired, as early as possible after the Department's receipt of the information during the next administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff act of 1930 (19 U.S.C. 1675(a)(1)) and § 353.53 of the Commerce regulations (19 CFR 353.53).

Dated: January 25, 1984.

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 84-2752 Filed 1-31-84; 8:45 am]

BILLING CODE 3510-DS-M

Export Trade Certificate of Review

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of Application.

SUMMARY: The Office of Export Trading Company Affairs, International Trading Administration, Department of Commerce has received an application for an Export Trade Certificate of Review. This notice summarizes the conduct for which certification is sought and invites interested parties to submit information relevant to the determination of whether a certificate should be issued.

DATES: Comments on this application must be submitted on or before February 21, 1984.

ADDRESS: Interested parties should submit their written comments, original and five (5) copies, to: Office of Export Trading Company Affairs, International Trade Administration, Department of Commerce, Room 5618, Washington, D.C. 20230.

Comments should refer to this application as "Export Trade Certificate of Review, application number 84-00003."

FOR FURTHER INFORMATION CONTACT: Charles S. Warner, Director, Office of Export Trading Company Affairs, International Trade Administration, 202/377-5131, or Eleanor Roberts Lewis, Assistant General Counsel for Export Trading Companies, Office of General Counsel, 202/377-0937. These are not toll-free numbers.

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 (Pub. L. 97-290) authorizes the Secretary of Commerce to issue Export Trade Certificates of Review. The regulations implementing Title III are found at 48 FR 10596-10604 (Mar 11, 1983) (to be codified at 15 CFR Part 325). A certificate of review protects its holder and the members identified in it from private treble damage actions and from civil and criminal liability under Federal and state antitrust laws for the export trade, export trade activities and methods of operation specified in the certificate and carrierd out during its

effective period in compliance with its terms and conditions.

Standards for Certification

Proposed export trade, export trade activities, and methods of operation may be certified if the applicant establishes that such conduct will:

1. Result in neither a substantial lessening of competition or restraint of trade within the United States nor a substantial restraint of the export trade of any competitor of the applicant,

2. Not unreasonably enhance, stabilize, or depress prices within the United States of the goods, wares, merchandise, or services of the class exported by the applicant,

3. Not constitute unfair methods of competition against competitors engaged in the export of goods, wares, merchandise, or services of the class exported by the applicant, and

4. Not include any act that may reasonably be expected to result in the sale for consumption or resale within the United States of the goods, wares, merchandise, or services exported by the applicant.

The Secretary will issue a certificate if he determines, and the Attorney General concurs, that the proposed conduct meet these four standards. For a further discussion and analysis of the conduct eligible for certification and of the four certification standards, see "Guidelines for the Issuance of Export Trade Certificates of Review," 48 FR 15937–10 (April 13, 1983).

Request for Public Comments

The Office of Export Trading Company Affairs (OETCA) is issuing this notice in compliance with section 302(b)((1) of the Act which requires the Secretary to publish a notice of the application in the Federal Register identifying the persons submitting the application and summarizing the conduct proposed for certification. The OETCA and the applicant have agreed that this notice fairly represents the conduct proposed for certification. Through this notice, OETCA seeks written comments from interested persons who have information relevant to the Secretary's determination to grant or deny the application below. Information submitted by any person in connection with the application(s) is exempt from disclosure under the Freedom of Information Act (5 U.S.C. 552).

The OETCA will consider the information received in determining whether the proposed conduct is "export trade," "export trade activities," or a "method of operation" as defined in the Act, regulations and guidelines and whether it meets the four certification standards. Based upon the public comments and other information gathered during the analysis period, the Secretary may deny the application or issue the certificate with any terms or conditions necessary to assure compliance with the four standards.

The OETCA has received the following application for an Export Trade Certificate of Review:

Applicant: Am-Tech Export Trading Company, Inc., P.O. Box 23107, Jackson, Mississippi 39225–3107, (817) 283–8350

Application #: 84–00003

Date Received: January 13, 1984

Date Deemed Submitted: January 18, 1984

Members in Addition to Applicant: American Technology Corporation, P.O. Box 23107, Jackson, Mississippi 39225–3107, (817) 283–8350

A. Export Markets

Am-Tech and its member, American Technology Corporation, propose to export worldwide.

B. Export Trade

Am-Tech will deal in: Office and computing machines; engineering and scientific instruments; electrical industrial apparatus; electric distributing equipment; measuring and controlling devices; medical instruments and supplies; engineering and scientific instruments; radio and television receiving equipment; commercial printing; special industry machinery; and miscellaneous electrical equipment and supplies.

In connection with its export of these goods, Am-Tech will provide export trade facilitation services, including market identification, research, and development; advertising; marketing; insurance; transportation (including trade documentation and freight forwarding); communication and processing of foreign orders; foreign exchange; financing; taking title to goods; and after-sale services.

Am-Tech will establish and operate Intertrade Centers around the world to display the goods it exports. Intertrade Center staffs will include sales persons, credit specialists, systems engineers, and service and installation personnel.

American Technology will provide system engineering, installation and maintenance services on products exported through Am-Tech.

C. Export Trade Activities and Methods of Operation

Am-Tech seeks certification to enter, in conducting its export trade in the export markets, into:

(1) Exclusive export sales agency agreements with manufactures each wherein Am-Tech may agree not to present the manufacturer's competitors.

(2) Exclusive agreements with foreign sales representatives in the export markets each wherein Am-Tech may:

(i) Establish prices at which goods will be sold in the export markets;

(ii) Establish quotas of goods to be sold in the export markets by the foreign sales representative, and

(iii) Designate the territory in which the foreign sales representative will represent Am-Tech.

In addition, to bid on a foreign order for a system, Am-Tech will coordinate the bid with the manufacturers of the system's components.

The Office of Export Trading Company Affairs is issuing this notice in compliance with section 302(b)(1) of the Act which requires the Secretary to publish a notice of the application in the Federal Register. Interested parties have twenty (20) days from the publication of this notice in which to submit written information relevant to the determination of whether a certificate should be issued. Information submitted by any person in connecton with this application will be exempt from disclosure under the Freedom of Information Act (5 U.S.C. 552).

Dated: January 27, 1984.

Irving P. Margulies,

Acting General Counsel.

[FR Doc. 84–2782 Filed 1–31–84; 8:45 am]

BILLING CODE 3510-DR-M

National Oceanic and Atmospheric Administration

Public Hearings Scheduled for the Proposed Hawai'i Humpback Whale National Marine Sanctuary

AGENCY: Office of Ocean and Coastal Resource Management, National Ocean Service, NOAA, Commerce.

Notice is hereby given that the Office of Ocean and Coastal Resource Management (OCRM), National Ocean Service, National Oceanic and Atmospheric Administration (NOAA), U.S. Department of Commerce, will hold public hearings for the purpose of receiving comments on the Draft Environmental Impact Statement (DEIS) prepared on the proposed Hawai'i Humpback Whale National Marine Sanctuary.

All hearings will be held at 7:00 p.m. and have been scheduled for the following dates and locations:

February 13, 1984

Kauai—Kauai County Council Chamber, 4356 RiceStreet (Lihue)
Molokai—Mitchell Pauole Center Meeting Hall (Kaunakakai)
Hawaii—Hawaii County Council, Room 25, Auguni Street (Hilo)

February 14, 1984

Oahu—McCoy Pavilion, Ala Moana Park (Honolulu)
Lanai—Lanai Community Library Meeting Room (Lanai City)
Hawaii—Kealakehe School Cafeteria (Kailua, Kona)

February 15, 1984

Maui—Lahaina Civic Center (Lahaina)

The views of interested persons and organizations on the impact statement for the proposed Hawai'i Humpback Whale National Marine Sanctuary are solicited, and may be expressed orally or in writing. Those desiring to testify at the public hearings will be scheduled on a first-come, first heard basis. The time allowed each person wishing to testify may be limited subject to the discretion of the NOAA Hearings Officer.

The comment period for this draft environmental impact statement will end on March 20, 1984. As part of the procedures leading toward the designation of the proposed sanctuary, a Final Environmental Impact Statement (FEIS), reflecting the agency's consideration of these comments, must be prepared pursuant to the National Environmental Policy Act of 1969 and its implementing regulations. All written comments received by NOAA prior to the deadline will be included in the FEIS.

FOR FURTHER INFORMATION CONTACT:

Dr. Nancy Foster, Chief, Sanctuary Programs Division, Office of Ocean and Coastal Resource Management, National Ocean Service, NOAA, 330 Whitehaven Street, NW., Washington, D.C., 20235, telephone: 202/634–4236.

Federal Domestic Assistance Catalog 11.419 Coastal Zone Management Program Administration

Paul M. Wolff,

Assistant Administrator for Ocean Services and Coastal Zone Management.

[FR Doc. 84–2660 Filed 1–31–84; 8:45 am]

BILLING CODE 3510–08–M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Requesting Public Comment on Bilateral Consultations With the Government of the People's Republic of China

January 27, 1984.

The Chairman of the Committee for the Implementation of Textile Agreements (CITA), under that authority contained in E.O. 11651 of March 3, 1972, as amended, has issued the directive published below the the Commissioner of Customs to be effective on February 2, 1984. For further information contact Diana Bass, International Trade Specialist (202) 377–4212.

Background

On January 24, 1984, pursuant to the terms of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of August 19, 1983 between the Governments of the United States and the People's Republic of China, the Government of the United States requested consultations concerning imports into the United States of apparel products in Categories 442 (wool Skirts), 444 (women's girls' and infants' wool suits), and 638 (men's and boys' man-made fiber knit shirts), produced or manufactured in China and exported to the United States. Summary market disruption statements concerning each of these categories follow this notice.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983 (48 FR 55607), and December 30, 1983 (48 FR 57584).

Anyone wishing to comment or provide data or information regarding the treatment of these categories under the agreement with the People's Republic of China, or on any other aspect thereof, or to comment on domestic production or availability of apparel included in these categories, is invited to submit such comments or information in ten copies to Walter C. Lenahan, Chairman, Committee for the Implementation of Textile Agreements, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230. Since the exact timing of the consultations is not yet certain, it is requested that comments be submitted promptly. Comments or information submitted in response to this notice will be available for public inspection in the Office of Textiles and Apparel, Room 3100, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C. 20230, and may be obtained upon written request.

Further comment may be invited regarding particular comments or information received from the public which the Committee for the Implementation of Textile Agreements considers appropriate for further consideration.

The solicitation of comments regarding any aspect of the agreement or the implementation thereof is not a waiver in any respect of the exemption contained in 5 U.S.C. 553(a)(1) relating to matters which constitute "a foreign affairs function of the United States."

Under the terms of the bilateral agreeement, the People's Republic of China is obligated under the consultation provision to limit its exports to the United States of these products during the ninety-day period beginning on January 24, 1984 to the following amounts:

Category	90-day level of restraint[1] (dozen)
442	10,498
444	3,547
638	140,202

[1] January 24, 1984 to April 22, 1984.

The People's Republic of China is also obligated under the bilateral agreement, if no mutually satisfactory solution is reached during consultations, to limit its exports to the United States during the twelve-months following the ninety-day consultation period to the following amounts:

Category	12-month level of restraint[1] (dozen)
442	16,230
444	9,074
638	435,649

[1] April 23, 1984 to April 22, 1985.

The United States Government has decided, pending a mutually satisfactory solution, to control imports of textile products in Categories 442, 444 and 638 for the ninety-day period, at the levels described above. The United States remains committed to finding a solution concerning these categories. Should such a solution be reached in consultations with the Government of the People's Republic of China, further notice will be published in the **Federal Register**.

In the event the limits established for Categories 442, 444 and 638 for the ninety-day period are exceeded, such excess amounts, if allowed to enter at

the end of the restraint period, shall be charged to the levels (described above) defined in the agreement for the subsequent twelve-month period.

SUPPLEMENTARY INFORMATION: On December 22, 1983 a letter to the Commission of Customs was published in the Federal Register (48 FR 56638) from the Chairman of the Committee for the Implementation of Textile Agreements which established levels of restraint for certain categories of cotton, wool and man-made fiber textile products, produced or manufactured in the People's Republic of China and exported during 1984. The notice document which preceded that letter referred to the consultation mechanism which applies to categories to textile products under the bilateral agreement, such as Categories 442, 444 and 638 which are not subject to specific ceilings and for which levels may be established during the year. In the letter published below, pursuant to the bilateral agreement, the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to prohibit entry into the United States for consumption, or withdrawal from warehouse for consumption, of apparel products in Categories 442, 444 and 638, produced or manfactured in the People's Republic of China and exported during the indicated ninety-day period, in excess of the designated levels.

Ronald L. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

January 1984.

Summary Market Statements—China

Category 442—Wool Skirts, Women's, Girls' & Infants'

The U.S. market for women's, girls' and infants' wool skirts has been disrupted and U.S. producers of such skirts have been damaged by increased imports of Category 442. Imports of Category 442 were 235,000 dozen during the first eleven months of 1983, an increase of 86 percent over imports of a year earlier.

Imports increased 22 percent from 107,000 dozen in 1981 to 131,000 dozen in 1982. The ratio of imports to domestic production increased from 8.5 percent in 1981 to 9.6 percent in 1982. This ratio will be far higher in 1983 since imports are expected to nearly double.

China played a significant role in the market disruption. Imports of Category 442 from China totaled 29,996 dozen during the year ending November 1983, 440.7 percent higher than the 5,548 dozen imported a year earlier. Imports from China increased 442.3 percent during the first eleven months of 1983 compared with the same period in 1982. During this period China's import share increased to 12.7 percent from 4.3 percent a year earlier. China is the third largest supplier of Category 442. Of the four largest suppliers, all except China has agreed to limit their 1983 exports.

Category 444—Women's, Girls' and Infants' Wools Suits

U.S. imports of Category 444 from China during the year ending November 1983 were 20,193 dozen compared with only 727 dozen a year earlier. China is the fourth largest supplier of Category 444. The larger suppliers have specific limits or agreed levels covering Category 444 and a number of the smaller suppliers have specific limits which are below the year ending November imports from China.

The import increase of 59 percent resulted in the import to production ratio increasing from 36.3 percent in 1981 to 48.3 percent in 1982. With imports up 35.8 percent during the first eleven months of 1983, the ratio will probably range between 60 and 70 percent.

Category 638—Knit Shirts, Men's and Boys', Man-Made Fiber

The U.S. market for men's and boys' man-made fiber knit shirts has been disrupted and U.S. producers of such shirts have been damaged by increasing imports of Category 638. Category 638 imports were 6,019,000 dozen during the first eleven months of 1983, an increase of 11.4 percent over imports of a year earlier.

U.S. production of Category 638 declined from 33,447,000 dozen in 1981 to 32,586,000 dozen in 1982, a decline of 3 percent. Imports increased 5 percent over the same period, from 5, 588,000 dozen in 1981 to 5, 871,000 dozen in 1982. The ratio of imports to domestic production increased from 16.7 percent in 1981 to 18.0 percent in 1982. The 1983 ratio will be higher based on January–November 1983 imports.

China played a significant role in the market disruption. Imports of Category 638 from China totaled 401,000 dozen during the year ending November 1983, more than 13 percent higher than the 354,000 dozen imported a year earlier. Imports from China increased 13 percent during the first eleven months of 1983 compared with same period in 1982. China is the fourth largest supplier and the only major supplier of Category 638 which is not subject to a specific limit under the textile bilaterals.

January 27, 1984.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, D.C. 20229

Dear Mr. Commissioner: Under the terms of section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of August 19, 1983, between the Governments of the United States and the People's Republic of China; and in accordance with the provisions of Executive Order 11651 of March 3, 1972 as amended, you are directed to prohibit, effective on February 2, 1984, entry into the United States for consumption and withdrawal from warehouse of consumption of cotton, wool and man-made fiber textile products in Categories 442, 444 and 638, produced or manufactured in the People's Republic of China, and exported during the ninety-day period which began on January 24, 1984 and extends through April 22, 1984, in excess of the indicated levels of restraint:

Category	90-day levels of restraint [1] (dozen)
442	10,499
444	3,547
638	140,292

[1] The levels of restraint have not been adjusted to reflect any imports exported after January 23, 1984.

Textile products in Categories 442, 444 and 638 which have been exported to the United States prior to January 24, 1984 shall not be subject to this directive.

Textile products in Categories 442, 444 and 638 which have been released from the custody of the U.S. Customs Service under the provisions of 19 U.S.C. 1448(b) or 1484(a)(1)(A) prior to the effective date of this directive shall not be denied entry under this directive.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the Federal Register on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924) and December 14, 1983 (48 FR 55607), and December 30, 1983 (48 FR 57584).

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The action taken with respect to the Government of Republic of the People's Republic of China and with respect to imports of wool and man-made fiber textile products from People's Republic of China have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, these directions to the Commissioner of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 533. This letter will be published in the Federal Register.

Sincerely,
Ronald L. Levin,
Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 84-2754 Filed 1-31-84; 8:45 am]
BILLING CODE 3510-DR-M

CONSUMER PRODUCT SAFETY COMMISSION

Technical Advisory Panel on Allergic Sensitization; Establishment and Invitation for Membership Applications

AGENCY: Consumer Product Safety Commission.

ACTION: Notice of establishment and invitation for advisory panel membership applications.

SUMMARY: The Commission is establishing a Technical Advisory Panel on Allergic Sensitization to provide advice concerning allergic sensitization from chemicals in consumer products. The Commission is seeking applications from individuals interested in membership on this seven-member panel, particularly from dermatologists, allergists, dermatotoxicologists, chemists, and environmental toxicologists.

DATE: Applications for membership should be submitted by April 2, 1984.

ADDRESS: Applications should be sent to Virginia White, Health Sciences, Consumer Product Safety Commission, Washington, D.C. 20207.

FOR ADDITIONAL INFORMATION CONTACT: Virginia White, Health Sciences, Consumer Product Safety Commission, Washington, D.C. 20207; telephone (301) 492-6957.

SUPPLEMENTARY INFORMATION:

A. Background

Under the Federal Hazardous Substances Act (15 U.S.C. 1261 *et seq.*), the Consumer Product Safety Commission has authority to regulate household products that are or contain "strong sensitizers" (15 U.S.C. 1261 (f)(1)(A) and (k)). The Commission is planning to update its existing regulations on strong sensitizers, and desires technical advice from non-Commission experts.

B. Advisory Panel

To provide such advice, the Commission is establishing a seven-member Technical Advisory Panel on Allergic Sensitization. This panel will advise the Commission and staff on: (a) Appropriate evaluation and refinement of terms and criteria used in defining strong sensitizers under the Federal Hazardous Substances Act, (b) appropriate ranking, according to risk, of a long list of sensitizers found in consumer products, and (c) the scientific accuracy of a number of technical reports and recommendations to the Commission for labeling sensitizers found in consumer products. The Commission believes that the panel is necessary and in the public interest.

The duties of the panel will be solely advisory and will be limited to matters relating to strong sensitization potential hazards, as determined by the Commission or the Associate Executive Director for Health Sciences. The panel will exist for two years and will meet at least once each year, as determined by the Commission in consultation with the panel chairperson. Copies of the charter for the panel are available from Ann Hamann, Health Sciences, Consumer Product Safety Commission, Washington, D.C. 20207; telephone (301) 492-6957.

Each member of the panel shall be qualified by training and experience as one or more of the following: dermatologist (in particular with a specialty in contact dermatitis), allergist, dermatotoxicologist, chemist, and environmental toxicologist. To the extent possible, the Commission will seek a balanced membership so that consumers, government, and industry will be represented.

Members of the panel will not be compensated, but they will be reimbursed for authorized expenses such as travel. Recent regulations issued by the General Services Administration (GSA) on advisory committees prohibit agencies from compensating committee members except in ". . . exceptional cases where an agency head is unable to meet the need for technical expertise or the requirement for balanced membership solely through the appointment of noncompensated members. . . ." 41 CFR 101-6.1033(a); 48 FR 19330 (April 28, 1983). This prohibition is consistent with the intent of Congress and the President to control the costs of administering advisory committees, and is based on GSA's belief "* * * that a sufficient number of citizens of all backgrounds and qualifications can be found to provide advice and recommendations to the Federal Government through voluntary service on advisory committees." 48 FR 19326. The Commission hopes that it will be able to find fully-qualified experts to serve on the Technical Advisory Panel on Allergic Sensitization for expenses reimbursement only.

C. Membership Applications

The Commission will consider applications from individuals who are interested in serving on the Technical Advisory Panel on Allergic Sensitization, as well as from those who submit the names of other individuals. In the latter situation, the application should include a statement that the individual being nominated would be willing to serve on the panel.

Applications need not be submitted in a particular format, but they should contain the following information

1. Name of applicant for a position on the panel.

2. Home address and telephone number, including area code.

3. Employment affiliation (if any):

a. Current position and description of duties.

b. Employer's name, address and telephone number, including area code; type of employing organization (e.g., health care, manufacturing, educational, governmental, public interest, retail; etc.), including if self-employed.

c. Consulting work (if so, specify kind of consulting work, for whom performed, and if paid or volunteer).

d. CPSC contract work or grant (if so, specify contract title, number and involvement).

4. Experience/Expertise. Specify and describe any education, experience, publications related to strong sensitization (resumes or curriculum vitae may be submitted in response to this question).

5. Other affiliations. Without restating information given above, specify all past and current, paid and volunteer affiliations that bear any relationship to product safety or membership on the Technical Advisory Panel on Allergic Sensitization.

6. Signature of applicant or of individual submitting application on behalf of another individual.

Applications should be submitted by April 2, 1984. They should be sent to Virginia White, Health Sciences, Consumer Product Safety Commission, Washington, D.C. 20207. She will also respond to any questions and will provide additional information where possible.

D. Privacy Act Notice

The information requested in section C may become part of a Privacy Act system of records and will be used to evaluate applicants for the Technical Advisory Panel on Allergic Sensitization. There are no penalties for not submitting the information, except for possibly precluding selection of an applicant. The authority for collecting the information is section 9 of the Federal Advisory Committee Act. 5 U.S.C. App. 1.

Dated: January 28, 1984.

Sadye E. Dunn,

Secretary,

Consumer Product Safety Commission.

[FR Doc. 84-2887 Filed 1-31-84; 8:45 am]

BILLING CODE 6355-01-M

DEPARTMENT OF DEFENSE

Office of the Secretary

Per Diem, Travel and Transportation Allowance Committee

Correction

In FR Doc. 83-34720 beginning on page 57587 in the issue of Friday, December 30, 1983, make the following correction to the table on page 57588: In the first entry under Alaska, the maximum rate for Adak should read "$12.60".

BILLING CODE 1505-01-M

Department of the Navy

Performance of Commercial Activities; Announcement of Program Cost Studies

Department of the Navy intends to conduct OMB Circular A-76 (48 FR 37110, August 16, 1983) cost studies for the operation of the following ships under the Military Sealift Comand (MSC) commencing March 2, 1984. Since studies not yet begun, specifications not yet prepared. When bids/proposals desired, appropriate advertisements will be placed. No consolidated bidders' list being maintained. Solicitations will be processed by MSC.

Ship	Hull No.	Name	Nominal homeport
Oceanography Research/Survey			
T-AGS	21	USNS Bowditch	Bayonne, NJ.
T-AGS	22	USNS Dutton	Oakland CA.
T-AGS	25	USNS Bent	Oakland, CA.
T-AGS	27	USNS Kane	Bayonne, NJ.
T-AGS	29	USNS Chauvenet	Oakland, CA.
T-AGS	32	USNS Harkness	Bayonne, NJ.
T-AGS	33	USNS Wilkes	Bayonne, NJ.
T-AGS	34	USNS Wyman	Bayonne, NJ.
T-AGS	36	USNS Hess	Oakland, CA.
T-AGOR	7	USNS Lynch	Bayonne, NJ.
T-AGOR	12	USNS Dutteiguer	Oakland, CA.
T-AGOR	13	USNS Bartlett	Bayonne, NJ.
T-AGOR	16	USNS Hayes	Bayonne, NJ.
Cable Operations			
T-ARC	2	USNS Aeolus	Oakland, CA.
T-ARC	3	USNS Neptune	Bayonne, NJ.
T-ARC	6	USNS Myer	Oakland, CA.
T-ARC	7	USNS Zeus	Oakland, CA.
T-AGOR	11	USNS Mizar	Oakland, CA.
T-AK	280	USNS Furman	Oakland, CA.
Missile Range Instrumentation			
T-AGM	20	USNS Redstone	Bayonne, NJ.
T-AGM	22	USNS Range Sentinel	Bayonne, NJ.
T-AGM	23	USNS Observation Island	Oakland, CA.
T-AG	194	USNS Vanguard	Bayonne, NJ.
Tugs			
T-ATF	166	USNS Powhatan	Bayonne, NJ.
T-ATF	167	USNS Narragansett	Oakland, CA.
T-ATF	168	USNS Catawba	Oakland, CA.
T-ATF	169	USNS Navajo	Oakland, CA.
T-ATF	170	USNS Mohawk	Bayonne, CA.
T-ATF	171	USNS Sioux	Oakland, CA.
T-ATF	172	USNS Apache	Bayonne, CA.

Dated: January 23, 1984.

B. W. Cook,

Captain, SC, USN, Head, Commercial Retail/ Activities Branch.

[FR Doc. 84-2888 Filed 1-31-84; 8:45 am]

BILLING CODE 3810-AE-M

Office of Conservation and Renewable Energy

Solicitation for a Cooperative Agreement Award

AGENCY: Conservation and Renewable Energy Office, Energy.

ACTION: Notice of Solicitation for a Cooperative Agreement Award.

SUMMARY: DOE announces that, pursuant to the DOE Financial Assistance Rules, 10 CFR 600.7(b) eligibility for the award of a cooperative agreement to analyze, develop and field test several mechanical retrofit measures has been restricted to the Alliance to Save Energy (ASE), Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Ernest C. Freeman, Jr., CE-115, U.S. Department of Energy, Office of Building Energy Research and Development, Washington, D.C. 20585, telephone 202/ 252-9436. Refer to Solicitation No. DE-01-84CE-24444.

Authority: Part A, Title IV of the Energy Conservation and Production Act, Pub. L. 94-385, 90 Stat. 1151 (42 U.S.C. 6861); DOE Financial Assistance Rule, 10 CFR 600.7(b).

Project Scope: The objectives of this cooperative agreement are to demonstrate the best available energy technology for retrofitting gas, oil, and electric heating systems, and to provide training and technical assistance to State agencies administering energy conservation programs for the poor. Eligibility for award of this cooperative agreement is being restricted to the Alliance to Save Energy because of its unique capability to conduct a comprehensive mechanical systems retrofit program for low-income households. ASE is a non-profit coalition of business, government, public interest, and labor representatives dedicated to increasing the efficiency of energy use. The DOE expects to award a two-year cooperative agreement which will begin on January 30, 1984. The total amount of DOE funds to be awarded is approximately $700,000.

Issued in Washington, D.C. on January 17, 1984.

Pat Collins,

Acting Assistant Secretary, Conservation and Renewable Energy.

[FR Doc. 84-2736 Filed 1-31-84; 8:45 am]

BILLING CODE 6450-01-M

DEPARTMENT OF ENERGY

Office of Hearings and Appeals

Objection To Proposed Remedial Orders Filed With the Office of Hearings and Appeals; Period of November 28 Through December 9, 1983

During the period of November 28 through December 9, 1983, the notices of objection to proposed remedial orders listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Any person who wishes to participate in the proceeding the Department of Energy will conduct concerning the proposed remedial orders described in the Appendix to this Notice must file a request to participate pursuant to 10 CFR 205.194 within 20 days after publication of this Notice. The Office of Hearings and Appeals will then determine those persons who may participate on an active basis in the proceeding and will prepare an official service list, which it will mail to all persons who filed requests to participate. Persons may also be placed on the official service list as non-participants for good cause shown.

All requests to participate in these proceedings should be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20585.

Dated: January 18, 1984.

George B. Breznay,

Director, Office of Hearings and Appeals.

Fedco Oil Co., Houston, Texas, HRO-0202

On December 8, 1983, Fedco Oil Co. (Fedco), One Houston Center, Suite 1800, Houston, Texas 77002, filed a Notice of Objection to a Proposed Remedial Order

which the Houston Office of the Economic Regulatory Administration of the DOE issued to the firm on November 1, 1983. In the PRO, the Houston Office found that during the period March 1978 through July 1979, Fedco resold crude oil at prices in excess of its actual purchase prices without providing any service or other function traditionally and historically associated with the resale of crude oil, thus violating 10 CFR 212.186, 205.202, and 210.62. According to the PRO, the Fedco violation resulted in $369,896.16 of overcharges.

Mar-Low Corp., Lafayette, Louisiana, HRO–0203

On December 8, 1983, Mar-Low Corp. and Ruffin T. Coury, 1144 Collidge Blvd., Lafayette, Louisiana, filed a Notice of Objection to a Proposed Remedial Order which the DOE Houston District Office of Enforcement issued to the firm on September 30, 1983. In the PRO the Houston District found that during April 1974 to February 1976, Mar-Low violated the Mandatory Price Regulations applicable to crude oil by selling 153,595.87 barrels of old and new oil in excess of the lawful ceiling price. According to the PRO the Mar-Low violation resulted in $280,936.71 of overcharges.

[FR Doc. 84–2739 Filed 1–31–84; 8:45 am]

BILLING CODE 6450–01–M

Objection to Proposed Remedial Orders Filed With the Office of Hearings and Appeals; Week of December 26 Through December 30, 1983

During the week of December 26 through December 30, 1983, the notices of objection to proposed remedial orders listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Any person who wishes to participate in the proceeding the Department of Energy will conduct concerning the proposed remedial orders described in the Appendix to this Notice must file a request to participate pursuant to 10 CFR 205.194 within 20 days after publication of this Notice. The Office of Hearings and Appeals will then determine those persons who may participate on an active basis in the proceeding and will prepare an official service list, which it will mail to all persons who filed requests to participate. Persons may also be placed on the official service list as non-participants for good cause shown.

All requests to participate in these proceedings should be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20585.

Dated: January 18, 1984.

George B. Breznay,

Director, Office of Hearings and Appeals.

Houma Oil Company, Inc., Houma, Louisiana, HRO–0206, Motor Gasoline

On December 29, 1983, Houma Oil Company, Inc., P.O. Box 229, Houma, Louisiana 70361 filed a Notice of Objection to a Proposed Remedial Order which the DOE Houston Office of the Economic Regulatory Administration issued to the firm on November 21, 1983. In the PRO the Houston Office found that during the period May 1, 1979 through April 30, 1980 Houma Oil Company violated the motor gasoline pricing regulations of 10 CFR 212.92 and 212.93. According to the PRO the Houma Oil Company, Inc. violation resulted in $503,810.00 of overcharges.

Nola Oil Company, Jefferson, Louisiana, HRO–0205, Motor Gasoline

On December 28, 1983, Nola Oil Company, 525 South Jefferson Highway, Jefferson, Louisiana 70105, filed a Notice of Objection to a Proposed Remedial Order which the DOE Houston Office of the Economic Regulatory Administration issued to the firm on December 1, 1983. In the PRO the Houston Office found that during the period October 1, 1979 through December 31, 1979, Nola violated the regulatory provisions of 10 CFR 212.92 and 212.93 regarding the pricing of gasoline. According to the PRO the Nola Oil Company violation resulted in $141,793.00 of overcharges.

[FR Doc. 84–2740 Filed 1–31–84; 8:45 am]

BILLING CODE 6450–01–M

ENVIRONMENTAL PROTECTION AGENCY

Applicability Determination; Prevention of Significant Deterioration Requirements; Southwestern Public Service Co.; Amarillo, Texas

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Applicability Determination.

SUMMARY: The Environmental Protection Agency (EPA), Region 6, has determined that the regulations for prevention of significant deterioration of air quality (PSD), 40 CFR 52.21 (as amended on August 7, 1980) and 40 CFR 51.2303 are applicable to the proposed modification of air pollution control equipment by Southwestern Public Service Company (SPS) at their Harrington Unit 1 station in Amarillo, Texas. The details of the proposed modification are outlined in a letter from the Texas Air Control Board to EPA, Region 6, dated January 21, 1983, and in a subsequent letter dated September 9, 1983. The proposed modification will result in a significant net emissions increase of at least one pollutant and, as such, qualifies as a "major modification" as defined in the PSD regulation. The determination of PSD applicability was issued on December 14, 1983.

DATES: Under Section 307(b)(1) of the Clean Air Act, judicial review of this determination is available only by the filing of a petition for review in the United States Court of Appeals in the appropriate circuit within sixty (60) days of today's notice. Under Section 307(b)(2) of the Clean Air Act, any requirements associated with the above action may not be challenged later in civil or criminal proceedings that may be brought by the EPA to enforce the requirements.

In the above case, the appropriate court is the U.S. Court of Appeals, for the 5th Circuit for sources in Texas. A petition for review must be filed with the appropriate court on or before (60 days from date of notice).

ADDRESSES: Copies of the background material, EPA's rationale on the decision of PSD applicability, and the determination are available for public inspection during normal business hours at the following location: Environmental Protection Agency, Region 6, Air Branch, InterFirst II, 1201 Elm Street, Dallas, Texas 75270; (214) 767–1594.

Dated: January 24, 1984.

Frances E. Phillips,

Acting Regional Administrator.

[FR Doc. 84–2733 Filed 1–31–84; 8:45 am]

BILLING CODE 6560–50–M

[OPP–100006; PH–FRL 2514–5]

Life Systems, Inc.; Transfer of Data to Contractor

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA plans to transfer information submitted under sections 3 and 6 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) to Life Systems, Inc., 24755 Highpoint Road, Cleveland, Ohio 44122, under Contract No. 68–01–6750. Some of the information that will be made available ot the contractor has been claimed to be confidential business information (CBI). The contractor has met all the requirements of 40 CFR 2.301(h)(2) and consequently the data will be transferred for performance of the contract. The action will enable Life Systems, Inc. to fulfill the obligations of the contract, and this notice serves to notify affected persons.

DATE: Life Systems, Inc. will be given access to these documents no sooner than February 6, 1984.

FOR FURTHER INFORMATION CONTACT:
By mail: William C. Grosse, Program Management and Support Division (TS–757C), Office of Pesticide Programs, Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460
Office location and telephone number: Rm. 222, CM No. 2, 1921 Jefferson Davis Highway, Arlington, Virginia, (703–557–2613).

SUPPLEMENTARY INFORMATION: The Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) section 10(e) provides that confidential business information (CBI), or business information which is alleged to be confidential, may be disclosed to an authorized contractor when such disclosure is necessary for the performance of the contract. EPA routinely receives such CBI as part of the data that are submitted by pesticide registrants and others as provided for in FIFRA section 7. Contractors are authorized to receive such data if the EPA program office managing the contract makes the determinations specified in 40 CFR 2.301(h)(2) as referenced in § 2.307. Such determinations have been made concerning the contract with Life Systems, Inc. of Cleveland, Ohio. This contractor will provide technical support in development of drinking water criteria documents and health advisories including outreach program support.

FIFRA section 10(f) provides a criminal penalty for wrongful disclosure of confidential information, whether such disclosure is made by an EPA employee or an EPA contractor.

The contract with Life Systems, Inc., specifically prohibits disclosure of confidential business information to any third party in any form without written authorization from EPA, and Life Systems, Inc.'s personnel will be required to sign a nondisclosure agreement before they are permitted access to such information.

Dated: January 18, 1984.

Edwin L. Johnson,

Director, Office of Pesticide Programs.

[FR Doc. 84–2318 Filed 1–31–84; 8:45 am]
BILLING CODE 6560–50–M

[OPTS–51438; TSH–FRL 2499–8]

Receipt of Premanufacture Notices

Correction

In FR Doc. 83–34648, beginning on page 57618, in the issue of Friday, December 30, 1983, in the second column, in the "**DATES**" paragraph, in the third line "84–269," should be inserted after "84–268,".

BILLING CODE 1505–01–M

FEDERAL COMMUNICATIONS COMMISSION

Subcommittee Meetings of the FCC Industry Advisory Committee Standards for DBS Service

There will be several subcommittee meetings of the FCC Industry Advisory Committee on Technical Standards for DBS Service in February 1984. These meetings will be held in Washington, D.C.

- Subcommittee on Transmission Standards:
  February 15, 1984
  9:30 A.M.
  CBS, 1800 M Street, 3rd flr
- Subcommittee on Receiver Standards:
  February 16, 1984
  9:30 A.M.
  FCC/OST 2025 M Street, Rm 7317
- Subcommittee on Encryption Standards:
  February 16, 1984
  2:00 P.M.
  Commission Meeting Room, 1919 M Street

The general agenda for these meetings is as follows:

1. Approval of minutes of previous meetings,
2. Approval of agenda,
3. Discussion of reports of working groups,
4. Other business,
5. Date of next meeting(s).

Those seeking further information may contact Bruno Pattan, FCC/OST at (202) 653–9098.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 84–2899 Filed 1–31–84; 8:45 am]
BILLING CODE 6712–01–M

Travel Reimbursement experiment

AGENCY: Federal Communications Commission.

ACTION: Publishing of quarterly report on travel reimbursement experiment.

SUMMARY: In Pub. L. 97–259, the Congress authorized the Federal Communications Commission to accept reimbursement from non-Government organizations for travel of employees of the Commission. The Federal Communications Commission must keep records of such travel by event and prepare a report each quarter of all reimbursements allowed and provide copies of each quarterly report to the Senate Committee on Appropriations, House Committee on Appropriations, Senate Committee on Commerce, Science and Transportation, and the House Committee on Energy and Commerce. This must be done each quarter until September 30, 1985. In addition, the Federal Communications Commission must publish each quarterly report in the **Federal Register** until September 30, 1985.

DATES: This report is for the period from October 1, 1983 through December 31, 1983.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Geoffrey Sherman, Office of the Managing Director, (202) 632–6900.

SUPPLEMENTARY INFORMATION: This report for the quarter ending December 31, 1983 is as follows:

Federal Communications Commission Travel Reimbursement Experiment Summary Report

Total Number of Sponsored Events: 11.

Total Number of Sponsored Organizations: 11.

Total Number of Commissioners/Employees Attending: 19.

Total Amount of Reimbursement:	
Transportation	$5,383.08
Room	2,811.25
Board	855.58
Other Expenses	799.70
Total	9,849.61

[1] Individual Event Reports Attached.

Individual Event Reports

Sponsoring Organization: National Radio Broadcasters Association, 1705 DeSales Street NW., Suite 500, Washington, D.C. 20036.

Date(s) of the Event: October 2–5, 1983.

Description of the Event: To attend the National Radio Broadcasters Association Convention in New Orleans, Louisiana.

Name(s) of Commissioners Attending: N/A.

Number and Title of other Employees Attending:
1—Bureau Chief
1—Deputy Bureau Chief
2—Supervisory Electronics Engineers, Mass Media Bureau
1—Attorney Adviser Office of General Counsel

Amount of Reimbursement:

Transportation	$1,322.00
Room	825.00
Board	41.21
Other Expenses	210.02
Total	[1] 2,402.23

[1] Reimbursement Estimated—travel processing not complete or Reimbursement billed, but not received.

Sponsoring Organization: Chicago Industrial Communications Association, 2107 Swift Drive, Oak Brook, Illinois 60521.

Date(s) of the Event: December 13–14, 1983.

Description of the Event: To participate in the annual CICA Telecommunications Review Conference in Chicago, Illinois.

Name(s) of Commissioners Attending: N/A.

Number and Title of other Employees Attending: 1 Attorney Adviser, Common Carrier Bureau.

Amount of Reimbursement:

Transportation	$270.00
Room	100.00
Board	50.00
Other Expenses	80.00
Total	[1] 500.00

[1] Reimbursement Estimated—travel processing not complete or Reimbursement billed, but not received.

Sponsoring Organization: MDS Industry Association, 1629 K Street NW., Suite 500, Washington, D.C. 20006.

Date(s) of the Event: October 30—November 1, 1983.

Description of the Event: To participate as a panel member at the "National Over-The-Air Pay TV Conference" in Los Angeles, California.

Name(s) of Commissioners Attending: N/A.

Number and Title of other Employees Attending:

1—Supervisory Attorney Adviser, Mass Media Bureau
1—Supervisory General Attorney Common Carrier Bureau

Amount of Reimbursement:

Transportation	$520.00
Room	360.67
Board	133.61
Other Expenses	226.27
Total	[1] 1,240.55

[1] Reimbursement Estimated—travel processing not complete or Reimbursement billed, but not received.

Sponsoring Organization: Television Bureau of Advertising, 485 Lexington Avenue, New York, NY 10017.

Date(s) of the Event: October 15–18, 1983.

Description of the Event: To attend the annual meeting in Las Vegas, Nevada.

Name(s) of Commissioners Attending: N/A.

Number and Title of other Employees Attending: 1, Supervisory Attorney Adviser, Mass Media Bureau.

Amount of Reimbursement:

Transportation	$396.00
Room	112.28
Board	43.56
Other Expenses	34.88
Total	[1] 586.72

[1] Reimbursement Estimated—travel processing not complete or Reimbursement billed, but not received.

Sponsoring Organization: California Cable Television Association, 4341 Piedmont Avenue, P.O. Box 11080, Oakland, California 94611.

Date(s) of the Event: October 12–16, 1983.

Description of the Event: To participate in the 1983 Western Cable Show in Anaheim, California.

Name(s) of Commissioners Attending: N/A.

Number and Title of other Employees Attending:

1—Attorney Adviser Office of the Chairman
1—Supervisory General Attorney
1—Supervisory Electronics Engineer, Mass Media Bureau

Amount of Reimbursement:

Transportation	$583.00
Room	700.00
Board	312.50
Other Expenses	80.00
Total	[1] 1,675.50

[1] Reimbursement Estimated—travel processing not complete or Reimbursement billed, but not received.

Sponsoring Organization: New York State Broadcasters Association, Inc., 90 State Street, Suite 530, Albany, New York 12207.

Date(s) of the Event: October 25–26, 1983.

Description of the Event: To participate in the annual meeting of the New York State Broadcasters Association in Albany, New York.

Name(s) of Commissioners Attending: N/A.

Number and Title of other Employees Attending: 1 Supervisory Attorney Adviser, Mass Media Bureau.

Amount of Reimbursement:

Transportation	$206.00
Room	64.80
Board	19.70
Other Expenses	16.02
Total	[1] 306.52

[1] Reimbursement Estimated—travel processing not complete or Reimbursement billed, but not received.

Sponsoring Organization: National Association of Broadcasters, 1771 N Street NW., Washingon, D.C. 20036.

Date(s) of the Event: October 12–13, 1983.

Description of the Event: To participate in the Directional Antenna Seminar in Cleveland, Ohio.

Name(s) of Commissioners Attending: N/A.

Number and title of other Employees Attending: 1, Communications Industry Specialist Mass Media Bureau.

Amount of Reimbursement:

Transportation	$169.00
Room	225.00
Board	10.00
Other Expenses	30.21
Other Expenses	30.21
Total	[1] 454.21

[1] Reimbursement Estimated—travel processing not complete or Reimbursement billed, but not received.

Sponsoring Organization: Offshore Navigation, Inc., 5728 Jefferson Highway, P.O. Box 23504, Harahan, Louisiana 70183.

Date(s) of the Event: October 26–27, 1983.

Description of the Event: To attend the demonstration of the SPOT system developed by ONI in New Orleans, Louisiana.

Name(s) of Commissioners Attending: N/A.

Number and Title of other Employees Attending:

1—Supervisory Electronics Engineer
1—Electronics Engineer Private Radio Bureau

Amount of Reimbursement:

Transportation	$256.00
Room	30.00
Board	20.00
Other Expenses	25.00
Total	[1] 331.00

[1] Reimbursement Estimated—travel processing not complete or Reimbursement billed, but not received.

Sponsoring Organization: The Institute of Electrical and Electronic Engineers, Inc., West Virginia University, Morgantown, WV 26506–6101.

Date(s) of the Event: October 20, 1983.

Description of the Event: To speak to the IEEE at its monthly meeting.

Name(s) of Commissioners Attending: N/A.

Number and Title of other Employees Attending: 1, Electronics Engineer Office of Science and Technology.

Amount of Reimbursement:

Transportation	$146.00
Room	81.50

Board	31.00
Other Expenses	16.50
Total	[1] 225.00

[1] Reimbursement Estimated—travel processing not complete or Reimbursement billed, but not received.

Sponsoring Organization: TELEVENT USA, 1120 Connecticut Avenue NW., Washington, D.C. 20036.

Date(s) of the Event: October 23–25, 1983.

Description of the Event: To be a guest speaker at Televent 83 in Montreux, Switzerland.

Name(s) of Commissioners Attending: Chairman Fowler.

Number and Title of other Employees Attending: N/A.

Amount of Reimbursement:

Transportation	$1,303.00
Room	200.00
Board	93.25
Other Expenses	16.10
Total	[1] $1,612.35

[1] Reimbursement Estimated—travel processing not complete or Reimbursement billed, but not received.

Sponsoring Organization: Association of American Railroads, Communications and Signal Division, 1920 L Street NW., Washington, D.C. 20036.

Date(s) of the Event: October 17–19, 1983.

Description of the Event: To attend the annual meeting of the AAR Communications and Signal Division in Toronto, Canada.

Name(s) of Commissioners Attending: N/A.

Number and Title of other Employees Attending:
1, Bureau Chief Private Radio Bureau.

Amount of Reimbursement:

Transportation	$192.08
Room	162.00
Board	96.75
Other Expenses	64.70
Total	[1] $515.53

[1] Reimbursement Estimated—travel processing not complete or Reimbursement billed, but not received.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 84-2528 Filed 1-31-84; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL MARITIME COMMISSION

Controlled Carriers Under the Shipping Act, 1916

AGENCY: Federal Maritime Commission.

ACTION: Listing of Controlled Carriers.

SUMMARY: The Federal Maritime Commission is adding MISR Shipping Company (MISR) to the list of "controlled carriers" subject to the advanced tariff filing and other regulatory requirements of section 18(c) of the Shipping Act, 1916.

DATE: None.

FOR FURTHER INFORMATION CONTACT: Robert G. Drew, Director, Bureau of Tariffs, Federal Maritime Commission, 1100 L Street, NW., Washington, D.C. 20573.

SUPPLEMENTARY INFORMATION: Sections 1 and 18(c) of the Shipping Act, 1916 (46 U.S.C. 801, 817(c)) provide for the regulation of rates or charges by certain state-owned or so-called "controlled carriers" in the foreign commerce of the United States. Based on information submitted by MISR Shipping Company (MISR), the Commission determined that MISR meets the definition of a "controlled carrier" as set forth in section 1 of the Act. MISR was so notified by letter dated November 15, 1983, and did not contest this determination. The Commission is therefore adding MISR to the list of "controlled carriers" published in the Federal Register on July 11, 1983.

The process of identification and classification of controlled carriers is continuous. The "controlled carrier" list is therefore amended as such carriers enter and leave the United States trades or become exempt from the regulatory requirements of section 18(c).

By the Commission. January 23, 1984.

Francis C. Hurney,

Secretary.

[FR Doc. 84-2736 Filed 1-31-84; 8:45 am]

BILLING CODE 6730-01-M

[Agreement No. 10494]

Westbound Space Charter Agreement; Availability of Finding of No Significant Impact

Upon completion of an environmental assessment, the Federal Maritime Commission's Office of Energy and Environmental Impact has determined that the Commission's decision on Agreement No. 10494 will not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969, 42 U.S.C. 4321 *et seq.*, and that preparation of an environmental impact statement is not required.

The proposed Agreement is between Barber West Africa Line (BWAL) and Societe Ivorieune de Transport Maritime (SITRAM). It is a space charter agreement under which SITRAM would charter space from BWAL for cargo moving from Ivory Coast ports to U.S. Atlantic and Gulf ports.

This Finding of No Significant Impact (FONSI) will become final by February 21, 1984, unless a petition for review is filed pursuant to 46 CFR 547.6(b).

The FONSI is available from the Office of the Secretary, Room 11101, Federal Maritime Commission, Washington, D.C. 20573, telephone (202) 523–5725.

Francis C. Hurney,

Secretary.

[FR Doc. 84-2734 Filed 1-31-84; 8:45 am]

BILLING CODE 6730-01-M

[Agreement No. 10490]

Westwood Transpacific Service; Availability of Finding of No Significant Impact

Upon completion of an environmental assessment, the Federal Maritime Commission's Office of Energy and Environmental Imapct has determined that the Commission's decision on Agreement No. 10490 will not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), and that preparation of an environmental impact statement is not required. Agreement No. 10490, between Leif Hoegh and Co. A/S and Westwood Shipping Lines, Inc., provides for a joint cargo service to be known as Westwood Transpacific Service. The service will operate in the trade between the United States/British Columbia West Coast and the Far East including, but not limited to, Japan, Korea and Taiwan.

This Finding of No Significant Impact (FONSI) will become final by February 21, 1984, unless a petition for review is filed pursuant to 46 CFR 547.6(b).

The FONSI is available from the Office of the Secretary, Room 11101, Federal Maritime Commission, Washington, D.C. 20573, telephone (202) 523–5725.

Francis C. Hurney,

Secretary.

[FR Doc. 84-2735 Filed 1-31-84; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Agency Forms Under Review by OMB

January 26, 1984.

Background

When executive departments and independent agencies propose public use forms, reporting, or recordkeeping requirements, the Office of Management and Budget (OMB) reviews and acts on those requirements under the Paperwork Reduction Act (44 U.S.C. Chapter 35). Departments and agencies use a number of techniques to consult with the public on significant reporting requirements before seeking OMB approval. OMB in carrying out its responsibilities under the act also considers comments on the forms and recordkeeping requirements that will affect the public. Reporting or recordkeeping requirements that appear to raise no significant issues are approved promptly. OMB's usual practice is not to take any action on proposed reporting requirements until at least ten working days after notice in the **Federal Register**, but occasionally the public interest requires more rapid action.

List of Forms Under Review

Immediately following the submission of a request by the Federal Reserve for OMB approval of a reporting or recordkeeping requirement, a description of the report is published in the **Federal Register**. This information contains the name and telephone number of the Federal Reserve Board clearance officer (from whom a copy of the form and supporting documents is available). The entries are grouped by type of submission—i.e., new forms, revisions, extensions (burden change), extensions (no change), and reinstatements.

Copies of the proposed forms and supporting documents may be obtained from the Federal Reserve Board clearance officer whose name, address, and telephone number appear below. The agency clearance officer will send you a copy of the proposed form, the request for clearance (SF 83), supporting statement, instructions, transmittal letters, and other documents that are submitted to OMB for review.

FOR FURTHER INFORMATION CONTACT:

Federal Reserve Board Clearance Officer—Cynthia Glassman—Division of Research and Statistics, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 (202–452–3829)

OMB Reviewer—July McIntosh—Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3208, Washington, D.C. 20503 (202–395–6880)

Request for Approval of Two New Reports

1. *Report title:* Dealer Monthly Report
Agency form No. FR 2079
Frequency: Monthly
Reporters: Nonprimary U.S. Government securities dealers Small businesses are affected
General description of report: Respondent's obligation to reply is voluntary; a pledge of confidentiality is promised [5 U.S.C. 552(b)(4)].

Report collects monthly data on the positions, transactions, and financing of U.S. Government and Federal agency securities from 50 nonprimary Government securities dealers.

2. *Report title:* Daily Report of When Issued Commitments Outstanding
Agency form No. FR 2080
Frequency: Daily
Reporters: Primary U.S. Government securities dealers Small businesses are not affected
General description of report: Respondent's obligation to reply is voluntary; a pledge of confidentiality is promised [5 U.S.C. 552(b)(4)].

Report collects information on significant "when-issued" commitments of the primary dealers in U.S. Government securities and their customers.

Board of Governors of the Federal Reserve System, January 26, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84–2689 Filed 1–31–84; 8:45 am]

BILLING CODE 6210–01–M

A.S.B. Bancshares, Inc.; Engaging de Novo in Permissible Nonbanking Activities

The bank holding company listed in this notice has filed a notice under § 225.23(a)(1) of the Board's Regulation Y (49 FR 794) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (49 FR 794) to commerce or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, this activity will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments on the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than February 27, 1984.

A. Federal Reserve Bank of Kansas City (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *A.S.B. Bancshares, Inc.*, Archie, Missouri, a company with total assets of less than $50 million, to engage, through its subsidiary, a corporation proposed to be formed for such purposes, in the sale of general insurance, except life insurance and annuities. This notice supersedes a notice previously published on the basis that Applicant's insurance activities would be conducted in a community with a population not exceeding 5,000.

Board of Governors of the Federal Reserve System, January 26, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84–2691 Filed 1–31–84; 8:45 am]

BILLING CODE 6210–01–M

Dominion Bankshares Corp.; Proposed de Novo Nonbank Activities

The organization identified in this notice has applied, pursuant to section 4(c)(8) of the Bank Holding Company

Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to the application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any comment on the application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than the date indicated.

Comments on the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than February 21, 1984.

A. Federal Reserve Bank of Richmond (Lloyd W. Bostian, Jr., Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. *Dominion Bankshares Corporation*, Roanoke, Virginia, to engage through its subsidiary, Dominion Bankshares Services, Inc., Roanoke, Virginia, in acting as insurance agent or broker with respect to credit unemployment insurance that is directly related to an extension of credit by a bank or bank-related subsidiary of Dominion Bankshares Corporation.

Board of Governors of the Federal Reserve System, January 26, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-2880 Filed 1-31-84; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 84D-0015]

Draft Guideline for the Submission of Supporting Documentation for Packaging of Human Drugs and Biologics

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a draft guideline for the submission of supporting documentation for the packaging of human drugs and biologics. FDA is making this draft guideline available for public comment to assist it in developing a final guideline. The guideline is intended to furnish pharmaceutical manufacturers with a set of criteria for use in preparing information on the fabrication and quality of containers and container components as required for submission in a new drug application, an abbreviated new drug application, an investigational new drug application, and a biological product license application. The draft guideline was prepared by FDA's National Center for Drugs and Biologics.

DATE: Comments by April 2, 1984.

ADDRESS: Requests for a copy of the draft guideline and written comments regarding the draft guideline to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Neil M. Abel, National Center for Drugs and Biologics (HFN-102), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-43-4330.

SUPPLEMENTARY INFORMATION: In the proposed revisions of the new drug and antibiotic regulations, published in the **Federal Register** of October 19, 1982 (47 FR 46622), and the proposed revisions of the investigational new drug regulations, published in the **Federal Register** of June 9, 1983 (48 FR 26720), FDA stated that it intended to expand the use of guidelines to provide assistance in implementing those regulations. In this notice, FDA is announcing the availability of a draft of the first of the new guidelines.

This draft guideline would provide pharmaceutical manufacturers with criteria for use in preparing information on the fabrication and quality of containers and container components as required for submission in a new drug application, an abbreviated new drug application, an investigational new drug application, and a biological product license application. The use of these criteria in packaging for human drugs and biologics would assure that the package helps to maintain the standards of identity, strength, quality, and purity for the drug for its intended shelf life.

The draft guideline is being made available for public comment before being issued in final form as the official position of the agency. If, following the receipt of comments, the agency concludes that the draft guideline reflects acceptable criteria for use in the preparation of information on the fabrication and quality of human drug and biologic containers and container components, the guideline will be made final and its availability will be announced under § 10.90(b) (21 CFR 10.90(b)). That section provides for the use of guidelines to establish procedures of general applicability that are not legal requirements but are acceptable to the agency. A person who follows a guideline can be assured that his or her conduct will be acceptable to the agency. A person may also choose to use alternative procedures even though they are not provided for in the guideline. A person who choose to do so may discuss the matter further with the agency to prevent an expenditure of money and effort for work that the agency may later determine to be unacceptable. Therefore, interested persons are encouraged to use this opportunity to submit comments on the draft guideline if they have suggestions for its revision.

The proposed investigational new drug regulations incorporated the policy objective of limiting FDA regulation of Phase 1 investigations primarily to safety concerns to ensure that research subjects are not exposed to unreasonable risk. In the proposal, the agency stated that it intended to limit the scope of chemistry-related submissions to that which is necessary to support the scope and duration of the proposed human testing. In keeping with these goals, FDA specifically solicits comments on the nature and extent of packaging information needed to support Phase 1 investigations.

Interested persons may, on or before April 2, 1984, submit written comments on the draft guideline to the Dockets Management Branch (address above). Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. The draft guideline and received comments may be seen in the

Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday. Requests for a single copy of the draft guideline should be sent to the Dockets Management Branch.

Dated: January 25, 1984.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 84-2998 Filed 1-31-84; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 83M-0425]

Syntex Ophthalmics, Inc.; Premarket Approval of the CSI®T (Crofilcon A) Contact Lens

Correction

In FR Doc. 84-1142 beginning on page 2021 of the issue of Tuesday, January 17, 1984, make the following corrections:

1. On page 2021, third column, last line of the **ADDRESS** section, add the zip code "20847".

2. On page 2022, second column, fourth line from the top of the page, "U.S.C. 41-48" should read "U.S.C. 41-58".

BILLING CODE 1505-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Powder River Federal Coal Production Region, Wyoming and Montana; Draft Environmental Impact Statement (DEIS) Availability

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, notice is hereby given that the Bureau of Land Management (BLM), Department of the Interior, has prepared a Draft Powder River Federal Coal Leasing Environmental Impact Statement, which analyzes a second round of proposed competitive leasing of Federal coal in the Powder River Basin Coal Production Region, Wyoming and Montana. Copies of the draft EIS are available to the public at the address provided below.

The Department of the Interior is currently under a moratorium imposed by legislation which prohibits the sale of Federal coal leases until 90 days after the Commission on Fair Market Value Policy releases its report. The moratorium legislation, however, permits the Department to continue coal activity planning efforts, including the publication of draft and final environmental impact statements addressing Federal coal leasing.

Therefore, the Draft Powder River Coal EIS is being released for public review and comment as an initial step which may culminate in a decision by the Secretary to hold a Federal coal lease sale in the Powder River Region at some time after the moratorium is lifted.

Six alternatives are analyzed, including a no action option and five new coal leasing levels: The no action alternative represents the baseline conditions, i.e. no additional new Federal leasing; alternative two gives consideration to leasing nine new surface mineable tracts (three new production tracts in Wyoming and six maintenance tracts in Montana) containing an estimated 1 billion tons of recoverable Federal coal; alternative three would involve 11 new surface mineable tracts (nine from alternative two plus two new production tracts in Montana) containing about 1.4 billion tons of recoverable Federal coal; alternative four would result in the offering of 15 new surface-mineable tracts (five new production and one maintenance tract in Wyoming and three new production and six maintenance tracts in Montana) containing nearly 2.3 billion tons of recoverable Federal coal; alternative five considers leasing 17 new surface-mineable tracts (six new production and two maintenance tracts in Wyoming and three new production and six maintenance tracts in Montana) containing 2.6 billion tons of recoverable Federal coal; and alternative six, the maximum alternative, would result in the offering of 22 new surface-mineable tracts (nine new production and two maintenance tracts in Wyoming and five new production and six maintenance tracts in Montana) containing about 4.5 billion tons of recoverable Federal coal.

In addition, the BLM is issuing a call for the submission of surface owner consents given by qualified surface owners that would permit surface mining of Federal coal on the identified tracts where the Federal coal is overlain by privately owned surface.

DATE: Written comments on the DEIS will be accepted on or before March 27, 1984 (not April 30, 1984, as stated in the DEIS). Formal public hearings will be held as follows:

1. March 5, 1984—Hardin, Montana, Commissioners Room, County Court House, 7:00 p.m.
2. March 6, 1984—Ashland, Montana, Multi-purpose Room, Elementary School, 7:00 p.m.
3. March 7, 1984—Sheridan, Wyoming, Sheridan Room, Holiday Inn, 7:00 p.m
4. March 8, 1984—Gillette, Wyoming, Gillette Recreation Center, Room—A. 7:00 p.m.

ADDRESSES: Written comments on the draft EIS should be sent to the EIS Team Leader, Casper District Office, Bureau of Land Management, 951 Rancho Road, Casper, Wyoming 82601.

Single copies of the draft EIS may be obtained from the EIS Team Leader at the address listed above and from the Wyoming State Office, Bureau of Land Management, 2515 Warren Avenue, Cheyenne, Wyoming 82001; the Montana State Office, Bureau of Land Management, Granite Tower, 222 N. 32nd Street, Billings, Montana 59107; and the Office of Public Affairs, Bureau of Land Management, 18th and C Streets, NW., Washington, D.C. 20240. Information related to surface owner consent agreements is contained in the Supplementary Information section of this notice.

FOR FURTHER INFORMATION CONTACT: Chuck Wilkie, EIS Team Leader, 951 Rancho Road, Casper, Wyoming 82601.

SUPPLEMENTAL INFORMATION: The draft EIS, which is part of the leasing process under the Federal Coal Management Program (43 CFR Part 3400), analyzes the impacts that would result from the development of 22 Federal coal tracts proposed for leasing in Campbell County, Wyoming and Rosebud and Big Horn Counties of Montana. In addition, the EIS analyzes the cumulative regional impacts of six alternative leasing levels, including the no action alternative, as well as other related regional developments in the Powder River Federal Coal Production Region.

No decision to hold a regional coal sale or to lease Federal tracts will occur until some time after the Commission on Fair Market Value Policy publishes its report and the current moratorium on the leasing of Federal coal expires. The moratorium is scheduled to end 90 days after the Commission releases its report. Meanwhile the Department is continuing with the preparation and release of a draft environmental impact statement for a second round of coal leasing in the Powder River Region. This activity is an initial step of the coal activity planning process which is not affected by the legislatively imposed moratorium.

Public comments on the draft EIS are being sought before preparing the final EIS and should be sent to the EIS Team Leader at the address listed above. All comments on the draft EIS, whether oral or written, which are received by close of business March 27, 1984 (not April 30,

1984, as stated in the DEIS), will receive equal consideration in the preparation of the final EIS.

Public hearings have been scheduled to accept written and/or oral comments on the draft statement. The hearings will be held at the time, date and locations noted above.

Those individuals wishing to testify at the public hearings should notify the EIS Team Leader in writing at the address listed above by March 2, 1984. This notification should identify the desired hearing location and identify the organization that is being represented (if speaking for an organization) and should be signed by the individual who will be testifying. The cut-off date is necessary so that a speaker's list can be reviewed by the BLM to ensure that all parties enterested in giving testimony have an opportunity to be heard.

Only one person will be allowed to represent the views of a single organization. However, if a member of an organization wishes to speak as a private citizen, the testimony will be permitted. Speakers will be heard in the order set forth on the list. After the last listed speaker has been heard, the presiding officer will consider the request of any person who wishes to testify.

At the public hearings on the draft EIS, oral testimony of ten minutes duration will be accepted from each person in lieu of, or in addition to, any written comments. The 10-minute limitation will be strictly enforced by the presiding officer. The complete text of prepared remarks should be filed at the hearing and will be included as part of the hearing record regardless of whether or not the speaker completed those remarks in the alloted 10 minutes.

Copies of the draft EIS are available for inspection at the following locations:

Casper District Office, Bureau of Land Management, 951 Rancho Road, Casper, Wyoming 82601

Wyoming State Office, Bureau of Land Management, 2515 Warren Avenue, Cheyenne, Wyoming 82001

Montana State Office, Bureau of Land Management, 222 N. 32nd Street, Billings, Montana 59107

Office of Public Affairs, Bureau of Land Management, Room 5600, 18th and C Streets, NW., Washington, D.C. 20240

In accordance with 43 CFR Part 3427 of the coal management regulations, the BLM is also requesting that written surface owner agreements, or evidence thereof, given by qualified surface owners for lands within the tracts be submitted to the appropriate BLM State Office at the address given above. Valid written consent for lands in which the ownership of the surface is held by qualified surface owners, where the ownership of the underlying coal is reserved to the Federal Government, will be accepted until a yet-to-be determined date prior to the lease sale for the specific lands involved. The actual deadline for submission of written consents shall be determined after the lease sale dates have been established, and be published in the **Federal Register**. It is the responsibility of parties intending to file consents to be aware of pending lease sale dates, as set forth in an announced regional lease sale schedule, and deadlines for submission of written consents as announced in the **Federal Register**. Section 714(c) of the Surface Mining Control and Reclamation Act (SMCRA) states that, "The Secretary shall not enter into any lease of Federal coal deposits until the surface owner has given written consent to enter and commence surface mining operations and the Secretary has obtained evidence of such consent."

As defined in the regulations (43 CFR 3400.0–5(gg)), qualifed surface owner "means the natural person or persons (or corporation, the majority stock of which is held by a person or persons) who:

(1) Hold legal or equitable title to the surface for split estate lands;

(2) Have their principal place of residence on the land; or personally conduct farming or ranching operations upon a farm or ranch unit to be affected by surface mining operations; or receive directly a significant portion of their income, if any, from such farming and ranching operations; and

(3) Have met the conditions of paragraphs (gg) (1) and (2) of this subsection for a period of at least 3 years, execpt for persons who gave written consent less than 3 years after they met the requirements of both paragraphs (gg) (1) and (2) of the section. In computing the 3-year period the authorized officer shall include period during which title was owned by a relative of such person by blood or marriage, if during such periods the relative would have met the requirements of this subsection.

Valid written consent is defined in the regulations (43 CFR 3400.0–5(qq)) as "the document or documents that a qualified surface owner has signed that: (1) Permit a coal operator to enter and commence surface mining of coal; (2) describe any financial or other consideration given or promised in return for the permission, including in-kind consideration; (3) describe any consideration given in terms of type or method of operation or reclamation for the area; (4) contain any supplemental or related contracts between the surface owner and any other person who is party to the permission; and (5) contain a full and accurate description of the area covered by the permission."

As required by 43 CFR 3427.29(d), it is the Bureau's responsibility to review all consents received. The Bureau will verify that the named surface owner is a qualified surface owner as defined in the regulations and that the title for split estate lands described in the filing is held by the named qualified owner(s). In addition, to be considered valid, consents entered into after the August 3, 1977, enactment of the Surface Mining Control and Reclamation Act, must be transferable to whomever makes the successful bid in a lease sale for the tract that includes the lands to which the consent applies. A written consent shall be considered transferable only if it provides that after the lease sale for the tract to which the consent applies: (i) The successful bidder shall assume all rights and obligations of the holder of the consent, including the obligation to make all payments to the grantor of the consent and to reimburse the holder of the consent for all money previously paid to the grantor under the consent contract; and (ii) neither the holder nor the grantor of the consent has any right under the consent contract to prevent the successful bidder from assuming the rights and obligations of the holder of the consent by imposing additional costs or conditions or otherwise. If a filing is from anyone other than the named qualified surface owner, the Bureau shall contact the named qualified surface owner and rquest confirmation, in writing, that the filed, transferable, written consent, or evidence thereof, to enter and commence surface mining has been granted and that the filing fully discloses all of the items of the written consent.

To facilitate the filing and review of written consents from qualified surface owners, the person submitting the consent is asked to include a statement that the evidence submitted represents a true, accurate, and complete statement of information regarding the consent for the area described. Such a validation statement is required by 43 CFR 3427.3. The statement is to be signed and dated by the person submitting the consent and can be either incorporated directly into the consent document or enclosed as a separate item submitted with the consent document. The statement can be worded as follows: "I (We) hereby declare that the evidence submitted to the best of my (our) knowledge, represents a true, accurate, and

complete statement of information regarding the surface owner consent for the area described." This validation statement does not have to be witnessed or notarized.

Dated: January 24, 1984.

Arnold E. Petty,

Acting Associate Director, Bureau of Land Management.

[FR Doc. 84-2732 Filed 1-31-84; 8:45 am]

BILLING CODE 4310-84-M

[W-86106 Through W-86122 Inclusive, W-86124 Through W-86139 Inclusive]

Wyoming; Amendment to Realty Actions for the Sales of Public Lands in Blaine, Brown, Holt, Keya Paha, and Rock Counties, Nebraska

Delete the following statement from the Notice of Realty Actions for Public Land Sales W-86106 through W-86112 inclusive, W-86114 through W-86120 inclusive, W-86122, W-86124, W-86127 through W-86130 inclusive, and W-86132 through W-86137 inclusive:

The patent will contain a reservation for ditches and canals by authority of the United States, Act of August 30, 1890 (36 Stat. 391; 43 U.S.C. 945).

Delete the following statement from all the above listed Notice of Realty Actions for Public Land Sales.

The bid/all bids, if made by check, bank draft, or money orders, must be made payable to the Department of the Interior BLM.

Replace this statement with the following:

Each bid shall be accompanied by certified check, postal money order, bank draft, or cashier's check made payable to the Department of the Interior, BLM.

Dated: January 23, 1984.

James W. Monroe,

Casper District Manager.

[FR Doc. 84-2892 Filed 1-31-84; 8:45 am]

BILLING CODE 4310-22-M

Office of Surface Mining Reclamation and Enforcement

Intent To Prepare a Draft Environmental Impact Statement and Hold a Public Scoping Meeting; Proposed Fruita Mine Complex, Mesa and Garfield Counties, Colorado

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Notice of intent to prepare a draft environmental impact statement and to hold a public scoping meeting.

SUMMARY: The Office of Surface Mining (OSM) has received a permit application package from Dorchester Coal Company for a mining plan approval and permit pursuant to the Surface Mining Control and Reclamation Act of 1977 (SMCRA), for its proposed Fruita coal mine complex. OSM has determined that the approval or disapproval of this proposed mine complex is a major Federal action significantly affecting the human environment, thus requiring an environmental impact statement (EIS). The major alternatives thus far identified for consideration in the draft EIS are described in the supplementary information section of this notice. In addition, OSM is asking the public to identify significant issues related to the proposed project.

DATES: A public scoping meeting on the EIS will be held starting at 7 p.m. m.d.t on February 29, 1984, and will continue until all commentors have been heard. All interested parties are invited to attend this meeting and give their comments and concerns on the proposed project.

Written comments or statements on the proposed project and the scope of the EIS must be received no later than 4 p.m. m.d.t., March 7, 1984, at the address below.

ADDRESSES: The public scoping meeting will be held at the Bureau of Land Management, Grand Junction District Office Conference Room, Grand Junction, Colorado.

Written comments or statements should be sent to Administrator, Western Technical Center, Office of Surface Mining, Second Floor, Brooks, Towers, 1020 15th Street, Denver, Colorado 80202.

The mining plan submitted by Dorchester Coal Company is available for public review during normal working hours at the OSM office above, as well as: Office of Surface Mining, Albuquerque Field Office, 219 Central Avenue NW., Room 216, Albuquerque, New Mexico; the State of Colorado Mined Land Reclamation Division, 1313 Sherman Street, Room 423, Denver, Colorado 80203; and the Mesa County Court House, 6th and Road Avenue, Grand Junction, Colorado.

FOR FURTHER INFORMATION CONTACT: Floyd Johnson or Stephen Parsons, (telephone: 303-837-5656) at the Western Technical Center, Office of Surface Mining, Brooks Towers, Second floor, 1020 15th Street, Denver, Colorado.

SUPPLEMENTARY INFORMATION: The proposed project would be an underground mining complex located approximately 16 miles north of Fruita, Colorado and consisting of three Federal coal leases totaling 15,804 acres, and an addition 3,464 acres of Federal surface for surface facilities for a total of 19,268 acres. The proposed project would operate for approximately 40 years with a maximum annual production of 7.2 million tons of coal. The project would consist of three underground mines, with separate entries, underground workings, and surface facilities and would require about 600 acre-feet of water per year. The surface facilities, consisting of washers, thermal dryers, and preparation plants, would be located on seven tracts of Federal surface that are unleased at this time. Coal would be extracted using long-wall and room-and-pillar methods in all three mines. Coal would be transported to a loadout facility, located on the Denver, Rio Grande and Western railroad main line, initially by truck and eventually via a proposed rail spur.

OSM, the Bureau of Land Management (BLM), and the Bureau of Reclamation will prepare the EIS, with assistance from the Colorado Mined Land Reclamation Division. The EIS will evaluate alternative actions that the Department of the Interior and the State of Colorado could take on the mining plan and permit decisions and the associated environmental impacts. The major alternatives thus far identified for Departmental consideration are:

a. Approval of the mining plan under the requirements of SMCRA, the Colorado Surface Coal Mining Reclamation Act, and regulations issued pursuant to these acts.

b. Approval of the mining plan with additional mitigating measures.

c. Disapproval of the mining plan.

Because there is not sufficient room within the lease areas for the surface facilities and transportation corridor, the company must secure special land use authorizations or permit from the BLM for over 3,000 surface acres outside the lease areas. The alternatives to and impacts of issuing these authorizations or permits will be fully evaluted in the draft EIS.

The proposed project would also require approximately 600 acre-feet of water per year for use in mining and preparation operations. The impacts of securing and using this water will also be evaluated in the EIS.

The transportation and use of the coal will be discussed briefly as it realtes to additional regional impacts.

Participation by the public in the scoping process is invited. Individuals wishing to provide comments at the public meeting should file a written statement at the time of oral presentation to ensure proper consideration of their conerns. Individual commentors will be limited to 10 minutes.

Dated: January 25, 1984.

Anna May Orellana,

Acting Assistant Director, Technical Services and Research.

[FR Doc. 84-2701 Filed 1-31-84; 8:45 am]

BILLING CODE 4310-05-M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731-TA-139 (Final)]

Antidumping; Acrylic Sheet From Taiwan

AGENCY: International Trade Commission.

ACTION: Institution of a final antidumping investigation and scheduling of a hearing to be held in connection with the investigation.

EFFECTIVE DATE: January 11, 1984.

SUMMARY: As a result of an affirmative preliminary determination by the U.S. Department of Commerce that there is a reasonable basis to believe or suspect that imports from Taiwan of acrylic film, strips and sheets, at least 0.030 inch in thickness, provided for in items 771.41 and 771.45 of the Tariff Schedules of the United States, are being, or likely to be, sold in the United States at less than fair value (LTFV) within the meaning of section 731 of the Tariff Act of 1930 (19 U.S.C. 1673), the United States International Trade Commission hereby gives notice of the institution of investigation No. 731-TA-139 (Final) under section 735(b) of the act (19 U.S.C. 1673d(b)) to determine whether an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry is materially retarded, by reason of imports of such merchandise. Unless the investigation is extended, the Department of Commerce will make its final dumping determination in the case on or before March 19, 1984, and the Commission will make its final injury determination by May 9, 1984 (19 CFR 207.25).

FOR FURTHER INFORMATION CONTACT: Abigail Eltzroth (202-523-0289), Office of Investigations, U.S. International Trade Commission.

SUPPLEMENTARY INFORMATION:

Background

On September 1, 1983, the Commission determined, on the basis of the information developed during the course of its preliminary investigation that there was a reasonable indication that an industry in the United States was materially injured or threatened with material injury by reason of allegedly LTFV imports of acrylic film, strips and sheets, at least 0.030 inch in thickness from Taiwan. The preliminary investigation was instituted in response to a petition filed on July 28, 1983, by E. I. du Point de Nemours & Co.

Participation in the Investigation.

Persons wishing to participate in this investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided in § 201.11 of the Commission's Rules of Practice and Procedure (19 CFR 201.11), not later than 21 days after the publication of this notice in the Federal Register. An entry of appearance filed after this date will be referred to the Chairman, who shall determine whether to accept the late entry for good cause shown by the person desiring to file the entry.

Upon the expiration of the period for filing entries of appearance, the Secretary shall prepare a service list containing the names and addresses of all persons, or their representatives, who are parties to the investigation, pursuant to § 201.11(d) of the Commission's rules (19 CFR 201.11(d)). Each document filed by a party to this investigation must be served on all other parties to the investigation (as identified by the service list), and a certificate of service must accompany the document. The Secretary will not accept a document for filing without a certificate of service (19 CFR 201.16(c)).

Staff Report

A public version of the staff report containing preliminary findings of fact in this investigation will be placed in the public record on March 30, 1984, pursuant to § 207.21 of the Commission's Rules (19 CFR 207.21).

Hearing

The Commission will hold a hearing in connection with this investigation beginning at 10:00 a.m. on April 12, 1984, at the U.S. International Trade Commission Building, 701 E Street NW., Washington, D.C. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission not later than the close of business (5:15 p.m.) on March 23, 1984. All persons desiring to appear at the hearing and make oral presentations should file prehearing briefs and attend a prehearing conference to be held at 11:00 a.m. on March 30, 1984, in room 117 of the U.S. International Trade Commission Building. The deadline for filing prehearing briefs is April 9, 1984.

Testimony at the public hearing is governed by § 207.23 of the Commission's rule (19 CFR 207.23). This rule requires that testimony be limited to a nonconfidential summary and analysis of material contained in prehearing briefs and to information not available at the time the prehearing brief was submitted. All legal arguments, economic analyses, and factual materials relevant to the public hearing should be included in prehearing briefs in accordance with § 207.22 (19 CFR 207.22). Posthearing briefs must conform with the provisions of § 207.24 (19 CFR 207.24) and must be submitted not later than the close of business on April 17, 1984.

Written Submissions

As mentioned, parties to this investigation may file prehearing and posthearing briefs by the dates shown above. In addition, any person who has not entered an appearance as a party to the investigation may submit a written statement of information pertinent to the subject of the investigation on or before April 17, 1984. A signed original and fourteen (14) true copies of each submission must be filed with the Secretary to the Commission in accordance with § 201.8 of the Commission's rules (19 CFR 201.8). All written submissions except for confidential business data will be available for public inspection during regular business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary to the Commission.

Any business information for which confidential treatment is desired shall be submitted separately. The envelope and all pages of such submissions must be clearly labeled "Confidential Business Information." Confidential submissions and requests for confidential treatment must conform with the requirements of § 201.6 of the Commission rules (19 CFR 201.6).

For further information concerning the conduct of the investigation, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, Part 207, subparts A and C (19 CFR Part 207), and Part 201, subparts A through E (19 CFR Part 201).

This notice is published pursuant to § 207.20 of the Commission's rules (19 CFR 207.20).

By order of the Commission.

Issued: January 26, 1984.

Kenneth R. Mason,

Secretary.

[FR Doc. 84-2700 Filed 1-31-84; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 751-TA-8]

Antidumping; Acrylic Sheet From Japan; Institution of a Section 751(b) Review Investigation

AGENCY: International Trade Commission.

ACTION: Institution of a Section 751(b) review investigation concerning the affirmative determination in investigation No. AA1921-154, Acrylic Sheet from Japan.

EFFECTIVE DATE: January 25, 1984

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has initiated an investigation pursuant to section 751(b) of the Tariff Act of 1930 (19 U.S.C. 1675(b)) to review its determination in investigation No. AA1921-154. The purpose of the investigation is to determine whether an industry in the United States would be materially injured, or would be threatened with material injury, or the establishment of an industry in the United States would be materially retarded, if the antidumping order regarding acrylic sheet from Japan were to be modified or revoked with respect to transparent sheet containing lead or lead compounds in such proportion as to render the material opaque to X-ray or gamma ray radiation. Pursuant to § 207.45(b) of the Commission's Rules of Practice and Procedure, the 120-day period for completion of this investigation begins on the date of publication of this notice in the **Federal Register.**

FOR FURTHER INFORMATION CONTACT: Abigail Eltzroth, Investigator, Office of Investigations, U.S. International Trade Commission, 701 E Street, N.W., Washington, D.C. 20436 (202-523-0289).

SUPPLEMENTARY INFORMATION: On July 26, 1976, the Commission determined that an industry in the United States was injured within the meaning of the Antidumping Act, 1921, by reason of imports of acrylic sheet from Japan determined by the Secretary of the Treasury to be sold or likely to be sold at less than fair value.

On August 20, 1976, the Department of the Treasury issued a finding of dumping, concerning imports of acrylic sheet from Japan (T.D. 76-240) and published notice of the dumping finding in the **Federal Register** (41 FR 36497).

On November 1, 1983, the Commission received a request to review its affirmative determination in investigation No. AA1921-154. The request was filed pursuant to section 751(b) of the Tariff Act of 1930 by the law firm of Bayh, Tabbert & Capehart on behalf of Kyowa Gas Chemical Industry Co., Ltd., of Tokyo, Japan, the sole manufacturer of Kyowaglas-XA.

On December 7, 1983, the Commission requested comments regarding the institution of a section 751(b) review investigation (48 FR 54907). Comments were received from H.L. Lyons Co. (a purchaser of plastic sheet containing lead); counsel for Rohm & Haas Co. (a large U.S. producer of acrylic sheet); Joel E. Gray (of the diagnostic radiology section of the Mayo Clinic); and Nuclear Associates (the U.S. distributor of plastic sheet containing lead manufactured by Kyowa Gas). On the basis of the comments filed, the Commission, on January 25, 1984, voted to institute investigation No. 751-TA-8. The Commission determined that the following changed circumstances were sufficient to warrant a review.

1. A new product, plastic sheet containing lead was developed in Japan subsequent to the dumping finding in 1976.

2. The Japanese developer of plastic sheet containing lead began exporting this product to the United States in 1981.

3. There has been no U.S. production of this speciality product and no U.S. producer is licensed to make this proprietary product.

The investigation will be conducted in accordance with § 207.45(b) of the Commission's Rules of Practice and Procedure. The purpose of this investigation is to determine whether an industry in the United States would be materially injured, or would be threatened with material injury, or the establishment of an industry in the United States would be materially retarded if the present antidumping order were to be modified or revoked to exclude transparent plastic sheet containing lead or lead compounds in such proportion as to render the material opaque to X-ray radiation. Modification or revocation of the dumping finding as to such product would not affect the Commission's affirmative determination as to other types of acrylic sheet from Japan.

Participation in the Investigation

Persons wishing to participate in this investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided in § 201.11 of the Commission's Rules of Practice and Procedure (19 CFR § 201.11), not later than 21 days after the publication of this notice in the **Federal Register.** Any entry of appearance filed after this date will be referred to the Chairman, who shall determine whether to accept the late entry for good cause shown by the person desiring to file the entry.

Upon the expiration of the period for filing entries of appearance, the Secretary shall prepare a service list containing the names and addresses of all persons, or their representatives, who are parties to be investigation, pursuant to § 201.11(d) of the Commission's rules (19 CFR 201.11(d)). Each document filed by a party of this investigation must be served on all other parties to the investigation (as identified by the service list), and a certificate of service must accompany the document. The Secretary will not accept a document for filing without a certificate of service (19 CFR 201.16(c)).

Public Hearing

Any person with interest in this investigation may request in writing that the Commission hold a public hearing in connection with this investigation. Any such request must be received by the Commission within 21 days of the date of publication of this notice of investigation in the **Federal Register.**

Written Submissions

Any person may submit a written statement of information pertinent to the subject to the investigation on or before April 18, 1984. Under § 201.8 of the Commission's Rules of Practice and Procedure (19 CFR 201.8), the signed original and 14 true copies of all written submissions must be filed with the Secretary to the Commission, 701 E Street, NW., Washington, D.C. 20436. Any person desiring to submit a document (or portion thereof) to the Commission in confidence must request business confidential treatment under § 201.6 of the Commission's Rules of Practice and Procedure (19 CFR 201.6). Such request should be directed to the Secretary to the Commission and must include a full statement of the reasons why the Commission should grant such treatment. Each sheet must be clearly marked at the top "Confidential Business Data." The Commission will either accept the submission in confidence or return it. All nonconfidential written submissions will be available for public inspection in the Office of the Secretary.

Copies of the request for review of the injury determination and any other public documents in this matter are available to the public during official working hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436; telephone 202-523-0161.

For further information concerning the conduct of the investigation, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, Part 207, subparts A and C (19 CFR Part 207), and Part 201, subparts A through E (19 CFR Part 201).

This notice is published pursuant to § 207.20 of the Commission's rules (19 CFR 207.20).

By order of the Commission.

Issued: January 26, 1984.

Kenneth R. Mason,

Secretary.

[FR Doc. 84-2781 Filed 1-31-84; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 731-TA-165 (Preliminary)]

Antidumping; Certain Valves, Nozzles, and Connectors of Brass From Italy for Use in Fire Protection Systems

AGENCY: International Trade Commission.

ACTION: Institution of a preliminary antidumping investigation and scheduling of a conference to be held in connection with the investigation.

EFFECTIVE DATE: January 23, 1984.

SUMMARY: The United States International Trade Commission hereby gives notice of the institution of a preliminary antidumping investigation under section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)) to determine whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from Italy of certain valves, couplings, nozzles, and connections of brass, suitable for use in fire protection systems, provided for in items 657.35, 680.14, and 680.27 of the Tariff Schedules of the United States, which are alleged to be sold in the United States at less than fair value.

FOR FURTHER INFORMATION CONTACT: Mr. George L. Deyman, Office of Investigations, U.S. International Trade Commission, 701 E Street, NW., Washington, D.C. 20436, telephone 202-523-0481.

SUPPLEMENTARY INFORMATION:

Background

This investigation is being instituted in response to a petition filed on January 23, 1984, by counsel on behalf of Badger-Powhatan, a division of Figgie International, Inc., Charlottesville, VA. The Commission must make its determination in this investigation within 45 days after the date of the filing of the petition, or by March 8, 1984 (19 CFR 207.17).

Participation

Persons wishing to participate in this investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided for in § 201.11 of the Commission's Rules of Practice and Procedure (19 CFR 201.11), not later than seven (7) days after the publication of this notice in the Federal Register. Any entry of appearance filed after this date will be referred to the Chairman, who shall determine whether to accept the late entry for good cause shown by the person desiring to file the notice.

Service of Documents

The Secretary will compile a service list from the entries of appearance filed in this investigation. Any party submitting a document in connection with the investigations shall, in addition to complying with § 201.8 of the Commission's rules (19 CFR 201.8), serve a copy of each such document on all other parties to the investigation. Such service shall conform with the requirements set forth in § 201.16(b) of the rules (19 CFR 201.16(b)).

In addition to the foregoing, each document filed with the Commission in the course of this investigation must include a certificate of service setting forth the manner and date of such service. This certificate will be deemed proof of service of the document. Documents not accompanied by a certificate of service will not be accepted by the Secretary.

Written Submissions

Any person may submit to the Commission on or before February 17, 1984, a written statement of information pertinent to the subject matter of this investigation (19 CFR 207.15). A signed original and fourteen (14) copies of such statements must be submitted (19 CFR 201.8).

Any business information which a submitter desires the Commission to treat as confidential shall be submitted separately, and each sheet must be clearly marked at the top "Confidential Business Data." Confidential submissions must conform with the requirements of 201.6 of the Commission's rules (19 CFR 201.6). All written submissions, except for confidential business data, will be available for public inspection.

Conference

The Director of Operations of the Commission has scheduled a conference in connection with this investigation for 9:30 a.m. on February 14, 1984, in the Hearing Room of the U.S. International Trade Commission Building, 701 E Street, NW., Washington, D.C. Parties wishing to participate in the conference should contact the staff investigator, Mr. George L. Deyman (202-523-0481) not later than the close of business (5:15 p.m.) on February 10, 1984, to arrange for their appearance. Parties in support of the imposition of antidumping duties in this investigation and parties in opposition to the imposition of such duties will each be collectively allocated one hour within which to make an oral presentation at the conference.

Public Inspection

A copy of the petition and all written submissions, except for confidential business data, will be available for public inspection during regular buinesss hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street, NW., Washington, D.C.

For further information concerning the conduct of this investigation and rules of general application, consult the Commission's Rules of Practice and Procedure, part 207, subparts A and B (19 CFR Part 207), and part 201, subparts A through E (19 CFR Part 201). Further information concerning the conduct of the conference will be provided by Mr. Deyman.

This notice is published pursuant to 207.12 of the Commission's rules (19 CFR 207.12)

Issued: January 27, 1984.

Kenneth R. Mason,

Secretary.

[FR Doc. 84-2782 Filed 1-31-84; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-180]

Antidumping; Certain X-Ray Image Intensifier Tubes; Investigation

AGENCY: International Trade Commission.

ACTION: Institution of investigation pursuant to 19 U.S.C. 1337 and 19 U.S.C. 1337a.

SUMMARY: Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on December 21, 1983, pursuant to section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) and 19 U.S.C. 1337a, on behalf of Varian Associates, Inc., 611 Hansen

Way, Palo Alto, California 94303. The complaint alleges unfair methods of competition and unfair acts in the importation of certain X-ray image intensifier tubes and instruments equipped with X-ray image intensifier tubes into the United States, or in their sale, by reason of (1) the alleged coverage of such tubes by claims 1 through 7 of U.S. Letters Patent 3,916,182 and (2) the alleged manufacture of such tubes by a process covered by claims 1 through 6 and 9 through 15 of U.S. Letters Patent 3,795,531. The complaint further alleges that the effect or tendency of the unfair methods of competition and unfair acts is to destroy or substantially injure an industry, efficiently and economically operated, in the United States.

The complainant requests the Commission to institute an investigation and, after a full investigation, to issue a permanent exclusion order.

Authority: The authority for institution of this investigation is contained in 19 U.S.C. 1337 and 1337a, and § 210.12 of the Commission's Rules of Practice and Procedure (19 CFR 210.12).

Scope of Investigation

Having considered the complaint, the U.S. International Trade Commission, on January 18, 1984, ordered that—

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, an investigation be instituted to determine whether there is a violation of subsection (a) of section 337 in the unlawful importation of certain X-ray image intensifier tubes (whether separately or as part of X-ray systems) into the United States, or in their sale, by reason of (1) the alleged coverage of such tubes by claims 1 through 7 of U.S. Letters Patent 3,916,182 and (2) the alleged manufacture of such tubes by a process covered by claims 1 through 6 and 9 through 15 of U.S. Letters Patent 3,795,531, the effect or tendency of which is to destroy or substantially injure an industry, efficiently and economically operated, in the United States;

(2) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainant is: Varian Associates, Inc., 611 Hansen Way, Palo Alto, California 94303.

(b) The respondents are the following companies, alleged to be in violation of section 337, and are the parties upon which the complaint is to be served:

N. V. Philips Gloeilampenfabrieken, Pieter Zeemanstraat 6, Eindhoven, The Netherlands

Philips Medical Systems, Inc., 710 Bridgeport Avenue, Shelton, Connecticut 06484

North American Philips Corporation, 100 East 42nd Street, New York, New York 10017.

(c) Patricia Ray, Esq., Unfair Import Investigations Division, U.S. International Trade Commission, 701 E Street NW., Room 125, Washington, D.C. 20436, shall be the Commission investigative attorney, a party to this investigation; and

(4) For the investigation so instituted, Donald K. Duvall, Chief Administrative Law Judge, U.S. International Trade Commission, shall designate the presiding officer.

Responses must be submitted by the named respondents in accordance with § 210.21 of the Commission's Rules of Practice and Procedure (19 CFR 210.21). Pursuant to §§ 201.16(d) and 210.21(a) of the rules, such responses will be considered by the Commission if received not later than 20 days after the date of service of the complaint. Extensions of time for submitting a response will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegation of the complaint and this notice, and to authorize the presiding officer and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter both an initial determination and a final determination containing such findings.

The complaint, except for any confidential information contained therein, is available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Room 156, Washington, D.C. 20436, telephone 202–523–0471.

FOR FURTHER INFORMATION CONTACT: Patricia Ray, Esq., Unfair Import Investigations Division, U.S. International Trade Commission, telephone 202–523–0440.

By order of the Commission.

Issued: January 26, 1984.

Kenneth R. Mason,

Secretary.

[FR Doc. 84–2764 Filed 1–31–84 8:45 am]

BILLING CODE 7020–02–M

[Investigation No. 337–TA–143]

Certain Amorphous Metal Alloys and Amorphous Metal Articles; Commission Decision Not To Review Initial Determination Amending Complaint

AGENCY: International Trade Commission.

ACTION: The Commission has determined not to review an initial determination (ID) to amend the notice of investigation to add prevention of establishment of an industry in the United States to the scope of the investigation.

Authority: 19 U.S.C. section 1337, 47 FR 25134, June 10, 1982, and 48 FR 20225, May 5, 1983 (to be codified at 19 CFR 210.53 (c) and (h)).

SUPPLEMENTARY INFORMATION: The Commission received a joint petition for review of the ID from respondents Nippon Steel Corp., Nippon Steel U.S.A., Inc., Siemens Capital Corp., Vacuumschmelze GmbH, Hitachi Metals, Ltd., and Hitachi International, Ltd. Complainant Allied and the Commission investigative attorney filed responses to the petition requesting that the Commission decide not to review this ID. The Commission did not receive any comments from other Government agencies.

FOR FURTHER INFORMATION CONTACT: Catherine R. Field, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202–523–0189.

By order of the Commission.

Issued: January 25, 1984.

Kenneth R. Mason,

Secretary.

[FR Doc. 84–2767 Filed 1–31–84 8:45 am]

BILLING CODE 7020–02–M

[Investigation No. 337–TA–160]

Certain Composite Diamond Coated Textile Machinery Components; Commission Decision To Review Initial Determination; Request for Written Briefs

AGENCY: International Trade Commission.

ACTION: Review of initial determination; request for briefs from the parties to the investigation.

Authority: Section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) and § 210.55 of the Commission's Rules of Practice and Procedure (19 CFR 210.55).

SUPPLEMENTARY INFORMATION: Pursuant to section 337 of the Tariff Act of 1930

(19 U.S.C. 1337) and 19 U.S.C. 1337a, the Commission is currently conducting an investigation of alleged unfair acts and unfair methods of competition in connection with the importation or sale of certain composite diamond coated textile machinery components. Notice of institution of the investigation was published in the **Federal Register** of August 26, 1983 (48 FR 38907).

On January 12, 1984, the presiding officer issued an initial determination designating the investigation more complicated pursuant to § 210.15 of the Commission's rules (Order No. 21). The Commission has decided to review this initial determination on its own motion.

Briefs: The Commission requests that the parties to this investigation file brief addressing the question of whether this investigation should be designated more complicated. All such submissions must be filed no later than close of business on February 1, 1984.

Copies of the presiding officer's initial determination and all other non-confidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, telephone 202–523–0161.

FOR FURTHER INFORMATION CONTACT: N. Tim Yaworski, Esq., Office of the General Counsel, U.S. International Trade Commission, 701 E Street, NW., Washington, D.C. 20436; telephone 202–523–0311.

By order of the Commission.

Issued: January 24, 1984.

Kenneth R. Mason,

Secretary.

[FR Doc. 84–2799 Filed 1–31–84; 8:45 am]

BILLING CODE 7020–02–M

[Investigation No. 731–TA–118 (Final)]

Certain Lightweight Polyester Filament Fabric From Japan

AGENCY: International Trade Commission.

ACTION: Termination of final antidumping investigation.

EFFECTIVE DATE: January 25, 1984.

SUMMARY: On January 24, 1983, the United States International Trade Commission received a letter from the American Textile Manufacturers Institute, Inc. and its member companies listed in the petition, the petitioners in the subject investigations, withdrawing its petition. Accordingly, the United States International Trade Commission hereby gives notice of the termination of its antidumping investigation involving certain lightweight polyester filament fabric from Japan (investigation No. 731–TA–118 (Final)).

FOR FURTHER INFORMATION CONTACT: Ms. Vera Libeau (202–523–0368), Office of Investigations, U.S. International Trade Commission.

This notice is published pursuant to § 207.40 of the Commission's Rules of Practice and Procedure (19 CFR 207.40).

By order of the Commission.

Issued: January 26 1984.

Kenneth R. Mason,

Secretary.

[FR Doc. 84–2788 Filed 1–31–84; 8:45 am]

BILLING CODE 7020–02–M

[Investigation No. 337–TA–158]

Certain Plastic Light Duty Screw Anchors; Commission Determination Not To Review Initial Determination Amending Prayer for Relief

AGENCY: United States International Trade Commission.

ACTION: The Commission has determined not to review an initial determination (ID) (Order No. 6) to amend complainant's prayer for relief to seek expanded relief.

AUTHORITY: 19 U.S.C. section 1337, 47 FR 25143, June 10, 1982, and 48 FR 20226, May 5, 1983 (to be codified at 19 CFR § 210.53 (c) and (h)).

SUPPLEMENTARY INFORMATION: On November 18, 1983, complainant Mechanical Plastics Corp. moved (Motion No. 158–1) to amend the complaint and notice of investigation to include in its prayer for relief an exclusion order against molds used to manufacture allegedly infringing plastic light duty screw anchors and cease and desist orders against the sale or distribution of allegedly infringing plastic light duty screw anchors imported into the United States and plastic light duty screw anchors manufactured from molds imported into the United States. As grounds for the motion, complainant stated that it had learned during discovery that since its complaint had been filed respondent Hilti, Inc. had imported such plastic light duty screw anchors and molds into the United States. On December 29, 1983, the presiding officer issued an ID granting the motion. No petitions for review or comments from other Government agencies were received.

Copies of the initial determination and all other non-confidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, telephone 202–523–0161.

FOR FURTHER INFORMATION CONTACT: Brenda A. Jacobs, Esq., Office of the General Counsel, telephone 202–523–0074.

By order of the Commission.

Issued: January 25, 1984.

Kenneth R. Mason,

Secretary.

[FR Doc. 84–2788 Filed 1–31–84; 8:45 am]

BILLING CODE 7020–02–M

[Investigation No. 337–TA–150]

Certain Self-Stripping Electrical Tap Connectors; Commission Decision Not To Review Initial Determination; Deadline for Filing Written Submissions on Remedy, the Public Interest, and Bonding

AGENCY: International Trade Commission.

ACTION: Notice is hereby given that the Commission has determined not to review the presiding officer's initial determination that there is a violation of section 337 in the above-captioned investigation. The parties to the investigation and interested Government agencies are requested to file written submissions on the issues of remedy, the public interest, and bonding.

Authority: The authority for the Commission's disposition of this matter is contained in section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) and in § 210.53–.56 of the Commission's Rules of Practice and Procedure (47 FR 25134 (June 10, 1982) as amended by 48 FR 20225 (May 11, 1983); to be codified at 19 CFR 210.53–210.56).

SUPPLEMENTARY INFORMATION: On January 4, 1984, the presiding officer issued an initial determination that there is a violation of section 337 in the unauthorized importation and sale of certain self-stripping electrical tap connectors. No petitions for review of the initial determination were filed by any party and no written comments were filed by any Government agency. Having examined the record in this investigation, including the initial determination of the presiding officer, the Commission on January 25, 1984 determined not to review the initial determination. Consequently, the initial determination has become the Commission determination on violation of section 337 in this investigation.

Written Submission

Inasmuch as the Commission has found that a violation of section 337 has occurred, it may isue (1) an order which could result in the exclusion of the subject articles from entry into the United States and/or (2) cease and desist orders which could result in one or more respondents being required to cease and desist from engaging in unfair acts in the importation and sale of such articles. Accordingly, the Commission is interested in receiving written submissions which address the form of relief, if any, which should be ordered.

If the Commission contemplates some form of relief, it must consider the effect of that relief upon the public interest. The factors which the Commission will consider include the effect that an exclusion order and/or a cease and desist order would have upon (1) the public health and welfare, (2) competitive conditions in the U.S. economy, (3) the U.S. production of articles which are like or directly competitive with those which are the subject of the investigation, and (4) U.S. consumers. The Commission is therefore interested in receiving written submissions concerning the effect, if any, that granting relief would have on the public interest.

If the Commission orders some form of relief, the President has 60 days to approve or disapprove the Commission's action. During this period, the subject articles would be entitled to enter the United States under a bond in an amount determined by the Commission and prescribed by the Secretary of the Treasury. The Commission is therefore interested in receiving written submissions concerning the amount of the bond, if any, which should be imposed.

The parties to the investigation and interested Government agencies are requested to file written submissions on the issues of remedy, the public interest, and bonding. The complainant and the Commission investigative attorney are also requested to submit a proposed exclusion order and/or a proposed cease and desist order for the Commission's consideration. Persons other than the parties and Government agencies may file written submissions addressing the issues of remedy, the public interest, and bonding. Written submissions on remedy, the public interest, and bonding must be filed not later than the close of business on the day which is twenty-one (21) days from the date this notice appears in the Federal Register.

Commission Hearing

The Commission does not plan to hold a public hearing in connection with final disposition of this investigation.

Additional Information

Persons submitting written submissions must file the original document and 14 true copies thereof with the Office of the Secretary on or before the dealine stated above. Any person desiring to submit a document (or a portion thereof) to the Commission in confidence must request confidential treatment unless the information has already been granted such treatment by the presiding oficer. All such requests should be directed to the Secretary of the Commission and must include a full statement of the reasons why the Commission should grant such treatment. Documents containing confidential information approved by the Commission for confidential treatment will be treated accordingly. All nonconfidential written submissions will be available for public inspection at the Secretary's Office.

Notice of this investigation was published in the Federal Register of June 8, 1983 (48 FR 26542).

Copies of the presiding officer's initial determination of January 4, 1984, and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, telephone 202–523–0161.

FOR FURTHER INFORMATION CONTACT: Judith M. Czako, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202–523–0148.

By order of the Commission.

Issued: January 26, 1984.

Kenneth R. Mason,

Secretary.

[FR Doc. 84–2763 Filed 1–31–84; 8:45 am]

BILLING CODE 7020–02–M

[332–177]

Monthly Reports Providing Information on the U.S. Automobile Industry

AGENCY: International Trade Commission.

ACTION: Institution of an investigation under section 332(b) of the Tariff Act of 1930 (19 U.S.C. 1332 (b)) for the purpose of providing monthly report on the U.S. automobile industry.

BACKGROUND AND SCOPE OF INVESTIGATION: At the request of the Subcommittee on Trade, Committee on Ways and Means, U.S. House of Representatives, and in accordance with the provisions of section 332(b) of the Tariff Act of 1930 the Commission has instituted investigation No. 332–177, for the purpose of providing monthly data on the U.S. automobile industry through December 1984. The monthly reports will include data on automobile production, imports, exports, inventories, retail sales, price adjustments, and employment. The report will also include retail prices of selected comparable Japanese and U.S.-produced automobiles on a monthly basis.

The reports issued under this investigation will be similar in scope to those issued under recently completed investigation Nos. 332–121, 332–129, 332–136, and 332–152, of like title. Notice of the investigations were published in the Federal Register of January 7, 1981 (46 FR 1849), July 29, 1981 (46 FR 38779), February 10, 1982 (47 FR 6118), and February 15, 1983, (48 FR 6794), respectively.

EFFECTIVE DATE: January 24, 1984.

FOR FURTHER INFORMATION CONTACT: James McElroy or Georgia Jackson, Machinery and Equipment Division, Office of Industries, U.S. International Trade Commission, Washington, D.C. 20436 (telephone 202–523–0258 and 202–523–4604, respectively).

By order of the Commission.

Issued: January 25, 1984.

Kenneth R. Mason,

Secretary.

[FR Doc. 84–2765 Filed 1–31–84; 8:45 am]

BILLING CODE 7020–02–M

[332–176]

Competitive Assessment of the U.S. Foundry Industry

AGENCY: International Trade Commission.

ACTION: Institution of an investigation under section 332(g) of the Tariff Act of 1930 (19 U.S.C. 1332(g)) concerning the competitive position of the U.S. foundry industry in domestic and world markets, at the direction of the President, and the scheduling of a hearing in connection therewith.

EFFECTIVE DATE: January 19, 1984.

FOR FURTHER INFORMATION CONTACT: Mr. Peter Avery (202–523–0342) or Mr. Patrick Magrath (202–523–0341).

Minerals and Metals Division, U.S. International Trade Commission, Washington, D.C. 20436.

SUMMARY:

Background and Scope of Investigation

The Commission instituted the investigation, No. 332–176, following receipt on December 29, 1983, of a request therefor from the United States Trade Representative (USTR), at the direction of the President. In accordance with the request, the Commission will examine the competitive position of the U.S. foundry industry in domestic and world markets. As requested by USTR, the study will include an overview of the U.S. foundry industry, together with a detailed analysis of selected key products which should be important to the U.S. foundry industry, and to the extent possible representative of major segments of the entire foundry industry in terms of manufacturing process, import competition, marketing, and financial condition.

In conducting its investigation, the Commission, at the request of USTR, will cover in its product analysis the following points: (1) Current profile of the U.S. and foreign foundry industries; (2) conditions of competition between U.S. and foreign foundry producers; (3) factors affecting the future competitive posture of domestic and foreign foundry operations; and, (4) the implications of the U.S. competitive position on the foundry industry itself, related industries, and the U.S. economy as a whole. The Commission expects to complete its study by August 31, 1984.

Public Hearing

A public hearing in connection with this investigation will be held in the Commission Hearing Room, 701 E Street, NW., Washington, D.C., 20436, beginning at 10:00 a.m. on July 18, 1984, to be continued on July 19, 1984, if required. All persons shall have the right to appear by counsel or in person, to present information and to be heard. Requests to appear at the public hearing should be filed with the Secretary, U.S. International Trade Commission, 701 E Street, NW., Washington, D.C. 20436, not later than noon, July 11, 1984.

Written Submissions

In lieu of or in addition to appearance at the public hearing, interested persons are invited to submit written statements concerning the investigation. Commercial or financial information which a submitting party desires the Commission to treat as confidential must be submitted on separate sheets of paper, each clearly marked "Confidential Business Information" at the top. All submissions requesting confidential treatment must conform with the requirements of § 201.6 of the Commission's *Rules of Practice and Procedure* (19 CFR 201.6). All written submissioins, except for confidential business information, will be available for inspection by interested persons. To be ensured of consideration by the Commission, written statements should be submitted at the earliest possible date, but no later than July 11, 1984. All submissions should be addressed to the Secretary at the Commission's office in Washington, D.C.

By order of the Commission.

Issued: January 23, 1984.

Kenneth R. Mason,

Secretary.

[FR Doc. 84–2770 Filed 1–31–84; 8:45 am]

BILLING CODE 7020-02-M

INTERSTATE COMMERCE COMMISSION

Agricultural Cooperative; To Perform Interstate Transportation for Certain Nonmembers

Date: January 27, 1984.

The following Notices were filed in accordance with section 10526(a)(5) of the Interstate Commerce Act. These rules provide that agricultural cooperatives intending to perform nonmember, nonexempt, interstate transportation must file the Notice, Form BOP 102, with the Commission within 30 days of its annual meetings each year. Any subsequent change concerning officers, directors, and location of transportation records shall require the filing of a supplemental Notice within 30 days of such change.

The name and address of the agricultural cooperative (1) and (2), the location of the records (3), and the name and address of the person to whom inquiries and correspondence should be addressed (4), are published here for interested persons. Submission of information which could have bearing upon the propriety of a filing should be directed to the Commission's Office of Compliance and Consumer Assistance, Washington, D.C. 20423. The Notices are in a central file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C.

(1) Agway Inc.
(2) Box 4933, Syracuse, NY 13221
(3) 333 Butternut Drive, Dewitt, NY 13214
(4) Ralph E. Hallock, Box 4933, Syracuse, NY 13221

(1) Buckskin Express, Ltd.
(2) 200 W. Marcy, Suite 129, Santa Fe, NM 87501
(3) 4000 S. 51st Ave., Laveen, AZ 85339
(4) Kimball Udall, 200 W. Marcy, Suite 129, Santa Fe, NM 87501

(1) Knouse Foods Cooperative, Inc.
(2) Peach Glen, PA 17306
(3) Peach Glen, PA 17306
(4) William H. Horner, Peach Glen, PA 17306

James H. Bayne,

Acting Secretary.

[FR Doc. 84–2722 Filed 1–31–84; 8:45 am]

BILLING CODE 7035-01-M

[Section 5a Application No. 23]

Middle Atlantic Conference; Assumption of Steel Carriers Tarif Association, Inc. Functions

AGENCY: Interstate Commerce Commission.

ACTION: Notice of filing of proposed amendments and request for comment.

SUMMARY: By petition filed March 1, 1983, the Middle Atlantic Conference (MAC), a motor carrier rate bureau, requests Commission approval of various amendments to its rate agreement. The proposed amendments would enable MAC to conduct consolidated rate bureau activities following a transfer to it of ratemaking, tariff publication, and other bureau activities presently performed by the Steel Carriers Tariff Association, Inc. (STA), another motor carrier rate bureau. The Commission seeks comments from interested parties as to whether this approval should be granted. Copies of the proposal are available for public inspection and copying at the Office of the Secretary, Interstate Commerce Commission, 12th St. and Constitution Avenue NW., Washington, DC, 20423, and from petitioner's representatives:

Bryce Rea, Jr., Patrick McEligot, Rea, Cross, & Auchincloss, 918 16th Street NW., Washington, DC 20006
J. Alan Royal, P.O. Box 397, 6410 Kenilworth Avenue, Riverdale, MD 20737.

DATES: Comments from interested parties are due March 2, 1984. We intend to issue a final decision in this proceeding no later than April 16, 1984.

ADDRESS: Send an original and 15 copies, if possible, of comments to: Section 5a Application No. 23, Office of the Secretary, Case Control Branch,

Interstate Commerce Commission, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT:

Robert G. Rothstein, (202) 275–7912

or

Howell I. Sporn, (202) 275–7691.

SUPPLEMENTARY INFORMATION:

The Middle Atlantic Conference (MAC) seeks approval of proposed amendments to its existing ratemaking agreement under which its operations would incorporate those of Steel Carriers Tariff Association, Inc. (STA). This consolidation of operations has been approved by both STA and MAC at membership and Board meetings, respectively. The STA members also adopted a resolution that STA be dissolved once MAC files, and the Commission approves, the amendments to MAC's proposed agreement necessary to permit it to carry out the consolidated operations.

The proposed amendments, to both By-Laws and the Code of Rate Procedure, cover the structure and operating procedures of the integrated organization. Specifically, the proposed amendments: enlarge the Board of Directors; permit casting of votes from an enlarged territory; broaden the territorial scope of the MAC agreement; and create a new general rate committee of carriers primarily involved in the transportation of iron, steel, brick, and related articles.

More than two-thirds of STA's membership are members also of MAC. However, MAC and STA's mutual desire to consolidate stems from the retirement of STA's managing director and the STA search committee's recommendation, after interviewing candidates for a successor, that the efficacy of merging with MAC be explored. Over the years, MAC has provided many services under contract to STA, and a permanent consolidation will assertedly make the collective making of rates on iron and steel and related articles more efficient, especially needed at this time when the economic recession has hit the steel industry particularly hard and the number of STA members has been declining. Both STA and MAC foresee better service to both shippers and member carriers at less cost, with no significant change in STA's ratemaking procedures as a result of the consolidation.

Section 14 of the Motor Carrier Act of 1980 imposes a number of new requirements and standards on motor carrier rate bureaus as a condition to their continued immunity from antitrust laws. The amendments proposed here do not address these new requirements, but merely modify MAC's previously-submitted amendments. Those latter amendments were proposed in order to make the MAC agreement consistent with the requirements of Section 14 and Ex Parte No. 297 (Sub-No. 5), *Motor Carrier Rate Bureaus—Implementation of Pub. L. 96–296*, 364 I.C.C. 464 (1980), clarified at 364 I.C.C. 921 (1981). Comments on that issue have been sought and a final determination of that issue is pending. Our concern here rests only with MAC's proposal for consolidation with STA and the proposed amendments to MAC's agreement needed to effectuate the merger and to function subsequent to a consolidation.

Interested parties are invited to comment on the merger proposal.

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

This notice is issued pursuant to 49 U.S.C. 10321 and 10706 and 5 U.S.C. 554.

Decided: January 24, 1984.

By the Commission, Chairman Taylor, Vice Chairman Sterrett, Commissioners Andre and Gradison.

James H. Bayne,

Acting Secretary.

[FR Doc. 84–2721 Filed 1–31–84; 8:45 am]

BILLING CODE 7035–01–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Quotas for Controlled Substances in Schedules I and II

AGENCY: Drug Enforcement Administration, Justice.

ACTION: Notice of Established 1984 Aggregate Production Quotas.

SUMMARY: This notice establishes 1984 aggregate production quotas for controlled substances in Schedules I and II of the Controlled Substances Act.

DATE: This order is effective upon publication.

FOR FURTHER INFORMATION CONTACT:

Howard McClain, Jr., Chief, Drug Control Section, Drug Enforcement Administration, 1405 I Street, NW., Washington, D.C. 20537. Telephone (202) 633–1366.

SUPPLEMENTARY INFORMATION: Section 306 of the Controlled Substances Act (21 U.S. 826) requires that the Attorney General establish aggregate production quotas for all controlled listed in Schedules I and II each year. This responsibility has been delegated to the Administrator of the Drug Enforcement Administration by § 0.100 of Title 28 of the Code of Federal Regulations.

On Wednesday, November 9, 1983 a notice of the proposed 1984 aggregate production quotas for certain controlled substances in Schedules I and II was published in the **Federal Register** (48 FR 51554). All interested parties were invited to comment on or object to those proposed aggregate production quotas on or before December 9, 1983. Ciba-Geigy Corporation of West Caldwell, New Jersey, Hoffman-LaRoche Inc. of Nutley, New Jersey, E.I. du Pont de Nemours & Company of Wilmington, Delaware; and Eli Lilly and Company of Indianapolis, Indiana each submitted comments relative to the proposed quotas.

Relative to methylphenidate, Ciba-Geigy commented that sales for the past three years have been stable and they indicate that this trend will continue through 1984. Based on this sales pattern and anticipated 1984 inventory requirements, Ciba-Geigy requested that the aggregate production quota be increased to fulfill the legitimate 1984 needs.

Relative to levorphanol, Hoffman-LaRoche commented that past and recent history indicated an increasing sales trend for this substance. In addition, Hoffmann-LaRoche's affiliate in Canada expects an increase in their requirement as compared to their original estimate. Based on these requirements, Hoffman-LaRoche requested that the aggregate production quota for levorphanol be increased.

Relative to alpharprodine, Hoffman-LaRoche commented that based upon sales higher than estimated for 1983 and an expectation of a continuing trend of increasing sales during 1984, the proposed 1984 aggregate production quota will be insufficient to meet legitimate 1984 needs. Therefore, Hoffman-LaRoche requested that the 1984 aggregate production quota for alphaprodine be increased.

Relative to dextropropoxyphene, Eli Lilly and Company commented that based upon increased sales in 1983 and in anticipation that this trend will continue during 1984, the proposed aggregate production quota will be insufficient to meet legitimate 1984 needs. Therefore, Eli Lilly requested that the 1984 aggregate production quota for dextropropoxyphene be increased.

Relative to oxycodone (for conversion) and thebaine (for sale) E.I. du Pont de Nemours & Company commented that the published quantities are not adequate to meet their anticipated requirements for 1984. Therefore, E.I. du Pont de Nemours &

Company requested that the aggregate production quotas for oxycodone (for conversion) and thebaine (for sale) be increased.

No other comments and no requests for a hearing were received. DEA will consider the above comments when the established quotas are reviewed in early 1984. In accordance with § 1303.11(c) of Title 21 of the Code of Federal Regulations, the Administrator of the Drug Enforcement Administration has determined that no hearing relative to the comments received is necessary at this time.

Pursuant to Sections 3(c)(3) and 3(e)(2)(B) of Executive Order 12291, the Director of the Office of Management and Budget has been consulted with respect to these proceedings.

The Administrator hereby certifies that this matter will have no significant impact upon small entities within the meaning and intent of the Regulatory Flexibility Act, 5 U.S.C. 601 et seq. The establishment of annual aggregate production quotas for Schedules I and II controlled substances is mandated by law and by international commitments of the United States. Such quotas impact predominately upon major manufacturers of the affected controlled substances.

Therefore, under the authority vested in the Attorney General by Section 306 of the Controlled Substances Act of 1970 (21 U.S.C. 826) and delegated to the Administrator of the Drug Enforcement Administration by § 0.100 of Title 28 of the Code of Federal Regulations, the Administrator of the Drug Enforcement Administration hereby orders that the 1984 aggregate production quotas for Schedules I and II controlled substances, expressed as grams of anhydrous acid or base, be established as follows:

Basic class	Established 1984 quotas
Schedule I:	
2,5-Dimethoxyamphetamine	7,840,000
Tetrahydrocannabinols	30,000
Sufentanil	400
Schedule II:	
Alphaprodine	32,000
Amobarbital	2,950,000
Amphetamine	590,000
Cocaine	1,000,000
Codeine (for sale)	52,474,000
Codeine (for conversion)	2,950,000
Diacetylmorphine	1,516,000
1,316,000 grams for the production of levodeoxyephedrine for use in a noncontrolled, nonprescription product, and 200,000 grams for the production of methamphetamine.	
Diestrapropoxyphene	61,935,000
Dihydrocodeine	1,209,000
Diphenoxylate	882,000
Ecgonine (for conversion)	500,000
Fentanyl	3,000
Hydrocodone	1,247,000
Hydromorphone	140,000
Levorphanol	15,000
Meperidine	10,869,000
Methadone	505,000
Methadone Intermediate (4-cyano-2-dimethylamino-4,4-diphenylbutane	1,006,000
Methamphetamine (for conversion)	1,936,000
Methaqualone	0
Methylphenidate	1,181,000
Mixed Alkaloids of Opium	14,000
Morphine (for sale)	1,050,000
Morphine (for conversion)	55,490,000
Opium (tinctures, extracts, etc. expressed in terms of powdered opium	1,790,000
Oxycodone (for sale)	1,830,000
Oxycodone (for conversion)	6,400
Oxymorphone	5,000
Pentobarbital	8,000,000
Pethidine Intermediate A	5,259,000
Phenmetrazine	0
Phenylacetone	781,000
Secobarbital	3,250,000
Thebaine (for sale)	2,200,000
Thebaine (for conversion)	2,785,000

DEA will review the above-established quotas in early 1984 to take into consideration actual 1983 sales and actual December 31, 1983 inventories as well as other information which might be available to DEA.

Dated: January 24, 1984.

Francis M. Mullen, Jr.,

Administrator.

[FR Doc. 84-2744 Filed 1-31-84; 8:45 am]

BILLING CODE 4410-09-M

DEPARTMENT OF LABOR

Employment and Training Administration

Performance Standards for PY 1984

SUMMARY: Section 106 of the Job Training Partnership Act (JTPA) requires the Secretary of Labor to prescribe performance standards for Titles II–A and III programs. The Secretary's instructions for implementing the performance standards requirements were developed in response to Section 106 of JTPA and are set forth below.

EFFECTIVE DATE: July 1, 1984.

FOR FURTHER INFORMATION CONTACT:

Ms. Kay Albright, Telephone (202) 376–6620.

SUPPLEMENTARY INFORMATION: The proposed performance standards issuance for PY 1984 was published as a notice in the Federal Register on December 20, 1983 (48 FR 56288). Comments were requested to be submitted to the Department by January 9, 1984.

The Department received 41 written comments on the proposed issuance within the comment period. Following is a summary of the comments received on each of the major issues raised by the commenters and the Department's response.

Secretary's Parameters

Several commenters noted that the proposed parameters did not address adjustments for the "types of services to be provided." This is one of the factors identified in Section 106(e) of the Act. Accordingly, this item has been added to the Secretary's parameters.

Several comments were received concerning the manner in which the parameters were constructed. They anticipated specific numerical limitations rather than the proposed process and quality standards. Analysis of prior performance levels indicates that a significant amount of variation in performance existed in the past. Furthermore, the likely impact of the various adjustment factors will result in widely varying acceptable levels of performance. This makes it extremely difficult to establish meaningful numerical parameters around a national standard. Finally, the statute gives the Governors responsibility for adjusting the standards to take into consideration local variations. The Department determined, therefore, that the parameters should assure that adjustments made to the standards were done in a consistent, uniform, and equitable manner.

Dislocated Workers

Comments were received expressing concern that the Department did not issue a national numerical standard for the Title III programs. Outcome data currently are available only on six dislocated workers programs, and no outcome information is available concerning the JTPA dislocated workers programs which have been operating during the last several months. Because program design strategies and the populations to be served vary significantly, the Department did not think that it was appropriate to establish a numerical standard based on the very limited available experience. The Department has not, therefore, revised its requirement in this area. Governors are still required to establish an entered employment rate standard for their Title III programs.

The issuance has been revised to clarify that the Title III entered employment rate standard is required for formula funded programs only.

Post-Program Standards

Several commenters expressed concern that the Department was not issuing any post-program standards for

PY 1984. They indicated that the Department should move beyond immediate termination outcomes standards and establish standards which will more directly measure the program's goals of increasing employment and earnings and reductions in welfare dependency as a result of participation in the program.

It is widely recognized that conventional analytical techniques that measure a program's contribution to changes in participants' post-program circumstances are not sufficiently developed. Due to the technical limitations of these analytical approaches and in recognition that performance standards will condition the future funding of local programs, the Department has limited its standards' setting to those areas where its initial research and analysis have been completed.

With respect to post-program measures, the Department has initiated several research projects that will ascertain which post-program measures are the most appropriate measures of program success. Until the research efforts have been completed, post-program performance measures will not be established.

Average Wage at Placement

Several individuals commented that the proposed national standard for the average wage at placement measures was too high. The average wage at placement figure was derived from FY 1982 CETA Title II B/C data, which included wages attained by both adults and youth. The average wage at placement standard is for adults only. Therefore, the inclusion of youth in the CETA data may tend to lower the figure used to construct this standard. Minor adjustments were made to the CETA performance level to account for differences between CETA and JTPA.

In addition, the Department applied a productivity improvement factor to the prior CETA wage experience to reflect Departmental expectations that JTPA programs will provide improved opportunities. The Department also recognized the importance of taking into account variations in local wage structures, and included a factor in its optional adjustment methodology to adjust for such differences. Furthermore, the parameters provide the Governors considerable discretion in adjusting the standards to take into account local economic conditions, such as the average wage rate. Accordingly, the Department has not revised the average wage at placement standard.

Youth Employment Competencies

Commenters urged that youth competencies be included in the Federal reporting requirements. Section 106(b)(2) of the Act assigns to the local private industry council (PIC) the authority to determine what will constitute "recognized employment competencies" for youth. Until the PICS have defined such competencies and the Department has had an opportunity to study the manner in which competency systems are being designed and applied at the local level, it is not possible to establish an informed performance standard and its related reporting elements. Rather than arbitrarily defining youth competencies and assigning an expected level of performance to them, the Department has commissioned research into how they are being addressed locally. The results of this research may be used to support the establishment of appropriate performance standards and reporting requirements in the future.

Concern was also expressed regarding the approach for adjusting the two youth positive termination standards by the Governor. The Governor does not approve youth employment competency systems nor the competencies recognized by the private industry council. Instead, the Governor should adjust the positive termination standards of an SDA to take account of the recognized competencies established by the PIC. This is appropriate because the national standards are based on CETA Title IV–A data.

Modification of the Standards

Several of the commenters inquired as to why the standards were being issued for PY 1984 only, since the Act at Section 106(d)(4)(A) states that the Secretary may modify the standards no more often than every two years. It is noted that the numerical values established for PY 1984 standards had to be established using CETA data, which will be two and one-half years old by the end of PY 1984. Since initial JTPA data and more recent economic information will be available for use in establishing the PY 1985 standards, the Department believed that it would have been in the best interest of the program to utilize such information in the establishment of PY 1985 standards. It was the Department's intent to adjust only the numerical values (e.g., "55%") assigned to the specific performance standards (e.g., the "entered employment rate").

Because of the comments on this issue, the Department will continue to examine this issue.

Paperwork Reduction Act of 1980

Attachment No. 1 to the issuance has been reviewed in accordance with the Paperwork Reduction Act by the Office of Management and Budget and approved for the period through September 30, 1985 (OMB No. 1205–0211). None of the revisions made in the attached issuance impacts on that OMB review and approval.

Executive Order 12291

The document has been reviewed by the Office of Management and Budget in accordance with Executive Order 12291 and approved for the period through September 30, 1985.

Signed at Washington, D.C., this 27th day of January, 1984.

Patrick J. O'Keefe,

Acting Deputy Assistant Secretary of Labor.

[Issuance Number 1–PY 84]

Performance Standards for PY 1984

January 31, 1984.

Authority: Job Training Partnership Act, Pub. L. 97–300, Section 106, Implementing Regulations 20 CFR 629.46, March 15, 1983.

I. Purpose

This document transmits the Secretary of Labor's performance standards for Titles II–A and III of the Job Training Partnership Act (JTPA). These standards are for program year (PY) 1984 (July 1, 1984–June 30, 1985).

It is the purpose of this issuance to define and explain the program year (PY) 1984 performance standards pursuant to the requirements of Section 106(d)(1). Included in this issuance is certain information concerning the application of the standards for the purpose of awarding incentive grants and for identifying service delivery areas (SDAs) which need technical assistance.

II. Background

Section 106 of JTPA directs the Secretary to establish performance standards for adult, youth, and dislocated workers programs. Such standards should relate to the programs' goals—increasing employment and earnings and reducing welfare dependency.

The information provided in this document is for the *first full program year* (July 1, 1984–June 30, 1985), as required by the statute.

Section 106 (c) and d(1) prescribes the performance standards implementation schedule. These sections require the Secretary to issue performance standards for the initial nine months of JTPA within six months of the

enactment date of JTPA and for the first program year by January 31, 1984.

Performance Standards Issuance Number 1–84, dated April 13, 1983, transmitted the performance standards for the initial nine months of JTPA. Performance Standards Issuance 3–84, dated October 7, 1983, revised the definitions for the youth positive termination rate and cost per positive termination standards and provided definitions and calculation instructions for the standards. The contents of both of those issuances are briefly summarized below:

- The Department issued seven national standards—four for the adult programs and three for the youth programs;
- The Department did not issue any parameters for the initial nine-months period;
- The Department did not issue any Title III standards for the dislocated workers programs. Governors were, however, encouraged to establish performance goals for their Title III programs;
- Private Industry Councils (PICs), in conjunction with SDAs, were encouraged to develop youth employment competency systems during the initial nine-months period;
- A youth shall be considered a positive termination if he/she had achieved, at termination, *one* of the following outcomes:

—entered unsubsidized employment;
—met one of the youth employability enhancement definitions as defined in the instructions to the approved JTPA annual status report (JASR); *or*
—attained youth employment competencies recognized by the PIC; and

- The Secretary's National Standards for the youth positive termination rate and cost per positive termination presume the inclusion of all youth who had a positive termination, as defined above. Therefore, should the Governor determine that an SDA's youth competency system has not been sufficiently developed to enable the PIC to recognize youth employment competencies, the Governor should adjust the performance standards accordingly.

Prior to the preparation of this document, the Department convened a JTPA Performance Standard Advisory Committee to discuss how the Department should establish performance standards and parameters for the first program year. The sections which follow reflect the input of the Advisory Committee.

III. Information for Implementing Performance Standards for PY 1984

This section provides information for implementing performance standards for PY 1984. The measures and Secretary's National Standards for Title II–A programs are defined at Part A; Part B describes the parameters for varying the National Standards; Part C discusses dislocated workers standards; Part D describes the use of the standards; Part E provides certain information concerning anticipated changes which will be made to the instructions issued regarding the Governor's Coordination and Special Services Plan (GCSSP); Part F provides information concerning appeals from SDAs; and Part G describes assistance available from the Department.

A. Performance Measures and the Secretary's National Standards for PY 1984

Performance standards for outcomes resulting from Title II–A participation are established for the measures noted below (the Secretary's National Standard is the underscored number following the definition):

Adults

1. *Entered Employment Rate*—The number of adults who entered employment at termination as a percentage of the number of adults who terminated: *55%*.

2. *Cost per Entered Employment*—Total expenditures for adults divided by the number of adults who entered employment: *$5,704*.

3. *Average Wage at Placement*—Average wage for all adults who entered employment at the time of termination: *$4.91*.

4. *Welfare Entered Employment Rate*—The number of adult welfare recipients who entered employment at termination as a percentage of the number of adult welfare recipients who terminated: *39%*.

Youth

1. *Entered Employment Rate*—The number of youth who entered employment at termination as a percentage of the number of youth who terminated: *41%*.

2. *Positive Termination Rate*—The number of youth who had a positive termination (i.e., at termination, the youth had either entered unsubsidized employment; *or* had met one of the youth employability enhancement termination definitions; *or* had attained youth employment competencies recognized by the PIC) as a percentage of the total youth who terminated: *82%*.

3. *Cost per Positive Termination*—Total expenditures for youth divided by the number of youth who had a positive termination (i.e., at termination, the youth had either entered unsubsidized employment; *or* had met one of the youth employability enhancement termination definitions; *or* had attained youth employment competencies recognized by the PIC): *$4,900*.

The foregoing standards were derived using two different time periods—through the fourth quarter of FY 82 for the adult standards and through the third quarter of FY 82 for the youth standards. The decision to replicate the initial nine-months standards for the youth programs was based on the uncertainty of the Title IV–A CETA data. Specifically,

- Approximately 15% of the prime sponsors did not operate a Title IV–A program during the first quarter of FY 82; and
- Approximately 37% of the prime sponsors terminated all of their Title IV–A participants during the fourth quarter of FY 82.

These two circumstances significantly altered the performance outcomes achieved during the third quarter versus the fourth quarter, as well as such factors as average weeks participated. Since the performance levels contrasted markedly between the two time periods, and the differences were more substantial than past trends would indicate, the Department determined that it should issue the same youth standards for PY 84 as were issued for the initial nine months of JTPA.

Keeping in mind that the adult standards are based on 12 months of FY 82 Title II–B/C CETA data and the youth standards are based on 9 months of FY 82 Title IV–A CETA data, the following factors were taken into account prior to the establishment of the above Secretary's National Standards:

- The basic goals of the Act—increased employment and earnings and reductions in welfare dependency;
- The design and programmatic differences between JTPA and its prdecessor, CETA (including increased emphasis on training, reduced administrative costs, and limitations on wages and allowances);
- The participant mix differences between JTPA and CETA (e.g., an increase in services to unemployment compensation claimants);
- By definition, the Secretary's National Standards for the youth positive termination rate and cost per positive termination provide for the inclusion of youth who attained employment competencies recognized

by the PIC. The FY 1982 CETA data did not include such a reporting item. Rather, it included such outcomes as remained/continued in school and completed program objective (all ages). Local PICs may use these or other factors in deciding what will constitute recognized employment competencies in their SDA. The Governor should adjust the two positive termination standards accordingly; and

• The expectation that performance will improve due to program and administrative refinements (including the presence of performance standards) and an improved economy.

Note: The Secretary's National Standards for the adult entered employment rate, average wage at placement, and welfare entered empoyment rate, as well as the youth entered employment rate and positive termination rate include a 10% productivity improvement factor.

B. Secretary's Parameters

There may be reasons why the Secretary's National Standards should be varied by the Governors for individual SDAs. The Secretary's and Governor's responsibilities in allowing variations are described at Section 106(e) of the Act. The Department has developed an adjustment methodology to assist Governors in varying SDA standards which take into account local conditions.

This methodology will be made available as an optional technical assistance guide to Governors. Governors may use the Department's methodology or they may develop their own adjustment methodology (See Section E below for documentation requirements in the Governor's Coordination and Special Services Plan). Regardless of the adjustment methodology that is developed, there must be a systematic approach which conforms to the following parameters:

1. Procedure must be:
   • Responsive to the intent of the Act,
   • Consistently applied among SDAs,
   • Objective and equitable throughout the State,
   • In conformance with widely accepted statistical criteria;
2. Source data must be:
   • Of public use quality,
   • Available upon request;
3. Results must be:
   • Documented;
   • Reproducible; and
4. Adjustment factors must be limited to:
   • Economic factors,
   • Labor market conditions,
   • Characteristics of the population to be served,
   • Geographic factors,
   • Types of services to be provided.

C. Dislocated Workers

Section 106(g) requires the Secretary to prescribe performance standards relating to programs authorized by Title III of JTPA (Dislocated Workers). Because of limited performance information at the national level concerning the conduct of programs such as those envisioned under Title III, no national Title III performance standards will be established for PY 1984.

Governors, however, have had initial experience in the operation of dislocated workers programs during the last several months and should be in a position to project appropriate performance levels for their States.

Accordingly, since it is the Governor's responsibility to assess Title III program performance, the Department has determined that Governors shall be required to establish an entered employment rate standard for each of their Title III programs (formula funded only). Governors are encouraged to continue to establish goals for the cost per entered employment, which take into consideration the Title III program design, participant characteristics, and other factors deemed appropriate by the Governor.

D. Use of Performance Standards

The following describes how SDA Performance Standards established by the Governors should be used in the review of SDA Job Training Plans and for assessing SDA performance at the end of the first full program year. The Governor must establish performance standards for each of the seven measures for each SDA for Title II–A. The Governor must also establish an entered employment rate standard for each formula funded Title III program.

1. *Review of SDA Job Training Plan*—In accordance with Sections 104(b)(4) and 105(b)(1) of the Act, the Governor should ensure that the SDA plans reflect the SDA standards established for each of the measures.

2. *Final Year-End Performance Assessment*—Attachment #1 to this issuance contains the computation formulas for the seven Title II–A performance measures, and the Title III performance measure, in relation to the specific line items on the approved JASR. Governors should calculate their SDA's actual performance using the formulas shown on Attachment #1 in order to assess their SDA's performance against their standards. In accordance with Section 202(b)(3), incentives may be awarded based on exceeding the performance standards and services to the hard-to-serve. When the Governor establishes a system for awarding incentives, the system must include Title II–A standards. While the system may not necessarily require that an SDA exceed all of the standards to be eligible for incentive funds, the Governor may not disregard any of the seven measures in establishing the incentive system.

E. Anticipated Revisions to the Governor's Coordination and Special Services Plan (GCSSP)

On June 22, 1983, a letter was transmitted to the Governors which provided instructions concerning the requirements of the GCSSP. Section II.C. of that document relates to performance standards. Since a performance standards package had not been approved when the instructions were transmitted, States were advised that they were not required to address Section II.C. until further notice.

The Department plans to update the GCSSP instructions, including incorporating the requirements at Section 121(b)(3) of the Act. These specify that the Governor shall document in the GCSSP the adjustments made in the performance standards and the factors that are used in making the adjustments. The revised instructions will be transmitted under separate cover.

F. Appeals

Governors are advised that in the case of an appeal from an SDA concerning the imposition of a reorganization plan for failure to meet the performance standards for two consecutive years, the Secretary will make his final decision in accordance with Section 106(h)(4) of the Act and 20 CFR 629.46(d)(6). In making his decision, the Secretary will be predisposed to uphold the Governor's determination concerning the application of the performance standards, if the Governor elected to use the nationally developed adjustment methodology to vary the performance standards. If the Governor, however, elected to use an alternative methodology to vary the standards, the Secretary will make his decision on a case by case basis, based on the validity of the methodology and its uniform application throughout the state.

G. Departmental Assistance

The Department will respond, to the extent feasible, to individual States' requests for assistance regarding the discharge of the Governors' responsibilities to establish program year 1984 performance standards and to

assess SDAs' performance against those standards.

Attachment No. 1—Computation Formulas for Titles II–A and Title III Performance Measures

As indicated in Section II.E. of Performance Standards Issuance 1–PY 84, the computation formulas for each of the performance measures are shown below. The specific column and line items reflected in the formulas relate to the approved JTPA Annual Status Report (JASR). Governors should compare the SDA's actual performance results obtained by using the following computation formulas to the SDA's performance standards when determining whether an SDA is eligible to receive an incentive award.

Title II–A

Adults

- Entered Employment Rate

$$\text{Column (A)}\ \frac{\text{I.B.1.}}{\text{I.B.}} \times 100$$

- Cost per Entered Employment

$$\text{Column (A)}\ \frac{\text{II.23.}}{\text{I.B.1.}}$$

- Average Wage at Placement

Column (A) II.22.

- Welfare Entered Employment Rate

$$\text{Column (B)}\ \frac{\text{I.B.1.}}{\text{I.B.}} \times 100$$

Youth

- Entered Employment Rate

$$\text{Column (C)}\ \frac{\text{I.B.1.}}{\text{I.B.}} \times 100$$

- Positive Termination Rate

$$\text{Column (C)}\ \frac{\text{(I.B.1.)} + \text{(I.B.2.)} + \text{(youth who attained recognized competencies)}}{\text{I.B.}} \times 100$$

- Cost Per Positive Termination

$$\text{Column (C)}\ \frac{\text{II.23.}}{\text{(I.B.1.)} + \text{(I.B.2.)} + \text{(youth who attained recognized competencies)}}$$

Title III

- Entered Employment Rate

$$\text{Column (D)}\ \frac{\text{I.B.T.}}{\text{I.B.}} \times 100$$

Note.—The JASR does not request separate information on the number of youth who attained PIC-recognized employment competencies. This type of termination will be reported in Column (C) at line I.B.3., "All Other Terminations," along with any other termination which meets the definition of "All Other Terminations."

Where multiple reporting elements are included in the numerator or denominator, a participant shall only be included in one of the multiple elements.

There will be no change to the reporting system at this time. While the inclusion of "attained youth employment competencies" is a part of the definitions for the two youth positive termination standards, the tracking and documentation of "attained youth employment competencies" will be at the discretion of the Governor. The Governor, accordingly, may request an SDA to provide additional information regarding the specific attainment of youth employment competencies.

(Approved by the Office of Management and Budget under OMB Control No. 1205–0211)

[FR Doc. 84–2872 Filed 1–31–84; 8:45 am]

BILLING CODE 4510–30–M

SMALL BUSINESS ADMINISTRATION

[License No. 08/08–0059]

Enterprise Finance Capital Development Corp.; Issuance of a License To Operate as a Small Business Investment Company

On August 11, 1983, a notice was published in the **Federal Register** (47 FR 53989), stating that Enterprise Finance Capital Development Corporation located at 935 Stonebridge Condominiums, Snowmass Village, Colorado 81615, had filed an application with the Small Business Administration pursuant to 13 CFR 107.102 (1983), for a license to operate as a small business investment company under the provisions of section 301(c) of the Small Business Investment Act of 1958, as amended.

The period for comment expired on August 26, 1983, and no significant comments were received.

Notice is hereby given that considering the application and other information, SBA has issued License No. 08/08–0059 to Enterprise Finance Capital Development Corporation.

Dated: January 23, 1984.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 84–2781 Filed 1–31–84; 8:45 am]

BILLING CODE 8025–01–M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Impact Statement; Yolo County, in and Near Woodland, California

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for a proposed highway project in Yolo County, California.

FOR FURTHER INFORMATION CONTACT: Michael A. Cook, District Engineer, Federal Highway Administration, P.O. Box 1915, Sacramento, California 95809, Telephone: (916) 440–2521.

SUPPLEMENTARY INFORMATION: The FHWA in cooperation with the California Department of Transportation (Caltrans) will prepare an environmental impact statement (EIS) on a proposal to construct a 4.3-mile section of four-lane freeway for State Route 113 on new alignment between 0.4 mile south of County Road 27 and 0.7 mile south of Interstate Route 5. This project proposes to close the gap between the Route 113 Freeway north of Davis and the Route 113 Freeway connection to Interstate Route 5 in Woodland.

Completion of this project will permit a direct north-south freeway connection between Interstate Route 80 south of Davis and Interstate 5 in Woodland. Safety and traffic service would be improved to, from and within the Woodland area by adding traffic lanes, eliminating an at-grade railroad crossing, and eliminating at-grade intersections and private driveways. A lower accident frequency rate is anticipated.

Possible alternatives to accomplish the goals of the proposed action include: (1) Doing nothing; (2) upgrading the existing facility; (3) constructing a two-lane freeway; and (4) constructing a two- or four-lane conventional highway with no or some at-grade intersections.

Meetings will be scheduled to encourage affected parties to identify the crucial issues and ensure that

matters of importance are not overlooked in the early stages of review.

To ensure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to the FHWA at the address provided above.

Monte Darden,

Acting District Engineer, Sacramento, California.

[FR Doc. 84-2536 Filed 1-31-84; 8:45 am]

BILLING CODE 4910-22-M

Environmental Impact Statement; Washtenaw County, Michigan

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that a supplement to the final environmental impact statement will be prepared to address additional improvements for the treatment of the I–94/Wiard Road interchange at US–12 in Ypsilanti Township, Washtenaw County Michigan.

FOR FURTHER INFORMATION CONTACT: Mr. Thomas A. Fort, Jr., District Engineer, Federal Highway Administration, P.O. Box 10147, Lansing, Michigan 48901, Telephone (FST) 374–1879 or (Commercial) (517) 377–1879 or Mr. Ross Lowes, Manager, Social and Economic Studies Section, Michigan Department of Transportation, P.O. Box 30050, Lansing, Michigan, 48909, Telephone (517) 373–2226.

SUPPLEMENTARY INFORMATION: The Federal Highway Administration, in cooperation with the Michigan Department of Transportation, will prepare a supplement to the final environmental impact statement (EIS) for the proposed improvement to the I–94/Wiard Road interchange. A final environmental impact statement for the recommended alternate was issued in 1980. The supplement will address proposed additional work to include the relocation of the eastbound lanes of US–12 between I–94 and Gates Street, the closing of Nevada Street and service drive, and the construction of a new bridge carrying eastbound US–12 over westbound I–94. The purpose of this addition to the project is to improve the US–12 overpass to accommodate the widening of I–94, to assure safety by provision of adequate side clearance and sight distance. Impacts of the additional work are displacement of homes, minor changes in traffic circulation on local streets, and inconvenience during construction. Early coordination with other federal, state, or local agencies and the public has been conducted and identified in the more significant issues associated with the proposed additional work. A scoping document which identifies these issues has been prepared by FHWA and MDOT, and is available on request to interested agencies and individuals. No formal agency scoping meeting is planned.

The draft supplement to the Final EIS is scheduled for completion by April, 1984, and will be made available for public and agency review and comment.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning and Construction. The provisions of OMB Circular No. A–95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects apply to this program)

Issued on: January 23, 1984.

David A. Merchant,

Division Administrator, Lansing, Michigan.

[FR Doc. 84-2603 Filed 1-31-84; 8:45 am]

BILLING CODE 4910-22-M

Environmental Impact Statement; Romulus, Michigan (Wayne County)

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that a supplement to the draft environmental impact statement will be prepared for the proposed improvements to I–94 Interchanges with Merriman and Middlebelt Roads in Romulus, Michigan (Wayne County).

FOR FURTHER INFORMATION CONTACT: Mr. Thomas A. Fort, Jr., District Engineer, Federal Highway Administration, P.O. Box 10147, Lansing, Michigan 48901, Telephone (FTS) 374–1879 or (Commercial) (517) 377–1879 or Mr. Ross E. Lowes, Manager, Social and Economic Studies Section, Michigan Department of Transportation, P.O. Box 30050, Lansing, Michigan 48909, Telephone (517) 373–2226.

SUPPLEMENTARY INFORMATION: The Federal Highway Administration, in cooperation with the Michigan Department of Transportation, (MDOT), will prepare a supplement to the draft environmental impact statement (SDEIS) on a proposal to improve I–94 Interchanges with Merriman and Middlebelt Roads near the Detroit Metropolitan Wayne County Airport in Romulus, Michigan. A draft EIS for this project was prepared and circulated in 1979. The SDEIS is being prepared because of the length of time that has passed since the original document was published and because of substantial design changes which have been made in the previous alternatives evaluated. Both interchanges have ramps which are substandard by modern design criteria or have features which contribute to a large number of accidents. The project has been proposed for safety reasons.

Alternatives under consideration include: taking no action; and 4 Reconstruction Alternatives, identified as: the Low Capital Investment Improvement Alternative, Alternative 1 (One), Alternative 2 (Two), and Alternative 3 (Three). All the reconstruction alternatives require additional right-of-way. Alternatives 1 (One) and 3 (Three) require the reconstruction of structures over Merriman and Middlebelt Roads. The Low Capital Investment Improvement Alternative and Alternative 2 utilize existing structures over Merriman and Middlebelt Roads.

Alternate modes of transportation were studied and judged to be an unsatisfactory solution.

Letters describing the proposed action and soliciting comments have been sent to appropriate Federal, State and local agencies.

Early coordination with a number of Federal, State and local agencies as well as input received from circulation of a Drift EIS published in 1979 have identified the more significant issues to be addressed in the supplement to the draft environmental impact statement. Accordingly, a scoping document has been prepared by FHWA and MDOT identifying those issues and is available on request to all interested agencies, organizations, and individuals. No formal scoping meeting will be held. Comments or questions on the scoping document and the issues identified are invited from all interested parties. Please furnish any comments to the FHWA or MDOT at the address provided above, prior to February 24, 1984.

The supplement to the draft environmental impact statement is scheduled for completion in March 1984 and will be made available for public and agency review and comment. A public hearing will be held. Public notice will be given of the time and place of the public hearing.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning and Construction. The provisions of OMB Circular No. A–95 regarding State and local clearinghouse review of Federal and

federally assisted programs and projects apply to this program)

Issued on: January 23, 1984.

David A. Merchant,

Division Administrator, Lansing, Michigan.

[FR Doc. 84-2694 Filed 1-31-84; 8:45 am]

BILLING CODE 4910-22-M

Federal Railroad Administration

[FRA Waiver Petition Docket H-83-1]

Baltimore and Ohio Railroad Co.; Petition for Exemption From the Track Safety Standards

In accordance with 49 CFR 211.41 and 211.9, notice is hereby given that the Baltimore and Ohio Railroad Company (B&O) has petitioned the Federal Railroad Administration (FRA) for a temporary waiver of the requirements of § 213.113 of the Federal Track Safety Standards (49 CFR Part 213).

The B&O Railroad Company and several other railroads are participating in a research test being sponsored jointly by the FRA's Office of Rail Safety Research and the American Railway Engineering Association (AREA), and request permission to deviate from full compliance with the remedial action specified for detected rail flaws in § 213.113 of the Track Safety Standards. The relief sought will permit the carriers to install special joint bars on detected detail fractures, bolted with four rather than two bolts as presently required. The special joint bars will be held slightly away from the rail by spacers to avoid load transfer into the joint bars, but will maintain rail head alignment. The tests will be conducted under controlled conditions to observe the rate at which specific rail defects grow under prevailing traffic patterns and rail support conditions.

Interested persons are invited to participate in this proceeding by submitting written views or comments. FRA has not scheduled an opportunity for oral comment since the facts do not appear to warrant it. However, if any interested party desires an opportunity for oral comment, FRA will schedule a public hearing provided that a written request for hearing is submitted no later than 30 days after publication of this notice. The request for hearing must be accompanied with a showing why your position cannot be properly presented in written statements.

Communications concerning this proceeding should identify the Docket Number Waiver Petition H-83-1, and must be submitted in triplicate to the Docket Clerk, Office of Chief Counsel, Federal Railroad Administration, Nassif Building, 400 Seventh Street, SW., Washington, D.C. 20590. Communications received within March 19, 1984 will be considered by the ERA before final action is taken. Comments received after that time will be considered to the extent practicable. All comments received will be available for examination both before and after the closing date for comments, during regular business hours in Room 5423, Nassif Building, 400 Seventh Street, SW., Washington, D.C. 20590.

Issued in Washington, D.C. on January 24, 1984.

J. W. Walsh,

Associate Administrator for Safety.

[FR Doc. 84-2713 Filed 1-31-84; 8:45 am]

BILLING CODE 4910-06-M

[FRA Waiver Petition Docket Nos. HS-83-17 Through HS-83-21]

Petition for Exemption From the Hours of Service Act; Sierra Railroad Co., et al.

In accordance with 49 CFR 211.14 and 211.9 notice is hereby given that five railroads have petitioned the Federal Railroad Administration (FRA) for an exemption from the Hours of Service Act (83 Stat. 464, Pub. L. 91-169, 45 U.S.C. 64a(e)). Each petition requests that the individual railroad be granted authority to permit certain employees to remain on duty for in excess of twelve hours.

The Hours of Service Act currently makes it unlawful for a railroad to require or permit specified employees to remain on duty for a period in excess of twelve hours. However, the Hours of Service Act contains a provision that permits a railroad, which employs no more than fifteen employees who are subject to the statute, to seek an exemption from this twelve hour limitation.

Each railroad seeks this exemption so that it can permit certain employees to remain on duty not more than sixteen hours in any twenty-four hour period. Each petitioner indicates that granting this exemption is in the public interest and will not adversely effect safety. Additionally, each petitioner asserts that it employs no more than fifteen employees and has demonstrated good cause for granting this exemption. The railroads seeking this exemption are as follows:

Sierra Railroad Company—Waiver Petition Docket No. HS-83-17

East Tennessee Railway Corporation—Waiver Petition Docket No. HS-83-18

Hillsdale County Railway Company, Inc.—Waiver Petition Docket No. HS-83-19

Lanawee County Railroad Company, Inc.—Waiver Petition Docket No. HS-83-20

West Virginia Northern Railroad, Inc.—Waiver Petition Docket No. HS-83-21

Interested persons are invited to participate in this proceeding by submitting written views or comments since the facts do not appear to warrant it. Communications concerning this proceeding would identify the docket number (e.g. Docket Number, HS-83-17) and must be submitted in triplicate to the Docket Clerk, Office of Chief Counsel, Federal Railroad Administration, Nassif Building, 400 Seventh Street, SW., Washington, D.C. 20590.

Communication received before March 12, 1984, will be considered by FRA before final action is taken. Comments received after that will be considered as far as practicable. All comments received will be available for examination both before and after the closing date for comments, during regular business hours in Room 7330, Nassif Building, 400 Seventh Street, SW., Washington, D.C. 20590.

(Sec. 5 of the Hours of Service Act of 1969 (45 U.S.C. 64(a), (Sec. 1.49(d) of the regulations of the Office of the Secretary, 49 CFR 1.49(d))

Issued in Washington, D.C., on January 24, 1984.

J. W. Walsh,

Associate Administrator for Safety.

[FR Doc. 84-2715 Filed 1-31-84; 8:45 am]

BILLING CODE 4910-06-M

[FRA Waiver Petition Docket No. RSOR-83-3]

Petition for Relief From the Requirements of Blue Signal Protection of Workmen; Southeastern Pennsylvania Transportation Authority

In accordance with 49 CFR 211.41 and 211.9, notice is hereby given that the Southeastern Pennsylvania Transportation Authority (SEPTA) has petitioned the Federal Railroad Administration for relief from the requirments of 49 CFR 218.23 and 218.27 through 218.30. These Sections provide for minimum requirements for the protection of railroad employees engaged in the inspection, testing, repair, and servicing of rolling equipment.

SEPTA operates 244 weekday commuter trains into or out of Reading Terminal Station, Philadelphia, Pennsylvania. Arriving and departing trains operate through a single interlocking to the stub end tracks of the station. The machinery of the interlocking is designed so that the locking of a route from one or more of the station tracks bars the use of others.

The protection of workmen under requirements contained in Part 218 and the design limitations of the interlocking materially delays and disrupts the operation at Reading Terminal Station. To eliminate such delay and disruption, SEPTA seeks a waiver of compliance.

If relief is granted, SEPTA proposes an alternative method of blue signal display and protection for employees. The alternative method requires that before an employee goes under or between their equipment for any reason, including the inspection and testing of equipment, the car inspector will operate a key switch which will illuminate the appropriate newly-installed blue light, permanently suspended from the train shed cross-beams and adjacent to the equipment being inspected or tested. The blue light, located east or forward of the equipment being inspected, will be illuminated to warn incoming trains that equipment located west of the light is under blue signal protection and must not be coupled. A blue signal will then be attached to the controls of the train being inspected and/or tested in accordance with 49 CFR 218.27(e).

Interested persons are invited to participate in these proceedings by submitting written views and comments. FRA has not scheduled an opportunity for oral comment since the facts do not appear to warrant it. Communications concerning these proceedings should identify the appropriate Docket Number (e.g. Docket Number RSOR 83–3) and must be submitted in triplicate to the Docket Clerk, Office of the Chief Counsel, Federal Railroad Administration, Nassif Building, 400 Seventh Street, SW., Washington, D.C. 20590.

Communications received before March 12, 1984, will be considered by FRA before final action is taken. Comments received after that will be considered as far as practicable. All comments received will be available for examination both before and after the closing date for comments, during regular business hours in Room 7330, Nassif Building, 400 Seventh Street, SW., Washington, D.C. 20590.

(Sec. 202 of the Federal Railroad Safety Act of 1970, 84 Stat. 971 (45 U.S.C. 431) 1.49(m) of the regulations of the Office of the Secretary, 49 CFR 1.49(m)).

Issued in Washington, D.C., on January 24, 1984.

J. W. Walsh,

Associate Administrator for Safety.

[FR Doc. 84–2714 Filed 1–31–84; 8:45 am]

BILLING CODE 4910–06–M

Maritime Administration

[Docket No. S–748]

Delta Steamship Lines, Inc.; Application

Notice is hereby given that, by application dated January 10, 1984, as supplemented by letter dated January 20, 1984, Delta Steamship Lines, Inc. (Delta) has requested all the necessary approvals and consents under the Merchant Marine Act, 1936, as amended (Act), and its Operating-Differential Subsidy Agreements (ODSAs), Contract Nos. MA/MSB–353 and MA/MSB–425, to operate its three C9 LASH vessels on a dual service on Trade Route (TR) 20 (Line E) (U.S. Gulf/East Coast of South America) and TRs 23–24–25 (Line B) (U.S. Pacific/Caribbean and East Coast of South America). Notwithstanding the proposed dual service privileges, Delta wishes to retain its present contractual authority to operate on TR 20 and TRs 23–24–25 as separate and distinct services. Delta has not requested any increase in its maximum authorized sailings on TR 20 and TRs 23–24–25 and the proposed dual service will be maintained within the maximum authorized sailings of Delta's ODSAs.

On December 12, 1983, Delta received Maritime Administration approval to construct three new 1,900 TEU containerships in accordance with the previously granted section 615 of the Act approval and to substitute the vessels upon delivery on a one-for-one basis for the three C9 LASH vessels. Delta proposes to replace the LASH vessels to be operated on the dual TR 20 and TRs 23–24–25 service upon delivery of its new containerships presently under construction.

Pursuant to ODSA, Contract No. MA/MSB–425, Delta provides regular cargo liner-passenger service on TRs 23–24–25. In past years, Delta operated four C4–S1–49a combination passenger/cargo vessels which were under bareboat charters from another operator. Delta has applied to adjust its services by withdrawing and laying up the C4 vessels currently servicing TRs 23–24–25 and discontinue its passenger service, in view of the fact that the charters on the four C4 vessesls will commence expiring in only 18 months. However, Delta wishes to reserve the right to utilize the C4 vessels under its ODSAs in a freight-only mode to supplement Delta's service should traffic conditions warant. Such utilization will be within the maximum authorized sailing requirements of Delta's ODSAs.

The C9 LASH vessels Delta proposes to operate on TR 20 and TRs 23–24–25 are currently assigned to TR 20. Pursuant to Delta's ODSAs, transfer and interchange (substitution) of the LASH vessels between Delta's subsidized services on TR 20 and TRs 23–24–25 may be permitted with the prior approval of the Maritime Subsidy Board/Maritime Administration subject to appropriate findings and determinations pursuant to section 211 of the Act and concerning economic feasibility.

Delta proposes to operate the C9 LASH vessels on a 69 day voyage pattern covering U.S. Pacific and Gulf ports and ports in the Caribbean and on the North and East Coasts of South America, with one sailing every 23 days. The new container vessels will be operated on the same proposed service as the LASH vessels but on a 66-day voyage schedule, with a sailing every 22 days. Delta's proposed service would essentially replicate the existing service and sailing frequency which Delta is providing on TR 20 and TRs 23–24–25, with the exception of service to and from the U.S. Pacific ports north of San Francisco, which will be provided by intermodal service. By its application, Delta is not requesting any additional operating authority. Delta specifically is not requesting authority nor does it intend to carry any domestic cargoes between U.S. Gulf and U.S. Pacific ports and is not requesting authority to carry cargoes between the U.S. Gulf and the North Coast of Colombia or Panama.

Delta indicates that its proposed TR 20 and TRs 23–24–25 service will be implemented on March 17, 1984. The last regular voyage of the C4 vessels would be a sailing originating from Vancouver on March 21, 1984, terminating in the United States on or about May 15, 1984.

Delta's application may be inspected during normal business hours in the Office of the Secretary, Maritime Subsidy Board/Maritime Administration, Room 7300, Department of Transportation, 400 Seventh Street, SW., Washington, D.C. 20590. Interested parties who desire to comment on Delta's application may submit their views thereon to the Secretary, Maritime Subsidy Board/Maritime Administration, in triplicate, on or before 5:00 p.m. on February 15, 1984 and are requested to serve the comments upon Delta's counsel. Any request for a hearing shall specify the issues for such a hearing. All timely responses will be considered in MarAd's evaluation of Delta's application. MarAd will take such action as may be deemed appropriate with respect thereto, which may or may not include a hearing.

(Catalog of Domestic Assistance Program No. 11.504 Operating-Differential Subsidy (ODS))

By order of the Maritime Subsidy Board/ Maritime Administration.

Dated: January 27, 1984.

Georgia P. Stamas,

Secretary.

[FR Doc. 84-2703 Filed 1-31-84; 8:45 am]

BILLING CODE 4910-81-M

[Docket No. S-749]

Lykes Bros. Steamship Co., Inc.; Application for TR 10 and TR 18 Privilege Service in Conjunction With Existing Service on TRs 13, 15B, 22/17 and TA 4

Notice is hereby given that by application dated January 17, 1984, Lykes Bros. Steamship Co., Inc. (Lykes) requested an amendment to its Operating-Differential Subsidy Agreement (ODSA), Contract No. MA/MSB-451 to authorize a total of 24 privilege calls at ports on Trade Route (TR) 10 in conjunction with Lykes' existing services on TRs 13, 15B, 22/17 and Trade Area (TA) 4; and a total of 24 privilege calls at ports on TR 18 in conjunction with Lykes' existing services on TRs 13, 15B, 22/17 and TA 4. Lykes proposes to start these privileges services immediately with its breakbulk (CS-S-37c, C3-S-37d, C4-S-66a, C5-S-37e and C5-S-37f) and SeaBee (C8-S-82a) vessels. Each SeaBee voyage would count as two breakbulk voyages. The applicant notes that the Maritime Subsidy Board (Board), by its Final Opinions and Orders of October 31, 1961 and December 31, 1961 in Docket S-543 *et al.*, Favorably resolved the section 605(c) issues relating to Lykes' application dated February 11, 1977 seeking Operating-Differential Subsidy (ODS) on TRs 10 and 18. Lykes now specifically requests an amendment to its ODSA in order to implement the privilege services described above.

Since the Board's decision in late 1961, Lykes avers that it has been preparing for such services as evidenced by its commitment to a Charleston express service to and from Italy and the recent opening of an office in Baltimore. Lykes also points out that the requested privilege service will be initiated through better utilization of its breakbulk and SeaBee vessels which are currently authorized to provide service on TRs 13, 15B, 22/17 and TA 4, and not by the addition of ships to these routes. Therefore, these privilege calls will result in the payment of no additional ODS to Lykes.

Any person, firm or corporation having any interest in such application and desiring to offer views and comments thereon for consideration by the Maritime Subsidy Board should submit them in writing, in triplicate, to the Secretary, Maritime Subsidy Board, Washington, D.C. 20590 by 5:00 p.m. on February 15, 1984. The Maritime Subsidy Board will consider these views and comments and take such action with respect thereto as may be deemed appropriate.

(Catalog of Federal Domestic Assistance Program No. 20.804 Operating-Differential Subsidies (ODS))

By Order of the Maritime Subsidy Board.

Dated: January 27, 1984.

Georgia P. Stamas,

Secretary.

[FR Doc. 84-2702 Filed 1-31-84; 8:45 am]

BILLING CODE 4910-81-M

Maritime Advisory Committee; Meeting

AGENCY: Maritime Administration, DOT.

ACTION: Notice.

SUMMARY: The Maritime Advisory Committee will hold its fifth meeting on Thursday, February 16, 1984, at 10:00 a.m. The meeting will be held in DOT's Nassif Building, 400 Seventh Street, SW., Washington, D.C., in Room 7200. The Committee is considering programs and policies on current maritime issues, and the agenda includes reviewing reports and recommendations from its working groups on Ship Costs and Financing. The meeting will be open to the public on a space-available basis.

By Order of the Maritime Administrator.

Dated: January 25, 1984.

Georgia P. Stamas,

Secretary.

[FR Doc. 84-2704 Filed 1-31-84; 8:45 am]

BILLING CODE 4910-81-M

National Highway Traffic Safety Administration

[Docket No. IP83-4; Notice 2]

Alliance Tire & Rubber Co. Ltd.; Grant of Petition for Determination of Inconsequential Noncompliance

This notice grants the petition by Alliance Tire & Rubber Company Ltd. of Hadera, Israel, to be exempted from the notification and remedy requirements of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1381 *et seq.*) for an apparent noncompliance with 49 CFR 571.119, *New Pneumatic Tires for Vehicles Other Than Passenger Cars*. The basis of the grant is that the noncompliance is inconsequential as it relates to motor vehicle safety.

Notice of receipt of the petition was published on June 6, 1983, and an opportunity afforded for comment (48 FR 25295).

Paragraph S6.5(f) of Standard No. 119 requires tires to be marked with the actual number of plies and the composition of the ply cord material in the sidewall and, if different, in the tread area. Alliance produced 150 truck tires size 11R24.5 between the 4th and 8th week of 1983 with incorrect markings. The sidewalls read "* * * Tread 5 Ply Steel Sidewall 1 Plies (sic) Nylon" instead of the correct marking, "* * * Tread 5 Ply Steel Sidewall 1 Ply Steel".

Petitioner argued that the error has an inconsequential relationship to motor vehicle safety as the tires otherwise comply with Standard No. 119.

No comments were received on the petition.

On September 13, 1983, Solcoor Corp. of New York City, representing the petitioner, indicated a willingness to place corrective labels on the tires in question. This will inform prospective purchasers of the error, and indicate the proper ply number and composition. Because the tires appear otherwise to meet Standard No. 119, the agency has determined that petitioner has met its burden of persuasion that the noncompliance herein described is inconsequential as it relates to motor vehicle safety, and its petition is hereby granted.

The engineer and attorney primarily responsible for this notice are A. Y. Casanova and Taylor Vinson, respectively.

(Sec. 102, Pub. L. 93-492, 88 Stat. 1470 (15 U.S.C. 1417); delegations of authority at 49 CFR 1.50 and 49 CFR 501.8)

Issued on January 27, 1983.

Barry Felrice,

Acting Associate Administrator for Rulemaking.

[FR Doc. 84-2779 Filed 1-30-84; 8:45 am]

BILLING CODE 4910-59-M

[Docket No. IP83-6; Notice 2]

Chrysler Corp.; Grant of Petition for Determination of Inconsequentiality

This notice grants the petition by Chrysler Corp., Detroit, Michigan ("Chrysler" herein), to be exempted from the notification and remedy requirements of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1381 *et seq.*) for an apparent noncompliance with 49 CFR 571.110, *Tire Selection and Rims for Passenger Cars*. The basis of the grant is that the noncompliance is

consequential as it relates to motor vehicle safety.

Notice of receipt of the petition was published on June 16, 1983, and an opportunity afforded for comment (48 FR 27634).

Approximately 1350 1983 model Dodge Shelby Charger passenger cars may carry tire inflation placards (required by Standard No. 110) with an incorrect minimum tire size designation. The placards indicate that the size is P195/50R15 when the correct designation is 195/50R15 (no ISO "P" symbol).

Chrylser argued that the incorrect designation does not exist, and therefore the erroneous designation was inconsequential because such a tire size and designation are not available in the replacement market. If such a tire becomes available it would be suitable for the vehicles in question, differing only in a slightly higher load rating. This difference is attributable solely to different methods used in the U.S. and Europe to rate tires. The tire inflation placard otherwise conforms to the requirements of Standard No. 110.

One comment was received on the petition, irrelevant to the question of consequentiality, tb the effect that the lack of ready availability of either tire restricted freedom of choice in the market place.

The "P" tire does exist, though not currently listed in one of the standardization organization yearbooks. Its specifications are contained in the engineering design guide which the domestic tire manufacturers use for advance tire engineering planning. The current design load and maximum load referenced for this tire differ by only 2 kg. and 3 kg., respectively, from the tires on Chrysler vehicles. This slight difference is deemed unimportant and petitioner has met its burden of persuasion that the noncompliance herein described is inconsequential as it related to motor vehicle safety. Accordingly, its petition is granted.

The engineer and lawyer primarily responsible for this notice are A. Y. Casanova and Taylor Vinson, respectively.

(Sec. 102, Pub. L. 93–492, 88 Stat. 1470 (15 U.S.C. 1417); delegations of authority at 49 CFR 1.50 and 49 CFR 501.8)

Issued on January 27, 1983.

Barry Felrice,

Acting Associate Administrator for Rulemaking.

[FR Doc. 84–2780 Filed 1–31–84; 8:45 am]
BILLING CODE 4910–59–M

[Docket No. IP83–8; Notice 2]

Derbi Motor Corp.; Grant of Petition for Exemption From Notice and Remedy for Inconsequential Noncompliance

This notice grants the petition by Debri Motor Corporation to be exempted from the notification and remedy requirements of the National Traffic and Motor Safety Act (15 U.S.C. 1381 *et seq.*) for an apparent noncompliance with 49 CFR 571.123, Motor Vehicle Safety Standard No. 123, *Motorcycle Controls and Displays*. The basis of the grant is that the noncompliance is inconsequential as it relates to motor vehicle safety.

Notice of receipt of the petition was published on July 28, 1983, and an opportunity afforded for comment (48 FR 34392).

Paragraph S5.2.3 and Table 3 of Standard No. 123 require each choke control on a motorcycle be labeled "choke." Derbi imported "less than 500" Sport Laguna motor-driven cycles without the required labeling. It believed that no safety hazard exists because of this failure. The control must be depressed by the operator before the engine can be started, and is automatically released when the throttle is applied to increase "the engine R.P.M." As a practical matter, there is only a limited space in which a label could be applied and it "would not be of a permanent nature." The control is identifed in the operator's handbook.

No comment was received on the petition.

The National Highway Traffic Safety Administration has decided to grant the petition by Derbi Motor Corp. Petitioner's argument, however, is incomplete. In order to depress the choke control, the operator must know in the first instance what it is, but the control is unlabeled. Nevertheless, since the vehicle cannot, apparently, be started without depressing the choke control, the operator should learn its function in only one or two tries. Further, a novice operator is not likely to be put in danger by the lack of labeling; arguably he or she will be starting the machine from rest, out of the stream of traffic. On balance, the agency has determined that the petitioner has met its burden of persuasion that the noncompliance herein described is inconsequential as it relates to motor vehicle safety, and its petition is hereby granted.

The engineer and attorney principally responsible for this notice are Nelson Erickson and Taylor Vinson, respectively.

(Sec. 102, Pub. L. 93–492, 88 Stat. 1470 (15 U.S.C. 1417); delegations of authority at 49 CFR 1.50 and 49 CFR 501.8)

Issued on January 27, 1983.

Barry Felrice,

Acting Associate Administrator for Rulemaking.

[FR Doc. 84–2778 Filed 1–31–84; 8:45 am]
BILLING CODE 4910–59–M

[Docket No. IP83–7; Notice 2]

Dunlop Tire and Rubber Corp.; Grant of Petition for Determination of Inconsequential Noncompliance

This notice grants the petition by Dunlop Tire and Rubber Corporation of Buffalo, New York, to be exempted from the notification and remedy requirements of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1381 *et seq.*) for an apparent noncompliance with 49 CFR 571.119, *New Pneumatic Tires for Vehicles Other Than Passenger Cars*. The basis of the grant is that the noncompliance is inconsequential as it relates to motor vehicle safety.

Notice of receipt of the petition was published on July 28, 1983, and an opportunity afforded for comment (48 FR 34392).

Paragraph S6.5(d) of Standard No. 119 requires each sidewall of a tire to be marked with the maximum load rating and corresponding inflation pressure. Dunlop imported from its United Kingdom subsidiary certain Dunlop SPLT2 Tubeless Steel Radial, size 185R14C–LT Load Range C 6 PR tires on which the designated maximum loads were incorrect. The maximum load for single applications was stated as "170" when the correct figure is "1710" pounds. For dual applications, the load was erroneously stated as "160" and the correct figure is "1610" pounds. The inflation pressure "55 PSI cold" was correctly stated. Dunlop was able to rebrand tires in its possession with the correct information but 451 had been shipped to dealers and it is these tires that the petition covers.

Dunlop aruged that the noncompliance was inconsequential because the error is so obvious that the user will realize that the load indicated is severely understated, and will therefore refer to the tire information placard or operator's manual for the correct information.

No comments were received in response to the notice.

The agency concurs with the petitioner's argument that the values are so understated and implausible, being misrepresented by an approximate

factor of ten, that any user of the tires would be prompted to check other sources of information. Should the user proceed to employ the tires in the manner prescribed by the Tire and Rim Association Year Book the design limitation of the tires would not be exceeded. Accordingly, petitioner has met its burden of persuasion that the noncompliance herein described is inconsequential as it relates to motor vehicle safety, and its petition is granted herewith.

The engineer and attorney primarily responsible for this notice are A. Y. Casanova and Taylor Vinson, respectively.

(Sec. 102, Pub. L. 93-492, 88 Stat. 1470 (15 U.S.C. 1417); delegations of authority at 49 CFR 1.50 and 49 CFR 501.8)

Issued on January 27, 1984.

Barry Felrice,

Acting Associate Administrator for Rulemaking.

[FR Doc. 84-2777 Filed 1-31-84; 8:45 am]

BILLING CODE 4910-59-M

[Docket No. IP83-13; Notice 2]

Firestone Tire & Rubber Co.; Grant of Petition for Determination of Inconsequential Noncompliance

This notice grants the petition by the Firestone Tire & Rubber Co. of Akron, Ohio, to be exempted from the notification and remedy requirements of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1381 *et seq.*) for a noncompliance with 49 CFR 571-109, Motor Vehicle Safety Standard No. 109, *New Pneumatic Tires—Passenger Cars.* The basis of the petition was that the noncompliance is inconsequential as it relates to motor vehicle safety.

Notice of the petition was published on August 18, 1983, and an opportunity afforded for comment (48 FR 37565).

The noncompliance exists on the black or inboard side of an estimated 2,994 P195/75R14 WR 12 white sidewall tires. Paragraph S4.3(a) requires that the tire size designation be permanently molded into both sidewalls. The rim diameter designation in the size stamping indicates 15 instead of 14. The size designation is correct on the white sidewall, the side that is normally mounted outboard. Further, petitioner's efforts to mount the tire on a 15 inch rim were unsuccessful, "even when using a motor-driven Coates 3040 tire mounter." Finally, any attempt to retread the tire in a P195//75R15 matrix would result in a scrap tire, "thereby eliminating any concern in this area." These were the petitioner's arguments supporting its contention that the noncompliance is inconsequential as it relates to motor vehicle safety.

No comments were received on the petition.

The tires in question are intended to be mounted with the white sidewall outwards, and the purchaser pays a premium for this cosmetic feature. Thus, it is unlikely that the tire will be mounted with the black sidewall outward, displaying the incorrect information. Even were it to be so mounted, it could not be placed on a 15-inch rim, in spite of its marking. The agency concurs with petitioner's further argument that a scrap tire would result from any attempt to retread a 14-inch diameter casing in a 15-inch matrix.

Accordingly, petitioner has met its burden of persuasion that the noncompliance herein described is inconsequential as it relates to motor vehicle safety and its petition is hereby granted.

The engineer and attorney primarily responsible for this notice are A. Y. Casanova and Taylor Vinson, respectively.

(Sec. 102, Pub. L. 93-492, 88 Stat. 1470 (15 U.S.C. 1417); delegations of authority at 49 CFR 1.50 and 49 CFR 501.8)

Issued on January 27, 1984.

Barry Felrice,

Acting Associate Administrator for Rulemaking.

[FR Doc. 84-2776 Filed 1-31-84; 8:45 am]

BILLING CODE 4910-59-M

Urban Mass Transportation Administration

[Docket No. 84-A]

Exemption From Buy American Requirements

AGENCY: Urban Mass Transportation Administration, DOT.

ACTION: Notice of proposed exemption—request for comments.

SUMMARY: Section 165 of the Surface Transportation Assistance Act of 1982 provides that Federal funds may not be obligated for the purchase of mass transportation vehicles unless the cost of components of the vehicles which are produced in the United States is more than 50 percent of the cost of all components and final assembly of the vehicles takes place in the United States. Section 165 further provides that any of its provisons may be waived if their application would be inconsistent with the public interest. The Chrysler Corporation, along with several States, has petitioned the Urban Mass Transportation Administration (UMTA) to grant such a waiver for Chrysler's 15 passenger vans which are assembled in Canada. Before acting on this request, UMTA is seeking the views and recommendations of all interested parties.

DATE: Comments must be received on or before February 15, 1984. Comments received after this date will not be considered by UMTA in determining whether or not the waiver will be granted.

ADDRESS: Comments should be submitted to UMTA Docket No. 84-A, Urban Mass Transportation Administration, Room 9228, 400 Seventh Street SW., Washington, D.C. 20590. All comments and suggestions received will be available for examination at the above address between 8:30 a.m. and 5:00 p.m. Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Edward J. Gill, Jr., Office of the Chief Counsel, Room 9228, 400 Seventh Street SW., Washington, D.C. 20590 (202) 426-4063.

SUPPLEMENTARY INFORMATION: Section 165 of the Surface Transportation Assistance Act of 1982 provides, with exceptions, that Federal funds may not be obligated for mass transportation projects unless a preference is given to domestically produced products (the Buy America requirements). Section 165 (b)(3) provids that in the case of the procurement of buses and other rolling stock, the cost of components which are produced in the United States must exceed 50 percent of the cost of all components, and final assembly must take place in the United States. Section 165(b)(1) provides that any of the requirements of Section 165 may be waived if their application would be inconsistent with the public interest.

Under UMTA programs, receipients of Federal funds are given discretion in determing the type and size of vehicle that they will procure with Federal assistance. Under two specific programs (the Section 16(b)(2) Elderly and Hadicapped Program, and the Section 18 Small Urban and Rural Program), recipients usually purchase vans and/or small buses.

Information available to UMTA at the present time indicates that several recipients are experiencing difficulty in purchasing 15 passenger vans. UMTA's present information is that 15 passenger vans are only produced by the Ford Motor Company and by the Chrysler Corporation. The Chrysler vans do not comply with the Buy American requirements of Section 165 since the final assembly of these vans takes place in Canada. UMTA has been informed that 74 percent of the components of

these vans, by cost, are produced in the United States.

Chrysler Corporation has petitioned UMTA to grant a public interest waiver to the Buy America requirements for these 15 passenger vans. In addition, 18 States (who principally administer the Section 16(b)(2) and 18 programs discussed above) have also requested that UMTA grant the public interest waiver for the purchase of the 15 passenger vans. All of these requests have been based on the fact that the public interest would best be served by having competition in the market. The petitions for the waivers assert that if Chrysler is not granted a waiver of the Buy America requirements, UMTA grantees would not be able to purchase 15 passenger vans from Chrysler using Federal funds, and would thus, because of the lack of competition, be in the position of only purchasing the vans from one company.

Before acting on these waiver requests, UMTA is seeking public comment from all interested parties. UMTA is seeking this public comment since it is felt that the granting or denial of this waiver would have nationwide consequences and UMTA desires to have all available information before it prior to rendering a decision. In particular, UMTA desires information regarding whether or not 15 passenger vans are manufactured by companies other than Chrysler and Ford.

It should be noted that Chrysler and several States requested that UMTA grant a Buy America waiver for all vans purchased with UMTA funds and/or all vans manufactured in Canada. At this time, UMTA will only be acting on the request for the waiver as it applies to 15 passenger vans, since the information available indicates that there may be a lack of competition in this market if the waiver is not granted. However, UMTA will consider any comments received concerning other vehicles. UMTA will evaluate the request for these more general waivers at a later date. It should be noted that it is unnecessary for those States which have already requested a waiver for 15 passenger vans to respond to this request for comments. The previously received requests will be included in the public docket, and will be fully considered by UMTA in detemining whether or not the waiver for 15 passenger vans will be granted.

Dated: January 26, 1984.

Ralph L. Stanley,

Administrator.

[FR Doc. 84-2678 Filed 1-31-84; 8:45 am]

BILLING CODE 4910-57-M

DEPARTMENT OF THE TREASURY

Customs Service

[T.D. 84-37]

Customhouse Broker's License; Cancellation of Customhouse Broker's License No. 5182

Notice is hereby given that the Commissioner of Customs, on January 27, 1984 pursuant to section 641, Tariff Act of 1930, as amended (19 U.S.C. 1641), and Part 111 of the Customs Regulations, as amended (19 CFR Part 111) cancelled with prejudice the individual Customhouse Broker's License No. 5182 issued to Julie D. Summers, Norco, California, for the Customs District of Los Angeles, California. This decision is effective as of January 27, 1984.

George C. Corcoran, Jr.,

Acting Commissioner of Customs.

[FR Doc. 84-2745 Filed 1-31-84; 8:45 am]

BILLING CODE 4820-02-M

Sunshine Act Meetings

Federal Register
Vol. 49, No. 22
Wednesday, February 1, 1984

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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1

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that the Federal Deposit Insurance Corporation's Board of Directors will meet in open session at 2 p.m. on Monday, February 6, 1984, to consider the following matters:

Summary Agenda: No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Disposition of minutes of previous meetings.

Application for consent to establish a branch:

The Cleveland Bank, Cleveland, Oklahoma, for consent to establish a branch at the Westport exit of State Highway 64, Westport, Oklahoma.

Reports of committees and officers:

Minutes of actions approved by the standing committees of the Corporation pursuant to authority delegated by the Board of Directors.

Reports of the Division of Bank Supervision with respect to applications, requests, or actions involving administrative enforcement proceedings approved by the Director or an Associate Director of the Division of Bank Supervision and the various Regional Directors pursuant to authority delegated by the Board of Directors.

Discussion Agenda:

Memorandum and resolution re: Final amendments to the Corporation's rules and regulations which would implement section 907 of the International Lending Supervision Act of 1983, pertaining to the collection and disclosure of certain international lending data.

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550 17th Street, N.W., Washington, D.C.

Requests for further information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 389-4425.

Dated: January 30, 1984.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 84-2830 Filed 1-30-84; 12:36 pm]

BILLING CODE 6714-01-M

2

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 2:30 p.m. on Monday, February 6, 1984, the Federal Deposit Insurance Corporation's Board of Directors will meet in closed session, by vote of the Board of Directors, pursuant to sections 552b (c)(2), (c)(6), (c)(8), and (c)(9)(A)(ii) of Title 5, United States Code, to consider the following matters:

Summary Agenda: No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Recommendations with respect to the initiation, termination, or conduct of administrative enforcement proceedings (cease-and-desist proceedings, termination-of-insurance proceedings, suspension or removal proceedings, or assessment of civil money penalties) against certain insured banks or officers, directors, employees, agents or other persons participating in the conduct of the affairs thereof:

Names of persons and names and locations of banks authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6), (c)(8), and (c)(9)(A)(ii).

Note.—Some matters falling within this category may be placed on the discussion agenda without further public notice if it becomes likely that substantive discussion of those matters will occur at the meeting.

Discussion agenda:

Application pursuant to section 19 of the Federal Deposit Insurance Act for consent to service of a person convicted of an offense involving dishonesty or a breach of a trust as a director, officer, or employee of an insured bank.

Name of person and of bank authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 522b (c)(6), (c)(8), and (c)(9)(A)(ii)).

Personnel actions regarding appointments, promotions, administrative pay increases, reassignments, retirements, separations, removals, etc.:

Names of employees authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(2) and (c)(6) of the "Government in the Sunshine Act" (5 U.S.C. 522b (c)(2) and (c)(6)).

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550 17th Street, N.W., Washington, D.C.

Requests for further information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 389-4425.

Dated: January 30, 1984.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 84-2831 Filed 1-30-84; 12:36 pm]

BILLING CODE 6714-01-M

3

FEDERAL HOME LOAN MORTGAGE CORPORATION

DATE AND TIME: January 31, 1984, 2:30 p.m.

PLACE: 1776 G Street, NW., Washington, D.C., Conference Room 4-G.

STATUS: Closed.

CONTACT PERSON FOR MORE INFORMATION: Alan B. Hausman, 1776 G Street, NW., P.O. Box 37248, Washington, D.C. 20013; (202) 789-4763.

MATTERS TO BE CONSIDERED: Closed:

Minutes of October 25, 1983, Board of Directors' Meeting Minute Entry
President's Report
Financial Report Minute Entry

Date sent to Federal Register: January 30, 1984.

Maud Mater,

Corporate Secretary.

[FR Doc. 84-2798 Filed 1-30-84; 10:34 am]

BILLING CODE 6720-02-M

4

FEDERAL HOME LOAN BANK BOARD

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 49 FR 3562, Friday, January 27, 1984.

PLACE: Board Room, Sixth Floor, 1700 G Street, NW., Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION: Ms. Gravelee (202-377-6970).

CHANGES IN THE MEETING: The Bank Board Meeting previously scheduled to start at 10:30 a.m., Friday, January 3, 1984, has been changed to start at 2:30 p.m.

John F. Ghizzoni,

Assistant Secretary.

[FR Doc. 84-2860 Filed 1-30-84; 2:25 pm]

BILLING CODE 6720-01-M

5

FEDERAL RESERVE SYSTEM

TIME AND DATE: 10 a.m., Monday, February 6, 1984.

PLACE: 20th Street and Constitution Avenue, NW., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Request by the General Accounting Office for Board comment on a draft report regarding examinations of international banking institutions.
2. Proposed purchase of computers within the Federal Reserve System.
3. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
3. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board, (202) 452-3204.

Dated: January 27, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-2784 Filed 1-27-84; 5:00 pm]

BILLING CODE 6210-01-M

6

INTERNATIONAL TRADE COMMISSION

TIME AND DATE: 10 a.m., Wednesday, February 8, 1984.

PLACE: Room 117, 701 E Street, NW., Washington, D.C. 20436.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda.
2. Minutes.
3. Ratifications.
4. Petitions and complaints, if necessary.
5. Investigation 731-TA-163 (Preliminary) (Cell-Site Radios from Japan)—briefing and vote.
6. Any items left over from previous agenda.

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary (202) 523-0161.

[FR Doc. 84-2771 Filed 1-27-84; 4:28 pm]

BILLING CODE 7020-02-M

7

NUCLEAR REGULATORY COMMISSION

DATE: Thursday, January 26, 1984 (Revised) and Friday, January 27, 1984 (Revised).

PLACE: Commissioners' Conference Room, 1717 H Street, N.W., Washington, D.C.

STATUS: Open and closed.

MATTERS TO BE DISCUSSED: *Thursday, January 26:*

10:30 a.m.:
Discussion of Management-Organization and Internal Personnel Matters (Closed—Exemptions 2 and 6) (Time Change)

2:00 p.m.:
Status of Certain Enforcement Actions (Closed-Exemptions 5 and 7) (As Announced)

3:30 p.m.:
Discussion of Memorandum on Future Steps in TMI-1 Restart (Closed—Exemptions 5 and 10) (New Item)

4:30 p.m.:
Affirmation/Discussion and Vote (Public Meeting) (Time Change):
a. Implementing CEQ NEPA Regulations (Part 51)
b. Reviews of ALABs 729 and 744

Friday, January 27:

9:30 a.m.:
Briefing on Possible Uses of Special Nuclear Material Available in the Non-Power Reactor Community (Closed—Exemption 1) (As Announced)

11:15 a.m.:
Comments on Implications of a Proposed Rule Regarding Use of HEU in Domestic Research Reactors (Public Meeting) (As Announced)

1:30 p.m.:
Possible Vote on Memorandum on Future Steps in TMI-1 Restart (Public Meeting) (New Item) (Tentative)

2:00 p.m.:
Discussion of International Implications of Conversion of Domestic Research Reactors to LEU Use (Open/Closed—Exemption 1) (As Announced)

3:30 p.m.:
Discussion of Physical Security at Domestic Research Reactors (Closed—Exemption 1)-(As Announced)

To verify the status of meetings call (recording)—(202) 634-1498.

CONTACT PERSON FOR MORE INFORMATION: Walter Magee (202) 634-1410.

January 25, 1984.

Walter Magee,

Office of the Secretary.

[FR Doc. 84-2876 Filed 1-30-84; 3:52 pm]

BILLING CODE 7590-01-M

8

NUCLEAR REGULATORY COMMISSION

DATE: Week of January 30, 1984 (Revised) and Week of February 6, 1984.

PLACE: Commissioners' Conference Room, 1717 H Street, N.W., Washington, D.C.

STATUS: Open and closed.

MATTERS TO BE DISCUSSED: *Wednesday, February 1:*

2:00 p.m.:
Briefing on Final License Fee Rule (*Postponed*)

Thursday, February 2:

2:00 p.m.:
Briefing on Quarterly Progress on Safety Goal Evaluation Report and Draft PRA Document (Public Meeting) (As Announced)

4:00 p.m.:
Affirmation/Discussion and Vote (Public Meeting) (New Item):
a. Implementing CEQ NEPA Regulations (Part 51) (*Postponed* from January 26)
b. Revised General Statement of Policy and Procedure for Enforcement Actions

Friday, February 3:

11:00 a.m.:
Periodic Meeting with Advisory Panel on TMI-2 Cleanup (Public Meeting) (As Announced)

Monday, February 6:

10:00 a.m.:
Briefing on Status of Byron (Closed—Exemption 10)

2:00 p.m.:
Discussion of LEU/HEU Guidance (Public Meeting)

Tuesday, February 7:

10:00 a.m.:
Discussion of Pending Investigation (Closed—Exemptions 5, 7, and 10)

2:00 p.m.:
Meeting with Regional Administrators (Open/Closed to be determined)

Wednesday, February 8:

10:00 a.m.:
Discussion of Reviews Performed for Other Agencies (Closed—Exemption 1)

Thursday, February 9:

2:00 p.m.:
Discussion of Management-Organization and Internal Personnel Matters (Closed—Exemptions 2 and 6)

Friday, February 10:

10:00 a.m.:
Comments by Parties on Diablo Canyon Criticality and Low Power Operation (Public Meeting)

To verify the status of meetings call (Recording)—(202) 634–1498.

CONTACT PERSON FOR MORE INFORMATION: Walter Magee (202) 634–1410.

January 26, 1984.

Walter Magee,

Office of the Secretary.

[FR Doc. 84-2877 Filed 1-30-84; 9:52 pm]

BILLING CODE 7590-01-M

9

NATIONAL SCIENCE BOARD

DATE AND TIME:

January 19, 1984, 9 a.m., open session
January 20, 1984, 8 a.m., closed session
January 20, 1984, 8:40 a.m., open session

PLACE: National Science Foundation, 1800 G Street, NW., Washington, D.C.

STATUS: Cancellation of previously published announcement of meeting.

Due to inclement weather, the above previously announced meeting was cancelled.

The Executive Committee of the National Science Board at a meeting on January 19, 1984, at 1 p.m., acted on behalf of the Board on the following Closed Session items:

1. Minutes—November 1983 Meeting.
2. NSF Staff Nominees.
3. Grants, Contracts, and Programs.

It was not possible to announce this change prior to the meeting.

CONTACT PERSON FOR MORE INFORMATION: Ms. Margaret L. Windus, 202/357–9582.

Margaret L. Windus,

Executive Officer.

[FR Doc. 84-2883 Filed 1-30-84; 8:49 pm]

BILLING CODE 7525-01-M

10

PAROLE COMMISSION

[4P0401]

The Commissioners presently maintaining offices at Chevy Chase, Maryland Headquarters.

TIME AND DATE: 2 p.m., Thursday, February 2, 1984.

PLACE: Room 420–F, One North Park Building, 5550 Friendship Boulevard, Chevy Chase, Maryland 20815.

STATUS: Closed pursuant to a vote to be taken at the beginning of the meeting.

MATTERS TO BE CONSIDERED: Referrals from Regional Commissioners of approximately 6 cases in which inmates of Federal prisons have applied for parole or are contesting revocation of parole or mandatory release.

CONTACT PERSON FOR MORE INFORMATION: Linda Wines Marble, Chief Case Analyst, National Appeals Board, United States Parole Commission (301) 492–5987.

Dated: January 30, 1984.

Joseph A. Barry,

General Counsel, United States Parole Commission.

[FR Doc. 84-2861 Filed 1-30-84; 3:59 pm]

BILLING CODE 4410-01-M

11

SECURITIES AND EXCHANGE COMMISSION

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94–409, that the Securities and Exchange Commission will hold the following meetings during the week of February 6, 1984, at 450 Fifth Street, NW., Washington, D.C.

A closed meeting will be held on Tuesday, February 7, 1984, 9:30 a.m. An open meeting will be held on Thursday, February 9, 1984, at 2:30 p.m., in Room 1C30.

The Commissioners, Counsel to the Commissioners, the Secretary of the Commission, and recording secretaries will attend the closed meeting. Certain staff members who are responsible for the calendared matters may be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, the items to be considered at the closed meeting may be considered pursuant to one or more of the exemptions set forth in 5 U.S.C. 552b(c) (4), (8), (9)(A), and (10) and 17 CFR 200.402(a) (4), (8), (9)(i), and (10).

Commissioner Cox, as duty officer, voted to consider the items listed for the closed meeting in closed session.

The subject matter of the closed meeting scheduled for Tuesday, February 7, 1984, 9:30 a.m., will be:

Formal orders of investigation.
Litigation matter.
Settlement of administrative proceedings of an enforcement nature.
Institution of administrative proceedings of an enforcement nature.
Institution of injunctive actions.
Settlement of injunctive action.

The subject matter of the open meeting scheduled for Thursday, February 9, 1984, at 2:30 p.m., will be:

1. Consideration of an application filed by the Prudential Series Fund, Inc. ("Applicant"), a diversified management investment company designed as the underlying investment medium for individual variable annuity contracts, requesting an order pursuant to Section 6(c) of the Investment Company Act of 1940 ("Act") exempting Applicant from the provisions of Section 2(a)(41) of the Act and Rules 2a–4 and 22c–1 thereunder permitting use of the amortized cost valuation method to value the short-term debt obligations held in certain of its portfolios which also hold other than short-term debt obligations. For further information, please contact Mary A. Cole at (202) 272–3023.

2. Consideration of whether to issue a release adopting revisions to Rule 145 under the Securities Act of 1933 which will coordinate the resale provisions of Rule 145 with those of Rule 144 by providing that certain persons receiving securities in registered business combination transactions shall not be deemed underwriters and may freely transfer such securities if they are not affiliates of the issuer and either: (1) Have beneficially owned the securities for at least three years; or (2) have beneficially owned the securities for at least two years and the issuer meets the public information requirements of paragraph (c) of Rule 144. For further information, please contact Mary M. Jackley at (202) 272–2644.

3. Consideration of whether to permit Bruce William Zimmerman to become an associated person in a non-proprietary, non-supervisory capacity without the limitations previously imposed on his association with that firm. For further information, please contact Mary Binno at (202) 272–2318.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: JoAnn Zuercher at (202) 272–2014.

January 27, 1984.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84-2772 Filed 1-27-84; 4:28 pm]

BILLING CODE 8010-01-M

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Federal Register

Vol. 49, No. 22

Wednesday, February 1, 1984

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This table is for determining dates in documents which give advance notice of compliance, impose time limits on public response, or announce meetings.

Agencies using this table in planning publication of their documents must allow sufficient time for printing production.

In computing these dates, the day after publication is counted as the first day.

When a date falls on a weekend or a holiday, the next Federal business day is used. (See 1 CFR 18.17)

A new table will be published in the first issue of each month.

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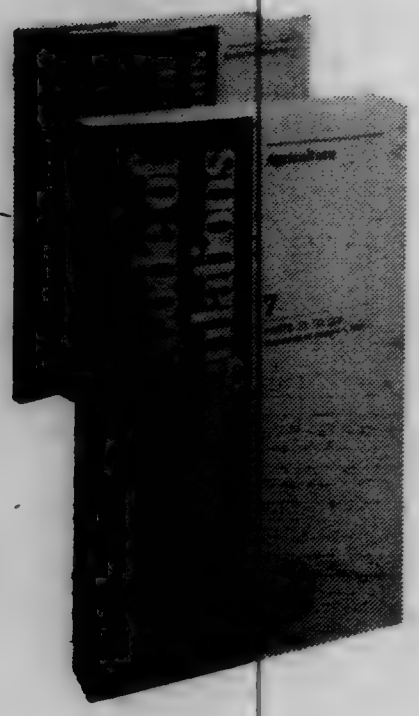

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federal register

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Internal Revenue Service

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Postal Service
Postal Service

Surface Mining
Surface Mining Reclamation and Enforcement Office

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FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

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Questions and requests for specific information may be directed to the telephone numbers listed under INFORMATION AND ASSISTANCE in the READER AIDS section of this issue.

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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 29

Inspection of Tobacco Under the Tobacco Inspection Act, Particularly Relating to the Flue-Cured Tobacco Advisory Committee

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: The regulations governing the establishment of the Flue-Cured Tobacco Advisory Committee are amended to permit an additional member and alternate representing a producer association. The amendment will result in more adequate representation of the various segments of the flue-cured tobacco industry.

EFFECTIVE DATE: February 2, 1984.

FOR FURTHER INFORMATION CONTACT: Lioniel S. Edwards, Director, Tobacco Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, 202–447–2567.

SUPPLEMENTARY INFORMATION: Pursuant to the authority contained in the Tobacco Inspection Act (49 Stat. 731; 7 U.S.C. 511 *et seq.*), notice is hereby given that the Department is amending Subpart G of 7 CFR Part 29, particularly relating to the Flue-Cured Tobacco Advisory Committee.

The Department is amending § 29.9403 (c), of Subpart G—policy statement and regulations governing availability of tobacco inspection and price support services to flue-cured tobacco on designated markets.

The Department received a request for Committee representation from the Tobacco Growers Association of North Carolina, Inc.

This organization, founded in 1981, represents the interests of tobacco producers in North Carolina, the largest producer of tobacco in the United States. Since its inception in 1974, the Flue-Cured Tobacco Advisory Committee has assisted the Secretary in making an equitable apportionment and assignment of tobacco inspectors by recommending opening dates for marketing areas within the flue-cured tobacco growing areas and recommending selling schedules for marketing areas and each warehouse therein. All segments of the flue-cured tobacco industry—producers, warehousemen, and buyers—are represented on the Committee, and representatives and alternates are appointed by the Secretary, after nomination by the individual sectors of the industry. Accordingly, the Department has approved the request of the Tobacco Growers Association of North Carolina, Inc., for membership on the Committee in an effort to more adequately represent the various segments of the flue-cured tobacco industry, in this instance, the producers. Therefore, § 29.9403(b) of the regulations is amended to increase membership on the Committee from 37 members and alternates to 38 and thereby increase the number of producer representatives from 20 to 21 members.

Additionally, the Department is also amending § 29.9403(c) of the regulations to reflect the addition of the Tobacco Growers Association of North Carolina, Inc., to the list of organizations that may submit nominations to fill the seats assigned to producers.

This final rule has been reviewed under the USDA procedure established in accordance with Executive Order 12291 and the Secretary's Memorandum 1512–1, and has been classified as "nonmajor" because it does not meet the criteria contained therein for major regulatory actions.

William T. Manley, Deputy Administrator, Agricultural Marketing Service, has determined that this action will not have a significant economic impact on a substantial number of small entities as defined in the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) because (1) most tobacco warehousemen and producers fall within the definition of "small business" as defined in the Regulatory Flexibility Act; (2) however, certain of these entities are not considered "small business" because they are dominant in their respective areas of operation; (3) the duties of this Committee are solely advisory; and (4) this action imposes no additional duties or obligations on the business entities involved and will not affect normal competition in the market place.

List of Subjects in 7 CFR Part 29

Administrative practice and procedure, Tobacco.

PART 29—TOBACCO INSPECTION

Accordingly, the Regulations under the Tobacco Inspection Act contained in 7 CFR Part 29 are amended as follows:

1. In § 29.9403, paragraphs (b) and (c) are revised to read as follows:

§ 29.9403 Flue-Cured Tobacco Advisory Committee

* * * * *

(b) The Committee shall consist of 38 representatives and 38 alternates of the flue-cured tobacco industry—21 producers, 9 warehousemen, and 8 buyers.

(c) Recommendations to the Secretary or producer membership on the Committee will be received from the following organizations: one each from the Florida Farm Bureau, the South Carolina Grange, and the Tobacco Growers Association of North Carolina, Inc., two each from the Georgia Farm Bureau, the South Carolina Farm Bureau, and the Virginia Farm Bureau, four from the North Carolina Grange, and eight from the North Carolina Farm Bureau.

* * * * *

Prior experience has shown that the process of solicitation, selection, confirmation, and appointment of members requires a minimum of 60 days. The Committee's present term expires April 23, 1984, and since the new Committee will need to meet before the end of April 1984, new members must be selected and confirmed by the expiration date of the current Committee. The standard procedure of proposed rulemaking providing thirty days notice of comments would not leave sufficient time to receive and process nominations for membership on the new Committee prior to the expiration date. Therefore, it is hereby found and determined that notice of proposed rulemaking, public procedure thereon, and notice of the effective date

hereof are impractical, unnecessary, and contrary to the public interest in that this amendment is necessary to facilitate the operation of the Flue-Cured Tobacco Advisory Committee and thus to preserve and continue orderly marketing conditions in the flue-cured marketing area under the grower designation plan.

Dated: January 26, 1983.

Karen Darling,

Deputy Assistant Secretary, Marketing & Inspection Services.

[FR Doc. 84-2773 Filed 2-1-84; 8:45 am]

BILLING CODE 3410-02-M

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7 CFR Part 1150

Dairy Promotion Program; Procedure for Certification of Milk Producer Organizations

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Emergency interim final rule.

SUMMARY: This emergency interim final rule sets forth the procedures under which milk producer organizations are to be certified as being eligible to nominate milk producers to serve as members of the National Dairy Promotion and Research Board, as provided in the Dairy and Tobacco Adjustment Act of 1983, enacted November 29, 1983. The Act authorizes a national program for dairy product promotion, research and nutrition education to be administered by a Board appointed by the Secretary of Agriculture. The Secretary must implement the program within a certain time period which warrants prompt implementation of these procedural rules.

DATES: Effective February 2, 1984. Comments must be postmarked by February 24, 1984.

ADDRESS: Send two copies of comments to the Hearing Clerk, Room 1077, South Building, U.S. Department of Agriculture, Washington, D.C. 20250, where they will be available for public inspection during regular business hours.

FOR FURTHER INFORMATION CONTACT: Clayton H. Plumb, Chief, Order Formulation Branch, Dairy Division, AMS, USDA, Washington, D.C. 20250 (202) 447-6274.

SUPPLEMENTARY INFORMATION: This rule has been reviewed under USDA guidelines implementing Executive Order 12291 and Secretary's Memorandum No. 1512-1 and has been classified a "non-major" rule.

William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this action will not have a significant economic impact on a substantial number of small entities. The rules adopted herein pertain only to the procedure by which milk producer organizations are to make application to the Secretary for certification as being eligible to nominate milk producers to serve on the National Dairy Promotion and Research Board.

It is found that because of a statutory deadline, it is impracticable, unnecessary and contrary to the public interest to give preliminary notice and opportunity for public comment prior to issuance of these rules and good cause is also found for not postponing the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553). The Dairy and Tobacco Adjustment Act of 1983, enacted November 29, 1983, authorizes the establishment of a national dairy promotion program that would be funded by all milk producers in the 48 contiguous States. The program would be governed by a Dairy Products Promotion and Research Order issued by the Secretary. Proposals for such an order are being published for comments concurrently with these rules. A final order must be made effective within 90 days of the date of publication of the proposals. The order will include provisions for a National Dairy Promotion and Research Board to administer the order. The Act requires that the eligibility of any organization to nominate milk producers to serve on the Board must be certified by the Secretary. In order for the Secretary to implement the program within the statutory deadline, it is necessary to proceed promptly with the certification of eligible organizations. The rules provided herein are necessary to implement the application and certification process with respect to the eligibility of organizations to nominate Board members. Comments on these interim rules will be solicited until February 24, 1984, and the certification rules will then be finalized.

This emergency interim final rule provides the procedure for organizations to apply for certification by the Secretary of their eligibility to represent milk producers and to nominate milk producers to serve as members of the National Dairy Promotion and Research Board. Any organization whose membership consists primarily of milk producers may apply for certification.

In order to be eligible for certification, applications for certification need to be received by the Department by March 5, 1984, since the Department plans to have the certifications completed and issue the final rules on a Dairy Products Promotion and Research Order by March 27, 1984.

Certification of organizations will be based, in addition to other available information, on a factual report submitted by the organization, which shall contain information deemed relevant and specified by the Secretary, including, but not limited to, the following:

(1) Geographic territory covered by the organization's active membership;

(2) Nature and size of the organization's active membership, including the total number of active milk producers represented by the organizations;

(3) Evidence of stability and permanency of the organization;

(4) Sources from which the organization's operating funds are derived;

(5) Functions of the organization; and

(6) The organization's ability and willingness to further the aims and objectives of the Act.

The primary considerations in determining the eligibility of an organization shall be whether its membership consists primarily of milk producers who produce a substantial volume of milk and whether the primary or overriding interest of the organization is in the production or processing of fluid milk and dairy products and promotion of the nutritional attributes of fluid milk and dairy products.

In addition, this interim final rule provides that the Secretary shall have the right to verify the information submitted by an applicant organization by inspection of all relevant materials maintained by the organization and to review any certification issued to determine whether the organization continues to meet the certification standards.

Information obtained from organizations will be kept confidential, except that the Secretary may release general statements based upon data obtained from a number of organizations, which do not identify the information obtained from any one organization.

The Paperwork Reduction Act of 1980 (Title 44, U.S.C. Chapter 35) seeks to minimize the paperwork burden imposed by the Federal Government while maximizing the utility of the information requested. In March 1983, the Office of Management and Budget (OMB) implemented the Act by adopting procedures contained in Part 1320 of 5 CFR Chapter III. According to these

procedures, the information collection request contained in this subpart has been approved by OMB and has been assigned OMB Control No. 0581–0147.

List of Subjects in 7 CFR Part 1150

Dairy promotion order, Milk, Dairy products.

Title 7 of the Code of Federal Regulation, Chapter X is amended by adding Part 1150 to read as follows:

PART 1150—DAIRY PROMOTION PROGRAM

Subpart—Procedure for Certification of Milk Producer Organizations

Sec.

1150.270 General.
1150.271 Definitions.
1150.272 Responsibility for administration of regulations.
1150.273 Application for certification.
1150.274 Certification standards.
1150.275 Inspection and investigation.
1150.276 Review of certification.
1150.277 Listing of certified organizations.
1150.278 Confidential treatment.
1150.279 Paperwork Reduction Act assigned number.

Authority: Pub. L. 98–180, 97 Stat. 1128.

Subpart—Procedure for Certification of Milk Producer Organizations

§ 1150.270 General.

Organizations must be certified by the Secretary that they are eligible to represent milk producers and to participate in the making of nominations of milk producers to serve as members of the National Dairy Promotion and Research Board as provided in the Dairy and Tobacco Adjustment Act of 1983. Certifications of eligibility required of the Secretary shall be conducted in accordance with this subpart.

§ 1150.271 Definitions.

As used in this subpart:

(a) "Act" means the Dairy and Tobacco Adjustment Act of 1983, Pub. L. 98–180, 97 Stat. 1128, approved November 29, 1983.

(b) "Department" means the United States Department of Agriculture.

(c) "Secretary" means the Secretary of Agriculture of the United States, or any officer or employee of the Department to whom authority has heretofore been delegated, or to whom authority may hereafter be delegated, to act in the Secretary's stead.

(d) "Dairy Division" means the Dairy Division of the Department's Agricultural Marketing Service.

(e) "Producer" means any person engaged in the production of milk for commercial use.

(f) "Dairy products" means products manufactured for human consumption which are derived from the processing of milk, and includes fluid milk products.

(g) "Fluid milk products" means those milk products normally consumed in liquid form as a beverage.

§ 1150.272 Responsibility for administration of regulations.

The Dairy Division shall have the responsibility for administering the provisions of this subpart.

§ 1150.273 Application for certification.

Any organization whose membership consists primarily of milk producers may apply for certification. Applicant organizations should supply information for certification using as a guide "Application for Certification of Organizations," Form DA–26. Form DA–26 may be obtained from the Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250.

§ 1150.274 Certification standards.

(a) Certification of eligible organizations shall be based, in addition to other available information, on a factual report submitted by the organization, which shall contain information deemed relevant and specified by the Secretary for the making of such determination, including the following:

(1) Geographic territory covered by the organization's active membership;

(2) Nature and size of the organization's active membership including the total number of active milk producers represented by the organization;

(3) Evidence of stability and permanency of the organization;

(4) Sources from which the organization's operating funds are derived;

(5) Functions of the organization; and

(6) The organization's ability and willingness to further the aims and objectives of the Act.

(b) The primary considerations in determining the eligibility of an organization shall be whether its membership consists primarily of milk producers who produce a substantial volume of milk, and whether the primary or overriding interest of the organization is in the production or processing of fluid milk and dairy products and promotion of the nutritional attributes of fluid milk and dairy products.

(c) The Secretary shall certify any organization which he finds meets the criteria under this section and his determination as to eligibility shall be final.

§ 1150.275 Inspection and investigation.

The Secretary shall have the right, at any time after an application is received from an organization, to examine such books, documents, papers, records, files, and facilities of an organization as he deems necessary to verify the information submitted and to procure such other information as may be required to determine whether the organization is eligible for certification.

§ 1150.276 Review of certification.

Certifications issued pursuant to this subpart are subject to termination or suspension if the organization does not currently meet the certification standards. A certified organization may be requested at any time to supply the Dairy Division with such information as may be required to show that the organization continues to be eligible for certification. Any information submitted to satisfy a request pursuant to this section shall be subject to inspection and investigation as provided in § 1150.275.

§ 1150.277 Listing of certified organizations.

A copy of each certification shall be furnished by the Dairy Division to the respective organization. Copies also shall be filed in the Dairy Division where they will be available for public inspection.

§ 1150.278 Confidential treatment.

All documents and other information submitted by applicant organizations and otherwise obtained by the Department by investigation or examination of books, documents, papers, records, files, or facilities shall be kept confidential by all employees of the Department. Only such information so furnished or acquired as the Secretary deems relevant shall be disclosed by them, and then only in the issuance of general statements based upon the applications of a number of persons, which do not identify the information furnished by any one person.

§ 1150.279 Paperwork Reduction Act assigned number.

The Office of Management and Budget has approved the information collection request contained in this subpart under the provisions of 44 U.S.C. Chapter 35 and OMB Number 0581–0147 has been assigned.

Effective Date: February 2, 1984.

Signed at Washington, D.C. on: January 27, 1984.

John Ford,

Deputy Assistant Secretary, Marketing and Inspection Services.

[FR Doc. 84-3025 Filed 2-1-84; 8:45 am]

BILLING CODE 3410-02-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 80-EA-23, Amendment No. 39-4703]

Airworthiness Directives; DeHavilland Model DHC-6 (All Series); Correction

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Correction of final rule.

SUMMARY: This action corrects Airworthiness Directive (AD) 80-13-11, Amendment 39-3814, as revised by Amendment 39-4703 applicable to DeHavilland Model DHC-6 airplanes. This correction is necessary because the requirement for a dye penetrant inspection procedure in paragraph (d)(1) was inadvertently included.

EFFECTIVE DATE: February 7, 1984.

FOR FURTHER INFORMATION CONTACT: Charles Birkenholz, FAA, Aircraft Certification Office, ANE-172, 181 South Franklin Avenue, Room 202, Valley Stream, New York 11581, Telephone (516) 791-6220; or Larry Werth, FAA, ACE-109, 601 East 12th Street, Kansas City, Missouri 64106, Telephone (816) 374-6932.

SUPPLEMENTARY INFORMATION: AD 80-13-11, Amendment 39-3814, applicable to all DeHavilland Model DHC-6 airplanes was published in the **Federal Register** June 26, 1980 (45 FR 43156 and 43157). A revision to AD 80-13-11, Amendment 39-4703 was published in the **Federal Register** on August 4, 1983 (48 FR 35355 and 35356). This revision made certain changes to paragraph (d) of the original AD 80-13-11.

Since this publication, the FAA has become aware that the dye penetrant method required by the revised paragraph (d)(1) is not recommended by the manufacturer and is unnecessary.

After investigation into this matter, FAA found that a visual inspection with at least a ten power glass is the proper and intended inspection procedure that should have been required by paragraph (d)(1). Accordingly, paragraph (d)(1) is being corrected by deleting the dye penetrant requirement for the inspection. Therefore, action is taken herein to make this correction. Since this action is clarifying in nature, notice and public procedure thereon are not considered necessary.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

§ 39.13 [Amended]

In FR Doc. 83-21074 (48 FR 35355, 35356), in the **Federal Register** of August 4, 1983, make the following correction on page 35356:

Correct existing paragraph (d)(1) to read as follows:

(d) * * *

(1) Remove external paint and visually inspect with at least a ten power glass in accordance with the above Service Bulletin those areas shown in Figure 1 on all tube ends of the rod assemblies listed in Column 4 or 5 of Table 2 of the Bulletin.

* * * * *

(Secs. 313(a), 601 and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421 and 1423); 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); § 11.89, Federal Aviation Regulations (14 CFR 11.89))

Issued in Kansas City, Missouri, on January 20, 1984.

John E. Shaw,

Acting Director, Central Region.

[FR Doc. 84-2790 Filed 2-1-84; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 83-ASW-49]

Alteration of Transition Area; Mineola, TX

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment will alter the transition area at Mineola, TX. The intended effect of the amendment is to provide controlled airspace for aircraft executing new standard instrument approach procedures (SIAPs) to the Mineola-Quitman Airport. This amendment is necessary since a new airport (Mineola-Quitman) will be constructed and SIAPs will be implemented using the Quitman very high frequency omni directional range station (VORTAC) for a circling approach and an area navigation (RNAV) Runway 18 approach.

EFFECTIVE DATE: May 10, 1984.

FOR FURTHER INFORMATION CONTACT: Kenneth L. Stephenson, Airspace and Procedures Branch (ASW-535), Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, TX 76101, telephone (817) 877-2630.

SUPPLEMENTARY INFORMATION:

History

On December 9, 1983, a notice of proposed rulemaking was published in the **Federal Register** (48 FR 55136) stating that the Federal Aviation Administration proposed to alter the Mineola, TX, transition area. Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the Federal Aviation Administration. Comments were received without objections. Except for editorial changes, this amendment is that proposed in the notice.

List of Subjects in 14 CFR Part 71

Control zones, Transition areas, Aviation safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, by the Administrator, Subpart G of Part 71, § 71.181, of the Federal Aviation Regulations (14 CFR Part 71) as republished in Advisory Circular AC 70-3A dated January 3, 1983, is amended, effective 0901 G.M.T., May 10, 1984, as follows:

Mineola, TX [Revised]

That airspace extending upwards from 700 feet above the surface within a 5-mile radius of the Mineola-Wisener Airport (latitude 32°40'45" N., longitude 95°31'00" W.), and within a 6.5-mile radius of the Mineola-Quitman Airport (latitude 32°44'26" N., longitude 95°29'46" W.).

(Sec. 307(a), Federal Aviation Act of 1958, as amended (49 U.S.C. 1348(a)); Sec. 6(c), 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); and 14 CFR 11.61(c))

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Fort Worth, TX, on January 24, 1984.

F. E. Whitfield,

Acting Director, Southwest Region.

[FR Doc. 84-2780 Filed 2-1-84; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 83-ANM-1]

Alteration of Transition Area, Butte, Montana; Correction

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Correction to final rule.

SUMMARY: This action corrects the description of the newly designated 700' transition area at Butte, Montana.

EFFECTIVE DATE: February 2, 1984.

FOR FURTHER INFORMATION CONTACT: Kathy Paul, Airspace Technician, ANM-535, Federal Aviation Administration, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168, telephone (206) 431-2530.

SUPPLEMENTARY INFORMATION: A final rule was published in the **Federal Register** (48 FR 35365) on August 4, 1983, to designate controlled airspace at Butte, MT to accommodate Amendment 3 to the LOC/DME Rwy 15 Instrument Approach Procedure.

The Butte localizer NW course was incorrectly referred to as 313° and should read 347°. This mistake was made in converting from the magnetic heading to a true heading. The purpose of this amendment is to correct the transition area description published in the final rule. Since this action is editorial in nature, further notice and public procedures are not necessary and the change may be made effective in less than 30 days. To avoid confusion, the complete description, as corrected, is presented in the text of this amendment.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, effective 0901 G.m.t., upon **Federal Register** publication, as follows:

Butte, Montana (New)

"That airspace extending upwards from 700 feet above the surface within a five mile radius of the Bert Mooney Airport, Butte, Montana (45°57'N, 112°30'W) extending 9.5 miles southwest and 5 miles northeast of the Butte (I-BEY) localizer NW course 347 (330 m) extending 24.5 miles northwest of the airport."

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); (49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983)); (Sec. 11.69 of the Federal Aviation Regulations (14 CFR 11.69))

Note.—The FAA has determined that this regulation only involves an editorial correction to an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current.

It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979; (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal; and for the same reasons, (4) it is certified that this rule will not have significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Seattle, Washington February 2, 1984.

David E. Jones,

Acting Director, Northwest Mountain Region.

[FR Doc. 84-2788 Filed 2-1-84; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 75

[Airspace Docket No. 83-ANM-17]

Establishment of Jet Routes and Area High Routes: Alteration of J-44 and J-130

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment alters the discriptions of Jet Routes J-44 and J-130 located in the vicinity of Denver, CO. These jet route changes enhance air traffic control procedures in the Denver terminal area by providing unrestricted climbs for eastbound departures and unrestricted descents for westbound traffic into the terminal area. This action improves traffic flow, permits flexibility for maneuvering traffic in the Denver terminal area and reduces controller workload.

EFFECTIVE DATE: March 15, 1984.

FOR FURTHER INFORMATION CONTACT: Lewis W. Still, Airspace and Air Traffic Rules Branch (AAT-230), Airspace-Rules and Aeronautical Information Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426-8526.

SUPPLEMENTARY INFORMATION:

History

On November 28, 1983, the FAA proposed to amend Part 75 of the Federal Aviation Regulations (14 CFR Part 75) to alter the description of J-44 by extending the route from Denver, CO, via McCook, NE, to Lincoln, NE, and alter the description of J-130 by extending the route from Denver, CO, via McCook, NE, to Pawnee City, NE (48 FR 53569). This action eliminates the extensive radar vectors necessary to expedite departure/arrival traffic in the Denver terminal area. Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Except for editorial changes, this amendment is the same as that proposed in the notice. Section 75.100 of Part 75 of the Federal Aviation Regulations was republished in Advisory Circular AC 70-3A dated January 3, 1983.

The Rule

This amendment to Part 75 of the Federal Aviation Regulations alters the descriptions of Jet Routes J-44 and J-130 located in the vicinity of Denver, CO. These jet routes changes enhance air traffic control procedures in the Denver terminal area by providing unrestricted climbs for eastbound departures and unrestricted descents for westbound traffic into the terminal area.

List of Subjects in 14 CFR Part 75

Jet routes, Aviation safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, § 75.100 of Part 75 of the Federal Aviation Regulations (14 CFR Part 75) is amended, effective 0901 G.m.t., March 15, 1984, as follows:

J-44 [Amended]

By deleting the words "to Denver, CO." and substituting the words "Denver; McCook, NE; to Lincoln, NE."

J-130 [Amended]

By deleting the words "to Denver." and substituting the words "Denver; McCook, NE; to Pawnee City, NE."

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); (49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983)); and 14 CFR 11.69)

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is

certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Washington, D.C., on January 25, 1984.

John W. Baier,

Acting Manager, Airspace—Rules and Aeronautical Information Division.

[FR Doc. 84-2799 Filed 2-1-84; 8:45 am]

BILLING CODE 4910-13-M

FEDERAL TRADE COMMISSION

16 CFR Part 13

[Docket 9138]

Big Three Industries, Inc.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Consent order.

SUMMARY: In settlement of alleged violation of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order prohibits respondent from having on its board of directors any person who is a board member of a competing company whose revenues derived from the relevant product or service exceeds 5 million dollars. Respondent must, among other things, institute an annual monitoring program designed to detect unlawful interlocks; permit only those persons who have submitted the information required by Paragraph III(a) of the order to serve as board members; and provide present and future directors and prospective directors, including those of its subsidiaries, with a copy of the order.

DATES: Complaint issued June 17, 1980. Decision issued Jan. 16, 1984.*

FOR FURTHER INFORMATION CONTACT: Steven E. Weart, 5R, Dallas Regional Office, Federal Trade Commission, 8303 Elmbrook Dr., Dallas, TX 75247, (214) 767-7050.

SUPPLEMENTARY INFORMATION: On Friday, Oct. 28, 1983, there was published in the **Federal Register**, 48 FR 49865, a proposed consent agreement with analysis In the Matter of Big Three Industries, Inc., a corporation, for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of order.

No comments having been received, the Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered its order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

The prohibited trade practices and/or corrective actions, as codified under 16 CFR Part 13, are as follows: Subpart—Corrective Actions and/or Requirements: § 13.533 Corrective actions and/or requirements. Subpart—Interlocking Directorates Unlawfully: § 13.1106 Interlocking directorates unlawfully.

List of Subjects in 16 CFR Part 13

Interlocking directorates, Trade practices.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45; sec. 8, 38 Stat. 732; 49 Stat. 717; 15 U.S.C. 19)

Emily H. Rock,

Secretary.

[FR Doc. 84-2851 Filed 2-1-84; 8:45 am]

BILLING CODE 6750-01-M

*Copies of the Complaint and the Decision and Order filed with the original document.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 177 and 178

[Docket No. 83F-0312]

Indirect Food Additives; Polymers, Adjuvants, Production Aids, and Sanitizers

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of 4-[[4,6-bis(octylthio)-*s*-triazin-2-yl]amino]-2,6-di-*tert*-butylphenol as a stabilizer in rubber articles intended for repeated use in contact with food. This action responds to a petition filed by Ciba-Geigy Corp.

DATES: Effective February 2, 1984, objections by March 5, 1984.

ADDRESS: Written objections to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Vir D. Anand, Bureau of Foods (HFF-334), Food and Drug Administration, 200 C St. SW., Washington, D.C. 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of October 13, 1983 (48 FR 46626), FDA announced that a food additive petition (FAP 3B3750) had been filed by Ciba-Geigy Corp., Three Skyline Dr., Hawthorne, NY 10532, proposing that the food additive regulations be amended to provide for the safe use of 4-[[4,6-bis(octylthio)-*s*-triazin-2-yl]amino]-2,6-di-*tert*-butylphenol as a stabilizer in rubber articles intended for repeated use that comply with 21 CFR 177.2600.

FDA has evaluated data in the petition and other relevant material and concludes that the proposed food additive use is safe and that the regulations should be amended as set forth below.

In accordance with § 171.1(h) (21 CFR 171.1(h)), the petition and the documents that FDA considered and relied upon in reaching its decision to approve the petition are available for inspection at the Bureau of Foods (address above) by appointment with the information contact person listed above. As provided in 21 CFR 171.1(h)(2), the agency will delete from the documents any materials that are not available for public disclosure before making the documents available for inspection.

The agency has carefully considered the potential environmental effects of this action and has concluded that the action will not have a significant impact on the human environment and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding may be seen in the Dockets Management Branch (address above), between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects

21 CFR Part 177

Food additives, Polymeric food packaging.

21 CFR Part 178

Food additives, Food packaging, Sanitizing solutions.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 72 Stat. 1784-1788 as amended (21 U.S.C. 321(s), 348)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Bureau of Foods (21 CFR 5.61), Parts 177 and 178 are amended as follows:

PART 177—INDIRECT FOOD ADDITIVES: POLYMERS

1. Part 177 is amended in § 177.2600(c)(4)(iii) by alphabetically inserting a new item in the list of substances, to read as follows:

§ 177.2600 Rubber articles intended for repeated use.

* * * * *

(c) * * *

(4) * * *

(iii) * * *

4-[[4,6-Bis(octylthio)-*s*-triazin-2-yl]amino]-2,6-di-*tert*-butylphenol (CAS Reg. No. 991–84–4) for use only as a stabilizer at levels not to exceed 0.2 percent by weight of the finished rubber product.

* * * * *

PART 178—INDIRECT FOOD ADDITIVES: ADJUVANTS, PRODUCTION AIDS, AND SANITIZERS

2. Part 178 is amended in § 178.2010(b) by adding the fourth item in the list of limitations for "4-[[4,6-Bis(octylthio)-*s*-triazin-2-yl]amino]-2,6-di-*tert*-butylphenol", to read as follows:

§ 178.2010 Antioxidants and/or stabilizers for polymers.

* * * * *

(b) * * *

Substances	Limitations
* * * * *	
4-[[4,6-Bis(octylthio)-*s*-triazin-2-yl]amino]-2,6-di-*tert*-butylphenol (CAS Reg. No. 991–84–4).	For use only: * * * 4. As provided in § 177.2600 of this chapter.
* * * * *	

Any person who will be adversely affected by the foregoing regulation may at any time on or before March 5, 1984 submit to the Dockets Management Branch (address above), written objections thereto and may make a written request for a public hearing on the stated objections. Each objection shall be separately numbered and each numbered objection shall specify with particularity the provision of the regulation to which objection is made. Each numbered objection on which a hearing is requested shall specifically so state; failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held; failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this regulation. Received objections may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Effective date. This regulation is effective February 2, 1984.

(Secs. 201(s), 409, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348))

Dated: January 20, 1984.

John Taylor,

Acting Director, Bureau of Foods.

[FR Doc. 84–2822 Filed 2–1–84; 8:45 am]

BILLING CODE 4160–01–M

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21 CFR Part 178

[Docket No. 83F–0208]

Indirect Food Additives; Adjuvants, Production Aids, and Sanitizers

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of octadecyl 3,5-di-*tert*-butyl-4-hydroxyhydrocinnamate as an antioxidant and/or stabilizer in olefin polymers intended for use in contact with food, by removing the fatty food contact limitations. This action responds to a petition filed by Ciba-Geigy Corp.

DATES: Effective February 2, 1984; objections by March 5, 1984.

ADDRESS: Written objections to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Vir Anand, Bureau of Foods (HFF–334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–472–5690.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of July 15, 1983 (48 FR 32393), FDA announced that a petition (FAP 3B3736) had been filed by Ciba-Geigy Corp., Three Skyline Dr., Hawthorne, NY 10532, proposing that the food additive regulations be amended to provide for the safe use of octadecyl 3,5-di-*tert*-butyl-4-hydroxyhydrocinnamate as an antioxidant and/or stabilizer in olefin polymers complying with § 177.1520(c) (21 CFR 177.1520(c)) intended for use in contact with food without fatty food limitations.

FDA has evaluated data in the petition and other relevant material and concludes that the proposed food additive use is safe and that the regulations should be amended as set forth below.

In accordance with § 171.1(h) (21 CFR 171.1(h)), the petition and the documents that FDA considered and relied upon in reaching its decision to approve the petition are available for inspection at the Bureau of Foods (address above) by appointment with the information contact person listed above. As provided in 21 CFR 171.1(h)(2), the agency will delete from the documents any materials that are not available for public disclosure before making the documents available for inspection.

The agency has carefully considered the potential environmental effects of this action and has concluded that the action will not have a significant impact on the human environment and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding may be seen in the Dockets Management Branch (address above), between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 178

Food additives, Food packaging.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Bureau of Foods (21 CFR 5.61), Part 178 is amended in § 178.2010(b) by revising limitation 1 for "octadecyl 3,5-di-*tert*-butyl-4-hydroxyhydrocinnamate," to read as follows:

PART 178—INDIRECT FOOD ADDITIVES: ADJUVANTS, PRODUCTION AIDS, AND SANITIZERS

§ 178.2010 Antioxidants and/or stabilizers for polymers.

* * * * *

(b) * * *

Substances	Limitations
* * * * *	
Octadecyl 3,5-di-*tert*-butyl-4-hydroxy-hydrocinnamate (CAS Reg. No. 2082–79–3).	For use only: 1. At levels not exceeding 0.25 percent by weight of olefin polymers complying with § 177.1520(c) of this chapter, item 1.1, 1.2, 1.3, 2.1, 2.2, 2.3, 3.1, 3.2, 3.3, or 4.
* * * * *	

Any person who will be adversely affected by the foregoing regulations may at any time on or before March 5, 1984 submit to the Dockets Management Branch (address above) written objections thereto and may make a written request for a public hearing on the stated objections. Each objection shall be separately numbered and each numbered objection shall specify with particularity the provision of the regulation to which objection is made.

Each numbered objection on which a hearing is requested shall specifically so state; failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held; failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this regulation. Received objections may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Effective date. This regulation is effective February 2, 1984.

(Secs. 201(s), 409, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348))

Dated: January 19, 1984.

Richard J. Ronk,

Acting Director, Bureau of Foods.

[FR Doc. 84-3824 Filed 2-1-84 8:45 am]

BILLING CODE 4160-01-M

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21 CFR Part 452

[Docket No. 83N-0285]

Antibiotic Drug; Updating and Technical Changes

Correction

In FR Doc. 84-30 beginning on page 373, in the issue of Wednesday, January 4, 1984, make the following correction:

On page 374, column one, **SUPPLEMENTARY INFORMATION**, line four, "on page 51292" should read "on page 51293".

BILLING CODE 1505-01-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 6a

[T.D. 7940]

Income Tax; Foreign Investment in United States Real Property

AGENCY: Internal Revenue Service, Treasury.

ACTION: Temporary regulations.

SUMMARY: This document contains amendments to the temporary regulations under section 6039C of the Internal Revenue Code of 1954, relating to foreign investment in U.S. real property, published in the **Federal Register** on September 21, 1982, (47 FR 41532) as revised by T.D. 7880 published in the **Federal Register** on April 26, 1983 (48 FR 19163). These temporary regulations are necessary to provide the public with immediate guidance with respect to the requirements of section 6039C.

EFFECTIVE DATE: The amendments are effective as of January 31, 1984.

FOR FURTHER INFORMATION CONTACT: Robert E. Culbertson, Jr. of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Ave., NW. Washington, D.C. 20224, Attention: CC:LR:T (202–566–3289), not a toll-free call.

SUPPLEMENTARY INFORMATION:

Background

This document contains amendments to the Temporary Income Tax Regulations under Title XI of the Omnibus Reconciliation Act of 1980 (26 CFR Part 6a) under section 6039C of the Internal Revenue Code of 1954, as added by section 1123 of the Foreign Investment in Real Property Tax Act of 1980 (94 Stat. 2682), and as amended by section 831 of the Economic Recovery Tax Act of 1981 (Pub. L. 97–34; 95 Stat. 172). The amendments are issued under the authority contained in sections 6039C (94 Stat. 2687; 26 U.S.C. 6039C) and 7805 (68A Stat. 917; 26 U.S.C. 7805), both of the Internal Revenue Code of 1954.

Discussion

Temporary and proposed regulations pertaining to the reporting provisions of section 6039C were published in the **Federal Register** on September 21, 1982. A public hearing on those regulations was held on February 3, 1983. On April 28, 1983, the reporting requirements for 1980, 1981, and 1982 were postponed by amendments to the temporary regulations. These amendments to the temporary regulations similarly postpone all reporting-related deadlines under section 6039C with respect to calendar year 1983, including the deadline for applying for a security agreement in lieu of reporting. The final regulations will establish dates that allow taxpayers sufficient time to determine whether to file information returns or apply for security agreements, and to assemble the necessary information. The postponement of these deadlines by the amendments to the temporary regulations does not affect the obligation to file an income tax return if one is required and to pay any liability arising under the operation of section 897 and the regulations thereunder.

Need for Temporary Regulations

Because of the possibility that amendments to the regulations will affect taxpayers' reporting obligations under section 6039C, it is necessary that the relevant deadlines be postponed until the amendments are issued. Because of the immediate need for these changes, the Internal Revenue Service has found it to be impractical to issue these regulations with notice and public comment procedures as outlined under subsection (b) of section 553 of Title 5 of the United States Code or subject to the effective date limitation of subsection (d) of that section.

Drafting Information

The principal author of these amendments to the temporary regulations is Robert E. Culbertson, Jr. of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing these regulations both on matters of substance and style.

Regulatory Flexibility Act and Executive Order 12291

No notice of proposed rulemaking is required by 5 U.S.C. 553(b) for temporary regulations. Accordingly, the Regulatory Flexibility Act does not apply and no Regulatory Flexibility Analysis is required for this rule. The Commissioner of Internal Revenue has determined that these temporary regulations are not subject to Executive Order 12291.

List of Subjects in 26 CFR Part 6a

Bonds, income taxes, mortgages, veterans, foreign investments in United States real property interests.

Adoption of Amendments to the Temporary Regulations

PART 6a—[AMENDED]

Accordingly, 26 CFR Part 6a is amended as follows:

§ 6a.6039C–1 [Amended]

Paragraph 1. Section 6a.6039C–1 is amended by revising the first sentence of paragraph (c) to read as follows: "The information returns required by section 6039C must be filed no later than May 15 of the calendar year following the calendar year covered by the return, except that information returns for calendar years 1980, 1981, 1982, and 1983

must be filed no later than the date established by final regulations."

§ 6a.6039C-2 [Amended]

Par. 2. Section 6a.6039C–2 is amended by revising the third sentence of paragraph (d) to read as follows: "The notification by the corporation required by this paragraph (d) must be made by January 31 of the year following the year for which the return must be filed, except that the notification must be made by the date established by final regulations for calendar years 1980, 1981, 1982, and 1983."

§ 6a.6039C-3 [Amended]

Par. 3. Section 6a.6039C–3 is amended by revising the third sentence of paragraph (h) to read as follows: "The statement must be furnished no later than January 31 of the calendar year following the calendar year for which a statement is required, except that it must be furnished by the date established by final regulations for calendar years 1980, 1981, 1982, and 1983."

§ 6a.6039C-5 [Amended]

Par. 4. Section 6a.6039C–5 is amended by revising the last sentence of paragraph (e)(1) and the first sentence of paragraph (h) to read as set forth below.

§ 6a.6039C–5 Furnishing of security instead of filing information return.

* * * * *

(e) *Appraised fair market value of U.S. real property interests.*—(1) *In general.* * * * With respect to security in lieu of filing 1980, 1981, 1982 and 1983 returns, the appraised fair market value of U.S. real property interests shall be determined no later than the date established by final regulations.

* * * * *

(h) *Application for security agreement.* Applications to the Director for a security agreement or for a renewal thereof must be made within 30 days of the close of the calendar year for which a security agreement is desired, or by the date established by final regulations for calendar years 1980, 1981, 1982, and 1983.

* * * * *

This Treasury decision is issued under the authority contained in sections 6039C and 7805 of the Internal Revenue Code of 1954 (94 Stat. 2687, 26 U.S.C. 6039C; 68A Stat. 917, 26 U.S.C. 7805).

Roscoe L. Egger, Jr.,

Commissioner of Internal Revenue.

Approved: January 26, 1984.

John E. Chapoton,

Assistant Secretary of the Treasury.

[FR Doc. 84–3030 Filed 1–31–84; 3:53 pm]

BILLING CODE 4830–01–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD13 83–02]

Drawbridge Operation Regulations; Duwamish Waterway, Washington

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: At the request of the City of Seattle, the Coast Guard is changing the regulations governing the highway drawbridge across the Duwamish West Waterway at Southwest Spokane Street and the highway drawbridge across the Duwamish Waterway at First Avenue South, both in Seattle, Washington, by extending the existing two hour morning and afternoon closed periods by one hour each to conform with temporary regulations presently in effect. This change will provide that the draws of these bridges need not open for the passage of vessels between the hours of 6:00 a.m. and 9:00 a.m. and between 3:45 p.m. and 6:45 p.m., Monday through Friday, except for federal holidays. This change is being made because of an increase in vehicular traffic during these periods as a result of the damage to and subsequent removal of one of the bridges serving vehicular traffic in the immediate area. This action will accommodate the needs of vehicular traffic and still provide for the reasonable needs of navigation.

EFFECTIVE DATE: This rule becomes effective on March 5, 1984.

FOR FURTHER INFORMATION CONTACT: John E. Mikesell, Chief, Bridge Section, Aids to Navigation Branch (Telephone: (206) 442–5864).

SUPPLEMENTARY INFORMATION: On February 10, 1983, the Coast Guard published a proposed rule (48 FR 6138) concerning this change. The Commander, Thirteenth Coast Guard District also published this proposal as a Public Notice dated February 24, 1983. In each notice interested persons were given until March 28, 1983, to submit comments.

Drafting Information

The drafters of this rule are John E. Mikesell, project officer, and Lieutenant Commander D. Gary Beck, project attorney.

Discussion of Comments

Six responses were received to the **Federal Register** and Coast Guard Public Notice. Two responses were received from federal agencies. One offered no objection and the other offered no comment to the proposal. Two responses were received from local towboat companies. Both objected to the existing temporary regulations being made permanent. One response from the local port authority and another from an organization representing local towboat companies, recommended that the provisions of the regulations requiring closed periods be rescinded upon the opening of the high level bridge, presently under construction, to vehicular traffic. The City of Seattle was advised of the responses. They indicated that the extended closed periods provided by the existing temporary regulations and the proposed change were intended to be in effect only until the new high level bridge is opened to vehicular traffic. Upon opening the new high level bridge, the City plans to reevaluate its needs and anticipate modification of these regulations.

Coast Guard review of available information concerning the proposed rule indicated: (1) Marine and vehicular traffic conditions in the Spokane Street and First Avenue South corridors have not significantly changed since the temporary regulations went into effect; and (2) the extended closed periods are necessary to accommodate peak vehicular traffic during construction of the new high level bridge and until that bridge is fully open to traffic.

This Final Rule has been drafted as proposed, except for deletion of the statement requiring bridge openings during closed periods to be "as authorized by proper Coast Guard authority during an emergency." This authority is vested in the Coast Guard District Commander and does not require restatement in individual drawbridge operation regulations.

After closure of the comment period for the proposed rule, the Coast Guard received a petition signed by representatives of major navigation interests requesting that the present three-hour morning closed period be rescinded, effective upon the partial opening of the new high level bridge to traffic. This request is considered to be a separate action and will be processed accordingly.

Because this action does not change the existing operation of the Southwest Spokane Street and First Avenue South bridges, there are only minimal economic impacts on navigation and other interests. Therefore, an economic evaluation has not been prepared for this action. This action formalizes the existing operation of the Southwest Spokane Street and First Avenue South bridges.

Economic Assessment and Certification

These final regulations have been reviewed under the provisions of Executive Order 12291 and have been determined not to be major rules. They are considered to be nonsignificant in accordance with guidelines set out in the Policies and Procedures for Simplification, Analysis, and Review of Regulations (DOT Order 2100.5 of 5–22–80). As explained above, an economic evaluation has not been conducted since its impact is expected to be minimal. In accordance with section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 605(b)), it is certified that these rules, if promulgated, would not have a significant economic impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 117

Bridges.

Regulations

In consideration of the foregoing, Part 117 of Title 33, Code of Federal Regulations, is amended by revising § 117.790(f) to read as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

§ 117.799 Duwamish Waterway at Seattle, Wash., bridges.

* * * * *

(f) The draws of each bridge across the Duwamish Waterway shall open promptly on signal except that the draws of the Southwest Spokane Street bridge and the First Avenue South bridge need not open for the passage of vessels from 6:00 a.m. to 9:00 a.m., and 3:45 p.m. to 6:45 p.m., Monday through Friday, except for federal holidays.

* * * * *

(33 U.S.C. 499; 49 U.S.C. 1655(g)(2); 49 CFR 1.46(c)(5); 33 CFR 1.05–1(g)(3))

Dated: December 15, 1983.

R. J. Copin,

Captain, U.S. Coast Guard, Commander, 13th Coast Guard District, Acting.

[FR Doc. 84–2999 Filed 2–1–84; 8:45 am]

BILLING CODE 4910–14–M

POSTAL SERVICE

39 CFR Part 111

Official ZIP+4 First-Class Mail

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: This rule establishes final regulations permitting federal agencies to send official mail at ZIP+4 and ZIP+4 Presort rates. The rule provides procedures for mailing at both rates when a meter or permit imprint is used for payment of postage and solely at the nonpresort ZIP+4 rate when the standard penalty indicium is used.

EFFECTIVE DATE: February 2, 1984.

FOR FURTHER INFORMATION CONTACT: James S. Stanford, (202) 245–5001.

SUPPLEMENTARY INFORMATION: On January 31, 1984, the Postal Service published in the **Federal Register** final regulations implementing discounted rates for bulk mailings of First-Class Mail addressed with ZIP+4 codes. Those regulations replaced interim regulations published on October 7, 1983, 48 FR 45762–45765.

In the January 31, 1984, final rule, the Postal Service noted that one commenter questioned why official mail sent by federal agencies in envelopes bearing standard penalty indicia would not be eligible for a ZIP+4 discount. The interim regulations permitted only official mail bearing a meter or permit imprint indicium to qualify for ZIP+4 rates. We stated, in the January 31 notice, that the Postal Service wanted to maximize the flexibility available to federal mailers which plan to use the ZIP+4 code and further stated that the commenter's proposal was under study.

The Postal Service has now determined that it can accommodate the commenter's proposal and permit official mail using the standard penalty indicium to qualify for mailing at the nonpresort ZIP+4 rate. As noted by the commenter, federal agencies would have to add the endorsement "ZIP+4" to each piece of mail which used the standard penalty indicium. This amendment will permit an agency to collect individual pieces of official mail which bear ZIP+4 codes from within the agency, add the endorsement, present the mail to the Postal Service in trays containing at least 250 pieces, and receive a 0.9 cent discount per piece.

For these reasons, the Postal Service hereby adopts the following final regulations on this subject as an amendment to the Domestic Mail Manual, which is incorporated by reference in the Code of Federal Regulations. See 39 CFR 111.1.

List of Subjects in 39 CFR Part 111

Postal Service.

The following changes have been made to the Domestic Mail Manual:

PART 137—OFFICIAL MAIL

* * * * *

137.2 Executive and Judicial Officers.

* * * * *

137.27 Services to be Provided.

* * * * *

Section 137.273f., *Approved Applications*, is renumbered 137.273g. and new section 137.273f. is inserted as follows:

* * * * *

f. ZIP+4 and ZIP+4 Presort Mail.

(1) Permissible Indicia.

ZIP+4 and ZIP+4 Presort mailings may be made using the official permit imprint indicium described in 137.244 and the official metered indicium described in 137.243. The standard penalty indicium described in 137.242 may also be used, but only for ZIP+4 nonpresort mailings. When used, each standard penalty indicium piece must be endorsed "ZIP+4" above the address and immediately below or to the left of the indicium illustrated in Exhibit 137.242a.

(2) Application.

Federal government agencies desiring to use permit imprint or the standard penalty indicium for ZIP+4 First-Class mailings must have a permit imprint authorization on file at the entry post office in accordance with 137.273d. A separate application is not required to mail at a post office where a permit is already on file.

(3) Mailings.

a. All mailings sent at the ZIP+4 and ZIP+4 Presort rates must comply with the provisions of 324, 361.4, 362.4, 367, 368 and 382 except as modified in 137.273f(1). A combined ZIP+4 Presort and Presort First-Class mailing may be made under the provisions in 365. Agencies using a permit imprint must follow the applicable procedures in 137.273d(2) and 145 and submit Form 3602, *Statement of Mailing With Permit Imprint*, prepared in accordance with 382.4a. Those using official mail meters must follow applicable procedures in 137.273a(9) and submit Form 3602–PC, *Statement of Mailing—Bulk Rates*, in accordance with 382.4b.

b. Agencies making nonpresort ZIP+4 mailings using the standard penalty indicium may include nonidentical pieces in such mailings but must submit Form 3602, *Statement of Mailing with Permit Imprint*, prepared in accordance with 382.4a. Mailers must include the agency permit number (including the preceding letter "G"), total volume and total postage on the Form 3602 and insert the words "Non-identical" for the Weight of a Single Piece.

A transmittal letter making these changes in the pages of the Domestic Mail Manual will be published and will be transmitted to subscribers automatically. Notice of issuance of the transmittal letter will be published in the **Federal Register** as provided in 39 CFR 111.3.

(39 U.S.C. 401(a), 403)

W. Allen Sanders,

Associate General Counsel, Office of General Law and Administration.

[FR Doc. 84–2857 Filed 2–1–84; 8:45 am]

BILLING CODE 7710–12–M

DEPARTMENT OF THE INTERIOR

Office of the Secretary

43 CFR Part 4

Hearings and Appeals Procedures

AGENCY: Office of Hearings and Appeals, Interior.

ACTION: Final rule.

SUMMARY: Office of Hearings and Appeals is amending its regulation § 4.413 in 43 CFR Part 4, Subpart E, to reflect the change of address for the Regional Solicitor, Alaska Region of the Office of the Solicitor, U.S. Department of the Interior.

EFFECTIVE DATE: February 2, 1984.

FOR FURTHER INFORMATION CONTACT: Frances A. Patton, 703–235–3810.

SUPPLEMENTARY INFORMATION: Since this is an action reflecting agency management and a change of address which has previously been effected, the proposed rulemaking process is determined to be unnecessary and impractical.

List of Subjects in 43 CFR Part 4

Administrative practice and procedure, Public lands.

PART 4—[AMENDED]

For the reasons set out above and under authority of the Secretary of the Interior contained in 5 U.S.C. 301, § 4.413 of Subpart E, Part 4, Title 43 of the Code of Federal Regulations, is amended to show the current address of the Regional Solicitor for the Alaska Region of the Office of the Solicitor, U.S. Department of the Interior, as follows:

In § 4.413, the address of the Regional Solicitor, Alaska Region, is revised to read as follows:

§ 4.413 Service of notice of appeal and of other documents.

* * * * *

Regional Solicitor, Alaska Region, U.S. Dept. of the Interior, 701 C Street, P.O. Box 34, Anchorage, AK 99513—Alaska.

* * * * *

Dated: January 25, 1984.

Richard R. Hite,

Principal Deputy Assistant Secretary of the Interior.

[FR Doc. 84–2798 Filed 2–1–84; 8:45 am]

BILLING CODE 4310–10–M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

49 CFR Part 1

[OST Docket No. 1; Amdt. 1–190]

Organization and Delegation of Powers and Duties; Aircraft Loan Guarantees

AGENCY: Office of the Secretary, DOT.

ACTION: Final rule.

SUMMARY: This amendment delegates to the Federal Aviation Administrator authority vested in the Secretary to issue notes or other obligations to the Secretary of the Treasury associated with aircraft loan guarantee defaults.

DATE: The effective date of this amendment is July 30, 1984.

FOR FURTHER INFORMATION CONTACT: Robert I. Ross, Office of the General Counsel, C–50, Department of Transportation, Washington, DC, (202) 426–4723.

SUPPLEMENTARY INFORMATION: Since this amendment relates to departmental management, procedures, and practice, notice and comment on it are unnecessary and it may be made effective in fewer than thirty days after publication in the **Federal Register**.

Under the Act of September 7, 1957, as amended (71 Stat. 629; 49 U.S.C. 1324 note), DOT may guarantee repayment of the interest and part of the principal amount of loans by United States air carriers engaged in local, feeder, or short-haul service to purchase aircraft. The Supplemental Appropriations Act, 1983, authorized the Secretary of Transportation to issue notes or other obligations to the Secretary of Treasury in return for funds which may be used to pay necessary expenses of such loan guarantees. Similar authority is included in DOT's Fiscal Year 1984 Appropriation Act. Since the Federal Aviation Administrator is delegated authority to carry out the loan guarantee program itself, the related authority to issue obligations to finance the program is also delegated to the Administrator.

List of Subjects in 49 CFR Part 1

Authority delegations (government agencies), Organization and functions (government agencies).

PART 1—[AMENDED]

In consideration of the foregoing, § 1.47 of Part 1 of Title 49, Code of Federal Regulations, is amended by revising paragraph (c) thereof to read as follows:

§ 1.47 Delegations to Federal Aviation Administrator.

The Federal Aviation Administrator is delegated authority to—

* * * * *

(c) Carry out the functions vested in the Secretary by the Act of September 7, 1957 (71 Stat. 629; 49 U.S.C. 1324 note), as amended by Section 6(a)(3)(B) of the Department of Transportation Act, relating to the guarantee of aircraft purchase loans, and those functions which relate to the issuance of obligations to finance the expenses of such guarantees.

Authority: 49 U.S.C. 322.

Issued in Washington, DC, on January 25, 1984.

Elizabeth Hanford Dole,

Secretary of Transportation.

[FR Doc. 84–2822 Filed 2–1–84; 8:45 am]

BILLING CODE 4910–62–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 20

Taking Migratory Game Birds With a Crossbow

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The Service amends the hunting methods prohibited under the Federal migratory game bird hunting regulations, 50 CFR 20.21(a), to eliminate the prohibition applying to crossbows. By this action, the Service returns to the States the authority to regulate the use of crossbows for hunting migratory game birds, including authority under the Migratory Bird Treaty Act (MBTA) to enact more restrictive laws to give additional protection to migratory game birds. A number of State regulatory approaches to crossbow hunting, from a total ban to blanket permission, may result from this action.

EFFECTIVE DATE: March 5, 1984.

FOR FURTHER INFORMATION CONTACT: John T. Webb, Branch of Investigations, Division of Law Enforcement, Fish and Wildlife Service, U.S. Department of the Interior, P.O. Box 28006, Washington, D.C. 20005, telephone: (202) 343–9242.

SUPPLEMENTARY INFORMATION:

Background

A proposed rulemaking was published in the **Federal Register** on July 19, 1982 (47 FR 31297) which invited comments for 30 days ending August 18, 1982.

Comments were received from the following: Georgia Department of Natural Resources, Minnesota Department of Natural Resources, New York State Department of Environmental Conservation, North Carolina Wildlife Resources Commission, South Dakota Department of Game, Fish and Parks, Wisconsin Department of Natural Resources, and National Wildlife Federation. The comments are summarized below by topic, including the Service's response to the comments.

Summary and Analysis of Comments

1. Impact on States

The only State agency supporting the proposal was the Wisconsin Department of Natural Resources. Deletion of the Federal prohibition would enable Wisconsin to have migratory game bird hunting regulations that have permitted methods of taking that are identical to those for resident species. In Wisconsin, disabled State residents may hunt with a crossbow if a State permit is obtained.

The other State agencies objected for several reasons. First, because the change in Federal law would not automatically lift any State ban on crossbow hunting (North Carolina, Minnesota, Georgia, and South Dakota prohibit crossbow hunting altogether), initially hunters would be confused about the legality of crossbow hunting in a particular State. Eventually, organized efforts at the State level would occur to follow the Federal initiative and allow crossbow hunting for both migratory game birds and resident species.

Second, if any crossbow hunting is permitted it would create some enforcement problems. Possible enforcement problems were noted by the Service in the preamble to the proposal:

> Although the reasons for the original Federal ban on crossbows are unrecorded, historically the crossbow has been identified as the ideal "poacher's weapon." the modern crossbow is silent, accurate, capable of multiple shot firing (repeating crossbow), and capable of being fired from inside a motor vehicle. These attributes make detection of poachers using crossbows difficult and when coupled with other generally prohibited hunting practices, such as spotlighting, make the crossbow a suitable weapon for illegally hunting various game species. Authorizing hunters to take migratory game birds with a crossbow may affect State and Federal efforts to prevent such illegal hunting (47 CF 31298, 1982).

For instance, Georgia prohibits the possession of a crossbow while in the field to prevent deer poaching. Because the crossbow is silent, detection of hunters using it is virtually impossible. If migratory game bird hunters in Georgia are allowed to use a crossbow, then an excuse exists to cover illegal hunting practices conducted with a crossbow.

However, those comments against removing the Federal prohibiting are not persuasive. Everyday hunters face a myriad of regulations that vary from State to State and within a State. Hunting practices permitted in one State, or even one county, may be prohibited in another. Yet no widespread hunter confusion has resulted. The same result is expected if the Service removes the Federal ban on crossbows.

Even more important is the fact that each State retains the right under the MBTA to enact more restrictive State laws. Under section 708 individual States are not prevented from "making or enforcing laws or regulations which shall give further protection to migratory birds, their nests, and eggs. * * *" But without amending the Federal regulations, no State can allow crossbow hunting for migratory game birds because the MBTA prohibits States from enacting less restrictive laws. The sole effect of this rule is to return to each State the exclusive authority to regulate crossbow hunting.

2. Safety considerations

One argument advanced by the Service in support of the proposal was that all bows used by an archer, except crossbows, are permitted, even though the ballistics of crossbow projectiles (i.e., bolts) are comparable to arrows propelled from compound bows. The National Wildlife Federation (NWF) noted some serious flaws in that reasoning:

> The average draw weight of crossbows used today is about 160 pounds; this compares to an average draw weight for compound bows of about 60 pounds. Crossbows fire "bolts" that are significantly shorter than standard longbow arrows. Thus, shaft lengths and arrow weights are dissimilar. Finally, and perhaps most importantly, arrow fletching used for hunting game birds is entirely different between longbows and crossbows.
>
> It is standard practice for recurve and compound bow hunters who pursue game birds to use arrows with flu-flu fletching. Flu-flu fletching consists of large, untrimmed feathers glued completely around the shaft in a tight spiral. Arrows fletched this way will fly at normal speeds for up to 50 yards, after which wind resistance slows them abruptly and shortens their flights. Flu-flu fletching cannot be adapted for use on bolts because of structural features of crossbows. To our knowledge, a flu-flu bolt has never been designed or tested, nor are we aware of plans to develop one. Thus, while recurve and compound bow hunters shooting at game birds release arrows that fall to earth at 50 yards, crossbow hunters would be firing bolts that may travel up to 200 or 250 yardsf before landing.
>
> The maximum effective range of flu-flu arrows is 50 to 60 yards. By comparison, crossbow bolts have an effective range out to 250 yards, or almost five times that of projectiles fired from conventional weapons.

The same comment also challenged the relevance to hunter safety of the statement in the draft environmental assessment that Ohio has held five statewide deer seasons for crossbow hunters without "any harm to other hunters." For two (2) reasons, the NWF found it is appropriate to conclude from the Ohio results that allowing crossbows to be used to hunt migratory game birds would have little, if any, impact on hunter safety:

> First, most shots taken at deer are likely to be in wooded or partially wooded areas where chances of arrow deflection and abbreviated flight are high. In contrast, most shots taken at migratory game birds, especially waterfowl, are over open areas where arrow deflection and reduced flight time are unlikely.
>
> Second, trajectories of typical shots taken when hunting deer and hunting migratory game birds are entirely different. Deer hunters almost always shoot down on the animal (from a tree stand), or horizontally at ground level. Shooting birds, however, requires that the hunter fire into the air, well above the horizontal, giving an arrow or bolt a longer line of flight.
>
> Hunting migratory game birds with crossbows places bolts in the air for greater distances and for greater lengths of time than when hunting deer. The proposed rule might present significantly higher hunter safety risks than implied by the Ohio data. * * *

NWF noted some additional safety problems associated with waterfowl hunting:

> Much waterfowl hunting occurs in limited daylight, oftentimes under foggy or misty conditions, where visibility rarely exceeds 50 yards. Even during exceptionally clear weather, detecting other waterfowl hunters at 100 yards may be difficult. We believe that the combined effective range of crossbows and limited visibility, characteristic of most waterfowl hunting situations, raises serious questions about human safety.

Similar concerns were raised by the New York State Depatment of Environmental Conservation:

> 1. Ballistics of crossbow projectiles are much greater than arrows shot from a long bow or compound bow. Crossbows typically have drawweights of 150–175 pounds and fire projectiles with some degree of accuracy well over 100 yards. On the other hand shotgun propelled shot is relatively harmless beyond 100 yards.
>
> 2. Shooting high velocity arrows (or bolts) at targets on the water or in the air would be extremely hazardous to other hunters and residents in and adjacent to waterfowl

hunting areas. Other hunters, concealed by the vegetation or in blinds, would be in danger of accidental hits from ricochets off the water or from spent bolts coming down from the air.

The detailed comments on hunter safety and included verbatim to provide States with both highly relevant information and a logical starting point for additional study before a decision is made to permit migratory game bird hunting with a crossbow. Therefore, any State may have valid reasons, including hunter safety considerations, to continue the ban on crossbows. Any Federal action should not be viewed by the public as invalidating any such State interest.

Effect of the Final Rule

Use of a crossbow is no longer a prohibited method of taking migratory game birds under Federal law. Each State is free to regulate the use of a crossbow to take migratory game birds as it sees fit. A State may choose to prohibit it, permit it, place restrictions on the type of crossbow or projectile used, shorten the open season for crossbow hunters, restrict crossbow hunters to designated areas, or restrict their use to certain hunters.

Primary Author

The primary author of this final rule is John T. Webb, Division of Law Enforcement, U.S. Fish and Wildlife Service.

National Environmental Policy Act

An environmental assessment has been prepared in conjunction with this final rule. It is on file in the Division of Law Enforcement, 1375 K Street, NW., Suite 300, Washington, D.C., and may be examined during regular business hours. Single copies are also available upon request by contacting the person identified above under the caption "**FOR FURTHER INFORMATION CONTACT.**" This assessment forms the basis for the decision that this final rule is not a major Federal action which would significantly affect the quality of the human environment within the meaning of section 102(2)(C) of the National Environmental Policy Act of 1969.

Paperwork Reduction Act

This rule does not contain information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.*

Determinations of Effects

The Department of the Interior has determined that this document is not a major rule under E.O. 12291 and certifies that this document will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

The economic effect of this action will be insignificant when compared to the total expenditures by migratory bird hunters. The Service has determined that hunters presently avail themselves of but a small fraction of the hunting opportunity afforded by recent Federal migratory game bird hunting frameworks. The 1981 *Annual Migratory Hunting Regulations Final Regulatory Impact Analysis* determined that less than four (4) percent of the possible hunting opportunity afforded by Federal regulations is ever utilized. The Service's environmental assessment on this rule projects that a maximum number of 3,848 crossbow hunters will hunt migratory game birds if the current ban is lifted. The *National Survey of Fishing, Hunting and Wildlife Associated Recreation* (U.S. Bureau of the Census) states that during 1980, migratory game bird hunters spent an average of $120.00 each per season to participate in migratory game bird hunting seasons. Using this figure ($120.00) the Service can estimate that maximum expenditures by crossbow hunters hunting migratory birds will be approximately $461,760.00. Primary beneficiaries of this rule, other than crossbow hunters, will be businesses which manufacture and retail equipment, supplies, transportation, lodging, food, and beverages.

Permitting the use of the crossbow for migratory bird hunting will provide small economic gains in some segments of the economy, notably equipment manufacturers, sporting goods retailers, suppliers, and businesses which provide transportation, food, and lodging. The *Annual Migratory Bird Hunting Regulations Final Regulatory Impact Analysis* (June 22, 1981) states that "a diligent effort was made to better determine the national numbers of businesses and individuals who benefit from migratory bird or waterfowl hunter expenditures," and concluded that "such information does not exist." The primary problem in undertaking such an analysis stems from the fact that those who provide equipment, supplies, and services to migratory game bird hunters also provide identical or similar equipment or supplies to non-hunters. Despite the unavailability of the data, the Service's analysis concluded "that the bulk of hunter expenditures for equipment, supplies, and services are obtained from small businesses and individuals" primarily because "hunting is normally a rurally oriented activity undertaken distantly from "big businesses."

This rule is not expected to significantly increase the numbers of crossbow hunters, but will permit those who currently use the weapon to participate (State law permitting) in migratory game bird hunting seasons. This rule, which governs the use of equipment, is permissive rather than restrictive in nature. Small businesses will not have to increase monetary outlays for inventory items to fill a customer demand brought about by a more restrictive equipment regulation. For example, many small businesses were adversely affected by steel shot regulations because they were required to make significant capital outlays for stocks of steel shells. In some cases many small businesses suffered financial losses because regulations, which required steel shot, were amended at the last minute or because hunters decided to hunt in areas other than steel shot zones. This rule, being permissive in nature, will not affect small businesses in such a manner.

List of Subjects in 50 CFR Part 20

Hunting, Wildlife, Exports, Imports, Transportation.

Regulation Promulgation

For the reasons set out in the preamble, Subchapter B, Chapter I of Title 50, *Code of Federal Regulations* is amended as follows:

PART 20—MIGRATORY BIRD HUNTING

1. The authority citation for Part 20 is revised to read as follows:

Authority: Migratory Bird Treaty Act, Sec. 3, Pub. L. 85–186, 40 Stat. 755 (16 U.S.C. 704); sec. 3(h), Pub. L. 95–616, 92 Stat. 3112 (16 U.S.C. 712).

§ 20.21 [Amended]

2. Amend § 20.21(a) by removing the word "crossbow."

Dated: March 22, 1983.

J. Craig Potter,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 84–2860 Filed 2–1–84; 8:45 am]

BILLING CODE 4310-07-M

Proposed Rules

Federal Register
Vol. 49, No. 23
Thursday, February 2, 1984

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1150

Dairy Promotion Program; Invitation To Submit Comments and Notice of Public Meeting

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: Title I, subtitle B, of the Dairy and Tobacco Adjustment Act of 1983 authorizes a national program for dairy product promotion, research and nutrition education to be funded by a mandatory 15-cent per hundredweight assessment on all milk marketed by producers in the 48 contiguous States. Proposals to establish a dairy product promotion and research order as well as certain issues and questions concerning the order and its application, were received in response to an invitation for interested parties to submit proposals for an order. Comments are requested on the proposed order and issues that were raised. Comments are also invited on the regulatory impact and flexibility analysis and on the proposed rules on procedures or persons to petition for a change in the manner in which the order has been applied to them.

Notice is also given that a public meeting will be held during the comment period to facilitate a better understanding of the intent and application of the proposed rules. The record of the meeting will also be utilized in the development of final rules by the Department.

DATES: *Date of public meeting:* The meeting will convene at 9:00 a.m., local time, on February 14, 1984.

Date for filing comments: Comments must be postmarked by February 24, 1984.

ADDRESSES: *Address for Comments:* Comments should be sent to: Hearing Clerk, Room 1077, South Building, U.S. Department of Agriculture, Washington, D.C. 20250. Two copies of all comments shall be submitted, and they will be made available for public inspection at the office of the Hearing Clerk during regular business hours.

Place of meeting: Ramada Inn, 901 N. Fairfax Street, Alexandria, Virginia 22314, (703) 683–6000.

FOR FURTHER INFORMATION CONTACT: Clayton H. Plumb, Chief, Order Formulation Branch, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20205, (202) 447–6247.

SUPPLEMENTARY INFORMATION: Prior document in this proceeding:

Invitation to submit proposals—issued December 6, 1983, published December 9, 1983 (48 FR 55132).

This proposed rule has been reviewed under Executive Order 12291 and has been designated as a "major" rule since it would have an annual impact on the economy of more than $100 million. Also, this action could have a significant economic impact on a substantial number of small entities. Consequently, a combined preliminary regulatory impact analysis and initial regulatory flexibility analysis has been prepared and is included in this document.

It is not practicable to follow the provision of Executive Order 12291 which specifies that the preliminary regulatory impact analysis and this proposed rule be transmitted to the Director, Office of Management and Budget 60 days before publication. The Dairy and Tobacco Adjustment Act of 1983 requires that a proposal initial dairy products promotion and research order be published for public comment within 30 days after receipt of such proposal.

In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), the reporting and recordkeeping provisions that are included in this proposed rule have been submitted for approval to the Office of Management and Budget (OMB). They are not effective until OMB approval has been obtained.

Title I, subtitle B, of the Dairy and Tobacco Adjustment Act of 1983 (Pub. L. 98–180), which was enacted on November 29, 1983, authorizes the establishment of a national program for dairy product promotion, research and nutrition education to be funded by a mandatory assessment on all milk marketed by producers in the 48 contiguous States. The Act also specifies the timetable for implementation of an order to establish the program. The Secretary must publish a proposed order within 30 days after it is received and provide an opportunity for public comment. After notice and opportunity for public comment are given, the Secretary must issue a dairy products promotion and research order to become affective not later than 90 days following publication of the proposal.

An invitation for interested parties to submit proposals by January 6, 1984, was issued on December 6, 1983, and published in the **Federal Register** on December 9, 1983 (48 FR 55132). In response to this notice, one complete proposed order was received. In addition, other more lmited proposals concerning certain aspects of the program were received that raise issues and questions concerning the order and its application.

In addition to the proposed order, other rules are also necessary to implement the program on the timely basis required by the enabling legislation. Proposed rules that would establish the rules for proceedings on petitions to modify or be exempted from the order are contained in the document. Additional rules concerning the certification of organizations for making nominations for persons to serve on the National Dairy Promotion Board are being issued as interim rules in a separate document. Additional rules concerning the procedure for conducting referenda to determine producer approval will be developed at a later time since the initial referendum is not required by the Act until the 60-day period immediately preceding September 30, 1985.

All interested parties are invited to submit comments on the proposed Dairy Research and Promotion Order, the various issues and questions concerning the order that are listed following the proposed order, the rules concerning petitions to modify or be exempted from the order, and the combined preliminary regulatory impact analysis and initial regulatory flexibility analysis. Comments, two copies, must be postmarked by February 24, 1984, and should be sent to the Hearing Clerk, Room 1077, South Building, U.S. Department of Agriculture, Washington, D.C. 20250.

Notice is also given that a public meeting will be held on February 14, 1984, at the Ramada Inn, 901 N. Fairfax Street, Alexandria, Virginia 22314. The meeting will begin at 9:00 a.m., local time. The purpose of the meeting is to provide an opportunity for a full discussion of the proposals to facilitate a better understanding of the intent and application of the proposed rules. Also, the record of the proceeding will be used in the development of final rules by the Department.

Data, views, and arguments concerning the proposed rules should be presented either by means of written statements or oral testimony not under oath. Questions will be permitted. Three copies of all written statements, statistical tables, charts or other written exhibits should be supplied by the person offering the statements or exhibits.

Copies of the transcript of testimony taken at the meeting will not be available for distribution through the Hearing Clerk's office. They will be available for inspection. Anyone wishing to purchase a copy of the transcript should make arrangements with the reporter at the meeting.

Preliminary Regulatory Impact and Initial Regulatory Flexibility Analysis

This document contains the preliminary Regulatory Impact Analysis required by Executive Order 12291 and the initial Regulatory Flexibility Analysis required by 5 U.S.C. 603 for the National Dairy Promotion Program established by the Dairy and Tobacco Adjustment Act of 1983. The analysis is divided into three sections: a discussion of the legislative goals and objectives, a description of the program requirements of the Act, and an outline of the potential benefits and costs associated with the program. Issues related to the effects of the program on small business are integrated into the body of the analysis.

Part I

Title I of the Dairy and Tobacco Adjustment Act of 1983 (Pub. L. 98–180) initiates a two-part effort to reduce milk production and increase the consumption of milk and milk products. The objective of this legislation is to reduce the current oversupply of milk by bringing supply and demand into closer balance and, as a result, reduce government expenditures for dairy products under the dairy price support program.

Subtitle B of Title I provides for a national dairy products promotion and research program. This program to stimulate sales of dairy products is to be financed by a mandatory 15-cent per hundredweight assessment on all milk marketed in the 48 contiguous States. The program will be governed by a Dairy Products Promotion and Research Order issued by the Secretary and administered by a board of milk producers appointed by the Secretary.

The statute provides that this national promotion effort be conducted in conjunction with existing promotion programs. Currently, programs to enhance the role of dairy products are administered by various State agencies and cooperative associations. In addition, six Federal milk marketing orders provide for advertising and promotion agencies. The legislation states that the national promotion program should not be construed to preempt or supersede any other program relating to dairy product promotion organized under State or Federal law.

Part II

The basic outline of the national dairy promotion effort is provided by Title I, subtitle B of Pub. L. 98–180. Many details of the program will be provided by the Dairy Promotion and Research Order now under consideration and the rules and regulations established by the Board. However, the legislation is very specific on certain subjects such as the procedure for issuance of orders, composition of the Board, power and duties of the Board, source and collection of funds, referendum requirements, and the role of cooperatives and other dairy farmer organizations. This part of the analysis sets out these specific statutory requirements.

Once a proposal for a promotion and research program has been received, the Secretary is obligated to promulgate a Dairy Products Promotion and Research Order. The Secretary must publish a proposal within 30 days after receipt and give the public an opportunity to submit comments. After the comment period, the Secretary must issue a final order to be effective not later than 90 days following publication of the proposal. In summary, a dairy products promotion and research order must be effective within 120 days after a proposal is received by the Department.

As an effort to accommodate all interested parties that wish to submit proposals concerning the promotion program, the Department, on December 6, 1983, issued an invitation to submit proposals. Interested parties were given until January 6, 1984, to submit proposals on the elements to be included in the promotion order. All proposals that were determined to be consistent with the terms of the Act are published with this analysis. Comments must be postmarked by February 24, 1984. The Department plans to have this order effective by May 1, 1984.

The Act specifies that the order be administered by a Board of not less than 36 milk producers appointed by the Secretary. These persons would serve up to 3-year terms and would be eligible to serve for two consecutive terms. To the extent practicable, Board membership should reflect the volume of milk production across the country. The Act provides that states be grouped into regions with each Board member representing a specific region. A region may be represented by more than one Board member, depending on the volume of milk produced in the region.

The Board is given the power to appoint from its members an executive committee. The Act requires that each region be equally represented on the executive committee. Members of the Board and the executive committee would serve without compensation but would be reimbursed for expenses incurred in performing their respective duties.

The Board's principal duty is to develop plans for promotion of milk and dairy products, including research and nutrition education. Also, the Board will construct proposed budgets for all such plans. All plans and budgets must be approved by the Secretary. The Board, with approval of the Secretary, may contract with third parties to develop promotion plans and related budgets. These third parties are required to keep records of all transactions associated with their contractual activities and report these transactions to the Board as the Secretary or the Board may require.

The Act allows the Board significant flexibility with regard to the specific content of promotion, research, and nutrition education activities. However, the Board is required to solicit research proposals dealing with increasing the use of fluid milk and dairy products by the military and by persons in developing nations, and determining the feasibility of converting surplus nonfat dry milk to casein for domestic and export use.

The Act also gives the Board certain administrative responsibilities, including: (1) Administer the order in accordance with its terms and conditions; (2) make rules and regulations to effectuate the terms and provisions of the order; (3) receive, investigate, and report to the Secretary complaints of violations of the order; and (4) recommend to the Secretary amendments to the order. In addition, the Board must maintain such books and

records as the Secretary shall require, and from time to time, make reports to the Secretary as may be required. The Board must account to the Secretary for the receipts and disbursement of all funds and may invest funds pending disbursement in obligations of the United States or any agency thereof, in general obligations of any State or any political subdivision thereof, in any interest-bearing account or certificate of deposit of a bank that is a member of the Federal Reserve System, or in obligations fully guaranteed as to principal and interest by the United States.

The money needed to pay for the advertising and promotion program will be generated from a mandatory 15-cent per hundredweight assessment on all milk marketed by milk producers. The Act provides that this assessment will be collected by persons who pay producers for milk and the money will be remitted to the Board. Any producer who sells milk directly to consumers shall remit the assessment to the Board. The Act gives the Board authority to prescribe the specific procedures for collecting the mandatory assessments.

Although the Act provides no exceptions to the 15-cent per hundredweight assessment, it does allow milk producers who participate in active, ongoing qualified State or regional dairy product promotion or nutrition education programs to receive a credit of up to 10 cents per hundredweight for contributions to such programs (credits of up to 15 cents per hundredweight would be allowed until May 29, 1984).

Although the Act requires the establishment of the promotion program, it provides that the program can continue to function only if it is favored by a significant number of dairy farmers. The first test of producer support is a referendum that must be held within the sixty-day period immediately preceding September 30, 1985. To continue, the program must be approved by a majority of the producers voting in the referendum. Cooperative associations may bloc vote on behalf of their members in a referendum, provided that members are given the opportunity to vote individually. Cooperative members must be given 30 days notice of a referendum by the cooperative and a statement of the vote the cooperative intends to make on behalf of its members. Individual producers would be allowed to cast votes independent of their cooperative and the Secretary would then adjust each cooperative's vote to reflect the voting of individual farmers.

In addition to the 1985 referendum, the Secretary may conduct a referendum at any time thereafter to ascertain producer approval of the program. The Secretary also shall conduct a referendum after September 30, 1985, whenever 10 percent of the producers subject to the order request a referendum. The Secretary shall suspend or terminate collection of the 15-cent assessment within six months after the Secretary determines that suspension or termination is favored by a majority of producers voting in a referendum.

As stated previously, cooperatives may bloc vote for their members in a referendum. In addition, cooperatives and other organizations certified by the Secretary as representing dairy farmers are given the opportunity to submit nominations for members of the Board. The criteria for certification are specified in the Act. If the Secretary determines that a significant number of milk producers are not represented by those certified organizations, the Secretary may provide a procedure for these unrepresented farmers to submit nominations.

Part III

The purpose of this analysis is to articulate the anticipated benefits and costs associated with the dairy promotion and research program and, where possible, determine whether the net impact of the program to society is positive or negative. In addition, the analysis should address alternative approaches that could substantially achieve the same regulatory goal at a lower cost and a brief explanation of why these alternatives could not be adopted. Also, the analysis will include a discussion of any ways in which the costs of the program fall disproportionately on small businesses and discuss alternative approaches that might alleviate any hardship on small businesses.

As discussed in Part II of this analysis, the enabling legislation for the promotion program allows for very little flexibility on certain provisions that must be included in the final order. As a result, some provisions that may cause significant compliance costs to fall disproportionately on small entities cannot be avoided. These situations are appropriately mentioned in the analysis but no additional discussion seems necessary. Also, because the Act directs the Secretary to implement the program, comparison of proposed costs and benefits to the status quo are not relevant.

The dairy products promotion and research program could generate benefits that would accrue to dairy farmers, milk processors and the general public. These benefits, especially those that could come to the general public, may be difficult to measure. In addition, the benefits to all parties are dependent in a large degree on the program's ability to increase commercial purchases of dairy products.

Benefits to dairy farmers and milk processors depend on the program's ability to increase commercial dispositions of dairy products. The Federal government, through Commodity Credit Corporation (CCC) purchases under the price support program, stands as the buyer of last resort for dairy products. Under current market conditions, the CCC purchases products equal to about 12 percent of the nation's milk production. Any increase in commercial dispositions caused by the promotion program will offset an equivalent amount of government purchases. Although the support program provides a market for all milk produced, the industry would benefit from a higher proportion of commercial marketings because the margin on dairy products sold in the commercial market generally is higher than the margin for products purchased by CCC. Therefore, any action that would shift CCC purchases to commercial sales would increase gross revenues from marketings of dairy products. These additional revenues would benefit both dairy farmers and milk processors.

The ultimate allocation of these additional revenues as between dairy farmers and milk handlers is uncertain. However, an increase in commercial demand for milk and dairy products would result in some increase in pay prices to farmers. The institutions involved in payments for raw bulk milk, which include cooperative associations and State and Federal marketing regulations, should allocate these additional revenues much as they have in the past.

The general public could experience an increased flow of information concerning milk and dairy products, new and/or improved dairy products, and more understanding of milk and dairy products in nutrition. Assuming that none of the advertising generated by the program is false or misleading and that additional product choice is considered a positive development, these are potential benefits of the program that could accrue to the public. The incremental effect of these potential benefits to particular individuals would be minimal and difficult to measure. These benefits, especially those that may result from research on dairy

products, must be viewed as long-term effects.

If the program succeeds in reducing the level of CCC purchases of dairy products, the general public could benefit from a budget savings of up to $200 million annually. Although no individual would benefit from this budget savings, the positive effect of this event on the general public cannot be discounted.

The costs that would be associated with the dairy products promotion and research program are easier to assess and quantify than the benefits. This program will cost dairy farmers 15 cents for each hundredweight of milk. This assessment rate projected over estimated milk marketings of about 129 billion pounds would generate approximately $193 million during the 1983–84 marketing year. Of this total, an estimated $63 million is already being raised by ongoing State and regional programs that probably would qualify for credits under the national program. Although the $63 million estimate for monies going into current programs does not include some cooperative programs, $130 million is a good approximation of the amount of money that could become available to the National Dairy Promotion and Research Board.

Milk producers will bear the burden of this $130 million each year. The assessment will be subtracted directly from a producer's milk check. It is unlikely that the incidence of this 15-cent assessment could be shifted to milk handlers or consumers. Current supply-demand conditions are not favorable to any attempt by producers to obtain higher milk prices from handlers to defray the 15-cent assessment.

In 1982, there were approximately 300,000 operations with one or more dairy cows. All of these entities located in the 48 contiguous States that sell milk would be subject to the 15-cent per hundredweight assessment. It is estimated that over 95 percent of all farms with dairy cows can be classified as small businesses. Therefore, the estimated 130 million additional dollars that will be raised to fund the program each year will come largely from small entities as defined by the Regulatory Flexibility Act.

In addition to direct costs, this program will involve some indirect costs of compliance. This burden will fall on those individuals and organizations that must collect the 15-cent assessment and on those ongoing State and regional dairy promotion programs that co-exist with the national program. The act provides that the assessments be collected by those persons who pay milk producers. Those persons would then remit the assessments to the Board. These persons will incur the cost of calculating the assessment for each producer and forwarding a short form and a check for all of their producer assessments to the Board. These persons will, for other business reasons, maintain any records that are necessary to complete the collection and reporting functions. In addition, these persons will be collecting the 50-cent per hundredweight assessment under the paid diversion program of Title I, subtitle A, of the Act. Therefore, the marginal cost of collecting the 15-cent assessment under this program should be low.

Persons or organizations that pay producers also may have the burden of determining whether producers are making contributions to existing qualified State or regional promotion programs. Producers will be entitled to a credit of up to 10 cents per hundredweight (off the 15-cent assessment) for contributions to these qualified programs. Even if producers have the responsibility to demonstrate their contributions to qualified programs, it will be up to the persons and organizations that pay producers to subtract the credits from the 15-cent assessment that must be paid to the Board. These tasks would be added to traditional payroll duties and they would be an additional cost of doing business.

The previously described compliance costs will fall mainly on persons and organizations that are classified as "responsible persons" for purposes of collecting the 50-cent assessment which is used to pay for the paid diversion plan (Title I, subtitle A, Pub. L. 98–180). At present, there are about 1,650 responsible persons in the 48 contiguous States remitting payments to CCC under the 50-cent assessment. Of these, 550 are producer-handlers, 185 are cooperatives and 915 are proprietary milk handlers. While the Department does not maintain any precise data regarding such entities, it is thought that the vast majority come within the Small Business Administration's definition of "small businesses."

Existing dairy promotion programs will be affected by the national promotion order. However, the exact impact cannot be analyzed until the national promotion order is in final form. The statute does require that all efforts be made to allow State and regional programs to coexist with the national program. The most important unanswered question is what types of existing programs will ultimately qualify for credits under the national program. Programs that do not qualify for credits could see this source of funds disappear as their producer contributors face a double promotion deduction. This phenomenon cannot be measured at this time because the qualification criteria have not been established.

In conclusion, the direct and indirect costs of the dairy promotion program will fall on dairy farmers and milk processors. Most of these persons are small businesses. Therefore, the program will have a significant economic impact on a substantial number of small entities. However, it will be these same persons (dairy farmers and milk processors) that could obtain significant benefits from the program. Other than the benefits that could accrue to the general public, the costs and benefits of the program will fall to the same groups. In addition, most of these entities are small businesses.

List of Subjects in 7 CFR Part 1150

Milk, Dairy Products, Promotion and Advertising, Research.

The proposals, set forth below, have not received the approval of the Secretary of Agriculture.

It is hereby proposed by the National Milk Producers Federation that Title 7 of the Code of Federal Regulations be amended by adding Part 1150 to read as follows:

PART 1150—DAIRY PROMOTION PROGRAM

Subpart—Dairy Research and Promotion Order

Definitions

Sec.

1150.101 Department.
1150.102 Secretary.
1150.103 Board.
1150.104 Person.
1150.105 United States.
1150.106 Fiscal period.
1150.107 Eligible organization.
1150.108 Qualified State or regional dairy product promotion, research or nutrition education programs.
1150.109 Producer.
1150.110 Milk.
1150.111 Dairy products.
1150.112 Fluid milk products.
1150.113 Promotion.
1150.114 Research.
1150.115 Nutrition education.
1150.116 Plans and projects.
1150.117 Marketing.
1150.118 Act.
1150.119 Cooperative association.

National Dairy Promotion and Research Board

1150.131 Establishment and membership.
1150.132 Term of office.
1150.133 Nominations.
1150.134 Appointment.

Sec.
1150.135 Acceptance.
1150.136 Vacancies.
1150.137 Procedure.
1150.138 Compensation and reimbursement.
1150.139 Powers of the Board.
1150.140 Duties.

Expenses and Assessments

1150.151 Expenses.
1150.152 Assessments.
1150.153 Qualified State or regional dairy product promotion, research or nutrition education programs.
1150.154 Influencing governmental action.

Promotion, Research and Nutrition Education

1150.161 Promotion, research and nutrition education.

Reports, Books and Records

1150.171 Reports.
1150.172 Books and records.
1150.173 Confidential treatment.

Miscellaneous

1150.181 Proceedings after termination.
1150.182 Effect of termination or amendment.
1150.183 Personal liability.
1150.184 Patents, copyrights, inventions and publications.
1150.185 Amendments.
1150.186 Separability.
1150.187 Paperwork Reduction Act assigned number.

Authority: Pub. L. 98-180, 97 Stat. 1128.

Subpart—Dairy Research and Promotion Order

Definitions

§ 1150.101 Department.

"Department" means the United States Department of Agriculture.

§ 1150.102 Secretary.

"Secretary" means the Secretary of Agriculture of the United States or any other officer or employee of the Department to whom there has heretofore been delegated, or to whom there may hereafter be delegated, the authority to act in the Secretary's stead.

§ 1150.103 Board.

"Board" means the administrative board established pursuant to § 1150.131.

§ 1150.104 Person.

"Person" means any individual, group of individuals, partnership, corporation, association, cooperative or other entity.

§ 1150.105 United States.

"United States" means the forty-eight contiguous States in the continental United States.

§ 1150.106 Fiscal period.

"Fiscal period" means the calendar year or such other annual period as the Board may determine.

§ 1150.107 Eligible organization.

"Eligible organization" means any organization or association which has been certified by the Secretary pursuant to §§ 1150.270 through 1150.279 of this part.

§ 1150.108 Qualified State or regional dairy product promotion, research or nutrition education programs.

"Qualified State or regional dairy product promotion, research or nutrition education program" means any program which is certified for qualification pursuant to § 1150.153 of this subpart.

§ 1150.109 Producer.

"Producer" means any person engaged in the production of milk for commercial use.

§ 1150.110 Milk.

"Milk" means any class of cow's milk produced in the United States.

§ 1150.111 Dairy products.

"Dairy products" means products manufactured for human consumption which are derived from the processing of milk, including fluid milk products, which meet the Standard of Identity for the individual products as determined in 21 CFR Part 131, 133 and 135, and the Standard of Identity for butter as established by the Act of March 4, 1923, Pub. L. 519.

§ 1150.112 Fluid milk products.

"Fluid milk products" means those milk products normally consumed in liquid form as a beverage.

§ 1150.113 Promotion.

"Promotion" means actions such as paid advertising, sales promotion, and public relations to advance the image, sales of, and demand for, dairy products generally.

§ 1150.114 Research.

"Research" means studies testing the effectiveness of market development and promotion efforts and other related efforts to expand demand for milk and dairy products, including, but not limited to, studies relating to basic, applied, and developmental product and process research, and studies relating to nutrition research and its interpretation to the scientific and health communities.

§ 1150.115 Nutrition education.

"Nutrition education" means those activities intended to broaden the understanding and application of sound nutrition principles in the selection of a diet including milk and dairy products, and other related efforts to expand demand for milk and dairy products.

§ 1150.116 Plans and projects.

"Plans and projects" means promotion, research and nutrition education plans, studies or projects pursuant to § 1150.139 and § 1150.161.

§ 1150.117 Marketing.

"Marketing" means the sale or other disposition in commerce of dairy products.

§ 1150.118 Act.

"Act" means the Dairy and Tobacco Adjustment Act of 1983, Pub. L. 98-180 and any amendments thereto.

§ 1150.119 Cooperative association.

"Cooperative association" means any cooperative marketing association of producers which the Secretary determines:

(a) To be qualified under the provisions of the Act of Congress of February 18, 1922, known as the "Capper-Volstead Act";

(b) To have full authority in the sale of milk of its members; and

(c) To be engaged in making collective sales of, or marketing, milk or its products for its members.

National Dairy Promotion and Research Board

§ 1150.131 Establishment and membership.

(a) There is hereby established a National Dairy Promotion and Research Board of thirty-six members. For purposes of nominating producers to the Board, the United States shall be divided into thirteen geographic regions and the number of Board members from each region shall be as follows:

(1) One director from region number one comprised of the following States: Washington and Oregon.

(2) Four directors from region number two comprised of the following State: California.

(3) Two directors from region number three comprised of the following States: Arizona, Colorado, Idaho, Montana, Nevada, Utah and Wyoming.

(4) Two directors from region number four comprised of the following States: Arkansas, Kansas, New Mexico, Oklahoma and Texas.

(5) Four directors from region number five comprised of the following States: Minnesota, North Dakota and South Dakota.

(6) Six directors from region number six comprised of the following State: Wisconsin.

(7) Three directors from region number seven comprised of the following States: Illinois, Iowa, Missouri and Nebraska.

(8) Two directors from region number eight comprised of the following States: Alabama, Kentucky, Louisiana, Mississippi and Tennessee.

(9) Three directors from region number Nine comprised of the following States: Indiana, Michigan, Ohio and West Virginia.

(10) Two directors from region number ten comprised of the following States: Florida, Georgia, North Carolina, South Carolina and Virginia.

(11) Three directors from region number eleven comprised of the following States: Delaware, Maryland, New Jersey and Pennsylvania.

(12) Three directors from region number twelve comprised of the following State: New York.

(13) One director from region number thirteen comprised of the following States: Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island and Vermont.

(b) The Board shall be composed of milk producers appointed by the Secretary from nominations submitted pursuant to § 1150.133. A milk producer may be nominated only to represent the region in which that milk producer is a resident.

(c) At least every five (5) years, and not more than every three (3) years, the Board shall review the geographic distribution of milk production volume throughout the United States and shall recommend reapportionment of regions and/or the modification of the number of directors from regions in order to best reflect the geographic distribution of milk production volume in the United States.

(d) The following formula will be used to determine the number of directors for each region which shall serve on the Board:

The total volume (pounds) of milk produced in the United States for the calendar year previous to the date of review, divided by 36 will provide a factor of pounds of milk per director. The total volume (pounds) of milk for each region is then divided by the factor.

(e) In determining the volume of milk produced in the United States, the Board and the Secretary shall utilize the information received by the Board pursuant to § 1150.171 and data published by the Department.

§ 1150.132 Term of office.

(a) The members of the Board shall serve for terms of three years, except that the members appointed to the initial Board shall serve proportionately, for terms of one, two and three years.

(b) Each member shall continue to serve until a successor is appointed by the Secretary and has accepted the position.

(c) No member shall serve more than two consecutive terms in such capacity.

§ 1150.133 Nominations.

(a) All nominations authorized under this section shall be made in the following manner: After the issuance of the order by the Secretary, nominations shall be obtained by the Secretary as specified in paragraph (c) of this section from eligible organizations. An eligible organization shall submit nominations only for positions on the Board representing regions in which such eligible organization can establish that it represents a substantial number of producers. However, if the Secretary determines that a substantial number of producers are not members of, or their interests are not represented by, any such eligible organizations, then nominations shall be submitted in a manner authorized by the Secretary.

(b) After the establishment of the Board, the Department shall announce when a vacancy does or will exist. Nominations for subsequent Board members shall be submitted to the Secretary not less then sixty days prior to the expiration of the terms of the members whose terms are expiring. In the case of vacancies due to reasons other then the expiration of a term of office, successor Board members shall be appointed pursuant to § 1150.136.

(c) Where there is more than one eligible organization representing producers in a specific region, they may caucus and jointly nominate one qualified person for each position representing that region on the Board for which a member is to be appointed. If joint agreement is not reached with respect to any such nominations, or if no caucus is held, each eligible organization may submit to the Secretary one nomination for each appointment to be made to represent that region.

§ 1150.134 Appointment.

From the nominations made pursuant to § 1150.133, the Secretary shall appoint the members of the Board on the basis of representation provided for in § 1150.131(a).

§ 1150.135 Acceptance.

Any person appointed by the Secretary as a member of the Board shall file a written acceptance with the Secretary within 15 days of the date of appointment.

§ 1150.136 Vacancies.

To fill any vacancy occasioned by the death, removal, resignation, or disqualification of any member of the Board, the Secretary shall appoint a successor from the most recent nominations submitted for positions on the Board for the region which the vacant position represents. If no such nominations exist, the Board shall recommend to the Secretary a successor, who shall be appointed pursuant to § 1150.134.

§ 1150.137 Procedure.

(a) At a properly convened meeting of the Board, a majority of the members shall constitute a quorum, and any action of the Board at such a meeting shall require the concurring votes of at least a majority of those present at such meeting.

(b) In lieu of a properly convened meeting and, when in the opinion of the chairman of the Board such action is considered necessary, the Board may take action upon the concurring votes of a majority of its members by mail, telephone, or telegraph, but any such action by telephone shall be confirmed promptly in writing. In the event that such action is taken, all members must be notified and provided the opportunity to vote. Any action so taken shall have the same force and effect as though such action had been taken at a regular or special meeting of the Board.

§ 1150.138 Compensation and reimbursement.

The members of the Board shall serve without compensation but shall be reimbursed for necessary and reasonable expenses, including a per diem allowance as recommended by the Board and approved by the Secretary, incurred by them in the performance of their duties under this subpart.

§ 1150.139 Powers of the Board.

The Board shall have the following powers:

(a) To receive and evaluate, or on its own initiative develop, and budget for plans or projects to promote the use of fluid milk and dairy products as well as projects for research and nutrition education and to make recommendations to the Secretary regarding such proposals;

(b) To administer the provisions of this subpart in accordance with its terms and provisions;

(c) To make rules and regulations to effectuate the terms and provisions of this subpart;

(d) To receive, investigate, and report to the Secretary complaints of violations of the provisions of this subpart;

(e) To disseminate information to producers or eligible organizations

through programs or by direct contact utilizing the public postage system or other systems;

(f) To select committees and subcommittees of Board members, and to adopt such rules for the conduct of its business as it may deem advisable;

(g) To establish advisory committees of persons other than Board members and pay the necessary and reasonable expenses and fees of the members of such committees;

(h) To recommend to the Secretary amendments to this subpart; and

(i) With the approval of the Secretary, to invest, pending disbursement pursuant to a plan or project, funds collected through assessments authorized under § 1150.152 in, and only in, obligations of the United States or any agency thereof, in general obligations of any State or any political subdivision thereof, in any interest-bearing account or certificate of deposit of a bank which is a member of the Federal Reserve System, or in obligations fully guaranteed as to principal and interest by the United States.

§ 1150.140 Duties.

The Board shall have the following duties:

(a) To meet not less than annually, and to organize and select from among its members a chairman and such other officers as may be necessary;

(b) To appoint from its members an executive committee whose membership shall be composed of one member from each of the regions as described in § 1150.131(a). To delegate to the committee authority to administer the terms and provisions of this subpart under the direction of the Board and within the policies determined by the Board;

(c) To appoint or employ such persons as it may deem necessary and define the duties and determine the compensation of each;

(d) To develop and submit to the Secretary for approval, promotion, research, and nutrition education plans or projects resulting from research or studies conducted either by the Board or others;

(e) To prepare and submit to the Secretary for approval, budgets on a fiscal period basis of its anticipated expenses and disbursements in the administration of this subpart, including probable costs of promotion, research and nutrition education plans or projects, and also including a general description of the proposed promotion, research and nutrition education programs contemplated therein;

(f) To maintain such books and records, which shall be available to the Secretary for inspection and audit, and prepare and submit such reports from time to time, to the Secretary, as the Secretary may prescribe, and to make appropriate accounting with respect to the receipt and disbursement of all funds entrusted to it;

(g) With the approval of the Secretary, to enter into contracts or agreements with national, regional or State dairy promotion and research organizations or other organizations or entities for the development and conduct of activities authorized under § 1150.139 of this subpart and for the payment of the cost thereof with funds collected through assessments pursuant to § 1150.152. Any such contract or agreement shall provide that:

(1) The contractors shall develop and submit to the Board a plan or project together with a budget or budgets which shall show the estimated cost to be incurred for such plan or project;

(2) Any such plan or project shall become effective upon approval of the Secretary; and

(3) The contracting party shall keep accurate records of all of its transactions and make periodic reports to the Board of activities conducted and an accounting for funds received and expended, and such other reports as the Secretary or the Board may require. The Secretary may audit the records of the contracting party periodically.

(h) To prepare and make public, at least annually, a report of its activities carried out and an accounting for funds received and expended;

(i) To cause its books to be audited by a certified public accountant at least once each fiscal period and at such other times as the Secretary may request, and submit a copy of each such audit to the Secretary;

(j) To give the Secretary the same notice of meetings of the Board as is given to members in order that the Secretary, or representative of the Secretary, may attend such meetings;

(k) To submit to the Secretary such information pursuant to this subpart as may be requested; and

(l) To encourage the coordination of programs of promotion, research and nutrition education designed to strengthen the dairy industry's position in the market place and to maintain and expand domestic and foreign markets and uses for fluid milk and dairy products produced in the United States.

Expenses and Assessments

§ 1150.151 Expenses.

(a) The board is authorized to incur such expenses (including provision for a reasonable reserve), as the Secretary finds are reasonable and likely to be incurred by the board for its maintenance and functioning and to enable it to exercise its powers and perform its duties in accordance with the provisions of this subpart. However, after the first full year of operation of the order, administrative expenses incurred by the Board shall not exceed 5 percent of the projected revenue of the fiscal year. Such expenses shall be paid from assessments received pursuant to § 1150.152.

(b) The Board shall reimburse the Secretary, from assessments received pursuant to § 1150.152, for administrative costs incurred after an order has been promulgated by the Department.

§ 1150.152 Assessments.

(a) Each person making payment to a producer for milk produced in the United States shall, in the manner as prescribed by the Board and approved by the Secretary, or pursuant to paragraph (c) of this section, collect an assessment based upon the number of hundredweights of milk for commercial use handled for the account of the producer and remit the assessment to the Board. The rate of assessment shall be fifteen cents per hundredweight of milk for commercial use or the equivalent thereof. A milk producer or the producer's cooperative who can establish that the producer is participating in an active, ongoing qualified State or regional dairy product promotion or nutrition education program(s) intended to increase consumption of milk and dairy products generally, shall receive credit in determining the assessment due from such producer for contributions to such programs of up to ten cents per hundredweight of milk marketed or, for the period ending on May 29, 1984, up to the aggregate rate in effect on the date of enactment of this Act of such contributions to such programs (but not to exceed fifteen cents per hundredweight of milk marketed) if such aggregate rate exceeds ten cents per hundredweight of milk marketed, which shall be first given against the assessment on any milk.

(b) Any person marketing milk of that person's own production in the form of milk or dairy products to consumers either directly or through retail or wholesale outlets shall remit the

assessment in such form and manner prescribed by the Board pursuant to paragraph (a) of this section.

(c) The collection of assessments pursuant to paragraph (a) of this section shall commence on all milk for commercial sale marketed on and after the effective date of this subpart and shall continue until terminated by the Secretary. If the Board is not constituted on the date the first assessments are to be collected, the Secretary shall have the authority to receive the assessments on behalf of the Board, and to hold such assessments until the Board is constituted, then remit such assessments to the Board.

(d) Producers participating in State or regional dairy product promotion, research and nutrition education program(s) which qualify pursuant to § 1150.153 shall receive a credit of up to ten cents per hundredweight (fifteen cents if the assessment or contribution was paid to the program on or before May 29, 1984) for participation in that qualified State or regional dairy product promotion, research, and nutrition education program. If assessments are collected pursuant to paragraph (a) of this section and the Board is not yet constituted at the time of collection, the Secretary shall have the authority to issue credits on behalf of the Board pursuant to paragraph (a) of this section.

(e) In order to receive the credit authorized in paragraph (a) of this section, a producer, or a cooperative association on behalf of a producer, must certify to the person responsible for remitting the assessment to the Board, or in the case of a person marketing his or her own product to the Board, that the producer is participating in a qualified State or regional dairy product promotion, research or nutrition education program which is qualified pursuant to § 1150.153.

(f) Any person who is responsible remitting an assesment to the Board pursuant to paragraph (a) of this section, shall remit to the Board the full assessment of fifteen cents per hundredweight of milk for commercial use or the equivalent thereof, unless the producer or the producer's cooperative association on behalf of the producer for whom the assessment is being paid, certifies to such person that he or she is participating in a qualified State or regional dairy product promotion, research or nutrition education program. Any person marketing milk of that person's own production who is responsible for remitting an assessment to the Board shall remit the full assessment of fifteen cents per hundredweight of milk for commercial use or the equivalent thereof, unless such person has certified to the Board that such person is participating in a qualified State or regional dairy product promotion, research or nutrition education program.

(g) Qualified State or regional dairy product promotion, reseach and nutrition education programs which include a refund clause, shall notify a producer that requests a refund of up to ten cents (fifteen cents if the assesment or contribution to the program was paid on or before May 29, 1984) that such refund was paid to the Board or to the qualified State or regional dairy products promotion, research or nutrition education program which the producer had designated to receive the refund pursuant to § 1150.153(d).

(h) If a producer, or a producer's cooperative association on behalf of a producer is participating in more than one State or regional dairy product promotion, research, or nutrition education program(s) then such producer, or cooperative association, shall designate that participation for which the producer shall receive the credit or in what proportion the credit should be allocated.

(i) A producer or a producer's cooperative association may begin, at any time during the effective period of this subpart, to participate in State or regional dairy product promotion, research, or nutrition education program or programs and will certify such participation pursuant to paragraph (e) of this section and, if applicable, shall designate any credits pursuant to paragraph (g) of this section.

(j) Each person responsible for the collection of the assessment under paragraph (a) of this section shall collect and remit the amounts collected from the assessment to the Board on a monthly basis no later than the last day of the month following the month in which the milk was marketed in such manner as prescribed by the Board. Any unpaid assessments due the Board from a person responsible for remitting assesments to the Board pursuant to paragraph (a) of this section shall be increased 1.5 percent each month beginning with the day following the date such assessments were due under this subpart. Any remaining amount due shall be increased at the same rate on the corresponding day of each month thereafter until paid. The amounts payable pursuant to this section shall be computed monthly on unpaid assessments and shall include any unpaid charges previously made pursuant to this section. For the purpose of this section, any assessment that was determined at a date later than prescribed by this subpart because of a person's failure to submit a report to the Board when due shall be considered to have been payable by the date it would have been due if the report had been filed when due.

§ 1150.153 Qualified State or regional dairy product promotion, research or nutrition education programs.

(a) Any organization which conducts a State or regional dairy product promotion, research or nutrition education program may request of the Secretary certification of qualification so that producers may receive credit for participation in such program pursuant to § 1150.152(a). In order to be certified for qualification by the Secretary, the program must:

(1) Have been conducting activities as defined in §§ 1150.113, 1150.114 and 1150.115 of this subpart;

(2) Have been active and ongoing;

(3) Be financed by producers, either individually or by member cooperatives, voluntarily or by assessment authorized by state or federal law;

(4) In the case of a State program, cover the entire or a major portion of a State, and in the case of a regional program, cover an entire region composed of more than one State or a major portion of a region which is composed of more than one State; *Provided however,* That programs which assess producers pursuant to Federal Milk Market Orders for promotion and advertisement of dairy products are excepted from the requirements of paragraph (a)(4) of this section for the period of six months following the effective date of this subject; and

(5) Not utilize a private brand or trade name in its advertising of dairy products on or after the date this order becomes effective.

(b) Organizations conducting active and ongoing programs prior to the effective date of this subject, which certify to the Secretary that their program(s) meet all the criteria listed in paragraph (a) of this section and meet the requirements of paragraph (c) of this section, if applicable, shall have their program(s) deemed to be qualified pursuant to this section.

(c) In order to be certified for qualification pursuant to this section, organizations conducting active and ongoing programs, which meet the criteria listed in paragraph (a) of this section, and which contain a refund clause, shall certify to the Secretary that requests for refunds of up to ten cents (fifteen cents if the assessment or contribution to the program was paid on or before May 29, 1984) shall be honored by providing a written notification to the

producer that his request had been received and such refund amount has been forwarded to the Board, or to a qualified dairy product promotion, research or nutrition education program which is designated by the producer in the refund request.

(d) Any producer who requests a refund from a qualified dairy products promotion, research and nutrition education program which provides for a refund, may designate in his or her refund request a qualified dairy products promotion, research or nutrition education program which is to receive the amount of the refund up to ten cents (fifteen cents if the assessment or contribution was paid to the program on or before May 29, 1984). If the refund request does not designate a program, or designates a program which is not a qualified dairy product promotion, research or nutrition education program, the refunding program shall notify the producer that the refund request was honored and the refund of up to ten cents (fifteen cents if the assessment or contribution was paid to the program on or before May 29, 1984) was remitted to the Board.

(e) Any portion of a refund which exceeds ten cents (fifteen cents if the assessment or contribution was paid to the program on or before May 29, 1984) shall be refunded to the producer, or shall be paid to the program which the producer had designated in his refund request.

(f) Any producer who has not received credit from the Board for his or her participation in a qualified State or regional dairy products promotion, research or nutrition education program which contains a refund clause, shall be entitled to receive a full refund from such program by certifying to the qualified dairy product promotion, research or nutrition education program that the producer did not receive credit from the Board for such participation.

§ 1150.154 Influencing governmental action.

No funds collected by the Board under this subpart shall in any manner be used for the purpose of influencing governmental policy or action, except to recommend to the Secretary amendments to this subpart.

Promotion, Research and Nutrition Education

§ 1150.161 Promotion, research and nutrition education.

The Board shall receive and evaluate or, on its own initiative develop, and submit to the Secretary for approval any plans or projects authorized in § 1150.139 and this section. Such plans or projects shall provide for:

(a) The establishment, issuance, effectuation, and administration of appropriate plans or projects for promotion, research and for nutrition education, with respect to milk and dairy products;

(b) The establishment and conduct of research and studies with respect to the sale, distribution, marketing and utilization of milk and dairy products and the creation of new products thereof, to the end that marketing and utilization of milk and dairy products may be encouraged, expanded, improved or made more acceptable. Included shall be research and studies of proposals intended to increase the use of fluid milk and dairy products by the military and by persons in developing nations and proposals intended to demonstrate the feasibility of converting nonfat dry milk to casein for domestic and export use; and

(c) Each plan or project authorized under paragraphs (a) and (b) of this section shall be particularly reviewed or evaluated by the Board to insure that each such plan or project contributes to an effective program of promotion, research and nutrition education. If it is found by the Board that any such plan or project does not further the purposes of the Act, then the Board shall terminate such plan or project.

(d) In carrying out any plan or project, no reference to a brand or trade name of any dairy product shall be made. In addition, no such plans or projects shall make use of unfair or deceptive acts or practices with respect to the quality, value or use of any competing product.

Reports, Books and Records

§ 1150.171 Reports.

Each person marketing milk of that person's own production directly to consumers and each person making payment to producers and responsible for the collection of the assessment under § 1150.152 shall be required to report to the Board periodicaly such information as may be required by the regulations recommended by the Board and approved by the Secretary. Such information may include but not be limited to the following:

(a) The number of hundredweights of milk purchased, initially transferred or which, in any other manner, is subject to the collection of assessment;

(b) The amount of assessment remitted;

(c) The basis, if necessary, to show why the remittance is less than the number of hundredweights of milk multiplied by fifteen cents; and

(d) The date any assessment was paid.

§ 1150.172 Books and records.

Each person who is subject to this subpart, and other persons subject to § 1150.171, shall maintain and make available for inspection by the Secretary such books and records as are necessary to carry out the provisions of this subpart and the regulations issued hereunder, including such records as are necessary to verify any reports required. Such records shall be retained for at least two years beyond the fiscal period of their applicability.

§ 1150.173 Confidential treatment.

All information obtained from such books, records or reports under the Act and this subpart shall be kept confidential by all persons, including employees and former employees of the Board, all officers and employees and all former officers and employees of the Department, and by all officers and employees and all former officers and employees of contracting agencies having access to such information, and shall not be available to Board members or any other producers. Only those persons having a specific need for such information in order to effectively administer the provisions of this subpart shall have access to such information. In addition, only such information so furnished or acquired as the Secretary deems relevant shall be disclosed by them, and then only in a suit or administrative hearing brought at the discretion, or upon the request, of the Secretary, or to which the Secretary or any officer of the United States is a party, and involving this subpart. Nothing in this section shall be deemed to prohibit:

(a) The issuance of general statements based upon the reports of the number of persons subject to this subpart or statistical data collected therefrom, which statements do not identify the information furnished by any person; and

(b) The publication, by direction of the Secretary, of the name of any person who has been adjudged to have violated this subpart, together with a statement of the particular provisions of the subpart violated by such person.

Miscellaneous

§ 1150.181 Proceedings after termination.

(a) Upon the termination of this subpart the Board shall recommend not more than five of its members to the Secretary to serve as trustees for the purpose of liquidating the affairs of the Board. Such persons, upon designation

by the Secretary, shall become trustees of all the funds and property, owned, in the possession of or under the control of the Board, including claims for any claims unpaid or property not delivered or any other claim existing at the time of such termination.

(b) The said trustees shall:

(1) Continue in such capacity until discharged by the Secretary;

(2) Carry out the obligations of the Board under any contract or agreements entered into by it pursuant to § 1150.140(g);

(3) From time to time account for all receipts and disbursements and deliver all property on hand, together with all books and records of the Board and of the trustees, to such persons as the Secretary may direct; and

(4) Upon the request of the Secretary, execute such assignments or other instruments necessary or appropriate to vest in such persons full title and right to all of the funds, property, and claims vested in the Board or the trustees pursuant to this subpart.

(c) Any person to whom funds, property, or claims have been transferred or delivered pursuant to this subpart shall be subject to the same obligation imposed upon the Board and upon the trustees.

(d) Any residual funds not required to defray the necessary expenses of liquidation shall be turned over to the Secretary to be used, to the extent practicable, in the interest of continuing one or more of the promotion, research or nutrition education plans or projects authorized pursuant to this subpart.

§ 1150.182 Effect of termination or amendment.

Unless otherwise expressly provided by the Secretary, the termination of this subpart or of any regulation issued pursuant hereto, or the issuance of any amendment to either thereof, shall not:

(a) Affect or waive any right, duty, obligation, or liability which shall have arisen or which may hereafter arise in connection with any provision of this subpart or any regulation issued thereunder;

(b) Release or extinguish any violation of this subpart or any regulation issued thereunder; or

(c) Affect or impair any rights or remedies of the United States, or of the Secretary, or of any person, with respect to any such violation.

§ 1150.183 Personal liability.

No member, or employee of the Board shall be held personally responsible, either individually or jointly, in any way whatsoever, to any person for errors in judgment, mistakes, or other acts of either commission or omission, of such member or employee, except for acts of dishonesty or willful misconduct.

§ 1150.184 Patents, copyrights, inventions and publications.

Any patents, copyrights, inventions or publications developed through the use of funds collected under the provisions of this subpart shall be the property of the U.S. Government as represented by the Board, and shall, along with any rents, royalties, residual payments, or other income from the rental, sale, leasing, franchising, or other uses of such patents, copyrights, inventions, or publications, inure to the benefit of the Board. Upon termination of this subpart, § 1150.181 shall apply to determine disposition of all such property.

§ 1150.185 Amendments.

Amendments to the subpart may be proposed, from time to time, by the Board, or by any organization or association certified pursuant to §§1150.270 through 1150.279 of this part, or by any interested person affected by the provisions of the Act, including the Secretary.

§ 1150.186 Separability.

If any provision of this subpart is declared invalid or the applicability thereof to any person or circumstances is held invalid, the validity of the remainder of this subpart or the applicability thereof to other persons or circumstances shall not be affected thereby.

§ 1150.187 Paperwork Reduction Act assigned number.

The information collection requirements contained in these regulations (7 CFR Part 1150) have been approved by the Office of Management and Budget (OMB) under the provisions of 44 U.S.C. Chapter 35 and have been assigned OMB Control Number 0581–0147.

The Milk Industry Foundation and the International Association of Ice Cream Manufacturers proposed the following specific provisions for inclusion in any advertising and promotion order:

1. *Define the term "promotion" as follows:*

The term "promotion" means actions such as paid advertising, sales promotion, and publicity to advance the image and sales of and demand for dairy products and may include advertising that makes reference to private brands or trade names.

2. *The provision of the order relating to the confidentiality of information made available to the Secretary by persons receiving milk from farmers should include the following language:*

All such information shall be kept confidential by all officers and employees of the Department and in no event shall be disclosed to members, agents, or appointees or employees of the Board.

3. *The provisions of the order relating to assessments and administration should include the following:*

The Board shall make all reasonable efforts to simplify and minimize the recordkeeping, assessment, collection, and administrative burdens imposed by the order on persons responsible for collecting and remitting assessments.

4. *Include the following provisions for advisory committees to the Board:*

The Secretary shall appoint the following advisory committees, to consult with and advise the Board:

(a) The Dairy Processors Management Advisory Committee shall consist of not less than 15 nor more than 25 chief executive officers of milk processing and ice cream manufacturing companies, with appropriate recognition for different sizes, types and locations of such companies.

(b) The Dairy Advertising and Marketing Advisory Committee shall consist of not less than 15 nor more than 25 advertising, marketing and sales executives of milk processing and ice cream manufacturing companies.

The proposed order set forth above was the only complete order submitted by the industry. Certain other specific order terms set forth above are the only other proposals submitted in such form. However, a number of additional proposals and suggestions relating to certain facets of a promotion order were submitted for consideration. Rather than publishing these various proposals and suggestions in the form in which submitted, it was decided that their intent could best be expressed herein in the form of questions. The miscellaneous proposals and suggestions, as well as the complete proposed order, raise various questions concerning the implementation and operation of a dairy promotion program. The questions, as set forth below, should be addressed at the scheduled public meeting and/or in written comments to facilitate the development of final rules by the Department.

Issue No. 1—Nature of Authorized Advertising

The Act does not prohibit brand advertising. However, the producer proposal would adopt order provisions precluding brand advertising while proposals and comments submitted by

other persons would permit brand advertising.

The Department has made no conclusions relative to the merits of the proposals and comments concerning generic vs. brand advertising.

The proposals and comments received raise the following questions on this issue:

1. Should the Board allocate funds to plans and projects that promote brand products? If so, should there be limits as to the amount that any one organization can receive?

2. Should matching funds be granted by the Board to those organizations with plans or projects that promote brand products?

3. Should the order allow credits for those producers who participate in programs that promote brand products? If not, should a program that spends only a portion of its funds promoting brand products be funded up to the amount not spent on brand products?

4. Should the order provide for the retention of a percentage of the assessment by the individual milk handlers collecting the assessment so that they can operate programs promoting their own products? If so, what percentage can they retain?

Issue No. 2—Representation on the National Dairy Promotion and Research Board

1. What guidelines should be established for the Secretary to determine if a "substantial" number of independent producers or their interests are not represented in nominations by certified organizations to serve on the Board, and what procedures should be utilized to provide for such representation?

2. Should Board membership be based on the proportions of independent producers and cooperative association producers represented in each geographic region?

3. Should procedures be established to assure more than one nomination for each position on the Board?

4. In order to provide for as rapid as possible implementation of plans and projects, should the Board members be required to have had prior experience in dairy advertising and promotion programs?

5. To avoid any possible conflict of interest, should the order prohibit a member of the National Board from being a member of a State or regional promotion agency? Should the prohibition be limited to just those agencies that receive funds from the National Program?

6. To avoid possible producer bias where research and promotion projects are concerned, should producer-handlers or handlers with own-farm production be represented on the Board? If so, how should this be accomplished?

Issue No. 3—Qualification of Programs

1. Can producers who participate in qualified State or regional programs receive credit if the qualified progams are not active until after the order is effective?

2. How large an area should dairy product promotion or nutrition education programs encompass in order to be considered qualified programs, thus enabling their members access to credits from the national program?

3. Should a program that spends a portion of its funds on activities not authorized by the Act or the order not be qualified at all or should it be qualified for funding credits on just those activities that are authorized?

Issue No. 4—Collection of Assessments

1. If the board is not in place by the date the order becomes effective, can assessments be remitted to the Secretary temporarily?

2. Should the entire 15-cent per hundredweight assessment go directly from the handlers to the Board and then funds flow from the Board to the eligible State and regional programs, or should the entire assessment flow from the handlers to the eligible State and regional programs who would then submit the difference between the State and regional allocation (maximum 10 cents per hundredweight credit) and the national check-off to the Board?

3. What procedures should be established as to the remittance of assessments for those Market Administrators who collect monies from Federal order handlers and then pay producers?

4. What guidelines should be established for producer-handlers as to the time period for assessment remittance to the Board? What penalty shall be incurred by those producer-handlers who fail to remit the assessment to the Board by the stipulated time?

Issue No. 5—Expenditure of Funds

1. Should the allocation of funds to each milk product be based on milk utilization, (i.e., on a percentage used basis for fluid, cheese, butter, and other)?

2. In order to ensure the continuation of the operations performed by existing State and regional programs at their present levels, should the Board fund these programs up to the amount of their funding prior to the adoption of the national program.

It is proposed by the Dairy Division, Agricultural Marketing Service, that the proposed 7 CFR Part 1150 include a subpart §§ 1150.250 through 1150.252 as follows:

PART 1150—DAIRY PROMOTION PROGRAM

Subpart—Rules of Practice Governing Proceedings on Petitions To Modify or To Be Exempted From an Order

Sec.
1150.250 Words in the singular form.
1150.251 Definitions.
1150.252 Institutions of proceeding.

Authority: Pub. L. 98–180, 97 Stat. 1128.

Subpart—Rules of Practice Governing Proceedings on Petitions To Modify or To Be Exempted From an Order

§ 1150.250 Words in the singular form.

Words in this subpart in the singular form shall be deemed to import the plural, and vice versa, as the case may demand.

§ 1150.251 Definitions.

As used in this subpart:

(a) The term "Act" means the Dairy and Tobacco Adjustment Act of 1983, Pub. L. 98–180, 97 Stat. 1128, approved November 29, 1983;

(b) The term "Department" means the U.S. Department of Agriculture;

(c) The term "Secretary" means the Secretary of Agriculture of the United States, or any officer or employee of the Department to whom authority has heretofore been delegated, or to whom authority may hereafter be delegated, to act in the Secretary's stead;

(d) The term "judge" means any adminstrative law judge in the Office of Administrative Law Judges, U.S. Department of Agriculture;

(e) The term "Administrator" means the Administrator of the Department's Agricultural Marketing Service, with power to redelegate, or any officer or employee of the Department to whom authority has been delegated, or may hereafter be delegated, to act in the Administrator's stead;

(f) The term **"Federal Register"** means the publication provided for by the Federal Register Act, approved July 26, 1935 (44 U.S.C. 1501–1511), and acts supplementing and amending it;

(g) The term "Order" means any order or any amendment thereto which may be issued pursuant to the Act;

(h) The term "person" means any individual, group of individuals, partnership, corporation, association, cooperative, or other entity subject to an order or to whom an order is sought to be made applicable, or on whom an

obligation has been imposed or is sought to be imposed under an order;

(i) The term "proceeding" means a proceeding before the Secretary arising under Section 118(a) of the Act;

(j) The term "hearing" means that part of the proceeding which involves the submission of evidence;

(k) The term "party" includes the Department;

(l) The term "hearing clerk" means the hearing clerk, U.S. Department of Agriculture, Washington, D.C.;

(m) The term "presiding officer" means the administrative law judge conducting a proceeding under the Act;

(n) The term "presiding officer's report" means the presiding officer's report to the Secretary and includes the presiding officer's proposed (1) findings of fact and conclusions with respect to all material issues of fact, law of discretion, as well as the reasons or basis therefor, (2) order, and (3) rulings on findings, conclusions and orders submitted by the parties;

(o) The term "petition" includes an amended petition.

§ 1150.252 Institution of proceeding.

(a) *Filing and service of petitions.* Any person subject to an order desiring to complain that any order or any provision of any such order or any obligation imposed in conneciton therewith is not in accordance with law, shall file with the hearing clerk, five copies of a petition in writing addressed to the Secretary, requesting a modification of such order or to be exempted from such order. Promptly upon receipt of the petition, the Hearing Clerk shall transmit a true copy thereof to the Administrator and the Department's General Counsel, respectively.

(b) *Contents of petitions.* A petition shall contain:

(1) The correct name, address, and principal place of business of the petitioner. If the petitioner is a corporation, such fact shall be stated, together with the name of the State of incorporation, the date of incorporation, and the names, addresses, and respective positions held by its officers and directors; if an unincorporated association, the names and addresses of its officers, and the respective positions held by them; if a partnership, the name and address of each partner;

(2) Reference to the specific terms or provisions of the order, or the interpretation or application thereof, which are complained of;

(3) A full statement of the facts (avoiding a mere repetition of detailed evidence) upon which the petition is based, and which it is desired that the Secretary consider, setting forth clearly and concisely the nature of the petitioner's business and the manner in which petitioner claims to be affected by the terms or provisions of the order or the interpretation or application thereof, which are complained of;

(4) A statement of the grounds on which the terms or provisions of the order or the interpretation or application thereof, which are complained of, are challenged as not in accordance with law; and

(5) Requests for the specific relief which the petitioner desires the Secretary to grant.

(c) *An application to dismiss petition—Filing, contents, and responses thereto.* If the Administrator is of the opinion that the petition, or any portion thereof, does not substantially comply, in form or content, with the Act or with the requirements of paragraph (b) of this section, the Administrator may, within 30 days after the filing of the petition, file with the hearing clerk an application to dismiss the petition, or any portion thereof, on one or more of the grounds stated in this paragraph. Such application shall specify the grounds of objection to the petition and if based, in whole or in part, on allegations of fact not appearing on the face of the petition, shall be accompanied by appropriate affidavits or documentary evidence substantiating such allegations of fact. The application may be accompanied by a memorandum of law. Upon receipt of such application, the hearing clerk shall cause a copy thereof to be served upon the petitioner, together with a notice stating that all papers to be submitted in opposition of such application, including any memorandum of law, must be filed by the petitioner with the hearing clerk not later than 20 days after the service of such notice upon the petitioner. Upon the expiration of the time specified in such notice, or upon receipt of such papers from the petitioner, the hearing clerk shall transmit all papers which have been filed in connection with the application to the Secretary for his consideration.

(d) *Further proceedings.* Further proceedings on petitions to modify or to be exempted from any order shall be governed by §§ 900.52(c)(2) through 900.71 of this title (Rules of Practice Governing Proceedings on Petitions To Modify or To Be Exempted From Marketing Orders) and as may hereafter be amended, and the same are incorporated herein and made a part hereof by reference. However each reference to "marketing order" in the title shall mean "order."

Signed at Washington, D.C. on: January 27, 1984.

William T. Manley,

Deputy Administrator, Marketing Program Operations.

[FR Doc. 84-2797 Filed 2-1-84; 8:45 am]

BILLING CODE 3410-02-M

NUCLEAR REGULATORY COMMISSION

10 CFR Part 70

Material Control and Accounting Requirements; Facilities Possessing Formula Quantities of Strategic Special Nuclear Material

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed rule.

SUMMARY: The Nuclear Regulatory Commission is proposing to amend the Material Control and Accounting (MC&A) regulations that apply to facilities authorized to possess and use formula quantities of strategic special nuclear material (SSNM). These amendments would apply to fuel cycle facilities, including reprocessing plants, but not to waste disposal operations or nuclear reactors. These amendments will significantly strengthen MC&A capabilities at the affected facilities by requiring more timely detection of possible SSNM losses and by providing for more rapid and conclusive resolution of discrepancies. The operational cost impact for these proposed requirements should be approximately the same as for current MC&A requirements. This is because the amendments relax or eliminate current requirements that are not cost-effective and take advantage of existing process control, production control, and quality control information.

DATES: Comments must be received on or before June 5, 1984. Comments received after June 5, 1984 will be considered if it is practical to do so, but assurance of consideration cannot be given except as to comments received on or before that date.

ADDRESSES: The Commission has prepared a draft Standard Format/Acceptance Criteria document as preliminary guidance to help explain the proposed rule, and a draft summary Regulatory Analysis which examines the incremental costs and benefits of the proposed rule. These two documents are available for examination and copying for a fee at the NRC Public Document Room at 1717 H Street NW., Washington, DC. Written comments or suggestions on the proposed rule, the

Standard Format/Acceptance Criteria document, or the Regulatory Analysis should be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch. Comments may also be hand-delivered to Room 1121, 1717 H Street NW., Washington, DC, between 8:15 a.m. and 5:15 p.m. Comments received will be available for examination and copying for a fee at the NRC Public Document Room at 1717 H Street NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT:
Mr. C. W. Emeigh, Fuel Facility Safeguards Licensing Branch, Division of Safeguards, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone 301–427–4040.

SUPPLEMENTARY INFORMATION:

Background

The focus of current domestic MC&A regulations for high enriched uranium and plutonium is on bimonthly inventories. Comparison of the inventory difference (ID) with percent of throughput does not occur until nearly 30 days after the beginning of the physical inventory. Thus, a thorough investigation of an anomaly might not start until nearly 90 days after its cause occurred. The usefulness of these bimonthly inventories in providing the public with assurance that significant quantities of SSNM have not been diverted has been limited by difficulty in conclusively resolving large inventory differences, necessitating reliance instead on plant security and material control records and intelligence information for the desired assurance. On August 20, 1981, the Commission approved the publication of an Advance Notice of Proposed Rulemaking (ANPRM) to solicit public comment on how to revise the MC&A regulations for SSNM capable of being made into fission explosives. The ANPRM was published in the **Federal Register** on September 10, 1981 (46 FR 45144), and included goals of the rulemaking and options for achieving the goals. The primary goals included (a) timely and localized detection of a possible loss, (b) rapid determination of whether an actual loss occurred, and (c) availability of information to aid in the recovery of lost material in the event of an actual loss.

Two of the options for achieving these goals retained the current emphasis on periodic physical inventories. The other three options introduced requirements for more timely use of process monitoring information for safeguards purposes and deemphasized the importance and frequency of physical inventories.

Proposed Action

The proposed rule contains much of the substance of Options 3 and 4 of the ANPRM, but it has been totally rewritten to remove unnecessarily prescriptive requirements, to reduce the number of plans and programs required, and to improve its clarity. Capabilities have been included to protect against insider adversaries. The proposed rule allows licensees to select the most cost-effective ways of achieving the desired performance. It also gives more credit for secure containment of SSNM and recognizes differences between processing SSNM in bulk form and machining encapsulated SSNM.

The proposed amendments would apply to all fuel cycle facilities authorized to possess and use formula quantities of strategic special nuclear material, including reprocessing plants but not waste disposal operations or nuclear reactors. For facilities authorized to possess and use less than a formula quantity of SSNM and for nuclear reactors and operations involved in waste disposal of sealed sources, the proposed amendments would retain, for the time being, the existing MC&A requirements in 10 CFR Part 70. A proposed rule to reform the MC&A requirements for low enriched uranium (LEU) facilities was previously published (47 FR 55951). It is envisioned that domestic MC&A requirements for all facilities eventually will be revised and codified under a new Part 74, much as Part 73 contains all physical security requirements. The Commission solicits comments on this approach.

The provisions of the rule and its associated guidance involve several significant departures from current regulations, including:

1. Providing more timely SSNM loss alarms through use of production and quality control data instead of less timely comparisons of plant-wide ID and its limit of error;

2. Increasing the ability to confidently resolve MC&A alarms by:

a. Decreasing the area and material quantity subject to an alarm,

b. Decreasing the number of persons who potentially could provide information about the cause of an alarm, and

c. Decreasing the length of time between a loss (or mistake) and its detection and resolution;

3. Basing detection criteria on quantities less than those necessary to construct a clandestine fission explosive rather than on throughput of SSNM at a facility;

4. Basing criteria for interruption of processing activities on an assessment of whether such interruption would facilitate the rapid resolution of a localized alarm involving a significant quantity of SSNM rather than on the inability to resolve an imbalance resulting from the taking of a periodic inventory;

5. Specifically requiring that the MC&A system design include protection against an insider threat;

6. Using the total variance of ID for ID analysis, not just the measurement errors; and

7. Phased reduction in the frequency of ID determinations, from bimonthly to as long as semiannually, during phased implementation of the revised MC&A system.

Relative to the rule provisions cited above, the Commission is especially soliciting public comment on the following points:

1. With respect to loss detection levels, should they be plant specific and to what extent would area loss detection levels greater than five formula kilograms facilitate area detection within material access areas (MAAs) rather than within subdivisions of MAAs?

2. On the subject of physical inventories, should the current practice of automatic plant shutdown when an inventory difference (ID) exceeds a specified threshold be continued and, if so, what should the threshold be?

3. To what extent would the combined effectiveness of (1) the in-process monitoring requirements in § 70.83, in particular the 60-day area detection capability in § 70.83(c)(4); and (2) the item monitoring requirements of § 70.85, suffice as a near real-time physical inventory? To facilitate a Commission determination as to whether both the near real-time physical inventory capabilities of §§ 70.73 and 70.85 and the semiannual inventory capabilities of § 70.89(e)(1) are required, the Commission also solicits comments on (1) the extent to which the semiannual physical inventory is a repetition of the near real-time inventory; (2) the extent to which the semiannual physical inventory provides an overcheck on the near real-time physical inventory, with significantly different characteristics which provide enhanced safeguards capabilities; and (3) what additional requirements, if any, should be placed on near real-time physical inventories if semiannual physical inventories are not to be required.

Response to Public Comments

In response to the ANPRM, 14 comments were received. Seven were from industry, five from private individuals and a public interest group, and two from the Department of Energy. Key issues were:

1. *Retention of the Status Quo.* Of the 14 comments received, six were in favor of maintaining the status quo. However, none of the commenters showed how this would meet the stated goals of the rulemaking. Because of poor loss localization, resolution of large IDs is too often inconclusive. Without adequate resolution, the ID cannot be used to determine whether or not a true loss occurred.

2. *Production Stoppage Under Process Monitoring Options.* Concerns were expressed that a high rate of false alarms leading to costly production stoppages would result from the process monitoring options published with the ANPRM. The proposed rule has been modified to mitigate that concern by:

a. Specifying that operations can be resumed upon completion of planned alarm resolution activities instead of requiring Commission authorization;

b. Excluding from shutdown those operations for which shutdown would not contribute positively to alarm resolution, such as operations where shutdown and restart would generate large quantities of poorly characterized scrap;

c. Providing a 24-hour time delay in which to correct mistakes before shutdown of continuous processes; and

d. Modifying the recurring loss detection requirement and exempting it from the shutdown provision.

3. *Measurement State of the Art.* Some commenters felt that the process monitoring options would require nondestructive assay (NDA) techniques that are beyond the current state of the art. This contention fails to recognize that most of the loss detection required by the proposed rule can be accomplished by weight and volume measurements. Further, independent experts have reported that supplemental assays which may be required can be completed without the use of NDA equipment in less than 24 hours, well within the minimum detection time of three days. In some cases off-the-shelf NDA equipment would be sufficient to meet some of these supplemental data needs. In any event, the proposed rule provides sufficient licensee flexibility to achieve required performance, without improving measurement systems, through better and more careful material handling practices; reduction in the frequency of process upsets, spills, and leaks; fewer transcription or arithmetic errors; and reduction of the span of a material control test.

4. *Phase-In Period.* Some commenters have raised the point that the process monitoring concept is new and to some extent untried, and that it should be demonstrated before being imposed through regulations. Despite the fact that process monitoring is to some extent already being demonstrated in DOE and in some NRC-licensed facilities, the Commission agrees that some of the specific performance requirements have not been tried in all situations. The Commission also agrees that experience with some of these requirements will enhance the overall likelihood of a smooth and successful implementation of the new requirements. For these reasons the proposed rule incorporates an extended phase-in period.

5. *Backfitting.* Option 5 of the ANPRM would have limited the application of MC&A reforms to new facilities and major modifications to existing facilities. Five commenters specifically opposed this option, while three recommended its adoption. Studies performed for the NRC conclude that implementation of the proposed rule at existing licensed facilities is feasible and that the cost impact of implementation could be offset by cost savings in operation. Given this information, the Commission sees no valid reason why the rule should not be applied uniformly to both existing and new fuel manufacturing and reprocessing facilities.

6. *Collusion Protection.* Comment was divided between those favoring the option in which MC&A data would be required to be protected against falsification by a conspiracy threat and the option in which the threat was limited to a single insider. The requirements of the proposed rule reflect a compromise position which has been designed to function in an integrated fashion with Physical Protection and which should result in improved cost effectiveness compared to Options 3 and 4 of the ANPRM. Protection of MC&A data is only required against falsification by a single insider, providing that the insider does not have authority within the Physical Protection system. If an MC&A individual does have dual authority within both systems, then the MC&A data is required to be protected against collusion of that individual with any other individual with MC&A responsibilities. This approach assures that the MC&A system provides additional capability for deterring and detecting collusion, over and above that provided by 10 CFR Part 73, without doubling the size of the design basis threat for the integrated safeguards system.

7. *Reprocessing.* As currently written, the proposed rule would apply to fuel reprocessing facilities. Although the scope of the ANPRM excluded such facilities, comments were invited on the possible applicability of the proposed rulemaking to these plants. The two industry commenters who responded to this invitation were favorably inclined toward the general approach of the process monitoring options. No other comments were received on this topic.

Since the ANPRM, several significant changes have been made in the proposed rule. In view of this fact, the Commission is again soliciting comments on whether or not this rule should apply to reprocessing plants.

International Considerations

It should be noted that the goals stated previously are domestic goals and are considered to be appropriate for a subnational level threat. For all U.S. licensees, the detection and response capabilities of the proposed rule have been determined to be sufficient to adequately protect the public health and safety for a subnational threat. On the other hand, the International Atomic Energy Agency (IAEA), which is responsible for applying international safeguards, must judge whether a significant diversion has occurred in the face of a possible national level conspiracy. In order to reach its conclusion with the required level of certainty, the IAEA may find it necessary to receive plant-wide physical inventory data more frequently than semiannually. Other elements of these proposed regulations may similarly need to differ depending on whether or not national as well as subnational diversion threats need to be considered. The NRC is coordinating with the Department of State regarding these issues and their proper reflection in domestic U.S. regulations.

Paperwork Reduction Act Statement

The reporting and recordkeeping requirements contained in the proposed amendments have been evaluated and a clearance package has been submitted to the Office of Management and Budget as required by Pub. L. 96–511. Four high enriched fuel cycle facilities will be affected and possibly one fuel reprocessing facility in the future.

Also, these amendments will not result in an increase in total requirements for the affected licensees due to the trade-off that will occur between the new prompt accountability

requirements and the relaxed physical inventory requirements.

Regulatory Analysis

Results of analyses performed by staff and by contractors in support of the proposed MC&A Reform Amendments indicate that significant benefits would accrue from implementation of these amendments at a relatively moderate increase in cost the first year followed by significant savings in subsequent years.

The Commission has prepared a draft summary Regulatory Analysis on this proposed regulation that compares the costs and benefits of the proposed rule to the status quo. The draft analysis is available for examination and copying for a fee in the NRC Public Document Room, 1717 H Street NW., Washington, DC 20555.

Regulatory Flexibility Certification

In accordance with the Regulatory Flexibility Act of 1980 (5 U.S.C. 605(b)), the Commission hereby certifies that this rule will not, if promulgated, have a significant economic impact on a substantial number of small entities. This proposed rule would affect four fuel cycle facilities that use SSNM. The companies that own these four facilities, United Nuclear Corporation, Nuclear Fuel Services, Babcock and Wilcox, and GA Technologies, do not fall within the definition of "small entities" set forth in the Regulatory Flexibility Act or by the Small Business Administration in 13 CFR Part 121.

List of Subjects in 10 CFR Part 70

Hazardous materials-transportation, Nuclear materials, Packaging and containers, Penalty, Radiation protection, Reporting and recordkeeping requirements, Scientific equipment, Security measures, Special nuclear material.

PART 70—DOMESTIC LICENSING OF SPECIAL NUCLEAR MATERIAL

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and 5 U.S.C. 553, notice is hereby given that the NRC is proposing to adopt the following amendments to 10 CFR Part 70.

1. The authority citation for Part 70 is revised to read as follows:

Authority: Secs. 51, 53, 161, 182, 183, 68 Stat. 929, 930, 948, 953, 954, as amended, sec. 234, 83 Stat. 444, as amended (42 U.S.C. 2071, 2073, 2201, 2232, 2233, 2282); secs. 201, as amended, 202, 204, 206, 88 Stat. 1242, as amended, 1244, 1245, 1246 (42 U.S.C. 5841, 5842, 5845, 5846).

Section 70.7 also issued under Pub. L. 95-601, sec 10, 92 Stat. 2951 (42 U.S.C. 5851). Section 70.21(g) also issued under sec. 122, 68 Stat. 939 (42 U.S.C. 2152). Section 70.31 also issued under sec. 57d, Pub. L. 93-377, 88 Stat. 475 (42 U.S.C. 2077). Sections 70.36 and 70.44 also issued under sec. 184, 68 Stat. 954, as amended (42 U.S.C. 2234). Section 70. 61 also issued under secs. 186, 187, 68 Stat. 955 (42 U.S.C. 2236, 2237). Section 70.62 also issued under sec. 108, 68 Stat. 939, as amended (42 U.S.C. 2138).

For the purposes of sec. 223, 68 Stat. 958, as amended (42 U.S.C. 2273); §§ 70.3, 70.19(c), 70.21(c), 70.22(a), (b), (d)-(k), 70.24(a) and (b), 70.32(a)(3), (5), (6), (d), and (i), 70.36, 70.39(b) and (c), 70.71(a), 70.42(a), and (c), 70.56, 70.57(b), (c), and (d), 70.58(a)-(g)(3), and (h)-(j) are issued under sec. 161b, 68 Stat. 948, as amended (42 U.S.C. 2201(b)); §§ 70.7, 70.20a(a), and (d), 70.20b, (c), and (e), 70.21(c), 70.24(b), 70.32(a)(6), (c), (d), (e), and (g), 70.36, 70.51(c)-(g), 70.56, 70.57(b) and (d), 70.58(a)-(g)(3) and (h)-(j) are issued under sec. 161i, 68 Stat. 949, as amended (42 U.S.C. 2201(i)); and §§ 70.20b(d) and (e), 70.51(b) and (i), 70.52, 70.53, 70.54, 70.55, 70.58(g)(4), (k), and (l), 70.59, and 70.60(b) and (c) are issued under Sec. 161o, 68 Stat. 950, as amended (42 U.S.C. 2201(o))

2. In § 70.4, paragraphs (w) through (oo) are added to read as follows:

§ 70.4 Definitions.

* * * * *

(w) "MC&A Alarm" means a situation in which there is: (1) An out-of-location or compromised item; (2) an indication of a flow of SSNM where there should be none; or (3) a difference beween a measured or observed amount or property of material and its corresponding predicted or property value that exceeds a threshold established to provide the detection performance required by § 70.83.

(x) "Power of detection" means the probability that the critical value or threshold of a statistical test will be exceeded when there is an actual loss of material.

(y) "Abrupt" means the time interval between sequential performances of a material control test that covers the material in question or a 4-hour interval, whichever is longer.

(z) "Recurring" means a time interval greater than abrupt.

(aa) "Strategic Special Nuclear Material" (SSNM) has the same meaning as in § 73.2(aa).

(bb) "Formula Kilogram" means SSNM in any combination in a quantity of 1,000 grams computed by the formula, grams = (grams contained U-235) + 2.5 (grams U-233 + grams plutonium).

(cc) "Category IA material" means SSNM directly useable in the manufacture of a nuclear explosive device, except if:

(1) Its dimensions are large enough (at least 2 meters in length) to preclude hiding the item on an individual;

(2) The weight of 5 formula kilograms of the material is so large (at least 50 kg) that one person cannot carry it inconspicuously; or

(3) The quantity of SSNM in the item is so small (less than 0.05 formula kilograms) that a large number of diversions are needed to accumulate 5 formula kilograms;

(dd) "Category IB materials" means all SSNM material other than Category IA.

(ee) "Unit process" means an identifiable segment or segments of processing activities for which the amounts of primary input and output SSNM flows are based on measurements.

(ff) "Administratively controlled areas" means portions of the plant arrived at by subdividing the plant into groups of unit processes.

(gg) "Accessible location" means a process location at which SSNM could be acquired without the need for visible puncturing, breaking, or otherwise violating the integrity of the process equipment containing the SSNM.

(hh) "Controlled access area" has the same meaning as in § 73.2(z).

(ii) "Material access area (MAA)" has the same meaning as in § 73.2(j).

(jj) "Vault" has the same meaning as in § 73.2(n).

(kk) "Inventory Difference" (ID) means the sum of the ending inventory and removals from inventory subtracted from the sum of the beginning inventory and additions to inventory.

(ll) "Estimator" means a mathematical expression that is used as the tool to estimate an unknown true value.

(mm) "Estimate" means a specific numerical value arrived at by application of an estimator.

(nn) "Active inventory" means the sum of additions to inventory, beginning inventory, ending inventory, and removals from inventory, after all common terms have been excluded. Common terms are any material values that appear to the active inventory calculation more than once and come from the same measurement.

(oo) "Continuous process" means a unit process in which feed material must be continually entered into the process in order to maintain the equilibrium conditions required by the process.

3. In § 70.22, paragraph (b) is revised to read as follows:

§ 70.22 Contents of application.

* * * * *

(b) Each application for a license to possess at any one time and location special nuclear material in a quantity exceeding one effective kilogram of special nuclear material and to use such special nuclear material except those uses involved in the operation of a nuclear reactor licensed pursuant to Part 50 of this chapter or those involved in a waste disposal operation, or as sealed sources, shall contain a full description of the applicant's program for control of and accounting for special nuclear material which will be in the applicant's possession under license, to show how compliance with the requirements of § 70.58 or § 70.81, as applicable, will be accomplished.

* * * * *

4. In § 70.32, the introductory text of paragraph (c) is revised to read as follows:

§ 70.32 Conditions of licenses.

* * * * *

(c) Each license authorizing the possession at any one time and location of special nuclear material in a quantity exceeding one effective kilogram of special nuclear material and the use of such special nuclear material except those uses involved in the operations of a nuclear reactor licensed pursuant to Part 50 of this chapter and those involved in a waste disposal operation and in sealed sources, shall contain and be subject to a condition requiring the licensee to maintain and follow (1) the program for control and accounting for special nuclear material and fundamental material controls described pursuant to §§ 70.22(b), 70.58(1), or 70.81(c), as appropriate, (2) the measurement control program for special nuclear materials control and accounting described pursuant to § 70.57, if appropriate, and (3) such other material control procedures as the Commission determines to be essential for the safeguarding of special nuclear material and providing that the licensee shall make no change which would decrease the effectiveness of the material control and accounting program prepared pursuant to §§ 70.22(b), 70.58(l), 70.51(g) or 70.81(c), as appropriate, and the measurement control program prepared pursuant to § 70.57, if appropriate, without the prior approval of the Commission. A licensee desiring to make such changes shall submit an application for amendment to its license pursuant to § 70.34. The licensee shall maintain records of changes to the material control and accounting program made without prior Commission approval, for a period of three years from the date of the change, and shall furnish to the Director of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, with a copy to the appropriate NRC Regional Office shown in Appendix A of Part 73 of this chapter, a report containing a description of each change within:

* * * * *

5. In § 70.51, paragraph (d) and the introductory text of paragraph (e) are revised to read as follows:

§ 70.51 Material balance, inventory, and records requirements.

* * * * *

(d) Except as required by paragraph (e) of this section or by § 70.89(e), each licensee who is authorized to possess at any one time and location special nuclear material in a quantity totaling more than 350 grams of contained uranium-235, uranium-233, or plutonium, or any combination thereof, shall conduct a physical inventory of all special nuclear material in its possession under license at intervals not to exceed twelve months.

(e) Each licensee who is authorized to possess at any one time special nuclear material in a quantity exceeding one effective kilogram of special nuclear material, but less than five formula kilograms, and to use such special nuclear material for activities other than those involved in the operation of a nuclear reactor licensed pursuant to Part 50 of this chapter or those involved in a waste disposal operation; or as sealed sources; or as reactor irradiated fuels involved in research, development, or evaluation programs in facilities other than irradiated fuel reprocessing plants, shall:

* * * * *

6. In § 70.57, the introductory text of paragraph (b) is revised to read as follows:

§ 70.57 Measurement control program for special nuclear material control and accounting.

* * * * *

(b) In accordance with § 70.58(f), each licensee who is authorized to possess at any one time and location special nuclear material in a quantity exceeding one effective kilogram of special nuclear material, but less than five formula kilograms, and to use such special nuclear material for activities other than those involved in the operation of a nuclear reactor licensed pursuant to Part 50 of this chapter, those involved in a waste disposal operation, or as sealed sources, shall establish and maintain a measurement control program for special nuclear material control and accounting measurements. Each program function shall be identified and assigned in the licensee organization in accordance with § 70.58(b)(2) and functional and organizational relationships shall be set forth in writing in accordance with § 70.58(b)(3). The program shall be described in a manual which shall contain the procedures, instructions, and forms prepared to meet the requirements of this paragraph, including procedures for the preparation, review, approval, and prompt dissemination of any program modification of changes. The licensee's program shall include the following:

* * * * *

7. In § 70.58, paragraph (a) is revised to read as follows:

§ 70.58 Fundamental nuclear material controls.[1]

(a) Each licensee who is authorized to possess at any one time and location special nuclear material in a quantity exceeding one effective kilogram of special nuclear material, but less than five formula kilograms, and to use such special nuclear material except those uses involved in the operation of a nuclear reactor licensed pursuant to Part 50 of this chapter or those involved in a waste disposal operation, or as sealed sources, shall establish, maintain, and follow written material control and accounting procedures in compliance with the fundamental nuclear material controls requirements specified in paragraphs (b) through (k) of this section and such other controls as the Commission determines to be essential for the control of and accounting for special nuclear material.

8. Sections 70.81, 70.83, 70.85, 70.87, and 70.89 are added to read as follows:

§ 70.81 Nuclear material control and accounting for strategic special nuclear material: general performance requirements.

(a) General performance objectives. Each licensee who is authorized to possess five or more formula kilograms of strategic special nuclear material (SSNM) and to use such material at any site, other than a nuclear reactor licensed pursuant to Part 50 of this chapter, or in operations involved in waste disposal shall establish, implement, and maintain a Commission approved material control and accounting (MC&A) system that will achieve the following objectives:

(1) Timely detection of the possible loss of five or more formula kilograms of strategic special nuclear material;

(2) Rapid determination of whether an actual loss of five or more formula kilograms occurred; and

(3) Generation of information to aid in the recovery of lost material in the event of an actual loss.

(b) System capabilities. To achieve the general performance objectives specified in § 70.81(a), the MC&A system must provide the capabilities described in §§ 70.83, 70.85, 70.87, and 70.89, and must incorporate checks and balances that are sufficient to detect falsification of data and reports that could conceal diversion by:

(1) An individual, including an employee (in any position); or

(2) Collusion between an individual who has responsibility or control within both the physical protection and the MC&A systems and another individual with MC&A responsibilities.

(c) Implementation dates. Each licensee subject to the requirements of paragraph (a) of this section:

(1) No later than 150 days after the effective date of these amendments, shall submit a fundamental nuclear material control plan describing how the licensee will comply with the requirements of paragraph (b) of this section; and

(2) Within 360 days of the effective date of these amendments or 90 days after the plan submitted pursuant to paragraph (c)(1) of this section is approved, whichever is later, shall implement the approved plan.

(3) Notwithstanding paragraphs (c)(1) and (c)(2) of this section, a licensee may delay for an additional 18 months implementation of portions of its plans and procedures involving shutdown of a process for resolution of an MC&A alarm. However, during this delay a licensee shall conduct physical inventories at the intervals specified in § 70.51(e)(3).

(4) Notwithstanding § 70.89(e)(1), shall conduct physical inventories at the intervals specified in § 70.51(e)(3) until after the licensee has satisfactorily demonstrated, for a period of 6 months, adequate performance of all commitments in its plan and has received Commission approval.

§ 70.83 In-process monitoring.

(a) Licensees subject to § 70.81 shall monitor internal transfers, storage, and processing of SSNM. This in-process monitoring must achieve the detection capabilities described in paragraphs (b) and (c) of this section for all SSNM except:

(1) SSNM that qualifies to come under the item loss detection requirements of § 70.85;

(2) Scrap or waste in the form of small pieces, cuttings, chips, solutions or in other forms that result from a manufacturing process, contained in 30 gallon or larger containers, with an SSNM content of less than 0.25 grams per liter; and

(3) SSNM which is not readily separable from other radioactive material and which has a total external radiation dose rate in excess of 100 rem per hour at a distance of three feet from any accessible surface without intervening shielding.

(b) *Unit Process Detection Capability.* (1) The licensee shall detect any abrupt loss of SSNM from any unit process using any statistical test that has 99 percent power of detecting the loss of five formula kilograms. The detection shall occur within:

(i) Three working days of a loss of Category IA material from any accessible location; and

(ii) Seven calendar days of a loss of Category IB material from any accessible location.

(2) For each unit process, at least every seven calendar days the licensee shall evaluate measurement data accumulated since the last cleanout of the unit process. This evaluation must be able to detect a recurring loss with 90 percent power of detection. The amount to be detected for each unit process must be as low as reasonably achievable, but need not be less than 50 grams of SSNM.

(c) *Area Detection Capability.* The licensee shall: (1) Detect any abrupt loss of SSNM accumulated from the unit processes within the plant or within any administratively controlled area, using a statistical method that has 90 percent power of detecting the loss of five formula kilograms;

(2) If detection within administratively controlled areas is elected, provide administrative or physical measures to protect against diversion of five formula kilograms from being accumulated from two or more administratively controlled areas;

(3) If the statistical method used for paragraph (c)(1) of this section involves a test in addition to the tests required by paragraph (b) of this section, perform that test at least every seven calendar days; and,

(4) For the entire plant or for each administratively controlled area, at least every seven calendar days evaluate measurement data accumulated over the most recent 60 days of operation. This evaluation must be able to detect a recurring loss with 90 percent power of detection. The amount to be detected must be as a low as reasonably achievable, but need not be less than 50 grams of SSNM.

§ 70.85 Item monitoring.

(a) Licensees subject to § 70.81 shall provide the detection capability described in paragraph (b) of this section for any uniquely identified items of SSNM that have been quantitatively measured and the validity of that measurement independently confirmed, and that additionally have been either:

(1) Tamper-safed or placed in a vault that provides protection at least equivalent to tamper-safing; or

(2) Constructed such that removal of SSNM would be readily and permanently apparent (e.g., encapsulated).

(b) The licensee shall verify the presence and integrity of selected SSNM items. The item selection method must be statistically sound and have at least a 99 percent power of detecting the loss of items that total five formula kilograms plant-wide within:

(1) For items in a vault or in a permanently controlled access area isolated from the rest of the material access area (MAA), one month from loss of Category IA items and two months from loss for Category IB items;

(2) For items elsewhere in the MAA, three working days from loss for Category IA items and seven calendar days from loss for Category IB items.

§ 70.87 Alarm resolution.

(a) Licensees subject to § 70.81 shall provide the MC&A alarm resolution capabilities described in paragraphs (b) through (g) of this section.

(b) The licensees shall promptly resolve the nature and cause of any MC&A alarm.

(c) Each licensee shall notify immediately, by telephone, the appropriate NRC Regional Office listed in Appendix A of Part 73 of this chapter of any MC&A alarm that remains unresolved beyond the time period specified for its resolution in the licensee's fundamental nuclear material control plan. The licensee may consider an alarm to be resolved if, based on additional information:

(1) Clerical or computational error is found that clearly was the cause of the alarm; or

(2) There is relevant evidence that substantiates the cause of the alarm or that substantiates that no loss has occurred.

(d) If a loss has occurred, the licensee shall determine the amount of SSNM lost.

(e) The licensee shall take corrective action to:

(1) Return out-of-place SSNM, if possible, to an appropriate place;

(2) Update and correct appropriate records; and

(3) Modify the MC&A system, if appropriate, to prevent similar occurrences in the future.

(f) The licensee shall provide an ability to respond rapidly to alleged thefts.

(g) In the event that an abrupt loss detection estimate exceeds five formula kilograms of SSNM:

(1) Material processing operations related to the alarm must be suspended until completion of planned alarm resolution activities, unless the suspension of operations will negatively affect the ability to resolve the alarm. However, operations of continuous processes may continue for a 24-hour period during which checks are made for mistakes.

(2) The licensee shall notify within 24 hours, by telephone, the appropriate NRC Regional Office that an MC&A alarm resolution procedure has been initiated.

§ 70.89 Quality assurance and accounting requirements.

(a) Licensees subject to § 70.81 shall provide the quality assurance and accounting capabilities described in paragraphs (b) through (g) of this section.

(b) *Management Structure.* The licensee shall establish and maintain a management structure that includes clear overall responsibility for MC&A functions, independence from production responsibilities, and adequate review and use of those MC&A procedures identified in the approved plan as being critical to the effectiveness of the described system.

(c) *Personnel Qualification and Training.* The licensee shall assure that key personnel, who work in positions involving tasks where mistakes could directly degrade the safeguards capabilities of the MC&A system, are trained to maintain a high level of safeguards awareness and are qualified to perform their jobs.

(d) *Quality Control.* The licensee shall: (1) Assure that the quality of SSNM measurment systems and material processing is continually controlled to a level of effectiveness sufficient to satisfy the capabilities required for detection, response, and accounting.

(2) Incorporate checks and balances in the MC&A system sufficient to control the rate of human errors in material control and accounting information to as low as reasonably achievable.

(3) Assure that SSNM measurements used in satisfying § 70.89(e) are so controlled that:

(i) The total contribution of measurement systems' uncertainties to the standard deviation of the inventory difference estimator is less than 0.1 percent of active inventory for SSNM processing facilities or 0.2 percent of active inventory for reprocessing facilities;

(ii) Bias corrections for measurement systems are applied if their bias estimates exceed the larger of twice the standard deviations of their estimators or 50 grams of SSNM;

(iii) The impacts of any uncorrected biases are accounted for in the inventory differences; and

(iv) If, for like material, shipper-receiver differences accumulated over an inventory period exceed the larger of one formula kilogram or 0.1 percent of the total amount shipped, then the licensee shall investigate and take corrective action, as appropriate, to identify and reduce measurement biases.

(e) *Accounting.* The licensee shall: (1) Except as required by Part 75 of this chapter, perform a physical inventory at least every six months and, within 60 days of the start of the inventory, reconcile and adjust the book inventory to the physical inventory.

(2) Resolve, or report an inability to resolve, any inventory difference estimate greater than 200 grams of plutonium or U–233 or 300 grams of U–235, that exceeds:

(i) Twice the standard deviation of the inventory difference estimator; or,

(ii) One-half percent of the active inventory.

(3) Resolve on an individual container or lot basis, as appropriate, and when required by Part 75 of this chapter on a batch basis, any shipper-receiver difference that exceeds both:

(i) Twice the standard deviation of the difference; and

(ii) The larger of 0.5 percent of the amount of SSNM in the container or lot, as appropriate, or 50 grams of SSNM.

(4) In addition to any measurements and/or recovery of scrap used in meeting detection and response requirements:

(i) Assure that recovered scrap is segregated from the scrap of other licensees or contractors and that any scrap measured with a standard deviation greater than 5% of the measured amount is recovered so that the results are segregated by inventory period and received within six months of the end of the inventory period in which the scrap was generated; or

(ii) Demonstrate that the total scrap measurement uncertainty will not cause noncompliance with § 70.89(d)(3).

(5) Keep accounts of all additions to and removals from process based on measurements for plutonium element and for uranium element and isotopes.

(f) *Independent Assessment.* The licensee shall: (1) At least every 12 months, independently assess the past performance of the MC&A system and review its effectiveness; and

(2) Document management's action on prior assessment recommendations.

(g) *Recordkeeping.* The licensee shall establish auditable records sufficient to demonstrate that the requirements of §§ 70.83, 70.85, 70.87, and 70.89 have been met and maintain those records for at least three years unless a longer retention time is required by Part 75 of this chapter.

Dated at Washington, DC, this 27th day of January 1984.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 84-2879 Filed 2-1-84; 8:45 am]

BILLING CODE 7590-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 83-NM-116-AD]

Airworthiness Directives; Boeing Model 747 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes a new airworthiness directive (AD) which would require structural inspections and repairs or replacements, as necessary on certain high time Boeing Model 747 series airplanes to assure continued airworthiness. Some Boeing Model 747 series airplanes are approaching and exceeding the manufacturer's original objective fatigue design life. These older airplanes are the ones most likely to develop cracks in the structure, if fatigue cracking does occur. The manufacturer has completed a structural reevaluation to identify significant structural components that, if cracking does develop and is permitted to grow undetected, may result in an inability to carry the required loads specified in FAR 25.571. This AD defines structural maintenance requirements for the identified components necessary to preclude this potentially catastrophic condition.

DATES: Comments must be received on or before March 23, 1984.

ADDRESSES: The service documents may be obtained upon request from the Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124. This information also may be examined at Federal Aviation Administration, Northwest Mountain Region, Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Owen Schrader, Airframe Branch, ANM-120S, FAA, Northwest Mountain Region, Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington, telephone (206) 431-2923. Mailing Address: Seattle Aircraft Certification Office, FAA, Northwest Mountain Region, 17900 Pacific Highway South C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified below. All communications received on or before the closing date for comments will be considered by the Administrator before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of the proposed AD will be filed in the Rules Docket.

Availability of NPRMS

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Northwest Mountain Region, Attention: Airworthiness Rules Docket No. 83-NM-116-AD, 17900 Pacific Highway South, C-68966 Seattle, Washington 98168.

Discussion

Introduction

A significant number of transport category airplanes are approaching their design life goal. It is expected that these airplanes will continue to be operated beyond this point. The incidence of fatigue cracking on these airplanes is expected to increase as airplanes reach and exceed their goals. In order to evaluate the impact of increased fatigue cracking with respect to maintaining fail-safe design and the damage tolerance of the airplane structure, large transport airplane manufacturers have been requested to conduct a structural reassessment of their airplanes using modern damage tolerance evaluation techniques. The criteria for this reassessment are contained in FAA Advisory Circular (AC) 91-56, "Supplemental Structural Inspection Program for Large Transport Category Airplanes," as well as § 25.571 (Amdt. 25-45) of the Federal Aviation Regulation (FAR).

The structural reassessment involves:

(1) The identification of structural parts or components which contribute significantly to carrying flight, ground, pressure, or control loads, whose failure could affect the structural integrity necessary for the safety of the airplane and whose damage tolerance or fail-safe characteristics it is necessary, therefore, to establish or confirm. These are called Structural Significant Items (SSI).

(2) The calculation of residual strength, with multiple site damage and interactive crack growth under typical flight and ground loading, such that the airplane structure can sustain the load conditions stated for fail-safe qualification under the current FAR 25.571(b).

(3) The establishment of a procedure for developing inspection programs that provide a high probability of detecting fatigue damage before residual strength falls below fail-safe or damage tolerance requirements.

In conducting the assessment, or audit, The Boeing Company has developed continuing structural integrity programs for its transport airplanes. The program developed for the Boeing 747 (Boeing Document No. D6-35022, entitled "Boeing 747 Supplemental Structural Inspection Document" (SSID), in two volumes) ensures continuing structural airworthiness of the Boeing 747 by specifying details to be inspected, inspection intensities, and associated intervals based on the structural audit.

The Boeing 747 program makes use of the Damage Tolerance Rating (DTR) System developed by Boeing. This rating system is used to determine the probability of detecting fatigue damage, which is presumed to have occurred in a fleet of airplanes and has not been reported before the residual strength of any airplane falls below regulatory fail-safe strength levels.

The supplemental inspection program developed for the Boeing Model 747 permits operator flexibility by adjusting or supplementing existing maintenance programs, where necessary, to meet the required damage tolerance rating. The program was developed in cooperation with members of the airline industry who participated with Boeing in working group sessions. These meetings were also attended by engineers and maintenance specialists from the FAA. Participants included representatives from 18 airlines. All SSI's, which require directed inspections for maintaining structural integrity and with no history of in-service fatigue cracking, are included in this document. An explanation and summary listing of the SSI's is given in detail in Sections 4.0 and 8.0, respectively, of Boeing Document D6-35022.

Damage tolerance rating forms (DTR Check Forms) are provided, in Volume 2, Section 11.0, for each operator of candidate airplanes to select the inspection options which together meet the damage tolerance rating requirements. If an operator's existing maintenance program meets or exceeds the required damage tolerance rating, no additional inspection requirements are necessary for that detail. If the current maintenance program falls below the required damage tolerance rating, an operator must improve or supplement its programs. To achieve this, an operator may increase the frequency or intensity of its normal maintenance for its candidate airplanes; or incorporate additional inspection methods, including non-destructive test techniques. Feasible inspection options, developed in conjunction with airline working group members, were used to complete an example rating for each SSI.

Known fatigue problems, which could affect the structural integrity necessary for safety of the airplane, covered by existing service bulletins, have been reassessed and a safety of flight addendum added to each as required. A list of service bulletins with flight safety addenda is given in Section 9.0.

It is expected that fatigue-related service bulletins subsequent to or resulting from the supplemental inspection program, that require a flight safety addendum, will also be referenced in Section 9.0.

Candidate Airplanes

Airplanes with the highest number of flight cycles are the most likely to experience initial fatigue damage in the fleet. Therefore, this program is based on supplemental inspection of high time (candidate) airplanes.

Directed inspection programs for these airplanes (i.e. the candidate fleet), coupled with reporting of discrepancies found and, where necessary, follow-up

action, will maintain structural airworthiness in the total fleet when fatigue cracking occurs. To maintain adequate fleet surveillance, each operator with candidate airplanes must provide a directed inspection program for those airplanes which meet the requirements established by this document.

The initial Boeing 747 candidate fleet consists of those airplanes exceeding 10,000 landings by June 30, 1983. A list of candidate airplane serial and line numbers is listed in Document D6–35022 for the Boeing Model 747–100/200 series. The candidate list will be reviewed periodically and updated if there are significant changes in fleet distribution, composition, or utilization.

Structural Significant Items (SSI)

The two design principles for obtaining structural safety are "damage tolerance" and "safe-life." Damage tolerance relies on some means of detecting damage before airplane safety is jeopardized. This is the preferred design principle whenever practical. A safe-life principle is used where there is little or no chance of detecting damage before residual strength is reduced below acceptable limits. A conservative fatigue damage threshold is used to limit the service life. On modern commercial jet transports, this design concept is generally limited to landing gear components.

Airplane structure can be categorized to determine safety analysis requirements and corresponding maintenance considerations. The first breakdown is a determination of an item's function in relation to structural integrity. Any detail, element, or assembly, which contributes significantly to carrying flight, ground, pressure, or control loads, and whose failure could affect the structural integrity necessary for the safety of the airplane, is classified as an SSI. Items not in this category are classified as secondary or other structure.

For the category of secondary or other structure, safety is ensured by demonstrating that a flight can be completed safely after the component has lost its ability to function or has separated from the aircraft. Structural maintenance is dictated by the economic consequences of major damage or loss of the component compared to those of an inspection program required to find damage early.

The second category is damage-tolerant design where damage is obvious or malfunction evident before reaching critical size. Examples of this are significant fuel tank leakage or controlled cabin depressurization. In this category, safety is ensured by providing adequate residual strength with extensive damage that is obvious during walk-around or functional checks to personnel whose primary responsibility may not be structural inspection. Economics may dictate structural maintenance where it may be desirable to detect damage early.

The rest of the damage tolerant structure falls into a third category in which structural integrity is maintained by timely damage detection in a planned inspection program. Inspection program requirements for detecting corrosion, stress corrosion, and accidental damage are based on operator experience on the same or similar structure. For fatigue damage, inspection program requirements are matched to structural characteristics that include residual strength, crack growth rate, and damage detection. These items are included in the Boeing Model 747 supplemental inspection program. The parameters considered in determining the category III SSI's included:

Consequence of Cracking
Inspectability
Stress Environment
Multiple Cracking
Structural Redundancy

For each SSI, several cracking patterns were considered to determine the most critical. This generally resulted in a crack origin being considered in a location difficult to inspect. In some cases, a single SSI may have multiple cracking patterns due to various parts of the item being hidden from view. For example, a spar chord can be visible from both sides, hidden on either side, or hidden on both sides. For these SSI's, a DTR Check Form is provided for the most critical cracking pattern(s).

The fourth structural category is safe life. Operator experience is used to develop a maintenance program for preventing or detecting and repairing any corrosion, stress corrosion, or accidental damage.

Effect on Existing Maintenance Programs

In developing the SSID, the working group reviewed its operation and maintenance practices and existing maintenance programs with respect to the basic requirements of the SSID program. As a result, the Boeing 747 SSID allows affected operators to take credit for maintenance already being performed and gives the operators flexibility in revising their maintenance programs to incorporate the SSID for the affected airplanes.

Upon detection of damage on an individual SSI, an assessment will be made as to the need for inspection of all affected airplanes at a threshold and interval established from metallurgical examination and additional fracture mechanics analysis.

The SSID provides an operator with the minimum inspection requirements necessary to provide the required damage tolerance rating (DTR) and the means to evaluate their existing maintenance programs. An operator, using the document, will be able to determine for a particular SSI if their regularly scheduled maintenance will provide the required DTR or if additional supplemental inspections must be accomplished.

If fatigue cracking does occur, it is likely to occur on older airplanes. The manufacturer has completed a structural reevaluation to identify significant structural components that, if cracking does develop and is permitted to grow undetected, may result in an inability to carry the required loads specified in FAR 25.571. This AD defines structural maintenance requirements for the identified components necessary to preclude this potentially catastrophic condition. As a consequence, the proposed AD would require all affected operators who have not already done so to incorporate in their FAA approved continuing airworthiness program and implement a revision which provides no less than the required damage tolerance rating for each SSI listed in the Boeing Document Number D6–35022 Vol. 1 and Vol. 2 or later FAA approved revisions.

Economic Impact

Approximately 73 airplanes of U.S. registry and 6 U.S. operators would initially be affected by the proposed AD. It is estimated that the implementation of the SSID program for a typical operator would take approximately 1000 manhours. It is also estimated that the average labor cost would be $35 per manhour. Based on these figures, the cost to implement the SSID program is estimated to not exceed $200,000.

The recurring inspection impact on the affected operators is estimated to be 1275 manhours per airplane at an average labor cost of $35 per manhour. Based on these figures, the annual recurring cost of this AD is estimated to not exceed $3,250,000.

Based on the above figures, the total cost impact of this AD for the first year is estimated to not exceed $3,450,000 and $3,250,000 for each year thereafter.

For these reasons, the proposed rule is not considered to be a major rule under the criteria of Executive Order 12291, or a significant rule under DOT Regulatory Policies and Procedures. few, if any,

small entities within the meaning of the Regulatory Flexibility Act would be affected.

List of Subjects 14 CFR Part 39

Aviation safety, Aircraft.

The Proposed Amendment

Accordingly, the Federal Aviation Administration (FAA) proposes to amend § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) by adding the following new airworthiness directive (AD):

Boeing: Applies to Boeing Model 747 series airplanes, certificated in all categories, listed in Section 3.0 of Boeing Document No. D6-35022 "Supplemental structural Inspection Document" (SSID), August 1983, or later FFA-approved revisions.

Compliance is required as indicated in the body of the AD.

To ensure the continuing structural integrity of these airplanes accomplish the following, unless already accomplished:

A. Within one year after the effective date of the AD, incorporate a revision into the FAA approved maintenance inspection program which provides no less than the required damage tolerance rating (DTR) for each structural Significant Item (SSI) listed in Boeing Document D6-35022, August 1983, or later FAA-approved revisions. The required DTR value for each SSI is listed in the document. The revision to the maintenance program shall include and be implemented in accordance with the procedures in Sections 5.0 and 6.0 of the SSID.

B. Cracked structure shall be repaired before further flight in accordance with an FAA approved method.

C. Aircraft may be ferried to a maintenance base for repair in accordance with FAR 21.197 and 21.199.

D. Alternate means of compliance which provide an equivalent level of safety may be used when approved by the Manager, seattle Aircraft Certification Office, FAA, Northwest Mountain Region.

E. Operators who have acceptably incorporated Boeing Document No. D6-35022, August 1983, or later FAA-approved revisions, into their approved maintenance program are exempt from the provisions of this AD.

All persons affected by this directive who have not already received these documents from the manufacturer may obtain copies upon request to the Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124. These documents may also be examined at FAA, Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington.

The FAA has requested **Federal Register** approval to incorporate by reference the manufacturer's Supplemental Inspection Document identified and described in this proposal.

(Secs. 313(a), 314(a), 601 through 610, and 1102 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421 through 1430 and 1502); 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); and 14 CFR 11.85)

Note.—for the reasons discussed earlier in the preamble, the FAA has determined that this document involves a proposed regulation which (1) is not major under Executive Order 12291 and (2) is not a significant rule pursuant to the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is certified under the criteria of the Regulatory Flexibility Act that this proposed rule, if promulgated, would not have a significant economic impact on a substantial number of small entities, since no small entities operate Boeing Model 747 airplanes. A regulatory evaluation has been prepared and has been placed in the public docket.

Issued in Seattle, Washington on January 23, 1984.

David E. Jones,

Acting Director, Northwest Mountain Region.

[FR Doc. 84-2794 Filed 2-1-84; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 83-AGL-19]

Proposed Alteration Control Zone; Dickinson, ND

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to alter the Dickinson, North Dakota, control zone by designating an additional amount of airspace necessary to accommodate a new VOR-A instrument approach procedure serving Dickinson Municipal Airport.

The intended effect of this action is to insure segregation of the aircraft using approach procedures in instrument weather conditions from other aircraft operating under visual weather conditions in controlled airspace.

DATE: Comments must be received on or before March 12, 1984.

ADDRESS: Send comments on the proposal in triplicate to FAA Office of Regional Counsel, AGL-7, Attention: Rules Docket Clerk, Docket No. 83-AGL-19, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

The offical docket will be available for examination by interested persons in the Office of the regional Counsel, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

An informal docket will also be available for examination during normal business hours in the Airspace, Procedures, and Automation Branch, Air Traffic Division, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

FOR FURTHER INFORMATION CONTACT: Edward R. Heaps, Airspace, Procedures, and Automation Branch, Air Traffic Division, AGL-530, FAA, Great Lakes Region, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (312) 694-7360.

SUPPLEMENTARY INFORMATION: The Airspace involved would be an area approximately 8 miles by 1.5 miles located northeast of the airport, extending from the 5.5 mile radius area to 8 miles.

The development of the proposed procedure requires that the FAA alter the designated airspace to insure that the procedure will be contained within controlled airspace. Minimum descent altitudes may be established below the floor of the 700-foot controlled airspace.

Aeronautical maps and charts will reflect the defined areas which will enable other aircraft to circumnavigate the area in order to comply with applicable visual flight rule requirements.

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comment on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 83-AGL-19." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with

FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NRPM) by submitting a request to the Federal Aviation administration, Office of Public Affairs, Attention: Public Information Center, APA–430, 800 Independence Avenue SW., Washington, DC 20591, or by calling (202) 426–8058.

Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2, which describes the application procedures.

The Proposal

The FAA is considering an amendment to § 71.171 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter the control zone near Dickinson, North Dakota.

Section 71.171 of Part 71 of the Federal Aviation Regulations was published in Advisory Circular AC 70–3A dated January 3, 1983.

List of Subjects in 14 CFR Part 71

Control zones, Aviation safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 71.171 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

Dickinson, ND

Within a 5-mile radius of Dickinson Municipal Airport (lat. 46°47'45" N., long. 102°48'00" W.) and within 3 miles west and 4.5 miles east of the Dickinson VORTAC (lat. 46°51'36" N., long. 102°46'23" W.) 013° radial extending from the 5-mile radius area to 8 miles north of the VORTAC. This control zone is effective during the specific dates and times established in advance by a Notice to Airman. The effective dates and time will thereafter be continuously published in the Airport/Facility Directory.

(Secs. 313(a), 314(a), 601 through 610, and 1102 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421 through 1430, and 1502); 49 U.S.C. 106(g) (Revised, Pub. L. 97–449, January 12, 1983))

Note.—The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, it is certified that this—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Des Plaines, Illinois, on January 17, 1984.

Louis H. Yates,

Acting Director, Great Lakes Region.

[FR Doc. 84–2791 Filed 2–1–84; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 71

[Airspace Docket No. 83–AGL–24]

Proposed Alteration of Transition Area; Washington Court House, Ohio

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to alter the Washington Court House, Ohio, transition area, to provide designated airspace determined necessary to accommodate existing conditions.

The intended effect of this action is to insure segregation of the aircraft using approach procedures in instrument weather conditions from other aircraft operating under visual weather conditions in controlled airspace.

DATES: Comments must be received on or before March 12, 1984.

ADDRESS: Send comments on the proposal in triplicate to FAA Office of Regional Counsel, AGL–7, Attention: Rules Docket Clerk, Docket No. 83–AGL–24, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

The official docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

An informal docket will also be available for examination during normal business hours in the Airspace, Procedures, and Automation Branch, Air Traffic Division, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

FOR FURTHER INFORMATION CONTACT: Edward R. Heaps, Airspace, Procedures, and Automation Branch, Air Traffic Division, AGL–530, FAA, Great Lakes Region, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (312) 694–7360.

SUPPLEMENTARY INFORMATION: This action redescribes the Washington Court House, Ohio, transition area to accommodate existing requirements. The new description reduces the radius of designated airspace from 5½ to 5 miles and the width of the northeast extension from 6 to 5 miles while extending that northeast extension from 10 to 13½ miles northeast of the airport.

Minimum descent altitudes may be established below the floor of the 700-foot controlled airspace.

Aeronautical maps and charts will reflect the defined areas which will enable other aircraft to circumnavigate the area in order to comply with applicable visual flight rule requirements.

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 83–AGL–24." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA–430, 800 Independence Avenue, SW., Washington, D.C. 20591, or by calling (202) 426–8058.

Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also

request a copy of Advisory Circular No. 11–2, which describes the application procedures.

The Proposal

The FAA is considering an amendment to § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter the transition area airspace near Washington Court House, Ohio.

Section 71.181 of Part 71 of the Federal Aviation Regulations was published in Advisory Circular AC 70–3A dated January 3, 1983.

List of Subjects in Part 71

Transition Areas, Aviation safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

Washington Court House, OH

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Fayette County Airport, (latitude 39°34'15" N., longitude 83°25'13" W.); within 2.5 miles either side of the 039° bearing from the Court House RBN (latitude 39°35'58" N., longitude 83°23'32" W.) extending from the RBN to 11.5 miles northeast of the RBN.

(Secs. 313(a), 314(a), 601 through 610, and 1102 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421 through 1430, and 1502); 49 U.S.C. 106(g) (Revised, Pub. L. 97–449, January 12, 1983)

Note.—The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, it is certified that this—(1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Des Plaines, Illinois, on January 17, 1984.

Louis H. Yates,

Acting Director, Great Lakes Region.

[FR Doc. 84–2792 Filed 2–1–84; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 71

[Airspace Docket No. 84–ASW–4]

Proposed Alteration of Transition Area; Sand Springs, OK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Aviation Administration proposes to alter the transition area at Sand Springs, OK. The intended effect of the proposed action is to provide additional controlled airspace for aircraft executing a new standard instrument approach procedure (SIAP) to the William R. Pogue Airport. This action is necessary since there is a proposal to install a nonfederal nondirectional radio beacon (NDB) on the airport and an SIAP will be developed from this facility to Runway 35 at the William R. Pogue Airport.

DATE: Comments must be received on March 1, 1984.

ADDRESSES: Send comments on the proposal in triplicate to: Manager, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, TX 76101.

The official docket may be examined in the Rules Docket, weekdays, except Federal holidays, between 8 a.m. and 4:30 p.m. The FAA Rules Docket is located in the Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, 4400 Blue Mound Road, Fort Worth, TX.

FOR FURTHER INFORMATION CONTACT: Kenneth L. Stephenson, Airspace and Procedures Branch, ASW–535, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, TX 76101; telephone: (817) 877–2630.

SUPPLEMENTARY INFORMATION:

History

Federal Aviation Regulation Part 71, Subpart G, § 71.181 as republished in Advisory Circular AC 70–3A dated January 3, 1983, contains the description of transition areas designated to provide controlled airspace for the benefit of aircraft conducting instrument flight rules (IFR) activity. Alteration of the transition area at Sand Springs, OK, will necessitate an amendment to this subpart. This amendment will be required at Sand Springs, OK, since there is a proposed change in IFR procedures to the William R. Pogue Airport using a new NDB located on the airport to Runway 35.

Comments Invited

Interested persons are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposals. (Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposals.) Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 84–ASW–4." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Manager, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, TX 76101, or by calling (817) 877–2630. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should contact the office listed above.

List of Subjects in 14 CFR Part 71

Control zones and/or transition areas, Aviation safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the FAA proposes to amend § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) by adding:

Sand Springs, OK [Amended]

and within 3 miles each side of a 164° bearing of the NDB (latitude 36°10'24" N., longitude

96°09'17" W.), extending from the 6.5-mile radius area to 8.5 miles south of the NDB.

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a)); Sec. 6(c), 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); and 14 CFR 11.61(c))

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Fort Worth, TX, on January 24, 1984.

F. E. Whitfield,

Acting Director, Southwest Region.

[FR Doc. 84-2787 Filed 2-1-84; 8:45 am]

BILLING CODE 4910-13-M

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Ch. II

Regulatory Flexibility Act; Review of Existing Rules

AGENCY: Consumer Product Safety Commission.

ACTION: Notice of review of existing rules.

SUMMARY: The Regulatory Flexibility Act requires the Commission and all other Federal agencies to review all rules which were in existence on January 1, 1981, and which have a significant economic impact on a substantial number of small entities, including small businesses. The purpose of the review, which must be completed by December 31, 1990, is to determine whether the rules should be continued without change, or should be amended or revoked, consistent with the objectives of the agency, in order to minimize any impact which they may have on small businesses. The Commission began this review in 1982 by soliciting comments on 17 rules issued under the Consumer Product Safety Act. In this notice, the Commission continues its review by soliciting comments from all interested persons on eight rules issued under the Flammable Fabrics Act. Subsequent notices will solicit comments on rules issued by the Commission under the Federal Hazardous Substances Act and the Poison Prevention Packaging Act.

DATE: Interested persons are invited to submit written comments on any of the rules described in this notice on or before April 2, 1984.

ADDRESS: Comments and any accompanying material should be submitted to the Secretary, Consumer Product Safety Commission Washington, D.C. 20207, and titled "Regulatory Flexibility Act Review of FFA rules."

FOR FURTHER INFORMATION CONTACT: Allen F. Brauninger, Office of General Counsel, Consumer Product Safety Commission, Washington, D.C. 20207; telephone: (301) 492-6980. Inquiries from the press and broadcast media should be addressed to Lou Brott, Office of Public Affairs; telephone: (202) 634-7780.

SUPPLEMENTARY INFORMATION: The Regulatory Flexibility Act (RFA, 5 U.S.C. 601 *et seq.*) became effective on January 1, 1981, and generally requires all Federal agencies, including the Commission, to evaluate and take into consideration the impact of their rules on small entities, including small businesses.

Section 610(a) of the RFA (5 U.S.C. 610(a)) requires the Commission to review all rules which were in existence on January 1, 1981, and which have or will have a significant economic impact on a substantial number of small businesses. Section 610(a) of the RFA provides further that the purpose of this review shall be to determine whether those rules should be continued in effect without change, or should be amended or revoked, consistent with the objectives of the statutes administered by the Commission, to minimize any significant economic impact which they may have on a substantial number of small businesses. This review of existing rules must be completed by December 21, 1990. Section 610(a) also requires the Commission to review any rule issued after January 1, 1981, within 10 years of its issuance on a final basis.

Section 610(b) of the RFA (5 U.S.C. 610(b)) specifies that in the review of rules conducted in accordance with section 610, the Commission must consider the following factors:

(1) The continued need for the rule;

(2) The nature of complaints or comments received concerning the rule from the public;

(3) The complexity of the rule;

(4) The extent to which the rule overlaps, duplicates, or conflicts with other Federal rules, and, to the extent feasible, with State and local governmental rules; and

(5) The length of time since the rule has been evaluated, or the degree to which technology, economic conditions, or other factors have changed in the area affected by the rule.

Plan for Review of Rules

Section 610(a) of the RFA also requires the Commission to publish in the **Federal Register** a plan for making the review of rules called for by that section. In the **Federal Register** of September 14, 1981 (46 FR 45621), the Commission published a plan for reviewing all regulations in existence on January 1, 1981, which have a significant economic impact on a substantial number of small businesses. That plan also set forth the schedule by which the Commission proposes to review rules issued after January 1, 1981, within ten years of their issuance on a final basis.

Section 610(c) of the RFA (5 U.S.C. 610(c)) requires that the Commission must publish in the **Federal Register** each year a list of the rules to be reviewed pursuant to section 610 during the next twelve months. That section requires further that the notice must include a brief description of each rule to be reviewed, the need for the rule and its legal basis, and invite public comment upon the rule.

The Commission began its review of existing rules by publication of a notice in the **Federal Register** of October 21, 1982 (47 FR 46861), soliciting comments from all interested persons on 17 rules issued under the Consumer Product Safety Act (15 U.S.C. 2051 *et seq.*).

By publication of this notice, the Commission announces that it is continuing its review of all rules in existence on January 1, 1981, which have a significant economic impact on a substantial number of small businesses, by considering eight rules issued under the Flammable Fabrics Act (FFA, 15 U.S.C. 1191 *et seq.*).

In the future notices to be published in the **Federal Register**, the Commission will solicit comments on existing rules issued under provisions of the Federal Hazardous Substances Act (15 U.S.C. 1261 *et seq.*) and the Poison Prevention Packaging Act (15 U.S.C. 1471 *et seq.*)

Rules Outside Scope of Review

In the notice of September 14, 1981, describing the Commission's plan for reviewing existing rules, the Commission expressed the view that rules concerning internal operations and specifying procedures for complying with obligations imposed by various statutes controlling its operations would not have a significant economic impact on a substantial number of small

businesses, and are therefore, outside of the scope of the review required by the RFA.

Nevertheless, that notice listed the following rules issued under the FFA among those to be reviewed:

Part 1602—Statements of policy
Part 1604—Applications for exemption from preemption
Part 1605—Investigations, inspection and inquiries pursuant to the Flammable Fabrics Act

The Commission concludes that these three rules are outside the scope of the review required by the RFA, for the reasons set forth above. Additionally, the Commission observes that in the **Federal Register** of December 28, 1983 (48 FR 57120), it revoked Part 1607—Procedures for the development of flammability standards.

Rules To Be Reviewed

In accordance with section 610(c) of the RFA, the Commission announces that during the next twelve months it will be reviewing the rules listed below for any significant economic impact which they may have on a substantial number of small businesses. As required by section 610(c) of the RFA, a brief description of each rule, the need for the rule, and its legal basis are set forth for each rule to be reviewed. All of these rules are published in Subchapter D, Chapter II of Title 16 of the Code of Federal Regulations.

1. Part 1608—General rules and regulations under the Flammable Fabrics Act. This rule sets forth suggested forms for guaranties of compliance with an applicable standard issued under the FFA. The rule is used by sellers and purchasers of fabrics, related materials, and products of wearing apparel and interior furnishing to assure that guaranties of compliance with an applicable standard of flammability which they issue or receive contain all information required by the FFA. This rule was issued under the authority of sections 5 and 8 of the FFA (15 U.S.C. 1194, 1197).

2. Part 1610—Standard for the flammability of clothing textiles. This rule prescribes a test to determine whether clothing and fabrics intended for use in clothing are dangerously flammable because of "rapid and intense burning." The Flammable Fabrics Act of 1953 (67 Stat. 111, as amended 68 Stat. 770) prohibits the manufacture for sale, importation, or introduction in commerce of any article of wearing apparel or any fabric or related material intended for use in wearing apparel which is "highly flammable" because of "rapid and intense burning" when tested in accordance with the procedure specified in this rule. Implementing regulations interpret the Flammable Fabrics Act of 1953 and the test in Part 1610 for application to particular fabrics and articles of wearing apparel, and set forth requirements for testing and recordkeeping to support guaranties of items subject to the Standard for the Flammability of Clothing Textiles. The implementing regulations were issued under provisions of sections 4, 5, and 8 of the FFA (15 U.S.C. 1193, 1194 and 1197).

In 1982, the Commission amended the implementing regulations to prescribe specific procedures for testing multilayer fabrics and wearing apparel with a film or coating on the uncovered or exposed surface, and solicited comment on proposed changes to other provisions applicable to testing under this standard. (See 47 FR 8138; February 24, 1982.) In 1982, the Commission proposed additional amendments to the implementing regulations concerning testing and recordkeeping to support guaranties of items subject to the standard. (See 47 FR 35006; August 12, 1982). In 1983 The Commission reopened the period for receipt of written comments on the proposal of August 12, 1982. (See 48 FR 55578; December 14, 1983.) In 1983, the Commission also issued final amendments to the implementing regulations which allow the use of apparatus and procedures other than those prescribed by the standard under specified conditions for testing to support guaranties of items subject to the standard. (See 48 FR 21310; May 12, 1983.)

3. Part 1611—Standard for the flammability of vinyl plastic film. This rule prescribes procedures for testing clothing made from vinyl plastic film and vinyl plastic film intended for use in clothing to determine if it is dangerously flammable because of "rapid and intense burning." Like the clothing textiles standard, the test in Part 1611 is required by the Flammable Fabrics Act of 1953. Implementing regulations interpret the test in Part 1611 for application to particular types of garments and vinyl films intended for use in wearing apparel, and prescribed requirements for testing and recordkeeping to support guaranties issued for items which are subject to the Standard Flammability of Vinyl Plastic Film. The implementing regulations were issued under provisions of sections 4, 5 and 8 of the FFA (15 U.S.C. 1193, 1194, and 1197).

In 1982, the Commission amended the implementing regulations to prescribe specific procedures for testing multilayer fabrics and wearing apparel with a film or coating on the uncovered or exposed surface, and solicited comment on proposed changes to other aspects of the procedure used for testing under the flammability standard for vinyl plastic film. (See 47 FR 8138; February 24, 1982).

4. Part 1615—Standard for the flammability of children's sleepwear; sizes 0 through 6X. This rule prescribes requirements for premarket sampling and testing of children's sleepwear garments in sizes 0 through 6X, and fabrics intended for use in such garments, to protect the public from unreasonable risks of fire leading to death, injury, or significant property damage associated with children's sleepwear. The test in the standard requires that garments and fabrics subject to the standard must self-extinguish if exposed to a small, open-flame ignition source. Implementing regulations prescribed requirements for labeling and maintenance of records to demonstrate compliance with the standard. The standard and implementing regulations were issued under provisions of sections 4, 5, and 8 of the FAA (15 U.S.C. 1193, 1194, 1197).

In 1978, the standard was amended to make its test requirements identical to those in the flammability standard for children's sleepwear in sizes 7 through 14 (16 CFR Part 1616). In 1982, the Commission amended the implementing regulations to allow persons and firms subject to the requirements of the standard to use test apparatus and procedures other than the ones prescribed by the standard, under specified conditions, for purposes of compliance with the standard and supporting guaranties of items subject to the standard. (See 48 FR 21310; May 12, 1983).

5. Part 1616—Standard for the flammability of children's sleepwear, sizes 7 through 14. This rule is for all practical purposes identical to the sleepwear flammability standard in Part 1615, described above, except for the size of garments subject to its coverage. In 1980, the Commission reviewed this rule in accordance with provisions of former section 27(m) of the Consumer Product Safety Act (15 U.S.C. 2076(m), repealed by the Consumer Product Safety Amendments of 1981, Pub. L. 97–35; 95 Stat. 703). A copy of the Commission's report concerning its review of this rule is available in the

Commission's public reading room, 8th floor, 1111 18th Street NW., Washington, D.C., or by calling the Office of the Secretary, (301) 492–6800. In 1983, the Commission amended regulations implementing this standard to allow persons and firms subject to the requirements of the standard to use test apparatus and procedures other than those prescribed by the standard, under specified conditions, for purposes of compliance with the standard and supporting guaranties of items subject to the standard. (See 48 FR 21310; May 12, 1983.)

6. Part 1630—Standard for the surface flammability of carpets and rugs. This rule prescribes a test to determine the surface flammability of carpets and rugs when exposed to a standard small source of ignition under draft-protected conditions. The standard was issued to protect the public from unreasonable risks of fire leading to death, personal injury, or significant property damage associated with carpets and rugs. Regulations implementing the standard prescribed requirements for testing to support guaranties. The standard and implementing regulations were issued under provisions of sections 4, 5, and 8 of the FFA (15 U.S.C. 1193, 1194, 1197).

The standard and implementing regulations are substantially unchanged since their issuance in 1970. The Commission specifically solicits suggestions for modification of this standard or the implementing regulations to reduce time or costs required for compliance without diminishing the level of protection from fires associated with carpets provided by the standard.

7. Part 1631—Standard for the surface flammability of small carpets and rugs. This rule is similar to the standard for carpets and rugs in Part 1630, except that it applies only to carpets and rugs having no dimension larger than six feet, and an area not greater than 24 square feet. This standard prescribes the same test as the one contained in Part 1630. However, this rule allows use of a label stating that the item does not pass the test in the standard as an alternate means of compliance with the rule. The standard and implementing regulations were issued under provisions of section 4, 5, and 8 of the FFA (15 U.S.C. 1193, 1194, 1197).

The standard and implementing regulations are substantially unchanged since their issuance in 1970. Suggestions for modification of this standard or its implementing regulations to reduce time or costs required for compliance without diminishing the level of protection afforded to the public are solicited.

8. Part 1632—Standard for the flammability of mattresses (and mattress pads). This rule was issued in 1972 to protect the public from unreasonable risks of fire leading to death, personal injury, or significant property damage by cigarettes. The standard requires premarket testing of mattresses by placing lighted cigarettes at specified locations on the surface of a mattress. Implementing regulations require maintenance of records demonstrating compliance with the standard. The standard and implementing regulations were issued under provisions of section 4, 5, and 7 of the FFA (15 U.S.C. 1193, 1194, 1197).

In the **Federal Register** of June 10, 1982 (47 FR 25159), the Commission published an advance notice of proposed rulemaking to initiate a proceeding for amendment of the mattress flammability standard. In the **Federal Register** of December 30, 1982 (48 FR 47502), the Commission published a proposal to amend the mattress standard which would: (1) Eliminate existing requirements for production testing of mattresses and mattress pads; (2) establish a procedure for substitution of ticking materials without additional prototype testing under specified conditions; and (3) make other changes to improve the clarity and precision of the standard. The notice of proposal invites interested parties to submit written comments on the proposed amendment by February 28, 1984. The Commission will conduct a public hearing to receive oral presentations of data, views and arguments concerning the proposed amendment on February 14, 1984. A staff briefing package concerning the proposed amendments is available for inspection in the Commission's public reading room, 8th floor, 1111 18th Street NW., Washington, D.C., or by calling the Office of the Secretary at (301) 492–6800.

All interested parties are invited to submit written comments concerning any or all of the eight rules issued under the FFA and described in this notice to the Office of the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207. To be considered in this rule review proceeding, comments must be received not later than April 2, 1984.

Dated: January 30, 1984.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc. 84–2859 Filed 2–1–84; 8:45 am]

BILLING CODE 6355–01–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[LR–65–75]

Certain Payments for Oil or Gas Which Are Not To Be Considered as Taxes; Withdrawal of Proposed Rulemaking

AGENCY: Internal Revenue Service, Treasury.

ACTION: Withdrawal of notice of proposed rulemaking.

SUMMARY: This document withdraws the notice of proposed rulemaking relating to certain payments for oil or gas which are not to be considered as taxes that appeared in the **Federal Register** on November 17, 1980 (45 FR 75692). The notice is being withdrawn because the wording of the statute is sufficiently clear for the rare situations that arise under section 901(f) of the Internal Revenue Code of 1954.

FOR FURTHER INFORMATION CONTACT: Mary Frances Pearson of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C 20224, Attention: CC:LR:T (LR–65–75), 202–566–3289, not a toll-free call.

SUPPLEMENTARY INFORMATION:

Background

This document withdraws the notice of proposed rulemaking that appeared in the **Federal Register** on November 17, 1980 (45 FR 75692). The notice proposed amendments to the regulations under section 901(f) of the Internal Revenue Code of 1954. The principal purpose of the proposed amendments was to provide the public with the guidance needed to comply with section 901(f). The regulations proposed on November 17, 1980, are no longer necessary because the situations within the scope of section 901(f) are rare and the wording of the statute is sufficiently clear.

Drafting Information

The principal author of this document is Mary Frances Pearson of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing this document, both in matters of substance and style.

Withdrawal of Proposed Amendments

The proposed amendments to 26 CFR Part 1, relating to certain payments for oil or gas which are not to be considered as taxes and published in the **Federal Register** on November 17, 1980 (45 FR 75692), are hereby withdrawn.

Roscoe L. Egger, Jr,

Commissioner of Internal Revenue.

[FR Doc. 84-3058 Filed 2-1-84; 8:45 am]

BILLING CODE 4830-01-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 950

Surface Coal Mining and Reclamation Operations on Federal Lands Under the Permanent Program; State-Federal Cooperative Agreements; Wyoming

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Proposed rule.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement (OSM) is proposing to amend the cooperative agreement between the Department of the Interior and the State of Wyoming for the regulation of surface coal mining and reclamation operations on Federal lands in Wyoming under the permanent regulatory program. Cooperative agreements are provided for in the Surface Mining control and Reclamation Act of 1977. This proposed rulemaking would give Wyoming more responsibility for the administration of its approved State program on Federal lands in Wyoming under OSM's revised Federal lands rules.

DATES: The public comment period on this proposed rule will extend until March 5, 1984. The public hearing will be held at the location shown in "**ADDRESSES,**" below, on February 29, 1984 beginning at 10 a.m. Any person interested in making an oral or written presentation at the hearing must contact OSM at the address and phone number listed under "**FOR FURTHER INFORMATION CONTACT**" by February 22, 1984.

ADDRESSES:

Written comments must be mailed to: Administrative Record, Office of Surface Mining, Room 5315-L, 1951 Constitution Avenue, NW., Washington, D.C. 20240.

Written comments may be hand carried to: Office of Surface Mining, Administrative Record, Room 5315, 1100 L Street, NW., Washington, D.C.

Copies of the proposed amendments to the Agreement and of the related information required under 30 CFR Part 745 are available for inspection Monday through Friday, 8:30 a.m. to 4 p.m., excluding holidays, at the following addresses:

State of Wyoming, Department of Environmental Quality, Land Quality Division, Hathaway Building, Cheyenne, Wyoming 82002.

Office of Surface Mining, Room 5315, 1100 L Street, NW., Washington, D.C. 20005.

The public hearing, if held, will be at the Office of Surface Mining, Casper Field Office. If no person has contacted OSM by February 22, 1984 to express an interest in testifying at the hearing, the hearing will be cancelled. Persons interested in attending but not testifying at the hearing should contact OSM at the address and phone number listed under "**FOR FURTHER INFORMATION CONTACT**" prior to the scheduled hearing date to see if the hearing has been cancelled.

FOR FURTHER INFORMATION CONTACT:

Adele Merchant, Office of Surface Mining, South Interior Building, 1951 Constitution Avenue, NW., Washington, D.C. 20240. Phone: (202) 343-5866.

SUPPLEMENTARY INFORMATION:

I. Commenting Information
II. Background
III. The State of Wyoming's Amendment Request
IV. Proposed Revisions to the Existing Cooperative Agreement
V. Administrative and Procedural Matters

I. Commenting Information

A. Public Hearing

The public is invited to testify at a public hearing. Individual testimony at the public hearing will be limited to 15 minutes. The hearing will be transcribed by a court reporter. Filing of a written statment at the time of giving oral testimony would be helpful and would facilitate the job of the court reporter. Submission of written statements in advance of the hearing would greatly assist OSM officials who will attend the hearing by providing an opportunity to consider appropriate questions which could be asked for clarification or to request more specific information from the person testifying.

B. Public Meetings

Representatives of OSM will be available to meet during the comment period at the request of members of the public to receive their recommendations and comments concerning the proposed amendments to the Wyoming cooperative agreement. In order to schedule or attend such meetngs, contact the individual listed under "**FOR FURTHER INFORMATION CONTACT.**" OSM representatives will be available for these meetings between 9 a.m. and 4 p.m. local time, Monday through Friday, excluding holidays. All such meetings will be open to the public. Notices of such meetings and where they will be held will be posted in advance in the Administrative Record Room, Room 5315, 1100 L Street, NW., Washington, D.C. 20005.

C. Contacts With State Representatives

The Department has previously announced (45 FR 58378, September 3, 1980) its intention to follow the "Guidelines for Contacts with Employees and Officials During Consideration of State Permanent Regulatory Programs" published at 44 FR 54444 (September 19, 1979), during the process of developing cooperative agreements with the States. As written, the guidelines apply only to the State program review and decision process. However, the guidelines should also be applied in the development of State-Federal permanent program cooperative agreements because of the close interrelationship between each cooperative agreement and the approved State program. The need for the Department and the State to work together through the stages of the cooperative agreement and the right of the public to be informed and to have the opportunity to comment meaningfully on issues raised are principles applicable to permanent program cooperative agreement rulemakings.

This decision requires that minor changes in the guidelines be made to clarify their applicability to cooperative agreement rulemakings. Accordingly, revised guidelines for contacts with Departmental employees and officials during permanent program cooperative agreement rulemakings are given below. See the notice of September 19, 1979, for a full discussion of the guidelines and supporting principles.

1. Upon request the Department will meet with any member of the public through the end of the public comment period. Notices of scheduled meetings will be posted in a public place. The meetings will be open.

2. The Department will meet with State representatives or have telephone conversations with them, upon the initiative of either party, up to the point of the Secretary's decision to amend the permanent program cooperative agreement with a State. These meetings will be open to the public unless the Department decides an executive session is appropriate. Advance notice of scheduled meetings will be posted in

a public place. Notice of the executive sessions will be posted in a public place.

3. The Department will keep a summary record of all meetings and discussions, whether in person or by telephone, on proposed amendments to the cooperative agreement. This record will include a summary of the discussion and a list of all written information OSM receives. All such records along with all written communications relating to the proposed amendment to the cooperative agreement shall be made available to the public.

4. In those instances where the Department has conducted meetings or discussions with a State after the close of the public comment period, the Department will include summaries of the meetings in the record and, if necessary to assure an effective opportunity for public participation, provide an opportunity for the public to review the record of such meetings and discussions and to comment on them before a decision is made to amend the cooperative agreement.

D. Public Comments

Written and oral comments should be as specific as possible, and supported by reasoning. All written comments must be received by OSM by 5:00 p.m. local time on the date the comment period closes. Comments received after that time will not necessarily be considered or included in the administrative record of this rulemaking. OSM cannot ensure that written comments received or delivered during the comment period to locations other than those specified above will be considered and included in the administrative record. Notices of meetings, summaries of all meetings and telephone conversations, along with all public comments received and a transcript of the public hearing, will also be made available for public review in the Office of Surface Mining at the address noted above.

II. Background

The existing cooperative agreement between the Department of the Interior and the State of Wyoming was approved by the Secretary of the Interior and the Governor of Wyoming on January 7, 1981, and became effective on March 18, 1981. *See* 46 FR 9065 (January 28, 1981) for the final rule promulgating the existing cooperative agreement and 46 FR 17191 (March 18, 1981) for the notice of its effective date.

OSM published final regulations (48 FR 6912) on February 16, 1983, amending the Federal lands regulations in 30 CFR Chapter VII, Subchapter D. Those regulations allow States with cooperative agreements to assume greater responsibility for regulating surface coal mining and reclamation operations on Federal lands than was previously allowed. Among other things, the revised Federal lands regulations allow States to independently review permit applications for surface coal mining and reclamation operations on Federal lands and issue such permits.

This proposed rule would amend the existing cooperative agreement for the purpose of giving Wyoming more responsibility for the administration of its approved permanent regulatory program on Federal lands in Wyoming, consistent with the revised Federal lands regulations in 30 CFR Parts 740–746 (48 FR 6912, February 16, 1983).

III. The State of Wyoming's Amendment Request

In view of the expanded role allowed by the revised Federal lands regulations, the State of Wyoming requested on June 27, 1983, that the cooperative agreement between the Department and the State be amended, and submitted proposed changes to that agreement for Departmental review. The provision for amending cooperative agreements is found in 30 CFR 745.14. This provision provides that a cooperative agreement which has been approved pursuant to 30 CFR 745.11, may be amended by mutual agreement of the Secretary and of the Governor of a State. Amendments to a cooperative agreement must be adopted by Federal rulemaking in accordance with 30 CFR 745.11.

Sections 745.11(b) (1) through (8) require that certain information be submitted with a request for a cooperative agreement if the information has not previously been submitted in the State program. The information relating to the budget, staffing, organization and duties of the State regulatory authority, the Wyoming Department of Environmental Quality, Land Quality Division was submitted when Wyoming requested its existing cooperative agreement. See 46 FR 9065, January 28, 1981. OSM has determined that this information satisfies the requirements for the proposed amendments to that cooperative agreement and no additional information is needed. A written certification from the Wyoming Attorney General was also included in the State's request for its existing cooperative agreement. The Attorney General concluded that no State statutory, regulatory or other legal constraint exists which would limit the capability of the State to fully comply with section 523(c) of the Act, as implemented by 30 CFR Part 745.

IV. Proposed Revisions to the Existing Cooperative Agreement

A summary of the proposed changes to the existing cooperative agreement appears below. The proposed revisions to the existing cooperative agreement are subject to further changes because of public comments and further discussion with the State of Wyoming. The full text of the proposed revised cooperative agreement is being published for continuity and the convenience of the reader.

The introductory paragraph preceding existing Article I would be revised to read "[t]he Governor of the State of Wyoming (State) acting by and through the Department of Environmental Quality, Land Quality Division (Division), and the Secretary of the Department of the Interior (Department) acting by and through the Office of Surface Mining (OSM), enter into a Cooperative Agreement (Agreement) to read as follows:"

Article I: Introduction and Purpose

The second paragraph of existing Article I.1. would be revised by deleting the phrase "for surface coal mining and reclamation operation." The definition of "surface coal mining and reclamation operations" in section 701(27) of the Surface Mining Control and Reclamation Act (Act) does not include coal exploration operations. Thus, deletion of this term would have the effect of not limiting the applicability of the cooperative agreement to activities covered under the term "surface coal mining and reclamation operations," but would also include coal exploration operations not covered by section 4 of the Federal Coal Leasing Amendments Act of 1975. This change is consistent with the Federal lands program and the State program which contain requirements for coal exploration operations. The proposed paragraph would read "[t]his Agreement provides for State regulation consistent with the Act, the Federal lands program, and the State program on Federal lands." The term "exploration operations not subject to 43 CFR Parts 3480–3487" would also be added to Article I.2(a) for the same reason.

Article II: Effective Date

Existing Article II would be revised by replacing the roman numeral "IX" at the end of the last sentence with roman numeral "X" to correspond to the proposed renumbering of existing Article IX. No change in effect is intended.

Article III: Scope

The first sentence of existing Article III would be revised to recognize that, pursuant to the revised Federal lands regulations in 30 CFR Parts 740–746, it is those regulations rather than the cooperative agreement which makes the requirements of a State program applicable to Federal lands. Thus, this sentence would read "[i]n accordance with the Federal lands regulations in 30 CFR Parts 740–746, the laws, regulations, terms and conditions of the Wyoming State program (Program) conditionally approved on November 26, 1980, 45 FR 78637–78684, or as amended in accordance with 30 CFR 732.17, for the administration of the Act are applicable to Federal lands within the State except as otherwise stated in [the cooperative agreement], the Act, 30 CFR Part 745, or other applicable laws or regulations."

Language would be added to existing Article III to state that orders and decisions issued by the State in accordance with the program that are appealable shall be appealed as provided by State law and that orders and decisions issued by the Department that are appealable shall be appealed to the Department's Office of Hearings and Appeals. This provision would clarify the proper jurisdiction for appeals of orders from the respective agencies.

Article IV: Requirements for Cooperative Agreement

No changes are proposed for existing paragraphs 5 (a) and (b) of Article IV except minor editorial revisions for clarity.

Existing paragraph 5(c) would be revised by adding language describing the cooperative agreement grant process. Language would also be added which requires that OSM and the State promptly meet to decide on appropriate measures to be taken to ensure that mining and exploration operations are regulated in accordance with the Program if adequate funds have not been appropriated. Termination would be authorized if agreement could not be reached.

Existing paragraph 5(d) would be revised by adding a parenthetical limitation on the obligation of OSM and the State to exchange information developed under the agreement. Such an exchange would not occur where prohibited by Federal law. For example, in certain instances where requested by the citizen, the identity of a person requesting a Federal inspection may be withheld from the State in accordance with 30 CFR 842.12(b) which prohibits disclosure of such information. OSM invites comments on the proposed revision to existing paragraph 5(d) with respect to the limitation on the exchange of information between OSM and the State.

No changes are proposed for existing paragraphs 5 (e), (f), and (g) except minor editorial revisions for clarity.

Article V: Policies and Procedures: Mining Plan and Permit Application Review

The title of existing Article V, "Policies and Procedures: Mining Plan and Permit Application Review," would be revised to read "Policies and Procedures: Permit Application Package Review" for consistency with the revised Federal lands regulations in 30 CFR Part 740. In those regulations, OSM adopted the term "Permit Application Package" (PAP) to describe the material submitted by an operator for a proposed surface coal mining and reclamation operation on Federal lands. See 48 FR 6912, February 16, 1983.

OSM adopted the term because there are requirements for mining on Federal lands that are in addition to those required by a permit application under the State program for non-Federal lands. For example, operations on Federal lands may be subject to requirements of the Federal land management agency or of the Secretary under Federal laws other than the Act. The PAP allows for such information to be included with the permit application required by the State program. See definition of "permit application package" under 30 CFR 740.5.

The PAP would be required to be in a form required by the State and include any supplemental information required by OSM. At a minimum, the PAP must include the information necessary for the State to make a determination of compliance with the State program and for OSM or other Federal agencies to make determinations of compliance with applicable requirements of other Federal laws and regulations, as appropriate, for which they may be responsible. Other Federal laws which may be applicable include the requirements of the Mineral Leasing Act of 1920 (MLA), as implemented by the regulations of the Bureau of Land Management (BLM) in 43 CFR Parts 3480–3487, the non-delegable requirements of the Act such as the requirements in section 522, or the requirements of other Federal laws including, but not limited to, those listed in proposed Appendix A to the agreement.

Existing paragraph 6 of Article V would be revised by adding language which would require that if any material is submitted to the State by an operator for the sole purpose of complying with the 3-year requirement of section 7(c) of the Mineral Leasing Act of 1920, 30 U.S.C. 181 *et seq.*, the State would forward such material to BLM. If the material is submitted as part of the PAP, OSM would send a copy of the entire package to BLM. This provision would be added to meet the requirements of 43 CFR Part 3480.

Existing paragraph 6(e) would be removed as unnecessary because adequate provisions for specifying the level of information required in a PAP are contained in proposed paragraph 6.

Existing paragraphs 7 through 16 of Article V.B. would be renumbered as proposed paragraphs 7 through 12 and revised to describe the procedures for the cooperative review and analysis of the PAP in accordance with the revised Federal lands regulations.

Proposed paragraph 7 would continue to identify the State as primarily responsible for the analysis and review of the permit application component of the PAP for surface coal mining and reclamation operations on Federal lands in Wyoming. If requested by the State, OSM would assist in the review of the permit application. The Department would be required to carry out its responsibilities under other Federal laws and regulations (concurrently with the State's review of the permit application).

Proposed paragraph 7 would also require that the Department carry out its responsibilities under other Federal laws and regulations in a timely manner to avoid duplication of responsibilities of the State.

A new provision would be added to existing paragraph 7 which would allow OSM and the State to develop working agreements which would specify any delegable responsibilities of other Federal laws and regulations which would be delegated to the State and that such working agreements would not require an amendment to the cooperative agreement. Thus, this provision would recognize that, in the interest of reducing duplication in the review of PAPs, the State may assume any responsibilities that are fully or partially delegable which would otherwise be performed by OSM. For example, the working agreement could specify how the State can assist the Secretary in meeting his non-delegable responsibilities under the National Environmental Policy Act of 1969, 42 U.S.C. 4321 *et seq.* (NEPA). It is possible for the State to perform much of the basic research and analysis required for the Secretary to meet his NEPA responsibilities, although the Secretary must assume full responsibility for

ensuring compliance with NEPA. Joint preparation of NEPA documents is an authorized means of achieving that compliance.

The first sentence in existing paragraph 8 would be revised to read "[t]he State will be the primary point of contact for operators regarding the review of the PAP, except on matters concerned exclusively with the regulations in 43 CFR Parts 3480–3847 administered by the Bureau of Land Management and on matters unrelated to the review of the PAP." This revision would ensure that any concerns of the Department related to the PAP which must be addressed by the operator are comminicated through the State. This provision would not preclude the Secretary from contacting the operator independently of the State to carry out his non-delegable statutory responsibilities. Other minor editorial revisions would be made for clarity and consistency with the Federal lands regulation in 30 CFR Parts 740–746.

Proposed paragraph 9 would require the State to assume OSM's responsibilities in 30 CFR 740.4(c) and describes how OSM will assist the State in carrying out these responsibilities. Among other things, OSM would be responsible for providing to other appropriate Federal agencies copies of the PAP and for coordinating the review of the PAP among those agencies. This latter requirement is presently in paragraph 10. Other provisions of proposed paragraph 9 would require OSM, when assisting the State with its review of the PAP, to furnish the State with a work product within 45 calendar days of receipt of the State's request for such assistance, and to exercise its responsibilities under the cooperative agreement in a timely manner.

Proposed paragraph 10 incorporates and revises existing paragraphs 11 through 16. The provisions describing each agency's role in the PAP review process would be revised in accordance with the revised Federal lands regulations.

Proposed paragraph 10 would require OSM and the State to coordinate their review of the PAP and to keep each other informed about items which may affect the other's decision. OSM would be required to review and make decisions on the elements of the PAP relating to the proposed mining plan and other non-delegable responsibilities such as determining post-mining land use on Federally owned surface (in coordination with the applicable Federal land management agency), and determining compliance with the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321, *et seq.* Even though the permit would be issued by the State, mining of Federal coal would not be allowed until the Secretary approves a mining plan and complies with other requirements related to the approval of a mining plan. If a permit to mine Federal coal is issued prior to Secretarial approval of the mining plan, the State would be required to reserve the right to modify or rescind the permit to conform with the Secretary's decision.

Proposed paragraph 11 is a new provision which would concern the review of a PAP for surface coal mining and reclamation operations on Federal lands where no Secretarial approval of a mining plan is required. In this circumstance, the appropriate Federal agency would be consulted for any conditions required by that agency as may be appropriate under other provisions of law applicable to the lands under the agency's jurisdiction. OSM would be responsible for coordinating any consultation requirements. Under the proposed revision, the State could issue the permit without OSM concurrence.

Proposed paragraph 12 would contain a new provision concerning the review of permit revisions and renewals on Federal lands. The State would be required to consult with OSM on whether or not permit revisions or renewals constitute mining plan modifications under 30 CFR 746.18. Revisions or renewals which do not constitute mining plan modifications would be approvable solely by the State.

Proposed paragraph 12 would also contain a mechanism which would enable OSM to establish criteria for permit revisions or renewals which clearly do not constitute mining plan modifications. Permit revisions or renewals which meet any such criteria established by OSM could be approved prior to the State informing OSM of the approval and prior to the State submitting copies of the permit revisions or renewals to OSM. In practice, OSM and the State have found that most revisions and renewals are those which are clearly SMCRA-related and have no impact on the approved mining plan. Establishing criteria for those revisions and renewals which clearly do not constitute mining plan modifications would minimize administrative delay in processing such revisions.

Article VI: Inspections

Existing paragraphs 17 through 21 of Article VI would be renumbered as proposed paragraphs 13 through 17. No changes are proposed except minor editorial revisions for clarity.

Article VII: Enforcement

Existing paragraphs 22 and 23 of Article VII would be renumbered as proposed paragraphs 18 and 19. No changes are proposed except minor editorial revisions for clarity.

Paragraph 24 of existing Article VII would be renumbered as proposed paragraph 20 and revised by adding a sentence which would require that any enforcement action taken by the Department be based on the applicable substantive requirements included in the permit or the program, and the procedures and penalty system contained in 30 CFR Parts 843 and 845.

Existing paragraphs 25 and 26 of Article VII would be renumbered as proposed paragraphs 21 and 22. No changes are proposed except minor editorial revisions for clarity.

Article VIII: Bonds

Existing paragraph 27 would be renumbered as proposed paragraph 23 and revised by adding language which would protect the Federal interest in a performance bond in the event of termination of the cooperative agreement. Proposed paragraph 23 would specify that if the agreement is terminated, such termination shall not affect the Department's rights under the bond.

Existing paragraphs 28 and 29 would be renumbered as proposed paragraphs 24 and 25. No changes are being proposed except minor editorial revisions for clarity.

Existing Articles IX through XV would be renumbered as proposed Articles X through XVI and corresponding paragraphs 30 through 37 would be renumbered as proposed paragraphs 28 through 35. No changes are proposed except in existing paragraph 33 of Article XII and existing paragraph 37 of Article XV. Existing paragraph 33 of Article XII, "Changes in State or Federal Standards," would be revised to clarify how OSM and the State would coordinate on any changes in State or Federal standards. If any changes are proposed, OMS and the State would inform each other of any final changes and of any effect such changes may have on the cooperative agreement. If it were determined to be necessary to keep the agreement in force, the State would take legislative action and each party would change or revise its regulations or promulgate new regulations, as applicable. Changes would be made in accordance with 30 CFR Part 732 for changes to the approved State program and sections 501 and 523 of the Act for changes to the

Federal lands program. The timetable for accomplishing any necessary changes would be removed.

Existing paragraph 37 of Article XV "Definitions," would be revised by including reference to 30 CFR Parts 700, 701, and 740 and the State program to clarify that definitions in the Federal rules would also be applicable to the cooperative agreement, and by adding a sentence providing for the resolution of conflicts in definitions used in the agreement. Where there are conflicts in definitions, those included in the State program would apply except where there is a conflict with the Secretary's responsibilities under the Act and other laws.

A new Article IX entitled "Designation of Land Areas as Unsuitable" would be added which would describe the roles of the State and OSM in the review and processing of petitions to designate lands as unsuitable for surface coal mining operations on adjacent Federal and non-Federal lands. The authority to designate Federal lands as unsuitable would be reserved to the Secretary or his designated representative. See 30 CFR 745.13. Petitions for designation on Federal lands must be filed and processed in accordance with 30 CFR Part 769.

Article XVII: Resolution of Conflicts

A new Article XVII, "Resolution of Conflicts," and corresponding paragraph 36 would be added to the cooperative agreement to require that efforts be made to resolve errors, omissions and conflicts on data and data analysis at the State and field level. However, any disagreements which cannot be resolved at the State and field level will be referred to the Governor and the Secretary for resolution.

V. Administrative and Procedural Matters

1. E.O. 12291 and Regulatory Flexibility Act

In a "Determination of Significance" document prepared on December 31, 1979, and approved by the Assistant Secretary, Energy and Minerals, on January 7, 1980, the Department determined that the "promulgation of proposed or final rules for entering into a cooperative agreement with a State pursuant to 30 U.S.C. 1273 for State regulation of surface coal mining and reclamation operations on Federal lands was not a significant action and would not require a regulatory analysis." A copy of this determination was filed with the Department's Office of Policy Analysis and the Division of General Law.

The Department has reviewed this determination in light of recent changes in the regulatory process brought about by Executive Order 12291, February 17, 1981; the Regulatory Flexibility Act (Pub. L. 96–354); and the Paperwork Reduction Act of 1980 (Pub. L. 96–511). Having conducted this review, the Department has determined that this document is not a major rule and does not require a regulatory impact analysis under Executive Order 12291. The document will not have a significant economic effect on a substantial number of small entities and therefore does not require a regulatory flexibility analysis under the Regulatory Flexibility Act, 5 U.S.C. 605(b). This determination was made by the Director, OSM and approved by the Assistant Secretary, Energy and Minerals. A copy is on file in the OSM Administrative Record Room, Room 5315, 1100 L Street, NW., Washington, D.C. 20005.

2. Recordkeeping and Reporting Requirements

There are recordkeeping and reporting requirements in the proposed rules which are the same as and required by the permanent regulations. Those regulations required clearance from the Office of Management and Budget under 44 U.S.C. 3507 and were assigned the following clearance numbers:

Location of requirement	OMB clearance No.
Article IV.5.(d) (required by 30 CFR Part 735)	1029–0013
Article V.8. (required by 30 CFR Part 740)	1029–0026
Article VI.14. (required by 30 CFR Part 840)	1029–0051
Article VIII.24. (required by 30 CFR Part 800)	1029–0043

3. National Environmental Policy Act

Proceedings relating to adoption of a permanent program cooperative agreement are part of the Secretary's implementation of the Federal lands program pursuant to section 523 of the Act. Such proceedings are, therefore, exempt under section 702(d) of the Act from the requirements to prepare a detailed statement pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)).

4. Indexing Requirements

List of Subjects in 30 CFR Part 950

Coal Mining, Intergovernmental relations, Surface mining, Underground mining.

For the reasons set forth herein, it is proposed to amend 30 CFR Part 950.

Dated: January 27, 1984.

Leona A. Power,

Acting Assistant Secretary for Land and Minerals Management.

PART 950—[AMENDED]

1. Section 950.20 is revised to read as follows:

§ 950.20 State-Federal cooperative agreement.

Cooperative Agreement

The Governor of the State of Wyoming (State) acting by and through the Department of Environmental Quality, Land Quality Division (Division), and the Secretary of the Department of the Interior (Department) acting by and through the Office of Surface Mining (OSM), enter into a Cooperative Agreement (Agreement) to read as follows:

Article I: Introduction and Purpose

1. This Agreement is authorized by Section 523(c) of the Surface Mining Control and Reclamation Act of 1977 (Act), 30 U.S.C. 1273(c) which allows a State with a permanent regulatory program approved under 30 U.S.C. 1253 to elect to enter into an Agreement for the regulation and control of surface coal mining on Federal lands.

This agreement provides for State regulation consistent with the Act, the Federal lands program and the Wyoming State program on Federal lands.

2. The purpose of this Agreement is to (a) foster Federal-State cooperation in the regulation of surface coal mining and reclamation operations and exploration operations not subject to 43 CFR Parts 3480–3487; (b) eliminate intergovernmental overlap and duplication; and (c) provide uniform and effective application of the Program in Wyoming, in accordance with the Act.

Article II: Effective Date

3. This agreement is effective following signing by the Secretary and the Governor, and upon final publication as rulemaking in the **Federal Register**. This Agreement shall remain in effect until terminated as provided in Article X.

Article III: Scope

4. In accordance with the Federal lands regulations in 30 CFR Parts 740–746, the laws, regulations, terms and conditions of the Wyoming State program (Program) conditionally approved on November 26, 1980, 45 FR 78637–78684, or as amended in accordance with 30 CFR 732.17, for the administration of the Act are applicable to Federal lands within the State except as otherwise stated in this Agreement, the Act, 30 CFR Part 745, or other applicable laws or regulations. Orders and decisions issued by the State in accordance with the Program that are appealable shall be appealed as provided for by State law. Orders and decisions issued by the Department that are appealable shall

be appealed to the Department's Office of Hearings and Appeals.

Article IV: Requirements for the Agreement

5. The Governor and the Secretary affirm that they will comply with all of the provisions of this Agreement and will continue to meet all the conditions and requirements specified in this Article.

(a) *Responsible Administrative Agency.* The State regulatory authority shall be responsible for administering this Agreement on behalf of the Governor. OSM shall administer this Agreement on behalf of the Secretary, in accordance with the regulations in 30 CFR Chapter VII.

(b) *Authority of State Agency.* The State regulatory authority has and shall continue to have authority under State law to carry out this Agreement.

(c) *Funds.* The State will devote adequate funds to the administration and enforcement on Federal lands in the State of the requirements contained in the Program. If the State complies with the terms of this Agreement, and if necessary funds have been appropriated, the Department shall reimburse the State as provided in section 705(c) of the Act and 30 CFR 735.16 for costs associated with carrying out responsibilities under this Agreement. Reimbursements shall be in the form of annual grants and grant amendments, and applications for said grants shall be processed and awarded in a timely and prompt manner. If sufficient funds have not been appropriated to OSM or the State, the parties shall promptly meet to decide on appropriate measures that will ensure that surface coal mining and reclamation operations and exploration operations on Federal lands are regulated in accordance with the Program. If agreement cannot be reached, then either party may terminate the Agreement.

(d) *Reports and Records.* The State shall make annual reports to OSM, containing information respecting its compliance with the terms of this Agreement pursuant to 30 CFR 745.12(d). Upon request, the State and OSM shall exchange (except where prohibited by Federal law) information developed under this Agreement. OSM shall provide the State with a copy of any approved evaluation report prepared concerning State administration and enforcement of this Agreement.

(e) *Personnel.* The State shall have the necessary personnel to fully implement this Agreement in accordance with the provisions of the Act and the Program.

(f) *Equipment and Laboratories.* The State shall have access to equipment, laboratories, and facilities with which all inspections, investigations, studies, tests and analyses can be performed and which are necessary to carry out the requirements of this Agreement.

(g) *Permit Application Fees.* The amount of the fee accompanying an application for a permit shall be determined in accordance with W.S. 35–11–406(a)(xii). All permit fees shall be retained by the State and deposited with the State Treasurer in the General Fund. The Financial Status Report submitted pursuant to 30 CFR 735.28 shall include a report of the amount of permit application fees collected and attributable to Federal lands during the prior Federal fiscal year. This amount shall be disposed of in accordance with Federal regulations. OMB Circular No. A–102, Attachment E.

Article V: Policies and Procedures: Permit Application Package Review

6. The State and OSM agree and hereby require that an operator on Federal lands shall submit a permit application package (PAP) in an appropriate number of copies to the State and OSM. If any material is submitted to the State by an operator for the sole purpose of complying with the 3-year requirement of section 7(c) of the Mineral Leasing Act of 1920, 30 U.S.C. 181 *et seq.*, the State will forward such material to the Bureau of Land Management (BLM). If the material is submitted as part of the PAP, a copy of the entire package will be sent to BLM. The PAP shall be in the form required by the State, and include any supplemental information required by OSM. The PAP shall include any supplemental information required by OSM. The PAP shall include the information required by, or necessary for, the State and the Secretary to make a determination of compliance with:

(a) W.S. 35–11–406 (a) and (b) [1980];

(b) Chapter II, Land Quality Division Rules and Regulations, Department of Environmental Quality, or other chapters where these may supersede Chapter II;

(c) Applicable terms and conditions of the Federal coal lease; and

(d) Applicable requirements of the Program, and other Federal laws and regulations, including, but not limited to those listed in Appendix "A".

7. The State shall assume primary responsibility for the analysis and review of the permit application component of the PAP for surface coal mining and reclamation operations on Federal lands in the State. OSM, as requested, shall assist the State in this analysis and review. The Department shall concurrently carry out its responsibilities under the Mineral Leasing Act (MLA), as amended, the National Environmental Policy Act (NEPA), and other applicable Federal laws (including but not limited to those in Appendix A) that cannot be delegated to the State. Responsibilities and decisions which can be delegated to the State under other applicable Federal laws may be specified in working agreements between OSM and the State, without amendment to this agreement. The Department shall carry out these responsibilities in accordance with the Federal lands program and this agreement in a timely manner so as to avoid, to the maximum extent possible, duplication of the responsibilities of the State set forth in this Agreement and the Program. The Secretary will consider the information in the PAP and, where appropriate, make decisions required by the Act, MLA, NEPA, and other Federal laws.

8. The State will be the primary point of contact for operators regarding the review of the PAP, except on matters concerned exclusively with the regulations in 43 CFR Parts 3480–3487 administered by the Bureau of Land Management (BLM) and on matters unrelated to the review of the PAP. The State will be responsible for informing the applicant of all joint State-Federal determinations. The State shall send copies of any correspondence with the applicant and any information received from the applicant which may have a bearing on decisions regarding the mining plan to OSM. As a matter of practice, OSM will not independently initiate contacts with applicants regarding completeness or deficiencies of the PAP with respect to matters covered by the Program. The Department may act independently of the State to carry out responsibilities under laws other than the Act or provisions of the Act not covered by the Program, and in instances of disagreement over the Act and the Federal lands program. A copy of all independent correspondence with the applicant which may have a bearing on decisions regarding the PAP shall be sent to the State.

9. The State shall assume OSM's responsibilities in 30 CFR 740.4(c). OSM shall assist the State in carrying out the responsibilities by:

(a) Distributing copies of the PAP to, and coordinating the review of the PAP among, all Federal agencies which have responsibilities relating to decisions on the package. This shall be done in a manner which ensures timely identification, communication and resolution of issues relating to those Federal agencies' statutory requirements. OSM shall request that such other Federal agencies furnish their findings and any requests for additional data to OSM within 45 calendar days of receipt of the PAP.

(b) Providing the State with the analyses and conclusions of other Federal agencies regarding those elements of the PAP which affect their statutory responsibility.

(c) Resolving conflicts and difficulties between other Federal agencies in a timely manner.

(d) Assisting in scheduling joint meetings as necessary between State and Federal agencies.

(e) Where OSM is assisting the State in reviewing the permit application, furnishing the State with the work product within 45 calendar days of receipt of the State's request for such assistance, or earlier if mutually agreed upon by OSM and the State.

(f) Exercising its responsibilities in a timely manner as set forth in a mutually agreed upon schedule, governed to the extent possible by the deadlines established in the Program.

(g) Assuming all responsibility for ensuring compliance with any Federal lessee protection bond requirement.

10. This paragraph describes the procedures OSM and the State will follow in the review of the PAP:

(a) OSM and the State shall coordinate with each other during the review process as needed. The State shall keep OSM informed of findings during the review process which bear on the responsibilities of other Federal agencies. OSM shall ensure that any information OSM receives which has a bearing on decisions regarding the PAP is promptly sent to the State.

(b) OSM shall review the PAP for compliance with the requirements of other

Federal laws and regulations. OSM and the State shall develop a work plan and schedule for PAP review and each shall identify a person as project leader. The State and OSM project leaders shall serve as the primary point of contact between OSM and the State throughout the review process. Not later than 50 days after receipt, OSM shall furnish the State with its preliminary findings and specify any requirements for additional data. OSM shall advise the State on the need for it to perform any work as part of the preparation of an Environmental Impact Statement as soon as possible in the review process.

(c) Unless the work plan and schedule provide otherwise, the State shall prepare a findings document, which shall include a proposed written final decision on the PAP. To the fullest extent allowed by the State and Federal law and regulations, the State and OSM will cooperate so that duplication will be eliminated in conducting the technical analyses and meeting NDPA requirements for the proposed mining operation. Copies of the findings documents shall be sent to OSM for review and comment. OSM shall evaluate the documents and inform the State within 30 days, whenever possible, of any changes that should be made. The State shall consider these comments and send a final findings document and proposed final decision to OSM for action in a timely manner consistent with the Federal lands program. OSM shall have 30 days after receipt to request any changes to the State's final findings document. The State may proceed to issue the permit in accordance with the Program prior to any necessary Secretarial approval provided that the State advises the operator in the permit of the necessity for Secretarial approval of a mining plan prior to beginning operations to mine Federal coal. The State shall reserve the right to amend or rescind any requirements of the approved permit to conform with any terms or conditions imposed by the Secretary in his approval of the mining plan.

11. Where the State is reviewing a PAP for surface coal mining and reclamation operations on Federal lands which does not require Secretarial approval of a mining plan under the Mineral Leasing Act, OSM shall consult with the appropriate Federal agency and obtain any conditions required by that agency as may be appropriate under other provisions of law applicable to the lands under that agency's jurisdiction. To the extent possible, these conditions shall be forwarded to the State within the time frame allwed by State law for processing permit applications. The State may proceed to issue the permit without OSM concurrence.

12. The State shall consult with OSM on whether or not permit revisions or renewals constitute mining plan modifications under 30 CFR 746.18. OSM shall inform the State within 30 days of receiving notice of a proposed revision or renewal, whether any permit revisions or renewals constitute mining plan modifications. Permit revisions or renewals which do not constitute mining plan modifications do not require OSM approval and may be issued by the State.

OSM may establish criteria for permit revisions and renewals which clearly do not constitute mining plan modifications. Revisions or renewals meeting such criteria may be approved by the State prior to informing OSM of the approval and submission of copies of the revision or renewal to OSM.

Article VI: Inspections

13. The State shall conduct inspections on Federal lands and prepare and file inspection reports in accordance with its Program. The State's inspection shall satisfy the Secretary's obligations under 30 CFR 842.11(c).

14. The State shall, subsequent to conducting any inspection, and on a timely basis, file with the Secretary an inspection report adequately describing (1) the general conditions of the lands under the permit and license; (2) the manner in which the operations are being conducted; and (3) whether the operator is complying with applicable performance and reclamation requirements.

15. The State will be the point of contact and sole inspection authority in dealing with the operator concerning operations and compliance with the requirements covered by this Agreement, except as described hereinafter. Nothing in this Agreement shall prevent Federal inspections by authorized Federal or State agencies for purposes other than those covered by this Agreement. The Department may conduct any inspections necessary to comply with 30 CFR Parts 842 and 740, as Part 740 relates to obligations under law other than the Act.

16. OSM shall give the State reasonable notice of its intent to conduct an inspection in order to provide State inspectors with an opportunity to join in the inspection. When the Department is responding to a citizen complaint of an imminent environmental danger or a threat to human health pursuant to 30 CFR 842.11(b)(1)(ii)(C), it will contact the State no less than 24 hours if practicable, prior to the Federal inspection to facilitate a joint Federal/State inspection. The Secretary reserves the right to conduct inspections without prior notice to the State as necessary to carry out his responsibilities under the Act.

17. Personnel of the State and representatives of the Department shall be mutually available to serve as witnesses in enforcement actions taken by either party.

Article VII: Enforcement

18. The State shall be the primary enforcement authority concerning compliance with the requirements of this Agreement and its Program.

19. During any joint inspection by the department and the State, the State shall have primary responsibility for enforcement procedures, including issuance of orders of cessation, notices of violation, and assessment of penalties. The Department and the State shall consult prior to issuance of any decision to suspend or revoke a permit.

20. During any inspection made solely by the Department or any joint inspection where the State and the Department fail to agree regarding the propriety or any particular enforcement action, the Department may take any enforcement action necessary to comply with 30 CFR Parts 843 and 845. Such enforcement action shall be based on the applicable substantive requirements included in the permit or the Program, and the procedures and penalty system contained in 30 CFR Parts 843 and 845.

21. The State and the Department shall promptly notify each other of all violations of applicable laws, regulations, orders, or approved mining plans and permits subject to this Agreement, and of all actions taken with respect to such violations.

22. This Agreement does not limit the Department's authority to enforce violations of Federal law which establish standards and requirements which are authorized by laws other then the Act.

Article VIII: Bonds

23. The State and the Secretary shall require all operators on Federal lands to submit a single performance bond payable to both the United States and the State that is sufficient to cover the operator's responsibilities under the Act and the Program. Release of such bond shall be conditional upon compliance with all requirements of the Program, the Act and the permit. If this agreement is terminated, such termination shall not affect the Department's rights under the bond.

24. Prior to releasing the operator from an obligation under a bond required by the Program, the State shall obtain the consent of the Department. Departmental consent shall be based on field measurements, observations, and correlation with other Federal agencies having authority over the affected lands. The State shall also advise the Department annually of adjustments to the bond pursuant to the Program.

25. The operator's performance bond shall be subject to forefeiture, with the consent of the Department, in accordance with the procedures and requirements of the Program.

Article IX: Designation of Land Areas as Unsuitable

26. The State and the Director shall cooperate with each other in the review and processing of petitions to designate lands as unsuitable for surface coal mining operations. When either agency receives a petition that could impact adjacent Federal and non-Federal lands, the agency receiving the petition shall (1) notify the other of receipt and of the anticipated schedule for reaching a decision; and (2) request and fully consider data, information and views of the other.

27. The authority to designate State and private lands as unsuitable for mining is reserved to the State. The authority to designate Federal lands as unsuitable for mining is reserved to the Secretary or his designated representative.

Article X: Termination of Cooperative Agreement

28. This agreement may be terminated by the State or the Secretary under the provisions of 30 CFR 745.15.

Article XI: Reinstatement of Cooperative Agreement

29. If this Agreement has been terminated in whole or in part, it may be reinstated under the provisions of 30 CFR 745.16.

Article XII: Amendments of Cooperative Agreement

30. This Agreement may be amended by mutual agreement of the Governor and the Secretary in accordance with 30 CFR 745.14.

Article XIII: Changes in State or Federal Standards

31. The Department or the State may promulgate new Federal or State regulations, including new or revised performance or reclamation requirements or administration and enforcement procedures. OSM and the State shall immediately inform each other of any final changes and of any effect such changes may have on the cooperative agreement. If it is determined to be necessary to keep this Agreement in force, the State shall take legislative action and each party shall change or revise its regulations or promulgate new regulations, as applicable. Such changes shall be made under the procedures of 30 CFR Part 732 for changes to the Program and sections 501 and 532 of the Federal act for changes to the Federal lands program.

32. The State and the Department shall provide each other with copies of any changes to their respective laws, rules, regulations, and standards pertaining to the enforcement and administration of this Agreement.

Article XIV: Changes in Personnel and Organization

33. The State and the Department shall, consistent with 30 CFR Part 745, advise each other of changes in organization, structure, functions, duties and funds of the offices, departments, divisions, and persons within their organizations. Each shall promptly advise the other in writing of changes in key personnel, including the heads of a department or division, or changes in the functions or duties of persons occupying the principal offices within the structure of the Program. The State and the Department shall advise each other in writing of changes in the location of offices, addresses, telephone numbers, and changes in the names, locations and telephone numbers of their respective mine inspectors and the area within the State for which such inspectors are responsible.

Article XV: Reservation of Rights

34. In accordance with 30 CFR 745.13, this Agreement shall not be construed as waiving or preventing the assertion of any rights that have not been expressly addressed in this Agreement, that the State or the Secretary may have under other laws or regulations, including the Mineral Leasing Act, as amended, the Mineral Leasing Act for Acquired Lands, the Stockraising Homestead Act, the Surface Mining Control and Reclamation Act of 1977, the Federal Land Policy and Management Act, the Constitution of the United States, the Constitution of the State or State laws.

Article XVI: Definitions

35. Terms and phrases used in this Agreement which are defined in 30 CFR Parts 700, 701 and 740, or the Program shall be given the meanings set forth in said definitions. Where there is a conflict between any definitions, the definitions used in the Program will apply except in the case of a term which conflicts with the Secretary's remaining responsibilities under the Act and other laws.

Article XVII: Resolution of Conflicts

36. Every effort will be made to resolve errors, omissions and conflicts on data and data analysis at the State and field level. Areas of disagreement between the State and the Department which cannot be resolved at the State and field level shall be referred to the Governor and the Secretary for resolution.

Signed

Secretary of the Interior.

Date

Governor of Wyoming.

Date

Appendix A

(1) The Federal Land Policy and Management Act, 43 U.S.C. 1701 *et seq.* , and implementing regulations.

(2) The Mineral Leasing Act of 1920, 30 U.S.C. 181 *et seq.*, and implementing regulations including 43 CFR 3480 *et seq.*

(3) The National Environmental Policy Act of 1969, 42 U.S.C. 4312 *et seq.*, and implementing regulations including 40 CFR 1500 *et seq.*

(4) The Endangered Species Act, 16 U.S.C. 1531 *et seq.*, and implementing regulations including 50 CFR 402.

(5) The National Historic Preservation Act of 1966, 16 U.S.C. 470 *et seq.*, and implementing regulations, including 36 CFR 800, and Executive Order 11593 (May 13, 1971).

(6) The Clean Air Act, 42 U.S.C. 7401 *et seq.*, and implementing regulations.

(7) The Federal Water Pollution Control Act, 33 U.S.C. 1251 *et seq.*, and implementing regulations.

(8) The Resource Conservation and Recovery Act of 1976, 42 U.S.C. *et seq.*, and implementing regulations.

(9) The Reservoir Salvage Act of 1960, amended by the Preservation and Historical and Archaelogical Data Act of 1974, 16 U.S.C. 469 *et seq.*

(10) Executive Order 11988 (May 24, 1977) for floodplain protection. Executive Order 11990 (May 24, 1977) for wetlands protection.

Authority: Pub. L. 95–87, as amended, 30 U.S.C. 1201 *et seq.*

[FR Doc. 84–2875 Filed 2–1–84; 8:45 am]

BILLING CODE 4310–05–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA Action MO 1341; A–7 FRL 2517–7]

Air Quality, Implementation Plans, Approval and Promulgation; Missouri

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rulemaking.

SUMMARY: This notice proposes to approve a minor revision to the Missouri State Implementation Plan (SIP). On March 23, 1983, the Missouri Air Conservation Commission (MACC) granted a variance from the Missouri process weight regulation to the St. Joe Minerals Corporation, Pea Ridge Iron Ore Company located in Washington County near Sullivan, Missouri. The variance will allow the facility to continue operating in excess of the Missouri particulate regulation while it tests, evaluates, and installs new control equipment on each of its five furnaces. The proposed SIP revision would not cause or contribute to violaions of the National Ambient Air Quality Standards (NAAQS).

DATE: Public comments should be received by March 5, 1984.

ADDRESSES: Public comments should be sent to Larry A. Hacker, Environmental Protection Agency, 324 East 11th Street, Kansas City, Missouri 64106. The State submission is available for inspection during normal business hours at the above address, and at the Missouri Department of Natural Resources, 1101 Rear Southwest Boulevard, Jefferson City, Missouri 65101.

FOR FURTHER INFORMATION CONTACT: Larry A. Hacker at (816) 374–3791 or FTS: 758–3791.

SUPPLEMENTARY INFORMATION: On March 23, 1983, after proper notice and public hearing, the MACC granted a variance to the St. Joe Minerals Corporation for its Pea Ridge Iron Ore facility located in Washington County near Sullivan, Missouri. The variance allows the facility to emit in excess of Missouri Rule 10 CSR–10–3.050, "Restriction of Emissions of Particulate Matter from Industrial Processes." This variance was submitted to EPA as a revision to the Missouri SIP on July 1, 1983.

This variance constitutes a revision to a variance issued to the plant on April 22, 1981, and approved by EPA on October 28, 1981 at 46 FR 53141. Final compliance with the state regulation 10 CSR 10–3.050 was required by July 1, 1985. The allowable emission rate during the term of the variance was limited to that rate which existed on November 11, 1977. The plant is located in an area which is designated attainment for primary and secondary particulate NAAQS. Dispersion modeling demonstrated that the NAAQS would not be violated as a result of the emission rate specified in this variance. The new variance requires that the

emission rate shall not exceed that which was specified in the variance already approved by EPA. Therefore, the NAAQS will be met during the term of the new variance.

The compliance schedule in the new variance calls for final compliance by the source with Missouri Rule 10 CSR 10–3.050 by December 31, 1988. This variance will be in effect until March 23, 1984 at which time the company may apply for an extension of this variance from year to year until the final compliance date of December 31, 1988. The variance will finally expire on the said final compliance date.

The first legally enforceable increment towards compliance must occur on or before June 30, 1987. Prior to that date, there are no enforceable increment of progress toward compliance.

Though not an enforceable condition of the variance, the state has committed to perform a yearly review of the company's progess toward compliance prior to granting the annual variance extension. The letter of commitment, dated December 5, 1983, is included with the state submission. In addition, the variance requires the state, at the end of two years, to review the company's economic situation to determine if the timetable for final compliance can be accelerated.

The lengthy compliance period is necessary because the company has determined that the type of control system which they had originally planned to install would not reduce particulate emissions sufficiently to meet the state emission limitation. The company has decided to design and implement an alternative control system. Estimated control costs have increased significantly. In addition, the company is confronted with a severely depressed iron ore market which has resulted in drastic production cutbacks. At the present time, an accelerated compliance schedule would appear to be financially prohibitive. The state submittal includes a detailed discussion of the facility's economic predicament. Given the June 30, 1987 date for the first legally enforceable compliance increment, the compliance schedule meets the requirements of 40 CFR 51.15(c). For the reasons discussed above, the state granted the facility additional time to achieve compliance. Because the variance will not violate the NAAQS, the state can consider economic impacts in setting a compliance date for the facility (40 CFR 51.2).

Under the Clean Air Act, section 110(a)(2), EPA is required to approve a SIP revision if it meets the requirements in that section. Among other requirements, the state must demonstrate that a revision would not cause or contribute to any violations of the NAAQS. As discussed above, EPA has determined that the source, operating at the particulate emission rate allowed by the variance, would not cause or contribute to any violations of the NAAQS. In addition, EPA finds that all other relevant requirements of section 110(a)(2) have been met.

Action: EPA proposes to approve the Pea Ridge Iron Ore Company variance request as a revision to the Missouri SIP.

EPA is soliciting comments on the state submittal and on EPA's action proposed in this document. The Administrator will consider comments received in deciding to approve or modify the state's request.

Under 5 U.S.C. 605(b), the Administrator has certified that SIP approvals do not have a significant economic impact on a substantial number of small entities (46 FR 8709).

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

This notice of proposed rulemaking is issued under the authority of section 110 of the Clean Air Act (42 U.S.C. 7410).

List of Subjects in 40 CFR Part 52

Air pollution control, Intergovernmental relations, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons.

Dated: December 27, 1983.

Morris Kay,

Regional Administrator.

[FR Doc. 84–2849 Filed 2–1–84; 8:45 am]

BILLING CODE 6560–50–M

Notices

Federal Register
Vol. 49, No. 23
Thursday, February 2, 1984

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

National Advisory Committee for Tobacco Inspection Services; Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463) announcement is made of the following committee meeting:

Name: National Advisory Committee for Tobacco Inspection Services.

Date: March 8, 1984.

Place: The Holiday Inn North, 2815 North Boulevard, Raleigh, North Carolina, 27604.

Purpose

To review various regulations issued pursuant to the Tobacco Inspection Act (49 Stat. 731; 7 U.S.C. 511 *et seq.),* to hear from individuals who have requested to address the Committee and who have been prescheduled to do so, and to discuss the level of tobacco inspection and related services and the fees and charges associated with providing these services.

The meeting is open to the public. Public participation will be limited to written statements submitted before or at the meeting unless otherwise requested by the Committee Chairperson. Persons, other than members, who wish to address the Committee at the meeting should contact Lioniel S. Edwards, Director, Tobacco Division, Agricultural Marketing Service, 300 12th Street, SW., U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447–2567.

Dated: January 27, 1984.

William T. Manley,

Deputy Administrator, Marketing Program Operations.

[FR Doc. 84–2882 Filed 2–1–84; 8:45 am]

BILLING CODE 3410–02–M

Forest Service

Pacific Crest National Scenic Trail Advisory Council, Northern California Sub-Committee; Meeting

The Northern California Sub-Committee of the Pacific Crest National Scenic Trail Advisory Council will meet on March 2, 1984 at the Fall River Mills Ranger Station, Fall River Mills, California. The meeting will begin at 10:00 a.m.

The purpose of the meeting is to discuss and develop recommendations for the Advisory Council and Secretary of Agriculture on broad questions of policy, programs, and procedures affecting the northern California portion of the Pacific Crest Trail. The Sub-Committee will discuss local trail names, water along the Hat Creek Rim, volunteer projects and trail heads.

The meeting will be open to the public. Persons who wish additional information should contact Dick Benjamin, Recreation Staff Director, Pacific Southwest Region, Forest Service, 630 Sansome Street, San Francisco, California 94111, phone (415) 556–6986.

Dated: January 26, 1984.

Zane G. Smith, Jr.,

Chairman.

[FR Doc. 84–2816 Filed 2–1–84; 8:45 am]

BILLING CODE 3410–11–M

Soil Conservation Service

Crawford Creek Road Critical Area Treatment, RC&D Measure, New York; Finding of No Significant Impact

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of a Finding of No Significant Impact.

SUMMARY: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Crawford Creek Road Critical Area Treatment, RC&D Measure, Allegany County, New York.

FOR FURTHER INFORMATION CONTACT: Paul A. Dodd, State Conservationist, Soil Conservation Service, James M. Hanley Federal Building, 100 S. Clinton Street, Room 771, Syracuse, New York 13260, telephone (315) 423–5521.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the project will not cause significnt local, regional, or national impact on the environment. As a result of these findings, Paul A. Dodd, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for reducing critical erosion along Crawford Creek Road as a result of high flows in adjacent Crawford Creek. The planned works of improvement include the extension of an existing culvert, placement of rock riprap in critical areas, installation of a plunge pool, reshaping and vegetative stabilization of exposed banks.

The Notice of Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various Federal, State, and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address. Basic data developed during the environmental assessment are on file and may be reviewed by contacting Paul A. Dodd.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the **Federal Register.**

(Catalog of Federal Domestic Assistance program No. 10.901, Resource Conservation and Development Program. Office of Management and Budget Circular A–95 regarding state and local clearinghouse review of Federal and federally assisted programs and projects is applicable)

Dated: January 18, 1984.

Paul A. Dodd,

State Conservationist.

[FR Doc. 84–2818 Filed 2–1–84; 8:45 am]

BILLING CODE 3410–16–M

Milbridge Medical Center, Critical Area Treatment; Finding of No Significant Impact

AGENCY: Soil Conservation Service, Agriculture.

ACTION: Notice of finding of no significant impact.

FOR FURTHER INFORMATION CONTACT: Mr. Ron E. Hendricks, State Conservationist, Soil Conservation Service, USDA Office Building, University of Maine, Orono, Maine 04473, telephone 207–866–2132.

NOTICE: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Milbridge Medical Center Critical Area Treatment RC&D Measure, Washington County, Maine.

The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Ron E. Hendricks, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for a combined surface and subsurface water control and disposal system consisting of diversion ditches, tile under drain, a surface inlet system, a drop spillway and a pipe outlet at the toe of the bank. Gabion baskets will protect the toe of the bank. The bank above the gabions will be reshaped. All areas disturbed will be vegetated. This planned works of improvement and stabilization is to be installed along 200 feet of the western riverbank of the Narraguagus River at the medical center property in the Town of Milbridge, Maine.

The Notice of a Finding of No Significant Impact (FNSI) has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Ron E. Hendricks. The FNSI has been sent to various Federal, State and local agencies and interested parties. A limited number of copies of the FNSI are available to fill single copy requests at the above address.

Implementation of the proposal will not be initiated until 30 days after the date of this publication.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program. Office of Management and Budget Circular A–95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects is applicable)

Dated: January 20, 1984.

Ron E. Hendricks,

State Conservationist.

[FR Doc. 84–2810 Filed 2–1–84; 8:45 am]

BILLING CODE 3410–16–M

Flint Hills RC&D Critical Area Treatment Measures of Chase, Lyon, Marion and Morris Counties, Kansas; Finding of No Significant Impact

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of finding of no significant impact.

SUMMARY: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Flint Hills RC&D Critical Area Treatment Measures of Chase, Lyon, Marion and Morris Counties, Kansas.

FOR FURTHER INFORMATION CONTACT: John W. Tippie, State Conservationist, Soil Conservation Service, 760 South Broadway, Salina, Kansas 67401, telephone: (913) 823–4565.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, John W. Tippie, State conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The RC&D measures are to *demonstrate* the ability to reduce critical erosion on fragile soils and establish native vegetation on "go back" areas in the counties of Chase, Lyon, Marion and Morris, in Kansas.

The Notice of Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various Federal, State and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address. Basic data developed during the environmental assessment are on file and may be reviewed by contacting John W. Tippie.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program. Office of Management and Budget Circular A–95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects is applicable)

Dated: January 25, 1984.

John W. Tippie,

State Conservationist.

[FR Doc. 84–2884 Filed 2–1–84; 8:45 am]

BILLING CODE 3410–16–M

Rivermont School Flood Prevention RC&D Measure, Virginia; Finding of No Significant Impact

AGENCY: Soil Conservation Service, USDA.

ACTION: Notce of a finding of no significant impact.

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Rivermont School Flood Prevention RC&D Measure, Tazewell County, Virginia.

FOR FURTHER INFORMATION CONTACT: Mr. Manly S. Wilder, State Conservationist, Soil Conservation Service, 400 North Eighth Street, Richmond, Virginia 23240, telephone 804–771–2455.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Manly S. Wilder, State Conservationist, has determined that the preparation and review of an environmental impact statement are not need for this project.

The measure concerns a plan for a dike around Rivermont Elementary School and the flood proofing of two residences and a church in Tazewell County, Virginia. The planned work will include 600 feet of dike and the flood proofing of two residences and a church.

The Notice of Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various

Federal, State, and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address. Basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Manly S. Wilder.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the Federal Register.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program. Office of Management and Budget Circular A-95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects in applicable.)

Dated: January 23, 1984.

Manly S. Wilder,

State Conservationist.

[FR Doc. 84-2865 Filed 2-1-84; 8:45 am]

BILLING CODE 3410-16

DEPARTMENT OF COMMERCE

Economic Development Administration

Economic Development Assistance Programs as Described in Conference Report on H.R. 3222, Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations, 1984; Availability of Funds

AGENCY: Economic Development Administration (EDA), Commerce.

ACTION: Notice.

SUMMARY:

I. Program: Planning Grants for Economic Development Districts, Redevelopment Areas and Indian Tribes

(Catalog of Federal Domestic Assistance: 11.302 Economic Development—Support for Planning Organizations)

Summary: The Economic Development Administration announces its policies and application procedures for grant funds available to defray administrative expenses in support of the economic development planning efforts of Economic Development Districts (Districts), Redevelopment Areas (Areas) and (Indian Tribes under the authority of section 301(b) of the Public Works and Economic Development Act of 1965, as amended, 42 U.S.C. 3121, *et seq.*

Eligibility: Eligible applicants are Districts, Areas and Indian Tribes (including Alaskan Native Villages).

Grant Objective: The objective of these section 301(b) grants is to support the formulation and implementation of economic development programs designed to create or retain full-time permanent jobs and income, particularly for the unemployed and underemployed in the most distressed areas served by the applicant. Planning activities conducted under these grants must be part of a continuous process involving public officials and private citizens.

Funding Availability: Grant funds in the amount of $19.0 million are available in two categories: Districts and Areas (Category A)—$16.0 million; and Indian Tribes (Category B)—$3.0 million.

Funding Instrument: Grant assistance will be provided for up to 75 percent of project costs for Category A grants. Under Category A, the applicant will be required to cover the remaining costs through cash or in-kind contributions. Category B grant assistance will be provided for up to 100 percent of project costs.

Grant Duration: Both Category A and Category B grant assistance will be for up to twelve months duration.

Selection Criteria: For eligible applicants under both Categories A and B, selection will be based upon the responsiveness of the proposed work program to the program regulations contained in 13 CFR 307.22, the economic distress of the area served by the applicant, and for currently funded grantees, past performance. Applicants with unresolved audits or having an established indebtedness to the Government may not be considered for funding. Applications proposed for funding under this program are subject to the requirements of Executive Order 12372, "Intergovernmental Review of Federal Programs."

Pre-Application Procedures: Eligible applicants under both Categories A and B should begin the application process by submitting a letter of request signed by the chief elected official (Chairman of the Board, Tribal Chairman) of the District, area or Indian Tribe indicating a desire to receive funds to carry out the types of planning activities eligible under the 301(b) program. The planning activities should be identified in a work program describing the specific economic development activities that will be carried out during the grant period.

Formal Application Procedures: Following a review of the requests for assistance, EDA will notify proponents who are selected to apply for funding consideration. Selected applicants shall be advised to submit the required application materials, which may include an ED-430 Planning Grant Application, an ED-503 Assurance of Civil Rights Compliance, and other materials as appropriate and required.

Submission Information: Requests for assistance under this program from currently funded grantees should be submitted (postmarked, etc.) no later than January 31, 1984, as previously advised by EDA. New applicants should submit their proposals to the appropriate EDA Regional Ofice (see list below) no later than March 31, 1984. Applicants whose proposals are not selected shall be notified within 90 days of the submission of their proposal. Late proposals may not receive funding consideration. Information can be obtained by contacting Bill Oliver (202) 377-3027 at EDA Headquarters in Washington, D.C., or by contacting the appropriate Regional Office.

II. Program: Planning Grants for Urban Planning Activities

(Catalog of Federal Domestic Assistance: 11.305 Economic Development—State and Local Economic Development Planning)

Summary: The Economic Development Administration announces its policies and application procedures for grant funds available for the Urban Planning Program operated under the authority of Section 302(a) of the Public Works and Economic Development Act of 1965, as amended, 42 U.S.C. 3121, *et seq.*

Eligibility: Eligible applicants under this program are cities and urban counties.

Grant Objective: The primary objective of planning grants under Section 302(a) is to strengthen the economic development planning capabilities of cities and urban counties to ensure a more effective use of available resources in addressing of economic problems, particularly those resulting in high unemployment and low incomes. Planning activities conducted under these grants must be part of a continuous process involving public officials and private citizens.

Funding Availability: Grant funds in the amount of $5.0 million are available for providing grant assistance under this program. Funds are available for grant assistance of up to 75 percent of project costs. The applicant is required to cover the remaining costs through cash or in-kind contributions.

Grant Duration: Grant assistance under this program will be for up to twelve months.

Selection Criteria: Consideration of applications will be based upon the responsiveness of proposed work programs to the program regulations contained in 13 CFR 307.52(a) (2), the economic distress of the area served by

the applicant, and, for currently funded grantees, past performance (including information in progress reports which were due on December 1). Applicants with unresolved audits or having an established indebtedness to the Government may not be considered for further funding. Because of the limited amount of funds available for this program, priority consideration will be given to requests for assistance from currently funded grantees who meet the selection criteria. Applications proposed for funding under this program are subject to the requirements of Executive Order 12372, "Intergovernmental Review of Federal Programs."

Pre-Application Procedures: Applicants for section 302(a) planning grants should begin the application process by submitting a letter of request to the appropriate Regional Office. The letter should be signed by the head of the grantee organization indicating a desire to receive funds for activities eligible under the 302(a) program. The submission must include a work program describing the proposed planning activities to be accomplished under the grant.

Formal Application Procedures: Subsequent to the review of the applicant's letter and work program, EDA will notify proponents who are selected to apply for funding consideration. Selected applicants shall be advised to submit an ED–430 Planning Grant Application and other required application materials.

Submission Information: Requests for assistance under this program should be submitted to Beverly L. Milkman, Director, Office of Planning, Technical Assistance, Research and Evaluation, Economic Development Administration, Room 7866, U.S. Department of Commerce, Washington, D.C. 20230. Further information can be obtained from Tony Meyer or Bea Montague in EDA Headquarters on (202) 377–3027. Currently funded grantees that desire additional funding should submit (postmark, etc.) letters of request and work programs no later than January 31, 1984, as previously advised by EDA. New applicants should submit their proposals no later than February 29, 1984. Applicants whose proposals are not selected shall be notified within 90 days of the submission of their proposal. Late proposals may not receive funding consideration.

III. Program: Planning Grants for State Planning Activities

(Catalog of Federal Domestic Assistance: 11.305 Economic Development—State and Local Economic Development Planning)

Summary: The Economic Development Administration announces its policies and application procedures for grant funds available for the State Planning Program operated under the authority of Section 302(a) of the Public Works and Economic Development Act of 1965, as amended, 42 U.S.C. 3121, *et seq.*

Eligibility: Eligible applicants under this program are States and territories.

Grant Objective: The primary objective of planning grants under section 302(a) is to strengthen the economic development planning capabilities of States and other eligible entities to ensure a more effective use of available resources in addressing of economic problems, particularly those resulting in high unemployment and low incomes. Planning conducted under these grants must be part of a continuous process involving public officials and private citizens.

Funding Availability: Grant funds in the amount of $3.0 million are available for this program. Assistance can be provided to cover up to 75 percent of project costs. The applicant is required to cover the remaining costs through cash or in-kind contributions.

Grant Duration: Grant assistance under this program will be for up to twelve months.

Selection Criteria: Consideration of applications will be based upon the responsiveness of proposed work programs to the program regulations contained in 13 CFR 307.52(a)(1), the economic distress of the area served by the applicant, and, for currently funded grantees, past performance (including information in progress reports which were due on December 1). Applicants with unresolved audits or having an established indebtedness to the Government may not be considered for further funding. Applications proposed for funding under this program are subject to the requirements of Executive Order 12372, "Intergovernmental Review of Federal Programs."

Pre-Application Procedures: Applicants for section 302(a) planning grants should begin the application process by submitting a letter of request to the appropriate Regional Office. The letter should be signed by the head of the grantee organization indicating a desire to receive funds for activities eligible under the 302(a) program. The submission must include a work program describing the proposed planning activities to be accomplished under the grant.

Formal Application Procedures: Subsequent to the review of the letters of request and work programs, EDA will notify proponents who are selected to apply for funding consideration. Selected applicants shall be advised to submit an ED–430 Planning Grant Application and other required application materials.

Submission Information: Requests for assistance under this program should be submitted to Beverly L. Milkman, Director, Office of Planning, Technical Assistance, Research and Evaluation, Economic Development Administration, Room 7866, U.S. Department of Commerce, Washington, D.C. 20230. Further information can be obtained from Tony Meyer or Bea Montague in EDA Headquarters on (202) 377–3027. Currently funded grantees that desire additional funding should submit (postmark, etc.) letters of request and work programs no later than January 31, 1984, as previously advised by EDA. New applicants should submit proposals no later than February 29, 1984. Applicants whose proposals are not selected shall be notified within 90 days of the submission of their proposal. Late proposals may not receive funding consideration.

IV. Program: Technical Assistance Grants for University Centers

(Catalog of Federal Domestic Assistance: 11.303 Economic Development—Technical Assistance)

Summary: The Economic development Administration announces its policies and application procedures for grant funds available to support University Centers under the authority of section 301(a) of the Public Works and Economic Development Act of 1965, as amended, 42 U.S.C. 3121, *et seq.* University Centers, utilizing external resources and those of the college or university of which they are an integral element, provide technical and other kinds of assistance to public bodies, non-profit organizations and private firms located chiefly in areas of economic distress.

Eligibility: Eligible applicants under this program are public and private colleges and universities.

Program Objective: To stimulate colleges and universities to mobilize more fully their resources to overcome problems which impede economic development in the area or region they serve.

Funding Availability: Grant funds in the amount of $3 million are available for this program. Funding will be provided through grant assistance for up to 75 percent of the proposed activities cost. At least 25 percent of the costs must be covered by the grantee. The size of individual grants will vary depending

on the requirements of the grantee's program.

EDA will first give consideration to the refunding of those 38 Centers which presently make up the University Center program. Funds which remain will be utilized to fund new Centers.

Grant Duration: The duration of individual grants may be for a period of up to twelve months.

Selection Criteria: EDA will apply the following criteria in evaluating proposals:

1. The nature and degree of distress in the area or region the Center will serve.

2. The program which the Center proposes to carry out to meet the needs of the service area.

3. The commitment of the University to the Center's mission and purpose in terms of both its financial support and the dedication of other resources.

4. The Center's capacity to provide technical and other types of assistance to jurisdictions and organizations in the service area.

Applicants with unresolved audits or having an established indebtedness to the Government may not be considered for funding. Applications proposed for funding under this program are subject to the requirements of Executive Order 12372, "Intergovernmental Review of Federal Programs."

Submission Information: Interested colleges and universities presently in the program will receive instructions from the appropriate EDA Regional Office regarding submission of proposals.

Interested colleges and universities not presently in the program should indicate that they seek support by submitting a letter signed by the institution's President stating that they wish to participate in EDA's University Center program. If appropriate, EDA will subsequently contact them to request that they submit a five- to ten-page proposal containing the following information:

- *Description of the Area(s) to be Served.* The area should be precisely delineated. Describe, as appropriate, the nature and degree of distress; the major problems impeding development; the needs of particular population groups; and the kinds of ongoing efforts to meet the area or region's needs.
- *University Center's Program.* The kinds of activities in which the Center will engage should be described. Indicate what is unique in the Center's contribution to the development of the area and how the Center's efforts will complement those of other institutions engaged in economic development.
- *The College or University's Commitment.* Show the university's financial contribution in relation to the Federal funding requested. Describe the other resources the university will make available in support of the Center's efforts.
- *Proposed Staffing.* Identify the numbers and kinds of staff the Center will have.
- *Other Resources.* If the Center is presently carrying out other economic development or business resource programs, describe them and identify the sources of funds.
- *Experience.* Describe the Center's experience in carrying out similar programs. Include reports of such programs, if appropriate.
- *Other Information.* The applicant should provide whatever additional information it believes would assist EDA in evaluating the proposal.

The letters of interest by these colleges and universities should be submitted to the appropriate EDA Regional Office no later than March 15, 1984. These institutions will be advised whether they are to submit the brief proposal described above no later than April 15, 1984.

Inquiries should be directed to the appropriate Regional Office or to Scott Rutherford at (202) 376–2812 in EDA Headquarters in Washington, D.C.

V. Program: National and Local Technical Assistance Projects

(Catalog of Federal Domestic Assistance: 11.303 Economic Development—Technical Assistance)

Summary: The Economic Development Administration announces its policies and application procedures for grant funds available to provide technical assistance as may be required to ensure the successful implementation of economic development programs and projects designed to aid areas experiencing economic distress. Funding will be provided under the authority of section 301(a) of the Public Works and Economic Development Act of 1965, as amended 42 U.S.C. 3121, *et seq.*

Eligibility: Eligible applicants under this program are: public or private non-profit organizations, States, counties, cities, towns or townships, educational institutions, Indian tribes, economic development districts, private profit-making firms, and councils of government.

Grant Objective: The objective of section 301(a) technical assistance grants and cooperative agreements is to provide help that will be useful in alleviating or preventing conditions of excessive unemployment or underemployment. Grants and cooperative agreements may be made in either of two categories: Local Technical Assistance (Category A) to support individual State or local economic development activities, or National Technical Assistance (Category B) to address topical issues and problems of concern to the economic development community at large.

Funding Availability: Grant funds in the amount of $5.0 million are available for this program. Recipients of the grant and cooperative agreement assistance will be expected to provide at least 25 percent of project costs through cash or in-kind contributions.

Grant Duration: Assistance will be for the period of time required to complete the scope of work. This will generally not exceed twelve months.

Selection Criteria: 1. Priority will be given to projects that lead in the near term to the creation and retention of private sector jobs.

2. Priority will also be given to projects that stimulate significant private and non-Federal public capital formation and investment for economic development purposes.

3. In addition, priority will be given to projects that combine support for economic development objectives with other Department of Commerce goals, including export promotion, productivity enhancement, technology development and utilization, and minority business development.

4. Projects will also be judged on the quality of the proposed work program and the qualifications of the applicant to carry out that work program.

Applicants with unresolved audits or having an established indebtedness to the Government may not be considered for further funding. Category A applications proposed for funding under this program are subject to the requirements of Executive Order 12372, "Intergovernmental Review of Federal Programs."

Pre-Application Procedures: Applicants for these funds should begin the application process by submitting a brief description of the proposed project, including the EDA funding sought.

Formal Application Procedures: Following review of the proposals, EDA will notify proponents who are selected to apply for funding consideration. Applicants selected for funding consideration will be requested to submit formal application materials. Applicants not selected shall be notified within 90 days of the submission of their proposal.

Submission Information—Category A Applicants. Requests for assistance under this category should be submitted to the appropriate EDA Regional Office (see list below). For further information, contact Scot Rutherford on (202) 377–

2612 in EDA Headquarters or the appropriate Regional Office. Category A proposals should be submitted as soon as possible, but no later than March 31, 1984.

Category B Applicants. Requests for assistance under this category should be submitted to Beverly L. Milkman, Director, Office of Planning, Technical Assistance, Research and Evaluation, Economic Development Administration, Room 7866, U.S. Department of Commerce, Washington, D.C. 20230. Further information can be obtained form Charles Eischen on (202) 377–2127 in EDA Headquarters. Category B proposals submitted (postmarked, etc.) prior to February 29, 1984, will receive consideration for funding from the initial round of funding under the National Technical Assistance Program. Category B proposals submitted after February 29, 1984, but before May 31, 1984, will receive consideration for funding from the second round of funding under that program.

VI. Program: Research and Evaluation Projects

Summary: The Economic Development Administration announces that grant funds are available for research and evaluation projects under the authority of section 301(c) of the Public Works and economic Development Act of 1965, as amended 42 U.S.C. 3121, *et seq.*

Eligibility: Eligible applicants are private individuals, partnerships, firms, corporations, universities and other institutions.

Grant Objective: The objective of section 301(c) grants and cooperative agreements is to

1. Assist in determining the causes of unemployment, underemployment, underdevelopment, and chronic depression in various areas and regions of the Nation.

2. Assist in the formulation and implementation of national, State and local programs which will raise income levels and otherwise produce solutions to the problems resulting from the above conditions.

3. Evaluate the effectiveness of approaches and techniques employed to alleviate economic distress.

Funding Availability: Grant funds in the amount of $2 million are available for these programs.

Grant Duration: Projects will generally not exceed twelve months' duration.

Selection Criteria: Applicants will be judged on the following:

1. Demonstrated knowledge of the problem they wish to investigate.

2. Quality of their workplan.

3. Qualifications of investigators/evaluators.

4. Accompanying budget information.

Applicants with unresolved audits or having an established indebtedness to the Government from previous Department of Commerce projects may not be considered for funding.

Priority Topics: Projects in certain broad areas of Department of Commerce interest will receive priority. These areas include export development, industrial location, regional growth, family income, unemployment, rural economic development, migration, private sector economic development participation, minority economic and business development, and the role of productivity and technology in economic development.

Submission Information: Applicants for these funds should submit brief concept papers describing the proposed project and funding sought to Beverly L. Milkman, Director, Office of Planning, Technical Assistance, Research and Evaluation, Economic Development Administration, Room 7866, U.S. Department of Commerce, Washington, D.C. 20230. Proposals received after March 31, 1984, may not receive priority consideration. Applicants whose proposals are not selected shall be notified within 90 days of the submission of their proposal. For further information contact David H. Geddes at (202) 377–4085.

VII. Program: Grants for Public Works and Development Facilities

(Catalog of Federal Domestic Assistance: 11.300 Economic Development Grants and Loans for Public Works and Development Facilities. 11.304 Economic Development Public Works Impact Projects)

Summary: The Economic Development Administration announces its policies and application procedures for grant funds available for the Public Works program under the authority of Titles I and IV of the Public Works and Economic Development Act of 1965, as amended 42 U.S.C. 3121 *et seq.*, (PWEDA). Eligible applicants under this program are States, local subdivisions thereof, Indian Tribes, and non-profit organizations representing EDA-designated redevelopment areas.

Supplementary Information

Grant Objective: The purpose of the Public Works grant program is to assist communities with the funding of public works and development facilities that contribute to the creation or retention of private sector jobs and to the alleviation of unemployment and underemployment.

Funding availability: Grant funds in the amount of $170 million are available for this program, of which $40 million shall be made available on a priority basis for Economic Development Assistance projects which applied for but did not receive assistance under Public Law 98–8.

Funding Instrument: EDA will provide grants with maximum EDA participation normally ranging from 50 percent to 100 percent of the project cost according to existing regulations. Applicants will be required to provide the matching share, as appropriate.

Applications proposed for funding under this program are subject to the requirements of Executive Order 12372, "Intergovernmental Review of Federal Programs."

Selection Criteria:

A. Regular Public Works Projects: Priority will be given to projects which:

- Come out of a joint public/private local planning process;
- Are consistent with any economic development plan prepared by the State;
- Have a substantial local match commensurate with the relative needs of the area;
- Are located in areas of high unemployment and/or low per capita income;
- Will assist in creating or retaining private sector jobs in the near-term;
- Have a low cost per job ratio;
- Benefit the long-term unemployed or underemployed residents of the area to be served by the project;
- Establish near term private sector jobs in growth industries;
- Have broad community support;
- Would not occur without Federal assistance;
- Are supported by substantial private sector investment;
- Complement Department of Commerce goals such as reducing the Federal trade deficit, assisting minority business development, and assisting the development of domestic fisheries.

In addition, industrial park projects will be evaluated based on:

- Occupancy rates for existing developed industrial acres currently available on a county-wide basis as well as within a 25 mile radius of the project site;
- Commitments from identified tenants to locate in the park; and
- Marketing strategy for promoting the park.

Low priority will be given to projects which:

- Do not benefit the long-term unemployed.
- Cannot be implemented within a reasonable period of time.

• Support downtown commercial activities such as parking garages, pedestrian walkways and non-industrial street repairs, unless it can be demonstrated that EDA's assistance is critical to and an integral part of the local economic development strategy for the area and required to support other ongoing development investments.

• Involve substantial land purchase.

• Involve public buildings (except for PWIP).

• Do not have the grantee's share of project funding in hand or immediately available.

• Support tourism or recreational activities, unless it can be demonstrated that tourism is the major industry in the area in which case the project must directly assist in providing job opportunities for the unemployed and underemployed residents of the area and otherwise support the long-term growth of the area.

Public Works Impact Programs: Priority will be given to Public Works Impact Projects (PWIPs) eligible under section 101(a)(1)(D) of PWEDA if such projects:

• Will directly or indirectly assist in creating employment opportunities or other economic benefits, provide immediate useful work (i.e. construction jobs) for unemployed and underemployed persons in the project area, or primarily benefit low income families by providing essential services;

• Have on-site labor costs of at least 25% or more of the estimated total project costs;

• Can be substantially completed within 12 months from the start of construction.

Supplementary grant rates for PWIP projects will be determined as set forth in 13 CFR 305.5 (e) as amended on May 23, 1983 (see **Federal Register**, Volume 48, No. 100, pages 23154–55).

Application Procedures: Interested applicants should contact the appropriate EDA Regional Office regarding their proposals. Unsuccessful applicants for Pub. L. 98–8 funds in fiscal year 1983 must reapply for consideration for the $40 million described above in paragraph "Funding Availability." EDA will screen proposals before authorizing the submission of a formal application. Proposals will be evaluated based on conformance with statutory and policy requirements, the economic development needs of the area, the merits of the proposed project in addressing those needs and the applicant's ability to manage the grant effectively. Following a review of the preapplication materials, EDA will notify proponents whose projects are selected for funding consideration. Applicants selected will be requested to submit a formal application. Applicants with unresolved audits or having an established indebtedness to the Government may not be considered for funding. Applicants whose applications cannot be approved will be advised as soon as practical after the status of EDA's Public Works funding activities has been determined.

Further Information: For further information contact the appropriate EDA Regional Office (see list below).

VIII. Program: Grants for Economic Adjustment Assistance

(Catalog of Federal Domestic Assistance Nos.: 11.307 and 11.311 Special Economic Development Adjustment Assistance Program—Long-Term Economic Deterioration (LTED) and Sudden and Severe Economic Dislocation (SSED).)

Summary: The Economic Development Administration announces its policies and application procedures for grants available under its Economic Adjustment Program. This program authorized under Title IX of the Public Works and Economic Development Act of 1965, as amended, 42 U.S.C. 3121, *et seq.*, (PWEDA), may assist areas experiencing long-term economic deterioration (LTED) and areas threatened or impacted by sudden and severe economic dislocation (SSED).

Scope and Purpose: The LTED program assists eligible applicants in implementing strategies that halt and reverse the long-term decline of their economies. Grants for Revolving Loan Funds (RLF) are usually provided under the LTED program. The SSED program assists eligible applicants in responding to actual or threatened major job losses (dislocations). It is designed to assist communities anticipate and prevent a sudden, major job loss or to reestablish employment opportunities as quickly as possible after one occurs. SSED assistance is intended to respond to structural rather than cyclical job losses. Thus, the dislocation must involve a permanent job loss.

Eligible Applicants: Awards will be open to all applicants eligible for assistance under Title IX. These include the following: A designated EDA "redevelopment area," or a non-profit organization determined by EDA to be the representative of a redevelopment area; an Economic Development District; a State; a city or other political sub-division of a State, or a consortium of such political sub-divisions; an Indian tribe; a Community Development Corporation defined in the Community Economic Development Act of 1981. Applicants with unresolved audits or having an established indebtedness to the Government may not be considered for funding. Applications proposed for funding under this program are subject to the requirements of Executive Order 12372, "Intergovernmental Review of Federal Programs."

Funding Considerations: Grant funds in the amount of $33 million are available for the Economic Adjustment program for FY 1984. Not less than $16.5 million shall be available for Revolving Loan Fund (RLF) projects. Under the LTED program EDA will consider proposals that capitalize or recapitalize Revolving Loan Funds in LTED eligible areas (contact EDA's Regional Office to determine eligibility). Under the SSED program EDA will consider proposals that respond to actual or threatened permanent job losses that exceed the following threshold criteria:

1. For areas not in Standard Metropolitan Statistical Areas. a. If the unemployment rate of the Labor Market Area exceeds the national average, the dislocation must amount to the lesser of 4 percent of the employed population, or 1,000 direct jobs.

b. If the unemployment rate of the labor Market Area is equal to or less than the national average, the dislocation must amount to the lesser of 8 percent of the employed population, or 2,000 direct jobs.

2. For areas within Standard Metropolitan Statistical Areas. a. If the unemployment rate of the Standard Metropolitan Statistical Area exceeds the national average, the dislocation must amount to the lesser of 0.5 percent of the employed population, or 4,000 direct jobs.

b. If the unemployment rate of the Standard Metropolitan Statistical Area is equal to or less than the national average, the dislocation must amount to the lesser of 1 percent of the employed population, or 8,000 direct jobs.

Actual dislocations must have occurred within one year and threatened dislocations must be anticipated to occur within two years of the date EDA is contacted.

Surpassing the minimum impact threshold does not confer SSED program eligibility on an area but merely permits consideration of an area.

Economic Adjustment proposals will be assessed according to the evaluation criteria listed below.

Evaluation Criteria: Proposals will be evaluated based on conformance with statutory and regulatory requirements, the economic adjustment needs of the area, the merits of the proposed project in addressing those needs and the applicant's ability to manage the grant effectively.

Key factors in EDA's selection of proposed LTED/RLF projects include:

1. Economic and Financial Needs of the Project Area. a. Areas with the highest levels of economic distress (high unemployment, underemployment, low per capita income, vacant plants and deteriorating infrastructure, etc.) will receive priority consideration.

b. Financial need will be evaluated based on the applicant's analysis of the local capital market and how clearly this analysis defines the financial problems to be addressed by the RLF projects.

2. Objectives and Benefits of Proposed Projects. Priority will be given to projects which:

a. Stimulate private sector employment. The number and types of jobs to be created/retained will be key factors in project selection along with the job/cost ratio established for the RLF portfolio as a whole;

b. Target assistance to specific needs within the area. RLF assistance may be targeted to specific geographic areas, industries, types of employers, types of workers, sizes of firms or in other ways that maximize the impact of RLF resources on area needs;

c. Leverage private investment by attracting other lenders (banks, equity firms, private investors) to participate in loan activities along with the RLF. A minimum ratio of two private dollars to one RLF is required for the initial loan portfolio as a whole. Projects designed to leverage higher ratios of private investment will receive priority consideration (Note: The local share or other funds used by the RLF to finance loans cannot be counted as "leveraged" dollars);

d. Direct new job opportunities to the long-term unemployed and underemployed;

e. Assist minorities, women and members of other economically disadvantaged groups in obtaining RLF loans;

f. Support the goals of state and local economic development plans for the area, including the OEDP and the Title IX adjustment strategy, as appropriate;

g. Support other ongoing or future development investments, particularly other elements of the Title IX adjustment strategy;

h. Provide technical and management assistance for RLF borrowers, in addition to loan funds;

i. Use creative financing techniques to overcome specific gaps in the local capital market;

j. Make loans on a timely basis. The implementation schedule for RLF projects will normally require that RLF loans in the initial round be closed (and all EDA funds disbursed) within 2 years of grant approval;

k. Obtain additional funding to capitalize the RLF. RLF grantees are required to provide a 25% local matching share. Projects which include a larger matching share or secure commitments for future funding from other public or private sources will receive priority consideration; and

l. Coordinate activities with other economic development organizations, loan programs and private lenders in the area.

3. Effective Management of the RLF EDA will also evaluate proposed projects to determine that the RLF will be properly managed. Key factors include:

a. A strong and effective Loan Administrative Board with broad community representation, including appropriate private sector, minority and women's representation.

b. Staff capacity in program and policy development, finance, law, marketing, credit analysis, loan packaging, processing and servicing.

c. Efficient procedures for loan selection, approval, and servicing which emphasize the economic development potential of loans as well as sound management and financing practices.

d. Adequate resources to cover administrative costs of the RLF.

e. The applicant's experience and capacity for administering economic and business loan programs will also be a major factor in project selection. If the applicant has designated another organization to administer the project, EDA will evaluate the experience and capacity of that organization, rather than the applicant's.

f. Non-government (but not including EDD's) applicants must be sponsored by the local or state government having jurisdiction over the project area and the sponsor must be willing to assume responsibility for operating the RLF should the non-government entity no longer be able to administer the project.

Key factors in EDA's selection of proposed SSED projects include:

1. Severity of the specific dislocation(s) targeted for assistance.

2. Capacity of the state or local jurisdiction to administer the program as evidenced by organizational strucuture, personnel, and experience.

3. Potential for success of the proposed activities in saving jobs and/or creating new jobs for dislocated workers.

4. State and local efforts in support of the proposed activity; i.e., related projects and activities.

5. Support to be provided by the private sector, and the relationship of the proposed investment to other Federal investments (e.g., Urban Development Action Grants).

6. Creativity used in addressing the adjustment problems (e.g., Employee Stock Ownership Plans).

7. The cost per job created or retained.

8. The extent to which the proposed funds would complement, rather then duplicate, other public and private investments in the area.

9. The amount of EDA and other Federal assistance recently provided or being provided to the State or local area (areas receiving a substantial amount of EDA or other Federal assistance will not be accorded priority consideration).

10. Willingness to provide at least a 25 percent matching share.

11. If a Revolving Loan Fund is proposed, the potential economic development benefits to result from recycling the loan proceeds.

Pre-Application Procedures: Eligible applicants can respond to this announcement by contacting the EDA Regional Office for their area. For further information about this program inquiries should be directed to Paul J. Dempsey, Director, Office of Economic Adjustment, Economic Development Administration, Room 7857, U.S. Department of Commerce, Washington, D.C. 20230, telephone (202) 377–2659.

EDA Regional Offices: The EDA Regional Offices and the States they cover are:

- Craig M. Smith, Director, Philadelphia Regional Office, Mall Building, 325 Chestnut Street, 4th Floor, Philadelphia, Pennsylvania 19106, Telephone (215) 597–4603: Connecticut, Delaware, District of Columbia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Puerto Rico, Rhode Island, Vermont, Virginia, Virgin Islands, and West Virginia.
- Hugh M. Farmer, Acting Director, Atlanta Regional Office, 1365 Peachtree Street, N.E., Atlanta, Georgia 30309, Telephone (404) 881–7401: Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, and Tennessee.
- Edward G. Jeep, Director, Chicago Regional Office, 175 W. Jackson Blvd., Suite A–1630, Chicago, Illinois 60604, Telephone (312) 353–7707: Illinois, Indiana, Michigan, Minnesota, Ohio, and Wisconsin.
- Joseph B. Swanner, Director, Austin Regional Office, 600 American Bank Tower, 221 West Sixth Street, Austin, Texas 78701, Telephone (512) 482–5461: Arkansas, Louisiana, New Mexico, Oklahoma, and Texas.
- William J. Roberts, Director, Denver Regional Office, Tremont Center, 333 West Colfax Avenue, Denver, Colorado 80204, Telephone (9303) 837–4714: Colorado, Iowa, Kansas, Missouri, Montana, Nebraska, North Dakota, South Dakota, Utah, and Wyoming.
- Robert M. Hill, Director, Seattle Regional Office, 1700 Westlake Avenue,

North, Seattle, Washington 98109, Telephone (206) 442–0596: Alaska, American Samoa, Arizona, California, Guam, Hawaii, Idaho, Nevada, Oregon, and Washington.

Dated: January 27, 1984.

J. Bonnie Newman,

Assistant Secretary-Designate for Economic Development.

[FR Doc. 84–2850 Filed 2–1–84; 8:45 am]

BILLING CODE 3510-24-M

International Trade Administration

University of California; Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897; 15 CFR 301). Related records can be viewed between 8:30 AM and 5:00 PM in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C.

Docket Number: 83–290. Applicant: University of California, Berkeley, CA 94720. Instrument: Microdensitometer, M85. Manufacturer: Vickers Instruments, United Kingdom. Intended Use: See notice at 48 FR 40931.

Comments: None received. Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States. Reasons: The foreign article provides a scanning mode (where the light beam scans a fixed sample) and a sensitivity to corticotraphin of 5×10^{-15} grams per milliliter. The National Institutes of Health advises in its memorandum dated November 2, 1983 that (1) the capability of the foreign instrument described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

We know of no other instrument or apparatus of equivalent scientific value to the foreign instrument which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 84–2853 Filed 2–1–84; 8:45 am]

BILLING CODE 3510-DS-M

University of California; Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897; 15 CFR 301). Related records can be viewed between 8:30 AM and 5:00 PM in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C.

Docket Number: 83–320. Applicant: University of California, Livermore, CA 94550. Instrument: Milimeter Radar Subsystem, Model VZQ 2750A1 and Accessories. Manufacturer: Varian Associates, Canada. Intended Use: See notice at 48 FR 47041.

Comments: None received. Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States. Reasons: The foreign instrument provides selectable pulse widths from 10–500 nanoseconds and a repetition rate of over 20 kilohertz. The National Bureau of Standards advises in its memorandum dated December 2, 1983 that (1) the capability of the foreign instrument described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

We know of no other instrument or apparatus of equivalent scientific value to the foreign instrument which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 84–2855 Filed 2–1–84; 8:45 am]

BILLING CODE 3510-DS-M

Mayo Foundation; Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897; 15 CFR 301). Related records can be viewed between 8:30 AM and 5:00 PM in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C.

Docket Number: 83–317. Applicant: Mayo Foundation, Rochester, MN 55905. Instrument: Cryomicrotome/Sledge Type, LKB 2258–041. Manufacturer: LKB Produkter, AB, Sweden. Intended Use: See notice at 48 FR 45280.

Comments: None received. Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States. Reasons: The foreign instrument has a vacuum waste system for operator safety and can cut sections as large as 140 mm X 160 mm from frozen specimens of bone and tissue. The National Institutes of Health advises in its memorandum dated December 6, 1983 that (1) the capability of the foreign instrument described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

We know of no other instrument or apparatus of equivalent scientific value to the foreign instrument which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 84–2854 Filed 2–1–84; 8:45 am]

BILLING CODE 3510-DS-M

DEPARTMENT OF DEFENSE

Department of the Army; Corps of Engineers

Intent To Prepare a Draft Environmental Impact Statement (DEIS); Proposed Wilmington Harbor South Dredged Material Disposal Area, New Castle County, Delaware (Operations and Maintenance of the Christina River, Wilmington Harbor, Delaware)

AGENCY: Philadelphia District, U.S. Army Corps of Engineers, DOD.

ACTION: Notice of intent to prepare a Draft Environmental Impact Statement (DEIS).

SUMMARY: 1. The proposed action evaluates the need for, and alternate methods of, providing a dredged material disposal area near the confluence of the Christina and Delaware Rivers. The approximately 220-acre site would be used for the disposal of material from the Christina

River Federal Channel and turning basin adjacent to the Marine Terminal facilities.

A DEIS was prepared for this project under the Corps' permit authority and noticed in Volume 47, Number 219 of the Federal Register on November 12, 1982. The applicant has since withdrawn the permit application. The disposal area is now being developed as a Federal project. A second DEIS will be prepared under this new authority.

2. Alternatives To Be Considered Include:

A. No action;

B. Plans eliminated from further study;

C. Plans considered in detail;

Continued use of Cherry Island;

Marsh creation at Bellevue, Delaware;

Upland disposal at Lukens Steel site, New Castle, Delaware;

Upland disposal at Christina River interchange site;

Upland creation at Port of Wilmington site; and

Marsh creation at Port of Wilmington site

3. Several scoping meetings have been held with agency participation from the Delaware Department of Natural Resources and Environmental Control, the U.S. Fish and Wildlife Service, the National Marine Fisheries Service, and the U.S. Environmental Protection Agency. Written public comments have been received in response to the first DEIS and to the public notice issued under the permit application.

Significant Issues and Concerns To Be Addressed Include:

Wetland Habitat
Intertidal Habitat
Shallow Water Habitat
Aquatic Biota
Dike Construction and Stability
Borrow Area
Mitigation Plan
Economic Need

4. It is anticipated that further scoping meetings will be unnecessary.

5. The DEIS is scheduled to be released for public comment in Spring, 1985.

ADDRESS: Questions about the proposed action and DEIS can be answered by: Mr. Roy E. Denmark, Jr., (telephone No. 215–597–4833 or 3931), Chief, Environmental Resources Branch, U.S. Army Corps of Engineers, Philadelphia District, Custom House, 2nd & Chestnut Streets, Philadelphia, PA 19106.

Roy E. Denmark, Jr.,

Chief, Environmental Resources Branch.

[FR Doc. 84–2817 Filed 2–1–84; 8:45 am]
BILLING CODE 3710-GR-M

Department of the Navy

Privacy Act of 1974; Amendments to the Notices for Systems of Records

AGENCY: Department of the Navy, DOD.

ACTION: Notice of amendment to the notices for systems of records.

SUMMARY: The Department of the Navy proposes to amend the notices for two systems of records in its inventory of systems of records subject to the Privacy Act of 1974. The proposed amendments and system notices as amended are set forth below.

DATES: The proposed actions will be effective without further notice on 30 days.

ADDRESS: Send any comments to the system managers identified in the systems notices.

FOR FURTHER INFORMATION CONTACT: Mrs. Gwendolyn R. Aitken, Privacy Act Coordinator, Office of the Chief of Naval Operations (OP–09B30), Department of the Navy, The Pentagon, Washington, D.C. 20350. Telephone: 202/694–2004.

SUPPLEMENTARY INFORMATION: The Department of the Navy systems notices for records systems subject to the Privacy Act of 1974, as amended, (5 U.S.C. 552a) were published in the Federal Register as follows:

FR Doc. 83–109 (48 FR 26029) June 6, 1983.

The proposed amendments are not within the purview of the provision of 5 U.S.C. 552a(o) which requires the submission of an altered system report.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

January 30, 1984.

SYSTEM NAME:

Navy Personnel Records System (48 FR 26037) June 6, 1983.

CHANGES:

In **PURPOSES(S)**, add the following entry: "Officials and employees of the Department of the Navy in the performance of their official duties related to the management, supervision, and administration of Navy military personnel and the operation of personnel affairs and functions; the design, development, maintenance and operation of the manual and automated system of records.

"Officials and employees of other components of the Department of Defense in the performance of their official duties related to the management, supervision and administration of military personnel and the operation of personal affairs and functions."

In **ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES**, delete the first, fourth, and last paragraphs in their entirety.

Add the following two paragraphs at the end of the entry: "To officials of the Department of Justice for the purpose of representing the DOD in pending or potential litigation.

"Information as to current military addresses and assignments may be provided to military banking facilities who provide banking services overseas and who are reimbursed by the Government for certain checking and loan losses. For personnel separated, discharged or retired from the Armed Forces information as to last known residential or home of record address may be provided to the military banking facility upon certification by a banking facility officer that the facility has a returned or dishonored check negotiated by the individual or the individual has defaulted on a loan and that if restitution is not made by the individual the United States Government will be liable for the losses the facility may incur."

N05330–2

SYSTEM NAME:

Administrative Personnel Management System (48 FR 26087) June 6, 1983.

CHANGES:

In **CATEGORIES OF RECORDS IN THE SYSTEM**, in line 2, after the word "* * * location * * *," add the following phrase: "* * * (assigned organization code and/or work center code); MOS; labor code; payments for training, travel advances and claims, hours assigned and worked * * *" In line 6, after the phrase: "* * * retention group * * *," add the phrase: "* * * hire/termination dates; type of appointment; leave; trade, * * *" In line 16, after the word: "* * * personnel * * *," add the word: "* * * financial * * *"

In **AUTHORITY FOR MAINTENANCE OF THE SYSTEM**, at the end of the entry, add the following phrase: "* * * and 2208."

In **PURPOSE(S)**, add the following paragraph: "Officials and employees of the Department of the Navy in the performance of their duties relating to the management, supervision and administration of all Navy military and civilian personnel such as preparing social and/or emergency recall rosters, watch bill lists, and clearance and

access control lists; contacting appropriate personnel in emergencies; training; analyzing and controlling financial, budget, travel, and labor cost matters; tracking travel advances and claims and payments for training; manpower and grades; maintaining statistics for minorities; employment; projection of retirement losses; verifying employment to requesting banking; rental and credit organizations; name change location; checklist prior to leaving activity; payment of mutual aid benefits; and similar financial and administrative uses requiring personnel data.

"Arbitrators and hearing examiners in civilian personnel matters relating to civilian grievances and appeals."

In ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES, delete the entire entry and substitute with the following: "The blanket routine uses that appear at the beginning of the Department of the Navy's compilation apply to this system."

In POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

In RETRIEVABILITY, at the end of the entry add the following phrase: "* * * work center and/or job order."

As amended, systems N01070-3 and N05330-2 read as follows:

N01070-3

SYSTEM NAME:

Navy Personnel Records System.

* * * * *

PURPOSE(S):

Officials and employees of the Department of the Navy in the performance of their official duties related to the management, supervision, and administration of Navy military personnel and the operation of personnel affairs and functions; the design, development, maintenance and operation of the manual and automated system of records.

Officials and employees of other components of the Department of Defense in the performance of their official duties related to the management, supervision and administration of military personnel and the operation of personal affairs and functions.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The Comptroller General or any of his authorized representatives, upon request, in the course of the performance of duties of the General Accounting Office relating to the Navy's military manpower management program.

The Attorney General of the United States or his authorized representatives in connection with litigation, law enforcement, or other matters under the direct jurisdiction of the Department of Justice or carried out as the legal representative of the Executive Branch agencies. State, local, and foreign (within Status of Forces agreements) law enforcement agencies or their authorized representatives in connection with litigation, law enforcement, or other matters under the jurisdiction of such agencies.

Officials and employees of other Departments and Agencies of the Executive Branch of government, upon request, in the performance of their official duties related to the management, supervision and administration of military personnel and the operation of personnel affairs and functions.

Officials and employees of the National Research Council in Cooperative Studies of the National History of Disease; of Prognosis and of Epidemology. Each study in which the records of members and former members of the naval service are used must be approved by the Chief of Naval Personnel

Officials and employees of the Department of Health and Human Services, Veterans' Administration, and Selective Service Administration in the performance of their official duties related to eligibility, notification and assistance in obtaining benefits by members and former members of the Navy. The Senate of the House of Representatives of the United States or any Committee or subcommittee thereof, any joint committee of Congress or any subcommittee of joint committees on matters within their jurisdiction requiring disclosure of the files or records of Navy military personnel.

Officials and employees of Navy Relief and the American Red Cross in the performance of their duties related to assistance of the members and their dependents and relatives.

Duly appointed Family Ombudsmen in the performance of their duties related to the assistance of the members and their families.

State and local agencies in performance of their official duties related to verification of status for determination of eligibility for Veterans' Bonuses and other benefits and entitlements.

Such civilian contractors and their employees as are or may be operating in accordance with an approved, official contract with the U.S. Government. When required by Federal statute, by Executive Order, or by treaty, personnel record information will be disclosed to the individual, organization, or governmental agency as necessary.

Officials and employees of the Office of the Sergeant at Arms of the United States House of Representatives in the performance of official duties related to the verification of the active duty naval service of members of Congress.

To officials of the Department of Justice for the purpose of representing the DOD in pending or potential litigation.

Information as to current military addresses and assignments may be provided to military banking facilities who provide banking services overseas and who are reimbursed by the Government for certain checking and loan losses. For personnel separated, discharged or retired from the Armed Forces information as to last known residential or home of record address may be provided to the military banking facility upon certification by a banking facility officer that the facility has a returned or dishonored check negotiated by the individual or the individual has defaulted on a loan and that if restitution is not made by the individual the United States Government will be liable for the losses the facility may incur.

* * * * *

N05330-2

SYSTEM NAME:

Administrative Personnel Management System.

* * * * *

CATEGORIES OF RECORDS IN THE SYSTEM:

Correspondence/records concerning identification, location (assigned organization code and/or work center code); MOS; labor code; payments for training, travel advances and claims, hours assigned and worked, routine and emergency assignments, functional responsibilities, clearance, educational and experience characteristics, travel, retention group, hire/termination dates; type of appointment; leave; trade, vehicle parking, disaster control, community relations (blood donor, etc.), employee recreation programs, grade and series or rank/rate, retirement category, awards, property custody, personnel actions/dates, violations of rules, physical handicaps and health data, veterans preference, mutual aid association memberships, union memberships, qualifications and other data needed for personnel, financial,

line and security management, as appropriate.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 5031 and 2208.

PURPOSE(S):

Officials and employees of the Department of the Navy in the performance of their duties relating to the management, supervision and administration of all Navy military and civilian personnel such as preparing social and/or emergency recall rosters, watch bill lists, and clearance and access control lists; contacting appropriate personnel in emergencies; training; analyzing and controlling financial, budget, travel, and labor cost matters; tracking travel advances and claims and payments for training; manpower and grades; maintaining statistics for minorities; employment; projection of reitrement losses; verifying employment to requesting banking; rental and credit organizations; name change location; checklist prior to leaving activity; payment of mutual aid benefits; and similar financial and administrative uses requiring personnel data.

Aribrators and hearing examiners in civilian personnel matters relating to civilian grievances and appeals.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The blanket routine uses that appear at the beginning of the Department of the Navy's compilation apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

* * * * *

RETRIEVABILITY:

Name, SSAN, Case number, organization, work center and/or job order.

[FR Doc. 84-2828 Filed 2-1-84; 8:45 am]

BILLING CODE 3810-01-M

Privacy Act of 1974; Matching Program—Department of the Navy/City of New York

AGENCY: Department of the Navy, DOD.

ACTION: Notice of a Matching Program—Department of the Navy/City of New York.

SUMMARY: The Department of the Navy proposes to match by computer certain U.S. Navy allotment records with records of recipients of food stamps and public assistance in the City of New York. The matches will be made under a written agreement between the City of New York and the Navy. The Navy will perform the matches using data provided by the City and information from existing Navy allotment records. A matching report is set forth below.

DATE: The match began on January 15, 1984.

ADDRESS: Send any comments to: Chief of Naval Operations (OP-09B1P), Department of the Navy, Washington, DC 20350. Telephone: 202/694-2004.

FOR FURTHER INFORMATION CONTACT: Mrs. Gwendolyn R. Aitken, Chief of Naval Operations (OP-09B1P), Department of the Navy, Washington, DC 20350. Telephone: 202/694-2004.

SUPPLEMENTARY INFORMATION: At the request of the City of New York, the Department of the Navy has tentatively agreed to match certain data in the Navy records concerning recipients of allotments from Navy members with certain welfare records of the City of New York. Set forth below is the information required by paragraph 5.f.1. of the Revised Supplemental Guidance for Conducting Computerized Matching Programs issued by the Office of Management and Budget (47 FR 21656; May 11, 1982). A copy of this notice has been provided to both Houses of Congress and the Office of Management and Budget.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

January 27, 1984.

Report of a Matching Program Department of the Navy/City of New York, New York

a. *Authority:* Title 42, United States Code, Subchapter IV, "Grants to States for Aid and Services to Needy Families with Children and for Child Welfare Services" and Title 7, United States Code, Chapter 51, "Food Stamp Program."

b. *Program Description:* Using computer tapes prepared by the City of New York, the Department of the Navy will match the names on the tape against its computer data base of individuals receiving allotments authorized by Navy members. These New York tapes will contain the names and addresses of current public assistance/food stamp recipients. These will be matched to the names and addresses of current Navy allottees. "Hit" data will be supplied on a paper listing to New York City for visual review and screening. The Navy will use a specially developed computer program to implement this match.

c. *Records to be Matched:* Names and addresses of current public assistance/food stamp recipients from the New York City Department of Income Maintenance file. Names and addresses of current Navy allottees from the Navy system of records identified as NO77220-5, entitled: "Joint Uniform Military Pay System (JUMPS)" described in the **Federal Register** at Volume 48, **Federal Register**, Page 26135, June 6, 1983.

c. *Period of the Match:* The matches will begin on January 15, 1984 and additional matches will be made upon request but no more than four times a year.

e. *Security:* Only the Navy personnel who perform the actual match will have access to the Navy file and the New York City computer tapes. Only the list of "hits" will be turned over to personnel from the City of New York. The New York City personnel will have access only to the details of the "hits" and not other information or names in the Navy files. The City intends to retain the listings provided for six months and storage will be in locked cabinets. Upon completion of the match, the computer tapes provided by the City, will be returned to the City and no copies will be retained by the Navy.

f. *Disposition of Records:* The Navy will not retain or copy the tapes provided by the City. The tapes will be returned to the City along with the "hit" data. The City officials will visually review the "hit" data to ensure that the records pertain to the same individuals and to make initial follow up determinations. In those situations where there is any question as to eligibility, the recipient will be contacted to resolve the issue. No benefits will be discontinued solely on the basis of the "hit" data listings. The City of New York will retain the listings received from the Navy for only six months and will dispose of them by shredding or burning.

g. *Other Comments:* The Navy will not provide the "hit' data developed to any other Federal, state or local agencies. Also no Navy bestowed rights, privileges or benefits of individuals will be terminated solely based on a "hit" or the records provided by the City of New York in connnection with this program.

[FR Doc. 84-2829 Filed 2-1-84; 8:45 am]

BILLING CODE 3810-01-M

DEPARTMENT OF EDUCATION

Guaranteed Student Loan Program and PLUS Program

AGENCY: Office of Postsecondary Education.

ACTION: Notice of Special Allowances for Quarter Ending December 31, 1983.

The Assistant Secretary for Postsecondary Education announces a special allowance to holders of eligible loans made under the Guaranteed Student Loan Program (GSLP) or the PLUS Program. This sp ecial allowance is provided for under section 438 of the Higher Education Act of 1965 (the Act), as amended (20 U.S.C. 1087–1). Except for loans subject to section 438(b)(2)(B) of the Act, 20 U.S.C. 1087–1(b)(2)(B), for the quarter ending December 31, 1983, the special allowance will be paid at the following rates:

	Applicable interest rate (percent)	Annual special allowance rate (percent)	Special allowance rate (percent) for quarter ending December 31, 1983
GSLP loans or PLUS loans made prior to October 1, 1981	7	5.75	.014375
	8	3.75	.009375
GSLP loans or PLUS loans made on or after October 1, 1981	7	5.66	.01415
	8	4.66	.01165
	9	3.66	.00915
	12	0.66	.00165
	14	0.00	.00000

The Assistant Secretary determines the special allowance rate in the manner specified in the Act, for loans at each applicable interest rate by making the following four calculations:

(a) *Step 1.*

Determine the average bond equivalent rate of the 91-day Treasury bills auctioned during the quarter for which this notice applies;

(b) *Step 2.*

Subtract from that average the applicable interest rate (7, 8, 9, 12, or 14 percent) of loans for which a holder is requesting payment;

(c) *Step 3.*

(1) Add 3.5 percent to the remainder; and

(2) In the case of loans made before October 1, 1981, round the sum upward to the nearest one-eighth of one percent;

(d) *Step 4.*

Divide the resulting percent of Step 3 (either (c)(1) or (c)(2), as applicable) by four.

FOR FURTHER INFORMATION CONTACT: Andrejs Penikis, Program Specialist, or Larry Oxendine, Chief, Policy Section, Guaranteed Student Loan Branch, Division of Policy and Program Development, Department of Education on (202) 245–2475.

(Catalog of Federal Domestic Assistance No. 84.032, Guaranteed Student Loan Program and PLUS Program)

Dated: January 30, 1984.

Edward M. Elmendorf,

Assistant Secretary for Postsecondary Education.

[FR Doc. 84–2874 Filed 2–1–84 8:45 am]

BILLING CODE 4000–01–M

National Advisory Council on Bilingual Education; Meeting Correction

AGENCY: Department of Education.

ACTION: Notice of meeting correction.

SUMMARY: This notice corrects the dates announced for the meeting of the National Advisory Council on Bilingual Education published in the **Federal Register** of Friday, January 27, 1984, Page *3512* which read October 10 & 11, 1984. The announcement should read: The National Advisory Council will meet on February 10 & 11, 1984.

FOR FURTHER INFORMATION CONTACT: Ramon Ruiz, Designated Federal Official, Room 421, Reporter's Building, 400 Maryland Avenue, SW., Washington, D.C. 20202, (202) 245–2600.

Dated: January 30, 1984.

Jesse M. Soriano,

Director, Office of Bilingual Education and Minority Languages Affairs.

[FR Doc. 84–2023 Filed 2–1–84; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Designation of Properties Under the Provisions of the Uranium Mill Tailings Radiation Control Act (UMTRCA) of 1978 (Pub. L. 95–604)

AGENCY: Department of Energy.

ACTION: Under the terms of a consent order filed in the United States District Court for the District of Columbia on June 23, 1983 (Civil Action No. 81–1353), the Department of Energy was ordered to "* * * 'designate', as that term is used in Section 102 of UMTRCA, 42 U.S.C. 7912, all vicinity properties as defined in section 101(6)(B) of UMTRCA, 42 U.S.C. 7912(6)(B), which have not previously been designated," and to publish in the **Federal Register** the number of such vicinity properties which have been designated and the nearest processing site and city. In this notice the Department announces the designation of 8156 such properties which are in the vicinity of the 24 inactive uranium processing sites previously designated under UMTRCA, 42 U.S.C. 102(a)(1), and are suspected to contain residual radioactive material derived from those sites.

SUMMARY: The purpose of the Uranium Mill Tailings Radiation Control Act of 1978 is to provide, in cooperation with interested states, Indian tribes, and persons who own or control inactive mill tailings sites, a program of assessment and remedial action at these sites to stabilize and control the tailings in a safe and environmentally sound manner and to minimize or eliminate radiation health hazards.

In accordance with the provisions of section 102(a)(1) of the Act, the Secretary of Energy designated on November 8, 1979, 24 inactive uranium processing sites and established priorities for conducting remedial action at these sites.

This notice announces the designation by the Secretary of Energy of 8156 public and private properties in the vicinity of the 24 inactive uranium processing sites, suspected to contain residual radioactive material derived from the processing sites. These properties are located in the vicinity of these sites and cities as indicated below:

Processing site	Location	No. of vicinity properties designated
Monument Valley	Monument Valley, AZ	17
Tuba City	Tuba City, AZ	8
Durango	Durango, CO	137
Grand Junction	Grand Junction, CO	5,925
Gunnison	Gunnison, CO	14
Maybell	Maybell, CO	8
Naturita	Naturita, CO	50
Rifle (2 sites)	Rifle, CO	364
Slick Rock (2 sites)	Slick Rock, CO	4
Lowman	Lowman, ID	17
Ambrosia Lake	Ambrosia Lake, NM	0
Shiprock	Shiprock NM	17
Belfield	Belfield, ND	11
Bowman	Bowman, ND	3
Edgemont	Edgemont, SD	216
Lakeview	Lakeview, OR	4
Canonsburg	Canonsburg, PA	111
Falls City	Falls City, TX	20
Green River	Green River, UT	29
Mexican Hat	Mexican Hat, UT	21
Salt Lake City	Salt Lake City, UT	127
Converse County	Converse County, WY	1
Riverton	Riverton, Wy	50

Following the designation of these properties, surveys will be conducted to confirm whether any levels of radioactivity found at these properties exceed the EPA Standards for Remedial Actions at Inactive Uranium Processing Sites (40 CFR 192), which would make these properties eligible for inclusion in the Department's remedial action program.

Further information regarding the above designations, including property

address and location, the identity of commercial or public uses of properties, and the nature and extent of the radioactive materials on such properties, to the extent available, may be obtained by writing to Mr. John E. Baublitz, Director, Division of Remedial Action Projects, Office of the Assistant Secretary for Nuclear Energy, Washington, D.C. 20545, telephone (301) 353-5272 and requesting such information pursuant to the Freedom of Information Act.

Dated: January 30, 1984.

Shelby T. Brewer,

Assistant Secretary for Nuclear Energy.

[FR Doc. 84-2824 Filed 2-1-84; 8:45 am]

BILLING CODE 6450-01-M

Energy Information Administration

Agency Forms Under Review by the Office of Management and Budget

AGENCY: Energy Information Administration, DOE.

ACTION: Notice of submission of request for clearance to the Office of Management and Budget.

SUMMARY: Under provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35), Department of Energy (DOE) notices of proposed collections under review will be published in the **Federal Register** on the Thursday of the week following their submission to the Office of Management and Budget (OMB). Following this notice is a list of the DOE proposals sent to OMB for approval. The listing does not contain information collection requirements contained in regulations which are to be submitted under 3504(h) of the Paperwork Reduction Act.

Each entry contains the following information and is listed by the DOE sponsoring office: (1) The form number; (2) Form title; (3) Type of request, e.g., new, revision, or extension; (4) Frequency of collection; (5) Response obligation, i.e., mandatory, voluntary, or required to obtain or retain benefit; (6) Type of respondent; (7) An estimate of the number of respondents; (8) Annual respondent burden, i.e., an estimate of the total number of hours needed to fill out the form; and (9) A brief abstract describing the proposed collection.

DATES: Last notice published Thrusday, January 12, 1984 (49 FR 1548).

FOR FURTHER INFORMATION CONTACT:

John Gross, Director, Forms Clearance and Burden Control Divsion, Energy Information Administration, M.S. 1H-023, Forrestal Building, 1000 Independence Ave. SW., Washington, D.C. 20585, (202) 252-2308.

Jefferson B. Hill, Department of Energy Desk Officer, Office of Management and Budget, 726 Jackson Place NW., Washington D.C. 20503, (202) 395-7340.

Vartkes Broussalian, Federal Energy Regulatory Commission Desk Officer, Office of Management and Budget, 726 Jackson Place NW., Washington, D.C. 20503, (202) 395-7313.

SUPPLEMENTARY INFORMATION: Copies of proposed collections and supporting documents may be obtained from Mr. Gross. Comments and questions about the items on this list should be directed to the OMB reviewer for the appropriate agnecy as shown above. If you anticipate commenting on a form, but find that time to prepare these comments will prevent you from submitting comments promptly, you should advise the OMB reviewer of your intent as early as possible.

Issued in Washington, D.C., January 30, 1984.

Yvonne M. Bishop,

Director, Statistical Standards, Energy Information Administration.

DOE FORMS UNDER REVIEW BY OMB

Form No. (1)	Form title (2)	Type of request (3)	Response frequency (4)	Response obligation (5)	Respondent description (6)	Estimated number of respondents (7)	Annual respondent burden (8)	Abstract (9)
EIA-176	Annual Report of Natural & Supplemental Gas Supply & Disposition.	Extension	Annual	Mandatory	Natural gas pipeline companies, distributors, Underground storage operators, SNG plant operators, field, well or processing plant operators.	1,806	22,936	Form EIA-176 collects data on natural gas supply and disposition and relevant costs, prices and related information at the State level. Data are used to determine the quantity of natural gas consumed by market sector.

[FR Doc. 84-2825 Filed 2-1-84; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket Nos. RP81-61-016 and RP82-80-013]

ANR Pipeline Co. (Formerly Michigan Wisconsin Pipe Line Co.); Corrected Filing

January 27, 1984.

Take notice that on January 19, 1984, ANR Pipeline Company (formerly Michigan Wisconsin Pipe Line Company) (ANR), filed two corrected sheets to its December 2, 1983, filing of fifty-five (55) executed Service Agreements entered into between ANR and customers, which reflected revisions in various terms in previously filed Service Agreements as authorized by Federal Energy Regulatory Commission order of February 10, 1983. The two sheets which have been corrected for minor typographical errors are:

Great River Gas Company—page 2 of Agreement dated February 10, 1983.
Ohio Gas Company—page 2 of Agreement dated February 10, 1983.

ANR states that copies of the filing were sent to all customers affected and to the following Commissions: Illinois Commerce Commission, Public Service Commission of Indiana, Iowa State Commerce Commission, Kansas State Corporation Commission, Michigan Public Service Commission, Missouri Public Service Commission, Public Utilities Commission of Ohio, Tennessee Public Service Commission, and the Public Service Commission of Wisconsin.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rule 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before February 2, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-2909 Filed 2-1-84; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. RM81-19, Docket No. ST82-261-001]

Arkansas Oklahoma Gas Corp.; Extension Reports

January 30, 1984.

The companies listed below have filed extension reports pursuant to section 311 of the Natural Gas Policy Act of 1978 (NGPA) and Part 284 of the Commission's regulations giving notice of their intention to continue transportation and sales of natural gas for an additional term of up to 2 years. These transactions commenced on a self-implementing basis without case-by-case Commission authorization. The sales may continue for an additional term if the Commission does not act to disapprove or modify the proposed extension during the 90 days preceding the effective date of the requested extension.

The table below lists the name and addresses of each company selling or transporting pursuant to Part 284; the party receiving the gas; the date that the extension report was filed; and the effective date of the extension. A letter "B" in the Part 284 column indicates a transportation by an interstate pipeline which is extended under § 284.105. A letter "C" indicates transportation by an intrastate pipeline extended under § 284.125. A "D" indicates a sale by an intrastate pipeline extended under § 284.146. A "G" indicates a transportation by an interstate pipeline pursuant to § 284.221 which is extended under § 284.105. Three other symbols are used for transactions pursuant to a blanket certificate issued under § 284.222 of the Commission's Regulations. A "G(HS)" indicates transportation, sale or assignments by a Hinshaw pipeline; A "G(LT)" indicates transportation by a local distribution company, and a "G(LS)" indicates sales or assignments by a local distribution company.

Any person desiring to be heard or to make any protests with reference to said extension report should on or before March 2, 1984, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 or 385.214).

All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants party to a proceeding.

Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

Docket No.	Transporter/seller	Recipient	Date filed	Part 284 subpart	Effective date
ST82-261-001 [1]	Arkansas Oklahoma Gas Corp., P.O. Box 2406, Fort Smith, AR 72902	Tennessee Gas Pipeline Co	01-09-84	G	04-12-84
ST82-268-001	Florida Gas Transmission Co., P.O. Box 44, Winter Park, FL 32790	Valero Transmission Co	01-03-84	B	04-12-84
ST82-275-001	Transcontinental Gas Pipe Line Corp. P.O. Box 1396, Houston, TX 77251.	Richie Gas System, Inc	01-03-84	B	04-05-84
ST82-276-001	do	Philadelphia Electric Co	01-03-84	B	04-05-84
ST82-277-001	Houston Pipe Line Co., P.O. Box 1188, Houston, TX 77001	Transcontinental Gas Pipe Line Corp	01-06-84	C	04-07-84
ST82-295-001	Northern Natural Gas Co., 2223 Dodge St., Omaha, NE 68102	Tennessee Gas Pipeline Co	01-11-84	G	05-05-84
ST82-307-001	Stauffer-Wyoming Pipeline Co., P.O. Box 513, Green River, WY 82935	Northwest Pipeline Corp	01-04-84	D	04-05-84

[1] These extension reports were filed after the date specified by the Commission's Regulations, and shall be the subject of a further Commission order.

NOTE.—The noticing of these filings does not constitute a determination of whether the filings comply with the Commission's Regulations.

[FR Doc. 84-2910 Filed 2-1-84; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. CP83-75-000]

Consolidated System LNG Co.; Informal Conference

January 27, 1984.

Take notice that an informal conference will be convened at the offices of the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. on February 7, 1984, at 10:00 a.m. in the above-styled proceedings. At the conference various issues raised by the application filed by Consolidated System LNG Company and the answers to the Commission's August 1, 1983 Show Cause order will be discussed. All parties to these proceedings are invited to attend and participate, but mere attendance by interested persons will not serve to make them formal parties to the proceeding.

For further information contact William J. Froehlich, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, (202) 357-8430.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-2889 Filed 2-1-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. EF84-2011-002, EF84-2011-003, EF84-2011-004, EF84-2011-005, EF84-2021-002, EF84-2021-003, EF84-2021-004, and EF84-2021-005]

Department of Energy—Bonneville Power Administration; Order Granting Request for Temporary Interim Rates, Denying Renewed Motion for Partial Summary Disposition, Granting Request for Clarification and Deferring Action on Requests for Hearing

January 27, 1984.

On November 25, 1983, the Bonneville Power Administration (BPA or Bonneville) filed an application for rehearing and request for clarification of the Commission's order of October 26, 1983, in this proceeding (25 FERC ¶61,140). On the same date, the Public Utilities Commission of the State of California (CPUC) filed a request for rehearing as well. Also on November 25, 1983, a group of California utilities (California Utilities)[1] filed a renewed motion for partial summary disposition, petition for reconsideration and request for hearing. On November 28, 1983, the California Energy Commission (CEC) also filed a request for rehearing, one day out of time.

On December 12, 1983, a group of Northwest parties (Northwest Parties)[2] filed an answer opposing the California Utilities' renewed motion for partial summary disposition. On December 13, 1983, the California Utilities filed a motion for leave to reply to the memorandum of the Northwest Parties. On January 3, 1984, BPA filed a motion to strike the renewed motion of the California Utilities and all subsequent pleadings related thereto. The California Utilities filed an opposition to BPA's motion on January 10, 1983.[3]

On December 13, 1983, Puget Sound Power & Light Company (Puget Sound) filed a letter to the Commission's Secretary requesting that, should the Commission take any action other than denial of BPA's application, it be given an opportunity to respond to that application. Puget Sound also expresses a concern that the Commission staff has privately met with the BPA staff regarding BPA's application. Puget Sound requests notice and the opportunity to participate in any such meetings. On January 3, 1984, the Public Generating Pool joined in Puget Sound's requests.[4]

On January 4, 1984, Pacific Power & Light Company and Portland General Electric Company (Private Utilities) filed a motion for leave to answer BPA's application. Acknowledging that the Commission's Rules of Practice and Procedure do not provide for answers to requests for rehearing and that even under our rules for answers to motions their request is untimely, the Private Utilities seek leave to answer BPA in order to "point out peculiar harm to their stockholders that would arise if the revised form of relief were made effective immediately." Motion at 2. In their answer, the Private Utilities note that BPA has requested temporary interim approval of its proposed transmission rates, and request that if this proposal is granted, interim approval not be made effective until 30 days from the Commission's order. The Private Utilities assert that this time is needed to make retail rate filings in the States in which they serve retail loads in order to obtain approval for pass-through of any BPA rate increases. Without such advance notice, the Private Utilities state that they would not receive full recovery of the costs to them of the higher rates. On January 11, 1984, the Washington Water Power Company joined in the Private Utilities' request.

On January 18, 1984, BPA filed a status report on its progress towards compliance with the Commission directive to provide separate accounting information.

Discussion

As a preliminary matter, we shall address Puget Sound's request. Under our regulations, the Administrator or a designee is entitled to seek guidance from our staff prior to submitting a new transmission rate application. 18 CFR 300.2. Under current circumstances, we view BPA's request to meet with our staff as falling within the type of meeting contemplated by this regulation, since it concerns guidance in complying with a previous Commission mandate.

BPA Application

Our order of October 26, 1983, granted interim approval of BPS's wholesale power rates and denied its request for interim approval of its transmission rates. Further, we extended approval of the current transmission rates, which would otherwise have expired on

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[1] Southern California Edison Company, Pacific Gas and Electric Company, Department of Water and Power of the City of Los Angles, Public Service Department of the City of Glendale, Public Service Department of the City of Burbank, Water and Power Department of the City of Pasadena, and San Diego Gas & Electric Company.

[2] Direct Service Industries, Inc., Public Generating Pool, Public Power Council, Portland General Electric Company, and the Public Utility Commissioner of Oregon.

[3] The California Utilities state that their "renewed motion" is not an application for reconsideration because "the Commission denied their earlier motion for partial summary disposition *without prejudice*." Motion at 2. The California Utilities have misinterpreted our earlier order and taken this statement out of context. Our intention was to consider the California parties' objections while conducting "a more detailed review of BPA's proposal . . . for purposes of determining whether the rates should be confirmed and approved on a final basis." 25 FERC ¶ 61,140 at 61,374-75. Thus, we denied the California Utilities' request for summary disposition as it applied to BPA's request for interim approval without prejudice to our considering it later with respect to final confirmation and approval. The California Utilities' renewed motion, therefore, was inappropriate and is in essence an application for rehearing. Because the intent of our order may not have been entirely clear, all subsequent pleadings related to this filing have been considered on their merits, although procedurally improper. We shall, therefore, deny BPA's motion to strike but emphasize that such a litany of improper filings will not be entertained in the future unless good cause is shown for their consideration.

[4] We note that both Puget Sound and the Public Generating Pool were granted intervention in this proceeding by our October 26, 1983 order. In seeking intervention, both parties' failed to comment on or protest, with any specificity, the proposed transmission rate, although both had an opportunity to do so. The subject transmission rate examined on rehearing has not changed by virtue of BPA's application. It is the same rate. In addition to the fact that our rules do not provide for answers to requests for rehearing, we see no good cause for providing either Puget Sound or the Public Generating Pool with an additional opportunity to comment on the proposed rates.

December 31, 1983, for a period of one year. We rejected the proposed transmission rates because of BPA's failure to comply with a previous Commission order directing BPA to file a separate accounting of its costs.

In its November 25, 1983, pleading, BPA expressly states that it does not seek rehearing of the Commission's rejection of the proposed transmission rates. Rather, BPA requests temporary interim approval of those rates four months, effective as of the date of the Commission's order on rehearing or a time specified by the Commission. During that period, BPA proposes to collect and submit the necessary information to satisfy the Commission's directive. Specifically, BPA has submitted a suggested format for an accounting methodology and requests an opportunity to discuss its compliance efforts with the Commission's technical staff.

In its January 18, 1984, status report, BPA identifies two issues which it has confronted in the course of meeting the Commission's mandate. The first concerns the fact that the transmission component is bundled with BPA's wholesale power rates. To separate out these transmission related costs would require changes in BPA's current rate design methodology. The second problem involves the question of whether BPA should develop separate repayment studies for determining BPA's generation and transmission revenue requirements. BPA asserts that implementation of separate studies on an historical basis would be infeasible. BPA seeks staff guidance on how to approach these two problems and reiterates its request for a meeting with our technical staff.

Further, BPA has compiled preliminary cost and revenue data for Fiscal Year (FY) 1982 presented in the tabular format suggested in its November 25, 1983, pleading. BPA states that if the Commission approves this format, it would be prepared for each successive fiscal year, starting in FY 1983, and submitted with each future rate filing. BPA expects the FY 1983 data to be available within two to three weeks. BPA does not, however, "believe it would be efficacious to compile this information for fiscal years prior to FY 1983 because of the subjective judgements necessary to reconstruct historic data." Status Report at 6.

We are encourage by BPA's apparent commitment to resolve this matter. However, upon examination of BPA's proposal for tracking transmission and generation costs, we find that such a tracking method will not accomplish the results required by our October 26, 1983 order, given the way Bonneville currently designs its rates. Although under its proposal BPA would separately track its transmission and generation costs, it would subsequently roll all of these costs together into its next repayment study of designing and ultimately into the design of its rates. We would therefore be unable to determine which costs were or were not being recovered in BPA's rates. Because revenue deficiencies are not experienced uniformly over the generation and transmission components of the system, an adequate tracking system must ensure that the deficient revenues from one component are not being subsidized by the other component. A single power repayment study which combines transmission and generation costs precludes the proper assignment of revenue deficiencies to the two functions. We therefore believe that Bonneville must develop separate repayment studies for its generation and transmission systems.

In its January 18, 1984 filing, Bonneville seeks guidance as to whether it must change the current design of its wholesale power rates to separate out ("unbundle") its transmission-related costs. We do not believe that this is required, since the same results could be accomplished by comparing estimated use of the transmission system—by both power (Federal) and wheeling (non-Federal) customers—with actual use at the end of the year. Any variances could then be factored into the power repayment studies in Bonneville's next rate filing.

Bonneville also requests guidance as to whether it must attempt to reconstruct a functionalization of costs for prior periods, contending that this would be infeasible since the data are not available and any reconstruction would be highly subjective. We believe that any system designed to assure that the cost of Bonneville's transmission system are equitably shared by Federal, and non-Federal users must begin with the most accurate investment figures possible. We recognize that if data are not available, any reconstruction of such data must necessarily be subjective. However, we believe that reasonable estimates are preferable to using figures that are known to be incorrect.

We shall grant BPA's request for clarification and provide the following specific instructions to assist BPA in complying with our separate accounting requirement:

(1) Establish separate books of account for the Federal Columbia River Transmission System (FCRTS).

(2) The FCRTS shall be comprised of all investments, including administrative and management costs, related to the transmission of electric power, except where, for good cause shown, specific facilities have been excluded.

(3) Determine the total FCRTS investment from the effective date of the Federal Columbia River Transmission System Act of 1974 forward, stating specifically the date of each investment, its repayment date and the amount paid from transmission revenues from that date to the present. Provide an accounting of all deficits or excess during this historic period and an assignment of such deficits or excess to Federal and non-Federal usage of the system. Estimates should be made and supported for any period for which raw data are not available.[5]

If Bonneville meets the requirements set forth in this order, the format which it proposes at Exhibit No. 1 of its November 25, 1983 pleading (as illustrated in its filing of January 18, 1984) would be acceptable.

In the meantime, we shall grant BPA's request for temporary interim approval beginning February 1, 1984, based on Bonneville's assurances that four months from the date of this order, BPA will file with this Commission the above-delineated information. We have been concerned from the outset that BPA's failure to justify approval of its transmission rates on an interim basis would undoubtedly result in some underrecovery of revenues and thus compound any delays in repaying the Federal treasury. Since a major part of our statutory responsbility is to ensure that the Federal investment is repaid, we believe that interim approval of the transmission rates, subject to refund, can be justified in light of Bonneville's assurances that it will provide within four months, the information required to enable us to review the rates on a final basis. The proposed transmission rates shall remain in effect, subject to refund, pending our review of the filing and the information submitted by Bonneville.

Although the February 1, 1984 effective date does not give the Private Utilities the 30 day advance notice which they requested, we believe they should have adequate time to make the requisite retail filings prior to any billings from BPA under this rate. Because the transmission rate was filed with the State commissions previously and then withdrawn, it should require little time for the Private Utilities to

[5] Nothing in these instructions should be construed to imply any change in the priorities set for the use of the FCRTS. First priority of access to the FCRTS should continue to be given to transmission and other related services for the sale of Federal power.

compile the needed documents for such filings. Since the Private Utilities have provided us with no details regarding their difficulties in filing with the State commissions, we have no basis for presuming that our assumptions are incorrect.[6]

We shall also require that Bonneville file a status report with the Commission 60 days from the date of this order to ensure that appropriate progress has been made toward compliance. This report should include the format for the transmission and generation repayment studies and a progress report on the development of the investment data from 1974 to 1982 required by our order.

TGT–1 Rate

BPA also seeks interim approval of its proposed TGT–1 transmission rate, effective as of November 1, 1983, which, BPA believes, was inadvertently rejected along with all of BPA's transmission rates. According to BPA, this rate is based solely upon cost-sharing provisions in the Eastern Intertie transmission agreement between itself and five investor-owned utilities. The Eastern Intertie is comprised of two federally owned 500 kV transmission lines which span 85 miles across eastern and western Montana. BPA states that it is a separately identified portion of the Federal system and was not operational until November 1, 1983. Consequently, BPA believes that this rate is not affected by the separate transmission accounting problem.

We shall grant BPA's request for rehearing of our denial of interim approval of the TGT–1 rate. BPA is correct that our disapproval of this rate was inadvertent. BPA's transmission filing did not make clear the circumstances described by its pleading. It appears that the Eastern Intertie is a separate self-sustaining facility and can be severed from the overall transmission system filing. On this basis, interim approval shall be granted.

Finally, BPA requests an opportunity to respond to all comments on the scope of further proceedings before this Commission. The Commission's October 26, 1983 order had given all parties an opportunity to delineate what issues should be set for hearing pursuant to section 7(k) of the Pacific Northwest Electric Power Planning and Conservation Act (Regional Act or Act). We believe that all parties' responses to each others' comments would be helpful. We, therefore, shall grant BPA's request and allow cross-comments on the scope of further proceedings in these dockets.

California Parties

The California Utilities, CPUC, and CEC each seek rehearing or reconsideration of the Commission's interim approval of BPA's rates for non-firm power sold outside the Pacific Northwest region but within the United States (Rate Schedule NF–83).[7] Alternatively, the California Utilities and CEC request that the non-firm rates be set for hearing pursuant to section 7(k) of the Act.

These parties are specifically concerned about the spill and displacement rates which they contend are discriminatory and anticompetitive. According to the California parties, due to BPA's price-leadership role in the Northwest surplus energy market, BPA's non-firm rates effectively set a floor price for such power. Because they believe that the interim rate is excessive, the California parties argue that they will be forced to pay other Northwest suppliers a similarly excessive rate. Since entities other than BPA supply one-third of the exported surplus power from the Northwest region, the California parties contend that excessive rates paid to these utilities are irretrievably lost. Accordingly, these parties contend that they will be irreparably harmed by the implementation of the non-firm energy rates even if they are in effect subject to refund. Consequently, these parties contend that these rates should be revoked and not permitted to take effect until the conclusion of a section 7(k) hearing.

Sales of Northwest suplus power to California are transacted under an agreement between BPA and the other Northwest parties referred to above. This agreement, known as the "Exportable Agreement," provides that during spill conditions all parties who have exportable surplus energy will receive a share of the Pacific Intertie in proportion to the size of their surplus. Further, all export energy sold under this agreement is sold at BPA's rate. Consequently, the California Utilities argue that the agreement makes "BPA a price-leader by contract." Motion at 11.

We find that this provision, however, serves to refute rather than support the California parties' argument. Attachment B of the California Utilities' pleading contains the following statement from a BPA memo dated December 5, 1982, from the Chief of BPA's Contract Management Branch:

> When a party schedules its apportioned "Exportable Energy" to BPA, such party's energy is combined with all other Exportable Energy, and *sold by PBA as Federal energy to California utilities* under existing power sales contracts at the lowest rate specified under BPA's Wholesale Nonfirm Energy Rate Schedule. The scheduling party is credited (i.e., paid) for its "sale" of Exportable Energy by BPA at the referenced rate. (emphasis supplied).

Thus, BPA appears to treat all energy sold under the Exportable Agreement as Federal energy sales. Accordingly, contrary to the California claims, these sales would apparently be subject to the same refund provisions in effect for sales of energy generated from Federal facilities.

In any event, the price leadership question was clearly addressed in the preamble of our recent rule on interim approval of BPA's rates. In discussing CEC's comments on the rule, we stated:

> Regarding the "price leadership" problem raised by CEC, the Commission notes that any utility regulated by the Commission would have to file a change in rates with this Commission prior to "following" BPA's price. The Commission would, of course, review this rate change under its Federal Power Act (FPA) authority, with all the protections attached thereto. The rate could be suspended, collected subject to refund, and would have to meet the "just and reasonable" standard of the Federal Power Act. If rates that are not subject to the Commission's rate review jurisdiction "follow" BPA's "lead", the situation is admittedly different. However, Congress has not provided a way to avoid the kinds of impacts that concern CEC without seriously diminishing the Commission's interim approval authority and contravening Congress' objective of obtaining swift Commission action, which would be the inevitable results of holding a section 7(k) hearing prior to granting interim approval. The issues to be resolved at such a hearing are precisely the issues that have to be resolved in order to confirm and approve the rates on a final basis. It is unlikely that Congress intended that interim rate approval, even for nonregional rates, serve this function. Accordingly, this final rule does not require that a hearing be held prior to approval of rates on an interim basis. FERC Statutes and Regulations ¶30,483 at 30,635.

Furthermore, any rates which are not subject to our jurisdiction are, presumably, subject to the jurisdiction of the appropriate State regulatory authority. The parties may seek the necessary protections from those author[illegible]s. Accordingly, we shall deny the California parties' request for

[6] For example, on January 24, 1984, BPA's direct service industrial customers filed an answer to the Private Utilities asserting that 30 days' notice was not required.

[7] The California Utilities also formally object to BPA's surplus firm power rate (Rate Schedule SP–83). They contend that this rate is not based on a proper cost allocation. They have refrained, however, from addressing this objection in their pleading because of their interpretation of Commission precedent denying rate design review of such rates.

revocation of interim approval of BPA'S NF–83 rate.

The California parties have also raised the issue of the cost basis of the NF–83 rates. Specifically, the CPUC contends that this rate should be based strictly upon BPA's marginal costs in providing this service. This issue, as well as the other issues raised by the California parties, would be more appropriately addressed by the Commission after receipt of all cross-comments. At that time, we will evalutate the necessity of a section 7(k) hearing and what issues that hearing should cover. Accordingly, we shall defer ruling on all requests for hearings under section 7(k) of the Act.

The Commission orders: (A) BPA's request for rehearing and clarification is hereby granted as discussed in the body of this order. BPA's proposed transmission rates are hereby permitted to be placed into effect on an interim basis, subject to refund, for a period of one year effective February 1, 1984, pending the Commission's final confirmation and approval, or disapproval or the transmission rates.

(B) BPA's request for interim approval of its TGT–1 transmission rate is hereby granted. BPA's TGT–1 rate is hereby permitted to be placed into effect on an interim basis, for a period of one year effective as of November 1, 1983, subject to refund with interest as set forth in Part 300 of the Commission's regulations, pending final confirmation and approval, or disapproval of BPA's TGT–1 rate and charges. Docket Nos. EF84–2011–002, *et al.*

(C) All requests for rehearing and reconsideration, except as provided above, are hereby denied.

(D) California Utilities' renewed motion for partial summary disposition is hereby denied.

(E) BPA's request for an opportunity to respond to all comments filed pursuant to ordering paragraph (F) of our order of October 26, 1983, is hereby granted. Within thirty (30) days of the date of this order, BPA and all other parties who wish to do so, shall file cross-comments on this matter.

(F) Action on all requests for a hearing pursuant to section 7(k) of the Act is hereby deferred.

(G) The Secretary shall promptly publish this order in the Federal Register.

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84–2992 Filed 2–1–84; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER84–216–000]

Idaho Power Co.; Filing

January 30, 1984.

The filing Company submits the following:

Take notice that on January 19, 1984, Idaho Power Company (Idaho) tendered for filing a Service Agreement between it and the City of Eugene, Oregon and the City of Farmington, New Mexico, covering the sale of nonfirm energy under Idaho Power Company's 1st Revised FERC Electric Tariff, Volume No. 1.

Idaho requests an effective date of February 1, 1984, and therefore requests waiver of the Commission's notice requirements.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before February 13, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84–2993 Filed 2–1–84; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. G–2755–001, et al.]

Kerr-McGee Corp., et al.; Applications for Certificates, Abandonments of Service and Petitions To Amend Certificates [1]

January 30, 1984.

Take notice that each of the Applicants listed herein has filed an application or petition pursuant to Section 7 of the Natural Gas Act for authorization to sell natural gas in interstate commerce or to abandon service as described herein, all as more fully described in the respective applications and amendments which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before February 15, 1984, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or to be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

Docket No. and date filed	Applicant	Purchaser and Location	Price per 1,000 M^3	Pressure base
G–2755–001, D, Jan. 10, 1984	Kerr-McGee Corp	Phillips Petroleum Co., Bob #1 Section 38, Block 2, GH&H Survey 3-T, T&NO Survey, Sherman County, Tex.	(*)	
G–11742–009, D, Jan. 18, 1984	Mobil Oil Corp., Nine Greenway Plaza, Suite 2700, Houston, Tex. 77046.	Northwest Central Pipeline Corp., Hugoton Field, Grant, et al., Kansas.	(*)	
CI61–956–001, D, Jan. 6, 1984	Sun Exploration and Production Co., P.O. Box 2880, Dallas, Tex. 75221–2880.	Valero Interstate Transmission Co., Yeary Field, Kleberg County, Tex.	(*)	
CI61–1717–000, D, Jan. 9, 1984	....do	Valley Gas Transmission Inc., South Elsa Field, Hidalgo County, Tex.	(*)	
CI62–53–000, D, Jan. 16, 1984	Shell Western E&P Inc., One Shell Plaza, P.O. Box 2463, Houston, Tex. 77001.	El Paso Natural Gas Co., James Ranch Field, Eddy County, N. Mex.	(*)	
CI64–32–000, D, Dec. 22, 1983	Sun Exploration and Production Co., P.O. Box 2880, Dallas, Tex. 75221–2880.	Arkansas Louisiana Gas Co., Anthon Field, Custer County, Okla.	(*)	

Docket No. and date filed	Applicant	Purchaser and Location	Price per 1,000 ft³	Pressure base
C173-845-001, D, Sept. 22, 1983	Cities Service Oil & Gas Corp., (successor to Cities Service Co.), P.O. Box 300, Tulsa, Okla. 74102.	Southern Natural Gas Co., Main Pass Block 296, Offshore Louisiana.	(7)	
C170-964-000, D, Jan. 13, 1984	Texaco Inc., P.O. Box 60252, New Orleans, La. 70160.	Columbia Gas Transmission Corp., Eugene Island Block 273, Offshore Louisiana.	(8)	
C170-963-000, D, Jan. 13, 1984	do	Texas Gas Transmission Corp., Eugene Island Block 273, Offshore Louisiana.	(8)	
C176-629-006, D, Jan. 13, 1984	Conoco Inc., P.O. Box 2197, Houston, Tex. 77252	Tennessee Gas Pipeline Co., West Cameron 66 Field, (first half reserves only, delivered from Platforms A, B, C, and D) only, Offshore Louisiana.	(9)	
C184-174-000 (C170-466), B, Jan. 11, 1984.	Tenneco Oil Co., P.O. Box 2511, Houston, Tex. 77001.	Montana-Dakota Utilities Co., Slick Creek Field, Washakie County, Wyo.	(10)	
C184-175-000, A, Jan. 13, 1984	do	UGI Corp., Eugene Island 215 D, Offshore Louisiana, South Marsh Island 116 A, Offshore Louisiana, Vermilion Block 50, Offshore Louisiana, High Island A-270-B, Offshore Louisiana, West Cameron 638-B, Offshore Louisiana.	(11)	14.73
C184-176-000 (C175-267), B, Jan. 16, 1984.	Sun Exploration and Production Co., P.O. Box 2880, Dallas, Tex. 75221-2880.	Colorado Interstate Gas Co., Mocane Field, Beaver County, Okla.	(12)	
C184-177-000 (C166-1148), B, Jan. 18, 1984.	Exxon Co., U.S.A., P.O. Box 2180, Houston, Tex. 77252-2180.	United Gas Pipe Line Co., Laura Lavelle Field, Houston County, Tex.	(13)	
C184-178-000, A, Jan. 19, 1984	Marathon Oil Co., 539 South Main Street, Findlay, Ohio 45840.	Texas Eastern Transmission Corp., East Cameron Area, Block 321, Offshore Louisiana.	(14)	15.025
C184-179-000 (C174-519), B, Jan. 20, 1983.	Mitchell Energy Offshore Corp., 2001 Timberloch Place, P.O. Box 4000, The Woodlands, Texas 77380.	Natural Gas Pipeline Co. of America, Block 176-S Field, Galveston County, (Offshore) Tex.	(15)	
C184-180-000, A, Jan. 20, 1984	Tenneco Oil Co., P.O. Box 2511, Houston, Tex. 77001.	Lynchburg Gas Co., Eugene Island 215 D, Offshore Louisiana, South Marsh Island 116 A, Offshore Louisiana, Vermilion Block 50, Offshore Louisiana, High Island A-270-B, Offshore Louisiana, West Cameron 638-B, Offshore Louisiana.	(16)	14.73
C184-181-000, A, Jan. 20, 1984	do	Caroline Pipeline Co., Eugene Island 215 D, Offshore Louisiana, South Marsh Island 116 A, Offshore Louisiana, Vermilion Block 50, Offshore Louisiana, High Island A-270-B, Offshore Louisiana, West Cameron 638-B, Offshore Louisiana.	(17)	14.73
C184-182-000, A, Jan. 20, 1984	do	Public Service Company of North Carolina, Inc., Eugene Island 215 D, Offshore Louisiana, South Marsh Island 116 A, Offshore Louisiana, Vermilion Block 50, Offshore Louisiana, High Island A-270-B, Offshore Louisiana, West Cameron 638-B, Offshore Louisiana.	(18)	14.73
C184-183-000, A, Jan. 20, 1984	do	North Carolina Natural Gas Corp., Eugene Island 215 D, Offshore Louisiana, South Marsh Island 116 A, Offshore Louisiana, Vermilion Block 50, Offshore Louisiana, High Island A-270-B, Offshore Louisiana, West Cameron 638-B, Offshore Louisiana.	(19)	14.73
C184-184-000, A, Jan. 20, 1984	do	ICI Americas, Inc., Eugene Island 215 D, Offshore Louisiana, South Marsh Island 116 A, Offshore Louisiana, Vermilion Block 50, Offshore Louisiana, High Island A-270-B, Offshore Louisiana, West Cameron 638-B, Offshore Louisiana.	(20)	14.73
C184-185-000, A, Jan. 20, 1984	do	City of Alexander City, Eugene Island 215 D, Offshore Louisiana, South Marsh Island 116 A, Offshore Louisiana, Vermilion Block 50, Offshore Louisiana, High Island A-270-B, Offshore Louisiana, West Cameron 638-B, Offshore Louisiana.	(21)	14.73
C184-187-000 (C184-057), B, Jan. 20, 1984.	Phillips Oil Co., 336 HS&L Building, Bartlesville, Okla. 74004.	Warren Petroleum Co., East Panhandle Sweet Gas Field, Wheeler County, Tex.	(22)	
C184-188-000, B, Jan. 23, 1984	Paramount Producing Co.	Northern Natural Gas Co., Section 3, Block E, H&GN Survey, Roberts County, Tex.	(23)	
C184-189-000, A, Jan. 23, 1984	Getty Oil Co., P.O. Box 1404, Houston, Tex. 77001	United Gas Pipeline Co., Butler "B" Lease, McCaslill Field, Karnes County, Tex.	(24)	14.73

[1] Kerr-McGee Corporation has assigned its leases on the two wells to Phillips Petroleum Company effective August 1, 1983.
[2] Not Used.
[3] To release gas for irrigation fuel.
[4] Partial Assignment and Bill of Sale executed on September 29, 1983, effective October 1, 1983.
[5] Effective January 1, 1984, Shell Western E&P Inc. has acquired a portion of the interests of Shell Oil Company.
[6] Request to amend certificate to include Sun's interest in the Lyle Coil Unit No. 1 well, Section 17-15N-17W, Custer County, Oklahoma, which interest is presently covered under Hunt Oil Company's certificate in Docket No. C163-1045 and Hunt Oil Company (Operator) et al., FERC Gas Rate Schedule No. 57.
[7] By Assignment of Oil and Gas Lease dated September 7, 1983, Cities Service Company assigned OCS-G-1673, Offshore Louisiana to its wholly-owned subsidiary, Cities Service Oil and Gas Corporation.
[8] For use at E1280 as platform fuel, compressor fuel and gas lift gas.
[9] First half reserves underlying portions of OCS G-3251, OCS G-1860, OCS G-2826, OCS G-2819, and OCS G-3256 have been depleted.
[10] Gas being sold in interstate under percentage type contract.
[11] Applicant is filing under Gas Purchase and Sales Agreement dated January 5, 1984.
[12] Assignment and Bill of Sale executed on November 11, 1983, effective November 1, 1983.
[13] Supply of gas committed to contract has been depleted, the wells were plugged and abandoned on January 12, 1970, the leases were cancelled March 8, 1970 and the contract was terminated on December 21, 1983.
[14] Applicant is filing under Gas Purchase Contract dated December 21, 1983.
[15] Reserves depleted, all wells plugged and abandoned, contract terminated.
[16] Applicant is filing under Gas Purchase and Sales Agreement dated December 23, 1983.
[17] Applicant is filing under Gas Purchase and Sales Agreement dated December 29, 1983.
[18] Applicant is filing under Gas Purchase and Sales Agreement dated December 27, 1983.
[19] Applicant is filing under Gas Purchase and Sales Agreement dated December 30, 1983.
[20] Applicant is filing under Gas Purchase and Sales Agreement dated December 16, 1983.
[21] Applicant is filing under Gas Purchase and Sales Agreement dated January 5, 1984.
[22] Change to a percentage-type payment contract.
[23] This well is being drained by a Tenneco offset. Due to a decline in the gas market demand Northern has had this well shut-in on occasions for extensive periods of time which resulted in tremendous volumes of underage accruing. This situation has resulted in a breach of contract by Northern due to their not honoring the take or pay provision of the contract between Northern and Paramount.
[24] Applicant is filing under Gas Purchase Contract dated December 2, 1983.

Filing Code: A—Initial Service; B—Abandonment; C—Amendment to add acreage; D—Amendment to delete acreage; E—Total Succession; F—Partial Succession.

[FR Doc. 84-2915 Filed 2-1-84; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. ST84-207-000]

Oklahoma Natural Gas Co., a Division of ONEOK Inc. and ONG Western, Inc.; Application for Approval of Rates

January 30, 1984.

Take notice that on December 9, 1983, Oklahoma Natural Gas Company, a division of ONEOK Inc. and ONG Western, Inc. (Applicant), 624 South Boston Avenue, Tulsa, Oklahoma 74119, filed in Docket No. ST84-207-000 an application pursuant to § 284.123(b)(2)(i) of the Commission's Regulations for approval of rates for the transportation of natural gas on behalf of Panhandle Eastern Pipe Line Company (Panhandle), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that it has entered into an agreement with Panhandle for the transportation of natural gas on behalf of Panhandle and that such agreement provides for a transportation fee of 10 cents per million Btu. Applicant requests the Commission to approve this rate as being fair and equitable and not in excess of the rates an interstate pipeline would be permitted to charge for similar services.

Any person desiring to be heard or to make any protest with reference to said application should on or before February 17, 1984, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make protestants parties to a proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-2916 Filed 2-1-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-92-000]

Pennsylvania Power & Light Co.; Filing

January 27, 1984.

On November 14, 1983, Pennsylvania Power & Light Company (PP&L) tendered for filing proposed changes in its Rate Schedule FERC Nos. 28, 32, 45, 50, 51, 54, 56, 57, 58, 63, 65, 69, 70, 71, 79, and 81, applicable to the Boroughs of Watsontown, Dunconnon, Blakely, Weatherly, Schuylkill Haven, Perkasie, St. Clair, Catawissa, Ephrata, Lehighton, Olyphant, Hatfield, Mifflinburg, Quackertown, Kutztown and to Citizens' Electric Company of Lewisburg, respectively. PP&L stated that the proposed increase was necessary due to the increase in cost of providing service to these jurisdictional customers. The proposed changes would increase revenues from jurisdictional sales and service by $4,169,105 or 20.0%, based on the 12-month period ending June 30, 1984. PP&L originally requested an effective date of January 14, 1984, but later asked to defer the proposed effective date pending settlement discussions.

On January 6, 1984, PP&L filed a proposed Settlement Agreement together with the rate schedule revisions applicable to its wholesale customers. The settlement provides that the proposed rates are to take effect on March 4, 1984, in lieu of the originally proposed date. PP&L states its belief that all parties to the proceeding support the settlement.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rule 211 or 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before February 6, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-2917 Filed 2-1-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-117-000]

Philadelphia Electric Co.; Order Accepting Rates for Filing, Noting Interventions, Granting Waiver of Filing Requirements, Denying Motion to Consolidate, and Termination Docket

Issued: January 27, 1984.

On November 30, 1983, Philadelphia Electric Company (PE) tendered for filing proposed modifications to the fuel adjustment clauses applicable to service to the Borough of Lansdale (Lansdale) and to the Conowingo Power Company (Conowingo).[1] PE seeks these modifications in order to retain the fuel cost savings associated with test power expected to be produced by PE's Limerick Unit No. 1 nuclear generating station. The company requests that the proposed modifications become effective, without suspension, on January 30, 1984. In addition, PE requests waiver of the Commission's filing requirements, to the extent deemed necessary.[2]

PE represents that is is currently constructing the Limerick Nuclear Plant and that Unit No. 1 is scheduled to begin test operation during the fourth quarter of 1984. PE anticipates that Unit No. 1 will undergo approximately five months of test operation, during which it will generate at least 1.3 billion kilowatt-hours of test power. PE states that, under its currently effective wholesale fuel adjustment clauses for Lansdale and Conowingo, reductions in fuel costs resulting from the availability of test energy from Unit No. 1 would flow through to customers in the form of lower fuel adjustment charges. PE contends that this result is inconsistent with the prescribed accounting treatment for test power set forth in the Commission's Uniform System of Accounts, Electric Plant Instructions, Section 3, Paragraph 18 (18 CFR Part 101).

PE proposes to modify its wholesale fuel adjustment clauses generally to utilize the "fair value" for test power and the pro forma interchange accounting similar to that approved by the Pennsylvania Public Utilities Commission for PE's retail rates.[3] PE asserts that these modifications will ensure that its resale customers pay neither more nor less than they would have paid in the absence of test power generation. According to PE, its proposal

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[1] *See* Attachment A for rate schedule designations.

[2] PE states that it recently filed a full cost of service and billing comparisons for Periods I and II in Docket Nos. ER84-8-000 and ER84-10-000, which it incorporates by reference in this filing.

[3] In valuing the test energy on its system, PE would employ a formularly approach which considers its fuel savings as a result of being able to reduce the output of existing generation, reduce interchange purchases, and increase interchange sales to other utilities on the Pennsylvania-New Jersey-Maryland Interconnection. PE submits that it will determine the fair value of test energy based on actual hour-by-hour cost data on PE and other PJM Companies through a computer simulation of what the system costs would be without test power. According to a clarifying letter submitted by the company on January 18, 1984, after charging the cost of nuclear fuel to its CWIP account, that account will then be credited by an amount representing the fair value of test energy.

will also obviate potential wholesale/retail rate discrimination.

Notice of PE's filing was published in the **Federal Register**,[4] with comments due on or before December 22, 1983. Timely motions to intervene were filed by the People's Counsel of Maryland (People's Counsel) and by Lansdale. People's Counsel requests that PE's filing be suspended and set for hearing on the grounds that PE's proposed modification of its fuel adjustment clauses would distort the effect of these clauses and that "the value of the savings passed on to consumers through the accounting method proposed by the company is less than the value under the present fuel adjustment clauses." People's Counsel also suggests, as an alternative to suspension and hearings on the proposed modifications, that the Commission convene a conference among the interested parties. People's Counsel contends that there is no need to implement rates by January 30, 1984, since test operations for Unit No. 1 are not expected to start until the fourth quarter of 1984.

Lansdale requests that the Commission reject the filing as contrary to the Commission's existing fuel adjustment clause regulations. If not rejected, Lansdale contends that PE's filing should be considered in a proceeding under section 206 of the Federal Power Act and given prospective effect only. Lansdale objects that PE has offered no reasons why its fuel adjustment clauses should be modified generally to account for test energy when it is only the test energy from Limerick Unit No. 1 that is determining the "fair value" of the test energy. In addition, Lansdale contends that, since the test energy from Unit No. 1 is not anticipated to be generated until the fourth quarter of 1984, a five month suspension is justified. Finally, Lansdale requests a hearing and consolidation of this proceeding with PE's prior rate increase filing in Docket No. ER84–10–000.

Discussion

Under Rule 214(c)(1) of the Commission's Rules of Practice and Procedure (18 CFR 385.214), the unopposed motions to intervene serve to make People's Counsel and Lansdale parties to this proceeding.

Based on our analysis of PE's filing, we find that the proposed fuel clause modifications are reasonable and will properly account for test power savings. PE has not sought to recover construction work in progress (CWIP) through its rates to the affected customers. If PE does not revise its fuel adjustment clause, as proposed herein, customers would realize the fuel cost savings associated with the new generating unit before beginning to contribute to the costs of that unit. The Commission is not presented here with the question of the appropriate treatment of fuel cost savings associated with test power where CWIP is included in rate base. That issue remains for another day. (See 18 CFR 35.26). We note that PE's proposed method for accounting for test energy is essentially identical to that approved by the Commission in Opinion No. 176, *Pennsylvania Power & Light Company*, 23 FERC ¶ 61,395 (1983). The People's Counsel and Lansdale have raised only broad conceptual challenges to the principles underlying PE's proposed fuel clause mechanism, but identify no specific issues regarding PE's particular implementation of that mechanism.

Accordingly, consistent with Opinion No. 176, we shall accept PE's rates for filing without suspension or hearing to become effective as of January 30, 1984.[5] Since we are not setting this proceeding for hearing and we are terminating this docket, we shall deny Lansdale's request for consolidation with PE's pending rate proceeding.

Two additional items should be noted. First, consistent with Order Nos. 144 and 144–A, PE must normalize all tax timing differences associated with its treatment of the test energy. Second, PE should file sufficient information with the Commission to allow verification of the fuel costs that it proposes to use in calculating the "fair value" of the test energy.

The Commission orders:

(A) PE's request for waiver of § 35.14 of the Commission's regulations is granted and the proposed modifications to its fuel adjustment clauses for Lansdale and Conowingo are accepted for filing to become effective on January 30, 1984 without suspension or hearing.

(B) Within thirty (30) days following the end of testing of Limerick Unit No. 1, PE shall file, in journal form, the accounting entries made to effect the treatment of test energy approved herein. This filing shall include a detailed explanation of the derivation of all figures.

(C) The motion to consolidate Docket Nos. ER84–117–000 and ER84–10–000 is hereby denied.

(D) Docket No. ER84–117–000 is hereby terminated.

(E) The Secretary shall promptly publish this order in the **Federal Register**.

By the Commission.

Kenneth F. Plumb,

Secretary.

Philadelphia Electric Company (PE)

Docket No. ER84–117–000

Rate Schedule Designations

Filed: December 30, 1983.

Designation	Description
Philadelphia Electric Company	
(1) Supplement No. 11 to Rate Schedule FPC No. 44 (Supersedes Supplement No.1).	Fuel Adjustment Clause.
(2) Supplement No. 12 to Rate Schedule FPC No. 36.	Fuel Adjustment Clause.
Susquehanna Electric Company	
(3) Supplement No. 12 to Rate Schedule FPC No. 2.	Fuel Adjustment Clause.

[FR Doc. 84–2921 Filed 2–1–84; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP83–95–005]

Transwestern Pipeline Co.; Proposed Changes in FERC Gas Tariff

January 27, 1984.

Take notice that Transwestern Pipeline Company (Transwestern) on January 23, 1984 tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following sheet:

Substitute Twenty-fourth Revised Sheet No. 5

The above tariff sheet is being issued in substitution of that sheet filed November 30, 1983 to be effective January 1, 1984 revising the GRI Funding Unit approved by Commission Order issued December 30, 1983 in Docket No. RP83–95–000, *et al.* The GRI Funding Unit filed to be effective January 1, 1984 was incorporated in Transwestern's underlying rates effective October 1, 1983. Subsequent to the November 30, 1983 filing, Transwestern exercised the "market-out" provisions in certain of its gas contracts and reduced its rates to be effective December 1, 1983. Such reduced rates were approved by Commission order issued January 4, 1984 in Docket No. TA84–1–42–003 (PGA 84–1a). The sole purpose of this filing is to reflect the GRI Funding Unit with the proper underlying rates approved to be effective December 1, 1983.

[4] 48 FR 55505 (1983).

[5] By definition, the proposed modifications, while accepted for filing, cannot operate until testing of new units actually commences. Therefore, the concern expressed by the intervenors with respect to the company's proposed January 30, 1984 effective date is misplaced.

The proposed effective date of this tariff sheet is January 1, 1984.

A copy of this filing was served on Transwestern's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before February 6, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-2019 Filed 2-1-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF82-114-001]

Diana-Dolgeville Corp.; Application for Commission Recertification of Qualifying Status of a Small Power Production Facility

January 30, 1984.

On January 13, 1984, Diana-Dolgeville Corporation ("DD"), 420 Lexington Avenue, Suite 3020, New York, New York 10170, submitted for filing an application for recertification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The Dolgeville Hydroelectric Project ("Project") (FERC Project No. 4008-002) is located in the Village of Dolgeville, New York, on East Canada Creek. The project includes a proposed 5 megawatt hydroelectric powerplant.

By notice of June 29, 1982, (19 FERC section 62,560), the Commission certified the Project as a qualifying small power production facility. The requested amendment concerns a proposed change in the identity of the owner of the facility and minor change in the description of the Project. The owners of the Project will be DD and one of the following: (i) Morgan Guaranty Trust Company of New York; (if) Prudential Interfunding Corp.; (iii) Manufacturers Hanover Leasing Corporation; or (iv) a grantor trust, the grantor and sole beneficiary of which would be DD or Prudential Interfunding Corporation and the Trustee would be a large financial institution. No electric utility or electric utility holding company will possess either a legal or beneficial ownership interest in the Project.

The description of the Project will change in that instead of "a 710 foot long, 10 foot diameter reinforced fiberglass penstock," the Project will be constructed with "a 710 foot long, 12 foot diameter steel penstock."

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 15 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

A separate application is required for a hydroelectric project license, preliminary permit or exemption from licensing. Comments on such applications are requested by separate public notice. Qualifying status serves only to establish eligibility for benefits provided by PURPA, as implemented by the Commission's regulations, 18 CFR Part 292. It does not relieve a facility of any other requirements of local, State or Federal law, including those regarding siting, construction, operation, licensing and polution abatement.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-2011 Filed 2-1-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF82-115-001]

Diana-Dolgeville Corp.; Application for Commission Recertification of Qualifying Status of a Small Power Production Facility

January 30, 1984.

On January 13, 1984, Diana-Dolgeville Corporation ("DD"), 420 Lexington Avenue, Suite 3020, New York, New York 10170 submitted for filing an application for recertification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The Diana Hydroelectric Project ("Project") (FERC Project No. 3763-001) is located in the Town of Diana, Village of Harrisonville, Lewis County, New York, on the West Branch Osweyatchie River. The project includes a proposed 1.875 megawatt hydroelectric power plant.

By notice of June 25, 1982, (19 FERC section 62,528), the Commission certified the Project as a qualifying small power production facility. The requested amendment concerns a proposed change in the identity of the owner of the facility and minor change in the description of the Project. The owners of the Project will be DD and one of the following: (1) Morgan Guaranty Trust Company of New York; (ii) Prudential Interfunding Corp.; (iii) Manufacturers Hanover Leasing Corporation; or (iv) a grantor trust, the grantor and sole beneficiary of which would be DD or Prudential Interfunding Corporation and the Trustee would be a large financial institution. No electric utility or electric utility holding company will possess either a legal or beneficial ownership interest in the Project.

The description of the Project will change in that instead of having a 10 foot reinforced fiberglass penstock and a 1,900 mm diameter, horizontal S-type Kaplan turbine with a rated capacity of 2,500 kW, the Project will be constructed with an 11 foot diameter steel penstock and a 1,650 mm diameter S-type Kaplan turbine and a generator with a rated capacity of 1,875 kW.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 15 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

A separate application is required for a hydroelectric project license, preliminary permit or exemption from licensing. Comments on such applications are requested by separate public notice. Qualifying status serves

only to establish eligibility for benefits provided by PURPA, as implemented by the Commission's regulations, 18 CFR Part 292. It does not relieve a facility of any other requirements of local, State or Federal law, including those regarding siting, construction, operation, licensing and pollution abatement.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-2912 Filed 2-1-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF84-106-000]

Energy Conversion Technology, Inc.; Application for Commission Certification of Qualifying Status of a Small Power Production Facility

January 25, 1984.

On December 15, 1983, Energy Conversion Technology, Inc., (Applicant) of 5233 Bakman Avenue, North Hollywood, California 91601, filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's rules. On January 4, 1984, supplemental information was filed to complete the application.

The small power production facility will be located nine miles southeast of Tehachapi, California. The primary energy source for the facility will be wind. The facility will consist of over one hundred wind turbine generators. The electric power production capacity of the facility will be 10 megawatts.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-2908 Filed 2-1-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF84-122-000]

International Power Technology; Application for Commission Certification of Qualifying Status of a Cogeneration Facility

January 30, 1984.

On January 4, 1984, International Power Technology "IPT"), 506 Oakmead Parkway, Sunnyvale, California 94086, submitted for filing an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

This topping-cycle cogeneration facility will be located at the Ontario, California production plant of Sunkist Growers, Inc. The facility will utilize two Cheng Cycle Series 7 systems based on Detroit Diesel Allison 501-KH gas turbines, and will have a design capacity of 12,000 kW. IPT will sell and lease back the facility from an institutional investor and will operate the facility subject to a lease and energy sale agreement with Sunkist. Sunkist will purchase steam for process use.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-2914 Filed 2-1-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF84-124-000]

Texas Industries, Inc.; Application for Commission Certification of Qualifying Status of a Cogeneration Facility

On January 4, 1984, Texas Industries, Inc., 8100 Carpenter Freeway, Dallas, Texas 75247, submitted for filing an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The facility will consist of a coal fired steam generator, condensing steam turbine generator, feedwater system, heat rejection system, coal handling system, ash handling system, controls and other supporting equipment. The facility will provide extraction steam to be utilized in heat exchangers for heating cement plant process water for use in an adjacent cement plant. The electric generation portion of the facility will have a normal net rating of 100 MW. The facility will be located adjacent to the Midlothian cement plant owned by Texas Industries, Inc., located near Midlothian, Texas.

Any person desiring to be heard or objecting to the granting or qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-2918 Filed 2-1-84; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[SAB-FRL 2517-5]

Science Advisory Board, Subcommittee on Risk Assessment for Radionuclides; Open Meeting—February 21-22, 1984

Under Pub. L. 92-463, notice is hereby given of a two day meeting of the Science Advisory Board's Subcommittee on Risk Assessment for Radionuclides. The meeting will be held on February 21-22, 1984 in Room 1112, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, Virginia. The meeting will begin at 9:30 a.m. on February 21 and will adjourn at approximatley 1 p.m. on February 22.

The purpose of the meeting is to enable the Subcommittee to provide scientific advice to the Agency on several documents related to the assessment of risk to public health from radionuclides. The documents include: (1) AIRDOS–EPA: A Computerized Methodology for Estimating Environmental Concentrations and Dose to Man From Airborne Releases of Radionuclides; (2) "Life Table Methodology For Evaluating Radiation Risk: An Application Based on Occupational Exposures," *health Physics* Vol. 42, p. 439; (3) RADRISK/BEIR–3, Part I: Basis for EPA Radiation Risk Assessment, Office of Radiation Programs, (Draft of January 1984; (4) RADIRISK/BEIR–3, Part II: Dosimetric Methods and Codes Used to Assess Radiation Risk, Office of Radiation Programs, (Draft of January 1984).

The documents have been placed in Docket A–79–11 and are available for inspection and copying normal working hours. The docket is located at EPA's Central Docket Section, West Tower Lobby, Waterside Mall, 401 M Street, SW., Washington, D.C.

The meeting is open to the public. Any member of the public wishing to obtain information or submit comments to the Subcommittee should write or call Dr. Terry F. Yosie, Director, Science Advisory Board (A–101) 401 M Street, Washington, D.C. 20460; (202)(382–4126, before close of business February 10, 1984.

For Further Information Contact: Terry Yosie (202) 382–4126.

Dated: January 27, 1984.

Terry F. Yosie,

Director, Science Advisory Board.

[FR Doc. 84–2848 Filed 2–1–84; 8:45 am]

BILLING CODE 6560–50–M

[OPTS–53057; TSH–FRL 2517–2]

Premanufacture Notices; Monthly Status Report for December 1983

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(d)(3) of the Toxic Substances Control Act (TSCA) requires EPA to issue a list in the **Federal Register** each month reporting the premanufacture notices (PMNs) pending before the Agency and the PMNs for which the review period has expired since publication of the last monthly summary. This is the report for December 1983.

DATE: Written comments are due no later than 30 days before the applicable notice review period ends on the specific chemical substance. Nonconfidential portions of the PMNs may be seen in Rm. E–106 at the address below between 8:00 a.m. and 4:00 p.m., Monday through Friday, excluding legal holidays.

ADDRESS: Written comments are to be identified with the document control number "[OPTS–53057]" and the specific PMN number should be sent to: Document Control Officer (TS–793), Information Management Division, Office of Toxic Substances, Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E–409, 401 M Street, SW., Washington, DC 20460; (202–382–3532).

FOR FURTHER INFORMATION CONTACT: Wendy Cleland-Hamnett, Chemical Control Division (TS–794), Office of Toxic Substances, Environmental Protection Agency, Rm. E–229, 401 M Street, SW., Washington, DC 20460; (202–382–3736).

SUPPLEMENTARY INFORMATION: The monthly status report published in the **Federal Register** as required under section 5(d)(3) of TSCA (90 Stat. 2012 (15 U.S.C. 2504)), will identify: (a) PMNs received during December; (b) PMNs received previously and still under review at the end of December; (c) PMNs for which the notice review period has ended during December; (d) chemical substances for which EPA has received a notice of commencement to manufacture during December and (e) PMNs for which the review period has been suspended. Therefore, the December 1983 PMN Status Report is being published.

Dated: January 25, 1984.

Linda A. Travers,

Acting Director, Information Management Division.

Premanufacture Notices Monthly Status Report, December 1983

I. 70 Premanufacture Notices Received During the Month

PMN No.	Identity and generic name	FR citation	Expiration date
84–242	Generic name: Copolymer of acrylates and methacrylates	48 FR 55917 (12/16/83)	Feb. 25, 1984.
84–243	Generic name: Ester-amide	48 FR 55917 (12/16/83)	Mar. 3, 1984.
84–244	Generic name: Alkyl ester	48 FR 55917 (12/16/83)	Do.
84–245	Zinc amino acid complex	48 FR 55917 (12/16/83)	Mar. 4, 1984.
84–246	Zinc amino acid complex	48 FR 55917 (12/16/83)	Do.
84–247	Zinc amino acid complex	48 FR 55917 (12/16/83)	Do.
84–248	Zinc amino acid complex	48 FR 55917 (12/16/83)	Do.
84–249	Generic name: 1H-indole, 2,3 dihydro-1,3,3 trimethyl-2-[2-2,4,6-trisubstituted phenyl)ethenyl]-	48 FR 55917 (12/16/83	Mar. 5, 1984.
84–250	Nickel fluorotitanate	48 FR 55917 (12/16/83)	Do.
84–251	Mixture of alpha, beta, gamma-cyclodextrin, other cyclodextrins and oligosaccharides	48 FR 56846 (12/23/83)	Mar. 7, 1984.
84–252	Generic name: Modified polymer of styrene with alkyl methacrylates	48 FR 56846 (12/23/83)	Mar. 10, 1984.
84–253	Generic name: Blocked isocyanate modified epoxy resin	48 FR 56846 (12/23/83)	Do.
84–254	Polymer of: 1,3-benzenedicarboxylic acid, 1,4-benzenedicarboxylic acid, hexanedioic acid, 2,2¹-oxybis(ethanol), 1,3-dihydro-1,3-dioxo-5-iso benzofuran carboxylic acid, 2,2-dimethyl-1,3-propanediol, 2,2,4-trimethyl-1,3-pentanediol.	48 FR 56846 (12/23/83)	Do.
84–255	Withdrawn		
84–256	Polymer of: methyl methacrylate, 2-ethyl hexyl acrylate, dimethyl amino ethyl methacrylate	48 FR 56846 (12/23/83)	Mar. 11, 1984.
84–257	Generic name: Modified polyester polyurethane from substituted alkanediols, alkanedioic acid, and a di isocyanate.	48 FR 56846 (12/23/83)	Do.
84–258	Generic name: Modified polyster polyurethane from substituted alkanediols, alkanedioic acid, and a di isocyanate.	48 FR 56846 (12/23/83)	Do.
84–259	Generic name: Bis(polyalkylaminotriphenyl)-bis (alkylamino)benzene	48 FR 56846 (12/23/83)	Do.
84–260	Generic name: Alkyleneamine methylene phosphonic acid	48 FR 56847 (12/23/83)	Do.
84–261	Generic name: Polyester/alkyd from alkanediols, carbomonocyclic anhydride and mixed acids	48 FR 56847 (12/23/83)	Do.
84–262	Polymer of: safflower oil, 1,2,3-propanetriol, 2,5-furandione, 4,5,6,8,8-Hexachloro-3a,4,7,7,a-tetrahydro-4,7-methanoisobenzofuran.	48 FR 56847 (12/23/83)	Mr. 12, 1984.
84–263	Generic name: Alkyl phosphate ester amine salt	48 FR 56847 (12/23/83)	Do.
84–264	Generic name: Alkyl sulfonate	48 FR 57618 (12/30/83)	Mar. 14, 1984.

I. 70 PREMANUFACTURE NOTICES RECEIVED DURING THE MONTH—Continued

PMN No.	Identity and generic name	FR citation	Expiration date
84-265	Generic name: Copolymer of acrylic acid with alkyl methacrylates and an alkyl acrylate	48 FR 57618 (12/30/83)	Mar. 18, 1984.
84-266	Generic name: Modified fluoroalkyl urethane	48 FR 57618 (12/30/83)	Do.
84-267	Generic name: Alkenyl modified oxyalkylene polymer	48 FR 57618 (12/30/83)	Do.
84-268	Generic name: Isocyanate-terminated polyurethane	48 FR 57618 (12/30/83)	Do.
84-269	Generic name: Isocyanate-terminated polyurethane	48 FR 57618 (12/30/83)	Do.
84-270	Generic name: Isocyanate-terminated polyurethane	48 FR 57619 (12/30/83)	Do.
84-271	Generic name: Polyurethane dispersion	48 FR 57619 (12/30/83)	Do.
84-272	Generic name: Polyurethane dispersion	48 FR 57619 (12/30/83)	Do.
84-273	Generic name: Polyurethane dispersion	48 FR 57619 (12/30/83)	Do.
84-274	Poly (OXY-1,4-butanediyl)-X-(1-(OXO-3-propenyl)-w-[(1-OXO-2-propenyl)OXY]-	48 FR 57619 (12/30/83)	Do.
84-275	Generic name: Modified acrylate polymer	48 FR 57619 (12/30/83)	Do.
84-276	Generic name: Diarylazomethine N-oxide	48 FR 57619 (12/30/83)	Mar. 19, 1984.
84-277	Generic name: Spiroglycol	48 FR 57619 (12/30/83)	Mar. 20, 1984.
84-278	11-Bromoundecanoyl chloride	48 FR 57619 (12/30/83)	Do.
84-279	Cholest-5-en-3-ol(3beta)-, 11-bromoundecanoate	48 FR 57619 (12/30/83)	Do.
84-280	Cholest-5-en-3-ol(3beta)-, 11-[(1-oxo-2-propenyl)oxy]undecanoate	48 FR 57619 (12/30/83)	Do.
84-281	Cholest-5-en-3-ol(3beta)-, 4-[(1-oxo-2-propenyl)oxy]butanoate	48 FR 57619 (12/30/83)	Do.
84-282	Cholest-5-en-3-ol(3beta)-, 4-chlorobutanoate	48 FR 57619 (12/30/83)	Do.
84-283	Generic name: Polymer of substituted alkyl acrylates	49 FR 930 (1/6/84)	Mar. 21, 1984.
84-284	Generic name: Mercapto carboxylic acid ester reaction product with olefin	49 FR 930 (1/6/84)	Do.
84-285	Generic name: Methyl-oxo-alkyl-disubstituted heteromonocycle	49 FR 930 (1/6/84)	Do.
84-286	Generic name: 3-methyl substituted aliphatic	49 FR 930 (1/6/84)	Do.
84-287	Generic name: 3-methyl substituted aliphatic nitrile	49 FR 930 (1/6/84)	Do.
84-288	Generic name: 2-methyl substituted aliphatic nitrile	49 FR 931 (1/6/84)	Do.
84-289	Generic name: Alkylated onium salt, substituted sulfur compound, substituted sulfide	49 FR 931 (1/6/84)	Do.
84-290	Generic name: Reaction product of glycerin, ethylene oxide and hydrocarbyl halide	49 FR 931 (1/6/84)	Do.
84-291	Generic name: Reaction product of alkenyl-succinic anhydride and substituted alcohol	49 FR 931 (1/6/84)	Mar. 26, 1984.
84-292	Naphthalene sulfonic acid, dinonenyl-, compound with morpholine	49 FR 931 (1/6/84)	Do.
84-293	Generic name: Di-alkyl methyl amine	49 FR 931 (1/6/84)	Do.
84-294	1-cyclopentyldione-4-ethoxycarbonylpiperazinium tetrafluoroborate	49 FR 931 (1/6/84)	Do.
84-295	Generic name: Disubstituted piperazine salt	49 FR 931 (1/6/84)	Do.
84-296	2-methyl-3-(3-sulfopropyl)naphtho(2,3-d) thiazolium hydroxide inner salt	49 FR 931 (1/6/84)	Do.
84-297	Generic name: Polyurethane polymer	49 FR 931 (1/6/84)	Do.
84-298	Generic name: Polyurethane polymer	49 FR 931 (1/6/84)	Do.
84-299	Generic name: Polyurethane polymer	49 FR 931 (1/6/84)	Do.
84-300	Generic name: Polyurethane polymer	49 FR 931 (1/6/84)	Do.
84-301	Generic name: Polyurethane polymer	49 FR 931 (1/6/84)	Do.
84-302	Generic name: Polyurethane polymer	49 FR 931 (1/6/84)	Do.
84-303	Generic name: Polyurethane polymer	49 FR 932 (1/6/84)	Do.
84-304	Generic name: Benzyl dialkyl methyl quaternary ammonium chloride	49 FR 932 (1/6/84)	Do.
84-305	2-propenoic acid, 2-methyl-, 2-[[(1-methyl-propylidene)amino]oxy]carbonyl]amino]ethyl ester	49 FR 932 (1/6/84)	Mar. 27, 1984.
84-306	Benzoic acid, 2-[[[2-[(2-methyl-1-oxo-2-propenyl)oxy]ethyl]amino]carbonyl]oxy]-, methyl ester	49 FR 932 (1/6/84)	Do.
84-307	2-propenoic acid, 2-methyl-, 2-((hexahydro 2-oxo-1H-azepin-1-yl)carbonyl)amino)ethyl ester	49 FR 932 (1/6/84)	Do.
84-308	Generic name: Benzenamine, 2-substituted-4-[2-(5-substituted-2,3-dihydro-1,3,3-trialkyl-1H-indol-2-yl)ethenyl]-.	49 FR 932 (1/6/84)	Do.
84-309	Generic name: Polyether acid phosphate	49 FR 1787 (1/13/84)	Mar. 28, 1984.
84-310	Generic name: Amine salt of a substituted organic acid	49 FR 1787 (1/13/84)	Do.
84-311	Generic name: Cyclic alkene-yne	49 FR 1788 (1/13/84)	Do.
84-312	Methyltris(2-methyl-3-butyn-2-oxy)silane	49 FR 1788 (1/13/84)	Do.

II. 50 PREMANUFACTURE NOTICES RECEIVED PREVIOUSLY AND STILL UNDER REVIEW AT THE END OF THE MONTH

PMN No.	Identity and generic name	FR citation	Expiration date
84-191	Generic name: Polymer of laurolactam, caprolactam, alkanedioic acid and alkanediamine	48 FR 52504 (11/18/83)	Jan. 29, 1984.
84-192	Generic name: Polymer of laurolactam, caprolactam, alkanedioic acid and alkanediamine	48 FR 52504 (11/18/83)	Do.
84-193	Generic name: Functional copolymer of styrene with acrylate type monomers	48 FR 52504 (11/18/83)	Do.
84-194	Generic name: Diisocyanate polymers with polyether polyols	48 FR 52504 (11/18/83)	Do.
84-195	Generic name: Diisocyanate polymers with polyether polyols	48 FR 52504 (11/18/83)	Do.
84-196	Generic name: Diisocyanate polymers with polyether polyols	48 FR 52504 (11/18/83)	Do.
84-197	Carboxylic acid, C_8-C_{10} mono and C_8-C_{10} di-, polymers with neopentyl glycol and propylene glycol	48 FR 52506 (11/18/83)	Feb. 1, 1984.
84-198	Generic name: 2-ethyl-2(hydroxymethyl)-1,3-propanediol; benzoic acid; substituted propanediol; 1,3-benzenedicarbonylic acid; cyclic oxo-benzene carboxylic acid; mixed vegetable oils and polymer.	48 FR 52506 (11/18/83)	Do.
84-199	Acrifiavine hydrochloride	48 FR 52506 (11/18/83)	Feb. 4, 1984.
84-200	4,4'-(1,2-ethanediylidiimino)bis-3-pentene-2-one	48 FR 52506 (11/18/83)	Do.
84-201	Generic name: Tetrasubstituted dithiadiphosphetane	48 FR 52506 (11/18/83)	Feb. 5, 1984.
84-202	Generic name: Chromophore substituted polyoxyalkylene	48 FR 52506 (11/18/83)	Do.
84-203	Generic name: Trisubstituted amine thiophene	48 FR 52506 (11/18/83)	Do.
84-204	Generic name: A derivitized olefinic polymer	48 FR 52506 (11/18/83)	Feb. 6, 1984.
84-205	Generic name: Thermoplastic polyurethane	48 FR 53162 (11/25/83)	Feb. 7, 1984.
84-206	Generic name: Thermoplastic polyurethane	48 FR 53162 (11/25/83)	Do.
84-207	Generic name: Thermoplastic polyurethane	48 FR 53162 (11/25/83)	Do.
84-208	Generic name: Vegetable oil polyamide resin	48 FR 53162 (11/25/83)	Feb. 11, 1984.
84-209	Generic name: Pentasubstituted phenyl fatty acid ester	48 FR 53162 (11/25/83)	Do.
84-210	Generic name: 4-substituted benzoyl chloride	48 FR 53162 (11/25/83)	Do.
84-211	Generic name: 3,7-bis(di-substituted amino)-5-(substituted phenyl) phenazinium salt	48 FR 53162 (11/25/83)	Do.
84-212	Generic name: 3,7-bis(di-substituted amino)-5-(substituted phenyl) phenazinium salt	48 FR 53162 (11/25/83)	Do.
84-213	Generic name: 2,8-phenazinediamine, tetraalkylated-5,10-dihydro-10-(substituted-phenyl)-5-(4-substituted) benzoyl.	48 FR 53162 (11/25/83)	Do.
84-214	Generic name: Reaction products of quinone and amine	48 FR 53163 (11/25/83)	Feb. 12, 1984.
84-215	Generic name: 2-butenedioic (E)-, didecyl ester	48 FR 54394 (12/2/83)	Feb. 15, 1984.
84-217	Generic name: Phosphonium catalyst	48 FR 54394 (12/2/83)	Do.
84-218	Generic name: Modified polyester	48 FR 54394 (12/2/83)	Feb. 19, 1984.
84-219	Generic name: Modified alkyd polymer	48 FR 54394 (12/2/83)	Do.
84-220	Generic name: Benzenesulfonic acid, 4-[[4-substituted]-3-methyl-5-oxo-2-pyrazolin-1-yl]-, salt	48 FR 54395 (12/2/83)	Do.
84-221	Generic name: Ethoxylated alkyl quaternary amine	48 FR 54395 (12/2/83)	Feb. 20, 1984.
84-222	Generic name: Urethane bisoxazolidine	48 FR 54395 (12/2/83)	Do.

II. 50 Premanufacture Notices Received Previously and Still Under Review at the End of the Month—Continued

PMN No.	Identity and generic name	FR citation	Expiration date
84-223	Generic name: Aromatic sulfonate of substituted heteropolycycle	48 FR 55332 (12/12/83)	Feb. 22, 1984.
84-224	Generic name: Alkoxylated bisphenol A, inorganic ester, monoethanolamine salt	48 FR 55332 (12/12/83)	Do.
84-225	Generic name: Polyester—imide resin	48 FR 55332 (12/12/83)	Do.
84-226	Generic name: 1,3-benzenedicarboxylic acid polymer with 1,4-benzenedicarboxylic acid adipic acid and polyols.	48 FR 55332 (12/12/83)	Feb. 25, 1984.
84-227	Generic name: Fatty acids, esters with polyol	48 FR 55332 (12/12/83)	Do.
84-228	Generic name: Modified copolymer of alkenoic esters and substitued alkenoic esters with styrene	48 FR 55333 (12/12/83)	Do.
84-229	Zinc ammonium phosphate	48 FR 55333 (12/12/83)	Do.
84-230	Zinc magnesium orthophosphate	48 FR 55333 (12/12/83)	Do.
84-231	Generic name: Aliphatic polycarbonate diol	48 FR 55333 (12/12/83)	Do.
84-232	Generic name: Alkyd resin	48 FR 55333 (12/12/83)	Feb. 26, 1984.
84-233	Silicon aluminum oxynitride	48 FR 55333 (12/12/83)	Do.
84-234	Generic name: Diisocyanate polymer with polyether polyols	48 FR 55333 (12/12/83)	Feb. 27, 1984.
84-235	Generic name: Diisocyanate polymer with polyether polyols	48 FR 55333 (12/12/83)	Do.
84-236	Generic name: Diisocyanate polymer with polyether polyols	48 FR 55333 (12/12/83)	Do.
84-237	Generic name: Hydroxyalkylene-bis-[-trialkyl ammonium chloride]	48 FR 55333 (12/12/83)	Do.
84-238	Generic name: Alkenyltrialkylammonium phosphate	48 FR 55333 (12/12/83)	Do.
84-239	Generic name: Amine derivative of a fatty acid condensation polymer	48 FR 55333 (12/12/83)	Do.
84-240	Generic name: Trisubstituted benzoxazolium salt	48 FR 55333 (12/12/83)	Feb. 28, 1984.
84-241	Generic name: Trisubstituted benzoxazolium salt	48 FR 55333 (12/12/83)	Do.

III. 224 Premanufacture Notices for Which the Notice Review Period Has Ended During the Month.

[Expiration of the notice review period does not signify that the chemical had been added to the inventory]

PMN No.	Identity and generic name	FR citation	Expiration date
83-110	Generic name: Saturated acid diester	47 FR 52223 (11/19/82)	Dec. 12, 1983.
83-115	Generic name: Naphthalenedisulfonic acid, disodium salt, ((2-((sodium sulfooxyethyl) sulfonyl)aryl)azo), and monochlorotriazinyl amino, substituted, copper complex.	47 FR 52224 (11/19/82)	Dec. 14, 1983.
83-456	Generic name: Zirconium propanoate, substituted	48 FR 8343 (2/28/83)	Dec. 8, 1983.
83-622	1,3,6-Naphthalenetrisulfonic acid, 7-[[4-[[4-[[4-[(4,6,-disulfo-2-naphthalenyl)azo]-3-methylphenyl]amino]-6-[(4-sulfophenyl)amino]-1,3,5-triazin-2-yl]amino]-2-methylphenyl]azo]-, hexasodium salt.	48 FR 16332 (4/15/83)	Dec. 12, 1983.
83-997	Generic name: 6-diethylamino-2-(substituted) spiro(xanthene-9,3'-phthalide)	48 FR 35713 (8/5/83)	Dec. 7, 1983.
83-998	Generic name: 6-dibutylamino-2-(substituted) spiro(xanthene-9,3'-phthalide)	48 FR 35714 (8/5/83)	Do.
83-1102	Generic name: Aliphatic acid ester of-n-alkyl perfluoro sulfonamido alkanol	48 FR 41639 (9/16/83)	Dec. 4, 1983.
83-1103	Generic name: Esterified copolymers of alpha olefins and maleic anhydride	48 FR 41639 (9/16/83)	Do.
83-1104	PEG-120 methyl glucoside dioleate	48 FR 41639 (9/16/83)	Do.
83-1105	Methyl glucoside dioleate	48 FR 41639 (9/16/83)	Do.
83-1106	Generic name: Polyester of phthalic anhydride and lower glycols	48 FR 41639 (9/16/83)	Do.
83-1107	Generic name: Amine salt of a carboxyl terminated polyester urethane polymer	48 FR 41639 (9/16/83)	Do.
83-1108	Generic name: Alpha olefin/2,5 furandione copolymer	48 FR 41639 (9/16/83)	Do.
83-1109	Generic name: Salt of alpha olefin/2,5 furandione polymer	48 FR 41639 (9/16/83)	Do.
83-1110	Generic name: Salt of alpha olefin/2,5 furandione polymer	48 FR 41639 (9/16/83)	Do.
83-1111	Generic name: Salt of alpha olefin/2,5 furandione polymer	48 FR 41639 (9/16/83)	Do.
83-1112	Generic name: Salt of alpha olefin/2,5 furandione polymer	48 FR 41639 (9/16/83)	Do.
83-1113	Generic name: Salt of alpha olefin/2,5 furandione polymer	48 FR 41639 (9/16/83)	Do.
83-1114	Generic name: Salt of alpha olefin/2,5 furandione polymer	48 FR 41639 (9/16/83)	Do.
83-1115	Generic name: Alpha olefin/2,5 furandione copolymer	48 FR 41640 (9/16/83)	Do.
83-1116	Generic name: Salt of alpha olefin/2,5 furandione polymer	48 FR 41640 (9/16/83)	Do.
83-1117	Generic name: Salt of alpha olefin/2,5 furandione polymer	48 FR 41640 (9/16/83)	Do.
83-1118	Generic name: Salt of alpha olefin/2,5 furandione polymer	48 FR 41640 (9/16/83)	Do.
83-1119	Generic name: Alpha olefin/2,5 furandione copolymer	48 FR 41640 (9/16/83)	Do.
83-1120	Generic name: Salt of alpha olefin/2,5 furandione polymer	48 FR 41640 (9/16/83)	Do.
83-1121	Generic name: Salt of alpha olefin/2,5 furandione polymer	48 FR 41640 (9/16/83)	Do.
83-1122	Generic name: Salt of alpha olefin/2,5 furandione polymer	48 FR 41640 (9/16/83)	Do.
83-1123	Generic name: Alpha olefin/2,5 furandione copolymer	48 FR 41640 (9/16/83)	Do.
83-1124	Generic name: Salt of alpha olefin/2,5 furandione polymer	48 FR 41640 (9/16/83)	Do.
83-1125	Generic name: Salt of alpha olefin/2,5 furandione polymer	48 FR 41640 (9/16/83)	Do.
83-1126	Generic name: Salt of alpha olefin/2,5 furandione polymer	48 FR 41640 (9/16/83)	Do.
83-1127	Generic name: Alpha olefin/2,5 furandione copolymer	48 FR 41640 (9/16/83)	Do.
83-1128	Generic name: Salt of alpha olefin/2,5 furandione polymer	48 FR 41640 (9/16/83)	Do.
83-1129	Generic name: Salt of alpha olefin/2,5 furandione polymer	48 FR 41640 (9/16/83)	Do.
83-1130	Generic name: Salt of alpha olefin/2,5 furandione polymer	48 FR 41640 (9/16/83)	Do.
83-1131	Generic name: Alpha olefin/2,5 furandione copolymer	48 FR 41641 (9/16/83)	Do.
83-1132	Generic name: Salt of alpha olefin/2,5 furandione polymer	48 FR 41641 (9/16/83)	Do.
83-1133	Generic name: Salt of alpha olefin/2,5 furandione polymer	48 FR 41641 (9/16/83)	Do.
83-1134	Generic name: Salt of alpha olefin/2,5 furandione polymer	48 FR 41641 (9/16/83)	Do.
83-1135	Generic name: Alpha olefin/2,5 furandione copolymer	48 FR 41641 (9/16/83)	Do.
83-1136	Generic name: Salt of alpha olefin/2,5 furandione polymer	48 FR 41641 (9/16/83)	Do.
83-1137	Generic name: Salt of alpha olefin/2,5 furandione polymer	48 FR 41641 (9/16/83)	Do.
83-1138	Generic name: Salt of alpha olefin/2,5 furandione polymer	48 FR 41641 (9/16/83)	Do.
83-1139	Generic name: Alpha olefin/2,5 furandione copolymer	48 FR 41641 (9/16/83)	Do.
83-1140	Generic name: Salt of alpha olefin/2,5 furandione polymer	48 FR 41641 (9/16/83)	Do.
83-1141	Generic name: Salt of alpha olefin/2,5 furandione polymer	48 FR 41641 (9/16/83)	Do.
83-1142	Generic name: Salt of alpha olefin/2,5 furandione polymer	48 FR 41641 (9/16/83)	Do.
83-1143	Generic name: Salt of alpha olefin/2,5 furandione copolymer	48 FR 41641 (9/16/83)	Do.
83-1144	Generic name: Salt of alpha olefin/2,5 furandione polymer	48 FR 41641 (9/16/83)	Do.
83-1145	Generic name: Salt of alpha olefin/2,5 furandione polymer	48 FR 41641 (9/16/83)	Do.
83-1146	Generic name: Salt of alpha olefin/2,5 furandione polymer	48 FR 41641 (9/16/83)	Do.
83-1147	Generic name: Styrene/alpha olefin/2,5 furandione copolymer	48 FR 41642 (9/16/83)	Do.
83-1148	Generic name: Ammonia salt of styrene/alpha olefin/2,5 furandione polymer	48 FR 41642 (9/16/83)	Do.
83-1149	Generic name: Styrene/alpha olefin/2,5 furandione polymer	48 FR 41642 (9/16/83)	Do.
83-1150	Generic name: Ammonia salt of styrene/alpha olefin/2,5 furandione polymer	48 FR 41642 (9/16/83)	Do.
83-1151	Generic name: Diethoxydiphenylalkanone	48 FR 41642 (9/16/83)	Dec. 5, 1983.
83-1152	Generic name: Substituted sulfonated naphthalene	48 FR 41642 (9/16/83)	Do.
83-1153	Generic name: Urethane compound	48 FR 41642 (9/16/83)	Do.

III. 224 PREMANUFACTURE NOTICES FOR WHICH THE NOTICE REVIEW PERIOD HAS ENDED DURING THE MONTH.—Continued

[Expiration of the notice review period does not signify that the chemical had been added to the inventory]

PMN No.	Identity and generic name	FR citation	Expiration date
83-1154	Generic name: Urethane compound	48 FR 41642 (9/16/83)	Do.
83-1155	Generic name: Copolymer of mixed acrylate and methacrylate monomers	48 FR 41642 (9/16/83)	Do.
83-1156	Generic name: Substituted cyclopentadiene formal dehyde copolymer	48 FR 41642 (9/16/83)	Do.
83-1158	Generic name: Polymer of styrene with mixed alkyl acrylates and methacrylates	48 FR 41642 (9/16/83)	Do.
83-1159	Generic name: Complex epoxy resin adduct	48 FR 41642 (9/16/83)	Do.
83-1160	Generic name: Substituted heterocycle	48 FR 41642 (9/16/83)	Do.
83-1161	Generic name: Combination of a metal phosphate and metal oxides	48 FR 41643 (9/16/83)	Do.
83-1164	Generic name: Trisubstituted pyrimidine	48 FR 41643 (9/16/83)	Do.
83-1165	Generic name: Monosubstitutedbenzenesulfonyl-isocyanate	48 FR 41643 (9/16/83)	Do.
83-1166	Generic name: Monosubstitutedphenyl magnesium bromide	48 FR 41643 (9/16/83)	Do.
83-1167	Generic name: Trisubstitutedmethylsilane hydrochloride	48 FR 41643 (9/16/83)	Do.
83-1168	Generic name: Monosubstitutedbenzyl chloride	48 FR 41643 (9/16/83)	Do.
83-1169	Generic name: Monosubstitutedbenzylthiosulfate salt	48 FR 41643 (9/16/83)	Do.
83-1170	Generic name: Monosubstitutedbenzylsulfonyl-chloride	48 FR 41643 (9/16/83)	Do.
83-1171	Generic name: Monosubstitutedbenzenealkyl-sulfonylisocyanate	48 FR 41643 (9/16/83)	Do.
83-1172	Generic name: Monosubstitutedbenzoic acid	48 FR 41643 (9/16/83)	Do.
83-1173	Generic name: Monosubstitutedbenzoic acid methyl ester	48 FR 41643 (9/16/83)	Do.
83-1174	Generic name: Monosubstitutedheterocycle-diazonium chloride	48 FR 41643 (9/16/83)	Do.
83-1175	Generic name: Monosubstitutedheterocycle-sulfonylisocyanate	48 FR 41643 (9/16/83)	Do.
83-1176	Generic name: Trisubstitutedbenzenesulfonyl chloride	48 FR 41643 (9/16/83)	Do.
83-1177	Generic name: Trisubstitutedphenol, ammonium salt	48 FR 41644 (9/16/83)	Do.
83-1178	Generic name: Monosubstitutedphenol, sodium salt	48 FR 41644 (9/16/83)	Do.
83-1179	Generic name: Monosubstitutedbenzenesulfonylisocyanate	48 FR 41644 (9/16/83)	Do.
83-1180	Generic name: Polyglycol alcohol polymer	48 FR 41644 (9/16/83)	Do.
83-1181	Generic name: Polyglycol alcohol polymer	48 FR 41644 (9/16/83)	Do.
83-1182	Generic name: Polyglycol alcohol polymer	48 FR 41644 (9/16/83)	Do.
83-1183	Generic name: Substituted polyalkylene polyamine	48 FR 41644 (9/16/83)	Do.
83-1184	Polymer of: styrene, butyl acrylate, t-octyl acrylamide, acrylic acid, methacrylic acid	48 FR 41644 (9/16/83)	Do.
83-1185	Generic name: Substituted-1-sila-2-azacyclopentane	48 FR 41644 (9/16/83)	Do.
83-1186	Generic name: Vinyl interpolymer containing hydroxyl and carboxyl groups	48 FR 41644 (9/16/83)	Dec.6, 1983.
83-1187	Generic name: Vinyl interpolymer containing hydroxyl and carboxyl groups	48 FR 41644 (9/16/83)	Do.
83-1188	Generic name: Organic acid salt of the succinimide of alpha olefin and alkene/alkene copolymer	48 FR 41644 (9/16/83)	Do.
83-1189	Generic name: Succinimide of alpha olefin and alkene/alkene copolymer	48 FR 41644 (9/16/83)	Do.
83-1190	Generic name: Alpha olefin succinic anhydride	48 FR 41644 (9/16/83)	Do.
83-1191	Generic name: Alkenyl succinic acid metal salt	48 FR 41644 (9/16/83)	Do.
83-1192	Generic name: Alkenyl succinic acid metal salt	48 FR 41644 (9/16/83)	Do.
83-1193	Generic name: Organic acid salt of 3 heteropolycycle alkyl succinimide of thiol alkene/alkene copolymer.	48 FR 41645 (9/16/83)	Do.
83-1194	Generic name: 3 heteropolycycle alkyl succinimide of thiol alkene/alkene copolymer	48 FR 41645 (9/16/83)	Do.
83-1195	Generic name: Succinic anhydride of thiol alkene/alkene copolymer	48 FR 41645 (9/16/83)	Do.
83-1196	Generic name: Reaction product of alkyl succinic anhydride and polyamine	48 FR 41645 (9/16/83)	Do.
83-1197	Generic name: Reaction product of alkyl succinic anhydride and polyamine	48 FR 41645 (9/16/83)	Do.
83-1198	Generic name: Reaction product of alkyl succinic anhydride and polyamine	48 FR 41645 (9/16/83)	Do.
83-1199	Generic name: Reaction product of alkyl succinic anhydride and polyamine	48 FR 41645 (9/16/83)	Do.
83-1200	Generic name: Diyne diurea	48 FR 43397 (9/23/83)	Dec. 7, 1983.
83-1201	Generic name: Diyne diurea	48 FR 43397 (9/23/83)	Do.
83-1202	Generic name: Diyne diurea	48 FR 43397 (9/23/83)	Do.
83-1203	Generic name: Diyne diurea	48 FR 43397 (9/23/83)	Do.
83-1204	Generic name: Diyne diurea	48 FR 43398 (9/23/83)	Do.
83-1205	Generic name: Diyne diurea	48 FR 43398 (9/23/83)	Do.
83-1206	Generic name: Polyester of dicarboxylic acids and a difunctional alcohol	48 FR 43398 (9/23/83)	Do.
83-1207	Generic name: Polyester of dicarboxylic acids and a difunctional alcohol	48 FR 43398 (9/23/83)	Do.
83-1208	Generic name: Polyester of dicarboxylic acids and a difunctional alcohol	48 FR 43398 (9/23/83)	Do.
83-1209	Generic name: Monosubstitutedbenzenesulfonamide	48 FR 43398 (9/23/83)	Do.
83-1210	Generic name: Trisubstitutedbenzenesulfonylchloride	48 FR 43398 (9/23/83)	Do.
83-1211	Generic name: Monosubstitutedheterocyclesulfonamide	48 FR 43398 (9/23/83)	Do.
83-1212	Generic name: Monosubstitutedheterocyclesulfonylchloride	48 FR 43398 (9/23/83)	Do.
83-1213	Generic name: Monosubstitutedaminoheterocycle	48 FR 43398 (9/23/83)	Do.
83-1214	Generic name: Disubstitutedchloromethylmethylsilane	48 FR 43398 (9/23/83)	Do.
83-1215	Generic name: Monosubstitutedbenzenesulfonamide	48 FR 43398 (9/23/83)	Do.
83-1216	Generic name: Monosubstitutedbenzenesulfonylisocyanate	48 FR 43398 (9/23/83)	Do.
83-1217	Generic name: Monosubstitutedbenzenesulfonylisocyanate	48 FR 43398 (9/23/83)	Do.
83-1218	Generic name: Monosubstitutedbenzenesulfonylisocyanate	48 FR 43398 (9/23/83)	Do.
83-1219	Generic name: Monosubstitutedbenzenesulfonamide	48 FR 43399 (9/23/83)	Do.
83-1220	Generic name: Monosubstitutedbenzylsulfonamide	48 FR 43399 (9/23/83)	Do.
83-1221	Generic name: Substituted dialhyphenol	48 FR 43399 (9/23/83)	Do.
83-1223	Generic name: Bisphenol glycidyl ether polyglycol reaction product	48 FR 43399 (9/23/83)	Do.
83-1224	Generic name: Fluorocarbon polymer	48 FR 43399 (9/23/83)	Do.
83-1225	Generic name: Fluorocarbon polymer	48 FR 43399 (9/23/83)	Do.
83-1226	Generic name: Fluorocarbon polymer	48 FR 43399 (9/23/83)	Do.
83-1230	Generic name: Fluorocarbon polymer	48 FR 43399 (9/23/83)	Do.
83-1231	Generic name: Fluorocarbon polymer	48 FR 43399 (9/23/83)	Do.
83-1232	Generic name: Polymer of aliphatic diamines, an alkanediol polyester, a monoalcohol polyether, a metal salt of an alkanediol polyether, and aliphatic diisocyanates.	48 FR 43399 (9/23/83)	Do.
83-1233	Generic name: Vinyl—Phosphorothioic acid ester, amine salt	48 FR 43399 (9/23/83)	Do.
83-1234	Generic name: Vinyl—epoxy ester	48 FR 43399 (9/23/83)	Dec. 10, 1983.
83-1235	Generic name: Vinyl—epoxy ester	48 FR 43400 (9/23/83)	Do.
83-1236	Generic name: Vinyl—epoxy ester	48 FR 43400 (9/23/83)	Do.
83-1237	Generic name: Polyester of aliphatic polyols, vegetable oil, and aromatic dibasic acid	48 FR 43400 (9/23/83)	Do.
83-1239	Generic name: Modified acrylic polymer	48 FR 43400 (9/23/83)	Do.
83-1240	Generic name: Copolymer of alkyl methacrylates and vinyl mono-heterocycle	48 FR 43400 (9/23/83)	Do.
83-1241	Generic name: Polymer of: adiprene 167, teracol 650 and 2-hydroxy ethyl acrylate	48 FR 43400 (9/23/83)	Do.
83-1242	Generic name: Polyamic acid	48 FR 43400 (9/23/83)	Dec. 21 1983.
83-1243	Generic name: Polymer of formaldehyde and substituted phenols and hydrobromic acid	48 FR 43400 (9/23/83)	Dec. 10, 1983.
83-1244	Generic name: Modified polyester	48 FR 43400 (9/23/83)	Do.
83-1245	Generic name: Polyester	48 FR 43400 (9/23/83)	Do.
83-1246	Generic name: Fatty alcohol	48 FR 43400 (9/23/83)	Dec. 11, 1983
83-1247	Generic name: Dialkyl maleate ester	48 FR 43400 (9/23/83)	Do.
83-1248	Benzeneacetic acid, α,α'-(1,2-ethanediyldiimino)bis[2-hydroxy-5-sulfo]tetrasodium salt	48 FR 43401 (9/23/83)	Do.
83-1251	Generic name: Linseed oil alkyd resin	48 FR 43401 (9/23/83)	Do.

III. 224 PREMANUFACTURE NOTICES FOR WHICH THE NOTICE REVIEW PERIOD HAS ENDED DURING THE MONTH.—Continued

[Expiration of the notice review period does not signify that the chemical had been added to the inventory]

PMN No.	Identity and generic name	FR citation	Expiration date
83-1252	Generic name: Potassium salt of a substituted propyl sulfonic acid	48 FR 43401 (9/23/83)	Do.
83-1253	Generic name: Rare earth silicate	48 FR 43401 (9/23/83)	Do.
83-1260	Generic name: Substituted heterocycle	48 FR 43401 (9/23/83)	Do.
83-1261	Generic name: Disubstituted aniline	48 FR 43401 (9/23/83)	Do.
83-1262	Generic name: Polysubstituted heterocycle	48 FR 43401 (9/23/83)	Do.
83-1263	Generic name: Substituted heterocyclic azo disubstituted aniline	48 FR 43401 (9/23/83)	Do.
83-1264	Generic name: Polysubstituted heterocyclic azo disubstituted aniline	48 FR 43401 (9/23/83)	Do.
83-1265	Generic name: Polyesteramide CR 1236	48 FR 43401 (9/23/83)	Dec. 13, 1983.
83-1266	9H-thioxanthen-9-one, 2-chloro-	48 FR 43402 (9/23/83)	Do.
83-1271	Generic name: Carboxylic acid derivatives of alkoxylated polyamines	48 FR 44900 (9/30/83)	Dec. 14, 1983.
83-1272	Generic name: Epoxy modified acrylic polymer	48 FR 44900 (9/30/83)	Do.
83-1273	Generic name: Chromophor substituted polyoxyalkylene	48 FR 44901 (9/30/83)	Do.
83-1275	3-(5-carboxypentyl)-5(1-ethyl[1], 4-dihydroquinolylidene-4-ethylidene)-4-oxo-2-thioxo-thiazolidine	48 FR 44901 (9/30/83)	Do.
83-1276	Quinolinium, 4-[2-(acetylphenylamino)ethenyl]-1-ethyl-, iodide	48 FR 44901 (9/30/83)	Do.
83-1277	3-thiazolidinehexanoic acid, 4-oxo-2-thioxo	48 FR 44901 (9/30/83)	Do.
83-1278	Generic name: Hydroxy functional acrylic copolymer	48 FR 44901 (9/30/83)	Dec. 17, 1983.
83-1279	Generic name: Water dispersed oligourethane	48 FR 44901 (9/30/83)	Do.
83-1280	Generic name: Polyurethane prepolymer resin	48 FR 44901 (9/30/83)	Do.
83-1281	Generic name: Premetallized aromatic substituted disazo	48 FR 44901 (9/30/83)	Do.
83-1282	Generic name: Reaction product of metal complex, diazotized aromatic compounds and fustic extract.	48 FR 44901 (9/30/83)	Do.
83-1283	Generic name: Substituted aromatic disazo	48 FR 44901 (9/30/83)	Do.
83-1284	Generic name: Reaction product of diazotized aromatic compounds with fustic extract	48 FR 44901 (9/30/83)	Do.
83-1285	Generic name: Reaction product of diazotized aromatic compounds with fustic extract	48 FR 44901 (9/30/83)	Do.
83-1286	Generic name: Aromatic substituted triazo	48 FR 44901 (9/30/83)	Do.
83-1287	Generic name: Reaction product of diazotized aromatic compounds with fustic extract	48 FR 44901 (9/30/83)	Do.
83-1288	Generic name: Reaction product of diazotized aromatic compounds with fustic extract	48 FR 44902 (9/30/83)	Do.
83-1289	Polymer of: 1,4 cyclohexanedimethanol, neopentyl glycol, trimethylol propane, isophthalic acid, fumaric acid.	48 FR 44902 (9/30/83)	Dec. 18, 1983.
83-1290	Generic name: Substituted pyridine	48 FR 44902 (9/30/83)	Do.
83-1291	Generic name: Polyfunctional mercaptan	48 FR 44902 (9/30/83)	Dec. 19, 1983.
83-1292	Generic name: Urethane modified polyester	48 FR 44902 (9/30/83)	Do.
83-1293	Generic name: 2-(2-chlorophenyl)-1-substituted-2-hydroxy-1-ethanone	48 FR 44902 (9/30/83)	Dec. 20,1983.
83-1294	Generic name: Dimer acids, monocarboxylic acid, dicarboxylic acids, diamines polyamide resin	48 FR 45842 (10/7/83)	Dec. 21, 1983.
83-1295	Generic name: Alkyl (substituted-phenyl) alkylate	48 FR 45842 (10/7/83)	Do.
83-1296	Generic name: Polyol acetal	48 FR 45842 (10/7/83)	Do.
83-1297	Generic name: Polyurethane	48 FR 45842 (10/7/83)	Do.
83-1298	Generic name: Acrylic copolymer	48 FR 45842 (10/7/83)	Do.
83-1299	Generic name: Styrene acrylic copolymer	48 FR 45842 (10/7/83)	Do.
83-1300	Generic name: Fatty acid mercapatan acrylic copolymer	48 FR 45842 (10/7/83)	Do.
83-1301	Generic name: Polymer of aliphatic and alicyclic diamines and aliphatic and benzene dicarboxylic acids.	48 FR 45843 (10/7/83)	Dec. 24, 1983.
83-1302	Generic name: Polymer of aliphatic and alicyclic diamines and aliphatic and benzene dicarboxylic acids.	48 FR 45843 (10/7/83)	Do.
83-1303	Generic name: Dimethyl siloxanes and silicones	48 FR 45843 (10/7/83)	Do.
83-1304	Generic name: Dimethyl siloxanes and silicones	48 FR 45843 (10/7/83)	Do.
83-1305	Generic name: Naphthalene, dialkylated	48 FR 45843 (10/7/83)	Do.
83-1306	Generic name: Dialkylated naphthalenesulfonic acid	48 FR 45843 (10/7/83)	Do.
83-1307	Generic name: Dialkylated naphthalene sulfonic acid barium salt	48 FR 45843 (10/7/83)	Do.
83-1308	Generic name: Benzo-heterocyclic, 2-[[4-[alkyl (2-hydroxyalkyl)amino]phenyl]-azo]-6-methoxy-3-alkyl-, chloride.	48 FR 45843 (10/7/83)	Do.
83-1309	Generic name: Polymer with methyl methacrylate, butyl acrylate,and hydroxy functional acrylic monomers.	48 FR 45843 (10/7/83)	Do.
83-1310	δ mercaptopropyl methyl dimethoxy silane	48 FR 45843 (10/7/83)	Dec. 25, 1983.
83-1311	Generic name: Phenolated rosin-modified alkyd	48 FR 45843 (10/7/83)	Do.
83-1312	Generic name: Urethane acrylate	48 FR 45843 (10/7/83)	Do.
83-1313	Generic name: Modified, maleated metal resinate	48 FR 45843 (10/7/83)	Do.
83-1314	Generic name: Isocyanatoarylsilane	48 FR 45843 (10/7/83)	Do.
83-1315	Generic name: Rosin modified alkyd	48 FR 45844 (10/7/83)	Do.
83-1316	Generic name: Alkyl fatty ester	48 FR 45844 (10/7/83)	Do.
83-1317	Generic name: Neopentylglycol alkyl ester	48 FR 45844 (10/7/83)	Do.
83-1318	Generic name: Methyl fatty acid esters	48 FR 45844 (10/7/83)	Do.
83-1319	Cesium bicarbonate	48 FR 45844 (10/7/83)	Do.
83-1320	Generic name: Polymer of acrylic acid, acrylic acid esters, and methacrylic acid esters	48 FR 45844 (10/7/83)	Do.
83-1321	Generic name: Benzophenotetracarboxy imide amide prepolymer	48 FR 45844 (10/7/83)	Do.
83-1322	Generic name: Modified, maleated metal resinate	48 FR 45844 (10/7/83)	Dec. 26, 1983.
83-1323	Generic name: Acrylourethane	48 FR 45844 (10/7/83)	Dec. 27, 1983.
83-1324	Generic name: Polyesteramide	48 FR 45844 (10/7/83)	Do.
83-1325	1-H-imidazole-1-carboxamide, N,N',-1,5 naphthalenediylbis	48 FR 46851 (10/14/83)	Dec. 28, 1983.
83-1327	Nickel dibenzyldithiocarbamate	48 FR 46852 (10/14/83)	Do.
83-1328	Generic name: Organic salt of quaternary aliphatic amine	48 FR 46852 (10/14/83)	Do.
83-1329	Generic name: Vinyl chloride, hydrocarbon elastomer, polyolefin copolymer	48 FR 46852 (10/14/83)	Do.
83-1330	Generic name: Vinyl chloride, hydrocarbon elastomer, polyolefin copolymer	48 FR 46852 (10/14/83)	Do.
83-1331	Generic name: Vinyl chloride, hydrocarbon elastomer, polyolefin copolymer	48 FR 46852 (10/14/83)	Do.
83-1332	Generic name: Vinyl chloride, hydrocarbon elastomer, polyolefin copolymer	48 FR 46852 (10/14/83)	Do.
83-1333	Generic name: Vinyl chloride, hydrocarbon elastomer, polyolefin copolymer	48 FR 46852 (10/14/83)	Do.
83-1334	Generic name: Vinyl chloride, hydrocarbon elastomer copolymer	48 FR 46852 (10/14/83)	Do.
83-1335	Generic name: Vinyl chloride, hydrocarbon elastomer copolymer	48 FR 46852 (10/14/83)	Do.
84-1	Generic name: Polyester of dicarboxylic acids and difunctional alcohols	48 FR 46852 (10/14/83)	Dec. 31, 1983.
84-2	Generic name: Amine salt of a modified carboxyl terminated polyester urethane polymer	48 FR 46852 (10/14/83)	Do.
84-3	Generic name: Modified magnesium fluoro-germanate	48 FR 46852 (10/14/83)	Do.
84-4	Generic name: Tannins, methylamino methylated	48 FR 46852 (10/14/83)	Do.
84-5	Generic name: Aliphatic polyester, cyclohexane diisocyanate based polyurethane	48 FR 46853 (10/14/83)	Do.
84-6	Generic name: Polyurethane based on TDI and a polycarbonate	48 FR 46853 (10/14/83)	Do.

IV. 33 Chemical Substances for Which EPA Has Received Notices of Commencement to Manufacture

PMN No.	Chemical identification	FR citation	Date of commencement
80-177	Oxirane, polymer with methyl oxirane, 1,3-diisocyanatomethylbenzene, and (2-hydroxyethyl)-2-propenoate.	45 FR 54423 (8/15/80)	Aug. 29, 1983.
80-355	Generic name: (p-Dialkylamino phenyl)-diaryl heterocycle	46 FR 11027 (2/5/81)	Dec. 2, 1983.
81-535	Generic name: Heteromonocycle modified fumarated rosin ester	46 FR 53522 (10/29/81)	Oct. 28, 1982.
82-162	2-[2,2-difluorohydroxyethyl-poly-(oxy-difluoromethylene)-poly-(oxy trifluoroethylene)oxy]-2,2-difluoroethanol.	47 FR 39242 (9/7/82)	Aug. 12, 1983.
82-185	2[isocyanato-2,2-difluoroethyl-poly-(oxydifluoromethylene)-poly-(oxytetrafluoroethylene)oxy]-2,2-difluoroethyl isocyanate.	47 FR 39242 (9/7/82)	July 18, 1983.
82-241	Penta(oxy-1,2-ethanediyl), alfa-(carboxymethyl)-omega-hydroxy-, C_{12-14} linear primary-alkyl ethers	47 FR 15407 (4/9/82)	Dec. 6, 1983.
82-248	Generic name: Modified hydroxy functional acrylic copolymer	47 FR 16404 (4/16/82)	Jan. 9, 1984.
82-315	Generic name: Modified hydroxyethylcellulose	47 FR 19781 (5/7/82)	Aug. 1, 1983.
82-374	Generic name: Alkyl thiadiazole	47 FR 23554 (5/28/82)	Aug. 29, 1983.
83-286	Generic name: Rosin metallic salt	47 FR 57335 (12/23/83)	Oct. 20, 1983.
83-349	Generic name: Polyol polymethacrylate	48 FR 863 (1/7/83)	Mar. 1983.
83-370	Generic name: 8-acetyl-3-dodecyl-7,7,9,9-tetramethyl-1,3,8-triazaspiro[4,5]decane,-2,4-dione	48 FR 3045 (1/24/83)	Dec. 7, 1983.
83-400	Generic name: Copolymer of acrylic and methacrylic monomers	48 FR 5304 (2/4/83)	Dec. 6, 1983.
83-435	Generic name: Acrylate of polybutadiene	48 FR 6397 (2/11/83)	Apr. 1983.
83-462	Generic name: Succinide ester amide	48 FR 7300 (2/18/83)	Nov. 16, 1983.
83-463	Generic name: Mixed fatty acids; alkanepolyol; benzenecarboxylic acids polymer	48 FR 7302 (2/18/83)	Nov. 30, 1983.
83-563	Generic name: Organotrimethoxysilane	48 FR 14035 (4/1/83)	On or about July 16, 1984.
83-652	Generic name: Modified poly (amido-amine)	48 FR 20486 (5/6/83)	June 24, 1983.
83-680	Generic name: Hydroxyethylaminoethylated tannin	48 FR 21370 (5/12/83)	July 28, 1983.
83-770	Generic name: Cyclomethylene citronellol	48 FR 24969 (6/3/83)	Week of Dec. 12, 1983.
83-824	Generic name: Organofunctional polydimethylsiloxane	48 FR 29049 (9/19/83)	Nov. 12, 1983.
83-864	Generic name: Saturated natural fatty acid choline chloride	48 FR 35713 (8/5/83)	Dec. 1983.
83-1085	Generic name: Substituted phenylacetamide	48 FR 39691 (9/1/83)	Dec. 23, 1983.
83-1098	Generic name: Aliphatic unsaturated copolyester	48 FR 40782 (9/9/83)	Dec. 15, 1983.
83-1107	Generic name: Amine salt of a carboxyl terminated polyester urethane polymer	48 FR 41639 (9/16/83)	Week of Dec. 5, 1983.
83-1253	Generic name: Rare earth silicate	48 FR 43401 (9/23/83)	Dec. 12, 1983.
83-1260	Generic name: Substituted heterocycle	48 FR 43401 (9/23/83)	Do.
83-1261	Generic name: Disubstituted aniline	48 FR 43401 (9/23/83)	Do.
83-1262	Generic name: Polysubstituted heterocycle	48 FR 43401 (9/23/80)	Dec. 14, 1983.
83-1263	Generic name: Substituted heterocyclic azo disubstituted aniline	48 FR 43401 (9/23/83)	Do.
83-1265	Generic name: Polyesteramide CR 1236	48 FR 43401 (9/23/83)	Dec. 19, 1983.
83-1282	Generic name: Reaction product of metal complex, diazotized aromatic compounds and fustic extract.	48 FR 44901 (9/30/83)	1st of Feb. 1984.
83-1285	Generic name: Reaction product of diazotized aromatic compounds and fustic extract	48 FR 44901 (9/30/83)	Do.

V. 56 Premanufacture Notices for Which the Review Period Has Been Suspended

PMN No.	Identity and generic name	FR citation	Date suspended
80-146	Phosphorodithioic acid *O,O'* – di(isohexyl, isoheptyl, isooctyl, isononyl, isodecyl) mixed esters, zinc salt.	45 FR 49153 (7/23/80)	Sept. 17, 1980.
80-147	Phosphorodithioic acid *O,O'* – di(isohexyl, isoheptyl, isooctyl, isononyl, isodecyl) mixed esters	45 FR 49153 (7/23/80)	Do.
82-60	Generic name: Zinc, O,O-bis alkylphosphoro dithioate	47 FR 5932 (2/9/82)	Apr. 15, 1982.
82-367	Phosphorodithioic acid, O,O', secondary butyl and isooctyl mixed esters	47 FR 25401 (6/11/82)	July 30, 1982.
82-368	Phosphorodithioic acid, O,O', secondary butyl and isooctyl mixed esters, zinc salt	47 FR 25401 (6/11/82)	Do.
83-1	Generic name: Polyhalogenated aromatic alkylated hydrocarbon	47 FR 46371 (10/18/82)	Oct. 22, 1982.
83-333	Generic name: Reaction product of polycyclesulfonic acid salt with phosphorus halide/halogen, subsequent reaction with an amine, subsequent reaction with an aldehyde/sodium bisulfite alkali.	48 FR 73 (1/3/83)	Mar. 14, 1983.
83-401	Generic name: Naphthalenetrisulfonic acid, chlorotriazinylamino-methoxymethylphenylazo	48 FR 5304 (2/4/83)	Aug. 18, 1983.
83-416	Generic name: Benzenedisulfonic acid, chlorotriazinylaminodimethylphenylazo-sulfonaphthaleneazo	48 FR 5306 (2/4/83)	Do.
83-434	Generic name: Unsaturated aliphatic diether	48 FR 6397 (2/11/83)	Apr. 20, 1983.
83-461	Generic name: Substituted alkoxy silane	48 FR 7300 (2/18/83)	Apr. 25, 1983.
83-634	Generic name: Substituted mono azo aromatic	48 FR 17385 (4/22/83)	July 5, 1983.
83-659	Generic name: Chromium complex of substituted phenolazosulfonaphthol with naphtholazosulfonaphthol.	48 FR 20490 (5/6/83)	Aug. 5, 1983.
83-677	Generic name: Chromium complex of substituted alkylaminoformimidphenol with sulfonaphtholazosulfophenylpyrazolone.	48 FR 20491 (5/6/83)	Do.
83-755	4-hydroxy-6-phenylanthronaphthalene-2-sulfonic acid	48 FR 24967 (6/3/83)	Aug. 17, 1983.
83-770	Generic name: Cobalt complex of a substituted phenolazonaphthol	48 FR 24968 (6/3/83)	Aug. 15, 1983.
83-771	Generic name: Chromium complex of substituted phenolazoalkylarylamino-formimidphenol with sulfonaphthylazosulfonaphthol.	48 FR 24968 (6/3/83)	Do.
83-785	Generic name: Substituted heteromonocycle sulfonylphenyl azo substituted naphthalene-sulfonic acid, salt.	48 FR 26884 (6/10/83)	Aug. 24, 1983.
83-822	Generic name: Trisubstituted aniline	48 FR 29049 (6/24/83)	Sept. 28, 1983.
83-831	Generic name: Diazo solvent red dye	48 FR 29055 (6/24/83)	Sept. 9, 1983.
83-845	Generic name: Tetrasodium salt of μ-(2-(2-hydroxy-3-nitro-5-sulfo-phenylazo)-2'-(2-hydroxy-5-substituted-3-sulfophenylazo)-3,3'-disulfo-6,6'-iminodi-1-naphtholate-(0,0',0'',0''')(8⁻)]dicopper- (II)acid.	48 FR 30434 (7/1/83)	Sept. 16, 1983.
83-846	Generic name: Metal complexed substituted aromatic azo compound	48 FR 30435 (7/1/83)	Sept. 21, 1983.
83-875	4-(2-cyano-4-nitrophenylazo)-[N-(2-cyanoethyl)-N-(2-phenoxyethyl)amino]benzene	48 FR 31462 (7/8/83)	Do.
83-876	4-(2-cyano-4-nitrophenylazo)-[N,N-bis(2-propionyloxyethyl)amino]-3-chlorobenzene	48 FR 31462 (7/8/83)	Do.
83-913	Generic name: Copper sulfonylphenazopolyhydroxy phenazobenzoate	48 FR 32383 (7/15/83)	Oct. 1, 1983.
83-1035	Generic name: (Amino)-(hydroxy)-(substituted)-(substituted) naphthalenedisulfonic acid, and (amino)-(hydroxy)-(substituted)-(substituted) naphthalenedisulfonic acid, salts with sodium and potassium.	48 FR 36648 (8/12/83)	Oct. 14, 1983.
83-1007	Generic name: (Substituted)-(substituted)-hydroxy-naphthalenesulfonic acid, sodium salts	48 FR 36648 (8/12/83)	Do.
83-1012	Generic name: Bis[(substituted-chlorotriazine-aminosulfophenyl)] hydroxyaminodisulfonaphthalene	48 FR 36648 (8/12/83)	Oct. 24, 1983.
83-1018	Generic name: Substituted-naphthalene tetradisulfonic acid, bis[(substituted-hydroxyphenylazo)-phenyl]derivative.	48 FR 36649 (8/12/83)	Do.
83-1023	Generic name: Alkyl aryl phosphine	48 FR 36649 (8/12/83)	Oct. 20, 1983.
83-1028	Generic name: Disubstitutedsulfamoylcarbomonocycle azo substituted naphthalene sulfonic acid, sodium salt.	48 FR 37699 (8/19/83)	Oct. 27, 1983.
83-1029	Generic name: Substituted heterocycle	48 FR 37699 (8/19/83)	Nov. 3, 1983.

V. 56 PREMANUFACTURE NOTICES FOR WHICH THE REVIEW PERIOD HAS BEEN SUSPENDED—Continued

PMN No.	Identity and generic name	FR citation	Date suspended
83-1033	Generic name: C_{6-9} carboxylic acid	48 FR 37700 (8/19/83)	Dec. 8, 1983.
83-1042	Acridine, 9-phenyl	48 FR 37700 (8/19/83)	Oct. 17, 1983.
83-1048	Generic name: Polyether polyurethane	48 FR 38890 (8/26/83)	Oct. 27, 1983.
83-1057	Generic name: 1,1-di(alkylsubstituted) hydrazine	48 FR 38890 (8/26/83)	Nov. 4, 1983.
83-1062	Generic name: Polycarboxylic acid	48 FR 39689 (9/1/83)	Nov. 19, 1983.
83-1092	Generic name: Mixed castor amide with diethylene triamine	48 FR 40783 (9/9/83)	Oct. 11, 1983.
83-1093	Generic name: Mixed castor amide with amino ethyl ethanol amine	48 FR 40783 (9/9/83)	Do.
83-1157	Generic name: Substituted oxirane	48 FR 41642 (9/16/83)	Nov. 29, 1983.
83-1162	Generic name: Substituted pyridine	48 FR 41643 (9/16/83)	Do.
83-1163	Generic name: Substituted pyridine	48 FR 41643 (9/16/83)	Do.
83-1222	Generic name: Substituted alkyl halide	48 FR 43399 (9/23/83)	Do.
83-1227	Generic name: Perhalo alkoxy ether	48 FR 43399 (9/23/83)	Do.
83-1228	Generic name: Perhalo alkoxy ether	48 FR 43399 (9/23/83)	Do.
83-1229	Generic name: Perhalo alkoxy ether	48 FR 43399 (9/23/83)	Do.
83-1238	Generic name: Substituted anthraquinone	48 FR 43400 (9/23/83)	Dec. 9, 1983.
83-1267	9H-thioxanthen-9-one, 2,4-diethyl	48 FR 43402 (9/23/83)	Nov. 28, 1983.
83-1268	9H-thioxanthen-9-one, 2,4-dimethyl	48 FR 43402 (9/23/83)	Do.
83-1269	Methanone, (4-methoxy-3-methylphenyl)	48 FR 43402 (9/23/83)	Do.
83-1270	9H-thioxanthen-9-one, 4-chloro	48 FR 43402 (9/23/83)	Do.
83-1274	Acetamide, 2-chloro-N-chloromethyl-N-(2-ethyl-6-methylphenyl)	48 FR 44901 (9/30/83)	Dec. 9, 1983.
84-7	N,N,N',N'-tetraglycidyl-1,3-bisaminomethyl cyclohexane	48 FR 46853 (10/14/83)	Dec. 21, 1983.
84-66	Generic name: Substituted anthraquinone aryl amine	48 FR 50953 (11/4/83)	Dec. 28, 1983.
84-69	Generic name: Substituted anthraquinone ammonium salt	48 FR 50953 (11/4/83)	Do.
84-216	Generic name: Phosphate ester	48 FR 54394 (12/2/83)	Dec. 7, 1983.

[FR Doc. 84-2850 Filed 2-1-84; 8:45 am]
BILLING CODE 6560-50-M

FEDERAL HOME LOAN BANK BOARD

[No. AC-335]

Alabama Federal Savings & Loan Association, Tuscaloosa, Ala.; Final Action; Approval of Conversion Application

Dated: January 27, 1984.

Notice is hereby given that on January 6, 1984, the Office of General Counsel of the Federal Home Loan Bank Board, acting pursuant to the authority delegated to the General Counsel or his designee, approved the application of Alabama Federal Savings and Loan Association, Tuscaloosa, Alabama, for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of said Corporation, 1700 G Street, NW., Washington, D.C. 20552 and at the Office of the Supervisory Agent of said Corporation at the Federal Home Loan Bank of Atlanta, P.O. 56527, Peachtree Center Station, Atlanta, Georgia, 30343.

By the Federal Home Loan Bank Board.

John F. Ghizzoni,

Assistant Secretary.

[FR Doc. 84-2901 Filed 2-1-84; 8:45 am]
BILLING CODE 6720-01-M

[No. AC-338]

Grand Rapids Mutual Federal Savings & Loan Association, Grand Rapids, Mich.; Final Action; Approval of Conversion Application

Dated: January 27, 1984.

Notice is hereby given that on December 29, 1983, the Office of General Counsel of the Federal Home Loan Bank Board, acting pursuant to the authority delegated to the General Counsel or his designee, approved the application of Grand Rapids Mutual Federal Savings and Loan Association, Grand Rapids, Michigan, for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of said Corporation, 1700 G Street, NW., Washington, D.C. 20552 and at the Office of the Supervisory Agent of said Corporation at the Federal Home Loan Bank of Indianapolis, P.O. Box 60, Indianapolis, Indiana 46206.

By the Federal Home Loan Bank Board.

John F. Ghizzoni,

Assistant Secretary.

[FR Doc. 84-2904 Filed 2-1-84; 8:45 am]
BILLING CODE 6720-01-M

[No. AC-336]

Heritage Federal Savings & Loan Association, Daytona Beach, Fla.; Final Action; Approval of Conversion Application

Dated: January 27, 1984.

Notice is hereby given that on October 27, 1983, the Office of General Counsel of the Federal Home Loan Bank Board, acting pursuant to the authority delegated to the General Counsel or his designee, approved the application of Heritage Federal Savings and Loan Association, Daytona Beach, Florida, for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of Board, 1700 G Street, NW., Washington, D.C. 20552, and at the Office of the Supervisory Agent of Federal Home Loan Bank of Atlanta, P.O. Box 56527, Peachtree Center Station, Altanta, Georgia 30343.

By the Federal Home Loan Bank Board.

John F. Ghizzoni,

Assistant Secretary.

[FR Doc. 84-2902 Filed 2-1-84; 8:45 am]
BILLING CODE 6720-01-M

[No. AC-333]

Monroe Savings & Loan Association, Monroe, N.C.; Final Action; Approval of Conversion applications

Dated: January 27, 1984.

Notice is hereby given that on January 17, 1984, the Office of General Counsel of the Federal Home Loan Bank Board, acting pursuant to the authority delegated to the General Counsel or his designee, approved the application of Monroe Savings and Loan Association, Monroe, North Carolina, for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of said Corporation, 1700 G Street, NW., Washington, D.C. 20552 and

at Office of the Supervisory Agent of said Corporation at the Federal Home Loan Bank of Atlanta, Post Office Box 56527, Peachtree Center Station, Atlanta, Georgia, 30343.

By the Federal Home Loan Bank Board.
John F. Ghizzoni,
Assistant Secretary.

[FR Doc. 84-2800 Filed 2-1-84; 8:45 am]
BILLING CODE 6720-01-M

[No. AC-339]

Westchester Federal Savings Bank, New Rochelle, N.Y.; Final Action; Approval of Conversion Application

Dated: January 27, 1984.

Notice is hereby given that on January 11, 1984, the Office of General Counsel of the Federal Home Loan Bank Board, acting pursuant to the authority delegated to the General Counsel or his designee, approved the application of Westchester Federal Savings Bank, New Rochelle, New York, for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of said Corporation, 1700 G Street, NW., Washington, D.C. 20552 and at Office of the Supervisory Agent of said Corporation at the Federal Home Loan Bank of New York, One World Trade Center, Floor 103, New York, New York, 10048.

By the Federal Home Loan Bank Board.
John F. Ghizzoni,
Assistant Secretary.

[FR Doc. 84-2805 Filed 2-1-84; 8:45 am]
BILLING CODE 6720-01-M

[No. AC-337]

Yoakum Federal Savings & Loan Association Yoakum, Tex.; Final Action; Approval of Conversion Application

Dated: January 27, 1984.

Notice is hereby given that on October 26, 1983, the Office of General Counsel of the Federal Home Loan Bank Board, acting pursuant to the authority delegated to the General Counsel or his designee, approved the application of Yoakum Federal Savings and Loan Association, Yoakum, Texas, for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of said Corporation, 1700 G Street, NW., Washington, D.C. 20552 and at Office of the Supervisory Agent of said Corporation at the Federal Home Loan Bank of Dallas, 500 East John Carpenter Freeway, Post Office Box 619026, Dallas/Fort Worth, Texas 75261-9026.

By the Federal Home Loan Bank Board.
John F. Ghizzoni,
Assistant Secretary.

[FR Doc. 84-2809 Filed 2-1-84; 8:45 am]
BILLING CODE 6720-01-M

[No. AC-334]

York Federal Savings & Loan Association, York, Pa.; Final Action; Approval of the Conversion Application

Dated: January 27, 1984.

Notice is hereby given that on January 16, 1984, the Office of General Counsel of the Federal Home Loan Bank Board, acting pursuant to the authority delegated to the General Counsel or his designee, approved the application of York Federal Savings and Loan Association, York, Pennsylvania, for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of the said Corporation, 1700 G Street, NW., Washington, D.C. 20552, and at the Office of the Supervisory Agent of said Corporation at the Federal Home Loan Bank of Pittsburgh, 11 Stanwix Street, Fourth Floor, Gateway Center, Pittsburgh, Pennsylvania, 15222-1395.

By the Federal Home Loan Bank Board.
John F. Ghizzoni,
Assistant Secretary.

[FR Doc. 84-2809 Filed 2-1-84; 8:45 am]
BILLING CODE 6720-01-M

FEDERAL RESERVE SYSTEM

BankAmerica Corp.; To Expand the Activities of BA Futures Inc.

BankAmerica Corporation, San Francisco, California, has aplied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to expand the activities of BA Futures Incorporated, San Francisco, California.

Applicant states that the proposed subsidiary would engage *de novo* in the activities of executing and clearing, for nonaffiliated persons, options on futures contracts in U.S. government securities and options on other financial futures contracts that may from time to time be approved for trading on major exchanges. These activities would be performed from offices of Applicant's subsidiary in San Francisco, California; Atlanta, Georgia; Chicago, Illinois; Houston, Texas; London, England; Los Angeles, California; New York, New York; Seattle, Washington; and Republic of Singapore, and the geographic areas to be served are the entire United States and abroad. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of San Francisco.

Any views or requests for hearing should be submitted in writing and received by William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, Washington, D.C., not later than February 24, 1984.

Board of Governors of the Federal Reserve System, January 27, 1984.

James McAfee,
Associate Secretary of the Board.

[FR Doc. 84-2839 Filed 2-1-84; 8:45 am]
BILLING CODE 6210-01-M

Clark Bancshares; Acquisition of Bank Shares by a Bank Holding Company

Clark Bancshares, Clarks, Nebraska, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to become a bank holding company by acquiring 51 percent of the voting shares of Tereco, Inc. and indirectly acquire Farmers State Bank, Silver Creek, Nebraska. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c).

Clark Bancshares, has also applied, pursuant to section 4(c)(8) of the Bank

Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to operate a general insurance agency in Silver Creek, Nebraska.

These activities would be performed from offices of Applicant's subsidiary in Silver Creek, Nebraska, a town with a population of fewer than 5,000 persons. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City.

Any views or requests for hearing should be submitted in writing and received by the Reserve Bank not later than February 24, 1984.

Board of Governors of the Federal Reserve System, January 27, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-2940 Filed 2-1-84; 8:45 am]

BILLING CODE 6210-01-M

Den Norske Creditbank; Engaging de Novo in Permissible Nonbanking Activities

January 27, 1984.

The organization listed in this notice has filed a notice under § 225.23(a)(1) of the Board's Regulation Y (49 FR 794) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (49 FR 794) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. With respect to the notice, interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding this application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than February 20, 1984.

A. **Federal Reserve Bank of New York** (A. Marshall Puckett, Vice President) 33 Liberty Street, New York, New York 10045:

1. *Den Norske CreditBank*, Oslo, Norway; to engage *de novo* through its subsidiary DNC Finance, in the activities of commercial lending, such as would be performed by a mortgage or commercial finance company, including making and acquiring loans secured by real property, equipment, accounts receivable and inventory.

Board of Governors of the Federal Reserve System, January 30, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-2947 Filed 2-1-84; 8:45 am]

BILLING CODE 6210-01-M

Manufacturers Hanover Corp.; Acquisitions of Companies Engaged in Permissible Nonbanking Activities

The bank holding company listed in this notice has applied under § 225.23(a)(2) or (f) of the Board's Regulation Y (49 FR 794) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (49 FR 794) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. With respect to the application, interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding this application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than February 28, 1984.

A. **Federal Reserve Bank of New York** (A. Marshall Puckett, Vice President) 33 Liberty Street, New York, New York 10045:

1. *Manufacturers Hanover Corporation*, New York, New York, to acquire C.I.T. Financial Corporation, New York, New York, and engage in factoring—in purchasing accounts receivable, collecting accounts receivable, making loans to clients, either unsecured or secured by receivables (i.e., customer invoices) assigned by the clients to the factor; commercial and industrial finance—making secured loans to businesses, sometimes referred to as "asset-based financing", and making unsecured loans to businesses; leasing—leasing personal or real property, acting as agent, broker or adviser in leasing such property under the conditions set forth in § 225.4(a)(6) (i) and (ii) of Regulation Y; Sales finance—purchasing notes or contracts that arise from sales of goods

and industrial and business equipment (for example, mobile home, automobile and industrial equipment finance activities); consumer finance—making or acquiring direct personal cash loans generally on an installment basis to individuals, secured or unsecured (for example, consumer finance, personal finance, small loan, direct cash loan and home equity lending activities or other consumer finance activities permitted under state law); industrial banking—engaging in industrial bank and industrial loan activities (the institutions do not accept demand deposits or other transaction accounts); credit servicing—servicing loans and other extensions of credit for any person and servicing sales finance contracts; insurance activities—acting as agent or broker for the sale of credit life, accident and health, disability, and property and casualty insurance; mortgage banking—originating and servicing loans secured by real estate and providing financing secured by real estate for construction projects; investing in community welfare projects—making equity and debt investments in companies or projects designed primarily to promote community welfare.

Board of Governors of the Federal Reserve System, January 27, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-2841 Filed 2-1-84; 8:45 am]

BILLING CODE 6210-01-M

Midlantic Banks Inc., et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (49 FR 794) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated for that application. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. With respect to each application, interested persons may express their views in writing to the Reserve Bank indicated for that application or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than February 28, 1984.

A. Federal Reserve Bank of New York (A. Marshall Puckett, Vice President) 33 Liberty Street, New York, New York 10045:

1. *Midlantic Banks Inc.*, Edison, New Jersey; to acquire 100 percent of the voting shares or assets of Union Trust Company of Wildwood, New Jersey, Wildwood, New Jersey.

B. Federal Reserve Bank of Philadelphia (Thomas K. Desch, Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105:

1. *Citizens Financial Services, Inc.*, Mansfield, Pennsylvania; to become a bank holding company by acquiring 100 percent of the voting shares of First Citizens National Bank, Mansfield, Pennsylvania.

C. Federal Reserve Bank of Cleveland (Lee S. Adams, Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. *Ohio Bancorp*, Youngstown, Ohio; to acquire 6.10 percent of the voting shares or assets of The Union Commercial & Savings Bank, East Palestine, Ohio.

2. *Spectrum Financial Corporation*, Wheeling, West Virginia; to become a bank holding company by acquiring 100 percent of the voting shares of Security National Bank & Trust Co., Wheeling, West Virginia.

D. Federal Reserve Bank of Chicago (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *First Chicago Corporation*, Chicago, Illinois; to acquire 100 percent of the voting shares or assets of American National Corporation, Chicago, Illinois and thereby indirectly acquire American National Bank & Trust Company of Chicago, Chicago, Illinois; First American Bank of Bensenville; Bensenville, Illinois; First National Bank of Libertyville, Libertyville, Illinois; First Arlington National Bank, Arlington Heights, Illinois; and The Elgin National Bank, Elgin, Illinois. Comments on this application must be received not later than February 15, 1984.

2. *Iowa First Bancshares Corp.*, Muscatine, Iowa; to become a bank holding company by acquiring 100 percent of the voting shares of First National Bank of Muscatine, Muscatine, Iowa and 80 percent of First National Bank in Fairfield, Fairfield, Iowa.

3. *River Valley Bancorporation, Inc.*, Rothschild, Wisconsin; to acquire 80 percent or more of the voting shares or assets of New London National Bank, New London, Wisconsin.

E. Federal Reserve Bank of Kansas City (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Kansas Bancorp II, Inc.*, Concordia, Kansas; to acquire 100 percent of the nonvoting preferred shares of First Glasco Bancshares, Inc., Glasco, Kansas. Comments on this application must be received not later than February 17, 1984.

2. *Roxbury Bancshares, Inc.*, Kansas City, Missouri; to become a bank holding company by acquiring 96 percent of the voting shares of Roxbury State Bank, Roxbury, Kansas.

3. *Victory Bancorp, Inc.*, Nowata, Oklahoma; to become a bank holding company by acquiring 93.23 percent of the voting shares of Victory Bancshares, Inc., Nowata, Oklahoma, thereby indirectly acquiring 89.46 percent of the voting shares of Victory National Bank of Nowata, Nowata, Oklahoma.

F. Federal Reserve Bank of Dallas (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *BancCentral Bancorp, Inc.*, Amarillo, Texas; to become a bank holding company by acquiring 80 percent of the voting shares of BancCentral (formerly North State Bank of Amarillo), Amarillo, Texas.

Board of Governors of the Federal Reserve System, January 27, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-2842 Filed 2-1-84; 8:45 am]

BILLING CODE 6210-01-M

Monarch Bancorp; Formation of a Bank Holding Company

Monarch Bancorp, Laguna Niguel, California, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 100 percent of the voting shares of Monarch Bank, Laguna Niguel, California. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Monarch Bancorp, Laguna Niguel, California, has also applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to acquire voting shares of M.B. Mortgage

Company, Inc., Laguna Niguel, California.

Applicant states that the proposed subsidiary would engage in the activities of mortgage banking. These activities would be performed from offices of Applicant's subsidiary in Laguna Niguel, California and the geographic areas to be served is the State of California. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of San Francisco.

Any views or requests for hearing should be submitted in writing and received by the Reserve Bank not later than February 21, 1984.

Board of Governors of the Federal Reserve System, January 27, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-2843 Filed 2-1-84; 8:45 am]

BILLING CODE 6210-01-M

Norwest Corp.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies and Acquisitions of Nonbanking Companies

The company listed in this notice has applied under § 225.14 of the Board's Regulation Y (49 FR 794) for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) to become a bank holding company or to acquire voting securities of a bank or bank holding company. The listed company has also applied to under § 225.23(a)(2) of Regulation Y (49 FR 794) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8) and § 225.21(a) of Regulation Y (49 FR 794) to acquire or control voting securities or assets a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. With respect to the application, interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competion, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding this application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than February 28, 1984.

A. **Federal Reserve Bank of Minneapolis** (Bruce J. Hedblom, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Norwest Corporation*, Minneapolis, Minnesota, to merge with Bankshares of Nebraska, Inc., Grand Island, Nebraska and thereby indirectly acquire The First National Bank of Grand Island, Grand Island, Nebraska, Bankshares of Nebraska Life Insurance Company, Grand Island, Nebraska and the insurance division of Bankshares of Nebraska, Inc., Grand Island, Nebraska. Bankshares of Nebraska Life Insurance Company, will engage in general insurance activities, particularly reinsurance on credit life, health and accident policies written by primary insurers; and the insurance agency division of Bankshares of Nebraska Inc., Grand Island, Nebraska will engage in general insurance activities mainly to provide insurance services for customers of the bank who have a credit relationship with the bank, to include insurance for homeowners, automobile, life business, group hospitalization, pension programs, profit sharing and farm policies.

Board of Governors of the Federal Reserve System, January 27, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-2844 Filed 2-1-84; 8:45 am]

BILLING CODE 6210-01-M

Puget Sound Bancorp; Proposal To Engage in the Arranging of Equity Financing

Puget Sound Bancorp, Tacoma, Washington, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to engage through an existing subsidiary Washington Mortgage Corporation, Seattle, Washington.

Applicant states that the subsidiary would engage in the activities of arranging equity financing and acting as an investment or financial adviser to the extent of providing portfolio investment advice to persons in connection with commercial or income-producing real estate investments. These activities would be performed from offices of Applicant's subsidiary in Seattle and Tacoma, Washington; Portland, Oregon; Phoenix, Arizona; Honolulu, Hawaii; Newport Beach, California and the geographic area to be served is the United States.

Although arranging equity financing has not been added to the list of activities specified by the Board in § 225.4(a) of Regulation Y, the Board has determined by order that this activity is closely related to banking. *E.g. Trust Company of Georgia*, 69 Federal Reserve Bulletin 225 (1983).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of

fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of San Francisco.

Any views or requests for hearing should be submitted in writing and received by William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, Washington, D.C., not later than February 24, 1984.

Board of Governors of the Federal Reserve System, January 27, 1984.

James McAfee,

Associate Secretary of the Board

[FR Doc. 84-2845 Filed 2-1-84; 8:45 am]

BILLING CODE 6210-01-M

Security Pacific Corp.; Acquisition of a Company Engaged in Permissible Nonbanking Activities

The bank holding company listed in this notice has applied under § 225.23 (a)(2) or (f) of the Board's Regulation Y (49 FR 749) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (49 FR 794) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. With respect to the application, interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding this application must by received at the Reserve Bank indicated or the offices of the Board of Governors not later than February 27, 1984.

A. Federal Reserve Bank of San Francisco (Harry W. Green, Vice President) 101 Market Street, San Francisco, California 94105:

1. *Security Pacific Corporation,* Los Angeles, California, to acquire certain assets of Citicorp Industrial Credit, Inc., Harrison, New York and Citicorp Business Credit, Inc. and Citibank, N.A., both of New York, New York, and thereby engage, through it subsidiary, Security Pacific Business Credit, Inc., in factoring activities from offices located in Los Angeles, California, Atlanta, Georgia, and New York, New York.

Board of Governors of the Federal Reserve System, January 27, 1984.

William W. Wiles,

Secretary of the Board.

[FR Doc. 84-2836 Filed 2-1-84; 8:45 am]

BILLING CODE 6210-01-M

United Security Bancshares, Inc., et al.; Formation of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become bank holding companies by acquiring voting shares or assets of a bank. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. Federal Reserve Bank of Atlanta (Robert E. Heck, Vice President) 104 Marietta Street, NW., Atlanta, Georgia 30303:

1. *United Security Bancshares, Inc.,* Canton, Georgia; to become a bank holding company by acquiring 91.1 percent of the voting shares of United Security Bank, Sparta, Georgia. Comments on this application must be received not later than February 27, 1984.

B. Federal Reserve Bank of New York (A. Marshall Puckett, Vice President) 33 Liberty Street, New York, New York 10045:

1. *First State Bancorp,* Howell, New Jersey; to become a bank holding company by acquiring at least 90 percent of the voting shares of Howell State Bank, Howell, New Jersey. Comments on this application must be received not later than February 27, 1984.

C. Federal Reserve Bank of Dallas (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Independent Bancorp. Inc.,* Channelview, Texas; to become a bank holding company by acquiring 100 percent of the voting shares of Channelview Bank, Channelview, Texas. Comments on this application must be received not later than February 27, 1984.

2. *Kiamichi Bancshares, Inc.,* Hugo, Oklahoma; to become a bank holding company by acquiring at least 80 percent of the voting shares of The Citizens State Bank, Hugo, Oklahoma. Comments on this application must be received not later than February 27, 1984.

Board of Governors of the Federal Reserve System (William W. Wiles, Secretary) Washington, D.C. 20551:

1. *McKeesport National Corporation,* McKeesport, Pennsylvania; to become a bank holding company by acquiring 100 percent of the voting shares of McKeesport National Bank, McKeesport, Pennsylvania. This application may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of Cleveland. Comments on this application must be received not later than February 27, 1984.

Board of Governors of the Federal Reserve System, January 27, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-2846 Filed 2-1-84; 8:45 am]

BILLING CODE 6210-01-M

FEDERAL TRADE COMMISSION

Granting of Request for Early Termination of the Waiting Period Under the Premerger Notification Rules; The News Corp. Ltd. et al.

Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by Title II of the

Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Federal Trade Commission and the Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register.**

The following transactions were granted early termination of the waiting period provided by law and the premerger notification rules. The grants were made by the Federal Trade Commission and the Assistant Attorney General for the Antitrust Division of the Department of Justice. Neither agency intends to take any action with respect to these proposed acquisitions during the applicable waiting period:

Transaction	Waiting period terminated effective
(1) 83-1124—The News Corporation Limited's proposed acquisition of voting securities of Warner Communications, Incorporated.	Jan. 18, 1984.
(2) 83-1111—Warner Communications Incorporated's proposed acquisition of BHC, Incorporated (Chris-Craft Industries, Incorporated, UPE).	Do.
(3) 83-1112—Chris-Craft Industries, Incorporated's proposed acquisition of voting securities of Warner Communications, Incorporated.	Do.
(4) 83-1079—DWG Corporation's proposed acquisition of voting securities of Peabody International Corporation.	Jan. 19, 1984.
(5) 83-1113—Republic Health Corporation's proposed acquisition of assets of Vesper Society.	Jan. 20, 1984.
(6) 84-0017—Health Resources Corporation of America's proposed acquisition of assets of North Miami General Hospital, Incorporated.	Do.
(7) 83-1055—Pay'n Save Corporation's proposed acquisition of voting securities of NWD Investment Company, Incorporated, (Kenneth R. Eads, UPE).	Jan 24, 1984.
(8) 84-0010—United Financial Group Incorporated of voting securities of Castle and Cooke, Incorporated.	Do.
(9) 83-1115—The 1984 Simmons Trust's proposed acquisition of voting securities of GAF Corporation.	Do.
(10) 84-0030—F.J.C. Lilley PLC's proposed acquisition of voting securities of The John W. Cowper Company, Incorporated.	Do.

FOR FURTHER INFORMATION CONTACT: Patricia A. Foster, Compliance Specialist, Premerger Notification Office, Bureau of Competition, Room 301, Federal Trade Commission, Washington, D.C. 20580; (202) 523-3894.

By direction of the Commission.

Emily H. Rock,

Secretary.

[FR Doc. 84-2852 Filed 2-1-84; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 81N-0393; DESI 6514]

Drugs for Human Use; Drug Efficacy Study Implementation; Prescription Drugs Offered for Relief of Symptoms of Cough, Cold, or Allergy; Amendment

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) amends a notice of opportunity for hearing which proposed to withdraw approval of the entire new drug applications (NDA's) for five "Phenergan" expectorants. As amended, the proposal applies to the NDA's only as they pertain to the old formulations of four of the products. FDA announces the conditions for marketing the four reformulated and renamed products for the indications for which they are regarded as effective.

EFFECTIVE DATE: February 2, 1984.

ADDRESS: Communication in response to this notice should be identified with Docket No. 81N-0393, and directed to the attention of the appropriate office named below:

Supplements to full new drug applications (identify with NDA number): Division of Surgical-Dental Drug Products (HFN-160), National Center for Drugs and Biologics, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

Original abbreviated new drug applications and supplements thereto (identify as such): Division of Generic Drug Monographs (HFN-530), National Center for Drugs and Biologics, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

Requests for opinion of the applicability of this notice to a specific product: Division of Drug Labeling Compliance (HFN-310), National Center for Drugs and Biologics, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

Other communications regarding this notice: Drug Efficacy Study Implementation Project Manager (HFN-501), National Center for Drugs and Biologics, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: David T. Read, National Center for Drugs and Biologics (HFN-8), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3650

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of May 25, 1982 (47 FR 22610), FDA revoked the temporary exemption from the time limits for completing certain phases of the Drug Efficacy Study Implementation (DESI) program that had been granted for five "Phenergan" expectorants. These prescription products are offered for the relief of symptoms of cough, cold, or allergy. FDA reclassified the five products as lacking substantial evidence of effectiveness, proposed to withdraw approval of the new drug applications for those products in their entirety, and offered an opportunity for a hearing on the proposal. Hearing requests were submitted for the five products.

1. Phenergan Expectorant with Codeine (NDA 8-306) containing 5 milligrams (mg) promethazine hydrochloride, 0.0104 milliliter (mL) ipecac fluidextract, 43.8 mg potassium guaiacolsulfonate, 60 mg citric acid, 197.2 mg sodium citrate, and 10 mg codeine phosphate per 5 mL; Wyeth Laboratories, Inc., Division of American Home Products Corp., P.O. Box 8299, Philadelphia, PA 19101. Wyeth has supplemented NDA 8-306 to provide for a reformulation that changes the name from "Phenergan Expectorant with Codeine" to "Phenergan with Codeine Cough Syrup" and contains 6.25 mg promethazine hydrochloride and 10 mg codeine phosphate per 5 mL.

2. Phenergan VC Expectorant Plain (NDA 8-604, misidentified in previous notices as NDA 8-306) containing 5 mg promethazine hydrochloride, 0.0104 mL ipecac fluidextract, 43.8 mg potassium guaiacolsulfonate, 60 mg citric acid, 197.2 mg sodium citrate, and 5.5 mg phenylephrine hydrochloride per 5 mL; Wyeth Laboratories. Wyeth has Supplemented NDA 8-604 to provide for a reformulation that changes the name from "Phenergan VC Expectorant Plain" to "Phenergan VC Plain" and contains 6.25 mg promethazine hydrochloride and 5 mg phenylephrine hydrochloride per 5 mL.

3. Phenergan VC Expectorant with Codeine (NDA 8-306) containing 5 mg promethazine hydrochloride, 0.0104 mL ipecac fluidextract, 43.8 mg potassium guaiacolsulfonate, 60 mg citric acid, 197.2 mg sodium citrate, 5.5 mg phenylephrine hydrochloride, and 10 mg codeine phosphate per 5 mL; Wyeth Laboratories. Wyeth has supplemented NDA 8-306 to provide for a reformulation that changes the name from "Phenergan VC Expectorant with Codeine" to "Phenergan VC with Codeine Cough Syrup" and contains 6.25 mg promethazine hydrochloride, 5 mg

phenylephrine hydrochloride, and 10 mg codeine phosphate per 5 mL.

4. Pediatric Phenergan Expectorant with Dextromethorphan (NDA 11–265) containing 5 mg promethazine hydrochloride, 0.0104 mL ipecac fluidextract, 44 mg potassium guaiacolsulfonate, 60 mg citric acid, 197 mg sodium citrate, and 7.5 mg dextromethorphan hydrobromide per 5 mL; Wyeth Laboratories. Wyeth has supplemented NDA 11–265 to provide for a reformulation that changes the name from "Pediatric Phenergan Expectorant with Dextromethorphan" to "Phenergan with Dextromethorphan Cough Syrup" and contains 6.25 mg promethazine hydrochloride and 15 mg dextromethorphan hydrobromide per 5 mL.

Also named in the May 25, 1982 notice was Phenergan Expectorant Plain (NDA 8–604) containing 5 mg promethazine hydrochloride, 0.0104 mL ipecac fluidextract, 44 mg potassium guaiacolsulfonate, 60 mg citric acid, and 197 mg sodium citrate per 5 mL; Wyeth Laboratories. That product is unaffected by this amendment.

Hearing requests are still pending on the five original expectorant formulations listed above. These products will be the subject of a future **Federal Register** notice.

FDA now amends the May 25, 1982 notice: the proposal to withdraw approval of NDA's 8–306, 8–604 insofar as it pertains to Phenergan VC Plain, and 11–265 does not apply to those NDA's as supplemented to provide for the reformulations described above. Each component (except promethazine hydrochloride) of the reformulations was considered to be safe and effective by the over-the-counter (OTC) drug review panel for cough, cold, allergy, bronchodilator, and antispasmodic (CCABA) drugs (41 FR 38339). Promethazine hydrochloride was classified by FDA as an effective antihistamine (42 FR 44275). The OTC drug review panel for CCABA drugs concluded that combinations containing an antihistamine and an antitussive, with or without a nasal decongestant, each present in amounts within the effective dosage range, are safe and effective (41 FR 38326).

The notice is also amended to include the following conditions for approval and marketing of the four reformulated products listed above.

A. *Effectiveness classification.* FDA as reviewed all available evidence and concludes that the four drug products, as reformulated, are effective for the indications in the labeling conditions below. The drug products lack substantial evidence of effectiveness in their old formulations, and for other labeled indications. This notice does not prevent FDA, in any future OTC drug monograph, from including any of the ingredients listed above, and requiring labeling different from that approved for prescription use.

B. *Conditions for approval and marketing.* FDA is prepared to approve abbreviated new drug applications for the formulations now regarded as effective and supplements to the previously approved new drug applications under conditions described herein.

1. *Form of drug.* The preparation is in a syrup form suitable for oral administration.

2. *Labeling conditions.* a. The label bears the statement, "Caution: Federal law prohibits dispensing without prescription."

b. The drug is labeled to comply with all requirements of the Federal Food, Drug, and Cosmetic Act and regulations, and the labeling bears adequate information for safe and effective use of the drug. The indications are as follows:

For Promethazine with Codeine Cough Syrup and Promethazine with Dextromethorphan Cough Syrup: For relief of coughs and upper respiratory symptoms associated with allergy or the common cold.

For Promethazine with Phenylephrine: For relief of upper respiratory symptoms, including nasal congestion, associated with allergy or the common cold.

For Promethazine with Phenylephrine and Codeine Cough Syrup: For relief of coughs and upper respiratory symptoms, including nasal congestion, associated with allergy or the common cold.

3. *Marketing status of "reformulated" products.* Approval of an abbreviated new drug application (21 CFR 314.2, previously 314.1(f) (revised and recodified January 21, 1983; 48 FR 2751)) or of a supplement to an approved or effective new drug application must be obtained before marketing such products. The bioavailability regulations (21 CFR 320.21) require any person submitting a full or abbreviated new drug application or a supplement for reformulation after July 7, 1977, to include either evidence demonstrating the in vivo bioavailability of the drug or information to permit waiver of the requirement. Marketing the drug products before approval of a new drug application or a supplement will subject those products, and the persons who caused the products to be marketed, to regulatory action.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 52 Stat. 1050–1053 as amended (21 U.S.C. 352, 355)), and under the authority delegated to the Director of the National Center for Drugs and Biologics (see 21 CFR 5.70, 5.82, and 47 FR 26913 published in the **Federal Register** of June 22, 1982).

Dated: January 23, 1984.

Harry M. Meyer, Jr.,

Director, National Center for Drugs and Biologics.

[FR Doc. 84–2823 Filed 2–1–84; 8:45 am]
BILLING CODE 4160–01–M

Small Business Participation; Open Meeting

AGENCY: Food an Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing a forthcoming small business exchange meeting to be chaired by Matthew H. Lewis, Director, Newark District Office.

DATE: The meeting will be held Thursday, March 1, 1984, at 1 p.m.

ADDRESS: The meeting will be held at The Education Center at the Center for Health Affairs, 746–760 Alexander Rd., CN–1, Princeton, NJ 08540–0706.

FOR FURTHER INFORMATION CONTACT: George R. Walden, Small Business Representative, Food and Drug Administration, 20 Evergreen Place, East Orange, NJ 07018, 201–645–6466.

SUPPLEMENTARY INFORMATION: The purpose of this meeting is to encourage dialogue between small business and FDA officials, provide a forum for the owners and managers of small businesses to express their concerns about FDA, encourage discussion about the effects of regulation and regulatory alternatives, convey knowledge about the agency's operations and procedures, and increase participation by small business persons in FDA's decisionmaking process.

Dated: January 26, 1984.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 84–2821 Filed 2–1–84; 8:45 am]
BILLING CODE 4160–01–M

Health Resources and Services Administration

Grant Application Cycles; Health Systems Agency Grants and State Health Planning and Development Agency Grants

Correction

In FR Doc. 83-33877 beginning on page 56648 in the issue of Thursday, December 22, 1983, make the following corrections:

On page 56648, second column, last paragraph, remove the second sentence and insert the following sentences. "If not included with the application, State comments should be forwarded to both the applicant and the regional office. If comments are provided by the State, the applicant should submit those comments and its reaction to them to the regional office, and, if applicable, any revisions to the application. Regional offices will notify States if an application is received without an indication that it was submitted to the State for review."

Begin a new paragraph with the word "All" in the eight line from the bottom of the column.

BILLING CODE 1505-01-M

Health Education Assistance Loan Program; Maximum Interest Rates for Quarter Ending March 31, 1984

Section 727 of the Public Health Service Act (42 CFR Part 60, previously 45 CFR Part 126) authorizes the Secretary of Health and Human Services to establish a Federal program of student loan insurance for graduate students in health professions schools. Section 60.13(a)(4) of the program's implementing regulations provides that the Secretary will announce the interest rate in effect on a quarterly basis.

The Secretary announces that for the period ending March 31, 1984, two interest rates are in effect for loans executed through the Health Education Assistance Loan (HEAL) program.

1. For loans made before January 27, 1981, the variable interest rate is 11¾ percent. Using the regulatory formula (45 CFR 126.13(a)(2)(3)), in effect prior to January 27, 1981, the Secretary would normally compute the variable rate for this quarter by finding the sum of the fixed annual rate (7 percent) and a variable component calculated by subtracting 3.50 percent from the average bond equivalent rate of 91-day U.S. Treasury bills for the preceding calendar quarter (9.16 percent), and rounding the result (5.66 percent) upward to the nearest ⅛ percent (5¾ percent). Thus, the variable rate for this 3-month period would normally be at the annual rate of 12¾ percent (5¾ percent plus 7 percent). However, the regulatory formula also provides that the annual rate of the variable interest rate for a 3-month period shall be reduced to the highest one-eighth of 1 percent which would result in an average annual rate not in excess of 12 percent for the 12-month period concluded by those 3 months. For the previous 3 quarters the variable interest at the annual rate was as follows: 12 percent for the quarter ending June 30, 1983; 12⅜ percent for the quarter ending September 1983; and 11⅞ percent for the quarter ending December 31, 1983. Therefore, in order to maintain an average annual rate of 12 percent for the 12-month period ending March 31, 1984, the variable interest rate for the quarter ending March 31, 1984, would be at an annual rate of 11¾ percent.

2. For fixed rate loans executed during the period of January 1 through March 31, 1984, and for variable rate loans executed after January 27, 1981, the interest rate is 12¾ percent. Using the regulatory formula (42 CFR 60.13(a)(3)), in effect since January 27, 1981, the Secretary computes the maximum interest rate at the beginning of each calendar quarter by determining the average bond equivalent rate for the 91-day U.S. Treasury bills during the preceding quarter (9.16 percent); adding 3.50 percent (12.66 percent); and rounding that figure to the next higher one-eighth of 1 percent (12¾ percent).

(Catalog of Federal Domestic Assistance No. 13.108, Health Education Assistance Loans)

Dated: January 27, 1984.

Robert Graham, M.D.,

Administrator, Assistant Surgeon General.

[FR Doc. 84-2862 Filed 2-1-84; 8:45 am]

BILLING CODE 4160-15-M

Public Health Service

Statement of Organization, Functions and Delegations of Authority

Part H, Chapter HA (Office of the Assistant Secretary for Health) of the Statement of Organization, Functions and Delegations of Authority for the Department of Health and Human Services (DHHS) (42 FR 61318, December 2, 1977, as amended most recently at 48 FR 25277, June 6, 1983) is amended to reflect the deletion of the Division of Emergency Coordination (HAU27) within the Office of Organization and Management Systems (HAU2), Office of Management (HAU), and the establishment of the Office of Emergency Preparedness (HAP) reporting to the Assistant Secretary for Health. This will establish a reporting relationship between the Deputy Assistant Secretary for Health Operations and the Director of the Office of Emergency Preparedness.

OASH

Under *Part H. Chapter HA, Office of the Assistant Secretary for Health, Section HA-10, Organization,* add the organization name after item 16. *Office of Emergency Preparedness (HAP).*

Following *Section HA-10,* change the title of the *Office of the Assistant Secretary for Health (HA)* to read *Section HA-20. Office of the Assistant Secretary for Health (HA)—Functions.*

Under *Section HA-20—Functions* make the following changes:

After the title and statement for the *Office of Refugee Health (HAF),* add the following title and statement:

Office of Emergency Preparedness (HAP). (1) Serves as the principal advisor to ASH for emergency management planning, preparedness, and operations activities and provides a central focal point for PHS efforts in emergency preparedness activities; (2) provides staff support to assist ASH in the accomplishment of emergency preparedness responsibilities assigned by Presidential Executive Order 11490 as amended, the Disaster Relief Act of 1974, and other pertinent statutes, directives, and delegations of authority; (3) provides central emergency preparedness policy guidance, coordination, and assistance to heads of PHS agencies and to Regional Health Administrators and monitors their performance and emergency readiness status; (4) works closely with the Federal Emergency Management Agency and other Federal departments and agencies to develop plans and maintain operational readiness required for timely and effective PHS response to Federal, State and local government requests for assistance following major disasters; (5) develops PHS policies and programs and coordinates PHS planning and response activities related to other types of emergencies, including resource shortages, civil disturbances, mass immigration emergencies and other actual or imminent crises; (6) maintains PHS liaison and working relationships with the Federal Emergency Management Agency and with other Federal departments and agencies; and (7) maintains PHS central files of classified emergency plans and other mobilization documents.

After the statement for the *Office of Management (HAU)* under the heading entitled *Office of Organization and Management Systems (HAU2),* revise item (3) in the office statement to delete

reference to "including emergency preparedness." Delete the title and statement for *Division of Emergency Coordination (HAU27).*

Dated: January 19, 1984.

Edward N. Brandt, Jr.,

Assistant Secretary for Health.

[FR Doc. 84-2870 Filed 2-1-84; 8:45 am]

BILLING CODE 4160-17-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

1983 Amendments to the California Desert Conservation Area Plan; Final Environmental Impact Statement

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of availability.

SUMMARY: Pursuant to section 102(2)(c), of the National Environmental Policy Act of 1969, the Bureau of Land Management has prepared a Final Environmental Impact Statement (FEIS) concerning the 1983 Amendment review of the California Desert Plan.

DATE: Comments on the FEIS are being accepted for 30 days from the date of this notice.

ADDRESS: For further information contact Gerald E. Hillier, District Manager, California Desert District, 1695 Spruce Street, Riverside, California 92507.

SUPPLEMENTARY INFORMATION: Fourteen amendments were accepted for consideration. The amendments propose changes in both general plan guidelines and in sight-specific measure. The latter include changes in vehicle access restrictions, Areas of Critical Environmental Concern (ACECs), grazing allotments, wilderness suitability recommendations, and multiple-use class designations. Under the preferred alternative, 12 amendments would either be accepted or accepted with modification, one would be rejected, and one would be deferred.

Comment on the FEIS should be submitted to the following address; use of any other address may result in comments not being processed: 1983 Plan Amendments, Bureau of Land Management, California Desert District, 1695 Spruce Street, Riverside, California 92507.

A limited number of copies of the Final Environmental Impact Statement are available upon request at the address listed above for comments. Copies are also available for review at two other locations:

USDI–Bureau of Land Management, 2800 Cottage Way, Rm. E–2841, Sacramento, CA 95825.

USDI–Bureau of Land Management, 1725 Eye Street NW., Suite 906, Washington, D.C. 20240.

Dated: January 27, 1984.

Ed Hastey,

State Director.

[FR Doc. 84-2893 Filed 2-1-84; 8:45 am]

BILLING CODE 4310-84-M

[C-36695]

Realty Action—Exchange, Public Lands in Gunnison County, Colorado

The following described public lands have been determined to be suitable for disposal by exchange under section 206 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716):

New Mexico Principal Meridian

T. 47 N., R. 3 W.,
Sec. 18, NW¼NE¼.

6th Principal Meridian

T. 14 S., R. 86 W.,
Sec. 1, N½SE¼SW¼.
Containing 60 acres.

In exchange for these lands, the United States will acquire the following described private lands in Gunnison County from Mr. Noel Andress:

New Mexico Principal Meridian

T. 49 N., R. 3 W.,
Sec. 25, SW¼NW¼, N½NW¼, N½S½NW¼SW¼,
Sec. 26, E½NE¼.
Containing 140 acres.

The purpose of the exchange is to obtain non-Federal lands for use in Federal programs in the vicinity of the Wayne Aspinal National Recreation Area. The exchange is consistent with the Bureau's planning for the lands involved. The public interest will be well served by making the exchange. The values of the lands to be exchanged are approximately equal and the difference in value will be equalized by payment from Mr. Andress.

The exchange will involve both the surface and subsurface estates and be consummated subject to valid existing rights which may apply to both the offered and selected lands.

Additional information about the exchange, including the environmental assessment, is available for review at the Bureau of Land Management, Montrose District Office, 2465 South Townsend Street, Montrose, Colorado 81401.

For a period of 45 days from the date of this notice, interested parties may submit comments or claims to the Montrose District Manager. Any adverse comments or claims will be evaluated by the District Manager who may vacate or modify this realty action and issue a final determination. In the absence of any action by the District Manager, this realty action will become the final determination of the Department of the Interior.

R. S. Schmidt,

Acting District Manager, Montrose.

[FR Doc. 84-2894 Filed 2-1-84; 8:45 am]

BILLING CODE 4310-JB-M

Issuance of Disclaimer of Interest to Lands in New Mexico

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of issuance of disclaimer of interest in land in New Mexico.

SUMMARY: Notice is hereby given that the United States of America, pursuant to the provisions of section 315 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1745), does hereby give notice of its intention to disclaim and release all interest that may have resulted from a change in the course of the Rio Hondo River in Taos County, New Mexico, to the owners of record for a certain tract of land in Twining, Taos County, New Mexico; within the Antoine Leroux Grant; located within the North ½ of projected Section 9, Township 27 North, Range 14 East, NMPM.

Any person wishing to submit a protest or comments on the above disclaimer of interest should do so by writing before the expiration date of 90 days from the date of publication of this notice. If no protest(s) is received, the disclaimer will become effective on the date set out below.

EFFECTIVE DATE: Disclaimer of title and release of all interest of the United States shall issue on May 3, 1984.

ADDRESS: Information concerning this land and the proposed disclaimer may be obtained from the protests filed with: District Manager, Bureau of Land Management, P.O. Box 6770, Albuquerque, New Mexico 87107.

FOR FURTHER INFORMATION CONTACT: Janet M. Budzilek, (505)–766–3665.

Howard L. Bryan, Jr.,

Acting District Manager.

[FR Doc. 84-2790 Filed 2-1-84; 8:45 am]

BILLING CODE 4310-FB-M

[C-36811]

Realty Action, Non-Competitive Lease of Public Lands in Mesa County, Colorado

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: A proposal has been made by Dorchester Coal Company (Dorchester) to lease public lands pursuant to Section 302 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2762, 43 U.S.C. 1732). The lease proposal is for lands located in Mesa County, Colorado within the following described area:

Sixth Principal Meridian

T. 8 S., R. 102 W.,
(Portions within) Sections 1, 11, 12, 13, 14, and 24
T. 8 S., R. 101 W.,
(Portions within) Sections 29, 30, 31, 32, 33, 34, and 35
T. 9 S., R. 101 W.,
(Portions within) Sections 3, 4, 5, and 6

The area within the above-described lands proposed for use aggregates approximately 3,464 acres.

Dorchester has proposed to use these lands for surface facility areas to support underground coal mining operations on three adjacent Federal Coal Leases (C–0127832, C–0127833, and C–0127834). The leases are located approximately 12 miles north of Fruita, Colorado. Dorchester proposes to construct mine portals, preparation plants, loadout facilities, clean coal stockpile areas, and reject coal disposal areas on the above described lands.

Information concerning the proposed land use is contained in Dorchester's mine plan application for the Fruita Mine Complex. The mine plan application has been submitted to the Office of Surface Mining and to the Colorado Mined Land Reclamation Division for review and processing. The Office of Surface Mining has been designated lead agency for the preparation of an Environmental Impact Statement (EIS) to assess impacts of the proposed development. The Bureau of Land Management will be a cooperating agency in the preparation of the EIS. All Federal, State and local permits will be reviewed through the Colorado Joint Review Process.

The Bureau of Land Management Grand Junction District will consider a long-term (approximately 30 years) direct-noncompetitive lease at the appraised fair market value to Dorchester Coal Company, dependent upon the company's filing and application for lease and including information required by Title 43 Code of Federal Regulations. § 2920.5–2. (These regulations appear as final rulemaking in the **Federal Register** of January 19, 1981, Volume, 46, No. 12, at pages 5772 through 5782.) The terms and conditions applicable to any lease issued under this notice are those in 43 CFR 2920.7.

Dorchester will be required to reimburse the United States for reasonable administrative and other costs incurred by the United States in processing a lease application and for monitoring construction, operation, maintenance and rehabilitation of any facilities authorized. The reimbursement of costs would be in accordance with the provisions of 43 CFR 2920.6.

Information about the proposal can be reviewed at the Bureau of Land Management, Grand Junction Resource Area, 764 Horizon Drive, Grand Junction, Colorado 81501, telephone (303) 243–6552. Interested parties may submit comments to the District Manager, Bureau of Land Management at the above address on or before March 20, 1984. Any adverse comments will be evaluated by the District Manager, who may vacate or modify this notice of realty action.

Wright C. Sheldon,
District Manager.

[FR Doc. 84–2827 Filed 2–1–84; 8:45 am]
BILLING CODE 4310–84–M

Amendment of a Notice of Intent To Prepare Management Framework Plan Amendments; New Mexico

AGENCY: Bureau of Land Management (BLM), New Mexico, Interior.

ACTION: Amendment of a Notice of Intent to prepare wilderness plan amendments and statewide environmental impact statement published in the **Federal Register** January 28, 1982, pages 4154–4155.

SUMMARY: The Interior Board of Land Appeals (IBLA) reversed some of BLM's decisions designating Wilderness Study Areas (WSA's) in New Mexico. The Presilla and Antelope wilderness inventory units are now WSA's and additional acreage has been added to the Sierra Ladrones WSA.

FOR FURTHER INFORMATION CONTACT: Joseph Sovcik, Environmental Coordinator, Bureau of Land Managment, P. O. Box 1449, Santa Fe, New Mexico 87501. Telephone: (505) 988–6565; FTS 476–6565.

SUPPLEMENTARY INFORMATION: As a result of the IBLA decision, the table in the Notice of Intent in the **Federal Register**, Vol. 47, No. 19, on page 4154, published January 28, 1982, is amended as follows:

Sierra Ladrones—Increase acreage from 39,308 to 42,688
Presilla—New WSA acreage—8,680
Antelope—New WSA acreage—23,710.

Charles W. Luscher,
State Director.

[FR Doc. 84–2802 Filed 2–1–84; 8:45 am]
BILLING CODE 4310–FB–M

Carson City, Nevada, District Grazing Advisory Board Meeting

January 23, 1984.

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Meeting of the Carson City District Grazing Advisory Board.

DATE: March 8, 1984; 9:00 a.m.

ADDRESS: BLM Office, 1050 E. William St., Suite 344, Carson City, Nevada.

SUPPLEMENTARY INFORMATION: The agenda will include the election of officers and update reports on range improvement projects and land use planning. The public is invited, and anyone may appear before the Council at 11:00 a.m.

FOR FURTHER INFORMATION CONTACT: Steve Weiss, Public Affairs Officer, BLM, 1050 E. William St., Suite 335, Carson City, NV 89701 (702) 882–1631.

Thomas J. Owen,
District Manager.

[FR Doc. 84–2809 Filed 2–1–84; 8:45 am]
BILLING CODE 4310–HC–M

Worland District Advisory Council, Wyoming; Meeting Cancellation

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of meeting cancellation.

SUMMARY: Notice is hereby given that the Worland District Advisory Council Meeting scheduled for February 15, 1984, as announced on page 942 of the Friday, January 6, 1984, **Federal Register** (Vol. 49, No. 4), has been cancelled indefinitely. The meeting will be rescheduled at a later date.

FOR FURTHER INFORMATION CONTACT: Ed Fisk, Associate District Manager, Bureau of Land Management, 1700 Robertson Avenue, Worland, Wyoming 82401 (307) 347–6151.

Chester E. Conrad,
District Manager.

[FR Doc. 84–2800 Filed 2–1–84; 8:45 am]
BILLING CODE 4310–22–M

[W-56564-A, W-69305, W-73691]

Proposed Reinstatement of Terminated Oil and Gas Leases

Pursuant to the provisions of Pub. L. 31-245 and Title 43 Code of Federal Regulations, Section 3108.2-1(c), and Pub. L. 97-451, petitions for reinstatement of oil and gas leases W-56564-A in Campbell County, Wyoming, W-69305 in Niobrara County, Wyoming, and W-73691 in Park County, Wyoming, were timely filed and accompanied by all the required rentals accruing from the dates of termination.

The lessees have agreed to new lease terms for rental and royalties at rates of $5.00 per acre, or fraction thereof, and 16⅔ percent, respectively.

The lessees have paid the required $500 administrative fee and will reimburse the Department for the cost of this Federal Register notice. The lessees having met all the requirements for reinstatement of the leases as set out in section 31 (d) and (e) of the Mineral Lands Leasing Act of 1920 (30 U.S.C. 188), the Bureau of Land Management is proposing to reinstate leases W-56564-A and W-69305 effective November 1, 1983, and lease W-73691 effective December 1, 1983, subject to the original terms and conditions of the leases and the increased rental and royalty rates cited above.

Richard L. Hopkins,

Acting Chief, Branch of Fluid Minerals.

[FR Doc. 84-2807 Filed 2-1-84; 8:45 am]

BILLING CODE 4310-33-M

[OR-36748]

Oregon; Order Providing for Opening of Lands

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: By order dated January 3, 1984, the Federal Energy Regulatory Commission vacated 80 power project land withdrawals in their entirety. This action will open certain lands in the State of Oregon to surface entry and mining.

EFFECTIVE DATE: March 12, 1984.

ADDRESS: Inquiries concerning the lands should be sent to: Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, P.O. Box 2965, Portland, Oregon 97208

1. By order dated January 3, 1984, the Federal Energy Regulatory Commission vacated the land withdrawals in their entirety as to the following identified power projects:

3111	3927	5396
3378	3983	5409
3380	3984	5501
3381	3975	5552
3382	3980	5565
3383	3998	5604
3384	4004	5665
3404	4084	5667
3405	4131	5904
3406	4136	6022
3427	4169	6109
3445	4171	6333
3446	4175	6336
3447	4176	6358
3458	4231	6609
3460	4408	6612
3462	4465	6653
3467	4708	6691
3468	4746	6860
3743	5024	6978
3784	5025	6979
3794	5026	6980
3795	5027	7031
3867	5072	7288
3890	5249	7295
3898	5357	7291

All of the lands involved are located within the State of Oregon.

2. At 8:30 a.m., on March 12, 1984, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law, the lands affected by the power project withdrawals identified in paragraph 1 will be open, to the extent that they are not otherwise withdrawn or conveyed out of Federal ownership, to operation of the public land laws generally or if applicable, to such forms of disposition as may by law be made of national forest lands.

3. At 8:30 a.m., on March 12, 1984, the lands affected by the power project withdrawals identified in paragraph 1 will be open, to the extent that they are not otherwise withdrawn or conveyed out of Federal ownership, to location under the United States mining laws. Appropriation of land under the United States mining laws prior to the date and time of restoration is unauthorized. Any such attempted appropriation, including attempted adverse possession under 30 U.S.C. Sec. 38, shall vest no rights against the United States. Acts required to establish a location and to initiate a right of possession are governed by State law where not in conflict with Federal law. The Bureau of Land Management will not intervene in disputes between rival locators over possessory rights since Congress has provided for such determinations in local courts.

4. To the extent that the lands affected by the power project withdrawals identified in paragraph 1 are not otherwise withdrawn or conveyed out of Federal ownership, the lands have been and remain open to applications and offers under the mineral leasing laws.

Dated: January 26, 1984.

Harold A. Berends,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 84-2805 Filed 2-1-84; 8:45 am]

BILLING CODE 4310-33-M

[U-53881]

Utah; Order Providing for Opening of Lands

1. In an exchange of lands under the provisions of Section 206 of the Act of October 21, 1976, the following lands have been reconveyed to the United States:

Salt Lake Meridian, Utah

T. 3 S., R. 19 E.,
Sec. 12, NE¼NW¼. (Surface Only)
T. 20 S., R. 16 E.,
Sec. 3, lots 8, 9, 10. (Surface and Minerals)
Aggregating 100.29 acres.

2. Subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law, the lands are hereby open to operations of the public land laws generally. All valid applications received at or prior to 10:00 a.m. on March 1, 1984, shall be considered as being simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

3. At 10:00 a.m. on March 1, 1984, the lands as described in paragraph one, where minerals were reconveyed to the United States, will be open to leasing under the mineral leasing laws. The lands will also be open to location under the mining laws. Appropriation of lands under the general mining laws prior to the date and time of restoration is unauthorized. Any such attempted appropriation, including attempted adverse possession under 30 U.S.C. 38, shall vest no rights against the United States. Acts required to establish a location and to initiate a right of possession are governed by State law where not in conflict with Federal law. The Bureau of Land Management will not intervene in disputes between rival locators over possessory rights since Congress has provided for such determinations in local courts.

Inquiries concerning the lands should be addressed to the Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, 136 East South Temple, University Club Building, Salt Lake City, Utah 84111.

Orval L. Hadley,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 84-2826 Filed 2-1-84; 8:45 am]

BILLING CODE 4310-DQ-M

[U-53729]

Utah; Order Providing for Opening of Lands

1. In an exchange of lands under the provisions of section 206 of the Act of October 21, 1976, the following lands have been reconveyed to the United States:

Salt Lake Meridian, Utah

T. 13 N., R. 10 W., (Surface Only)
Sec. 2, S½;
Sec. 10, SW¼.
T. 14 N., R. 10 W., (Surface Only)
Sec. 19, NE¼.
T. 4 N., R. 19 W., (Surface Only)
Sec. 3, all;
Sec. 9, all;
Sec. 11, all;
Sec. 28, all.
T. 5 N., R 19 W., (Surface Only)
Sec. 35, all.
T. 41 S., R. 1 W., (Surface Only)
Sec. 7, lot 3, 4, SE¼SW¼;
Sec. 18, lot 1, E½NW¼.
T. 37 S., R 19 E., (Surface Only)
Sec. 16, SE¼NE¼.
T. 8 S., R. 22 E.,
Sec. 31, lot 3, NE¼SW¼, SE¼ (Minerals Only)
Sec. 32, all; (Minerals Only)
Sec. 36, all. (Surface and Minerals)
T. 8 S., R. 23 E., (Surface and Minerals)
Secs. 32, 36, all.
T. 8 S., R. 24 E., (Surface and Minerals)
Secs. 32, 36, all.
T. 9 S., R. 24 E., (Surface and Minerals)
Sec. 15, lots 1 thru 4, N½, NW¼SW¼, N½SW¼SW¼, SW¼SW¼SW¼, N½SE¼SW¼SW¼, SW¼SE¼S SW¼SW¼, N½SE¼;
Sec. 32, NE¼NE¼, S½†NW¼, S½.
T. 8 S., R. 25 E., (Surface Only)
Sec. 32, all;
Sec. 36, lots 1 thru 4, W½W½.
T. 9 S., R. 25 E., (Surface and Minerals)
Sec. 2, all.

The areas described aggregate 10,797.50 acres.

2. Subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law, the lands as described in paragraph one, except lands in T. 8 S., R. 22 E., Sections 31 and 32, are hereby open to operation of the public land laws generally. All valid applications received at or prior to 10:00 a.m. on March 1, 1984, shall be considered as being simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

3. At 10:00 a.m. on March 1, 1984, the lands as described in paragraph one, where the minerals were reconveyed to the United States, will be open to location under the United States mining laws. Appropriation of lands under the general mining laws prior to the date and time of restoration is unauthorized. Any such attempted appropriation, including attempted adverse possession under 30 U.S.C. 38, shall vest no rights against the United States. Acts required to establish a location and to initiate a right of possession are governed by State law where not in conflict with Federal law. The Bureau of Land Management will not intervene in disputes between rival locators over possessory rights since Congress has provided for such determinations in local courts. Any use made of these lands will be subject to prior rights, applicable law, and the provisions of existing withdrawals.

4. At 10:00 a.m. on March 1, 1984, the lands as described in paragraph one, where the minerals were reconveyed to the United States, will also be open to leasing under the mineral leasing laws.

Inquiries concerning the lands should be addressed to the Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, University Club Building, 136 East South Temple, Salt Lake City, Utah 84111.

Orval L. Hadley,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 84-2911 Filed 2-1-84; 8:45 am]

BILLING CODE 4310-DQ-M

[I-19676]

Realty Action; Competitive Sale of Public Lands in Cassia County, Idaho

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Realty Action I-19676, Competitive Sale of Public Lands in Cassia County, Idaho.

SUMMARY: The following described land has been examined and through development of land use decisions based on public input, it has been determined that the sale of the tract is consistent with section 203(a)(1) of the Federal Land Policy and Management Act of 1976 (FLPMA). The land will be offered for sale using competitive bidding procedures (43 CFR 2711.3-1,2) for no less than the appraised fair market value indicated below. Any bids for less than such value will be rejected as required by FLMPA. Only sealed bids will be accepted. A bid will also constitute an application for conveyance of the mineral rights, except geothermal, oil and gas. The mineral interests being offered for conveyance have no known monetary value. Each bidder must submit a fifty dollar ($50) non-returnable filing fee for the mineral conveyance (43 CFR 2720.1-2(c)) and one-fifth of the full bid price (43 CFR 2711.3-1(d)), with the bid. Failure to deposit these sums will result in disqualification as the high bidder. The authorized officer shall then determine whether to accept the next highest bid, withdraw the public lands from the market or re-offer them for sale at a later date.

Legal description	Acres	Value
T. 13 S., R. 25 E., B.M. Sec. 24: S½NE¼SW¼SE¼NW¼, NW¼SW¼SW¼NW¼, S½SW¼ SW¼NW¼, S½NW¼SE¼SW¼ NW¼, S½SE¼SW¼NW¼	15	$5,000

Upon publication of this Notice in the **Federal Register** the land described above will be segregated from all forms of appropriation under the public land laws, including the mining laws, but excepting the mineral leasing laws, for a period of two years, or until the lands are sold. The segregative effect may otherwise be terminated by the Authorized Officer by publication of a termination notice in the **Federal Register** prior to the expiration of the two-year period.

The lands will be subject to the following reservations when patented:

1. A right-of-way is reserved for ditches and canals constructed under the authority of the United States, Act of August 30, 1890 (26 Stat. 391; 43 U.S.C. 945).

2. A right-of-way is reserved to the United States for existing road I-03499 and for the existing county road located in the S½SW¼NW¼, Sec. 24, T. 13 S., R. 25 E.

3. All mineral rights are reserved to the United States pursuant to 43 CFR 2711.5-1.

4. All valid existing rights.

Dates: All sealed bids must be received by 1:30 p.m. on April 11, 1984. At this time all bids will be opened at the Burley District Office.

Addresses: Sealed bids will be accepted at the Burley District Office, Rt. 3, Box 1, 200 South Oakley Highway, Burley, Idaho, 83318. Additional information concerning the land, terms and conditions of the sale, and bidding instructions may be obtained from John Davis, District Manager, at the above address, or by calling (208) 678-5514.

Supplementary Information: For a period of 45 days from the date of this notice, interested parties may submit comments to the District Manager regarding the proposed action. Any adverse comments will be evaluated by the District Manager who may vacate or modify this realty action and issue a final determination. In the absense of any action by the District Manager, this realty action will become the final determination of the Department of the Interior.

Dated: January 24, 1984.

John Davis,

District Manager.

[FR Doc. 84-2800 Filed 2-1-84; 8:45 am]

BILLING CODE 4310-GC-M

Special Recreation Use Permits; Open Season for Applications; Upper Missouri National Wild and Scenic River

AGENCY: Bureau of Land Management, Interior.

ACTION: Open Season for Commercial Permit Applications on the Upper Missouri National Wild and Scenic River.

SUMMARY: This notice establishes an "open season" for applying for Special Recreation Use Permits on the Upper Missouri National Wild and Scenic River in Montana required of all commercial float boating operations. Other requirements of commercial outfitting and guiding operations remains as outlined in the **Federal Register**, Vol. 44, No. 62, Thursday, March 29, 1979, entitled "Establishment of Recreation use Permit System for the Upper Missouri National Wild and Scenic River."

ADDRESS AND DATES: Applications must be sent to the Lewistown District, Bureau of Land Management, Airport Road, Lewistown, Montana 59457 between February 6 and March 16, 1984.

FOR FURTHER INFORMATION CONTACT: River Manager, Airport Road, Lewistown, Montana 59457.

Dated: January 25, 1984.

Glenn W. Freeman,

District Manager.

[FR Doc. 84-2800 Filed 2-1-84; 8:45 am]

BILLING CODE 4310-DN-M

Wilderness Intensive Inventory; Colorado

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of preliminary decision and 30-day public comment period, South Shale Ridge Intensive Inventory Unit.

SUMMARY: In a preliminary decision announced January 27, 1984, the Acting Colorado State Director determined that the South Shale Ridge Intensive Inventory Unit (CO-070-031) does not qualify as a wilderness study area because it lacks outstanding opportunities for solitude and primitive, unconfined recreation. The Interior Board of Land Appeals (IBLA) had directed the BLM to conduct an intensive inventory of approximately 3,200 acres on the Unit's west end and then include this acreage in a complete reevaluation to determine the Unit's qualification as a wilderness study area. Copies of the report can be obtained from or reviewed at the Colorado State Office at the address listed below or at the Grand Junction District Office at 764 Horizon Drive, Grand Junction, Colorado 81501.

A 30-day comment period has been provided to obtain public input on this proposed decision. A final decision by the State Director will be issued after review of public comments.

DATE: Public comments on this re-inventory and preliminary decision on the South Shale Ridge Unit should be submitted no later than February 29, 1984.

ADDRESS: Comments should be addressed to: Acting State Director, Bureau of Land Management, 1037 20th Street, Denver, Colorado 80202.

FOR FURTHER INFORMATION CONTACT: Barry Tollefson, Wilderness Coordinator, Colorado State Office, (303) 837-3393.

Dated: January 24, 1984.

Paul W. Arrasmith,

Acting Associate State Director.

[FR Doc. 84-2801 Filed 2-1-84; 8:45 am]

BILLING CODE 4310-JB-M

[W-80359]

Wyoming: Realty Action; Exchange of Public Lands in Crook and Weston Counties for Private Lands in Crook County

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Realty action, W-80359.

SUMMARY: The following described public lands have been determined to be suitable for disposal by exchange under Section 206 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716):

Sixth Principal Meridian

T. 48 N., R. 60 W.,
Sec. 5, Lot 5;
Sec. 6, Lots 8 to 10, inclusive;
Sec. 17, SW¼SE¼.
T. 49 N., R. 61 W.,
Sec 5, NE¼SW¼;
Sec. 22, NE¼NE¼;
Sec. 27, SW¼SE¼.
T. 50 N., R. 61 W.,
Sec. 6, SE¼SE¼;
Sec. 8, NE¼NE¼.
T. 51 N., R. 61 W.,
Sec 9, SE¼SE¼;
Sec. 29, SE¼SE¼;
Sec. 32, NE¼NE¼.
T. 55 N., R. 62 W.,
Sec. 5, Lot 11.
T. 54 N., R. 64 W.,
Sec. 25, SE¼NE¼.

Aggregating 646.43 acres of public land.

Both the surface and mineral estates, except oil and gas, will be exchanged on the public lands. There are no Federal minerals on T. 54 N., R. 64 W., Sec. 25, SE¼NE¼.

In exchange for these lands, the United States will acquire from Homestake Forest Products Company the surface estate in the following described lands:

Sixth Principal Meridian

T. 52 N., R. 60 W.,
Sec. 30, E½SW¼, W½SE¼.
T. 51 N., R. 61 W.,
Sec. 2, Tracts 37, 40, 41.
T. 52 N., R. 61 W.,
Sec. 35, SE¼SW¼.

Aggregating 640.12 acres of private land.

The purpose of the exchange is to consolidate the surface estate of both the Federal Government and Homestake Forest Products Co., eliminate two private inholdings within the Black Hills National Forest, and provide the public with legal access to the private lands which would be acquired. The exchange is consistent with the Bureau's planning for the land involved. The public interest will be served by completing the exchange.

The value of the lands to be exchanged is approximately equal and the acreage will be adjusted or money will be used to equalize the values upon completion of the final appraisal of the lands.

This exchange action will adversely impact the Bear Lodge Cattle Co. on grazing allotment GR-8085 when completed. After the exchange is finalized, the grazing privileges within this allotment will be reduced by 2 AUMs.

This exchange action will adversely impact Gary N. and Kathleen Steele on grazing allotment GR-8337 when completed. After the exchange is finalized, the grazing privileges within this allotment will be reduced by 6 AUMs.

This exchange action will adversely impact the Christensen Ranch on grazing allotment GR-8056 when completed. After the exchange is finalized, the grazing privileges within this allotment will be canceled. The Christensen Ranch has unconditionally waived its rights to a 2-year notification period, and the exchange will be finalized when all processing is complete.

This exchange action will adversely impact Nels. J. Smith on grazing allotment GR–8426 when completed. After the exchange is finalized, the grazing privileges within this allotment will be canceled. Nels J. Smith has unconditionally waived his rights to a 2-year notification period, and the exchange will be finalized when all processing is complete.

This exchange action will adversely impact Lauris L. Tysdal on grazing allotment GR–8364 when completed. After the exchange is finalized, the grazing privileges within this allotment will be canceled. Lauris L. Tysdal has unconditionally waived his right to a 2-year notification period, and the exchange will be finalized when all processing is complete.

The terms and conditions applicable to the public lands involved in this exchange are:

1. A reservation to the United States of the right to construct ditches or canals pursuant to the Act of August 30, 1890 (43 U.S.C. 945);

2. Oil and Gas will be reserved to the United States (43 U.S.C. 945)

3. The land will be exchanged subject to all valid existing rights of records on the date of conveyance;

4. Oil and gas lease W–71951 will remain in effect until terminated by the operation of the existing laws.

Publication of this notice in the **Federal Register** segregates the public lands, described above, from appropriation under the public land laws, including the mining laws, but not from exchange pursuant to Section 206 of the Federal Land Policy and Management Act of 1976. The segregative effect of this notice will terminate upon issuance of patent or in two years, whichever comes first.

DATE: For a period of 45 days from the date of this notice, interested parties may submit comments to the Casper District Manager at the address below. Any adverse comments will be evaluated by the Casper District Manager, Bureau of Land Management, who may vacate or modify this realty action and issue a final determination. In the absence of any action by the State Director, this realty action will become the final determination of the Department of the Interior.

ADDRESS: Detailed information concerning the exchange, including the environmental assessment and the record of public discussions, is available for review at the Casper District Office, 951 Rancho Road, Casper, Wyoming 82601.

Dated: January 26, 1984.

James W. Monroe,

District Manager.

[FR Doc. 84–2866 Filed 2–1–84; 8:45 am]

BILLING CODE 4310–22–M

[OR–36745 (Wash)]

Washington; Order Providing for Opening of Lands

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: By order dated December 7, 1983, the Federal Energy Regulatory Commission vacated 156 power project land withdrawals in their entirety. This action will open certain lands in the State of Washington to surface entry and mining.

EFFECTIVE DATE: March 12, 1984.

ADDRESS: Inquiries concerning the lands should be sent to: Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, P.O. Box 2965, Portland, Oregon 97208.

SUPPLEMENTARY INFORMATION:

1. By order dated December 7, 1983, the Federal Energy Regulatory Commission vacated the land withdrawals in their entirety as to the following identified power projects:

3153	4702	5347
3347	4710	5348
3388	4712	5365
3514	4713	5366
3606	4745	5392
3614	4748	5394
3654	4751	5405
3690	4752	5421
3715	4757	5428
3716	4759	5429
3723	4760	5433
3728	4817	5434
3729	4862	5438
3734	4892	5442
3735	5029	5443
3758	5030	5444
3801	5064	5459
3888	5065	5506
3889	5117	5509
4097	5167	5510
4110	5168	5537
4134	5169	5538
4149	5170	5539
4172	5193	5540
4173	5201	5551
4227	5210	5594
4429	5211	5775
4442	5255	5791
4465	5271	5794
4467	5272	5795
4470	5289	5805
4518	5291	5817
4575	5293	5856
4601	5314	5858
4602	5320	5859
4604	5321	5885
4643	5322	5949
4652	5324	5950
4653	5333	6000
4654	5340	6001
4655	5342	6004
4671	5352	6005
5161	6180	6706
5164	6184	6760
5170	6185	6835
5171	6204	6836
5172	6262	6950
5173	6394	6991
5177	6395	6993
5178	6396	7005
5179	6479	7193
5180	6547	7244

All of the lands involved are located within the State of Washington.

2. At 8:30 a.m., on March 12, 1984, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law, the lands affected by the power project withdrawals identified in paragraph 1, will be open, to the extent that they are not otherwise withdrawn or conveyed out of Federal ownership, to operation of the public land laws generally or if applicable, to such forms of disposition as may by law be made of national forest lands.

3. At 8:30 a.m., on March 12, 1984, the land affected by the power project withdrawals identified in paragraph 1 will be open, to the extent that theyt are not otherwise withdrawn or conveyed out of Federal ownership, to location under the United States mining laws. Appropriation of land under the United States mining laws prior to the date and time of restoration is unauthorized. Any such attempted appropriation, including attempted adverse possession under 30 U.S.C. 38, shall vest no rights against the United States. Acts required to establish a location and to initiate a right of possession are governed by State law where not in conflict with Federal law. The Bureau of Land Management will not intervene in disputes between rival locators over possessory rights since Congress has provided for such determinations in local courts.

4. To the extent that the lands affected by the power project withdrawals identified in paragraph 1 are not otherwise withdrawn or conveyed out of Federal ownership, the lands have been and remain open to applications and offers under the mineral leasing laws.

Dated: January 25, 1984.

Harold A. Berends,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 84–2868 Filed 2–1–84; 8:45 am]

BILLING CODE 4310–08–M

Wyoming; Filing of Plats of Survey

AGENCY: Bureau of Land Management, Interior.

ACTION: Filing of Plats of Survey.

SUMMARY: The plats of survey of the following described lands were officially filed in the Wyoming State Office, Bureau of Land Management, Cheyenne, Wyoming, effective 10:00 A. M., January 19, 1984.

Sixth Principal Meridian

T. 14 N., R. 85 W.

The plat representing the dependent resurvey of a portion of the north boundary, a portion of the subdivisional lines, and the subdivision of section 1, 11 and 12, T. 14 N., R. 85 W., Sixth Principal Meridian, Wyoming, Group No. 395, was accepted January 13, 1984.

This survey was executed to meet certain administrative needs of the Bureau.

T. 16 N., R. 81 W.

The plat, in six sheets, representing the dependent resurvey of portions of the south and west boundaries, and a portion of the subdivisional lines, and the subdivision of certain sections, T. 16 N., R. 81 W., Sixth Principal Meridian, Wyoming, Group No. 412, was accepted January 13, 1984.

This survey was executed to meet certain administrative needs of the U.S. Forest Service.

Wind river Meridian

T. 1 N., R. 4 E.

The plat representing the dependent resurvey of a portion of the subdivisional lines, and the subdivision of section 30, and the survey of a portion of the subdivision of section 30, T. 1 N., R. 4 E., Wind River Meridian, Wyoming, Group No. 376, was accepted January 13, 1984.

T. 1 S., R. 3 E.

The plat representing the dependent resurvey of a portion of the subdivisional lines, and the subdivision of section 22, and the survey of a portion of the subdivision and Parcels A and B of section 22, T. 1 S., R. 3 E., Wind River Meridian, Wyoming, Group No. 376, was accepted January 13, 1984.

T. 2 S., R. 1 E.

The plat representing the dependent resurvey of a portion of the subdivisional lines, and the subdivision of section, and the survey of the subdivision of certain sections, T. 2 S., R. 1 E., Wind River Meridian, Wyoming, Group No. 376, was accepted January 13, 1984.

T. 1 N., R. 1 W.

The plat representing the dependent resurvey of a portion of the west boundary, subdivisional lines, and the subdivision of section 30, and the survey of Parcels A and B of sections 30, and a portion of the subdivision of section 30, T. 1 N., R. 1 W., Wind River Meridian, Wyoming, Group No. 376, was accepted January 13, 1984.

T. 1 N., R. 2 W.

The plat representing the dependent resurvey of a portion of the subdivisional lines and subdivision of section 25, and the survey of the subdivision of section 25, T. 1 N., R. 2 W., Wind River Meridian, Wyoming, Group No. 376, was accepted January 13, 1984.

These surveys were executed to meet certain administrative needs of the Bureau of Indian Affairs.

ADDRESS: All inquires concerning these lands should be sent to the Wyoming State Office, Bureau of Land Management, P.O. Box 1828, 2515 Warren Avenue, Cheyenne, Wyoming 82003.

Dated: January 25, 1984.

Richard L. Oakes

Chief Cadastral Surveyor.

[FR Doc. 84-2867 Filed 2-1-84; 8:45 am]

BILLING CODE 4310-22-M

Minerals Management Service

Availability of Revised Outer Continental Shelf; Official Protraction Diagrams

1. Notice is hereby given that, effective with this publication, the following Outer Continental Shelf Official Protraction Diagrams, last revised on the dates indicated, are on file and available for information only in the Gulf of Mexico Regional Office, Metairie, Louisiana. In accordance with Title 43, CFR, these Official Protraction Diagrams are the basic record for the description of mineral, oil, and gas lease offerings in the geographic areas they represent.

Description	Latest revision date [1]
Atwater Valley, NG 16-1	Nov. 10, 1983.
Lloyd Ridge, NG 16-2	Nov. 10, 1983.
Vernon Basin, NG 16-6	Nov. 10, 1983.

[1] Changes in CFR notations are not considered as revisions.

2. Copies of these Official Protraction Diagrams may be purchased for $2.00 each from Public Records, Minerals Management Service, Gulf of Mexico Regional Office, Metairie, Louisiana, in person or by telephoning (504) 837-4270.

3. These revisions reflect the official naming of these protraction diagrams.

Dated: January 25, 1984.

John L. Rankin,

Regional Manager, Gulf of Mexico Region, Minerals Management Service.

[FR Doc. 84-2861 Filed 2-1-84; 8:45 am]

BILLING CODE 4310-MR-M

Outer Continental Shelf: Oil, Gas and Sulphur Operations; CNG Producing Co.; Plan of Development/Production

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the Receipt of a Proposed Plan of Development-Production (POD/P).

SUMMARY: Notice is hereby given that CNG Producing Company has submitted a POD/P describing the activities it proposes to conduct on Lease OCS-G 1981, Block 314, Eugene Island Area, offshore Louisiana. Proposed plans for the above area provide for the development and production of hydrocarbons with support activities to be conducted from an onshore base located at Houma, Louisiana.

DATE: The subject POD/P was deemed submitted on January 25, 1984.

ADDRESSES: A copy of the subject POD/P is available for public review at the Office of the Regional Manager, Gulf of Mexico Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana (Office Hours: 9 a.m. to 3:30 p.m., Monday through Friday).

FOR FURTHER INFORMATION CONTACT: Mr. Warren Williamson, Minerals Management Service, Gulf of Mexico Region; Rules and Production; Plans, Platform and Pipeline Section, Exploration/Development Plans Unit; Phone (504) 838-0817.

SUPPLEMENTARY INFORMATION: The purpose of this Notice is to inform the public, pursuant to section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the POD/P and that it is available for public review.

Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in POD/Ps available to affected states, executives of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in revised § 250.34 of Title 30 of the CFR.

Dated: January 25, 1984.

John L. Rankin,

Regional Manager, Gulf of Mexico Region.

[FR Doc. 84-2869 Filed 2-1-84; 8:45 am]

BILLING CODE 4310-MR-M

Outer Continental Shelf, Oil, Gas and Sulphur Operations; Marathon Oil Co.; Plan of Development/Production

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the Receipt of a Proposed Plan of Development/ Production (POD/P).

SUMMARY: Notice is hereby given that Marathon Oil Company has submitted a POD/P describing the activities it proposes to conduct on Lease OCS–G 2572, Block 331, Vermilion Area, offshore Louisiana. Proposed plans for the above area provide for the development and production of hydrocarbons with support activities to be conducted from an onshore base located at Cameron, Louisiana.

DATE: The subject POD/P was deemed submitted on January 25, 1984.

ADDRESSES: A copy of the subject POD/ P is available for public review at the Office of the Regional Manager, Gulf of Mexico Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana (Office Hours: 9 a.m. to 3:30 p.m., Monday through Friday).

FOR FURTHER INFORMATION CONTACT: Mr. Warren Williamson, Minerals Management Service, Gulf of Mexico Region; Rules and Production; Plans, Platform and Pipeline Section, Exploration/Development Plans Unit; Phone (504) 838–0817.

SUPPLEMENTARY INFORMATION: The purpose of this Notice is to inform the public, pursuant to section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the POD/P and that it is available for public review..

Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in POD/Ps available to affected states, executives of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 43685). Those practices and procedures are set out in revised § 250.34 of Title 30 of the CFR.

Dated: January 25, 1984.

John L. Rankin,

Regional Manager, Gulf of Mexico Region.

[FR Doc. 84-2871 Filed 2-1-84; 8:45 am]

BILLING CODE 4310-MR-M

Outer Continental Shelf: Oil, Gas and Sulphur Operations; Union Oil Company of California; Plan of Development/Production

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the Receipt of a Proposed Plan of Development/ Production (POD/P).

SUMMARY: Notice is hereby given that Union Oil Company of California has submitted a POD/P describing the activities it proposes to conduct on Lease OCS–G 4225, Block 297, Eugene Island Area, offshore Louisiana. Proposed plans for the above area provide for the development and production of hydrocarbons with support activities to be conducted from an onshore base located at Houma, Louisiana.

DATE: The subject POD/P was deemed submitted on January 4, 1984. Comments must be received within 15 days of the date of this Notice or 15 days after the Coastal Management Section receives a copy of the plan from the Minerals Management Service.

ADDRESSES: A copy of the subject POD/ P is available for public review at the Office of the Regional Manager, Gulf of Mexico Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana (Office Hours: 9 a.m. to 3:30 p.m., Monday through Friday). A copy of the POD/P and the accompanying Consistency Certification are also available for public review at the Coastal Management Section Office located on the 10th Floor of the State Lands and Natural Resources Building, 625 North 4th Street, Baton Rouge, Louisiana (Office Hours: 8 a.m. to 4:30 p.m. Monday through Friday). The public may submit comments to the Coastal Management Section *Attention OCS Plans*, Post Office Box 44396, Baton Rouge, Louisiana 70805.

FOR FURTHER INFORMATION CONTACT: Mr. Hossein Hekmatdoost, Minerals Management Service, Gulf of Mexico Region; Rules and Production; Plans, Platform and Pipeline Section, Exploration/Development Plans Unit; Phone (504) 838–0873.

SUPPLEMENTARY INFORMATION: The purpose of this Notice is to inform the public, pursuant to section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the POD/P and that it is available for public review. Additionally, this Notice is to inform the public, pursuant to § 930.61 of Title 15 of the CFR, that the Coastal Management Section/Louisiana Department of Natural Resources is reviewing the POD/P for consistency with the Louisiana Coastal Resources Program.

Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in POD/Ps available to affected states, executives of affected local governments, and other interested parties became effective December 13, 1979 (44 FR 53685). Those practices and procedures are set out in revised § 250.34 of Title 30 of the CFR.

Dated: January 25, 1984.

John L. Rankin,

Regional Manager, Gulf of Mexico Region.

[FR Doc. 84-2870 Filed 2-1-84; 8:45 am]

BILLING CODE 4310-MR-M

Bureau of Land Management

Anchorage District Advisory Council Meeting; Amendment to Agenda

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of amendment of Advisory Council agenda.

SUMMARY: The agenda for the February 9, 1984, meeting of the Bureau of Land Management Anchorage District Advisory Council published in the January third edition, page 173 of the **Federal Register** is hereby amended to include a topic of local concern at the request of the advisory council.

The issue to be added is consideration of the application for a permit to conduct the Irondog Iditarod Snowmachine race on portions of the Iditarod National Historic Trail during a period which coincides with the Iditardo Sled Dog Race.

Any member of the public wishing to address the council should inform Joette Storm, public affairs officer, 267–1284, before February 6, 1984 and is requested to submit a copy of his or her remarks in writing to the council, 4700 East 72nd Avenue, Anchorage, Alaska 99507–2899.

DATE: February 9, 1984, 9:00 a.m. to 4:30 p.m.

Place: Anchorage District Office, 4700 East 72nd Avenue, Anchorage Alaska, 99507–2899.

SUPPLEMENTARY INFORMATION:

Agenda

9:00 Call to order.

9:10 Election of officers.

9:30 Consideration of application to conduct a competitive snowmachine event on the BLM managed portion of the Iditarod National Historic Trail.

10:30 Break.
11:00 Public comment period.
NOON Lunch break.
1:00 Recreation fee regulations.
3:00 Break.
3:30 Update on district programs.
4:30 Adjournment.

Wayne A. Boden,
District Manager, Anchorage District Office.

[FR Doc. 84-2881 Filed 2-1-84; 8:45 am]
BILLING CODE 4310-JA-M

INTERSTATE COMMERCE COMMISSION

[Finance Docket No. 30373]

Standard Oil Company of Ohio and Tylerdale Connecting Railroad Co.; Acquisition Exemption

On December 15, 1983, Standard Oil Company of Ohio (SOHIO) filed a Notice of Exemption pursuant to 49 CFR 1180.2(d)(2) concerning its proposed acquisition, through its wholly-owned subsidiary Royal Land Company, of a 50 percent stock interest in the Tylerdale Connecting Railroad Company (Tylerdale), a Class III railroad situated near Washington, PA.

A wholly-owned subsidary of Sohio, S. Minerals, Inc., is the parent company of Kennecott Corp., which, in turn, owns the Nevada Northern Railway ("NN"), a non-operating Class III carrier located in northeastern Nevada. Another Sohio subsidiary, Old Ben Coal Company, owns a 50 percent stock interest in the Algers, Winslow & Western Railway ("AW&W"), a Class III rail carrier operating in southwestern Indiana.[1]

This transaction does not involve a class I rail carrier, is an acquisition of a nonconnecting carrier, and does not look toward ultimate connection of the lines and is, thus, within that class of transaction considered exempt under 49 CFR 1180.2(d)(2).

As a condition to use of the exemption, any employee of Sohio's rail carrier subsidiaries affected by the acquisition will be protected by the conditions in *New York Dock Ry.—Control—Brooklyn Eastern Dist.*, 360 I.C.C. 60 (1979).

Decided: January 25, 1984.

By the Commission, Richard Lewis, Acting Director, Office of Proceedings.

James H. Bayne,
Acting Secretary.

[FR Doc. 84-2836 Filed 2-1-84; 8:45 am]
BILLING CODE 7035-01-M

[1] It is unclear whether Sohio controls AW&W or would contest Tylerdale. In order for Sohio to avoid the possibility of unlawful common control, this exemption will be granted in an abundance of caution.

[Ex Parte No. 388 (Sub-25)]

Intrastate Rail Rate Authority; Ohio; Extension of Time for Filing

AGENCY: Interstate Commerce Commission.

ACTION: Notice of extension of time for filing.

SUMMARY: The Public Utilities Commission of Ohio is granted an extension of time to file revised standards and procedures.

DATES: The revision of Ohio's submission is due on May 1, 1984. Comments are due on May 31, 1984, and replies are due on June 20, 1984.

ADDRESS: Send an original and 15 copies of all comments to: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer (202) 275-7245.

SUPPLEMENTAL INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to T.S. InfoSystems, Inc., Room 2227, Interstate Commerce Commission, Washington, DC 20423, or call 289-4357 (DC Metropolitan area) or toll free (800) 424-5403.

Decided: January 26, 1984.

By the Commission, Reese H. Taylor, Jr., Chairman.

James H. Bayne,
Acting Secretary.

[FR Doc. 84-2837 Filed 2-1-84; 8:45 am]
BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Lodging of Acceptance of Offer of Judgement in Action Under the Clean Water Act

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that on January 9, 1984 a proposed acceptance of offer of judgment in *United States* v. *Metropolitan District Commission, et al.*, Civil Action No. 83-1572-MA was lodged with the United States District Court for the District of Massachusetts. The offer of judgement requires the Metropolitan District Commission to comply with the monitoring provisions of its NPDES permit and requires payment of a civil penalty.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the offer of judgment. Comments should be addressed to the Assistant Attorney General of the Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States* v. *Metropolitan District Commission*, D.J. Ref. 90-5-1-1-1985.

The offer of judgment may be examined at the office of the United States Attorney, 1107 J.W. McCormack Post Office, Boston, Massachusett, at the Region I Office of the Environmental Protection Agency, JFK Federal Building, Boston, Massachusetts and at the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice, Room 1515, Ninth Street and Pennsylvania Avenue, NW., Washington, D.C. 20530. A copy of the offer of judgment may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice. In requesting a copy of the offer of judgment, refer to the case, offer of judgment and D.J. reference number.

F. Henry Habicht II,
Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 84-2815 Filed 2-1-84; 8:45 am]
BILLING CODE 4410-01-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Council on the Arts; Amended Meeting

Pursuant to Section 10(a) (2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the National Council on the Arts that was to be held on February 10-11, 1984, from 9:00 a.m.-5:30 p.m., in room M-07 of the Nancy Hanks Center, 1100 Pennsylvania Ave., NW., Washington, D.C. 20506 has been changed.

A portion of the meeting that was to be open to the public on February 10, from 9:00 a.m.-5:30 p.m. remains the same. The portion of the meeting that was to be open to the public on February 11, from 9:00 a.m.-12:30 p.m. has been changed. The portion of the meeting to be open to the public on February 11, will be from 9:00 a.m.-12:00 p.m. Topics for discussion will include: Program Review and Guidelines for the Expansion Arts, Folk Arts, Opera-Musical Theater, Music Ensembles and Endowment Fellows Programs; Five-Year Planning; Service Organizations; Local Arts Support; and the Arts Education.

The remaining sessions of this meeting on February 11, from 12:00 p.m.-5:30 p.m. are for the purpose of Council

review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants, and for discussion and development of confidential budgetary projections and related plans to be submitted to the Office of Management and Budget and the Congress. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c)(4), (6) and 9(b) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 682–5433.

Dated: January 30, 1984.

John H. Clark,

Director, Office of Council & Panel Operations, National Endowment for the Arts.

[FR Doc. 84–2873 Filed 2–1–84; 8:45 am]

BILLING CODE 7537–01–M

NUCLEAR REGULATORY COMMISSION

Applications for Licenses to Export; Nuclear Facilities or Materials

Pursuant to 10 CFR 110.70 (b) "Public notice of receipt of an application" please take notice that the Nuclear Regulatory Commission has received the following applications for the export licenses. Copies of the applications are on file in the Nuclear Regulatory Commission's Public Document Room located at 1717 H Street, NW., Washington, D.C.

A request for a hearing or petition for leave to intervene may be filed within 30 days after publication of this notice in the **Federal Register**. Any request for hearing or petition for leave to intervene shall be served by the requestor or petitioner upon the applicant, the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, the Secretary, U.S. Nuclear Regulatory Commission, and the Executive Secretary, U.S. Department of State, Washington, D.C. 20520.

In its review of applications for licenses to export production or utilization facilities, special nuclear materials or source material, noticed herein, the Commission does not evaluate the health, safety or environmental effects in the recipient nation of the facility or material to be exported. The table below lists all new major applications.

Dated this 23rd day of January 1984 at Bethesda, Maryland.

For the Nuclear Regulatory Commission.

James V. Zimmerman,

Assistant Director, Export/Import and International Safeguards, Office of International Programs.

NRC EXPORT APPLICATIONS

Name of applicant, date of application, date received, application number	Material type	Material in kilograms		End-use	Country of destination
		Total element	Total isotope		
Marubeni America Corp., Jan. 11, 1984, Jan. 16, 1984, XSNM02103.	2.85 percent enriched uranium.	146,085	3,215	Initial core loading for Fukushima II, Unit 4	Japan.
Mitsui & Co. (USA), Inc., Jan. 13, 1984, Jan. 18, 1984, XSNM02104.	3.95 percent enriched uranium.	21,516	662	Reload fuel for Fukushima II Unit 1	Do.
Transnuclear, Inc., Jan. 16, 1984, Jan. 17, 1984, XSNM02002 (Amend. 01).	3.85 percent enriched uranium.	14,520 AcU	524 Add'l.	Amend to increase quantity authorized for export for reload fuel for Obrigheim.	West Germany.

[FR Doc. 84–2887 Filed 2–1–84; 8:45 am]

BILLING CODE 7590–01–M

[Docket Nos. 50–348 and 50–364]

Alabama Power Co.; Granting of Relief From ASME Section XI Inservice Testing Requirements

The U.S. Nuclear Regulatory Commission (the Commission) has granted relief from certain requirements of the ASME Code, Section XI, "Rules for Inservice Inspection of Nuclear Power Plant Components" to Alabama Power Company (the licensee). The relief relates to the inservice testing program for the Joseph M. Farley Nuclear Plant, Unit Nos. 1 and 2 (the facilities) located in Houston County, Alabama. The ASME Code requirements are incorporated by reference into the Commission's rules and regulations in 10 CFR Part 50. The relief is effective as of January 26, 1984.

The relief modifies our safety evaluations dated April 8, and May 2, 1983, and permits the licensee to test certain designated pumps and valves in a manner or a schedule different from that prescribed in Section XI of the ASME Boiler and Pressure Vessel Code and applicable Addenda, as required by 10 CFR 50, because of inaccessibility, configuration of components, radiation level, or other valid reasons.

The request for relief complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the letter granting relief.

The Commission has determined that the granting of this relief will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this relief.

For further details with respect to this action, see (1) the application for relief dated July 5, 1983, as revised September 13 and 27, 1983, and November 28, 1983, (2) the Commission's letter dated January 26, 1984, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the George S. Houston Memorial Library, 212 W. Burdeshaw Street, Dothan, Alabama 36303. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 26th day of January 1984.

For the Nuclear Regulatory Commission.
Steven A. Varga,
Chief, Operating Reactors Branch No. 1, Division of Licensing.
[FR Doc. 84-2888 Filed 2-1-84; 8:45 am]
BILLING CODE 7590-01-M

[Docket No. STN 50-528]

Arizona Public Service Co., et al., Palo Verde Nuclear Generating Station, Unit 1; Order Extending Construction Completion Date

Arizona Public Service Company, Salt River Project Agricultural Improvement and Power District, Southern California Edison Company, El Paso Electric Company, Public Service Company of New Mexico, Los Angeles Department of Water and Power and Southern California Public Power Authority are the holders of Construction Permit No. CPPR-141 issued by the Nuclear Regulatory Commission on May 25, 1976 for the Palo Verde Nuclear Generating Station, Unit 1. This facility is presently under construction at the applicant's site in Maricopa County, Arizona.

By letter dated May 12, 1983, Arizona Public Service Company (APS) filed a request for extension of the latest construction completion date for the facility. A supplemental letter dated September 9, 1983, amended this request to further extend the latest construction completion date. Previously, APS had requested an extension of the construction completion date to August 31, 1983; and by Commission Order, dated November 4, 1982, the extension was granted. The current request, as amended, is to extend the latest completion date to December 31, 1984.

Arizona Public Service Company states that this extension is requested because construction has been delayed due to:

(1) Late delivery of certain electrical instrumentation and control equipment;

(2) Changes and additions to the Palo Verde design required to meet NUREG-0737 requirements necessary for an operating license which have introduced complexities that impacted and delayed pre-operational testing and the transition from the construction phase to the start-up phase; and

(3) Corrections of deficiencies discovered during and subsequent to the hot functional tests which cannot be completed until sometime after December 31, 1983.

The staff has performed an evaluation of the request for extension. Based on this review, the staff has determined that the above factors would result in significant delays in construction completion and that the request is for a reasonable period of time when considering the magnitude of the delays. In addition, the extension of the latest completion date in the construction permit does not involve any significant hazards consideration since the extension will not allow any work to be performed that is not already allowed by the existing construction permit.

Prior public notice of this extension was not required since the Commission has determined that this action involves no significant hazards consideration; good cause has been shown for the delays; and the requested extension is for a reasonable period of time.

The Commission has determined that this action will not result in any significant environmental impact and, pursuant to 10 CFR 51.5(d)(4), an environmental impact statement, or negative declaration and environmental impact appraisal, need not be prepared in connection with this action.

The NRC staff's evaluation of the request for extension of the construction permit is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. 20555, and at the Phoenix Public Library, Science and Industry Section, 12 East McDowell Road, Phoenix, Arizona 85004.

It is Hereby Ordered That the latest completion date for CPPR-141 is extended from August 31, 1983 to December 31, 1984.

Date of Issuance: December 29, 1983.

For the Nuclear Regulatory Commission.
Darrell G. Eisenhut,
Director, Division of Licensing, Office of Nuclear Reactor Regulation.
[FR Doc. 84-2889 Filed 2-1-84; 8:45 am]
BILLING CODE 7590-01-M

[Docket No. 50-331]

Iowa Electric Light and Power Co. (Duane Arnold Energy Center; Exemption

I

The Iowa Electric Light and Power Company (IELP/the licensee) is the holder of Facility Operating License No. DPR-49 (the license) which authorizes operation of the Duane Arnold Energy Center (DAEC) located in Linn County, Iowa, at steady state reactor core power levels not in excess of 1658 megawatts thermal. This license provides, among other things, that it is subject to all rules, regulations and Orders of the Commission now or hereafter in effect.

II

Section 50.54(o) of 10 CFR Part 50 requires that primary reactor containments for water cooled power reactors be subject to the requirements of Appendix J to 10 CFR Part 50. Appendix J contains the leakage test requirements, schedules, and acceptance criteria for tests of the leak-tight integrity of the primary reactor containment and systems and components which penetrate the containment. Appendix J was published on February 14, 1973 and in August 1975, each licensee was requested to review the extent to which its facility met the requirements.

On August 7, 1975, IELP submitted its evaluation of the DAEC in which it assessed compliance with the rule and also requested an exemption from certain requirements of the rule. The IELP submittal for the DAEC was supplemented by letter dated August 29, 1978 and November 5, 1981 and clarified in a telephone discussion on October 1, 1982. In these submittals, IELP requested that certain test methodology, components, and penetrations be exempted from Appendix J requirements. The Franklin Research Center, as a consultant to NRR, has reviewed the licensee's submittals and prepared a Technical Evaluation Report (TER) dated March 17, 1982. The NRC staff has reviewed this TER, and in its Safety Evaluation dated April 2, 1982, concurred in the TER's bases and findings. However, for Item 2 below, pertaining to airlock door testing, the staff performed an additional evaluation prior to determining the acceptability of the license's request.

1. Section III.C.2 of Appendix J requires, inpart, that Type C testing be performed at the peak calculated accident pressure (Pa). IELP requested an exemption from this requirement for the Main Stream Isolation Valves (MSIVs) to permit testing at 24 psig rather than at Pa (48 psig) and submitted certain design information as justification.

The MSIVs are leak tested by pressurizing between the valves. The MSIVs are angled in the main stream lines in the direction of flow in order to afford better sealing upon closure. A test pressure of Pa acting under the inboard disc is sufficient to lift the disc off its seats, and results in excessive leakage into the reactor vessel. This would result in a meaningless test. The proposed test calls for a test pressure of 24 psig to avoid lifting the disc at the inboard valve. The total observed leakage through both valves (inboard and outboard) is then conservatively assigned to the penetration. On this basis, we conclude that testing at a reduced pressure of 24 psig is acceptable.

2. In a letter dated November 5, 1981, IELP requested an exemption from the airlock door testing requirements of Section III.D.2(b), which was revised effective October 22, 1980. The revised rule required testing of the airlocks as follows:

a. Every six months at a pressure of not less than Pa (and after periods when the airlock is opened and containment integrity is not required).

b. Within three days of opening (or every three days during periods of frequent opening) when containment integrity is required, at a pressure of Pa or at a reduced pressure as stated in the Technical Specifications.

Our consultant, the Franklin Research Center (FRC), has reviewed the licensee's proposal to (1) test containment airlocks at a pressure of Pa and at an interval not longer than one operating cycle, and (2) whenever the airlock was opened during the operating cycle, and containment integrity was required, the airlock gasket would be tested at Pa following closure if it had been greater than 3 days since the last leakage test.

FRC concluded that the licensee's proposal to test airlock gaskets within 3 days of an airlock opening is acceptable. However, FRC did not find acceptable the licensee's proposal to test the entire airlock at a pressure of Pa once per operating cycle, since it did not make adequate allowances to detect potential deterioration of airlocks through normal use, to detect possible damage to the door mechanism, to detect potential damage to door seals through moving equipment into and out of containment, and to detect possible fouling of seals during closure. FRC proposed that testing of the entire airlock assembly at a pressure of Pa should be conduced at the six-month interval as required by Appendix J.

We agree with the FRC's conclusion that the airlock gasket leakage be tested within 3 days from an airlock opening. We further agree with the FRC's conclusion that the airlock testing frequency should make adequate allowances to detect potential deterioration of airlocks through normal use. However, when the airlock remains closed, that is, there is no opening or closing of the doors to cause degradation of seals or damage to door mechanisms, we find that the reduced pressure testing frequency proposed by the licensee would be adequate to assure that the airlock door seal integrity is maintained.

Based on the above, the staff has reevaluated the six-month test requirement and has developed a revised position which meets the objectives of Appendix J requirements for containment airlock door tests. This revised position still requires the containment airlock to be tested at six-month intervals at a pressure of Pa in accordance with Appendix J, except that this test interval may be extended up to the next refueling outage (up to a maximum interval between Pa tests of 24 months) if there have been no airlock openings since the last successful test at Pa. The intent of the Appendix J requirement is to assure that the airlock door seal integrity is maintained and that no degradation has occurred as a result of opening of the airlock doors between testing intervals at Pa. This position satisfies the objectives of the requirement. The licensee has proposed that the personnel airlock be pressurized to Pa and leak-tested at an interval no longer than one operating cycle (up to a maximum interval between Pa tests of 24 months). We find this consistent with our position and therefore acceptable, except that the six-month testing interval is still applicable if the containment airlock door has been opened since the last successful test at Pa.

The licensee will be requested to propose appropriate modifications to the Technical Specifications.

III

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12, an exemption is authorized by law and will not endanger life or property or the common defense and security and is otherwise in the public interst. Therefore, the Commission hereby approves the following exemption requests:

1. Exemption is granted from the requirements of Section III.C.2 of Appendix J pertaining to the Type C testing of the main steamline isolation valves at a test pressure of Pa to the extent that testing is to be conducted at pressure Pa. Testing at a reduced pressure of 24 psig is acceptable due to the unique design of the valves.

2. Exemption is granted from the requirements of Section III.D.2 of Appendix J pertaining to the test frequency for conducting Type B tests at six-month intervals at a test pressure of not less than Pa to the extent that the testing is to be conducted at six-month intervals after initial fuel loading. The test interval may be extended beyond the six-month test interval to the next refueling outage, but in no case shall exceed 24 months from the last test at Pa, provided that there have been no airlock openings since the last successful test at Pa.

The NRC staff has determined that the granting of this exemption will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4), an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with this action.

Dated at Bethesda, Maryland this 17th day of January, 1984.

For the Nuclear Regulatory Commission.

Darrell G. Eisenhut,

Director, Division of Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 84-2890 Filed 2-1-84; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-443 And 50-444]

Public Service Company of New Hampshire, et al., Seabrook Station, Units 1 and 2; Issuance of Amendments to Construction Permits

Notice is hereby given that the U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 6 to Construction Permit Nos. CPPR-135 and CPPR-136. The amendments add Vermont Electric Generating and Transmission Cooperative, Inc. as a co-owner of the Seabrook Station, Units 1 and 2 and reflect a transfer of ownership interest from Vermont Electric Cooperative, Inc. to Vermont Electric Generating and Transmission, Inc. for the Seabrook Station. The Seabrook Station is located in Rockingham County, New Hampshire. The amendments are effective as of their date of issuance.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations. The Commission has made appropriate findings as required by the Act and the Commission's regulations in 10 CFR Chapter 1, which are set forth in the amendment. The Commission has also concluded that the amendments involve actions which are insignificant from the standpoint of environmental impact and that, pursuant to 10 CFR 51.5(d)(4), an environmental impact statement or negative declaration and an environmental impact appraisal need not be prepared in connection with the issuance of the amendments. Prior public notice of the amendments was not required since the amendments do not involve a significant hazards consideration.

For further details with respect to this action, see (1) the application for amendments, dated October 17, 1983 (2)

Amendment No.6 to Construction Permit Nos. CPPR–135 and CPPR–136 and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection in the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., and at the Exeter Public Library, Front Street, Exeter, New Hampshire 03833. Items 2 and 3 may be requested by writing to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 27th day of January, 1984.

For the Nuclear Regulatory Commission.

George W. Knighton,

Chief Licensing Branch No. 3, Division of Licensing.

[FR Doc. 84–2882 Filed 2–1–84; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–272–OLA]

Public Service Electric & Gas Co. (Salem Nuclear Generating Station, Unit 1); Order Dismissing Proceeding

January 25, 1984.

The Commission published a notice of consideration of issuance of an amendment to the Salem facility operting license and a proposed no significant hazards consideration determination, and an opportunity for a hearing, on September 21, 1983 (48 FR 43113–43114). This notice concerned a requested amendment of the technical specifications to permit a seven-month extension of time for the performance of a containment integrated leak rate type A Test (Technical Specification 4.6.1.2a).

The State of Delaware filed a timely petition for leave to intervene and request for hearing on October 21, 1983. The NRC Staff issued the requested amendment on October 31, 1983. By an Order entered November 17, 1983, the Board granted the intervention petition, and directed the State of Delaware to file a supplement to its petition setting forth at least one contention cognizable under 10 CFR 2.714(b), by January 4, 1984. That date was extended by two weeks upon motion.

On January 20, 1984, the State of Delaware filed a motion to withdraw its petition, no supplement having been filed. That motion is granted and the intervention petition is withdrawn. Inasmuch as there are no other intervention petitions or requests for hearing in accordance with the Commission's notice, the matter is uncontested, and the adjudicatory proceeding is therefore Dismissed.

It is so Ordered.

Dated at Bethesda, Maryland, this 25th day of January 1984.

For The Atomic Safety And Licensing Board.

Marshall E. Miller,

Chairman, Administrative Judge.

[FR Doc. 84–2881 Filed 2–1–84; 8:45 am]

BILLING CODE 7590–01–M

[Docket Nos. 50–361 and 50–362]

Southern California Edison Co. et al.; Consideration of Issuance of Amendments to Facility Operating Licenses and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of amendments to Facility Operating Licenses No. NPF–10 and NPF–15, issued to Southern California Edison Company, San Diego Gas & Electric Company, the City of Riverside, California and the City of Anaheim, California (the licensees), for operation of the San Onofre Nuclear Generating Station Units 2 and 3, located in San Diego County, California.

In accordance with the licensees' request of January 3, 1984, the amendments would change the Technical Specification limit on operation of the 8-inch containment purge system from 1,000 hours per 365 days to 3,000 hours per 365 days.

Before issuance of the proposed license amendments, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendments would not (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The Commission has provided guidance concerning the application of these standards by providing certain examples (48 FR 14870) of amendments that are considered not likely to involve significant hazards considerations. One of the examples (vi) relates to a change which either may result in some increase to the probability or consequences of a previously-analyzed accident or may reduce in some way a safety margin but where the results of the change are clearly within all acceptable criteria with respect to the system or component specified in the Standard Review Plan. Although the proposed action increases the time during which purging is allowed, it does not increase the probability of an accident. However, the consequences of an accident, should one occur during purging, might be greater than when the purge valves are closed. Nevertheless, the purge system meets staff criteria for closure time in the event of an accident, which assures that any release under those conditions would be still within acceptable limits. Accordingly, the Commission proposes to determine that this change does not involve a significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determinaton. The Commission will not normally make a final determination unless it receives a request for a hearing.

Comments should be addressed to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, ATTN: Docketing and Services Branch.

By March 5, 1984, the licensees may file a request for a hearing with respect to issuance of the amendments to the subject facility operating licenses and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice of Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted

with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendments under consideration. A petitioner who fails to file such a supplement which satisifies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment requests involves no significant hazards consideration, the Commission may issue the amendments and make them effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendments.

If the final determination is that the amendments involves a significant hazards consideration, any hearing held would take place before the issuance of any amendments.

Normally, the Commission will not issue amendments until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facilities, the Commission may issue the license amendments before the expiration of the 30-day notice period, provided that its final determination is that the amendments involve no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325–6000 (in Missouri (800) 342–6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to George W. Knighton: petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to Charles R. Kocher, Esq., Southern California Edison Company, 2244 Walnut Grove Avenue, P.O. Box 800, Rosemead, California 91770 and Orrick, Herrington & Sutcliffe, Attention: David R. Pigott, Esq., 600 Montgomery Street, San Francisco, California 94111, attorney for the licensees.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board designated to rule on the petition and/or request, that the petitioner has made a substantial showing of good cause for the granting of a late petition and/or request. That determination will be based upon a balancing of the factors specified in 10 CFR 2.714(a)(1) (i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated January 3, 1984, which is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the San Clemente Library, 242 Avenida Del Mar, San Clemente, California.

Dated at Bethesda, Maryland, this 30th day of January, 1984.

For the Nuclear Regulatory Commission.

George W. Knighton,

Chief, Licensing Branch No. 3, Division of Licensing.

[FR Doc. 84–2883 Filed 2–1–84; 8:45 am]

BILLING CODE 7590–01–M

Docket No. 50–280

Virginia Electric and Power Co. Granting of Relief From ASME Section XI Inservice Testing Requirements

The U.S. Nuclear Regulatory Commission (the Commission) has granted relief from certain requirements of the ASME Code, Section XI, "Rules for Inservice Inspection of Nuclear Power Plant Components" to Virginia Electric and Power Company. The relief relates to the inservice inspection program for the Surry Power Station Unit No. 1 (the facility) located in Surry County, Virginia. The ASME Code requirements are incorporated by reference into the Commission's rules and regulations in 10 CFR Part 50. The relief is effective as of January 25, 1984.

The relief permits the licensee to perform certain inservice inspections in a manner different from that prescribed in Section XI of the ASME Boiler and Pressure Vessel Code and applicable Addenda, as required by 10 CFR 50, because of inaccessibility, configuration of components, radiation level, or other valid reasons.

The request for relief complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the letter granting relief.

The Commission has determined that the granting of this relief will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this relief.

For further details with respect to this action, see (1) the application for relief

dated September 21, 1982, (2) the Commission's letter dated January 24, 1984, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., and at the Swem Library, College of William and Mary, Williamsburg, Virginia 23185. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 24th day of January 1984.

For the Nuclear Regulatory Commission.

Steven A. Varga,

Chief, Operating Reactors Branch No. 1, Division of Licensing.

[FR Doc. 84-2894 Filed 2-1-84; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards; Subcommittee on Structural Engineering; Meeting

The ACRS Subcommittee on Structural Engineering will hold a meeting on February 16 and 17, 1984 at the Marriott Hotel, 2101 Louisiana Blvd., Albuquerque, NM. The Subcommittee will review the containment integrity and Seismic Category I Components research programs. Other related matters may also be discussed. Notice of this meeting was published January 24, 1984.

In accordance with the procedures outlined in the **Federal Register** on September 28, 1983 (48 FR 44291), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the Designated Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The entire meeting will be open to public attendance.

The agenda for subject meeting shall be as follows:

Thursday, February 16, 1984—1:00 p.m. until the conclusion of business

Friday, February 17, 1984—8:30 a.m. until the conclusion of business

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC Staff, its consultants, and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant Designated Federal Employee, Mr. Elpidio Igne (telephone 202/634-1414) between 8:15 a.m. and 5:00 p.m., est.

Dated January 27, 1984.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 84-2896 Filed 2-1-84; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards; Revised Notice of February 9-11, Meeting

Notice of the following session was inadvertently omitted from the notice of the 286th Meeting of the Advisory Committee on Reactor Safeguards published on January 30, 1984 (49 FR 3709). It was properly included in a previous notice of this meeting on January 24, 1984 (49 FR 2973).

Friday, February 10, 1984: 2:00 p.m.–3:00 p.m.; NRC Backfitting Requirements (Open)—The members will hear a report from representatives of the NRC staff regarding proposed changes in NRC backfitting rules.

Dated: January 27, 1984.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 84-2898 Filed 2-1-84; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards, Subcommittee on Quality and Quality Assurance in Design and Construction; Meeting

The ACRS Subcommittee on quality and Quality Assurance In Design and Construction will hold a meeting on February 23, 1984, Room 1046, 1717 H Street, NW, Washington, DC. The Subcommittee will have a closed meeting to review and discuss with the NRC Staff its draft report to Congress on Quality Assurance during construction of nuclear power plants (report required by Pub. L. 97-415, NRC Authorization Act, section 13).

I have determined, in accordance with Subsection 10(d) Pub. L. 92-463 that it will be necessary to close the meeting under the provisions of Exemption (9)b to the Sunshine Act, 5 U.S.C. 552b(c).

The entire meeting will be closed because the discussions, if held in public session, would reveal information requested by the Congress before that information is submitted officially by the Agency.

Dated: January 27, 1984.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 84-2897 Filed 2-1-84; 8:45 am]

BILLING CODE 7590-01-M

Regulatory Guide; Issuance and Availability

The Nuclear Regulatory Commission has issued a revision to a guide in its Regulatory Guide Series. This series has been developed to describe and make available to the public methods acceptable to the NRC staff of implementing specific parts of the Commission's regulations and, in some cases, to delineate techniques used by the staff in evaluating specific problems or postulated accidents and to provide guidance to applicants concerning certain of the information needed by the staff in its review of applications for permits and licenses.

Regulatory Guide 5.9, Revision 2, "Guidelines for Germanium Spectroscopy Systems for Measurement of Special Nuclear Material," provides some guidelines acceptable to the NRC staff for the selection of high-resolution gamma ray spectroscopy systems used for nondestructive assay measurements of special nuclear material and points out useful resources for more detailed information on their assembly, optimization, and use in material protection measurements.

Comments and suggestions in connection with (1) items for inclusion in guides currently being developed or (2) improvements in all published guides are encouraged at any time. Comments should be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch.

Regulatory guides are available for inspection at the Commission's Public Document Room, 1717 H street NW., Washington, D.C. Copies of active guides may be purchased at the current Government Printing Office price. A subscription service for future guides in specific divisions is available through the Government Printing Office.

Information on the subscription service and current prices may be obtained by writing to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Publications Sales Manager.

(5 U.S.C. 552(a))

Dated at Silver Spring, Maryland this 25th day of January 1984.

For the Nuclear Regulatory Commission.

Robert B. Minogue,

Director, Office of Nuclear Regulatory Research.

[FR Doc. 84-2805 Filed 2-1-84; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF MANAGEMENT AND BUDGET

Office of Federal Procurement Policy

Solicitation of Views

AGENCY: Office of Management and Budget; Office of Federal Procurement Policy.

ACTION: Request for public comments in connection with the conduct of three procurement studies required by Pub. L. 98–191.

SUMMARY: With the recent enactment of Pub. L. 98–191, "The Office of Federal Procurement Policy Act Amendments of 1983", the Congress directed the Office of Federal Procurement Policy to undertake studies of three important and complex subjects. The purpose of this notice is to apprise the public of these study requirements and to invite suggestions and comments.

The Congress has identified the following areas for study:

- Section 7 requires that OFPP study and report to the Congress, by April 15, 1984, on the extent of competition in the award of subcontracts under Federal prime contracts.
- Section 10 of the Act requires that OFPP review the procurement practices and programs of the Department of Defense relating to the acquisition of spare parts. It requires that OFPP provide its findings, conclusions and recommendations to the Congress by June 1, 1984.
- Section 11 charges OFPP with the review of Defense Department procurement actions during the one-week period ending on September 30, 1983, and submission of a report to the Congress by February 1, 1984. (Due to the number of contract actions involved, the Congress has been advised that the report will be submitted by April 30, 1984.)

The conduct of these studies has required a reallocation of OFPP's scarce resources and, as in the past, staffing and financial support has been solicited from other departments and agencies—as reflected in the following project plans. To assure that members of the public have a meaningful opportunity to contribute to these projects, it is requested that these plans be reviewed and comments be provided on (1) the subject matters under review, (2) the conduct of the studies, and (3) the project plans.

EFFECTIVE DATE: Comments must be received on or before March 5, 1984.

ADDRESS: Comments should be submitted to the administrator for Federal Procurement Policy, OFPP, Office of Management and Budget, 726 Jackson Place, NW, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Mr. David F. Baker, Office of Federal Procurement Policy, Office of Management and Budget, (202) 395–7207.

Donald E. Sowle,

Administrator.

Study of Competition in Subcontracting by Federal Prime Contractors

January 4, 1984.

Authority

Section 7, Pub. L. 98–191.

Objective

Conduct studies, report and make recommendations to Congress, by April 1 and April 15, respectively, on the extent of competition in the award of subcontracts by Federal prime contractors, including an evaluation of the data available on subcontracts awarded in FY 1982 with respect to:

a. Source selection method used in making subcontract awards.

b. Type and dollar value of subcontracts.

c. Size of the subcontractors awarded the subcontracts (number of employees).

d. Geographical location of subcontractors.

Data Collection

Each procuring agency and the Small Business Administration will be tasked to provide OFPP with existing subcontracting information as requested. A uniform report format, consistent with the requirements of Pub. L. 98–191, will be specified for agency data submission.

Resource Requirements

Disciplines

Management Analyst
Procurement Analyst/Specialist
Small Business Subcontract Specialist

Source

OFPP and Agencies

Schedule

A schedule designed to meet the April 1 report completion date will be developed by the team leader.

Data Analysis and Report Preparation

Agency subcontracting data will be analyzed by the study team under the leadership of OFPP. The analysis will include an assessment of the adequacy of existing subcontracting data and recommendations, as appropriate, for securing more competition in the award of subcontracts. The report will be prepared by OFPP.

OFPP Project: Study of the Defense Department's Procurement of Spare Parts for Weapons Systems

Project Abstract

I. Task. To review and report to the Congress by June 1, 1984 on the procurement practices, regulations and reform proposals and programs of the Department of Defense relating to the procurement of spare parts for weapons systems.

II. Authority. Section 10(a) of Pub. L. 98–191, "The Office of Federal Procurement Policy Act Amendments of 1983" (Attachment 1).

III. Objectives.

a. To conduct a thorough and impartial study of DoD spare parts procurement;

b. To prepare a comprehensive and objective report on this subject, and

c. To submit the report to the Congress in the time required.

IV. Methodology.

a. The project will be directed by the Administrator for Federal Procurement Policy who will be responsible and accountable to the Congress for the report.

b. Evaluations and analyses already prepared by the Military Services and the Defense Logistics Agency will be used, as well as studies and audits conducted by other DoD components (including the Inspector General), the General Accounting Office and others.

c. The study will be organized and conducted to minimize time and effort and to avoid duplication of existing analyses.

d. Where necessary, field visits will be made to validate findings or obtain additional, needed information.

e. In addition to the statutory requirement that the comments of DoD's Inspector General be solicited, the views of all interested persons and organizations—including industry

associations and Defense spare parts suppliers—will be requested and considered.

f. As a supplement to OFPP staff resources, staff support wil be requested from the Military Services, the Defense Logistics Agency and other DoD components, and civil agencies as well as from knowledgeable individuals from the private sector (on temporary appointments).

V. Organization and Responsibilities. The project organization will consist of three principal elements: the Study Director, a Management Controls Office and five principal study teams. (See: Attachment II) Each study team will be assigned to review the practices of one of the four Military Services or the Defense Logistics Agency. (Additional special teams may be established to review and assess cross-cutting issues.)

The Study Director. The Administrator for Federal Procurement Policy will serve as the Study Director and will be responsible for:

a. Directing and overseeing the project;

b. Clarifying any ambiguities concerning scope or purpose of the study;

c. Requesting the Secretary of Defense to identify and provide access to all information concerning the procurement of spare parts and planned improvements that would be pertinent to the study;

d. Requesting the Inspector General of the Department of Defense to identify and provide access to all information concerning procurement of spare parts and planned improvements that are pertinent to the study and keeping the Inspector General informed of developments in accomplishing the project; and

e. Approving all formal requests for data, staffing, or financial support, visits to activities and meetings.

The Management Controls Office. This element will consist primarily of OFPP staff and will be responsible for:

a. Developing and maintaining the master schedule and project budget;

b. Assisting in arranging for the detail and assignment of non-OFPP personnel to the project;

c. Designing, formatting, preparing and printing the final report;

d. Creating and maintaining a library of studies and other data resources necessary for conduct of the study;

e. Preparing briefing charts and other informational materials for use by study teams;

f. Assisting in coordinating the activities of the study teams; and

g. Assisting in arranging for administrative support, including travel arrangements, office space and clerical support.

Study Teams. Each team will be led by a professional member of the OFPP staff who will have full authority, responsibility and accountability for the work of the team. The team will be comprised of personnel, normally not more than six in number, from the Department of Defense, civilian agencies and from other sources. Each team will be responsible for:

a. Developing, as its first priority, a detailed plan of action for the conduct of its study and analysis, and preparation of its report to the Study Director;

b. With the assistance of the Management Controls Office, obtaining necessary staff resources and organizing those resources in the most efficient manner;

c. Developing schedule and budget controls to assure compatibility with the master schedule and project budget;

d. Maintaining a daily log of findings, apparent problems and significant materials or data collected. (Problems, along with an evaluation of their severity and any corrective actions taken will be reported to the Management Controls Office. Any informational materials which may have utility for other study teams will also be provided to the Management Controls Office.)

e. Carrying out its study and preparing a report. The study process will include:

- Reviewing existing studies and reform proposals affecting the team's area of responsibility;
- Conducting, through field visits to contracting offices, inventory control points, depots and other activities, an analysis of spare parts procurement;
- Preparing a description of current and proposed practices, procedures and policies relating to spare parts procurement;
- Preparing an assessment of those current and proposed practices, and providing recommendations for administrative, regulatory or statutory changes, where appropriate.

VI. Operating Guidelines.

a. The final report will contain:

- A full description of how spare parts are procured by the four Military Services and Defense Logistics Agency;
- A full description of any reform proposals and programs being considered by the Department of Defense;
- An evaluation of the adequacy of any reform proposal or programs to promote practices (including the development of directives) which will achieve control of costs, economy and efficiency in the procurement of spare parts;
- Any recommendations for legislative, regulatory and administrative changes, as considered appropriate by OFPP; and
- Any comments of the Inspector General of the Department of Defense.

b. All data to be used or considered in preparing the final report must be based upon demonstrable fact, not hearsay or conjecture. Similarly, preconceived notions as to the outcome of the study must be avoided.

c. Preliminary analyses and working papers will not be released except to other members of the project staff and the DoD Inspector General. (Requests from the public, agencies and others for information will be referred to the Management Controls Office.)

d. All visits to activities will be arranged in advance. The head of the activity to be visited will be informed, and entrance and exist briefings will be offered.

e. The entire process of spare parts acquisition will be considered in preparing the team and final reports including procurement, contact administration, logistics, engineering, finance and budgeting, audit, pricing, statistical analysis, data processing and legal considerations.

f. A format of the final report will be developed at the outset of the project to provide a focus for the study.

VII. Project Schedule. A Master Schedule is attached and will be maintained and revised, as appropriate, by the Management Controls Office with the approval of the Study Director. (Individual study team schedules will be developed by each team and made compatible with the Master Schedule.)

VIII. Project Funding. In the absence of additional funds appropriated by the Congress for the conduct of this study, personnel and travel costs will be requested from the sponsoring agencies of non-OFPP participants. If additional funds are appropriated, those funds will be administered through the Management Controls Office.

Attachment 1—Excerpt from Pub. L. 98–191; "The Office of Federal Procurement Policy Act Amendments of 1983"

Study of Weapons Systems Spare Parts Procurement by the Department of Defense

Sec. 10. (a) Not later than June 1, 1984, the Office of Federal Procurement Policy (hereinafter in this section referred to as the "Office") shall review the procurement practices, regulations, and reform proposals and programs of the Department of Defense relating to the procurement of spare parts for weapon systems and shall transmit to the Congress a report on the findings, conclusions, and recommendations of the Office relating to such matters. The report

shall include: (1) An evaluation of the adequacy of the reform proposals and programs to promote practices and the development of directives which will achieve control of costs, economy, and efficiency in the procurement of such spare parts and (2) such recommendations for legislation with respect to the procurement of such spare parts as the Office considers appropriate.

(b)(1) The Secretary of Defense shall furnish to the Office such information on the practices, regulations, and reform proposals and programs of the Department of Defense relating to the procurement of spare parts for weapon systems as the Office considers necessary to carry out subsection (a).

(2) The Inspector General of the Department of Defense shall furnish to the Office such information on the practices of the Department of Defense in procuring spare parts for weapons systems as the Inspector General acquires during his audits of such practices and the Office considers necessary to carry out subsection (a).

(c) The Inspector General of the Department of Defense shall have reasonable opportunity to review and comment on the report required by subsection (a) before the report is transmitted to Congress. The comments of the Inspector General shall be included in such report.

Attachment 2

STUDY: DOD SPARE PARTS PROCUREMENT

Project Structure

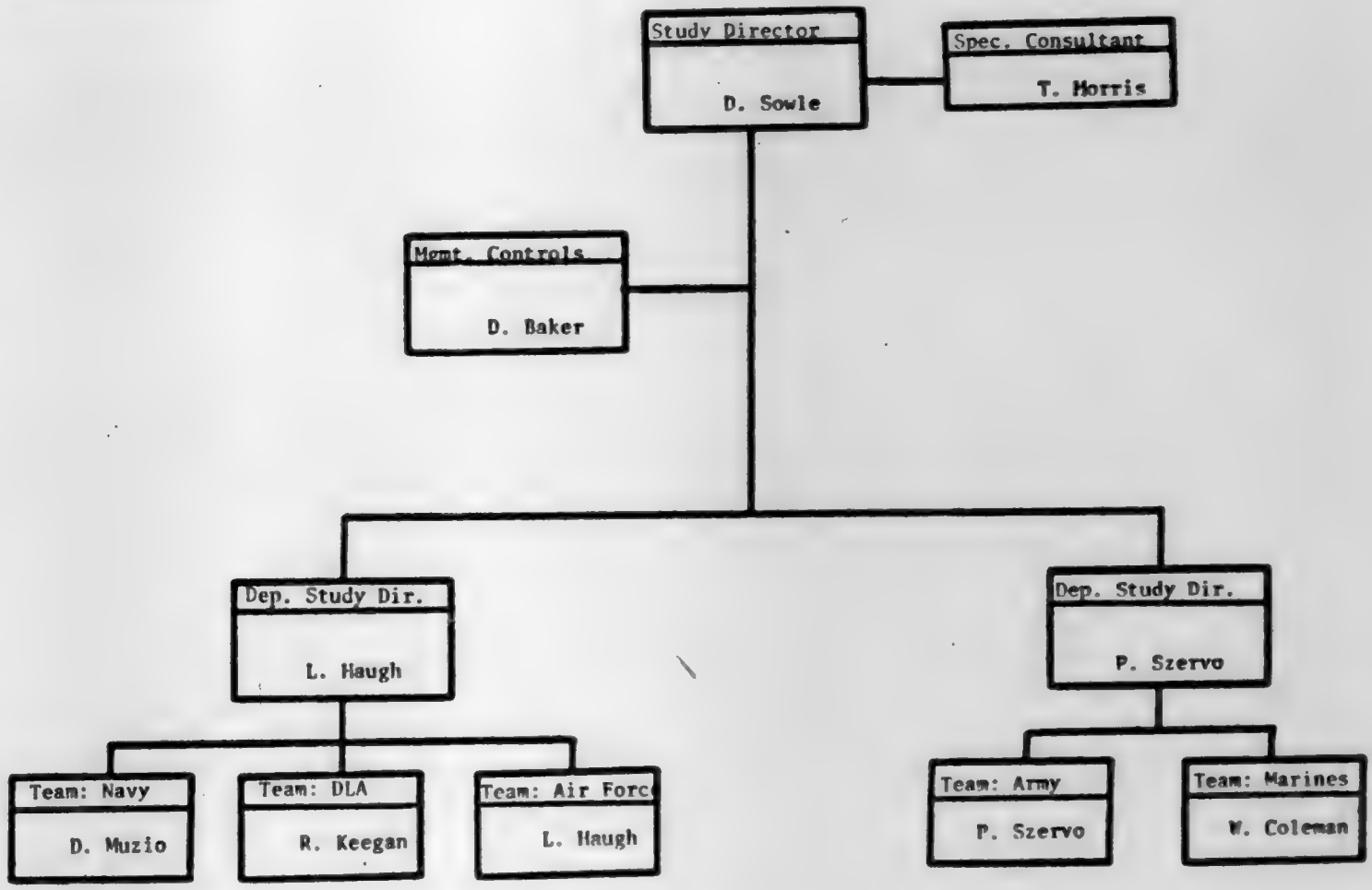

Attachment 3—Study: Defense Procurement of Spare Parts

PROJECT MASTER SCHEDULE

Action	Description	Dates	Duration (days)
1	Prepare study plan, including approach, organization, resource requirements (personnel, space and budget), schedule, and report format.	Dec. 1–9	8
2	Discuss and coordinate study plan with interested parties (OMB, GAO, DOD–IG, etc.) and make refinements, as necessary.	Dec. 12–23	10

PROJECT MASTER SCHEDULE—Continued

Action	Description	Dates	Duration (days)
3	Develop task group assignments and establish task groups, including development of task plan.	Dec. 27–Jan. 6	8
4	Conduct data collection —Review existing literature (GAO reports, DOD/Service studies, DCAA audits, etc.) —Visit field activities —Analyze specific procurement actions and summary data.	Jan. 9–Feb. 24	33
5	Draft each task group's report of findings and recommendations.	Feb. 27–Mar. 16	16
6	Draft consolidated report	Mar. 19–Apr. 6	16
7	Solicit review and comment by interested parties (e.g., OMB staff, DOD, DOD/IG, GAO, Congressional staffs and industry).	Apr. 9–May 11	25
8	Prepare final report	May 14–May 25	10
9	Obtain final OMB clearance of report	May 28–31	4
10	Submit typed report to Congress; forward copy to printer for reproduction.	June 1	1

Study of Procurement Practices of the Department of Defense During the Period September 24 Through September 30, 1983

January 4, 1984.

Authority

Section 11, Pub. L. 98–191.

Objective

By February 1, 1984, review and report to Congress the procurement actions of the Department of Defense during the period September 24 through September 30, 1983. The study will;

a. Review the regulations and administrative and managerial guidelines applicable to Fourth Quarter DOD procurement actions.

b. Include the number and dollar amounts of contracts and purchases made by DOD during the study period.

c. Make findings as to whether the DOD had a bona fide need for the procurements.

d. Develop a list of contracts and purchases, including dollar amounts, made during the period without formal advertising.

e. Develop a list of contracts and purchases and dollar amounts made on a sole-source solicitation basis.

f. Include the basis for and obtain copies of determinations and findings authorizing negotiations and sole-source justifications.

g. Evaluate compliance with OFPP Policy Letter 81–1 and any other applicable regulations.

h. Recommend appropriate corrective action to effect economies and efficiencies in Fourth Quarter contracting in the DOD.

i. Otherwise accomplish the requirements imposed by Section 11 of Pub. L. 98–19.

Data Collection

Maximum use will be made of existing studies. Each of the services, i.e., A–N–AF–MC and DLA and departmental agencies will be tasked to provide a list covering contract and or modification number, including copies of letter contracts and notice of awards; dollar value; method of procurement; date procurement action initiated; brief understandable description of items(s) procured; copies of all determinations and findings; audit waiver decisions; and single source justifications of all contracts awarded and purchases made during the period under review. The DOD IG will be requested to conduct a statistical sampling of the last week purchases to determine whether a bona fide need existed and provide the study team with an assessment of the justification for the procurement actions. The services will be required to provide copies of procurement lead time schedules for each type of procurement action. OSD will be required to provide a concise summary of Department of Defense regulations and administrative and managerial guidelines applicable to Fourth Quarter procurement actions.

Resource Requirements and Source

Disciplines

Management Analyst
Procurement Analyst/Specialist
Audit
Pricing
Legal

Organizations

Agencies, SBA, OMB, GAO, DOD

Schedule

A schedule will be developed by the team leader. The schedule will be designed to meet the February 1, 1984 report date.

Data Analysis and Report Preparation

A team of management and procurement analysts will review and analyze DOD procurement practices and actions during the study period. The analysis will assess DOD's practices and procedures. If required, corrective action(s) will be proposed. Findings will be discussed with the DOD. The report will be prepared by OFPP and coordinated through OMB.

[FR Doc. 84-2814 Filed 2-1-84; 8:45 am]

BILLING CODE 3110-01-M

OFFICE OF PERSONNEL MANAGEMENT

Federal Prevailing Rate Advisory Committee; Open Committee Meeting

Pursuant to the provisions of section 10 of the Federal Advisory Committee Act (Pub. L. 92–463), notice is hereby given that meetings of the Federal Prevailing Rate Advisory Committee will be held on:

Thursday, March 1, 1984
Thursday, March 8, 1984
Thursday, March 15, 1984
Thursday, March 22, 1984
Thursday, March 29, 1984

These meetings will convene at 10 a.m. and will be held in Room 5A06A, Office of Personnel Management Building, 1900 E Street, NW., Washington, D.C.

The Federal Prevailing Rate Advisory Committee is composed of a Chairman, representatives of five labor unions holding exclusive bargaining rights for Federal blue-collar employees, and representatives of five Federal agencies. Entitlement to membership of the Committee is provided for in 5 U.S.C. 5347.

The Committee's primary responsibility is to review the prevailing rate system and other matters pertinent to the establishment of prevailing rates under subchapter IV, chapter 53, 5 U.S.C., as amended, and from time to time advise the Office of Personnel Management thereon.

These scheduled meetings will convene in open session with both labor and management representatives attending. During the meeting either the labor members or the management members may caucus separately with the Chairman to devise strategy and formulate positions. Premature disclosure of the matters discussed in these caucuses would impair to an unacceptable degree the ability of the Committee to reach a consensus on the matters being considered and disrupt

substantially the disposition of its business. Therefore, these caucuses will be closed to the public on the basis of a determination made by the Director of the Office of Personnel Management under the provisions of Section 10(d) of the Federal Advisory Committee Act (Pub. L. 463) and 5 U.S.C. 552b(c)(9)(B). These caucuses may, depending on the issues involved, constitute a substantial portion of the meeting.

Annually the Committee publishes for the Office of Personnel Management, the President, and Congress a comprehensive report of pay issues discussed, concluded recommendations thereon, and related activities. These reports are also available to the public, upon written request to the Committee Secretary.

Members of the public are invited to submit material in writing to the Chairman concerning Federal Wage System pay matters felt to be deserving of the Committee's attention. Additional information concerning these meetings may be obtained by contacting the Committee Secretary, Federal Prevailing Rate Advisory Committee, Room 1340, 1900 E Street, NW., Washington, D.C. 20415 (202) 632-9710.

William B. Davidson, Jr.,

Chairman, Federal Prevailing Rate Advisory Committee.

February 12, 1984.

[FR Doc. 84-3020 Filed 2-1-84; 8:45 am]

BILLING CODE 6325-01-M

RAILROAD RETIREMENT BOARD

Agency Forms Submitted for OMB Review

AGENCY: Railroad Retirement Board.

ACTION: In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), the Board has submitted the following proposal(s) for the collection of information to the Office of Management and Budget for review and approval.

SUMMARY OF PROPOSAL(S):

(1) *Collection title:* Gross Earnings Report.

(2) *Form(s) submitted:* N.A.

(3) *Type of request:* Extension of the expiration date of a currently approved collection without any change in the substance or in the method of collection.

(4) *Frequency of use:* Annually (monthly or quarterly, at respondent's choice).

(5) *Respondents:* Business or other for-profit.

(6) *Annual responses:* 305.

(7) *Annual reporting hours:* 100.

(8) *Collection description:* Section 7(c)(2) of the RR Act requires a financial interchange between the OASI trust funds and the railroad retirement account. The information will be used for determining the amount which would place the OASI trust funds in the position they would have been if railroad service had been covered by the Social Security and FIC Acts.

Additional Information or Comments: Copies of the proposed forms and supporting documents can be obtained from Pauline Lohens, the agency clearance officer (312-751-4692). Comments regarding the information collection should be addressed to Pauline Lohens, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611 and the OMB reviewer, Milo Sunderhauf (202-395-6880), Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503.

William A. Oczkowski,

Director of Planning and Information Management.

[FR Doc. 84-2810 Filed 2-1-84; 8:45 am]

BILLING CODE 7905-01-M

SECURITIES AND EXCHANGE COMMISSION

Cincinnati Stock Exchange; Applications for Unlisted Trading Privileges and of Opportunity for Hearing

January 26, 1984.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to section 12(f)(1)B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the following stocks:

Cone Mills Corporation
Common Stock, $10 Par Value (File No. 7-7339)

Cummins Engine Co., Inc.
Common Stock, $2.50 Par Value (File No. 7-7340)

IPAL Co. Enterprises Inc.
Common Stock, No Par Value (File No. 7-7341)

Sante Fe Southern Pacific Corporation
Common Stock, $1 Par Value (File No. 7-7342)

V.F. Corporation
Common Stock, No Par Value (File No. 7-7343)

Action Industries, Inc.
Common Stock, $.10 Par Value (File No. 7-7344)

Bowne & Co., Inc.
Common Stock, $1 Par Value (File No. 7-7345)

Echo Bay Mines Ltd.
Common Stock, No Par Value (File No. 7-7346)

New York Times Company
Class A Common Stock, $.10 Par Value (File No. 7-7347)

Gold Standard Inc.
Capital Stock, $0.001 Par Value (File No. 7-7348)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested person are invited to submit on or before February 16, 1984 written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84-2836 Filed 2-1-84; 8:45 am]

BILLING CODE 8010-01-M

Philadelphia Stock Exchange, Inc.; Application for Unlisted Trading Privileges and of Opportunity for Hearing

January 26, 1984.

The above named national securities exchange has filed and application with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the common stock of:

Wrather Corporation (Delaware)
Common Stock, No Par Value (File No. 7-7338)

This security is listed and registered on one or more other national securities exchange and is reported on the consolidated transaction reporting system.

Interested persons are invited to submit on or before February 16, 1984 written data, views and arguments concerning the above-referenced application. Persons desiring to make written comments should file three copies thereof with the Secretary of the

Securities and Exchange Commission, Washington, D.C. 20549. Following this opportunity for hearing, the Commission will approve the application if it finds, based upon all the information available to it, that the extension of unlisted trading privileges pursuant to such application is consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84-2834 Filed 2-1-84; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 23212; 70-6844]

The Southern Co.; Propoosed Increase in Number of Authorized Common Shares

The Southern Company ("Southern"), 64 Perimeter Center East, Atlanta, Georgia 30346, a registered holding company, has filed a declaration with this Commission pursuant to sections 6(a), 7, and 12(e) of the Public Utility Holding Company Act of 1935 ("Act") and Rules 62 and 65 promulgated thereunder.

Southern proposes to amend its certificate of incorporation so as to increase the total number of shares of common stock, par value $5.00 per share, which Southern shall have authority to issue from 300,000,000 to 375,000,000. Of the 300,000,000 shares which Southern presently is authorized to issue, 229,589,500 shares were outstanding as of December 31, 1983. During the two-year period 1982 and 1983, Southern issued and sold 38,632,577 shares of common stock. Southern considers the proposed amendment necessary to provide a reasonable amount of authorized but unissued shares of common stock to be used for financing additional common equity capital requirements of Southern's subsidiaries and for general corporate purposes. Southern intends to submit the proposed amendment for consideration and action by its stockholders at the annual meeting of such stockholders to be held on May 23, 1984, and, in connection therewith, proposes to solicit proxies from its stockholders.

The declaration and any amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by February 21, 1984, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the declarant at the address specified above. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the declaration, as filed or as it may be amended, may be permitted to become affective.

For the Commission, by the Office of Public Utility Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84-2833 Filed 2-1-84; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 20598; SR-Phlx-83-22]

Self-Regulator Organizations; Philadelphia Stock Exchange, Inc.; Order Approving Proposed Rule Change

January 26, 1984.

The Philadelphia Stock Exchange, Inc. ("Phlx"), 1900 Market Street, Philadelphia, PA. 19103, submitted on December 7, 1983, copies of a proposed rule change pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act") and Rule 19b-4 thereunder, to delete Phlx Rule 1057 which prohibits transmitting to the Phlx options floor any orders but those for options, for securities underlying Phlx-traded options, or for securities readily convertible into such underlying securities.

Notice of the proposed rule change, together with the terms of substance of the proposed rule change, was given by the issuance of a Commission Release (Securities Exchange Act Release No. 20476, December 13, 1983) and by publication in the **Federal Register** (48 FR 56881, December 23, 1983). No comments were received with respect to the proposed rule filing.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange and, in particular, the requirements of section 6, and the rules and regulations thereunder.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84-2832 Filed 2-1-84; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-20599; File No. SR-AMEX-84-2]

Self-Regulatory Organization; Proposed Rule Change; American Stock Exchange, Inc.; Adoption of a New Random Allocation Process in Connection With Options Lotteries

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s (b)(1), notice is hereby given that on January 16, 1984, the American Stock Exchange, Inc. filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II and III below, which items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The American Stock Exchange, Inc. ("AMEX" or the "exchange") proposes to amend the agreement previously entered into by the options exchanges and approved by the Securities and Exchange Commission on May 30, 1980 (see SEC Release No. 34-16863) and as amended on June 1, 1981 (see SEC Release No. 34-17833) and February 2, 1982 (see SEC Release No. 34-18464), concerning procedures for the selection and replacement of underlying securities for options trading. This agreement is also referred to as the "Allocation Plan". the AMEX, the Chicago Board Options Exchange ("CBOE"), the Pacific Stock Exchange ("PSE") and the Philadelphia Stock Exchange ("PHLX") have entered into an agreement to similarly adopt amendments concerning the use of a new random allocation process in connection with option lotteries.

The text of the proposed amendments to the Allocation Plan is set forth below. *Italics* indicates material proposed to be added to the existing rules; brackets [ ] indicate material proposed to be deleted.

A. Through E.—no change

F. At any time after the initial allocation, further allocations shall be held at the request of one or more options exchanges [continuing the sequence described in A.5] whereby the

four participating options exchanges would be able to select any unallocated eligible underlying stock [including new underlying stock becoming eligible for options trading by the occurrence of events or because an options exchange that had previously been allocated an underlying stock failed to commence the trading of options with respect thereto within six months of the date of selection] under the procedures set forth as follows:

1.—no change

2. Each of the exchanges shall have 30 calendar days from the date of notification of a call for an allocation to provide the arbitrator with a list of desired underlying securities. Such list may not be changed once submitted to the arbitrator. Once the arbitrator has received lists from all the exchanges, he shall thereafter (*i*) serve copies of the selection lists on each of the exchanges *and (ii) establish the sequence for making stock selections, using the procedure set forth in Paragraph 2.A below, and deliver notice to each of the exchanges* so that all exchanges receive *both* the *selection* lists *and selection sequence* on the same date.

2.A. For each allocation, the arbitrator, using the following procedure, shall establish the sequence for making stock selections by randomly matching a letter A through D with each of the four exchanges and using the order established below for up to four rounds. At the allocation, selection of eligible securities will then proceed in accordance with such order. If there are to be more than four rounds in an allocation, the arbitrator shall repeat the procedure, randomly matching the four letters to the four exchanges a second time to establish the selection order for rounds five through eight, and so on, depending on the number of rounds called for by the allocation. The selection order is as follows:

Round	Selection order
1	A B C D
2	D C B A
3	C D A B
4	B A D C

3. through 9.—no change

G through I.—no change

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in section (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for the Proposed Rule Change

The purpose of the proposed rule change is to amend the options exchanges' Allocation Plan to establish a random order for making stock selections during an allocation. The proposed rule change is in furtherance of the Commission's request that the options exchanges create a plan that provides for the equitable allocation of new options among the options exchanges. The options exchanges have agreed to put this rule change into effect after the first allocation to take place after December 16, 1983. The proposed rule change is consistent with section 6(b)(5) of the Securities Exchange Act of 1934 (the "Act"), which provides in pertinent part that the rules of the Exchange be designed to promote just and equitable principles of trade.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe this proposed rule change will impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Comments have neither been solicited nor received.

III. Date of Effectivness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the Federal Register or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commissions's Public Reference Section, 450 Fifth Street NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted within 21 days after the date of this publication.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: January 26, 1984.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84-2037 Filed 2-1-84; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 20604; File No. SR-NYSE-84-8]

Self-Regulatory Organizations; Proposed Rule Change By New York Stock Exchange, Inc.

Relating to rate increases affecting Electronic Access Membership dues. Comments requested within 21 days of this publication.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on January 23, 1984 the New York Stock Exchange, Inc. filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is instituting rate increases affecting Electronic Access Membership dues. (See Article X,

Section 1(c) of the Exchange Constitution). The proposed new dues for such memberships will be $37,000 per annum, instead of the current amount of $18,500 per annum. The new rate shall terminate on March 7, 1984 unless, prior to that date, the Securities and Exchange Commission shall have approved the incresed dues pursuant to Section 19(b)(2) of the Securities Exchange Act of 1934.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections (A), (B), and (C), of the most significant aspects of such statements.

(A) The purposes of this proposed rule change is to bring the cost of an Electronic Access Membership (see Articles X, Section 1(c) of Exchange Constitution) to a more equitable and realistic level, commensurate with the significant rise in seat and lease prices over the last several years. (See Exhibit A).

Costs for alternative forms of access, such as the purchase of equity seats, or the fixing of lease rentals, are determined by market conditions in negotiations between purchaser and seller or lessor and lessee. The dues charged by the Exchange to physical access members are measured largely by the average of the annual rentals payable under *bona fide* leases, and are thus also affected by market conditions.

Consequently, it is necessary that electronic access memberships be realistically priced to reflect the market conditions as evidenced by the rise in seat prices and annual lease rentals.

The statutory basis under the Act for the proposed rule change is the requirement under section 6(b)(4) that an exchange have rules that provide for the equitable allocation of reasonable dues, fees and other charges among its members and other persons using its facilities.

(B) *Self-Regulatory Organization's Statement on Burden on Competition.* The proposed rule change will impose no burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

(C) *Self-Regulatory Organization's Statement of Comments on the Proposed Rule Change Received From Members, Participants, or Others.* The Exchange has not formally solicited written comments regarding this proposed change, and no unsolicited written comments have been received.

III. *Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action*

The foregoing rule change has become effective pursuant to section 19(b)(3) of the Securities Exchange Act of 1954 and subparagraph (c) of Securities Exchange Act Rule 19b-4. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such action if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purpose of the Securities Exchange Act of 1934.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549. Copies of the Submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section. 450 Fifth Street, NW., Washington, D.C. 20549. Copies of such filing will also be available for inspection and copying at the principal office of the above mentioned self-regulatory organization. All submissions should refer to the number in the caption above and should be submitted within 21 days after the date of this publication.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: January 27, 1984.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84-2941 Filed 2-1-84; 8:45 am]
BILLING CODE 8010-01-M

[Release No. 20600; File No. SR-NYSE-84-6]

Self-Regulatory Organizations; Proposed Rule Change; New York Stock Exchange, Inc.; Rate Increases Affecting Regulatory Oversight Services Fees

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s (b)(1), notice is hereby given that on January 23, 1984, the New York Stock Exchange, Inc. filed with the Securities and Exchange Commission the proposed rule change as described in items I, II, and III below, which items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is instituting rate increases affecting the Regulatory Oversight Services Fee. The new fee will be $.26 per $1000 of gross FOCUS Revenue. The existing minimum annual fees are not affected by this change. This fee shall terminate on March 7, 1984 and the difference between the new fee of $.26 per $1,000 and the previous fee of $.13 per $1,000 of gross FOCUS Revenue shall be refunded unless, prior to that date, the Securities and Exchange Commission shall have approved the new fee pursuant to Section 19(b)(2) of the Securities Exchange Act of 1934.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections (A), (B), and (C), of the most significant aspects of such statements.

(A) The purpose of this change is to increase the revenues to provide funding for increased level of staffing of New York Stock Exchange FINOPS regulatory services. Staffing will be increased from 266 to 300 by year-end 1984 to permit a minimum of two examiners to be assigned to each audit team. The increased fee, which is estimated to provide $9 million in

revenue in 1984, will still not fully cover Exchange FINOPS expenses, and represents an interim step in a plan to bring FINOPS regulation to a break-even status by 1985. The basis under the Act for the proposed rule change in section 6(b)(4) requiring the rules of an exchange to provide for equitable allocation of reasonable dues, fees, and other charges among its members, issuers and other persons using its services. The proposed charge is also consistent with the Exchange's self-regulatory responsibilities under section 6(b)(1) and 6(b)(5) of the Act.

(B) Self-Regulatory Organization's Statement on Burden on Competition. The proposed fee changes will not impose any burden on competition not necessary to appropriate in furtherance of the purposes of the Act.

(C) Self-Regulatory Organization's Statement of Comments on the Proposed Rule Change Received from Members, Participants, or Others. The Exchange has not formally solicited written comments on this proposed change, and no unsolicited written comments have been received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3) of the Securities Exchange Act of 1934 and subparagraph (e) of Securities Exchange Act Rule 19b–4. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such action if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purpose of the Securities Exchange Act of 1934.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549. Copies of the Submission, all subsequent amendments, all written statments with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, D.C. 20549. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the number in the caption above and should be refer to the number in the caption above and should be submitted within 21 days after the date of this publication.

For the Commission by the Division of Market Regulation, pursant to delegated authority.

Dated: January 26, 1984.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84–2938 Filed 2–1–84; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 20601; File No. SR–NYSE–84–7]

Self-Regulatory Organizations; Proposed Rule Change by New York Stock Exchange, Inc.; Rate Increases Affecting Regulatory Oversight Services Fees

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on January 19, 1984, the New York Stock Exchange, Inc. filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is instituting rate increases affecting the Regulatory Oversight Services Fee. The new fee will be $.26 per $1,000 of gross FOCUS Revenue. The existing minimum annual fees are not affected by this change.

The new fee became effective pursuant to a separate filing made pursuant to section 19(b)(3)(A) of the Act. (See SR–NYSE–84–6). The separate filing under Section 19(b)(3)(A) contained a sunset date of March 7, 1984 and a refund provision which were to become operative only if the Commission did not approve the new fee schedule by March 7, 1984. This filing, under section 19(b)(2) is intended to remove the sunset and refund provisions and to permit the continuation of the new fee at the increased level.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections (A), (B), and (C), of the most significant aspects of such statements.

(A) The proposed rule change would remove the sunset provision and the refund provision with respect to the proposed increase in the Regulatory Oversight Service Fee from $.13 per $1,000 to $.26 per $1,000 of gross FOCUS revenue. These provisions were included in a filing made concurrently herewith pursuant to Section 19(b)(3)(A) of the Securities Exchange Act of 1934 (the "Act") (See File No. SR–NYSE–84–6). The inclusion of the sunset and refund provisions was intended to permit the additional changes to go into effect upon filing with the Commission while also permitting the Commission to review the substance of the change pursuant to Section 19(b)(2) of the Act. This proposed rule change, by removing the sunset and refund provisions, will permit the Exchange to continue charging its members and member organizations for regulatory oversight services on th basis of the new charge of $.26 per $1,000 of gross FOCUS revenues.

The purpose of this change is to increase the revenues to provide funding for increased level of staffing of New York Stock Exchange FINOPS regulatory services. Staffing will be increased from 266 to 300 by year-end 1984 to permit a minimum of two examiners to be assigned to each audit team. The increased fee, which is estimated to provide $9 million in revenue in 1984, will still not fully cover Exchange FINOPS expenses, and represents an interim step in a plan to bring FINOPS regulation to a break-even status by 1985. The basis under the Act for the proposed rule change is Section 6(b)(4) requiring the rules of an exchange to provide for equitable allocation of reasonable dues, fees, and other charges among its members, issuers and other persons using its services. The proposed charge is also consistent with the Exchange's self-regulatory responsibilities under Section 6(b)(1) and 6(b)(5) of the Act.

(B) *Self-Regulatory Organization's Statement on Burden on Competition.* The proposed fee changes will not impose any burden on competition not necessary to appropriate in furtherance of the purposes of the Act.

(C) *Self-Regulatory Organization's Statement of Comments on the Proposed Rule Change Received From Members, Participants, or Others.* The Exchange has not formally solicited written comments regarding this proposed change, and no unsolicited written comments have been received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approved such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549. Copies of the Submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, D.C. 20549. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the number in the caption above and should be submitted within 21 days after the date of this publication.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: January 26, 1984.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84-2939 Filed 2-1-84; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 20603; File No. SR-NYSE-84-9]

Self-Regulatory Organizations; Proposed Rule Change; New York Stock Exchange, Inc.; Rate Increases Affecting Electronic Access Membership Dues

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on January 23, 1984 the New York Stock Exchange, Inc. filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is instituting rate increases affecting Electronic Access Membership dues. (See Article X, Section 1(c) of the Exchange Constitution). The proposed new dues for such memberships will be $37,000 per annum, instead of the current amount of $18,500 per annum.

The new dues became effective pursuant to a separate filing made pursuant to section 19(b)(3)(A) of the Act (see SR-NYSE-84-8). The separate filing under section 19(b)(3)(A) contained a sunset date of March 7, 1984 which was to become operative only if the Commission did not approve the new dues rate by March 7, 1984. This filing, under section 19(b)(2) is intended to remove the sunset provision and to permit the continued collection of the dues at the increased level.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections (A), (B), and (C), of the most significant aspects of such statements.

(A) The proposed rule change would remove the sunset provision with respect to the proposed increase in the Electronic Access Membership dues from $18,500 per annum to $37,000 per annum. The sunset provision was included in a filing made concurrently herewith pursuant to Section 19(b)(3)(A) of the Securities Exchange Act of 1934 (the "Act") (see File No. SR-NYSE-84-8). It was designed to permit the increased dues to be collected immediately while also permitting the Commission to review the substance of the change pursuant to section 19(b)(2) of the Act. This proposed rule change, by removing the sunset provision, will permit the Exchange to continue to impose the new dues of $37,000 per annum.

The purpose of this proposed rule change is to bring the cost of an Electronic Access Membership (see Article X, Section 1(c) of Exchange Constitution) to a more equitable and realistic level, commensurate with the significant rise in seat and lease prices over the last several years. (See Exhibit A).

Costs for alternative forms of access, such as the purchase of equity seats, or the fixing of lease rentals, are determined by market conditions in negotiations between purchaser and seller or lessor and lessee. The dues charged by the Exchange to physical access members are measured largely by the average of the annual rentals payable under *bona fide* leases, and are thus also affected by market conditions.

Consequently, it is necessary that electronic access memberships be realistically priced to reflect the market conditions as evidenced by the rise in seat prices and annual lease rentals.

The statutory basis under the Act for the proposed rule change is the requirement under section 6(b)(4) that an exchange have rules that provide for the equitable allocation of reasonable dues, fees and other charges among its members and other persons using its facilities.

(B) *Self-Regulatory Organization's Statement on Burden on Competition.* The proposed rule change will impose no burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

(C) *Self-Regulatory Organization's Statement of Comments on the Proposed Rule Change Received from Members, Participants, or Others.* The Exchange has not formally solicited written comments regarding this proposed

change, and no unsolicited written comments have been received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549. Copies of the Submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule-change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, D.C. 20549. Copies of such filing will also be available for inspection and copying at the principal office of the abovementioned self-regulatory organization. All submissions should refer to the number in the caption above and should be submitted within 21 days after the date of this publication.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: January 27, 1984.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84-2940 Filed 2-1-84; 8:45 am]

BILLING CODE 8010-01-M

[File No. 1-8037]

Aeroflex Laboratories Inc., Common Stock, $0.10 Par Value; Application To Withdraw From Listing and Registration

January 27, 1984.

The above named issuer has filed an application with the Securities and Exchange Commission pursuant to section 12(d) of the Securities Exchange Act of 1934 ("Act") and Rule 12d2-2(d) promulgated thereunder, to withdraw the specified security from listing and registration on the American Stock Exchange, Inc. ("Amex").

The reasons alleged in the application for withdrawing this security from listing and registration include the following:

1. The common stock of Aeroflex Laboratories Incorporated ("Company") is listed and registered on the Amex. Pursuant to a registration statement on Form 8-A which became effective on September 16, 1983, the Company is also listed and registered on the New York Stock Exchange ("NYSE"). The Company has determined that the direct and indirect costs and expenses do not justify maintaining the dual listing of the common stock on the Amex and the NYSE.

2. This application relates solely to withdrawal of the common stock from listing and registration on the Amex and shall have no effect upon the continued listing of such stock on the NYSE. The Amex has posed no objection to this matter.

Any interested person may, on or before February 17, 1984, submit by letter to the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549, facts bearing upon whether the application has been made in accordance with the rules of the Exchange and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84-2938 Filed 2-1-84; 8:45 am]

BILLING CODE 8010-01-M

Cincinnati Stock Exchange; Application for Unlisted Trading Privileges and of Opportunity for Hearing

January 27, 1984.

The above named national securities exchange has filed an application with the Securities and Exchange Commission pursuant to section 12(f)(1)(C) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the stock of:

Dunlop Holdings
American Depository Receipts (File No. 7-7314)

This security is registered on one or more other national securities exchange and is reported on the consolidated transaction reporting system.

Interested persons are invited to submit on or before February 17, 1984 written data, views and arguments concerning the above-referenced application. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549. Following this opportunity for hearing, the Commission will approve the application if it finds, based upon all the information available to it, that the extension of unlisted trading privileges pursuant to such application is consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84-2935 Filed 2-1-84; 8:45 am]

BILLING CODE 8010-01-M

[File No. 22-12916]

Hospital Corporation of America, Inc.; Application and Opportunity for Hearing

January 27, 1984.

Notice is hereby given that Hospital Corporation of America (the "Applicant") has filed an application under clause (ii) of section 310(b)(1) of the Trust Indenture Act of 1939 (the "Act") for a finding by the Commission that the trusteeship of Commerce Union Bank under three existing indentures of the Company which are qualified under the Act and seven existing indentures of various governmental issuing authorities which have not been qualified under the Act in reliance upon section 304(a)(4) thereof is not so likely to involve a

material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify Commerce Union Bank from acting as trustee under any of such indentures.

Section 310(b) of the Act provides in part that if a trustee under an indenture qualified under the Act has or shall acquire any conflicting interest it shall within ninety days after ascertaining that it has such conflicting interest, either eliminate such conflicting interest or resign. Subsection (1) of such Section provides, in effect, with certain exceptions that a trustee under a qualified indenture shall be deemed to have a conflicting interest if such trustee is trustee under another indenture under which any other securities of the same issuer are outstanding. However, under clause (ii) of subsection (1), there may be excluded from the operation of this provision another indenture under which other securities of the same issuer are outstanding, if the issuer shall have sustained the burden of proving, on application to the Commission and after opportunity for hearing thereon, that trusteeship under such qualified indenture and such other indenture is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify such trustee from acting as trustee under either of such indentures.

The Application alleges that:

1. The Applicant had outstanding as of October 11, 1983 approximately $500,000,000 debentures (the "Debentures") issued under the following indentures under which Commerce Union Bank acts as trustee, each of which indentures was qualified under the Trust Indenture Act of 1939 in connection with the registration of the Debentures issued thereunder pursuant to the Securities Act of 1933:

(a) 16½ percent Debentures due 2007; principal amount $100,000,000; indenture filed January 15, 1982 (file no. 2–75696);

(b) Zero Coupon Debentures due 1997–2002; principal amount $300,000,000; indenture filed May 20, 1982 (file no. 2–77611); and

(c) 15⅝ percent Debentures due 2007; principal amount $100,000,000; indenture filed May 20, 1982 (file no. 2–77612).

2. As of January 11, 1984, the Applicant or a wholly-owned subsidiary of the Applicant was obligated pursuant to various loan or other similar agreements (the "Loan Agreements") to make payments in order to meet the debt service and other payment requirements under various indentures, and the revenue bonds (the "Tax-exempt Revenue Bonds") issued thereunder, of various governmental issuing authorities with respect to Tax-exempt Revenue Bonds of such issuing authorities to finance hospital or other projects acquired or constructed for the benefit of the Applicant or a wholly-owned subsidiary thereof. The Tax-exempt Revenue Bonds were issued in reliance upon the exemption from registration afforded by section 3(a)(2) of the Securities Act of 1933. The indentures relating to such Tax-exempt Revenue Bonds were not qualified under the Trust Indenture Act of 1939 in reliance upon the exemption afforded by section 304(a)(4) of said Act. The Applicant has guaranteed the obligations of its subsidiaries with respect to the Loan Agreements. The Loan Agreements or, in the instances in which the Company guarantees the obligations of its subsidiaries, the Guaranties are senior unsecured obligations of the Company. Information with respect to the Tax-exempt Revenue Bonds is set forth below.

I. The Edmond Industrial Development Authority Industrial Development Revenue Bonds, Series 1983 (Hospital Corporation of America Project), under Trust Indenture by and between the Edmond Industrial Development Authority and Commerce Union Bank, as Trustee, dated as of June 1, 1983. Principal amount $1,000,000.

II. The City of Bountiful, Utah Industrial Development Revenue Bonds, Series 1983 (Hospital Corporation of America Project), under Trust Indenture by and between City of Bountiful, Utah and Commerce Union Bank, as Trustee, dated as of May 1, 1983. Principal amount $2,000,000.

III. West Valley City, Utah Industrial Development Revenue Bonds, Series 1983 (Hospital Corporation of America Project), under Trust Indenture by and between West Valley City, Utah and Commerce Union Bank, as Trustee dated as of June 1, 1983. Principal amount $1,000,000.

IV. City of Georgetown, Kentucky Industrial Development Revenue Bonds (Hospital Corporation of America Project) Series 1983, under Trust Indenture by and between City of Georgetown, Kentucky and Commerce Union Bank, as Trustee, dated as of August 1, 1983. Principal amount $1,000,000.

V. City of Albuquerque, New Mexico Industrial Development Revenue Bonds, Series 1983 (Hospital Corporation of America Project); under Trust Indenture by and between City of Albuquerque, New Mexico and Commerce Union Bank, as Trustee, dated as of October 11, 1983. Principal amount $8,800,000.

3. Commerce Union Bank, One Commerce Place, Nashville, Tennessee 37219, acts as trustee with respect to the indentures described in Section 1, above, and with respect to the Tax-exempt Revenue Bonds to which the Loan Agreements relate described in Secton 2, above.

4. On September 14, 1983 and November 30, 1983, the Commission found that the Trusteeship of Commerce Union Bank under the indentures described in Sections 1 and 2, above, was not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify Commerce Union Bank from acting as trustee under any of such indentures.

5. The Company was obligated pursuant to various loan agreements (the "Marlboro and Kansas City Loan Agreements") on January 3, 1984 to make payments in order to meet the debt service and other payment requirements under an indenture dated as of November 1, 1983, between Marlboro County, South Carolina and Commerce Union Bank, as trustee (the "Marlboro Indenture") and under $1,000,000 principal amount of Marlboro County, South Carolina Industrial Development Bonds (Hospital Corporation of America Project) Series 1983 (the "Marlboro Development Bonds") and an indenture dated as of December 1, 1983 between the Industrial Development Authority of the City of Kansas City, Missouri and Commerce Union Bank as Trustee and The Merchants Bank, Kansas City, Missouri as Co-Trustee (the "Kansas City Indenture" and under $8,900,000 principal amount of the Industrial Development Authority of the City of Kansas City, Missouri Industrial Development Revenue Bonds (Hospital Corporation of America), Series 1983 (the "Kansas City Revenue Bonds") issued thereunder. The Marlboro Development Bonds and the Kansas City Revenue Bonds were issued to finance hospitals constructed for the benefit of the Company. Both sets of Bonds were issued in reliance upon the exemption from registration afforded by section 3(a)(2) of the Securities Act of 1933. The Marlboro and Kansas City Indentures were not qualified under the Trust Indenture Act of 1939 in reliance upon the exemption afforded by section 304(a)(4) of said Act. The Marlboro and Kansas City Loan Agreements are senior unsecured obligations of the Company.

6. Commerce Union Bank, One Commerce Place, Nashville, Tennessee 37219, acts as trustee with respect to the indentures described in Sections 1 and

2, above, and with respect to the Marlboro and Kansas City Indentures.

7. The applicant's respective obligations under the Debentures (and the Indentures relating thereto), the Loan Agreements, the Guaranties, and the Marlboro and Kansas City Loan Agreements are wholly unsecured. All of the indebtedness pertaining to the indentures under which Commerce Union acts as trustee constitutes indebtedness of the Company that is not subordinated to any other indebtedness of the Company. The Debentures (and the Indentures relating thereto), the Loan Agreements, the Guaranties, and the Marlboro and Kansas City Loan Agreements rank equally one with the other.

8. Each of the indentures, including the Marlboro and Kansas City Indentures, contains the provisions required by section 310(b) of the Trust Indenture Act of 1939.

9. The Applicant is not in default under the Debentures, or with respect to its obligations relating to the Tax-exempt Revenue Bonds, or with respect to the Marlboro Development Bonds or the Kansas City Revenue Bonds.

10. For the foregoing reasons, the Applicant believes that Commerce Union Bank's serving as trustee under any one of the indentures listed in Paragraphs 1, 2 and 5 above, and continuing such trusteeship during such time as the indebtedness under each such indenture is outstanding in each instance, should in no way inhibit, discourage or otherwise influence Commerce Union Bank's actions as trustee under any one or more of such other indentures. Consequently, its trusteeship under all of such indentures is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify Commerce Union Bank from acting as trustee under any of such indentures.

The Applicant waives notice of hearing and waives hearing and waives any and all rights to specify procedures under Rule 6(b) of the Commission's Rules of Practice with respect to the application.

For a more detailed account of the matters of fact and law asserted, all persons are referred to the application, which is a public document on file in the offices of the Commission at the Public Reference Room, 450 5th Street, NW., Washington, D.C. 20549.

Notice is further given that any interested person may, not later than February 22, 1984 request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request and the issues of law or fact raised by such application which he desires to controvert, or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, 450 5th Street, NW., Washington, D.C. 20549. At any time after said date, the Commission may issue an order granting the application, upon such terms and conditions as the Commission may deem necessary or appropriate in the public interest and the interest of investors, unless a hearing is ordered by the Commission.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84-2934 Filed 2-1-84; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

[Application No. 06/06-0283]

Madison Capital Corporation of Arkansas; Application for a License To Operate as a Small Business Investment Company

Notice is hereby given of the filing of an application with the Small Business Administration (SBA) pursuant to § 107.102 of Revision 6 of the SBA Regulations (48 FR 45014 (September 30, 1983)), by Madison Capital Corporation of Arkansas, 1515 Main Street, Little Rock, Arkansas 72202 for a license to operate as a small business investment company (SBIC) under the provisions of the Small Business Investment Act of 1958, as amended, (15 U.S.C. *et. seq.*).

The proposed officers, directors and shareholders are:

Name	Title	Percent of ownership
James Bert McDougal, 1515 Main Street, Little Rock, Arkansas 72202.	Chairman of Board and Director.	85% (indirect).
Robert Keller, 1515 Main Street, Little Rock, Arkansas 72202.	President and Director.	
Susan H. McDougal, 1515 Main Street, Little Rock, Arkansas 72202.	Vice President and Director.	13% (indirect).
John Latham, 1515 Main Street, Little Rock, Arkansas 72202.	Secretary-Treasurer, Director.	
Madison Financial Corp., #2 Financial Centre, Little Rock, Arkansas 72211.	Parent Company	100%
Madison Guaranty Savings & Loan Associations 1515 Main Street Little Rock, Arkansas 72202—Parent Company of Madison Financial Corp.		

James Bert McDougal and his wife, Susan H. McDougal, own 78 percent of Madison Guaranty Savings and Loan Association.

The Applicant will begin operations with a capitalization of $506,000, which will be a source of equity capital and long term loan funds for qualified small business concerns.

Matters involved in SBA's consideration of the application include the general business reputation and character of the proposed owners and management, and the probability of successful operations of the new company under their management, including adequate profitability and financial soundness, in accordance with the Act and Regulations.

Notice is further given that any person may, not later than 15 days from the date of the publication of this Notice, submit written comments on the proposed SBIC to the Deputy Associate Administrator for Investment, Small Business Administration, 1441 L Street NW., Washington, 20416.

A copy of the Notice will be published in a newspaper of general circulation in Little Rock, Arkansas.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: January 26, 1984.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 84-2932 Filed 2-1-84; 8:45 am]

BILLING CODE 8025-01-M

[Application No. 05/05-0190]

North Star Ventures, III, Inc.; Application for a License To Operate as a Small Business Investment Company

Notice is hereby given of the filing of an application with the Small Business Administration (SBA) pursuant to § 107.102 of Revision 6 of the SBA Regulations (48 FR 45014 (September 30, 1983)), by North Star Ventures, III, Inc., 1501 First Bank Place West, Minneapolis, Minnesota 55402 for a license to operate as a small business investment company (SBIC) under the provisions of the Small Business

Investment Act of 1958, as amended, (15 U.S.C. *et. seq.*).

The proposed officers, directors and shareholders are:

Name	Title	Percent of ownership
Gerald Rauenhorst, 1501 First Bank Place West, Minneapolis, Minnesota 55402.	Chairman and Director.	100
Terrance W. Glarner, 1501 First Bank Place West, Minneapolis, Minnesota 55402.	President	
Mark Rauenhorst, 1501 First Bank Place West, Minneapolis, Minnesota 55402.	Secretary and Director.	

The Applicant will begin operations with a capitalization of $2,005,000, and will be a source of equity capital and long term loan funds for qualified small business concerns.

Matters involved in SBA's consideration of the application include the general business reputation and character of the proposed owners and management, and the probability of successful operations of the new company under their management, including adequate profitability and financial soundness, in accordance with the Act and Regulations.

Notice is further given that any person may, not later than 15 days from the date of the publication of this Notice, submit written comments on the proposed SBIC to the Deputy Associate Administrator for Investment, Small Business Administration, 1441 L Street NW., Washington 20416.

A copy of the Notice will be published in a newspaper of general circulation in Minneapolis, Minnesota.

(Catalog of Federal Domestic Assistance Program No. 59. 011, Small Business Investment Companies)

Dated: January 20, 1984.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 84-2933 Filed 2-1-84; 8:45 am]

BILLING CODE 8025-01-M

Region VI Advisory Council; Public Meeting

The U.S. Small Business Administration Region VI Advisory Council, located in the geographical area of Little Rock, Arkansas, will hold a public meeting at 11:45 A.M. on Thursday, March 1, 1984, in Brooks Parlor, Capitol Hotel, 111 West Markham, Little Rock, Arkansas, to discuss such matters as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information, write or call Maurice Britt, District Director, U.S. Small Business Administration, Suite 601, Savers Federal Building, 320 West Capital Ave., Little Rock, Arkansas 72201—(501) 378–5871.

Dated: January 27, 1984.

Jean M. Nowak,

Director, Office of Advisory Councils.

[FR Doc. 84-2928 Filed 2-1-84; 8:45 am]

BILLING CODE 8025-01-M

Region IX Advisory Council; Public Meeting

The Small Business Administration Region IX Advisory Council, located in the geographical area of San Francisco, will hold a public meeting at 9:30 a.m. on Tuesday, February 14, 1984, 211 Main Street—5th Floor—Conference Room 543, San Francisco, California 94105, to discuss such matters as may be presented by members, and staff of the U.S. Small Business Administration, or others present.

For further information, write or call Lawrence J. Wodarski, District Director, U.S. Small Business Administration, 211 Main Street—4th Floor, San Francisco, California 94105, (415) 974–0642.

Dated: January 27, 1984.

Jean M. Nowak,

Director, Office of Advisory Councils.

[FR Doc. 84-2931 Filed 2-1-84; 8:45 am]

BILLING CODE 8025-01-M

Region VI Advisory Council; Public Meeting

The Small Business Administration Region VI Advisory Council located in the geographical area of New Orleans, will hold a public meeting at 10:00 a.m., on Friday, February 24, 1984 at the Small Business Administration office, 1661 Canal Street (second floor), New Orleans, Louisiana, to discuss such matters as may be presented by members, staff of the Small Business Administration, or others present.

For further information, write or call T. A. Aboussie, District Director, U.S. Small Business Administration, 1661 Canal Street, New Orleans, Louisiana 70113, (504) 589–2744.

Dated: January 27, 1984.

Jean M. Nowak,

Director, Office of Advisory Councils.

[FR Doc. 84-2929 Filed 2-1-84; 8:45 am]

BILLING CODE 8025-01-M

Region VI Advisory Council; Public Meeting

The U.S. Small Business Administration Region VI Advisory Council, located in the geographical area of Corpus Christi, will hold a public meeting at 2:00 P.M. on Tuesday, February 14, 1984, at the Government Plaza, Fourth Floor, 400 Mann Street, Suite 402, Corpus Christi, Texas to discuss such matters as may be presented by members, staff of the U.S. Small Business Administration, or other present.

For further information wrote or call Miguel A. Cavazos, Jr., Branch Manager, U.S. Small Business Administration, Government Plaza, 400 Mann Street, Corpus Christi, Texas 78401, (512) 888–3301.

Dated: January 27, 1984.

Jean M. Nowak,

Director, Office of Advisory Councils.

[FR Doc. 84-2930 Filed 2-1-84; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF STATE

[Public Notice CM-8/707]

Study Group C of the U.S. Organization for the International Telegraph and Telephone Consultative Committee (CCITT); Meeting

The Department of State announces that Study Group C of the U.S. Organization for the International Telegraph and Telephone Consultative Committee (CCITT) will meet on March 6 and 7, 1984. Meetings on both days will begin at 9:30 a.m. and will be held in Room 2722A of the Department of State, 21st and Virginia Avenue, NW., Washington, D.C.

The meeting on March 6 will be concerned with visual telephony; the meeting on March 7 with optical fibers.

Members of the general public may attend the meeting and join in the discussion subject to the instructions of the Chairman. Admittance of public members will be limited to the seating available. In that regard, entrance to the Department of State building is controlled. All persons wishing to attend the meeting should contact the office of Mr. Earl Barbely, Department of State, Washington, D.C.; telephone (202) 632–3405. All attendees must use the entrance at 21st and Virginia Avenue, NW.

Dated: January 18, 1984.

Earl S. Barbely,

Chairman, U.S. CCITT, National Committee.

[FR Doc. 84-2813 Filed 2-1-84; 8:45 am]

BILLING CODE 4710-07-M

[Public Notice CM-8/706]

Study Group D of the U.S. Organization for the International Telegraph and Telephone Consultative Committee (CCITT); Meeting

The Department of State announces that Study Group D of the U.S. Organization for the International Telegraph and Telephone Consultative Committee (CCITT) will meet on March 8, 1984 at 8:30 a.m. in Room 1103, Department of Commerce Building, 325 South Broadway, Boulder, Colorado.

The agenda for the meeting is as follows:

1. Report of the Fall and Winter Rapporteurs Meetings;
2. Preparation for Final CCITT Study Group VII Plenary, March 26–30, 1984;
3. Any other business.

Members of the general public may attend the meeting and join in the discussion subject to the instructions of the Chairman. Requests for further information may be directed to Mr. Earl Barbely, State Department, telephone 202 632–3405 or Ms. Chris Ware, Department of Commerce, Boulder, Colorado, telephone 303 497–5262.

Dated: January 17, 1984.

Richard E. Shrum,

Acting Director, Office of International Communications Policy.

[FR Doc. 84-2812 Filed 2-1-84; 8:45 am]

BILLING CODE 4710-07-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD 83-065]

OMEGA Radionavigation System Operational Declaration

SUMMARY: The purpose of this notice is to announce the operational declaration of the OMEGA navigation system in the South Atlantic Ocean.

SUPPLEMENTARY INFORMATION: The Coast Guard conducted an extensive data collection and validation effort. It has been determined that the OMEGA navigation system meets the safety of navigation accuracy requirements of 2–4 nautical miles, with 95% confidence in the oceanic environment as stated in the Federal Radionavigation Plan (March 1982). The region is bounded by approximately 20N—35S latitude and 70W—20E longitude.

On this basis the Coast Guard hereby declares the OMEGA radionavigation system operational in the South Atlantic Ocean. Future validation results will be announced as data collection and analysis is completed during the next four years.

FOR FURTHER INFORMATION CONTACT: Commandant (G–NRN–2), U.S. Coast Guard Headquarters, RM 1413, 2100 2nd Street, SW., Washington, D.C. 20593, ATTN: LT D. J. HOUGHTON, Phone: (202) 426–0990.

Dated: January 24, 1984.

T. J. Wojnar,

Rear Admiral, U.S. Coast Guard, Chief, Office of Navigation.

[FR Doc. 84-2885 Filed 2-1-84; 8:45 am]

BILLING CODE 4910-14-M

Federal Aviation Administration

Advisory Circular on Structural Substantiation of Secondary Structure in Small Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Draft Advisory Circular (AC) Availability and Request for Comments.

SUMMARY: This AC provides information and guidance on acceptable means of demonstrating compliance with the requirements of Part 23 of the Federal Aviation Regulation (FAR) applicable to the structural substantiation of secondary structures; such as fairings, cowlings, antennas, etc.

DATE: Commenters must identify File AC 23–XX; Structural Substantiation of Secondary Structures, and comments must be received on or before March 19, 1984.

ADDRESS: Send all comments on the draft AC to: Federal Aviation Administration, ATTN: Regulations and Policy Office (ACE–110), 601 East 12th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Mr. Edward A. Gabriel, Aerospace Engineer, Regulations and Policy Office (ACE–110), Aircraft Certification Division, Federal Aviation Administration, 601 East 12th Street, Kansas City, Missouri 64106; Commercial Telephone (816) 374–6941, or FTS 758–6941.

SUPPLEMENTARY INFORMATION: Any person may obtain a copy of this draft AC by writing to: Federal Aviation Administration, Aircraft Certification Division, Regulations and Policy Office (ACE–110), 601 East 12th Street, Kansas City, Missouri 64106.

Comments Invited: Interested parties are invited to submit comments on the draft AC. The draft AC and comments received may be inspected at the offices of the Regulations and Policy Office (ACE–110), Room 1656, Federal Office Building, 601 East 12th Street, Kansas City, Missouri, between the hours of 7:30 a.m. and 4:00 p.m. on weekdays, except Federal holidays.

Issued in Kansas City, Missouri.

Barry D. Clements,

Acting Director, Central Region.

[FR Doc. 84-2700 Filed 2-1-84; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

On January 27, 1984, the Department of Treasury submitted the following public information collection requirement(s) to OMB (listed by submitting bureaus), for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96–511. Copies of these submissions may be obtained from the Treasury Department Clearance Officer, by calling (202) 535–6020. Comments regarding these information collections should be addressed to the OMB reviewer listed at the end of each bureau's listing and to the Treasury Department Clearance Officer, Room 7227, 1201 Constitution Avenue, NW., Washington, D.C. 20220.

Internal Revenue Service

OMB Number: New
Form Number: None
Type of Review: Existing Collection
Title: Freedom of Information and Privacy Act Requests for Joint Board for the Enrollment of Actuaries

Alcohol, Tobacco and Firearms

OMB Number: 1512–0353
Form Number: ATF Rec 5170/2
Type of Review: Reinstatement
Title: Wholesale Dealers Records of Receipt of Alcoholic Beverages, Disposition of Distilled Spirits, and Monthly Summary Report

Bureau of the Public Debt

OMB Number: 1535–0024
Form Number: PD 3905
Type of Review: Revision
Title: Marketable Redemption

OMB Number: 1535–0005
Form Number: PD 3253
Type of Review: Revision

Title: Exchange of Appreciation-Type Savings Securities for Current Income Savings Securities

OMB Number: 1535–0055
Form Number: PD 1050
Type of Review: Revision
Title: Creditor's Consent to Disposition of United States Securities and Related Checks Without Administration of Deceased Owner's Estate.

OMB Number: 1535–0016
Form Number: PD 1022–1
Type of Review: Revision
Title: Report/Application for Relief on Account of Loss, Theft or Destruction of United States Bearer Securities

OMB Reviewer: Norman Frumkin (202) 395–6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503

United States Customs Service

OMB Number: 1515–0006
Form Number: CF 7519
Type of Review: Extension
Title: Combined Rewarehouse Entry and Withdrawal for Consumption and Permit

OMB Number: New
Form Number: None
Type of Review: Existing Collection
Title: Trademark Recordation ICB Form No. 134

OMB Reviewer: Judy McIntosh (202) 395–6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503.

Cathy Thomas,
Departmental Reports, Management Office.

[FR Doc. 84–2907 Filed 2–1–84; 8:45 am]
BILLING CODE 4810–25–M

Sunshine Act Meetings

Federal Register
Vol. 49, No. 23
Thursday, February 2, 1984

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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1

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 2:40 p.m. on Saturday, January 28, 1984, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session, by telephone conference call, to: (1) Adopt a resolution making funds available for the payment of insured deposits in Indian Springs State Bank, Kansas City, Kansas, which was closed by the State Bank Commissioner for the State of Kansas on Friday, January 27, 1984; (2) accept the bid of The Brotherhood Bank and Trust Company, Kansas City, Kansas, an insured State nonmember bank, for the transfer of the insured deposits of the closed bank; (3) designate The Brotherhood Bank and Trust Company as the agent for the Corporation for the payment of insured deposits of the closed bank; and (4) approve the application of The Brotherhood Bank and Trust Company, Kansas City, Kansas, for consent to establish a branch at 4601 State Avenue and a detached (drive-in) facility in the Indian Springs Shopping Center, both locations within Kansas City, Kansas, the former main office and detached facility locations of the closed bank.

In calling the meeting, the Board determined on motion of Chairman William M. Isaac, seconded by Mr. H. Joe Selby, acting in the place and stead of Director C. T. Conover (Comptroller of the Currency), that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting pursuant to subsections (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

Dated: January 30, 1984.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 84-2953 Filed 2-1-84; 8:45 am]

BILLING CODE 6714-01-M

2

FEDERAL COMMUNICATIONS COMMISSION

Open Commission Meeting, Friday, February 3, 1984

January 27, 1984.

The Federal Communications Commission will hold an Open Meeting on the subjects listed below on Friday, February 3, 1984, which is scheduled to commence at 9:30 a.m., in Room 856, at 1919 M Street, NW., Washington, D.C.

Agenda, Item No., and Subject

General—1—*Title:* Requirements for Licensed Operators in Various Radio Services; Docket 83-322; RM-3292, RM-2643. *Summary:* The Commission will consider comments filed in Docket 83-322 and adoption of a Report and Order concerning the requirements for licensed operators in the Experimental Broadcast, International Broadcast, and Auxiliary Broadcast Service; the Private Land Mobile, Fixed, and Personal Radio Services; and the Domestic Public Fixed and Cable Television Relay Services; as well as certain changes in commercial radio operator licensing procedures and policies.

Private Radio—1—*Title:* Amendment of Part 90 of the Commission's Rules and Regulations to eliminate the permissible communications restrictions in the Private Land Mobile Radio Services. *Summary:* The Commission will consider whether to adopt a Notice of Proposed Rule Making which proposes to eliminate the permissible communications restrictions in the Private Land Mobile Radio Services.

Common Carrier—1—*Title:* Proposed revision of the Bureau's delegated authority. *Summary:* The Commission will consider whether to revise its rules of internal agency organization, practice and procedure, to eliminate dollar limits on the authority delegated to the Chief, Common Carrier Bureau to process Section 214 and radio applications, and related rule changes.

Common Carrier—2—*Title:* Cellular Lottery Rulemaking. *Summary:* The Commission will consider whether to suspend the March 1 starting date for filing cellular applications in markets below the top-90, and also suspending the expiration of the wireline set-aside.

Common Carrier—3—*Subject:* In the Matter of MTS and WATS Market Structure, CC Docket No. 78-72, Phase I. *Summary:* The Commission will decide issues on reconsideration not addressed in the Commission's Final Decision of January 25, 1984.

Video—1—*Title:* "Application for Review" (CSR-2308) amd "Petition for Special Relief" CSR-2434) filed October 3, and September 19, 1983 by Arlington TeleCommunications Corporation. Petition for Forfeiture (CF-53) filed October 12, 1983, by Central Virginia Educational Television Corporation. *Summary:* Arlington TeleCommunications Corporation seeks waivers of its obligations to carry Television Broadcast Stations WNVC (ETV, Channel 56), Fairfax, Virginia, and WNVT (ETV, Channel 53), Goldvein, Virginia, on ARTEC's Arlington, Virginia cable system. The licensee of the stations seeks a forfeiture for ARTEC's alleged rule violations.

Video—2—*Title:* Petitions for reconsideration of the Commission's action ordering the Broadcast Corporation of Georgia (WVEU (TV)), Atlanta, Georgia, to enter into gormal negotiations with nearby land mobile licensees with a view toward changing their frequencies. *Summary:* The Commission will consider whether its previous action constituted a rulemaking without following the required procedures, whether WVEU has the financial capacity to reimburse the land mobile licensees, and, generally whether requiring the land mobile licensees to change frequencies is consistent with the public interest.

Policy—1—*Title:* Amendment of Part 73 concerning remote control operation of AM, FM, and TV broadcast transmitters. *Summary:* The Commission will consider issuing a Notice of Proposed Rulemaking looking toward modernizing the remote control rules for all broadcast stations.

Policy—2—*Title:* Amendment of Subparts E and F of Part 74 to provide for the operation of microwave boosters. *Summary:* The Commission will consider adoption of a *Report and Order* in BC Docket No. 82-20, that will address the question of whether microwave boosters should be permitted in the Aural STL/Intercity Relay and TV Auxiliary Services.

Policy—3—*Title:* Deregulation of Radio. *Summary:* The Commission will consider what information regarding

nonentertainment programming we should require radio broadcasters to keep and to make available to the public and the Commisson in view of the new regulatory scheme for commercial radio.

Policy—4—*Title:* Petition to require Station WOR–TV, Secaucus, New Jersey, to install translators in Southern New Jersey.

Summary: The Commission will consider a petition by U.S. Representative Matthew J. Rinaldo of New Jersey, requesting that RKO General, licensee of Station WOR–TV, Secaucus, New Jersey, be required to construct and operate translators in Southern New Jersey.

This meeting may be continued the following work day to allow the Commission to complete appropriate action.

Additional information concerning this meeting may be obtained from Maureen Peratino, FCC Public Affairs Office, Telephone number (202) 254–7674.

Issued: January 27, 1984.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 84-2888 Filed 1-30-84; 5:08 pm]

BILLING CODE 6712-01-M

3

FEDERAL COMMUNICATIONS COMMISSION

Closed Commission Meeting Friday, February 3, 1984

January 27, 1984.

The Federal Communications Commission will hold a Closed Meeting on the subjects listed below on Friday, February 3, 1984 following the Open Meeting, which is scheduled to commence at 9:30 a.m. in Room 856, at 1919 M Street, NW., Washington, D.C.

Agenda, Item No., and Subject

Hearing—1—Applications for Review in the Faith Center, Inc., San Francisco, California TV comparative renewal proceeding (BC Docket Nos. 82–339 to 82–342).

Hearing—2—Petition for Reconsideration of Commission Order denying an Application for Review in the Roanoke, Virginia comparative UHF proceeding (Docket Nos. 81–46, 81–47).

These items are closed to the public because they concern Adjudicatory Matters (See 47 CFR 0.603(j)).

The following persons are expected to attend:

Commissioners and their Assistants
Managing Director and members of his staff
General Counsel and members of his staff
Chief, Office of Public Affairs and members of his staff

Action by the Commission January 28, 1984. Commissioners Fowler, Chairman; Quello, Dawson, Rivera, and Patrick voting to consider these items in Closed Session.

. This meeting may be continued the following work day to allow the Commission to complete appropriate action.

Additional information concerning this meeting may be obtained from Maureen Peratino, FCC Public Affairs Office, telephone number (202) 254–7674.

Issued: January 27, 1984.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 84-2827 Filed 1-30-84; 5:08 pm]

BILLING CODE 6712-01-M

4

FEDERAL ELECTION COMMISSION

DATE AND TIME: Tuesday, February 7, 1984, 10 a.m.

PLACE: 1325 K Street, NW., Washington, D.C.

STATUS: This meeting will be closed to the public.

ITEMS TO BE DISCUSSED: Compliance. Litigation. Audits. Personnel.

* * * * *

DATE AND TIME: Thursday, February 9, 1984, 10 a.m.

PLACE: 1325 K Street, NW., Washington, D.C. (fifth floor).

STATUS: This meeting will be open to the public.

MATTERS TO BE CONSIDERED:

Setting of dates of future meetings
Correction and approval of minutes
Eligibility report for candidates to receive Presidential Primary Matching Funds
Draft Advisory Opinion #1984–1: Edward A. Dudek, Treasurer, Re-Elect Clement J. Zablocki to Congress Club
Draft Advisory Opinion #1984–2: Phil Gramm, Friends for Phil Gramm
Finance Committee Report
Routine Administrative Matters

PERSON TO CONTACT FOR INFORMATION: Mr. Fred Eiland, Information Officer, telephone 202–523–4065.

Marjorie W. Emmons,

Secretary of the Commission.

[FR Doc. 84-3022 Filed 1-31-84; 3:04 pm]

BILLING CODE 6715-01-M

5

FEDERAL TRADE COMMISSION

TIME AND DATES: 10 a.m., Friday January 27, 1984.

PLACE: Room 432, Federal Trade Commission Building, 6th Street and Pennsylvania Avenue, NW., Washington, D.C. 20580.

STATUS: Open.

MATTER TO BE CONSIDERED: Consideration of request by Chairman Florio of the Subcommittee on Commerce, Transportation, and Tourism concerning procedures followed in and ramifications of the Commission's decision to accept for public comment a consent agreement between General Motors Corporation and Toyota Motor Corporation as well as trends in the automobile industry.

CONTACT PERSON FOR MORE INFORMATION: Susan B. Ticknor, Office of Public Information (202) 523–1892; Recorded Message: (202) 523–3806.

Emily H. Rock,

Secretary.

[FR Doc. 84-2954 Filed 1-31-84; 12:04 pm]

BILLING CODE 6750-01-M

6

POSTAL SERVICE

Amendment to Notice of Meeting

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 49 FR 3954, January 31, 1984.

PREVIOUSLY ANNOUNCED DATE OF MEETING: February 8–9, 1984.

CHANGE: By telephone vote on January 31, the Board voted to add discussion of the status of the STARS Project to the agenda for the closed session on Wednesday, February 8.

The Board determined that pursuant to section 552b(c)(9)(B) of title 5, United States Code, and § 7.3(i) of title 39, Code of Federal Regulations, the discussion of this matter is exempt from the open meeting requirement of the Government in the Sunshine Act (5 U.S.C. 552b) because it is likely to disclose information the premature disclosure of which is likely to frustrate significantly proposed Postal Service procurement activity.

In accordance with section 552b(f)(1) of title 5 United States Code, and § 7.6(a) of title 39, Code of Federal Regulations, the General Counsel of the United States Postal Service has certified that in his opinion this portion of the meeting to be closed may properly be closed to public observation prusuant to section 552b(c)(9)(B) of title 5, United States Code, and § 7.3(i) of title 39, Code of Federal Regulations.

David F. Harris,

Secretary.

[FR Doc. 84-3024 Filed 1-31-84; 3:23 pm]

BILLING CODE 7710-12-M

Reader Aids

Federal Register

Vol. 49, No. 23

Thursday, February 2, 1984

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At the end of each month, the Office of the Federal Register publishes separately a list of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

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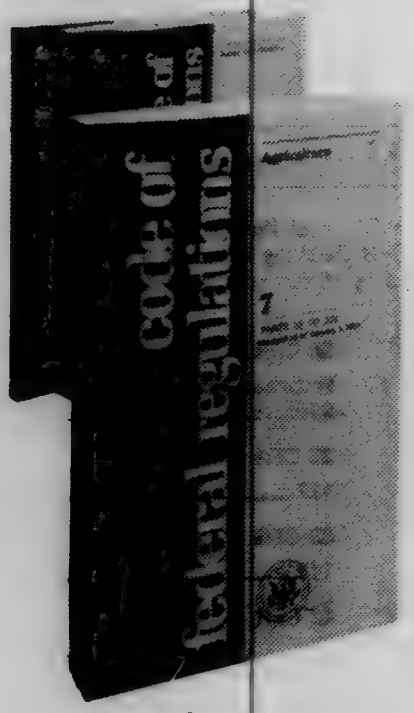

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2-3-84
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federal register

Friday
February 3, 1984

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Federal Register
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Occupational Safety and Health Administration

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FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

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Questions and requests for specific information may be directed to the telephone numbers listed under INFORMATION AND ASSISTANCE in the READER AIDS section of this issue.

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DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

7 CFR Part 416

[Amdt. No. 2]

Pea Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Final rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) hereby amends the Pea Crop Insurance Regulations (7 CFR Part 416), effective for the 1984 and succeeding crop years by: (1) Changing the policy to make it easier to read; (2) eliminating the substitute crop provision; (3) eliminating the reduction in production guarantee for unharvested acreage and related provisions; (4) providing that peas are insurable following sunflowers, potatoes, dry beans, soybeans, rape, or mustard as designated by the actuarial table if the proper rotation practices are carried out; (5) adding a provision permitting the determination of indemnities based on the acreage report rather than at loss adjustment time; (6) adding a provision to provide a coverage level if the insured does not select one; (7) providing that the 15-day notice of loss applies to both dry and green peas; (8) adding a 60-day claim for indemnity provision; (9) adding a section regarding appraisals following the end of the insurance period for unharvested acreage; (10) adding a hail/fire provision for appraisals of uninsured causes; (11) changing the cancellation/termination dates to conform with farming practices; (12) providing that any change in the policy will be available in the service office by a certain date; (13) adding a definition of "service office;" (14) providing for unit determination when the acreage report is filed; and (15) adding three sections concerning "descriptive headings", "determinations", and "notices."

In addition, FCIC issues a new subsection in the pea crop insurance regulations to contain the control numbers assigned by the Office of Management and Budget (OMB) to information collection requirements of these regulations. The intended effect of this rule is to update the policy for insuring peas in accordance with Secretary's Memorandum No. 1512–1, requiring a review of the regulations as to need, currency, clarity, and effectiveness, and to comply with OMB regulations requiring publication of OMB control numbers assigned to information collection requirements in these regulations.

EFFECTIVE DATE: March 5, 1984.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C. 20250, telephone (202) 447–3325.

The Impact Statement describing the options considered in developing this rule and the impact of implementing each option is available upon request from Peter F. Cole.

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA procedures established in Secretary's Memorandum No. 1512–1 (June 11, 1981). This action constitutes a review under such procedures as to the need, currency, clarity, and effectiveness of these regulations. The sunset review date established for these regulations is April 1, 1988.

Merritt W. Sprague, Manager, FCIC, has determined that (1) this action is not a major rule as defined by Executive Order No. 12291 (February 17, 1981), (2) this action will not increase the Federal paperwork burden for individuals, small businesses, and other persons, and (3) this action conforms to the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), and other applicable law.

The title and number of the Federal Assistance Program to which these regulations apply are: Title—Crop Insurance; Number 10.450.

This action will not have a significant impact specifically upon area and community development; therefore, review as established by Executive Order No. 12372 (July 14, 1982) was not used to assure that units of local government are informed of this action.

It has been determined that this action is exempt from the provisions of the Regulatory Flexibility Act; therefore, no Regulatory Impact Statement was prepared.

On Thursday, August 18, 1983, FCIC published a notice of proposed rulemaking in the **Federal Register** at 48 FR 37420, amending the policy for insuring peas in accordance with the provisions of Secretary's Memorandum No. 1512–1, and issuing a new section to contain control numbers assigned by the Office of Management and Budget (OMB) to information collection requirements of these regulations. The public was given 60 days in which to submit written comments, data, and opinions on the proposed rule, but none were received.

Therefore, with the exception of minor and non-substantive changes in language, the proposed rule as published is hereby issued as a final rule to be effective with the 1984 crop year.

List of Subjects in 7 CFR Part 416

Crop insurance, Peas.

PART 416—[AMENDED]

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation hereby amends the Pea Crop Insurance Regulations, effective for the 1984 and succeeding crop years, in the following instances:

1. The Authority citation for 7 CFR Part 416 is:

Authority: Secs. 506, 516, Pub. L. 75–430, 52 Stat. 73, 77 as amended (7 U.S.C. 1506, 1516).

2. 7 CFR 416.3 is added to read as follows:

§ 416.3 OMB control numbers.

The information collection requirements contained in these regulations (7 CFR Part 416) have been approved by the Office of Management and Budget (OMB) under the provisions of 44 U.S.C. Chapter 35 and have been assigned OMB Nos. 0563–0003 and 0563–0007.

§ 416.7 [Amended]

3. 7 CFR 416.7(d) is amended by revising the Pea Crop Insurance Policy therein to read as follows:

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

Pea—Crop Insurance Policy

(This is a continuous contract. Refer to Section 15.)

AGREEMENT TO INSURE: We shall provide the insurance described in this policy in return for the premium and your compliance with all applicable provisions.

Throughout this policy, "you" and "your" refer to the insured shown on the accepted Application and "we," "us" and "our" refer to the Federal Crop Insurance Corporation.

Terms and Conditions

1. Causes of loss.

a. The insurance provided is against unavoidable loss of production resulting from the following causes occurring within the insurance period:

(1) Adverse weather conditions;

(2) Fire;

(3) Insects;

(4) Plant disease on acreage not planted to peas the previous crop year;

(5) Wildlife;

(6) Earthquake; or

(7) Volcanic eruption;

unless those causes are excepted, excluded, or limited by the actuarial table or section 9e(8).

b. We shall not insure against any loss of production due to:

(1) Green peas not being timely harvested, unless we determine that, due to unusual weather conditions, a substantial amount of acres of green peas in the area were ready for harvest at the same time;

(2) The neglect or malfeasance of you, any member of your household, your tenants or employees;

(3) The failure to follow recognized good pea farming practices;

(4) Damage resulting from the impoundment of water by any governmental, public or private dam or reservoir project; or

(5) Any cause not specified in section 1a as an insured loss.

2. Crop, acreage, and share insured.

a. The crop insured shall be either green peas or dry peas which are planted for harvest as peas, which are grown on insured acreage and for which a guarantee and premium rate are provided by the actuarial table.

b. The acreage insured for each crop year shall be peas planted on insurable acreage as designated by the actuarial table and in which you have a share, as reported by you or as determined by us, whichever we shall elect.

c. The insured share shall be your share as landlord, owner-operator, or tenant in the insured peas at the time of planting.

d. We do not insure any acreage:

(1) Of green peas not grown under a contract with a processor executed before you report your acreage or excluded from the processor contract for, or during, the crop year;

(2) Where the farming practices carried out are not in accordance with the farming practices for which the premium rates have been established;

(3) Which is irrigated and an irrigated practice is not provided by the actuarial table unless you elect to insure the acreage as nonirrigated by reporting it as insurable under section 3;

(4) Which is destroyed and it is practical to replant to the same type of green peas or the same varietal group of dry peas, and such acreage is not replanted;

(5) Initially planted after the final planting date contained in the actuarial table;

(6) Of volunteer peas;

(7) Planted to a type or variety of peas not established as adapted to the area or excluded by the actuarial table;

(8) Planted with a crop other than peas; or

(9) Planted for the development or production of hybrid seed or for experimental purposes.

e. Where insurance is provided for an irrigated practice:

(1) You shall report as irrigated only the acreage for which you have adequate facilities and water to carry out a good irrigation practice for peas at the time of planting; and

(2) Any loss of production caused by failure to carry out a good irrigation practice for peas, except failure of the water supply from an unavoidable cause occurring after the beginning of planting, shall be considered as due to an uninsured cause. The failure or breakdown of irrigation equipment or facilities shall not be considered as a failure of the water supply from an unavoidable cause.

f. We may limit the insured acreage to any acreage limitation established under any Act of Congress, if we advise you of the limit prior to planting.

g. An instrument in the form of a "lease" under which you retain control of the acreage on which the insured peas are grown and which provides for delivery of the peas under certain conditions and at a stipulated price(s) shall, for the purpose of this contract, be treated as a contract under which you have a share in the peas.

3. Report of acreage, share, practice and yield.

You shall report on our form:

a. All the acreage of peas in the county in which you have a share;

b. The practice;

c. Your share at the time of planting; and

d. The most recent year's production for the insurable acreage on each unit.

You shall designate separately any acreage that is not insurable. You shall report if you do not have a share in any peas planted in the county. This report shall be submitted annually on or before the reporting date established by the actuarial table. We may determine all indemnities on the basis of information you have submitted on this report. If you do not submit this report by the reporting date, we may elect to determine by unit the insured acreage, share, and practice or we may deny liability on any unit. Any report submitted by you may be revised only upon our approval.

4. Production guarantees, coverage levels, and prices for computing indemnities.

a. The production guarantees, coverage levels, and prices for computing indemnities are in the acturial table.

b. Coverage level 2 will apply if you do not elect a coverage level.

c. You may change the coverage level and price election on or before the closing date for submitting applications for the crop year as established by the actuarial table.

5. Annual premium.

a. The annual premium is earned and payable at the time of planting. The amount is computed by multiplying the production guarantee times the price election, times the premium rate, times the insured acreage, times your share at the time of planting, times the applicable premium adjustment percentage contained in the following table.

PREMIUM ADJUSTMENT TABLE [1]

(Percent adjustments for favorable continuous insurance experience)

	Numbers of years continuous experience through previous year															
	0	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15 or more
	Percentage adjustment factor for current crop year															
Loss ratio [2] through previous crop year																
.00 to .20	100	95	95	90	90	85	80	75	70	70	65	65	60	60	55	50
.21 to .40	100	100	95	95	90	90	90	85	80	80	75	75	70	70	65	60
.41 to .60	100	100	95	95	95	95	95	90	90	90	85	85	80	80	75	70
.61 to .80	100	100	95	95	95	95	95	95	90	90	90	90	85	85	85	80
.81 to 1.00	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100

[Percent adjustments for unfavorable insurance experience]

Loss ratio [2] through previous crop year	Numbers of loss years through previous year [3]															
	0	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
	Percentage adjustment factor for current crop year															
1.10 to 1.19	100	100	100	102	104	106	108	110	112	114	116	118	120	122	124	126
1.20 to 1.39	100	100	100	104	108	112	116	120	124	128	132	136	140	144	148	152
1.40 to 1.69	100	100	100	108	116	124	132	140	148	156	164	172	180	188	196	204
1.70 to 1.99	100	100	100	112	122	132	142	152	162	172	182	192	202	212	222	232
2.00 to 2.49	100	100	100	116	128	140	152	164	176	188	200	212	224	236	248	260
2.50 to 3.24	100	100	100	120	134	148	162	176	190	204	218	232	246	260	274	288
3.25 to 3.99	100	100	105	124	140	156	172	188	204	220	236	252	268	284	300	300
4.00 to 4.99	100	100	110	128	146	164	182	200	218	236	254	272	290	300	300	300
5.00 to 5.99	100	100	115	132	152	172	192	212	232	252	272	292	300	300	300	300
6.00 and up	100	100	120	136	156	180	202	224	246	268	290	300	300	300	300	300

[1] For premium adjustment purposes, only the years during which premiums were earned shall be considered.
[2] Loss Ratio means the ratio of indemnity(ies) paid to premium(s) earned.
[3] Only the most recent 15 crop years shall be used to determine the number of "Loss Years". (A crop year is determined to be a "Loss Year" when the amount of indemnity for the year exceeds the premium for the year.)

b. Interest shall accrue at the rate of one and one-half percent (1½%) simple interest per calendar month, or any part thereof, on any unpaid premium balance starting on the first day of the month following the first premium billing date.

c. Any premium adjustment applicable to the contract shall be transferred to:

(1) The contract of your estate or surviving spouse in case of your death;

(2) The contract of the person who succeeds you if such person had previously participated in the farming operation; or

(3) Your contract if you stop farming in one county and start farming in another county.

d. If participation is not continuous, any premium shall be computed on the basis of previous unfavorable insurance experience but no premium reduction under section 5a will be applicable.

6. Deductions for debt.

Any unpaid amount due us may be deducted from any indemnity payable to you or from any loan or payment due you under any Act of Congress or program administered by the United States Department of Agriculture or its Agencies.

7. Insurance period.

Insurance attaches when the peas are planted and ends at the earliest of:

a. Total destruction of the peas;

b. Combining, vining, or removal from the field;

c. Final adjustment of a loss;

d. The date the green peas should have been harvested, unless we give consent to harvest them as dry peas; or

e. September 15 of the calendar year in which peas are normally harvested.

8. Notice of damage or loss.

a. In case of damage or probable loss:

(1) You must give us written notice if:

(a) During the period before harvest, the peas on any unit are damaged and you decide not to further care for or harvest any part of them;

(b) During the period before harvest, the green peas on any unit are damaged and you want our consent to harvest the green peas as dry peas;

(c) You want our consent to put the acreage to another use; of

(d) After consent to put acreage to another use is given, additional damage occurs.

Insured acreage may not be put to another use until we have appraised the peas and given written consent. We will not consent to another use until it is too late to replant. You must notify us when such acreage is put to another use.

(2) You must give us notice at least 15 days before the beginning of harvest if you anticipate a loss on any unit.

(3) If probable loss is later determined on dry peas, immediate notice shall be given and a representative sample of the unharvested dry peas (at least 10 feet wide and the entire length of the field) shall be left intact for a period of 15 days from the date of notice, unless we give you written consent to harvest the sample.

(4) If probable loss is later determined on green peas and you are going to claim an indemnity on any unit notice shall be given not later than 48 hours after:

(a) Total destruction of the green peas on the unit;

(b) Discontinuance of harvest on the unit prior to completion; or

(c) Before harvest would normally start if any acreage on the unit is not to be harvested.

If such notice is not given or if the unharvested acreage is not left intact, the appraisal on such acreage shall be the production guarantee.

(5) Unless notice has been given under subsection (4) above, and in addition to the other notices required by this section, if you are going to claim an indemnity on any unit, we must be given notice not later than 30 days after the earlier of:

(a) Harvest of the unit; or

(b) The calendar date for the end of the insurance period.

b. You must obtain written consent from us before you destroy any of the peas which are not to be harvested.

c. We may reject any claim for indemnity if any of the requirements of this section or section 9 are not complied with.

9. Claim for indemnity.

a. Any claim for indemnity on a unit shall be submitted to us on our form not later than 60 days after the earliest of:

(1) Total destruction of the peas on the unit;

(2) Harvest of the unit; or

(3) The calendar date for the end of the insurance period.

b. We shall not pay any indemnity unless you:

(1) Establish the total production of peas on the unit and that any loss of production has been directly caused by one or more of the insured causes during the insurance period; and

(2) Furnish all information we require concerning the loss.

c. The indemnity shall be determined on each unit by:

(1) Multiplying the insured acreage by the production guarantee;

(2) Subtracting therefrom the total production of peas to be counted (see section 9e);

(3) Multiplying the remainder by the price election; and

(4) Multiplying this product by your share.

d. If the information reported by you results in a lower premium than the actual premium determined to be due, the indemnity shall be reduced proportionately.

e. The total production to be counted for a unit shall include all harvested and appraised production.

(1) If, due to insurable causes, mature dry pea production which, does not grade No. 3 or better, or lentils which do not grade No. 2 or better, in accordance with the Official United States Standards for dry peas and lentils, shall be adjusted by:

(a) Dividing the value per pound of such peas by the price per pound for the same variety of dry peas grading No. 3 (No. 2 for lentils); and

(b) Multiplying the result by the number of pounds of such peas.

The applicable price for No. 3 dry peas (No. 2 lentils) shall be the local market price on the earlier of the day the loss is adjusted or the day the peas were sold.

(2) The pounds for harvested green peas shall be determined by dividing the dollar amount received from the processor by the contract price for the tenderometer reading or sieve size designated by the actuarial table.

(3) If any acreage of green peas is not timely harvested, as determined by us, the production to count shall be the greater of:

(a) The appraised production with no adjustment for quality; or

(b) The dollar amount received from the processor divided by the processor's contract price per pound for the tenderometer reading

or sieve size designated by the actuarial table.

(4) If any acreage reported as green peas is harvested as dry peas or we have given consent to be harvested as dry peas the guarantee for such acreage shall be reduced 40 percent.

(5) Appraised production to be counted shall include:

(a) Unharvested production on harvested acreage and potential production lost due to uninsured causes and failure to follow recognized good pea farming practices;

(b) Not less than the guarantee for any acreage which is abandoned or put to another use without our prior written consent or damaged solely by an uninsured cause; and

(c) Any appraised production on unharvested acreage.

(6) Any appraisal we have made on insured acreage for which we have given written consent to be put to another use shall be considered production unless such acreage:

(a) Is not put to another use before harvest of peas becomes general in the county;

(b) Is harvested; or

(c) Is further damaged by an insured cause before the acreage is put to another use.

(7) We may determine the amount of production of any unharvested peas on the basis of field appraisals conducted after the end of the insurance period.

(8) When you have elected to exclude hail and fire as insured causes of loss and the peas are damaged by hail or fire, appraisals for uninsured causes shall be made in accordance with Form FCI–78, "Request to Exclude Hail and Fire".

(9) The commingled production of units shall be allocated to such units in proportion to our liability on the harvested acreage of each unit.

f. You shall not abandon any acreage to us.

g. You may not bring suit or action against us unless you have complied with all policy provisions. If a claim is denied, you may sue us in the United States District Court under the provisions of 7 U.S.C. 1508(c). You must bring suit within 12 months of the date notice of denial is mailed to and received by you.

h. We shall pay the loss within 30 days after we reach agreement with you or entry of a final judgment. In no event shall we be liable for interest or damages in connection with any claim for indemnity, whether we approve or disapprove such claim.

i. If you die, disappear, or are judicially declared incompetent, or if you are an entity other than an individual and such entity is dissolved after the peas are planted for any crop year, any indemnity shall be paid to the person(s) we determine to be beneficially entitled thereto.

j. If you have other fire insurance and fire damage occurs during the insurance period, and you have not elected to exclude fire insurance from this policy, we shall be liable for loss due to fire only for the smaller of:

(1) The amount of indemnity determined pursuant to this contract without regard to any other insurance; or

(2) The amount by which the loss from fire exceeds the indemnity paid or payable under such other insurance. For the purpose of this section, the amount of loss from fire shall be the difference between the fair market value of the production on the unit before the fire and after the fire.

10. Concealment or fraud.

We may void the contract on all crops insured without affecting your liability for premiums or waiving any right, including the right to collect any amount due us if, at any time, you have concealed or misrepresented any material fact or committed any fraud relating to the contract, and such voidance shall be effective as of the beginning of the crop year with respect to which such act or omission occurred.

11. Transfer of right to indemnity on insured share.

If you transfer any part of your share during the crop year, you may transfer your right to an indemnity. The transfer shall be on our form and approved by us. We may collect the premium from either you or your transferee or both. The transferee shall have all rights and responsibilities under the contract.

12. Assignment of indemnity.

You may only assign to another party your right to an indemnity for the crop year on our form and with our approval. The assignee shall have the right to submit the loss notices and forms required by the contract.

13. Subrogation. (Recovery of loss from a third party.)

Because you may be able to recover all or a part of your loss from someone other than us, you must do all you can to preserve any such rights. If we pay you for your loss then your right of recovery shall at our option belong to us. If we recover more than we paid you plus our expenses, the excess shall be paid to you.

14. Records and access to farm.

You shall keep, for two years after the time of loss, records of the harvesting, storage, shipment, sale or other disposition of all peas produced on each unit including separate records showing the same information for production from any uninsured acreage. Any persons designated by us shall have access to such records and the farm for purposes related to the contract.

15. Life of contract: Cancellation and termination.

a. This contract shall be in effect for the crop year specified on the application and may not be canceled for such crop year. Thereafter, the contract shall continue in force for each succeeding crop year unless canceled or terminated as provided in this section.

b. This contract may be canceled by either you or us for any succeeding crop year by giving written notice on or before the cancellation date preceding such crop year.

c. This contract shall terminate as to any crop year if any amount due us on this or any other contract with you is not paid on or before the termination date preceding such crop year for the contract on which the amount is due. The date of payment of the amount due:

(1) If deducted from an indemnity shall be the date you sign the claim; or

(2) If deducted from payment under another program administered by the United States Department of Agiculture shall be the date such payment was approved.

d. The cancellation and termination dates are April 15.

e. If you die or are judicially declared incompetent, or if you are an entity other than an individual and such entity is dissolved, the contract shall terminate as of the date of death, judicial declaration, or dissolution. *However,* if such event occurs after insurance attaches for any crop year, the contract shall continue in force through the crop year and terminate at the end thereof. Death of a partner in a partnership shall dissolve the partnership unless the partnership agreement provides otherwise. If two or more persons having a joint interest are insured jointly, death of one of the persons shall dissolve the joint entity.

f. The contract shall terminate if no premium is earned for five consecutive years.

16. Contract changes.

We may change any terms and provisions of the contract from year to year. If your price election at which indemnities are computed is no longer offered, the actuarial table will provide the price election which you shall be deemed to have elected. All contract changes shall be available at your service office by December 31 preceding the cancellation date. Acceptance of any changes shall be conclusively presumed in the absence of any notice from you to cancel the contract.

17. Meaning of terms.

For the purposes of pea crop insurance:

a. "Actuarial table" means the forms and related material for the crop year approved by us which are available for public inspection in your service office, and which show the production guarantees, coverage levels, premium rates, prices for computing indemnities, practices, insurable and uninsurable acreage, and related information regarding pea insurance in the county.

b. "Combining" or "Vining" means separating the peas from the pods.

c. "County" means the county shown on the application and any additional land located in a local producing area bordering on the county, as shown by the actuarial table.

d. "Crop year" means the period within which the peas are normally grown and shall be designated by the calendar year in which the peas are normally harvested.

e. "Harvest" as to any green pea acreage means the vining or combining and acceptance by the processor of the peas from such acreage. "Harvest as to any dry pea acreage means combining peas which are or could be marketed as dry peas.

f. "Insurable acreage" means the land classified as insurable by us and shown as such by the actuarial table.

g. "Insured" means the person who submitted the application accepted by us.

h. "Person" means an individual, partnership, association, corporation, estate, trust, or other business enterprise or legal entity, and wherever applicable, a State, a political subdivision of a State, or any agency thereof.

i. "Peas" means either:

(1) Canning and freezing peas ("green peas") grown under contract with a processor executed before you report your acreage; or

(2) All spring-planted smooth green and yellow, and wrinkled varieties of dry peas and lentils ("dry peas").

j. "Service office" means the office servicing your contract as shown on the application for insurance or such other approved office as may be selected by you or designated by us.

k. "Tenant" means a person who rents land from another person for a share of the peas or a share of the proceeds therefrom.

l. "Unit" means all insurable acreage of any one type of green peas or varietal group of dry peas as designated by the actuarial table in the county on the date of planting for the crop year:

(1) In which you have a 100 percent share; or

(2) Which is owned by one entity and operated by another entity on a share basis.

m. "Vining" or "combining" means separating the peas from the pods.

Land rented for cash, a fixed commodity payment, or any consideration other than a share in the peas on such land shall be considered as owned by the lessee. Land which would otherwise be one unit may be divided according to applicable guidelines on file in your service office or by written agreement between you and us. Units will be determined when the acreage is reported. Errors in reporting such units may be corrected by us to conform to applicable guidelines when adjusting a loss. We may consider any acreage and share thereof reported by or for your spouse or child or any member of your household to be your bona fide share or the bona fide share of any other person having an interest therein.

18. Descriptive headings.

The descriptive headings of the various policy terms and conditions are formulated for convenience only and are not intended to affect the construction or meaning of any of the provisions of the contract.

19. Determinations.

All determinaions required by the policy shall be made by us. If you disagree with our determinations you may obtain reconsideration of or appeal those determinations in accordance with Appeal Regulations.

20. Notices.

All notices required to be given by you must be in writing and received by your service office within the designated time unless otherwise provided by the notice requirement. Notices required to be given immediately may be by telephone or in person and confirmed in writing. Time of the notice will be determined by the time of our receipt of the written notice.

4. Section 416.7 is further amended by removing the "Appendix A to § 416.7—Additional Terms and Conditions.

5. Appendix A to Part 416 is revised to read as follows:

Appendix A.—Counties Designated for Pea Crop Insurance

The following counties are designated for Pea Crop Insurance under the provisions of 7 CFR 431.1

Crop: Green Peas; Idaho

Cassia	Lincoln	Twin Falls
Jerome	Minidoka	
Lewis	Nez Perce	

Illinois

Boone	La Salle	Ogle
De Kalb	Lee	

Minnesota

Blue Earth	Le Sueur	Scott
Brown	McLeod	Sibley
Carver	Martin	Stearns
Dakota	Meeker	Steele
Dodge	Mower	Wabasha
Faribault	Nicollet	Waseca
Fillmore	Olmsted	Watonwan
Freeborn	Redwood	Winona
Goodhue	Renville	
Kandiyohi	Rice	

Oregon

Marion	Umatilla	Union

Utah

Box Elder	Davis

Washington

Columbia	Lewis	Walla Walla
Grant	Skagit	Whatcom
Grays Harbor	Snohomish	Whitman

Wisconsin

Adams	Green Lake	Rock
Barron	Iowa	St. Croix
Brown	Jefferson	Sauk
Calumet	Kewaunee	Sheboygan
Clark	Manitowoc	Trempealeau
Columbia	Marinette	Walworth
Dane	Oconto	Washington
Dodge	Outagamie	Waushara
Door	Ozaukee	Winnebago
Fond Du Lac	Polk	
Grant	Portage	

Crop: Dry Peas; Idaho

Benewah	Kootenai	Lewis
Clearwater	Latah	Nez Perce

Oregon

Umatilla	Union

Washington

Adams	Grant	Whitman
Columbia	Spokane	
Franklin	Walla Walla	

Approved by the Board of Directors on April 26, 1983.

Date: January 27, 1984.

Peter F. Cole.

Secretary, Federal Crop Insurance Corporation.

Approved by:

Merritt W. Sprague,

Manager.

Date: January 27, 1984.

[FR Doc. 84-3017 Filed 2-2-84; 8:45 am]

BILLING CODE 3410-08-M

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7 CFR Part 424

[Amdt. No. 4]

Rice Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Final rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) hereby amends the Rice Crop Insurance Regulations (7 CFR Part 424), effective for the 1984 and succeeding crop years by: (1) Changing the policy to make it easier to read; (2) adding volcanic eruption as an insurable cause of loss; (3) eliminating the reduction in production guarantee for unharvested acreage and related provisions; (4) providing that acreage destroyed in compliance with any U.S. Department of Agriculture or State program is uninsurable; (5) allowing rice to be followed by rice if the rotation requirements are carried out, as designated by the actuarial table; (6) adding a provision making rice planted with another crop uninsurable; (7) permitting the determination of indemnities based on the acreage report rather than at loss adjustment time; (8) providing for a coverage when the insured does not select one; (9) providing procedures for reporting a loss when a loss is probable; (10) adding a 60-day claim for indemnity provision; (11) removing the reference to No. 3 rice and providing the conditions under which rice will be eligible for quality adjustment; (12) adding a section regarding appraisals following the end of the insurance period; (13) adding a hail/fire provision for appraisals of uninsured causes of loss; (14) changing the cancellation/termination dates to conform with farming practices; (15) providing that any change in the policy will be available in the service office by a certain date; (16) adding a definition of "service office;" (17) providing for unit determination when the acreage report is filed; (18) adding sections concerning "descriptive headings, determinations, and notices;" (19) adding a provision that provides for crop insurance coverage on rice to be based solely on actual production records and computing the average yield by using the individual production records, actual or established, over a base period; (20) revising the unit definition to conform the ASCS farm serial numbers; and (21) removing the present provision regarding the insurability of a second rice crop in the same crop year.

In addition, FCIC issues a new subsection in the rice crop insurance regulations to contain the control numbers assigned by the Office of Management and Budget (OMB) to information collection requirements of these regulations. The intended effect of this rule is to update the policy for insuring rice in accordance with Secretary's Memorandum No. 1512-1, requiring a review of the regulations as to need, currency, clarity, and effectiveness, and to comply with OMB regulations requiring publication of OMB control numbers assigned to

information collection requirements in these regulations.

EFFECTIVE DATE: March 5, 1984.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C., 20250, telephone (202) 447–3325.

The Impact Statement describing the options considered in developing this rule and the impact of implementing each option is available upon request from Peter F. Cole.

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA procedures established in Secretary's Memorandum No. 1512–1 (June 11, 1981). This action constitutes a review under such procedures as to the need, currency, clarity, and effectiveness of these regulations. The sunset review date established for these regulations is April 1, 1988.

Merritt W. Sprague, Manager, FCIC, has determined that (1) this action is not a major rule as defined by Executive Order No. 12291 (February 17, 1981), (2) this action will not increase the Federal paperwork burden for individuals, small businesses, and other persons, and (3) this action conforms to the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), and other applicable law.

The title and number of the Federal Assistance Program to which these regulations apply are: Title—Crop Insurance; Number 10.450.

This action will not have a significant impact specifically upon area and community development; therefore, review as established by Executive Order No. 12372 (July 14, 1982) was not used to assure that units of local government are informed of this action.

It has been determined that this action is exempt from the provisions of the Regulatory Flexibility Act; therefore, no Regulatory Impact Statement was prepared.

On November 16, 1983, FCIC published a notice of proposed rulemaking in the Federal Register at 48 FR 52067.

The public was given 60 days in which to submit written comments, data, and opinions on the rule. None were received. Therefore, with the exception of minor and non-substantive changes in language, the proposed rule is hereby issued as a final rule effective for the 1984 crop year.

List of Subjects in 7 CFR Part 424

Crop insurance, Rice.

PART 424—[AMENDED]

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation hereby amends the Rice Crop Insurance Regulations (7 CFR Part 424), effective for the 1984 and succeeding crop years, in the following instances:

1. The Authority citation for 7 CFR Part 424 is:

Authority: Secs. 506, 516, Pub. L. 75–430, 52 Stat. 73, 77 as amended (7 U.S.C. 1506, 1516).

2. 7 CFR 424.3 is added to read as follows:

§ 424.3 OMB control numbers.

The information collection requirements contained in these regulations (7 CFR Part 424) have been approved by the Office of Management and Budget (OMB) under the provisions of 44 U.S.C. Chapter 35 and have been assigned OMB Nos. 0563–0003 and 0563–0007.

§ 424.7 [Amended]

3. 7 CFR 424.7(d) is amended by revising the Rice Crop Insurance Policy therein to read as follows:

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

Rice—Crop Insurance Policy

(This is a continuous contract. Refer to Section 15.)

AGREEMENT TO INSURE: We shall provide the insurance described in this policy in return for the premium and your compliance with all applicable provisions.

Throughout this policy, "you" and "your" refer to the insured shown on the accepted Application and "we," "us" and "our" refer to the Federal Crop Insurance Corporation.

Terms and Conditions

1. Causes of loss.

a. The insurance provided is against unavoidable loss of production resulting from the following causes occurring within the insurance period:

(1) Adverse weather conditions (excluding drought);

(2) Fire;

(3) Insects;

(4) Plant disease;

(5) Wildlife;

(6) Earthquake; or

(7) Volcanic eruption; unless those causes are excepted, excluded, or limited by the actuarial table or section 9e(6).

b. We shall not insure against any loss of production due to:

(1) Application of saline water;

(2) The neglect or malfeasance of you, any member of your household, your tenants or employees;

(3) The failure to follow recognized good rice farming practices;

(4) Damage resulting from the impoundment of water by any governmental, public or private dam or reservoir project;

(5) Any cause not specified in section 1a as an insured loss;

(6) The failure to carry out a good irrigation practice, except failure of the water supply after planting due to an unavoidable cause;

(7) The breakdown of irrigation equipment or facilities; or

(8) Drought

2. Crop, acreage, and share insured.

a. The crop insured shall be rice which is planted for harvest as grain, which is grown on insured acreage, and for which a guarantee and premium rate are provided by the actuarial table.

b. The acreage insured for each crop year shall be rice planted on insurable acreage as designated by the actuarial table and in which you have a share, as reported by you or as determined by us, whichever we shall elect.

c. The insured share shall be your share as landlord, owner-operator, or tenant in the insured rice at the time of planting.

d. We do not insure any acreage:

(1) On which rice was destroyed to comply with any other United States Department of Agriculture or state program;

(2) Which does not meet the rotation requirements designated by the actuarial table;

(3) Where the farming practices carried out are not in accordance with the farming practices for which the premium rates have been established;

(4) Which is not irrigated;

(5) Which is destroyed, is practical to replant to rice, and such acreage was not replanted;

(6) Initially planted after the final planting date contained in the actuarial table, unless you agree in writing on our form to coverage reduction;

(7) Of volunteer rice;

(8) Planted to a type or variety of rice not established as adapted to the area or excluded by the actuarial table; or

(9) Which you have elected to exclude (the exclusion must be by unit, in writing, on our form, and made before the closing date for submitting applications as established by the actuarial table, except that, if a unit is acquired after such date, an exclusion may be filed up to 15 days after the acquisition but not later than the acreage reporting date); or

(10) Planted with a crop other than rice.

e. Acreage which is planted for the development or production of hybrid seed or for experimental purposes is not insured unless we agree in writing to insure such acreage.

f. We may limit the insured acreage to any acreage limitation established under any Act of Congress, if we advise you of the limit prior to planting.

3. Report of acreage, share, and practice. You shall report on our form:

a. All the acreage of rice in the county in which you have a share;

b. The practice; and

c. Your share at the time of planting.

You shall designate separately any acreage that is not insurable. You shall report if you do not have a share in any rice planted in the county. This report shall be submitted annually on or before the reporting date established by the actuarial table. We may determine all indemnities on the basis of information you have submitted on this report. If you do not submit this report by the reporting date, we may elect to determine by

unit the insured acreage, share, and practice or we may deny liability on any unit. Any report submitted by you may be revised only upon our approval.

4. Production guarantees, coverage levels, and prices for computing indemnities.

a. The production guarantees, coverage levels and prices for computing indemnities are in the actuarial table.

b. Coverage level 2 will apply if you have not elected a coverage level.

c. You may change the coverage level and price election on or before the closing date for submitting applications for the crop year as established by the actuarial table.

5. Annual premium.

a. The annual premium is earned and payable at the time of planting. The amount is computed by multiplying the production guarantee times the price election, times the premium rate, times the insured acreage, times your share at the time of planting, times the applicable premium adjustment percentage contained in the following table.

PREMIUM ADJUSTMENT TABLE[1]

Number of [2] loss years	0	1	2	3	4	5+
Percentage adjustment	90	100	115	135	165	200

[1] The experience period used for determining the number of "loss years" for the 1984 crop year shall be the 5-year period beginning with the 1978 crop year and extending through the 1982 crop year. The experience period will expand each year until a 10 year base period is reached.

[2] A "Loss Year" is defined as a year in which the yield, actual or established, is below the production guarantee for the unit or practice (where the unit consists of more than one practice).

b. Interest shall accrue at the rate of one and one-half percent (1½%) simple interest per calendar month, or any part thereof, on any unpaid premium balance starting on the first day of the month following the first premium billing date.

6. Deductions for debt.

Any unpaid amount due us may be deducted from any indemnity payable to you or from any loan or payment due you under any Act of Congress or program administered by the United States Department of Agriculture or its Agencies.

7. Insurance period.

Insurance attaches when the rice is planted and ends at the earliest of:

a. Total destruction of the rice;

b. Combining, threshing or removal from the field;

c. Final adjustment of a loss; or

d. October 31 of the calendar year in which the rice is normally harvested.

8. Notice of damage or loss.

a. In case of damage or probable loss:

(1) You must give us written notice if:

(a) During the period before harvest, the rice on any unit is damaged and you decide not to further care for or harvest any part of it;

(b) You want our consent to put the acreage to another use; or

(c) After consent to put acreage to another use is given, additional damage occurs.

Insured acreage may not be put to another use until we have appraised the rice and given written consent. We will not consent to another use until it is too late to replant. You must notify us when such acreage is put to another use.

(2) You must give us notice at least 15 days before the beginning of harvest if you anticipate a loss on any unit.

(3) If probable loss is later determined, immediate notice shall be given and a representative sample of the unharvested rice (at least 10 feet wide and the entire length of the field) shall be left intact for a period of 15 days from the date of notice, unless we give you written consent to harvest the sample.

(4) In addition to the notices required by this section, if you are going to claim an indemnity on any unit, we must be given notice not later than 30 days after the earliest of:

(a) Total destruction of the rice on the unit;

(b) Harvest of the unit; or

(c) The calendar date for the end of the insurance period.

b. You must obtain written consent from us before you destroy any of the rice which is not to be harvested.

c. We may reject any claim for indemnity if any of the requirements of this section or section 9 are not complied with.

9. Claim for indemnity.

a. Any claim for indemnity on a unit will be submitted to us on our form not later than 60 days after the earliest of:

(1) Total destruction of the rice on the unit;

(2) Harvest of the unit; or

(3) The calendar date for the end of the insurance period.

b. We will not pay any indemnity unless you:

(1) Establish the total production of rice on the unit and that any loss of production has been directly caused by one or more of the insured causes during the insurance period; and

(2) Furnish all information we require concerning the loss.

c. The indemnity will be determined on each unit by:

(1) Multiplying the insured acreage by the production guarantee;

(2) Substracting therefrom the total production of rice to be counted (see section 9e);

(3) Multiplying the remainder by the price election; and

(4) Multiplying this product by your share.

d. If the information reported by you results in a lower premium than the actual premium determined to be due, the indemnity shall be reduced proportionately.

e. The total production to be counted for a unit will include all harvested and appraised production including any production from a second rice crop harvested in the same crop year.

(1) Mature rough rice production which otherwise is not eligible for quality adjustment will be reduced in volume by .12 percent for each .1 percentage point of moisture in excess of 14.0 percent; or

(2) Mature rough rice production which, due to insurable causes:

(a) Has a total milling yield (heads, second heads, screening and brewers) of less than 68 pounds per hundredweight;

(b) The whole kernel weight is less than 55 pounds per hundredweight for medium and short grain varieties;

(c) The whole kernel weight is less than 48 pounds per hundredweight for long grain varieties;

(d) Contains more than 4.0 percent chalky kernels in long grain varieties;

(e) Contains more than 6.0 percent chalky kernels in medium or short grain varieties;

(f) Contains more than 3.0 percent chalky kernels in other types; or

(g) Contains more than 2.5 percent red rice shall have the production adjusted by:

(i) Dividing the value per pound of such rice by the price per pound of U.S. No. 3 rough rice; and

(ii) Multiplying the result by the number of pounds of such rice.

(The applicable price for No. 3 rough rice will be the nearest milling center price on the earlier of the day the loss is adjusted or the day the rice was sold)

(3) Any mature production from volunteer rice growing in the rice will be counted as rice on a weight basis.

(4) Appraised production to be counted will include:

(a) Unharvested production on harvested acreage and potential production lost due to uninsured causes and failure to follow recognized good rice farming practices;

(b) Not less than the guarantee for any acreage which is abandoned or put to another use without our prior written consent or damaged solely by an uninsured cause;

(c) Any appraised production on unharvested acreage.

(5) Any appraisal we have made on insured acreage for which we have given written consent to be put to another use shall be considered production unless such acreage:

(a) Is not put to another use before harvest of rice becomes general in the county;

(b) Is harvested; or

(c) Is further damaged by an insured cause before the acreage is put to another use.

(6) We may determine the amount of production of any unharvested rice on the basis of field appraisals conducted after the end of the insurance period.

(7) When you have elected to exclude hail and fire as insured causes of loss and the rice is damaged by hail or fire, appraisals for uninsured causes shall be made in accordance with Form FCI–78, "Request to Exclude Hail and Fire".

(8) The commingled production of units shall be allocated to such units in proportion to our liability on the harvested acreage of each unit.

f. You shall not abandon any acreage to us.

g. You may not bring suit or action against us unless you have complied with all policy provisions. If a claim is denied, you may sue us in the United States District Court under the provisions of 7 U.S.C. 1508(c). You must bring suit within 12 months of the date notice of denial is mailed to and received by you.

h. We will pay the loss within 30 days after we reach agreement with you or entry of a final judgment. In no instance will we be liable for interest or damages in connection with any claim for indemnity, whether we approve or disapprove such claim.

i. If you die, disappear, or are judicially declared incompetent, or if you are an entity other than an individual and such entity is dissolved after the rice is planted for any crop year, any indemnity will be paid to the

person(s) we determine to be beneficially entitled thereto.

j. If you have other fire insurance, fire damage occurs during the insurance period, and you have not elected to exclude fire insurance from this policy, we will be liable for loss due to fire only for the smaller of:

(1) The amount of indemnity determined pursuant to this contract without regard to any other insurance; or

(2) The amount by which the loss from fire exceeds the indemnity paid or payable under such other insurance. For the purposes of this section, the amount of loss from fire shall be the difference between the fair market value of the production on the unit before the fire and after the fire.

10. Concealment or fraud.

We may void the contract on all crops insured without affecting your liability for premiums or waiving any right, including the right to collect any amount due us if, at any time, you have concealed or misrepresented any material fact or committed any fraud relating to the contract, and such voidance shall be effective as of the beginning of the crop year with respect to which such act or omission occurred.

11. Transfer of right to indemnity on insured share.

If you transfer any part of your share during the crop year, you may transfer your right to an indemnity. The transfer must be on our form and approved by us. We may collect the premium from either you or your transferee or both. The transferee shall have all rights and responsibilities under the contract.

12. Assignment of indemnity.

You may assign to another party your right to an indemnity for the crop year only on our form and with our approval. The assignee shall have the right to submit the loss notices and forms required by the contract.

13. Subrogation. (Recovery of loss from a third party.)

Because you may be able to recover all or a part of your loss from someone other than us, you must do all you can to preserve any such rights. If we pay you for your loss then your right of recovery will, at our option, belong to us. If we recover more than we paid you plus our expenses, the excess will be paid to you.

14. Records and access to farm.

You shall keep, for two years after the time of loss, records of the harvesting, storage, shipment, sale or other disposition of all rice produced on each unit including separate records showing that same information for production from any uninsured acreage. Any person designated by us will have access to such records and the farm for purposes related to the contract.

15. Life of contract: Cancellation and termination.

a. This contract will be in effect for the crop year specified on the application and may not be canceled for such crop year. Thereafter, the contract shall continue in force for each succeeding crop year unless canceled or terminated as provided in this section.

b. This contract may be canceled by either you or us for any succeeding crop year by giving written notice on or before the cancellation date preceding such crop year.

c. This contract shall terminate as to any crop year if any amount due us on this or any other contract with you is not paid on or before the termination date preceding such crop year for the contract on which the amount is due. The date of payment of the amount due:

(1) If deducted from an indemnity shall be the date you sign the claim; or

(2) If deducted from payment under another program administered by the United States Department of Agriculture shall be the date such payment was approved.

d. The cancellation and termination dates are:

State	Cancellation and termination dates
Missouri	April 15.
Florida and Texas	March 15.
All other states	March 31.

If you die or are judicially declared incompetent, or if you are an entity other than an individual and such entity is dissolved, the contract will terminate as of the date of death, judicial declaration, or dissolution. *However*, if such event occurs after insurance atttaches for any crop year, the contract will continue in force through the crop year and terminate at the end thereof. Death of a partner in a partnership will dissolve the partnership unless the partnership agreement provides otherwise. If two or more persons having a joint interest are insured jointly, death of one of the persons will dissolve the joint entity.

f. The contract will terminate if no premium is earned for five consecutive years.

16. Contract changes.

We may change any terms and provisions of the contract from year to year. If your price election at which indemnities are computed is no longer offered, the actuarial table will provide the price election which you will be deemed to have elected. All contract changes shall be available at your service office by December 31 preceding the cancellation date. Acceptance of any changes shall be conclusively presumed in the absence of any notice from you to cancel the contract.

17. Meaning of terms.

For the purposes of rice crop insurance:

a. "Actuarial table" means the forms and related material for the crop year approved by us which are available for public inspection in your service office, and which show the production guarantees, coverage levels, premium rates, prices for computing indemnities, practices, insurable and uninsurable acreage, and related information regarding rice insurance in the county.

b. "ASCS" means the Agricultural Stabilization and Conservation Service of the United States Department of Agriculture.

c. "County" means the county shown on the application and:

(1) any additional land located in a local producing area bordering on the county, as shown by the actuarial table; and

(2) any land identified by an ASCS farm serial number for the county but not physically located in the county.

d. "Crop year" means the period within which the rice is normally grown and will be designated by the calendar year in which the rice is normally harvested.

e. "Harvest' means the completion of combining or threshing of rice on the unit.

f. "Insurable acreage" means the land classified as insurable by us and shown as such by the actuarial table.

g. "Insured" means the persons who submitted the application accepted by us.

h. "Mill Center" means any location in which two or more mills are engaged in milling rough rice.

i. "Person" means an individual, partnership, association, corporation, estate, trust, or other business enterprise or legal entity, and wherever applicable, a State, a political subdivision of a State, or any agency thereof.

j. "Second crop rice" means regrowth of a stand of rice originating from the initially insured rice crop following harvest and which can be harvested in the same crop year.

k. "Service office" means the office servicing your contract as shown on the application for insurance or such other approved office as may be selected by you or designated by us.

l. "Tenant" means a person who rents land from another person for a share of the rice or a share of the proceeds therefrom.

m. "Unit" means all insurable acreage of rice in the county in which you have an insured share on the date of planting for the crop year and which is identified by a single ASCS farm serial number at the time insurance first attaches under this policy for the crop year. Units will be determined when the acreage is reported. We may reject or modify any ASCS reconstitution for the purpose of unit definition if the reconstitution was made in whole or part to defeat the purpose of the Federal Crop Insurance program or to gain disproportionate advantage under this policy. Errors in reporting such units may be corrected by us when adjusting a loss.

n. "Yield" means the actual yield reported by you to ASCS or the yield established by ASCS or by us.

18. Descriptive headings.

The descriptive headings of the various policy terms and conditions are formulated for convenience only and are not intended to affect the construction or meaning of any of the provisions of the contract.

19. Determinations.

All determinations required by the policy shall be made by us. If you disagree with our determinations you may obtain reconsideration of or appeal those determinations in accordance with Appeal Regulations.

20. Notices.

All notices required to be given by you must be in writing and received by your service office within the designated time unless otherwise provided by the notice requirement. Notices required to be given immediately may be by telephone or in person and confirmed in writing. Time of the

notice will be determined by the time of our receipt of the written notice.

4. Section 416.7 is further amended by removing the "Appendix A to § 416.7—Additional Terms and Conditions".

5. Appendix A to Part 416 is revised to read as follows:

Appendix A—Counties Designated for Rice Crop Insurance—7 CFR Part 424

The following counties are designated for Rice Crop Insurance under the provisions of 7 CFR 424.1.

Arkansas

Arkansas	Lincoln
Ashley	Little River
Chicot	Logan
Clark	Lonoke
Clay	Miller
Conway	Mississippi
Craighead	Monroe
Crittenden	Nevada
Cross	Ouachita
Dallas	Perry
Desha	Phillips
Drew	Pike
Faulkner	Poinsett
Franklin	Pope
Greene	Prairie
Hempstead	Pulaski
Hot Spring	Randolph
Independence	St. Francis
Jackson	Saline
Jefferson	Sharp
Johnson	Stone
Lafayette	White
Lawrence	Woodruff
Lee	Yell

California

Butte	Sacramento
Colusa	San Joaquin
Fresno	Solano
Glenn	Stanislaus
Kern	Sutter
Kings	Tehama
Madera	Tulare
Merced	Yolo
Placer	Yuba

Florida

Glades	Martin
Gulf	Palm Beach
Hendry	

Kentucky

Daviess

Louisiana

Acadia	Morehouse
Allen	Natchitoches
Avoyelles	Ouachita
Beauregard	Pointe Coupee
Bossier	Rapides
Caddo	Red River
Calcasieu	Richland
Caldwell	St. Landry
Cameron	St. Martin
Catahoula	St. Mary
Concordia	St. Tammany
East Carroll	Tensas
Evangeline	Union
Franklin	Vermilion
Iberia	West Baton Rouge
Jefferson Davis	West Carroll
Lafayette	West Feliciana
Madison	

Mississippi

Bolivar	Quitman
Coahoma	Sharkey
Desoto	Sunflower
Grenada	Tallahatchie
Holmes	Tate
Humphreys	Tunica
Issaquena	Warren
Leflore	Washington
Panola	Yazoo

Missouri

Bollinger	Pemiscot
Butler	Ripley
Cape Girardeau	Scott
Dunklin	Stoddard
New Madrid	

North Carolina

Brunswick

Oklahoma

Choctaw — McCurtain

South Carolina

Colleton — Kershaw

Tennessee

Dyer — Lauderdale

Texas

Anderson	Hopkins
Austin	Jackson
Bowie	Jefferson
Brazoria	Lavaca
Calhoun	Liberty
Chambers	Matagorda
Colorado	Newton
Fort Bend	Orange
Franklin	Red River
Galveston	Victoria
Hardin	Waller
Harris	Wharton

Done in Washington, D.C. on December 22, 1983.

Peter F. Cole,

Secretary, Federal Crop Insurance Corporation.

Dated: January 27, 1984.

Approved by:

Merritt W. Sprague,

Manager.

[FR Doc. 84-3016 Filed 2-2-84; 8:45 am]

BILLING CODE 3410-08-M

Agricultural Marketing Service

7 CFR Part 910

[Lemon Reg. 449; Lemon Reg. 448, Amdt. 1]

Lemons Grown in California and Arizona; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This action establishes the quantity of fresh California-Arizona lemons that may be shipped to market at 225,000 cartons during the period February 5–11, 1984, and increases the quantity of lemons that may be shipped to 240,000 cartons during the period January 29–February 4, 1984. Such action is needed to provide for orderly marketing of fresh lemons for the periods specified due to the marketing situation confronting the lemon industry.

DATES: The regulation (§ 910.749) becomes effective February 5, 1984, and the amendment (§ 910.748) is effective for the period January 29–February 4, 1984.

FOR FURTHER INFORMATION CONTACT: William J. Doyle, Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone 202–447–5975.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under Secretary's Memorandum 1512–1 and Executive Order 12291 and has been designated a "non-major" rule. William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this action will not have a significant economic impact on a substantial number of small entities.

This final rule is issued under Marketing Order No. 910, as amended (7 CFR Part 910) regulating the handling of lemons grown in California and Arizona. The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The action is based upon the recommendations and information submitted by the Lemon Adminstrative Committee and upon other available information. It is hereby found that this action will tend to effectuate the declared policy of the Act.

This act is consistent with the marketing policy currently in effect. The committee met publicly on January 31, 1984, at Los Angeles, California, to consider the current and prospective conditions of supply and demand and recommended a quantity of lemons deemed advisable to be handled during the specified weeks. The committee reports the demand for lemons is good.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation and amendment are based and the effective date necessary to effectuate the declared policy of the Act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting, and the amendment relieves restrictions on the handling of lemons. It is necessary to effectuate the declared

purposes of the Act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

List of Subjects in 7 CFR Part 910

Marketing agreements and orders, California, Arizona, Lemons.

1. Section 910.749 is added as follows:

§ 910.749 Lemon Regulation 449.

The quantity of lemons grown in California and Arizona which may be handled during the period February 5, 1984, through February 11, 1984, is established at 225,000 cartons.

2. Section 910.748 Lemon Regulation 448 (49 FR 3484) is revised to read as follows:

§ 910.748 Lemon Regulation 448.

The quantity of lemons grown in California and Arizona which may be handled during the period January 29, 1984, through February 4, 1984 is established at 240,000 cartons.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: February 1, 1984.

Charles R. Brader,

Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 84-3153 Filed 2-2-84; 8:45 am]

BILLING CODE 3410-02-M

FEDERAL RESERVE SYSTEM

12 CFR Part 210

[Docket No. R-0481]

Regulation J, Collection of Checks and Other Items and Wire Transfer of Funds; Midweek Closing and Nonstandard Holidays

AGENCY: Board of Governors Federal Reserve System.

ACTION: Final rule.

SUMMARY: The Board has approved an amendment to Subpart A of Regulation J, governing the collection of checks and other items by Reserve Banks, to permit a Reserve Bank to charge a paying bank for checks made available to it by a Reserve Bank on a weekday that is a banking day for the Reserve Bank but where the paying bank is regularly closed. A paying bank would not be required to open or begin processing the checks on such a midweek closing day because the time for return of the items would not begin to run until the paying bank's next banking day. The Board has also provided an alternative that enables paying banks to be charged for the value of the float created by their midweek closing. These actions will not apply to those instances where a paying bank is closed because of a state or local holiday but on which the Reserve Bank is open (nonstandard holidays). With regard to Federal Reserve check float arising from nonstandard holidays, the Board has decided to permit Reserve Banks to defer credit to depositing institutions for checks drawn on institutions closed on nonstandard holidays where operationally feasible. The value of any remaining Federal Reserve check float generated by nonstandard holidays will be added to the cost base for the check collection service.

EFFECTIVE DATE: April 2, 1984.

FOR FURTHER INFORMATION CONTACT: John F. Sobala, Assistant Director (202/452–2739) or Morgan J. Hallmon, Program Manager, (202/452–3878), Division of Federal Reserve Bank Operations; Daniel L. Rhoads, Attorney (202/452–3711), or Joseph R. Alexander, Attorney (202/452–2489), Legal Division, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

SUPPLEMENTARY INFORMATION:

Background

Section 107 of the Monetary Control Act of 1980 (12 U.S.C. 248a) ("MCA") requires that fees be established for Federal Reserve Bank services, including Federal Reserve float.

In April 1982, the Board requested public comment on a proposal to amend Regulation J to require a depository institution to pay for checks delivered or made available to it on days the institution is closed and on which the Reserve Bank is open. 47 FR 15349 (April 9, 1982). Such days consist of "midweek closing days" (regular weekdays on which a depository institution chooses to close as permitted by state law) and "nonstandard holidays" (days on which the paying institution is closed because of a state or local holiday). The proposal was intended to eliminate the float that results from these closings. A total of 150 comments were received on the issue of midweek closings: 59 commenters favored the proposal and 91 were opposed. There were 82 comments received on the issue of nonstandard holidays: 19 commenters favored the proposal and 63 were opposed.

After review of the comments received and the issues raised therein, the Board, in April 1983, decided not to adopt the proposed amendment; instead, the Board provided Reserve Banks with three options to eliminate or price float arising from midweek closings and nonstandard holidays. 48 FR 20802 (May 9, 1983). First, a Reserve Bank could modify its availability schedules for deposits of local depositors so that credit for checks drawn on closed institutions would be deferred one additional day. Second, a Reserve Bank could modify its current practice of posting funds received for the account of the institutions on the day the institution is closed. Third, a Reserve Bank could price all or any remaining float arising from midweek closings and nonstandard holidays by adding the value of this float to the cost base for the check collections service. These procedures were scheduled to become effective October 1, 1983.

As preparations were begun to implement these procedures, depository institutions requested reconsideration of the Board's action. Concerns were expressed about each of the alternatives. With regard to the alternative of modifying availability schedules for local depositors to delay credit for checks they deposit that are drawn on closed institutions, concerns were raised as to the inequitable treatment of local depositors relative to other depositors. Under this alternative, a local depositor would receive credit for its deposit of a check drawn on a closed institutions one day later than would a non-local depositor of a check drawn on the same institution. There was also some indication that this alternative could result in circuitous routing as checks drawn on closed banks are sent for collection through non-local depository institutions for whom credit would not be deferred.

Equity considerations also were raised concerning the alternative of adding the value of this float to the cost base of the check collection service. Concern was expressed that it was unfair for depository institutions that do not choose to close midweek to bear a substantial portion of the float cost of midweek closings simply because they are in a Reserve District with a disproportionately large number of institutions that voluntarily close midweek. For example, 40 percent of the depository institutions that close midweek are located in the Chicago Federal Reserve District, and 35 percent are located in the Atlanta Federal Reserve District. Local institutions would bear a disproportionate amount of the midweek closing float cost because most of the checks deposited with the Federal Reserve for collection are drawn on another institution located in the same Federal Reserve office territory.

With regard to the alternative of deferring credit received for the account

of the institution on the day it is closed, it was suggested that closed institutions could easily avoid this deferral by directing their credits through correspondents.

The Board therefore determined to republish for comment the proposed amendment to Regulation J to permit a Reserve Bank to charge a depository institution for checks delivered or made available to it on days the institution is closed and on which the Reserve Bank is open. 48 FR 41776 (September 19, 1983). The Board noted that there had been a substantial reduction in the amount of Federal Reserve check float arising from midweek closings and nonstandard holidays.[1] The Board believed that the concerns expressed with the three options approved by the Board for the treatment of this float and the significant decline in the levels of this float warranted re-publication of the proposed amendment to Regulation J to permit depository institutions the opportunity to reassess the impact of the proposed amendment. The Board also decided to solicit comment on the option of permitting paying institutions to defer the charge an additional day for checks made available to them on days they are closed where the Reserve Bank is open and compensate the Federal Reserve for the float caused by the deferral. Paying institutions would be charged for this float in the same manner as is done currently for interterritory check float.[2]

Analysis of Comments

The Board received 100 comment letters on its midweek closing and nonstandard holiday proposal. Comments favoring the proposal were also received from ten Federal Reserve Banks. (These comments are not included in the following analysis.) The majority (67 percent) of commenters were banks and bank holding companies, with more than 40 percent of the comments from institutions with deposits of less than $200 million and 31 percent from institutions with deposits of $1 billion or more. The majority of comments from depository institutions were received from institutions located in the Federal Reserve Districts of Atlanta and Chicago.[3]

A. *Midweek Closings.* Of the 91 commenters discussing midweek closings, 53 (approximately 58 percent) favored the proposal to charge paying institutions for checks made available to them on the days that they are closed.[4] Three of these commenters conditioned their support on receiving same-day credit for Saturday deposits, and one commenter supported the proposal on the condition that the Federal Reserve authorize all collecting institutions to charge closed institutions on days they are closed. Commenters in favor of the proposal generally indicated that the cost of float should be borne by those institutions responsible for creating it, and that the proposal was equitable since it was unfair for open institutions to be required to pay for float generated by institutions which close midweek voluntarily. These commenters indicated further that the proposal was feasible, easy to implement, and that the float payment option would minimize the operational impact of the proposal on closed institutions. These comments were similar to those presented when the Board previously requested comment in April 1982.

Thirty-eight commenters (approximately 42 percent) were opposed to the proposal. These commenters generally stated that it was unfair to charge institutions when they are closed and that institutions would experience account management problems under the proposal. Two commenters argued that the proposal would give the Federal Reserve an unfair competitive advantage. Seven commenters suggested alternatives to the proposal.

Twenty-six commenters stated that the proposal was unfair and that it would affect disproportionately the earnings of small institutions. These commenters stated that small institutions closed midweek in order to open on Saturdays and provide full banking services to their communities, and that being charged for checks made available to them on days they are closed midweek would increase their costs. Eight commenters stated that they would have to absorb the cost of float or incur additional operating costs to process the checks on the days they are closed. As a result, some indicated they might reduce the level of service they provide on Saturday. Six commenters stated that management of their money position would be more difficult and expensive under the midweek proposal. These commenters argued that because they could not forecast accurately the dollar value of checks expected from the Federal Reserve, they would have to maintain excess balances to avoid account overdrafts or, alternatively, incur additional expense in having employees at the institution on the closed day to manage their money position. Two commenters also stated that the increased costs may disadvantage them competitively relative to institutions in neighboring communities. Three commenters also believed that this could adversely affect the economies of the small and rural communities in which these institutions are located. Five commenters stated that the cost of the proposal to small institutions outweighed any possible benefits, and two commenters stated that the Federal Reserve should recover the cost of this float by including it in the costs of the check collection service.

After full consideration of these comments, the Board has determined that the burden of imposing the cost of this float on depositing institutions outweighs the impact of charging the paying institution for checks made available to it. As indicated previously, if the Reserve Banks added the value of this float to the check cost base, check costs would be impacted disproportionately because of the disproportionate concentration in two Reserve Districts of institutions that close midweek. Local institutions would bear a disproportionate amount of the float cost because most of the checks deposited by a depository institution with the Federal Reserve for collection are drawn on other institutions within the same Federal Reserve office territory. Further, recovering this float through per item check fees would be inequitable to other institutions and would represent a subsidy to institutions which close voluntarily since they would not bear the full burden of float generated by their voluntary closing. By placing the float burden upon those institutions that can be easily identified as responsible for generating the float, the Board also believes that the amendment improves the efficiency of the payments mechanism since payment for checks is enhanced. While the amendment may increase costs somewhat for these closed institutions, the Board believes that institutions that regularly close midweek are the

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[1] In 1982, daily average float arising from midweek closings was estimated to be $160 million, while daily average float from nonstandard holidays was estimated to be $110 million. By the third quarter of 1983, float resulting from midweek closings had declined to an estimated daily average of $110 million and float resulting from nonstandard holidays had declined to an estimated daily average of $10 million.

[2] Charges could be made by an "as of" adjustment to the institutions' reserve or clearing account, or by explicit charge.

[3] Seventy-five percent of the institutions that regularly close midweek are located in these two Districts and generate almost 90 percent of the $110 million daily average float attributable to midweek closings.

[4] When the Board previously published this proposal in April 1982, 59 (39%) of 150 comments received favored the proposal and 91 (61%) were opposed.

appropriate parties to incur the cost. Further, the option of deferring the charge to closed institutions for one day with the institutions and being charged for the float incurred should minimize the operational burdens on these closed institutions. The Board believes that this option also addresses the money management concerns expressed by commenters. In addition, these institutions can call their local Federal Reserve office to determine the value of checks that will be charged to their accounts. With regard to the concern about the adverse impact of the proposal on the economies of small and rural communities, there is no indication that the large majority of institutions in these communities will not continue to provide full banking services on Saturday.

Two commenters believed that the proposal represented an unfair use of Federal Reserve regulatory authority to enhance funds availability for institutions using Federal Reserve services. These commenters argued that correspondent institutions would be disadvantaged in offering competitive services, since, unlike Federal Reserve Banks, they would not be able to charge closed institutions. The Board does not believe that the amendment would have a material effect upon the competitive balance between the Federal Reserve and correspondents. First, the Reserve Banks will not change their availability schedules as a result of this amendment. Thus, the amendment will not affect the availability of funds to depositors from current levels. Additionally, the Board notes that the percentage of checks drawn upon institutions that are closed midweek is quite small relative to total clearings. Further, some correspondent banks already charge their respondents for such checks on a day the respondent chooses to close.

Commenters suggested several alternatives to the proposed amendment of Regulation J. One commenter suggested that the Federal Reserve not recover float attributable to midweek closings since it is incidental to the provision of banking services to small and rural communities and should be considered a social cost of maintaining the nation's payments mechanism. Five commenters also stated that the decline in the level of midweek closing float makes the need for the Board to take action at this time less urgent. However, the Federal Reserve is required to eliminate or price all Federal Reserve float.

One commenter suggested that the Reserve Banks should obtain voluntary agreements from closed institutions authorizing the Federal Reserve to charge for checks made available on closed days. The Board does not, however, believe that voluntary agreements between the Reserve Banks and depository institutions would eliminate most or all midweek closing floats. Since Federal Reserve Banks are only collecting agents there is little likelihood that paying institutions would authorize Reserve Banks to charge their accounts. Another commenter suggested that the Federal Reserve authorize all collecting institutions to charge paying institutions on closed days. However, there is a substantial question as to whether the Board is empowered to authorize all collecting institutions to charge paying institutions for checks presented on midweek closing days. Another commenter suggested that the Federal Reserve and depository institutions work jointly toward developing uniform presentment rules for all institutions. Such efforts would not enable the Federal Reserve to move expeditiously to recover fully the cost of this float.

One commenter suggested that the Federal Reserve defer credit one day to all depositors of checks drawn on closed institutions, arguing that this alternative would be consistent with the practice of the private sector. The Board believes that deferring credit to depositors for checks drawn on closed institutions would result in more complex Federal Reserve availability schedules. Implementation of these schedules would be extremely burdensome for the Reserve Banks and depository institutions since every institution depositing checks with the Federal Reserve, as well as the Reserve Banks, would have to keep track of virtually every institution that is closed midweek. Moreover, in order to delay making credit available to their customers, depository institutions would likely separately sort checks drawn on closed institutions, requiring substantial and expensive modifications to existing check sorting patterns.

Seven commenters suggested that the Federal Reserve pass credit to depositors on a six day basis, and one commenter suggested that all depository institutions be required to clear checks on Saturdays. In their opinion, this would increase the efficiency of the payments mechanism. To implement either of these suggestions, it would be necessary for the Federal Reserve and perhaps the entire banking system to remain open on Saturdays. Such an alternative is well beyond the scope of the midweek closing proposal and would require extensive consideration and analysis.

One trade association suggested that small institutions should be exempted from the proposal. However, since most float from midweek closings is attributable to small institutions, such an exemption would not accomplish the objective of eliminating this float.

B. *Nonstandard holidays.* Of the 65 commenters discussing nonstandard holidays, 41 (63 percent) favored charging for checks made available to institutions closed on nonstandard holidays. Of these commenters, five conditioned their support on the Federal Reserve differentiating between mandatory and voluntary nonstandard holidays, and three conditionally supported the proposal if the Reserve Banks provided credit on days the Reserve Banks are closed and depository institutions are open. Commenters favoring the proposal generally based their support on equity considerations, observing that closing was optional for many nonstandard holidays.

Twenty-four commenters (37 percent) opposed the proposal. Eight commenters stated their belief that it is unfair to charge institutions for mandatory or uniformly observed nonstandard holidays. Twelve commenters stated that the proposal would have a negative impact on their earnings, and 11 commenters suggested alternatives to the proposal.

Seven commenters stated that it was unfair to charge for nonstandard holidays when depository institutions are required by state or local law to be closed. The Board agrees that a distinction should be made in the treatment of float arising from mandatory closings. However, for many nonstandard holidays, it is unclear as to whether an institution is required or merely permitted to be closed. In view of the complexity and burden in making this distinction for all state and local holidays, the Board believes that, at this time, it is appropriate to treat all nonstandard holidays as if they were mandatory.

Twelve commenters indicated that the proposal would be operationally burdensome or costly to implement since a closed institution would have to have staff present on closed days or maintain excess balances to avoid account overdrafts. As indicated in the discussion of midweek closings, institutions would have had the option of having their Federal Reserve offices defer for one day charges to their accounts, with the institutions

compensating the Federal Reserve for the float incurred.

Two commenters stated that it is unfair for the Federal Reserve to charge for nonstandard holidays when Federal Reserve Banks themselves do not observe holidays uniformly. Ten commenters suggested that the Federal Reserve should standardize holiday schedules. One commenter suggested that the Reserve Banks should credit the accounts of institutions that are open on nonstandard holidays on which their Reserve Banks are closed. One commenter suggested that the Federal Reserve should work with the industry to develop a universal holiday schedule. The Board agrees that uniform holiday schedules could contribute substantially to a further reduction in nonstandard holiday float. However, this would require extensive analysis by the Federal Reserve System and is beyond the scope of the proposed amendment.

Three commenters stated their belief that the proposal would provide a competitive advantage to some institutions located in the same state as their Federal Reserve office. These commenters argued that those institutions would be charged for fewer nonstandard holidays than other institutions within the same territory because their Federal Reserve office also observes most of these holidays. The Board believes, however, that there is no competitive advantage with respect to being charged on nonstandard holidays since all institutions would be charged when their Reserve Banks are open and would not be charged when their Reserve Banks are closed.

Two commenters stated that the Board's proposal would provide an unfair competitive advantage to Reserve Banks since correspondent institutions could not make similar charges. Another commenter stated that the Federal Reserve would achieve a competitive advantage because the cost to the Federal Reserve to implement the proposal is small relative to the costs for private sector competitors. One commenter suggested that the Federal Reserve should work with the private sector to develop uniform presentment rules for all institutions and another commenter suggested voluntary presentment agreements. Given the small amount of float involved in nonstandard holidays ($10 million), even if the proposal were adopted it is unlikely that there will be a material impact on the competitive balance between Reserve Banks and correspondents.

Citing the decline in nonstandard holiday float, two commenters suggested that the amount of this float was small and that it therefore should be excluded from pricing. However, this alternative is impractical since the Federal Reserve is required to eliminate or price Federal Reserve float.

It was suggested by three commenters that the Federal Reserve should defer credit to collecting institutions for nonstandard holidays. Since institutions in the same state often observe nonstandard holidays uniformly, it may be possible to identify readily such institutions and defer credit to depositors for checks drawn on these institutions. Thus, where operationally feasible, Reserve Banks will be provided the option of deferring credit in such instances.

Five commenters suggested that the value of nonstandard holiday float should be recovered through per item fees, since the amount of this float is small. Ideally the burden of float should be placed on the institution responsible for generating it. However, given the issues raised by the nonstandard holiday proposal, the Board believes it is appropriate that the value of nonstandard holiday float remaining after operational changes are made be added to the check collection cost base.

C. *Float Payment Option.* Seventeen commenters specifically discussed the option of permitting paying institutions to compensate the Federal Reserve for the value of midweek closings and nonstandard holiday float rather than being charged for their checks when they are closed. These commenters generally stated that it would minimize the difficulties faced by an institution in managing its money position, e.g., avoiding the expense of having an employee present on the closed day. One of these commenters conditionally supported the float payment option, provided the Reserve Banks pass credit when they are closed and depository institutions are open. The Board agrees that the float payment option would make the midweek closing amendment to Regulation J less bordensome operationally, and therefore this option will be available at all Reserve Banks.

Board Action

After review of the comments and analysis of the issues raised therein, the Board has determined to approve the amendment to Regulation J to give the Reserve Banks the ability to charge institutions regularly closed midweek for checks made available to them by the Reserve Banks on the days they are closed, effective April 2, 1984. Such days include days on which the institution regularly closes midweek even if these closings are characterized as "holidays" under State law since such closings are clearly voluntary in all cases. The Board has also approved the option of permitting closed institutions to be charged for the value of the float created by their midweek closing in the same manner as is currently done for interterritory check float. In accordance with the provisions of the Regulatory Flexibility Act, 5 U.S.C. 601–612, the Board considered the alternatives outlined above to minimize the impact of the amendment on small institutions. However, it is appropriate that the institution that is closed midweek bear the cost of the float that is created as a result of its closing. The Board believes that the option to allow institutions to be charged for the value of float will minimize the impact of the amendment on small institutions by permitting banks regularly closed midweek to avoid the operational costs that might otherwise be incurred. It is the Board's opinion that the amendment is the most effective and equitable manner with which to eliminate or price Federal Reserve float created by midweek closings.

The Board has also determined that the amendment to Regulation J should not apply at this time to those nonstandard holidays where a depository institution is closed but its Reserve Bank is open. The Board has decided therefore to permit Reserve Banks to defer credit to depositing institutions for checks drawn on institutions closed on nonstandard holidays where operationally feasible. The value of any remaining float arising from nonstandard holidays will be added to the cost base for the check collection service.

List of Subjects in 12 CFR Part 210

Banks, Banking, Federal Reserve System.

Effective April 2, 1984, pursuant to the Board's authority under section 13 of the Federal Reserve Act (12 U.S.C. 342), section 16 of the Federal Reserve Act (12 U.S.C. 248(o), 360), and section 11(i) of the Federal Reserve Act (12 U.S.C. 248(i)), paragraph (a) in § 210.9 of Regulation J (12 CFR Part 210) is amended by inserting "(1)" after "(a) Cash items.", redesignating subparagraphs (1), (2) and (3) as (i), (ii) and (iii) respectively, designating the undesignated paragraph following subparagraph (iii) as "(2)" and revising paragraph (2) of § 210.9 to read as follows:

§ 210.9 Payment.

(a) Cash items. (1) * * *

(i) * * *

(ii) * * *

(iii) * * *

(2) The proceeds of any payment shall be available to the Reserve Bank by the close of the Reserve Bank's banking day on the banking day of receipt of the item by the paying bank. If the banking day of receipt is not a banking day for the Reserve Bank, payment shall be made on the next day that is a banking day for the Reserve Bank by the close of the Reserve Bank's banking day. A paying bank that closes regularly on a weekday which is a banking day for the Reserve Bank shall either pay on that day by the close of the Reserve Bank's banking day for cash items that the Reserve Bank makes available to the paying bank on that day, or compensate the Reserve Bank for the value of the float associated with the items in accordance with procedures provided in its Reserve Bank's operating circular; in such circumstances, the paying bank is not considered to receive the item until its next banking day.

* * * * *

By Order of the Board of Governors, January 30, 1984.

William W. Wiles,

Secretary of the Board.

[FR Doc. 84-2971 Filed 2-3-84; 8:45 am]
BILLING CODE 6210-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 83-ANM-19]

Revised Transition Area; Redmond, Oregon

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The current geographical boundaries of the Redmond, Oregon, Transition Area are described, in part, by reference to the Roberts nondirectional beacon (NDB). The Roberts NDB no longer exists and a new description is required. This action provides the revised description, which revokes certain controlled airspace.

EFFECTIVE DATE: February 3, 1984.

FOR FURTHER INFORMATION CONTACT: Bob Brown, Airspace & Procedures Specialist, ANM-534, FAA Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168. The telephone number is (206) 431-2534.

SUPPLEMENTARY INFORMATION: The Redmond, Oregon, Transition Area was established to ensure segregation of aircraft operating in instrument weather conditions, and other aircraft operating in visual weather conditions or instrument weather conditions.

Removal of the Roberts NDB from the National Airspace System requires revocation of that controlled airspace established to protect aircraft executing the Roberts NDB approach to Roberts Field Airport Oregon. Since this amendment merely revises the description of the transition area to delete the portion of the description predicated on a now defunct NDB, notice and public procedure on the rule are unnecessary and the amendments may be made effective in less than 30 days.

Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in Advisory Circular 70-3, dated January 3, 1983.

List of Subjects in 14 CFR Part 71

Transition areas, Aviation Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended effective 0901 G.m.t., *when published,* as follows:

Redmond, Oregon (REVISED)

Delete the words; "within 2 miles each side of a 302° bearing from the Roberts RBN extending from the RBN to 6 miles northwest of the RBN;".

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); (49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); (Sec. 1165 of the Federal Aviation Regulations and 14 CFR 11.69))

Note. The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. For this reason and the reasons given earlier in the preamble, it therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (14 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal.

Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Seattle, Washington, February 2, 1984.

David E. Jones,

Acting Director, Northwest Mountain Region.

[FR Doc. 84-3002 Filed 2-3-84; 8:45 am]
BILLING CODE 4910-13-M

COMMODITY FUTURES TRADING COMMISSION

17 CFR Parts 1 and 16

Commercial Categories for Option Traders

AGENCY: Commodity Futures Trading Commission.

ACTION: Rule Related Notice.

SUMMARY: On January 10, 1983, the Commission published in the **Federal Register** notification of the availability of its revised list of occupational categories (48 FR 1047). This list forms the basis from which the Commission will measure commercial participation in the pilot program for domestic exchange-traded commodity options. Futures commission merchants and members of contract markets are required under Commission rule 1.37(a), 17 CFR 1.37(a) (1982), to record for each option customer account they carry an appropriate occupation category from a list of such categories set forth by the Commission and a symbol indicating whether the option customer is commercial or noncommercial. In order to accommodate foreign currency options, the Commission has determined to revise its current list of occupational categories by adding two categories to the Financial Instruments group. Category 24, Importers/Exporters of Goods and Services is included in order to identify commercial entities whose activities affect the current account of the balance of payments. Category 25, Investors/Issuers of Foreign Currency Denominated Securities is included in order to identify commercial entities whose activities affect capital account balances. As with the existing categories, the appropriate classification for a customer is based on the primary activity of the customer in using the option market in conjunction with its cash market activities. For example, a commercial bank primarily hedging the currency risks of its own balance sheet would be classified in category 17, Commercial Bank. If a commercial bank's option trading was primarily related to its dealer activities in the foreign exchange market it would be classified as a dealer in category 21, Broker/Dealer.

FOR FURTHER INFORMATION CONTACT: Eugene Moriarty, Senior Financial Economist, Division of Economics and Education, (202) 254-6990, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581.

SUPPLEMENTARY INFORMATION: The Commission has revised the list of

occupational categories for determining commercial participation in its pilot program for options to be as follows:

Commodity	Occupation categories
Sugar	1. Producer. 2. Merchant or Dealer. 3. Refiner. 4. Manufacturer or Processor. 5. Other Commercial.
Gold	6. Producer. 7. Refiner. 8. Dealer. 9. Commercial End User. 11. Other Commercial.
Heating Oil	12. Refiner. 13. Distributor. 14. End User. 15. Other Commercial.
Financial Instruments/Foreign Exchange.	16. Savings and Loan, Mortgage Bank and Thrift Institutions. 17. Commercial Bank. 18. Insurance Company. 19. Pension and Retirement Fund. 20. Mutual Fund. 21. Broker/Dealer. 22. Foundation and Endowment. 23. Other Commercial. 24. Importers/Exporters of Goods and Services. 25. Investors/Issuers of Foreign Currency Denominated Securities.

Issued by the Commission in Washington, D.C., on January 30, 1984.

Jane K. Stuckey,

Secretary of the Commission.

[FR Doc. 84-3019 Filed 2-2-84; 8:45 am]

BILLING CODE 6351-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 81

[Docket No. 76N-0366]

Provisional Listing of D&C Orange No. 17, D&C Red No. 19, and D&C Red No. 37 for Use in Externally Applied Drugs and Cosmetics; Postponement of Closing Dates

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is postponing the closing date for the provisional listing of D&C Orange No. 17, D&C Red No. 19, and D&C Red No. 37 for use as color additives in externally applied drugs and cosmetics. The new closing date will be April 4, 1984. This postponement will provide additional time for determining the applicability of the statutory standard for the listing of noningested color additives to the results of the scientific investigations of D&C Orange No. 17, D&C Red No. 19, and D&C Red No. 37.

DATES: Effective February 3, 1984, the new closing date for D&C Orange No. 17, D&C Red No. 19, and D&C Red No. 37 will be April 4, 1984.

FOR FURTHER INFORMATION CONTACT: Gerad McCowin, Bureau of Foods (HFF-330), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-472-5676.

SUPPLEMENTARY INFORMATION: FDA established the current closing date of February 3, 1984, for the provisional listing of D&C Orange No. 17, D&C Red No. 19, and D&C Red No. 37 for use in externally applied drugs and cosmetics by a final rule published in the **Federal Register** of November 29, 1983 (48 FR 53695). The agency had previously extended the closing dates for these color additives on several occasions. For a full procedural history of the provisional listing of these color additives, see 48 FR 38814 for D&C Red No. 19 and D&C Red No. 37 and 48 FR 44774 for D&C Orange No. 17.

FDA extended the closing date for the provisional listing of these color additives on these occasions to permit the agency to consider the scientific and legal aspects of the submissions by the petitioner, the Cosmetic, Toiletry and Fragrance Association, Inc., in support of the safety of the external uses of these color additives. Although D&C Orange No. 17, D&C Red No. 19, and D&C Red No. 37 have been shown to be animal carcinogens upon ingestion, the agency believes that somewhat different questions are raised by the request to list these color additives for noningested use. It has taken more time to evaluate the data involved in resolving these questions than the agency anticipated. FDA finds that it still needs additional time to determine the applicability of the statutory standard for the listing of color additives for noningested use to D&C Orange No. 17, D&C Red No. 19, and D&C Red No. 37. The regulations set forth below will postpone the February 3, 1984 closing date for the provisionally listed uses of these color additives until April 4, 1984. This postponement will also provide additional time for the agency to prepare and to publish **Federal Register** documents setting forth its final decision on the petitions for the permanent listing of these color additives for external use. The continued use of these color additives in externally applied products for the short time needed for the adequate evaluation of the data and for the preparation of **Federal Register** documents that will announce the agency's decision on these color additives will not pose a hazard to the public health.

Because of the short time until the February 3, 1984 closing date, FDA concludes that notice and public procedure on these amendments are impracticable, and that good cause exists for issuing the postponement as a final rule. This final rule will permit the uninterrupted use of these color additives until April 4, 1984. To prevent any interruption in the provisional listing of D&C Orange No. 17, D&C Red No. 19, and D&C Red No. 37 and in accordance with 5 U.S.C. 553(d) (1) and (3), this final rule is being made effective February 3, 1984.

List of Subjects in 21 CFR Part 81

Color additives, Color additives provisional list, Cosmetics, Drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 701, 706 (b), (c), and (d), 52 Stat. 1055-1056 as amended, 74 Stat. 399-403 (21 U.S.C. 371, 376 (b), (c), and (d))) and under the transitional provisions of the Color Additive Amendments of 1960 (Title II, Pub. L. 86-618; sec. 203, 74 Stat. 404-407 (21 U.S.C. 376, note)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), Part 81 is amended as follows:

PART 81—GENERAL SPECIFICATIONS AND GENERAL RESTRICTIONS FOR PROVISIONAL COLOR ADDITIVES FOR USE IN FOODS, DRUGS, AND COSMETICS

§ 81.1 [Amended]

1. In § 81.1 *Provisional lists of color additives,* by revising the closing date for "D&C Orange No. 17," "D&C Red No. 19," and "D&C Red No. 37" in paragraph (b) to read "April 4, 1984."

§ 81.27 [Amended]

2. In § 81.27 *Conditions of provisional listing,* by revising the closing date for "D&C Orange No. 17," "D&C Red No. 19," and "D&C Red No. 37" in paragraph (d) to read "April 4, 1984."

Effective date. This final rule shall be effective February 3, 1984.

(Secs. 701, 706 (b), (c), and (d), 52 Stat. 1055-1056 as amended, 74 Stat. 399-403 (21 U.S.C. 371, 376 (b), (c), and (d)); sec. 203, 74 Stat. 404-407 (21 U.S.C. 376, note))

Dated: January 12, 1984.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 84-3052 Filed 2-2-84; 8:45 am]

BILLING CODE 4160-01-M

21 CFR Part 81

[Docket No. 76N-0366]

Provisional Listing of FD&C Red No. 3 and of FD&C Yellow No. 5 in Cosmetics and Externally Applied Drugs and of Their Lakes in Food and Ingested Drugs; Provisional Listing of D&C Red No. 8, D&C Red No. 9, and D&C Red No. 33 in Drugs and Cosmetics; Postponement of Closing Date

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is postponing the closing dates for the provisional listing of FD&C Red No. 3 and of FD&C Yellow No. 5 for use in coloring cosmetics and externally applied drugs and of the lakes of these color additives for use in coloring food and ingested drugs; of D&C Red No. 8, D&C Red No. 9, and D&C Red No. 33 for use in drugs and cosmetics. The new closing date for the provisional listing of all of these color additives will be April 4, 1984. This postponement will provide additional time for the agency to determine the applicability of the statutory standard for the listing of color additives to the results of the scientific investigations of FD&C Red No. 3, FD&C Yellow No. 5, D&C Red No. 8, D&C Red No 9, and D&C Red No. 33.

DATES: Effective February 3, 1984, the new closing date for FD&C Red No. 3 and its lakes, FD&C Yellow No. 5 and its lakes, D&C Red No. 8, D&C Red No. 9, and D&C Red No. 33 will be April 4, 1984.

FOR FURTHER INFORMATION CONTACT: Gerad McCowin, Bureau of Foods (HFF-330), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-472-5676.

SUPPLEMENTARY INFORMATION: FDA established the current closing date of February 3, 1984, for the provisional listing of FD&C Red No. 3 and of FD&C Yellow No. 5 for use in cosmetics and in externally applied drugs and for the provisional listing of the use of the lakes of FD&C Red No. 3 and of FD&C Yellow No. 5 in food and ingested drugs by a rule published in the **Federal Register** of November 29, 1983 (48 FR 53694). Additionally, the agency established the current closing date of February 3, 1984, for the provisional listing of D&C Red No. 8, D&C Red No. 9, and D&C Red No. 33 for use in drugs and cosmetics in that same **Federal Register** document. The agency had previously extended the closing dates for these color additives on several occasions. For a full procedural history of the provisional listing of the other color additives, see 48 FR 45237 for FD&C Red No. 3, 48 FR 45760 for FD&C Yellow No. 5, 48 FR 42807 for D&C Red No. 8 and D&C Red No. 9, and 48 FR 44773 for D&C Red No. 33.

FDA extended the closing dates for the provisional listing of each of these color additives and of the lakes of FD&C Red No. 3 and of FD&C Yellow No. 5 to permit the agency to consider the scientific and legal aspects of the data concerning the safety of their provisionally listed uses. FDA expected that these closing dates would provide time for the agency to prepare and to publish appropriate regulations in the **Federal Register** regarding the agency's final decision on the petitions for the permanent listing of the aforementioned uses of these color additives and of the lakes of FD&C Red No. 3 and of FD&C Yellow No. 5.

FDA's review and evaluation of the data relevant to the provisionally listed uses of FD&C Red No. 3 and FD&C Yellow No. 5 and their lakes, D&C Red No. 8, D&C Red No. 9, and D&C Red No. 33 have required more time than anticipated, however. The agency finds that it still needs additional time to determine the applicability of the statutory standard for listing color additives to D&C Red No. 8, D&C Red No. 9, D&C Red No. 33, as well as to FD&C Red No. 3 and FD&C Yellow No. 5 and their lakes. The regulations set forth below will postpone the February 3, 1984 closing date for the provisionally listed uses of these color additives until April 4, 1984. This postponement will also provide additional time for the agency to prepare and to publish the appropriate **Federal Register** documents setting forth its decision on the petitions for the permanent listing of FD&C Red No. 3 and FD&C Yellow No. 5 for use in coloring cosmetics and externally applied drugs and of the lakes of FD&C Red No. 3 and FD&C Yellow No. 5 for use in coloring food and ingested drugs and for the permanent listing of D&C Red No. 8, D&C Red No. 9, and D&C Red No. 33 for use in coloring drugs and cosmetics. The continued use of these color additives for the short time needed for the adequate evaluation of the data and for the preparation of the **Federal Register** documents will not pose a hazard to the public health.

Because of the short time until the February 3, 1984 closing date, FDA concludes that notice and public procedure on these amendments are impracticable, and that good cause exists for issuing this postponement as a final rule. This final rule will permit the uninterrupted use of D&C Red No. 8, D&C Red No. 9, D&C Red No. 33, as well as FD&C Red No. 3 and FD&C Yellow No. 5 and their lakes until April 4, 1984. To prevent any interruption in the provisional listing of D&C Red No. 8, D&C Red No. 9, D&C Red No. 33, as well as FD&C Red No. 3 and FD&C Yellow No. 5 and their lakes and in accordance with 5 U.S.C. 553(d) (1) and (3), this regulation is being made effective on February 3, 1984.

List of Subjects in 21 CFR Part 81

Color additives, Color additives provisional list, Food, Cosmetics, Drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 701, 706(b), (c), and (d), 52 Stat. 1055–1056 as amended, 74 Stat. 399–403 (21 U.S.C. 371, 376(b), (c), and (d))) and the transitional provisions of the Color Additive Amendments of 1960 (Title II, Pub. L. 86-618, sec. 203, 74 Stat. 404–407 (21 U.S.C. 376, note)) and under authority delegated to the Commissioner of Food and Drug (21 CFR 5.10), Part 81 is amended as follows:

PART 81—GENERAL SPECIFICATIONS AND GENERAL RESTRICTIONS FOR PROVISIONAL COLOR ADDITIVES FOR USE IN FOODS, DRUGS, AND COSMETICS

§ 81.1 [Amended]

1. In § 81.1 *Provisional lists of color additives,* by revising the closing dates for "FD&C Yellow No. 5" and "FD&C Red No. 3" in paragraph (a) to read "April 4, 1984" and by revising the closing dates for "D&C Red No. 8," "D&C Red No. 9," and "D&C Red No. 33" in paragraph (b) to read "April 4, 1984."

§ 81.27 [Amended]

2. In § 81.27 *Conditions of provisional listing,* by revising the closing dates for "FD&C Yellow No. 5," "FD&C Red No. 3," "D&C Red No. 8," "D&C Red No. 9," and "D&C Red No. 33" in paragraph (d) to read "April 4, 1984" and by revising the closing dates for "FD&C Red No. 3" and "D&C Red No. 33" in paragraph (e) to read "April 4, 1984."

Effective date. This final rule is effective February 3, 1984.

(Secs. 701, 706(b), (c), and (d), 52 Stat. 1055–1056 as amended, 74 Stat. 399–403 (21 U.S.C. 371, 376(b), (c), and (d)); sec. 203, 74 Stat. 404–407 (21 U.S.C. 376, note))

Dated: January 12, 1984.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 84-3072 Filed 2-3-84; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

23 CFR Part 658

[FHWA Docket No. 83-12, Notice 2]

Truck Size; Interim Network Provision

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Final rule for interim network.

SUMMARY: This document provides an interim network of highways other than Interstate on which commercial motor vehicles with dimensions authorized by sections 411 and 416 of the Surface Transportation Assistance Act of 1982 (STAA), as amended, may operate in the States of Alabama, Florida, Georgia, Pennsylvania and Vermont. The interim network is intended to provide increased productivity for the commercial motor carrier industry which may ultimately result in lower transportation cost to consumers.

EFFECTIVE DATE: February 3, 1984.

FOR FURTHER INFORMATION CONTACT: Mr. Sheldon G. Strickland, Office of Highway Planning, (202) 426-0153, or Mr. David C. Oliver, Office of the Chief Counsel, (202) 426-0825, Federal Highway Administration, 400 Seventh Street, SW., Washington, D.C. 20590. Office hours are from 7:45 a.m. to 4:15 p.m., ET, Monday through Friday, except legal holidays.

SUPPLEMENTARY INFORMATION: Sections 411 and 416 of the Surface Transportation Assistance Act of 1982 (STAA), Pub. L. 97-424, 96 Stat. 2097, as amended by Pub. L. 98-17, 97 Stat. 59, require the States to permit certain size vehicles to operate on the Interstate System and those Federal-Aid Primary System (FAP) highways designated by the Secretary of Transportation. The Secretary of Transportation has delegated this function to the Federal Highway Administration (FHWA).

On April 5, 1983 (48 FR 14844), FHWA published a notice which designated, on an interim basis, those FAP routes on which commercial motor vehicles authorized by the STAA could operate.

Prior to the April 5 Notice, FHWA had requested that the States submit recommended routes. The FHWA added supplemental routes to those State submissions which were determined to be inadequate to achieve route continuity essential for geographic coverage and interstate commerce. Subsequently, Alabama, Florida, Georgia, Pennsylvania, and Vermont brought suits in the U.S. Distirct Courts to enjoin the FHWA from including routes in the interim network beyond those proposed by the States. On April 22, 1983 (48 FR 17347), and May 12, 1983 (48 FR 21317), the supplemental routes added to the routes proposed by these five States were withdrawn leaving interim designations of only 741 miles in these States.

On August 31, 1983 (48 FR 39592), a notice of proposed rulemaking (NPRM) for these five States was published in the **Federal Register**. The purpose of that NPRM was to provide the States and the public with an opportunity to comment on the proposed interim truck route network in these five States as set out in the Appendix to the proposed rule.

Subsequently, on September 14, 1983 (48 FR 41276), an NPRM proposing the final network of highways in 45 States, the District of Columbia, and Puerto Rico was published in the **Federal Register**. The purpose of that NPRM was to provide the States and the public with an opportunity to comment on the proposed final network for these 47 jurisdictions, as well as proposed regulations regarding width, length and weight of vehicles, grandfather clauses, reasonable access and specialized equipment which will apply to all 50 States, the District of Columbia and Puerto Rico.

In making the interim designations in the April 5 Notice, and in proposing the interim designations in the five States covered by the August 31 NPRM, FHWA has attempted to provide consistency in routing among the States, so that a national network of highways which serves major points of economic activity would be available for use by the larger vehicles allowed by the STAA. The States, the commercial motor vehicle industry, and all other interested parties were encouraged to comment on the proposed designated routes specified in the Appendix to the proposed rule. Since safety has always been of paramount concern to FHWA, all interested parties were invited to submit any information they may have on any potential adverse safety consequences that might result from allowing vehicles authorized under the STAA to use these roads.

Analysis of Comments to the Docket

The FHWA has received 94 submittals, several of which commented on more than one State. Members of Congress, trucking interests, motorist clubs, safety interests, manufacturers, shippers, State and local agencies, and private individuals were represented among the commenters.

The majority of the commenters endorsed the proposed interim network. However, there were requests for additional mileage in all States, and particularly Georgia. A brief State-by-State overview of the comments follows:

- Alabama—Five comments were received. The Alabama State Highway Department requested the deletion of five routes and portions of six other routes of 38 proposed routes on the basis of safety. The FHWA concurs with the State's safety analysis. With regard to the additional routes requested by four commenters, the FHWA and the Alabama State Highway Department made a safety assessment and concluded that each of the routes had safety deficiencies and, therefore, have not been designated as part of the interim network. As set forth in the Appendix to this rule, the interim network in Alabama will consist of those routes identified in the August 31 NPRM with the following routes deleted: AL 59, AL 85, AL 87, AL 92, AL 134 and portions of US 431, US 72, US 78, US 84, US 43, and US 231. This action increases the interim network in Alabama from 2 to 932 miles of FAP routes, in addition to the Interstate System.
- Florida—Seven comments were received. In two separate submittals, the Florida Department of Transportation requested the addition of one route and the deletion of 10 of 26 proposed routes on the basis of safety. The FHWA concurs with the State's safety analysis. With regard to the additional routes requested by five commenters, the FHWA and the Florida Department of Transportation made a safety assessment and concluded that each of the routes had safety deficiencies and therefore they have not been designated as part of the interim network. As set forth in the appendix to this rule, the interim network in Florida will consist of those routes identifed in the August 31 NPRM with the following routes deleted: FL 60, FL 84, US 441, FL 436, US 92, US 231, two portions of US 301, and a portion of US 41. Route CR 672 has been added to the Florida interim network for connectivity purposes. This action increases the interim network in Florida from 12 to 724 miles of FAP routes, in addition to the Interstate System.
- Georgia—Eighty-two comments were received, and of these 80 requested additions. The Georgia Department of Transportation (Ga DOT) has endorsed the routes identified in the NPRM and has recommended the addition of three other routes, two of which were requested by other commenters (GA 53 and US 82). The Ga DOT is establishing a process by which candidate routes may be identified, appraised, and recommended to FHWA for addition to the network. The additional routes requested by the other commenters will

be appraised by Ga DOT under this process, and a recommendation will be provided to FHWA. At this time FHWA is establishing an interim network in Georgia which consists of the routes proposed in the August 31 NPRM, plus routes GA 21, GA 53, and US 82. This action increases the interim network in Georgia from 81 miles to 564 miles of FAP routes, in addition to the Interstate System.

• Pennsylvania—Four comments were received. The Pennsylvania Department of Transportation (Penn DOT) endorsed the 654 miles identified in the NPRM, and recommended an additional 65 miles. Three other commenters requested additions. The FHWA has decided to increase the interim network as requested by Penn DOT and has referred the other requests to Penn DOT for consideration under a formal procedure endorsed by FHWA. Under this procedure, Penn DOT will receive requests, review route conditions, and make recommendations to FHWA. Currently, requests for over 700 additional miles are under consideration. Further information on the Pennsylvania procedure may be obtained from the Pennsylvania Department of Transportation, Commonwealth & Forster Streets, Harrisburg, Pennsylvania 17120. Attention: Bureau of Maintenance and Operations. This action increases the interim network in Pennsylvania from 618 to 691 miles of FAP routes, in addition to the Interstate System.

• Vermont—Four comments were received. Two of the commenters requested additions. An appraisal of the additional routes requested by these commenters was conducted by the FHWA and the Vermont Agency of Transportation. Both of the routes were found to have safety deficiencies, therefore they have not been designated as part of the interim system. The Vermont Agency of Transportation, which responded twice, requested deletions based on its safety appraisal. The FHWA concurs in the appraisal and, therefore, US 4 east of Rutland, VT 100 and VT 107 are not included in the interim network. This action increases the interim network in Vermont from 0 to 30 miles of FAP routes, in addition to the Interstate System.

The interim network, as established by this Notice for the five aforementioned States, totals approximately 2,900 miles, and represents a 2,200 mile increase in mileage and service over that previously available.

A comment was received listing several assertions that FHWA's proposed designation of highways in Alabama, Florida, Georgia, Pennsylvania and Vermont, under Section 411 and Section 416 of the 1982 Surface Transportation Assistance Act, would violate statutory directives and congressional intent. One assertion was that FHWA must make an affirmative finding of safety adequacy for each proposed route. The STAA does not require the Secretary to independently investigate each designated route prior to placing it on the National Newtork. The FHWA is working closely with the States to see that designated routes are capable of safely accommodating these vehicles. To illustrate, FHWA has deleted over 15,000 miles since the initial interim network was established for all States on April 6, 1983.

Another assertion was that FHWA cannot balance productivity or other economic considerations against safety in its determination of qualifying Federal-aid highways, However, a regulatory evaluation must include an analysis of the economic consequences of a regulation. The FHWA draft regulatory evaluation concludes that there may be some minor safety costs associated with this regulation, but these are likely to be outweighed by productivity benefits. This is not the same as saying that specific routes would or should be designated on the basis of a benefit/cost calculation. In fact, FHWA will delete routes on safety grounds alone.

This same commenter also asserted that FHWA is shifting its statutory responsibilities to the States. The STAA states that the Secretary shall designate as qualifying those primary system highways that are capable of safely accommodating the large vehicles. The STAA did not dictate, outside of the rulemaking requirements for the final system, the method by which the Secretary should designate routes. Instead, Congress deferred to agency expertise. The FHWA believes that State cooperation and participation are essential to this designation process.

The same commenter further asserted that FHWA has ignored studies and research that have shown the danger of longer trucks. However, FHWA has identified studies with conflicting results, to make the valid point that there is disagreement among experts with respect to findings regarding the safety of larger vehicles authorized by the STAA.

It was also asserted that FHWA is illegally establishing an identical system of highways for both longer and wider trucks. Pub. L. 98–17, 97 Stat. 59, amended the STAA to add section 416, which requires all States except Hawaii to establish a vehicle width limitation of 102 inches on the Interstate and designated qualifying highways with a lane width designed to be 12 feet or more. This provision was added to the STAA to provide uniform dates and a uniform highway network on which longer vehicles and 102-inch wide vehicles would operate. It would be impractical to establish one system of highways to accommodate vehicles subject to the length provisions of the STAA and another system to accommodate vehicles subject to the width provision. Unless a roadway can accommodate both longer and wider vehicles, it has not been designated.

In conclusion, we emphasize that this Notice establishes an interim network, available for immediate use. This places economic interests in the five States in essential parity with the remainder of the Nation. A Notice will be published shortly that will propose a final network for the five States.

Regulatory Impact

The FHWA has determined that this is not a major rule under Executive Order 12291. However, under the regulatory policies and procedures of the Department of Transportation, this rulemaking action is considered significant based on the public interest involved.

Based on submittals to the docket established for the NPRM which preceded this final rule, the major issues raised by the establishment of the interim network contained in this rulemaking action are productivity and safety. The majority of commenters sought a more extensive network that would allow the vehicles authorized by the STAA to serve a greater number of origins and destinations. Although the comments seeking deletion of segments from the proposed interim network on safety grounds were few, they did raise significant issues about the safety of some segments. These comments are addressed in the section "Analysis of Comments to the Docket."

The FHWA has sufficient flexibility to remove specific segments of the interim network on the basis of adverse safety consequences. Segments can also be added to the network to serve additional origins and destinations if such segments are found to be capable of safely accommodating the vehicles authorized by the STAA.

A regulatory evaluation/regulatory flexibility analysis has been prepared and a copy may be obtained by contacting Mr. Sheldon G. Strickland at the address under the heading **"FOR FURTHER INFORMATION CONTACT."** Although submittals to the docket

indicate that some small business entities in some States may be adversely affected because they are not served by routes that were included on the proposed interim network, the number of comments received does not indicate that this final rule for the interim network in the five States will result in a significant economic impact on a substantial number of small entities. This determination of no significant impact is further supported by the fact that there is sufficient flexibility for small entities to propose to FHWA that routes be added. Such proposals can then be evaluated in terms of both productivity and safety.

The FHWA has determined that this action will not individually or cumulatively have a significant effect on the environment. This action falls within the categorical exclusions set out at 23 CFR 771.115(b), since it is a regulation for which a regulatory impact analysis is not required pursuant to section 3 of Executive Order 12291, which superseded Executive Order 12044 (see 23 CFR 771.115(b)(27)). Therefore, no environmental assessment or environmental impact statement is required.

Since it is important for this interim network to be available as soon as possible, FHWA finds good cause to waive the 30-day delay in the effective date. This waiver will provide FHWA and the States additional time with which to monitor actual use of the interim system. This experience will provide FHWA and the States valuable information and data with which to comment on a proposed final system to be published shortly. Therefore, this interim final rule is effective immediately.

In consideration of the foregoing, the Federal Highway Administration hereby amends Chapter I of Title 23, Code of Federal Regulations, by adding Part 658, and Appendix for the States of Alabama, Florida, Georgia, Pennsylvania and Vermont to read as set forth below.

List of Subjects in 23 CFR Part 658

Grant programs—transportation, Highways and roads, Motor carriers—size.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning, and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program)

Issued on: January 31, 1984.

R. A. Barnhart,

Federal Highway Administrator, Federal Highway Administration.

The Federal Highway Administration hereby amends Chapter I of Title 23, Code of Federal Regulations, by adding Part 658 and Appendix for the States of Alabama, Florida, Georgia, Pennsylvania, and Vermont to read as set forth below.

PART 658—TRUCK SIZE

Sec.

658.2 Interim designated network.

Appendix—Interim Designated Truck Routes on the Federal-Aid Primary System.

Authority: Sections 411 and 416, Pub. L. 97-424, 96 Stat. 2159, as amended by Pub. L. 98-17, 97 Stat. 59 (49 U.S.C. 2311); 23 U.S.C. 315; 49 CFR 1.48.

§ 658.2 Interim designated network.

The States of Alabama, Florida, Georgia, Pennsylvania, and Vermont shall not prohibit the operation of commercial motor vehicles authorized to operate by Sections 411 and 416 of the Surface Transportation Assistance Act of 1982, as amended, on any route set out in the attached appendix.

APPENDIX.—INTERIM DESIGNATED TRUCK ROUTES ON THE FEDERAL-AID PRIMARY SYSTEM

Posted Route No.	From—	To—
Alabama		
US 431	AL 210 in Dothan	US 431/AL 173 in Headland.
US 431	I-20 Anniston	I-59 Gadsden.
US 431	AL 77 Attalla	AL 79 near Columbus City in Marshall County.
US 431	Co Rd 8 near New Hope in Madison County.	Tennessee St. Line.
US 72	Mississippi St. Line	Jackson County Road 33 near Hollywood.
US 31	AL 152 Montgomery	AL 14 north of Prattville.
US 31	End of I-65 north of Birmingham.	I-65 north of Kimberly.
US 78	Beginning of four-lane west of AL 5 at Jasper in Walker County.	I-59 Birmingham
US 78	End of I-20 in Irondale.	I-20 west of Leeds.
US 82	Colvar (west of Northport).	Eoline (west of Brant).
US 82	AL 286 Prattville	US 31 Prattville.
US 80	AL 14 west of Selma	AL 152 Montgomery.
US 84	AL 92 (east of Dalevilla).	AL 210 Dothan.
US 84	AL 210 Dothan	End of four-lane east of Dothan.
US 43	I-65 north of Mobile	Sunflower in Washington Co.
US 43	AL 5 near Russellville.	US 72 Tuscumbia.
US 43	US 72 Florence	Tennessee St. Line.
US 29	Fairfax	Georgia St. Line.
AL 20	US 72 Tuscumbia	US 231 Huntsville.
AL 21	US 31 at Atmore	I-65 north of Atmore.
AL 21	US 431 Anniston	Jacksonville.
US 280	US 31 Mountain Brook.	AL 22 at Alexander City.
US 280	I-85 Opelika	Georgia St. Line.
US 98	I-10 Daphne	End of four-lane near Fairhope.
US 231	Florida St. Line	AL 210 Dothan.
US 231	AL 210 Dothan	AL 152 Montgomery.
US 231	AL 152 Montgomery	End of 4-lane north of Wetumpka.
US 231	Arab	US 431 Huntsville.
AL 67	I-65 near Priceville	AL 20 west of Decatur.
AL 77	I-59 Gadsden	US 431 Attalla.
AL 79	I-59 Birmingham	Pinson.
AL 152	US 31 (north of Montgomery).	I-65 north of Montgomery
AL 210	Dothan Circle (Beltway around Dothan).	
AL 248	US 84 Enterprise	Ft. Rucker.
AL 249	Ft. Rucker	US 231.
Florida		
US 27	Fla. Turnpike Extension.	FL 84 at Andytown.
US 27	South Bay	Leesburg.
US 27/US 441.	Leesburg	Belleview.
US 27/ US301.	Belleview	Ocala.
US 27	US 301 in Ocala	I-75.
US 301	SR 24 in Waldo	I-10.
FL 24	SR 331 in Gainesville	US 301 in Waldo.
FL 263	US 90 West of Tallahassee.	I-10.
FL 331	I-75 (South of Gainesville).	FL 24.
US 41	Big Bend Road (CR 672) near Adamsville.	I-4 Tampa.
CR 672 (Big Bend Road).	US 41 near Adamsville.	I-75 near Adamsville.
FL 202	In Jacksonville from I-95.	FL A-1-A.
Florida Tpk	South end of Homestead Extension.	I-75 at Wildwood.
FL 528/FL 407.	I-4 at Orlando	Cape Canaveral
103th Street Expressway.	In Jacksonville at I-95.	Adams Street.
FL 397	Entrance Eglin AFB	FL 85 Valparaiso.
FL 85	FL 397 Valparaiso	I-10 near Crestview.

Note.—Alligator Alley (FL 84) from Golden Gate to Andytown is a designated part of the interstate system but is unsigned. Access from I-75 to the Golden Gate Toll Plaza will not be available until late 1984.

CR 672—This is not an FAP route. However, this route has been identified by the Florida Department of Transportation as available to the larger vehicles on a temporary basis pending the completion of I-75.

Georgia		
GA 400	I-285, near Atlanta	GA 60.
GA 365	I-85	US 441 near Cornelia.
US 411/US 41.	US 27 at Rome	I-75 near Emerson.
US 129	I-16	North to Gray.
GA 25 Spur	US 17/US 84 near Brunswick.	Northerly to I-95.
US 280	Alabama St. Line	Fort Benning.
US 82	Dawson	I-75 Tifton.
GA 300	US 82 Albany	I-75 near Cordele.
US 25	I-16	North of Statesboro.
GA 316	I-85 easterly	Near Lawrenceville (5 mile).
GA 21	I-95 Monteith	GA 204 Savannah.
GA 14 Spur	I-85/I-285 Interchange.	East to Welcome All Road.
GA 410	Valleybrook Rd.	ISR 10.
GA 411	End of I-185	South to US 280 near Columbus.

APPENDIX.—INTERIM DESIGNATED TRUCK ROUTES ON THE FEDERAL-AID PRIMARY SYSTEM—Continued

Posted Route No.	From—	To—
GA 85	I-85	Fayetteville.
GA 2	US 27	I-75.
US 76	I-75	US 411.
GA 85	GA 411	Ellenale.
US 41	I-75	Near Barnsville.
US 19	US 82	Near Pelham.
GA 247/US 129.	I-75	Warner Robins.
US 84	Waycross	I-95.
US 78/US 29.	GA 138	GA 8 near Athens.
GA 138	I-20	US 78.
GA 53	Rome	I-75 Calhoun.

Posted route No.	Route description
Pennsylvania	
US 1	From Morrisville to US 13.
US 13	Controlled access segment south from US 1.
US 15	From Pennsylvania Turnpike (I-76) Interchange 17 northeast to Harrisburg Expressway south of Camp Hill.
US 15	From PA 642 in Milton to the White Deer Exit.
US 15	Controlled access segment north of junction with US 220 at Williamsport.
US 22	From I-279 west to the Pennsylvania-West Virginia St. Line east of Steubenville, Ohio.
US 22	From west of PA 100 near Fogelsville east to the Pennsylvania-New Jersey St. Line at Easton.
US 30	Greensburg Bypass south of Greensburg.
US 30	From a junction with PA 462 west of York to a junction with PA 462 east of Lancaster, excluding the 4-mile uncontrolled access segment north of York.
US 119	Limited access Bypass west of Uniontown.
US 119	From Perryville north to Pennsylvania Turnpike (I-76) Interchange 8 at New Stanton.
US 202	From the south terminus of the West Chester Bypass north and east to I-76 near King of Prussia.
US 219	From vicinity of Pennsylvania Turnpike southeast of Somerset north to US 422 west of Ebensburg.
US 219	From the PA-New York St. Line to just south of Bradford.
US 220	From Pennsylvania Turnpike Interchange 11 north to King.
US 220	From US 15 and the terminus of I-180 in Williamsport west to western terminus of controlled access segment at Linden.
US 220	From just south of Athens north to NY 17 at the Pennsylvania-New York St. Line.
US 222/422	Warren Street Bypass and Extension from Pricetown Road north of Reading west to Wyomissing.
US 322	Commodore Barry Bridge in Chester.
US 422	From eastern terminus of limited access segment southeast of Reading northwest to the Warren Street Bypass.
PA 9	Northeast Extension of Pennsylvania Turnpike from Exit 25 (I-276) southeast of Norristown to Exit 38 at I-81 north of Scranton.
PA 28	From PA 8 near Etna northeast to Creighton, east of the Pennsylvania Turnpike.
PA 33/US 209	From US 22 near Wilson north to I-80 at Interchange 46 near Stroudsburg via US 209 at Snydersville.
PA 60/US 422	From I-80 Interchange 1 southeast of Sharon south to and including the New Castle Bypass.
PA 60	From PA 51 west of Beaver Falls south to US 22, excluding the uncontrolled access segment near the Greater Pittsburgh International Airport.
US 222	From US 30 northeast of Lancaster to Pennsylvania Turnpike (I-76) Interchange 21 near Adamstown.
PA 283	From junction of US 30 north of Lancaster west to I-283 near the Pennsylvania Turnpike Interchange 19. Harrisburg Expressway (LR 767) from I-83 west to US 11 west of Camp Hill. Airport Access Road (LR 1061 Spur A) from PA 283 south to the Harrisburg International Airport at Middletown. Reading Outer Loop (LR 1035) from PA 183 near Lainbache northeast to US 222 near Tuckerton.
US 6	From the Borough of Conneaut Lake east to just north of Meadville at the terminus of the North-South Bypass.
US 11	From Pennsylvania Turnpike Interchange 16 east to the western terminus of the Harrisburg Expressway near Camp Hill.
US 20	From I-90 Interchange 12 west to North East (PA 89).
US 30	Uncontrolled access segment of York Bypass from North Hills Road west to a point one mile north of the junction of PA 74.
US 119	Uncontrolled access segment northeast of Uniontown to Perryville.
US 119	Uncontrolled access segment from the Pennsylvania Turnpike (I-76) Interchange 8 to the Greensburg Bypass.
US 202	From the PA-Delaware St. Line north to West Chester Bypass.
US 322	From the junction of I-83 and I-283 east to the junction of US 422.
US 422	From the junction of US 322 east to the junction of LR 139 at the west end of Hershey.
PA 9	From West Chester Bypass (US 202) east to Garrett Road at Upper Darby.
US 13	Uncontrolled access segment from PA 413 west of Bristol northeast to the limited access segment just south of US 1.
PA 42	From I-80 Interchange 34 south to Bloomsburg at US 11.
PA 51	From US 119 near Uniontown north to the Monongahela River at Elizabeth.
PA 54	From I-80 Interchange 33 south to Danville at US 11.
PA 60	Uncontrolled access segment in the vicinity of the Greater Pittsburgh International Airport.
PA 61	From US 222 near Tuckerton north to I-78 Interchange 9 at Hamburg.
PA 93	From I-81 Interchange 41 east and south to PA 924 at west end of Hazleton.
PA 114	From US 11 near Hogestown north to I-81 Interchange 18.
PA 132	From I-95 near Cornwells Heights northwest to Pennsylvania Turnpike Interchange 28 via US 1 connection.
PA 924	From junction with PA 93 west to I-81 Interchange 40 near Hazleton.
PA 100	From US 202 near West Chester north to the Budd Company Plant located approximately 1.1 miles north of Pennsylvania Turnpike (I-76) Interchange 23 (Dowington Interchange).
PA 924	From I-81 west to proposed Ryder/PIE Nationwide terminal near Hazleton.
US 220 Business	From the PA Turnpike (I-70 & 76) Exit 11 at Bedford north to the first interchange of US 220.
US 220	From King north to I-80 Interchange 23 including the overlapping section with US 22 from west of Duncansville to east of Duncansville.
Greenwood Road (LR 07027, Spur E).	From US 220 west to Second Avenue in Altoona.
Second Avenue	From Greenwood Road (LR 07027, Spur E) north to the Ward Trucking Company Terminal in Altoona.

Note.—PA 147 and US 220 from I-80 Interchange 31 near Milton north and east to US 15 in Williamsport were approved as part of the Interstate System on September 23, 1983.

Posted route No.	From—	To—
Vermont		
VT 9	I-91 Interchange 3 north of Brattleboro.	New Hampshire St. Line.
US 7	Southern Terminus of the four lane divided highway in the town of Wallingford.	US 4 Rutland City.
US 4	New York St. Line	East Limit of Rutland City.

[FR Doc. 84-3028 Filed 2-2-84; 8:45 am]

BILLING CODE 4910-22-M

DEPARTMENT OF TREASURY

Internal Revenue Service

26 CFR Part 1

[T.D. 7939]

Allocation and Apportionment of Deductions

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final regulations.

SUMMARY: This document contains amendments to the Income Tax Regulations relating to the allocation and apportionment of deductions for purposes of computing taxable income from sources within the United States and taxable income from other sources. Prior to these amendments, the rules for allocation and apportionment of deductions contained in § 1.861–8 and § 1.882–5 applied only for taxable years beginning after December 31, 1976. These amendments provide taxpayers the option to apply the rules in § 1.861–8 or § 1.882–5 to taxable years beginning before January 1, 1977.

EFFECTIVE DATE: The changes made by this Treasury decision are effective for taxable years beginning after December 31, 1953.

FOR FURTHER INFORMATION CONTACT: Charles Saverude of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, Attention: CC:LR:T (LR–215–78), or call 202–566–3289 (not a toll-free call).

SUPPLEMENTARY INFORMATION:

Background

On August 30, 1982, the **Federal Register** published a proposed amendment to the Income Tax Regulations (26 CFR Part 1) under section 861 (b) of the Internal Revenue Code of 1954 (47 FR 38149). The

amendment proposed was a revision of the effective date provision of § 1.861–8 to permit a taxpayer to apply the rules of § 1.861–8(e) to taxable years beginning before January 1, 1977. Written comments were received on the proposed amendment, but a public hearing was not requested. The proposed amendment is adopted in this Treasury decision but modified to apply to all of the rules of § 1.861–8 instead of only the rules of paragraph (e) of that section. In addition, the effective date of § 1.882–5, relating to apportionment of interest expenses of foreign corporations for purposes of determining the taxable income of such corporations connected with a U.S. trade or business, is modified to permit a taxpayer to apply the rules of § 1.882–5 to taxable years beginning before January 1, 1977.

Explanation of Provisions

Section 1.861–8 provides rules for the allocation and apportionment of deductions. This allocation and apportionment may be necessary to compute taxable income from specific sources or activities in order to apply a separate operative section of the Internal Revenue Code of 1954.

Prior to amendment by this Treasury decision, § 1.861–8 was effective for taxable years beginning after December 31, 1976. For taxable years beginning before January 1, 1977, the process of allocation and apportionment of deductions was governed by those rules formerly under § 1.861–8 which were in effect on October 23, 1957 (T.D. 6258), as amended on August 22, 1966 (T.D. 6892) and on September 29, 1975 (T.D. 7378). Therefore, the taxpayer was required to allocate and apportion deductions for those taxable years on a basis which was supportable under § 1.861–8 as in effect for those years. For this purpose, the past, supportable practices of the taxpayer for allocation and apportionment of deductions were taken into account.

Pursuant to this Treasury decision, paragraph (a)(5) of present § 1.861–8 is revised to give taxpayers the option to apply the rules of present § 1.861–8 to open taxable years beginning before January 1, 1977. The amendment proposed on August 30, 1982, would have applied only to the rules of paragraph (e) of § 1.861–8. This Treasury decision has modified the amendment to make it apply to all of the rules of § 1.861–8. The rules of § 1.861–8 may be applied on a deduction-by-deduction basis if the rules are applied consistently to all taxable years beginning before January 1, 1977, with respect to which action by the Internal Revenue Service is not barred.

Section 1.882–5 sets forth the methods to be used by a foreign corporation in computing the amount of interest expense it may deduct from its gross income effectively connected with a U.S. trade or business. Prior to amendment by this Treasury decision, § 1.882–5 was effective for periods after February 6, 1981 or, at the option of the taxpayer, to taxable years beginning after the last taxable year ending before February 6, 1981 or, at the further option of the taxpayer, to open taxable years beginning after 1976. For taxable years beginning before January 1, 1977, the process of allocation and apportionment of interest expense was governed by § 1.861–8. A comment was received which recommended that foreign corporate taxpayers also be permitted to apply the rules of § 1.882–5 to taxable years beginning before January 1, 1977. That suggestion has been adopted in this Treasury decision.

Regulatory Flexibility Act

The Internal Revenue Service has concluded that these regulations are interpretative and thus the notice and public procedure requirements of 5 U.S.C. 553 do not apply. Accordingly, these regulations do not constitute regulations subject to the Regulatory Flexibility Act (5 U.S.C. Chapter 6).

Regulatory Impact Analysis

Pursuant to Executive Order 12291, a final regulatory impact analysis has been prepared with respect to these regulations and is available for public inspection and copying at the Internal Revenue Service, Room 4429, 1111 Constitution Avenue, N.W., Washington, D.C. 20224.

Drafting Information

The principal author of these final regulations is Herman B. Bouma of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulations, both on matters of substance and style.

List of Subjects in 26 CFR 1.861–1–1.997–1

Income taxes, Aliens, Exports, DISC, Foreign investments in U.S., Foreign tax credits, Sources of income, U.S. investments abroad.

Adoption of Amendments to the Regulations

PART 1—[AMENDED]

The following amendments to 26 CFR Part 1 are hereby adopted:

Paragraph 1. Paragraph (a) (5) of § 1.861–8 is revised to read as follows:

§ 1.861–8 Computation of taxable income from sources within the United States and from other sources and activities.

(a) *In general*—* * *

(5) *Effective date*—(i) *Taxable years beginning after December 31, 1976.* The provisions of this section apply to taxable years beginning after December 31, 1976.

(ii) *Taxable years beginning before January 1, 1977.* For taxable years beginning before January 1, 1977, § 1.861–8 applies as in effect on October 23, 1957 (T.D. 6258), as amended on August 22, 1966 (T.D. 6892) and on September 29, 1975 (T.D. 7378). The specific rules for allocation and apportionment of deductions set forth in this section may, at the option of the taxpayer, apply to those taxable years on a deduction-by-deduction basis if the rules are applied consistently to all taxable years with respect to which action by the Internal Revenue Service is not barred by any statute of limitations. Thus, for example, a calendar year taxpayer may choose to have the rules of paragraph (e)(2) of this section apply for the allocation and apportionment of all interest expenses for the two taxable years ending December 31, 1975 and 1976, which are open years under examination, and may justify the allocation and apportionment of all research and development expenses for those years on a basis supportable under § 1.861–8 as in effect for 1975 and 1976 without regard to the rules of paragraph (e)(3) of this section.

* * * * *

Par. 2. Paragraph (d) of § 1.882–5 is revised to read as follows:

§ 1.882–5 Determination of interest deduction.

* * * * *

(d) *Effective date.* This section applies to periods after February 6, 1981, or, at the option of the taxpayer, to:

(1) Taxable years beginning after the last taxable year ending before February 6, 1981, or

(2) All open taxable years beginning after 1976, or

(3) All open taxable years.

This Treasury decision is issued under the authority contained in sections 882 (c) and 7805 of the Internal Revenue Code of 1954 (80 Stat. 1556; 26 U.S.C. 882(c) and 68A Stat. 917; 26 U.S.C. 7805).

Approved: January 18, 1984.

Roscoe L. Egger, Jr.,

Commissioner of Internal Revenue.

John E. Chapoton,

Assistant Secretary of the Treasury.

[FR Doc. 84-3089 Filed 2-2-84; 8:45 am]

BILLING CODE 4830-01-M

POSTAL SERVICE

39 CFR Part 111

Detached Address Labels for Third-Class Flat Mailings

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: In order to clear up any uncertainty caused by the language of the current regulation governing use of detached address labels for saturation mailings of third-class flats, the Postal Service is rephrasing the regulation to make it clear that the mail piece, which consists of an address card and other mail matter in the form of a flat, is handled and delivered by the Postal Service as a single mail piece.

EFFECTIVE DATE: March 1, 1984.

FOR FURTHER INFORMATION CONTACT: Grayson M. Poats, (202) 245-4802.

SUPPLEMENTARY INFORMATION: An unanticipated problem has arisen with regard to the Postal Service regulation governing use of detached address labels for third-class flat mailings. Material other than that specified by the regulation is being printed on the front of some address cards and reports have been received of instances where the card is not being delivered with the rest of the contents of the mail piece of which it is a part. Neither of these circumstances was intended by the Postal Service and this rule is designed to so clarify the regulation.

To make it absolutely clear that the detached address label is a part of the mail piece and is to be delivered with the remainder of the contents of the mail piece, the statement that is required to be printed on the address card by Domestic Mail Manual § 661.331 is changed to read, "Postal Service regulations require that this address card be delivered together with its accompanying postage paid mail. If you should receive this card without its accompanying mail, please notify your local postmaster."

Section 661.331 is also changed to specifically state that only the recipient's address, the mailer's return address, the required statement and the indicia of postage payment may appear on the front of the card used as a detached address label.

For the above reasons, the Postal Service has determined that the following change to section 661.331 of the Domestic Mail Manual, which is incorporated by reference in the Code of Federal Regulations (see 39 CFR 111.1), is necessary to ensure the correct understanding of the Postal Service's practice of permitting the mailing of third-class flats with detached address labels.

List of Subjects in 39 CFR Part 111

Postal Service.

PART 111—[AMENDED]

Chapter 6—Third-Class Mail

661—Addressing.

In 661.33, change 661.331 to read as follows:

.331 The address for each flat must be placed on an address card. There must be one and only one address card for each flat. The card must be mailable and of standard size (see 650). The address card must contain the recipient's address and the mailer's return address. Each address card must carry the following words in a bold type size of at least ⅛ inch: "Postal Service regulations require that this address card be delivered together with its accompanying postage paid mail. If you should receive this card without its accompanying mail, please notify your local postmaster." Nothing other than addresses, identification, the above quoted language, and indicia of postage payment may appear on the front of the card.

A transmittal letter making this change in the pages of the Domestic Mail Manual will be published and will be transmitted to subscribers automatically. Notice of issuance of the transmittal letter will be published in the **Federal Register** as provided in 39 CFR 111.3.

(39 U.S.C. 401(2), 410(a), 403)

W. Allen Sanders,

Associate General Counsel, Office of General Law and Administration.

[FR Doc. 84-3087 Filed 2-2-84; 8:45 am]

BILLING CODE 7710-12-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 73 and 74

Oversight of the Radio and TV Broadcast Rules

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This Order amends broadcast station regulations in 47 CFR Parts 73 and 74 of the FCC rules. Amendments are made to delete regulations that are no longer necessary, correct inaccurate rule texts, contemporize certain requirements, to execute editorial revisions as needed for purposes of clarity and ease of understanding.

EFFECTIVE DATE: January 27, 1984.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Steve Crane (202) 632-5414, Mass Media Bureau.

List of Subjects in 47 CFR Parts 73 and 74

Radio broadcasting, Television broadcasting.

Order

In the matter of oversight of the Radio and TV Broadcast Rules.

Adopted: January 24, 1984.
Released: January 27, 1984.

By the Chief, Mass Media Bureau.

1. In this *Order*, the Commission focuses its attention on the oversight of its radio and TV broadcast rules. Modifications are made herein to update, delete, clarify or correct broadcast regulations as described in the following amendment summaries:

(a) The Commission has a number of equipment authorization procedures, two of which are type acceptance and type approval.

Type acceptance requires the applicant to make all measurements and tests and submit the data to the FCC laboratory in the Office of Science and Technology for review pursuant to the requirements in Part 2 of the rules.

Type approval requires the manufacturer to submit equipment to the FCC for tests and measurements to be made by the laboratory to determine if our specifications and requirements are met.

In Section 73.53, we find the term type *acceptance* used when type *approval* is correct. The incorrect term is used in the Section title and in several places within the rule. Corrections are made herein. (See Appendix item 2.)

(b) When the TV Sixth Report and Order was adopted by the Commission in April 1952, it instituted transmission standards for the fledgling TV service. The standards Section, an integral part of the rules to this day (Section 73.682), contains an instructive paragraph which describes the Commission's willingness to consider proposed changes or

modifications of these standards. It also delineates the showing expected from a petitioner for such changes.

The procedure for changing technical standards, as set forth in this rule, is general in nature and could apply to petitions for technical standards changes in any of the broadcast services. No such set of instructions has ever been adopted for the aural services, although the procedure could apply there as well as in TV.

Therefore, paragraph (b) of § 73.682 will be removed from Subpart E of Part 73 (TV rules) and relocated into Subpart H (Rules Applicable to All Broadcast Stations). It will be designated § 73.1695 and titled Changes in transmission standards. Henceforth, it will serve as an instruction for petitioners to follow when asking the Commission to consider a technical standards modification in any of the broadcast services. (See Appendix items 5 and 9.)

(c) Section 508 of the Communications Act, entitled Disclosure of Certain Payments, was redesignated section 507 (same Section title) by Pub. L. 96–507, 94 Stat. 2747, December 8, 1980. The requirements of former section 508 (now 507) are referenced in § 73.1212, Sponsorship identification; list retention; related requirements. The reference to Section 508 of the Act is found in paragraph (c) of the rule, and is corrected herein to read "Section 507". (See Appendix item 6.)

(d) The proceeding which eliminated operating and maintenance logs was terminated by the Commission with the adoption of the Report and Order in BC Docket 82–537 on July 14, 1983. 48 FR 38473, August 24, 1983. In addition to eliminating the operating and maintenance log rule sections, many rules, which referred to such logs, were modified to conform to the excised logging requirements.

One such change was made, unintentionally, in § 73.1515, Special field test authorizations. This rule pertains to special authorizations issued to conduct field strength surveys to aid in selecting sites for transmission facilities, to determine coverage areas, or to study factors influencing signal propogation. Reports of findings via such field testing must be submitted to the FCC, and such reports must include, among other things, the record of observations each half hour of the input power to the final amplifier stage, and the AM antenna current or the FM or TV transmitter output power. The rule stated that such observations must be *"logged"* at certain time intervals and that "*copies of the station logs*" be submitted with the required report. The terms "logged" and "station logs" are purely a term of art here, having no relationship to operating or maintenance logs. In our efforts to excise references in the rules to operating and maintenance logging, this subparagraph was erroneously eliminated. Obviously, the observing and reporting of the station tests are necessary to complete the required report; field results without power observations and a record thereof are of no value to us for analysis. In this Order, the term "logged" is given its exact meaning by replacing it with "observed and recorded"; and the requirement to submit "copies of the station logs" is changed to read "copies of these records. * * *". Subparagraph (c)(4) is reinstated into § 73.1515 to set forth the revised text as outlined above. (See Appendix item 7.)

(e) A similar inadvertence occurred in the rules pertaining to the determination of operating power: Sections 73.51 (AM); 73.267 (FM); and 73.663 (TV). Corrections in these rules are made in this Order as follows:

(i) In § 73.51(e)(2), the value of F (Efficiency Factor) applicable to each mode of operation was formerly entered in the operating log. In the Report and Order in BC Docket 82–537, in which operating logs were eliminated, an entry was required in the *station* log (instituted in the same Report and Order). It was never our desire to switch from an operating log requirement to a station log requirement. We merely meant to require licensees to retain the value of F, after making the determination, in their station files. The rule is modified here to correct (and eliminate) the station logging requirement and will direct the mere retention of the determined F value in the station file.

(ii) In the rules "Determining Operating Power" for FM and TV (§§ 73.267 and 73.663 respectively), a slightly different aberration took place than that described in (e)(i) above for AM stations. In determining operating power by the indirect method, both the FM and TV rules stated that the value of F was to be established and *a record was to be kept thereof.* (Emphasis added). Further, in the case of composite transmitters, or those which the final amplifier stages were modified pursuant to FCC approval, the licensee was required to furnish the FCC and *also retain with the station records.* (Emphasis added) the measurement data used as a basis for determining the value of F. In our rule's review to eliminate references to operating or maintenance logging requirements, these provisos, regarding retention of F value data in the station's files, were erroneously removed. They, of course, need to be retained for technical record purposes in the station files. We will reenter the filing requirements into the subject rules via this Order. (See Appendix items 1, 3 and 4.)

(f) Two errors are found in § 73.1570, Modulation levels: AM, FM and TV aural, in subparagraph (b)(3)(ii).

The limitation of the "modulation of the main carrier by the arithmetic sum of the subcarriers to not more than 10 percent * * *" is corrected to read "* * * to not more than 15 percent* * *", which conforms to the rules for TV transmission standards, specifically § 73.682(a)(23)(ii).

Also in § 73.1570(b)(3)(ii), an exception to the 15 percent modulation is made where the rule states "* * * unless some other subcarrier modulation level is specified in the instrument of authorization." Whereas, the Commission in the past formally authorized multiplexing, the practice now, pursuant to § 73.682(a)(23), permissively allows it without formal request for authorization to operate. Section 73.1570(b)(3)(ii) is amended accordingly by excising the incorrect phrase quoted above. (See Appendix item 8.)

(g) Pursuant to §§ 73.3526 and 73.3527 (Local public inspection file rules), each applicant for renewal of license must place in the station public inspection file a statement certifying compliance with the requirement to present pre-filing and post-filing announcements as required by § 73.3580, local public notice of filing of applications. Paragraph (e) of § 73.3526 and paragraph (g) of § 73.3527 specify the periods of retention for the various records in the public files. These paragraphs are silent regarding the retention period for pre- and post-filing announcements. However, § 73.3580(h) states the retention period in the public file will be "as long as the application to which it refers." Clarification is made herein by entering this retention period into §§ 73.3526 and 73.3527.

These two local public file rules are subject to modification of another filing requirement, of which TV licensees and permittees were relieved in a Commission Order effective in October 1980. In the Matter of Cable TV Syndicated Program Exclusivity Rules, Report and Order in Dockets 20988 and 21284. 79 FCC 2d 663. Via this final Order the Commission eliminated the syndicated exclusivity rules from Part 76, Subpart F of the Cable TV Service regulations. One of the excised rules, § 76.157, stated that copies of exclusivity contracts were to be kept in the TV licensee's or permittee's public inspection files. While this proviso was removed from the Cable TV Service rules, it survives in the local public file rules for commercial and noncommerical TV stations. (§ 73.3526(a)(13) and 73.3527(a)(9).) Also,

the period of retention for these contracts appears in § 73.3527(g). (The period of retention paragraph in § 73.3526 is silent on retention provisions.) All references to such contract filing and retention thereof are removed herein to conform to the Commission's action in the Report and Order in Dockets 20988 and 21284. (See Appendix items 10 and 11.)

(h) As stated in paragraph (g) above, applicants for renewal of broadcast stations must give notice of the filing of the renewal application by broadcasting pre- and post-filing announcements. The text of the announcements is set forth in subparagraphs (d)(4) (i) and (ii) of § 73.3850, Local public notice of the filing of broadcast applications. In the announcements, reference is made to "programing during the next three years" for certain types of stations, a statement indicating the former triennial license period for stations. License renewal periods were extended from three years to five years for TV and seven years for radio stations in the Omnibus Budget Reconciliation Act enacted into law on August 13, 1981. Pub. L. 97–35, 95 Stat. 357, Section 1241(a). In conforming our rules to the newly enacted license period legislation, corrections in the pre- and post-filing announcements texts in this rule were overlooked. The text stating "* * * during the next three years", is changed to read "* * * during the next license term." (See Appendix item 12.)

(i) One of the significant deregulatory benefits resulting from the elimination of operating and maintenance logs (see paragraph (d) above), was the Commission's excision of onerous requirements to follow a schedule of certain meter and monitor readings, inspections, observations and measurements as well as the requirement to enter the results into the log. One such schedule of inspections eluded our review of the rules. It is found in § 74.933, Remote control operation (ITFS) in subparagraph (a)(3), wherein, after advising that "transmitting apparatus shall be inspected as often as may be necessary to insure proper operation", the rule continues by adding a schedule to follow by stating "and in any event at least once a day." The "schedule" of once a day is eliminated in this Order thus conforming the rule to the Commission's intent as expressed in the Report and Order. (See Appendix item 13.)

(2) No substantive changes are made herein which impose additional burdens or remove provisions relied upon by licensees or the public. We conclude, for the reasons set forth above, that these revisions will serve the public interest.

(3) These amendments are implemented by authority delegated by the Commission to the Chief, Mass Media Bureau. Inasmuch as these amendments impose no additional burdens and raise no issue upon which comments would serve any useful purpose, prior notice of rulemaking, effective date provisions and public procedure thereon are unnecessary pursuant to the Administrative Procedure and Judicial Review Act provisions of 5 U.S.C. 553(b)(3)(B).

(4) Since a general notice of proposed rulemaking is not required, the Regulatory Flexibility Act does not apply.

(5) Therefore, it is ordered, that pursuant to sections 4(i), 303(r) and 5(c)(1) of the Communications Act of 1934, as amended, and §§ 0.61 and 0.283 of the Commission's Rules, Parts 73 and 74 of the FCC Rules and Regulations are amended as set forth in the attached Appendix, effective January 27, 1984.

(6) For further information on this *Order*, contact Steve Crane, (202) 632–5414, Mass Media Bureau.

Federal Communications Commission.

James C. McKinney,

Chief, Mass Media Bureau.

Appendix

PART 73—[AMENDED]

1. 47 CFR 73.51 is amended by revising paragraph (e)(2) to read as follows:

§ 73.51 Determining operating power.

* * * * *

(e) * * *

(2) The value of F applicable to each mode of operation must be determined and a record kept thereof with a notation as to its derivation. This factor is to be established by one of the methods described in paragraph (f) of this section and retained in the station records.

* * * * *

2. 47 CFR 73.53 is amended by revising paragraph (a)(1), the introductory text of paragraph (c), and paragraph (c)(11) to read as follows:

§ 73.53 Requirements for type approval of antenna monitors.

(a) General requirements:

(1) Any manufacturer desiring to submit a monitor for type approval shall submit an application to the FCC in accordance with the procedure set forth in § 2.561 of this chapter, and subject to the fee schedule in § 1.1120 of this chapter.

* * * * *

(c) An antenna monitor eligible for type approval by the FCC shall meet the following specifications:

* * * * *

(11) The monitor shall be accompanied by complete and correct schematic diagrams and operating instructions. For the purpose of type approval, these diagrams and instructions shall be considered as part of the monitor.

* * * * *

3. 47 CFR 73.267 is amended by revising the introductory text of paragraph (c)(3) and paragraph (c)(3)(i) to read as follows:

§ 73.267 Determining operating power.

* * * * *

(c) * * *

(3) The value of F is to be determined and a record kept thereof by one of the following procedures listed in order of preference:

(i) Using the most recent measurement data for calibration of the transmission line meter according to the procedures described in paragraph (b) of this Section or the most recent measurements made by the licensee establishing the value of F. In the case of composite transmitters or those in which the final amplifier stages have been modified pursuant to FCC approval, the licensee must furnish the FCC and also retain with the station records the measurement data used as a basis for determining the value of F.

* * * * *

4. 47 CFR 73.663 is amended by revising the introductory text of paragraph (d)(3) and paragraph (d)(3)(i) to read as follows:

§ 73.663 Determining operating power.

* * * * *

(d) * * *

(3) The value of F is to be determined and a record kept thereof by one of the following procedures listed in order of preference:

(i) Using the most recent measurement data for calibration of the transmission line meter according to the procedures described in paragraph (c) of this section or the most recent measurements made by the licensee establishing the value of F. In the case of composite transmitters or those in which the final amplifier stages have been modified pursuant to FCC approval, the licensee must furnish the FCC and also retain with the station records the measurement data used as a basis for determining the value of F.

* * * * *

§ 73.682 [Amended]

5. 47 CFR 73.682 is amended by removing paragraph (b) and redesignating present paragraph (c) as (b).

6. 47 CFR 73.1212 is amended by revising paragraph (c) to read as follows:

§ 73.1212 Sponsorship identification; list retention; related requirements.

* * * * *

(c) In any case where a report has been made to a broadcast station as required by section 507 of the Communications Act of 1934, as amended, of circumstances which would have required an announcement under this section had the consideration been received by such broadcast station, an appropriate announcement shall be made by such station.

* * * * *

7. 47 CFR 73.1515 is amended by revising paragraph (c)(4) as follows:

§ 73.1515 Special field test authorizations.

* * * * *

(c) * * *

(4) The input power to the final amplifier stage, and the AM antenna current or the FM or TV transmitter output power must be observed and recorded at half hour intervals and at any time that the power is adjusted or changed. Copies of these records must be submitted to the FCC with the required report.

* * * * *

8. 47 CFR 73.1570 is amended by revising paragraph (b)(3)(ii) to read as follows:

§ 73.1570 Modulation levels: AM, FM, and TV aural.

* * * * *

(b) * * *

(3) * * *

(ii) TV stations transmitting multiplex signals on the aural carrier for telemetry, or Subscription Television Service, must limit the modulation of the main carrier by the arithmetic sum of the subcarriers to not more than 15%.

* * * * *

9. New 47 CFR 73.1695 is added to the rules to read as follows:

§ 73.1695 Changes in transmission standards.

The FCC will consider the question whether a proposed change or modification of transmission standards adopted for broadcast stations would be in the public interest, convenience, and necessity, upon petition being filed by the person proposing such change or modification, setting forth the following:

(a) The exact character of the change or modification proposed;

(b) The effect of the proposed change or modification upon all other transmission standards that have been adopted by the FCC for broadcast stations;

(c) The experimentation and field tests that have been made to show that the proposed change or modification accomplishes an improvement and is technically feasible;

(d) The effect of the proposed change or modification in the adopted standards upon operation and obsolescence of receivers;

(1) Should a change of modification in the transmission standards be adopted by the FCC, the effective date thereof will be determined in the light of the considerations mentioned in this paragraph (d);

(e) The change in equipment required in existing broadcast stations for incorporating the proposed change or modification in the adopted standards; and

(f) The facts and reasons upon which the petitioner bases the conclusion that the proposed change or modification would be in the public interest, convenience, and necessity.

10. 47 CFR 73.3526 is amended by removing paragraph (a)(13) and marking it Reserved and revising the introductory text of paragraph (e) to read as follows:

§ 73.3526 Local public inspection file of commercial stations.

(a) * * *

(13) [Reserved]

* * * * *

(e) *Period of retention.* The records specified in paragraph (a)(4) of this section shall be retained for the period specified in § 73.1940 (2 years). The manual specified in paragraph (a)(6) of this section shall be retained indefinitely. The letters specified in paragraph (a)(7) of this section shall be retained for the period specified in § 73.1202 (3 years). The "issues/programs" list specified in paragraph (a)(14) of this section shall be retained for the term of the license (7 years). The certification specified in paragraph (a)(15) of this section shall be retained for the period specified in § 73.3580 (for as long as the application to which it refers). The records specified in paragraphs (a) (1), (2), (3), (5), (8), (9), (11), and (12) of this section shall be retained as follows:

* * * * *

11. 47 CFR 73.3527 is amended by removing paragraph (a)(9) and marking it Reserved and by revising the introductory text of paragraph (g) to read as follows:

§ 73.3527 Local public inspection file of noncommercial educational stations.

(a) * * *

(9) [Reserved]

(g) *Period of retention.* The records specified in paragraph (a)(4) of this section shall be retained for the period specified in § 73.1940 (2 years). The manual specified in paragraph (a)(6) of this section shall be retained indefinitely. The donor list specified in paragraph (a)(8) of this section shall be retained for two years as specified in § 73.1840. The certification specified in paragraph (a)(10) of this section shall be retained for the period specified in § 73.3580 (for as long as the application to which it refers). The records specified in paragraphs (a) (1), (2), (3), (5), (7), (b) and (c) of this section shall be retained as follows:

* * * * *

12. 47 CFR 73.3580 is amended by revising the introductory texts of paragraphs (d)(4) (i) and (ii) to read as follows:

§ 73.3580 Local public notice of filing of broadcast applications.

* * * * *

(d) * * *

(4) * * *

(i) *Pre-filing announcements.* During the period and beginning on the first day of the sixth calendar month prior to the expiration of the license, and continuing to the date on which the application is filed, the following announcement shall be broadcast on the 1st and 16th day of each calendar month. Stations broadcasting primarily in a foreign language should broadcast the announcements in that language.

On *(date of last renewal grant) (Station's call letters)* was granted a license by the Federal Communications Commission to serve the public interest as a public trustee until *(expiration date).*

Our license will expire on *(date).* We must file an application for license renewal with the FCC *(date four calendar months prior to expiration date).* When filed, a copy of this application will be available for public inspection during our regular business hours. It contains information concerning this station's performance during the last *(period of time covered by the application),* (only TV and noncommercial radio say the remainder of this paragraph) and projections of our programming during the next license period.

Individuals who wish to advise the FCC of

facts relating to our renewal application and to whether this station has operated in the public interest should file comments and petitions with the FCC by (date first day of last full calendar month prior to the month of expiration).

Further information concerning the FCC's broadcast license renewal process is available at (address of location of the station's public inspection file) or may be obtained from the FCC, Washington, D.C. 20554.

* * * * *

(ii) *Post filing announcements.* During the period beginning on the date on which the renewal application is filed to the sixteenth day of the next to last full calendar month prior to the expiration of the license, all applications for renewal of broadcast station licenses shall broadcast the following announcement on the 1st and 16th day of each calendar month. Stations broadcasting primarily in a foreign language should broadcast the announcements in that language.

On (*date of last renewal grant*) (*Stations call letters*) was granted a license by the Federal Communications Commission to serve the public interest as a public trustee until (*expiration date*).

Our license will expire on (*date*). We have filed an application for renewal with the FCC.

A copy of this application is available for public inspection during our regular business hours. It contains information concerning this station's performance during the last (*period of time covered by the application*), (only TV and noncommercial radio say the remainder of this paragraph) and projections of our programming during the next license period.

* * * * *

PART 74—[AMENDED]

13. 47 CFR 74.933 is amended by revising paragraph (a)(3) to read as follows:

§ 74.933 Remote control operation.

(a) * * *

(3) Facilities shall be provided at the control position which will permit the operator to turn the transmitter on and off at will. The control position shall also be equipped with devices suitable for observing the overall characteristics of the transmissions and a carrier-operated device which will give a continuous visual indication whenever the transmitting antenna is radiating a signal. The transmitter apparatus shall be inspected as often as may be necessary to insure proper operation.

* * * * *

[FR Doc. 2879 Filed 2-2-84; 8:45 am]
BILLING CODE 6712-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 611

[Docket No. 31222-248]

Foreign Fishing Provisions

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule.

SUMMARY: NOAA issues a final rule to revise the conditions that require redetermination of domestic annual processing capacity in the Atlantic silver and red hake fishery. The rule is intended to minimize administrative procedures and provide opportunity for public comment on redeterminations of domestic processing capacity.

EFFECTIVE DATE: March 5, 1984.

FOR FURTHER INFORMATION CONTACT: Peter Colosi, 617-281-3600, ext. 272.

SUPPLEMENTARY INFORMATION: The proposed rulemaking was published in the **Federal Register** on August 30, 1983 (48 FR 39254), and requested public comment for 30 days ending September 29, 1983. No comments, either written or verbal, were received. Therefore, this final rule is established as originally proposed and described below.

The foreign fisheries for Atlantic silver and red hake have been governed since 1977 by the Preliminary Fishery Management Plan for the Hake Fisheries of the Northwestern Atlantic (PMP) and by the foreign fishing regulations (50 CFR 611.51). The regulations contain procedures for processing joint venture permits, and an associated reassessment of domestic annual processing capacity (DAP). The 1983 amendment to the PMP (48 FR 414) specified DAPs for the Georges Bank and Southern New England/Mid-Atlantic management units of silver hake which are less than the corresponding Domestic Annual Harvest (DAH); this results in surplus amounts above the U.S. harvests which may be available for joint ventures. Foreign fishing applications requesting amounts of silver and red hake up to specified levels may be approved without triggering formal procedures of this final rule.

However, if a joint venture permit application is received and if the amount of U.S.-harvested hake requested by the applicant exceeds the surplus available, the Secretary will reassess DAP for hake to determine whether additional JVP may be made available. This reassessment procedure, contained in § 611.51 (b) and (c), requires that the Director, Northeast Region, National Marine Fisheries Service (NMFS) shall, on behalf of the Secretary, make an updated estimate of domestic annual processing capacity (DAP) and publish it in the **Federal Register**. A determination and notice must be published each time an application is received. If the new DAP estimate is less than the initial estimate of domestic annual harvest (DAH), then the surplus U.S. harvest is available for joint venture processing (JVP). If the new DAP estimate is equal to or greater than the initial DAH then no U.S.-harvested fish may be made available for joint venture processing.

This rulemaking clarifies the definition of JVP in § 611.51(a) and revises § 611.51(b) to provide for public comment on redetermination of DAP estimates (i.e. whether and to what extent U.S.-harvested hake will be processed by U.S. fish processors). This increases the opportunity for public participation in the process of reviewing joint venture permit applications in this fishery and will increase the information available to the Regional Director in revising DAP estimates.

Classification

The Regional Director determined that this regulatory amendment is necessary for the conservation and management of the Atlantic silver and red hake fishery and that it is consistent with the Magnuson Act and other applicable law.

On October 5, 1982, the Assistant Administrator for Fisheries, NOAA (Assistant Administrator) determined, based upon an environmental assessment, that there will be no significant environmental impact resulting from this action. Accordingly, an environmental impact statement is not required under the National Environmental Policy Act of 1969.

The proposed revision of 50 CFR 611.51 represents procedural changes designed to (1) reduce the frequency of determinations of DAP and (2) provide for public comment in this procedure. These procedural adjustments are of housekeeping nature and will have no economic impacts. The Assistant Administrator has determined, based upon the fact that this regulatory change is within the scope of the approved PMP, that this action is not major under Executive Order 12291. Accordingly, preparation of a regulatory impact analysis is not required.

Voluntary telephone surveys of projects domestic harvesting and processing capacity are conducted two or three times a year to support DAP

redeterminations. This rule therefore contains a collection of information requirement for purposes of the Paperwork Reduction Act. NOAA has obtained approval from the Office of Management and Budget (OMB) to include the burden hours for this telephone survey under OMB #0648–0114. Voluntary catch reports on hakes are submitted to NOAA under the Three-Tier Fisheries Information Collection System (OMB #0848–0018). No increase in the previously approved number of burdens hours for the voluntary-reporting will result from this final rulemaking.

The General Counsel for the Department of Commerce has certified to the Small Business Administration that this action will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act. Summary published at 48 FR 39254, August 30, 1983. As a result, a regulatory flexibility analysis was not prepared.

The Regional Director has determined that this rule does not directly affect the coastal zone of any State with an approved coastal zone management program.

List of Subjects in 50 CFR Part 611

Fisheries, Foreign relations, Reporting and recordkeeping requirements.

Dated: January 30, 1984.

Carmen J. Blondin,

Deputy Assistant Administrator for Fisheries Resource Management, National Marine Fisheries Service.

PART 611—FOREIGN FISHING

For the reasons set out in the preamble, 50 CFR Part 611, Subpart C is amended as follows:

1. Authority citation for Part 611 reads as follows:

Authority: 16 U.S.C. *et seq.* unless otherwise noted.

2. Section 611.51 is amended by revising paragraphs (a) and (b) and removing paragraph (c) to read as follows:

§ 611.51 Hake fishery.

(a) *Definitions.* For purposes of this section (1) JVP means the estimated U.S. harvest of hakes in excess of the amount which can and will be utilized by U.S. fish processors; JVP may be available for transfer to foreign-flag processing vessels; and (2) DAP means the part of the estimated U.S. harvest of hake which can and will be utilized by U.S. fish processors.

(b) *Procedures to reassess DAP.* (1) *Preliminary reassessment.* (i) If a foreign fishing permit application is received for a joint venture and if the amount of U.S.-harvested hake requested by the applicant exceeds the amount of JVP that can be made available to the applicant, the Secretary will reassess DAP for hake to determine whether additional JVP may be made available.

(ii) The Secretary will consult with the New England and Mid-Atlantic Fishery Management Councils and consider the following factors in making the reassessment:

(A) U.S. catch and participation in the fishery to date;

(B) Projected U.S. catch and participation in the fishery for the remainder of the fishery year;

(C) U.S. processing performance to date; and

(D) Projected U.S. processing performance for the remainder of the fishing year.

(iii) The preliminary reassessment will be published in the **Federal Register** and a public comment period of 15 days will be provided.

(2) *Final reassessment.* The Secretary will make a final reassessment of DAP after taking into consideration all information received under paragraph (b)(1)(ii) of this section, and any additional relevent information that may become available. The final reassessment will be published in the **Federal Register** with the reasons for the determination.

(3) *Availability of data.* All data relevent to the reassessment will be available in aggregate form for public review at the Regional Director's office during the public comment period.

[FR Doc. 84–2376 Filed 2–2–84; 8:45 am]

BILLING CODE 3510–22–M

Proposed Rules

Federal Register
Vol. 49, No. 24
Friday, February 3, 1984

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service

7 CFR Part 717

[Amdt. 4]

Holding of Referenda

AGENCY: Agricultural Stabilization and Conservation Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule would amend the regulations at 7 CFR Part 717 to provide that return postage paid envelopes will no longer be furnished to producers voting in a referendum which is conducted by mail. The proposed regulations would conform with regulations of the United States Postal Service which do not permit the use by Federal agencies of postage paid envelopes for private benefit.

DATES: Comments on the proposed rule must be received on or before February 21, 1984 in order to be assured of consideration.

ADDRESS: Send comments to the Director, Tobacco and Peanuts Division, ASCS, Department of Agriculture, P.O. Box 2415, Washington, D.C. 20013. All written submissions made pursuant to this notice will be made available for public inspection in room 5750, South Building, USDA, between the hours of 8:15 a.m. and 4:45 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Jay S. Poole, Agricultural Program Specialist, Tobacco and Peanuts Division, USDA–ASCS, P.O. Box 2415, Washington, D.C. 20013, (202) 447–2715.

SUPPLEMENTARY INFORMATION: This rule has been reviewed under USDA procedures established in accordance with Executive Order 12291 and Secretary's Memorandum 1512–1 and has been classified as "not major." It has been determined that this rule will not result in: (1) An annual effect on the economy of $100 million or more; (2) a major increase in costs or prices for consumers, individual industries, Federal, State or local governments, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises, to compete with foreign-based enterprises in domestic or export markets.

The title and number of the Federal Assistance Program to which this rule applies are: Commodity Loan and Purchases; 10.051, as found in the Catalog of Federal Domestic Assistance.

It has been determined that the Regulatory Flexibility Act is not applicable to this proposed rule since the Agricultural Stabilization and Conservation Service (ASCS) is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this rule.

Eligible producers may vote in a referendum to determine whether marketing quotas will be in effect for a specified commodity. If more than one-third of the producers voting in such referendum disapprove marketing quotas, such quotas will not be in effect and price support will not be available for such commodity. Currently producers may vote by mail and are provided return postage paid envelopes at the time ballots are distributed. Producers may use such envelopes to deliver or mail their ballots to their local county ASCS offices. The regulations of the United States Postal Service (39 CFR 111.1) incorporate by reference the Domestic Mail Manual, a publication of the U.S. Postal Service. Section 137.25 of the Domestic Mail Manual (Issue 9, 5–1–82) provides that Federal agencies may not permit the use of return postage paid envelopes for private benefit. It is proposed that ASCS no longer provide return postage paid envelopes to producers when a commodity referendum is conducted. As an alternative to paying postage, producers voting in such referendum may deliver their ballots to the local county ASCS office in accordance with the provisions of 7 CFR Part 717.

List of Subjects in 7 CFR Part 717

Marketing quotas, Holding of referenda.

Proposed Rule

PART 717—[AMENDED]

Accordingly, 7 CFR Part 717 is amended as follows:

1. The authority citation is revised to read as follows:

Authority: Secs. 312, 317, 336, 343, 344, 354, 358, 375, 52 Stat. 46, as amended, 79 Stat. 66, 52 Stat. 55, as amended, 56, as amended, 79 Stat. 1197, 52. Stat. 61, as amended, 55 Stat. 88 as amended, 52 Stat. 66 as amended; 7 U.S.C. 1312, 1314c, 1336, 1343, 1344b, 1354, 1358, 1375.

2. Section 717.19 paragraph (a) is revised to read as follows:

§ 717.19 Manner of voting.

(a) *Voting procedure.* Each person to whom a ballot is issued by mail or in person may vote in the referendum by marking the ballot so as to indicate clearly how the vote is cast, placing the ballot in a plain envelope, sealing the plain envelope, inserting it in an envelope provided by ASCS which is marked clearly with the voter's name and return address, signing the certification on such envelope or making his mark thereto (which mark shall be witnessed), sealing such envelope, and delivering or mailing it to the office of the county committee for the county in which he is eligible to vote.

* * * * *

Signed in Washington D.C. on January 30, 1984.

Everett Rank,

Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc. 84–2443 Filed 2–2–84; 8:45 am]

BILLING CODE 3410–05–M

Farmers Home Administration

7 CFR Part 1942

Community Facility Loans; Extension of Comment Period

AGENCY: Farmers Home Administration, USDA.

ACTION: Extension of comment period of proposed rule.

SUMMARY: On December 5, 1983, the Farmers Home Administration issued a notice of proposed rulemaking to amend its regulations regarding Community Facility Loans [48 FR 54485, December 5

1983]. The comment period is being extended at the request of the public.

DATE: Written comments must be received no later than March 2, 1984.

ADDRESSES: Submit written comments in duplicate to the Office of the Chief, Directives Management Branch, Farmers Home Administration, U.S. Department of Agriculture, Room 6346–S, 14th and Independence Avenue, SW., Washington, D.C. 20250. All written comments made pursuant to this notice will be available for public inspection during regular work hours at the address given above.

FOR FUTHER INFORMATION CONTACT: Wallis B. McArthur, Loan Specialist, Water and Waste Disposal Division, Farmers Home Administration, Room 6322–S, or Gary J. Morgan, Civil Engineer, Program Support Staff, Room 6334–S, Washington, D.C. 20250, telephone (202) 382–8583.

SUPPLEMENTARY INFORMATION: Interested parties have requested additional time to comment on the substantive issues in the proposed rule.

The agency is granting the request to extend the comment period. Notice is hereby given that an extension of time for the filing of comments is granted to March 2, 1984.

Authorities: (7 U.S.C. 1989, 7 CFR 2.23; 7 CFR 2.70)

Dated: January 30, 1984.

Charles W. Shuman,

Administrator, Farmers Home Administration.

[FR Doc. 84–2980 Filed 2–2–84; 8:45 am]

BILLING CODE 3410–07–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Parts 2, 154, 201, 270, and 271

[Docket Nos. RM 83–72–000 and RM 82–16–000]

First Sales of Pipeline Production Under Section 2(21) of the Natural Gas Policy Act of 1978; Public Hearing

Issued: January 30, 1984.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of Public Hearing.

SUMMARY: On December 28, 1983, the Federal Energy Regulatory Commission issued a Notice of Proposed Rulemaking (49 FR 70, January 3, 1984) proposing to establish regulations for first sales of pipeline production under the Natural Gas Policy Act of 1978. The Commission received requests for a public hearing on this proposal and has scheduled a public hearing.

DATES: The public hearing will be held on Thursday, February 23, 1984, at 10:00 a.m. Requests to participate and the amount of time requested should be received by the Secretary no later than February 16, 1984.

ADDRESSES: The hearing will be held at:

Second Floor, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426

Requests to participate and questions regarding participation should be directed to:

Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426

FOR FURTHER INFORMATION CONTACT: Nancy M. Rizzo, Rulemaking and Legislative Analysis Division, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426 (202) 357–8033.

SUPPLEMENTARY INFORMATION: The Commission panel will receive comments of persons who request to participate. Requests to participate in the hearing should be received by February 16, 1984, in the Office of the Secretary. These requests should indicate the amount of time required for the oral presentation. Persons participating at the hearing should, if possible, bring 50 copies of their testimony to the hearing. A list of the participants in the hearing will be available in the Commission's Office of Public Information and at the designated hearing room on the morning the hearing is convened.

This hearing will not be of a judicial or evidentiary type. There will be no cross-examination of persons presenting statements. However, the panel may question such persons and any interested person may submit questions to the presiding officer to be asked of persons making statements. The presiding officer will determine whether the question is relevant and whether the time limitations permit it to be presented. Any further procedural rules will be announced by the presiding officer at the hearing.

Transcripts of the hearing will be available in the public file for this proceeding, Docket No. RM83–72–000, and may be ordered from the Commission's Office of Public Information.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84–2983 Filed 2–2–84; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 220

[DoD Directive 5400.xx]

Withholding of Technical Data From the Public; Extension of Comment Period

AGENCY: Office of the Secretary, DoD.

ACTION: Proposed rule; extension of comment period.

SUMMARY: As a result of the impact of the proposed rule published in the **Federal Register** on December 22, 1983 (48 FR 56603) the Office of the Secretary of Defense is extending the comment period to give interested persons additional time to respond to the proposed rule.

DATE: Written comments must be received by February 29, 1984.

ADDRESS: Principal Director of Counterintelligence and Security Policy, Office of the Deputy Under Secretary of Defense (Policy), Room 3C276, The Pentagon, Washington, D.C. 20301.

FOR FURTHER INFORMATION CONTACT: Mr. L. Britt Snider, 202–695–8609.

Dated: January 31, 1984.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 84–2981 Filed 2–2–84; 8:45 am]

BILLING CODE 3810–01–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A—5–FRL 2517–4]

Michigan State Implementation Plan; Extension of Comment Period

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rulemaking, notice of extension of comment period.

SUMMARY: The USEPA is giving notice that the comment period for the notice of proposed rulemaking on the Michigan Fugitive Dust Rules 336.371 and 336.372 published December 2, 1983 (48 FR

54377), has been extended (30 days from date of publication). The U.S. EPA is taking this action because an extension was requested by the State of Michigan and a Wayne County Air Agency.

DATE: Comments are now due on or before March 5, 1984.

FOR FURTHER INFORMATION CONTACT: Toni Lesser, Regulatory Specialist, Air and Radiation Branch, U.S. Environmental Protection Agency, 230 S. Dearborn Street, Chicago, Illinois 60604, (312) 886–6037.

SUPPLEMENTARY INFORMATION: This notice extends the period for submitting comments on the notice published December 2, 1983 (48 FR 54377) which proposed to withdraw USEPA's final approval action of November 15, 1982, and to disapprove Michigan rules 336.371 and 336.372. Additionally, the proposal addresses the effects of the National Resources Defense Council's (NRDC's) challenge to USEPA's approval.

The Michigan Department of Natural Resources (MDNR) and the Wayne County Department of Air Pollution Control Division requested that the comment period be extended an additional 60 days. USEPA has reviewed these requests and decided that a 30-day extension of the public comment is appropriate in order to expedite its final rulemaking and comply with the Agency's legal duties under the Clean Air Act.

The comment period is hereby extended to March 5, 1984.

Dated: January 24, 1984.

Dale S. Bryson,

Acting Regional Administrator.

[FR Doc. 84–3003 Filed 2–3–84; 8:45 am]

BILLING CODE 6560–50–M

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40 CFR Part 145

[WH–FRL 2518–6]

Oregon Department of Environmental Quality Underground Injection Control Primacy Application

AGENCY: Enviromental Protection Agency.

ACTION: Notice of public comment period and of public hearing.

SUMMARY: The purpose of this notice is to announce that: (1) The Environmental Protection Agency (EPA) has received a complete application from the State of Oregon requesting primary enforcement responsibility for the Underground Injection Control (UIC) Program; (2) the application is now available for inspection and copying; (3) public comments are requested; and (4) a public hearing will be held.

The proposed comment period will provide EPA the breadth of information and public opinion necessary to approve, disapprove, or approve in part and disapprove in part the application of the Oregon Department of Environmental Quality (ODEQ) to regulate Classes I, II, III, IV, and V injection wells. This application is made under Section 1422 of the Safe Drinking Water Act.

DATES: Requests to hold public hearing and to present oral testimony should be filed within thirty (30) days of this notice. The Public Hearing will be held on March 8, 1984, from 1:00 p.m. to 3:00 p.m. The public comment period closes March 15, 1984. If sufficient public interest in holding the hearing is not expressed within thirty (30) days of this notice, EPA reserves the right to cancel the hearing. If the hearing is canceled, those persons having expressed interest in attending the hearing will be notified of the cancellation either by phone or letter. Other persons should contact EPA in Portland at (503) 221–3250 to confirm date and time.

ADDRESSES: Comments and requests to testify should be mailed to Gerald Opatz, M/S 409, Environmental Protection Agency, Region X, 1200 Sixth Avenue, Seattle, Washington 98101. Copies of the application and pertinent material are available during normal business hours at the following locations:

Environmental Protection Agency, Region X, Library, 1200 Sixth Avenue, Seattle, Washington 989101;
Environmental Protection Agency, 522 S.W. Fifth Avenue, Yeon Building, Second Floor, Portland, Oregon 97204;
Department of Environmental Quality, Water Quality, Water Quality Division, 522 S.W. Fifth Avenue, Portland, Oregon 97204;
Department of Environmental Quality, Northwest Regional Office, 522 S.W. Fifth Avenue, Portland, Oregon 97204;
Department of Environmental Quality, Willamette Valley Regional Office, 895 Summer Street N.E., Salem, Oregon 97310;
Department of Environmental Quality, Southwest Regional Office, 201 W. Main Street, Room 202, Medford, Oregon 97501;
Department of Environmental Quality, Central Regional Office, 2150 N.E. Studio Road, Bend, Oregon 97701; and
Department of Environmental Quality, Eastern Regional Office, 700 S.E. Emigrant Street, Suite 330, Pendleton, Oregon 97801.

The hearing will be held at Department of Environmental Quality Headquarters, 14th Floor Conference Room, 522 S.W. Fifth Avenue, Portland, Oregon.

FOR FURTHER INFORMATION CONTACT: Gerald Opatz, M/S 409, Environmental Protection Agency, Region X, 1200 Sixth Avenue, Seattle, Washington, 98101 PH: (206) 442–1223 or FTS 399–1223. Comments should also be sent to this address.

SUPPLEMENTARY INFORMATION: The Underground Injection Control (UIC) program seeks to protect as "underground sources of drinking water" (USDWs) all aquifers capable of yielding a significant amount of water containing less than 10,000 mg/1 of total dissolved solids. At present, the State of Oregon has one Class I injection well and 707 inventoried Class V injection wells. Class V wells will be studied to assess whether further regulatory measures are required. The State of Oregon does not intend to exempt any aquifers at this time.

The terms listed below comprise a complete listing of the thesaurus terms associated with 40 CFR Part 145, which sets forth the requirements for a State requesting the authority to operate its own permit program of which the Underground Injection Control program is a part. These terms may not all apply to this particular notice.

List of Subjects in 40 CFR Part 145

Indians—land, Reporting and recordkeeping requirements, Intergovernmental relations, Penalties, Confidential business information, Water supply.

Requests for a public hearing should include the following information:

(1) The name, address, and telephone number of the individual, organization, or other entity requesting a hearing;

(2) A brief statement of the requesting person's interest in the UIC program and of information that the requesting person intends to submit at such hearing; and,

(3) The signature of the individual making the request, or if the request is made on behalf of an organization or other entity, the signature of a responsible official of the organization or other entity.

This application from the Oregon Department of Environmental Quality is for the regulation of all injection wells in the State. The application includes a description of the State Underground Injection Control Program, copies of all applicable statutes and rules, a statement of legal authority and a proposed memorandum of agreement

between the Oregon Department of Environmental Quality and the Region X office of the Environmental Protection Agency.

(42 U.S.C. 300)

Dated: January 27, 1984.

Jack E. Ravan,

Assistant Administrator for Water.

[FR Doc. 84-3001 Filed 2-2-84; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 145

[WH-FRL 2518-5]

Vermont Agency of Environmental Conservation Underground Injection Control Primacy Applicaton

AGENCY: Environmental Protection Agency.

ACTION: Notice of public comment period and of public hearing.

SUMMARY: The purpose of this notice is to announce that: (1) The Environmental Protection Agency (EPA) has received a complete application from the State of Vermont requesting primary enforcement responsibility for the Underground Injection Control (UIC) Program; (2) the application is now available for inspection and copying; (3) public comments are requested; and (4) a public hearing will be held.

The proposed comment period will provide EPA the breadth of information and public opinion necessary to approve, disapprove, or approve in part and disapprove in part the application of the Vermont Agency of Environmental Conservation to regulate Classes I, II, III, IV, and V injection wells.

DATES: Requests to present oral testimony should be filed by March 1, 1984. The Public Hearing will be held on March 8, 1984, at 10:00 a.m. Written comments must be received by March 1, 1984. Should EPA not receive sufficient public comment or requests to present oral testimony by March 1, 1984, the Agency reserves the right to cancel the Public Hearing.

ADDRESSES: Comments and requests to testify should be mailed to Jerome J. Healey, Water Supply Branch, Environmental Protection Agency, Region I, JFK Federal Building, Boston, Massachusetts 02203. Copies of the application and pertinent material are available between 9:00 a.m. and 5:00 p.m., Monday through Friday at the following locations:

Environmental Protection Agency, Region I Library, 21st Floor, JFK Federal Building, Boston, Massachusetts 02203, PH: (617) 223-5791, and

Vermont Agency of Environmental Conservation Department of Water Resources and Environmental Engineering, Ground Water Section, State Office Building, Montpelier, Vermont 05602, PH: (802) 828-2761.

The hearing will be held in the Auditorium of the Pavilion Office Building, 109 State Street, Montpelier, Vermont.

FOR FURTHER INFORMATION CONTACT: Jerome J. Healey, Water Supply Branch, Environmental Protection Agency, Region I, JFK Federal Building, Boston, Massachusetts 02203. PH: (617) 223-6486. Comments should also be sent to this address.

SUPPLEMENTARY INFORMATION: The Vermont Underground Injection Control (UIC) program seeks to protect as "underground sources of drinking water" (USDWs) all aquifers capable of yielding a significant amount of water containing less than 10,000 mg/1 of total dissolved solids. At present, the State of Vermont has no known Class I, II, III, or IV injection wells. The latest inventory identified 1 Class V well. Class V wells will be studied to assess whether further regulatory measures are required. The State of Vermont does not intend to exempt any aquifers at this time.

The terms listed below comprise a complete listing of the thesaurus terms associated with 40 CFR Part 145, which sets forth the requirements for a State requesting the authority to operate its own permit program of which the Underground Injection Control program is a part. These terms may not all apply to this particular notice.

List of subjects in 40 CFR Part 145

Indians—lands, Reporting and recordkeeping requirements, Intergovernmental relations, Penalties, Confidential business information, Water supply.

This application from the Vermont Agency of Environmental Conservation is for the regulation of all injection wells in the State. The application includes a description of the State Underground Injection Control Program, copies of all applicable statutes and rules, a statement of legal authority and a proposed memorandum of agreement between the Vermont Agency of Environmental Conservation and Region I office of the Environmental Protection Agency.

(42 U.S.C. 300)

Dated January 27, 1984.

Jack E. Ravan,

Assistant Administrator for Water.

[FR Doc. 84-3002 Filed 2-2-84; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Parts 3100, 3110, and 3830

Oil and Gas Leasing; Reinstatement of Leases and Conversion of Certain Claims; Amendment

AGENCY: Bureau of Land Management, Interior.

ACTION: Proposed rulemaking.

SUMMARY: The proposed rulemaking would provide procedures to facilitate the reinstatement of oil and gas leases automatically terminated for the failure to timely pay the required rental and to permit conversion of certain unpatented oil placer mining claims deemed conclusively abandoned into noncompetitive oil and gas leases. The proposed rulemaking would implement provisions contained in Title IV of the Federal Oil and Gas Royalty Management Act of 1982.

DATE: Comments should be submitted by April 3, 1984. Comments postmarked or received after the above date may not be considered as part of the decisionmaking process on the issuance of a final rulemaking.

ADDRESS: Comments should be sent to: Director (140), Bureau of Land Management, 1800 C Street NW., Washington, D.C. 20240.

Comments will be available for public review in Room 5555 of the above address during regular business hours (7:45 a.m. to 4:15 p.m.), Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Lois Mason (202) 653-2190; or Robert C. Bruce (202) 343-8735.

SUPPLEMENTARY INFORMATION: The proposed rulemaking would establish procedures for the reinstatement of oil and gas leases and would include related changes to the existing regulations to facilitate the reinstatements. The proposed rulemaking would also provide procedures for issuance of noncompetitive oil and gas leases resulting from the conversion of unpatended oil placer mining claims deemed conclusively abandoned. These amendments are being made to carry out the provisions of Title IV of the Federal Oil and Gas Royalty

Management Act of 1982, which amended section 31 of the Mineral Leasing Act of 1920 (30 U.S.C. 188) which give the Secretary of the Interior additional discretionary authority to administratively reinstate certain types of oil and gas leases that have been automatically terminated for the failure to timely and fully pay the required rental and new authority to convert certain qualifying unpatented oil placer mining claims into noncompetitive oil and gas leases. Until the passage of the Act, the Secretary of the Interior had very limited authority to administratively reinstate oil and gas leases that had been terminated for failure to timely and fully pay the required rental for adequate reason if payment was made within a statutorily granted grace period. The Secretary had no authority to reinstate a lease if the rent was paid after such grace period. This limited administrative authority resulted in many entities seeking reinstatement through private relief bills introduced in the Congress. This procedure created a burden on the Congress which resulted in the enactment of the reinstatment provisions of the Federal Oil and Gas Royalty Management Act.

The Federal Oil and Gas Royalty Management Act represents a generic act that grants the Secretary of the Interior discretionary authority to reinstate terminated oil and gas leases and to convert abandoned oil placer mining claims to leases, both with specified minimum rentals and royalties. This proposed rulemaking would establish the procedures to be used in carrying out the Secretary's discretionary authority to reinstate terminated leases and to convert abandoned mining claims to leases.

Title IV of the Federal Oil and Gas Royalty Management Act specifically provides that any reinstatement of a terminated lease dates back to the date of its termination by the operation of law. Congress specifically intended that as consideration for reinstating a terminated oil and gas lease, the affected parties should be required to pay substantially increased rental and royalty payments. Title IV also provides that claimants with unpatented oil placer mining claims deemed conclusively abandoned shall make minimum royalty and rental payments from the date of abandonment as consideration for conversion to a lease.

In its report on the Federal Oil and Gas Royalty Management Act, the Congress made clear its intention that former lessees and claimants who petition for reinstatement of terminated leases or to have leases issued in lieu of a conclusively abandoned, unpatented oil placer mining claim pursuant to Title IV of the Act should not benefit, at the expense of both Federal and State Governments and the general public, from their own errors and/or acts of omission and should not be enriched due to their own inadvertence, oversight or negligence in failing to comply with the law. Therefore, the Congress specifically provided for substantially increased rental payments from the date of termination or abandonment and substantially increased royalty payments on all production made subsequent to the date of termination or abandonment. The Secretary of the Interior is directed to require that repayment of back rentals and royalties be equal to the amounts which are established as minimum future rentals and royalties for each such reinstated or converted lease and to include such terms in, and as part of, any reinstated or converted lease prior to its execution.

The procedures set forth in the proposed rulemaking are in addition to existing reinstatement procedures and provide three classes of reinstatements. The existing regulations on oil and gas lease reinstatements at 43 CFR 3108.2, called Class I reinstatements in this proposed rulemaking, provide that the authorized officer may reinstate a lease which has terminated for failure to pay on or before the anniversary date the full amount of rental due, provided that: (1) Such rental is paid or tendered within 20 days after the anniversary date; (2) it is shown to the satisfaction of the authorized officer that the failure to timely submit the full amount of rental due was either justified or not due to a lack of reasonable diligence on the part of the lessee; and (3) a petition for reinstatement together with a nonrefundable filing fee of $25 and the required rental is filed within 15 days after receipt of the Notice of Termination.

This proposed rulemaking changes the time period within which a petition for Class I reinstatements may be filed to 60 days after the receipt of the Notice of Termination instead of 15 days after receipt of the Notice. The proposed rulemaking also provides for the Notice to be sent regardless of whether the rental is actually paid late.

The time period in which the authorized officer cannot issue a lease for lands covered by a lease which automatically terminated by operation of law would also be changed by the proposed rulemaking from 60 days to 90 days after the date of termination.

Title IV of the Federal Oil and Gas Royalty Management Act provides for reinstatement of oil and gas leases: (1) No matter when the rental is paid after termination because of nonpayment of rental, when it is shown that such failure to pay was inadvertent; and (2) when the rental was not paid or tendered within 20 days of the termination date and it is shown that such failure was justified or not due to a lack of reasonable diligence. Reinstatements under this provision are called Class II reinstatements in this proposed rulemaking.

The conversion, under specified conditions, of an abandoned, unpatented oil placer mining claim to a noncompetitive lease as provided by the Federal Oil and Gas Royalty Management Act is called a Class III reinstatement in the proposed rulemaking. The Act authorizes the conversion when the oil placer claim has been deemed conclusively abandoned for failure to timely file the instruments or copies thereof required under section 314 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1744). The likelihood of these provisions being used will be rare because there are very few oil placer mining claims and the provisions of the Mineral Leasing Act of 1920, which made oil a leasable mineral, prevent the establishment of any additional oil placer claims.

Specific provisions of Title IV of the Federal Oil and Gas Royalty Management Act allow the Secretary of the Interior to reinstate an oil and gas lease when a petition for reinstatement was filed on or before May 12, 1983, when: (1) The lessee tendered late rental prior to January 12, 1983; (2) where the failure to timely pay rental was inadvertent; and (3) a final determination that the lease terminated was made less than 3 years before January 12, 1983. Also, provisions of the Act allow the conversion of an oil placer mining claim that was deemed conclusively abandoned on or before January 12, 1983, when a petition for conversion to a noncompetitive lease was filed on or before May 12, 1983. Because the required time for filing a petition under Title IV has passed, the proposed rulemaking does not include these provisions of the Act. Procedures for handling these specific cases are included in Bureau of Land Management Instruction Memorandum No. 83-355. No further petitions can be accepted for reinstatement or conversion under those provisions of the Act.

The proposed rulemaking includes provisions for increased annual rentals

and royalties for each succeeding time a specific lease is reinstated. Each succeeding reinstatement for a lease would require the annual rental to increase an additional $5 per acre per year for leases originally issued noncompetitively and an additional $10 per acre per year for leases originally issued competitively. Royalty would be increased an additional 2 percentage points for each subsequent reinstatement.

This proposed rulemaking would also amend the rental and royalty provisions of the existing regulations in 43 CFR Subpart 3103 to bring them into compliance with the provisions of the Federal Oil and Gas Royalty Management Act.

The principal author of this proposed rulemaking is Raul E. Martinez, Division of Fluid Mineral Leasing, assisted by the staff of the Office of Legislation and Regulatory Management, Bureau of Land Management.

It is hereby determined that this rulemaking does not constitute a major Federal action significantly affecting the quality of the human environment and that no detailed statement pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) is required.

The Department of the Interior has determined that this document is not a major rule under Executive Order 12291 and will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.).

The procedures provided in the proposed rulemaking will be limited to those situations detailed in the Act. Any entity, large or small, if it meets the conditions provided in the proposed rulemaking, can apply for reinstatement or conversion. The procedure should reduce the legislative burden on the Congress by reducing the number of private bills introduced and should shorten the period required for reinstatement or conversion.

This proposed rulemaking does not contain information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3501 et seq.

List of Subjects

43 CFR Part 3100

Administrative practice and procedure, Environmental protection, Mineral royalties, Oil and gas reserves, Public lands—classification, Public lands—mineral resources, Surety bonds.

43 CFR Part 3110

Administrative practice and procedure, Mineral royalties, Oil and gas exploration, Oil and gas reserves, Public lands—mineral resources.

43 CFR Part 3800

Mining claims under the General Mining Law.

PART 3103—[AMENDED]

Under the authority of the Mineral Leasing Act of 1920, as amended and supplemented (30 U.S.C. 181 et seq.), the Mineral Leasing Act for Acquired Lands, as amended (30 U.S.C. 351–359), the Alaska National Interest Lands Conservation Act (16 U.S.C. 3101 et seq.), the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.), the Federal Property and Administrative Services Act of 1976 (40 U.S.C. 760 et seq.), the Act of May 21, 1930 (30 U.S.C. 301–306), the Omnibus Budget Reconciliation Act of 1981 (Pub. L. 97–35), the Independent Office Appropriations Act of 1952 (31 U.S.C. 483a), the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 226), and the Attorney General's Opinion of April 2, 1941 (40 Op. Atty. Gen 41), it is proposed to amend Parts 3100 and 3110 of Group 3100 and Part 3830 of Group 3800, Subchapter C, Chapter II of Title 43 of the Code of Federal Regulations as set forth below:

§ 3103.2-2 [Amended]

1. Section 3103.2–2 is amended by adding new paragraphs (j) and (k) as follows:

* * * * *

(j) On terminated leases that were originally issued noncompetitively and are reinstated under § 3108.2–3 of this title, and on noncompetitive leases that were originally issued under § 3108.2–4 of this title, the annual rental shall be $5 per acre or fraction thereof. For terminated leases that were originally issued competitively, the annual rental shall be $10 per acre or fraction thereof. For terminated leases that are determined to be within a known geologic structure outside of Alaska, or a favorable geologic province in Alsaka, prior to the filing of a petition to reinstate a lease or convert an abandoned, unpatented oil placer mining claim, the annual rental shall be an additional $2 per acre or fraction thereof beginning with the first lease year after such determination. The provisions of this paragraph shall supersede the provisions of paragraphs (a) and (d) of this section for all leases reinstated or issued under §§ 3108.2–3 and 3108.2–4 of this title.

(k) Each succeeding time a specific lease is reinstated under § 3108.2–3 of this title, the annual rental on that lease shall increase by an additional $5 per acre or fraction thereof for leases that were originally issued noncompetitively and by an additional $10 per acre or fraction thereof for leases that were originally issued competitively.

§ 3103.3-1 [Amended]

2. Section 3103.3–1 is amended by revising paragraph (a) to read:

(a) Royalty on production shall be payable only on the mineral interest owned by the United States. The following royalty rates shall be paid in amount or value of the production removed or sold from the lease:

(1)(i) 12½ percent royalty on noncompetitive leases;

(ii) 16⅔ percent royalty on leases reinstated under §3108.2–3 of this title, plus an additional 2 percentage point increase (e.g., to 18⅔; 20⅔, etc.) added for each succeeding reinstatement;

(iii) 12½ percent royalty on noncompetitive leases issued in lieu of unpatented oil placer mining claims under § 3108.2–4 of this title.

(2)(i) Such rates as are prescribed in the notice of sale in the case of all leases issued by competitive bidding;

(ii) On leases reinstated under § 3108.2–3 of this title, royalty shall increase 4 percentage points over the competitive royalty schedule in force and used for royalty determination for competitive leases, plus an additional 2 percentage point increase added for each succeeding reinstatement (e.g., 12½ plus 4, plus 2; 12½ plus 4, plus 2, plus 2; etc.).

(3) From lands within exchange and renewal leases, the rate of royalty shall be identical to that prescribed in the prior leases, except that for a lease issued in exchange for or as a renewal of a lease carrying a flat royalty rate of 5 percent to the United States, the royalty rate shall be as follows:

(i) When the average production of oil for the calendar month in barrels per well per day is:

Not over 110, the royalty rate shall be 12½ percent;

Over 110, but not over 130, the royalty rate shall be 18 percent of all production;

Over 130, but not over 150, the royalty rate shall be 19 percent of all production;

Over 150, but not over 200, the royalty rate shall be 20 percent of all production;

Over 200, but not over 250, the royalty rate shall be 21 percent of all production;

Over 250, but not over 300, the royalty rate shall be 22 percent of all production;

Over 300, but not over 350, the royalty rate shall be 23 percent of all production;

Over 350, but not over 400, the royalty rate shall be 24 percent of all production; and

Over 400, the royalty rate shall be 25 percent of all production.

(ii) On gas, including inflammable gas, helium, carbon dioxide and all other natural gases and mixtures thereof, and on casinghead gasoline and other liquid products obtained from gas when the production per well per calendar day for the month is:

Not in excess of 5 million cubic feet, the royalty rate shall be 12½ percent of the amount or value of the gas and liquid products produced; and

In excess of 5 million cubic feet, the royalty rate shall be 16⅔ percent of the amount or value of the gas and liquid products produced.

(iii) On leases reinstated under § 3108.2–3 of this title, the royalty shall increase 4 percentage points over the percentages listed in subparagraphs (i) and (ii) of this paragraph, but in no case less than 16⅔ percent, plus an additional 2 percentage point increase for each succeeding reinstatement.

* * * * *

§ 3103.3–2 [Amended]

3. Section 3103.3–2 is amended by adding a new paragraph (d) to read:

* * * * *

(d) The minimum royalty provisions of this section shall be applicable to leases reinstated under § 3103.2–3 of this title and leases issued under § 3108.2–4 of this title.

§ 3103.4–1 [Amended]

4. Section 3103.4–1 is amended by adding a new paragraph (d) to read:

* * * * *

(d) Petition may be made for reduction of royalty under § 3108.2–3(f) for leases reinstated under § 3108.2–3 of this title and under § 3108.2–4(i) for noncompetitive leases issued under § 3108.2–4 of this title. Petitions to waive, suspend or reduce rental or minimum royalty for leases reinstated under § 3108.2–3 of this title or for leases issued under § 3108.2–4 of this title may be made under this section.

PART 3107—[AMENDED]

3107.6 [Amended]

5. Section 3107.6 is amended by removing the figure "§ 3108.2" where it appears and replacing it with the figure "§ 3108.2–1", by removing paragraph (a) in its entirety, by redesignating paragraphs (b) and (c) as paragraphs (a) and (b) and by amending new paragraph (b) by adding at the end thereof the words ", but in no event for more than 2 years from the date the reinstatement is authorized and so long thereafter as oil or gas is produced in paying quantities."

PART 3108—[AMENDED]

6. Section 3108.2 is amended by revising the heading to read:

§ 3108.2 Termination by operation of law and reinstatement.

§ 3108.2–1 [Amended]

7. Section 3108.2–1 is amended by:

A. Revising the heading to read:

§ 3108.2–1 Automatic termination.

B. Removing paragraph (c) in its entirety.

8. New §§ 3108.2–2, 3108.2–3 and 3108.2–4 are added to read:

§ 3108.2–2 Reinstatement at existing rental and royalty rates—Class I reinstatements.

(a) Except as hereinafter provided, the authorized officer may reinstate a lease which has terminated for failure to pay on or before the anniversary date the full amount of rental due, provided that:

(1) Such rental was paid or tendered within 20 days after the anniversary date; and

(2) It is shown to the satisfaction of the authorized officer that the failure to timely submit the full amount of the rental due was either justified or not due to a lack of reasonable diligence on the part of the lessee; and

(3) A petition for reinstatement, together with a nonrefundable filing fee of $25 and the required rental, including any back rental which has accrued from the date of the termination of the lease, is filed with the proper BLM office within 60 days after receipt of Notice of Termination of Lease due to late payment of rental.

(b) The burden of showing that the failure to pay or before the anniversary date was justified or not due to lack of reasonable diligence shall be on the lessee.

(c) Under no circumstances shall a terminated lease be reinstated if:

(1) A valid oil and gas lease has been issued prior to the filing of a petition for reinstatement affecting any of the lands covered by that terminated lease; or

(2) The oil and gas interests of the United States in the lands have been disposed of or otherwise have become unavailable for leasing.

(d) The authorized officer shall not issue a lease for lands which have been covered by a lease which terminated automatically until 90 days after the date of termination.

§ 3108.2–3 Reinstatement at higher rental and royalty rates—Class II reinstatements.

(a) The authorized officer may, if the requirements of this section are met, reinstate an oil and gas lease which was terminated by operation of law for failure to pay rental timely when the rental was not paid or tendered within 20 days of the termination date and it is shown to the satisfaction of the authorized officer that such failure was justified or not due to a lack of reasonable diligence, or no matter when the rental was paid, it is shown to the satisfaction of the authorized officer that such failure was inadvertent.

(b)(1) For leases that terminate on or after January 12, 1983, consideration may be given to reinstatement if the required back rental and royalty at the increased rates accruing from the date of termination, together with a petition for reinstatement, are filed on or before the earlier of:

(i) Sixty days after the receipt of the Notice of Termination or the return of the rental check, or any other form of actual notice; or

(ii) Fifteen months after termination of the lease.

(2) A petition for reinstatement may be filed by an assignee holding an assignment executed prior to the date the lease terminated, provided that the assignment, if not already on file, is filed with the petition and that the assignment meets all of the requirements contained in subpart 3106 of this title and related sections of Part 3100 of this title. For purposes of reinstatement of a lease under this section, deficiencies in an assignment may be cured if the authorized officer determines that it is equitable to allow such cure.

(3) After determining that the requirements for filing of the petition for reinstatement have been timely met, the authorized officer may reinstate the lease if:

(i) No valid lease has been issued prior to the filing of the petition for reinstatement affecting any of the lands covered by the terminated lease, whether such lease is still in effect or not;

(ii) The oil and gas interests of the United States in the lands have not been disposed of or have not otherwise become unavailable for leasing;

(iii) Payment of all back rentals and royalties at the increased rates, including the lease to the United States of all funds being held in escrow, has been made;

(iv) An agreement has been signed by the lessee and attached to and made a part of the lease specifying future

rentals at the applicable rates specified for reinstated leases in § 3102.2–2 of this title and future royalties at the rates set in § 3103.3–1 of this title for all production removed or sold from such lease or shared by such lease from production allocated to the lease by virtue of its participation in a unit or communitization agreement or other form of approved joint development agreement or plan;

(v) A notice of the proposed reinstatement of the terminated lease and the terms and conditions of reinstatement has been published in the **Federal Register** at least 30 days prior to the date of reinstatement for which the lessee shall reimburse the Bureau for the full costs incurred in the publishing of said notice; and

(vi) The lessee has paid the Bureau a nonrefundable administrative fee of $500.

(c) The authorized officer shall not, after the receipt of a petition for reinstatement, issue a new lease affecting any of the lands covered by the terminated lease until after a reasonable time, as determined by the authorized officer, has elapsed.

(d) The authorized officer shall furnish to the Chairpersons of the Committee on Interior and Insular Affairs of the House of Representatives and of the Committee on Energy and Natural Resources of the Senate, at least 30 days prior to the date of reinstatement, a copy of the notice, together with information concerning rental, royalty, volume of production, if any, and any other matter which the authorized officer considers significant in making the determination to reinstate.

(e) If the authorized officer reinstates the lease, the reinstatement shall be as of the date of termination, for the unexpired portion of the original lease or any extension thereof remaining on the date of termination, and so long thereafter as oil or gas is produced in paying quantities. Where a lease is reinstated under this section and the authorized officer finds that the reinstatement of such lease either (1) occurs after the expiration of the primary term or any extension thereof, or (2) will not afford the lessee a reasonable opportunity to continue operations under the lease, the authorized officer may extend the term of the reinstated lease for such period as determined reasonable, but in no event for more than 2 years from the date of the reinstatement and so long thereafter as oil or gas is produced in paying quantities.

(f) The authorized officer may, either in acting on a petition for reinstatement or in response to a request filed after reinstatement, or both, reduce the royalty in that reinstated lease on the entire leasehold or any tract or portion thereof segregated for royalty purposes, if he/she determines there are either economic or other circumstances which could cause undue economic hardship or premature termination of production; or because of any written action of the United States, its agents or employees, which preceded, and was a major consideration in, the lessee's expenditure of funds to develop the lands covered by the lease after the rental had become due and had not been paid; or if the authorized officer determines it is equitable to do so for any other reason.

§ 3108.2–4 Conversion of unpatented oil placer mining claims—Class III reinstatement.

(a) For any unpatented oil placer mining claim validly located prior to February 24, 1920, which has been or is currently producing or is capable of producing oil or gas, and has been or is deemed after January 12, 1983, conclusively abandoned for failure to file timely the required instruments or copies of instruments required by section 314 of the Federal Land Policy and Management Act (43 U.S.C. 1744), and it is shown to the satisfaction of the authorized officer that such failure was inadvertent, justifiable or not due to lack of reasonable diligence on the part of the owner, the authorized officer may issue, for the lands covered by the abandoned unpatented oil placer mining claim, a noncompetitive oil and gas lease consistent with the provisions of section 17(e) of the act (30 U.S.C. 226(e)). The effective date of any lease issued under this section shall be from the statutory date that the claim was deemed conclusively abandoned.

(b) The authorized officer may issue a noncompetitive oil and gas lease if a petition has been filed in the proper BLM office for the issuance of a noncompetitive oil and gas lease accompanied by the required rental and royalty, including back rental and royalty accruing, at the rates specified in §§ 3103.2–2 and 3103.3–1 of this title, for any claim deemed conclusively abandoned after January 12, 1983. The petition shall have been filed on or before the 120th day after the final notification by the Secretary or a court of competent jurisdiction of the determination of the abandonment of the oil placer mining claim.

(c) The authorized officer shall not issue a noncompetitive oil and gas lease under this section if a valid oil and gas lease has been issued affecting any of the lands covered by the abandoned oil placer mining claim prior to the filing of the petition for issuance of a noncompetitive oil and gas lease.

(d) After the filing of a petition for issuance of a noncompetitive oil and gas lease covering an abandoned oil placer claim, the authorized officer shall not, until after the lapse of what he/she determines to be a reasonable period of time, issue any new lease affecting any lands covered by such petition.

(e) Any noncompetitive lease issued under this section shall include:

(1) Terms and conditions for the payment of rental in accordance with § 3103.2–2(j) of this title. Payment of back rentals accruing from the date of abandonment of the oil placer mining claim, at the rental set by the authorized officer, shall be made prior to the lease issuance.

(2) Royalty rates set in accordance with § 3102.3–1 of this title. Royalty shall be paid at the rate established by the authorized officer on all production removed or sold from the oil placer mining claim, including all royalty on production made subsequent to the date the claim was deemed conclusively abandoned prior to the lease issuance.

(f) Noncompetitive oil and gas leases issued under this section shall be subject to all regulations in Part 3100 of this title except for those terms and conditions mandated by Title IV of the Federal Oil and Gas Royalty Management Act.

(g) A notice of the proposed conversion of the oil placer mining claim into a noncompetitive oil and gas lease, including the terms and conditions of conversion, shall be published in the **Federal Register** at least 30 days prior to the issuance of a noncompetitive oil and gas lease. The mining claim owner shall reimburse the Bureau for the full costs incurred in the publishing of said notice.

(h) The mining claim owner shall pay the Bureau a nonrefundable administrative fee of $500 prior to the issuance of the noncompetitive lease.

(i) The authorized officer may, either in acting on a petition to issue a noncompetitive oil and gas lease or in response to a request filed after issuance, or both, reduce the royalty in such lease, if he/she determines there are either economic or other circumstances which could cause undue economic hardship or premature termination of production.

PART 3110—[AMENDED]

§ 3110.1–3 [Amended]

9. Section 3110.1–3(a) is amended by adding at the end thereof the sentence "This paragraph shall not apply to offers made under § 3108.2–4 of this title."

§ 3110.3 [Amended]

10. Section 3110.3(c) is amended by removing the figure "80" and replacing it with the figure "90".

PART 3111—[AMENDED]

§ 3111.1–1 [Amended]

11. Section 3111.1–1(a) is amended by inserting after the first sentence thereof the sentence "For noncompetitive leases processed under § 3108.2–4 of this title, the current lease form shall be used."

§ 3111.2–1 [Amended]

12. Section 3111.2–1 is amended by adding a new paragraph (e) to read:

* * * * *

(e) The requirements of this section shall apply to applications for conversion of abandoned unpatented oil placer mining claims made under § 3108.2–4 of this title, except that deficiencies shall be curable.

PART 3833—[AMENDED]

§ 3833.4 [Amended]

13. Section 3833.4 is amended by adding a new paragraph (c) to read:

* * * * *

(c) Title IV of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 188(f)) provides that where an unpatented oil placer mining claim validly located prior to February 24, 1920, which has been or is currently producing or is capable of producing oil or gas, has been or is hereafter deemed conclusively abandoned for failure to file timely the required instruments or copies of instruments required by section 314 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1744), and it is shown to the satisfaction of the authorized officer that such failure was inadvertent, justifiable, or not due to lack of reasonable diligence on the part of the owner, the authorized officer may issue, for the lands covered by the abandoned unpatented oil placer mining claim, a noncompetitive oil and gas lease consistent with the provisions of section 17(e) of the Mineral Leasing Act (30 U.S.C. 226(e)) to be effective from the statutory date the claim was conclusively abandoned. The conditions and requirements for issuance of such leases are contained in § 3108.2–4 of this title.

Dated: November 25, 1983.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

[FR Doc. 84–2945 Filed 2–2–84; 8:45 am]

BILLING CODE 4310–84–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 205

Disaster Assistance; Eligibility of Costs of Public Assistance to State and Local Governments

AGENCY: Federal Emergency Management Agency.

ACTION: Proposed rule.

SUMMARY: This proposed rule makes changes to the Federal Emergency Management Agency (FEMA) disaster assistance regulations implementing the Disaster Relief Act of 1974, Pub. L. 93–288. Changes are made in the eligibility of costs of public assistance to State and local governments. This is being done in recognition of the commitment to the disaster effort now being made by applicants in the form of cost sharing of eligible costs.

DATES: Comments by: June 4, 1984.

ADDRESS: Send Comments to: Rules Docket Clerk, Office of General Counsel, Room 835, Federal Emergency Management Agency, 500 C Street SW, Washington, D.C. 20472.

FOR FURTHER INFORMATION CONTACT: Charles B. Stuart Federal Emergency Management Agency, 500 C Street SW., Washington, D.C. 20472, telephone 202/287–0580.

SUPPLEMENTARY INFORMATION: Federal disaster assistance under Pub. L. 93–288 is intended to supplement State and local capabilities and efforts to cope with a disaster, but not to supplant them. A Governor's request for a declaration of a major disaster or emergency must be supported by certification that State and local applicants have committed or will commit a reasonable amount of funds to cope with the disaster. Past commitments were accepted recognizing that some disaster related costs of the types not eligible under Pub. L. 93–288 were defrayed by grant recipients from their own funds. Other disaster related costs may be incurred by grant recipients directly or indirectly for which auditable records are not maintained and for which no Federal assistance could be claimed.

Currently the commitment by the State and local grantees is partially satisified by a contribution of a percentage of the cost of eligible grant assistance. The amount of this percentage is determined on a case-by-case basis for each disaster. Taking into consideration this cost sharing as a portion of the State and local commitment, and the statutory requirement that the public assistance be supplementary, FEMA is considering changes to the eligibility of costs. Discussions were held with representatives of the National Emergency Management Association (NEMA) on this subject. Their recommendations have been taken into account in formulating the proposed changes.

S. 1525, a bill to amend the Disaster Relief Act of 1974 is currently pending in the Senate. S. 1525 is essentially the same as the bill (S. 2250) which passed the Senate during the 97th Congress. S. 1525 addresses the issue of State and local commitments and would establish a cost sharing formula as part of the law. The changes in cost eligibility in this proposed rule are consistent with FEMA's proposed changes to Pub. L. 93–288 and with the intent of the Senate expressed in the passage of S. 2250.

Passage of S. 1525 may require changes to disaster assistance regulations in areas other than cost eligibility. the following changes in the cost eligibility subsection of the regulation (44 CFR 205.76) are proposed:

(a)(1) Definitions of total eligible costs and net eligible costs are given to reflect sharing of costs by Federal and non-Federal interests. Selected other criteria are clarified.

(a)(7)(i) Administrative Expenses—A previous revision to these regulations (August 13, 1980) considered whether certain costs should be made eligible in accordance with OMB Circular 74–4 (Now A–87). At that time the decision on certain indirect costs was deferred until further consultation could be conducted with the Office of Management and Budget. This proposed change makes eligible an allowance for administrative expenses and provides a method for calculation of such an allowance. The percentage allowances for applicants' administrative costs were arrived at through FEMA's experience in dealing with disaster claims. While these costs have not been eligible in the past and therefore were not included in assistance claims, applicants have frequently advised us of the impact of these costs. In accordance with the supplementary nature of FEMA assistance under Pub. L. 93–288 the allowance will cover only the extraordinary expenses incurred as a direct result of a disaster. The percentage is an average of a sample of a number of different communities. It will be the same for all applicants. This practice has worked well for a number of years in the allowances for the use of applicant owned equipment to perform eligible disaster work.

(a)(7)(iii) The proposed change makes the cost of State audits required by FEMA an eligible cost.

(a)(7)(iv) The proposed change makes certain costs of State inspectors eligible.

(a)(19) National Guard—Most types of National Guard expenses would now be eligible, including security work.

(a)(22) Prison Labor—Certain costs of guards and food and lodging for prisoners and guards would be eligible.

(b)(2)(iv) Fringe Benefits—These costs have also been considered in accordance with the guidance of OMB Circular A–87. Certain fringe benefits paid by an employer for an applicant's employees would be eligible for reimbursement. The fringe benefits for which an allowance is made are those which represent extraordinary costs as a direct result of the disaster. Disaster recovery work generally results in the diversion of an applicant's employees from their regular duties. The increased hours of work will affect only certain types of fringe benefits such as the employer's Social Security contribution and similar payments. Other benefits, such as vacation or sick leave, are not affected by overtime work. The principal of paying only for certain costs is in accordance with the supplementary nature of Federal disaster assistance under Pub. L. 93–288. A fixed percentage allowance is proposed because the costs of the benefits included vary among the different state and local governments. In addition, in some states not all employees are covered by the particular benefits. A percentage of 10.5 percent was arrived at after consultation with other Federal agencies. It is made up of the following allowances: employee retirement (Social Security or other)—7 percent; unemployment insurance—1.5 percent; and worker's compensation—2 percent. For those grants where payment is based on the estimate of the cost of work, this percentage shall be used for fringe benefits. Grants in this category are flexible funding, grants-in-lieu, and small project grants (under $25,000). For other categorical grants, the applicant will have a choice of using this percentage or of submitting documentation in support of different rates for the three coverages. The use of a set percentage would expedite the processing of these grants. Estimating and accounting for these costs for each applicant could result in delays. This would be particularly significant for the 80 percent of applicants which receive small project grants under $25,000. This is because Pub. L. 93–288 provides simplified procedures to expedite payment to these applicants. It would be inconsistent to complicate the procedures unnecessarily.

Environmental Considerations—This amendment is administrative in nature and is categorically excluded from the requirements of 44 CFR Part 10 concerning preparation of environmental assessments.

Executive Order 12291, "Federal Regulations"—This rule is not a "major rule" within the context of Executive Order 12291. It will not have an annual effect on the economy of $100 million or more.

The rule will not have a significant economic impact on small entities, within the meaning of 5 U.S.C. 605 (the Regulatory Flexibility Act). Therefore, no regulatory analysis will be prepared.

This rule does not call for the collection of any information.

Authority: This rule is issued under authority of Section 601 of the Disaster Relief Act of 1974 (Pub. L. 93–288), as amended by Pub. L. 96–446.

Lists of Subjects in 44 CFR Part 205

Disaster assistance, Grant programs, Housing and community development.

PART 205—FEDERAL DISASTER ASSISTANCE

Accordingly, Subchapter D of Chapter 1, Title 44 is proposed to be amended as follows:

1. Section 205.76 is amended by revising paragraph (a)(1) to read as follows:

§ 205.76 Eligibility of costs.

(a) *General.* (1) This section provides policies and guidelines for determining eligibility of costs of work eligible under the Act that may be paid to any eligible applicant or other recipient of this grant assistance. As used in this section, eligible costs include total costs that are subject to cost sharing and are otherwise reimbursable under these regulations. The applicable cost sharing percentages must be used to determine net eligible costs which may be approved and reimbursed by FEMA. The subparagraphs which follow are generally applicable to eligibility of costs. Only reasonable costs of eligible work are reimbursable.

* * * * *

2. Section 205.76 is amended by revising paragraphs (a)(2) (i), (iv) and (vii) to read as follows:

(a) * * *

(2) * * *

(i) Be necessary and reasonable for proper and efficient administration of the grant programs, be allocable thereto under these principles, and, except as specifically provided herein, not be a general expense required to carry out the overall responsibilities of State, local or Federally-recognized Indian tribal governments. Costs of projects must be directly attributable to the performance of eligible work. Indirect costs incurred as a result of the disaster are covered by the allowance for administrative expenses (see § 205.76(a)(7)).

* * * * *

(iv) Be consistent with policies, regulations, and procedures (of the applicant) that apply uniformly to both federally assisted and other activities of the unit of government of which the grantee is a part.

* * * * *

(vii) Be net of all applicable credits which offset or reduce eligible disaster costs. Examples are purchase discounts, insurance recoveries and salvage.

* * * * *

3. Section 205.76 is amended by revising paragraph (a)(4) to read as follows:

(a) * * *

(4) The amount of Federal reimbursement made to an applicant under categorical funding or under a small project grant is limited to the net eligible cost of performing work approved by FEMA. This limitation is not intended to restrict the type and cost of work which the applicant may choose to undertake. If the applicant performs work in excess of the approved amount, Federal assistance is limited to the net costs of eligible work approved by the Regional Director. Flexible funding under section 402(f) of the Act is limited to 90 percent of the net estimated costs of eligible permanent restorative work.

* * * * *

4. Section 205.76 is amended by revising paragraph (a)(7) to read as follows:

(a) * * *

(7) Administrative Expenses.

(i) An allowance to cover expenses atributable to requesting, obtaining, and administering FEMA grant assistance is eligible in accordance with the following:

(A) For those applicants whose total eligible costs are less than $100,000, such allowance shall be three percent of total eligible costs (estimated costs for recipients of small project grants).

(B) For those applicants whose total eligible costs exceed $100,000 but are less than $1,000,000, such allowance shall be $3,000 plus two percent of total eligible costs in excess of $100,000.

(C) For those applicants whose total eligible costs exceed $1,000,000 but are less than $5,000,000, such allowance shall be $21,000 plus one percent of total eligible costs in excess of $1,000,000.

(D) For those applicants whose total eligible costs exceed $5,000,000 such allowance shall be $81,000 plus one-half percent of total eligible costs in excess of $5,000,000.

(ii) Subject to the limitations stated in subsection (7)(i) above, the allowance for administrative expenses includes, but is not limited to, the following types of work:

(A) Preparation of project applications, reports, appeals, inspection reports, materials for audits, and claims for payment.

(B) Performance of owners' responsibilities.

(C) Operation of Emergency Operations Center.

(D) Salaries, wages, fees, and expenses of individuals or firms while engaged in the preparation and processing of damage assessments, damage survey reports, project applications, claims for payment and supporting documentation.

(E) Office supplies and equipment.

(F) Rent.

(G) Telephone and telegraph expenses.

(iii) Reasonable actual costs of State audits, when determined necessary by FEMA, are eligible to be included in total eligible costs. Costs of such audits shall not exceed one percent of audited eligible costs, unless written justification for higher costs is submitted to FEMA.

(iv) Reasonable actual costs, as determined by FEMA, of State inspectors engaged in preparation of Damage Survey Reports and Final Inspection Reports and related field inspections, are eligible. These costs are subject to the following limitation: Reimbursement may be made for travel, per diem, and overtime, but not regular time salaries.

* * * * *

5. Section 205.76 is amended by revising paragraphs (a) (19) and (20) to read as follows:

(a) * * *

(19) National Guard—Actual costs paid by the State for eligible work performed by the National Guard including salaries of Guardsmen directly engaged in eligible work or in direct supervision of such work are eligible. Eligible work includes public safety or security measures as well as other types of work eligible under these regulations.

(20) Cooperative agreements.

(i) Eligible: Costs for work performed under cooperative arrangements between State or local governments, but limited to those direct costs of the performing entity which the applicant is legally obligated to pay and which would be eligible if the applicant had performed the work.

(ii) Not eligible: Costs for work performed under an arrangement between a State or political subdivision of a State and a Federal agency, except when approved in advance by the Regional Director.

* * * * *

6. Section 205.76 is amended by revising paragraph (a)(22) to read as follows:

(a) * * *

(22) Prison labor.

(i) Eligible: Out-of-pocket costs of prison labor performing eligible disaster work, limited to the amount paid the prisoners in accordance with rates established prior to the disaster, and the cost of transportation. In addition the portion of the following costs which are in excess of regular budgeted amounts, are eligible for reimbursement:

(A) Cost of food and lodging for prisoners, and

(B) Salaries of guards.

* * * * *

7. Section 205.76 is amended by revising paragraph (a)(29) to read as follows:

(a) * * *

(29) Other. Any costs not allowable under OMB Circular A–87 are ineligible for FEMA reimbursement.

* * * * *

8. Section 205.76 is amended by adding paragraph (b)(2) (iii) and (iv) as follows:

* * * * *

(b) * * *

(2) * * *

(iii) An allowance in the amount of 10.5 percent of each regular or extra employee's eligible gross pay to cover employer's contributions for Social Security, unemployment insurance coverage and worker's compensation insurance is eligible. This eligibililty will apply only to the extent that total compensation for employees is eligible as defined by paragraphs § 205.76(b) (i) and (ii).

(iv) Actual payment for fringe benefits for small project grants, grants-in-lieu, and flexible funding will be the percentage established in § 205.76(b)(2)(iii). Payment for fringe benefits for categorical grants may be such percentage or actual costs for such coverages at the applicant's choice. Documentation of actual costs of retirement benefits, unemployment insurance and worker's compensation must be provided with the applicant's final claim if that method of payment is chosen.

9. Section 205.76 is amended by revising paragraph (b)(3)(ii) to read as follows:

* * * * *

(b) * * *

(3) * * *

(ii) For vehicles or equipment utilized by police, firemen, and other employees whose duties do not change because of the major disaster or emergency; and for permanently installed fixed equipment, such as pumping stations, only disaster-related actual costs in excess of average costs are eligible. Average costs shall be calculated by using a like duration of time, or the closest duration for which auditable records are available, for the previous three years. Years in which a Presidentially declared major disaster occurred during the period being examined shall not be included in the average.

10. Section 205.76 is amended by removing paragraph (b)(3)(iii).

11. Section 205.76 is amended by revising paragraph (d)(7) to read as follows:

* * * * *

(d) * * *

(7) *Vector control.* Only disaster-related actual costs in excess of the average cost for a like duration of time, or the closest duration for which auditable records are available, for the previous three years, are eligible. Years in which a Presidentially declared major disaster occurred during the period being examined shall not be included in the average.

12. Section 205.76 is amended by revising paragraph (e)(2) to read as follows:

* * * * *

(e) * * *

(2) *Engineering and design.* Reimbursement for eligible engineering, planning, design, supervision, or inspection services is based upon reasonable actual direct costs but shall not exceed the amount approved on the project application, or on a supplemental project application. Applicants may not contract for architect/engineers' services on the basis of a percentage of project construction cost, nor make compensation on such basis. The Regional Director may approve special services, such as engineering surveys, soil investigations, resident engineers, and additional construction inspection when justified.

Dated: January 30, 1984.

Samuel W. Speck,

Associate Director, State and Local Programs and Support.

[FR Doc. 84-2966 Filed 2-2-84; 8:45 am]

BILLING CODE 6719-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 83-1350]

Low Power Television and Television Translator Service; Order Extending Time for Filing Comments and Reply Comments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; extension of comment period.

SUMMARY: Action taken herein extends time for filing of comments and reply comments in response to the Notice of Proposed Rule Making ("NPRM") in MM Docket No. 83-1350. The NPRM seeks comments on proposed rule changes for low power television and television translator service which would modify the present cut-off rules, eliminate the requirement to file financial information with applications and create a priority class of service for television translator applications. Petitioners, National Translator/LPTV Association and National Association of Public Television Stations state that additional time is needed to fully prepare comments in this proceeding.

DATES: Comments must be filed on or before February 13, 1984, and reply comments must be filed on or before February 28, 1984.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Larry A. Miller, Mass Media Bureau (202) 632-3894.

Order Extending Time for Filing Comments and Reply Comments

In the matter of low power television and television translator service; MM Docket No. 83-1350.

Adopted: January 26, 1984.
Released: January 27, 1984.

By the Chief, Mass Media Bureau:

1. On December 14, 1983, the Commission adopted a Notice of Proposed Rule Making ("NPRM") in the above-captioned proceeding, 49 FR 908, published January 6, 1984. The NPRM sought comments on proposed rule changes for low power television and television translators which would: (1) Modify the present cut-off procedures; (2) eliminate the requirement to file financial information; and (3) create a priority class of service for television translator applications. The dates initially established for filing comments and reply comments were January 30, 1984, and February 14, 1984, respectively.

2. On January 20, 1984, the National Translator/LPTV Association ("NTA") filed a motion requesting a two week extension of time for filing comments, to and including February 13, 1984. On January 23, 1984, the National Association of Public Television Stations ("NAPTS") filed a motion requesting a three week extension of time for the filing of comments, to and including February 20, 1984.

3. In support of its request, NTA states that the collection of responses to the NPRM has been delayed because of the intervening holidays and the location of its membership in isolated rural areas. Further, NTA states that the equipment manufacturers who are helping it prepare comments will not be able to meet until January 30, 1984, at a previously scheduled convention. Because of the complexity of the issues contained in the NPRM, NTA urges that it is important for the Commission to obtain the informed comments of parties affected. In its motion, NAPTS also states that additional time is required for the filing of meaningful comments. It states that this request is necessitated by the intervening holidays that have delayed collection of responses from members.

4. It is the policy of the Commission that extensions of time are not routinely granted.[1] In the instant matter, because of the relatively short comment period and because of the intervening holidays additional time to comment may be appropriate. Because we wish to have the benefit of thoughtful and complete comments, we shall therefore extend the comment and reply comment dates by two weeks, to February 13, 1984, and February 28, 1984, respectively. The Commission does not contemplate that any further extensions of time will be granted in this proceeding.

5. Accordingly, it is ordered, That the motion for extension of time filed by NTA is granted, and that the motion for extension of time filed by NAPTS is granted to the degree stated herein and is in all other respects denied, and the dates for the filing of comments and reply comments are hereby extended to and including February 13, 1984, and February 28, 1984, respectively.

6. This action is taken pursuant to Sections 4(i), 5(c)(l), and 303(r) of the Communications Act of 1934, as amended, and Section 0.283 of the Commission's Rules.

Federal Communications Commission.

Roy J. Stewart,

Chief, Video Service Division, Mass Media Bureau.

[FR Doc. 84-2979 Filed 2-2-84; 8:45 am]

BILLING CODE 6712-01-M

[1] Section 1.46(a) of the Commission's Rules

Notices

Federal Register
Vol. 49, No. 24
Friday, February 3, 1984

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

ADVISORY COUNCIL ON HISTORIC PRESERVATION

Programmatic Memorandum of Agreement

AGENCY: Advisory Council on Historic Preservation.

ACTION: Notice.

SUMMARY: This notice announces the availability of, provides information about, and invites comments on a proposed Programmatic Memorandum of Agreement on Historic Preservation Consideration in the Solar Energy and Energy Conservation Bank Program (Solar Bank) of the Department of Housing and Urban Development (HUD).

Comments due: Comments must be submitted on or before March 5, 1984.

ADDRESS: Executive Director, Advisory Council on Historic Preservation, The Old Post Office, 1100 Pennsylvania Avenue NW., Suite 809, Washington, DC 20004.

FOR FURTHER INFORMATION CONTACT: Copies of the Agreement and additional information are available from Dr. Janet Friedman, Advisory Council on Historic Preservation, The Old Post Office, 1100 Pennsylvania Avenue NW., Suite 803, Washington, DC 20004 (202) 786–0505.

SUPPLEMENTARY INFORMATION: The Solar Bank of HUD assists the financing of solar energy systems and provides loan subsidies and matching grants for a variety of cost-effective energy conservation measures. The program operates through the award of funds to States. The funds are passed on to qualified financial institutions which assist eligible applicants who are owners of or tenants in individual residential, multi-family residential, commercial, and agricultural buildings.

The activities of the Solar Bank potentially may affect historic properties. Therefore, HUD has responsibility for considering the effects of the program on properties listed in or eligible for the National Register of Historic Places. HUD and the Advisory Council on Historic Preservation propose to develop a Programmatic Memorandum of Agreement (PMOA) per the Council's regulations 36 CFR Part 800.0. This PMOA will identify categories of properties and activities which do not require further consideration under Section 106 of the National Historic Preservation Act. Additionally, the PMOA will establish a process for those activities likely to affect historic properties whereby historic values will be identified and protected. HUD will ensure that State Historic Preservation Officers are involved in identifying historic values, are informed about Solar Bank projects, and are given the opportunity to participate in developing a plan to minimize or mitigate adverse impacts on historic properties. The purposes of the Memorandum are to ensure that no property will be denied consideration for assistance because of its historic value, that historic significance will not be unnecessarily impacted as a result of a Solar Bank project, and that Solar Bank projects will not be unnecessarily delayed because of consideration of historic values.

Dated: January 31, 1984.

Robert R. Garvey, Jr.,

Executive Director.

[FR Doc. 84-3040 Filed 2-2-84; 8:45 am]
BILLING CODE 4310-10-M

DEPARTMENT OF AGRICULTURE

Forest Service

The Committee of State Foresters; Meeting

The Committee of State Foresters will meet in Atlanta, Georgia on March 8, 1984. The meeting will convene at 8:00 a.m. on March 8 in Tower Room 2 of the Westin Peachtree Plaza, Peachtree at International Boulevard, Atlanta, Georgia.

The Committee, comprised of the seven members of the Executive Committee of the National Association of State Foresters, consults with the Secretary of Agriculture and various agencies of the Department on the implementation of the Cooperative Forestry Assistance Act of 1978 (Pub. L. 95–313). The Assistant Secretary for Natural Resources and Environment will chair the meeting. He and representatives of the Forest Service and other interested agencies will attend from the Department of Agriculture.

The meeting will be open to the public. Persons who wish to attend should notify the Committee's Executive Secretary, John H. Ohman, Deputy Chief for State and Private Forestry, USDA—Forest Service, P.O. Box 2417, Washington, DC 20013, telephone (202) 447–6657. Written statements may be filed with the Committee before or after the meeting.

Dated: January 27, 1984.

F. Dale Robertson,

Associate Chief.

[FR Doc. 84-3055 Filed 2-2-84; 8:45 am]
BILLING CODE 3410-11-M

Rural Electrification Administration

Wells Rural Electric Company; Environmental Impact

AGENCY: Rural Electrification Administration, USDA.

ACTION: Notice of Finding of No Significant Impact.

SUMMARY: Notice is hereby given that the Rural Electrification Administration (REA), pursuant to the National Environmental Policy Act of 1969, the Council on Environmental Quality Regulations (40 CFR Part 1500) and REA Bulletin 20–20:320–21, Environmental Policies and Procedures, has made a Finding of No Significant Impact (FONSI) with respect to approval of a large power contract and approval of a construction contract to Wells Rural Electric Company (Wells), of Wells, Nevada. Wells intends to construct a 120 kV transmission line and associated facilities between Elko, Nevada and the Carlin Gold Mining Quarry located near Carlin, Nevada. The proposed facilities would be located in Elko and Eureka Counties.

FOR FURTHER INFORMATION CONTACT: REA's Finding of No Significant Impact and Environmental Assessment (EA) and the Bureau of Land Management's (BLM) Environmental Assessment Report (EAR) may be reviewed at or

obtained from Mr. William E. Davis, Director, Western Area—Electric, Rural Electrification Administration, Room 0207, South Agriculture Building, Washington, D.C. 20250, telephone: (202) 382–8848, or Wells Rural Electric Company, P.O. Box 365, Wells, Nevada 39835, telephone: (702) 752–3328, during regular business hours.

SUPPLEMENTARY INFORMATION: BLM has prepared an EAR for the proposed facilities. REA has reviewed the BLM EAR submitted by Wells and has determined that it represents an accurate assessment of the environmental impact of the proposed project. The proposed project would consist of approximately 40 km (25 miles) of 120 kV transmission line which would extend from the Elko Switching Station to the substation at the Carlin Gold Mining Quarry.

The EAR adequately considered potential impacts of the proposed project to resources including threatened and endangered species, important farmlands, cultural resources, floodplains and wetlands.

Alternatives examined included no action, upgrading the existing Carlin Feeder, alternative routes and alternative substation sites. The proposed route would extend north 2.4 km (1.5 miles) from the Elko Switching Station, then southwesterly approximately 28.3 km (17.4 miles) to the proposed Carlin Substation. The line would then extend in a northwesterly direction 9.4 km (6 miles) to the Carlin Gold Mining Quarry site. Another alternative corridor would generally extend in a westerly direction from the Elko Switching Station to Dry Susie Creek and then southwesterly along Susie Creek. After reviewing these alternatives, REA determined that the proposed project is an acceptable alternative because it meets Wells' need with a minimum of adverse impact.

Based upon the EAR and other related data, REA prepared an EA and Finding of No Significant Impact concerning the proposed construction. REA has independently evaluated the proposed project and has concluded that approval of a large power contract and approval of a construction contract for the project would not constitute a major Federal action significantly affecting the quality of the human environment.

This program is listed in the Catalog of Federal Domestic Assistance as 10.850-Rural Electrification Loans and Loan Guarantees.

Dated: January 30, 1984.

Harold V. Hunter,

Administrator.

[FR Doc. 84-3058 Filed 2-3-84; 8:45 am]

BILLING CODE 3410-15-M

CIVIL AERONAUTICS BOARD

Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q of the Board's Procedural Regulations

Week Ended January 27, 1984.

Subpart Q applications

The due date for answers, conforming application, or motions to modify scope are set forth below for each application. Following the answer period the board may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings. (See 14 CFR 302.1701 et seq.)

Date filed	Docket No.	Description
Jan. 23, 1984	41958	Bering Air, Inc., c/o James D. Rowe, P.O. Box 1650, Nome, Alaska 99762. Application of Bering Air, Inc., pursuant to section 401 of the Act and Subpart Q of the Board's Procedural Regulations applies for a certificate of public convenience and necessity for an indefinite term to perform scheduled interstate air transportation of persons, property, and mail between the terminal point of Kotzebue to the intermediate points of Ambler, Buckland, Cape Lisburne, Deering, Kiana, Kivalina, Kobuk, Noatak, Noorvik, Point Hope, Selawik, and Shungnak, Alaska, and between the terminal point of Nome to the intermediate points of Brevig Mission, Elim, Gambell, Golovin, Koyuk, Moses Point, Port Clarence, Savoonga, Shaktoolik, Shishmaref, St. Michael, Stebbins, Teller, Tin City, Unalakleet, Wales, and White Mountain, Alaska. Conforming Applications, Motions to Modify Scope and Answers may be filed by February 21, 1984.
Jan. 25, 1984	41961	Airwest International, Inc., c/o Michael J. Roberts, Verner, Liipfert, Bernhard and McPherson, Suite 1100, 1660 L Street NW., Washington, D.C. 20036. Application of Airwest International, Inc., pursuant to section 401 of the Act and Subpart Q of the Board's Procedural Regulations requests issuance of a certificate of public convenience and necessity which would authorize it to engage in scheduled interstate and overseas air transportation of passengers, property, and mail. Conforming Applications, Motions to Modify Scope and Answers may be filed by February 22, 1984.
Jan. 27, 1984	41954	British Caledonian Airways (Charter) Limited, T/A British Caledonian Charter, c/o Leonard N. Bebchick, Suite 700, 1220 Nineteenth Street NW., Washington, D.C. 20036. Application of British Caledonian Airways (Charter) Limited, T/A British Caledonian Charter pursuant to section 402 of the Act and Subpart Q of the Board's Procedural Regulations applies for a foreign air carrier permit to perform charter foreign air transportation of persons and property between points in the United States and points outside thereof. Answers may be filed by February 24, 1984.
Do	41647	Cayman Airways Limited, c/o Joseph H. Dettmar, Garvey, Schubert, Adams & Barer, 30th Floor, The Bank of California Center, Seattle, Washington 98164. Amendment to the Application of Cayman Airways Limited hereby amends its application by deleting Cuba as a proposed intermediate point between Grand Cayman, on the one hand, and points in the United States, on the other.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 84-3034 Filed 2-3-84; 8:45 am]

BILLING CODE 6320-01-M

[Docket No. 40662]

Aero West Airlines, Inc., Fitness Investigation; Hearing

Notice is hereby given that a hearing in the above-titled matter is assigned to be held on February 16, 1984, at 10:00 a.m. (local time), in Room 1027, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C., before the undersigned.

Dated at Washington, D.C., January 30, 1984.

Ronnie A. Yoder,

Administrative Law Judge.

[FR Doc. 84-3035 Filed 2-3-84; 8:45 am]

BILLING CODE 6320-01-M

[Docket No. 41919]

Airmark Corporation Fitness Investigation; Prehearing Conference

Notice is hereby given that a prehearing conference in the above-entitled matter is assigned to be held on February 7, 1984, at 10:00 a.m. (local time) in Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. before the undersigned Administrative Law Judge.

Dated at Washington, D.C., January 31, 1984.

Ronnie A. Yoder,

Administrative Law Judge.

[FR Doc. 84-3038 Filed 2-2-84; 8:45 am]

BILLING CODE 6320-01-M

Order Establishing Standard Foreign Fare Level

The International Air Transportation Competition Act (IATCA), Pub. L. 96-192, requires that the Board establish a Standard Foreign Fare Level (SFFL) by adjusting the SFFL base periodically by percentage changes in actual operating costs per available seat-mile. The SFFL thus computed becomes the benchmark for measuring the statutory nonsuspend zone similar to the zone of reasonableness established by the Airline Deregulation Act and set forth in sec. 1002(d) of the Federal Aviation Act of 1958, as amended. Order 80-2-69 established the first interim SFFL and subsequent Order 83-11-98 established the currently effective two-month SFFL applicable through January 31, 1984.

In establishing the SFFL for the two-month period starting February 1, 1984, we have projected nonfuel costs based on the year ended September 30, 1983 and have determined fuel prices on the basis of experienced monthly fuel cost levels as reported to the Board.

By Order 84-1-124 fares may be increased by the following adjustment factors over the October 1, 1979, level:

Atlantic	1.1905
Western Hemisphere	1.2001
Pacific	1.1409
Canada	1.2184

Copies of the Board's order are available from the C.A.B. Distribution Section, Room 100, 1825 Connecticut Avenue NW., Washington, D.C. 20428. Persons outside the metropolitan area may send a postcard request.

For Further Information Contact: Robert I. Stein, (202) 673-5116.

By the Civil Aeronautics Board: January 27, 1984.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 84-3035 Filed 2-2-84; 8:45 am]

BILLING CODE 6320-01-M

Order Establishing International Cargo Rate Flexibility Policy

The Board, by Policy Statement PS-109, effective February 27, 1983, adopted a policy of not suspending international cargo rate changes within a specified zone, except in extraordinary circumstances. That policy, implemented by Regulation ER-1322, effective February 27, 1983 (14 CFR Part 221), eliminates the requirement of economic justification for international cargo rates which are within Board established zones of flexibility. As stated in ER-1322, the Board has taken action to allow air carriers to respond more quickly to changing costs and competitive conditions.

In establishing the SFRL for the two-month period starting February 1, 1984, we have projected nonfuel costs based on the year ended September 30, 1983 and have determined fuel prices on the basis of experienced monthly fuel cost levels.

By Order 84-1-125 fares may be increased by the following adjustment factors over the April 1, 1982, level:

Atlantic	1.0132
Western Hemisphere	1.0486
Pacific	.9335

Copies of the Board's order are available from the C.A.B. Distribution Section, Room 100, 1825 Connecticut Avenue NW., Washington, D.C. 20428. Persons outside the metropolitan area may send a postcard request.

For Further Information Contact: John D. Coakley, (202) 673-5196.

By the Civil Aeronautics Board: January 27, 1984.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 84-3037 Filed 2-2-84; 8:45 am]

BILLING CODE 6320-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Marine Mammals; Receipt of Application for General Permit; Scan Ocean, Inc.

Notice is hereby given that the following application has been received to take marine mammals incidental to the pursuit of commercial fishing operations within the U.S. Fishery Conservation Zone during 1984 as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407) and the regulations thereunder.

Applicant: Scan Ocean, Inc., 42 Rogers Street, Gloucester, Massachusetts 01930

has applied for a Category 1: Towed or Dragged Gear general permit to take up to 15 small cetaceans and 5 harbor seals in the North Atlantic Ocean.

This application is available for review in the following office: Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street NW., Washington, D.C.

Interested parties may submit written comments on this application within thirty (30) days of the date of this notice to the Assistant Administrator for Fisheries, National Marine Fisheries Service, Washington, D.C. 20235.

Dated: January 30, 1984.

Carmen J. Blondin,

Deputy Assistant Administrator for Fisheries Resource Management, National Marine Fisheries Service.

[FR Doc. 84-3032 Filed 2-2-84; 8:45 am]

BILLING CODE 3510-22-M

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

Procurement List 1984; Additions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Additions to Procurement List.

SUMMARY: This action adds to Procurement List 1984 military resale commodities to be produced by and services to be provided by workshops for the blind and other severely handicapped.

EFFECTIVE DATE: February 3, 1984.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, Crystal Square 5, Suite 1107, 1755 Jefferson Davis Highway, Arlington, Virginia 22202.

FOR FURTHER INFORMATION CONTACT: C. W. Fletcher, (703) 557-1145.

SUPPLEMENTARY INFORMATION: On October 14, 1983, October 28, 1983, and November 10, 1983, the Committee for Purchase from the Blind and Other Severely Handicapped published notices (48 FR 46832, 48 FR 49904, and 48 FR 51679) of proposed additions to Procurement List 1984, October 18, 1983 (48 FR 48415).

After consideration of the relevant matter presented, the Committee has detrmined that the military resale commodities and services listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46–48c, 85 Stat. 77.

I certify that the following actions will not have a significant impact on a substantial number of small entities. The major factors considered were:

a. The actions will nt result in any additional reporting, recordkeeping or other compliance requirements.

b. The actions will not have a serious economic impact on any contractors for the military resale commodities and services listed.

c. The actions will result in authorizing small entities to produce or provide military resale commodities and services procured by the Government.

Accordingly, the following military resale commodities and services are hereby added to Procurement List 1984:

Item No. and Description

940, Towel, Heritage Design
942, Dish Cloth, Heritage Design (PG of 2)
943, Towel, Modern Design
944, Dish Cloth, Modern Design
947, Oven Mitt, Modern Design
948, Pot Holder, Modern Design
973, Towel, Contemporary Design
974, Dish Cloth, Contemporary Design
977, Oven Mitt, Contemporary Design
978, Pot Holder, Contemporary Design
971, Towel, Dish, Traditional Design
972, Dish Cloth, Traditional Design
075, Oven Mitt, Traditional Design
979, Pot Holder, Traditional Design

SIC 7349

Janitorial Service, FAA Facilities, ARTCC. Hampton, Georgia
Janitorial Service, Wallace Ranger District of the Panhandle National Forest, Coeur d'Alene, Idaho
Janitorial/Custodial, Supervisor's Office, Umpqua National Forest, 2900 N.W. Stewart Parkway, Roseburg, Oregon

E. R. Alley, Jr.,

Acting Executive Director.

[FR Doc. 84–3021 Filed 2–2–84; 8:45 am]

BILLING CODE 6820–33–M

Procurement List 1984; Proposed Additions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Proposed Additions to Procurement List.

SUMMARY: The Committee has received proposals to add to Procurement List 1984 commodities and military resale commodities to be produced by and services to be provided by workshops for the blind and other severely handicapped.

Comments must be received on or before: March 7, 1984.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, Crystal Square 5, Suite 1107, 1755 Jefferson Davis Highway, Arlington, Virginia 22202.

FOR FURTHER INFORMATION CONTACT: C. W. Fletcher, (703) 557–1145.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a) (2), 85 Stat. 77. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed actions.

If the Committee approves the proposed additions, all entities of the Federal Government will be required to procure the commodities, military resale commodities, and services listed below from workshops for the blind or other severely handicapped.

It is proposed to add the following commodities, military resale commodities, and services to Procurement List 1984, October 18, 1983 (48 FR 48415):

Class 7330

Pad, Bakery: 7330–00–379–4439, GSA Regions 1,2,4,7,9 and 10

Class 7530

Folder, File, Kraft: 7530–00–811–7169

Military Resale Item Nos. and Names

No. 503, Bowl Deodorizer
No. 504, Bowl Deodorizer

SIC 0782

Grounds Maintenance, Parcels P,Q,R,S,T, Naval Air Station, Mirmar, San Diego, California
Grounds Maintenance, USAR Facility, Grant County Airport, Moses Lake, Washington

SIC 7349

Janitorial/Custodial Services, USAR Facility, Grant County Airport, Moses Lake, Washington

E. R. Alley, Jr.,

Acting Executive Director.

[FR Doc. 84–3020 Filed 2–2–84; 8:45 am]

BILLING CODE 6820–33–M

DEPARTMENT OF DEFENSE

Department of the Army

United States Army Medical Research and Development Advisory Committee, Subcommittee on Parasitic Disease; Partially Closed Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. Appendix, Sections 1–15), announcement is made of the following Subcommittee meeting:

Name of Committee: United States Army Medical Research and Development Advisory Committee, Subcommittee on Parasitic Diseases.

Date of Meeting: 5 and 6 March 1984.

Time and Place: 0630 hrs, Room 3092, Walter Reed Army Institute of Research, Washington, DC.

Proposed Agenda: This meeting will be open to the public from 0630–1015 hrs on 5 March for the administrative review and discussion of the scientific research program of the Parasitic Diseases Group, Walter Reed Army Institute of Research. Attendance by the public at open sessions will be limited to space available.

In accordance with the provisions set forth in Section 552b(c)(6), United States Code. Title 5 and Sections 1–15 of appendix, the meeting will be closed to the public 1030–1630 hrs on 5 March and from 0900–1200 hrs on 6 March for the review, discussion and evaluation of individual programs and projects conducted by the US Army Medical Research and Development Command, including consideration of personnel qualifications and performance, the competence of individual investigators, medical files of individual research subjects, and similar items, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Dr. Howard Noyes, Associate Director for Research Management, Walter Reed Army Institute of Research, Bldge 40, Room 1111, Walter Reed Army Medical Center, Washington, DC 20307 (202/576–2436) will furnish summary minute, roster of Subcommittee members and substantive programs information.

Harry G. Dangerfield, M.D.,

Colonel, MC, Deputy Commander.

[FR Doc. 84–3010 Filed 2–2–84; 8:45 am]

BILLING CODE 3710–08–M

Privacy Act of 1974; Amendments to and Deletion of Notices for Systems of Records

Correction

In FR Doc. 84–2331 appearing at page 3506 in the issue of Friday, January 27, 1984, on page 3511, in the middle column, before the "System Name: Junior ROTC/NDCC Instructor Files", insert the System Identification Number "A1005.01 TRADOC".

BILLING CODE 1505–01–M

Department of the Navy

Chief of Naval Operations Executive Panel Advisory Committee Terrorism Task Force; Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. App. I), notice is hereby given that the Chief of Naval Operations (CNO) Executive Panel Advisory Committee Terrorism Task Force will meet on February 21–22, 1984, from 9 a.m. to 5 p.m. each day, at 2000 North Beauregard Street, Alexandria, Virginia. All sessions will be closed to the public.

The entire agenda for the meeting will consist of discussions of key issues related to terrorism and the formulation of an updated Navy Policy on Terrorism and Counter/Anti-Terrorism. These matters constitute classified information that is specifically authorized by Executive order to be kept secret in the interest of national defense and is, in fact, properly classified pursuant to such Executive order. Accordingly, the Secretary of the Navy has determined in writing that the public interest requires that all sessions of the meeting be closed to the public because they will be concerned with matters listed in section 552b(c)(1) of Title 5, United States Code.

For further information concerning this meeting, contact Lieutenant Thomas E. Arnold, Executive Secretary of the CNO Executive Panel Advisory Committee, 2000 North Beauregard Street, Alexandria, Virginia 22311. Telephone: (703) 756–1205.

Dated: January 31, 1984.

William F. Roos, Jr.,

Lieutenant, JAGC, U.S. Naval Reserve, Federal Register Liaison Officer.

[FR Doc. 84-2862 Filed 2-3-84; 8:45 am]

BILLING CODE 3810-AE-M

DEPARTMENT OF ENERGY

Advisory Panel on Alternative Means of Financing and Managing (AMFM) Radioactive Waste Facilities; Open Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770), notice is hereby given of the following meeting:

Name: Advisory Panel on Alternative Means of Financing and Managing (AMFM) Radioactive Waste Facilities.

Date and Time: February 21, 1984, 9:00 a.m.—5:00 p.m.; February 22, 1984, 9:00 a.m.—4:00 p.m.

Place: U.S. Department of Energy, Forrestal Building, Room 1E–245, 1000 Independence Avenue SW., Washington, D.C. 20585.

Contact: Howard Perry, U.S. Department of Energy, Office of Civilian Radioactive Waste Management, 1000 Independence Avenue SW., Washington, D.C. 20585, Telephone: 202/252–5316.

Purpose of the Panel: To Study and report to the Department of Energy on alternative approches to managing the construction and operation of civilian radioactive waste facilities, pursuant to Section 303 of the Nuclear Waste Policy Act of 1982 (Pub. L. 97–425). The panel's report will include a thorough and objective analysis of the advantages and disadvantages of each alternative approach.

Tentative Agenda

February 21, 1984

- AMFM Subcommittee Reports (Facilities, Financing, Organization)
- Other Panel Business
- Description of Systems for Nuclear Waste Storage, Transportation and Disposal
- DOE Program Management and Budget
- DOE Mission Plan
- Public Comment

February 22, 1984:

- Viewpoints of
  —Congress
  —Other Federal Agencies
  —States
  —Indian Tribes
  —Utilities
  —Environmental Organizations
  —Other Interested Groups
- Public Comment

Public Participation

The meeting is open to the public. Written statements may be filed with the Panel either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact Howard Perry at the address or telephone number listed above. Requests must be received 5 days prior to the meeting and reasonable provision will be made to include the presentation on the agenda. The Chairperson of the Panel is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business.

Transcripts

The transcript of the meeting will be available for public review and copying at the Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C., between 8:30 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, D.C. on January 31, 1984.

Howard H. Raiken,

Deputy Advisory Committee Management Officer.

[FR Doc. 84-2864 Filed 2-3-84; 8:45 am]

BILLING CODE 6450-01-M

Bonneville Power Administration

Proposed Methodology for Determining the Average System Cost of Resources for Electric Utilities Participating in the Residential Exchange Established by Section 5(c) of the Pacific Northwest Electric Power Planning and Conservation Act

AGENCY: Bonneville Power Administration (BPA), DOE.

ACTION: Notice; request for comments (*BPA File No.:* ASC–83).

SUMMARY: Bonneville Power Administration (BPA) proposes a new methodology for determining the average system cost (ASC) of resources for regional electric utilities that participate in the so-called "residential exchange" authorized by section 5(c) of the Pacific Northwest Electric Power Planning and Conservation Act (Northwest Power Act), 16 U.S.C. 839c(c). The ASC methodology determines the level of monetary benefits paid by BPA to each utility participating in the residential exchange. The statute gives the BPA Administrator discretionary authority to determine ASC based on a methodology to be developed by BPA in consultation with the Pacific Northwest Power and Conservation Planning Council, BPA customers and state regulatory agencies in the Pacific Northwest. The existing methodology was adopted by BPA and first approved by the Federal Energy Regulatory Commission in 1981. The Administrator initiated the current consultation on October 7, 1983, with a notice soliciting public comment on 17 specific issues pertaining to the ASC methodology (48 FR 45829). Based in part on the comments received, the methodology proposed by BPA in this notice redefines the types of capital and expense items includable in ASC, changes the sources from which ASC data are to be derived, and changes the nature and timing of BPA procedures for review of ASC filings by utilities participating in the residential exchange. The notice also contains detailed procedures for continued public participating in the ongoing consultation proceeding.

DATES: Written comments on issues relevant to BPA's proposed Average System Cost methodology, or on possible alternative methodologies, will be accepted until March 15, 1984. Written replies to the first round of comments will be accepted thereafter until April 9, 1984.

ADDRESSES: Written comments should be submitted to the Public Involvement

Manager, Bonneville Power Administrator, P.O. Box 12999, Portland, Oregon 97212.

FOR FURTHER INFORMATION CONTACT:

Ms. Kathleen S. Johnson, Public Involvement Office, at the address listed above, 503–230–3478. Oregon callers outside Portland may use the toll-free number 800–452–8429; callers in California, Idaho, Montana, Nevada, Utah, Wyoming, and Washington may use 800–547–6048. Information may also be obtained from:

Mr. George E. Gwinnutt, Lower Columbia Area Manager, Suite 288, 1500 Plaza Building, 1500 NE. Irving Street, Portland, Oregon 97208, 503–230–4551.

Mr. Ladd Sutton, Eugene District Manager, Room 206, 211 East Seventh Street, Eugene, Oregon 97401, 503–687–6952.

Mr. Ronald H. Wilkerson, Upper Columbia Area Manager, Room 561, West 920 Riverside Avenue, Spokane, Washington 99201, 509–456–2518.

Mr. Ronald K. Rodewald, Wenatchee District Manager, P.O. Box 741, Wenatchee, Washington 98801, 509–662–4377, extension 379.

Mr. George E. Eskridge, Montana District Manager, 800 Kensington, Missoula, Montana 59801, 406–329–3880.

Mr. Richard D. Casad, Puget Sound Area Manager, Room 250, 415 First Avenue North, Seattle, Washington 98109, 206–442–4130.

Mr. Thomas Wagenhoffer, Snake River Area Manager, West 101 Poplar, Walla Walla, Washington 99362, 509–525–5500, extension 701.

Mr. Robert N. Laffel, Idaho Falls District Manager, 531 Lomax Street, Idaho Falls, Idaho 83401, 208–523–2706.

Mr. Frederic D. Rettenmund, Boise District Manager, Owyhee Plaza, Suite 245, 1109 Main St., Boise, Idaho 83707, 208–334–9138.

SUPPLEMENTARY INFORMATION:

I. Background

A. Relevant Statutory Provisions

Section 5(c)(1) of the Northwest Power Act, 16 U.S.C. 839c(c)(1), provides that BPA shall acquire certain amounts of power offered for sale by Pacific Northwest electric utilities. In exchange, BPA shall offer to sell "an equivalent amount of electric power to such utility for resale to that utility's residential users within the region." [1] BPA "shall offer to sell the same amount of power back to the utility. . . ." H. Rep. 976–I, 96th Cong., 2d Sess. at 60 (1980). Sales to the utility may not be restricted below the amount of power acquired from the utility. See, section 5(c)(6). Under this "residential exchange," there is no power transferred either to or from BPA.[2]

Currently, the "equivalent amount of electric power" exchanged by BPA with the participating utility is priced at the same rate as that for general requirements sales to BPS's preference customers (the "priority firm rate"). See, section 7(b)(1) of the Northwest Power Act, 16 U.S.C. 839e(b)(1). Because this exchange power must be treated as resold to the participating utility's residential users within the region, "wholesale rate parity" is established between the residential consumers of BPA's preference utility customers and the residential consumers of all participating utilities.[3] This wholesale rate parity is the first attribute of the residential exchange.

In contrast, the amount paid by BPA to the participating utility is not a conventional wholesale power rate. Section 5(c)(1) states that BPA is to pay "the average system cost of that utility's resources." Section 5(c)(7) of the Northwest Power Act gives BPA's Administrator the discretionary authority to determine average system cost (ASC) on the basis of the methodology to be established in consultation proceedings. The only express statutory limits on the Administrator's authority are found in section 5(c)(7) (A), (B) and (C).

Generally, the BPA priority firm rate has been lower than participating utilities' ASC under the current methodology. The resulting monetary benefits paid by BPA to participating utilities, or "net cost of the exchange," is the second attribute of the residential exchange. As noted above, the residential exchange is not a conventional power transaction. System schedulers do not dispatch the exchange; line losses are not incurred. The power sale concept was created by Congress for BPA ratemaking purposes. E.g., section 7(b)(1).[4] Practically speaking, the purpose of the residential exchange is to exchange costs for the benefit of the residential ratepayers of exchanging utilities. When the BPA priority firm rate is lower than a participating utility's ASC, BPA pays the net cost to that utility. However, when the priority firm rate is higher than the ASC, i.e., when the net cost of the exchange is negative, the statute has been construed to give the utility a unilateral right to "deem" its ASC equal to the priority firm rate, so that no payment ever flows form the utility to BPA.[5] The residential exchange only works to the advantage of participating utilities; it never lowers the rates of BPA customers.

The monetary benefits of the residential exchange must be passed through directly to the participating utility's residential loads in accordance with section 5(c)(3), guarding against the possibility that the utility might set retail residential rates which counteracted the benefits of the residential exchange. However, it is incumbent on BPA to establish an ASC methodology which ensures that the net cost of the exchange not exceed the limits established by Congress in the Northwest Power Act. E.g., section 5(c)(7) (A), (B) and (C).

The ASC methodology must also be designed so that BPA does not become the "deep pocket" to which participating utilities may shift excessive or improper resource costs. The ASC methodology should give participating utilities an incentive to minimize their costs. Otherwise, BPA could be faced with either of two statutorily impermissible alternatives. First, BPA may not be able to set reasonable rates for its customers,

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[1] The exchange was set equal to 50 percent of a participating utility's qualifying residential and small farm load as of July 1, 1980, and has been increasing in equal increments toward 100 percent of such load. See, section 5(c)(2).

[2] Section 5(c)(5) allows BPA to acquire an "equivalent amount of electric power from other sources to replace power sold to [a participating] utility," if the cost of such replacement acquisition is less than the applicable ASC. Once again, however, the key phrase is "equivalent amount." In any event, such alternative purchases have been construed to require seven years advance notice. See, section 4(a), Residential Purchase and Sale Agreement, Contract No. DE–MS79–81BP9. BPA designates this contract as part of the record of this consultation proceeding.

[3] However, Congress has recognized that this wholesale rate parity may change as of July 1985. See, section 7(b)(2) and 7(b)(3), 16 U.S.C. 839e(b)(2) and (b)(3).

[4] The outcome of this consultation proceeding willl not change the way in which BPA establishes rates under section 7 of the Northwest Power Act. The resource concept was devised by Congress to allocate the benefits and costs of the Federal Base System among competing classes of BPA customers. BPA has faithfully implemented Congress' ratemaking directives. However, the resource concept should not obfuscate the nature of the residential exchange as a transfer payment from BPA to the participating utilities.

[5] However, BPA does keep an account of such unpaid amounts, which are offset against subsequent BPA payments to the utility. See, section 10, Residential Purchase and Sale Agreement, Contract No. DE–MS79–81BP9.

Furthermore, section 5(c)(4), 16 U.S.C. 839c(c)(4), recognizes that BPA's priority firm rate, insofar as it applies to the residential exchange, may carry one or more "supplemental rate charges" after July 1, 1985, due to implementation of section 7(b)(3) of the Northwest Power Act, 16 U.S.C 839e(b)(3). Were this to occur and cause the applicable priority firm rate to exceed a participating utility's ASC, that utility could terminate its participation in the residential exchange. See, section 9 of the Residential Purchase and Sale Agreement, id.

who must pay for the net cost of the residential exchange. Second, if net exchange costs cause rates to rise to the level where loads decline, BPA may not be able to satisfy the requirement of section 7(a) of the Northwest Power Act that its rates recover total revenue requirement. BPA is a self-financing government agency, which must recover its costs through rates for sales of electric power and energy.

Through June of 1985, BPA's rates for service to direct-service industrial (DSI) customers are to recover, inter alia, the "net costs incurred by the Administrator pursuant to section 5(c) of this Act . . . to the extent that such costs are not recovered through rates applicable to other customers." See, section 7(c)(1)(A). However, beginning in July of 1985, a new ratemaking methodology for recovering the net cost of the residential exchange is to be established. Then, residential exchange costs may have a greater effect on the rates of all customer classes.

B. The Current Average System Cost Methodology

The first average system cost methodology (1981 methodology) was established pursuant to section 5(c)(7) on August 26, 1981, in an Administrator's Record of Decision. That decision was based on a settlement agreement, which had resolved nearly all issues raised by parties in the consultation proceeding.

The Administrator filed the 1981 methodology with the Federal Energy Regulatory Commission (FERC or Commission) on August 27, 1981. The Commission approved the 1981 methodology, on an interim basis, on October 14, 1981 (46 FR 50517–538 (1981)) (corrected at 46 FR 55952–954). Final Commission approval was received on October 17, 1983, in an order that made no substantive change to the methodology proposed by BPA (48 FR 46970).

Under the 1981 methodology, a preliminary "Appendix 1" must be filed with BPA by each participating utility whenever that utility commences a retail rate change proceeding before a regulatory authority. 1981 Methodology, § III. Appendix 1 is a form that identifies the "Contract System Costs" and "Contract System load" used in the calculation of ASC. Later, the Appendix 1 is revised when the regulatory authority approves final retail rates. The ASC of each participating utility includes the costs approved by the regulator.

BPA reviews each Appendix 1 for conformance with criteria specified in the 1981 methodology. The first Appendix 1 filed by a utility is subject to review for 180 days following the effective date of its residential exchange contract. Subsequent Appendix 1 filings are subject to review for 120 days from the start of the relevant exchange period. BPA customers and other interested persons are provided an opportunity to submit comments on each Appendix 1 filed. 1981 Methodology, § IV(D). All such comments are due no later than 20 days prior to the end of BPA's review period. If BPA has not issued a report by the last date of the review period, then the ASC proposed on the basis of a utility's revised Appendix 1 becomes the ASC for the relevant exchange period.

Pursuant to section V(A) of the 1981 Methodology, each utility subject to FERC jurisdiction under Part II of the Federal Power Act 16 U.S.C. 824, et seq., must file BPA's written report, the ASC determined by BPA, and the revised Appendix 1 with FERC within 15 days of BPA's determination. During the period between the date of BPA's determination and the date of the final FERC order, the ASC determined by BPA is used, subject to later refund.

This reliance on state regulatory agencies to determine the level of costs included in the ASC of a participating utility, the "jurisdictional costing approach," has caused several problems of administration for BPA. Routinely, the orders of regulatory agencies do not contain the specific numbers necessary for ASC computation. In such instances, values for ASC accounts must be imputed. Also, the jurisdictional approach produces a great number of utility filings. One participating utility, regulated in each Pacific Northwest state, may make two or three revised Appendix 1 filings for each state.[6]

Another drawback to the jurisdictional approach is that state rate regulators are not responsible for enforcing the requirements of section 5(c). Instead, they are charged by state law or local ordinance with setting reasonable rates, which maintain the financial health and stability of the regulated utility. The interests of utility ratepayers and shareholders are commonly viewed as somewhat antagonistic. The courts have accorded regulators the latitude of a "zone of reasonableness" in which to set rates that balance these interests. *Federal Power Commission v. Natural Gas Pipeline Company*, 315 U.S. 575, 585 (1942). However, the choice of rates within this zone undoubtedly is affected by BPA's obligation under the 1981 methodology to provide whatever exchange payment a retail rate order dictates.

With BPA in the picture, higher retail rates do not necessarily produce higher bills for residential ratepayers. This phenomenon favors the establishment of retail rates at the upper end of the zone. A participating utility may not be given an adequate incentive to control its costs. Yet, BPA simply cannot intervene and participate in every regional rate proceeding to protect the interests of its own customers and its ability to recover revenue requirements.[7]

There have been instances when serious concern has been raised that costs approved for retail ratemaking purposes, and thus added to ASC under the 1981 methodology, have included terminated plant costs prohibited under section 5(c)(7)(C). In one case, terminated plant costs were removed from an ASC filing during BPA review. See, BPA's Average System Cost Report for Portland General Electric Company, Jurisdiction: Oregon (May 13, 1983). In another case, terminated plant issues were debated but became moot when another adjustment was made by BPA to an ASC filing. See, Average System Cost Report for Pacific Power & Light Company, Jurisdiction: Oregon (November 2, 1983). Terminated plant issues, in aprticular, have caused all BPA's DSI customers to request a chagne in ASC methodology by involing paragraph VI, Appendix C, of the 1981 Methodology. Many of BPA's public agency customers have also requested that a new consultation proceeding be commenced.

For these reasons, the ongoing consultation proceeding was initiated on October 7, 1983 (48 FR 45,829)—nearly two years after FERC first approved the 1981 methodology. The jurisdictional costing approach is not producing satisfactory results. BPA therefore proposes to eliminate the jurisdictional costing approach embodied in Exhibit C to the 1981 methodology. In its place, a uniform cost approach is proposed as the new ASC methodology. Full details of this initial proposal are set forth later in this notice.

[6] There are currently over 80 ASC filings awaiting FERC review. BPA hopes that the Commission will support a new methodology which reduces this backlog.

[7] BPA does not take issue with the way in which any Pacific Northwest rate regulator is following the dictates of its governing statute or ordinance. We are not necessarily suggesting that retail residential rates have been set above the zone of reasonableness before application of the BPA exchange payment. BPA's problems with the jurisdictional costing approach focus on the dissimilarities between the Northwest Power Act and state regulatory laws and policies.

C. Public Participation In The Ongoing Consultation Proceeding

The procedures adopted by BPA in this ongoing consultation are intended to facilitate the compilation of a full record on which the Administrator will base his decision. Comments have already been filed by groups, including investor-owned utilities, state regulatory agencies, preference customers and DSI customers. This notice solicits a new round of initial and reply comments from interested members of the public.

All comments and reply comments should be directed to the Public Involvement Manager at the address listed in the address section of this notice. Written comments received by the Public Involvement Manager by March 15, 1984, will be reproduced and mailed to those who request copies. Requests for copies of comments must be made in writing. Mailings will take place subsequent to March 15, although requests may be made prior to that date. Written replies to this first round of comments will be accepted until April 9, 1984. The efficiency of this procedure will be enhanced greatly if commenters would submit 15 copies of their comments to the Public Involvement Manager.

After the written comment stage, an opportunity will be provided for oral presentations before the Administrator, which will be transcribed for inclusion in the record. The date, time, and location of this proceeding will be specified in a future communication. Only those persons who participate in the written comment stage of the consultation will have the option of making an oral presentation before the Administrator. During any stage of the proceeding, negotiated resolutions of issues, raised by BPA or by commenters, may be incorporated into the record by means of written stipulations.

All procedures adopted by BPA in this consultation are consistent with Exhibit C, paragraph VI, of the 1981 methodology. After completion of these procedures, the Administrator will adopt a new ASC methodology which, accompanied by a Record of Decision, will be submitted for review and approval by the Federal Energy Regulatory Commission.

II. The Proposed Average System Cost Methodology

A. Introduction

The methodology proposed by BPA in this notice is intended to resolve the problems caused by the jurisdictional approach to ASC determination. We believe that the proposal is complete, in the sense that every issue of concern to BPA is definitively resolved. Aspects of the 1981 methodology not addressed in this proposal remain unchanged.

It is inevitable that BPA's proposal will not satisfy every commenter. Also, comments will raise other issues that may not have been apparent to BPA. We stress the importance of written comments which precisely state each commenter's position on issues of concern. BPA intends that a complete record be compiled. Numerical analyses and examples will be of particular assistance to BPA in developing a new ASC methodology. Until the end of the written comment phase of this proceeding, little use would be served by negotiations on possible settlement of issues.

B. The Uniform Cost Approach To Determining Average System Cost

With the elimination of the jurisdictional approach, BPA must propose a replacement source of ASC data. This source should be objective, to reduce controversy and facilitate ease of administration. Such data can be found in the FERC Form No. 1, a compilation of financial and operating information prepared annually in accordance with FERC's Uniform System of Accounts for Public Utilities and Licensees (18 CFR Part 101).

For each exchange period under the proposed methodology, i.e., each calendar year, the participating utility may only include in its ASC actual costs documented in that Form 1. There are limited exceptions. First, equity return and taxes for participating investor-owned utilities would be determined in accordance with procedures described later in this notice. Second, fuel purchases from utility affiliates pose special regulatory problems which will also be treated separately in this notice. Third, participating utilities not required to submit Form 1 will submit audited, actual data in a calendar-year format comparable to FERC Form 1.

Each participating utility would receive one determination of its ASC "in each year." See, section 5(c)(1) of the Northwest Power Act. This would replace the multiple determinations in each year now made by BPA for each jurisdiction in which a participating utility provides retail residential service.

The new methodology has characteristics similar to ratemaking based on an historical, calendar test year incorporating end-of-year data. Each participating utility would be permitted to include the same types of costs in ASC, based on actual data from the same calendar-year period. It is uniform in comparison to the current methodology, which relies on data from retail rate proceedings throughout the Northwest, each using different ratemaking methodologies and test years.

BPA stresses that it will not accept at face value the numbers included in FERC Form 1 accounts by participating utilities. Filings will continue to be scrutinized by BPA and all improper costs will be disallowed. Each ASC filing must contain a statement, signed by the participating utility's auditor, stating that all data submitted by the utility were compiled in strict compliance with FERC's Uniform System of Accounts and with procedures for reporting the costs of conservation and affiliate fuel transactions. Any filing which does not contain this auditor's statement will not be accepted by BPA for determination of ASC.

BPA invites comments on alternative sources of verifiable data for use in determining ASC. Such comments should contain detailed explanations of the verification safeguards inherent in any proposed alternative. Commenters should bear in mind that BPA does not intend to conduct hearings on data submitted by each individual utility.

C. Resource Costs Includable Under The Proposed Average System Cost Methodology

1. *Transmission investments and expenses are not resource costs includable in Average System Cost; however, a limited transmission adder is proposed.*

Transmission investments and expenses were included in the first ASC methodology as the outcome of a negotiated settlement, agreed to by all parties. The Administrator's 1981 decision is silent on the justification for inclusion of such transmission costs, except to note certain practical considerations unique to the first ASC consultation.[8] Neither does FERC Order No. 337 address the merits of including transmission costs in ASC. On further reflection and analysis of the Northwest Power Act, BPA believes that the term "resources" in section 5(c)(1) should be construed as limited to electric generating facilities and appropriate conservation measures.

BPA is directed by section 5(c)(7) to develop a methodology for calculating

[8] The Administrator's decision, at 1–2, explains the process by which most issues, including the propriety of adding transmission costs to ASC, were resolved through a negotiated settlement in the first consultation. It is understandable that consensus was an important factor in the Administrator's decision on the first methodology, due to the experimental nature of the initial undertaking and the "limited time available" under the statute. *Id.*

"the average system cost of that [participating] utility's resources. * * *" *See* section 5(c)(1). Resource is narrowly defined by section 3(19) of the Northwest Power Act as:

(A) electric power, including the actual or planned electric power capability of generating facilities, or

(B) actual or planned load reduction resulting from direct application of a renewable energy resource by a consumer, or from a conservation measure.

Elsewhere in the statute, the terms "resource" and "resources" are used synonomously with generating facility and conservation measure.[9] Where Congress intended to define the cost of resources to include more than generation, it did so expressly. Section 3(4)(B) of the Northwest Power Act defines "cost-effective" resource by reference to a number of ancillary costs including "* * * if applicable, the cost of distribution and transmission to the consumer * * *." BPA concludes that there is no requirement in the Northwest Power Act that transmission investments and expenses be included in the determination of average system cost.[10]

It may appear unusual that BPA would exclude transmission costs from the calculation of the average system cost of what the Act describes as a "sale" of electric power. However, as discussed above, the power sale concept was created by Congress for ratemaking purposes. The significance of section 5(c) of the Northwest Power Act, and the ASC methodology developed pursuant thereto, relates to the calculation of the net exchange cost paid by BPA to participating utilities. The scope of these monetary benefits should not include transmission costs not expressly authorized by statute. The average system cost of a participating utility's "resources," as the term is used in section 5(c)(1), will be construed to include only the costs of electric power generation (including purchased power) and appropriate electric power conservation measures, i.e., only costs appropriately functionalized to generation. Transmission investments and expenses need not be included in the calculation of ASC.

BPA perceives no inconsistency between excluding transmission costs from ASC and including BPA transmission costs in the priority firm rate. Congress has expressly directed the agency to set its rates to recover "in accordance with sound business principles, the costs associated with the acquisition, conservation and transmission of electric power * * *." See, section 7(a)(1) of the Northwest Power Act, 16 U.S.C. 839e(a)(1). In contrast, Congress did not direct BPA to pay participating utilities for their transmission costs. BPA broadly construes the directive that its rates be set to recover revenue requirements, while it narrowly construes statutory provisions which add to, and possibly inhibit recovery of, such revenue requirements.

Nevertheless, for reasons of equity, BPA proposes to allow certain transmission costs in the determination of ASC. BPA proposes the inclusion in the ASC methodology of an ASC transmission adder, which shall not exceed the level of transmission costs included by BPA in the priority firm rate (conservatively estimated at 3 mills/Kwh). Thus, BPA's transmission costs would be the upper limit, or cap, on the proposed transmission adder. Participating utilities that elected to qualify for the adder would be required to include in their ASC filings FERC Form 1 account data on costs functionalized to transmission. No radial line costs may be included in the calculation of the adder. All wheeling revenues must be credited against Form 1 transmission costs.

BPA is concerned that inclusion of a transmission adder in ASC provides a financial incentive for some participating utilities to construct unnecessary transmission facilities. The ASC methodology should not distort economic evaluation of the merits of constructing a transmission line.[11] Accordingly, BPA will review all ASC filing to assure that such distortions do not occur. We invite commenters to address this point. Of course, participating utilities remain free to build facilities as they see fit, so long as such construction does not impact payments under the residential exchange.

2. *Construction work in progress will not be included in rate base for purposes of the average system cost methodology.*

One of the costs a utility recovers while constructing new plant is that of financing capital investment, interest and return on equity, which may be collectively referred to as carrying charges. There are two alternative methods by which carrying charges incurred during the construction period can be recovered from ratepayers.

One method capitalizes the carrying charges during the construction period as an Allowance for Funds Used During Construction (AFUDC). Under this method the carrying charge are computed periodically (usually monthly) and are added to the direct cost of the construction (FERC Account 107). The total cost of the completed construction will include not just direct costs of land, labor, and materials; it will also include all the carrying charges recorded during the construction period. These charges and the other costs just mentioned will be fully recovered from the ratepayers during the life of the plant as depreciation expense. AFUDC is recorded as income by the utility as the carrying charges are accrued during the construction period. Actual cash payments from ratepayers to cover the carrying charges begin when the plant under construction is completed and begins to provide service.

The second method for recovering carrying charges during the construction period is through inclusion of Construction Work In Progress (CWIP) in rate base. Under this method CWIP is treated like plant service. The utility recovers carrying charges currently from taxpayers, rather than adding the carrying charges to the cost of construction. The carrying charges are determined by the allowable return (debt and equity) that is applied to utility investment which is used and useful. The return on CWIP is recorded as income on a current basis (just as AFUDC) and actual cash payments are made by the ratepayers currently (unlike AFUDC).

BPA does not intend to prejudge the choice between the AFUDC and the CWIP methods by any state regulatory body. However, the inclusion of CWIP in rate base causes legal problems that forestall its recognition in the ASC methodology.

BPA must comply with the proscription of section 5(c)(7)(C) 16 U.S.C. 839c(c)(7)(C), which states that

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[9] See, e.g., the definitions of "Federal base system resources" in section 3(10), "major resource" in section 3(12) and "renewable resource" in section 3(16), 16 U.S.C. §§ 839a(10), (12) and (16), respectively; and section 6 (conservation and resource acquisition), 16 U.S.C. § 839d. Resources characteristically "serve [a BPA customer's] firm load," 16 U.S.C. § 839c(b)(1)(A) and (B), or "meet, on a planning basis, the load requirement * * *," 16 U.S.C. § 839c(c)(4)(C)(i).

[10] However, it does not follow that the 1981 Methodology included improper costs. The Act does not contain a specific prohibition of including transmission costs in ASC. There is nothing in the statute that would lock the Administrator into a single methodology. And, when revising the ASC methodology the Administrator is not limited to excluding the types of costs identified in section 5(c)(7). "[A] additional exclusions may be incorporated in the methodology for determining average system cost under [section 5(c)]." S. Rep. 272, 96th Cong., 1st Sess. at 27 (1979).

[11] Excluding Construction Work in Progress (CWIP) from rate base for purposes of ASC calculation, discussed below, should be adequate to remove distortions from the economic evaluation of proposed generating facilities which require longer time for construction.

ASC shall not include "any costs of any generating facility which is terminated prior to initial commercial operation." This provision requires BPA to recover amounts included in ASC for CWIP on construction projects which are subsequently terminated. See, Administrator's 1981 decision at 8. However, it is quite difficult to reverse the effects of allowing a CWIP return in ASC when construction on a project is terminated. The mechanism contained in the 1981 Methodology is by no means precise. Yet, BPA is aware of no practical substitute.

The better approach is to include resources in the calculation of ASC only when they go into commercial operation. Thus, no CWIP will be allowed in rate base under the proposed ASC methodology.

3. *Only generating costs incurred in the production of electric power and energy to meet retail loads will be included in ASC.*

The proposed methodology would not make any basic change to the way in which costs functionalized to generation are included in ASC. We are concerned, however, that costs may be included for generating units used exclusively for the production of secondary power and energy. Only the costs of resources used to serve residential loads may be exchanged. Therefore, the proposed methodology must contain a qualification.

No generating resource may be included in ASC that has not been included in rate base for retail ratemaking purposes by at least one rate regulatory authority in the Pacific Northwest. Each ASC filing must contain a statement separately identifying the costs of qualified and disqualified generating resources, using FERC Form 1 as the source of all cost data.

4. *Conservation costs are resource costs and therefore includable in ASC.*

BPA proposes to allow in ASC conservation costs conservation contract changing ASC, subject to two limitations. First, such costs must be incurred as part of a program that is consistent in terms of cost and timing, with the conservation plan developed by the Pacific Northwest Electric Power and Conservation Planning Council. The participating utility must include a statement to this effect with each ASC filing that proposes to include conservation costs. Second, conservation cost incurred pursuant to model standards included in the Council Plan are not includable in ASC.

5. *Includable equity return will be based on a generic determination.*

The jurisdictional costing approach has caused serious concern that equity returns allowed by regulatory agencies have indirectly compensated participating utilities for the costs of generating facilities terminated prior to initial commercial operation. Although not necessarily inconsistent with relevant state laws, such allowances violated section 5(c)(7)(C) of the Northwest Power Act if included in ASC. BPA therefore proposes to change the method for determining the equity return component of ASC for investor-owned utilities.[12]

In developing an ASC methodology the BPA Administrator has considerable discretion in deciding whether to permit inclusion of an equity return allowance and, if so, how that component is to be determined.[13] We do not intend to determine independently an equity return for each participating utility. To do so might be viewed as an attempt to circumscribe the authority of state regulators. Instead, a generic method is proposed. Compare, Generic Determination of Rate Return on Common Equity for Electric Utilities, FERC Docket No. RM80-36-000, 47 FR 38 332 (1982).

In the first quarter of each year, BPA proposes to determine and publish a national-average equity return allowed by retail rate regulators for electric utilities during the preceding calendar year. Equity return data would be derived from published statistical sources on publicly traded electric utility securities. E.g., Merrill Lynch, Utility Industry, Quarterly Regulatory Report This national-average number would be used as the equity return allowance for each participating investor-owned utility throughout the relevant exchange period.

This national-average number might be excessive for two reasons. First, it is reasonable to expect that regulators throughout the nation increase equity returns to compensate for terminated plant costs—either implicitly or explicitly. See, e.g., *Consumers Council v. Public Utilities Commission*, 447 N.E.2d 749 (1983). As noted earlier, such costs cannot be included in ASC. Second, provisions of the Northwest Power Act should reduce the equity return requirements of Pacific Northwest utilities vis-a-vis the national average. The residential exchange, the opportunity to purchase firm power for load growth under section 5(b)(1), the conservation funding available from BPA under section 6, and other provisions of the Nortwest Power Act reduce the financial risks for regional utilities in relation to utilities not affected by the Northwest Power Act.

BPA proposes to compensate for these two circumstances by reducing the national-average equity return one percentage point (100 basis points) for use in the ASC methodology. Equity return should be limited. Amounts paid to provide a return to utility investors become part of the revenue requirement recoverable from BPA's customers.

BPA invites commenters to address the level of this proposed one-percent reduction. We also invite comments on other administratively feasible methods of generically setting equity returns for purposes of the ASC methodology.

6. *Fuel costs will be included in ASC with necessary safeguards to protect against unreasonable profits to utility affiliates.*

Under the proposed methodology, fuel costs included in the ASC determination will normally be derived from FERC Form 1—subject to BPA review. However, special criteria will apply to instances where the participating utility acquires fuel from a corporate affiliate. BPA defines "corporate affiliate" as a parent or subsidiary corporation, a fuel trust that to any degree is owned or controlled by a participating utility, or a corporation that has a parent corporation in common with a participating utility. Affiliate transactions are not characterized by arm's-length bargaining. The natural incentive of both parties to such transactions is to maximize the seller's profit. The net cost of the residential exchange, which becomes part of BPA's revenue requirement, must not be used as a means for passing excessive profits on to affiliates of participating utilities.

In expressing concern about affiliate fuel transactions, BPA follows the lead of FERC (and its predecessor the Federal Power Commission) which has long held that such transactions have an obvious potential for abuse. *Williams Pipe Line Company*, 21 FERC ¶61,123, at p. 61,245 (1981); *Montana Power Company*, 4 FPC 213 (1945); and *Pacific Power & Light Company*, 3 FPC 329 (1942). The FPC was not bound by the pricing provisions of affiliate contracts; an independent determination of costs was authorized. *Safe Harbor Water Power Corp.*, 1 FPC 230, 237–40 (1940). Neither will BPA be bound by the

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[12] Under the proposed methodology, no change would be made in the way that the embedded costs of debt and preferred stock are computed. Neither would there be any change in the way that capital costs are determined for publicly-owned and cooperative utilities.

[13] Some initial comments have contained arguments that no equity return component should be permitted in ASC.

affiliated fuel costs claimed by participating utilities.

Regulatory scrutiny is normally exercised in one of two ways. First, the cost of affiliate commodities or services may be determined through a cost-of-service analysis. Second, a market test may be performed to determine the price such commodities or services would command in an arm's-length transaction between an independent buyer and seller. The market test requires determination of the price of comparable fuel, transportation cost differentials, etc. Both approaches pose administrative problems for BPA, which is neither required nor able to undertake such complex regulatory burdens. Yet, the concern about inflated prices remains.

Therefore, BPA proposes the following administratively feasible alternative. In each ASC filing, the participating utility will be required to identify specifically all fuel purchases from affiliates during the preceding calendar year. FERC Form 1 information must be supplied for all fuel purchases. The utility must also identify the unit cost of each such transaction allowed for ratemaking purposes during the preceding calendar year [14] by each rate regulator having jurisdiction over that utility. Calculation of ASC will be based on the lowest unit cost identified. If such information is not provided, fuel costs will be disallowed.

BPA proposes to use this variant of the jurisdictional costing approach as the best administratively feasible way of handling a difficult regulatory problem. FERC Form 1 data may contain inflated costs. Yet the traditional methods of scrutinizing such costs are burdens which BPA cannot undertake in administering the residential exchange.

7. Income taxes includable in the ASC methodology are to be determined at the effective tax rate.

Significant distinctions exist between tax regulations and the ratemaking policies adopted by regulators. Commonly, tax expenses included in rates exceed the amounts actually paid by the utility to the Internal Revenue Service and to state taxing authorities. Depreciation deductions, which may be claimed at an accelerated rate for tax purposes, are "normalized" [15] over the service lives of assets. Interest expense deductions are also normalized for ratemaking purposes. Investment tax credits, which reduce tax liability permanently, may also be amortized for ratemaking purposes. These ratemaking policies are designed by regulators to increase utility cash flow. However, there is no such policy expressed in section 5(c) of the Northwest Power Act. Taxes calculated for ratemaking purposes, which exceed the effective tax rate of a utility, do not appear to be costs of resource includable in ASC under section 5(c).

BPA therefore proposes to use the participating utility's effective income tax rate in determining ASC. Taxes will be calculated in accordance with Schedule 3(a) of the proposed methodology. This proposal is not intended to affect decisions of rate regulators to increase the cash flow of utilities for whatever policy reasons they adopt under state regulatory laws.

8. ASC will only include costs that can be directly functionalized on the basis of FERC's Uniform System of Accounts or on the basis of functionalization analyses.

The 1981 methodology incorporates a three-part functionalization approach: (1) the Uniform System of Accounts, (2) reliance on analytical studies prepared by the exchanging utility that demonstrate the functional nature of an item, and (3) use of footnotes that specify functionalization treatment. BPA proposes to eliminate the third approach ("footnote 24" in the 1981 methodology).

The functionalization produced by application of footnote 24 have been very imprecise. BPA would rely exclusively on the remaining two functionalization methods.

D. Procedures for Review of ASC Filings Under the Proposed Methodology

Under the proposed methodology, exchange periods will extend for full-year periods from January 1 to December 31. ASC will be determined on the basis of data from the preceding calendar year. New review procedures will apply.

Participating utilities will be required to submit complete ASC filings to BPA's Portland headquarters by May 1, concurrent with the time for submission of Form 1 to FERC. A signed original filing and three copies will be required. BPA will then have 45 days in which to conduct a preliminary review. Incomplete or patently erroneous filings will be rejected. Filings that receive preliminary acceptance will become effective—subject to refund—as of the preceding January 1. However, ASC filings that are rejected will only become effective—subject to refund—as of the date the filing defect is cured. Participating utilities are therefore encouraged to request prefiling technical meetings with BPA staff to discuss potential filing problems.

Final review will be concluded in an expeditious manner. After issuance of BPA's report, utilities subject to FERC jurisdiction will be required to make the appropriate submissions to FERC. BPA must be served with all filings and pleadings submitted to FERC.

Special procedures are proposed for 1984. Participating utilities will be required to submit ASC filings within 30 days after the new methodology is implemented. All filings would become effective as of the date the new methodology is implemented.

In consideration of the foregoing discussion, BPA proposes to revise the Average System Cost Methodology as set forth below.

Issued in Portland, Oregon, January 30, 1984.

Peter T. Johnson,
Administrator.

Proposed Exhibit C—Average System Cost Methodology

I. Definitions

The following definitions apply to all sections of Exhibit C.

A. "Production Average Cost" means for each utility and each exchange period the quotient obtained by dividing Total Contract System Cost, less Transmission Costs, by Total Contract System Load.

B. "Transmission Average Cost" means for each utility and each exchange period the quotient obtained by dividing Total Contract Costs less Production Costs by Total Contract System Load.

C. "Average System Cost" or "ASC" means for each utility and each exchange period Production Average Cost plus the lesser of:

(a) Transmission Average Cost or

(b) The transmission cost component of the Priority Firm Rate or its successor rate.

D. "Contract System Costs" means the utility's costs for production and transmission resources, including power purchases and conservation measures, except that the utility's per-kWh cost of transmission resources shall not exceed the per-kWh transmission cost component of BPA's priority firm rate or its successor rate.

E. "Costs" means the aggregate dollar amount included in FERC Form 1s, or their equivalent, for the relevant calendar year.

F. "Exchange Period" means January 1, through December 31, for any particular year, provided that no Exchange Period shall commence prior

[14] Form 1 data are compiled on a calendar-year basis.

[15] See, Public Systems v. FERC, 709 F2d 73 (D.C. Cir. 1983), for discussion of the concept of normalization.

to or extend beyond the term of the utility's Residential Purchase and Sale Contract Agreement.

G. "Contract System Load" means the utility's firm energy load for the relevant period adjusted pursuant to Appendix 1.

H. "New Large Single Load" means that load defined in section 3(13) of the Regional Act, and as determined by BPA as specified in power sales contracts with its customers.

I. "Regional Power Sales Customer" means any Pacific Northwest entity that contracts directly with BPA for the purchase of power for delivery in the region as defined by section 3(14) of the Regional Act.

II. Procedures for Determining Average System Cost

The procedures set forth in this section will enable BPA to determine the ASC in accord with the methodology in Appendix 1 for each exchanging utility within the region, i.e. BPA's service area, where the utility provides service. The ASC so determined will be in effect during the Exchange Period and will apply to the amount of exchange power acquired by BPA from the utility during the Exchange Period. The amount of exchange power will be equal to the utility's eligible load within its service area in the Region. BPA will determine and pay a separate ASC for the exchange power related to the utility's eligible load. The procedures are as follows:

A. Appendix 1 is a form that identifies Contract System Costs and Contract System Load and permits the calculation of ASC. Appendix 1 is an integral part of this document.

B. On or before 45 days after the effective date of the methodology, the utility shall complete and file with BPA five (5) copies of Appendix 1 and associated workpapers for review. In addition, annually, on or before May 1, of the year following the calendar year covered by the filing, the utility shall complete and file with Bonneville five (5) copies of Appendix 1 for review. On or before forty-five (45) days after the utility submits its Appendix 1 for review, BPA may give the utility's ASC interim approval.

III. BPA Review Process

A. Each Appendix 1 shall be reviewed by BPA or its designate to determine whether the costs are consistent with generally accepted accounting principles for electric utilities, whether Contract System Costs contains only allowed costs, and whether theAppendix 1 complies with the requirements of this Exhibit C including applicable definitions and requirements incorporated from the FERC Uniform System of Accounts or their equivalent.

B. The Appendix 1 shall be subject to review.

C. BPA or its designate shall conduct its review as promptly as reasonably possible, shall make a written report of its determinations, and shall make any resulting increase or decrease in the ASC for the relevant Exchange Period.

D. BPA will afford its Regional Power Sales Customers and other interested persons an opportunity to comment in writing on each Apendix 1 filed by a utility. The utility and BPA shall permit Regional Power Sales Customers and interested parties to examine each Appendix 1 submitted to BPA. The utilities shall respond to reasonable information requests relevant to the determination of an ASC from BPA and its Regional Power Sales Customers, provided that the furnishing of proprietary or confidential information to BPA or to a Regional Power Sales Customer may be made contingent on the granting of proper safeguards to prevent unauthorized use or disclosure. All comments from BPA's Power Sales Customers and interested parties must be received in writing by BPA no later than 30 days following BPA's interim approval of the utility's ASC.

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BONNEVILLE POWER ADMINISTRATION
RESIDENTIAL PURCHASE AND SALE AGREEMENT
Average System Cost Methodology

Plant Investment/Rate Base/Rate-of-Return
(Thousands)

Line No.	Items (1)	Total To Be Functionalized (2)	Functionalization: Production (3)	Functionalization: Transmission (4)	Functionalization: Other (5)
	PRODUCTION PLANT				
1	Steam Production 310-316				
2	Nuclear Production 320-325				
3	Hydraulic Production 330-336				
4	Other Production Plant 340-346				
5	Total Production Plant				
6	Transmission Plant 350-359 a/				
7	Distribution Plant 360-373 b/				
8	Intangible Plant 301-303 c/				
9	General Plant 389-399 c/				
10	Electric Plant-in-Service				
	LESS:				
11	Depreciation Reserve 108				
12	Steam Plant				
13	Nuclear Plant				
14	Hydraulic Plant				
15	Other Plant				
16	Transmission Plant a/				
17	Distribution Plant b/				
18	General Plant c/				
19	Amortization Reserve 111 c/				
20	Total Depreciation & Amortization				
21	TOTAL NET PLANT				
22	Nuclear Fuel 120.2-120.4 Less 120.5				
23	Conservation 106,124,184 d/				
24	Cash Working Capital e/				
25	Materials and Supplies 151-157,163 c/				
26	Other c/				
	LESS:				
27	Accumulated Deferred Investment Tax Credits/255 c/				
28	Accumulated Deferred Income Taxes/281-283 c/				
29	Other Accumulated Deferred Credits/253, 256-257 c/				
30	TOTAL RATE BASE				
31	Times Rate of Return @ ____% f/g/				

Capital Structure and Cost of Capital

Line No.	Items/Footnotes (1)	Amount (2)	Ratio (3)	Component Cost (4)	Weighted Cost (5)
1	Debt				
2	Preferred Stock				
3	Common Equity h/				
4	Total Weighted Cost				

BONNEVILLE POWER ADMINISTRATION
RESIDENTIAL PURCHASE AND SALE AGREEMENT
Average System Cost Methodology

Expenses
(Thousands)

Line No.	Item (1)	Allocation Notes	Total To Be Functionalized (2)	Functionalization		
				Production (3)	Transmission (4)	Other (5)
	PRODUCTION					
1	Fuel 501,518,547 a/					
2	Purchased Power 555					
3	Steam 500,502-514					
4	Nuclear 517,519-532					
5	Hydro 535-545					
6	Other 546,548-554					
7	TOTAL PRODUCTION EXPENSE					
8	TRANSMISSION 560-573 a/					
9	DISTRIBUTION 580-598 b/					
10	CUSTOMER ACCOUNTING 901-905 c/					
11	CUSTOMER ASSISTANCE 907-910 c/					
	ADMINISTRATIVE & GENERAL c/					
	Account Number					
12	920					
13	921					
14	922					
15	923					
16	924					
17	925					
18	926					
19	927					
20	928					
21	929					
22	930.1					
23	930.2					
24	931					
25	932					
26	Total A & G					
27	TOTAL OPERATIONS & MAINTENANCE					
28	DEPRECIATION & AMORTIZATION 403-407					
29	Steam Production Plant					
30	Nuclear Production Plant					
31	Hydraulic Production Plant					
32	Other Production Plant					
33	Transmission Plant a/					
34	Distribution Plant b/					
35	General Plant c/					
36	Amortization c/					
37	TOTAL DEPRECIATION & AMORTIZATION					
38	Taxes Other than Federal Income c/ i/					
39	Federal Income Tax					
40	Other Expenses c/					
	Less:					
41	Nonfirm Sales for Resale Rev. 447					
42	Other Operating Revenues 450-456 j/					
43	Billing Credits d/					
44	TOTAL OPERATING EXPENSES					
45	Return from Schedule 1					
46	TOTAL COST					

BONNEVILLE POWER ADMINISTRATION
RESIDENTIAL PURCHASE AND SALE AGREEMENT
Average System Cost Methodology

Federal Taxes on Income
(Thousands)

Line No.	Items (1)	Functionalization: Total To Be Functionalized (2)	Production (3)	Transmission (4)	Other (5)
	INCOME				
1	Operating Revenues				
	DEDUCTIONS				
2	Operating and Maintenance Expense				
3	Depreciation Expense				
4	Amortization				
5	Taxes Other Than Federal Income Taxes				
6	Interest Expense				
7	Total Deductions				
8	Net Income Before Federal Income Tax				
	TAX ADJUSTMENTS				
9	Book Depreciation				
10	Tax Depreciation				
11	Charges to Construction				
12	Coal Depletion				
13	Other Adjustments				
	1.				
	2.				
	3.				
	4.				
	5.				
14	Total Tax Adjustments				
15	Taxable Income				
16	Adjusted State Tax				
17	Preferred Dividends Paid				
18	Total Taxable Income				
19	Federal Income Tax				
20	Less: Investment Tax Credits				
21	Net Federal Income Tax				
22	Deferred Income Taxes (net of ITC allowed)				
23	Income Taxes Deferred in Prior Years				
24	Investment Tax Credit Adjustment				
25	TOTAL FEDERAL INCOME TAX				

Note: 1. Supporting workpapers are to be attached.
2. Footnotes referenced on Schedule 3 will be relied upon in determining ASC.

Taxes Other Than Federal Income Taxes
(Thousands)

Line No.	Items (1)	Functionalization: Total To Be Functionalized (2)	Production (3)	Transmission (4)	Other (5)
1	FEDERAL - Insurance Contributions				
2	- Unemployment				
	STATE				
3	California - Property				
4	- Unemployment				
5	Oregon - Property				
6	- Tri-Met				
7	- Lane County				
8	- Unemployment				
9	- Regulatory Commission				
10	Washington - Property				
11	- Unemployment				
12	- Generating Tax				
13	- Pollution Control Credit				
13a	- Revenue & Business				
14	Idaho - Property				
15	Montana - Property				
16	- Unemployment				
17	Wyoming - Property				
18	- Unemployment				
19	Utah - Property				
20	LOCAL - Occupation and Franchise				
21	STATE INCOME TAXES				
22	IN-LIEU TAXES				
23	OTHER				
24	TOTAL				

Note: 1. Supporting workpapers are to be attached.
2. Footnotes referenced on Schedule 3 will be relied upon in determining ASC

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BONNEVILLE POWER ADMINISTRATION
RESIDENTIAL PURCHASE AND SALE AGREEMENT
Average System Cost Methodology

Other Included Items
(Thousands)

Line No.	Items (1)	Functionalization: Total To Be Functionalized (2)	Production (3)	Transmission (4)	Other (5)
	Operating Revenues:				
1	Nonfirm Sale for Resale 447				
2	1.				
3	2.				
4	Total				
	Other Operating Revenues 450-456				
5	Acct. 450				
6	Acct. 451				
7	Acct. 452				
8	Acct. 453				
9	Acct. 454				
10	Acct. 455				
11	Acct. 456 1/				
12	Total Other Revenues				

Note: 1. Supporting workpapers are to be attached.
2. Footnotes referenced on Schedule 3 will be relied upon in determining ASC.

Average System Cost

Line No.	Items (1)	AMOUNTS: Total To Be Functionalized (2)	Production (3)	Transmission (4)	Other (5)
1	Contract System Costs				
2	Production Cost (From Schedule 3)				
3	Transmission Cost (From Schedule 3)				
4	Less Excluded Load costs k/				
5	Total Contract System Costs				
6	Contract System Load:				
7	Total Load (MWh)				
8	Less:				
9	Nonfirm Adjustment (MWh)				
10	Other Adjustments (MWh)				
11	Net Load (MWh)				
12	Plus:				
13	Distribution Losses (MWh) 1/				
14	Total Net Load (MWh)				
15	Less:				
16	Excluded Load (MWh) k/				
17	Excluded Load Dist. Losses (MWh)				
18	Total Contract System Load (MWh)				
19	Average Costs (mills/kWh) (Line 5 / Line 18)				
20	Transmission Test:				
21	If Transmission Average Cost is less than or equal to Priority Firm transmission cost enter value				
22	If Transmission Average Cost is greater than Priority Firm transmission cost enter Priority Firm Transmission Value				
23	Average System Cost: Line 19, column a plus (Line 21 or 22, whichever is smaller)				

Average System Cost Methodology Footnotes

* (1) Transmission plant means all land, conversion structures, and equipment employed at a primary source of supply (i.e., generating station or point of receipt in the case of purchased power) to change the voltage or frequency of electricity for the purpose of its more efficient or convenient transmission; all land, structures, lines, switching and conversion stations, high tension apparatus and their control in protection of equipment between a generating or receiving point and the entrance to a distribution center or wholesale point; and all lines and equipment whose primary purpose is to augment, integrate or tie together the sources of power supply. The entrance to a distribution center means all land, structures, conversion equipment, lines, line transformers and other facilities utilized to deliver power to specific customers or distribution substations.

(The first sentence above serves as the basic test to decide what constitutes transmission plant for the purpose of determining Average System Cost. The last sentence serves to limit what constitutes transmission plant, and serves to exclude radial transmission facilities from transmission plant to be included in calculating Average System Cost.)

(2) For determining Average System Cost, transmission costs will be limited to the lesser of:

(a) the utility's per-kWh cost of transmission or

(b) the per-kWh transmission cost component of BPA's Priority Firm rate or its successor rate.

(3) BPA reserves the right to disallow the cost of all new additions to transmission plant which are not in accord with the Single Utility Concept.

▸ Distribution plant means all land, structures, conversion equipment, lines, line transformers, and other facilities employed between the primary source of supply (i.e., generating station, point of receipt in the case of purchased power) and of delivery to customers, which are not includable in transmission system, as defined in footnote a(1), whether or not such land, structures, and facilities are operated as part of a transmission system or as part of a distribution system. Stations that change electricity from transmission to distribution voltage shall be classified as distribution stations.

Where poles or towers support both

transmission and distribution conductors, the poles, towers, anchors, guys, and rights-of-way shall be classified as transmission system. The conductors, crossarms, braces, grounds, tiewire, insulators, ect., shall be classified as transmission or distribution facilities, according to the purpose for which they are used. Where underground conduit contains both transmission and distribution conductors, the underground conduit and right-of-way shall be classified as distribution facilities. The conductors shall be classified as transmission or distribution facilities according to the purpose for which they are used. Land (other than rights-of-way) and structures used jointly for transmission and distribution purposes shall be classified as transmission or distribution according to their major use.

[c] All items that cannot be directly functionalized shall be functionalized to distribution/other.

For all items not directly functionalized, the utility can elect to perform a comprehansive study that demonstrates the actual functional use of such items. The study must accompany the Exhibit C (Appendix 1), and is subject to BPA's review and approval.

[d] Only BPA approved conservation programs consistent with the Regional Plan will be allowed in determining the Average System Cost. Only that portion of investment costs not reimbursed by BPA may be included.

The utility must supply the amortization schedule of its conservation investments.

The offset against Contractor System Costs for billing credit revenue arising from implementation of conservation measures and retail rate schedules that induce conservation shall be limited to the costs included in Contract System Cost of the related conservation measures and retail rate schedules. These billing credit revenues shall be functionalized on the same basis as the cost of the related conservation measure.

[e] Cash working capital shall be equal to ⅛ of operation and maintenance expense related to generation and transmission, less fuel expense and purchased power expense, and functionalized accordingly.

[f] Rate-of-Return as calculated in Schedule 2.

[g] Public Agencies shall be allowed a total return (operating income) on Schedule 1 equal to their demonstrate need for revenue exceeding Total Operating Expenses shown on Schedule 3 to cover the cost of capital. These demonstrated capital costs generally will be in the form of coverage requirements or the need to maintain an equity ratio consistent with the favorable bond ratings for that utility. In order to receive an operating income in addition to interest expense, the utility must submit evidence of the specific coverage or equity ratio needed by that utility and a calculation of the corresponding minimum operating income. Assignment to excluded resources and functionalization of the operation income shall be based on the assignment and functionalization of the rate base.

[h] Return on equity will be set equal to a national average return on equity, to be specified by BPA, reduced by one percent.

[i] A tax-exempt utility may include in-lieu taxes up to an amount that is comparable, for each unit of government paid in-lieu taxes, with taxes that would have been paid by a non-tax exempt utility to that unit of government, but in no event shall the utility's regional total in column 2 be greater than the actual amount paid.

[j] Revenues from the transmission of electricity for others shall be functionalized to transmission.

[k] The cost additional resources sufficient to serve any New Large Single Load that was not contracted for, or committed to, prior to September 1, 1979, is to be determined as follows:

(1) To the extent that any New Large Single Loads are served by dedicated resources, at the cost of those resources, including applicable transmission;

(2) In the amount that New Large Single Loads are not served by dedicated resources, at BPA's New Resource rate as established from time to time pursuant to section 7(f) of the Regional Act and as applicable to the utility, and applicable BPA transmission charges if transmission costs are excluded in the determination of BPA's New Resource rate, to the extent such costs are recovered by the utility's retail rates in the applicable jurisdiction; and

(3) To the extent that New Large Single Loads are not served by dedicated resources plus the utility's purchases at the New Resource rate, the costs of such excess load shall be determined by multiplying the kilowatthours not served under subsections (1) and (2) above by the cost (annual fixed plus variable cost, including an appropriate portion of general plant, administrative and general expense and other items not directly assignable) per kilowatthour of all baseload resources and long term power purchases (five years or more in duration), as allowed in the regulatory jurisdiction to establish retail rates during the Exchange Period, exclusive of the following resources and purchases: (a) purchases at the New Resources rate pursuant to section 7(f) of the Act; (b) purchases at the Federal Base System rate, pursuant to section 5(c) of the Act; (c) resources sold to BPA, pursuant to section 6(c)(1) of the Act; (d) dedicated resources specified in footnote k(1) of this methodology; (e) resources and purchases committed to the utility's load as of September 1, 1979 under a power requirements contract or that would have been so committed had the utility entered into such a contract; and (f) experimental or demonstration units or purchases therefrom. Transmission needed to carry power from such generation resources or power purchases shall be priced at the average cost of transmission during the Exchange Period.

(4) Any kilowatthours of New Large Single Loads not met under subsection (1), (2), or (3) above will be assumed to be supplied from the most recently completed or acquired baseload resource(s) or long term power purchase(s), exclusive of dedicated resources and experimental or demonstration resources or purchases thereform, that are committed to the utility's load as of September 1, 1979, under a power requirements contract with BPA or would have been so committed had the utility entered into such a power requirements contracts. The cost of these generation resources and long-term power purchases and the transmission cost associated with these resources or purchases will be calculated as specified in subsection (3) above.

(5) If the New Large Single Load is served on any energy or capacity interruptible basis, the utility shall prepare a calculation subject to review by BPA of the fixed (if any) and variable costs of providing such service, except that the amount excluded from ASC for the New Large Single Load shall not be less than the transmission and generation costs included in the retail rate charged the New Large Single Load.

[l] The losses shall be the distribution energy losses occurring between the transmission portion of the utility's system and the meters measuring firm energy load. Losses shall be established according to a study (engineering, statistical or other) that is submitted to BPA by the exchanging utility subject to review by BPA. This study shall be in sufficient detail so as to accurately identify average distribution losses associated with the utility's total load, excluded loads, and the residential load. Distribution losses shall include losses associated with distribution substations, primary distribution facilities, distribution transformers, secondary distribution facilities and service drops.

[m] Utilities purchasing fuel from affiliates must identify all fuel purchases from affiliates during the preceding calendar year, and calculate the per-kWh unit cost. This unit cost is to be compared to the unit cost of each such transaction allowed for ratemaking purposes during the preceding calendar year by each rate regulator having jurisdiction over that utility. The lowest unit cost will be used to determine the cost of fuel purchases from affiliates.

[FR Doc. 84-3156 Filed 2-1-84; 4:19 pm]
BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket No. ER84-221-000]

Arizona Public Service Co.; Filing

January 31, 1984.

The filing Company submits the following:

Take notice that on January 23, 1984, Arizona Public Service Company (APS) tendered for filing a proposed Letter Agreement Revision to Service Schedule D of the Power Coordination Agreement (PCA) between APS and Plains Electric Generation and Transmission Cooperative, Inc. (Plains), dated November 10, 1983, and executed by the parties on December 22, 1983.

This Letter Agreement proposes to allow Plains to forego its dynamic load control requirements contained in section 7.4 of Service Schedule D of the

PCA for an initial term of one year beginning January 1, 1984.

APS requests that this Letter Agreement become effective as of January 1, 1984, as stipulated therein and, therefore, requests waiver of the notice requirements under 18 CFR 35.11.

Copies of this filing were served upon Plains and the Arizona Corporation Commission.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Caiptol Street, NE., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-2902 Filed 2-2-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-220-000]

Central Louisiana Electric Company, Inc.; Filing

January 31, 1984.

The filing Company submits the following:

Take notice that on January 23, 1984, Central Louisiana Electric Company, Inc. (CLECO) submitted for filing an executed Letter Agreement that relates to the terms under which CLECO will furnish transmission service for up to 26 MW of power and energy to the City of Lafayette, Louisiana.

CLECO requests an effective date of January 1, 1984, and therefore requests waiver of the Commission's notice requirements.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before February 16, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-2903 Filed 2-3-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER 84-224-000]

Central Vermont Public Service Corp.; Filing

January 31, 1984.

The filing Company submits the following:

Take notice that on January 25, 1984 the Central Vermount Public Service Corporation ("CVPS") tendered for filing as an initial rate schedule a System Exchange Agreement (the "Agreement") between the New England Power Service Company ("NEP") and Central Vermount Public Service Corporation. The Agreement, dated October 7, 1983 provides for the exchange of excess capacity and associated energy from the CVPS system for an equal amount of capacity from certain NEP units.

NEP shall pay to CVPS, for each month that an Exchange takes place, an "Energy Charge" which is the sum of all the energy charges calculated for each of those hours of each Exchange during such month. The energy charge for each hour of each Exchange during each month shall be the product of: (1) The kilowatthours of energy delivered by CVPS for such hour; and (2) the forecasted energy cost for such hour agreed to by the parties.

CVPS shall pay the NEP, for each month an Exchange occurs, an Energy Charge which shall be the sum of each of the hourly Energy Charges for each of the hours of Exchange in such month. The hourly Energy Charge shall be the product of: (1) The NEPEX Replacement Fuel Price for the Exchange Units; (2) the full load average heat rate of the Exchange Units as recorded to NEPEX on Form NX12 (expressed in BTU/MWH); (3) the net energy output in MWH from the Exchange Units for such hour; and (4) the CVPS Entitlement Fraction in the Exchange Units for such hour. CVPS shall not be obligated to pay for or take any deliveries of energy during any hours when the Exchange Unit(s) are "operated out of rate" for the benefit of NEP or others. "Operated out of rate" means the operation of the Exchange Unit(s) at a level above the economic level of output for such unit(s) as determined by NEPEX.

In order to permit NEP to achieve the benefit of this Agreement, CVPS hereby requests that the Commission, pursuant to Section 35.11 of its regulations, waive the sixty-day notice period and permit the rate schedule filed herewith to become effective on October 7, 1983. The waiver, if granted, will have no effect upon purchasers under any other rate schedule. If said waiver is not granted, the parties to the Agreement will have to defer receiving the benefits accruing from the Agreement, i.e. their respective systems will be compelled to operate at less than optimum economic efficiency.

Copies of the filing were served upon New England Power Service Company, Commonwealth of Massachusetts Department of Public Utilities and the Vermont Public Service Board.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the said Federal Energy Regulatory Commission, 828 North Capitol Street, NE., Washington, D.C. 20426 in accordance with Sections 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before February 15, 1984. Protests will be considered by the Commission in determining appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-2904 Filed 2-3-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP84-208-000]

Columbia Gas Transmission Corp.; Request Under Blanket Authorization

January 30, 1984.

Take notice that on January 24, 1984, Columbia Gas Transmission Corporation (Columbia), 1700 MacCorkle Avenue, S.E., Charleston, West Virginia 25314, filed in Docket No. CP84-208-000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) that Columbia proposes to transport natural gas on behalf of Jones & Laughlin Steel Corporation (J & L) under the authorization issued in Docket No. CP83-76-000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Specifically, Columbia proposes to transport up to 4.6 billion Btu equivalent of natural gas per day for J & L, for a term of one year. Columbia states that the gas to be transported would be purchased from Leslie Oil & Gas Co., Inc. (Leslie) in Medina and Morrow Counties, Ohio, by J & L and would be used as boiler fuel in J & L's Aliquippa, Pennsylvania, plant. Columbia would receive the gas at existing delivery points in Medina and Morrow Counties, Ohio, and redeliver the gas to Columbia Gas of Pennsylvania, Inc., the distribution company serving J & L.

Columbia states that the gas to be purchased by J & L involves gas supplies released by Columbia and that such supplies are subject to the ceiling price provisions of sections 102, 103, and 107 of the Natural Gas Policy Act of 1978.

Further, Columbia states that depending upon whether its gathering facilities are involved, it would charge either: (1) Its average system-wide storage and transmission charge, currently 40.11 cents per dt equivalent of gas, exclusive of company-use and unaccounted-for gas, or (2) its average system-wide storage, transmission and gathering charge, currently 44.93 cents per dt, exclusive of company-use and unaccounted-for gas. Columbia states that it would retain 2.85 percent of the total quantity of gas delivered into its system for company-use and unaccounted-for gas. Further, Columbia states that it would, as soon as possible, charge J & L the GRI charge which is currently 1.21 cents per million Btu.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-2995 Filed 2-2-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP84-35-001]

Consolidated Gas Supply Corp.; Proposed Changes in FERC Gas Tariff

January 31, 1984.

Take notice that Consolidated Gas Supply Corporation (Consolidated) on January 25, 1984, tendered for filing proposed changes in its FERC Gas Tariff, Third Revised Volume No. 1. The proposed changes, shown on Substitute Fourth Revised Sheet No. 71–A, Substitute Sixth Revised Sheet No. 72 and Substitute Third Revised Sheet No. 72–A, are proposed to be effective December 1, 1983, and provide for the crediting of the jurisdictional portion of certain supplier refunds to Account No. 191, Unrecovered Purchased Gas Cost, for subsequent flow-through Consolidated's PGA mechanism over a one-year period. Such Credits would be reflected in Consolidated's demand and commodity rates on an "as received" basis. The proposed changes in the way Consolidated flows through supplier refunds would apply to all customers taking natural gas at a rate specified in Volume No. 1 of Consolidated's tariff. That portion of supplier refunds due to customers who purchase gas at a rate not specified in Consolidated's Volume No. 1 tariff will continue to be made in a lump sum.

Consolidated states that these tariff sheets are being filed in response to the Commission's letter order dated January 18, 1984 in Docket No. RP84–35 wherein the Commission rejected certain tariff sheets filed on December 19, 1983 because they did not comply with 19 CFR 154.38(d)(4) which allows pipelines to file no more than two PGA rate changes a year. The instant filing conforms with 18 CFR 154.38(d)(4).

Consolidated requested a waiver of the Commission's Rules and Regulations, specifically § 154.22, Notice Requirements. Consolidated also requested waiver of 154.38 of the Commission's regulations to permit amortization of the supplier refunds in rates over a period greater than six months. Additionally, Consolidated requested a waiver of any other of the Commission's Rules and Regulations as may be deemed necessary to permit the revised tariff sheets to become effective as proposed.

Copies of the filing were served upon Consolidated's jurisdictional customers as well as interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE. Washington, D.C. 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214 and 385.211). All such petitions or protests should be filed on or before February 8, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-2996 Filed 2-2-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-223-000]

Pacific Power & Light Co.; Filing

January 31, 1984.

The filing Company submits the following:

Take notice that Pacific Power & Light Company (Pacific) on January 23, 1984, tendered for filing, in accordance with § 35.12 of the Commission's Regulations, a Transmission Facilities Agreement (Agreement) between Pacific and the Emerald People's Utility District (District). The Agreement provides for the use by the District of certain transmission facilities, owned by Pacific, required to serve a portion of the District's load.

Pacific requests waiver of the Commission's notice requirements to permit this rate schedule to become effective November 17, 1983, which it claims is the date of commencement of service.

Copies of the filing were supplied to the District and the Oregon Public Utility Commissioner.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Sections 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before February 14, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the

Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-2997 Filed 2-3-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-222-000]

Southern California Edison Co.; Filing

January 31, 1984.

The filing Company submits the following:

Take notice that on January 23, 1984, Southern California Edison Co. ("Edison") tendered for filing an agreement entitled "Edison-Farmington Economy Energy Agreement" ("Agreement"), which has been executed by Edison and the City of Farmington ("Farmington"), a municipal corporation in the State of New Mexico.

Under the terms of the Agreement, Economy Energy may be sold by one Party and purchased by the other Party to make more efficient use of the Parties' electrical systems.

The Agreement is proposed to become effective when executed by the Parties and when accepted for filing by the Commission without changes unacceptable to the Parties.

Copies of this filing were served upon the Public Utilities Commission of the State of California and the City of Farmington, New Mexico.

Any person desiring to be heard or to protest this filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Sections 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before February 14, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-2998 Filed 2-3-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. RP81-81-011, et al.]

United Gas Pipe Line Co., et al.; Filing of Pipeline Refund Reports and Refund Plans

January 31, 1984.

Take notice that the pipelines listed in the Appendix hereto have submitted to the Commission for filing proposed refund reports or refund plans. The date of filing, docket number, and type of filing are also shown on the Appendix.

Any person wishing to do so may submit comments in writing concerning the subject refund reports and plans. All such comments should be filed with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before February 10, 1984. Copies of the respective filings are on file with the Commission and available for public inspection.

Kenneth F. Plumb,

Secretary.

Appendix

Filing date	Company	Docket No.	Type filing
12/20/83	United Gas Pipe Line Co.	RP81-81-011	Report.
12/22/83	National Fuel Gas Supply Corp.	RP80-125-036.	Report.
12/29/83	Southern Natural Gas Co.	RP82-116-009.	Report.
1/16/84	National Fuel Gas Supply Corp.	RP80-135-037.	Report.
1/19/84	Trunkline Gas Co	RP73-35-011	Report.
1/25/84	Columbia Gas Transmission Corp.	RP78-20-023	Report.

[FR Doc. 84-2999 Filed 2-3-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-67-004]

Wisconsin Public Service Corp.; Compliance Filing

January 31, 1984.

Take notice that on January 6, 1984, Wisconsin Public Service Corporation (WPSC) submitted for filing its Compliance Report pursuant to Ordering Paragraph (C) of Opinion No. 194 issued on October 20, 1983.

Any person desiring to be heard or to protest this filing should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before February 13, 1984. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-3000 Filed 2-3-84; 8:45 am]

BILLING CODE 6717-01-M

[Project Nos. 4270-001, et al.]

Hydroelectric Applications (Mr. Clark M. Ryen, et al.); Applications Filed With the Commission

Take notice that the following hydroelectric applications have been filed with the Federal Energy Regulatory Commission and are available for public inspection:

1a. Type of Application: Major License (5MW or Less).

b. Project No.: 4270-001.

c. Date Filed: September 15, 1983.

d. Applicant: Mountain Rhythum Resources.

e. Name of Project: Boulder Creek.

f. Location: On Boulder Creek, near Town of Maple Falls, in Whatcom County, Washington.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. Contact Person: William L. Devine, Mountain Rhythum Resources, P.O. Box 68, 8040 Mt. Baker Highway, Maple Falls, Washington 98266.

i. Comment Date: March 29, 1984.

j. Description of Project: The proposed project would consist of: (1) Two 6-foot-high concrete diversion weirs at elevation 2,240 feet, one on East Fork Boulder Creek and one on West Fork Boulder Creed; (2) two intake structures; (3) a 7,000-foot-long, 24-inch-diameter steel pipeline; (4) a 2,500-foot-long, 24-inch-diameter steel penstock; (5) a powerhouse containing one generating unit rated at 3,000 kW; (6) a tailrace; and (7) a 5,400-foot-long transmission line. The average annual energy generation is estimated to be 12 million kWh. The cost of the project is estimated to be $5.3 million.

k. Purpose of Project: Power would be sold to Puget Sound Power and Light Company.

l. This notice also consists of the following standard paragraphs: A3, A9, B, C, and D1.

2a. Type of Application: Preliminary Permit.

b. Project No.: 7479-000.

c. Date Filed: June 27, 1983.

d. Applicant: Mr. Clark M. Ryen.

e. Name of Project: Ryen Hydropower Project.

f. Location: On Ross Creek in Gallatin County, Montana.

g. Filed Pursuant to: Federal Power Act 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Clark M. Ryen, 7960 Springhill Community Road, Belgrade, Montana 59714.

i. Comment Date: March 29, 1984.

j. Description of Project: The proposed project would be located, in part, in Gallatin National Forest and, in part, on property owned by the Applicant. The project would consist of: (1) The proposed construction of two 6-foot-high, 25-foot-long, concrete diversion structures, one structure to be located on U.S. lands and one to be located on the Applicant's land; (2) the proposed installation of a 3700-foot-long, 30-inch-diameter penstock with a wye joint to run from the diversion structures to the powerhouse; (3) the proposed construction of a powerhouse with the proposed installation of two turbine/generator units operating at a head of 508 feet for a total installed capacity of 720 KW; (4) the proposed construction of a 15-foot-long tailrace; (5) the proposed construction of a 1000-foot-long transmission line and the upgrading of an existing 2-mile-long transmission line; and (6) appurtenant facilities. The Applicant estimates the average annual energy production to be 4.3 GWH.

k. Purpose of Project: The Applicant intends to sell the power generated at the proposed project to the Montana Power Company.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, and D2.

m. Proposed Scope of Studies under Permit—A preliminary permit, if issued, does not authorize construction. Applicant seeks issuance of a preliminary permit for a period of 36 months during which time it would prepare studies of the hydraulic, construction, economic, environmental, historic and recreational aspects of the project. Depending on the outcome of the studies, Applicant would prepare an application for an FERC license. Applicant estimates the cost of the studies under the permit would be $10,000.

3a. Type of Application: Preliminary Permit.

b. Project No.: 7721–000.

c. Date Filed: October 13, 1983.

d. Applicant: Locks Development Ltd.

e. Name of Project: Locks Dam.

f. Location: On the Appomattox River near Petersburg, in Dinwiddie and Chesterfield Counties, Virginia.

g. Filed Pursuant to: Federal Power Act 16 U.S.C. 791(a)–825(r).

h. Contact Person: Kenneth Lever, 18305 Minnetonka Boulevard, The Pierce Building, Wayzata, Minnesota 55391.

i. Comment Date: March 29, 1984.

j. Description of Project: The proposed project would consist of: (1) An existing concrete gravity diversion dam, 10 feet high and 300 feet long; (2) a small impoundment covering about 5 acres with a storage of 50 acre-feet; (3) an existing headgate structure of 4 slide gates, each 4 feet wide; (4) an existing power canal 1.2 miles long and 30 feet wide; (5) a new powerhouse containing three 1.5-MW turbine/generator units operating under an average head of approximately 40 feet; (6) new low voltage transmission line one mile long; and (7) appurtenant facilities. The average annual generation of 24.1 million kWh of electrical energy will probably be sold to the Virginia Electric Power Company.

k. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, and D2.

l. Proposed Scope of Studies under Permit—Applicant has requested a 36-month permit to prepare a definitive project report, including preliminary designs, results of geological, environmental, and economic feasibility studies. The cost of the above activities, along with preparation of an environmental impact report, obtaining agreements with the Corps and other Federal, State, and local agencies, preparing a license application, conducting final field surveys, and preparing designs is estimated by the Applicant to be $100,000.

m. *Purpose of Preliminary Permit*—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other information necessary for inclusion in an application for a license.

4a. Type of Application: Preliminary Permit.

b. Project No: 7852–000.

c. Date Filed: November 15, 1983.

d. Applicant: St. Maries River Hydro Inc.

e. Name of Project: St. Maries River Hydroelectric.

f. Location: On St. Maries River, within the Panhandle National Forest, near St. Maries township in Benewah County, Idaho.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. James R. Morris, St. Maries River Hydro, Inc., P.O. Box 1016, Lewiston, Idaho 83501.

i. Comment Date: March 26, 1984.

j. Description of Project: The proposed project would consist of: (1) A 10-foot-high, 90-foot-long concrete diversion structure at elevation of 2435 feet: (2) a 2315-foot-long, 102-inch-diameter steel conduit; (3) a powerhouse containing two generating units with a total installed capacity of 3,400 kW; and (4) a 4.5-mile-long, 34.5-kV transmission line connecting to an existing Washington Water Power Company transmission line. The Applicant estimates the average annual energy production to be 14.9 million kWh.

A preliminary permit, if issued, does not authorize construction. Applicant seeks a 24-month preliminary permit to conduct engineering, economic and environmental studies to ascertain project feasibility and to support an application for a license to construct and operate the project. Applicant has stated that no new roads are necessary and that drilling is not anticipated as part of the studies. The estimated cost of permit activities is $770,000.

k. Purpose of Project: The project power would be sold to Washington Water Power Company.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, and D2.

5a. Type of Application: Preliminary Permit.

b. Project No.: 7801–000.

c. Date Filed: November 3, 1983.

d. Applicant: Southern California Edison Company.

e. Name of Project: Warren Fork.

f. Location: On Warren Fork, a tributary to Lee Vining Creek, near Lee Vining, in Mono County, California.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. John R. Bury, Southern California Edison Company, P.O. Box 800, Rosemead, California 91770.

i. Comment Date: April 2, 1984.

j. Description of Project: The proposed project would consist of: (1) A 6-foot-high, 50-foot-long concrete diversion structure located on Warren Fork at elevation 8,966 feet MSL; (2) an 18 to 20-inch-diameter, 4,200-foot-long penstock; (3) a powerhouse located on Lee Vining Creek at elevation 7,825 feet MSL containing a single turbine-generator unit with a rated capacity of 1,000 kW and producing an estimated average annual generation of 4.8 GWh; (4) a 30-inch-diameter, 80-foot-long tailrace; and (5) a short tap line to connect to the existing transmission line of the Lee

Vining Creek Project. The proposed project would be located entirely on Inyo National Forest lands. Project power would be used to meet the Applicant's load demands.

A preliminary permit, if issued, does not authorize construction. The Applicant seeks a 36-month permit to study the feasibility of constructing and operating the project and estimates the cost of the studies at $153,000.

k. This notice also consists of the following standard paragraphs: A6, A7, A9, B, C, and D2.

6a. Type of Application: Exemption from Licensing (5MW or less).

b. Project No.: 7241–000.

c. Date Filed: April 21, 1983.

d. Applicant: White Chuck Water Company.

e. Name of Project: Upper Clear Creek.

f. Location: On Clear Creek in Snohomish County, Washington, within Mt. Baker National Forest.

g. Filed Pursuant to: Section 408 of the Energy Security Act of 1980 (16 U.S.C. 2705 and 2708 as amended).

h. Contact Person: Dr. Sat Khanna, CE Maquire, Inc., 60 First Avenue, Waltham, Massachusetts 02254.

i. Comment Date: March 7, 1984.

j. Description of Project: The proposed project would consist of: (1) An 8-foot-high, 80-foot-long reinforced concrete diversion weir at elevation 1420 feet; (2) a 4.5-foot-diameter, 5,800-foot-long steel penstock; (3) a powerhouse at elevation 1120 feet containing two turbine generators, with rated capacities of 3.0 MW and 0.5 MW, producing a total average annual output of 12.5 GWh; (4) a 150-foot-long tailrace; and (5) a 5-mile-long, 34.5-kV transmission line connecting to existing Seattle City Light lines.

k. This notice also consists of the following standard paragraphs: A1, A9, B, C, and D3a.

7a. Type of Application: Preliminary Permit.

b. Project No: 7854–000.

c. Date Filed: November 15, 1983.

d. Applicant: Marble Creek Hydro, Inc.

e. Name of Project: Marble Creek Diversion Hydroelectric.

f. Location: On Marble Creek, within Panhandle National Forest; near Avery Township, in Shoshone County, Idaho.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. James R. Morris, Marble Creek Hydro Inc., P.O. Box 1016, Lewiston, Idaho 83501.

i. Comment Date: March 26, 1984.

j. Description of Project: The proposed project would consist of: (1) A 6-foot-high, 75-foot-long concrete diversion structure, at elevation 2560 feet; (2) a 4,150-foot-long, 60-inch-diameter steel conduit; (3) a powerhouse containing two generating units with a total installed capacity of 1,810 kW; and (4) a 1.8-mile-long, 24-kV transmission line connecting to an existing Washington Water Power Company transmission line. The Applicant estimates the average annual energy production to be 7.9 million kWh.

A preliminary permit, if issued, does not authorize construction. Applicant seeks a 24-month preliminary permit to conduct engineering, economic and environmental studies to ascertain project feasibility and to support an application for a license to construct and operate the project. Applicant has stated that no new roads are necessary and that drilling is not anticipated as part of the studies. The estimated cost of permit activities is $365,000.

k. Purpose of Project: The project power would be sold to Washington Water Power Company.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, and D2.

8a.Type of Application: Minor Constructed License.

b. Project No: 7725–000.

c. Date Filed: October 14, 1983.

d. Applicant: Barton Village Electric Department.

e. Name of Project: Barton Village Dam.

f. Location: On the Clyde River, in Orleans County, in Charleston, Vermont.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Shawn M. Donovan, DuBois & King, Inc., Box 339, Randolph, Vermont 05060.

i. Comment Date: March 29, 1984.

j. Description of Project: The existing and presently operating run-of-river project consists of the following facilities: (1) A granite block dam, with a concrete face, approximately 77.4 feet long and 7.5 feet high. Wooden flashboards 1.3 feet high extending 39.4 feet across the concrete spillway section; (2) a reservoir with an estimated net storage capacity of 187 acre-feet and water surface area of 187 acres; (3) approximately 660 feet of wood stave and welded steel penstock, 7 feet in diameter; (4) a 25-foot-high steel surge tank; (5) two steel penstocks, each 5.5 feet in diameter and 120 feet long bifurcating from the surge tank to the powerhouse; (6) a 20-foot-wide by 40-foot-long reinforced concrete and brick powerhouse, housing two turbine/generating units with a total installed capacity of 1,400 kW; (7) a diesel generating building; (8) electrical switching gear and transformers; (9) a 46-kV transmission line that feeds power to the Village of Barton five miles away; and (10) appurtenant facilities.

Applicant estimates an average annual energy generation of 4,786,800 kWh.

The dam and power generating facilities are owned by the Village of Barton.

k. Purpose of Project: The energy generated at the existing project is utilized by the Applicant for municipal purposes.

l. This notice also consists of the following standard paragraphs: A3, A9, B, C, and D1.

9a. Type of Application: Exemption from Licensing (5MW or Less).

b. Project No: 4627–002.

c. Date Filed: June 20, 1983.

d. Applicant: Albert R. Hunt & Betty F. Hunt.

e. Name of Project: Baker Creek Project.

f. Location: In Humboldt County, California on Baker Creek.

g. Filed Pursuant to: Energy Security Act of 1980, Section 408, 16 U.S.C. 2705 and 2708, *as amended.*

h. Contact Person: Albert Hunt, P.O. Box 26, Bridgeville, California 95526.

i. Comment Date: March 9, 1984.

j. Description of Project: The proposed project would consist of: (1) A 6-foot-high diversion dam on Baker Creek at 2200 feet elevation; (2) a 42-inch-diameter, 3,700-foot-long low pressure steel conduit; (3) a 36-inch-diameter, 3,500-foot-long steel penstock; (4) a powerhouse containing a 1,300-kW generator coupled with an impulse turbine operating under a head of 820 feet; (5) a 12-kV, 10,500-foot-long transmission line connecting with an existing Pacific Gas & Electric Company (PG&E) transmission line. The estimated 6 million kWh produced annually by the proposed project would be sold to PG&E.

k. This notice also consists of the following standard paragraphs: A1, A9, B, C. and D3a.

10a. Type of Application: License (5MW or Less).

b. Project No: 7829–000.

c. Date Filed: November 14, 1983.

d. Applicant: Talent, Rogue River, and Medford Irrigation Districts.

e. Name of Project: Emigrant Dam.

f. Location: At Emigrant Dam on Emigrant Creek, near Town of Ashland, in Jackson County, Oregon.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: W. H. Hoffbuhr, Talent Irrigation District, Talent, Oregon 97540; and Wes Reynolds, CH2M HILL, P.O. Box 428, Corvallis, Oregon 97339.

i. Comment Date: March 26, 1984.

j. Description of Project: The proposed project would consist of: (1) A 54-inch-diameter bifurcation connected to the existing 54-inch-diameter outlet pipe of the 176-foot-high, 735-foot-long earthfill Emigrant Dam owned by the U.S. Bureau of Reclamation; (2) a 185-foot-long, 54-inch-diameter steel penstock; (3) a powerhouse containing one generating unit, rated at 1,850 kW; and (4) a 500-foot-long transmission line. The average annual energy generation is estimated to be 5.5 million kWh.

The cost of the project is estimated to be $4.5 million, and no recreational improvements are proposed.

k. Purpose of Project: Power would be sold to Pacific Power and Light Company.

l. This notice also consists of the following standard paragraphs: A3, A9, B, C, and D1.

11a. Type of Application: Preliminary Permit.

b. Project No: 7728–001.

c. Date Filed: November 7, 1983.

d. Applicant: Robley Point Hydro Partners.

e. Name of Project: Robley Point.

f. Location: On West Branch North Fork Feather River, near Stirling City, in Butte County, California.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. David C. Auslam, Jr., 3327 Longview Drive, Suite 250, North Highlands, California 95660.

i. Comment Date: March 26, 1984.

j. Description of Project: The proposed run-of-river project would consist of: (1) A 25-foot-high, 100-foot-long, concrete diversion structure at elevation 2440 feet MSL; (2) a 26,000-foot-long, 84-inch diameter pipeline; (3) a surge tank; (4) a 1,250-foot-long, 72-inch diameter penstock; (5) a powerhouse at elevation 1860 feet msl with an installed capacity of 13.3 MW and an average annual generation of 40.0 GWh; and (6) 26,000 feet of 60-kV transmission line to connect to an existing Pacific Gas and Electric Company (PG&E) line. The project would affect Plumas National Forest lands. Project power would be sold to PG&E.

A preliminary permit, if issued, does not authorize construction. The Applicant seeks a 24-month permit to study the feasibility of constructing and operating the project and estimates the cost of the studies at $200,000.

k. This notice also consists of the following standard paragraphs: A6, A7, A9, B, C, and D2.

12a. Type of Application: Conduit Exemption.

b. Project No: 4730–002.

c. Date Filed: August 17, 1983.

d. Applicant: Marin Municipal Water District (MMWD).

e. Name of Project: Nicasio Reservoir.

f. Location: Nicasio Creek, a tributary of Lagunitas Creek, near Nicasio, in Marin County, California.

g. Filed Pursuant to: Section 30 of the Federal Power Act.

h. Contact Person: Mr. Richard W. Rogers, Marin Municipal Water District, 220 Nellen Avenue, Corte Madera, California 94925.

i. Comment Date: March 5, 1984.

j. Description of Project: The proposed project would utilize the existing 24-inch-diameter stream release conduit at MMWD's Nicasio Reservoir and would consist of a powerhouse with a total installed capacity of 290 kW and an average annual generation of 559,000 kWh. 50 feet of 12.0–kV transmission line would connect the project to an existing Pacific Gas and Electric Company (PG&E) line. Project power would be sold to PG&E.

k. This notice also consists of the following standard paragraphs: A3, A9, B, C, and D3b.

l. The proposed project would discharge to Nicasio Creek, a natural water body. MMWD filed a petition for waiver of the water discharge requirement of Section 4.91(f)(5) pursuant to Section 385.207 of the Commission's regulations.

13a. Type of Application: License (Over 5 MW).

b. Project No: 5349–001.

c. Date Filed: January 31, 1983.

d. Applicant: Goat Mountain Mining Company.

e. Name of Project: Swift Creek.

f. Location: On Swift and Rainbow Creeks, near Town of Concrete, in Whatcom County, Washington, and occupying U.S. lands in Mt. Baker National Forest.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Dr. Sat Khanna, CE Maguire, Inc., 60 First Avenue, Waltham, Massachusetts 02254.

i. Comment Date: March 5, 1984.

j. Competing Applications: Projects Nos. 6402–000 and 6403–000. Date Filed: June 3, 1982. Notices Issued: October 25, 1982.

k. Description of Project: The proposed project would consist of: (1) 8-foot-high concrete diversion weirs on Rainbow Creek and on Swift Creek at elevation 2,500 feet; (3) two intake structures; (4) a 17,300-foot-long, 4-foot-diameter pipeline from Swift Creek diversion; (5) a 13,200-foot-long, 3.5-foot-diameter pipeline from Rainbow Creek diversion; (6) a powerhouse containing two generating units, one rated at 15 MW and one rated at 2.5 MW; (7) a 500-foot-long tailrace; (8) an 8.7-mile-long transmission line; and (9) an access road. The average annual energy generation is estimated to be 55 million kWh and the total project cost is estimated to be $20,600,000.

Applicant proposes, for recreation, to improve and develop hiking trails, a campsite near the powerhouse, and an overlook.

l. Purpose of Project: Power would be sold to Puget Sound Power and Light Company.

m. This notice also consists of the following standard paragraphs: A4, B, C, and D2.

14a. Type of Application: Preliminary Permit.

b. Project No: 7853–000.

c. Date Filed: November 15, 1983.

d. Applicant: Beaver Creek Hydro, Inc.

e. Name of Project: Beaver Creek Hydroelectric.

f. Location: On Beaver Creek, within Clearwater National Forest, near Headquarters Township, in Clearwater County, Idaho.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. James R. Morris, Beaver Creek Hydro, Inc., P.O. Box 1016, Lewiston, Idaho 83501.

i. Comment Date: March 26, 1984.

j. Description of Project: The proposed project would consist of: (1) A 6-foot-high, 35-foot-long concrete diversion structure, at elevation 2360 feet; (2) a 13,800-foot-long, 51-inch-diameter steel conduit; (3) a 7600-foot-long, 45-foot-diameter steel penstock; (4) a powerhouse containing two generating units with a total installed capacity of 4,200 kW; and (5) a 23-mile-long, 69-kV transmission line connecting to an existing Washington Water Power Company transmission line. The Applicant estimates the average annual energy production be 18.8 million kWh.

A preliminary permit, if issued, does not authorize construction. Applicant seeks a 24-month preliminary permit to conduct engineering, economic and environmental studies to ascertain project feasibility and to support an application for a license to construct and operate the project. Applicant has stated that no new roads are necessary and that drilling is not anticipated as part of the studies. The estimated cost of permit activities is $920,000.

k. Purpose of Project: The project power would be sold to Washington Water Power Company.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, and D2.

15a. Type of Application: Preliminary Permit.

b. Project No: 7819–000.

c. Date Filed: November 15, 1983.

d. Applicant: Clyde and Rubie Beverland.

e. Name of Project: Lava Creek Water Power Project.

f. Location: On Lava Creek, within U.S. lands administered by BLM, near Arco Township, in Butte County, Idaho.

g. Filed Pursuant to: Federal Power Act 16, U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Ted S. Sorenson, 550 Linden Drive, Idaho Falls, Idaho 83401.

i. Comment Date: March 26, 1984.

j. Description of Project : The project would consist of: (1) A 6-foot-high concrete diversion structure at elevation 7040 feet; (2) a 11,600-foot-long, 16-inch-diameter steel penstock; (3) a powerhouse containing one generating unit with an installed capacity of 530 kW; and (4) a 1-mile-long transmission line connecting to an existing Lost River Rural Electric transmission line. The Applicant estimates the average annual energy production to be 2.7 million kWh.

A preliminary permit, if issued, does not authorize construction. Applicant seeks a 24-month preliminary permit to conduct engineering, economic and environmental studies to ascertain project feasibility and to support an application for a license to construct and operate the project. Applicant has stated that no new roads are necessary and that drilling is not anticipated as part of the studies. The estimated cost of permit activities is $10,000.

k. Purpose of Project: Project power would be sold to Idaho Power Company or Utah Power and Light, Inc.

l. This notice also consists of the following standard paragraphs: A6, A7, A9, B, C, and D2.

16a. Type of Application: Preliminary Permit.

b. Project No: 7851–000.

c. Date Filed: November 15, 1983.

d. Applicant: Reeds Creek Hydro, Inc.

e. Name of Project: Reeds Creek Hydroelectric.

f. Location: On Reeds Creek, near Headquarters Township, in Clearwater County, Idaho.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. James R. Morris, Reeds Creek Hydro, Inc., P.O. Box 1016, Lewiston, Idaho 83501.

i. Comment Date: March 26, 1984.

j. Description of Project: The project would consist of: (1) A 6-foot-high, 35-foot-long concrete diversion structure at elevation 2040 feet; (2) a 9200-foot-long, 63-inch-diameter steel conduit; (3) a 750-foot-long, 57-inch-diameter steel penstock; (4) a powerhouse containing two generating units with a total installed capacity of 4,200 kW; and (5) a 10-mile-long, 69-kV transmission line connecting to an existing Washington Water Power Company transmission line. The Applicant estimates the average annual energy production to be 18.4 million kWh.

A preliminary permit, if issued, does not authorize construction. Applicant seeks a 36-month preliminary permit to conduct engineering, economic and environmental studies to ascertain project feasibility and to support an application for a license to construct and operate the project. Applicant has stated that no new roads are necessary and that drilling is not anticipated as part of the studies. The estimated cost of permit activities is $690,000.

k. Purpose of Project: the project power would be sold to Washington Water Power Company.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, and D2.

17a. Type of Application: Major License (Existing Dam).

b. Project No. 4350–001.

c. Date Filed: May 31, 1983.

d. Applicant: Gem, Ridgeview, Owyhee Irrigation Districts, et al.

e. Name of Project: Owyhee Dam.

f. Location: On Owyhee Dam Tunnel No. 1, on Owyhee River, near Town of Adrian, in Malheur County, Oregon, and occupying BLM lands.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Gene Stunz, Secretary, Owyhee Project Power Committee, Box 1565, Nyssa, Oregon 97913; and Harry Hosey, HAEC, 2850 Northrup Way, Bellevue, Washington 98004.

i. Comment Date: March 30, 1984.

j. Description of Project: The proposed project would consist of: (1) A 15-foot-diameter bifurcation at elevation 2,573 feet, connected to the outlet of the existing 3.5 mile-long, 16.6-foot-diameter Tunnel No. 1 from the U.S. Bureau of Reclamation's 417-foot-high Owyhee Dam; (2) a 120-foot-long, 11-foot-diameter steel pipe; (3) a 120-foot-long, 7-foot-diameter bypass pipe; (4) a powerhouse containing one generating unit rated at 5 MW; (5) an 80-foot-long tailrace; (6) an energy dissipating structure; and (7) a 500-foot-long transmission line. The average annual energy generation is estimated to be 23.8 million kWh.

The project cost is estimated to be $5.9 million.

k. Purpose of Project: Power would be sold to Idaho Power Company.

l. This notice also consists of the following standard paragraphs: A3, A9, B, C, and D1.

18a. Type of Application: Preliminary Permit.

b. Project No. 7856–000.

c. Date Filed: November 15, 1983.

d. Applicant: Snake Creek Hydro, Inc.

e. Name of Project: Snake Creek Hydroelectric.

f. Location: On Snake Creek, near Headquarters Township, in Clearwater County, Idaho.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. James R. Morris, Snake Creek Hydro Inc., P.O. Box 1016, Lewiston, Idaho 83501.

i. Comment Date: March 26, 1984.

j. Description of Project: The proposed project would consist of: (1) A 4-foot-high, 35-foot-long concrete diversion structure at elevation 2,570 feet; (2) a 3,500-foot-long, 30-inch-diameter steel conduit; (3) a powerhouse containing a single generating unit with an installed capacity of 1,000 kW; and (4) a 10-mile-long, 69-kV transmission line connecting to an existing Washington Water Power Company transmission line. The Applicant estimates the average annual energy production to be 4.36 million kWh.

A preliminary permit, if issued, does not authorize construction. Applicant seeks a 24-month preliminary permit to conduct engineering, economic and environmental studies to ascertain project feasibility and to support an application for a license to construct and operate the project. Applicant has stated that no new roads are necessary and that drilling is not anticipated as part of the studies. The estimated cost of permit activities is $235,000.

k. Purpose of Project: The project power would be sold to Washington Water Power Company.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, and D2.

19a. Type of Application: Preliminary Permit.

b. Project No.: 7483–000.

c. Date Filed: July 21, 1983.

d. Applicant: Gentry Resources Corporation.

e. Name of Project: Tonto Pumped Storage Project.

f. Location: Salt River in Gila and Maricopa Counties, Arizona.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Donald E. Proctor, President, Gentry Resources Corporation, 11920 E. Maple, Aurora, Colorado, 80012.

i. Comment Date: March 26, 1984.

j. Description of project: The proposed pumped-storage project would utilize the U.S. Bureau of Reclamation's Theodore Roosevelt Dam and Reservoir and would consist of: (1) A new forebay dam and reservoir; (2) a new pressure tunnel; (3) a new powerhouse containing pump-turbine-generator units having a minimum 150 MW total capacity; (4) a new tailrace tunnel (5); (5) an existing afterbay dam and reservoir, Theodore Roosevelt Lake; (6) a new 230KV transmission line, approximately 30 miles long; and (7) appurtenant facilities. The Applicant estimates that the average annual energy output would be 340 million KwH. Project energy would be marketed through various public utilities. Feasibility studies will be coordinated with the U.S. Bureau of Reclamation.

k. This notice also consists of the following standard paragraphs: A6, A7, A9, B, C, and D2.

l. Proposed Scope of Studies under Permit: A Preliminary permit, if issued, does not authorize construction. Applicant seeks issuance of a preliminary permit for a period of 36 months during which time Applicant would investigate project design alternatives, financial feasibility, environmental effects of project construction and operation, and project power potential. Depending upon the outcome of the studies, the Applicant would decide whether to proceed with an application for FERC license. Applicant estimates that the cost of the studies under permit would be $950,000.

20a. Type of Application: Preliminary Permit.

b. Project No.: 7844–000.

c. Date Filed: November 14, 1983.

d. Applicant: P & C Enterprises.

e. Name of Project: Saranac Project.

f. Location: On the Blackstone River in Worcester County, Massachusetts and Providence County, Rhode Island.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Gerald Paulhus, P & C Enterprises, 14 Canal Street, North Smithefield, Rhode Island 02895.

i. Comment Date: March 26, 1984.

j. Description of Project: The proposed project would consist of: (1) An existing 17-foot-high and 120-foot-long masonry dam; (2) a reservoir with negligible storage capacity; (3) existing head gates at the southern side of the dam; (4) an existing 2,000-foot-long canal; (5) a small pool; (6) a new powerhouse with a total installed capacity of 900 KW; (7) an existing tailrace; (8) a new transmission line 800 feet long; and (9) other appurtenances. The Applicant owns all existing facilities. It estimates an average annual generation of 3,835,600 KWh.

k. Purpose of Project: Project energy would be sold either to the Blackstone Valley Electric Company or to the Connecticut Light and Power Company.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, and D2.

m. Proposed Scope of Studies under Permit: A preliminary permit if issued, does not authorize construction. Applicant seeks issuance of a preliminary permit for a period of 3 years during which time Applicant would investigate project design alternatives, financial feasibility, environmental effects of project construction and operation, and project power potential. Depending upon the outcome of studies, the Applicant would decide whether to proceed with an application for FERC license. Applicant estimates the cost of the studies under the permit would be $45,000.

21a. Type of Application: Preliminary Permit.

b. Project No: 7441–000.

c. Date Filed: July 11, 1983.

d. Applicant: Mr. Michael Arkoosh.

e. Name of Project: George #3.

f. Location: On Henry's Fork of the Snake River, near the Town of Ashton, in Fremont County, Idaho.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Vernon Ravenscroft, P.O. Box 893, Boise, Idaho 83701.

i. Comment Date: April 2, 1984.

j. Description of Project: The proposed run-of-river project would affect lands of the United States within the Targhee National Forest and would consist of: (1) A new diversion structure; (2) a gated, screened concrete intake structure located at the right (west) bank; (3) a 3-mile-long canal; (4) a 400-foot-long 96-inch-diameter steel penstock; (5) a powerhouse containing a generating unit having a rated capacity of 3,547–kW operated under an 80-foot head and at a flow of 680 cfs; (6) electrical transformers and switching devices; (7) a 0.5-mile-long 34.5–kV transmission line; and (8) appurtenant facilities.

k. Purpose of Project: Project energy would be sold to Utah Power & Light Company. Applicant estimates that the average annual energy output would be 21,160,500 kWh.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, and D2.

m. Proposed Scope and Cost of Studies under Permit: A preliminary permit, if issued, does not authorize construction. Applicant seeks issuance of a preliminary permit for a period of 36 months, during which time it would perform studies and would prepare an application for an FERC license. Applicant estimates the cost of the work under the permit would be $96,500.

22a. Type of Application: 5 MW Exemption.

b. Project No: 7590–000.

c. Date Filed: September 18, 1983.

d. Applicant: Nashua Hydro Associates.

e. Name of Project: Jackson Mills.

f. Location: Nashua River, City of Nashua, Hillsborough County, New Hampshire.

g. Filed Pursuant to: Section 408 of the Energy Security Act of 1980, Pub. L. 96–294, 94 Stat. 611 (16 U.S.C. 2705 and 2708 as amended).

h. Contact Person: Thomas A. Tarpey, Nashua Hydro Associates, 99 N. State Street, Concord, New Hampshire 03301.

i. Comment Date: March 9, 1984.

j. Description of Project: The proposed project would consist of: (1) An existing 33-foot-high, 180-foot-long stone masonry uncontrolled spillway dam with a concrete cap and 1-foot-high flashboards; (2) an existing 40-acre reservoir with no usable storage capacity and a normal maximum water surface elevation of 116.6 feet N.G.V.D. with flashboards installed; (3) an existing powerhouse (the basement of the Chart House Restaurant) located at the north dam abutment partially containing a new 1.1 MW turbine-generator and a new powerhouse extension constructed to house part of the turbine-generator which would extend beyond the existing building; (4) a tailrace channel; (5) a transmission line; (6) a fishway (to be constructed one year following the completion of such facilities at the downstream Lowell Project, FERC No. 2790); and (7) 4,000,000 kWh annually.

k. Purpose of Project: The project's output would be sold to Public Service Company of New Hampshire.

l. This notice also consists of the following standard paragraphs: A1, A9, B, C, and D3a.

m. Purpose of Exemption: An exemption, if issued, gives the Exemptee priority of control, development, and operation of the project under the terms of the exemption from licensing, and protects the Exemptee from permit or license Applicants that would seek to take or develop the project.

23a. Type of Application: Exemption (5MW or less).

b. Project No: 6349–002.

c. Date filed: November 28, 1983.

d. Applicant: Goldenwest Power.

e. Name of Project: Mill Creek.

f. Location: On Mill Creek near the town of Los Molinos in Tehama County, California.

g. Filed Pursuant to: Section 408 of Energy Security Act of 1980, 16 U.S.C. 2705 and 2708 *as amended.*

h. Contact Person: E. H. Ochinero, 2811 Bechelli Lane, Redding, California 96002.

i. Comment Date: March 7, 1984.

j. Description of Project: The proposed project would consist of: (1) An existing 20-foot-high diversion structure; (2) a 15-foot-long, 86-inch-diameter penstock; (3) a powerhouse containing two generating units with a combined rated capacity of 300 kW, operating under 15 feet of head; and (4) a 12-kV, 2,500-foot-long transmission line connecting the powerhouse with the existing Pacific Gas and Electric Company's (PG&E) transmission line west of the powerhouse.

k. Purpose of Project: The project's estimated annual generation of 3.2 million kWh of energy would be sold to PG&E.

l. This notice also consists of the following standard paragraphs: A1, A9, B, C, and D3a.

24a. Type of Application: Preliminary Permit.

b. Project No: 7913–000.

c. Date filed: December 12, 1983.

d. Applicant: Gilead Power Company.

e. Name of Project: Gilead.

f. Location: Androscoggin River, town of Gilead, Oxford County, Maine and Coos County, New Hampshire.

g. Filed Pursuant to: 16 U.S.C. 791(a)—825(r).

h. Contact Person: Michael D. Hefner, Manager Hydro Department, P.O. Box 50, One Jefferson Square, Boise, Idaho 83728.

i. Comment Date: April 2, 1984.

j. Description of Project: The proposed project would consist of: (1) A new 350-foot long, 35-foot high concrete gravity dam with wing dikes on its abutments; (2) a new 550-acre reservoir with a normal maximum water surface elevation of 700 feet m.s.l. and usable storage capacity of 275 acre feet; (3) a new powerhouse located at the south dam abutment containing three turbine-generators within a total rated capacity of 4.8 MW with a normal tailwater elevation of 676 feet m.s.l.; (4) a 1,500-foot-long, 34.5-kV transmission line and; (6) appurtenant facilities. The project would produce up to 29,400,000 kWh annually.

k. Purpose of Project: Energy produced at the project would be sold to Central Maine Power Company.

l. This notice also consists of the following standard paragraphs: A6, A7, A9, B, C, and D2.

m. Proposed Scope of Studies under Permit: A preliminary permit, if issued does not authorize construction. The Applicant seeks issuance of preliminary permit for a period of 36 months. The work to be performed under this preliminary permit would consist of gathering necessary data, completing surveys and environmental studies, obtaining necessary Federal, State and local permits, and preparing necessary documentation for the Commission's licensing requirements. Applicant estimates that the cost of works to be performed under the permit would not exceed $125,000.

25a. Type of Application: Preliminary Permit.

b. Project No: 7856–000.

c. Date Filed: November 14, 1983.

d. Applicant: John P. and Virginia E. Gross.

e. Name of Project: South Willow Creek.

f. Location: On the South Willow and Potosi Creeks, In Madison County, Montana.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Rhett Hurless, C. C. Bowman & Associates, P.O. Box 3474, Bozeman, Montana 59772.

i. Comment Date: April 2, 1984.

j. Description of Project: The proposed project would consist of: (1) An existing powerhouse containing 1 generating unit rated at 25 kW; (2) a proposed diversion structure; (3) a proposed penstock; (4) a proposed powerhouse containing 4 generating units rated at 33 kW, 48 kW, 103 kW, and 200 kW, respectively; (5) a proposed 10,000-foot underground, 7,200–volt transmission line; and (6) appurtenant facilities. The Applicant estimates the average annual energy output for the project would be 1,400,000 kWh.

k. Proposed Scope of Studies under Permit: A preliminary permit, if issued, does not authorize construction. Applicant seeks issuance of a preliminary permit for a period of 36 months during which time Applicant would investigate project design alternatives, financial feasibility, environmental effects of project construction and operation, and project power potential. Depending upon the outcome of the studies, the Applicant would decide whether to proceed with an application for FERC license. Applicant estimates that the cost of the studies under permit would be $11,000.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, And D2.

26a. Type of Application: Major License.

b. Project No: 7732–000.

c. Date Filed: October 18, 1983.

d. Applicant: Baker County Court, Baker County, Oregon.

e. Name of Project: Mason Dam Hydroelectric Development.

f. Location: On the Power River in Baker County, Oregon at the U.S. Bureau of Reclamation's Mason Dam.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Hon. Larry Smith, Baker County Court, Baker County Courthouse, Baker, Oregon 97814.

i. Comment Date: March 5, 1984.

j. Competing Application: Project No. 3459–001. Dated Filed: February 28, 1983. Notice issued: April 14, 1983.

k. Description of Project: The proposed project would consist of: (1) A 54-inch-diameter, 125-foot-long penstock connected to the existing 56-inch-diameter outlet pipe 35 feet upstream of the existing valve house; (2) a bifurcation into a 48-inch-diameter pipe and a 30-inch-diameter pipe; (3) a powerhouse containing two generating units, one rated at 2000 kW and the other rated at 300 kW, capable of an average annual output of 7.9 GWh; and (4) a 185-foot-long, 24.9-kV transmission line connecting to Idaho Power Company lines on the opposite side of the Powder River. Applicant estimates that construction of the project will cost $2,629,105 at 1984 price levels.

l. Purpose of Project: Project power would be sold to Idaho Power Company.

m. This notice also consists of the following standard paragraphs: A4, B, C, and D1.

27a. Type of Application: Preliminary Permit.

b. Project No.: 7861–000.

c. Date Filed: November 21, 1983.

d. Applicant: Trin-Co Forest Products.

e. Name of Project: LaGrange Ditch Power Project.

f. Location: On Deer Creek and Stuart Fork, near Town of Weaverville, Trinity County, California.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. Contact Person: Mr. V.A. Rose, P.O Box P, Weaverville, California 96093.

i. Comment Date: March 29, 1984.

j. Description of Project: The proposed project would consist of: (1) A 6-foot-high, 85-foot-long diversion structure on Deer Creek at elevation 4300.00 feet; (2) a 6-foot-high, 110-foot-long diversion structure on Stuart Fork at elevation 4300.00 feet; (3) a 42-inch-diameter, 2,800-foot-long conduit; (4) a 48-inch-diameter, 5,200-foot-long conduit; (5) a 51-inch-diameter, 39,000-foot-long conduit; (6) two 45-inch-diameter, 3000-foot-long steel penstocks; (7) a powerhouse at elevation 2700.00 feet

with a total installed capacity of 11.4 MW: and (8) a 12,000-foot-long, 12-kV transmission line connected to an existing Pacific Gas and Electric Company (PG&E) transmission line. The Applicant estimates the average annual energy production at 42.6 million kWh which would be sold to PG&E.

A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a 36-month preliminary permit to conduct technical, environment and economic studies, and also prepare an FERC license application at an estimated cost of $140,000.

k. This notice also consists of the following standard paragraphs: A6, A7, A9, B, C, and D2.

28a. Type of Application: Preliminary Permit.

b. Project No: P–7363–000.

c. Date Filed: November 21, 1983.

d. Applicant: City of Tuscaloosa, Alabama.

e. Name of Project: Lake Tuscaloosa Hydroelectric Project.

f. Location: On the North River in Tuscaloosa County, Alabama.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. Contact Person: Mr. Robert W. Ennis, City Attorney, City of Tuscaloosa, Alabama, P.O Box 2089, Tuscaloosa, Alabama 35403.

i. Comment Date: March 7, 1984.

j. Competing Application: Project No. 7476. Date Filed: July 29, 1983.

k. Description of Project: The proposed project would be located at the Lake Tuscaloosa Dam, which is owned by the City of Tuscaloosa, Alabama, and would consist of: (1) An existing reservoir with a surface area of 5,885 acres and a storage capacity of 60,000 acre-feet; (2) and existing 1,280-foot-long and 125-foot-high earth-filled dam; (3) an existing water intake tower with a 96-inch-diameter pipe that transports water to a 20-foot-diameter tunnel through the dam; (4) the use of one (of two) existing 66-inch-diameter pipes which transport water from the tunnel downstream of the dam; (5) the proposed installation of two 60-inch-diameter, 200-foot-long penstocks to transport water from the 66-inch-diameter pipe to the powerhouse; (6) the proposed construction of a powerhouse with the installation of two turbine/generator units operating at a head of 93 feet for a total installed capacity of 2.0 MW; (7) the upgrading of an existing diversion channel which will be used as a tailrace; (8) a proposed transmission line less than 200 feet in length; and (9) appurtenant facilities. The applicant estimates the average annual energy production to be 9.8 GWh.

l. Purpose of Project: The Applicant intends to sell the power generated at the proposed project the Alabama Power Company.

m. This notice also consists of the following standard paragraphs: A8, A9, B, C, and D2.

n. Proposed Scope of Studies under Permit—A preliminary permit if issued, does not authorize construction. Applicant seeks issuance of a preliminary permit for a period of 36 months during which time it would prepare studies of the hydraulic, construction, economic, environmental, historic and recreational aspects of the project. Depending on the outcome of the studies, Applicant would prepare an application for an FERC license. Applicant estimates the cost of the studies under the permit would be $25,000.

29a. Type of Application: Exemption from licensing (5MW or less).

b. Project No.: 6674–001.

c. Date Filed: December 23, 1982.

d. Applicant: Lawrence J. McMurtrey.

e. Name of Project: Kindy Creek.

f. Location: On Kindy Creek, within Mount Baker National Forest in Skagit County, Washington.

g. Filed Pursuant to: Section 408 of the Energy Security Act of 1980 (16 U.S.C. 2705 and 2708 as amended).

h. Contact Person: Lawrence J. McMurtrey, 12122 196th, NE., Redmond, Washington 98052.

i. Comment Date: March 12, 1984.

j. Description of Project: The proposed project would consist of: (1) An inlet structure in the streambed at elevation 1500 feet; (2) a 60-inch-diameter, 7630-foot-long pipeline; and (3) a powerhouse at elevation 1230 feet containing a turbine-generating unit with a rated capacity of 2.44 MW and an average annual output of 10.9 GWh.

k. Purpose of Project: Project output would be sold to Puget Sound Power and Light Company, the Bonneville Power Administration, or Intalco Aluminum Company.

l. This notice also consists of the following standard paragraphs: A1, A9, B, C, and D3a.

30a. Type of Application: Preliminary Permit.

b. Project No.: P–7553–000.

c. Date Filed: August 24, 1983.

d. Applicant: City of Harrisburg, Pennsylvania.

e. Name of Project: Dock Street Dam Water Power Project.

f. Location: On the Susquehanna River, in Dauphin County, in Harrisburg, Pennsylvania.

g. Filed Pursuant to: Federal Power Act, 16, U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Stephen R. Reed, Mayor, Office of the Mayor, City Hall, 10 North Market Street, Harrisburg, PA 17101.

i. Comment Date: March 8, 1984.

j. Competing Application: Project No. 7051–000. Date Filed: February 2, 1983.

k. Description of Project: The proposed project would consist of: (1) A new concrete dam 17 feet high and approximately 3075 feet long that will be located within 500 feet from the downstream side of the existing Dock Street Dam. The new dam will be constructed with a fully gated spillway; (2) a proposed reservoir pool at elevation 305.5 m.s.l.; that will have a surface area of approximately 4,000 acres and a storage capacity of about 40,000 acre-feet. The existing pool is presently limited to about 1.2 miles above the existing dam. The proposed dam will inundate the existing dam and will extend the length of the proposed pool about 8.5 miles upstream; (3) a proposed forebay, approximately 200 feet wide and 400 feet long; (4) a new concrete powerhouse, 200 feet by 200 feet, that will house four turbine-generator units with a total installed capacity of 40,000 kW; (5) a proposed tailrace channel, approximately 200 feet wide by 600 feet long; (6) a proposed 69–kV transmission line approximately one mile in length; (7) a substation; and (8) appurtenant facilities. Applicant estimates that the average annual energy generation would be 160,000,000 kWh. The existing dam is owned by the City of Harrisburg.

l. Purpose of Project: Applicant proposes that the project energy would be either: (a) sold to the Pennsylvania Power and Light Company, (b) be used for municipal purposes, or (c) utilized by forming a Municipal Electric Authority for distribution with the City.

m. This notice also consists of the following standard paragraphs: A6, A7, A9, B, C, and D2.

n. Proposed Scope of Studies under Permit—A preliminary permit, if issued, does not authorize construction. Applicant seeks issuance of a preliminary permit for a period of 36 months during which time it would prepare studies of the hydraulic, construction, economic, environmental, historic and recreational aspects of the project. Depending on the outcome of the studies, Applicant would prepare an application for an FERC license. Applicant estimates the cost of the studies under the permit would be $1,500,000.

31a. Type of Application: 5 MW Exemption.

b. Project No. P–7509–001.

c. Date Filed: October 18, 1983.
d. Applicant: Mr. Bruce Radford.
e. Name of Project: Ivy River Hydropower Project.
f. Location: Ivy River in Madison County, North Carolina.
g. Filed Pursuant to: Section 408 of the Energy Security Act of 1980, (16 U.S.C. 2705 and 2708 *as amended).*
h. Contact Person: Mr. Bruce Radford, Route #4, Box 414, Elizabethton, Tennessee 37643.
i. Comment Date: March 12, 1984.
j. Description of Project: The proposed project is privately owned, is being leased by the Applicant, and will consist of: (1) An existing reservoir with a surface area of approximately 4 acres and with negligible storage capacity; (2) an existing 316-foot-long, 62-foot-high granite block dam; (3) the proposed renovation of an existing penstock and the construction of a second penstock, both to be 5-feet in diameter and 96-foot-long and to interconnect at a wye before entering the powerhouse; (4) the proposed construction of a powerhouse approximately 30 feet from the toe of the dam with the proposed installation of three turbine/generator units operating at a head of 63 feet for a total installed capacity of 1200 kW; (5) the proposed upgrading of 1.4 miles of existing transmission line; and (6) appurtenant facilities. The Applicant estimates the average annual energy production to be 4.3 GWh.
k. Purpose of Project: The Applicant intends to sell the power generated at the proposed project to a local utility company.
l. This notice also consists of the following standard paragraphs: A1, A9, B, C, and D3a.
m. Purpose of Exemption: An exemption, if issued, gives the Exemptee priority of control, development, and operation of the project under the terms of the exemption from licensing, and protects the Exemptee from permit or license applicants that would seek to take or develop the project.
32a. Type of Application: Transfer of License.
b. Project No. 2312–004.
c. Date Filed: December 27, 1983.
d. Applicant: James River-Groveton, Inc., and James River-Norwalk, Inc.
e. Name of Project: Great Works.
f. Location: Penobscot River, near the town of Great Works, Penobscot County, Maine.
g. Filed Pursuant to: 16 U.S.C. 791(a)—825(r).
h. Contact Person: Stephen H. Watts, McGuire, Woods and Battle, Ross Building, Richmond, Virginia 23129.
i. Comment Date: March 9, 1984.
j. Description of the Proposed Transfer: The Applicants propose to transfer the license from James River-Groveton, Inc. (Licensee) to James River-Norwalk, Inc. (Transferee) in order to consolidate ownership and operation of the adjacent paper mill complex with the project. Both the Licensee and the Transferee are subsidiaries of James River Corporation of Virginia. The Great Works project consists of an existing dam, reservoir and a powerhouse with turbine-generators with a total rated capacity of 5,300 kW.
Transferee has proposed to operate the project in accordance with the existing license. No change to the project operation has been proposed.
Transferee is a private corporation organized under the laws of the State of Delaware and is qualified to do business in the State of Maine.
This notice also consists of the following standard paragraphs: B and C.
33a. Type of Application: Preliminary Permit.
b. Project No.: 7849–000.
c. Date Filed: November 14, 1983.
d. Applicant: Dana W. Hall, Inc.
e. Name of Project: Grouse Creek #2.
f. Location: Humboldt County, California; Grouse Creek.
g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).
h. Contact Person: Dana Hall, P.O. Box 4316, Redding, California 96099.
i. Comment Date: March 30, 1984.
j. Description of Project: The proposed project would consist of: (1) A 6-foot-high diversion structure at elevation 1,550 feet m.s.l.; (2) a 6,000-foot-long, 114-inch-diameter pressure conduit; (3) a powerhouse with a total installed capacity of 2,155 kw, operating under a head of 62 feet; (4) a short 115 kV transmission line connecting with an existing Pacific Gas and Electric Company (PG&E) transmission line. The proposed project would affect the United States lands within the Six Rivers National Forest.
A preliminary permit does not authorize construction. The Applicant seeks a 36-month permit to study the feasibility of constructing and operating the project and to prepare an FERC license application. The cost of the feasibility studies is estimated to be about $100,000. No new road construction would be necessary to conduct the studies.
k. Purpose of Project: The project power would be sold to PG&E.
l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, and D2.
34a. Type of Application: Preliminary Permit.
b. Project No.: 7904–000.
c. Date Filed: December 8, 1983.
d. Applicant: Harrison Enterprises.
e. Name of Project: Balls Canyon.
f. Location: Sierra County, California; Balls Creek.
g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).
h. Contact Person: W. Byrd Harrison, Rt 6, Box 25, Reno, Nevada 89506.
i. Comment Date: April 2, 1984.
j. Description of Project: The proposed project would consist of: (1) A 5-foot-high diversion structure at elevation 5,495 feet m.s.l.; (2) a 33-inch-diameter, 6,000-foot-long conduit; (3) a 30-inch-diameter, 2,500-foot-long penstock; (4) a powerhouse with a total installed capacity of 540 kw, operating under a head of 300 feet; (5) a 50-foot-long, 12 kV transmission line connecting with an existing Plumas-Sierra and Co-op (PSC) transmission line. A preliminary permit does not authorize construction. The Applicant seeks a 24-month permit to study feasibility of constructing and operating the project. These studies would not require construction of any new roads and are estimated to cost $25,000.
k. The estimated 4.4 million kwh produced annually by the proposed project would be sold to PSC.
l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, and D2.
35a. Type of Application: Preliminary Permit.
b. Project No: 7327–001.
c. Date Filed: October 11, 1983.
d. Applicant: Greenfields Irrigation District and Turnbull Partners, Ltd.
e. Name of Project: Turnbull Project.
f. Location: On the Spring Valley Canal in Teton County, Montana
g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).
h. Contact Person: Mr. William S. Fowler, Project Manager, Turnbull Partners, Ltd., c/o Mitex, Inc., 91 Newberry Street, Boston, Massachusetts 02116.
i. Comment Date: April 2, 1984.
J. Description of Project: The proposed project would utilize the existing U.S. Department of the Interior's Spring Valley Canal and consist of: (1) A proposed powerhouse, containing an installed generating capacity of 9 MW; (2) a proposed 1.5-mile-long, 69-kV transmission line; (3) a proposed, 108-inch-diameter, 9,300-foot-long, penstock; and (4) appurtenant facilities. The Applicant estimates that the average annual energy output will be about 24.5 GWh.
k. Purpose of Project: The Applicant anticipates that the energy produced

will be marketed to a utility in the State of Montana.

l. This notice also consists of the following standard paragraphs: A4a, A4c, B, C, and D2.

m. Proposed Scope of Studies under Permit: A preliminary permit, if issued, does not authorize construction. Applicant seeks issuance of a preliminary permit for a period of 36 months during which time Applicant would investigate project design alternatives, financial feasibility, environmental effects of project construction and operation, and project power potential. Depending upon the outcome of the studies, the Applicant would decide whether to proceed with an application for FERC license. Applicant estimates that the cost of the studies under permit would be $100,000.

Competing Applications

A1. Exemption for Small Hydroelectric Power Project under 5MW Capacity—Any qualified license or conduit exemption applicant desiring to file a competing application must submit to the Commission, on or before the specified comment date for the particular application, either a competing license or conduit exemption application that proposes to develop at least 7.5 megawatts in that project, or a notice of intent to file such an application. Any qualified small hydroelectric exemption applicant desiring to file a competing application must submit to the Commission, on or before the specified comment date for the particular application, either a competing small hydroelectric exemption application or a notice of intent to file such an application. Submission of a timely notice of intent allows an interested person to file the competing license, conduit exemption, or small hydroelectric exemption application no later than 120 days after the specified comment date for the particular application. Applications for preliminary permit will not be accepted in response to this notice.

A2. Exemption for Small Hydroelectric Power Project under 5MW Capacity—Any qualified license or conduit exemption applicant desiring to file a competing application must submit to the Commission, on or before the specified comment date for the particular application, either a competing license or conduit exemption application that proposes to develop at least 7.5 megawatts in that project, or a notice of intent to file such an application. Submission of a timely notice of intent allows an interested person to file the competing license or conduit exemption application no later than 120 days after the specified comment date for the particular application. Applications for preliminary permit and small hydroelectric exemption will not be accepted in response to this notice.

A3. License or Conduit Exemption—Any qualified license, conduit exemption, or small hydroelectric exemption applicant desiring to file a competing application must submit to the Commission, on or before the specified comment date for the particular application, either a competing license, conduit exemption, or small hydroelectric exemption application, or a notice of intent to file such an application. Submission of a timely notice of intent allows an interested person to file the competing license, conduit exemption, or small hydroelectric exemption application no later than 120 days after the specified comment date for the particular application. Applications for preliminary permit will not be accepted in response to this notice.

This provision is subject to the following exception: if an application described in this notice was filed by the preliminary permittee during the term of the permit, a small hydroelectric exemption application may be filed by the permittee only (license and conduit exemption applications are not affected by this restriction).

A4. License or Conduit Exemption—Public notice of the filing of the initial license, small hydroelectric exemption or conduit exemption application, which has already been given, established the due date for filing competing applications or notices of intent. In accordance with the Commission's regulations, any competing application for license, conduit exemption, small hydroelectric exemption, or preliminary permit, or notices of intent to file competing applications, must be filed in response to and in compliance with the public notice of the initial license, small hydroelectric exemption or conduit exemption application. No competing applications or notices of intent may be filed in response to this notice.

A5. Preliminary Permit: Existing Dam or Natural Water Feature Project—Anyone desiring to file a competing application for preliminary permit for a proposed project at an existing dam or natural water feature project, must submit the competing application to the Commission on or before 30 days after the specified comment date for the particular application (see 18 CFR 4.30 to 4.33 (1982)). A notice of intent to file a competing application for preliminary permit will not be acceptable for filing.

A competing preliminary permit application must conform with 18 CFR 4.33 (a) and (d).

A6. Preliminary Permit: No Existing Dam—Anyone desiring to file a competing application for preliminary permit for a proposed project where no dam exists or where there are proposed major modifications, must submit to the Commission on or before the specified comment date for the particular application, the competing application itself, or a notice of intent to file such an application. Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 60 days after the specified comment date for the particular application.

A competing preliminary permit application must conform with 18 CFR 4.33 (a) and (d).

A7. Preliminary Permit—Except as provided in the following paragraph, any qualified license, conduit exemption, or small hydroelectric exemption applicant desiring to file a competing application must submit to the Commission, on or before the specified comment date for the particular application, either a competing license, conduit exemption, or small hydroelectric exemption application or a notice of intent to file such an application. Submission of a timely notice of intent to file a license, conduit exemption, or small hydroelectric exemption application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application.

In addition, any qualified license or conduit exemption applicant desiring to file a competing application may file the subject application until: (1) A preliminary permit with which the subject license or conduit exemption application would compete is issued, or (2) the earliest specified comment date for any license, conduit exemption, or small hydroelectric exemption application with which the subject license or conduit exemption application would compete; whichever occurs first.

A competing license application must conform with 18 CFR 4.33 (a) and (d).

A8. Preliminary Permit—Public notice of the filing of the initial preliminary permit application, which has already been given, established the due date for filing competing preliminary permit applications on notices of intent. Any competing preliminary permit application, or notice of intent to file a competing preliminary permit application, must be filed in response to and in compliance with the public notice of the initial preliminary permit

application. No competing preliminary permit applications or notices of intent to file a preliminary permit may be filed in response to this notice.

Any qualified small hydroelectric exemption applicant desiring to file a competing application must submit to the Commission, on or before the specified comment date for the particular application, either a competing small hydroelectric exemption application or a notice of intent to file a small hydroelectric exemption application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application.

In addition, any qualified license or conduit exemption applicant desiring to file a competing application may file the subject application until: (1) A preliminary permit with which the subject license or conduit exemption application would compete is issued, or (2) the earliest specified comment date for any license, conduit exemption, or small hydroelectric exemption application with which the subject license or conduit exemption application would compete; whichever occurs first.

A competing license application must conform with 18 CFR 4.33 (a) and (d).

A9. Notice of intent—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, include an unequivocal statement of intent to submit, if such an application may be filed, either (1) A preliminary permit application or (2) a license, small hydroelectric exemption, or conduit exemption application, and be served on the applicant(s) named in this public notice.

B. *Comments, Protests, or Motions to Intervene*—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

C. *Filing and Service of Responsive Documents*—Any filings must bear in all capital letters the title "COMMENTS," "NOTICE OF INTENT TO FILE COMPETING APPLICATION," "COMPETING APPLICATION," "PROTEST" or "MOTION TO INTERVENE," as applicable, and the Project Number of the particular application to which the filing is in response. Any of the above named documents must be filed by providing the original and the number of copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Project Management Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

D1. *Agency Comments*—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are requested to provide comments pursuant to the Federal Power Act, the Fish and Wildlife Coordination Act, the Endangered Species Act, the National Historic Preservation Act, the Historical and Archeological Preservation Act, the National Environmental Policy Act, Pub. L. No. 88–29, and other applicable statutes. No other formal requests for comments will be made.

Comments should be confined to substantive issues relevant to the issuance of a license. A copy of the application may be obtained directly from the Applicant. If an agency does not file comments with the Commission within the time set for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

D2. *Agency Comments*—Federal, State, and local agencies are invited to file comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

D3a. *Agency Comments*—The U.S. Fish and Wildlife Service, the National Marine Fisheries Service, and the State Fish and Game agency (ies) are requested, for the purposes set forth in Section 408 of the Energy Security Act of 1980, to file within 60 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or to otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, State, and local agencies are requested to provide any comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 60 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

D3b. *Agency Comments*—The U.S. Fish and Wildlife Service, the National Marine Fisheries Service, and the State Fish and Game agency (ies) are requested, for the purposes set forth in Section 30 of the Federal Power Act, to file within 45 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or to otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, State, and local agencies are requested to provide any comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 45 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Dated: January 31, 1984.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-2980 Filed 2-3-84; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPTS-51504; BH-FRL 2517-6]

Certain Chemicals; Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in EPA statements of the final rule published in the **Federal Register** of May 13, 1983 (48 FR 21722). This notice announces receipt of thirteen PMNs and provides a summary of each.

DATES: Close of Review Period:

PMN 84-345, 84-346, 84-347, 84-348, 84-349 and 84-350—April 18, 1984.

PMN 84-351—April 21, 1984.

PMN 84-352 and 84-353—April 22, 1984.

PMN 84-354—April 23, 1984.

PMN 84-355, 84-356 and 84-357—April 24, 1984.

Written comments by:

PMN 84-345, 84-346, 84-347, 84-348, 84-349 and 84-350—March 19, 1984.

PMN 84-351—March 22, 1984.

PMN 84-352 and 84-353—March 23, 1984.

PMN 84-354—March 24, 1984.

PMN 84-355, 84-356 and 84-357—March 25, 1984.

ADDRESS: Written comments, identified by the document control number "[OPTS-51504]" and the specific PMN number should be sent to: Document Control Officer (TS-793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-409, 401 M St., SW., Washington, DC 20460; (202-382-3532).

FOR FURTHER INFORMATION CONTACT: Margaret Stasikowski, Acting Chief, Premanufacturing Notice Management Branch, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Rm. E-216, 401 M St., SW., Washington, DC 20460; (202-382-3729).

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the non-confidential version of the submission provided by the manufacturer on the PMNs received by EPA. The complete non-confidential document is available in the Public Reading Room E-107 at the above address.

PMN 84-345

Manufacturer. Confidential.

Chemical. (G) Unsaturated aliphatic ester.

Use/Production. (G) Destructive end use. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Confidential.

Environmental Release/Disposal. Confidential.

PMN 84-346

Manufacturer. Ashland Chemical Company.

Chemical. Copolymer of acrylic acid and acrylic acid esters.

Use/Production. (G) Commercial use on labels, decals, signs, bumper stickers, etc. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture: dermal, a total of 5 workers, up to 6 hrs/da, up to 15-20 yr.

Environmental Release/Disposal. Less than 13 kg/batch released to air.

PMN 84-347

Importer. Confidential.

Chemical. (G) Fluorinated polyamide.

Use/Import. (G) Rubber additive. Import range: Confidential.

Toxicity Data. No data submitted.

Exposure. No exposure.

Environmental Release/Disposal. No data submitted.

PMN 84-348

Importer. Confidential.

Chemical. (G) Substituted phosphonium chloride, cadmium complex.

Use/Import. (G) Rubber additive. Import range: Confidential.

Toxicity Data. Acute oral: 175 mg/kg; Irritation: Skin—Non-irritant, Eye—Extreme; Ames Test: Non-mutagenic.

Exposure. No exposure.

Environmental Release/Disposal. No data submitted.

PMN 84-349

Importer. Confidential.

Chemical. (G) Substituted phosphonium borate.

Use/Import. (G) Rubber additive. Import range: Confidential.

Toxicity Data. Acute oral: 158 mg/kg; Irritation: Skin—Non-irritant, Eye—Extreme; Ames Test: Non-mutagenic.

Exposure. Non exposure.

Environmental Release/Disposal. No data submitted.

PMN 84-350

Importer. Confidential.

Chemical. (G) Substituted phosphonium chloride.

Use/Import. (G) Rubber additive. Import range: Confidential.

Toxicity Data. Acute oral: 160 mg/kg; Irritation: Skin—Very slight, Eye—Extreme; Ames Test: Non-mutagenic.

Exposure. No exposure.

Environmental Release/Disposal. No data submitted.

PMN 84-351

Importer. Confidential.

Chemical. (G) Substituted benzophenone.

Use/Import. (S) Industrial and commercial light stabilizer for lacquers, varnishes and paints. Import range: Confidential.

Toxicity Data. Acute oral: >5,000 mg/kg; Irritation: Skin—Non-irritant, Eye—Non-irritant; Ames Test: Negative.

Exposure. Import: dermal, a total of 1 worker, up to 4 hrs/da.

Environmental Release/Disposal. No data submitted.

PMN 84-352

Importer. Confidential.

Chemical. (G) Cellulose ester.

Use/Production. (G) Metal and wood coatings. Prod. range: Confidential.

Toxicity Data. No data on the PMN substance submitted.

Exposure. Confidential.

Environmental Release/Disposal. Release to air. Disposal by biological treatment system and incineration.

PMN 84-353

Manufacturer. Confidential.

Chemical. (G) Quinone-immine dye.

Use/Production. (G) Production of light sensitive film. Prod. range: Confidential.

Toxicity Data. Acute oral: >5.0 g/kg; Acute dermal: >2.0 g/kg; Irritation: Skin—Negative, Eye—Negative; Skin sensitization: Negative.

Exposure. Confidential.

Environmental Release/Disposal. Confidential.

PMN 84-354

Manufacturer. Confidential.

Chemical. (G) Substituted substituted benzenesulfonic acid.

Use/Production. (G) Intermediate. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Confidential.

Environmental Release/Disposal. Confidential. Disposal by navigable waterway.

PMN 84-355

Manufacturer. Confidential.

Chemical. (G) Substituted substituted benzenesulfonic acid.

Use/Production. (G) Intermediate. Prod. range: Confidential.

Toxicity Data. Acute oral: > 5 g/kg; Irritation: Skin—Slight, Eye—Mild; Inhalation: Negative; Skin sensitization: Not a strong sensitizer.

Exposure. Confidential.

Environmental Release/Disposal. Confidential. Disposal by navigable waterway.

PMN 84–356

Manufacturer. Confidential.

Chemical. (G) Disubstituted dichloro sulfonated heteropolycycle.

Use/Production. (G) Intermediate. Prod. range: Confidential.

Toxicity Data. Acute oral: > 5,000 mg/kg; Irritation: Skin—Non-irritant, Eye—Slight; Skin sensitization: Not a strong sensitizer.

Exposure. Confidential.

Environmental Release/Disposal. Confidential. Disposal by navigable waterway.

PMN 84–357

Manufacturer. Confidential.

Chemical. (G) Substitued arylamino substituted benzenesulfonic acid.

Use/Production. (G) Intermediate. Prod. range: Confidential.

Toxicity Data. Acute oral: > 5 g/kg; Irritation: Skin—Non-irritant, Eye—Mild; Inhalation: Negative; Skin Sensitization: Not a strong sensitizer.

Exposure. Confidential.

Environmental Release/Disposal. Confidential. Disposal by navigable waterway.

Dated: January 28, 1984.

V. Paul Fuschini,

Acting Director.

[FR Doc. 84–2987 Filed 2–2–84; 8:45 am]

BILLING CODE 6560–50–M

[OPTS–59145]

Modified Epoxy Prepolymer; Premanufacture Exemption Application

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA may upon application exempt any person from the premanufacturing notification requirements of section 5 (a) or (b) of the Toxic Substances Control Act (TSCA) to permit the person to manufacture or process a chemical for test marketing purposes under section 5(h)(1) of TSCA. Requirements for test marketing exemption (TME) applications, which must either be approved or denied within 45 days of receipt, are discussed in EPA's final rule published in the **Federal Register** of May 13, 1983 (48 FR 21722. This notice, issued under section 5(h)(6) of TSCA, announces receipt of one application for exemption, provides a summary, and requests comments on the appropriateness of granting of the exemption.

DATE: Written comments by: February 21, 1984.

ADDRESS: Written comments, identified by the document control number "[OPTS–59145]" and the specific TME number should be sent to: Document Control Officer (TS–793), Information Management Division, Office of Toxic Substances, Office of Pesticides and Toxic Substances, Environmental Protection Agency, RM. E–409, 401 M Street, SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Margaret Stasikowski, Acting Chief, Premanufacture Notice Management Branch, Chemical Control Division (TS–794), Office of Toxic Substances, Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E–216, 401 M Street, SW., Washington, DC 20460.

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the non-confidential version of the submission provided by the manufacturer on the TME received by EPA. The complete non-confidential document is available in the Public Reading Room E–107 at the above address.

TME 84–25

Manufacturer. Confidential.

Chemical. (G) Modified epoxy prepolymer.

Use/Production. (S) Used as an industrial adhesive basestock. Prod. range: 4,000 lbs, 1 year.

Toxicity Data. No data on the TME substance submitted.

Exposure. Confidential.

Environmental Release/Disposal. Minimal. Disposal by approved landfill.

Dated: January 26, 1984.

V. Paul Fuschini,

Acting Director, Information Management Division.

[FR Doc. 84–2988 Filed 2–2–84; 8:45 am]

BILLING CODE 6560–50–M

[ER–FRL–2518–2]

Availability of Environmental Impact Statements Filed January 23 Through January 27, 1984, Pursuant to 40 CFR 1506.9

Responsible Agency

Office of Federal Activities, General Information (202) 382–5073 or (202) 382–5075.

EIS No. 840023, Draft, FHW, OH, US 33 Relocation, CR–28/US 33 to US 33/US 36 and OH–4, Logan and Union County, Due: Mar. 19, 1984.

EIS No. 840024, Draft, IBR, NM, AZ, UT Gallup-Navajo Indian Water Supply Project, Due: Apr. 23, 1984.

EIS No. 840025, Final, TVA, NM, Marquez Uranium Mine, Underground Construction and Operation, McKinley County, Due: Mar. 5, 1984.

EIS No. 840026, Final, HUD, IL, Winding Creek Subdivision, Mortgage Insurance, McHenry County, Due: Mar. 5, 1984.

EIS No. 840027, Final, COE, IN, Little Calumet River Multipurpose Project, Lake County, Due: Mar. 5, 1984.

EIS No. 840028, Draft, COE, AK, Endicott Hydrocarbon Reservoir Development Project, Sagavanirktok River Delta, C/O Permit, Due: Mar. 19, 1984.

EIS No. 840029, Final, FHW, WV, North Valley Drive/WV–16 Widening, County Road 6 to US 19/US 21, Raleigh Co., Due: Mar. 5, 1984.

EIS No. 840030, Draft, BLM, WY, MT, Powder River Coal Region, Round II Leasing, Due: Mar. 19, 1984.

EIS No. 840031, Final, COE, CA, Cottonwood Creek Multiple Purpose Project, Shasta and Tehama Counties, Due: Mar. 5, 1984.

EIS No. 840032, Draft, EPA, MO, Greene County, Wastewater Treatment Facilities, Approval/Grant, Due: Mar. 26, 1984.

EIS No. 840033, FSuppl, NOA, PAC, CA, Northern Anchovy Fisheries, Fishery Management Plan, Pacific Ocean, Due: Mar. 5, 1984.

EIS No. 840034, Draft, FHW, TX, Farm to Market Road 317 Loop Construction, Henderson County, Due: Mar. 19, 1984.

EIS No. 840035, Final, FHW, PA, Vine Street to I–95/Delaware Expressway, Philadelphia Co., Due: Mar. 5, 1984.

EIS No. 840036, Final, BLM, CA, California Desert Conservation Area Plan, 1983 Plan Amendments, Due: Mar. 5, 1984.

EIS No. 840037, Report, COE, MI, St. Clair River Federal Navigational Channels, Maintenance Dredging, St. Clair County.

Dated: January 31, 1984.

Allan Hirsch,

Director, Office of Federal Activities.

[FR Doc. 84-3027 Filed 2-2-84; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

[Gen. Docket No. 80-756]

Communications Protocols; Extension of Response Period

AGENCY: Federal Communications Commission.

ACTION: Petitions for Reconsideration; Extension of response period.

SUMMARY: This action extends the time for filing responses to Petition for Reconsideration of the Commission's November 21, 1983 Memorandum Opinion, Order and Statement of Principles in General Docket No. 80-756 concerning Communications Protocols Under § 64.702 of the Commission's Rules and Regulations. The action was taken in response to a Motion filed by the Association of Data Processing Service Organizations, Inc.

DATES: New filing date is February 29, 1984.

ADDRESS: Federal Communications Commission, 1919 M Street NW., Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Michael J. Marcus, Office of Science and Technology, Technical Analysis Division, Washington, D.C. 20554, (202) 632-7040.

Order Extending Time For Filing Responses To Petitions For Reconsideration

In the matter of Communications Protocols under § 64.702 of the Commission's Rules and Regulations; Gen. Docket No. 80-756.

Adopted: January 23, 1984.
Released: January 25, 1984.

By the Chief Scientist.

1. On January 17, 1984, public notice appeared in the **Federal Register** [49 FR 2016 (1984)] announcing the receipt by the Commission of three Petitions for Reconsideration [1] of its November 21, 1983, Memorandum Opinion, Order and Statement of Principles in the above-entitled proceeding. The public notice set the date for filing responses to these petitions as February 1, 1984.

2. On January 20, 1984, the Association of Data Processing Service Organizations, Inc. ("ADAPSO") filed a motion requesting that the filing date for responses to the Petitions for Reconsideration be extended twenty eight days to February 29, 1984. The additional time is needed, according to ADAPSO, because of its intent to file a comprehensive response to the petitions and because more than the allotted time is required to effect the necessary coordination and consultation with its members. ADAPSO suggests such a comprehensive response is warranted by the important policy and technical issues raised by the Petitions for Reconsideration.

3. Considering the importance of this proceeding, our desire to reach the most informed judgements possible, and the other considerations raised by ADAPSO, the relatively short time extension requested appears reasonable and desirable. For these reasons, it is ordered that the time for filing responses to the above-mentioned Petitions for Reconsideration is hereby extended to February 29, 1984. This action is taken pursuant to § 0.241(d) of the Commission's Rules.

Robert S. Powers,

Chief Scientist.

[FR Doc. 84-2960 Filed 2-2-84; 8:45 am]

BILLING CODE 6712-01-M

[1] Filed by American Telephone and Telegraph Company, American Information Technologies Corporation and U.S. West, Inc.

FFC Industry Advisory Committee on Technical Standards for DBS Service; Meetings

There will be a series of Working Group and Sub-Committee meetings of the FCC Industry Advisory Committee on Technical Standards for DBS Service. These will be held in Washington, D.C.

W. G. on Receiver Compatibility and W. G. on Encryption Interface, January 31, 1984; 2:00 p.m., FCC, 1200 19th Street, Conference Room No. 330

W. G. on Signal Format and W. G. on Transmission Parameters, February 14, 1984; S. F. 9:00 and T. P. 2:00, Satellite Television Corporation, 1301 Pennsylvania Avenue, N.W.

Sub-Committee on Transmission Standards and WGs Receiver Compatibility/Encryption Interface, February 15, 1984; T.S. 9:30 and W.G.s 2:00, CBS, 1800 M St., 3rds Flr.

S. C. on Receiver Standards and S.C. on Encryption Standards, February 16, 1984; R.S. 9:30, E.S. 2:00, FCC/OST 2025 M St., Rm 7317 for R.S., Commission Mtg Rm (1919 M St.) for E.S.

Those seeking additional details may contact Bruno Pattan FCC/OST at (202) 653-9098, or chairman of the above cited groups.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 84-2959 Filed 2-2-84; 8:45 am]

BILLING CODE 6712-01-M

[Report No. 1443]

Petitions for Reconsideration of Actions in Rulemaking Proceedings

January 27, 1984.

The following listings of petitions for reconsideration filed in Commission rulemaking proceedings is published pursuant to 47 CFR 1.429(e). Oppositions to such petitions for reconsideration must be filed within 15 days after publication of this Public Notice in the **Federal Register.** Replies to an opposition must be filed within 10 days after the time for filing oppositions has expired.

Subject: Amendment of Parts 2, 21, 74 and 94 of the Commission's Rules to Allocate Spectrum at 18 GHz for, and to Establish other Rules and Policies Pertaining to the use of Radio in Digital Termination Systems and in Point-to-Point Microwave Radio Systems for the Provision of Digital Electronic Message Services, and for other Common Carrier, Private Radio, and Broadcast Auxiliary Services; and to Establish Rules and Policies for the Private Radio Use of Digital Termination Systems at 10.6 GHz. (Gen Docket No. 79-188, RM's 3247 & 3497)

Filed by: Christine A. Meagher, Attorney for Ericsson, Inc., on 1-5-84.

Subject: The Prescription of Revised Percentages of Depreciation pursuant to Section 220(b) of the Communications Act of 1934, as amended, for: American Telephone and Telegraph Company—Long Lines Department, Michigan Bell Telephone Company, New York Telephone Company, Northwestern Bell Telephone Company, Ohio Bell Telephone Company, Southern Bell Telephone Company, Southwestern Bell Telephone Company & Wisconsin Telephone Company.

Filed by: William C. Sullivan, Linda S. Legg, Mary W. Marks & Hope E. Thurrott, Attorneys for Southwestern Bell Telephone Company on January 19, 1984.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 84-2958 Filed 2-3-84; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

Agency Information Collection Submitted to the Office of Management and Budget for Clearance

The Federal Emergency Management Agency (FEMA) has submitted to the Office of Management and Budget the following information collection package for approval in accordance with the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Type: Existing Information Collection
Title: National Shelter Survey Program

Abstract: Forms are used in the National Shelter Survey to evaluate structures; change building information; report data to the FEMA Computer Center for the National Shelter Survey data base.

Type of respondents: State or Local Governments
Number of respondents: 1,263
Burden hours: 130,969

Copies of the above information collection request and supporting documentation can be obtained by calling or writing the FEMA Clearance Officer, Linda Shiley (202) 287–9906, 500 C. Street, SW, Washington, D.C. 20472.

Comments should be directed to Ken Allen, Desk Officer for FEMA, Office of Information and Regulatory Affairs, OMB, Room 3235, New Executive Office Building, Washington, D.C. 20503.

Dated: January 26, 1984.

Walter A. Girstantas,

Director, Administrative Support.

[FR Doc. 84–2963 Filed 2–2–84; 8:45 am]

BILLING CODE 6718–01–M

Agency Information Collection Submitted to the Office of Management and Budget for Clearance

The Federal Emergency Management Agency (FEMA) has submitted to the Office of Management and Budget the following information collection package for approval in accordance with the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Type: Existing Information Collection
Title: Application for Enrollment in Architects and Engineers Professional Development Program

Abstract: Form is used to enroll and determine eligibility of architects and engineers in the professional development courses offered by the Agency. Also provides information used to support a data base of individuals to perform design work in time of emergencies.

Type of respondents: Individuals or Households, State or Local Governments
Number of respondents: 220
Burden hours: 22

Copies of the above information collection request and supporting documentation can be obtained by calling or writing the FEMA Clearance Officer, Linda Shiley (202) 287–9906, 500 C. Street, SW, Washington, D.C. 20472.

Comments should be directed to Ken Allen, Desk Officer for FEMA, Office of Information and Regulatory Affairs, OMB, Room 3235, New Executive Office Building, Washington, D.C. 20503.

Dated: January 26, 1984.

Walter A. Girstantas,

Director, Administrative Support.

[FR Doc. 84–2964 Filed 2–2–84; 8:45 am]

BILLING CODE 6718–01–M

Agency Information Collection Submitted to the Office of Management and Budget for Clearance

The Federal Emergency Management Agency (FEMA) has submitted to the Office of Management and Budget the following information collection package for approval in accordance with the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Type: Existing Information Collection
Title: FEMA Student Data-Summer Shelter Survey Program Application for the FEMA Summer Shelter Survey Program

Abstract: Form 85–1 is used to enroll approximately 4,000 architectural and engineering students to perform shelter survey work for the Agency during the summer.

Form 85–37 is used by students who have applied to work in the summer shelter survey program to indicate preference of how they wish to take the Shelter Survey Technician Course which is a requirement to work in the program.

Type of respondents: Individuals or Households
Number of respondents: 7,700
Burden hours: 770

Copies of the above information collection request and supporting documentation can be obtained by calling or writing the FEMA Clearance Officer, Linda Shiley, (202) 287–9906, 500 C. Street, SW., Washington, D.C. 20472.

Comments should be directed to Ken Allen, Desk Officer for FEMA, Office of Information and Regulatory Affairs, OMB, Room 3235, New Executive Office Building, Washington, D.C. 20503.

Dated: January 26, 1984.

Walter A. Girstantas,

Director, Administrative Support.

[FR Doc. 84–2965 Filed 2–2–84; 8:45 am]

BILLING CODE 6718–01–M

FEDERAL HOME LOAN BANK BOARD

Union Federal Savings and Loan Association Richmond, Virginia; Appointment of Receiver

Notice is hereby given that pursuant to the authority contained in § 5(a)(6)(A) of the Home Owners' Loan Act of 1933, 12 U.S.C. § 1464(d)(6)(A) (1982), the Federal Home Loan Bank Board duly appointed the Federal Savings and Loan Insurance Corporation as sole receiver for Union Federal Savings and Loan Association, Richmond, Virginia on January 26, 1984.

Dated: January 31, 1984.

J. J. Finn,

Secretary.

[FR Doc. 84–3028 Filed 2–1–84; 8:45 am]

BILLING CODE 6720–01–M

FEDERAL RESERVE SYSTEM

Bankamerica Corp.; Engaging de novo in Permissible Nonbanking Activities

The organization listed in this notice has filed a notice under § 225.23(a)(1) of the Board's Regulation Y (49 FR 794) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 USC 1843(c)(8)) and § 225.21(a) of Regulation Y (49 FR 794) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. With respect to the notice, interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or

unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding this application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than February 22, 1984.

A. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President) 101 Market Street, San Francisco, California 94105:

1. *BankAmerica Corporation*, San Francisco, California; to engage through its direct subsidiary, Decimus Corporation, San Francisco, California, a California corporation, in data processing activities pursuant to §§ 225.4(a)(8) and 225.123(e) of Regulation Y and section 4(c)(8) of the Bank Holding Company Act, including providing for the internal operations of BankAmerica Corporation and its subsidiaries and to others data processing and transmission services, data bases or facilities and access to such services, data bases or facilities by any technologically feasible means, and other activities incidental thereto.

Board of Governors of the Federal Reserve System, January 30, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-2873 Filed 2-2-84; 8:45 am]

BILLING CODE 6210-01-M

Fifth Third Bancorp; Proposed Expansion of Money Station, Inc.

Fifth Third Bancorp, Cincinnati, Ohio, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1834(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to expand the activities of Money Station, Inc., Cincinnati, Ohio.

Applicant states that the proposed subsidiary would engage in data processing, accompanying transmission services, and the operation of an electronic funds transfer switch for ATM/POS. Applicant has previously engaged in the operation of an ATM network in Ohio. These activities would be performed from offices of Applicant's subsidiary in Cincinnati, Ohio and the geographic areas to be served are the states of Kentucky, Michigan, Indiana, Pennsylvania, West Virginia and Ohio. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Cleveland.

Any views or requests for hearing should be submitted in writing and received by William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, Washington, D.C., not later than February 29, 1984.

Board of Governors of the Federal Reserve System, January 30, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-2872 Filed 2-2-84; 8:45 am]

BILLING CODE 6210-01-M

Southern Bancshares, Inc.; Merger of Bank Holding Companies

Southern Bancshares, Inc., Atlanta, Georgia, has applied for the Board's approval under section 3(a)(5) of the Bank Holding Company Act (12 U.S.C. section 1842(a)(5)) to merge with F.N.B.I.W. Financial Corporation, Waycross, Georgia, and thereby indirectly acquire First National Bank in Waycross, Waycross, Georgia. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of Atlanta. Any person wishing to comment on the application should submit views in writing to be received by the Reserve Bank not later than February 24, 1984. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, January 30, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-2869 Filed 2-2-84; 8:45 am]

BILLING CODE 6210-01-M

Southland Bank Corp., et al.; Formation of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become bank holding companies by acquiring voting shares or assets of a bank. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing identifying specifically any questions of fact that are in dispute and sumamrizing the evidence that would be presented at a hearing.

A. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, NW., Atlanta, Georgia 30303:

1. *Southland Bank Corp.*, Butler, Georgia; to become a bank holdng company by acquiring 100 percent of the voting shares of Citizens State Bank, Butler, Georgia; and 52.35 percent of the voting shares of The Coffee County Bank, Douglas, Georgia. Comments on this application must be received not later than February 29, 1984.

B. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *First Latimer Corporation*, Latimer, Oklahoma; to become a bank holding company by acquiring at least 81 percent of the voting shares of Latimer State Bank, Wilburton, Oklahoma. Comments on this application must be received not later than February 29, 1984.

Board of Governors of the Federal Reserve System, January 30, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-2973 Filed 2-3-84; 8:45 am]

BILLING CODE 6210-01-M

United Vermont Bancorporation, et al.; Acquisition of Bank Shares by Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire voting shares or assets of a bank. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. **Federal Reserve Bank of Boston** (Richard E. Randall, Vice President) 600 Atlantic Avenue, Boston, Massachusetts 02106:

1. *United Vermont Bancorporation,* Rutland, Vermont; to acquire at least 99 percent of the voting shares or assets of First Twin-State Bank, White River Junction, Vermont. Comments on this application must be received not later than February 27, 1984.

B. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, NW., Atlanta, Georgia 30303:

1. *Trust Company of Georgia,* Atlanta, Georgia; to acquire 100 percent of the voting shares or assets of F.N.B.I.W. Financial Corporation, Waycross, Georgia, and thereby indirectly acquire First National Bank in Waycross, Waycross, Georgia. Comments on this application must be received not later than February 27, 1984.

C. **Federal Reserve Bank of Dallas** (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *City National Bancshares, Inc.,* Carrollton, Texas; to acquire at least 80 percent of the voting shares or assets of Trinity Mills National Bank, Carrollton, Texas, a proposed *de novo* bank. Comments on this application must be received not later than February 22, 1984.

2. *First Bancorporation of Cleveland, Inc.,* Cleveland, Texas; to acquire 100 percent of the voting shares of First National Bank of Atascocita, Humble, Texas. Comments on this application must be received not later than February 27, 1984.

3. *Fresnos Bancshares, Inc.,* Los Fresnos, Texas; to acquire at least 80 percent of the voting shares or assets of Sunrise Bank, Brownsville, Texas. Comments on this application must be received not later than February 22, 1984.

Board of Governors of the Federal Reserve System, January 30, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-2970 Filed 2-2-84; 8:45 am]

BILLING CODE 6210-01-M

Woburn National Corporation, et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (49 FR 794) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated for that application. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. With respect to each application, interested persons may express their views in writing to the Reserve Bank indicated for that application or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, indentifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than February 24, 1984.

A. **Federal Reserve Bank of Boston** (Richard E. Randall, Vice President) 600 Atlantic Avenue, Boston, Massachusetts 02100:

1. *Woburn National Corporation,* Woburn, Massachusetts; to become a bank holding company by acquiring 100 percent of the voting shares of Woburn National Bank, Woburn, Massachusetts.

B. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, NW., Atlanta, Georgia 30303:

1. *Bunkie Bancshares, Inc.,* Bunkie, Louisiana; to become a bank holding company by acquiring 80 percent of the voting shares of Bunkie Bank & Trust Company, Bunkie, Louisiana.

C. **Federal Reserve Bank of St. Louis** (Delmer P. Weisz, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *FCB Corp,* Collinsville, Illinois; to acquire 100 percent of the voting shares of First County Bank, Maryville, Illinois, and 100 percent of the voting shares of First State of Morrisonville, Morrisonville, Illinois.

D. **Federal Reserve Bank of Minneapolis** (Bruce J. Hedblom, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Kent Bancshares, Inc.,* Kent, Minnesota; to become a bank holding company by acquiring 91 percent of the voting shares of Kent State Bank, Kent, Minnesota.

Board of Governors of the Federal Reserve System, January 30, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-2974 Filed 2-2-84; 8:45 am]

BILLING CODE 6210-01-M

United Banks Corp.; Engaging de Novo in Permissible Nonbanking Activities

The organization listed in this notice has filed a notice under § 225.23(a)(1) of the Board's Regulation Y (49 FR 794) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (49 FR 794) to commence or to engage *de novo,* either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. With respect to the notice, interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public such as greater

convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding this application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than February 18, 1984.

A. Federal Reserve Bank of Boston (Richard E. Randall, Vice President) 600 Atlantic Avenue, Boston, Massachusetts 02106:

1. *United Banks Corporation,* Hanover, New Hampshire (real estate appraisal activities; New Hampshire, Vermont): To engage through its subsidiary United Appraisals, Inc., Hanover, New Hampshire, in *de novo* real estate appraisal activities pursuant to § 225.4(a)(14) of Regulation Y. These activities will be conducted from an office located in Hanover, New Hampshire, serving the States of New Hampshire and Vermont.

Board of Governors of the Federal Reserve System, January 31, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-2988 Filed 2-2-84; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Agency Forms Submitted to the Office of Management and Budget for Clearance

Each Friday the Department of Health and Human Services (HHS) publishes a list of information collection packages it has submitted to the Office of Management and Budget (OMB) for clearance in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). The following are those packages submitted to OMB since the last list was published on January 27.

Public Health Service

Health Resources and Services Administration

Subject: Lender's Application for Insurance Claim on Health Education Assistance Loan (HEAL) (0915–0036)—Extension/No Change
Respondents: Lending institutions
Subject: Lender's Application for Contract of Federal Loan Insurance (HEAL) (0915–0037)—Extension/No Change
Respondents: Lending institutions
Subject: Health Education Assistance Loan (HEAL) Student Application (0915–0038)—Revision
Respondents: Health professions students, educational institutions, and lending institutions
OMB Desk Officer: Fay S. Iudicello

National Institutes of Health

Subject: Small Business Innovation Research Program Phase II Application and Phase I Final Report—New
Respondents: Small businesses with expertise to contribute to agency research and development mission
Subject: CHEMLINE Evaluation Study—New
Respondents: Users of online chemical information systems
OMB Desk Officer: Fay S. Iudicello

Social Security Administration

Subject: Quarterly Statement of Expenditures (0960–0294)—Revision
Respondents: State agencies administering the Aid to Families with Dependent Children program
Subject: Request for Worker's Compensation/Public Disability Benefit Information (0960–0098)—Revision
Respondents: Federal, state, local agencies administering Worker's Compensation and Public Disability Benefits programs
Subject: Supplement to Claim of Person Outside the United States
Respondents: Alien Social Security beneficiaries living outside the U.S.
Subject: Claim for Amounts Due in the Case of a Deceased Beneficiary (0960–0101)—Extension/No Change
Respondents: Individuals or estates
OMB Desk Officer: Milo Sunderhauf

Copies of the above information collection clearance packages can be obtained by calling the HHS Reports Clearance Officer on 202–245–6511.

Written comments and recommendations for the proposed information collections should be sent directly to the appropriate OMB Desk Officer designated above at the following address: OMB Reports Management Branch, New Executive Office Building, Room 3208, Washington, D.C. 20503. ATTN: (name of OMB Desk Officer).

Dated: January 27, 1984.

Robert F. Sermier,

Deputy Assistant Secretary for Management Analysis and Systems.

[FR Doc. 84-2955 Filed 2-2-84; 8:45 am]

BILLING CODE 4150-04-M

Public Health Service

National Committee on Vital Health Statistics; Subcommittee on the Vital Statistics Cooperative Program; Meeting

Pursuant to the Federal Advisory Act (Pub. L. 92–643), notice is hereby given that the Subcommittee on the Vital Statistics Cooperative Program of the National Committee on Vital and Health Statistics, pursuant to functions established by Section 306(k)(2) of the Public Health Service Act, as amended, (42 U.S.C. 242k), will convene on Tuesday, February 14 and Wednesday, February 15, 1984, at 9:00 a.m. in Room 1–23 of the Center Building, 3700 East-West Highway, Hyattsville, Maryland 20782.

The Subcommittee will review the uses of vital statistics data by other Federal agencies.

Further information regarding this meeting of the Subcommittee or other matters pertaining to the National Committee on Vital and Health Statistics may be obtained by contacting William F. Stewart, National Committee on Vital and Health Statistics, Room 2–28 Center Building, 3700 East-West Highway, Hyattsville, Maryland 20782, telephone (301) 436–7122.

Dated: January 26, 1984.

Manning Feinleib,

Director, National Center for Health Statistics.

[FR Doc. 84-2957 Filed 2-2-84; 8:45 am]

BILLING CODE 4160-17-M

National Committee on Vital and Health Statistics (NCVHS); Meeting

Pursuant to the Federal Advisory Act (Pub. L. 92–463), notice is hereby given that the National Committee on Vital and Health Statistics (NCVHS) established pursuant to 42 U.S.C. 242k, section 306(k)(2) of the Public Health Service Act, as amended, will convene on Monday, February 27 and Tuesday, February 28, 1984 at 9:00 a.m. in Room 800 of the Hubert H. Humphrey Building,

200 Independence Avenue, S.W. Washington, D.C. 20201.

The Committee will hear reports from its Subcommittees on minimum health data sets, classification of diseases, and the vital statistics cooperative program.

Further information regarding the Committee may be obtained by contacting Gail F. Fisher, Ph.D., Executive Secretary, National Committee on Vital and Health Statistics, Room 2–28 Center Building, 3700 East-West Highway, Hyattsville, Maryland 20782, telephone (301) 436–7051.

Dated: January 26, 1984.

Manning Feinleib,

Director, National Center for Health Statistics.

[FR Doc. 84–2956 Filed 2–2–84; 8:45 am]

BILLING CODE 4160–17–M

Food and Drug Administration

Consumer Participation; Open Meeting

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the following consumer exchange meeting:

San Francisco District Office, chaired by William C. Hill, District Director. The topic to be discussed is Drug Use and the Elderly.

DATE: Tuesday, February 21, 1984, 1 p.m. to 3 p.m.

ADDRESS: Food and Drug Administration, 50 United Nations Plaza, San Francisco, CA 94102.

FOR FURTHER INFORMATION CONTACT: Karen Erdman, Consumer Affairs Officer, Food and Drug Administration, 50 United Nations Plaza, Rm. 524, San Francisco, CA 94102, 415–556–2682.

SUPPLEMENTARY INFORMATION: The purpose of this meeting is to encourage dialogue between consumers and FDA officials, to identify and set priorities for current and future health concerns, to enhance relationships between local consumers and FDA's District Offices, and to contribute to the agency's policymaking decisions on vital issues.

Dated: January 30, 1984.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 84–2951 Filed 2–2–84; 8:45 am]

BILLING CODE 4160–01–M

Health Resources and Services Administration

Delegation of Authority

Notice is hereby given that in furtherance of the delegation of authority of January 19, 1982, by the Assistant Secretary for Health to the Acting Administrator, Health Resources Administration (HRA), the Administrator, Health Resources and Services Administration (HRSA), has delegated the following authorities under Title XVI of the Public Health Service (PHS) Act.

I. To the Regional Health Administrators (RHAs):

A. The authority under Section 1626 to provide technical assistance to entities developing applications under Section 1621 and Section 1642.

B. The authority under Section 1627 to periodically investigate the extent to which an entity which is receiving or has received financial assistance under Title VI and XVI has complied with uncompensated services assurances made at the time the financial assistance was received, the authority to report to the Health Systems Agency and the State Agency that an entity has failed to comply with such assurances, the authority to investigate complaints of noncompliance of an entity which is receiving or has received financial assistance under Title VI and XVI, and the authority to take action to effectuate compliance by an entity with such assurances. The decisions made by the RHA's may be appealed to the Director, Bureau of Health Maintenance Organizations and Resources Development (BHMORD).

C. The authority under Section 1640(a) to make developmental grants under the Area Health Services Development Fund program.

These authorities may be redelegated to officials within the Regional Offices, excluding the authorities under Section 1627.

II. To the Director, BHMORD:

All authorities under Title XVI of the PHS Act, as amended, including the resolution of complaints except for (1) those authorities which have been delegated to the RHAs, and (2) the authority under Section 1602(f) concerning loan default prevention and protection of the interest of the United States in the event of default with respect to loans made or guaranteed under Title VI and Title XVI, which is retained by the Administrator, HRSA.

These authorities may be redelegated but further redelegation is prohibited.

III. The authority to provide technical assistance, technical materials and the methodologies, policies, and standards necessary to carry out Section 1627 is to be coordinated between the RHAs and the Director, BHMORD.

This delegation supersedes the HRA Delegation dated March 22, 1982, made by the Acting Administrator, HRA, to the RHAs, the Director, Bureau of Health Planning, and the Director, Bureau of Health Facilities, as it pertains to Title XVI authorities.

Previous redelegations of Title XVI authorities made by the RHAs, the Director, Bureau of Health Planning, and the Director, Bureau of Health Facilities, may continue in effect for no more than 60 days from the effective date of this delegation, provided they are consistent with this delegation.

This delegation became effective on January 19, 1984.

Robert Graham,

Administrator.

[FR Doc. 84–3029 Filed 2–2–84; 8:45 am]

BILLING CODE 4160–15–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AA–50919–01]

Alaska; Alaska Native Claims Selection

In accordance with Departmental regulation 43 CFR 2650.7(d), notice is hereby given that a decision to issue conveyance pursuant to Sec. 12(b)(5) of the Act of January 2, 1976 (89 Stat. 1151), as amended by Sec. 606(d)(6) of the Act of January 14, 1983 (96 Stat. 2571), and in accordance with Paragraph I.C.(1) of the Terms and Conditions for Land Consolidation and Management in the Cook Inlet Area, as clarified August 31, 1976, will be issued to Cook Inlet Region, Inc., for approximately 98,860 acres. The lands involved are within the Seward Meridian, Alaska:

T. 25 N., R. 23 W.
T. 26 N., R. 23 W.
T. 27 N., R. 23 W.
T. 28 N., R. 23 W.
T. 25 N., R. 24 W.
T. 26 N., R. 24 W.
T. 27 N., R. 24 W.
T. 28 N., R. 24 W.

The decision to issue conveyance will be published once a week, for four (4) consecutive weeks, in the Anchorage Times upon issuance of the decision. For information on how to obtain copies, contact the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513.

Any party claiming a property interest in lands affected by this decision, an agency of the Federal Government, or

regional corporation may appeal the decision to the Interior Board of Land Appeals, Office of Hearings and Appeals, in accordance with the regulations in Title 43 Code of Federal Regulations (CFR), Part 4, Subpart E, as revised.

If an appeal is taken, the notice of appeal must be filed in the Bureau of Land Management, Alaska State Office, Division of Conveyance Management (960), 701 C Street, Box 13, Anchorage, Alaska 99513. Do not send the appeal directly to the Interior Board of Land Appeals. The appeal and copies of pertinent case files will be sent to the Board from this office. A copy of the appeal must be served upon the Regional Solicitor, 701 C Street, Box 34, Anchorage, Alaska 99513.

The time limits for filing an appeal are:

1. Parties receiving service of the decision by personal service or certified mail, return receipt requested, shall have thirty days from the receipt of the decision to file an appeal.

2. Unknown parties, parties unable to be located after reasonable efforts have been expended to locate, parties who failed or refused to sign their return receipt, and parties who received a copy of the decision by regular mail which is not certified, return receipt requested, shall have until March 5, 1984 to file an appeal.

Any party known or unknown who is adversely affected by the decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Bureau of Land Management, Alaska State Office, Division of Conveyance Management.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeal. Further information on the manner of and requirements for filing an appeal may be obtained from the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513.

If an appeal is taken, the party to be served with a copy of the notice of appeal is: Cook Inlet Region, Inc., P.O. Drawer 4–N, Anchorage, Alaska 99509.

Kamilah Rasheed,

Section Chief, Branch of ANCSA Adjudication.

[FR Doc. 84–2967 Filed 2–2–84; 8:45 am]

BILLING CODE 4310–JA–M

[M–57739]

Montana; Conveyance

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Conveyance.

SUMMARY: Pursuant to Section 203 of the Act of October 21, 1976, (43 U.S.C. 1713), the surface estate only in the following described land has been conveyed to Roger Ereaux, Malta, Montana:

Principal Meridian

T. 24 N., R. 24 E.
Sec. 27, S½SE¼SE¼;
Sec. 34, N½NE¼NE¼NE¼ and NE¼NW¼NE¼NE¼.

Containing 27.50 acres.

Dated: January 25, 1984.

John Kwiatkowski,

Deputy State Director, Division of Lands and Renewable Resources.

[FR Doc. 84–2948 Filed 2–2–84; 8:45 am]

BILLING CODE 4310–DN–M

Montana and North Dakota; Fort Union Regional Coal Meeting

AGENCY: Bureau of Land Management, Interior Department.

ACTION: Notice of Fort Union Regional Coal Team Meeting.

SUMMARY: Pursuant to the responsibilities set forth in 43 CFR 3400.4(D), the Montana State Office of BLM is issuing this notice to announce a Fort Union Regional Coal Team meeting at 8:30 A.M. on March 2, 1984, in the Sixth Floor Conference Room of Granite Tower, 222 North 32nd Street, Billings, Montana.

Some of the topics on the agenda are as follows:

Review and Guidance on Tract Delineation and Tract Profile Reports.
Discussion and Recommendation on Regional Leasing Levels.
Discussion and selection of Preliminary Tract Ranking Factors.

For further information, contact Mr. Lloyd Emmons, Project Coordinator, Fort Union Project, Bureau of Land Management, Montana State Office, P.O. Box 36800, Billings, Montana 59107. Telephone: (406) 657–6841.

Dated: January 27, 1984.

Kannon C. Richards,

Acting State Director.

[FR Doc. 84–2950 Filed 2–2–84; 8:45 am]

BILLING CODE 4310–DN–M

[N–38103, N–38103–A]

Nevada; Conveyance

January 24, 1984.

Notice is hereby given that, pursuant to the Act of December 23, 1980, 94 Stat. 3381; 43 U.S.C. 1701 and sec. 209(b) of the Act of October 21, 1976 (90 Stat. 2757; 43 U.S.C. 1719), Loribow Partnership, Las Vegas, Nevada, has purchased, by competitive sale, public lands in Clark County described as:

Mount Diablo Meridian, Nevada

T. 20 S., R. 60 E.,
Sec. 27, E½NE¼SE¼;
Containing 20 acres.

The purpose of this notice is to inform the public and interested State and local governmental officials of the issuance of conveyance document to Loribow Partnership.

Wm. J. Malencik,

Deputy State Director, Operations.

[FR Doc. 84–3009 Filed 2–2–84; 8:45 am]

BILLING CODE 4310–HC–M

[W–86388]

Realty Action; Proposed Noncompetitive Sale of Public Lands in Albany County, Wyoming

Correction

In FR Doc. 83–34738 beginning on page 170 in the issue of Tuesday, January 3, 1984, make the following correction:

On page 170, second column, in the land description table, sec. 14, "SE¼NE¼" should have read "SW¼NE¼."

Michael J. Karbs,

Acting District Manager.

[FR Doc. 84–2946 Filed 2–1–84; 8:45 am]

BILLING CODE 4310–22–M

Realty Action: Sale of Public Land in Gilliam County, Oregon; Correction

In FR Doc. 84–1389 in the issue of Thursday, January 19, 1984, appearing on page 2317, column 3, under the heading legal description, Parcel No. 7, now reading "Sec. 32" should be corrected to read "Sec. 17."

James L. Hancock,

Associate District Manager.

[FR Doc. 84–2949 Filed 2–2–84; 8:45 am]

BILLING CODE 4310–33–M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

Joint Committee on Agricultural Research and Development of the Board for International Food and Agricultural Development; Meeting

Pursuant to the provisions of the Federal Advisory Committee Act, notice is hereby given of the eighth meeting of the Joint Committee on Agricultural

Research and Development (JCARD) of the Board for International Food and Agricultural Development (BIFAD) on February 23 and 24, 1984.

The purpose of the meeting is to assist AID in implementing the components of the Title XII program by providing a two-way communications link for concerns of AID and concerns of the universities. During this meeting JCARD will develop a Program of Work for 1984, review several issues relating to the Collaborative Research Support Program (CRSP), hear a report on training and communications and other current AID issues.

The Executive Committee will meet from 9:00 a.m. to 12:00 noon on February 23. The full JCARD will meet from 1:00 p.m. to 5:00 p.m. on February 23 and from 9:00 a.m. to 3:00 p.m. on February 24. The meeting will be held in the Holiday Inn, 1850 N. Fort Myer Drive, Rosslyn, Virginia. The meeting is open to the public. Any interested person may attend, may file written statements with the Committee before or after the meeting, or may present oral statements in accordance with procedures established by the Committee, and to the extent the time available for the meeting permits.

Dr. John Stovall, BIFAD Support Staff, is the designated A.I.D. Advisory Committee Representative at the meeting. It is suggested that those desiring further information write to him in care of the Agency for International Development, BIFAD Support Staff, Washington, D.C. 20523 or telephone him at (202) 632–8532.

Date: January 31, 1984.

John Stovall,

A.I.D. Advisory Committee Representative, Joint Committee on Agricultural Research and Development, Board for International Food and Agricultural Development.

[FR Doc. 84–3048 Filed 2–2–84; 8:45 am]

BILLING CODE 6116–01–M

INTERSTATE COMMERCE COMMISSION

Intent To Engage in Compensated Intercorporate Hauling Operations

This is to provide notice as required by 49 U.S.C. 10524(b)(1) that the named corporations intend to provide or use compensated intercorporate hauling operations as authorized in 49 U.S.C. 10524(b).

1. Parent corporation and address of principal office: Aluminum Smelting & Refining Co., Inc., 5463 Dunham Road, Maple Hts., Ohio 44137.

2. Wholly-owned subsidiaries which will participate in the operations, and address of their respective principal offices: (a) ASRCA Transport, Inc., 5463 Dunham Road, Maple Hts., Ohio 44137 (an Ohio corporation).

1. Parent corporation and address of principal office: Burroughs Corporation, Burroughs Place, Detroit, MI 48232.

2. Wholly-owned subsidiaries which will participate in the operations, and States of incorporation:

Burroughs Corporations—Michigan
Burroughs Inter-America, Limited—Delaware
Burroughs International Company—Delaware
Burroughs OEM Corporation—Delaware
Burroughs OEM Marketing Corporation—Delaware
Memorex Corporation—California
System Development Corporation—Delaware
Systems Research Incorporated—Michigan

1. Parent corporation and address of principal office: Campbell Soup Company, Campbell Place, Camden, New Jersey 08101.

2. Wholly-owned subsidiaries which will participate in the operations, and States of incorporation are as follows:

Corporate Name and State of Incorporation

Beach Haven Foods, Inc.—Pennsylvania
CSC Advertising, Inc.—New Jersey
Campbell Foods Distributing Corp.—New Jersey
Campbell Foreign Sales Corp.—Delaware
Campbell Hospitality, Inc.—New Jersey
Campbell Sales Company—New Jersey
Campbell Soup Company (Sumter Plant) Inc.—South Carolina
Campbell Soup (Texas) Inc.—Texas
Campbell's Soup Inter-America, Inc.—New Jersey
Camsco Mushroom Company, Inc.—Ohio
Camsco Product Company, Inc.—Ohio
Capistrana Finance Corp.—Delaware
Capistrana Products Corp.—New Jersey
Champion Valley Farms, Inc.—New Jersey
Costa Apple Products, Inc.—New York
Dixon Canning Corp.—California
Domsea Farms, Inc.—Washington
Fine Oven Products, Inc.—New York
Godiva Chocolatier, Inc.—New Jersey
Gourmet Collection, Inc.—Pennsylvania
H. T. Restaurants, Inc.—Pennsylvania
Hanover Trail of Maryland, Inc.—Maryland
Herider Farms, Inc.—Texas
Joseph Campbell Company—New Jersey
Juice Bowl Products, Inc.—Florida
Juice Bowl Products, International, Inc.—Florida
Lexington Gardens, Inc.—Connecticut
Martino's Bakery, Inc.—California
Mrs. Paul's Kitchens, Inc.—Pennsylvania
Pepperidge Farm, Incorporated—Connecticut
Pepperidge Farm Mail Order Company, Inc.—Connecticut
Pietro's Corp.—Washington
Seattle Restaurant Food Supply, Inc.—Washington
Snow King Frozen Foods, Inc.—Pennsylvania
Southeastern Wisconsin Products Company, Inc.—Wisconsin
Technological Resources, Inc.—New Jersey
The Pepperidge Tree, Inc.—Pennsylvania
Triangle Manufacturing Corp.—North Carolina
Valley Tomato Products, Inc.—California
Vlasic Foods, Inc.—Michigan
Webster Distributing Co., Inc.—Florida
Win Schuler Foods, Inc.—Michigan

1. Parent Corporation and address of principal office: Chesebrough-Pond's Inc., 33 Benedict Place, Greenwich, CT a06830.

2. Wholly-owned subsidiaries which will participate in the operations, and their respective State of incorporation:

a. Adolph's Ltd., California.
b. Benedict Sales Corporation, Delaware.
c. Chesebrough-Pond's Manufacturing Company, Delaware.
d. Erno Laszlo Ltd., New York.
e. Filac Corporation, California.
f. G. H. Bass & Company, Delaware.
g. Health-Tex, Inc., New York.
h. Health Tex Manufacturing Company, Inc., Delaware.
i. Kingsport U.S.A., Inc., Delaware.
j. Prince Graphite, Inc., Delaware.
k. Prince Manufacturing, Inc., New Jersey.
l. Prince Matchabelli, Inc., New York.
m. Prince Matchabelli Manufacturing Company, Inc., Delaware.
n. Ragu Foods, Inc., New York.

1. Parent Corporation: Commercial Metals Company, 7800 Stemmons Freeway (75247), Post Office Box 1046 (75221), Dallas, Texas. State of incorporation: Delaware.

2. The following 100% wholly-owned or controlled subsidiaries will participate in the operation:

CMC Process Products, Inc., 7800 Stemmons Freeway, Dallas, Texas 75247. State of incorporation: Texas
CMC Oil Company, 7800 Stemmons Freeway,. Dallas, Texas 75247.
CMC Steel, Inc., Mill Road, Seguin, Texas 78155. State of incorporation: Texas
Capitol City Steel Company, 6717 Circle S Road, Austin, Texas 78745. State of incorporation: Texas

Cometals, Inc., One Penn Plaza, Room 3401, New York, New York 10001. State of incorporation: New York
Commercial Metals Railroad Salvage Company, 7800 Stemmons Freeway, Dallas, Texas 75247. State of incorporation: Texas
Commonwealth Metal Corporation, 560 Sylvan Avenue, Englewood Cliffs, New Jersey 07632. State of incorporation: New Jersey
Enterprise Metal Corporation, 175 Great Neck Road, Room 408, Great Neck, New York 10021. State of incorporation: New York
Howell Metal Company, State Route 728, P.O. Box 218, New Market, Virginia 22844
SMI Steel Inc., P. O. Box 2875A, Birmingham, Alabama 35212
Structural Metals, Inc., Mill Road, Seguin, Texas 78155. State of incorporation: Texas
Texas Cold Finished Steel, Inc., 1300 Baker, Houston, Texas 77002. State of incorporation: Texas
CMC Steel Fabricators, Inc., State of incorporation: Texas; doing business under the following names:

Arkansas Steel Rolling Mills, Inc., Kerlin Road, Box 489, Magnolia, Arkansas 71753
Capitol Steel, Inc., 2855 North Foster Drive, Post Office Box 66636, Baton Rouge, Louisiana 70896
CoMet Steel, Inc., 4846 Singleton Blvd., Dallas, Texas 75212
Houston Steel Service Company of Texas, Inc., 5321 Westpark Drive, Houston, Texas 77005
Houston Steel Service Company—Rebar Division, 5321 Westpark Drive, Houston, Texas 77005
Safety Railway Service Company, Aloe Field, Post Office Box 2298, Victoria, Texas 77901
Safety Steel Service, Inc., Rodd Field, Post Office Box 6546, Corpus Christi, Texas 78411
Safety Steel Service, Inc., 201 East Crestwood Drive, Victoria, Texas 77901
Safety Steel Construction, Inc., 201 East Crestwood Drive, Post Office Box 2298, Victoria, Texas 77901
Southern States Steel Company, 9675 Walden Road, Beaumont, Texas 77706
Southern Farm Supply Company, 1318 Buschong Road, Houston, Texas 77093
Southern Fence Post Company, 1318 Buschong Road, Houston, Texas 77039
Southern Post Company, 1318 Buschong Road, Houston, Texas 77039
Southern Post Company, 1980 Benchmark Drive, Roundrock, Texas 78664
Southern Post Company, Kerlin Road, Post Office Box 489, Magnolia, Arkansas 71753
Sterling Steel Company, 5800 Braxton, Suite 12, Houston, Texas 77036

1. Parent corporation and address of principal office: Phillips Petroleum Company, Bartlesville, OK 74004.

2. Wholly-owned subsidiaries which will participate in the operations, and state(s) of incorporation:

(a) Phillips Driscopipe, Inc., a Delaware corporation.
(b) American Fertilizer & Chemical Co., a Delaware corporation.
(c) American Thermoplastics Corp., a Delaware corporation.
(d) Phillips Fibers Corporation, a Delaware corporation.
(e) Phillips Uranium Corporation, a Delaware corporation.
(f) Phillips Coal Company, a Nevada corporation.
(g) Applied Automation, Inc., a Delaware corporation.
(h) Phillips Pipe Line Co., a Delaware corporation.
(i) Catalyst Resources, Inc., a Delaware corporation.
(j) Pier 66 Company, a Delaware corporation.
(k) Phillips Oil Company, a Delaware corporation.
(l) Provesta Corporation, a Delaware corporation.

1. Parent corporation and address of principle office: Sysco Corporation, 1177 West Loop South, Houston, Texas 77027.

2. Wholly-owned subsidiaries and divisions which will participate in the operations, and States of incorporation:

Name and Address and State of Incorporation

Allied-Sysco Food Services, Inc., P.O. Box 6185, Hayward, California 94540—California.
Arrow-Sysco Food Services, Inc., P.O. Box 10038, Jefferson, Louisiana 70181—Delaware.
Baraboo-Sysco Food Services, Inc., 901 Sauk Avenue, Baraboo, Wisconsin 53913—Wisconsin.
Bell-Sysco Food Services Co., P.O. Box 2987, Asheville, North Carolina 28802—North Carolina.
Compton Foods Association, 1177 West Loop South, Houston, Texas 77027—Texas.
Compton Refrigerated Distribution Center, P.O. Box 1900, Independence, Missouri 64055—Texas.
Glencoe-Sysco Food Services Co., 6116 Walker Avenue, Maywood, California 90270—California.
Grants-Sysco Food Services, Inc., P.O. Box 1598, Saginaw, Michigan 48605—Michigan.
HFP-Sysco Food Services, Inc., P.O. Box 113, Harrisonburg, Virginia 22801—Virginia.
Hallsmith-Sysco Food Services, Inc., 380 South Worcester, Norton, Massachusetts 02766—Massachusetts.
Hardin's Sysco Food Services, Inc., P.O. Box 18847, Memphis, Tennessee 38181-0847—Tennessee.
Koon-Sysco Food Services, Inc., P.O. Box 141, Bowling Green, Kentucky 42101—Kentucky.
Lankford-Sysco Food Services, Inc., P.O. Box 477, Pocomoke City, Maryland 21851—Maryland.
Mid-Central/Sysco Food Services, Inc., P.O. Box 820, Olathe, Kansas 66061—Missouri.
Miesel/Sysco Food Service Co., P.O. Box 579, Detroit, Michigan 48232—Michigan.
Miesel/Sysco Food Services Co., P.O. Box 94570, Cleveland, Ohio 44101—Michigan.
Nobel/Sysco Food Services Co., P.O. Box 5566 TA, Denver, Colorado 80217—Colorado.
Nobel/Sysco Food Services Co., Southwest Division, 601 Comache Road N.E., Albuquerque, New Mexico 87107—Colorado.
Pegler & Company, P.O. Box 80068, Lincoln, Nebraska 68501—Nebraska.
Plantation-Sysco of Central Florida, 2515 Shader Road, Orlando, Florida 32808—Florida.
Plantation-Sysco, Military Division, P.O. Box 15890, Orlando, Florida 32808—Florida.
B. A. Railton Co., 111 No. Northwest Avenue, Northlake, Illinois 60164—Illinois.
Robert Orr-Sysco Food Services Co., P.O. Box 1087, Nashville, Tennessee 37202—Tennessee.
Select-Sysco Foods, Inc., P.O. Box 3097, Hayward, California 94540—California.
Sysco Chemical Company, Inc., P.O. Box 10129, Detroit, Michigan 48210—Michigan.
Sysco Food Services-San Antonio, P.O. Box 18364, San Antonio, Texas 78218—Texas.
Sysco Food Services, Inc., P.O. Box 15316, Houston, Texas 77220—Texas.
Sysco Food Services Southeast Inc., P.O. Box 2805, Augusta, Georgia 30904—Georgia.
Sysco Food Systems, Inc., P.O. Box 344229, Dallas, Texas 75234—Texas.
Sysco/Frost-Pack Food Services, Inc., P.O. Box 8769, Grand Rapids, Michigan 49508—Michigan.
Sysco Frosted Foods, Inc., P.O. Box 5327, Albany, New York 12205—New York.
Sysco/Louisville Food Services Co., P.O. Box 32470, Louisville, Kentucky 40232—Kentucky.
Sysco-Metro Food Services, P.O. Box 93865, Atlanta, Georgia 30377—Georgia.
Sysco-Midwest Food Services, Inc., P.O. Box 5299, Lafayette, Indiana 47903—Indiana.
Sysco-Rome Food Services, Inc., P.O. Box 2026, Rome, Georgia 30161—Georgia.

Divisions

Cochran/Sysco Food Services, P.O. Box 2899, Jackson, Mississippi 39207.

Global Sysco, 700 Dibblee Drive, Garden City, New York 11530.

Plantation-Sysco, P.O. Drawer 64000A, Miami, Florida 33164.

Sysco Gulf Atlantic Food Services, P.O. Box 37045, Jacksonville, Florida 32205.

Sysco Intermountain Food Services, P.O. Box 27638, Salt Lake City, Utah 84125.

Theimer-Sysco Food Services, P.O. Box 13786, Roanoke, Virginia 24037.

Thomas-Sysco Food Services, 10510 Evendale Drive, Cincinnati, Ohio 45241.

James H. Bayne,

Acting Secretary.

[FR Doc. 84-3015 Filed 2-2-84; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-43 (Sub-106A)]

Illinois Central Gulf Railroad Company, Abandonment and Discontinuance of Service over the Seaboard System Railroad, Inc., in Caldwell, Trigg and Christian Counties, KY; Findings

The Commission has issued a certificate authorizing Illinois Central Gulf Railroad Company to abandon its 10.48-mile rail line between milepost 120.52 at Gracey and milepost 131.0 at Hopkinsville and to discontinue service over 13.52 miles of railroad of the Seaboard System Railroad, Inc., between milepost 107 at Otter Pond and milepost 120.52 at Gracey, in Caldwell, Trigg and Christian Counties, KY. The certificate will become effective 30 days after this publication unless the Commission also finds that: (1) A financially responsible person has offered financial assistance (through subsidy or purchase) to enable the rail service to be continued; and (2) it is likely that the assistance would fully compensate the railroad.

Any financial assistance offer must be filed with the Commission and the applicant no later than 10 days from publication of this Notice. The following notation shall be typed in bold face on the lower left-hand corner of the envelope containing the offer: "Rail Section AB-OFA." Any offer previously made must be remade within this 10-day period.

Information and procedures regarding financial assistance for continued rail service are contained in 49 U.S.C. 10905 and 49 CFR 1152.27

James H. Bayne,

Acting Secretary.

[FR Doc. 84-3011 Filed 2-2-84; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 30386]

Nezperce Railroad Co.; Operation Exemption

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Interstate Commerce Commission exempts from the requirements of 49 U.S.C. 10901 the operation by Nezperce Railroad Company, of 30.18 miles of railroad extending from milepost 0 near Starbuck to milepost 30.16 near Pomeroy in Columbia and Garfield Counties, WA.

DATES: This exemption will be effective on March 5, 1984. Petitions to stay must be filed by February 13, 1984, and petitions for reconsideration must be filed by February 23, 1984.

ADDRESSES: Send pleadings referring to Finance Docket No. 30386 to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423, and

(2) Petitioner's representative: Gary L. Montgomery, 737 North 7th Street, Boise, ID 83702.

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer (202) 275-7245.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to T.S. InfoSystems, Inc., Room 2227, Interstate Commerce Commission, Washington, DC 20423, or call 289-4357 (DC Metropolitan area) or toll free (800) 424-5403.

Decided: January 27, 1984.

By the Commission, Chairman Taylor, Vice Chairman Andre, Commissioners Sterrett and Gradison.

James H. Bayne,

Acting Secretary.

[FR Doc. 84-3012 Filed 2-2-84; 8:45 am]

BILLING CODE 7035-01-M

[Second Revised I.C.C. Order No. 3]

St. Louis Southwest Railway Co.; Rerouting of Traffic

To: St. Louis Southwestern Railway Company; North Central Oklahoma Railway, Inc.; Oklahoma, Kansas and Texas Railroad Company, and Texas North Western Railway Company

In September of 1979, the Chicago, Rock Island and Pacific Railroad Company, Debtor (William M. Gibbons, Trustee) (RI), was declared cashless by the Commission and ceased operations. The Kansas City Terminal Railway Company (KCT) was ordered by the Commission then to serve all lines of the RI as a directed rail carrier under 49 U.S.C. 11125. That operation continued for almost six (6) months and until Federal funding was no longer available, and was replaced by non-compensated directed service provided by various carriers operating about fifty percent of the system in the form of short, unconnected line segments.

It became imminently clear that, in order for the carriers to perform their operations over various RI line segments, RI rates must be adopted and made immediately applicable, and routing flexibility permitted where continuous routings over the RI were not possible. This was accomplished through I.C.C. Rerouting Order Nos. 63, 80, and most recently 3. Those orders permitted certain carriers handling traffic to and from RI points to reroute that traffic over any available route in order to complete the movement, and to maintain the rate as originally routed.

Requests for continuation of the rerouting authority contained in Revised I.C.C. Order No. 3, have been received from St. Louis Southwestern Railway Company (SSW); Oklahoma, Kansas and Texas Railroad Company (OKKT); North Central Oklahoma Railway, Inc. (NCOK), and Texas North Western Railway Company (TXNW). Those requests emphasize the need for continuity of rates and routing being utilized while tariff revisions are being completed. Further, the requests indicate that tariff modifications should be completed within six (6) months.

It is the opinion of the Commission that the RI cannot transport traffic offered for movement over its lines due to the cessation of its operations; that the interests of the affected shippers and interim operators require continuation of this authority; that named carriers should be permitted to utilize this authority while completing tariff changes; that need has been shown to revise the effective period of this order; and, that this matter is considered to be outside the scope of a single railroad, as provided by *Ex Parte No. 376, Rerouting of Traffic*, 364 I.C.C. 827, thereby making this action by the Commission necessary.

It is ordered:

(a) *Rerouting traffic.* The Chicago, Rock Island and Pacific Railroad Company, Debtor (William M. Gibbons, Trustee) (RI), being unable to transport promptly traffic offered for movement via its lines due to the cessation of its operations, that line's operators named below are authorized to reroute such traffic via any available route. Traffic necessarily diverted by authority of this order shall be rerouted so as to preserve as nearly as possible the participation and revenues of other carriers provided in the original routing. The billing covering all such cars rerouted shall carry a reference to this order as authority for the rerouting.

St. Louis Southwestern Railway Company
North Central Oklahoma Railway Inc.
Oklahoma, Kansas and Texas Railroad Company
Texas North Western Railway Company

(b) *Concurrence of receiving roads to be obtained.* The railroad rerouting cars in accordance with this order must receive the concurrence of other railroads to which such traffic is to be rerouted.

(c) *Notification to shippers.* Each carrier rerouting cars in accordance with this order, shall notify each shipper at the time each shipment is rerouted and shall furnish to such shipper the new routing provided for under this order, except when the disability requiring the rerouting occurs after the movement has begun.

(d) Inasmuch as the rerouting of traffic is deemed to be due to carrier disability, the rates applicable to traffic rerouted pursuant to this order shall be the rates which were applicable on the shipments as originally routed.

(e) In executing the directions of the Commission provided for in this order, the common carriers involved shall proceed even though no contracts, agreements or arrangements may now exist between them with reference to the divisions of the rates of transportation applicable to said traffic. Divisions shall be, during the time this order remains in force, those voluntarily agreed upon by and between said carriers; or upon failure of the carriers to so agree, said divisions shall be those hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by the Interstate Commerce Act.

(f) *Effective date.* This order shall become effective at 11:59 p.m., January 31, 1984.

(g) *Expiration date.* This order shall expire at 11:59 p.m., July 31, 1984, unless otherwise modified, amended or vacated by order of this Commission.

This action is taken under the authority of 49 U.S.C. 11124.

This order shall be served upon the Association of American Railroads, Transportation Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association. A copy of this order shall be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., January 30, 1984.

By the Commission, Chairman Taylor, Vice Chairman Andre, Commissioners Sterrett and Gradison.

James H. Bayne,

Acting Secretary.

[FR Doc. 84-3013 Filed 2-2-84; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 30398]

Union Pacific Railroad Co., Purchase (Portion), Missouri Pacific Railroad Co.; Exemption

January 30, 1984.

Union Pacific Railroad Company (UP) and Missouri Pacific Railroad Company (MP) jointly filed a notice of exemption concerning the conveyance by MP to UP of a portion of MP's railroad and underlying realty known as the Hastings Subdivision, extending from milepost 574.7 near Muriel to milepost 580.3 at Hastings, in Adam County, NE. UP will operate over the trackage after conveyance of the line.

The transaction is within one corporate family, the Union Pacific System, and comes within that class of transactions described at 49 CFR 1180.2(d) which has been exempted from Commission regulation. The UP acquisition will not result in changes in service levels, significant operational changes, or a change in the competitive balance with carriers outside the corporate family.

As a condition to use of the exemption, any employees affected by the acquisition of the line by UP shall be protected pursuant to *New York Dock Ry.—Control—Brooklyn Eastern Dist.*, 360 I.C.C. 60 (1979).

By the Commission, Richard Lewis, Acting Director, Office of Proceedings.

James H. Bayne,

Acting Secretary.

[FR Doc. 84-3014 Filed 2-2-84; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF LABOR

Office of the Secretary

Agency Forms Under Review of the Office of Management and Budget (OMB)

Background

The Department of Labor, in carrying out its responsibility under the Paperwork Reduction Act (44 U.S.C. Chapter 35), considers comments on the proposed forms and recordkeeping requirements that will affect the public.

List of Forms Under Review

On each Tuesday and/or Friday, as necessary, the Department of Labor will publish a list of Agency forms under review by the Office of Management and Budget (OMB) since the last list was published. The list will have all entries grouped into new collections, revisions, extensions, or reinstatements. The Departmental Clearance Officer will, upon request, be able to advise members of the public of the nature of any particular revision they are interested in.

Each entry will contain the following information:

The Agency of the Department issuing this form.

The title of the form.

The OMB and Agency form numbers, if applicable.

How often the form must be filled out.

Who will be required to or asked to report.

Whether small businesses or organizations are affected.

An estimate of the number of responses.

An estimate of the total number of hours needed to fill out the form.

The number of forms in the request for approval.

An abstract describing the need for and uses of the information collection.

Comments and Questions

Copies of the proposed forms and supporting documents may be obtained by calling the Departmental Clearance Officer, Paul E. Larson, Telephone 202-523-6331. Comments and questions about the items on this list should be directed to Mr. Larson, Office of Information Management, U.S. Department of Labor, 200 Constitution Avenue, N.W., Room S-5526, Washington, D.C. 20210. Comments should also be sent to the OMB reviewer, Arnold Strasser, Telephone 202-395-6880, Office of Information and Regulatory Affairs, Office of

Management and Budget, Room 3208, NEOB, Washington, D.C. 20503.

Any member of the public who wants to comment on a form which has been submitted to OMB should advise Mr. Larson of this intent at the earliest possible date.

New

Occupational Safety and Health Administration
Concrete and Masonry Construction
OSHA 278
On occasion
Businesses or other for profit
121,360 responses; 20,227 hours; 0 forms

Those construction firms engaged in the erection of formwork would be required to have a copy of formwork plans or drawings at the job site to insure that the formwork will support the applied loads.

Office of Pension and Welfare Benefit Programs
DOL Regulation § 2560.503–1, Claims Procedure
On occasion
Individuals or households; Business or other for-profit; non-profit institutions; Small business or organizations
73,567 responses; 20,368 hours

This regulation requires employee benefit plans to establish procedures which provide adequate written notice to any participant or beneficiary of an employee benefit plan whose claim has been denied. An opportunity for a review of a denied claim must also be provided; the decision upon a review must also be in writing.

Prohibited Transaction Class Exemption 82–87
Business or other for profit; small businesses or organizations
1,500 recordkeeping burden hours

This class exemption provides relief from certain of ERISA's prohibited transaction provisions for a broad range of transactions involving the financing of residential mortgages by employee benefit plans.

Class Exemption 78–6—Apprenticeship plans purchasing and leasing property from contributing employers
Businesses or other for profit; non-profit institutions; small business or organizations
417 burden hours

This class exemption exempts from the prohibited transaction restrictions of ERISA transactions involving the purchase of personal property and leasing of real or personal property by an apprenticeship plan from a contributing employer or wholly owned subsidiary.

Class Exemption 77–4 for Certain Transactions Between Investment Companies and Employee Benefit Plans
Other—Describe: Annually when exemption is used
Business or other for profit; small businesses or organizations
18,150 responses; 1,633 hours

This class exemption exempts from the prohibited transaction restrictions of ERISA the purchase and sale by an employee benefit plan of shares of a registered, open-end mutual fund when a fiduciary with respect to the plan (e.g., an investment manager) is also investment adviser for the mutual fund.

DOL Regulation § 2530.203–3, Suspension of Pension Benefits
Other
Businesses or other for-profit; small businesses or organizations
73,688 responses; 18,422 hours

This regulation allows a plan to suspend an individual's pension benefits if the individual continues work or returns to work. The plan is required to notify the individual during the first calendar month or payroll period in which the plan withholds payment of the reasons for the suspension.

Signed at Washington, D.C. this 31st day of January, 1984.

Paul E. Larson,
Departmental Clearance Officer.

[FR Doc. 84–3049 Filed 2–2–84; 8:45 am]
BILLING CODE 4510–29–M

[Secretary of Labor's Order 1–84]

Delegation of Authority and Assignment of Responsibility for Employee Retirement Income Security Program

January 20, 1984.

1. *Purpose.* To delegate authority and assign responsibility for administration of the Employee Retirement Income Security Act of 1974 (ERISA).

2. *Background.* ERISA places responsibility in the Department of Labor for the administration of a comprehensive program to protect the interests of participants and beneficiaries of private employee benefit plans. Secretary's Order 9–77 delegated authority and assigned responsibility for the ERISA program to the Assistant Secretary for Labor-Management Relations. Assigning responsibility for this program directly to the Office of Pension and Welfare Benefit Programs and making this Office a separate agency of the Department of Labor would recognize the increased emphasis being given to the ERISA program by the Secretary and would enhance the efficiency and effectiveness of its administration. Accordingly, the delegation to the Assistant Secretary for Labor Management Relations is terminated and conforming changes are made in other Secretary's Orders.

3. *Directives Affected.*

a. Secretary's Order 9–77 is amended by:

(1) Deleting section 3a (3) and (4) and by redesignating section 3a (5) through (8) as 3a (3) through (6), respectively;

(2) Deleting the following from section 4: "and responsibilities under Subtitle C of Title III of the Employee Retirement Income Security Act."

b. Secretary's Order 9–80 is amended by substituting the words: "Administrator of Pension and Welfare Benefit Programs," for the words: "Assistant Secretary of Labor-Management Relations," in section 4b.

4. *The Office of Pension and Welfare Benefit Programs.* There is continued in the Department of Labor an Office of Pension and Welfare Benefit Programs. Such Office is hereby transferred from the Labor-Management Services Administration and is constituted as a separate agency within the Department of Labor. This transfer includes personnel, funds, equipment, supplies, and records associated with LMSA's responsibilities in connection with the administration of the ERISA of 1974 and the Welfare and Pension Plans Disclosure Act of 1958, as amended. The Office of Pension and Welfare Benefit Programs shall continue to be headed by an Administrator, who shall report to the Secretary.

5. *Delegation of Authority and Assignment of Responsibilities.*

a. *The Administrator of Pension and Welfare Benefit Programs* is delegated authority—including authority to redelegate—and assigned responsibilities, except as hereinafter provided, for carrying out programs and activities to be performed by the Secretary of Labor under:

(1) Employee Retirement Income Security Act of 1974, except for Subtitle C of Title III and Title IV; and

(2) Welfare and Pension Plans Disclosure Act of 1958, as amended.

b. *The Assistant Secretary for Administration and Management* is responsible for assuring an orderly and equitable transfer of resources, including assurance of consultation and negotiation, as appropriate, with unions representing affected employees.

c. *The Solicitor of Labor* shall have the responsibility for providing legal advice and assistance to all officers of the Department relating to the administration of the statutes listed in 5a above and for bringing appropriate legal actions on behalf of the Secretary.

and representing the Secretary in all civil proceedings.

6. *Reservation of Authority.* The submission of reports and recommendations to the President and the Congress concerning the administration of the statutes listed in 5a above and responsibilities under Subtitle C of Title III of the Employee Retirement Income Security Act is reserved to the Secretary.

7. *Effective Date.* This Order is effective immediately for planning purposes, and for implementation no later than 120 days from the date of this Order.

Raymond J. Donovan,

Secretary of Labor.

[FR Doc. 84-3050 Filed 2-2-84; 8:45 am]

BILLING CODE 4510-23-M

Employment and Training Administration

Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for adjustment assistance issued during the period January 23, 1984–January 27, 1984.

In order for an affirmative determination to be made and a certification of eligibility to apply for adjustment assistance to be issued, each of the group eligibility requirements of Section 222 of the Act must be met.

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated,

(2) That sales or production, or both, of the firm or subdivision have decreased absolutely, and

(3) That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determinations

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separation at the firm.

TA–W–14,916; Atari, Inc., Somerset, NJ

TA–W–14,904; Taylor-Wharton Co., Easton, PA

TA–W–15,004; Ozark Lead Co., Sweetwater, MO

In the following case the investigation revealed that criterion (3) has not been met. Increased imports did not contribute importantly to workers separations at the firm.

TA–W–14,835; Beecham Products, Cranford, NJ

In the following cases the investigation revealed that criterion (3) has not been met for the reasons specified.

TA–W–14,829; Cooper Industries, Inc., Superior Div., Springfield, OH

Aggregate U.S. imports of natural gas aspirated engines are negligible.

TA–W–14,806; Cooper Industries, Inc., Portable Rig Div., Dallas, TX

Aggregate U.S. imports of oil field machinery did not increase as required for certification.

TA–W–14,925; Cooper Industries, Inc., Petroleum Equipment Div., Sunnyvale, TX

Aggregate U.S. imports of oil field machinery did not increase as required for certification.

TA–W–14,949; Outfooter's of Battle Creek, Battle Creek, MI and Coldwater, MI

The investigation revealed that criterion (3) has not been met. The workers' firm did not produce an article as required for certification under Section 222 of the Trade Act of 1974.

Affirmative Determinations

TA–W–14,951; U-Brand Corp., Ashland, OH

A certification was issued covering all workers separated on or after August 20, 1982.

TA–W–14,952; U-Brand Corp., Shelby, OH

A certification was issued covering all workers separated on or after August 20, 1982.

TA–W–14,923; Cerro Copper Tube Co., Cleveland, OH

A certification was issued covering all workers separated on or after August 15, 1982.

TA–W–14,907; Arrow-Hart Co., Dano Div., Winsted, CT

A certification was issued covering all workers of Arrow-Hart Co., Dano Div. separated on or after September 1, 1982 and before January 31, 1983.

TA–W–14,907A; Arrow-Hart Co., Hartford, CT

A certification was issued covering all workers of Arrow-Hart Co., starter plant separated on or after July 17, 1982 and before September 30, 1982.

TA–W–14,803; U.S. Steel Corp., Fairless Works, Trenton, NJ

A certification was issued covering all workers separated on or after June 28, 1982.

TA–W–14,736; U.S. Steel Corp., Supply Div., Cleveland, OH Warehouse

A certification was issued covering all workers separated on or after June 6, 1982 and before December 31, 1982.

TA–W–14,846; Tiffin General Electric Appliance & Hermetic Motor Dept., Tiffin, OH

A certification was issued covering all workers separated on or after July 12, 1982.

TA–W–14,755; S & S Corrugated Paper Machinery Co., Inc., Brooklyn, NY

A certification was issued covering all workers separated on or after January 1, 1983.

I hereby certify that the aforementioned determinations were issued during the period January 23, 1984—January 27, 1984. Copies of these determinations are available for inspection in Room 9120, U.S. Department of Labor, 601 D Street, N.W., Washington, D.C. 20213 during normal business hours or will be mailed to persons who write to the above address.

Dated: January 31, 1984.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 84-3041 Filed 2-2-84; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-15, 120]

Rieter Corporation, Manufacturing Division, Aiken, South Carolina; Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on November 30, 1983, in response to a worker petition received on November 21, 1983, which was filed on behalf of workers at Rieter Corporation, Manufacturing Division, Aiken, South Carolina.

The petitioner has requested that the petition be withdrawn. Consequently, further investigation in this case would serve no purpose and the investigation has been terminated.

Signed at Washington, D.C., this 30th day of January 1984.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 84-3053 Filed 2-2-84; 8:45 am]

BILLING CODE 4510-30-M

[Unemployment Insurance Program Letter No. 7–84]

Federal Supplemental Compensation

Title I of the Federal Supplemental Compensation (FSC) Amendments of 1983 (Pub. L. 98–135) amended the Federal Supplemental Compensation Act of 1982 to extend the FSC program to March 31, 1985, and to provide additional weeks of benefits to prior FSC beneficiaries who first filed for FSC after March 31, 1983. The Department of Labor has issued instructions for implementing the FSC program as amended by Pub. L. 98–135 to all State employment security agencies. The instructions are contained in Unemployment Insurance Program Letter No. 7–84, which supersedes earlier issuances on FSC. Unemployment Insurance Program Letter No. 7–84 is published below:

Dated: January 26, 1984.

Patrick J. O'Keefe,

Acting Deputy Assistant Secretary of Labor.

Department of Labor

Employment and Training Administrator

Washington, D.C. 20213

Classification: UI
Correspondence symbol: TEUMI.
Date: December 29, 1983.
Expiration date: September 30, 1985.

Directive: Unemployment Insurance Program Letter No. 7–84

To: State Employment Security Agencies.
From: Bryan T. Keilty, Acting Administrator for Regional Management.
Subject: Federal Supplement Compensation (FSC).

1. *Purpose.* To provide instructions for implementing the Federal Supplement Compensation Act of 1982, as amended by the Federal Supplement Compensation Amendments of 1983, Title I of Pub. L. 98–135.

2. *References.* Title VI–A of Pub. L. 97–248, Section 310 of Pub. L. 97–448, Title V of Pub. L. 97–424, Title V–A of Pub. L. 98–21, Title I of Pub. L. 98–135; UIPL 14–81 and Changes; the Federal-State Extended Unemployment Compensation Act of 1970, as amended; 20 CFR Part 615; GALs 21–81 and 22–81; GAL 2–83 and Changes.

3. *Background.* Title I of Pub. L. 98–135 amended the FSC Act of 1982 to extend the FSC program to March 31, 1985. The amendments retain the current levels of FSC—8 to 14 weeks. Additional benefits of up to 5 weeks are provided for individuals who first filed for FSC after March 31, 1983, and who exhausted FSC before the first week beginning after October 18, 1983. Individuals who first filed for FSC after March 31, 1983, and who have a remaining FSC balance as of the first week beginning after October 18, 1983, may receive up to 2 to 4 additional weeks of benefits depending upon the maximum FSC payable in the State and the individual's remaining balance.

4. *Instructions for Implementing FSC.* The attachment contains complete instructions for implementing FSC. These instructions supersede GAL 2–83 and Changes. Many sections of the GAL instructions were not affected by the latest amendments to the FSC Act. However, all instructions for operating the FSC program have been included in this issuance for the convenience of the user. Those sections affected by the amendments are:

a. Section A, *Definitions*—Subsections 3, 6 and 7.

b. Section B, *Beginning and Ending of the FSC Program.*

c. Section C, *Eligibility Requirements for FSC*—Subsection 1.g., and 8.

d. Section E, *Maximum FSC Benefits Payable*—All subsections except 3 and 4.

5. *Other Changes.* Subsection 5 of Section K, *Work Registration,* and Part III, *Job Placement and Work Test Activities* have been revised to reflect the new Federal-State roles under the Wagner-Peyser Act, as amended by the Job Training Partnership Act. Certain technical and clarifying changes have also been made in other sections.

6. *Retirees/Prisoners Provision in the Amendments.* Pub. L. 98–135 contains a provision, not relating to FSC, but which should be of particular interest to all SESAs. Section 206 of the Amendments directs the Secretary of Labor, the Director of the Office of Personnel Management and the Attorney General to make the necessary arrangements for States to receive information regarding current and retired Federal employees and Federal prisoners so States may review eligibility of these individuals for unemployment benefits. The Secretary of Labor is required to report to the Congress prior to January 31, 1984, on any arrangements made and including recommendations for legislation to prevent improper payments to such individuals.

Instructions have been issued (see UIPL No. 3–84, dated October 10, 1983) advising the SESAs on how to obtain information on current and retired Federal employees. The ETA is now working on procedures for making available information on Federal prisoners for crossmatching with State claimant benefit files. Instructions will be issued as soon as arrangements are finalized.

7. *Action Required.* Administrators should provide the above information and attached instructions to appropriate staff.

8. *Inquiries.* Direct questions to the appropriate Regional Office.

9. *Attachment.* Instructions for implementing the FSC Program, as amended.

Federal Supplemental Compensation Act of 1982, as Amended Implementing Instructions—Contents

I. Explanation of the FSC Amendments in Pub. L. 98–135
A. Effective Dates
B. Maximum FSC Payable
C. Unemployment Level Periods
D. Special Rule
E. Modification of the Agreement
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I. Explanation of the FSC Amendments in Pub. L. 98–135

A. Effective Dates

The FSC amendments made by Pub. L. 98–135 are effective beginning with the first week which begins after October 18, 1983. The FSC program terminates for all claims filed for any week beginning after March 31, 1985.

B. Maximum FSC Payable

The SESA will establish an FSC account for each eligible individual.

1. For an individual to whom FSC is first payable for a week beginning after October 18, 1983, the maximum amount of FSC established in the individual's account will be the lesser of:

a. 55 percent of the total amount of regular compensation (including dependents' allowances) payable with respect to the most recent benefit year on the basis of which the individual received regular compensation, or

b. The applicable limit determined under the following table times the individual's average weekly benefit amount for the individual's benefit year:.

In the case of weeks during a—	The applicable limit is—
6-percent period	14
5-percent period	12
4-percent period	10
Low-unemployment period	8

2. For an individual to whom FSC was first payable for a week beginning after March 31, 1983, and who exhausted all entitlement to FSC prior to the first week which begins on or the individual's account (payable for weeks beginning after October 18, 1983) will be the lesser of:

a. Three-fourths of the maximum as determined with respect to the individual under subsection 1, above, or

b. 5 times the individual's weekly benefit amount.

3. Special provisions apply for determining FSC entitlement for individuals to whom FSC was first payable for a week beginning after March 31, 1983, and who have a remaining balance as of the first week after October 18, 1983. For individuals whose remaining balance as of the first week beginning after October 18, 1983, equals or exceeds the new maximum FSC payable in the State effective October 23, 1983, the SESA shall not redetermine entitlement to FSC. Such individuals shall be entitled to their remaining balance for weeks of unemployment beginning after October 18, 1983. For individuals whose remaining balance as of the first week beginning after October 18, 1983, is less than the new maximum FSC payable in the State effective October 23, 1983, the SESA shall increase the amount of FSC in the individual's account as specified below.

However, in no event shall any increase result in an individual being entitled to more FSC for weeks of unemployment beginning after October 18, 1983, than the maximum payable in the State for the week beginning October 23, 1983, or in excess of 55 percent of the individual's entitlement to regular benefits including dependents' allowances. The amount of the increase shall be the *lesser* of:

(a) Three-fourths of the maximum as determined with respect to the individual under subsection 1, above or

(b) 4 times the individual's weekly benefit amount if the State is in a 5-percent or 6-percent period, or 2 times the individual's weekly benefit amount if the State is in a 4-percent or low-unemployment period, for the first week beginning after October 18, 1983 (i.e., the week beginning October 23, 1983).

4. The amendments do not change the remaining FSC entitlement, if any, for any individual to whom FSC was first payable for a week beginning on or before March 31, 1983.

5. No changes will be made to any individual's FSC account subsequent to the date the account is first established or redetermined under the amendments, except for correction of errors. This means the SESA will not make changes to FSC accounts based on changes (up or down) in the maximum FSC payable in the State.

C. Unemployment Level Periods

1. The terms "6-percent period," "5-percent period," "4-percent period," and "low-unemployment period," mean, with respect to a State, the period which:

a. Begins the first day of the third week after the first week for which the applicable trigger is on, and

b. Ends the last day of the second week after the first week for which the applicable trigger is off.

2. For a 6, 5, or 4-percent, or low-unemployment period:

a. The applicable trigger is on for a week if:

(1) The State's extended benefit indicator rate, i.e., the most recent 13-week insured unemployment rate, falls within the applicable insured unemployment range, *or* for 6- and 5-percent periods,

(2) The State's long-term insured unemployment rate for the period beginning the first week which begins on or after January 1, 1982, and ending with the last week beginning in the second calendar quarter ending before the week for which the determination is made, falls within the applicable long-term insured unemployment range. In determining the first long-term insured unemployment rate (i.e. for the week beginning on October 23, 1983), the period used will be the 78-weeks beginning January 3, 1982, and ending with the week beginning June 26, 1983. The same data will be used for determining long-term insured unemployment rates until the week beginning on January 1, 1984.

b. The applicable trigger is off for a week if:

(1) The applicable trigger for a period with a higher week designation is on for that week, or

(2) The State's extended benefit indicator rate falls below the applicable insured, unemployment range, and (for 6- and 5-percent periods) the State's long-term insured unemployment rate falls below the previously applicable long-term insured unemployment range.

The applicable ranges are:

In the case of a—	The applicable insured unemployment range is—	The applicable long-term insured unemployment range is—
6-percent period.	A rate equal to or exceeding 6 percent.	A rate equal to or exceeding 5.5 percent.
5-percent period.	A rate equal to or exceeding 5 percent but less than 6 percent.	A rate equal to or exceeding 4.5 percent but less than 5.5 percent.
4-percent period.	A rate equal to or exceeding 4 percent but less than 5 percent.	Not applicable.

In the case of a—	The applicable insured unemployment range is—	The applicable long-term insured unemployment range is—
Low-unemployment period.	A rate less than 4 percent.	Do.

c. Insured unemployment rates are determined for FSC purposes in exactly the same manner as they are determined for purposes of Extended Benefits "on", "off", and "no change" indicators. This also means that IUR's are averaged for the 13-week and long-term periods.

d. No 6, 5, or 4-percent, or low-unemployment period shall last for a period of less than 13 weeks.

e. When an increase or reduction in the applicable limit for a State occurs, each such increase or reduction cannot be more than 2 weeks. This limitation does not, however, apply to an increase or reduction which takes effect the first week beginning after October 18, 1983.

D. Special Rule

The amendments contain special rules which apply to prior FSC exhaustees:

1. An individual's eligibility for additional weeks of FSC under the amendments in Pub. L. 98–135 shall not be limited or terminated by reason of any event, or failure to meet any requirement of State or federal law relating to eligibility for unemployment benefits when such event or failure occurred after the date of exhaustion of FSC and prior to the beginning of the first week which begins after October 18, 1983.

2. The period occurring after the date an individual has exhausted entitlement to FSC and before the first week which begins after October 18, 1983, shall not be counted in determining the expiration of the two years following the end of a benefit year during which FSC may be paid.

E. Modification of the Agreement

The Secretary of Labor is required, as soon as practicable after enactment, to propose to each State a modification to the agreement entered into under the FSC Act to provide for payments of FSC in accordance with the amendments made by Pub. L. 98–135. If a State fails to enter ito the modified agreement within three weeks from the date the Secretary proposes the modification, i.e., the date of the Secretary's letter, the agreement to administer FSC will be considered terminated. The termination of the agreement will be effective with the end of the last week which ends on or before the close of such three-week period.

II. Procedures for Implementing FSC

A. Definitions

1. "Act" means the "Federal Supplemental Compensation Act of 1982" (Subtitle A of Title VI of Pub. L. 97–248), approved September 3, 1982, as amended from time to time.

2. "Agreement" means the agreement entered into pursuant to the Act between a State and the Secretary of Labor, under which the State agency makes payments of Federal Supplemental Compensation in accordance with the Act as set forth in these instructions or other instructions issued by the Department.

3. "Period of Eligibility" means, with respect to any individual, the period beginning with the week following the week in which the State entered into an agreement to pay Federal Supplemental Compensation (but beginning no earlier than September 12, 1982), or the period beginning with the first week the individual met the basic eligibility requirements for FSC, whichever is the later; and ending with the last week which begins before April 1, 1985; except that an individual shall not have a period of eligibility unless such individual's benefit year ended on or after June 1, 1982, or such individual was entitled to extended benefits for a week which began on or after June 1, 1982.

4. "Federal Supplemental Compensation" means the compensation payable under the Federal Supplemental Compensation Act of 1982, and which is referred to as FSC.

5. Terms which have the same meaning as those defined in the Extended Benefit regulations, 20 CFR Part 615:

a. "Base period" means, with respect to an individual, the base period as determined under the applicable State law for the individual's applicable benefit year.

b. "Benefit year" means, with respect to an individual, the benefit year as defined in the applicable State law.

c. "Applicable benefit year" means, with respect to an individual, the current benefit year if, at the time an initial claim for FSC is filed, the individual has an unexpired benefit year only in the State in which such claim is filed or the benefit year on the basis of which the individual most recently received regular compensation, or, in any other case, the individual's most recent benefit year. For this purpose, the most recent benefit year, for an individual who has unexpired benefit years in more than one State when an initial claim for FSC is filed, is the benefit year with the latest ending date or, if such benefit years have the same ending date, the benefit year in which the latest continued claim for regular compensation was filed.

d. "Compensation" means cash benefits (including dependents' allowances) payable to individuals with respect to their unemployment, and includes regular compensation, additional compensation and extended compensation as defined in this section.

e. "Regular compensation" means compensation payable to an individual under any State law, and, when so payable, includes compensation payable pursuant to 5 U.S.C. Chapter 85, but does not include expended compensation or additional compensation.

f. "Extended compensation" means the extended unemployment compensation payable to an individual for weeks of unemployment which begin in an extended benefit period, under those provisions of a State law which satisfy the requirements of the Federal-State Extended Unemployment Compensation Act of 1970 ("EUCA"), and, when so payable, includes compensation payable pursuant to 5 U.S.C. Chapter 85, but does not include regular compensation or additional compensation. Extended compensation is referred to as Extended benefits or EB.

g. "Additional compensation" means compensation totally financed by a State under its law by reason of conditions of high unemployment or by reason of other special factors, and when so payalbe, includes compensation payable pursuant to 5 U.S.C. Chapter 85.

h. "Secretary" means the Secretary of Labor of the United States.

i. (1) "State" means the States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and the Virgin Islands.

(2) "Applicable State" means the State in which an individual has an applicable benefit year.

j. "State Law" means the unemployment compensation law of a State approved by the Secretary under Section 3304(a) of the Internal Revenue Code of 1954 (26 U.S.C. 3304(a)).

k. "Applicable State law" means the State law of the State which is the applicable State for an individual.

l. "Week" means, for purposes of eligibility for and payment of FSC, a week as defined in the applicable State law, and, for purposes for computation of FSC "on" and "off" indicators and insured unemployment rates, and the beginning and ending of unemployment periods, a calendar week.

m. "Week of unemployment" means a week of total, part-total, or partial unemployment as defined in the applicable State law, which shall be applied in the same manner and to the same extent to the FSC program, as if the individual filing a claim for FSC benefits were filing a claim for regular compensation.

n. "Insured Unemployment Rate" means the rate of insured unemployment for a week determined in the same manner as such rate is determined for the purposes of Section 203 of the Federal-State Extended Unemployment Compensation Act of 1970, as amended.

6. "Amendments" means the amendments made to the Federal Supplemental Compensation Act of 1982 by Pub. L. 98–135.

7. "Long-term Insured Unemployment Rate" means the average insured unemployment rate for the period beginning January 3, 1982, and ending with the last week of the second calendar quarter ending before the week the determination is made.

B. Beginning and Ending of the FSC Program

For States which entered into a signed agreement by September 11, 1982, and FSC period of eligibility began September 12, 1982. The earliest compensable week for which FSC was payable was the week ending September 18, 1982.

For States which entered into agreements after September 11, 1982, the first compensable week for which FSC was payable was the first full week beginning on or after the Sunday following the date the agreement was signed.

The FSC program is scheduled to end for all claims effective for any week that begins after March 31, 1985. No FSC claims will be valid for any week of unemployment which begins after that date.

The Federal Supplemental Compensation Amendments of 1983 require the Secretary of Labor, as soon as practicable after October 24, 1983, to propose to each State a modification to the agreement entered into under the FSC Act to provide for payments of FSC according to the amendments. If a State fails to enter into the modified agreement within three weeks from the date of the Secretary's letter proposing a modification of the agreement, the agreement to administer the FSC program in the State will be terminated effective with the end of the last week which ends on or before the close of such 3-week period.

States may terminate the FSC agreement at any time. The FSC period will end 30 days from the date the State notifies the Secretary of its election to terminate the FSC program. No FSC benefits will be payable for weeks which begin after the date the agreement is terminated. The agreement may also be terminated by the Secretary, as provided in the agreement.

C. Eligibility Requirements for Federal Supplemental Compensation

1. *Basic Eligibility Requirements.* To be eligible for Federal Supplemental Compensation for any week of unemployment, an individual must:

a. Have exhausted prior to such week all rights to regular compensation under the applicable State law,

b. Have no rights to compensation (including regular and extended compensation) with respect to that week under such law or any other State law, the Railroad Unemployment Insurance Act, or under any other Federal unemployment compensation law, administered by a State agency of the Secretary, and is not paid or entitled to be paid any additional compensation under any such State or Federal law,

c. Not be receiving compensation with respect to such week under the unemployment compensation law of Canada,

d. Have a benefit year which ends on or after June 1, 1982, or be entitled to extended benefits for a week which begins on or after June 1, 1982,

e. Have at least 20 weeks of work during the base period or earned its equivalent under State law as determined for the purposes of Section 202(a)(5) of the EUCA (see UIPL No. 1–82),

f. Have satisfied the requirement of Section 202(a)(4) of the Federal-State Extended Unemployment Compensation Act of 1970, which provides that no disqualification which has been imposed under State law for "voluntary leaving, discharge for misconduct, or refusing suitable employment" will be deemed terminated for the purposes of paying EB (and now FSC) unless the State law requires employment to terminate such disqualification (see UIPL No. 14–81).

g. Have satisfied the requirements of Section 202(a)(3) (A) (ii) and (E) of the EUCA which provide that individuals claiming EB (and now FSC) for a week shall be required to actively engage in seeking work during the week he/she is claiming FSC and provide to the State agency tangible evidence of a systematic and sustained effort to obtain work during such week (see UIPL No. 14–81, GALs 21–81 and 22–81),

h. Have a benefit year which ended not more than 2 years prior to the beginning date of the week the individual is claiming FSC, except that the period of time beginning after the individual exhausted entitlement to FSC under the FSC Act of 1982 as amended by Pub. L. 98–21 and ending with the first week beginning before October 18, 1983, shall be disregarded when determining the expiration of the 2 year period following the end of such benefit year,

i. Have satisfied any State law disqualification required by Section 202(a)(3) of the EUCA for failing to actively engage in seeking work or failing to apply for or accept any offer of suitable work (see UIPL 14–81),

j. Have filed a timely claim for FSC, as determined under the applicable State law.

2. *Determining Exhaustees.* For an individual to be deemed to have exhausted benefit rights to regular compensation, with respect to any week of unemployment in the individual's eligibility period, the individual must have received all regular compensation payable based on employment and/or wages during the base period, or eligibility for regular compensation must have terminated because the benefit year expired, and the individual has insufficient wages, or employment, or both, on the basis of which a subsequent benefit year could be established (that includes such week) in any State.

To determine that an individual has *no rights* to regular compensation or extended compensation, the factors are the same as those used for determining an exhaustee for EB, as specified in 20 CFR Part 615. Specifically, an individual is considered to have no rights to benefits if, during a week in his/her eligibility period, the individual received all benefits available under the applicable State law or any other State law (including UCFE and UCX benefits under 5 U.S.C. Chapter 85) after some or all wage credits are cancelled, or his/her entitlement to benefits was otherwise totally or partially reduced.

An individual is an exhaustee with respect to an expired benefit year which ends on or after June 1, 1982, when he/she is precluded from establishing a second (new) benefit year by reason of the requalifying provision in State law which requires earnings after the beginning of the first benefit year or he/she establishes a second benefit year but is suspended indefinitely until he/she has met the requalifying earnings requirements. The individual ceases to be entitled to FSC payments with respect to the expired benefit year when he/she satisfies the requalifying earnings requirement and compensation is payable in the new benefit year.

An individual shall be treated as having no rights to benefits even though as a result of a pending appeal with respect to wages or employment or both which were not included in his/her original monetary determination he/she may subsequently be determined to be entitled to more or less compensation. This also applies to an individual who may be denied benefits for certain weeks during the year by reason of a State law seasonal provision but has entitlement to future weeks in the off season.

For an individual who has established a benefit year but during such year his/her wage credits were cancelled or the right to regular, additional, or extended compensation was totally reduced as the result of a disqualification, he/she too is considered to be an exhaustee for the purposes of FSC.

In those States which pay additional benefits (AB), it will be necessary to determine if an individual has been paid or is entitled to be paid additional compensation before FSC can be paid. Certain State laws provide for the suspension of the payment of additional benefits when a federally financed program of benefits is payable. In these cases, individuals may be paid FSC in lieu of AB. However, under no circumstances shall FSC and additional benefits (or any other compensation) be paid for the same week.

Under Section 202(c) of the Federal-State Extended Unemployment Compensation Act of 1970, an individual filing for Extended Benefits under the Interstate Benefit Payment Plan from a State which is not in an EB period is eligible for the first two weeks of EB filed from that State and is disqualified for any other benefits in his/her EB account until such time as his/her agent State begins an EB period or until such time as he/she files from a State which is in an extended benefit period. Individuals who are not entitled to Extended Benefits under such a provision shall be eligible for FSC.

Liable State interstate claim units need to monitor the extended benefit trigger status of agent States and be prepared to redetermine FSC claimants' eligibility for extended benefits when an EB period begins in a given agent State. (Also see subsection 5 of Section E. relating to Interstate Claims.)

3. *Determination of "Period of Eligibility".* Under Section 605(2) of the Act, an individual may establish a "period of eligibility" for FSC for any week which began on or after September 12, 1982, and which begins before April 1, 1985, provided:

a. The applicable benefit year ended on or after June 1, 1982, or

b. The individual was entitled to extended benefits for a week which began on or after June 1, 1982.

This means that State agencies, in determining whether an individual can qualify for a period of eligibility for FSC, must first look at the individual's benefit year ending date. If that BYE date is on or after June 1, 1982, the individual qualifies for a period of eligibility for FSC and can be paid FSC if all the other eligibility requirements are met.

If an individual has a benefit year ending (BYE) date prior to June 1, 1982, State agencies must ascertain if the individual was entitled to EB for a week which began on or after June 1, 1982. If such an individual was paid a week of EB or *could* have been paid a week of EB which began after June 1, 1982, but was not otherwise eligible, he/she is deemed to have satisfied the requirement of Section 605(2)(B) of the Act and qualifies for a period of eligibility.

For example, an individual's benefit year ended prior to June 1, 1982. The individual is considered to have entitlement to EB for a week which began on or after June 1, 1982, provided the individual's period of eligibility for EB had not ended prior to such week (and he/she had not exhausted EB entitlement prior to such week), even though he/she had not claimed or was not paid EB for such week.

Similarly, an individual was denied benefits during an EB period for refusal of suitable work. He/she then returned to work after the week beginning on or after June 1, 1982, after which the State triggered "off" extended benefits. Having had remaining EB entitlement on or after June 1, 1982, which could have been paid but for the disqualification, the individual could qualify for a period of eligibility for FSC. Eligibility for FSC then depends on whether he/she purged the special disqualification required by Section 202(a)(3)(B) of EUCA.

An interstate claimant filing from a State not in an EB period who was denied benefits after claiming two weeks as required by Section 202(c) of EUCA is considered to have EB entitlement for a week beginning on or after June 1, 1982, provided the individual's period of eligibility for EB had not ended prior to such week, even though he/she was precluded from receiving benefits for such week by reason of this denial. Accordingly, he/she qualifies for a period of eligibility for FSC and may be paid FSC if otherwise eligible.

4. *20-Weeks of Work Requirement.* The 20 weeks of full-time work or equivalent qualifying requirement for the payment of extended benefits as required by Section 202(a)(5) of EUCA shall be applied with respect to any individual claiming a week of FSC beginning on or after September 12, 1982, even though this requirement will only apply to EB claimants who file claims for weeks beginning after September 25, 1982. State interpretations on full-time work weeks will apply as in the case of EB. See UIPL No. 1–82.

States which have enacted an equivalent test under their UI laws to the 20 weeks of work test must apply the same equivalency test to an individual claiming FSC.

States must determine a claimant's eligibility under the 20 weeks of work requirement as part of the initial claims process.

5. *Disqualifications based on Separation from Work.* Section 202(a)(4) of EUCA requires State law to provide for the termination of disqualifications for voluntary leaving, discharge for misconduct or refusal of suitable work only with subsequent employment before an individual can be eligible for Extended Benefits. This same provision applies to the payment of FSC. Therefore, any individual who was denied EB because his/her disqualification was terminated under State law without the required period of employment would similarly be ineligible for FSC. See UIPL 14–81 and Changes.

States which have not paid Extended Benefits and applied the denial provisions of Section 202(a)(4) must review any nonmonetary determination issued to potentially eligible FSC claimants and determine whether they are qualified for FSC under this provision. Employment for the purpose of terminating a disqualification means service performed in an employer-employee relationship as provided in the State law which would requalify an individual for EB.

In no case may a period of reemployment be used to terminate a disqualification for the purpose of paying FSC, unless the State law specifically requires new work to purge this denial of benefits. See UIPL No. 14–81 and Changes.

6. *Actively Seeking Work Requirement.* The actively seeking work requirement of Section 202(a)(3)(A)(ii), EUCA, is also a condition of eligibility for FSC. In accordance with the provisions of 202(a)(3)(E), an individual will be treated as actively engaged in seeking work if:

a. The individual has engaged in a systematic and sustained effort to obtain work during such week, and

b. The individual provides tangible evidence to the State agency that he/she has engaged in such an effort during such week.

Any disqualification of an individual for failure to actively seek work during a week of FSC will result in a denial of benefits with respect to the week in which such failure occurs and will not end until such individual purges the special disqualification in accordance with the minimum requirements of Section 202(a)(3)(B) of the EUCA. The total amount required to be earned to purge this disqualification cannot be less than four times the individual's weekly benefit amount. See UIPL No. 14–81 and Changes.

7. *Suitable Work Provisions.* Provisions required by Section 202(a)(3)(B), EUCA, will be applied to any individual claiming a week of FSC who fails to apply for or accept any offer of suitable work as defined in Section 202(a)(3)(C).

The term "suitable work" means, with respect to any individual claiming FSC, any work which is within such individual's capabilities; except that, if the individual furnishes evidence satisfactory to the State agency that such individual's prospects for obtaining work in his/her customary occupation within a reasonably short period are good, the determination of whether any work is suitable work with respect to such individual shall be made in accordance with the State law applicable to claimants for regular benefits. See UIPL No. 14–81, and Changes.

Paralleling the provisions of Section 202(a)(3)(D), EUCA, FSC shall not be denied to any individual for any week by reason of a failure to accept an offer of, or to apply for, suitable work if:

a. The gross average weekly remuneration payable to such individual for the work does not exceed the sum of:

(1) The individual's weekly benefit amount of FSC, plus

(2) The amount (if any) of supplemental unemployment benefits (as defined in Section 501(c)(17)(D) of the Internal Revenue Code of 1954) payable to such individual for such week,

b. The position was not offered to such individual in writing or was not listed with the State employment service,

c. Such failure would not result in a denial of compensation under the provisions of the applicable State law to the extent that such provisions are not inconsistent with the provisions of subparagraphs (C) and (D) of Section 202(a)(3) (see UIPL 14–81), or

d. The position pays wages less than the higher of:

(1) The minimum wage provided by Section 6(a)(1) of the Fair Labor Standards Act of 1938, without regard to any exemption, or

(2) Any applicable State or local minimum wage.

Detailed guidance on the appropriate application of the active search for work and refusal of suitable work provisions of Section 202(a)(3), EUCA, is in GALs 21–81 and 22–81 and UIPL No. 14–81 and Changes.

States will use the appropriate sections of State law when issuing determinations for FSC which are required by the corresponding provisions of EUCA but such determinations shall not be inconsistent with Federal law, regardless of the particular provisions of State law.

8. *Special Eligibility Rule.* An individual's eligibility for additional weeks of FSC under the amendments to the FSC Act shall not be limited or terminated by reason of any event or failure to meet any requirement of State or Federal law relating to eligibility for benefits occurring after the date of exhaustion of the individual's entitlement to FSC and before the beginning of the first week beginning after October 18, 1983 (i.e. October 23, 1983). The eligibility requirements to which this rule applies include, but are not limited to, any issues which might arise with respect to:

a. Separations from work;

b. Refusals of referrals to or offers of work; and

c. Ability to work and availability and active search for work.

9. *Training.* No claimant who is in training or attending an accredited educational institution on a substantially full-time basis shall be denied FSC under the provisions of State law relating to availability for work, active search for work or refusals of referral to or an offer of suitable work. This limitation on the denial of FSC because of training applies unless the State determines that the individual is attending an accredited educational institution on less than a substantially full-time basis or the training or attendance at an accredited educational institution will not improve the individual's opportunities for employment.

For purposes of determining the application of this limitation, the State agency shall consider that:

a. Any training or attendance at an accredited educational institution will improve an individual's employment opportunities unless the agency has a preponderance of evidence that the training or attendance is entirely unrelated to employment or is for a vocation for which no employment opportunities exist and are unlikely to become available in the future, and

b. Attendance at an accredited educational institution on a substantially full-time basis is attending courses of study for no less than 12 semester credit hours or the equivalent.

It is the responsibility of the FSC claimant to provide written documentation initially and, upon request of the SESA, from the training or educational institution, regarding the hours of attendance, type and duration of courses or training (including beginning and ending dates), and the accreditation of the educational institution to the State agency.

D. Weekly Benefit Amount

1. *Total Unemployment.* The FSC weekly benefit amount payable to an individual for a week of total unemployment will be equal to the individual's weekly benefit amount for regular compensation (including dependents' allowances) payable during such individual's applicable benefit year. If an individual had more than one weekly benefit amount of regular compensation, the SESA will determine the FSC weekly benefit amount in the same manner that it would determine the weekly amount for Extended Benefits, as prescribed in 20 CFR 615.6.

2. *Partial and Part-Total Unemployment.* The weekly amount of FSC payable for a week of partial or part-total unemployment will be determined in accordance with the applicable State law on the same terms and conditions as partial benefits are paid to claimants for regular benefits.

E. Maximum FSC Benefits Payable

1. *Maximum FSC Payable in a State.* The numbers of weeks of FSC payable in a State—for weeks which begin after October 18, 1983—are 14, 12, 10, and 8 weeks. The State extended benefit indicator rate is used in determining the maximum FSC payable in a State. A State's extended benefit indicator rate is the most recent 13-week insured unemployment rate. For 12 and 14 week FSC periods, the State's long-term insured unemployment rate is also used. The State's long-term insured unemployment rate is the average insured unemployment rate for all weeks beginning on or after January 1, 1982, and ending with the last week beginning in the second calendar quarter ending before the week for which the determination is made. The long-term insured unemployment rate is

calculated by computing the weekly average of claims for regular compensation over the designated period and dividing by the average monthly covered employment for the period ending 6 months earlier. For each succeeding quarter an additional quarter's data will be added to the calculation. Once the long-term insured unemployment rate has been officially determined, no adjustments will be made because of revisions to data used in the calculation. However, revisions to data will be included in the determinations made in subsequent quarters.

Effective for the first week which begins after October 16, 1983, each State will begin a new FSC period (i.e. October 23, 1983). This is the earliest that a new 14, 12, 10, or 8-week period may begin. Each 14, 12, 10 or 8-Week period must last at least 13 weeks.

The table below shows the maximum FSC levels payable and the corresponding extended benefit indicator rate and, where applicable, the long-term insured unemployment rate for each level.

FSC period	Maximum number of weeks of FSC payable	Extended benefit indicator rate required	Long-term insured unemployment rate required
6-percent period	14	Greater than or equal to 6.0 percent	Greater than or equal to 5.5 percent.
5-percent period	12	Greater than or equal to 5.0 percent but less than 6.0 percent.	Greater than or equal to 4.5 percent but less than 5.5 percent.
4-percent period	10	Greater than or equal to 4.0 percent but less than 5.0 percent.	Not applicable.
Low-unemployment period	8	Less than 4.0 percent	Do.

a. *14-Weeks.* States in a "6-percent period" pay up to 14 weeks (14 times the weekly benefit amount) of FSC. A 6-percent period begins the first day of the third week after the first week in which the State's extended benefit indicator rate equals or exceed 6.0 percent *or* the State's long-term insured unemployment rate equals or exceeds 5.5 percent. A 6-percent period ends the last day of the second week after the first week in which the State's extended benefit indicator rate is less than 6.0 percent, *and* the State's long-term insured unemployment rate is less than 5.5 percent. However, a State must remain in a 6-percent period for at least 13 weeks.

b. *12-Weeks.* States in a "5-percent period" pay up to 12 weeks (12 times the weekly benefit amount) of FSC. A 5-percent period begins the first day of the third week after the first week in which the State's extended benefit indicator rate equals or exceeds 5.0 percent but is less than 6.0 percent, *or* the State's long-term insured unemployment rate equals or exceeds 4.5 percent but is less than 5.5 percent. A 5-percent period ends the last day of the second week after the first week in which the State's extended benefit indicator rate is less than 5.0 percent, *and* the State's long/term insured unemployment rate is less than 4.5 percent. However, a State must remain in a 5-percent period for at least 13 weeks.

c. *10-Weeks.* States in a "4-percent period" pay up to 10 weeks (10 times the weekly benefit amount) of FSC. A 4-percent period begins the first day of the third week after the first week in which the State's extended benefit indicator rate equals or exceeds 4.0 percent but is less than 5.0 percent. A 4-percent period ends the last day of the second week after the first week in which the State's extended benefit indicator rate is less than 4.0 percent. However, a State must remain in a 4-percent period for at least 13 weeks.

d. *8-Weeks.* States in a "low-unemployment period" pay up to 8 weeks (8 times the weekly benefit amount) of FSC. A low-unemployment period begins the first day of the third week after the first week in which the State's extended benefit indicator rate is less than 4.0 percent. A low-unemployment period ends the last day of the second week after the first week in which the State's extended benefit indicator rate equals or exceeds 4.0 percent. However, a State must remain in a low-unemployment period for at least 13 weeks.

e. *Limitations on increases and reductions in the maximum FSC payable.* The number of weeks the maximum FSC payable in a State can increase or drop after any 13 week period is limited to 2 weeks. The State must remain in the new period established (with a week designation 2 more or less than the previous period) for at least 13 weeks. Any subsequent increases or reductions are also limited to 2 weeks.

For example, a State has been in a 14-week period for 13 weeks. Its extended benefit indicator rate is below 5.0 percent and its long-term insured unemployment rate is below 4.5 percent. The State begins a new 12-week period (instead of a 10-week period) and remains in the new period for 13 weeks even though the rates are below those required for a 12-week period. After the State has been in the 12-week period for 13 weeks it can drop only to a 10-week period even if the State's insured rates are below those required for a 10-week period. It must remain at this new period for at least 13 weeks.

2. *Accounts.*

a. *Base Amount.* The SESA will establish a separate FSC account for each eligible individual to whom FSC is first payable for a week beginning after October 16, 1983. The amount of FSC in the individual's account will be the lesser of:

(1) 55 percent of the total entitlement to regular benefits (including dependents' allowances) payable to the individual with respect to the individual's applicable benefit year, or

(2) the maximum FSC benefits payable in the State for the week in which the account is established.

When 55 percent of total entitlement is not an even dollar amount, the State shall round to an even dollar amount in accordance with State law.

After an account has been established for an individual to whom FSC was first payable for a week beginning after October 16, 1983, the amount of FSC payable to that individual will not be redetermined based on any subsequent change (up or down) in the maximum FSC benefits payable in the State.

b. *Prior Exhaustees.* In the case of any account from which FSC was first payable for a week beginning after March 31, 1983, and from which all FSC benefits were exhausted in any week beginning before October 16, 1983, the SESA shall establish a new amount in such account which is payable for weeks beginning after October 16, 1983. For purposes of determining whether the week for which FSC was first payable began after March 31, 1983, the SESA shall use the beginning date of the first compensable week of FSC claimed as the first week payable. For purposes of determining whether the week for which FSC benefits were exhausted began prior to October 16, 1983 the SESA shall use the beginning date of the last

compensable week paid in which the balance in the FSC account was reduced to zero. The new amount established in such account shall be the lesser of:

(1) Three-fourths of the amount determined under subsection a, *Base Amount*, above, or

(2) 5 Times the individual's weekly benefit amount.

(Individuals who exhausted all FSC benefits prior to the first week beginning after October 19, 1983, but to whom FSC was first payable for a week beginning before March 31, 1983, are not entitled to any additional FSC benefits)

c. *Remaining FSC Balance as of the first week beginning after October 19, 1983.* Special provisions apply for determining the amount of FSC payable from an account with a remaining balance as of the first week beginning after October 19, 1983. An account shall have a remaining balance if the amount in such account is more than zero after reductions have been made for all compensable weeks beginning prior to October 19, 1983.

(1) *FSC first payable for a week beginning on or before March 31, 1983.* The amendments do not increase or reduce the amount of FSC payable from an account from which FSC was first payable for a week beginning on or before March 31, 1983. For purposes of determining whether FSC was first payable for a week beginning on or before March 31, 1983, the SESA shall use the beginning date of the first compensable week of FSC claimed. This means SESAs shall not redetermine the amount in such accounts, unless the account was not previously redetermined based on a change in the maximum payable in the State for weeks beginning prior to October 23, 1983.

(2) *FSC first payable for a week beginning after March 31—remaining balance equal to or in excess of maximum payable effective October 23, 1983.* The SESA shall not redetermine the account of any individual whose remaining entitlement to FSC for weeks beginning after October 19, 1983, is equal to or in excess of the maximum payable in the State for the first week beginning after October 19, 1983. Individuals shall be entitled to such remaining entitlement for weeks of unemployment beginning after October 19, 1983. For example, the maximum payable in a State the week beginning October 23, 1983, is 8 weeks. The week prior to October 23, 1983, the maximum FSC payable was 10 weeks. Effective October 23, 1983, an individual has a remaining FSC balance of 9 weeks (9 times the weekly benefit amount). Such individual is entitled to the remaining 9 weeks of FSC for weeks of unemployment beginning after October 18, 1983. However, such individual would not be entitled to any additional entitlement.

(3) *FSC first payable for a week beginning after March 31, 1983—remaining balance less than the maximum payable October 23, 1983.* The SESA shall increase the amount of FSC payable, as specified below, in any account from which FSC was first payable for a week beginning after March 31, 1983, if the amount remaining in such account as of the first week beginning after October 18, 1983, is less than the maximum FSC payable in the State for the week beginning October 23, 1983. However, in no event shall any increase result in an individual being entitled to more FSC for weeks of unemployment beginning after October 23, 1983. Further, in determining the maximum FSC payable for weeks of unemployment beginning after October 18, 1983, an individual is limited to 55 percent of regular benefits (including dependents' allowances) payable to the individual with respect to the individual's applicable benefit year. The amount of increase shall be the *lesser* of:

(a) Three-fourths of the maximum payable to the individual, as determined under subsection 1, above or

(b) 4 times the individual's weekly benefit amount if the State is in a 5 or 6 percent unemployment period, or 2 times the individual's weekly benefit amount if the State is in a 4-percent or low unemployment period for the first week beginning after October 18, 1983, (i.e. October 23, 1983). (This means that in 14 and 12 week States, up to 4 additional weeks are payable and in 10 and 8 week States up to 2 additional weeks are payable.)

An example of how this subsection is applied follows:

8-WEEK MAXIMUM FSC PAYABLE BEGINNING OCTOBER 23, 1983

Individual's remaining FSC entitlement as of Oct. 23, 1983 (expressed in weeks)	Increased entitlement applicable (expressed in weeks)	FSC payable for weeks beginning after Oct. 18 (expressed in weeks)
8	0	8
7	1	8
6	2	8
5	3	7
4	2	6
3	2	5
2	2	4
1	2	3

d. *Effect of Changes in the Maximum FSC Payable in a State.* Changes in the maximum FSC payable in a State shall apply only to new FSC claims effective on or after the effective date of the change. Accordingly, the SESA shall not redetermine the account of any individual for whom FSC was first payable prior to the date the change in the maximum took effect regardless of whether the change is higher or lower than the prior maximum payable.

e. *Notice.* Each individual for whom a determination or redetermination is made shall be given a written notice of such determination or redetermination, with a notice of appeal rights.

3. *Computation of FSC payable based on a new benefit year.* During the life of the FSC program, a small number of FSC claimants may establish a new benefit year with a new entitlement to regular benefits and again become an exhaustee within the meaning of the Act. These individuals' monetary entitlement to FSC will be determined without regard to the amount of FSC they have already received based on their previous benefit years. Although the Act limits the amount of FSC payable during an individual's period of eligibility, it does not limit the number of eligibility periods an individual may have during the life of the program.

4. *Beginning of an Extended Benefit Period.* States may begin an extended benefit period after the effective date of the amendments. When an extended benefit period begins, the SESA must, before paying FSC for a week of unemployment, determine each person's eligibility for Extended Benefits, according to State law provisions relating to EB. If an individual has entitlement to Extended Benefits, such individual is not eligible for FSC. Once an individual exhausts any entitlement to Extended Benefits, the individual may receive the remaining balance in the FSC account. A new determination of entitlement to FSC is not made since the individual has the same period of eligibility upon which the original FSC entitlement was determined.

5. *Interstate Claimants*

a. *Maximum Payable.* In determining entitlement to FSC for interstate claims, the claimant will be limited to the lesser of:

(1) The maximum payable in the agent State, or

(2) The maximum payable in the liable State.

Once an FSC account has been established for the interstate claimant, the amount of FSC payable will not be redetermined unless the claimant moves to a new agent State or returns to the liable State. Any FSC account which has been redetermined effective the first

week payable after October 18, 1983, shall also not be redetermined again unless the claimant moves to a new agent State or returns to the liable State. In making the initial redetermination (see subsection 2.c.), the SESA shall follow the above "lesser" rule in determining the new amount of FSC payable for weeks beginning after October 18, 1983. The SESA shall make a redetermination effective the first week an intrastate claimant moves and establishes an interstate claim. When an interstate claimant returns to the liable State, the SESA shall redetermine the claimant's FSC entitlement based on the maximum FSC payable in the State the first week an intrastate claim is filed. The SESA shall also make a redetermination each time a claimant moves from one agent State to another agent State with an FSC maximum higher or lower than the last agent State from which the claimant was filing. The redetermination will be made based on the above "lesser" rule effective the first week the claimant files from the new agent State. However, in no case shall the SESA redetermine an interstate claimant's entitlement to FSC based solely on subsequent changes (up or down) in the maximum FSC payable in the agent or liable State.

b. *EB Limitations.* The extended benefit provisions apply to claims for and payment of FSC. (The EB provisions limit interstate claimants to 2 weeks of extended benefits if they file claims in an agent State not in an extended benefit period). The 2-week limitation applies only to claimants filing for FSC under the Interstate Benefit Payment Plan in agent States that have not entered into or have discontinued an agreement to administer the FSC program. Payment of FSC to individuals filing from such agent States is limited to 2 weeks regardless of whether or not the agent State is in an Extended Benefit Period. The 2 week limitation is applied because the agent State is not in an FSC period.

F. Effect of other Federal Programs on Eligibility for FSC

1. *Trade Readjustment Allowances (TRA).* The maximum amount of FSC payable to an individual who is also entitled to TRA shall not be reduced by reason of any TRA entitlement except as described below.

If an individual received TRA with respect to any benefit year, the maximum amount of FSC payable with respect to such benefit year shall be reduced (but not below zaro) so that (to the extent possible by making such a reduction) the aggregate amount of UI, EB, TRA, and FSC payable with respect to such benefit year does not exceed the aggregate amount which would have been payable had the individual not been entitled to any TRA.

If an individual, who is not a TRA claimant, was originally entitled to 26 weeks UI, 13 weeks EB, and the State triggered on to a 14 week FSC period, the aggregate amount payable to the individual would be 53 weeks of benefits (26+13+14=53). For a similarly situated TRA claimant, the SESA would reduce the maximum amount of FSC payable by the amount of TRA received so that the aggregate amount of UI, EB, TRA, and FSC would, for this individual, also not exceed 53 weeks of benefits.

For Example

Aggregate amount payable	UI	EB	TRA	FSC (14-weeks)
Amount Payable:				
1. Non-TRA Claimant				
53 Weeks	26	13	0	14
5300 Amount ($100 WBA)	2600	1300	0	1400
2. TRA Claimant:				
53 Weeks	26	13	13	1 (14–13)
5300 Amount	2600	1300	1300	100 (1400–1300)

The provisions of Section 233(d) of the Trade Act of 1974 (relating to reduction of FSC entitlement because of the receipt of TRA in the most recent benefit year) are no longer applicable to determinations of entitlement to FSC made with respect to weeks which begin on or after April 3, 1983. Such reduction, if applicable, would be governed by the instructions provided in Section F. 1. above.

2. *Disaster Unemployment Assistance (DUA).* An individual who is eligible for DUA with respect to a week of unemployment under Section 407 of the Disaster Relief Act of 1974 (42 U.S.C. 5177) will be eligible to receive FSC for that week and will have his/her DUA weekly benefit amount reduced by the amount of FSC received in accordance with Pub. L. 93–288.

3. *Redwood Employee Protection Program (REPP).* Receipt of weekly layoff benefits or vacation replacement benefits under the Redwood Park Expansion Act (Pub. L. 95–250) does not affect an individual's entitlement to FSC. Appropriate adjustments to such an individual's REPP benefits will need to be made in accordance with Section 207(e)(3) of Pub. L. 95–250.

G. Claims for Federal Supplemental Compensation

1. *Initial Claims.* An initial claim for FSC shall be filed by an individual with respect to the individual's applicable State and according to the applicable State law on a form prescribed by the Secretary, which shall be furnished to the individual by the State agency.

2. *Weekly Claims.* Claims for payments of FSC for weeks of unemployment shall be filed with respect to the individual's applicable State at the time and in the same manner as claims for regular compensation are filed under the applicable State law, and on forms which shall be furnished to the individual by the State agency.

3. *Secretary's Standard.* The procedures for reporting and filing claims for FSC shall be consistent with these instructions and the Secretary's "Standard for Claim Filing, Claimant Reporting, Job Finding and Employment Services" (*Employment Security Manual,* Part V, Sections 5000 *et seq.*).

H. Determinations of Entitlement: Notices to Individual

1. *Determination of initial claim.* The State agency shall promptly, upon the filing of an initial claim for FSC, determine whether the individual is eligible and whether a disqualification applies, and if the individual is found to be eligible, the weekly and maximum amounts of FSC payable to the individual.

2. *Determinations of Weekly Claims.* The State agency shall promptly, upon the filing of a claim for a payment of FSC with respect to a week of unemployment, determine whether the individual is entitled to a payment of FSC with respect to such week, and if entitled, the amount of FSC to which the individual is entitled.

3. *Redetermination.* The provisions of the applicable State law concerning the right to request, or authority to undertake, reconsideration of a determination pertaining to regular compensation under the applicable State law shall apply to determinations pertaining to FSC.

4. *Notices to Individual.* The State agency shall give notice in writing to the individual of any determination or redetermination of an initial claim and determinations and redeterminations of all weekly claims with respect to weeks of unemployment, and each notice of determination or redetermination shall include such information regarding the determination or redetermination and notice of right to reconsideration or appeal, or both, as is furnished with written notices of determinations and written notices of redeterminations with respect to claims for regular compensation.

5. *Promptness.* Full payment of FSC when due shall be made with the greatest promptness that is administratively feasible.

6. *Secretary's Standard.* The procedures for making determinations and redeterminations and furnishing written notices of determinations, redeterminations, and rights of appeal to individuals claiming FSC shall be consistent with the Secretary's "Standard for Claim Determinations-Separation Information" (*Employment Security Manual*, Part V, Sections 6010 *et seq.*)

I. Appeal and Hearing

1. *Applicable State Law.* The provisions of the applicable State law concerning the right of appeal and fair hearing from a determination or redetermination of entitlement to regular compensation shall apply to determinations and redeterminations of eligibility for or entitlement to FSC.

2. *Rights of Appeal and Fair Hearing.* The provisions on right of appeal and opportunity for a fair hearing with respect to claims for FSC shall be consistent with these instructions and with Sections 303(a)(1) and 303(a)(3) of the Social Security Act (42 U.S.C. 503(a)(1) and 503(a)(3)).

3. *Promptness on Appeals*

a. Decisions on appeals under the FSC Program shall accord with the Secretary's "Standard for Appeals Promptness—Unemployment Compensation" in 20 CFR Part 650.

b. Any provision of an applicable State law for advancement or priority of unemployment compensation cases on judicial calendars, or otherwise intended to provide for the prompt payment of unemployment compensation when due, shall apply to proceedings involving entitlement to FSC.

J. Applicability of State Law Provisions

Except where inconsistent with the Act and the Federal-State Extended Unemployment Compensation Act of 1970, as amended, the terms and conditions of the State unemployment compensation law which are applicable to claims for and payment of regular compensation in the State, apply to the same extent to claims for, and payment of, FSC in the State. The provisions of the applicable State law which apply to claims for, and payment of, FSC include but are not limited to:

1. Claim filing and reporting,

2. Information to individuals, as appropriate,

3. Notice to individuals and employers, as appropriate, including notice to each individual of each determination and redetermination of eligibility for or entitlement to FSC,

4. Determinations, redeterminations, appeals, and hearings,

5. Disqualification, including disqualifying income provisions,

6. The Interstate Benefit Payment Plan (see also special instructions for interstate claims in Section E.5.),

7. The interstate arrangement for combining employment and wages.

K. Claimstaking Procedures

1. *Notification of Potential FSC Claimants.* The SESA will identify individuals who are potentially eligible for FSC benefits, and provide such individuals with appropriate written notification of their potential entitlement to FSC. The liable State will notify its interstate claimants of potential entitlement to FSC.

2. *Initial Claim.* When an individual files an initial FSC claim, the SESA must:

a. Review eligibility for FSC and make an initial determination of eligibility,

b. Fully inform claimant of rights and responsibilities under the Act and EB provisions,

c. Ensure that the EB provisions with respect to assessing the claimant's prospects for work, are applied,

d. Ensure the individual is registered for referral to "suitable work" as defined for EB if the individual's prospects for obtaining work in a customary occupation are not good.

3. *Notification of Responsibility.* FSC claimants must be fully informed of their rights and responsibilities under FSC. Specifically, FSC claimants must be informed of the EB eligibility requirements applicable to FSC. The SESA should follow procedures outlined in GAL 21–81. However, if the claimant receives such information prior to claiming EB, the SESA need only advise the claimant that the same requirements apply to FSC claims.

To the extent possible, SESAs should provide a notice to any potential FSC claimant prior to entering FSC status.

4. *EB Eligibility Requirements*

a. *Assessing Job Prospects.* As part of the initial claims process, the SESA must assess a claimant's job prospects. If the SESA has recently classified the claimant's job prospects as "good," or "not good," the SESA need only ascertain that the classification is still valid based on any changes in the claimant's circumstances or the local labor market. In assessing job prospects, the SESA should refer to and follow procedures in Section I of GAL 21–81 and the applicable questions and answers in GAL 22–81. Also see UIPL No. 14–81, and Changes.

b. *Applying Active Search for Work Requirements; Referral for Job Placement; Failure to Apply for or Accept Suitable Work.* The extended benefit requirements on active search for work, referral to "suitable work," and the disqualification for failure to actively seek work or to apply for or accept suitable work are applicable to claims for FSC. Section III of GAL 21–81 provides procedures for administering these provisions for FSC claimants. Also see UIPL No. 14–81, and Changes.

5. *Work Registration.* All FSC claimants whose job prospects are classified as "not good" must be registered for employment with the designated State job placement agency. Procedures should be adopted to annotate FSC claim records to insure that claimstakers know whether such FSC claimants have been registered for work and, if not, the claimstakers must refer such FSC claimants to the designed job placement staff to be registered for work. Likewise, the work registration form should be annotated to show an individual is an FSC claimant.

It is also important that UI staff correlate the job prospects classification process with the job placement staff. This will be necessary to ensure that the designated job placement agency is aware of an FSC claimant's current job prospects classification in order that claimants with poor prospects of returning to work can be referred to a wider range of job openings than those related to the FSC claimant's primary occupation.

6. *Documentation and Reporting of Referral Results.* Job placement staff must notify the claims adjudication staff in writing of:

a. Failure to respond to mailed call-in and appointment to which the claimant did not appear,

b. Refusal of referrals to suitable work, and

c. Failure to appear for a job interview or refusal of an offer of suitable work.

7. *Eligibility Review Program.* It is expected that FSC claimants who have been through eligibility review will continue to receive intensified services in this program.

L. Fraud and Overpayment.

The Act contains specific provisions with respect to fraud and overpayments of FSC benefits.

Provisions of the State law applied to detection and prevention of fraudulent overpayments of FSC will be, as a minimum, commensurate with those applied by the State with respect to

regular compensation and which are consistent with the Secretary's "Standard for Fraud and Overpayment Detection" (*Employment Security Manual,* Part V Section 7510, *et seq.*)

1. *Fraudulent Claiming of FSC.* If an individual knowingly has made, or caused to be made by another, a false statement or representation of a material fact or knowlingly has failed or caused another to fail to disclose a material fact, and as a result of such false statement or representation or such nondisclosure the individual has received an amount of FSC benefits to which the individual was not entitled, the individuals:

a. Shall be ineligible for further FSC benefits in accordance with the provisions of the applicable State unemployment compensation law relating to fraud in connection with a claim for unemployment compensation, and

b. Shall be subject to prosecution under Section 1001 of Title 18, U.S.C.

Provisions of State law relating to disqualification and benefit penalty for fraudulently claiming or receiving a payment of compensation shall apply to claims for and payment of FSC.

When a SESA has sufficient facts to make a prima facie case under the Federal Criminal Code (19 U.S.C. 1001), it will consider criminal prosecution in accordance with the provisions of Section 7560, Part V, *Employment Security Manual.* If prosecution in the Federal Courts is to be recommended, the matter will be referred to the appropriate office of the Federal Bureau of Investigation (FBI).

In those cases not referred to the FBI for prosecution, or if the U.S. Attorney declines prosecution, the SESA may and should prosecute in State Courts.

2. *Recovery of Overpayments.* Each State is authorized to require repayment from individuals who have received any payment of FSC to which they are not entitled (whether fraudulent or nonfraudulent), unless the SESA waives recovery of the overpayment. The SESA may waive recovery of a non-fraudulent overpayment not previously recovered if it determines that—

a. The payment of such FSC benefits was made without fault on the part of the individual, and

b. Requiring such recovery would be contrary to equity and good conscience.

c. In determining whether fault exists, the following factors shall be considered:

(i) Whether a statement or representation of a material nature was made by the individual in connection with the application for FSC that resulted in the overpayment, and whether the individual knew or should have known that the statement or representation was inaccurate.

(ii) Whether the individual failed or caused another to fail to disclose a material fact, in connection with an application for FSC that resulted in the overpayment, and whether the individual knew or should have known that the fact was material.

(iii) Whether the individual knew or could have been expected to know that the individual was not entitled to the FSC payment.

(iv) Whether, for any other reason, the overpayment resulted directly or indirectly, and partially or totally, from any other action or omission of the individual or of which the individual had knowledge, and which was erroneous or inaccurate or otherwise wrong.

(v) Whether there has been a determination of fraud under paragraph 1 of this section or section 606 of the Act.

In the event of an affirmative finding on any of the foregoing factors, recovery of the overpayment shall not be waived.

d. In determining whether equity and good conscience exists the following factors shall be considered:

(i) Whether the overpayment was the result of a decision on appeal, and whether the State agency had given notice to the individual that the case has been appealed further and that the individual shall be required to repay the overpayment in the event of a reversal of the appeal decision.

(ii) Whether recovery of the overpayment will not cause extraordinary financial hardship to the individual, and there has been no affirmative finding under paragraph (2)(a) above section with respect to such individual and such overpayment.

In the event of an affirmative finding on either of the foregoing factors, recovery of the overpayment shall not be waived. For this purpose, an extraordinary financial hardship shall exist if recovery of the overpayment would result directly in the individual's loss of or inability to obtain minimal necessities of food, medicine, and shelter for a substantial perieod of time; and extraordinary and lasting financial hardship shall be extraordinary as described above and may be expected to endure for the foreseeable future.

In applying this hardship test in the case of attempted recovery by repayment, a substantial period of time shall be 30 days, and the foreseeable future shall be at least three months. In applying this hardship test in the case of proposed recoupment from other benefits, a substantial period of time and the foreseeable future shall be the longest potential period of benefit entitlement as seen at the time of the request for a waiver determination. In making financial hardship determinations, the State agency shall take into account all potential income of the individual and the individual's family and all cash resources available to the individual and the individual's family in the time period being considered. Notices of determination of overpayments shall include information concerining the waiver provisions of this section.

e. Determinations granting or denying waivers of overpayments shall be made only on request for a waiver determination.

f. An FSC overpayment may be recovered either by offset or repayment by the individual. The SESA will, during the three-year period after the date the individual received the payment of FSC to which the individual was not entitled, recover the amount to be repaid, or any part thereof,

(i) From any FSC payable under the Act;

(ii) From any compensation payable to the individual under any Federal unemployment compensation law administered by the SESA (UCFE, UCX, etc.);

(iii) From any benefits payable under any other Federal law administered by the SESA (DUA, REPP, AEPP, etc.) which provides for payment of any assistance or allowance with respect to any week of unemployment; and

(iv) To the extent permitted under State law, an FSC overpayment may be recovered by offset, within the three-year limitation, from benefits payable under the State unemployment compensation law.

g. No single deduction, however, may exceed 50 percent of the amount of the payment from which such deduction is made and when a deduction is made it shall be 50 percent of the amount actually payable.

h. At the end of the three-year limitation, the SESA may remove the overpayment from its accounting record. Although no further active collection efforts by the SESA are required, the SESA should maintain an administrative record during the subsequent three-year period to provide for possible collection through methods other than offset. After the subsequent three-year period, the SESA may dispose of the overpayment record.

i. Under the Act, no repayment shall be required, and no deduction shall be made, until a determination of overpayment has been made, notice

thereof and an opportunity for a fair hearing has been given to the individual, and the determination has become final.

j. FSC overpayment recovery shall be enforced by any action or proceeding which may be brought under State or Federal law, unless recovery of the overpayment is waived in accordance with the Act and these instructions.

Overpayments of FSC recovered in any manner shall be credited or returned to the appropriate account of the United States.

k. FSC payments shall *not* be used to offset State regular UI or EB overpayments. FSC payments shall be used to recover any existing overpayments made under any Federal unemployment benefit or allowance program administered by the SESA.

l. Determinations under this section shall be subject to the determination and appeal and hearing provisions of Sections H and I.

M. Payment to States.

Under Section 603 of the Act each State which has entered into an agreement to pay FSC will be paid an amount equal to 100 percent of the amount of FSC which is paid to individuals by the State pursuant to the agreement and in full accordance with the Act and these instructions.

Further, no payment shall be made to any State for FSC to the extent the State is entitled to reimbursement under the provisions of any other Federal law other than the Act, which shall mean and include Chapter 85 of Title 5 of the U.S.C This means that States will charge the Federal Employees Compensation Account for FSC paid to UCFE or UCX claimants.

The paying State on a combined-wage claim will pay all FSC benefits directly, and will not bill transferring States for any share of such benefits paid.

N. Records and Reports

1. *Reports.* The SESA will maintain FSC claims and payment data (including data on eligibility, disqualification and appeals) as required by the Employment and Training Administration (ETA). The SESA will report such required data as specified in instructions issued by ETA.

2. *Recordkeeping.* Each SESA will make and maintain records pertaining to the administration of the FSC program as the ETA requires, and will make all such records available for inspection, examination, and audit by such Federal officials or employees as the Secretary of Labor or ETA may designate or as may be required by Federal law.

O. Disclosure of Information

Information in records made and maintained by a State agency in administering the Act shall be kept confidential, and information in such records may be disclosed only in the same manner and to the same extent as information with respect to regular compensation and the entitlement of individuals thereto may be disclosed under the applicable State law. This provision on the confidentiality of information obtained in the administration of the Act shall not apply, however, to the U.S. Department of Labor, or in the case of information, reports and studies requested pursuant to section N of these instructions, or where the result would be inconsistent with the Freedom of Information Act (5 U.S.C. 552), the Privacy Act of 1974 (5 U.S.C. 522a) or regulations of the U.S. Department of Labor promulgated thereunder.

P. Inviolate Rights to FSC

Except as specifically provided in these instructions, the right of individuals to FSC shall be protected in the same manner and to the same extent as the rights of persons to regular compensation are protected under the applicable State law. Such measures shall include protection of claimants for FSC from waiver, release, assignment, pledge, encumbrance, levy, execution, attachment, and garnishment, of their rights to FSC. In the same manner and to the same extent, individuals shall be protected from discrimination and obstruction in regard to seeking, applying for and receiving any right to FSC.

Q. Application of "Lopez Rule"

1. In order to effectuate the purpose of the act and these instructions and to assure uniform interpretation and application of the Act and these instructions throughout the United States, a State agency shall forward, not later than ten days after issuance, to the Employment and Training Administration of the Department, a copy of any judicial or administrative decision ruling on an individual's entitlement fo FSC. On request of the Department, a State agency shall forward to the Department a copy of any determination or redetermination ruling on an individual's entitlement to FSC.

2. If the Department believes that a determination, redetermination, or decision is inconsistent with the Department's interpretation of the Act or these instructions, the Department may at any time notify the State agency of the Department's view. Thereafter, the State agency shall issue a redetermination or appeal if possible, and shall not follow such determination, redetermination, or decision as a precedent; and, in any subsequent proceedings which involve such determination, redetermination, or decision, or in which such decision is cited as precedent or otherwise relied upon, the State agency shall inform the claims deputy or hearing officer or court of the Department's view and shall make all reasonable efforts, including appeal or other proceedings in an appropriate forum, to obtain modification, limitation, or overruling of the determination, redetermination, or decision.

3. If the Department believes that a determination, redetermination, or decision is patently and flagrantly violative of the Act or these instructions, the Department may at any time notify the State agency of the Department's view.

If the determination, redetermination, or decision in question denies FSC to an individual, the steps outlined in paragraph 2 of this section shall be followed by the State agency. If the determination, redetermination, or decision in question awards FSC to an individual, the benefits are "due" within the meaning of Section 303(a)(1) of the Social Security Act, 42 U.S.C. 503(a)(1), and therefore must be paid promptly to the individual. However, the State agency shall take the steps outlined in paragraph 2 of the section, and payments to the individual may be temporarily delayed if redetermination or appeal action is taken not more than one business day following the day on which the first payment otherwise would be issued to the individual; and the redetermination action is taken or appeal is filed to obtain a reversal of the award of FSC and a ruling consistent with the Department's view; and the redetermination action or appeal seeks an expedited redetermination or appeal within not more than two weeks after the redetermination action is taken or the appeal is filed. If redetermination action is not taken or appeal is not filed within the above time limit, or a redetermination or decision is not obtained within the two-week limit, or any redetermination or decision or order is issued which affirms the determination, redetermination, or decision awarding FSC or allows it to stand in whole or in part, the benefits awarded must be paid promptly to the individual.

4. If any determination, redetermination, or decision, referred to in paragraph 2 or paragraph 3 of this

section, is treated as a precedent for any future application for FSC, the Secretary will decide whether the Agreement with the State entered into under the Act shall be terminated.

In the case of any determination, redetermination, or decision that is not legally warranted under the Act or these instructions, including any determination, redetermination, or decision referred to in paragraph 2 or paragraph 3 of this section, the Secretary will decide whether the State shall be required to restore the funds of the United States for any sums paid under such a determination, redetermination, or decision, and whether, in the absence of such restoration, the Agreement with the State shall be terminated and whether other action shall be taken to recover such sums for the United States.

5. A State agency may request reconsideration of a notice issued pursuant to paragraph 2 or paragraph 3 of this section, and shall be given an opportunity to present views and arguments if desired.

6. Concurrence of the Department in a determination, redetermination, or decision shall not be presumed from the absence of a notice issued pursuant to this section.

III. Job Placement and Work Test Activities

As previously stated, the objectives of the FSC program are to make timely and accurate benefit payments, to assist in the reemployment of FSC claimants, and to apply the same work test applicable under the extended benefit program. To carry out the reemployment and work test objectives, the following requirements are being established for FSC eligibles.

A. All FSC claimants whose job prospects are classified as "not good" must have an active full registration with the designated State job placement agency. SESAs must insure that FSC claimants are registered as quickly as is administratively feasible. In all but exceptional cases, the FSC claimant should be registered by no later than the end of the second compensable week.

B. Each State agency shall establish appropriate internal mechanisms and procedures so that all FSC claimants whose prospects for work have been classified as "not good" are provided at least one reinterview for job placement assistance during the eligibility period—preferably at the outset of the period. The reinterview shall focus on:

1. reassessment of the claimant's qualifications and updating the application to reflect all revelant work experience and FSC status,

2. exposure to and referral of the claimants to all suitable job openings fitting the EB suitable work definition,

3. referral to Job Finding Club and other self-directed job search assistance projects in areas where they are operating.

C. SESAs are also to establish procedures for the prompt interchange of information for the adjudication of FSC claims issues regarding:

1. Failure to report for call-in
2. Refusal of referral
3. Failure to report for job interview
4. Refusal of job offer
5. Results of referral to suitable work
6. Able, available, and other related issues.

SESAs are to insure that the work test is applied to FSC claimants in the same manner as it is applied to EB claimants, and consistent with Section 202(a)(3) of the EUCA.

[FR Doc. 84-3054 Filed 2-2-84; 8:45 am]
BILLING CODE 4510-30-M

Mine Safety and Health Administration

[Docket No. M-83-150-C]

K & L Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

K & L Coal Company, 742 Coal Street, Treverton, Pennsylvania 17881 has filed a petition to modify the application of 30 CFR 75.902 (low- and medium-voltage ground check monitor circuits) to its No. 1 Slope (I.D. No. 36-06649) located in Northumberland County, Pennsylvania. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that low- and medium-voltage resistance grounded systems include a failsafe ground check circuit to monitor continuously the grounding circuit.

2. The mine generates 440-volt, 3-phase power with a diesel powered generator, which energizes one 20 hp sump-pump. The power conductors are #8 copper and the grounding conductor, which is continuous from the surface grounding electrodes to the underground electrical equipment, is #8 copper.

3. There are no personnel in the mine while electrical circuits are energized. There is no high voltage at the mine. There is no portable or mobile equipment in the mine.

4. Water is pumped from the mine before or after personnel are in the mine. Pump repairs are made by outside contractors and not at the mine. Since there are no personnel in the mine during pumping, there is no chance of personnel contacting the energized frames of mining machinery which might become energized through failure of the insulation, of the power conductors.

5. As an alternate method, petitioner proposes that:

a. No personnel will enter the mine while circuits are energized;

b. The pumps, which are controlled from the surface, will be locked out at the disconnect switch by the mine superintendent before personnel enter the mine; and

c. A warning sign of adequate size will be posted at the mine's entry.

6. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before March 5, 1984. Copies of the petition are available for inspection at that address.

Dated: January 26, 1984.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 84-3045 Filed 2-2-84; 8:45 am]
BILLING CODE 4510-43-M

[Docket No. M-83-151-C]

Southern Ohio Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Southern Ohio Coal Company, P.O. Box 490, Athens, Ohio 45701 has filed a petition to modify the application of 30 CFR 75.1700 (barriers around oil and gas wells) to its Meigs No. 1 Mine (I.D. No. 33-01172), Meigs No. 2 Mine (I.D. No. 33-01173) both located in Meigs County, Ohio and its Raccoon No. 3 Mine (I.D. No. 33-02308) located in Vinton County, Ohio. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that barriers be established and maintained around oil and gas wells penetrating coal beds.

2. Petitioner states that establishing and maintaining barriers around the

wells interferes with the maintenance of effective roof control be exposing miners to the hazards involved in the relocation of the shield supports in the longwall section.

3. As an alternate method, petitioner proposes to plug the abandoned wells with a technique developed by the U.S. Bureau of Mines, U.S. Department of Energy and the coal industry, depending upon conditions discovered upon reopening the boreholes. The plugged boreholes will then be mined through during a normal mining cycle. Petitioner will notify MSHA officials before any plugging and mining through activity is conducted; plugging and mining through operations will be conducted in the presence and under the direction of MSHA personnel as deemed necessary.

4. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before March 5, 1984. Copies of the petition are available for inspection at that address.

Dated: January 26, 1984.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 84-3042 Filed 2-2-84; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-83-149-C]

Southern Ohio Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Southern Ohio Coal Company, P.O. Box 490, Athens, Ohio 45701 has filed a petition to modify the application of 30 CFR 75.1100-2(e)(2) (quantity and location of firefighting equipment) to its Meigs No. 1 Mine (I.D. No. 33-01172) and its Meigs No. 2 Mine (I.D. No. 33-00173), both located in Meigs County, Ohio, and its Raccoon No. 3 Mine (I.D. No. 33-02308) located in Vinton County, Ohio. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that one portable fire extinguisher and 240 pounds of rock dust be provided at each temporary electrical installation.

2. Petitioner states that it is impractical to store rock dust for firefighting due to the deterioration of the sacks and dust because of the wet and humid conditions in the mine.

3. As an alternate method, petitioner proposes to provide two portable fire extinguishers or one extinguisher having at least twice the minimum capacity at each temporary electrical installation.

4. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before March 5, 1984. Copies of the petition are available for inspection at that address.

Dated: January 27, 1984.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 84-3044 Filed 2-2-84; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-83-161-C]

Tucker Hill Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Tucker Hill Coal Company, Tucker Hill, New Philadelphia, Pennsylvania 17959 has filed a petition to modify the application of 30 CFR 75.301 (air quality, quantity, and velocity) to its Tucker Hill No. 1 Slope (I.D. No. 36-07478) located in Schuylkill County, Pennsylvania. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. Air sample analysis history reveals that harmful quantities of methane are non-existent in the mine.

2. Ignition, explosion and mine fire history are non-existent for the mine.

3. There is no history of harmful quantities of carbon dioxide and other noxious or poisonous gases.

4. Mine dust sampling programs have revealed extremely low concentrations of respirable dust.

5. Extremely high velocities in small cross sectional areas of airways and manways required in friable Anthracite veins for control purposes, particularly in steeply pitching mines, present a very dangerous flying object hazard to the miners.

6. High velocities and large air quantities cause extremely uncomfortable damp and cold conditions in the already uncomfortable, wet mines.

7. As an alternate method, petitioner proposes that:

a. The minimum quantity of air reaching each working face be 1,500 cubic feet per minutes;

b. The minimum quantity of air reaching the last open crosscut in any pair or set of developing entries by 5,000 cubic feet per minute; and

c. The minimum quantity of air reaching the intake end of a pillar line be 5,000 cubic feet per minute, and/or whatever additional quantity of air that may be required in any of these areas to maintain a safe and healthful mine atmosphere.

8. Petitioner states that the alternate method proposed will at all times provide the same measure of protection for the miners as that provided by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before March 5, 1984. Copies of the petition are available for inspection at that address.

Dated: January 27, 1984.

Patricia W. Silvey,

Director, Office of Standard, Regulations and Variances.

[FR Doc. 84-3043 Filed 2-2-84; 8:45 am]

BILLING CODE 4510-43-M

Wage and Hour Division

Florida Rural Legal Services, Inc., Petitioner; Proceedings To Determine Fair Value or Reasonable Cost of Facilities Furnished to Employees

Pursuant to authority in section 3(m) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(m)), Reorganization Plan 6 of 1950 (3 CFR 1949-53 Comp., p. 1004), Secretary's Order 16-75 (40 FR 55913), Employment Standards Order No. 78-1 (43 FR 51469), Secretary's Order 1-81 (46 FR 28048), and 29 CFR 531.4 and 531.5, the Administrator of the Wage and Hour Division, on the petition of Florida Rural

Legal Services, Inc., proposes to determine the "fair value" or "reasonable cost" of the meals, lodging and other facilities customarily furnished to the employees of: Wardell Williams, Dorothy Williams, Morrell Williams, Juanita Williams, and Brenda Williams.

The Division has decided that a hearing at which all interested parties will have the opportunity to present pertinent information is appropriate.

Opportunity will be provided for interested persons to make oral presentations of data, views, or arguments before an Administrative Law Judge appointed under 5 U.S.C. 3105, at the Twiggs Building, 700 Twigg Street, Tampa, Florida, at 1:00 p.m., March 12, 1984. Participants should report to the Office of the Chief Clerk for a specific room assignment.

Pertinent data relate to the cost of furnishing meals, lodging and other items to the employees. Data relating to lodging should include in an organized form such information as the operating expenses of the lodging furnished to the employees (gas, electric, sewage, water, etc.), the annual depreciation claimed for tax purposes, real estate taxes paid and how assessed, invoices from maintenance expenditures, numbers of employees engaged in maintenance of the lodging, and number of types of vehicles used to maintain the lodging. In addition, data should be submitted regarding the number and type of vehicles used to transport the employees to work sites, the location of the work sites and the type of products harvested and their distance from the lodging facilities.

Notice of intention to appear should be filed with the Office of Administrative Law Judges, U.S. Department of Labor, 1111 20th Street, N.W., Washington, D.C. 20036 not later than March 5, 1984, with copies served on Florida Rural Legal Services, Inc., P.O. Box 1109, Immokalee, Florida 33934 and the Office of the Solicitor, Department of Labor, 1371 Peachtree Street, N.E., Atlanta, Georgia 30367.

Interested persons may submit written data, views, or arguments pertinent to this question by mail to the Office of Administrative Law Judges, U.S. Department of Labor, 1111 20th Street, N.W., Washington, D.C. 20036. Such materials must be received not later than March 5, 1984.

All persons making oral presentations shall be subject to cross examination by counsel for Florida Rural Legal Services, inc., counsel for the above-named employer, and counsel for the Secretary of Labor. The Administrative Law Judge shall govern the course of the proceeding, hold presentations to relevant matters, govern the content of the record, have disciplinary power to exclude persons from the room where oral presentations are made, and see that the proceedings are stenographically reported and transcripts made available to persons participating upon payment of fees therefore. The Administrative Law Judge shall certify the record, together with his recommended findings, to the Administrator for consideration of all relevant matters presented and resolution of the issues.

So that all parties have an opportunity to present their arguments before the Determination is issued, exceptions to the recommended decision of the Administrative Law Judge should be filed with William M. Otter, Administrator, Wage and Hour Division, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210 within 30 calendar days of the Judge's decision. Responses to the exceptions may be submitted within 45 days of the date of the Judge's recommended decision.

Upon publication of this notice the above-named employer shall notify his employees of the place, date, and purpose of the hearing hereby announced by posting a copy of this notice in a conspicuous place on the premises of the facility in which his employees are housed.

Signed at Washington, D.C., this 31st day of January 1984.

William M. Otter,

Administrator.

[FR Doc. 84-3051 Filed 2-2-84; 8:45 am]

BILLING CODE 4510-27-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (84-11)]

NASA Advisory Council (NAC), Life Sciences Advisory Committee; Meeting Changes

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of Meeting Changes.

SUMMARY: The agenda for the scheduled meeting on February 13–14, 1984, of the NAC Life Sciences Advisory Committee, published in the **Federal Register** on January 23, 1984, (49 FR 2835–2836), has been changed as follows:

February 13, 1984

8:30 a.m.—Opening Remarks (Open session).

9:30 a.m.—Life Sciences Program Plan (Open session).

10:30 a.m.—Status of Space Adaptation Syndrome (Open session).

11:30 a.m.—Life Sciences Space Station Plan (Open session).

2 p.m.—Space Station (Open session).

4 p.m.—LSAC Membership (Closed session).

February 14, 1984

8:30 a.m.—SL-1 Preliminary Results (Open session).

12 noon—Adjourn.

Also, the meeting will be held in the same room on both days—Room 625–T, 600 Independence Avenue, SW., Washington, D.C. 20546.

FOR FURTHER INFORMATION CONTACT: Henry V. Bielstein, M.D., Code EB, National Aeronautics and Space Administration, Washington, D.C. 20546 (202/453–1546).

Dated: January 27, 1984.

Richard L. Daniels,

Deputy Director, Logistics Management and Information Programs Division, Office of Management.

[FR Doc. 84-2944 Filed 2-2-84; 8:45 am]

BILLING CODE 7510-01-M

[Notice 84-12]

National Environmental Policy Act; Finding of No Significant Impact

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of finding of no significant impact.

SUMMARY: The eleventh flight of the Space Shuttle (STS-41B), with a crew of five astronauts, is currently scheduled for early February 1984 from Kennedy Space Center (KSC), Florida. The objectives of this flight are to: (1) Deploy two Hughes HS-376 satellites for two communication networks (Palapa B-2 and Westar-VI); and (2) conduct research, development, and testing activities, using the properties of space, for the following payloads located either in the mid-deck or Shuttle Cargo Bay: SPAS-01A; Integrated Rendezvous Target; eight Get Away Special Experiments; Cinema 360 Camera; Monodisperse Latex Reactor (MLR); Reduction Monitoring Equipment; Isoelectric Focusing Experiment; Acoustic Containerless Experiment; Student Experiment on Arthritis; and Manned Maneuvering Unit and Other Support Equipment for Extravehicular Activity.

Several of these payload missions or similar systems were successfully flown on previous missions (e.g., SPAS-01, MLR, Hughes HS-376 satellites) and represent an effort to further develop

and enhance our research capabilities and knowledge of the space environment. None of the payloads utilize significant quantities of hazardous materials or involve high-risk operations.

Two major alternatives to the Proposed Action were considered as reasonable approaches to achieving the payload mission objectives. These included the use of Expendable Launch Vehicles (ELV Alternative) and terrestrial systems (No-Action Alternative). Because of technical and operational constraints, many of the proposed missions on STS–41B could not be achieved under the two alternatives.

Under the ELV Alternative, several of the automated missions, such as satellite deployment and small research missions, could be achieved. For the No-Action Alternative, virtually all of the research missions would have to be abandoned with the exception of communications-related missions.

The results of this assessment indicate that the launch vehicle impacts would essentially eclipse those associated with the payloads. Previous environmental studies addressing launch vehicle operational impacts (i.e., the Space Shuttle and ELV's) have been incorporated into this assessment and are summarized briefly here.

During the launch phase of the Shuttle from KSC, hydrogen chloride (HCL) will be introduced into the stratosphere causing a small decrease in ozone. Temporary perturbations to the ionosphere will occur from the orbital maneuvering system firings and propellant dumps as well as during entry. As the orbiter descends, a low magnitude sonic boom will be produced along the groundtrack with the maximum overpressure occurring near the landing site at KSC, Florida. The sonic boom will effect approximately 500,000 people in a 60 kilometer x 120 kilometer area. The maximum overpressure will be 101 newtons/square meter over a 161 square kilometer area. The boom will expand the entire width of the state and will be audible as far north as Orlando and as far south as Sarasota. The overpressures are temporary and, in most cases, in the range of nuisance or annoyance. Effects of sonic booms on humans, animals, and marine life are expected to be limited to startle responses. Non-primary structures or buildings may sustain minor damage at overpressures ranging from 48 to 144 newtons/square meter.

The alternate landing site is Edwards Air Force Base. Based on orbiter landings at this latter site on earlier missions, there have been no significant environmental impacts associated with the orbiter reentry. The maximum population affected by a sonic boom is about 50,000 in a sparsely populated region northwest of Los Angeles, California. Experiments on the effects of sonic booms indicate that wildlife reaction up to 300 newtons/square meter do not involve frantic or panic reaction. Several species specific studies on the effect of impulse noise (similar to that produced by the Shuttle) indicate little effect on physiology, reproduction, or nesting behavior.

From the perspective of payload, ground, and flight operations, no significant long-term, adverse impacts are anticipated under the Proposed Action. Specific findings of this analysis with respect to the payloads include:

Socioeconomics. Employment levels associated with payload manufacture, support, and servicing would be relatively small and geographically dispersed in comparison with launch vehicle systems. Of greater significance are the potential social (e.g., education, technology spinoffs) and customer (e.g., cost savings, research knowledge gains) benefits anticipated under the Proposed Action. With the use of alternative launch vehicles or ground-based systems, many of these benefits would be markedly reduced or eliminated.

Space Quality. The present and future orbital debris population in Low Earth Orbital (LEO) and Geostationary Orbit (GEO) was analyzed to determine the collision probability of orbital debris with operational payloads. For the Proposed Action, the only measurable long-term impact from these payload missions is the addition of two expendable Propulsion Assist Module (PAM) Solid Rocket motors and two communications satellites (after completion of the 8 to 10-year mission life) to the debris population. Under the ELV Alternative, the Delta's second stage would be an additional debris source.

In both LEO and GEO, on-orbit collisions will adversely affect future space operations by increasing the likelihood of additional collisions and presenting a failure mechanism for operating spacecraft. While the threat to space operations from the debris population is not yet severe, continued use of space without regard to the consequences of populating the environment with additional objects may have a significant and adverse effect on space operations over the next 30 years. Programs to control the rate of debris deposition represent the most effective, near-term alternative to controlling the debris hazard.

Air, Land, and Water Quality. The payload environmental effects on air, land, and water quality from payload manufacture through post-flight processing are expected to be negligible. Sources of these effects include payload manufacture (waste products from primary production and assembly operations); launch site processing and testing; and post-flight reprocessing (e.g., venting, purging, and cleaning operations). Adherence to regulatory and safety practices and procedures would limit the impact to air, land, and water quality from the storage, release, or use of materials and/or wastes.

Noise. Noise effects from payloads are expected to occur in association with payload manufacture and launch site pre- or post-processing activities. Relative to other noise sources and levels, these sources should not cause a disturbance or annoyance to the general public. Occupational-type noise, together with road traffic noise, are the two major noise sources that affect people. Occupational safety and health regulations limit worker exposure over a period of 8 hours to a sound level of less then 90 dB_A. Engineering controls and safe practices serve to protect worker health. No adverse noise impacts are anticipated from payload manufacture or launch site operations.

Ecological Resources. Based on the results of the analyses performed relative to the potential for waste steam generation from payload activities, no long-term or cumulative effects are predicted on flora or fauna. Most of these effects are traceable to the manufacturing process and, on a per payload basis, are negligible. Direct impacts on endangered or threatened species and critical habitat are not anticipated because of the small quantities of waste or low risk associated with the payload manufacturing and operational cycle.

Health. Public and occupational health effects are not anticipated to be significant. Payload, ground, and flight operations involving hazardous emissions or operations are controlled and minimized to protect the life and safety of crew and employees through the use of safety design and operational procedures.

Resources Use. Natural and cultural resource commitments are insignificant when compared to national data bases. Shuttle-related energy and material demands are significantly larger than payload commitments. Generic estimating techniques indicate that total energy commitments will require about 750×10^9 Kilojoule (kJ) and 6×10^9 kJ for a Shuttle launch and satellite payload,

respectively. Relative to the total U.S. energy consumption of 84×10^{15} kJ, these demands are insignificant. Material commitments also are negligible on a national scale and primarily involve steel, aluminum, composites, titanium, and solid and liquid propellants.

Accidents. Under worst-case scenarios, some payloads and payload operations could result in damage to the Space Transportation System equipment or personnel. The probability and severity of these events, however, are reduced or eliminated with appropriate hazard controls.

Differences between the Proposed and Alternative Actions' environmental effects are not significant. The most noteworthy differences involve the reduced benefits to society and STS customers because of the more limited capabilities and services offered by alternative launch systems or ground-based systems. Reductions in environmental effects also would be commensurate with the number of missions that would have to be abandoned with the ELV Alternative; additional space debris would be generated over the Space Shuttle option for a given mission. The space debris issue is present regardless of the alternative examined and will require further monitoring and evaluation during the next decade.

SUPPLEMENTARY INFORMATION: The environmental assessment for this proposed project was completed by the National Aeronautics and Space Administration in January 1984.

Conclusion

The Shuttle launch of the STS–41B payloads will not result in any significant adverse environmental impacts. No environmental impact statement is required for this launch.

EFFECTIVE DATE: February 3, 1984.

ADDRESS: National Aeronautics and Space Administration, Code MCP, Washington, D.C. 20546.

FOR FURTHER INFORMATION CONTACT: Mr. Don Turner (202) 453–2400.

Dated: January 31, 1984.

John W. Boyd,

Associate Administrator for Management.

[FR Doc. 84–3057 Filed 2–2–84; 8:45 am]

BILLING CODE 7510–01–M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Humanities Panel; Meetings

AGENCY: National Endowment for the Humanities.

ACTION: Notice of meetings.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee act (Pub. L. 92–463, as amended), notice is hereby given that the following meetings of the Humanities Panel will be held at the Old Post Office Building, 1100 Pennsylvania Ave., NW., Washington, D.C. 20506:

Date: February 23–24, 1984.
Time: 8:30 a.m. to 5:00 p.m.
Room: 315.
Program: This meeting will review applications in the field of American Studies submitted to the Reference Works Program: Editions, Division of Research Programs, for projects beginning after July 1, 1984.

Date: February 23–24, 1984.
Time: 8:30 a.m. to 5:00 p.m.
Room: 316.
Program: This meeting will review applications submitted for the Elementary and Secondary Education Program, Division of Education Programs, for projects beginning after January 1984.

Date: February 23–24, 1984.
Time: 9:00 a.m. to 5:00 p.m.
Room: 415.
Program: This meeting will review applications submitted for Special Projects/Youth Programs, Division of General Programs, for projects beginning after July 1, 1984.

Date: February 27, 1984.
Time: 8:30 a.m. to 5:00 p.m.
Room: 315.
Program: This meeting will review applications in the field of History submitted to the Reference Works Program: Research Tools, Division of Research Programs, for projects beginning after July 1, 1984.,

The proposed meetings are for the purpose of Panel review, discussion, evaluation and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended including discussion of information given in confidence to the agency be grant applicants. Because the proposed meetings will consider information that is likely to disclose: (1) Trade secrets and commercial or financial information obtained from a person and privileged or confidential; (2) information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy; and (3) information the disclosure of which would significantly frustrate implementation of proposed agency action; pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated January 15, 1978, I have determined that these meetings will be closed to the public pursuant to subsection (c) (4), (6) and (9)(B) of section 552 of Title 5, United States Code.

Further information about these meetings can be obtained from Mr. Stephen J. McCleary, Advisory Committee Management Officer, National Endowment for the Humanities, Washington, D.C. 20506, or call (202) 786–9322.

Stephen J. McCleary,

Advisory Committee Management Officer.

[FR Doc. 84–3005 Filed 2–2–84; 8:45 am]

BILLING CODE 7536–01–M

NATIONAL SCIENCE FOUNDATION

Advisory Committee for Polar Programs; Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, as amended, the National Science Foundation announces the following meeting:

Name: Advisory Committee for Polar Programs.

Date and Time: February 21–22, 1984, 9:00 a.m.–5:00 p.m. February 23, 1984, 9:00–12:00 noon.

Place: Room 642, National Science Foundation, 1800 G. Street, N.W., Washington, D.C. 20550 (Room to be announced for February 23).

Type of Meeting: Closed—February 21 (all day). Open—February 22 (all day) and February 23 (9:00 a.m.–12:00 noon).

Contact Person: Dr. Edward P. Todd, Division Director, Division of Polar Programs, Room 620, National Science Foundation, Washington, D.C. 20550. Telephone: (202) 357–7766.

Purpose of Committee: Serves to provide expert advice to the U.S. Antarctic Program and the Arctic Program, including advice on polor operations support, budgetary planning, polar coordination and information arid science programs.

AGENDA:

February 21—Review of Polar Earth Sciences Program

February 22:

—Review of multidisciplinary/multi-institutional research with special reference to the arctic

—Discussion of mail versus panel review of proposals

February 23—Committee Discussion on next meeting and future business

Reason for Closing: The meeting will deal with a review of grants and declinations in which the Committee will review materials containing the names of applicant institutions and principal investigators and privileged information contained in declined proposals. This meeting will also include a review of peer review documentation pertaining to applicants. Any non-exempt materials that may be discussed at this meeting (proposals that have been awarded) will be inextricably intertwined with the discussion of exempt materials and no further separation is practical. These matters are within

exemptions (4) and (6) of 5 U.S.C. 552b(c), the Government in the Sunshine Act.

Authority to Close Meeting: This determination was made by the Committee Management Office pursuant to provisions of section 10 (d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Director, National Science Foundation, on July 6, 1979.

Summary Minutes: May be obtained from Contact Person.

Dated: January 31, 1984.

M. Rebecca Winkler,

Committee Management Coordinator.

[FR Doc. 84-3008 Filed 2-2-84; 8:45 am]

BILLING CODE 7555-01-M

Advisory Panel for PCM Subpanel on Genetic Biology; Meeting

In accordance with the Federal Advisory Panel Act, as amended, Pub. L. 92-463, the National Science Foundation announces the following meeting:

Name: Subpanel on Genetic Biology of the Advisory Panel for Physiology, Cellular and Molecular Biology.

Date and Time: February 22-24, 1983, 9:00 a.m.-5:30 p.m.

Place: Room 338, National Science Foundation, 1800 G Street, N.W., Washington, D.C. 20550.

Type of Meeting: Closed.

Contact Person: Dr. Philip Harriman, Program Director, Genetic Biology Program, Room 329. National Science Foundation, Washington, D.C. 20550, telephone (202) 357-9687.

Purpose of Subpanel: To provide advice and recommendations concerning support for research in genetic biology.

Agenda: To review and evaluate research proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries, and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Authority to Close Meeting: This determination was made by the Committee Management Officer pursuant to provisions of section 10(d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF on July 6, 1979.

Dated: January 31, 1984.

M. Rebecca Winkler,

Committee Management Coordinator.

[FR Doc. 84-3009 Filed 2-2-84; 8:45 am]

BILLING CODE 7555-01-M

Subpanel on Molecular Biology, Group B, of the Advisory Panel for the Physiology, Cellular, and Molecular Biology; Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Science Foundation announces the following meeting:

Name: Subpanel on Biophysics/ Biochemistry Programs, Group B, of the Advisory Panel for Physiology, Cellular, and Molecular Biology.

Date and Time: February 27 and 28, 1984, 9:00 a.m. to 5:00 p.m. each day.

Place: Room 338, National Science Foundation, 1800 G Street, Washington, DC 20550.

Type of Meeting: Closed.

Contact Person: Dr. Mary E. Kirtley, Program Director, Biochemistry Program, Room 329, National Science Foundation, Washington, DC 20550.

Purpose of Subpanel: To provide advice and recommendations concerning support for research in Biophysics/Biochemistry Programs.

Agenda: To review and evaluate research proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a propriety or confidential nature, including technical information, financial data, such as salaries and personal information concerning individuals associated with the proposals. These matters are exemptions (4) and (6) of 5 U.S.C. 552B(c), Government in the Sunshine Act.

Authority to Close Meeting: This determination was made by the Committee Management Office pursuant to provisions of section 10(d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF, on July 6, 1979.

Dated: January 31, 1984.

M. R. Winkler,

Committee Management Coordinator.

[FR Doc. 84-3007 Filed 2-2-84; 8:45 am]

BILLING CODE 7555-01-M

NATIONAL TRANSPORTATION SAFETY BOARD

Availability of Reports, Recommendations and Responses

Reports Issued:

Railroad Accident Report: Derailment of Amtrak Train No. 820 (The Crescent) on Southern Railway System Track, Rockfish, Virginia, April 3, 1983 (NTSB/RAR-83/10) (NTIS Order No. PB83-916310).

Aircraft Accident Report: A. E. Staley Manufacturing Company, Inc., Canadair Challenger CL-600, N805C, Hailey, Idaho, January 3, 1983 (NTSB/AAR-83/05) (NTIS Order No. PB83-91045).

Note.—Reports may be ordered from the National Technical Information Service, 5285 Port Royal Road, Springfield, Virginia 22161, for a fee covering the cost of printing, mailing, handling, and maintenance. For information on reports call 703-487-4650 and to order subscriptions to reports call 703-487-4630.

Recommendations to:

Federal Aviation Administration: Jan. 8: A-84-1: Issue an Emergency Airworthiness Directive applicable to Bellanca Aircraft Models 14-19-2, 14-19-3, 14-19-3A, 17-30, 17-31, 17-31TC, 17-30A, 17-31A, 17-31 ATC, CH, CH-300 Pacemaker, 300-W Pacemaker, CH-400 Skyrocket, E. Pacemaker, F. Skyrocket, 14-9, 14-9L, 14-12F-3, 14-13, 14-13-2, 14-3-3, 14-13-3W, and 31-42 Pacemaker requiring an immediate inspection of the wing structure; this inspection should include wing removal/ disassembly and/or removal of lower wing straps and bolts as necessary to assure prompt, positive detection of decay in the wing spars of these airplanes. *A-84-2:* Reevaluate AD 76-08-04, AD 76-20-07, and Bellanca Service Letter No. 87A in conjunction with the manufacturer. Supplemental inspection methods or techniques should be incorporated in these requirements as necessary to provide for a routine inspection of the Bellanca airplanes' wing structure. The inspection should be able to be performed reliably even by maintenance personnel who do not specialize in wood construction. *A-84-3:* Emphasize on a recurrent basis in Advisory Circular No. 43-16, General Aviation Airworthiness Alerts, inspection methods, techniques, and information to assist in detecting deterioration of wooden components in aircraft.

Governor of Alaska: Jan. 20: P-84-1: Through the Alaska Pipeline Commission and the Alaska Public Utilities Commission, encourage and assist municipalities where underground facilities exist to develop and implement a one-call excavation notification and damage prevention system for all areas of the State where underground utilities are located. *P-84-2:* Request the Alaska State Legislature to enact legislation requiring persons excavating or discharging explosives near underground utilities to notify operators of public utilities in advance using a one-call notification system where it is established.

Anchorage Area Utility Association: Jan. 20: P-84-3: Encourage and assist operators of underground facilities, the State legislature, and the municipalities within the State of Alaska in the development and implementation of a one-call excavation notification and damage prevention system for all areas of the State where underground utilities are located.

Enstar Natural Gas Company: Jan. 20: P-84-4: Encourage other operators of underground facilities to join in the establishment of a one-call excavation notification and damage prevention system in its area of operation and assist in its implementation.

Norfolk and Portsmouth Beltline Railroad Company: Jan. 20: R-84-1: Provide training and reference materials to rail yard employees responsible for the repair of rail

cars containing hazardous materials so that they are familiar with the potential dangers posed by these materials. *R–84–3:* Establish procedures by which rail cars containing regulated hazardous materials will be repaired only after the hazards associated with the cargo are ascertained, and upon a determination by a responsible official that the repairs can be made safely. *R–84–3:* Establish guidelines or recommend procedures which describe immediate actions to be taken and the organizations to be contacted for assistance in all types of hazardous materials emergencies.

U.S. Coast Guard: Jan. 24: M–84–5: Provide written guidance to U.S. Coast Guard inspectors regarding the inspection of vessels over 20 years of age, including specific structural gauging, equipment renewal, and testing requirements. *M84–6:* Require that structural gaugings of vessels be conducted at 2-year intervals after a vessel reaches 20 years of age. *M–84–7:* Provide written guidance to U.S. Coast Guard inspectors specifying their responsibility for the inspection of items, such as the weathertightness of hatch covers, that have been delegated to the American Bureau of Shipping under the Load Line Regulations. *M–84–8:* Evaluate the design of the bilge pumping systems in the cargo holds of U.S. flag bulk carriers in the coal trade similar to the MARINE ELECTRIC to determine if the systems are compatible with the cargo, and require modifications if necessary to those vessels which do not comply with U.S. Coast Guard regulations (46 CFR 56.50–50) that they may be operable under "all practicable conditions."

American Bureau of Shipping: Jan. 24: M–84–9: Require that structural gaugings of vessels be conducted at 2-year intervals after a vessel reaches 20 years of age. *M–84–10:* Require that steel weatherdeck hatch covers be gauged at all special surveys. *M–84–11:* Require its surveyors to examine hatch covers for wastage during all annual load line surveys.

Federal Communications Commission: Jan. 24: M–84–12: Require a design change to the MARTECH Whaler EB–2BW Emergency Position Indicating Radio Beacon to improve its maintainability and reliability.

El Paso Natural Gas Company: Jan. 17: P–83–31: Review periodically the maintenance records of its compressors and other machinery in critical service to detect in a timely manner potential problems and determine the cause(s) of equipment malfunction so that appropriate corrective action can be implemented. *P–83–32:* Include in its Maintenance and Operations Manual torquing specifications for machinery in critical service as well as the correct sequence of bolt tightening, and prohibit the practice of tightening bolts under pressure. *P–83–33:* Instruct and test its maintenance personnel in the correct method of tightening head nuts and bolts on machinery in critical service, emphasizing the importance of the correct use of torque wrenches and of uniformly tightening these fittings in the prescribed sequence. *P–83–34:* Revise its Emergency Plant Plan to describe the various potential emergencies, to explain the intended use and operation of the emergency shoutdown and blowdown facilities, and to delineate the circumstances under which they should be activated. *P–83–35:* Train, drill, and test employees periodically in the execution of the Emergency Plant Plan. *P–83–36:* Install emergency blowdown system activators for compressor plants A and B so that they can be operated from at least two plant exits. Incorporate within its emergency plans for its Blanco Plant and other plants the use of emergency response resources, such as the Bloomfield Volunteer Fire Department, and familiarize each with the layout and firefighting facilities of applicable plants.

American Gas Association and Interstate Natural Gas Association: Jan. 17: P–83–38: Notify its member companies of the circumstances of the accident in Bloomfield, New Mexico, on May 26, 1983, and urge them to emphasize to their maintenance employees the importance of bolt tightening procedures, the correct sequence of bolt tightening, and the hazards of tightening bolts under pressure. *P–83–39:* Urge its member companies to review their Emergency Operations for clarity and specificity and to train, drill, and test their employees on their knowledge of these procedures. *P–83–40:* Advise its member companies to coordinate and cooperate with local fire and emergency agencies along their systems to allow them to become familiar with company facilities and to provide facility maps to these agencies in order that rapid, efffective response can be made in emergency situations.

Note.—Single copies of these recommendation letters are available on written request to: Public Inquiries Section, National Transportation Safety Board, Washington, D C. 20594. Please include recommendation number in your request. Copies of recent recommendations are free of charge while supplies last. Recommendations that must be photocopied will be billed at a cost of 20 cents per page ($2 minimum charge).

Recommendation Responses from:

Aviation—*Federal Aviation Administration: Jan. 4: A–82–163 and –65:* A joint Aviation/Industry Landing and Takeoff Performance Task Group will be making recommendations that the FAA will consider in initiating necessary policy and/or rulemaking projects concerning requirements that manufacturers of transport category airplanes provide data for operators regarding takeoff and landing performance. *A–82–168:* FAA and National Aeronautics and Space Administration have an Aircraft/Ground Vehicle Runway Friction Program to determine if aircraft and ground friction measurement devices can be correlated. *Jan. 17: A–80–36 and –37:* Previous information supplied to the FAA by the Board indicates that between the years 1968 through 1980 there were 6 of 696 scheduled 14 CFR Part 135 air carrier accident/incidents where a crew member was age 60 or older. Does not believe that these limited data alone are sufficient justification to continue efforts in the area of age limitations for pilots beyond those that have taken place. *Jan. 20: A–82–72 and –73:* Believes that Change 1 to Order 8430.1C, to be issued in March or April, will address the intent and concerns of the recommendations concerning the accessibiltiy and location of fire extinguishers in passenger compartments and aircraft in commuter service. *Jan. 20: A–83–67 through –69:* Air filter failures are more related to operating conditions and the environment than to time in service or hours of operation. Will publish information on carburetor air induction system filters in the General Aviation Airworthiness Alert Advisory Circular (AC 43–16) to be published in Alert No. 66 dated January 1984.

Highway—*State of Texas: Dec. 7: H–81–40:* Intends to adhere to the current D–7 code as prescribed by the United States Standards Institute for Highway Traffic Safety regarding tire tread.

State of Texas, Lieutenant Governor: Jan. 3: H–83–49 and –50: Is forwarding recommendations concerning child passenger safety to Senator Carl Parker.

State of New Jersey Department of Law and Public Safety: Dec. 38: H–83–52: Has an aggressive public information campaign to inform citizens in the proper use of child restraints through informational brochures and posters which are available in obstetrician and pediatrician offices, hospitals, health care centers, shopping centers, municipal offices, schools, car dealerships, toll booths, etc. Has public service announcements regarding child restraints on New Jersey's 33 radio stations. Office of Highway Safety has produced a film, "The Safety Connection—Safety Belts" for television. Is conducting statewide child restraint workshops to emphasize the new statute and to insure that child restraints are being used properly.

State of Pennsylvania Department of Transportation: Dec: 29: H–83–52: Is implementing a public information education program regarding child restraints. Will train state and municipal police regarding enforcing the law and on the proper use of child safety seats. Will inform hospital personnel and pediatricians to encourage their patients to use child safety seats and to emphasize the importance of properly installing the seats.

State of California Office of Traffic Safety: Dec. 27: H–83–51: Has provided a grant to the California Highway Patrol for a statewide public information campaign emphasizing California's child restraint law, its requirements, and methods of compliance. The California Child Passenger Safety Association conducts a variety of child passenger safety activities. The Los Angeles Child Passenger Safety Association has developed a slide presentation about the proper use and installation of child safety seats.

State of California Department of Education: Jan. 5: H–83–67: Recommendation concerning retrofitting certain schoolbuses with Federal Motor Vehicle Safety Standard 222 approved seat and restraining barriers is being forwarded to the Highway Patrol for response.

State of California Department of Motor Vehicles: Jan. 3: H–83–65 and –66: The statement on applications for class 1 and 2 motor vehicle operator's license regarding physical qualification for driving is required to be answered at the time of each license

renewal, at four-year intervals. Prior to 1976, a medical report was required at every renewal of a class 1 or 2 license, but a study determined that the requirement was not cost-effective because so few unacceptable reports were made.

State of Montana Board of Public Education: Dec. 29: H–83–46 through –48: Is working with the highway patrol to improve schoolbus inspections. Does not have uniform maintenance requirements for schoolbuses. Local school districts have complete control over school activity trip vehicles. Some schools use over-the-road coaches and standard vans, and under current laws and policies inspection of these vehicles is not required. Would be difficult to institute more extensive quality control procedures without the use of costly certified mechanics. Legislation would be needed to require that certified schoolbuses are used for activities. Will consider the requirement for a second fire extinguisher in the rear of each schoolbus. *H–83–39 through –41:* Permits the use of conventional four-wheel drive vans and suburbans to transport children to and from school and school activities. Local school districts have complete control of activity trips. Schoolbus drivers are not required by law or State policy to wear safety belts. Office of Public Instruction will work for a policy requiring all passengers in small schoolbuses to wear safety restraint systems and requiring all schoolbus drivers to wear safety belts.

State of Oregon: Dec. 21: H–83–52: Information about the proper use of safety seats will be part of the public education process for the State's child passenger safety law.

State of New York: Jan. 3: H–83–51: Plans to augment its existing public information program for occupant restraints with a variety of new materials which, among other issues, will address proper use of child restraints.

State of West Virginia: Jan. 4: H–83–51: Recommendations concerning the misuse of child safety seats will be forwarded to the 40 child safety seat loan programs located throughout West Virginia. Information on misuse will be included in a manual which is planned for development by the Health Education office of the Department of Health and the State Highway Safety Office. Will highlight misuse in all aspects of the Occupant Protection Program in its public information endeavors.

State of Florida: Jan. 13: H–83–51, which recommended that the State include, as part of a statewide child passenger safety program, public information and education activities specifically aimed at combating misuse of child safety seats: The Highway Patrol has been issuing citations and making arrests in regard to the child restraint law.

State of Colorado, President of Senate: Jan. 12: H–83–52: Has a public education program regarding the use of child safety seats.

State of Washington: Jan. 12: H–83–52: Programs designed to make new and expectant parents aware of the serious nature of the problem, to increase their perception of risk, to inform them of the benefits of using child safety seats and safety belts, to educate them in the proper use of using child safety seats and safety belts, and to educate them in the proper use of passenger protection devices have been incorporated into prenatal classes, new parent programs, hospitals, health departments, and early childhood education programs. Educational programs also have been developed for children, ages 2–5, to encourage them to develop the good habits of child safety seat and safety belt use and the sharing of the "buckle-up" message to friends and families.

State of Maryland: Jan. 13: H–83–52: The Motor Vehicle Administration and the Maryland State Police have been designing a public information program for the public and law enforcement agencies on responsibilites and enforcement of the State's child passenger safety restraint law. A seminar was held for State law enforcement agencies to inspect the various restraints available and their attachment into various vehicles. Department of Health and Mental Hygiene has a program for safety seats aimed at new mothers and conducted through the health clinics and obstetric units in hospitals.

State of Kansas: Jan. 13: H–83–51: The Kansas University Medical Center in Kansas City is conducting research to evaluate the effectiveness of seat restraint programs in the State. The Department of Transportation distributes posters, handouts, fact sheets, pamphlets, tent cards, films, and audio/visual kits regarding child safety seats at or through county health departments, day care centers, county extension services, the Kansas Department of Health and Environment, schools, shopping malls, PTA meetings, and the news media. Safety specialists conduct demonstrations at schools, seminars, and other events.

Nissan Motor Corporation in U.S.A.: Jan. 6: H–83–60: The instructions and illustrations for use of the Nissan Child Safety Seat seem to be sufficiently clear to avoid misunderstandings and misuse. However, after a careful review of illustrations, we note that the rear-facing installation shows the shoulder straps throught the upper guide holes. While this is technically possible for a tall infant, the more likely situation is to have the shoulder straps through the lower guide holes with the seat rear-facing. We will change these illustrations in future printings to reflect the more usual routing. *H–83–61:* Permanent labels with appropriate installation diagrams are attached to the seat. The diagrams illustrate correct vehicle seatbelt routings, shoulder strap routings, and recline positions for forward and rear-facing positions. Does not expect damage or deterioration of label because it is on the seat back.

International Association of Chiefs of Police, Inc.: Jan. 12: H–83–62 and –63: Recommendations to coordinate and promote the development of training programs for State and local law enforcement officers on the use and misuse of child safety seats and to promote the use of statewide traffic accident data systems to collect and analyze specific data identifying the use and misuse of child safety seats and safety belts in motor vehicles involved in accidents will be included on the agenda of the next meeting of the Highway Safety Committee.

Volvo North American Car Operations: Jan. 3: H–83–60 and –61: The directions for the Volve Child Safety Cushion are straightforward, easy to read and understandable. A permanently affixed instruction label can be found on the back of every child cushion sold in North America. Is not aware of any customer complaints regarding the ambiguity of instructions or of misuse problems. Is investigating the necessary modifications required for making the Volvo Child Safety Seat available in the United States. The Volvo Owner's Manual has a section on child safety seats.

Federal Highway Administration: Jan. 23: H–76–13: The National Bridge Inspection Standards (23 CFR 650.3) were modified in May 1979 to extend both the Highway Bridge Replacement and Rehabilitation Program and the inventory, inspection, and evaluation criteria to all highway bridges on public roads.

Marine—*State of Florida Department of Natural Resources: Dec. 30: M–83–76 and –77:* The Florida Marine Patrol has proposed legislation regarding alcohol abuse related to boating accidents.

U.S. Coast Guard: Jan. 6: M–83–69: Is strengthening boating safety courses with regard to alcohol abuse in cooperation with the National Association of State Boating Law Administrators (NASBLA), and is encouraging greater participation in these course through Federal financial assistance. The National Safe Boating Council will address the public at large on the risks involved in drinking and boating in its 1984 and 1985 Safe Boating Week campaigns. The 1984 National Boating Education Seminar will serve as a forum to emphasize the problem of alcohol and boating safety and encourage improvements to educational materials. The National Boating Safety Advisory Council will review the safety problems posed by boaters' use of alcohol and is also expected to propose new initiatives. NASBLA is drafting a model State statute addressing boat operation while intoxicated. The Coast Guard will foster adoption of an agreed-upon model State statute through its coordinating role under the Federal Boating Safety Act. *M–83–70:* With the NASBLA, will review the boating accident report form to consider adding data elements dealing with alcohol, perhaps for use only in cases where the form is prepared/reviewed by law enforcement officials. Statistically valid data on this subject cannot be obtained using a self-reporting system. Will foster improved accident investigative procedures which will make investigators more aware of the potential contributions of alcohol to accidents. *M–83–71:* The Coast Guard Auxiliary will incorporate information on the effects of alcohol with course material on hypothermia. Intends to make alcohol abuse education a priority subject for the award of financial assistance to national nonprofit public service organizations. *Jan. 9: M–83–60:* Does not have a history of expansion joint failures that would justify a requirement for periodic renewal of these joints. Specific inspection guidelines will be published in the Coast Guard Marine Safety Manual to emphasize the importance of thorough

external and internal inspections of nonmetallic joints. *M–83–61:* Volume II (Material Inspection) of the Marine Safety Manual is being revised to contain a new section on nonmetallic expansion joints. Included in the change are guidelines for visual examinations of nonmetallic expansion joints including requirements for internal examinations.

State of Wisconsin: Jan. 11: M–83–76 and –78: Law requires coroner to test for alcohol content the blood of a person who dies in a boating accident.

State of Colorado: Jan. 3: M–83–76 and –78: Legislation has been drafted that will define the level of legal intoxication for recreational boat operators and provide for chemical testing of a suspected intoxicated operator's breath of blood. Toxicological tests are called for in the event of a recreational boating fatality.

District of Columbia Office of Policy and Program Development: Dec. 27: M–83–76 and –77: Existing statutes prohibit boat operators from consuming alcoholic beverages to excess, but do not specify a blood alcohol content level for impairment. Is exploring alternative ways of strengthening laws, either by direct reference to intoxication language already used in motor vehicle legislation, or some other means of accomplishing the desired result.

State of Texas Lieutenant Governor: Jan. 10: M–83–76 and –77: The Parks and Wildlife Department states that legislation requiring toxicological tests on all boat-related fatalities would be helpful in accurately defining the problem of alcohol abuse in recreational boating accidents. There is a State statute prohibiting the operation of a motorboat while intoxicated. It would enhance enforcement efforts if legislation were adopted that would require a chemical test of blood, breath, or urine, if a boat operator is suspected of being intoxicated.

Research and Special Programs Administration: Jan. 13: M–81–40: A centerline stowage requirement for containerized dangerous cargo would not be practicable because (1) the accident that prompted the recommendation appears to be an isolated incident because no similar occurrences are known; (2) new restrictions in addition to the location and separation requirements already imposed by 49 CFR Part 176 would increase the frequency of rescheduling of incompatible shipments and the associated risks and costs of delayed shipments; (3) cargo is loaded considering ease of offloading at intermediate ports, and additional repositioning required at such ports might further exacerbate the risk of damage; and (4) smaller ports, not possessing equipment for full access to all ship cargo locations, might be precluded from handling centerline cargoes. Also, the potential for shipboard contamination and explosion caused by accidental spills amidships must be weighed against risk factors associated with overboard spills.

Triangle Fleeting Corp. (Chairman of the New Orleans Port Safety Council): Jan. 9: M–82–12: As a result of the Safety Board's recommendations, the Federal Communications Commission (FCC) has greatly increased its maritime radio enforcement activities in the New Orleans Port area. Local FCC personnel have visited virtually every barge fleeting company between Baton Rouge and below New Orleans to educate the maritime radio users and to ask them to use the low power setting when talking within their fleets. Although a mobile van is now stationed permanently in New Orleans to monitor radio misuse and abuse and has resulted in a drastic improvement in compliance with maritime radio use regulations, the van cannot monitor overpowering abuse, and a van for such monitoring is needed.

Pipeline—*Interstate Natural Gas Association of America: Jan. 20: P–83–38 through –40:* Notified its members of the circumstances of the accident in Bloomfield, New Mexico, on May 26, 1983, and urged them to (1) emphasize to their maintenance employees the importance of bolt tightening procedures, the correct sequence of bolt tightening, and the hazards of tightening bolts under pressure; (2) review their Emergency Operations for clarity and specificity and to train, drill, and test their employees on their knowledge of these procedures; and (3) coordinate and cooperate with local fire and emergency agencies along their systems to allow them to become familiar with company facilities and to provide facility maps to these agencies in order that rapid, effective response can be made in emergency situations.

Railroad—*Illinois Central Gulf Railroad: Jan. 9: R–81–74:* Will modify its operating procedures between Laurel Street and Kansas City Junction, Springfield, Illinois.

Commonwealth of Pennsylvania: Jan. 3: R–83–44 and –45: The Pennsylvania Public Utility Commission advised all presidents of railroads under the Commission's jurisdiction to strictly enforce all prohibitions concerning the use of drugs and alcohol by railroad employees and to provide the Commission a report detailing their company's efforts to prevent problems in this area. The Commission supports the Federal Railroad Administration's efforts to establish uniform, national drug and alcohol standards.

Note.—Single copies of these response letters are available on written request to: Public Inquiries Section, National Transportation Safety Board, Washington, D.C. 20594. Please include respondent's name, date of letter, and recommendation number(s) in your request. The photocopies will be billed at a cost of 20 cents per page ($2 minimum charge).

H. Ray Smith, Jr.,

Federal Register Liaison Officer.

January 31, 1984

[FR Doc. 84–3681 Filed 2–2–84; 8:45 am]

BILLING CODE 7533–01–M

POSTAL SERVICE

Privacy Act of 1974; System of Records

AGENCY: Postal Service.

ACTION: Final notice of modification to existing system of records.

SUMMARY: The purpose of this document is to publish final notice of a records system description change to Postal Service system USPS 050.020, Finance Records—Payroll System which has recently appeared for public comment in the Federal Register.

EFFECTIVE DATE: February 3, 1984.

FOR FURTHER INFORMATION CONTACT: Martha J. Smith, USPS Records Office, (202) 245–5568.

SUPPLEMENTARY INFORMATION: On December 15, 1983, the Postal Service published in the Federal Register (48 FR 55790) advance notice of a proposal to add a temporary routine use to Postal Service system USPS 050.020, Finance Records—Payroll System. Interested persons were invited to comment on the proposed temporary routine use. No comments were received. No changes in the advance temporary routine use modification are being made. Final notice of this temporary routine use and the system to which it applies follow:

USPS 050.020

System Name:

Finance Records—Payroll System

"28. (Temp.) To provide to the Department of Education, home address information on former postal employees for the purposes of notifying those individuals of their indebtedness to the United States under programs administered by the Secretary of Education and for taking subsequent actions to collect those debts. (Note: this routine use will be in effect for a period of one year ending (one year from date of publication)."

A complete statement of the revised system appears below:

USPS 050.020

SYSTEN NAME:

Finance Records—Payroll System, 050.020.

SYSTEM LOCATION:

Payroll system records are located and maintained in all Departments, facilities and certain contractor sites of the Postal Service. However, Postal Data Centers are the main locations for payroll information. Also, certain information from these records may be stored at emergency records centers.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former USPS employees and postmaster relief/replacement employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records contain general payroll information including retirement deduction, family compensations, benefit deductions, accounts receivable, union dues, leave data, tax withholding, allowances, FICA taxes, salary, name, social security number, payments to financial organizations, dates of appointment or status changes, designation codes, position titles, occupation code, addresses, records of attendance, and other relevant payroll information. Also includes automated Form 50 records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

39 U.S.C. 401, 1003, 5 U.S.C. 8339.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Purpose—

1. Information within the system is for handling all necessary payroll functions and for use by employee supervisors for the performance of their managerial duties.

2. To provide information to USPS Management and executive personnel for use in selection decisions and evaluation of training effectiveness. These records are examined by the Selection committee and Regional Postmasters General.

3. To compile various lists and mailing lists, i.e., Postal Leader, Women's Programs, Newsletter, etc.

4. To support USPS Personnel Programs such as Executive Leadership, Non-Bargaining Positions Evaluations of Probationary Employees, Merit Evaluation, Membership and Identification Listings, Emergency Locator Listings, Mailing Lists, Women's Programs, and to generate retirement eligibility information and analysis of employees in various salary ranges.

Use—

1. Retirement Deduction—To transmit to the Office of Personnel Management a roster of all USPS employees under Title 5 U.S.C., Section 8334, along with a check.

2. Tax Information—To disclose to Federal, State and local government agencies having taxing authority, pertinent records, relating to individual employees, including name, home address, social security number, wages and taxes withheld for other jurisdiction.

3. Unemployment Compensation Data—To reply to State Unemployement Offices at the request of separated USPS employees.

4. Employee Address File—For W–2 tax mailings and Postal mailing such as Postal Life. Postal Leaders, etc.

5. Salary payments and allotments to financial organizations—To provide pertinent information to organizations receiving salary payments or allotments as elected by the employee.

6. FI (SS Tax) Deduction—To SS Administration as record of earnings under the SS act for all casual employees not under retirement.

7. Determine eligibility for coverage and payments of benefits under the Civil Service Retirement System, the Federal Employees' Group Life Insurance Program and the Federal Employees Health Benefits Program and transfer related records as appropriate.

8. Determine the amount of benefit due under the Civil Service Retirement System, the Federal Employees' Group Life Insurance Program and the Federal Employees Health Benefits program and authorizing payment of that amount and transfer related records as appropriate.

9. Transfer to Office of Workers Compensation Program, Veterans Administration Pension Benefits Program, Social Security Old Age, Survivor and Disability Insurance and Medicare Programs, military retired pay programs, and Federal Civilian employee retirement systems other than the Civil Service Retirement System, when requested by that program or system or by the individual covered by this system of records, for use in determining an individual's claim for benefits under such system.

10. Transfer earnings information under the Civil Service Retirement System to the Internal Revenue Service as requested by the Internal Revenue Code of 1954, as amended.

11. Transfer information necessary to support a claim for life insurance benefits under the Federal Employees' Group Life Insurance, 4 East 24th Street, New York, NY 10010.

12. Transfer information necessary to support a claim for health insurance benefits under the Federal Employees' Health benefits Program to a health insurance carrier or plan participating in the program.

13. To refer, where there is an indication of a violation or potential violation of law, whether civil criminal or regulatory in nature to the appropriate agency whether Federal, State, or local, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto.

14. To request or provide information from or to a Federal, state, or local agency maintaining civil, criminal, or other relevant enforcement or other pertinent information, such as licenses, if necessary to obtain information relevant to an agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract or the issuance of a license, grant, or other benefits.

15. As a data source for management information for production of summary descriptive statistics and analytical studies in support of the function for which the records are collected and maintained, or for related personnel management functions or manpower studies; may also be utilized to respond to general requests for statistical information (without personal identification of Individuals) under the Freedom of Information Act or to locate specific individuals for personnel research or other personnel management functions.

16. May be disclosed to the Office of Management and Budget in connection with the review of private relief legislation as set forth in OMB Circular No. A–19 at any stage of the legislative coordination and clearance process as set forth in that Circular.

17. Certain information pertaining to Postal Supervisors may be transferred to the National Association of Postal Supervisors.

18. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

19. Disclosure may be made from the record of an individual, where pertinent, in any legal proceeding to which the Postal Service is a party before a court or administrative body.

20. Pursuant to the National Labor Relations Act, records from this system may be furnished to a labor organization upon its request when needed by that organization to perform properly its duties as the collective bargaining representative of postal employees in an appropriate bargaining unit.

21. Inactive records may be transferred to a GSA Federal Records Center prior to destruction.

22. To provide to the Office of Personnel Management (OPM) approximately 19 data elements (including SSAN, DOB, service competition date, retirement system, and FEGLI status) for use by OPM's Compensation Group collected are not for the purpose of making determinations about specific individuals but are used only as a means of ensuring the integrity of the

active employee/annuitant data systems and for analyzing and statistically projecting Federal retirement and insurance system costs. The same data submission will be used to produce summary statistics for reports of Federal employment.

23. Information contained in this system of records may be disclosed to an authorized investigator appointed by the Equal Employment Opportunity Commission, upon his request, when that investigator is properly engaged in the investigation of a formal complaint of discrimination filed against the U.S. Postal Service under 29 CFR Part 1613, and the contents of the requested record are needed by the investigator in the performance of his duty to investigate a discrimination issue involved in the complaint.

24. Records in this system are subject to review by an independent certified public accountant during an official audit of Postal Service finances.

25. May be disclosed to a Federal or State agency providing parent locator services or to other authorized persons as defined by Pub. L. 93–647.

26. (Temp.) Disclosure of information about postal employees on the employment rolls of the Philadelphia, Pennsylvania, School District (PSD) may be made to the PSD for a one-time comparison with the PSD's time/attendances/payment files. (Note: this routine use will be in effect for a period of one year from its effective date.)

27. To union-sponsored Insurance carriers for the purpose of determining eligibility for coverage and payments of benefits under union-sponsored, nonfederal insurance plans and transferring related records as appropriate.

28. (Temp.) To provide to the Department of Education, home address information on former postal employees for the purposes of notifying those individuals of their indebtedness to the United States under programs administered by the Secretary of Education and for taking subsequent actions to collect those debts.

Note—this routine use will be in effect for a period of one year ending February 3, 1985.

POLICIES AND PRACTICES FOR STORING RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEMS:

STORAGE

Preprinted forms, magnetic tape, microforms, punched cards, computer reports and card forms.

RETRIEVABILITY:

These records are organized by location, name and social security number.

SAFEGUARDS:

Records are contained in locked filing cabinets; are also protected by computer passwords and tape library physical security.

RETENTION AND DISPOSAL:

Records are retained and updated throughout employment with the Postal Service. Upon separation records become historical data, this data is retained at the local site for two years then forwarded to the Federal Records Center nearest the pay location.

SYSTEM MANAGER(S) AND ADDRESS:

APMG, Finance Department and APMG, Employee Relations Department at Headquarters.

NOTIFICATION PROCEDURE:

Request for information on this system of records should be made to the head of the facility where employed, giving full name and social security number. Headquarters employees should submit requests to the System Manager.

RECORD ACCESS PROCEDURES:

See Notification above.

RECORD SOURCE CATEGORIES:

Information is furnished by employees, supervisors and the Postal Source Data System.

W. Allen Sanders,

Associate General Counsel, Office of General Law and Administration.

[FR Doc. 84–3025 Filed 2–2–84; 8:45 am]

BILLING CODE 7715–12–M

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. 13737; 811–3208]

Alpha Cash Management Fund, Inc.; Application

January 27, 1984.

Notice is hereby given that Alpha Cash Management Fund, Inc. ("Applicant") Suite 500, Two Piedmont Center, NE., Atlanta, Georgia 30363, registered under the Investment Company Act of 1940 ("Act") as a no-load, open-end, diversified management investment company, filed an application on October 20, 1983, and an amendment thereto on January 17, 1984, for an order of the Commission pursuant to Section 8(f) of the Act, declaring that Applicant has ceased to be an investment company. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant states that it filed its notification of registration and registration statement under the Act on June 19, 1981. Applicant represents that on August 19, 1983, its Board of Directors resolved to cease all further sales of Applicant's stock effective August 31, 1983, thereafter to pay all dividends to the stockholders in cash, and that when the number of stockholders became fewer than one hundred, the appropriate officers of Applicant were authorized to file an application for deregulation of Applicant under the Act. Applicant represents that it is no longer offering any shares of its stock for sale to any investors.

According to the application, Applicant is not subject to the registration requirements of the Act by virtue of Section 3(c)(1) thereof because its outstanding securities are beneficially owned by fewer than 100 persons and it does not propose to make a public offering of its securities. Applicant states that except for ordinary processing of redemption requests and the payment of accrued dividends, there have been no transfers of Applicant's assets to its stockholders or to any separate trust the beneficiaries of which are or were securityholders of Applicant. Finally, Applicant states that no final decision to liquidate or dissolve Applicant has been made, thus there is no present plan for the distribution of Applicant's assets to its stockholders, other than the normal response to redemption requests.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than February 21, 1984, at 5:30 p.m., do so by submitting a written request setting forth the nature of his/her interest, the reasons for the request, and the specific issues of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date, an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84-3082 Filed 2-3-84; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 13740; 812-5711]

American Balanced Fund, Inc., et al.; Filing of Application

January 27, 1984.

In the matter of American Balanced Fund, Inc., The Growth Fund of America, Inc., The Income Fund of America, Inc. and New Perspective Fund, Inc., 333 South Hope Street, Los Angeles, CA 90071.

Notice is hereby given that American Balanced Fund, Inc., The Growth Fund of America, Inc., The Income Fund of America, Inc., and New Perspective Fund, Inc. ("Applicants"), all registered under the Investment Company Act of 1940 ("Act"), as open-end, diversified, management investment companies, filed an application on November 28, 1983, for an order of the Commission, pursuant to Section 6(c) of the Act, declaring that Robert A. Fox, a director of each of the Applicants, shall not be deemed to be an "interested person" of the Applicants within the meaning of Section 2(a)(19) of the Act solely by reason of his being a director of HL Capital Management Corporation ("HLCM"), which has a wholly-owned subsidiary registered as a broker-dealer under the Securities Exchange Act of 1934 ("1934 Act"). All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below, and to the Act for the complete text of the applicable provisions thereof.

According to the application, HLCM, incorporated in the State of Delaware, is a privately held, diversified insurance and financial services company having two wholly-owned subsidiaries, Pacific Compensation Insurance Company ("PCI") and Captive & Self Insurance Services, Inc. ("CSI"). Applicants state that PCI is a California specialty workers' compensation insurer; CSI is engaged in providing insurance services, such as risk management and consulting services, to policyholders of PCI. Applicants further represent that Captive & Self Insurance Securities, Inc. ("CSIS"), a wholly-owned subsidiary of CSI, is registered as a broker-dealer under the 1934 Act in order to assist policyholders of PCI in forming and funding offshore reinsurance companies which reinsure a portion of the policies of PCI policyholders.

Applicants aver that Mr. Fox's connection with CSIS is such that he has no personal interest in its business and his relationship with CSIS is so remote and irrelevant to his functioning as an independent director of Applicants that an exemption, pursuant to Section 6(c) of the Act, is appropriate. The application represents that since CSIS acts only to set up transactions between offshore insurance companies—created by its parent, CSI—and policyholders, Applicants, and Mr. Fox, as an independent director of Applicants, could never deal with CSIS. The applicantion represents that Applicants will have no occasion to obtain the reinsurance that CSIS arranges with PCI because Applicants cannot sell insurance policies under their charters or under the Act. As a result, Applicants contend that Mr. Fox's position as an independent director of Applicants will in no way be affected by his position with HLCM. Applicants further state that Mr. Fox is a man of independent means and standing in the business community, his remuneration as a director of HLCM is an insignificant portion of his total income, and there is no other way in which he is affiliated or dependent upon HLCM.

In connection with the application, the following representations have also been made: (1) The Applicants represent that they will not use CSIS for portfolio transactions or for the distribution of their shares so long as Mr. Fox is a director, director emeritus, officer or employee of HLCM; (2) Mr. Fox will not take part in the selection of broker-dealers or the placement of transaction orders on behalf of the Applicants; (3) Mr. Fox has informed the Applicants that he will not be a director or officer of CSIS and will have no authority or responsibility for the management of the operations of CSIS while he is a director of Applicants; and (4) Applicants believe that the relationship of Mr. Fox with HLCM and CSIS will not impair his independence in acting on behalf of Applicants.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than February 21, 1984, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date, an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84-3059 Filed 2-2-84; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 13738; 812-5686]

EBI Equity, Inc., et al.; Filing of Application

January 27, 1984.

In the Matter of EBI Equity, Inc., EBI, Income, Inc., and EBI Cash Management Inc., 400 Colony Square, Suite 1000, 1201 Peachtree Street NE., Atlanta, Georgia 30361.

Notice is hereby given that EBI Equity, Inc., EBI Income, Inc. ("Funds"), and EBI Cash Management, Inc. ("Cash Management") (collectively, "Applicants"), registered under the Investment Company Act of 1940 ("Act") as open-end diversified, management investment companies, filed an application on October 27, 1983, and an amendment thereto on January 23, 1984, requesting an order, pursuant to Section 6(c) of the Act, exempting Applicants from the provisions of Sections 2(a)(32), 2(a)(35) and 22(c) of the Act and Rule 22c-1 thereunder, to the extent necessary to permit Applicants to assess a contingent deferred sales charge on certain redemptions of shares. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein which are summarized below and to the Act and the Rules thereunder for the complete text of the applicable provisions.

According to the application, Applicants are Georgia corporations, organized on October 19, 1983. The application indicates that each of the Applicants has filed a registration statement, pursuant to the Securities Act of 1933, in which they propose that shares in each of Applicants are to be offered for sale primarily to profit sharing and pension trusts through the Applicants' principal underwriter, Gemini Capital Management, Inc. ("Distributor"); shares may be sold through other broker-dealers, pursuant to dealer agreements with the

Distributor. The application further states that each of the Funds requires a minimum investment of $100,000, less only any amounts invested in the other Applicants. The respective boards of directors of the Funds have determined that the Funds should each finance in part the distribution of its shares; the Funds' directors and the Distributor, the sole shareholder of each of the Funds, have approved plans of distribution, pursuant to Rule 12b–1 of th Act ("Rule 12b–1 Plans"). The board of directors of Cash Management does not presently intend to adopt a Rule 12b–1 Plan.

Applicants propose that a contingent deferred sales charge be imposed with respect to those shares on which the Funds have paid commissions and which are redeemed before the sales commissions can be recouped through Rule 12b–1 Plan payments. The application states that the amount of the contingent deferred sales charge will decline from 5% to 0% depending on the length of time the investment has been held in the Funds. In no event could the amount of the charges, in the aggregate, ever exceed 5% of the lesser of (1) the net asset value of the shares redeemed, or (2) the total cost of such shares ("reference value"). Applicants represent that no contingent deferred sales charge will be imposed when the investor redeems (1) amounts derived from increases in the value of his account above the total cost of shares being redeemed due to increases in the net asset value per share, (2) shares with respect to which the Funds did not pay a commission on issuance (including shares acquired through reinvestment of dividend income and capital gains distributions), or (3) shares which, together with exchanged shares, have been held continuously for 30 months.

The application indicates that the Funds propose to calculate any applicable charge by determining the month during which the purchase payment (which was the source of the investment being redeemed) was made and applying the appropriate percentage to the amount of the redemption subject to the charge. The contingent deferred sales charge is 5% of the reference value times a fraction, the numerator of which is 30 minus the number of whole or partial calendar months elapsed since the initial purchase and the demoninator of which is 30. The application states that in determining whether a contingent deferred sales charge is payable and, if so, the percentage charge applicable, it is assumed that shares held the longest are the first to be redeemed.

Applicants represent that no charge is imposed on exchanges of shares between the Applicants; however, if shares of Cash Management are acquired as a result of an exchange of shares from the Funds and the shares being tendered for exchange are subject to a contingent deferred sales charge, the charge will carry over to the Cash Management shares being acquired. Applicants further represent that shares held in Cash Management (for purposes of determining the length of time shares have been held by an investor), which are subject to a contingent deferred sales charge, will not be credited with the time those shares are held in Cash Management.

The application states that each Fund's Rule 12b–1 Plan provides that the Fund may incur certain distribution expenses which may not exceed for any calendar quarter a maximum amount equal to 0.3125% of the Fund's average daily net assets during the quarter (an amount approximately equivalent to 1.25% annually of the Fund's average daily net assets). These amounts may be paid to the Distributor as commissions for shares of the Fund actually sold after the inception of the Rule 12b–1 Plan; all or part of these commissions may be allowed to others. The application further states that, under the Rule 12b–1 Plans, each of the Funds may pay the Distributor a maintenance fee of up to .25% per annum of the average net asset value of the shares sold by the Distributor which remain outstanding on the books of the Fund for specified periods. Applicants finally propose that each of the Funds may also pay to the Distributor amounts sufficient to enable the Distributor to pay to others (e.g., broker-dealers) maintenance or other fees with respect to Fund shares sold by others after inception of the Rule 12b–1 Plan and remaining outstanding on the books of the Fund for specified periods.

Applicants assert that their proposal permits shareholders to have the advantages of greater investment dollars working for them from the time of their purchase. Moreover, Applicants state that the contingent deferred sales charge will not apply to redemptions of shares held continuously for 30 months after date of purchase, or to increases in the investor's account through reinvestment of distributions on increases in net asset value per share.

Applicants request an exemption from the operation of Section 2(a)(32) of the Act to the extent necessary to permit imposition of the proposed contingent deferred sales charge. Applicants believe that imposition of the contingent deferred sales charge will not restrict a shareholder from receiving his proportionate share of the current net assets of the Applicants, but will merely defer the deduction of a sales charge and make it contingent upon an event which may never occur.

Applicants also request an exemption from the provision of Section 2(a)(35), to the extent necessary to permit imposition of the proposed charge. Applicants aver that the proposed contingent deferred sales charge is consistent with the intent of the Act's definition of "sales load" in Section 2(a)(35). The contingent deferred sales charge is paid to the Funds to reimburse them for expenses related to the sale of their shares and, therefore, Applicants submit that this arrangement is within the Section 2(a)(35) definition of sales load, but for the timing of the imposition of the charge. Applicants contend that the deferral of its sales charge, and its contingency upon the occurrence of an event which may not occur, does not change the basic nature of this charge, which is in every other respect a sales charge.

In order to avoid any possibility that questions might be raised as to the potential applicability of Section 22(c) of the Act and Rule 22c–1 thereunder to the proposed imposition of contingent deferred sales charges, Applicants request an exemption from the provisions of that section and rule to the extent necessary to permit Applicants to implement the proposed contingent deferred sales charge.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than February 21, 1984, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date, an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84–3060 Filed 2–2–84; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. 13739; 812-5732]

Koenig Tax-Advantaged Liquidity Fund, Inc.; Filing of Application

January 27, 1984.

Notice is hereby given that Koenig Tax-Advantaged Liquidity Fund, Inc. ("Applicant") 50 Broadway, New York, NY 10004, filed an application on December 27, 1983, for an order pursuant to Section 6(c) of the Investment Company Act of 1940 ("Act"), exempting Applicant from the provisions of Section 22(d) of the Act to the extent necessary to permit Applicant to base its sales load applicable to additional investments by any investor on that investor's cumulative investment in Applicant, including reinvested distributions, if any, but without regard to redemptions of the investor's shares. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below, and to the Act for the text of the applicable sections.

According to the application, Applicant is registered under the Act as an open-end, non-diversified, management investment company and its investment adviser is F. Martin Koenig & Company, a New York limited partnership. Applicant's principal underwriters are Bear, Stearns & Co., F. Martin Koenig, Inc., and McMahon, Brofman, Morgan & Co. Applicant states that a sales load which is dependent on the amount of funds invested, is currently imposed on purchases of Applicant's shares. According to the application a 3% load is imposed on the $1,000,000 minimum investment, a load of $30,000 plus 1.5% of amounts over $1 million is imposed on investments of $1 to $5 million, a load of $90,000 plus .75% of amounts over $5 million is imposed on investments of $5 million to $10 million, a load of $127,500 plus .375% of amounts over $10 million is imposed on investments of $20 million or more.

Applicant proposes to base its sales load applicable to additional investments by an investor on that investor's cumulative investment in Applicant, including reinvested distributions, if any, but without regard to redemptions. Under Rule 22d-1(a)(1)(ii) the sales load for additional investments is based on the net asset value of Applicant's shares actually owned by the investor at the time of the additional investment plus the amount of the additional investment minus the applicable sales load. Applicant represents that the proposed fee structure will enable an investor making an additional investment to receive credit, with respect to the amount of sales load presently charged, for past investments. The application states that past investors in Applicant will not be penalized for having withdrawn their investments and may be encouraged to make future investments.

Applicant represents that the sales load charged any particular investor for any investment or additional investment will be evident from Applicant's prospectus and will not be subject to anyone's discretion. Applicant further represents that the sale effort required to obtain additional investments is substantially less than the effort required to obtain initial investments.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than February 21, 1984, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date, an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84-3061 Filed 2-2-84; 8:45 am]

BILLING CODE 8010-01-M

Philadelphia Stock Exchange, Inc.; Application for Unlisted Trading Privileges and of Opportunity for Hearing

January 30, 1984.

The above named national securities exchange has filed an application with the Securities and Exchange Commission pursuant to Section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the common stock of:

Time, Incorporated

Common Stock, $1 Par Value

This security is listed and registered on one or more other national securities exchange and is reported on the consolidated transaction reporting system.

Interested persons are invited to submit on or before February 21, 1984, written data, views and arguments concerning the above-referenced application. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549. Following this opportunity for hearing, the Commission will approve the application if it finds, based upon all the information available to it, that the extension of unlisted trading privileges pursuant to such application is consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84-3058 Filed 2-2-84; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-20602; File No. SR-Amex 83-34]

Self-Regulatory Organizations; Proposed Rule Change by American Stock Exchange, Inc.; Relating To Certain Required Provisions In The Certificate of Designation of Listed Preferred Stock

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on December 30, 1983, the American Stock Exchange filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organizations' Statement of the Terms of Substance of the Proposed Rule Change

The American Stock Exchange is proposing to amend that portion of Section 124 of the Amex Company Guide which requires the consent of existing preferred stockholders before an issuer is permitted to create an additional class of preferred stock ranking prior to, or in parity with, the listed issue.

II. Self-Regulatory Organization's Statement of the Purpose of and Statutory Basis for the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included

statements concerning the purpose of and basis for the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of and Statutory Basis for the Proposed Rule Change

(a) *Purpose.* The purpose of amending certain of the voting provisions of Section 124 is to remove outdated and definitionally vague portions of the rule while retaining the significant investor protections afforded by other provisions of the rule.

Section 124 provides two very important and basic voting rights to preferred holders. First, it requires that holders be given the right to elect at least two members of the company's board of directors if, for a two year period, there has been a default in payment of fixed dividends. Second, a two-thirds approval requirement limits the company from changing any right, privilege or preference of the listed preferred without prior approval of two-thirds of the outstanding shares. The Exchange intends to retain these essential rights. As part of its ongoing review of all listing rules, however, the Exchange has determined that two other voting provisions contained within Section 124(b)(ii) are unnecessary and should be deleted.

Section 124(b)(ii) of the Amex Company Guide states that, in order for a preferred stock to be eligible for listing, the issue must by its terms prohibit the creation of any additional class of preferred stock unless approved by holders of at least:

(i) *Two-thirds* of the issue to be listed if the company intends to create a class of preferred stock *senior* to the issue to be listed; or

(ii) A *majority* of the issue to be listed if the company intends to create a class *equal* in preference to the issue to be listed.

The Exchange considered the following in reaching its determination to delete these two provisions:

(i) The blurring of any meaningful differences between the terms "class" and "series" thereby in many cases permitting a company's board to avoid the rule by designating new preferred stock issuances as a "series" rather than a new "class" of securities;

(ii) The trend in state corporate law permitting stockholders to delegate to the board of directors the ability to issue and fix the terms of authorized preferred stock without further approval;

(iii) The knowledge of investors of the authority of the Board of Directors to issue additional securities which may rank above or below the preferred stock; and

(iv) The lack of any rational basis for regulating only one element of the total capitalization of a company. For example, since common stockholders have the least preferences in a corporate capital structure and are seldon, if ever, provided the right to approve issuances of any additional or superior securities, it appears anomalous to provide additional protections—not otherwise bargained for—to an already preferred security.

(b) *Basis.* The proposed amendments are consistent with Section 6(b) of the Exchange Act in general and further the objectives of Section 6(b)(5) of the Act in particular in that the amended rule is designed to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange has determined that the proposed rule change will enhance competition by providing greater flexibility to the management of Exchange listed-companies.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within thirty-five days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commissions' Public Reference Section, 450 Fifth Street, NW., Washington, D.C. 20549. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted within 21 days after the date of this publication.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: January 26, 1984.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84-3064 Filed 2-2-84; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-20589; File No. SR-BSECC-83-10]

Self-Regulatory Organizations; Proposed Change By Boston Stock Exchange Clearing Corp.; Relating to Increased Fees for Clearing Services

Pursuant to Section 19(b) of the Securities Exchange Act of 1984, 15 U.S.C. 78s(b)(1), notice is hereby given that on 12-30-83 the Boston Stock Exchange Clearing Corporation filed with the Securities and Exchanges Commission the proposed change as described in Item I, II, and III below, which items have been prepared by the self-regulatory organization.

The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Boston Stock Exchange Clearing Corporation has proposed to revise its fees as contained in its filing with this Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places set forth in Item IV below. The self-regulatory organization has prepared summaries, set forth in Section (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Basis for, the Proposed Rule Change

(a) Due to the changing economic and operational environment of the Clearing Corporation, a Fee Committee was established to review projected costs and revise, where appropriate, all fees of the Clearing Corporation. In reviewing the 1984 operating budget, the Fee Committee recommended and the Board of Directors approved a number of changes in its fee structure. These changes include elimination of the 15% surcharge which was adopted as a temporary measure in May of 1981 until new fees could be established and conversion of its clearing system completed. These changes also include a reduction in trade recording and comparison fees and establishment of reduced incremental rates based on monthly volume. These measures were recommended to offer members and participants incentives to increase orderflow to the Boston Stock Exchange and Clearing Corporation. Finally, the increases in fixed fee categories were extablished to match more closely these revenues to the fixed cost associated with providing the related services.

(b) The proposed rule change is consistent with the requirements of the Securities Exchange Act of 1934 and the rules and regulations thereunder applying to the Boston Stock Exchange Clearing Corporation because it continues the equitable allocation of fees charged to all participants. The proposed rule change will be implemented consistently with the safeguarding of securities and funds in its custody or control or for which it is responsible because it would insure an efficient system for the settlement of trades and the safekeeping of assets.

(B) Self-Regulatory Organization's Statement on Burden on Competition

No burden on competition is perceived by adoption of the proposed rule change.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

Comments were solicited from members and participants on November 30, 1983. One response was received from a small broker-dealer in upstate New York who felt that the increase in account maintenance was excessive and not in accord with the overall plan to reduce transaction costs.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change became effective January 1, 1984 pursuant to Section 19(b)(3)(A) of the Securities Exchange Act of 1934. At any time within 60 days of the filing of such rule change, the Commission may summarily abrogate the proposed rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed change that are filed with the Commission, and all written communications relating to the proposed change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted within 21 days after the date of this publication.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: January 24, 1984.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84-3063 Filed 2-2-84; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-20607]

Approval of Fingerprinting Plan of the Chicago Board Options Exchange, Inc.

On November 7, 1983 The Chicago Board of Exchange ("CBOE") submitted a fingerprinting plan for Commission approval pursuant to Rule 17f-2(c) under the Securities Exchange Act of 1934 (the "Act").[1] Under the terms of this plan, the CBOE will collect fingerprint cards submitted by its members, forward the cards to the Attorney General of the United States for identification and appropriate processing, and return the fingerprint cards and any information received as a result of such processing to the submitting members. The Commission is approving the CBOE plan as filed.

Under its fingerprinting plan, the CBOE would collect fingerprint cards from its members, forward the cards to the FBI (the fingerpring processing arm of the Attorney General) for identification and appropriate processing, and there after return the fingerprint cards and any information received from the FBI to the submitting member. Thus, partners, directors, officers, and employees of such organizations who do not meet the conditions for exemption from the fingerprinting requirement under Rule 17f-2 may submit fingerprints to the CBOE in accordance with the provisions of the CBOE's plan. Through this service, CBOE members should experience decreased delay and expense associated with submitting employee fingerprint cards by members and associated persons and employees of members processed though the National Association of Securities Dealers.

The Commission has reviewed the procedures detailed in the plan. The CBOE's fingerprinting plan is similar to other existing self-regulatory organization plans.[2] In particular, the

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[1] Rule 17f-2(c) [17 CFR § 240.17f-2(c)] under Section 17(f)(2) of the Act [15 U.S.C. 78a et seq., as amended by Pub. L. No. 94-29 (June 4, 1975].

[2] Plans submitted by the Boston Stock Exchange, Inc., the National Association of Securities Dealers, Inc., the New York Stock Exchange, Inc., and the Pacific Stock Exchanges, Inc., were approved by the Commission on June 22, 1976. *See* Securities Exchange Act Release No. 12586 (June 22, 1976), for the approval of these plans, a discussion of the background and purpose of Rule 17f-2, and the role

Continued

CBOE undertakes no responsibility other than the conveyance of fingerprint records and criminal history record information between participating entities and the Attorney General of the United States. The Commission believes this plan is in the public interest and consistent with the protection of investors. Thus, the Commission declares the plan to be effective on January 27, 1984.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

Dated: January 27, 1984.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84-3066 Filed 2-3-84; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area No. 2115]

Texas; Declaration of Disaster Loan Area

Nueces County and the adjacent Counties of Aransas, Jim Wells, Kleberg and San Patricio in the State of Texas constitute a disaster area because of damage caused by below freezing temperatures on December 22–29, 1983. Applications for loans for physical damage may be filed until the close of business on March 30, 1984, and for economic injury until the close of business on October 30, 1984, at the address listed below: U.S. Small Business Administration, Corpus Christi Branch Office, P.O. Box 9253, 3105 Leopard Street, Corpus Christi, Texas 78408, or other locally announced locations.

Interest rates for this disaster are:

Homeowners with credit available elsewhere, 12.500%.

Homeowners without credit available elsewhere, 6.250%.

Businesses with credit available elsewhere, 11.000%.

Businesses without credit available elsewhere, 8.000%.

Businesses (EIDL) without credit available elsewhere, 8.000%

Other (non-profit organizations including charitable and religious organizations), 10.500%.

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of self-regulatory organizations in implementing the mandate of Section 17(f) of the Act. Plans submitted by the American Stock Exchange, Inc. and the Philadelphia Stock Exchange, Inc. were approved by the Commission on July 8, 1976. *See* Securities Exchange Act Release No. 12609 (July 8, 1976). A plan submitted by the Midwest Stock Exchange, Inc., was approved by the Commission on August 4, 1976. *See* Securities Act Release No. 12687 (August 4, 1976).

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: January 30, 1984.

Heriberto Herrera,

Acting Administrator.

[FR Doc. 84-3047 Filed 2-3-84; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Advisory Circular on Material Correction Factors for Type Certification of Structure of Small Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Draft Advisory Circular (AC) Availability and Request for Comments.

SUMMARY: This AC provides guidance material for an acceptable means of demonstrating compliance with the requirements of Part 23 of the Federal Aviation Regulations which ensures that the structural strength of production airframes is equal to, or exceeds, the structural design strength of the test airframe.

DATE: Commenters must identify File AC 23–XX; Subject: Material Correction Factors for Type Certification of Structures of Small Airplanes, and comments must be received on or before March 19, 1984.

ADDRESS: Send all comments on the draft AC to: Federal Aviation Administration, ATTN: Regulations and Policy Office (ACE–110), 601 East 12th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Mr. Edward A. Gabriel, Aerospace Engineer, Regulations and Policy Office (ACE–110), Aircraft Certification Division, Federal Aviation Administration, 601 East 12th Street, Kansas City, Missouri 64106; Commercial Telephone (816) 374–6941, or FTS 758–6941.

SUPPLEMENTARY INFORMATION: Any person may obtain a copy of this draft AC by writing to: Federal Aviation Administration, Aircraft Certification Division, Regulations and policy Office (ACE–110), 601 East 12th Street, Kansas City, Missouri 64106.

Comments Invited: Interested parties are invited to submit comments on the draft AC. The draft AC and comments received may be inspected at the offices of the Regulations and Policy Office (ACE–110), Room 1656, Federal Office Building, 601 East 12th Street, Kansas City, Missouri, between the hours of 7:30 a.m. and 4:00 p.m. on weekdays, except Federal holidays.

Issued in Kansas City, Missouri, on December 27, 1983.

Barry D. Clements,

Director, Central Region.

[FR Doc. 84-3043 Filed 2-3-84; 8:45 am]

BILLING CODE 4910-13-M

UNITED STATES INFORMATION AGENCY

Delegation Order No. 84–2 to the Associate Director for Educational and Cultural Affairs

Pursuant to the authority vested in me as Director of this Agency by Reorganization Plan No. 2 of 1977, and by Executive Order 12048 of March 27, 1978, there is hereby delegated to the Associate Director for Educational and Cultural Affairs, the following described authority:

1. The authority under section 104(e)(1) of the Mutual Educational and Cultural Exchange Act of 1961, as amended, to approve a per diem rate above the standard allowance when the status of a high official of a foreign government requires special treatment.

2. Notwithstanding any other provision of this order, the Director may at any time exercise any function or authority delegated herein.

This delegation is effective immediately.

Dated: January 23, 1984.

Charles Z. Wick,

Director, United States Information Agency.

[FR Doc. 84-2982 Filed 2-3-84; 8:45 am]

BILLING CODE 8230-01-M

VETERANS ADMINISTRATION

Geriatrics and Gerontology Advisory Committee; Meeting

The Veterans Administration gives notice under Pub. L. 92–463 that a meeting of the Geriatrics and Gerontology Advisory Committee will be held in Room 617 at the Veterans Administration Central Office, 810 Vermont Avenue, NW, Washington, DC, on February 22 and 23, 1984. The purpose of the Geriatrics and Gerontology Advisory Committee is to advise the Administrator and the Cheif Medical Director relative to the care and treatment of the aging veterans, and to evaluate the Geriatric Research, Educational and Clinical Centers established by the Department of Medicine and Surgery.

The sessions will convene at 8:30 a.m. both days. These sessions will be open to the public up to the seating capacity of the room. Because this capacity is limited, it will be necessary for those wishing to attend to contact Mrs. Von Hudson, Program Assistant, Office of the Chief Medical Director, Veterans Administration Central Office (phone 202/389–2298) prior to February 15, 1984.

Dated: January 24, 1984.

By direction of the Administrator.

Rosa Maria Fontanez,

Committee Management Officer.

[FR Doc. 84-3023 Filed 2-2-84; 8:45 am]

BILLING CODE 8320-01-M

Sunshine Act Meetings

Federal Register
Vol. 49, No. 24
Friday, February 3, 1984

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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1

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

DATE AND TIME: Tuesday, February 7, 1984, 9:30 a.m. (Eastern Time).

PLACE: Commission Conference Room No. 200–C, second floor, Columbia Plaza Office Building, 2401 "E" Street, N.W., Washington, D.C. 20507.

STATUS: Part will be open to the public and part will be closed to the public.

MATTERS TO BE CONSIDERED:

1. Announcement of Notation Votes.
2. A Report on Commission Operations (Optional).
3. Freedom of Information Act Appeal Request No. 83–11–FOIA–180–SL. concerning a request for information regarding ADEA charges.
4. Proposed Order 110—Criteria for Designation of Field Offices.
5. Request for Authorization to Award Contract and Obligate FY 1984 and FY 1985 Funds.

Closed:

1. Litigation Authorization; GC Recommendations.
2. Consideration of ORA Decisions.

Note.—Any matter not discussed or concluded may be carried over to a later meeting. (In addition to publishing notices on EEOC Commission Meetings in the **Federal Register**, the Commission also provides recorded announcements a full week in advance on future Commission sessions.)

Please telephone (202) 634–6748 at all times for information on these meetings).

CONTACT PERSON FOR MORE INFORMATION: Treva McCall, Executive Secretary to the Commission at (202) 634–6748.

Dated: January 31, 1984.

Treva McCall,

Executive Secretary to the Commission.

[FR Doc. 84-3154 Filed 2-2-84; 11:20 am]

BILLING CODE 6750-06-M

2

FEDERAL DEPOSIT INSURANCE CORPORATION

Additional Matters to be Considered at Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at the open session of the Federal Deposit Insurance Corporation's Board of Directors meeting schedule to commence at 2 p.m. on Monday, Febraury 6, 1984, the following matters are expected to be considered, in addition to those matters previously announced:

Discussion Agenda:

Memorandum and resolution re: Final amendments to the Corporation's rules and regulations which would implement section 905(a) of the International Lending Supervision Act of 1983 by requiring banking institutions to establish special reserves against the risks presented in certain international assets.

Memorandum and resolution re: Proposed amendments to the Corporation's rules and regulations which would implement section 906 of the International Lending Supervision Act of 1983 by prescribing the accounting treatment for fees charged by banking institutions in connection with international loans.

Memorandum and resolution re: (1) Proposed amendments to Part 338 of the Corporation's rules and regulations, entitled "Fair Housing," which would eliminate the requirement that insured State nonmember banks collect and record in a log-sheet certain data concerning home loan inquiries while retaining the requirement that information on all home loan applications be recorded and retained for 25 months; and (2) a request for public comment on a possible reduction in the number of banks required to maintain log-sheets.

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550 17th Street, N.W., Washington, D.C.

Requests for further information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 389–4425.

Dated: January 31, 1984.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 84-3097 Filed 2-1-84; 8:45 am]

BILLING CODE 6714-01-M

3

FEDERAL DEPOSIT INSURANCE CORPORATION

Changes in Subject Matter of Agency Meeting

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at its open meeting held at 2 p.m. on Monday, January 30, 1984, the Corporation's Board of Directors determined, on motion of Chairman William M. Isaac, seconded by Director Irvine H. Sprague (Appointive), concurred in by Director C. T. Conover (Comptroller of the Currency), that Corporation business required the withdrawal from the agenda for consideration at the meeting, on less than seven days' notice to the public, of the following matters:

Memorandum and resolution re: Final amendments to the Corporation's rules and regulations which would implement section 905(a) of the International Lending Supervision Act of 1983 by requiring banking institutions to establish special reserves against the risks presented in certain international assets.

Memorandum and resolution re: Proposed amendments to the Corporation's rules and regulations which would implement section 906 of the International Lending Supervision Act of 1983 by prescribing the accounting treatment for fees charged by banking institutions in connection with international loans.

Memorandum and resolution re: Proposed amendments to the Corporation's rules and regulations which would implement section 907 of the International Lending Supervision Act of 1983, pertaining to the collection and disclosure of certain international lending data.

The Board further determined, by the same majority vote, that Corporation business required the addition to the agenda for consideration at the meeting,

on less than seven days' notice to the public, of the following matters:

Application of Mutual Savings Company of Omaha, Omaha, Nebraska, an operating noninsured industrial bank, for Federal deposit insurance.

Request of Mutual Savings Company of Omaha, Omaha, Nebraska, an operating noninsured industrial bank, for exemptions to section 348.4(b)(5) of the Corporation's rules and regulations.

Memorandum re: Review of the Space Situation in the Ecker Square Condominium and Recommendation to Purchase Additional Space.

The Board further determined, by the same majority vote, that Corporation business required, on less than seven day's notice to the public, the withdrawal from the agenda for consideration in open session and the addition to the agenda for consideration at the Board's closed meeting to be held at 2:30 p.m. that same day, of the following matters:

Application of Barnett Bank of Volusia County, De Land, Florida, for consent to establish two remote service facilities at Volusia Mall, 1700 Volusia Avenue, Daytona Beach, Florida, and at Embry Riddle (Aéronautical College), Daytona Beach Regional Airport, Daytona Beach, Florida.

Application of Barnett Bank of Columbia County (formerly The State Exchange Bank), Lake City, Florida, for consent to establish a remote service facility at Gleason's Corner, U.S. Highway 90 West, Lake City, Florida.

Application of Barnett Bank of Polk County, Lakeland, Florida, for consent to establish three remote service facilities at Florida Southern College, Lake Hollingsworth Drive, Lakeland, Florida, at Polk Community College, 999 Avenue H, N.E., Winter Haven, Florida, and at Winter Haven Hospital, 200 Avenue, F, N.E., Winter Haven, Florida.

Application of Barnett Bank of Tallahassee, Tallahassee, Florida, for consent to establish a remote service facility at the Student Union Building 194 on the Florida State University Campus, Tallahassee, Florida.

Application of Barnett Bank of Indian River County (formerly Commercial Bank of Vero Beach), Vero Beach, Florida, for consent to establish a remote service faciltiy at Vero Beach Mall, 1255 South U.S. Highway 1, Vero Beach, Florida.

Memorandum re: Proposed study to identify technical and operational solutions to problems experienced by the Corporation's Division of Liquidation in automating the payment of insured deposits in closed banks.

In voting to move these matters from open session to closed session, the Board further determined, by the same majorty vote, that the public interest did not require consideration of the matters in a meeting open to public observation and that the matters could be considered in a closed meeting by authority of subsections (c)(2), (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(2), (c)(6), (c)(8), and (c)(9)(A)(ii)).

By the same majority vote, the Board further determined that no earlier notice of these changes in the subject matter of the meeting was practicable.

Dated: January 31, 1984.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 84-3088 Filed 2-1-84; 11:22 am]

BILLING CODE 6714-01-M

4

FEDERAL DEPOSIT INSURANCE CORPORATION

Changes in Subject Matter of Agency Meeting

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at its closed meeting held at 2:30 p.m. on Monday, January 30, 1984, the Corporation's Board of Directors determined, on motion of Chairman William M. Isaac, seconded by Director Irvine H. Sprague (Appointive), concurred in by Director C. T. Conover (Comptroller of the Currency), that Corporation business required the addition to the agenda for consideration at the meeting, on less than seven days' notice to the public, of the following matters:

Recommendations regarding the liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Memorandum and Resolution re: American City Bank, Los Angeles, California

Case No. 45,927-L: First National Bank of Midland, Midland, Texas

Recommendation regarding certain litigation involving the Corporation

Memorandum re: Deferral of consideration of a merger application

Memorandum re: Review of the Space Situation in the Ecker Square Condominium and Recommendation to Purchase Additional Space

The Board further determined, by the same majority vote, that no earlier notice of these changes in the subject matter of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting by authority of subsections (c)(6), (c)(8), (c)(9)(A)(ii), (c)(9)(B), and (c)(10) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(6), (c)(8), (c)(9)(A)(ii), (c)(9)(B), and (c)(10)).

Dated: January 31, 1984.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 84-3089 Filed 2-1-84; 11:22 am]

BILLING CODE 6714-02-M

5

FEDERAL HOME LOAN BANK BOARD

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 49 FR 3562, Friday, January 27, 1984.

PLACE: Board Room Sixth Floor, 1700 G Street, NW., Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION: Ms. Gravelee (202-377-6970).

CHANGES IN THE MEETING: The following items have been withdrawn from the open portion of the Bank Board meeting scheduled Friday, February 3, 1984, at 2:30 p.m.:

Brokered Deposits

Insurance Coverage of Accounts Held by Investment Companies, Insurance of Joint Accounts

Deposit Growth

[No. 70, January 31, 1984]

J. J. Finn,

Secretary.

[FR Doc. 84-3080 Filed 2-1-84; 10:49 am]

BILLING CODE 6720-01-M

6

FEDERAL RESERVE SYSTEM

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 49 FR 3720, January 30, 1984.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10 a.m., Thursday, February 2, 1984.

CHANGES IN THE MEETING: Deletion of the following open item(s) from the agenda:

Proposed response to the Securities and Exchange Commission on its proposal to require banks that conduct certain securities activities to register as broker/dealer

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board (202) 452-3204

Dated: January 31, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-3081 Filed 2-1-84; 10:49 am]

BILLING CODE 6210-01-M

7

FEDERAL RESERVE SYSTEM

TIME AND DATE: Approximately 11 a.m., Wednesday, February 8, 1984, following a recess at the conclusion of the open meeting.

PLACE: 20th Street and Constitution Avenue, NW., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Proposed building design plans and budget for the Omaha Branch of the Federal Reserve Bank of Kansas City.
2. Renovation proposal by the Federal Reserve Bank of New York.
3. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
4. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board (202) 452–3204.

Dated: January 31, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84–3086 Filed 2–1–84; 11:11 am]

BILLING CODE 6210–01–M

8

FEDERAL RESERVE SYSTEM

TIME AND DATE: 10 a.m., Wednesday, February 8, 1984.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, NW., Washington, D.C. 20551.

STATUS: Open.

MATTERS TO BE CONSIDERED: *Summary Agenda:* Because of its routine nature, no substantive discussion of the following item is anticipated. This matter will be voted on without discussion unless a member of the Board requests that the item be moved to the discussion agenda:

1. Proposal to establish two reports to collect annual percentage rates charged by creditors for representative types of credit and to evaluate the feasibility of publishing a "shopper's guide to credit."

Discussion Agenda:

2. Federal Reserve proposals regarding Automated Clearing House (ACH) fee schedules, float elimination and pricing, and service issues. (Proposed earlier for public comment; Docket No. R–0482.)
3. Proposed Federal Reserve cash service standards and prices.
4. Any items carried forward from a previously announced meeting.

Note.—This meeting will be recorded for the benefit of those unable to attend. Cassettes will be available for listening in the Board's Freedom of Information Office, and copies may be ordered for $5 per cassette by calling (202) 452–3684 or by writing to: Freedom of Information Office, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board (202) 452–3204.

Dated: January 31, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84–3086 Filed 2–1–84; 11:11 am]

BILLING CODE 6210–01–M

VOL
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federal register

Friday
February 3, 1984

Part II

Department of Labor

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions; Notices

DEPARTMENT OF LABOR

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor specify, in accordance with applicable law and on the basis of information available to the Department of Labor from its study of local wage conditions and from other sources, the basic hourly wage rates and fringe benefit payments which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of the character and in the localities specified therein.

The determinations in these decisions of such prevailing rates and fringe benefits have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of subtitle A of title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's Orders 12–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in effective date as prescribed in that section, because the necessity to issue construction industry wage determination frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions are effective from their date of publication in the **Federal Register** without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision together with any modifications issued subsequent to its publication date shall be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR, Part 5. The wage rates contained therein shall be the minimum paid under such contract by contractors and subcontractors on the work.

Modifications and Supersedeas Decisions to General Wage Determination Decisions

Modifications and supersedeas decisions to general wage determination decisions are based upon information obtained concerning changes in prevailing hourly wage rates and fringe benefit payments since the decisions were issued.

The determinations of prevailing rates and fringe benefits made in the modifications and supersedeas decisions have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of subtitle A of title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's orders 13–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in foregoing general wage determination decisions, as hereby modified, and/or superseded shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged in contract work of the character and in the localities described therein.

Modifications and supersedeas decisions are effective from their date of publication in the **Federal Register** without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5.

Any person, organization, or governmental agency having an interest in the wages determined as prevailing is encouraged to submit wage rate information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Office of Government Contract Wage Standards, Division of Government Contract Wage Determinations, Washington, D.C. 20210. The cause for not utilizing the rulemaking procedures prescribed in 5 U.S.C. 553 has been set forth in the original General Determination Decision.

Modifications to General Wage Determination Decisions

The numbers of the decisions being modified and their dates of publication in the **Federal Register** are listed with each State.

California: CA83–5128	Dec. 9, 1983.
Colorado: CO82–5127	Nov. 5, 1982.
District of Columbia: DC82–3031	Nov. 12, 1982.
Iowa:	
IA83–4022	Mar. 11, 1983.
IA83–4033	Apr. 29, 1983.
IA83–4035	May 13, 1983.
Michigan: MI83–2008	Feb. 11, 1983.
New Jersey:	
NJ83–3015	June 17, 1983.
NJ83–3016	June 17, 1983.
NJ83–3026	July 29, 1983.
New Mexico: NM83–4071	Oct. 7, 1983.
New York: NY81–3045	July 17, 1981.
North Dakota: ND81–5130	July 6, 1981.
Pennsylvania:	
PA82–3028	Sept. 10, 1982.
PA81–3091	Dec. 28, 1981.
PA82–3027	Oct. 8, 1982.
PA84–3000	July 6, 1983.
South Carolina: SC83–1089	Nov. 25, 1983.
Virginia: VA81–3015	Mar. 6, 1981.

Supersedeas Decisions to General Wage Determination Decisions

The numbers of the decisions being superseded and their dates of publication in the **Federal Register** are listed with each State. Supersedeas decision numbers are in parentheses following the numbers of the decisions being superseded.

Mississippi: MS83–1006 (MS84–1001)	Feb. 11, 1983.
Texas: TX81–4006 (TX84–4004)	Jan. 6, 1981.

Signed at Washington, D.C. this 27th day of January 1984.

James L. Valin,

Assistant Administrator.

BILLING CODE 4510-27-M

MODIFICATIONS

DECISION NO. CA83-5128 - MOD. #1
(48 FR 55239 - December 9, 1983)
Lake, Marin, Mendocino, & Sonoma Cos., California

	Basic Hourly Rates	Fringe Benefits
Change:		
Electricians:		
Electricians - Area 9	$22.85	4.74 + 3%
Cable Splicers	25.14	4.74 + 3%

DECISION NO. CO82-5127-MOD #5
(47 FR 50418 - November 5, 1982)
Las Animas, Otero and Pueblo Counties, Colorado

	Basic Hourly Rates	Fringe Benefits
Change:		
Carpenters	12.22	3.33

DECISION NO. DC82-3031-MOD. #17
(47 FR 51304-NOVEMBER 12, 1982)
District of Columbia;Maryland Montgomery & Prince Georges Counties:DC Training School;Virginia-Independent City of Alexandria; Arlington & Fairfax Ctys.

	Basic Hourly Rates	Fringe Benefits
ADD:		
Laborers(Brick Masonry-Apartment Buildings over 4 Stories):		
Common Laborer	$6.25	.98
Scaffold Builders,Mortarman Jackhammer,Mason Tenders	6.45	.98

DECISION NO. MI83-2008 - Mod #4
(48 FR 6456 - February 11, 1983)
Alger, Baraga, Chippewa, Dickinson, Delta, Gogebic, Houghton, Iron Kaweena, Luce, Mackinac, Marquette, Menominee, Ontonagon, and Schoolcraft Counties, Michigan

	Basic Hourly Rates	Fringe Benefits
Change:		
Electricians:		
Alger & Marquette Counties:		
Contracts $70,000 or less		
Electricians	12.65	2.33+ 3.75%
Cable Splicers	14.65	2.33+ 3.75%
Contracts over $70,000		
Electricians	15.05	2.33+ 3.75%
Cable Splicers	17.05	2.33+ 3.75%

DECISION NO. NM83-4071 - MOD. #5
(48 FR 45910 - 10/7/83)
Statewide New Mexico

	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Sheet metal workers:		
Zone II-A	$13.80	2.07+3%
Zone II-B	15.30	2.07+3%
Zone II-C	16.05	2.07+3%

MODIFICATIONS

DECISION NO. IA83-4022 - MOD. #3
(48 FR 10577 - 3/11/83)
Statewide Iowa (except Cerro Gordo, Scott & Webster Cos.)

	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Carpenters,piledrivermen & millwrights:		
Zone 1:		
Carpenters	$13.33	2.10
Carp.(creosote)	13.58	2.10
Piledrivermen	13.455	2.10
Laborers:		
Zone 1 - Group 1	9.70	1.80
Group 2	9.82	1.80
Group 3	10.05	1.80
Group 4	9.99	1.80
Group 5	10.43	1.80

DECISION NO. IA83-4033 - MOD. #2
(48 FR 19568 - 4/29/83)
Statewide Iowa (except Cerro Gordo, Scott & Webster Cos.)

	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Carpenters/piledrivermen:		
Zone 1:		
Carpenters	13.33	2.10
Carp.(creosote)	13.58	2.10
Piledrivermen	13.455	2.10
Laborers:		
Zone 1 - Group 1	9.70	1.80
Group 2	9.82	1.80
Group 3	10.05	1.80
Group 4	9.99	1.80
Group 5	10.43	1.80

DECISION NO. IA83-4035 - MOD. #5
(48 FR 21783 - 5/13/83)
Pottawattamie Co.,Iowa

	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Ironworkers	$12.10	3.90
Laborers:		
Common laborers	10.41	2.80
Mason tenders;mortar mixers;buggymobile	10.585	2.80
Pipelayers	10.75	2.80
Plasterers' tenders	10.795	2.80

MODIFICATIONS

DECISION NO. ND81-5130 - MOD. #4
(46 FR 35005 - July 6, 1981)
Statewide, North Dakota

	Basic Hourly Rates	Fringe Benefits
Omit:		
Line Construction schedule originally issued		
Add:		
Line Construction:		
Lineman, Cable Splicer	$15.50	7½%+ 1.00
Line Equipment Op.	13.95	7½%+ 1.00
Groundman	8.93	7½%+ 1.00

DECISION #SC83-1089-Mod.#2
(48 FR 53268-November 25, 1983)
Statewide South Carolina except Berkeley County

CHANGE DESCRIPTION OF WORK TO READ:
HEAVY AND WATER AND SEWER CONSTRUCTION PROJECTS (EXCLUDING DAM CONSTRUCTION PROJECTS)

DECISION NO. NY81-3045 - MOD. #5
(46 FR 37204 - July 17, 1981)
NIAGARA CO., NEW YORK

CHANGE:

	Basic Hourly Rates	Fringe Benefits
ELECTRICIANS:		
Electricians	18.38	3.275+ 3%
Cable Splicers	20.22	3.275+ 3%
PLUMBERS & STEAMFITTERS	19.00	3.25
POWER EQUIPMENT OPERATORS (BUILDING CONSTRUCTION):		
Group I	16.70	4.05+a
Group II	15.49	4.05+a
Group III	11.96	4.05+a
Group IV	13.46	4.05+a
Group V	11.70	4.05+a
Group VI	17.92	4.05+a
Group VII	17.20	4.05+a
POWER EQUIPMENT OPERATORS (HEAVY & HIGHWAY CONSTRUCTION):		
Group I	16.70	4.05+a
Group II	15.49	4.05+a
Group III	12.18	4.05+a
Group IV	13.68	4.05+a
Group V	11.70	4.05+a
Group VI	17.92	4.05+a

DECISION NO. VA81-3018-
MOD. #16
(46 FR 15666-MARCH 6, 1981)
RADFORD ARMY AMMUNITION PLANT, VIRGINIA

CHANGE LABORERS TO READ:

COMMON LABORERS	$7.60	1.10
MASON TENDERS	7.70	1.10
MORTARMEN & HOD CARRIERS	7.85	1.10
ELECTRIC OR AIR TOOL OPR.	7.85	1.10
POWER SAW OPERATOR	7.85	1.10
MOTORIZED BUGGY OPERATOR	7.85	1.10
PIPELAYERS	7.85	1.10
SCAFFORD BUILDER	7.85	1.10
VIBRATOR OPERATOR	7.85	1.10
BURNERS	8.20	1.10
WAGON DRILL OPERATOR	8.05	1.10
CAISSON WORKER-TOPMAN	7.75	1.10
CAISSON WORKER-BOTTOM MAN	8.25	1.10

MODIFICATIONS

DECISION NO. NJ83-3015 - MOD. #11
(48 FR 27991 - June 17, 1983)
Bergen, Essex, Hudson, Middlesex, Morris, Passaic, Somerset, Sussex, Union and Warren Cos., New Jersey

	Basic Hourly Rates	Fringe Benefits
Change:		
Bricklayers, Cement Masons, Plasterers and Stonemasons:		
Zone 1	$15.47	3.55
Carpenters, Insulators and Millwrights:		
Zone 2	16.57	4.18
Zone 3:		
Carpenters & Insulators	17.25	20.5%
Millwrights	17.75	20.5%
Electricians:		
Zone 6:		
Wiremen	19.56	18%+ 1.50+ 100.00 per/yr
Cable Splicers	20.87	18%+ 1.50+ 100.00 per/yr
Railroad Construction:		
Bergen & Hudson Cos.	19.96	21.5%
Commercial Telephone Installation:		
Bergen & Hudson Cos.	19.96	21.5%
Glaziers:		
Zone 2	16.90	2.75
Zone 3	17.95	5.55
Painters:		
Zone 2:		
Premium Rate	16.25	4.12
Paper Hanging and Wall Covering	16.10	4.12
Regular Rate	15.00	4.12
Repaint Rate	14.00	4.12
Pipefitters:		
Zone 3	18.62	3.51
Plumbers:		
Zone 3	18.62	3.51
Roofers:		
Zone 2:		
Composition, Damp and Waterproofers	18.17	2.73
Mechanic II (handle and Transport all materials, Tools and Equipment; Clean-up Debris)	8.25	2.73
Zone 6:		
Composition, Damp and Waterproofing	14.60	8.19
Line Construction:		
Linemen & Equipment Operators	19.56	18%+ 1.50+ 100.00 per/yr
Cable Splicers	20.87	18%+ 1.50+ 100.00 per/yr
Truck Drivers:		
Zone 3:		
Group 1	13.97	2.00+ h+i+j
Group 2	14.20	2.00+ h+i+j
Group 3	14.25	2.00+ h+i+j
Group 4	14.35	2.00+ h+i+j
Group 5	14.45	2.00+ h+i+j

Footnotes:

j. Employee contribution of $170.00 per month per employee to Health and Welfare Fund.

MODIFICAITIONS

	Basic Hourly Rates	Fringe Benefits
DECISION NO. NJ83-3015 CONT'D		
Power Equipment Operators: (Excluding Steel Erection and Oilostatic Mainlines and Transportation Pipe lines): Change Class 4 to read Class 3; Class 5 to read Class 4; Class 6 to read Class 5; and Class 7 to read Class 6		
DECISION NO. NJ83-3016 - MOD. #12 (48 FR 28003 - June 17, 1983) Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, Mercer, Monmouth, Ocean, Salem Counties, New Jersey		
Change:		
Electricians:		
Zone 3	18.58	10.75% +1.70
Zone 4	19.77	10%+ 2.89
Plumbers:		
Zone 1	17.82	4.30
Roofers:		
Zone 1:		
Composition, Damp and Waterproofers	18.17	2.73
Mechanic II (Handle and Transport all Materials, Tools and Equipment; Clean-up Debris)	8.25	2.73

	Basic Hourly Rates	Fringe Benefits
DECISION NO. NJ83-3026- MOD. #6 (48 FR 33624 - July 19, 1983) Bergen, Essex, Hudson, and Passaic Counties, New Jersey		
Change:		
Bricklayers, Cement Masons, Plasterers & Stonemasons:		
Zone 1:	15.47	3.55
Electricians & Cable Splicers:		
Other Residential Construction:		
Bergen & Hudson Cos.	19.96	21.5%
Passaic Co.:		
Wiremen	19.56	18%+ 1.00+ 100.00 per/yr
Cable Splicers	20.87	18%+ 1.00+ 100.00 per/yr
Glaziers:		
Essex and Hudson Cos.	17.95	4.55
Truck Drivers:		
Zone 2:		
Group 1	13.97	2.00+ h+i+j
Group 2	14.20	2.00+ h+i+j
Group 3	14.25	2.00+ h+i+j
Group 4	14.35	2.00+ h+i+j
Group 5	14.45	2.00+ h+i+j
Footnotes:		
j. Employee contributes 170.00 per month per Employee to Health and Welfare Fund		
Add:		
Truck Drivers Zones:		
Zone 1:		
Bergen, Hudson & Passaic Cos.		
Zone 2:		
Essex County		

MODIFICATIONS

	Basic Hourly Rates	Fringe Benefits
DECISION #PA82-3028-Mod.#8 47FR29972 - Sept. 10, 1982 Elk, Forest, McKean and Warren Counties, PA.		
CHANGE:		
LABORERS:		
Common laborers, carpenters tender, scaffold builder for masons, window cleaner, from stripper & mover, scaffold & mover, scaffold & runways, building materials handlers (Loading and unloading), concrete pitman, puddler, mason tender	$13.35	20%
Mechanical tampers (power) powered wheelbarrows & work lifts, sweepers & similar, mortar mixer, bell bottom man on furnaces and stacks, jackhammer man, concrete buster, wagon drill helper, drill runner's helper (includes drill mounted truck, track or similar) sheeters and shores, vibrator operators, power tamper operators, y-gun, burner-cutting torch, carryable pumps, chain saw operator, pipelayers all material conveyors and elevators, signal man, walk behind fork lift or similar, whacker, sand blaster, maintenance man, west brick buggies or similar, scaffold builder for plasterers' regardless of height, hod carrier, plasterer tender, form cleaning machine operator, plasterer applicating and/or pump machine op., paving breaker, asphalt raker, lancer, berfix cutting tool, gunnite potman, blacksmith, tool dresser (cable tool)	13.60	20%
LABORERS (cont'd):		
Blasters, wagon drill operator, drill runner, gunnite nozzleman, grout machine operator, walk behind power roller and tamper, welder, driller (cable tools)	$14.15	20%
Wrecking Laborers	13.35	20%
Low Burner	13.60	20%
Jackhammer Operator	13.60	20%
High Burner	14.40	20%
High Burner helper	14.10	20%

MODIFICATIONS

DECISION NO. PA81-3091
MOD. NO. 8
(46 FR 62761 - December 28, 1981)
Greene, Somerset & Potter Counties, Pennsylvania

	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Electricians:		
Potter County	$13.06	3.57
Laborers		
Potter County		
Class 1	13.35	20%
Class 2	13.60	20%
Class 3	14.15	20%

DECISION NO. PA82-3027
MOD. NO. 8
(47 FR 44670 - October 8, 1982)
Bedford, Cambria, Cameron, Clarion, Clearfield, Jefferson, Crawford and Venango Counties, Pa.

	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Laborers		
Zone 3		
Class 1	13.35	20%
Class 2	13.60	20%
Class 3	14.15	20%
Sheet metal workers		
Zone 2	15.23	4.39

DECISION NO. PA84-3000
MOD. NO. 1
(46 FR 34934 - July 6, 1983)
Allegheny, Armstrong, Beaver, Bedford, Blair, Butler, Cambria, Cameron, Centre, Clarion, Clearfield, Clinton, Crawford, Elk, Erie, Fayette, Forest, Franklin, Fulton, Greene, Huntingdon, Indiana, Jefferson, Mercer, Lawrence, McKean, Mifflin, Potter, Somerset, Venango, Warren, Washington, Westmoreland

	Basic Hourly Rates	Fringe Benefits
CHANGE:		
ZONE 2		
CLASS 1		
Landscape laborer to include general landscaping work and the driving of trucks for the distributing of materials on the job site but not to include dump trucks used to transport supplies to the job	$12.35	20%

SUPERSEDEAS DECISION

STATE: MISSISSIPPI — COUNTIES: **SEE BELOW
DECISION NUMBER: MS84-1001 — DATE: DATE OF PUBLICATION
Supersedes Decision Number MS83-1006 dated February 11, 1983 in 48 FR 6458
DESCRIPTION OF WORK: HIGHWAY CONSTRUCTION PROJECTS (does not include Building Structures in Rest Area Projects and Railroad Construction; Bascule; Suspension; & Spandrel Arch Bridges; Bridges designed for Commercial navigation; Bridges involving Marine Construction and other major Bridges).

	ZONE 1	ZONE 2	ZONE 3	ZONE 4	ZONE 5	ZONE 6
	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates
CARPENTERS	$6.60	$6.50	$6.07	$6.50	$6.43	$6.25
CEMENT FINISHERS/MASONS	5.07	6.50	6.00	6.50	6.00	6.13
ELECTRICIANS	5.50	6.00	10.65	7.00	9.70	6.00
IRONWORKERS	6.25	4.75	5.60	5.50	6.50	8.50
LABORERS:						
Air Tool Operators	----	3.50	4.56	4.25	----	4.10
Asphalt Rakers	5.00	3.76	4.57	4.86	4.65	4.75
Concrete Saw Operators	4.50	4.25	----	4.00	4.25	5.00
Form Setters	----	----	----	----	----	5.75
Grade Checkers	5.32	3.75	5.59	4.10	5.00	4.00
Mason Tenders	4.95	4.00	4.77	4.90	4.00	5.58
Pipelayers	4.50	3.50	4.50	4.00	----	4.00
Unskilled	4.00	3.35	4.00	4.00	4.00	4.00
PAINTERS	4.75	4.50	5.00	6.00	4.00	5.43
PILEDRIVERMEN	4.25	----	----	----	5.50	5.52
TRUCK DRIVERS	4.68	4.50	4.50	4.74	4.50	4.25
TUG BOAT OPERATORS	----	----	----	----	----	5.50
POWER EQUIPMENT OPERATORS:						
A-Frame Truck (winch)	----	----	5.00	4.00	6.50	4.50
Aggregate Spreader	4.88	4.57	4.00	5.50	4.40	4.00
Air Compressor	----	3.35	----	4.00	4.88	4.00
Asphalt Distributor & Spreader	5.33	4.15	5.23	5.23	4.64	5.42
Asphalt Plant	4.75	3.35	4.75	4.00	4.88	5.50
Backhoe	6.00	5.80	6.06	6.00	5.50	5.50
Bulldozer	6.15	6.30	6.00	6.00	6.33	6.50
Concrete Batch Plant	5.50	6.00	4.25	4.00	4.50	5.30
Concrete Finishing Machine	5.79	5.55	5.57	5.50	----	6.50
Concrete Paving Machine	4.50	6.50	5.80	5.80	4.00	4.00
Concrete Spreader Machine	5.50	3.35	4.25	4.00	----	4.00
Crane/Dragline	6.85	7.00	6.50	6.00	6.50	6.00
Crusher Feeder	----	3.35	4.25	4.00	----	4.00
Earth Auger	4.00	3.35	5.00	4.00	----	4.00
Guardrail Post Driver	----	3.50	----	4.00	----	4.00

[FR Doc. 84-2776 Filed 2-2-84; 8:45 am]
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Decision Number: MS84-1001 (Cont'd)

	ZONE 1	ZONE 2	ZONE 3	ZONE 4	ZONE 5	ZONE 6
	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates
POWER EQUIPMENT OPERATORS (Cont'd)						
Firemen	$5.00	$3.35	$----	$4.00	$----	$----
Loader	6.50	4.75	5.10	5.50	6.00	5.13
Mechanic	6.50	6.50	7.00	6.50	6.56	6.30
Mixer	4.91	4.75	4.25	5.00	----	5.00
Motor Patrol	5.94	6.00	6.50	6.00	6.54	6.40
Oiler/Greaser	6.00	4.25	5.00	5.25	5.25	6.00
Piledriver	6.25	5.50	5.00	4.25	5.75	6.25
Roller (self-propelled)	4.68	4.00	4.75	5.06	4.52	5.50
Scales	----	4.00	4.00	4.00	4.00	4.00
Scraper	6.25	5.00	6.00	5.50	6.00	5.25
Shovel	6.00	5.80	6.06	6.00	5.50	5.50
Spreader	----	3.35	----	4.19	----	----
Striping Machine	6.25	6.50	4.00	6.25	6.00	4.00
Subgrade Machine	----	4.00	----	----	----	4.00
Tractor (track type)	4.00	5.02	4.00	4.00	----	5.00
Tractor (wheel type)	4.00	5.00	4.64	4.13	5.00	4.00
Trenching Machine	6.25	3.88	----	4.35	5.00	4.00
WELDER - Receives rate prescibed for craft performing operation to which Welding is incidental						

** COUNTIES:
ZONE 1 - ALCORN, BENTON, CALHOUN, CHICKASAW, CHOCTAW, CLAY, ITTAWAMBA, LAFAYETTE, LEE, LOWNDES, MARSHALL, MONROE, OKTIBBEHA, PONTOTOC, PRENTISS, TIPPAH, TISHOMINGO, UNION & WEBSTER
ZONE 2 - BOLIVAR, CARROLL, COAHOMA, DESOTA, GRENADA, LEFLORE, MONTGOMERY, PANOLA, QUITMAN, SUNFLOWER, TALLAHATCHIE, TATE, TUNICA, WASHINGTON & YALOBUSHA
ZONE 3 - CLAIBORNE, COPIAH, HINDS, HOLMES, HUMPHREYS, ISSAQUENA, MADISON, RANKIN, SHARKEY, SIMPSON, WARREN & YAZOO
ZONE 4 - ATTALA, CLARK, JASPER, KEMPER, LAUDERDALE, LEAKE, NESHOBA, NEWTON, NOXUBEE, SCOTT, SMITH & WINSTON
ZONE 5 - ADAMS, AMITE, COVINGTON, FORREST, FRANKLIN, GREENE, JEFFERSON, JEFFERSON DAVIS, JONES, LAMAR, LAWRENCE, LINCOLN, MARION, PERRY, PIKE, WALTHALL, WAYNE & WILKINSON
ZONE 6 - GEORGE, HANCOCK, HARRISON, JACKSON, PEARL RIVER & STONE

Unlisted classifications needed for work not included within the scope of the classifications listed may be added only after award as provided in the labor standards contract clauses (29 CFR 5.5 (a)(1)(ii)(A)).

SUPERSEDEAS DECISION

STATE: TEXAS COUNTY: Smith
DECISION NO.: TX84-4004 DATE: Date of Publication
Supersedes Decision No. TX81-4008, dated January 6, 1981, in 46 FR 1550.
DESCRIPTION OF WORK: Building Projects (does not include single family homes & apartments up to & including 4 stories). (Use current heavy & highway general wage determination for Paving & Utilities Incidental to Building Construction).

	BASIC HOURLY RATES	FRINGE BENEFITS
BRICKLAYERS & STONEMASONS	$13.00	$ .55
CARPENTERS	11.98	
CEMENT MASONS	8.10	
ELECTRICIANS:		
Electrician	14.14	.80+7-3/8%
Cable Splicer	14.71	.80+7-3/8%
GLAZIERS	10.45	
IRONWORKERS	12.50	
LABORERS:		
Common	4.93	
Mason Tenders (brick)	6.31	
PAINTERS	7.00	
PLUMBERS & PIPEFITTERS	14.67	1.99
ROOFERS	10.00	
SHEET METAL WORKERS	16.34	2.065 + 3%
SOFT FLOOR LAYERS	8.81	
TILE SETTERS	9.00	
WELDERS: Receive rate prescribed for craft performing operation to which welding is incidental.		

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5(a)(1)(ii)).

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federal register

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February 3, 1984

Part III

Department of Energy

Office of the Secretary

10 CFR Parts 600 and 1035
41 CFR Part 9-1
Debarment and Suspension Provisions; Final Rule

DEPARTMENT OF ENERGY

Office of the Secretary

10 CFR Parts 600 and 1035

41 CFR Part 9–1

Debarment and Suspension Rules

AGENCY: Department of Energy.

ACTION: Final rule.

SUMMARY: The final rules govern the debarment and suspension of organizations and individuals from participating in DOE procurement contracts, sales contracts, real property purchase agreements, grants, cooperative agreements, loans, loan guarantees, price supports, market agreements, subsidies (hereafter sales contracts, real property purchase agreements, grants, cooperative agreements, loans, loan guarantees, price supports, market agreements, and subsidies shall be referred to collectively as "nonprocurement agreements"), and subcontracts and other subagreements.

These rules revise current DOE policies and procedures (41 CFR Subpart 9–1.6) governing the debarment and suspension of organizations and individuals from procurement contracting and subcontracting, and establish DOE policy and procedures governing the debarment and suspension of organizations and individuals from participating in nonprocurement agreements, subcontracts, and other subagreements.

The final rules being issued today amend Title 10 of the Code of Federal Regulations by adding a new Part 1035, and amend Part 600 of Title 10 and Part 9–1 of Title 41 of the Code of Federal Regulations by providing cross-references to 10 CFR Part 1035 at, respectively, 10 CFR 600.27 and 41 CFR Subpart 9–1.6.

EFFECTIVE DATE: March 5, 1984.

FOR FURTHER INFORMATION CONTACT:

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or

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SUPPLEMENTARY INFORMATION:

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I. Background

On July 27, 1983, DOE published proposed rules (48 FR 34203) containing policies and procedures applicable to the debarment and suspension of organizations and individuals from participating in DOE procurement and nonprocurement transactions.

The preamble provided for a public hearing to be held on August 18, 1983, and an opportunity of interested parties to present oral testimony concening the proposed rules. One individual identifying himself as a student requested an opportunity to present oral testimony at the hearing on his own behalf. The requestor did not appear at the hearing which was held as scheduled. No other person appeared at the hearing to present a statement.

The preamble also provided for a 60-day comment period ending on September 26, 1983. In response to the notice, DOE received comments from the Section of Public Contract Law of the American Bar Association. DOE has evaluated the comments and has adopted the commenter's recommendation, made a responsive modification, or decided not to adopt the recommendation as indicated below. In addition, DOE has, on its own initiative, made modifications which clarify the intended meaning of the proposed rule. Changes in this category are also described below.

II. Discussion of Comments on the Proposed Rule and Changes Made in the Final Rule

DOE moved the text of paragraph (d) of proposed § 1035.3 to the final § 1035.5 to create a new paragraph (c). This paragraph, which describes the obligation to report information which may "constitute or contribute to grounds for debarment or suspension * * *" is directly related to the topic addressed in § 1035.5—*i.e.*, the causes for debarment and suspension.

The definition of "agency" in the final § 1035.4 has been revised to conform to the definition in the Federal Acquisition Regulations (FAR). 48 CFR 9.403 (effective April 1, 1984).

The term "DOE certified organization" has been deleted from the final § 1035.4 ("Definitions") because it is not used anywhere else in the final rule.

Also in final § 1035.4, DOE modified the definition of "DOE List" to include in the full title of the list the word "Ineligible." The full title of the DOE List thus becomes "DOE Consolidated List of Debarred, Suspended, Ineligible, and Voluntarily Excluded Awardees."

A definition of the term "ineligible" has been added to the final § 1035.4. This definition is the same as that prescribed by the FAR. 48 CFR 9.403 (effective April 1, 1984).

The proposed definition of "notice" stated in the last sentence that receipt would be presumed if DOE did not receive the return receipt within 10 days of mailing. Because of postal service delays DOE and other Federal agencies have occasionally experienced, it was decided that the proposed 10-day turnaround time might be too short and, therefore, might create unnecessary problems for the Department and for respondents. Accordingly, the final definition of "notice" has been amended by enlarging the proposed 10-day time period to 20 days.

The proposed definition of "procurement contract" has been revised based on the definition of "acquisition" in the FAR. 48 CFR Subpart 2.1 (effective April 1, 1984).

The commenter had two objections to proposed § 1035.5 (a)(3) and (b) which provided that "unmitigated refusal to pay a debt (including disallowed costs and overpayments) owed to DOE" would be a cause for suspension and debarment. The first objection was that, as written, this provision would authorize suspension and debarment in cases where the debt was being challenged by the awardee under the Contract Disputes Act or some other legal authority: *e.g.*, the Debt Collection Act of 1982, Pub. L. 97–365 or the DOE Financial Assistance Rules (*see*, 10 CFR 600.26, 48 FR 34402 (July 28, 1983)).

DOE did not intend that the suspension/debarment procedure be used in situations where a debt is disputed, and agrees with the commenter that the proposed language did not make the intended scope clear. Accordingly, § 1035.5 has been revised in three significant respects. First, the proposed phrase "unmitigated refusal" has been replaced by the phrase "inexcusable, prolonged, or repeated failure." The latter phrase is taken from the second sentence of § 102.8 of the Federal Claims Collection Standards issued by the General Accounting Office and the Department of Justice, and published at 4 CFR Chap. II. (First sentence of § 102.9 of the proposed revised Federal Claims Collection Standards (48 FR 23249 at 23253, col. 1,

May 24, 1983).) For purposes of debarment and suspension, failure to pay a debt owed to DOE may be excused by financial incapacity (*e.g.*, bankruptcy).

The second amendment is the addition of the proviso that the awardee must have been notified of the determination of indebtedness. The third amendment is an additional proviso "that the time for initiating any administrative or legal action to oppose or appeal the determination of indebtedness has expired or that such action, if initiated, has been concluded."

The commenter's second objection was that failure to pay a debt owed to DOE should not be a ground for suspension. The Department disagrees for several reasons. First, given the provisos (described immediately above) which have been added to this cause, there would never be any uncertainty over the existence or amount of the debt owed to DOE. In addition, under §§ 1035.6 and 1035.8 of the final rule, an opportunity to respond would be available to the suspended debtor within 30 days. During this interval, the suspended debtor could repay the debt or agree to a repayment schedule acceptable to DOE, thereby eliminating the cause for continuing the suspension.

The commenter criticized the use of "organization or individual" in proposed § 1035.5, pointing out that an organization or individual may be debarred only if the organization or individual is an awardee or an affiliate of a debarred awardee. In response to this comment, DOE has revised § 1035.5(a) by substituting the word "awardee" for the phrase "organization or individual." The same substitution has been made after the word "debarred" in § 1035.5(a)(5) which now reads:

"(5) On the basis that an individual or organization is an affiliate of a debarred awardee."

The commenter expressed opposition to the proposal in § 1035.5 (a)(1)(i) and (b)(1) that fraud or criminal conduct incident to obtaining or performing "agreements or subagreements with a * * * private organization or with an individual" would constitute cause for debarment or suspension. The commenter recommended that this cause be limited, as in OFPP Policy Letter 82–1, to fraud or criminal conduct in connection with public contracts. OFPP Policy Letter 82–1, 47 FR 28854 (July 1, 1982), paragraphs 7.2(a)(1) and 8.2(a)(1); FPR Temp. Reg. 65, 47 FR 43692 (Oct. 4, 1982), §§ 1–1.605–2(a)(1) and 1–1.606–2(a)(1); FAR Subpart 9.4, 48 FR 42148 (Sept. 19, 1983), §§ 9.406–2(a)(1) and 9.407–2(a)(1).

The Department decided not to adopt this comment. DOE believes that fraud committed in either a private or public contractual context may seriously affect the present responsibility of a DOE awardee. DOE believes that ignoring any evidence of nonresponsibility would be inconsistent with our legal obligation to assure that awards are made only to responsible individuals and organizations. However, in response to advice provided by the Office of Federal Procurement Policy (OFPP), the reference to fraud and other criminal conduct in connection with private agreements has been placed in paragraph (a)(3) of the final § 1035.5. OFPP indicated this change was necessary to conform the DOE rule to the FPR Temp. Reg. 65.

The word "DOE" has been deleted from proposed § 1035.5(a)(2) and a cross-reference to § 1035.5(a)(2) has been added to paragraph (a)(4) of the final § 1035.5. These changes make this section consistent with §§ FPR 1–1.605–2 (b) and (d).

Proposed § 1035.6 has been renumbered § 1035.7, and proposed § 1035.7 has been renumbered § 1035.6. This sequence is more logical because the section on coordination with the Department of Justice prescribes the coordination procedures DOE must follow after a suspension or proposed debarment notice has been issued (if the respondent requests a meeting or fact-finding conference).

The commenter made two recommendations about the use of *in camera* evidence authorized by proposed § 1035.6 (§ 1035.7 in the final rule), a section which contains the procedures for coordination DOE suspensions and proposed debarments with related civil and criminal actions undertaken by the Department of Justice. The commenter's first recommendation was that the use of *in camera* evidence be permitted only in suspension cases because OFPP Policy Letter 82–1 does not refer to this procedure in the debarment decisionmaking procedures.

DOE proposed to extend the *in camera* evidence procedure to debarment cases because of the DOE practice of proposing debarment, in appropriate cases, before an indictment has been returned and before related civil or criminal proceedings have been concluded. *See; e.g.*, Notice of suspension and proposed debarment (47 FR 31957, July 23, 1982). Conduct for which an awardee has not yet been indicted or convicted (or for which prosecution is declined) may nevertheless constitute a serious violation of a DOE agreement or subagreement (proposed § 1035.5(a)(2)), or "any other cause of so serious or compelling a nature that it affects * * * present responsibility * * *." Proposed § 1035.5(a)(3). The latter cause may be the basis for a suspension, for a proposed debarment, or both.

Because debarment may be proposed simultaneously with or without (see, final § 1035.5(f)) a suspension notice, DOE proposed the *in camera* procedure to avoid compromising related legal proceedings by either a DOE debarment or a DOE suspension proceeding. OFPP has advised that OFPP Policy Letter 82–1 does not authorize the use of *in camera* evidence in proposed debarment cases. In accordance with this advice and the commenter's suggestion, the final § 1035.7 provides that the *in camera* procedure may be used only in connection with suspension cases.

The commenter's second recommended change to proposed § 1035.6 (§ 1035.7 in the final rule) was to amend paragraph (b) so that the Director would be required to submit to the fact-finding panel, for *in camera* inspection, any evidence relied upon for the suspension/proposed debarment decision which, based on a request by the Department of Justice, could not be disclosed to the respondent. DOE agrees with the commenter that such evidence (assuming it is relevant to a disputed material fact) should be made available to the fact-finding panel in every case. Accordingly, the second sentence of proposed § 1035.6(b) (§ 1035.7(b) in the final rule) has been revised to read as follows: "At the fact-finding conference, the Director shall make any such evidence which is relevant to a disputed material fact available to the fact-finding panel for *in camera* inspection."

Commenting on the notice requirements in proposed § 1035.7 (§ 1035.6 in the final rule), the commenter stated that affiliates should be notified of a suspension or proposed debarment action at the same time their affiliated awardee is notified. Although such simultaneous notification is the Department's typical practice, DOE recognizes that affiliate relationships may be created after a suspension/proposed debarment notice is issued or while a period of suspension or debarment is in effect. *See e.g.*, Notices of suspension and proposed debarment (47 FR 56694, December 20, 1982) and (48 FR 8855, March 2, 1983). This phenomenon is also recognized in the FPR Temp. Reg 65 which provides that the debarring official "may extend the debarment decision to include any affiliates" provided they are "given

written notice * * * and an opportunity to respond." Thus, the FPR does not require simultaneous notification of the awardee and affiliates; the FPR requires actual notification of affiliates—notification which may occur simultaneously with or subsequent to notification of the awardee. For these reasons, no change in the affiliate notification procedure has been made in the final rule.

The commenter observed that the notice required under proposed § 1035.7(b) (§ 1035.8(b) in the final rule) would be strengthened if it explained how and why the misconduct complained of supports a determination that the respondent is "not presently responsible for purposes of doing business with the Department." The commenter asserted that, absent such a showing, there is a "risk of an erroneous determination based on past misconduct that is no longer relevant to any question as to the awardee's present responsibility." No further explanation of the nature of this risk was provided. The commenter's apparent concern is that suspension/proposed debarment actions may be based on misconduct which occurred so far in the past, it may no longer be a valid indicator of present responsibility. It is DOE practice, when issuing notices of suspension and/or proposed debarment, to indicate when the misconduct occurred. To date none of the suspension/proposed debarment notices issued by DOE has involved misconduct which occurred more than two years before the date of the notice. Most actions involved misconduct which occurred less than one year before the notice was issued. In the Department's opinion, the risk that future debarment actions will be based on "stale" allegations of misconduct is small.

As the commenter is aware, the preamble to OFPP Policy Letter 82–1 emphasizes that a "contractor's lack of responsibility in the past may be considered when determining whether * * * a contractor is presently responsible." (47 FR at 28856, col. 1, July 1, 1982.) The preamble explains that one of the reasons for the amendments to subparagraph 7.2, which contains the causes for debarment, was to make "it * * * clear that evidence of a contractor's lack of responsibility in the past may be considered when determining whether a contractor is *presently* responsible." (47 FR at 28855, col. 1, July 1, 1982), emphasis in the original. The OFPP position is consistent with the cases holding that past acts may be the basis for a finding of present lack of responsibility. *See; e.g., Schlesinger* v. *Gates,* 249 F.2d 111 (D.C. Cir. 1957) (per curiam), *cert. denied,* 335 U.S. 939 (1958); *Roemer* v. *Hoffman,* 419 F. Supp. 130 (D.D.C. 1976).

The commenter criticized the provision in proposed § 1035.7(f) (§ 1035.8(f) in the final rule) that every proposed debarment (issued without a suspension notice) would have the effect of a suspension "from further business dealings with the Department for the duration of the debarment proceeding." This proposed provision was based on the FPR Temp. Reg. 65 guidance which states that if no suspension is in effect when a contractor is proposed for debarment, the proposing agency shall not award contracts to or approve or consent to subcontracts with the contractor pending a final debarment decision. 41 CFR § 1–1.605–1(d); 48 CFR § 9.406–3(c)(7) (effective April 1, 1984). Thus, every proposed procurement debarment would have the effect of an intra-agency suspension.

The Department has been advised by OFPP that in order to comply with OFPP Policy Letter 82–1, every proposed DOE procurement debarment must have the effect of a suspension from DOE contracting. Accordingly, with respect to DOE proposed procurement debarments, the commenter's recommendation was not adopted in the final rule. Similarly, this recommendation was rejected with respect to proposed nonprocurement debarments because DOE decided it would be preferable, from an administrative policy standpoint, to make the intra-departmental suspension effect apply uniformly to both procurement and nonprocurement DOE proposed debarment actions.

The commenter objected to the composition of the proposed fact-finding panel, arguing (1) that it represents an impermissible combination of prosecutorial and judicial functions and (2) that because of his or her organizational loyalties, each panel member would be biased against the respondent. Based on these two arguments, the commenter concludes that respondents would be unable to obtain a fair hearing before the proposed fact-finding panel.

It should be emphasized that, for purposes of the Government-wide procurement debarment and suspension system, agency debarring officials are authorized but not required to delegate the fact-finding function to another agency official. Rather than allow the Director to delegate this function to a single official of his or her choosing, DOE decided—in the interest of fairness—to require the Director to use a panel consisting of three senior DOE officials. Of the three designated agency officials, only one panel member may come from the Procurement and Assistance Management Directorate.

The commenter states that the senior attorney member will come from the same office that will prosecute the case before the panel. The commenter's objection to the third proposed panel member is that the program officer may belong to the same office from which the debarment or suspension action originated. The Director understands the commenter's concerns about the impartiality of officials appointed to a fact-finding panel, and will avoid selecting individuals whose past and present work responsibilities or organizational affiliations would create the impression or undue risk of partiality for or against the respondent.

The commenter asserts that the panel members, individually and collectively, would be biased because of their organizational loyalties and that this bias would prevent them from fairly considering a respondent's case. The Department disagrees with the commenter's assessment. *See, Schweiker* v. *McClure,* 456 U.S. 188, 196 n.10 (1982). Because the proposed fact-finding panel membership will be drawn from three different organizations within DOE, we believe the panel structure is not inherently biased. Accordingly, the final rule retains the fact-finding panel as originally proposed.

Proposed § 1035.8(b)(3) has been revised to indicate that the information and opposing argument submitted in response to a suspension or proposed debarment may include identification of the material facts disputed by the respondent.

The commenter recommended that the term "conference" in proposed § 1035.8(d), which prescribes the fact-finding conference procedures, be changed to "hearing." DOE has not accepted this recommendation because, in the Department's opinion, the proposed term is consistent with the Government-wide guidance that agencies "establish procedures * * * that are as informal as is practicable * * *" FAR 9.406–3(b)(1); FPR Temp. Reg. 65 § 1.605–3(b)(1). The term "hearing connotes and may encourage a degreee of formality which the guidance suggests should be avoided—in the interest of fairness to all parties.

In connection with proposed § 1035.8(d), the commenter also stated that the Director should not be authorized to determine when there is a genuine dispute over material facts, and that the fact-finding panel should make, rather than "propose," the finding of

fact. These suggestions are inconsistent with the guidance provided in the Government-wide procurement debarment and suspension rule (FAR 9-406.3(d)(2)(ii); FPR Temp. Reg. 65 § 1-1.605-3(d)(2)(i)), and, therefore, have not been adopted in the final DOE rule.

The commenter recommended that DOE adopt procedural rules (for the fact-finding conference) modelled on the Federal Rules of Civil Procedure (F.R. Civ. P.) and the Federal Rules of Evidence (F.R. Evid.), and that DOE use the rulemaking procedure to issue such procedural rules. The Department has not yet decided what process shall be used to adopt procedural rules, nor has a decision been made concerning the substance of such rules. It should be noted, however, that the Administrative Procedure Act exempts rules of procedure from the rulemaking requirement, 5 U.S.C. 553(a)(3)(A). Finally, DOE does not intend to adopt procedural rules for the fact-finding conference which are as elaborate or as restrictive as the F.R. Civ. P. and F.R. Evid.

The commenter expressed the opinion that the respondent's challenge to the findings of fact should be by judicial review rather than by submitting written exceptions to the Director, as provided in proposed § 1035.8(d)(8). Nothing in proposed § 1035.8(d)(8) precludes judicial review; the effect of this provision and proposed § 1035.8(d)(9) is to make judicial review a right which becomes available only after the Director has issued a final decision. No change has been made, in response to this comment, to proposed § 1035.8(c)(8) or any other provision of the proposed rule.

The commenter also objected to conferring authority on the Director to set aside proposed findings of fact (proposed § 1035.8(b)(9)), arguing that this is a judicial function which should be safeguarded against *ex parte* influence, as the Director is not. The commenter's argument is rebutted by two factors. First, the rules for the Government-wide procurement debarment and suspension system specify that when the debarring official refers a case to other agency official(s) for fact-finding, the debarring official may set aside any proposed findings of fact he or she determines to be arbitrary or clearly erroneous. FAR 9.406-3(d)(2); FPR Temp. Reg. 65 § 1-1.605-3(d)(2). Second, the Director is and will be required, under the latter rules and under the final § 1035.8(d)(9), to base his or her final decision on the administrative record. Although no decisionmaker can be entirely insulated from *ex parte* contacts, the requirement that the decision be based on the record provides adequate assurance that *ex parte* contacts will be avoided and those that do occur will be reported by the Director to all parties. In addition, restrictions on *ex parte* contacts will be included in the procedural rules to be issued by the Office of General Counsel as provided in § 1035.8(d)(4). For these reasons, no change has been made in the final rule to the Director's authority to set aside proposed findings of fact.

DOE reconsidered the 20-day deadlines provided in proposed § 1035.8(d)(8) for the fact-finding panel to complete its conference report and for the respondent to submit written exceptions to the Director. Based on this reconsideration, it was decided that 20 days might prove to be too short a time for the panel to complete its report and, similarly, that 20 days might be too short a time for respondents and/or their attorneys to prepare written exceptions. Accordingly, the proposed 20-day deadlines have been enlarged in the final § 1035.8(d)(8) to 30 days.

The commenter noted that proposed § 1035.9(a) makes no mention of the evidentiary standard for debarment decisions. The evidentiary standards for both suspension and debarment decisions are specified in § 1035.8(d) and in § 1035.8(d)(8). Final § 1035.9(a) has not been amended to repeat these evidentiary standards.

The commenter contended that defining "conviction" for debarment purposes to include pleas of *nolo contendere* violates Rule 11(e)(6) of the Federal Rules of Criminal Procedure and Rules 410 and 803(22) of the Federal Rules of Evidence. In rejecting this contention, DOE relies upon the response made by the Intergovernmental Task Force on Debarment and Suspension when the same objection was raised concerning the use of *nolo contendere* pleas in proposed OFPP Policy Letter 81-3. For the same reasons stated in the preamble to final OFPP Policy Letter 82-1 (47 FR 28854, at 28856, col. 2, July 1, 1982), the Department has determined that reliance on pleas of *nolo contendere* is a legally permissible and sound administrative policy.

Proposed § 1035.10 has been modified to make it clear that in addition to withdrawing a proposed debarment, the Director may terminate a suspension when a voluntary exclusion is negotiated. A voluntary exclusion has the effect, in either case, of an intra-agency debarment. See §§ 1035.13 and 1035.15.

In response to advice from OFPP, proposed § 1035.11(c), which prescribes the bases for reconsidering the scope, duration or effects of a debarment/suspension action, has been revised by adding at paragraph (4) of the final section the phrase, "[e]limination of other causes for which the debarment/suspension was imposed," and at paragraph (5) of the final section the phrase, "[o]ther reasons the Director deems appropriate * * *." The text of the former paragraph is derived from FPR Temp. Reg. 65, §§ 1-1.605-4(c)(4) and 1-1.606-3(d)(3), and FAR 9.406-4(c)(4) and 9.407-3(d)(3); the latter phrase in paragraph (5) is derived from FAR 9.406-4(c)(5) and 9.407-3(d)(3). Paragraph (5) also includes the text of proposed § 1035.11(c)(4), thereby identifying "restitution and other acts in mitigation" as examples of the "other reasons" that may be the basis for responding affirmatively to a request for reconsideration.

All references in proposed § 1035.13 to DOE certified organizations have been deleted because the requirements applicable to such organizations for reviewing and applying the DOE and GSA Lists are and will be set forth in other DOE and Federal regulations (*e.g.*, 41 CFR 9-50.103).

Paragraphs (d) and (e) of proposed § 1035.13 provided that DOE would instruct DOE certified organizations not to award, extend, or renew subagreements with awardees on the DOE List or subcontracts with contractors on the GSA List. These paragraphs have been removed from the final § 1035.13 because they would duplicate proposed DOE requirements (*e.g.*; 48 CFR 970.4403(f), 48 FR 43772 at 43934, col. 1, September 28, 1983).

Paragraph (f) of proposed § 1035.13 has been re-designated paragraph (d) in the final rule.

Paragraphs (g) and (h) of proposed § 1035.13 have been combined into a single provision which appears at § 1035.13(e) of the final rule.

The lengthy termination provisions at paragraph (i) of proposed § 1035.13 have been replaced by a single sentence at paragraph (f) of the final § 1035.13. This substitute sentence states "DOE shall review existing agreements and may review any subagreements with a contractor or awardee on the DOE or GSA List for the purpose of determining whether termination or other remedial action, available under the terms of the agreement, subagreement, or applicable law, is necessary to protect the Government's interest." DOE is of the opinion that this short statement is preferable because of the considerable

variety of termination and other legal remedies available under the many agreement types covered by the debarment and suspension rule.

The provision concerning the review of the DOE and GSA Lists set forth in paragraph (j) of proposed § 1035.13 has been re-designated paragraph (g) in the final § 1035.13.

III. Review Under Executive Order 12291

In accordance with the requirements of Executive Order 12291 (46 FR 13193, February 17, 1981), this final rule has been reviewed by OMB. Prior to publication of the proposed rule, DOE concluded that this is not a "major rule" because its promulgation will not result in (1) an annual effect on the economy of $100 million or more; (2) a major increase in costs or prices for consumers, individual industries, Federal, State, or local Government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of the United States-based enterprises to compete in domestic or export markets. No comments were received which disagreed with this determination.

IV. Review Under the Regulatory Flexibility Act

As indicated in the preamble to the proposed rule (48 FR 34203), the proposed rule was reviewed under the Regulatory Flexibility Act of 1980 (Pub. L. 96–354). DOE certified that this rule would not have a significant economic impact on a substantial number of small entities, and, therefore, no initial regulatory flexibility analysis was prepared. In the absence of any public comment on the DOE certification in the proposed rule, DOE certifies that this final rule will not have a significant economic impact on a substantial number of small entities. Accordingly, no final regulatory flexibility analysis has been prepared.

V. Review Under the National Environmental Policy Act

DOE has concluded that promulgation of these wholly procedural rules clearly would not represent a major Federal action having significant impact on the human environment under the National Environmental Policy Act (NEPA) of 1969 (42 U.S.C. 4321 et seq. (1976)); the Council on Environmental Quality Regulations (40 CFR Parts 1500–1508); and the DOE guidelines (45 FR 20694, March 28, 1980) and, therefore, do not require an environmental impact statement pursuant to NEPA.

List of Subjects

10 CFR Part 600

Administrative practice and procedure, reporting and recordkeeping requirements, suspension and debarment.

10 CFR Part 1035

Administrative practice and procedure, suspension and debarment.

41 CFR Part 9–1

Government procurement, suspension and debarment.

Issued in Washington, D.C., on January 26, 1984.

Donald Paul Hodel,
Secretary of Energy.

1. Title 10 of the Code of Federal Regulations is amended by adding a new Part 1035 and by amending Part 600, as follows:

1. Part 1035 is added to read as follows:

PART 1035—DEBARMENT AND SUSPENSION

Sec.

1035.1 Scope of part.
1035.2 Applicability.
1035.3 Policy
1035.4 Definitions.
1035.5 Causes for debarment and suspension.
1035.6 Suspension and proposed debarment notices.
1035.7 Coordination with Department of Justice.
1035.8 Decisionmaking.
1035.9 Notice of final decision.
1035.10 Voluntary exclusion.
1035.11 Period of debarment and suspension.
1035.12 Scope of debarment and suspension.
1035.13 Effects of being listed on the DOE and GSA Lists.
1035.14 Notification of GSA.
1035.15 DOE Consolidated List of Debarred, Suspended, Ineligible, and Voluntarily Excluded Awardees.

Authority: Secs. 307, 644, and 646, Pub. L. 95–91, 91 Stat. 599 (42 U.S.C. 7156, 7254, and 7256); FPR Temporary Regulation 65, 41 CFR Part 1–1, 47 F.R. 43692 (October 4, 1982) (effective through March 31, 1984) and Federal Acquisition Regulations, 48 CFR Subpart 9.4, 48 FR 42102, 42148 (September 19, 1983) (effective April 1, 1984).

§ 1035.1 Scope of part.

This part—

(a) Prescribes policies and procedures governing the debarment and suspension of organizations and individuals from participating in Department of Energy agreements and DOE approved subagreements, including DOE procurement contracts and DOE approved subcontracts;

(b) Sets forth the causes, procedures, and requirements for determining the scope, duration, and effect of DOE debarment and suspension actions; and

(c) Implements and supplements 41 CFR Subpart 1–1.6 with respect to the exclusion of organizations and individuals from procurement contracting and Government approved subcontracting.

§ 1035.2 Applicability.

The provisions of this Part apply to all debarment and suspension actions initiated by DOE on or after the effective date of this part.

§ 1035.3 Policy.

(a) DOE shall not solicit proposals from, award agreements to, or approve or consent to subagreements with, organizations and individuals that are suspended, proposed for debarment, debarred, ineligible, or voluntarily excluded as indicated on the DOE List or that are debarred, suspended, or ineligible as indicated on the GSA List.

(b) Debarment and suspension are serious sanctions which may be imposed only in the public interest, for the Government's protection and not for the purpose of punishment. Debarment and suspension may be imposed only for the causes and only in accordance with the procedures set forth in this Part.

(c) Debarment and suspension actions taken under this Part shall be based on the administrative record and shall be limited in scope and duration to the minimum necessary to protect the Government's interest.

§ 1035.4 Definitions.

For purposes of this part—

"Adequate evidence" means information sufficient to support the reasonable belief that a particular act or omission has occurred.

"Affiliates." Organizations or individuals are affiliates if, directly or indirectly, (a) either one controls or can control the other, or (b) a third controls or can control both.

"Agency" means any executive department, military department or defense agency, or other agency or independent establishment of the executive branch.

"Agreement" means a procurement or sales contract, a real property purchase agreement, a grant, cooperative agreement, loan, loan guarantee, price support, market agreement, or subsidy.

"Awardee" means any organization or individual that: (a) submits proposals for, or is awarded, or reasonably may be expected to submit proposals for, or be awarded a DOE agreement or subagreement under a DOE agreement;

or (b) conducts business with DOE as an agent or representative of an awardee.

"Contractor" means an organization or individual that: (a) submits proposals for, or is awarded, or reasonably may be expected to submit proposals for, or be awarded, a Government procurement contract or a subcontract under a Government procurement contract; or (b) conducts business with the Government as an agent or representative of a contractor.

"Conviction" means a judgment or conviction of a criminal offense by any court of competent jurisdiction, entered upon a verdict or plea, including a plea of *nolo contendere*, or a pretrial diversion agreement wherein responsibility for the commission of a criminal offense is acknowledged.

"Debarment" means action taken by a debarring official under FPR 1–1.605 and/or this Part to exclude an organization or individual from receiving Federal procurement contracts and subcontracts or from receiving one or more types of agreements or subagreements for a reasonable, specified period of time. An individual or organization so excluded is "debarred."

"Debarring official" means the head of an agency or an official authorized by the head of an agency to impose debarment. The DOE debarring official is the Director, Procurement and Assistance Management Directorate.

"Director" means the Director, Procurement and Assistance Management Directorate, DOE.

"DOE" means the Department of Energy, including the Federal Energy Regulatory Commission.

"DOE List" means the DOE Consolidated List of Debarred, Suspended, Ineligible, and Voluntarily Excluded Awardees maintained by DOE in accordance with § 1035.15 of this Part.

"FPR" means 41 CFR Chapter 1.

"GSA" means General Services Administration.

"GSA List" means the Consolidated List of Debarred, Suspended, and Ineligible Contractors maintained and published by GSA in accordance with FPR Subpart 1–1.6.

"Indictment" means indictment for a criminal offense. An information or other filing by competent authority charging a criminal offense shall be given the same effect as an indictment.

"Ineligible" means excluded from Government contracting (and subcontracting, if appropriate) pursuant to statutory, Executive order, or regulatory authority other than this regulation and its implementing and supplementing regulations; for example, pursuant to the Davis-Bacon Act and its related statutes and implementing regulations, the Service Contract Act, the Equal Employment Opportunity Acts and Executive orders, the Walsh-Healey Public Contracts Act, the Buy American Act, or the Environmental Protection Acts and Executive orders.

"Legal proceeding" means any civil judicial proceeding to which the Government is a party or any criminal proceeding. The term also includes appeals from such proceedings.

"Notice" means a written communication sent by certified mail, return receipt requested, to the last known address of a party, its identified counsel, or agent for service of process. In the case of an organization, such notice may be sent to any partner, principal officer, director, owner or co-owner, or joint venturer. If no return receipt is received within 20 calendar days of mailing, receipt shall be presumed.

"Preponderance of the evidence" means proof by information that, compared with that opposing it, leads to the conclusion that the fact at issue is more probably true than not.

"Procurement contract" means an agreement for the acquisition of supplies or services (including construction) by and for the use of the Federal Government through purchase or lease.

"Proposal" means a solicited or unsolicited bid, proposal, application or other offer for a DOE agreement or subagreement.

"Respondent" means an awardee or affiliate who is the subject of a suspension, proposed debarment, debarment, or voluntary exclusion action under this Part who has been notified as provided by § 1035.6.

"Subagreement" means an agreement under an agreement (*e.g.*, a contract or subgrant under a grant).

"Subcontract" means a procurement contract under a procurement contract.

"Suspending official" means the head of an agency or an official authorized by the head of an agency to impose suspension. The DOE suspending official is the Director, Procurement and Assistance Management Directorate.

"Suspension" means action taken by a suspending official under FPR 1–1.606 and/or this Part to exclude an organization or individual temporarily from receiving Federal contracts and subcontracts or from receiving one or more types of DOE agreements and subagreements. An individual or organization so excluded is "suspended."

§ 1035.5 Causes for debarment and suspension.

(a) The Director may debar an awardee:

(1) For conviction of or civil judgment for—

(i) Commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public agreement or subagreement;

(ii) Violation of Federal or State antitrust statutes relating to the submission of proposals;

(iii) Commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property; or

(iv) Commission of any other offense indicating a lack of business integrity or business honesty which seriously and directly affects the present responsibility of an awardee.

(2) For violation of an agreement or subagreement so serious as to justify debarment, such as—

(i) Willful failure to perform in accordance with the terms of one or more agreements or subagreements; and

(ii) A history of failure to perform, or of unsatisfactory performance of, one or more agreements or subagreements.

(3) For any other cause of so serious or compelling a nature that it affects the present responsibility of a DOE contractor or awardee. Such cause may include but is not limited to:

(i) Commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a private agreement or subagreement; and

(ii) Inexcusable, prolonged, or repeated failure to pay a debt (including disallowed costs and overpayments) owed to DOE, provided the awardee has been notified of the determination of indebtedness, and further provided that the time for initiating any administrative or legal action to oppose or appeal the determination of indebtedness has expired or that such action, if initiated, has been concluded.

(4) On the basis of a debarment for any of the causes in paragraphs (a)(1), (a)(2), and (a)(3) of this section by another agency.

(5) On the basis that an individual or organization is an affiliate of a debarred awardee.

(6) For failure to observe the material provisions of a voluntary exclusion (see § 1035.10).

(b) The Director may suspend an organization or individual:

(1) Indicted for or suspected, upon adequate evidence, of the causes described in paragraphs (a)(1) and (a)(3) of this section.

(2) On the basis of a suspension or debarment by another agency for any of the causes in paragraphs (a)(1) and (a)(3) of this section.

(3) On the basis of the causes set forth in paragraphs (a)(3) and (a)(6) of this section.

(4) On the basis that an organization or individual is an affiliate of a suspended or debarred awardee.

(c) Offices responsible for the award and administration of agreements are responsible for reporting to both the Procurement and Assistance Management Directorate and the Inspector General, DOE, information about possible fraud, waste, abuse, or other wrongdoing which may constitute or contribute to a cause(s) for debarment or suspension under this Part. Organizations and individuals performing under agreements awarded by DOE shall be required to report such information to the contracting officer and to the Inspector General, DOE.

§ 1035.6 Suspension and proposed debarment notices.

When the Director, after consultation with legal counsel, determines that causes exist to suspend or propose debarment of an awardee or affiliate, the Director shall send the awardee or affiliate a notice containing, as appropriate, the following information:

(a) That a debarment is being proposed and/or a decision to suspend has been made.

(b) The reasons for the suspension and/or proposed debarment in terms sufficient to put the respondent on notice of the conduct or transaction(s) upon which the suspension or proposed debarment is based, except that the notice shall omit any information which, if disclosed, would prejudice an ongoing civil or criminal investigation or a pending or contemplated legal proceeding, or would compromise national security.

(c) The cause(s) relied upon under § 1035.5 of this Part and, if applicable, under FPR 1–1.605–2 or 1–1.606–2 for the suspension and/or proposed debarment.

(d) That within 30 days after receipt of the notice, the respondent may submit, or make a written request for an opportunity to submit, to the Director or designee, information and argument in opposition to the proposed debarment and/or suspension, including any additional specific information that may raise a genuine dispute over the material facts. The submission in opposition may be made in person, in writing, or through a representative.

(e) DOE's procedures governing debarment and/or suspension decisionmaking (see § 1035.8).

(f) The effects of the suspension and/or proposed debarment and the effects of a final debarment (see § 1035.13). If a notice of proposed debarment is issued to an awardee or affiliate who is not suspended, the notice shall state that, for purposes of affected DOE agreements and subagreements, the proposed debarment shall have the effect of a suspension.

(g) For suspension notices, that the suspension is effective as of the date of the notice.

(h) The respondent's name and address have been placed on the DOE List.

(i) If the respondent was suspended for one or more causes included in FPR Subpart 1–1.6, that a copy of the suspension notice was sent to GSA, and that the respondent's name will be added to the GSA List (FPR 1–1.603–1).

§ 1035.7 Coordination with Department of Justice.

Whenever a meeting or fact-finding conference is requested, under § 1035.8 (b)(1) or (b)(2), the Director's legal representative shall obtain the advice of appropriate Department of Justice officials concerning the impact disclosure of evidence at the meeting or fact-finding conference could have on any pending civil or criminal investigation or legal proceeding. If such official requests in writing that evidence needed to establish the existence of a cause for suspension not be disclosed to the respondent, the Director shall:

(a) Decline to rely on such evidence and withdraw (without prejudice) the suspension until such time as disclosure of the evidence is authorized; or

(b) Rely on such evidence without disclosing it to the respondent. At the fact-finding conference, the Director shall make such evidence available for *in camera* inspection to the fact-finding panel. Evidence submitted for *in camera* inspection shall be part of the administrative record, but may not be disclosed to the respondent or any member of the public until release is authorized in writing by an appropriate Department of Justice official or until related legal proceedings are concluded, whichever occurs first.

§ 1035.8 Decisionmaking.

(a) *Definitions.* (1) "Fact-finding panel" means a three-member panel appointed by the Director to conduct a fact-finding conference under paragraph (d) of this section. This panel shall consist of an office director within the Procurement and Assistance Management Directorate, a senior attorney nominated by the General Counsel or designee, and a senior official of a program or other office of the Department. (2) For purposes of this section, "timely" means mailed or delivered to the Director not later than 30 days after the date of the notice under § 1035.6 or on or before such later date as may be specified in the notice under § 1035.6. If the postmark date is affixed by a postage meter and DOE receives the document more than five days after the postmark date, the date of receipt shall be used to determine timeliness.

(b) *Written response.* A timely written response to a notice of suspension or proposed debarment may contain any or all of the following:

(1) A request for a meeting with the Director or designee (§ 1035.8(c));

(2) A request for a fact-finding conference (§ 1035.8(d)); and

(3) Information and argument in opposition to the suspension or proposed debarment including identification of disputed material facts. If the respondent fails to submit a timely written response to a notice of suspension or proposed debarment, the Director shall notify the respondent in accordance with § 1035.9 that the awardee remains suspended, or that the awardee is debarred, as applicable.

(c) *Meeting.* Upon receipt of a timely request therefor, the Director shall schedule a meeting with the Director or designee and the respondent, no later than 30 days from the date the request is received. The Director or designee may postpone the date of the meeting if the respondent requests a postponement in writing.

(1) At the meeting, the respondent, appearing personally or through an attorney or other authorized representative, may informally present and explain evidence that causes for suspension or debarment do not exist, evidence of any mitigating factors, and arguments concerning the imposition, scope, duration, or effects of a suspension, proposed debarment, or debarment. The respondent may offer or explain a previous offer to agree to a voluntary exclusion (§ 1035.10) at the meeting.

(2) Any written information or arguments submitted at or in connection with the meeting shall be included in the administrative record. The Director shall not be required to make a transcript of the meeting.

(3) Within two weeks following the date of the meeting, the Director shall send a notice to the respondent containing the following information:

(i) Names, organizational affiliations, titles, addresses, and telephone numbers of all individuals who attended;

(ii) A brief description of each document submitted by the respondent;

(iii) A summary of the issues discussed; and

(iv) A statement describing the action the Director has taken or proposes to take.

(d) *Fact-finding conference.* The purposes of a fact-finding conference under this section are to provide the respondent an opportunity to dispute material facts and to make arguments related to a suspension or proposed debarment, and to provide the Director with proposed findings of fact based, as applicable, on adequate evidence or on a preponderance of the evidence.

(1) *Appointment of fact-finding panel and notice to respondent.* If the Director determines that a written response or a presentation at the meeting puts material facts in dispute, the Director shall appoint a fact-finding panel. Upon appointment, the panel shall notify the respondent that the case has been referred to the panel and shall schedule a fact-finding conference.

(2) *Appearances.* The Director may be represented at the fact-finding conference by the General Counsel or designee. The respondent may appear personally or through an attorney.

(3) *Scope of the fact-finding conference.* The factual issues considered at the conference shall be limited to those identified in the Director's referral and any amendments thereto filed by the Director.

(4) *Procedures.* The fact-finding conference shall be conducted in accordance with applicable procedural rules adopted by the General Counsel or designee. The procedural rules shall be as informal as practicable, consistent with the principles of fundamental fairness, prompt decisionmaking, and with the evidentiary standards for suspension and debarment.

(5) *Preliminary administrative record.* At least 10 days before the fact-finding conference date, the Director shall file with the fact-finding panel, and mail or deliver to the respondent, a copy of the administrative record as of the date of the transmittal. The copy sent to the respondent shall not include any documents which, as provided in § 1035.7, may not be disclosed; the copy filed with the fact-finding panel shall identify which documents must be sealed and viewed by the fact-finding panel only *in camera*, as provided in § 1035.7.

(6) *Evidence and argument.* The respondent and the Director shall have the opportunity to submit documentary evidence, to examine and cross-examine witnesses, and to present argument. Only evidence which is relevant to the issues referred for the fact-finding conference and which is reliable and probative shall be admissible.

(7) *Transcript.* The fact-finding panel shall make a transcribed record of the fact-finding conference which shall be transmitted to the Director within 20 days after the hearing record is closed. The transcript shall be available at cost to the respondent. The requirement for a transcript may be waived by mutual agreement of the Director and all respondents.

(8) *Fact-finding conference report.* Within 30 days after the conference record is closed, the fact-finding panel shall transmit to the respondent (by notice) and to the Director a written report setting forth proposed findings of fact. The findings shall resolve any disputes over material facts based on a preponderance of the evidence if the case involves a proposal to debar, or on adequate evidence if the case involves a suspension. The respondent shall have 30 days from receipt of the fact-finding panel's report to submit written exceptions to the Director.

(9) *Final decision.* The Director's final decision shall be based on the administrative record, including the fact-finding conference report and any written exceptions submitted by the respondent. The Director may set aside findings of fact in the conference report only if the Director specifically determines the finding(s) to be arbitrary and capricious or clearly erroneous. If the final decision sustains a proposed debarment, the debarment may begin no earlier than ten days after the date of the notice of final decision (§ 1035.9), a copy of which shall be transmitted to the fact-finding panel.

§ 1035.9 Notice of final decision.

(a) Upon deciding to impose debarment or sustain a suspension, the Director shall promptly send each affected respondent a notice with the following information, as appropriate:

(1) The notice of suspension or proposed debarment, the meeting and the fact-finding conference shall be referenced;

(2) The Director's findings of fact and conclusions of law;

(3) The reasons for the debarment or for sustaining a suspension shall be specified;

(4) For debarments, the period of debarment, including effective dates (see § 1035.11) shall be stated; and

(5) The types of agreements and subagreements covered by the debarment or suspension. The decision may limit the debarment or suspension action to affected agreements involving particular commodities, products, services, or forms of energy, or to projects or work performed in specified geographic regions.

(6) A reference to the Director's waiver authority under § 1035.13.

(7) If the respondent has been debarred or suspended for one or more causes included in FPR Subpart 1–1.6, the notice shall also state that the debarment or suspension is effective throughout the Executive Branch as provided in FPR §§ 1–1.605–1(c) and 1–1.606–1(d).

(8) Modifications, if any, of the terms of the suspension.

(9) The names and addresses of the respondents that will be or have been placed on the DOE List.

(10) If the respondent has been debarred for one or more causes included in FPR Subpart 1–1.6, that a copy of the debarment notice was sent to GSA and that the respondent's name and address will be added to the GSA List.

(11) If less than an entire organization is suspended or debarred, the identity or description of the organizational element(s) or individual(s) included within the scope of the suspension or debarment.

(b) If the Director decides to withdraw a proposed debarment or to terminate a suspension, the Director shall promptly send, using the notice procedure, each affected respondent a copy of the final decision required under this section.

§ 1035.10 Voluntary exclusion.

At any time prior to the issuance of a final decision under § 1035.9, the Director may, in the public interest, agree, in writing, to terminate a suspension or withdraw a proposed debarment on the conditions that the respondent voluntarily refrain from attempting to obtain, and from entering into, one or more types of DOE or other agency agreements or subagreements. Failure to observe such conditions shall be an independent cause for debarment or suspension. The name and address of the respondent who is a party to a voluntary exclusion shall be placed on the DOE List. The Director shall not enter into a voluntary exclusion if the proposed debarment is based on conviction of or civil judgment for any of the causes in § 1035.5(a)(1), or if the suspension was based on an indictment for any of the causes in § 1035.5(a)(1).

§ 1035.11 Period of debarment and suspension.

(a) The duration of a period of debarment imposed under this Part shall be commensurate with the seriousness of the cause(s). Generally, a debarment

should not exceed three years. If suspension precedes a debarment, the suspension period shall be considered in determining the debarment period. The Director may extend the debarment for an additional period if the Director determines that an extension is necessary to protect the Government's interest. However, the Director may not extend a debarment solely on the basis of the facts and circumstances upon which the initial debarment action was based. the Director shall follow the procedures in §§1035.6 and 1035.8 to extend the debarment.

(b) Suspension shall remain in effect pending completion of investigation and any ensuing legal proceedings, unless sooner terminated by the Director or as provided in this paragraph. If legal proceedings are not initiated within 12 months after the date of the suspension notice, the Director shall terminate the suspension unless the Department of Justice requests an extension, in which case the Director may extend the suspension for an additional six months. If legal proceedings are initiated before the period of suspension expires, the suspension may continue until legal proceedings are concluded. The Director shall notify the Department of Justice of a proposed termination of the suspension at least 30 days before the 12-month period expires to give that agency an opportunity to request an extension.

(c) At any time during a period of suspension, proposed debarment, or debarment, a respondent may submit to the Director a written request for reconsideration of the scope, duration, or effects of the debarment/suspension action because of new information or changed circumstances such as:

(1) Newly discovered material evidence;

(2) Dismissal of the indictment or reversal of the conviction or judgment upon which the suspension/debarment action was based;

(3) Bona fide change in ownership (including dissolution of the business organization) or management;

(4) Elimination of other causes for which the debarment/suspension was imposed; or

(5) Other reasons the Director deems appropriate such as restitution and other actions in mitigation.

In reviewing a request for reconsideration, the Director may, in his or her discretion, utilize any of the procedures (meeting and factfinding conference) set forth in § 1035.8. The Director's final disposition of the reconsideration request shall be in writing and shall set forth the reasons why the request has been granted or denied. A notice transmitting a copy of the final decision shall be sent to the respondent and, if a factfinding conference under § 1035.8 is pending, a copy shall be transmitted to the fact-finding panel.

§ 1035.12 Scope of debarment and suspension.

Debarment or suspension of an awardee or affiliate under this Part constitutes debarment or suspension of all divisions or other organizational elements of the awardee or affiliate for all DOE agreements and subagreements, and, debarment or suspension of a contractor or affiliate under FPR Subpart 1–1.6 constitutes debarment or suspension of all divisions or other organizational elements of the contractor or affiliate for all executive branch procurement contracts and subcontracts unless the debarment or suspension decision is limited by its term to one or more specifically identified individuals or organizational elements (§ 1035.9(a)(10)) and/or to specific agreement types (§ 1035.9(a)(11)). For purposes of determining the scope of debarment and suspension, conduct may be imputed as follows:

(a) The fraudulent, criminal, or other seriously improper conduct of any officer, director, shareholder, partner, employee, or other individual associated with an awardee may be imputed to the awardee when the conduct occurred in connection with the individual's performance of duties for or on behalf of the awardee, or with the awardee's knowledge, approval, or acquiescence. The awardee's acceptance of the benefits derived from the conduct shall be evidence of such knowledge, approval, or acquiescence.

(b) The fraudulent, criminal, or other seriously improper conduct of an awardee may be imputed to any officer, director, shareholder, partner, employee, or other individual associated with the awardee who participated in, knew of, or had reason to know of the awardee's conduct.

(c) The fraudulent, criminal, or other seriously improper conduct of one awardee participating in a joint venture or similar arrangement may be imputed to other participating organizations or individuals if the conduct occurred for or on behalf of the joint venture or similar arrangement or with the knowledge, approval, or acquiescence of those organizations or individuals. Acceptance of the benefits derived from the conduct shall be evidence of such knowledge, approval, or acquiescence.

§ 1035.13 Effects of being listed on the DOE and GSA Lists.

The Director may waive the prohibitions of paragraphs (a) through (e) of this section by issuing a written determination setting forth the compelling reasons justifying the waiver.

(a) DOE shall not solicit, or consider, and shall return any proposal submitted by a contractor or awardee on the DOE List or a contractor on the GSA List, to the extent that the solicitation activity or proposal falls within the scope of the suspension, proposed debarment, debarment, ineligibility of voluntary exclusion, as indicated on the DOE or GSA List.

(b) DOE shall not award, extend, or renew any agreement with an awardee on the DOE List or any procurement contract with a contractor on the GSA List, to the extent that the activity falls within the scope of the suspension, proposed debarment, debarment, ineligibility of voluntary exclusion, as indicated on the DOE or GSA List.

(c) DOE shall not approve or consent ot the award, extension, or renewal of a subagreement with a contractor or awardee on the DOE List and shall not approve or consent to the award, extension, or renewal of a subcontract with a contractor on the GSA List, to the extent that the award falls within the scope of the suspension, proposed debarment, debarment, ineligibility or voluntary exclusion.

(d) DOE may disapprove or not consent to the selection (by an awardee) of an individual to serve as a principal investigator, as a project manager, in a position of responsibility for the administration of Federal funds, or in another key personnel position, if the individual is on the DOE or GSA List.

(e) DOE shall not conduct business with an agent or representative of a contractor or awardee if the agent's or representative's name appears on the DOE or GSA List.

(f) DOE shall review existing agreements and may initiate a review of any subagreements with a contractor or awardee on the DOE List or a contractor on the GSA List for the purpose of determining whether termination or other remedial action, available under the terms of the agreement, subagreement, or applicable law, is necessary to protect the Government's interest.

(g) DOE shall review the DOE and GSA Lists before conducting a pre-award survey or soliciting proposals, awarding agreements, renewing or otherwise extending the duration of existing agreements, or approving or

consenting to the award, extension, or renewal of subagreements.

§ 1035.14 Notification of GSA.

Within five working days after debarring or suspending a contractor or affiliate from procurement contracting and subcontracting in accordance with FPR Subpart 1–1.6 or modifying or rescinding such an action, the Director shall transmit the information set forth in § 1035.15 to GSA.

§ 1035.15 DOE Consolidated List of Debarred, Suspended, Ineligible, and Voluntarily Excluded Awardees.

The Director shall compile and maintain a list of awardees and affiliates who are currently suspended, proposed for debarment, debarred, or voluntarily excluded under this part. The DOE List shall contain the following information at a minimum:

(a) The awardee's or affiliate's name and address;

(b) The cause(s) relied upon under this part, and as applicable, under FPR Subpart 1–1.6 for each action (see § 1035.5);

(c) The effect of each action (see § 1035.13);

(d) The effective date of the action and, in the case of debarment, the expiration date; and

(e) The name and telephone number of the DOE official who can be contacted for additional information about the action.

PART 600—[AMENDED]

2. 10 CFR Part 600 is amended by revising § 600.27 to read as follows:

§ 600.27 Debarment and suspension.

Applicants, recipients, subrecipients, and contractors under financial assistance awards may be debarred and suspended for the causes and in accordance with the procedures set forth in 10 CFR Part 1035. Title 41 of the Code of Federal Regulations is amended as follows:

PART 9–1—[AMENDED]

3. 41 CFR Part 9–1 is amended by revising Subpart 9–1.6 to read as follows:

Subpart 9–1.6 Debarred, Suspended, and Ineligible Bidders.

Section 9–1.600 Bidders, contractors, and subcontractors may be debarred and suspended for the causes and in accordance with the procedures set forth in 10 CFR Part 1035.

[FR Doc. 84–2737 Filed 2–2–84; 8:45 am]
BILLING CODE 6450–01–M

VOL
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ISS
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1984
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federal register

Friday
February 3, 1984

Part IV

Department of Energy

Federal Energy Regulatory Commission

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978; Notices

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Vol. 1055]

Notices of Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: January 30, 1984.

The following notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" before the section code. Estimated annual production (PROD) is in million cubic feet (MMCF).

The applications for determination are available for inspection except to the extent such material is confidential under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol St., Washington, D.C. Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 275.204, file a protest with the Commission within fifteen days after publication of notice in the **Federal Register**.

Source data from the Form 121 for this and all previous notices is available on magnetic tape from the National Technical Information Service (NTIS). For information, contact Stuart Weisman (NTIS) at (703) 487-4808, 5285 Port Royal Rd, Springfield, Va 22161.

Categories within each NGPA section are indicated by the following codes:

Section 102-1: New OCS lease
102-2: New well (2.5 Mile rule)
102-3: New well (1000 Ft rule)
102-4: New onshore reservoir
102-5: New reservoir on old OCS lease
Section 107-DP: 15,000 feet or deeper
107-GB: Geopressured brine
107-CS: Coal Seams
107-DV: Devonian Shale
107-PE: Production enhancement
107-TF: New tight formation
107-RT: Recompletion tight formation
Section 108: Stripper well
108-SA: Seasonally affected
108-ER: Enhanced recovery
108-PB: Pressure buildup

Kenneth F. Plumb,
Secretary.

NOTICE OF DETERMINATIONS
ISSUED JANUARY 30, 1984

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
OHIO DEPARTMENT OF NATURAL RESOURCES									
-B T SIMPSON JR				RECEIVED:	01/04/84	JA: OH			
8414380		3415723935		103		FRANCES FOSTER 02	UHRICHSVILLE	50.8	EAST OHIO GAS CO
8414379		3407521974		103		GEORGE BOWER 01	NASHVILLE	100.0	COLUMBIA GAS TRAN
-BAKERWELL INC				RECEIVED:	01/04/84	JA: OH			
8414381		3407526187		103		EBERT 03	WASHINGTON	7.2	EAST OHIO GAS CO
8414382		3415723955		103		GIBSON 03	WASHINGTON	7.2	EAST OHIO GAS CO
-BELDEN & BLAKE & CO 03				RECEIVED:	01/04/84	JA: OH			
8414383		3415123926		103		R & M HALTER - 1-341342	ORNABURG	36.5	
-BELDEN & BLAKE CORPORATION				RECEIVED:	01/04/84	JA: OH			
8414384		3415122837		103		J R & J L HEMINGER 01	MARLBORO	36.5	
-BERRESFORD ENTERPRISES INC				RECEIVED:	01/04/84	JA: OH			
8414400		3411522153		107-TF		ALBRIGHT 01	CENTER	0.0	
8414417		3416727049		107-TF		BARNETT, ET AL 01	WATERFORD	0.0	
8414398		3416726302		107-TF		CHARLES W HEMBERGER 01	WATERFORD	0.0	
8414396		3416726298		107-TF		CLARA MYERS 01	WATERFORD	0.0	
8414385		3416725464		107-TF		DAVID TINEY 01	WATERFORD	0.0	
8414390		3416726062		107-TF		DONAL O'CARROLL 01	WATERFORD	0.0	
8414397		3416726300		107-TF		EILEEN TAYLOR 03	WATERFORD	0.0	
8414407		3411522645		107-TF		FLORENCE STIERS 01	CENTER	0.0	
8414412		3416726787		107-TF		GEORGE GARDNER 01	WATERFORD	0.0	
8414386		3416725508		107-TF		GEORGE HARDEN 02	WATERFORD	15.0	
8414388		3416726060		107-TF		GEORGE SINGREE 01	WATERFORD	0.0	
8414416		3416726859		107-TF		HOLIDAY/SINGREE 01	WATERFORD	0.0	
8414392		3416726066		107-TF		HOLLIE MICHAEL 01	WATERFORD	0.0	
8414404		3411522375		107-TF		JAMES HOPKINS ET AL 01	CENTER	0.0	
8414411		3416726671		107-TF		JOE MISEL 01	WATERFORD	0.0	
8414395		3416726232		107-TF		KEITH MILLER 01	WATERFORD	0.0	
8414402		3411522283		107-TF		KENT PLACE 01	CENTER	0.0	
8414408		3412122541		107-TF		LEE WEISAND 01	JACKSON	0.0	
8414403		3411522290		107-TF		LEORA TAYLOR 01	CENTER	0.0	
8414393		3416726067		107-TF		LOUIS SCHILLING 02	WATERFORD	0.0	
8414415		3416726868		107-TF		LOUIS SCHILLING 03	WATERFORD	0.0	
8414413		3416726854		107-TF		LOUIS SCHILLING 05	WATERFORD	0.0	
8414394		3416726231		107-TF		MARILYN COMBS 01	WATERFORD	0.0	
8414401		3411522212		107-TF		PAUL DIETZ 01	CENTER	0.0	
8414405		3411522403		107-TF		PAUL DIETZ 03	CENTER	0.0	
8414406		3411522644		107-TF		PHILLIS 01	CENTER	0.0	
8414391		3416726064		107-TF		RALPH & ALTA COFFMAN 01	WATERFORD	0.0	
8414410		3416725429		107-TF		RAYMOND TAYLOR 01	WATERFORD	15.0	
8414416		3416726886		107-TF		RUSKIN ADAMS 01	WATERFORD	0.0	
8414387		3416725983		107-TF		SCHILLING 01	WATERFORD	0.0	
8414422		3416727406		107-TF		SCHILLING 017	WATERFORD	0.0	
8414418		3416727317		107-TF		SCHILLING 03	WATERFORD	0.0	
8414419		3416727318		107-TF		SINGREE 03	WATERFORD	0.0	
8414420		3416727320		107-TF		SINGREE 04	WATERFORD	0.0	
8414421		3416727379		107-TF		TAYLOR 06	WATERFORD	0.0	

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8414389		3416726061		107-TF		VIRGIL PORTER #1	WATERFORD	0.0	
8414399		3416726660		107-TF		WARD #1	WATERFORD	0.0	
8414409		3416723810		107-TF		WILLIAM BONAR #1	DUNHAM	3.0	
-BILL BLAIR INCORPORATED				RECEIVED: 01/04/84 JA: OH					
8414423		3402920959		103	107-TF	MOUNTZ #1	HANOVERTON	12.0	EAST OHIO GAS CO
8414424		3402920960		103	107-TF	MOUNTZ #2	HANOVERTON	14.0	EAST OHIO GAS CO
8414425		3402920961		103	107-TF	MOUNTZ #3	HANOVERTON	14.0	EAST OHIO GAS CO
8414427		3402920963		103	107-TF	SOSENKO #1	HANOVERTON	12.0	EAST OHIO GAS CO
8414426		3402920962		103	107-TF	SOSENKO #2	HANOVERTON	2.0	EAST OHIO GAS CO
-BLAUSER WELL SERVICE INC				RECEIVED: 01/04/84 JA: OH					
8414435		3416725095		107-DV		DAVID D DUNBAR #2	FAIRFIELD TOWNSHIP	0.5	COLUMBIA GAS TRAN
8414434		3416725094		107-DV		DAVID D DUNBAR #3	FAIRFIELD TOWNSHIP	0.5	COLUMBIA GAS TRAN
8414433		3416725083		107-DV		E GRANT RUSSELL #1	FAIRFIELD TOWNSHIP	1.1	COLUMBIA GAS TRAN
8414432		3416725082		107-DV		F GRANT & LEANA J RUSSELL #1	FAIRFIELD TOWNSHIP	1.1	COLUMBIA GAS TRAN
8414428		3416724354		107-DV		HENRY WUNDERLICH #1	SALEM TOWNSHIP	4.5	COLUMBIA GAS TRAN
8414429		3416725048		107-DV		HENRY WUNDERLICH #2	SALEM TOWNSHIP	1.1	COLUMBIA GAS TRAN
8414430		3416725049		107-DV		HENRY WUNDERLICH #3	SALEM TOWNSHIP	1.1	COLUMBIA GAS TRAN
8414439		3416725114		107-DV		HOWARD L MATLACK #1	DECATUR TOWNSHIP	2.7	COLUMBIA GAS TRAN
8414441		3416725116		107-DV		HOWARD L MATLACK #2	DECATUR TOWNSHIP	2.7	COLUMBIA GAS TRAN
8414443		3416725137		107-DV		HOWARD L MATLACK #3	DECATUR TOWNSHIP	2.7	COLUMBIA GAS TRAN
8414431		3416725081		107-DV		ROBERT J KUBOTA #1	SALEM TOWNSHIP	3.3	COLUMBIA GAS TRAN
8414437		3416725112		107-DV		ROBERT J KUBOTA #2	SALEM TOWNSHIP	3.3	COLUMBIA GAS TRAN
8414436		3416725098		107-DV		RUSSELL F & MARY L MCVICAR #1	FAIRFIELD TOWNSHIP	1.0	COLUMBIA GAS TRAN
8414440		3416725115		107-DV		RUSSELL F & MARY L MCVICAR #2	FAIRFIELD TOWNSHIP	1.0	COLUMBIA GAS TRAN
8414438		3416725113		107-DV		RUSSELL F & MARY L MCVICAR #3	WASHINGTON TOWNSHIP	1.0	COLUMBIA GAS TRAN
8414442		3416725136		107-DV		RUSSELL F & MARY L MCVICAR #4	FAIRFIELD TOWNSHIP	1.0	COLUMBIA GAS TRAN
-BULLS INVESTMENTS				RECEIVED: 01/04/84 JA: OH					
8414444		3411522500		107-TF		PAUL DIETZ/KENT PLACE #2	CENTER	0.0	
-CA D' ORA INC				RECEIVED: 01/04/84 JA: OH					
8414451		3416727589		103		DALE SCHWENDEMAN #1	WATERTOWN	7.0	
8414445		3416727468		103		DAVID SCHAAD #2	WATERTOWN	10.5	
8414448		3416727578		103		MILDRED WILKING #1	WATERTOWN	14.0	
8414447		3416727542		103		NORBERT LANG #2	WARREN	7.0	
8414458		3416727579		103		ROGER SAMPSON #1	WATERTOWN	3.5	
8414449		3416727590		103		WALTER RAUCH #3	WATERTOWN	10.5	
8414446		3416727541		103		WILBER WALTER #1	WATERTOWN	10.5	
-CARL E SMITH PETROLEUM INC				RECEIVED: 01/04/84 JA: OH					
8414452		3410522445		107-DV		ELBERFELD FARM INC 246	ORANGE	16.0	COLUMBIA GAS TRAN
-CARLTON OIL CORP				RECEIVED: 01/04/84 JA: OH					
8414453		3421223074		107-TF		BROWN #4	JACKSON	15.0	EAST OHIO GAS CO
-CENTRAL OIL FIELD SUPPLY CO				RECEIVED: 01/04/84 JA: OH					
8414454		3400922913		103	107-TF	GILCHRIST #1	BERN	5.0	COLUMBIA GAS TRAN
--CNG DEVELOPMENT CO				RECEIVED: 01/04/84 JA: OH					
8414455		3412123069		103	107-TF	DALE LOTHES #1 CNGD #310	JACKSON	4.0	
-CUYAHOGA EXPLORATION & DEVELOPMENT				RECEIVED: 01/04/84 JA: OH					
8414456		3411122982		103	107-TF	FRANK ROSE #4	WASHINGTON	43.6	
-DREVE WENDEL E JR				RECEIVED: 01/04/84 JA: OH					
8414569		3416727517		103	107-TF	SCHNEIDER #1	SALEM	23.7	COLUMBIA GAS TRAN
-ENERGY DEVELOPMENT CORP				RECEIVED: 01/04/84 JA: OH					
8414464		3413321021		108		BROSIUS #1		9.0	EAST OHIO GAS CO
- 8414467		3413321057		108		BROSIUS #2		6.0	EAST OHIO GAS CO
- 8414473		3413321241		108		BROSIUS #3-A		10.0	EAST OHIO GAS CO
8414472		3413321160		108		CHULAINN INC #1		8.0	EAST OHIO GAS CO
8414480		3413321664		108		COLLINS #1		10.0	EAST OHIO GAS CO
8414481		3413321665		108		COLLINS #2		6.0	EAST OHIO GAS CO
8414476		3413321470		108		H CARLISLE #3		7.0	ANCHOR HOCKING CO
8414459		3413320831		108		HOSKINS #1		6.0	EAST OHIO GAS CO
8414466		3413321034		108		JACKSON #1		7.0	EAST OHIO GAS CO
8414475		3413321260		108		JONES #2		7.0	ANCHOR HOCKING CO
8414474		3413321259		108		JONES #3		6.0	ANCHOR HOCKING CO
8414465		3413321031		108		KNIPPER #3		8.0	EAST OHIO GAS CO
8414479		3413321635		108		KNIPPER WELL #4		10.0	EAST OHIO GAS CO
8414478		3413321522		108		MINER #4		9.0	ANCHOR HOCKING CO
8414471		3413321127		108		MINER #6		10.0	ANCHOR HOCKING CO
8414468		3413321105		108		MINER #7		6.0	ANCHOR HOCKING CO
8414470		3413321126		108		MINER #8		6.0	ANCHOR HOCKING CO
8414469		3413321125		108		MINER #9		7.0	ANCHOR HOCKING CO
8414458		3413320808		108		NEBE #1		7.0	ANCHOR HOCKING CO
8414463		3413321011		108		PERGE #1		8.0	EAST OHIO GAS CO
8414460		3413320984		108		PETERS #1		8.0	EAST OHIO GAS CO
8414462		3433210101		108		PETERS #2		9.0	EAST OHIO GAS CO
8414461		3433209850		108		PETERS #3		9.0	EAST OHIO GAS CO
8414482		3413322912		108		POLLOCK #2		7.0	ANCHOR HOCKING CO
8414477		3413321505		108		THOMPSON-ALGER #2		8.0	ANCHOR HOCKING CO
-ENIMUN INC				RECEIVED: 01/04/84 JA: OH					
8414483A		3411926732		103		CLEMENT VENSIL #2	LICKING	20.0	NATIONAL GAS & OI
8414483B		3411926732	D	107-TF		CLEMENT VENSIL #2	LICKING	20.0	NATIONAL GAS & OI
-FREDERICK PETROLEUM CORP				RECEIVED: 01/04/84 JA: OH					
8414484		3411122691		107-DV		CAPPADONA #2	FRANKLIN	9.0	
8414485		3411122768		107-DV		FREDERICK #4-28	FRANKLIN	9.0	
-G W F CORP				RECEIVED: 01/04/84 JA: OH					
8414486		3416726527		103	107-TF	ARTHUR D HUNTER #1	ADAMS	15.0	COLUMBIA GAS TRAN
-GENERAL ELECTRIC CO				RECEIVED: 01/04/84 JA: OH					
8414487		3400722329		103	107-TF	SHUKAITIS #1	CHERRY VALLEY	20.0	EAST OHIO GAS CO
-HAMILTON LEONARD O				RECEIVED: 01/04/84 JA: OH					
8414532		3416727684		103		LEONARD HAMILTON #1	LUDLOW TOWNSHIP	200.0	RIVER GAS CO
-HERALD OIL & GAS CO				RECEIVED: 01/04/84 JA: OH					
8414489		3410522787		107-TF		BAILEY-GILKEY #1	SALISBURY	273.8	COLUMBIA GAS TRAN
8414490		3410522792		107-TF		MILDRED DYER #1	RUTLAND	273.8	COLUMBIA GAS TRAN
8414492		3410522798		107-TF		NATHAN BIGGS #1	SALISBURY	237.3	COLUMBIA GAS TRAN
8414491		3410522794		107-TF		RALPH DUNCAN #1	SALISBURY	219.0	COLUMBIA GAS TRAN
8414488		3410522775		107-TF		WOODROW ENGLE #1	SALISBURY	237.2	COLUMBIA GAS TRAN
-J D DRILLING CO				RECEIVED: 01/04/84 JA: OH					
8414493		3410522788		107-DV		AGNES BROWN #6	CHESTER	10.0	COLUMBIA GAS TRAN
- 8414494		3410522804		107-DV		JANICE WEBER-CHARLES RITCHIE #1	CHESTER	9.0	COLUMBIA GAS TRAN
-J O B INC				RECEIVED: 01/04/84 JA: OH					
8414495		3416727520		107-DV		ARZA PRYOR #2	GRANDVIEW	5.0	RIVER GAS CO
8414499		3416727562		107-TF		ROBERT RUDOLPH #1	MUSKINGUM	4.0	RIVER GAS CO
8414500		3416727563		103	107-TF	RUDOLPH #2	MUSKINGUM	4.0	RIVER GAS CO
8414501		3416727564		103	107-TF	RUDOLPH #4	MUSKINGUM	4.0	RIVER GAS CO
8414502		3416727565		103	107-TF	RUDOLPH #6	MUSKINGUM	5.0	RIVER GAS CO
8414503		3416727569		103	107-TF	SMITH #1	MUSKINGUM	0.0	RIVER GAS CO
- 8414504		3416727570		103	107-TF	SMITH #2	MUSKINGUM	6.0	RIVER GAS CO
- 8414496		3416727556		103	107-TF	WHITING #1	MUSKINGUM	4.0	RIVER GAS CO

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8414497		3416727557		103	107-TF	WHITING #2	MUSKINGUM	4.[illegible]	RIVER GAS CO
8414498		3416727558		107-TF		WHITING #3	MUSKINGUM	4.0	RIVER GAS CO
-JAMES E DIDDLE				RECEIVED: 01/04/84 JA: OH					
8414505		3410522755		107-TF		ZELMA STEWART #1	SALISBURY	7.0	COLUMBIA GAS TRAN
-JERRY MOORE INC				RECEIVED: 01/04/84 JA: OH					
8414509		3403122868		108		ALOIS DARLING #1	WARSAW	2.4	COLUMBIA GAS TRAN
8414515		3403123093		108		CHESTER NIKODYM #1	CLARK	3.[illegible]	COLUMBIA GAS TRAN
8414506		3403122384		108		DALE REIGLE #1	WARSAW	1.[illegible]	COLUMBIA GAS TRAN
8414517		3403122377		108		EVERETT GIAUQUE #1	WARSAW	3.0	COLUMBIA GAS TRAN
8414512		3403122995		108		FRANKLIN FUNK #1	WARSAW	1.5	COLUMBIA GAS TRAN
8414511		3403122993		108		FRANKLIN FUNK #2	WARSAW	1.[illegible]	COLUMBIA GAS TRAN
8414516		3403123539		108		FRANKLIN FUNK #3	WARSAW	1.5	COLUMBIA GAS TRAN
8414513		3403123038		108		JOHN C CONKLE #1	CLARK	6.[illegible]	COLUMBIA GAS TRAN
8414514		3403123088		108		JOHN C CONKLE #2	CLARK	6.[illegible]	COLUMBIA GAS TRAN
8414508		3403122857		108		ROY GROSS #1	WARSAW	1.5	COLUMBIA GAS TRAN
8414507		3403122818		108		W D LANHAM UNIT #1	NELLIE	5.0	COLUMBIA GAS TRAN
8414510		3403122880		108		W D LANHAM UNIT #2	CLARK	5.[illegible]	COLUMBIA GAS TRAN
-JOHN C MASON				RECEIVED: 01/04/84 JA: OH					
8414518		3407524112		103		C ARDIS DEUTSCHLANDER #1	RICHLAND	15.[illegible]	COLUMBIA GAS TRAN
-JOHN TARSKY				RECEIVED: 01/04/84 JA: OH					
8414523		3400922823		103	107-TF	ERNEST & SHIRLEY KYLE #1	LODI	7.[illegible]	
8414519		3400922797		103	107-TF	JERRY TITCO #1	LODI	7.0	
8414520		3400922820		103	107-TF	JOHN & PAULINE PENCE #1	LODI	7.[illegible]	
8414522		3400922822		103	107-TF	RAINBOW LAKE OF ATHENS INC #2	LODI	7.0	
8414521		3400922821		103	107-TF	RICHARD & GLENNA GRIM #2	LODI	7.0	
-JOHNSU OIL CORP				RECEIVED: 01/04/84 JA: OH					
8414525		3408924600		103		KENT #3	PERRY	4.[illegible]	NATIONAL GAS & OI
8414524		3403125162		103		OGLE #2	CLARK	8.0	NATIONAL GAS & OI
-KEN-TRAK				RECEIVED: 01/04/84 JA: OH					
8414530		3410522247		107-TF		ROBERT DAILEY #2	LOWER MISSISSIPIAN	0.0	
-KRAMER EXPLORATION CO				RECEIVED: 01/04/84 JA: OH					
8414531		3410522498		103	107-TF	BARTON #5	RUTLAND	36.0	COLUMBIA GAS TRAN
-LEACH JOSEPH L & BARBARA J				RECEIVED: 01/04/84 JA: OH					
8414526		3405320846		107-TF		LEACH #3	GALLIPOLIS	24.0	COLUMBIA GAS TRAN
8414527		3405320848		107-TF		LEACH #4	GALLIPOLIS	22.5	COLUMBIA GAS TRAN
8414528		3405320849		107-TF		LEACH #5	GALLIPOLIS	24.0	COLUMBIA GAS TRAN
8414529		3405320850		107-TF		LEACH #6	GALLIPOLIS	22.5	COLUMBIA GAS TRAN
-LIBERTY OIL&GAS CORP				RECEIVED: 01/04/84 JA: OH					
8414533		3400922173		107-DV		MILLS #1-C	CARTHAGE	0.0	COLUMBIA GAS TRAN
-M B OPERATING CO INC				RECEIVED: 01/04/84 JA: OH					
8414536		3415123405		108		M W C D #9		9.1	REPUBLIC STEEL CO
8414539		3415123753		108		STEFFY UNIT #2		17.8	REPUBLIC STEEL CO
8414538		3415123628		108		VICK #1		42.7	REPUBLIC STEEL CO
8414537		3415123472		108		WESTFALL UNIT #1		13.2	REPUBLIC STEEL CO
-M C F OIL CO				RECEIVED: 01/04/84 JA: OH					
8414534		3407523030		103		A LOUISE MCCOY #2	MONROE	1.0	COLUMBIA GAS TRAN
-MACKENCO INC				RECEIVED: 01/04/84 JA: OH					
8414535		3416727605		103	107-TF	CHRISTY HEIRS #1	WATERTOWN	12.0	GAS TRANSPORT INC
-MULTI BASIN ENERGY CORP				RECEIVED: 01/04/84 JA: OH					
8414540		3411123075		107-DV		M FRY #4	BENTON	30.0	RIVER GAS CO
-OXFORD OIL CO				RECEIVED: 01/04/84 JA: OH					
8414558		3408924813		103		ANTHONY DIGIANDOMENICO #1	BOWLING GREEN	10.0	
8414557		3407322548		103		GREENHILL #19	GREEN	10.0	
8414559		3411924288		107-TF		LICKING VIEW REALTY #2	PERRY	10.0	
8414560		3412726002		107-TF		ROBERT ALLEN UNIT #1	HARRISON	10.0	
-PIP PETROLEUM CORP				RECEIVED: 01/04/84 JA: OH					
8414543		3416727292		103	107-TF	GREEN #1	PALMER	0.0	COLUMBIA GAS TRAN
8414545		3416727295		103	107-TF	SNIDER #1	PALMER	0.0	COLUMBIA GAS TRAN
8414547		3416727297		103	107-TF	SNIDER #1	PALMER	0.0	COLUMBIA GAS TRAN
8414546		3416727296		103	107-TF	STRAHLER #1	FAIRFIELD	0.0	COLUMBIA GAS TRAN
8414544		3416727294		103	107-TF	WAGGONER #1	PALMER	150.0	COLUMBIA GAS TRAN
-POI ENERGY INC				RECEIVED: 01/04/84 JA: OH					
8414548		3400722343		103	107-TF	BABB #RM-1	WILLIAMSFIELD	25.0	
-POMSTONE CORP				RECEIVED: 01/04/84 JA: OH					
8414549		3403124335		108		HUFF #1		3.0	
-REDMAN OIL CO INC				RECEIVED: 01/04/84 JA: OH					
8414550		3411523125		103		FLODA DUSKEY #1	CENTER	15.0	COSHOCTON PIPE CO
8414551		3411523126		103		FLODA DUSKEY #2	CENTER	10.0	COSHOCTON PIPE CO
8414552		3411523168		103		PAUL DIETZ #1	CENTER	18.0	COSHOCTON PIPE CO
-REDSTONE CORP				RECEIVED: 01/04/84 JA: OH					
8414553		3403124282		108		C.L. NEWTON #3		11.0	
-RELIANCE ENERGY				RECEIVED: 01/04/84 JA: OH					
8414457		3408323316		103		LAKEN STAATS #1	HARRISON	3.0	COLUMBIA GAS TRAN
-SPARTA ENERGY CORP				RECEIVED: 01/04/84 JA: OH					
8414554		3411122069		107-TF		R. HESSIDENCE #1	SUMMIT	3.0	TEXAS EASTERN TRA
-STONE RESOURCE & ENERGY CORP				RECEIVED: 01/04/84 JA: OH					
8414555		3403124824		103		WILKINS #1	TUSCARAWAS	0.1	
-SUPERIOR PETROLEUM INC				RECEIVED: 01/04/84 JA: OH					
8414556		3411121941		107-TF		E J & HAZEL #1	MALAGE	20.0	TEXAS EASTERN TRA
-THE MUTUAL OIL & GAS COMPANY				RECEIVED: 01/04/84 JA: OH					
8414542		3415723928		103		D MONTE #1W	WARREN	7.5	EAST OHIO GAS CO
8414541		3411122657		107-TF		ROSSI #6M	SENECA	16.0	COLUMBIA GAS TRAN
-UNGER WELL DRILLING CORP				RECEIVED: 01/04/84 JA: OH					
8414561		3415723778		103	107-TF	TRIMMER HAMMOND & ROSS #1	UNION	14.6	EAST OHIO GAS CO
-UNIVERSAL MINERALS INC				RECEIVED: 01/04/84 JA: OH					
8414564		3416726551		107-TF		CALDWELL #1	WARREN	0.5	COLUMBIA GAS TRAN
8414565		3416726926		107-TF		CALDWELL #2	WARREN	0.5	
8414566		3416726930		107-TF		CALDWELL #3	WARREN	0.5	
8414562		3416725731		107-TF		POTTS #1	WARREN	0.5	
8414563		3416726529		107-TF		VICKERS #1	WARREN	0.5	
-VICTOR MCKENZIE DRILLING CO INC				RECEIVED: 01/04/84 JA: OH					
8414568		3412725976		103		HILL UNIT #1	MADISON	10.0	NATIONAL GAS & OI
8414567		3404520889		103		JOHN DOWNARD #1	RUSHCREEK	25.0	
-WILLIAM F HILL				RECEIVED: 01/04/84 JA: OH					
8414570		3407524126		103		E STANTON GAYLOR #1	HARDY	7.0	
8414571		3407524144		103		MARION DOTY #1	KNOX	6.0	

[FR Doc. 84-2890 Filed 2-3-84; 8:45 am]

BILLING CODE 6717-01-C

[Vol. 1056]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: January 30, 1984.

The following notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" before the section code. Estimated annual production (PROD) is in million cubic feet (MMCF).

The applications for determination are available for inspection except to the extent such material is confidential under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol St., Washington, D.C. Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 275.204, file a protest with the Commission within fifteen days after publication of notice in the **Federal Register.**

Source data from the Form 121 for this and all previous notices is available on magnetic tape from the National Technical Information Service (NTIS). For information, contact Stuart Weisman (NTIS) at (703) 487–4808, 5285 Port Royal Rd, Springfield, Va 22161.

Categories within each NGPA section are indicated by the following codes:

Section 102–1: New OCS lease
102–2: New well (2.5 Mile rule)
102–3: New well (1000 Ft rule)
102–4: New onshore reservoir
102–5: New reservoir on old OCS lease

Section 107–DP: 15,000 feet or deeper
107–GB: Geopressured brine
107–CS: Coal Seams
107–DV: Devonian Shale
107–PE: Production enhancement
107–TF: New tight formation
107–RT: Recompletion tight formation

Section 108: Stripper well
108–SA: Seasonally affected
108–ER: Enhanced recovery
108–PB: Pressure buildup

Kenneth F. Plumb,
Secretary.

NOTICE OF DETERMINATIONS

ISSUED JANUARY 30, 1984

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
MICHIGAN DEPARTMENT OF NATURAL RESOURCES									
-REEF PETROLEUM CORP				RECEIVED:	01/05/84	JA: MI			
8414609		2102500000		102-4		FREDERICK 7-29	CLARENCE "27"	30.0	BATTLE CREEK NATU
NEW YORK DEPARTMENT OF ENVIRONMENTAL CONSERVATION									
-BEREA OIL AND GAS CORPORATION				RECEIVED:	01/06/84	JA: NY			
8414663	5962	3101318587		103	107-TF	DREIBELBIS UNIT #1	WILDCAT	12.0	
8414664	5960	3101318641		107-TF		STRIDE UNIT #2	WILDCAT	11.0	
-BOUNTY OIL & GAS INC				RECEIVED:	01/06/84	JA: NY			
8414660	4801	3101318034		102-2	107-TF	KOTAR UNIT #1	WILDCAT	0.0	NATIONAL FUEL GAS
8414659	4799	3101317988		102-2	107-TF	MADDEN #1	WILDCAT	0.0	COLUMBIA GAS TRAN
-UNIVERSAL RESOURCES HOLDINGS INC				RECEIVED:	01/06/84	JA: NY			
8414661	5974	3101318240		103	107-TF	AMES UNIT #2	CHARLOTTE	20.0	COLUMBIA GAS TRAN
8414662	5972	3101318170		103	107-TF	WONCKI UNIT #2	CHARLOTTE	20.0	COLUMBIA GAS TRAN
PENNSYLVANIA DEPARTMENT OF ENVIRONMENTAL RESOURCES									
-ALCOVE INVESTMENTS				RECEIVED:	01/05/84	JA: PA			
8414600	21774	3700522851		103		M J & O C HILTY #3	COWANSHANNOCK	25.0	APOLLO GAS CO
-ANGERMAN ASSOCIATES INC				RECEIVED:	01/05/84	JA: PA			
8414593	21599	3706327627		103		EDWARD B ROTHERHAM #1-IND-27621	WHITE	25.0	T W PHILLIPS GAS
8414591	21559	3706327344		103		K D COLEMAN #3-IND-27344	CONEMAUGH	25.0	PEOPLES NATURAL G
-ASHTOLA PRODUCTION CO				RECEIVED:	01/05/84	JA: PA			
8414572	18220	3705120296		102-3		H SHIROCKY #1	WALTERSBURG	50.0	UGI DEVELOPMENT C
-CASTLE GAS CO INC				RECEIVED:	01/05/84	JA: PA			
8414598	21761	3706325694		108		A CHUNORK #2 (C-477) IND-25694	YOUNG TOWNSHIP	20.5	INDUSTRIAL ENERGY
8414599	21762	3706325550		108		A CHUNORK #3 (C-703) IND-25550	YOUNG TOWNSHIP	2.0	INDUSTRIAL ENERGY
8414592	21565	3712922263		103		O A MYERS #4 (C-731) WES-22263	DERRY TOWNSHIP	70.0	PEOPLES NATURAL G
8414597	21760	3706327395		103		V ENDERLEIN #2 (C-768) IND-27395	WHITE TOWNSHIP	60.0	PEOPLES NATURAL G
-CNG DEVELOPMENT CO				RECEIVED:	01/05/84	JA: PA			
8414603	21796	3703321447		103		D M SPENCER #1 CNGD #109	PENN TOWNSHIP	8.0	
8414630	21820	3706327527		102-4		ELVA F FLEMING #2 CNGD #93	MONTGOMERY	187.0	
8414606	21799	3703321447		103		F SHUSTER #1 CNGD #123	PIKE TOWNSHIP	34.0	
8414629	21813	3703321632		103		H D SOMERVILLE CNGD #81	BURNSIDE	12.0	
8414601	21794	3703321459		103		H SHAW #1 CNGD #118	PENN TOWNSHIP	107.0	
8414604	21798	3703321606		103		M WALL #1 CNGD #115	PENN TOWNSHIP	33.0	
8414602	21795	3703321616		102-2		SNYDER-SCHROT UNIT CNGD #114	FERGUSON TOWNSHIP	67.0	
8414605	21797	3703321616		103		SNYDER-SCHROT UNIT CNGD #114	FERGUSON TOWNSHIP	67.0	
-DOC-NCC SERVICE CO				RECEIVED:	01/05/84	JA: PA			
8414618	19795	3712921385		108		R E GAUT #779-2	EAST HUNTINGDON	21.8	TEXAS EASTERN TRA
-ENERGY GAS & OIL CORP				RECEIVED:	01/05/84	JA: PA			
8414579	19088	3700500008		108		CARPENTER TOWN COAL & COKE CO #625	GOHENVILLE	1.9	PEOPLES NATURAL G
8414574	19083	3700520993		108		CARPENTERTOWN #622	GOHENVILLE	8.9	PEOPLES NATURAL G
8414577	19086	3700520009		108		CARPENTERTOWN COAL & COKE #1482	GOHENVILLE	6.4	PEOPLE NATURAL GA
8414575	19084	3700521251		108		CARPENTERTOWN COAL & COKE #623	GOHENVILLE	8.9	PEOPLES NATURAL G
8414576	19085	3700521795		108		CARPENTERTOWN COAL & COKE #634	GOHENVILLE	1.8	PEOPLES NATURAL G

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JD NO	JA DLT	API NO	D	SEC(1)	SEC(2)	WELL NAME
8414573	19082	3700500000		108		CARPENTERTOWN COAL & COKE #636
8414580	19089	3700500000		108		CARPENTERTOWN COAL & COKE #637
8414578	19087	3700521295		108		CARPENTERTOWN COAL & COKE SER #628
8414584	19097	3700500000		108		R L CALHOUN #1E SER #9
8414582	19094	3700500000		108		R L CALHOUN #1W SER #76
8414583	19096	3700500000		108		R L CALHOUN #1W SER NO 10
8414581	19095	3700500000		108		R L CALHOUN #2E SER #11
-GOE PRO INC				RECEIVED:	01/05/84	JA: PA
8414617	11451	3704921022		107-TF		SILL #1
-INTEGRATED ENERGY INC				RECEIVED:	01/05/84	JA: PA
8414652	21867	3702120056		108		JAMES E WESTRICK #2
8414653	21868	3702120057		108		RAYMOND A WESTRICK #1
8414654	21869	3702120062		108		RAYMOND A WESTRICK #3
8414655	21870	3702120063		108		RAYMOND A WESTRICK #4
-JEAN O MYERS				RECEIVED:	01/05/84	JA: PA
8414657	21906	3700520441		107-PE		HUFFMAN #1
8414656	21903	3700500000		107-PE		HUFFMAN #2
8414628	21810	3705521799		107-PE		W F HILL #4
-MERIDIAN EXPLORATION CORP				RECEIVED:	01/05/84	JA: PA
8414588	21413	3703922017		102-2		EDMINSTER #709-2
8414589	21414	3703922017		107-TF		EDMINSTER #709-2
8414585	21361	3704922904		102-2		MCATEE #692-1
8414586	21362	3704922904		107-TF		MCATEE #692-1
-MITCHELL ENERGY CORPORATION				RECEIVED:	01/05/84	JA: PA
8414607	21804	3708520544		103		M WASCO UNIT #1 MER-20544
8414608	21805	3708520544		107-TF		M WASCO UNIT #1 MER-20544
-NORTHWEST NATURAL GAS CO				RECEIVED:	01/05/84	JA: PA
8414646	21851	3703920708		108		BROAD #1
8414651	21856	3704920877		108		CATICCHIO #1
8414633	21826	3704921137		108		ELWINGER #1
8414638	21834	3703920861		108		ESCHWEILER #2
8414639	21835	3704921112		108		GLAVIC #1
8414643	21845	3703920816		108		GREEN/GREENFIELD/COOK #1
8414647	21852	3703920655		108		GUIANEN/BEVERIDGE #1
8414636	21832	3704920965		108		GUIANEN/BEVERIDGE #2
8414632	21825	3704921179		108		GUIANEN/BEVERIDGE #3
8414648	21853	3704920883		108		HELLYER #1
8414634	21830	3703920942		108		HEPAK SR #1
8414635	21831	3703920783		108		KAMINSKI #1
8414631	21824	3704921129		108		KITCEY #1
8414640	21838	3703920858		108		LAVOR #1
8414644	21848	3704921131		108		MIKOVICH #1
8414641	21841	3703920712		108		MAAS #1
8414649	21854	3704921090		108		ROBB #1
8414642	21842	3703920711		108		STAGL #1-2
8414650	21855	3704920887		108		STUNTZ #1
8414645	21850	3703920814		108		ULAN #1
8414637	21833	3704921025		108		WM CHERRY #1
-PEOPLES NATURAL GAS CO				RECEIVED:	01/05/84	JA: PA
8414623	21613	3706327503		103		SUSIE M GIBSON #2 -IND-27503
-PHILLIPS PRODUCTION CO				RECEIVED:	01/05/84	JA: PA
8414619	20661	3706326895		103		ELMER R LANEY #1
8414621	21537	3706327569		103		KENNETH D MUMAU #1
-PIONEER WESTERN ENERGY CORP				RECEIVED:	01/05/84	JA: PA
8414598		3712922232		102-4		HARRY E BAUGHMAN
-S T JOINT VENTURE 82-D				RECEIVED:	01/05/84	JA: PA
8414626	21760	3703321656		103		CARDINALE #2
8414625	21753	3703321545		103		COPENHAVER #1
8414627	21771	3703321527		103		THOMAS #3
-S T JOINT VENTURE 82E				RECEIVED:	01/05/84	JA: PA
8414624	21752	3703321627		103		MCCARTNEY #1
-TER-EX INC				RECEIVED:	01/05/84	JA: PA
8414594	21666	3712922142		103		TER-FX'S DOROTHY FOX #1
-TETRA ENERGY GROUP LTD				RECEIVED:	01/05/84	JA: PA
8414622	21611	3704923039		107-TF		GEORGE GREGOR #1
-VICTORY ENERGY CO				RECEIVED:	01/05/84	JA: PA
8414595	21732	3703321594		102-2		REDSTONE #2 CLE-21594
8414596	21733	3703321595		102-2		REDSTONE #3 CLE-21595
-W J LYDIC INC				RECEIVED:	01/05/84	JA: PA
8414620	21385	3712521461		107-DV		A JOHNSON #1
8414587	21387	3712521460		107-DV		HAROLD WARD #1

TEXAS RAILROAD COMMISSION

-ADOBE OIL & GAS CORPORATION				RECEIVED:	01/03/84	JA: TX
8414979	F-8A-076445	4244531115		103		CLARE "B" #2
8414980	F-8A-076446	4244531160		103		CLARE "B" #3
-AMERICAN OPERATING CO				RECEIVED:	01/03/84	JA: TX
8414677	F-03-065878	4216730903		102-4		COL WM E LOBIT ET AL 1-A
-ANDRESS PETROLEUM INC				RECEIVED:	01/03/84	JA: TX
8414680	F-02-066899	4239131581		102-4		J F WELDER HEIRS #14
-ARCADIA REFINING CO				RECEIVED:	01/03/84	JA: TX
8414692	F-06-071127	4240130951		102-4		A F COOPER #10346
-ARCO OIL AND GAS COMPANY				RECEIVED:	01/03/84	JA: TX
8414714	F-04-072325	4221531314		102-4		FRANK E CHESTNUT #5
8414972	F-08-076429	4217331396		103		W M SCHROCK "24" #4
-ARKLA EXPLORATION COMPANY				RECEIVED:	01/03/84	JA: TX
8414954	F-06-076356	4236531491		103	107-TF	ALEXANDER #1
-ATAPCO				RECEIVED:	01/03/84	JA: TX
8414857	F-08-075876	4230130363		107-DP		LINBERY #2A4
-AUSTIN RIDGE PETROLEUM CO INC				RECEIVED:	01/03/84	JA: TX
8414720	F-03-072420	4205132483		103		F C ANDERSON-B #7 AR-003
8414710	F-03-072149	4205132451		103		OLEN P MOLLIMAN-B #4 AR-001
-B & G ENERGY CORP				RECEIVED:	01/03/84	JA: TX
8414865	F-08-075942	4217331466		103		RATLIFF "43" #1
-BENTLEY OIL & GAS CO				RECEIVED:	01/03/84	JA: TX
8414895	F-7B-076193	4243331644		102-2		STOVALL #1
8414894	F-7B-076191	4243331520		102-2		SWENSON #1
8414896	F-7B-076194	4243331692		102-2		SWENSON #2
-BEST PETROLEUM EXPLORATION INC				RECEIVED:	01/03/84	JA: TX
8414713	F-09-072288	4223735086		103		SANDERS SOUTH #1
8414836	F-09-075575	4223735369		103		WOLFE #1 (OIL)
-BJB EXPLORATION CO				RECEIVED:	01/03/84	JA: TX
8414846	F-02-075789	4246900000		103		MARY K POTH #1

FIELD NAME	PROD	PURCHASER
GOHENVILLE	0.9	PEOPLES NATURAL G
GOHENVILLE	5.1	PEOPLES NATURAL G
GOHENVILLE	1.7	PEOPLES NATURAL G
HOGBACK	2.3	PEOPLES NATURAL G
HOGBACK	1.1	PEOPLES NATURAL G
HOGBACK	2.4	PEOPLES NATURAL G
HOGBACK	1.1	PEOPLES NATURAL G
UNION	0.0	COLUMBIA GAS TRAN
HASTINGS	3.0	ALLEGHENY LUDLUM
HASTINGS	4.0	ALLEGHENY LUDLUM
HASTINGS	2.0	ALLEGHENY LUDLUM
HASTINGS	2.0	ALLEGHENY LUDLUM
PARKS	55.1	PEOPLES NATURAL G
PARKS	55.1	PEOPLES NATURAL G
PARKS	0.0	PEOPLES NATURAL G
ROCKDALE	30.0	COLUMBIA GAS TRAN
ROCKDALE	30.0	COLUMBIA GAS TRAN
EDINBORO NORTH	0.0	COLUMBIA GAS TRAN
EDINBORO NORTH	0.0	COLUMBIA GAS TRAN
JAMESTOWN (MEDINA/WHI	13.7	COLUMBIA GAS TRAN
JAMESTOWN (MEDINA/WHI	13.7	COLUMBIA GAS TRAN
CONNEAUTVILLE	0.0	NATIONAL FUEL GAS
CONNEAUTVILLE	0.0	NATIONAL FUEL GAS
CONNEAUTVILLE	0.0	NATIONAL FUEL GAS
CONNEAUTVILLE	0.0	NATIONAL FUEL GAS
CONNEAUTVILLE	0.0	NATIONAL FUEL GAS
CONNEAUTVILLE	0.0	NATIONAL FUEL GAS
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CONNEAUTVILLE	0.0	NATIONAL FUEL GAS
CONNEAUTVILLE	0.0	NATIONAL FUEL GAS
CONNEAUTVILLE	0.0	NATIONAL FUEL GAS
CONNEAUTVILLE	0.0	NATIONAL FUEL GAS
W PENNA - UPPER DEVON	52.0	PEOPLES NATURAL G
SOUTH MAHONING	9.0	COLUMBIA GAS TRAN
GRANT	25.0	
EAST HUNTINGDON	25.0	
PIKE	25.0	CONSOLIDATED FUEL
BRADY	25.0	T W PHILLIPS GAS
PENN	25.0	CONSOLIDATED GAS
PENN	25.0	CONSOLIDATED GAS
MT PLEASANT	24.0	COLUMBIA OF PENNS
UNION CITY FIELD EMMO	2.7	COLUMBIA GAS TRAN
CHEST	36.0	COLUMBIA GAS TRAN
CHEST	36.0	COLUMBIA GAS TRAN
HOPEWELL	18.0	PEOPLES NATURAL G
HOPEWELL	18.0	PEOPLES NATURAL G
PRENTICE NW (SAN ANDR	9.0	AMOCO PRODUCTION
PRENTICE NW (SAN ANDR	8.0	AMOCO PRODUCTION
LEAGUE CITY TOWNSITE	657.0	AMOCO GAS CO
DEVILS RUN 6600	0.0	TENNESSEE GAS PIP
HENDERSON RUSK CO PET	0.0	HENDERSON CLAY PR
TABASCO (VICKSBURG 10	500.0	TENNESSEE GAS PIP
SPRABERRY TREND AREA	19.0	EL PASO NATURAL G
CARTHAGE	500.0	ARKANSAS LOUISIAN
TAFFHY (ATOKA)	219.0	INTRATEX GAS CO
WILLARD (NAVARRO)	29.9	FERGUSON CROSSING
WILLARD (NAVARRO)	54.0	FERGUSON CROSSING
ARLIS (STRAWN)	18.0	PHILLIPS PETROLEU
FLAT TOP SOUTH (STRAW	11.0	TEXAS UTILITIES F
FLAT TOP SOUTH (STRAW	12.0	TEXAS UTILITIES F
FLAT TOP (SOUTH) SWAS	12.0	TEXAS UTILITIES F
DEARING (CADDO)	10.0	LONE STAR GAS CO
DEARING (STRAWN)	5.0	SOUTHWESTERN GAS
HELEN GOHLKE (1400)	75.0	REATA INDUSTRIAL

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-BOYD C E III & STEVENSON MARK P				RECEIVED:	01/03/84	JA: TX			
8414924	F-7C-076243	4245100000		103		AILEEN TRIMBLE #1	SUSAN PEAK NORTH (CAN	6.5	ARCO OIL & GAS CO
-BRC PETROLEUM INC				RECEIVED:	01/03/84	JA: TX			
8414689	F-03-070237	4207100000		102-4		W L PATTILLO #2	PROPOSED TURTLE BAY (	8.0	UNITED TEXAS TRAN
-BTA OIL PRODUCERS				RECEIVED:	01/03/84	JA: TX			
8414813	F-08-075262	4217331431		102-4		JV-P GIBSON #2 8102	BLALOCK LAKE SE WOLFC	59.2	PHILLIPS PETROLEU
8414780	F-08-074893	4217331425		102-4		7613 JV-P COX -B- 812	BLALOCK LAKE S E (WOL	28.0	PHILLIPS PETROLEU
-BUFFTON OIL & GAS INC				RECEIVED:	01/03/84	JA: TX			
8414819	F-09-075383	4223700000		102-4		MARLEY #2	PEARL MOSLEY CONGL UP	270.0	SOUTHWESTERN GAS
-BURK ROYALTY CO				RECEIVED:	01/03/84	JA: TX			
8414844	F-06-075781	4234731019		102-4	103	AUGUSTUS C IRWIN II GAS UNIT "B" #1	GARRISON SOUTH (PETTI	8.0	UNITED GAS PIPELI
8414832	F-09-075467	4249732620		103		CARLTON-EAGLE UNIT #1	MORRIS (CONS CONGL)	8.0	
8414866	F-09-075975	4250337441		103		MAC WILLIAMS "SU" #4	YOUNG COUNTY REGULAR	9.0	KIBO COMPRESSOR C
8414882	F-09-076138	4248731659		103		SCHOPPA "A" #1	WILBARGER COUNTY REGU	8.0	KIBO COMPRESSOR C
-C F LAWRENCE & ASSOC INC				RECEIVED:	01/03/84	JA: TX			
8414784	F-08-074965	4237134429		103		MCMURTRY #17	LEHN-APCO 1600	8.0	APACHE GAS CORP
-CAMBRIDGE & NAIL				RECEIVED:	01/03/84	JA: TX			
8414697	F-10-071597	4248330977		102-4		MEADOWS #1	BRISCOE MORROW	8.0	WESTAR TRANSMISSI
-CASCADE PETROLEUM CORP				RECEIVED:	01/03/84	JA: TX			
8414791	F-09-075051	4223735169		102-4		MARLEY 8303	BRYSON (CONGL MIDDLE)	547.0	SOUTHWESTERN GAS
-CASKEY OIL PROPERTIES INC				RECEIVED:	01/03/84	JA: TX			
8414840	F-02-075682	4246931842		103		BRETT #1A	VICTORIA	100.0	REATA INDUSTRIAL
-CHAMPLIN EXPLORATION INC				RECEIVED:	01/03/84	JA: TX			
8414890	F-8A-076168	4207931810		103		RJR RANCH-YOUNG 4-3	BONANZA (SAN ANDRES)	6.0	WARREN PETROLEUM
8414871	F-03-076064	4228731369		102-2		SPACEK UNIT #1	GIDDINGS (AUSTIN CHAL	72.0	PHILLIPS PETROLEU
-CHAMPLIN PETROLEUM COMPANY				RECEIVED:	01/03/84	JA: TX			
8414835	F-02-075560	4239100000		108		OCONNOR LAWRENCE H ESTATE OF #20	MARY ELLEN OCONNOR (F	8.0	TENNESSEE GAS PIP
-CHAPIER PETROLEUM				RECEIVED:	01/03/84	JA: TX			
8414776	F-10-074532	4217900000		103		BULL #1	PANHANDLE-GRAY	8.0	CITIES SERVICE CO
-CHASE-MANN PETROLEUM INC				RECEIVED:	01/03/84	JA: TX			
8414869	F-7B-076028	4213300000		102-4		W PARISH #1 LEASE 8	CAMERON P (MARBLE FAL	17.6	EL PASO HYDROCARB
-CHEVRON U S A INC				RECEIVED:	01/03/84	JA: TX			
8414949	F-08-076349	4200333672		103		COLUMBUS GRAY 19-25	FUHRMAN-MASCHO	136.5	PHILLIPS PETROLEU
8414948	F-08-076348	4200333671		103		COLUMBUS GRAY 22-24	FUHRMAN-MASCHO	118.2	PHILLIPS PETROLEU
8414947	F-8A-076347	4241532429		103		SACROC UNIT #112-5	KELLY - SNYDER	14.0	EL PASO NATURAL G
8414946	F-8A-076346	4241532463		103		SACROC UNIT #117-6	KELLY - SNYDER	88.0	EL PASO NATURAL G
8414945	F-8A-076345	4241532440		103		SACROC UNIT #210-5	KELLY - SNYDER	36.0	EL PASO NATURAL G
8414952	F-8A-076352	4241532418		103		SACROC UNIT #27-18	KELLY - SNYDER	53.0	EL PASO NATURAL G
8414951	F-8A-076351	4241532449		103		SACROC UNIT #28-17	KELLY - SNYDER	23.0	EL PASO NATURAL G
8414950	F-8A-076350	4241532421		103		SACROC UNIT #58-3	KELLY - SNYDER	13.0	EL PASO NATURAL G
-CITIES SERVICE OIL & GAS CORP				RECEIVED:	01/03/84	JA: TX			
8414925	F-09-076248	4249732627		103		DAVENPORT B #3	DAVENPORT (CONGLOMERA	25.0	CITIES SERVICE OI
-CLARK EXPLORATION & PRODUCTION CO I				RECEIVED:	01/03/84	JA: TX			
8414864	F-03-075940	4205132488		102-2		T E GIBSON #1 (OIL LEASE #16935)		28.0	FERGUSON CROSSING
-CLAY A CARROLL				RECEIVED:	01/03/84	JA: TX			
8414701	F-03-071752	4208901365		103		MILTON MINARCIK #1-C	ENGLEHART 6800 FIELD	272.0	TEXAS EASTERN TRA
8414698	F-03-071671	4208931365		103		MILTON MINARCIK #1-T	ENGLEHART 6800 FIELD	307.0	TEXAS EASTERN TRA
-CLAYTON W WILLIAMS JR				RECEIVED:	01/03/84	JA: TX			
8414722	F-03-073033	4228700000		102-2		H L ONDRESEK #1	HOOKER CREEK (NAVARRO	8.0	VALERO TRANSMISSI
8414734	F-03-073823	4214900000		102-2		SAHAGIAN-KALTENBACH UNIT #1	GIDDINGS (AUSTIN CHAL	8.0	VALERO TRANSMISSI
-COASTAL OIL & GAS CORP				RECEIVED:	01/03/84	JA: TX			
8414902	F-8A-076203	4216532587		103		SO HARRIS UNIT 11-3	HARRIS	3.0	PHILLIPS PETROLEU
8414901	F-8A-076202	4216532574		103		SO HARRIS UNIT 6-18	HARRIS	14.0	PHILLIPS PETROLEU
8414897	F-8A-076195	4216500000		103		SO HARRIS UNIT 6-19	HARRIS	7.0	PHILLIPS PETROLEU
-COCKRELL CORPORATION				RECEIVED:	01/03/84	JA: TX			
8414738	F-02-073669	4212331004		102-4		MARGARET MALINA #1	GARRETT	180.0	VALERO TRANSMISSI
-COLORADO INTERSTATE GAS CO				RECEIVED:	01/03/84	JA: TX			
8414726	F-10-073428	4234130593		103		CRAWFORD C-3	WEST PANHANDLE	8.0	COLORADO INTERSTA
-CONOCO INC				RECEIVED:	01/03/84	JA: TX			
8414728	F-04-073575	4247933113		102-4		CARLOS BENAVIDES #1	PICOSO (WILCOX 10,300	85.8	HOUSTON PIPELINE
8414939	F-08-076316	4222732646		108		H R CLAY -E #58 ID 18993	HOWARD GLASSCOCK	8.2	PHILLIPS PETROLEU
8414938	F-08-076315	4213533779		108		L E WIGHT -4 #32 ID 09049	NORTH COWDEN	8.1	AMOCO PRODUCTION
8414981	F-7B-076448	4215130362		108		ROUND TOP CANYON SAND #25 ID 19080	ROUND TOP	18.4	LONE STAR GAS CO
8414983	F-7B-076450	4215130393		108		ROUND TOP CANYON SAND #26 ID 19080	ROUNDTOP -	8.0	LONE STAR GAS CO
8414982	F-7B-076449	4215130391		108		ROUND TOP CANYON SAND #39 ID 19080	ROUND TOP	4.6	LONE STAR GAS CO
8414766	F-8A-074316	4216932098		102-4	103	SOUTH HUNTLEY UNIT #44 ID 64383	HUNTLEY 3400	183.0	MID PLAINS PETROC
8414781	F-8A-074904	4216932132		102-4	103	SOUTH HUNTLEY UNIT #45 ID64383	HUNTLEY 3400	365.0	MID PLAINS PETROC
8414771	F-8A-074468	4216900000		102-4	103	SOUTH HUNTLEY UNIT #46 ID 64383	HUNTLEY 3400	365.0	MID PLAINS PETROC
8414772	F-8A-074474	4216932126		102-4	103	SOUTH HUNTLEY UNIT #50 ID 64383	HUNTLEY 3400	365.0	MID PLAINS PETROC
8414937	F-09-076314	4248535434		108		T J & J L WAGGONER #55 ID 18376	WICHITA COUNTY REGULA	0.1	EAGLE PETROLEUM
-CORPUS CHRISTI OIL AND GAS CO				RECEIVED:	01/03/84	JA: TX			
8414739	F-04-073862	4200700000		102-4		STATE TRACT 691-L #1-A	BLOCK 691-L (5300')	8.0	HOUSTON PIPELINE
-COURSON OIL & GAS INC				RECEIVED:	01/03/84	JA: TX			
8414934	F-10-076299	4235731433		103		FIRST NATIONAL TRUST #5-571	PSHIGODA (DOUGLAS)	12.0	TRANSWESTERN PIPE
-CREDO OIL & GAS INC				RECEIVED:	01/03/84	JA: TX			
8414786	F-7B-075010	4213335140		102-4		L B JONES #3 (18778)	ADAMS (DUFFER LOWER)	12.5	LONE STAR GAS CO
-CRYSTAL OIL AND LAND COMPANY				RECEIVED:	01/03/84	JA: TX			
8414787	F-06-075019	4206730436		102-4		TERRY ESTATE #1-D	RODESSA	31.8	BRECKENRIDGE GASO
-CYCLONE EXPLORATION INC				RECEIVED:	01/03/84	JA: TX			
8414845	F-7C-075785	4243533010		103	107-TF	JOHN D FIELDS "B" 4-60	SAWYER (CANYON)	178.0	EL PASO NATURAL G
-D E BROWN				RECEIVED:	01/03/84	JA: TX			
8414669	F-09-068511	4223700000		108-ER		HOUSE RANCH #1	MCHLR	8.0	SOUTHWESTERN GAS
-DIAMOND CHEMICAL CO				RECEIVED:	01/03/84	JA: TX			
8414775	F-10-074493	4229500000		103		CARRIE KLIEWER #2	MAMMOTH CREEK N	8.0	
8414773	F-10-074490	4235731399		102-4		T V ELLZEY ESTATE #2-650	ELLZEY	8.0	
8414673	F-10-063947	4234100000		108-ER		THATEN #1	PANHANDLE WEST	8.0	NORTHERN NATURAL
8414774	F-10-074492	4229531281		102-4		VALENTINE SCHOENHALS "A" #3	S LIPSCOMB	8.0	
-DIEKEMPER RAY J JR				RECEIVED:	01/03/84	JA: TX			
8414817	F-8A-075361	4216930589		102-4	103	EFFIE DUNN #2 ID #09677	P H D	3.3	MID PLAINS PETROC
-DISCOVERY OPERATING INC				RECEIVED:	01/03/84	JA: TX			
8414767	F-8A-074326	4231732753		103		MGF-SMITH "B" #1	ACKERLY (DEAN SAND)	8.0	TEXACO INC
-DORCHESTER EXPLORATION INC				RECEIVED:	01/03/84	JA: TX			
8414936	F-08-076309	4217331458		103		CURRIE 41-3	SPRABERRY TREND AREA	10.0	PHILLIPS PETROLEU
8414858	F-10-075884	4221131626		103		LUCILLE WRIGHT #5	CANADIAN SE	92.7	ARKANSAS LOUISIAN
-EDCO PETROLEUM INC				RECEIVED:	01/03/84	JA: TX			
8414862	F-7C-075900	4239932509		102-4		ELMA LEE EUBANKS #1 (09719)	WFM (GOEN LIME)	9.0	UNION TEXAS PETRO
8414861	F-7C-075899	4239932758		102-4		ELMA LEE EUBANKS #2 (09719)	WFM (GOEN LIME)	9.0	UNION TEXAS PETRO
8414860	F-7C-075898	4239932759		102-4		ELMA LEE EUBANKS #3 (09719)	WFM (GOEN LIME)	9.0	UNION TEXAS PETRO
-ENRICH OIL CORPORATION				RECEIVED:	01/03/84	JA: TX			
8414841	F-7B-075725	4235331449		102-4		J M MCLAUGHLIN #10011 (18878)	ADAIR CREEK (COOK SAN	210.0	SUN GAS CO
8414856	F-7C-075854	4239932812		102-4		TOM POE #2 (10260)	WFM (GOEN LIME)	44.0	UNION TEXAS PETRO
8414854	F-7C-075852	4239932077		102-4		W F MINZENMAYER #1-A (09187)	WFM (GOEN LIME)	26.0	UNION TEXAS PETRO
8414855	F-7C-075853	4239932815		102-4		W F MINZENMAYER #2-A (09187)	WFM (GOEN LIME)	24.0	UNION TEXAS PETRO
-ENTERPRISE RESOURCES INC				RECEIVED:	01/03/84	JA: TX			

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME
8414830	F-02-075439	4246931847		102-4		DANIEL DENTLER
-ESTATE OIL & GAS CORP				RECEIVED:	01/03/84	JA: TX
8414687	F-06-069364	4236531447		102-4	103	J D FURRH JR #1 ID #105723
-EXXCEL PRODUCTION CO				RECEIVED:	01/03/84	JA: TX
8414935	F-10-076302	4217931466		103		FELIX #8 (ID #05118
-EXXON CORPORATION				RECEIVED:	01/03/84	JA: TX
8414733	F-03-073801	4215731434		103		A P GEORGE A #2
8414898	F-04-076198	4226130727		102-4		BAFFIN BAY ST TR 65 WELL 2 (107472)
8414893	F-06-076179	4249931178		103		HAWKINS FIELD UNIT #1103
8414957	F-04-076369	4227331785		103		KING RANCH MORGAN M-85 (05154)
8414729	F-7C-073662	4243131336		103		LOU E JOHNSON ESTATE A/C 1 #49
8414808	F-7C-07524	4243131335		103		LOU E JOHNSON ESTATE A/C 1 #50
8414852	F-04-075826	4242700000		108		MCGILL BROS 229-T (066445)
8414961	F-04-076392	4206731263		103		RJ KLEBERG JR TR ZACH PAS 13 107674
8414847	F-8A-075793	4216532640		103		ROBERTSON CLEARFORK UNIT 3801
8414899	F-04-076199	4206730662		102-4		SANTA FE RANCH 40-D (107592)
-FAIRCHILD PETROLEUM CORP				RECEIVED:	01/03/84	JA: TX
8414707	F-7B-071978	4208333511		102-4		RODNEY M HAMON A #2-6-A
-FARGO ENERGY CORP				RECEIVED:	01/03/84	JA: TX
8414731	F-03-073762	4214931621		102-2		M G I #1
8414724	F-03-073216	4214900000		102-2		ROBERT ALVES UNIT #1
-GEODYNE RESOURCES INC				RECEIVED:	01/03/84	JA: TX
8414914	F-10-076223	4229531352		102-4		M P CHEW #4
-GHR ENERGY CORP				RECEIVED:	01/03/84	JA: TX
8414688	F-04-069819	4250531587		102-4	107-TF	J C MARTIN #9
8414709	F-04-072123	4250531639		102-4	107-TF	MCMURREY #30
-GREENWOOD INDUSTRIES INC				RECEIVED:	01/03/84	JA: TX
8414783	F-7B-074939	4241734569		102-4		GILLIAN #1 (107721)
8414859	F-7B-075884	4241735246		102-4		LEDBETTER #1 (OIL)
-GROTHE BROTHERS				RECEIVED:	01/03/84	JA: TX
8414770	F-7B-074444	4241735287		102-4		LES RAYMOND #3
-GULF OIL CORPORATION				RECEIVED:	01/03/84	JA: TX
8414962	F-08-076399	4247532970		103		HUTCHINGS STOCK ASSN #1215
8414963	F-08-076400	4247532972		103		HUTCHINGS STOCK ASSN #1223
8414965	F-08-076402	4247532833		103		HUTCHINGS STOCK ASSN #1231
8414964	F-08-076401	4247532853		103		HUTCHINGS STOCK ASSN #1267
8414879	F-09-065133	4218130792		108-EP		ROBERT TATE #1
-H M HERNDON OIL CO				RECEIVED:	01/03/84	JA: TX
8414800	F-8A-075213	4221933625		103		TOM COBB A #1
8414804	F-8A-075217	4221933681		103		TOM COBB A #2
8414803	F-8A-075216	4221933700		103		TOM COBB A #3
8414802	F-8A-075215	4221933697		103		TOM COBB A #4
8414801	F-8A-075214	4221933701		103		TOM COBB A #5
-H-M OIL CO				RECEIVED:	01/03/84	JA: TX
8414764	F-03-074181	4248132238		102-4	103	F E APPLING #1
-HAMMAN OIL & REFINING CO				RECEIVED:	01/03/84	JA: TX
8414727	F-03-073531	4208931398		102-4		B D ANDERSON #1-A
-HAYSEED STEPHENS OIL INC				RECEIVED:	01/03/84	JA: TX
8414814	F-7B-075284	4236732525		102-4		WOODY #1 ID # APPLIED FOR
-HINTON PRODUCTION COMPANY				RECEIVED:	01/03/84	JA: TX
8414763	F-03-074067	4237330548		103		DORRANCE 2R
8414705	F-05-071916	4234933276		102-4		SESSIONS #1
-HMH OPERATORS				RECEIVED:	01/03/84	JA: TX
8414792	F-7B-075085	4215131685		103		LAWLIS #1
-HRUBETZ OIL CO				RECEIVED:	01/03/84	JA: TX
8414967	F-7B-076418	4208333526		102-4		R C DAVIS #8
8414833	F-7B-075478	4208333478		102-4		THOMAS L SOUTH #3
-HUMBLE EXPLORATION CO INC				RECEIVED:	01/03/84	JA: TX
8414718	F-03-072407	4214900000		102-2	103	SABINA #1
-J A LEONARD				RECEIVED:	01/03/84	JA: TX
8414985	F-03-076454	4228700000		102-4		FENZLEIN #1
-JAH INC				RECEIVED:	01/03/84	JA: TX
8414879	F-04-07612	4213136304		102-4		DENMAN MOODY #1
-JOHN L COX				RECEIVED:	01/03/84	JA: TX
8414836	F-7C-075519	4238332653		103		BUCKEM B "D" #7
8414682	F-7C-067231	4238300000		103		BUCKEM B "D" #5 RRC 04537
8414712	F-7C-072231	4238332574		103		BUCKEM B "P" #22 RRC #05173
8414829	F-7C-075432	4238332648		103		BUCKEM B "P" #14
-KA-HUGH INTERNATIONAL INC				RECEIVED:	01/03/84	JA: TX
8414785	F-02-074994	4246931994		102-4		WIGINGTON #1
-KELLY-BARNETT PETROLEUM INC				RECEIVED:	01/03/84	JA: TX
8414839	F-7B-075674	4213300000		103		RHODES #1 107456
-KETAL OIL PRODUCING CO				RECEIVED:	01/03/84	JA: TX
8414960	F-7C-076321	4208131209		103		I A BIRD "J" NO 11
-KIMBARK OIL & GAS CO				RECEIVED:	01/03/84	JA: TX
8414891	F-08-076161	4249531587		103		KOG A G CARTER FOUNDATION #1
-L & B OIL CO INC				RECEIVED:	01/03/84	JA: TX
8414868	F-08-076013	4217331418		102-4		EDITH BOOKS "A" #1
8414878	F-03-076120	4204131013		102-4		FUQUA UNIT 1 WELL #1
-LAJUANA JO OIL CO				RECEIVED:	01/03/84	JA: TX
8414679	F-7B-066647	4225300000		103		HORTON #2 (18989)
-LAMBERT HOLLUB DRILLING CO				RECEIVED:	01/03/84	JA: TX
8414966	F-03-076400	4228731439		102-4		POLLOCK #1
-LAWLESS ENERGY INC				RECEIVED:	01/03/84	JA: TX
8414828	F-03-075422	4204130976		102-2		G M EASTERLING #1
-LEWIS & ATKINS OIL & GAS INC				RECEIVED:	01/03/84	JA: TX
8414737	F-7C-073844	4238332631		103		UNIVERSITY 27 "A" #1
8414735	F-7C-073838	4238332630		103		UNIVERSITY 27 "B" #1
8414736	F-7C-073843	4238332615		103		UNIVERSITY 27 "C" #1
8414738	F-7C-073846	4238332629		103		UNIVERSITY 27 "D" #1
-LINDEMANN JAMES D				RECEIVED:	01/03/84	JA: TX
8414892	F-09-076170	4223700000		102-4		S PEAVY A #1-A
-LIVELY ENERGY & DEVELOPMENT CORP				RECEIVED:	01/03/84	JA: TX
8414681	F-01-066918	4243500000		107-TF		EPPS #4
-M BRAD BENNETT INC & RKH LTD				RECEIVED:	01/03/84	JA: TX
8414723	F-08-073052	4238931397		102-4		FIELDS #1
8414782	F-08-074908	4247532871		102-4		MOBIL "A" #1
8414777	F-08-074599	4247533052		102-4		SHELL #1-R
-MABEE PETROLEUM CORP				RECEIVED:	01/03/84	JA: TX
8414884	F-8A-076142	4250132386		103		GIBSON UNIT #1011
8414885	F-8A-076144	4250132382		103		GIBSON UNIT #605
-MADDUX OIL & GAS				RECEIVED:	01/03/84	JA: TX
8414790	F-7B-075048	4236732393		102-4		I M DINGLE #1
-MARATHON OIL COMPANY				RECEIVED:	01/03/84	JA: TX

FIELD NAME	PROD	PURCHASER
MEYERSVILLE E 3100 PR	200.0	TRANSCONTINENTAL
ELYSIAN (TRAVIS PEAK	146.0	UNITED TEXAS TRAN
PANHANDLE GRAY	139.0	CABOT PIPELINE CO
THOMPSON (MIOCENE 6A	11.0	ARMCO STEEL CORP
BAFFIN BAY (13700)	1800.0	ARMCO STEEL CORP
HAWKINS	49.0	
BORREGOS WEST (SEG F	27.0	ARMCO STEEL CORP
JAMESON (STRAWN)	24.0	
JAMESON STRAWN	22.0	
KELSEY SOUTH (20-H)	22.0	TRUNKLINE GAS CO
VIBORAS (8500 SAND)	110.0	ARMCO STEEL CORP
ROBERTSON N (CLEAR FO	15.0	PHILLIPS PETROLEU
SANTA FE (D-56)	139.0	ARMCO STEEL CORP
MENEFEE (HOME CREEK)	1216.0	EL PASO HYDROCARB
GIDDINGS (AUSTIN CHAL	73.0	PHILLIPS PETROLEU
GIDDINGS (AUSTIN CHAL	73.0	PHILLIPS PETROLEU
DARDEN (MORROW UPPER)	220.1	PHILLIPS PETROLEU
J C MARTIN S (LOBO) P	900.0	NATURAL GAS PIPEL
MCMURREY (LOBO)	750.0	GHR PIPELINE CORP
GILLIAN (CADDO)	466.0	DELHI GAS PIPELIN
WILDCAT (POSSIBLE FIE	73.0	WARREN PETROLEUM
ROYALL (ELLENBURGER)	16.0	LONE STAR GAS CO
WARD-ESTES NORTH	5.6	CABOT CORP
WARD-ESTES NORTH	2.7	CABOT CORP
WARD-ESTES NORTH	9.0	CABOT CORP
WARD-ESTES NORTH	4.3	CABOT CORP
SOUTHMAYDNE	0.0	LONE STAR GAS CO
YELLOWHOUSE	9.0	AMOCO PRODUCTION
YELLOWHOUSE	9.0	AMOCO PRODUCTION
YELLOWHOUSE	9.0	AMOCO PRODUCTION
YELLOWHOUSE	9.0	AMOCO PRODUCTION
YELLOWHOUSE	9.0	AMOCO PRODUCTION
HELEN (4720 FRIO)	0.0	NATURAL GAS PIPEL
STARR-LITE N	365.0	VICTORIA GAS PIPE
SHARPE ATOKA	100.0	SOUTHWESTERN GAS
DAMASCUS (WOODBINE)	500.0	ST REGIS PAPER CO
TYNES	500.0	LONE STAR GAS CO
DIXON-LAWLIS CANYON	120.0	TEXAS UTILITIES F
HRUBETZ (ELLEN)	51.0	UNION TEXAS PETRO
HRUBETZ (ELLEN)	407.0	LONE STAR GAS CO
GIDDINGS (AUSTIN CHAL	0.0	PHILLIPS PETROLEU
HOOKER CREEK (NAVARRO	0.4	PHILLIPS PETROLEU
AGUA NEGRA (YEGUA 617	126.0	
SPRABERRY (TREND AREA	10.0	EL PASO NATURAL G
SPRABERRY (TREND AREA	10.0	EL PASO NATURAL G
SPRABERRY (TA)	10.0	EL PASO NATURAL G
SPRABERRY TREND AREA	10.0	EL PASO NATURAL G
WILDCAT PROPOSED VICT	75.0	REATA INDUSTRIAL
KLEINER LAKE SAND	720.0	EL PASO HYDROCARB
MEADOW CREEK (CANYON)	65.7	SUN EXPLORATION &
KOG PENN	37.5	TRANSWESTERN PIPE
DEWEY LAKE S (STRAWN)	15.0	PHILLIPS PETROLEU
IOLA SOUTH (SUB-CLARK	180.0	PRODUCERS GAS CO
JONES COUNTY REGULAR	0.0	CONOCO INC
HOOKER CREEK (NAVARRO	10.0	CLAJON GAS CO
KURTEN	0.0	FERGUSON CROSSING
SPRABERRY (TREND AREA	36.0	PHILLIPS PETROLEU
SPRABERRY (TREND AREA	36.0	PHILLIPS PETROLEU
SPRABERRY (TREND AREA	36.0	PHILLIPS PETROLEU
SPRABERRY (TREND AREA	36.0	PHILLIPS PETROLEU
JENNIFER CADDO	50.0	SOUTHWESTERN GAS
HOLMAN RANCH N (PENN)	36.5	INTRATEX GAS CO
COLLIE (DELAWARE)	9.2	INTRATEX GAS CO
COLLIE (DELAWARE)	82.1	INTRATEX GAS CO
COLLIE (DELAWARE)	18.3	INTRATEX GAS CO
WASSON 72	9.7	SHELL OIL CO
WASSON 72	26.2	SHELL OIL CO
BUCKNER (STRAWN)	125.0	PARKER GAS INC

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8414816	F-7B-075359	4243331078		103		W C WEIR ESTATE "E" #3-A	FRANKIRK N FIELD	23.4	CITIES SERVICE CO
-MAYCO OIL				RECEIVED:	01/03/84	JA: TX			
8414793	F-09-075095	4207700000		103		LUMPKIN #1	LEDA CONGL	70.0	CITIES SERVICE CO
-MEWBOURNE OIL COMPANY				RECEIVED:	01/03/84	JA: TX			
8414812	F-10-075260	4235639883		103	107-TF	JUDICE #3 ID # 095848	BULER NORTH CLEVELAND	26.0	TRANSWESTERN PIPE
-MITCHELL ENERGY CORPORATION				RECEIVED:	01/03/84	JA: TX			
8414671	F-05-055846	4229330602		103		CHARLIE SHERROD #1	POKEY (TRAVIS PEAK)	0.0	TEXAS UTILITIES F
8414691	F-7C-070665	4245131033		107-TF		FREYSCHLAG 219 A #3-U	K W B (CANYON)	375.0	ESPERANZA PIPELIN
8414881	F-09-076135	4249700000		108		W C -BILL- YOUNG #1 035849	BOONSVILLE (BEND CONG	0.0	NATURAL GAS PIPEL
-MOBIL PRDG TEXAS & NEW MEXICO INC				RECEIVED:	01/03/84	JA: TX			
8414863	F-08-075913	4222733079		103		OWEN CHALK #41	HOWARD-GLASSCOCK (GLO	0.4	PHILLIPS PETROLEU-
-MONSANTO COMPANY				RECEIVED:	01/03/84	JA: TX			
8414725	F-08-073405	4238931406		103		BARSTOW STATE #1	COLLIE (DELAWARE)	18.0	
8414751	F-8A-073960	4241531776		103		JACK #19	DIAMOND M (CLEARFORK)	5.0	DIAMOND M-SHARON
8414750	F-8A-073959	4241531775		103		JACK #21	DIAMOND M (CLEARFORK)	3.0	DIAMOND M-SHARON
8414749	F-8A-073958	4241532078		103		JACK #22	DIAMOND M (CLEARFORK)	4.0	DIAMOND M-SHARON
8414740	F-8A-073941	4241532459		103		MCLAUGHLIN ACCT #1 - WELL #180	DIAMOND M (CLEARFORK)	10.0	DIAMOND M-SHARON
8414748	F-8A-073949	4241531940		103		MCLAUGHLIN ACCT #1 - WELL #77	DIAMOND M (WICHITA AL	9.0	DIAMOND M-SHARON
8414747	F-8A-073948	4241532050		103		MCLAUGHLIN ACCT #1 - WELL #78	DIAMOND M (WICHITA AL	12.0	DIAMOND M-SHARON
8414746	F-8A-073847	4241532167		103		MCLAUGHLIN ACCT #1 - WELL #82	DIAMOND M (WICHITA AL	2.0	DIAMOND M-SHARON
8414745	F-8A-073946	4241532099		103		MCLAUGHLIN ACCT #1 - WELL #86	DIAMOND M (CLEARFORK)	5.0	DIAMOND M-SHARON
8414744	F-8A-073945	4241532083		103		MCLAUGHLIN ACCT #1 - WELL #87	DIAMOND M (CLEARFORK)	4.0	DIAMOND M-SHARON
8414743	F-8A-073944	4241532171		103		MCLAUGHLIN ACCT #1 - WELL #88	DIAMOND M (WICHITA AL	11.0	DIAMOND M-SHARON
8414742	F-8A-073943	4241532446		103		MCLAUGHLIN ACCT #1 - WELL #95	DIAMOND M (SAN ANDRES	8.0	DIAMOND M-SHARON
8414741	F-8A-073942	4241532445		103		MCLAUGHLIN ACCT #1 - WELL #96	DIAMOND M (SAN ANDRES	8.0	DIAMOND M-SHARON
8414762	F-8A-073971	4241532049		103		MCLAUGHLIN ACCT #2 - WELL #79	DIAMOND M (CLEARFORK)	3.0	DIAMOND M-SHARON
8414761	F-8A-073970	4241532141		103		MCLAUGHLIN ACCT #2 - WELL #83	DIAMOND M (WICHITA AL	6.0	DIAMOND M-SHARON
8414760	F-8A-073969	4241532169		103		MCLAUGHLIN ACCT #2 - WELL #89	DIAMOND M (WICHITA AL	1.0	DIAMOND M-SHARON
8414759	F-8A-073968	4241532170		103		MCLAUGHLIN ACCT #2 - WELL #91	DIAMOND M (WICHITA AL	22.0	DIAMOND M-SHARON
8414758	F-8A-073967	4241532168		103		MCLAUGHLIN ACCT #2 - WELL #92	DIAMOND M (WICHITA AL	15.0	DIAMOND M-SHARON
8414757	F-8A-073966	4241532282		103		MCLAUGHLIN ACCT #2 - WELL #94	DIAMOND M (CLEARFORK)	2.0	DIAMOND M-SHARON
8414756	F-8A-073965	4241531764		103		MCLAUGHLIN ACCT #3 - WELL #67	DIAMOND M (CLEARFORK)	10.0	DIAMOND M-SHARON
8414755	F-8A-073964	4241531781		103		MCLAUGHLIN ACCT #3 - WELL #68	DIAMOND M (CLEARFORK)	10.0	DIAMOND M-SHARON
8414754	F-8A-073963	4241531898		103		MCLAUGHLIN ACCT #3 - WELL #69	DIAMOND M (CLEARFORK)	10.0	DIAMOND M-SHARON
8414753	F-8A-073962	4241531897		103		MCLAUGHLIN ACCT #3 - WELL #70	DIAMOND M (CLEARFORK)	5.0	DIAMOND M-SHARON
8414752	F-8A-073961	4241532437		103		MCLAUGHLIN ACCT #3-WELL #80	DIAMOND M (CLEARFORK)	12.0	DIAMOND M-SHARON
-MONTERO OPERATING INC				RECEIVED:	01/03/84	JA: TX			
8414867	F-7C-076005	4208131197		103		HIGGINS #1	JAMESON	36.5	SUN EXPLORATION &
-MOSBACHER PRODUCTION CO				RECEIVED:	01/03/84	JA: TX			
8414927	F-02-076275	4228531753		102-4	103	LOWRANCE RANCH #2	EVANS (7815)	29.0	
-OMEGA MINERALS INC				RECEIVED:	01/03/84	JA: TX			
8414959	F-7B-076380	4244100000		103		R M ALLEN #1	MCL (FRY SAND)	335.0	UNION TEXAS PETRC
-OWL PETROLEUM CO				RECEIVED:	01/03/84	JA: TX			
8414789	F-03-075032	4248132540		103		D S BABCOCK #4	MENEFEE	66.0	TRANSCONTINENTAL
-P C BURNS				RECEIVED:	01/03/84	JA: TX			
8414768	F-09-074365	4207733004		103		SCALING "A" #1 197472	W W YEARLY	0.0	FAGADAU ENERGY CO
-PALO PETROLEUM INC				RECEIVED:	01/03/84	JA: TX			
8414837	F-7C-075636	4238332622		102-3	103	UNIVERSITY 11/BLK 12 "A" #3	SPRABERRY (TREND AREA	0.0	EL PASO HYDROCARB
-PARKER & PARSLEY INC				RECEIVED:	01/03/84	JA: TX			
8414795	F-08-075113	4231700000		103		NAIL G #1	SPRAYBERRY (TREND ARE	0.0	
8414796	F-7C-075116	4238300000		103		STATE B #1	SPRAYBERRY TREND AREA	0.0	
-PENNZOIL PRODUCING COMPANY				RECEIVED:	01/03/84	JA: TX			
8414820	F-04-075407	4250531684		102-4		CATARINA GRACIA #1	ESCOBAS 10650'	577.0	
-PHILLIPS OIL CO				RECEIVED:	01/03/84	JA: TX			
8414719	F-06-072416	4242330648		103		GUY LONGLEY #1	CHAPEL HILL NE	120.0	ETEXAS PRODUCERS
-PHILLIPS PETROLEUM COMPANY				RECEIVED:	01/03/84	JA: TX			
8414676	F-08-065435	4210330631		108		BARNSLEY #3 (52852)	SAND HILLS (MCKNIGHT)	24.0	DELHI GAS PIPELIN
8414955	F-08-076360	4213508007		108		G S ADOBE #26-01 (16713)	GOLDSMITH (5600)	1.0	EL PASO NATURAL G
8414956	F-08-076361	4213503176		108		G S ANDECTOR UNIT H-7 (21193)	GOLDSMITH (CLEARFORK)	20.0	EL PASO NATURAL G
8414678	F-10-065905	4217931223		108		JOHNSON T #3	PANHANDLE GRAY	0.0	
8414977	F-10-076443	4234100000		108		MAKEIG F S #2	PANHANDLE WEST	8.0	EL PASO NATURAL G
8414943	F-08-076334	4249530269		108		MCCABE F P #39 (21555)	HALLEY	2.0	EL PASO NATURAL G
8414978	F-10-076444	4235700000		108		NEUFELD A #4	HORIZON CLEVELAND	0.0	
8414984	F-10-076452	4223300000		108		YAKE G #14	PANHANDLE HUTCHINSON	8.0	EL PASO NATURAL G
-PINEWOOD EXPLORATION INC				RECEIVED:	01/03/84	JA: TX			
8414706	F-06-071929	4236531583		102-4		HOLLAND #3	J G S TRAVIS PK B	150.0	NATURAL GAS PIPEL
-PONCE M A DEVELOPERS INC				RECEIVED:	01/03/84	JA: TX			
8414911	F-08-076214	4200333687		103		MUNGER-NIX "18" #1	FUHRMAN-MASCHO	36.5	PHILLIPS PETROLEU
8414910	F-08-076213	4200333684		103		MUNGER-NIX "19" #1	FUHRMAN-MASCHO	43.9	PHILLIPS PETROLEU
8414909	F-08-076212	4200332820		103		MUNGER-NIX "19" #2	FUHRMAN-MASCHO	40.1	PHILLIPS PETROLEU
8414908	F-08-076211	4200333686		103		THORNBERRY "4" WB #3	FUHRMAN-MASCHO	54.8	PHILLIPS PETROLEU
8414907	F-08-076210	4200333683		103		THORNBERRY "5" E #1	FUHRMAN-MASCHO	63.9	PHILLIPS PETROLEU
8414906	F-08-076209	4200333694		103		UNIVERSITY "13" W #1	FUHRMAN-MASCHO	9.1	PHILLIPS PETROLEU
8414942	F-08-076329	4200333693		103		UNIVERSITY "13" W #2	FUHRMAN-MASCHO	32.9	PHILLIPS PETROLEU
8414905	F-08-076208	4200333692		103		UNIVERSITY "18" W #1	FUHRMAN-MASCHO	21.9	PHILLIPS PETROLEU
8414904	F-08-076207	4200333691		103		UNIVERSITY "19" W #1	FUHRMAN-MASCHO	58.4	PHILLIPS PETROLEU
-QUESTA OIL & GAS CO				RECEIVED:	01/03/84	JA: TX			
8414926	F-7C-076271	4210534566		103	107-TF	PIERCE-STATE 106-1	OZONA (CANYON SAND)	8.0	VALERO TRANSMISSI
-RAINBOW RESOURCES INC				RECEIVED:	01/03/84	JA: TX			
8414702	F-06-071785	4240100000		102-4	103	J C WASHBURN WELL #1-P	EFDEE RODESSA YOUNG	365.0	UNION CARBIDE COR
8414704	F-06-071810	4240100000		102-4	103	PATSY CHRISTIAN MCCRORY #1-P	KILGORE SOUTH	365.0	UNION CARBIDE COR
-RANKIN OIL CO				RECEIVED:	01/03/84	JA: TX			
8414941	F-08-076327	4200332589		103		SAVAGE STATE #5	SHAFTER LAKE	1.0	PHILLIPS PETROLEU
-RAY H EUBANK				RECEIVED:	01/03/84	JA: TX			
8414699	F-06-071719	4220330643		101		HUFFMAN ESTATE #1	LANSING N PETTIT LO	146.0	TEJAS GAS CORP
-REYNOLDS DRILLING & FRANKS PETRO				RECEIVED:	01/03/84	JA: TX			
8414848	F-06-075795	4236531545		103	107-TF	RICHARDSON "A" #1	CARTHAGE (COTTON VALL	288.0	UNITED GAS PIPE L
-RIDGE OIL CO				RECEIVED:	01/03/84	JA: TX			
8414944	F-7B-076344	4213335272		102-4	103	HAGAMAN (SOUTH) #7	RANGER NW (MARBLE FAL	27.5	COMPRESSOR RENTAL
-ROSELAND OIL & GAS INC				RECEIVED:	01/03/84	JA: TX			
8414690	F-06-070484	4242300000		101		CITY OF TYLER #1 PERMIT #183835	ANN MCKNIGHT (PALUXY)	8.0	
-ROYAL OIL & GAS CORPORATION				RECEIVED:	01/03/84	JA: TX			
8414693	F-01-071139	4231131778		102-4	103	BRACKEN RANCH #1	A W P OLMOS FIELD	36.0	HOUSTON PIPE LINE
8414715	F-01-072370	4231131868		102-4	103	BRACKEN RANCH #4	A W P (OLMOS) FIELD	73.0	HOUSTON PIPE LINE
8414694	F-01-071140	4231131830		102-4	103	BRACKEN RANCH WELL #2	A W P OLMOS	91.0	HOUSTON PIPE LINE
8414716	F-01-072372	4231131866		102-4	103	BRACKEN RANCH WELL #3	A W P (OLMOS)	73.0	HOUSTON PIPE LINE
8414703	F-01-071805	4231131711		102-4	103	DAN FOSTER #2	A W P OLMOS FIELD	85.0	HOUSTON PIPE LINE
8414717	F-01-072373	4231131867		102-4	103	R P HORTON #4	A W P (OLMOS) FIELD	8.0	HOUSTON PIPE LINE
8414675	F-01-065371	4231100000		102-4	103	R P HORTON WELL #2	A W P (OLMOS)	365.0	HOUSTON PIPE LINE
-SAN PATRICIO CORP				RECEIVED:	01/03/84	JA: TX			
8414827	F-02-075420	4246932022		102-4	103	O M LANDER #1	HEYSER EAST 8060'	0.0	HOUSTON PIPELINE
8414825	F-02-075418	4246932074		102-4	103	O M LANDER #2-L	HEYSER EAST 8350'	0.0	HOUSTON PIPELINE
8414826	F-02-075419	4246932074		102-4	103	O M LANDER #2-U	HEYSER EAST 7400'	0.0	HOUSTON PIPELINE
-SANTA FE-WINDSOR PRODUCING CO				RECEIVED:	01/03/84	JA: TX			

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME
8414686	F-03-069339	4228700000		103		URBAN #2
				RECEIVED:	01/03/84	JA: TX
-SCANDRILL INC						
8414842	F-09-075726	4250337379		103		SCAN-KING "G" #2
8414788	F-09-075028	4250337294		103		SLAUGHTER "A" #2
				RECEIVED:	01/03/84	JA: TX
-SHELL OIL CO						
8414769	F-04-074426	4221530890		102-4		BOSTON-TEXAS LAND TRUST #12
8414670	F-03-050364	4270430181		102-4		S T 77323 #3
				RECEIVED:	01/03/84	JA: TX
-SHILLELAGH CORP						
8414850	F-7B-075808	4242933576		103		H & M WILSON "F" #1 19426
8414851	F-7B-075809	4242933655		103		H & M WILSON "F" #3 19426
				RECEIVED:	01/03/84	JA: TX
-SMITH PETROLEUM CO				102-4		SELECTED LANDS 18 UNIT 6 #1
8414849	F-03-075796	4218530344		RECEIVED:	01/03/84	JA: TX
-SNOW OIL CO						
8414922	F-7B-076235	4213335407		102-4		CASTLEBERRY-WEST #2 (19154)
				RECEIVED:	01/03/84	JA: TX
-SOHIO PETROLEUM CO						
8414960	F-7C-076587	4232931160		103		DAVID BRADEN #3
8414912	F-08-076216	4217331433		103		SPRABERRY DRIVER UNIT #883
				RECEIVED:	01/03/84	JA: TX
-SPG EXPLORATION CORP				108		DR WEBSTER OQUINN GAS UNIT #1
8414880	F-01-076125	4216300000		105		GORDON E TATE #2
8414883	F-01-076139	4216300000		RECEIVED:	01/03/84	JA: TX
-STEVE STAMPER						
8414778	F-09-074792	4223700000		103		B SIMPSON #1
				RECEIVED:	01/03/84	JA: TX
-STRINGER OIL & GAS				103		UNIVERSITY 10-5 #1
8414900	F-7C-076201	4238332538		RECEIVED:	01/03/84	JA: TX
-SUBSURFACE ENERGY CORP				102-4		BRIGHT #1 (20215)
8414921	F-7B-076233	4239932830		RECEIVED:	01/03/84	JA: TX
-SUGARBERRY OIL & GAS CORP				102-4		LUX #1
8414799	F-7C-075212	4241330739		RECEIVED:	01/03/84	JA: TX
-SUN EXPLORATION & PRODUCTION CO				108		A GUERRA -A- #1
8414974	F-04-076433	4242700000		108		DAMRON 192 #1
8414923	F-08-076237	4246100000		103		FOSTER-JOHNSON UNIT #1704
8414973	F-08-076432	4213534114		103		H G PETTY HEIRS LOT 8 #1
8414809	F-03-075253	4219931795		108		O B HOLT GRBG #1-8
8414975	F-08-076434	4200300000		103		SUN FEE LOT 50 #1
8414684	F-03-067772	4229131566		108		UNIVERSITY -9- #14
8414843	F-08-075110	4200300000		RECEIVED:	01/03/84	JA: TX
-TEXACO INC				103		WHARTON UNIT #124
8414796	F-8A-075107	4216532546		RECEIVED:	01/03/84	JA: TX
-TEXCOLADA OIL CO				102-4		HENSLEE "A" #1
8414874	F-7B-076076	4213332516		102-4		J H TIDWELL #1
8414875	F-7B-076077	4213331892		102-4		U V HOGG #2
8414873	F-7B-076074	4213331152		102-4		U V HOGG #3
8414872	F-7B-076073	4213331446		RECEIVED:	01/03/84	JA: TX
-TEXSTAR EXPLORATION INC				108		CARROLL #1
8414806	F-10-075232	4217900000		108		CARROLL #2
8414807	F-10-075233	4217900000		RECEIVED:	01/03/84	JA: TX
-THOMAS Y KIDD INC				103		RAY BURNS LEASE
8414708	F-7B-071994	4213331832		RECEIVED:	01/03/84	JA: TX
-THOMPSON J CLEO & JAMES CLEO JR				103		AR 7 #1
8414732	F-7C-073793	4210534504		103	107-TF	P L CHILDRESS "F" #2
8414876	F-7C-076099	4210534584		102-4		UNIVERSITY 29-16 #1
8414810	F-7C-075255	4210534608		102-4		UNIVERSITY 29-21 #1
8414811	F-7C-075256	4210534554		RECEIVED:	01/03/84	JA: TX
-TOM L INGRAM				103		SUN #3
8414953	F-08-076153	4200333617		RECEIVED:	01/03/84	JA: TX
-TRAVELERS OIL CO				108		WARE #15
8414971	F-10-076426	4206500000		108		WARE #16
8414970	F-10-076425	4206500000		108		WARE #17
8414969	F-10-076424	4206500000		108		WARE #18
8414968	F-10-076423	4206500000		RECEIVED:	01/03/84	JA: TX
-TRICENTROL RESOURCES INC				102-4		ARCO DONAHO #1
8414696	F-03-071443	4235130375		RECEIVED:	01/03/84	JA: TX
-TRIPLE J INVESTMENTS INC				103		WILTON FAIR #3-A
8414877	F-06-076108	4240131783		RECEIVED:	01/03/84	JA: TX
-TUCKER DRILLING COMPANY INC				102-2	103	BROWN "D" #4
8414831	F-7C-075457	4245131169		RECEIVED:	01/03/84	JA: TX
-TXO PRODUCTION CORP				102-4		AYCOCK #1
8414823	F-05-075413	4216130645		103	107-TF	AYCOCK 1-2
8414700	F-05-071720	4216130806		102-4		DAVES "A" #1
8414798	F-7B-075172	4236732564		102-4		KIRK B-1
8414685	F-02-068888	4212331290		103		KOCUREK #1
8414683	F-04-067716	4235532120		103		MORRISON "A" #1
8414672	F-10-060178	4239330837		102-4		OWENS "D"
8414805	F-05-075222	4216130799		102-4		SCHAEFER B-1
8414711	F-02-072153	4223931334		102-4		TEAGUE G U #1-3
8414821	F-05-075487	4216130723		102-4		TEAGUE GAS UNIT 2-2
8414822	F-05-075410	4216130750		102-4		TERRY "C"
8414815	F-05-075319	4216130698		102-4		UTLEY "C" 1-X
8414824		4216130751		RECEIVED:	01/03/84	JA: TX
-UNION OIL COMPANY OF CALIF				108		UNIVERSITY "JJ" #1
8414929	F-7C-076285	4210500000		108		UNIVERSITY "JJ" #2
8414930	F-7C-076286	4210500000		108		UNIVERSITY "JJ" #4
8414933	F-7C-076294	4210531109		108		UNIVERSITY "JJ" #5
8414928	F-7C-076284	4210531783		102-2		WAYNE WEST RANCH "B" #5
8414797	F-01-075123	4246530429		RECEIVED:	01/03/84	JA: TX
-UNITED CO				103		REED WRIGHT B #5 107334
8414976	F-8A-076442	4207931409		RECEIVED:	01/03/84	JA: TX
-UNIVERSAL RESOURCES CORPORATION				103	107-TF	WHITFIELD #1
8414695	F-05-071236	4234900000		RECEIVED:	01/03/84	JA: TX
-USEMCO INC				103		WHITE 2-A
8414721	F-7B-072058	4236732472		RECEIVED:	01/03/84	JA: TX
-V F NEUHAUS				102-4		SALAZAR #1
8414765	F-04-074212	4242700000		RECEIVED:	01/03/84	JA: TX
-VAN OIL CORP				102-4		H DEMPSEY (TAYLOR) #1 (16499)
8414886	F-7B-076145	4213332392		102-4		H DEMPSEY (TAYLOR) #2 (16499)
8414889	F-7B-076148	4213332609		102-4		MCCRACKEN TRUSTEE #3 (18649)
8414888	F-7B-076147	4213333911		102-4		MCCRACKEN TRUSTEE #4 (18649)
8414887	F-7B-076146	4213333953		102-4		RBTF-FEE #1 (16013)
8414913	F-7B-076217	4213332152		RECEIVED:	01/03/84	JA: TX
-W R EDWARDS JR				103		BARNHILL #491
8414838	F-10-075662	4223300000		RECEIVED:	01/03/84	JA: TX
-WAGNER & BROWN				103		GLASS #6-24
8414958	F-08-076277	4243131349		103		GLASS #7-24
8414931	F-08-076287	4243131348				

FIELD NAME	PROD	PURCHASER
GIDDINGS	109.0	PERRY PIPELINE CO
STOVALL (MCLESTER)	24.8	J H TAYLOR GAS CO
LOU-KEN (CONGLOMERATE	13.5	
MCCOOK EAST (VICKSBUR	300.0	NATURAL GAS PIPEL
BRAZOS BLOCK 446-L SW	1460.0	SHELL OIL CO
STEPHENS COUNTY REGUL	60.0	WARREN PETROLEUM
STEPHENS COUNTY REGUL	180.0	WARREN PETROLEUM
IOLA SOUTH (SUBCLARKS	0.0	WELLHEAD VENTURES
REB (MARBLE FALLS)	73.0	LONE STAR GAS CO
CALVIN DEAN	35.0	UNION TEXAS PETRO
SPRABERRY (TREND AREA	11.0	EL PASO NATURAL G
WEST BIG FOOT/GAS	24.8	TRANSCONTINENTAL
WEST BIG FOOT/GAS	23.7	TRANSCONTINENTAL
BRYSON EAST	68.0	LONE STAR GAS CO
SPRABERRY (TREND AREA	900.0	PHILLIPS PETROLEU
BARCO (ELLENBURGER)	19.0	UNION TEXAS PETRO
VELREX WOLFCAMP	0.0	FARMLAND INDUSTRI
SUN N	15.0	TRANSCONTINENTAL
MCELROY SE (DEVONIAN)	3.0	PHILLIPS PETROLEU
FOSTER	5.0	EL PASO HYDROCARB
SARATOGA	9.0	
COHDEN NORTH	0.7	WESTAR TRANSMISSI
SOUTH LIBERTY	82.0	UNITED TEXAS TRAN
FULLERTON	2.0	AMOCO PRODUCTION
HARRIS	0.0	PHILLIPS PETROLEU
TIN CUP	35.0	NORTHERN GAS PROD
TIN CUP	30.0	NORTHERN GAS PROD
TIN CUP	20.0	NORTHERN GAS PROD
TIN CUP	20.0	NORTHERN GAS PROD
PANHANDLE GRAY COUNTY	0.0	PHILLIPS PETROLEU
PANHANDLE GRAY COUNTY	2.0	PHILLIPS PETROLEU
KIRK	10.0	LONE STAR GAS CO
MPI (ELLENBURGER)	600.0	
OZONA (CANYON SAND)	190.0	
UNIVERSITY 29 STRAWN	180.0	
UNIVERSITY 29 STRAWN	120.0	
FUHRMAN-MASCHO	20.0	PHILLIPS PETROLEU
PANHANDLE CARSON COUN	0.0	GETTY OIL CO
PANHANDLE CARSON COUN	0.0	GETTY OIL CO
PANHANDLE CARSON COUN	0.0	GETTY OIL CO
PANHANDLE CARSON COUN	0.0	GETTY OIL CO
ADA CALL E Y-12	195.0	ARCO OIL & GAS CO
TALIAFERRO (PETTIT UP	35.0	PARADE CO
K W B STRAWN	31.0	LONE STAR GAS CO
MIMMS CREEK BOSSIER	0.0	UNITED TEXAS TRAN
MIMMS CREEK BOSSIER	0.0	UNITED TEXAS TRAN
CLAYTON CONGL FIELD	100.0	SOUTHWESTERN GAS
KOENIG	0.0	DELHI GAS PIPELIN
AQUA DULCE (8300')	0.0	DELHI GAS PIPELIN
MORRISON RANCH (MORRO	0.0	DIAMOND CHEMICALS
INGRAM TRINITY RODESS	0.0	DELHI GAS PIPELIN
MCDANIEL	0.0	TEXAS EASTERN TRA
TEAGUE S COTTON VALLE	0.0	UNITED GAS PIPELI
TEAGUE S COTTON VALLE	0.0	UNITED GAS PIPELI
RED LAKE BOSSIER SD	0.0	
MIMMS CREEK BOSSIER	0.0	UNITED TEXAS TRAN
FARMER (SAN ANDRES)	1.0	J L DAVIS
FARMER (SAN ANDRES)	0.7	J L DAVIS
FARMER (SAN ANDRES)	0.7	J L DAVIS
FARMER (SAN ANDRES)	1.8	J L DAVIS
MASSIE STRAWN	365.0	INTRATEX GAS CO
LEVELLAND (SAN ANDRES	544.0	EL PASO NATURAL G
CHENEYBORO COTTON VAL	0.0	BEANE ENERGY CORP
BETHESDA (CADDO)	70.0	LONE STAR GAS CO
NEUHAUS-SHERRIN (PROP	58.4	BALCONES PIPELINE
MANGUM WEST (3100)	109.[illegible]	EL PASO HYDROCARB
MANGUM WEST (3100)	73.[illegible]	EL PASO HYDROCARB
VAN (MARBLE FALLS)	[illegible].0	EL PASO HYDROCARB
VAN (MARBLE FALLS)	51.[illegible]	EL PASO HYDROCARB
MANGUM WEST (3100)	5.[illegible]	EL PASO HYDROCARB
PANHANDLE HUTCHINSON	0.0	TRANS-PAN PIPELIN
CONGER (PENN)	247.1	TEXAS UTILITIES F
CONGER (PENN)	117.1	TEXAS UTILITIES F

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8414932	F-08-076288	4243131347		103		GLASS #8-24	CONGER (PENN)	98.0	TEXAS UTILITIES F
-WARREN PETR CO A DIV OF GULF OIL CO				RECEIVED:	01/03/84	JA: TX			
8414818	F-08-075368	4210333196		101		W M WADDELL ETAL (TR A) #1284	SAND HILLS TUBB	64.5	EL PASO NATURAL G
-WAYNE HARPER				RECEIVED:	01/03/84	JA: TX			
8414878	F-09-076046	4209732081		103		WM HOWELL "B" WELL #10	SIVELLS BEND FIELD	25.0	SIVELLS GAS LTD
-WINN EXPLORATION/DULCE CO				RECEIVED:	01/03/84	JA: TX			
8414779	F-01-074825	4250731760		102-4		PRYOR RANCH #105	WINN-DULCE	0.0	NORTHERN NATURAL
-WOLSEY OIL INC				RECEIVED:	01/03/84	JA: TX			
8414903	F-09-076205	4223700000		107-PE		C J CLARK "C" #045166	PLEMONS CONGL	24.0	LONE STAR GAS CO
-WOOLEY PETROLEUM				RECEIVED:	01/03/84	JA: TX			
8414853	F-09-075826	4249732608		103		R G RIEGER #1	ALVORD SOUTH (ATOKA)	70.0	TEXAS UTILITIES F
-3 W OIL INC				RECEIVED:	01/03/84	JA: TX			
8414920	F-10-076231	4217931308		103		ARKIE-BILL "B" (05308) #5	PANHANDLE GRAY COUNTY	2.0	CABOT PIPELINE CO
8414919	F-10-076230	4217931384		103		ARKIE-BILL "B" (05308) #6	PANHANDLE GRAY COUNTY	30.0	CABOT PIPELINE CO
8414918	F-10-076229	4217931382		103		ARKIE-BILL "B" (05308) #7	PANHANDLE GRAY COUNTY	5.0	CABOT PIPELINE CO
8414917	F-10-076228	4217931180		101		TIEMAN ESTATE (04933) #3	PANHANDLE GRAY COUNTY	5.0	CABOT PIPELINE CO
8414916	F-10-076227	4217931179		103		TIEMAN ESTATE (04933) #4	PANHANDLE GRAY COUNTY	5.0	CABOT PIPELINE CO
8414915	F-10-076225	4217931296		103		WEBSTER (05135) #5	PANHANDLE CARSON COUN	115.0	GETTY OIL CO
UTAH DIVISION OF OIL,GAS, & MINING									
-AMOCO PRODUCTION CO				RECEIVED:	01/03/84	JA: UT			
8414616	K-121-20	4304330219		102-2		ANSCHUTZ RANCH E/W NUGGET #W29-06A	ANSHUTZ RANCH EAST -	5144.7	MOUNTAIN FUEL SUP
8414618	K-121-19	4304330161		102-2		ISLAND RANCHING "D" #1	ANSCHUTZ RANCH-NUGGET	1.2	COLORADO INTERSTA
-AMOCO PRODUCTION CO				RECEIVED:	01/04/84	JA: UT			
8414665	K-121-21	4304330215		102-2		ANSCHUTZ RANCH EAST/W NUGGET #W30-1	ANSCHUTZ RANCH EAST	1770.6	MOUNTAIN FUEL SUP
-BELCO DEVELOPMENT CORP				RECEIVED:	01/03/84	JA: UT			
8414614	K-111-20	4304731305		103	107-TF	CWU 225-2	CHAPITA WELLS UNIT	0.0	MOUNTAIN FUEL SUP
-BELCO DEVELOPMENT CORP				RECEIVED:	01/04/84	JA: UT			
8414668	K-111-20	4304731305		103	107-TF	CWU 225-2	CHAPITA WELLS UNIT	0.0	MOUNTAIN FUEL SUP
-BOW VALLEY PETROLEUM INC				RECEIVED:	01/04/84	JA: UT			
8414666	K-116-3	4304731295		103		LORRAINE BOLTOM 1-12A1	BLUEBELL WASATCH	54.8	DARENCO INC
-COASTAL OIL & GAS CORP				RECEIVED:	01/03/84	JA: UT			
8414613	K-136-16	4304731232		107-TF		NATURAL BUTTES UNIT 81V (35-9-21)	NATURAL BUTTES	82.0	COLORADO INTERSTA
8414612	K-136-14	4304731282		103		NBU 217-2	NATURAL BUTTES UNIT	0.0	COLORADO INTERSTA
-COASTAL OIL & GAS CORP				RECEIVED:	01/04/84	JA: UT			
8414667	K-136-15	4304731232		107-TF		NATURAL BUTTES UNIT 81V (35-9-21)	NATURAL BUTTES	82.0	COLORADO INTERSTA
-COASTAL OIL & GAS CORP				RECEIVED:	01/05/84	JA: UT			
8414658	K-136-17	4304731327		103	107-TF	NATURAL BUTTES UNIT 98V (34-9-21)	NATURAL BUTTES	219.0	COLORADO INTERSTA
-DEL-RIO RESOURCES				RECEIVED:	01/03/84	JA: UT			
8414615	K-159-1	4304731273		102-2		AGENCY DRAW 23-1A	WILDCAT	300.0	ARCO OIL & GAS CO
-LOMAX EXPLORATION COMPANY				RECEIVED:	01/03/84	JA: UT			
— 8414611	K-152-4	4301330748		102-2		GILSONITE STATE #6-32	MONUMENT BUTTE	0.0	MOUNTAIN FUEL SUP

[FR Doc. 84-2991 Filed 2-2-84; 8:45 am]

BILLING CODE 6717-01-C

VOL
49
ISS
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federal register

Friday
February 3, 1984

Part V

Department of Labor

Occupational Safety and Health Administration

29 CFR Part 1910

Servicing of Single Piece and Multi-Piece Rim Wheels; Final Rule

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1910

[Docket No. S-010]

Servicing of Single Piece and Multi-Piece Rim Wheels

AGENCY: Occupational Safety and Health Administration, Labor.

ACTION: Final rule.

SUMMARY: By this action the Occupational Safety and Health Administration (OSHA) amends the safety standard for the servicing of multi-piece rim wheels, 29 CFR 1910.177, to include requirements for the safe servicing of single piece rim wheels used on trucks, trailers, buses and other large vehicles. A single piece wheel is a unit used to retain the side walls of a tire, to form part of the chamber which contains the pressurized air (if a tubeless tire is utilized), and to provide the means of attachment of the assembly (the rim wheel) to the axle of a vehicle.

Single piece rim wheel accidents occur when the contained, pressurized air is almost instantaneously released by the tire bead either breaking or slipping over the rim flange. This incident is commonly referred to as "the sudden release of the pressurized air." The principal hazards are that the pressurized air, once released, can either pick up and hurl an employee across the workplace, if the employee is in close proximity to the rim wheel and within the trajectory, or the rim wheel can be propelled across the workplace and into an employee. This amended standard, which regulates the servicing of both single piece and multi-piece rim wheels, includes requirements for training of all tire servicing employees; for utilization of industry-accepted procedures which minimize the potential for employee injury; for the use of restraint devices during inflation to retain the components; and for the use of compatible components.

The standard also contains several minor amendments to the provisions of the multi-piece rim wheel servicing standard.

EFFECTIVE DATE: This standard will become effective March 5, 1984.

FOR FURTHER INFORMATION CONTACT: James Foster, Occupational Safety and Health Administration, Room N-3637, U.S. Department of Labor , Washington, D.C. 20210. Telephone: (202) 523-8151.

ADDRESS: For additional copies of this standard contact: OSHA Office of Publications, U.S. Department of Labor, Room N4101, Washington, D.C. 20210. Telephone: (202) 523-9667.

SUPPLEMENTARY INFORMATION:

1. Background

A. Standard on Multi-Piece Rim Wheels

On January 29, 1980, OSHA issued a final standard on servicing multi-piece rim wheels (45 FR 6706) after informal rulemaking under section 6(b) of the Occupational Safety and Health Act (OSH Act). Multi-piece wheels consist of two or more detachable components, one of which is a side or locking ring designed to hold the tire on the wheel when the tire is inflated. Multi-piece wheels are used most frequently, with tube type tires on trucks, tractors, trailers, buses, campers and off-highway vehicles. The major hazard in servicing multi-piece rim wheels is the possibility of an employee being struck by a wheel component which has been thrown from a rim wheel during an unintended explosive separation. Further discussion of multi-piece rim wheels can be found in the preamble to the § 1910.177 final rule document (45 FR 6706, January 29, 1980).

The standard as originally promulgated in 1980 contains requirements for training employees who service multi-piece rim wheels; for the use of proper servicing equipment; for the use of compatible components only; and for the use of accepted, safe procedures. During the formulation of that standard, the scope of the regulation was restricted to the servicing of multi-piece rim wheels since the preponderance of the accidents being reported at that time were occurring during the servicing of that type of rim wheel.

B. Single Piece Rim Wheels

Single piece rim wheels are used on virtually all types of motor vehicles, including automobiles, trucks, trailers, buses and off-highway vehicles. Such vehicles rely heavily on the use of tubeless tires because such tires offer superior vehicle mileage due to less rolling resistance and are less likely to overheat. Tubeless tires are most commonly used on single piece wheels. Although some multi-piece wheels may be used with tubeless tires, such use requires an airtight seal between wheel components since the wheel forms part of the chamber containing the pressurized air, and most multi-piece wheels are not designed to be airtight (Exs. 3-11 and 3-20).

Single piece wheels are designed with one side of the wheel narrower than the other side to facilitate the installation of the tire on the wheel. At present, between 15% and 20% of large vehicles such as trucks, trailers and buses are equipped with radial ply tires and single piece wheels. This percentage is expected to increase to 50% of all large rim wheels by 1990 (Ex. 4).

Although radial ply technology for vehicle tires was first introduced in the mid-1920's, radial ply tubeless tires and single piece wheels for large vehicles were not utilized to any great extent until the early 1970's. This was due to the many problems which are inherent in the design of radial ply tires. The radial ply tire offers less sidewall support and less load carrying capability under severe service conditions than does the bias-ply tire, and is more prone to failure from sidewall scuffing or unusual side forces such as hitting a curb. The initial cost of radial ply tires is higher; however, radial ply tires offer less rolling resistance, thereby increasing the vehicle mileage per gallon of fuel. As the cost of fuel has increased, it has become more cost effective to use radial ply tires, and more and more of the large vehicle users have begun to switch to the use of radial ply tubeless tires. This has resulted in a corresponding increase in the use of single piece wheels.

Because they exhibit limitations under conditions of severe use, single piece rim wheels are favored on long distance, over-the-road vehicles where the loads imposed upon the rim wheels are termed moderate and the primary concern is good mileage. Vehicles which operate on rough terrain, at remote locations, or under heavy loading conditions, have continued to use the tube-type tire and multi-piece rim wheels since vehicle reliability and serviceability under extreme conditions is essential.

C. History of the Amendment for Servicing Single Piece Rim Wheels.

During the development of the standard for the servicing of multi-piece rim wheels (29 CFR 1910.177), the regulation of single piece rim wheel servicing was not considered since the largest number of accidents being reported were occurring when multi-piece rim wheels were being serviced. Additionally, the accidents which were occurring during the servicing of single piece rim wheels were, for the most part, not being reported or were not properly reported. Limited testimony on single piece rim wheel accidents was presented at the 1979 public meeting on the multi-piece rim proposal (Docket S-005, Ex. 5, Pages 23 and 27). Mr. Freivoyel, representing Firestone Tire & Rubber Company, indicated there were

safety implications with the use of single piece rims and tubeless tires. Mr. Besuner of Failure Analysis Associates, a firm hired by the National Wheel and Rim Association (NWRA) to determine the risks of servicing multi-piece rim wheels, stated that their preliminary findings (Ex. 2–3) indicated the on-road accident picture for single piece rim wheels looked as serious as that for multi-piece rim wheel servicing. However, their data were limited to one manufacturer's experiences and could not be presumed to be conclusive. Further, the Failure Analysis Associates' preliminary report did not examine accident data in tire servicing facilities and workplaces. For those reasons, and because of the limited period of industry usage of single piece rim wheels, the hazards of servicing single piece rim wheels were not recognized, and thus were not regulated during the multi-piece rim wheel rulemaking.

Subsequent to OSHA's promulgation of the standard for servicing multi-piece rim wheels, NWRA and Firestone Tire & Rubber Company petitioned OSHA, requesting an amendment to the standard for servicing multi-piece rim wheels, 29 CFR 1910.177, by adding requirements for the safe servicing of single piece rim wheels.

Examination of the industry studies (Ex. 2–3) by OSHA, in response to the petition, indicated an increasing number of accidents occurring during the servicing of single piece rim wheels. Based upon the available data, including that from four of the manufacturers of single piece wheels, OSHA determined that the likelihood of accidents and injuries when servicing single piece rim wheel is comparable to that which existed for the servicing of multi-piece rim wheels before promulgation of the OSHA multi-piece rim wheel servicing standard. A Notice of Proposed Rulemaking (NPRM) for servicing single piece rim wheels was published in the **Federal Register** (47 FR 51159, November 12, 1982). The public comment period of 45 days was extended to January 26, 1983 (47 FR 57739, December 28, 1982). Twenty-nine comments were received in response to the above notices, with most commenters favoring the adoption of the proposed revision to the standard. A number of comments contained recommendations for minor modification of certain provisions of the proposal. There were no requests for a hearing.

A Regulatory Impact Assessment was prepared in accordance with Executive Oder 12291 (46 FR 13193, February 17, 1981) and was made available to the public. OSHA determined that the proposal was not a "major" action which would necessitate further economic impact evaluation and the preparation of a Regulatory Impact Analysis. Opportunity was given for interested persons to comment on the subject matter and contents of the assessment.

Additionally, in accordance with the Regulatory Flexibility Act of 1980 (Pub. L. 96–353, 94 Stat 1164 (5 U.S.C. 601 et seq.)), OSHA assessed the potential economic impact of the proposal on small entities and examined some of the alternatives to it. Based upon that assessment, OSHA certified that the proposal would not have a significant economic effect on a substantial number of small entities. Opportunity was given for interested persons to comment on the subject matter and content of the report.

This final standard on servicing of multi-piece and single piece rim wheels is based on a full consideration of the entire record of the rulemaking proceeding, including the materials relied on in the proposal and all written comments and exhibits received. All materials in the record are available for public review and copying at the OSHA Docket Office, Room S–6212, U.S. Department of Labor, 3rd Street and Constitution Avenue, N.W., Washington, D.C. 20210, telephone (202) 523–7894.

D. The Hazards of Servicing Single Piece Rim Wheels

OSHA has determined that the servicing of single piece rim wheels is hazardous based upon a review of the available accident and injury data. These data include selected product liability litigation records (Ex. 2–7) from cases involving injuries received during the servicing of single piece rim wheels. These records buttress the determination that employees who service single piece rim wheels are exposed to a significant risk of serious injury.

The principal hazard present during the servicing of single piece rim wheels is that the pressurized air contained in the tire may suddenly be released, either by the bead breaking or by the bead slipping over the rim flange. These incidents are caused by mismatching of the wheel and tire, by using damaged components, by failing to restrain the components, by welding on the wheel and/or by improperly mounting the tire on the wheel. The resulting air blast is strong enough to hurl an employee who is in close proximity to the rim wheel, and positioned within the trajectory, violently across the workplace. When the pressurized air is released on the side of the rim wheel against a solid surface, the flexure of the tire can also propel the rim wheel itself across the workplace and into an employee in its path. The force exerted on the rim flange of a single piece wheel by a pressurized tire is comparable to that of a tire mounted on a multi-piece wheel (e.g., a 10.00 x 20 tire, when inflated to 105 psi creates a force in excess of 40,000 pounds against the rim flange).

As noted above, the force of the pressurized air released from a single piece rim wheel is comparable to that force from a multi-piece rim wheel. The principal differences between accidents involving single piece rim wheels and those involving multi-piece rim wheels center around the reaction to the release of the pressurized air in the tire. In multi-piece rim wheel accidents, the wheel components separate and are released from the rim wheel with violent force. The primary agent of employee injury in multi-piece rim wheel separations is any of the individual components of the wheel, such as the lock ring, which can be propelled toward an employee with explosive force as the wheel components separate. In the single piece rim wheel accident, the air blast itself is another primary agent of injury. The severity of the hazard is related not only to the air pressure but also to the air volume. Employees have been seriously or fatally injured when they were thrown against walls, ceilings, gas pumps or other hard and unyielding objects.

In addition, if the air blast is not released directly toward an employee but against a floor or wall, the unrestrained rim wheel can be hurled across the workplace. Therefore, if the release of air occurs on the side of the wheel that is lying against a solid surface, and the rim wheel is unrestrained, the entire assembly may become a projectile. Such movement is cause primarily by the flexure of the tire as the air escapes. An employee who is standing in the trajectory can be hit by the rim wheel when the air is released. In a test conducted by NWRA (Ex. 2–6) a single piece rim wheel with a weakened bead was pressurized to 110 psi, and the tire was made to fail on the side of the tire resting on the ground. The rim wheel, whose weight was approximately 200 pounds, was thrown approximately 30 feet into the air.

E. Accident Data

Data collection regarding single piece rim wheel accidents presents similar problems to those OSHA experienced in documenting multi-piece rim wheel accidents. Accidents to employees engaged in the servicing of single piece

rim wheels are often either not reported at all, or are categorized under broad classifications such as "falls" or "struck by object." Therefore, the data available to OSHA likely represent only a portion of the total injuries and fatalities.

As noted earlier, NWRA, in support of its petition, submitted a report on single piece rim wheels which was prepared by Failure Analysis Associates (Ex. 2–3). The report contained accident data which was gathered from several sources including National Highway Traffic Safety Administration (NHTSA) reports, manufacturers' files, the California State OSHA program (Cal/OSHA), and consumer litigation against rim manufacturers. In this report, Failure Analysis Associates stated that between 1970 and 1980 there were 112 accidents identified involving single piece rim wheels. Of that number, 91 occurred during single piece rim wheel servicing, and 15 of these accidents resulted in fatalities. Several accidents contained in the Failure Analysis Associates statistics were attributed to on-the-road tire failures such as blowouts (21 accidents) rather than servicing (91 accidents).

These statistics are incomplete as they do not include single piece rim wheel accidents whose causation is the subject of on-going litigation. Further, NWRA suggests that there are several factors which may have limited the number of single piece rim wheel servicing accidents in the past, but which may not have the same effect in the future. Included among these factors is the fact that the principal users of single piece rim wheels have been the larger trucking companies, with better trained and supervised personnel, better equipment, and more careful adherence to established procedures for servicing single piece rim wheels. Additionally, NWRA reports that because there have been some single piece rim wheel failures in more demanding applications (e.g., large loads, and/or heavy service), many of these companies have thus far limited their use of single piece rim wheels to moderate loads and on-highway applications. Finally, as large vehicle single piece rim wheels have only recently come into widespread use, those accidents which would occur due to wheel deterioration have yet to occur. (See Ex. 2–3.)

In NWRA's view, these elements will become less dominant as the use of single piece rim wheels increases, and the accident and injury rates can be expected to increase significantly if OSHA does not regulate the servicing of single piece rim wheels.

In addition to the report submitted by NWRA, OSHA has examined the records of 25 product liability personal injury suits involving single piece rim wheels which occurred between 1971 and 1981. The sample of 25 case files contained information concerning:

1. The severity of typical injuries resulting from single piece rim wheel servicing accidents;
2. The average age of the victim;
3. The training received by the victim; and
4. The level of experience of the victim.

These records do not provide a complete or exhaustive survey of single piece rim wheel servicing injuries. They do, however, provide a valuable source of information on those injuries, and on the training and tire service experience of the injured persons.

Examination of the reports indicates that the sample contains reports of five deaths, five total disabilities, four permanent disabilities, 10 temporary disabilities, and one injury of unknown severity. Five workers were between the ages of 16 and 20 (two deaths and three total disabilities); nine were between the ages of 21 and 31 (including one death and two total disabilities); two were between the ages of 32 and 40; six were between the ages of 41 and 54 (including two deaths); and the ages of three persons were not reported.

Similarly, the relationships of experience and training of the victims were examined. Five of the victims were reported to have received some training in servicing single piece rim wheels; 13 victims were reported as having received no such training; and there was no report on whether the remaining seven had received training. Examining these reports as to worker experience, six workers had no prior experience; nine had less than one year of experience; eight had more than one year of experience, and two did not state a level of experience.

OSHA has determined, based on the available accident data, that a serious risk of injury exists for the worker who services single piece rim wheels, and that lack of training and experience in proper servicing procedures appears to be a significant factor in many single piece rim wheel servicing accidents.

F. Significant Risk

In Industrial Union Department, AFl–CIO vs. *American Petroleum Institute,* 448 U.S. 607 (1980), the Supreme Court ruled that in promulgating standards under section 6(b) of the OSH Act, OSHA must determine that the hazard being addressed poses a significant risk to employees, and that the standard will significantly reduce or eliminate that risk.

The nature of the job and the workplace exposes many individuals to the hazards of servicing single piece rim wheels. Because the work does not require skilled labor, a long period of service is not characteristic of the workforce. There is high employment turnover, and hence, a large number of workers will be exposed to the risk.

OSHA estimates that slightly over 300,000 employees are potentially engaged in servicing single piece rim wheels. Many of those workers service single piece rim wheels infrequently and/or have not received any training on how to perform the servicing safely. As a result, they may not be fully aware of the inherent hazards of servicing these rim wheels. Because of the workers' relative inexperience, single piece rim wheels present hazards which may not be generally recognized by the persons who service them. Further, many of these employees incorrectly assume that specific hazards are found only with multi-piece rim wheels, and that single piece rim wheels are safe to service.

With respect to the frequency of injury-producing accidents, the NWRA data indicate that there have been 91 servicing injuries between 1970 and 1980 (Ex. 2–3). On a per rim wheel servicing basis, this is about one injury-producing accident per million single piece rim wheel servicings. This rate is about the same as the rate which existed for the servicing of multi-piece rim wheels before the promulgation of the multi-piece rim wheel servicing standard (Ex. 2–3).

NWRA has projected that the injury rate may be expected to increase as the use of single piece rim wheels becomes more prevalent. More single piece rim wheels will be serviced by persons who have never handled, or infrequently handle, such rim wheels and/or who have never been trained in the proper procedures. Further as single piece rim wheels are used over a longer period of time, the average single piece wheel will be older than those currently being used. As these wheels age they will deteriorate and can be expected to be involved in more accidents and injuries. Therefore, OSHA believes that these factors are likely to result in higher injury rates in the future if a standard is not promulgated.

As discussed above, a large percentage of users of tubeless tires utilize single piece wheels. One of the benefits of the use of radial tubeless tires is greater fuel efficiency, and thus interstate truck and bus lines have been switching to these tires. The data available to OSHA indicate that the

percentage of all large vehicles which use single piece rim wheels will increase from almost 20 percent in 1981 to about 50 percent in 1990. Therefore it is anticipated that the number of single piece rim wheel servicing will increase proportionately. This translates to about 280 to 350 million single piece rim wheel servicings over that period of time (1981–1990). Using this data, and assuming that the rate of injury-producing single piece rim wheel accidents does not change, OSHA estimates that if no standard is promulgated, there will be approximately 280 to 350 fatalities and injuries as a result of single piece rim wheel servicing accidents during the 10-year period of 1981 to 1990. For purposes of this determination, OSHA has assumed no increase in the accident rate in projecting the benefits to be derived by adoption of this proposal. If, instead of remaining constant, the accident rate were to increase for the reasons cited by NWRA, the number of expected fatalities and injuries would increase correspondingly.

As previously mentioned, Failure Analysis Associates reported that 112 single piece rim wheel accidents occurred between 1970 and 1979. These 112 accidents were categorized as having occurred either during maintenance operations (91) or during use (21). Of the 91 maintenance accidents, 15 (16.5%) resulted in a fatality, while the remaining 76 (83.5%) resulted in an employee injury. Using the above percentages, the 280–350 accidents projected to occur between 1981 and 1990 will result in 45 to 56 fatalities and 235 to 294 injuries.

Examination of the 25 litigation records made available to OSHA produced the following findings: there were five fatalities (20%); five accidents resulted in total disability (20%); four resulted in permanent partial disability (16%); 10 resulted in temporary disability (40%); and one was of unknown severity (4%). Of the 10 who were only temporarily disabled, the average time out of work was six months. The single piece rim wheel servicing injuries reported in these litigation records were more severe than the average general industry occupational injuries, which involve an average of about 16 lost workdays (Ex. 2–14).

OSHA recognizes that there are serious limitations on the use of the litigation data to develop projections of the severity of injuries in the industry. It is clear, for example, that accident data which have been developed from litigation records of manufacturers of single piece wheels are likely to be skewed towards the more serious injuries and fatalities, as they are the most likely to lead to products liability litigation. Notwithstanding the limitations of such data, OSHA believes the injuries are a good indicator of the hazards of servicing single piece rim wheels.

Additionally, OSHA has noted that the percentage of fatalities reported in the litigation data (20%) closely parallels the percentage reported in the NWRA data (16.5%). Althought there is not sufficient information to allow a detailed comparison of their respective data, OSHA has assumed that the injury mix is similar for each of the data bases. For that reason, then, OSHA has assumed that the range of percentages of fatalities, total disabilities, and permanent disabilities found in the litigation data is between 15% and 20% for each category. OSHA has projected these percentages onto an extrapolation of the NWRA data to determine the expected number of fatalities and the different types of injuries. This projection also assumes that the number of accidents reported by NWRA for the period from 1970 to 1980 is an accurate figure, and that the percentage of single piece rim wheels will increase from 20 percent in 1981 to 50 percent in 1990. Based upon these assumptions, OSHA has determined that if no standard is promulgated, 50–67 fatalities, 50–67 total disabilities, 50–67 permanent disabilities, and 137–188 temporary disabilities will occur during the 10-year period.

OSHA's analysis of the causes of the 91 injury-producing servicing accidents reported by NWRA indicates that approximately 90 percent of these accidents occurred while the tire was being inflated, and nearly 5 percent occurred while the rim was being welded. The other 5 percent are divided between those accidents which occurred when an employee was performing other servicing activities such as wheeling a rim wheel around the workplace or installing the rim wheel. This final standard contains the following provisions which, if followed, will prevent nearly all of these types of accidents in the future:

1. The worker must inflate the tire while the rim wheel is restrained, or bolted on the vehicle, and must stay out of the trajectory of the potential explosion;

2. The worker must inspect both the tire and the wheel in order to avoid mismatching them; and

3. The worker must never apply heat to a wheel.

The final standard also requires employers to train employees to ensure that they learn the industry-accepted servicing procedures. OSHA firmly believes that proper training will increase worker understanding of the seriousness of the hazards, and with that understanding will follow the likelihood that workers will comply with these procedures.

Several additional factors were considered by OSHA in developing the final standard. A review of the injury-producing accidents investigated by OSHA since promulgating the multi-piece rim wheel servicing standard indicates that there has been a 70 to 80 percent reduction in multi-piece rim wheel servicing injuries. Secondly, OSHA has been informed that after the promulgation of the Cal/OSHA standard in 1970, which covers the servicing of both multi-piece and single piece rim wheels, the number of single piece rim wheel servicing injuries fell from one per year between 1970 and 1975 to a total of one between 1976 and 1980, a reduction of approximately 80% (Ex. 2–3, pg. 26). Thus, OSHA concludes that the standard being published today will prevent injuries when it is followed, and that compliance by employer and employee is predictable. For purposes of its regulatory analysis, OSHA predicts that this standard would reduce injuries by approximately 75 percent.

Based on the available data, OSHA concludes that workers face a significant risk of serious injury or death when servicing large vehicle single piece rim wheels, and that promulgation of this standard will significantly reduce that risk.

2. Summary and Explanation of the Amended Standard

The following section discusses the individual requirements of the standard for servicing multi-piece and single piece rim wheels, including an analysis of the record evidence and the major issues raised during the rulemaking proceeding.

This amended standard sets requirements for training all employees who service large vehicle rim wheels; for the use of accepted safe practices and procedures; for the use of restraining devices, barriers or other safeguards; and for the use of other essential equipment. These and other portions of the standard, including those on the criteria for interchangeability of rim wheel components, have been revised and clarified from the proposal as described in detail below.

The language of the standard essentially follows that of the proposal except for revisions based on OSHA's

review of the entire rulemaking record, including the written comments and data submitted during the comment period.

Virtually all persons who participated in the rulemaking by submitting comments agreed with OSHA's determination that the principal causes of accidents which occur during the servicing of single piece and multi-piece rim wheels could be eliminated by proper training of employees; availability and utilization of restraints, necessary tools and equipment; and adherence to accepted safe procedures.

However, two commenters questioned the need for the standard based upon the accident rate (the number of accidents per million tire changes). One of those commenters (Ex. 3–2) stated . ". . . in over 163 years of total experience of our management staff working with the single piece rim wheel, there has never been an injury." The other commenter (Ex. 3–13) objected to the issuance of a standard on the basis of statistics from a specialized industry, and supported by what he considered speculation that the risks will increase as more small firms enter the marketplace.

Although an employer may not have experienced an accident in his workplace, this could be attributed to any one or a combination of factors. For example, employees may have the requisite knowledge and experience, the employer may enforce the use of those procedures which minimize the potential for an accident, or the lack of accidents may just be good fortune. As discussed above, single piece rim wheel servicing accidents occurred when unsafe procedures were utilized usually by inexperienced and untrained personnel. Adherence to the provisions of this standard, which stress safe procedures and training, will decrease the potential for a rim wheel separation and the resulting fatality or injury.

OSHA recognizes that tire and wheel servicing may be considered a specialized operation. However, the servicing of single piece rim wheels is not a specialized industry because the servicing of such wheels occurs across industry lines. Considering the number of large vehicles utilized for movement of persons and goods by motor vehicle throughout almost all industry, and the correspondingly high number of individual rim wheel servicings, OSHA concludes that it is necessary to regulate the servicing of single piece rim wheels.

1. Scope—paragraph (a). The multi-piece rim wheel standard is amended so that the servicing of single piece rim wheels and multi-piece rim wheels are incorporated into one standard. This incorporation allows the employer and employee to find those requirements for compliance in one text. This standard is intended to provide protection to employees engaged in the servicing of all rim wheels used on trucks, tractors, trailers, buses and other large vehicles. It applies to the servicing of these large vehicle rim wheels, whether they are serviced at the employer's place of business or at a remote location.

The proposal provided coverage of servicing operations in general industry and maritime employment. At the time of the proposal, OSHA did not believe that significant risk had been demonstrated for single piece rim wheel servicing in either construction or agriculture. The record of this rulemaking has provided no additional information on this point. Should additional data become available in the future on construction or agricultural injuries from servicing of single piece rim wheels, OSHA will consider whether further rulemaking activities are warranted.

Subsequent to the proposal, OSHA has issued a Final Rule on Marine Terminals (48 FR 30886) which does not address single piece rim wheels. It is planned to include coverage of single piece rim wheels for maritime employment by further rulemaking.

The proposed standard would have covered the servicing of multi-piece and single piece rim wheels used on trucks, trailers, buses and off-road machinery. The scope paragraph of the proposal excluded rim wheels on automobiles and light duty trucks or vans using automobile tires. However, single piece rim wheels were defined according to size in the definition paragraph. One commenter (Ex. 3–17) pointed out that approximately 15% of all new automobiles utilize a spare tire with a 16-inch bead which would be covered by the proposed standard if adopted. This commenter further pointed out that some 1984 cars have been designed to utilize 16-inch wheels.

One commenter (Ex. 3–18) contended that the proposed exclusion of automobile tire servicing was not justified because the hazard of the sudden release of the pressurized air is greater than indicated in the preamble of the proposal. It was suggested by two commenters that OSHA amend the scope to cover all single piece rim wheels (Ex. 3–16 amd 3–18). Other commenters suggested that the meaning of automobile tires (Ex. 3–10), light truck vs. truck, off-road machines, etc., be clarified (Exs. 3–7 and 3–11).

Upon its review of the rulemaking record, OSHA has determined that there is insufficient evidence of a significant hazard during the servicing of automobile type rim wheels. For this reason, the servicing of automobile rim wheels will not be included in the final standard. Similarly, since the hazard of low pressure, light duty truck tires is essentially the same as for automobile type tires, their servicing is also excluded. OSHA has decided to use the commonly accepted term pick-up or van rather than the more general term light duty truck to define that class of vehicles. The action taken at this time does not preclude the initiation of further rulemaking at a later date if sufficient additional data becomes available to justify the need for the regulation of automobile and light duty truck tire servicing.

This final standard applies to the servicing of all rim wheels used on large vehicles such as trucks, tractors, trailers, buses and off-road machines, except those utilizing automobile or truck tires designated "LT".

2. Definitions—paragraph (b). The definitions adopted in this final standard are generally those which are commonly used in the tire and wheel industries; however, some of the definitions have been modified to accommodate the regulatory nature of this standard and to minimize the potential for misunderstanding as indicated below. It was suggested that the definition of single piece wheels not be based on rim size (Exs. 3–18, 3–20 and 3–29). A single piece wheel was defined in the proposal as "a vehicle wheel or rim . . . with a diameter of 14.5 inches or more and a bead seat angle of 15°, or a diameter greater that 15 inches and a bead seat angle of 5°."

Several commenters noted that the scope paragraph of the standard and the definition of single piece rim wheels were inconsistent (Exs. 3–7, 3–10, 3–16, 3–17, 3–18 and 3–19), as the scope excluded automobile tires while the definition included some automobile tires by designating wheel size limits. Others recommended expanding the definition to include inflation pressures because such pressures were more related to hazards of servicing than the rim size (Exs. 3–10 and 3–27). OSHA has concluded after reviewing the suggested language that the definition of single piece wheels should not be based on rim size. Likewise it is difficult to define a single piece rim wheel according to the inflation pressure because the severity of the hazard is dependent upon the volume of the contained air as well as its pressure. Therefore OSHA has revised the definition of a single piece rim wheel to be any rim wheel utilizing a one-piece wheel.

The proposal required the use of a barrier or restraining device during the inflation of single piece rim wheels, and a restraining device during inflation of multi-piece rim wheels. The final rule maintains the current requirement for the use of restraining devices in the servicing of multi-piece rim wheels. However, the proposed modification of this provision, to allow the use of devices or equipment which were not specifically designed for use as restraining devices, has also been adopted. As was noted in the proposal, OSHA believes that it is not necessary to specify that a particular type of device be used to protect servicing employees from multi-piece rim wheel explosions. The comments received in response to the proposal were strongly in favor of providing additional flexibility for the employer in this regard. However, as the record of the previous rulemaking proceeding on multi-piece rim wheels made perfectly clear, there is a recognized need for some piece of equipment or device to be used to restrain multi-piece rim components.

Several commenters (Ex. 3–5, 3–6A, 3–18, 3–20, and 3–23) contended that because the strength requirements of barriers and restraining devices were the same, either of these two methods of protection should be permitted for multi-piece rims as well as single-piece rims. However, OSHA declines to extend the use of barriers to multi-piece rims. The testing and accident data on single-piece rim accidents, relied upon in the proposal, led the Agency to determine that a barrier would provide sufficient protection to employees engaged in single-piece rim wheel servicing, provided that they also stayed outside the trajectory. No such supportive data was submitted to the record to support an extension of this method to multi-piece rim wheels. To the contrary, OSHA, concluded, based on its full and complete rulemaking record on servicing of multi-piece rim wheels in 1980, that a cage, arrangement of bars, or comparable mechanism was needed to provide adequate protection for multi-piece rim wheel servicing. No new information has been developed since that time to convince the Agency to change its previous conclusions at this point. The parallel strength requirements provided for restraining devices and barriers in the present rulemaking are intended only to provide a comparable margin of safety for employees in all servicing operations. It should be noted, in this regard, that restraining devices used for multi-piece rim wheels are considered to be an acceptable means of restraint for single-piece rim wheels, as well.

The differences between a restraining device and a barrier also occur in the definitions. A restraining device is a commonly used term for a generic device utilizing bars, pipes, and/or other metallic components to form a restraint which is also referred to as a "safety cage." (See the charts or rim manuals for a picture of a typical restraining device in use.)

In the proposed amendment, OSHA defined a barrier as a fence, wall or other structure which is used to contain the rim wheel components in the event that there is a sudden release of the pressurized air of a single piece rim wheel.

Although OSHA recognizes that a barrier could serve a dual purpose (contain rim wheel components and deflect the pressurized air) it was not OSHA's intent to require that a barrier would have to deflect the blast of air from a single piece rim wheel separation. Since the path of travel of the shock wave of the pressurized air is essentially perpendicular to the plane of the wheel, OSHA determined that requiring the employee stay outside the trajectory during inflation provides sufficient protection.

Three commenters (Exs. 3–5, 3–14, and 3–23) recommended including in the definition of a barrier that its purpose is to deflect the pressurized air as it is released from a single piece rim wheel. One of these commenters (Ex. 3–5) pointed out that air is not a solid and requires different means to manage it. In a test conducted by NWRA (Ex. 2–6), the shock wave of the compressed air was found to move generally perpendicular to the plane of the rim wheel with negligible effect outside the trajectory. As employees are required to remain outside the trajectory during tire inflation, to require that the barrier deflect the shock wave outside the trajectory might result in deflecting it towards the employee and, thus, would not necessarily increase employee safety.

3. Training—paragraph (c). This standard requires every employee who services large vehicle rim wheels to be trained by the employer in the proper techniques and practices applicable to the type of wheel being serviced. Training is required because many rim wheel servicing mechanics do not understand the potential dangers of servicing these rim wheels. A large number of the new employees service large vehicle rim wheels with no prior experience and/or training due to the large turnover of employees. Likewise the need for training is substantiated by a review of the accident cases in which the accident was caused by non-adherence to the industry-accepted procedures which are incorporated in this standard (see Item F, Significant Risk, above). OSHA considers that training, in conjunction with the use of a restraining device or barrier and the proper air line accessories, can contribute significantly to a reduction of accidents.

This standard does not specify the details of the training program, but simply requires the development and maintenance of employee proficiency in given elements of servicing. A mechanic's level of proficiency must be established by demonstration of his or her familiarity with and ability to use the information contained in the charts, rim manuals and this standard.

The training provisions of the standard are stated in performance language, allowing the employer flexibility in complying with the requirement for training. The responsibility of providing adequate training and evaluating the employee's proficiency rests with the employer.

OSHA has considered the fact that some employees may need relatively little training and practical experience to grasp the proper methods, techniques and practices, and would need little or no periodic refresher training. Others may require additional initial training and periodic refresher training to develop and retain their knowledge of safe methods and procedures.

In the final standard, the training requirement has been written to assure that an employee receives appropriate training to enable safe performance of the tasks which are involved in servicing both single piece and multi-piece rim wheels. In addition to the initial training required, this final standard places a continuing obligation on the employer to evaluate the capability of each employee and assure that the employee maintains competence at servicing rim wheels. This not only insures that the initial training is effective, but also provides a means of determining the need for remedial or refresher training.

4. Tire Servicing Equipment-paragraph (d). A majority of the rim wheel servicing accidents occur while the tire is being inflated. The unintended separation of a multi-piece rim wheel, or the sudden release of the pressurized air contained in a single piece rim wheel, is the primary cause of the occupational accidents involving these rim wheels. Accordingly, a significant reduction of injuries can be attained through use of a

restraint, such as a restraining device or barrier, to contain the rim wheel components and protect employees from lethal airborne rim wheel components.

In the standard on servicing multi-piece rim wheels, OSHA required that restraining devices must be specifically designed to restrain rim wheel components. This provision was intended to ensure that employees would not use devices or components of equipment which were inadequate to perform that function. In the proposed amendment to the standard, OSHA proposed deletion of the "specifically designed" requirement. OSHA reasoned that any device or piece of equipment which was not originally designed or intended to be used as a restraint, could be used as a restraining device if it was capable of protecting the employee as prescribed in the proposal.

The final rule is written to ensure that restraining devices and barriers meet minimum strength requirements. Several commenters (Ex. 3–3, 3–16, and 3–19) suggested that some pieces of equipment might erroneously be considered as restraining devices and stressed that OSHA should clarify such instances. This would preclude an employee from utilizing a makeshift restraint from some inefficient material; for example, an employee using an old rusty chain to restrain a rim wheel by wrapping the chain around the rim wheel. The standard specifically defines what constitutes a barrier and a restraining device, and sets forth performance criteria which must be met.

Due to the magnitude of the forces associated with a rim wheel separation, it is necessary to specify strength requirements for restraining devices and barriers. Since the forces associated with an unintended separation of a multi-piece rim wheel and the sudden release of the contained air in a single piece rim wheel are of the same magnitude, the design factor (the ratio of the working load limit to the ultimate strength of the device) for restraints used for servicing both type rim wheels should be the same. OSHA proposed that the generally accepted minimum design factor of 1.5 for machinery, which was adopted for restraining devices, should also be applied to barriers since the restraining device and barrier serve the same purpose and their use is interchangeable for single piece rim wheels.

The proposal required that when servicing single piece rim wheels, the employer shall provide a restraining device or barrier, except when a single piece rim wheel is bolted to the vehicle during inflation. One commenter (Ex. 3–11), addressing the use of restraining devices, noted that there is a design difference between a vehicle for use on highways and off-road machines. Because of the unique characteristics of off-road machines, the commenter suggested that separate paragraphs be used to address these differences. This commenter pointed out that some off-road machines have wheels which are an integral part of the machine's axle and cannot be removed, making the use of a restraint impractical. This commenter suggested that a barrier could be used, provided a barrier is defined as the machine itself and/or the service vehicle, and the employee stays out of the trajectory during inflation of the tire.

Since a barrier is defined in this final standard as an object or structure placed in the potential trajectory of a rim wheel to contain the rim wheel components in the event of the sudden release of the contained air of a single piece rim wheel, the use of the service vehicle or the machine itself is permissible provided the strength requirements of this standard are met. The above commenter also suggested that multi-piece rim wheels which are not an integral part of the vehicle axle could be inflated safely while bolted onto the vehicle with the lug nuts. OSHA disagrees. Unlike the single piece wheel, which is only one piece, the components of a multi-piece wheel (e.g., the locking rings and the side rings) cannot be restrained simply by bolting the multi-piece rim wheel to the axle. Therefore, in the event of an explosive separation the rim wheel components could still ricochet around the workplace even if the wheel were bolted to the axle. Requiring the employee to stand out of the trajectory without restraining a multi-piece rim wheel does not offer adequate protection to the employee.

Accordingly, the final rule does not allow bolting to the axle as an exception to the use of a restraining device for inflation of a multi-piece rim wheel. However, paragraph (d)(2) does allow an employer to bolt a single piece rim wheel to an axle as a means of complying with the restraint requirements of the standard, because that practice would effectively restrain that type of wheel.

Paragraph (d)(3)(i) proposed the same strength requirements for barriers as for restraining devices. The multi-piece rim wheel servicing standard required that a restraining device be capable of withstanding the maximum force occurring at 150% of the maximum tire specification pressure. A few comments contained arguments that the requirement of 150% of recommended tire pressure does not ensure a restraining device of adequate strength to protect employees from rim wheel separation. It was stated that a tire with a 32 psi maximum inflated pressure would only require a restraining device capable of restraining the rim wheel components if the separation occurred at 48 psi (Ex. 3–16). This commenter contended that typical tire servicing businesses have air compressors in the range of 140 to 175 psi and therefore a tire could easily be inflated above the 48 psi capability of the restraint. Likewise another commenter (Ex. 3–18) noted that "A 750–16 8-ply rated tire, for example, would not be adequately restrained above 97.5 psi, yet this tire could be inadvertently inflated to 150 psi and above with the compressor inflation delivery systems commonly available." This same commenter suggested the final requirement be phrased to require that each restraining device or barrier be capable of withstanding the maximum force of a rim wheel separation or sudden release of the air occurring at a tire pressure equal to the pressure limit of the available inflation delivery system (air supply).

Even though overinflation has been a contributory factor in some accidents, OSHA does not accept the above contentions. The Agency has determined that the strength requirements of this standard are correct for two reasons. First, although any rim wheel can be rapidly overinflated to the maximum pressure of the air delivery system, the operating procedures required in this final standard prohibit inflating a tire to a pressure exceeding the manufacturer's recommendation. In addition, requiring the utilization of a restraint which would meet the strength requirements necessary to contain a rim wheel with the tire inflated to the pressure of the air system is not feasible, as such design requirements would make these restraints exraordinarily large, unwieldy, and expensive.

In paragraph (d)(3)(iii), OSHA proposed to preclude a barrier or restraining device from having a flat, solid surface (such as the bed of a tire changing machine) against which a rim wheel could lie or lean during inflation. This rule was proposed because a series of tests conducted by NWRA (Ex. 2–6) showed that when a single piece rim wheel lay unrestrained on the ground it was propelled over 30 feet into the air, after the air was suddenly released on the side closest to the ground. Contrary to the opinion of one commenter (Ex. 3–16), the rim wheel movement was not caused by the jet effect of the escaping

air, but was due primarily to the flexure of the sidewalls of the tire. In reviewing this proposed provision, OSHA has become aware that the protection provided by proposed paragraph (d)(3)(iii) was also provided in paragraph (g)(7), which prohibits tires from being inflated when a flat solid surface is in the trajectory and within one foot of the tire's sidewall. OSHA realizes that this resulted in unnecessary duplication. In addition, in referring to the bed of a tire changing machine in proposed paragraph (d)(3)(iii), OSHA did not intend to imply that a tire changing machine is a restraint. Although the wheel could be attached to a tire changing machine, a manufacturer of tire changing machines indicated that a tire changing machine is not a restraining device as it does not meet the necessary strength requirements, and should not be used as such (Ex. 3–16). Further, paragraph (g)(4) limits the amount a tire may be inflated while on a tire restraining machine. Therefore, OSHA has deleted the proposed (d)(3)(iii) in the final standard to reflect these concerns. Paragraph (g)(7) accomplishes OSHA's intent as it assures that employees do not lay a rim wheel against a barrier or any other solid flat surface during inflation.

In the proposed amendment of paragraph (d)(3)(v), OSHA required the employer to obtain certification by the manufacturer or a registered professional engineer to service. Seven commenter (Exs. 3–5, 3–6, 3–9, 3–13, 3–14, 3–18, and 3–23) questioned the necessity of a registered professional engineer to certify that a restraining device or barrier, which has been removed from service, can be returned to service. These commenters contended that since the determination of whether or not a restraining device or barrier is damaged is left to the employer, the decision as to the device's capability of meeting strength requirements should be left to qualified service people. One commenter (Ex. 3–18) noted that the employer is ultimately responsible for employee safety under the Occupational Safety and Health Act; therefore, such a decision should be made by the employer. Finally, one commenter suggested that where the employer is also the manufacturer, particularly when a barrier is in use, the employer is competent to assess the capabilities of the device.

When a barrier or restraining device becomes unserviceable, the problems such as cracks at welds or excessive corrosion can usually be detected by visual inspection. For these reasons, paragraphs (d)(3)(iii) and (iv) provide that the employer must assure that a restraining device or barrier would meet the strength requirements if the restraint has been removed from service; but a restraint must still be certified by a manufacturer or professional engineer following structural repair such as component replacement or rewelding.

OSHA proposed that a hose assembly with a clip-on chuck; a sufficient length of hose to allow the employee to remain outside the trajectory during tire inflation; and an inline pressure gauge or a presettable regulator, be used when inflating rim wheels. Several commenters (Exs. 3–5, 3–6, 3–18 and 3–23) disagreed with the terminology of this proposal, preferring to call the tire filling apparatus an "air line assembly." One commenter (Ex. 3–18) suggested the inclusion of a requirement for both an inline valve and presettable regulator, a nomenclature change from hose assembly to air line, and a clarification of what constitutes a sufficient length of hose when a presettable regulator is utilized. Concern was also expressed that readers would assume OSHA required the regulator to be a part of the hose. OSHA does not agree that a requirement for an inline valve plus a presettable regulator is necessary, and has adopted the proposed language to allow the employer flexibility in choosing the type of air line assembly to be used for inflation of tires. The recommended change in terminology to "an air line assembly" has been adopted in the final rule.

5. Wheel component acceptability-paragraph (e). The current standard for servicing multi-piece rim wheels requires that rim wheel components be compatible and serviceable. Mating surfaces of tires and wheels are required to be free of foreign material when assembled. It was proposed to add a specific provision for both multi-piece and single piece rim wheels, to require the checking of the wheel and tire for compatibility. Tire and wheel mismatching was identified as a major cause of the accidents which have occurred during the servicing of both multi-piece rim wheels and single piece rim wheels. Several accidents have been reported as the result of an employee attempting to mount a tire on a wheel whose bead diameter is too large for the tire, such as a 16-inch tire being installed on a 16½-inch wheel. The opposite situation is equally hazardous, e.g., when a tire of larger diameter is installed on a wheel of smaller diameter, as the tire bead will not firmly seat into the rim gutter and can slip over the rim flange, particularly when the tire is being inflated. The final rule requires that the wheel and tire be checked to assure that they are compatible.

In the proposed amendment to the standard on servicing multi-piece rim wheels, OSHA raised the issue as to whether the present charts which cover multi-piece rim wheels should be revised to include the servicing of single piece rim wheels. Because the majority of servicing accidents were linked to improper procedure and/or mismatching components, the requirement for charts was to assure that a handy, easily accessible means to confirm the correct procedure and/or components for servicing rim wheels was available to the employee. The response of commenters varied from suggesting deletion of all chart references to incorporating additional charts for single piece rim wheels (Exs. 3–4, 3–5, 3–6, 3–10, 3–13, 3–14, 3–18, 3–20, and 3–23).

In the final standard, charts are defined as the U.S. Department of Transportation posters or any other publication containing, at a minimum, the same instructions, precautions and other information. A review of the rim manuals available to OSHA (Docket S–005, Ex. 2–5) indicates that the rim manuals contain, at least, the same instructions, precautions and other information as the charts. OSHA believes, therefore, that it is not necessary to revise the charts because the information is available in the rim manuals. Since the goal of the regulation requiring charts was to make the necessary information available to the employee providing the rim wheel servicing, OSHA has decided not to publish a separate chart for servicing single piece rim wheels, but, has changed the definition of charts to permit the use of rim manuals to comply with the provision requiring charts in a service area.

OSHA considers the availability of the information contined on the charts and the rim manuals to be essential in the workplace, not only to assist the employee in performing the job safely but also to aid the employer in training and supervision. Therefore, OSHA continues to require that charts or rim manuals be available at the workplace when servicing rim wheels.

Five commenters (Exs. 3–6, 3–10, 3–20 and 3–21) made suggestions regarding the requirements of paragraph (e)(2). This paragraph set requirements for inspection prior to assembly and required that unserviceable wheels be rendered unusable and discarded. Four commenters (Exs. 3–6, 3–10, 3–20 and 3–21) suggested the inclusion of the words "or wheel components" in the criteria

for rejection of wheels. One commenter (Ex. 3–21) suggested that it was inadvisable to render unusable and discard an unserviceable wheel or its components, particularly when that wheel or component could have been in use when a rim wheel incident occurred, and may be required as evidence in litigation.

Additionally one of these commenters pointed out that the requirement in paragraph (e)(4) for a matching bead diameter was incomplete, as a wheel and tire with different widths were equally unsafe (Ex. 3–8). It was recommended that the wording of (e)(4) be changed to read "matching size" instead of "matching bead diameter."

OSHA has considered the comments regarding the proposed requirement to render unserviceable wheels or wheel components unusable. The intent of this regulation was to assure that an employee would not attempt to reuse an unserviceable part. Rendering the part unusable is certainly one method to guard against reuse of those parts. However, OSHA does not believe that such action is necessary to prevent reuse of unserviceable wheel components in all cases.

In an effort to maintain the intent of the requirement and yet allow the employer more flexibility, the final standard will continue to prohibit the use of an unserviceable part, but will not require that the part be rendered unusable. Instead, the employer must assure that the unserviceable part is not used and is designated as unserviceable and placed or stored away from serviceable parts.

Based on the above comments, OSHA has modified paragraph (e)(2) to include the terminology "or rim component", and paragraph (e)(4) to specify the need to match both wheel bead diameter and width with the allowable values for the tire.

6. Safe operating procedures—multi-piece rim wheels—paragraph (f). In the standard for servicing multi-piece wheels, OSHA requires the utilization of certain procedures which are generally recognized in the tire servicing industry as those procedures which are essential to ensure that the servicing is done safely. These procedures include deflating the tire before demounting or removing the rim wheel when there is known or suspected damage to the wheel. The standard requires the use of rubber lubricant, the use of a restraining device during inflation, and inspection of the rim wheel following inflation and before removal from the restraining device. Certain work practices are prohibited, including hammering, striking or forcing the components to get them seated properly, and the reworking of damaged wheel components. Additionally, employees are required to remain outside the trajectory during tire inflation. Although there are several minor changes in this paragraph, this final rule does not change the above mentioned elements of the standard in any major way.

In the proposed amendment, OSHA proposed to allow the heating of lug nuts to facilitate their removal from the vechicle's axle studs after the tire was completely deflated. Four commenters (Exs. 3–6A, 3–18, 3–20 and 3–23) objected to the application of heat to any metallic wheel component, including the lug nuts. These parties objected to any application of heat to a wheel, as it would have a detrimental effect on the strength, yield modulus and other properties of the metal. OSHA agrees that the application of heat may adversely affect the design and function of wheel components. There are alternative methods of releasing frozen lug nuts that are in general use in the industry, such as the use of penetrating oil or graphite solution. Therefore, the final standard has been revised to prohibit the use of heat on any wheel component.

Comments were also received regarding the use of rubber lubricant as required in paragraph (f)(3). One commenter (Ex. 3–11) recommended that the use of rubber lubricant on off-road machine rim wheels be required only "as needed." This commenter, an off-road machine manufacturer, stated,

> Excessive rubber lubricant can cause tire slippage on the wheel and corrosion with the tire. Since the requirement really has nothing to do with safe assembly procedures, but is only a matter of convenience, it's (sic) use should not be mandatory and probably should not be in the rule.

Contrary to the claims of this commenter, available literature, such as the Goodyear Off-Highway Rim Manual (Docket S–005, Ex. 2–25, Attachment 5), indicated the need to use rubber lubricant to allow the tire bead to be slipped over the rim flange during assembly of the rim wheel with a minimum of potential for the tire bead to be cut or otherwise damaged. Damaging the tire bead during rim wheel assembly can cause premature failure of the tire at a pressure far below the maximum operating pressure of the tire. This failure could cause the type of injuries of OSHA intends to prevent. If there is some reason not to use rubber lubricant on a particular type rim wheel, either the tire or wheel manufacturer will recommend that it not be used. For the above reasons, OSHA will continue to require the use of rubber lubricant unless the tire and/or wheel manufacturer recommends it not be used.

One commenter (Ex. 3–11) recommended that vehicle tires on multi-piece wheels be allowed to be reinflated while remaining on the vehicle if the tire contained more than 80% of the recommended pressure or was less than 20 psi below the rated tire pressure. This commenter contended that low pressure tires (those with 20 to 40 psi maximum inflating pressures) could be run with very low pressures without damaging the wheel or tire. Adoption of the 20 psi parameter could allow the low pressure tires to be run from zero to 50% of their rated capacity and still be reinflated while the rim wheel remained on the vehicle. OSHA has no evidence that any tire could be run while this severely underinflated without causing damage to the tire. OSHA requires that tires must be inflated while protected by a restraining device; therefore, requiring removal of the rim wheel is necessary to reinflate the tire because a multi-piece rim wheel cannot be restrained while on the vehicle.

7. Safe operating practices—single piece rim wheels—paragraph (g). In paragraph (g), OSHA proposed the utilization of safety procedures which have been used in those segments of the tire servicing industry which have the lowest accident rate (Ex. 2–3 and Docket S–005, Ex. 2–1). OSHA has determined that adherence to these procedures reduces the hazards of servicing single piece rim wheels. Many procedures are necessary for servicing both multi-piece and single piece rim wheels. When the servicing procedures differ, such as the requirement for mounting and demounting the tire only on the narrow ledge side of the single piece wheel, or the requirements relating to the use of the tire changing machine, these procedures have been specified as applying to one or the other type of wheel.

In paragraph (g)(1), OSHA proposed to require that the tire be completely deflated by removal of the valve core before demounting. One commenter (Ex. 3–18) recommended that the valve core be fully inserted before inflating the tire. This commenter did not specify whether the valve core was to be in place prior to the employee inflating the tire enough to force the tire bead up onto the bead seat or before final inflation. The usual procedure used in the servicing of tubeless tires is to attach the air chuck to the valve without the valve core being in place following assembly, but before

the cone of the tire changing machine is loosened. The employee then tries to manipulate both tire beads onto the bead seats by using a bead expander or by manually manipulating the tire while blowing air into the tire. As soon as the tire bead slips onto the bead seat, the chuck is removed, the air escapes, the valve core is inserted and the center spindle of the changing machine is loosened. The tire is then inflated to the correct pressure. The presence or absence of the valve core does not significantly affect pressure build-up or bead hang-up; therefore, the change suggested by the commenter is not necessary and is not included in the final rule.

Paragraph (g)(2) proposed that mounting and demounting of the tire be done only from the narrow ledge side of the wheel; that care be taken to avoid damage to tire beads while mounting tires on wheels; and that tires be mounted only on compatible wheels of matching bead diameter. As noted earlier, one commenter (Ex. 3–18) pointed out that the tire and wheel width must also be compatible. Since a mismatch of a wheel and tire can occur either with the bead diameters or the tire and wheel widths, OSHA has amended the final standard to require that tire and wheel bead diameter and width be compatible.

OSHA proposed to require the use of rubber lubricant when assembling a single piece rim wheel (paragraph (g)(3)). As discussed above in the discussion of paragraph (f)(3), OSHA will require the use of rubber lubricant unless the wheel or tire manufacturer advises against its use. One commenter (Ex. 3–6) recommended that rubber lubricant used during the assembly of single piece rim wheels not contain any flammable substances. Since the point at which a substance will spontaneously ignite is decreased as the partial pressure of oxygen in the air increases (as the air is compressed), this is a necessary addition to the standard, particularly for the servicing of tubeless tires. Therefore, the final rule will require that rubber lubricants used on single piece rim wheels not be flammable.

In paragraph (g)(4), OSHA proposed to allow the use of a tire changing machine during inflation only to seat the tire bead, and only during inflation of the tire to no more than 10 psi. Seven commenters (Exs. 3–5, 3–6, 3–16, 3–18, 3–19, 3–21 and 3–24) responded to this proposed servicing requirement. Five commenters recommended increasing the maximum pressure to 40 psi, while one commenter suggested deleting the requirement as being design restrictive. In the standard on servicing multi-piece rim wheels (44 FR 6706, January 29, 1980), OSHA required that the minimum amount of air (3 psig) be used to force the tire bead onto the bead seat rather than to fully seat the bead. Because several informal reports after the promulgation of the multi-piece rim wheel standard indicated that the pressure of 3 psig was difficult to determine, OSHA proposed an increase in pressure up to 10 psi. This increase accomplished OSHA's intent without significantly increasing the hazards of inflation. However, one commenter (Ex. 3–6) pointed out, and OSHA agrees, that it is not necessary to seat the bead fully before the rim wheel is handled. It is only necessary to use enough pressure to force the tire bead onto the bead seat and provide an airtight seal to allow placement of the rim wheel into or behind a restraint or onto a vehicle. Therefore, the standard will only allow the use of the minimum amount of air to force the tire bead onto the seat before placing the rim wheel in a restraining device or behind a barrier.

Paragraph (g)(5) was proposed to allow the use of a bead expander only to seat the beads of a tire. Five commenters (Exs. 3–6, 3–13, 3–14, 3–18 and 3–21) addressed the proposed requirement. Four of the commenters recommended maximum tire inflation pressures from 3 to 40 psi before removal of tire expander. One commenter (Ex. 3–6) recommended that a bead expander be removed as soon as the air seal is obtained. Based upon the same rationale as discussed for the adoption of paragraph (g)(4) above, OSHA believes that a bead expander should be removed as soon as the air seal is obtained (the tire bead is forced onto the rim ledge).

In paragraph (g)(6), OSHA proposed to allow tires on single piece wheels to be inflated above 10 psi only while contained in a restraining device, positioned behind a barrier, or bolted on a vehicle with the lug nuts fully tightened. Although the provision has been changed, the intent remains the same. The words "shall only be fully inflated" have been substituted for the words "may be inflated above 10 psi only." This change is consistent with the changes made in the rest of the paragraph. This restriction would also preclude the use of a tire changing machine as a restraining device as paragraph (g)(4) limits the amount a tire may be inflated while on a tire changing machine.

Paragraph (g)(7) was proposed to prohibit the placement of a rim wheel during inflation so that a flat, solid surface is in the trajectory and within one foot of the sidewall. Seven commenters (Exs. 3–5, 3–6, 3–8, 3–14, 3–18, 3–19 and 3–22) advised changing the requirement. Most felt that the requirement was impractical. One objection was that the prohibition precluded storage of tires. OSHA intended this requirement to apply only when the tire on a single piece wheel was being inflated. Even though a restraining device or barrier is being used, a rim wheel or its components which become airborne in the event of the sudden release of the air could be propelled about the workplace if the part ricocheted off a surface. Prohibiting the placement of a rim wheel within a foot of a flat, solid surface during inflation will ensure that the rim wheel will not become airborne. The requirement has been amended to reflect OSHA's intent.

OSHA proposed paragraph (g)(8) to require that tires not be inflated above their recommended tire pressure. Seven comments (Exs. 3–5, 3–6, 3–11, 3–14, 3–18, 3–20 and 3–21) were submitted seeking clarification of the requirement. A majority of the commenters pointed out that there are a variety of recommended operating pressures for various rim wheel applications. The U.S. Department of Transportation regulation, FMVSS 119 (49 CFR 571), requires a stamping on each tire indicating a maximum load at a recommended tire pressure. OSHA believes that overinflation can enhance the potential for accidents. Recognizing that some manufacturers' accompanying literature recommended inflating tires above the pressure stamped on the tire sidewalls in certain circumstances, the final rule restricts the inflation of tires during servicing to the tire pressure stamped on the sidewall unless the tire manufacturer recommends a higher pressure.

As OSHA discussed in the preamble to the proposal, employees must remain outside of the trajectory during tire inflation. In the final standard, the requirement remains as proposed; requiring an employee to remain outside the trajectory during inflation in conjunction with the other safe servicing procedures will prevent an employee from being struck by an airborne rim wheel component.

Paragraph (g)(10) proposed to require that if the tire beads do not fully seat by the time the tire is inflated to its recommended pressure, the rim wheel must be disassembled and the cause determined. Although five commenters (Exs. 3–6, 3–16, 3–18, 3–19, and 3–20)

recommended a maximum inflation to no more than 40 psi to seat the bead (force the tire bead against the rim flange), one commenter (Ex. 3–11) pointed out that some tires used in specialized applications require different bead seating pressures. OSHA recognizes such situations and, therefore, the final rule requires inflation to no more than the tire or wheel manufacturer's recommendation for seating the bead of the rim wheel being serviced.

In paragraph (g)(11), OSHA proposed to prohibit the use of heat except to free bound lug nuts. As noted in the discussion of paragraph (f)(11) above, OSHA is prohibiting the use of heat on a rim wheel for any purpose.

The proposed paragraph (g)(12) prohibited the use of heat to repair unserviceable wheels and referred to heating of lug nuts. Based on the rationale used to support the decision on paragraphs (f)(11) and (g)(11) above, OSHA maintains its prohibition on the use of heat on all wheels.

Two commenters (Ex. 3–6 and 3–23) recommended the inclusion of a new appendix giving examples of acceptable restraining devices and barriers. The choice of the type of restraint, the materials from which it is constructed and how it will be used are based upon factors such as: the type of rim wheels to be serviced (the size and type of components); the frequency of use of the restraint; and the environmental conditions under which the restraint will be used and stored. Based upon the number of variables which must be considered in designing and making a restraining device or barrier, OSHA has decided that an Appendix containing specifications, diagrams or descriptions of restraining devices might appear to give an endorsement to particular types or designs of devices. In addition, such an Appendix might appear to restrict innovation in development of future designs. It should be noted, however, that pictures of various restraining devices in use are shown on the charts and in the rim manuals, either of which is required to be available at the worksite.

3. Regulatory Impact Assessment

In accordance with Executive Order No. 12291 (46 FR 13193, February 17, 1981), OSHA has assessed the potential economic impact of this standard. Based on the Executive Order criteria, OSHA has determined that this amendment is not a "major" action and OSHA has prepared a Regulatory Impact Assessment of the amendment.

OSHA's determination that the amendment will not have a major impact is based primarily upon three studies. The first study is a June 1973 report by Centaur Management Consultants, Inc., for OSHA entitled "Economic Impact Statement/ Assessment for Multi-piece Rim Assemblies" (Docket S–005, Ex. 2–33). The second study is a March 1981 report by Dr. Roger L. McCarthy and Mr. James R. Finnegan of Failure Analysis Associates for the National Wheel and Rim Association (NWRA) entitled, "Large Vehicle Wheel Servicing: Reduction of Risk Through Implementation of an OSHA Standard Governing Multi-Piece and Single Piece Rims" (Docket S–010, Ex. 3). The third study is a March 1981 report by Dr. Thomas Gale Moore of the Hoover Institute for the NWRA entitled "An Economic Evaluation of Proposed OSHA Single Piece Rim Standard" (Docket S–010, Ex. 4).

Most, if not all facilities which will service single piece rim wheels currently service multi-piece rim wheels. As a result, OSHA concludes that the promulgation of a single piece rim wheel servicing standard will result in no additional capital costs because the equipment which must currently be provided for compliance with the multi-piece rim wheel servicing standard will also meet the equipment requirements for single piece rim wheel servicing.

OSHA estimates that the total number of large vehicle rim wheels to be serviced will generally be constant over the next ten years. OSHA expects that the number of single piece rim wheels serviced will increase as the number of multi-piece rim wheels serviced decreases. As a result, equipment currently used to service multi-piece rim wheels will be shifted to servicing single piece rim wheels and no additional equipment will need to be purchased in order to comply with the single piece rim wheel servicing standard.

However, there will be initial and continuing training costs imposed by the employee training requirements of the standard. These costs, in 1981 dollars, are estimated to be, at most, $2.515 million in the first year and about $0.908 million (growing at a yearly rate of 1.6%) in each succeeding year. This maximum cost is calculated under the assumption that all employees (including supervisors) will require training at overtime wages during the first year that the standard is effective. The estimate also assumes a 50 percent turnover rate for nonsupervisory employees, and a 33 percent turnover rate for supervisors in subsequent years. As a result, it is assumed that employers will be required to train a new nonsupervisory employee every year and a supervisor every two years. Assuming 15 minutes of additional training, the present value (discounted to 1981 by 10%) of this training cost is estimated at $8.3 million over the 1981 to 1990 period. As noted above, OSHA believes that this is an upper bound estimate of the training cost involved.

In addition, the standard will have some negative effects on productivity because it will require that tires on single piece wheels be inflated at a distance from the employee. This cost is estimated to be, at most, $750,000 in 1981 dollars increasing to $2.05 million in 1990. The productivity impacts are estimated on the high cost assumptions that no employees currently follow this safe servicing procedure, and that there are no positive productivity offsets, such as fewer days lost from work. Over the 10-year period 1981 to 1990, the present value (discounted to 1981 by 10%) of this "worst case" cost estimate is $8.35 million in 1981 dollars.

This makes the present value of the total costs, assuming the 10% discount rate over the 10-year period 1981–1990, approximately $16.47 million in 1981 dollars. This amounts to approximately $16 per facility per year.

OSHA has also examined the likely effects which the amendment will have on the prices charged for servicing large vehicle tires, employment, critical materials, and market structure. The rate at which employers change from multi-piece rims and tube-type tires to the more fuel-efficient single piece rims and radial truck tires will not be affected. No significant impacts on any of those areas are expected to result from compliance with the standard.

The population at risk is approximately 322,000 persons who are employed in 102,000 workplaces in ten industry sectors. As discussed earlier in the section entitled "Significant Risk", these workers will benefit from a safer workplace as a result of the standard.

The major benefit of compliance with this standard is a significant reduction in the number of fatalities and total and permanent disabilities, which are the result of accidents which occur during the servicing of single piece rim wheels. As previously noted, at least 91 injury-causing accidents involving the servicing of single piece rim wheels occurred between 1970 and 1980. The current injury rate in single piece rim wheel servicing of one in every million tire changes is about the same as the injury rate which existed in multi-piece rim wheel servicing before the promulgation of the OSHA standard governing the servicing of multi-piece rim wheels.

The percentage of vehicles which utilize single piece rim wheels is expected to increase from 20 percent in 1980 to about 50 percent in 1990. This increase is largely due to greater fuel efficiency of radial tires which require, for the most part, the use of single piece wheels. Assuming this increased use, if the current accident rate does not change and if no standard is promulgated, OSHA estimates that there will be approximately 280 to 350 accidents; 50 to 67 fatalities; 50 to 67 total disabilities; 50 to 67 permanent disabilities; and 137 to 188 temporary disabilities over the 10-year period of 1981 to 1990.

OSHA's analysis of the available accident data indicates that the provisions of this standard, if followed, would have prevented nearly all of the reported accidents. In addition, OSHA has concluded that compliance with this standard will involve minimal costs to employers and that the promulgation of the standard will result in high levels of compliance. Accordingly, a corresponding large reduction in the number of deaths and injuries should follow. For purposes of the analysis, OSHA has assumed a 75 percent reduction.

It should be noted that OSHA does not endorse any particular estimate of the value of employee lives, and has not used such an estimate in determining the content and application of the final rule. However, the following discussion and calculations of the economic costs of rim wheel accidents may be illustrative of the potential benefits of OSHA's standard.

One measure of the potential benefits of the standard is the dollar amount that society would be "willing to pay" to prevent these accidents. Depending upon the methodology used, OSHA estimated that this willingness-to-pay estimate would be between $40.70 million and $72.05 million.

As another method of estimating the potential benefits of the amendment, OSHA examined the estimated lifetime earnings loss due to death or injury, the costs of long-term care for the totally disabled, and the medical costs of treating the injuries. Using the available injury data, OSHA estimated the present value in 1981 of the preventable economic losses to workers for the 10-year period 1981 to 1990 to be between $21.71 and $31.72 million. These are low cost values because the estimate of forgone wages was based upon the assumption that the injured workers would have remained repairmen and would not have advanced to higher income jobs. The estimated monetary benefits of the standard also do not include followup treatment for permanent or temporary disabilities. They also do not include intangible benefits like the social value of the worker's life, or the value of the prevented pain and suffering. In addition, they do not include any potential secondary benefits from the reduction of on-the-road truck accidents caused by rim wheel failures due to improper servicing of single piece rim wheels.

On this basis, OSHA concludes that this standard will reduce the number of worker deaths and disabilities, will provide net benefits to society, and will not adversely affect any sector of the economy.

4. Regulatory Flexibility Certification

In accordance with the Regulatory Flexibility Act of 1980 (Pub. L. 96-353, 94 Stat. 1164 (5 U.S.C. 601 et seq.)), OSHA has assessed the potential economic impact of this standard on small entities and has examined some of the alternatives to it. Based on this assessment, OSHA hereby certifies that the standard will not have a significant economic effect on a substantial number of small entities. For purposes of the Regulatory Flexibility Certification, OSHA defines a small tire servicing entity as one which employs fewer than 20 people.

The Centaur study (Docket S-005, Ex. 2) indicates that nearly all of the garages and service stations which service large vehicle tires for the general public are included in this definition of small business, and that this proposal may affect as many as 100,000 small firms. However, even using the "worst case" basis for estimating the cost of compliance, the promulgation of this standard will cost the typical small garage (one supervisor and two employees) about $32.50 the first year and between $13 and $16 per year each succeeding year. The sources of these costs are the required employee training and the increase in tire servicing time. There are some very small economies of scale in training. However, the fact that firms must train new employees as they are hired largely precludes training many employees at the same time. This is especially true in this industry which is characterized by high labor turnover. Consequently, large employers will not garner any significant economies of scale in training and these costs will be largely proportional to the number of employees trained. Similarly, the increased time needed to service each rim wheel is independent of the number of rim wheels serviced. As the smaller firm would service fewer rim wheels, OSHA believes that the minimal cost of compliance will not significantly affect small entities and will not create any competitive disadvantages for small entities. Copies of the Regulatory Impact Assessment and Regulatory Flexibility Analysis are available for inspection and copying at the OSHA Docket Office, Docket No. S-010, Room S-6212, U.S. Department of Labor, Washington, D.C. 20210. (202) 523-7894.

5. State Plan Applicability

The 24 States with their own OSHA-approved occupational safety and health plans must adopt a comparable standard within six months of this publication date. These States are: Alaska, Arizona, California, Connecticut (for state and local government employees only), Hawaii, Indiana, Iowa, Kentucky, Maryland, Michigan, Minnesota, Nevada, New Mexico, North Carolina, Oregon, Puerto Rico, South Carolina, Tennessee, Utah, Vermont, Virginia, Virgin Islands, Washington, and Wyoming. Until such time as a State standard is promulgated, Federal OSHA will provide interim enforcement assistance, as appropriate, in these States.

6. Effective Date

Based on the information in the Regulatory Impact Assessment, and in the Regulatory Flexibility Certificate, it is anticipated that the affected employers will have difficulty in complying with the provisions of this standard. There is no need for an extended delay for employers to implement the provisions of the standard. Therefore, the effective date of this standard is March 5, 1984.

The standard currently found in § 1910.177 will remain in effect until the standard contained in this document is effective.

List of Subjects in 29 CFR Part 1910

Protective equipment, Safety, Signs and Symbols.

Authority: This Document was prepared under the direction of Thorne G. Auchter, Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, Third Street and Constitution Avenue, N.W., Washington, D.C. 20210.

Accordingly, pursuant to section 6(b) of the Occupational Safety and Health Act of 1970 (84 Stat. 1593; 29 U.S.C. 655), Secretary of Labor's Order No. 9-83 (48 FR 35736), and 29 CFR Part 1911, § 1910.177 of 29 CFR is amended as set forth below.

Signed at Washington, D.C., this 30th day of January 1984.

Thorne G. Auchter,

Assistant Secretary of Labor.

PART 1910—[AMENDED]

Section 1910.177 is amended by revising the title to read, "Servicing multi-piece and single piece rim wheels," by revising paragraphs (a), (b), (c)(1), (c)(1)(i), (c)(1)(ii), (c)(2), (c)(2)(ii), (c)(2)(iii), (c)(2)(iv), (c)(2)(v), (c)(2)(vii), (c)(3), (d)(2), (d)(3), (d)(4), (d)(5), (e), introductory text of (f), (f)(2), (f)(3), and (f)(4), and by adding new paragraphs (c)(2)(iii), (d)(6), (f)(11) and (g). As amended, §1910.177 reads as follows:

§ 1910.177 Servicing multi-piece and single piece rim wheels.

(a) *Scope.* (1) This section applies to the servicing of multi-piece and single piece rim wheels used on large vehicles such as trucks, tractors, trailers, buses and off-road machines. It does not apply to the servicing of rim wheels used on automobiles, or on pickup trucks and vans utilizing automobile tires or truck tires designated "LT".

(2) This section does not apply to employers and places of employment regulated under the Construction Safety Standards, 29 CFR Part 1926; the Agriculture Standards, 29 CFR Part 1928; or the Maritime Standards, 29 CFR 1915–1918.

(3) All provisions of this section apply to the servicing of both single piece rim wheels and multi-piece rim wheels unless designated otherwise.

(b) *Definitions.* "Barrier" means a fence, wall or other structure or object placed between a single piece rim wheel and an employee during tire inflation, to contain the rim wheel components in the event of the sudden release of the contained air of the single piece rim wheel.

"Charts" means the United States Department of Transportation, National Highway Traffic Safety Administration (NHTSA) publications entitled "Safety Precautions for Mounting and Demounting Tube-Type Truck/Bus Tires" and "Multi-Piece Rim Wheel Matching Chart," or any other publications such as rim manuals containing, at a minimum, the same instructions, safety precautions and other information contained on those charts that are applicable to the types of rim wheels being serviced.

"Installing a rim wheel" means the transfer and attachment of an assembled rim wheel onto a vehicle axle hub. "Removing" means the opposite of installing.

"Mounting a tire" means the assembly or putting together of the wheel and tire components to form a rim wheel, including inflation. "Demounting" means the opposite of mounting.

"Multi-piece rim wheel" means the assemblage of a multi-piece wheel with the tire tube and other components.

"Multi-piece wheel" means a vehicle wheel consisting of two or more parts, one of which is a side or locking ring designed to hold the tire on the wheel by interlocking components when the tire is inflated.

"Restraining device" means an apparatus such as a cage, rack, assemblage of bars and other components that will constrain all rim wheel components during an explosive separation of a multi-piece rim wheel, or during the sudden release of the contained air of a single piece rim wheel.

"Rim manual" means a publication containing instructions from the manufacturer or other qualified organization for correct mounting, demounting, maintenance, and safety precautions peculiar to the type of wheel being serviced.

"Rim wheel" means an assemblage of tire, tube and liner (where appropriate), and wheel components.

"Service" or "servicing" means the mounting and demounting of rim wheels, and related activities such as inflating, deflating, installing, removing, and handling.

"Service area" means that part of an employer's premises used for the servicing of rim wheels, or any other place where an employee services rim wheels.

"Single piece rim wheel" means the assemblage of single piece rim wheel with the tire and other components.

"Single piece wheel" means a vehicle wheel consisting of one part, designed to hold the tire on the wheel when the tire is inflated.

"Trajectory" means any potential path or route that a rim wheel component may travel during an explosive separation, or the sudden release of the pressurized air, or an area at which an airblast from a single piece rim wheel may be released. The trajectory may deviate from paths which are perpendicular to the assembled position of the rim wheel at the time of separation or explosion. (See Appendix A for examples of trajectories.)

"Wheel" means that portion of a rim wheel which provides the method of attachment of the assembly to the axle of a vehicle and also provides the means to contain the inflated portion of the assembly (i.e., the tire and/or tube).

(c) *Employee training.* (1) The employer shall provide a program to train all employees who service rim wheels in the hazards involved in servicing those rim wheels and the safety procedures to be followed.

(i) The employer shall assure that no employee services any rim wheel unless the employee has been trained and instructed in correct procedures of servicing the type of wheel being serviced, and in the safe operating procedures described in paragraphs (f) and (g) of this section.

(ii) Information to be used in the training program shall include, at a minimum, the applicable data contained in the charts (rim manuals) and the contents of this standard.

(iii) Where an employer knows or has reason to believe that any of his employees is unable to read and understand the charts or rim manual, the employer shall assure that the employee is instructed concerning the contents of the charts and rim manual in a manner which the employee is able to understand.

(2) The employer shall assure that each employee demonstrates and maintains the ability to service rim wheels safely, including performance of the following tasks:

(i) Demounting of tires (including deflation);

(ii) Inspection and identification of the rim wheel components;

(iii) Mounting of tires (including inflation with a restraining device or other safeguard required by this section);

(iv) Use of the restraining device or barrier, and other equipment required by this section;

(v) Handling of rim wheels;

(vi) Inflation of the tire when a single piece rim wheel is mounted on a vehicle;

(vii) An understanding of the necessity of standing outside the trajectory both during inflation of the tire and during inspection of the rim wheel following inflation; and

(viii) Installation and removal of rim wheels.

(3) The employer shall evaluate each employee's ability to perform these tasks and to service rim wheels safely, and shall provide additional training as necessary to assure that each employee maintains his or her proficiency.

(d) *Tire servicing equipment.* (1) The employer shall furnish a restraining device for inflating tires on multi-piece wheels.

(2) The employer shall provide a restraining device or barrier for inflating tires on single piece wheels unless the rim wheel will be bolted onto a vehicle during inflation.

(3) Restraining devices and barriers shall comply with the following requirements:

(i) Each restraining device or barrier shall have the capacity to withstand the maximum force that would be transferred to it during a rim wheel separation occurring at 150 percent of the maximum tire specification pressure for the type of rim wheel being serviced.

(ii) Restraining devices and barriers shall be capable of preventing the rim wheel components from being thrown outside or beyond the device or barrier for any rim wheel positioned within or behind the device;

(iii) Restraining devices and barriers shall be visually inspected prior to each day's use and after any separation of the rim wheel components or sudden release of contained air. Any restraining device or barrier exhibiting damage such as the following defects shall be immediately removed from service:

(A) Cracks at welds;

(B) Cracked or broken components;

(C) Bent or sprung components caused by mishandling, abuse, tire explosion or rim wheel separation;

(D) Pitting of components due to corrosion; or

(E) Other structural damage which would decrease its effectiveness.

(iv) Restraining devices or barriers removed from service shall not be returned to service until they are repaired and reinspected. Restraining devices or barriers requiring structural repair such as component replacement or rewelding shall not be returned to service until they are certified by either the manufacturer or a Registered Professional Engineer as meeting the strength requirements of paragraph (d)(3)(i) of this section.

(4) The employer shall furnish and assure that an air line assembly consisting of the following components be used for inflating tires:

(i) A clip-on chuck;

(ii) An in-line valve with a pressure gauge or a presettable regulator; and

(iii) A sufficient length of hose between the clip-on chuck and the in-line valve (if one is used) to allow the employee to stand outside the trajectory.

(5) Current charts (rim manuals) containing instructions for the types of wheels being serviced shall be available in the service area.

(6) The employer shall furnish and assure that only tools recommended in the rim manual for the type of wheel being serviced are used to service rim wheels.

(e) *Wheel component acceptability.* (1) Multi-piece wheel components shall not be interchanged except as provided in the charts or in the applicable rim manual.

(2) Multi-piece wheel components and single piece wheels shall be inspected prior to assembly. Any wheel or wheel component which is bent out of shape, pitted from corrosion, broken, or cracked shall not be used and shall be marked or tagged unserviceable and removed from the service area. Damaged or leaky valves shall be replaced.

(3) Rim flanges, rim gutters, rings, bead seating surfaces and the bead areas of tires shall be free of any dirt, surface rust, scale or loose or flaked rubber build-up prior to mounting and inflation.

(4) The size (bead diameter and tire/wheel widths) and type of both the tire and the wheel shall be checked for compatibility prior to assembly of the rim wheel.

(f) *Safe operating procedure—multi-piece rim wheels.* The employer shall establish a safe operating procedure for servicing multi-piece rim wheels and shall assure that employees are instructed in and follow that procedure. The procedure shall include at least the following elements:

(1) Tires shall be completely deflated before demounting by removal of the valve core.

(2) Tires shall be completely deflated by removing the valve core before a rim wheel is removed from the axle in either of the following situations:

(i) When the tire has been driven underinflated at 80% or less of its recommended pressure, or

(ii) When there is obvious or suspected damage to the tire or wheel components.

(3) Rubber lubricant shall be applied to bead and rim mating surfaces during assembly of the wheel and inflation of the tire, unless the tire or wheel manufacturer recommends against it.

(4) If a tire on a vehicle is underinflated but has more than 80% of the recommended pressure, the tire may be inflated while the rim wheel is on the vehicle provided remote control inflation equipment is used, and no employees remain in the trajectory during inflation.

(5) Tires shall be inflated outside a restraining device only to a pressure sufficient to force the tire bead onto the rim ledge and create an airtight seal with the tire and bead.

(6) Whenever a rim wheel is in a restraining device the employee shall not rest or lean any part of his body or equipment on or against the restraining device.

(7) After tire inflation, the tire and wheel components shall be inspected while still within the restraining device to make sure that they are properly seated and locked. If further adjustment to the tire or wheel components is necessary, the tire shall be deflated by removal of the valve core before the adjustment is made.

(8) No attempt shall be made to correct the seating of side and lock rings by hammering, striking or forcing the components while the tire is pressurized.

(9) Cracked, broken, bent or otherwise damaged rim components shall not be reworked, welded, brazed, or otherwise heated.

(10) Whenever multi-piece rim wheels are being handled, employees shall stay out of the trajectory unless the employer can demonstrate that performance of the servicing makes the employee's presence in the trajectory necessary.

(11) No heat shall be applied to a multi-piece wheel or wheel component.

(g) *Safe operating procedure—single piece rim wheels.* The employer shall establish a safe operating procedure for servicing single piece rim wheels and shall assure that employees are instructed in and follow that procedure. The procedure shall include at least the following elements:

(1) Tires shall be completely deflated by removal of the valve core before demounting.

(2) Mounting and demounting of the tire shall be done only from the narrow ledge side of the wheel. Care shall be taken to avoid damaging the tire beads while mounting tires on wheels. Tires shall be mounted only on compatible wheels of matching bead diameter and width.

(3) Nonflammable rubber lubricant shall be applied to bead and wheel mating surfaces before assembly of the rim wheel, unless the tire or wheel manufacturer recommends against the use of any rubber lubricant.

(4) If a tire changing machine is used, the tire shall be inflated only to the minimum pressure necessary to force the tire bead onto the rim ledge while on the tire changing machine.

(5) If a bead expander is used, it shall be removed before the valve core is installed and as soon as the rim wheel becomes airtight (the tire bead slips onto the bead seat).

(6) Tires may be inflated only when contained within a restraining device, positioned behind a barrier or bolted on the vehicle with the lug nuts fully tightened.

(7) Tires shall not be inflated when any flat, solid surface is in the trajectory and within one foot of the sidewall.

(8) Employees shall stay out of the trajectory when inflating a tire.

(9) Tires shall not be inflated to more than the inflation pressure stamped in the sidewall unless a higher pressure is recommended by the manufacturer.

(10) Tires shall not be inflated above the maximum pressure recommended by the manufacturer to seat the tire bead firmly against the rim flange.

(11) No heat shall be applied to a single piece wheel.

(12) Cracked, broken, bent, or otherwise damaged wheels shall not be reworked, welded, brazed, or otherwise heated.

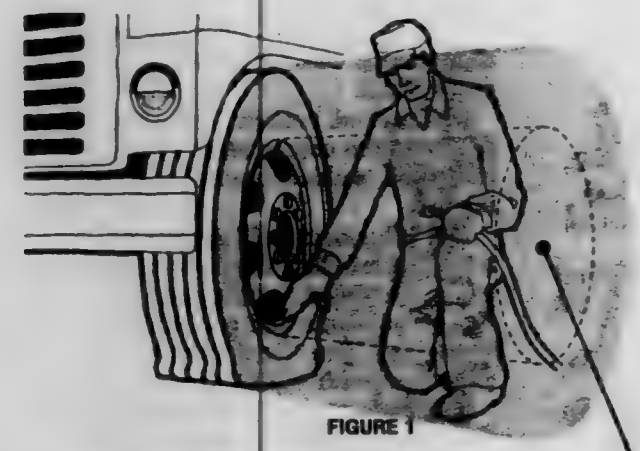

FIGURE 1

APPENDIX A
TRAJECTORY

WARNING

STAY OUT OF THE TRAJECTORY AS INDICATED BY SHADED AREA

Note: Under some circumstances, the trajectory may deviate from its expected path

FIGURE 2

FIGURE 3

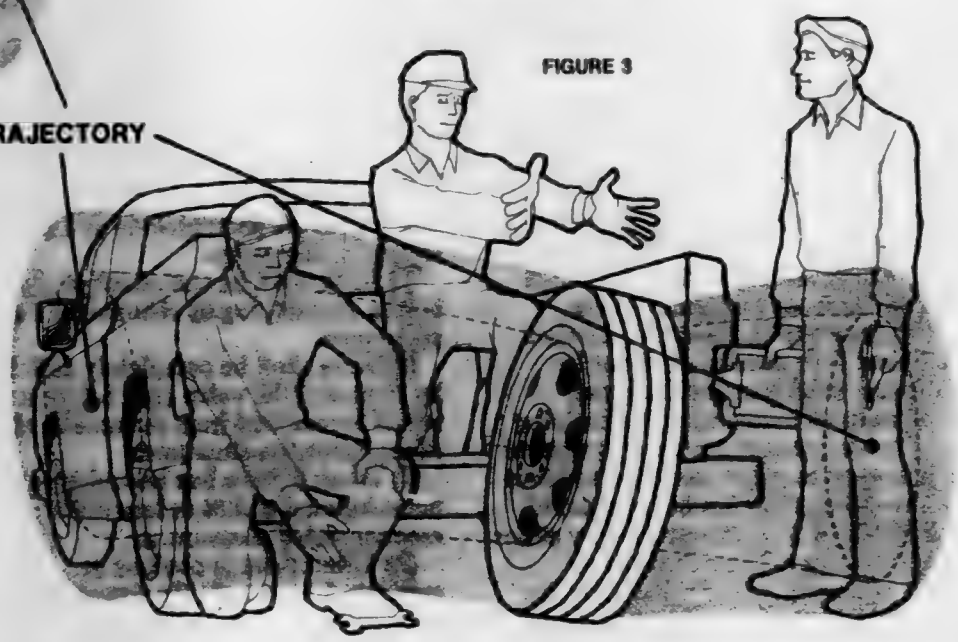

Appendix B—Ordering Information for NHTSA Charts

OHSA has reprinted the NHTSA Charts as part of a continuing campaign to alert rim wheel servicing personnel of the industry accepted procedures for servicing multi-piece rim wheels.

Reprints of the charts are available through the Occupational Safety and Health Administration (OSHA) Area Offices. The address and telephone number of the nearest OSHA Area Office can be obtained by looking in the local telephone directory under U.S. Government, U.S. Department of Labor, Occupational Safety and Health Administration. Single copies are available without charge.

Individuals, establishments and other organizations desiring multiple copies of these charts may order them from the Publications Office, U.S. Department of Labor, Room N4101, Washington, D.C. 20210. Telephone: (202) 523–9667.

[FR Doc. 84-2884 Filed 2-3-84; 8:45 am]

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federal register

Friday
February 3, 1984

Part VI

Department of Transportation

Federal Aviation Administration

14 CFR Parts 11, 121, 127, 135, and 145
Development of Major Repair Data; Final Rule

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 11, 121, 127, 135, and 145

[Docket No. 17551; Amdt. No. 11–24, SFAR No. 36–3]

Development of Major Repair Data

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment extends the effectivity of Special Federal Aviation Regulation (SFAR) No. 36, which provides that repair stations, air carriers, air taxis, and commercial operators of large aircraft may accomplish major repairs using self-developed repair data which have not been specifically approved by the FAA. In addition, the regulation will continue to provide relief for persons from the burden of obtaining FAA approval of repair data on a case-by-case basis and allow time for the FAA to incorporate the SFAR provisions into the regulations.

DATES: Effective Date—January 31, 1984. Comments must be received on or before April 3, 1984.

ADDRESSES: Send comments on the rule in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC–204), Docket No. 17551, 800 Independence Avenue, SW., Washington, D.C. 20591, or deliver comments in duplicate to: FAA Rules Docket, Room 916, 800 Independence Avenue, SW., Washington, D.C. Comments may be examined in the Rules Docket weekdays, except Federal holidays, between 8:30 a.m. and 5 p.m.

FOR FURTHER INFORMATION CONTACT: Angelo R. Mastrullo, General Aviation and Commercial Branch, AWS–340, Aircraft Maintenance Division, Office of Airworthiness, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591, Telephone: (202) 426–8203.

SUPPLEMENTARY INFORMATION:

Background

SFAR 36, which became effective on January 23, 1978, was issued to relieve qualifying certificated air carriers, air taxis, commercial operators, and repair stations of the burden of obtaining FAA approval of data developed by them for major repairs on a case-by-case basis. The certificate holders eligible for authorization under the SFAR are those employing adequately trained personnel and complying with specified procedural requirements.

SFAR 36 was adopted as an interim rulemaking action to obtain information upon which to base a permanent rule change. However, most of the affected certificate holders did not utilize the provisions of SFAR 36 until it was well into its second year and near its expiration date of January 23, 1980. Since the FAA did not have sufficient data upon which to base a permanent rule change, the termination date for SFAR 36 was extended an additional 2 years, to January 23, 1982.

The FAA initiated rulemaking to consolidate certain authorizations along with those issued under SFAR 36 and make them a permanent part of the Federal Aviation Regulations. However, this rulemaking action was not completed and the termination date for SFAR 36 was extended for an additional 2 years, to January 23, 1984. Each authorization issued under this SFAR was made effective from the date of issuance until January 23, 1984. There are presently more than 20 certificated air carriers and repair stations holding SFAR 36 authorizations. For reasons unrelated to the subject matter of SFAR 36, the rulemaking project that had been continuing was canceled, and no new project is presently being developed. Consequently, to provide continuity and avoid hardship to those relying on SFAR 36 as it presently exists, the FAA finds it necessary to extend the effectivity of SFAR 36 for an additional 5 years, to January 23, 1989.

Paperwork Reduction Act

Information collection requirements in this regulation (SFAR 36) have been approved by the Office of Management and Budget under the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96–511) and have been assigned OMB Control Number 2120–0507.

Good Cause Justification for Immediate Adoption

The termination date for SFAR 36 and the authorizations issued under SFAR 36 is January 23, 1984. The reasons which justified the adoption of SFAR 36 still exist; and to avoid hardship to those relying on the provisions of SFAR 36, it is in the public interest to extend the termination date of SFAR 36 from January 23, 1984, to January 23, 1989. So that previously authorized certificate holders will not be subjected to the unnecessary burden of requalifying upon expiration of the initial 2-year period, the amendment provides that each authorization issued under this SFAR has an effective period from the date of issuance until January 23, 1989. This rule extension should provide ample time for provisions to be incorporated into a permanent rule change.

Since this amendment continues in effect the provisions of a currently effective SFAR and imposes no additional burden on any person, I find that notice and public procedures hereon are unnecessary, and the amendment may be made effective in less than 30 days. However, interested persons are invited to submit such comments as they may desire regarding this amendment. Communications should identify the docket number and be submitted in duplicate to the address specified above. All communications received on or before April 3, 1984, will be considered by the Administrator, and this amendment may be changed in light of the comments received. All comments received will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested parties.

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Air carriers, Air taxis, Air transportation, Aircraft, Airmen, Aviation safety, Safety.

14 CFR Part 121

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14 CFR Part 127

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14 CFR Part 135

Air carriers, Aviation safety, Safety, Air transportation, Air taxi, Airworthiness, Airmen, Aircraft, Helicopters, Airplanes.

14 CFR Part 145

Air carriers, Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

In consideration of the following, the Federal Aviation Regulations are amended as follows, effective January 31, 1984:

PART 121—CERTIFICATION AND OPERATIONS: DOMESTIC, FLAG, AND SUPPLEMENTAL AIR CARRIERS AND COMMERCIAL OPERATORS OF LARGE AIRCRAFT

1. By amending Part 121, Special Federal Aviation Regulation No. 36 by changing the termination date from

"January 23, 1984" to "January 23, 1989" and by revising paragraph 5 to read as follows:

SFAR—36

* * * * * *

5. *Duration of Authorization.* Each authorization issued under this Special Federal Aviation Regulation is effective from the date of issuance until January 23, 1989, unless it is surrendered or the Administrator suspends, revokes, or otherwise terminates it at an earlier date.

* * * * *

PART 11—GENERAL RULEMAKING PROCEDURES

2. By amending § 11.101 by adding a new OMB Control Number to the table in paragraph (b), as follows:

§ 11.101 OMB control numbers assigned pursuant to the Paperwork Reduction Act.

* * * * *

(b) * * *

SFAR 36	2120–0507

(Secs. 313(a), 604 and 607, Federal Aviation Act of 1958 as amended (49 U.S.C. 1354(a), 1421, 1424, and 1427); 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983))

Note.—The FAA has determined that this document involves a rule change which imposes no additional burden on any person. Accordingly, it has been determined that: the rule change does not involve a major action under Executive Order 12291; it is not significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and its anticipated impact is so minimal that an evaluation is not required.

Issued in Washington, D.C., on January 6, 1984.

Michael J. Fenello,

Acting Administrator.

[FR Doc. 84–2947 Filed 1–31–84; 3:00 pm]

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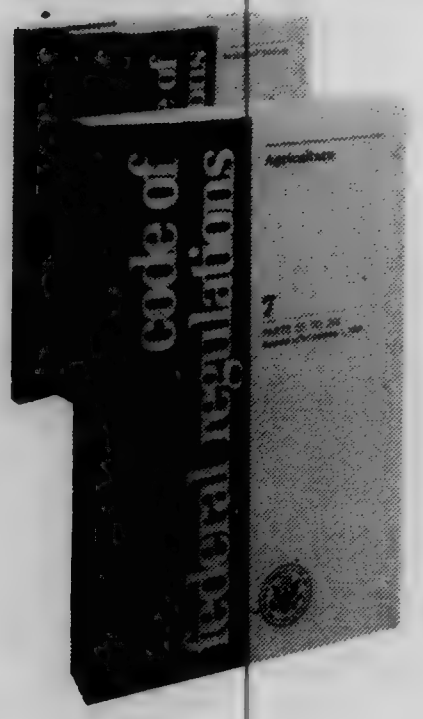

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federal register

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Presidential Documents

Title 3—

The President

Proclamation 5149 of February 1, 1984

National Tourism Week, 1984

By the President of the United States of America

A Proclamation

The tourism industry is extremely important to the United States, contributing to our employment, economic prosperity, and international trade and understanding.

Each of us benefits from the effects of tourism. It substantially enhances our personal growth and education. Tourism also promotes intercultural understanding and appreciation of the geography, history and people of the United States. Now that inflation has been reduced and the economy is growing, personal incomes and leisure time will increase more rapidly. Tourism therefore can be expected to play an even greater role in the lives of the American people.

In recognition of the significance of the tourism industry to the enhancement of international trade, understanding and goodwill, the Congress, by House Joint Resolution 168, has designated the week beginning May 27, 1984, as "National Tourism Week" and has authorized and requested the President to issue a proclamation in observance of that week.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim the week beginning May 27, 1984, as National Tourism Week, and I call upon the people of the United States to observe such week with appropriate ceremonies and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this 1st day of February, in the year of our Lord nineteen hundred and eighty-four, and of the Independence of the United States of America the two hundred and eighth.

Ronald Reagan

[FR Doc. 84-3233
Filed 2-2-84; 11:53 am]
Billing code 3195-01-M

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Rules and Regulations

Federal Register
Vol. 49, No. 25
Monday, February 6, 1984

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

7 CFR Part 419

Barley Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Final rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) hereby revises and reissues the Barley Crop Insurance Regulations (7 CFR Part 419) effective for the 1984 and succeeding crop years by: (1) Changing the policy to make it easier to read and understand; (2) eliminating the reduction in production guarantee for unharvested acreage; (3) eliminating the substitute crop provision; (4) adding a 60-day claim for indemnity provision; (5) clarifying the provision determining production to count when small grains are growing with other planted or volunteer crops; (6) adding a section regarding appraisals following the end of the insurance period for unharvested acreage; (7) changing the cancellation and termination for indebtedness dates; (8) revising the unit definition to provide for unit determination when the acreage report is filed; (9) adding three sections concerning descriptive headings, determinations, and notices; and (10) making format and language corrections for purposes of clarification.

In addition to the changes described above, FCIC issues a new section to contain the control numbers assigned by the Office of Management and Budget (OMB) to information collection requirements of these regulations. The intended effect of this action is to confirm the interim rule and to comply with OMB regulations with respect to the information collection control numbers.

EFFECTIVE DATE: March 7, 1984.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C. 20250, telephone (202) 447–3325.

The Impact Statement describing the options considered in developing this rule and the impact of implementing each option is available upon request from Peter F. Cole.

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA procedures established in Secretary's Memorandum No. 1512–1 (June 11, 1981). This action constitutes a review as to the need, currency, clarity, and effectiveness of these regulations under such provisions. The sunset review date established for these regulations is February 1, 1987.

Merritt W. Sprague, Manager, FCIC, has determined that: (1) This action is not a major rule as defined by Executive Order No. 12291 (February 17, 1981), (2) this action does not increase the Federal paperwork burden for individuals, small businesses, and other persons, and (3) this action conforms to the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), and other applicable law.

The title and number of the Federal Assistance Program to which this rule applies are: Title—Crop Insurance; Number 10.450.

This action will not have a significant impact specifically upon area and community development; therefore, review as established in Executive Order No. 12372 (July 14, 1982) was not used to assure that units of local government are informed of this action.

It has also been determined that this action is exempt from the provisions of the Regulatory Flexibility Act; therefore, no Regulatory Flexibility Analysis was prepared.

On Wednesday, April 13, 1983, FCIC published an interim rule in the **Federal Register** at 48 FR 15863, revising and reissuing the Barley Crop Insurance Regulations (7 CFR Part 419), effective for the 1984 and succeeding crop years. The public was given 60 days in which to submit written comments, data, and opinions of the action, but none were received. In reviewing the regulations for issuance as final rule, it was determined that certain non-substantive changes should be made for the purpose of clarity and that a new section should be issued to contain OMB control numbers assigned to information collection requirements of these regulations. The regulations contained herein have been amended to reflect this change in both the Table of Contents at § 419.3 and in § 419.3 itself.

List of Subjects in 7 CFR Part 419

Crop insurance, Barley.

Final Rule

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation hereby revises and reissues the Barley Crop Insurance Regulations (7 CFR Part 419), effective for the 1984 and succeeding crop years, to read as follows:

PART 419—BARLEY CROP INSURANCE

Subpart—Regulations for the 1984 and Succeeding Crop Years

Sec.

419.1 Availability of barley insurance.
419.2 Premium rates, production guarantees, coverage levels, and prices at which indemnities shall be computed.
419.3 OMB control numbers.
419.4 Creditors.
419.5 Good faith reliance on misrepresentation.
419.6 The contract.
419.7 The application and policy.
Appendix A—Counties designated for barley crop insurance

Authority: Secs. 506, 516, Pub. L. 75–430, 52 Stat. 73, 77 as amended (7 U.S.C. 1506, 1516).

Subpart—Regulations for the 1984 and Succeeding Crop Years

§ 419.1 Availability of barley insurance.

Insurance shall be offered under the provisions of this subpart on barley in counties within limits prescribed by, and in accordance with the provisions of the Federal Crop Insurance Act, as amended. The counties shall be designated by the Manager of the Corporation from those approved by the Board of Directors of the Corporation. Before insurance is offered in any county, there shall be published by appendix to this part the names of the counties in which barley insurance will be offered.

§ 419.2 Premium rates, production guarantees, coverage levels, and prices at which indemnities shall be computed.

(a) The Manager shall establish premium rates, production guarantees, coverage levels, and prices at which indemnities shall be computed for barley which will be included in the county actuarial table on file in service offices and which may be changed from year to year.

(b) At the time the application for insurance is made, the applicant shall elect a coverage level and price at which indemnities will be computed from among those levels and prices contained in the actuarial table for the crop year.

§ 419.3 OMB control numbers.

Information collection requirements contained in these regulations (7 CFR Part 419) have been approved by the Office of Management and Budget (OMB) under the provisions of 44 U.S.C. Chapter 35 and have been assigned OMB Nos. 0563–0003 and 0563–0007.

§ 419.4 Creditors.

An interest of a person in an insured crop existing by virtue of a lien, mortgage, garnishment, levy, execution, bankruptcy, an involuntary transfer or similar interest shall not entitle the holder of the interest to any benefit under the contract except as provided by the policy.

§ 419.5 Good faith reliance on misrepresentation.

Notwithstanding any other provision of the barley insurance contract, whenever: (a) An insured person under a contract of crop insurance entered into under these regulations, as a result of misrepresentation or other erroneous action or advice by an agent or employee of the Corporation: (1) Is indebted to the Corporation for additional premiums, or (2) has suffered a loss to a crop which is not insured, or for which the insured person is not entitled to an indemnity because of failure to comply with the terms of the insurance contract, but which the insured person believes to be insured, or believed the terms of the insurance contract to have been complied with or waived, and (b) the Board of Directors of the Corporation, or the Manager in cases involving not more than $100,000 finds: (1) That an agent or employee of the Corporation did in fact make such misrepresentation or take other erroneous action or give erroneous advice, (2) that said insured persons relied thereon in good faith and (3) that to require the payment of the additional premiums or to deny such insured's entitlement to the indemnity would not be fair and equitable, such insured person shall be granted relief the same as if otherwise entitled thereto.

§ 419.6 The contract.

(a) The insurance contract shall become effective upon the acceptance by the Corporation of a duly executed application for insurance. The contract shall cover the barley crop as provided in the policy. The contract shall consist of the application, the policy, and the provisions of the county actuarial table. Any changes made in the contract shall not affect its continuity from year to year. The forms referred to in the contract are available at the service office.

§ 419.7 The application and policy.

(a) Application for insurance on a form prescribed by the Corporation may be made by any person to cover such person's insurable share in the barley crop as landlord, owner-operator, or tenant. The application shall be submitted to the Corporation at the service office on or before the applicable closing date for the county on file in the service office.

(b) The Corporation may discontinue the acceptance of applications in any county upon its determination that the insurance risk involved is excessive, and also, for the same reason, to reject any individual application. The manager of the Corporation is authorized in any crop year to extend the closing date for submitting applications or contract changes in any county, by placing the extended date on file in the applicable service offices and publishing a notice in the **Federal Register** upon the Manager's determination that no selectivity will result during the period of such extension: However, if adverse conditions should develop during such period, the Corporation will immediately discontinue the acceptance of applications.

(c) Barley contracts in effect for the 1983 crop year are amended by the substitution of the 1984 contract and are continuous unless terminated in accordance with their terms. A new application is not required by these regulations for the 1984 crop year.

(d) The application for the 1984 and succeeding crop years is found at Subpart D of Part 400—General Administrative Regulations (7 CFR 400.37, 400.38; first published at 48 FR 1023, January 10, 1983) and may be amended from time to time for subsequent crop years. The provisions of the Barley Insurance Policy for the 1984 and succeeding crop years, are as follows:

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

Barley—Crop Insurance Policy

(This is a continuous contract. Refer to Section 15.)

AGREEMENT TO INSURE: We shall provide the insurance described in this policy in return for the premium and your compliance with all applicable provisions.

Throughout this policy, "you" and "your" refer to the insured shown on the accepted Application and "we," "us," and "our" refer to the Federal Crop Insurance Corporation.

Terms and Conditions

1. Causes of Loss.

a. The insurance provided is against unavoidable loss of production resulting from the following causes occurring within the insurance period:

(1) Adverse weather conditions;
(2) Fire;
(3) Insects;
(4) Plant disease;
(5) Wildlife;
(6) Earthquake; or
(7) Volcanic eruption;

Unless those causes are excepted, excluded, or limited by the actuarial table or section 9e(6).

b. We shall not insure against any loss of production due to:

(1) The neglect or malfeasance of you, any member of your household, your tenants, or employees;

(2) The failure to follow recognized good barley farming practices;

(3) Damage resulting from the impoundment of water by any governmental, public or private dam or reservoir project; or

(4) Any cause not specified in section 1a as an insured loss.

2. Crop, Acreage, and Share Insured.

a. The crop insured shall be barley which is planted for harvest as grain, which is grown on insured acreage and for which a guarantee and premium rate are provided by the actuarial table. A mixture of barley with either oats, or wheat or both planted for harvest as grain may also be insured if provided by the actuarial table. The production from such mixture shall be considered as barley on a weight basis.

b. The acreage insured for each crop year shall be barley planted on insurable acreage as designated by the actuarial table and in which you have a share, as reported by you or as determined by us, whichever we shall elect.

c. The insured share shall be your share as landlord, owner-operator, or tenant in the insured barley at the time of planting.

d. We do not insure any acreage:

(1) Where the farming practices carried out are not in accordance with the farming practices for which the premium rates have been established;

(2) Which is irrigated and an irrigated practice is not provided by the actuarial table unless you elect to insure the acreage as nonirrigated by reporting it as insurable under section 3;

(3) Which is destroyed and it is practical to replant to barley but such acreage is not replanted;

(4) Initially planted after the final planting date contained in the actuarial table unless you agree in writing on our form to coverage reduction;

(5) Of volunteer barley;

(6) Planted to a type or variety of barley not established as adapted to the area or excluded by the actuarial table; or

(7) Planted with a crop other than barley except as provided in section 2a.

e. Where insurance is provided for an irrigated practice:

(1) You shall report as irrigated only the acreage for which you have adequate facilities and water, at the time of planting, to carry out a good barley irrigation practice; and

(2) Any loss of production caused by failure to carry out a good barley irrigation practice, except failure of the water supply from an unavoidable cause occurring after the beginning of planting, shall be considered as due to an uninsured cause. The failure or breakdown of irrigation equipment or facilities shall not be considered as a failure of the water supply from an unavoidable cause.

f. Acreage which is planted for the development or production of hybrid seed or for experimental purposes is not insured unless we agree in writing to insure such acreage.

g. We may limit the insured acreage to any acreage limitation established under any Act of Congress, if we advise you of the limit prior to planting.

3. Report of Acreage, Share, and Practice.

You shall report on our form:

a. All the acreage of barley in the county in which you have a share;

b. The practice; and

c. Your share at the time of planting.

You shall designate separately any acreage that is not insurable. You shall report if you do not have a share in any barley planted in the county. This report shall be submitted annually on or before the reporting date established by the actuarial table. We may determine all indemnities on the basis of information you have submitted on this report. If you do not submit this report by the reporting date, we may elect to determine by unit the insured acreage, share, and practice or we may deny liability on any unit. Any report submitted by you may be revised only upon our approval.

4. Production Guarantees, Coverage Levels, and Prices for Computing Indemnities.

a. The production guarantees, coverage levels, and prices for computing indemnities are contained in the actuarial table.

b. Coverage level 2 will apply if you do not elect a coverage level.

c. You may change the coverage level and price election on or before the closing date for submitting applications for the crop year as established by the actuarial table.

5. Annual Premium.

a. The annual premium is earned and payable at the time of planting. The amount is computed by multiplying the production guarantee times the price election, times the premium rate, times the insured acreage, times your share at the time of planting, times the applicable premium adjustment percentage contained in the following table.

PREMIUM ADJUSTMENT TABLE [1]

[Percent adjustments for favorable continuous insurance experience]

	Numbers of years continuous experience through previous year															
	0	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15 or more
	Percentage adjustment factor for current crop year															
Loss ratio [2] through previous crop year																
.00 to .20	100	95	95	90	90	85	80	75	70	70	65	65	60	50	55	50
.21 to .40	100	100	95	95	90	90	90	85	80	80	75	75	70	70	65	60
.41 to .60	100	100	95	95	95	95	95	90	90	90	85	85	80	80	75	70
.61 to .80	100	100	95	95	95	95	95	95	90	90	90	90	85	85	85	80
.81 to 1.09	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100

[Percent adjustments for unfavorable insurance experience]

	Numbers of loss years through previous year [3]															
	0	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
	Percentage adjustment factor for current crop year															
Loss ratio [2] through previous crop year																
1.10 to 1.19	100	100	100	102	104	106	108	110	112	114	116	118	120	122	124	126
1.20 to 1.39	100	100	100	104	108	112	116	120	124	128	132	136	140	144	148	152
1.40 to 1.69	100	100	100	108	116	124	132	140	148	156	164	172	180	188	196	204
1.70 to 1.99	100	100	100	112	122	132	142	152	162	172	182	192	202	212	222	232
2.00 to 2.49	100	100	100	116	126	140	152	164	176	188	200	212	224	236	248	260
2.50 to 3.24	100	100	100	120	134	148	162	176	190	204	218	232	246	260	274	288
3.25 to 3.99	100	100	105	124	140	156	172	188	204	220	236	252	268	284	300	300
4.00 to 4.99	100	100	110	128	146	164	182	200	218	236	254	272	290	300	300	300
5.00 to 5.99	100	100	115	132	152	172	192	212	232	252	272	292	300	300	300	300
6.00 and up	100	100	120	136	156	180	202	224	246	268	290	300	300	300	300	300

[1] For premium adjustment purposes, only the years during which premiums were earned shall be considered.

[2] Loss Ratio means the ratio of indemnity(ies) paid to premium(s) earned.

[3] Only the most recent 15 crop years shall be used to determine the number of "Loss Years". (A crop year is determined to be a "Loss Year" when the amount of indemnity for the year exceeds the premium for the year.)

b. Interest shall accrue at the rate of one and one-half percent (1½%) simple interest per calendar month, or any part thereof, on any unpaid premium balance starting on the first day of the month following the first premium billing date.

c. Any premium adjustment applicable to the contract shall be transferred to:

(1) The contract of your estate or surviving spouse in case of your death;

(2) The contract of the person who succeeds you if such person had previously participated in the farming operation; or

(3) Your contract if you stop farming in one county and start farming in another county.

d. If participation is not continuous, any premium shall be computed on the basis of previous unfavorable insurance experience but no premium reduction under section 5a shall be applicable.

6. Deductions for Debt.

Any unpaid amount due us may be deducted from any indemnity payable to you or from any loan or payment due you under any Act of Congress or program administered by the United States Department of Agriculture or its Agencies.

7. Insurance Period.

a. Insurance attaches when the barley is planted except that in counties with an April

15 cancellation date, insurance on fall planted barley shall attach April 16 following planting, if there is an adequate stand on April 16 to produce a normal crop.

b. Insurance ends at the earliest of:

(1) Total destruction of the barley;

(2) Combining, threshing, or removal from the field;

(3) Final adjustment of a loss; or

(4) The date shown below of the calendar year in which the barley is normally harvested:

(a) Alaska	Sept. 25; and
(b) All other states	Oct. 31.

8. Notice of Damage or Loss.

a. In case of damage or probable loss:

(1) You must give us written notice if:

(a) During the period before harvest, the barley on any unit is damaged and you decide not to further care for or harvest any part of it;

(b) You want our consent to put the acreage to another use; or

(c) After consent to put acreage to another use is given, additional damage occurs.

Insured acreage may not be put to another use until we have appraised the barley and given written consent. We shall not consent to another use until it is too late to replant. You must notify us when such acreage is put to another use.

(2) If you anticipate a loss on any unit, you must give us notice:

(a) At least 15 days before the beginning of harvest; or

(b) Immediately if probable loss is later determined, and a representative sample of the unharvested wheat (at least 10 feet wide and the entire length of the field) shall be left intact for a period of 15 days from the date of notice, unless we give you written consent to harvest the sample.

(3) In addition to the notices required by this section, if you are going to claim an indemnity on any unit, we must be given notice not later than 30 days after the earliest of:

(a) Total destruction of the barley on the unit;

(b) Harvest of the unit; or

(c) The calendar date for the end of the insurance period.

b. You must obtain written consent from us before you destroy any of the barley which is not to be harvested.

c. We may reject any claim for indemnity if any of the requirements of this section or section 9 are not complied with.

9. Claim for Indemnity.

a. Any claim for indemnity on a unit shall be submitted to us on our form not later than 60 days after the earliest of:

(1) Total destruction of the barley on the unit;

(2) Harvest of the unit; or

(3) The calendar date for the end of the insurance period.

b. We shall not pay any indemnity unless you:

(1) Establish the total production of barley on the unit and that any loss of production has been directly caused by one or more of the insured causes during the insurance period; and

(2) Furnish all information we require concerning the loss.

c. The indemnity shall be determined on each unit by:

(1) Multiplying the insured acreage by the production guarantee;

(2) Subtracting therefrom the total production of barley to be counted (see section 9e);

(3) Multiplying the remainder by the price election; and

(4) Multiplying this result by your share.

d. If the information reported by you results in a lower premium than the actual premium determined to be due, the indemnity shall be reduced proportionately

e. The total production to be counted for a unit shall include all harvested and appraised production.

(1) Mature barley production:

(a) Which otherwise is not eligible for quality adjustment and which grades No. 4 or better shall be reduced .12 percent for each .1 percentage point of moisture in excess of 14.5 percent; or

(b) Which, due to insurable causes, does not grade No. 4 or better, or is graded smutty, garlicky, or ergoty, in accordance with the Official United States Grain Standards, shall be adjusted by:

(i) Dividing the value per bushel of such barley by the price per bushel of U.S. No. 2 barley; and

(ii) Multiplying the result by the number of bushels of such barley.

The applicable price for No. 2 barley shall be the local market price on the earlier of the day the loss is adjusted or the day such barley was sold.

(2) Any mature production from other crops growing in the barley shall be counted as barley on a weight basis.

(3) Appraised production to be counted shall include:

(a) Potential production lost due to uninsured causes and failure to follow recognized good barley farming practices;

(b) Not less than the guarantee for any acreage which is abandoned; put to another use without our prior written consent; or damaged solely by an uninsured cause; and

(c) Any unharvested production.

(4) Any appraisal we have made on insured acreage for which we have given written consent to be put to another use shall be considered production unless such acreage:

(a) Is not put to another use before harvest of barley becomes general in the county;

(b) Is harvested; or

(c) Is further damaged by an insured cause before the acreage is put to another use.

(5) We may determine the amount of production of any unharvested barley on the basis of field appraisals conducted after the end of the insurance period.

(6) When you have elected to exclude hail and fire as insured causes of loss and the barley is damaged by hail or fire, appraisals for uninsured causes shall be made in accordance with Form FCI–78, "Request To Exclude Hail and Fire."

(7) The commingled production of units will be allocated to such units in proportion to our liability on the harvested acreage of each unit.

f. You shall not abandon any acreage to us.

g. You may not bring suit or action against us unless you have complied with all policy provisions. If a claim is denied, you may sue us in the United States District Court under the provisions of 7 U.S.C. 1508(c). You must bring suit within 12 months of the date notice of denial is mailed to and received by you.

h. We shall pay the loss within 30 days after we reach agreement with you or entry of a final judgment. In no event shall we be liable for interest or damages in connection with any claim for indemnity, whether we approve or disapprove such claim.

i. If you die, disappear, or are judicially declared incompetent, or if you are an entity other than an individual and such entity is dissolved after the barley is planted for any crop year, any indemnity shall be paid to the person(s) we determine to be beneficially entitled thereto.

j. If you have other fire insurance and fire damage occurs during the insurance period, and you have not elected to exclude fire insurance from this policy, we shall be liable for loss due to fire only for the smaller of:

(1) The amount of indemnity determined pursuant to this contract without regard to any other insurance; or

(2) The amount by which the loss from fire exceeds the indemnity paid or payable under such other insurance. For the purposes of this section, the amount of loss from fire shall be the difference between the fair market value of the production on the unit before the fire and after the fire.

10. Concealment or Fraud.

We may void the contract on all crops insured without affecting your liability for premiums or waiving any right, including the right to collect any amount due us if, at any time, you have concealed or misrepresented any material fact or commited any fraud relating to the contract. Such voidance shall be effective as of the beginning of the crop year with respect to which such act or omission occurred.

11. Transfer of Right to Indemnity on Insured Share.

If you transfer any part of your share during the crop year, you may transfer your right to an indemnity. The transfer must be on our form and approved by us. We may collect the premium from either you or your transferee or both. The transferee shall have all rights and responsibilities under the contract.

12. Assignment of Indemnity.

You may only assign to another party your right to an indemnity for the crop year on our form and with our approval. The assignee shall have the right to submit the loss notices and forms required by the contract.

13. Subrogation. (Recovery of loss from a third party.)

Because you may be able to recover all or a part of your loss from someone other than us, you must do all you can to preserve any such rights. If we pay you for your loss then your right of recovery shall at our option belong to us. If we recover more than we paid you plus our expenses, the excess shall be paid to you.

14. Records and Access to Farm.

You shall keep, for two years after the time of loss, records of the harvesting, storage, shipment, sale or other disposition of all

barley produced on each unit including separate records showing the same information for production from any uninsured acreage. Any persons designated by us shall have access to such records and the farm for purposes related to the contract.

15. Life of Contract: Cancellation and Termination.

a. This contract shall be in effect for the crop year specified on the application and may not be canceled for such crop year. Thereafter, the contract shall continue in force for each succeeding crop year unless canceled or terminated as provided in this section.

b. This contract may be canceled by either you or us for any succeeding crop year by giving written notice on or before the cancellation date preceding such crop year.

c. This contract shall terminate as to any crop year if any amount due us on this or any other contract with you is not paid on or before the termination date preceding such crop year for the contract on which the amount is due. The date of payment of the amount due:

(1) If deducted from an indemnity claim shall be the date you sign the claim; or

(2) If deducted from payment under another program administered by the United States Department of Agriculture shall be the date the payment was approved.

d. The cancellation and termination dates are:

State and county	Cancellation and termination dates
New Mexico, except Taos County; Oklahoma and Texas.	Aug. 31.
Kit Carson, Lincoln, Elbert, El Paso, Pueblo, Las Animas Counties, Colorado and all Colorado counties lying south and east thereof and Kansas.	Aug. 31.
Arkansas, Louisiana, Missouri, Illinois, Indiana, New Jersey, Ohio, Pennsylvania, and all states lying south and east thereof.	Sept. 30.
Connecticut, Massachusetts and New York	Sept. 30.
Arizona, California, Clark and Nye Counties, Nevada.	Oct. 31.
All other Colorado counties; all other Nevada counties; Taos County, New Mexico and all other States.	Apr. 15.

e. If you die or are judicially declared incompetent, or if you are an entity other than an individual and such entity is dissolved, the contract shall terminate as of the date of death, judicial declaration, or dissolution. *However*, if such event occurs after insurance attaches for any crop year, the contract shall continue in force through the crop year and terminate at the end thereof. Death of a partner in a partnership shall dissolve the partnership unless the partnership agreement provides otherwise. If two or more persons having a joint interest are insured jointly, death of one of the persons shall dissolve the joint entity.

f. The contract shall terminate if no premium is earned for five consecutive years.

16. Contract Changes.

We may change any terms and provisions of the contract from year to year. If your price election at which indemnities are computed is no longer offered, the actuarial table will provide the price election which you shall be deemed to have elected. All contract changes shall be available at your service office by December 31 preceding the cancellation date for counties with an April 15 cancellation date and by May 31 preceding the cancellation date for all other counties. Acceptance of any changes shall be conclusively presumed in the absence of any notice from you to cancel the contract.

17. Meaning of Terms.

For the purposes of barley crop insurance:

a. "Actuarial table" means the forms and related material for the crop year approved by us which are available for public inspection in your service office, and which show the production guarantees, coverage levels, premium rates, prices for computing indemnities, practices, insurable and uninsurable acreage, and related information regarding barley insurance in the county.

b. "County" means the county shown on the application and any additional land located in a local producing area bordering on the county, as shown by the actuarial table.

c. "Crop year" means the period within which the barley is normally grown and shall be designated by the calendar year in which the barley is normally harvested.

d. "Harvest" means the completion of combining or threshing of the barley on the unit.

e. "Insurable acreage" means the land classified as insurable by us and shown as such by the actuarial table.

f. "Insured" means the person who submitted the application accepted by us.

g. "Person" means an individual, partnership, association, corporation, estate, trust, or other business enterprise or legal entity, and wherever applicable, a State, a political subdivision of a State, or any agency thereof.

h. "Service office" means the office servicing your contract as shown on the application for insurance or such other approved office as may be selected by you or designated by us.

i. "Tenant" means a person who rents land from another person for a share of the barley or a share of the proceeds therefrom.

j. "Unit" means all insurable acreage of barley in the county on the date of planting for the crop year:

(1) In which you have a 100 percent share; or

(2) Which is owner by one entity and operated by another entity on a share basis.

Land rented for cash, a fixed commodity payment, or any consideration other than a share in the barley on such land shall be considered as owned by the lessee. Land which would otherwise be one unit may be divided according to applicable guidelines on file in your service office or by written agreement between you and us. Units will be determined when the acreage is reported. Errors in reporting such units may be corrected by us to conform to applicable guidelines when adjusting a loss. We may consider any acreage and share thereof reported by or for your spouse or child or any member of your household to be your bona fide share or the bona fide share of any other person having an interest therein.

18. Descriptive Headings.

The descriptive headings of the various policy terms and conditions are formulated for convenience only and are not intended to affect the construction or meaning of any of the provisions of the contract.

19. Determinations.

All determinations required by the policy shall be made by us. If you disagree with our determinations, you may obtain reconsideration of or appeal those determinations in accordance with Appeal Regulations

20. Notices.

All notices required to be given by you must be in writing and received by your service office within the designated time unless otherwise provided by the notice requirement. Notices required to be given immediately may be by telephone or in person and confirmed in writing. Time of the notice will be determined by the time of our receipt of the written notice.

Appendix A.—Counties Designated for Barley Crop Insurance

The following counties are designated for Barley Crop Insurance under the provisions of 7 CFR 419.1.

Alabama

All counties

Alaska

Fairbanks North Star
Matanuska Susitna
Southeast Fairbanks
Valdez-Cordova

Arizona

Cochise
Graham
La Paz
Maricopa
Mohave
Navajo
Pima
Pinal
Yuma

Arkansas

All counties

California

Alameda
Amador
Butte
Colusa
Contra Costa
Fresno
Glenn
Imperial
Kern
Kings
Lake
Lassen
Los Angeles
Madera
Mendocino
Merced
Modoc
Monterey
Orange
Placer
Plumas
Riverside
Sacramento
San Benito
San Bernardino
San Diego
San Joaquin
San Luis Obispo
San Mateo
Santa Barbara
Santa Clara
Shasta
Siskiyou
Solano
Sonoma
Stanislaus
Sutter
Tehama
Tulare
Ventura
Yolo
Yuba

Colorado

Adams
Alamosa
Arapahoe
Archuleta
Baca
Bent
Boulder
Cheyenne
Conejos
Costilla
Crowley
Custer
Delta
Dolores
Douglas
Eagle
Elbert
El Paso
Fremont
Garfield
Huerfano
Jefferson
Kiowa
Kit Carson
La Plata
Larimer
Las Animas
Lincoln
Logan
Mesa
Moffat
Montezuma
Montrose
Morgan
Otero
Ouray
Phillips
Pitkin
Prowers
Pueblo
Rio Blanco
Rio Grande
Routt
Saguache
San Miguel
Sedgwick
Washington
Weld
Yuma

Connecticut

Litchfield

Delaware

Kent | New Castle | Sussex

Florida

Gadsden | Jackson

Georgia

Bacon | Habersham | Peach
Baker | Hall | Pike
Banks | Haralson | Pulaski
Barrow | Hart | Raban
Berrien | Heard | Randolph
Bibb | Henry | Richmond
Bleckley | Houston | Schley
Brooks | Jackson | Screven
Burke | Jasper | Spalding
Butts | Jefferson | Stephens
Carroll | Jenkins | Stewart
Catoosa | Johnson | Sumter
Chattooga | Jones | Tattnall
Cherokee | Lamar | Taylor
Coffee | Laurens | Telfair
Coweta | Lee | Tift
Crawford | Lincoln | Toombs
Crisp | Lowndes | Treutlen
Decatur | McDuffie | Turner
Dodge | Macon | Upson
Dooly | Madison | Walker
Elbert | Marion | Walton
Emanuel | Meriwether | Warren
Floyd | Mitchell | Washington
Forsyth | Monroe | Webster
Franklin | Montgomery | Wheeler
Fulton | Morgan | White
Glascock | Murray | Whitfield
Gordon | Newton | Wilcox
Greene | Oconee | Wilkes
Gwinnett | Oglethorpe | Wilkinson

Idaho

Ada | Cassia | Lewis
Adams | Clark | Lincoln
Bannock | Clearwater | Madison
Bear Lake | Custer | Minidoka
Benewah | Elmore | Nez Perce
Bingham | Franklin | Oneida
Blaine | Fremont | Owyhee
Boise | Gem | Payette
Bonner | Gooding | Power
Bonneville | Idaho | Teton
Boundary | Jefferson | Twin Falls
Butte | Jerome | Valley
Camas | Kootenai | Washington
Canyon | Latah
Caribou | Lemhi

Illinois

Adams | Edwards | Kendall
Alexander | Effingham | Knox
Bond | Fayette | Lake
Boone | Ford | La Salle
Brown | Franklin | Lawrence
Bureau | Fulton | Lee
Calhoun | Gallatin | Livingston
Carroll | Greene | Logan
Cass | Grundy | McDonough
Champaign | Hamilton | McHenry
Christian | Hancock | McLean
Clark | Hardin | Macon
Clay | Henderson | Macoupin
Clinton | Henry | Madison
Coles | Iroquois | Marion
Cook | Jackson | Marshall
Crawford | Jasper | Mason
Cumberland | Jefferson | Massac
De Kalb | Jersey | Menard
De Witt | Jo Daviess | Mercer
Douglas | Johnson | Monroe
Du Page | Kane | Montgomery
Edgar | Kankakee | Morgan
Moultrie | Rock Island | Vermilion
Ogle | St. Clair | Wabash
Peoria | Saline | Warren
Perry | Sangamon | Washington
Piatt | Schuyler | Wayne
Pike | Scott | White
Pope | Shelby | Whiteside
Pulaski | Stark | Will
Putnam | Stephenson | Williamson
Randolph | Tazewell | Winnebago
Richland | Union | Woodford

Indiana

Adams | Hendricks | Pike
Allen | Henry | Porter
Bartholomew | Howard | Posey
Benton | Huntington | Pulaski
Blackford | Jackson | Putnam
Boone | Jasper | Randolph
Brown | Jay | Ripley
Carroll | Jefferson | Rush
Cass | Jennings | St. Joseph
Clark | Johnson | Scott
Clay | Knox | Shelby
Clinton | Kosciusko | Spencer
Crawford | Lagrange | Starke
Daviess | Lake | Steuben
Dearborn | La Porte | Sullivan
Decatur | Lawrence | Switzerland
De Kalb | Madison | Tippecanoe
Delaware | Marion | Tipton
Dubois | Marshall | Union
Elkhart | Martin | Vanderburgh
Fayette | Miami | Vermillion
Floyd | Monroe | Vigo
Fountain | Montgomery | Wabash
Franklin | Morgan | Warren
Fulton | Newton | Warrick
Gibson | Noble | Washington
Grant | Ohio | Wayne
Greene | Orange | Wells
Hamilton | Owen | White
Hancock | Parke | Whitley
Harrison | Perry

Iowa

All counties

Kansas

Allen | Greeley | Osborne
Anderson | Greenwood | Ottawa
Atchison | Hamilton | Pawnee
Barber | Harper | Phillips
Barton | Harvey | Pottawatomie
Bourbon | Haskell | Pratt
Brown | Hodgeman | Rawlins
Butler | Jackson | Reno
Chase | Jefferson | Republic
Chautauqua | Jewell | Rice
Cherokee | Johnson | Riley
Cheyenne | Kearny | Rooks
Clark | Kingman | Rush
Clay | Kiowa | Russell
Cloud | Labette | Saline
Coffey | Lane | Scott
Comanche | Leavenworth | Sedgwick
Cowley | Lincoln | Seward
Crawford | Linn | Shawnee
Decatur | Logan | Sheridan
Dickinson | Lyon | Sherman
Doniphan | McPherson | Smith
Douglas | Marion | Stafford
Edwards | Marshall | Stanton
Elk | Meade | Stevens
Ellis | Miami | Sumner
Ellsworth | Mitchell | Thomas
Finney | Montgomery | Trego
Ford | Morris | Wabaunsee
Franklin | Morton | Wallace
Geary | Nemaha | Washington
Gove | Neosho | Wichita
Graham | Ness | Wilson
Grant | Norton | Woodson
Gray | Osage | Wyandotte

Kentucky

Adair | Garrard | Meade
Allen | Grant | Menifee
Anderson | Graves | Mercer
Ballard | Grayson | Metcalfe
Barren | Green | Monroe
Bath | Greenup | Montgomery
Boone | Hancock | Morgan
Bourbon | Hardin | Muhlenberg
Boyd | Harrison | Nelson
Boyle | Hart | Nicholas
Bracken | Henderson | Ohio
Breathitt | Henry | Oldham
Breckinridge | Hickman | Owen
Bullitt | Hopkins | Owsley
Butler | Jackson | Pendleton
Caldwell | Jefferson | Powell
Calloway | Jessamine | Pulaski
Campbell | Johnson | Robertson
Carlisle | Kenton | Rockcastle
Carroll | Knott | Rowan
Carter | Knox | Russell
Casey | Larue | Scott
Christian | Laurel | Shelby
Clark | Lee | Simpson
Clay | Lewis | Spencer
Clinton | Lincoln | Taylor
Crittenden | Livingston | Todd
Cumberland | Logan | Trigg
Daviess | Lyon | Trimble
Edmonson | McCracken | Union
Estill | McCreary | Warren
Fayette | McLean | Washington
Fleming | Madison | Wayne
Floyd | Magoffin | Webster
Franklin | Marion | Whitley
Fulton | Marshall | Wolfe
Gallatin | Mason | Woodford

Louisiana

All counties

Maine

Aroostook | Oxford | Piscataquis
Kennebec | Penobscot | Somerset

Maryland

Allegany | Dorchester | Queen Annes
Anne Arundel | Frederick | St. Marys
Baltimore | Garrett | Somerset
Calvert | Harford | Talbot
Caroline | Howard | Washington
Carroll | Kent | Wicomico
Cecil | Montgomery | Worcester
Charles | Prince Georges

Massachusetts

Berkshire | Franklin

Michigan

Alcona | Emmet | Livingston
Alger | Genesee | Luce
Allegan | Gladwin | Mackinac
Alpena | Gogebic | Macomb
Antrim | Grand Traverse | Manistee
Arenac | Gratiot | Marquette
Baraga | Hillsdale | Mason
Barry | Houghton | Mecosta
Bay | Huron | Menominee
Benzie | Ingham | Midland
Berrien | Ionia | Missaukee
Branch | Iosco | Monroe
Calhoun | Iron | Montcalm
Cass | Isabella | Montmorency
Charlevoix | Jackson | Muskegon
Cheboygan | Kalamazoo | Newaygo
Chippewa | Kalkaska | Oakland
Clare | Kent | Oceana
Clinton | Keweenaw | Ogemaw
Crawford | Lake | Ontonagon
Delta | Lapeer | Osceola
Dickinson | Leelanau | Oscoda
Eaton | Lenawee | Otsego

Ottawa	St. Joseph	Van Buren
Presque Isle	Sanilac	Washtenaw
Roscommon	Schoolcraft	Wayne
Saginaw	Shiawassee	Wexford
St. Clair	Tuscola	

Minnesota

Aitkin	Jackson	West Polk
Anoka	Kanabec	Pope
Becker	Kandiyohi	Ramsey
Beltrami	Kittson	Red Lake
Benton	Koochiching	Redwood
Big Stone	Lac Qui Parle	Renville
Blue Earth	Lake	Rice
Brown	Lake of the Woods	Rock
Carlton	Le Sueur	Roseau
Carver	Lincoln	St. Louis
Cass	Lyon	Scott
Chippewa	McLeod	Sherburne
Chisago	Mahnomen	Sibley
Clay	Marshall	Stearns
Clearwater	Martin	Steele
Cook	Meeker	Stevens
Cottonwood	Mille Lacs	Swift
Crow Wing	Morrison	Todd
Dakota	Mower	Traverse
Dodge	Murray	Wabasha
Douglas	Nicollet	Wadena
Faribault	Nobles	Waseca
Fillmore	Norman	Washington
Freeborn	Olmsted	Watonwan
Goodhue	East Otter Tail	Wilkin
Grant	West Otter Tail	Winona
Hennepin	Pennington	Wright
Houston	Pine	Yellow Medicine
Hubbard	Pipestone	
Isanti	East Polk	
Itasca		

Mississipi

All counties

Missouri

Adair	Greene	Ozark
Andrew	Grundy	Pemiscot
Atchison	Harrison	Perry
Audrain	Henry	Pettis
Barry	Hickory	Phelps
Barton	Holt	Pike
Bates	Howard	Platte
Benton	Howell	Polk
Bollinger	Iron	Pulaski
Boone	Jackson	Putnam
Buchanan	Jasper	Ralls
Butler	Jefferson	Randolph
Caldwell	Johnson	Ray
Callaway	Knox	Reynolds
Camden	Laclede	Ripley
Cape Girardeau	Lafayette	St. Charles
Carroll	Lawrence	St. Clair
Carter	Lewis	St. Genevieve
Cass	Lincoln	St. Francois
Cedar	Linn	St. Louis
Chariton	Livingston	Saline
Christian	McDonald	Schuyler
Clark	Macon	Scotland
Clay	Madison	Scott
Clinton	Maries	Shannon
Cole	Marion	Shelby
Cooper	Mercer	Stoddard
Crawford	Miller	Stone
Dade	Mississippi	Sullivan
Dallas	Moniteau	Taney
Daviess	Monroe	Texas
De Kalb	Montgomery	Vernon
Dent	Morgan	Warren
Douglas	New Madrid	Washington
Dunklin	Newton	Wayne
Franklin	Nodaway	Webster
Gasconade	Oregon	Worth
Gentry	Osage	Wright

Montana

Beaverhead	Granite	Powell
Big Horn	Hill	Prairie
Blaine	Jefferson	Ravalli
Broadwater	Judith Basin	Richland
Carbon	Lake	Roosevelt
Carter	Lewis & Clark	Rosebud
Cascade	Liberty	Sanders
Chouteau	Lincoln	Sheridan
Custer	McCone	Silver Bow
Daniels	Madison	Stillwater
Dawson	Meagher	Sweet Grass
Deer Lodge	Mineral	Teton
Fallon	Missoula	Toole
Fergus	Musselshell	Treasure
Flathead	Park	Valley
Gallatin	Petroleum	Wheatland
Garfield	Phillips	Wibaux
Glacier	Pondera	Yellowstone
Golden Valley	Powder River	

Nebraska

Antelope	Franklin	Nuckolls
Banner	Frontier	Otoe
Boone	Furnas	Pawnee
Box Butte	Gage	Perkins
Boyd	Garden	Phelps
Brown	Garfield	Pierce
Buffalo	Gosper	Platte
Burt	Greeley	Polk
Butler	Harlan	Red Willow
Cass	Hayes	Richardson
Cedar	Hitchcock	Rock
Chase	Holt	Saline
Cherry	Howard	Sarpy
Cheyenne	Jefferson	Saunders
Clay	Johnson	Scotts Bluff
Colfax	Keith	Seward
Cuming	Keya Paha	Sheridan
Custer	Kimball	Sherman
Dakota	Knox	Sioux
Dawes	Lancaster	Stanton
Dawson	Lincoln	Thurston
Deuel	Logan	Valley
Dixon	Madison	Washington
Dodge	Merrick	Wayne
Douglas	Morrill	Webster
Dundy	Nance	York

Nevada

Churchill	Humboldt	Pershing
Clark	Lander	Storey
Douglas	Lincoln	Washoe
Elko	Lyon	White Pine
Esmeralda	Mineral	Carson City
Eureka	Nye	

New Jersey

Atlantic	Hunterdon	Salem
Burlington	Mercer	Somerset
Camden	Middlesex	Sussex
Cape May	Monmouth	Warren
Cumberland	Morris	
Gloucester	Ocean	

New Mexico

Bernalillo	Hidalgo	San Miguel
Catron	Lea	Sierra
Chaves	Luna	Socorro
Colfax	Mora	Taos
Curry	Otero	Torrance
De Baca	Quay	Union
Dona Ana	Rio Arriba	Valencia
Eddy	Roosevelt	
Guadalupe	San Juan	

New York

Allegany	Chenango	Erie
Broome	Clinton	Essex
Cattaraugus	Columbia	Franklin
Cayuga	Cortland	Genesee
Chautauqua	Delaware	Herkimer
Chemung	Dutchess	Jefferson
Lewis	Orleans	Steuben
Livingston	Oswego	Suffolk
Madison	Otsego	Sullivan
Monroe	Rensselaer	Tioga
Montgomery	St. Lawrence	Tompkins
Niagara	Saratoga	Washington
Oneida	Schenectady	Wayne
Onondaga	Schoharie	Wyoming
Ontario	Schuyler	Yates
Orange	Seneca	

North Carolina

Alamance	Franklin	Pamlico
Alexander	Gaston	Pasquotank
Alleghany	Gates	Pender
Anson	Granville	Perquimans
Beaufort	Greene	Person
Bertie	Guilford	Pitt
Bladen	Halifax	Polk
Brunswick	Harnett	Randolph
Buncombe	Henderson	Richmond
Burke	Hertford	Robeson
Cabarrus	Hoke	Rockingham
Caldwell	Hyde	Rowan
Camden	Iredell	Rutherford
Carteret	Johnston	Sampson
Caswell	Jones	Scotland
Catawba	Lee	Stanly
Chatham	Lenoir	Stokes
Chowan	Lincoln	Surry
Cleveland	McDowell	Tyrrell
Columbus	Madison	Union
Craven	Martin	Vance
Cumberland	Mecklenburg	Wake
Currituck	Montgomery	Warren
Davidson	Moore	Washington
Davie	Nash	Wayne
Duplin	New Hanover	Wilkes
Durham	Northhampton	Wilson
Edgecombe	Onslow	Yadkin
Forsyth	Orange	

North Dakota

Adams	Grant	Ransom
Barnes	Griggs	Renville
Benson	Hettinger	Richland
Billings	Kidder	Rolette
Bottineau	La Moure	Sargent
Bowman	Logan	Sheridan
Burke	McHenry	Sioux
Burleigh	McIntosh	Slope
Cass	McKenzie	Stark
Cavalier	McLean	Steele
Dickey	Mercer	Stutsman
Divide	Morton	Towner
Dunn	Mountrail	Traill
Eddy	Nelson	Walsh
Emmons	Oliver	Ward
Foster	Pembina	Wells
Golden Valley	Pierce	Williams
Grand Forks	Ramsey	

Ohio

Adams	Erie	Lake
Allen	Fairfield	Lawrence
Ashland	Fayette	Licking
Ashtabula	Franklin	Logan
Athens	Fulton	Lorain
Auglaize	Gallia	Lucas
Belmont	Geauga	Madison
Brown	Greene	Mahoning
Butler	Guernsey	Marion
Carroll	Hamilton	Medina
Champaign	Hancock	Meigs
Clark	Hardin	Mercer
Clermont	Harrison	Miami
Clinton	Henry	Monroe
Columbiana	Highland	Montgomery
Coshocton	Hocking	Morgan
Crawford	Holmes	Morrow
Cuyahoga	Huron	Muskingum
Darke	Jackson	Noble
Defiance	Jefferson	Ottawa
Delaware	Knox	Paulding

Perry	Scioto	Vinton
Pickaway	Seneca	Warren
Pike	Shelby	Washington
Portage	Stark	Wayne
Preble	Summit	Williams
Putnam	Trumbull	Wood
Richland	Tuscarawas	Wyandot
Ross	Union	
Sandusky	Van Wert	

Oklahoma

Alfalfa	Grady	Okfuskee
Atoka	Grant	Oklahoma
Beaver	Greer	Osage
Beckham	Harmon	Ottawa
Blaine	Harper	Pawnee
Caddo	Jackson	Payne
Canadian	Kay	Pittsburg
Cimarron	Kingfisher	Pottawatomie
Cleveland	Kiowa	Roger Mills
Coal	Lincoln	Rogers
Comanche	Logan	Stephens
Cotton	McClain	Texas
Craig	McCurtain	Tillman
Custer	Major	Tulsa
Delaware	Marshall	Wagoner
Dewey	Murray	Washington
Ellis	Muskogee	Washita
Garfield	Noble	Woods
Garvin	Nowata	Woodward

Oregon

Baker	Jackson	Multnomah
Benton	Jefferson	Polk
Clackamas	Josephine	Sherman
Columbia	Klamath	Umatilla
Crook	Lake	Union
Deschutes	Lane	Wallowa
Douglas	Linn	Wasco
Gilliam	Malheur	Washington
Grant	Marion	Wheeler
Harney	Morrow	Yamhill

Pennsylvania

Adams	Dauphin	Monroe
Allegheny	Delaware	Montgomery
Armstrong	Elk	Montour
Beaver	Erie	Northampton
Bedford	Fayette	Northumberland
Berks	Franklin	Perry
Blair	Fulton	Potter
Bradford	Greene	Schuylkill
Bucks	Huntingdon	Snyder
Butler	Indiana	Somerset
Cambria	Jefferson	Sullivan
Cameron	Juniata	Susquehanna
Carbon	Lancaster	Tioga
Centre	Lawrence	Union
Chester	Lebanon	Venango
Clarion	Lehigh	Warren
Clearfield	Luzerne	Washington
Clinton	Lycoming	Westmoreland
Columbia	McKean	Wyoming
Crawford	Mercer	York
Cumberland	Mifflin	

Rhode Island

Newport	Washington

South Carolina

Abbeville	Dillon	Marion
Aiken	Dorchester	Marlboro
Allendale	Edgefield	Newberry
Anderson	Florence	Oconee
Bamberg	Greenville	Orangeburg
Berkeley	Greenwood	Pickens
Calhoun	Hampton	Richland
Cherokee	Kershaw	Saluda
Chester	Lancaster	Spartanburg
Chesterfield	Laurens	Sumter
Clarendon	Lee	Union
Colleton	Lexington	Williamsburg
Darlington	McCormick	York

South Dakota

Aurora	Fall River	Marshall
Beadle	Faulk	Meade
Bennett	Grant	Mellette
Bon Homme	Gregory	Miner
Brookings	Haakon	Minnehaha
Brown	Hamlin	Moody
Brule	Hand	Pennington
Buffalo	Hanson	Perkins
Butte	Harding	Potter
Campbell	Hughes	Roberts
Charles Mix	Hutchinson	Sanborn
Clark	Hyde	Shannon
Clay	Jackson	Spink
Codington	Jerauld	Stanley
Corson	Jones	Sully
Custer	Kingsbury	Todd
Davison	Lake	Tripp
Day	Lawrence	Turner
Deuel	Lincoln	Union
Dewey	Lyman	Walworth
Douglas	McCook	Yankton
Edmunds	McPherson	Ziebach

Tennessee

Anderson	Hamilton	Morgan
Bedford	Hancock	Obion
Benton	Hardeman	Overton
Bledsoe	Hardin	Perry
Blount	Hawkins	Pickett
Bradley	Haywood	Polk
Campbell	Henderson	Putnam
Cannon	Henry	Rhea
Carroll	Hickman	Roane
Carter	Houston	Robertson
Cheatham	Humphreys	Rutherford
Chester	Jackson	Scott
Claiborne	Jefferson	Sequatchie
Clay	Johnson	Sevier
Cocke	Knox	Shelby
Coffee	Lake	Smith
Crockett	Lauderdale	Stewart
Cumberland	Lawrence	Sullivan
Davidson	Lewis	Sumner
Decatur	Lincoln	Tipton
DeKalb	Loudon	Trousdale
Dickson	McMinn	Unicoi
Dyer	McNairy	Union
Fayette	Macon	Van Buren
Fentress	Madison	Warren
Franklin	Marion	Washington
Gibson	Marshall	Wayne
Giles	Maury	Weakley
Grainger	Meigs	White
Greene	Monroe	Williamson
Grundy	Montgomery	Wilson
Hamblen	Moore	

Texas

Archer	Collingsworth	Fisher
Armstrong	Comal	Floyd
Atascosa	Comanche	Frio
Bailey	Concho	Gaines
Bandera	Cooke	Gillespie
Bastrop	Coryell	Glasscock
Baylor	Cottle	Gray
Bee	Crosby	Grayson
Bell	Culberson	Grimes
Bexar	Dallam	Guadalupe
Blanco	Dallas	Hale
Borden	Dawson	Hamilton
Bosque	Deaf Smith	Hansford
Briscoe	Delta	Hardeman
Brown	Denton	Hartley
Burnet	Dickens	Haskell
Callahan	Donley	Hill
Carson	Eastland	Hood
Castro	Ector	Howard
Childress	Ellis	Hudspeth
Clay	El Paso	Hutchinson
Cochran	Erath	Irion
Coke	Falls	Jack
Coleman	Fannin	Johnson
Colin	Fayette	Jones
Karnes	Mitchell	Sherman
Kaufman	Montague	Stephens
Kendall	Moore	Sterling
Kerr	Morris	Stonewall
Kimble	Motley	Sutton
Knox	Nolan	Swisher
Lamar	Ochiltree	Taylor
Lamb	Oldham	Terry
Lampasas	Palo Pinto	Throckmorton
La Salle	Parker	Tom Green
Lavaca	Parmer	Upton
Lee	Pecos	Uvalde
Lipscomb	Potter	Ward
Llano	Randall	Wheeler
Lubbock	Reeves	Wichita
Lynn	Roberts	Wilbarger
McCulloch	Runnels	Williamson
Mason	San Saba	Wise
Medina	Schleicher	Yoakum
Menard	Scurry	Young
Milam	Shackelford	
Mills	Shelby	

Utah

Beaver	Juab	Summit
Box Elder	Kane	Tooele
Cache	Millard	Uintah
Carbon	Morgan	Utah
Davis	Piute	Wasatch
Duchesne	Rich	Washington
Emery	Salt Lake	Wayne
Garfield	San Juan	Weber
Grand	Sanpete	
Iron	Sevier	

Vermont

Addison	Franklin	Rutland
Bennington	Grand Isle	Washington
Caledonia	Lamoille	Windham
Chittenden	Orange	Windsor
Essex	Orleans	

Virgina

Accomack	Gloucester	Powhatan
Albemarle	Goochland	Prince Edward
Alleghany	Grayson	Prince George
Amelia	Greene	Prince William
Amherst	Greensville	Pulaski
Appomattox	Halifax	Rappahannock
Augusta	Hanover	Richmond
Bath	Henrico	Roanoke
Bedford	Henry	Rockbridge
Bland	Highland	Rockingham
Botetourt	Isle of Wight	Russell
Brunswick	James City	Scott
Buchanan	King and Queen	Shenandoah
Buckingham	King George	Smyth
Campbell	King William	Southampton
Caroline	Lancaster	Spotsylvania
Carroll	Lee	Stafford
Charles City	Loudoun	Surry
Charlotte	Louisa	Sussex
Chesterfield	Lunenburg	Tazewell
Clarke	Madison	Warren
Craig	Mathews	Washington
Culpeper	Mecklenburg	Westmoreland
Cumberland	Middlesex	Wise
Dickenson	Montgomery	Wythe
Dinwiddie	Nelson	York
Essex	New Kent	Chesapeake City
Fairfax	Northampton	Hampton
Fauquier	Northumberland	Newport News
Floyd	Nottoway	Suffolk City
Fluvanna	Orange	Virginia Beach
Franklin	Page	
Frederick	Patrick	
Giles	Pittsylvania	

Washington

Adams	Clark	Franklin
Asotin	Columbia	Garfield
Benton	Cowlitz	Grant
Chelan	Douglas	Grays Harbor
Clallam	Ferry	Island

King	Pacific	Stevens
Kitsap	Pend Oreille	Thurston
Kittitas	Pierce	Wahkiakum
Klickitat	San Juan	Walla Walla
Lewis	Skagit	Whatcom
Lincoln	Skamania	Whitman
Mason	Snohomish	Yakima
Okanogan	Spokane	

West Virginia

Barbour	Harrison	Pendleton
Berkeley	Jackson	Pleasants
Brooke	Jefferson	Pocahontas
Cabell	Marshall	Preston
Fayette	Mason	Putnam
Grant	Mineral	Randolph
Greenbrier	Monroe	Ritchie
Hampshire	Morgan	Summers
Hancock	Nicholas	Tucker
Hardy	Ohio	Wood

Wisconsin

Adams	Iowa	Polk
Ashland	Iron	Portage
Barron	Jackson	Price
Bayfield	Jefferson	Racine
Brown	Juneau	Richland
Buffalo	Kenosha	Rock
Burnett	Kewaunee	Rusk
Calumet	La Crosse	St. Croix
Chippewa	Lafayette	Sauk
Clark	Langlade	Sawyer
Columbia	Lincoln	Shawano
Crawford	Manitowoc	Sheboygan
Dane	Marathon	Taylor
Dodge	Marinette	Trempealeau
Door	Marquette	Vernon
Douglas	Menominee	Vilas
Dunn	Milwaukee	Walworth
Eau Claire	Monroe	Washburn
Florence	Oconto	Washington
Fond Du Lac	Oneida	Waukesha
Forest	Outagamie	Waupaca
Grant	Ozaukee	Waushara
Green	Pepin	Winnebago
Green Lake	Pierce	Wood

Wyoming

Albany	Hot Springs	Sheridan
Big Horn	Johnson	Sweetwater
Campbell	Laramie	Teton
Carbon	Lincoln	Uinta
Converse	Natrona	Washakie
Crook	Niobrara	Weston
Fremont	Park	
Goshen	Platte	

Done in Washington, D.C., on February 23, 1983.

Dated: January 27, 1984.

Peter F. Cole,

Secretary Federal Crop Insurance Corporation.

Approved by:

Merritt W. Sprague,

Manager.

[FR Doc. 84-3083 Filed 2-3-84; 8:45 am]

BILLING CODE 3410-05-M

Agricultural Stabilization and Conservation Service

7 CFR 724

[Amt. 4]

Tobacco Allotment and Marketing Quota Regulations

AGENCY: Agricultural Stabilization and Conservation Service, USDA.

ACTION: Final rule.

SUMMARY: This rule adopts as a final rule without change the interim rule published in the **Federal Register** on August 19, 1983 (48 FR 37603). The interim rule amended the regulations at 7 CFR Part 724 to implement changes in the tobacco price support and production adjustment program which were required to be made by the No Net Cost Tobacco Program Act of 1982.

EFFECTIVE DATE: February 6, 1984.

ADDRESS: Copies of the Final Regulatory Impact Analysis may be obtained from the Director, Analysis Division, Room 3714 South Building, Fourteenth Street and Independence Avenue, SW., P.O. Box 2415, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT: C. Douglas Richardson, Agricultural Program Specialist, Tobacco and Peanuts Division, USDA–ASCS, P.O. Box 2415, Washington, D.C. 20013 (202) 447–4281.

SUPPLEMENTARY INFORMATION: This rule has been reviewed under USDA procedures established in accordance with Executive Order 12291 and Secretary's Memorandum 1512–1 and has been classified as "not major". It has been determined that this rule will not result in: (1) An annual effect on the economy of $100 million or more: (2) a major increase in costs or prices for consumers, individual industries, Federal, State or local governments, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Information collection requirements contained in this regulation (7 CFR Part 724) have been approved by the Office of Management and Budget in accordance with the provisions of 44 U.S.C. Ch. 35 and have been assigned OMB Number 0560–0117.

The title and number of the Federal Assistance Program to which this rule applies are: Commodity Loan and Purchases, 10.051, as found in the Catalog of Federal Domestic Assistance.

While the Regulatory Flexibility Act is not applicable to this rule, a final Regulatory Impact Analysis has been prepared.

This action is not expected to have any significant impact on the quality of the human environment, health, and safety. Therefore, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

An interim rule was published in the **Federal Register** on August 19, 1983 (48 FR 37603), which amended 7 CFR Part 724 to implement provisions of the No Net Cost Tobacco Program Act of 1982 (Pub. L. 97–218, 96 Stat. 197, approved July 20, 1982) with respect to the dark air-cured, fire-cured Virginia sun-cured, cigar-binder (types 51 and 52), cigar-filler and binder (types 42, 43, 44, 53, 54, and 55) tobacco marketing quota program. The interim rule incorporated certain amendments made by the No Net Cost Tobacco Program Act of 1982 with respect to the operation of the tobacco price support and production adjustment program.

These provisions included: (1) limitations on the amount of floor sweepings which may be marketed without penalty by a warehouseman; (2) a lien on tobacco as a mechanism for collecting marketing quota penalties; (3) penalties for marketing tobacco which is ineligible for price support because the operator or other producer on a farm has failed to contribute to the No Net Cost Tobacco Fund or Account; and (4) other changes to strengthen the operation of the tobacco price support and production adjustment programs.

No comments were received with respect to the interim rule. Accordingly, it has been determined that the provisions of the interim rule are adopted as the final rule without change.

List of Subjects in 7 CFR Part 724

Acreage allotment, Marketing quota, Penalties, Reporting and recordkeeping requirements, Tobacco.

PART 724—[AMENDED]

Accordingly, 7 CFR Part 724 is amended by adopting the interim rule published at 48 FR 37603 as the final rule without change.

Signed at Washington, D.C. on February 1, 1984.

Everett Rank,

Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc. 84-3101 Filed 2-3-84; 8:45 am]

BILLING CODE 3410-05-M

FEDERAL RESERVE SYSTEM

12 CFR Part 226

[Reg. Z; Doc. No. R-0477]

Truth in Lending; Determinations of Effect on State Laws, New Hampshire and New Jersey

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Preemption determinations.

SUMMARY: In accordance with Appendix A to 12 CFR Part 226 and in response to a request, the Federal Reserve Board is publishing final determinations that certain provisions in the laws of New Hampshire and New Jersey are not inconsistent with, and therefore are not preempted by, the Truth in Lending Act or Regulation Z. The state laws that were the subject of the request govern the offering of cash discounts in the sale of motor vehicle fuel.

EFFECTIVE DATE: January 31, 1984.

FOR FURTHER INFORMATION CONTACT: Lynn Goldfaden or Gerald Hurst, Staff Attorneys, Division of Consumer and Community Affairs, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, at (202) 452–3667 or 452–3867.

SUPPLEMENTARY INFORMATION: (1) *General.* Section 111(a)(1) of the act authorizes the Board to determine whether any inconsistency exists between chapters 1 (General Provisions), 2 (Credit Transactions), or 3 (Credit Advertising) of the Truth in Lending Act or its implementing regulation, Regulation Z, and any state law relating to the disclosure of information in connection with consumer credit transactions. Section 171(a) of the act authorizes the Board to determine whether any inconsistency exists between chapter 4 (Credit Billing) of the act or its implementing regulation and any state law relating to credit billing practices. The Board may not find that any state law is inconsistent with a chapter 4 provision if the state law gives greater protection to the consumer than does the federal law.

The Board has determined that the state laws reviewed are not preempted under either of these standards. Since there is no preemption, a delayed effective date is unnecessary. Such a delay is needed only in those situations in which creditors are required to revise forms or procedures. Because the Board's action requires no changes, these determinations are effective immediately.

These final determinations are issued under authority delegated to the Director of the Division of Consumer and Community Affairs, as set forth in the Board's Rules Regarding Delegation of Authority (12 CFR 265.2(h)(3); 48 FR 4454, February 1, 1983).

(2) *Discussion of specific requests and final determinations.* The Board received a request for determinations as to whether provisions of certain laws in New Hampshire and New Jersey are inconsistent with, and therefore preempted by, the Truth in Lending Act (15 U.S.C. 1601 *et seq.)* and Regulation Z (12 CFR Part 226). The request came from a federation of trade associations representing independent petroleum marketers and was concerned with state law provisions governing the offering of cash discounts in the sale of motor vehicle fuel.

In response to this request, the Board, on August 5, 1983, published for comment a notice of its intent to make preemption determinations (48 FR 35659). In the notice, the Board first requested comment on whether these state laws are of the type subject to the Board's preemption authority. In addition, for discussion purposes, the Board assumed that the laws are subject to its review authority and proposed to find that the laws are not inconsistent with, and therefore not preempted by, the federal law.

The Board received twelve comments on the proposal. Most of the commenters believed that the state laws are not inconsistent with and are not preempted by the federal law.

Section 167(b) is the federal statutory provision relevant to these determinations, since it addresses the offering of cash discounts. Section 167(b) is located in chapter 4 of the act, but its purpose is to provide an exception for certain cash discounts to the finance charge rules in section 106, which is found in chapter 1. Because section 167(b) is so closely related to the finance charge rules, the state laws have been examined under the preemption standard in section 111(a)(1). However, because section 171(a) is the preemption provision for chapter 4 of the act, the state laws also have been examined under the standards found in that section. Upon review of these state laws, the Board has determined that under either standard, the laws are not inconsistent with, and therefore not preempted by, the federal law. The state law provisions and the Board's findings are discussed below.

New Hampshire. The federation asked for a determination of whether section 339–B:8,II of New Hampshire Revised Statutes Annotated (1981 Supp.) (N.H. Rev. Stat. Ann.), as interpreted by the state Attorney-General's office, is inconsistent with, and therefore preempted by, the Truth in Lending Act and Regulation Z. That statute deals with the posting of prices for motor vehicle fuel at retail gasoline stations. The law prohibits the posting of a different price at one pump for the same grade of gasoline dispensed at another pump when both are supplied from common storage and the gasoline dispensed from both is of the same quality (although a "self serve"—"full serve" price distinction is permitted).

The New Hampshire Attorney General's office (in opinions dated May 28, 1982, and January 21, 1983) has interpreted the statute as prohibiting separate "cash pumps" and "credit pumps" with different posted prices for the same grade of gasoline, but permitting the dealer to vary the price for separate sales from the same pump according to the method of payment. As a result, dealers in New Hampshire may offer cash discount programs in which one price is posted and charged for the same grade of gasoline with a discount provided for cash customers.

The Board has determined that the New Hampshire provision is not preempted by the federal law. In discussing the term "regular price" in the Official Staff Commentary to Regulation Z, the staff made clear that offering a discount by establishing separate cash and credit pumps, and posting only the cash or credit prices on these pumps, would be considered an appropriate means of offering a discount under section 167(b) of the act and would not result in a surcharge prohibited under section 167(a)(2). (See Comment 4(b)(9)–3 of the Official Staff Commentary to Regulation Z, 12 CFR Part 226, Supplement I; as amended, 48 FR 41343, September 20, 1982.) However, this material only describes a permissible means of offering a cash discount under federal law, not a required method or the sole means of doing so.

The purpose of the federal cash discount provision is to encourage the offering of cash discounts by removing certain impediments to offering them. Specifically, Congress provided that a discount offered in accordance with section 167(b) of the act would not be a finance charge under the federal Truth in Lending Act, or a finance charge or other charge for credit under state usury or disclosure laws (see section 171(c) of the act). The New Hampshire law does not provide that a discount offered in accordance with the federal law is to be a finance charge for disclosure or usury purposes. Rather, the state law, by prohibiting a particular practice in the sale of gasoline, prohibits one manner of offering discounts that is permissible

under federal law while allowing dealers to offer discounts in another manner. As a result, the Board believes that the state law is not inconsistent with the federal law and therefore is not preempted.

New Jersey. The federation also asked for a determination on two provisions of New Jersey law as they have been interpreted in relation to the offering of cash discounts by petroleum retailers. The first provision allows a retail dealer to sell similar fuels at different prices to cash and credit customers. However, the price posted on top of the pump and on the meter must be the credit price. In addition, the cash discount must appear on a conspicuous sign at the pump or at the island. New Jersey Administrative Code (N.J.A.C.) section 18:9–2.7(b).

This provision has been interpreted by the New Jersey Department of Law and Public Safety (in a memorandum dated February 9, 1983). The interpretation reiterated that all gasoline pumps must display the higher credit card price and that a sign disclosing the discount may be shown at the pump or at the island site. The interpretation also stated that separate islands for cash and/or credit are permissible if the pump signs and meter prices on both the cash island and credit island reflect the higher credit price.

The federal law does permit a service station operator to designate separate pumps or separate islands as being for either cash or credit purchases while displaying only the appropriate cash or credit price at the pumps. (See Comment 4(b)(9)–3 of the Official Staff Commentary to Regulation Z.) The New Jersey law, however, like the New Hampshire law described above, requires certain sales practices to be followed by persons offering cash discounts in the sale of gasoline.

The federal law, as interpreted by the staff, simply gives an example of a permissible means of offering a discount under section 167(b). The federal law does not require the use of this method and a state's decision to prohibit a specific method of offering cash discounts is not inconsistent with the federal law.

Furthermore, the Board has not taken a position as to whether it is appropriate to display the cash price on the meter of a pump used for both cash and credit card sales. However, even if a position had been taken that it was permitted, the Board believes the state law would not be preempted. Once again, the federal law would only be providing an example of a method of giving a discount that is proper under federal law.

The federation also requested a determination that New Jersey Attorney General's Formal Opinion No. 2—1982 is preempted. That opinion addresses section 56:6–2(e) of New Jersey Statutes Annotated, which provides that no rebates or price concessions may be given which would permit a person to obtain motor fuels from a retail dealer at less than the posted price or at a net price below the posted price applicable at the time of sale.

In the interpretation, the Attorney General concluded that the state law allows a retail dealer to set one price for the sale of gasoline to credit customers and a lower price to cash customers, if the discount "approximates the economic value to the retailer of providing a discount to his cash customers."

The Congress, in passing the Cash Discount Act of 1981, expressly removed the five percent limitation (contained in the original provision) on the amount of a cash discount that could be offered to cash customers and excluded from treatment as a finance charge in credit card transactions. Once again, however, the federal law is permissive with respect to the amount of a cash discount that is allowed under the federal cash discount provision. The state law, as interpreted, results in an absolute prohibition on the offering of discounts in a certain manner. The law does not say that cash discounts in excess of a specific amount, or in excess of an amount that approximates "the economic value to the retailer of providing a discount to his cash customers," are to be treated as a finance charge or other charge for credit under state disclosure or usury laws; instead the law only prohibits a retail dealer from offering a discount under certain circumstances. As a result, the Board believes that the state position, as set forth in the formal opinion of the Attorney General, is not inconsistent with the federal law.

Board of Governors of the Federal Reserve System, January 31, 1984.

William W. Wiles,

Secretary of the Board.

[FR Doc. 84–3084 Filed 2–3–84; 8:45 am]

BILLING CODE 6210–01–M

SMALL BUSINESS ADMINISTRATION

13 CFR Parts 105 and 137

National Security Information; Handling Classified Information

AGENCY: Small Business Administration.

ACTION: Final rule.

SUMMARY: This Final Rule establishes the policy of the Small Business Administration regarding the handling of classified material. The Small Business Administration had previously issued procedures pertaining to the handling of classified material in Standard Operating Procedure (SOP) 90 21, Chapter 3, as part of the Agency's internal procedure manual. This Rule is published to comply with Executive Order 12356, "National Security Information," which requires that agencies publish in the **Federal Register** those procedures pertaining to their handling of classified information which affect the public, and to implement that portion of National Security Decision Directive 84, signed by the President on March 11, 1983, which requires that agencies establish procedures for processing media inquiries regarding classified information and for imposing sanctions on agency officials and employees who make unauthorized disclosures of such information.

EFFECTIVE DATE: February 6, 1984.

FOR FURTHER INFORMATION CONTACT: Stavan Pineda, Security Officer, Office of Inspector General, Small Business Administration, Room 203, 1441 L Street, NW., Washington, D.C. 20416 (202–653–6355).

SUPPLEMENTARY INFORMATION: Executive Order 12356, 47 FR 14874 (1982), established new policy for classification, safeguarding, and declassification of national security information—i.e., information classified as Top Secret, Secret, or Confidential. Under that Order, each agency that handles such information must establish procedures regarding such handling and publish them in the **Federal Register** to the extent that they are unclassified and affect the public. National Security Decision Directive 84 (NSDD 84), signed by the President on March 11, 1983, requires Federal agencies to promulgate policies and procedures providing for: (1) The signing of non-disclosure agreements as a condition of access to classified information and sensitive compartmented information; (2) pre-publication clearance procedures, where appropriate; (3) a method for handling media contacts; (4) procedures for reporting and investigating unauthorized disclosures of classified information; and (5) sanctions against agency officials and employees who make unauthorized disclosures of such information. In accordance with these requirements, the Small Business Administration is promulgating a new 13 CFR Part 137 and amending existing 13 CFR Part 105.

The new 13 CFR Part 137, "National Security Information Program," implements Executive Order 12356 and the requirement contained in NSDD 84 regarding procedures for handling media contacts. Section 137.1 states that the purpose of the new regulation is to advise the public of those procedures adopted by the Small Business Administration in implementing Executive Order 12356 and NSDD 84 which affect its interests.

Section 137.2 of the new regulation states that it is the policy of the Small Business Administration to act in accordance with Executive Order 12356 with respect to all national security information in its possession.

Section 137.3 of the new regulation identifies the Security Officer, Office of Inspector General, as being responsible for the Small Business Administration's National Security Information Program. As a part of this responsibility, the Security Officer is responsible for coordinating the Agency response to all media inquiries which concern classified information, whether made directly to the Security Officer or to other Agency officials or employees. This procedure implements the Small Business Administration policy for handling media contacts as required by paragraph 1d of NSDD 84. Section 137.3 also explains the procedures for invoking both Systematic and Mandatory Reviews for Declassification of National Security Information.

The amendment to 13 CFR Part 105, "Standards of Conduct," implements the requirement contained in NSDD 84 regarding sanctions against officers and employees who make unauthorized disclosures of national security information. The proposed amendment would add a new § 105.515(d) which would prohibit Agency officials and employees from making unauthorized disclosures of national security information. The effect of this revision would be to subject any Agency official or employee found to have violated this prohibition to appropriate administrative sanctions, in accordance with 13 CFR § 105.701. Such sanctions could include dismissal or suspension from SBA employment, in addition to other penalties provided by law. The amendment would also redesignate the existing § 105.515(d) as § 105.515(e) and make revisions thereto to update the listing of statutes and other authorities presently identified therein as governing the disclosure of official government information.

Compliance With Executive Order 12291 and the Regulatory Flexibility Act

SBA does not consider the new 13 CFR Part 137 and the revision to 13 CFR Part 105 to constitute either major rules for the purposes of Executive Order 12291 or rules which will have a significant economic impact on a substantial number of small entities for purposes of the Regulatory Flexibility Act. The new regulation and revision primarily establish internal procedures for the implementation of Executive Order 12356 and NSDD 84. The proposed regulation and revision will affect all Agency personnel and a limited number of non-Agency individuals who request access to classified information. These non-Agency individuals include members of the media who make inquiries which concern classified information in the possession of the Agency. The proposed regulations will have no economic impact on any affected category of individuals.

Compliance With the Paperwork Reduction Act

Neither the proposed new 13 CFR Part 137 nor the proposed revision to 13 CFR Part 105 contain any reporting or recordkeeping requirements. Therefore, neither is subject to the review and clearance provisions of the Paperwork Reduction Act of 1980, 5 U.S.C. 3501, *et seq.*

The Small Business Administration finds that the promulgation of Part 137 and revision of Part 105 of Title 13 of the Code of Federal Regulations are exempt from the public notice and comment procedures prescribed by the Administrative Procedure Act (APA). Pursuant to 5 U.S.C. 553(b)(3)(A), the APA does not apply to the development of general statements of policy, or rules of agency organization, procedure, or practice. This rule and amendment concern only Small Business Administration internal procedures with respect to the handling and processing of classified information. This new Part 137 and revision of Part 105 to Title 13 of the Code of Federal Regulations are being published pursuant to section 5.3 of Executive Order 12356, and paragraph 1d and paragraph 2e of NSDD 84.

List of Subjects

13 CFR Part 105

Classified information, Government employees, Information disclosure, Conflict of interest.

13 CFR Part 137

Classified information, National Security Information.

Accordingly, pursuant to the authority set forth in section 5(b)(6) of the Small Business Act, 15 U.S.C. 634(b)(6), SBA proposes to add a new Part 137 to Title 13 of the Code of Federal Regulations to read as follows:

PART 137—NATIONAL SECURITY INFORMATION PROGRAM

Sec.
137.1 Purpose and scope.
137.2 Policy.
137.3 Administration of program.

Authority: Sec. 5(b)(6) of the Small Business Act, 15 U.S.C. 634(b)(6).

§ 137.1 Purpose and scope.

(a) This rule is promulgated by the Small Business Administration pursuant to the requirement of section 5.3(b) of Executive Order 12356, "National Security Information," 47 FR 14874 (1982), that unclassified regulations of each agency which establish information security policy, to the extent that the regulations affect members of the public, be published in the **Federal Register**, and in accordance with the requirement contained in paragraph 1d of National Security Decision Directive 84 (NSDD 84), "Safeguarding National Security Information," signed by the President on March 11, 1983, that agencies establish policies governing contacts between media representatives and agency personnel.

(b) This rule covers all information and material handled by the Small Business Administration that is owned by, produced for or by, or under the control of, the United States Government, which has been determined pursuant to Executive Order 12356 or prior Orders to require protection against unauthorized disclosure, and is so designated. This type of information is defined in section 1.1 of Executive Order 12356 as national security information (hereinafter classified information).[1]

§ 137.2 Policy.

It is the Small Business Administration's policy to act in accordance with Executive Order 12356

[1] National security information is information classified at one of the following three levels:

(1) "Top Secret," which applies to information, the unauthorized disclosure of which reasonably could be expected to cause exceptionally grave damage to the national security.

(2) "Secret," which applies to information, the unauthorized disclosure of which reasonably could be expected to cause serious damage to the national security; or

(3) "Confidential," which applies to information, the unauthorized disclosure of which reasonably could be expected to cause damage to the national security.

with respect to all classified information.

§ 137.3 Administration of program.

(a) *General.* The Security Officer, Office of Inspector General will: (1) Implement and oversee the Small Business Administration's national security information program; (2) receive questions, suggestions, and complaints regarding the program; (3) make changes to the program as he/she deems advisable; (4) assure that the program is at all times consistent with Executive Order 12356; (5) receive requests for declassification regardless of the origin of the request, assuring that requests are acted upon within 60 days and that requests submitted under the Freedom of Information Act are handled in accordance with that Act; and (6) be responsible for coordinating all responses to media inquiries with respect to classified information in the possession of any official or employee of the Agency.

(b) *Media Contacts.* All contacts by members of the media which concern classified information shall be directed to the attention of the Security Officer, Office of Inspector General, Small Business Administration, 1441 L St., N.W., Washington, D.C. 20416. Any contacts by members of the media with other Agency officials and employees with respect to classified information, shall be referred to the Security Officer for coordination of the Agency response.

(c) *Systematic Review for Declassification.* Classified information in the possession and control of the Small Business Administration or of the Archivist of the United States, determined pursuant to 44 U.S.C. 2103 to constitute permanently valuable records of the Government, will be systematically reviewed for declassification. This review will be in accordance with systematic review guidelines authorized by the Administator of the Small Business Administration.

(d) *Mandatory Review Procedures.*

(1) *Requests.* The Security Officer will process requests for mandatory review for declassification. Mandatory review for declassification will occur whenever: (i) The request is made by a United States citizen or permanent resident alien, a Federal agency, or a State or local government; and (ii) the request describes the document or material containing the information with sufficient specificity to enable the agency to locate it with a reasonable amount of effort. Requests for mandatory review should be submitted in writing to the Security Officer, Office of Inspector General, 1441 L Street, N.W., Washington, D.C. 20416.

(2) *Exemptions from Mandatory Review.* Information originated by a President, the White House Staff, by committees, commissions, or boards appointed by the President, or others specifically providing advice and counsel to a President or acting on behalf of a President is exempted from mandatory review for declassification.

(3) *Processing Requirements.* Inasmuch as the Small Business Administration does not have original classification authority, any classified information or materials in its possession will have been classified by another agency. Requests for mandatory review will, therefore, be forwarded for review to the agency which originally classified the information or material (hereinafter referred to as the originating agency). The forwarded requests shall be accompanied by a copy of the records requested together with the Small Business Administration's recommendations for action. Upon receipt, the originating agency shall: (1) Make a prompt declassification determination (depending on the amount of search and review time required to process the request) and notify the requester accordingly, or inform the requester of the additional time needed to process the request; (2) make reasonable efforts to release segregable portions, consistent with other applicable law, in a coherent segment when information cannot be declassified in its entirety; and (3) (i) notify the requester of the right of an administrative appeal, which must be filed within 60 days of receipt of the denial. The originating agency shall make a final determination within one year from the date or receipt except in unusual circumstances. After consultation with the originating agency, the Security Officer may inform the requester of the referral. In cases in which the originating agency determines that the existence or non-existence of the requested information is itself classifiable, the Security Officer will respond to the requester as directed by the originating agency.

(ii) If the request is denied in whole or in part, the requester will be notified of the right to appeal the determination within 60 days of receipt of the denial and of the procedures for appeal. All such appeals will be processed pursuant to the appeal procedures of the originating agency. If the information or material is declassifed, the Security Officer will refer the request to the appropriate Agency office for processing under the Freedom of Information Act, consistent with SBA regulations at 13 CFR Part 102 of these regulations, and will so advise the requester.

(4) *Fees.* Fees shall be assessed in accordance with the fee schedules established by the Small Business Administration with regard to the Freedom of Information Act and the Privacy Act as contained in Part 102 of SBA regulations.

Standards of Conduct

Accordingly, pursuant to the authority set forth in sections 5(a) and 5(b)(6) of the Small Business Act, 15 U.S.C. 634(a) and 634(b)(6), SBA proposes to amend Part 105 of Title 13 of the Code of Federal Regulations to read as follows:

Section 105.515 is amended by revising paragraph (d) and by adding paragraph (e) to read as follows:

PART 105—STANDARDS OF CONDUCT

§ 105.515 Disclosure of official information.

* * * * *

(d) No employee shall disclose any classified information, as defined in Part 137 of these regulations, to unauthorized persons.

(e) The disclosure of official government information, including classified information, is governed by statutory and other authority. Such authorities include:

(1) 5 U.S.C. 552, the Freedom of Information Act;

(2) 5 U.S.C. 552a, the Privacy Act;

(3) 15 U.S.C. 645(b), the Small Business Act;

(4) 18 U.S.C. 798, Act of October 31, 1951;

(5) 18 U.S.C. 1905, the Trade Secrets Act;

(6) 50 U.S.C. 783, the Subversive Activities Control Act; and

(7) Executive Order 12356, "National Security Information," and National Security Decision Directive 84, "Safeguarding National Security Information."

Dated: January 30, 1984.

Heriberto Herrera,

Acting Administrator.

[FR Doc. 84-3048 Filed 2-3-84; 8:45 am]

BILLING CODE 8025-01-M

CIVIL AERONAUTICS BOARD

14 CFR Part 248

[Economic Reg.; Amdt. No. 6; ER-1373]

Submission of Audit and Reconciliation Reports

AGENCY: Civil Aeronautics Board.

ACTION: Editorial amendment.

SUMMARY: The CAB is making an editorial amendment to the title of Part 248 to conform it with the CAB's elimination of the requirement that certificated air carriers submit annual audit reconciliation reports. This action is taken on the Board's initiative.

DATES: Adopted: January 31, 1984.

Effective: February 26, 1984.

FOR FURTHER INFORMATION CONTACT: M. Clay Moritz, Jr., Data Requirements Section, Information Management Division, Office of Comptroller, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428, (202) 673-6042.

SUPPLEMENTARY INFORMATION: On August 16, 1983, the Board adopted a final rule (ER-1351, 48 FR 32756, July 19, 1983) that eliminated the submission of annual audit reconciliation reports by certificated air carriers. This rule revises the title of Part 248 to conform with that change.

This editorial amendment is issued under the delegation of authority from the Board to the General Counsel in 14 CFR 385.19. Procedures for review of this amendment are set forth in Subpart C of Part 385.

List of Subjects in 14 CFR Part 248

Accounting, Air carriers, Reporting, and recordkeeping requirements.

PART 248—[AMENDED]

Accordingly, the Board amends 14 CFR Part 248, *Submission of Audit and Reconciliation Report*, as follows:

1. The authority for Part 248 is:

Authority: Secs. 204, 401, 407, Pub. L. 85-726, as amended, 72 Stat. 743, 754, 766; 49 U.S.C. 1324, 1371, 1377.

2. The title of Part 248 is revised to read:

PART 248—SUBMISSION OF AUDIT REPORTS

By the Civil Aeronautics Board.

Ivars V. Mellups,

Acting General Counsel.

[FR Doc. 84-3146 Filed 2-3-84; 8:45 am]

BILLING CODE 6320-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 177

[Docket No. 80F-0455]

Indirect Food Additives: Polymers; Textiles and Textile Fibers; Correction

AGENCY: Food and Drug Administration.

ACTION: Final rule; correction.

SUMMARY: The Food and Drug Administration (FDA) is correcting a document that amended the food additive regulations to provide for the safe use of 7-(2*H*-naphtho[1,2-*d*]triazol-2-yl)-3-phenylcoumarin as an optical brightener in polyethylene terephthalate fibers intended to contact dry food. This document corrects a typographical error.

EFFECTIVE DATE: February 6, 1984.

FOR FURTHER INFORMATION CONTACT: George Pauli, Bureau of Foods (HFF-334), Food and Drug Administration, 200 C St. SW., Washington DC 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: In FR Doc. 81-20941 appearing on page 37042 in the issue for Friday, July 17, 1981, the following correction is made: In the second column under § 177.2800 *Textiles and textiles fibers* in the table in paragraph (d)(5)(ii) in the "Limitations" column in the fourth line, "paragraph (d)(5)(ii)" is corrected to read "paragraph (d)(5)(i)".

Dated: January 26, 1984.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 84-3073 Filed 2-3-84; 8:45 am]

BILLING CODE 4160-01-M

21 CFR Part 177

[Docket No. 80F-0034]

Indirect Food Additives: Polymers; Toluene; Correction

AGENCY: Food and Drug Administration.

ACTION: Final rule; correction.

SUMMARY: The Food and Drug Administration (FDA) is correcting a document that amended the food additive regulations to provide for the safe use of toluene as an adjuvant in the manufacture of polycarbonate resins. This document corrects the Chemical Abstracts Registry number.

EFFECTIVE DATE: February 6, 1984.

FOR FURTHER INFORMATION CONTACT: George Pauli, Bureau of Foods (HFF-334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: In FR Doc. 81-12330 appearing on page 23227 in the issue for Friday, April 24, 1981, the following correction is made: Under § 177.1580 *Polycarbonate resins* in the table in paragraph (b), "(CAS Reg. No. 0001-08-883)" is corrected to read "(CAS Reg. No. 108-88-3)".

Dated: January 31, 1984.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 84-3069 Filed 2-3-84; 8:45 am]

BILLING CODE 4160-01-M

21 CFR Part 522

Implantation or Injectable Dosage Form New Animal Drugs Not Subject to Certification; Dinoprost Tromethamine Sterile Solution

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a supplemental new animal drug application (NADA) filed by The Upjohn Co. providing for the safe and effective use of dinoprost tromethamine injectable for parturition induction in swine.

EFFECTIVE DATE: February 6, 1984.

FOR FURTHER INFORMATION CONTACT: Adriano R. Gabuten, Bureau of Veterinary Medicine (HFV-135), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4913.

SUPPLEMENTARY INFORMATION: The Upjohn Co., Kalamazoo, MI 49001, has filed a supplement to NADA 108-901 providing for the intramuscular use of dinoprost tromethamine (Lutalyse ® Sterile Solution) for parturition induction in swine. The product has previously been approved for several uses in cattle and mares. The supplemental application is approved and the regulations are amended to reflect the approval. The basis of approval is discussed in the freedom of information summary.

In accordance with the freedom of information provisions of Part 20 (21 CFR Part 20) and § 514.11(e)(2)(ii) [21 CFR 514.11(e)(2)(ii)], a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA-305), Food and Drug

Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

The Bureau of Veterinary Medicine has carefully considered the potential environmental effects of this action and has concluded that the action will not have a significant impact on the human environment and that an environmental impact statement therefore will not be prepared. The Bureau's finding of no significant impact and the evidence supporting this finding, contained in a statement of exemption (pursuant to 21 CFR 25.1(f)(1) (iv) and (g)), may be seen in the Dockets Management Branch (address above), between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 522

Animal drugs, Injectable.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83), Part 522 is amended in § 522.690 by adding new paragraph (d)(5) to read as follows:

PART 522—IMPLANTATION OR INJECTABLE DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

§ 522.690 Dinoprost tromethamine sterile solution.

* * * * *

(d) * * *

(5) *Swine*—(i) *Amount.* 2 milliliters (equivalent to 10 milligrams of dinoprost).

(ii) *Indications.* For parturition induction in swine when injected within 3 days of normal predicted farrowing.

(iii) *Limitations.* For use in swine as follows: Inject a dose of 2 milliliters intramuscularly within 3 days of predicted farrowing. The response to treatment varies by individual animals with a mean interval from administration to parturition of approximately 30 hours. Federal law restricts this drug to use by or on the order of a licensed veterinarian.

Effective date February 6, 1984.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)))

Dated: January 26, 1984.

Lester M. Crawford,

Director, Bureau of Veterinary Medicine.

[FR Doc. 84-3011 Filed 2-3-84; 8:45 am]

BILLING CODE 4160-01-M

21 CFR Part 546

Tetracycline Antibiotic Drugs for Animal Use; Chlortetracycline Hydrochloride Tablets

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a supplemental new animal drug application (NADA) filed by American Cyanamid Co. providing revised labeling for safe and effective use of chlortetracycline hydrochloride soluble tablets for control and treatment of bacterial enteritis (scours) and bacterial pneumonia in calves. The application reflects compliance with the National Academy of Sciences/National Research Council (NAS/NRC) Drug Efficacy Study Group, evaluation of the product. The regulations are further amended to add a 24-hour preslaughter withdrawal period.

EFFECTIVE DATE: February 6, 1984.

FOR FURTHER INFORMATION CONTACT: Charles E. Haines, Bureau of Veterinary Medicine (HFV-133), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3410.

SUPPLEMENTARY INFORMATION: American Cyanamid Co., Berdan Ave., Wayne, NJ 07470, is the sponsor of NADA 55-018 for Aureomycin® Tablets containing 25 milligrams (mg) of chlortetracycline hydrochloride (CTC HCl) each. This product has been approved since August 24, 1966, through a supplemental NADA, as an aid in reduction of the incidence of bacterial scours in calves. The recommended dosage is 3 tablets (75 mg) daily from birth to 16 weeks of age. These provisions are currently codified in 546.110d *Chlortetracycline hydrochloride tablets* (21 CFR 546.110d).

American Cyanamid's Aureomycin® Tablets and Aureomycin® Soluble Oblets (500 mg CTC HCl boluses) were the subject of an NAS/NRC, Drug Efficacy Study Implementation (DESI) notice in the **Federal Register** of August 6, 1970 (35 FR 12563). In that document, NAS/NRC concluded, and FDA concurred, that both products were probably effective for treatment of cow, calf, ewe, sow, swine, and poultry diseases caused by pathogens sensitive to CTC or CTC HCl.

FDA provided 6 months in which to submit supplemental applications containing adequate documentation in support of the labeling used.

The firm's bolus (NADA 55-039) was also the subject of a DESI followup notice and opportunity for hearing (March 30, 1979; 44 FR 19030). In that notice, the Bureau of Veterinary Medicine concluded that CTC Soluble Oblets (boluses) are effective for certain uses in calves, swine, and poultry. Calves are treated for bacterial enteritis (scours) caused by *E. coli* and *Salmonella* spp. and bacterial pneumonia associated with *Pasteurella* spp., *Klebsiella* spp., and *Hemophilus* spp. susceptible to CTC at a dosage of one 500-mg bolus per 100 pounds of body weight twice a day for 3 to 5 days (i.e., the NAS/NRC recommended dosage of 10 mg per pound of body weight daily). The firm submitted a supplement to NADA 55-039 which brought its bolus into compliance and enabled the Bureau to move into the NAS/NRC effective category (July 9, 1982; 47 FR 29843). The firm also provided tissue residue data demonstrating that even though the product is now administered at a higher dosage level, a 24-hour withdrawal period will allow any residues to deplete below tolerance levels.

American Cyanamid also responded by submitting a supplement to NADA 55-0108 (25 mg CTC HCl tablet) which complies with the recommendations of the NAS/NRC/DESI evaluation and the Bureau's conclusions as described in the 1979 notice. The supplement provides revised labeling, disintegration data, bioequivalency data, and updated manufacturing and controls information. The data and information substantiate upgrading the NAS/NRC status of the firm's tablet from probably effective to effective. Accordingly, the supplemental NADA is approved and § 546.110d is amended to reflect the approval and to add a 24-hour withdrawal requirement. Approval of the 24-hour withdrawal period is supported by the firm's blood level study which demonstrates similar CTC depletion rates (hence bioequivalency) in calves for the 25-mg tablet and 500-mg bolus. The regulations are further amended to recodify the NAS/NRC-reviewed and approved conditions of use for Philips-Roxane's 250-mg CTC HCl bolus (NADA 65-481, formerly NADA 65-047) from § 546.110h to § 546.110d. These amendments remove § 546.110h and incorporate its text into § 546.110d.

For approval of NADA's for identical or similar products having the same conditions of use, applications need not include efficacy data as specified by 21 CFR 514.1(b)(8)(ii) or 514.111(a)(5)(ii)(*a*)(*4*). In lieu of such data, approval may require

bioequivalency or similar data as suggested in the guidelines for submitting NADA's for DESI reviewed generic drugs. The guideline is available from the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

In accordance with the freedom of information provisions of Part 20 (21 CFR Part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (address above).

The Bureau of Veterinary Medicine has determined pursuant to 21 CFR 25.24(d)(1)(i) (proposed December 11, 1979; 44 FR 71742) that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects in 21 CFR Part 546

Animal drugs, Antibiotics, tetracycline.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i) and (n), 82 Stat. 347, 350–351 (21 U.S.C. 360b(i) and (n)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83), Part 546 is amended as follows:

PART 546—TETRACYCLINE ANTIBIOTIC DRUGS FOR ANIMAL USE

1. In § 546.110d, by revising the section heading and by revising paragraphs (a)(1) and (c)(2), (3), (5), and (6) to read as follows:

§ 546.110d Chlortetracycline tablets and boluses.

(a) *Requirements for certification*—(1) *Standards of identity, strength, quality, and purity.* Chlortetracycline hydrochloride tablets and boluses, tetracycline hydrochloride tablets, and tetracycline tablets are tablets and boluses composed of crystalline chlortetracyline hydrochloride, tetracycline hydrochloride, tetracycline, or tetracycline phosphate complex, with or without one or more suitable and harmless buffer substances, preservatives, diluents, binders, lubricants, colorings, and flavorings. The potency of the drug is satisfactory if it is not less than 90 percent and not more than 120 percent of the number of milligrams it is represented to contain. The moisture content of the tablets is not more than 3 percent, unless the person who requests certification has submitted to the Commissioner information adequate to prove that the drug is stable when it has a moisture content not exceeding 6 percent. The moisture content of the boluses is not more than 6 percent.

* * * * *

(c) * * *

(2) *Sponsors.* (i) See No. 000010 in § 510.600(c) of this chapter for use of the 250-milligram chlortetracycline hydrochloride bolus.

(ii) See No. 010042 in § 510.600(c) of this chapter for use of the 25-milligram tablet and the 500-milligram bolus.

(3) *Special considerations.* The quantities of antibiotic in paragraph (c)(6) of this section refer to the activity of the master standard.

* * * * *

(5) *NAS/NRC status.* The conditions of use specified in paragraph (c)(6) of this section are NAS/NRC reviewed and found effective. Applications for these uses need not include effectiveness data as specified in § 514.111 of this chapter but may require bioequivalency and safety information.

(6) *Conditions of use.* Administer orally as chlortetracycline hydrochloride tablets or boluses to calves as follows:

(i) *Amount.* 250 milligrams per bolus.

(a) *Indications for use.* Treatment of bacterial enteritis (scours) caused by *E. Coli* and bacterial pneumonia associated with *Pasteurella* spp., *Klebsiella* spp., and *Hemophilus* spp.

(b) *Limitations.* Administer 1 bolus (250 milligrams) per 50 pounds of body weight twice a day for 3 to 5 days; administer bolus directly by mouth or crush and dissolve in milk or water for drenching or bucket feeding; if no improvement is noted after 3 days of treatment, consult a veterinarian; do not use for more than 5 days; do not administer within 24 hours of slaughter.

(ii) *Amount.* 25 milligrams per tablet.

(a) *Indications for use.* Control and treatment of bacterial enteritis (scours) caused by *E. coli* and *Salmonella* spp. and bacterial pneumonia associated with *Pasteurella* spp., *Hemophilus* spp., and *Klebsiella* spp., susceptible to chlortetracycline.

(b) *Limitations.* Administer 1 tablet (25 milligrams) for each 5 pounds of body weight every 12 hours daily for 3 to 5 days; administer tablet directly by mouth or crush and dissolve in water for drenching; if no improvement is noted after 3 days of treatment, consult a veterinarian; do not use for more than 5 days; when feeding milk or milk replacer, administration 1 hour before or 2 hours after feeding is recommended; do not administer within 24 hours of slaughter.

(iii) *Amount.* 500 milligrams per bolus.

(a) *Indications for use.* Treatment of bacterial enteritis (scours) caused by *E. coli* and *Salmonella* spp. and bacterial pneumonia associated with *Pasteurella* spp., *Hemophilus* spp., and *Klebsiella* spp., susceptible to chlortetracycline.

(b) *Limitations.* Administer 1 bolus (500 milligrams) per 100 pounds of body weight twice a day for 3 to 5 days; administer directly by mouth or crush and dissolve in water for drenching; if no improvement is noted after 3 days of treatment, consult a veterinarian; do not use for more than 5 days; do not administer within 24 hours of slaughter.

* * * * *

§ 546.110h [Removed]

2. By removing § 546.110h *Chlortetracycline boluses.*

Effective date February 6, 1984.

(Sec. 512(i) and (n), 82 Stat. 347., 350–351 (21 U.S.C. 360b (i) and (n)))

Dated: January 26, 1984.

Lester M. Crawford, Director,

Bureau of Veterinary Medicine.

[FR Doc. 84–3070 Filed 2–3–84; 8:45 am]

BILLING CODE 4160–01–M

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

27 CFR Part 9

[T.D. ATF–165; Ref: Notice No. 471]

Establishment of the Walla Walla Valley Viticultural Area

AGENCY: Bureau of Alcohol, Tobacco and Firearms, Treasury.

ACTION: Final rule, Treasury decision.

SUMMARY: This final rule establishes a viticultural area in southeast Washington and northeast Oregon known as "Walla Walla Valley." The establishment of viticultural areas and the subsequent use of viticultural area names as appellations of origin in wine labeling and advertising will help consumers better identify wines they purchase. The use of this viticultural area as an appellation of origin will also help winemakers distinguish their products from wines made in other areas.

EFFECTIVE DATE: March 7, 1984.

FOR FURTHER INFORMATION CONTACT: James P. Ficaretta, FAA, Wine and Beer

Branch, Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Avenue, NW., Washington, DC 20226 (202–566–7626).

SUPPLEMENTARY INFORMATION:

Background

On August 23, 1978, ATF published Treasury Decision ATF–53 (43 FR 37672, 54624) revising regulations in 27 CFR Part 4. These regulations allow the establishment of definitive viticultural areas. The regulations also allow the name of an approved viticultural area to be used as an appellation of origin on wine labels and in wine advertisements.

On October 2, 1979, ATF published Treasury Decision ATF–60 (44 FR 56692) which added a new Part 9 to 27 CFR, providing for the listing of approved American viticultural areas, the names of which may be used as appellations of origin.

Section 4.25a(e)(1), Title 27, CFR, defines an American viticultural area as a delimited grape-growing region distinguishable by geographical features. Section 4.25a(e)(2) outlines the procedure for proposing an American viticultural area. Any interested person may petition ATF to establish a grape-growing region as a viticultural area.

Mr. Richard L. Small, President of the Walla Walla Valley Winegrowers Association, petitioned ATF for the establishment of a viticultural area in southeast Washington and northeast Oregon, east of Lake Wallula, to be known as "Walla Walla Valley." In response to this petition, ATF published a notice of proposed rulemaking (Notice No. 471) in the **Federal Register** on June 27, 1983 (48 FR 29541), proposing the establishment of the Walla Walla Valley viticultural area.

General Description

The Walla Walla Valley viticultural area consists of approximately 178,560 acres, contains two bonded wineries, and about 60 acres of grapes from several vineyards. Grape-growing and winemaking, as described by Joe J. Locati in the *Horticultural History of Walla Walla County*, dates back to 1871.

Evidence of the Name

The Walla Walla Valley has been known as such since it was settled in the 1850's, even prior to the creation of the States of Oregon and Washington.

The Walla Walla River flows through the valley into Walla Walla County, Washington.

U.S.G.S. 7.5 minute quadrangle map titled Walla Walla identifies the area as the Walla Walla Valley.

Boundaries and Geographical Evidence

In *The Horticultural Heritage of Walla Walla County, 1818–1977*, Joe J. Locati makes reference to the Walla Walla Valley as "including Touchet and Milton-Freewater * * * the Walla Walla River Basin."

The *Geology and Groundwater Resources of the Walla Walla River Basin, Washington-Oregon*, published in 1965, states that the "Walla Walla Valley, descends from about 1,500' at the foot of the mountain slopes to about 500' where the river cuts through the bedrock ridge near Divide, astride the Oregon/Washington border."

The U.S.D.A. in the *Soil Survey of Umatilla County, Oregon*, describes the Walla Walla Valley as extending from the northest part of Umatilla County into the State of Washington.

The Walla Walla Valley receives 10–20 inches of precipitation per year (average 12.5 inches), while the Columbia Basin to the west and north receives less than 10 inches per year, and the Blue Mountains to the east and southeast receive 25–45 inches.

The growing season within the proposed area is between 190 and 220 days, longest within the surrounding six counties.

The average maximum and minimum temperatures within the proposed area are 65°/42°F, while the surrounding areas range from a high of 66°F to a low of 34°F.

The soils of the valley are all basically loess derived soils. Most are classed as I or II irrigated capability units by the Soil Conservation Service. This is in contrast to the soils west of the Touchet River and along the Snake and Columbia Rivers which are droughty and are classified as Classes IV and VI. Soils to the west around Wallula Gap on the Columbia River, and to the east in the Blue Mountains are considered not suitable for cultivation.

Public Comment

In response to Notice No. 471, nine comments were received, all in support of the proposed viticultural area.

Miscellaneous

ATF does not wish to give the impression by approving Walla Walla Valley as a viticultural area that it is approving or endorsing the quality of the wine from the area. ATF is approving this area as being distinct and not better than other areas. By approving the area, wine producers are allowed to claim a distinction on labels an advertisements as to origin of the grapes. Any commercial advantage gained can only come from consumer acceptance of Walla Walla wines.

Paperwork Reduction Act

The provisions of the Paperwork Reduction Act of 1980, Pub. L. 96–511, 44 U.S.C. Chapter 35, and its implementing regulations, 5 CFR Part 1320, do not apply to this final rule because no requirement to collect information is imposed.

Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act relating to a final regulatory flexibility analysis (5 U.S.C. 604) are not applicable to this final rule because it will not have a significant economic impact on a substantial number of small entities. The final rule will not impose, or otherwise cause, a significant increase in the reporting, recordkeeping, or other compliance burdens on a substantial number of small entities. The final rule is not expected to have significant secondary or incidental effects on a substantial number of small entities.

Accordingly, it is hereby certified under the provisions of Section 3 of the Regulatory Flexibility Act (5 U.S.C. 605(b)), that this final rule will not have a significant economic impact on a substantial number of small entities.

Compliance With Executive Order 12291

In compliance with Executive Order 12291, the Bureau has determined that this regulation is not a major rule since it will not result in:

(a) An annual effect on the economy of $100 million or more;

(b) A major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or

(c) Significant adverse effects on competition, employment, investment, productivity, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Disclosure

A copy of the petition and the comments received are available for inspection during normal business hours at the following location: ATF Reading Room, Room 4407, Office of Public Affairs and Disclosure, 12th and Pennsylvania Avenue, NW., Washington, DC.

Drafting Information

The principal author of this document is James P. Ficaretta, Specialist, FAA, Wine and Beer Branch, Bureau of Alcohol, Tobacco and Firearms.

List of Subjects in 27 CFR Part 9

Administrative practice and procedure, Consumer protection, Viticultural areas, Wine.

Authority: This regulation is issued under the authority in 27 U.S.C. 205. Accordingly, 27 CFR Part 9 is amended as follows:

PART 9—AMERICAN VITICULTURAL AREAS

Paragraph 1. The table of sections in 27 CFR Part 9, Subpart C, is amended to add the heading of § 9.91 to read as follows:

Subpart C—Approved American Viticultural Areas

Sec.

* * * * *

9.91 Walla Walla Valley.

Par. 2. Subpart C is amended by adding § 9.91 to read as follows:

Subpart C—Approved American Viticultural Areas

§ 9.91 Walla Walla Valley.

(a) *Name.* The name of the viticultural area described in this section is "Walla Walla Valley."

(b) *Approved Maps.* The appropriate maps for determining the boundaries of the Walla Walla Valley viticultural area are two U.S.G.S. maps, in the scale 1:250,000. They are entitled:

(1) "Walla Walla," Wa.; Oregon 1953 (limited revision 1963)

(2) "Pendleton," Or.; Wa. 1953 (revised 1973)

(c) *Boundaries.* The Walla Walla Valley viticultural area, located in the southeast portion of Washington State and the northeast portion of Oregon, consists of approximately 178,560 acres. The boundaries of the Walla Walla Valley viticultural area, using landmarks and points of reference found on the appropriate U.S.G.S. maps, are as follows: Beginning at a point just northeast of Dixie, Washington, in T8N/37E, at the intersection of Highway 3 and Mud Creek; Southwest along State Highway 3 approximately 4 miles to its intersection with the Northern Pacific Railroad in T7N/R37E; Follow the Northern Pacific in a generally westerly direction, through Walla Walla; Continue west, then northwest along the railroad line, past Pedigo Station until it intersects the secondary road in T8N/R34E; thence, southwest in a straight line approximately 12½ miles until it meets the Union Pacific Railroad at the intersection of T7N and R32E/R33E; South along R32E/R33E for 2 miles until it intersects the 1,000' contour line; Follow the 1,000' contour line in a southeast direction until it intersects the Union Pacific Railroad at T5N/R35E; South along said track until it intersects Dry Creek in T4N/R35E; Southeast along Dry Creek until it intersects the 2,000' contour line; Continue in a northeast direction along the 2,000' contour line until it intersects Dry Creek in T7N/R38E; North along Dry Creek, approximately 3½ miles, until it intersects the Northern Pacific Railroad at T8N/R37E; Continue in a northeast direction along said track until it intersects Mud Creek; Follow Mud Creek in a northwest direction to the beginning point where it intersects State Highway 3.

Signed: December 12, 1983.

Stephen E. Higgins,

Director.

Approved: January 12, 1984.

John M. Walker, Jr.,

Assistant Secretary (Enforcement and Operations).

[FR Doc. 84-3145 Filed 2-3-84; 8:45 am]

BILLING CODE 4810-31-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 144

[CGD 82-075b]

Exposure Suits; Requirements for Mobile Offshore Drilling Units

AGENCY: Coast Guard, DOT.

ACTION: Final rules.

SUMMARY: These rules require exposure suits for personnel on board mobile offshore drilling units including foreign mobile offshore drilling units engaged in activities on the Outer Continental Shelf of the United States. Units operating in waters where the water temperature does not present a severe threat of injury due to exposure would be exempted from the requirements. The need for this action arises from casualties in which some of the loss of life might have been prevented if the persons on board had been provided with exposure suits. These regulations are intended to prevent some of the loss of life when persons are forced to enter cold water after abandoning ship.

EFFECTIVE DATE: These amendments become effective on August 6, 1984.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Markle, Office of Merchant Marine Safety (202) 426-1444.

SUPPLEMENTARY INFORMATION: A Notice of Proposed Rulemaking was published in the **Federal Register** of February 3, 1983 (48 FR 4833). The comment period on the proposal (CGD 82-075b) ended on May 4, 1983. A total of 167 comments were received from 40 parties.

Drafting Information

The principal persons involved in drafting these regulations are: Mr. Robert Markle, Office of Merchant Marine Safety, and Mr. Michael Mervin, Office of the Chief Counsel.

Discussion of Rules

These rules require certain mobile offshore drilling units (MODUs) operating on the Outer Continental Shelf (OCS) of the United States to carry exposure suits for all persons on board. The rules apply to any MODU that is not inspected under the regulations in 46 CFR, Subchapter I-A, including foreign registered MODUs.

These rules are similar to those for exposure suits on MODUs that are inspected under 46 CFR, Subchapter I-A. Those rules are published under a separate document (CGD-075a) which appears elsewhere in this issue of the **Federal Register.** Comments on the notice of proposed rule making (NPRM) applicable to both these rules and the rules under 46 CFR, Subchapter I-A are discussed in the preamble to that final rule. The following discussion concerns comments that apply only to the rules published under this notice.

Discussion of Comments

Two comments noted that the proposed rules appeared to exceed the authority of the OCS Lands Act by allowing an exemption from the rules for MODUs operating between 35°N and 35°S latitudes. The U.S. OCS does not extend to 35°S, so the reference to 35°S has been removed from the final rules.

One comment suggested that the rules be revised to require that exposure suits stowed in or near the work stations be of an appropriate size for the persons assigned to that station at any particular time. This change is not needed since the exposure suits come in one "universal" adult size. Title 46 CFR Subpart 160.071 as modified under docket CGD-075a, does provide for approval of oversize adult suits, however, very few individuals need the oversize suits, so the rules do not need to be revised to take this unusual occurrence into account.

Two comments had observations on the requirements for foreign MODUs. Both supported allowing foreign MODUs to use suits approved by their national Administration. One of them stated that the Coast Guard should urge other nations to accept U.S. approved exposure suits on U.S. MODUs in their waters. A new revision to Chapter III of

the Safety of Life at Sea Convention, 1974 (SOLAS 1974) does contain standards for exposure suits (called "immersion suits" in SOLAS) which are consistent with U.S. Coast Guard approved suits. This should lead to acceptance of Coast Guard approved suits on U.S. MODUs in foreign waters.

One comment stated that the exposure suits should be stowed in the berthing area as they would be under Title 46 CFR Subchapter I–A. This was an oversight and has been corrected by a modification to § 144.20–5(a). Section 144.20–5(b) implies that the suits not at watch or work stations should be in the berthing areas, but the rules in the NPRM did not state that.

Correction

The rules as proposed in the NPRM would have applied to MODUs contracted for before January 3, 1979. This was the effective date of the MODU rules appearing in Title 46 CFR Subchapter I–A, however, most U.S. registered MODUs, including those built before January 3, 1979 are now inspected under those rules. The rules in this notice have been revised to make them apply only to MODUs operating on the OCS which are not inspected under Title 46 CFR Subchapter I–A.

Final Evaluation

These regulations are considered to be non-major under Executive Order 12291 and non-significant under "Department of Transportation Policies and Procedures for Simplification, Analysis, and Review of Regulations", (DOT Order 2100.5 of May 22, 1980). A final evaluation has been prepared and placed in the docket and may be inspected or copied at the Office of the Marine Safety Council, Room 4402, U.S. Coast Guard Headquarters, 2100 Second St., SW., Washington, DC 20593.

The Final Evaluation is fully discussed under docket CGD 82–075. These rules are expected to affect one foreign registered MODU. The regulations under this docket would result in an initial cost of about $31,200 and a recurring annual cost of about $3,400. These costs will be imposed directly on the private sector (the operators of affected MODUs). The operators are expected to pass the costs through to the ultimate consumers of affected maritime services in the form of price increases, however, increases in individual prices will be negligible. There is no effect on federal, state, and local governments except in their capacities as consumers of maritime services. Implementation and enforcement of these rules would be accomplished within the scope of current Coast Guard marine safety activities, so there will not be any need for additional federal budget commitments.

The primary benefit indentified for the rules is to improve the chances of survival for persons entering cold water as the result of a vessel casualty. As explained more fully in the discussion under Docket CGD 82–075, the Coast Guard cannot predict with any acceptable degree of confidence, the number of lives that might be saved by these regulations, but perhaps 30 persons that were near rescue vessels in the *Ocean Ranger* casualty might have survived long enough to be rescued if they had been wearing exposure suits.

Under the Regulatory Flexibility Act (Pub. L. 96–354), it is certified that this rule will not have a significant economic impact on a substantial number of small entities. There are no operators of MODUs known to be small entities.

This rulemaking contains no information collection or recordkeeping requirements.

List of Subjects in 33 CFR Part 144

Marine safety, Mobile offshore drilling units, Outer continental shelf activities.

In consideration of the foregoing, Title 33 of the Code of Federal Regulations is amended as set forth below.

SUBCHAPTER N—OUTER CONTINENTAL SHELF ACTIVITIES

1. By adding Subparts 144.20 and 144.30 to the table of contents for part 144 as follows:

PART 144—LIFESAVING APPLIANCES

* * * * *

Subpart 144.20—Requirements for U.S. and Undocumented MODU's

Sec.
144.20–1 Applicability.
144.20–5 Exposure suits.

Subpart 144.30—Requirements for Foreign MODU's

144.30–1 Applicability.
144.30–5 Exposure suits.

2. By adding a new Subpart 144.20 as follows:

Subpart 144.20—Requirements for U.S. and Undocumented MODU's

§ 144.20–1 Applicability

This subpart applies to each MODU operating on the OCS that is not inspected under 46 CFR Subchapter I–A.

§ 144.20–5 Exposure suits.

This section applies to each MODU except those operating south of 35 ° N latitude.

(a) Each MODU must carry an exposure suit for each person on board. The exposure suit must be stowed in a readily accessible location in or near the berthing area of the person for whom the exposure suit is provided.

(b) In addition to the exposure suits required by paragraph (a) of this section, each watch station and work station must have enough exposure suits to equal the number of persons normally on watch in, or assigned to, the station at one time. However, an exposure suit need not be provided at a watch or work station for a person whose cabin, stateroom, or berthing area (and the exposure suits stowed in that location) is readily accessible to the station.

(c) Each exposure suit on a MODU must be of a type approved under 46 CFR 160.071.

(d) Each exposure suit must have a personal flotation device light that is approved under 46 CFR 161.012. Each light must be securely attached to the front shoulder area of the exposure suit.

(e) Each exposure suit on a MODU must be provided with a whistle of the ball type or multi-tone type, of corrosion resistant construction, and in good working order. The whistle must be attached to the exposure suit by a lanyard without hooks, snaps, clips, etc., that is long enough to permit the whistle to reach the mouth of the wearer. If the lanyard allows the whistle to hang below the waist of the wearer, the whistle must be stowed in a pocket on the exposure suit, or with the lanyard coiled and stopped off.

(f) No stowage container for exposure suits may be capable of being locked

(Sec. 4, 67 Stat. 462 (43 U.S.C. 1333) as amended: 49 CFR 1.46(z))

3. By adding a new Subpart 144.30 as follows:

Subpart 144.30—Requirements for Foreign MODU's

§ 144.30 Applicability.

This subpart applies to each MODU engaged in OCS activities that is documented under the laws of a foreign nation.

144.30–5 Exposure suits.

Each foreign MODU must meet the requirements of § 144.20–5 of this chapter, except as follows:

(a) Exposure suits (immersion suits, survival suits, etc.) approved by the nation under which the MODU is documented may be used in lieu of suits approved under 46 CFR 160.071, provided that they are accepted by the Commandant as providing equivalent thermal protection to the wearer.

(Requests for acceptance of such suits should be sent to Commandant, U.S. Coast Guard (G–MVI–3/24), Washington, DC 20593, along with technical data supporting the thermal performance of the suits.)

(b) Personal flotation device lights approved by the nation under which the MODU is documented may be used in lieu of lights approved under 46 CFR 161.012.

(Sec. 4, 67 Stat. 462 (43 U.S.C. 1333) as amended; 49 CFR 1.46(z))

Dated: December 19, 1983.

Clyde T. Lusk, Jr.,

Rear Admiral, U.S. Coast Guard, Chief, Office of Merchant Marine Safety.

[FR Doc. 84–3100 Filed 2–3–84; 8:45 am]

BILLING CODE 4910–14–M

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33 CFR Part 165

[COTP, NOLA, Reg. No. 84–03]

Safety Zone Regulations; Vicinity of the Mississippi Aerial River Transit (MART) Terminals in New Orleans

AGENCY: Coast Guard, DOT.

ACTION: Final rulemaking.

SUMMARY: The Coast Guard Captain of the Port, New Orleans, is establishing a Safety Zone in the vicinity of the Mississippi Aerial River Transit (MART) terminals in New Orleans. This zone is needed to safeguard the connecting and raising of the aerial cables between MART's east bank terminal at Julia St. Wharf and its west bank terminal located in the vicinity of the ORGULF Fleet. The approximate midpoint of the cables is at LMR mile 95.4, AHOP. These operations will require the closure of the Mississippi River to all marine traffic within the Safety Zone.

DATES: The regulation becomes effective on effective on 4, 11, and 18 March 1984 for a period of 6 hours on each day, commencing at 7:00 a.m. and terminating at 1:00 p.m. Comments on this regulation must be received on or before February 29, 1984.

ADDRESSES: Comments should be mailed to Coast Guard Captain of the Port, New Orleans, Attention: Waterways Safety Office, 4640 Urquhart Street, New Orleans, LA 70117. Normal office hours are between 7:00 a.m. and 3:30 p.m., Monday through Friday, except holidays. Comments may also be hand delivered to this address. Copies of all written comments received will be available for examination and copying at the above address.

FOR FURTHER INFORMATION CONTACT: LCDR Richard E. FORD at (504) 589–7117, or ENS Peyton COLEMAN at (504) 589–7108.

SUPPLEMENTARY INFORMATION: A meeting was held at the office of the Captain of the Port, New Orleans, on 12 January 1984 between representatives of: the Captain of the Port, MART, the New Orleans Steamship Association, the Board of Commissioners for the Port of New Orleans, the Crescent River Port Pilots Association, the New Orleans-Baton Rouge Pilots Association, The Mississippi River Bridge Authority, and the USCG Vessel Traffic Service (VTS), New Orleans. The purpose of this meeting was to select tentative dates and times for the conduct of the cable raising operations so that there would be minimal disruption to marine commerce on the Mississippi River. The dates and times selected for the establishment of the Safety Zone in this regulation were an outgrowth of this meeting.

A notice of proposed rulemaking was not published for this regulation, because following normal rulemaking procedures would have been impracticable. The request for this regulation was not received until 12 January 1984, and there was not sufficient time remaining to publish a proposal in advance of the event for which this regulation is needed. Although this regulation is published as a final rule without prior notice, an opportunity for public comment is nevertheless desirable to ensure that the regulation is both reasonable and workable.

Accordingly, persons wishing to comment may do so by submitting written comments to the office listed under **ADDRESSES** in this preamble. Commenters should include their names and addresses, identify the docket number for the regulation, and give reasons for their comments. Receipt of comments will be acknowledged if a stamped self-addressed postcard or envelope is enclosed. Based upon comments received, the regulation may be changed.

Drafting Information

The drafters of these rules are LCDR Richard E. FORD, Project Officer, COTP, New Orleans, and LCDR R. W. BRUCE, Project Attorney, Eighth Coast Guard District Legal Office.

Discussion

The Mississippi Aerial River Transit will be a cable-supported tramway system, transporting passengers in gondolas across the Mississippi River. The system's principal structural components will consist of a passenger terminal and cable-supporting tower on the east bank of the Mississippi River, similar structures directly across the river on the west bank, and interconnecting cables between the two terminals/towers. The installation of the system's interconnecting cables will necessitate the rigging of small diameter messenger lines between the two terminals/towers by connecting one end of each of the messenger lines to the east bank terminal/tower, transporting the unconnected ends across the river on a towboat to the west bank terminal/tower, and connecting them to that terminal/tower. The messenger lines will then be raised above the surface of the river. Afterwards, the systems cables will be stretched over the river by hauling them across with the messenger lines.

Rigging these messenger lines will interfere with normal navigation on the Mississippi River for a period of time, and will require that the river be closed to navigation in order to safeguard these operations. In preliminary discussions with representatives of MART, it was their estimation that these operations would require approximately 6 hours to complete. Given optimal weather conditions and no unforeseen complications, one six hour period on March 4, 1984, beginning at 7:00 a.m. and ending promptly at 1:00 p.m., should allow for the completion of these operations. However, for planning purposes, two similar six hour periods were provided for on March 11, and March 18, 1984 to allow for their completion in case of complications or adverse weather conditions. Regardless, the actual closure of the river will only involve such time as is absolutely necessary. Those time periods and dates set aside by this regulation that are not utilized will be promptly withdrawn by the Captain of the Port, New Orleans, by the immediate cancellation of ths Safety Zone.

Economic Assessment and Certification:

This regulation is considered to be nonsignificant in accordance with DOT Policies and Procedures for Simplification, Analysis, and Review of Regulations (DOT Order 2100.5). This

some shipping interests using the Mississippi River, possibly causing them to incur minimal additional expenses for such items as wharf fees. Based upon this assessment it is certified in accordance with section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 605(b)) that this regulation, if promulgated, will not have a significant economic impact on a substantial number of small entities. Also, the regulation will result in minor delays to regulation has been reviewed in accordance with Executive Order 12291 of February 17, 1981, on Federal Regulation and has been determined not to be a major rule under the terms of that order.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Security measures, Vessels, Waterways.

PART 165—[AMENDED]

Final Regulations

In consideration of the foregoing, the Coast Guard is amending Part 165 of Title 33, Code of Federal Regulations, by adding § 165.T812 to read as follows:

§ 165.T812 Safety Zone: Vicinity of the Mississippi Aerial River Transit (MART) in New Orleans.

(a) The area from the down river edge of the new, Greater New Orleans Mississippi River Bridge (approximate LMR mile 95.7, AHOP) to LMR mile 94.7, AHOP is a Safety Zone.

(b) Regulations:

(1) In accordance with the general regulations in 165.23 of this part, vessels may not enter into, or operate within, this zone unless authorized by the Captain of the Port.

(2) This Safety Zone will be closed to all marine traffic between the hours of 7:00 a.m. and 1:00 p.m. on March 4, 1984, and again on March 11, 1984 and March 18, 1984 during the same hours. The prohibition against vessels entering, or operating within, this zone will commence and end promptly at the stated times.

(3) At his discretion, the Captain of the Port, New Orleans, may terminate this Safety Zone at any time during the dates and times provided for.

(33 U.S.C. 1225 and 1231; 49 CFR 1.46; 33 CFR 165.3)

Dated: January 20, 1984.

John L. Bailey,

Captain of the Port, New Orleans, LA.

[FR Doc. 84-3185 Filed 2-3-84; 8:45 am]

BILLING CODE 4910-14-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA Docket No. AW402PA; A-3-FRL 2516-7]

Approval and Promulgation of Implementation Plans; Approval of the Allegheny County Portion of the Pennsylvania State Implementation Plan for Lead

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: EPA approves the Allegheny County portion of the Pennsylvania State Implementation Plan (SIP) for the control of lead (Pb) emissions. Allegheny County's lead SIP meets all of the applicable requirements under section 110 of the Clean Air Act and 40 CFR Part 51, Requirements for Preparation, Adoption and Submittal of Implementation Plans.

DATES: This action will be effective on April 6, 1984 unless notice is received by March 7, 1984 that someone wishes to submit adverse or critical comments.

ADDRESSES: Written comments should be addressed to Mr. Glenn Hanson, at the EPA, Region III address shown below. Copies of Allegheny County Lead SIP may be examined during normal business hours at the following locations:

U.S. Environmental Protection Agency, Region III, Air Management Branch, Curtis Building, 6th & Walnut Streets, Philadelphia, PA 19106, Attn: Patricia Gaughan (3AW11)

Pennsylvania Department of Environmental Resources, Bureau of Air Quality Control, Fulton Bank Building, Third and Locust Streets, Harrisburg, PA 17120, Attn: Gary L. Triplett

Allegheny County Health Department, Bureau of Air Pollution Control, 301 Thirty-Ninth Street, Pittsburgh, PA 15201, Attn: Roger C. Westman

Public Information Reference Unit, Room 2922, EPA Library, U.S. Environmental Protection Agency, 401 M Street SW. (Waterside Mall), Washington, D.C. 20460

The Office of the Federal Register, 1100 L Street NW., Room 8401, Washington, D.C. 20408

FOR FURTHER INFORMATION CONTACT: Mr. Michael C. Guiranna at the EPA Region III address shown above or telephone (215) 597-2842.

SUPPLEMENTARY INFORMATION: On September 6, 1983, the Pennsylvania Department of Environmental Resources submitted to the U.S. Environmental Protection Agency (EPA) an amendment to the Allegheny County portion of the Pennsylvania State Implementation Plan (SIP) for lead. A public hearing was held on May 24, 1983, on this SIP. Also, Allegheny County has indicated that it has the legal authority necessary to implement this plan and any control strategies related to it.

Allegheny County has certified that there are presently no point sources which emit five or more tons of lead per year. The major lead emissions in the County are from mobile sources and re-entrained road dust. The air quality data supplied to the EPA from 2nd quarter of 1975 to 2nd quarter of 1982 show only one violation of the National Ambient Air Quality Standard for Lead, which is 1.5 micrograms/cubic meter (average over a calendar quarter). This violation (1.83 $\mu g/m^3$) occurred in the 4th quarter of 1978 at the Court House monitor. The readings at this and all other monitors have shown a steady decline since then and the most recent ambient levels show no reading higher than 0.35 $\mu g/m^3$. The average lead reading in the County is only 14% of the standard. In the future, the County's lead emissions should decrease further as the amount of lead in fuel decreases.

In section 18.6.2 of the Allegheny County State Implementation Plan for Lead the County did not use the EPA preferred model to determine maximum quarterly concentration. They used a rollback model on their highest measured lead concentration in 1982 and projected this to 1987 to demonstrate attainment. EPA prefers that a modeling scheme is used which depends on the historic lead concentration in the base year. Based on federal regulations and information about past and projected gasoline sales and assuming that lead concentrations decrease proportionally with automotive lead emissions, EPA has calculated critical lead concentrations for several base and attainment years. These were published in a July 1983 draft report entitled Updated Information of Approval and Promulgation of Lead Implementation Plans prepared for EPA Office of Air Quality Planning and Standards, Control Programs Development Division, Research Triangle Park, NC. If the highest lead concentration for a given base year/attainment year combination is less than the critical value for that combination, EPA assumes that the standard will be attained by the attainment date. In 1978 Allegheny County had a worst-case quarterly concentration of 1.83 $\mu g/m^3$. The national ambient air quality standard is 1.5 $\mu g/m^3$. The County's worst case concentration is much less than the critical concentration

calculated by EPA for an attainment date of 1987; therefore EPA concludes that the standard is being and will continue to be attained in Allegheny County.

All precision monitoring has been conducted as required by 40 CFR Part 58, Appendix A. A description of the air quality monitoring network for lead may be inspected at the Bureau of Air Pollution Control, 301 Thirty-Ninth Street, Pittsburgh, PA 15201.

The County has committed to review the lead emitting potential of all new sources through a preconstruction review provision to insure continued maintenance of the lead standard. EPA has examined the air quality data from the sites and found it in accordance with EPA requirements for use of data in developing a plan. Therefore, this amendment to the Allegheny County SIP is being approved.

Public Hearing

The County provided proof that a public hearing, with respect to the lead SIP, was held on May 24, 1983 in Pittsburgh, Pennsylvania, in accordance with the requirements of 40 CFR 51.4. No verbal comments were given.

Solicitation of Public Comments

In a newspaper notice published in the *Pittsburgh Press* on April 23, 1983, the Allegheny County Health Department solicited public comments on its proposed lead implementation plan. However, no written comments were received.

EPA Action

EPA has reviewed Allegheny County's lead SIP and has determined that it meets the scope and intent of 40 CFR 51.80 through 51.88 (Control Strategy-Lead). Therefore, EPA is approving Allegheny County's lead SIP.

Under Executive Order 12291, EPA must judge whether a regulation is "Major" and therefore subject to the requirement of a Regulatory Impact Analysis. This regulation is not major because this action only approves State actions and imposes no new requirements.

Pursuant to the provisions of 5 U.S.C. 605(b) the Administrator has certified that SIP approvals under Section 110 of the Clean Air Act will not have a significant economic impact on a substantial number of small entities. See 46 FR 8709 (January 27, 1981). This aciton constitutues a SIP approval under section 110 within the terms of the January 27 certification. This action only approves State actions. It imposes no new requirements.

Under section 307(b)(1) of the Clean Air Act, judicial review of this action is available *only* by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit within 60 days of today. Under section 307(b)(2) of the Clean Air Act, the requirements which are the subject of today's notice may *not* be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

Note.—Incorporation by reference of the Implementation Plan for the Commonwealth of Pennsylvania was approved by the Director of the Office of the Federal Register on July 1, 1982.

List of Subjects in 40 CFR 52

Air Pollution control, Ozone, Sulfur oxide, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons, Intergovernmental relations.

Authority: Sections 110 and 301 of the Clean Air Act as amended (42 U.S.C. 7410 and 7601).

Dated: January 26, 1984.

William D. Ruckelshaus,

Administrator.

PART 52—[AMENDED]

Part 52 of Title 40, Code of Federal Regulations is amended as follows:

Subpart NN—Pennsylvania

1. Section 52.2020, paragraph (c)(59) is added to read as follows:

§ 52.2020 Identification of plan.

* * * * *

(c) * * *

(59) A State Implementation Plan for the control of lead (Pb) emissions in Allegheny County was submitted on September 6, 1983 by the Secretary of Environmental Resources.

[FR Doc. 84-2738 Filed 2-3-84; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 1, 73, and 74

Oversight of the Radio and TV Broadcast Rules

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This Order amends broadcast station regulations in 47 CFR Parts 73 and 74 of the FCC rules. Amendments are made to delete regulations that are no longer necessary, correct inaccurate rule texts, contemporize certain requirements, to execute editorial revisions as needed for purposes of clarity and ease of understanding and to give public notice of the status of rule review pursuant to Section 610 of the Regulatory Flexibility Act of 1980.

EFFECTIVE DATE: January 27, 1984.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Steve Crane, (202) 632-5414, Mass Media Bureau.

List of Subjects

47 CFR Part 1

Administrative practice and procedure.

47 CFR Parts 73 and 74

Radio broadcasting, Television broadcasting.

Order

In the matter of Oversight of the Radio and TV Broadcast Rules.

Adopted: January 24, 1984.
Released: January 27, 1984.

By the Chief, Mass Media Bureau.

1. In this *Order*, the Commission focuses its attention on the oversight of its radio and TV broadcast rules. Modifications are made herein to update, delete, clarify or correct broadcast regulations as described in the following amendment summaries:

(a) Two of the rule sections in Part 1, pertaining to interlocutory actions in hearing proceedings, cross reference § 1.292. This rule, entitled Number of Copies, was removed from our regulations by Commission action effective April 23, 1971. 36 FR 7422, April 20, 1971. The statements in the deleted rule section were incorporated into § 1.51, Number of copies of pleadings, briefs and other papers, in that same Commission action. However, the cross references to § 1.292 have survived in § 1.291(c)(1) and in § 1.296. Correction to the subject sections is made herein. (See Appendix items 1 and 2.)

(b) In BC Docket 82-320, the Commission discontinued three of its policies and eliminated parts of two of the rules. The rules were § 73.203(b) and § 73.607(b); and the policies were Suburban Community Policy, the *Berwick Doctrine* and the *de facto* reallocation policy. 48 FR 12094, March 23, 1983. Retained in the rules were

paragraphs (a) in both § 73.203 and § 73.607. These paragraphs open with the proviso "Subject to the provisions of paragraph (b) of this section * * *". These references to the non-existent paragraph (b) in these two rules are removed herein. Since only one paragraph survives in the two sections, the designation paragraph (a) is removed and the paragraph will stand alone, without paragraph letter designation. (See Appendix items 3 and 4.)

(c) The reference points—geographical coordinates—used by the FCC to determine distance separation in city to city measurements are those listed in the Index to *The National Atlas of the United States of America* published by the U.S. Department of Interior. Formerly, the FCC used the U.S. Department of Commerce publication *Airline Distance Between Cities in the United States*. Directions to use the *Airline Distance* publication have been excised from the rules and the Index to the *National Atlas* substituted, except for one rule section which has inadvertently been left unchanged. It is § 73.611, which is corrected here. (See Appendix item 5.)

(d) In the reorganization and reformatting of Parts 73 and 74, numerous regulations applicable in common to all stations in the respective Parts have been placed in one Subpart. (Subpart H in Part 73 and Subpart—General in Part 74). As the rules were moved to the "all-services" Subpart, a cross reference to the new section number was left behind in the various Subparts in which the regulation originally appeared. These cross references were later removed from the separate Subparts and listed in one location following the Table of Contents. This listing was subsequently eliminated to free-up scarce rule section numbers for newly adopted regulations. Surviving these changes in format were cross references in Subpart F—International Broadcast Stations, remaining over the years in the original rule sections as a sign-post to "See Section 73.xxxx" (in Subpart H). Since the continued updating of the alphabetical index provides accurate and quick direction to rule sections being sought, the need for these cross references has been eliminated. Therefore, this last vestige of the old cross reference is removed via this Order. (See Appendix item 6.)

(e) There is a cross reference to § 1.516 in the Note following subparagraph (a)(18) in § 73.1020, Station license period. The cross referenced § 1.516 is incorrect, having been redesignated § 73.3516 in a 1978 proceeding. It is corrected here. Also, the Note is removed and its text redesignated paragraph (b) of § 73.1020 as it previously appeared in the March 1980 edition of Volume III of the rules. (See Appendix item 7.)

(f) In the Report and Order in BC Docket 80–253, the Commission adopted revisions of its applications for renewal of all AM, FM and TV stations. In addition to inaugurating the Simplified Renewal Application ("Short Form"), the Commission also eliminated certain licensee public notice requirements. As a result, the public notice announcement requirement of § 73.1202, formerly titled Public notice of licensee obligations, was eliminated and renamed "Retention of letters received from the public" and rewritten to reflect only this letter retention requirement. 46 FR 26236, May 11, 1981.

In § 73.1810, Program logs, there is a requirement in paragraph (b)(4)(iii) directing "An entry [be made in the log] for each announcement made pursuant to the local notice requirements of * * *. Section 73.1202 (licensee obligations) * * *". Since this requirement has been eliminated, § 73.1810(b)(4)(iii) is corrected accordingly. (See Appendix item 8.)

(g) In the Memorandum Opinion and Order adopted in BC Docket 80–253 (The Short Form Renewal Application), the Commission eliminated the old commercial TV renewal Form 303. FCC 81–447. 46 FR 55116, November 6, 1981. Through inadvertence, the form number and title remain listed in § 73.3500, Application and report forms. It is deleted herein (See Appendix item 9.)

(h) In the Order adopted September 23, 1983, certain undesignated headnotes in 47 CFR Parts 73 and 74 were removed. 47 FR 44556, September 29, 1983. One such headnote was inadvertenly left in Part 74, "Administrative Procedure", which immediately precedes § 74.212. It is removed in this Order. (See Appendix item 10.)

(2) In General Docket 82–812, the Commission gave public notice of rules to be reviewed in 1983 pursuant to Section 610 of the Regulatory Flexibility Act. The purpose of the review was to determine if such rules imposed a significant economic impact on a substantial number of small entities. The rule evaluations have been completed by the Mass Media Bureau for Subparts A, B, C, G, I and L of Part 74; Subparts F, G and I of Part 76 and Subparts A, B, C and D of Part 78.

(3) No substantive changes are made herein which impose additional burdens or remove provisions relied upon by licensees or the public. We conclude, for the reasons set forth above, that these revisions will serve the public interest.

(4) These amendments are implemented by authority delegated by the Commission to the Chief, Mass Media Bureau. Inasmuch as these amendments impose no additional burdens and raise no issue upon which comments would serve any useful purpose, prior notice of rulemaking, effective date provisions and public procedure thereon are unnecessary pursuant to the Administrative Procedure and Judicial Review Act provisions of 5 U.S.C. 553(b)(3)(B).

(5) Since a general notice of proposed rulemaking is not required, the Regulatory Flexibility Act does not apply.

(6) Therefore, it is ordered, that pursuant to sections 4(i), 303(r) and 5(d)(1) of the Communications Act of 1934, as amended, and §§ 0.61 and 0.283 of the Commission's Rules, Parts 73 and 74 of the FCC Rules and Regulations are amended as set forth in the attached Appendix, effective January 27, 1984.

(7) For further information on this *Order*, contact Steve Crane, (202) 632–5414. Mass Media Bureau.

Federal Communications Commission.

James C. McKinney,

Chief, Mass Media Bureau.

Appendix

PART 1—[AMENDED]

1. 47 CFR 1.291 is amended by revising paragraph (c)(1) to read as follows:

§ 1.291 General provisions.

* * * * *

(c)(1) Procedural rules governing interlocutory pleadings are set forth in §§ 1.294–1.298.

* * * * *

2. 47 CFR 1.296 is revised to read as follows:

§ 1.296 Service.

No pleading filed pursuant to § 1.51 or § 1.294 will be considered unless it is accompanied by proof of service upon the parties to the proceeding.

PART 73—[AMENDED]

3. 47 CFR 73.203 is amended by removing from paragraph (a) the cross reference to paragraph (b) which had been previously eliminated from the rule, by removing the paragraph designation "(a)" from the rule since it is the only paragraph surviving in it, and revising it to read as follows:

§ 73.209 Availability of channels.

Applications may be filed to construct FM broadcast stations only on the channels assigned in the Table of Assignments (§ 73.202(b)) and only in communities listed therein. Applications which fail to comply with this requirement, whether or not accompanied by a petition to amend the Table, will not be accepted for filing. However, applications specifying channels which accord with publicly announced FCC Orders changing the Table of Assignments will be accepted for filing even though such applications are tendered before the effective dates of such channel changes.

4. 47 CFR 73.607 is amended by removing from paragraph (a) the cross reference to paragraph (b) which had previously been eliminated from the rule, by removing the paragraph designation "(a)" from the rule since it is the only paragraph surviving in it, and revising it to read as follows:

§ 73.607 Availability of channels.

Applications may be filed to construct TV broadcast stations only on the channels assigned in the Table of Assignments (§ 73.606(b)) and only in the communities listed therein. Applications which fail to comply with this requirement, whether or not accompanied by a petition to amend the Table, will not be accepted for filing. However, applications specifying channels which accord with publicly announced FCC Orders changing the Table of Assignments will be accepted for filing even though such applications are tendered before the effective dates of such channel changes.

5. 47 CFR 73.611 is amended by revising paragraphs (a)(2) and (b)(2) as follows:

§ 73.611 Reference points and distance computations.

(a) * * *

(2) Where an authorized transmitter site is available for use as a reference point in one community but not in the other for the pertinent channels, separations shall be determined by the distance between the coordinates of the transmitter site as set forth in the FCC's authorization therefore and the coordinates of the other community as set forth in the publication of the United States Department of Interior entitled, Index to *The National Atlas of the United States of America*. If said publication does not contain the coordinates for said other community, the coordinates of the main post office thereof shall be used.

* * * * *

(b) * * *

(2) The coordinates of the other community as set forth in the Index to *The National Atlas of the United States of America;* or if not contained therein,

* * * * *

6. 47 CFR Part 73, Subpart F—International Broadcast Stations is amended by removing the following rule sections in their entirety: Sections 73.710 Cross reference to rules in other Parts, 73.711 Notification of filing of applications, 73.752 [Reserved], 73.762 Station inspection, 73.763 Station license and seasonal schedules, posting of, 73.767 Frequency tolerance, 73.768 Antenna structure, marking and lighting, 73.769 Discontinuance of operation, 73.783 Logs: by whom kept, 73.784 Log form, 73.785 Correction of logs, 73.789 Sponsorship identification, 73.790 Rebroadcasts, 73.791–73.792 [Reserved], 73.793 Equal employment opportunities.

7. 47 CFR 73.1020 is amended by removing the Note following paragraph (a)(18) and adding new paragraph (b) to read as follows:

§ 73.1020 Station license period.

* * * * *

(b) For the cutoff date for the filing of applications mutually exclusive with, and petitions to deny, renewal applications, see § 73.3516(e).

8. 47 CFR 73.1810 is amended by revising paragraph (b)(4)(iii) to read as follows:

§ 73.1810 Program logs.

* * * * *

(b) * * *

(4) * * *

(iii) An entry for each announcement made pursuant to the local notice requirements of §§ 73.3580 (pre-grant) and 73.3594 (designation for hearing), showing the time it was broadcast.

* * * * *

§ 73.3500 [Amended]

9. 47 CFR 73.3500, Application and report forms, is amended by removing the entry for Form 303 and its title, Application for Renewal of License for Commercial TV Broadcast Station.

PART 74—[AMENDED]

10. In 47 CFR Part 74, the undesignated headnote "Administrative Procedure" which immediately precedes § 74.212 is removed.

[FR Doc. 84-2977 Filed 2-3-84; 8:45 am]

BILLING CODE 6712-01-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1164

[Ex Parte No. MC-143]

Owner-Operator Food Transportation

AGENCY: Interstate Commerce Commission.

ACTION: Notice of final rules.

SUMMARY: The Commission has decided to adopt the proposed rules which would require owner-operators to file annual report form OCCA-143 on March 31 of each year for operations conducted during the prior calendar year, and which modify the form to eliminate reporting of exempt and regulated commodity tonnages.

A uniform filing date will minimize the Commission's administrative burden and will benefit owner-operators by creating certainty in the reporting date. Elimination of the tonnage reporting requirement will relieve owner-operators from unnecessary recordkeeping and reporting requirements.

DATE: Effective on February 6, 1984.

FOR FURTHEN INFORMATION CONTACT: P. M. Schulze, (202) 275-7841.

SUPPLEMENTARY INFORMATION: By Notice of Proposed Rulemaking (48 FR 44591, September 29, 1983), the Commission sought public comment on changing the filing date of Form OP-143, which has been redesignated as OCCA-143, from the anniversary of the grant date to March 31 of each year. The Commission also proposed to eliminate the reporting of exempt and regulated commodity tonnages.

No public comment was received concerning these proposals. The advantages of the modifications, however, appear to warrant their adoption. They are: enhanced administrative efficiency in issuing reminders and in processing the reports, increased certainty on the part of owner-operators as to the filing date through issuance of reminder notices, and elimination of the recordkeeping associated with computing and reporting tonnages which are of no statistical use to the Commission and duplicative of the certification provided for in the report.

Regulatory Flexibility

Owner-operators are presumed to be small entities. These rules will be of substantial economic benefit to them by eliminating any confusion as to the due date of Form OCCA-143, and by easing

their recordkeeping and reporting burden by elimination of tonnage reporting.

We are making these rule changes effective on publication in the **Federal Register** since they are not subject to the 30 days' notice provision of 5 U.S.C. 553(d). The change in the filing date is not a substantive rule and the change in the content of the report merely relieves a prior reporting requirement.

This decision is not a major federal action significantly affecting energy consumption or the quality of the human environment.

We are adopting revised 49 CFR 1164.4 as set forth in the Appendix to this decision.

List of Subjects in 49 CFR Part 1164

Foods, Freight, Motor carriers, Reporting and recordkeeping requirements.

This action is taken under the authority of 49 U.S.C. 10922(b)(4)(E), 10923(b)(5)(A), 11145(c), and 5 U.S.C. 553.

Decided: January 24, 1984.

By the Commission, Chairman Taylor, Vice Chairman Andre, Commissioners Sterrett and Gradison.

James H. Bayne,

Acting Secretary.

Appendix

Title 49 of the Code of Federal Regulations is amended as follows:

PART 1164—OWNER-OPERATOR FOOD TRANSPORTATION

Section 1164.4 is revised to read:

§ 1164.4 Annual reporting requirement.

Each owner-operator providing transportation under certificates to which the provisions of 49 U.S.C. 10922(b)(4)(E) apply, and permits to which the provisions of 49 U.S.C. 10923(b)(5)(A) apply, shall complete Report Form OCCA–143 on or before March 31 of each year for operations conducted during the prior calendar year to certify compliance with the requirement that annual tonnage transported under these provisions does not exceed the annual tonnage transported of exempt commodities under 49 U.S.C. 10526(a)(6).

Interstate Commerce Commission Owner-Operator Annual Report Form

(Attach address label here) _____

Owner-operator name and address, if different than shown.

MC-Number _____

Period covered—if this report is for less than an entire calendar year, report date operations cover.

From (month and date) _____

To (month and date) _____

Certifications

(1) I certify that I am in compliance with the provisions of 49 U.S.C. 10922(b)(4)(E) (for common carriers) or 49 U.S.C. 10923(b)(5)(A) (for contract carriers), in that the tonnage transported under the certificate or permit for the period covered by this report did not exceed the exempt tonnage transported.

(2) I certify that this report was prepared by me or under my supervision, and that I have examined it and that the items reported on the basis of my knowledge and belief are correctly reported.

Signature _____

Date _____

Address (Street, City, State, Zip Code) _____

Telephone Number _____

Note.—Failure to file this report may subject owner-operator to proceedings leading to revocation of operating authority. This report must be filed by March 31 of each year with Interstate Commerce Commission, Washington, D.C. 20423.

[FR Doc. 84-3107 Filed 2-3-84; 8:45 am]

BILLING CODE 7035-01-M

Proposed Rules

Federal Register
Vol. 49, No. 25
Monday, February 6, 1984

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 901

Public Comment Period on Modification of the Alabama Permanent Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Proposed rule.

SUMMARY: OSM is announcing procedures for a public comment period on the substantive adequacy of a proposed program amendment submitted by the State of Alabama as a modification to the Alabama permanent regulatory program (hereinafter referred to as the Alabama program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The proposed amendment is a blaster training and certification program consisting of regulations, blaster records, certification course outline and course notes.

This notice sets forth the times and locations that the Alabama program and the proposed amendment are available for public inspection and the comment period during which interested persons may submit written comments on the proposed amendment.

DATES: Written comments, data or other relevant information relating to the proposed amendment to the Alabama program not received on or before 4:00 p.m. on March 7, 1984, will not necessarily be considered.

A public hearing on the proposed modifications has been scheduled for March 2, 1984, at the address listed below under "**ADDRESSES.**"

Any person interested in making an oral or written presentation at the hearing should contact Mr. John T. Davis at the address or phone number listed below by the close of business February 21, 1984. If no one has contacted Mr. Davis to express an interest in participating in the hearing by that date, the hearing will not be held. If only one person has so contacted Mr. Davis by the above date, a public meeting, rather than a public hearing, may be held and the results of the meeting included in the Administrative Record.

ADDRESSES: Written comments should be mailed or hand delivered to: John T. Davis, Director, Birmingham Field Office, Office of Surface Mining Reclamation and Enforcement, 228 West Valley Avenue, 3rd Floor, Homewood, Alabama 35209.

The public hearing will be held at the Birmingham Field Office, Office of Surface Mining, 228 West Valley Avenue, 3rd Floor, Homewood, Alabama 35209.

Copies of the Alabama program, a listing of any scheduled public meetings, and all written comments received in response to this notice will be available for review at the OSM and State regulatory authority offices listed below, Monday through Friday, 8:00 a.m. to 4:00 p.m., excluding holidays.

Office of Surface Mining Reclamation and Enforcement, Room 5315, 1100 L Street, NW., Washington, D.C.

Office of Surface Mining Reclamation and Enforcement, 228 West Valley Avenue, 3rd Floor, Homewood, Alabama 35209.

Alabama Surface Mining Commission, Central Bank Building, 2nd Floor, 811 Second Avenue, Jasper, Alabama 35501.

FOR FURTHER INFORMATION CONTACT: John T. Davis, Director, Birmingham Field Office, Office of Surface Mining Reclamation and Enforcement, 228 West Valley Avenue, 3rd Floor, Homewood, Alabama 35209; Telephone: (205) 254–0890.

SUPPLEMENTARY INFORMATION:

I. Public Comment Procedures

Availability of Copies

Copies of the Alabama program, the Secretary's notice conditionally approving the Alabama program (together with the Secretary's findings), a listing of any scheduled public hearings or meetings and all written comments received in response to this notice will be available for review at the OSM offices and the office of the State regulatory authority listed below, Monday through Friday, 8:00 a.m. to 4:00 p.m., excluding holidays.

Office of Surface Mining, Room 5315, 1100 L Street, NW., Washington, D.C. 20240

Office of Surface Mining, Birmingham Field Office, Office of Surface Mining, 228 West Valley Avenue, Room 302, Birmingham, Alabama 34209.

Alabama Surface Mining Commission, Central Bank Building, 2nd Floor, 811 Second Avenue, Jasper, Alabama 35501.

Written Comments

Written comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of the commenter's recommendations. Comments received after the time indicated under "**DATES**" or at locations other than Birmingham, Alabama, will not necessarily be considered and included in the Administrative Record for the final rulemaking.

Public Hearing

Persons wishing to comment at the public hearing should contact the person listed under "**FOR FURTHER INFORMATION CONTACT**" by the date listed under "**DATES.**" If no one requests to comment at the public hearing, the hearing will not be held.

If only one person requests to comment, a public meeting, rather than a public hearing, may be held and the results of the meeting included in the Administrative Record.

Filing of a written statement at the time of the hearing is requested and will greatly assist the transcriber. Submission of written statements in advance of the hearing will allow OSM officials to prepare appropriate questions. The public hearing will continue on the specified date until all persons scheduled to comment have been heard. Persons in the audience who have not been scheduled to comment and wish to do so will be heard following those scheduled. The hearing will end after all persons scheduled to comment and persons present in the audience who wish to comment, have been heard.

Public Meeting

Persons wishing to meet with OSM representatives to discuss the proposed amendment may request a meeting at the OSM office listed in "**ADDRESSES**"

by contacting the person listed under "FOR FURTHER INFORMATION CONTACT."

All such meetings are open to the public and, if possible, notices of meetings will be posted in advance in the Administrative Record. A written summary of each public meeting will be made part of the Administrative Record.

II. Background on the Alabama Program

Information regarding the general background on the Alabama State program, including the Secretary's findings, the disposition of comments and a detailed explanation of the conditions of approval of the Alabama program can be found at 47 FR 22020–22038 (May 20, 1982) and 48 FR 34026 (July 27, 1983).

III. Proposed Amendment

On January 9, 1984, Alabama submitted a proposed program for the training and certification of blasters working in surface coal mining operations. The amendment consists of regulations, blaster records, certification course outline and course notes. The proposed regulations are set forth under Chapter 880–X–12—Training, Examination and Certification of Blasters.

At the time of the Secretary's approval of the Alabama program, OSM had not yet promulgated Federal rules governing the training and certification of blasters. Therefore, the State was not required to include such requirements in its program. However, in the notice announcing conditional approval of the Alabama program, the Secretary specified that Alabama would be required to adopt such provisions following promulgation of the Federal standards (47 FR 22020, May 20, 1982).

On March 4, 1983, OSM issued final rules effective April 14, 1983, establishing the Federal standards for the training and certification of blasters at 30 CFR Chapter M (48 FR 9486). OSM is seeking comment on whether the Alabama proposed amendment is consistent with and meets the requirements of the revised Federal standards and satisfies the criteria for approval of State program amendments at 30 CFR 732.15 and 732.17.

The full text of the program modification submitted by Alabama for OSM's consideration is available for public review at the addresses listed under "ADDRESSES."

IV. Additional Determinations

1. *Compliance with the National Environmental Policy Act.* The Secretary has determined that, pursuant to Section 702(d) of SMCRA, 30 U.S.C. 1292(d), no environmental impact statement need be prepared on this rulemaking.

2. *Executive Order No. 12291 and the Regulatory Flexibility Act.* On August 28, 1981, the Office of Management and Budget (OMB) granted OSM an exemption from Sections 3, 4, 7, and 8 of Executive Order 12291 for actions directly related to approval or conditional approval of State regulatory programs. Therefore, this action is exempt from preparation of a Regulatory Impact Analysis and regulatory review by OMB.

The Department of the Interior has determined that this rule would not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This rule would not impose any new requirements; rather, it would ensure that existing requirements established by SMCRA and the Federal rules would be met by the State.

3. *Paperwork Reduction Act.* This rule does not contain information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3507.

List of Subjects in 30 CFR Part 901

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

Authority: Pub. L. 95–87, Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201 *et seq.*).

Dated: January 31, 1984.

James R. Harris,

Director, Office of Surface Mining.

[FR Doc. 84–3162 Filed 2–3–84; 8:45 am]

BILLING CODE 4310–05–M

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30 CFR Part 926

Public Comment and Opportunity for Public Hearing on Modified Portions of the Montana Permanent Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Proposed rule; notice of receipt of permanent program modifications; public comment period and opportunity for public hearing.

SUMMARY: OSM is announcing procedures for the public comment period and for a public hearing on the adequacy of proposed amendments to the Montana permanent regulatory program which was approved by the Secretary of the Interior pursuant to the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The amendments submitted by Montana for the Director's approval include modifications to regulations concerning the following: (1) Certification of blasters in Montana, and (2) assessment and waiver of civil penalties.

DATES: Written comments not received on or before 4:00 p.m., March 7, 1984, will not necessarily be considered in the Director's decision to approve or disapprove the proposed amendments.

A public hearing on the proposed modifications has been scheduled for March 2, 1984, at the address listed below under "ADDRESSES". Any person interested in making an oral or written presentation at the hearing should contact Mr. William Thomas at the address listed below by February 27, 1984. If no person has contacted Mr. Thomas by this date to express an interest in this hearing, the hearing will be cancelled. If only one person requests to comment, a public meeting rather than a public hearing may be held and the results of the meeting included in the Administrative Record.

ADDRESSES: The public hearing will be held at the OSM Casper Field Office, Freden Building, 935 Pendell Boulevard, Mills, Wyoming.

Written comments should be mailed or hand-delivered to Mr. William Thomas, Office of Surface Mining Reclamation and Enforcement, Freden Building, 935 Pendell Boulevard, Mills, Wyoming 82644.

Copies of the proposed modifications to the Montana program, a listing of any scheduled public meetings and all written comments received in response to this notice will be available for review at the OSM Casper Field Office, and the Office of the State Regulatory Authority, all listed below, Monday through Friday, 8:00 a.m. to 4:00 p.m. excluding holidays.

Office of Surface Mining Reclamation and Enforcement, Administrative Record Room, 1100 "L" Street NW., Washington, D.C. 20240.

Office of Surface Mining Reclamation and Enforcement, Freden Building, 935 Pendell Boulevard, P.O. Box 1420, Mills, Wyoming, 82644.

Montana Department of State Lands, Reclamation Division, Capitol Station, Helena, Montana 59620.

FOR FURTHER INFORMATION CONTACT: Mr. William Thomas, Field Office Director, Office of Surface Mining, P.O. Box 1420, Mills, Wyoming, 82644; Telephone: (307) 261–5824.

SUPPLEMENTARY INFORMATION:

Background

The Montana program was approved by the Secretary of April 1, 1980, conditioned on the correction of 6 minor deficiencies. Information pertinent to the general background, revisions, modifications and amendments to the proposed permanent program submission, as well as the Secretary's findings, the disposition of comments and a detailed explanation of the conditions of approval of the Montana program can be found in the April 1, 1980, Federal Register (45 FR 21560) and the February 11, 1982, Federal Register (47 FR 6266).

Proposed Amendments

On January 3, 1984, the State of Montana submitted to OSM amendments to its permanent regulatory program. One amendment is intended to implement the provisions of 30 CFR Part 850 relating to blaster training, examination and certification. The proposed amendment consists of proposed regulations governing requirements for the conduct of blasting operations; proposed regulations governing the standards for certification of blasters; proposed regulations specifying a training outline for blasters; and proposed regulations for suspending or revoking a blaster's certification.

At the time of the Secretary's approval of the Montana program, OSM had not yet promulgated Federal rules governing the training and certification of blasters. Therefore, the State was not required to include such requirements in its program. However, in his notice announcing conditional approval of the Montana program, the Secretary specified that Montana would be required to adopt such provisions following promulgation of the Federal standards (45 FR 21560, April 1, 1980).

On March 4, 1983, OSM issued final rules effective April 14, 1983, establishing the Federal standards for the training and certification of blasters at 30 CFR Chapter M (48 FR 9486).

In addition to the proposed bonding regulations, Montana submitted to OSM proposed program amendments addressing civil penalties. The proposed amendment consists of proposed regulations governing procedures for the assessment and waiver of civil penalties; utilization of a point system for civil penalties and waivers; issuance of notice of non-compliance and cessation orders; informal hearings; operator's inability to comply with a notice of compliance or cessation order; and continuation of health and safety activities during the period an order is in effect.

OSM is seeking comment on whether the Montana proposed modifications are consistent with and meet the requirements of the revised Federal standards and satisfy the criteria for approval of State program amendments at 30 CFR 732.15 and 732.17.

The full text of the proposed program modifications submitted by Montana for OSM's consideration is available for public review at the addresses listed under "**ADDRESSES**".

Additional Determinations

1. *Compliance with the National Environmental Policy Act.* The Secretary has determined that, pursuant to Section 702(d) of SMCRA, 30 U.S.C. 129(d), no environmental impact statement need be prepared on this rulemaking.

2. *Executive Order No. 12291 and the Regulatory Flexibility Act.* On August 28, 1981, the Offcie of Management and Budget (OMB) granted OSM an exemption from Sections 3, 4, 7, and 8 of Executive Order 12291 for actions directly related to approval or conditional approval of State regulatory programs. Therefore, this action is exempt from preparation of a Regulatory Impact Analysis and regulatory review by OMB.

The Department of the Interior has determined that this rule would not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This rule would not impose any new requirements; rather, it would ensure that existing requirements established by SMCRA and the Federal rules would be met by the State.

3. *Paperwork Reduction Act.* This rule does not contain information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3507.

List of Subjects in 30 CFR Part 926

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

Authority: Pub. L. 95-87, Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201 *et seq.*).

Dated: January 31, 1984.

James R. Harris,

Director, Office of Surface Mining.

[FR Doc. 84-3143 Filed 2-3-84; 8:45 am]

BILLING CODE 4310-05-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 110

[CGD7-83-29]

Special Anchorage Area; Bahia de San Juan, PR

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rule making.

SUMMARY: The Coast Guard is considering a proposal to reclassify Anchorage D in Bahia de San Juan as a Special Anchorage Area, for use by vessels less than 65 feet long. The anchorage area is currently being used by small pleasure craft. This change in classification would relieve vessel operators of the requirement to show anchor lights when anchored within this area.

DATES: Comments must be received on or before March 22, 1983.

ADDRESSES: Comments should be mailed to Commander (mps), Seventh Coast Guard District, 51 S.W. First Avenue, Miami, FL 33130. The comments will be available for inspection and copying at 51 S.W. First Avenue, Room 1231, telephone (305) 350-5651. Normal office hours are between 7:30 a.m. and 4:00 p.m., Monday through Friday, except federal holidays. Comments may also be hand-delivered to this address.

FOR FURTHER INFORMATION CONTACT: Lieutenant (J.G.) Harry Craig, (305) 350-5651.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this rule making by submitting written views, data, or arguments. Persons submitting comments should include their names and addresses, identify this notice (CGD7-83-29) and the specific section of the proposal to which their comments apply, and give reasons for each comment. Receipt of comments will be acknowledged if a stamped self-addressed postcard or envelope is enclosed.

The rules may be changed in light of comments received. All comments received before the expiration of the comment period will be considered before final action is taken on this proposal. No public hearing is planned, but one may be held if written requests for a hearing are received and it is determined that the opportunity to make oral presentations will aid the rulemaking process.

Drafting Information

The drafters of this notice are Lieutenant (J.G.) Harry Craig, project officer, Seventh Coast Guard District Port Safety Branch, and Lieutenant Commander Kenneth E. Gray, project attorney, Seventh Coast Guard District Legal Office.

Discussion of Proposed Regulation

This anchorage in the eastern portion of San Antonio Channel was established in 1967 as part of a plan to designate various parts of Bahia de San Juan for anchorages. At that time it was designated for use by yachts and other small craft. Upon further review we have determined that the same purposes would be achieved, and an unnecessary burden relieved from the vessel operators if this area would be redesignated a Special Anchorage Area. According to Title 33, CFR Part 109.10, a Special Anchorage Area may be used by vessels not more than 65 feet long. These vessels would not have to be lighted while anchored within the Special Anchorage Area.

Traffic through this area is light and primarily small craft, and the anchorage is not heavily occupied. Because of that, we do not anticipate any significant difficulty in navigation there.

Economic Assessment and Certification

This proposed regulation is considered to be nonsignificant in accordance with DOT Policies and Procedures for Simplification, Analysis, and Review of Regulations (DOT Order 2100.5). Its economic impact is expected to be minimial because the only change is to delete a requirement that vessels at anchor must display the appropriate lights.

Based upon this assessment it is certified in accordance with section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 605(b)) that this regulation, if promulgated, will not have a significant economic impact on a substantial number of small entities. Also, the regulation has been reviewed in accordance with Executive Order 12291 of February 17, 1981, on Federal Regulation and has been determined not to be a major rule under the terms of that order.

List of Subjects in 33 CFR Part 110

Anchorage grounds.

Proposed Regulation

PART 110—[AMENDED]

In consideration of the foregoing, the Coast Guard proposes to amend Part 110 of Title 33, Code of Federal Regulations, by removing § 110.240(a)(1) *Yacht, schooner, and small craft Anchorage D,* redesignating §§ 110.240 (a)(2) and (a)(3) as 110.240 (a)(1) and (a)(2), and adding a new § 110.74c to read as follows:

§ 110.74c Bahia de San Juan, PR.

The waters of San Antonio Channel, Bahia de San Juan, eastward of longitude 66°05'45" W.

(Authority: 33 U.S.C. 471, 2030, 2035, and 2071; 49 U.S.C. 1655(g)(1); 49 CFR 1.46; and 33 CFR 1.05–1(g).

Dated: January 13, 1984.

D. C. Thompson,

Rear Admiral, Commander, Seventh Coast Guard District.

[FR Doc. 84–3159 Filed 2–3–84; 8:45 am]

BILLING CODE 4910–14–M

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33 CFR Part 165

[COTP, NOLA, Reg. No. 84–02]

Security Zone Regulations; 1984 Lousiana World Exposition in New Orleans

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard Captain of the Port (COTP), New Orleans, is proposing to establish a Security Zone on the Mississippi River in New Orleans between the up river end of the Canal St. Ferry Landing (approximately LMR mile 94.8, AHOP, LDB) and the down river edge of the new, Greater New Orleans Mississippi River Bridge (approximately LMR mile 95.7, AHOP, LDB) and extending 200 ft channelward between these points from the New Orleans, or Left Descending Bank (LDB). side of the river. This Security Zone is intended to discourage civil disturbances and acts of terrorism that might be stimulated by the 1984 Lousiana World Exposition (World's Fair) in New Orleans. It would allow the COTP to strictly control access to the Fair's site from the Mississippi River, thus minimizing the possibility that persons intent on inciting such disturbances or acts could disrupt the Fair, or endanger the lives and property of its participants. This Security Zone would be established on 1 May 1984 and terminated on 30 November 1984.

DATES: Comments must be received on or before March 22, 1984.

ADDRESS: Comments should be mailed to Captain of the Port, New Orleans. Attention: Waterways Safety Office, 4640 Urquhart Street, New Orleans, LA 70017. Normal office hours are between 7:00 a.m. and 3:30 p.m., Monday through Friday, except holidays. Comments may also be hand delivered to this address. Copies of all written comments received will be available for examination and copying at the above address.

FOR FURTHER INFORMATION CONTACT: LCDR Richard E. Ford or ENS Peyton Coleman (504) 589–7117.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this rulemaking by submitting written views, data, or arguments. Persons submitting comments should include their names and addresses, identify this notice "COTP, NOLA, Regulation No. 84–02," and the specific section of the proposal to which their comments apply, and give reasons for each comment. Receipt of comments will be acknowledged if a stamped-addressed postcard or envelope is enclosed.

The rules may be changed in light of comments received. All comments received before the expiration of the comment period will be considered before final action is taken on this proposal. No public hearing is planned, but one may be held if written requests for a hearing are received and it is determined that the opportunity to make oral presentations will aid the rulemaking process.

Drafting Information

The drafters of this notice are LCDR Richard E. Ford, Project Officer, COTP, New Orleans, and LCDR R. W. Bruce, Project Attorney, Eighth Coast Guard District Legal Office.

Discussion of Proposed Regulations

The World's Fair in New Orleans will be a major international event, featuring exhibits from many nations around the world, and attracting thousands of visitors, including many dignitaries and VIP's. Because of this, the Fair will be highly visible in the public's eye and generate considerable media attention. This visibility, and attention could easily make the Fair or its visitors the target for politically motivated civil disturbances or acts of terrorism, which would most likely be incited by individuals or groups seeking to publicize their political goals.

To minimize the possibility that persons engaging in these activities could gain access to the World's Fair site from the Mississippi River, the Captain of the Port is seeking to strictly limit access across the waterfront boundary of the Fair by establishing and enforcing a Security Zone there. This Security Zone would affect all vessels seeking to moor alongside those wharfs forming the waterfront boundary of the Fair.

Economic Assessment and Certification

This proposed regulation is considered to be nonsignificant in accordance with DOT Policies and Procedures for Simplification, Analysis, and Review of Regulations (DOT Order 2100.5). Its economic impact is expected to be minimal since only non-economic activities are being affected. Based upon this assessment it is certified in accordance with section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 605(b)) that this regulation, if promulgated, will not have a significant economic impact on a substantial number of small entities. Also, the regulation has been reviewed in accordance with Executive Order 12291 of February 17, 1981, on Federal Regulations and has been determined to be a major rule under the terms of that order.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Security measures, Vessels, Waterways.

Proposed Regulations

PART 165—[AMENDED]

In consideration of the foregoing, the Coast Guard proposed to amend Part 165 of Title 33, Code of Federal Regulations, by adding § 165.T811 to read as follows:

§ 165.T811 1984 Louisiana World Exposition in New Orleans.

(a) That area of the Mississippi River in New Orleans between the up river end of the Canal St. Ferry Landing (Approximately LMR miles 94.8, AHOP LDB) and the down river edge of the new, Greater New Orleans Mississippi River Bridge (approximately LMR miles 95.7, AHOP, LDB), and extending 200 ft. channelward between these points from the New Orleans, or Left Descending Bank (LDB), side of the river is a Security Zone. This Security Zone is established 1 May 1984 and will terminate on 30 November 1984.

(b) *Regulations;*

(1) No vessel may enter this Security Zone without the specific written permission of the Captain of the Port, New Orleans. A request for permission to enter this Security Zone must be sumbitted, in writing, at least 5 days in advance of the intended time and date of entry, to: Captain of the Port, Attn: Waterways Safety Office, 4640 Urquhart Street, New Orleans, LA 70117.

Such request must include the:

(i) Name, address, telephone number, and business affiliation of the individual making such request;

(ii) Name of the vessel(s) involved;

(iii) Official number of State Number of the vessel(s) involved, and its (their) flag and call sign;

(iv) Approximate number of personnel on board the vessel(s);

(v) Time and date of entry, and duration of intended stay;

(iv) Exact location of the vessel if it intents to remain within the Security Zone.

(vi) A brief statement of purpose for entering the Security Zone including, where appropriate, the nature of the cargo to be handled.

(2) All U.S. Naval and Coast Guard Vessels intending to enter this Security Zone are hereby granted a general exemption to the prior entry, written notification requirements of paragraph (b)(1) of this section, but must verbally notify the Captial of the Port at least 4 hours in advance of their entry with the information required by paragraph (b)(1) of this section. This notice may be called in by telephone to 589–7101, or by radio on channel 16 VHF-FM (156.6 MHZ), calling Group New Orleans, or on channel 11 VHF-FM (156.550 MHZ), calling VTS New Orleans.

(3) Vesels intending to enter this Security Zone for the purpose of conducting fuel oil or cargo transfer operations are hereby granted a general exemption to the prior entry, written notification requirements of paragraph (b)(1) of this section, but must verbally notify the Captain of the Port at least 4 hours in advance of their entry with the information required by paragraph (b)(1) of this section. This notice must be called in by telephone to 589–7101, or by radio on channel 16 VHF-FM (156.8 MHZ), calling Group New Orleans, or on channel 11 VHF–FM (156.550 MHZ), calling VTS New Orleans.

(4) At his discretion, the COTP may waive the requirements of paragraphs (b)(1), (2), and (3) of this section. Request for waivers must be made, in writing, to the COTP, using the address given in paragraph (b)(1) of this section.

(50 U.S.C. 191; E.O. 10173; and 33 CFR 6.04–6)

Dated: January 20, 1984.

John L. Bailey,

Captain, U.S. Coast Guard, Captain of the Port.

[FR Doc. 84-3397 Filed 2-3-84; 8:45 am]

BILLING CODE 4910-14-M

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33 CFR Part 165

[COTP, NOLA, Reg. No. 84–01]

Safety Zone Regulations; Lower Mississippi River, Vicinity of New Orleans

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rule making (NPRM).

SUMMARY: The Coast Guard Captain of the Port (COTP), New Orleans, is proposing to establish a Safety Zone on the Mississippi River between LMR mile 81, AHOP, and LMR mile 115, AHOP. This Safety Zone is considered necessary to counteract problems anticipated with vessel traffic congestion on the Mississippi River that is expected to occur as increasing numbers of vessels visit and operate in and around New Orleans, specifically in conjunction with the activities of the 1984 Louisiana World Exposition (World's Fair), which will be open from 12 May 1984 until 11 November 1984. The establishment of a Safety Zone and the imposition of restrictions on vessels operating within it will allow the COTP to control vessel operations so that safe, reasonable access to the World's Fair and its activities can be accommodated without causing undue disruption to normal commercial shipping on the Mississippi River, or unduly exposing the visiting vessels to the inherent dangers in operating in close proximity with the industrial-commercial complexes located along the river.

DATES: Comments must be received on or before March 22, 1984.

ADDRESS: Comments should be mailed to Coast Guard Captain of the Port, New Orleans, Attention: Waterways Safety Office, 4640 Urquhart Street, New Orleans, LA, 70117. Normal office hours are between 7:00 a.m. and 3:30 p.m., Monday through Friday, except holidays. Comments may also be hand delivered to this address. Copies of all comments received will be available for examination and copying at the above address.

FOR FURTHER INFORMATION CONTACT: LCDR Richard E. Ford at (504) 589–7117, or ENS Peyton Coleman at (504) 589–7108.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this rule making by submitting written views, data, or arguments. Persons submitting comments should include their names and addresses, identify this notice "COTP, NOLA, Regulation No. 84–01," and the specific section of the proposal to which their comments apply, and give reasons for each comment. Receipt of comments will be acknowledged if a stamped self-addressed postcard or envelope is enclosed.

The rules may be changed in light of comments received. All comments received before the expiration of the

comment period will be considered before final action is taken on this proposal. No public hearing is planned, but one may be held if written requests for a hearing are received and it is determined that the opportunity to make oral presentations will aid the rulemaking process.

Drafting Information

The drafters of this notice are LCDR Richard E. Ford, Project Officer, COTP, New Orleans, and LCDR R. W. Bruce, Project Attorney, Eighth Coast Guard District Legal Office.

Discussion of Proposed Regulations

The World's Fair in New Orleans, with its theme of "Fresh Water as a Source of Life," will be a major international event that is expected to draw thousands of visitors to New Orleans and the surrounding areas each day, many of whom will come by vessels of one kind or another. Because of the theme of the Fair, and the Fair's location along the Mississippi River at LMR mile 95.3, AHOP, many of the Fair's activities will center on the river. For example, a nightly fireworks display is planned. As a result, a significant increase in the number of vessels visiting and operating in and around New Orleans is expected to occur. This will cause vessel traffic congestion on the Mississippi River, which will directly impact on the river's normal commercial and industrial activities. While some of this congestion will result from an increase in commercial vessel activity, much of it is expected to result from a dramatic increase in the number of privately owned yachts, pleasure boats, houseboats, and similar vessels navigating on the Mississippi River. If not controlled, this congestion could have adverse economic effects on the normal commercial and industrial activities on the Mississippi River, and possibly lead to an increase in the number of accidents as well. Specific areas of concern that the proposed rules would control include:

—Vessels loitering on the Mississippi River for sight seeing purposes. Such activity could cause unnecessary delays to vessels transiting the river, and possibly result in accidents.

—Visiting vessels mooring along the banks (battures) of the Mississippi River without benefit of adequate mooring devices. This is a hazardous activity because of the constant pressure on vessel moorings from the Mississippi River's current, and could lead to vessel breakways and collisions on the river.

—Visiting vessels mooring in commercial barge fleeting facilities that do not have adequate physical safeguards for personnel protection, (i.e. sufficient lighting and access routes for personnel proceeding to and from their vessels across the fleeting facility), or adequate segregation schemes for separating visiting vessels from barges carrying hazardous materials. Unless such physical safeguards and segregation schemes are provided, accidents resulting in injury to personnel or damage to property may occur.

—Visiting vessels using anchorages provided for, and normally used by, commercial shipping. Such activity could cause unnecessary delays for commercial shipping.

While not related to vessel congestion, another area of concern is the transfer of fuel oil or bunkers to vessels moored at wharfs immediately fronting the Fair's site during the Fair's planned nightly fireworks displays. If not controlled, such tranfers during these displays could result in accidents involving fire, explosion, or oil pollution.

Other problems and areas of concern may arise in the future as specific events planned by the Fair become more definite. However, such problems can best be handled on an individual basis as these events occur.

Economic Assessment and Certification

This proposed regulation is considered to be nonsignificant in accordance with DOT Policies and Proceduers for Simplification, Analysis, and Review of Regulations (DOT Order 2100.5). Its overall economic impact is expected to be positive and result in considerable savings to the commercial and industrial interests on the Mississippi River. Based upon this assessment it is certified in accordance with section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 605(b)) that this regulation, if promulgated, will not have a significant economic impact on a substantial number of small entities. Also, the regulation has been reviewed in accordance with Executive Order 12291 of February 17, 1981, on Federal Regulation and has been determined not to be a major rule under the terms of that order.

List of Subjects in 33 CFR Part 165

Harbors marine safety, Navigation (water), Security measures, Vessels, Waterways.

Proposed Regulations

PART 165—[AMENDED]

In consideration of the foregoing, the Coast Guard proposes to amend Part 165 of Title 33, Code of Federal Regulations, by adding § 165.T810 to read as follows:

§ 165.T810 Lower Mississippi River, Vicinity of New Orleans.

(a) The area from LMR mile 81, AHOP, to LMR mile 115, AHOP, is a Safety Zone. This Safety Zone is effective beginning 1 May 1984 and will terminate 30 November 1984.

(b) *Regulations:*

(1) Vessel transit through the Safety Zone is noramlly permitted. However, unless specifically permitted by the COTP, New Orleans, no vessel within the Safety Zone may:

(i) Loiter;

(ii) Moor along the river banks (battures), unless adeqaute, fixed mooring devices are utilized (mooring to trees or other vegetation is specifically prohibited);

(iii) Moor in a barge fleeting facility;

(iv) Anchor in an established anchorage (anchoring outside of established anchorages on the Mississippi River below Baton Rouge is specifically prohibited by 33 CFR 110.195 (c)(1)); or

(v) Transfer flammable materials while moored at the site of the World's Fair (Poydras St., Julia St. and Erato St. Wharfs) between the hours of 2100 and 2300 daily.

(2) The following categories of vessels, when within the Safety Zone, are hereby granted a general permit to engage in the activities enumerated in (b)(1)(iii), and (b)(1)(iv) of this section, when and where not prohibited by other law or regulation:

(i) All freight and cargo, vessels carrying freight and cargo or intending to engage in such carriage;

(ii) All documented towboats and tugboats;

(iii) All tank barges, hopper barges, and deck barges;

(iv) All industrial vessels, such as dredges, derrick barges, etc.; and

(v) All public and naval vessels.

(3) All ocean-going passenger vessels carrying passengers for hire, or intending to engage in such carriage, are hereby granted a general permit to anchor in established anchorages within the Safety Zone.

(4) In an emergency, a vessel may depart from any of the regulations in paragraph (b)(1) to the extent necessary to avoid immediate danger to persons, property, or the environment.

(5) Vessels seeking a permit to engage in the activities prohibited in paragraph (b)(1) must submit a written request, at last 5 days in advance of the desired effective date of the permit to: COTP, New Orleans, Attn: Waterways Safety

Office, 4640 Urquhart Street, New Orleans, LA 70117.

(6) The general permits granted above may be immediately revoked by the COTP by notifying any such vessel in this safety zone.

(33 U.S.C. 1225 and 1231; 49 CFR 1.46, and 33 CFR 165.3)

Dated: January 19, 1984.

John L. Bailey,

Captain, U.S. Coast Guard, Captain of the Port.

[FR Doc. 84-3158 Filed 2-3-84; 8:45 am]

BILLING CODE 4910-14-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-4-FRL 2519-6; NC-007]

Approval and Promulgation of Implementation Plans; North Carolina: Utility Boiler TSP Limits, Malfunction Rules, etc.

AGENCY: Environmental Protection Agency.

ACTION: Extension of public comment period on proposed rule.

SUMMARY: On December 21, 1983 (48 FR 56412), EPA proposed to approve numerous regulation changes (including revised particulate limits for coal-fired utility boilers and a new rule on startups, shutdowns, and malfunctions) which North Carolina had submitted as State Implementation Plan revisions on January 24, 1983. A 30-day comment period and EPA is extending it by 30 days.

DATE: To be considered, comments must reach us on or before February 21, 1984.

ADDRESSES: Copies of the North Carolina revisions may be examined during normal business hours at the following locations: Air Management Branch, EPA Region IV, 345 Courtland Street, NE, Atlanta, Georgia 30365, and Division of Environmental Management, North Caroline Department of Natural Resources & Community Development, Archdale Building, 512 North Salisbury Street, Raleigh, North Carolina 27611.

FOR FURTHER INFORMATION CONTACT: Walter Bishop of the EPA Region IV Air Managment branch at the above address, telephone 404/881-3043 (FTS 257-3043).

(Sec. 110 of the Clean Air Act (42 U.S.C. 7410))

Dated: January 26, 1984.

Charles R. Jeter,

Regional Administrator.

[FR Doc. 84-3122 Filed 2-3-84; 8:45 am]

BILLING CODE 5560-50-M

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40 CFR Part 721

[OPTS-50506 TSH-FRL 2437-1]

Substituted Methylpyridine and Substituted Phenoxypyridine; Proposed Determination of Significant New Uses

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing a Significant New Use Rule (SNUR) under section 5(a)(2) of the Toxic Substances Control Act (TSCA), 15 U.S.C. 2604(a)(2), to require persons to notify EPA at least 90 days before manufacturing, importing, or processing a substance for a "significant new use." This SNUR covers two substituted methylpyridines and a substituted 2-phenoxypyridine, which were the subject of premanufacture notices (PMNs) P-82-326, P-83-237, and P-83-330, respectively. EPA is proposing that manufacture or processing without using certain protective equipment be designated as a "significant new use" of each of the substances. EPA is also proposing that any release to navigable waters from manufacturing or processing operations of PMN substance P-82-326 be a "significant new use." EPA believes this rule is necessary to alert the Agency to increased risk.

DATE: Written comments should be submitted by April 6, 1984.

ADDRESS: Since some comments are expected to contain confidential business information, all comments should be sent in triplicate to: Document Control Officer (TS-793), Office of Toxic Substances, Environmental Protection Agency, Rm. E-409, 401 M St., SW., Washington, D.C. 20460.

Comments should include the docket control number OPTS-50506. Nonconfidential comments and sanitized versions of confidential comments received on the proposal will be available for reviewing and copying from 8:00 a.m. to 4:00 p.m., Monday through Friday, excluding holidays, in Rm. E-107 at the address given above.

FOR FURTHER INFORMATION CONTACT: Jack P. McCarthy, Director, TSCA Assistance Office (TS-799), Office of Toxic Substances, Environmental Protection Agency, Rm. E-543, 401 M St., SW., Washington, D.C. 20460, Toll free: (800-424-9065), in Washington, D.C.: (554-1404), outside the USA: (Operator-202-554-1404).

SUPPLEMENTARY INFORMATION: OMB Control Number 2070-0012.

I. Authority

Section 5(a)(2) of TSCA authorizs EPA to determine that a use of a chemical substance is a significant new use. EPA must make this determination by rule, after considering all relevant factors, including those listed in section 5(a)(2). Once a use is determined to be a significant new use, persons must, under section 5(a)(1)(B), submit a notice to EPA at least 90 days before they manufacture, import, or process the substance for that use. Such a notice is generally subject to the same statutory requirements and procedures as a premanufacture notice (PMN) submitted under section 5(a)(1)(A). In particular, these include the information submission requirements of section 5(d)(1) and section 5(b), certain exemptions authorized by section 5(h), and the regulatory authorities of section 5(e) and section 5(f). If EPA does not take regulatory action under sections 5, 6, or 7 to control a substance on which it has received a SNUR notice, section 5(g) requires the Agency to explain its reasons for not taking action in the **Federal Register.** Substances covered by proposed or final SNURs are subject to the export reporting requirements of TSCA section 12(b). EPA regulations interpreting section 12(b) requirements appear at 40 CFR Part 707. Substances covered by final SNURs are subject to TSCA section 13 import requirements. Regulations interpreting section 13 appear at 40 CFR Part 707.

II. Substances Subject to Proposed SNUR

The three substances covered by this proposed rule were the subject of PMNs. Their generic names are substituted methylpyridine (P-82-326 and P-83-237), and substituted 2-phenoxypyridine (P-83-330). These three substances are being considered together because pyridine is a moiety of each substance and an analogue of concern. The Agency believes on proposal for chemical substances having similar concerns is more efficient than separate proposals. For purposes of clarity, these substances will be referred to by their PMN numbers throughout this preamble.

III. Background of PMNs

A. Receipt of PMNs

On May 3, 1982, EPA received a PMN which the Agency designated as P-82-

326. EPA announced receipt of the PMN in the **Federal Register** of May 14, 1982 (47 FR 20852). The generic name of the substance is substituted methylpyridine. A notice of commencement of manufacture was received by EPA on January 26, 1983.

On November 16, 1982, EPA received a PMN which the Agency designated as P–83–237. EPA announced receipt of the PMN in the **Federal Register** of November 29, 1982 (47 FR 53782). The generic name of the substance is substituted methylpyridine. A notice of commencement of manufacture was received by EPA on April 14, 1983.

On December 21, 1982, EPA received a PMN which the Agency designated as P–33–330. EPA announced receipt of the PMN in the **Federal Register** of January 3, 1983 (48 FR 72). The generic name of the substance is substituted 2-phenoxypyridine. A notice of commencement of manufacture was received by EPA on April 15, 1983.

Each notice submitter claimed the following as Confidential Business Information (CBI): manufacturer identity, chemical identity, use, manufacturing process, and production volume. The generic use description for each PMN substance is as an intermediate for the production of another chemical substance. The Agency further consulted with the PMN submitters to determine if additional information could be discussed in connection with this proposal without damaging their competitive positions. They all believe that release of any additional information could endanger their competitive position. Therefore, EPA cannot present its findings in more detail.

B. Data Submitted With PMNs

The manufacturer of P–82–326 provided the following acute health effects data: single dose acute oral LD_{50} [130–250 mg/kg (rat)]; eye irritation [swelling, discharge, and redness (rabbit)]; single dose acute dermal LD_{50} [280 mg/kg (rabbit)]; repeated skin irritation [redness, swelling, and exfoliation (rabbit)]. In addition, the manufacturer provided the following ecotoxicity effects data: LC_{50} 0.25 ppm (48 hr; Daphnia); and LC_{50} 0.37 ppm (96 hr; fathead minnow).

The manufacturer of P–83–237 provided the following acute health effets data: single dose acute oral LD_{50} [500–1,000 mg/kg (rat)]; eye irritation [slight (rabbit)]; single dose acute dermal LD_{50} [1,000–2,000 mg/kg (rabbit)]; repeated skin irritation [non-irritating (rabbit)]; acute inhalation LC_{50} [1,036 ppm, after 1.5 hours (rat)]. In addition, test data submitted with the PMN indicate that the 48-hr LC_{50} in Daphnia is 31.9 ppm, and the 96-hr LC_{50} in fathead minnows is 13.4 ppm.

The manufacturer of P–83–330 provided the following acute health effects data: single dose acute oral LD_{50} [>3,500 mg/kg (rat)]; eye irritation [marked discomfort; marked conjunctival irritation; moderate corneal haziness; eye irritation still present 21 days following exposure (rabbit)]; single dose acute dermal LD_{50} [>2,000 mg/kg (rabitt); repeated skin irritation [moderate burns; scar formation (rabbit)]. In addition, the manufacturer provided the following ecotoxicity effects data: LC_{50} 20.2 ppm (48 hr; Daphnia); and LC_{50} 13 ppm (96 hr; fathead minnow).

C. Agency Review of PMNs

1. *P–82–326 and P–83–237.* Acute toxicity data submitted by the manufacturers of P–82–326 and P–83–237 suggest that the liver and kidneys are likely target organs following oral, dermal, or inhalational exposure to these substances. Based on these data, as well as data on structural analogues, EPA concluded that the substances may cause liver and kidney effects, central nervous system (CNS) effects, and sensitization, if workers at manufacturing and processing sites do not wear adequate protective equipment during various operations.

The aquatic toxicity data on P–82–326 indicated that the substance is persistant, may bioconcentrate, and could present risks to aquatic species at less than one part per million (ppm). Thus, releases of P–82–326 may present a significant risk to the environment.

During the PMN review period, the Agency concluded that it was not concerned about exposures or releases from the uses proposed in the notice for P–82–326. Although EPA had concerns about the potential health and environmental effects of the substance, it concluded that the notice submitter's recommended personal protective equipment and manufacturing and process controls would adequately reduce dermal and inhalational exposure to this substance. In addition, EPA concluded that there would be no release to surface waters; thus, no significant risks to the environment would occur. Therefore, the Agency decided not to regulate P–82–326 under section 5(e) of TSCA, and it is now being manufactured. However, for uses resulting in significant exposures or releases, the substance may present health or environmental concerns since chronic exposures may cause adverse health effects and the substance is acutely toxic to aquatic organisms.

For P–83–237, the Agency concluded that the substance would present health concerns if adequate protective equipment were not worn. The Agency concluded that the notice submitter's recommended safety equipment and engineering controls would be necessary to reduce dermal and inhalational exposure sufficiently to provide an adequate safety margin to workers for P–83–237. As a result, EPA negotiated a Consent Order with the submitter under section 5(e) of TSCA to require engineering controls and the wearing of certain types of protective equipment during certain operations that would lower exposures to a level at which EPA would not be concerned. See Unit IV.C. of this preamble for a more detailed explanation of these controls. The Order requires the wearing of this equipment pending submission of information that would allow EPA to make a reasoned evaluation of the health effects of the substance. Such information would include 90-day (subchronic) inhalation studies in rodents and additional information on human exposures. This alternative was preferred as less burdensome than banning manufacture of the substance, pending submission of the information. After agreeing to the section 5(e) Consent Order, the manufacturer began producing the chemical.

2. *P–83–330.* During the PMN review period, the Agency concluded that, for the use and manufacturing process described in the PMN, the substance may not present health or environmental concerns. Like P–82–326 and P–83–237, EPA determined, from data on structural analogues, that chronic exposure to the substance may cause liver, kidney, and neurotoxic effects, and that acute exposure may result in sensitization. Data submitted by the manufacturer, however, indicate that this substance is of low concern with respect to potential exotocity.

The Agency believes that (1) the specific process described by the submitter, which includes a closed system and no drumming or other manual transfers, and (2) the low vapor pressure associated with the substance, would reduce potential inhalational exposure and thus, human health risks potentially associated with the substance. However, any alternative process, including manual transfers or drumming, that create a greater potential for dermal and inhalational exposures would present health concerns. Due to CBI restrictions, EPA cannot discuss these effects and the process in more detail.

Because the process controls associated with P–83–330 were expected to lead to very low exposures and releases, the Agency decided not to take action under section 5(e) or 5(f) of TSCA to control exposure or to limit production of P–893–330. The manufacturer is producing this substance and has been added to the TSCA Chemical Substance Inventory. No further reporting under section 5 is required unless a significant new use rule or section 8(a) reporting rule is promulgated.

IV. Reasons for Proposing This Rule

A. Introduction

As stated above, EPA issued a section 5(e) Consent Order to prohibit manufacture of P–83–237 unless (1) certain engineering controls and protective equipment are used by workers handling the substance, or (2) information is developed which would allow EPA to make a reasoned evaluation of the potential health effects of the substance. However, the Order by its terms applies only to the PMN submitter. Since P–83–237 was added to the TSCA Chemical Substance Inventory, another person may manufacture or process it without requiring personal protective equipment or using engineering controls. In addition, any person may manufacture or process P–82–326 or P–83–330 without using such equipment or controls. Similarly, P–83–326 could be processed under certain conditions resulting in greater releases to the environment. Such conditions may result in significant human health risks and in the case of P–82–326, adverse environmental effects.

Therefore, EPA is proposing to define use of P–82–326, P–83–237, and P–83–330 without certain engineering controls and protective equipment as a significant new use so that the Agency can review those uses before they occur. This new use rule is being promulgated to ensure that EPA is notified before significant human exposure occurs. In addition, manufacturing or processing which results in release of the substance to navigable waters is also a significant new use of P–82–326. These new uses are outlined in part C of this Unit, and will allow the Agency to review potentially significant releases of this substance to the environment before they occur.

B. Potential Adverse Effects Associated With the Substances

Based on data on pyridine and other structural analogues (whose identities are being kept confidential because they could reveal the identities of the three substances subject to this SNUR), the three substances may cause significant and progressive liver damage (which may be irreversible) in animals, depending on the amount of exposure. One of the analogues causes significant liver effects in animals and humans leading to lethalities. The inhalation dose required to elicit "minimal effects" on the liver and kidneys of rats for this analogue was 36 ppm (0.34 mg/1) in a 4-week study. In a 3-week dermal application study performed on pyridine, a no observed effect level (NOEL) for liver damage in rats was 100 mg/kg. Furthermore, pyridine, fed to rats over a two year period showed significant liver and kidney effects at 20 mg/kg. Thus, these observed effects are indicative of a potential for effects when chronic, low level exposures occur.

In addition, the substances have the potential to cause CNS and autonomic nervous system (ANS) effects in workers who handle them. This conclusion is based on data on pyridine and other structural analogues, which indicate that the CNS and ANS of rats are affected following either dermal or inhalational exposure. Clinical signs include lethargy, prostration, tremors, and convulsions. Furthermore, pyridine is a general CNS depressant and kills via its suppression of the respiratory center, as do the other analogues. However, these effects would be expected only at lethal doses.

As stated before, data submitted by the manufacturer indicate that P–82–326 is acutely toxic to daphnids and fathead minnows. The acute toxic effects observed in those studies are most likely attributable to this substance since static tests indicate that after 48 hours, 93 percent of the substance should be present in the test chamber; after 96 hours, 84 percent should be present. Thus, because the PMN substance may persist sufficiently long in the aquatic environment, it is expected to present an acute hazard to aquatic organisms. In addition, the bioconcentration factor of 1,585 for P–82–326, predicted from the partition coefficient, raises a concern for food chain transport and bioconcentration in fatty tissues.

C. Proposed Significant New Uses and Resulting Exposures

In determining what would constitute significant new uses of the three substances, EPA considered relevant information about the toxicity of the substances and likely exposures associated with possible new uses, including the four factors listed in section 5(a)(2) of TSCA. EPA considered other methods of manufacture and the possibility of increased exposures and releases relative to those described in the PMNs. In particular, EPA focused on the following factors: (1) Potential new uses of these substances; (2) the extent to which use without engineering controls and personal protective equipment would occur; and (3) the reasonably anticipated manner and methods of manufacturing, processing, and use. In addition, EPA considered the extent to which increased releases of P–82–326 might pose significant risks to the environment.

1. *Exposures.* The three substances are all manufactured in systems that are described in the PMNs as closed to the workplace environment. Furthermore, the substances are transferred mechanically to the next system for further reaction. Any manufacturing process in which the substances are drummed or manually transferred is expected to result in increased worker exposures over that of the PMN manufacturing processes.

EPA was able to identify other potential uses for these substances. However, due to cost factors and technical reasons, EPA believes that these potential uses are not likely. Rather, EPA believes that there may be a limited market for special uses for the substances. Because the identification of one or more of these new uses may reveal CBI, EPA cannot release this information. However, for the PMN uses, the Agency also feels that there is a potential for significant increase in production volumes if the end products are commercially successful.

Due to the high vapor pressures of P–82–326 and P–83–237, the Agency would be concerned if workers were not adequately protected by safety equipment. EPA concluded that the manufacturer's recommended personal protective equipment and engineering controls for P–82–326 would adequately reduce dermal and inhalational exposures. However, the Agency also concluded that uncontrolled manufacture and processing of P–83–237 may present an unreasonable risk of injury to health. Because EPA believes that the health effects and potential exposures of these two substances may be similar, EPA is defining the same new use for each substance. This new use is described below.

The Agency concluded that, for the specific process described for PMN 83–330, the manufacturer's recomended safety equipment would adequately reduce dermal, ocular, and inhalational exposures to this substance. However, because drumming, manual transfers, or manufacturing processes other than the one described in the PMN may

significantly increase these exposures, and because EPA believes the health effects of this substance are similar to those of P–82–326 and P–83–237, the Agency is designating the same significant new use for P–83–330.

Based on these considerations, EPA is defining manufacture or processing as a significant new use unless the manufacturer of processor establishes and enforces a program whereby:

a. Engineering controls on manufacturing and processing operations for the three substances are maintained as follows during drumming and undrumming:

(1) Any vapor emission released from containers is captured and vented outside the work area or back to the storage tank to avoid any direct worker exposure.

(2) Local ventilation is provided at drumming stations unless it is located outdoors where natural air circulations will provide for sufficient ventilation.

b. Inhalation controls on manufacturing and processing operations for the three substances are maintained as follows:

(1) Persons directly involved in the work operations specified below, any other persons in the immediate work area during these operations, wear a chemical cartridge respirator, approved by the National Institute for Occupational Safety and Health (NIOSH) for protection from organic vapors:

(i) All operations involving open transfer of the three substances including, but not limited to:

(A) Reactor sampling, except no respirator will be required when sampling utilizes a sampling box which encloses the sample port and is vented away from the workplace;

(B) Product packaging and unpacking, including drumming and undrumming;

(ii) All other work operations, including maintenance, and line opening operations, which present the potential for release of the substances;

(iii) Clean-up of leaks and spills involving the substances.

(2) All persons required to wear such respirators shall (i) be informed in writing of the reasons for the required equipment, and (ii) undergo respirator fitting procedures in compliance with 29 CFR 1910.134 as established by the current Occupational Safety and Health Administration (OSHA) Industrial Hygiene Field Operations Manual.

c. Dermal controls on manufacturing and processing operations for the three substances are maintained as follows:

(1) Persons directly involved in the work operations specified in Unit IV.C.1.b(1) of this significant new use definition and other potentially receiving dermal exposure, wear dermal protective equipment to prevent contact with the substances. Such types of protective equipment are determined to be impervious to the substances, and include:

(i) For reactor sampling:

(A) Impervious suit (if no vented sample boxes are provided);

(B) Impervious gloves;

(C) Face shield (if not enclosed-vented sample boxes are provided);

(D) Chemical goggles;

(i) For undrumming:

(A) Impervious suit;

(B) Impervious gloves;

(C) Face shield;

(D) Impervious boots;

(E) Chemical goggles;

(iii) For spills:

(A) Impervious suit;

(B) Impervious gloves;

(C) Impervious boots.

(2) All persons required to wear such dermal protective equipment are informed in writing of the reasons for the required equipment.

(3) Equipment may be determined to be impervious either by testing under the conditions of use, including the duration of exposure, or by evaluating the specifications supplied by the supplier of the equipment.

As an alternative to using personal protective equipment, potential manufacturers or processors may want to use a process that limits exposure to a minimal level. Such exposure controls would be described in a SNUR notice. A manufacturing process that significantly reduces exposure may reduce EPA's concerns.

2. *Releases.* In the intended use of P–82–326 as an intermediate, clean-up fluids and by products that are separated are incinerated or recycled. Scrubber fluids, containing trace amounts of the substance, are then discharged to the PMN submitter's on-site wastewater treatment plants. Because of the specific process used by the submitter, the scrubber fluids are not ultimately discharged to navigable waters. As a result, the Agency found that there were no releases to surface waters. There may also be other treatment processes unknown to the Agency that would reduce releases to a comparable level.

However, based on the aquatic toxicity concerns for P–82–326, significant releases of this substance may result in adverse effects on aquatic organisms. Such effects could occur as a result of direct releases, without prior treatment, of (1) distillation bottoms, lights or tailings from manufacture; (2) scrubber fluids; (3) streams containing any remaining amounts of the PMN substances (e.g., stripper bottoms); (4) process spills resulting from upsets; (5) streams from equipment cleaning or from maintenance, or (6) other streams containing these substances. Based on these considerations, EPA proposes to define, as a significant new use of P–82–326, "manufacturing or processing resulting in any discharge to navigable waters." This significant new use definition is designed to require reporting if any amount of the substance were released to surface water. EPA has defined "navigable waters" as the term is defined in section 502 of the Clean Water Act [33 U.S.C. 1362(7)].

Because the aquatic toxicity data for P–83–237 and P–83–330 indicate that they are not significantly toxic to aquatic species, releases of these substances to the environment after treatment at an on-site wastewater treatment plant or a publicly owned treatment works are not expected to reach levels that may present a significant hazard.

The Agency believes that "zero intentional release" of P–82–326 is achievable, for example, by incinerating all wastes. However, the Agency recognizes that releases of negligible amounts of the substance may not pose significant environmental problems and that defining the new use in the proposed manner may be overly stringent. The definition would require that anyone who wished to manufacture or process this substance and allow even negligible releases, other than accidental spills or leaks, would be subject to this SNUR.

EPA is considering other definitions of significant new uses for releases of P–82–326 to address this situation. For example, EPA could define the new use in terms of existing control technologies. Thus, the Agency could define as a significant new use: "manufacturing or processing without incinerating or recycling clean-up fluids and byproducts that are separated from the manufacturing reaction, and without sending scrubber fluids to an on-site treatment system that does not result in discharge to navigable waters, or disposal by an equivalent procedure." However, EPA believes that this definition is vague and may require further definitions of terms such as incineration, on-site treatment system, and disposal by an equivalent procedure. Furthermore, EPA believes that existing control technologies could improve in the future.

The Agency could define the new use by establishing a performance standard that specifies the maximum allowable

concentration of the substance in industrial effluents. If a manufacturer or processor intended to exceed this limit, that person would be subject to the SNUR, and would have to submit a notice so that EPA could review the releases before they occur. As discussed in the next unit, EPA believes that chronic toxicity may occur at levels 10 to 100-fold lower than acute effects. Based on the LC_{50} data of 0.25 ppm for P–82–326, and the possibility of chronic toxicity at concentrations as much as 100-fold lower, EPA could define "manufacturing or processing that results in the release of 2.5 ppb (0.0025 ppm) from industrial effluents." However, this approach would require the monitoring of releases, thus increasing costs. Furthermore, the determination of permissible levels may pose problems because, in the absence of sufficient data, EPA is unable to determine a "safe" environmental level. In addition, a maximum allowable concentration could also be specified for surface waters in the vicinity of the source of the release.

In order to capture the Agency's concern for releases of P–82–326, EPA considered defining manufacturing or processing over a certain production volume as a significant new use of this substance. For example, based on the process described in the PMN, it could be assumed that manufacture of a certain volume is likely to result in a given release. However, in this case, EPA cannot accurately predict releases based solely on production volumes. EPA believes, for example, that different manufacturing processes or engineering controls could result in different amounts of releases. Therefore, EPA has decided not to define a certain production volume as a significant new use of these substances.

EPA requests comments on significant new uses of these types and the feasibility of specifying control technology as well as concentrations that should be used if the Agency employs an alternative new use description of this type.

D. Potential Risks to Health and the Environment of the Substances

EPA believes that unprotected workers may experience siginificant risks of adverse effects to the liver, kidney, and nervous system when exposed to P–83–237 during its intended use. This conclusion is based on the potential workplace air concentration of 52 mg/m^3 (5.4 ppm), which the Agency estimated for this substance without any controls in the use described in the PMN. The Agency also found that this airborne concentration could lead to exposures of 10.4 to 15.6 g/yr. The wearing of the equipment and the use of the engineering controls as specified in the section 5(e) Consent Order are expected to reduce potential doses of this substance to a level that likely would result in no significant risks to humans, both in the PMN use and in other uses; calculated exposure levels range from negligible amounts to 0.36 mg/yr, if these controls are used and this equipment is worn. EPA also believes that, due to the similar health concerns of P–82–326 and P–83–330 to those of P–83–237, use of the same type of personal protective equipment and engineering controls would also reduce potential doses of these substances to levels that may result in no significant risks.

EPA has concluded that greater releases of P–82–326 may present some aquatic toxicity risk, at least at discharge points. This conclusion is based on the expectation that "end-of-the-pipe" discharges for various on-site wastewater treatment plants could exceed the reported LC_{50} values for this substance for Daphnia and fathead minnows. Aquatic toxicity data submitted by the manufacturer of P–82–326 indicate that this substance is highly toxic to Daphnia and fathead minnows. Without prior treatment, discharges from a wastewater treatment facility, for a 1,000 kg production volume (the actual production volume is CBI) are estimated to be <1 ppm. An additional 10- to 20-fold dilution can reasonably be expected to occur in the aquatic environment. However, even if actual concentrations in receiving waters are lowered to between <0.1 and <0.05 ppm by such dilutions or treatment, a chronic aquatic toxicity risk is still present since chronic effects may occur at levels 10- to 100-fold lower than those causing acute effects.

Aquatic organisms in the vicinity of other plants that release this substance may experience both acute and chronic aquatic toxicity risks. EPA has determined that using on-site wastewater treatment facilities and based on dilution only, the release could range from <1 to 73 ppm of P–82–326. An additional 10- to 20-fold dilution in the environment would result in concentrations potentially ranging between 0.05 and 7.3 ppm. This range clearly includes the observed LC_{50} values for this substance, and environmental concentrations at the upper end of this range may result in signifiant acute and chronic aquatic toxicity risks.

EPA does not have the same aquatic toxicity concern for P–83–237 and P–83–330 because data on these substances show that they are harmful to aquatic organisms at much higher levels than P–82–326.

V. Recordkeeping Requirements

To ensure compliance with the rules and to assist enforcement efforts, EPA is proposing that the following records be maintained for 5 years after the date of their creation, by persons who manufacture or process any of the substances subject to the rule.

1. The names of persons required to wear respirators or dermal protective equipment.

2. The dates and descriptions of leaks and spills involving the substances.

3. The names of persons who participate in manufacturing and processing operations e.g., drumming, undrumming, sampling, packaging, unpacking, and clean-up.

4. Respirator fit tests for each person required to wear a respirator.

5. Determinations that personal protective equipment is impervious to the substances.

This proposed requirement is expected to encourage compliance with the rule when promulgated and to support EPA's enforcement efforts. The Agency considered omitting recordkeeping requirements, but believes compliance monitoring for this SNUR would be made more difficult. One alternative being considered by the Agency would require recordkeeping by all persons importing, manufacturing, or processing a chemical substance subject to a TSCA 5(e) Order, in any fashion which does not constitute a significant new use, but such an alternative would not cover P–82–326 and P–83–330, which were not subject to an order.

EPA believes that recordkeeping is necessary to effectively implement and enforce the requirements of the SNUR. EPA also believes that two TSCA authorities support the recordkeeping proposed in this rule. First, EPA believes there is inherent authority in section 5 of TSCA to require the keeping of records reasonably necessary to implement the mandate of section 5. EPA has already exercised this authority in the PMN rule recordkeeping requirements (see 40 CFR 720.78). Clearly, there is no way to determine whether a manufacturer or processor is undertaking a new use of the type proposed in this rule unless the manufacturer or processor is required to keep records of its activities to show that the new use has not occurred. Otherwise, EPA would not be able to determine whether a violation has occurred unless the manufacturer or processor was caught in the act.

Second, section 8(a) of TSCA provides broad authority for EPA to require manufacturers and processors of chemical substances to keep records. Generally a section 8(a) recordkeeping requirement does not apply to small manufacturers and processors, but in this case for P–83–237 a section 5(e) Order is in effect. Thus, under section 8(a)(3)(A)(ii) of TSCA, EPA can require recordkeeping by small manufacturers and processors of P–83–237 as well. However, by its own terms, the section 5(e) Order will automatically be revoked when the SNUR goes into effect. EPA chose to write this and other section 5(e) Orders in this fashion to ensure that original PMN submitters would be treated in the same manner as other manufacturers and processors once the SNUR is in effect.

By its terms, the section 5(e) Order will automatically be revoked on the effective date of the final SNUR. EPA believes that revocation of the section 5(e) Order after the SNUR and is accompanying section 8(a) recordkeeping requirements go into effect would not invalidate the recordkeeping requirement for small manufacturers and processors. Congress clearly believed that small businesses should be subject to section 8(a) when the particular chemical substance in question was the subject of specific regulatory actions and findings. In this case, the "may present an unreasonable risk" finding in the section 5(e) Order would remain valid even though the Agency had revoked the Order for administrative reasons.

As an alternative to the recordkeeping requirements in paragraph (b) of the proposed rule, EPA is considering making failure to keep certain records a significant new use. Thus, 90 days before any manufacturer or processor could cease keeping the specified records, it would be required to submit a notice to EPA. Any person who failed to keep the records without having notified EPA would be in violation of section 5 of TSCA and of the rule.

EPA solicits comments on the recordkeeping requirements and the rational for such recordkeeping.

VI. Persons Subject to SNUR Notice Requirements

In some past proposed SNURs, the Agency has determined that requiring both manufacturers (including importers) and processors to submit SNUR notices may result in duplicative information and cause an unnecessary burden on industry. Therefore, the Agency proposed to allow manufacturers and processors to decide which party should submit what information to EPA so long as all appropriate information was submitted. The approach would certainly be appropriate where the significant new use occurs downstream from the manufacturer or processing operations. However, for these three substances, the exposure and hazard concerns involve workers in the manufacturing and processing operations and the proposed new uses are in the actual manufacturing and processing as opposed to a marketable end product. Therefore, the points and levels of exposure and the number of persons exposed will be unique to each manufacturer and processor. To assess the effects resulting from these significant new uses, the Agency proposed requiring any person who intends to manufacture or process any of the three substances for a defined significant new use to submit a SNUR notice.

Using this approach, if a person plans to manufacture any of these substances without the designated protective equipment, that person would be required to submit a SNUR notice. If a person used the designated protective equipment in manufacturing any of these substances, but then planned to process the substances without using the designated protective equipment, that person would be required to submit a SNUR notice. If a person used the designated protective equipment in manufacturing any of these substances and then sold the substance to a person who planned to process the substance without using the designated protective equipment, the processor would be responsible for submitting a SNUR notice. However, EPA is proposing that only one be required to submit a notice and that person would be the one most familiar with the exposures resulting from the new use, the processor in this situation. In situations where the manufacturer/importer also has information important to EPA's risk assessment, the Agency would encourage the persons to make a joint submission to provide complete information. In this situation, if the notice submitter did not have complete information about the significant new use and another person did not submit that information in a joint submission, EPA could take action under section 5(e) to regulate the new use pending submission of the information. In situations where it is not clear who should submit a notice, the Agency encourages potential SNUR notice submitters to consult EPA prior to submitting a notice.

VII. Applicability of Proposal to Uses Occurring Before Promulgation of Final Rule

EPA recognizes that since the chemical substances proposed to be subject to this SNUR have been added to the Inventory, they may be manufactured or processed for "significant new uses" as defined in this proposal before promulgation of the rule. The statute and its legislative history do not make clear whether uses occurring after proposal but before promulgation are to be considered "new uses" subject to SNUR notification. However, EPA believes that the intent of section 5(a)(1)(B) of TSCA can be best served by determining whether a use is "new" or "existing" as of the proposal date of the SNUR. If EPA considered uses commenced during the proposal period to be "existing" rather than "new" uses, it would be almost impossible for the Agency to establish SNUR notice requirements since any person could defeat the SNUR by initiating the proposed significant new use before the rule becomes final. This is contrary to the general intent of section 5(a)(1)(B).

Thus, under this statutory interpretation, if any of these substances are manufactured or processed between proposal and promulgation for a proposed "significant new use," the Agency will still consider the use to be "new" if it is retained in the final rule. EPA recognizes that this interpretation may disrupt commercial activities of persons who commenced manufacture or processing for a "significant new use" during the proposal period. However, this proposal puts them on notice of that potential disruption, and they proceed at their own risk. The agency specifically requests comments on ways to minimize this disruption.

VIII. Procedures for Informing Persons of the Existence of This Significant New Use Rule

The final rule will be published in the **Federal Register** and codified in the Code of Federal Regulations (CFR). While this will provide legal notice of the rule, EPA also intends to publish information concerning final SNURs in the TSCA Chemicals-in-Progress Bulletin, published by the TSCA Assistance Office of EPA's Office of Toxic Substances. EPA may also use the TSCA Chemical Substance Inventory to inform persons of the existence of final SNURs through footnotes to the chemical identities of substances subject to SNURs. The footnotes would refer to an Inventory Appendix which

would give a Federal Register or CFR citation of the SNUR. As a variation of this approach, the Agency is considering publishing a list of substances subject to SNURs as an Inventory Appendix.

Any person who intends to manufacture or process a substance for the first time would check the Inventory to determine if the substance is listed. If the person found that the substance is on the Inventory, but subject to a SNUR, he could determine whether he would be subject to reporting by contacting EPA or reviewing the rule. Because an updated Inventory is only published periodically, manufacturers and processors would also rely on the Federal Register and the TSCA Chemicals-in-Progress Bulletin. Since EPA maintains a current copy of the Inventory, any questions could be resolved by consulting EPA.

Determining whether a chemical substance is subject to a SNUR is more difficult when the identity of the chemical substance involved is confidential. In this case, the chemical identity of each of the three substances was claimed confidential in the PMNs. EPA is proposing to keep the specific identities of these three substances confidential in the final rule. The substances would be referred to by their generic chemical names. In printed versions of the Inventory, there would be a footnote indicating that some chemical substances masked by the generic names are subject to a SNUR.

EPA is proposing that any person proposing to manufacture, import, or process a chemical substance within one of these generic names would be able to ask EPA whether the chemical substance is subject to the SNUR. To make such a request, the person would have to show EPA that the person has a *bona fide* intent to manufacture or process the substance in question. The process proposed for doing so is very similar to that for manufacturers and importers to show a *bona fide* intent to manufacture or import under 40 CFR 710.7(g)(2) of the Inventory Reporting Rules and 40 CFR 720.25(b)(2) of the Premanufacture Notification Rules as published in the Federal Register of May 13, 1983 (48 FR 21722). EPA would evaluate the SNUR inquiry under the same criteria and would answer the inquiry by either informing the requester that the substance is or is not subject to the SNUR or informing the requestor that it has not furnished enough information to show a *bona fide* intent to manufacture or process the substance in question. (If a manufacturer or importer makes an inquiry under either § 710.7(g) of the Inventory Reporting Rules or § 720.25(b) of the Premanufacture Notification Rules and EPA informs the requestor that the substance is not on the Inventory, EPA will also inform the manufacturer or importer whether the substance is subject to a SNUR.)

This procedure would allow manufacturers, importers, and processors to determine whether they are subject to the rule while protecting CBI from unnecessary disclosure. An alternative approach would be to publish the specific chemical identities of the substances in the final rule. EPA is particularly interested in comments on these approaches and any further alternatives.

EPA believes that all manufacturers and most processors will know the identities of the substances they manufacture or process and therefore can follow the above procedures. EPA recognizes, however, that some processors may not know the identity of substances they process and, as a result, may not know they are required to submit a SNUR notice. At the same time, manufacturers do not always know what their processor/customers do with substances supplied to them. Therefore, EPA has identified several alternative approaches to address liability of manufacturers, importers, and processors of substances subject to a SNUR.

First, EPA could hold manufacturers and importers of these three substances responsible if any of their customers process one of the substances without using the worker controls, and if a SNUR notice has not been submitted, even if the manufacturer or importer did not know that the customer intended to process the substance for a significant new use. Manufacturers and importers would avoid liability in this situation by informing each of their customers in writing, and by maintaining records that verify each such customer notification that the substance is subject to this SNUR; that variation from the exposure limiting procedures would require the processor to submit a SNUR notice; and that failure to do so would result in a violation of TSCA and subject the processor to possible civil or criminal penalties. If the manufacturer or importer has reason to believe that a customer is processing the substance without using the worker controls before submiting a SNUR notice, the manufacturer or importer would be required to immediately cease sales of the substance to the customer and to notify EPA enforcement authorities to avoid liability. The manufacturer or importer could not resume sales of the substance to that customer until a SNUR notice had been submitted by the manufacturer or importer, or by the customer, and the notice review period had run without regulatory action by EPA. If the manufacturer or importer does not notify a processor that the substance is subject to this SNUR, the Agency would hold the manufacturer or processor liable.

Second, EPA could hold processors responsible if they process one of these substances for a significant new use without submitting a SNUR notice, even if they did not know the identity of the substance or that the substance was subject to a SNUR. However, processors would avoid liability in this situation by asking their suppliers to certify in writing whether the substance is subject to a SNUR, receiving a negative response, and maintaining records of each negative response. EPA believes that many processors ask suppliers to certify that chemical substances that they purchase of unknown identity are on the Inventory. Therefore, the Agency believes that processors can similarly ask suppliers whether substances are subject the SNUR notice requirements. This alternative is consistent with the reporting alternative above in which EPA proposes to require submission by person who permit the exposures covered by this significant new use rule.

Third, EPA could require manufacturers and processors of any of these substances to notify, through a label or otherwise, any person to whom they distribute any of the substances that the substances are subject to this SNUR. EPA could accomplish this in one of two ways. EPA believes that, were necessary, there is inherent authority in section 5(a)(2) of TCSA to require such notification since lack of notification would impair compliance with the rule. In addition, EPA could define distribution of these substances without a notification as a significant new use; before anyone could distribute the substances without providing notification, they would have to submit a SNUR notice of EPA.

The Agency specifically requests comments on these three approaches as well as on other approaches to ensure that SNUR notice requirements are followed.

IX. Required Information

A. General

The Agency proposes that SNUR notice submitters use the premanufacture notice form and follow the PMN regulations published in the

Federal Register of May 13, 1983 (48 FR 21722).

EPA urges SNUR notice submitters to provide detailed information on human exposure or environmental release that will result from the significant new use. In addition, EPA urges persons to submit information on potential benefits of the substances and information on risks posed by the substances compared to risks posed by their substitutes.

B. Test Data

Persons required to submit a SNUR notice must decide what test data, if any, to develop. EPA recognizes that under TSCA section 5, a person is not required to develop any particular test data before submitting a notice. Rather, a person is only required to submit test data in his possession or control, and to describe any other data known to or reasonably ascertainable by him. However, in view of the potential health and environmental risks that may be posed by the significant new uses of these three substances, EPA encourages possible SNUR notice submitters to conduct tests that would allow a more reasoned evaluation of each substance's potential to elicit liver, kidney, and nervous system toxicity in humans. A more reasoned evaluation of liver, kidney, and nervous system toxicity could be made using data generated in a 90-day (subchronic) inhalation study in the rodent. In addition to the environmental tests that have been conducted on P–82–326, the Fish Bioconcentration Test (Environmental Effects Test Guidelines; EPA 560/6–82–002; PB82–232992) should be conducted to verify its bioconcentration potential. Furthermore, the Daphnia Chronic Toxicity Test and the Fish Early Life Stage Toxicity Test (EPA 560/6–82–002; PB82–232992) should be conducted to determine the NOEL for P–82–326. Depending on EPA's calculations of the risks involved, if a SNUR notice is submitted for any of the subject substances without such test data, or other information to demonstrate that exposure is adequately controlled by means other than those specified in these proposed significant new uses, EPA could take action under section 5(e) similar to that already taken for the PMN submitter.

Any testing should be conducted according to good laboratory practices and through the use of methodologies acceptable to the Agency. Failure to do so may lead the Agency to find such data to be insufficient to reasonably evaluate the health or environmental effects of these substances.

As part of an optional prenotice consultation, EPA will discuss the test data or other information it believes necessary to evaluate a significant new use of the subject substances. EPA encourages persons to consult with the Agency before selecting a protocol for testing the substances.

X. EPA Review of notice

EPA proposes to review SNUR notices the same way it reviews premanufacture notices and to subject such notices to the procedures appearing in the PMN rule. EPA will issue a summary of each notice in the Federal Register under section 5(d)(2). The review period for the notice will run 90 days from EPA's receipt of the notice. Under section 5(c), this period may be extended up to an additional 90 days for good cause. The submitter may not manufacture, import, or process the substance for the significant new use until the review period, including extensions, has expired.

The Agency may regulate the substance during the review period. If a significant new use notice is submitted for a chemical substance without information sufficient to judge the toxicity and exposure potential of the substance, EPA may issue a section 5(e) order limiting or prohibiting the new use until sufficient information is developed. In addition, section 5(f) authorizes EPA to prohibit a significant new use that presents or will present an unreasonable risk to health or the environment. Section 4(a) authorizes EPA to require testing on substances to develop data on health or environmental effects. EPA may also refer information in a SNUR notice to other EPA offices and other Federal agencies. If EPA does not take action under sections 4, 5, 6, or 7 to control a substance on which it has received a significant new use notice, section 5(g) requires the Agency to explain in the Federal Register its reasons for not taking action.

XI. Modification of Reporting Requirements

The Agency believes that there may be circumstances that will lead to modification of the new use descriptions. When a significant new use notice is submitted, EPA will review the use to determine whether any regulatory action is necessary. If after review, EPA allows the use to occur, the use arguably should not be subject to further reporting. EPA will consider amending the SNUR to modify or eliminate the new use description if the Agency decides that a change is warranted or that further notice of that use under a SNUR is not warranted. EPA may also amend the SNUR to eliminate or modify other use descriptions if it determines, based on any data available to EPA, that a substance no longer presents health or environmental concerns for those uses.

XII. Proposed Rule Language

This proposed rule is structured as follows. The chemicals are identified in paragraph (a) and the significant new uses are defined in paragraph (b) of this proposal. Paragraph (c) contains recordkeeping requirements. In paragraph (d) EPA proposes definitions applicable to this section. Paragraph (e) sets forth procedures for determining whether a substance is subject to the rule. Paragraph (f) describes the persons who must report. The notice requirements and procedures for reporting under this proposal are stated in paragraph (g). Paragraph (h) clarifies which exemption of TSCA section 5(h) applies in this SNUR. Test Marketing Exemptions (TMEs) under TSCA section 5(h)(1) generally apply in SNURs. However, in this case, the proposed significant new uses involve the actual manufacture and process operations as opposed to a marketable end use. Therefore, the Agency believes that TMEs do not apply in this case. Manufacture or processing without the use of designated protective equipment is not a use for which there is a market, and therefore, a market cannot be tested. In paragraph (i) the Agency has described enforcement provisions applicable to this rule.

EPA invites comments on all aspects of this proposed rule language.

XIII. Enforcement

It is unlawful for any person to fail or refuse to comply with any provision of section 5 or any rule promulgated under section 5. Manufacture or processing of chemical substances for a significant new use, without prior submission of a SNUR notice, would be a violation of section 15.

Section 15 of TSCA also makes it unlawful for any person to:

1. Use for commercial purposes a chemical substance or mixture which such person knew or had reason to know was manufactured, imported, or processed in violation of a SNUR.

2. Fail or refuse to permit entry or inspection as required by section 11.

3. Fail or refuse to permit access to or copying of records, as required by TSCA.

Violators may be subject to various penalties and to both criminal and civil liability. Persons who submit materially misleading or false information in connection with the requirement of any provision of a SNUR may be subject to

penalties calculated as if they never filed their notices. Under the penalty provision of section 16 of TSCA, any person who violates section 15 could be subject to a civil penalty of up to $25,000 for each violation. Each day of operation in violation could constitute a separate violation. Knowing or willful violations of a SNUR could lead to the imposition of criminal penalties of up to $25,000 for eacy day of violation and imprisonment for up to one year. Other remedies are available to EPA under sections 7 and 17 of TSCA such as seeking an injunction to restrain violations of a SNUR and the seizure of chemical substances manufactured or processed in violation of a SNUR.

Individuals, as well as coporations, could be subject to enforcement actions. Sections 15 and 16 of TSCA apply to "any person" who violates various provisions of TSCA. EPA may, at its discretion, proceed against individuals as well as companies. In particular, EPA may proceed against individuals who report false information or cause it to be reported.

XIV. Analyses and Assessments

A. Economic Analysis

The Agency has evaluated the potential costs of establishing significant new use reporting requirements for these substances. The economic analysis of the possible outcomes as a result of the promulgation of this SNUR is summarized below.

The only direct costs that will definitely occur as a result of promulgation of this SNUR will be EPA's costs of issuing and enforcing the SNUR. It is estimated that the Agency costs of issuing the SNUR are $42,150.

Subsequent to proposal and promulgation of the SNUR, the Agency believes there are four possible outcomes for firms that would manufacture or process the substances. They could (1) produce any of the substances with certain protective equipment in place and engineering controls and therefore not trigger the SNUR; (2) file a SNUR notice with information showing that other methods of controlling exposures will mitigate EPA's concerns; (3) file a SNUR with the results of recommended testing completed or be subject to a potential section 5(e) order requiring the testing; or (4) not manufacture or process any of the substances because of the restrictions imposed by the SNUR. The costs of these outcomes are summarized below.

If a company decides to produce any of the substances under the terms of the SNUR, it will not incur the cost of submitting a SNUR notice. The only cost to the company will be the cost of the engineering controls, protective equipment (including a test for impermeability), and recordkeeping requirements. The net present value of the cost of providing engineering controls (including initial investment and annual operating costs) is $2,875 per substance. The net present value of the cost of providing protective equipment (face shield, goggles, impervious gloves, boots, suit, and chemical cartridge respirators) over a 10-year period for 5 workers exposed to each substance is $10,829 per substance. The net present value of the cost of providing respirator fit testing over a 10-year period for 5 workers ranges from $2,100 to $2,500 per substance, or an average of $2,300. The cost of a test that determines imperviousness for the protective clothing is $350 per substance (the total cost depends upon the number of materials which have to be tested.

The Agency is also proposing that certain records be maintained to insure compliance with this proposed rule and to assist enforcement efforts. The net present value for these reporting requirements is $1,940 per substance.

Each company will also incur the cost of controlling releases to navigable waters for P–82–326. EPA has not estimated the costs of waste treatment processes. However, these costs may be prohibitive unless the manufacturer already has the necessary equipment in place. EPA will incur only enforcement costs once the SNUR has been promulgated.

In some circumstances it could be cost effective for a company to file a SNUR notice with data which show that other means of controlling exposures or wastes could mitigate EPA's concerns. In this case the company incurs the cost of filing the SNUR notice ($1,375 to $7,950) and possibly the cost of some controls which ordinarily would not be used without the existence of the SNUR. EPA costs following proposal of the SNUR under this outcome would include reviewing the SNUR notice ($6,865) and modifying the terms of the SNUR ($8,430) if the information provided showed that EPA's concerns would be adequately addressed by use of a different type of exposure controls.

It is possible that a company could file a SNUR notice which would include the test results that address EPA's concerns. A company would incur the cost of filing a notice ($1,375 to $7,950), peforming the tests ($115,000 to $191,000 for P–82–326 and $104,000 to $168,000 each for P–83–237 and P–83–330), the cost of delay (probably a delay in profits of 0.5 to 1.5 years), and recordkeeping requirements ($1,940). Depending upon the outcome of the tests, EPA may still require controls through subsequent regulatory actions. The subchronic toxicity studies are more expensive than the cost of personal protection clothing and equipment and are therefore not a likely outcome. P–83–326 may be tested for aquatic toxicity ($11,000 to $22,800) if a firm does not have the waste treatment facilities to satisfy the conditions of the SNUR.

Some companies could find the cost of controlling exposures too expensive to justify production or processing. Under this outcome a company would not incur any direct costs as a result of the SNUR. The company and society could then lose benefits that would have been derived from the manufacture or processing of any of the substances. However, the fact that the submitters of P–82–326 and P–83–330 intend to produce the substances with the protective equipment in place and the submitter of P–83–327 intends to produce the substance with the protective equipment and waste treatment facilities and processes in place indicates that at least some uses of the substances return an acceptable profit.

RPA has not attempted to quantify the benefits of the proposed rule or the outcomes. In general, benefits will accrue if the proposed action leads to the identification and control of unreasonable risk before significant health effects can occur. The promulgation of the SNUR provides the benefits or reduced health risks until production or processing ceases. Furthermore, these benefits would continue regardless of the outcome chosen by industry in response to the SNUR.

B. Regulatory Assessment Requirements

1. *Executive Order 12291.* Under Executive Order 12291, EPA must judge whether a regulation is "Major" and therefore requires a Regulatory Impact Analysis. EPA has determined that this proposed rule is not a "Major Rule" because it does not have an effect on the economy of $100 million or more and it will not have a significant effect on competition, costs, or prices. While there is no precise way to calculate the annual cost of this rule, EPA believes that the cost will be low. Even if EPA received 25 SNUR notices, and each submitter performed the recommended testing, the direct cost of the proposal would be under $100 million. In addition, because of the nature of the rule and the substances subject to it, EPA believes that there will be few significant new use notices submitted. Further, while the expense of a notice and the uncertainty

of possible EPA regulation may discourage certain innovation, that impact will be limited because such factors are unlikely to discourage an innovation which has high potential value.

This regulation was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291.

2. *Regulatory Flexibility Act.* Under the Regulatory Flexibility Act, 5 U.S.C. 605(b), EPA certifies that this proposed rule will not, if promulgated, have a significant economic impact on a substantial number of small businesses. The Agency has not determined whether other parties affected by this proposed rule are likely to be small businesses. However, EPA believes that the number of small businesses affected by this rule would not be substantial even if all the potential new uses were developed by small companies. EPA expects to receive few SNUR notices for the substances. The Agency expects that one of the first notice submitters will test the substances as suggested earlier. With these data, EPA would be able to evaluate the risks posed by the substances in these uses and, if necessary, take action to control those risks. At that time, the Agency presumbly would repeal the SNUR. Therefore, even if all SNUR notices are submitted by small businesses, only a few small businesses will be directly affected by the proposal. In addition, the cost of the testing that may be encouraged by this proposal should not have a major impact on a small business that may want to use these substances as suggested in this proposal.

3. *Paperwork Reduction Act.* Information collection requirements and recordkeeping requirements contained in this proposed rule have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* and have been assigned OMB control 2070–0012.

XV. Confidential Business Information

Any person who submits comments which the person claims as confidential business information must mark the comments as "confidential," "trade secret," or other appropriate designation. Any comments not claimed as confidential at the time of submission will be placed in the public file. Any comments marked as confidential will be treated in accordance with the procedures in 40 CFR Part 2. EPA requests that any person submitting confidential comments prepare and submit a sanitized version of the comments which EPA can place in the public file.

XVI. Rulemaking Record

EPA has established a record for this rulemaking (docket control number OTS–50508). The record includes basic information considered by the Agency in developing this proposed rule. EPA will supplement the record with additional information as it is received. The record now includes the following categories of information:

1. The PMNs for these three substances.
2. The **Federal Register** notices of receipt of the PMNs.
3. The Significant New Use Rule for the substances.
4. The toxicity support document for the Section 5(e) Order.
5. The section 5(e) Order.
6. The toxicity support documents for the Significant New Use Rule.
7. The economics support document for the Significant New Use Rule.

A public version of this record containing sanitized copies from which CBI has been deleted is available to the public in the OTS Public Information Office, from 8:00 a.m. to 4:00 p.m., Monday through Friday except legal holidays. The Public Information Office is located in Rm. 107, East Tower, 401 M St., SW., Washington, D.C. EPA will identify the complete rulemaking record by the date of promulgation. The Agency will accept additional materials for inclusion in the record at any time between this notice and designation of the complete record. The final rule will also permit persons to point out any errors of omissions in the record.

(Sec. 5, Pub. L. 94–469, 90 Stat. 2012 (15 U.S.C. 2604))

List of Subjects in 40 CFR Part 721

Environmental protection, Chemicals, Hazardous materials, Recordkeeping and reporting requirements, Significant new uses.

Dated: January 19, 1984.

William D. Ruckelshaus,

Administrator.

PART 721—[AMENDED]

Therefore, it is proposed that proposed Part 721 of Chapter I of Title 40 be amended by adding § 721.260 to read as follows:

§ 721.260 Substituted Methylpyridine and Substituted 2-Phenoxypyridine.

This section identifies activities with respect to three chemical substances which EPA has determined are "significant new uses" under the authority of section 5(a)(2) of the Toxic Substances Control Act. In addition, it specifies the procedures for reporting on the chemical substances.

(a) *Chemical substances subject to reporting.* (1) The chemical substances known generically as: substituted methylphyridine (P–82–326, P–83–237) and substituted 2-phenoxypyridine (P–83–330) are subject to reporting under this section for the significant new uses described in paragraph (b) of this section.

(2) [Reserved]

(b) *Significant new uses subject to reporting.* (1) Manufacturing or processing of substituted methylpyridine (P–82–326) resulting in any discharge of this substance to navigable waters.

(2) Manufacturing or processing of substituted methylpyridine (P–82–326, P–83–237) or substituted 2-phenoxypyridine (P–83–330) unless the manufacturer or processor establishes and enforces a program whereby:

(i) Engineering controls on manufacturing and processing operations for the three substance are maintained as follows:

(A) During drumming and undrumming:

(*1*) Any vapor emissions released from containers are captured and vented outside the work area or back to the storage tank to avoid any direct worker exposure.

(*2*) Local ventilation is provided at drumming stations unless they are located outdoors where natural air circulation will provide for sufficient ventilation.

(B) [Reserved]

(ii) Inhalation controls on manufacturing and processing operations for the three substances are maintained as follows:

(A) Persons directly involved in the work operations specified below, and any other persons in the immediate work area during these operations, wear chemical cartridge respirators, approved by the National Institute for Occupational Safety and Health (NIOSH) for protection from organic vapors:

(*1*) All operations involving open transfer of the three substances including, but not limited to:

(*i*) Reactor sampling, except no respirator will be required when sampling utilizes a sampling box which encloses the sample port and is vented away from the workplace.

(*ii*) Product packaging and unpacking, including drumming and undrumming.

(*2*) All other work operations, including maintenance, and line opening operations, which present the potential for release of the substances;

(3) Clean-up of leaks and spills involving the three substances.

(B) All persons required to wear such respirators are (1) informed in writing of the reasons for the required equipment, and (2) undergo respirator fitting procedures in compliance with 29 CFR 1910.134 as established by the current Occupational Safety and Health Administration (OSHA).

(iii) Dermal controls on manufacturing and processing operations for the three substances are maintained as follows:

(A) Persons directly involved in the work operations specified in paragraph (b)(2)(ii)(A) (1) through (3) of this section and other persons potentially receiving dermal equipment are determined to be impervious to the substances and include:

(1) For reactor sampling:
(i) Impervious suit (if no vented sample boxes are provided);
(ii) Impervious gloves;
(iii) Face shield (if no enclosed-vented sample boxes are provided);
(iv) Chemical goggles;
(2) For undrumming:
(i) Impervious suit;
(ii) Impervious gloves;
(iii) Face shield;
(iv) Impervious boots;
(v) Chemical goggles;
(3) For spills:
(i) Impervious suit;
(ii) Impervious gloves;
(iii) Impervious boots.

(B) All persons required to wear such dermal protective equipment are informed in writing of the reasons for the required equipment.

(C) Equipment may be determined to be impervious either by testing under the conditions of use, including the duration of exposure, or by evaluating the specifications supplied by the supplier of the equipment.

(c) *Recordkeeping requirements.* The following records shall be maintained for 5 years after the date of their creation, by persons who manufacture or process any of the three substances.

(1) The names of persons required to wear respirators or dermal protective equipment.

(2) The dates and descriptions of leaks and spills involving the substances.

(3) The names of persons who participate in manufacturing and processing operations, e.g., drumming, undrumming, sampling, packaging, unpacking, and clean-up.

(4) Respirator fit tests for each person required to wear a respirator.

(5) Determinations that personal protective equipment is impervious to the substances.

(d) *Definitions.* Applicable definitions in section 3 of the Act, 15 U.S.C. 2602, apply to this section. Applicable definitions in § 720.3 of this chapter apply to this section. In addition, the following definitions apply:

(1) "Process for commercial purposes" means the preparation of a chemical substance or mixture, after its manufacture, for distribution in commerce with the purpose of obtaining an immediate or eventual commercial advantage for the processor. Processing of any amount of a chemical substance or mixture is included. If a chemical or mixture containing impurities is processed for commercial purposes, then those impurities are also processed for commercial purposes.

(2) "Navigable waters" has the meaning set forth in section 502(7) of the Clean Water Act (33 U.S.C. 1362(7)).

(e) *Determining whether a chemical substance is subject to this section.* (1) A person who intends to manufacture, import, or process a chemical substance which is described by one of the generic names in paragraph (a) of this section may ask EPA whether the substance is subject to this section. EPA will answer such an inquiry only if EPA determines that the person has a *bona fide* intent to manufacture, import, or process the chemical substance for commercial purposes.

(2) To establish a *bona fide* intent to manufacture, import, or process a chemical substance, the person who proposes to manufacture, import, or process the chemical substance must submit to EPA:

(i) The specific chemical identity of the chemical substance that the person intends to manufacture, import, or process.

(ii) A signed statement that the person intends to manufacture, import, or process that chemical substance for commercial purposes.

(iii) A description of the research and development activities conducted to date, and the purpose for which the person will manufacture, import, or process the chemical substance.

(iv) An elemental analysis.

(v) Either an X-ray diffraction pattern (for inorganic substances), a mass spectrum (for most other substances), or an infrared spectrum of the particular chemical substance, or if such data do not resolve uncertainties with respect to the identity of the chemical substance, additional or alternative spectra or other data to identify the substance.

(3) If an importer or processor cannot provide all the information required in paragraph (c)(2) of this section because it is claimed as confidential business information by the importer's or processor's manufacturer or supplier, the manufacturer or supplier may supply the information directly to EPA.

(4) EPA will review the information submitted by the proposed manufacturer, importer, or processor under this paragraph to determine whether it has a *bona fide* intent to manufacture, import, or process the chemical substance. If necessary, EPA will compare this information either to the information requested for the confidential chemical substance under § 710.7(e)(2)(v) of this chapter or the information requested under § 720.85(b)(3)(iii) of this chapter.

(5) If the proposed manufacturer, importer, or processor has shown a *bona fide* intent to manufacture, import, or process the substance and has provided sufficient unambiguous chemical identity information so EPA can make a conclusive determination as to the identity of the substance, EPA will inform the proposed manufacturer, importer, or processor whether the chemical substance is subject to this section.

(6) A disclosure to a person with a *bona fide* intent to manufacture, import, or process a particular chemical substance that the substance is subject to this section will not be considered public disclosure of confidential business information under section 14 of the Act.

(7) EPA will answer any inquiry on whether a particular chemical substance is subject to this section within 30 days after receipt of a complete submission under paragraph (c)(2) of this section.

(f) *Persons who must report.* Any person who intends to manufacture, import (other than as part of an article), or process the substances identified in paragraph (a) of this section for a significant new use defined in paragraph (b) of this section must submit a notice to the EPA Office of Toxic Substances in Washington, D.C. under the provisions of section 5(a)(1)(B) of the Act, Part 720 of this chapter, and this section. Any notice of import must be submitted by the principal importer.

(g) *Notice requirements and procedures.* Each person who is required to submit a significant new use notice under this section must submit the notice at least 90 calendar days before commencing a significant new use. The submitter must comply with any applicable requirement of sections 5(b) of the Act and the notice must include the information and test data specified in section 5(d)(1). The notice must be

submitted on the notice form in Appendix A to Part 720 of this chapter and must comply with the requirements of Part 720 of this chapter except to the extent that they are inconsistent with this section. EPA will process the notice in accordance with the procedures in Part 720 of this chapter except to the extent that they are inconsistent with this section.

(h) *Exemptions and exclusions.* The chemical substances identified in paragraph (a) of this section are not subject to the notification requirements of this part if:

(1) The substances are manufactured or processed only in small quantities solely for research and development if the substances are manufactured or processed in accordance with § 720.36 of this chapter.

(2) The substances are manufactured or processed only as impurities or byproducts.

(i) *Enforcement.* (1) Failure to comply with any provision of this section is a violation of section 15 of the Act (15 U.S.C. 2614).

(2) Using for commercial purposes a chemical substance or mixture which a person knew or had reason to know was manufactured, processed, or distributed in commerce in violation of this section is a violation of section 15 of the Act (15 U.S.C. 2614).

(3) Failure or refusal to permit access to or copying of records, as required by section 11 of the Act is a violation of section 15 of the Act (15 U.S.C. 2614).

(4) Failure or refusal to permit entry or inspection, as required by section 11 of the Act, is a violation of section 15 of the Act (15 U.S.C. 2614).

(5) Violators may be subject to the civil and criminal penalties in section 16 of the Act (15 U.S.C. 2615) for each violation. The submission of false or misleading information in connection with the requirement of any provision of this section may be subject to penalties calculated as if they never filed their notices.

(6) EPA may seek to enjoin the manufacture or processing of a chemical substance in violation of this section or act to seize any chamical substance manufactured or processed in violation of this section or take other actions under the authority of section 7 or 17 of the Act (15 U.S.C. 2606 or 2616).

[FR Doc. 84-3121 Filed 2-3-84; 8:45 am]
BILLING CODE 4560-50-M

DEPARTMENT OF THE INTERIOR

Office of the Secretary

43 CFR Part 4

Petitions for Award of Costs and Expenses

AGENCY: Office of Hearings and Appeals Office of the Secretary.

ACTION: Proposed rule.

SUMMARY: The Office of Hearings and Appeals (OHA) in the Department of the Interior (DOI) proposes to revise its rules at 43 CFR 4.1290 and 4.1294 to conform with a recent decision in which the United States Supreme Court held that absent some degree of success on the merits by a claimant it is not "appropriate" for a court to award attorneys' fees. The affected rules govern petitions for the award of costs and expenses under section 525(e) of the Surface Mining Control and Reclamation Act of 1977 (SMCRA), 30 U.S.C. 1201 *et seq.* Because the proposed rules are based on a current unambiguous decision of the Supreme Court, OHA intends to make the final rules effective as of the date this Proposed Rule is published in the **Federal Register**, and applicable to pending as well as future proceedings.

DATES: OHA will accept written comments on this proposed rulemaking until 5 p.m. on March 7, 1984. Upon request, OHA will hold a public hearing on this proposed rulemaking in Washington, D.C., at 9:00 a.m. eastern standard time on March 5, 1984.

ADDRESSES: Written comments on this proposed rulemaking should be mailed or hand-delivered to the Office of Hearings and Appeals, Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. If requested, the public hearing will be held in the Department of the Interior Auditorium, 18th and C Streets, NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: John H. Kelly, Deputy Director, Office of Hearings and Appeals, 4015 Wilson Boulevard, Arlington, Virginia 22203; Telephone: (703) 235-3810.

SUPPLEMENTARY INFORMATION:

I. Public Comment Procedures
II. Background
III. Discussion of Proposed Rule
IV. Future Rulemaking Actions
V. Procedural Matters

I. Public Comment Procedures

Written Comments

Written comments submitted on this proposed rulemaking should be specific, should be confined to issues pertinent to the proposed revisions, and should explain the reason for any change that is recommended. Where practicable, OHA requests that commenters submit five copies of their comments. Comments received after the close of the comment period (see "**DATES**") may not be considered or included in the Administrative Record for the final rulemaking.

Public Hearing

OHA will hold a public hearing on the proposed rulemaking on request only. The time and location scheduled for the hearing are specified previously in this notice (see "**DATES** and **ADDRESSES**"). Any person interested in making an oral or written presentation at the hearing should contact John H. Kelly (see "**FOR FURTHER INFORMATION CONTACT**") by 5:00 p.m. eastern standard time *four working days* prior to the scheduled date of the hearing. If no one has contacted Mr. Kelly to express an interest in participating in the hearing by that date, the hearing will not be held. If only one person expresses an interest, a public meeting rather than a hearing may be held and the results of the meeting included in the Administrative Record.

If a hearing is held, it will continue until all persons wishing to testify have been heard. To assist the transcriber and insure an accurate record, OHA requests that anyone who testifies at the hearing give the transcriber a written copy of his or her testimony. To assist OHA in preparing appropriate questions, OHA also requests that those who plan to testify submit to OHA at the address previously specified for the submission of written comments (see "**ADDRESSES**") an advance copy of their testimony.

II. Background

Section 525(e) of SMCRA, 30 U.S.C. 1275(e), provides that "[w]henever an order is issued under this section, or as a result of any administrative proceeding under this Act, at the request of any person, a sum equal to the aggregate amount of all costs and expenses (including attorney fees) as determined by the Secretary to have been reasonably incurred by such person for or in connection with his participation in such proceedings, including any judicial review of agency actions, may be assessed against either party as the court, resulting from judicial review or the Secretary, resulting from administrative proceedings, *deems proper." (italics added).*

To establish procedures governing petitions for the award of costs and

expenses under section 525(e), OHA promulgated rules which appear at 43 CFR 4.1290–4.1296. These existing rules were proposed on April 13, 1978, 43 FR 15441; the final rules were published on August 3, 1978, 43 FR 34376.

The existing rules specify who may file for an award (§ 4.1290), the time and place for filing (§ 4.1291), the contents of a petition for an award (§ 4.1292), the time for filing an answer (§ 4.1293), who may receive an award (§ 4.1294), what may an award include (§ 4.1295), and appeals procedures (§ 4.1296). The rules do not specify criteria regarding the degree of success to be achieved for making a award. A recent decision of the United States Supreme Court in a similar statutory context, which held that an award of costs and expenses is conditioned upon a party prevailing in whole or in part in the underlying proceeding, has led OHA to conclude tentatively that it is necessary to revise its rules to include this condition.

In the case of *Ruckelshaus* v. *Sierra Club*, 463 U.S.——, 103 S. Ct. 3275 (1983), the Supreme Court interpreted section 307(f) of the Clean Air Act, 42 U.S.C. 7607(f) which provides for an award of the "costs of litigation (including reasonable attorney and expert witness fees) whenever (a court) determines that such an award is appropriate." The Court in Ruckelshaus noted that the identical "is appropriate" standard of section 307(f) of the Clean Air Act also appears in section 520(d) of SMCRA, 30 U.S.C. 1270(d), and that its interpretation of section 307(f) controls the construction of section 520(d), 463 U.S. at —— n. 1, 103 S. Ct. at 3275 n. 1. While the court did not consider the equivalence of section 307(f) and the "deems proper" standard of section 525(e) of SMCRA, it did find that the word " 'appropriate' * * * means * * * 'proper'." 463 U.S. at ——, 103 S. Ct. at 3276. Thus, it would appear that the court's interpretation of the "is appropriate" standard in *Ruckelshaus* also applies to the "deems proper" standard of section 525(e).

This reading of those terms is also supported by the legislative history of SMCRA. See the colloquy among Congressmen Seiberling, Bauman and Udall on April 29, 1977, 123 Cong. Rec. 12,877 (1977); also see H.R. Rep. No. 218, 95th Cong., 1st Sess. 90 (1977).

For these reasons, OHA proposes to revise its rules implementing section 525(e) to conform with the Court's interpretation in *Ruckelshaus* of the "is appropriate" standard.

The Court in *Ruckelshaus* concluded "that the language of [section 307(f) of the Clean Air Act], read in the light of the historic principles of fee-shifting in this and other countries, requires the conclusion that some success on the merits be obtained before a party becomes eligible for a fee award * * *." 463 U.S. at ——, 103 S. Ct. at 3276. "Hence, we hold that, absent some degree of success on the merits by the claimant, it is not 'appropriate' for a federal court to award attorneys fees. * * *" 463 U.S. at ——, 103 S. Ct. at 3281. In view of this clear holding by the Court, it is reasonable to interpret section 525(e) of SMCRA as requiring a petitioner to prevail in whole or in part, achieving at least some degree of success on the merits before an award of costs and expenses under this section may be "deem[ed] proper."

While OHA as an alternative might conform with *Ruckelshaus* by interpreting the existing rules implementing section 525(e) on a case-by-case basis in administrative proceedings, OHA has concluded that a rulemaking would give the public more effective notice than would individual administrative decisions incorporating this interpretation. Therefore, to inform the public of this interpretation of section 525(e), and to avoid any inconsistency in its application, OHA proposes to revise its rules at 43 CFR 4.1290–4.1296 accordingly.

III. Discussion of Proposed Rule

There are two sections in the current rules where revision to conform with *Ruckelshaus* is appropriate. One is § 4.1290, which provides in part that any person may file a petition for costs and expenses, including attorneys' fees. The other is § 4.1294, which provides in part that appropriate costs and expenses may be awarded to specified parties in various circumstances. Currently § 4.1290 and § 4.1294 do not contain criteria with regard to the degree of success on the merits to be achieved for such awards. In view of *Ruckelshaus*, OHA proposes to revise § 4.1290 to state explicitly that a petition for an award of costs and expenses may be filed by "[a]ny person who prevails in whole or in part, achieving at least some degree of success on the merits." Likewise, OHA proposes to revise § 4.1294 to state explicitly that eligibility *to receive* an award is "[s]ubject to the condition that the awardee shall have prevailed in whole or in part, achieving at least some degree of success on the merits." Other than these limited proposed revisions, the remainder of the rules would remain unchanged.

Because the proposed rules are based on the unambiguous decision of the Court in *Ruckelshaus*, OHA intends to make the final rules effective as of the date this Proposed Rule is published in the Federal Register, and applicable to both pending and future proceedings. For this reason, petitioners under 43 CFR 4.1290–4.1296 are advised to review carefully, and to conform with, the decision of the Court in *Ruckelshaus* in any petition filed for an award of attorneys' fees under section 525(e) of SMCRA.

IV. Future Rulemaking Actions

On November 20, 1980, a number of western States filed a petition for rulemaking with the Office of Surface Mining Reclamation and Enforcement (OSM) requesting repeal of 43 CFR 4.1294(b) as it applies to the States under 30 CFR 840.15. Although OSM sought public comment on the petition (46 FR 58464, December 1, 1981), the petition has not been decided. Issuance of this proposed rule is not intended to preclude further examination of OHA's rules in 43 CFR 4.1290–4.1296 governing the award of attorney's fees in view of the pending rulemaking petition, particularly the question of the waiver of sovereign immunity.

V. Procedural Matters

Federal Paperwork Reduction Act

The proposed rules do not contain information collection requirements that require approval by the Office of Management and Budget under 44 U.S.C. 3507.

Executive Order 12291

The DOI has examined these proposed rules according to the criteria of Executive Order 12291 (February 17, 1981) and has determined that they are not major and do not require a regulatory impact analysis.

Regulatory Flexibility Act

The DOI has also determined, pursuant to the Regulatory Flexibility Act, 5 U.S.C 601 *et seq.*, that these rules will not have a significant economic impact on a substantial number of small entities.

National Environmental Policy Act

OHA has prepared a draft environmental assessment (EA) on the proposed rules and has made an interim finding that they would not significantly affect the quality of the human environment. The draft EA is on file in the OHA Administrative Record at the address listed previously (see "ADDRESSES"). A final EA will be completed and a final finding made on the significance of any resulting impacts prior to issuance of the final rules.

List of Subjects in 43 CFR Part 4

Administrative practice and procedure, Lawyers, Surface mining.

Authority: Pub. L. 95–87, 91 Stat. 445, 30 U.S.C. 1201 *et seq.*

Accordingly, it is proposed to revise 43 CFR Part 4, Subpart L, as follows:

Dated: January 31, 1984.

J. J. Simmons III,

Under Secretary.

PART 4—DEPARTMENTAL HEARINGS AND APPEALS PROCEDURES

Subpart L—Special Rules Applicable to Surface Coal Mining Hearings and Appeals

1. Section 4.1290 is revised to read as follows:

§ 1290 Who may file.

Any person who prevails in whole or in part, achieving at least some degree of success on the merits, may file a petition for award of costs and expenses including attorneys' fees reasonably incurred as a result of that person's participation in any administrative proceeding under the Act which results in—any administrative proceeding under the Act which results in—

(a) A final order being issued by administrative law judge; or

(b) A final order being issued by the Board.

2. The introductory language of § 4.1294 is revised to read as follows:

§ 4.1294 Who may receive an award.

Subject to the condition that the awardee shall have prevailed in whole or in part, achieving at least some degree of success on the merits, appropriate costs and expenses including attorney's fees may be awarded—

* * * * *

[FR Doc. 84–3018 Filed 2–3–84; 8:45 am]

BILLING CODE 4310–10–M

Notices

Federal Register
Vol. 49, No. 25
Monday, February 6, 1984

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

1984 Corn, Sorghum, Barley, Oats, and Rye Program; Determination Regarding the Proclamation of 1984 Crop Program Provisions for Corn, Sorghum, Barley, Oats, and Rye

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Notice of determination of 1984 crop program provisions for corn, sorghum, barley, oats, and rye.

SUMMARY: The purpose of this notice is to affirm the following determinations which have been made by the Secretary of Agriculture on September 29, 1983 with respect to the 1984 crop program provisions for corn, sorghum, barley, oats, and rye: (1) The loan and purchse levels per bushel shall be $2.55 for corn, $2.42 ($4.32 per cwt.) for sorghum, $2.08 for barley, $1.31 for oats, and $2.17 for rye; (2) the established (target) price levels per bushel are $3.03 for corn, $2.88 for sorghum ($5.14 per cwt.), $2.60 for barley, and $1.60 for oats; (3) an acreage reduction program will be in effect for feed grains with a uniform reduction of 10 percent for corn, sorghum, barley, and oats; (4) no advance deficiency payments; (5) barley producers shall be eligible for payments; (6) malting barley shall not be exempt from the feed grain acreage reduction program; (7) grazing of conservation use acreage will not be permitted during the six principal growing months; (8) the feed grain base acreage for 1984 will be the average acreage planted and considered planted to feed grains in 1982 and 1983; and (9) neither cross-compliance nor offsetting compliance shall be required. These determinations are required to be made in accordance with section 105B, 107C, and 110 of the Agricultural Act of 1949 as amended (hereinafter referred to as the "1949 Act").

EFFECTIVE DATE: September 29, 1983.

ADDRESS: Dr. Howard C. Williams, Director, Analysis Division, USDA–ASCS, Room 3741, South Building, P.O. Box 2145, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT: Orville I. Overboe, Agricultural Economist, Analysis Division, ASCS–USDA, P.O. Box 2415, Washington, D.C. 20013 or call (202) 447–4417. The Final Regulatory Impact Analysis describing the options considered in developing this notice of determination is available on request from the above-named individual.

SUPPLEMENTARY INFORMATION: This notice has been reviewed under USDA procedures established in accordance with Executive Order 12291 and Secretary's Memorandum No. 1512–1 and has been designated as "major". It has been determined that these program provisions will result in an annual effect on the economy of $100 million or more.

The title and number of the federal assistance programs to which this notice applies are: TITLE—Feed Grain Production Stabilization: Number 10.055 and TITLE—Commodity Loans and Purchases: Number 10.051, as found in the Catalog of Federal Domestic Assistance.

It has been determined that the Regulatory Flexibility Act is not applicable to the notice since there is no requirement that a notice of proposed rulemaking be published in accordance with 5 U.S.C. 553 or any other provision of law with respect to the subject matter of these determinations.

A "Supplemental Environmental Impact Statement" has been completed and it has been determined that there will be no significant adverse environmental impacts.

This notice sets forth determinations with respect to the following issues which are briefly described:

1. *Loan and Purchase Level.* Section 105B(a)(1) of the 1949 Act provides that the Secretary shall make available to producers loans and purchases for the 1984 crop of corn at such a level, not less than $2.55 per bushel, as the Secretary determines will encourage the exportation of feed grains and not result in excessive total stocks of feed grains after taking into consideration the cost of producing corn, supply and demand conditions, and world prices for corn. Section 105B(a)(2) provides that the Secretary shall make available to producers loans and purchases for the 1984 crops of grain sorghum, barley, oats, and rye at such levels as the Secretary determines is fair and reasonable in relation to the level that loans and purchases are made available for corn, taking into consideration the feeding value of such commodity in relation to corn and certain other factors specified in section 401(b) of the 1949 Act.

2. *Established (Target) Price.* Section 105B(b)(1)(C) of the 1949 Act provides that the established (target) price for 1984 crop corn shall not be less than $3.03 per bushel. The Secretary may adjust this established (target) price to reflect any change in (i) the average adjusted cost of production per acre for the two crop years immediately preceding the year for which the determination is made from (ii) the average adjusted cost of production per acre for the two crop years immediately preceding the year previous to the one for which the determination is made. Section 105B(b)(1)(E) of the 1949 Act provides that the payment rate for grain sorghum, oats, and, if designated by the Secretary, barley, shall be such rates as the Secretary determines fair and reasonable in relation to the rate at which payments are made available for corn.

3. *Acreage Reduction Program (ARP).* Sections 105B(e) (1) and (2) of the 1949 Act provide that the Secretary may establish an acreage reduction program for the 1984 crop of feed grains if the Secretary determines that the total supply of feed grains, in the absence of such program, will be excessive, taking into account the need for an adequate carryover to maintain reasonable and stable supplies and prices and to meet a national emergency. The Secretary is required to announce whether an acreage reduction program is to be in effect for the 1984 crops of corn, sorghum, oats and, if designated, barley by not later than November 15 prior to the calendar year in which the crop is harvested. Such limitation shall be achieved by applying a uniform percentage reduction to the acreage base for each feed grain-producing farm. Producers who knowingly produce feed grains in excess of the permitted feed grain acreage for the farm shall be ineligible for feed grain loans, purchases, and payments with respect to that farm. The acreage base for any farm

for the purpose of determining any reduction required to be made for any year as the result of a limitation shall be the acreage planted on the farm to feed grains for harvest in the crop year immediately preceding the year for which the determination is made or, at the discretion of the Secretary, the average acreage planted to feed grains for harvest in the two crop years immediately preceding the year for which the determination is made. The Secretary may make adjustments to reflect established crop-rotation practices and to reflect such other factors as the Secretary determines should be considered in determining a fair and equitable base. In addition, a number of acres on the farm determined by dividing (1) the product obtained by multiplying the number of acres required to be withdrawn from the production of feed grains times the number of acres actually planted to feed grains by (2) the number of acres authorized to be planted to feed grains under a limitation established by the Secretary, shall be devoted to conservation uses in accordance with regulations issued by the Secretary.

4. *Exemption of Malting Barley.* In accordance with section 105B(e)(2) of the 1949 Act, the Secretary may provide that no producer of malting barley shall be required as a condition of eligibility for feed grain loans, purchases, and payments to comply with any acreage limitation if such producer has previously produced a malting variety of barley, plants barley only of an acceptable malting variety for harvest, and meets other conditions as the Secretary may prescribe.

5. *Set-Aside Program.* Sections 105B(e)(1) and (3) of the 1949 Act provide that the Secretary may establish a set-aside program for the 1984 crop of feed grains if the Secretary determines that the total supply of feed grains, in the absence of such a program, will be excessive, taking into account the need for an adequate carryover to maintain reasonable and stable supplies and prices and to meet a national emergency.

6. *Land Division Program.* Section 105B(e)(5) of the 1949 Act provides that the Secretary may make land diversion payments to producers of feed grains, whether or not an acreage reduction or set-aside program for feed grains is in effect, if the Secretary determines that such land diversion payments are necessary to assist in adjusting the total national acreage of feed grains to desirable goals.

7. *National Program Acreage (NPA).* Section 105B(c)(1) of the 1949 Act provides that the Secretary shall proclaim an NPA for the 1984 crop of feed grains not later than November 15, 1983. The NPA for feed grains shall be the number of harvested acres the Secretary determines (on the basis of the weighted national average of the farm program payment yields for the 1984 crop) will produce the quantity (less imports) that the Secretary estimates will be utilized domestically and for export during the 1984/85 marketing year. The NPA provisions do not apply if an acreage reduction program is implemented for the 1984 crop of feed grains.

8. *Voluntary Reduction Percentage.* Section 105B(c)(3) of the 1949 Act provides that the 1984 individual farm program acreage of feed grains eligible for payments shall not be reduced by application of an allocation factor (not less than 80 percent nor more than 100 percent) if the producer reduces the acreage of feed grains planted for harvest on the farm from the feed grain acreage base established for the farm for the 1984 crop by at least the percentage recommended by the Secretary in the proclamation of the NPA for the 1984 program. If an acreage reduction program is implemented for the 1984 crop of feed grains, the voluntary reduction percentage shall not be applicable to such crop.

9. *Grazing and Haying of Designated Acreage Reduction Program Acreage.* Section 105B(e)(4) of the 1949 Act provides the Secretary may permit all or any part of designated conservation use acreage to be devoted to sweet sorghum, hay and grazing or the production of guar, sesame, safflower, sunflower, castor beans, mustard seed, crambe, plantago ovato, flaxseed, triticale, rye, or other commodities, if the Secretary determines that such crop production is needed to provide an adequate supply of such commodities, is not likely to increase the cost of price support programs, and will not affect farm income adversely.

10. *Offsetting Compliance and Cross-Compliance.* Section 105B of the 1949 Act provides that the Secretary may implement offsetting compliance requirements as a condition of eligibility for program benefits. If offsetting compliance is required, operators and owners of farms would have to assure that all of the farms in which they have an interest were in compliance with program requirements which are specified with respect to the feed grain program, such as planting within the established feed grain acreage bases or the normal crop acreage established for such farms, in order to be eligible for program benefits.

Cross-compliance requires that a producer desiring to participate in a commodity program on a farm must also participate in all of the programs established for other commodities planted on the farm in order to be eligible for any program benefits. Section 105B(k) of the 1949 Act provides that cross-compliance requirements may be imposed if a set-aside program is established for feed grains, but not if an ARP is established.

11. *Payment-In-Kind Program.* The Payment-In-Kind Program for feed grains is authorized by the Agricultural Act of 1949 and the Commodity Credit Corporation Charter Act. Section 105(e)(5) of the 1949 Act authorizes the Secretary to make land diversion payments to producers of feed grains if the Secretary determines that the payments are necessary to assist in adjusting the total national acreage of feed grains to desirable goals. The Commodity Credit Corporation Charter Act (15 U.S.C. 714 *et seq.*) gives the Corporation broad authority to support the price of agricultural commodities, stabilize agricultural commodity markets and remove and dispose of agricultural surpluses.

12. *Advance Deficiency Payments.* Section 107C of the 1949 Act provides that if the Secretary establishes an acreage reduction or acreage set-aside program for feed grains and determines that deficiency payments will likely be made for such crop, the Secretary may available advance deficiency payments to producers who agree to participate in such program.

13. *Farmer-Owned Reserve Program.* Section 110 of the 1949 Act provides that the Secretary shall formulate and administer a program under which producers of feed grains will be able to store feed grains when feed grains are in abundant supply and extend the time for orderly marketing. Under such program, the Secretary shall make original or extended price support loans at such level of support as the Secretary determines appropriate, except that the loan rate shall not be less than the current level of support provided for under the feed grain program established in accordance with section 105B of the 1949 Act. The program may provide for (1) repayment of such loans in not less than 3 years nor more than 5 years; (2) payments to producers for storage in such amounts and under such conditions as are determined appropriate to encourage producers to participate in the program; (3) a rate of interest not less than the rate of interest charged the Commodity Credit Corporation by the United States

Treasury, except that the Secretary may waive or adjust such interest as the Secretary deems appropriate; (4) recovery of amounts paid for storage. and for the payment of additional interest or other charges if such loans are repaid by producers before the market price for feed grains has reached the trigger release level; and (5) conditions designed to induce producers to redeem and market the feed grains securing such loans without regard to the maturity dates thereof whenever the Secretary determines that the market price for feed grains has attained a specific trigger release level, as determined by the Secretary. The Secretary shall announce the terms and conditions of the producer storage program as far in advance of making loans as practicable. In such announcements, the Secretary shall specify the quantity of feed grains to be stored under the program which the Secretary determines appropriate to promote the orderly marketing of feed grains. The Secretary may place an upper limit on the amount of feed grains placed in the reserve but such upper limit may not be less than 1 billion bushels.

14. *Inclusion of Waxy Corn and Popcorn.* Section 301(a)(9) of the Agricultural Adjustment Act of 1938 defines the term "corn" to mean "field corn." The Secretary has previously defined "corn" for the purpose of the feed grain program to mean: "field corn or sterile high-sugar corn. Popcorn, sweet corn, and corn varieties grown for decoration are excluded." (See 7 CFR 713.3(c)). The issue is whether "waxy corn" and "popcorn" should be considered as "corn" for the purposes of the 1948 Feed Grain Program. If included, producers growing waxy corn or popcorn would be subject to any applicable production adjustment requirements and would be eligible for program benefits, including price support loans and purchases and deficiency payments.

A notice that the Secretary was preparing to make determinations with respect to the 1984 crop of feed grains was published in the **Federal Register** on June 24, 1983 (48 FR 29025) and provided for a 60-day comment period. A total of 344 comments were received. A majority of the comments received addressed the following thirteen issues: (1) Loan and purchase levels; (2) the established (target) price; (3) an acreage reduction program; (4) a cash land diversion program; (5) a payment-in-kind land diversion program; (6) base acreage adjustments; (7) announcement date of the program; (8) haying and grazing requirements for required conservation use acreage; (9) offsetting and cross-compliance; (10) inclusion of barley in the feed grain program; (11) excluding malting barley from an acreage reduction program; (12) inclusion of waxy corn and popcorn in the feed grain program; and (13) the farmer-owned reserve program.

1. *Loan and Purchase Level.* With respect to the loan and purchase level, a total of 55 comments were received. Seventeen comments favored a higher loan rate than in 1983, 17 favored the same loan rate and 12 favored a lower loan rate. Nine comments favored a loan rate based upon the cost of production or 100 percent of parity.

2. *Established (Target) Price.* With respect to the established (target) prices, a total of 51 comments were received with 25 favoring higher established (target) prices than in 1983, 23 supporting the same established (target) prices as in 1983 and three supporting lower established (target) prices. Most comments favored an established (target) price in the range of $2.86 to $3.03 per bushel for corn.

3. *Acreage Reduction Program CARP).* A total of 67 comments were received with 11 opposed to and 58 in favor of an ARP. Those comments supporting an ARP favored a reduction in the range of 10 to 25 percent with the majority favoring a 10 percent ARP.

4. *Cash Diversion Program.* A total of 35 comments were received with 31 favoring and four opposing a cash diversion program. Most of those favoring a cash land diversion program supported a 10 percent diversion program at $1.50 per bushel payment. Several comments suggested a bid type cash diversion program similar to the whole base bid portion of the 1983 Payment-In-Kind Program.

5. *Payment-In-Kind (PIK) Diversion Program.* A total of 154 comments were received with 89 favoring and 65 opposing a PIK program. The majority of those comments favoring a PIK program supported a program similar to the 1983 PIK program. Twenty-two comments favored a PIK program which does not allow for whole base bids.

6. *Farm Base Acreage Adjustments.* With respect to base acreage adjustments, eight comments were received. Three comments favored the use of the same acreage base established for a farm for the 1983 Feed Grain Program, four favored the use of an average of the previous 2 years' planted feed grain acreage in order to determine the farm acreage base and one favored the use of a 10-year history of planted feed grain acreage in order to determine the farm acreage bases.

7. *Announcement of the 1984 Feed Grain Program.* A total of 41 comments were received concerning an early announcement of the 1984 Feed Grain Program with all of the comments favoring an early announcement. Thirteen comments favored an announcement by August 15, 1983.

8. *Haying and Grazing of Required Conservation Use Acreage.* A total of 50 comments were received with 29 favoring and 21 opposing haying and grazing of conservation use acreage.

9. *Offsetting and Cross-Compliance.* A total of 34 comments were received concerning offsetting compliance with 16 favoring and 18 opposing offsetting compliance. In addition, a total of 7 comments were received favoring the imposition of cross-compliance requirements.

10. *Inclusion of Barley in the Feed Grain Program.* A total of 22 comments were received with 20 favoring and 2 opposing the inclusion of barley in the 1984 Feed Grain Program.

11. *Exclusion of Malting Barley from an Acreage Reduction Program.* A total of 22 comments were received with 2 favoring and 20 opposing the exclusion of malting barley in the 1984 Feed Grain Program.

12. *Inclusion of Waxy and Popcorn in the Feed Grain Program.* A total of 53 comments were received with 48 favoring and 5 opposing the inclusion of waxy corn and popcorn in the 1984 Feed Grain Program. In response to their comment, the Popcorn Institute was contacted to determine the meaning of their comment. The Popcorn Institute stressed that while they were strongly opposed to popcorn being considered as an eligible commodity for the purpose of feed grain payments, price support, or the farmer-owned reserve program, it did favor the inclusion of the average of the 1980–1983 popcorn acreages in a farm's corn/sorghum base. The Popcorn Institute also indicated that any popcorn acreage planted in subsequent years should not be considered as permitted acreage with respect to the 1984 corn/sorghum and subsequent base acreage.

13. *Farmer-Owned Reserve Program.* A total of 24 comments were received concerning a farmer-owned reserve program with 19 favoring and 5 opposing such a reserve.

A number of the determinations with respect to the feed grain program are required to be made by section 105B(e)(1) of the 1949 Act not later than November 15 prior to the calendar year in which the crop is harvested. On September 29, 1983, the Secretary

announced by press release the various program determinations for the 1984 crop of feed grains. Since the only purpose of this notice is to affirm the program determinations which were previously announced, it has been determined that no further public rulemaking is required with respect to the following determinations:

Determinations

1. *Loan and Purchase Level.* In accordance with sections 105B(a) (1) and (2) of the 1949 Act, it has been determined that the loan and purchase level per bushel shall be $2.55 for corn, $2.42 ($4.32 per cwt.) for grain sorghum, $2.08 for barley, $1.31 for oats, and $2.17 for rye. It was determined that these levels will best maintain the competitive relationship of feed grains to other grains in domestic and foreign markets after taking into consideration the cost of producing feed grains, supply and demand conditions, and world prices for feed grains.

2. *Established (Target) Price.* In accordance with section 105B(b)(1)(C) of the 1949 Act, it has been determined that the established (target) prices per bushel shall be $3.03 for corn, $2.88 ($5.14 per cwt.) for grain sorghum, $2.60 for barley, and $1.60 for oats, which are the minimum statutory levels. It is felt that any increase in the established (target) prices above the minimum statutory levels will further increase production by U.S. and foreign feed grain producers and result in an undesired increase in feed grain production. Sufficient producer participation is projected with the announced levels. In addition, higher established (target) prices would result in substantially higher Treasury costs without an improvement in the level of feed grain supplies.

3. *Acreage Reduction Program (ARP).* In accordance with section 105B(e)(2) of the 1949 Act, it has been determined that a 10 percent reduction shall be applicable to the acreage planted to feed grains in 1984. Producers will be required to reduce their acreage by at least 10 percent in order to be eligible for loans, purchases, and payments for the 1984 crop of feed grains. The Secretary has determined that the total supply of feed grains, in the absence of such limitations, will be excessive taking into account the need for an adequate carryover to maintain reasonable and stable supplies and prices and to meet a national emergency. This option was selected because it provides the best balance between the multiple objectives of providing adequate feed grain supplies for domestic and foreign utilization, while maintaining adequate carryover stocks, supporting farm income, combating inflation, holding down Treasury costs and conserving natural resources.

Acreage designated for conservation use must be cropland that was devoted to row crops or small grains in 2 of the last 3 years. However, in order for acreage which is in a summer fallow rotation to be designated as conservation use acreage, such land must be acreage that would have been planted to small grains or row crops in 1984 in the absence of the 1984 Feed Grain Program. Without such a requirement, acreage which has not been planted to such crops would be eligible to be utilized as conservation use acreage under the Program without any corresponding reduction in production.

The 1984 acreage base for feed grain farms, other than those farms where there is an established crop rotation, shall be the average of the acreage planted and considered planted to feed grains for harvest in 1982 and 1983. With respect to feed grain farms where there is an established crop rotation, the acreage base shall be the acreage planted and considered planted to feed grains for harvest in the immediately prior years that correspond to the farm's established crop rotation.

Contracts signed by program participants for the acreage reduction program will be considered binding contracts at the end of the period for executing such contracts and will provide for liquidated damages for failure to comply with the terms and conditions of such contracts.

Eligible land on which permanent conservation practices were established in 1982 or a subsequent year will be eligible for designation as conservation use acreage under any acreage reduction, set-aside, or diversion program authorized by the 1949 Act, so long as the conservation practice is maintained. These conservation practices will be eligible for cost-share payments under the Agricultural Conservation Program.

4. *Barley.* In accordance with section 105B(b)(1)(E) of the 1949 Act, it has been determined that barley is eligible for program payments. Including barley in the feed grain acreage reduction program permits the Secretary to implement a program to align barley stocks with barley demand.

5. *Exemption of Malting Barley.* In accordance with section 105B(e)(2) of the 1949 Act, it has been determined that malting barley shall not be exempt from the feed grain acreage reduction program. Since a large proportion of barley production is planted to malting barley varieties, exempting malting barley varieties from any production adjustment requirements would greatly reduce the effectiveness of the barley program.

6. *Set-Aside Program.* In accordance with sections 105B(e) (1) and (3) of the 1949 Act, it has been determined that there will be no set-aside program for the 1984 crop of feed grains since it was determined that an acreage reduction program will be applicable for the 1984 Feed Grain Program.

7. *Land Diversion Program (LDP).* In accordance with section 105B(e)(5) of the 1949 Act, it has been determined that there will be no cash land diversion program for the 1984 crop of feed grains. By the end of the 1983/84 crop year, ending stocks of feed grains will be reduced by about two-thirds, from 107 million metric tons to approximately 34 million metric tons. An optimum level of 45 to 50 million metric tons has been determined to be desirable if the U.S. is to remain a dependable supplier of feed grains to domestic and foreign markets. Such an optimum level would not be attained by establishing a cash land diversion program for the 1984 crop of feed grains.

8. *National Program Acreage.* In accordance with sections 105B(c)(1) and 105(B)(e)(2) of the 1949 Act, it has been determined that the NPA will not be applicable for the 1984 crop of feed grains since an acreage reduction program has been announced.

9. *Voluntary Reduction Percentage.* In accordance with sections 105B(c)(3) and 105(B)(e)(2) of the 1949 Act, it has been determined that the voluntary reduction percentage will not be applicable for the 1984 crop of feed grains since an acreage reduction program has been announced.

10. *Grazing and Haying of Designated ARP Acreage.* In accordance with section 105B(e)(4) of the 1949 Act, it has been determined that feed grain producers shall not be permitted to harvest cover on designated ARP acreage for hay or plant alternate crops on designated ARP acreage. Grazing of the conservation use acreage will be authorized during the six principal non-growing months as determined by the State ASC committees.

11. *Offsetting and Cross-Compliance.* It has been determined that offsetting compliance is not necessary to assist in adjusting the production of feed grains to achieve a desirable carryover level of 45 to 50 million metric tons. In addition, section 105B(k) of the 1949 Act precludes the imposition of any cross-compliance requirement as a condition

of eligibility for participation in the 1984 Feed Grain Program since an acreage reduction program has been established.

12. *Payment-In-Kind (PIK) Diversion Program.* It has been determined that there will be no PIK program for the 1984 crop of feed grains. The combination of the 1983 PIK Program, a drought throughout major feed grain producing areas, and implementation of a 10 percent ARP for the 1984 crop will reduce feed grain ending stocks to desired levels.

13. *Advance Deficiency Payments.* In accordance with section 107C of the 1949 Act, it has been determined that there will be no advance deficiency payments for the 1984 crop of feed grains. It was determined that advance deficiency payments were not needed as an incentive to achieve adequate program participation.

14. *Farmer-Owned Reserve Program.* In accordance with section 110 of the 1949 Act, the Secretary has determined that there will be no direct entry into the farmer-owned reserve program for the 1984 crop of feed grains. Further, the Secretary intends to review the size of the reserve before regular price support loans for the 1984 crop reach maturity.

15. *Waxy Corn and Popcorn.* It has been determined that waxy corn will be included in the 1984 Feed Grain Program. Such corn was also included in the 1983 Feed Grain Program and has been included in prior feed grain production adjustments programs. Although waxy corn is produced for human consumption, it is also recognized by producers as a suitable feed for the production of livestock. The inclusion of waxy corn in the 1984 Feed Grain Program is consistent with prior years and will encourage producer participation in the program.

It has been determined that popcorn will not be considered as field corn for the purposes of the 1984 Feed Grain Program. Exclusion of popcorn from the program means that popcorn is not eligible for program benefits and acreage which is planted to popcorn is not restricted by the acreage reduction provisions of the 1984 Feed Grain Program. From 1979 to 1981, popcorn acreage has ranged from 187,000 acres to 262,000 acres and has been primarily grown under contracts with processors to be used for human consumption. Also, popcorn does not have the same "market" and "supply-demand" characteristics as commodities considered to be "field corn". The primary purpose of acreage adjustment programs is to reduce production of those basic commodities whose surplus supply has a "major impact" on the U.S. and world economies. It has been determined that the supply of popcorn does not have a "major impact" on U.S. and world economies.

Authority: Secs. 105B, 107C, 110, 95 Stat. 1227, as amended, 96 Stat. 766, 91 Stat. 951, (7 U.S.C. 1444d, 1445b–2, and 1445e); 1001, 91 Stat. 950, as amended, (7 U.S.C. 1309).

Signed in Washington, D.C., February 1, 1984.

Everett Rank,

Executive Vice President, Commodity Credit Corporation.

[FR Doc. 84–3170 Filed 2–3–84; 8:45 am]

BILLING CODE 3410-05-M

Soil Conservation Service

Availability of Record of Decision; Newtown-Hoffman Creeks Watershed, New York

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of availability of a record of decision.

SUMMARY: Paul A. Dodd, responsible Federal official for projects administered under the provisions of Pub. L. 83–566, 16 U.S.C. 1001–1008, in the State of New York, is hereby providing notification that a record of decision to proceed with the installation of the Newtown-Hoffman Creeks Watershed project is available. Single copies of this record of decision may be obtained from Paul A. Dodd at the address shown below.

FOR FURTHER INFORMATION CONTACT: Paul A. Dodd, State Conservationist, Soil Conservation Service, James M. Hanley Federal Building, 100 S. Clinton Street, Room 771, Syracuse, New York 13260, telephone (315) 423–5521.

(Catalog of Federal Domestic Assistance program No. 10.904, Watershed Protection and Flood Prevention. Office of Management and Budget Circular A–95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects is applicable)

Dated: January 30, 1984.

Paul A. Dodd,

State Conservationist.

[FR Doc. 84–3074 Filed 2–3–84; 8:45 am]

BILLING CODE 3410-16-M

CIVIL AERONAUTICS BOARD

[Docket 41696]

Hawaiian Pacific Airlines Fitness Investigation; Assignment of Proceeding

This proceeding has been assigned to Chief Administrative Law Judge Elias C. Rodriguez. Future communications should be addressed to him.

Dated Washington, D.C., February 1, 1984.

Elias C. Rodriguez,

Chief Administrative Law Judge.

[FR Doc. 84–3148 Filed 2–3–84; 8:45 am]

BILLING CODE 6320-01-M

[Docket 41696]

Hawaiian Pacific Airlines Fitness Investigation; Prehearing Conference

Notice is hereby given that a prehearing conference in the above-entitled matter will be held on March 9, 1984 at 9:00 a.m. (local time) in room 1027, Universal Building, 1825 Connecticut Avenue, NW., Washington, D.C., before the undersigned.

Dated at Washington, D.C., February 1, 1984.

Elias C. Rodriguez,

Chief Administrative Law Judge.

[FR Doc. 84–3147 Filed 2–3–84; 8:45 am]

BILLING CODE 6320-01-M

CIVIL RIGHTS COMMISSION

Iowa Advisory Committee; Agenda and Notice of Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Iowa Advisory Committee to the Commission will convene at 9:00 a.m. and will end at 3:00 p.m., on February 28, 1984, at the Federal Building, Room B–17, 131 East 4th Street, Davenport, Iowa 52801. The purpose of the meeting is to discuss the status of current projects and plan the program for the remainder of fiscal year 1984.

Persons desiring additional information, or planning a presentation to the Committee, should contact the Chairperson, Gregory H. Williams, at (319) 353–5375 or the Central States Regional Office (816) 374–5253.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., January 31, 1984.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 84–3130 Filed 2–3–84; 8:45 am]

BILLING CODE 6335-01-M

Vermont Advisory Committee; Agenda and Notice of Public Meeting

Notice is hereby given, pursuant to the

provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Vermont Advisory Committee to the Commission will convene at 7:00 a.m. and will end at 9:00 a.m., on March 1, 1984, at the Montpelier City Hall, Memorial Room, Main Street, Montpelier, Vermont 05602. The purpose of the meeting is to discuss the study of civil rights implications of block grants and the Committee's monitoring of State civil rights developments.

Persons desiring additional information, or planning a presentation to the Committee, should contact the Chairperson, Philip H. Hoff, at (802) 658–4300 or the New England Regional Office at (617) 223–4671.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., January 31, 1984.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 84–3129 Filed 2–3–84; 8:45 am]

BILLING CODE 6335–01–M

Hawaii Advisory Committee; Agenda and Notice of Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Hawaii Advisory Committee to the Commission will convene at 1:00 p.m. and will end at 5:00 p.m., on March 9, 1984, at the Ala Moana Americana Hotel, Board Room, 410 Atkinson Drive, Honolulu, Hawaii 96814. The purpose of the meeting is to discuss program plans for the remainder of the fiscal year.

Persons desiring additional information, or planning a presentation to the Committee, should contact the Chairperson, Helen R. Nagtalonmiller, at (808) 948–7183 or the Western Regional Office at (213) 688–3437.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., February 1, 1984.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 84–3177 Filed 2–3–84; 8:45 am]

BILLING CODE 6335–01–M

DEPARTMENT OF COMMERCE

Bureau of the Census

Census Advisory Committee on Agriculture Statistics; Renewal

In accordance with the provisions of the Federal Advisory Committee Act, 5 U.S.C. App. I (1976), and Office of Management and Budget Circular A–63 (revised), and after consultation with GSA, it has been determined that the renewal of the Census Advisory Committee on Agriculture Statistics is in the public interest in connection with the performance of duties the law imposes on the Department.

The Committee was established July 16, 1962, and its current charter expired on December 23, 1983. It was initially chartered under the Federal Advisory Committee Act in January 1973. The Committee's purpose is to advise the Director, Bureau of the Census, on the conduct of periodic censuses of agriculture and related surveys and the kind of information that should be obtained from respondents associated with the agricultural production; to make recommendations regarding the contents of agricultural reports; and to present the data needs of major suppliers and users of agriculture statistics. The Committee plays a vital role in advising the Census Bureau concerning the structuring and planning of the agriculture censuses and surveys.

The Committee will continue with a balanced representation of 21 member organizations, each appointing a person to the Committee subject to the concurrence of the Director, Bureau of the Census. A selected member chairs the Committee, which will function solely as an advisory body in compliance with the Federal Advisory Committee Act.

Copies of the Committee's revised charter will be filed with appropriate committees of the Congress.

Inquiries or comments may be addressed to the Committee Control Officer, Mr. George E. Pierce, Agriculture Division, Federal Building 4, U.S. Department of Commerce, Bureau of the Census, Washington, D.C. 20233, Telephone 301/763–7731.

Dated: January 25, 1984.

Dennis C. Boyd,

Director, Management and Information Systems.

[FR Doc. 84–3108 Filed 2–3–84; 8:45 am]

BILLING CODE 3510–(CW)–M

International Trade Administration

University of Connecticut; Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897; 15 CFR Part 301). Related records can be viewed between 8:30 a.m. and 5:00 p.m. in Room 1523, U.S.Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C.

Docket No. 84–16. Applicant: University of Connecticut, Storrs, CT 06268. Instrument: Integrated Surface Analysis System, LHS–10. Manufacturer: Leybold Heraeus, West Germany. Intended use: See notice at 48 FR 56817.

Comments: None received.

Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States.

Reasons: The foreign instrument provides (1) high temperature (up to 800 degrees centigrade) analysis with high vacuum (10.0^{-3} to 8.0×10^{-11} millibar) and (2) x-ray photoelectron spectroscopy. The National Bureau of Standards advises in its memorandum dated January 20, 1983 that (1) the capabilities of the foreign instrument described above are pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

We know of no other instrument or apparatus of equivalent scientific value to the foreign instrument which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc 84–3109 Filed 2–3–84; 8:45 am]

BILLING CODE 3510–DS–M

University of California, Santa Barbara; Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897; 15 CFR Part 301). Related records can be viewed between 8:30 a.m. and 5:30 p.m. in Room 1523, U.S. Department of Commerce, 14th and

Constitution Avenue, NW., Washington, D.C.

Docket No.: 83–330. Applicant: University of California, Santa Barbara, Santa Barbara, Ca 93106. Instrument: Ion Source for Rare Gas Mass Spectroscopy. Manufacturer: Swiss Federal Institute of Technology, West Germany. Intended use: See notice at 48 FR 51676.

Comments: None received.

Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States.

Reasons: The foreign instrument simultaneously provides: (1) high-pressure linearity, (2) very low mass discrimination, (3) high sensitivity (approximately 10^{-5} ampers/torr for Helium) and (4) long filament life. The National Bureau of Standards advises in its memorandum dated January 20, 1984 that (1) the capabilities of the foreign instrument described above are pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

We know of no other instrument or apparatus of equivalent scientific value to the foreign instrument which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 84–3110 Filed 2–3–84; 8:45 am]

BILLING CODE 3510-DS-M

Cornell University; Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897; 15 CFR Part 301). Related records can be viewed between 8:30 a.m. and 5:00 p.m. in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C.

Docket No.: 82–00371R. Applicant: Cornell University, Applied and Engineering Physics, 212 Clark Hall, Ithaca, NY 14853. Instrument: FL 2002 High Performance Tunable Dye Laser. Original notice of this resubmitted application was published in the **Federal Register** of October 29, 1982.

Comments: None received.

Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, was being manufactured in the United States at the time the instrument was ordered (July 27, 1982).

Reasons: This application is a resubmission of Docket Number 82–371 which was denied without prejudice to resubmission on April 22, 1983 for informational deficiencies. The foreign instrument provides an amplified spontaneous emission of less than 1.0 percent. The National Bureau of Standards advises in its memorandum dated January 10, 1984 that (1) the capability of the foreign instrument described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use being manufactured in the United States at the time the foreign instrument was ordered.

We know of no other domestic instrument or apparatus of equivalent scientific value to the foreign instrument which was being manufactured in the United States at the time the foreign instrument was ordered.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 84–3111 Filed 2–3–84; 8:45 am]

BILLING CODE 3510-DS-M

The Medical College of Wisconsin, Inc.; Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897; 15 CFR Part 301). Related records can be viewed between 8:30 a.m. and 5:00 p.m. in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C.

Docket No.: 83–309. Applicant: The Medical College of Wisconsin, Inc., Milwaukee, WI 53226. Instrument: Cryo Microtome, LKB 2250/041, Type 450 MP and Accessories. Manufacturer: Palmstiernas Mekaniska Verkstad AB, Sweden. Intended use: See notice at 48 FR 45279.

Comments: None received.

Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States.

Reasons: The foreign instrument provides uniform large-area (up to 150 millimeter by 450 millimeter) frozen sections of bone and assorted softer tissues such as the human spine. The National Institutes of Health advises in its memorandum dated December 6, 1983 that (1) the capability of the foreign instrument described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

We know of no other instrument or apparatus of equivalent scientific value to the foreign instrument which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 84–3112 Filed 2–3–84; 8:45 am]

BILLING CODE 3510-DS-M

Harvard University; Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897; 15 CFR Part 301). Related records can be viewed between 8:30 a.m. and 5:00 p.m. in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C.

Docket No.: 83–322. Applicant: Harvard University, Cambridge, MA 02138. Instrument: Home-made Cryostats and Components. Manufacturer: Natuurkundig Laboratorium, The Netherlands. Intended Use: See notice at 48 FR 47041.

Comments: None received.

Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States.

Reasons: The foreign instrument system is capable of (1) cooling and compressing samples of molecular hydrogen and deuterium, and (2) measuring the pressure and density of the samples. The National Bureau of Standards advises in its memorandum dated December 15, 1983 that (1) the capabilities of the foreign instrument described above are pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value

to the foreign instrument for the applicant's intended use.

We know of no other instrument or apparatus of equivalent scientific value to the foreign instrument which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 84-3113 Filed 2-3-84; 8:45 am]

BILLING CODE 3510-DS-M

Massachusetts Institute of Technology; Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897; 15 CFR Part 301). Related records can be viewed between 8:30 a.m. and 5:00 p.m. in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C.

Docket No. 83-295. Applicant: Massachusetts Institute of Technology, Cambridge, MA 02139. Instrument: Gas Chromatograph/Mass Spectrometer System, Model 8200 and Components. Manufacturer: Finnigan, MAT, West German. Intended use: See notice at 48 FR 40932.

Comments: None received.

Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States.

Reasons: The foreign instrument provides (1) fast scanning capability (0.1 seconds per decade) and (2) a high-speed (200 kilohertz) data acquisition processor that interfaces with the applicant's Digital PDP 11/34 computer. The National Institutes of Health advises in its memorandum dated November 23, 1983 that (1) the combination of capabilities of the foreign instrument described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

We know of no other instrument or apparatus of equivalent scientific value to the foreign instrument which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 84-3114 Filed 2-3-84; 8:45 am]

BILLING CODE 3510-DS-M

North Carolina State University; Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897; 15 CFR Part 301). Related records can be viewed between 8:30 a.m. and 5:00 p.m. in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C.

Docket No. 83-291. Applicant: North Carolina State University, Raleigh, NC 27650. Instrument: 2 MKI (low power) Micromanipulators. Manufacturer: Singer Instrument Company Ltd., United Kingdom. Intended use: See notice at 48 FR 40931.

Comments: None received.

Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States.

Reasons: The foreign instrument provides a single control manipulator capable of performing the excursion of dissecting instruments having handles up to 8 millimeters, appropriate for use with a stereoscope with magnifications up to 200X. The National Institutes of Health advises in its memorandum dated November 23, 1983 that (1) the capability of the foreign instrument described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

We know of no other instrument or apparatus of equivalent scientific value to the foreign instrument which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 84-3115 Filed 2-3-84; 8:45 am]

BILLING CODE 3510-DS-M

Desert Research Institute; Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897; 15 CFR Part 301). Related records can be viewed between 8:30 a.m. and 5:00 p.m. in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue NW., Washington, D.C.

Docket No.: 83-252. Applicant: Desert Research Institute, Reno, NV 89512. Instrument: Infrared Gas Analyzer. Manufacturer: Leybold Heraeus West Germany. Intended use: See notice at 48 FR 36505.

Comments: None received.

Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States.

Reasons: The foreign instrument provides the capability to measure both water vapor and CO_2. Since it operates on a 12-volt power supply, it is suitable for field applications. The National Institutes of Health advises in its memorandum dated October 12, 1983 that (1) the capabilities of the foreign instrument described above are pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

We know of no other instrument or apparatus of equivalent scientific value to the foreign instrument which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 84-3117 Filed 2-3-84; 8:45 am]

BILLING CODE 3510-DS-M

University of Alaska; Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897; 15 CFR Part 301). Related records can be viewed between 8:30 a.m. and 5:00 p.m. in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue NW., Washington, D.C.

Docket No.: 83-123. Applicant: University of Alaska, Fairbanks, AK 99701. Instrument: Seven-day Recording Volumetric Spore Trap and Accessories. Manufacturer: Burkard Manufacturing Co., Ltd., United Kingdom. Intended use: See notice at 48 FR 47040.

Comments: none received.

Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States.

Reasons: The foreign instrument provides the capability for active collection of airborne particles (such as pollen and spores) permitting temporarily segmented (e.g. hourly) counts over an unattended period of up to one week. The National Institutes of Health advises in its memorandum dated December 6, 1983 that (1) the capability of the foreign instrument described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

We know of no other instrument or apparatus of equivalent scientific value to the foreign instrument which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 84-3118 Filed 2-3-84; 8:45 am]

BILLING CODE 3510-DS-M

University of Illinois at Urbana-Illinois; Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897; 15 CFR Part 301). Related records can be viewed between 8:30 a.m. and 5:00 p.m. in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C.

Docket No.: 83-334. Applicant: University of Illinois at Urbana-Illinois, Urbana, IL 61801. Instrument: Excimer Multi-Gas Laser, EMG 15OES. Manufacturer: Lambda-Physik, GmbH Co., West Germany. Intended use: See notice at 48 FR 51676.

Comments: None received.

Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States.

Reasons: The foreign instrument can simultaneously generate two later outputs at different wavelengths with an energy output, using KrF (248 nonometers), of 800 millijoules. The National Bureau of Standards advises in its memorandum dated December 9, 1983 that (1) the capability of the foreign instrument described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

We know of no other instrument or apparatus of equivalent scientific value to the foreign instrument which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Material)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 84-3116 Filed 2-3-84; 8:45 am]

BILLING CODE 3510-DS-M

University of Maryland; Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897; 15 CFR Part 301). Related records can be viewed between 8:30 a.m. and 5:00 p.m. in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue NW., Washington, D.C.

Docket No.: 83-280. Applicant: University of Maryland, College Park, MD 20742. Instrument: Mass Spectrometer, Model 7070E. Manufacturer: VG Instruments, United Kingdom. Intended use: See notice at 48 FR 39266.

Comments: None received.

Decision: Approved. No domestic manufacturer was both "able and willing" to manufacture an instrument or apparatus of equivalent scientific value to the foreign instrument for such purposes as the instument was intended to be used, and have it available to the applicant without unreasonable delay in accordance with § 301.5(d)(2) of the regulations, at the time the foreign instrument was ordered (March 28, 1983).

Reasons: The foreign instrument provides a resolution of 25,000 (10% valley definition) and a mass range of at least 3000 amu. The National Institutes of Health advises in its memorandum dated November 23, 1983 that (1) the capability of the foreign instrument described above is pertinent to the applicant's intended purposes and (2) it knows of no domestic manufacturer both willing and able to provide an instrument with the required feature (features) at the time the foreign instrument was ordered.

As to the domestic availability of instruments § 3015.(d)(2) of the regulations provides: " * * * In determining whether a U.S. manufacturer is able and willing to produce an instrument, and have it available without unreasonable delay, the normal commercial practices applicable to the production and delivery of instruments of the same general category shall be taken into account, as well as other factors which in the Director's judgment are reasonable to take into account under the circumstances of a particular case * * *."

Among other things, this subsection also provides: "* * * if a domestic manufacturer is formally requested to bid an instrument, without reference to cost limitations and within a leadtime considered reasonable for the category of instrument involved, and the domestic manufacturer failed formally to respond to the request, for the purposes of this section the domestic manufacturer would not be considered willing to have supplied the instrument."

The regulations require that domestic manufacturers be both "able and willing" to produce an instrument for the purposes of comparison with the foreign instrument. Where an applicant, as in this case, received no response to a formal request for quotation sent to the Nuclide Corporation (the only known domestic manufacturer of comparable mass spectrometers) it is apparent that the domestic manufacturer was either not willing or not able to produce an instrument of equivalent scientific value to the foreign instrument. Accordingly, the Department of Commerce finds that no domestic manufacturer was both "able and willing" to manufacture a domestic instrument for such purposes as the foreign instrument was intended to be used at the time the foreign instrument was ordered.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff

[FR Doc. 84-3119 Filed 2-3-84; 8:45 am]

BILLING CODE 3510-DS-M

National Oceanic and Atmospheric Administration

Revised NOAA Directive Implementing the National Environmental Policy Act and Related Laws and Executive Orders

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of proposed revisions to NOAA Directives Manual 02–10.

SUMMARY: This notice presents proposed revisions to NOAA Directives Manual (NDM) 02–10 which establishes NOAA's procedures for implementing the National Environmental Policy Act of 1969 (NEPA) in compliance with regulations of the Council on Environmental Quality, Executive Order No. 12114 on Environmental Effects Abroad of Major Federal Actions (signed January 4, 1979), and the environmental analysis requirements of other laws affecting NOAA programs. NOAA requests public comment on these revisions. Comments submitted will be considered in preparing the final directive. These changes affect NOAA internal procedures only.

EFFECTIVE DATE: Comments will be accepted until March 22, 1984.

ADDRESS: Comments should be sent to Joyce M. Wood, Chief, Ecology and Conservation Division, Office of Policy and Planning, National Oceanic and Atmospheric Administration, 6800 Herbert Hoover Building, Department of Commerce, Washington, D.C. 20230.

FOR FURTHER INFORMATION CONTACT: Thomas E. Bigford, Ecology and Conservation Division, NOAA, 202–377–5181.

SUPPLEMENTARY INFORMATION: This revision updates the July 24, 1980 (45 FR 49312), version of NDM 02–10. Proposed changes are administrative and procedural improvements intended to enhance NOAA's ability to comply with a variety of legislative mandates and Executive Orders without unnecessarily delaying and duplicating steps in the decisionmaking process while ensuring public involvement in decisionmaking. These improvements result from a better understanding of agency roles and responsibilities relative to NEPA. The revised NDM 02–10 implements experiences gained during a decade of NEPA implementation.

Notable changes in this version of NDM 02–10 include: a list of definitions, explanations, and acronyms; a description of the general environmental analysis process to which proposed actions are subjected; a mechanism through which Line Offices may develop specific criteria to detemine whether proposed actions are significant or non-significant; consideration of NEPA compliance for emergency regulations; new sections on procedures necessary for environmental assessments; and removal of the existing appendices. The environmental analysis process described in para. 4 provides an overview of the basic steps in NOAA's procedures to comply with NEPA, including guidance on when this directive applies and the type of action that may be required by NEPA.

A major reason for proposing these revisions is the agency has at times burdened itself and the public with execessive administrative requirements and time delays. To address these problems, this revision includes in its explanation of "significant" (see subpara. 3q, 13a, and 13b) a new procedure whereby NOAA program managers may propose specific criteria to distinguish "significant" from "non-significant" actions. Those criteria will help NOAA offices determine early in the planning process which actions may be significant and to begin work on the appropriate NEPA document, if any. The criteria used to base such decisions must be approved by NOAA's NEPA office, the Ecology and Conservation Division (ECD) in the Office of Policy and Planning. NOAA anticipates that use of specific criteria will reduce the number of actions deemed to require an Environmental Impact Statement (EIS). At the same time, we expect that this new procedure will not infringe on the quality of NOAA's environmental analysis or on the opportunity for meaningful public involvement but will enable the agency to focus its attention on actions where environmental concerns are substantive. To increase efficiency further, NOAA will rely on related analyses and public reviews associated with the regulatory review process and the requirements of various executive orders and resource management plans to support normal NEPA compliance efforts. These new procedures delegate much of the authority to decide questions such as "significance" to the Line Offices. That approach should save time in agency NEPA compliance efforts. ECD, which will retain its role as the lead NEPA office in NOAA, will make the final decision on applying NDM 02–10 to any agency action.

General guidance on interpretation of the term "significant," previously presented in several sections of NDM 02–10, has been collated in subpara. 13a. This new section will help NOAA offices determine the appropriate course of action for NEPA compliance. NOAA's National Marine Fisheries Service has developed specific criteria (see subpara. 13b) to define "significant" as it relates to fishery management plans. Other NOAA offices may choose to prepare their own criteria at some later date. Any future criteria will be published in the **Federal Register** as amendments to NDM 02–10. As noted above, ECD must approve all specific criteria prior to publication and implementation. The 1983 amendments to the Magnuson Fishery Conservation and Management Act have expanded the scope of emergency regulations in fisheries management. Therefore, subpara. 5d has been added to provide guidance on NEPA compliance for emergency situations. The range of possible emergency actions requires that the guidance in subpara. 5d be more general than in other portions of NDM 02–10.

A section (para. 8) on procedure has been added to describe the steps involved in preparing an environmental assessment (EA). Para. 9 and subpara. 13a discuss the contents of EAs.

All nine appendices included in the existing NDM 02–10 are proposed to be deleted. These appendices specified all NOAA decisionmaking processes with possible NEPA ramifications. The rationale for deleting the appendices is that these processes continually change as NOAA's missions evolve through legislative and administrative developments. Para. 13 now includes subpara. 13a for general guidance on "significant," subpara. 13b for specific criteria applicable to fishery management plans and amendments, and subpara. 13c for sample letters of transmittal for various NEPA documents. The full text of the proposed revised NDM 02–10 follows.

Dated: January 27, 1984.

Samuel A. Lawrence,

Director, Office of Administrative and Technical Services.

02–10 Environmental Review Procedures

(Reference: PP2, 377–5181)

Paragraph

1. Purpose
2. References
3. Definitions, Explanations, and Acronyms
4. Applying the Environmental Analysis Process
5. Type of Environmental Documents Needed to Satisfy NEPA
6. Environmental Analysis of Proposals with Potential International Implications
7. Public Involvement and Scoping
8. EA Preparation and Approval
9. EIS Preparation and Approval
10. Comment on Other Agencies' EISs

11. Integration of NEPA and E.O. 12114 into the NOAA Decisionmaking Process
12. Predecision Referrals to CEQ
13. Appendices
14. Effect on Other Instructions

1. Purpose

a. *Intent of Revision*—This directive revises NOAA's environmental review policies and procedures, 45 FR 49312 (July 24, 1980). The changes are designed to improve efficiency, reduce administrative redundancies, continue the agency's objectives of sound resource management, and maintain informed public involvement in Federal decisionmaking. This directive incorporates all requirements embodied in the NEPA regulations issued by the Council on Environmental Quality (CEQ) at 43 FR 55978 (November 24, 1978) and by the Department of Commerce in its NEPA directive, DAO 216–6 (March 11, 1983). This revision also reiterates provision in the existing NDM 02–10 with respect to the environment outside the United States pursuant to Executive Order No. 12114 on Environmental Effects Abroad of Major Federal Actions, 44 FR 1957 (January 4, 1979) as implemented by the Department of Commerce in Department Administrative Order (DAO) 216–12 (March 11, 1983).

b. *Major Changes*—

(1) Proposed changes are administrative and procedural improvements intended to add efficiency to NOAA's NEPA compliance efforts. These improvements stem from a better understanding of agency roles and responsibilities relative to NEPA. Shifts in agency direction, including new programs, also prompted this review.

(2) Notable changes in this revision include: a detailed list of definitions, explanations, and acronyms (para. 3) with special emphasis on the use of categorical exclusions; description of the general environmental analysis process (para. 4); separate discussions on NEPA procedures for each category of NOAA activity, e.g., management plans, amendments, projects, regulations, emergency regulations, etc. (para. 5); discussions of procedural requirements for environmental assessments (para. 8) and environmental impact statements (para. 9); and special guidance for determining "significance," including criteria applicable to fishery management plan actions (para. 13). The appendices which were included in earlier versions of NDM 02–10 have been deleted to avoid confusion resulting from changes in agency programs and procedures.

2. References and Background

The following laws, regulations, executive orders, and administrative orders are cited in the text of this directive:

a. National Environmental Policy Act of 1969, 42 U.S.C. 4321 *et seq.* (NEPA).

b. CEQ Regulations for Implementing the Procedural Provisions of the National Environmental Policy Act, 40 CFR Parts 1500 to 1508, (November 24, 1978). Cited herein by CFR Part number only, e.g., CEQ sec. 1500.

c. Executive Order No. 12114, Environmental Effects Abroad of Major Federal Actions, 44 FR 1957 (January 4, 1979).

d. Executive Order No. 12291, Federal Regulation, 46 FR 13193 (February 17, 1981).

e. NOAA Administrator's Letter No. 17, Environmental Impact Statements (April 3, 1978).

f. Department Administrative Order 216–6, Implementing the National Environmental Policy Act; (March 11, 1983). (DAO 216–6).

g. Department Administrative Order 216–12, Environmental Effects Abroad of Major Federal Actions (March 11, 1983). (DAO 216–12).

3. Definitions, Explanations, and Acronyms

The following terminology is used in this directive. Most explanations outlined here are derived from regulations and directives listed in para. 2 above, particularly the CEQ NEPA regulations (subpara. 2b). The CEQ regulations should be consulted for more comprehensive explanations. Cross references to relevant CEQ sections are provided after each definition, where appropriate.

a. *Amendment*—a change to either a project or management plan. Each amendment should be accompanied by a brief statement or supported by a notation in the files that a categorical exclusion applies or by further environmental analysis (either an EA, EIS, or Supplemental EIS (SEIS)).

b. *Applicant*—any party that may propose to NOAA an action that should be accompanied by an environmental analysis. Depending on the program, the applicant could be an individual, private organization, State, territory, governmental body, or foreign nation (see subpara. 4b(4)).

c. *Categorical Exclusion (CE)*—decisions granted to certain types of actions which individually or cumulatively do not have the potential to pose significant threats to the human environment and are therefore exempted from both further analysis and requirements to prepare environmental documents (CEQ sec. 1508.4). The main text of this directive presents specific actions and general categories of other actions found to warrant a CE. The responsible program manager (defined below in subpara. 3p) is advised to prepare a memorandum to or notation for the file of his/her determination to use a CE. A notation refers to a brief comment or mark in the NEPA records of a NOAA office. Periodic copies of such records and notations should be sent to ECD. If a memorandum is prepared, a copy should be sent to ECD; in the absence of a memorandum, the RPM shall notify ECD regarding the action. The RPM and ECD can require an EA or EIS for an action normally covered by a CE if the proposed action could result in any signficant impacts as described in subpara. 3q, 13a, or 13b.

d. *Controversial*—refers to a substantial dispute which may concern the nature, size, or environmental effects, but not the propriety, of a proposed action (NOAA General Counsel Opinion No. 101, March 8, 1983).

e. *ECD*—Ecology and Conservation Division in the Office of Policy and Planning, National Oceanic and Atmospheric Administration. The office responsible for ensuring NEPA compliance for NOAA under NDM 02–10 and for the Department of Commerce under DAO 216–6 and DAO 216–12. ECD must give final clearance to all NEPA documents prior to public availability. That clearance authority is exercised by signing the appropriate transmittal letters. ECD also provides general guidance on preparation of environmental documents, approves criteria to determine the appropriate document to be prepared, works with Line Offices to establish categorical exclusions, establishes and/or approves criteria to define "significant," makes itself available for consultations as requested, coordinates NOAA comments on EISs prepared by other Federal agencies, makes predecision referrals to the Council on Environmental Quality, and monitors NOAA activities for NEPA compliance.

f. *Environmental Analysis Process*—the systematic analysis and evaluation applied to all proposed NOAA actions not covered by a categorical exclusion. This analysis could result in the preparation of one or more of the environmental documents listed in subpara. 3h below.

g. *Environmental Assessment (EA)*—a document prepared by a Federal agency which presents a brief analysis of the

environmental impacts of the proposed action and its alternatives, including sufficient evidence to determine that either: (1) An environmental impact statement is required; or (2) a finding of no significant impact should be declared (CEQ sec. 1508.9).

h. *Environmental Document*—an environmental assessment, finding of no significant impact, draft environmental impact statement, supplement to a draft environmental impact statement, final environmental impact statement, supplement to a final environmental impact statement, or a record of decision (CEQ sec. 1508.10).

i. *Environmental Impact Statement (EIS)*—a detailed written report which describes a proposed action, the need for the action, alternatives considered, the affected environment, and the environmental consequences of the proposed action and other reasonable alternatives. An EIS is prepared in two stages, a draft and a final; either stage may be supplemented (CEQ sec. 1508.11).

j. *Finding of No Significant Impact (FONSI)*—a document which declares that an action will not significantly affect the human environment. A FONSI is supported by an environmental assessment (CEQ sec. 1508.13).

k. *Major Federal Action*—an activity, such as a project or program, which may be fully or partially funded, regulated, conducted, or approved by NOAA. "Major" reinforces but does not have a meaning independent of "significant" (see subpara. 3q below). Such major actions require preparation of an environmental document unless covered by a categorical exclusion (CEQ sec. 1508.18). CEQ's definition of "scope" (CEQ sec. 1508.25) should be used to assist determinations of the type of document needed for NEPA compliance.

l. *Management Plan*—a program or policy statement that describes a resource, the need for management, alternative management strategies, possible consequences of such alternatives, and selects recommended management measures. Included, for example, are fishery, sanctuary, and State coastal management plans. Such plans may incorporate an environmental document into a single consolidated package.

m. *Notice of Intent*—a short **Federal Register** announcement of agency plans to prepare an environmental impact statement or to hold a scoping meeting. The notice may be published separately or combined with other announcements (CEQ sec. 1508.22).

n. *Project*—a grant, loan, loan guarantee, land acquisition, construction, license, permit, modification, regulation, or research program for which NOAA is involved in the review, approval, implementation, or other administrative action.

o. *Record of Decision (ROD)*—a concise statement for the public record of the decision on the proposed action, the alternatives considered, the environmentally preferable alternative(s), and whether all practicable means to avoid or minimize environmental harm have been adopted. Addressed in subpara. 11c below (CEQ sec. 1505.2).

p. *Responsible Program Manager (RPM)*—the person with primary responsibility to determine the need for and ensure preparation of any environmental document. The RPM could be the director of a NOAA office, the NEPA compliance coordinator of a Line Office, or a program director in a Line Office (LO). The RPM shall be designated by the Assistant Administrator responsible for the proposed action.

q. *Significant*—a measure of the intensity of effects of a major Federal action on, or the importance of that action to, the human environment (see CEQ sec. 1508.14). "Significant" is a function of the short-term, long-term, and cumulative impacts of the action on that environment. Significance is determined according to the general guidance in subpara. 13a unless specific criteria (e.g., subpara. 13b) are developed by a RPM for actions under the LO's jurisdiction. Determinations of non-significance will be made by the RPM. All specific criteria for "significant" must be approved by ECD and published in the **Federal Register** as amendments to subpara. 13c of NDM 02–10 (CEQ sec. 1508.27).

r. *Supplemental Environmental Impact Statement (SEIS)*—an environmental document prepared to amend an earlier EIS when significant change is proposed beyond the scope of analysis in the original EIS or when significant new circumstances or information arise which could affect the proposed action (CEQ sec. 1502.9). Draft and final SEISs are required when significant changes are proposed to an action after a final EIS has been released to the public.

s. *Acronyms*—The following acronyms are used in this directive:

APA—Administrative Procedure Act
CE—Categorical exclusion
CEQ—Council on Environmental Quality
CFR—Code of Federal Regulations
CZMA—Coastal Zone Management Act
DAO—Department Administrative Order
DSM—Deep Seabed Mining
EA—Environmental assessment
ECD—Ecology and Conservation Division, Office of Policy and Planning
EIS—Environmental impact statement
EO—Executive Order
EPA—U.S. Environmental Protection Agency
ESA—Endangered Species Act
FCMA—Fishery Conservation and Management Act
FMP—Fishery management plan
FONSI—Finding of no significant impact
FR—Federal Register
FWCA—Fish and Wildlife Coordination Act
GC—Office of General Counsel, NOAA
LO—NOAA Line Office
MMPA—Marine Mammal Protection Act
MPRSA—Marine Protection, Research, and Sanctuaries Act
NDM—NOAA Directives Manual
NEPA—National Environmental Policy Act
NOAA—National Oceanic and Atmospheric Administration
OCRM—Office of Ocean and Coastal Resource Management, National Ocean Service, NOAA
OTEC—Ocean Thermal Energy Conversion
ROD—Record of Decision
RPM—Responsible program manager
SEIS—Supplemental environmental impact statement

4. Applying the Environmental Analysis Process

a. *General*—Environmental analysis is the process undertaken by the responsible program manager (RPM) to identify the scope of issues related to the proposed action and to determine the necessary steps for NEPA compliance (CEQ sec. 1500.2). Such an analysis should be undertaken for any major Federal action proposed to be implemented in the United States or by United States citizens outside U.S. jurisdiction.

b. *The Process*—

(1) The environmental analysis process includes all of the actions required by CEQ regulations to comply with NEPA. Briefly, the series of actions is (see Figure 1): (a) Define the proposed action; (b) compare the action and potential environmental consequences to this directive for guidance on the proper type of NEPA document; (c) if appropriate, prepare an environmental assessment (EA); (d) based on the EA, prepare a finding of no significant impact (which ends the NEPA compliance process for nonsignificant actions) or initiate planning for an environmental impact statement (EIS); (e) prior to any work on the EIS, publish a notice of intent to prepare an EIS and a notice of intent to scope key issues in the EIS; (f) prepare a draft EIS; (g) publish the draft EIS, distribute for public comment, and hold a public hearing(s); (h) incorporate comments received into a final EIS; (i) publish and distribute the final EIS for public comment; and (j) release a record of decision summarizing the proposed action and preferred alternative.

(2) This analysis is to be coordinated by the RPM and initiated as early as possible in the planning process, regardless of whether the RPM anticipates the need for an EA or EIS. In the case of uncertainty regarding preparation of the proper environmental documents, early consultation with ECD will assist the RPM in determining the best means for NEPA compliance. Consultation with ECD during the early stages of document preparation should ease review and clearance at later stages of the decisionmaking process.

(3) NEPA compliance may involve preparation of one or more environmental documents. The RPM should consult para. 7, 8, and 9 below regarding scoping and document distribution.

Figure I. The NEPA Process:

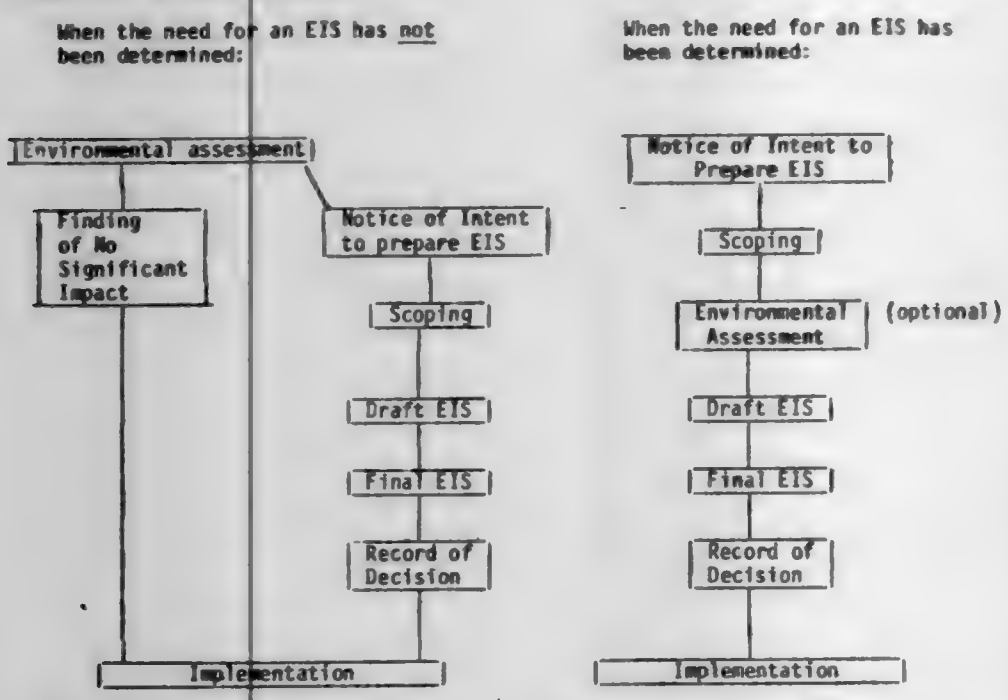

(4) In those cases where actions are planned by Federal or non-Federal agency applicants (defined in subpara. 3b) prior to NOAA involvement, the NEPA coordinator for the appropriate program will, upon request, supply potential applicants with guidance on the scope, timing, and content of any required environmental analysis. Possible programs and actions, plus the NOAA contact for further NEPA guidance, are listed below:

Program	Applicant	NOAA contact
Coastal Zone Management Programs (Sec. 306, CZMA).	Coastal States, Territories and Commonwealths.	National Ocean Service, Office of Ocean and Coastal Resource Management (OCRM), NEPA Compliance Coordinator.
National Marine Sanctuaries (Title III, MPTRA).	States, private individuals and organizations.	National Ocean Service, OCRM, NEPA Compliance Coordinator.
Estuarine Sanctuaries and Beach Access Acquisition (Sec. 315, CZMA).	States	National Ocean Service, OCRM, NEPA Compliance Coordinator.
Coastal Energy Impact Program (Sec. 308, CZMA).	Coastal States and local governments	National Ocean Service, OCRM, NEPA Compliance Coordinator.
Fishery Management Plans (Sec. 305, FCMA).	Regional Fishery Management Councils or National Marine Fisheries Service.	National Marine Fisheries Service headquarters, NEPA Coordinator.
Regulations, Permits and Waivers under the MMPA (Secs. 101(a)(2), 101(a)(3), and 104, MMPA).	Private parties, scientific institutions, commercial fishermen, and foreign nations.	National Marine Fisheries Service, Office of Protected Species and Habitat Conservation.
Deep Seabed Mining Licenses and Permits (DSM).	Private industry	National Ocean Service, OCRM, NEPA Compliance Coordinator.
Ocean Thermal Energy Conversion Licenses (OTEC).	Private industry	National Ocean Service, OCRM, NEPA Compliance Coordinator.

(5) RPMs should consult this directive when their involvement in an action proposed by State or local agencies or Indian tribes is reasonably foreseeable and could be a major Federal action.

(6) RPMs should also consult with ECD and this directive before communicating with other Federal agencies regarding whether and to what extent NOAA will become involved in developing proposals for such agencies, or in the preparation of environmental analyses or documents initiated by such agencies.

(7) When a proposed action involves several organizational units in NOAA, the RPMs should determine which manager should take the lead role in environmental analyses and the responsibility for preparation of any environmental document.

(8) Where disagreements arise regarding NOAA's NEPA procedures for any action, ECD will make the final decision. A complete statement of ECD's authorities and functions is presented in subpara. 3e above. All of those ECD roles may be used to support NOAA's environmental analyses.

c. *Terminating the Process*—NOAA may stop the environmental analysis process at any stage if program goals shift, support for a proposed action diminishes, the original analysis becomes outdated, or other special circumstances prevail. If a draft EIS has already been prepared and filed with EPA, the chief, ECD, must be notified by the RPM of any contemplated termination of the environmental analysis prior to completion of the final EIS. If the environmental analysis process is terminated, the final EIS will not be prepared. After RPM approval and ECD notification, the termination must be announced in the Federal Register. Such terminations should be explained in writing by the RPM office through ECD to EPA so that EPA may withdraw the draft EIS and close its file on the subject action. In addition, for supplemental documents only, CEQ will be notified by ECD if the process stops after issuance of a draft supplemental EIS but before issuance of the final.

5. Type of Environmental Documents Needed to Satisfy NEPA

The procedures for complying with domestic laws, regulations, executive orders, and administrative orders differ depending on whether the proposed action is a management plan, an amendment to a plan, a research project or regulation, or an emergency regulation. See para. 6 below for guidance on NEPA compliance for

international treaties, commissions, and compacts.

a. *Management Plans*—Management plans require either an EA or EIS; a CE does not apply to management plans unless an EA or EIS has already been prepared on the proposed action.

(1) Requires an EA but not necessarily an EIS—All management plans require an EA unless the RPM decides to proceed directly with an EIS. Plans that are significant based on subpara. 3q above, general criteria in (subpara. 13a), and any specific criteria (subpara. 13b) will require an EIS.

(2) Requires an EIS—RPMs who determine that a proposed major action is significant may choose between options (a) and (b) below.

(a) Separate EIS and Management Plan—With this approach, the EIS would be prepared as a separate document and not be incorporated into the related management plan. Cross references between the EIS and management plan are encouraged to minimize redundancies between texts. The EIS must comply fully with the CEQ NEPA regulations, including requirements for contents and administrative procedures. The plan and EIS may be printed under the same cover.

(b) Consolidated EIS and Management Plan—EIS contents may be combined with the contents of related management plans to yield a single "consolidated" document. These documents must still satisfy the CEQ NEPA regulations and all requirements for plan and EIS contents and administrative procedures but need not be prepared according to the CEQ recommended outline for EISs. Instead, the consolidated document should contain a detailed table of contents identifying required sections of the EIS. ECD must still clear the NEPA aspects of each consolidated document since the document serves as an EIS as well as a management plan. Similarly, all consolidated documents must be filed at EPA and follow the normal administrative procedures for any EIS, including public review.

(3) Categorical Exclusion—No management plan may receive a categorical exclusion, i.e., all plans must be accompanied by an EA or EIS. However, regulations to implement a plan, such as sanctuary or fishery management regulations, are categorically excluded from further NEPA documentation (see subpara. 5c(3)(f) below). Management plans that address an action covered by a previous EIS or EA and that do not expand upon the original proposal can receive a categorical exclusion.

(4) Other NEPA Approaches:

(a) Cooperative Document Preparation:

(i) NOAA programs shall cooperate with State and local agencies to the fullest extent possible to reduce duplication in document preparation. Such cooperation shall include, where possible, joint planning, joint environmental research, joint public hearings, and joint environmental documents (CEQ sec. 1506.2(b)). NOAA should work with the appropriate State or local agencies as joint lead agency in fulfilling the intent of NEPA.

(ii) Like documents prepared solely by a NOAA office, jointly prepared documents shall discuss any inconsistencies of a proposed action with any approved State or local plan or law (CEQ sec. 1506.2(d)).

(b) Adoption of Other Federal Documents:

(i) NOAA programs may adopt an EA, draft EIS, or final EIS or portion thereof prepared by another Federal agency if that document or the adopted portion satisfies the standards of the CEQ regulations and this directive.

(ii) When adopting, NOAA is not required to recirculate the document except as a final EIS. If the actions covered by the document are changed in a potentially significant manner, the document should be circulated as a draft and final (CEQ sec. 1506.3).

(iii) NOAA programs cannot adopt final decisions presented in documents prepared by other agencies. RPMs should prepare a new finding of no significant impact (FONSI) if adopting an EA or a new record of decision (ROD) if adopting an EIS.

b. *Amendments to Management Plans and Regulatory Revisions*—An EA or supplemental EIS may be necessary when an amendment is proposed or when additional relevant information affecting the analysis becomes available. All amendments, except those receiving a categorical exclusion, require an EA or EIS. Revisions of regulations may require an EA or EIS if such revisions are not addressed in a management plan amendment or related NEPA document. If the RPM has doubt concerning significance, an EA will be used to determine whether a finding of no significant impact (FONSI), SEIS, or an EIS is appropriate. Criteria included in subpara. 13a and 13b may aid in determining the significance of amendments. ECD is available for consultation on these determinations.

(1) Requires an EA but Not Necessarily an EIS:

(a) Amendments not determined to merit a CE require an EA unless the RPM decides to proceed directly with an EIS. If the EA reveals that no new significant impacts will result from the amendment, the RPM may prepare a FONSI, integrate it with the EA, and follow the procedures set forth in para. 8 below. If the EA reveals significant impacts that may or will differ in context or intensity from those described in the previously published EA or EIS on the action being amended, preparation of a SEIS or new EIS will be required.

(b) Examples of actions requiring, at minimum, an EA are amendments to coastal management and fishery management plans where such amendments could result in impacts which differ significantly in subject or intensity from those described in a previous EA or EIS published on the action.

(c) When circumstances change or information becomes available bearing on the impacts of an action addressed in a previously published EA or final EIS, the circumstances or information will be reviewed by the RPM to determine whether an EA or an EIS should be prepared.

(2) Requires a New or Supplemental EIS—Amendments which do not result in a FONSI, as determined on a case-by-case basis according to subpara. 5b(1) above or that may be reasonably expected to result in new and significant impacts, require preparation of either a new or supplemental EIS (based on the extent of new impacts). The guidelines for determining the need for a new or supplemental EIS are the same as for an initial EIS (see subpara. 3q, 13a, and 13b). Direct, indirect, and cumulative effects of related actions (CEQ sec. 1508.8) must be considered.

(3) Categorical Exclusion:

(a) Amendments falling within the range or scope of alternatives addressed in a previous EA or EIS do not require preparation of an additional environmental document if the analysis in the initial document is determined by the RPM to be valid and complete. Similarly, amendments falling within one of the general categories described in subpara. 5b(3)(b) below may also receive a CE. If a CE is determined to be appropriate, a memorandum or notation should be prepared for the files with a copy to ECD.

(b) Examples of CEs for amendments include the following:

(i) Routine administrative actions. Ongoing or recurring actions with limited potential for effect on the human environment, such as:

(aa) Reallocations of yield within the scope of a previously published fishery management plan.

(bb) Combining management units in related fishery management plans.

(ii) Actions of limited size or magnitude. Actions which do not result in a significant change in the original environmental action such as:

(aa) Minor technical additions, corrections, or changes to a management plan or regulation.

(bb) Extension of the time in effect of a management plan or regulation.

(4) Other NEPA Approaches—LO's may cooperate with State or local agencies on a joint environmental document (see above, subpara. 6a(4)(a)) or adopt a document prepared by another Federal agency (subpara. 6a(4)(b)).

c. *Projects and Other Actions*—NOAA is involved in some actions generally categorized as projects. These include but are not limited to: funding and budget decisions; preproposal actions; regulations; research programs; and actions on permits and licenses. Requirements for environmental analysis for these activities are described below.

(1) Requires an EA but not necessarily an EIS:

(a) Projects that may have significant impacts should be subject to an EA unless the RPM determines that an EIS will be prepared. If an EA is prepared, that assessment will determine if in fact significant impacts may occur. The general criteria in subpara. 13a may aid RPM decisions on significance.

(b) The ultimate decision of whether to prepare an EIS hinges on the specific proposed action, the guidance in subpara. 13a and 13b, and CEQ sec. 1501.4.

(c) The following types of actions fall within this category.

(i) Financial assistance awards for land acquisition or construction, such as those administered under the Coastal Energy Impact Program (CEIP), where such actions may result in significant impacts.

(ii) Promulgation of regulations (except as covered in 5c(3)(f)), policies, or criteria for entire programs, i.e., not single actions (addressed in subpara. 5c(3)(f) below) but program-wide actions or procedures with a potential effect on the human environment. Includes, but is not limited to regulations for national marine and estuarine sanctuaries, fishery management, deep seabed mining, ocean thermal energy conversion, and coastal management.

(iii) Acquisition, construction, or modification of new facilities budgeted by NOAA or major relocations of NOAA personnel undertaken for programmatic reasons.

(iv) Other actions, including research, that may have significant environmental impacts (DAO 216–6).

(v) Proposals for legislation, as defined in CEQ sec. 1508.17.

(2) Requires an EIS—An EIS is required for major Federal projects or actions determined by the RPM to be significant (subpara. 3q, 13a, and 13b). The RPM may proceed directly to an EIS without preparing an EA. These projects or actions include the following.

(a) Major new projects or programmatic actions that may significantly affect the environment.

(b) Actions required by law to be subject to an EIS, such as an application for any license for ownership, construction, and operation of an ocean thermal energy conversion facility or plantship or for a deep seabed mining license or permit.

(c) Research projects, activities, and programs when any of the following may result:

(i) Research is to be conducted in the natural environment on a scale at which substantial air masses are manipulated (e.g., extensive cloud-seeding experiments), substantial amounts of mineral resources are disturbed (e.g., experiments to improve ocean sand mining technology), substantial volumes of water are moved (e.g., artificial upwelling studies), or substantial amounts of wildlife habitats are disturbed;

(ii) Either the conduct or the reasonably foreseeable consequences of a research activity would have a significant impact on the quality of the human environment (DAO 216–6);

(iii) Research that is intended to form a major basis for development of future projects (e.g., Project Stormfury cloudseeding) which would be considered major actions significantly affecting the environment under this directive (DAO 216–6); or

(iv) Research that involves the use of highly toxic agents, pathogens, or non-native species in open systems.

(d) Federal plans, studies, or reports prepared by NOAA that would likely determine the nature of future major actions to be undertaken by NOAA or other Federal agencies that would significantly affect the quality of the human enviroment.

(e) Proposals for legislation, as defined in CEQ sec. 1508.17, which require the preparation of a legislative EIS accordance with CEQ or DAO 216–6.

(3) Categorical Exclusions—The following categories of projects or other actions do not normally have the potential for a significant effect on the human environment and are therefore exempt from the preparation of either an EA or an EIS. Refer to subpara. 3c for general guidance. When several similar actions, each worthy of an EA, are anticipated, a generic memorandum to the file may be submitted instead of a separate memorandum for each action.

(a) Research—Programs or projects of limited size and magnitude or with only short-term effects on the environment. Examples include natural resource inventories and environmental monitoring programs conducted with a variety of gear (satellite sensors, fish nets, etc.) in water, air, or land environs. Such projects may be conducted in a wide geographic area without need for an environmental document provided related environmental consequences are limited or short-term.

(b) Financial and Planning Grants—Financial support services, such as a Saltonstall-Kennedy grant, fishery loan or grant disbursement under the Fishermen's Contingency Fund or Fishing Vessel and Gear Compensation Fund, or a grant under the Coastal Zone Management Act where no environmental consequences are anticipated beyond those already analyzed in establishing such programs, laws, or regulations. If no initial analysis was prepared, this section would not require preparation of a retroactive environmental document. New financial support services and programs should undergo an environmental analysis at the time of conception to determine if a categorical exclusion could apply to subsequent actions.

(c) Minor Planning Activities—Projects where the proposal is for an impact amelioration action such as planting dune grass or for minor project changes, restoration or rehabilitation projects, or improvements such as adding picnic facilities to a coastal recreation area unless such projects in conjunction with other related actions may result in a cumulative impact (CEQ sec. 1508.7).

(d) Pre-proposal Actions—Actions before a proposal exists do not require any NEPA analysis. A "proposal" exists at that stage in the development of an action when an agency subject to NEPA has a goal and begins its decisionmaking process, including consideration of environmental impacts, toward realization of that goal (CEQ sec. 1508.23).

(e) Programmatic Functions—The following NOAA programmatic functions with no potential for significant environmental impacts are generally exempt from the environmental documentation requirements of NEPA: Routine

experimental procedures; program plans and budgets; mapping, charting, and surveying services; ship support; fisheries financial support services; basic research or research grants except as provided below in subpara. 5c (3); enforcement operations; basic environmental services, such as weather observations, communications, analyses, and predictions; environmental satellite services; environmental data and information services; air quality observations and analysis; support of international global atmospheric and Great Lakes research programs; executive direction; administrative services; and administrative support of the National Advisory Committee on Oceans and Atmosphere and other advisory bodies.

(f) Regulations Implementing Projects or Plans—When an EA or EIA has been or will be prepared for specific projects or plans serving as the basis for the following activities, implementation of regulations associated with the following actions will receive a categorical exclusion: implementation of regulations for coastal zone management programs, national estuarine or marine sanctuaries, and fishery management plans; regulations and waivers issued pursuant to sec. 101(a)(2), 101(a)(3) of the MMPA.

(g) Permits—Permits for scientific research and public display under the ESA and MMPA and grants under the MMPA.

(h) Listing actions under sec. 4(a) of the ESA. Listing, delisting and reclassifying species and designating critical habitat.

(i) Other categories of actions which would not have significant environmental impacts, including routine operations, routine maintenance, actions with short-term effects, or actions of limited size or magnitude.

d. *Emergency Actions*—

(1) Emergency actions promulgated: (a) To implement management plans, e.g., fishery management plans, or amendments to management plans; (b) to establish or implement projects, e.g., coastal energy impact programs; or (c) to take other actions, e.g., fishery management actions without a fishery management plan, are subject to the same NEPA requirements as are non-emergency plans, projects, and actions. Emergency actions are subject to the environmental analysis process outlined in para. 4, to the requirements and guidance of para. 5 concerning the type of environmental documents needed to satisfy NEPA, and to the requirements for public involvement and scoping set forth in para. 7. If time constraints limit compliance with any aspect of the environmental analysis process, the RPM should contact ECD to determine alternative approaches.

(2) the RPM will determine whether an EA or an EIS will be prepared for emergency actions. The emergency action may be categorically excluded if the RPM determines that it meets the same criteria for "major," "significant," and "controversial" that apply to "non-emergency" actions. In the event of uncertainty regarding the necessary environmental document for an emergency action or whether it is categorically excluded, the RPM is advised to consult with ECD as early as possible regarding the appropriate course of action.

(3) Those emergency actions which are determined by the RPM: (a) To require an EA leading to a finding of non-significance, or (b) to be categorically excluded, will not be delayed by any time constraints or requirements established by NEPA or this directive. If the RPM determines that the emergency action is major and significant, and requires the preparation of an environmental impact statement, the RPM will also determine: (c) Whether the requirements associated with EIS preparation, filing, and public review would delay implementation of the emergency action, and (d) whether such delay is detrimental to achieving the objectives of the action. If preparation of EIS would not delay the emergency action sufficiently to prevent attaining the objectives of the action, an EIS will be prepared and associated procedures must be satisfied before emergency actions become effective. If the RPM determines that time or other restrictions may limit attaining the objectives of the emergency action, the RPM should ask ECD to consult CEQ about alternative arrangements. Such arrangements must be in accordance with the CEQ guidance on emergencies (sec. 1506.11) and will be limited to action necessary to control the immediate impacts of the emergency. Other actions remain subject to NEPA requirements and review.

6. Environmental Analysis of Proposals with Potential International Implications

a. *General*—The provisions of this directive will apply to NOAA activities, or impacts thereof, which occur outside the territory of the United States, or which may affect resources not subject to the management authority of the United States, as addressed by Executive Order No. 12114 and DAO 216–12. Specifically, except as provided in subpara. 6b below, the provisions of this directive will be followed with respect to the following categories of NOAA actions.

(1) Major Federal actions significantly affecting the environment of the global commons outside the exclusive jurisdiction of any nation, e.g., the oceans, the atmosphere, the deep seabed, or Antarctica;

(2) Major Federal actions significantly affecting the environment of a foreign nation not participating with the United States and not otherwise involved in the action;

(3) All other major Federal actions significantly affecting the environment of a foreign nation, including, but not limited to, those that provide to that nation:

(a) A product and/or a principal product, emission, or effluent which is prohibited or strictly regulated by Federal law in the United States because its toxic effects on the environment create a serious public health risk; or

(b) A physical project which in the United States is prohibited or strictly regulated by Federal law to protect the environment against radioactive substances; and

(4) Major Federal actions outside the United States, its territories, and possessions which significantly affect natural or ecological resources of global importance designated for protection by the President under the provisions of Executive Order No. 12114, or, in the case of such a resource protected by international agreement binding on the United States, by the Secretary of State. With regard to marine resources, "outside the United States" is defined as outside the 200-mile fishery conservation zone and 200-mile exclusive economic zone.

b. *Constraints*—

(1) Environmental documents on actions subject to this section should be as complete and detailed as possible under the circumstances. In undertaking an environmental analysis of activities or impacts which occur outside the United States, it may on occasion be necessary to limit the circulation, timing, review period, or the detail of an EA or EIS for one or more of the following reasons:

(a) Diplomatic considerations;

(b) National security considerations;

(c) Relative unavailability of information;

(d) Commercial confidentiality; and

(e) The extent of NOAA's role in the proposed activity.

(2) Except with respect to those actions described in subpara. 6a(1), when the above factors indicate that full compliance with the substantive and

procedural requirements applicable to the publication of environmental documents would not be possible for the reasons specified above in subpara. 6b(1) (a), (b), (c), and (d), consideration may be given to the preparation of:

(a) Bilateral or multilateral environmental studies, relevant or related to the proposed actions, by the United States and one or more foreign nations, or by an international body or organization in which the United States is a member or participant;

(b) Concise reviews of the environmental issues involved, including environmental assessments, summary environmental analyses, or other appropriate documents.

(3) RPM's in consultation with the Chief, ECD, and the NOAA General Counsel (GC), will decide whether an EA or EIS should be prepared on an action pursuant to this section.

c. *Special Efforts*—Certain activities having environmental impacts outside the United States require special efforts because of their international environmental significance. These include activities mentioned in subpara. 6a above and those which:

(1) Threaten natural or ecological resources of global importance or which threaten the survival of any species;

(2) May have a significant impact on any historic, cultural, or national heritage or resource of global importance; or

(3) Involve environmental obligations set forth in an international treaty, convention, or agreement to which the United States is a party.

d. *Consultation*—In preparing an environmental document for an activity which may affect another country or which is undertaken in cooperation with another country and will have environmental effects abroad, the RPM will consult with ECD both in the early stages of document preparation (in order to determine the scope and nature of the environmental issues involved) and in connection with the results and significance of such documents, except when the factors listed above in sec. 6b(1) (a), (b), or (d) would indicate otherwise. ECD and NOAA GC will consult, as appropriate, with other offices in the Department of Commerce, CEQ, and Department of State when proposed activities are likely to involve substantial policy considerations regarding the proposed action or its environmental consequences. In the process of consulting with foreign officials, every effort must be made to take into account foreign sensitivities and to understand that one of NOAA's objectives in preparing environmental documents in cases involving environmental effects abroad is to provide environmental information to foreign decisionmakers, as well as to responsible NOAA officials. Finally, NOAA's efforts in preparing environmental documents pursuant to this section will be directed, in part, toward strengthening the ability of other countries to carry out their own analyses of the likely environmental effects of proposed actions.

7. Public Involvement and Scoping

a. *General*—RPMs must make every effort to involve the public early in the development of a proposed action and to ensure that public concerns are adequately considered in the decisionmaking process. Public involvement may be solicited through participation in advisory groups, invitation to meetings and hearings, solicitation of comments on draft and final documents, and regular contacts as appropriate. Interested persons may obtain information and status reports on EAs, EISs, and other elements of the environmental review process from the RPM or the Chief, ECD. RPMs will be guided by CEQ sec. 1506.6 and by NOAA Directive 21-25, Release of Mission Information and Responses to Freedom of Information Act Requests, in providing adequate public involvement in the environmental review process.

b. *Scoping*—Scoping is "an early and open process for determining the scope of issues to be addressed and for identifying the significant issues related to a proposed action" (CEQ sec. 1501.7). The fullest practicable public participation and interagency consultation will be sought to ensure the early identification of significant environmental issues related to a proposed action. Usually scoping is conducted shortly after a decision is made to prepare an EIS. However, scoping may be used during the EA process to help determine the need for an EIS. Scoping and public involvement may be satisfied by many mechanisms, including planning meetings, public hearings, and solicitations for comments on discussion papers and other versions of decision and background documents.

c. *Notice of Intent*—

(1) Scoping officially begins with **Federal Register** publication of a "notice of intent" to prepare an EIS (CEQ sec. 1501.7) but may in practice begin prior to said notification, i.e., meetings during the preliminary stages of program development or to identify issues related to a proposed action. The notice should be published as soon as practicable after the need for an EIS has been determined. The notice must include (CEQ sec. 1508.22):

(a) The proposed action and possible alternatives.

(b) NOAA's proposed scoping process including any meetings to be held.

(c) The name and address of the agency contact for further information who can answer questions about the proposed action and the EIS.

(3) When there is likely to be a lengthy period between the decision to prepare an EIS and an actual preparation of the draft EIS, publication of the notice of intent may be delayed until a reasonable time in advance of preparation of that draft EIS.

(4) If a RPM decides not to pursue a proposed action after a notice of intent has been published, a second notice should be published to inform the public of the change.

(5) The notice of intent may be combined with similar notices required for preparation of other documents. This will minimize redundancy while still notifying the public of prospective actions.

d. *Scoping Process*—As part of the scoping process, the actions described in CEQ sec. 1501.7 (a) and (b) shall be fulfilled when appropriate; CEQ subsection 1501.7(b) is not mandatory. If the proposed action has already been subject to a lengthy development process which has included early and meaningful opportunity for public participation, those prior activities can be substituted for this requirement. Scoping meetings should inform interested parties of the proposed action and alternatives and serve as a mechanism to receive comments on that action. Written and verbal comments must be accepted during the waiting period after publication of the notice of intent and must be considered in the environmental analysis process. The scoping process will include, where relevant, consideration of the impact of the proposed action on floodplains and wetlands, as described in NOAA Directive 02-12, and on National Trails and Nationwide Inventory of Rivers, as required by Presidential Directive dated August 2, 1979, and will include the consultation with the Advisory Council on Historic Preservation required by 36 CFR Part 800.

8. EA Preparation and Approval

a. *Purpose*—

(1) The purpose of an environmental assessment (EA) is to determine whether significant environmental impacts could result from a proposed action. If the action is determined not to be significant, the EA and resulting finding of no significant impact (FONSI) will be the final environmental

documents required by NEPA. If the EA reveals that significant environmental impacts may be reasonably expected to occur, then an EIS will be prepared. The contents of an EA are discussed in CEQ sec. 1508.9.

(2) The EA should serve to:

(a) Briefly provide sufficient evidence and analysis for determining whether to prepare an EIS or a FONSI;

(b) Facilitate preparation of the EIS. The EA must include brief discussions of the need for the action, of alternatives as required by sec. 102(2)(e) of NEPA, of environmental impacts of the proposed action and alternatives, and a listing of agencies and persons consulted.

(3) The environmental analysis in the EA provides the basis for determining whether or not the proposed action is significant. Therefore, the EA should consider those factors outlined in subpara. 13a and 13b. Additionally, an EA must assess whether the action significantly and adversely affects floodplains or wetlands (NOAA Directive 02–12) and trails and rivers listed, or eligible for listing, on the National Trails and Nationwide Inventory of Rivers (Presidential Directive, August 2, 1979).

b. *Review and Clearance*—

(1) An EA not leading to an EIS, i.e., where a FONSI is made, shall be submitted by the RPM to the Chief, ECD, for NOAA review and clearance prior to public availability. The FONSI, which must be attached to or incorporated with the EA, notifies reviewers that the environmental impacts of the proposed action have been determined by the RPM to be nonsignificant for NEPA purposes. For NOAA review and clearance, the RPM should submit to the Chief of ECD for signature one copy of the EA and the original letter to reviewers (details on the format and content of the letter are included in subpara. 13d and 13e).

(2) EAs should be submitted to ECD at least three days prior to the requested clearance date; less time may be sufficient when ECD has reviewed early versions of the EA. After NOAA clearance by ECD, the RPM may publish a notice of availability in the **Federal Register** for those EAs with national implications or of broad interest to the public. Similarly, when EAs address unusual or new actions, the RPM may, at his or her discretion, provide up to 30 days public review. The RPM may consult with ECD to arrange alternative procedures for providing public involvement, including various combinations of notices and mailings (see CEQ sec. 1506.6). In certain circumstances, the Chief, ECD, in consultation with the RPM may require that the proposed action not be taken until 30 days after the notice of availability has been published. These circumstances include those where significant reservations based on environmental concerns have been expressed by consulting agencies or the public.

c. *Significant Action*—Where the proposed action is found to be potentially significant, the RPM may proceed directly with preparation of an EIS without submitting the EA for NOAA approval. Early review of draft discussion papers by ECD may help to avoid future problems and to expedite subsequent review of the EIS (see para. 9 below).

9. EIS Preparation and Approval

a. *Purpose*—Should a determination be made by the RPM that significant environmental impacts could result from a proposed action, a discussion paper will be prepared in accordance with CEQ sec. 1502.10–1502.18 on format and content. The cover of this document must clearly state whether it is a separate EIS or an EIS consolidated with a management plan, and whether the document supplements an earlier EIS. For general guidance on EIS procedures, refer to CEQ sec. 1502. Note that NOAA (Administrator's Letter No. 17) and CEQ (CEQ sec. 1502.14(e)) policy requires identification of preferred alternative in the draft EIS whenever such preferences exist and identification in final EIS unless another law prohibits the expression of such a preference.

b. *Review and Clearance*—

(1) The discussion paper, modified as necessary by the RPM in response to comments received from ECD and other appropriate NOAA offices, constitutes the EIS. One copy of the draft EIS and two letters, one filing the draft or final EIS with the Environmental Protection Agency (EPA) and one transmitting it to all other reviewers, must be prepared by the RPM for the signature of the Chief, ECD. Copies of letter formats are attached at the end of this directive. After these letters are signed by the Chief, ECD, the originating RPM will take all further actions, including filing the document at EPA and distributing it to interested parties.

(2) The deadline for ECD receipt of draft and final EISs submitted for clearance is five days prior to filing at EPA; less time may be sufficient in those cases where ECD has reviewed the discussion paper. The absolute deadline for filing at EPA is 3:00 p.m. each Friday. Five copies of draft and final EISs are required by EPA headquarters at filing unless the proposed action affects more than one EPA region or the document is a programmatic EIS (an EIS on an entire program, e.g., deep seabed mining or the "next radar" system called NEXRAD, that could affect a large part of the nation), in which case more copies are required. Specific guidance on the number of EISs needed for filing is available from ECD upon request. An equivalent number of any source documents, appendices, or other supporting analyses must also be submitted to EPA at filing. All EIS copies submitted to EPA must be identical in form and content to the copies distributed to the public and other interested parties. Once filed, EPA will prepare a "notice of availability" that will be published in the **Federal Register** on the Friday following the Friday of the week filed. All public review and "cooling off" periods begin the day of publication of that notice of availability. No review period should end on a weekend or holiday. Concurrent to filing, copies of the draft EIS and general transmittal letter must be sent to all Federal, State, and local government agencies, public groups, and individuals who may have an interest in the proposed action. Copies of the final EIS should be sent to parties who commented on the draft, individuals or groups specifically requesting a copy, and others as determined by the RPM. Source documents, appendices, and other supporting information should be circulated to the public when the RPM determines that reviewers would benefit from the additional information. The EIS and related documents must be made available for public inspection at locations deemed appropriate by the RPM.

(3) The public comment period on draft EISs must be at least 45 days, unless specific exemption is granted by CEQ through ECD. Final EISs must incorporate comments received during the public review period of the draft EIS. The "cooling off" period on final EISs is 30 days, unless an exemption is granted by CEQ through ECD.

(4) A supplemental EIS may be required in certain cases pursuant to CEQ sec. 1502.9(c) (1) and (2). Supplemental EISs shall be prepared, circulated, and filed as prescribed by CEQ sec. 1502.9(c)(4) and in accordance with subpara. 9a to 9d of this directive. If a supplemental EIS is prepared, it must be introduced into any administrative record on the proposed action and distributed as described above in subpara. 9c. The transmittal letters to EPA and the public must state the title and publication date of the earlier document to which the supplement relates.

(5) In certain cases, usually characterized by pending resource emergencies, negative socio-economic impacts, or threats to human health and safety, the RPM may request ECD assistance in shortening the review and "cooling off" periods.

10. Comments on Other Agencies' Environmental Impact Statements

NEPA requires that EISs be submitted for review to any Federal agency which has jurisdiction by law or special expertise over the resources potentially affected. The Chief, ECD, is responsible for coordinating Department of Commerce review of and comments on other agencies' EISs and will forward all comments to those agencies. Copies of the EIS and a letter noting the deadline for receipt of comments will be sent to appropriate Department elements by ECD. Guidance in the preparation of these comments is available in CEQ sec. 1503.3, NOAA Administrator's Letter No. 17, and from ECD.

11. Integration of NEPA and E.O. 12114 Into the NOAA Decisionmaking Process

a. *Inclusion of Environmental Documents in the Decisionmaking Process*—Environmental documents prepared in accordance with this directive must accompany any other decision documents in the NOAA decisionmaking process. The alternatives and proposed action identified in all such documents must correspond. Any environmental document prepared on a proposal will be part of the administrative record of any decision, rulemaking, or adjudicatory proceedings which may be held on that proposal.

b. *Production of Environmental Documents for NOAA Programs*—Environmental documents should be prepared at the earliest practicable time so that the environmental review process will run concurrently with and be integrated into NOAA decisionmaking.

c. *Record of Decision*—The final EIS, final regulations, or a separate Federal Register notice must clearly present NOAA's preferred alternative(s) in a record of decision (ROD) for public review and comment. The ROD shall contain the elements enumerated in CEQ sec. 1505.2.

12. Predecision Referrals to CEQ of Proposed Actions Determined to be Environmentally Unsatisfactory

RPMs will notify the Chief, ECD, of Federal actions by other agencies believed to be environmentally unsatisfactory, i.e., worthy of a "referral," pursuant to CEQ sec. 1504.3. The Chief, ECD, will recommend referrals to the Administrator of NOAA. ECD will work closely with the RPMs to prepare the letters and support materials required in the referral process.

13. Appendices

a. *General Guidance for Defining Significance*—

(1) As required by sec. 102(2)(c) of NEPA and CEQ sec. 1502.3, environmental impact statements (EISs) are to be prepared for every recommendation or report on proposals for legislation and other "major Federal actions" significantly affecting the quality of the human environment. Federal management plans, plan amendments, actions, or projects which will or may cause a significant impact on the human environment require preparation of an EIS.

(2) "Major Federal action" includes actions with effects that may be major and which are potentially subject to Federal control and responsibility. "Major" reinforces but does not have a meaning independent of "significant." "Actions" include: new and continuing activities, including projects and programs entirely or partly financed, assisted, conducted, regulated, or approved by Federal agencies; new or revised agency rules, regulations, plans, policies, or procedures; and legislative proposals. Refer to CEQ sec. 1508.18 for additional guidance.

(3) "Significant" requires consideration of both context and intensity. Context means that significance of an action must be analyzed with respect to society as a whole, the affected region and interests, and the locality. Both short-and long-term effects are relevant. Intensity refers to the severity of the impact. The following factors should be considered in the environmental analysis process in evaluating intensity:

(a) Impacts may be both beneficial and adverse;

(b) Degree to which public health or safety is affected;

(c) Unique characteristics of the geographic area;

(d) Degree to which effects are likely to be highly controversial;

(e) Degree to which effects are highly uncertain or involve unique or unknown risks;

(f) Degree to which the action establishes a precedent for future actions with significant effects or represents a decision in principle about a future consideration;

(g) Individually insignificant but cumulatively significant impacts;

(h) Degree to which the action adversely affects entities listed in or eligible for listing in the National Register of Historic Places, or may cause loss or destruction of significant scientific, cultural, or historic resources;

(i) Degree to which endangered or threatened species, or their habitat, are adversely affected; and

(j) Whether a violation of Federal, State, or local law for environmental protection is threatened.

Refer to CEQ sec. 1508.27 for additional guidance.

(4) "Affecting" means will or may have an effect (CEQ sec. 1508.3). "Effects" include direct, indirect, or cumulative effects of an ecological, aesthetic, historic, cultural, economic, social, or health nature (CEQ sec. 1508.8).

(5) "Legislation" includes a bill or legislative proposal to Congress developed by or with the significant cooperation and support of a Federal agency, but does not include requests for appropriations (CEQ sec. 1508.17). The NEPA process for proposals for legislation significantly affecting the quality of the human environment shall be integrated with the legislative process of the Congress (CEQ sec. 1506.8).

(6) "Human environment" includes the relationship of people with the natural and physical environment. Economic or social effects are not intended by themselves to require preparation of an EIS. An EIS will discuss interrelated economic, social, and natural or physical environmental effects (CEQ sec. 1508.14).

b. *Specific Guidance for Fishery Management Plans and Amendments*—An environmental impact statement (EIS) must be prepared for a fishery management plan (FMP) or amendment when the RPM determines that any one of the following five criteria changes may be reasonably expected to occur. If none of these criteria are met the RPM should prepare an environmental assessment (EA) or determine, in accordance with subpara. 3b, 5a(3), 5b(3), and 5d(2) above, the applicability of a categorical exclusion from further NEPA documentation. The five criteria follow:

(1) The proposed action may be reasonably expected to jeopardize the productive capability of the target resource species or any related stocks that may be affected by the action.

(2) The proposed action may be reasonably expected to allow substantial damage to the ocean and coastal habitats.

(3) The proposed action may be reasonably expected to have a

substantial adverse impact on public health or safety.

(4) The proposed action may be reasonably expected to effect adversely an endangered or threatened species or a marine mammal population.

(5) The proposed action may be reasonably expected to result in cumulative adverse effects that could have a substantial effect on the target resource species or any related stocks that may be affected by the action. Two factors to be considered in this determination of significance are controversy and socio-economic effects. Although no action should be deemed to be significant based solely on its controversial nature, this aspect of an action should be used in weighing the decision on the proper type of analysis needed to ensure full compliance with NEPA. Socio-economic factors related to users of the resource should also be considered in determining controversy and significance.

c. *Reserved for Criteria for Other NOAA Actions.*

d. *Guidance on Transmittal Letters for EAs and EISs*—

(1) All letters must be prepared on "Office of the Administrator" letterhead.

(2) Letters should not be dated until signed by Chief, ECD.

(3) Fill in all appropriate blanks in the sample letter formats.

(4) In the first sentence of Exhibit 2, the first parenthetical note relates to the discussion in sec. 9(c) that noted the EPA need for more than five copies of certain EISs, especially programmatic EISs and EISs on actions that may affect more than one EPA regional office.

(5) Note in sec. 9(c) that EAs need not be transmitted to EPA. Also, EAs need not be distributed to the public except upon request.

e. *Special Guidance on Transmittal Letters for EAs and EISs*—Examples of transmittal letters are attached at the end of this directive:

(1) Exhibit 1—EIS transmittal letter from NOAA to reviewers.

(2) Exhibit 2—EIS transmittal letter from NOAA to EPA.

(3) Exhibit 3—FONSI transmittal letter from NOAA to reviewers.

(4) Exhibit 4—FONSI transmittal memo from ECD to Assistant Administrator.

14. Effect on Other Instructions

This directive supersedes NDM 02–10 versions published January 17, 1979, and July 24, 1980 (45 FR 49312).

Exhibit 1—EIS Transmittal Letter

Dear Reviewer: In accordance with provisions of the National Environmental Policy Act of 1969, we enclose for your review our (DRAFT/FINAL) environmental impact statement on (Title of Project).

(1 PARAGRAPH ABSTRACT)

Any written comments or questions you may have should be submitted to the responsible official identified below by (Due Date for Comments). Also, one copy of your comments should be sent to me in Room 6800, U.S. Department of Commerce, Washington, D.C. 20230.

Responsible Person

Name
Address
Telephone Number

Thank you.

Sincerely,

(Insert Name)
Chief
Ecology and Conservation Division

Enclosures

Exhibit 2—Draft EIS/Final EIS Transmittal to EPA

(Insert Name)
Director Office of Federal Activities,
U.S. Environmental Protection Agency, Room 2119, Waterside Mall, S.W., A104, Washington, D.C. 20460

Dear (Insert Name): Enclosed for your consideration are five (Verify Number With ECD) (Appropriate Documents, i.e., Draft EIS or Final EIS) on (Title of Project).

Additional Paragraph(s) or Information as Necessary

If you have any questions about the enclosed statement, contact either the official responsible for this program (Name of Assistant Administrator and Telephone Number) or me at 377–5181.

Concurrent with this transmittal to EPA, copies of the (Draft EIS/Final EIS) are being mailed to Federal agencies and other interested parties.

Sincerely,

(Insert Name)
Chief
Ecology and Conservation Division

Enclosures

Exhibit 3—Finding of No Significant Impact—Transmittal Letter To Interested Parties

To All Interested Government Agencies and Public Groups:

Pursuant to the National Environmental Policy Act, an environmental review has been performed on the following action.

Title:
Location:
Summary:
Responsible Official: (Assistant Administrator Level with Address and Telephone Number)

The environmental review process led us to conclude that this action will not have a significant effect on the human environment. Therefore, an environmental impact statement will not be prepared. A copy of the finding of no significant impact including the supporting environmental assessment is enclosed for your information. Please submit any written comments to the responsible official named above by (Due Date for Comments). Also, one copy of your comments should be sent to me in Room 6800, U.S. Department of Commerce, Washington, D.C. 20230.

Sincerely,

(Insert Name)
Chief
Ecology and Conservation Division

Enclosure

Exhibit 4—FONSI Transmittal Memo (From EC To Appropriate Assistant Administrator)

To: List Routing Code—(Insert Name)
From: PP2—(Insert Name)
Subject: Finding of No Significant Impact on (TITLE)

On the basis of the information presented in the subject environmental assessment, I concur in your determination that the proposed action will not have a significant effect on the human environment in accordance with the Council on Environmental Quality's regulations implementing the National Environmental Policy Act. Therefore, a finding of no significant impact is appropriate.

Enclosures

[FR Doc. 84–3138 Filed 2–3–84; 8:45 am]
BILLING CODE 3510–12–M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Controlling Imports of Certain Man-Made Fiber Textiles From Brazil

The Chairman of the Committee for the Implementation of Textile Agreements (CITA), under the authority contained in E.O. 11651 of March 3, 1972, as amended, has issued the letter published below to the Commissioner of Customs to be effective on February 7 1984. For further information contact Diana Bass, International Trade Specialist (202) 377–4212.

Background

On November 7, 1983 a notice was published in the **Federal Register** (48 FR 51171) announcing that, on October 31, 1983, under the terms of the Bilateral Cotton and Man-Made Fiber Textile Agreement of March 31, 1982, the Government of the United States had requested consultations with the Government of the Federative Republic of Brazil with respect to man-made fiber yarn in Category 604. The notice stated that the Government of the Federative Republic of Brazil is obligated under the agreement to limit its exports of these products to the United States during the ninety-day period which began on November 1, 1983 and extended through January 29, 1984 to 96,749 pounds. Under the terms of the bilateral agreement, in the event the two governments fail to reach a mutually satisfactory solution concerning the category during consultations, the United States Government may establish a prorated specific limit of 56,391 pounds for the period dating from the end of the ninety-day period and extending through the end of the agreement year, i.e., March 31, 1984. The latter limit may be adjusted to reflect ten percent swing and six percent carryforward. The United States Government has decided to control imports in Category 604 at the adjusted, prorated limit of 65,413 pounds, effective on February 7, 1984. Merchandise in Category 604 which is in excess of the ninety-day limit will, if permitted to enter, be charged to the limit established for the period which began on January 30, 1984.

The United States remains committed to finding a solution concerning this category. Should such a solution be reached, further notice will be published in the **Federal Register**.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924) and December 14, 1983 (48 FR 55607), and December 30, 1983 (48 FR 57584).

EFFECTIVE DATE: February 7, 1984.

FOR FURTHER INFORMATION CONTACT:
Diana Bass, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, Washington, D.C. (202/377–4212).

Walter C. Lenahan,
Chairman, Committee for the Implementation of Textile Agreements.
February 3, 1984.

Committee for the Implementaiton of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, D.C.

Dear Mr. Commissioner: Under the terms of Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), and the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977 and December 22, 1981; pursuant to the Bilateral Cotton and Man-Made Fiber Textile Agreement of March 31, 1982, between the Governments of the United States and the Federative Republic of Brazil; and in accordance with the provisions in Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on February 7, 1984, entry into the United States for consumption and withdrawal from warehouse for consumption of man-made fiber textile products in Category 604 produced or manufactured in Brazil and exported during the period which began on January 30, 1984 and extends through March 31, 1984, in excess of 65,413 pounds.[1]

In carrying out this directive imports in Category 604, produced or manufactured in Brazil which have been exported during the ninety-day period which began on November 1, 1983 and extended through January 29, 1984, shall, to the extent of any unfilled balance be charged against the limit established for that period. Merchandise which is in excess of that limit shall be charged to the limit established in this directive.

Textile products in Category 604 which have been released from the custody of the U.S. Customs Service under the provisions of 19 U.S.C. 1448(b) or 1484(a)(1)(A) prior to the effective date of this directive, unless exported during the ninety-day period which began on November 1, 1983 and extended through January 29, 1984, shall not be denied entry under this directive.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924) and December 14, 1983 (48 FR 55607), and December 30, 1983 (48 FR 57584).

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption in to the Commonwealth of Puerto Rico.

The action taken with respect to the Government of the Federative Republic of Brazil and with respect to imports of man-made fiber textile products from Brazil has been determined by the Committee for the implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, these directions to the Commissioner of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the **Federal Register**.

Sincerely,
Walter C. Lenahan,
Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 84-3337 Filed 2-3-84; 8:45 am]
BILLING CODE 3510-DR-M

[1] The limit has not been adjusted to reflect any imports exported after October 31, 1983.

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Science Board Task Force on Fire Support for Amphibious Warfare; Advisory Committee Meeting

The Defense Science Board Task Force on Fire Support for Amphibious Warfare will meet in closed session on March 1–2, 1984 in the Pentagon, Arlington, Virginia.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Research and Engineering on scientific and technical matters as they affect the perceived needs of the Department of Defense.

At the meeting on March 1–2, 1984 the Task Force will review their findings on the basic requirements for fire support during amphibious warfare operations and discuss the preparation of their final report.

In accordance with Section 10(d) of the Federal Advisory Committee Act, Pub. L. 92–463, as amended (5 U.S.C. App. I (1976)), it has been determined that this DSB Task Force meeting concerns matters listed in 5 U.S.C. 552b(c)(1) (1976), and that accordingly these meetings will be closed to the public.

Dated: February 1, 1984.

M. S. Healy,
OSD Federal Register Liaison Officer Department of Defense.

[FR Doc. 84-3164 Filed 2-3-84; 8:45 am]
BILLING CODE 3810-01-M

DOD Advisory Group on Electron Devices; Advisory Committee Meeting

The DOD Advisory Group on Election Devices (AGED) will meet in closed session on March 15, 1984 at the AGED Secretariat, 201 Varick Street, 11th Floor, New York, NY 10014.

The mission of the Advisory Group is to provide the Under Secretary of Defense for Research and Engineering, the Director, Defense Advanced Research Projects Agency and the Military Departments with technical advice on the conduct of economical and effective research and development programs in the area of electron devices.

The AGED meeting will be limited to review of research and development programs which the Military Departments propose to initiate with industry, universities or in their laboratories. The agenda for this meeting will include programs on Radiation Hardened Devices, Microwave Tubes, Displays and Lasers. The review will include details of classified defense programs throughout.

In accordance with Section 10(d) of Pub. L. 92–463, as amended, (5 U.S.C. App. I 10(d) (1976)), it has been determined that this Advisory Group meeting concerns matters listed in 5 U.S.C. 552b(c)(1) (1976), and that accordingly, this meeting will be closed to the public.

Dated: February 1, 1984.

M.S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 84-3105 Filed 2-3-84; 8:45 am]

BILLING CODE 3810-01-M

DOD Advisory Group on Electron Devices; Advisory Committee; Meeting

Working Group A (Mainly Microwave Devices) of the DoD Advisory Group on Electron Devices (AGED) will meet in closed session on March 6, 1984 at the AGED Secretariat, 1925 N. Lynn Street, Suite 1000, Arlington, VA 22209.

The mission of the Advisory Group is to provide the Under Secretary of Defense for Research and Engineering, the Director, Defense Advanced Research Projects Agency and the Military Departments with technical advice on the conduct of economical and effective research and development programs in the area of electron devices.

The Working Group A meeting will be limited to review of research and development programs which the military propose to initiate with industry, universities or in their laboratories. This microwave device area includes programs on developments and research related to microwave tubes, solid state microwave, electronic warfare devices, millimeter wave devices, and passive devices. The review will include classified program details throughout.

In accordance with Section 10(d) of Pub. L. No. 92–463, as amended, (5 U.S.C. App. 1 10(d) (1976)), it has been determined that the Advisory Group meeting concerns matters listed in 5 U.S.C. 552b(c)(1) (1976), and that accordingly, this meeting will be closed to the public.

Dated: February 1, 1984.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 84-3106 Filed 2-3-84; 8:45 am]

BILLING CODE 3810-01-M

Foreign Assistance; Determinations

Pursuant to Section 515(c)(1) of the Foreign Assistance Act of 1961 relating to overseas management of assistance and sales programs, and in accordance with the authority delegated by Executive Order 12163 and redelegated on February 12 and February 24, 1972, to the Director, Defense Security Assistance Agency, I determine that United States national interests require that more than six members of the Armed Forces be assigned under Section 515 of the Act to carry out international security assistance programs in Pakistan and Lebanon, and therefore waive the limitation that the number of members of the Armed Forces assigned to a foreign country under Section 515 of that Act may not exceed six unless specifically authorized by Congress.

The increase from five to eleven in the total number of military personnel authorized for the Offices of the Defense Representative, Pakistan, and the increase from six to eight in the total number of military personnel authorized for the Office of Military Cooperation, Lebanon, shall be effective thirty days after the date on which this determination is reported to the Committee on Foreign Affairs on the Senate and the Committee on Foreign Affairs of the House of Representatives.

These determinations dated January 30, 1984, were signed by Walter B. Ligon, Deputy Director, Defense Security Assistance Agency (Acting Director).

Dated: February 1, 1984.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 84-3107 Filed 2-3-84; 8:45 am]

BILLING CODE 3810-01-M

Organization of the Joint Chiefs; Chairman, Joint Chiefs of Staff/Media-Military Relations Committee Study; Advisory Committee Meeting

The Chairman, Joint Chiefs of Staff has scheduled a meeting of the CJCS/Media-Military Relation Committee Study on Monday, February 6, 1984 starting at 1300. The meeting will be held in the Hill Conference Center, Theodore Roosevelt Hall (Building 61), Fort Lesley J. McNair, Washington, D.C. The Study will examine the responsibilities of the media and the military in providing coverage of military operations and recommend how media can appropriately cover future operations. Due to extensive public concern over the incidents involved in establishing this committee the Chairman, Joint Chiefs of Staff desires that the committee hold its meeting as soon as possible, in order that he may report its findings to the Secretary of Defense without delay. Accordingly, the 15-day timely notice requirement cannot be met. The meeting is open to the public, but the limited space available for observers will be allocated on a first-come, first-served basis. To reserve space, interested persons should write or phone (202) 697–4272, the Public Affairs Officer, Organization of the Joint Chiefs of Staff, Washington, D.C. 20301.

Dated: February 1, 1984.

M. S. Healy,

OSD Federal Register Liaison Officer, Washington Headquarters Services, Department of Defense.

[FR Doc. 84-3108 Filed 2-3-84; 8:45 am]

BILLING CODE 3810-01-M

Public Information Collection Requirement Submitted to OMB for Review

The Department of Defense has submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Each entry contains the following information: (1) type of submission; (2) title of information collection and form number if applicable; (3) abstract statement of the need for and the uses to be made of the information collected; (4) type of respondent; (5) an estimate of the total number of responses; (6) an estimate of the total number of hours needed to provide the information; (7) to whom comments regarding the information collection are to be forwarded; (8) the point of contact from whom a copy of the information proposal may be obtained.

Twenty-four (24) new information collection requests in support of DoD 5000.~~19–L~~, Vol II, Acquisition Management Systems and Data Requirements Control List (AMSDL) which bears OMB Control Number 0704–0188 and expires on June 30, 1986.

The DoD awards approximately 13 million annual contracts for supplies/services and hardware. Information collection requests contained in these contracts for which each contractor is reimbursed now number 2,571 and are

listed in the AMSDL for repetitive use. The majority of DoD information collection requests are contained in contracts of $1 million or more (approximately 5000 annually). These information collection requests from the public (contractors) are necessary for the Government to support the design, test, manufacture, training, operation, maintenance, and logistical support of items of defense material being acquired under the provisions of the Armed Services Procurement Act Title 10, U.S.C. The following applies to the 24 new requests:

Contractors: 18,312 responses; 2,014,320 hours

Forward comments to Edward Springer, OMB Desk Officer, Room 3235, NEOB, Washington, DC 20503, and James D. Richardson, DoD AMSDL Clearance Officer, OUSDR&E (DMSSO), 5203 Leesburg Pike, Suite 1403, Falls Church, VA 22041, (703) 756–2340/1.

A copy of the information collection proposal may be obtained fom James D. Richardson, OUSDR&E (DMSSO), 5203 Leesburg Pike, Suite 1403, Falls Church, VA 22041, (703) 756–2340/1.

Dated: February 1, 1984.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 84–3109 Filed 2–3–84; 8:45 am]

BILLING CODE 3810–01–M

Department of the Army

Army Medical Research and Development Advisory Committee; Subcommittee on Medical Defense Against Chemical Agents; Partially Closed Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. Appendix, Sections 1–15), announcement is made of the following Subcommittee meeting:

Name of Committee: United States Army Medical Research and Development Advisory Committee, Subcommittee on Medical Defense Against Chemical Agents.

Date of Meeting: February 27–28, 1984.

Time and Place: 0900 hrs, Room 3092, Walter Reed Army Institute of Research, Washington, DC.

Proposed Agenda: This meeting will be open to the public from 0900–1100 hrs. on 27 February for the administrative review and discussion of the scientific research program of the US Army Medical Research Institute of Chemical Defense. Attendance by the public at open sessions will be limited to space available.

In accordance with the provisions set forth in section 552b(c)(6), United States Code, Title 5 and sections 1–15 of Appendix, the meeting will be closed to the public from 1100–1700 hrs. on 27 February and from 0900–1700 hrs. on 28 February for the review, discussion and evaluation of individual programs and projects conducted by the US Army Medical Research and Development Command, including consideration of personnel qualifications and performance, the competence of individual investigators, medical files of individual research subjects, and similar items, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Col Richard Lindstrom, US Army Medical Research Institute of Chemical Defense, Aberdeen Proving Ground, MD 21010 (301/671–2833) will furnish summary minutes, roster of Subcommittee members and substantive program information.

Harry G. Dangerfield,

Colonel, MC, Deputy Commander.

[FR Doc. 84–3142 Filed 2–3–84; 8:45 am]

BILLING CODE 3710–08–M

Corps of Engineers, Department of the Army

Intent To Prepare Draft Supplement II to the Final Environmental Impact Statement (EIS) for a Proposed Flood Control Project, Minnesota River at Chaska, Carver County, Minn.

AGENCY: Army Corps of Engineers, St. Paul District, DOD.

ACTION: Notice of intent to prepare draft supplement II to the final EIS.

SUMMARY: The St. Paul District proposes to implement a flood control plan at Chaska, Minnesota, on the Minnesota River. This plan consists of upgrading and extending an existing levee along the Minnesota River, diverting total flows of West (Chaska) Creek to the outside of the leveed area, diverting flood flows of East Creek to the outside of the leveed area, and constructing interior drainage facilities.

The St. Paul District proposes to change the alignment and design concept of the East Creek diversion feature. The basic concept of diverting East Creek flood flows to the Minnesota River remains the same. The proposed changes would consist of the following actions: Construct channel improvements (starting approximately 100 feet downstream of the previously-proposed diversion point) that would then allow movement of the actual point of diversion about 4,000 feet downstream of the previously proposed site; add a levee along the south side of the creek; and locate the outlet structure to the Minnesota River upstream of the previously-proposed site. The first part of the diversion structure would be underground instead of the previously-proposed open channel.

The only reasonable alternative to the proposed design changes is to retain the previously-proposed design.

A public information meeting was held in Chaska on January 9, 1984, to present the proposed change to the local citizens and to invite them to express their questions, concerns, and opinions of the proposal.

The following significant issues and concerns associated with the proposed East Creek design changes were identified in comments expressed at the public meeting and through coordination with city officials and other agencies:

1. Public safety of structures.
2. Potential displacement of residents.
3. Potential effects on recreational uses of Lions Park, the East Creek Trail system, an ice-skating rink, and Chaska greenbelt/open space areas.
4. Potential effects on the aesthetics of areas affected by structures.
5. Development of a suitable landscaping and recreational use plan for the levee.
6. Determination of erosion potential below the outlet structure and an appropriate design to minimize that potential.
7. Potential conflict of uses of open space lands purchased with Federal grants.
8. Determination of project compliance with Executive Order 11988 on Floodplain Management because former floodplain areas would become more attractive for development.
9. Potential temporary construction impacts of traffic disruption, noise, and air pollution.
10. Potential impacts on fish and wildlife habitat.

No formal scoping meeting is planned for this supplement. However, significant issues and resources to be analyzed in the draft supplement will be identified through coordination with responsible Federal, State, and local agencies, interested private organizations and parties, and affected Indian tribes. Anyone who has an interest in participating in the development of the draft supplement, or who wishes to provide information, is invited to contact the St. Paul District, Corps of Engineers.

The final EIS on flood control at Chaska, Minnesota, was made available to the public in November 1976. Final supplement I to the final EIS was made available in September 1982.

The review of the project will be conducted in accordance with the requirements of the National Environmental Policy Act of 1969, Council on Environmental Quality Regulations (40 CFR Parts 1500–1508),

Engineer Regulations (ER) 200–2–2 (33 CFR Part 230), and all other applicable regulations and guidance.

We estimate that the draft supplement will be available to the public during the latter part of the second quarter or the third quarter of fiscal year 1984 (March–June 1984).

Questions concerning the proposed action and draft supplement to the EIS can be directed to: Colonel Edward G. Rapp, District Engineer, St. Paul District, Corps of Engineers, 1135 U.S. Post Office and Custom House, St Paul, Minnesota 55101.

Dated: January 26, 1984.

Edward G. Rapp,

Colonel, Corps of Engineers, District Engineer.

[FR Doc. 84–3079 Filed 2–3–84; 8:45 am]

BILLING CODE 3710–CY–M

Department of the Navy

Naval Research Advisory Committee, Panel on Man-in-the-Loop Targeting; Closed Meeting

Correction

In FR Doc. 84–2456, appearing on page 3680 in the issue of Monday, January 30, 1984, make the following correction.

The thirteenth line of the first paragraph should have read: "12:30 p.m. on February 22; and commence at 8:30 a.m. and terminate at 5:00 p.m. on February 23, 1984. All".

BILLING CODE 1505–01–M

DEPARTMENT OF EDUCATION

Advisory Council on Education Statistics; Meeting

AGENCY: Advisory Council on Education Statistics, Ed.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the Advisory Council on Education Statistics. This notice also describes the functions of the Council. Notice of this meeting is required under Section 10(a)(2) of the Federal Advisory Committee Act. This document is intended to notify the general public of their opportunity to attend.

DATES: February 23 and 24, 1984.

ADDRESS: 1200 19th Street NW., Room 823, Washington, DC 20208.

FOR FURTHER INFORMATION CONTACT: Robena S. Gore, Executive Director, 1200 19th Street NW., (Brown Building) Room 723–B, Washington, DC 20208. Telephone (202) 254–8227.

SUPPLEMENTARY INFORMATION: The Advisory Council on Education Statistics is established under Section 406(c)(1) of the Education Amendments of 1974, Pub. L. 93–380. The Council is established to review general policies for the operation of the National Center for Education Statistics and is responsible for establishing standards to insure that statistics and analyses disseminated by the Center are of high quality and are not subject to political influence.

The meeting of the Council is open to the public. The proposed agenda includes:

An update on the supply of and demand for teachers, salary differential, and state plans concerning teachers.

An update on the proposed evaluation study of the National Center for Education Statistics.

A status report on a fast response survey on Computer Education and teacher education in computers.

A report on school discipline.

A report on merit pay plans for teachers.

A report on adult literacy initiative.

A report on "State Education Statistics: State Performance Outcomes, Resource Inputs, and Population Characteristics, 1972 and 1982.

The 1985 Budget.

Such old business and new business as the chairman or membership may put before the Council.

Records are kept of all Council proceedings, and are available for public inspection at the office of the Executive Director, Advisory Council on Education Statistics, 1200 19th Street NW. (Brown Building) Room 723–B, Washington, DC 20208.

Dated: February 1, 1984.

Donald J. Senese,

Assistant Secretary for Educational Research and Improvement.

[FR Doc. 84–3144 Filed 2–3–84; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Office of the Secretary

Procurement and Assistance Management Directorate

AGENCY: Department of Energy.

ACTION: Notice of solicitation for a cooperative agreement application.

SUMMARY: DOE announces that, pursuant to 10 CFR 600.7(b), it is restricting eligibility for the award of a cooperative agreement to evaluate the biochemical effects of human body fluids exposed to uniform 60 Hz electric and magnetic fields to Midwest Research Institute (MRI), Kansas City, Missouri. MRI has been asked to submit an application which is expected to result in the award of a cooperative agreement estimated at $350,000 for a twenty-four month period.

Project Scope: This cooperative agreement will provide for the collection of body fluids before, during, and after exposure to 60 Hz electric and magnetic fields and measurement of biochemical parameters. This data will provide the first controlled and documented biochemical data and establish a scientific basis for comparison between human and animal reaction to 60 Hz electric and magnetic field exposure. Eligibility for award of this cooperative agreement is being limited at this time to the MRI because the MRI, under contract to the New York State Department of Health, has constructed the only U.S. facility for the controlled and safe exposure of humans to 60 Hz fields. MRI is currently using this facility to provide human behavior data for the State project. The Federal project will provide the corresponding biochemical data, which is beyond the scope of the State project.

Solicitation Number: DE–FC01–84CE76246.

FOR FURTHER INFORMATION CONTACT: Barbara Dunn, MA–453.1, U.S. Department of Energy, Office of Procurement Operations, 1000 Independence Avenue, SW., Washington, D.C. 20585, (202) 252–1075.

Issued in Washington, D.C., on January 23, 1984.

Berton J. Roth,

Director, Procurement and Assistance Management Directorate.

[FR Doc. 84–3176 Filed 2–3–84; 8:45 am]

BILLING CODE 6450–01–M

Advisory Committee on Federal Assistance for Alternative Fuel Demonstration Facilities; Renewal

Notice is hereby given that the Advisory Committee on Federal Assistance for Alternative Fuel Demonstration Facilities which was established in accordance with Pub. L. 93–577, the Federal Nonnuclear Energy Research and Development Act, has been renewed for a 2-year period ending on January 27, 1986.

The Committee will operate in accordance with the provisions of the Federal Advisory Committee Act (Pub. L. 92–463), the Federal Nonnuclear Energy Research and Development Act (Pub. L. 93–577), the GSA Interim Rule on Advisory Committee Management,

and other directives and instructions issued in implementation of those acts.

Further information regarding this advisory committee may be obtained form Gloria Decker (202–252–8990).

Issued at Washington, D.C., on January 30, 1984.

K. Dean Helms,

Advisory Committee Management Officer.

[FR Doc. 84–3172 Filed 2–3–84; 8:45 am]
BILLING CODE 6450–01–M

Bonneville Power Administration

Boundary-Spokane/Colville Valley Support Project Finding of No Significant Impact; Correction

AGENCY: Bonneville Power Administration (BPA), DOE.

ACTION: Finding of no significant impact (FONSI); correction.

SUMMARY: This notice corrects an acreage figure in item 2 of the fourth paragraph of the FONSI on the Boundary-Spokane/Colville Valley Support Project that appeared at page 55762, column 3, in the **Federal Register** of Thursday, December 15, 1983 (48 FR 55762). The average number of acres harvested per year in the Colville National Forest should read 6,200 acres instead of 620,000 acres.

FOR FURTHER INFORMATION CONTACT:

Anthony R. Morrell, Environmental Manager, Bonneville Power Administration, P.O. Box 3621–SJ, Portland, Oregon 97208, telephone (503) 230–5136.

Issued in Portland, Oregon, January 19, 1984.

Robert E. Ratcliffe,

Acting Administrator.

[FR Doc. 84–3173 Filed 2–3–84; 8:45 am]
BILLING CODE 6450–01–M

Economic Regulatory Administration

[ERA Docket No. 83–07–NG]

Natural Gas Imports, Great Lakes Gas Transmission Co.; Petition to Amend Import and Export Authorizations

AGENCY: Economic Regulatory Administration.

ACTION: Notice of petition to amend import and export authorization.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) gives notice of receipt on October 26, 1983, of the petition of Great Lakes Gas Transmission Company (Great Lakes) to amend previous orders of the Federal Power Commission (FPC) which, among other things, authorized the importation and exportation of natural gas owned by TransCanada Pipelines Limited (TransCanada). Specifically, Great Lakes requests the ERA to extend from November 1, 1992, through November 1, 2005, its existing authorization to import and export up to 815,000 Mcf per day of TransCanada's gas which Great Lakes transports through its own pipeline.

The petition is filed with ERA pursuant to section 3 of the Natural Gas Act and DOE Delegation Order No. 0204–54. Protests or petitions to intervene are invited.

DATE: Protests or petitions to intervene are to be filed no later than 4:30 p.m. on March 7, 1984.

FOR FURTHER INFORMATION CONTACT:

Robert Groner, Natural Gas Division, Office of Fuels Programs, Economic Regulatory Administration, Forrestal Building, Room GA–007, 1000 Independence Avenue SW., Washington, D.C. 20585, (202) 252–9482

Diane J. Stubbs, Office of General Counsel, Natural Gas and Mineral Leasing, 1000 Independence Avenue SW., Forrestal Building, Room 6E–042, Washington, D.C. 20585, (202) 252–6667.

SUPPLEMENTARY INFORMATION: On October 26, 1983, Great Lakes filed a petition to amend its authorization which was initially granted by FPC Order No. 521, issued on June 20, 1967, in Docket No. CP66–112 (37 FPC 1070), and later amended by the FPC on June 1, 1971, in Docket No. CP71–223 (45 FPC 1037). The amendment for which Great Lakes seeks approval would permit it to continue to import and export natural gas for TransCanada from November 1, 1992, when petitioner states the FPC authority expires, through November 1, 2005.

Great Lakes operates a pipeline system extending from the international boundary near Emerson, Manitoba, the point at which it connects with the facilities of TransCanada, across northern Minnesota, Wisconsin, and Michigan, until it reconnects with TransCanada's eastern Canadian facilities at two points on the international boundary near St. Clair and Sault Ste. Marie, Michigan. Under an agreement dated September 12, 1967, as amended, Great Lakes supplies a transportation service for TransCanada on its pipeline. According to Great Lakes, it is currently authorized to import into the United States up to 815,000 Mcf per day of Canadian natural gas to be transported from the account of TransCanada. The gas is delivered by TransCanada to Great Lakes at Emerson. Great Lakes returns the equivalent volumes to TransCanada at Sault Ste. Marie and St. Clair for sale in Canadian markets.

On September 8, 1981, Great Lakes and TransCanada amended their transportation agreement to extend its term through October 31, 2005.

Great Lakes asserts that extending the current authorization is in the public interest because it will ensure that its pipeline system operates at optimum capacity, thus minimizing rates to all of its customers. Great Lakes also notes that in the area it serves there exists no domestic supply of gas with which to replace the volumes now being transported for TransCanada.

Other Information

Any person wishing to become a party to the proceeding, and thus to participate in any conference or hearing which might be convened, must file a petition to intervene. Any person may file a protest with respect to this application. The filing of a protest will not serve to make the protestant a party to the proceeding. Protests will be considered in determining the appropriate action to be taken on the application.

All protests and petitions to intervene must meet the requirements that are specified by the regulations that were in effect on October 1, 1977, in 18 CFR 1.8 and 1.10. They should be filed with the Natural Gas Division; Office of Fuels Programs; Economic Regulatory Administration; Room GA–007; RG–43; Forrestal Building; 1000 Independence Avenue SW., Washington, D.C. 20585. All protests and petitions to intervene must be filed no later than 4:30 p.m., March 7, 1984.

A hearing will not be held unless a motion for a hearing is made by a party or person seeking intervention and granted by ERA, or if the ERA on its own motion believes that a hearing is necessary or required. A person filing a motion for a hearing should demonstrate how a hearing will advance the proceedings. If a hearing is scheduled, the ERA will provide notice to all parties and persons whose petitions to intervene are pending.

A copy of Great Lakes' petition is available for inspection and copying in the Natural Gas Division Docket Room located in Room GA–007; Forrestal Building; 1000 Independence Avenue SW., Washington, D.C. 20585. The docket room is open between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, D.C., on January 30, 1984.

James W. Workman,

Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 84-3076 Filed 2-3-84; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. PP-79]

Record of Decision and Issuance of Presidential Permit PP-79 to San Diego Gas & Electric Co. for Two 230 kV Transmission Circuits From Imperial Valley, Calif., to La Rosita, Mex.

AGENCY: Economic Regulatory Administration (ERA), DOE.

ACTION: Notice of the issuance of Presidential Permit PP-79 to San Diego Gas & Electric Company (SDG&E) for two, 230 kilovolt international transmission circuits from Imperial Valley, California, to La Rosita, Mexico and Publication of the Record of Decision.

SUMMARY: DOE has issued Presidential Permit PP-79 to SDG&E authorizing the construction, connection, operation, and maintenance to two, 230 kilovolt (kV) international transmission circuits from Imperial Valley, California, to La Rosita, Mexico. The record of decision appears below.

FOR FURTHER INFORMATION CONTACT:

Garet Bornstein, Division of Coal and Electricity, Office of Fuels Programs, Economic Regulatory Administration, Department of Energy, Forrestal Building, Room GA-033, 1000 Independence Avenue SW., Washington, D.C. 20585, (202) 252-5935

Lise Courtney M. Howe, Office of Assistant General Counsel for International Trade and Emergency Preparedness, Department of Energy, Forrestal Building, Mail Stop 6A-141, 1000 Independence Avenue SW., Washington, D.C. 20585, (202) 252-2900.

SUPPLEMENTARY INFORMATION: Record of Decision for two, 230 kV international transmission circuits from Imperial Valley, California, to La Rosita, Mexico.

Pursuant to Regulations of the Council on Environmental Quality (40 CFR Part 1505) and Implementing Procedures of the U.S. Department of Energy (45 FR 20694):

Decision

DOE has decided to issue a Presidential Permit to SDG&E to construct, connect, operate and maintain electric transmission facilities at the international border between the United States and Mexico. This Permit is being issued pursuant to Executive Order 10485, as amended by Executive Order 12038.

Project Description

SDG&E proposes to construct, connect, operate and maintain two 60 cycle, 3 phase, 230 kV transmission circuits extending from the Imperial Valley Substation in California to the United States-Mexican border, a distance of approximately 4.5 miles. At the border these transmission circuits will interconnect with similar transmission circuits owned and operated by the Comision Federal de Electricidad (CFE). The facilities authorized by this Permit are more specifically shown and described in the application filed by SDG&E with the DOE on September 24, 1982, in Docket No. PP-79.

Description of Alternatives

DOE has determined that the action proposed by SDG&E in its application is the most viable alternative for the interconnection of the SDG&E and CFE systems.

Basis for Decision

DOE is authorized, pursuant to Executive Order 10485, as amended by Executive Order 12038, to grant a Presidential Permit to construct, connect, operate and maintain a transmission circuit crossing an international border. DOE must determine that the issuance of a Permit is consistent with the public interest.

Considerations in the Implementation of the Decision

DOE has concluded that the Imperial Valley-La Rosita project proposed by SDG&E satisfies the four criteria presently used to determine consistency with the public interest. On November 22, 1983, DOE adopted an environmental assessment (EA) prepared by the Bureau of Land Management for construction and operation of two electric transmission circuits between La Rosita, Mexico, and the Imperial Valley Substation in California. Based upon the findings of the EA, which is available to the public upon request, the DOE has determined that issuance of the Permit would not constitute a major Federal action significantly affecting the quality of the human environment, as defined in Section 102 of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321 *et seq.* Therefore, no environmental impact statement was required and the conditions of NEPA were satified.

On November 1, 1983, DOE concluded that the first proposed Imperial Valley-La Rosita transmission circuit will not adversely impact the reliability of either the SDG&E system or any other electric utility system in the region. Furthermore, the proposed circuit is likely to enhance regional reliability by providing an alternate path for Arizona-California power transfers during outage of the proposed Imperial Valley-Miguel 500 kV circuit. This decision was based upon information submitted by SDG&E in its application and in two subsequent reports submitted to DOE. Other considerations in DOE's decision were corroborations by the California Public Utility Commission and the Western Systems Coordinating Council that system reliability would not be impaired by installation of the proposed intertie. DOE will make a determination of the reliability impact of the second Imperial Valley-La Rosita circuit before that circuit is energized. This determination will be noticed in the **Federal Register** and public comments will be accepted.

Finally, in satisfaction of the final two criteria and pursuant to Executive Order 10485, as amended, the Department of State and the Department of Defense must concur in DOE's decision to issue the Permit. The Department of State concurred on November 28, 1983, and the Department of Defense concurred on November 29, 1983.

A copy of the Presidential Permit is available for public inspection and copying at the DOE Freedom of Information Library, Room 1E-190, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 10585, between the hours of 8:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, D.C., December 20, 1983.

Rayburn Hanzlik,

Administrator, Economic Regulatory Administration.

[FR Doc. 84-3077 Filed 2-3-84; 8:45 am]

Billing Code 6450-01-M

Federal Energy Regulatory Commission

[Docket No. QF84-49-000]

San Diego State University; Application for Commission Certification of Qualifying Status of a Cogeneration Facility; Correction

February 1, 1984.

The following correction should be made to the notice issued in this proceeding on January 27, 1984 (49 FR 3913, January 31, 1984): in paragraph 3 replace the phrase "within 15 days after

the date of publication of this notice" with "on or before February 13, 1984".

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-3088 Filed 2-3-84; 8:45 am]

BILLING CODE 6717-01-M

Office of Hearings and Appeals

Cases Filed; Week of January 6 through January 13, 1984

During the Week of January 6 through January 13, 1984, the appeals and applications for other relief listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Under DOE procedural regulations, 10 CFR Part 205, any person who will be aggrieved by the DOE action sought in these cases may file written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of the regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20585.

George B. Breznay,

Director, Office of Hearings and Appeals.

January 27, 1984.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS

[Week of Jan. 6 through Jan. 13, 1984]

Date	Name and location of applicant	Case No.	Type of submission
Jan. 9, 1984	Department of Interior, Washington, D.C.	HEN-0063	Motion for Interim Relief. If granted: The Department of Interior would receive exception relief on an interim basis pending a final determination on its Application for Exception (Case No. HEE-0063).
Do	The Knoxville Journal, Knoxville, Tennessee	NFA-0205	Appeal of an Information Request Denial. If granted: The December 12, 1983, Freedom of Information Request Denial issued by the Oak Ridge Operations Office would be rescinded, and the Knoxville Journal would receive access to copies of medical records relating to employees who worked at the Y-12 Weapons Parts Plant in Oak Ridge, Tennessee, between 1953 and 1963 and information contained in the personnel files.
Jan. 11, 1984	Vickers Oil Company/Highland Petroleum, Inc., Lakewood, Colorado	RR1-3	Request for Modification/Rescission in the Vickers Oil Company. If granted: The January 4, 1984, Decision and Order (Case No. RF1-266) issued to Highland Petroleum, Inc., would be modified regarding the firm's application for refund submitted in the Vickers Oil Company refund processing..
Jan. 13, 1984	Texaco, Inc./Ashland Oil, Inc., Pittsburgh, Pennsylvania	NEJ-0046	Request for Protective Order. If granted: Ashland Oil, Inc., would enter into a Protective Order with Texaco, Inc.; regarding the release of proprietary information to Ashland Oil, Inc., in connection with Ashland Oil, Inc.'s Application for Exception (Case No. BFF-1676).

REFUND APPLICATIONS RECEIVED

[Week of Jan. 6 to Jan. 13, 1984]

Date	Name of refund proceeding/name of refund applicant	Case No. assigned
Jan. 9, 1984	Amoco/Georgia	RQ21-43.
Jan. 11, 1984	Palo Pinto/Maryland	RQ5-44.
Jan. 12, 1984	Amoco/Idaho	RQ21-45.

[FR Doc. 84-3174 Filed 2-3-84; 8:45 am]

BILLING CODE 6450-01-M

Cases Filed; Week of January 13 through January 20, 1984

During the Week of January 13 through January 20, 1984, the appeals and applications for other relief listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Under DOE procedural regulations, 10 CFR Part 205, any person who will be aggrieved by the DOE action sought in these cases may file written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of the regulations, the date of service is deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20585.

George B. Breznay,

Director, Office of Hearings and Appeals.

January 27, 1984.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS

[Week of Jan. 13 through Jan. 20, 1984]

Date	Name and location of applicant	Case No.	Type of submission
Jan. 11, 1984	Economic Regulatory Administration, Washington, D.C.	HRD-0198	Motion for Discovery. If granted: Discovery would be granted to the Economic Regulatory Administration in connection with its response to the Statement of Objections submitted by Gulf Oil Corporation (Case No. HRO-0157).
Jan. 16, 1984	Texas International Company, Washington, D.C.	HRH-0199 and HRD-0199	Motion for Discovery and request for an Evidentiary Hearing. If granted: Discovery would be granted and an evidentiary hearing would be convened in connection with the Statement of Objections submitted by the Texas International Company in response to the Proposed Remedial Order (Case No. HRO-0199) issued to the firm.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS—Continued

[Week of Jan. 13 through Jan. 20, 1984]

Date	Name and location of applicant	Case No.	Type of submission
Do.	The Seattle Times, Seattle, Washington	HFA-0206	Appeal of an Information Request Denial. If granted: The January 9, 1984 Freedom of Information Request Denial issued by the Bonneville Power Administration would be rescinded, and the Seattle Times would receive access to the September 27, 1979, internal memorandum by D. Smithpeter, Project Engineer.
Do.	West Coast Oil Company, Los Angeles, California	HRR-0077	Motion for Reconsideration/Modification. If granted: The December 9, 1983, Decision and Order (Case No. HRD-0090) issued to West Coast Oil Company would be modified regarding overcharges in the sale of refined petroleum products.
Jan. 17, 1984	Oasis Petroleum Corporation, Washington, D.C.	HES-0040	Request for Stay. If granted: Oasis Petroleum Corporation would receive a Stay of the January 6, 1984, Petition for Special Redress proceeding submitted by Lucky Stores, Inc., pending a final decision of the Temporary Emergency Court of Appeals ("TECA") in Dorchester Gas Producing Company v. United States Department of Energy and Donald P. Hodel, TECA 5-193.

REFUND APPLICATIONS RECEIVED

[Week of Jan. 13 to Jan. 20, 1984]

Date	Name of refund proceeding/name of refund applicant	Case No. assigned
Oct. 31, 1983	Amoco/State of Illinois	RF21-12263.
Jan. 16, 1984	Amoco/Coher Oil Company	RF21-12264
Do	Amoco/Coher Oil Company	RF21-12265.
Do	Belridge/California	RQ5-46.
Jan. 17, 1984	Standard Oil Company of Indiana/Michigan	RQ21-47.
Jan. 19, 1984	Amoco/Ute Mountain Ute Tribe	RQ5-48.

[FR Doc. 84-3175 Filed 2-3-84; 8:45 am]

BILLING CODE 6450-01-M

Western Area Power Administration

Gore Pass-Blue River 345-kV Transmission Line, Grand and Summit Counties, Colorado; Intent To Prepare a Supplemental Environmental Impact Statement

AGENCY: Western Area Power Administration, DOE.

ACTION: Notice of intent to Prepare a Supplemental Environmental Impact Statement.

SUMMARY: In accordance with the National Environmental Policy Act of 1969 (NEPA), the Western Area Power Administration (Western) Department of Energy, intends to prepare a supplemental environmental impact statement to the Rural Electrification Administration's (REA) draft and final environmental impact statement (EIS) for the Hayden-Blue River 345-kV transmission line project. Western intends to address transmission line routing alternatives between Gore Pass Substation and the Blue River Substation, the southern half of the Hayden-Blue River Project, in the supplemental EIS. The purpose of this notice is to solicit participation, comments, and suggestions in preparing the supplemental EIS.

DATES: Written comments are due March 9, 1984.

FOR FURTHER INFORMATION CONTACT:

William C. Melander, Environmental Specialist, Loveland-Fort Collins Area Office, Western Area Power Administration, P.O. Box 3700, Loveland, CO 80539, (303) 224-7231.

Gary W. Frey, Director, Division of Environmental Affairs, Western Area Power Administration, P.O. Box 3402, Golden, CO 80401, (303) 231-1527.

Background

The proposed action was originally analyzed in the REA EIS for the Hayden-Blue River 345-kV transmission line project (USDA-REA-EIS (ADM):82:2). The proposal involved constructing, operating, ad maintaining a 90-mile electric transmission line and associated facilities from Western's existing Hayden Substation near Hayden, Colorado, to the proposed Blue River Substation northwest of Dillon, Colorado. The transmission line would be constructed at 345-kV but initially energized at 230-kV. Western, the U.S. Department of Agriculture, Forest Service (FS), and the U.S. Department of the Interior, Bureau of Land Management (BLM), cooperated in the development of the REA EIS.

REA issued a record of decision (ROD) for the project on September 30, 1982, which was followed by decisions from the FS on November 7, 1982, and the BLM on November 9, 1982. The decisions authorized the construction of the Hayden-Blue River 345-kV transmission line in one of two environmentally preferred corridors. Specifically, the FS's ROD granted the right-of-way on National Forest System Lands within Route and Arapahoe National Forests. However, Grand County and the Grand River Ranch Corporation opposed the decision, and appealed the FS's ROD. The appeal has been remanded to the Regional Forester, Rocky Mountain Region, pending the outcome of local permitting activities.

Since completion of REA's EIS, Western and the other participants in the Hayden-Blue River transmission line project have reviewed their long-range needs and have amended the project participation agreement. The agreement now provides different ownership terms and cost and capacity sharing, and divides construction management responsibilities. Specifically, the new cost and capacity shares for the project are as follows: Tri-State Generation and Transmission Association, Inc. (Tri-State), 34 percent; Colorado Ute Electric Association (Colorado-Ute), 22 percent, Platte River Power Authority (Platte River), 22 percent; and Western, 22 percent. The previous participation percentages were: Tri-State, 50 percent; Colorado-Ute, 20 percent; Platte River, 20 percent; and Western, 10 percent. The agreement now provides for Tri-State to be project and construction manager for the northern portion of the line from Hayden to an existing Tri-State substation at Gore Pass near Kremmling, Colorado; and provides for Western to

be the project and construction manager for the southern portion from the Gore Pass Substation to the proposed Blue River Substation. In the previous agreement, Tri-State was project manager and would have constructed the entire line from Hayden to Blue River.

Western, a power marketing administration of the Department of Energy, is responsible for the Federal electric power transmission and marketing function in 15 Central and Western States. Western sells power to about 530 customers consisting of cooperatives, municipalities, public utility districts, provate utilities, Federal and State agencies, and irrigation districts. Current installed generating capacity that Western markets is 8,321 megawatts. Western owns and operates 69-, 115-, and 138-kV facilities in the project area. Western's original participation was for the purpose of enhancing transmission system reliability. Since the Hayden-Blue River project was originally defined, Western has undertaken a study of its underlying 115-/69-kV system and recognized an opportunity to incorporate its needs into a comprehensive plan to solve area-wide needs. Western now proposes to consolidate some of the 115-/69-kV system with the Gore Pass-Blue River proposal, allowing Western to remove portions of the 115-/69-kV system in the project area.

Since the changes in the participation agreement are confined to the corridors defined in the REA's ROD, significant changes relevant to environmental concerns are not expected. Western proposes to utilize the resource information developed for the REA EIS to analyze alternative routings in the supplemental EIS. Tri-State will utilize the same resource information in routing the transmission line between Hayden and Gore Pass Substation in compliance with local transmission siting requirements.

The purpose of this notice is to solicit comments and suggestions for consideration in preparing the supplemental EIS and invite the participation of Federal, State, and local agencies and interested organizations and individuals. The FS and the BLM have already been asked to cooperate with Western in the development of the supplemental EIS. Any written comments or participation requests will be considered prior to the development of the supplemental EIS.

Environmental issues identified in REA's scoping process for the Hayden-Blue River project will be addressed in the supplemental EIS. In addition, based on a review of the appeal of the FS's ROD, Western has identified additional environmental issues, including the consideration of reasonable alternatives, consideration of more specific routing alternatives, and consideration of relationships of other related actions. In the supplemental EIS, Western intends to respond to environmental issues raised in the FS appeal, to describe impacts and recommended mitigation measures for the removal of certain 115-/69-kV lines in the project area, and to evaluate routing alternatives within the corridors described in REA's ROD between Gore Pass Substation and the proposed Blue River Substation.

The No Action, Generation Curtailment, Conservation and Load Management, Renewable Energy Systems, Transmission Line, and Corridor alternatives were addressed in the REA's EIS. Unless specific comments are received, Western does not intend to readdress the alternatives discussed in the REA EIS, except for some variations of the transmission line alternatives.

A supplemental draft EIS is expected to be completed by October 1, 1984, at which time its availability will be announced in the **Federal Register** and public comments will again be solicited. Those individuals who do not wish to submit comments at this time but who would like to receive a copy of the supplemental draft EIS when it is issued should notify William C. Melander at the address given above. In addition, Western intends to conduct a series of public workshops to obtain input on alternative line routings. The public workshops will be announced separately.

Copies of the REA EIS and record of decision are available for inspection at the addresses given above.

Issued at Golden, Colorado, January 27, 1984.

Robert L. McPhail,

Administrator.

[FR Doc. 84-3171 Filed 2-3-84; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPPE-FRL 2518-7]

Agency Information Collection Activities Under OMB Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 3507(a)(2)(B) of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.) requires the Agency to publish in the **Federal Register** a notice of proposed information collection requests that have been forwarded to the Office of Management and Budget (OMB) for review. The information collection requests listed are available to the public for review and comment.

FOR FURTHER INFORMATION CONTACT: David Bowers; Office of Standards and Regulations; Information Management Section (PM-223); U.S. Environmental Protection Agency; 401 M Street, SW., Washington, D.C. 20460; telephone (202) 382-2742 or FTS 382-2742.

SUPPLEMENTARY INFORMATION:

Toxics Programs

• Title: FIFRA Annual Report on Conditional Registrations (EPA #0601).

Abstract: EPA requires respondents to report annually the amount of conditionally registered pesticide products they produce. The Agency will use this information in its annual report to Congress on conditional registrations.

Respondents: Pesticide manufacturers.

Agency PRA Clearance Requests Completed by OMB

EPA #0114, Motor Vehicle Tampering Survey, was cleared on January 13 (OMB #2060-0010).

Comments on all parts of this notice should be sent to:

David Bowers (PM-223), U.S. Environmental Protection Agency, Office of Standards and Regulations, 401 M Street, SW., Washington, D.C. 20460; and

Wayne Leiss, Carlos Tellez or Rick Otis, Office of Management and Budget, Office of Information and Regulatory Affairs, New Executive Office Building (Room 3228), 726 Jackson Place, NW., Washington, D.C. 20503.

Dated: January 27, 1984.

Daniel J. Fiorino,

Acting Director, Regulation and Information Management Division.

[FR Doc. 84-2988 Filed 2-3-84; 8:45 am]

BILLING CODE 6560-50-M

[AD-FRL 2520-7]

Control Techniques Guideline Document; VOC Equipment Leaks From Natural Gas/Gasoline Processing

AGENCY: Environmental Protection Agency (EPA).

ACTION: Release of final control techniques guideline (CTG) document.

SUMMARY: Final CTG document for control of equipment leaks of volatile organic compounds (VOC) from natural gas/gasoline processing plants is available. This final CTG document provides guidance for the States in determining reasonably available control technology (RACT) for VOC equipment leaks from natural gas/gasoline processing plants.

ADDRESSES: Copies of the final CTG document may be obtained by contacting the Environmental Research Library (MD–35), (919) 541–2777, Environmental Protection Agency, Research Triangle Park, North Carolina 27711. Please refer to "Guideline Series—Control of Volatile Organic Compound Equipment Leaks from Natural Gas/Gasoline Processing," EPA–450/3–83–007. Comments received on the draft CTG document are attached as an appendix to the final CTG document and are also available for public inspection and copying between 8:30 a.m. and 4:00 p.m., Monday through Friday at the Chemicals and Petroleum Branch, Room 736, Environmental Protection Agency, 411 West Chapel Hill Street, Durham, North Carolina.

FOR FURTHER INFORMATION CONTACT: Mr. J. F. Durham, (919) 541–5671, Chemicals and Petroleum Branch (MD–13), Emission Standards and Engineering Division, Environmental Protection Agency, Research Triangle Park, North Carolina 27711.

SUPPLEMENTARY INFORMATION: The EPA announced the availability for public review of the draft CTG for VOC equipment leaks from natural gas/gasoline processing plants on January 25, 1982 (47 FR 3403). Twelve comments were received on this draft document from industry representatives and trade groups. The final CTG document was prepared based on the evaluation of the public comments and on consideration of supplemental data analyses provided subsequent to the issuance of the draft CTG document in "Fugitive Emission Sources of Organic Compounds—Additional Information on Emissions, Emission Reductions, and Costs," or AID EPA–450/3–82–010 (April 1982). Several major changes were made in the final RACT determination. The emission reduction estimates were revised based upon the methodology presented in the AID, and an exemption from the leak detection and repair requirements was provided for plants that do not fractionate natural gas liquids and that have feed capacities of less than 280 thousand cubic meters (10 million cubic feet) per day. Additional exemptions have been provided in the final CTG. All leaks that cannot be repaired on-line no longer have to be repaired within 1 year of detection and control of valve positioner emissions from gas-operated control valves is not required. Exemption from the routine leak detection and repair requirement is provided for equipment in dry gas service (containing less than 1.0 percent VOC by weight), in heavy liquid service, and in vacuum service. Reciprocating compressor seals in wet gas service (i.e., containing between 1.0 and 50 percent VOC by weight) are exempted from RACT requirements if there is no control device available in the gas plant.

This CTG document is part of the third group of CTG documents published to assist the States in determining RACT for various stationary sources of VOC emissions. CTG documents provide State and local air pollution control agencies with an initial information base for proceeding with their own analysis of RACT for specific stationary source categories of VOC emissions located within areas where an extension was granted to the attainment of the national ambient air quality standard (NAAQS) for ozone. The CTG documents review existing information and data concerning the technology and cost of various control techniques to reduce VOC emissions.

This CTG is not a "rule" as defined by the Administrative Procedure Act (5 U.S.C. 551 et seq.). It is a "rule" for purposes of Executive Order 12291, because it is designed to implement an EPA policy. Under Executive Order 12291, EPA must judge whether a rule is "major" and therefore, subject to the requirements of a regulatory impact analysis. This CTG document is not a "major rule" because it does not impose any new requirements. This notice and the final CTG documents were submitted to the Office of Management and Budget (OMB) for review. Any comments from the OMB to the EPA and any EPA responses to those comments are available for public inspection. See the **ADDRESSES** secton of this notice for the times and addresses.

Dated: June 6, 1984.

Sheldon Meyers,

Assistant Administrator for Air, Noise, and Radiation.

[FR Doc. 84–3128 Filed 2–3–84; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL RESERVE SYSTEM

Chokio Agency, Inc.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies and Acquisitions of Nonbanking Companies

The company listed in this notice has applied under § 225.14 of the Board's Regulation Y (49 FR 794) for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) to become a bank holding company or to acquire voting securities of a bank or bank holding company. The listed company has also applied to under § 225.23(a)(2) of Regulation Y (49 FR 794) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (49 FR 794) to acquire or control voting securities or assets a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated for that application. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. With respect to the application, interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding this application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than February 29, 1984.

A. **Federal Reserve Bank of Minneapolis** (Bruce J. Hedblom, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Chokio Agency, Inc.*, Chokio, Minnesota to acquire 91.7 percent of the voting shares of Chokio State Bank, Chokio, Minnesota and Chokio State Agency, Inc., Chokio, Minnesota; to engage in the activities of a general insurance agency operating in a community with a population not exceeding 5,000.

Board of Governors of the Federal Reserve System, January 31, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-3085 Filed 2-3-84; 8:45 am]

BILLING CODE 6210-01-M

CitiCorp, et al.; Engaging de Novo in Permissible Nonbanking Activities

The bank holding companies listed in this notice have filed a notice under § 225.23(a)(1) of the Board's Regulation Y (49 FR 794) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (49 FR 794) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated for that application. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. With respect to each notice, interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated for the application or the offices of the Board of Governors not later than February 24, 1984.

A. **Federal Reserve Bank of New York** (A. Marshall Puckett, Vice President) 33 Liberty Street, New York, New York 10045:

1. *Citicorp*, New York, New York; to engage through its subsidiaries Citicorp Person-to-Person Financial Center, Inc. and Citicorp Homeowners, Inc., in the making or acquiring of loans and other extensions of credit, secured or unsecured, for consumer and other purposes; the sale of credit related life and accident and health insurance by licensed agents or brokers, as required; the sale of consumer oriented financial management courses; the servicing, for any person, of loans and other extensions of credit; the making, acquiring, and servicing, for its own account and for the account of others, of extensions of credit to individuals secured by liens on residential or non-residential real estate; the sale of mortgage life and mortgage disability insurance directly related to extensions of mortgage loans.

B. **Federal Reserve Bank of Minneapolis** (Bruce J. Hedblom, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Norwest Corporation*, Minneapolis, Minnesota; To retain shares in its indirect subsidiary, Norwest Modern Home Capital, Inc., and thereby to engage nationwide in a general residential manufactured housing finance business, including the origination of such loans, the purchase of these loans from affiliated banks and from others, the assembly of loans into blocks for investors, the sale and servicing of these loans, the sale (as an agent of a qualified insurer or insurers) to borrowers of casualty insurance which is directly related to an extension of credit by Modern Home, and the placement of inventory financing ("floorplan financing") for manufactured housing dealers with a qualified lender or lenders. Comments on this application must be received not later than February 27, 1984.

Board of Governors of the Federal Reserve System, January 31, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-3090 Filed 2-3-84; 8:45 am]

BILLING CODE 6210-01-M

First Coastal Banks, Inc. et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (49 FR 794) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated for that application. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. With respect to each application, interested persons may express their views in writing to the Reserve Bank indicated for that application or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than February 29, 1984.

A. **Federal Reserve Bank of Boston** (Richard E. Randall, Vice President) 600 Atlantic Avenue, Boston, Massachusetts 02106:

1. *First Coastal Banks, Inc.*, Portsmouth, New Hampshire; to become a bank holding company by acquiring 100 percent of the voting shares of The First National Bank of Portsmouth, Portsmouth, New Hampshire.

B. **Federal Reserve Bank of New York** (A. Marshall Puckett, Vice President) 33 Liberty Street, New York, New York 10045:

1. *The First of Long Island Corporation*, Glen Head, New York; to become a bank holding company by acquiring 100 percent of the voting shares of The First National Bank of Long Island, Glen Head, New York.

C. **Federal Reserve Bank of Cleveland** (Lee S. Adams, Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. *Farmers Bancshares of Georgetown, Inc.*, Georgetown, Kentucky; to become a bank holding company by acquiring 100 percent of the voting shares of Farmers Bank & Trust Company, Georgetown, Kentucky.

D. **Federal Reserve Bank of Richmond** (Lloyd W. Bostian, Jr., Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. *F & M Bank Corp.*, Timberville, Virginia; to become a bank holding company by acquiring 100 percent of the voting shares of Farmers and Merchants

Bank of Rockingham, Timberville, Virginia.

E. **Federal Reserve Bank of St. Louis** (Delmer P. Weisz, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *Terre Du Lac Bancshares, Inc.*, Leadwood, Missouri; to acquire 50.7 percent of the voting shares or assets of Bank of Steele, Steele, Missouri.

Board of Governors of the Federal Reserve System, January 31, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-3066 Filed 2-3-84; 8:45 am]

BILLING CODE 6210-01-M

LCB Corporation, Inc.; Formation of Bank Holding Companies

The company listed in this notice has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring voting shares or assets of a bank. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated. With respect to the application, interested persons may express their views in writing to the address indicated. Any comment on the application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, NW., Atlanta, Georgia 30303:

1. *LCB Corporation, Inc.*, Fayetteville, Tennessee; to become a bank holding company by acquiring 80 percent or more of the voting shares of Lincoln County Bank, Fayetteville, Tennessee. Comments on this application must be received not later than February 22, 1984.

Board of Governors of the Federal Reserve System, January 31, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-3067 Filed 2-3-84; 8:45 am]

BILLING CODE 6210-01-M

Mega Bancshares, Inc.; Formation of a Bank Holding Company

Mega Bancshares, Inc., St. Louis, Missouri, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring at least 80 percent of the voting shares of Santa Ana Bancorp, Inc., St. Ann, Missouri, and thereby indirectly acquire at least 80 percent of the voting shares of Bank of St. Ann, St. Ann, Missouri and at least 80 percent of the voting shares of Woods Mill—Forty Bank, Town and Country, Missouri. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Mega Bancshares, Inc., St. Louis, Missouri, has also applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission indirectly to acquire voting shares of Santa Ana Agency, St. Ann, Missouri.

Applicant states that the proposed subsidiary would continue to engage in the activities of selling credit life, credit accident and health, mortgage life, and property damage and casualty insurance directly related to extensions of credit made or acquired by Applicant's bank subsidiaries; and, writing the in-house insurance coverage for Applicant and Applicant's subsidiary banks. These insurance activities are permissible under section 601(D) and (E) of the Garn-St. Germain Depository Institutions Act of 1982. These activities would be performed from offices of Applicant's subsidiary in St. Ann, Missouri, and the geographic areas to be served are St. Louis, St. Charles, Franklin and Jefferson Counties, Missouri, and the city of St. Louis, Missouri. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of St. Louis.

Any views or requests for hearing should be submitted in writing and received by the Reserve Bank not later than February 29, 1984.

Board of Governors of the Federal Reserve System, January 31, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-3068 Filed 2-3-84; 8:45 am]

BILLING CODE 6210-01-M

Preferred Equity Investors of Florida and Landmark Banking Corp. of Florida; Proposed Acquisition of Southwest Florida Banks, Inc.

Preferred Equity Investors of Florida, Knoxville, Tennessee, and Landmark Banking Corporation of Florida, Fort Lauderdale, Florida, have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to acquire voting shares of Southwest Mortgage Services, Inc., Southwest Data Services, Inc., Southwest Financial Services, Inc., and Florida Interchange Group, all located in Fort Myers, Florida.

Applicant states that the proposed subsidiary would engage in the activities of mortgage banking, data processing, credit related insurance, real estate appraisal, and electronic funds transfer. These activities would be performed from offices of Applicant's subsidiary in Fort Myers, Florida and the geographic areas to be served are Pasco, Pinellas, Hillsborough, Manatee, Sarasota, Charlotte, Lee and Collier Counties in Florida. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation

would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Atlanta.

Any views or requests for hearing should be submitted in writing and received by William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, Washington, D.C., not later than March 1, 1984.

Board of Governors of the Federal Reserve System, January 31, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-3089 Filed 2-3-84; 8:45 am]

BILLING CODE 6210-01-M

GENERAL SERVICES ADMINISTRATION

[GSA Bulletin FPR 62]

Federal Procurement; Current Interest Rate

January 12, 1984.

To: Heads of Federal agencies.

Subject: Current interest rate.

1. *Purpose.* This bulletin provides, for the information of executive agencies, the current interest rate established by the Secretary of the Treasury (48 FR 57044, December 27, 1983).

2. *Expiration date.* This bulletin expires June 30, 1984, unless revised or superseded earlier.

3. *Background.*

a. The Renegotiation Act of 1951 (Pub. L. 92-41), as amended, required the Secretary of the Treasury to determine semiannually an interest rate for use in connection with the Act. Subsequently, this rate was applied to various interest payment requirements in the FPR. The following FPR sections contain reference to this interest rate: §§ 1-3.1204-1, 1-3.1204-2, 1-7.203-15, 1-8.212-1(f), 1-8.701, 1-8.702, 1-8.703, 1-8.704-1, 1-8.706, 1-8.804-2(b), 1-8.806-4, 1-30.403, 1-30.414-2(k)(2), and 1-30.414-2(n)(3).

b. The interest rate determined by the Secretary of the Treasury for Renegotiation Act purposes also applies to the Contract Disputes Act of 1978 (Pub. L. 95-563).

c. The Prompt Payment Act (Pub. L. 97-177) provides that interest on late payments shall be computed at the rate which applies to the Contract Disputes Act of 1978.

4. *Current interest rate.* The Secretary of the Treasury has established an interest rate of 12⅜ (12.375) percent for the period beginning January 1, 1984, and ending June 30, 1984.

Allan W. Beres,

Assistant Administrator for Acquisition Policy.

[FR Doc. 84-3078 Filed 2-3-84; 8:45 am]

BILLING CODE 6820-61-M

Agency Information Collections Under Review by the Office of Management and Budget (OMB); Accident Prevention, North Carolina Sales Tax Certification and Transportation Requirements

AGENCY: Office of Policy and Management Systems, GSA.

ACTION: Notice.

SUMMARY: The General Services Administration (GSA) plans to request the Office of Management and Budget (OMB) to review and approve three existing information collections in use without OMB control numbers. This action is required by the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35).

DATE: Submit comments on these information collections before February 25, 1984.

ADDRESSES: Send comments to Franklin S. Reeder, GSA Desk Officer, Room 3235, NEOB, Washington, DC 20503, and to John F. Gilmore, GSA Clearance Officer, GSA (ATRAI), Washington, DC 20405.

FOR FURTHER INFORMATION CONTACT: Victoria Moss, Office of Acquisition Policy (202-523-4799).

SUPPLEMENTARY INFORMATION:

1. *Accident Prevention.*

a. *Purpose of collection.* This clause requires Federal construction contractors to keep records of accidents that cause death, injury, disease, or damage to property, materials, supplies or equipment. This requirement ensures compliance with safety regulations.

b. *Annual reporting burden.* This is estimated as follows: Respondents 288, responses 432, recordkeepers 864, hours 1,080.

2. *North Carolina Sales Tax Certification.*

a. *Purpose.* This clause requires construction contractors to furnish tax information to verify refund claims for materials, supplies, fixtures, and equipment for new and modified buildings.

3. *Transportation Requirements.*

a. *Purpose.* This clause requires firms that sell to the Government to furnish information regarding the nature of supplies, method of shipment, charges and other related items. This information ensures prompt delivery of supplies.

b. *Annual reporting burden.* This is estimated as follows: Respondents 5,000, responses 20,000, hours 4,600.

4. *Obtaining copies of proposals.* Requestors may get copies of these documents for the Directives and Reports Management Branch (ATRAI), Room 3004, GS Building, Washington, DC 20405, telephone (202-566-0666).

Dated: January 27, 1984.

William W. Hiebert,

Acting Director, Information Management Division.

[FR Doc. 84-2906 Filed 2-3-84; 8:45 am]

BILLING CODE 6820-43-M

Agency Information Collection Under Review by the Office of Management and Budget (OMB); Contractor's Monthly Report of Services Ordered/Delivered

AGENCY: Office of Policy and Management Systems, GSA.

ACTION: Notice.

SUMMARY: The General Services Administration (GSA) plans to request the Office of Management and Budget (OMB) to review and approve an extension of a currently approved information collection. This action is required by the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35).

DATE: Submit comments on this information collection before February 27, 1984.

ADDRESSES: Send comments to Franklin S. Reeder, GSA Desk Officer, Room 3235, NEOB, Washington, DC 20503, and to John F. Gilmore, GSA Clearance Officer, GSA (ATRAI), Washington, DC 20405.

FOR FURTHER INFORMATION CONTACT: Maxine Andewelt, Office of Information Resources Management (202-566-1275).

SUPPLEMENTARY INFORMATION:

a. *Purpose of collection.* The report helps to manage the Teleprocessing Services Program (TSP). It assists in determining: Cumulative Order Limitations (COL) balances, contractors payments, volume discounts and services delivered. This affects contractors who have a TSP Multiple Award Schedule Contract.

b. *Annual reporting burden.* This is estimated as follows: Respondents 50, responses 600, hours 1,224.

c. *Obtaining copies of proposal.* Requestors may get copies of the proposal from the Directives and Reports Management Branch (ATRAI), Room 3004, GS Building, Washington, DC 20405, telephone (202–566–0666).

Dated: January 27, 1984.

William W. Hieber,

Acting Director, Information Management Division.

[FR Doc. 84-3136 Filed 2-3-84; 8:45 am]
BILLING CODE 6820-61-M

Agency Information Collection Under Review by the Office of Management and Budget (OMB); Bonds and Insurance

AGENCY: Office of Policy and Management Systems, GSA.

ACTION: Notice.

SUMMARY: The General Services Administration (GSA) plans to request the Office of Management and Budget (OMB) to approve an existing information collection. This action is required by the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35).

DATE: Submit comments on this information collection before February 18, 1984.

ADDRESSES: Send comments to Franklin S. Reeder, GSA Desk Officer, Room 3235, NEOB, Washington, DC 20503, and to John F. Gilmore, Clearance Officer, GSA (ATRAI), Washington, DC 20405.

FOR FURTHER INFORMATION CONTACT: Ida Ustad (GSA), Office of Acquisition Policy (523–4754).

SUPPLEMENTARY INFORMATION:

a. *Purpose.* This collection requires construction contractors to furnish bonds and insurance agreements prior to preceeding with the work. They protect the Government from loss if a contractor defaults.

b. *Annual reporting burden.* Respondents and responses 1,100; hours 2,200.

c. *Copies of proposal.* Copies may be obtained from the Directives and Reports Management Branch (ATRAI), Room 3004, GS Building, Washington, DC 20405 (202–566–0666).

Dated: January 27, 1984.

William W. Hiebert,

Acting Director, Information Management Division.

[FR Doc. 84-3137 Filed 2-3-84; 8:45 am]
BILLING CODE 6820-61-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

Office of the Assistant Secretary for Health; Statement of Organization, Functions and Delegations of Authority

Part H, Chapter HA (Office of the Assistant Secretary for Health) of the Statement of Organization, Functions and Delegations of Authority for the Department of Health and Human Services (DHHS) (42 FR 61318, December 2, 1977, as amended most recently at 48 FR 25277, June 6, 1983), is amended to reflect revisions to functional statements for the National Center for Health Statistics, Office of the Assistant Secretary for Health.

Under Part H, Chapter HA, Office of the Assistant Secretary for Health, Section HA–20 Functions, make the following changes:

Under the heading *National Center for Health Statistics (HAS), Office of Program Planning Evaluation and Coordination (HAS15),* delete item (8) in its entirety and substitute the following: (8) Provides guidance and staff support for major Center conferences and committee meetings; (9) provides advice and assistance to outside agencies and organizations in the conduct of statistical training activities;

Following the heading *Division of Epidemiology and Health Promotion (HASE2),* delete the word "Indices" in the last line of item (7) and substitute the word "Indexes."

Dated: January 12, 1984.

Edward N. Brandt, Jr.,

Assistant Secretary for Health.

[FR Doc. 84-3106 Filed 2-3-84; 8:45 am]
BILLING CODE 4160-17-M

Office of the Assistant Secretary for Health; Statement of Organization, Functions and Delegations of Authority

Part H, Public Health Service (PHS), Chapter HA (Office of the Assistant Secretary for Health) of the Statement of Organization, Functions and Delegations of Authority for the Department of Health and Human Services (DHHS) (42 FR 61318, December 2, 1977, as amended most recently in pertinent part at 44 FR 23126, April 18, 1979), is amended to reflect revisions to the functional statement for the Office of International Health/Office of the Assistant Secretary for Health, and to delete the division level substructure.

Under Part H, Chapter HA, Office of the Assistant Secretary for Health (OASH), Section HA–20 Functions, delete in their entirety the titles and statements for the *Office of International Health (HAE)* and substitute the following:

Office of International Health (HAE). The Office of International Health (OIH), within the overall policy guidance of the DHHS Office of International Affairs (OIA), Office of the Secretary, and in consultation and cooperaton with OIA: (1) Serves as the PHS and departmental focal point for policy guidance, planning, evaluation and program coordination relating to international health; (2) provides staff advice to the Secretary, the Assistant Secretary for Health and the Surgeon General on international health policies, plans, programs and activities, including recommendation of the overall budget for international health; (3) prepares, directs and assesses the results of analyses and evaluations of selected international health policy issues and programs for PHS, DHHS, the Department of State, the Agency for International Development, and other Federal departments and agencies; (4) maintains liaison with and, as appropriate, represents the Department to international institutions and organizations, the U.S. private sector, other departments and agencies, and representatives of foreign governments on international health matters; (5) facilitates technical cooperation in the health field with other departments and agencies, international organizations and requesting countries; (6) recommends and promotes policies in multilateral health and health-related programs for implementation by international organizations, especially the World Health Organization (WHO), the Pan American Health Organization (PAHO), and the United Nations Children's Fund; (7) serves as the principal focal point in the Department for relationships with WHO and PAHO and arranges for the provision of technical consultation to these organizations; (8) analyzes policies, strategies, and budgets of international organizations as a basis for recommending U.S. policy towards and participation in the health-related programs of the organizations; (9) serves as the primary focal point in PHS for relationships with other departments and agencies, the private sector, and representatives of foreign governments on health cooperation under bilateral arrangements; (10) develops and, as appropriate, implements international activities in cooperation with PHS and

other agencies and facilitates their participation in those activities; and (11) provides leadership and staff support in intragovernmental international health policy, planning and coordination processes.

Dated: January 23, 1984.

Edward N. Brandt, Jr.,

Assistant Secretary for Health.

[FR Doc. 84-3105 Filed 2-3-84; 8:45 am]

BILLING CODE 4160-17-M

National Center for Health Services Research; Assessment of Medical Technology

The Public Health Service (PHS), through the Office of Health Technology Assessment (OHTA), announces that it is coordinating an assessment of what is known of the safety, clinical effectiveness and use (indications) of percutaneous endoscopic procedures employing ultrasound or electohydraulic or other modalities of lithotripsy in the treatment of kidney stones. Transurethral and extracorporeal methods are being addressed in a separate Notice of Assessment.

Specifically, we are interested in knowing whether percutaneous procedures have significant advantages when compared to other surgical methods of treatment. If they prove to be safe and clinically effective, what are the specific indications and when is their use considered reasonable and necessary? In addition, this assessment seeks to determine whether specific percutaneous procedures are regarded as investigational or generally accepted treatments. Not included are the medical treatments of kidney stones, including diet and drugs, which may be used alone or in conjunction with operative procedures.

The PHS assessment consists of a synthesis of information obtained from appropriate organizations in the private sector and from PHS and other agencies in the Federal Government. PHS assessments are based on the most current knowledge concerning the safety and clinical effectiveness of a technology. Based on this assessment, a PHS recommendation will be formulated to assist the Health Care Financing Administration (HCFA) in establishing Medicare coverage policy. Any person or group wishing to provide OHTA with information relevant to this assessment should do so in writing no later than April 30, 1984 or within 90 days from the date of publication of this notice.

The information being sought is a review and assessment of past, current, and planned research related to this technology, a bibliography of published, controlled clinical trials and other well-designed clinical studies. Information related to the characterization of the patient population most likely to benefit from it, as well as on the clinical acceptability and the effectiveness of this technology is also being sought.

Written material should be submitted to: John R. Farrell, M.D., National Center for Health Services Research, Office of Health Technology Assessment, Park Building, Room 3-10, 5600 Fishers Lane, Rockville, Maryland 20857.

Further information is available from Dr. John Farrell, Health Science Analyst, at the above address or by telephone (301) 443-4990.

Dated: January 25, 1984.

Enrique D. Carter,

Acting Director, Office of Health Technology Assessment, National Center for Health Services Research.

[FR Doc. 84-3102 Filed 2-3-84; 8:45 am]

BILLING CODE 4160-17-M

National Center for Health Services Research; Assessment of Medical Technology

The Public Health Service (PHS), through the Office of Health Technology Assessment (OHTA), announces that it is coordinating an assessment of what is known of the safety, clinical effectiveness and use (indications) of noninvasive ultrasound and other noninvasive modalities of lithotripsy in the treatment of kidney stones. For the purposes of this notice, endoscopic transurethral procedures are considered noninvasive to distinguish these approaches from percutaneous (flank) endoscopic procedures which are being addressed in a separate Notice of Assessment.

Specifically, we are interested in knowing whether noninvasive procedures for treatment of kidney stones in use in the United States today have significant advantages when compared to other surgical methods of treatment. If they prove to be safe and clinically effective, what are the specific indications and when is their use considered reasonable and necessary? In addition, this assessment seeks to determine whether specific noninvasive procedures are regarded as investigational or generally accepted treatments. Not included are the medical treatments of kidney stones, including diet and drugs, which may be used alone or in conjunction with operative procedures.

The PHS assessment consists of a synthesis of information obtained from appropriate organizations in the private sector and from PHS and other agencies in the Federal Government. PHS assessments are based on the most current knowledge concerning the safety and clinical effectiveness of a technology. Based on this assessment, a PHS recommendation will be formulated to assist the Health Care Financing Administration (HCFA) in establishing Medicare coverage policy. Any person or group wishing to provide OHTA with information relevant to this assessment should do so in writing no later than April 30, 1984 or within 90 days from the date of publication of this notice.

The information being sought is a review and assessment of past, current, and planned research related to this technology, a bibliography of published, controlled clinical trials and other well-designed clinical studies. Information related to the characterization of the patient population most likely to benefit from it, as well as on clinical acceptability and the effectiveness of this technology and extent of use is also being sought.

Written material should be submitted to: John R. Farrell, M.D., National Center for Health Services Research, Office of Health Technology Assessment, Park Building, Room 3-10, 5600 Fishers Lane, Rockville, Maryland 20857.

Further Information is available from Dr. John Farrell, Health Science Analyst, at the above address or by telephone (301) 443-4990.

Dated: January 25, 1984.

Enrique D. Carter,

Acting Director, Office of Health Technology Assessment, National Center for Health Services Research.

[FR Doc. 84-3103 Filed 2-3-84; 8:45 am]

BILLING CODE 4160-17-M

DEPARTMENT OF THE INTERIOR

Office of the Secretary

Commission on Fair Market Value Policy for Federal Coal Leasing; Meeting

AGENCY: Department of the Interior.

ACTION: Notice of meeting.

SUMMARY: Notice is hereby given that the Commission on Fair Market Value Policy for Federal Coal Leasing will meet on February 1, 1984, to review and discuss the draft of its report to Congress. The location of the meeting is Room 740 at 1925 K Street NW., Washington, D.C. The meeting will begin at 9:00 a.m.

FOR FURTHER INFORMATION CONTACT: Wiley Horsley, Staff Manager, Commission on Fair Market Valve

Policy for Federal Coal Leasing, Suite 400, 1015 20th Street NW., Washington, D.C. 20036. Phone: (202) 632–6501.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to the authority and requirements of Public Law 98–63, approved July 30, 1983, making supplemental appropriations for fiscal year 1983, and for other purposes, and in accordance with the Federal Advisory Committee Act (Pub. L. 92–463).

The Commission will meet at 9:00 a.m. on February 8, 1984, to review and discuss the draft of its report to Congress. The location of the meeting is Room 740 at 1925 K Street NW., Washington, D.C.

Dated: February 1, 1984.

David F. Linowes,

Chairman.

[FR Doc. 84–3234 Filed 2–3–84; 8:45 am]

BILLING CODE 4310–10–M

Bureau of Land Management

[C–36446]

Coal Lease Offering by Sealed Bid

U.S. Department of the Interior, Bureau of Land Management, Colorado State Office, 1037 20th Street, Denver, Colorado 80202. Notice is hereby given that certain coal resources in the lands hereinafter described in Gunnison County, Colorado will be offered for competitive lease by sealed bid. This offering is being made as a result of an application filed by U.S. Steel Corporation in accordance with the provisions of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 181 et seq.). The sale will be held at 2:00 p.m., March 8, 1984, at the above address.

The tract will be leased to the qualified bidder of the highest cash amount provided that the high bid meets the fair market value determination of the tract. The minimum bid is $100 per acre, or fraction thereof. No bid less than $100 per acre, or fraction thereof, will be considered. The minimum bid is not intended to represent fair market value. The fair market value will be determined by the authorized officer after the sale. Sealed bids must be submitted on or before 1:00 p.m., Thursday, March 8, 1984, to the Colorado State Office, 1037 20th Street, Denver, CO. 80202. Bids received after that time will not be considered.

If identical high sealed bids are received, the tying high bidders will be requested to submit follow-up sealed bids until a high bid is received. All tie-breaking sealed bids must be submitted following the sale official's announcement at the sale that identical high bids have been received.

Coal Offered: The coal resource to be offered is limited to coal recoverable by underground mining methods from the "B" bed in the following lands located approximately 2 miles north of Somerset, Colorado:

T. 13 S., R. 90 W., 6th P.M.,
Sec. 6, lots 9 and 14.
The area described contains 78.51 acres.

(Sealed bids should be formulated on the basis of 79 acres.)

The "B" bed contains an estimated 699,500 tons of recoverable coal with the following analyses: Btu 12,070–13,900; Sulfur 0.4–0.7 percent; Ash 2.8–12.0 percent; and Moisture 2.3–8.2 percent.

Rental and Royalty: The lease issued as a result of this offering will provide for payment of an annual rental of $3.00 per acre or fraction thereof and a royalty payable to the United States of 8 percent of the value of coal to be mined by underground methods. The value of the coal shall be determined in accordance with 43 CFR 3485.2.

Notice of Availability: Bidding instructions for the offered tract are included in the Detailed Statement of Lease Sale. Copies of the statement and of the proposed coal lease are available at the Colorado State Office. Case file documents are also available at that office for public inspection.

Evelyn W. Axelson,

Chief, Mineral Leasing Section.

[FR Doc. 84–3075 Filed 2–3–84; 8:45 am]

BILLING CODE 4310–JB–M

California Desert District Advisory Council; Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Meeting of the California Desert District Advisory Council.

SUMMARY: Notice is hereby given in accordance with Pub. L. 92–463 and 94–579 that the California Desert District Advisory Council to the Bureau of Land Management, U. S. Department of the Interior, will meet formally Thursday, March 8 and Saturday, March 10, 1984, in the Imperial Room of the Vacation Inn TraveLodge, 2000 Cottonwood Circle at I–8 and Imperial Avenue, El Centro, California 92243. The meetings will be held from 9 a.m. to 5 p.m. on Thursday and from 8 a.m. to approximately 12 noon on Saturday.

Agenda items of the day and a half session will include Council subcommittee reports on the proposed Coachella Valley Fringed-Toed Lizard land acquisition and the Haiwee Reservoir exchange proposed by the Los Angeles Department of Water and Power; a status report on implementation of the long-term visitor area program for winter visitors to the desert areas of Southern California and Arizona; initiation of the 1984 monitoring program on implementation of the California Desert Plan; final review and recommendations on the 1983 Plan Amendments; and, other issues involving management of the public lands in the California Desert District.

A field trip is scheduled for Friday, March 9, 1984, highlighting energy and mineral developments and resources in the District's El Centro Resource Area. Transportation for this tour is provided for staff and Council members only. Public participants are invited to join the tour, but must provide their own transportation and food.

There will also be a field trip opportunity for Council members following the meeting conclusion on Saturday, which will visit the 1000 Palms area. While scheduled, the trip may be cancelled if there is not sufficient attendance.

The formal meetings are open to the public with time allocated for public comments each day and during presentation of agenda items at the discretion of the chair.

Statements may be filed in advance with the California Desert District Advisory Council Chairman, Frank W. DeVore, Bureau of Land Management Public Affairs Office, 1695 Spruce Street, Riverside, California 92507.

FOR FURTHER INFORMATION AND MEETING CONFIRMATION: Contact the Bureau of Land Management, California Desert District Office, 1695 Spruce Street, Riverside, California 92507: (714) 351–6383.

Dated: January 30, 1984.

Gerald E. Hillier,

District Manager.

[FR Doc. 84–3140 Filed 2–3–84; 8:45 am]

BILLING CODE 4310–40–M

Minerals Management Service

Receipt of Proposed Plan of Development/Production

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the Receipt of a Proposed Plan of Development/Production (POD/P).

SUMMARY: Notice is hereby given that Sun Exploration and Production has submitted a POD/P describing the activities it proposes to conduct on

Lease OCS–G 1848, Block 129, High Island Area, offshore Texas. Proposed plans for the above area provide for the development and production of hydrocarbons with support activities to be conducted from an onshore base located at Sabine Pass, Texas.

DATE: The subject POD/P was deemed submitted on January 27, 1984.

ADDRESSES: A copy of the subject POD/P is available for public review at the Office of the Regional Manager, Gulf of Mexico Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana (Office Hours: 9 a.m. to 3:30 p.m., Monday through Friday).

FOR FURTHER INFORMATION CONTACT: Mr. Warren Williamson, Minerals Management Service, Gulf of Mexico Region; Rules and Production; Plans, Platform and Pipeline Section, Exploration/Development Plans Unit; phone (504) 838–0817.

SUPPLEMENTARY INFORMATION: The purpose of this Notice is to inform the public, pursuant to section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the POD/P and that it is available for public review.

Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in POD/Ps available to affected states, executive of affected local governments, and other interested parties became effective December 13, 1979 (44 FR 53685). Those practices and procedures are set out in revised § 250.34 of Title 30 of the CFR.

Dated: January 28, 1984.

John L. Rankin,

Regional Manager, Gulf of Mexico Region.

[FR Doc. 84–3141 Filed 2–3–84; 8:45 am]

BILLING CODE 4310–MR–M

National Park Service

Midwest Regional Advisory Committee; Meeting

Notice is hereby given, in accordance with the Federal Advisory Committee Act, 86 Stat. 770, 5 U.S.C. App. 1, as amended by the Act of September 13, 1976, 90 Stat. 1247, that a meeting of the Midwest Regional Advisory Committee will be held on February 21, 1984, at 4 o'clock (CTS), at the Hallmark Motor Inn, 3600 Ridge Line Road, Joplin, Missouri.

The Committee was established pursuant to section 3 of the Act of August 18, 1970, 16 U.S.C. 1a–2, by the Secretary of the Interior to advise the Regional Director, Midwest Region, National Park Service, on programs, policies, and such other matters as may be referred to it by the Regional Director. It also functions to provide closer communication with the public on such matters.

The members of the Committee are as follows:

Mr. Harold W. Andersen, Omaha, Nebraska (Chairman)
Mr. B. C. Hart, St. Paul, Minnesota
Mr. William L. Lieber, Indianapolis, Indiana
Ms. Sally B. Schanbacher, Springfield, Illinois
Mr. Cherry Warren, Exeter, Missouri

The purpose of this meeting is to allow the Committee to familiarize themselves with the purpose, policies, and programs of the Midwest Regional Office of the National Park Service and four sites within the area.

The meeting will be open to the public. Any member of the public may file with the Committee, prior to the meeting, a written statement concerning the matters to be discussed. Persons wishing further information concerning the meeting or who wish to submit written statements, may contact Charles H. Odegaard, Regional Director, Midwest Region, National Park Service, 1709 Jackson Street, Omaha, Nebraska 68102, telephone (402) 221–3431.

Minutes of the meeting will be available for public inspection 4 weeks after the meeting at the Midwest Regional Office, National Park Service, 1709 Jackson Street, Omaha, Nebraska 68102.

Dated: January 27, 1984.

Charles H. Odegaard,

Regional Director, Midwest Region.

[FR Doc. 84–3132 Filed 2–3–84; 8:45 am]

BILLING CODE 4310–70–M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–133]

Certain Vertical Milling Machines and Parts, Attachments and Accessories thereto; Change in Hearing Schedule

AGENCY: International Trade Commission.

ACTION: The Commission has determined to change the time of commencement of the hearing scheduled in the above-captioned investigation. The Commission hearing will commence at 11:00 a.m. on February 7, 1984, rather than the previously announced 10:00 a.m.

Authority: 19 U.S.C. 1337, 47 FR 25134, June 10, 1982, and 48 FR 20225, May 5, 1983.

FOR FURTHER INFORMATION CONTACT: Catherine R. Field, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202–523–0189.

By order of the Commission.

Issued: February 2, 1984.

Kenneth R. Mason,

Secretary

[FR Doc. 84–3335 Filed 2–3–84; 9:05 am]

BILLING CODE 7020–02–M

[Investigations Nos. 701–TA–210 and 211 (Preliminary) and 731–TA–167 and 168 (Preliminary)]

Antidumping; Certain Table Wine From France and Italy

AGENCY: International Trade Commission.

ACTION: Institution of preliminary countervailing duty and antidumping investigations and scheduling of a conference to be held in connection with the investigations.

EFFECTIVE DATE: January 27, 1984.

SUMMARY: The United States International Trade Commission hereby gives notice of the institution of investigations Nos. 701–TA–210 and 701–TA–211 (Preliminary) under section 703(a) of the Tariff Act of 1930 (19 U.S.C. 1671b(a)) to determine whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from France and Italy, upon which bounties or grants are alleged to be paid, of still wine produced from grapes, containing not over 14 percent of alcohol by volume, provided for in item 167.30 of the Tariff Schedules of the United States (TSUS), other than wines categorized by the appropriate authorities in France or Italy as "Appelation d'Origine Controlée" or "Vins Délimites de Qualité Supérieure," or "Denominazione di Origine Controllata," respectively.

The Commission also gives notice of the institution of investigations Nos. 731–TA–167 and 731–TA–168 (Preliminary) under section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)) to determine whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from France and Italy, which are alleged to be sold in the

United States at less than fair value, of still wine produced from grapes, containing not over 14 percent of alcohol by volume, provided for in item 167.30 of the TSUS, other than wines categorized by the appropriate authorities in France or Italy as "Appelation d'Origine Controlée" or "Vins Délimites de Qualité Supérieure," or Denominazione di Origine Controllata," respectively.

FOR FURTHER INFORMATION CONTACT: Ms. Vera Libeau (202–523–0368) or Mr. David Coombs (202–523–1376), Office of Investigations, U.S. International Trade Commission, 701 E St. NW., Washington, D.C. 20436.

SUPPLEMENTARY INFORMATION:

Background

These investigations are being instituted in response to a petition filed on January 27, 1984, by the American Grape Growers Alliance for Fair Trade, which represents growers, grower organizations, and cooperatives. The Commission must make its determinations in these investigations within 45 days after the date of the filing of the petition, or by March 12, 1984 (19 CFR 207.17).

Participation

Persons wishing to participate in these investigations as parties must file an entry of appearance with the Secretary to the Commission, as provided for in § 201.11 of the Commission's Rules of Practice and Procedure (19 CFR 201.11), not later than seven (7) days after the publication of this notice in the **Federal Register**. Any entry of appearance filed after this date will be referred to the Chairman, who shall determine whether to accept the late entry for good cause shown by the person desiring to file the notice.

Service of Documents

The Secretary will compile a service list from the entries of appearance filed in these investigations. Any party submitting a document in connection with the investigations shall, in addition to complying with § 201.8 of the Commission's rules (19 CFR 201.8), serve a copy of each such document on all other parties to the investigations. Such service shall conform with the requirements set forth in § 201.16(b) of the rules (19 CFR 201.16(b)).

In addition to the foregoing, each document filed with the Commission in the course of these investigations must include a certificate of service setting forth the manner and date of such service. This certificate will be deemed proof of service of the document. Documents not accompanied by a certificate of service will not be accepted by the Secretary.

Written Submissions

Any person may submit to the Commission on or before February 21, 1984, a written statement of information pertinent to the subject matter of these investigations (19 CFR 207.15). A signed original and fourteen (14) copies of such statements must be submitted (19 CFR 201.8).

Any business information which a submitter desires the Commission to treat as confidential shall be submitted separately, and each sheet must be clearly marked at the top "Confidential Business Data." Confidential submissions must conform with the requirements of section 201.6 of the Commission's rules (19 CFR 201.6). All written submissions, except for confidential business data, will be available for public inspection.

Conference

The Director of Operations of the Commission has scheduled a conference in connection with these investigations for 9:30 a.m. on February 17, 1984, at the U.S. International Trade Commission Building, 701 E Street NW., Washington, D.C. Parties wishing to participate in the conference should contact the staff investigator, Mr. David Coombs (202–523–1376), not later than February 14, 1984, to arrange for their appearance. Parties in support of the imposition of countervailing and/or antidumping duties in these investigations and parties in opposition to the imposition of such duties will each be collectively allocated one hour within which to make an oral presentation at the conference.

Public Inspection

A copy of the petition and all written submissions, except for confidential business data, will be available for public inspection during regular business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street, NW., Washington, D.C.

For further information concerning the conduct of these investigations and rules of general application, consult the Commission's Rules of Practice and Procedure, Part 207, subparts A and B (19 CFR Part 207), and part 201, subparts A through E (19 CFR part 201). Further information concerning the conduct of the conference will be provided by Mr. Coombs.

This notice published is pursuant to § 207.12 of the Commission's rules (19 CFR 207.12).

Issued: February 1, 1984.

Kenneth R. Mason,

Secretary.

[FR Doc. 84–3152 Filed 2–3–84; 8:45 am]

BILLING CODE 7020–02–M

MOTOR CARRIER RATEMAKING STUDY COMMISSION

Public Meeting

Date: Tuesday, February 21, 1984.

Place: Russell Senate Office Building, Room SR–253 (old 235), Constitution Avenue and First Street, NE., Washington, D.C. 20510.

Time: 11:00 a.m.

Purpose: To provide the opportunity for the Study Commission to discuss and consider the draft report, findings, and recommendations; to direct issuance of the final document with its findings and recommendations to the Congress and President; and to consider other business as appropriate.

For Further Information, Contact: Gary D. Dunbar, Executive Director, Motor Carrier Ratemaking Study Commission, 100 Indiana Avenue, NW., Washington, D.C. 20001, Phone No.: (202) 724–9600.

Submitted this, the 1st day of February 1984.

Gary D. Dunbar,

Executive Director.

[FR Doc. 84–3120, Filed 2–3–84; 8:45 am]

BILLING CODE 6820–80–M

NATIONAL SCIENCE FOUNDATION

Permit Issued Under the Antarctic Conservation Act of 1978

AGENCY: National Science Foundation.

ACTION: Notice of permit issued under the Antarctic Conservation Act of 1978, Pub. L. 95–541.

SUMMARY: The National Science Foundation (NSF) is required to publish notice of permits issued under the Antarctic Conservation Act of 1978. This is the required notice of permits issued.

FOR FURTHER INFORMATION CONTACT: Charles E. Myers, Permit Office, Division of Polar Programs, National Science Foundation, Washington, D.C. 20550. Telephone (202) 357–7934.

SUPPLEMENTARY INFORMATION: On December 30, 1983, the National Science Foundation published a notice in the **Federal Register** of a permit application

received. On January 30, 1984 a permit was issued to: John E. Dallman.

Charles E. Myers,

Permit Office, Division of Polar Programs.

[FR Doc. 84-3140 Filed 2-3-84; 8:45 am]

BILLING CODE 7555-01-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-416 OLA; (ASLBP No. 84-497-04 OL)]

Mississippi Power & Light Co., et al. (Grand Gulf Nuclear Station, Unit No. 1); Order (Setting First Prehearing Conference)

January 11, 1984.

On June 14, 1983, June 23, 1983 and August 1, 1983, Mississippi Power & Light Co., Middle South Energy, Inc., and South Mississippi Electric Power Association (licensees) applied for changes in the technical specifications for Grand Gulf, Unit 1. On September 23, 1983, the NRC Staff issued the requested changes as Amendment No. 10 to the Grant Gulf Unit 1 license, effective on that date. Staff determined that no significant hazards consideration was involved and made the amendment immediately effective without first offering an opportunity for a public hearing. Subsequently, on October 26, 1983, a notice of issuance of Amendment No. 10 was published in the **Federal Register** (48 FR 49608). The notice authorized the filing of petitions for hearing by November 25, 1983, to Licensees or any person whose interests might be affected by the issuance of the license amendment.

On November 17, 1983, Mr. Ken Lawrence filed a timely petition to intervene and request for hearing on behalf of Jacksonians United for Livable Energy Policies (JULEP). Mr. Lawrence gave his address as a post office box in Jackson, Mississippi, more than 50 miles from the plant. Staff and Licensees opposed the petition at least in part on the grounds that the petition lacked the requisite demonstration of interest in the licensing proceeding of any individual member of petitioning organization or any aspect sought to be litigated.

On December 11, 1983, petitioner filed an amended petition and request for hearing. Three signed and witnessed statements by individual members of petitioner organization were attached to the amended petition authorizing JULEP to act on behalf of those members in petitioning to intervene and requesting a hearing in this proceeding. One of the authorizing members was alleged by the amended petition to reside about 15 miles northeast of the facility. The amended petition also questioned the propriety of three aspects of Amendment No. 10 which, presumably, it seeks to litigate.

Licensees continue to oppose the petitions on grounds of failure to demonstrate the requisite interest of an individual member or raise a litigable aspect. Staff, on the other hand, submits that the individual interest and litigable aspect requirements have been satisfied, except for the three statements accompanying the petition not being submitted under oath, as Staff asserts should "[o]rdinarily" be done. Staff would not object to JULEP's resubmitting the statements under oath with all requisite facts set forth therein. Staff Response to Amended Petition, fn. 4 at 2. Staff would further admit petitioner if it submits at least one litigable contention in a supplemental petition in addition to meeting the asserted affidavit requirement.

Although a licensing board may require affidavits concerning jurisdictional facts, we note that the regulatory requirement in 10 CFR 2.714 for submitting affidavits along with the petition was abolished in 1978. 43 FR 22345, May 25, 1978. The cases cited by Staff were either earlier than 1978 or required merely a sufficiently detailed statement of the jurisdictional facts to permit an independent investigation by the other parties. This matter will be discussed further at the prehearing conference.

On December 8, 1983, an Atomic Safety and Licensing Board was designated. 48 FR 55789 (December 15, 1983). The Board is comprised of the following Administrative Judges: Dr. James H. Carpenter; Dr. Peter A. Morris; and Herbert Grossman, who will act as Chairman.

The Board will conduct a prehearing conference beginning at 9:30 a.m. on February 29, 1984 at the Post Office & Courthouse Building, Second Floor Courtroom, Room 216, Crawford & Monroe, Vicksburg, Mississippi 39180. All prospective parties to this proceeding, or their respective counsel, are directed to attend. At the prehearing conference, the parties should be prepared to discuss all matters relating to standing of the parties, specific issues that might be considered at an evidentiary hearing and possible further scheduling in the proceeding.

JULEP may file a supplement to its amended request for a hearing not later than 15 days prior to the prehearing conference, which shall include a list of specific contentions sought to be litigated in this proceeding. The parties are directed to arrange for Licensees and NRC Staff to receive any supplement on that date (February 14, 1984), to avoid delays that would otherwise be occasioned by a mailing of the filing. Licensees and NRC Staff are requested to file any responses to the supplemental petition or to contentions raised in the amended request for hearing by February 27, 1984, and deliver copies to the Board in the forenoon on that date.

The public is invited to attend the prehearing conference. Oral limited appearance statements will be heard at the conference if time permits. Written limited appearance statements may be submitted to the Board at the conference or mailed to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

By Order of the Board.

January 11, 1984, Bethesda, Maryland.

For the Atomic Safety and Licensing Board.

Herbert Grossman,

Chairman, Administrative Judge.

[FR Doc. 84-3082 Filed 2-3-84; 8:45 am]

BILLING CODE 7590-01-M

[ASLBP Docket No. 76-300-01 CP (NRC Docket Nos. 50-463-CP; 50-464-CP)]

Philadelphia Electric Co. (Fulton Generating Station, Units 1 and 2); Order

January 27, 1984.

Upon consideration of the pleadings filed by the parties in response to this Board's Order and Proposed Decision issued December 14, 1983, Applicant's Motion for Summary Decision, and the entire record in this matter, it is this 27th day of January, 1984 ordered:

1. That a prehearing conference will be held at 9:30 a.m., February 29, 1984, in the Old Customs Courtroom, U.S. Customs House, Second & Chestnut Street, Philadelphia, Pennsylvania 19106;

2. That the parties shall be prepared to argue Applicant's Motion for Summary Decision and for Termination of Proceeding As Moot and Without Prejudice; and

3. That the parties shall be prepared to argue what liability, if any, Applicant may have for fees and expenses pursuant to decisions such as *Duke Power Company* (Perkins Nuclear Station), 16 NRC 1128 (LPB 82-01, 1982); *Puerto Rico Electric Power Authority* (North Coast Nuclear Plant), 14 NRC 1125 (ALAB-662, 1981); and *Philadelphia Electric Company* (Fulton Generating Station), 14 NRC 967 (ALAB-657, 1981).

Dated at Bethesda, Maryland, this 27th day of January 1984.

For the Atomic Safety and Licensing Board.

B. Paul Cotter, Jr.,

Chairman.

[FR Doc. 84-3083, Filed 2-3-84; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-352-OL; 50-353-OL]

Philadelphia Electric Co. (Limerick Generating Station, Units 1 and 2); Prehearing Conference and Evidentiary Hearing

January 30, 1984.

Please take notice that a prehearing conference to consider the admissibility of proposed offsite emergency planning contentions in this operating license proceeding will commence on March 5, 1984, at 1:30 p.m., at the: Old Customs Courtroom, United States Customs House, Second and Chestnut Streets, Philadelphia, Pennsylvania 19106.

The conference will continue, if necessary, on March 6, 1984, at the same location.

All parties and governmental participants which seek to participate in the litigation of offsite emergency planning issues are required to attend. Members of the public are welcome to attend. However, there will be no opportunity for public participation. Further limited appearance sessions for statements by members of the public on offsite emergency planning issues will be scheduled in the future at a hearing location closer to the Limerick Generating Station site.

The evidentiary hearing on the structural integrity of safety-related structures to withstand a postulated gasoline or natural gas pipeline accident will commence in the Old Customs Courtroom on March 6, 1984, at 9:00 a.m., or as soon thereafter as the prehearing conference is completed. The evidentiary on this subject will continue, as necessary, through March 9, 1984.

It is so ordered.

For the Atomic Safety and Licensing Board.
Bethesda, Maryland, January 30, 1984.

Lawrence Brenner,

Chairman, Administrative Judge.

[FR Doc. 84-3094, Filed 2-3-84; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-3]

Consolidated Edison Co. of New York; Consideration of Issuance of Amendment to Facility Operating License and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing

The United States Nuclear Regulatory Commission (the Commission) is considering issuance of amendment to Facility Operating License No. DPR-5, issued to the Consolidated Edison Company of New York (the licensee), for the Indian Point Nuclear Plant, Unit No. 1 located in Westchester County, New York.

The amendment would implement radiological effluent Technical Specifications in accordance with the licensee's application for amendment dated February 1, 1983.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The Commission has provided guidance concerning the application of these standards by providing certain examples (48 FR 14870). One of the examples (ii) of actions not likely to involve a significant hazards consideration relates to changes that constitute additional restrictions or controls not presently included in the Technical Specifications.

The Commission, in a revision to Appendix I, 10 CFR Part 50 required licensees to improve and modify their radiological effluent systems in a manner that would keep releases of radioactive material to unrestricted areas during normal operation as low as is reasonably achievable. In complying with this requirement it became necessary to add additional restrictions and controls to the Technical Specifications to assure compliance. This caused the addition of Technical Specifications described above. The staff proposes to determine that the application does not involve a significant hazards consideration since the change constitutes additional restrictions and controls that are not currently included in the Technical Specifications in order to meet the Commission mandate release of "as low as is reasonably achievable."

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination. The Commission will not normally make a final determination unless it receives a request for a hearing.

Comments should be addressed to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attn: Docketing and Service Branch.

By March 6, 1984, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Request for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) the nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

A request for a hearing or a petition for leave to intervene shall be filed with the Secretary of the Commission, United States Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325–6000 (in Missouri (800) 342–6700.) The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to Steven A. Varga, Chief, Operating Reactors Branch No. 1, Division of Licensing: Petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this Federal Register notice. A copy of the petition should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to Thomas J. Farrelly, Esquire, 4 Irving Place, New York, New York 10003, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board designated to rule on the petition and/or request, that the petitioner has made a substantial showing of good cause for the granting of a late petition and/or request; that determination will be based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

For further details with respect to this action, see the application for amendment which is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the local Public Document Room, White Plains Public Library, 100 Martine Avenue, White Plains, New York 10601.

Dated at Bethesda, Maryland, this January 26, 1984.

For The Nuclear Regulatory Commission.

Steven A. Varga,

Chief, Operating Reactors Branch No. 1, Division of Licensing.

[FR Doc. 84-3090 Filed 2-3-84; 8:45 am]

BILLING CODE 7590-01-M

PACIFIC NORTHWEST ELECTRIC POWER AND CONSERVATION PLANNING COUNCIL

Fish Propagation Panel Meeting

AGENCY: Fish Propagation Panel of the Pacific Northwest Electric Power and Conservation Planning Council (Northwest Power Planning Council).

ACTION: Notice of meeting to be held pursuant to the Federal Advisory Committee Act, 5 U.S.C. Appendix I, 1–4.

Activities will include:

- Approval of minutes.
- Staff update.
- Yakima passage improvement.
- John Day tour.
- Scheduling of panel activities.
- Subbasin planning amendment.
- Areas of equivalence.
- Andromous fish research issue memo.
- Reprogramming.
- Prioritization memo.
- Other.
- Public comment.

Status: Open.

SUMMARY: The Northwest Power Planning Council hereby announces a forthcoming meeting of its Fish Propagation Panel.

DATE: February 9, 1984. 9:00 a.m.

ADDRESS: The meeting will be held in the Harbor Room of the Seattle Airport Hilton, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Mark Schneider, 503–222–5161.

Edward Sheets,

Executive Director.

[FR Doc. 84-3100 Filed 2-3-84; 8:45 am]

BILLING CODE 3000-00-M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Reports, Forms, and Recordkeeping Requirements: Submittals to OMB January 7–January 27, 1984

AGENCY: Office of the Secretary, DOT.

ACTION: Notice.

SUMMARY: This notice lists those forms, reports, and recordkeeping requirements, transmitted by the Department of Transportation, during the period Jan. 7–Jan. 27, 1984, to the Office of Management and Budget (OMB) for its approval. This notice is published in accordance with the requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35).

FOR FURTHER INFORMATION CONTACT: John Windsor, John Chandler, or Annette Wilson, Information Requirements Division, M–34, Office of the Secretary of Transportation, 400 7th Street, SW., Washington, D.C. 20590, (202) 426–1887 or Gary Waxman or Sam Fairchild, Office of Management and

Budget, New Executive Office Building, Room 3228, Washington, D.C. 20503, (202) 395–7340.

SUPPLEMENTARY INFORMATION:

Background

Section 3507 of title 44 of the United States Code, as adopted by the Paperwork Reduction Act of 1980, requires that agencies prepare a notice for publication in the **Federal Register**, listing those information collection requests submitted to the Office of Management and Budget (OMB) for approval under that Act. OMB reviews and approves agency submittals in accordance with criteria set forth in that Act. In carrying out its responsibilities, OMB also considers public comments on the proposed forms, reporting and recordkeeping requirements.

As needed, the Department of Transportation will publish in the **Federal Register** a list of those forms, reporting and recordkeeping requirements that it has submitted to OMB for review and approval under the Paperwork Reduction Act. The list will include new items imposing paperwork burdens on the public as well as revisions, renewals and reinstatements of already existing requirements. OMB approval of an information collection requirement must be renewed at least once every three years. The published list also will include the following information for each item submitted to OMB:

(1) A DOT control number.

(2) An OMB approval number if the submittal involves the renewal, reinstatment or revision of a previously approved item.

(3) The name of the DOT Operating Administration or Secretarial Office involved.

(4) The title of the information collection request.

(5) the form numbers used, if any.

(6) The frequency of required responses.

(7) The persons required to respond.

(8) A brief statement of the need for, and uses to be made of, the information collection.

Information Availability and Comments

Copies of the DOT information collection requests submitted to OMB may be obtained from the DOT officials listed in the **"FOR FURTHER INFORMATION CONTACT"** paragraph set forth above. Comments on the requests should be forwarded, as quickly as possible, directly to the OMB officials listed in the **"FOR FURTHER INFORMATION CONTACT"** paragraph set forth above. If you anticipate submitting substantive comments, but find that more than 5 days from the date of publication is needed to prepare them, please notify the OMB officials of your intent immediately.

Items Submitted for Review by OMB

The following information collection requests were submitted to OMB from Jan. 7-Jan. 27, 1984:

DOT No: 2346
OMB No: New
By: Federal Highway Administration
Title: Submission of Eligibility Statement for Utility Adjustments
Forms: None
Frequency: On occasion
Respondents: State Highway Agencies

Need/Use: The eligibility statement is necessary in order for the Federal Highway Administration to determine whether the State's statutes establish the legal authority or obligation to reimburse utility companies for the expense of moving utility equipment to accommodate the right-of-way for Federal-aid highway projects.

DOT No: 2347
OMB No: New
By: Federal Highway Administration
Title: Immediate Notification of Fatal Accidents
Forms: None
Frequency: On occasion
Respondents: Motor Carriers

Need/Use: To keep fatality records, Bureau of Motor Carrier Safety requires that motor carriers notify the Federal Highway Administration by telephone of deaths of persons that occur within 24 hours as a result of a reportable accident.

DOT No: 2348
OMB No: New
By: National Highway Traffic Safety Administration
Title: 49 CFR Part 571.209, Seat Belt Assemblies Labels
Forms: None
Frequency: On occasion
Respondents: Manufacturers of Seat Belts

Need/Use: This standard requires that seat belt asemblies for vehicles be permanently labeled with certain information.

DOT No: 2349
OMB No: New
By: National Highway Traffic Safety Administration
Title: 49 CFR Part 471.126, Truck-Camper Loading Placard
Forms: None
Frequency: On occasion
Respondents: Manufacturers of Truck-Campers

Need/Use: This standard requires specific loading information be permanently labeled on truck-campers.

DOT No: 2350
OMB No: New
By: Federal Highway Administration
Title: Minimum Levels of Financial Responsibility for Motor Carriers of Passengers
Forms: MCS–90B, MCS–82B
Frequency: Annually
Respondents: Insurance Companies

Need/Use: The law requires motor carriers of passengers for hire maintain minimum levels of financial responsibility. The insurance company endorsement amends the carriers policy of insurance to assure compliance by the insured.

DOT No: 2351
OMB No: New
By: Federal Aviation Administration
Title: Pilot Survey Regarding New Airspace Regulations (Airport Radar Service Area (ARSA)
Forms: FAA Form 7400–XX
Frequency: One-Time Survey
Respondents: Pilots

Need/Use: The Federal Aviation Administration (FAA) is conducting a one-year test of new airspace regulations and procedures at two locations (Austin, TX, and Columbus, OH). If the changes are confirmed as anticipated, the regulation improvements will be implemented nationally. The FAA seeks the reaction of pilots at the test locations.

DOT No: 2352
OMB No: New
By: National Highway Traffic Safety Administration
Title: 49 CFR Part 571.218, Motorcycle Helmets
Forms: None
Frequency: On occasion
Respondents: Manufacturers of Motorcycle Helmets

Need/Use: This standard requires all motorcycle helmets to be permanently labeled with certain information.

DOT No: 2353
OMB No: New
By: Federal Highway Administration
Title: Medical Conflict Application
Forms: None
Frequency: On occasion
Respondents: Drivers and Motor Carriers

Need/Use: Drivers or motor carriers may submit an application for the determination by the Federal Highway Administration of a driver's medical qualification when there is disagreement between physicians concerning a driver's qualification.

DOT No: 2354
OMB No: New
By: Federal Highway Administration
Title: Developing and Recording Costs for Utility Adjustments
Forms: None
Frequency: As Needed
Respondents: Utility Companies

Need/Use: Utility companies are required to maintain for three years adequate records to support costs incurred for reimbursable utility adjustments on Federal-aid highway projects.

DOT No: 2355
OMB No: New
By: National Highway Traffic Safety Administration
Title: 49 CFR Part 575, Consumer Information Regulation on Tire Labels
Forms: None
Frequency: On occasion
Respondents: Tire Manufacturers

Need/Use: This regulation requires the manufacturer to label the tire performance information on the tire sidewalls. The manufacturer is required to furnish the required consumer information to all dealers, and first purchasers of a motor vehicle.

DOT No: 2356
OMB No: New
By: Federal Highway Administration
Title: Intermittent, Casual, or Occasional Drivers
Forms: None
Frequency: On Occasion
Respondents: Motor Carriers

Need/Use: To meet the Federal Highway Administration requirement that motor carriers employing drivers not regularly employed to drive on an intermittent, casual, or occasional basis to obtain and retain identifying information.

Issued in Washington, D.C. on January 30, 1984.

Jon H. Seymour,

Deputy Assistant Secretary for Administration.

[FR Doc. 84-3082 Filed 2-3-84; 8:45 am]
BILLING CODE 4910-62-M

Minority Business Resource Center Advisory Committee; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. 1), notice is hereby given of a meeting of the Minority Business Resource Center Advisory Committee to be held March 5, 1984, at 6:00 p.m. in the Auditorium/Concourse B at Miami International Airport, Miami, Florida 33159. The agenda for the meeting is as follows:

—Update on Minority Business Resource Center and Direct Contracting program activities
—Short-term loan program presentation by Atlantic National Bank
—Bonding assistance program by MCAP, Inc.
—Outreach to Hispanic Business Community by ASK Associates

Attendance is open to the interested public but limited to the space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to attend and persons wishing to present oral statements should notify the Minority Business Resource Center not later than the day before the meeting. Information pertaining to the meeting may be obtained from Ms. Betty Chandler, Minority Business Resource Center, 400 7th Street, SW, Washington, D.C. 20590, telephone (202) 426-2852. Any member of the public may present a written statement to the Committee at any time.

Issued in Washington, D.C. on February 1, 1984.

Armando L. Mena,

Director, Office of Small and Disadvantaged Business Utilization.

[FR Doc. 84-3151 Filed 2-3-84; 8:45 am]
BILLING CODE 4910-62-M

Coast Guard

[CGD 84-003]

Towing Safety Advisory Committee; Meeting

AGENCY: Coast Guard, DOT.

ACTION: Notice of meeting.

SUMMARY: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. I), notice is hereby given of a meeting of the Towing Safety Advisory Committee (TSAC). The meeting will be held on February 16, 1984 in room 3201, U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, D.C. The meeting is scheduled to begin at 9:00 a.m. and end at 4:00 p.m. The agenda for the meeting follows:

1. TSAC deliberation and/or recommendations concerning the following past agenda items:
(a) Proposed revision of 46 CFR Part 148, Marine Transport of Solids in Bulk
(b) Proposed revision of 46 CFR Part 151, Carriage of Dangerous Bulk Liquid Cargoes,
(c) Oil Record Book Requirements,
(d) Minimum Operation Standards for Barge Fleeting Facilities,
(e) Notice of Proposed Rulemaking CGD 81-059, Licensing of Officers and Operators and Registration of Staff Officers (48 FR 35920),
(f) Supplemental Notice of Proposed Rulemaking CGD 81-058, Boundary Lines (48 FR 41454), and
(g) Seafarers Health Improvement Program (SHIP) paper, Guidelines for Physical Examination for Retention of Seafarers in the U.S. Merchant Marine.
2. New agenda items:
(a) Marine Vapor Recovery Systems; Coast Guard Position and Status Update,
(b) Special Requirements for Cargo Lightering Operations (CGD 78-180), and
(c) Corps of Engineers/Coast Guard River Tow Simulation Summary; Briefing by Coast Guard.

Attendance is open to the public. With advance notice, members of the public may present oral statements at the meeting. Persons wishing to present oral statements should notify the Executive Secretary no later than the day before the meeting. Any member of the public may present a written statement to the Committee at any time.

FOR FURTHER INFORMATION CONTACT: Captain C. M. Holland, Executive Secretary, Towing Safety Advisory Committee, U.S. Coast Guard (G-CMC/44), Washington, D.C. 20593, (202) 426-1477.

Dated: February 2, 1984.

C. M. Holland,

Captain, U.S. Coast Guard, Executive Secretary, Marine Safety Council.

[FR Doc. 84-3284 Filed 2-2-84; 3:20 pm]
BILLING CODE 4910-14-M

DEPARTMENT OF THE TREASURY

Customs Service

[T.D. 84-38]

Recordation of Trade Name; Zahnradfabrik Friedrichshafen, AG.

AGENCY: Customs Service, Treasury.

ACTION: Notice of recordation.

SUMMARY: On October 27, 1983, a notice of application for the recordation under section 42 of the Act of July 1946, as amended (15 U.S.C. 1124), of the trade name "Zahnradfabrik Friedrichshafen, AG. was published in the **Federal Register** (48 FR 49723). The notice advised that before final action was taken on the application, consideration would be given to any relevant data, views, or arguments submitted in opposition to the recordation and received not later than December 27, 1983. No responses were received in opposition to the notice.

Accordingly, as provided in § 133.14, Customs Regulations (19 CFR 133.14), the name "Zahnradfabrik Friedrichshafen, AG." recorded as the trade name used by Zahnradfabrik Friedrichshafen, AG., a corporation organized under the laws of West Germany, located at D–7990 Friedrichshafen 1, West Germany. The trade name is used in connection with the following merchandise manufactured and distributed throughout the world: Gear units for machines; machines parts; brake testing stands; testing instruments and parts for land vehicles.

DATE: February 6, 1984.

FOR FURTHER INFORMATION CONTACT: Harriet Lane, Entry, Licensing and Restricted Merchandise Branch, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229; (202–566–5765).

Dated: January 31, 1984.

Donald W. Lewis,

Director, Entry Procedures and Penalties Division.

[FR Doc. 84-3131 Filed 2-3-84; 8:45 am]

BILLING CODE 4820-02-M

UNITED STATES INFORMATION AGENCY

Culturally Significant Objects Imported for Exhibition; Determination

Notice is hereby given of the following determination: Pursuant to the authority vested in me by the act of October 19, 1965 (79 Stat. 985, 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978 (43 FR 13359, March 29, 1978), and the Delegation of Authority from the Director, USIA (47 FR 57600, December 27, 1982), I hereby determine that the objects in the exhibit, "Mark Tobey, City Paintings" (included in the list [1] filed as a part of this determination) imported from abroad for the temporary exhibit without profit within the United States are of cultural significance. These objects are imported pursuant to loan agreements between the National Gallery of Art and foreign lenders. I also determine that the temporary exhibition or display of the listed exhibit objects at the National Gallery of Art, Washington, D.C., beginning on or about March 11, 1984, to on or about June 3, 1984, is in the national interest.

Public notice of this determination is ordered to be published in the **Federal Register.**

[1] An itemized list of objects included in the exhibit is filed as part of the original document.

Dated: January 31, 1984.

Thomas E. Harvey,

General Counsel and Congressional Liaison.

[FR Doc. 84-3052 Filed 2-1-84; 8:45 am]

BILLING CODE 8230-01-M

Reporting and Information Collection Requirement Under OMB Review

AGENCY: United States Information Agency.

ACTION: Notice of reporting requirement submitted for OMB review.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35) agencies are required to submit proposed or established reporting and recordkeeping requirements to OMB for review and approval and to publish a notice in the **Federal Register** notifying the public that such a submission has been made. USIA is requesting approval of a form used to determine whether foreign Exchange Visitors to the United States, who are seeking a waiver of the two-year residency requirement, are subject to the provisions of section 212(e) of the Immigration and Nationality Act.

DATE: Comments must be received by March 9, 1984.

COPIES: Copies of the request for clearance (SF–83), supporting statement, instructions, transmittal letter and other documents submitted to OMB for review may be obtained from the USIA Clearance Office. Comments on the item listed should be submitted to the Office of Information and Regulatory Affairs of OMB, Attention Desk Officer for USIA.

FOR FURTHER INFORMATION CONTACT: Agency Clearance Officer, Charles N. Canestro, United States Information Agency, M/M, 301 Fourth Street SW., Washington, D.C. 20547, telephone (202) 485–8676. And OMB Review: David S. Reed, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, D.C. 20503, telephone (202) 395–7231.

SUPPLEMENTARY INFORMATION: Title: "Survey of Government Funding of Exchange Visitor Programs." This form is used by the USIA Office of the General Counsel and Congressional Liaison to ascertain whether Exchange Visitors are subject to section 212(e) of the Immigration and Nationality Act. The determination is based upon whether the programs are receiving U.S. Government funding. The Immigration and Nationality Act specifies that such persons, if granted J-visas on the basis of participation in an Exchange Visitor Program which receives U.S. Government funds, must return to their home countries or countries of last legal residence for at least two years prior to re-entering the United States as immigrants, permanent residents or "H" and "L" visa holders.

Dated: February 1, 1984.

Charles N. Canestro,

Federal Register Liaison.

[FR Doc. 84-3133 Filed 2-3-84; 8:45 am]

BILLING CODE 8230-01-M

VETERANS ADMINISTRATION

Veterans Administration Medical Center, Ann Arbor, Michigan; Addition/Renovation for Clinical, Outpatient, Research, and Parking; Finding of No Significant Impact

The Veterans Administration (VA) has assessed the potential environmental impacts that may occur as a result of the proposed construction of an Addition/Renovation for Clinical, Outpatient, Research, and Parking at the Ann Arbor Veterans Administration Medical Center and has determined that the potential environmental impacts will be minimal from the development of this project.

The proposed project action includes two major construction projects. The first is a clinical and outpatient addition to Building No. 1. This addition will be approximately 130,000 gross square feet on 4 or 5 levels to be built over 2 sub-levels of parking (approximately 200 parking spaces). The second major construction is proposed as a 4 level parking structure (approximately 750 spaces) with a research building constructed above (approximately 85,000 gross square feet).

A minor construction project to add 6,000 gross square feet to the existing warehouse is also included in this project action. A 3,300 gross square foot chapel is proposed over the warehouse addition.

The long-term impacts associated with this project impact the overall aesthetics, land utilization and transportation/parking. Careful planning and design will successfully integrate the project into the existing VA facility with no significant adverse impacts. The short-term impacts associated with the construction of the project will affect air quality (dust and fumes), noise levels, solid waste disposal and parking. These impacts will be mitigated to the greatest extent possible through the application of best available engineering procedures and careful planning. The VA will adhere to all applicable Federal, State, and local environmental regulations

during the construction and operation of this project.

The significance of the identified impacts has been evaluated relative to the considerations of both context and intensity, as defined by the Council on Environmental Quality (Title 40 CFR 1508.27).

An Environmental Assessment has been performed in accordance with the requirements of the National Environmental Policy Act Regulations, § 1501.3 and 1508.9. A "Finding of No Significant Impact" has been reached based upon the information presented in this assessment.

The assessment is being placed for public examination at the Veterans Administration, Washington, D.C. Persons wishing to examine a copy of the document may do so at the following office: Mr. William F. Sullivan, Director, Office of Environmental Affairs (088C), Room 423, Veterans Administration, 811 Vermont Avenue, NW., Washington, D.C. 20420; (202) 389–3316. Questions or requests for single copies of the Environmental Assessment may be addressed to the above office.

Dated: January 31, 1984.

By direction of the Administrator.

Everett Alvarez, Jr.,

Deputy Administrator

[FR Doc. 84-3150 Filed 2-3-84; 8:45 am]

BILLING CODE 8320-01-M

Veterans Administration Medical Center, Fort Wayne, Indiana; 120-Bed Nursing Home Care Unit; Finding of No Significant Impact

It is the intent of the Veterans Administration (VA) to construct a Nursing Home Care Unit (NHCU) at the Veterans Administration Medical Center (VAMC) in Ft. Wayne, Indiana. The NHCU project will provide new construction for 120 long term care beds and will aid in meeting the identified need for such geriatric care. The proposed action will consist of a two-story structure built with associated parking space for approximately 77 automobiles. The building will encompass approximately 55,000 gross square feet for patient beds and associated support functions.

The preferred agency alternative is concept number five which provides a direct connecting corridor to the two-story NHCU. This concept is the proposed action to be taken. Five various alternative plans have been developed, considering three different site locations within the VAMC. In addition, the "No Action" alternative was evaluated. However, the projected need of additional long term care would not be met by the existing 54 NUCU beds. No offsite construction alternative was considered because available site area for development exists at the VAMC.

The proposed concept for implementation accommodates the site. Only minimal impacts on the human and natural environment affecting air quality will occur.

Mitigation will be undertaken during project development. Minor air quality impacts during construction will be limited with temporary controls instituted. These efforts will include sprinklering and/or chemical treatment of particulates as well as minimizing exposure of soil areas to reduce dust generation.

Findings conclude the proposed action will not cause a significant effect on the physical and human environment and, therefore, does not require preparation of an Environmental Impact Statement (EIS).

The significance of the identified impacts has been evaluated relative to the considerations of both context and intensity, as defined by the Council on Environmental Quality (40 CFR 1508.27).

An Environmental Assessment has been performed in accordance with the requirements of the National Environmental Policy Act Regulations, 40 CFR 1501.3 and 1508.9 A "Finding of No Significant Impact" has been reached based upon information presented in this assessment.

The assessment is being placed for public examination at the Veterans Administration, Washington, D.C. Persons wishing to examine a copy of the document may do so at the following office: Mr. William F. Sullivan, Director, Office of Environmental Affairs (088C), Room 423, Veterans Administration, 811 Vermont Avenue, NW., Washington, D.C. 20420; (202) 389–3316. Questions or requests for single copies of the Environmental Assessment may be addresed to the above office.

Dated: January 31, 1984.

By direction of Administrator.

Everett Alvarez, Jr.,

Deputy Administrator.

[FR Doc. 84-3149 Filed 2-3-84; 8:45 am]

BILLING CODE 8320-01-M

Sunshine Act Meetings

Federal Register
Vol. 49, No. 25
Monday, February 6, 1984

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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1

FEDERAL COMMUNICATIONS COMMISSION

The following item has been deleted at the request of the Mass Media Bureau from the list of agenda items scheduled for consideration at the February 3, 1984 Open Meeting and previously listed in the Commission's Notice of January 27, 1984.

Agenda, Item No., and Subject

Policy—3—Title: Deregulation of Radio. Summary: The Commission will consider what information regarding nonentertainment programming we should require radio broadcasters to keep and to make available to the public and the Commission in view of the new regulatory scheme for commercial radio.

Issued: January 31, 1984.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 84-3211 Filed 2-2-84; 10:57 am]
BILLING CODE 6712-01-M

2

FEDERAL MARITIME COMMISSION

TIME AND DATE: 9 a.m., February 8, 1984.

PLACE: Hearing Room One—1100 L Street, NW., Washington, D.C. 20573.

STATUS: Parts of the meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED:

Portion open to the public:

1. Agreement No. 150-73: Modification of the Trans-Pacific Freight Conference of Japan/Korea Agreement to reduce the notice period for instituting rate initiatives and for other purposes.
2. Agreement No. 3868-32: Modification of the United States Atlantic and Gulf/Panama Freight Conference Agreement to authorize independent action on rates.
3. Agreement No. 10482: Proposed Italia-d'Amico Line Joint Service Agreement.
4. Notice of Proposed Rulemaking: Filing of Amendments to Conference Agreements requesting Independent Action Authority.

Portion closed to the Public:

1. Docket No. 83-28: In Re Agreements Nos. 10457, 10458, 10332-3 and 10371-2; In Re Agreements Nos. 10457-1 and 10458-1—Consideration of the record.

CONTACT PERSON FOR MORE INFORMATION: Francis C. Hurney, Secretary, (202) 523-5725.

Francis C. Hurney,

Secretary.

[FR Doc. 84-3200 Filed 2-2-84; 1:51pm]
BILLING CODE 6730-01-M

3

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

February 1, 1984.

TIME AND DATE: 10 a.m., Wednesday, February 8, 1984.

PLACE: Room 600, 1730 K Street, NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will consider and act upon the following:

1. U.S. Steel Corporation, Docket Nos. WEST 80-386-RM, WEST 81-58-M, WEST 80-160-M. (Issues include whether the judge erred in concluding that the operator violated 30 CFR 55.12-14, a safety standard dealing with the movement of power cables.)

CONTACT PERSON FOR MORE INFORMATION: Jean Ellen, (202) 653-5632.

Jean Ellen,

Agenda Clerk.

[FR Doc. 84-3273 Filed 2-2-84; 3:39 pm]
BILLING CODE 6735-01-M

4

NATIONAL CREDIT UNION ADMINISTRATION

TIME AND DATE: 2:00 p.m., Wednesday, February 8, 1984.

PLACE: U.S. Department of Treasury, 15th and Pennsylvania Avenue, NW., Cash Room, Washington, D.C. 20220.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Approval of Minutes of Previous Open Meeting.
2. Review of Central Liquidity Facility Lending Rate.
3. Semi-Annual Agenda of Regulations.
4. Report on NCUA Investment Activity.
5. NCUA Share Insurance Fund Report.

TIME AND DATE: 2:00 p.m., Tuesday, February 7, 1984.

PLACE: National Credit Union Administration, 1776 G Street NW., Washington, D.C. 20456, 7th Floor Board Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Approval of Minutes of Previous Closed Meeting.
2. Special Assistance to Prevent Liquidation Under Section 208(a)(1) of the Federal Credit Union Act. Closed pursuant to exemptions (8) and (9)(a)(ii).
3. Appeal of Regional Director's Disapproval of a Charter Application for a Proposed New Federal Credit Union. Closed pursuant to exemptions (6), (7)(C) and (8).
4. Appeal of Regional Director's Denial of Field of Membership Expansion Request. Closed pursuant to exemptions (8) and (9)(a)(ii).
5. Personnel Actions. Closed pursuant to exemptions (2) and (6).

FOR MORE INFORMATION CONTACT: Rosemary Brady, Secretary of the Board, telephone (202) 357-1100.

Rosemary Brady,

Secretary of the Board.

[FR Doc. 84-3178 Filed 2-1-84; 5:02 pm]
BILLING CODE 7535-01-M

5

NATIONAL SCIENCE FOUNDATION

AGENCY HOLDING MEETING: National Science Board.

DATE AND TIME:

February 16, 1984, 9:00 a.m. Open Session
February 17, 1984, 8:30 a.m. Closed Session
February 17, 1984, 9:00 a.m. Open Session

PLACE: National Science Foundation, Washington, D.C.

STATUS: Most of this meeting will be open to the public. Part of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED AT THE OPEN SESSIONS:

Thursday, February 16, 1984—9:00 a.m.

1. Minutes—November 1983 Meeting
2. Acting Chairman's Items
3. Director's Report
4. Program Review—Biotic Systems and Resources

Friday, February 17, 1984—9:00 a.m.

5. Long-Range Planning
6. Reports of Board Committees
7. Board Representation at Advisory Committee and Other Meetings
8. Other business
9. Next Meetings

MATTERS TO BE CONSIDERED AT THE CLOSED SESSION:

Friday, February 17, 1984—8:30 a.m.

A. NSB and NSF Staff Nominees

Margaret L. Windus

Executive Officer.

[FR Doc. 84-3289 Filed 2-2-84; 3:39 p.m.]

BILLING CODE 7555-01-M

federal register

Monday
February 6, 1984

Part II

Environmental Protection Agency

Ethylene Dibromide; Decision and Emergency Order Suspending Registrations of Pesticide Products Containing EDB; Notice

ENVIRONMENTAL PROTECTION AGENCY

[OPP-68012A; PH-FRL 2522-7]

Ethylene Dibromide;

Decision and Emergency Order Suspending Registrations of Pesticide Products Containing EBD

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Emergency Suspension Order.

SUMMARY: Pesticide products containing ethylene dibromide (EDB) are registered under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) for use to treat grain stored in bulk and for spot treatment of grain milling equipment. Products registered for those uses are subject to the September 28, 1983, Notice of Intent to Cancel Registrations of Pesticide Products Containing Ethylene Dibromide which was published in the **Federal Register** of October 11, 1983 (48 FR 46234). Because of requests for a hearing filed pursuant to that Notice, a number of EDB registrations for these grain and milling use registrations have not been cancelled pending the outcome of the administrative hearing. This Notice and Order announces the immediately effective suspension of products registered for these uses and sets forth the Administrator's determinations which form the bases for this Emergency Suspension Order.

DATE: The Suspension Order became effective on February 3, 1984. A request by a registrant for an expedited hearing on the issue of whether an imminent hazard exists must be received by the Office of the Hearing Clerk within five (5) days of receipt of this Notice by that registrant.

ADDRESS: Requests for a hearing must be submitted to: Hearing Clerk (A-110), Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460.

Additional information supporting this action is available for public inspection from 8:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays, in: Management and Program Support Division (TS-757C), Room 236, CM No. 2, Office of Pesticide Programs, Environmental Protection Agency, 1921 Jefferson Davis Highway, Arlington, VA.

FOR FURTHER INFORMATION CONTACT:

Richard J. Johnson, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460.

Office location and telephone number: Rm. 711A, CM No. 2, 1921 Jefferson Davis Highway, Arlington, VA. (703-557-7420).

SUPPLEMENTARY INFORMATION:

I. Order

This Notice and Order suspends, effective immediately, the registrations of each product containing EDB and labeled for use to fumigate stored grain and for use to treat grain milling equipment. I have determined that continued registration of EDB as a grain fumigant and spot milling fumigant poses an imminent hazard during the period in which administrative hearings could delay the effectiveness of the cancellation of these registrations pursuant to my September 28, 1983, Notice of Intent to Cancel. I have also determined that an emergency exists resulting from the grain and milling uses of EDB such that I cannot permit continued registration of these products for the period that hearings could delay the effectiveness of a Suspension Order. Therefore, I have decided to issue this Emergency Suspension Order immediately suspending these registrations, and immediately prohibiting these uses of EDB.

When I issued the Notice of Intent to Cancel these registrations last September, I concluded that EDB use as a stored grain fumigant and a spot fumigant of grain milling equipment causes unreasonable adverse effects on the environment. That Notice of Intent to Cancel would have resulted in the cancellation of EDB registrations for these uses at the end of thirty days if no adversely affected persons requested a hearing on the issues raised by the conclusions which supported the Notice. The Notice of Intent to Cancel products for all major pesticide uses of EDB noted that the chamical posed increased risk of cancer, heritable genetic damage, and adverse reproductive effects. At the time I issued the Notice, I concluded that the increased cancer risk through the diet of the American people resulting from EDB use as a stored grain fumigant is "estimated to be significant," while there are only limited or no adverse economic effects from cancellation of registrations for this use. I concluded that the use of EDB as a spot fumigant in grain mills results in a significant dietary cancer risk to the general public and high risks to applicators and workers, and that these risks outweigh the significant economic benefits to millers from continued EDB registration as a spot treatment for grain milling equipment. My conclusions about dietary risks from consumption of EDB-contaminated grains were based on estimates derived from a mathmatical model prepared by Agency scientists and from the limited residue data available at that time. Considerable uncertainty remained about the extent to which those data delineated the actual scope of EDB residues in marketed grain products. Consequently, I believed at that time that it was appropriate to permit a possible delay in implementation of the cancellation of EDB registrations during completion of administrative hearings which would result in my conclusions were challenged. However, I recognized that actual exposure of large segments of the public to EDB in grain products should not be continued. Therefore, I announced that the Agency would gather additional information about dietary exposures to EDB resulting from its use to treat stored grain and milling equipment, and that I would consider whether such information shows the need for immediate suspension of EDB registrations for these uses.

Since September of 1983, a substantial quantity of information about EDB residues in grain products has become available to me. This information includes measured residues of EDB in a wide variety of samples of grains and grain products and demonstrated that the pesticidal use of EDB on grain and milling equipment results in widespread actual exposure of the American public. Accordingly, I have now determined that continued use of EDB to fumigate stored grain and milling equipment results in an imminent hazard and constitutes an emergency as those terms are used in the Federal Insecticide, Fungicide, and Rodenticide Act, as amended (FIFRA), 7 U.S.C. 136 *et seq.* Specifically, I have now determined that continued use of EDB on grain stored in bulk and on milling equipment is likely to result in risks of dietary exposure to the general public and in risks to occupationally exposed persons such that the risks from continued registration during administrative hearings clearly outweigh the benefits of registration during that period.

Pursuant to section 6(c)(3) of FIFRA, 7 U.S.C. section 136d(c)(3), I hereby suspend the registration of each pesticide product containing ethylene dibromide (EDB) whose labeling allows the product's use as a fumigant for stored grain and/or as a spot treatment for grain milling equipment. This Emergency Suspension Order has two components. First, this Order prohibits the distribution, sale, offering for sale, shipping, delivering for shipment, or receiving and (having so received) delivering or offering to deliver to any person of any EDB-containing pesticide product labeled for use on stored grain

or on grain milling equipment. Second, the use by any person of a pesticide product containing ethylene dibromide on grain or grain milling equipment is hereby prohibited.

II. Legal Authority

A. Standards for Maintaining a Registration

Before a pesticide product may be sold, held for sald, or distributed in either intrastate or interstate commerce, the product must be registered [FIFRA sections 3(a) and 12(a)(1)]. A registration is a license allowing a pesticide product to be sold and distributed for specified uses in accordance with specified use instructions, precautions, and other terms and conditions. A pesticide product will be registered only if it performs its intended pesticidal function without causing "unreasonable adverse effects on the environment" [FIFRA section 3(c)(5)], that is without causing "any unreasonable risk to man or the environment, taking into account the economic, social and environmental costs and benefits of the use of [the] pesticide" [FIFRA section 2(bb)]. For a pesticide product to be registerable, the benefits of each of its uses must exceed the risks of that use when the product is used in accordance with commonly recognized practice and in compliance with the terms and conditions of registration. The burden of proving that a pesticide product satisfies the criteria for registration is on the proponents of initial or continued registration. [*Environmental Defense Fund* v. *Environmental Protection Agency*, 510 F.2d 1292, 1297 (D.C. Cir. 1975); *Environmental Defense Fund* v. *Environmental Protection Agency*, 465 F.2d 528 (D.C. Cir. 1972).]

Under FIFRA section 6, the Administrator may issue a notice of intent to cancel the registration of a pesticide product whenever it is determined that the pesticide product causes unreasonable adverse effects on the environment. If a hearing is requested by any adversely affected person, the product may be cancelled at the end of the administrative hearing on the cancellation notice.

B. Purpose and Standards for Suspending Pesticide Products

The suspension provisions in section 6(c) of FIFRA give the Administrator authority to take interim action until completion of the time-consuming procedures which may be required to reach final cancellation decisions. Under this section, the Administrator may suspend the registration of a product and prohibit its distribution, sale, or use during cancellation proceedings upon a finding that the pesticide poses an "imminent hazard" to humans or the environment. "Imminent hazard" is defined by the statute to mean that:

> The continued use of a pesticide during the time required for cancellation proceedings would be likely to result in unreasonable adverse effects on the environment or will involve unreasonable hazard to the survival of a species declared endangered by the Secretary of the Interior under Pub. L. 94–135.

As discussed above, "unreasonable adverse effects on the environment" means that the risks from use of a pesticide outweigh the benefits of its use. Thus, in order to find an imminent hazard, it is necessary to find that the risks of use during the period likely to be required for cancellation proceedings appear to outweigh the benefits. The Administrator may not suspend a pesticide without having issued a notice of intention to cancel the registration or to change the classification of the pesticide.

Suspension is the Administrator's mechanism for quickly correcting a situation which endangers public health. The courts have repeatedly held that "the function of a suspension decision is to make a preliminary assessment of evidence, and probabilities, not an ultimate resolution of difficult issues" (*Environmental Defense Fund* v. *Environmental Protection Agency*, 510 F.2d 1292, 1297 (D.C. Cir. 1975), quoting from *Environmental Defense Fund, Inc.* v. *Environmental Protection Agency*, *supra*, 465 F.2d 540 (D.C. Cir. 1972)). "It is enough if there is a *substantial likelihood* (emphasis in original) that serious harm will be experienced during the year or two required in any realistic projection of the administrative (cancellation) process" (*Environmental Defense Fund* v. *Environmental Protection Agency*, 510 F.2d 1292, 1297 (D.C. Cir. 1975), quoting from *Environmental Defense Fund* v. *Environmental Protection Agency*, *supra*, 465 F.2d 540 (D.C. Cir. 1972)).

A notice of intent to suspend is not an immediately effective suspension order; instead, the Administrator is required to give registrants notice of his intent to suspend and to allow five days for them to request a hearing. If a hearing is not requested within five days, the suspension order becomes final and is not reviewable by a court. If a hearing is requested, the Administrator is required to convene an expedited proceeding. The sole issue at a suspension hearing is whether or not an imminent hazard exists. In those circumstances, a finally effective suspension order cannot be issued until the completion of the expedited hearing.

C. Purpose and Standards for Emergency Suspension of Pesticide Products

Before issuing an emergency suspension order, the Administrator is required to make two findings: (1) That the pesticide poses an "imminent hazard", and (2) that an "emergency" exists. An "emergency" exists when the situation "does not permit [the Administrator] to hold a hearing before suspending," FIFRA section 6(c)(3), 7 U.S.C. 136d(c)(3). The Agency interprets this statutory provision to mean that, if the threat of harm to humans and to the environment is so immediate that the continuation of a pesticide use is likely to result in unreasonable adverse effects—i.e., the risks outweigh the benefits—during a suspension hearing, the registration of any product for that use may be suspended immediately.

The term "emergency" is not defined by FIFRA, and the statute's emergency suspension provision does not specifically require the Agency to balance benefits against health and environmental risks of continued pesticide registration in determining whether an emergency exists. One possible reading would be that an emergency exists whenever a serious risk could result from pesticide use during the time for conducting a suspension hearing. However, for the purpose of this proceeding, I have decided to consider the risks and benefits in ordering an emergency suspension, just as I balance risks and benefits in deciding whether to register a pesticide or to take the pesticide off the market through a cancellation or ordinary suspension order. FIFRA is a risk/benefit statute, and I see no reason to depart from this balancing test in issuing emergency suspension orders.

The Administrator's determination that an emergency exists is reviewable in appropriate Federal district court solely to determine whether the order of emergency suspension was arbitrary, capricious or an abuse of discretion, or whether the order was issued in accordance with the procedures established by law. FIFRA section 6(c)(4).

An emergency suspension order is issued without prior notice to registrants and takes effect immediately: it remains in effect until the cancellation decision if no expedited hearing is requested by a registrant. Registrants are given five days to request an expedited hearing. If an expedited hearing is requested on the issue of imminent hazard, the emergency

order continues in effect until the issuance of a final suspension order. The hearing stage is to begin within five days of the Agency's receipt of the hearing request. No party other than registrants of suspended products and the Agency may participate in the expedited hearing following the emergency order, except to file briefs. In any suspension bearing, the presiding officer shall have ten days from the conclusion of the presentation of evidence to submit recommended findings and conclusions to the Administrator. The Administrator shall then have seven days to issue a final order on the issue of suspension. Final suspension orders following a hearing are reviewable in appropriate United States courts of appeals.

III. Findings Supporting Determination of Emergency and Imminent Hazard

EDB is a pesticide registered for the fumigation treatment of grain stored in bulk and for spot treatment of grain milling equipment to control insect infestations. As noted in Unit I of this Order and Notice, pesticide registrations for these and other significant uses of EDB were the subject of a September 28, 1983, Notice of Intent to Cancel. Pursuant to section 6(b) of FIFRA, the cancellation of specific pesticide products which are the subect of a Notice of Intent to Cancel does not become effective when adversely affected persons file a timely request for hearing with respect to specific registrations and uses. Requests for a hearing on the Notice of Intent to Cancel were filed by nine parties who challenged the cancellation of registrations for sixteen different EDB-containing products registered for fumigation of stored grain and four different products registered for spot fumigation of milling equipment. As a result of these challenges, the sale and distribution of those EDB-containing pesticide products for use on stored grain and grain milling equipment continues to be legal under FIFRA. The challenges to cancellation of two products for use on stored grain and two products for spot treatment were subsequently dropped.

In deciding to order the emergency suspension of the registration of each EDB-containing product which is presently registered for the fumigation of grain or grain milling equipment, I have determined that the continued registration of EDB for these uses would pose an imminent hazard during the approximately two-year period for conducting the administrative hearings convened in response to the hearing requests on these registrations. In addition, I have determined that an emergency exists resulting from the use of EDB on grain and in grain mills such that I cannot permit continued registration and use of these products for that purpose during the approximately six-month period that a suspension hearing could delay the effectiveness of a Notice of Intent to Suspend. The bases for my determinations of "imminent hazard" and "emergency" are set forth below.

A. Risks of Continued Use of EDB

1. *Toxicity.* Ethylene dibromide is a potent cancer-causing chemical in laboratory animals. The chemical has induced tumors in both sexes of mice and rats, by all routes of exposure (oral, inhalation, and dermal). Moreover, EDB induced malignant tumors in laboratory animals at several anatomical sites, incluing sites distant from the intital organs exposed. After oral exposure, the tumors began to appear after an extremely short duration compared to the results of tests of other chemical carcinogens. In light of the definitive weight of evidence that EDB is a potent animal carcinogen, the extent of human exposure and the potential size of the exposed population is of particularly serious concern. The carcinogenic potential of EDB is reinforced by the evidence of EDB's mutagenic potential in both *in vitro* and *in vivo* systems. Evidence also shows that EDB is mutagenic to germ cells, which raises concern of human genetic damage for exposed populations. Further, EDB has induced adverse reproductive effects in several animal species and should be considered as a potential cause of reproductive disorders in exposed human populations.

2. *Exposure and Associated Human Health Risks.* EDB is formulated as a liquid grain fumigant in combination with other chemical fumigants and poured or coarsely sprayed directly onto stored grain to control insect infestations. EPA estimates that approximately 160 million bushels of wheat and 14 million bushels of corn were treated with EDB in 1983. An estimated additional 30 million bushels of other grains (oats, barley, rye, rice, sorghum) were also treated with EDB. The mixing of treated grains with untreated stored grains prior to processing appears to have resulted in EDB residues in as much as 60 percent of the wheat products used for human consumption. The number of applicators associated with treatment of stored grains is not known; the typical use pattern appears to minimize worker contact during application. However, some worker exposure is expected to result from the application, including transfer of the pesticide, and from handling treated grain after its treatment.

For spot treatment of milling equipment, EDB is applied to grain milling equipment to control insect infestation. Prior to the September 1983 Notice of Intent to Cancel the registration of EDB—containing pesticides, EPA estimated that 75 percent of the Nation's grain mills used EDB for this purpose. Informal reports since that action indicate that the use in mills, especially large mills, may have substantialy declined following that notice. Where use in mills continues, applicators and other mill workers are exposed to significant levels of EDB. Moreover, the use of EDB in milling equipment adds to the levels of EDB which can appear in grain products.

In recent weeks, EPA has worked closely with the United States Department of Agriculture, the Food and Drug Administration, the States and other groups in order to determine the scope and levels of EDB residues in consumer grain products. The development of the data to evaluate the exposure to the general public of EDB from grain products has involved a substantial and broadly based sampling effort. As a result, I now have available a far more definitive evaluation of actual EDB residues in grain products than was available when I issued the September 1983 Notice of Intent to Cancel registrations of EDB-containing products for use on stored grain and in grain mills. Although there is some indication that use of EDB in grain mills and possibly on stored grain may be declining, it is also apparent that some use is continuing. I can only assure that these uses are halted immediately by issuing this immediately effective suspension order. If the legal use of EDB on grain and in mills continues during the pendency of administrative hearings on the Notice of Intent to Cancel, newly contaminated grain would remain in commerce approximately two years beyond the period when the residues can clear out of the system if the use is halted now. Similarly, further use during a six-month suspension hearing would delay for that time the point at which no further residues would be expected.

I have determined that the amount and scope of EDB residues in grain products which would continue during these interim periods necessary for hearings poses an unacceptable risk for three risk-related reasons: (1) The fact that continued exposures would affect large segments of the population; (2) the significant proportion of the diet which

is made up of grain products, especially for young children; and (3) the fact that persons born after the presently treated grain has cleared out of the channels of commerce can be entirely spared exposure to EDB residues from this source if I act now. This last reason is particularly persuasive when one considers that the risks of cancer from further exposure to EDB appear to fall most heavily upon the very young. In addition, these risks can be avoided since alternative, registered grain and milling fumigants are available and are now being used. Therefore, exposure to EDB in consumer grain products form the principal basis for my determinations of emergency and imminent hazard. However, in weighing the risks of continued use during the interim period against the corresponding benefits, I have also considered the fact that persons handling the pesticide and working in contact with treated materials would also be exposed to EDB for the additional time. The dietary and occupational exposures to EDB from the grain uses and the realted health risks are discussed below.

(a) *Contamination of edible grain products and associated risks.* The potential that application of EDB to grain and grain milling equipment would result in widespread residues of EDB in consumer grain products was a major concern when I issued the Notice of Intent to Cancel EDB pesticides for these uses. At that time, I stated that:

> The Agency is extremely concerned about the exposure of the population to EDB from [the stored grain fumigation] use and is gathering information concerning dietary exposures to EDB from this use pattern. When this additional information has been evaluated, the Agency will consider whether that information shows the need for immediate suspension of the EDB registrations for fumigation of grain stored in bulk (in the event that present registrations remain in effect during the pendency of cancellation hearings). [October 11, 1983, 48 FR 46239]

In the Notice, I made a virtually identical announcement concerning the registrations of EDB products for spot treatment of grain milling equipment. For that Notice, I had concluded that these grain uses of EDB cause unreasonable adverse effects on the environment based in large part upon the estimates then available which indicated that these grain treatments could result in significant residues in edible grain product. Available information then showed that EDB is persistent in fumigated grain, that it can survive milling and other processing steps, that fumigation of milling equipment contributes to residues, and that EDB had been measured in limited samples of flour and baked products. However, the estimates of levels and scope of residues to which the general public could be exposed were derived from a model designed to "predict" EDB residues in consumer products and confirmed only by very limited actual residue data. Accordingly, it appeared appropriate, at the time, to permit the operation of statutory provisions regarding delays during challenges to Notices of Intent to Cancel if registrants or other adversely affected persons elected to challenge my conclusions. Nevertheless, I recognized that a more definitive confirmation of widespread residues of EDB in the grain products consumed by the general public could readily alter that conclusion and prompt me to take immediately effective action.

Over the last few months, the Agency has obtained residue data on grain and grain products from a number of governmental and industry sources, including the Food and Drug Administration, the United States Department of Agriculture, the States of Florida, Texas, North Carolina, Georgia, California, Virginia, New York, Minnesota, Pennsylvania, Alabama, Ohio, Arizona, Massachusetts, and Illinois, the Grocery Manufacturers Association and some of its member companies, and the American Bakers Association. Additional data is currently being generated and submitted by a number of States. The Agency has also conducted its own studies of EDB residues in grain, grain products, and finished baked products. A summary of the residue data analyzed by EPA is presented in Table 1. This table sets forth the type of commodity tested, the percentage with detectable residues, the range of residues and the average EDB residues for that kind of sample.

TABLE 1.—SUMMARY OF EDB RESIDUE DATA IN GRAINS AND GRAIN PRODUCTS

Commodity	EDB residues found		Range of residues		Average residue	Median residue
	No. of samples	Percent detectable residues	Minimum	Maximum		
				(ppb)	(ppb)	(ppb)
Raw Grain Products:						
Wheat	562	75.2	ND	1842	40.3	4.0
Corn	290	60.7	ND	[1]9999	55.8	1.4
Other Grains	112	29.5	ND	[1]9999	109.9	ND
Milled Grain Products:						
Wheat	626	69.3	ND	450	14.4	2.0
Corn	303	55.1	ND	999	44.1	1.5
Other Grains	46	17.4	ND	125	4.0	ND
Ready-To-Eat Grain Products:						
Wheat	272	21.7	ND	48.4	2.3	ND
Corn	86	39.5	ND	51.5	4.0	ND
Other Grains	100	6.0	ND	3.8	ND	ND

ND = Less than 1 ppb.
[1] Greater than 10,000.

The residue data obtained by the Agency for EDB in grain products come from a variety of sampling efforts with different purposes and sampling designs and should not be regarded as statistically representative of actual residues. Further, the average residues to which a consumer would be likely to be exposed depend on whether industry and/or government identifies and removes products above some designated residue level. Accordingly I am recommending maximum permissible residue levels for removal from commerce of grain and grain products above 900 ppb in whole grain intended for human consumption, 150 ppb milled grain, or 30 ppb in ready to eat grain products.

Despite uncertainties about the data, estimates of average consumer residue levels for this pesticide can now be derived from an unusually large base of data, and are fully adequate to support my conclusion that it is necessary to act now to immediately halt futher use of

EDB on grain and grain milling equipment.

To assess dietary exposure, the Agency has evaluated the relevant residue data for finished and milled products, assuming an 80 percent reduction in cooking from the milled to the finished products, and has taken into account food consumption patterns based on a nationwide survey conducted by the United States Department of Agriculture in 1977–78.

In addition to considering the exposure of the typical consumer to grain products, the Agency has identified groups like young children for whom grain represents a higher proportion of the diet. A dietary preference for particular grains were also identified because the average residues in edible products is considerably higher for corn products than for grain products. Based upon these assessments of the extent of grain consumption and the residue levels in grain, and taking into account the potential adverse health effects from EDB, I have determined that it is necessary to halt further introduction of EDB residues into the nation's grain supply.

(b) *Occupational exposure and associated risks.* Individual occupational exposures from treatment of stored grain have not been measured and EPA, therefore, is unable to attempt to quantify them. However, a substantial number of individuals appear to be involved in this treatment practice, since some wheat stored on approximately 15 to 20 percent of the Nation's approximately 400,000 wheat farms was treated with EDB in 1983. (Additional treatments occurred at off-farm storage locations.) Because the handling of EDB may vary widely among the storage facilities doing the treating, it is likely that at least a few handlers of the pesticide would experience high or extremely high exposures during the period of use which would occur if use were allowed to continue during suspension or cancellation hearings. Some worker exposure is also expected from handling of treated grain after treatment.

Occupational exposure from continued use of EDB in grain mills would be at significant levels during the interim period. About 20,000 persons were engaged in application of EDB in mills and work in areas with significant EDB levels in the air prior to the September 1983 Cancellation Notice. Because the extent of this use appears to have declined, the number of persons at risk may have declined as well. However, any benefits derived from continued registration for this use would also decline proportionately. In sum, the health risks to workers from the grain uses of EDB provide an additional component of the unacceptable risk associated with continued use of EDB on grain and in grain mills during administrative hearings.

B. Benefits of Interim Use

In reaching my conclusions to emergency suspend the registrations for the use of EDB to fumigate grain and spot treat milling equipment, I have also evaluated the benefits which would accrue if these products could be used during the next two years. Prior to my September 1983 Cancellation Notice, approximately 470,000 pounds active ingredient of EDB were estimated to have been used annually for the uses suspended by this Order. Of this amount, about 300,000 pounds were used for spot treatment of milling equipment, and 170,000 pounds for fumigation of grain stored in bulk. Since the Notice of Cancellation, I have received information indicating that this rate of use has declined. In developing this economic analysis, the Agency has not been able to obtain definitive quantitative data on the current use of EDB for the suspended uses. The Agency's qualitative analysis, however, indicates that suspension of grain and milling uses would not significantly affect U.S. production or prices of any commodities or services in affected sectors because alternative control methods are available. Major millers have reported to EPA that they stopped using EDB-containing fumigants in August/September of 1983, in response to the Notice of Cancellation. However, there seems to be continuing usage of EDB by smaller mills. The milling industry can readily adopt the use of other registered fumigants and strategies for insect control and apparently has largely done so since the summer of 1983. Overall, the adoption of these alternative control methods could increase insect control costs by up to $3.5–$4.0 million over the next six months and by up to $15.0–$16.0 million over the next two years. Not all of these costs are attributable to this suspension action, however, because the majority of the milling industry has apparently voluntarily discontinued the use of EDB. Although the additional costs for alternatives to EDB use on milling equipment are not trivial, this Suspension Order will affect only the portion of the milling industry that may still be using this chemical.

There seem to be no significant costs attributable to suspension of the registrations for the EDB products for use as a fumigant for grain stored in bulk. The most likely alternatives to EDB-containing liquid grain fumigant mixtures are either the liquid grain fumigants which do not contain EDB or the phosphine producing products. These products could be used in essentially the same manner as are EDB products which are suspended by this Order. All of these products are currently in widespread use and available in sufficient supplies to meet grain storage treatment needs. In addition, other products, such as malathion, can be used to protect grain from insect damage. These products, however, are generally not as convenient as the liquid fumigants or the gases for dealing with established infestations in stored grain. Treatment costs with alternatives for use on stored grain vary depending on many factors. However, the available alternatives can be used at roughly the same or less costs than the EDB-containing materials without any significant loss in insect control.

The principal alternatives to EDB for grain and spot milling are: carbon tetrachloride by itself, and in combination with carbon disulfide and ethylene dichloride (EDC); methyl bromide; and phosphine gas released by aluminum or magnesium phosphide. The phosphide products are very acutely toxic and thus require extreme care in handling and are restricted to use by certified applicators, but are not known to pose any chronic health hazards from dietary residues. Carbon tetrachloride is under EPA review as a potential carcinogen, although its risks do not appear to be as significant as EDB. Methyl bromide and EDC also have preliminary indications of adverse chronic health effects.

IV. Procedural Matters

This order directs the immediately effective, emergency suspension of pesticide products registered for the use of ethylene dibromide as a fumigant for grain stored in bulk and as a spot treatment for grain milling equipment. Registrants affected by emergency suspension actions may request an expedited hearing before the Agency on the issue of whether an imminent hazard exists. This unit explains how to request an expedited hearing, the consequences of requesting or not requesting an expedited hearing, and the procedures which govern an expedited hearing in the event one is requested.

A. Procedures for Requesting a Hearing

(1) *Who may request a hearing and when the request may be made.* Registrants of ethylene dibromide

products registered for use as a grain fumigant or fumigant for grain milling equipment may request a hearing on the specific registered uses of ethylene dibromide within five days after receipt of this opinion and order.

(2) *How to request a hearing.* Registrants who request a hearing must follow the Agency's Rules of Practice Governing Hearings (40 CFR Part 164). These procedures specify, among other things: (a) That all requests for a hearing must be accompanied by objections that are specific for each use for which a hearing is requested (40 CFR 164.121(a) and 164.123(b)); and (b) that all requests must be received by the Office of the Hearing Clerk within the applicable five days (40 CFR 164.5(a) and 164.121(a)). Failure to comply with these requirements will automatically result in denial of the request for a hearing.

Requests for hearing must be submitted to: Hearing Clerk (A–110), Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460.

B. Consequences of Filing a Hearing Request

Under FIFRA section 6(c)(3) the emergency suspension order becomes effective immediately and continues in effect until completion of any expedited hearing and issuance of a final order following such a hearing. The final suspension order issued by the Administrator after a hearing may keep the suspension in effect, modify it, or terminate it.

The statute provides that if a hearing is requested on the Administrator's emergency suspension actions regarding ethylene dibromide before the end of the five-day notice period, the hearing is to begin within five days after receipt of the request, unless the registrants requesting the hearing and the Agency agree that it shall begin at a later time. No party, other than registrants and the Agency, is to participate, except that any person adversely affected may file briefs within the time allowed by the Agency's rules. The presiding officer has ten days from the conclusion of the presentation of evidence to submit recommendations to the Administrator, who in turn has seven days to issue a final order on the issue of suspension. EPA's Rules of Practice for expedited hearings are set forth at 40 CFR Part 164, Subpart C.

C. Consequences of Not Filing a Hearing Request

Under the statutory scheme, if there is no request for a hearing on the Administrator's suspension action within the five-day notice period, the emergency suspension order becomes a final suspension order, which remains in effect until the conclusion of the cancellation proceedings.

D. Separation of Functions

Having issued this Notice and Order, I am removing myself, the Deputy Administrator, and our immediate staffs from any decisionmaking role in any FIFRA proceeding resulting from this Notice and Order. This action is consistent with my previous removal from any decisionmaking role in the ongoing EDB cancellation proceeding, and does not affect any existing delegations of authority. The Assistant Administrator for Solid Waste and Emergency Response is hereby designated to exercise any authority reserved to the Administrator in any FIFRA proceeding resulting from this Notice and Order.

The Agency's Rules of Practice forbid anyone who may take part in deciding this case, at any stage of the proceeding, from discussing the merits of the proceeding *ex parte* with any party or with any person who has been connected with the preparation or presentation of the proceeding as an advocate or in any investigative or expert capacity, or with any of their representatives. 40 CFR 163.7.

Accordingly, the following Agency offices, and the staffs thereof, are designated as the judicial staff to perform the judicial functions of the Agency in this case: the Office of the Administrative Law Judge, the Judicial Officer, and the immediate office of the Assistant Administrator for Solid Waste and Emergency Response.

From the date of this Notice until the final Agency decision in this case, no member of the judicial staff shall have any *ex parte* communication with the trail staff or any other interested persons not employed by EPA, on the merits of any of the issues involved in this proceeding.

Dated: February 3, 1984.

William D. Ruckelshaus,

Administrator.

[FR Doc. 84–3373 Filed 2–3–84; 1:03 pm]

BILLING CODE 6560–50–M

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ISS
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CFR CHECKLIST

This checklist, prepared by the Office of the Federal Register, is published weekly. It is arranged in the order of CFR titles, prices, and revision dates.

An asterisk (*) precedes each entry that has been changed since last week.

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[1] No amendments to these volumes were promulgated during the period Apr. 1, 1982 to March 31, 1983. The CFR volumes issued as of Apr. 1, 1982 should be retained.

[2] No amendments to this volume were promulgated during the period Apr. 1, 1980 to March 31, 1983. The CFR volume issued as of Apr. 1, 1980, should be retained.

[3] Refer to September 19, 1983, FEDERAL REGISTER, Book II (Federal Acquisition Regulation).

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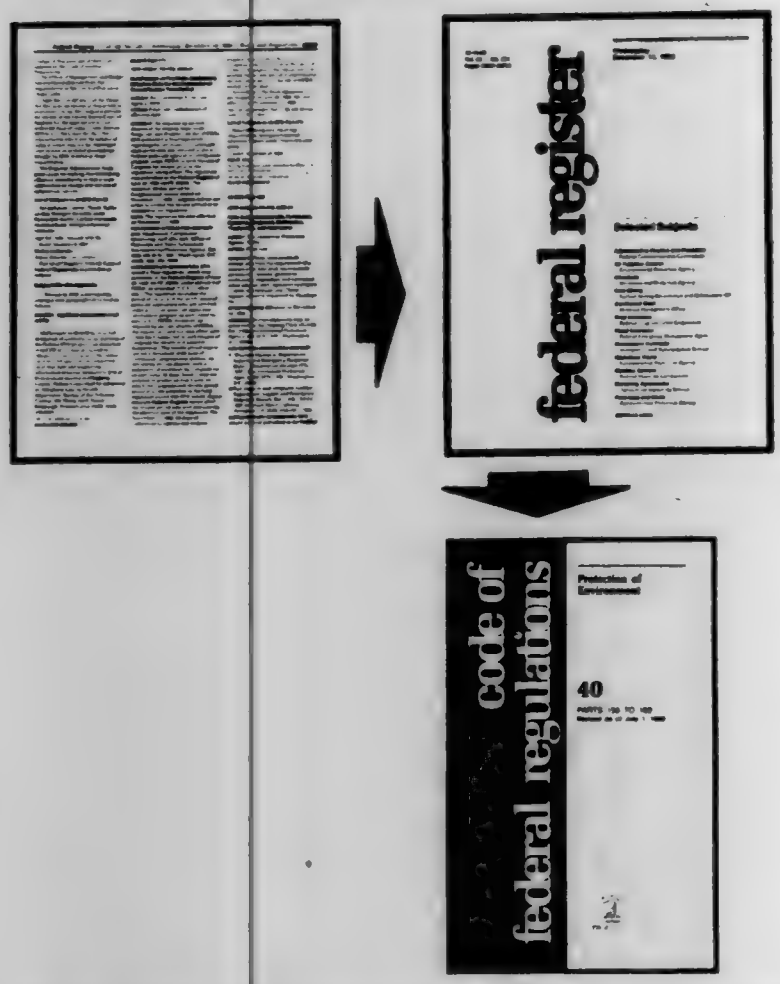

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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 907

[Navel Orange Reg. 592]

Navel Oranges Grown in Arizona and Designated Part of California; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of fresh California-Arizona navel oranges that may be shipped to market during the period February 10–16, 1984. Such action is needed to provide for orderly marketing of fresh navel oranges for this period due to the marketing situation confronting the orange industry.

EFFECTIVE DATE: February 10, 1984.

FOR FURTHER INFORMATION CONTACT: William J. Doyle, 202–447–5975.

SUPPLEMENTARY INFORMATION:

Findings

This rule has been reviewed under USDA procedures and Executive Order 12291 and has been designated a "non-major" rule. William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this action will not have a significant economic impact on a substantial number of small entities.

This regulation is issued under the marketing agreement, as amended, and Order No. 907, as amended (7 CFR Part 907), regulating the handling of navel oranges grown in Arizona and designated part of California. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). This action is based upon the recommendation and information submitted by the Navel Orange Administrative Committee and upon other available information. It is hereby found that this action will tend to effectuate the declared policy of the Act.

This action is consistent with the marketing policy for 1983–84. The marketing policy was recommended by the committee following discussion at a public meeting on September 27, 1983. The committee met again publicly on January 31, 1984, at Los Angeles, California, to consider the current and prospective conditions of supply and demand and recommended a quantity of navel oranges deemed advisable to be handled during the specified week. The committee reports the demand for navel oranges is good.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation is based and the effective date necessary to effecutate the declared policy of the Act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting. It is necessary to effectuate the declared policy of the Act to make this regulatory provision effective as specified, and handlers have been apprised of such provision and the effective time.

List of Subjects in 7 CFR Part 907

Marketing agreements and orders, California, Arizona, Oranges (navel).

PART 907—[AMENDED]

1. Section 907.892 is added as follows:

§ 907.892 Navel Orange Regulation 592.

The quantities of navel oranges grown in California and Arizona which may be handled during the period February 10, 1984 through February 16, 1984, are established as follows:

(a) District 1: 1,500,000 cartons;
(b) District 2: Unlimited cartons;
(c) District 3: Unlimited cartons;
(d) District 4: Unlimited cartons.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: February 2, 1984.

Russell L. Hawes,
Acting Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 84-3285 Filed 2-6-84; 8:45 am]
BILLING CODE 3410-02-M

7 CFR Part 1093

[Docket No. AO–386–A1]

Milk in the Alabama-West Florida Marketing Area; Order Amending Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This action amends the Alabama-West Florida Federal milk order by providing a procedure for the advanced announcement of the Class II price. In most respects, it is identical to the procedure that is presently applicable to 39 other milk orders. The action is based on an industry proposal considered at a public hearing held on August 9, 1983.

EFFECTIVE DATE: April 1, 1984.

FOR FURTHER INFORMATION CONTACT: Martin J. Dunn, Marketing Specialist, Dairy Division, Agricultural Marketing Service, United States Department of Agriculture, Washington, D.C. 20250, (202) 447–7311.

SUPPLEMENTARY INFORMATION: This administrative action is governed by the provisions of Sections 556 and 557 of Title 5 of the United States Code and, therefore, is excluded from the requirements of Executive Order 12291.

Prior documents in this proceeding:

Notice of Hearing: Issued July 15, 1983; published July 22, 1983 (48 FR 33492).

Partial Emergency Final Decision: Issued September 22, 1983; published September 29, 1983 (48 FR 44570).

Partial Final Order: Issued October 19, 1983; published October 24, 1983 (48 FR 48998).

Recommended Decision: Issued October 21, 1983; published October 26, 1983 (48 FR 49512).

Final Decision: Issued December 16, 1983; published December 22, 1983 (48 FR 56592).

Findings and Determinations

The findings and determinations hereinafter set forth are supplementary

and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and all of the said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) *Findings upon the basis of the hearing record.* Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the Alabama-West Florida marketing area.

Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order as hereby amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(2) The parity prices of milk, as determined pursuant to section 2 of the Act, are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the said marketing area; and the minimum prices specified in the order as hereby amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(3) The said order as hereby amended regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in, a marketing agreement upon which a hearing has been held.

(b) *Determinations.* It is hereby determined that:

(1) The refusal or failure of handlers (excluding cooperative associations specified in Sec. 8c(9) of the Act) of more than 50 percent of the milk, which is marketed within the marketing area, to sign a proposed marketing agreement, tends to prevent the effectuation of the declared policy of the Act;

(2) The issuance of this order amending the order is the only practical means pursuant to the declared policy of the Act of advancing the interests of producers as defined in the order; and

(3) The issuance of the order amending the order is approved or favored by at least two-thirds of the producers who during the determined representative period were engaged in the production of milk for sale in the marketing area.

List of Subjects in 7 CFR Part 1093

Milk marketing order, Milk, Dairy products.

Order Relative to Handling

It is therefore ordered, That on and after the effective date hereof, the handling of milk in the Alabama-West Florida marketing area shall be in conformity to and in compliance with the terms and conditions of the aforesaid order, as amended, and as hereby further amended, as follows:

PART 1093—MILK IN THE ALABAMA-WEST FLORIDA MARKETING AREA

1. Add a new § 1093.20 to read as follows:

§ 1093.20 Product prices.

The following product prices shall be used in calculating the basic Class II formula price.

(a) *Butter price.* "Butter price" means the simple average, for the first 15 days of the month, of the daily prices per pound of Grade A (92-score) butter. The prices used shall be those of the Chicago Mercantile Exchange as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each following work-day until the next price is reported. A work-day is each Monday through Friday, except national holidays. For any week that the Exchange does not meet to establish a price, the price for the following week shall be the last price that was established.

(b) *Cheddar cheese price.* "Cheddar cheese price" means the simple average, for the first 15 days of the month, of the daily prices per pound of cheddar cheese in 40-pound blocks. The prices used shall be those of the National Cheese Exchange (Green Bay, WI), as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each following work-day until the next price is reported. A work-day is each Monday through Friday except national holidays. For any week that the Exchange does not meet to establish a price, the price for the following week shall be the last price that was established.

(c) *Nonfat dry milk price.* "Nonfat dry milk price" means the simple average, for the first 15 days of the month, of the daily prices per pound of nonfat dry milk, which average shall be computed by the Director of the Dairy Division as follows:

(1) The prices used shall be the prices (using the midpoint of any price range as one price) of high heat, low heat and Grade A nonfat dry milk, respectively, for the Central States production area, as reported and published weekly by the Dairy Division, Agricultural Marketing Service.

(2) For each week, determine the simple average of the prices reported for the three types of nonfat dry milk. Such average shall be the daily price for the day that such prices are reported and for each preceding work-day until the day such prices were previously reported. A work-day is each Monday through Friday except national holidays.

(3) Add the prices determined in paragraph (c)(2) of this section for the first 15 days of the month and divide by the number of days for which there is a daily price.

(d) *Edible whey price.* "Edible whey price" means the simple average, for the first 15 days of the month, of the daily prices per pound of edible whey powder (nonhygroscopic). The prices used shall be the prices (using the midpoint of any price range as one price) of edible whey powder for the Central States production area, as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each preceding work-day until the day such price was previously reported. A work-day is each Monday through Friday except national holidays.

2. In § 1093.50, paragraph (b) is revised to read as follows:

§ 1093.50 Class prices.

* * * * *

(b) *Class II price.* A tentative Class II price shall be computed by the Director of the Dairy Division and transmitted to the market administrator on or before the 15th day of the preceding month. The tentative Class II price shall be the basic Class II formula price computed pursuant to § 1093.51a for the month plus the amount that the value computed pursuant to paragraph (b)(1) of this section exceeds the value computed pursuant to paragraph (b)(2) of this section, except that in no event shall the final Class II price be less than the Class III price: *Provided,* That for

the first month this paragraph is effective the Class II price shall be the basic formula price for the month plus 10 cents.

(1) Determine for the most recent 12-month period the simple average (rounded to the nearest cent) of the basic formula prices computed pursuant to § 1093.51 and add 10 cents; and

(2) Determine for the same 12-month period as specified in paragraph (b)(1) of this section the simple average (rounded to the nearest cent) of the basic Class II formula prices computed pursuant to § 1093.51a.

* * * * *

3. Add a new § 1093.51a to read as follows:

§ 1093.51a Basic Class II formula price.

The "Basic Class II formula price" for the month shall be the basic formula price determined pursuant to § 1093.51 for the second preceding month plus or minus the amount computed pursuant to paragraphs (a) through (d) of this section:

(a) The gross values per hundredweight of milk used to manufacture cheddar cheese and butter-nonfat dry milk shall be computed, using price data determined pursuant to § 1093.20 and yield factors in effect under the Dairy Price Support Program authorized by the Agricultural Act of 1949, as amended, for the first 15 days of the preceding month and, separately, for the first 15 days of the second preceding month as follows:

(1) The gross value of milk used to manufacture cheddar cheese shall be the sum of the following computations:

(i) Multiply the cheddar cheese price by the yield factor used under the Price Support Program for cheddar cheese;

(ii) Multiply the butter price by the yield factor used under the Price Support Program for determining the butterfat component of the whey value in the cheese price computation; and

(iii) Subtract from the edible whey price the processing cost used under the Price Support Program for edible whey and multiply any positive difference by the yield factor used under the Price Support Program for edible whey.

(2) The gross value of milk used to manufacture butter-nonfat dry milk shall be the sum of the following computations:

(i) Multiply the butter price by the yield factor used under the Price Support Program for butter; and

(ii) Multiply the nonfat dry milk price by the yield factor used under the Price Support Program for nonfat dry milk.

(b) Determine the amounts by which the gross value per hundredweight of milk used to manufacture cheddar cheese and the gross value per hundredweight of milk used to manufacture butter-nonfat dry milk for the first 15 days of the preceding month exceed or are less than the respective gross values for the first 15 days of the second preceding month.

(c) Compute weighting factors to be applied to the changes in gross values determined pursuant to paragraph (b) of this section by determining the relative proportion that the data included in each of the following subparagraphs is of the total of the data represented in paragraph (c) (1) and (2) of this section:

(1) Combine the total American cheese production for the States of Minnesota and Wisconsin, as reported by the Statistical Reporting Service of the Department for the most recent preceding period, and divide by the yield factor used under the Price Support Program for cheddar cheese to determine the quantity of milk used in the production of American cheddar cheese; and

(2) Combine the total nonfat dry milk production for the States of Minnesota and Wisconsin, as reported by the Statistical Reporting Service of the Department for the most recent preceding period, and divide by the yield factor used under the Price Support Program for nonfat dry milk to determine the quantity of milk used in the production of butter-nonfat dry milk.

(d) Compute a weighted average of the changes in gross values per hundredweight of milk determined pursuant to paragraph (b) of this section in accordance with the relative proportions of milk determined pursuant to paragraph (c) of this section.

4. Revise § 1093.53 to read as follows:

§ 1093.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month, the Class III price for the preceding month and the final Class II price for the preceding month, except that the Class II price announced for the first month during which this section is effective shall be the price specified in the proviso in § 1093.50(b); and on or before the 15th day of each month the tentative Class II price for the following month.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Effective date: April 1, 1984.

Signed at Washington, D.C., on February 1, 1984.

John Ford,

Deputy Assistant Secretary, Marketing and Inspection Services.

[FR Doc. 84-3313 Filed 2-6-84; 8:45 am]

BILLING CODE 3410-02-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 84-ANE-1; Amdt. 39-4801]

Airworthiness Directives; Scott Aviation Oxygen Cylinders

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) which requires the bleed down (discharge) and recharge of all Scott Aviation oxygen cylinders delivered between May 16, 1983 and September 22, 1983, to prevent insufficient oxygen supply to crew and/or passengers.

DATES: Effective—February 9, 1984.

Compliance schedule—As prescribed in body of AD.

Incorporation by Reference—Approved by the Director of the Federal Register on January 30, 1984.

ADDRESSES: The applicable Scott Airworthiness Alert may be obtained from Scott Aviation, 225 Erie Street, Lancaster, New York 14086, Telephone (716) 683–5100.

A copy of the Scott Airworthiness Alert is contained in the Rules Docket of the Regional Counsel Office, Federal Aviation Administration, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803.

FOR FURTHER INFORMATION CONTACT: Kenneth Tunjian, ANE–173, New York Aircraft Certification Office, Federal Aviation Administration, 181 South Franklin Avenue, Room 202, Valley Stream, New York 11581, Telephone (516) 791–6427.

SUPPLEMENTARY INFORMATION: As a result of an internal part failure in a high pressure oxygen charging station at Scott, a probable dilution of oxygen by air exists in Scott high pressure oxygen cylinder assemblies delivered between May 16, 1983 and September 22, 1983. The oxygen content may range from 92% to 80% by volume, instead of 99.5%. Since a situation exists affecting the safe operation of aircraft requiring the immediate adoption of this regulation, it

is found that notice and public procedure hereon are impracticable, and good cause exists for making this amendment effective in less than 30 days.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety, Incorporation by reference.

Adoption of the Amendment

PART 39—[AMENDED]

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new airworthiness directive:

Scott Aviation: Applies to all aircraft equipped with Scott Aviation oxygen cylinders delivered between May 16, 1983 and September 22, 1983, listed in Scott Airworthiness Alert dated September 27, 1983, revised December 12, 1983.

Compliance required as indicated below.

To prevent possible use of improperly charged oxygen cylinders, bleed down (discharge) the cylinders, and recharge with aviator's breathing oxygen, per the above Scott Airworthiness Alert.

1. For unpressurized airplanes, compliance required before flight at operating altitudes above 14,000 feet, unless already accomplished.

2. For pressurized airplanes, compliance required within 500 hours in service, unless already accomplished.

3. For pressurized and unpressurized airplanes, compliance with this AD is required no later than May 1, 1984.

After accomplishment of this AD, mark each oxygen cylinder with a white paint dot approximately ½ inch in diameter after the serial number, as evidence of compliance with this AD. Cylinders previously recharged in accordance with this AD, for which records of such action are available, may be marked with the paint dot without repeating the recharging.

Upon submission of substantiating data by an owner or operator through an FAA maintenance inspector, the compliance time of this AD may be adjusted and/or an equivalent method of compliance may be approved, upon request to the Manager, New York Aircraft Certification Office, 181 South Franklin Avenue, Room 202, Valley Stream, New York 11581, Telephone (516) 791–6680.

The Airworthiness Alert identified and described in this directive is incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a). All persons affected by this directive who have not already received this document from the manufacturer may obtain copies upon request to Scott Aviation, 225 Erie Street, Lancaster, New York 14086, Telephone (716) 683–5100. These documents also may be examined at the Office of Regional Counsel, FAA, 12 New England Executive Park, Burlington, Massachusetts 01803, weekdays, except federal holidays between 8:00 a.m. and 4:30 p.m.

This amendment becomes effective February 9, 1984.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 106(g) revised, Pub. L. 97–449, January 12, 1983); 14 CFR 11.89.)

Note.—The FAA has determined that this regulation is an emergency regulation that is not considered to be major under Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule, since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant/major regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation or analysis is not required). A copy of it, when filed, may be obtained by contacting the person identified under the caption "**FOR FURTHER INFORMATION CONTACT.**"

Issued in Burlington, Massachusetts, on January 20, 1984.

Robert E. Whittington,

Director, New England Region.

[FR Doc. 84–3200 Filed 2–6–84; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 71

[Airspace Docket No. 83–ASW–48]

Alteration of Transition Area; El Dorado, AR

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment will alter the transition area at El Dorado, AR. The intended effect of the amendment is to provide adequate controlled airspace for aircraft executing standard instrument approach procedures (SIAPS) to Goodwin Field. This action is necessary since a previous alteration of the designated airspace, Airspace Docket No. 81–ASW–44 effective March 18, 1982, eliminated a required portion of the transition area northeast of the VORTAC. This action will redesignate the necessary airspace for the protection of aircraft executing SIAPs to Goodwin Field Runway 22 and eliminate the airspace designated for the Downtown Airport, which is no longer required.

EFFECTIVE DATE: May 10, 1984.

FOR FURTHER INFORMATION CONTACT: Kenneth L. Stephenson, Airspace and Procedures Branch (ASW–535), Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, TX 76101, telephone (817) 877–2630.

SUPPLEMENTARY INFORMATION:

History

On December 9, 1983, a notice of proposed rulemaking was published in the **Federal Register** (48 FR 55138) stating that the Federal Aviation Administration proposed to alter the El Dorado, AR, transition area. Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the Federal Aviation Administration. Comments were received without objections. Except for editorial changes, this amendment is that proposed in the notice.

List of Subjects in 14 CFR Part 71

Control zones, Transition areas, Aviation safety.

Adoption of the Amendment

PART 71—[AMENDED]

Accordingly, pursuant to the authority delegated to me, by the Administrator, Subpart G of Part 71 § 71.181, of the Federal Aviation Regulations (14 CFR Part 71) as republished in Advisory Circular AC 70–3A dated January 3, 1983, is amended, effective 0901 G.m.t., May 10, 1984, as follows:

El Dorado, AR Amended

That airspace extending upwards from 700 feet above the surface within an 8.5-mile radius of Goodwin Field (latitude 33°13'15" N., longitude 92°48'47" W.), and within 4.5 miles each side of the 059° radial of the El Dorado VORTAC extending from the VORTAC to 11 miles northeast of the VORTAC.

(Sec. 307(a), Federal Aviation Act of 1958 as amended (49 U.S.C. 1348(a)); Sec. 6(c), 49 U.S.C. 106(g) (Revised, Pub. L. 97–449, January 12, 1983); and 14 CFR 11.61(c))

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Fort Worth, TX, on January 27, 1984.

F. E. Whitfield,

Acting Director, Southwest Region.

[FR Doc. 84-3199 Filed 2-6-84; 8:45 am]

BILLING CODE 6010-13-M

COMMODITY FUTURES TRADING COMMISSION

17 CFR Parts 140, 145, 146 and 147

Release of Information; Delegation of Authority To Release Information

AGENCY: Commodity Futures Trading Commission.

ACTION: Final rules.

SUMMARY: The Commodity Futures Trading Commission is adopting final rules to reflect amendments enacted in the Futures Trading Act of 1982, which authorize withholding of information contained in records of a pending investigation and provide for notice prior to release of information pursuant to a subpoena or summons. In addition, the Commission is adopting a rule which delegates to certain Commission employees the authority to disclose information in a receivership or bankruptcy proceeding.

EFFECTIVE DATE: February 7, 1984.

FOR FURTHER INFORMATION CONTACT: Tena Friery, Office of the General Counsel, Commodity Futures Trading Commission, 2033 K Street N.W., Washington, D.C. 20581, (202) 254-9880.

SUPPLEMENTARY INFORMATION: On May 25, 1983, the Commodity Futures Trading Commission ("Commission") published for comment in the **Federal Register** (48 FR 23440) proposed rules to implement changes made to the Commodity Exchange Act ("Act") by the Futures Trading Act of 1982, Pub. L. No. 97-444, 96 Stat. 2294 (1983) ("1982 Amendments"). The proposed rules were intended to implement three newly enacted provisions which amended Section 8 of the Act, 7 U.S.C. 12.[1] Specifically Section 8(a) was amended to authorize the Commission to "withhold from public disclosure any data or information concerning or obtained in connection with any pending investigation of any person". Section 8(b) of the Act, 7 U.S.C. 12(b), authorizes the Commission to "disclose publicly any data or information that would separately disclose the market positions, business transactions, trade secrets, or names of customers of any person when such disclosure is made in connection with a congressional proceeding, [or] in an administrative or judicial proceeding brought under" the Commodity Exchange Act. The 1982 Amendments also permit the Commission to make such disclosure "in any receivership proceeding involving a receiver appointed in a judicial proceeding brought under th[e] Act, or in any bankruptcy proceeding in which the Commission has intervened or in which the Commission has the right to appear and be heard under Title 11 of the United States Code". New Section 8(f) requires the Commission to provide notice to a submitter of information that it has received a summons or subpoena for the submitted information. In addition, Section 8(f) requires the Commission to wait for the expiration of fourteen days from the date of notice of the summons or subpoena before it discloses the requested information. The Commission received one comment from the public concerning this proposal. That commentator recognized that the proposed rule amendments effectuate changes authorized or required by the 1982 Amendments.[2]

To reflect its statutory authority to withhold matters pertaining to a pending investigation as contained in the 1982 Act's amendment to Section 8(a), of the Commission proposed to amend Rules § 145.5(c) ("Nonpublic matters") of Part 145—Commission Records and Information—and Rule § 147.3 ("General requirement of open meetings; grounds upon which meetings may be closed") of Part 147—Open Commission Meetings. The Commission received no comments on the proposed rule amendments to reflect the authority to withhold information concerning a pending investigation and has determined to adopt the amendments to Rules §§ 145.5(c) and 147.3 as proposed.

Secondly, the Commission found it unnecessary to amend its rules implementing the Privacy Act (Part 146) to reflect the authority of the revised Section 8(b) to disclose information which it is normally prohibited from disclosing by Section 8(a) when such disclosure is made in a receivership or bankruptcy proceeding. However, in order to ensure timely and efficient disclosures pursuant to Section 8(b), the Commission determined that delegation to certain of its employees to make such disclosures would be appropriate. To effectuate this delegation, the Commission proposed to add Rule § 140.76.[3] Prior to the 1982 Amendments, the Commission had the power to disclose "market positions, business transactions, trade secrets, or names of customers" in a judicial proceeding brought under the Act. The Commission does not intend to change its practice regarding disclosure of confidential information pursuant to this portion of Section 8(b). However, the 1982 Amendments have extended the scope of the Commission's powers to disclose confidential information "to permit disclosure in connection with certain judicial receivership or bankruptcy proceedings." S. Rep. No. 384, 97th Cong., 2d Sess. 6-7 (1982). *See also* H.R. Rep. No. 565, 97th Cong., 2d Sess. 30 (1982). In this regard, the commentator expressed concern that the words "in connection with" had been included in proposed Rule 140.76. The Commission has no intent in including these words from the legislative history to broaden its authority. To make this clear, it has determined to eliminate this language from the final rule as adopted.[4]

Finally, the Commission proposed to amend Part 145[5] of its rules regarding Commission records and information and Part 146 of its rules regarding

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[1] Sections 8(a), 8(b) and 8(f) were amended by Section 222 of the 1982 Amendments, Pub. L. 97-444, 96 Stat. 2309-2310 (1983).

[2] The commentator did, however, express concern that the opening paragraph of Rule § 145.5, as currently written, may be misread to indicate that the Commission has the discretion to publish or make available data and information which would separately disclose the business transactions or market positions of any person and trade secrets or names of customers. Section 8(a) presently—and prior to the 1982 amendments—prohibits the Commission from disclosing such information, except as otherwise specifically authorized in the Act. The Commission has not considered Rule§ 145.5 as authority to make a discretionary release of business transactions or market positions of any person and trade secrets or names of customers. Further, the Commission is unaware of any misunderstanding which has resulted from the existing language of Rule § 145.5.

[3] The Commission notes that this special delegation rule, similar to Commission Rules §§ 140.72, 140.73, and 140.75, *see* 48 FR 22133 (May 17, 1983), concerns only the release of information otherwise barred from release by Section 8 of the Act. These rules permit staff to release such information only when release of information is specifically authorized in the Act. Of course, other information, not barred from release by Section 8 of the Act, may be supplied to receivers or bankruptcy trustees insofar as it is relevant to their activities. *See, e.g.* 47 FR 43760-61 (Oct. 4, 1982), setting forth routine uses of Commission records which it maintains on individuals.

[4] The Commission wishes to note the Section 8(b) grant of authority to disclose certain confidential information would include an adversary proceeding brought by a trustee in "any bankruptcy proceeding in which the Commission has intervened * * *"

[5] Upon further consideration, the Commission has determined that the rule to establish the notification procedures required by Section 8(f) would be appropriate for inclusion in Part 140, Organization, Functions, and Procedures of the Commission, rather than Part 145, Commission Records and Information. For this reason, the text of the proposed Rule § 145.10, as adopted by the Commission, is added as Rule § 140.80.

records maintained on individuals to conform these rules to the new Section 8(f) provisions governing release of information pursuant to a summons or subpoena. In this respect, the commentator noted that the legislative history of Section 8(f) makes clear that Congress in adopting this Section intended for it to have only a procedural effect.*

The Commission agrees that Section 8(f) provides only for a procedure to notify submitters of information that such information is being sought pursuant to a summons or subpoena. Further, the Commission recognizes that the provision is intended to "help assure that confidential information is not inadvertently released" by the Commission. *See* footnote 5, below. The Commission does not believe, therefore, that these procedures apply with regard to information submitted to the Commission which is routinely available to the public. Examples of the types of information which the Commission considers not to require the notification of Section 8(f) are public filings by parties in reparation or enforcement proceedings or comments received from the public in the course of such Commission business as contract market designation or rule making. The Commission further believes that submitters of information may not be interested in receiving notification with regard to all submitted information. Accordingly, Rules §§ 140.80 and 146.6, as adopted, recognize the possibility of a waiver of these notification requirements.

In inviting comment on these rule amendments, the Commission noted that it had determined that the provisions of the Regulatory Flexibility Act, Pub. L. 96–354, 94 Stat. 1164, were inapplicable to the proposed procedural amendments to the regulations. *See* 5 U.S.C. 601. *See also* 48 FR 23440, 23442 (n.8) (May 25, 1983). The Commission noted further that the proposed amendments would not constitute new paperwork collection requirements within the meaning of the Paperwork Reduction Act, 44 U.S.C. 3501, et seq. *Id.*

* Members of both the House and Senate agreed that Section 8(f) is strictly a procedural provision. It does not authorize or require disclosure of any information—confidential or otherwise. In fact, it is intended to help assure that confidential information is not inadvertently released by the CFTC, by requiring notice of a subpoena to the person who submitted the information to the CFTC is the first place. 128 Cong. Rec. H7506 (daily, Sept. 23, 1982) (remarks of Rep. Glickman and Rep. de la Garza); 128 Cong. Rec. S13099 (daily ed., Oct. 1, 1982) (remarks of Sen. Huddleston and Sen. Helms).

List of Subjects

17 CFR Part 140

Organization and functions, Disclosure of information, Bankruptcy or receivership proceedings, Disclosure pursuant to a summons or subpoena.

17 CFR Part 145

Freedom of information; Records and Information, Disclosure of information, Investigatory records, Disclosure exempted by statute.

17 CFR Part 146

Privacy, Records maintained on individuals, Disclosure of information, Disclosure pursuant to a summons or subpoena.

17 CFR Part 147

Sunshine Act, Closed commission meetings, Disclosure exempted by statute, Investigatory records.

In consideration of the foregoing and pursuant to the authority contained in the Commodity Exchange Act and, in particular, Sections 2(a)(11) and 8, 7 U.S.C. 4a(j) and 12 (1983), the Commission hereby amends Parts 140, 145, 146 and 147 of Chapter 1 of Title 17 of the Code of Federal Regulations as follows:

PART 140—ORGANIZATION, FUNCTIONS AND PROCEDURES OF THE COMMISSION

1. Section 140.76 is added to read as follows:

§ 140.76 Delegation of authority to disclose information in a receivership or bankruptcy proceeding.

(a) Pursuant to sections 2(a)(11) and 8(b) of the Act, the Commission hereby delegates, until such time as the Commission orders otherwise, to the Director of the Division of Enforcement, the Director of the Division of Trading and Markets, the General Counsel or any Commission employee under their direction as they may designate, the authority to disclose data and information that would separately disclose the business transactions or market positions of any person and trade secrets or names of customers, when such disclosure is made in any receivership proceeding involving a receiver appointed in a judicial proceeding brought under the Act, or in any bankruptcy proceeding in which the Commission has intervened or in which the Commission has the right to appear and be heard under Title 11 of the United States Code.

(b) Notwithstanding the provisions of paragraph (a), in any case in which the Director of the Division of Enforcement, the Director of the Division of Trading and Markets, the General Counsel, or any employee designated by them to make disclosures pursuant to this section believes it appropriate, the matter may be submitted to the Commission for consideration. In addition, the Commission reserves to itself the authority to determine whether to grant a request for information in any particular case.

2. Section 140.80 is added to read as follows:

§ 140.80 Disclosure of information pursuant to a subpoena or summons.

The Commission shall provide notice to any person who has submitted information to the Commission when a summons or subpoena seeking the submitted information is received by the Commission. Notice ordinarily will be provided by mailing a copy of the summons or subpoena to the last known home or business address of the person who submitted the information. However, under circumstances which would make notice by mail unduly burdensome or costly, notice of the existence of the summons or subpoena may be affected by alternative means such as publication in the **Federal Register**. The Commission will not disclose such information until the expiration of at least fourteen days from the date of mailing, or such other notice as is given. This section shall not apply to (1) Congressional subpoenas or Congressional requests for information, (2) information which is considered by the Commission to be public information, or (3) information as to which the submitter has waived the notice provision of this section.

PART 145—COMMISSION RECORDS AND INFORMATION

3. Paragraph (c) of § 145.5 is revised to read as follows:

§ 145.5 Nonpublic matters.

* * * * *

(c) Specifically exempted from disclosure by statute, including:

(1) Data and information which would separately disclose the business transactions or market positions of any person and trade secrets or names of customers; and

(2) Any data or information concerning or obtained in connection with any pending investigation of any person;

* * * * *

PART 146—RECORDS MAINTAINED ON INDIVIDUALS

4. Paragraph (b) of § 146.6 is revised to read as follows:

§ 146.6 Disclosure to third parties.

* * * * *

(b) The Commission will make reasonable efforts to serve notice on an individual when any record on such individual is made available to any person under compulsory legal process when such process becomes a matter of public record. In any instance where a record on an individual, which has been submitted to the Commission by such individual, is sought pursuant to a summons or subpoena, notice will be given in accordance with the provisions of Section 8(f) of the Commodity Exchange Act, and § 140.80 of this Chapter, at least fourteen days prior to disclosure. Notice will not, however, be given with regard to any information as to which the submitter has waived the notice requirements of § 140.80.

* * * * *

PART 147—OPEN COMMISSION MEETINGS

5. Paragraph (b)(3) of § 147.3 is revised to read as follows:

§ 147.3 General requirement of open meetings; grounds upon which meetings may be closed.

* * * * *

(b) * * *

(3) Disclose matters specifically exempted from disclosure by statute (other than the Freedom of Information Act, as amended, 5 U.S.C. 552), provided that such statute (i) requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue, or (ii) establishes particular criteria for withholding or refers to particular types of matters to be withheld. This includes, but is not limited to, data and information which would separately disclose the business transactions or market positions of any person and trade secrets or names of customers and data and information concerning or obtained in connection with any pending investigation of any person;

* * * * *

Issued in Washington, D.C. on February 1, 1984 by the Commission.

Jean A. Webb,

Deputy Secretary of the Commission.

[FR Doc. 84-3205 Filed 2-6-84; 8:45 am]

BILLING CODE 6351-01-M

DEPARTMENT OF STATE

22 CFR Part 9b

[Departmental Regulation 108.836]

Regulations Governing Department of State Press Building Passes

AGENCY: Department of State.

ACTION: Final rule.

SUMMARY: The Department of State amends its regulations by adding new regulations governing the issuance and use of press building passes to the Main State Department building on a 24-hour, 7 days-a-week basis and to establish procedures and guidance concerning the issuance of Department of State press building passes.

There are at present no written regulations governing press passes which grant access to the Main State Department building on a 24-hour basis. These regulations will provide publicly available guidance on the procedures for issuance of Department of State press building passes, and will safeguard the Department's personnel and classified material.

EFFECTIVE DATE: February 7, 1984.

FOR FURTHER INFORMATION CONTACT: Joseph W. Reap, Jr., Office of Press Relations, Room 2109, Department of State, 2201 C Street, NW., Washington, D.C. 20520. (202) 632-2492.

SUPPLEMENTARY INFORMATION:

List of Subjects in 22 CFR Part 9b

Administrative practice and procedure, Federal buildings and facilities, News media, Security measures.

Accordingly, Title 22 of the Code of Federal Regulations is amended by adding a new Part 9b to Chapter I to read as follows:

PART 9b—REGULATIONS GOVERNING DEPARTMENT OF STATE PRESS BUILDING PASSES

Sec.

9b.1 Press access to the Department of State.
9b.2 Press correspondents employed by American media organizations.
9b.3 Press correspondents employed by Foreign media organizations.
9b.4 Department of State building press passes for technical crews.
9b.5 Temporary Department of State press building passes.
9b.6 Grounds for denial, revocation, or non-renewal of Department of State building passes.
9b.7 Procedures for denial, revocation, or non-renewal of Department of State press building passes.
9b.8 Term and renewal of Department of State press building passes.

Authority: 22 U.S.C. 2658.

§ 9b.1 Press access to the Department of State.

(a) Correspondents without valid Department of State press building passes or without valid White House press passes shall have access to the Main State Building identical to that enjoyed by members of the public.

(b) Correspondents holding valid Department of State or valid White House press building passes:

(1) May enter the basement and first two floors of the Main State building without an appointment with a Department employee;

(2) May not escort non-passholders into the Department of State building.

(c) Correspondents, with or without a Department of State press building pass or White House press pass, may only enter above the second floor of the Main State building if the correspondent is invited by a Departmental employee to attend a social or official function in an office located above the second floor. Permission to enter above the second floor is strictly limited to direct passage to and from the appointment with the Department of State employee, or the office or reception room where the function takes place.

§ 9b.2 Press correspondents employed by American media organizations.

In order to obtain a Department of State press building pass, correspondents employed by American media organizations must:

(a) Present to the Office of Press Relations, Department of State, a letter from his or her organization stating:

(1) That the applicant is a bona fide, full-time correspondent based permanently in Washington, D.C.;

(2) That the applicant is employed by the certifying organization;

(3) That the organization gives the applicant substantial assignments in connection with the Department of State.

(b) Submit to the Office of Press Relations, Department of State, Washington, D.C. 20520 a signed application for a press building pass which includes the following information:

(1) Name;

(2) Affiliation with media organizations;

(3) Date of birth;

(4) Place of birth;

(5) Citizenship;

(6) Office address and telephone number;

(7) Home address and telephone number;

(8) The names of other Governmental entities in Washington, D.C., such as Congress, the White House, the Department of Defense, if any, to which the applicant is already accredited;

(9) Whether the applicant has been convicted of a felony (or a crime in a foreign country that would be considered a felony if it were committed in the United States) within the last five (5) years.

(c) Arrange with the Office of Security to have his or her fingerprints taken.

§ 9b.3 Press correspondents employed by foreign media organizations.

In order to obtain a Department of State press building pass, correspondents employed by foreign media organizations must:

(a) Present to the Office of Press Relations, Department of State, Washington, D.C. 20520 a letter from his or her organization stating:

(1) That the applicant is a bona fide, full-time correspondent based permanently in Washington, D.C.;

(2) That the applicant is employed by the certifying organization;

(3) That the organization gives the applicant substantial assignments in connection with the Department of State.

(b) A letter from the Washington, D.C. Embassy of the nation where the organization is headquartered or from the Embassy of the United States in the nation where the organization is headquartered attesting to the existence of the news organization and the applicant's employment by that organization. The Director of the Office of Press Relations may accept a letter from another source attesting to the existence of such news organizations and the applicant's employment if, in his or her judgment, a substitute letter is warranted.

(c) Submit to the Office of Press Relations, Department of State, Washington, D.C. 20520 a signed application for a press building pass which includes the following information

(1) Name

(2) Affiliation with media organization

(3) Date of birth;

(4) Place of birth;

(5) Citizenship;

(6) Office address and telephone number;

(7) Home address and telephone number;

(8) Passport number of the applicant;

(9) The names of the Governmental agencies in Washington, D.C., such as Congress, the White House, the Department of Defense, if any, to which the applicant is already accredited;

(10) Whether the applicant has been convicted of a felony (or a crime in a foreign country that would be considered a felony if it were committed in the United States) within the last five (5) years.

(d) Arrange with the Office of Security to have his or her fingerprints taken.

§ 9b.4 Department of State building press passes for technical crews.

The Director of the Office of Press Relations may issue a limited number of Department of State press building passes to members of television and radio technical crews who provide technical support on a daily basis for correspondents accredited to the Department of State. Members of technical crews who do not possess press passes but who provide technical support for correspondents accredited to the Department of State may apply to the Office of Press Relations for a visitor's pass valid for one day.

§ 9b.5 Temporary Department of State press building passes.

A correspondent who meets all the qualifications stated in §§ 9b.2(a)(1) and 9b.2(a)(2) or 9b.3(a) and 9b.3(b), but does not have substantial assignments in connection with the Department of State may make arrangements with the Office of Press Relations for the issuance of a visitor's pass valid for one day.

§ 9b.6 Grounds for denial, revocation, or non-renewal of Department of State press building passes.

The Director of the Office of Press Relations of the Department of State, in consultation with the Office of the Legal Adviser and the Office of Security, may deny, revoke, or not renew the Department of State press building pass of any correspondent who:

(a) Does not meet the qualifications stated in §§ 9b.2(a)(1) and 9b.2(a)(2) or 9b.3(a)(1), 9b.3(a)(2) and 9b.3(b) above; or

(b) Poses a risk of harm to the personal safety of Department of State or other Governmental personnel or to Government property; or

(c) Engages or engaged in conduct for which there are reasonable grounds to believe may violate federal or state law or Department of State regulations;

(d) Has been convicted of a felony (or a crime in a foreign country that would be considered a felony if it were committed in the United States).

§ 9b.7 Procedures for denial, revocation, or non-renewal of Department of State press building passes.

(a) If the Director of the Office of Press Relations, Department of State, anticipates that in applying the standard set forth in § 9b.6, and in consultation with the Office of the Legal Adviser and the Office of Security, a Department of State press building pass might be denied, revoked or not renewed, the correspondent will be notified in writing, by the Director, of the basis for the proposed denial in as much detail as the security of any confidential source of information will permit. This notification will be sent by registered mail.

(b) The notification of the proposed denial, revocation or non-renewal sent to the correspondent will also contain a statement advising the correspondent of his or her right to respond to the proposed denial and to rebut any factual basis supporting the proposed denial.

(c) The correspondent shall be allowed thirty (30) days from the date of the mailing of the proposed denial, revocation or non-renewal notification to respond in writing. The response shall consist of any explanation or rebuttal deemed appropriate by the correspondent and will be signed by the correspondent under oath or affirmation.

(d) If the correspondent is unable to prepare a response within 30 days, an extension for one additional 30-day period will be granted upon receipt of the correspondent's written request for such an extension.

(e) At the time of the filing of the correspondent's written response to the notification of the proposed denial, revocation or non-renewal, the correspondent may request, and will be granted, the opportunity to make a personal appearance before the Director of the Office of Press Relations, Department of State, for the purpose of personally supporting his or her eligibility for a press pass and to rebut or explain the factual basis for the proposed denial. The Director shall exercise, in consultation with the Office of the Legal Adviser and the Office of Security, final review authority in the matter. The correspondent may be represented by counsel during this appearance.

(f)(1) On the basis of the correspondent's written and personal response and the factual basis for the proposed denial, revocation or non-renewal, the Director of the Office of

Press Relations of the Department of State, in consultation with the Office of the Legal Adviser and the Office of Security, will determine whether or not further inquiry or investigation concerning the issues raised, is necessary.

(2) If a decision is made that no such inquiry is necessary, a final decision will be issued in conformity with paragraph (g) of this section.

(3) If a decision is made that such further inquiry is necessary, the Director of the Office of Press Relations of the Department of State, in consultation with the Office of the Legal Adviser and the Office of Security, will conduct such further inquiry as the Director deems appropriate. At the Director's discretion, the inquiry may consist of:

(i) The security of documentary evidence;

(ii) Personal interviews;

(iii) An informal hearing;

(iv) Any combination of paragraphs (f)(3)(i) through (f)(3)(iii) of this section.

(g) On the basis of the correspondent's written and personal response, the factual basis for the proposed denial, and the additional inquiry provided for, if such inquiry is conducted, a final decision will be expeditiously made by the Director of the Office of Press Relations of the Department of State, in consultation with the Office of the Legal Adviser and the Office of Security, and in accordance with the standard set forth in § 9b.6. If a final adverse decision is reached, the correspondent will be notified of this final decision in writing. This notification will set forth, as precisely as possible and to the extent that security considerations permit, the factual basis for the denial in relation to the standard set forth in § 9b.6. This notification will be sent by registered mail and will be signed by the Director of the Office of Press Relations of the Department of State.

§ 9b.8 Term and renewal of Department of State press building passes.

Department of State press building passes shall be valid until June 30th of each year. To renew his or her pass, each press correspondent must submit to the Office of Press Relations before that date of each year the applicable letter(s) and application described in § 9b.2 or 9b.3 of these regulations.

Dated: January 30, 1984.

Ronald I. Spiers,

Under Secretary of State for Management.

[FR Doc. 84-3106 Filed 2-6-84; 8:45 am]

BILLING CODE 4710-11-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 20 and 301

[T.D. 7941]

Special Lien for Estate Taxes Deferred Under Section 6166 or 6166A; Procedure and Administration

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulations relating to a special lien under section 6324A for estate taxes deferred under section 6166 or 6166A. Changes to the applicable law were made by the Tax Reform Act of 1976, the Revenue Act of 1978, and the Economic Recovery Tax Act of 1981. The regulations would provide the public with the guidance needed to comply with the law and would affect those estates electing a special lien in favor of the United States on property as security for deferred payments of estate tax.

DATES: These regulations are generally effective for estates of decedents dying after December 31, 1976. The regulations necessitated by the Economic Recovery Tax Act of 1981 are effective for estates of decedents dying after December 31, 1981.

FOR FURTHER INFORMATION CONTACT: Neil W. Zyskind of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224, Attention: CC:LR:T, (202) 566-3287, not a toll-free call.

SUPPLEMENTARY INFORMATION:

Background

On May 11, 1983, the **Federal Register** published proposed amendments to the Estate Tax Regulations (26 CFR Part 20) and to the Procedure and Administration Regulations (26 CFR Part 301) under section 6324A of the Internal Revenue Code of 1954 (48 FR 21167). No comments were received and no public hearing was requested. Furthermore, no substantive changes have been made to the rules contained in the proposed regulations.

This Treasury decision is issued under the authority contained in sections 6324A(a) and 7805 of the Internal Revenue Code of 1954 (90 Stat. 1808, 68A Stat. 917; 26 U.S.C. 6324A(a), 7805).

Summary

Section 6324A permits the executor of a decedent's estate to elect a lien on section 6166 property in favor of the United States in lieu of a bond or personal liability if an election under section 6166 or 6166A (as in effect prior to its repeal by the Economic Recovery Tax Act of 1981) was made. The election under section 6324A will not be effective unless all parties having an interest in the property subject to the lien sign an agreement in which they consent to the creation of the lien. Regulations concerning the election of and agreement to the lien may be found in § 301.6324A-1.

These regulations define the term "section 6166 lien property" and determine the maximum value of the property which the district director may require as section 6166 lien property. Section 20.6324A-1(b)(3) indicates when the district director may require additional property to be subject to the lien under section 6324A. Section 20.6324A-1(c) discusses the period and priorities of a section 6324A lien.

Special Analysis

The Commissioner of Internal Revenue has determined that this final rule is not a major rule as defined in Executive Order 12291 and that a Regulatory Impact Analysis is therefore not required. Although a notice of proposed rulemaking which solicited public comments was issued, the Internal Revenue Service concluded when the notice was issued that the regulations are interpretative and that the notice and public procedure requirement of 5 U.S.C. 533 did not apply. Accordingly, the final regulations do not constitute regulations subject to the Regulatory Flexibility Act (5 U.S.C. chapter 6).

The collection of information requirements contained in this regulation have been submitted to the Office of Management and Budget (OMB) in accordance with the requirements of the Paperwork Reduction Act of 1980. These requirements have been approved by OMB and have been assigned No. 1545-0754.

Drafting Information

The principal author of these regulations is Neil W. Zyskind of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulations, both on matters of substance and style.

List of Subjects

26 CFR Part 20

Estate taxes.

26 CFR Part 301

Administrative practice and procedure, Bankruptcy, Courts, Crime, Employment taxes, Estate taxes, Excise taxes, Gift taxes, Income taxes, Investigations, Law enforcement, Penalties, Pensions, Statistics, Taxes, Disclosure of information, Filing requirements.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR Parts 20 and 301 are amended as follows:

§ 20.2204–1 [Amended]

Paragraph 1. Section 20.2204–1 is amended as follows:

(a) Paragraph (a) is amended by removing the phrases "(1 year with respect to the estate of a decedent dying before January 1, 1979)" and "(1 year if applicable)" wherever they appear.

(b) Paragraph (b) is amended by removing the phrases "(1 year with respect to the estate of a decedent dying before January 1, 1979)" and "(or 1 year period if applicable)" wherever they appear.

Par. 2. A new § 20.2204–3 is added immediately following § 20.2204–2 to read as set forth below.

PART 20—[AMENDED]

§ 20.2204–3 Special rules for estates of decedents dying after December 31, 1976; special lien under section 6324A.

For purposes of §§ 20.2204–1(b) and 20.2204–2(b), in the case of a decedent dying after December 31, 1976, if the executor elects a special lien in favor of the United States under section 6324A, relating to special lien for estate taxes deferred under sections 6166 or 6166A (as in effect prior to its repeal by the Economic Recovery Tax Act of 1981), such lien shall be treated as the furnishing of a bond with respect to the amount for which the time for payment has been extended under section 6166. If an election has been made under section 6324A, the executor may not thereafter substitute a bond pursuant to section 2204 in lieu of that lien. If a bond has been supplied under section 2204, however, the executor may, by filing a proper notice of election and agreement, substitute a lien under section 6324A for any part or all of such bond. See §§ 20.6324A–1 and 301.6324A–1 for rules relating to a special lien under section 6324A.

Par. 3. Section 20.6324A–1 is revised to read as set forth below.

§ 20.6324A–1 Special lien for estate tax deferred under section 6166 or 6166A.

(a) *In general.* If the executor of an estate of a decedent dying after December 31, 1976, makes an election under section 6166 or 6166A (as in effect prior to its repeal by the Economic Recovery Tax Act of 1981) to defer the payment of estate tax, the executor may make an election under section 6324A. An election under section 6324A will cause a lien in favor of the United States to attach to the estate's section 6166 lien property, as defined in paragraph (b)(1) of this section. This lien is in lieu of the bonds required by sections 2204 and 6165 and in lieu of any lien under section 6324 on the same property with respect to the same estate. The value of the property which the district director may require under section 6324A as section 6166 lien property may not exceed the sum of the deferred amount (as defined in paragraph (e)(1) of this section) and the required interest amount (as defined in paragraph (e)(2) of this section). The unpaid portion of the deferred amount (plus any unpaid interest, additional amount, addition to tax, assessable penalty, and cost attributable to the deferred amount) shall be a lien in favor of the United States on the section 6166 lien property. See § 301.6324A–1 of this chapter (Regulations on Procedure and Administration) for provisions relating to the election of and agreement to the special lien for estate tax deferred under section 6166 or 6166A (as in effect prior to its repeal by the Economic Recovery Tax Act of 1981).

(b) *Section 6166 lien property.*–(1) *In general.* Section 6166 lien property consists of those interests in real and personal property designated in the agreement referred to in section 6324A (c) (see paragraph (b) of § 301.6324A–1 of this chapter). An interest in property may be designated as section 6166 lien property only to the extent such interest can be expected to survive the deferral period (as defined in paragraph (e)(3) of this section). Property designated, however, need not be property included in the decedent's estate.

(2) *Maximum value of required property.* The fair market value of the property required by the district director to be designated as section 6166 lien property with respect to any estate shall not be greater than the sum of the deferred amount and the required interest amount, as these terms are defined in paragraphs (e) (1) and (2) of this section. However, the parties to the agreement referred to in section 6324A (c) may voluntarily designate property having a fair market value in excess of that sum. The fair market value of the section 6166 lien property shall be determined as of the date prescribed in section 6151(a) (without regard to any extension) for payment of the estate tax. Such value must take into account any encumbrance on the property (such as a mortgage or a lien under section 6324B).

(3) *Additional lien property may be required.* If, at any time, the unpaid portion of the deferred amount and the required interest amount exceeds the fair market value of the section 6166 lien property, the district director may require the addition of property to the agreement in an amount up to such excess. When additional property is required, the district director shall make notice and demand upon the agent designated in the agreement setting forth the amount of additional property required. Property having the required value (or other security equal to the required value must be added to the agreement within 90 days after notice and demand from the district director. Failure to comply with the demand within the 90-day period shall be treated as an act accelerating payment of installments under section 6166(g) or 6166A(h) (as in effect prior to its repeal by the Economic Recovery Tax Act of 1981).

(4) *Partial substitution of bond.* See paragraph (c) of § 301.6324A–1 of this chapter for rules relating to the partial substitution of a bond for the lien where the value of property designated as section 6166 lien property is less than the amount of unpaid estate tax plus interest.

(c) *Special rules.*—(1) *Period of lien.* The lien under section 6324A arises at the earlier of the date—

(i) The executor is discharged from liability under section 2204; or

(ii) Notice of lien is filed in accordance with § 301.6323(f)–1 of this chapter.

The section 6324A lien continues until the liability for the deferred amount is satisfied or becomes unenforceable by reason of lapse of time. The provisions of § 301.6325–1(c), relating to release of lien or discharge of property, shall apply to this paragraph (c)(1).

(2) *Requirement that lien be filed.* The lien imposed by section 6324A is not valid against a purchaser (as defined in paragraph (f) of § 301.6323(h)–1), holder of a security interest (as defined in paragraph (a) of § 301.6323(h)–1), mechanic's lienor (as defined in paragraph (b) of § 301.6323(h)–1), or judgment lien creditor (as defined in paragraph (g) of § 301.6323(h)–1) until notice of the lien is filed. Once filed, the notice of lien remains effective without being refiled.

(3) *Priorities.* Although a notice of lien under section 6324A had been properly filed, that lien is not valid—

(i) To the extent provided in section 6323(b)(6), relating to real property tax and special assessment liens, regardless of whether such liens came into existence before or after the filing of the notice of Federal tax lien;

(ii) In the case of any real property subject to a lien for repair or improvement, as against a mechanic's lienor, whether or not such lien came into existence before or after the notice of tax lien was filed; and

(iii) As against any security interest set forth in section 6323(c)(3), relating to real property construction or improvement financing agreements, regardless whether such security interest came into existence before or after filing of the notice of tax lien.

However, paragraphs (c)(3) (ii) and (iii) of this section shall not apply to any security interest that came into existence after the date of filing of notice (in a manner similar to a notice filed under section 6323(f)) that payment of the deferred amount has been accelerated under section 6166(g) or 6166A(h) (as in effect prior to its repeal by the Economic Recovery Tax Act of 1981).

(d) *Release or discharge of lien.* For rules relating to release of the lien imposed by section 6324A or discharge of the section 6166 lien property, see section 6325 and § 301.6325–1 of this chapter.

(e) *Definitions.* For purposes of section 6324A of this section—

(1) *Deferred amount.* The deferred amount is the aggregate amount of estate tax deferred under section 6166 or 6166A (as in effect prior to its repeal by the Economic Recovery Tax Act of 1981) determined as of the date prescribed by section 6151(a) for payment of the estate tax.

(2) *Required interest amount.* The required interest amount is the aggregate amount of interest payable over the first four years of the deferral period. For purposes of computing the required interest amount, the interest rate prescribed by section 6621 in effect on the date prescribed by section 6151(a) for payment of the estate tax shall be used for computing the interest for the first four years of the deferral period. The 4-percent interest rate prescribed by section 6601(j) shall apply to the extent provided in that section. For purposes of computing interest during deferral periods beginning after December 31, 1982, interest shall be compounded daily.

(3) *Deferral period.* The deferral period is the period for which the payment of tax is deferred pursuant to the election under section 6166 or 6166A (as in effect prior to its repeal by the Economic Recovery Tax Act of 1981).

(4) *Application of definitions.* In the case of a deficiency, a separate deferred amount, required interest amount, and deferral period shall be determined as of the due date of the first installment after the deficiency is prorated to installments under section 6166 or 6166A (as in effect prior to its repeal by the Economic Recovery Tax Act of 1981).

PART 301—[AMENDED]

§ 301.6324A–1 [Amended]

Par. 4. Paragraphs (a), (b)(1)(iv), (b)(4), and (f) of § 301.6324A–1 are amended by adding the phrase "(as in effect prior to its repeal by Economic Recovery Tax Act of 1981)" after each time the phrase "6166A" appears.

This Treasury decision is issued under the authority contained in sections 6324A(a) and 7805 of the Internal Revenue Code of 1954 (90 Stat. 1808, 68A Stat. 917; 26 U.S.C. 6324A(a), 7805). Approved by the Office of Management and Budget under control number 1545–0754.

Roscoe L. Egger, Jr.,

Commissioner of Internal Revenue.

Approved: January 20, 1984.

John E. Chapoton,

Assistant Secretary of the Treasury.

[FR Doc. 84–3321 Filed 2–6–84; 8:45 am]

BILLING CODE 4830–01–M

DEPARTMENT OF JUSTICE

Office of the Attorney General

28 CFR Part 0

[Order No. 1043–84]

Designation of an Acting Deputy Attorney General

AGENCY: Justice.

ACTION: Final rule.

SUMMARY: In an effort to manage more effectively the administration of the Department, the amendment authorizes the Attorney General to designate any official of the Department to serve as Acting Deputy Attorney General when there is a vacancy in that Office.

EFFECTIVE DATE: February 3, 1984.

FOR FURTHER INFORMATION CONTACT: Ralph W. Tarr, Deputy Assistant Attorney General, Office of Legal Counsel, Department of Justice, 10th and Constitution Avenue, NW., Room 5224, Washington, D.C. 20530; (202) 633–2051.

SUPPLEMENTARY INFORMATION: This Order is not a rule within the meaning of either Executive Order 12291, section 1(a), or the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*

List of Subjects in 28 CFR Part 0

Government employees, Organization and functions (Government agencies), Authority delegations (Government agencies), and Intergovernmental relations.

PART 0—[AMENDED]

By virtue of the authority vested in me as Attorney General, by 28 U.S.C. 509, 510 and 5 U.S.C. 301, § 0.132 of Title 28 of the Code of Federal Regulations is hereby amended by revising § 0.132(b) to read as follows:

§ 0.132 Designating officials to perform the functions and duties of certain offices in case of absence, disability or vacancy.

* * * * *

(b) In the event of a vacancy in the office of the Deputy Attorney General, the Attorney General may designate another official of the Department to perform the functions and duties of and act as Deputy Attorney General.

* * * * *

Dated: February 3, 1984.

William French Smith,

Attorney General.

[FR Doc. 84–3397 Filed 2–3–84; 2:13 pm]

BILLING CODE 1410–01–M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1952

Alaska State Plan; Level of Federal Enforcement

AGENCY: Occupational Safety and Health Administration, Labor.

ACTION: Final rule; Level of Federal enforcement.

SUMMARY: Pursuant to 29 CFR 1954.3, the Occupational Safety and Health Administration (OSHA) and the State of Alaska have entered into an agreement which amends a previously executed operational status agreement between the parties delineating the level of Federal enforcement to be exercised within the State. Additionally, pursuant to 29 CFR 1902.2(c)(3), the Assistant Secretary has found that good cause exists for the exercise of Federal enforcement authority over the Annette Islands reserve of the Metlakatla Indian

community in the State of Alaska. OSHA is hereby amending 29 CFR 1952.242 to reflect these changes to the level of Federal enforcement authority.

EFFECTIVE DATE: February 7, 1984.

FOR FURTHER INFORMATION CONTACT: James Foster, Director, Office of Information and Consumer Affairs, U.S. Dept. of Labor, 200 Constitution Ave., NW., Room N3641, Washington, D.C. 20210, (202) 523-8148.

SUPPLEMENTARY INFORMATION:

Background

On August 10, 1973, notice was published in the **Federal Register** (38 FR 21630) announcing the approval of the Alaska State plan and the adoption of subpart R to Part 1952 containing the decision.

After initial approval, but prior to final approval of a State plan, Section 18(e) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 667(e)) (hereinafter referred to as the Act) provides for a period of concurrent Federal/State jurisdiction within a State operating an approved plan. Section 1954.3 of this chapter provides guidelines and procedures for the exercise of discretionary concurrent Federal enforcement authority during that period with regard to Federal standards in issues covered under an approved State plan. If Federal monitoring shows that a State has developed its program to a degree sufficient to justify suspension of duplicative Federal enforcement, regulations provide that OSHA through its Regional Administrator may enter into a procedural agreement with the State, usually referred to as an "operational status agreement," setting forth areas of Federal and State enforcement responsibility (29 CFR 1954.3(f)). An operational status agreement was entered into between OSHA and the State of Alaska on June 5, 1975 and was amended on January 6, 1977. Notices of these agreements were published in the **Federal Register** on September 2, 1975 (40 FR 40157) and on July 22, 1977 (42 FR 37548) and the pertinent provisions thereof relating to the level of Federal enforcement in the State were codified at 29 CFR 1952.242.

An addendum to this agreement was entered into by the parties and became effective on April 24, 1979. That addendum provides that Federal OSHA would retain enforcement responsibility for: new Federal standards not yet adopted by the State; situations where the State is refused entry and is unable to obtain a warrant or enforce the right of entry; enforcement of unique and complex standards as determined by the Assistant Secretary; and situations where the State is temporarily unable to exercise its enforcement authority fully or effectively.

Regulations at 29 CFR 1902.2(c)(3) provide that "the State plan shall apply to all employers and employees within the affected industry, occupational or hazard grouping unless the Assistant Secretary finds that the State has shown good cause why any group or groups of employers or employees should be excluded. Any employers or employees so excluded shall be covered by applicable Federal standards and enforcement provisions in the Act." In letters dated May 12, 1983 from Jim Robison, Commissioner of the Alaska Department of Labor and dated February 18, 1981 from the former Commissioner Edmund N. Orbeck to James W. Lake, OSHA Regional Administrator, Alaska indicated that it lacked jurisdiction over the Annette Island Indian Reserve and thus agreed to the exercise of Federal enforcement authority over that Indian Reserve. Therefore, the Indian Reserve is excluded from the State's coverage and Federal enforcement authority will be exercised therein.

Regulatory Assessment

Amendment of Part 1952 is not a "major" action as defined by Executive Order No. 12291 (46 FR 13193, February 19, 1981) as it will not have an annual effect on the economy of $100 million or more, cause major increases in costs or prices, or have any other significant adverse effects. Amendment of Part 1952 will not constitute a "major rule" primarily because no additional requirements will be imposed on employers, since Alaska's occupational safety and health standards are substantially similar to Federal OSHA's.

For the same reason it is certified that pursuant to the provisions of the Regulatory Flexibility Act (Pub. L. 96-354, 5 U.S.C. 601) amendment of Part 1952 will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 29 CFR Part 1952

Intergovernmental relations, Law enforcement, Occupational safety and health.

The purpose of the present rule is to amend 29 CFR 1952.242 to reflect changes to the level of Federal enforcement described above. The Assistant Secretary has determined that good cause exists for publication of the amendment as a final rule with an immediate effective date because the amendments are procedural in nature and were effective upon signature of the parties. Accordingly, public participation would be unnecessary.

PART 1952—[AMENDED]

Section 1952.242 of Chapter 29, Code of Federal Regulations is revised to read as follows:

§ 1952.242 Level of Federal enforcement.

(a) Pursuant to §§ 1902.20(b)(1)(iii) and 1954.3 of this chapter under which an agreement has been entered into with Alaska effective June 5, 1975 and as amended effective January 6, 1977, and supplementary agreement effective April 27, 1979; and pursuant to a determination made under 29 CFR 1902.2(c)(3); and based on a determination that Alaska is operational in the issues covered by the Alaska occupational safety and health plan, discretionary Federal enforcement authority under Section 18(c) of the Act U.S.C. 667(c)) will not be initiated with regard to Federal occupational safety and health standards in issues covered under 29 CFR Parts 1910, 1926 and 1928 except as provided herein. The U.S. Department of Labor will continue to exercise authority among other things with regard to: complaints filed with the U.S. Department of Labor alleging discrimination under Section 11(c) of the Act (29 U.S.C. 660(c)); standards in the maritime issues covered by 29 CFR Parts 1915, 1918 and 1919 (shipyards, marine terminals, longshoring, and gear certification) which have been specifically excluded from coverage under the plan; enforcement of new Federal standards until the State adopts a comparable standard; enforcement in situations where the State is refused entry and is unable to obtain a warrant or enforce the right of entry; enforcement of unique and complex standards as determined by the Assistant Secretary; enforcement in situations when the State is unable to exercise its enforcement authority fully or effectively; enforcement of occupational safety and health standards at worksites located within the Annette Islands Reserve of the Metlakatla Indian Community; and investigations and inspections for the purpose of the evaluation of the plan under Sections 18 (e) and (f) of the Act (29 U.S.C. 667 (e) and (f)).

(b) The Regional Administrator for Occupational Safety and Health will make a prompt recommendation for resumption of exercise of Federal enforcement authority under section 18(e) of the Act (29 U.S.C. 667(e)) whenever, and to the degree, necessary to assure occupational safety and health

protection to employees in the State of Alaska.

(Secs. 6(g), 18; Pub. L. 91–596, 84 Stat. 1600, 1608; (29 U.S.C. 657(g), 667); Secretary of Labor's Order No. 9–83 (48 FR 35736); 29 CFR Part 1953)

Signed at Washington, D.C. this 30th day of January 1984.

Thorne G. Auchter,

Assistant Secretary.

[FR Doc. 84–3327 Filed 2–6–84; 8:45 am]

BILLING CODE 4510–26–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 61

[A–6–FRL 2521–1]

Delegation of Authority to the State of Louisiana for National Emission Standard for Hazardous Air Pollutants (NESHAP)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Authority delegations.

SUMMARY: EPA, Region 6, has delegated the authority for implementation and enforcement of the NESHAP program to the Louisiana Department of Natural Resources (LDNR). Except as specifically limited, all of the authority and responsibilities of the Administrator or the Regional Administrator which are found in 40 CFR Part 61 are delegated to the LDNR. Any of such authority and responsibilities may be redelegated by the Department to its Program Administrator or staff.

EFFECTIVE DATE: October 14, 1983.

FOR FURTHER INFORMATION CONTACT: Donna M. Ascenzi, Air Branch, Environmental Protection Agency, Region 6, InterFirst Two Building, 28th Floor, 1201 Elm Street, Dallas, Texas 75270; (214) 767–1594 or (FTS) 729–1594.

SUPPLEMENTARY INFORMATION: The LDNR has requested delegation of authority to implement and enforce NESHAP. After review of the Louisiana Emission Standards for Hazardous Air Pollutants (LESHAP), delegation of authority was granted October 14, 1983. The following represents the terms and conditions of the delegation:

1. Implementation and enforcement of the National Emission Standards for Hazardous Air Pollutants in the State of Louisiana will be the primary responsibility of the LDNR. If the State of Louisiana or the LDNR determines that such implementation or enforcement is not possible or feasible, either with respect to an individual source, a class of sources, or generally, the LDNR shall within 30 days notify EPA Region 6, of such impossibility or infeasibility so that EPA may timely exercise its concurrent authority with respect to sources within the State of Louisiana.

2. The LDNR is authorized to assume NESHAP partial delegation responsibility for future standards and requirements without making a written request to EPA, subject to the delegation conditions and terms as set forth in this agreement. Partial delegation responsibilities include the technical and administrative review. Technical and administrative duties shall include, but not be limited to, determination of applicability, review and evaluation of NESHAP applications, review and evaluation of request for waivers of compliance under 40 CFR 61.11 and/or waivers of emission tests under 40 CFR 61.13, performance and evaluation of inspections, and observance and evaluation of stack tests and continuous emission monitoring tests.

3. Acceptance of this delegation constitutes agreement by the LDNR to follow all interpretations, past and future, made by EPA of 40 CFR Part 61 including determinations of applicability. The LDNR agrees to consult with the EPA Region 6 on questions of interpretations of the NESHAP. A copy of each interpretation (including compliance determinations) made by the LDNR shall be sent to EPA Region 6.

4. The State of Louisiana and the LDNR are not authorized to grant any exemption, variance, or waiver from compliance with any provision of 40 CFR Part 61 except for the waiver of emission tests authorized in 40 CFR 61.13 and the waiver of compliance authorized in 40 CFR 61.11. A copy of any waiver of emission tests under 40 CFR 61.13, or of any waiver of compliance under 40 CFR 61.11 shall be sent to EPA Region 6. Should the State of Louisiana or the LDNR grant any other exemption, variance or waiver to any source or category of sources pursuant to any state law, regulations, or practice which is contrary to the provisions of 40 CFR 61, then LDNR shall immediately notify EPA Region 6, of the granting of such an exemption, variance or waiver from the compliance with Federal requirements. EPA may consider any source receiving such relief to be violating or threatening to violate the applicable federal regulation and may initiate enforcement action against the source pursuant to Section 113 of the Clean Air Act. The granting of any exemption, variance, or waiver by the State of Louisiana or the LDNR shall also constitute grounds for revocation of delegation by EPA, in whole or in part, at the discretion of the Regional Administrator of EPA Region 6.

5. The LDNR shall utilize methods and means of determining compliance at least as stringent as those specified in 40 CFR Part 61. All performance tests are to be conducted at normal maximum production. All requests from sources for equivalent or alternate methods shall be forwarded to EPA Region 6, with or without a recommendation. Authority is delegated to approve minor modifications to the reference test methods during either a pre-test meeting or the actual sampling period. These minor modifications would have to produce results essentially identical to the reference method results. Approval of these minor modifications should be based on sound engineering judgement. Under no circumstances are modifications to be used which might result in the non-uniform application of the standards.

6. If at any time there is a conflict between any State regulation and any provision of 40 CFR Part 61, the federal regulation must be applied to the extent that it is more stringent than that of the State. If the State of Louisiana or the LDNR does not have the authority to enforce the more stringent federal regulation, the LDNR shall immediately notify EPA, Region 6 pursuant to Provision 1 above. The delegation may be revoked by EPA, Region 6, in whole or in part, in the event any such conflict makes implementation or enforcement of the National Emission Standards for Hazardous Air Pollutants administratively impractical.

7. If a claim of confidentiality or any other reason should ever legally prevent the State of Louisiana and the LDNR from providing to EPA any and all information required by or pertaining to the implementation of NESHAP, the LDNR shall, upon request, assist EPA Region 6 in obtaining that information directly from the source. As a minimum, such assistance shall consist of providing to EPA an identification of the nature of the information withheld, adequate to allow EPA to identify to the source the information.

8. All matters in process at the time of delegation of authority may be processed through to completion by EPA Region 6, or may, at the request of the LDNR and at the discretion of EPA Region 6, be transferred to the LDNR for completion. Appropriate reproduction of pertinent file material in the EPA Region 6 files in relation to source regulation under NESHAP shall be provided through mutual cooperation of the staffs of the respective offices.

The Office of Management and Budget has exempted this information notice from the requirements of Section 3 of Executive Order 12291.

Effective immediately, all information pursuant to 40 CFR Part 61 by the sources locating in the State of Louisiana should be submitted directly to the State agency at the following address: Louisiana Department of Natural Resources, Air Quality Division, P.O. Box 44066, Baton Rouge, Louisiana 70804.

Partial delegation was granted to the LDNR on August 30, 1982. **Federal Register** Notice of the partial delegation was published November 4, 1982, which changed Part 61 of the Code of Federal Regulations to include the Louisiana State address. The address in the Code of Federal Regulations remains the same for full delegation.

List of Subjects in 40 CFR Part 61

Air pollution, Asbestos, Beryllium, Hazardous waste, Mercury, Reporting and recordkeeping requirements, Vinyl chloride.

This delegation is issued under the authority of Section 112 of the Clean Air Act, as amended (42 U.S.C. 7412).

Dated: January 27, 1984.

Frances E. Phillips,
Acting Regional Administrator.

[FR Doc. 84-3236 Filed 2-6-84; 8:45 am]
BILLING CODE 6560-50-M

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40 CFR Part 81

[A-9-FRL 2521-4]

Designation of Areas for Air Quality Planning Purposes; Attainment Status Designations in California

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rulemaking.

SUMMARY: In response to a request from the California Air Resources Board, this notice revises the attainment status designation of the Sacramento Valley Air Basin portions of Shasta County to attainment for ozone and all portions of Shasta County to attainment for the Primary and Secondary standards for total suspended particulate. Both areas were previously designated as unclassifiable. This action is based on ambient air quality data showing no violations of the standards.

EFFECTIVE DATE: This action is effective April 9, 1984.

ADDRESSES: Information pertinent to the redesignation is available for public inspection during normal business hours at the EPA Region 9 office listed below and at the following locations:

California Air Resources Board; 1102 "Q" Street, Sacramento, CA 95812.
Shasta County Air Pollution Control District, 1855 Placer Street, Redding, CA 96001.

FOR FURTHER INFORMATION CONTACT: Douglas Grano, Acting Chief, State Implementation Plan Section (A-2-3), Air Management Division, Air Programs Branch, EPA, Region 9, 215 Fremont Street, San Francisco, CA 94105, (415) 974-7641.

SUPPLEMENTARY INFORMATION:

Background

On March 3, 1978, under paragraph 107(d)(2) of the Clean Air Act, as amended, EPA promulgated attainment status designations for all states (43 FR 8962). In California, EPA designated the SVAB portion of Shasta County nonattainment for the secondary TSP standard and for oxidant. On August 11, 1980, EPA published a final action in the **Federal Register** that redesignated the SVAB portion of Shasta County to unclassifiable for TSP and ozone. EPA used the fugitive dust policy and the new ozone standard in making this redesignation. This action was proposed on April 10, 1980, and was prompted by a California Air Resources Board (ARB) redesignation request.

On May 16, 1983, the ARB requested that the SVAB portion of Shasta County be redesignated from unclassifiable to attainment for ozone and that the entire County (including the Northeast Plateau Air Basin portion) be redesignated from unclassifiable to attainment for TSP. The ARB submitted sufficient data showing that the National Ambient Air Quality Standards (NAAQS) for TSP and ozone are attained in these areas.

EPA Actions

The ARB request to redesignate the SVAB portion of Shasta County for ozone and the entire County TSP satisfies EPA's criteria for a redesignation to attainment. There are two years of violation—free TSP data and zero expected ozone exceedances (3 year average). The unclassifiable designation applies to areas with insufficient data such that it is not possible to determine whether an attainment or nonattainment designation is appropriate. In both these cases, there is now sufficient data to justify an attainment designation.

EPA therefore, concurs with the ARB request to redesignate the SVAB portion of Shasta County to attainment for ozone and the entire County to attainment for TSP.

EPA's approval of the above redesignation in California is being done without prior proposal because the redesignation is not controversial. The public should be advised that this approval action will be effective 60 days from the date this notice is published in the **Federal Register.** However, if notice is received by EPA within 30 days that someone wishes to submit adverse or critical comments, this approval action will be withdrawn and a subsequent notice will be published before the effective date. The subsequent notice will indefinitely postpone the effective date, modify the final action to a proposed action, and establish a comment period.

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

Under the Clean Air Act, any petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by (60 days from today). This action may not be challenged later in proceedings to enforce its requirements.

List of Subjects in 40 CFR Part 81

Air pollution control, National parks, Wilderness areas.

Authority: Sections 107(d) and 301(a) of the Clean Air Act, as amended, 42 U.S.C. 7407(d) and 7601(a).

Dated: February 1, 1984.

William D. Ruckelshaus,
Administrator.

PART 81—[AMENDED]

Subpart C of Part 81 of Chapter I, Title 40 of Code of Federal Regulation is amended as follows:

Subpart C—Section 107 Attainment Status Designation

Section 81.305—California, in the Sacramento Valley Air Basin and the Northeast Plateau Air Basin, the Shasta County designation is revised to read as follows:

§ 81.305 California.

* * * * *

CALIFORNIA—TSP

Designated area	Does not meet primary standards	Does not meet secondary standards	Cannot be classified	Better than national standards
• •	•	•	•	
Sacramento Valley Air Basin (SVAB): Shasta County (Sacramento Valley portion).				×
• •	•	•	•	
Northeast Plateau Air Basin (NEPAB):				
Shasta County (NEPAB portion)				×
Rest of Air Basin			×	
• •	•	•	•	

* * * * *

[FR Doc. 84-3201 Filed 2-6-84; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 81

[A-4-FRL 2521-2; KY-013]

Designation of Areas for Air Quality Planning Purposes; Kentucky: Redesignation of Sixty-seven Counties to Attainment for Ozone

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: On the basis of ozone air quality data submitted by Kentucky, EPA is today changing the Section 107 attainment status designation for sixty-six rural counties (population less than 50,000) in that state from unclassifiable to attainment for ozone. On the same basis, EPA is changing the designation of Fayette County from nonattainment to attainment. These actions were proposed in the **Federal Register**, June 1, 1983 (48 FR 24393).

DATE: This action is effective March 8, 1984.

ADDRESSES: Copies of the materials submitted by the State may be examined during normal business hours at the following locations:

Environmental Protection Agency, Region IV, Air Management Branch, 345 Courtland Street, NE, Atlanta, GA 30365.

Kentucky Department of Environmental Protection, 18 Reilly Road, Building #2, Ft. Boone Plaza, Frankfort, Kentucky 40601.

FOR FURTHER INFORMATION CONTACT: Melvin Russell, Air Management Branch, EPA, Region IV, at the above address at 404/881-3286, FTS 257-3286.

SUPPLEMENTARY INFORMATION: On March 3, 1978 (43 FR 8962 at 8996), EPA made initial ozone attainment status designation for the Commonwealth of Kentucky. All of the counties identified in today's notice except Fayette County were included in the "Rest of State" entry under the heading "Cannot be classified or Better than National Standards" in the Kentucky—O_x table of 40 CFR 81.318. Fayette County was identified as not attaining the primary standards.

During the spring of 1981, the Kentucky Department of Environmental Protection (KDEP) completed the establishment of a statewide ozone network in order to determine the attainment status of rural counties. Monitoring sites were strategically placed in sixteen counties. All monitors met EPA's monitoring and siting criteria and operated in conformance with 40 CFR Part 58.

On April 20, 1982, KDEP requested, on the basis of data collected from the aforementioned monitoring sites, that 66 rural counties be redesignated from unclassified to attainment for ozone standards. The Department also requested the redesignation of Fayette County from nonattainment to attainment of the ozone standard. This request was based on the fact that the ozone standard was not violated during the 1979, 1980, or 1981 ozone seasons. EPA's review showed that the State's request was consistent with the redesignation criteria for nonattainment ozone areas.

For more information on these requests and for a more detailed presentation of background information, the reader should refer to the Wednesday, June 1, 1983, **Federal Register** (48 FR 24394) where EPA's proposal notice concerning these requests is set forth. No public comments were received in response to the proposal.

Action: EPA today designates the following Kentucky counties attainment for ozone: Adair, Barren, Bath, Bell, Bourbon, Bracken, Breathitt, Breckinridge, Carroll, Carter, Clark, Clay, Clinton, Cumberland, Elliott, Estill, Fayette, Fleming, Floyd, Franklin, Fulton, Gallatin, Grant, Green, Greenup, Hardin, Harlan, Harrison, Henry, Hickman, Jackson, Johnson, Knott, Knox, Larue, Lawrence, Lee, Leslie, Letcher, Lewis, Magoffin, Martin, Mason, Meade, Menifee, Metcalfe, Monroe, Montgomery, Morgan, Nelson, Nicolas, Oldham, Owen, Owsley, Pendleton, Perry, Pike, Powell, Robertson, Rowan, Scott, Shelby, Spencer, Taylor, Todd, Trimble, and Wolfe.

Since section 107 does not authorize EPA to distinguish between areas that are unclassified for ozone and those that are attainment, the Kentucky—O_3 table of 40 CFR 81.318 is changed only for Fayette County.

Under Section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by (60 days from today). This action may not be challenged later in proceedings to enforce its requirements. (See 307(b)(2).)

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

List of Subjects in 40 CFR Part 81

Air pollution control, National parks, Wilderness areas.

(Sec. 107 of Clean Air Act (42 U.S.C. 7407))

Dated: February 1, 1984.

William D. Ruckelshaus,

Administrator.

PART 81—[AMENDED]

Part 81 of Chapter I, Title 40, Code of Federal Regulation, is amended as follows:

Subpart C—Section 107 Attainment Status Designations

§ 81.318 [Amended]

In § 81.318, the Kentucky—O_3 attainment status table is amended by removing the entry for Fayette County.

[FR Doc. 84-3258 Filed 2-6-84; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 81

[A-5-FRL 2521-3]

Designation of Areas for Air Quality Planning Purposes; Ohio

AGENCY: U.S. Environmental Protection Agency (EPA).

ACTION: Final rulemaking.

SUMMARY: This rulemaking revises the Total Suspended Particulates (TSP) primary and secondary nonattainment designation for portions of Cuyahoga County, Ohio. This revision is based on a request from the State of Ohio to redesignate this area and on the supporting data the State submitted.

Under the Clean Air Act (Act), designations can be changed if sufficient data are available to warrant such change.

EFFECTIVE DATE: This final rulemaking becomes effective on March 8, 1984.

ADDRESSES: Copies of the redesignation request, technical support documents and the supporting air quality data are available at the following addresses:

U.S. Environmental Protection Agency, Region V, Air and Radiation Branch (5AR-26), 230 S. Dearborn Street, Chicago, Illinois 60604.

Ohio Environmental Protection Agency, Office of Air Pollution Control, 361 East Broad Street, Columbus, Ohio 43216.

FOR FURTHER INFORMATION CONTACT: Anne E. Tenner, (312) 886-6036.

SUPPLEMENTARY INFORMATION: Under Section 107(d) of the Act the Administrator of EPA has promulgated the National Ambient Air Quality Standards (NAAQS) attainment status for each area of every state. See 43 FR 8962 (March 3, 1978) and 43 FR 45993 (October 5, 1978). These area designations may be revised whenever the data warrant.

On November 2, 1982, and February 11, 1983, the State of Ohio requested EPA to redesignate portions of Cuyahoga County. In support of this request, the State submitted ambient air quality data collected at numerous monitors in Cuyahoga County during the period January 1980–September 1982, and from January 1980–December 1982 at a few selected monitors. In addition, EPA considered modeling analyses based on actual and allowable emission rates performed previously by the State.

These data show that there has been a considerable improvement in ambient TSP levels in many areas of the County. These improvements can be related to sources coming into compliance with applicable emission limitations (either by fuel conversion or installation-upgrading of pollution control equipment), numerous permanent source shutdowns, and the implementation of industrial fugitive dust programs.

In the July 26, 1983 (48 FR 33914) **Federal Register**, EPA proposed to revise the TSP primary and secondary nonattainment designation for portions of Cuyahoga County, Ohio. A detailed discussion of the basis of EPA's action can be found in the notice of proposed rulemaking and the technical support document which is available at EPA's Region V office.

In the July 26, 1983 notice, EPA proposed to revise a portion of the existing primary nonattainment area to secondary nonattaiment; in effect narrowing the size of the primary nonattainment area. The primary nonattainment area formerly consisted of the Cities of Brooklyn Heights, Newburgh Heights, Bratenahl, and the City of Cleveland, east of West 117th Street and Highland Avenue.

The new primary nonattainment area will consist of the area bounded by the following lines:

North—Lake Erie.

West—A line running from Edgewater Park south on West 65th Street to Denison Avenue, east to State Route 3 (U.S. Route 42), south to Broadview Road, south to the Penn Central (CONRAIL) Railroad Tracks (these tracks are parallel to just north of Brook Park Road).

South—From the Penn Central Tracks and Broadview Road northeast on the Penn Central Tracks to East 71st Street.

East—From the Penn Central Tracks and East 71st Street north on East 71st Street to Fleet Avenue, northeast to East 75th Street, north to Union Avenue, east to East 79th Street, north to Gordon Park and Lake Erie.

The following areas were proposed as secondary nonattainment: City of Berea, City of Brookpark west of I-71, and City of Cleveland east of the primary nonattainment area, north of Kinsman Road, and west of East 152nd Street.

The remainder of the County was proposed as full attainment.

During the public comment period, two comments were received on the proposed redesignation as it affects the primary nonattainment area. One comment was supportive of the proposed action and the other comment is discussed below.

In the notice of proposed rulemaking, EPA proposed to define part of the revised boundaries of the TSP primary nonattainment area as "* * * east on Denision Avenue to State Route 3, south on State Route 3 to Broadview Road." One commentor was confused by this definition. The commentor indicated that the State Route 3 does not extend far enough north to intersect Denison Avenue or Broadview Road, as implied by the proposed boundary. Since the section of the intended boundary in question is also referred to as U.S. Route 42, EPA will re-identify this section as "State Route 3 (U.S. Route 42)."

EPA has reviewed both comments and has determined that the State's November 2, 1982, redesignation request is approvable.

Therefore, in today's rulemaking action, EPA is approving the attainment/nonattainment boundaries for Cuyahoga County as proposed on July 26, 1983, with the minor revision noted above.

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

Under Section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by (60 days from today). This action may not be challenged later in proceedings to enforce its requirements. (See 307(b)(2).)

List of Subjects in 40 CFR Part 81

Air pollution control, National parks, Wilderness areas.

(Sec. 107(d) of the Act, as amended (42 U.S.C. 7407))

Dated: February 1, 1984.

William D. Ruckelshaus,

Administrator.

PART 81—DESIGNATION OF AREAS FOR AIR QUALITY PLANNING PURPOSES

Ohio Part 81 of Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

1. Section 81.336 is amended by revising the table for Total Suspended Particulates for Cuyahoga County as follows:

§ 81.336 Ohio.

OHIO—TOTAL SUSPENDED PARTICULATES

Designated area	Does not meet primary standards	Does not meet secondary standards	Cannot be classified	Better than national standards
• • •	•	•	•	
Cuyahoga: Area bounded by the following lines— North—Lake Erie. West—A line running from Edge-Water Park south on West 65th Street to Denison Avenue, east to State Route 3 (U.S. Route 42), south to Broadview Road, south to the Penn Central (Conrail) Railroad Tracks (these tracks are parallel to and just north of Brook Park Road). South—From the Penn Central Tracks and Broadview Road northeast on the Penn Central Tracks to East 71st Street.	X			

OHIO—TOTAL SUSPENDED PARTICULATES—Continued

Designated area	Does not meet primary standards	Does not meet secondary standards	Cannot be classified	Better than national standards
East—From the Penn Central Tracks and East 71st Street north on East 71st Street to Fleet Avenue, northeast to East 75th Street, north to Union Avenue, east to East 79th Street, north to Gordon Park and Lake.	X			
City of Berea, City of Brookpark west of I-71, and City of Cleveland east of the primary nonattainment area, north of Kinsman Road, and west of East 152nd Street.		X		
Remainder of the County				X

[FR Doc. 84-3259 Filed 2-6-84; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 271

[SW-4-FRL 2520-8]

Hazardous Waste Management Programs, North Carolina; Interim Authorization Phase II, Component C

AGENCY: Environmental Protection Agency.

ACTION: Approval of State Hazardous Waste Management Program.

SUMMARY: The State of North Carolina has applied for Interim Authorization Phase II, Component C. EPA has reviewed North Carolina's application for Phase II, Interim Authorization Component C, and has determined that North Carolina's hazardous waste program is substantially equivalent to the Federal program covered by Component C. The State of North Carolina is hereby granted Interim Authorization for Phase II, Component C, to operate the State's hazardous waste program covered by Component C in lieu of the Federal program.

EFFECTIVE DATE: Interim Authorization Phase II, Component C, for North Carolina shall become effective on February 7, 1984.

FOR FURTHER INFORMATION CONTACT: James H. Scarbrough, Chief, Residuals Management Branch, Environmental Protection Agency, 345 Courtland Street, NE., Atlanta, Georgia 30365, Telephone (404) 881-3016.

SUPPLEMENTARY INFORMATION:

Background

In the May 19, 1980, **Federal Register** (45 FR 33063) the Environmental Protection Agency (EPA) promulgated regulations, pursuant to Subtitle C of the Resource Conservation and Recovery Act of 1976, as amended (RCRA), to protect human health and the environment from the improper management of hazardous waste. The Act (RCRA) includes provisions whereby a State agency may be authorized by EPA to administer the hazardous waste program in that State in lieu of a Federally administered program. For a State program to receive final authorization, its hazardous waste program must be fully equivalent to and consistent with the Federal program under RCRA. In order to expedite the authorization of State programs, RCRA allows EPA to grant a State agency Interim Authorization if its program is substantially equivalent to the Federal program. During Interim Authorization, a State can make whatever legislative or regulatory changes that may be needed for the State's hazardous waste program to become fully equivalent to the Federal program. The Interim Authorization program is being implemented in two phases corresponding to the two stages in which the underlying Federal program takes effect.

Phase I regulations were published on May 19, 1980, and became effective on November 19, 1980. The Phase I regulations include the identification and listing of hazardous wastes, standards for generators, and transporters of hazardous waste, standards for owners and operators of treatment, storage, and disposal facilities, and requirements for State Programs. The Phase II regulations cover the procedures for issuing permits under RCRA and the standards that will be applied to treatment, storage, and disposal facilities in preparing permits. In the July 26, 1982, **Federal Register** (47 FR 32373), the Environmental Protection Agency announced that States could apply for Component C of Phase II of Interim Authorization. Component C published in the **Federal Register** July 26, 1982 (47 FR 32274), contains standards for permitting facilities that dispose hazardous waste in waste piles, surface impoundments, land treatment, and landfills.

A full description of the requirements and procedures for State Interim Authorization is included in 40 CFR Part 271, Subpart B, (46 FR 8298) January 26, 1982, and (47 FR 32373) July 26, 1982.

The State of North Carolina received Interim Authorization for Phase I on December 18, 1981, and Interim Authorization for Phase II, Components A & B, on March 26, 1982.

Draft Application

The State of North Carolina submitted its draft application for Phase II, Component C, Interim Authorization on August 12, 1983. After detailed review, EPA identified minor concerns and transmitted comments to the State on September 23, 1983, for its consideration. Some of the issues raised by EPA follow.

EPA requested clarification in the Attorney General's statement that enabling legislation for the State Permit Program for land disposal facilities was within place 90 days from the promulgation of 40 CFR Part 264. EPA also recommended that the MOA reflect the new definition of "major hazardous waste management facility." Other EPA comments were minor in nature and involved paragraph deletions in the MOA and a date change in North Carolina's proposed regulations. State officials resolved these issues by clarifying in the Attorney General's statement that enabling legislation for permitting disposal facilities was within place 90 days from the promulgation of 40 CFR Part 264 and by inserting the new definition for "major hazardous waste management facility" in the MOA. Unnecessary paragraphs were deleted from the MOA and the effective date in § 264.9(a) of the proposed regulations was changed to January 26, 1983.

Final Application

On September 30, 1983, North Carolina submitted to EPA a Final Application for Interim Authorization, Phase II, Component C, under RCRA. An EPA review team consisting of both Headquarters and Regional personnel made a detailed analysis of North Carolina's Hazardous Waste Management Program.

EPA had only one minor comment on the final application and this comment was forwarded to the State on November 22, 1983.

Public Hearing and Comment Period

As noticed in the **Federal Register** on November 3, 1983 (48 FR 50776), EPA gave the public until December 14, 1983, to comment on the State's application. EPA issued a public notice for a hearing in Raleigh, North Carolina on December

14, 1983, if significant public interest was expressed.

EPA, Region IV, received four requests for a hearing and on December 14, 1983, the public hearing was held. Oral comments expressed at the hearing and written comments received prior to the hearing indicated no opposition to the State being authorized for Phase II, Component C.

The oral comments received at the public hearing are summarized below. There were three individuals who spoke at the public hearing. Their comments and EPA's responses follow:

Comment: One speaker fully supported North Carolina's request for Interim Authorization, Component C.

EPA Response: No response needed.

Comment: Two speakers gave statements supporting the State's request for Interim Authorization and both expressed three primary concerns. First, they desired that the State and EPA better inform the public if a public hearing is actually to be held in order to assure greater attendance. Second, both speakers suggested that additional monies be appropriated to strengthen the State's enforcement and inspection program. Finally, both speakers were concerned because North Carolina law contains an amendment which restricts their hazardous waste program from being more stringent or comprehensive than the Federal program, and they felt the federal regulations were insufficient in some areas.

EPA Response: On November 3, 1983, EPA published in the Federal Register a notice of the public comment period and of the public hearing tentatively scheduled for December 14, 1983. The notice gave the public the opportunity to contact either EPA or the Department of Natural Resources after December 9, 1983, to find out whether a public hearing would be held. This notice was sent to major newspapers throughout the State and to over 1400 persons on the State's and EPA's mailing list. This fulfilled the requirements found at § 271.135 of the RCRA regulations and was felt sufficient announcement. However, EPA, Region IV, will in the future, issue a press release from its Office of Congressional and External Affairs stating whether a hearing will be held. The State Agency's Public Information Office will also assure notification to the public.

Noth Carolina has consistently conducted a vigorous compliance and enforcement program. In 1983, the State inspected over 1,051 generators, TSD's and transporters. Where violations were found, follow-up inspections were made to ensure compliance. In 1984, the State intends to use 38% of its resources from its hazardous waste program grant, of which the State matches 25% of the federal allotment, toward compliance and enforcement activities.

EPA has no jurisdiction with regard to North Carolina law and the inability of the State's program to be more stringent than the Federal program. Repeal of this law resides within the domain of the Department of Natural Resources and the State Legislature. RCRA requires North Carolina assure that the State program is substantially equivalent to the Federal program when adopting federal regulations by reference.

Decision

EPA has reviewed North Carolina's complete application for Interim Authorization Phase II, Component C, and has determined that the state program is substantially equivalent to Phase II, Component C, of the Federal program as defined in 40 CFR Part 271, Subpart B, as amended at 48 FR 14257 (July 26, 1982). In accordance with Section 3006(c) of RCRA and implementing regulations, North Carolina is hereby granted Interim Authorization for Phase II, Component C, to operate the State's hazardous waste program for permitting the construction and operation of facilities that dispose of hazardous waste in lieu of the Federal program.

Regulatory Flexibility Act

Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that this authorization will not have a significant economic impact on a substantial number of small entities. The authorization suspends the applicability of certain Federal regulations in favor of the State program, thereby eliminating duplicative requirements for handlers of hazardous waste in the State. It does not impose any new burdens on small entities. This rule, therefore, does not require a regulatory flexibility analysis.

Executive Order 12291

The Office of Management and Budget (OMB) has exempted this rule from the requirements of section 3 of Executive Order 12291.

List of Subjects in 40 CFR Part 271

Hazardous materials, Indians—lands, Reporting and recordkeeping requirements, Waste treatment and disposal, Intergovernmental relations, Penalties, Confidential business information.

Authority: This notice is issued under the authority of Sections 2002(a), 3006, and 7004(b) of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended, 42 U.S.C. 6912(a), 6926, and 6974(b), EPA Delegation 8-7.

Dated: January 16, 1984.

Charles R. Jeter,

Regional Administrator.

[FR Doc. 84-3280 Filed 2-6-84; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Part 400

Medicare and Medicaid Programs; OMB Control Numbers for Collections of Information Contained in HCFA Regulations

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Final rule.

SUMMARY: In accordance with regulations published by the Office of Management and Budget (OMB) on March 31, 1983, implementing the provisions of the Paperwork Reduction Act of 1980, HCFA is displaying in 42 CFR Chapter IV, currently valid OMB control numbers for approved "collections of information" contained in HCFA regulations. As OMB notifies us of additional control numbers, we will add those numbers to the HCFA display in the Code.

EFFECTIVE DATE: February 7, 1984.

FOR FURTHER INFORMATION CONTACT: Sue Fine, Phone (301) 594-9774.

SUPPLEMENTARY INFORMATION:

I. Background

On March 31, 1983, to implement the provisions of the Paperwork Reduction Act of 1980 (title 44, U.S.C. Chapter 35), OMB published final rules in the Federal Register (48 FR 13666) which added to title 5 of the Code of Federal Regulations a new Part 1320, Controlling Paperwork Burdens on the Public. Under those rules, agencies are required, in the case of "collections of information" published in regulations, to publish the OMB control number in the Federal Register.

The control number provides a way for the public to know whether a paperwork burden an agency seeks to impose has been cleared by OMB.

This document contains HCFA's first display of approved control numbers.

II. Provisions of These Rules

We are establishing in 42 CFR Part 400 a new Subpart C, OMB Control Numbers for Approved Collections of Information. Section 400.300 contains

the scope of the subpart, and § 400.310 contains the display of currently valid control numbers approved by OMB for information collection contained in HCFA regulations in 42 CFR Chapter IV.

We expect to publish additions to this display periodically, as we receive notice of approval from OMB for collections of information in HCFA regulations.

III. Waiver of Proposed Rulemaking and of Delay in Effective Date

This document is intended merely to establish in Chapter IV of 42 CFR a display of OMB control numbers for approved information collection requirements contained in HCFA regulations. This document is technical in nature and to publish it in proposed form or to delay the effective date is unnecessary and would serve no useful purpose. We, therefore, find good cause to waive notice of proposed rulemaking and the usual 30-day delay in effective date.

IV. Impact Analysis

As noted above, this document is technical in nature and merely establishes in Chapter IV of 42 CFR a display of OMB control numbers for approved information collection requirements contained in HCFA regulations. Therefore, the Secretary has determined that this document does not meet the criteria for a major rule as defined in section 1(b) of Executive Order 12291. In addition, the Secretary certifies under 5 U.S.C. 605(b) as enacted by the Regulatory Flexibility Act (Pub. L. 96-354), that this document would not have a significant economic impact on a substantial number of small entities.

List of Subjects in 42 CFR Part 400

Definitions; OMB control numbers; Reporting and recordkeeping requirements.

42 CFR Part 400 is amended as set forth below. The OMB control numbers listed in the table below supersede the "Effective Date Notes" that are now listed at the end of these sections.

PART 400—[AMENDED]

1. The authority citation for Part 400 is revised to read as follows:

Authority: Secs. 1102 and 1871 of the Social Security Act (42 U.S.C. 1302 and 1395hh) and 44 U.S.C. Chapter 35.

2. A new Subpart C is added to read as follows:

Subpart C—OMB Control Numbers for Approved Collections of Information

§ 400.300 Scope.

This Subpart collects and displays control numbers assigned by the Office of Management and Budget (OMB) to collections of information contained in HCFA regulations, in accordance with OMB's regulations for controlling paperwork burdens on the public, 5 CFR Part 1320. HCFA intends that the subpart comply with the requirements of section 3507(f) of the Paperwork Reduction Act of 1980, 44 U.S.C. Chapter 35 which requires that agencies shall not engage in a "collection of information" without obtaining a control number from OMB.

§ 400.310 Display of Currently Valid OMB Control Numbers.

Sections in 42 CFR that contain collections of information	Current OMB control number
403.232, 403.238-403.258	0938-0264
405.474(b)(2)(iii)	0938-0266
405.476(b), 405.476(d), 405.1042(c), 405.1627, 405.1629	0938-0308
405.481(g) (1) and (3)	0938-0265
416.47(b)	0938-0750
418.22, 418.26, 418.56, 418.58, 418.70, 418.74, 418.100	0938-0302
431.55	0938-0295
434.6-434.20, 434.23-434.27, 434.30, 434.32, 434.36, 434.50, 434.53, 434.55	0938-0328
441.302	0938-0298
441.303	0938-0272
447.31	0938-0257
466.56(e), 466.60(a), 466.64(a), 405.262(c)	0938-0267

(Catalog of Federal Assistance Program No. 13.773 Medicare-Hospital Insurance; 13.774, Medicare-Supplementary Medical Insurance, 13.714 Medical Assistance Program)

Dated: December 9, 1983.

Carolyne K. Davis,

Administrator, Health Care Financing Administration.

Approved: January 11, 1984.

Margaret M. Heckler,

Secretary.

[FR Doc. 84-3338 Filed 2-6-84; 8:45 am]

BILLING CODE 4120-03-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Public Land Order 6511

[OR-20351]

Oregon: Partial Revocation of Secretarial Order of April 27, 1909

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order revokes a Secretarial order as to 15,861.17 acres of public land withdrawn for use by the Bureau of Reclamation for the Crooked River Project. The land has been conveyed out of Federal ownership, with reservation for ditches and canals only, and thus will not be restored to surface entry, mining or mineral leasing. The effect of this order is record clearing only.

EFFECTIVE DATE: February 7, 1984.

FOR FURTHER INFORMATION CONTACT: Champ C. Vaughan, Jr., Oregon State Office, 503-231-6905.

SUPPLEMENTARY INFORMATION: By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. The Secretarial Order of April 27, 1909, which withdrew public land for use by the Bureau of Reclamation for the Crooked River Project, is hereby revoked insofar as it affects the following described land:

Willamette Meridan

Crooked River Project

T. 16 S., R. 21 E.,
  Sec. 27;
  Sec. 33.
T. 17 S., R. 21 E.,
  Sec. 1, lots 1, 2, 3, and 4, S½N½, and S½;
  Sec. 2, S½S½;
  Sec. 3, lots 1, 2, 3, and 4, S½N½, and S½;
  Sec. 4, S½S½;
  Sec. 5, lots 1, 2, 3, and 4, S½N½, and S½;
  Sec. 7, lots 1, 2, 3, and 4, E½W½, and E½;
  Sec. 8, N½N½;
  Sec. 9;
  Sec. 10, N½, N½S½, SW¼SW¼, and SE¼SE¼;
  Sec. 11;
  Sec. 12, N½, SW¼, and E½SE¼;
  Sec. 13, 15, and 16.
T. 16 S., R. 22 E.,
  Sec. 31, lots 1, 2, 3, and 4, E½W½, and E½;
  Sec. 32, NE¼SW¼, S½SW¼, and SW¼SE¼.
T. 17 S., R. 22 E.,
  Sec. 5, lots 1, 2, 3, and 4, S½N½, and S½;
  Sec. 6, lots 2, 5, 6, and 7, SW¼NE¼, SE¼NW¼, E½SW¼, and SE¼;
  Sec. 7, lots 1, 2, 3, and 4, E½W½, and E½;
  Sec. 8, S½NE¼, NW¼, and N½S½;
  Sec. 9, 14, 15, 16, and 17;
  Sec. 18, lot 2, SE¼NW¼, E½SW¼, and SW¼SE¼;
  Sec. 22, NE¼, NE¼NW¼, and N½SE¼;
  Sec. 23.

The areas described aggregate 15,861.17 acres in Crook County.

2. The lands have been conveyed from Federal ownership with reservations for ditches and canals only, and thus will not be restored to operation of the public land laws, including the mining and mineral leasing laws.

Inquiries concerning the lands should be addressed to the State Director,

Bureau of Land Management, P.O. Box 2975, Portland, Oregon 97208.

Dated: January 30, 1984.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

[FR Doc. 84-3300 Filed 2-6-84; 8:45 am]

BILLING CODE 4310-84-M

43 CFR Public Land Order 6512

[OR-35915]

Oregon; Partial Revocation of Secretarial Order of September 2, 1914

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order revokes a Secretarial order as to 2,997.50 acres of public lands withdrawn for use by the Bureau of Reclamation for the Owyhee Project. The lands have been conveyed out of Federal ownership and will not be restored to surface entry, mining or mineral leasing. Thus, the effect of this order is record clearing only.

EFFECTIVE DATE: February 7, 1984.

FOR FURTHER INFORMATION CONTACT: Champ C. Vaughan, Jr., Oregon State Office, 503-231-6905.

SUPPLEMENTARY INFORMATION: By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. The Secretary's First Form Reclamation Withdrawal Order of September 2, 1914, which withdrew public lands from all forms of appropriation under the public land laws, for use by the Bureau of Reclamation for the Owyhee Project, is hereby revoked as to the following described lands:

Willamette Meridian

T. 20 S., R. 45 E.,
Sec. 13;
Sec. 23, S½SE¼;
Sec. 24;
Sec. 25, N½, SW¼, and NW¼SE¼;
Sec. 26, N½ and SE¼;
Sec. 35, N½NE¼, SW¼NE¼, W½NE¼SE¼NE¼, SE¼NE¼SE¼NE¼, W½SE¼NE¼, SE¼SE¼NE¼, E½W½SE¼, and E½SE¼.
T. 19 S., R. 46 E.,
Sec. 34, N½NW¼, SE¼NW¼, SW¼, and W½SE¼.

The areas described aggregate 2,997.50 acres in Malheur County.

2. The lands have been conveyed from Federal ownership and will not be restored to operation of the public land laws, including the mining and mineral leasing laws.

Inquiries concerning the lands should be addressed to the Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, P.O. Box 2965, Portland, Oregon 97208.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

January 30, 1984.

[FR Doc. 84-3310 Filed 2-6-84; 8:45 am]

BILLING CODE 4310-84-M

43 CFR Public Land Order 6513

[W-0317252]

Wyoming; Revocation of Public Land Order No. 3976

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order will revoke Public Land Order No. 3976 affecting 13.3 acres of public land withdrawn for use as a Forest Service administrative site. The land will be be opened to surface entry and mining. It has been and remains open to mineral leasing.

EFFECTIVE DATE: March 6, 1984.

FOR FURTHER INFORMATION CONTACT: Scott Gilmer, Wyoming State Office, 307-772-2089.

SUPPLEMENTARY INFORMATION: By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. Public Land Order No. 3976, dated April 4, 1966, which withdrew the following described land for use as an administrative site, is hereby revoked in its entirety.

Sixth Principal Meridian

T. 21 N., R. 87 W.,
The tract of land beginning at a point located 1,334.9 feet due south of the N ¼ corner of sec. 20, T. 21 N., R. 87 W., bearing due west 577.1 feet; thence S. 59°30' W., 696.3 feet; thence on the arc of a curve to the left, radius 1,785 feet, 124.6 feet; thence S. 55°30' W., 72.0 feet; thence on the arc of a curve to the left, whose back tangent bears N. 64°30' W., (erroneously described in the original PLO as S. 64°30' W.), radius 5,560.0 feet, 1,165.0 feet; thence S. 87°56' E., 188.2 feet; thence due north 631.7 feet to the point of beginning.

The area described contains approximately 13.3 acres in Carbon County, Wyoming.

2. At 10 a.m. on March 6, 1984, the land will be opened to operation of the public land law generally, subject to valid existing rights, the provisions of existing withdrawals and classifications, and the requirements of applicable law. All valid applications received at or prior to 10 a.m. on March 6, 1984, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

3. At 10 a.m. on March 6, 1984, the land will be opened to location under the United States mining laws. Appropriation of lands under the general mining laws prior to the date and time of restoration is unauthorized. Any such attempted appropriation, including attempted adverse possession under 30 U.S.C. 38, shall vest no rights against the United States. Acts of possession are governed by State law where not in conflict with Federal law. The Bureau of Land Management will not intervene in disputes between rival locators over possessory rights since Congress has provided for such determinations in local courts.

The land has been and will remain open to applications and offers under the mineral leasing laws.

Inquiries concerning the land should be addressed to the Chief, Branch of Land Resources, Bureau of Land Management, P.O. Box 1828, Cheyenne, Wyoming 82003.

Dated: January 30, 1984.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

[FR Doc. 84-3311 Filed 2-6-84; 8:45 am]

BILLING CODE 4310-84-M

43 CFR Public Land Order 6514

[C-17323]

Colorado; Partial Revocation of Executive Order of April 17, 1926, Public Water Reserve No. 107

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order revokes the Public Water Reserve No. 107 withdrawal insofar as it was construed to affect 40 acres of public land. This action will permit consummation of a land exchange with the Colorado Division of Wildlife. The lands will be opened to surface entry and nonmetalliferous mining, subject to the terms of existing segregative orders, including Notice of Realty Action, C-36736. The lands have been and remain open to metalliferous mining and mineral leasing.

EFFECTIVE DATE: February 7, 1984.

FOR FURTHER INFORMATION CONTACT: Richard D. Tate, Colorado State Office, 303-837-2592.

SUPPLEMENTARY INFORMATION: By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751, 43 U.S.C. 1714, it is ordered as follows:

1. The Executive Order of April 17, 1926, creating Public Water Reserve No. 107, as construed by Bureau of Land Management Order dated November 15, 1972, is hereby revoked insofar as it affects the following described lands:

Sixth Principal Meridian

T. 8 S., R. 86 W.,
Sec. 6, SW¼SE¼.

The area described contains 40 acres in Eagle County.

2. Effective immediately, subject to valid existing rights, the land shall be available for exchange with the Colorado Division of Wildlife.

3. At 10 a.m. on March 6, 1984, the lands shall be opened to operation of the public land laws generally, subject to valid existing rights, segregative orders, the provisions of existing withdrawals, and the requirements of applicable law. All valid applications received at or prior to 10 a.m. on March 6, 1984, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

4. At 10 a.m. on March 6, 1984, the lands shall be opened to nonmetalliferous mineral location under the United States mining laws, subject to the provisions of existing segregative orders. Appropriation of lands under the general mining laws for nonmetalliferous minerals prior to the date and time of restoration is unauthorized. Any such attempted appropriation, including attempted adverse possession under 30 U.S.C. Sec. 38, shall vest no rights against the United States. Acts required to establish a location and to initiate a right of possession are governed by State law where not in conflict with Federal law. The Bureau of Land Management will not intervene in disputes between rival locators over possessory rights since Congress has provided for such determinations in local courts.

The lands have been and remain open to metalliferous mineral location under the United States mining laws and to applications and offers under the mineral leasing laws.

Inquiries concerning these lands shall be directed to the State Director, Colorado State Office, Bureau of Land Management, 1037–20th Street, Denver, Colorado 80202.

Garrey E. Carruthers,
Assistant Secretary of the Interior.
January 30, 1984.

[FR Doc. 84-3312 Filed 2-6-84; 8:45 am]
BILLING CODE 4310-84-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Parts 25, 33, 35, 94, 97, 107, 108, 109, 160, 192, and 196

[CGD 82-075a]

Exposure Suits; Requirements for Mobile Offshore Drilling Units and Other Oceangoing and Coastwise Vessels

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: These regulations require exposure suits for personnel on board mobile offshore drilling units and on certain tank vessels, cargo and miscellaneous vessels, and oceanographic vessels on ocean and coastwise service. Vessels and units operating in waters where the water temperature does not present a severe threat of injury due to exposure are exempted from the requirements. The regulations also permit the carriage of exposure suits in lieu of life preservers on uninspected vessels not carrying passengers for hire. The need for this action arises from casualties in which some of the loss of life might have been prevented if the persons on board had been provided with exposure suits. These regulations are intended to prevent some of the loss of life that can occur when persons are forced to enter the water after abandoning ship. A number of minor revisions to existing regulations are also included.

EFFECTIVE DATE: These amendments become effective on August 6, 1984.

ADDRESS: Single copies of the revised Chapter III of the Safety of Life at Sea Convention discussed below are available from Commandant (G–MVI–3/24), U.S. Coast Guard, Washington, DC 20593.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Markle, Office of Merchant Marine Safety, (202) 426–1444.

SUPPLEMENTARY INFORMATION: A Notice of Proposed Rulemaking was published in the **Federal Register** of February 3, 1983 (48 FR 4837). The comment period on that proposal (CGD 82–075a) ended on May 4, 1983. Forty parties representing Members of Congress, ship and drilling rig operators, government agencies, insurance companies, exposure suit manufacturers, and others submitted comments containing a total of 167 specific statements, questions, or recommendations.

Drafting Information

The principal persons involved in drafting these regulations are: Mr. Robert Markle, Office of Merchant Marine Safety, and Mr. Michael Mervin, Office of the Chief Counsel.

Discussion of Comments—General

Of the 40 comments received on the Notice of Proposed Rule Making (NPRM), 18 included statements of general support for the proposed rules or some part of the proposed rules. The 18 comments of support came from Members of Congress, ship and drilling rig operators, government agencies, and exposure suit manufacturers. Two operators noted that they had already obtained or were in the process of obtaining exposure suits. In addition, many of these comments included suggestions for changes which are discussed in the following paragraphs.

Two ship operators and one association of ship operators stated that they were not in favor of the proposed rules and gave reasons for their opposition. These comments are also discussed in the following paragraphs.

Discussion of Comments Related to New Safety of Life at Sea Convention Requirements

Four comments noted that negotiations on a revision to the lifesaving requirements in the International Convention for the Safety of Life at Sea, 1974 (SOLAS 1974) were still going on at the International Maritime Organization (IMO). These comments suggested that the Coast Guard should not adopt exposure suit rules until the revisions had been completed so that it would be certain that the U.S. rules would coincide with the new SOLAS requirements. The new SOLAS "Lifesaving Appliances and Arrangements" chapter was approved by the IMO Maritime Safety Committee on June 17, 1983. Its provisions will apply to ships the keels of which are laid on or after July 1, 1986. For older ships, the exposure suit (immersion suit in the SOLAS language) requirements apply on July 1, 1991. The existing exposure suit specification regulation in 46 CFR Subpart 160.071 is consistent with the SOLAS immersion suit requirements. The requirements for ships to carry suits that are adopted in this rulemaking meet and exceed the

new SOLAS requirements, so there will be no problem with U.S. ships failing to meet the SOLAS requirements.

The SOLAS requirements do not encompass suits for the entire crew if the vessel has totally enclosed lifeboats. In addition, SOLAS also permits the use of "thermal protective aids" instead of exposure suits for all but three crewmembers in each lifeboat. These thermal protective aids do not contain insulation or floatation and are intended only for use in the lifeboat. They are not suitable for use in the water. The Coast Guard's position is that these thermal protective aids are not adequate for use on the vessels covered by these rules since casualty experience indicates that people often do have to enter the water as a result of a casualty.

These rules are not being delayed until the SOLAS effective dates because the suits are needed now, as discussed in the NPRM. The new SOLAS Chapter III contains other requirements for immersion suits which are not discussed here. Interested parties may obtain the complete text of the new Chapter III by requesting it from the address listed in the "ADDRESS" section.

Discussion of Comments on Requirements for Carriage of Exposure Suits on MODU's and Other Inspected Vessels

Alternative rules for MODU's. Three comments suggested that alternatives to exposure suits be considered for mobile offshore drilling units (MODU's). One was concerned that water temperatures in exempted areas might be significantly below the 60° F water temperature on which the exempted geographical areas were based, and that sometimes the water temperature would be too high for exposure suits. This comment suggested rules that would change seasonally like load line regulations. One comment suggested that wearing exposure suits in warm water where they weren't really needed could increase the chances for loss of life. The other comments suggested "performance standards" that would generally require the crew to be protected from cold water but would allow use of a variety of methods. One of the comments stated that development of survival techniques should not be restricted and that the object should be to eliminate hypothermia by eliminating the need to enter the water. The suggested methods included a variety of combinations of survival craft and suits of varying thermal protection depending upon water temperature in the area of operation.

The concern that exposure suits are "too much" for higher water temperatures is unfounded. Some degree of heat loss can occur in waters up to about 80° F. If a person in an exposure suit does become too warm, they can simply open the suit to let in water. The suit will continue to float the wearer properly.

The alternatives suggested in the comments are extremely complex, difficult to enforce, and don't address the basic problem that, as a result of some casualties, in spite of the best efforts of all involved, some people will find themselves in cold water. Also, all of the vessel regulations contain a provision that allows the use of alternate equipment and arrangements that provide a level of performance equivalent to that specified in the regulations. Therefore, an operator that does develop a workable alternative would be able to have it considered under this provision.

Exemption for vessels with totally enclosed lifeboats. The NPRM contained a provision that would have exempted vessels with totally enclosed lifeboats from the requirement to carry exposure suits. MODUs would not have been included in this exemption. Two comments supported the exemption provisions and another one suggested extending the exemption to drillships which are classified as MODUs. Twelve comments suggested that vessels with enclosed lifeboats should not be exempted from the requirement. Many of them pointed out that there may not be enough time to launch lifeboats and that this is not dependent upon whether or not the lifeboats are the totally enclosed type. Several cited the *Marine Electric* as an example of a casualty in which there was not enough time to launch the boats.

The comments are correct to the extent that the time necessary to launch the lifeboat may be more critical than whether or not the lifeboat is totally enclosed. The crew of the *Marine Electric* was in the process of launching the lifeboat when the vessel capsized. The davit on the *Marine Electirc* was a mechanical type davit that must be hand-cranked into position, then the boat must be manually lowered to the water. A totally enclosed lifeboat would have a gravity davit which is more efficient than the system on the *Marine Electric.* The most modern and efficient gravity davit and winch systems for totally enclosed lifeboats allow boarding the boat at the position in which it is stowed, and launched directly from that position using a control that is operated from the boat. Had the *Marine Electric* been equipped with a totally enclosed lifeboat with such a system, the crew may have been in the lifeboat and launched when the vessel capsized. The rules in §§ 33.37–1, 94.41–1, and 192.41–1 have been revised to require such a davit and winch system to qualify for the exemption from the requirement to carry exposure suits.

An exemption for drillships with totally enclosed lifeboats was not adopted. Although launching a lifeboat from a drillship is similar to launching from a cargo or tank vessel, drillships operate in an environment similar to other MODUs. The recent loss of the drillship GLOMAR JAVA SEA with all on board still missing, tends to confirm the risk, although the investigation into this casualty is not yet complete. This vessel was equipped with two totally enclosed lifeboats, and neither has been found.

Exemption for vessels operating in warm waters. The NPRM also proposed that the requirements for exposure suits would not apply to vessels and MODUs operating between 35°N and 35°S latitude or on the outer continental shelf of the United States south of 38°N latitude. These limits were intended to define an area for the exemption where water temperature is usually above 60° F (15.5° C) and would therefore not present an immediate threat from hypothermia.

This exemption was the subject of many comments. One comment stated that all vessels should carry exposure suits no matter where they operate since a vessel's area of operation could change quickly. Another stated that vessels in the exempt zone should carry exposure suits if they operate more than 200 miles from land. One comment stated that the 60° F target temperature was appropriate. Four stated that it was to low, and one stated that it was too high.

The 60° F water temperature standard appears to be the most appropriate. There is not an immediate threat from hypothermia in these temperatures, and since the minimum average annual monthly temperature was used to determine the area, the water in the exempted areas will usually be warmer. Even 200 miles from land, a person wearing clothes and a lifejacket will not be severely affected by hypothermia for many hours, allowing time to reach a liferaft, or allow rescuers to arrive. The fact that vessels can change areas of operation quickly with the operator failing to obtain the suits is acknowledged; however, the Coast Guard can not adopt over-regulation as a method to stop violations.

Six comments recommended deletion of the exempt area on the Atlantic Ocean Outer Continental Shelf (OCS)

between 35°N and 38°N latitude. They pointed out that the *Marine Electric* was in this area when it sank, and all but three of the crew died in the 42° F water. This temperature is well below the 60° F on which the exemption was based. The crewmen of the *Marine Electric* were in the water for about two hours before rescuers arrived. The comments are correct. Although the Gulf Stream keeps Atlantic Ocean water at 38°N near or above 60° F through the winter, the Gulf Stream is far offshore at 38°N. Water near shore can get quite cold as it was where the *Marine Electric* sank. When additional water temperature data was examined, it was apparent that the 35°N–38°N Atlantic Ocean OCS exemption was not consistent with the 60° F criterion. Accordingly, this exemption has been deleted from the final rules in §§ 33.37–1, 94.41–1, 108.513(a), and 192.41–1.

One comment suggested that exposure suits should be required off the coast of southern California, south of the 35°N line in what would otherwise be an exempted area. Available data does indicate that water temperature in this area can be below 60° F for five months of the year, however, the lowest mean monthly water temperature in this area is about 56° F, and is warmer farther offshore. Since the 60° F is only a guideline and not an absolute value for the onset of hypothermia, and since the colder waters are nearer shore and consequently nearer rescue, the suggested change has not been adopted.

Another comment raised the possibility that a vessel that normally operates in an exempt area might have to make a single trip into an area where exposure suits are required. The operator would have to obtain suits for this trip even if the water temperature was above 60° F at the time of the trip. The comment describes an exceptional circumstance that does not need to be addressed in the final rules. Should such a circumstance arise, the Coast Guard could permit the voyage to take place under the authority of 46 CFR 90.15(b), *et al.* The operator would be expected to provide evidence that the water temperature at the time of the voyage would not present a significant hypothermia risk.

Vessels operating in lakes, bays, and sounds. One comment suggested that vessels operating in lakes, bays, and sounds should be included in the exposure suit requirements since persons on these vessels could also be several hours away from rescue, and would be exposed to hazards similar to those in an ocean casualty. The suggestion has not been adopted. There are approximately 78 inspected vessels certificated for operation on lakes, bays, and sounds in the geographical area affected by these rules. Most of these are small freight vessels operating either on Chesapeake Bay or Puget Sound, or else self-propelled fuel barges serving ports in the New York, Chesapeake Bay, or New England areas. Although these are cold waters, these vessels typically do not have overnight accommodations and they operate close to shore where they can readily find shelter in bad weather. The recent casualty record does not indicate a need to require exposure suits on these vessels. (Note that the category "lakes, bays, and sounds," does not include the Great Lakes which were covered by another rulemaking dated April 10, 1980 (45 FR 24477).)

Carriage and stowage location of extra exposure suits. Several comments concerned the number of extra suits that would be required under the NPRM, and where suits would be stowed. The proposed rules were based on similar life preserver requirements. One suit would be required for each person on board, normally stowed in the cabin or berthing area. Extra suits would be required in remotely located work stations. Three comments suggested that no extra suits should be required at work stations, three said it was not practical to stow suits at work stations, two suggested that the number of extra suits should be fixed at 25% of the complement, and one suggested that the extra suits should be stowed at embarkation stations. One comment suggested that extra suits should be required whether or not the berthing area is accessible from the work stations, and another suggested that extra suits should be required only in continuously manned work stations. Two comments suggested that the "in or near" provision in the stowage requirements was needed to provide the necessary flexibility in the stowage requirements.

No change has been made in either the requirement for extra suits or the stowage locations for suits. One of the primary concerns leading to the requirement for exposure suits was that there might not be enough time for an orderly abandonment. The concern for lack of time leads to the requirement for extra suits in or near normally manned work stations. In cases where it is impractical to stow the suits at the work stations, the rules permit stowage near the work stations. The 25% extra suggestion was not adopted since it does not provide sufficient flexibility. Some vessels will not need any extra suits, others may require 50% or more. The extra suits should not normally be at the embarkation station since there may not be time to get there. The suggestion to require extra suits only at continuously manned stations was not accepted since it's not significantly different than the "normally manned" provisions.

Substitution of exposure suits for life preservers. Three comments suggested that exposure suits should be allowed to replace life preservers on inspected vessels and MODU's. Two of these stated that these exposure suits would have to be of the type that automatically turns the wearer to a face-up position. The rules do permit the substitution on uninspected vessels, but most inspected vessels must carry life preservers to meet SOLAS requirements. Unlike an exposure suit, a life preserver can be worn as a precaution on deck while the wearer can continue most normal work. Therefore, substitution of exposure suits for life preservers cannot be permitted at this time.

Drill requirements. Four comments concerned the drill requirements in exposure suits and the possibility of excessive wear on the suits as a result of frequent use in boat drills. Another concern was that the suits were bulky and restrict the wearer's motion, which could lead to a dangerous situation. The suits do restrict the wearer's motion, but this in one of the reasons why each crew member must understand the limitations imposed by the suits. To accommodate the comments, an alternative exposure suit drill has been added as an option to using suits in a boat drill.

Passenger vessels. Two comments stated that passenger vessels should have exposure suits also. No action was taken on these suggestions because it is important that an exposure suit user be familiar with the device, but training and drills for passengers are not a practical possibility. Also, passenger vessels are designed in such a way that rapid sinking or capsizing is not likely so the lack of time for orderly abandonment should not be a problem as it may be on cargo and tank vessels. One exception is passenger vessels on the Great Lakes where an earlier rulemaking required exposure suits for persons for which space is not provided in either a lifeboat or liferaft. In this case it was determined that the risk of being unfamiliar with the suit outweighed the consequences of not having a place in a lifeboat or liferaft.

Whistles. One comment noted that the whistle requirement in the NPRM would add an option for a multi-tone whistle to the existing ball-type whistle

requirement. The comment suggested that the ball-type whistles not be permitted since they can freeze. No action was taken on the suggestion since the ball-type whistle has been used for many years with no known problems.

Inspections. Two comments stated that the Coast Guard inspection of the vessel should include inspection of the suits. The regulations already contain a requirement for inspection of exposure suits at each inspection for certification. They would also often be inspected when an annual reinspection is conducted. Since there was no change necessary to these existing regulations, they did not appear in the NPRM. The Coast Guard Marine Safety Manual also includes instructions on how to inspect exposure suits.

Redundancy in regulations. One comment suggested that the rules be reviewed to remove any redundancy, apparently referrring to the repetition of similar rules in the various vessel subparts. This is necessary because of the present organization of the regulations. The lifesaving regulations may be consolidated into a single new lifesaving subpart at some future date to eliminate this repetition.

Discussion of Comments on Requirements for Carriage of Exposure Suits on Uninspected Vessels

Five comments expressed support for the proposed regulation that would permit uninspected vessels not carrying passengers to substitute exposure suits for life preservers. Two comments supported the same requirements for these vessels as for cargo vessels (exposure suits in addition to the life preservers). Another stated that exposure suits should be required on any boat more than 5 miles offshore north of 42°N latitude on the Pacific Coast. The regulation remains as proposed. Mandatory carriage of exposure suits for certain uninspected vessels may be considered at a later date, however, this rulemaking was intended to provide relief for those operators that carry exposure suits voluntarily. This is appropriate on uninspected vessels where the life preservers are not used as a precautionary measure, or during drills as they are on inspected vessels.

Discussion of Comments on Exposure Suit Specification Regulation (46 CFR Subpart 160.071)

Design improvements. A number of comments had suggestions for improvement of the design of exposure suits. One of these suggested that the rules requiring the carriage of exposure suits were premature because the suits needed certain improvements. Some of the improvements suggested in the comments appeared to have merit and may be considered under some future rulemaking, however, except for comments that relate to the minor revisions to Subpart 160.071 proposed in the NPRM, these comments are outside the scope of this notice and will not be considered under this rulemaking project. The existing suits have proved to be effective in many casualties involving smaller vessels and the carriage requirements for larger vessels should not be delayed to investigate extensive revisions to the suit approval requirements.

Head support. The NPRM contained a proposed requirement that the head angle of the exposure suit wearer be tilted up 30° to 80° from the horizontal. This would replace a requirement for the torso of the wearer to be "inclined slightly backward from the upright position". One comment specifically supported this requirement. One comment suggested that efforts should be made to make the wearer's floating position more vertical, rather than horizontal with just the head supported. Another comment stated that the floating attitude had not been perfected for rough seas. Shortly after the NPRM was published in February 1983, the Coast Guard sponsored some rough water tests of flotation devices. The test was held in a U.S. Navy wave-generating facility capable of producing choppy seas with an approximate 4 ft. wave height. Exposure suits which met the 30° to 80° criterion were used in these tests as well as conventional life preservers which keep the wearer in a more vertical position. The general opinion of the test subjects was that the exposure suits were more comfortable to wear under these conditions, and resulted in fewer immersions of the head. The 30° to 80° head position criterion is therefore considered appropriate and is retained in the final rules.

Buoyancy tolerance. Three comments differed on the proposal to revise § 160.071–25(b)(1) by establishing a 10 percent buoyancy tolerance as a quality control criterion in the production of exposure suits. One comment favored the proposal; one suggested that the 10 percent should apply only as a lower buoyancy limit; and the third suggested that the 10 percent tolerance was too narrow a range considering the variability of the flotation foams. The 10 percent criterion was introduced in 1971 by one of the independent laboratories that does the production testing of Coast Guard approved exposure suits. In this period of time, the Coast Guard has not been notified of any problems with the 10 percent buoyancy tolerance requirement. The proposed requirement has therefore been retained in the final rules.

Final Evaluation

These regulations are considered to be non-major under Executive Order 12291 and non-significant under "Department of Transportation Policies and Procedures for Simplification, Analysis, and Review of Regulations" (44 FR 11034, February 26, 1979). A final evaluation has been prepared and placed in the docket and may be inspected or copied at the Office of the Marine Safety Council, Room 4402, U.S. Coast Guard Headquarters, 2100 Second St. SW., Washington, DC. Copies may also be obtained from the project manager, Mr. Robert Markle, Room 2412, U.S. Coast Guard Headquarters (G–MVI–3), 2100 Second St. SW., Washington, DC 20593.

These regulations are expected to affect approximately 5000 uninspected vessels and 1100 inspected vessels and MODUs. This number includes approximately 31 U.S. registered MODUs and one foreign registered MODU that would be affected by the changes to 46 CFR Part 108 in this rulemaking, as well as the changes to 33 CFR Part 144 under docket CGD 82–075b. The regulations would result in a total initial cost of about $13,858,800. The average initial cost of these regulations would be about $12,600 for each affected inspected vessel. These costs will be imposed directly on the private sector (the operators of affected vessels). The operators are expected to pass the costs through to the ultimate consumers of affected maritime services in the form of price increases. Because the cost of the regulations is spread over a large number of vessels, increases in individual prices will be negligible.

The average annual upkeep or replacement cost for each affected inspected vessel is approximately $1,400. The average annual savings for each affected uninspected vessel resulting from elimination of the requirement to carry life preservers, is estimated to be about $6. Since about 5000 vessels are expected to take advantage of this option, these annual savings are estimated to be $30,000. The estimated total annual cost including the effect of this savings is therefore $1,480,000.

There is no effect on federal, state, and local governments except in their capacities as consumers of maritime services. Implementation and enforcement of these rules will be

accomplished within the scope of current Coast Guard marine safety activities, so that there will not be any need for additional federal budget commitments.

The primary benefit identified for the regulations is to improve the chances of survival for persons that have to enter cold water as the result of a vessel casualty. The number of vessels and MODU's that will be required to have exposure suits is small from a statistical standpoint, and casualties have been infrequent. The probability that any one vessel on MODU will be involved in a serious casualty is extremely low. Due to limited data, any statistical analysis is subject to such a high level of uncertainty as to render the analysis unreliable. While we can not predict with any acceptable degree of confidence the number of lives that might be saved by these regulations, the 30 persons that were near rescue vessels in the OCEAN RANGER casualty might have survived long enough to be rescued if they had been wearing exposure suits.

Only three comments addressed the cost/benefit issue. Two operators referred to their individual safety records and stated that exposure suits are not worth the expense to buy and maintain them. One comment stated that the added safety was worth the expense. Our best judgement is that the suits will significantly improve the chances for survival in cold water and are worth the expense. We note that the Canadian government now requires exposure suits on MODU's and that the Senate has passed legislation which would direct the Coast Guard to publish rules requiring exposure suits on appropriate vessels operating on waters below 60° F.

Under the Regulatory Flexibility Act (Pub. L. 96–354), it is certified that this rule will not have a significant economic impact on a substantial number of small entities. The small entities that would be affected by the rule are operators of some of the 5000 uninspected vessels that would realize an estimated average $6 annual savings.

This rulemaking contains no information collection or recordkeeping requirements.

List of Subjects

46 CFR Part 25

Marine safety, Uninspected vessels.

46 CFR Parts 33 and 35

Barges, Marine safety, Tank vessels.

46 CFR Parts 94 and 97

Cargo vessels, Marine safety.

46 CFR Parts 107, 108, and 109

Marine safety, Mobile offshore drilling units.

46 CFR Part 160

Marine safety.

46 CFR Parts 192 and 196

Marine safety, Oceanographic vessels.

In consideration of the foregoing, Title 46 of the Code of Federal Regulations is amended as set forth below.

SUBCHAPTER C—UNINSPECTED VESSELS

PART 25—REQUIREMENTS

Subpart 25.25—Life Preservers and Other Lifesaving Equipment

1. By revising paragraph (b) and adding a new paragraph (e) to § 25.25–5 to read as follows:

§ 25.25–5 Life preservers and other lifesaving equipment required

* * * * *

(b) Each vessel not carrying passengers for hire, less than 40 feet in length must have a least one life preserver (Type I PFD), buoyant vest (Type II PFD), or marine buoyant device intended to be worn (Type III PFD), approved under Subchapter Q of a suitable size for each person on board. Kapok and fibrous glass life preservers that do not have plastic-covered pad inserts as required by subparts 160.062 and 160.005 of this chapter are not acceptable as equipment required by this paragraph.

* * * * *

(e) Each vessel not carrying passengers for hire may substitute an exposure suit for a life preserver, buoyant vest, or marine buoyant device required under paragraphs (b) or (c) of this section. Each exposure suit carried in accordance with this paragraph must be of a type approved under Subpart 160.071 of this chapter.

(46 U.S.C. 4102(b); 49 CFR 1.46)

2. By revising paragraph (a) of § 25.25–9 to read as follows:

§ 25.25–9 Storage.

(a) The lifesaving equipment designed to be worn required in § 25.25–5(b), (c) and (e) must be readily accessible.

* * * * *

(46 U.S.C. 4104; 49 CFR 1.46)

3. By revising paragraphs (b) and (c) of § 25.25–13 to read as follows:

§ 25.25–13 Personal flotation device lights.

* * * * *

(b) Each exposure suit carried in accordance with § 25.25–5(e), each life preserver, each marine buoyant device intended to be worn, and each buoyant vest must have a personal flotation device light that is approved under Subpart 161.012 of this chapter.

(c) Each personal flotation device light required by this section must be securely attached to the front shoulder area of the exposure suit, life preserver, or other personal flotation device.

* * * * *

(46 U.S.C. 4104; 49 CFR 1.46)

3a. By revising paragraph (a) of § 25.25–15 to read as follows:

§ 25.25–15 Retroreflective material for personal flotation devices.

(a) Each life preserver, each marine buoyant device intended to be worn, and each buoyant vest carried on a vessel must have Type I retroreflective material that is approved under Subpart 164.018 of this chapter.

* * * * *

(46 U.S.C. 4104; 49 CFR 1.46)

SUBCHAPTER D—TANK VESSELS

4. By amending the table of contents for Part 33 as follows:

PART 33—LIFESAVING EQUIPMENT

* * * * *

Subpart 33.35—Life Preservers

Sec.
33.35–1 Number and type required—TB/ALL.
33.35–5 Distribution and stowage—TB/ALL.
33.35–10 Shipboard inspections—TB/ALL.
33.35–15 Requirements for life preservers—TB/ALL.
33.35–25 Retroreflective material—TB/ALL.

Subpart 33.37—Exposure Suits

33.37–1 Applicability—TB/OCL.
33.37–5 Number and type required—TB/OCL.
33.37–10 Shipboard inspections—TB/OCL.
33.37–15 Stowage containers—TB/OCL.

Subpart 33.38—Personal Flotation Device Lights and Whistles

33.38–1 Personal flotation device lights—TB/OCL.
33.38–5 Whistles—T/O.

* * * * *

Subpart 33.35—Life Preservers

§ 33.35 [Amended]

5. By removing § 33.35–1(c) (replaced by § 33.38–5).

§ 33.35–20 [Removed]

6. By removing § 33.35–20 (replaced by § 33.38–1).

Subpart 33.37—Exposure Suits

7. By revising § 33.37–1 to read as follows:

§ 33.37-1 Applicability—TB/OCL.

This subpart applies to each tank vessel in ocean, coastwise, or Great Lakes service except those—

(a) Operating on routes between 35° N and 35° S latitude, or

(b) With totally enclosed lifeboats on each side that—

(1) Are capable of accommodating all persons on board,

(2) Notwithstanding the requirements of § 33.20-1(f), have embarkation arrangements that allow each lifeboat to be fully boarded in the stowage position, and

(3) Are launched by gravity davit and winch systems, each of which is operated from the lifeboat, and which does not require any crew to remain on board the vessel.

(46 U.S.C. 3306(a); 49 CFR 1.46)

8. By revising the title of § 33.37-5 to read as follows:

§ 33.37-5 Number and type required—TB/OCL.

* * * * *

(46 U.S.C. 3306(a); 49 CFR 1.46)

9. By revising the title of § 33.37-10 to read as follows:

§ 33.37-10 Shipboard inspections—TB/OCL.

* * * * *

(46 U.S.C. 3306(a); 49 CFR 1.46)

10. By revising the title of § 33.37-15 to read as follows:

§ 33.37-15 Stowage containers—TB/OCL.

* * * * *

(46 U.S.C. 3306(a); 49 CFR 1.46)

11. By adding a new Subpart 33.38 to read as follows:

Subpart 33.38—Personal Flotation Device Lights and Whistles

§ 33.38-1 Personal flotation device lights—TB/OCL.

(a) Each life preserver and each exposure suit carried on a vessel engaged in ocean, coastwise, or Great Lakes service, must have a personal flotation device light that is approved under Subpart 161.012 of this chapter.

(b) Each personal flotation device light required by this section must be securely attached to the front shoulder area of the life preserver or exposure suit.

(46 U.S.C. 3306(a); 49 CFR 1.46)

§ 33.38-5 Whistles—T/O.

(a) Each life preserver and each exposure suit on tankships of 500 gross tons and over on an international voyage must have a whistle of the ball type or multi-tone type, of corrosion resistant construction, and in good working order.

(b) The whistle must be attached to the life preserver or exposure suit by a lanyard without hooks, snaps, clips, etc., that is long enough to permit the whistle to reach the mouth of the wearer. If the lanyard allows the whistle to hang below the waist of the wearer, the whistle must be stowed in a pocket on the life perserver or exposure suit, or with the lanyard coiled and stopped off.

(46 U.S.C. 3306(a); 49 CFR 1.46)

12. By amending the table of contents for Part 35 as follows:

PART 35—OPERATIONS

* * * * *

Subpart 35.10—Fire and Emergency Requirements

Sec.

* * * * *

35.10-6 Exposure suits—TB/OCL.

* * * * *

Subpart 35.30—General Safety Rules

* * * * *

35.30-50 Stowage of exposure suits—TB/OCL.

35.30-55 Child size exposure suit—TB/OCL.

* * * * *

Subpart 35.10—Fire and Emergency Requirements

13. By revising title, the introductory language, and paragraph (a) of § 35.10-6 to read as follows:

§ 35.10-6 Exposure suits—TB/OCL.

The master or person in charge of a tank vessel carrying exposure suits in accordance with Subpart 33.37 of this chapter shall make sure that—

(a) Each crew member either—

(1) Wears an exposure suit in at least one boat drill per month unless it is impracticable due to warm weather; or

(2) Participates in at least one exposure suit drill per month that includes donning an exposure suit and being instructed in its use;

* * * * *

(46 U.S.C. 3306(a); 49 CFR 1.46)

14. By revising the title and the introductory language of § 35.30-50 to read as follows:

§ 35.30-50 Stowage of exposure suits—TB/OCL.

The master or person in charge of a tank vessel carrying exposure suits in accordance with Subpart 33.37 of this chapter shall make sure that—

* * * * *

(46 U.S.C. 3306(a); 49 CFR 1.46)

15. By revising § 35.30-55 to read as follows:

§ 35.30-55 Child size exposure suit—TB/OCL.

The master or person in charge of a tank vessel carrying exposure suits in accordance with Subpart 33.37 of this chapter shall make sure that children, when carried, are provided with child size exposure suits.

(46 U.S.C. 3306(a); 49 CFR 1.46)

SUBCHAPTER I—CARGO AND MISCELLANEOUS VESSELS

16. By amending the table of contents for Part 94 as follows:

PART 94—LIFESAVING EQUIPMENT

* * * * *

Subpart 94.40—Life Preservers

Sec.

94.40-1 Application.
94.40-5 General.
94.40-10 Number and type required.
94.40-15 Distribution and stowage.
94.40-25 Retroreflective material.
94.40-90 Vessels contracted for prior to May 26, 1965.

* * * * *

Subpart 94.42—Personal Flotation Device Light and Whistles

Sec.

94.42-1 Personal flotation device lights.
94.42-5 Whistles.

* * * * *

Subpart 94.40—Life Preservers

§ 94.40-5 [Amended]

17. By removing § 94.40-5(b) (replaced by § 94.42-5).

§ 94.40-20 [Removed]

18. By removing § 94.40-20 (replaced by § 94.42-1).

Subpart 94.41—Exposure Suits

19. By revising § 94.41-1 to read as follows:

§ 94.41-1 Applicability.

This subpart applies to each vessel in ocean, coastwise, or Great Lakes service, except those—

(a) Operating on routes between 35° N and 35° S latitude, or

(b) With totally enclosed lifeboats on each side that—

(1) Are capable of accommodating all persons on board,

(2) Notwithstanding the requirements of § 94.15-10(b)(6), have embarkation arrangements that allow each lifeboat to be fully boarded in the stowage position, and

(3) Are launched by gravity davit and winch systems, each of which is operated from the lifeboat, and which does not require any crew to remain on board the vessel.

(46 U.S.C. 3306(a); 49 CFR 1.46)

20. By revising the introductory text of paragraph (d) of § 94.41–5 to read as follows:

§ 94.41–5 Number and type required.

* * * * *

(d) An exposure suit in use on a vessel before November 1, 1980 may remain in use on the vessel in place of an exposure suit approved under Subpart 160.071 of this chapter if:

* * * * *

(46 U.S.C. 3306(a); 49 CFR 1.46)

21. By adding a new Subpart 94.42 to read as follows:

Subpart 94.42—Personal Flotation Device Lights and Whistles

§ 94.42–1 Personal flotation device lights.

(a) Each life preserver and each exposure suit carried on a vessel engaged in ocean, coastwise, or Great Lakes service, must have a personal flotation device light that is approved under Subpart 161.012 of this chapter.

(b) Each personal flotation device light required by this section must be securely attached to the front shoulder area of the life preserver or exposure suit.

§ 94.42–5 Whistles.

(a) Each life preserver and each exposure suit on vessels on an international voyage must have a whistle of the ball type or multi-tone type, of corrosion resistant construction, and in good working order.

(b) The whistle must be attached to the life preserver or exposure suit by a lanyard without hooks, snaps, clips, etc., that is long enough to permit the whistle to reach the mouth of the wearer. If the lanyard allows the whistle to hang below the waist of the wearer, the whistle must be stowed in a pocket on the life preserver or exposure suit, or with the lanyard coiled and stopped off.

(46 U.S.C. 3306(a); 49 CFR 1.46)

PART 97—OPERATIONS

Subpart 97.15—Tests, Drills, and Inspections

22. By revising the introductory language and paragraph (a) of § 97.15–37 to read as follows:

§ 97.15–37 Exposure suits.

The master of a vessel carrying exposure suits in accordance with Subpart 94.41 of this chapter shall make sure that—

(a) Each crew member either—

(1) Wears an exposure suit in at least one boat drill per month unless it is impracticable due to warm weather; or

(2) Participates in at least one exposure suit drill per month that includes donning an exposure suit and being instructed in its use;

* * * * *

(46 U.S.C. 3306(a); 49 CFR 1.46)

Subpart 97.85—Exposure Suits

23. By revising § 97.85–1 to read as follows:

§ 97.85–1 Applicability.

This subpart applies to each vessel required to carry an exposure suit under Subpart 94.41 of this chapter.

(46 U.S.C. 3306(a); 49 CFR 1.46)

SUBCHAPTER I–A—MOBILE OFFSHORE DRILLING UNITS

PART 107—INSPECTION AND CERTIFICATION

Subpart B—Inspection and Certification

24. By revising paragraph (g) of § 107.231 to read as follows:

§ 107.231 Inspection for certification.

* * * * *

(g) Each life preserver and each exposure suit is serviceable.

* * * * *

(46 U.S.C. 3306(a); 49 CFR 1.46)

25. By amending the table of contents for Part 108 as follows:

PART 108—DESIGN AND EQUIPMENT

* * * * *

Subpart E—Lifesaving Equipment

Sec.

* * * * *

108.513 Exposure suits.

* * * * *

Subpart G—Equipment Markings and Instructions

Sec.

* * * * *

108.649 Life preservers, exposure suits and ring life buoys.

* * * * *

Subpart E—Lifesaving Equipment

26. By adding a new § 108.513 to read as follows:

§ 108.513 Exposure suits.

(a) This section applies to each unit except those operating between 35° N and 35° S latitude.

(b) Each unit must carry an exposure suit for each person on board.

(c) In addition to the exposure suits required by paragraph (b) of this section, each watch station and work station must have enough exposure suits to equal the number of persons normally on watch in, or assigned to, the station at one time. However, an exposure suit need not be provided at a watch or work station for a person whose cabin, stateroom, or berthing area (and the exposure suits stowed in that location) is readily accessible to the station.

(d) Each exposure suit on a unit must be of a type approved under Subpart 160.071 of this chapter.

(e) Each exposure suit must have a personal flotation device light that is approved under Subpart 161.012 of this chapter. Each personal flotation device light must be securely attached to the front shoulder area of the exposure suit.

(f) Each exposure suit on a unit must have a whistle of the ball type or multi-tone type, of corrosion resistant construction, and in good working order. The whistle must be attached to the exposure suit by a lanyard without hooks, snaps, clips, etc., that is long enough to permit the whistle to reach the mouth of the wearer. If the lanyard allows the whistle to hang below the waist of the wearer, the whistle must be stowed in a pocket on the exposure suit, or with the lanyard coiled and stopped off.

(g) No stowage container for exposure suits may be capable of being locked.

(46 U.S.C. 3306(a); 49 CFR 1.46)

27. By revising paragraph (d) of § 108.514 to read as follows:

§ 108.514 Life preservers.

* * * * *

(d) Each life preserver on a unit must have a whistle of the ball type or multi-tone type, of corrosion resistant construction, and in good working order. The whistle must be attached to the life preserver by a lanyard without hooks, snaps, clips, etc., that is long enough to permit the whistle to reach the mouth of the wearer. If the lanyard allows the whistle to hang below the waist of the wearer, the whistle must be stowed in a pocket on the life preserver, or with the lanyard coiled and stopped off.

* * * * *

(46 U.S.C. 3306(a); 49 CFR 1.46)

Subpart G—Equipment Markings and Instructions

28. By revising paragraphs (a) and (b) of § 108.649 to read as follows:

§ 108.649 Life preservers, exposure suits and ring life buoys.

(a) Each life preserver and exposure suit must be marked in a contrasting color with the unit's name.

(b) Each locker box or closet used for stowing life preservers or exposure suits must be marked "Life Preservers" or "Exposure Suits" as appropriate.

* * * * *

(46 U.S.C. 3306(a); 49 CFR 1.46)

29. By amending the table of contents for Part 109 as follows:

PART 109—OPERATIONS

* * * * *

Subpart C—Operation and Stowage of Safety Equipment

Sec.

* * * * *

109.314 Stowage of exposure suits.

* * * * *

Subpart B—Tests, Drills, and Inspections

30. By revising paragraph (c) and adding paragraph (e) to § 109.215 to read as follows:

§ 109.215 Boat drill.

* * * * *

(c) Weather permitting, at least one lifeboat is partially lowered, and its engine started and operated;

* * * * *

(e) Each person on a unit carrying exposure suits either—

(1) Wears an exposure suit in at least one boat drill per month unless it is impracticable due to warm weather; or

(2) Participates in at least one exposure suit drill per month that includes donning an exposure suit and being instructed in its use.

(46 U.S.C. 3306(a); 49 CFR 1.46)

Subpart C—Operation and Stowage of Safety Equipment

31. By adding a new § 109.314 to read as follows:

§ 109.314 Stowage of exposure suits.

The master or person in charge shall make sure that—

(a) Each exposure suit required by § 108.513(b) is stowed in a readily accessible location in or near the berthing area of the person for whom the exposure suit is provided; and

(b) Each exposure suit required by § 108.513(c) for a watch or work station is stowed in a readily accessible location in or near the stations.

(46 U.S.C. 3306(a); 49 CFR 1.46)

Subpart E—Station Bill

32. By revising paragraph (c)(7) of § 109.501 to read as follows:

§ 109.501 Station bill: duties of personnel.

* * * * *

(c) * * *

(7) Instructing all personnel on use and wearing of their life preservers and exposure suits (if carried).

* * * * *

(46 U.S.C. 3306(a); 49 CFR 1.46)

SUBCHAPTER Q—EQUIPMENT, CONSTRUCTION, AND MATERIALS; SPECIFICATIONS AND APPROVAL

PART 160—LIFESAVING EQUIPMENT

Subpart 160.071—Exposure Suits

33. By revising paragraph (c) of § 160.071–7 to read as follows:

§ 160.071–7 Approval procedures.

* * * * *

(c) *Approval of child size and oversize adult suits.* No child size or oversize adult sized suit will be approved unless the adult size of the suit has been approved.

(46 U.S.C. 3306(a), 46 U.S.C. 4102(b); 49 CFR 1.46)

34. By revising paragraphs (i), (m), and (n), and adding paragraph (p) of § 160.071–9 to read as follows:

§ 160.071–9 Construction.

* * * * *

(i) *Buoyant materials and compartments.* Buoyant materials used in a suit must not be loose or granular. The suit must not have an inflated or inflatable chamber, except as prescribed in § 160.071–11(a)(2).

* * * * *

(m) *Size.* Each adult suit must fit persons ranging in weight from 50 kg (110 lb.) to 150 kg (330 lb.) and in height from 1.5 m (59 in.) to 1.9 m (75 in.). Each child size suit must fit children ranging in weight from 20 kg (44 lb.) to 50 kg (110 lb.) and in height from 1.0 m (39 in.) to 1.5 m (59 in.). An oversize adult suit is intended for persons too large for the standard adult suit. Each suit must be capable of being worn comfortably over clothing and must not restrict the wearer's motion. The suit size and design must allow successful completion of the mobility tests prescribed in §§ 160.071–17 (c)(2) through (c)(7).

(n) *Retroreflective material.* Each exposure suit must be fitted with Type I retroreflective material that meets subpart 164.018 of this chapter. When the wearer of an exposure suit is in the face-up, stable floating position described in § 160.071–11(a)(2), at least 200 cm^2 (31 sq. in.) of the material must be visible above water to observers at water level directly in front of the wearer.

* * * * *

(p) *Inflation tube.* If the suit has an inflatable auxiliary means of buoyancy, each joint in the oral inflation tube must be joined with a clamping device. A flange connection between the tube and the inflatable chamber must be reinforced so that the flange on the inflation tube is secured between the material of the inflatable section and the reinforcement.

(46 U.S.C. 3306(a), 46 U.S.C. 4102(b); 49 CFR 1.46)

35. By revising paragraphs (a)(1), (a)(2), and (a)(3) of § 160.071–11 to read as follows:

§ 160.071–11 Performance.

(a) * * *

(1) The adjusted buoyancy of each adult and each oversize adult size suit must be at least 100 N (22 lb.). The adjusted buoyancy of each child size suit must be at least 50 N (11 lb.).

(2) Each suit must have a stable floating position in which the wearer's head must be titled to a position between 30° and 80° above the horizontal, with the mouth and nose at least 100 mm (4 in.) above the surface of the water. if necessary, this position may be obtained through use of an auxiliary means of buoyancy such as an inflatable bladder behind the wearer's head.

(3) If an auxiliary means of buoyancy is necessary to meet paragraph (a)(2) of this section, the suit must have a stable floating position without the auxiliary means of buoyancy in which the mouth and nose of the wearer are at least 50 mm (2 in.) above the surface of the water.

* * * * *

(46 U.S.C. 3306(a), 46 U.S.C. 4102(b); 49 CFR 1.46)

36. By adding a new paragraph (d) to § 160.071–15 to read as follows:

§ 160.071–15 Instructions.

* * * * *

(d) If the suit has an inflatable auxiliary means of buoyancy and if the instructions required by paragraph (a) of this section do not cover the use of the inflation valve, separate instructions

covering operation of the inflation valve must be provided on the suit near the valve or on a waterproof card attached near the valve.

(46 U.S.C. 3306(a), 46 U.S.C. 4102(b); 49 CFR 1.46)

37. By revising paragraphs (a), (c)(8), (e)(1)(iii), and (g)(1)(iii), and revising the title of paragraph (c)(7) of § 160.071–17 to read as follows:

§ 160.071–17 Approval testing for adult size exposure suit.

* * * * *

(a) *General.* An adult size exposure suit must be tested as prescribed in this section. If the suit is also made in a child size, a child size suit must be tested as prescribed in § 160.071–19. If the suit is also made in an oversize adult size, an oversize adult suit must be tested as prescribed in § 160.071–17(g) to determine the measured buoyancy for the suit. No additional testing will be required if the oversize adult suit is of the same design as the adult suit except for extra material to provide for larger persons.

* * * * *

(c) * * *

(7) *Water emergence.* * * *

(8) *Stability and retroreflective material.* While wearing the suit in water without any auxiliary means of buoyancy, each subject assumes a face-up position and then allows his or her body to become limp. The distance from the water surface to the lowest part of the subject's mouth or nose is measured. This procedure is repeated using the auxiliary means of buoyancy, if one is provided. For each test subject, the stable position and the distance of the mouth and nose above the water must be as prescribed in §§ 160.071–11(a)(2) and 160.071–11(a)(3). During this test, each subject must be viewed by observers at water level from the front and back to determine whether the retroreflective material of the suit meets § 160.071–9(n).

* * * * *

(e) * * *

(1) * * *

(iii) A control sample of two flat pieces of 4.75 mm (3/16 in.) thick, closed-cell neoprene foam of sufficient size to enclose the can between them. The control sample must have a thermal conductivity of not more than 0.055 watt/meter-° K (0.38 Btu-in./hr.-sq.ft.-°F). The thermal conductivity of the control sample must be determined in accordance with the procedures in ASTM C 177 or ASTM C 518.

* * * * *

(g) * * *

(1) * * *

(iii) A scale or load cell that has an accuracy of 0.15 N (½ oz.) and that is arranged to support and weigh the basket in the tank.

* * * * *

(46 U.S.C. 3306(a), 46 U.S.C. 4102(b); 49 CFR 1.46)

§ 160.071–17 [Amended]

38. By changing the caption of Figure 160.071–17(j)(1) to identify it as Figure 160.071–17(l)(1) to read as follows: Figure 160.071–17(l)(1). Body strength test apparatus.

(46 U.S.C. 3306(a), 46 U.S.C. 4102(b); 49 CFR 1.46)

39. By changing the caption of Figure 160.071–17(k)(1) to identify it as Figure 160.071–17(m)(1) to read as follows: Figure 160.071–17(m)(1). Method of mounting sample for seam strength test.

(46 U.S.C. 3306(a), 46 U.S.C. 4102(b); 49 CFR 1.46)

40. By revising paragraph (c) and adding a new paragraph (d) of § 160.071–23 to read as follows:

§ 160.071–23 Marking.

* * * * *

(c) The markings for the child size exposure suits required under paragraphs (a) and (b) of this section must also include the following statements in print smaller than the word "Child": "(Small Adult Under 50 kg (110 lb.))", and "Children Require Adult Assistance for Donning and Use."

(d) If an auxiliary means of buoyancy is removable and is needed to meet § 160.071–11(a)(2), the marking on the suit must indicate that the suit is not considered Coast Guard approved unless the auxiliary means of buoyancy is attached.

(46 U.S.C. 3306(a), 46 U.S.C. 4102(b); 49 CFR 1.46)

41. By revising paragraphs (b) and (c) of § 160.071–25 to read as follows:

§ 160.071–25 Production testing.

* * * * *

(b) One out of every 100 exposure suits produced must be tested as prescribed in § 160.071–17(g) and must be given a complete visual examination. The suit must be selected at random from a production lot of 100 suits and tested by or under the supervision of the independent laboratory. A suit fails this test if—

(1) The measured buoyancy of the suit differs by more than 10% from the measured buoyancy of the suit tested for approval,

(2) The adjusted buoyancy of the suit calculated using the buoyancy loss factor determined during approval testing, is less than that required in § 160.071–11(a)(1), or

(3) The visual examination shows that the suit does not conform to the approved design.

(c) If the suit fails to pass the test as prescribed in paragraph (b)(1) or (b)(2) of this section, 10 additional suits from the same lot must be selected at random and subjected to the test. If a defect in the suit is detected upon visual examination, 10 additional suits from the same lot must be selected at random and examined for the defect.

* * * * *

(46 U.S.C. 3306(a), 46 U.S.C. 4102(b); 49 CFR 1.46)

SUBCHAPTER U—OCEANOGRAPHIC VESSELS

42. By amending the table of contents for Part 192 as follows:

PART 192—LIFESAVING EQUIPMENT

* * * * *

Subpart 192.40—Life Preservers

Sec.
192.40–1 Application.
192.40–5 General.
192.40–10 Number required.
192.40–15 Distribution and stowage.
192.40–25 Retroreflective material.
192.40–90 Vessels contracted for prior to March 1, 1968.

* * * * *

Subpart 192.42—Personal Flotation Device Lights and Whistles

192.42–1 Personal flotation device lights.
192.42–5 Whistles.

* * * * *

Subpart 192.40—Life Preservers

§ 192.40–5 [Amended]

43. By removing § 192.40–5(b) (replaced by § 192.42–5).

§ 192.40–20 [Removed]

44. By removing § 192.40–20 (replaced by § 192.42–1).

Subpart 192.41—Exposure Suits

45. By revising § 192.41–1 to read as follows:

§ 192.41–1 Applicability.

This subpart applies to each vessel in ocean, coastwise, or Great Lakes service, except those—

(a) Operating on routes between 35° N and 35° S latitude, or

(b) With totally enclosed lifeboats on each side that—

(1) Are capable of accommodating all persons on board,

(2) Notwithstanding the requirements of § 192.15–10(b)(6), have embarkation

arrangements that allow each lifeboat to be fully boarded in the stowage position, and

(3) Are launched by gravity davit and winch systems, each of which is operated from the lifeboat, and which does not require any crew to remain on board the vessel.

(46 U.S.C. 4102(b); 49 CFR 1.46)

46. By adding a new Subpart 192.42 to read as follows:

Subpart 192.42—Personal Flotation Device Lights and Whistles

§ 192.42–1 Personal flotation device lights.

(a) Each life preserver and each exposure suit carried on a vessel engaged in ocean, coastwise, or Great Lakes service, must have a personal flotation device light that is approved under Subpart 161.012 of this chapter.

(b) Each personal flotation device light required by this section must be securely attached to the front shoulder area of the life preserver or exposure suit.

§ 192.42–5 Whistles.

(a) Each life preserver and each exposure suit on vessels on an international voyage must have a whistle of the ball type or multi-tone type, of corrosion resistant construction, and in good working order.

(b) The whistle must be attached to the life preserver or exposure suit by a lanyard without hooks, snaps, clips, etc., that is long enough to permit the whistle to reach the mouth of the wearer. If the lanyard allows the whistle to hang below the waist of the wearer, the whistle must be stowed in a pocket on the life preserver or exposure suit, or with the lanyard coiled and stopped off.

(46 U.S.C. 4102(b); 49 CFR 1.46)

PART 196—OPERATIONS

Subpart 196.15—Tests, Drills, and Inspections

47. By revising § 196.15–37 to read as follows:

§ 196.15–37 Exposure suits.

The master of a vessel carrying exposure suits in accordance with Subpart 192.41 of this chapter shall make sure that each crew member and all scientific personnel either—

(a) Wear their exposure suits in at least one boat drill per month unless it is impracticable due to warm weather; or

(b) Participate in at least one exposure suit drill per month that includes donning an exposure suit and being instructed in its use.

(46 U.S.C. 4102(b); 49 CFR 1.46)

Subpart 196.90—Exposure Suits

48. By revising § 196.90–1 to read as follows:

§ 196.90–1 Applicability.

This subpart applies to each vessel required to carry an exposure suit under Subpart 192.41 of this chapter.

(46 U.S.C. 4102(b); 49 CFR 1.46)

Dated: December 19, 1983.

Clyde T. Lusk, Jr.,

Rear Admiral, U.S. Coast Guard, Chief, Office of Merchant Marine Safety.

[FR Doc. 84–3161 Filed 2–6–84; 8:45 am]

BILLING CODE 4910–14–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 83–492; RM–4405]

FM Broadcast Station in Wamego, Kansas; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Action taken herein assigns Channel 237A to Wamego, Kansas, as that community's first local FM service, in response to a petition filed by Cheryl A. Stallard.

EFFECTIVE DATE: April 2, 1984.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Nancy V. Joyner, Mass Media Bureau (202) 634–6530.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Report and Order; Proceeding Terminated

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations, (Wamego, Kansas); MM Docket No. 83–492, RM–4405.

Adopted: January 20, 1984.
Released: January 27, 1984.

By the Chief, Policy and Rules Division.

1. Before the Commission for consideration is the *Notice of Proposed Rule Making*, 48 FR 27570, published June 16, 1983, proposing the assignment of Channel 237A to Wamego, Kansas, as that community's first FM assignment, in response to a petition filed by Cheryl A. Stallard ("petitioner"). Petitioner filed supporting comments reiterating her intention to apply for the channel, if assigned. No oppositions to the proposal were received.

2. We believe the public interest would be served by a grant of petitioner's request since such an assignment could provide a first FM service to Wamego.

3. As we indicated in the *Notice*, Channel 237A can be assigned to Wamego consistent with the minimum distance separation requirements of § 73.207 of the Commission's Rules.

4. Accordingly, pursuant to the authority contained in sections 4(i), 5(c)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is ordered, that effective April 2, 1984, the FM Table of Assignments, § 73.202(b) of the Commission's Rules, is amended to include the community listed below, as follows:

City	Channel No.
Wamego, Kansas	237A

5. It is further ordered, that this proceeding is terminated.

6. For further information concerning the above, contact Nancy V. Joyner, Mass Media Bureau (202) 634–6530.

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 84–3216 Filed 2–6–84; 8:45 am]

BILLING CODE 6712–01–M

47 CFR Part 73

[MM Docket No. 83–512; RM–4408]

FM Broadcast Station in Roswell, New Mexico; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Action taken herein assigns Class C FM Channel 263 to Roswell, New Mexico, in response to a petition filed by Mountain Top Radio. The assigned channel could provide a third FM service to the community.

EFFECTIVE DATE: April 6, 1984.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Mass Media Bureau (202) 634–6530.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Report and Order; Proceeding Terminated

In the matter of amendment of § 73.202(b) Table of Assignments, FM Broadcast Stations, (Roswell, New Mexico); MM Docket No. 83–512, RM–4408.

Adopted: January 20, 1984.
Released: January 30, 1984.

By the Chief, Policy and Rules Division.

1. The Commission herein considers the *Notice of Proposed Rule Making*, 48 FR 28492, published June 22, 1983, proposing to assign Class C Channel 263 to Roswell, New Mexico, as its third commercial FM assignment.[1] The *Notice* was issued in response to a petition filed by Mountain Top Radio ("petitioner"). Supporting comments were filed by petitioner reaffirming its intention to apply for the channel, if assigned. No oppositions were received.

2. In view of the fact that the proposed assignment could provide a third FM station at Roswell, New Mexico, the Commission believes that the public interest would be served by assigning Channel 263 to that community. The channel can be assigned in compliance with the minimum distance separation requirements.

3. Mexican concurrence has been obtained in the assignment of Class C Channel 263 to Roswell, New Mexico.

4. Accordingly, pursuant to the authority contained in sections 4(i), 5(c)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.283 and 0.204(b) of the Commission's Rules, it is ordered, That effective April 6, 1984, the FM Table of Assignments, § 73.202(b) of the Rules, is amended with respect to the following community:

City	Channel No.
Roswell, New Mexico	235, 246, and 263.

5. It is further ordered, That this proceeding is terminated.

6. For further information concerning this proceeding, contact Mark N. Lipp, Mass Media Bureau (202) 634–6530.

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 84–3217 Filed 2–6–84; 8:45 am]

BILLING CODE 6712–01–M

[1] In MM Docket 83–754 the Commission has proposed the assignment of a fourth FM Channel to Roswell.

47 CFR Part 73

[MM Docket No. 82–194; RM–3998; RM–4027]

FM Broadcast Stations in Monterey, Byrdstown and Lebanon, Tennessee; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Action taken herein grants a petition for reconsideration to assign Channel 296A to Monterey, Tennessee, as that community's first local aural service, and denies the comparative proposal to allocate the channel to Byrdstown, Tennessee. Both proposals were previously denied for failure to provide a commitment to reimburse an affected station. Monterey was selected for assignment under the Commission's new revised FM policies since it is a substantially larger community than Byrdstown.

EFFECTIVE DATE: April 9, 1984.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Nancy V. Joyner, Mass Media Bureau (202) 634–6530.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Memorandum Opinion and Order

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations (Monterey, Byrdstown and Lebanon, Tennessee); BC Docket No. 82–194, RM–3998, RM–4027.

Adopted: January 17, 1984.
Released: January 31, 1984.

By the Chief, Policy and Rules Division.

1. Petitions for reconsideration of the Commission's *Report and Order*, 47 FR 38936, published September 3, 1982, which denied petitions for rule making to assign Channel 296A to Monterey or Byrdstown, Tennessee, as either community's first FM assignment, were filed separately by R. Gene Cravens ("Cravens") and by William O. Barry ("Barry").[2] Additionally, comments on the Cravens petition for reconsideration were received from Robert Gallagher, Drew Huffines and Edward M. Johnson ("GH&J").

2. These proposals are mutually exclusive since co-channel Class A assignments must be separated by at least 65 miles, whereas the distance between Monterey and Byrdstown is approximately 30 miles. No other channels are available for assignment to either community.

3. As we indicated in the *Notice*, 47 FR 16809, published April 20, 1982, each proposal required the substitution of Channel 298 for Channel 297 at Lebanon, Tennessee, and modification of the license of Station WYHY [3] to specify operation on the new channel.[4] Because our general policy requires the prevailing petitioner to indicate that it would provide reimbursement for the expenses involved in changing frequencies, Craven and GH&J were requested to provide such a commitment for the Lebanon station.

4. An *Order to Show Cause* was issued to the then licensee of Station WUSW, Lebanon,[5] to determine whether it would consent to the proposed modification. In response, the licensee filed comments indicating no objection to the channel substitution, contingent upon Station WYHY receiving reimbursement for the expenses incurred in changing frequencies.

5. In supporting comments, neither petitioner indicated a willingness to reimbures Station WYHY as required by Commission policy. As a result, we declined to make either of the proposed assignments. In doing so, we expressed no opinion on the merits of the comparative proposals.

6. On reconsideration, Cravens states that its previous comments inadvertently omitted its assurance to comply with our reimbursement requirements regarding Station WYHY, Lebanon, should Channel 296A be assigned to Monterey, Tennessee. Cravens has now supplied the requisite commitment. Further, Cravens states that in order to avoid burdening the record herein, he will rely on the comments filed earlier to support the requested Monterey assignment.

7. Because Barry was not a participant to this proceeding earlier, he states that he had no prior knowledge that either petitioner would fail to supply the necessary agreement to reimburse Station WYHY for its reasonable expenses until after the comment period

[1] Public Notice of the petitions was given October 12, 1982, Report No. 1379.

[3] The call letters were changed from WUSW to WYHY.

[2] A separate proposal in BC Docket No. 80–75 was filed which sought the assignment of Channel 296A to Smiths Grove, Kentucky. That assignment was made contingent on the same substitution of channels at Lebanon. Therein the Smiths Grove proponent indicated that it was willing to share in the reimbursement of the change in frequency by the Lebanon licensee.

[4] The current licensee is Hendersonville Broadcasting Company.

had lapsed. Therefore, Barry urges reconsideration of our earlier action terminating this proceeding and requests that Channel 296A be assigned to Monterey. Furthermore, Barry states that if the assignment is made, he will apply for a construction permit and will share with the Smiths Grove, Kentucky, permittee of Channel 296A,[5] the reasonable expenses incurred by Station WYHY in changing frequencies.

8. In their comments on Craven's petition for reconsideration, GH&J, the Byrdstown proponents, also supplied the required commitment with respect to reimbursement of Station WYHY. Additionally, they assert that reconsideration was not sought since they believed the Commission had correctly denied both petitions due to each petitioner's failure to comply with our reimbursement requirements. However, GH&J urges that under the circumstances, since Cravens filed for reconsideration, that both proposals be considered once again since to do otherwise would base the ultimate assignment of Channel 296A to Monterey on an artificial, rather than a legitimate allocations factor.

9. Cravens urges that we dismiss GH&J's comment as merely constituting a late-filed petition for reconsideration. According to Cravens, by GH&J's failure to timely file for reconsideration, they have effectively waived or withdrawn their request to assign Channel 296A to Byrdstown, Tennessee. Conversely, Cravens argues that it has previously presented showings to demonstrate why Monterey merits the assignment of Channel 296A and incorporated those showings by reference herein.

10. At the outset, insofar as Cravens requests that we dismiss GH&J's comments as a late filed petition for reconsideration, it is our opinion that GH&J's comments constitute an opposition to a Monterey assignment. As such, they were timely filed. Moreover, no prejudice will result since Cravens responded to the comments and its acceptance will allow us to still give consideration to both of these comparative proposals.

11. We previously set forth the comparative factors relative to each proposal. However, since we took no position with respect to either proposal's merits as each neglected to provide the required commitment to reimburse Station WYHY for its reasonable expenses in changing frequencies, we shall now undertake a comparative analysis.

[5] Currently, there is one application pending for Channel 296A at Smiths Grove filed by John E. Dalton (File No. 830928AC).

12. Monterey (population 2,610),[6] in Putnam County (population 47,690), is located approximately 85 miles east of Nashville, Tennessee. Byrdstown (population 884), the seat of Pickett County (population 4,358), is located approximately 80 miles northwest of Knoxville, Tennessee. Neither community presently has any local aural service.

13. In support of his proposal, Cravens noted that Monterey is three times larger than Byrdstown and Putnam County nearly eleven times larger than Pickett County. Cravens asserts that both Monterey and Putnam County are experiencing rapid growth and development. Further, Cravens claims that an allowable transmitter site location for Channel 296A at Byrdstown would be severely restricted, and due to the rugged terrain in that area, line of sight transmission would be obscured.

14. GH&J submitted a study of AM stations which it claims reveals that while both Monterey and Putnam County are served by many existing stations, Pickett County is said to have no local aural service. Therefore, they claim that Byrdstown has a greater need for the assignment than does Monterey due to the disproportionate quantity of AM signals available to Monterey. As a final note, GH&J added that even though Byrdstown is smaller than Monterey, the tourist influx during the summer months doubles its population. For these reasons, GH&J claims that Channel 296A should be awarded to Byrdstown.

15. In response to GH&J's comments, Cravens stated that the AM study reflects one positive result—that both communities receive service from five or more existing AM stations. Moreover, Cravens noted that five full time AM station located within 20 miles of Byrdstown operate with a power of 1 kW. In view of this, Cravens claims that neither community lacks reception service but that under the Commission's new assignment priorities, Monterey should be awarded the assignment based on its larger size.

16. We agree that Monterey should be preferred based on its larger population. In the *Revision of FM Assignment Policies and Procedures*, 90 F.C.C. 2d 88 (1982), the Commission adopted the following priorities in assigning new FM channels:

(1) First full time aural service;
(2) Second full time aural service;
(3) First local service;
(4) Other public interest factors.

Only category four is relevant here. This category includes such considerations as number of reception services, and population and location. We find that only the respective population figures (2,610—Monterey; 884—Byrdstown) provide a real difference in terms of need for the station. See, *Coxsackie and Rotterdam, New York*, 47 FR 45014, published October 13, 1982. Other arguments set forth, such as the number of reception services, do not appear to represent a basis for demonstrating a greater need for local service at Byrdstown. As indicated in paragraph 15, *supra*, both communities are well served with at least five AM services from nearby communities.

[6] Population figures are extracted from the 1980 U.S. Census.

17. As set forth in the *Report and Order*, the ultimate permittee of Channel 296A at Monterey will be required to share with the ultimate permittee of Channel 296A at Smiths Grove, Kentucky, the reasonable expenses incurred by Station WYHY, Lebanon, Tennessee, in changing operating frequencies from Channel 297 to Channel 298 to accommodate both assignments.

18. Accordingly, pursuant to the authority contained in §§ 4(i), 5(c)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is ordered, That effective April 9, 1984, the FM Table of Assignments, § 73.202(b) of the Commission's Rules, is amended as follows:

City	Channel No.
Monterey, Tennessee	296A

19. It is further ordered, That the petition of Robert W. Gallaher, Drew Huffines and Edward M. Johnson (RM–4027) to assign FM Channel 296A to Byrdstown, Tennessee, is denied.

20. It is further ordered, that the Secretary of the Commission shall send by certified mail, return receipt requested, a copy of this *Order* to: Hendersonville Broadcasting Corporation, c/o 810 Division Street, Nashville, Tennessee 37203, licensee of Station WYHY, Lebanon, Tennessee.

21. It is further ordered, that this proceeding is terminated.

22. For further information concerning the above, contact Nancy V. Joyner, Mass Media Bureau (202) 634–6530.

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 84–3215 Filed 2–6–84; 8:45 am]

BILLING CODE 6712–01–M

47 CFR Part 73

[MM Docket No. 83-713; RM-4447]

FM Broadcast Station in Northampton, Massachusetts; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Action taken herein assigns Channel 292A to Northampton, Massachusetts, as that community's second FM assignment in response to a petition filed by Carter Broadcasting Corporation.

EFFECTIVE DATE: April 9, 1984.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Nancy V. Joyner, Mass Media Bureau (202) 634-6530.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Report and Order (Proceeding Terminated)

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations (Northampton, Massachusetts); MM Docket No. 83-713, RM-4447.

Adopted: January 17, 1984.
Released: January 31, 1984.

By the Chief, Policy and Rules Division.

1. The Commission herein considers the *Notice of Proposed Rule Making*, 48 FR 34777, published August 1, 1983, proposing the assignment of FM Channel 292A to Northampton, Massachusetts, as that community's second FM assignment, in response to a petition filed by Carter Broadcasting Corporation ("petitioner"). Supporting comments were filed by petitioner in which it stated its intention to apply for the channel, if assigned. Comments in opposition were filed by Pioneer Valley Broadcasting Company ("Pioneer"),[1] to which the petitioner responded.

2. In its opposition, Pioneer questions the real intention of petitioner to apply for the channel if assigned since it has applications pending for numerous low power television licenses in communities throughout the country, which it assumes the petitioner would be more likely to pursue, if any are granted.

3. Secondly, Pioneer claims that Northampton cannot support another radio station due to a steady decline in its population, and a poor economic base. As a result of the weakened economy in recent years, Pioneer asserts that it is necessary for Station WHMP to duplicate approximately one-fourth of its programming in order to avail itself of the advantages of the efficiencies of joint operation. Therefore, it claims it would be unlikely that an independent station could survive, or if so, that it may succeed to the detriment of Station WHMP, and consequently to the public interest.

4. Moreover, Pioneer claims that Northampton is adequately served by area stations, and therefore it does not need another facility to provide a choice of programming for its residents.

5. Pioneer also asserts that petitioner has selected the same antenna site as its own stations for a proposed location. However, Pioneer claims that petitioner has not received permission for its use, nor has it contacted Station WHMP to inquire about its availability. Absent the showing of a suitable site to accommodate its proposal, Pioneer urges that the petitioner's proposal be denied.

6. In response, petitioner states that contrary to petitioner's belief, it will apply for Channel 292A, if assigned. Further, petitioner states that Pioneer's argument concerning Northampton's inability to support another station is not an appropriate concern here, but rather, may be addressed at the application stage, citing *Chadron, Nebraska*, 52 R.R. 2d 1480 (1982); *Falmouth, Massachusetts*, 48 R.R. 2d 1673 (1981); and *Rome, New York*, 42 R.R. 2d 618 (1978).

7. Additionally, petitioner disputes Pioneer's assertion that the community cannot support another station and included various recent articles published in the *Wall Street Journal* and a local Northampton newspaper regarding the recent acquisition of Stations WHMP AM-FM, wherein, in essence, the market is described as profitable.

8. Petitioner maintains that its engineering consultant has discussed site availability with WHMP's engineer, and that while not given a commitment for its use, it was indicated that other users shared WHMP's tower, and that there is room for another FM antenna thereon. In any event, petitioner states that other sites are thought to be available, but, if not, it may invoke appropriate action pursuant to § 73.239 of the Commission's Rules.

9. Initially, we find that Pioneer's argument that petitioner's real intention is not to pursue this proposal is not legitimate. The petitioner has supplied the necessary statement to indicate its willingness to apply for the channel, if assigned. Moreover, the good faith intentions of a prospective applicant are generally assumed in a rule making proceeding. Otherwise, the legitimacy of a petitioner's interest cannot be adequately settled without an evidentiary hearing. See, *Fort Smith, Arkansas*, 47 FR 23189, published May 27, 1982. Pioneer could properly raise allegations concerning the intentions of petitioner at the application stage.

10. Nor is Pioneer's argument regarding a declining economy in Northampton a sufficient justification for denial of this proposal. For as we have held on other occasions, if the community's status is not questionable, and a proponent believes that there is a need for an additional service, the Commission has no reason to question such judgment. See, *Chadron, Nebraska, supra*, and *Sacramento, California*, 50 R.R. 2d 951 (1982).

11. If Pioneer is hereby seeking economic protection with respect to its existing co-owned stations, that also is a matter which can be best be addressed at the application stage rather than in a rule making proceeding. See, *Beaverton, Michigan*, 44 R.R. 2d 55 (1978).

12. In response to Pioneer's assertion that Northampton does not need another station since its residents receive a variety of programming from outside sources, we find that argument also without merit. While the availability of reception services has been cited by the Commission as justification for denying a channel in comparative cases, this has not been true in non-comparative cases. *Revision of FM Assignment Policies and Procedures*, 90 F.C.C. 2d 88 (1982). In this cited case, the Commission also eliminated its criteria for determining when a community has presumably had its fair share of channel assignments and would not receive additional channels. As a result, the Commission has no limit on the number of assignments for a community.

13. With respect to Pioneer's assertion regarding site availability, based on the circumstances recited above, we do not find that argument persuasive here. Although this proposal will require a site restriction of 3.9 miles northwest of Northampton to avoid short-spacing to Stations WWON(FM) (Channel 292A), Woonsocket, Rhode Island, and WCCC(FM) (Channel 295), Hartford,

[1] Pioneer is the licensee of co-owned Stations WHMP(AM) and WHMP-FM (Channel 257A), in Northampton, Massachusetts.

Connecticut,[2] we are not limiting the proposed site to Pioneer's present transmitter. We have no reason to believe that land is not available for transmitter use throughout the open area. To deny a proposal it must be conclusively established that transmitter locations are unavailable. With regard to a specific location, the availability of any such site is a matter determined in connection with the application.

14. In view of the above considerations, and finding no policy objections to the proposal, we find that the public interest would benefit from the assignment of Channel 292A to Northampton since it could provide a first locally competitive service in the community and an additional nighttime voice for the expression of diversified programming. We believe this determination is consistent with the mandate of Section 307(b) of the Communications Act of 1934, as amended, to provide a fair, efficient and equitable distribution of radio services among the various communities. Moreover, this proposal is in accord with our assignment priorities set forth in the *Revision of FM Assignment Policies and Procedures, Supra*, as well as traditional assignment principles.

15. Canadian concurrence in the proposal has been obtained.

16. Accordingly, pursuant to the authority contained in sections 4(i), 5(c)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and Sections 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is ordered, that effective April 9, 1984, the FM Table of Assignments, § 73.202(b) of the Commission's Rules, is amended with regard to the community listed below, as follows:

City	Channel No.
Northampton, Massachusetts	257A, 292A

17. It is further ordered, that this proceeding is terminated.

18. For further information concerning the above, contact Nancy V. Joyner, Mass Media Bureau, (202) 634–6530.

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 84-3218 Filed 2-6-84; 8:45 am]

BILLING CODE 6712-01-M

[2] This restriction was not incorporated in the *Notice*

47 CFR Part 90

[PR Docket 81-416; RM-3500; FCC 84-7]

Medical Services Operations in the 450–470 MHz Bank in the Special Emergency Radio Service

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document amends the Commission's Rules to permit licensees operating on the eight channel pairs designated as the MED frequencies to use base stations which are capable of transmitting/receiving on less than four of the eight channel pairs. Under previous rules, licensees on the MED channels were required to install base stations capable of transmitting/receiving on at least four channels. This action is necessary to enable licensees to exercise independent judgment concerning the type of communications system which best suits their needs and to lower the cost of communications systems for entities which do not need a four-channel base station.

EFFECTIVE DATE: March 8, 1984.

FOR FURTHER INFORMATION CONTACT: Mr. Frederick J. Day, Private Radio Bureau, (202) 634–2443.

List of Subjects in 47 CFR Part 90

Private land mobile radio, Special emergency radio service, Medical services, Communications equipment.

Report and Order

In the matter of amendment of rules concerning medical services operations in the 450–470 MHz band in the Special Emergency Radio Service; PR Docket 81–416, RM–3500.

Adopted: January 12, 1984.
Released: January 31, 1984.

By the Commission.

Introduction

1. On January 13, 1983 the Commission adopted a *Notice of Proposed Rule Making* concerning medical services operations in the 450–470 MHz band in the Special Emergency Radio Service.[1] The *Notice* proposed to eliminate the requirement that base stations operating on the MED–1—MED–8 channels must employ equipment capable of transmitting/receiving on at least four of these eight frequency pairs. The *Notice* also proposed to designate two additional Special Emergency Radio Service channels as MED–9 and MED–10 and invited comments regarding designation of a frequency coordinator for the MED frequency channels.

Background

2. Currently, there are ten categories of activities eligible to use the frequencies allocated for the Special Emergency Radio Service.[2] One of these categories is the medical services, which include, but are not limited to, providers of emergency pre-hospital medical care.[3] Entities eligible in the Special Emergency Radio Service may use frequencies in the MF (medium frequency), VHF (very high frequency), and UHF (ultra high frequency) portions of the radio spectrum. Certain UHF frequencies are reserved for paired use by medical services eligibles and are designated for purposes of uniformity as MED–1 through MED–8.[4]

3. The *Notice of Proposed Rule Making* adopted January 13, 1983 was the outgrowth of comments received in response to a *Memorandum Opinion and Order and Notice of Inquiry* released in July 1981.[5] Parties responding to the *Memorandum Opinion and Order and Notice of Inquiry* offered several diverse suggestions for improving the licensing, operation, and development of medical services radio systems in the 450–470 MHz (UHF) portion of the frequencies allocated for the Special Emergency Radio Service. Many commenters suggested amendments to the Rules which would restrict eligibility for the MED–8 channels to entities providing medical services of an emergency nature. Such a rule change would have forced

[1] *Notice of Proposed Rule Making* (FCC 83–7), released January 24, 1983, 48 FR 4851 (February 3, 1983).

[2] See 47 CFR 90.33–90.51

[3] Eligibility under § 90.35 (Medical Services) is extended to hospital establishments, organizations regularly engaged in providing medical services through clinics and public health facilities, ambulance companies, rescue organizations, physicians, schools of medicine, oral surgeons, governmental agencies engaged in their own medical activities, governmental agencies providing medical services communications, such as a central dispatch service, to other eligible persons, and associations of hospitals, clinics, public health facilities, ambulance companies, rescue organizations, physicians, and oral surgeons.

[4] The frequency pair 463.000 MHz and 468.000 MHz is designated as MED 1; the pair 463.025 and 468.025 is designated as MED 2; 463.050 and 468.050 are designated as MED 3; 463.075 and 468.075 are designated as MED 4; 463.100 and 468.100 as MED 5; 463.125 and 468.125 as MED 6; 463.150 and 468.150 as MED 7; and 463.175 and 468.175 as MED 8. MED channels 1, 2, and 3 are primarily authorized for use in bio-medical telemetry systems. MED channels 4, 5, 6, 7, and 8 are primarily authorized for communications between medical facilities vehicles and personnel related to medical supervision and instruction for treatment and transport of patients in the rendition or delivery of medical services. §§ 90.53(b)(15)(i), 90.53(b)(19), and 90.53(b)(20).

[5] *Memorandum Opinion and Order and Notice of Inquiry* (FCC 81–293), adopted June 30, 1981, 46 FR 38390 (July 27, 1981).

hospitals, medical care facilities, clinics, physicians, oral surgeons and medical associations not regularly involved in responding to medical emergencies to use VHF frequencies of UHF frequencies other than the MED–1—MED–8 channel pairs. The Commission found little merit to the recommendation and determined not to propose rules which would further restrict access to the MED–1—MED–8 channel pairs. The Commission also declined to propose rules which would limit the use of the MED channels to emergency communications only,[6] concluding that the record did not support such a proposal.

4. The January 13, 1983 *Notice of Proposed Rule Making* was therefore limited to two proposals for which there seemed to be considerable support. First, the Commission proposed an amendment to the Rules in order to eliminate some of the expense and burden involved in establishing base stations for operations on the MED–1—MED–8 channels. The proposed amendment would eliminate the current requirement, contained in § 90.53(b)(15)(iii) of the Rules, for medical services licensees to use only base or control station equipment which is both wired and equipped to transmit/receive on at least four of the MED–1—MED–8 channel pairs (three, if bio-medical telemetry operation is not employed in the system). Second, the Commission proposed to amend § 90.53(b)(16) to indicate that the frequency pairs 462.950/467.950 MHz and 462.975/467.975 MHz, which are used for the dispatch of medical care vehicles and personnel and for intra-system and inter-system mutual assistance purposes, would normally be referred to as MED–9 and MED–10, respectively. This proposal was intended to promote uniformity in nomenclature for the medical services dispatch channels. Finally, in addition to the two rule changes proposed, the *Notice of Proposed Rule Making* noted that a formal system of frequency coordination may be the best method of assigning the MED frequency channels and invited comments from any organization which considered itself qualified to be the frequency coordinator for these channels.

5. We received comments on these proposals from fifty-two parties and reply comments from three parties. Appendix A lists the parties submitting comments and replies.

Proposal To Delete the Requirement for Multi-channel Base Station Capability

6. In proposing to delete the requirement that base stations operating on the MED channels be designed to transmit/receive on at least four of the eight channel pairs, we sought to eliminate what many parties, particularly those in rural areas, viewed as an unnecessary and expensive requirement. We also sought to relegate matters regarding the design of communications systems to the local level, since users appeared to be in the best position to judge their own system requirements. More than half of all the parties providing comments on this proposal favored relaxation of the multi-channel base station requirement. Most of the parties supporting our proposal indicated that their communication needs could be satisfied with base stations equipped to transmit/receive on less than four of the MED channel pairs. In the view of these commenters, the requirement for four-channel base stations is an unnecessary and undesirable expense.

7. Several of the parties opposing our proposal to delete the multi-channel base station requirement contended that, with the availability of synthesized base station equipment, the cost of a base station equipped to transmit and receive on four channels is not significantly greater than the cost of a single frequency base station. Some of these commenters indicated that the consequences of using a single frequency base station extend beyond the geographic borders of the jurisdictions employing the single frequency base station. Typical of the comments received was that of the Atlantic Emergency Medical Services Council, which argued that the implementation of single channel base stations would restrict adjacent larger systems from taking advantage of fully flexible channel assignment schemes. "The adverse effect of a single channel base station * * * will extend *far beyond* the immediate range of the base station itself," the Council contended, "since the associated mobiles will often be at the fringe area of the base station's coverage. This effectively doubles the potential range of exclusivity caused by the single channel base station itself."

8. Opponents of the proposal suggested that relief could be granted to rural areas without eliminating the general four-channel base station requirement, by the grant of waivers in certain cases. These same parties implied that the number of waiver requests which the Commission would have to consider would be minimal given recent developments in the cost synthesized frequency base stations and the likelihood that few jurisdictions will be able to operate effective medical services systems using a single channel base station.

9. Our review of the comments convinces us that opponents of the proposed rule underestimate the number of waiver requests which are likely to be submitted, should we decline to relax the four-channel base station requirement. Moreover, we agree with the positions taken by several commenters that local entities are in the best position to determine their actual communications needs and to develop a communications system which will adequately meet those needs. Further, the comments of entities who supported our proposal suggest that the cost of a four-channel base station remains a significant consideration when users plan their systems and that deletion of the four-channel requirement could provide meaningful economic relief at the local level. In this regard, we feel it is significant that eighteen state agencies responsible for overseeing emergency medical services (e.g., state departments of health, departments of human resources, etc.) participated in this proceeding, and eleven of these agencies supported the proposal. Accordingly, we are persuaded that it is in the public interest to delete the existing requirement.

10. In reaching this conclusion, we are mindful of concerns that deletion of the four-channel requirement may limit the flexibility of systems which employ multi-channel base stations. It may be possible that the use of single frequency systems in urbanized areas will limit the number of MED frequencies available to the larger pooled frequency system users. We are not convinced, however, that the threat of such problems is sufficient reason to deprive licensees of the cost benefits of being able to employ single channel base stations. Nonetheless, should problems of this nature develop, we will work with users at the local level to resolve conflicts in the use of specific frequency pairs. We will also require that applicants for the MED channels who propose to use base station or control station equipment capable of transmitting/receiving on less than four of the eight frequency pairs must submit, along with their applications, a field study showing that the frequency pair or pairs they have

[6] Section 90.35(a) provides that the medical services frequencies, though primarily for the purpose of facilitating the delivery of medical services to the public, may be used on a secondary basis for communications related to the efficient administration of medical organizations and facilities.

applied for are the least likely to cause interference to existing systems.[7]

Designation of MED–9 and MED–10 Channels

11. A total of forty-five commenters expressed support for the proposal to designate the frequency pairs 462.950/467.950 MHz and 462.975/467.975 MHz as MED–9 and MED–10, respectively. Only the Illinois Department of Public Health expressed reservations about the proposal. Illinois feared that the labels "MED–9" and "MED–10" might create the impression that the two channel pairs were available for the same functions as the MED–1—MED–8 channels. In fact, as Illinois noted, the frequencies in question are intended to be used primarily for the dispatch of medical care vehicles and personnel, not for telemetry or instructions regarding the treatment or transport of patients. In view of the overwhelming support for designating the channel pairs as "MED–9" and "MED–10," we are adopting this proposal. As indicated in the *Notice of Proposed Rule Making*, the change will be strictly on a voluntary basis. Licensees will have the flexibility to refer to these two channel pairs in whatever fashion they determine to be most appropriate.

Designation of a Frequency Coordinator

12. In the *Notice of Proposed Rule Making*, we noted that both the Associated Public Safety Communications Officers, Inc. (APCO) and the California Public Safety Radio Association, Inc. (CPRA) had suggested that APCO be designated as the frequency coordinator for the MED frequencies. We pointed out, however, that the MED frequencies are available to a broad class of eligibles and that APCO represents only a portion of those eligibles. For this reason, we stated that we were reluctant to propose APCO as the coordinator for the MED channels in the absence of user support for APCO. We did invite comments concerning this matter, however, and the comments indicate some support for APCO. Twenty-three commenters indicated that APCO would be acceptable as the coordinator for the MED channels. Most other commenters endorsed the concept of frequency coordination but did not state a preference as to which organization should be selected for the role. The National Highway Traffic Safety Administration (Department of Transportation) suggested that it would be best to allow the various departments of health or equivalent agencies at the state level to select the coordinating agency. The Massachusetts Department of Public Health, Office of Emergency Medical Services, suggested that the Communications Committee of the Massachusetts Emergency Medical Care Advisory Board should be approved as the coordinator for that state. Similarly, the Maryland Institute for Emergency Medical Services Systems suggested that the Atlantic Emergency Medical Services Council would be the preferred coordinating body for the Atlantic states though APCO would be acceptable as a national coordinator. The National Association of Business and Educational Radio, Inc. (NABER) stated that it was representative of a broad spectrum of the users who would be affected by the coordination and hence considered itself qualified to be the coordinator for the MED channels.

13. We have recently initiated a new proceeding, PR Docket 83–737, to examine all facets of the frequency coordination process for the private land mobile radio services.[8] The *Notice of Inquiry* issued in PR Docket 83–737 will consider, among other things, whether the Commission should designate exclusive coordinators for individual services or whether it would be more appropriate to allow multiple coordinating committees for the same service. In view of the lack of a consensus regarding the appropriate coordinator for the MED channels, we think it is advisable to defer selection of a coordinator for the present time. For the present, in lieu of formal coordination by a recognized coordinating committee, applicants proposing to operate base stations which transmit and receive on less than four of the MED channel pairs will be required to perform a field study to determine which frequencies will cause the least amount of interference to existing MED channel operations.

Regulatory Flexibility Act Statement

14. In the *Notice of Proposed Rule Making* adopted earlier in this proceeding, the Commission certified that the rule changes under consideration would not have a significant economic impact on a substantial number of small entities. Accordingly, the Commission concluded that Sections 603 and 604 of the Regulatory Flexibility Act do not apply to this proceeding. Therefore, there is no requirement for a final regulatory flexibility analysis of the rule changes now being adopted.

Ordering Clauses

15. Accordingly, It is ordered, effective March 8, 1984, That Part 90 of the Commission's Rules, 47 CFR Part 90, is amended as shown in the attached Appendix B. The authority for this action is found in Sections 4(i) and 303 of the Communications Act of 1934, as amended, 47 U.S.C. 4(i) and 303.

16. It is further ordered, That this proceeding is terminated.

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix A

Comments

Associated Public-Safety Communications Officers, Inc. (APCO)
California Ambulance Association
California Emergency Medical Services Authority
California Public Safety Radio Association, Inc.
Camden County (NJ) Ambulance Association
Colorado Department of Health
Committee on Trauma, American College of Surgery
County of Buncombe (NC)
County of Catawba (NC)
County of Gloucester (NJ)
County of Gloucester (NJ) Emergency Medical Services Council
Forsyth County (NC) Emergency Medical Service
Guilford County (NC) Department of Emergency Services
Illinois Department of Public Health
Indiana Emergency Medical Services Commission
International Association of Fire Chiefs, Inc.
International Municipal Signal Association
Iowa Department of Health
Kansas Department of Health and Environment
Maryland Institute for Emergency Medical Services Systems
Massachusetts Department of Public Health
McDowell County (NC) Emergency Medical Services
Metropolitan Boston Hospital Council
Mid-Atlantic Emergency Medical Services Council, Inc. (Atlantic EMS Council, Inc.)

[7] The field study report should indicate the degree of probable interference to all existing co-channel stations within 120 km. (75 mi.) of the proposed base station. In PR Docket No. 83–737, the Commission is considering whether it should continue to accept field studies in lieu of formal frequency coordination and, if the Commission continues to accept field studies, whether specific standards should be set to govern the quality of such studies. See § 90.175 of the Commission's rules and *Notice of Inquiry* in PR Docket 83–737 (FCC 83–329), released July 25, 1983, 48 FR 35148 (August 3, 1983).

[8] *Notice of Inquiry, supra.*

Motorola, Inc.
National Association of Business and Educational Radio, Inc. (NABER)
National Association of State Emergency Medical Services Directors
National Highway Traffic Safety Administration, Department of Transportation
New Jersey Department of Health
New Jersey Division of State Police
New Jersey Hospital Association
New Mexico Health Services Division
North Carolina Department of Human Resources
Northern California Emergency Medical Care Council
Northwest Connecticut Public Safety Communications Center, Inc.
Northwest Piedmont Council of Governments
Oregon Department of Human Resources
Mr. Herman Pfeiffer
Rhode Island Department of Health
South Central Connecticut Regional Emergency Medical Communications System
South Jersey Mobile Intensive Care Unit Consortium
Southern Emergency Medical Services, Inc.
Tennessee Department of Public Health
Texas Department of Health
University of Medicine and Dentistry of New Jersey
Utah Department of Health
Virgin Islands Department of Health
Virginia Department of Health
Washington (State) Department of Social and Health Services
West Jersey Health System
West Virginia Department of Health
Wyoming Hospital Association

Reply Comments

Associated Public-Safety Communications Officers, Inc. (APCO)
Atlantic Emergency Medical Services Council, Inc.
Indiana Emergency Medical Services Commission

Appendix B

PART 90—[AMENDED]

Chapter I, Part 90 of Title 47 of the Code of Federal Regulations is hereby amended as follows:

Section 90.53 is amended by correcting the following frequencies in the frequency table in paragraph (a), revising paragraph (b)(15) (iii) and (vi), by removing and reserving paragraph (b)(15)(iv), by revising paragraph (b)(16), and by redesignating the last subparagraph of (b), which is currently designated as subparagraph (31) as new subparagraph (32) to read as follows:

§ 90.53 Frequencies available.

(a) * * *

SPECIAL EMERGENCY RADIO SERVICE FREQUENCY TABLE

Frequency or band	Class of station(s)	Limitations
*	* * *	*
155.400	do	8, 9, 25, 29
157.450	Base	4, 11
163.250	do	4
450 to 470	Fixed	12
453.025	Base	26
*	* * *	*
460.525	Base or mobile	16, 17
460.550	do	16, 17
462.950	do	16, 18, 25
462.975	do	16, 18, 25
463.000	do	14, 15, 19
*	* * *	*
929–930	Base only	32
*	* * *	*

(b) * * *

(15) * * *

(iii) Applicants proposing to install base or control stations which are capable of transmitting/receiving on less than four (three, if bio-medical telemetry operation will not be employed in the system) of these eight channel pairs must submit with their application the results of a field study demonstrating that the frequency or frequencies applied for will cause the least amount of interference, among the eight channel pairs, to existing systems operating on the MED channels.

(iv) [reserved]

* * * * *

(vi) Stations located in areas above line A, as defined in § 90.7, will be required to meet multi-channel equipment requirements only for those frequencies up to the number specified in subparagraph (b)(15)(ii) which have been assigned and coordinated with Canada in accordance with the applicable U.S.-Canada agreement.

(16) This frequency is primarily authorized for use under § 90.35(a) in the dispatch of medical care vehicles and personnel for the rendition or delivery of medical services. This frequency may also be assigned for intra-system and inter-system mutual assistance purposes. For uniformity in usage, the frequency pairs 462.950/467.950 MHz and 462.975/467.975 MHz may be referred to as MED–9 and MED–10, respectively.

* * * * *

(32) Frequencies in this band are available only for one-way paging operations in accordance with § 90.494.

* * * * *

FR Doc. 84–3214 Filed 2–6–84; 8:45 am]
BILLING CODE 6712–01–M

NATIONAL TRANSPORTATION SAFETY BOARD

49 CFR Part 801

Public Availability of Information, Appendix—Fee Schedule

AGENCY: National Transportation Safety Board.

ACTION: Final rule.

SUMMARY: This revision sets forth price changes for obtaining copies of factual investigative records and other documents available from the National Transportation Safety Board (Board) under the Freedom of Information Act. Certain changes in the fee schedule are now required to reflect the price terms of the new contract with the commercial reproducer.

EFFECTIVE DATE: February 7, 1984.

FOR FURTHER INFORMATION CONTACT: John M. Stuhldreher, General Counsel, National Transportation Safety Board, Washington, D.C. 20594 (202–382–6540).

SUPPLEMENTARY INFORMATION: Pursuant to subsection (a)(4)(A) of the Freedom of Information Act (Pub. L. 93–502, November 21, 1974, amending 5 U.S.C. 552), fee schedules for document search and duplication must be published in the **Federal Register**. In 1975, after notice, the Board issued its regulations implementing this subsection. In an amended Appendix to 49 CFR Part 801, which was published at 46 FR 48206, October 1, 1981, a price list for documents published by or available from the Board was established, based on the provisions of the then current contract between the Board and the commercial reproducer. The Board has entered into a new contract which necessitates modification of the Fee Schedule to reflect additional reproduction services, and price changes for reproduction services and photographic prints. The amended Fee Schedule also contains additional Board publications that are now available on a subscription basis through the National Technical Information Service. Finally, the Government Printing Office no longer offers for sale Volumes I and II of National Transportation Safety Board Decisions, and, therefore, the reference to these Volumes has been deleted from the Fee Schedule.

Pursuant to 5 U.S.C. 553, the Board believes that notice of proposed rulemaking is unnecessary and impracticable since the changes in reproduction services and duplication fees were subject to and are the result of a formally advertised procurement and the discontinuation of the sale of

Volumes I and II Board decisions was dictated by the Government Printing Office.

Under the criteria of the Regulatory Flexibility Act, this rule will impose no regulatory burden on any entity. The rule merely apprises interested persons of the established fees for obtaining certain Board publications and copies of Board records.

List of Subjects in 49 CFR Part 801

Freedom of information.

PART 801—PUBLIC AVAILABILITY OF INFORMATION

Accordingly, 49 CFR Part 801 is hereby amended by revising the Appendix—Fee Schedule as set forth below.

Appendix—Fee Schedule

1. Fees (pursuant to 31 U.S.C. 483a). Upon request, services relating to public documents are available at the following fees:

A. Publications

(1) The response to public requests for the following NTSB publications are handled by the National Technical Information Service (NTIS). The following publications are available through single copies or annual subscriptions and may be purchased in paper copy or 98 page per film microfiche (fees are subject to change by NTIS):

	Single copies	Calendar year subscription	Microfiche
PB84-910400 Aircraft Accident Reports	$5.00	$55.00	(1)
PB84-916200 Highway Accident Reports	(1)	50.00	(1)
PB84-916300 Railroad Accident Reports	(1)	55.00	(1)
PB84-916400 Marine Accident Reports	(1)	60.00	(1)
PB84-916500 Pipeline Accident Reports	(1)	45.00	(1)
PB84-916900 Aviation Accident Briefs	(1)	160.00	(1)
PB84-917100 Highway Accident Briefs	12.50	(2)	(1)
PB84-917200 Railroad Accident Briefs	12.50	(2)	(1)
PB84-917300 Marine Accident Briefs	10.00	(2)	(1)
PB84-917400 Pipeline Accident Briefs	10.00	(2)	(1)
PB84-916600 Transportation Safety Recommendations	(1)	25.00	(1)
PB84-916700 Transportation Invest. Decisions and Orders and Board Opinions & Orders	(1)	300.00	(1)
PB84-917000 Transportation Special Reports [3]	(1)	50.00	(1)

[1] Variable prices based on number of pages; contact NTIS for price quote.
[2] Highway, Railroad, Marine and Pipeline brief subscriptions are available by standing order only and require an NTIS deposit account (they are issued at irregular intervals, and charges at single copy rates will be made only as reports are distributed).
[3] Transportation Special Reports [this category includes all forms of Safety Studies (formerly titled Special Studies, and Safety Effectiveness Evaluations), Special Investigation Reports, and Railroad/Highway Accident Reports].

(2) Send publication orders for the above documents to the National Technical Information Service, 5285 Port Royal Road, Springfield, Virginia 22161, identifying each subscription by the NTSB Report Number or the NTIS accession number. Telephone (703) 487–4630 (annual subscriptions) or (703) 487–4650 (single copies or microfiche). The NTSB Report Number and the NTIS accession number can be obtained from the NTSB Public Inquiries Section.

B. Access to transportation accident files (all modes). All files dated prior to January 1, 1978, are in hard copy form and are maintained in the Federal Records Center. Files dated January 1, 1978, to present are maintained in microfiche at the NTSB headquarters. All documents in the Board's public files may be examined, without charge, in the Board's public reference room, located in the Public Inquiries Section, Room 805F, 800 Independence Avenue, SW., Washington, D.C., telephone (202) 382–6735. A self-service duplicator in the reference room is available for use by the public at a nominal cost. Usually, two weeks' time is required to service a request for reproduction. Filling any request for reproduction of a file that must be retrieved from the Federal Records Center will require two additional weeks.

(1) Availability of accident files. All transportation mode accident files are retained in accordance with the following schedule:

a. Air carrier accident files and all public hearing files are retained for a period of fifteen (15) years and then destroyed.

b. All other transportation accident files are retained for a period of seven (7) years and then destroyed.

(2) Reproduction of accident files. Reproduction of accident files (statements, photographs, hearing transcripts, and other material contained in the Board's accident investigation files) is provided by commercial contractor. Reproduction of printed matter and photographs are made from the best copy available. Requests must be forwarded to the Public Inquiries Section, National Transportation Safety Board, Washington, D.C. 20594. The contractor may bill and/or require full payment before duplicating the requested documents. Fees are subject to change depending upon the terms of the Board's annual contract.

Current fees are:

a. Microfiche Duplicate, $1.65
b. Microfiche Blowback, .11
c. Aperture Card Blowback, 1.40
d. Photographs (from aperture card):
  8"x10" B&W Glossy Print, 1.65
  8"x10" Color Prints, 2.75
  5"x7" Color Prints, 2.47
  3½"x5" Color Prints, 2.47
e. Hardcopy Reproduction:
  8½"x11" .14
  8½"x14" .10
  10"x14" .05
  Oversized Pages (Larger than 10"x14"), .03/sq. in.
f. Photographs (from prints):
  8"x10" B&W Glossy Prints, 1.65
  8"x10" Color Prints, 2.75
  5"x7" Color Prints, 2.47
  3½"x5" Color Prints, 2.47
  2"x2" Color Slides, 2.47
g. Minimum Order Complete File, 1.00
h. Preliminary Report (only), 1.35
i. Probable Cause (only), 1.35

C. Request for other Board information. Requests for any other Board information such as files on safety recommendations, safety studies, Board orders, Board opinions and orders, and initial decisions are available at a cost of 14 cents per page(s) ($1.00 minimum charge). These services are provided by a public contractor who may pre-bill or require full payment before duplicating the requested documents. Requests must be forwarded to the Public Inquiries Section, National Transportation Safety Board, Washington, D.C. 20594.

D. Reproduction services through the commercial contractor are handled as follows:

Step 1: Requestor places written or telephone order with the Board's Public Inquiries Section for desired documents.

Step 2: The Public Inquiries Section identifies the documents and forwards the request to the contractor.

Step 3: The contractor provides the requestor with an invoice showing the actual costs for the service requested plus postage.

Step 4: Requestor returns a copy of the contractor's invoice with full payment enclosed. Requestor has the option of opening a charge account with the contractor, and contractor will accept major credit cards. (Contractor must respond to request within five working days after receipt of payment.)

Step 5: Contractor reproduces documents and mails them directly to the requestor.

E. Expedited service. A $2.25 surcharge will be made for expedited service which will be provided within 2 working days commencing when the contractor receives advance payment or other arrangements have been made with the contractor.

F. A fee of $4.00 will be charged for certification of documents under the Board's seal.

G. Computer tapes and services for aviation accidents. The duplication of computer tapes (or a portion thereof) will be made on requestor supplied magnetic tape for a fee of $40.00. The requestor must provide a 2,400-foot magnetic tape certified to at least 1,600 bits per inch. Computer tape requests should be addressed to the Public Inquiries Section, National Transportation Safety Board, Washington, D.C. 20594.

H. The basic fees set forth provide for ordinary first-class postage prepaid. If registered, certified, air, or special delivery mail is requested, postal fees therefor will be added to the basic fee. Also, if special handling or packaging is required, the cost will be added to the basic fee.

2. Services available free of charge.

A. The following documents are available without commercial reproduction cost until limited supplies are exhausted:

(1) Press releases,
(2) Safety Board regulations (Chapter VIII of Title 49, Code of Federal Regulations),
(3) Indexes to initial decisions, Board orders, opinion and orders, and staff manuals and instructions,
(4) Safety recommendations, and
(5) NTSB Annual Report.

B. NTSB News Digest. The News Digest describes NTSB activities and summarizes certain publications. The News Digest is free, and anyone who is interested in being added to this mailing list should contact the Public Inquiries Section, National Transportation Safety Board, Washington, D.C. 20594.

3. Documents search fee—The Board has determined that it is in the public interest to eliminate fees for the first hour of search time. For all time expended in locating documents beyond the initial hour, the fee is $5.00 per hour.

4. Publication, reproduction, and search fees are waived for qualifying foreign countries, international organizations, nonprofit public safety entities, State and Federal transportation agencies, and colleges and universities, after approval by the Director, Bureau of Administration. In addition, fees may be waived or reduced for other requestors not in any of the foregoing categories, when it is determined by the Director, Bureau of Administration that a waiver is appropriate and would contribute to the Board's programs.

(5 U.S.C. 552, 31 U.S.C. 483a, and 49 U.S.C. 1901 et seq.)

Signed at Washington, D.C. on this 31st day of January 1984.

Jim Burnett,

Chairman.

[FR Doc. 84-3284 Filed 2-6-84; 8:45 am]

BILLING CODE 4910-58-M

Proposed Rules

Federal Register
Vol. 49, No. 26
Tuesday, February 7, 1984

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

NUCLEAR REGULATORY COMMISSION

10 CFR Part 50

Analysis of Potential Pressurized Thermal Shock Events

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is proposing to amend its regulations for light water nuclear power plants to: (1) Establish a screening criterion related to the fracture resistance of pressurized water reactor (PWR) vessels during pressurized thermal shock (PTS) events; (2) require analyses and schedule for implementation of flux reduction programs that are reasonably practicable to avoid exceeding the screening criterion; and (3) require detailed safety evaluations to be performed before plant operation beyond the screening criterion will be considered. The proposed changes are intended, if adopted, to produce an improvement in the safety of PWR vessels by identifying those corrective actions that may be required to prevent or mitigate potential PTS events.

DATE: Comment period expires May 7, 1984. Comments received after this date will be considered if it is practical to do so, but assurance of consideration cannot be given except as to comments received on or before this date.

ADDRESSES: Send comments to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Services Branch. Copies of comments received may be examined at the Commission's Public Document Room at 1717 H Street NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Roy Woods, Division of Safety Technology, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Telephone: (301) 492–4714.

SUPPLEMENTARY INFORMATION:

Transients and accidents can be postulated to occur in pressurized water reactors (PWRs) that result in severe overcooling (thermal shock) of the reactor vessel, concurrent with high pressure. In these pressurized thermal shock (PTS) events, rapid cooling of the reactor vessel internal surface causes a temperature distribution across the reactor vessel wall. This temperature distribution produces a thermal stress on the reactor vessel with a maximum tensile stress at the inside surface of the vessel. The magnitude of the thermal stress varies with the rate of change of temperature, and with time during the transient, and its effect is compounded by coincident pressure stresses.

Severe reactor system overcooling events with pressurization of the reactor vessel (PTS events) are postulated to result from a variety of causes. These include system transients, some of which are initiated by instrumentation and control system malfunctions (including stuck open values in either the primary or secondary system), and postulated accidents such as small break loss-of-coolant accidents, main steam line breaks, and feedwater line breaks.

As long as the fracture resistance of the reactor vessel material is relatively high, these events are not expected to cause vessel failure. However, the fracture resistance of the reactor vessel material decreases with the intergrated exposure to fast neutrons during the life of a nuclear power plant. The rate of decrease is dependent on the chemical composition of the vessel wall and weld materials. If the fracture resistance of the vessel has been reduced sufficiently by neutron irradiation, severe PTS events could cause small flaws that might exist near the inner surface to propagate into the vessel wall. The assumed initial flaw might be enlarged into a crack through the vessel wall of sufficient extent to threaten vessel integrity and, therefore, core cooling capability.

The toughness state of reactor vessel materials can be characterized by a "reference temperature for nil ductility transition" (RT_{NDT}). At normal operating temperatures, vessel materials are quite tough and resistant to crack propagation. As the temperature decreases, the metal gradually loses toughness over a temperature range of about 100°F. RT_{NDT} is a measure of where this toughness transition occurs. Its value depends on the specific material in the vessel wall and the integrated neutron irradiation received by the vessel. These effects are determined by destructive tests of material specimens. Correlations, based on tests of irradiated specimens, have been developed to calculate the shift in RT_{NDT} as a function of neutron fluence for various material compositions. The value of RT_{NDT} at a given time in a vessel's life is used in fracture mechanics calculations to determine whether assumed pre-existing flaws would propagate as cracks when the vessel is subjected to overcooling events.

The PTS issue is a concern only for PWR's. Boiling water reactors (BWR's) operate with a large portion of water inventory inside the pressure vessel at saturated conditions. Any sudden cooling will condense steam and result in a pressure decrease. Simultaneous conditions of high pressure and low temperature are considered to be improbable. Most BWR's also receive lower integrated fast neutron flux at the vessel inner wall, resulting in smaller RT_{NDT} shifts. BWRs are designed with a thinner-walled vessel, resulting in lower thermal stress intensities for postulated cracks.

On the basis of generic studies of severe overcooling events that have occurred, calculations of postulated PTS events that could occur, and vessel integrity calculations, the NRC staff has concluded that a value of RT_{NDT}[1] can be selected so that the risk from PTS events for reactor vessels with smaller RT_{NDT} values is acceptable. (The risk for vessles with higher values of RT_{NDT} might also be shown to be acceptable, but the demonstration would require detailed plant-specific evaluations and possibly modifications to existing equipment, systems, and procedures.) The staff recommended that a value for RT_{NDT} be established as a screening criterion that would determine the need

[1] RT_{NDT} decreases with depth from the inside surface of an irradiated vessel's wall. This decrease is accounted for in vessel integrity analyses. As used in this document and in the screening criteria, RT_{NDT} is the peak value at the inside surface of the vessel.

for, and timing of, further plant-specific evaluations.

A detailed report presenting the bases for the staff's conclusions and recommendations was submitted to the Commission on November 23, 1982 (SECY–82–465).[2] After public meetings on December 1 and December 9, 1982, the Commission directed the staff to develop a Notice of Proposed Rulemaking that would: (1) Establish an RT_{NDT} screening criterion; (2) require licensees to submit present and projected vaues of RT_{NDT}; (3) require early analysis and implementation of such flux reduction programs as are reasonably practicable to avoid reaching the screening criterion; and (4) require plant-specific PTS safety analyses before a plant is within 3 calendar years of reaching the screening criterion, including analyses of alternatives to minimize the PTS problem.

The staff approach to selection of the RT_{NDT} screening criterion is described in detail in SECY–82–465. In summary, the approach was to use a deterministic fracture mechanics algorithm to calculate the value of RT_{NDT} for which assumed pre-existing flaws in the reactor vessel would be predicted to initiate (grow deeper into the vessel wall) assuming occurrence of one of the severe overcooling events that have been experienced in U.S. PWR's. These "critical" vales of RT_{NDT} were related to the expected frequency of the experienced severe overcooling events based on a limited data base, consisting of eight events in 350 reactor-years.

In addition, the staff considered a wide spectrum of postulated overcooling events that could occur. These events were grouped into categories, estimates were made of their expected frequency, and stylized characterizations of the temperature and pressure time-histories were developed for each event category. The estimates presented in detail in SECY–82–465[1] are based on a generic study of Westinghouse-designed PWR systems, and are considered also to be generally representative of PWR systems, designed by Combustion Engineering. Because there are some significant differences between those designs and PWRs designed by Babcock & Wilcox that affect the characteristics and estimated frequencies of PTS events, information was also developed for the Babcock & Wilcox designs. This information is described in detail in Enclosure C to SECY–83–288 (July 15, 1983)[2]. A probabilistic treatment of the fracture mechanics calculations was developed to gain insight into the sensitivity of the fracture mechanics calculations to uncertainties in the various input parameters. By combining the estimated frequencies of postulated events with the probabilistic fracture mechanics results, some estimates of the probability of vessel failure resulting from PTS events were developed. These estimates were used by the staff to better understand the residual risks inherent in the use of the screening criterion approach for further evaluations and resolution of the PTS issue.

On the basis of these studies, the NRC staff concluded that PWR reactor pressure vessels with conservatively calculated values of RT_{NDT} less than 270°F for plate material and axial welds, and less than 300°F for circumferential welds, present an acceptably low risk of vessel failure from PTS events. These values were chosen as the screening criterion in the proposed new § 50.61 of 10 CFR Part 50. The conservative method chosen by the staff for the calculation of the RT_{NDT} for the purpose of comparison with the screening criterion is presented in paragraph (b)(2) of the proposed § 50.61. The basis for selection of this method are presented in Appendix E of Enclosure A to SECY 82–465[2]. Since the acceptability of the screening criterion was based on generic studies, and since the purpose of the criterion was based on generic studies, and since the purpose of the criterion is to provide a defined and consistent threshold for initiating the submittal of plant-specific analyses, the proposed rule requires each licensee to assess the current and projected values of RT_{NDT} using the methodology described in paragraph (b)(2) of the rule. The Commission recognizes that alternative methods of determining RT_{NDT} may be justified for use in plant-specific evaluations of PTS events in the future.

Applicants for operating licenses would also be required to provide projected values of RT_{NDT} as part of the final safety analysis report as provided in this proposed amendment to paragraph (b) of § 50.34, "Contents of Applications: Technical Information."

On the basis of information currently available, it appears that the RT_{NDT} of reactor vessels for some plants will remain below the screening criterion throughout the service life. For many other reactor vessels, fuel management programs could be instituted that would result in core configurations reducing neutron flux at critical locations, thereby slowing the increase of RT_{NDT} so that the screening criterion would not be exceeded. The Commission recognizes that further refinements in materials information, analyses of PTS event frequencies and scenarios, and plant-specific analyses of alternative measures to reduce PTS risk may provide a basis for the acceptability of continued operation with RT_{NDT} values in excess of the screening criteron. The preparation and review of such analyses and determination of their acceptability will require substantial time. However, the effectiveness of flux reduction programs depends on early implementation. The Commission has determined that reasonably practicable flux reduction programs should be implemented promptly to maintain reactor vessel RT_{NDT} below the screening criterion, without awaiting possible plant-specific determinations that higher values of RT_{NDT} are acceptable. Therefore, the proposed rule requires licensees with pressure vessels for which the reference temperature is projected to exceed the screening criterion before the expiration date of the operating license to submit an analysis of such flux reduction programs as are reasonably practicable to avoid exceeding the screening criterion, and a schedule for implementation of such programs. The NRC staff will review these submittals to confirm that reasonably practicable programs have been, or will be, implemented. The Commission expects that each licensee's analysis will include consideration of the possibility that, in the future, the licensee may wish to seek approval of a license amendment to extend the expiration date of the license. Since consideration of protection against PTS events would be a factor in the Commission's decision on such a request, licensees should consider flux reduction programs that would prevent reaching the screening criterion by the end of the anticipated service life of the facility. At the time of this submittal, or at a later time, licensees may submit additional plant-specific analyses to justify (by new information, improved analyses or evaluations of alternative measures) operation with less restrictive flux reduction programs in the future. It is the Commission's intent that the effectiveness of flux reduction programs that are needed to avoid, or to delay, reaching the screening criterion, and that are reasonably practicable, should not be reduced by delay in implementation, pending review of these analyses. Accordingly, the Commission also directed the staff to meet with licensees of plants for which a flux reduction factor of greater than two is required to avoid exceeding the

[2] Copies of this document are available for public inspection and copying at the Public Document Room at 1717 H Street, NW, Washington, DC 20555.

screening criterion before end of licensed plant life. These meetings have already been held for the purpose of determining what plans these licensees have to implement flux reduction options before the PTS rule is in effect, and to encourage prompt implementation of reasonably practicable options. Results of those meetings were reported on February 25, 1983 in SECY-83-79 [1] and an October 28, 1983 in SECY-83-443.[2]

When a licensee determines, and the Commission agrees, that reasonably practicable flux reduction measures have been or will be implemented, and that the vessel RT_{NDT} is still projected to exceed the screening criterion before expiration of the operating license, then the proposed rule requires the submittal of a plant-specific safety analysis. The analysis would include an assessment of the vessel fracture mechanics properties for the remainder of vessel life, including effects on PTS risk of possible changes in fuel loading patterns affecting the neutron flux at the vessel wall.

The plant-specific PTS analysis would include a quantitative assessment of the PTS risk due to operation of the particular plant. It would identify potential event sequences that contribute significantly to PTS risk. It would consider both the expected frequency of these event sequences and the conditional probability of vessel failure and subsequent core melt, given the occurrence of these event sequences, and identify what, if any, modifications to equipment, systems and operation are necessary to prevent potential failure of the reactor vessel as a result of postulated PTS events, if continued operation beyond the screening criterion is allowed. Modifications to equipment or systems are preferable to reliance on procedure modifications. Finally, the analyses would estimate the effects of recommended corrective actions on PTS risk and would justify, partly on the basis of risk analysis, operation at RT_{NDT} values above the screening criterion after completion of corrective or mitigative actions.

The plant-specific analyses should be submitted substantially in advance of the projected time at which the screening criterion would be exceeded, to allow time for Commission review of the analyses and licensee implementation of any proposed modifications well in advance of reaching the screening criterion. It is the Commission's intent that the staff perform a timely review of these analyses so that decisions regarding any necessary corrective actions are made with allowance for sufficient time to implement corrective actions before the screening criterion is exceeded. The staff is developing additional guidance on the content of a plant-specific analysis and on the acceptance criteria the staff will use in reviewing the analysis. The staff expects this guidance to be available well before any licensee would be required to start such an analysis (based on estimated rates of RT_{NDT} increase and recent information regarding the efficacy of flux reduction techniques planned at several plants with high RT_{NDT} values). No plant-specific analyses, which might be required when this rule is finalized, should be started before issuance of this additional staff guidance.

The proposed rule would require submittal of the plant-specific analysis at least three years before the screening criterion would be exceeded. Earlier submittal would allow more time for implementation of any identified corrective actions. The Commission would like to receive comments on whether the rule should require plant-specific PTS analyses within five calendar years of reaching the screening criterion.

Paragraph (b)(6) of the proposed § 50.61 provides that if the Commission concludes that the plant-specific analysis, including any plant modifications proposed therein, does not provide a basis for approval of operation at values of RT_{NDT} in excess of the PTS screening criterion for a given facility, then that facility may not be operated beyond the criterion unless the licensee requests and receives Commission approval based on additional modifications that would reduce the potential for failure of the reactor vessel due to PTS events.

The Commission would like to receive public comment on the merits of eliminating the thermal annealing requirements of 10 CFR Part 50, Appendix G (Fracture Toughness Requirements), paragraph IV.B. Nothing undermines respect for the Commission's rules so much as promulgation of requirements which cannot be met and from which licensees are subsequently exempted. The Commission is concerned that that is what it is dealing with in this case. Thermal annealing has never been attempted on a commercial reactor, let alone shown to be practical. The best that can be done at this point is to give licensees, so long as they can demonstrate the proper safety margins, the latitude to select the most practical method for accomplishing the desired results, whether that be by thermal annealing, more restrictive operating curves, or early decommissioning.

Commissioners Asselstine and Gilinsky add that: "With regard to the acceptance criteria and PTS analyses, a staff contractor report ('PNL Technical Review of Pressurized Thermal Shock Issues' NUREG/CR-2837, Supplement 1, May 1983) [3] states: 'It seems evident that the unknowns are so widespread that it would be unwise to reduce specific conservatisms until the unknowns are further resolved.' That report tabulates numerous conservative factors, unconservative factors and 'unknown factors' in the PTS analyses. We believe that such factors as those identified in that contractor report need to be considered appropriately in the acceptance criteria being developed by the staff and that a suitable margin of safety be retained throughout the service life of the facility."

Commissioner Roberts believes that the role should also allow licensees to provide for staff consideration, analysis of alternative measures to flux reduction which will demonstrate that timely and adequate action will be taken to protect the reactor vessel from pressurized thermal shock events.

Regulatory Flexibility Act Certification

In accordance with the Regulatory Flexibility Act of 1980, 5 U.S.C. 605(b), the Commission hereby certifies that this proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. This proposed rule specifies minimum fracture toughness properties of irradiated pressure vessel materials to ameliorate the effects of PTS events on nuclear facilities licensed under the provisions of 10 CFR 50.21(b) and 10 CFR 50.22. The companies that own these facilities do not fall within the scope of "small entities" as set forth in the Regulatory Flexibility Act or the small business size standards set forth in regulations issued by the Small Business Administration in 13 CFR Part 121.

Paperwork Reduction Act Statement

This proposed rule amends information collection requirements that are subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.). This rule has been submitted to the Office of Management and Budget for review and

[3] Copies of this document are available for public inspection and copying at the Public Document Room at 1717 H Street, NW, Washington, DC 20555. Copies may also be purchased from the National Technical Information Service, Springfield, VA 22161.

approval of the paperwork requirements.

Environmental Impact Statement

The promulgation of this proposed rule would not result in any activity that significantly affects the environment. Accordingly, the Commission has determined that under the National Environmental Policy Act, and the criteria of 10 CFR Part 51, neither an environmental impact statement nor an environmental impact appraisal to support a negative declaration for the proposed rule is required.

Regulatory Analysis

The Commission has prepared a regulatory analysis for this regulation. The analysis examines the costs and benefits of the rule as considered by the Commission. A copy of the regulatory analysis is available for inspection and copying for a fee at the NRC Public Document Room, 1717 H Street, NW, Washington, DC 20555. Single copies of the analysis may be obtained from Mr. Karl Kniel, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Telephone (301) 492–7359.

List of Subjects in 10 CFR Part 50

Antitrust, Classified information, Fire prevention, Incorporation by references, Intergovernmental relations, Nuclear power plants and reactors, Penalty, Radiation protection, Reactor siting criteria, Reporting and recordkeeping requirements.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and 5 U.S.C. 553, the NRC is proposing to adopt the following amendments to 10 CFR Part 50.

PART 50—DOMESTIC LICENSING OF PRODUCTION AND UTILIZATION FACILITIES

1. The authority citation for Part 50 continues to read as follows:

Authority: Secs. 103, 104, 161, 182, 183, 186, 189, 68 Stat. 936, 937, 948, 953, 954, 955, 956, as amended, sec. 234, 83 Stat. 1244, as amended (42 U.S.C. 2133, 2134, 2201, 2232, 2233, 2236, 2239, 2282); secs. 201, 202, 206, 88 Stat. 1242, 1244, 1246, as amended (42 U.S.C. 5841, 5842, 5846), unless otherwise noted.

Section 50.7 also issued under Pub. L. 95–601, sec. 10, 92 Stat. 2951 (42 U.S.C. 5851). Section 50.57(d), 50.58, 50.91, and 50.92 also issued under Pub. L. 97–415, 96 Stat. 2071, 2073 (42 U.S.C. 2133, 2239). Section 50.78 also issued under sec. 122, 68 Stat. 939 (42 U.S.C. 2152). Sections 50.80–50.81 also issued under sec. 184, 68 Stat. 954, as amended (42 U.S.C. 2234). Sections 50.100–50.102 also issued under sec. 186, 68 Stat. 955 (42 U.S.C. 2236).

For the purposes of sec. 223, 68 Stat. 958, as amended (42 U.S.C. 2273), §§ 50.10 (a), (b), and (c), 50.44, 50.46, 50.48, 50.54, and 50.80(a) are issued under sec. 161b, 68 Stat. 948, as amended (42 U.S.C. 2201(b)); §§ 50.10 (b) and (c) and 50.54 are issued under sec. 161i, 68 Stat. 949, as amended (42 U.S.C. 2201(i)); and §§ 50.55(e), 50.59(b), 50.70, 50.71, 50.72, 50.73, and 50.78 are issued under sec. 161o, 68 Stat. 950, as amended (42 U.S.C. 2201(o)).

2. Section § 50.34(b) is amended by adding a new paragraph (9) to read as follows:

§ 50.34 Contents of applications; technical information.

* * * * *

(b) * * *

(9) A description of protection provided against pressurized thermal shock events, including projected values of the reference temperature for reactor vessel beltline materials as defined in paragraphs (b)(1) and (b)(2) of § 50.61 of this part.

* * * * *

3. A new § 50.61 is added to read as follows:

§ 50.61 Fracture toughness requirements for protection against pressurized thermal shock events.

(a) *Definitions.* For the purposes of this section:

"ASME Code" means the American Society of Mechanical Engineers, Boiler and Pressure Vessel Code, Section III, "Rules for the Construction of Nuclear Power Plant Components," edition and addenda as specified by § 50.55a, Codes and Standards.

"Pressurized Thermal Shock Event" means an event or transient in pressurized water reactors (PWR's) causing severe overcooling (thermal shock) concurrent with or followed by significant pressure in the reactor vessel.

"Reactor Vessel Beltline" means the region of the reactor vessel (shell material including welds, heat affected zones, and plates or forgings) that directly surrounds the effective height of the active core and adjacent regions of the reactor vessel that are predicted to experience sufficient neutron radiation damage to be considered in the selection of the most limiting material with regard to radiation damage.

"RT_{NDT}" means the reference temperature for a reactor vessel as defined in the ASME Code, Paragraph NB–2331, adjusted for the effects of neutron radiation for the period of service in question, calculated by the method given in paragraph (b)(2) of this section.

(b) *Requirements.* (1) For each pressurized water nuclear power reactor for which an operating license has been issued, the licensee shall submit projected values of RT_{NDT} (at the inner vessel surface) of reactor vessel beltline materials giving values from the time of submittal to the expiration date of the operating license. The assessment must specify the bases for the projection, including the assumptions regarding core loading patterns. This assessment must be submitted by *(6 months after the effective date of this section)*, and must be updated whenever changes in core loadings, surveillance measurements, or other information indicate a significant change in projected values.

(2) A pressurized thermal shock (PTS) screening criterion is hereby established of 270° F for plates, forgings, and axial weld materials, or 300° F for circumferential weld materials. For the purpose of comparison with this criterion, the value of RT_{NDT} for the reactor vessel must be calculated as follows: The calculation must be made for each weld and plate, or forging, in the reactor vessel beltline. For each material, RT_{NDT} is the lower of the results given by Equations 1 and 2.

Equation 1:

$$RT_{NDT} = I + M + [-10 + 470\,Cu + 350\,Cu\,Ni]\,f^{0.270}$$

Equation 2:

$$RT_{NDT} = I + M = 283\,f^{0.194}$$

"I" means the initial reference temperature of the unirradiated material measured as defined in the ASME Code, Paragraph NB–2331. If a measured value is not available, the following generic mean values must be used: 0° F for welds made with Linde 80 flux, and −56° F for welds made with Linde 0091, 1092 and 124 and ARCOS B–5 weld fluxes.

"M" means the margin to be added. In Equation 1, M=48° F if a measured value of I was used, and M=59° F if the generic mean value of I was used. In Equation 2, M=0° F if a measured value of I was used, and M=34° F if the generic mean value of I was used.

"Cu" and "Ni" mean the weight percent of copper and nickel in the material. The source of these values must be reported. The relationship of the material on which any measurements were made to the actual material in the pressure vessel must be described.

"f" means the maximum neutron fluence, in units of 10^{19} n/cm^2 (E greater than or equal to 1MeV), at the clad-base-metal interface on the inside surface of the vessel at the location where the material in question receives the highest fluence for the period of service in question.

(3) For each pressurized water nuclear power reactor for which the value of RT_{NDT} is projected to exceed the PTS screening criterion before the expiration date of the operating license, the licensee shall submit by *(9 months after the effective date of this section)* an analysis and schedule for implementation of such flux reduction programs as are reasonably practicable to avoid exceeding the PTS screening criterion.

(4) For each pressurized water nuclear power reactor for which the analysis required by paragraph (b)(3) of this section indicates that no reasonably practicable flux reduction program will prevent the value of RT_{NDT} from exceeding the PTS screening criterion before the expiration date of the operating license, the licensee shall submit a safety analysis to determine what, if any, modifications to equipment, systems, and operation are necessary to prevent potential failure of the reactor vessel as a result of postulated PTS events if continued operation beyond the screening criterion is allowed. This analysis must be submitted at least 3 years before the value of RT_{NDT} is projected to exceed the PTS screening criterion or by *(1 year after the effective date of this section)*, whichever is later.

(5) After consideration of the licensee's analyses (including effects of proposed corrective actions, if any) submitted in accordance with paragraphs (b)(3) and (b)(4) of this section, the Commission may, on a case-by-case basis, approve operation of the facility at values of RT_{NDT} in excess of the PTS screening criterion. The Commission will consider factors significantly affecting the potential for failure of the reactor vessel in reaching a decision.

(6) If the Commission concludes, pursuant to paragraph (b)(5) of this section, that operation of the facility at values of RT_{NDT} in excess of the PTS screening criterion cannot be approved on the basis of the licensee's analyses submitted in accordance with paragraphs (b)(3) and (b)(4) of this section, the licensee must request and receive Commission approval prior to any operation beyond the criterion. The request must be based upon modifications to equipment, systems, and operation of the facility in addition to those prevously proposed in the submitted analyses that would reduce the potential for failure of the reactor vessel due to PTS events.

Dated at Washington, DC, this 1st day of February 1984.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 84-3297 Filed 2-6-84; 8:45 am]

BILLING CODE 7590-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 84-ASO-4]

Proposed Designation of Transition Area, Gulf Shores, Alabama

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to designate the Gulf Shores, Alabama, transition area to accommodate Instrument Flight Rule (IFR) operations at Jack Edwards Airport. This action will lower the base of controlled airspace from 1,200 to 700 feet above the surface in the vicinity of the airport. An instrument approach procedure, based on the Pensacola Airport Surveillance Radar system, is being developed to serve the airport and the controlled airspace is required for protection of IFR aeronautical operations.

DATES: Comments must be received on or before: March 15, 1984.

ADDRESS: Send comments on the proposal in triplicate to: Federal Aviation Administration, Attn: Manager, Airspace and Procedures Branch, ASO-530, P.O.Box 20636, Atlanta, Georgia 30320.

The official docket may be examined in the Office of the Regional Counsel, Room 652, 3400 Norman Berry Drive, East Point, Georgia 30344, telephone: (404) 763-7646.

FOR FURTHER INFORMATION CONTACT: Donald Ross, Airspace and Procedures Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone: (404) 763-7646.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 84-ASO-4." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Manager, Airspace and Procedures Branch (ASO-530), Air Traffic Division, P.O. Box 20636, Atlanta, Georgia 30320. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2 which describes the application procedure.

The Proposal

The FAA is considering an amendment to § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) that will designate the Gulf Shores, Alabama, transition area. This action will provide controlled airspace for aircraft executing a new instrument approach procedure to Jack Edwards Airport. If the proposed designation of the transition area is found acceptable, the operating status of the airport will be changed to IFR. Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in Advisory Circular AC 70-3A dated January 3, 1983.

List of Subjects in 14 CFR Part 71

Aviation safety, Airspace, Transition area.

The Proposed Amendment

PART 71—[AMENDED]

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to designate the Gulf Shores, Alabama, transition area under § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

Gulf Shores, AL—[New]

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Jack Edwards Airport (Lat. 30°17'19" N., Long. 87°40'28" W.); excluding that portion that coincides with the Pensacola, Florida, transition area and Restricted Area R–2908.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); 49 U.S.C. 106(g) (Revised, Pub. L. 97–449, January 12, 1983.)

Note.—The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in East Point, Georgia, on January 25, 1984.

George R. LaCaille,

Acting Director, Southern Region.

[FR Doc. 84-3302 Filed 2-6-84; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 84-ASO-3]

Proposed Alteration of Transition Area, Jasper, Alabama

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to alter the existing Jasper, Alabama, transition area by deleting reference to the existing Walker County Airport which is to be closed, and redesignating the transition area based on the Walker County Airport which recently opened. This action will provide controlled airspace in the vicinity of the new airport for containment of aeronautical operations.

DATES: Comments must be received on or before: March 10, 1984.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, Attn: Manager, Airspace and Procedures Branch, ASO–530, P.O. Box 20636, Atlanta, Georgia 30320.

The official docket may be examined in the Office of the Regional Counsel, Room 652, 3400 Norman Berry Drive, East Point, Georgia 30344, telephone: (404) 763–7646.

FOR FURTHER INFORMATION CONTACT: Donald Ross, Airspace and Procedures Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone: (404) 763–7646.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 84–ASO–3." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Manager, Airspace and Procedures Branch (ASO–530), Air Traffic Division, P.O. Box 20636, Atlanta, Georgia 30320. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2 which describes the application procedure.

The Proposal

The FAA is considering an amendment to § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) that will redesignate the Jasper, Alabama, transition area to provide controlled airspace for instrument flight operations in the vicinity of the new Walker County Airport. The present airspace designation is predicated upon an airport that is to be closed. Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in Advisory Circular AC 70–3A dated January 3, 1983.

List of Subjects in 14 CFR Part 71

Aviation safety, Airspace, Transition area.

The Proposed Amendment

PART 71—[AMENDED]

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend the Jasper, Alabama, transition area under § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

Jasper, AL—[Revised]

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Walker County Airport (Lat. 33°54'09" N., Long. 87°19'03" W.).

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); 49 U.S.C. 106(g) (Revised, Pub. L. 97–449, January 12, 1983)

Note.—The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in East Point, Georgia, on January 25, 1984.

George R. LaCaille,

Acting Director, Southern Region.

[FR Doc. 84-3289 Filed 2-6-84; 8:45 am]

BILLING CODE 4910-13-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 270

[Release No. IC-13745; S7-1004]

Request for Comments on Issues Arising Under the Investment Company Act of 1940 Relating to Flexible Premium Variable Life Insurance

AGENCY: Securities and Exchange Commission.

ACTION: Extension of time for comment.

SUMMARY: The Securities and Exchange Commission today announced that it has extended from February 14, 1984 until March 30, 1984 the date by which comments on Investment Company Act Release No. 13632 (Nov. 23, 1983) (48 FR 54043, November 30, 1983) must be submitted. The Commission has received a request that the comment period be extended and believes that an extension of time until March 30, 1984 will be beneficial since it will result in the receipt of additional useful comments.

DATE: Comments must be received on or before March 30, 1984.

ADDRESS: Comments should be submitted in triplicate to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, D.C. 20549 Reference to File No. S7-1004). All comments will be available for public inspection and copying in the Commission's Public Reference Room, 450 Fifth Street NW., Washington, D.C. 20549.

FOR FURTHER INFORMATION CONTACT: Jay S. Neuman, Attorney, (202) 272-2067, Office of Insurance Products and Legal Compliance, Division of Investment Management, Securities and Exchange Commission, 450 Fifth Street NW., Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION: In Investment Company Act Release No. 13632, the Commission requested written comments on issues raised by a rulemaking petition relating to a new type of insurance product known as flexible premium variable life insurance. Petitioner American Council of Life Insurance, an insurance industry representative, asked that the Commission adopt a rule which would exempt insurance company separate accounts offering this product from various provisions of the Investment Company Act of 1940 ("Act"). To aid public discussion of the issues raised under the Act, the Commission published petitioner's suggested exemptive rule and supporting memoranda in Release No. 13632 and requested written comments, but at that time the Commission took no position on the merits of the suggested rule.

The Commission has received a request that the comment period be extended. In view of such request and in order to receive the benefit of comments from the greatest number of interested persons, the Commission has extended the comment period for Investment Company Act Release No. 13632 from February 14, 1984 until March 30, 1984.

By the Commission.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84-3330 Filed 2-6-84; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[LR-279-81]

Incentive Stock Options; Proposed Rulemaking

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed regulations relating to incentive stock options. Changes to the applicable tax law were made by the Economic Recovery Tax Act of 1982. The regulations would affect certain taxpayers who participate in the transfer of stock pursuant to the exercise of incentive stock options and provide them with guidance to comply with the law.

DATES: Written comments and requests for a public hearing must be delivered or mailed by April 9, 1984. The amendments are proposed to be effective on the date they are published in the **Federal Register** as final regulations. In general, they apply to options granted after August 12, 1981, but they also provide transitional rules applicable to certain options granted after December 31, 1975, and before August 13, 1981.

ADDRESS: Send comments and requests for a public hearing to: Commissioner of Internal Revenue, Attention: CC:LR:T [LR-279-81], 1111 Constitution Avenue, NW., Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: Bruce H. Jurist of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224 (Attention: CC:LR:T), 202-566-3238, not a toll-free call.

SUPPLEMENTARY INFORMATION:

Background

Prior to August 13, 1981, the tax treatment of employee stock options generally was governed by section 83 of the Code and the regulations thereunder. Under those rules, the value of a stock option constituted ordinary income to the employee when granted only if the option itself had a readily ascertainable fair market value at that time. If the option did not have a readily ascertainable value when granted, it did not constitute ordinary income until exercised. At the time of exercise, the difference between the value of the stock received and the option price constituted ordinary income to the employee. An employer who granted a stock option generally was allowed a business expense deduction equal to the amount includible in the employee's income in its corresponding taxable year.

Changes to the applicable tax law were made by section 251 of the Economic Recovery Tax Act of 1981 (95 Stat. 172) (ERTA), which added new section 422A to the Code entitled "Incentive Stock Options," and provided a set of transitional rules for the conversion of certain options granted prior to the August 13, 1981 date of enactment. Related technical changes to section 251 of ERTA were made by section 102(j) of the Technical Corrections Act of 1982 (Pub. L. 97-448). Finally, section 201(b)(1)(C) of the Tax Equity and Fiscal Responsibility Act of 1982 (96 Stat. 324) (TEFRA), amended section 57(a) of the Code to include as an item of tax preference the spread (*i.e.*, the amount by which the fair market value of the stock at the time of exercise exceeds the option price) at the time an incentive stock option is exercised. Section 201(b)(1)(C) of TEFRA is effective for taxable years beginning after December 31, 1982.

Section 422A provides for a new statutory stock option under which, pursuant to section 421, there will be no tax consequences when such as option is either granted or exercised (except for potential minimum tax consequences), and the employee will be taxed at capital gain rates when and if the stock

received on exercise of the option is sold. Similarly, no business expense deduction will be allowed to the employer with respect to such an option.

On December 21, 1981, the Internal Revenue Service published § 14a.422A–1, temporary regulations relating to the transitional rules provided by section 251(c) of ERTA (46 FR 61839). The temporary regulations provided guidance to taxpayers who wanted to convert certain existing stock options into incentive stock options. The regulations were drafted in a question and answer format so as to both facilitate their timely publication and limit their scope to the transitional period issues.

The proposed regulations contained in this document represent the complete set of regulations to be promulgated under section 422A. Accordingly, the information contained in the previously published temporary regulations has been incorporated into these proposed regulations. The proposed regulations are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

Requirements To Receive Special Tax Treatment

Section 1.422A–1 of the proposed regulations provides that an individual, in order to receive the special tax treatment available to incentive stock options under section 421(a), must meet the following two conditions:

(1) The individual must not dispose of the stock acquired pursuant to the exercise of an incentive stock option within two years after the option is granted and must hold the stock itself for at least one year. An exception to the above holding period requirements is provided with respect to certain transfers by insolvent individuals.

(2) For the entire time from the date of granting the option until three months (one year if employment ceased because the individual is disabled within the meaning of either section 105(d)(4) or section 37(e)(3)) before the date of exercise, the individual must be an employee either of the corporation granting the option, a parent or subsidiary of that corporation, or a corporation (or parent or subsidiary of that corporation) which has assumed the option of another corporation as a result of a corporate reorganization, liquidation, etc.

In the case of the death of the individual, both the holding period requirements and the employment requirement are waived.

If all requirments other than the above holding period requirements are met, tax is deferred until disposition of the stock, but gain (to the extend the value of the stock at exercise of the option exceeds the option price) is treated as ordinary income rather than capital gain, and the employer is allowed a deduction for that amount. In the case of certain dispositions where the amount realized on disposition is less than the stock's value at exercise, the amount of ordinary income, and the amount of the employer's deduction, are limited to the difference between the amount realized on the sale and the option price.

Incentive Stock Option Defined

Section 1.422A–2 of the proposed regulations provides that for an option to qualify as an incentive stock option, the following conditions must be met:

(1) The option must be granted under a plan specifying the aggregate number of shares of stock which may be issued and the employees or class of employees eligible to receive the options. This plan must be approved by the stockholders of the granting corporation within 12 months before or after the plan is adopted.

(2) The option must be granted within ten years from the date the plan is adopted or the date the plan is approved by the stockhlders, whichever is earlier.

(3) The option must by its terms be exerciseable only within ten years of the date it is granted.

(4) The option price must equal or exceed the fair market value of the stock at the time the option is granted. This requirement will be deemed satisfied if there has been a good faith attempt to value the stock accurately, even if the option price is less than the stock value.

(5) The option by its terms must be nontransferable other than at death and, during the employee's lifetime, must not be exercisable by any other person.

(6) The employee must not, at the time the option is granted, own stock representing more than ten percent of the voting power of all classes of stock of the employer corporation or its parent or subsidiary. However, the stock ownership limitation will not apply if the option price is at least 110 percent of the fair market value (at the time the option is granted) of the stock subject to the option and the option by its terms is not exercisable more than five years from the date it is granted.

(7) The option by its terms is not exercisable while there is outstanding any incentive stock option which was granted to the employee at an earlier time. For this purpose, an option which has not been exercised in full is outstanding until the expiration of the period during which it could have been exercised under its initial terms. Thus, the cancellation of an earlier option will not enable a subsequent option to be exercised any sooner.

(8) In the case of options granted after 1980, the terms of the plan must limit the aggregate fair market value of the stock (determined at the time of the grant of the option) for which any employee may be granted incentive stock options in any calendar year to not more than $100,000 plus a carryover amount. The carryover amount for an employee from any year after 1980 is one-half of the amount by which $100,000 exceeds the value at time of grant of the stock for which incentive stock options were granted in such prior year. Amounts may be carried over three years. Options granted in any year use up the $100,000 current year limitation first and then the carryover amount from the earliest year. Amounts may be carried over from calendar years after 1980 whether or not the corporation had an incentive stock option plan in effect for the earlier year provided the individual was employed by the corporation (or subsidiary, parent, or predecessor corporation) for some part of the earlier year.

Permissible Provisions

Section 1.422A–2 of the proposed regulations also provides that an option will qualify as an incentive stock option even if any of the following provisions are present:

(1) Stock acquired on exercise of an incentive stock option may be paid for with stock of the corporation granting the option.

(2) The employee has the right to receive additional compensation (in cash or other property) at the time of exercise of the option so long as the additional amount is includible in income under the provisions of sections 61 and 83. Thus, the employer corporation may pay the employee additional amounts (whether or not the amount of additional compensation is determined by reference to the price of the stock and/or the option price) when the employee exercises the option.

(3) The option is subject to a condition not inconsistent with the qualification requirements of section 422A(b). For example, an employee's right to receive a taxable payment of cash or other property (including employer stock) in an amount equal to the difference between the then fair market value of the stock and the option price in exchange for the cancellation or surrender of the option (at a time when it is otherwise exercisable) does not disqualify the option. This applies where the exercise of this alternative right has

the same economic and tax consequences as the exercise of the option followed by an immediate sale of the stock to the employer (which would be taxed as ordinary income under section 421(b)). However, an option that includes an alternative right is not an incentive stock option if the requirements of section 422A(b) may be avoided by exercise of the alternative right. For example, an alternative right extending the option term beyond ten years, setting a price below fair market value, permitting transferability, or allowing nonsequential exercise, will prevent an option from qualifying as an incentive stock option.

Incentive Stock Option Transitional Rules

Section 1.422A–3 of the proposed regulations provides special rules relating to the conversion of certain existing options into incentive stock options. Pursuant to section 251(c) of ERTA, the proposed regulation provides the following guidelines for the conversion of options:

(1) Only options originally granted after December 31, 1975, will be eligible for conversion into incentive stock options.

(2) Options granted during the years 1976 through 1980 will be eligible for conversion only if the option was outstanding on January 1, 1981, and the granting corporation elects to convert the option. The aggregate value (determined at the time of grant) of stock the options for which may be converted into incentive stock options by such an election may not exceed $50,000 per calendar year and $200,000 in the aggregate for the five-year period 1976–1980. The election may be made with respect to those options (or portions of options) which the granting corporation selects. The taxation of options with respect to which no election is made will not be affected.

(3) In the case of an option granted after December 31, 1975, and outstanding on August 13, 1981, the option terms (or the terms of the plan under which the option was granted) may be changed, or shareholder approval obtained, to conform to the incentive stock option rules, by August 13, 1982, without the change giving rise to a new option requiring the setting of an option price based on the valuation of the stock on the date of change. All such changes relate back to the time of grant of the original option.

(4) Generally, an exercised option must have met the incentive stock option qualification requirements of section 422A(b), at the time it was exercised, to be eligible for conversion into an incentive stock option.

(5) For incentive stock options exercised prior to 1983, the difference between the option price and the value of the stock on the date of exercise is not an item of tax preference. However, for incentive stock options exercised after 1982 (which are not later subject to a disqualifying disposition), such difference is an item of tax preference subject to the alternative minimum tax under section 55 of the Code.

Technical and Conforming Amendments

Finally, because new section 422A interacts directly with other sections of the Code, the proposed regulations provide technical and conforming amendments to a number of existing regulations under sections 421, 425, and 6039.

Special Analyses

The Commissioner of Internal Revenue has determined that these proposed rules are not major rules as defined in either Executive Order 12291 or the Treasury and OMB implementation of that order dated April 29, 1983. Accordingly, a Regulatory Impact Analysis is not required. Although this document is a notice of proposed rulemaking that solicits public comment, the Internal Revenue Service has concluded that the notice and public procedure requirements of 5 U.S.C. 553 do not apply because the rules proposed are interpretative. Accordingly, these proposed regulations do not constitute regulations subject to the Regulatory Flexibility Act (5 U.S.C. chapter 6).

Comments and Request for a Public Hearing

Before adopting these proposed regulations, consideration will be given to any written comments that are submitted (preferably seven copies) to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying. A public hearing will be held upon written request to the Commissioner by any person who has submitted written comments. If a public hearing is held, notice of the time and place will be published in the **Federal Register.**

The collection of information requirements contained in this notice of proposed rulemaking have been submitted to the Office of Management and Budget (OMB) for review under section 3504(h) of the Paperwork Reduction Act of 1980. Comments on these requirements should be sent to the Office of Information and Regulatory Affairs of OMB, Attention: Desk Office for Internal Revenue Service, New Executive Office Building, Washington, D.C. 20503. The Internal Revenue Service requests that persons submitting comments on these requirements to OMB also send copies of those comments to the Service.

Drafting Information

The principal author of these proposed regulations is Philip R. Bosco of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, other personnel in the Internal Revenue Service and Treasury Department participated in developing the regulations on matters of both substances and style.

List of Subjects in 26 CFR 1.401–1—1.425–1

Income taxes, Employee benefit plans, Pensions, Stock options, Individual retirement accounts, Employee stock ownership plans.

PART 1—[AMENDED]

Proposed Amendments to the Regulations

The proposed amendments to 26 CFR Part 1 are as follows:

Paragraph 1. Section 1.422A–1 is added to read as follows:

§ 1.422A–1 Incentive stock options—general rules.

(a) *Applicability of section 421(a).* (1)(i) Section 421(a) applies with respect to the transfer of a share of stock to an individual pursuant to the exercise of an incentive stock option if the following conditions are satisified—

(A) The individual makes no disposition of such share before the later of the expiration of the 2-year period beginning on the day of the grant of the option pursuant to which such share was transferred, or the expiration of the 1-year period beginning on the day of the transfer of such share, and

(B) At all times during the period beginning on the day of the grant of the option and ending on the day 3 months before the date of such exercise, the individual was an employee of either the corporation granting the option, a related corporation of such corporation, or a corporation (or a related corporation of such corporation) issuing or assuming a stock option in a transaction to which section 425(a) applies.

(ii) For rules relating to the disposition of shares of stock, see paragraph (c) of § 1.425–1. For rules relating to the requisite employment relationship, see paragraph (h) of § 1.421.7.

(2)(i) The holding period requirement of section 422A(a)(1), set forth in paragraph (a)(1)(i)(A) of this section, does not apply to certain transfers by insolvent individuals. If an insolvent individual holds a share of stock acquired pursuant to the exercise of an incentive stock option, and if such share is transferred to a trustee, receiver, or other similar fiduciary in any proceeding under the Bankruptcy Act or any other similar insolvency proceeding, neither such transfer, nor any other transfer of such share for the benefit of the insolvent individual's creditors in such proceeding shall constitute a disposition of such share for the purpose of section 422A(a)(1). For the purpose of this paragraph (a)(2) an individual is an insolvent only if his liabilities exceed his assets, or if the individual is unable to satisfy his liabilities as they become due.

(ii) A transfer by the trustee or other fiduciary that is not treated as a disposition for the purpose of section 422A(a)(1) may be a sale or exchange for purposes of recognizing capital gain or loss with respect to the share transferred. For example, if the trustee transfers the share to a creditor in the insolvency proceeding in complete or partial satisfaction of such creditor's claim against the insolvent individual, capital gain or loss must be recognized by the insolvent individual to the extent of the difference between the amount realized from such transfer and the adjusted basis of such share. To the extent any transfer by the trustee or other fiduciary (other than a transfer back to the insolvent individual) is not for the exclusive benefit of the creditors in the insolvency proceeding, such transfer will be treated as a disposition for purposes of section 422A(a)(1). Similarly, if the trustee or other fiduciary transfers the share back to the insolvent individual, any subsequent disposition of the share which is not made in respect of the insolvency proceeding and for the exclusive benefit of the creditors in such proceeding will be treated as a disposition for purposes of section 422A(a)(1).

(3) If the employee exercising an option ceased employment because of permanent and total disability within the meaning of either section 37(e)(3) or section 105(d)(4), 1 year is substituted for 3 months in the employment period requirement of section 422A(a)(2) and paragraph (a)(1)(i)(B) of this section.

(b) *Failure to satisfy holding period requirement.* (1) A disqualifying disposition of a share of stock acquired by the exercise of an incentive stock option (*i.e.*, a disposition before the expiration of the holding periods as determined under section 422A(a)(1) and paragraph (a)(1)(i)(A) of this section) makes section 421(a) inapplicable to the transfer of such share. Pursuant to section 421(b), the income attributable to such transfer shall be treated by the individual as income received in the taxable year in which such disqualifying disposition occurs. Similarly, a deduction under section 162 attributable to the transfer of the share of stock pursuant to the exercise of the option shall be allowable for the taxable year in which such disqualifying disposition occurs to the employer corporation (or to a corporation issuing or assuming the option in a transaction to which section 425(a) applies). In such cases, no amount shall be treated as income, and no amount shall be allowed as a deduction, for any taxable year other than the taxable year in which the disqualifying disposition occurs. Except as provided by section 421(b) and paragraph (b) of this section, the effects of a disqualifying disposition shall be determined pursuant to section 83 and the regulations thereunder.

(2) If an individual makes a disqualifying disposition of a share of stock acquired by the exercise of an incentive stock option, and if such disposition is a sale or exchange with respect to which a loss (if sustained) would be recognized to the individual, then, under section 422A(c)(2), the amount includible in the gross income of such individual, and deductible form the income of the employer corporation (or of a corporation issuing or assuming the option in a transaction to which section 425(a) applies) as compensation attributable to the exercise of such option, shall not exceed the excess (if any) of the amount realized on such sale or exchange over the adjusted basis of such share. Thus, the limitation does not apply when the disqualifying disposition is a sale described in section 1091 (relating to loss from wash sales of stock or securities), a gift, or a sale described in section 267(a)(1) (relating to sales between related persons), since a loss sustained in any such transaction would not be recognized. Subject to the limitation provided by section 422A(c)(2) and this paragraph (b)(2), the amount of compensation attributable to the exercise of the option is determined under § 1.83–7.

(3) The application of this paragraph may be illustrated by the following examples:

Example (1). On June 1, 1982, X Corporation grants an incentive stock option to A, an employee of X Corporation, entitling A to purchase one share of X Corporation stock. On August 1, 1982, A exercises the option and the share of X Corporation stock is transferred to A on that date. In order to meet the holding period requirements of section 422A(a)(1), A must not dispose of the share acquired by exercise of the incentive stock option before June 1, 1984.

Example (2). Assume the same facts as in example (1) except that A exercises the option on June 1, 1983, and the share of X Corporation stock is transferred to A on June 10, 1983. In order to meet the holding period requirements of section 422A(a)(1), A must not dispose of the share acquired by exercise of the incentive stock option before June 10, 1984.

Example (3). Assume the same facts as in example (1) and assume further that the option price was $100, the fair market value of X Corporation stock on June 1, 1982, and that the fair market value of X Corporation stock was $200 on August 1, 1982, the date of exercise. Assume further that the share of X Corporation stock transferrd to A was transferable and not subject to a substantial risk of forfeiture. A makes a disqualifying disposition by selling the share on June 1, 1983, for $250. Under section 83(a) and paragraph (a) of § 1.83–7 (relating to options to which section 421 does not apply) the amount of compensation attributable to A's exercise is $100 (the difference between the fair market value of the share at the date of exercise, $200, and the amount paid for the share, $100). Because the amount realized, $250 is greater than the value of the stock at exercise, section 422A(c)(2) does not apply and thus does not affect the amount includible as compensation in A's gross income and deductible by X. A must include in gross income for the taxable year in which the sale occurred $100 as compensation and $50 as capital gain ($250, the amount realized from the sale, less A's basis of $200 (the $100 paid for the share plus the $100 increase in basis resulting from the inclusion of that amount in A's gross income as compensation attributable to the exercise of the option)). For its taxable year in which the disqualifying disposition occurs, X Corporation is allowed a deduction of $100 for compensation attributable to A's exercise of the incentive stock option provided the withholding requirements of § 1.83–6 are met.

Example (4). Assume the same facts as in example (3), except that A sells the share for $150. Under section 422A(c)(2), A must include only $50 (the excess of the amount realized on such sale, $150, over the adjusted basis of the share, $100) in gross income as compensation attributable to the exercise of the incentive stock option instead of the $100 which otherwise would have been includible as compensation under section 83(a). A realizes no capital gain or loss as a result of the sale, since A's basis for the share is $150 (the $100 which A paid for the share, plus the $50 increase in basis resulting from the inclusion of that amount in A's gross income as compensation attributable to the exercise of the option). For its taxable year in which the disqualifying disposition occurs, X Corporation is allowed a deduction of $50 for compensation attributable to A's exercise of the stock option provided the withholding requirements of § 1.83–6 are met.

Example (5). Assume the same facts as in example (3), except that A sells the share for $50. The limitation of section 422A(c)(2) applies and A is not required to include any amount in gross income as compensation attributable to the exercise of the incentive stock option. A is allowed a capital loss of $50 (the difference between the amount realized on the sale, $50, and the adjusted basis of the share, $100). X Corporation is not allowed any deduction for compensation attributable to A's exercise of the incentive stock option and disqualifying disposition.

Example (6). Assume the same facts as in example (4) except that A sells the share to A's son for $150. Under section 267, a loss sustained in such a sale would not be recognized. Therefore, the limitation of section 422A(c)(2) does not apply. Accordingly, under section 83(a), A must include $100 (the difference between the fair market value of the share at date of exercise, $200, and the amount paid for the share, $100) in gross income as compensation attributable to the exercise of the incentive stock option in the taxable year in which the disqualifying disposition occurred. A will recognize no capital gain or loss on the transaction. X Corporation will be allowed a $100 deduction for compensation paid to A in its taxable year in which the disqualifying disposition occurred provided the withholding requirements of § 1.83–6 are met.

Example (7). Assume the same facts as in example (4), except assume that, as a result of the failure of a good-faith attempt to set the option price at the fair market value of X Corporation stock on the date of grant, the option price was set at $90 instead of $100. The requirement that the option price be not less than the fair market value of the stock at the time such option is granted, shall be considered to have been met pursuant to section 422A(c)(1). Upon sale of the share, A will include $60 (the excess of the amount realized on such sale, $150, over the adjusted basis of the share, $90) in gross income as compensation attributable to the exercise of the incentive stock option, in the taxable year in which the disqualifying disposition occurs. A will have no capital gain or loss as a result of such sale. Under section 422A(c)(2), X Corporation will be allowed a deduction of $60 as compensation attributable to A's exercise, in the taxable year of A's disqualifying disposition, provided the withholding requirements of § 1.83–6 are met.

Example (8). Assume the same facts as in example (3), except that the share of X Corporation stock transferred to A is subject to a substantial risk of forfeiture and not transferable for a period of six months after such transfer. Assume further that the fair market value of X Corporation stock was $225 on February 1, 1983, the date the six-month restriction lapsed. Under section 83(a) and paragraph (a) of § 1.83–7, the amount of compensation attributable to A's exercise of the option and subsequent disqualifying disposition is $125 (the difference between the fair market value of the share on the date the restriction lapsed, $225, and the amount paid for the share, $100). A must include in gross income for the taxable year in which the sale occurred $125 as compensation and $25 as capital gain ($250, the amount realized from the sale, less A's basis of $225 (the $100 paid for the share plus the $125 increase in basis resulting from the inclusion of that amount in A's gross income as compensation attributable to the exercise of the option)). For its taxable year in which the disqualifying disposition occurs, X Corporation is allowed a deduction of $125 for compensation attributable to A's exercise of the option provided the withholding requirements of § 1.83–6 are met.

(c) *Failure to satisfy employment requirement.* Section 421 does not apply to the transfer of a share of stock acquired by the exercise of an incentive stock option if the employment requirement as determined under section 422A(a)(2) and paragraph (a)(1)(i)(B) of this section is not met at the time of transfer. Consequently, the effects of such a transfer shall be determined pursuant to section 83 and the regulations thereunder.

Par. 2. Section 1.422A–2 is added after § 1.422A–1 to read as follows:

§ 1.422A–2 Incentive stock options defined.

(a) *Incentive stock option defined.* (1)(i) In general, the term "incentive stock option" means an option that meets the requirements of section 422A(b) and this section at the time of grant and that is granted to an individual after August 13, 1981. In addition, certain stock options granted to an individual after December 31, 1975, that were not incentive stock options at the time of grant, may be converted into incentive stock options. See § 1.422A–3 for special rules relating to such options. Section 422A(b)(1) requires that an incentive stock option be granted pursuant to a plan which meets certain requirements. See paragraph (b) of this section. Section 422A(b)(2) provides that in order for an option to be an incentive stock option it must be granted within 10 years of the adoption of the plan or the date of stockholder approval, whichever is earlier. See paragraph (c) of this section. In order to grant incentive stock options after the expiration of such 10-year period, a new plan must be adopted and approved. Such new plan may retain all of the terms of the old plan or may include new terms. Paragraphs (3), (4), (5), and (7) of section 422A(b) establish certain requirements which must be met by the terms of an incentive stock option. An option which, when granted, does not by its terms meet these requirements cannot be an incentive stock option. See paragraphs (d), (e), (f), and (g) of this section. However, an amendment of the terms of an option at any time to permit such option to meet the requirement of section 422A(b)(5) will be given retroactive effect. See section 425(h)(3)(B) and paragraph (e)(5)(iii) of § 1.425–1. Section 422A(b)(6) generally bars the grant of an incentive stock option to any employee whose stock ownership exceeds the limits provided by such section. An option granted to an employee whose stock ownership exceeds such limits cannot be an incentive stock option unless the special rule of section 422A(c)(8) applies. See paragraph (h) of this section. Section 422A(b)(8) bars the grant of an incentive stock option to any employee whose annual grants of incentive stock options exceed the limits provided by such section. An option granted to an employee whose annual grants exceed such limits cannot be an incentive stock option. See paragraph (b)(4) of this section. Section 422A(c)(5) provides that an incentive stock option may contain a number of permissible provisions that will not affect the option's status as an incentive stock option. See paragraph (i) of this section.

(ii) Whether a particular option is an incentive stock option is determined at the time such option is granted. Accordingly, except as otherwise specifically provided by sections 421 through 425 and the regulations thereunder, events subsequent to the grant of an option cannot affect the status of the option. For example, an option which is granted at a fair market value option price to an employee whose stock ownership exceeds the limitation provided by section 422A(b)(6) is not an incentive stock option when granted and can never become an incentive stock option, even if the individual's stock ownership is within the limitation at the time such option is exercised.

(iii) Except as otherwise specifically provided by sections 421 through 425 and the regulations thereunder, an incentive stock option must meet the requirements of section 422A(b) and this section at all times during the period beginning on the date of the granting of the option and ending on the date of the exercise or expiration of the option. Accordingly, such requirements must be met even during periods when section 421(a) would not apply to the transfer of stock on exercise of the option. For example, an option which provides that the sequential exercise restriction of section 422A(b)(7) will cease to have effect 3 months and a day after an optionee terminates employment is not an incentive stock option when granted and can never become an incentive stock option.

(iv) An option granted after April 9, 1984, which meets the requirements of section 422A(b) and this section at the

time of grant is an incentive stock option irrespective of any option or plan labeling to the contrary.

(2) Section 422A and this section do not apply to an option which is a restricted or qualified stock option.

(b) *Option plan.* (1) An incentive stock option must be granted pursuant to a written plan which meets the requirements of section 422A(b) and this paragraph (b). The authority to grant other stock options or rights pursuant to the plan, where the exercise of such other options or rights does not affect the exercise of incentive stock options granted pursuant to the plan, will not disqualify such incentive stock options.

(2) The plan required by section 422A must be approved by the stockholders of the granting corporation within 12 months before or after the date such plan is adopted. Ordinarily, a plan is adopted when approved by the board of directors and the date of such board action will be the reference point for determining whether stockholder approval occurs within the 12-month period. However, if the board's action is subject to a condition, such as stockholder approval, or the happening of a particular event, the plan is adopted on the date the condition is met or the event occurs, unless the board's resolution fixes the date of approval as the date of the board's action. The approval of stockholders must comply with all applicable provisions of the corporate charter, bylaws and applicable State law prescribing the method and degree of stockholder approval required for the granting of incentive stock options. Absent any such prescribed method and degree of stockholder approval, an incentive stock option plan must be approved by a simple majority vote of stockholders, voting either in person or by proxy, at a duly held stockholders' meeting.

(3)(i) The plan required by section 422A must designate the aggregate number of shares which may be issued under the plan and the employees or class of employees eligible to receive options under the plan. Unless otherwise specified, the terms designated shall apply to all options that may be granted under the plan, including options other than incentive stock options. If options other than incentive stock options may be granted, the plan may separately designate terms for each type of option. If individuals other than employees may be granted options, the plan must separately designate the employees or class of employees eligible to receive incentive stock options.

(ii) A plan which merely provides that the number of shares which may be issued under options shall not exceed a stated percentage of the shares outstanding at the time of each offering or grant under the plan will not satisfy the requirement that the plan state the aggregate number of shares which may be issued under the plan. However, the maximum number of shares which may be issued under the plan may be stated in terms of a percentage of either the authorized, issued or outstanding shares at the date of the adoption of the plan.

(iii) The requirement that the plan as adopted and approved must indicate the class of employees (or the employees) eligible to receive options will be considered satisfied by a general designation of the class of employees eligible to receive options under the plan. Thus, such designations as "key employees of the grantor corporation," "all salaried employees of the grantor corporation and its subsidiaries, including subsidiaries which become such after adoption of the plan" or "all employees of the corporation" will meet this requirement. Moreover, this requirement will be considered satisfied although the board of directors or another group is given authority to select the particular employees who are to receive options from a described class and to determine the number of shares to be optioned to each such employee.

(iv) The provisions relating to the aggregate number of shares to be issued under the plan and the class of employees (or the employees) eligible to receive options under the plan are the only provisions of a stock option plan which require stockholder approval for purposes of section 422A(b)(1). Any increase in the aggregate number of shares which may be issued under the plan (other than an increase merely reflecting in change in capitalization such as a stock dividend or stock split), or change in the designation of the employees or class of employees eligible to receive options under the plan will be considered as the adoption of a new plan requiring stockholder approval within the prescribed 12-month period. Any other changes in the terms of an incentive stock option plan are not considered the adoption of a new plan.

An option intended by the grantor corporation to be an incentive stock option will be treated as having been granted pursuant to a plan notwithstanding that the terms of the option conflict with terms of the plan unless such option is granted to an employee not eligible to receive options under the plan or options have been granted on stock in excess of the aggregate number of shares which may be issued under the plan.

(4)(i) The plan required by section 422A must, by its terms, provide that the aggregate fair market value (determined at the time of grant of the option) of stock for which an employee may be granted incentive stock options in any calendar year after 1980, under all such plans of the employer corporation (or its parent or subsidiary corporations, or a predecessor corporation (as defined in paragraph (f)(2) of this section) of any such corporation), shall not exceed $100,000 plus any unused limited carryover to such year.

(ii) The unused limit carryover is an amount determined for a calendar year after 1980 equal to one-half of the amount by which $100,000 exceeds the aggregate fair market value (determined at the time of grant of the option) of stock for whcih an employee was granted incentive stock options in such calendar year. Th unused limit carryover for a calendar year may be applied to each of the 3 succeeding calendar years, reduced each calendar year by the amount of such carryover which was used in a prior calendar year. For purposes of this paragraph, the amount of incentive stock options granted during any calendar year shall be treated as first using up the $100,000 limit for such calendar year, and then any unused limit carryover to such calendar year in the order in which the carryovers arose.

(iii) Amounts may be a carried over from calendar years after 1980 whether or not the granting corporation had an incentive stock option plan in effect for the year of the unused limit carryover, provided that the individual was employed by such corporation (or its parent or subsidiary corporations, or a predecessor corporation (as defined in paragraph (f)(2) of this section) of any such corporation) for some part of such year.

(iv) If an option intended to be an incentive stock option is granted to an employee, but such option gives the employee the right to buy stock in excess of the amount permitted by this paragraph (b)(4), no portion of such option is an incentive stock option. However, if the amount permitted has been exceeded because there was a failure of an attempt, made in good faith, to meet the option price requirements of section 422A(b)(4) and paragraph (e)(1) of this section, the requirements of this paragraph (b)(4) shall be considered to have been met. To determine whether there was a good-faith attempt to meet the option price requirements of section 422A(b)(4) and paragraph (e)(1) of this section, see paragraph (e)(2)(ii) of this section.

(c) *Duration of option grants under the plan.* An incentive stock option must be granted within 10 years from the date the plan required by section 422A is adopted, or the date such plan is approved by the stockholders, whichever is earlier.

(d) *Period for exercising options.* An incentive stock option by its terms must not be exercisable after the expiration of 10 years from the date the option is granted. An option which does not contain such a provision when granted cannot be an incentive stock option.

(e) *Option price.* (1) Except as provided by section 422A(c)(1) and paragraph (e)(2) of this section, the option price of an incentive stock option must not be less than the fair market value of the stock subject to the option at the time the option is granted. For general rules relating to the option price, see paragraph (e) of § 1.421–7. For rules relating to the determination of when an option is granted, see paragraph (c) of § 1.421–7. The option price may be determined in any manner so long as the minimum price possible under the terms of the option cannot be less than the fair market value of the stock at the date of grant.

(2)(i) Under section 422A(c)(1), if a share of stock is transferred to an individual pursuant to the exercise of an option which would fail to qualify as an incentive stock option because there was a failure of an attempt, made in good faith, to meet the requirements of section 422A(b)(4) and paragraph (e)(1) of this section, the requirements of such section and paragraph shall be considered to have been met.

(ii) Whether there was a good-faith attempt to set the option price at not less than the fair market value of the stock subject to the option at the time the option was granted depends on the facts and circumstances surrounding the case. For example, in the case of a publicly held stock that was actively traded in an established market at the time the option was granted, determining the fair market value of such stock by any reasonable method using market quotations would establish that a good-faith attempt to meet the requirements of section 422A(b)(4) and this paragraph was made. On the other hand, in the case of a stock which is not publicly traded, it is shown, for example, that the fair market value of the stock at the date of grant was based upon an average of the fair market values as of such date set forth in the opinions of completely independent and well-qualified experts, such a showing will establish that there was a good-faith attempt to meet the requirements of section 422A(b)(4) and this paragraph. However, amounts treated as unstated interest under section 483 and the regulations thereunder, and amounts paid as interest under a deferred payment arrangement are not includible as part of the "option price." See paragraph (e)(1) of § 1.421–7. An attempt to set the option price at not less than fair market value will not be regarded as made in good faith where an adjustment of the option price to allow for the application of section 483 results in the option price being lower than the fair market value on which the option price was based.

(f) *Prior outstanding options.* (1)(i) Section 422A(b)(7) provides that an incentive stock option must, by its terms, not be exercisable while there is outstanding any incentive stock option which was granted, before the granting of the new incentive stock option, to the individual to purchase stock in the employer corporation, or in a corporation which, at the time of the granting of the new incentive stock option, is a parent or subsidiary corporation of the employer corporation, or a predecessor corporation of any of such corporations. Thus, in general, under section 422A(b)(7), an incentive stock option must not be exercisable until all incentive stock options which were previously granted to the individual by the grantor corporation, or by related or predecessor corporations, have been exercised in full or have expired solely by reason of the lapse of time. The limitation of section 422A(b)(7) applies irrespective of whether the transfer of stock pursuant to such prior outstanding incentive stock options can qualify for the special tax treatment of section 421. The exercisability of an incentive stock option is not affected by options which are not incentive stock options.

(ii) The restriction imposed by section 422A(b)(7) must be set forth in the terms of the option unless the individual in fact has no prior outstanding incentive stock options to purchase stock of the grantor corporation, a related corporation, or a predecessor corporation of any of such corporations at the time the new incentive stock option is granted. An option which incorporates by reference the provision of a plan containing the restrictions required by section 422A(b)(7) will be treated as an option which by its terms sets forth such restrictions. Except as provided by this paragraph (f)(2)(ii), an option which does not contain the restriction imposed by section 422A(b)(7) , either expressly or incorporated by reference, cannot be an incentive stock option, irrespective of whether such restriction is in fact complied with at the time the option is exercised and irrespective of whether the plan under which the option is granted contains the restriction required by section 422A(b)(7).

(iii) For purposes of section 422A(b)(7) and this paragraph (f), options granted or exercised on the same day are considered simultaneously granted or exercised.

(2) For purposes of section 422A(b)(7) and this paragraph (f), the term "predecessor corporation" means a corporation which was a party to a transaction described in section 425(a) (or which would be so described if a substitution or assumption under such section had been effected) with the grantor corporation, or a corporation which, at the time the new incentive stock option is granted, is a related corporation of the grantor corporation, or a predecessor corporation of any of such corporations.

(3) Except as is otherwise provided by this paragraph (f)(3), for purposes of section 422A(b)(7), an incentive stock option is treated as outstanding according to its original terms until such option is exercised in full or expires by reason of the lapse of time. Thus, for example, if an option outstanding according to its terms for 10 years is revised to shorten to 1 year the period during which it may be exercised, such option is treated as outstanding for 10 years from the original date of grant for purposes of section 422A(b)(7), notwithstanding the revision. If any portion of such an option is not exercised, such portion will be treated as outstanding until the expiration of the maximum period during which such portion, according to the terms of the option when granted, could have been exercised under any circumstances. An incentive stock option previously held by an individual and replaced in a transaction to which section 425(a) applies will not thereafter be treated as outstanding. However, if an incentive stock option is modified and under section 425(h) such modification is considered as the granting of a new option (even though for other purposes only one option is regarded as being in existence), the original incentive stock option continues for the purposes of section 422A(b)(7) to be outstanding, and may prevent an exercise of the new incentive stock option until the original option has, by its original terms, expired.

(4) The application of this paragraph may be illustrated by the following examples:

Example (1). S Corporation is a subsidiary of P Corporation, In 1982 E was an employee

of S Corporation and was granted an incentive stock option by S to buy S stock. In June of 1983 E left S and became an employee of X Corporation, where he was granted an incentive stock option to purchase X stock. X Corporation is neither a related nor predecessor corporation of P or S. On June 1, 1984, E leaves X to become an employee of P Corporation, and on such date E is granted an incentive stock option by P to purchase P stock. Both E's incentive stock option on S stock and his incentive stock option on X stock are outstanding on June 1, 1984. In order to meet the requirements of section 422A(b)(7), E's incentive stock option on P stock must, by its terms, not be exercisable until E's incentive stock option on S stock is exercised in full or expires solely by reason of the lapse of time. This requirement must be met even though at the time E's incentive stock option on P stock is granted, E's incentive stock option on S stock no longer qualifies for the special tax treatment or section 421.

Example (2). E is an employee of P Corporation. E holds an incentive stock option granted June 1, 1982, and an incentive stock option granted June 1, 1983. Both options were granted to him by P to purchase P stock. E has been granted no other incentive stock options by P, a related corporation, or a predecessor corporation of any of such corporations. On November 30, 1984, P cancels E's 1982 incentive stock option and in exchange therefor issues a new incentive stock option to E. Assume that each incentive stock option runs 10 years from grant. The 1982 incentive stock option, according to its terms when granted, would have expired solely by reason of the lapse of time at the close of business on May 31, 1992. Under section 422A (b)(7) and (c)(7), E's 1982 incentive stock option is treated as outstanding according to its original terms when granted, and E cannot exercise any of his incentive stock options until June 1, 1992 (the first day after the expiration of the original period for which E's 1982 incentive stock option was granted). On June 1, 1992, E's 1983 incentive stock option will be fully exercisable. E's 1984 incentive stock option will not be exercisable until after the full exercise or expiration of E's 1983 incentive stock option.

Example (3). Assume the same facts as in example (2). On June 1, 1986, P Corporation sells all of its assets to M Corporation, and on such date E becomes an employee of M Corporation. Assume further that M Corporation substitutes new options to purchase M stock for those options held by E in a transaction to which section 425(a) applies. For purposes of section 422A(b)(7), each M Corporation option received by E in substitution for a P Corporation option will be treated as outstanding to the same extent and in the same manner as the P option which it replaces. Thus, none of the M options received by E in substitution for his P options may be exercisable before June 1, 1992, and the M option issued in substitution for E's 1984 P option may be exercisable only after the full exercise or expiration of the M option issued in substitution for E's 1983 P option. If, in 1987, E is granted another incentive stock option by M Corporation, such option may be exercisable only after the full exercise or expiration of the incentive stock options granted by M to E in 1986 in substitution for E's options to purchase P stock. The options to purchase P stock which were replaced by M in the transaction to which section 425(a) applied will not be treated as outstanding for any purposes under section 422A(b)(7).

Example (4). Assume the same facts as in example (3) except assume that M does not effect a substitution or assumption of E's P Corporation incentive stock options under section 425(a). Although P is neither a parent nor subsidiary of M, for purposes of section 422A(b)(7), P is a predecessor corporation of M Corporation. Accordingly, any incentive stock options granted to E by M (or its parent or subsidiary corporations, or a predecessor corporation of any of such corporations) must, by their terms, not be exercisable until the expiration of the option periods for all of E's incentive stock options granted to E by P Corporation.

Example (5). F is an employee of N Corporation. On January 1, 1982, N granted an incentive stock option to F to purchase 100 shares of N Corporation stock at a price of $100 per share. The option is exercisable in installments as follows: 20 shares on or after June 1, 1983; another 40 shares on or after June 1, 1984; and the last 40 shares on or after June 1, 1985. Under section 422A(c)(7), the entire option is treated as being outstanding as of the January 1, 1982 date of grant. Thus, under the facts given, any incentive stock options granted to F after January 1, 1982, may not be exercised until the full exercise or expiration of all installments of F's January 1, 1982 incentive stock option.

Example (6). F is an employee of N Corporation. On January 1, 1982, N grants F an incentive stock option to purchase 100 shares on N Corporation stock at a price of $100 a share at any time prior to January 1, 1992. The stock is then selling at $100 a share. On January 1, 1983, when the stock was selling at $95 a shares, N modified the option to permit F to purchase 100 shares of N Corporation stock at a price of $95 a share and to exercise the option at any time prior to January 1, 1993. Under section 425(n) N's modification is treated as the granting of a new option to F. Although for other purposes F, after the modification, has one option to purchase 100 shares of N Corporation stock at a price of $95 a share at any time prior to January 1, 1993, for purposes of section 422A(b)(7), F is regarded as having two options. Thus, F may not exercise the modified option until January 1, 1992, because until that date the original option is regarded as outstanding. If the option period had not been extended, F would never have been able to exercise the modified option because of the limitation of section 422A(b)(7) and the existence, for the purposes of that section, of a prior outstanding option having the same expiration date as the new option.

(g) *Restriction on transferability.* An incentive stock option, by its terms, must not be transferable by the individual to whom it is granted otherwise than by will or the laws of descent and distribution, and, during the lifetime of such individual, must not be exercisable by any other person. For general rules relating to the restriction on transferability required by section 422A(b)(5), see paragraph (b)(2) of § 1.421–7 and paragraph (c) of § 1.421–8. For a limited exception to the requirement of section 422A(b)(5), see section 425(h)(3).

(h) *Options granted to certain shareholders.* (1)(i) Except as provided in paragraph (h)(2) of this section, an option is not an incentive stock option if, immediately before such option is granted, the optionee owns stock possessing more than 10 percent of the total combined voting power of all classes of stock either of the employer corporation or of its parent or subsidiary corporation. In applying the limitation of section 422A(b)(6), the rules of section 425(d) (relating to attribution of stock ownership) shall apply in determining the stock ownership of the individual, and stock that the individual may purchase under outstanding options shall not be treated as stock owned by the individual.

(ii) The determination of the percentage of the total combined voting power of all classes of stock of the employer corporation (or of its parent or subsidiary corporations) that is owned by the individual is made with respect to each such corporation in the related group by comparing the voting power of the shares owned (or treated as owned) by the individual to the aggregate voting power of all shares actually issued and outstanding immediately before the grant of the option to such individual. The aggregate voting power of all shares actually issued and outstanding immediately before the grant of the option does not include the voting power of treasury shares or shares authorized for issue under outstanding options held by the individual or any other person.

(2) Paragraph (h)(1) of this section does not apply to an option if the time such option is granted the option price is at least 110 percent of the fair market value at such time of the stock subject to the option and such option by its terms is not exercisable after the expiration of 5 years from the date such option is granted. The rules of paragraph (e)(2) of this section relating to option price shall not apply to the determination of the minimum option price for purposes of this paragraph (h)(2).

(3) The application of this paragraph may be illustrated by the following examples:

Example (1). E, an employee of M Corporation, owns 15,000 shares of the common stock of M Corporation, the only

class of M stock outstanding. M has 100,000 shares of its common stock outstanding. Since E owns stock comprising more than 10 percent of the total combined voting power of all classes of M Corporation stock, M cannot grant an incentive stock option to E unless such option is granted at an option price of at least 110 percent of the fair market value of the stock subject to the option and such option would expire no later than 5 years from its date of grant. An option is granted to E which purports to be an incentive stock option but which fails to meet the above option-price and term requirements. Such option is not an incentive stock option and is, therefore, subject to section 83(a). If E's father and brother each owned 7,500 shares of M Corporation stock, and E owned no M stock in E's own name, the result in this case would be the same, since under section 425(d) a person is treated as owning stock held by parents and siblings.

Example (2). Assume the same facts as in example (1) and assume further that M is a subsidiary corporation of P Corporation. Irrespective of whether E owns any P stock and irrespective of P shares outstanding, an option granted to E by P Corporation which purports to be an incentive stock option, but which fails to meet the 110-percent-option-price and 5-year-term requirements, is not an incentive stock option. This results from E's ownership of more than 10 percent of the total combined voting power of all classes of stock of a subsidiary of P Corporation (*i.e.*, M Corporation). Thus, an individual who owns (or is treated as owning) stock in excess of the limitation of section 422A(b)(6), in any corporation in a group of corporations consisting of the employer corporation and its parent and subsidiary corporations, cannot receive an incentive stock option from any corporation in the group unless such option meets the 110-percent-option-price and 5-year-term requirements of section 422A(b)(6).

Example (3). F is an employee of R Corporation. R has only one class of stock, of which 100,000 shares are issued and outstanding. F owns no stock in R Corporation or in any parent or subsidiary of R Corporation for purposes of section 422A(b)(6). On January 1, 1983, R grants a 10-year incentive stock option to F to purchase 50,000 shares of R stock at $1 per share, the fair market value of R stock on the date of grant of the option. On April 1, 1983, F exercises half of the January option and receives 25,000 shares of R stock. On July 1, 1983, R grants a second 50,000 share option to F which purports to be an incentive stock option. All of the terms of the July option are identical to the terms of the January option, including an option price of $1 per share, the fair market value of R stock on the date of grant of the second option. Pursuant to section 422A(b)(6), the July option is not an incentive stock option because on the date such option was granted F owned 20 percent (25,000 shares owned by F divided by 125,000 shares of R stock issued and outstanding) of the total combined voting power of all classes of R Corporation stock. The unexercised portion of the January option, because it was an incentive stock option on the date it was granted, remains an incentive stock option regardless of changes in the employee's percentage of stock ownership after grant of the option.

Example (4). Assume the same facts as in example (3) except that the partial exercise of the January incentive stock option on April 1, 1983, was for only 10,000 shares. Under these circumstances, the July option is an incentive stock option because on the date such option was granted, F did not own more than 10 percent of the total combined voting power of all classes of R Corporation stock.

(i) *Permissible provisions.* (1)(i) Pursuant to section 422A(c)(5)(A), an option which otherwise meets the requirements of section 422A(b) and this section will be an incentive stock option even if the employee has the right to exercise the option with previously acquired stock of the corporation which granted the option. For special rules relating to the transfer of statutory option stock as payment in connection with the exercise of an incentive stock option, see section 425(c) and the regulations thereunder.

(ii) All stock transferred pursuant to the exercise of an incentive stock option is subject to the holding period requirements of section 422A(a)(1) and paragraph (a) of § 1.422A–1, and the disqualifying disposition rules of section 421(b) and paragraph (b) of § 1.422A–1, regardless of whether such option is exercised with previously acquired stock of the corporation which granted the option. If an incentive stock option is exercised with previously acquired stock of the corporation which granted the option, and such exercise results in the basis allocation described in paragraph (i)(1)(iii) of this section, a disqualifying disposition of stock transferred pursuant to such exercise will be a disqualifying disposition of the stock with the lowest basis.

(iii) If the exercise of an incentive stock option with previously acquired stock of the corporation which granted the option is comprised in part of an exchange to which section 1036 (and so much of section 1031 as relates to section 1036) applies, then—

(A) The employee's basis in the incentive stock option stock transferred pursuant to the section 1036 exchange shall be the same as the employee's basis in the stock exchanged increased, if applicable, by any amount included in gross income as compensation pursuant to either sections 421 through 425 or section 83. Except for purposes of section 422A(a)(1) and paragraph (a) of § 1.422A–1, the holding period of the stock shall be determined pursuant to section 1223. For purposes of section 421(b), paragraph (b) of § 1.422A–1, and section 83 and the regulations thereunder, the amount paid for the stock shall be the fair market value of such stock on the date of the exchange.

(B) The employee's basis in the incentive stock option stock not transferred pursuant to the section 1036 exchange shall be zero. For all purposes, the holding period of the stock shall begin as of the date such stock is transferred. For purposes of section 421(b), paragraph (b) of § 1.422A–1, and section 83 and the regulations thereunder, the amount paid for the stock shall be zero.

(2) Pursuant to section 422A(c)(5)(B), an option which otherwise meets the requirements of section 422A(b) and this section will be an incentive stock option even if the employee has the right to receive additional compensation, whether in cash or other property, at the time the option is exercised, provided such additional compensation is includible in income under the provisions of sections 61 and 83. The additional compensation may be determined in any manner including by reference to the fair market value of the stock at the time of exercise, or by reference to the option price.

(3)(i) Pursuant to section 422A(c)(5)(C), an option which otherwise meets the requirements of section 422A(b) and this section will be an incentive stock option even if the option is subject to a condition, or grants a right, not inconsistent with the requirements of section 422A(b) and this section.

(ii) An option that includes an alternative right is not an incentive stock option if the requirements of section 422A(b) and this section may be avoided by exercise of the alternative right. For example, an alternative right extending the option term beyond ten years, setting a price below fair market value, permitting transferability, or allowing nonsequential exercise, will prevent an option from qualifying as an incentive stock option. If either of two options can be exercised, but not both, each such option is a disqualifying alternative right with respect to the other even though one or both options would individually satisfy the requirements of section 422A(b) and this section.

(iii) An alternative right to receive a taxable payment of cash and/or other property in exchange for the cancellation or surrender of the option does not disqualify the option as an incentive stock option if the right is exercisable only when the then fair market value of the stock exceeds the exercise price of the option and the option is otherwise exercisable, the right is transferable only when the option is otherwise transferable, and the exercise of the right has the same economic and

tax consequences as the exercise of the option followed by an immediate sale of the stock. For this purpose, the exercise of the alternative right does not have the same economic and tax consequences if the payment exceeds the difference between the then fair market value of the stock and the exercise price of the option. If the above conditions have been met, the exercise of the alternative right will be considered to be the exercise of the option for purposes of the sequencing provisions of section 422A(b)(7).

(iv) Section 425(h)(1) shall not apply to the amendment of an alternative right described in paragraph (i)(3)(iii) of this section in order to conform the terms of the alternative right to the technical requirements of such paragraph. This paragraph (iv) shall apply only to options granted after August 13, 1981, and before January 21, 1982, that are amended before [insert date 60 days after this document is published in the **Federal Register** as final regulations].

(4) The application of this paragraph may be illustrated by the following examples:

Example (1). On June 1, 1984, X Corporation grants an incentive stock option to A, an employee of X Corporation, entitling A to purchase 100 shares of X Corporation common stock at $10 per share. The option provides that A may exercise the option with previously acquired X Corporation common stock. X Corporation has only one class of common stock outstanding. The stock transferable to A pursuant to the exercise of the incentive stock option is transferable and not subject to a substantial risk of forfeiture. On June 1, 1985, when the fair market value of X Corporation stock is $25 per share, A exercises the option and the 100 shares are transferred to A on that date. To exercise the option, A transferred to X Corporation 40 shares of X Corporation common stock that A had purchased on the open market on June 1, 1982, for $5 per share. After exercising the option, A owns 100 shares of incentive stock option stock. Pursuant to section 1036 (and so much of section 1031 as relates to section 1036), 40 shares have a $200 carryover basis and a three-year holding period, and 60 shares have a zero basis and a holding period beginning June 1, 1985.

Example (2). Assume the same facts as in example (1) and assume further that A sells 75 shares of the incentive stock option stock on September 1, 1985, for $30 per share. On that date, A has made a disqualifying disposition of the 75 shares of stock. Pursuant to paragraph (i)(1)(ii) of this section, A has sold all 60 of the non-section-1036 shares and 15 of the 40 section-1036 shares. Therefore, pursuant to paragraph (i)(1)(iii) of this section and section 83(a), the amount of compensation attributable to A's exercise of the option and subsequent disqualifying disposition of 75 shares is $1,500 (the difference between the fair market value of the stock on the date of exercise, $1,875 (75 shares at $25 per share), and the amount paid for the stock, $375 (60 shares at $0 per share plus 15 shares at $25 per share)). In addition, A must recognize a long-term capital gain of $375 ($450, the amount realized from the sale of 15 shares, less A's basis of $75), and a short-term capital gain of $300 ($1,800, the amount realized from the sale of 60 shares, less A's basis of $1,500 resulting from the inclusion of that amount in income as compensation). Accordingly, A must include in gross income for the taxable year in which the sale occurs $1,500 as compensation, $375 as long-term capital gain, and $300 as short-term capital gain. For its taxable year in which the disqualifying disposition occurs, X Corporation is allowed a deduction of $1,500 for compensation paid to A provided the withholding requirements of § 1.83–6 are met.

Example (3). Assume the same facts as in example (2), except that instead of selling the 75 shares of incentive stock option stock on September 1, 1985, A uses those shares to exercise a second incentive stock option. The second option was granted to A by X Corporation on January 1, 1985, entitling A to purchase 100 shares of X Corporation common stock at $22.50 per share. As in example (2), A has made a disqualifying disposition of the 75 shares of stock. Pursuant to paragraph (i)(1)(ii) of this section, A has disposed of all 60 of the non-section-1036 shares and 15 of the 40 section-1036 shares. Therefore, pursuant to paragraph (i)(1)(iii) of this section and section 83(a), the amount of compensation attributable to A's exercise of the first option and subsequent disqualifying disposition of 75 shares is $1,500 (the difference between the fair market value of the stock on the date of exercise, $1,875 (75 shares at $25 per share), and the amount paid for the stock, $375 (60 shares at $0 per share plus 15 shares at $25 per share)). Unlike example (2), A does not recognize any capital gain as a result of exercising the second option because, for all purposes other than the determination of whether the exercise is a disposition pursuant to section 425(c), such exercise is an exchange to which section 1036 applies. Accordingly, A must include in gross income for the taxable year in which the disqualifying disposition occurs $1,500 as compensation. For its taxable year in which the disqualifying disposition occurs, X Corporation is allowed a deduction of $1,500 for compensation paid to A provided the withholding requirements of § 1.83–6 are met. After exercising the second option, A owns a total of 125 shares of incentive stock option stock. Pursuant to section 1036 (and so much of section 1031 as relates to section 1036), the 100 "new" shares of incentive stock option stock have the following bases and holding periods: 15 shares have a $74 carryover basis and a three-year-and-three-month holding period, 60 shares have a $1,500 basis resulting from the inclusion of that amount in income as compensation and a three-month holding period, and 25 shares have a zero basis and a holding period beginning September 1, 1985.

Example (4). Assume the same facts as in example (2), except that instead of selling the 75 shares of incentive stock option stock on September 1, 1985, A uses those shares to exercise a non-statutory stock option. The non-statutory stock option was granted to A by X Corporation on January 1, 1985, entitling A to purchase 100 shares of X Corporation common stock at $22.50 per share. Unlike example (3), A has not made a disqualifying disposition of the 75 shares of stock. After exercising the non-statutory stock option, A owns a total of 100 shares of incentive stock option stock and 25 shares of non-statutory stock option stock. Pursuant to section 1036 (and so much of section 1031 as relates to section 1036), the 75 "new" shares of incentive stock option stock have the same basis and holding period as the 75 "old" shares used to exercise the non-statutory stock option. The additional 25 shares of stock received upon exercise of the non-statutory stock option are compensation for services pursuant to section 83(a). Accordingly, A must include in gross income for the taxable year in which the transfer of such shares occurs $750 (25 shares at $30 per share) as compensation. A's basis in such shares is the same as the amount included in gross income. For its taxable year in which the transfer occurs, X Corporation is allowed a deduction of $750 for compensation paid to A provided the withholding requirements of § 1.83–6 are met.

Example (5). Assume the same facts in example (1), except that the stock transferred pursuant to the exercise of the incentive stock option is subject to a substantial risk of forfeiture and not transferable for a period of six months after such transfer. Assume further that the shares that A uses to exercise the incentive stock option are similarly restricted. Such shares were transferred to A on January 1, 1985, pursuant to the exercise of a non-statutory stock option granted to A on January 1, 1984. A paid $5 per share for the stock when its fair market value was $22.50 per share. A did not file a section 83(b) election to include the $700 spread (the difference between the option price and the fair market value of the stock on date of exercise of the option) in gross income as compensation. After exercising the incentive stock option with the 40 shares of restricted stock, A owns 100 shares of restricted incentive stock option stock. Section 1036 (and so much of section 1031 as relates to section 1036) applies to the 40 shares exchanged in exercise of the incentive stock option. However, pursuant to section 83(g), the stock received in such exchange, because it is incentive stock option stock, is not subject to restrictions and conditions substantially similar to those to which the stock given in such exchange was subject. For purposes of section 83(a) and § 1.83–1 (b)(1), therefore, A has disposed of the 40 shares of restricted stock on June 1, 1985, and must include in gross income as compensation $800 (the difference between the amount realized upon such disposition, $1,000, and the amount paid for the stock, $200). Accordingly, 40 shares of the incentive stock option stock have a $1,000 basis (the $200 original basis plus the $800 included in income as compensation) and 60 shares of the incentive stock option stock have a zero basis. For its taxable year in which the disposition of the restricted stock occurs, X Corporation is allowed a deduction of $800 for compensation paid to A provided the withholding requirements of § 1.83–6 are met.

Par. 3. Section 1.422A–3 is added after § 1.422A–2 to read as follows:

§ 1.422A–3 Incentive stock option transitional rules.

(a) *In general.* (1) This section provides special rules pursuant to section 251(c) of the Economic Recovery Tax Act of 1981 (95 Stat. 172) for converting stock options into incentive stock options. These special rules apply to stock options granted after December 31, 1975, and either exercised on or after January 1, 1981, or outstanding on such date, if such stock options—

(i) Were granted prior to January 1, 1981;

(ii) Were exercised before January 21, 1982 and did not meet the requirements of section 422A(b) and § 1.422A–2 at the time of exercise;

(iii) Did not meet the requirements of section 422A(b) and § 1.422A–2 when granted and were outstanding on August 13, 1981; or

(iv) Were granted after December 31, 1980, and before August 14, 1981, and otherwise met the requirements of section 422A(b) and § 1.422A–2 when granted.

(2) Stock options granted before January 1, 1981, may be converted into incentive stock options, but only if the converted into incentive stock options, but only if the corporation that granted such options makes an election under paragraph (b) of this section. The aggregate fair market value of stock the options for which may be converted into incentive stock options by such an election is subject to an annual and a cumulative restriction. Such aggregate fair market value (determined as of the time the options were granted) may not exceed $50,000 per employee for options granted in any calendar year and $200,000 per employee for all options granted in the 5-year period ending December 31, 1980.

(3) Stock options that were exercised before January 21, 1982, and that did not meet certain requirements of section 422A(b) and § 1.422A–2 at the time of exercise may be converted into incentive stock options if the requirements of paragraph (c)(3) of this section are met.

(4) Stock options that did not meet the requirements of section 422A(b) and § 1.422–2 when granted and that were outstanding on August 13, 1981, may be converted into incentive stock options in accordance with paragraph (d) of this section. Section 425(h)(1) (relating to the modification of statutory stock options) shall not apply to any change in the terms of an option (or the terms of the plan under which the option was granted) or shareholder approval of such a change required to convert such option into an incentive stock option if such change or shareholder approval occurs on or before August 13, 1982.

(5) Stock options that were granted after December 31, 1980, and before August 14, 1981, are incentive stock options if they otherwise meet the requirements of section 422A(b) and § 1.422A–2 when granted. No election is necessary to convert such options into incentive stock options.

(b) *Election procedure and requirments.* (1) A corporation may make only one election to convert stock options granted before 1981 into incentive stock options and such election must include all options granted by the corporation before 1981 that are to be converted into incentive stock options. Thus, a corporation that makes an election with respect to certain options granted before 1981 may not make any subsequent election with respect to other options granted before 1981. An election shall be made by attaching an election statement to the granting corporation's income tax return either for the first taxable year during which an incentive stock option (including an option treated as an incentive stock option by reason of the election or the other provisions of this section) is exercised, or for any prior taxable year. An election shall be made no later than the due date (taking extensions into account) of the income tax return. If such due date occurs before August 14, 1982, the granting corporation will be permitted to make the election at any time prior to August 14, 1982, on an election statement attached to an amended return. In any event, no election will be permitted after the due date (taking extensions into account) of the income tax return for the taxable year including December 31, 1982. The election statement must—

(i) Contain the name, address, and taxpayer identification number of the corporation;

(ii) Identify the election as an election under section 251(c)(1)(B) of the Economic Recovery Tax Act of 1981; and

(iii) Specify, by employee, the options to which the election applies and state, for each such option, the date of original grant (and, if applicable, date of most recent modification) and total exercise price (*i.e.*, the total number of shares subject to the option multiplied by the price per share).

All options to which the election applies must meet the section 422A qualification requirements (other than the requirement of securing stockholder approval) at the time the election statement is filed.

(2) In its election under this paragraph, a corporation may generally select any eligible option (or portion of such option). The selection is, however, subject to the $50,000 annual and $200,000 cumulative limits applicable to each employee, and also subject to any existing plan requirements relating to who must be benefited under such plan as among different classes of employees. Eligible options (or portions of such options) may be selected on an option-by-option basis and/or an employee-by-employee basis. If only a portion of an option is selected and such portion is not exercised prior to January 21, 1982, the option must be amended prior to the exercise of such portion so as to clearly identify it as an incentive stock option. Whenever such a dual option is exercised, separate stock certificates must be issued (or reissued). See § 1.422A–3(c)(3)(iv) for the deadlines for amending options.

(c) *Eligibility issues: Pre-enactment modifications, dollar limitations.* (1) An option is not eligible for incentive stock option conversion unless it was originally granted after December 31, 1975. A modification, extension, or renewal on or after January 1, 1976, of an option originally granted prior to that date, will not make such option eligible for conversion into an incentive stock option, regardless of whether the option as so modified, extended, or renewed would be treated as newly granted within the meaning of section 425(h).

(2) An amendment to an otherwise eligible option (or plan) prior to August 13, 1981, will be subject to the rules of section 425(h). If, pursuant to section 425(h), the amendment is a modification, extension, or renewal or the option, such amendment shall be considered as the grant of a new option. Such an option is not eligible for conversion into incentive stock option unless the option (and plan) comply with the section 422A qualification requirements. Since the option will be considered to have been granted on the date it was amended, the option price cannot be less than the fair market value of the stock on that date. If the option price is less than the fair market value of the stock on the date the option was amended, the corporation may qualify the option by adjusting the option price, so long as such adjustment occurs prior to the earliest of the exercise of the option, the date of the election under paragraph (b) of this section (if applicable), or August 14, 1982. If the corporation wishes to retain the original grant price (and grant date) of the option, the corporation may do so

by rescinding the amendment, so long as such rescission occurs prior to the earliest of the exercise of the option, the date of the election under paragraph (b) of this section (if applicable), or August 14, 1982. If only a portion of an option is to become an incentive stock option, the adjustment of the option price or the rescission of the amendment need apply only to that portion. If an amendment is rescinded as to only a portion of an option so as to restore the original date of grant for that portion, the balance of the option is not eligible for conversion into an incentive stock option. For example, in the case of a $100,000 option granted in 1978 and amended in 1980, the corporation could not rescind the modification as to only half of the option, and then elect to convert into incentive stock options both the $50,000 portion of the option treated as granted in 1978 and the $50,000 portion of the option treated as granted in 1980.

(3)(i) Except as provided in this paragraph (c)(3), and option is eligible for incentive stock option conversion only if, at the time of exercise, such option (and its plan) conform to all of the section 422A qualification requirements and the transitional rule limitations. It is not possible to amend an exercised option retroactively to correct nonconforming or missing terms, or to rescind an improper exercise.

(ii) An option exercised prior to January 21, 1982, may be converted into an incentive stock option even if the option does not contain the sequential exercise restriction required by section 422A(b)(7). Incentive stock option conversion will be available, however, only if the employee in fact had no prior outstanding incentive stock options at the time the option in question was exercised. An option exercised on or after January 21, 1982, without containing the sequential exercise restriction may not be converted into an incentive stock option unless the employee in fact had no prior outstanding incentive stock options at the time the option in question was granted. In order to identify prior outstanding incentive stock options it will be necessary to take into account all options elected or amended to become incentive stock options and all options granted as incentive stock options.

(iii) An option granted after 1980 and exercised prior to January 21, 1982, may be converted into an incentive stock option even if the plan does not contain at the time of exercise the $100,000 annual plus carryover limit required by section 422A(b)(8). Incentive stock option conversion will be available, however, only for exercised amounts that do not exceed such limit. Where the limit has been exceeded, separate stock certificates must be issued (or reissued) no later than March 15, 1982. An option exercised on or after January 21, 1982, and before the plan has been amended to include the $100,000 annual plus carryover limit, may not be converted into an incentive stock option. Incentive stock option conversion is not available for such an option regardless of whether the limit is exceeded. An option exercised on or after January 21, 1982, and after the plan has been amended to include the $100,000 annual plus carryover limit, may not be converted into an incentive stock option where such limit has been exceeded. An option in excess of the limit must be amended, before it is exercised, so as clearly to identify that portion of the option intended to become an incentive stock option. Upon exercise of the option, separate stock certificates must be issued. An amended option that was required by its orginal terms to be exercised in full, must still be required to be exercised in full after it is amended.

(iv) An option granted before 1981 and exercised prior to January 21, 1982, may be converted into an incentive stock option even if the $50,000 annual limit or the $200,000 cumulative limit of paragraph (a)(2) of this section was exceeded. Incentive stock option conversion will be available, however, only for exercised amounts that do not exceed such limits. If either limit has been exceeded, separate stock certificates must be issued (or re-issued) no later than March 15, 1982. An option exercised on or after January 21, 1982, where either the $50,000 annual limit or the $200,000 cumulative limit was exceeded, may not be converted into an incentive stock option. An option in excess of such limits must be amended, before it is excercised, so as clearly to identify that portion of the option intended to become an incentive stock option. Upon exercise of the option, separate stock certificates must be issued. An amended option that was required by its original terms to be exercised in full, must still be required to be exercised in full after it is amended.

(4) The $50,000 annual and the $200,000 cumulative limits apply only to options granted prior to 1981 that are converted into incentive stock options by reason of an election under paragraph (b) of this section. Additionally, the limits relate only to the year of grant of an option, not the year in which an option vests (as in the case of an installment option) or the year of exercise. Unlike the $100,000 annual limit for options granted after 1980, the $50,000 annual limit does not incorporate an unused limit carryover from prior years. Both the $50,000 and the $200,000 limits apply to the fair market value of the stock at the time the options are granted, not to the option price of the options granted. Thus, in the case of an employee who is a 10 percent stockholder, an election would be permitted with respect to an option to purchase $50,000 worth of stock at an option price of $55,000. The requirement that options for which the election is made not exceed the $50,000 annual limit and the $200,000 cumulative limit will be deemed to have been satisfied if, at the time of grant, there was a good-faith attempt to value the stock accurately even if such valuation should subsequently prove to be in error.

(d) *Required option and plan amendments.* (1) The transitional rule waives the applicability of section 425(h) with respect to amendments of an option or a plan that are necessary to meet the minimum qualification requirements of section 422A. An amendment to add, modify, or delete a permissible term that is not necessary to meet such minimum qualification requirements does not fall within the waiver of section 425(h).

(2) The transitional rule waives the applicability of section 425(h) with respect to option and plan amendments only with respect to options outstanding on August 13, 1981. An option granted after August 13, 1981, and amended prior to exercise so as to qualify it as an incentive stock option, does not fall within the waiver of section 425(h). Such an option, therefore, will be treated as having been granted on the date it was amended. Consequently, the option price cannot be less that the fair market value of the stock as of the date of amendment. The option as originally granted, since it was not an incentive stock option at that time, will not be treated as still outstanding for purposes of the sequential exercise restriction of section 422A(b)(7).

(3) Amendments to an option plan, so as to meet the qualification requirements of section 422A, will apply to previously granted and outstanding options only if such amendments, by their terms, are clearly intended to have retroactive effect. Even if such amendments are intended to have retroactive effect, they need not apply to all previously granted options.

(4) The grant of an incentive stock option in exchange for the cancellation of an outstanding nonincentive stock

option will not violate either the qualification requirements of section 422A or the transitional rules, provided the outstanding option is cancelled prior to the grant of the incentive stock option. The cancelled option will not be treated as still outstanding for purposes of the sequential exercise restriction of section 422A(b)(7).

(e) *Stockholder approval issues.* (1) If an option plan received stockholder approval within 12 months before or after the date such plan was originally adopted and it is amended so as to qualify it as an incentive stock option plan, new stockholder approval will be required only if the original plan either did not specify the aggregate number of shares which may be issued under the plan or did not identify the employees or class of employees eligible to receive options under the plan, or if either of such terms is modified. The amendment of an option plan to add the $100,000 annual plus carryover limit, applicable to incentive stock options granted after 1980, will not require new stockholder approval.

(2) If a plan never received stockholder approval, or did not receive such approval within 12 months before or after such plan was adopted, the plan will qualify as an incentive stock option plan if stockholder approval is obtained prior to August 14, 1982, but only if an option granted pursuant to the plan was outstanding on August 13, 1981, and such option is to become an incentive stock option. If no option granted pursuant to the plan was outstanding on August 13, 1981, or no option outstanding on August 13, 1981, is to become an incentive stock option, the plan must be re-adopted by the granting corporation and, if necessary, amended to meet the qualification requirements of section 422A. Stockholder approval must be obtained within 12 months before or after the plan is re-adopted. Consequently, any option granted after August 13, 1981, and before the date the plan is re-adopted, that is to become an incentive stock option will be treated as having been granted on the date of re-adoption of the plan. The option price of such an option, therefore, cannot be less than the fair market value of the stock as of the date of re-adoption of the plan. The option as originally granted, since it was not an incentive stock option at that time, will not be treated as still outstanding for purposes of the sequential exercise restriction of section 422A(b)(7).

(3) If an option was granted pursuant to no plan at all and such option was outstanding on August 13, 1981, a plan may be adopted and stockholder approval obtained in order to qualify the option as an incentive stock option. The adoption of an incentive stock option plan and the obtaining of stockholder approval will be treated as amendments permitted under the transitional rules if they occur prior to August 14, 1982.

(4) Options granted under a plan that must be approved by stockholders to qualify as an incentive stock option plan and outstanding on August 13, 1981, are eligible to become incentive stock options even if they are exercised prior to the obtaining of stockholder approval provided stockholder approval is obtained before August 14, 1982.

(5) If, pursuant to paragraph (e) of this section, new stockholder approval is required in order to qualify a plan as an incentive stock option plan, see paragraph (b)(2) of § 1.422A–2 for the prescribed method and degree of stockholder approval.

(f) *Sequential exercise issues.* (1) The original grant dates (or later grant dates for options with pre-enactment modifications) of options that are converted into incentive stock options will determine the sequencing order for purposes of the sequential exercise restriction of section 422A(b)(7). For example, in the case of options granted in 1977, 1978, and 1979, assume that in 1980 the 1978 option was amended to add a term beneficial to the employee. Such an amendment would be a modification under the rules of section 425(h) and would cause the option to be treated as newly granted in 1980. If the 1977, 1978 (as modified), and 1979 options are converted into incentive stock options, the sequencing order would be as follows: the 1977 option must be exercised first, the 1979 option second, and the 1978 option (as modified) third.

(2) Options granted prior to 1981 that are converted into incentive stock options must be exercised prior to the exercise of any incentive stock options granted after 1980. For example, assume that an option granted and exercised during January of 1982 automatically qualifies, by its terms, as an incentive stock option. During February of 1982, the employer elected to convert an option granted to the employee during 1978 into an incentive stock option. For purposes of this section only, such an election will retroactively disqualify the 1982 option as an incentive stock option. If the 1982 option is to qualify as an incentive stock option, it cannot be exercised prior to the exercise or expiration of all incentive stock options previously granted and outstanding on the date the 1982 option was granted. When the 1982 option was granted during January of 1982, the 1978 option was already granted and outstanding for purposes of the sequential exercise restriction of section 422A(b)(7).

(3) The existence (or exercise) of stock options that are not converted into incentive stock options will not prevent the exercise of an incentive stock option because of the sequential exercise restriction of section 422A(b)(7). However, if an option that is converted into an incentive stock option contains other sequencing restrictions, the option will continue to be burdened by such restrictions. The deletion of such sequencing restrictions is not an amendment necessary in order to qualify the option as an incentive stock option. Consequently, the rules of section 425(h) would apply to such an amendment.

Par. 4. Section 1.421–7 is amended by revising paragraphs (b)(1), (b)(2), (d), (e)(1), (e)(2), and (h)(2) to read as follows:

§ 1.421–7 Meaning and use of certain terms.

* * * * *

(b) *Statutory options.* (1) The term "statutory option", used for purposes of convenience hereinafter in this section and in §§ 1.421–8 through 1.425–1, means a qualified stock option, as defined by section 422(b) and § 1.422–2; an incentive stock option, as defined by section 422A(b) and § 1.422A–2; an option granted under an employee stock purchase plan, as defined by section and 423(b) § 1.423–2; and a restricted stock option, as defined in section 424(b) and § 1.424–2.

(2) An option may qualify as a statutory option only if the option is not transferable (other than by will or by the laws of descent and distribution) by the individual to whom it is granted, and is exercisable, during the lifetime of such individual, only by him. See sections 422(b)(6), 422A(b)(5), 423(b)(9), and 424(b)(2). Accordingly, an option which is transferable by the individual to whom it is granted during his lifetime, or is exercisable during such individual's lifetime by another person, is not a statutory option. However, in case the option or the plan under which the option was granted contains a provision permitting the individual to whom the option was granted to designate the person who may exercise the option after his death, neither such provision, nor a designation pursuant to such provision, disqualifies the option as a statutory oprtion.

* * * * *

(d) *Stock and voting stock.* For purposes of sections 421 through 425, the term "stock" means capital stock of any class, including voting or nonvoting common or preferred stock. Except as otherwise provided, the term includes both treasury stock and stock of original issue. Special classes of stock authorized to be issued to and held by employees are within the scope of the term "stock" as used in such sections, provided such stock otherwise possesses the rights and characteristics of capital stock. For purposes of determining what constitutes voting stock in ascertaining whether a plan has been approved by stockholders or whether the limitations pertaining to voting power contained in sections 422(b)(7), 422A(b)(6), 423(b)(3) and 424(b)(3) and the regulations thereunder have been met, stock which does not have voting rights until the happening of an event, such as the default in the payment of dividends on preferred stock, is not voting stock until the happening of the specified event. Moreover, stock which does not possess a general voting power, and may vote only on particular questions, is not voting stock. However, if such stock is entitled to vote on whether a stock option plan is to be adopted, it is voting stock for the purpose of ascertaining whether the plan has been approved by the shareholders.

(e) *Option price.* (1) For purposes of sections 421 through 425, the term "option price" or "price paid under the option" means the consideration if money or other property which, pursuant to the terms of the option, is the price at which the stock subject to the option is purchased. The term "option price" does not include amounts paid as interest under a deferred payment arrangement or treated as unstated interest under section 483 and the regulations thereunder. Thus, for example, section 483 is applicable in determining whether the pricing requirements of section 422(b)(4), 422A (b)(4) and (c)(8), 423 (b)(6), 424(b)(1), or 424(c) are met and is applicable in determining the basis of any stock acquired pursuant to the exercise of a statutory option. However, with respect to statutory options granted prior to January 1, 1965, the determination of whether the applicable pricing requirements are met shall be made without regard to section 483, but section 483 shall be taken into consideration in determining basis for purposes of determining gain or loss.

(2) In the case of a statutory option, any reasonable valuation method may be used for the purpose of determining whether at the time the option is granted the option price satisfies the pricing requirements of section 442(b)(4) (relating to qualified stock options), section 422A (b)(4) and (c)(8) (relating to incentive stock options), section 423(b)(6) (relating to employee stock purchase plans), or section 424(b)(1) (relating to restricted stock options), whichever is applicable, with respect to the stock subject to the option. Such methods include the valuation methods described in § 20.2031–2 of this chapter (Estate Tax Regulations).

* * * * *

(h) *Employment relationship.* * * *

(2) In order to qualify for the special tax treatment of section 421, in addition to meeting the requirements of subparagraph (1) of this paragraph, an individual exercising a qualified stock option, an incentive stock option, or an option granted under an employee stock purchase plan must, at all times during the period beginning with the date of the granting of such option and ending at the time of such exercise or on the day 3 months before the date of such exercise, be an employee of either the corporation granting such option, a related corporation of such corporation, or a corporation or a related corporation of such corporation issuing aor assuming a stock option in a transaction to which section 425(a) applies. For this purpose, the employment relationship in respect of an option granted in accordance with the requirements of subparagraph (1) of this paragraph will be treated as continuing intact while the individual is on military, sick leave or other bona fide leave of absence (such as temporary employment by the Government) if the period of such leave does not exceed 90 days, or, if longer, so long as the individual's right to reemployment with the corporation granting the option (or a related corporation of such corporation, or a corporation, or a related corporation of such corporation issuing or assuming a stock option in a transaction to which section 425(a) applies) is guaranteed either by statute or by contract. Where the period of leave exceeds 90 days and where the individual's right to reemployment is not guaranteed either by statute or by contract, the employment relationship will be deemed to have terminated on the 91st day of such leave.

* * * * *

Par. 5. Section 1.421–8 is amended by revising paragraphs (a)(1), (b)(1), and (b)(2), adding new paragraph (b)(4), and revising paragraphs (c)(1) and (d) to read as follows:

§ 1.421–8 General rules.

(a) *Effect of qualifying transfer.* (1) If a share of stock is transferred to an individual pursuant to his exercise of a statutory option, and if the requirements of section 422(a) (relating to qualified stock options), section 422A(a) (relating to incentive stock options) section 423(a) (relating to employee stock purchase plans), or section 424(a) (relating to restricted stock option), whichever is applicable, are met, then—

(i) Except as provided in section 422(c)(1) (relating to exercise of option when price is less than value of stock), and paragraph (e)(2) of § 1.422–2, no income shall result at the time of the transfer of such share to the individual upon his exercise of the option with respect to such share;

(ii) No deduction under section 162 or the regulations thereunder (relating to trade or business expenses) shall be allowable at any time to the employer corporation, a related corporation of such corporation, or a corporation issuing or assuming a stock option in a transaction to which section 425(a) and paragraph (a) of § 1.425–1 (relating to corporate reorganizations, liquidations, etc.) applies, with respect to the share so transferred; and

(iii) No amount other than the price paid under the option shall be considered as received by any of such corporations for the share so transferred.

* * * * *

(b) *Effect of disqualifying disposition.* (1) The disposition of a share of stock, acquired by the exercise of a statutory option before the expiration of the applicable holding period as determined under section 422(a)(1), 422A(a)(1), 423(a)(1), or 424(a)(1), makes section 421 inapplicable to the transfer of such share. The income attributable to such transfer shall be treated by the individual as income received in the taxable year in which such disposition occurs. Similarly, a deduction under section 162 attributable to the transfer of the share of stock pursuant to the exercise of the option shall be allowable for the taxable year in which such disposition occurs to the employer corporation, its parent or sibsidiary corporation or a corporation issuing or assuming a stock option in a transaction to which section 425(a) applies. In such cases, no amount shall be treated as income, and no amount shall be allowed as a deduction, for any taxable year other than the taxable year in which the disposition occurs. If the stock was transferred pursuant to the exercise of the option in a taxable year other than

the taxable year or the disposition, the amount of the deduction shall be determined as if the employee had been paid compensation at the time provided in paragraph (d) of § 1.421–6.

(2) Section 421 is not made inapplicable by a transfer before the expiration of the applicable holding period as determined under section 422(a)(1), 422A(a)(1), 423(a)(1), or 424(a)(1), if such transfer is not a disposition of the stock as defined in section 425(c) and paragraph (c) of § 1.425–1, for example, a transfer from the decendent to his estate or a transfer by bequest or inheritance. Similarly, a disposition by the executor, administrator, heir, or legatee is not a disposition by the decedent. In case a statutory option is exercised by the estate of the individual to whom the option was granted, or by a person who acquired the option by bequest or inheritance or by reason of the death of such individual, see paragraph (c) of this section.

* * * * *

(4) For special rules relating to a disqualifying disposition of a share of stock acquired by exercise of an incentive stock option, see paragraph (b) of § 1.422A–1.

(c) *Exercise by estate.* (1) If a statutory option is exercised by the estate of the individual to whom the option was granted, or by any person who acquired such option by bequest or inheritance or by reason of the death of such individual, section 421(a) applies to such exercise in the same manner as if such option had been exercised by such deceased individual. Consequently, except as provided by section 422(c)(1) and paragraph (e)(2) of § 1.422–2, neither the estate nor such person is required to include any amount in gross income as a result of a transfer of stock pursuant to such exercise of the option. Nor does section 421(a) become inapplicable if such executor, administrator, or person disposes of the stock so acquired before the expiration of the applicable holding period as determined under section 422(a)(1), 422A(a)(1), 423(a)(1), or 424(a)(1). This special rule does not affect the applicability of section 1222, relating to what constitutes a short-term and long-term capital gain or loss. The executor, administrator, or such person need not exercise the option within three months after the death of the individual to whom the option was granted for section 421(a) to be applicable. However, the exercise of the option must be pursuant to the terms of the option, and any change in the terms of the option is subject to the rules of paragraph (e) of § 1.425–1, relating to the modification, extension, or renewal of the option. Section 421(a) is applicable even though such executor, administrator, or person is not employed by the corporation granting the option, or a related corporation, either when the option is exercised or at any time. However, section 421(a) is not applicable to an exercise of the option by the estate or by such person, unless the individual to whom the option was granted met the employment requirements of section 422(a)(2), 422A(a)(2), 423(a)(2), or 424(a)(2), whichever is applicable, either at the time of his death or within three months before such time. If the option is exercised by a person other than the executor or administrator, or other than a person who acquired the option by bequest or inheritance or by reason of the death of such deceased individual, section 421(a) is not applicable to the exercise. For example, if the option is sold by the estate, section 421(a) does not apply to an exercise of the option by such buyer; but if the option is distributed by the administrator to an heir as part of the estate, section 421(a) is applicable to an exercise of the option by such heir.

* * * * *

(d) *Exercise by deceased employee during lifetime.* If a statutory option is exercised by an individual to whom the option was granted and the individual dies before the expiration of the applicable holding period as determined under section 422(a)(1), 422A(a)(1), 423(a)(1), or 424(a)(1), section 421(a) does not become inapplicable if the executor or administrator of the estate of such individual, or any person who acquired such stock by bequest or inheritance or by reason of the death of such individual, disposes of such stock before the expiration of such applicable holding period. This rule does not affect the applicability of section 1222, relating to what constitutes a short-term and long-term capital gain or loss.

* * * * *

Par. 6. Section 1.425–1 is amended by revising paragraph (a)(6), redesignating paragraph (c)(3) as paragraph (c)(4) and revising paragraph (c)(4), adding new paragraph (c)(3), and revising paragraphs (d), (e)(1), (e)(5)(i) and (iii) and (e)(6) to read as follows:

§ 1.425–1 Definitions and special rules applicable to statutory options.

(a) *Corporate reorganizations, liquidations, etc.* * * *

(6) In order to have a substitution of an option under section 425(a) the optionee must, in connection with the corporate transaction, lose his rights under the old option. There cannot be a substitution of a new option for an old option within the meaning of section 425(a) if it is contemplated that the optionee may exercise both the old option and the new option. It is not necessary, however, to have a complete substitution of a new option for the old option. However, if the old option was a qualified, incentive, or restricted stock option, any portion of such option which is not substituted or assumed in a transaction to which section 425(a) applies will be treated as an outstanding option to purchase stock of a predecessor corporation of the new employer or grantor corporation. See section 422 (b)(5) and (c)(2) and paragraph (f) of § 1.422–2, and section 422A(b)(7) and (c)(7) and paragraph (f) of § 1.422A–2. For example, assume that X Corporation forms a new corporation, Y Corporation, by a transfer of certain assets and distributes the stock of Y Corporation to the shareholders of X Corporation. Assume further that E, an employee of X Corporation, is thereafter an employee of both X Corporation and Y Corporation. Y Corporation wishes to substitute an option to purchase some of its stock for the statutory option which E has entitled him to purchase 100 shares of the stock of X Corporation. The option to purchase the stock X Corporation, at $50 a share, was granted when the stock had a fair market value of $50 a share, and the stock was worth $100 a share just before the distribution of the new corporation's stock to the shareholders of X Corporation. The stock of X Corporation and of Y Corporation is worth $50 a share just after such distribution, which also is the time of the substitution. On these facts an option to purchase 200 shares of stock of Y Corporation at $25 a share could be given to the employee in complete substitution for the old option. It would also be permissible to give the employee an option to purchase 100 shares of stock of Y Corporation at $25 a share in substitution for his right to purchase 50 of the shares covered by the old option. However, if the option to purchase X stock was a qualified, incentive, or restricted stock option, then to the extent the old option is not assumed or a new option issued in substitution therefor in a transaction to which section 425(a) applies, such old option will be treated as an outstanding option under either section 422(c)(2) for purposes of section 422(b)(5), or section 422A(c)(7) for purposes of section 422A(b)(7). See paragraph (f) of § 1.422–2 and paragraph (f) of § 1.422A–2.

* * * * *

(c) *Disposition of stock.* * * *

(3)(i) If there is a transfer of statutory option stock in connection with the exercise of any incentive stock option, and the applicable holding period requirements (under section 422(a)(1), 422A(a)(1), 423(a)(1), or 424(a)(1)) are not met before such transfer, then no section referred to in paragraph (c)(1)(ii) of this section shall apply to such transfer for purposes of determining whether there has been a disposition of such stock.

(ii) For purposes of this paragraph (c)(3), the term "statutory option stock" means any stock acquired through the exercise of a qualified stock option, an incentive stock option, an option granted under an employee stock purchase plan, or a restricted stock option.

(iii) This paragraph (c)(3) applies only with respect to transfers of statutory option stock in connection with the exercise of an incentive stock option occurring after March 15, 1982.

(4) * * *

Example (7). On January 1, 1982, the X Corporation grants to E, an employee, an incentive stock option to purchase 100 shares of X Corporation stock at $100 per share, the fair market value of X Corporation stock on that date. According to the terms of the option, E can exercise the option by using previously acquired X Corporation stock. On January 1, 1983, while employed by X Corporation, E exercises part of the option and pays X Corporation $5,000 in cash. On that day, X Corporation transfers to E 50 shares of its stock having a fair market value of $6,000. Before January 1, 1984, E makes no disposition of the 50 shares so purchased. E realizes no income with respect to the transfer of the 50 shares of X Corporation stock on January 1, 1983. X Corporation is not entitled to any deduction at any time with respect to its transfer to E of the stock. E's basis for such 50 shares is $5,000.

Example (8). Assume the same facts as in example (7), except assume that on December 1, 1983, one year and 11 months after the grant of the incentive stock option and 11 months after the transfer of the 50 shares, E transfers 25 of the shares, having a fair market value of $5,000, to X Corporation as payment for the balance of the incentive stock option still outstanding. On that day, X Corporation transfers to E 50 shares of its stock having a fair market value of $10,000. The special rules of section 421(a) are not applicable to the transfer of 25 of the shares transferred on January 1, 1983, because disposition of such shares was made by E within two years of grant of the option and one year of exercise of the option.

(d) *Attribution of stock ownership.* Section 425(d) provides that in determining the amount of stock owned by an individual for purposes of applying the percentage limitations of section 422(b)(7), 422A(b)(6), 423(b)(3), and 424(b)(3), stock of the employer corporation or of a related corporation which is owned (directly or indirectly) by or for such individual's brothers and sisters (whether by the whole or half blood), spouse, ancestos, and lineal descendants, shall be considered as owned by such individual. Also, for such purpose, if a domestic or foreign corporation, partnership, estate, or trust owns (directly or indirectly) stock of the employer corporation or of its parent or subsidiary, such stock shall be considered as being owned proportionately by or for the shareholders, partners, or beneficiaries of the corporation, partnership, estate, or trust.

(e) *Modification, extension, or renewal of option.* (1) Section 425(h) provides the rules for determining whether a share of stock transferred to an individual upon his exercise of an option, after the terms thereof have been modified, extended, or renewed, is transferred pursuant to the exercise of a statutory option. Such rules and the rules of this section are applicable to modifications, extensions, or renewals (or to changes which are not treated as modifications) of an option in any taxable year of the optionee which begins after December 31, 1963, except that section 425(h)(1) and this paragraph shall not apply to any change made before January 1, 1965, in the terms of an option granted after December 31, 1963, to permit such option to meet the requirements of section 422(b) (3), (4), or (5), and the regulations thereunder. See paragraphs (d), (e), and (f), of § 1.422–2, relating to period for exercising options, option price, and prior outstanding options, respectively, in the case of qualified stock options. In addition, section 425(h)(1) and this paragraph shall not apply to any change made after August 13, 1981, and before August 14, 1982, in the terms of an option granted after December 31, 1975, and outstanding on August 13, 1981, necessary to permit such option to meet the requirements of section 422A and the regulations thereunder. See § 1.422A–3 for special rules relating to the conversion of existing options into incentive stock options.

* * * * *

(5)(i) The time or date when an option is modified, extended, or renewed shall be determined, insofar as applicable, in accordance with the rules governing determination of the time or date of granting an option provided in paragraph (c) of § 1.421–7. For purposes of sections 421 through 425, the term "modification" means any change in the terms of the option (or change in the terms of the plan pursuant to which the option was granted) which gives the optionee additional benefits under the option regardless of whether the optionee in fact benefits from the change in the terms. For example, a change in the terms of the option, which shortens the period during which the option is exercisable, is not a modification. However, any one of the following changes is a modification: A change which provides more favorable terms for payment for the stock purchased under the option, such as the right to tender previously acquired stock; a change which provides an extension of the period during which an option may be exercised, such as after termination of employment; a change which provides an additional benefit upon exercise of the option, such as the payment of a cash bonus; and a change which provides an alternatives to the exercise of the option, such as a stock appreciation right. Finally, a change which provides, either by its terms or in substance, that the optionee may receive an additional benefit under the option at the future discretion of the grantor, is a modification both at the time the option is changed and at the time the benefit is actually granted. Where an option is amended solely to increase the number of shares subject to the option, such increase shall not be considered as a modification of the option, but shall be treated as the grant of a new option for the additional shares.

* * * * *

(iii) Any change in the terms of an option for the purpose of qualifying the option as a statutory option grants additional benefits and, therefore, is a modification. However, if the terms of an option are changed to provide that the optionee cannot transfer the option except be will or by the laws of descent and distribution in order to meet the requirements of section 422(b)(6), 422A(b)(5), 423(b)(9), or 424(b)(2), such change is not a modification, provided that in any case where the purpose of the change is to meet the requirements of section 424(b)(2) the option is at the same time changed so that it is not exercisable after the expiration of ten years from the date the option was granted. Where an option is not immediately exercisable in full, a change in the terms of such option to accelerate the time at which the option (or any portion thereof) may be exercised is not a modification for purposes of section 425(h) and this section. A modification results where an option is revised to insert the language required by section 422(c)(6)(B).

* * * * *

(6) A statutory option may, as a result of a modification, extension, or renewal,

thereafter cease to be a statutory option, or any option may, by modificaiton, extension, or renewal, thereafter become a statutory option. Moreover, a qualified option after a modification may not be exercisable in accordance with its terms because of the requirements of section 422(b)(5) and section 422(c)(6). See paragraph (f)(3)(i) of § 1.422–2 and examples (8) amd (9) of paragraph (f)(4) of § 1.422–2. Similarly, an incentive stock option after a modification may not be exercisable in accordance with its terms because of section 422A(b)(7). See paragraph (f)(3) of § 1.422A–2 and example (6) of paragraph (f)(4) of § 1.422A–2.

* * * * *

Par. 7. Section 1.6039–1 is amended by revising that part of paragraph (a) preceding paragraph (a)(1), and by revising that part of paragraph (b)(1) preceding paragraph (b)(1)(i) to read as follows:

§ 1.6039–1 Information returns required of corporations with respect to certain stock option transactions occurring on or after January 1, 1964.

(a) *Requirement of return under section 6039(a)(1).* Every corporation which transfers stock to any person before January 1, 1980, pursuant to such person's exercise on or after January 1, 1964, of a qualified stock option described in section 422(b), or a restricted stock option described in section 424(b), shall make, for each calendar year in which such a transfer occurs, an information return on Form 3921 with respect to each transfer made during such year. The return shall include the following information:

* * * * *

(b) *Requirement of return under section 6039(a)(2).* (1) Every corporation which records, or has by its agent recorded, before January 1, 1980, a transfer of the title to stock acquired by the transferor pursuant to his exercise on or after January 1, 1964, of—

* * * * *

Par. 8. Section 1.6039–2 is amended by revising paragraph (a), redesignating paragraphs (b) and (c) as paragraphs (c) and (e), respectively, and adding new paragraphs (b) and (d) to read as follows:

§ 1.6039–2 Statements to persons with respect to whom information is furnished.

(a) *Requirement of statement under section 6039(a)(1).* Every corporation which transfers stock to any person after December 31, 1979, pursuant to such person's exercise of a qualified stock option described in section 422(b), an incentive stock option described in section 422A(b), or a restricted stock option described in section 424(b), shall furnish to such transferee, for each calendar year in which such a transfer occurs, a written statement with respect to the transfer or transfers made during such year. This statement shall include the following information:

(1) The name, address, and employer identification number of the corporation transferring the stock;

(2) The name address, and identifying number of the person to whom the share or shares of stock were transferred;

(3) The name and address of the corporation the stock of which is the subject of the option (if other than the corporation transferring the stock);

(4) The date the option was granted;

(5) The date the shares were transferred to the person exercising the option;

(6) The fair market value of the stock at the time the option was exercised;

(7) The number of shares of stock transferred pursuant to the option;

(8) The type of option under which the transferred shares were acquired; and

(9) The total cost of all the shares.

(b) *Requirement of statement under section 6039(a)(2).* (1) Every corporation which records, or has by its agent recorded, a transfer after December 31, 1979, of the title to stock acquired by the transferor pursuant to the transferor's exercise on or after January 1, 1964, or—

(i) An option granted under an employee stock purchase plan which meets the requirements of section 423(b), and with respect to which the special rule of section 423(c) applied, or

(ii) A restricted stock option which meets the requirements of section 424(b) and with respect to which the special rule of section 424(c)(1) applies,

shall furnish to such transferor, for each calendar year in which such a recorded transfer of title to such stock occurs, a written statement with respect to the transfer or transfers containing the information required by paragraph (b)(2) of this section.

(2) The statement required by paragraph (b)(1) of this section shall contain the following information:

(i) The name and address of the corporation whose stock is being transferred;

(ii) The name, address and identifying number of the transferor;

(iii) The date such stock was transferred to the transferor;

(iv) The number of shares to which title is being transferred; and

(v) The type of option under which the transferred shares were acquired.

(3) If the statement required by this paragraph is made by the authorized "transfer agent" of the corporation, it shall be deemed to have been made by the corporation. The term "transfer agent," as used in this paragraph means any designee authorized to keep the stock ownership records of a corporation and to record a transfer of title of the stock of such corporation on behalf of such corporation.

(4) A statement is required by reason of a transfer described in section 6039(a)(2) of a share only with respect to the first transfer of such share by the person who exercised the option. Thus, for example, if the owner has record title to a share or shares of stock transferred to a recognized broker or financial institution and the stock is subsequently sold by such broker or institution (on behalf of the owner) the corporation is only required to furnish a written statement to the owner relating to the transfer of record title to the broker or financial institution. Similarly, a written statement is required when a share of stock is transferred by the optionee to himself and another person (or persons) as joint tenants, tenants by the entireties or tenants in common. However, when stock is originally issued to the optionee and another person (or persons) as joint tenants, or as tenants by the entirety, the written statement required by this paragraph shall be furnished (at such time and in such manner as is provided by this section) with respect to the first transfer of the title to such stock by the optionee.

(c) *Time for furnishing statements.*— (1) *In general.* Each statement required by this section to be furnished to any person for a calendar year shall be furnished to such person on or before January 31, of the year following the year for which the statement is required.

(2) *Extension of time.* For good cause shown upon written application of the corporation required to furnish statements under this section, the district director may grant an extension of time not exceeding 30 days in which to furnish such statements. The application shall be addressed to the district director with whom the income tax returns of the applicant-corporation are filed and shall contain a full recital of the reasons for requesting the extension to aid the district director in determining the period of the extension, if any, which will be granted. Such a request in the form of a letter to the district director signed by the applicant (or its agent) will suffice as an application. The application shall be filed on or before the date prescribed in subparagraph (1) of this paragraph for furnishing the statements required by this section.

(3) *Last day for furnishing statement.* For provisions relating to the time for performance of an act when the last day prescribed for performance falls on Saturday, Sunday, or a legal holiday, see § 301.7503.1 of this chapter (Regulations on Procedure and Administration).

(d) *Statements furnished by mail.* For purposes of this section, a statement shall be considered to be furnished to a person if it is mailed to such person's last known address.

(e) *Penalty.* For provisions relating to the penalty provided for failure to furnish a statement under this section, see § 301.6678–1 of this chapter (Regulations on Procedure and Administration).

James I. Owens,

Acting Commissioner of Internal Revenue.

[FR Doc. 84–3336 Filed 2–3–84; 9:47 am]

BILLING CODE 4830–01–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 84–16, RM–4627]

FM Broadcast Station in Ukiah, California; Proposed Change Made in Table of Assignments

Correction

In FR Doc. 84–2538, beginning on page 3886, in the issue of Tuesday, January 31, 1984, the docket number should read as it appears above.

BILLING CODE 1505–01–M

47 CFR Part 73

[MM Docket No. 84–35; RM–4638]

FM Broadcast Station in Citronelle, Alabama; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed Rule.

SUMMARY: This action proposes a first FM assigment to Citronelle, Alabama, in response to a petition filed by Barbara Kay Turner.

DATES: Comments must be filed on or before March 22, 1984, and reply comments on or before April 6, 1984.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Montrose H. Tyree, Mass Media Bureau (202) 634–6530.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Proposed Rule Making

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations (Citronelle, Alabama): MM Docket No. 84–35, RM–4638.

Adopted: January 20, 1984
Released: January 30, 1984.

By the Chief, Policy and Rules Division.

1. Barbara Kay Turner ("petitioner") submitted a petition for rule making on October 14, 1983, which seeks the assignment of Channel 272A to Citronelle, Alabama, as its first FM assignment. Petitioner stated her intention to apply for the channel, if assigned. The assignment can be made in compliance with the requirements of § 73.207 of the Rules.

2. In view of the fact that the proposal could provide for a first local broadcast service to Citronelle, the Commission proposes to amend the FM Table of Assignments, § 73.202(b) of the Rules, with regard to the following community.

City	Channel No.	
	Present	Proposed
Citronelle, Alabama		272A

3. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

4. Interested parties may file comments on or before March 22, 1984, and reply comments on or before April 6, 1984, and are advised to read the Appendix for the proper procedures. Additionally, a copy of such comments should be served on the petitioners, or their counsel or consultant, as follows: Barbara Kay Turner, P.O. Box 731, Citronelle, Alabama 36522.

7. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Assignments, § 73.202(b) of the Commissions's Rules. See, *Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend Sections 73.202(b), 73.504 and 73.606(b) of the Commission's Rules,* 46 FR 11549, published February 9, 1981.

8. For further information concerning this proceeding, contact Montrose Tyree, Mass Media Bureau, (202) 634–6530. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes an *ex parte* presentation and shall not be considered in the proceeding.

(Secs. 4, 303, 48 stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

Appendix

1. Pursuant to authority found in sections 4(i), 5(c)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See

Section 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's Rules and Regulations, and original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 84-3219 Filed 2-6-84; 8:45 am]
BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 84-34; RM-4495]

FM Broadcast Station in L'Anse, Michigan; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed Rule.

SUMMARY: This action proposes a first FM channel assignment to L'Anse, Michigan, in response to a petition filed by David C. Schaberg.

DATES: Comments must be filed on or before March 22, 1984, and reply comments on or before April 6, 1984.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Montrose H. Tyree, Mass Media Bureau (202) 634-6530.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Proposed Rule Making

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations (L'Anse, Michigan); MM Docket No. 84-34, RM-4495.

Adopted: January 20, 1984.
Released: January 30, 1984.

By the Chief, Policy and Rules Division.

1. Before the Commission for consideration is a petition for rule making filed by David C. Schaberg ("petitioner") requesting the assignment of Channel 288A to L'Anse, Michigan.[1] Petitioner stated his intention to apply for the channel, if assigned.

2. Since L'Anse, Michigan, is located within 320 kilometers (200 miles) of the U.S.-Canadian border. Canadian concurrence in the proposed assignment must be obtained.

3. We have determined that a Channel 288A assignment to L'Anse, Michigan, will require a site restriction of 6 miles northeast of the city. This site restriction is necessary to avoid short-spacing to Station WRLO-FM (Channel 287), Antigo, Wisconsin, and to unused Channel 287 at Thunder Bay, Ontario, Canada.

4. In view of the fact that the proposal could provide a first local broadcast service to L'Anse, we shall seek comments on the proposal to amend the FM Table of Assignments (§ 73.202(b) of the Rules) with respect to the following community:

City	Channel No.	
	Present	Proposed
L'Anse, Michigan		288A

5. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

6. Interested parties may file comments on or before March 22, 1984, and reply comments on or before April 6, 1984, and are advised to read the Appendix for the proper procedures. Additionally, a copy of such comments should be served on the petitioners, or their counsel or consultant, as follows: David C. Schaberg, P.O. Box 11101, Lansing, Michigan 48901.

7. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules. See, *Certification that sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 FR 11549, published February 9, 1981.

8. For further information concerning this proceeding, contact Montrose H. Tyree, Mass Media Bureau, (202) 634-6530. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making, other than comments officially filed at the Commission, or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes and *ex parte* presentation and shall not be considered in the proceeding.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

Appendix

1. Pursuant to authority found in sections 4(i), 5(c)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is proposed to amend the FM Table of

[1] This request was submitted as a counterproposal in the proceeding for Baraga, Michigan (MM Docket 83-480). Since no conflict with the Baraga proposal existed, we have separated the two proceedings.

Assignments, § 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice,* they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, N.W., Washington, D.C.

[FR Doc. 84-3223 Filed 2-6-84; 8:45 am]
BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 84-33; RM-4603]

TV Broadcast Station in Grove, Oklahoma; Proposed Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed Rule.

SUMMARY: This action proposes to assign UHF Television Channel 45 to Grove, Oklahoma, as that community's first television service, in response to a petition filed by A.M.O. Broadcasting Company.

DATES: Comments must be filed on or before March 22, 1984, and reply comments on or before April 6, 1984.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau (202) 634-6530.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Television broadcasting.

Proposed Rule Making

In the matter of amendment of § 73.606(b), Table of Assignments, TV Broadcast Stations MM Docket No. 84-33, RM-4603.

Adopted: January 20, 1984.
Released: January 30, 1984.
By the Chief, Policy and Rules Division.

1. A petition for rule making has been filed by A.M.O. Broadcasting Company ("Petitioner") requesting the assignment of UHF Television Channel 45 to Grove, Oklahoma, as that community's first local television service. Petitioner submitted information in support of the proposal and stated its intention to apply for the channel, if assigned. The channel can be assigned in compliance with the minimum distance separation requirements and other technical criteria.

2. Grove (population 3,378),[1] in Delaware County (population 23,946), is located in northern Oklahoma, approximately 96 kilometers (60 miles) northeast of Tulsa, Oklahoma.

3. In view of the foregoing and the fact that the proposed assignment could provide a first local commercial television service to Grove, the Commission believes it appropriate to propose amending the Television Table of Assignments, § 73.606(b) of the Commission's Rules, as follows:

City	Channel No.	
	Present	Proposed
Grove, Oklahoma		45+

4. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

5. Interested parties may file comments on or before March 22, 1984, and reply comments on or before April 6, 1984, and are advised to read the Appendix for the proper procedures. Additionally, a copy of such comments should be served on the petitioners, or their counsel, or consultant, as follows: Donald L. Crosby, Esquire, Harris, Barrett & Dew, P.O. Drawer 1441, St. Petersburg, Florida 33731 (counsel for the petitioner).

6. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the TV Table of Assignments, § 73.606(b) of the Commission's Rules. See, *Certification that sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), and 73.504 and 73.606(b) of the Commission's Rules,* 46 FR 11549, published February 9, 1981.

For further information concerning this proceeding, contact Kathleen Scheuerle, Mass Media Bureau, (202) 634-6530. However, members of the public should note that from the time a *Notice of Proposed Rule Making* is issued until the matter is no longer subject to Commission consideration, or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a

[1] Population figures are taken from the 1980 U.S. Census.

message (spoken or written) concerning the merits of a pending rule making, other than comments officially filed at the Commission, or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes an *ex parte* presentation and shall not be considered in the proceeding.

(Secs. 4, 303, 48 stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

Appendix

1. Pursuant to authority found in sections 4(i), 5(c)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and § 0.61, 0.204(b) and 0.283 of the Commission's Rules it is proposed to amend the TV Table of Assignments, § 73.606(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule making* to which this appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See Section 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule-making which conflict with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, N.W., Washington, D.C.

[FR Doc. 84-3222 Filed 2-6-84; 8:45 am]
BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 84-32]

TV Broadcast Stations in Arecibo, Cayey, San Juan, Utuado, Puerto Rico; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed Rule.

SUMMARY: This action proposes the deletion of UHF Television Channels 80, 76, *74 and *70 from Arecibo, Cayey, San Juan and Utuado, respectively, and the substitution of Channel *62 to San Juan, and Channel 60 either to Arecibo as a commercial channel or to Utuado as a reserved noncommercial educational channel. This proposal is being taken on the Commission's own motion.

DATES: Comments must be filed on or before March 22, 1984, and reply comments must be filed on or before April 6, 1984.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Arthur Scrutchins, Mass Media Bureau (202) 634-6530.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Television broadcasting.

Proposed Rule Making

In the matter of amendment of § 73.606(b), Table of Assignments, TV Broadcast Stations. (Arecibo, Cayey, San Juan, Utuado, Puerto Rico); MM Docket No. 84-32.

Adopted: January 17, 1984.
Released: January 30, 1984.

By the Chief, Policy and Rules Division.

1. The Commission, on its own motion, herein considers the deletion of UHF Television Channels 80, 76, *74 and *70 from Arecibo, Cayey, San Juan and Utuado, respectively, and the substitute assignments of Channel *62 to San Juan, and Channel 60 either to Arecibo, as a commercial channel, or to Utuado, as a reserved noncommercial channel.

2. The the *First Report and Order and Second Notice of Inquiry* in Docket 18262, 19 R.R. 2d 1663 (1970), the Commission reallocated the spectrum between 806 and 947 MHz (Channels 70-83) for land mobile use throughout the United States. The Table of Assignments has since been modified to remove all channels above Channel 69 to implement the change in usage. However, those channels were not at that time deleted from Puerto Rico. Presently, at least 6 land mobile systems have been licensed between 806-890 MHz in Puerto Rico. However, § 73.606 erroneously lists Channels *70, *74, 76, and 80 in the Table of Assignments as currently being available for television use in Puerto Rico. Consequently, this *Notice* considers the deletion of assignments in Puerto Rico on Channels 70-83 and possible substitutions to reflect the present use of the spectrum.

3. As noted above, there are presently four television assignments above Channel 69 in Puerto Rico. Under the proposed plan, Channel *74 in San Juan could be replaced by Channel *62, with a site restriction of 15 miles east to avoid short spacing to a construction permit on Channel 58 in Caguas. Channel 60 could be used to replace either (1) Channel 80 in Arecibo (with a site restriction of 1.4 miles west to avoid

short spacing to a construction permit on Channel 46 in Cidra) or (2) Channel *70 as a noncommercial educational assignment in Utuado (with a site restriction of 4.3 miles west to avoid short spacing to a construction permit on Channel 46 in Cidra). Arecibo and Utuado are too close for a simultaneous co-channel assignment. Concerning Channel 76 in Cayey, there is no channel available for substitution there.

4. In view of the foregoing, the commission finds that it would be in the public interest to seek comments on the proposal to amend the Television Table of Assignments (§ 73.606(b) of the Rules) with regard to the following cities:

Puerto Rico	Present	Option I	Option II
Arecibo	54, 60	54, 60	54.
Cayey	76		
San Juan	2+, 4−, *6+, 18, 24, 30 and *74.	2+, 4−, *6+, 18, 24, 30, and *62.	2+, 4−, *6+, 18, 24, 30, and *62
Utuado	*70		*80.

5. The Commission authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein. NOTE: A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

6. Interested parties may file comments on or before ———, 1984, and reply comments on or before ———, 1984, and are advised to read the Appendix for the proper procedures.

7. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules. See, *Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend Sections 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 FR 11549, published February 9, 1981.

8. For further information concerning this proceeding, contact Arthur Scrutchins, Mass Media Bureau, (202) 634–6530. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes an *ex parte* presentation and shall not be considered in the proceeding.

(Secs. 4, 303, 48 stat., as amended, 1066, 1082; 47 U.S.C. 104, 303)

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

Appendix

1. Pursuant to authority found in sections 4(i), 5(c)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is proposed to amend the TV Table of Assignments, § 73.606(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See Section 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in § 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See Section 1.420 (a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of Section 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours, in the Commission's Public Reference Room at its headquarters, 1919 M Street, N.W., Washington, D.C.

[FR Doc. 84-3221 Filed 2-6-84; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 84-31; RM-4515; RM-4607]

FM Broadcast Stations in Miami, Montgomery and Kermit, West Virginia; Proposed Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: Action taken herein proposes two plans to resolve conflicting proposals. Option I proposes the assignment of Class B channel 297, the deletion of Channel 296A and the modification of license for the Class A station at Miami, West Virginia, in response to a petition filed by Boone Broadcasting Company. Option II proposes the assignment of Class B Channel 298 to Kermit, West Virginia, in

response to a petition filed by David Blankenship.

DATES: Comments must be filed on or before March 23, 1984, and reply comments on or before April 9, 1984.

ADDRESS: Federal Communication Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: D. David Weston, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Proposed Rule Making

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations (Miami, Montgomery and Kermit, West Virginia); MM Docket No. 84–31, RM–4515, RM–4607.

Adopted: January 13, 1984.
Released: January 31, 1984.

By the Chief, Policy and Rules Division.

1. The Commission has before it for consideration two mutually exclusive petitions for rule making filed: (1) by Francis L. Blake, Richard C. Callaway, and Leon Drye, Jr., tr/as Boone Broadcasting Company ("Boone Broadcasting") proposing the assignment of Class B Channel 297 to Miami, West Virginia; and (2) by David Blankenship ("Blankenship") proposing the assignment of Class B Channel 298 to Kermit, West Virginia. Boone Broadcasting is the permitee of Station WVCM (FM), currently operating on Channel 296A, Miami, West Virginia,[1] and is proposing to upgrade its facilities by deleting Channel 296A and modifying its permit to specify operation on Channel 297 at Miami. Blankenship is requesting Channel 298 as a first FM assignment to Kermit, West Virginia. These proposals are considered mutually exclusive because the distance between Miami and Kermit is approximately 55 miles and § 73.207 of the Rules requires a 105 mile separation between 1st and adjacent Class B assignments. A staff study indicates that there are no other Class B channels available for assignment to either community. Therefore, the Commission is seeking comments on the Miami proposal as Option I and the Kermit proposal as Option II. Both petitioners has stated their interest in the new channels, if assigned to their respective community and both assignments can be otherwise made in compliance with the minimum distance separation requirements.

2. Miami (not listed in the 1980 U.S. Census) is located in Kanawba County (population 231,414)[2] approximately 42 miles east of Huntington, West Virginia. Miami currently has one local FM service (Station WVCM). Kermit (population 705) is located in Mingo County (population 37,336) approximately 45 miles south of Huntington, West Virginia. Kermit is without local FM broadcast service.

3. In support of its proposal, Boone Broadcasting asserts that the "substitution of Channel 297 for 296A would allow for a more efficient use of the particular frequency range and allow the petitioner to provide expanded services to Kanawaba County and the surrounding areas and population." Boone Broadcasting did not provide information regarding population and demographics citing the Commission's actions in BC Docket No. 80–130[3] which eliminated certain standards used to evaluate nonconflicting proposals to amend the Table of Assignments. However, as noted, a conflicting proposal was subsequently filed for Kermit which now requires comparative evaluation. Boone Broadcasting, therefore, is requested to furnish in its comments economic, demographic and other pertinent data to support its request for a first wide coverage area FM station at Miami, West Virginia. Boone is also requested to submit a recent population figure for Miami along with the source for that figure. In addition to the channel substitution, Boone Broadcasting is also proposing to modify its permit[4] and upgrade its facilities to specify operation on Channel 297. Therefore, as Option I we will in addition to the channel substitution propose to modify the permit of Station WVCM (FM) to specify operation on Class B Channel 297 rather than Channel 296A. It should be noted, however, that if another party should indicate an interest in the Class B assignment, the modification may not be implemented. Instead, an opportunity for the filing of competing applications may be provided. See *Cheyenne, Wyoming*, 62 F.C.C. 2d 63 (1976), and MM Docket 83–1148, *Modification of FM and TV Station Licenses*, 48 FR 55585, Pub. December 14, 1983.

4. In support of its proposal, Blankenship states that Kermit is located on the Kentucky-West Virginia border in the Tug River Valley and "for the most part" advertising and information come from outside the area. According to Blankenship, the areas have long had economic problems because of its "single industry economy, this being coal." Blankenship asserts that a strong (wide area) FM station "could reach out and inform people inside and outside the area" about the Tug River valley and might have a favorable impact on Kermit's economy. While Blankenship has provided us with general information about the community of Kermit and its need for a first wide coverage area FM broadcast service, it is requested that Blankenship provide in comments specific economic and demographic data to support its proposal and to furnish any other pertinent data that will aid the Commission in its comparative evaluation of the conflicting proposals. Therefore, as Option II we propose to assign Class B Channel 298 to Kermit, West Virginia, in lieu of Channel 297 to Miami, West Virginia.

5. As noted in Option I, Miami currently has an FM assignment and is seeking to upgrade its facilities "to provide expanded services to Kanawaba County and the surrounding areas and population." Option II proposes a first FM service to Kermit and our priorties traditionally place greater weight on the provision of a first local FM service to as many communities as possible. However, since both proposals will provide a first wide coverage area FM broadcasting service to both communities and since there are no other Class B channels available to either community, we shall provide each proponent an opportunity to further demonstrate, in comments to this proceeding, why its community should receive the assignment. In this regard, the parties should be guided by our specifie requests for information and our recent actions in *Revision of FM Assignment Policies and Procedures*, 90 F.C.C. 2d 88 (1982). Regardless of the Comparative matter, we would modify the Table of Assignments to reflect the actual usage of Station WCVM at Miami instead of at Montgomery, West Virginia, where it is assigned. See fn. 1, *supra*.

6. In view of the foregoing, the Commission considers it appropriate to solicit comments on alternative amendments to the FM Table of

[1] Channel 296A is allocated to Montgomery, West Virginia, but is authorized at the unlisted community of Miami, West Virginia, pursuant to § 73.203(b) of the Rules. (That section was deleted effective February 17, 1983. See *Suburban Community Policy*, 53 R.R. 2d 661 (1983).)

[2] Population figures are taken from the 1980 U.S. Census.

[3] *Revision of FM Policies and Procedures*, 90 F.C.C. 2d 88 (1982).

[4] Boone Broadcasting has also requested the Commission to issue an order to show cause why its permit should not be modified to specify Channel 297 instead of Channel 296A. Such an order is not necessary in view of Boone Broadcasting's implied consent in seeking the proposed modification.

Assignment, Section 73.202(b) of the Commission's Rules, as follows:

City	Present	Proposed
Option I:		
Miami, West Virginia		297
Montgomery, West Virginia	296A	
Option II:		
Miami, West Virginia		296A
Montgomery, West Virginia	296A	
Kermit, West Virginia		298

7. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein. Note: A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

8. Interested parties may file comments on or before March 23, 1984, and reply comments on or before April 9, 1984, and are advised to read the Appendix for the proper procedures. Additionally, a copy of such comments should be served on the petitioners, or their counsel or consultant, as follows:

Forbes W. Blair, Bilger and Blair, 1825 K St. NW., Washington, D.C. 20006 (Counsel for Boone Broadcasting Co.).
David Blankenship, 239 Elkhorn Drive, Frankfort, Kentucky 40601.

9. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules. See, *Certification that sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 FR 11549, published February 9, 1981.

10. For further information concerning this proceeding, contact D. David Weston, Mass Media Bureau, (202) 634–6530. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making, other than comments officially filed at the Commission, or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes an *ex parte* presentation and shall not be considered in the proceeding.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

Appendix

1. Pursuant to authority found in section 4(i), 5(c)(1), 303(g) and (r), and 307(b) of the communications act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See Section 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commisson to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All fillings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street NW., Washington, D.C.

[FR Doc. 84-3220 Filed 2-6-84; 8:45 am]
BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 82-276; RM-4060]

TV Broadcast Stations in Billings, Miles City, and Lewistown, Montana, and Lander, Wyoming; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes two alternate plans to provide a new TV service to Billings, Montana. The first would reassign VHF Television Channel *6 from Miles City, Montana, where it is reserved for noncommercial educational use, to Billings for commercial use and replace Channel *6 with Channel *10 in Miles City for noncommercial educational use, as requested by Comanche Enterprises. The second alternative would assign Channel 5 to Billings.

DATES: Comments must be filed on or before March 23, 1984, and reply comments on or before April 9, 1984.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Joel Rosenberg, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Television broadcasting.

Second Further Notice of Proposed Rule Making and Order To Show Cause

In the matter of amendment of § 73.606(b), Table of Assignments, TV Broadcast Stations. (Billings, Miles City, and Lewistown, Montana, and Lander,[1] Wyoming); BC Docket No. 82–276, RM–4060.

Adopted: January 17, 1984.

Released: January 31, 1984.

By the Chief, Policy and Rules Division.

1. The Commission has before it for consideration the *Further Notice of Proposed Rule Making*, published April 5, 1983 (48 FR 14681), proposing two alternate amendments to the Television Table of Assignments, § 73.606(b) of the Commission's Rules. Comments in response to the *Further Notice* were filed by the State of Montana, Miles Community College, KOUS–TV, Inc. ("KOUS"), Garryowen Corporation ("KTVQ"), Arapahoe Silent Majority Inc. ("Arapahoe"), and Commanche Enterprises ("petitioner"). KOUS, Arapahoe, and petitioner also filed reply comments.

2. This proceeding was initiated by the *Notice of Proposed Rule Making*, published May 26, 1982 (47 FR 22985), proposing to reassign for Channel *6 from Miles City, Montana, (pop. 9,602) [2] where it is reserved for noncommercial educational use, to Billings, Montana (pop. 66,798) for commercial use and to switch the reservation at Miles City to Channel 10. Three C's Broadcasting Company ("3 C's") filed "informal comments" in response to the *Notice* indicating that, on August 2, 1983, it tendered an application to operate a full service commercial television station on Channel 10 at Miles City (BPCT–82080KF). Accordingly, 3 C's requested denial of petitioner's proposal. A grant of 3 C's application together with a reassignment of Channel 6 from Miles City to Billings would eliminate a reserved VHF channel at the former community. Such a proposal was said to contravene Commission policy of retaining non-commercial educational reserved channels for future use, especially where there are other available commercial channels. The *Further Notice* indicated that VHF Channel 13, assigned to Lewistown, Montana, in 1952, but never used as a full service station, could be assigned to Billings. Accordingly, the *Further Notice* set forth alternative proposals. Alternative A was the proposal set forth in the *Notice*. Alternative B would not affect the Miles City assignments but would delete Channel 13 from Lewistown and reassign it to Billings.

3. Both the State of Montana and Miles Community College express concern about the possible loss of an educational reservation. The State indicates that Montana is one of only two states without locally originated noncommercial educational television and that the "vast majority" of Montana's land is unserved by such television service. According to the State, "numerous" Montana communities are planning and developing non-commercial educational television to serve these areas, and reassignments of reserved channels could "significantly reduce" their future availability. Miles College oppposes any action leaving Miles City without a noncommercial educational channel and claims that it is studying the development of needed educational programming on Channel *6.

4. KOUS, KTVQ, and Arapahoe point out that the *Further Notice* omitted mention that Arapahoe had applied for Channel 13 at Lewistown.[3] KOUS asserts that both alternatives in the *Further Notice* are "unavailable," because both would remove a channel from a community in which there is a pending and cut-off application for that channel. According to KOUS, this would be unfair to the communities involved and to the applicants. It suggests either that the matter be addressed in a subsequent rule making proposal or that the instant proposal be dismissed.

5. Opposing both proposed alternatives, KTVQ points out that, as the licensee of television Station KTVQ–TV, Billings, and of VHF translator Stations K10GF, Miles City, and K13IX, Lewistown, it is "intimately familiar" with those markets. It asserts its belief that the proposed changes are not in the public interest and will be "detrimental" to Montana television service. According to KTVQ, Alternative B would preclude a first local service to Lewistown. Further, KTVQ asserts that the alternatives would "seriously" preclude service to either Lewistown or Miles City and that Billings does not need an additional VHF assignment. According to KTVQ, Billings is served by three VHF network affiliates and has two vacant and feasible UHF assignments which the Commission ought not allow petitioner to ignore. KTVQ also states that the alternatives would restrict future growth in eastern Montana and would merely substitute a Billings VHF network affiliate for an existing one (KOUS–TV) licensed to nearby Hardin, Montana.

6. Arapahoe opposes alternative B, arguing that the Commission has traditionally declined to reallocate or otherwise change the status of a channel in the face of an existing interest or likelihood threreof. Arapahoe points out that petitioner has previously indicated that it would locate another channel for Billings.

7. Petitioner, while indicating that alternative A is feasible, states that it has determined that Channel 5 could be assigned to Billings as its third commercial VHF channel with no disruption to existing or potential service. Petitioner reaffirms its intention to apply for and construct a full service commercial VHF station at Billings. In its engineering report, petitioner notes that a site restriction of 13 miles southeast of Billings would be necessary to comply with the mileage separation requirements of Section 73.610 of the Commission's Rules. Petitioner failed to note that the mileage separations are met only if the channel offset for Station KOWY(TV) on Channel 5, Lander, Wyoming, is changed from zero to minus. In order to accomplish this change, the Lander station is entitled to be heard on the proposed modification of license, and an *Order to Show Cause* is issued herein for that purpose.

8. KOUS opposes petitioner's Channel 5 proposal, stating that its examination of petitioner's engineering report reveals shortcomings. According to KOUS, the proposed transmitter site is isolated and well removed from main or secondary roads. Further KOUS asserts that the line-of-sight signal to Billings must pass through a mountain "window" and a substantial tower height is required to clear other terrain obstacles. KOUS avers that petitioner's mileage separation study indicates "minimal" compliance. According to KOUS, petitioner's suggestion that its proposed tower height is acceptable is "strained," and, although the choice of a transmitter site should be dealt with by an applicant, the Commission ought not countenance an "extreme" showing in a community with vacant channels. KOUS argues that a UHF-VHF allocation scheme cannot function if it can be "altered" by a proposal such as petitioner's.

9. KOUS requests that any assignment of Channel 5 to Billings should specifically restrict a potential applicant

[1] This community has been added to the caption.

[2] Population figures are derived from the 1980 U.S. Census.

[3] Arapahoe's application (BPCT–830107KI) was filed January 7, 1983.

to the minimum distance separation requirements of § 73.610 of the Commission's Rules, as consideration of a short-spaced application would "make a mockery of the entire Rule Making process and of the careful evaluations made in this docket." KOUS also refers to Billings' relative isolation and the "late-filed" comments of Miles College and the State as indicating difficulties in obtaining public comment. KOUS asserts that receipt of these comments a year after the *Notice* demonstrates that "rash" action by the Commission might have omitted important comments. According to KOUS, it would be contrary to the public interest to consider petitioner's Channel 5 proposal without the opportunity for public comment.

10. In reply comments, Arapahoe again urges that Channel 13 remain assigned to Lewistown. In its reply, petitioner indicates that its Channel 5 proposal allays the concerns of the State and of Miles College and also accommodates the application of Arapahoe. Petitioner states that this proposal also disposes of concerns raised by KOUS and KTVQ that neither alternative set forth in the *Further Notice* is workable. Petitioner further states that, contrary to KTVQ's conclusions, it has demonstrated a need for a third VHF channel at Billings.

11. As set forth in the *Further Notice*, petitioner's proposal to reassign Channel *6 from Miles City to Billings for commercial use caused us concern centering upon the consequent deletion of a commercial channel and the current interest of 3 C's in its use. Thus, the Commission staff proposed to reassign Channel 13 from Lewistown to Billings as an alternative. However, the staff inadvertently overlooked the pendency of the application for Channel 13 at Lewistown. As such that proposal would not have been made. In light of this, we now believe that petitioner's latest proposal to assign Channel 5 to Billings should be considered, as an interest has been expressed for a full service VHF channel in that community. Further, this suggestion apparently does not affect service to other communities.

12. KOUS's objections to petitioner's proposed transmitter site and tower height primarily raised questions which are more appropriate at the application stage. Since we are requesting further comments on the Channel 5 proposal, parties can further comment on the technical feasibility of the proposal. This *Further Notice* is necessary both for notifying the Lander licensee of the license modification and for obtaining Canadian concurrence. In addition, we wish to provide the opportunity for public comment as suggested by KOUS on the Channel 5 request for Billings.

13. As noted, since Billings is within 250 miles of the border, Canadian coordination is required. Use of Channel 5 in Billings would require a site restriction of 10.7 miles southeast to avoid short-spacing to Channel 5, Great Falls, Montana, and would also require a change in offset of Channel 5 at Lander. Accordingly, the ultimate permittee of Channel 5 at Billings shall, as a condition to the assignment of that channel to Billings, reimburse the licensee of Channel 5 in Lander for reasonable expenses incurred as a result of the change in offset.

14. In view of the foregoing, we further propose the following alternatives A and B for amendment to the Television Table of Assignments, § 73.606(b) of the Commission's Rules:

City	Channel No.	
	Present	Proposed
Alternative A:		
Billings, Montana	2, 8, *11, 14, and 20+.	2, 5, 8, *11, 14, and 20+.
Miles City, Montana	3–, *6, and 10	3–, *10.
Alternative B:		
Billings, Montana	2, 8, *11, 14, and 20+.	2, 5, 8, *11, 14, and 20+.
Lander, Wyoming	*4, 5	*4, 5–.

15. Accordingly, it is ordered, that pursuant to section 316(a) of the Communications Act of 1934, as amended, The Chrysostrom Corporation ("Chrysostrom"), licensee of Station KOWY–TY at Lander, Wyoming, shall show cause why its license should not be modified to specify operation on Channel 5—as proposed herein instead of the present Channel 5.

16. Pursuant to § 1.87 of the Commission's Rules, Chrysostrom may, not later than March 23, 1984, request that a hearing be held on the proposed modification. Pursuant to § 1.87(f), if the right to request a hearing is waived, Chrysostrom may, not later than March 23, 1984, file a written statement showing with particularity why its license should not be modified as proposed in the *Order to Show Cause*. In this case, the Commission may call on Chrysostrom to furnish additional information, designate the matter for hearing, or issue, without further proceedings, an Order modifying the license as provided in the *Order to Show Cause*. If the right to request a hearing is waived and no written statement is filed by the date referred to above, Chrysostrom will be deemed to have consented to the modifications as proposed in the *Order to Show Cause* and a final Order will be issued by the Commission if the above-mentioned channel modifications are ultimately found to be in the public interest.

17. It is further ordered, that the Secretary shall send a copy of this *second further notice of proposed rule making and order to show cause* by certified mail, return receipt requested, to The Chrysostrom Corporation, Station KOWY (TV), Box 170, Lander, Wyoming 82601.

18. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein. NOTE: A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

19. Interested parties may file comments on or before March 23, 1984, and reply comments on or before April 19, 1984, and are advised to read the Appendix for the proper procedures.

20. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the TV Table of Assignments, § 73.606(b) of the Commission's Rules. See, *Certification that sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 FR 11549, published February 9, 1981.

21. For further information concerning this proceeding, contact Joel Rosenberg, Mass Media Bureau, (202) 634–6530. However, members of the public should note that from the time a *Notice of Proposed Rule Making* is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes an *ex parte* presentation and shall not be considered in the proceeding.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

Appendix

1. Pursuant to authority found in sections 4(i), 5(c)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is proposed to amend the TV Table of Assignments, § 73.606(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be avaiable for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 84-3224 Filed 2-6-84; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

Hydraulic Brake Systems; Denial of Petition for Rulemaking

AGENCY: National Highway Traffic Safety Administration (NHTSA).

ACTION: Denial of petition for rulemaking.

SUMMARY: This notice responds to a petition for rulemaking submitted by the Motor Vehicle Manufacturers Association of the United States, Inc. (MVMA), concerning Federal Motor Vehicle Safety Standard No. 105, *Hydraulic Brake Systems.* The petitioner requested a change in the standard's parking brake requirements applicable to passenger cars and light school buses (school buses with a gross vehicle weight rating (GVWR) of 10,000 pounds or less). Standard No. 105 currently requires the parking brakes of those vehicles to pass specified performance tests on a 30 percent grade. MVMA requested that the gradient be changed to 20 percent. This notice denies the MVMA petition. However, with respect to passenger cars, the agency is considering as part of its international harmonization efforts a harmonized brake standard for passenger cars. One of the issues being addressed in that rulemaking is whether to replace the 30 percent gradient requirement with a 20 percent gradient requirement, while making a number of other changes, including possible additions, in the requirements applicable to parking brakes. The agency does not contemplate any action independent of the harmonization effort.

FOR FURTHER INFORMATION CONTACT: Mr. Vern Bloom, Office of Vehicle Safety Standards, National Highway Traffic Safety Administration, 400 Seventh Street, S.W., Washington, D.C. 20590 (202-426-2153).

SUPPLEMENTARY INFORMATION: A petition for rulemaking has been submitted by the Motor Vehicle Manufacturers Association of the United States, Inc. (MVMA), concerning Federal Motor Vehicle Safety Standard No. 105 (49 CFR Part 571.105), *Hydraulic Brake Systems.* That standard requires the parking brakes of passenger cars and light school buses to pass specified performance tests on a 30 percent grade. MVMA requested that the gradient requirement be changed to 20 percent. The petitioner argued that a 20 percent gradient requirement would result in weight and cost savings and permit greater flexibility in optimizing brake design, while meeting the need for safety.

MVMA listed several factors in support of its petition. The petitioner noted that, in 1981, the agency changed from 30 percent to 20 percent in parking brake gradient requirement that had been promulgated but not yet put into effect for light trucks, buses other than school buses, and multipurpose passenger vehicles (MPV's). (See response to petitions for reconsideration, published in the **Federal Register** (46 FR 61889) on December 21, 1981.) MVMA also noted that, in the same notice, the agency announced an intention to propose the same change for light school buses. According to the petitioner, passenger cars operate on the same roadways, in the main, as light trucks, buses, MPV's and school buses. The petitioner argued that the same change in parking brake gradient requirement is therefore appropriate for passenger cars.

MVMA also noted that the brake regulation of the Economic Commission for Europe (ECE) has an 18 percent slope holding requirement, instead of a 30 percent requirement. The petitioner stated that the European continent has many hilly or mountainous regions, yet inquiries of overseas manufacturers indicate that there is no evidence of

need for increased grade holding capability in European parking brakes.

The petitioner also noted that the majority of passenger cars and light school buses in the United States have automatic transmissions. MVMA stated that it was proposing no change in the requirements for the "parking mechanism" of the automatic transmission, which now must withstand a 2.5 mph moving barrier impact.

Finally, MVMA stated that the constraints of good overall brake design, customer satisfaction, and the other requirements of the brake standard dictate the utilization of brake hardware that assures a reasonable level of parking brake effectiveness.

Standard No. 105's parking brake requirements consist or two major components: a gradient holding requirement and an effort limit requirement. The gradient requirement refers to the steepness or angle of the grade on which a vehicle must hold. The purpose of this requirement is to assure that a vehicle's parking brake will hold when the vehicle is parked on steep hills. The effort limit requirement refers to the maximum amount of force that may be applied to a vehicle's parking brake during testing. The purpose of this requirement is to assure that a parking brake operates effectively with an amount of force that can actually be applied by drivers.

While the parking brake gradient and effort limit requirements address different issues from the point of view of motor vehicle safety, in practice the two requirements are closely related. Over a certain range of both force and gradient, a given parking brake will hold a vehicle on increasingly steep gradients if increasingly greater force is applied to the brake.

Light School Buses

Between 1977 and September 1, 1983, light school buses were required by Standard No. 105 to meet parking brake performance requirements while parked on a 30 percent grade when a maximum force of 125 pounds was applied to hand-operated parking brake systems and 150 pounds was applied to foot-operated parking brake systems. On January 2, 1981, the agency published in the **Federal Register** (46 FR 55) a final rule amending Standard No. 105. The final rule changed the 125- and 150-pound effort limits for light school buses to 90 pounds and 125 pounds, respectively. No change was made in the 30 percent gradient requirement since no change had been proposed or suggested by commenters.

The new requirement became effective on September 1, 1983. The same combination of parking brake requirements, i.e., gradient requirement and effort limit requirement, was originally intended to apply to light trucks and light buses other than school buses. However, on December 21, 1981, the agency responded to petitions for reconsideration by publishing in the **Federal Register** (46 FR 61887) a notice amending the January 1981 final rule by changing the parking brake gradient requirement applicable to those other vehicles from 30 percent to 20 percent. No change was made in the requirements applicable to light school buses, including those which became effective on September 1, 1983, because the gradient requirement has not been changed for school buses and therefore the petitions for reconsideration did not apply.

However, as noted by MVMA in its petition for rulemaking, the agency indicated in that December 1981 notice an intention to propose the same change for light school buses. The agency stated that the purpose of the possible change would be to make the parking brake requirements for light school buses the same as for light trucks and light buses other than school buses. Since school buses are constructed on the same chassis, including parking brakes, as those other vehicles, the agency noted that different parking brake requirements could either limit which chassis could be used for school buses or require that new parking brake systems be specifically designed and installed on some of those chassis used for school buses. The agency stated that in light of the more stringent parking brake effort limits which were to take effect on September 1, 1983, and the relationship between force and the steepness of gradient on which a parking brake will hold a vehicle, the agency did not believe that then existing school bus parking brakes would be significantly altered if a less stringent gradient requirement were adopted.

After further review of the possible change in gradient requirement for light school buses, NHTSA has now decided not to propose that change. There are several reasons for this decision.

First, the combination of a 30 percent gradient requirement and the new, more stringent, 90- and 125-pound effort limit requirement serves the purpose of safety. The agency has previously justified the safety need for both requirements. Among other things, the agency has noted the existence of some 30 percent grades, and studies showing that some drivers cannot even exert force equivalent to the 90- and 125-pound effort limits.

Moreover, there is a need for a special margin of safety for school buses. Throughout its history, NHTSA has been particularly concerned about assuring the safety of these vehicles. Congress shares that special concern, as is evidenced by its singling out school buses in the Motor Vehicle and Schoolbus Safety Amendments of 1974 for mandatory issuance of safety standards, including vehicle operating systems. See 15 U.S.C. 1392(i)(1)(Af).

Second, the agency is no longer able to conclude that changing the gradient requirement from 30 percent to 20 percent would not result in the production of less effective school bus parking brakes than were produced between 1977 and September 1, 1983. The more stringent effort limit requirement would, to some extent, counteract the effect of adopting a less stringent gradient requirement. However, the agency estimates that a standard with a 20 percent gradient requirement and a 90- and 125-pound effort limit requirement would be 18 percent less stringent for foot-operated parking brakes and 5 percent less stringent for hand-operated parking brakes, than the standard which was in effect between 1977 and September 1, 1983. These stringency estimates are based on engineering analysis and assume that the control force changes are essentially linearly proportional to the resultant braking force obtained at the wheels.

Third, after reviewing the effects of the new combination of requirements, the agency does not believe that application of these requirements results in any difficulties for school bus manufacturers. Light school buses have historically had to meet separate braking performance requirements from light trucks and buses other than school buses. Until the January 1981 final rule, with its September 1983 effective date, the braking performance of these other vehicles has been unregulated. Chassis manufacturers have been willing to tool special school bus packages, certified to meet applicable motor vehicle safety standards including Standard No. 105, to meet the needs of school bus manufacturers. Moreover, the design changes needed for school buses to meet the new, more stringent effort limit were minor, including such things as longer actuating pedals, rerouted cables, and new parking brake levers. The agency has not been informed by manufacturers or users of any problems which resulted from the amendment.

Based on previous regulatory evaluations, the increased costs for such a minor redesign were estimated to be no more than $6.00 per vehicle. Some vehicles may have required no modifications. Should any vehicles have required more extensive redesign, the costs of a more major redesign were estimated to be no higher than $17.50. The agency believes that costs of this magnitude are justified in terms of the increased safety benefits. In recent years, annual shipments of light school buses have ranged from 3,500 to 4,000. Thus, the overall effect on the economy is minimal.

In deciding not to propose a reduction in gradient requirement for light school buses, NHTSA recognizes that it is reaching a different decision with respect to these vehicles than it did for light trucks and light buses other than school buses. NHTSA believes that both decisions are appropriate. The decision to specify a 20 percent gradient requirement, rather than a 30 percent gradient requirement, for light trucks and light buses other than school buses was based on the relatively high impact on manufacturer and consumer costs (a 30 percent gradient requirement would have resulted in cost increases of more than a million-and-a-half dollars for one manufacturer alone) and relatively small benefits.

However, in view of NHTSA's and Congress' special concern about school bus safety (discussed above), the agency believes that the 30 percent gradient requirement is appropriate for light school buses. Given the nature of school buses, NHTSA considers it appropriate to hold school bus manufacturers to an especially high standard of care. Moreover, as noted above, the overall effect on the economy is minimal due to the small number of light school buses that is produced.

Passenger Cars

Since 1976, passenger cars have been required by Standard No. 105 to meet parking brake performance requirements while parked on a 30 percent grade when a maximum force of 90 pounds is applied to hand-operated parking brake systems and 125 pounds is applied to foot-operated parking brake systems, i.e., the same combination of requirements that become effective for light school buses on September 1, 1983.

As part of its efforts to reduce costs through international harmonization, the agency is considering proposing a harmonized brake standard for passenger cars, which would include new parking brake performance requirements. Among the issues being considered by the agency is the relationship of the current gradient requirement of Standard No. 105 to the European parking brake requirements, as related to the overall effectiveness of passenger car parking brakes.

The agency believes that the petitioner's arguments in support of a change in gradient requirement oversimplify the complex issues involved. An example is its discussion of Europe's 18 percent grade holding requirement. While the ECE regulation does specify testing on an 18 percent grade, its effort limit requirement is more stringent than that specified by Standard No. 105, especially for foot-operated parking brakes. Due to the relationship between the gradient and effort limit requirements, a standard specifying Europe's slope requirement but not its effort limit requirement could result in production of less effective parking brakes than are being produced under the European standard.

The European standard also includes certain tests for parking brakes, not included as a part of Standard No. 105. These include a test with a trailer and a dynamic test. Once again, a standard specifying part but not all of Europe's parking brake requirements could result in production of less effective parking brakes.

In addition, the petitioner did not correctly characterize the effect that its proposed change would have on parking brakes for vehicles equipped with automatic transmissions. As indicated above, MVMA stated that it was proposing no change in the requirements for the parking mechanism of the automatic transmission, which must now pass a 2.5 mph moving barrier test.

The moving barrier test referred to by the petitioner is not actually required by Standard No. 105, but is instead part of an alternative series of tests which may be met at the option of the manufacturer. The parking brake of passenger cars and light school buses must nominally be capable of holding the vehicle stationary (to the limit of traction on the braked wheels) on a 30 percent grade, with the transmission in neutral. However, for vehicles with a transmission or transmission control incorporating a parking mechanism that must be engaged before the ignition key can be removed (most automatic transmissions have this feature), manufacturers have the option of meeting the 30 percent gradient test with the transmission's parking mechanism engaged, so long as certain other requirements are also met. These include passing the same test on a 20 percent grade without the parking mechanism engaged (wheel slide not permitted) and the moving barrier test. If the primary parking brake test's gradient requirement were changed from 30 percent to 20 percent, the option of meeting a 20 percent gradient requirement plus additional tests would become meaningless.

The agency also notes that its determination that a 20 percent gradient requirement is appropriate for light trucks and buses other than school buses does not necessarily mean that the same decision would be appropriate for passenger cars. As discussed in previous **Federal Register** notices, braking requirements are more easily met for passenger cars than those other vehicles.

As part of its rulemaking on a harmonized brake standard, the agency is thoroughly addressing the various parking brake requirements, including their interrelationships.

Requiring continued compliance with the current 30 percent gradient requirement for passenger cars while the agency completes its development of a comprehensive harmonization proposal should not impose any hardships on manufacturers. For several years, manufacturers have been meeting Standard No. 105's current requirements for service brakes and parking brakes. The agency is not aware of any significant problems in optimizing brake design that are caused by those requirements.

For the reasons set forth above, the agency denies MVMA's petition to change the parking brake requirements applicable to passenger cars and light school buses. For light school buses, the agency does not plan to propose any changes in the combined 30 percent gradient/90- and 125-pound effort limit requirements that became effective September 1, 1983. For passenger cars, the agency does not plan any interim action to change the current parking brake test requirements of Standard No. 105, pending completion of its rulemaking for a harmonized brake standard.

(Secs. 103, 119 and 124, Pub. L. 89–563, 80 Stat. 718 (15 U.S.C. 1392, 1407 and 1410a); delegations of authority at 49 CFR 1.50 and 501.8)

Issued on January 31, 1983.

Barry Felrice,

Acting Associate Administrator for Rulemaking.

[FR Doc. 84-3308 Filed 2-6-84; 8:45 am]

BILLING CODE 4910-59-M

Notices

Federal Register
Vol. 49, No. 26
Tuesday, February 7, 1984

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

Committee on Governmental Processes; Public Meeting

Pursuant to the Federal Advisory Committee Act (Pub. L. No. 92–463), notice is hereby given of a meeting of the Committee on Governmental Processes of the Administrative Conference of the United States, to be held at 9:15 a.m. on Monday, February 27, 1984, at Room 4121, Department of the Treasury, 15th Street and Pennsylvania Avenue NW., Washington, D.C.

The committee will meet to discuss a report by Professor Jack Kress of the Delaware Law School concerning inspections by federal agencies for regulatory violations, and a report by Professor Teresa Schwartz of the George Washington University Law School concerning product recalls.

Attendance is open to the interested public, but limited to the space available. Persons wishing to attend should, if possible, notify the Office of the Chairman of the Administrative Conference prior to the meeting. The committee chairman, if she deems it appropriate, may permit members of the public to present oral statements at the meeting. Any member of the public may file a written statement with the committee before, during, or after the meeting.

For further information concerning this meeting contact David M. Pritzker, Office of the Chairman, Administrative Conference of the United States, 2120 L Street, NW., Suite 500, Washington, D.C. 20037. (Telephone: 202–254–7065.) Minutes of the meeting will be available on request.

Richard K. Berg,

General Counsel.

January 31, 1984.

[FR Doc. 84–3292 Filed 2–6–84; 8:45 am]
BILLING CODE 6110–01–M

DEPARTMENT OF AGRICULTURE

Soil Conservation Service

Lower Little Tallapoosa River Wastershed, Georgia; Finding of No Significant Impact

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of a finding of no significant impact.

SUMMARY: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); and the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the construction of structures 17 and 19 within the Lower Little Tallapoosa River Watershed, Carroll and Haralson Counties, Georgia.

FOR FURTHER INFORMATION CONTACT: B. Clayton Graham, State Conservationist, Soil Conservation Service, 355 East Hancock Avenue, Athen, Georgia 30601, telephone 404–546–2273.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. B. Clayton Graham, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

Construction of structures 17 and 19 will provide protection to 17 acres of cropland, 87 acres pastureland, 43 acres grazed woodland, and 39 acres of woodland.

The Finding of No Significant Impact (FONSI) and the Environmental Assessment have been forwarded to the Environmental Protection Agency and to various Federal, State, and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address. Basic data developed during the environmental evaluation are on file and may be reviewed by contacting Mr. B. Clayton Graham.

No administrative action on implementation of the proposal will be taken until March 8, 1984.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program. Office of Management and Budget Circular A–95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects is applicable)

Dated: January 30, 1984.

B. Clayton Grahm,

State Conservationist.

[FR Doc. 84–3272 Filed 2–6–84; 8:45 am]
BILLING CODE 3410–16–M

DEPARTMENT OF AGRICULTURE

Forest Service

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

National Forest System Land and Resource Management Planning and Public Land and Resources; Planning, Programming, and Budgeting

AGENCY: Forest Service, USDA and Bureau of Land Management, Interior.

ACTION: Joint Notification of Land and Resource Management Planning Schedules.

SUMMARY: Land and resource management plans of the Forest Service and the Bureau of Land Management frequently cover adjoining areas which share common resource issues and management concerns requiring continuous and close interagency coordination. Therefore, the USDA Forest Service and the USDI Bureau of Land Management have again elected to jointly announce land management planning schedules for lands each agency administers. The purpose of publishing joint planning schedules is to provide interested agencies and publics the opportunity to study the relationships between the two agencies' current and projected planning activities.

The Forest Service and the Bureau of Land Management's planning systems are authorized and administered under different laws and regulations. Consequently, this notice is organized into two parts (Part A—Forest Service and Part B—Bureau of Land Management).

Comments on projected new plans should be directed to the appropriate agency (see **ADDRESS**, Part A and Part B).

Part A—Forest Service

The National Forest Management Act of 1976 directed the Secretary of Agriculture to attempt to complete land and resource management plans for each "administrative unit" (e.g., National Forest) of the National Forest System by September 30, 1985. Regulations to guide this effort were initially developed in 1979, and revised in 1982 at the direction of the Presidential Task Force on Regulatory Relief (Vol. 47, No. 190 of the **Federal Register**, September 30, 1982). The NFMA regulations require integrated planning for all resources of the National Forest System—recreation, fish and wildlife, water, timber, range, and wilderness.

The rules set forth a process for developing and revising the land and resource management plans as required by the Forest and Rangeland Renewable Resources Planning Act of 1974 (RPA), as amended by the National Forest Management Act (NFMA) of 1976. These rules require development of Regional Guides and Forest Plans. Each plan will include all management planning for resources and be supported by an environmental impact statement.

More recently, additional revision to the rules was necessary to respond to a court decision that the 1979 Roadless Area Review and Evaluation (RARE II) environmental statement and associated procedures were inadequate under the National Environmental Policy Act (NEPA).

The impact of developing new direction for analysis standards and roadless area evaluation to be conducted through Forest planning, has had a significant effect on Forest Service programs and schedules. Draft and final Regional Guides and Forest Plans and associated environmental impact statements will be filed with the Environmental Protection Agency and made available to the public for comment. A planning schedule is included showing the fiscal year in which draft and final documents have been or will be filed, as well as projected dates for publication of supplemental or revised draft Forest Plans and EIS's required as a result of the roadless area evaluation. Also given are the addresses of the Forest Service's nine Regional Offices and National Forests headquarters in each Region for which plans are to be prepared.

Readers interested in the progress and status of a particular Regional Guide or Forest Plan should contact the appropriate Regional Forester or Forest Supervisor.

DATE: Comments on the schedule will be accepted until March 8, 1984.

ADDRESS: Comments should be sent to: Chief, Forest Service, USDA, P.O. Box 2417, Washington, DC 20013.

FOR FURTHER INFORMATION CONTACT: Joyce P. Parker, Land Management Planning, P.O. Box 2417, Washington, DC 20013, (202) 447-6697.

NATIONAL FOREST SYSTEM FIELD OFFICES AND FISCAL YEAR FILING DATES OF REGIONAL GUIDES AND FOREST PLANS WITH ENVIRONMENTAL PROTECTION AGENCY

Regional Guide and Headquarters Location [1]	Fiscal year to be completed: DEIS [2]	FEIS
Northern Region: Federal Bldg., Missoula, Mont. 59807		
Idaho:		
Clearwater—Orofino 83544	1985	
Idaho Panhandle National Forests,[3] Coeur d'Alene, Kaniksu, St. Joe—Coeur d'Alene 83814	1985	1985
Nezperce—Grangeville 83530	1985	1985
Montana:		
Beaverhead—Dillon 59725	[4] 1982	1985
Bitterroot—Hamilton 59840	1984	1985
Custer—Billings 59103	1984	1985
Deerlodge—Butte 59701	1985	1985
Flathead—Kalispell 59901	[4] 1983	1985
Gallatin—Bozeman 59715	1984	1985
Helena—Helena 59601	1984	1985
Kootenai—Libby 59923	[4] 1984	1985
Lewis and Clark—Great Falls 59403	[4] 1982	1985
Lolo—Missoula 59801	[4] 1982	1985
Rocky Mountain Region: 11177 West 8th Ave., Box 25127, Lakewood, Colo. 80225		
Colorado:		
Arapaho-Roosevelt [3]—Ft. Collins 80521	[4] 1982	[4] 1984
Grand Mesa, Uncompahgre, and Gunnison [3]—Delta 81416	[4] 1983	[4] 1983
Pike and San Isabel [3]—Pueblo 81008	[4] 1982	1984
Rio Grande—Monte Vista 81144	[4] 1983	1984
Routt—Steamboat Springs 80477	[4] 1983	[4] 1984
San Juan—Durango 81301	[4] 1982	[4] 1983
White River—Glenwood Springs 81601	[4] 1983	1984
Nebraska: Nebraska-Samuel R. McKelvie [3]—Chadron 69337	[4] 1982	1984
South Dakota: Black Hills—Custer 57730	[4] 1982	[4] 1983
Wyoming:		
Bighorn—Sheridan 82801	1984	1985
Medicine Bow—Laramie 82070	1984	1985
Shoshone—Cody 82414	1984	1985

NATIONAL FOREST SYSTEM FIELD OFFICES AND FISCAL YEAR FILING DATES OF REGIONAL GUIDES AND FOREST PLANS WITH ENVIRONMENTAL PROTECTION AGENCY—Continued

Regional Guide and Headquarters Location	Fiscal year to be completed: DEIS [2]	FEIS
Southwestern Region: 517 Gold Ave. SW., Albuquerque, N. Mex. 87102		
Arizona:		
Apache-Sitgreaves [3]—Springerville 85938	1985	1985
Coconino—Flagstaff 86001	1985	1985
Coronado—Tucson 85702	[4] [5] 1983	1985
Kaibab—Williams 86046	[5] 1985	1985
Prescott—Prescott 86301	1985	1985
Tonto—Phoenix 85034	[4] 1983	1985
New Mexico:		
Carson—Taos 87571	1985	1985
Cibola—Albuquerque 87112	1984	1985
Gila—Silver City 88061	1985	1985
Lincoln—Alamogordo 88310	1984	1985
Santa Fe—Santa Fe 87501	[4] 1982	[4] [5] 1983
Intermountain Region: 324 25th St., Ogden, Utah 84401		
Idaho:		
Boise—Boise 83706	1985	1985
Caribou—Pocatello 83201	1984	1985
Challis—Challis 83226	1985	1985
Payette—McCall 83638	1985	1985
Salmon—Salmon 83467	1985	1985
Sawtooth—Twin Falls 83301	1985	1985
Targhee—St. Anthony 83445	[4] [5] 1982	1985
Nevada:		
Humboldt—Elko 89801	1985	1985
Toiyabe—Reno 89501	1985	1985
Utah:		
Ashley—Vernal 84078	1985	1985
Dixie—Cedar City 84720	1985	1985
Fishlake—Richfield 84701	1985	1985
Manti-LaSal—Price 84501	1985	1985
Uinta—Provo 84601	[4] [5] 1982	1984
Wasatch-Cache [3]—Salt Lake City 84138	1985	1985
Wyoming:		
Bridger-Teton [3]—Jackson 83001	1985	1985
Pacific Southwest: 630 Sansome St., San Francisco, Calif. 94111		
Regional Guide and Headquarters Location	1982 [4]	1984
California:		
Angeles—Pasadena 91101	1985	1985
Cleveland—San Diego 92188	1985	1985
Eldorado—Placerville 95667	1985	1985
Inyo—Bishop 93514	1985	1985
Klamath—Yreka 96097	[4] 1983	1985
Lassen—Susanville 96130	1985	1985
Los Padres—Goleta 93107	1985	1985
Mendocino—Willows 95988	1985	1985
Modoc—Alturas 96101	1985	1985
Plumas—Quincy 95971	1985	1985
San Bernardino—San Bernardino 92408	1985	1985
Sequoia—Porterville 93257	1985	1985
Shasta-Trinity [3]—Redding 96001	1985	1985
Sierra—Fresno 93721	[4] 1982	1985
Six Rivers—Eureka 95501	1985	1985
Stanislaus-Calaveras, Big Tree [3]—Sonora 95370	1985	1985
Tahoe—Nevada City 95959	1985	1985
Lake Tahoe Basin Management Unit—So. Lake Tahoe	1985	1985
Pacific Northwest Region: 319 Southwest Pine St., P.O. Box 3623, Portland, Oreg. 97208		
Regional Guide and Headquarters Location	1982 [3]	1984
Oregon:		
Deschutes—Bend 97701	[4] 1983	1985
Fremont—Lakeview 97630	1985	1985

NATIONAL FOREST SYSTEM FIELD OFFICES AND FISCAL YEAR FILING DATES OF REGIONAL GUIDES AND FOREST PLANS WITH ENVIRONMENTAL PROTECTION AGENCY—Continued

	Fiscal year to be completed	
	DEIS [3]	FEIS
Malheur—John Day 97845	1985	1985
Mt. Hood—Portland 97233	1985	1985
Ochoco—Prineville 97754	1985	1985
Rogue River—Medford 97501	1985	1985
Siskiyou—Grants Pass 97526	1985	1985
Siuslaw—Corvallis 97330	1985	1985
Umatilla—Pendleton 97801	1985	1985
Umpqua—Roseburg 97470	1985	1985
Wallowa-Whitman [2]—Baker 97814	1985	1985
Willamette—Eugene 97440	1985	1985
Winema—Klamath Falls 97601	1985	1985
Washington:		
Colville—Colville 99114	1985	1985
Gifford Pinchot—Vancouver 98660	1985	1985
Mt. Baker-Snoqualmie [2]—Seattle 98101	1985	1985
Okanogan—Okanogan 98840	**1982	1985
Olympic—Olympia 98501	1985	1985
Wenatchee—Wenatchee 98801	1985	1985

Southern Region: 1720 Peachtree Rd. NW., Atlanta, Ga. 30309

Regional Guide and Headquarters Location	1982 [4]	1984
Alabama (National Forests in Alabama): [2] William B. Bankhead, Conecuh, Talladega, Tuskegee—Montgomery 36101	1985	1985
Arkansas:		
Ouachita—Hot Springs 79101	1985	1985
Ozark-St. Francis [2]—Russellville 72801	1985	1985
Florida (National Forests in Florida): [2] Apalachicola, Ocala, Osceola—Tallahassee 32301	1985	1985
Georgia: Chattahoochee-Oconee [2]—Gainesville 30501	1984	1985
Kentucky: Daniel Boone—Winchester 40391	1985	1985
Louisiana: Kisatchie—Pineville 71360	1984	1985
Mississippi (National Forests in Mississippi): [2] Bienville, Delta, DeSoto, Holly Springs, Homochitto, Tombigbee—Jackson 39205	1984	1985
North Carolina (National Forests in North Carolina) [2]—Asheville 28802:		
Nantahala and Pisgah	1984	1985
Uwharrie and Croatan	1985	1985
Puerto Rico: Caribbean—Rio Piedras 00928	1985	1985
South Carolina:		
Francis Marion	1984	1985
Sumter [2]—Columbia 29202	1985	1985
Tennessee: Cherokee—Cleveland 37311	1985	1985
Texas (National Forests in Texas) [2]: Angelina, Davy Crockett, Sabine, Sam Houston—Lufkin 75901	1985	1985
Virginia:		
George Washington—Harrisonburg 22801	1985	1985
Jefferson—Roanoke 24011	1985	1985

Eastern Region: 633 West Wisconsin Ave., Milwaukee, Wis. 53203

Regional Guide and Headquarters Location	1982 [4]	1984 [4]
Illinois: Shawnee—Harrisburg 62946	1985	1985
Indiana and Ohio (Wayne-Hoosier) [2]—Bedford 47421		
Wayne	1985	1985
Hoosier	[4] 1984	1984
Michigan:		
Hiawatha—Escanaba 49829	1985	1985
Huron-Manistee [2]—Cadillac 49601	1985	1985
Ottawa—Ironwood 49938	1985	1985
Minnesota:		
Chippewa—Cass Lake 56633	1985	1985
Superior—Duluth 55801	1984	1984
Missouri: Mark Twain—Rolla 65401	1984	1985
New Hampshire and Maine: White Mountain—Laconia 03246	1984	1985
Pennsylvania: Allegheny—Warren 16365	1984	1985
Vermont: Green Mountain—Rutland 05701	1984	1985
West Virginia: Monongahela—Elkins 26241	1984	1985
Wisconsin:		
Chequamegon—Park Falls 54552	1985	1985
Nicolet—Rhinelander 54510	1984	1985

Alaska Region: Federal Office Bldg., P.O. Box 1628, Juneau, Alaska 99802

Regional Guide and Headquarters Location	1981 [4]	1984 [4]
Alaska:		
Chugach—Anchorage 99502	1982 [4]	1984
Tongass-Chatham—Sitka 99835	1980	1990
Tongass-Ketchikan—Ketchikan 99901	1989	1990
Tongass-Stikine—Petersburg 99833	1988	1990

[1] Headquarters location opposite National Forest.
[2] Two or more separately proclaimed National Forests.
[3] DEIS and FEIS mean Draft and Final Environmental Impact Statements.
[4] Document has been filed with EPA.
*Published Draft EIS will be supplemented or revised draft will be issued in FY 1984 (except Coronado, Deschutes, and Okanogan National Forests which will be completed in FY 1985).
**Forest Plan/EIS have been rescinded.

Dated: January 31, 1984.

Gary E. Cargill,

Associate Deputy Chief.

Part B—Bureau of Land Management

Regulations governing resource management planning for Bureau of Land Management administered lands (43 CFR Parts 1601 and 1610) were published in the **Federal Register** on May 5, 1983. They became effective on July 5, 1983. Those regulations (43 CFR 1610.2(b)) require that the Bureau publish a planning schedule for the current and three succeeding Fiscal Years. The schedule below fulfills that requirement.

The formal start of the planning process begins with the publication of a Notice of Intent to initiate a plan. The projected planning starts are shown on the schedule for Fiscal Years 1984 and 1985. Where an environmental assessment (EA) is indicated on the schedule, the EA will be made available to the public and will be revised to respond to public comments, as appropriate.

A key to the abbreviations used is provided after the schedule.

Dates: Comments on the schedule will be accepted until March 8, 1984.

Address: Comments should be sent to Director (202), Bureau of Land Management, Washington, D.C. 20240.

For Further Information Contact: Ann Loose (202) 653–8824.

BUREAU OF LAND MANAGEMENT PLANNING SCHEDULE

District, state and resource area	Plan name (major resource issues)	Fiscal year			
		1984	1985	1986	1987
Anchorage, AK: Peninsula	Bristol Bay Cooperative Management Plan (oil and gas, wildlife fisheries, lands, minerals).	Final			
Fairbanks, AK:					
Yukon	Steese RMP (wild river, caribou, oil and gas, minerals)	DEIS, FEIS			
Do	White Mountain RMP (wild river, recreation, minerals, wildlife)	DEIS, FEIS			
Northeast	Central Yukon RMP (oil and gas, settlement, subsistence, minerals)		DEIS, FEIS		
	Upper Yukon RMP (oil and gas, subsistence, minerals, wildlife)		Start		DEIS, FEIS
	Pipeline MFP (oil and gas, minerals, settlement)	EA			
Arizona Strip, AZ: Vermillion	Strip MFPA (wilderness)	PFEIS			

BUREAU OF LAND MANAGEMENT PLANNING SCHEDULE—Continued

District, state and resource area	Plan name (major resource issues)	Fiscal year			
		[illegible]	[illegible]	1986	1987
Phoenix, AZ:					
Lower Gila	Lower Gila South RMP (lands, range, wilderness)	DEIS	FEIS, PFEIS		
Phoenix	Apache-Navajo Plan Analysis (lands)	EA			
Do	SE AZ Grazing MFPA (range)	Start		DEIS	
Phoenix/Kingman	Phoenix and Cerbat Block MFPA (wilderness)	DEIS	PFEIS	FEIS	
Yuma, AZ: Yuma and Havasu	Yuma District RMP (wilderness, grazing, lands, recreation)	DEIS	FEIS, PFEIS		
Safford, AZ:					
San Simon	Safford District MFPA (lands)	EA			
Black Hills	MFPA (lands)	EA			
Geronimo	do	EA			
Hinkleman	do	EA			
Cochise	Planning Analysis (lands)	EA			
San Pedro	do	EA			
Bakersfield, CA:					
Bishop	Benton/Owens Valley-Bodie Coleville MFPT (wilderness)	PFEIS	FEIS		
Caliente	Coast/Valley RMP (range, recreation, oil and gas/mineral, land tenure)	FEIS			
Do	South Sierra Foothills MFPT (range, recreation, land tenure, special land uses).	Plan Summary/ ROD.			
Hollister	Hollister RMP (range, oil and gas, minerals, land tenure, recreation)	FEIS			
	Central CA Wilderness Study MFPT (wilderness)	PFEIS	FEIS		
Susanville, CA:					
Eagle Lake	Honey Lake/ Beckwourth MFP (range, lands)	EA			
Alturas	Alturas RMP (range, lands, wilderness)	FEIS			
Surprise/Eagle Lake	Eagle Lake MFP (wilderness) Cedarville Wilderness Amendment MFPT (wilderness)		PFEIS		
	King Range MFP (wilderness)		PFEIS		
Clear Lake	Clear Lake MFPT (wilderness)	PFEIS			
Redding	Redding MFPT (wilderness)	PFEIS			
	Red Mountain MFP (wilderness)	PFEIS			
	Cow Mountain MFP (lands)	EA			
	E. Mendocino MFP (lands)	EA			
	Redding MFPT (lands)	EA			
	Scattered Block (lands)	EA			
	E. San Diego MFPT (range, wildlife, wilderness, cultural)	EA			
	CDCA Desert Plan RMP (recreation, cultural, range, wilderness)	DA/E, FA/E			
	Metro Project Plan Analysis (lands, wilderness)	EA, PFEIS			
Craig/Little Snake, Co:					
Big/Little Snake	Little Snake RMP (coal leasing, wilderness, access, range)		DEIS, FEIS, PFEIS.		
Kremmling	Kremmling RMP (coal, range, wilderness)	FEIS			
Little River	Piceance RMP (oil shale leasing)	DEIS, FEIS			
Montrose/San Juan	San Juan/San Miguel RMP (grazing, coal, oil and gas, wilderness)	FEIS			
Montrose/Uncompahgre	Uncompahgre RMP (coal, wilderness)		Start	DEIS, FEIS, PFEIS.	
Montrose/Gunnison	ORA Amendment (wildlife closures)	EA			
Northeast	Northeast RMP/EIS (realty, coal, minerals, forestry)	DEIS, FEIS			
Do	Kansas Amendment (oil and gas, realty)		EA		
Royal Gorge	Eastern Plains (realty)		EA		
	Raton Basin (realty)		EA		EA
San Luis	San Luis Amendment (lands, wildlife, range)				
Grand Junction	Grand Junction RMP (wilderness, ORV, coal, recreation)		DEIS, FEIS		
Boise, ID:					
Boise/Jarbidge	Jarbidge RMP (range, wilderness, lands, wildlife)	DEIS	FEIS	PFEIS	
Cascade	Cascade RMP (range, forestry, lands, wildlife)	Start		DEIS	FEIS
Burley, ID:					
Snake River	Cassia RMP (range, management of wetland/riparian areas)	DEIS, FEIS			
Idaho Falls, ID:					
Medicine Lodge	Medicine Lodge RMP (range, wildlife, recreation/wilderness, land tenure)	DEIS	FEIS		
Big Butte	Big Lost MFPT (range, wildlife)	MFP 3			
	Little Lost-Birch Creek MFP (land tenure, wildlife)		EA		
	Big Desert MFP (land tenure)	EA			
Pocatello	Pocatello MFP (land tenure, wildlife)	EA			
Do	Caribou-Bear Lake MFP (land tenure)	EA			
Big Butte	Big Desert MFP (wilderness)	PFEIS (Eastern Idaho).			
Do	Big Lost-Pahsimeroi MFP (wilderness)	PFEIS			
Salmon, ID:					
Challis	Mackay MFPT (range, land sales, wildlife)	Final MFP			
Lemhi	Lemhi RMP (range, wildlife, land disposal, watershed)		DEIS	FEIS	
Shoshone, ID: Bennett-Hills	Monument RMP (range, land tenure adjustment)	DEIS	FEIS		
Miles City, MT:					
Powder River	Powder River RMP (oil and gas, coal, wilderness, range)	DEIS, FEIS			
South Dakota	South Dakota RMP (Non-energy realty, range, recreation)	DEIS	FEIS		
Billings	Billings RMP (range, oil/gas, wild horse, coal)	FEIS			
Redwater	Redwater MFPA (coal, range, non-energy realty)	EA			
Dickinson, MT:					
Districtwide	Grazing EA (range)	EA			
Southwest	Southwest MFPT (coal, lands, oil and gas, vegetation)	MFPT			
McKenzie-Williams	McKenzie-Williams MFPT (coal, lands, vegetation, oil and gas)	MFPT			
Golden Valley	Golden Valley MFPA (coal)			EA	
West Central	West Central MFPA (coal)			EA	
Districtwide	Dickinson RMP (coal, non-energy realty)			DEIS	
Lewistown, MT:					
Havre	Havre RMP (range, water rights, non-energy realty, oil and gas, ACECs)		Start		DEIS, FEIS.
Bitter Creek	Bitter Creek MFPA (wilderness)	DEIS	PFEIS		
Butte, MT:					
Headwaters	Headwaters RMP (oil and gas, forestry, wilderness, range)	FEIS			
Garnet	Garnet RMP (oil and gas, timber)		DEIS, FEIS		
Centennial	Centennial MFPA (wilderness)	DEIS	PFEIS		

BUREAU OF LAND MANAGEMENT PLANNING SCHEDULE—Continued

District, state and resource area	Plan name (major resource issues)	Fiscal year			
		1984	1985	1986	1987
Elko, NV:					
Wells	Wells RMP (range, lands, wilderness)	FEIS			
Elko	Elko RMP (range, lands, wilderness)	Start	DEIS	FEIS, PFEIS	
Winnemucca, NV:					
Paradise-Denio	Paradise-Denio MFPA (wilderness)	PFEIS			
Sonoma-Gerlach	Sonoma-Gerlach MFPA (wilderness)	PFEIS			
Carson City, NV:					
Lahontan	Lahontan RMP (range, wilderness, land sales)	FEIS			
Walker	Walker RMP (range, wilderness, land sales)	DEIS	FEIS		
Reno	Reno MFP (range, wilderness)				
Ely, NV:					
Egan	Egan RMP (wilderness, range, lands)	DEIS, FEIS, PFEIS.			
Schell	Schell MFP (range, wilderness, lands)	PRO			
Las Vegas, NV:					
Caliente-Virgin Valley and State-line Esmeralda.	Esmeralda RMP (range, wilderness, lands)	DEIS	FEIS, PFEIS		
Caliente-Virgin Valley	Caliente MFPA (wilderness)	PFEIS			
Battle Mtn., NV: Shoshone-Eureka	Shoshone-Eureka RMP (range, lands, wilderness)	FEIS			
Las Cruces, NM:					
Roswell	Roswell Plan Amendment (range)	DEIS, FEIS			
Socorro	San Augustine Coal Amendment (coal)		EA		
White Sands	White Sands RMP (range, lands disposal)		DEIS, FEIS		
Albuquerque, NM:					
Taos	Taos RMP (range, lands disposal, recreation)		DEIS, FEIS		
Farmington	Farmington Amendment (range)				DEIS, FEIS.
Roswell, NM:					
Carlsbad	Carlsbad RMP (range, lands disposal access, ACECs)	Start		DEIS, FEIS	
Rio Puerco	Rio Puerco RMP (range, lands disposal coal)		DEIS, FEIS		
Farmington	Santa Fe Pacific Railroad Coal Exchange Amendment (coal exchange)	EA			
Tulsa	McCurtain Amendment to SE OK (land disposal)	EA			
Do	Panhandle (lands disposal)	EA			
Do	Southeastern Oklahoma Cat. 1 Amendment (lands disposal)	EA			
Do	South Canadian Cat. 1 Plan Analysis (lands disposal)		EA		
Statewide New Mexico State Office.	State Wilderness Study Plan Cat. 3 Amendment (wilderness)	EA, DEIS	PFEIS		
Burns, OR: Three Rivers	John Day RMP (grazing, land tenure, timber, fisheries)	DEIS, FEIS			
Medford, OR: Butte Falls, Klamath, Jacksonville, Grants Pass.	Josephine and Jackson-Klamath MFPA (range)	EA			
Prineville: Central Oregon, Deschutes.	Two Rivers RMP (range, land tenure, fisheries)	Start	DEIS, FEIS		
Medford: Glendale, Butte Falls, Jacksonville, Grants Pass.	Josephine and Jackson-Klamath MFPA (ACECs)	EA			
Statewide: High Desert, Warner Lakes, Three Rivers, Anderews, South Malheur, North Malheur, Baker, Central Oregon, Klamath, Myrtlewood.	Oregon Statewide Wilderness MFPA 2 (wilderness)		DEIS, PFEIS		
Vale, OR: Baker	Grand Ronde RMP (range, land tenure, timber, fisheries)		Start	DEIS, FEIS	
Spokane, OR: Border, Basin	Spokane RMP (range, land tenure, fisheries)	DEIS	FEIS		
Prineville: Central Oregon, Deschutes.	Brothers MFPA (land tenure)	EA			
Salt Lake, UT:					
Salt Lake/Pony Express	Tooele MFPT (range, land tenure, wilderness, R-O-W)	MFP 3			
Moab/Grand	Grand RMP (range, oil and gas, recreation, land tenure)	FEIS			
Vernal: Bookcliffs	Bookcliffs RMP (tar sand, range, oil shale, oil and gas)	DEIS, FEIS			
Cedar City: Cedar City, Beaver River/Kanab, Escalante.	Cedar/Beaver/Garfield RMP (range, coal, R-O-W, land)	DEIS, FEIS			
Richfield: House Range	House Range RMP (range, geothermal, land tenure)				DEIS, FEIS
Salt Lake: Bear River	Box Elder RMP (range, land tenure, oil and gas)		DEIS, FEIS		
Moab: San Juan	San Juan RMP (range, land tenure, recreation, oil and gas)				DEIS, FEIS
Salt Lake, UT: Pony Express	Utah County RMP (land tenure, R-O-W, oil and gas, recreation)	Start			DEIS, FEIS
Richfield: Warm Springs	Warm Springs RMP (range, land tenure, geothermal)				DEIS, FEIS
Moab: San Rafael	San Rafael RMP (range, tar sand, oil and gas, recreation)		Start		
Cedar City:					
Dixie	Dixie RMP (land tenure, recreation)		Start		
Do	Plan Amendment (land tenure adjustment)	EA			
Utah Statewide Wilderness Amendment.	Utah Amendment (wilderness)	EA			
Richfield, Cedar City, Vernal, Moab	Utah Amendment (tar sand)	EA			
Worland, WY:					
Cody	Cody MFPA (wilderness)	PFEIS, EA			
Washakie	Washakie RMP (range, wilderness, coal, oil and gas)		DEIS	FEIS	
Rawlins:					
Lander	Lander RMP (range, wilderness, coal, oil and gas)		DEIS, FEIS		
Medicine Bow	Medicine Bow MFPA (coal—emergency lease application)	EA			
Rock Springs:					
Kemmerer	Kemmerer RMP (range, coal, oil and gas, oil shale)		DEIS, FEIS		
Pinedale	Pinedale RMP (range, oil and gas, coal, wilderness)		DEIS	FEIS	
Salt Wells	Salt Wells MFPA (coal)	EA			
Casper:					
Buffalo	Buffalo RMP (range, coal, oil and gas, wilderness)	DEIS	FEIS		
Platte River	Platte River RMP (range, coal, oil and gas, wilderness)	DEIS, FEIS			
Nebraska	Nebraska Plan Analysis (land sales)	EA			
Eastern States:					
Jackson	Arkansas MUP:				
	(1) PD Ownership Conflict	Phase I			
	(2) FMO/Lack of Geologic Data and Reactive Nature of Federal Leasing.	Phase II			
	(3) Public vs. Private Ownership PD Lands (land sales)				

BUREAU OF LAND MANAGEMENT PLANNING SCHEDULE—Continued

District, state and resource area	Plan name (major resource issues)	Fiscal year 1984	1985	1986	1987
	Mississippi MUP (same as above)	Phase I, Phase II			
	Tennessee MUP (same as above)	Phase I	Phase II		
	Kentucky MUP (same as above)		Phase I, Phase II		
	Louisiana MUP (same as above)		Phase I, Phase II		
	Virginia MUP (same as above)			Phase I, Phase II	
	Florida MUP (same as above)			Phase I, Phase II	
[redacted]	Michigan MUP (same as above)	Phase I, Phase II			
	Wisconsin MUP (same as above)	Phase I			
	Missouri MUP (same as above)	Phase I	Phase II		
	Illinois MUP (same as above)	Phase I	Phase II		
	Ohio MUP (same as above)		Phase I, Phase II		
	Indiana MUP (same as above)		Phase I	Phase II	
	Iowa MUP (same as above)		Phase I	Phase II	
	West Virginia MUP (same as above)			Phase I	Phase II.
	Pennsylvania MUP (same as above)			Phase I	Phase II.

Key to Abbreviations

ACEC—Area of critical environmental concern.
DEIS—Draft environmental impact statement.
EA—Environmental assessment.
FEIS—Final environmental impact statement.
FMO—Federal mineral ownership.
MFPA—Management framework plan amendment.
MFPT—Transition management framework plan.
MUP—Multiple use plan (only in Eastern States Office).
ORV—Off-road vehicles.
PD—Public domain.
PFEIS—Preliminary environmental impact statement (wilderness issues only).
RMP—Resource management plan.
R-O-W—Rights-of-way.

Dated: February 1, 1984.

James M. Parker,

Acting Director.

[FR Doc. 84-3183 Filed 2-6-84; 8:45 am]

BILLING CODE 4310-84-M

DEPARTMENT OF COMMERCE

Office of the Secretary

Realignment of Department Industry Related Functions

Effective January 22, 1984 the Secretary of Commerce directed a realignment of the Department's industry-related functions. The following functions are to be transferred from the Under Secretary for Economic Affairs to the Under Secretary for International Trade (the International Trade Administration):

- Competitive Assessment and Auto Policy functions of Economic Affairs.
- Bureau of Industrial Economics (BIE) industry offices and related functions, including the:

—Office of Basic Industries
—Office of Producer Goods
—Office of Consumer Goods and Services
—Publications Staff
—Industrial Statistical Division and the Econometric Staff of the Office of Research, Analysis and Statistics.

BIE is abolished at the Bureau level. However, the Under Secretary for Economic Affairs retains the following BIE units to support a Domestic Macro-Economic Policy function:

—Office of Regulatory and Federal Program Analysis
—Capital, Energy and Productivity Studies Division of the Office of Research, Analysis and Statistics
—Industrial Studies Division of the Office of Research, Analysis and Statistics.

Katherine M. Bulow,

Deputy Assistant Secretary for Administration.

[FR Doc. 84-3285 Filed 2-6-84; 8:45 am]

BILLING CODE 3510-DK-M

International Trade Administration

Petitions by Producing Firms for Determinations of Eligibility To Apply for Trade Adjustment Assistance

Petitions have been accepted for filing from the following firms: (1) Audiofidelity Enterprises, Inc., 45 E. Milton Avenue, Rahway, New Jersey 07065, producer of phonograph records and cassette tapes (accepted December 27, 1983); (2) French Enterprises, Inc., 29666 West Nine Mile Road, Farmington, Michigan 48024, producer of machine tools (accepted December 27, 1983); (3) Howe Engineering Sales Company, 3244 Wagner Road, Waterloo, Iowa 50703, producer of motorcycle parts and accessories (accepted December 27, 1983); (4) Modern Leather Goods Repair Shop, Inc., 11 West 32rd Street, New York, New York 10001, producer of handbags, belts and other needlepoint items (accepted December 28, 1983); (5) Gerlinger Industries Corporation, P.O. Box 2009, Salem, Oregon 97308, producer of materials handling equipment, metal castings and machine parts (accepted December 28, 1983); (6) G. Emery Davis and Sons, Route 1, Box 51, St. Anthony, Idaho 83445, producer of lambs, wool and dairy products (accepted December 28, 1983); (7) Krementz and Company, 49 Chestnut Street, Newark, New Jersey 07101, producer of jewelry and jewelry findings (accepted December 30, 1983); (8) Wefferling, Berry and Company, 58 East Willow Street, Millburn, New Jersey 07041, producer of jewelry (accepted December 30, 1983); (9) Wettstein Tool and Manufacturing Company, Inc., B–14 Merry Lane, East Hanover, New Jersey 07936, producer of machine tools (accepted December 30, 1983); (10) E. V. Camp Steel Works, Inc., P.O. Box 5570, Atlanta, Georgia 30307, producer of steel castings (accepted January 3, 1984); (11) Northampton Cutlery Company, 350 Riverside Drive, Northampton, Massachusetts 01060, producer of blades for cutlery (accepted January 4, 1984); (12) Armbrust Chain Company, 735 Allens Avenue, Providence, Rhode Island 02905, producer of jewelry (accepted January 4, 1984); (13) Haddad Shoe Corporation, 354 N. Prince Street, Lancaster,

Pennsylvania 17603, producer of footwear for men, women and children (accepted January 4, 1984); (14) Industrial Mechanics, Inc., 1143–57 Chestnut Street, Chester, Pennsylvania 19103, producer of structural steel (accepted January 4, 1984); (15) Penn Emblem Company, 10909 Dutton Road, Philadelphia, Pennsylvania 19154, producer of embroidered emblems (accepted January 4, 1984); (16) The Ohio Knife Comany, 1780 Dreman Avenue, Cincinnati, Ohio 45223, producer of machine knives and ways (accepted January 4, 1984); (17) Kona Farmers Cooperative, P.O. Box 309, Captain Cook, Hawaii 96704, producer of coffee beans and macadamia nuts (accepted January 5, 1984); (18) Charles Rogowski Farm, Route 2, Box 339, Goshen, New York 10924, producer of lettuce and onions (accepted January 5, 1984); (19) Syncro Machine Company, 611 Sayre Avenue, Perth Amboy, New Jersey 08861, producer of wire manufacturing equipment (accepted January 5, 1984); (20) Johnson Steel and Wire Company, Inc., Box 247, Worcester, Massachusetts 01613, producer of wire (accepted January 6, 1984); (21) Northfield Foundry and Machine Company, 320 North Water Street, Northfield, Minnesota 55057, producer of woodworking machinery (accepted January 6, 1984); (22) Montreal Quilting Corporation, 45 Irving Avenue, Brooklyn, New York 11237, producer of quilted fabrics (accepted January 6, 1984); (23) Electrix, Inc., 45 Spring Street, New Haven, Connecticut 06915, producer of lighting equipment, fans and heaters (accepted January 9, 1984); (24) Jensen, Inc., 24115 Industrial Park Drive, Farmington, Michigan 48024, producer of spray guns, booths and washers, industrial conveyors and other equipment (accepted January 10, 1984); (25) Rawl Engineering & Manufacturing Company, Inc., 99 Hartford Avenue, Providence, Rhode Island 02909, producer of giftware and novelties (accepted January 10, 1984); (26) Mach III, Inc., P.O. Box 1355, Mason City, Iowa 50401, producer of heat transfers for imprinting apparel (accepted January 10, 1984); (27) Johnson Camping, Inc., P.O. Box 966, Binghamton, New York 13902, producer of tents, backpacks, luggage and travel bags (accepted January 17, 1984); (28) Minneapolis-Moline Engine Company, P.O. Box 788, Russellville, Arkansas 72801, producer of industrial engines (accepted January 18, 1984); (29) Char Designs, Inc., P.O. Box 427, Tesuque, New Mexico 87574, producer of men's and women's jackets, vests, pants, shirts and skirts (accepted January 18, 1984); (30) Powder River Enterprises, Inc., P.O. Box 758, Provo, Utah 84603, producer of steel tube and containers and livestock handling equipment (accepted January 18, 1984); (31) SMS Automotive Products, Inc., 4819 Langdon Street, Philadelphia, Pennsylvania 19124, producer of automotive parts (accepted January 20, 1984); and (32) Osborn Specialty Sewing, Inc., 7059 West 3500 South, Salt Lake City, Utah 84120, producer of wallets, backpacks tote bags, key cases and other sewn products (accepted January 23, 1984). The petitions were submitted pursuant to Section 251 of the Trade Act of 1974 (Pub. L. 93–618) and § 315.23 of the Adjustment Assistance Regulations for Firms and Communities (13 CFR Part 315). Consequently, the United States Department of Commerce has initiated separate investigations to determine whether increased imports into the United States of articles like or directly competitive with those produced by each firm contributed importantly to total or partial separation of the firm's workers, or threat thereof, and to a decrease in sales or production of each petitioning firm.

Any party having a substantial interest in the proceedings may request a public hearing on the matter. A request for a hearing must be received by the Director, Certification Division, Office of Trade Adjustment Assistance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230, no later than the close of business of the tenth calendar day following the publication of this notice.

The Catalog of Federal Domestic Assistance official program number and title of the program under which these petitions are submitted is 11.309, Trade Adjustment Assistance. Inasfar as this notice involves petitions for the determination of eligibility under the Trade Act of 1974, the requirements of Office of Management and Budget Circular No. A–95 regarding review by clearinghouses do not apply.

Jack W. Osburn, Jr.,

Director, Certification Division, Office of Trade Adjustment Assistance.

[FR Doc. 84–3288 Filed 2–6–84; 8:45 am]

BILLING CODE 3510–DR–M

[C–475–015]

Pads for Woodwind Instrument Keys From Italy

AGENCY: International Trade Administration, Import Administration, Commerce.

ACTION: Preliminary Negative Countervailing Duty Determination.

SUMMARY: We preliminarily determine that certain benefits which constitute subsidies within the meaning of the countervailing duty law are being provided to the manufacturers, producers, or exporters in Italy of pads for woodwind instrument keys, as described in the "Scope of Investigation" section of this notice, but that the total estimated net subsidy is *de minimis*. Therefore, our preliminary countervailing duty determination is negative. If this investigation proceeds normally, we will make our final determination by April 16, 1984.

EFFECTIVE DATE: February 7, 1984.

FOR FURTHER INFORMATION CONTACT: Vincent Kane, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, D.C. 20230, telephone (202) 377–5414.

SUPPLEMENTARY INFORMATION:

Preliminary Determination

For purposes of this investigation, the only program found to confer a subsidy is the tax concession granted under Italian Law 614. The total estimated net subsidy is 0.05 percent *ad valorem*. This *ad valorem* subsidy is *de minimis*. Therefore, we preliminarily determine that there is no reason to believe or suspect that benefits which constitute subsidies within the meaning of section 701 of the Tariff Act of 1930, as amended (the Act), are being provided to producers or exporters in Italy of pads for woodwind instrument keys as described in the "Scope of Investigation" section of this notice.

Case History

On November 7, 1983, we received a petition from the Prestini Musical Instrument Corporation, filed on behalf of the United States industry producing pads for woodwind instrument keys. The petition alleges that the government of Italy bestows subsidies within the meaning of section 701 of the Act upon the production or exportation of pads for woodwind instrument keys. We found the petition to contain sufficient grounds upon which to initiate a countervailing duty investigation and on November 25, 1983, we initiated a countervailing duty investigation (48 FR 55601). We stated that we would issue a preliminary determination on or before January 31, 1984.

Since Italy is a "country under the Agreement" within the meaning of section 701(b) of the Act, an injury determination is required for this investigation. Therefore, we notified the

International Trade Commission (ITC) of our initiation.

On December 21, 1983, the ITC determined that there is a reasonable indication that imports of the subject merchandise are materially injuring a U.S. industry.

On November 30, 1983, we presented to the government of Italy in Washington, D.C., a questionnaire concerning the allegations in the petition and Italian government programs which, in prior investigations, we have found might confer countervailable benefits. We also presented questionnaires to Luciano Pisoni and Pads Manufacture di s.r.1., the sole Italian manufacturers exporting the subject merchandise to the United States. On January 9, 1984, we received responses to the questionnaries.

Scope of Investigation

The product covered by this investigation is pads for woodwind instrument keys, currently provided for under item number 726.70 of the *Tariff Schedules of the United States* (TSUS). These pads are affixed to the keys of various woodwind instruments, e.g., saxophones, clarinets, oboes and flutes. The periods for which we are measuring subsidies are January 1, 1982, to December 31, 1982, and January 1, 1983, to September 30, 1983.

Analysis of Programs

In their responses, the government of Italy and the exporters provided data for the applicable periods. Based upon our analysis of the petition and the responses to our questionnaires, we preliminarily determine the following:

I. Program Preliminarily Determined to Confer Subsidies

We preliminarily determine that subsidies are being provided to manufacturers, producers, and exporters in Italy of pads for woodwind instrument keys under the following program:

Tax Concession Under Italian Law 614

Italian Law of May 22, 1966, provides for a 10-year exemption from the provincial corporate income tax for new manufacturers locating in certain depressed areas of central and northern Italy. Since the benefit conferred by Law 614 is restricted to specific regions of the country, we view the benefit as being provided to a group of enterprises or industries and, consequently, as resulting in the payment or bestowal of a subsidy within the meaning of section 701 of the Act. Since 1978, Luciano Pisoni has qualified for and received under Law 614 the exemption from provincial corporate income tax. In 1982, the firm realized a tax savings which amounted to 0.05 percent of total f.o.b. value.

II. Programs Preliminarily Determined Not To Confer Subsidies

We preliminarily determine that the Italian provincial government is not providing subsidies to manufacturers, producers, or exporters of pads for woodwind instrument keys under the following program:

A. Loans under Provincial Law 17

Province of Trento Law 17 of 1975 provides for medium-term financing on terms inconsistent with commercial considerations to companies within the province which are experiencing financial difficulties.

The purpose of the financing is to allow companies in precarious financial position to reorganize or restructure an thereby avoid or recover from bankruptcy. In 1977, Pads Manufacuture s.r.l., received a medium-term loan under Law 17. We have preliminarily determined that financing under law 17 does not result in the payment or bestowal of a subsidy within the meaning of section 701 of the Act. The provisions of Law 17 apply to a wide variety of enterprises and industries. Every business within the province has the potential to receive assistance under this law. Consequently, we do not view the benefits of this law as restricted to a specific enterprise or industry, or group of enterprises or industries. Rather, we view the benefits as being generally available and, therefore, not resulting in the payment or bestowal of a subsidy. We note that during verification we will ascertain whether, in fact, a wide variety of companies has actually received financing under this law.

B. Loan under Provincial Law 58

Province of Trento Law 58 of December 11, 1978, provides for medium-term loans to small companies for the purpose of establishing and expanding plant and equipment and thereby promotes employment and the tranining of new employees within the province. Under the provisions of the law, firms may obtain loans in an amount of up to 70 percent of capital expenditure with approximately 60 percent of the interest expense over the life of the loan absorbed by the province.

On June 6, 1980, Luciano Pisoni received a medium-term loan under provincial Law 58.

We have preliminarily determined that financing under Law 58 does not result in the payment or bestowal of a subsidy. Although limited to small companies, the provisions of Law 58 nonetheless apply to a wide variety of enterprises and industries. Consequently, we do not view the benefits received under this law as restricted to a specific enterprise or industry, or group of enterprises or industries, as required by the Act for the benefit to result in the payment or bestowal of a subsidy.

III. Programs Preliminarily Determined Not To Be Used

We have preliminarily determined that the programs listed below, which we included in our notice of initiation, are not being used by manufacturers, producers, or exporters in Italy of pads for woodwind instrument keys:

A Financing for the Northern and Central Regions

Law 902 of 1976, provides for loans at less than prvailing market rates to small and medium-sized companies in northern and central Italy. We preliminarily find that the companies under investigation have not received financing through the provisions of Law 902.

B. Long-Term Financing From Mediocredito Centrale

Petitioner made a general allegation that manufacturers of the subject merchandise had received preferential long-term financing from the Institution Centrale per il Credit a Medio Terminate (Mediocredito Centrale).

During our investigation we found that Mediocredito Centrale administers financing under Italian Law 902. However, neither of the producers under consideration received loans under Law 902. In addition, we preliminarily find that neither of the producers under consideration have received any other financing which may be considered preferential through laws or programs administered by Mediocredito Centrale.

C. Export Credit Financing

Part IV of Italian Law 227 established medium-term export credit financing to promote the exportation of goods and services. The law provides for the establishment of lines of credit available to foreign buyers contracting for the purchase of goods and services of Italian origin. Mediocredito Centrale administers the export credit financing through special medium and long-term credit institutions. The minister of the Treasury, after consulting the Interministerial Committee for Credit and Savings, establishes the requirements, terms and conditions of

the export credit financing. The financing is denominated in Italian lire or any foreign currency acceptable to the Mediocredito Centrale and to special medium and long-term credit institutions.

We preliminarily find that during our period of investigation U.S. importers of the subject merchandise have not received export credit financing under Italian Law 227.

Verification

In accordance with section 776(a) of the Act, we will verify all the information used in reaching our final determination.

Public Comment

In accordance with § 355.35 of the Commerce Regulations, if requested, we will hold a public hearing to afford interested parties an opportunity to comment on this preliminary determination at 10 a.m. on February 17, 1984, at the U.S. Department of Commerce, Room 1851, 14th Street and Constitution Avenue NW., Washington, D.C. 20230. Individuals who wish to participate in the hearing must submit a request to the Deputy Assistant Secretary for Import Administration, Room 3099B, at the above address within 10 days of this notice's publication. Requests should contain: (1) the party's name, address, and telephone number; (2) the number of participants; (3) the reason for attending; and (4) a list of the issues to be discussed. In addition, prehearing briefs must be submitted to the Deputy Assistant Secretary by February 10, 1984. Oral presentations will be limited to issues raised in the briefs.

All written views should be filed in accordance with 19 CFR 355.46 within 30 days of this notice's publication, at the above address and in at least 10 copies.

Dated: January 31, 1984.

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 84-3287 Filed 2-6-84; 8:45 am]

BILLING CODE 3510-DS-M

National Oceanic and Atmospheric Administration

Issuance of Permit; Massachusetts Cooperative Fishery Research Unit

On December 14, 1983, Notice was published in the **Federal Register** (48 FR 55604) that an application had been filed with the National Marine Fisheries Service by the Massachusetts Cooperative Fishery Research Unit, University of Massachusetts, Amherst, Massachusetts 01003, for a permit to take shortnose sturgeon *(Acipenser brevirostrum)* for scientific purposes.

Notice is hereby given that on January 30, 1984, and as authorized by the provisions of the Endangered Species Act of 1973 (16 U.S.C. 1531–1543), the National Marine Fisheries Service issued a Scientific Purposes Permit for the above taking to the Massachusetts Cooperative Fishery Research Unit subject to certain conditions set forth therein.

Issuance of this Permit, as required by the Endangered Species Act of 1973, is based on the finding that such Permit: (1) Was applied for in good faith; (2) will not operate to the disadvantage of the endangered species which is the subject of the Permit; and (3) will be consistent with the purposes and policies set forth in Section 2 of the Act.

The Permit is available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street NW., Washington, D.C.;

Regional Director, Northeast Region, National Marine Fisheries Service, 14 Elm Street, Federal Building, Gloucester, Massachusetts 01930; and

Regional Director, Southeast Region, National Marine Fisheries Service, 9450 Koger Boulevard, St. Petersburg, Florida 33702.

Dated: January 31, 1984.

Carmen J. Blondin,

Deputy Assistant Administrator for Fisheries Resource Management, National Marine Fisheries Service.

[FR Doc. 84-3314 Filed 2-6-84; 8:45 am]

BILLING CODE 3510-22-M

South Atlantic Fishery Management Council's Bluefish Advisory Panel; Meeting

AGENCY: National Oceanic and Atmospheric Administration, Commerce.

SUMMARY: The South Atlantic Fishery Management Council, established by Section 302 of the Magnuson Fishery Conservation and Management Act (Public Law 94–265, as amended), has established a Bluefish Advisory Panel, which will meet to discuss major aspects of the Bluefish Fishery Management Plan (FMP); impacts of the revised FMP on fishermen and processors; impacts of trip limits, vessel quotas, time limits, and/or gear limits; need for public hearings, given the significant changes to the Bluefish FMP; impacts of being regulated based on "catch projections", as well as general comments on the need for an FMP.

DATES: The public meeting will convene on February 22–23, 1984, at the Council's Headquarters Office, Southpark Building, One Southpark Circle, Suite 306, Charleston, South Carolina, at approximately 1 p.m., on Wednesday, February 22, and adjourn at approximately noon on Tuesday, February 23.

FOR FURTHER INFORMATION CONTACT:

David H. G. Gould, Executive Director, South Atlantic Fishery Management Council, One Southpark Circle, Suite 306, Charleston, South Carolina 29407, Telephone: (803) 571–4366.

Dated: February 2, 1984.

Roland Finch,

Director, Office of Fisheries Management, National Marine Fisheries Service.

[FR Doc. 84-3317 Filed 2-6-84; 8:45 am]

BILLING CODE 3510-22-M

Brighton Aquarium and Dolphinarium; Receipt of Application for Marine Mammal Permit

Notice is hereby given that an Applicant has applied in due form for a Permit to take marine mammals as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216).

1. Applicant:

a. Name: Brighton Aquarium and Dolphinarium (P329).

b. Address: Marine Parade and Madeira Drive, Brighton BN2 ITE Sussex United Kingdom.

2. Type of Permit: Public Display.

3. Name and Number of Animals: Atlantic bottlenose dolphins (Tursiops truncatus) 2.

4. Type of Take: To capture and maintain permanently in a facility.

5. Location of Activity: Mississippi Sound.

6. Period of Activity: 2 Years.

The arrangements and facilities for transporting and maintaining the marine mammals requested in the above described application have been inspected by a licensed veterinarian, who has certified that such arrangements and facilities are adequate to provide for the well-being of the marine mammals involved.

Concurrent with the publication of this notice in the **Federal Register**, the Secretary of Commerce is forwarding

copies of this application to the Marine Mammal Commission and the Committee of Scientific advisors.

Written data or views, or requests for a public hearing on this application should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, U.S. Department of Commerce, Washington, D.C. 20235, within 30 days of the publication of this notice. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries.

All statements and opinions contained in this application are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

As a request for a permit to take living marine mammals to be maintained in areas outside the jurisdiction of the United States, this application has been submitted in accordance with National Marine Fisheries Service policy concerning such applicaitons (40 FR 11619, March 12, 1975). In this regard, no application will be considered unless:

(a) it is submitted to the assistant Administrator for Fisheries, National Marine Fisheries Service, through the apropriate agency of the foreign government;

(b) It includes:

i. a certification from such appropriate government agency verifying the information set forth in the application;

ii. a certification from such government agency that the laws and regulations of the government involved permit enforcement of the terms of the conditions of the permit, and that the government will enforce such terms;

iii. a statement that the government concerned will afford comity to a National Marine Fisheries service decision to amend, suspend or revoke a permit.

In accordance with the above cited policy, the certification and statements of the Department of the Environment of England have been found appropriate and sufficient to allow consideration of this permit application.

Documents submitted in connection with the above application are available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street NW., Washington, D.C.; and

Regional Director, National Marine Fisheries Service, Southeast Region, Duval Building, 9450 Koger Boulevard, St. Petersburg, Fla. 33702.

Dated: January 31, 1984.

Carmen J. Blondin,

Deputy Assistant Administrator for Fisheries Resource Management, National Marine Fisheries Service.

[FR Doc. 84-3316 Filed 2-6-84; 8:45 am]

BILLING CODE 3510-22-M

National Oceanic and Atmospheric Administration, National Marine Fisheries Service; Issuance of Permit

On July 27, 1983, Notice was published in the **Federal Register** (48 FR 34092), that an application had been filed with the National Marine Fisheries Service by the Texas Parks and Wildlife Department, 4200 Smith School Road, Austin, Texas 78744, for a permit to take totoaba (*Cynoscion macdonaldi*) for scientific purposes.

Notice is hereby given that on January 31, 1984, and as authorized by the provisions of the Endangered Species Act of 1973 (16 U.S.C. 1531–1543), the National Marine Fisheries Service issued a Scientific Purposes Permit for the above taking to the Texas Parks and Wildlife Department subject to certain conditions set forth therein.

Issuance of this Permit, as required by the Endangered Species Act of 1973, is based on the finding that such Permit: (1) Was applied for in good faith; (2) will not operate to the disadvantage of the endangered species which is the subject of the Permit; and (3) will be consistent with the purposes and policies set forth in Section 2 of the Act.

The Permit is available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street NW., Washington, D.C.;

Regional Director, Southeast Region, National Marine Fisheries Service, 9450 Koger Boulevard, St. Petersburg, Florida 33702; and

Regional Director, Southwest Region, National Marine Fisheries Service, 300 South Ferry Street, Terminal Island, California 90731.

Dated: January 31, 1984.

Carmen J. Blondin,

Deputy Assistant Administrator for Fisheries Resource Management, National Marine Fisheries Service.

[FR Doc. 84-3315 Filed 2-6-84; 8:45 am]

BILLING CODE 3510-22-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Import Restraint Levels for Certain Cotton, Wool and Man-Made Fiber Textile Products From the People's Republic of China, Effective on January 1, 1984; Correction

February 2, 1984.

On December 22, 1983 a notice was published in the **Federal Register** (48 FR 56626), which established import restraint levels for certain cotton, wool and man-made fiber textile products, produced or manufactured in the People's Republic of China and exported during 1984. Certain information was inadvertently omitted from paragraph 2 of the letter to the Commissioner of Customs dated December 19, 1983, which followed that notice, and which should read as follows:

In carrying out this directive, entries of cotton, wool, and man-made fiber textile products in the foregoing categories, except Categories 351 and 648, which have been exported on and after January 1, 1983 and extending through December 31, 1983, shall, to the extent of any unfilled balances, be charged against the levels of restraint established for such goods during that twelve-month period. In the event those limits have been exhausted by previous entries, such goods shall be subject to the limits set forth in this letter. Entries of cotton textile products in Category 351 which have been exported during the restraint period which began on October 20, 1982 and extended through December 31, 1982, shall, to the extent of any unfilled balance be charged to the level established for that period. Merchandise in excess of that limit shall be charged to the limit established for the category in 1983 and, if in excess of that level, to the 1984 level established in this directive. Entries of man-made fiber textile products in Category 648 which have been exported during the restraint period which began on July 30, 1982 and extended through December 31, 1982, shall, to the extent of any unfilled balance, be charged to the level established for that period. Merchandise in excess of that level shall be charged to the level established for the category in 1983 and, if in excess of that level, to the 1984 level established in this directive.

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 84-3286 Filed 2-6-84; 8:45 am]

BILLING CODE 3510-DR-M

COMMODITY FUTURES TRADING COMMISSION

Chicago Board of Trade Long-Term Municipal Bond Index Futures Contract

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of availability of the terms and conditions of proposed commodity futures contract.

SUMMARY: The Chicago Board of Trade ("CBT") has applied for designation as a contract market based on a long-term municipal bond index. In accordance with sections 2(a)(1)(B)(iii) and 2(a)(1)(B)(iv)(II) of the Commodity Exchange Act, 7 U.S.C. 2a(iii), 2a(iv)(II) (1982), as amended, the Commodity Futures Trading Commission ("Commission") is making available the proposed contract for public inspection and comment.

DATE: Comments must be received on or before April 9, 1984.

ADDRESS: Interested persons should submit their views and comments to Jane K. Stuckey, Secretary, Commodity Futures Trading Commission, 2033 K Street NW., Washington, D.C. 20581. Reference should be made to the CBT long-term municipal bond index futures contract.

FOR FURTHER INFORMATION CONTACT: Ronald Hobson, Division of Economics and Education, Commodity Futures Trading Commission, 2033 K Street NW., Washington, D.C. (202) 254–7303.

A copy of the terms and conditions of the CBT's proposed long-term municipal bond index futures contract will be available for inspection at the Office of the Secretariat, Commodity Futures Trading Commission, 2033 K Street NW., Washington, D.C. 20581. Copies of the terms and conditions can be obtained through the Office of the Secretariat by mail at the above address or by phone at (202) 254–6314.

Other materials submitted by the CBT in support of its application for contract market designation may be available upon request pursuant to the Freedom of Information Act (5 U.S.C. 552) and the Commission's regulations thereunder (17 CFR Part 145 (1982)), except to the extent that they are entitled to confidential treatment as set forth in 17 CFR 145.5 and 145.9. Requests for copies of such materials should be made to the FOIA, Privacy and Sunshine Acts Compliance Staff of the Office of the Secretariat at the Commission's headquarters in accordance with 17 CFR 145.7 and 145.8

Any person interested in submitting written data, views or arguments on the terms and conditions of the proposed futures contract, or with respect to other materials submitted by the CBT in support of its application, should send such comments to Jane K. Stuckey, Secretary, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581, by (Sixty days after publication). Such comment letters will be publicly available except to the extent that they are entitled to confidential treatment as set forth in 17 CFR 145.5 and 145.9.

Issued in Washington, D.C. on February 1, 1984.

Jean A. Webb,

Deputy Secretary of the Commission.

[FR Doc. 84–3204 Filed 2–6–84; 8:45 am]

BILLING CODE 6351–01–M

COPYRIGHT ROYALTY TRIBUNAL

[CRT Docket 80–4]

Order Directing Further Partial Distribution of 1979 Cable Royalty Fees

The Copyright Royalty Tribunal (Tribunal) published on December 6, 1983 (48 FR 54679) its order providing for a further partial distribution of the 1979 cable royalty fees. In that order we withheld from distribution to the Joint Sports Claimants (JSC) the maximum share sought by the National Association of Broadcasters for its claims to royalties for sports programming. As described in our order of January 31, 1984 (49 FR 3899), it has been resolved that all of the sports royalties awarded by the Tribunal will be allocated to the JSC. Consequently, it is therefore ordered, effective March 15, 1984, that 5.5 percent of the cable royalty fund be distributed to the JSC.

Dated: February 2, 1984.

Thomas C. Brennan,

Chairman.

[FR Doc. 84–3318 Filed 2–6–84; 8:45 am]

BILLING CODE 1410–06–M

DEPARTMENT OF DEFENSE

Department of the Army

Army Science Board; Meeting Changes

The following changes have occurred for the meeting of the Army Science Board 1984 Summer Study on High Performance Personnel Policy for Army 21 which was originally announced in the **Federal Register** issue of Wednesday, January 18, 1984 (49 FR 2134), FR Doc 84–1247:

Correct Title for Summer Study Panel: Leading and Manning Army 21.

Change From Open to Partially Closed Meeting: Because of the addition to the agenda of the classified briefing on The Army Plan, this meeting will be closed to the public from 1120–1200 hours on 8 February 1984 in accordance with Section 552b(c) of Title 5, U.S.C., specifically subparagraph (1) thereof, and Title 5, U.S.C. Appendix 1, subsection 10(d). The classified and nonclassified matters to be discussed are so inextricably intertwined so as to preclude opening that portion of the meeting.

Sally A. Warner,

Administrative Officer.

[FR Doc. 84–3301 Filed 2–3–84; 8:45 am]

BILLING CODE 3710–08–M

Army Science Board; Meeting Change

The following change has occurred for the meeting of the Army Science Board 1984 Summer Study on Technology to Improve Logistics and Weapon Support for Army 21 which was originally announced in the **Federal Register** issue of Thursday, January 26, 1984 (49 FR 3238), FR Doc 84–2199:

Dates of Meeting: Tuesday and Wednesday, 28 and 29 February 1984 (instead of Wednesday and Thursday, 22 and 23 February 1984).

Sally A. Warner,

Administrative Officer.

[FR Doc. 84–3302 Filed 2–6–84; 8:45 am]

BILLING CODE 3710–08–M

Finding of No Significant Impact; US ROLAND Air Defense Weapon System

Description

This project involves the test, procurement, storage, transportation, maintenance operation, demilitarization, and disposal of the Anti Aircraft Missile Launcher. This combat vehicle is mounted on a wheeled vehicle.

Discussion of Environmental Effects

This project does not conflict with any existing or proposed federal, state, and local environmental policies, laws, rules, regulations, or controls.

An existing but insignificant potential for environmental impact from the US ROLAND Weapon System is in the combustion products from the missile motors, the warhead detonations and from the generators and vehicles which constitute elements of the system. The motor, warhead and flight tests will be confined to remote government and contractor testing areas. The types of

contaminants and toxic materials produced by these items are common for a missile system. The amounts are small and quickly dispersed so that the environmental impact is insignificant. The vehicles to be used to support US ROLAND are standard and will meet applicable emission requirements. This equipment will be infrequently used and for short durations. There will be a minimum or no environmental impact from use of these units. Radio frequency emissions capable of affecting humans and animals will be transmitted; however, denied access and limited access areas will be established and entry controlled to preclude ill effects.

There is nothing unique about this system that is likely to cause any serious impact on the environment. Many other system have essentially the same environmental impacts and there are no controversial environmental issues.

Conclusions Which Lead to Finding of No Significant Impact

The effects of the US ROLAND Project on the environment are considered insignificant due to the small quantity of metal fragments, contaminants and toxic materials involved and the designated remote testing locations where there materials will be generated.

The original Environmental Assessment, April 1978 addressed the Technology Transfer, Fabrication and Test of the Development Model. A supplement to that assessment, August 1981, addressed the followon Life Cycle Phases of the system, i.e., Development Testing, Procurement, storage, transportation, maintenance operation, demilitarization and disposal. These documents conclude that the US ROLAND does not have a significant impact on the environment, and that proper care will be taken during periods of operation to prevent air, water, and noise pollution. Since operation will be for short periods and in limited access areas, this type of pollution will be minimal and will be controlled. There have been no missile or system changes since the 1981 documents that would change the environmental impact in any way. It has been concluded that this project will have no significant impact on the environment and that an Environmental Impact Statement will not be prepared.

It is anticipated that testing will commence in January 1984 and run through September of 1984. The responsible official for this action is Mr. Henry M. Fail, Jr., Chief, System Integration and Analysis Branch, US ROLAND Project Office, US Army Missile Command, Redstone Arsenal, AL 35898. All public comments should be directed to Mr. Fail at the following address: Commander, US Army Missile Command, Attn: DRCPM–ROL–EI, Redstone Arsenal, AL 35898.

Copies of the EA Supplement have been distributed to and are available at the following test sites:

US Army Test & Evaluation Command, Aberdeen Proving Ground, MD 21005
US Army Air Defense School, Fort Bliss, TX 79916
US Army White Sands Missile Range, New Mexico 88002
US Army Missile Command, Redstone Arsenal, AL 35898.

John O. Roach II,

Army Liaison Officer with the Federal Register.

[FR Doc. 84–3303 Filed 2–6–84; 8:45 am]

BILLING CODE 3710–08–M

Corps of Engineers, Department of the Army

Intent To Prepare a Draft Environmental Impact Statement (DEIS) for Kahaluu Beach Park Shore Protection, Kailua-Kona, Island of Hawaii, Hawaii

AGENCY: Army Corps of Engineers, Honolulu District.

ACTION: Notice of intent to prepare a draft environmental impact statement (DEIS).

SUMMARY:

1. The proposed action involves protection of the swimmers/snorkelers and the shoreline from wave damage of Kahaluu Beach Park, Island of Hawaii, Hawaii.

2. Reasonable alternatives to be investigated in detail during this project include the following structural and nonstructural measures:

a. *Repair of Menehune Breakwater.* This structural alternative requires altering, rearranging, and placing additional stones in the small gaps of the Menehune Breakwater which has been formally listed on the National Register of Historic Places. The major effects from this alternative include destroying a historical site, impacting coral growth, protecting swimming conditions, and providing shoreline protection.

b. *Offshore Breakwater.* The structural alternative of an offshore breakwater consists of three different alignments of approximately 700 feet, 500 feet, and 300 feet in length. These alignments are inside of the Menehune Breakwater. This alternative would reduce shoreline wave damage and provide for safer swimming environment.

c. *Shoreline Revetment.* This structural alternative consists of approximately a 300-foot revetment and would reduce storm wave damage by protecting the park's facilities. It would not afford protection for the swimmers.

d. *Increased Water Safety Programs.* This nonstructural alternative would require a year-round water safety program such as increasing the number of water safety officers to protect the swimmers/snorkelers from hazardous waves and currents, posting of caution signs, and/or placing a safety rope with floats to mark off swimming/snorkeling areas.

3. The study involves coordination with sponsoring agencies, other government agencies, community organizations and the general public. Activities include field visits, informal public meetings, workshops, issuance of public notices and letter responses. All pertinent agencies have been notified of study initiation. A public workshop is scheduled for 31 January 1984. Another public meeting will be held after the public has an opportunity to review the DEIS.

a. *Significant Issues to be Analyzed:*

(1) Project impacts on the coral reef and marine ecology;

(2) Project impacts on the water circulation;

(3) Project impacts on the historic site;

(4) Assessment of community responses to alternative plans;

(5) Project impacts to existing popular recreational opportunities.

b. *Possible Assignments for Input Into the EIS Among the Lead and Cooperating Agencies:*

(1) *US Fish and Wildlife Service.* Provision of a Fish and Wildlife Coordination Act section 2b report to assist in assessment of ecological impacts.

(2) *State Historic Preservation Officer.* Determination of the impact of the project on the Kahaluu Historic District.

(3) *County of Hawaii.* Socioeconomic data.

(4) *State Department of Health.* Water quality data.

c. *Identification of Other Environmental Review and Consultation Requirements.*

(1) Section 106 of the National Historic Preservation Act of 1966 requires survey and coordination regarding potential impact on significant cultural resources.

(2) Section 404 of the Clean Water Act of 1977 requires evaluation of projects to assess impacts resulting from deposition

of dredged or fill materials into waters of the U.S.

(3) Coastal Zone Management Act of 1972 requires that a project must comply with the federal law as well as be consistent with the Coastal Zone Management program for the State of Hawaii.

4. A scoping meeting will not be held on the project. Pertinent Federal, State and local agencies responsible for planning assessment have already been informed of the proposed action.

5. Under the present schedule, the DEIS should be made available to the public in May 1984.

ADDRESS: For more information on this matter, please contact Dr. James E. Maragos, Chief, Environmental Resources Section, Planning Branch, U.S. Army Engineer District, Honolulu, Building T–1, Fort Shafter, Hawaii 96858 or telephone (808) 438–2263.

Dated: January 24, 1984.

Michael M. Jenks,

Colonel, Corps of Engineers, District Engineer.

[FR Doc. 84–3394 Filed 2–6–84; 8:45 am]

BILLING CODE 3710–HN–M

DEPARTMENT OF EDUCATION

Fund for the Improvement of Postsecondary Education

AGENCY: Department of Education.

ACTION: Application Notice for the Comprehensive Program Final Year Dissemination Competition for Fiscal Year 1984.

SUMMARY: Applications are invited for new awards under the Comprehensive Program Final Year Dissemination Competition conducted by the Fund for the Improvement of Postsecondary Education.

The Secretary issues awards to institutions of postsecondary education and other public and private educational institutions and agencies. The purpose of the awards is to improve postsecondary education by supporting efforts by current grantees to disseminate project ideas and results.

Authority for this program is contained in Title X of the Higher Education Act, as amended.

(20 U.S.C. 1135)

Closing Date for Transmittal of Applications: An application for a Final Year Dissemination award must be mailed (postmarked) or hand-delivered by March 8, 1984.

Applications Delivered by Mail: An application delivered by mail must be addressed to the Department of Education, Application Control Center, Attention: 84.116D, Washington, D.C. 20202.

To establish proof of mailing, an applicant must show one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the Secretary.

If an application is sent through the U.S. Postal Service, the Secretary does not accept a private metered postmark or a mail receipt that is not dated by the U.S. Postal Service as proof of mailing. An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

Applicants are encouraged to use registered or at least first class mail.

Applications Delivered by Hand: An application that is hand-delivered must be taken to the Department of Education, Application Control Center, Attention: 84.116D, 7th and D Streets SW., Regional Office Building 3, Room 5673, Washington, D.C.

The Application Control Center will accept hand-delivered applications between 8:00 a.m. and 4:30 p.m. (Washington, D.C. time) daily, except Saturdays, Sundays, and Federal holidays.

Program Information

Type of Competition: In Final Year Dissemination Competitions, the Secretary supports efforts by grantees of the Fund to disseminate project ideas and results. Applications in these competitions are limited to grantees of the Fund whose project are in their final year of funding, except that a recipient of a single-year grant may apply for assistance under this competition within one year following the termination of its project.

Selection Criteria: The Secretary evaluates an application on the basis of the following criteria:

(a) *Significance for Postsecondary Education.* The Secretary reviews each project for its significance in improving postsecondary education by determining the extent to which it would:

(1) Address the purposes of the Final Year Dissemination Competition;

(2) Address an important problem or need;

(3) Involve learner-centered improvements; achieve far-reaching impact through improvements that will be useful in a variety of ways and in a variety of settings; and increase the cost-effectiveness of services.

(b) *Feasibility.* The Secretary reviews each project for its feasibility by determining the extent to which:

(1) The project represents an appropriate response to the problem or need addressed;

(2) The applicant is capable of carrying out the project, as evidenced by the quality of the dissemination project design;

(3) The applicant is capable of carrying out the project, as evidenced by the adequacy of resources, including money, personnel, facilities, equipment, and supplies;

(4) The extent to which the applicant is capable of carrying out the dissemination project is evidenced by the applicant's qualifications and relevant prior experience; and

(5) The applicant and any other participating organizations are committed to the success of the dissemination project, as evidenced by contributions of resources and prior work in the area.

(c) *Appropriateness of the Fund's support.* The Secretary reviews each application to determine whether support of the project by the Fund is appropriate in terms of the availability of other funding sources for the proposed dissemination activities.

(20 U.S.C. 1135)

The selection criteria (a)(1), (a)(2), (a)(3), (a)(4), (b)(1), (b)(2), (b)(3), (b)(4), and (c) are of equal importance. In applying the criteria, the Secretary first analyzes an application in terms of the individual criteria. The Secretary then bases the final judgment of an application on an overall assessment of the degree to which the applicant addresses the selection criteria.

Other Information to be Requested from Applicants: The Secretary will contact by telephone all applicants being considered for funding in the final stages of the selection process in order to clarify or verify information relevant to their application.

Available Funds: Approximately $100,000 is estimated to be available for new awards in Fiscal Year 1984. It is estimated that these funds could support approximately 15 new awards. The estimated maximum amount for new awards will be $8,000 for a 12-month period.

However, these estimates do not bind the Department of Education to a specific number of grants for the amount of any grant except as may be required by applicable statute and regulations.

Application Forms: Application forms included in program information packages will be sent directly to all potential applicants that are eligible for a Final Year Dissemination award.

The program information package is intended to aid all applicants in applying for assistance under this competition. Nothing in the program information package is intended to impose any paperwork, application content, reporting, or grantee performance requirement beyond those specifically imposed under the statute and regulations governing the competition. Application is approved OMB #1840-0117/Exp.—9/30/84.

Applicable Regulations: The regulations governing awards made by the Fund for the Improvement of Postsecondary Education are contained in:

(1) The Education Department General Administrative Regulations (EDGAR) in 34 CFR Parts 74, 75, 77, and 78.

(2) The regulations in 34 CFR Part 630.

FURTHER INFORMATION: For further information contact the Fund for the Improvement of Postsecondary Education, regarding the Final Year Dissemination Grants (84.116D); Telephone: (202) 245-8091.

(Catalog of Federal Domestic Assistance No. 84.116D, Fund for the Improvement of Postsecondary Education)

Dated: January 31, 1984.

T. H. Bell,

Secretary of Education.

[FR Doc. 84-3231 Filed 2-6-84; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. TA84-1-20-003]

Algonquin Gas Transmission Co.; Rate Change Pursuant to Purchased Gas Cost Adjustment Provision

February 1, 1984.

Take notice that Algonquin Gas Transmission Company ("Algonquin Gas") on January 27, 1984, tendered for filing Fourth Revised Sheet No. 201, Alternate Fourth Revised Sheet No. 201, and Second Revised Sheet No. 231 to its FERC Gas Tariff, Second Revised Volume No. 1.

Algonquin Gas states that Fourth Revised Sheet No. 201 and Second Revised Sheet No. 231 are being filed pursuant to Algonquin Gas' Purchased Gas Cost Adjustment Provision as set forth in Section 17 of the General Terms and Conditions of its FERC Gas Tariff, Second Revised Volume No. 1. The Rates as shown on Fourth Revised Sheet No. 201 reflect the following: (i) and adjustment to amortize the December 31, 1983 balance in Algonquin Gas' Unrecovered Purchased Gas Cost Account (Account 191) and (ii) an adjustment to reflect higher purchased gas costs to be charged by its supplier, Texas Eastern Transmission Corporation ("Texas Eastern"), to Algonquin Gas proposed to be effective February 1, 1984, under Texas Eastern's Sixty-seventh Revised Sheet No. 14D. Sheet No. 231 reflects Projected Incremental Pricing Surcharges for the period March, 1984 through August, 1984. Algonquin Gas further states that Alternate Fourth Revised Sheet No. 201 is being filed to track Texas Eastern's Alternate Sixty-seventh Revised Sheet No. 14D.

Algonquin Gas requests that the Commission accept the tariff sheets effective March 1, 1984, synchronizing its rates with the underlying rates of Texas Eastern.

Algonquin Gas notes that a copy of this filing is being served upon each affected party and interested state commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before February 10, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-3194 Filed 2-6-84; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 7066-001]

Burlington Street Associates; Surrender of Preliminary Permit 9

February 2, 1984.

Take notice that Burlington Street Associates, Permittee for the Burlington Street Dam Project No. 7066, has requested that its preliminary permit be terminated. The permit was issued on August 26, 1983, and would have expired on February 1, 1985. The project would have been located on the Iowa River in Johnson County, Iowa.

The Permittee filed its request on November 15, 1983, and the surrender of the preliminary permit for Project No. 7066 is deemed accepted 30 days from the date of issuance of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-3185 Filed 2-6-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF84-91-002]

Carolina Cogeneration Co., Inc.; Application for Commission Certification of Qualifying Status of a Small Power Production Facility

February 2, 1984.

On January 13, 1984, Carolina Cogeneration Company, Inc., (Applicant) of c/o SJE Investments, 1960 Lincoln Park West, Chicago, Illinois 60614 submitted for filing an application for certification of a facility as a qualifying small power facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The small power production facility will be located at the Texasgulf, Inc. phosphate complex, Little Creek Facility, near Aurora, North Carolina. The primary energy source for the facility will be low-Btu gas derived from biomass which is in the form of peat. The facility will consist of a combustion turbine generator, a waste heat recovery steam boiler, and a steam turbine generator. The electric power production capacity of the facility will be 44.5 megawatts.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rule 211 or 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests should be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the

Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-3184 Filed 2-6-84; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6326-001]

Energenics Systems Inc., Surrender of Preliminary Permit

February 2, 1984.

Take notice that Energenics Systems Inc., Permittee for the Kanopolis Dam Hydropower Project No. 6326, has requested that its preliminary permit be terminated. The permit was issued on November 1, 1982, and would have expired on April 30, 1984. The project would have been located on the Smoky Hill River in Ellsworth County, Kansas.

The Permittee filed its request on December 5, 1983, and the surrender of the preliminary permit for Project No. 6326 is deemed accepted 30 days from the date of issuance of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-3186 Filed 2-6-84; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 7109-001]

F and T Service Corp.; Surrender of Preliminary Permit

February 2, 1984.

Take notice that F and T Services Corporation, Permittee for the proposed Calion Hydro Project No. 7109, has requested that its preliminary permit be terminated. The permit was issued on July 12, 1983, and would have expired June 30, 1985. The project would have been located on the Ouachita River in Union County, Arkansas.

The Permittee filed its request on December 15, 1983, and the surrender of the preliminary permit for Project No. 7109 is deemed accepted 30 days from the date of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-3187 Filed 2-6-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP84-209-000]

Lawrenceburg Gas Transmission Corp. and Texas Gas Transmission Corp.; Complaint

January 31, 1984.

Take notice that on January 9, 1984 Columbia Gas Transmission Corporation (Columbia) filed a petition requesting the Commission to initiate a formal investigation under Section 14 of the Natural Gas Act and Section 1b.5 of its General Rules (18 CFR 1b.5e) of the sale by Lawrenceburg Gas Transmission Corporation (Lawrenceburg) and the delivery by Texas Gas Transmission Corporation (Texas Gas) of gas volumes to Cincinnati Gas & Electric Company (Cincinnati).[1] Columbia alleges that these practices constitute raiding of Columbia's historical market and are being performed in violation of the Natural Gas Act and the Commission's orders, policies and regulations thereunder, all as more fully set forth in the petition on file with the Commission and open to public inspection. Columbia further requests that the Commission issue an order directing Lawrenceburg and Texas Gas to cease and desist these practices, pending the completion of the investigation.

Columbia states that until recently, Cincinnati purchased most of its natural gas requirements from Columbia pursuant to certificates of public convenience and necessity and under Tariffs and Service Agreements on file with and approved by the Commission. Columbia indicates that a significant portion of Columbia's historical sales to Cincinnati have been effectuated through the Butler measuring station, located near Monroe in Butler County, Ohio. Columbia further indicates that the Butler station was constructed by Texas Gas in 1964 pursuant to certificates of public convenience and necessity issued to Texas Gas and Columbia on August 10, 1964 at Docket Nos. CP64-32 and CP64-152, respectively, (32 FPC 571) specifically for the purpose of permitting Texas Gas to sell gas to Columbia for resale to Cincinnati. It is stated that, Columbia agreed to reimburse Texas Gas $S34,060 for the cost of the Butler station.

Columbia alleges that Texas Gas has dramatically increased its deliveries to Cincinnati, from 10,000 Mcf per day in April, 1983 to 115,912 Mcf per day in November, 1983, and possibly more since then. Columbia further alleges that these increased volumes are being purchased by Lawrenceburg from Texas Gas, immediately resold to Cincinnati, and then transported by Texas Gas for delivery to Cincinnati at the Butler station, all without specific Commission authorization to do so.

Columbia states that Lawrenceburg is a subsidiary of Cincinnati and sells gas to Cincinnati under its Rate Schedule CDS-1 (reference Lawrenceburg's FPC Gas Tariff, First Revised Volume No. 1, first Revised Sheet No. 21.) Columbia contends that in the alleged sale of excess gas to Cincinnati, Lawrenceburg is using its certificate in a fashion not intended by the Commission.

Columbia alleges that since the volumes of gas that Texas Gas is delivering to Cincinnati exceed Lawrenceburg's currently effective Contract Demand with Texas Gas of 15,300 Mcf per day (reference Texas Gas' FPC Gas Tariff, Third Revised Volume No. 1, Third Revised Sheet No. 145), Texas Gas is selling the bulk of such volumes to Lawrenceburg under Rate Schedule XS-4 for Excess Gas Service. Columbia submits that Texas Gas only has certificate authorization to utilize the Butler station as a delivery point for sales to Columbia for resale to Cincinnati and, thus, is relying upon Subparts A, B, and G, of Part 284 of the Commission's Regulations for authority to deliver the gas to Cincinnati. Columbia further submits that Texas Gas' reliance on Part 284 of the Commission Regulations is misplaced due to the particulars of the transportation arrangement.

In its complaint, Columbia also argues that the subject sale and delivery of gas aggravate the impact on Columbia of the minimum bill settlement reached with Texas Gas in Docket No. RP82-137-000 and approved by the Commission on July 12, 1983. Columbia contends that as a result of Texas Gas' illegal takeover of the Cincinnati market, Columbia's take-or-pay deficiencies are increasing and Texas Gas may be over-recovering its fixed costs. Columbia, therefore, requests that the Commission suspend further fixed cost payments by Columbia under the settlement as part of its cease and desist order, and upon completion of the formal investigation, to direct Texas Gas to make full restitution to Columbia and its customers of all fixed-cost payments made after April, 1983 by Columbia to Texas Gas, under Article II of the settlement.

Simultaneously with the issuance of this notice, the Commission has sent letters to Texas Gas, Lawrenceburg, and Cincinnati requesting each of them under Rules 206, 207, and 213 to the Commission's Rules of Practice and Procedure to respond to Columbia's complaint within 15 days of the date of the letter.

Any person desiring to be heard or to make any protest with reference to said

[1] Columbia filed its petition pursuant to Rule 207(a)(5) of the Commission's Rules of Practice and Procedure (18 CFR 385.207). The petition alleges certain violations of the Natural Gas Act, however, and as such the Commission will deem Columbia's filing a formal complaint under Rule 206 of the Commission's Rules of Practice and Procedure (18 CFR 385.206).

complaint should on or before February 15, 1984, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules. All persons who have heretofore filed need not file again.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-3195 Filed 2-6-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP84-27-001]

Northwest Central Pipeline Corp.; Filing

February 1, 1984.

Take notice that on January 27, 1984, Northwest Central Pipeline Corporation (Northwest Central) tendered for filing certain materials that are to be considered as in compliance with the Commission's order (the order) issued December 30, 1983, in Docket No. RP84-27-000.

The filings are pursuant to Ordering Paragraph (C) of the order and contain revisions to Statements G and K. Northwest Central states that the revisions have minimal effects on their rate schedules.

Northwest Central states that copies of their filing are being served on all jurisdictional customers, interested state commissions and all parties to the proceedings in Docket No. RP84-27-000.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before February 10, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-3196 Filed 2-6-84; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 4605-001]

Sunnyside Valley Irrigation District; Surrender of Preliminary Permit

February 2, 1984.

Take notice that Sunnyside Valley Irrigation District, Permittee for the Devil's Table Hydroelectric Project No. 4605, has requested that its preliminary permit be terminated. The Preliminary Permit was issued on March 11, 1982, and would have expired on February 28, 1985. The project would have been located on Rattlesnake Creek in Yakima County, Washington.

Sunnyside Valley Irrigation District filed the request on December 2, 1983, and the surrender of the preliminary permit for Project No. 4605 is deemed accepted as of December 2, 1983, and effective as of 30 days after the date of this Notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-3188 Filed 2-6-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP84-196-000]

Tennessee Gas Pipeline Co., a Division of Tenneco Inc., Columbia Gulf Transmission Co.; Application

February 2, 1984.

Take notice that on January 17, 1984, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee), P.O. Box 2511, Houston, Texas 77001, and Columbia Gulf Transmission Company (Columbia Gulf), P.O. Box 683, Houston, Texas 77001, jointly referred to as Applicants, filed in Docket No. CP84-196-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing a transportation service for United Gas Pipe Line Company (United), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicants request authority to transport on a firm basis, up to 67,000 Mcf of natural gas per day (33,500 Mcf by Tennessee and 33,500 Mcf by Columbia Gulf) for the account of United. Applicants request additional authority to transport volumes delivered in excess of the 67,000 Mcf/d on a best efforts basis. Applicants propose to accept United's gas at points located in the South Pass Area, offshore Louisiana, Blocks 55 and 77, and to transport such gas to the terminus of their jointly-owned SP77 facilities in Plaquemines Parish, Louisiana. Applicants state that such volumes would be delivered to Tennessee's facilities in Plaquemines Parish for ultimate delivery to United.

Tennessee proposes to charge United a monthly demand charge of $90,858 and an additional 8.92 cents per Mcf for any volumes transported on an interruptible basis. Respectively, Columbia Gulf proposes a $101,794 monthly demand charge and a 9.99 cent interruptible rate.

It is stated that the proposed service would provide United with the means of transporting an additional supply of natural gas without its having to construct and operate additional facilities.

It is asserted that the above transportation services have been implemented under the Commission's Order No. 60 program pursuant to § 284.221 of the Commission's Regulations.

Any person desiring to be heard or to make any protest with reference to said application should on or before February 23, 1984, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is

required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-3189 Filed 2-6-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP84-194-000]

Tennessee Gas Pipeline Company, a Division of Tenneco Inc.; Request Under Blanket Authorization

February 2, 1984.

Take notice that on January 13, 1984, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Applicant), P.O. Box 2511, Houston, Texas 77001, filed in Docket No. CP84-194-000 a request pursuant to § 157.205 of the Regulations under the National Gas Act (18 CFR 157.205) that Applicant proposes to construct and operate a new delivery point for its customer, Nashville Gas Company (Nashville), and to reassign volumes of gas between delivery points to Nashville under the authorization issued in Docket No. (CP82-413-000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

Applicant asserts that it provides natural gas service to Nashville pursuant to a gas sales contract dated November 1, 1983, and subject to the terms and conditions of its Rate Schedule G-1. Applicant further asserts that by amendment dated January 10, 1984, to the gas sales contract it has agreed to establish a new delivery point for Nashville at Whitehouse, Tennessee, to enable Nashville to serve a new market area. It is stated that Applicant would construct and operate the necessary tap and value assembly at Mile Post 564-1&2 +00 on its pipeline system and would bear all costs associated with such construction.

Applicant explains that it is presently authorized to deliver gas to Nashville as follows:

Delivery point	Maximum daily quantity (Mcf)
Nashville No. 1 (Emergency Sales)	0
Nashville No. 2	150,775
Ashland City	3,800

It is stated that the January 10, 1984, amendment provides for the following deliveries of gas:

Delivery point	Maximum daily quantity (Mcf)
Nashville No. 1 (Emergency Sales)	0
Nashville No. 2	149,275
Ashland City	3,500
Whitehouse	1,500

It is submitted that the establishment of a new delivery point and reasignment of gas would not increase or decrease the sum total of the daily and/or annual volumes Nashville is entitled to purchase from Tennessee. It is further submitted that the gas would continue to be used for Nashville's system supply for resale.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-3190 Filed 2-6-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF84-74-000]

Turbo Gas and Electric, Ltd.; Application for Commission Certification of Qualifying Status of a Small Power Production Facility

February 2, 1984.

On November 28, 1983, Turbo Gas and Electric, Ltd., (Applicant), 91 Newbury Street, 3rd Floor, Boston, Massachusetts 02116, submitted for filing an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The Applicant proposes a 1000 kW turbo expander facility which will use as its primary energy source the thermodynamic energy presently wasted in the depressurization of high pressure transmission gas to low pressure distribution gas. The high pressure gas will be expanded in a turbine to produce useful work and electricity with an induction generator. The Applicant defines that energy source as "waste". The facility will also use waste heat recovered from a nearby industrial plant, utility generation station, or from an internal combustion engine to preheat the high pressure gas prior to entering the expander in order to prevent freezing of pipes and the formation of hydrates.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-3191 Filed 2-6-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF84-135-000]

Union Camp Corp.; Application for Commission Certification of Qualifying Status of a Cogeneration Facility

February 2, 1984.

On January 17, 1984, Union Camp Corporation, (Applicant), 1600 Valley Road, Wayne, New Jersey, 07470, submitted for filing an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The facility is a topping cycle cogeneration facility located at Franklin, Virginia. The primary energy source of the facility is biomass. Coal and No. 6 fuel oil will supplement the primary energy source. Steam from the facility will be used in the Applicant's paper production processes. The total electric power production capacity of the facility is 96 megawatts.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene

or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests should be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-3192 Filed 2-6-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF84-52-000]

Valley Power Corp.; Amendment to Application for Commission Certification of Qualifying Status of a Small Power Production Facility

February 2, 1984.

On November 15, 1983, Valley Power Corp. (Applicant), of 6415 Kasella Avenue, Cypress, California 90630 submitted for filing an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's regulations. Notice of the application was published in the **Federal Register** on December 16, 1983 at page 55913. On December 27, 1983, Applicant filed supplementary information amending the description of the facility.

The supplementary information changes the description of the primary energy source from biomass in the form of wood waste to biomass in the form of orchard and vineyard prunings, cotton ginnings, almond shells, and other agricultural residues. It also changes the electric power production capacity of the facility from 54 megawatts to 48.7 megawatts.

Any person desiring to be heard or objecting to the granting qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 15 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-3193 Filed 2-6-84; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[A-4-FRL 2521-5]

PSD Permits for Occidental Chemical Co.; White Springs, Florida

AGENCY: Environmental Protection Agency.

ACTION: Notice.

SUMMARY: Notice is hereby given that two Prevention of Significant Deterioration (PSD) permits issued to Occidental Chemical Company on November 7, 1983, became effective on December 15, 1983. The permits were issued for modifications to the Suwannee River and Swift Creek Chemical complexes in White Springs, Florida.

DATE: This action is effective as of December 15, 1983, the effective date of the PSD permits. Construction must begin within 18 months of this date or the permits will become invalid.

ADDRESSES: Copies of the PSD permits, permit application, preliminary and final determinations are available for public inspection upon request at the following locations:

Environmental Protection Agency, Region IV, Air Management Branch, Air and Waste Management Division, 345 Courtland Street, NE., Atlanta, Georgia 30365, and

Bureau of Air Quality Management, Florida Department of Environmental Regulation, Twin Towers Office Building, 2600 Blair Stone Road, Tallahassee, Florida 32301.

FOR FURTHER INFORMATION CONTACT: Michael Brandon of the EPA Region IV, Air Management Branch at the Atlanta address given above, telephone 404/881-7654 (FTS: 257-7654).

SUPPLEMENTARY INFORMATION: On May 7, 1982, Occidental Chemical Company submitted applications to modify operations at its Suwannee River and Swift Creek Chemical complexes in White Springs, Florida. The preliminary determination was issued by the Florida Department of Environmental Regulation (DER) on Novermber 9, 1982, and the public comment period commenced on March 31, 1983. The final determination was issued by the Flordia DER on May 18, 1983. Comments regarding ambient post construction monitoring for sulfur dioxide at the boundaries of the Okefenokee Class I area were made by EPA Region IV and the U.S. Fish and Wildlife Service. The monitoring was requested because the entire sulfur dioxide, 3-hour and 24-hour, PSD increments for air quality degradation would be consumed by the proposed modifications. The Florida DER responded in the final determination by indicating that the placement of an SO_2 monitor at the boundary of the Class I area will not give any meaningful information about the increment consumed by the two facilities. It was the Florida DER's opinion that the use of monitors to discover violations of increments is inappropriate in the case of a source modification, because one cannot distinguish between background or non-increment consuming concentrations and increment consuming ones in the measured data. After reconsideration, EPA agreed that post construction monitoring for SO_2 at the Class I area should not be required for these modifications.

The Federal PSD permits were issued on November 7, 1983, and became effective on December 15, 1983. The effective date of the permits constitutes final Agency action under 40 CFR 124:19(f)(1) and section 307 of the Clean Air Act, for purposes of judicial review. Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by (60 days from today). This action may not be challenged later in proceedings to enforce its requirements (see section 307(b)(2)). If construction does not commence within 18 months after the effective date, that is, by June 15, 1985, or if construction is not completed within a reasonable time, the permits shall expire and their authorization to construct shall become invalid.

(Secs. 160-169 of the Clean Air Act (42 U.S.C. 7470-7479))

Dated: January 25, 1984.

Howard Zeller,

Acting Regional Administrator.

[FR Doc. 84-3240 Filed 2-6-84; 8:45 am]

BILLING CODE 6560-50-M

[OW-FRL 2514-2]

Water Quality Criteria; Request for Comments

AGENCY: Environmental Protection Agency.

ACTION: Notice of request for comments on ambient water quality criteria documents.

SUMMARY: EPA announces the availability for public comment, and provides summaries of nine ambient water quality criteria documents. When published in final form after the review of public comments, these water quality criteria may form the basis for enforceable standards. These criteria are published pursuant to section 304(a)(1) of the Clean Water Act.

DATES: Written comments should be submitted to the person listed directly below by May 7, 1984.

FOR FURTHER INFORMATION CONTACT: Dr. Frank Gostomski, Criteria and Standards Division (WH–585), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460, (202) 245–3030.

Availability of Documents

This notice contains summaries of nine documents containing proposed ambient water quality criteria for the protection of aquatic life and its uses, and also contains a summary of revisions to the document entitled "Guidelines for Deriving Numerical National Water Quality Criteria for the Protection of Aquatic Life and Its Uses" (which is an updated and revised version of the Guidelines previously published at 45 FR 79341 November 28, 1980). Copies of the complete criteria documents and the revised Guidelines may be obtained upon request from the person listed above. These documents are also available for public inspection and copying during normal business hours at: Public Information Reference Unit, U.S. Environmental Protection Agency, Room 2404 (rear), 401 M St., SW., Washington, D.C. 20460. As provided in 40 CFR Part 2, a reasonable fee may be charged for copying services. Copies of these documents are also available for review in the EPA Regional Office libraries. A list of the proposed documents is presented below:

1. Ambient Water Quality Criteria for Ammonia
2. Ambient Water Quality Criteria for Arsenic
3. Ambient Water Quality Criteria for Cadmium
4. Ambient Water Quality Criteria for Chlorine
5. Ambient Water Quality Criteria for Chromium
6. Ambient Water Quality Criteria for Copper
7. Ambient Water Quality Criteria for Cyanide
8. Ambient Water Quality Criteria for Lead
9. Ambient Water Quality Criteria for Mercury
10. Guidelines for Deriving Numerical National Water Quality Criteria for the Protection of Aquatic Life and Its Uses

SUPPLEMENTARY INFORMATION:

Background

Section 304(a)(1) of the Clean Water Act (33 U.S.C. 1314(a)(1)) requires EPA to publish and periodically update ambient water quality criteria. These criteria are to reflect the latest scientific knowledge on the identifiable effects of pollutants on public health and welfare, aquatic life, and recreation.

EPA has periodically issued ambient water quality criteria, beginning in 1973 with publication of the "Blue Book" (Water Quality Criteria 1972). In 1976, the "Red Book" (Quality Criteria for Water) was published. On November 28, 1980 (45 FR 79318), EPA announced the publication of 64 individual ambient water quality criteria documents for pollutants listed as toxic under section 307(a)(1) of the Clean Water Act.

Today EPA is announcing the availability for public comment of nine individual water quality criteria documents which, upon final publication, will update and revise certain criteria previously published in the "Red Book" and the 1980 ambient water quality criteria documents. The criteria documents for ammonia, and chlorine are intended to eventually replace criteria previously published in the "Red Book." The criteria documents for arsenic, cadmium, chromium, copper, cyanide, lead, and mercury will replace the aquatic life criteria previously published in the 1980 ambient water quality criteria documents.

Dated: January 13, 1984.

Jack E. Ravan,

Assistant Administrator for Water.

Summary of Proposed Water Quality Criteria

1. Ammonia

Freshwater Aquatic Life. To protect freshwater aquatic life, the criteria for ammonia are based upon ambient water temperature and pH with maximum concentration and 30-day average values provided.

Criteria values for the pH range 6.5 to 9.0 and the temperature range 0°C to 30°C are provided in the following tables. Total ammonia concentrations equivalent to each NH_3 criterion are also provided in these tables.

(1) Maximum Allowed Concentrations for Ammonia [1]

pH	0 C	5 C	10 C	15 C	20 C	25 C	30 C
Un-ionized Ammonia (mg/liter NH_3)							
6.50	0.006	0.013	0.019	0.019	0.019	0.019	0.019
6.75	0.014	0.021	0.031	0.031	0.031	0.031	0.031
7.00	0.021	0.032	0.048	0.048	0.048	0.048	0.048
7.25	0.030	0.046	0.069	0.069	0.069	0.069	0.069
7.50	0.040	0.061	0.091	0.091	0.091	0.091	0.091
7.75	0.049	0.074	0.110	0.110	0.110	0.110	0.110
8.00	0.056	0.084	0.125	0.125	0.125	0.125	0.125
8.25	0.061	0.091	0.135	0.135	0.135	0.135	0.135
8.50	0.065	0.096	0.141	0.141	0.141	0.141	0.141
8.75	0.068	0.100	0.145	0.145	0.145	0.145	0.145
9.00	0.071	0.104	0.147	0.147	0.147	0.147	0.147
Total Ammonia (mg/liter NH_3)							
6.50	31.9	31.9	31.8	21.8	15.0	10.5	7.41
6.75	29.5	29.5	29.5	20.1	13.9	9.68	6.86
7.00	25.7	25.7	25.7	17.6	12.1	8.46	6.00
7.25	20.8	20.8	20.8	14.2	9.84	6.89	4.88
7.50	15.5	15.5	15.5	10.6	7.34	5.15	3.66
7.75	10.6	10.6	10.6	7.29	5.06	3.56	2.55
8.00	6.84	6.84	6.84	4.71	3.28	2.33	1.66
8.25	4.22	4.22	4.22	2.92	2.05	1.47	1.06
8.50	2.54	2.54	2.54	1.78	1.27	0.93	0.70
8.75	1.53	1.53	1.53	1.09	0.80	0.60	0.47
9.00	0.94	0.94	0.94	0.69	0.52	0.41	0.33

[1] To convert these values to mg/liter N, multiply by 0.822.

(2) 30-Day Average Allowed Concentrations for Ammonia [1]

pH	0 C	5 C	10 C	15 C	20 C	25 C	30 C
Un-ionized Ammonia (mg/liter NH_3)							
6.50	0.0018	0.0027	0.0040	0.0040	0.0040	0.0040	0.0040
6.75	0.0027	0.0041	0.0061	0.0061	0.0061	0.0061	0.0061
7.00	0.0042	0.0063	0.0094	0.0094	0.0094	0.0094	0.0094
7.25	0.0064	0.0096	0.0144	0.0144	0.0144	0.0144	0.0144
7.50	0.0096	0.0148	0.0220	0.0220	0.0220	0.0220	0.0220
7.75	0.0138	0.0208	0.0310	0.0310	0.0310	0.0310	0.0310
8.00	0.0139	0.0209	0.0310	0.0310	0.0310	0.0310	0.0310
8.25	0.0140	0.0210	0.0310	0.0310	0.0310	0.0310	0.0310
8.50	0.0142	0.0211	0.0310	0.0310	0.0310	0.0310	0.0310
8.75	0.0145	0.0214	0.0310	0.0310	0.0310	0.0310	0.0310
9.00	0.0150	0.0219	0.0310	0.0310	0.0310	0.0310	0.0310
Total Ammonia (mg/liter NH_3)							
6.50	8.82	5.82	6.83	4.66	3.21	2.24	1.58
6.75	5.87	5.87	5.89	4.01	2.76	1.90	1.37
7.00	5.06	5.06	5.07	3.45	2.38	1.67	1.18
7.25	4.36	4.36	4.37	2.96	2.06	1.44	1.02
7.50	3.77	3.77	3.78	2.58	1.78	1.25	0.88
7.75	2.99	2.99	3.00	2.05	1.42	1.00	0.72
8.00	1.70	1.70	1.70	1.17	0.81	0.58	0.42
8.25	0.97	0.97	0.97	0.67	0.47	0.34	0.25
8.50	0.56	0.56	0.56	0.39	0.28	0.20	0.15
8.75	0.33	0.33	0.33	0.23	0.17	0.13	0.10
9.00	0.20	0.20	0.20	0.14	0.11	0.09	0.07

[1] To convert these values to mg/liter N, multiply by 0.822.

Saltwater Aquatic Life. Data available for saltwater species are insufficient to derive a criterion for saltwater.

Criteria Implementation Guidance. EPA is considering developing implementation guidance to accompany the revised ammonia criteria. The Agency envisions that such guidance would provide information pertaining to the selection of appropriate criteria for a given water body, and the application of

those selected criteria in the establishment of water quality based pollutant controls.

EPA is soliciting written comments on the following questions pertaining to implementation guidance for the ammonia criteria: (1) Should the Agency develop criteria implementation guidance for ammonia, or does adequate information and knowledge already exist about the selection and application of ammonia criteria? If the response to the former question is "yes," then (2) what topics, issues, and technical information should be included in this guidance?

2. Arsenic

Freshwater Aquatic Life. To protect freshwater aquatic life and its uses, in each 30 consecutive days: (a) The average concentration of dissolved trivalent inorganic arsenic (operationally defined as the trivalent inorganic arsenic that passes through a 0.45 micron membrane filter) should not exceed 72 μg/l; (b) the maximum concentration should not exceed 140 μg/l; and (c) the concentration may be between 72 and 140 μg/l for up to 96 hours. This criterion will probably not be protective wherever the toad, *Gastrophryne carolinensis*, is an important species.

Not enough data are available to allow derivation of numerical national water quality criteria for freshwater aquatic life for pentavalent inorganic arsenic or any organic arsenic compound. Pentavalent inorganic arsenic is acutely toxic to freshwater aquatic animals at concentrations as low as 850 μg/l. An acute-chronic ratio of 28 for pentavalent inorganic arsenic was obtained with the fathead minnow. Pentavalent arsenic may be toxic to freshwater aquatic plants at concentrations as low as 48 μg/l. Monosodium methanearsenate (MSMA) is acutely toxic to aquatic animals at concentrations as low as 1,900 μg/l but no data are available concerning chronic toxicity to animals or toxicity to plants.

Saltwater Aquatic Life. To protect saltwater aquatic life and its uses, in each 30 consecutive days: (a) The average concentration of dissolved trivalent inorganic arsenic should not exceed 63 μg/l; (b) the maximum concentration should not exceed 120 μg/l; and (c) the concentration may be between 63 and 120 μg/l for up to 96 hours. This criterion will probably not be protective wherever *Skeletonema costatum, Thalassiosira aestivalis,* or *champia parvula* are important species.

Very few data are available concerning the toxicity of any form of arsenic other than trivalent inorganic arsenic to saltwater aquatic life. The available data do show that pentavalent inorganic arsenic is acutely toxic to saltwater animals at concentrations as low as 2,319 μg/l and may be toxic to saltwater plants at 5-50 μg/l. No data are available concerning the chronic toxicity of any form of arsenic other than trivalent inorganic arsenic to saltwater aquatic life.

3. Cadmium

Freshwater Aquatic Life. Because the acute and chronic toxicities of cadmium to sensitive important freshwater species are about the same, to protect freshwater aquatic life and its uses, the concentration (in μg/l) of active cadmium (operationally defined as the cadmium that passes through a 0.45 μm membrane filter after the sample is acidified to pH=4 with nitric acid) should not exceed the numerical value given by $e^{(1.16[\ln(\text{hardness})]-3.841)}$. For example, at hardness of 50, 100, and 200 mg/l as $CaCO_3$, the maximum concentrations of active cadmium are 2.0, 4.5, and 10 μg/l. Data on the acute toxicity of cadmium to brook trout and striped bass cover a wide range, but if these species are as sensitive as some of the values indicate they might be, they may not be protected by this criterion.

Saltwater Aquatic Life. To protect saltwater aquatic life and its uses, in each 30 consecutive days: (a) The average concentration of active cadmium should not exceed 12 μg/l; (b) the maximum concentration should not exceed 38 μg/l; and (c) the concentration may be between 12 and 38 μg/l for up to 96 hours.

4. Chlorine

Freshwater Aquatic Life. To protect freshwater aquatic life and its uses, in each 30 consecutive days: (a) The average concentration of total residual chlorine should not exceed 8.3 μg/l; (b) the maximum concentration should not exceed 14 μg/l; and (c) the concentration may be between 8.3 μg/l and 14 μg/l for up to 96 hours.

Saltwater Aquatic Life. To protect saltwater aquatic life and its uses, in each 30 consecutive days: (a) The average concentration of chlorine produced oxidants should not exceed 7.4 μg/l; (b) the maximum concentration should not exceed 13 μg/l; and (c) the concentration may be between 7.4 μg/l and 13 μg/l for up to 96 hours.

Criteria Implementation Guidance. EPA is considering developing criteria implementation guidance to accompany the revised chlorine criteria. The Agency envisions that such guidance would provide information pertaining to the selection of appropriate criteria for a given water body, and the application of those selected criteria in the establishment of water quality based pollutant controls.

EPA is soliciting written comments on the following questions pertaining to implementation guidance for the chlorine criteria: (1) Should the Agency develop criteria implementation guidance for chlorine, or does adequate information and knowledge already exist about the selection and application of chlorine criteria? If the response to the former question is "yes," then (2) what topics, issues, and technical information should be included in this guidance?

5. Chromium

Freshwater Aquatic Life. To protect freshwater aquatic life and its uses, in each 30 consecutive days: (a) The average concentration of dissolved hexavalent chromium (operationally defined as the hexavalent chromium that passes through a 0.45 μm membrane filter) should not exceed 7.2 μg/l; (b) the maximum concentration should not exceed 11 μg/l; and (c) the concentrations may be between 7.2 and 11 μg/l for up to 96 hours.

To protect freshwater aquatic life and its uses, in each 30 consecutive days:

(a) The average concentration (in μg/l) of active trivalent chromium (operationally defined as the trivalent chromium that passes through a 0.45 μm membrane filter after the sample is acidified to pH=4 with nitric acid) should not exceed the numerical value given by $e^{(0.819[\ln(\text{hardness})]+0.537)}$;

(b) The maximum concentration (in μg/l) should not exceed the numerical value given by $e^{(0.819[\ln(\text{hardness})]+3.568)}$; and

(c) The concentration (in μg/l) may be between $e^{(0.819[\ln(\text{hardness})]+0.537)}$ and $e^{(0.819[\ln(\text{hardness})]+3.568)}$ for up to 96 hours.

For example, at hardnesses of 50, 100, and 200 mg/l as $CaCO_3$ the criterion average concentrations of active trivalent chromium are 42, 74, and 130 μg/l and the criterion maximum concentrations are 870, 1,500, and 2,700 μg/l.

Saltwater Aquatic Life. To protect saltwater aquatic life and its uses, in each 30 consecutive days: (a) The average concentration of dissolved hexavalent chromium should not exceed 54 μg/l; (b) the maximum concentration should not exceed 1,200 μg/l; and (c) the concentration may be between 54 and 1,200 μg/l for up to 96 hours.

No saltwater criterion can be derived for trivalent chromium but levels of

10,300 μg/l were lethal to the eastern oyster.

6. Copper

Freshwater Aquatic Life. To protect freshwater aquatic life and its uses, in each 30 consecutive days:

(a) The average concentration (in μg/l) of active copper (operationally defined as the copper that passes through a 0.45 μm membrane filter after the sample is acidified to pH=4 with nitric acid) should not exceed the numerical value given by $_e$(0.905[ln(hardness)]−1.785);

(b) The maximum concentration (in μg/l) should not exceed the numerical value given by $_e$(0.905[ln(hardness)]−1.413); and

(c) The concentration (in μg/l) may be between $_e$(0.905[ln(hardness)]−1.785) and $_e$(0.905(hardness)]−1.413) for up to 96 hours.

For example, at hardnesses of 50, 100, and 200 mg/l as $CaCO_3$ the criterion average concentrations of active copper are 5.8, 11, and 20 μg/l and the criterion maximum concentrations are 8.4, 16, and 29 μg/l.

Saltwater Aquatic Life. To protect saltwater aquatic life and its uses, in each 30 consecutive days: (a) The average concentration of active copper should not exceed 2.0 μg/l; (b) the maximum concentration should not exceed 3.2 μg/l; and (c) the concentration may be between 2.0 and 3.2 μg/l for up to 96 hours.

7. Cyanide

Freshwater Aquatic Life. To protect freshwater aquatic life and its uses, in each 30 consecutive days: (a) The average concentration of free cyanide (the sum of cyanide present as HCN and CN^-, expressed as CN) should not exceed 4.2 μg/l; (b) the maximum concentration should not exceed 22 μg/l; and (c) the concentration may be between 4.2 and 22 μg/l for up to 96 hours.

Saltwater Aquatic Life. To protect saltwater aquatic life and its uses, in each 30 consecutive days: (a) The average concentration of free cyanide (the sum of cyanide present as HCN and CN−, expressed as CN) should not exceed 0.57 μg/l; (b) the maximum concentration should not exceed 1.0 μg/l; and (c) the concentration may be between 0.57 and 1.0 ug/l for up to 96 hours.

8. Lead

Freshwater Aquatic Life. To protect freshwater aquatic life and its uses, in each 30 consecutive days:

(a) The average concentration (in μg/l) of active lead (operationally defined as the lead that passes through a 0.45 μm membrane filter after the sample is acidified to pH=4 with nitric acid) should not exceed the numerical value given by $_e$(1.34[ln(hardness)]−5.245);

(b) The maximum concentration (in μg/l) should not exceed the numerical value given by $_e$(1.34[ln(hardness)]−2.014); and

(c) The concentration (in μg/l) may be between $_e$(1.34[ln(hardness)]−5.245) and $_e$(1.34[ln(hardness)]−2.014 for up to 96 hours.

For example, at hardnesses of 50, 100, and 200 mg/l as $CaCO_3$ the criterion average concentrations of active lead are 1.0, 2.5, and 64 μg/l and the criterion maximum concentrations are 25, 64, and 160 μg/l.

Saltwater Aquatic Life. To protect saltwater aquatic life and its uses, in each 30 consecutive days: (a) The average concentration of active lead should not exceed 8.6 μg/l; (b) the maximum concentration should not exceed 220 ug/l; and (c) the concentration may be between 8.6 and 220 μg/l for up to 96 hours.

9. Mercury

Freshwater Aquatic Life. To protect freshwater aquatic life and its uses, in each 30 consecutive days: (a) The average concentration of active mercury (operationally defined as the mercury that passes through a 0.45 μm membrane filter after the sample is acidified to pH=4 with nitric acid) should not exceed 0.20 μg/l; (b) the maximum concentration should not exceed 1.1 μg/l; and (c) the concentration may be between 0.20 and 1.1 μg/l for up to 96 hours. These values are based on tests on divalent inorganic mercury and will be too high if a substantial portion of the active mercury is methylmercury. These values will also be too high if bioaccumulation is greater in a field situation than in laboratory tests. In addition, the value of 0.20 μg/l may not protect some salmonids and centrarchids from chronic toxicity and at that level, bioaccumulation in some species will be at the FDA action level of 1.0 mg/kg.

Saltwater Aquatic Life. To protect saltwater aquatic life and its uses, in each 30 consecutive days: (a) The average concentration of active mercury should not exceed 0.10 μg/l; (b) the maximum concentration should not exceed 1.9 μg/l; and (c) the concentration may be between 0.10 and 1.9 μg/l for up to 96 hours. These values are based on tests on divalent inorganic mercury and will be too high if a substantial portion of the active mercury is methylmercury. These values will also be too high if bioaccumulation is greater in a field situation than in laboratory tests.

10. Summary of Revisions to "Guidelines for Deriving Numerical National Water Quality Criteria for the Protection of Aquatic Life and Its Uses"

This draft revised version of the National Guidelines provides clarifications, additional details, technical and editorial changes from the guidelines published at 45 FR 79341–79347, November 28, 1980. These modifications are the result of comments received on the previous Guidelines and also reflect advances in aquatic toxicology and related fields. The major technical changes are:

1. The acute data required for freshwater animals has been changed to include more tests with invertebrate species.

2. The Final Acute Value is now defined in terms of Family Mean Acute Values rather than Species Mean Acute Values previously defined. A Family Mean Acute Value is the geometric mean of all the Species Mean Acute Values available for species in the family. On the average, species within a family are toxicologically much more similar than species in different families, and so the use of Family Mean Acute Values will prevent data sets from being biased by an overabundance of species in one or a few families.

3. The Final Acute Value is now calculated using a method that is not subject to the bias encountered with the previous method. In addition, it is not influenced by one very low value as the previous method was.

4. The criterion consists of two numbers: The criterion average concentration and the criterion maximum concentration.

a. The criterion average concentration is now used as a 30-day average, rather than as a 24-hour average.

b. Excursions over the average are limited to allow only one 96-hour episode in any 30 days.

c. Instead of being equal to the Final Acute Value, the criterion maximum concentration is now obtained by dividing the Final Acute Value by 2. The Final Acute Value is intended to protect 95 percent of a group of diverse species, unless an important species is more sensitive. However, a concentration that would severely harm 50 percent of the fifth percentile or 50 percent of a sensitive important species cannot be considered to be protective of that percentile or that species, especially because this concentration may exist for 96 hours on twelve different occasions every year. Dividing the Final Acute

Value by 2 is intended to result in a concentration that will not severely adversely affect too many of the organisms.

5. The preferred duration for acute tests with all species of aquatic animals is 96 hours, although tests as short as 48 hours are acceptable for freshwater cladocerans and midges, and for embryos and larvae of saltwater barnacles, bivalve molluscs, sea urchins, lobsters, crabs, shrimps and abalones.

6. When available, 96-hour EC50 values based on the percentage of organisms immobilized plus the percentage of organisms killed are used instead of 96-hour LC50 values for fish; comparable EC50 values are used instead of LC50 values for other species.

7. The requirements for using the results of tests with aquatic plants have been made more stringent.

Two additional appendices (Appendix 1 and 2) were added as part of the guidance. Appendix 1 was added to aid in determining whether a species should be considered resident in North America and its taxonomic classification. Appendix 2 provides guidance for calculating of a Final Acute Value.

[FR Doc. 84-2322 Filed 2-6-84; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

Meeting of the Telecommunications Industry Advisory Group Steering Committee

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), notice is hereby given of a meeting of the Telecommunications Industry Advisory Group Steering Committee scheduled to meet on Thursday and Friday, February 23 and 24, 1984. The meeting will be open to the public. The meeting times and location are as follows:

Thursday, February 23, 1984—9:30 a.m.

FCC Meeting Room #330, 1200 19th Street NW., Washington, D.C.

Friday, February 25, 1984

FCC Meeting Room #856, 1919 M Street NW., Washington, D.C.
The agenda is as follows:

I. Review of Minutes of Previous Meeting
II. General Administrative Matters
III. Review of Auditing and Regulatory Subcommittee Report on Recent Tax Law Changes
IV. Review of Reports to be submitted to the TIAG Assembly
V. Other Business
VI. Presentation of Oral Statements
VII. Adjournment

With prior approval of the Chairman, Gerald P. Vaughan, oral statements while not favored or encouraged, may be allowed if time permits and if the Chairman determines that an oral presentation is conducive to the effective attainment of Steering Committee objectives. Anyone not a member of the Steering Committee and wishing to make an oral presentation should contact Stephen T. Duffy, Group Vice-Chairman (202) 634–1509) at least five days prior to the meeting date.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 84-3213 Filed 2-6-84; 8:45 am]

BILLING CODE 6712-01-M

Telecommunications Industry Advisory Group Income and Other Accounts Subcommittee

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), notice is herby given of a meeting of the Telecommunications Industry Advisory Group's (TIAG) Income and Other Accounts Subcommittee scheduled for Thursday and Friday, February 16 and 17, 1984. The meeting will begin on February 16 at 9:30 a.m. in the office of GTE Service Corporation, in Tampa, Florida, and will be open to the public. Please contact the Subcommittee Chairman, Glenn L. Griffin (214) (659–3484) for details on meeting locations. The agenda is as follows:

I. General Administrative Matters
II. Discussion of Assignments
III. Other Business
IV. Presentation of Oral Statements
V. Adjournment

With prior approval of Subcommittee Chairman Glenn L. Griffin, oral statements, while not favored or encouraged, may be allowed at the meeting if time permits and if the Chairman determines that an oral presentation is conducive to the effective attainment of Subcommittee objectives. Anyone not a member of the Steering Committee and wishing to make an oral presentation should contact Mr. Griffin ((214) 659–3484) at least five days prior to the meeting date.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 84-3212 Filed 2-6-84; 8:45 am]

BILLING CODE 6712-01-M

Camac Broadcasting Co., Inc., and Walda Rose Spears; Applications for Consolidated Hearing

1. The Commission has before it the following mutually exclusive applications for a new FM station:

Applicant, city/state	File No.	MM Docket No.
A. Camac Broadcasting Co., Inc.; Ravenel, S.C.	BPH-821115AR	84-2
B. Walda Rose Spears; Ravenel, S.C.	BPH-830321AA	84-3

2. Pursuant to Section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon issues whose headings are set forth below. The text of each of these issues has been standardized and is set forth in its entirety in a sample standardized Hearing Designation Order (HDO) which can be found at 48 FR 22428, May 18, 1983. The issue headings shown below correspond to issue headings contained in the referenced sample HDO. The letter shown before each applicant's name, above, is used below to signify whether the issue in question applies to that particular applicant.

Issue Heading and Applicant(s)

1. Air Hazard, B,
2. Comparative, A, B
3. Ultimate, A, B

3. If there is any non-standardized issue(s) in this proceeding, the full text of the issue and the applicant(s) to which it applies are set forth in an Appendix to this Notice. A copy of the complete HDO in this proceeding may be obtained, by written or telephone request, from the Mass Media Bureau's Contact Representative, Room 242, 1919 M Street, NW., Washington, D.C. 20554. Telephone (202) 632–6334.

W. Jan Gay,

Assistant Chief, Audio Services Division, Mass Media Bureau.

[FR Doc. 84-3208 Filed 2-6-84; 8:45 am]

BILLING CODE 6712-01-M

New FM Stations; Applications for Consolidated Hearing; Don and Gail Stubblefield and John E. Elsner

1. The Commission has before it the following mutually exclusive applications for a new FM station:

Applicant, city, and state	File No.	MM docket No.
A. Don and Gail Stubblefield; Webb City, Mo.	BPH-821110AL	84-4

Applicant, city, and state	File No.	MM docket No.
B. John E. Elsner; Webb City, Mo.	BPH-830321AH.....	84-5

2. Pursuant to section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon issues whose headings are set forth below. The text of each of these issues has been standardized and is set forth in its entirety in a sample standardized Hearing Designation Order (HDO) which can be found at 48 FR 22428, May 18, 1983. The issue headings shown below correspond to issue headings contained in the referenced sample HDO. The letter shown before each applicant's name, above, is used below to signify whether the issue in question applies to that particular applicant.

Issue Heading and Applicant(s)

1. Comparative, A, B
2. Ultimate, A, B

3. If there is any non-standardized issue(s) in this proceeding, the full text of the issue and the applicant(s) to which it applies are set forth in an Appendix to this Notice. A copy of the complete HBO in this proceeding may be obtained, by written or telephone request, from the Mass Media Bureau's Contact Representative, Room 242, 1919 M Street, N.W., Washington, D.C. 20554. Telephone (202) 632-6334.

W. Jan Gay,

Assistant Chief, Audio Services Division, Mass Media Bureau.

[FR Doc. 84-3209 Filed 2-3-84; 8:45 am]

BILLING CODE 6712-01-M

[MM Docket No. 84-23 and 84-24; File No. BPCT-830818KH and BPCT-831018KL]

Retherford Publications and Duhamel Broadcasting Enterprises; Hearing Designation Order

In the matter of applications of Retherford Publications, Inc., Cheyenne, Wyoming MM Docket No. 84-23; File No. BPCT-830818KH and Duhamel Broadcasting Enterprises, Cheyenne, Wyoming MM Docket No. 84-24; File No. BPCT-831018KL for construction permit.

Adopted: January 10, 1984.
Released: January 30, 1984.

By the Chief, Mass Media Bureau.

1. The Commission, by the Chief, Mass Media Bureau, acting pursuant to delegated authority, has before it the above-captioned mutually exclusive applications of Retherford Publications, Inc. (Retherford), and Duhamel Broadcasting Enterprises (Duhamel) for authority to construct a new commercial television station on Channel 33, Cheyenne, Wyoming.

2. Section V-C, item 10, FCC Form 301, requires that an applicant submit figures for the area and population within its predicted Grade B contour. Retherford has not submitted figures for the population. Consequently, we are unable to determine whether there would be a significant difference in the size of the area and population that each applicant proposes to serve. Retherford will be required to submit an amendment showing the required information, within 20 days after this Order is released, to the presiding Administrative Law Judge. If it is determined that there is a significant disparity between the areas and populations, the presiding Administrative Law Judge will consider it under the standard comparative issue.

3. Section 73.685(f) of the Commission's Rules requires an applicant proposing to use a directional antenna to include a tabulation of relative field pattern, oriented so that 0° corresponds to True North and tabulated at least every 10° plus any minima or maxima. Duhamel has not supplied this data. Accordingly, the applicant will be required to submit an amendment with the appropriate information, to the presiding Administrative Law Judge and a copy to the TV Branch, Mass Media Bureau, within 20 days after the date of the release of this Order.

4. Duhamel intends to operate the proposed facility as a 100 per cent satellite of commonly-owned station KDUH-TV, Channel 4, Scottsbluff, Nebraska. Since Retherford does not propose a satellite operation, it follows that Duhamel must justify the need for a satellite. Accordingly, an appropriate issue will be specified as to the need for a satellite operation [1] *Houma Broadcasters, Inc.*, 45 FR 66866, October 8, 1980.

5. No determination has been made that Duhamel's tower height and location would not constitute a hazard to air navigation.[2] Accordingly, an appropriate issue will be specified.

6. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. Since these applications are mutually exclusive, the Commission is unable to make the statutory finding that their grant will serve the public interest, convenience and necessity. Therefore, the applications must be designated for hearing in a consolidated proceeding on the issues specified below.

7. Accordingly, it is ordered, that, pursuant to section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, before an Administrative Law Judge at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine, with respect to Duhamel Broadcasting Enterprises, whether circumstances exist which would make operation as a "satellite" necessary for Cheyenne, Wyoming.

2. To determine, whether there is a reasonable possibility that the tower height and location proposed by Duhamel Broadcasting Enterprises would constitute a hazard to air navigation.

3. To determine, which of the proposals would, on a comparative basis, better serve the public interest.

4. To determine, in light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

8. It is further ordered, that Retherford Publications, Inc., shall submit an amendment stating the population within its predicted Grade B contour, within 20 days after this Order is released, to the presiding Administrative Law Judge.

9. It is further ordered, that Duhamel Broadcasting Enterprises shall submit an amendment providing the information required by § 73.685(f) of the Commission's Rules, to the presiding Administrative Law Judge and a copy to TV Branch, Mass Media Bureau, within 20 days after the date of the release of this Order.

10. It is further ordered, that the Federal Aviation Administration is made a party respondent to this proceeding with respect to issue 2.

11. It is further ordered, that, to avail themselves of the opportunity to be heard, the applicants and the party respondent herein shall, pursuant to § 1.221(c) of the Commission's Rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission, in triplicate, a written appearance stating an intention to

[1] The issue to be specified as to whether circumstances exist which make the "satellite" form of operation necessary in Cheyenne will be a qualifying issue, for if it is resolved in the negative, the application proposing a satellite operation could not be granted.

[2] Duhamel will be required to file FAA Form 7460-1 with the Federal Aviation Administration.

appear on the date fixed for the hearing and to present evidence on the issues specified in this Order.

12. It is further ordered, that the applicants herein shall, pursuant to § 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594 of the Commission's Rules, give notice of the hearing within the time and in the manner prescribed in such Rule, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the Rules.

Federal Communications Commission.

Roy J. Stewart,

Chief, Video Services Division, Mass Media Bureau.

[FR Doc. 84-3210 Filed 2-6-84; 8:45 am]

BILLING CODE 6712-01-M

[MM Docket Nos 84-40 and 84-41; File Nos. BPCT-830818 KJ and BPCT-831018KQ]

Retherford Publications, Inc. and Hometown Television Inc.; Hearing Designation Order

In the matter of applications of Retherford Publications, Inc., Calumet, Michigan (MM Docket No. 84-40 File No. BPCT-830818KJ) and Hometown Television, Inc., Calumet, Michigan (MM Docket No. 84-41 File No. BPCT-831018KQ) for construction permit.

Adopted: January 18, 1984.

Released: January 30, 1984.

By the Chief, Mass Media Bureau.

1. The Commission, by the Chief, Mass Media Bureau, acting pursuant to delegated authority, has before it the above-captioned mutually exclusive applications, of Retherford Publications, Inc. (Retherford) and Hometown Television, Inc. (Hometown) for authority to construct a new commercial television station on Channel 5, Calumet, Michigan.

2. The contour map submitted by Retherford shows contours calculated for field strengths appropriate to channels 7 to 13, instead of for channel 5. Retherford will be required to submit the correct contour map to the presiding Administrative Law Judge within 20 days of the date of the release of this Order.

3. Section V-C, Item 10, FCC Form 301, requires that an applicant submit the areas and population within its predicted Grade B contour. Retherford has not specified the population within its Grade B contour. Since Retherford submitted incorrect contours, we are unable to determine whether there would be a significant difference in the size of the area and population that each applicant proposes to serve. Retherford will be required to submit with the amendment required by Paragraph 2, *supra*, the area and population within its predicted Grade B contour, within 20 days after this Order is released, to the presiding Administrative Law Judge. If it is determined that there is a significant disparity between the areas and populations, the presiding Administrative Law Judge will consider it under the standard comparative issue.

4. No determination has been made that the tower height and location specified by Hometown would not constitute a hazard to air navigation. Accordingly, an appropriate issue will be specified.

5. Hometown has neither shown that it is financially qualified nor certified that it is financially qualified. Its Exhibit No. 2, however, states that as soon as financial arrangements are completed, the applicant will make the appropriate certification. Accordingly, the applicant will be given 20 days from the date of the release of this Order to review its financial proposal in light of Commission requirements, to make any changes that may be necessary, and if appropriate, to submit a certification to the Administrative Law Judge in the manner called for in Section III, FCC Form, 301, as to its financial qualifications. If the applicant cannot make the required certification, it shall so advise the Administrative Law Judge who shall then specify an appropriate issue.

6. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. Since the applications are mutually exclusive, the Commission is unable to make the statutory finding that their grant will serve the public interest, convenience, and necessity. Therefore, the applications must be designated for hearing in a consolidated proceeding on the issues specified below.

7. Accordingly, it is ordered, That pursuant to Section 309(e) of the communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, to be held before an Administrative Law Judge at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine, with respect to Hometown Television, Inc., whether there is reasonable possibility that the tower height and location proposed would constitute a hazard to air navigation.

2. To determine which of the proposals would, on a comparative basis, better serve the public interest.

3. To determine, in light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

8. It is further ordered, That Retherford shall submit a correct contour map and the area and population within its predicted Grade B contour to the presiding Administrative Law Judge within 20 days of the date of the release of this Order.

9. It is further ordered, That Hometown shall submit a financial certification in the form required by Section III, FCC Form 301, or advise the Adminstrative Law Judge that the certification cannot be made, as may be appropriate, within 20 days of the date of the release of this Order.

10. It is further ordered, That the Federal Aviation Administration is made a party respondent to this proceeding with respect to Issue 1.

11. It is further ordered, That, to avail themselves of the opportunity to be heard, the applicants and party respondent herein shall, pursuant to § 1.221(c) of the Commission's Rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this Order.

12. It is further ordered, That the applicants herein shall, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594 of the Commission's Rules, give notice of the hearing within the time and in the manner prescribed in such Rule, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the Rules.

Federal Communications Commission.

Roy J. Stewart,

Chief, Video Services Division, Mass Media Bureau.

[FR Doc. 84-3207 Filed 2-6-84; 8:45 am]

BILLING CODE 6712-01-M

[MM Docket No. 84-42, File No. BPCT-830526KG, et al.]

Spondo Ltd. Inc., et al.; Hearing Designation Order

In the matter of applications of Spondo Ltd. Inc., Baton Rouge, Louisiana (MM DOCKET NO. 84-42 File No. BPCT-830526KG), Kay Burns Crochet and Samuel R. Levatino d/b/a Louisiana Super Communications Limited Partnership, Baton Rouge, Louisiana (MM DOCKET NO. 84-43 File No. BPCT-830602KK), South Louisiana Television, Inc., John S. Baker, Jr. and Charles C. Gremillion, Jr. d/b/a Parish Family Television-Limited Partnership, Baton Rouge, Louisiana (MM DOCKET NO. 84-44 File No. BPCT-830603KE) and Brian W. Brady, Linda J.

Tallman and John Clark Nims d/b/a Baton Rouge Channel 44, Limited Partnership, Baton Rouge, Louisiana (MM DOCKET NO. 84-45 File No. BPCT-830803KK) for construction permit.

Adopted: January 19, 1984.
Released: January 30, 1984.

By the Chief, Mass Media Bureau.

1. The Commission, by the Chief, Mass Media Bureau, acting pursuant to delegated authority, has before it the above-captioned mutually exclusive applications of Spondo Ltd., Inc. (Spondo), Kay Burns Crochet and Samuel R. Levatino d/b/a Louisiana Super Communications Limited Partnership (LSC), South Louisiana Television, Inc., John S. Baker, Jr. and Charles C. Gremillion, Jr. d/b/a Parish Family Television-Limited Partnership (Parish), and Brian W. Brady, Linda J. Tallman and John Clark Nims d/b/a Baton Rouge Channel 44, Limited Partnership for authority to construct a new commercial television station on Channel 44, Baton Rouge, Louisiana.[1]

2. The effective radiated power, antenna heights above average terrain and other technical data submitted by the applicants indicate that there would be a significant difference in the size of the area and population which would be served by each. Consequently, for the purpose of comparison, the areas and populations which would be within the predicted 64 dBu (Grade B) contours, together with the availability of other television service of Grade B or greater intensity, will be considered under the standard comparative issue, for the purpose of determining whether a comparative preference should accrue to any of the applicants.

3. Section II, page 3, item 7(d), FCC Form 301, inquires whether an applicant or any party to the application had any interest in a broadcast application in any Commission proceeding which left unresolved character issues against that applicant. Spondo has not answered item 7(d). Spondo will be required to submit its response to item 7(d) to the presiding Administrative Law Judge within 20 days after the date of the release of this Order.

4. No determination has been made that the tower heights and locations proposed by Spondo and Parish [2] would not constitute a hazard to air navigation. Accordingly, an appropriate issue will be specified.

5. Spondo's application specifies the type of antenna proposed as a Bogner BUH-24-N, but its exhibit shows a Bogner BUH-24N. Consequently, the applicant will be required to submit an amendment specifying the correct type of antenna along with any necessary related technical data changes to the presiding Administrative Law Judge within 20 days after the date of the release of this Order.

6. LSC proposes to use a directional antenna. Section 73.685(e) of the Commission's Rules limits the maximum-to-minimum ratio of a UHF directional antenna to 15db. LSC proposes a directional antenna with maximum-to-minimum ratio of 28db, but no waiver has been requested. Accordingly, an issue regarding this matter will be specified.

7. Parish's proposed site is 196 miles from the reference point of Channel 44, Pensacola, Florida, whereas § 73.610(b)(1) of the Commission's Rules requires a minimum separation of 205 miles. The applicant, therefore, would be short-spaced 9 miles to Channel 44, Pensacola, Florida. In addition, the applicant is 191 miles (out of a required 205 miles) from the sites specified in two pending applications for Channel 44, Pensacola, Florida, producing a short-spacing of 14 miles. An issue will be specified to determine whether circumstances exist warranting a waiver. In assessing the circumstances to determine whether a waiver is warranted, the Administrative Law Judge should consider the fact that the other three competing applicants in this proceeding have specified fully-spaced sites.

8. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. Since these applications are mutually exclusive, the Commission is unable to make the statutory finding that their grant will serve the public interest, convenience, and necessity. Therefore, the applications must be designated for hearing in a consolidated proceeding on the issues specified below.

9. Accordingly, it is ordered, That pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, to be held before an Administrative Law Judge at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine with respect to Spondo Ltd., Inc., and Parish Family Television—Limited Partnership, whether there is a reasonable possibility that the tower height and location proposed by each would constitute a hazard to air navigation.

2. To determine with respect to Kay Burns Crochet and Samuel R. Levatino d/b/a Louisiana Super Communications Limited Partnership, whether circumstances exist which would warrant a waiver of § 73.685(e) of the Commission's Rules.

3. To determine, with respect to South Louisiana Television, Inc., John S. Baker, Jr. and Charles C. Gremillion, Jr. d/b/a Parish Family Television—Limited Partnership, whether the application is consistent with the minimum mileage separation requirements of § 73.610 of the Commission's Rules, and if not, whether circumstances exist which would warrant a waiver of the rule.

4. To determine, which of the proposals would, on a comparative basis, best serve the public interest.

5. To determine, in light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

10. It is further ordered, That Spondo Ltd., Inc., shall submit a response to Section II, page 3, item 7(d), FCC Form 301, to the presiding Administrative Law Judge within 20 days after the date of the release of this Order.

11. It is further ordered, That the Federal Aviation Administration is made a party respondent to this proceeding with respect to issue 1.

12. It is further ordered, That Spondo Ltd., Inc., shall submit an amendment stating the correct type of antenna proposed, to the presiding Administrative Law Judge within 20 days after the date of the release of this Order.

13. It is further ordered, That, to avail themselves of the opportunity to be heard, the applicants and party respondent herein shall, pursuant to § 1.221(c) of the Commission's Rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this Order.

14. It is further ordered, That the applicants herein shall, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594 of the Commission's Rules, give notice of the hearing within the time and in the manner prescribed in such Rule, and shall advise the Commission of the

[1] Baton Rouge Channel 44, Limited Partnership and Spondo both filed amendments accompanied by Petitions for Leave to amend on October 18 and October 24, 1983, respectively. In as much as both amendments were filed prior to the January 6, 1984 B cut-off date, no special permission to file the amendments is required. The amendments are therefore, routinely accepted.

[2] The Commission is not in receipt of FAA's determination for the tower proposed by Spondo and Parish.

publication of such notice as required by § 73.3594(g) of the Rules.

Federal Communications Commission.

Roy J. Stewart,

Chief, Video Services Division, Mass Media Bureau.

[FR Doc. 84-3208 Filed 2-6-84; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL MARITIME COMMISSION

Independent Ocean Freight Forwarder License; Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as independent ocean freight forwarders pursuant to section 44(a) of the Shipping Act, 1916 (75 stat. 522 and 46 U.S.C. 841(c)).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to communicate with the Director, Bureau of Tariffs, Federal Maritime Commission, Washington, D.C. 20573.

Aegis Logistics Systems, Inc., 8107 Stayton Drive, Jessup, MD 20794, Officers: A. H. Farouki, President; George P. Delaney, Vice President; Michele M. Wylie, General Manager; Peter Creager III, Tariff and Rates Manager

By the Federal Maritime Commission.

Dated: February 2, 1984.

Francis C. Hurney,

Secretary.

[FR Doc. 84-3251 Filed 2-6-84; 8:45 am]

BILLING CODE 6730-01-M

[Independent Ocean Freight Forwarder License No. 955-R]

A. B. Barone Forwarding, Inc.; Reissuance of License

By Notice served and published in the **Federal Register**, Independent Ocean Freight Forwarder License No. 955-R was revoked, effective December 10, 1983 for failure to maintain a valid surety bond on file with the Commission. The Notice of Revocation was served on January 10, 1984.

An appropriate surety bond has been received in favor of A. B. Barone Forwarding, Inc. and compliance pursuant to section 44, Shipping Act, 1916, and section 510.15 of the Commission's General Order 4 has been achieved.

Therefore, by virtue of authority vested in me by the Federal Maritime Commission as set forth in section 9.09(a) of Commission Order No. 1 (Revised), dated September 27, 1983, Independent Ocean Freight Forwarder License No. 955-R shall be reissued to A. B. Barone Forwarding, Inc. effective January 25, 1984. A copy of this notice shall be published in the **Federal Register** and served upon A. B. Barone Forwarding, Inc.

Robert G. Drew,

Director, Bureau of Tariffs.

[FR Doc. 84-3249 Filed 2-6-84; 8:45 am]

BILLING CODE 6730-01-M

Section 15 Agreement; Cancellation

Agreement No.: 10483.

Title: Korea Marine Transport Company, Limited/Matson Agencies, Inc. Agency Agreement.

Parties: Korea Marine Transport Company, Limited/Matson Agencies, Inc.

Synopsis: By letter dated January 23, 1984, the Commission received notice to cancel the above agreement, effective January 31, 1984.

Filing Party: Eugene R. Swanson, President, Matson Agencies, 333 Market Street, Post Office Box 7452, San Francisco, California 94120.

By Order of the Federal Maritime Commission.

Dated: February 2, 1984.

Francis C. Hurney,

Secretary.

[FR Doc. 84-3248 Filed 2-6-84; 8:45 am]

BILLING CODE 6730-01-M

Controlled Carriers Under the Shipping Act, 1916; Compania Chilena de Navegacion Interoceanica S.A.

AGENCY: Federal Maritime Commission.

ACTION: Deletion from list of controlled carriers.

SUMMARY: The Federal Maritime Commission is removing Compania Chilena de Navegacion Interoceanica S.A. (CCNI) from the list of controlled carriers which was previously published in the **Federal Register** on July 21, 1983. Recently received information reveals that the majority ownership and control of CCNI is no longer held by the Government of Chile and CCNI, therefore, no longer meets the definition of a controlled carrier pursuant to section 1, Shipping Act, 1916.

DATE: None.

FOR FURTHER INFORMATION CONTACT: Francis C. Hurney, Secretary, Federal Maritime Commission, 1100 L Stteet, NW., Washington, D.C. 20573 (202) 523-5725.

SUPPLEMENTARY INFORMATION: The Ocean Shipping Act of 1978 (Pub. L. 95-483) was incorporated into sections 1 and 18(c) of the Shipping Act, 1916 (the Act) (46 U.S.C. 801, 817(c)) and provides for the regulation of rates or charges of certain state-owned or controlled carriers in the foreign commerce of the United States. These provisions became effective November 17, 1978, imposing upon the Federal Maritime Commission the responsibility to regulate the rates and practices of such carriers operating as "cross-trades" in the United States ocean-borne foreign commerce.

Compania Chilena de Navegacion Interoceanica, S.A. (CCNI) was classified as a controlled carrier, not exempt from section 18(c). On December 21, 1983, the attorney representing CCNI (Petitioner) filed a Petition requesting a determination that CCNI be found not to be a controlled carrier. Petitioner advised that on October 20, 1983, the majority shareholder, Corporacion de Fomento de la Produccion (CORF), a company controlled by the Chilean Government, sold half of its shares of CCNI stock to private investors resulting in the majority of the ownership of CCNI being owned and controlled by private investors. Petitioner states that the private interests now have the right to appoint, or disapprove the appointment of, a majority of the directors and the chief operating or executive officer of the carrier.

The Commission has reviewed the Petition and has found that Compania Chilena de Navegacion Interoceanica, S.A. should no longer be considered a controlled carrier as defined in the first section of the Shipping Act, 1916. Therefore, the Commission is deleting Compania Chilena de Navegacion Interoceanica, S.A. from its list of non-exempt controlled carriers.

By the Commission, January 26, 1984.[1]

Francis C. Hurney,

Secretary.

Although the State Department has confirmed that the majority of CCNI ownership is now "private", it is for the Commission to determine, based on actual evidence, that that is indeed the case. Moreover, the statute is worded not only in terms of ownership, but of "control". I am not satisfied, based on the meager information made available to the Commission, that there is no government *control* over a sufficient number of the now "private" ownership of CCNI to render the October, 1983 sale of Government shares a mere contrivance designed to avoid controlled carrier status. I believe it would be

[1] Commissioner Robert Setrakian's dissenting opinion is attached.

precipitous to find CCNI not to be a controlled carrier without further documentation and especially prior to the final appointment to the as yet uncompleted Board of Directors.

[FR Doc. 84-3250 Filed 2-6-84; 8:45 am]
BILLING CODE 6730-01-M

Agreements Filed

The Federal Maritime Commission hereby gives notice that the following agreements have been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and may request a copy of each agreement and the supporting statement at the Washington, D.C, Office of the Federal Maritime Commission, 1100 L Street, NW., Room 10325. Interested parties may submit protests or comments on each agreement to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments and protests are found in § 522.7 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Any person filing a comment or protest with the Commission shall, at the same time, deliver a copy of that document to the person filing the agreement at the address shown below.

Agreement No.: 4086-A.

Title: Barber Blue Sea Line and Barber West Africa Line, Cost Sharing Agreement.

Parties: Barber Blue Sea Lines (BBS) and Barber West Africa Line (BWAL).

Synopsis: Agreement No. 4086-A authorizes BBS and BWAL to share certain costs and expenses for terminal facilities incurred by the Lines pursuant to Agreement No. T-4086, approved by the Commission on November 25, 1983. The cost sharing under the Agreement will be based upon volumes of cargo handled at the terminal facility to be utilized by the Lines. (Berths 72-74, The Port Authority of New York and New Jersey, Marine Terminal, Elizabeth, New Jersey).

Filing Party: Billing, Sher & Jones, P.C., 2033 K Street, NW., Suite 300, Washington, D.C. 20006.

Agreement No.: T-4164.

Title: The Port Authority of New York and New Jersey and Atlantic Container Line, Ltd., Terminal Space Lease Agreement.

Parties: The Port Authority of New York and New Jersey (Authority) and Atlantic Container Line, Ltd. (ACL).

Synopsis: Agreement No. T-4164 provides for the leasing by the authority to ACL of berths 72-74 at the Authority's Elizabeth Marine Terminal, Elizabeth, New Jersey. The term of the Agreement is to September 30, 1987. ACL will be assessed a fixed annual rent. The Agreement also provides for the financing of some improvements.

Filing Party: John C. Barnett, Deputy Chief, Leases and Operating Agreements Division, The Port Authority of NY and NJ, One World Trade Center, New York, New York 10048.

By Order of the Federal Maritime Commission.

Dated: February 2, 1984.

Francis C. Hurney,

Secretary.

[FR Doc. 84-3252 Filed 2-6-84; 8:45 am]
BILLING CODE 6730-01-M

GENERAL SERVICES ADMINISTRATION

Automated Freight Rate and Routing; Meeting

The General Service Administration (GSA) has awarded a contract to Numerax, Inc., Maywood, New Jersey, to provide nationwide automated freight rate and routing information for Federal civilian agenices. The system will obviate the need to perform time-consuming manual research to determine the most economical mode of transportation. Currently, Numerax's data base contains more than 25 million freight rates for approximately 17,000 motor and rail carriers.

The contract culminates more than a year's effort by GSA to achieve this major step toward streamlining and simplifying freight transportation operations in the Government. It also is responsive to a recommendation by the Travel and Traffic Management Committee of the President's Private Sector Survey on Cost Control. GSA will use the automated system to provide prompt, state-of-the-art services to agencies trying to identify the least costly and most efficient way to route freight shipments. The net effect of these automated rate and routing services is to conserve operating funds for all Federal civilian executive agencies.

GSA has scheduled an open meeting to formally announce and discuss plans for the implementation of the new automated rate and routing system. The meeting will be held in the GSA auditorium at 10 a.m. on February 17, 1984, GS building, 18th and F Streets, NW., Washington, D.C. Representatives from Government agencies, the carrier industry and other interested parties are invited to attend.

Since seating is limited, reservations are required. Please call Mr. Dan Carro or Mr. Ed Juntunen on (703) 557-1261 or FTS 557-1261 for reservations or other questions.

Dated: January 31, 1984.

James J. Grady, Jr.,

Acting Assistant Administrator for Federal Supply and Services.

[FR Doc. 84-3289 Filed 2-6-84; 8:45 am]
BILLING CODE 6820-AM-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control

Open Meeting; Development of an Objective Evaluation Tool for Low Back Injuries

The following meeting will be convened by the National Institute for Occupational Safety and Health (NIOSH) of the Centers for Disease Control (CDC) and will be open to the public for observation and participation, limited only by the space available:

Date: February 27, 28, and 29, 1984.

Time: 9:00 a.m. to 3:30 p.m. each day.

Place: Room S-120, 944 Chestnut Ridge Road, Morgantown, West Virginia 26505.

Purpose: To refine a NIOSH project protocol concerned with the development of an objective evaluation tool for low back injuries. Viewpoints and suggestions from industry, organized labor, academia, other government agencies, and the public are invited.

Additional information may be obtained from: Roger M. Nelson, Ph.D., Division of Safety Research, NIOSH, CDC, 944 Chestnut Ridge Road, Morgantown, West Virginia 26505, Telephones: FTS: 923-4454, Commercial: 304/291-4454.

Dated: January 30, 1984.

James O. Mason,

M.D., Dr. P.H., Director, Centers for Disease Control.

[FR Doc. 84-3271 Filed 2-6-84; 8:45 am]
BILLING CODE 4160-19-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Colorado; Grand Junction Districts Grazing Advisory Board; Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Meeting of Grand Junction District Grazing Advisory Board.

SUMMARY: Notice is hereby given in accordance with Pub. L. 92–463 that a meeting of the Grand Junction District Grazing Advisory Board will be held on Thursday, March 8, 1984.

The meeting will begin at 9 a.m. in the conference room of the Bureau of Land Management Office at 50629 West Highway 6 and 24, Glenwood Springs, Colorado.

The agenda for the meeting will include (1) minutes of the previous meeting, (2) election of officers, (3) labor and equipment rate schedules for use on advisory board projects, (4) status of subleasing policy, (5) discussion and ranking of nominees for cooperative management agreements, (6) discussion of advisory board projects, (7) public presentations, and (8) arrangements for the next meeting.

The meeting is open to the public. Interested persons may make oral statements to the Board between 2:30 and 3:00 p.m. or file written statements for the Board's consideration. Anyone wishihg to make an oral statement must nofity the District Manager, Bureau of Land Management, 764 Horizon Drive, Grand Junction, Colorado 81501, by March 5, 1984. Depending on the number of persons wishing to make oral statements, a per person time limit may be established by the District Manager.

Summary minutes of the Board meeting will be maintained in the District Office and be available for public inspection and reproduction (during regular business hours) within 30 days following the meeting.

Further information on the meeting may be obtained at the above address or by calling (303) 243–6552.

Wright C. Sheldon.

District Manager.

[FR Doc. 84–3228 Filed 2–6–84; 8:45 am]

BILLING CODE 4310–84–M

Idaho; Conveyance of Public Lands

Notice is hereby given that pursuant to the Act of October 21, 1976 (90 Stat. 2750; 43 U.S.C. 1713), patents were issued to the following:

Phil S. Derricott and Juanita J. Derricott, Montpelier, Idaho, for the following-described public land:

Bear Lake County, Serial No. I–19710–D

Bosie Meridian, Idaho

T. 12 S., R. 44 E.,
Sec. 28, SW¼NW¼.
Containing 40.00 acres.

William F. Seefried, Mackay, Idaho, for the following-described public land:

Custer County, Serial No. I–19719

Boise Meridian, Idaho

T. 6 N., R. 24 E.,
Sec. 3, W½W½W½SE¼.
Containing 20.00 acres.

Estate of Mary L. Jenson, c/o LeRoy M. Jenson, Malad, Idaho, for the following-described public land:

Oneida County, Serial No. I–19668 B

Boise Meridian, Idaho

T. 15 S., R. 34 E.,
Sec. 18, lot 1.
Containing 47.09 acres.

Don R. Ayers, Soda Springs, Idaho, for the following-described public land:

Caribou County, Serial No. I–18530 A

Bosie Meridian, Idaho

T. 8 S., R. 40 E.,
Sec. 13, NE¼NE¼NE¼.
Containing 10.00 acres.

Don C. Rigby, Bancroft, Idaho, for the following-described public land:

Caribou County, Serial No. I–19695

Boise Meridian, Idaho

T. 8 S., R. 40 E.,
Sec. 31, lot 4, NW¼SE¼.
Containing 81.36 acres.

The purpose of this notice is to inform the public and interested State and local governmental officials of the conveyance.

Louis B. Bellesi,

Deputy State Director for Operations.

[FR Doc. 84–3227 Filed 2–6–84; 8:45 am]

BILLING CODE 4310–GG–M

[OR–15701]

Oregon; Conveyance

Notice is hereby given that, pursuant to Section 203 of the Act of October 21, 1976 (90 Stat. 2743, 2750; 43 U.S.C. 1701, 1713), the following described public land in Jackson County, was purchased by direct sale and conveyed to the party shown:

James C. Miller, 975 Dead Indian Road, Ashland, Oregon 97520.

Willamette Meridian, Oregon

T. 39 S., R. 2 E.,
Sec. 7, lot 8 lying in the NW¼.

The purpose of this Notice is to inform the public and interested State and local governmental officials of the issuance of the conveyance document to Mr. Miller.

Dated January 31, 1984.

Harold A. Berends,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 84–3274 Filed 2–6–84; 8:45 am]

BILLING CODE 4310–33–M

[OR–35774]

Oregon; Conveyance

Notice is hereby given that, pursuant to Section 203 of the Act of October 21, 1976 (90 Stat. 2743, 2750; 43 U.S.C. 1701, 1713), the following described public land in Harney County, was purchased by modified competitive sale and conveyed to the party shown:

Richard C. Smith, 7991 Stratford Drive Northeast, Salem, Oregon 97305.

Willamette Meridian, Oregon

T. 33 S., R. 30 E.,
Sec. 1, SE¼;
Sec. 12, NE¼.

The purpose of this Notice is to inform the public and interested State and local governmental officials of the issuance of the conveyance document to Mr. Smith.

Dated January 31, 1984.

Harold A. Berends,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 84–3275 Filed 2–6–84; 8:45 am]

BILLING CODE 4310–33–M

[OR–35893]

Oregon; Conveyance

Notice is hereby given that, pursuant to Section 203 of the Act of October 21, 1976 (90 Stat. 2743, 2750; 43 U.S.C. 1701, 1713), the following described public land in Lane County, was purchased by modified competitive sale and conveyed to the party shown:

Ruby F. Wilkins 92348 Marcola Road, Marcola, Oregon 97454.

Willamette Meridian, Oregon

T. 16 S., R. 1 W.,
Sec. 7, lot 6.

The purpose of this Notice is to inform the public and interested State and local governmental officials of the issuance of the conveyance document to Ms. Wilkins.

Dated: January 31, 1984.

Harold A. Berends,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 84–3276 Filed 2–6–84; 8:45 am]

BILLING CODE 4310–33–M

[OR-35895]

Oregon; Conveyance

Notice is hereby given that, pursuant to Section 203 of the Act of October 21, 1976 (90 Stat. 2743, 2750; 43 U.S.C. 1701, 1713), the following described public land in Linn County, was purchased by modified competitive sale and conveyed to the party shown:

Mr. Arnold Kampfu and Mr. Lynn Kampfu 23533 Gap Road, Harrisburg, Oregon 97446.

Willamette Meridian, Oregon

T. 15 S., R. 2 W.,
Sec. 6, Lot 3.

The purpose of this Notice is to inform the public and interested State and local governmental officials of the issuance of the conveyance document to Arnold and Lynn Kampfu.

Dated: January 31, 1984.

Harold A. Berends,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 84-3277 Filed 2-6-84; 8:45 am]
BILLING CODE 4310-33-M

[OR-35894; OR-35896]

Oregon; Conveyance

Notice is hereby given that, pursuant to Section 203 of the Act of October 21, 1976 (90 Stat. 2743, 2750; 43 U.S.C. 1701, 1713), the following described public land in Lane County, was purchased by modified competitive sale and conveyed to the party shown:

Giustina Bros., Post Office Box 989, Eugene, Oregon 97440.

Willamette Meridian, Oregon

T. 16 S., R. 2 W.,
Sec. 25, Lot 9.
T. 17 S., R. 1 W.,
Sec. 6, Lot 2.

The purpose of this Notice is to inform the public and interested State and local governmental officials of the issuance of the conveyance document to Giustina Bros.

Dated: January 31, 1984

Harold A. Berends,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 84-3278 Filed 2-6-84; 8:45 am]
BILLING CODE 4310-33-M

[OR-35897]

Oregon; Conveyance

Notice is hereby given that, pursuant to Section 203 of the Act of October 21, 1976 (90 Stat. 2743, 2750; 43 U.S.C. 1701, 1713), the following described public land in Linn County, was purchased by modified competitive sale and conveyed to the party shown:

Mr. & Mrs. William Enos, 34066 Highway 228, Halsey, Oregon 97348.

Willamette Meridian, Oregon

T. 14 S., R. 3 W.,
Sec. 2 lots 1, 2, and 3;
Sec. 3, lot 4.

The purpose of this Notice is to inform the public and interested State and local governmental officials of the issuance of the conveyance document to Mr. & Mrs. Enos.

Dated: January 31, 1984.

Harold A. Berends,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 84-3279 Filed 2-6-84; 8:45 am]
BILLING CODE 4310-33-M

[OR-35898]

Oregon; Conveyance

Notice is hereby given that, pursuant to Section 203 of the Act of October 21, 1976 (90 Stat. 2743, 2750; 43 U.S.C. 1701, 1713), the following described public land in Linn County, was purchased by modified competitive sale and conveyed to the party shown:

Gary B. & Patricia A. Keen, 34656 Enos Drive, Brownsville, Oregon 97327.

Willamette Meridian, Oregon

T. 14 S., R. 3 W.,
Sec. 3, lot 3.

The purpose of this Notice is to inform the public and interested State and local governmental officials of the issuance of the conveyance document to Mr. & Mrs. Keen.

Dated: January 31, 1984.

Harold A. Berends,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 84-3280 Filed 2-6-84; 8:45 am]
BILLING CODE 4310-33-M

[OR-36350]

Oregon; Conveyance

Notice is hereby given that, pursuant to Section 203 of the Act of October 21, 1976 (90 Stat. 2743, 2750; 43 U.S.C. 1701, 1713), the following described public land in Harney County, was purchased by modified competitive sale and conveyed to the party shown:

Kenneth C. Thompson, 11391 Larkin Road, Live Oak, California 95953.

Willamette Meridian, Oregon

T. 33 S., R. 31 E.,
Sec. 7, E½;
Sec. 8, W½.

The purpose of this Notice is to inform the public and interested State and local governmental officials of the issuance of the conveyance document to Mr. Thompson.

Dated: January 31, 1984.

Harold A. Berends,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 84-3281 Filed 2-6-84; 8:45 am]
BILLING CODE 4310-33-M

[OR-36282]

Oregon; Conveyance

Notice is hereby given that, pursuant to Section 203 of the Act of October 21, 1976 (90 Stat. 2743, 2750; 43 U.S.C. 1701, 1713), the following described public land in Lake County, was purchased by modified competitive sale and conveyed to the party shown:

Mr. Tom Scurlock, P.O. Box 210, Christmas Valley, OR 97641.

Willamette Meridian, Oregon

T. 25 S., R. 18 E.,
Sec. 21, W½NW¼.

The purpose of this Notice is to inform the public and interested State and local governmental officials of the issuance of the conveyance document to Mr. Scurlock.

Dated: January 31, 1984.

Harold A. Berends,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 84-3282 Filed 2-6-84; 8:45 am]
BILLING CODE 4310-33-M

[OR-22197I(WASH), OR-22197K(WASH), WASH-05200]

Washington; Proposed Continuation of Withdrawals

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Coast Guard proposes that land withdrawals totaling 8.9 acres for the Turn Point, Lime Kiln, and Cattle Point Light Stations be continued for an indefinite period. The lands would remain closed to surface entry and mining but have been and will remain open to mineral leasing.

ADDRESS: Comments should be sent to: Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, P.O. Box 2965, Portland, Oregon 97208.

FOR FURTHER INFORMATION CONTACT: Champ C. Vaughan, Jr., Oregon State Office, 503–231–6905.

The Coast Guard proposes that the existing land withdrawals made by the Executive Order of July 15, 1875 and Executive Order No. 5630 of May 25, 1931, be continued as to a total of 8.9 acres for an indefinite period pursuant to Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751, 43 U.S.C. 1714.

The lands involved are located at Cattle Point (one acre on San Juan Island in Section 8, T. 34 N., R. 2 W., W.M.), Lime Kiln Point (one acre on San Juan Island in Section 23, T. 35 N., R. 4 W., W.M.), and Turn Point (6.90 acres on Stuart Island in Section 20, T. 37 N., R. 4 W., W.M.) all in San Juan County, Washington.

The purpose of the withdrawals is to protect the Coast Guard's Turn Point, Lime Kiln and Cattle Point Light Stations. The withdrawals segregate the lands from operation of the public land laws generally, including the mining laws, but not the mineral leasing laws. No change is proposed in the purpose or segregative effect of the withdrawals.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal continuations may present their views in writing to the undersigned officer at the address specified above.

The authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the land and its resources. A report will also be prepared for consideration by the Secretary of the Interior, the President and Congress, who will determine whether or not the withdrawals will be continued and if so, for how long. The final determination on the continuation of the withdrawals will be published in the Federal Register. The existing withdrawals will continue until such final determination is made.

Dated: January 31, 1984.

Harold A. Berends,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 84-3283 Filed 2-6-84; 8:45 am]

BILLING CODE 4310-33-M

Minerals Management Service

Outer Continental Shelf: Oil, Gas and Sulphur Operations; Sonat Exploration Co.; Plan of Development/Production

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the Receipt of a Proposed Plan of Development/Production (POD/P).

SUMMARY: Notice is hereby given that Sonat Exploration Company has submitted a POD/P describing the activities it proposes to conduct on Lease OCS–G 4099, Block 31, East Cameron Area, offshore Louisiana. Proposed plans for the above area provide for the development and production of hydrocarbons with support activities to be conducted from an onshore base located at Intracoastal City, Louisiana.

DATE: The subject POD/P was deemed submitted on January 9, 1984. Comments must be received within 15 days of the date of this Notice or 15 days after the Coastal Management Section receives a copy of the plan from the Minerals Management Service.

ADDRESSES: A copy of the subject POD/P is available for public review at the Office of the Regional Manager, Gulf of Mexico Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana (Office Hours: 9 a.m. to 3:30 p.m., Monday through Friday). A copy of the POD/P and the accompanying Consistency Certification are also available for public review at the Coastal Management Section Office located on the 10th Floor of the State Lands and Natural Resources Building, 625 North 4th Street, Baton Rouge, Louisiana (Office Hours: 8 a.m. to 4:30 p.m., Monday through Friday). The public may submit comments to the Coastal Management Section, *Attention OCS Plans*, Post Office Box 44396, Baton Rouge, Louisiana 70805.

FOR FURTHER INFORMATION CONTACT: Mr. Hossein Hekmatdoost, Minerals Management Service, Gulf of Mexico Region; Rules and Production; Plans, Platform and Pipeline Section, Exploration/Development Plans Unit; Phone (504) 838–0873.

SUPPLEMENTARY INFORMATION: The purpose of this Notice is to inform the public, pursuant to sec. 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the POD/P and that it is available for public review. Additionally, this Notice is to inform the public, pursuant to section 930.61 of Title 15 of the CFR, that the Coastal Management Section/Louisiana Department of Natural Resources is reviewing the POD/P for consistency with the Louisiana Coastal Resources Program.

Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in POD/Ps available to affected states, executives of affected local governments, and other interested parties became effective December 13, 1979 (44 FR 53685). Those practices and procedures are set out in revised Section 250.34 of Title 30 of the CFR.

Dated: January 30, 1984.

John L. Rankin,

Regional Manager, Gulf of Mexico Region.

[FR Doc. 84-3230 Filed 2-6-84; 8:45 am]

BILLING CODE 4310-MR-M

Alaska Offshore; Dates and Locations of Public Hearings on the Environmental Impact Statement for the Proposed Offshore Oil and Gas Lease Sale in the Gulf of Alaska/Cook Inlet Area

In accordance with 30 CFR 256.26(b), public hearings will be held in order to receive comments and suggestions relating to the draft environmental impact statement (EIS) prepared for the proposed October 1984 offshore lease sale in the Gulf of Alaska/Cook Inlet area.

The hearings will be held on the following dates at the locations and times indicated.

February 13, 1984

Health Clinic, Yakutak, Alaska (6:00 p.m.)

February 14, 1984

Borough Assembly Chamber, Kodiak, Alaska (7:00 p.m.)

February 16, 1984

Anchorage Historical and Fine Arts Museum, 121 West 7th Avenue, Anchorage, Alaska (1:00 p.m.)

The hearings will provide the Secretary of the Interior with information from government agencies and the public which will help in the evaluation of the potential effects of the proposed lease sale.

The draft EIS concerning the proposed offshore lease sale in the Gulf of Alaska/Cook Inlet area was made available to the public on January 17, 1984. Copies of the EIS can be obtained from the Alaska Region, Leasing and Environment Office, Minerals Management Service, P.O. Box 101159,

Anchorage, Alaska 99510, telephone (907) 261–2414. Copies of the draft EIS are also available for review in public libraries throughout Alaska.

Interested individuals, representatives of organizations, and public officials wishing to testify at the hearings are asked to contact the Alaska Regional Office at the above address and telephone by Friday, February 10, 1984. Time limitations make it necessary to limit the length of oral presentations to 10 minutes. An oral statement may be supplemented by a more complete written statement which may be submitted to a hearing official at the time of oral presentation or by mail until March 20, 1984. This will allow those unable to testify at a public hearing an opportunity to make their views known and for those presenting oral testimony to submit supplemental information and comments. Written comments should be addressed to the Regional Manager, Alaska Region, Minerals Management Service, P.O. Box 101159, Anchorage, Alaska 99510.

Dated: February 2, 1984.

William D. Bettenberg,

Director, Minerals Management Service.

[FR Doc. 84–3290 Filed 2–6–84; 8:45 am]

BILLING CODE 4310–MR–M

National Park Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before January 27, 1984. Pursuant to § 60.13 of 36 CFR Part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, U.S. Department of the Interior, Washington, DC 20243. Written comments should be submitted by February 22, 1984.

Carol D. Shull,

Chief of Registration National Register.

ALABAMA

Macon County

Tuskegee, *Main Street Historic District*, Main St.

Marengo County

Demopolis, *U.S. Post Office*, 100 W. Capitol St.

CONNECTICUT

Fairfield County

Ridgefield vicinity, *West Mountain Historic District*, CT 102

GEORGIA

Dougherty County

Albany, *Davis-Exchange Bank Building*, 100–102 N. Washington St.

Fulton County

Atlanta, *Thorton Building*, 10 Pryor St. (10 Park Place South)

ILLINOIS

Edgar County

Paris vicinity, *Pine Grove Community Club*, NW of Paris

INDIANA

Pike County

Winslow, *Palace Lodge (Robling Building)*, Center and Main Sts.

MINNESOTA

Hennepin County

Minneapolis, *Architects and Engineers Building*, 1200 2nd Ave. S.
Minneapolis, *Willey, Malcolm, House*, 255 Bedford St., SE

Kittson County

Caribou vicinity, *St. Nicholas Orthodox Church*, W of Caribou

NEBRASKA

Greeley County

O'Connor, *Church of the Visitation of the Blessed Virgin Mary*, off NE 56

OKLAHOMA

Custer County

Clinton, *Crawford House*, 600 N. 13th St.

Adair County

Westville, *Buffington Hotel*, Main St.
Westville, *Opera Block*, Main St.

Alfalfa County

Aline, *Aline I.O.O.F. Lodge No. 263 (I.O.O.F. Buildings in Alfalfa County TR)*, off Main and Broadway
Carmen vicinity, *Carmen I.O.O.F. Home (I.O.O.F. Buildings in Alfalfa County TR)*, N of Carmen
Carmen, *Carmen I.O.O.F. Lodge No. 84 (I.O.O.F. Buildings in Alfalfa County TR)*, Main and 4th St.
Cherokee, *Cherokee I.O.O.F. Lodge No. 219 (I.O.O.F. Buildings in Alfalfa County TR)*, Grand Ave. and 2nd St.

Custer County

Weatherford, *Science Building (Old)*, State St.

Grant County

Deer Creek, *Deer Creek General Merchandise Store*, S. Main St.

Harper County

Laverne, *Clover Hotel (Laverne's Early Commercial Development MRA)*, Main St. and Oklahoma Ave.
Laverne, *Laverne's North Main Street District (Laverne's Early Commercial Development MRA)*, Main St. and Broadway
Laverne, *M.K. and T. Depot in Laverne (Laverne's Early Commercial Development MRA)*, Main St.
Laverne, *Sharp Lumberyard (Laverne's Early Commercial Development MRA)*, 124 N. Broadway

Kay County

Newkirk, *Kewkirk Central Business District*, Main and 7th Sts.

Kingfisher County

Hennessey, *Farmers and Merchants National Bank*, 197 S. Main St.

Lincoln County

Prague, *Z.C.B.J. Lodge No. 46*, S. Barta Ave.
Stroud, *Stroud, James W., House*, 110 E. 2nd St.

Oklahoma County

Oklahoma City, *Pilgrim Congregational Church*, 1433 Classen Dr.

Payne County

Perkins, *Perkins Central Business District*, Roughly N. and S. Main Sts. at Thomas and Stumbo Aves.

Rogers County

Foyil vicinity, *Galloway Park*, E of Foyil

Sequoyah County

Sallisaw, *Hines Round Barn*, 401 S. Adams St.

PENNSYLVANIA

Berks County

Gibraltar vicinity, *Allegheny Aqueduct*, PA 724 and Allegheny Creek

Bucks County

Taylorsville vicinity, *Burroughs, John, Homestead*, Wrightstown-Taylorsville Rd.

Philadelphia County

Philadelphia, *Ridge Avenue Farmers' Market*, 1810 Ridge Ave.

PUERTO RICO

Aguadilla County

Quebradillas vicinity, *Puente Blanco*, NE of Quebradillas off PR 485

RHODE ISLAND

Providence County

Providence, *Andrew Dickhaut Cottages Historic District*, 115—141 Bath St., 6–18 Duke St., and 377 Orms St.
Providence, *Dowler, Charles, House*, 561 Smith St.
Providence, *Gloria Dei Evangelical Lutheran Church*, 15 Hayes St.
Providence, *Smith Street Primary School*, 396 Smith St.

SOUTH DAKOTA

Brookings County

Brookings, *Trygstad Law and Commerce Building*, 401 Main Ave.

Butte County

Newell, *Kenaston, William G., House*, 301 Dartmouth

Douglas County

Slettebak Groceries, Hardware and Opera House,

Fall River County

Allen Bank Buyilding and Cascade Springs Bath House-Sanitarium,
Hot Springs, *Wesch, Phillip, House,* 2229 Minnekahta

Hand County

Archeological Site 39HD22 (Petroforms of South Dakota TR),

Hughes County

Archeological Site 39HU189 (Petroforms of South Dakota TR),
Archeological Site 39HU201 (Petroforms of South Dakota TR),
Archeological Site 39 HU66 (Petroforms of South Dakota TR),

Jerauld County

Archeological Site 39JE10 (Petroforms of South Dakota TR),
Archeological Site 39JE11 (Petroforms of South Dakota TR),

Meade County

Vale vicinity, *Holst, William, Farmstead, SW of Vale*

Minnehana County

Dell Rapids, *Dell Rapids Water Tower,* 10th and Orleans
Sioux Falls, *All Saints Historic District,* Roughly Main to 2nd Ave. from 14th to 23rd Sts., and 18th to 21st Sts. to 5th Ave.
Sioux Falls, *McKennan Park Historic District,* McKennan Park, 2nd and 4th Aves. from 21st to 26th Sts., and 21st St. from Phillips to 7th Aves.
Sioux Falls, *Security Bank Building,* 101 S. Main Ave.
Sioux Falls, *South Side Fire Station No. 3, 1324 S. Minnesota Ave.*

Pennington County

Rapid City, *First Congregational Church,* 715 Kansas
Rapid City, *Gambrill Storage Building, 822 Main St.*

Turner County

Archeological Site 39TU5 (Petroforms of South Dakota TR),

TENNESSEE

Campbell County

Jellico, *U.S. Post Office and Mine Rescue Station,* 300 N. Main St.

TEXAS

Harris County

Houston, *Main Street/Market Square Historic District (Boundary Increase)*

Tarrant County

Fort Worth, *Bryce Building,* 900 Throckmorton St.

VIRGINIA

Loudoun County

Bluemont, *Bluemont Historic District, VA 734 and 760*

Norfolk (Independent City)

Auslew Gallery Building (Virginia Bank and Trust Building), 101 Granby St.

Richmond (Independent City)

Branch House, 2501 Monument Ave.

Shenandoah County

Edinburg vicinity, Hockman, Dr. Christian, House, US 11

Stauton (Independent City)

Steephill, 200 Park Blvd.

Surry County

Second Southwark Church Archaeological Site (44SY65),

FR Doc. 84-3291 Filed 2-6-84; 8:45 am]
BILLING CODE 4310-70-M

INTERSTATE COMMERCE COMMISSION

[Decision-Notice OP3-63; MC-F-15572]

Motor Carriers; Reed's Fuel Co.

Decided: January 31, 1984.

The following applications seek approval to consolidate, purchase, merge, lease operating rights and properties, or acquire control of motor carriers pursuant to 49 U.S.C. 11343 or 11344. Also, applications directly related to these motor finance applications (such as conversions, gateway eliminations, and securities issuances) may be involved.

The applications are governed by 49 CFR 1182.1 of the Commission's Rules of Practice. See Ex Parte 55 (Sub-No. 44), *Rules Governing Applications Filed by Motor Carriers Under 49 U.S.C. 11344 and 11349,* 363 I.C.C. 740 (1981). These rules provide among other things, that opposition to the granting of an application must be filed with the Commission in the form of verified statements within 45 days after the date of notice of filing of the application is published in the Federal Register. Failure seasonably to oppose will be construed as a waiver of opposition and participation in the proceeding. If the protest includes a request for oral hearing, the request shall meet the requirements of Rule 242 of the special rules and shall include the certification required.

Persons wishing to oppose an application must follow the rules under 49 CFR 1182.2. A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00, in accordance with 49 CFR 1182.2 (d).

Amendments to the request for authority will not be accepted after the date of this publication. However, the Commission may modify the operating authority involved in the application to conform to the Commission's policy of simplifying grants of operating authority.

We find, with the exception of those applications involving impediments (e.g., jurisdictional problems, unresolved fitness questions, questions involving possible unlawful control, or improper divisions of operating rights) that each applicant has demonstrated, in accordance with the applicable provisions of 49 U.S.C. 11301, 11302, 11343, 11344, and 11349, and with the Commission's rules and regulations, that the proposed transaction should be authorized as stated below. Except where specifically noted this decision is neither a major Federal action significantly affecting the quality of the human environment nor does it appear to qualify as a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests as to the finance application *or* to any application directly related thereto filed within 45 days of publication (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (unless the application involves impediments) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. To the extent that the authority sought below may duplicate an applicant's existing authority, the duplication shall not be construed as conferring more than a single operating right.

Applicant(s) must comply with all conditions set forth in the grant or grants of authority within the time period specified in the notice of effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

James H. Bayne,

Acting Secretary.

MC-F-15572, filed, January 8, 1984 REED'S FUEL COMPANY, (Reed's Fuel) (4080 Commercial Ave., Springfield, OR 97477)—Purchase—OREGON-WASHINGTON TRANS-PORT (Oregon-Washington) (Robert K. Morrow, Trustee-In-Bankruptcy) (1515 S.W. 5th Ave., Ste. 840, P.O. Box 1328, Portland, OR 97201). Representatives: Lawrence V. Smart, Jr., 419 N.W. 23rd Ave., Portland, OR 97210 and David C. White, 2400 S.W. 4th Ave., Portland, OR 97201. Reed's Fuel seeks to purchase all of the interstate and intrastate operating rights of Oregon-Washington. Alvin Reed, Dorothy Reed, and Gary Reed join in the application as individuals in control of

Reed's Fuel and seek authority to acquire control of said rights through the transaction. Approval is sought for the transfer of the following interstate authority: (a) MC-52005 issued November 24, 1972 cancelling MC-52005 issued September 21, 1949, general commodities (with exceptions), between Portland, OR, on the one hand, and, on the other, points in Washington and Oregon and materials, supplies and equipment, required in construction, maintenance, and operation of Civilian Conservation Corps Camps, between Vancouver, WA, on the one hand, and, on the other, Civilian Conservation Corp Camps and camp sites in Oregon, except those located on a line of railroad; (b) MC-52005 Sub-No. 5 issued January 18, 1968, firefighting equipment and firefighting supplies (except commodities in bulk), between points in Deschutes County, OR, on the one hand, and, on the other, points in Oregon, Washington, Idaho, and those in and north of Lassen, Shasta, Trinty, and Humboldt Counties, CA; (c) MC-52005 Sub-No., 6 issued June 5, 1981, cancelling MC-52005 Sub-No. 5 issued March 12, 1981, general commodities (with the usual exceptions), between Seattle, WA, on the one hand, and, on the other, points in Oregon and (d) MC-52005 (Sub-No. 7), issued January 28, 1982, general commodities (with exceptions), between points in Idaho, Oregon, and Washington. The intrastate operating rights being acquired authorize the transportation of general commodities (with exceptions) between points in Oregon. Reed's Fuel is authorized to operate as a motor common carrier in No. MC-124032.

Note: Oregon-Washington ceased operations as a carrier in June 1983.

[FR Doc. 84-3235 Filed 2-6-84; 8:45 am]
BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Extension of Comment Period on Consent Decree Regarding Hazardous Waste Site; Hooker Chemicals and Plastic Corp., et al.

Notice is hereby given of an extension of time for comments relating to the proposed consent decree in *United States* v. *Hooker Chemicals and Plastics Corp., et al., (S-Area Landfill)*, Civil Action No. 79-988, lodged on January 10, 1984. The period for receipt of public comment is extended from February 18, 1984 by one month to March 19, 1984.

Comments should be addressed to the Assistant Attorney General of the Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530 and should refer to *United States, the State of New York* v. *Hooker Chemicals and Plastics Corp., et al., (S-Area Landfill), DOJ Ref. 90-7-1-41.*

The proposed consent decree together with an explanatory memorandum and supporting affidavits, may be examined at the office of the United States Attorney, 502 U.S. Courthouse, Buffalo, New York 14202, at the Region II Office of the Environmental Protection Agency, 26 Federal Plaza, Room 900, New York, New York 10278, and at the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice, Room 1515, 9th & Pennsylvania Avenue, NW., Washington, D.C. 20530. A copy of the proposed consent decree together with the explanatory memorandum and supporting affidavits may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice. In requesting a copy of the consent decree, please refer to the case, DOJ reference number and enclose a check in the amount of $23.40 (10 cents per page reproduction cost). In requesting a copy of the exploratory memorandum and supporting affidavits please enclose a check in the amount of $26.90 (10 cents per page reproduction cost). All checks are to be made payable to the Treasurer of the United States.

F. Henry Habicht, II,

Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 84-3270 Filed 2-6-84; 8:45 am]
BILLING CODE 4410-01-M

Drug Enforcement Administration

[Docket No. 83-37]

In re Levorphanol; Change in Location of Hearing

On January 9, 1984, notice was given at 49 F.R. 1147 that a hearing session would be held in this matter on February 9, 1984, commencing at 2:00 p.m.

It has become necessary to change the location of that hearing session. These proceedings will now be held in Room 1213, Drug Enforcement Administration, 1405 I Street NW., Washington, D.C. The date and time remain the same.

Dated: February 1, 1984.

Francis M. Mullen, Jr.,

Administrator, Drug Enforcement Administration.

[FR Doc. 84-3306 Filed 2-6-84; 8:45 am]
BILLING CODE 4410-09-M

[Docket No. 83-36]

In re Hydromorphone; Change in Location of Hearing

On January 9, 1984, notice was given at 49 FR 1147 that a hearing session would be held in this matter on February 9, 1984, commencing at 10:00 a.m.

It has become necessary to change the location of that hearing session. These proceedings will now be held in Room 1213, Drug Enforcement Administration, 1405 I Street NW., Washington, D.C. The date and time remain the same.

Dated: February 1, 1984.

Francis M. Mullen, Jr.,

Administrator, Drug Enforcement Administration.

[FR Doc. 84-3306 Filed 2-6-84; 8:45 am]
BILLING CODE 4410-09-M

DEPARTMENT OF LABOR

Office of the Secretary

Agency Forms Under Review by the Office of Management and Budget (OMB)

Background

The Department of Labor, in carrying out its responsibility under the Paperwork Reduction Act (44 U.S.C. Chapter 35), considers comments on the proposed forms and recordkeeping requirements that will affect the public.

List of Forms Under Review.

On each Tuesday and/or Friday, as necessary, the Department of Labor will publish a list of the Agency forms under review by the Office of Management and Budget (OMB) since the last list was published. The list will have all entries grouped into new collections, revisions, extensions, or reinstatements. The Departmental Clearance Officer will, upon request, be able to advise members of the public of the nature of any particular revision they are interested in.

Each entry will contain the following information:

The Agency of the Department issuing this form.

The title of the form.

The OMB and Agency form numbers, if applicable.

How often the form must be filled out.

Who will be required to or asked to report.

Whether small businesses or organizations are affected.

An estimate of the number of response.

An estimate of the total number of hours needed to fill out the form.

The number of forms in the request for approval.

An abstract describing the need for and uses of the information collection.

Comments and Questions

Copies of the proposed forms and supporting documents may be obtained by calling the Department Clearance Officer, Paul E. Larson, Telephone 202–523–6331. Comments and questions about the items on this list should be directed to Mr. Larson, Office of Information Management, U.S. Department of Labor, 200 Constitution Avenue, N.W., Room S–5526, Washington, D.C. 20210. Comments should also be sent to the OMB reviewer, Arnold Strasser, Telephone 202–395–6880, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 3208, NEOB, Washington, D.C. 20503.

Any member of the public who wants to comment on a form which has been submitted to OMB should advise Mr. Larson of this intent at the earliest possible date.

New

Office of Pension and Welfare Benefit Programs
Class Exemption 77–3—Investment of plan assets by mutual fund "in house" plans in their own open-end mutual funds
Other-Describe: Annually when exemption is used
Business or other for profit; small businesses or organizations 242 respondents; 1 hour

This class exemption exempts from the prohibited transaction restrictions of ERISA the purchase and sale of shares of a registered open-end mutual fund by an employee benefit plan which covers employees of the mutual fund or the mutual fund's investment adviser or principal underwriter, or affiliate thereof.

Revision (Burden Change)

Employment Standards Administration
Claimant's Statement
1215–0089; LS–267, 203, 204 and 262
On occasion/annually
Individuals or Households
137,935 responses; 64,304 hours; 6 forms.

Forms are completed by claimants and physicians in support of claims for compensation benefits under the Longshoremen's and Harbor Workers' Compensation Act and related statutes.

Employment and Training Administration
JTPA Quarterly Status Report
1205–0200; ETA 8579
Quarterly
State or local governments
228 responses; 1,640 hours; 1 form.

The Department proposes to use the currently OMB approved JTPA Quarterly Status Report to collect information from those States receiving JTPA Title III discretionary funds for the Dislocated Worker Program (Section 301(a) of JTPA).

Employment and Training Administration
JTPA Annual Status Report
1205–0211; ETA 8580
Annually
State or local governments
57 responses; 250,057 hours; 1 form.

The Department proposes to use the currently OMB approved JTPA Annual Status Report to collect information from those States receiving JTPA Title III discretionary funds for the Dislocated Worker Program (Section 301(a) of JTPA).

Extension

Employment and Training Administration
Monthly Determinations, Allowance Activities and Reemployment Service Under the Trade Act
1205–0016; ETA 563
Monthly
State or local governments
12,450 responses; 1,494 hours; 1 form.

Data on trade adjustment assistance activity are needed for timely program evaluation necessary for competent administration and to provide legally mandated reports to Congress on the trade adjustments assistance program.

Employment and Training Administration
Program Monitoring Report and Job Service Complaint Form
1205–0039; ETA 5–148 and ETA 8429
On occasion; quarterly
State or local governments
208 responses; 5,608 hours; 2 forms.

The forms are necessary as part of compliance with NAACP v. Marshall, and with Department of Labor regulations (20 CFR Parts 651, 653, and 658) under the Wagner-Peyser Act, as amended by the JTPA, regarding the establishment and functioning of State employment services. The forms will allow the public to file complaints and State agencies to provide appropriate reports.

Reinstatement

Employment and Training Administration
Assessment of the Implementation of Federal Supplemental Compensation Act
Amendments of 1983, Pub. L. 98–135
1205–0195; ETA RC 51
On occasion
State or local governments
53 responses; 106 hours; 1 form.

To review, assess and prepare a report on effectiveness of State agencies in implementing the recent amendments to the Federal Supplemental Compensation Act of 1982, Pub. L. 97–248; Title I of Pub. L. 98–135. DOL/ETA Regional Office staff will be responsible for assessing program implementation.

Signed at Washington, D.C. this 2nd day of February 1984.

Richard Glesener,

Acting Departmental Clearance Officer.

[FR Doc. 84–3328 Filed 2–6–84; 8:45 am]

BILLING CODE 4510–30–M

Mine Safety and Health Administration

[Docket No. M–83–147–C]

Bethlehem Mines Corp.; Petition for Modification of Application of Mandatory Safety Standard

Bethlehem Mines Corporation, Room 1871 Martin Tower, Bethlehem, Pennsylvania 18018 has filed a petition to modify the application of 30 CFR 75.305 (weekly examinations for hazardous conditions) to its Mine No. 51 (I.D. No. 36–00959) located in Washington County, Pennsylvania. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that intake and return aircourses be examined in their entirety on a weekly basis.

2. The affected area has experienced roof falls. It has narrow entries and low roof, badly congested bottoms, and overhanging ribs. Some areas are not bolted. This area cannot be safely traveled for examination. Rehabilitation of this area would expose miners to extreme hazards, resulting in a diminution of safety.

3. As an alternate method, petitioner proposes to establish two methane monitoring stations at specified locations. Methane and air readings will be made on a daily basis by certified persons. Methane will not be allowed to accumulate beyond legal limits. Results of the examinations will be recorded on a date board at each station. Access to and from each station will be kept in a travelable and safe condition.

4. Petitioner states that the proposed alternate method will provide the same

degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before March 8, 1984. Copies of the petition are available for inspection at that address.

Dated: January 30, 1984.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 84-3325 Filed 2-6-84; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-83-145-C]

Big Hill Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Big Hill Coal Company, Hatfield, Kentucky 41514 has filed a petition to modify the application of 30 CFR 75.1710 (cabs or canopies) to its Mine No. 4 (I.D. No. 15-11612) located in Pike County, Kentucky. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that cabs or canopies be installed on the mine's electric face equipment.

2. The mining height ranges from 38 to 50 inches with rolls and dips.

3. Petitioner states that the use of canopies on the mine's electric face equipment restricts the equipment operator's visibility and causes safety problems, resulting in a diminution of safety for the miners affected.

4. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before March 8, 1984. Copies of the petition are available for inspection at that address.

Dated: January 30, 1984.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 84-3322 Filed 2-6-84; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-83-137-C]

Colorado Westmoreland, Inc.; Petition for Modification of Application of Mandatory Safety Standard

Colorado Westmoreland, Inc., P.O. Box E, Paonia, Colorado 81428 has filed a petition to modify the application of 30 CFR 75.322 (change in ventilation) to its Orchard Valley Mine (I.D. No. 05-02898) located in Delta County, Colorado. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that changes in ventilation which materially affect the main air current or any split thereof and which may affect the safety of persons in the coal mine be made only when the mine is idle.

2. As an alternate method, petitioner proposes to make air changes underground while miners are still underground. Because of the large quantities of air used in the working sections, petitioner states that many air changes can be safely made that do not materially affect the main air current or any split thereof, but in fact, add to the main air current. The changes proposed are as follows:

a. Equipment will be taken through regulators to perform work in outby return areas when: the underground superintendent or designated certified alternate authorizes the opening; a temporary regulator is constructed to allow the permanent regulator to be opened for equipment passage only; the permanent regulator is closed immediately after the equipment has passed; and the opening and closing is documented in the appropriate pre-shift/on-shift book;

b. Air will be changed or moved from one side of the section to the other because most of the face areas are on double-split ventilation and because of the pillaring sequence. Regulators will be closed and opened to that section on-shift as long as the resulting change neither increases the overall section intake air by 20,000 cfm, nor decreases the air below the required 40,000 cfm at the belt loading point, as follows: the underground superintendent or designated certified alternate must authorize the change; the regulator to be closed will be repositioned first; the regulator to be opened will be positioned second; a minimum of 20,000 cfm of air will remain in the last open crosscut when this change is being made; all face fans will be shut off and faces examined for methane immediately prior to change; and the closing and opening will be documented in the appropriate pre-shift/on-shift book with old and new air readings;

c. Sometimes mining in one section is completed and moved to another section on-shift. This old area may be temporarily idled for indefinite periods. Those regulators will be closed to have the remaining air available for other areas, as follows: the underground superintendent or designated certified alternate must authorize the change; face fans will be de-energized; regulators will be closed so that a minimum of 20,000 cfm of air is passing through the last open crosscut; and the changes will be recorded in the appropriate pre-shift/on-shift book with old and new air readings in the last open crosscut with the fans off;

d. Petitioner uses stair-step mining in the North Mains (actually two sections mining on one belt, except one is always idle). Mining can be completed in one section and resumed in the other in a matter of minutes. Petitioner proposes to use the maximum available air at all times, especially over the fans, as follows: the underground superintendent or designated certified alternate must authorize the change; the face fans will be de-energized in the section being idled; the regulators will be closed in the idled section only to a point that no less than 20,000 cfm of air is remaining in the last open crosscut; the regulator will be opened in the active section to a point that no more than 20,000 cfm of additional air is present from the prior reading plus the removed air from the idled section; the changes will be recorded in the appropriate pre-shift/on-shift book with old and new air readings at the regulators and last open crosscut of the section being reduced with fans off; and

e. Any ventilation change in which any split of air is to be increased or decreased by 20,000 cfm, except those listed above, will only be made when the mine is idle.

3. Petitioner states that the proposed alternate method will provide the same measure of protection to the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These

comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before March 8, 1984. Copies of the petition are available for inspection at that address.

Dated: January 30, 1984.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 84-3320 Filed 2-6-84; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-83-32M]

Granite Rock Co.; Petition for Modification of Application of Mandatory Safety Standard

Granite Rock Company, West Lake Avenue & Walker Street, P.O. Box 151, Watsonville, California 95077 has filed a petition to modify the application of 30 CFR 56.9-87 (audible warning back-up alarms) to its Logan Quarry (I.D. No. 04-00119) located in Monterey County, California. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that heavy duty mobile equipment be provided with audible warning devices or an observer to signal safe backup when the operator of the equipment has an obstructed view to the rear.

2. As an alternate method, petitioner proposes to use a visual warning device visible from the rear of the vehicle. This rotating or oscillating-type light would activate immediately on backing.

3. For these reasons, petitioner requests a modificaton of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before March 8, 1984. Copies of the petition are available for inspection at that address.

Dated: January 30, 1984.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 84-3324 Filed 2-6-84; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-83-34-M]

Lone Star Industries, Inc.; Petition for Modification of Application of Mandatory Safety Standard

Lone Star Industries, Inc., 2800 Campus Drive, San Mateo, California 94403 has filed a petition to modify the requirement of 30 CFR 56.9-87 (audible warning back-up alarms) to its Olympia Plant (I.D. No. 04-01890) located in Santa Cruz County, California. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that heavy duty mobile equipment be provided with audible warning devices or an observer to signal safe backup when the operator of the equipment has an obstructed view to the rear.

2. As an alternate method, petitioner proposes to use strobe lights designed for use as warning devices. These strobes will be connected to the equipment's directional control lever so that when the vehicle is traveling in reverse, the light will be activated.

3. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before March 8, 1984. Copies of the petition are available for inspection at that address.

Dated: January 30, 1984.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 84-3323 Filed 2-6-84; 8:45 am]

BILLING CODE 4510-43-M

NATIONAL FOUNDATION FOR THE ARTS AND THE HUMANITIES

Literature Advisory Panel; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Literature Advisory Panel (Audience Development Section) to the National Council on the Arts will be held on February 23, 1984, from 9:00 a.m.-6:00 p.m. and on February 24, 1984, from 9:00 a.m.-5:30 p.m. in room 714 of the Nancy Hanks Center, 1100 Pennsylvania Ave., NW, Washington, DC 20506.

A portion of this meeting will be open to the public on February 24 from 4:30-5:30 p.m. to discuss Policy.

The remaining sessions of this meeting on February 23 from 9:00 a.m.-6:00 p.m. and on February 24 from 9:00 a.m.-4:30 p.m. are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c)(4), (6) and 9(b) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call (202) 682-5433.

Dated: January 31, 1984.

John H. Clark,

Director, Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 84-3228, Filed 2-6-84; 8:45 am]

BILLING CODE 7537-01-M

Media Arts Advisory Panel; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Media Arts Advisory Panel (Programming in the Arts Section) to the National Council on the Arts will be held on February 28-29, 1984, from 9:00 a.m.-5:30 p.m. in room 716 of the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW, Washington, DC 20506.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c)(4), (6) and 9(b) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee

Management Officer, National Endowment for the Arts, Washington, DC 20506, or call (202) 682–5433.

Dated: January 31, 1984.

John H. Clark,

Director, Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 84-3229. Filed 2-6-84; 8:45 am]

BILLING CODE 7537-01-M

Agency Information Collection Activities Under OMB Review

AGENCY: National Endowment for the Arts.

ACTION: Notice.

SUMMARY: The National endowment for the Arts (NEA) has sent to the Office of Management and Budget (OMB) the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

DATES: Comments on this information collection must be submitted by March 7, 1984.

ADDRESSES: Send comments to Mr. Joseph Lackey, Office of Management and Budget, New Executive Office Building, 726 Jackson Place, NW., Room 3208, Washington, D.C. 20503, (202–395–6880). In addition, copies of such comments may be sent to Ms. Marianna Dunn, National Endowment for the Arts, Administrative Services Division, Room 203, 1100 Pennsylvania Avenue NW., Washington, D.C. 20506, (202–682–5464).

FOR FURTHER INFORMATION CONTACT: Ms. Marianna Dunn, National Endowment for the Arts, Administrative Services Division, Room 203, 1100 Pennsylvania Avenue NW., Washington, D.C. 20506, (202–682–5464), from whom copies of the document are available.

SUPPLEMENTARY INFORMATION: This entry is a new form. The entry issued by the endowment contains the following information: (1) The title of the form; (2) the agency form number, if applicable; (3) how often the form must be filled out; (4) who will be required or asked to report; (5) what the form will be used for; (6) an estimate of the number of responses; (7) an estimate of the total number of hours needed to fill out the form. None of these entries are subject to 44 U.S.C. 3504(h).

New Form

Title: Economic Survey of Artists Organizations

Form Number: N/A
Frequency of Collection: One-time
Respondents: Non-profit institutions
Use: Collection of data provides a basis for agency decision-making, responses at budget hearings, and improvement of understanding of organizations on the state of their field
Estimated Number of Respondents: 130
Estimated Hours for Respondents to Provide Information: 650.

F. S. M. Hodsoll,

Chairman, National Endowment for the Arts.

[FR Doc. 84-3304 Filed 2-6-84; 8:45 am]

BILLING CODE 7537-01-M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards, Subcommittee on Qualification Program for Safety-Related Equipment; Meeting

The ACRS Subcommittee on Qualification Program for Safety-Related Equipment will hold a meeting on February 22, 1984, Room 1046, 1717 H Street, NW, Washington, DC. The Subcommittee will review the status of Generic Issue A–46, "Seismic Qualification of Equipment for Operating Reactors" and review details of the NRC Electrical Equipment Qualification and Plant Aging Research Programs. Notice of this meeting was published January 24, 1984 (49 FR 2972).

In accordance with the procedures outlined in the **Federal Register** on September 28, 1983 (48 FR 44291), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the Designated Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The entire meeting will be open to public attendance.

The agenda for subject meeting shall be as follows:

Wednesday, February 22, 1984—8:30 a.m. Until the Conclusion of Business

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NCR Staff, their consultants, and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant Designated Federal Employee, Mr. Anthony Cappucci (telephone 202/634–3267) between 8:15 a.m. and 5:00 p.m., EST.

Dated: January 31, 1984.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 84-3300 Filed 2-6-84; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards, Subcommittee on Reactor Radiological Effects; Meeting

The ACRS Subcommittee on Reactor Radiological Effects will hold a meeting on February 24, 1984, Room 1046, 1717 H Street, NW., Washington, DC. The Subcommittee will review GPU Nuclear Corporation's cleanup plans for Three Mile Island Nuclear Power Station Unit 2.

In accordance with the procedures outlined in the **Federal Register** on September 28, 1983 (48 FR 44291), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the Designated Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The entire meeting will be open to public attendance.

The agenda for subject meeting shall be as follows:

Friday, February 24, 1984—8:30 a.m. Until the Conclusion of Business

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC Staff,

its consultants, industry and other interested persons.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant Designated Federal Employee, Ms. R. C. Tang (telephone 202/634–1414) between 8:15 a.m. and 5:00 p.m., EST.

Dated: February 2, 1984.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 84-3289 Filed 2-6-84; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards, Subcommittee on Class-9 Accidents; Meeting

The ACRS Subcommittee on Class-9 Accidents will hold a meeting on February 24, 1984, Room 1167, at 1717 H Street, NW, Washington, DC.

In accordance with the procedures outlined in the Federal Register on September 28, 1983 (48 FR 44291), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the Designated Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The entire meeting will be open to public attendance.

The agenda for subject meeting shall be as follows:

Friday, February 24, 1984—8:30 a.m. Until the Conclusion of Business

The Subcommittee will discuss the final Severe Accident Policy Statement.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, will exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC Staff, its consultants, and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant Designated Federal Employee, Mr. Alan B. Wang (telephone 202/634–3267) between 8:15 a.m. and 5:00 p.m., EST.

Dated: February 2, 1984.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 84-3288 Filed 2-6-84; 8:45 am]

BILLING CODE 7590-01-M

Draft Regulatory Guide; Issuance, Availability

The Nuclear Regulatory Commission has issued for public comment a draft of a new guide planned for its Regulatory Guide Series together with a draft of the associated value/impact statement. This series has been developed to describe and make available to the public methods acceptable to the NRC staff of implementing specific parts of the Commission's regulations and, in some cases, to delineate techniques used by the staff in evaluating specific problems or postulated accidents and to provide guidance to applicants concerning certain of the information needed by the staff in its review of applications for permits and licenses.

The draft guide, temporarily identified by its task number, CE 227–4 (which should be mentioned in all correspondence concerning this draft guide), is entitled "Standard Format and Content for the Health and Safety Sections of License Renewal Applications for Uranium Hexafluoride Production Plants" and is intended for Division 3, "Fuels and Materials Facilities." It is being developed to identify the type and quality of information needed by the NRC staff in an application for renewal of a license for a uranium hexafluoride production plant and provides a format for its presentation.

This draft guide and the associated value/impact statement are being issued to involve the public in the early stages of the development of a regulatory position in this area. They have not received complete staff review and do not represent an official NRC staff position.

Public comments are being solicited on both drafts, the guide (including any implementation schedule) and the draft value/impact statement. Comments on the draft value/impact statement should be accompanied by supporting data. Comments on both drafts should be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch, by March 30, 1984.

Although a time limit is given for comments on these drafts, comments and suggestions in connection with (1) items for inclusion in guides currently being developed or (2) improvements in all published guides are encouraged at any time.

Regulatory guides are available for inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. Requests for single copies of draft guides (which may be reproduced) or for placement on an automatic distribution list for single copies of future draft guides in specific divisions should be made in writing to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Technical Information and Document Control. Telephone requests cannot be accommodated. Regulatory guides are not copyrighted, and Commission approval is not required to reproduce them.

(5 U.S.C. 552(a))

Dated at Rockville, Maryland this 30th day of January 1984.

For the Nuclear Regulatory Commission.

Guy A. Arlotto,

Director, Division of Engineering Technology, Office of Nuclear Regulatory Research.

[FR Doc. 84-3286 Filed 2-6-84; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50–424–OL and 50–425–OL; ASLBP No. 84–499–01 OL]

Georgia Power Company, et al.; Establishment of Atomic Safety and Licensing Board

Pursuant to delegation by the Commission dated December 29, 1972, published in the Federal Register, 37 FR 28710 (1972), and Sections 2.105, 2.700, 2.702, 2.714, 2.714a, 2.717 and 2.721 of the Commission's Regulations, all as amended, an Atomic Safety and Licensing Board is being established in the following proceeding to rule on petitions for leave to intervene and/or requests for hearing and to preside over the proceeding in the event that a hearing is ordered.

Georgia Power Company, *et al.*

Vogtle Electric Generating Plant, Units 1 and 2.

Construction Permit Nos. CPPR–108 and CPPR–109.

This Board is being established pursuant to a notice published by the Commission on December 28, 1983, in the Federal Register (48 FR 57183ff) entitled, "Receipt of Application for

Facility Operating Licenses; Availability of Applicants' Environmental Report; Consideration of Issuance of Facility Operating Licenses; Opportunity for Hearing."

The Board is comprised of the following Administrative Judges:

Morton B. Margulies, Chairman, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

Mr. Gustave A. Lineberger, Jr., Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

Dr. Oscar H. Paris, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

Issued at Bethesda, Maryland, this 31st day of January 1984.

B. Paul Cotter, Jr.,

Chief Administrative Judge, Atomic Safety and Licensing Board Panel.

[FR Doc. 84-3293 Filed 2-6-84; 8:45 am]

BILLING CODE 7590-01-M

[License No. 29-13848-01 EA 83-122]

In the matter of International Nutronics, Inc.; Order Modifying License, Effective Immediately

I

International Nutronics, Inc., U.S. Highway 46 and Schley Street, Dover, New Jersey 07801 (the Licensee), is the holder of Byproduct Material License No. 29-13848-01, which authorizes the Licensee to possess, store, and use byproduct and source material for irradiation of materials, calibration of instruments, and shielding. The license was last renewed on July 14, 1981 and will expire on July 31, 1986. The license permits use of material only at the Licensee's facilities at U.S. Highway 46 and Schley Street, Dover, New Jersey.

II

On September 30, 1983, the NRC Region I office was notified that during December 1982 water contaminated with cobalt-60 had been released from one of two cobalt-60 source storage pools at the facilities of International Nutronics, Inc. As the result of an inspection started on September 30, 1983 and continuing to the present, Region I inspectors have determined that extensive low-level contamination in soil exists in the areas immediately adjacent to the foundation of the building. Licensee surveys and independent measurements by Region I indicate that no migration of contamination offsite or into the groundwater has occurred as of this time. However, within the facility, high-level contamination has been detected in the immediate area of the storage pool from which the release occurred. At least one known leaking cobalt-60 source is known to be stored in this pool.

By Order dated November 1, 1983, International Nutronics, Inc. was ordered to take certain steps to ensure that the scope of the contamination was accurately assessed, that no further incidents likely to produce contamination would occur, that contamination would be contained to the areas already affected, and that an orderly decontamination would be initiated on a timely basis. 48 FR 51879 (November 14, 1983). The licensee did not contest the Order.

Items 1., 6., 8., 9., and 10. set forth in Section III of the November 1, 1983 Order prohibited certain activities by International Nutronics, Inc. or permitted them only with the permission of the NRC's Region I Office. Findings by Region I inspectors through January 4, 1984 indicate compliance with those items.

However, the licensee has not fully met the requirements of the Order to develop decontamination plans, decontamination milestones, and to initiate decontamination. Under Section III of the Order, dated November 1, 1983, the Licensee was required to submit a decontamination plan to NRC Region I by November 15, 1983 and to submit operating and radiation control procedures at least two working days prior to implementation. The plan was required to contain a complete characterization of the facility, with a description of the location of all sources of radiation and contamination, and a timetable for decontamination activities and transfer of contaminated waste. By letter dated November 16, 1983, International Nutronics, Inc. submitted an outline of a decontamination plan. The plan identified the major operations which must be completed for a successful decontamination. However, no timetable for completion of the decontamination operations was submitted, as required by the November 1, 1983 Order.

Item 3. of Section III of the Order dated November 1, 1983, required that the Licensee perform a survey of all interior areas of the irradiator facility to evaluate potential exposure to sources of radiation and radioactive materials. Item 7. of Section III of the Order prohibited decontamination efforts or other acts which might produce airborne activity within the irradiation facility, such as entry into a high radiation area or airborne radiation area, until an adequate exhaust filtration system has been installed and reviewed by NRC Region I. Since the ventilation system has not yet been installed, as of January 24, 1984, some of the surveys required under Items 3 and 7 of Section III of the Order to accurately assess the scope of the contamination have not been made.

Item 4. of Section III of the Order dated November 1, 1983, required that the Licensee evaluate and report to NRC Region I the status of contamination external to the irradiation facility, including building external walls, ancillary buildings, equipment, soil and water, by November 19, 1983. Test wells to sample groundwater were drilled and results of groundwater analyses were submitted by that date. However, an evaluation of contamination in building external walls, ancillary buildings, equipment, and soil has not yet been submitted as required. Licensee representatives stated that it has not been possible to complete these surveys because of the weather and the high moisture content of the soil adjacent to the building.

Item 5. of Section III of the Order dated November 1, 1983, required that the Licensee schedule whole-body counts of all employees, past and current, who have worked at the facility since October 1982. A summary of results was to be provided to NRC Region I within seven days after the whole-body counts were completed. As of October 25, 1983, the Licensee had provided the results of the whole body counting for all current and former employees still living in the Dover, New Jersey area. However, no results of whole-body counting have been submitted for employees presently located at the Licensee's California facility who have worked at the Dover facility since October 1982.

During a meeting between a Licensee representative and the Region I staff at King of Prussia, Pennsylvania, on November 21, 1983, the Licensee assured NRC Region I of its commitment to fully assess the extent of contamination and to decontaminate the Dover facility. The Licensee representative acknowledged that the Licensee was having difficulty making reasonable progress toward decontamination.

Since the November meeting, the Licensee's staff at the Dover facility has been reduced and, based on NRC inspection, little to no progress has been made toward decontamination. To date, only the drilling of test wells to sample groundwater, installation of an enclosing barrier around the contaminated storage pool, and the ordering of ventilation equipment have

been accomplished. During December 1983 the staff available to evaluate, plan, document, and implement decontamination efforts consisted of one manager and one employee.

Under the terms of the November 1, 1983 Order, the Licensee was put on clear notice that decontamination was necessary and was given ample opportunity to submit proposed milestones and plans for decontamination. In order to ensure that the Licensee provides adequate resources to evaluate, plan, and implement decontamination efforts with proper radiological safety procedures, I have determined that specific decontamination requirements and milestones are necessary. In view of the Licensee's failure to fully meet the terms of the November 1, 1983 Order, though given opportunity to do so, and in view of the need to expeditiously begin decontamination to minimize any threat to public health and safety, I have determined that public health and safety requires that this Order be made immediately effective.

III

Accordingly, pursuant to Sections 81, 161b, and 161o of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 19 CFR Parts 2 and 30, it is hereby ordered, effective immediately, that:

1. The Licensee shall remove all cobalt-60 sources from the contaminated storage pool as soon as practicable, but not later than April 15, 1984.

2. The Licensee shall decontaminate the storage pool water as soon as practicable, but not later than May 15, 1984.

3. The Licensee shall remove and dispose of all packaged waste, contaminated equipment, and contaminated concrete block used as shielding as soon as practicable, but not later than June 15, 1984.

4. The Licensee shall submit, by March 1, 1984, a supplement to the decontamination plan submitted November 16, 1983, identifying the completion date for each interim activity required for decontamination. The plan should specifically address the resources available and needed to implement the decontamination effort. The plan shall describe the methods to be used to remove contaminated soil and building structures to assure that the maximum dose rate from remaining cobalt-60 contamination will not exceed 10 microrad per hour at 1 meter from the exposed material. Surveys shall be adequate to detect concentrations of cobalt-60 beneath soil or structures capable of producing these dose rates.

5. The Regional Administrator, NRC, Region I, may relax or terminate the terms of this Order for good cause shown in writing by the Licensee.

In all other respects, the terms of the Order Modifying License dated November 1, 1983, remain in full force and effect.

IV

The Licensee may request a hearing on this Order within 25 days of its issuance. Any request for hearing shall be addressed to the Director, Office of Inspection and Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC. 20555. A copy of the request shall also be sent to the Executive Legal Director at the same address. A request for hearing shall not stay the effectiveness of this order.

If a hearing is requested by the Licensee, the Commission will issue an Order designating the time and place of hearing. If a hearing is held, the issue to be considered at such hearing shall be whether this Order should be sustained.

Dated at Bethesda, Maryland, this 30th day of January 1984.

For the Nuclear Regulatory Commission.

Richard C. DeYoung,

Director, Office of Inspection and Enforcement.

[FR Doc. 84-3294 Filed 2-6-84; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-352/353]

Philadelphia Electric Co. (Limerick Generating Station, Units 1 and 2); Request for Action Under 10 CFR 2.206

Notice is hereby given that on December 16, 1983, Del-Aware Unlimited, filed a petition seeking reopening of the construction permit proceedings for the Limerick Generating Station, Units 1 and 2, of the Philadelphia Electric Company. The petition requested action based upon alleged inadequacies in the draft environmental impact statement prepared for the operating license proceeding for the Limerick facility, alleged uncertainty with respect to the completion of the Point Pleasant diversion project which is to supply supplemental cooling water for the facility, and alleged impacts associated with construction of the Point Pleasant diversion project which were not analyzed previously. The request is being treated pursuant to 10 CFR 2.206 of the Commission's regulations and, accordingly, appropriate action will be taken on this request within a reasonable time.

A copy of the petition is available for inspection in the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. 20555, and at the Local Public Document Room for the Limerick Generating Station, Units 1 and 2 at the Pottstown Public Library, 500 High Street, Pottstown, Pennsylvania 19464.

Dated at Bethesda, Maryland this 31st day of January 1984.

For the Nuclear Regulatory Commission.

Harold R. Denton,

Office of Nuclear Reactor Regulation.

[FR Doc. 84-3296 Filed 2-6-84; 8:45 am]

BILLING CODE 7590-01-M

SECURITIES AND EXCHANGE COMMISSION

Form Under Review by Office of Management and Budget

Agency Clearance Officer: Kenneth A. Fogash (202) 272-2142.

Upon Written Request Copy Available From: Securities and Exchange Commission, Office of Consumer Affairs, Washington, D.C. 20549

Form 11-K
No. 270-101

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission has submitted for an extension of clearance Form 11-K which serves as an annual report for employee benefit plans subject to the reporting requirements of the Securities Exchange Act of 1934.

The form provides information on an annual basis permitting investors in employee plans to make informed judgments on the performance of plan investment vehicles.

Submit comments to OMB Desk Officer: Ms. Katie Lewin (202) 395-7231, Office of Information and Regulatory Affairs, Room 3235 NEOB, Washington, D.C. 20503.

George A. Fitzsimmons,

Secretary.

January 30, 1984.

[FR Doc. 84-3247 Filed 2-6-84; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 13743; (812-5657)]

SMA Life Assurance Company, SMA Separate Accounts VA-A, VA-B, VA-C, VA-G, and VA-H, and SMA Equities, Inc.; Filing of Application

January 31, 1984.

Notice is hereby given that SMA Life Assurance Company ("SMA"), SMA

Separate Accounts VA–A, VA–B, VA–C, VA–G, and VA–H ("Accounts"), registered under the Act as open-end management investment companies and established by SMA in connection with the proposed issuance of certain variable annuity contracts ("contracts"), and SMA Equities, Inc. (the principal underwriter for the contracts) (collectively, "Applicants"), 440 Lincoln Street, Worcester, Massachusetts, filed an application on September 26, 1983, and amendments thereto on December 22, 1983 and January 11, 1984, for an order pursuant to section 6(c) of the Act granting exemptions from the provisions of sections 2(a)(41), 12(b), 27(c)(1), 27(c)(2), and rules 2a–4, 12b–1, 22c–1, and 27c–1 of the Act to the extent necessary to permit transactions described in the application. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein in support of the requested relief pursuant to section 6(c), which are summarized below, and are referred to the Act and rules thereunder for a statement of the relevant provisions.

Applicants request exemption from section 27(c)(2) to the extent necessary to permit a bank custodian to hold assets of the Accounts under a Safekeeping Agreement meeting the requirements of section 17(f) of the Act without appointment of a trustee and to the extent necessary to impose the following charges: (1) A daily charge for investment management services equal on an annual basis to .25%, of daily net assets; (2) a daily charge for repayment to SMA for the prospective establishment of a contingency reserve fund required by the State of New York, equal to .10% on an annual basis, of daily net assets (such charge to be eliminated when SMA is repaid); (3) a daily charge for financial accounting services and board of managers fees, equal to .15% on an annual basis, of daily net assets; (4) guaranteed administrative fees on the following basis: (a) on elective payment policies, a semi-annual charge of $9, but no charge when the accumulated value of the policy exceeds $10,000; (b) on single payment policies, a charge of $50 on purchase payments of under $10,000, with no charge on purchase payments of over $10,000; and (5) premium taxes, if applicable. Applicants represent that charges (2), (3) and (4) are not designed to exceed the actual expenses incurred and contain no element of profit.

Applicants also request relief from section 27(c)(2) to the extent necessary to deduct a mortality and expense risk charge from the Accounts at an effective annual rate of up to 1.375% of the value of the assets of the Accounts and represent that this charge is reasonable in amount as determined by industry practice with respect to comparable annuity products, and that the basis for this representation is reflected in documents on file with SMA. The mortality and expense risk charge is currently set at 1.00% and may only be increased by the Board once annually and may not exceed 1.375% on an annual basis. Applicants acknowledge that the contingent deferred sales load charge imposed on the contracts may be insufficient to cover distribution expenses and that any shortfall would be absorbed by the general account of SMA, which might include assets attributable to the risk charge. Therefore, Applicants request an exemption from section 12(b) of the Act and rule 12b–1 thereunder, insofar as the distribution financing arrangement might be deemed to involve the direct or indirect use of account assets for distribution. In support of the requested relief, SMA represents that it has concluded that there is a reasonable likelihood that the proposed distribution financing arrangement will benefit the Accounts and contract-owners and that SMA will maintain at its home office a memorandum setting forth the basis for this representation. Applicants undertake to include explicit prospectus disclosure that the asset charge may be used for distribution expenses and further represent that the Accounts will have a board with a disinterested majority formulate and approve any plan under rule 12b–1 to finance distribution expenses.

Applicants request exemption from section 27(c)(1) of the Act and rule 27c–1 thereunder to allow SMA to continue the current contract provision for annuity payments to be made under a fixed life annuity with 120 monthly payments guaranteed if a contractowner does not elect an annuity option prior to the annuity commencement date. In support of their request, Applicants undertake to notify the annuitant in conjunction with the payment of the first annuity benefit check that he will be permitted, for a period of one year from the date of the notice, to convert to a variable annuity option involving a life contingency without imposition of any fee or charge. Applicants represent that there will be appropriate prospectus disclosure on this point. Finally, SMA represents that it is currently developing a new series of variable annuity contracts for which it will seek state regulatory approval for the automatic provision of a variable annuity option and that upon the effectiveness of these new policies, expected within the next year or so, the sales of the current policies described in this application, will be discontinued.

Applicants request exemption from section 2(a)(4) of the Act and rules 2a–4 and 22c–1 thereunder to the extent necessary to permit the new Accounts' respective net asset values to be computed by using the amortized cost method of portfolio valuation. Applicants believe that the exemptive relief of rule 2a–7 may not be available to separate accounts of insurance companies which determine net asset value per unit, as computed for the purposes of distribution, redemption, and repurchase, by means of variable accumulation units. In support of their request, Applicants propose to adopt a bifurcated system of accounting and internal procedures that will permit them to monitor potential deviations attributable to the use of the amortized cost method, as required by Rule 2a–7, and to comply with all provisions of that rule except for the requirement of maintaining a stable net asset value.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than February 24, 1984, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for this request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicants at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84–3144, Filed 2–6–84; 8:45 am]

BILLING CODE 8010–01–M

been accomplished. During December 1983 the staff available to evaluate, plan, document, and implement decontamination efforts consisted of one manager and one employee.

Under the terms of the November 1, 1983 Order, the Licensee was put on clear notice that decontamination was necessary and was given ample opportunity to submit proposed milestones and plans for decontamination. In order to ensure that the Licensee provides adequate resources to evaluate, plan, and implement decontamination efforts with proper radiological safety procedures, I have determined that specific decontamination requirements and milestones are necessary. In view of the Licensee's failure to fully meet the terms of the November 1, 1983 Order, though given opportunity to do so, and in view of the need to expeditiously begin decontamination to minimize any threat to public health and safety, I have determined that public health and safety requires that this Order be made immediately effective.

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Accordingly, pursuant to Sections 81, 161b, and 161o of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 19 CFR Parts 2 and 30, it is hereby ordered, effective immediately, that:

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5. The Regional Administrator, NRC, Region I, may relax or terminate the terms of this Order for good cause shown in writing by the Licensee.

In all other respects, the terms of the Order Modifying License dated November 1, 1983, remain in full force and effect.

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If a hearing is requested by the Licensee, the Commission will issue an Order designating the time and place of hearing. If a hearing is held, the issue to be considered at such hearing shall be whether this Order should be sustained.

Dated at Bethesda, Maryland, this 30th day of January 1984.

For the Nuclear Regulatory Commission.

Richard C. DeYoung,

Director, Office of Inspection and Enforcement.

[FR Doc. 84-3294 Filed 2-6-84; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-352/353]

Philadelphia Electric Co. (Limerick Generating Station, Units 1 and 2); Request for Action Under 10 CFR 2.206

Notice is hereby given that on December 16, 1983, Del-Aware Unlimited, filed a petition seeking reopening of the construction permit proceedings for the Limerick Generating Station, Units 1 and 2, of the Philadelphia Electric Company. The petition requested action based upon alleged inadequacies in the draft environmental impact statement prepared for the operating license proceeding for the Limerick facility, alleged uncertainty with respect to the completion of the Point Pleasant diversion project which is to supply supplemental cooling water for the facility, and alleged impacts associated with construction of the Point Pleasant diversion project which were not analyzed previously. The request is being treated pursuant to 10 CFR 2.206 of the Commission's regulations and, accordingly, appropriate action will be taken on this request within a reasonable time.

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Dated at Bethesda, Maryland this 31st day of January 1984.

For the Nuclear Regulatory Commission.

Harold R. Denton,

Office of Nuclear Reactor Regulation.

[FR Doc. 84-3295 Filed 2-6-84; 8:45 am]

BILLING CODE 7590-01-M

SECURITIES AND EXCHANGE COMMISSION

Form Under Review by Office of Management and Budget

Agency Clearance Officer: Kenneth A. Fogash (202) 272-2142.

Upon Written Request Copy Available From: Securities and Exchange Commission, Office of Consumer Affairs, Washington, D.C. 20549

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No. 270-101

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Submit comments to OMB Desk Officer: Ms. Katie Lewin (202) 395-7231, Office of Information and Regulatory Affairs, Room 3235 NEOB, Washington, D.C. 20503.

George A. Fitzsimmons,

Secretary.

January 30, 1984.

[FR Doc. 84-3247 Filed 2-6-84; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 13743; (812-5657)]

SMA Life Assurance Company, SMA Separate Accounts VA-A, VA-B, VA-C, VA-G, and VA-H, and SMA Equities, Inc.; Filing of Application

January 31, 1984.

Notice is hereby given that SMA Life Assurance Company ("SMA"), SMA

Separate Accounts VA–A, VA–B, VA–C, VA–G, and VA–H ("Accounts"), registered under the Act as open-end management investment companies and established by SMA in connection with the proposed issuance of certain variable annuity contracts ("contracts"), and SMA Equities, Inc. (the principal underwriter for the contracts) (collectively, "Applicants"), 440 Lincoln Street, Worcester, Massachusetts, filed an application on September 26, 1983, and amendments thereto on December 22, 1983 and January 11, 1984, for an order pursuant to section 6(c) of the Act granting exemptions from the provisions of sections 2(a)(41), 12(b), 27(c)(1), 27(c)(2), and rules 2a–4, 12b–1, 22c–1, and 27c–1 of the Act to the extent necessary to permit transactions described in the application. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein in support of the requested relief pursuant to section 6(c), which are summarized below, and are referred to the Act and rules thereunder for a statement of the relevant provisions.

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Applicants also request relief from section 27(c)(2) to the extent necessary to deduct a mortality and expense risk charge from the Accounts at an effective annual rate of up to 1.375% of the value of the assets of the Accounts and represent that this charge is reasonable in amount as determined by industry practice with respect to comparable annuity products, and that the basis for this representation is reflected in documents on file with SMA. The mortality and expense risk charge is currently set at 1.00% and may only be increased by the Board once annually and may not exceed 1.375% on an annual basis. Applicants acknowledge that the contingent deferred sales load charge imposed on the contracts may be insufficient to cover distribution expenses and that any shortfall would be absorbed by the general account of SMA, which might include assets attributable to the risk charge. Therefore, Applicants request an exemption from section 12(b) of the Act and rule 12b–1 thereunder, insofar as the distribution financing arrangement might be deemed to involve the direct or indirect use of account assets for distribution. In support of the requested relief, SMA represents that it has concluded that there is a reasonable likelihood that the proposed distribution financing arrangement will benefit the Accounts and contract-owners and that SMA will maintain at its home office a memorandum setting forth the basis for this representation. Applicants undertake to include explicit prospectus disclosure that the asset charge may be used for distribution expenses and further represent that the Accounts will have a board with a disinterested majority formulate and approve any plan under rule 12b–1 to finance distribution expenses.

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Applicants request exemption from section 2(a)(4) of the Act and rules 2a–4 and 22c–1 thereunder to the extent necessary to permit the new Accounts' respective net asset values to be computed by using the amortized cost method of portfolio valuation. Applicants believe that the exemptive relief of rule 2a–7 may not be available to separate accounts of insurance companies which determine net asset value per unit, as computed for the purposes of distribution, redemption, and repurchase, by means of variable accumulation units. In support of their request, Applicants propose to adopt a bifurcated system of accounting and internal procedures that will permit them to monitor potential deviations attributable to the use of the amortized cost method, as required by Rule 2a–7, and to comply with all provisions of that rule except for the requirement of maintaining a stable net asset value.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than February 24, 1984, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for this request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicants at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84-3244 Filed 2-6-84; 8:45 am]

BILLING CODE 8010-01-M

proposal includes additional concentration requirements. First, no bank may issue letters of credit in favor of PCC exceeding twice the amount such bank is permitted under the applicable law to lend to any one individual borrower. Second, specially approved foreign and domestic banks can only issue letters of credit up to ½ of 1% of all members' deposits in the participants fund. Taken together, we believe these concentration requirements should help to prevent PCC from becoming excessively dependent on any particular letter of credit issuer.[13]

Third, the Commission believes that a clearing agency should have sufficient liquidity in its systems for safeguarding funds and securities to protect itself and its members if payment of a letter of credit is delayed or refused. If a member becomes insolvent and cannot meet its settlement obligations, and if payment on the member's letters of credit is delayed by the issuing bank, the clearing agency must have access to other liquid assets that could be used to satisfy the defaulting member's settlement obligations. Accordingly, the Commission believes it important that clearing agencies adopt measures insuring liquidity in their back-up systems in the event a letter of credit is not paid promptly or is dishonored by an issuing bank. The Commission believes that PCC has adopted such appropriate measures. PCC, like NSCC, can pledge solvent members' letters of credit to obtain a loan to PCC if payment on a letter of credit is delayed.[14] Moreover, PCC recently increased the minimum cash portion that a member must contribute to the participants fund.[15]

The Commission therefore finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to registered clearing agencies, and, in particular, the requirements of Section 17A of the Act. Moreover, because of the proposal's substantial benefits to PCC and its members, the Commission does not believe that approval of the proposal should be postponed or withheld because of the IFB's comments. Indeed, in conversations with the staff, the IFB, through counsel, acknowledged the proposal's benefits and agreed that no useful purpose would be served by withholding those benefits pending resolution of the issues raised in its comment letter.

It is therefore ordered, pursuant to Section 19((b)(2) of the Act, that the proposed rule change be, and hereby is, approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84-3246 Filed 2-6-84; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 20616; (SR-PSDTC-83-11)]

Order Granting Approval of Proposed Rule Change by the Pacific Securities Depository Trust Company

February 1, 1984.

On December 8, 1983, PSDTC filed a proposed rule change with the Commission pursuant to Section 19(b)(2) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78s(b)(2), and Rule 19b-4 thereunder. Notice of the proposed rule change was given by Securities Exchange Act Release No. 20511 (December 22, 1983), 48 FR 57395 (December 29, 1983) (the "Notice"). One letter of comment was received.[1]

The proposed rule change establishes procedures with respect to PSDTC Article XI, Section 11.1 relating to PSDTC's letter of credit program.[2] The proposal includes PSDTC's criteria for: (1) Approving letter of credit issuers; (2) withdrawing approval of such issuers; and (3) preventing an undue concentration of letters of credit from any one issuer. The proposal also includes the format and terms of a PSDTC sample letter of credit and the issuer's application form for approval as a letter of credit issuer, together with its agreement to participate in the program.

More specifically, the proposal establishes guidelines for PSDTC's approval of both domestic and foreign financial institutions as letter of credit issuers.[3] To apply for approval, an issuer must submit an "Application for Approval and Agreement of Issuers of Letter(s) of Credit" (the "Application for Approval"). An applicant "Domestic Bank," *i.e.*, a bank or trust company organized under either federal or state law,[4] must be: (a) A bank that is permitted, under the applicable federal or state law, to lend at least $10 million to any one borrower; or (b) rated "P-1" by Moody's Investor Service ("Moody's") or "A-1" by Standard and Poor's Corporation ("S&P") for letters of credit issued to support commercial paper of similar short-term obligations. A foreign bank must be either state-licensed or a federal branch or agency of a bank organized under the laws of a foreign country. PSDTC's approval criteria for foreign banks are very similar to those for domestic banks except that not only must the applicant have a P-1 Moody's or A-1 S&P rating for letters of credit issued to support commercial paper of similar short-term obligations, but the applicant's foreign parent bank must have total worldwide assets greater than $1 billion. The PSDTC board of directors, upon request, can approve, on a case-by-case basis, applicant domestic or foreign banks that do not meet the standard criteria. The PSDTC board, however, may subject these specially approved issuers to other more limiting terms and conditions as it deems appropriate for the protection of PSDTC and its members.

The proposal also includes new concentration requirements. Currently, PSDTC Article XI, Section 11.1 requires that no greater than 25% of the aggregate participants fund may consist of letters of credit from one issuer. Under the

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[13] While the "25 percent" limitation discussed above could cause PCC to require its members to obtain letters of credit from more than one issuer, thus reducing the risk associated with a particular bank's insolvency, PCC's letter of credit program does not explicitly require members to obtain letters of credit from more than one issuer. Indeed, the 25 percent limitation allows several members to secure all of their individual open account indebtedness with letters of credit issued by one bank. While the Commission is sensitive to not disturbing existing banking relationships of PCC's members, the Commission hopes that PCC will take steps to monitor closely the financial condition of letter of credit issuers. In that regard, the Commission notes that the Application for Approval includes an undertaking by prospective issuers to notify PCC of any "materially adverse changes" in their financial status.

[14] *See* Securities Exchange Act Release No. 20448 (December 6, 1983), 48 FR 55371 (December 12, 1983), approving File No. SR-PCC-83-05.

[15] *See* the Participants Fund Order. In addition, PCC has other significant systems for safeguarding securities and funds such as its authority: (i) To reverse certain securities deliveries, (ii) to mark-to-the-market failed trades, and (iii) to require members to provide further assurances of operational capacity and financial stability.

[1] Letter dated January 19, 1984, from Kurt Zimmerling, Chairman of the Institute of Foreign Bankers, Inc. (the "IFB Letter"). *See* Discussion *infra*.

[2] The Commission approved PSDTC's authority to accept letters of credit for the non-cash portion of its participants fund (*i.e.*, members' open account indebtedness) in Securities Exchange Act Release No. 20287 (October 14, 1983), 48 FR 48733 (October 20, 1983) (the "Participants Fund Order").

[3] The proposal is partially based on National Securities Clearing Corporation ("NSCC") Rule 4. The Commission approved NSCC's authority to accept letters of credit from members to secure their clearing fund obligations in Securities Exchange Act Release No. 18052 (August 21, 1981), 46 FR 43341 (August 27, 1981).

[4] In its letter, the IFB commented that the proposal's definition of "Domestic Bank" should be clarified to include any financial institution authorized to issue letters of credit that is regulated and examined regularly by federal or state authorities with regulatory power over banks and trust companies. PSDTC's executive staff has undertaken to present a clarifying amendment to this effect to PCC's board at its next meeting.

proposal, however, specially approved domestic and foreign banks can only issue letters of credit up to ½ of 1% of all members' deposits in the participants fund. Additionally, no single domestic or foreign bank may issue letters of credit in favor of PSDTC that exceed twice the amount such bank is permitted, under federal or state law, to lend to any one individual borrower.

The proposal's standard form letter of credit includes a number of terms important to both letters of credit issuers and members. First, any letter of credit issued by an approved bank must be irrevocable and governed by the California Uniform Commercial Code. Second, the letter must expire one year after its issuance. An issuer, however, may withdraw the letter of credit five days after written notice to PSDTC, although PSDTC can draw down that letter after notice but before withdrawal is effective.[5]

Finally, the proposal sets forth other miscellaneous provisions relating to the letter of credit program. When PSDTC withdraws its approval of an issuer, PSDTC can treat the issuer's outstanding letters of credit as not securing the member's participants fund open account indebtedness and may demand that the member provide substitute collateral. In addition, when a member incurs any liability that would cause PSDTC to rely on the member's participants fund contribution, PSDTC first will apply to the liability the cash and securities portion of the member's contribution before relying on the member's letters of credit.

In its filing, PSDTC states that the proposal is PSDTC's response to its undertakings acknowledged by the Commission in the Participants Fund Order. PSDTC has undertaken to design, and to receive Commission approval of: (1) Criteria for qualifying financial institutions as letter of credit issuers; and (2) concentration requirements. PSDTC believes that the proposal's issuer eligibility standards and concentration requirements fulfill that undertaking. Thus, PSDTC now believes that it can implement its letter of credit program safely and effectively. Additionally, PSDTC states that the proposed rule change is consistent with Sections 17A(b)(3) (A) and (F) of the Act. More specifically, because approval of the proposal will enable PSDTC's participants fund to be increased substantially,[6] PSDTC believes that the proposal will enhance its ability to safeguard securities and funds in its custody or control or for which it is responsible.

The Commission assessed the proposal in the context of previous Commission action relating to the controlled use of 1981, the Commission approved a proposal submitted by NSCC that enabled NSCC's members to secure their clearing fund obligations with letters of credit issued by banks approved by NSCC.[7] More recently, in January 1983, the Commission approved a proposal submitted by Options Clearing Corporation ("OCC") that formalized certain OCC criteria for approving domestic banks as issuers of letters of credit for OCC margin purposes and allowed OCC to accept letters of credit issued by foreign banks.[8] In reviewing those proposals, the Commission noted several factors relevant to its determination that a clearing agency's letter of credit program could promote the safeguarding of securities and funds in the custody or control of the clearing agency or for which it is responsible. *See* Section 17A(b)(3)(F) of the Act. A number of the most relevant factors are discussed below.

First, the Commission believes that a clearing agency should ensure that it accepts letters of credit only from banks that are financially secure. Accordingly, a clearing agency should adopt reasonable standards to determine whether an issuer is financially responsible. These eligibility standards, for example, should: (1) Prevent a bank from issuing amounts of letters of credit disproportionate to the issuer's size;[9] and (2) enable a clearing agency to accept letters of credit from issuers with high ratings by a reliable financial ratings service. The Commission believes that the proposal includes reasonable standards that should enable PSDTC to accept letters of credit from financially responsible banks. As noted above, the proposal requires domestic letters of credit issuers to have either a minimum capital requirement[10] or a high Moody's or S&P rating on letters of credit issued to support commercial paper or similar short-term obligations. Moreover, for foreign bank issuers to qualify, they not only must have high ratings,[11] but their foreign parent bank must have total worldwide assets greater than $1 billion.[12] These standards should serve to reduce the likelihood that an issuer will be either unable or unwilling to pay a letter of credit.

Second, the Commission believes that a clearing agency should not become overly dependent on any one issuer and should adopt measures insuring the diversification of each member's letters of credit and the clearing agency's letters of credit among a number of banks. The Commission believes that PSDTC's letter of credit program, as amended by the proposal, helps to ensure a diversification of issuers. Currently, under PSDTC Article XI, no one bank can issue letters of credit in favor of PSDTC exceeding 25% of the aggregate participants fund, absent PSDTC's board of directors' express approval. The proposal includes additional concentration requirements. First, no bank may issue letters of credit

[5] PSDTC may draw down a letter of credit: (1) After the member has failed to meet an obligation, entitling PSDTC to charge the member's participants fund contributions, or (2) when the member has failed to tender substitute collateral for an expiring letter of credit. PSDTC need not demonstrate either of these conditions to draw down a withdrawn letter of credit.

[6] In addition to approving PSDTC's letter of credit program, the Commission in the Participants Fund Order approved a new PSDTC participants fund formula that increases significantly the required level of each member's total participants fund contribution.

[7] Securities Exchange Act Release No. 18052 (August 21, 1981), 46 FR 43341 (August 27, 1981).

[8] Securities Exchange Act Release No. 19422 (January 12, 1983), 48 FR 2481 (January 19, 1983), approving File No. SR–OCC–82–8.

[9] The Commission believes that a clearing agency generally may accept larger amounts of letters of credit from larger banks because the value of these letters would constitute a smaller percentage of the total assets and liabilities of such a bank.

[10] The minimum capital requirement arises from PSDTC's standard that a domestic bank be authorized to lend at least $10 million to any individual borrower. For example, under 12 USC § 84, national banks cannot lend to any single borrower more than 15% of their capital and unimpaired surplus if the borrower's loans are not fully secured, and ten percent if the loans are fully secured. Thus, under the proposal, a national bank would need at least $66.6 million in capital and unimpaired surplus to qualify as an issuer.

[11] The IFB letter states that many financially secure foreign banks do not issue letters of credit. Thus, because those banks are not rated on their letters of credit, they would be precluded from participating in PSDTC's letter of credit program. The IFB suggests that PSDTC adopt criteria for foreign banks similar to those of OCC, as discussed in Securities Exchange Act Release No. 19954 (July 18, 1983), 48 FR 33578 (July 22, 1983), approving File No. SR–OCC–83–13. As the Commission stated in the Notice, PCC has undertaken to modify its proposed criteria for foreign banks consistent with OCC's criteria. The Commission expects that PSDTC's board will adopt those modifications and will file them with the Commission under Section 19(b) of the Act.

[12] In its letter, the IFB asserts that the asset size of a financial institution is an inappropriate measure of its quality and financial soundness. The IFB suggests that, like the proposal's treatment of foreign banks, Domestic Banks should be required to satisfy qualitative ratings criteria. In certain contexts, the Commission believes that financial institution asset size is a useful criterion in a clearing agency's determination whether to accept letters of credit. Nevertheless, the Commission also is of the view that the IFB's comment merits further consideration. Thus, the Commission will be contacting shortly all clearing agencies with letter of credit programs to obtain their views on the IFB's suggestion.

in favor of PSDTC exceeding twice the amount such bank is permitted under the applicable law to lend to any one individual borrower. Second, specially approved foreign and domestic banks can only issue letters of credit up to ½ of 1% of all member's deposits in the participants fund. Taken together, we believe these concentration requirements should help to prevent PSDTC from becoming excessively dependent on any particular letter of credit issuer.[13]

Third, the Commission believes that a clearing agency should have sufficient liquidity in its systems for safeguarding funds and securities to protect itself and its members if payment of a letter of credit is delayed or refused. If a member becomes insolvent and cannot meet its settlement obligations, and if payment on the member's letters of credit is delayed by the issuing bank, the clearing agency must have access to other liquid assets that could be used to satisfy the defaulting member's settlement obligations. Accordingly, the Commission believes it important that clearing agencies adopt measures insuring liquidity in their back-up systems in the event a letter of credit is not paid promptly or is dishonored by an issuing bank. The Commission believes that PSDTC has adopted such appropriate measures. PSDTC, like NSCC, can pledge solvent members' letters of credit to obtain a loan to PSDTC if payment on a letter of credit is delayed.[14] Moreover, PSDTC recently increased the minimum cash portion that a member must contribute to the participants fund.[15]

[13] While the "25 percent" limitation discussed above could cause PSDTC to require its members to obtain letters of credit from more than one issuer, thus reducing the risk associated with a particular bank's insolvency, PSDTC's letter or credit program does not explicitly require members to obtain letters of credit from more than one issuer. Indeed, the 25 percent limitation allows several members to secure all of their individual open account indebtedness with letters of credit issued by one bank. While the Commission is sensitive to not disturbing existing banking relationships of PSDTC's members, the Commission hopes that PSDTC will take steps to monitor closely the financial condition of letter of credit issuers. In that regard, the Commission notes that the Application for Approval includes an undertaking by prospective issuers to notify PSDTC of any "materially adverse changes" in their financial status.

[14] *See* Securities Exchange Act Release No. 20450 (December 6, 1983), 48 FR 56368 (December 12, 1983), approving File No. SR–PSDTC–83–11.

[15] *See* the Participants Fund Order. In addition, PSDTC has other significant systems for safeguarding securities and funds such as its authority: (i) To reverse certain securities deliveries, and (ii) to require members to provide further assurances of operational capacity and financial stability.

The Commission therefore finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to registered clearing agencies, and, in particular, the requirements of Section 17A of the Act. Moreover, because of the proposal's substantial benefits to PSDTC and its members, the Commission does not believe that approval of the proposal should be postponed or withheld because of the IFB's comments. Indeed, in conversations with the staff, the IFB, through counsel, acknowledged the proposal's benefits and agreed that no useful purpose would be served by withholding those benefits pending resolution of the issues raised in its comment letter.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change be, and hereby is, approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84–3245 Filed 2–6–84; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 20612; (SP–PSE–83–16)]

Pacific Stock Exchange, Inc.; Filing and Order Granting Accelerated Approval

January 31, 1984.

The Pacific Stock Exchange, Inc., 618 South Spring Street, Los Angeles, CA 90014, submitted on November 7, 1983, copies of a proposed rule change pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act") and Rule 19b-4 thereunder, to modify the manner in which one of the measures of specialist performance is calculated under its pilot program for the appointment and evaluation of specialists and the creation of new specialist posts.[1] Currently, each specialist is evaluated on a quarterly basis in three performance areas: (10) National market system quote performance, (2) the specialist evaluation questionnaire survey, and (3) SCOREX limit order acceptance performance. The purpose of the rule change, according to the PSE, is to permit PSE specialists to reject a limited category of limit orders without impairing their performance evaluation scores under the pilot program. Under this program a sliding scale is used by the PSE to rate specialists in connection with their SCOREX limit order acceptance performance based upon the percentage of SCOREX round-lot limit orders which they accept. PSE is amending the way in which SCOREX limit order acceptance levels are calculated so that a specialist's rating would not be affected if he rejects either: (1) A round-lot limit order to buy a security at a price equal to the displayed bid price; or (2) a round-lot limit order to sell a security at a price equal to the displayed offering price.[2] The Exchange notes that, under the pilot program, a specialist's incentive to accept SCOREX-directed limit orders will not be affected by this change since the score on this measure of performance will continue to be based on the percentage of such orders which the specialist accepts. According to the Exchange, the proposed change is consistent with Section 6(b)(5) of the Act in that it will promote just and equitable principles of trade and foster corperation and coordination with persons engaged in facilitating transactions in securities.

Interested persons are invited to submit written data, views and arguments concerning the proposed rule change within 21 days from the date of publication of the submission in the **Federal Register**. Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 450 5th Street, NW., Washington, D.C. 20549. Reference should be made to File No. SR–PSE–83–16.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change which are filed with the Commission and all written communications relating to the proposed rule change between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for

[1] The Commission approved the adoption of the pilot program (SR–PSE–81–5) on March 27, 1981 (Securities Exchange Act Release No. 17818, May 27, 1981, 47 FR 30016, June 4, 1981). The Commission most recently approved an extension of the pilot program until June 30, 1984 in SR–PSE–84–1 (Securities Exchange Act Release No. 20542, January 10, 1984, 49 FR 1968, January 16, 1984).

[2] The Exchange has noted in its filing that the rule change was proposed in response to reports from several specialists that certain member organizations transmitted orders via SCOREX with limit prices equal to the specialist's displayed bid (in the case of orders to buy) or offer (in the case of orders to sell). Specialists had voiced concern tht their performance evaluation scores would be reduced if they rejected such orders since SCOREX limit order acceptance scores are based on the percentage of SCOREX directed limit orders accepted by each specialist.

inspection and copying at the Commission's Public Reference Room, 450 5th Street, NW., Washington, D.C. Copies of the filing and of any subsequent amendments also will be available at the principal office of the above-mentioned self-regulatory organization.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange and in particular, the requirements of Section 6 and the rules and regulations thereunder.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof, in that the amendment relates to current operation of the pilot program with respect to SCOREX limit order acceptance performance. The PSE is currently calculating this measure of performance pursuant to the procedures described in this filing and accelerated approval will permit the PSE sufficient time to assess the impact of this amendment prior to the scheduled expiration date of the pilot program on June 30, 1984.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change referenced above be, and hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84-3242 Filed 2-6-84; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-20611; File No. SR-AMEX-83-35]

Self-Regulatory Organizations; Proposed Rule Change by American Stock Exchange, Inc.; Relating to Amendment of Exchange Rules 131 and 154 on Percentage Orders

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on December 30, 1983, the American Stock Exchange filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The American Stock Exchange, Inc. ("Amex" or "the Exchange") proposes to amend Rules 131 and 154 to enhance the handling of "percentage orders" on the Exchange Floor.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(1) *Purpose.* Under Exchange rules, a percentage order is a limited price order to buy (or sell) 50 percent of the volume of a specified stock in trades occurring after the entry of the order. Currently four types of percentage orders can be entered with the specialist—"straight limit", "last sale", "buy minus" and "sell plus".

Percentage orders are primarily used by institutional investors who often prefer to "go along" or participate in stock transactions rather than initiate activity in a stock which may influence the market. While a member firm can give similar instructions to its floor broker, that broker generally cannot remain in an inactive crowd waiting for contra side orders to come into the market. The broker therefore gives a percentage order to the specialist containing specific written instructions.

Late last year, the Exchange approved major amendments to Rules 131 and 154 which redefined percentage orders and set forth new procedures for the handling of such orders in stocks. (See SR-Amex-83-3 approved by the Commission on April 5, 1983.) Over the past few months, members, including both specialists and floor brokers, have expressed the view that certain aspects of the new procedures were very difficult to comply with. The Exchange, therefore, appointed an informal task force of six floor members including three specialists which, after reviewing these rules, determined that further changes in the procedures for handling percentage orders would be helpful. These proposals were then reviewed and endorsed by the Steering Committees of the Exchange's Specialists and Floor Brokers Associations.

The task force felt that the types of percentage orders that could be entered with the specialist were too numerous. The Exchange therefore determined to eliminate "last sale" and "buy minus" and "sell plus" percentage orders, especially since experience has shown that these orders were generally not used by brokers and were extremely difficult for specialists to handle properly.

The Exchange also determined to revise certain procedures relating to the execution of an elected percentage order,[1] as follows: Unless specific instructions to the contrary in writing are given by the entering broker, a limit order to buy resulting from the election of a percentage order cannot be executed on a straight "plus" tick, and a limit order to sell resulting from the election of a percentage order cannot be executed on a straight "minus" tick. For example, assume that a specialist is holding a percentage order to buy 2,000 XYZ at 22 with the current market 19¾–20. There are 1,000 shares at the bid and 200 shares at the offer. A seller enters the crowd and sells 1,000 shares to the bid of 19¾. This in turn elects 1,000 shares of the percentage order, which then becomes a limit order to buy 1,000 shares up to the limit of 22 specified in the order. Under the existing rule, the specialist would execute 200 shares of this limit order at the existing offer of 20. The remaining 800 shares may then be executed up to the limit of 22 on any tick including a straight "plus" tick. In effect, the percentage order may thus actually cause the market to move up in price despite the clear intent of the entering broker to "go along" and not initiate market movement. This situation will be prevented since elected percentage orders can no longer be executed on straight "plus" or "minus" ticks, unless that was the specific intent of the entering broker.

The Exchange also determined that all volume subsequent to the receipt of a percentage order at the post be counted in calculating the portion of a percentage order that is to be elected. Under the present procedure, only volume at or below the limit for buy orders, and at or above the limit for sell orders, is counted. This change will make it much easier for the specialist to calculate the proper number of shares of a percentage order to be elected. For example, a percentage order to buy at 20 will now also be elected by transactions at prices higher than 20, and a percentage order to sell at 50 will now also be elected by transactions at prices below 50.

Included in the changes that were approved by the Exchange last year is a procedure whereby a percenatage order

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[1] A percentage order (or portion thereof) is elected, i.e., becomes a limit order, by a transaction in the stock after the percentage order has been given to the specialist. For example, if 100 shares are sold, 100 shares of the percentage order would be elected thereby becoming a limit order for 100 shares.

with instructions to "convert" is, under certain conditions, converted into a limit order. This enables the order to participate in block trades or on the opening trade in the security. Experience has shown that in some circumstances, the full conversion of a percentage order into a limit order is not desirable and is not in accordance with the intent of the entering broker. For example, with the market in XYZ 20–20¼, a specialist is holding a percentage order to buy 5,000 shares at 22 with instructions to convert. A seller with 15,000 shares then enters the crowd. The specialist must convert the percentage order and buys 5,000 shares at 20. The seller then completes his order at a lower price or prices. Naturally, the entering broker had no intention of buying the 5,000 shares at the highest possible price. To address this problem, the Exchange has amended the procedure to allow the entering broker to instruct the specialist to convert half of his order rather than the full amount of the percentage order.

(2) *Basis.* The proposed amendments are consistent with Section 6(b) of the Exchange Act in general and further the objectives of Section 6(b)(5) in particular in that they are designed to facilitate the handling of percentage orders, while making them a more useful tool for investors.

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change will enhance competition among orders, to the benefit of the market, by improving procedures governing the use of percentage orders.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 5th Street, NW., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 5th Street, NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should be submitted within 21 days after the date of this publication.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: January 31, 1984.

George A. Fitzsimmons,

Secretary.

Exhibit A—American Stock Exchange, Inc.[1]

Types of Orders

Rules 131 * * *

Percentage Order

(n) A percentage order is a limited price order to buy (or sell) 50% of the volume of a specified stock after its entry.

[(1) "Straight Limit" Percentage Orders]—Such an order is elected when a transaction has occurred at the limit price or at a better price. *However, unless specific written instructions to the contrary have been given by the entering broker, an elected order to buy cannot be executed on a direct "plus" tick, and an elected order to sell cannot be executed on a direct "minus" tick.*

[(2) "Last Sale" Percentage Orders—The elected portion of such an order becomes a limited price order to be executed at the last sale price or at a better price, provided that such last sale is at or better than the limit specified in the order.]

[(3) "Buy Minus"—"Sell Plus" Percentage Orders—The elected portion of an order to "buy minus" becomes a limited price order to be executed on a "minus" or "zero minus" tick only. The elected portion of an order to "sell plus" becomes a limited price order to be executed on a "plus" or "zero plus" tick only, and is handled in the same manner as an order to sell short.]

[(4)] Unless otherwise specified on the order, [only] *all* volume [at or below the limit] subsequent to the receipt of the order at the Post will be applied in determining the elected portion of [buy] *percentage* orders[,]. [and, only volume at or above the limit will be calculated in determining the elected portion of sell orders].

If so instructed in writing by the entering broker(s), a percentage order to buy will be converted into a regular limit order for transactions effected on "minus," "zero minus," or "zero plus" ticks; and a percentage order to sell will be converted into a regular limit order for transactions effected on "plus," "zero plus," or "zero minus" ticks. However, no percentage order may be converted [to be executed] *into a regular limit order for transactions* on a "zero plus" (for buy orders) or "zero minus" (for sell orders) tick, unless the order causing the conversion was at least 5,000 shares. *A broker entering a percentage order with instructions to convert, may specify that only half of the order be converted.*

Rules 154

Orders Left with Specialist

. . . Commentary

.15 All percentage orders given to a specialist must be time stamped by the specialist at his post location. When accepting more than one percentage order, the specialist must inform the entering brokers that they will be participating with another order or orders to alert brokers to the fact that each order will do less than 50% of the volume. When the specialist is handling more than one percentage order, each such order will be on parity with the other. However, when an odd amount of shares is involved, for example, 300 shares, and a specialist holds two percentage orders, he must give the extra 100 shares to the broker having time priority. Thereafter any additional shares will be allocated on a rotating basis.

A specialist who believes that he cannot properly handle a number of percentage orders at one time should

[1] Deleted Material is enclosed in brackets [] New Material is italicized.

discuss the situation with a Floor Official.

If so instructed in writing by the entering broker(s), a percentage order to buy will be converted into a regular limit order for transactions effected on "minus," "zero minus," or "zero plus" ticks and a percentage order to sell will be converted into a regular limit order for transactions effected on "plus," "zero plus," or "zero minus" ticks. However, no percentage order may be converted [to be executed] *into a regular limit order for transactions* on a "zero plus" (for buy orders) or "zero minus" (for sell orders) tick, unless the order causing the conversion was at least 5,000 shares. *A broker entering a percentage order with instructions to convert may specify that only half of the order be converted.*

A broker entering a percentage order may permit the specialist to be on parity with his order. However, when the specialist is handling more than one percentage order, he may not be on parity with any such order unless permission has been obtained from all brokers for whom he is holding percentage orders in the particular stock. If a specialist is on parity with one or more percentage orders, he may not participate for his own account in an amount in excess of what each percentage order would receive.

The elected portion of a percentage order shall be handled as a new limited price order and shall take its place on the specialist's book as though a new order received at the time of the electing transaction. When a specialist holds more than one percentage order, each individual order shall be elected to the extent of the full amount of the elected transaction, except that percentage orders held by a specialist shall not be elected by any portion of volume which results from the execution of a previously elected portion of a percentage order.

All percentage orders and special instructions related thereto, and any modifications or cancellations thereof shall be in writing.

[FR Doc. 84-3331 Filed 2-6-84; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-20618; File No. SR-NYSE-84-3]

Self-Regulatory Organizations; Proposed Rule Change by New York Stock Exchange, Inc.; Relating To Trading Individual Stock Options on Listed Stocks

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on January 17 and 25, 1984, the New York Stock Exchange, Inc., filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change amends the rules of the Exchange to permit it to list individual stock options on listed stocks ("individual listed-stock options"). The Exchange intends initially to list individual listed-stock options on the stocks of the seven "Regional Holding Companies" recently divested by AT&T.

Transactions on the Exchange in individual listed-stock options will be governed by the Exchange's 700 series rules, the rules of the Exchange that currently apply to options on "broad" index stock groups ("broad index options") and that are proposed to apply to options on "industry" index stock groups ("industry index options"). Many of those rules require amendment in order to clarify or appropriately extend their application to individual listed-stock options. Therefore, the Exchange is proposing the amendments discussed below.

The proposed rule change also specifies, as to those contract terms not set forth in the 700 series rules, contract terms for the Exchange's individual listed-stock options. They are identical to the present specifications for individual listed-stock options presently trading on other options exchanges.

In selecting underlying listed stocks, the Exchange will apply the standards currently applied by other options exchanges in listing individual listed-stock options.[1] These standards will assure that the Exchange trades individual listed-stock options only on the most widely held and most actively traded listed stocks.

As noted above, in order to extend application of the 700 series rules to individual listed-stock options, many of the Exchange's index option rules must be amended. The salient changes, other than those discussed above, relating to the selection of stocks, and those incorporating without substantive change the provisions of the rules of the American Stock Exchange, Inc. ("AMEX") applicable to individual listed-stock options, are discussed below.

Rule 700(b)(30)—The definition of "related security" is revised to include, in the case of individual stock options, the underlying stock. This, in turn, triggers the requirements in the Exchange's 700 series rules (A) for account identification, reporting and recordkeeping by options specialists and Competitive Options Traders ("COTs") and (B) for making available books, records and other information.

Rule 750—Rule 750(g) presently permits broad index options specialists and persons associated with them to "popularize" both their specialty options (subject to disclosure of the specialist's market making status) and the stocks included in the underlying index groups. The Exchange's pending filing relating to industry index options presently prohibits specialists in industry index options from "popularizing" their specialty industry index options and stocks included in the underlying group. The Exchange expects to file shortly to relax the popularizing restrictions on industry index options specialists. Pending Commission consideration of that popularizing proposal, the Exchange proposes to prohibit individual listed-stock options specialists and their associated persons from popularizing either their specialty options or the underlying stocks. The Exchange anticipates seeking relaxation of the prohibition as it applies to individual stock options in the context of the Commission's consideration of the prohibition as it applies to industry index options.

Rules 750(f)(.80) and 785(a)(vi)—In order to minimize the regulatory concerns that arise from the same member or member organization acting as a market maker in both individual listed-stock options and in underlying listed stocks, the Exchange precludes a specialist registered in one or more stocks from acting as either a specialist or a COT in individual stock options on such stocks.

Rule 793—An appropriate reference to individual stock options is included in Rule 793, the Exchange's rule requiring the furnishing of books, records and other information, in order to assure that the Exchange has access to books and records of members and member organizations reflecting their activity in individual listed-stock options and in underlying stocks.

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[1] Absent exceptional circumstances, the individual listed-stock option standards include (A) market criteria of trading volume of 2.4 million shares in the preceding twelve months, 7.0 million publicly held shares, a market price of $10 per share and 6000 shareholders and (B) an issuer criterion of aggregate consolidated net income of $1.0 million during the preceding eight quarters.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(1) *Purpose*—The general purpose of the proposed rule change is to permit the Exchange to list individual stock options on listed stocks.

The particular purposes of the changes of substance included in the proposed rule change are summarized in the Exchange's response to Item I.

(2) *Statutory Basis.*—The statutory basis for the proposed rule change is section 6(b)(5) of the 1934 Act in that the trading of individual listed-stock options will serve investors by enabling them to hedge against risks associated with the ownership of listed stocks.

In addition, the proposed rule change relates to section 6(b)(1) of the 1934 Act in that it will provide a regulatory framework for a market on the floor in individual listed-stock options. The proposed rule change will give the Exchange the capacity to carry out the purposes of the 1934 Act, to comply with the provisions of the 1934 Act, the rules and regulations thereunder and the rules of the Exchange, and to enforce compliance therewith by members, Options Trading Right ("OTR") holders, and persons associated with members and OTR holders.

Except for the changes necessary or appropriate to accommodate the trading of individual listed-stock options on its options floor, the Exchange's present options rules will apply to the Exchange's proposed market in individual listed-stock options. Those options rules in turn generally apply the Exchange's equity and bond rules, and hence the bases and policies underlying those rules, to Exchange-traded options. Thus, the proposed rule change contemplates the application to Exchange trading of individual listed-stock options of long-established regulatory principles and techniques that are designed to assure the fairness, orderliness and quality of the Exchange's stock and bond markets.

In particular, the proposed rule change would apply to individual listed-stock options rules designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and to protect investors and the public interest in connection with transactions in individual listed-stock options, all as required by section 6(b)(5) of the 1934 Act. The Exchange therefore believes that its proposed market for individual listed-stock options will be consistent with the standards of section 6(b)(5).

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes that the proposed rule change will impose no burden on competition. The proposed rule change will further competition by permitting the Exchange to establish a positive, constructive, competitive presence in the individual listed-stock options market. The Exchange's establishment of a strong, responsive individual listed-stock options market will significantly enhance the efficiency, effectiveness and regulation of individual listed-stock options trading—and over-all options market quality—in accordance with the legislative goals and objectives identified by Congress and with the practical concerns of the Commission. Specifically, the Exchange believes that its entry into options trading advances the legislative mandate embodied in the 1975 Amendments for maximum competition among orders, among market centers and among market-makers. The powerful pro-competitive bias that permeates the 1975 Amendments offers no basis for insulating individual listed-stock options trading from competition.

Specific concerns have been raised in the past regarding the impact of the Exchange's trading of individual listed-stock options on the exchanges presently trading such options. These concerns focus on the possibility that the Exchange might achieve a position of leadership in the options markets by virtue of its status as the primary market for the underlying stocks and because of the financial resources that derive therefrom.

The Exchange intends to address these and other concerns comprehensively in a letter supporting the proposed rule change. The letter will point out how the maturation of the other options exchanges and their decades' "lead time" substantially enhances their ability to compete in the options arena. It will also observe that any Exchange predominance in the individual listed-stock options market would become possible only through competitive excellence, which would provide specific advantages and benefits to the investing public.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has not solicited, and does not intend to solicit, comments regarding the proposed rule change. The Exchange has not received any unsolicited written comments from members or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted within 30 days after the date of this publication.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: January 31, 1984.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84-3139 Filed 2-6-84; 8:45 am]

BILLING CODE 8010-01-M

Boston Stock Exchange, Inc.; Applications for Unlisted Trading Privileges and of Opportunity for Hearing

In the matter of applications of the Boston Stock Exchange, Inc.; for unlisted trading privileges in certain securities; Securities Exchange Act of 1934.
January 31, 1984.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to Section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f–1 thereunder, for unlisted trading privileges in the following stocks:

Nantucket Industries, Inc.
Common Stock, $0.10 Par Value (File No. 7–7350)
Wall Mart Stores, Inc.
Common Stock, $0.10 Par Value (File No. 7–7351)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before February 22, 1984 written data, views arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549. Following this opportunity for hearing, the Commission will approve the applications if its finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84-3133 Filed 2-6-84; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

[License No. 09/09-0327]

Beverly Glen Venture Capital, Issuance of a License To Operate as a Small Business Investment

On June 23, 1983, a notice was published in the **Federal Register** (48 FR 28770), stating that Beverly Glen Venture Capital located at 1964 Westwood Boulevard, Los Angeles, California 90025, had filed an application with the Small Business Administration pursuant to 13 CFR 107.102(1983), for a license to operate for a small business investment company under the provisions of Section 301(c) of the Small Business Investment Act of 1958, as amended.

The period for comment expired on July 8, 1983, and no significant comments were received.

Notice is hereby given that considering the application and other information, SBA has issued License No. 09/09–0327 to Beverly Glen Venture Capital.

Dated: January 30, 1984.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 84-3181 Filed 2-6-84; 8:45 am]

BILLING CODE 8025-01-M

[License No. (06/07–0024)

DASBIC, Inc.; Surrender of License

Notice is hereby given that DASBIC, Inc. (successor to Dallas Business Capital Corporation) incorporated under the laws of the State of Nevada on March 31, 1983, has surrendered License No. 06/07–0024 issued by the Small Business Administration on December 9, 1960. (Re-issued May 2, 1983).

DASBIC, Inc. has complied with all the conditions set forth by SBA for surrender of its license. Therefore, under the authority vested by the Small Business Investment Act of 1958, as amended, and pursuant to the Regulations promulgated thereunder, the surrender of the license of DASBIC, Inc. is hereby accepted and it is no longer licensed to operate as a small business investment company.

(Catalog of Federal Domestic assistance Program No. 59.011, Small Business Investment Companies)

Dated: January 27, 1984.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 84-3179 Filed 2-6-84; 8:45 am]

BILLING CODE 8025-01-M

[Application No. 06/06–0195]

Marine Venture Capital, Inc., Application for a License To Operate as a Small Business Investment Company (SBIC)

Notice is hereby given of the filing of an application with the Small Business Administration (SBA) pursuant to § 107.102 of Revision 6 of the Regulations (48 FR. 45014 (September 30, 1983)), by Marine Venture Capital, Inc., 111 East Wisconsin Avenue, Milwaukee, Wisconsin 53202 for a license to operate as small business investment company (SBIC) under the provisions of the Small Business Investment Act of 1958 (the Act), as amended, [15 U.S.C. *et. seq.*).

The proposed officers, directors, and sole shareholder are:

Name and address	Title	Percent of ownership
James C. LaVelle, 111 East Wisconsin Avenue, Milwaukee, Wis. 53202.	President, and Chairman of the Board.	
Ronald C. Baldwin, 111 East Wisconsin Avenue, Milwaukee, Wis. 53202.	Director	
Gary R. Semer, 111 East Wisconsin Avenue, Milwaukee, Wis. 53202.	Vice President and Director.	
Jon H. Stowe, 111 East Wisconsin Avenue, Milwaukee, Wis. 53202.	Director	
Susanne A Schille, 111 East Wisconsin Avenue, Milwaukee, Wis. 53202.	Director	
Frances G. Cole, 111 East Wisconsin Avenue, Milwaukee, Wis. 53202.	Secretary	
Marine Bank N.A., 111 East Wisconsin Avenue, Milwaukee, Wis. 53202.	Shareholder	100

The Marine Bank, N.A., which will own all of the shares of common stock of the Applicant, is 100% owned by the Marine Corporation, a Wisconsin bank holding company

The Applicant will begin operations with a capitalization of $3,000,000 and will be a source of equity capital and long term loan funds for qualified small business concerns.

Matters involved in SBA's consideration of the application include the general business reputation and character of the proposed owners and management, and the probability of successful operations of the new company under their management, including adequate profitability and financial soundness, in accordance with the Act and Regulations.

Notice is further given that any person may, not later than 15 days from the date of publication of this Notice, submit written comments on the proposed SBIC to the Deputy Associate Administrator for Investment, Small Business

Administration, 1441 "L" Street NW., Washington, D.C. 20416.

A copy of the Notice will be published in a newspaper of general circulation in Milwaukee, Wisconsin.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: January 30, 1984.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 84-3182 Filed 2-6-84; 8:45 am]

BILLING CODE 8025-01-M

[Application No. 06106-0277]

Texas State Capital Corp.; Application for a License To Operate as a Small Business Investment Co.

Notice is hereby given that an application has been filed with the Small Business Administration pursuant to § 107.102 of the Regulations governing small business investment companies (13 CFR 107.102 (1984)), for a license to operate as a small business investment company (SBIC) under the provisions of the Small Business Investment Act of 1958, as amended (the Act), (15 U.S.C. 661 *et seq.*), and the Rules and Regulations promulgated thereunder.

Applicant: Texas State Capital Corporation

Address: 900 Austin Avenue, Georgetown, Texas 78626

The proposed officers, directors and stockholders of the Applicant are as follows:

Griffin Lord, 517 Pecos Trail, Belton, Texas 76513—President and Director

Sharon L. Rydel, 100 W. Esperade, Georgetown, Texas 78626—Vice President and Director

John A. Kirkpatrick, Leander, Texas 78641—Secretary, Treasurer and Director

State Trust Company—100% Shareholder

The Applicant, a Texas corporation, with its principal place of business at 900 Austin Avenue, Georgetown, Texas 78626, will begin operations with $500,000 paid-in capital and paid-in surplus raised from the sale of stock to State Trust Company.

The Applicant will conduct its activities principally in the State of Texas.

Matters involved in SBA's consideration of the application include the general business reputation and character of the proposed owners and management, and the probability of successful operations of the Applicant under their management, including adequate profitability and financial soundness, in accordance with the Small Business Investment Act and the SBA Rules and Regulations.

Notice is hereby given that any person may, not later than 15 days from the date of publication of this Notice, submit written comments to the Deputy Associate Administrator for Investment, Small Business Administration, 1441 L Street NW., Washington, D.C. 20416.

A copy of this notice should be published in a newspaper of general circulation in the Georgetown, Texas area.

Dated: January 26, 1984.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 84-3181 Filed 2-6-84; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF STATE

[Public Notice 893]

Determination

Pursuant to Section 512 of the Foreign Assistance and Related Programs Appropriations Act of 1982 (Pub. L. 97-121), as made applicable to fiscal year 1984 by Section 101(e) of the Joint Resolution appropriating funds for fiscal year 1984 (Pub. L. 98-107), and Executive Order 12163, as amended, I hereby determine that furnishing assistance to Mozambique through assistance activities designed to promote regional economic growth in southern Africa would further the foreign policy interests of the United States.

This determination shall be published in the **Federal Register** and reported to Congress.

Dated: November 21, 1983.

George P. Shultz,

Secretary of State.

[FR Doc. 84-3307 Filed 2-6-84; 8:45 am]

BILLING CODE 4710-10-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Advisory Circular on Airworthiness Approval of Airborne Loran-C Systems for Use in the U.S. National Airspace System

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Proposed Advisory Circular (AC) 20-XX; extension of comment period. This notice is to advise the general public that the comment period on Advisory Cicular 20-XX availability published in the **Federal Register** Vol. 48, No. 2281/Friday, November 25, 1983/ Notices 53219 has been extended to March 3, 1984.

ADDRESSES: Send all comments on the AC to: Federal Aviation Administration, Attention: Aircraft Maintenance Division (AWS-300), 800 Independence Avenue SW., Washington, D.C. 20591.

Issued in Washington, D.C. on January 27, 1984.

M. C. Beard,

Director of Airworthiness.

[FR Doc. 84-3201 Filed 2-6-84; 8:45 am]

BILLING CODE 4910-13-M

Research and Special Programs Administration

[Docket No. IRA-3]

Commonwealth of Massachusetts, Executive Office of Transportation and Construction; Application for Non-Preemption Determination

Correction

In FR Doc. 84-1975, beginning on page 3166, in the issue of Wednesday, January 25, 1984, on page 3166, in the second column, in the second paragraph under "Statutory and Procedural Background", in the twelfth line "107.2.9(c)" should read "107.209(c)"; in the third column, in the first paragraph, in the sixteenth line, "11811" should read "1811".

BILLING CODE 1505-01-M

DEPARTMENT OF THE TREASURY

Office of the Secretary

Public Information Collection Requirements Submitted to OMB for Review

January 31, 1984.

On January 31, 1984, the Department of Treasury submitted the following public information collection requirement(s) to OMB (listed by submitting bureaus), for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96-511. Copies of these submissions may be obtained from the Treasury Department Clearance Officer, by calling (202) 535-6020. Comments regarding these information collections should be addressed to the OMB reviewer listed at the end of each bureau's listing and to

the Treasury Department Clearance Officer, Room 7227, 1201 Constitution Avenue, NW., Washington. D.C. 20220.

Internal Revenue Service

OMB Number: 1545–0007
Form Number: Form T (Timber)
Type of Review: Revision
Title: Forest Industries Schedules
OMB Number: 1545–0135
Form Number: Form 1138
Type of Review: Revision
Title: Extension of Time for Payments of Taxes by a Corporation Expecting a Net Operating Loss Carryback

Alcohol, Tobacco and Firearms

OMB Number: 1512–0261
Form Number: ATF Rec 5110/14
Type of Review: Existing Regulation
Title: DSP's—Letterhead Applications and Notices Relating to Operations
OMB Reviewer: Norman Frumkin (202) 395–6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503

Cathy Thomas,

Departmental Reports, Management Office.

[FR Doc. 84–3241 Filed 2–6–84; 8:45 am]
BILLING CODE 4810–25–M

Public Information Collection Requirements Submitted to OMB for Review

On February 2, 1984, the Department of Treasury submitted the following public information collection requirement(s) to OMB (listed by submitting bureaus), for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96–511. Copies of these submissions may be obtained from the Treasury Department Clearance Officer, by calling (202) 535–6020. Comments regarding these information collections should be addressed to the OMB reviewer listed at the end of each bureau's listing and to the Treasury Department Clearance Officer, Room 7227, 1201 Constitution Avenue, NW., Washington, D.C. 20220.

Office of the Secretary

OMB Number: New
Form Number: None
Type of Review: Existing Collection
Title: FOIA—Form of Request for Information and Appeal of Denial, Waiver of Fees.
OMB Number: New
Form Number: None
Type of Review: Existing Collection
Title: Privacy Act—Form of Request for Notification of Whether a Record Exists; Form of Request to Amend Records; Form of Request for Appeal of Refusal to Amend Records.
OMB Reviewer: Judy McIntosh, (202) 395–6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503.

Bureau of the Public Debt

OMB Number: 1535–0012
Form Number: PD 1455
Type of Review: Revision
Title: Request by Fiduciary For Reissue of U.S. Savings Bonds/Notes.
OMB Number: 1535–0006
Form Number: PD 2458
Type of Review: Revision
Title: Certificate of Entitlement.
OMB Reviewer: Norman Frumkin, (202) 395–6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503.

Cathy Thomas,

Department Reports, Management Office.

[FR Doc. 84–3333 Filed 2–6–84; 8:45 am]
BILLING CODE 4810–25–M

[Dept. Circ.; Public Debt Series—No. 4–84]

12 Percent Treasury Bonds of 2008–2013

February 2, 1984.

1. Invitation for Tenders

1.1. The Secretary of the Treasury, under the authority of Chapter 31 of Title 31, United States Code, invites tenders for approximately $4,500,000,000 of United States securities, designated 12% Treasury Bonds of 2008–2013 (CUSIP No. 912810 DF 2). The securities will be sold at auction, with bidding on the basis of yield. Payment will be required at the price equivalent of the bid yield of each accepted tender. The price equivalent of each accepted bid will be determined in the manner described below. Additional amounts of these securities may be issued to Government accounts and Federal Reserve Banks for their own account in exchange for maturing Treasury securities. Additional amounts of the new securities may also be issued at the average price to Federal Reserve Banks, as agents for foreign and international monetary authorities.

2. Description of Securities

2.1. The securities will be issued February 15, 1984, and are offered as an additional amount of 12% Treasury Bonds of 2008–2013 (CUSIP No. 912810 DF 2) dated August 15, 1983. Payment for the securities will be based on the price equivalent to the bid yield (to maturity) determined in accordance with this circular. Interest on the securities offered as an additional issue is payable on a semiannual basis on August 15, 1984, and each subsequent 6 months on February 15 and August 15 until the principal becomes payable. They will mature August 15, 2013, but may be redeemed at the option of the United States on and after August 15, 2008, in whole or in part, at par and accrued interest on any interest payment date or dates, on 4 months' notice of call given in such manner as the Secretary of the Treasury shall prescribe. In case of partial call, the securities to be redeemed will be determined by such method as may be prescribed by the Secretary of the Treasury. Interest on the securities called for redemption shall cease on the date of redemption specified in the notice of call. In the event an interest payment date or the maturity date is a Saturday, Sunday, or other nonbusiness day, the interest or principal is payable on the next-succeeding business day.

2.2. The securities are subject to all taxes imposed under the Internal Revenue Code of 1954. The securities are exempt from all taxation now or hereafter imposed on the obligation or interest thereof by any State, any possession of the United States, or any local taxing authority, except as provided in 31 U.S.C. 3124.

2.3. The securities will be acceptable to secure deposits of public monies. They will not be acceptable in payment of taxes.

2.4. Securities registered as to principal and interest will be issued in denominations of $1,000, $5,000, $10,000, $100,00, and $1,000,000. Book-entry securities will be available to eligible bidders in multiples of those amounts. Interchanges of securities of different denominations and of registered and book-entry securities, and the transfer of registered securities will be permitted. Bearer securities will not be available, and the interchange of registered or book-entry securities for bearer securities will be not permitted.

2.5. The Department of the Treasury's general regulations governing United States securities apply to the securities offered in this circular. These general regulations include those currently in effect, as well as those that may be issued at a later date.

3. Sale Procedures

3.1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, D.C. 20239, prior to 1:30 p.m., Eastern Standard time, Thursday, February 9, 1984. Noncompetitive tenders as defined below will be

considered timely if postmarked no later than Wednesday, February 8, 1984, and received no later than Wednesday, February 15, 1984.

3.2. The face amount of securities bid for must be stated on each tender. The minimum bid is $1,000, and larger bids must be in multiples of that amount. Competitive tenders must also show the yield desired, expressed in terms of an annual yield (to maturity) with two decimals, e.g., 7.10%. Common fractions may not be used. Noncompetitive tenders must show the term "noncompetitive" on the tender form in lieu of a specified yield. No bidder may submit more than one noncompetitive tender, and the amount may not exceed $1,000,000.

3.3. Commercial banks, which for this purpose are defined as banks accepting demand deposits, and primary dealers, which for this purpose are defined as dealers who make primary markets in Government securities and report daily to the Federal Reserve Bank of New York their positions in and borrowings on such securities, may submit tenders for account of customers if the names of the customers and the amount for each customer are furnished. Others are permitted to submit tenders only for their own account.

3.4. Tenders will be received without deposit for their own account from commercial banks and other banking institutions; primary dealers, as defined above; Federally-insured savings and loan associations; States, and their political subdivisions or instrumentalities; public pension and retirement and other public funds; international organizations in which the United States holds membership; foreign central banks and foreign states; Federal Reserve Banks; and Government accounts. Tenders from others must be accompanied by full payment for the amount of securities applied for (in the form of cash, maturing Treasury securities, or readily collectible checks), or by a payment guarantee of 5 percent of the face amount applied for, from a commercial bank or a primary dealer.

3.5. A noncompetitive bidder may not have entered into an agreement, or make an agreement with respect to the purchase or sale or other disposition of any noncompetitive awards of this issue in this auction prior to the designated closing time for receipt of tenders.

3.6. Immediately after the closing hour, tenders will be opened, followed by a public announcement of the amount and yield range of accepted bids. Subject to the reservations expressed in Section 4, noncompetitive tenders will be accepted in full, and then competitive tenders will be accepted, starting with those at the lowest yields, through successively higher yields to the extent required to attain the amount offered. Competitive tenders at yields higher than 12.96% will not be accepted, because the equivalent prices would fall below the original issue discount limit of 92.750. Tenders at the highest accepted yield will be prorated if necessary. After the determination is made as to which tenders are accepted, the price on each competitive tender allotted will be determined and each successful competitive bidder will be required to pay the price equivalent to the yield (to maturity) bid. Those submitting noncompetitive tenders will pay the price equivalent to the weighted average yield (to maturity) of accepted competitive tenders.

Price calculations will be carried to three decimal places on the basis of price per hundred, e.g., 99.923, and the determinations of the Secretary of the Treasury shall be final. If the amount of noncompetitive tenders received would absorb all or most of the offering, competitive tenders will be accepted in an amount sufficient to provide a fair determination of the yield. Tenders received from Government accounts and Federal Reserve Banks will be accepted at the price equivalent to the weighted average yield of accepted competitive tenders.

3.7. Competitive bidders will be advised of the acceptance or rejection of their tenders. Those submitting noncompetitive tenders will be notified only if the tender is not accepted in full, or when the price is over par.

4. Reservations

4.1. The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders in whole or in part, to allot more or less than the amount of securities specified in Section 1, and to make different percentage allotments to various classes of applicants when the Secretary considers it in the public interest. The Secretary's action under this Section is final.

5. Payment and Delivery

5.1. Settlement for allotted securities must be made at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt, wherever the tender was submitted. Settlement on securities allotted to institutional investors and to others whose tenders are accompanied by a payment guarantee as provided in Section 3.4., must be made or completed on or before Wednesday, February 15, 1984. Payment in full must accompany tenders submitted by all other investors. Payment must be in cash; in other funds immediately available to the Treasury; in Treasury bills, notes, or bonds (with all coupons detached) maturing on or before the settlement date but which are not overdue as defined in the general regulations governing United States securities; or by check drawn to the order of the institution to which the tender was submitted, which must be received from institutional investors no later than Monday, February 13, 1984. When payment has been submitted with the tender and the purchase price of allotted securities is over par, settlement for the premium must be completed timely, as specified in the preceding sentence. When payment has been submitted with the tender and the purchase price is under par, the discount will be remitted to the bidder. Payment will not be considered complete where registered securities are requested if the appropriate identifying number as required on tax returns and other documents submitted to the Internal Revenue Service (an individual's social security number or an employer identification number) is not furnished. When payment is made in securities, a cash adjustment will be made to or required of the bidder for any difference between the face amount of securities presented and the amount payable on the securities allotted.

5.2. In every case where full payment has not been completed on time, an amount of up to 5 percent of the face amount of securities allotted, shall, at the discretion of the Secretary of the Treasury, be forfeited to the United States.

5.3. Registered securities tendered in payment for allotted securities are not required to be assigned if the new securities are to be registered in the same names and forms as appear in the registrations or assignments of the securities surrendered. When the new securities are to be registered in names and forms different from those in the inscriptions or assignments of the securities presented, the assignment should be to "The Secretary of the Treasury for (securities offered by this circular) in the name of (name and taxpayer identifying number)." Specific instructions for the issuance and delivery of the new securities, signed by the owner or authorized representative, must accompany the securities presented. Securities tendered in payment should be surrendered to the Federal Reserve Bank or Branch or to the Bureau of the Public Debt, Washington, D.C. 20239. The securities must be delivered at the expense and risk of the holder.

5.4. Delivery of securities in registered form will be made after the requested

form of registration has been validated, the registered interest account has been established, and the securities have been inscribed.

6. General Provisions

6.1. As fiscal agents of the United States, Federal Reserve Banks are authorized and requested to receive tenders, to make allotments as directed by the Secretary of the Treasury, to issue such notices as may be necessary, and to receive payment for and make delivery of securities on full-paid allotments.

6.2. The Secretary of the Treasury may at any time issue supplemental or amendatory rules and regulations governing the offering. Public announcement of such changes will be promptly provided.

Carole Jones Dineen,

Fiscal Assistant Secretary.

[FR Doc. 84-3306 Filed 2-3-84; 2:05 pm]

BILLING CODE 4810-40-M

Internal Revenue Service

Commissioner's Advisory Group; Open Meeting

There will be a meeting of the Commissioner's advisory Group on March 5 & 6, 1984. The meeting will be held in Room 3313 of the Internal Revenue Service Building. The building is located at 1111 Constitution Ave., NW., Washington, D.C. The meeting will begin at 9:00 A.M. on Monday, March 5, and 9:00 A.M. on Tuesday, March 6. The agenda will include the following topics:

Monday, March 5, 1984

Federal/State Relationships
Relationship of Examination and Appeals
Rulings Process

Tuesday, March 6, 1984

IRS Public Affairs Program
Litigation Management

The meeting, which will be open to the public, will be in a room that accommodates approximately 50 people. If you would like to have the Committee consider a written statement, please call or write to John E. Burke, Assistant to the Deputy Commissioner, 1111 Constitution Avenue NW., Washington, D.C. 20224.

For further information contact: John E. Burke, Assistant to the Deputy Commissioner, (202) 566-4143 (Not toll free).

James I. Owens,

Acting Commissioner.

[FR Doc. 84-3320 Filed 2-6-84; 8:45 am]

BILLING CODE 4830-01-M

VETERANS ADMINISTRATION

Research and Education Building, Veterans Administration Medical & Regional Office Center, White River Junction, Vermont; Finding of No Significant Impact

The Veterans Administration (VA) has assessed the potential environmental impacts that may occur as a result of the proposed construction of a Research and Education Building at the White River Junction Veterans Administration Medical and Regional Office Center (VAM&ROC) and has determined that the potential environmental impacts will be minimal from the development of this project. The proposed project will be a two or three level structure of approximately 45,000 gross square feet.

The development of this project may cause minor impacts on the human and natural environment affecting noise levels, solid waste disposal, cultural resources, air quality, and visual impacts. There are no anticipated long-term significant environmental impacts associated with this project. Short term effects of minor air pollution (dust and fumes), soil erosion, and noise levels will occur during construction operations. The cultural and visual impacts will be resolved during the design process to protect the existing resources from adverse impacts.

The VA will adhere to all applicable Federal, State, and local environmental regulations during construction and operation of this project.

The significance of the identified impacts has been evaluated relative to the considerations of both context and intensity, as defined by the Council on Environmental Quality (Title 40 CFR 1508.27).

An Environmental Assessment has been performed in accordance with the requirements of the National Environmental Policy Act Regulations, Sections 1501.3 and 1508.9. A "Finding of No Significant Impact" has been reached based upon the information presented in this assessment.

The assessment is being placed for public examination at the Veterans Administration, Washington, D.C. Persons wishing to examine a copy of the document may do so at the following office: Mr. William F. Sullivan, Director, Office of Environmental Affairs (088C), Room 423, Veterans Administration, 811 Vermont Avenue, NW., Washington, D.C. 20420, (202) 389-3316. Questions or requests for single copies of the Environmental Assessment may be addressed to the above office.

Dated: January 31, 1984.

By Direction of the Administrator.

Everett Alvarez, Jr.,

Deputy Administrator.

[FR Doc. 84-3298 Filed 2-6-84; 8:45 am]

BILLING CODE 8320-01-M

Veterans Administration Medical Center, Hines, Ill., Psychiatric Replacement Facility; Finding of No Significant Impact

The Veterans Administration (VA) has assessed the potential environmental impacts that may occur as a result of the proposed construction of a 180-Bed Psychiatric Replacement Building at the Veterans Administration Medical Center (VAMC), Hines, Illinois, and has determined that the potential environmental impacts will be minimal from the development of this project.

The proposed project is a five-story building attached to the east side of the existing main hospital building (Building No. 200). The facility will provide space for 180 beds and support services in approximately 177,300 gross square feet.

There are no anticipated long-term adverse environmental impacts associated with this project. Short-term impacts associated with the construction process will affect air quality, noise levels, solid waste disposal, and soil stabilization conditions.

The VA will adhere to all applicable Federal, State, and local environmental regulations during construction and operation of this project.

The significance of the identified impacts has been evaluated relative to the considerations of both context and intensity, as defined by the Council on Environmental Quality (Title 40 CFR 1508.27).

An Environmental Assessment has been performed in accordance with the requirements of the National Environmental Policy Act Regulations, Sections 1501.3 and 1508.9. A "Finding of No Significant Impact" has been reached based upon the information presented in this assessment.

The assessment is being placed for public examination at the Veterans Administration, Washington, D.C. Persons wishing to examine a copy of the document may do so at the following office: Mr. Willian F. Sullivan, Director, Office of Environmental Affairs (088C), Room 423, Veterans Administration, 811 Vermont Avenue, NW., Washington, D.C. 20420, (202) 389-3316. Questions or requests for single copies of the Environmental Assessment may be addressed to the above office.

Date: January 31, 1984.

By the Direction of the Administrator.

Everett Alvarez, Jr.,

Deputy Administrator.

[FR Doc. 84-3297 Filed 2-6-84; 8:45 am]

BILLING CODE 8320-01-M

Sunshine Act Meetings

Federal Register
Vol. 49, No. 26
Tuesday, February 7, 1984

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409), 5 U.S.C. 552b(e)(3).

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1

FEDERAL COMMUNICATIONS COMMISSION

February 2, 1984.

DELETION OF AGENDA ITEM FROM FEBRUARY 3RD CLOSED MEETING

The following item has been deleted at the request of the Office of General Counsel from the list of agenda items scheduled for consideration at the February 3, 1984 Closed Meeting and previously listed in the Commission's Notice of January 27, 1984.

Agenda, Item No., and Subject

Hearing—2—Petition for Reconsideration of Commission Order denying an Application for Review, in the Roanoke, Virginia Comparative UHF proceeding (Docket Nos. 81-46 81-47).

Issued: February 2, 1984.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 84-3340 Filed 2-3-84; 9:45 am]

BILLING CODE 6712-01-M

2

FEDERAL TRADE COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: FR 49, January 30, 1984, Page No. 3720.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 2:00 p.m., February 2, 1984.

CHANGES IN THE AGENDA: The Federal Trade Commission has cancelled its previously announced oral argument of February 2, 1984.

Emily H. Rock,

Secretary.

[FR Doc. 84-3422 Filed 2-3-84; 3:29 am]

BILLING CODE 6750-01-M

3

INTERNATIONAL TRADE COMMISSION

[USITC SE-84-8]

TIME AND DATE: 2:30 p.m., Tuesday, February 14, 1984.

PLACE: Room 117, 701 E Street, NW., Washington, D.C. 20436.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda.
2. Minutes.
3. Ratifications.
4. Petitions and complaints:
   a. Indomethicin (Docket No. 1015).
5. Investigation 701-TA-202 [Final] (Cotton Shop Towels from Pakistan)—briefing and vote.
6. Any items left over from previous agenda.

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary; (202) 523-0161.

Kenneth R. Mason,

Secretary.

[FR Doc. 84-3427 Filed 2-3-84; 3:55 pm]

BILLING CODE 7020-02-M

4

INTERNATIONAL TRADE COMMISSION

[USITC SE-84-9]

TIME AND DATE: 2:30 p.m., Friday, February 17, 1984.

PLACE: Room 117, 701 E. Street, NW., Washington, D.C. 20436.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Petitions and complaints:
   a. Certain foam earplugs (Docket No. 1016).
2. Investigation 731-TA-164 [Preliminary] (Stainless Steel Sheet and Strip from Spain)—briefing and vote.
3. Investigations 731-TA-120 and -122 [Final] (Certain Tapered Roller Bearings and Parts Thereof from Japan and Italy)—briefing and vote.

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary; (202) 523-0161.

Kenneth R. Mason,

Secretary.

[FR Doc. 84-3428 Filed 2-3-84; 3:55 pm]

BILLING CODE 7020-02-M

federal register

Tuesday
February 7, 1984

Part II

Environmental Protection Agency

40 CFR Part 60

Standard of Performance for New Stationary Sources; Wool Fiberglass Insulation Manufacturing; Proposed Rule and Public Hearing

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 60

[AD-FRL 2465-3]

Standard of Performance for New Stationary Sources; Wool Fiberglass Insulation Manufacturing

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule and notice of public hearing.

SUMMARY: The proposed standard would limit emissions of particulate matter from new, modified, and reconstructed wool fiberglass insulation manufacturing lines utilizing the rotary spin forming process. The proposed standard implements section 111 of the Clean Air Act and is based on the Administrator's determination that emissions from fiberglass manufacturing plants cause, or contribute significantly to, air pollution which may reasonably be anticipated to endanger public health or welfare. The intent is to require new, modified, and reconstructed wool fiberglass insulation manufacturing lines utilizing the rotary spin forming process to control emissions to the level achievable by the best demonstrated system of continuous emission reduction considering costs, nonair quality health and environmental impacts, and energy requirements.

A public hearing will be held, if requested, to provide interested persons an opportunity for oral presentation of data, views, or arguments concerning the proposed standard.

DATES: *Comments.* Comments must be received on or before April 23, 1984.

Public Hearing. If anyone contacts the EPA requesting to speak at a public hearing by February 24, 1984, a public hearing will be held on March 13, 1984 beginning at 10:00 a.m. Persons interested in attending the hearing should call Ms. Shelby Journigan at (919) 541-5624 to verify that a hearing will occur.

Request to Speak at Hearing. Persons wishing to present oral testimony must contact the EPA by February 24, 1984.

ADDRESSES: *Comments.* Comments should be submitted (in duplicate if possible) to: Central Docket Section (LE-131), Attention: Docket Number A-80-27, U.S. Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460.

Public Hearing. If anyone contacts the EPA requesting a public hearing, it will be held at the EPA's Office of Administration Auditorium, Research Triangle Park, North Carolina. Persons interested in attending the hearing should call Ms. Shelby Journigan at (919) 541-5624 to verify that a hearing will be held. Persons wishing to present oral testimony should notify Ms. Shelby Journigan, Standards Development Branch (MD-13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711.

Background Information Document. The background information document (BID) for the proposed standard may be obtained from the U.S. EPA Library (MD-35), Research Triangle Park, North Carolina 27711, telephone number (919) 541-2777. Please refer to "Wool Fiberglass Insulation Manufacturing Industry—Background Information for Proposed Standards," EPA-450/3-83-022a.

Docket. Docket No. A-80-27, containing supporting information used in developing the proposed standard, is available for public inspection and copying between 8:00 a.m. and 4:00 p.m., Monday through Friday, at the EPA's Central Docket Section, West Tower Lobby, Gallery 1, Waterside Mall, 401 M Street SW., Washington, D.C. 20460. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Mr. Robert L. Ajax, Standards Development Branch, Emission Standards and Engineering Division (MD-13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone number (919) 541-5578.

SUPPLEMENTARY INFORMATION:

Proposed Standard

Standards of performance for new sources established under section 111 of the Clean Air Act reflect:

> * * *Application of the best technological system of continuous emission reduction which (taking into consideration the cost of achieving such emission reduction, and any nonair quality health and environmental impact and energy requirements) the Administrator determines has been adequately demonstrated [Section 111(a)(1)].

For convenience, this will be referred to as "best demonstrated technology" or "BDT."

The proposed standard would limit particulate emissions from new, modified, or reconstructed wool fiberglass insulation manufacturing facilities that utilize the rotary spin forming process. The specific unit to which the standard applies, referred to as the "affected facility," is the manufacturing line. The manufacturing line is defined to include the equipment comprising the forming section, where molten glass is fiberized and a fiberglass mat is formed; the curing section, where the binder resin in the mat is thermally "set;" and the cooling section, where the mat is cooled.

A particulate mass emission limit of 5.5 kg/Mg (11.0 lb/ton) of molten glass used to manufacture the product is proposed. This proposed limit is based on the demonstrated performance of a wet electrostatic precipitator (ESP) preceded by water sprays and a low-pressure-drop wet scrubber to control total particulate emissions from the manufacturing line. This proposed limit would apply during the production of any wool fiberglass insulation product.

A wet ESP preceded by water sprays and a low-pressure-drop wet scrubber was determined to be BDT for this industry based on an analysis of emission test results, costs, and environmental and energy impacts. However, this is a standard of performance and does not require the use of specific control equipment. Any control technique that would meet the proposed emission limit could be used.

If a wet control device (wet ESP or wet scrubber) is used by an owner or operator of an affected facility to meet the proposed particulate emission limit, the proposed standard would require measurement and recording of certain control device operating parameters to indicate when maintenance of the control device is required. For wet ESP's, the owner or operator would be required to measure and record the following: voltage and amperage in each electrical field and wash water flow rate. In addition, daily determination of the total solids content of the wash water entering the ESP would be required. For wet scrubbers, the owner or operator of an affected facility would be required to measure and record the operating pressure drop and scrubbing liquid flow rate. The owner or operator of an affected facility who uses a wet control device to meet the proposed emission limit would be required to submit semiannual reports to the EPA of any monitoring data that are less than 70 percent of the lowest value or greater than 130 percent of the highest value of each operating parameter recorded during the most recent performance test. The owner or operator would also be required to calibrate each monitoring device on a quarterly basis.

The test method for determining compliance with the proposed standard would be the proposed Reference Method 5E for particulate emission. Proposed Reference Method 5E is a variation of Reference Method 5 that determines the amount of material caught in the front half (nozzle, probe,

and filter) of an EPA Reference Method 5 sampling train plus the amount of condensed particulate material caught in the impinger train as determined by measuring total organic carbon (TOC) using a TOC analyzer. Reference Method 5E is proposed because it reflects the performance of BDT for this industry more accurately than does Reference Method 5.

Summary of Environmental, Energy, and Economic Impacts

The environmental, energy, and economic impacts of the proposed standard were estimated based on conditions that would exist in the absence of the proposed standard. These conditions are referred to as the baseline. The estimates of these impacts are presented below for a "typical" new wool fiberglass insulation manufacturing plant that installs wet ESP controls to meet the standard. The results of the impact analysis for facilities other than the typical new plant may be found in the BID and in docket item II–B–50 of docket A–80–27. Also presented below are the industry-wide impacts in the fifth year after the standard is proposed. This information is included to provide an indication of the longer term impacts of the proposed standard but is not meant to imply that the benefits or impacts of the standard are limited to 5 years.

A typical (medium size) manufacturing plant contains three production lines and produces 104,300 Mg (115,000 tons) of insulation per year. This plant would emit 1,650 Mg/yr (1,820 tons/yr) of particulate matter if it was controlled to the baseline level, which is assumed to be the degree of control required by a typical State implementation plan (SIP). Implementation of the proposed standard would reduce particulate emissions from the typical plant by about 1,075 Mg/yr (1,185 tons/yr), or 65 percent, to about 575 Mg/yr (635 tons/yr).

It is projected that the equivalent of 3 new medium-size wool fiberglass insulation manufacturing plants (each containing 3 production lines) and 17 new medium-size production line additions or replacements at existing plants will be constructed in the 5-year period from 1983 to 1988. In the absence of the proposed standard, it is estimated that new facilities constructed from 1983 to 1988 and controlled to the level required by a typical SIP would emit approximately 14,200 Mg (15,660 tons) of particulate emissions in the fifty year (1988). Implementation of the proposed standard would reduce particulate emissions from these wool fiberglass insulation manufacturing facilities by approximately 9,250 Mg (10,200 tons) to 4,950 Mg (5,460 tons) in the fifty year after the standard is proposed.

For a typical plant, implementation of the proposed standard would increase solid waste production by approximately 1,080 Mg/yr (1,190 tons/yr). Implementation of the proposed standard would result in an increase in solid waste production nationwide over baseline levels of approximately 9,240 Mg (10,190 tons) in the fifth year after the standard is proposed.

No impact on water quality is expected from implementation of the proposed standard because standards of performance for new sources (as determined under the Clean Water Act) allow no discharge of process wastewaters to navigable waterways (40 CFR Part 426). The costs of treating wastewater from the air pollution control equipment are included in the capital and annualized costs of pollution control equipment described below.

For a typical plant, implementation of the proposed standard would decrease energy demand by approximately 114 terajoules per year (TJ/yr) (1.1×10^{11} Btu/yr) relative to a plant controlled to baseline levels. Implementation of the proposed standard would decrease the national energy demand below baseline levels by approximately 1,300 TJ (1.2×10^{12} Btu) in the fifth year after proposal. This decrease in energy demand occurs because baseline control technology, which includes the use of thermal incineration, requires more energy than does the technology on which the proposed standard is based.

The capital and annualized costs for air pollution controls for a typical plant required to meet a typical SIP emission level are $3.1 million and $2.0 million, respectively. The total capital and annualized costs for air pollution controls that would be incurred by the same plant to comply with the proposed standard would be $7.7 million and $2.5 million, respectively. Therefore, compliance with the proposed standard would require an increase in capital expenditures for control equipment of $4.6 million and an increase in annualized control costs of $0.5 million for a typical wool fiberglass insulation manufacturing plant. The total capital and annualized costs of control equipment used to meet the proposed standard would represent 9 percent and 3 percent, respectively, of the initial capital and annualized costs of the manufacturing plant. Capital costs for industry compliance with the proposed standard over the first 5 years would be $41.4 million above the baseline capital costs. Fifth-year annualized costs for industry compliance would be $3.1 million above the baseline annualized costs.

The additional emission control costs of the proposed standard would not be expected to have any impact on expansion in the wool fiberglass insulation manufacturing industry because it is expected that firms would pass all costs associated with implementation of the proposed standard through to the consumer. Assuming the costs of the proposed standard are passed through, it is estimated that the price of wool fiberglass insultation could increase by 0.63 percent as a result of implementation of the standard. This increase would raise the estimated cost to insulate a 139 m^2 (1,500 ft^2) wood frame house by approximately $14.

Rationale

Selection of Source

Fiberglass manufacturing is number 42 on the EPA priority list of major stationary source categories (40 CFR 60.16, 44 FR 49222, dated August 21, 1979). During development of the list, consideration was given to the quantity of emissions from each source category, the extent to which each pollutant endangers health and welfare, and the mobility and competitive nature of each source category. The two major segments of the fiberglass manufacturing industry are wool fiberglass insulation and textile fiberglass. A typical rotary spin wool fiberglass insulation plant controlled to the level required by a typical SIP would emit approximately 1,650 Mg/yr (1,820 tons/yr) of particulate matter.

Section 111 of the Clean Air Act requires that new source performance standards (NSPS) reflect "adequately demonstrated" technology. The EPA has identified technology that is adequately demonstrated for wool fiberglass insulation manufacturing facilities but not for textile fiberglass manufacturing facilities. The EPA is therefore proposing an NSPS only for wool fiberglass insulation manufacturing facilities.

During the prioritization study of stationary source categories, the Administrator determined that there was no potential for emissions reduction from textile fiberglass manufacturing facilities. Since the prioritization study, no information has been obtained indicating a need for NSPS. The public is invited to comment on whether there is a need for an NSPS for the textile segment of the fiberglass industry.

Wool fiberglass insulation is produced from molten glass by either the rotary spin or flame attenuation process. No new plants using the flame attenuation process are expected to be built, and few if any flame attenuation line additions at existing plants are expected to occur. Flame attenuation lines are expensive to operate; even an uncontrolled line would have higher operating costs than a well-controlled rotary spin line of the same size. Because rotary spin lines can produce the same products as flame attenuation lines and at higher production rates, the industry is expected to build rotary spin lines in the future rather than flame attenuation lines. Therefore, the proposed NSPS would apply to new, modified, or reconstructed rotary spin lines and not to flame attenuation lines.

Selection of Pollutants

The typical wool fiberglass production line consists of three continuous operations in series: forming, in which glass fibers are generated, sprayed with a chemical binder, and collected to form a mat; curing, in which the binder resin is thermally "set" to hold the fibers together; and cooling, in which the temperature of the fiberglass mat is reduced.

Emissions generated during the manufacture of wool fiberglass insulation include solid particles of glass and resin, droplets of binder, and components of the binder that have been vaporized. Glass particles may be entrained in the exhaust gas stream during the forming, curing, or cooling operations. Solid particles of resin may be entrained in the gas stream in either the curing or cooling sections. Droplets of organic binder may be entrained in the gas stream in the forming section or may result from condensation of gaseous pollutants as the gas stream is cooled. Some of the liquid binder used in the forming section is vaporized by the elevated temperatures in the forming and curing processes. Much of the vaporized material will condense when the gas stream is cooled in the ductwork or in the emission control device.

Particulate matter is the principal pollutant that has been identified and measured at wool fiberglass insulation manufacturing facilities. It was known that some fraction of the particulate emissions results from condensation of organic compounds used in the binder. Therefore in evaluating emissions and control device performance, a sampling method was used that could collect and measure both solid particles and condensed particulate material. Test data show that 10 to 47 percent of the particulate emissions from wool fiberglass facilities are condensed particulate material. Test data also show that emissions of both solid particles and condensible particulate material can be effectively reduced by the use of certain control techniques. Therefore, the proposed standard would limit particulate emissions based on the measurement of both solid particles and condensible particulate material. Specifically, particulate matter as regulated under the proposed standard includes material caught in the front half (nozzle, probe, and filter) of a standard EPA Reference Method 5 sampling train plus the condensed material caught in the impinger train measured as TOC. This variation in Reference Method 5, designated Reference Method 5E, is described in detail below under "Selection of Performance Test Methods" and in Appendix D of the BID.

Selection of Affected Faciiity

The choice of the affected facility for this standard is based on the Agency's interpretation of section 111 of the Clean Air Act and on the judicial construction of its meaning. *ASARCO, Inc.* v. *EPA*, 578 F. 2d 319 (D.C. Cir. 1978). Under Section 111, the standards of performance for new stationary sources must apply to "new sources;" "source" is defined as "any building, structure, facility, or installation which emits or may emit any air pollutant." Section 111(a)(3). Most industrial plants, however, consist of numerous pieces or groups of equipment that emit air pollutants and may be viewed as "sources." The EPA, therefore, uses the term "affected facility" to designate the equipment, within a particualr kind of plant, that is chosen as the "source" covered by a given standard.

Wool fiberglass insulation manufacturing plants consist of multiple production lines. Lines are served by common storage and shipping areas and by one or more glass melting furnaces. Storage and shipping areas are not sources of emissions and glass melting furnaces are already regulated by an NSPS. New production facilities are built in multiples of the line unit. Therefore, the manufacturing line is the largest unit that was considered in the selection of an affected facility.

Manufacturing lines consist of forming, curing, and cooling sections operating in a continuous, contiguous process. Approximately 99 percent of the total line emissions are from the forming and curing sections. Even though cooling emissions are negligible at some plants, at others the cooling emissions may include fugitive emissions that escape from the curing section. This commingling of emissions occurs because fugitive emissions from the open terminal end of the curing oven may be induced into the cooling exhaust ductwork and discharged into the atmosphere. Therefore, to prevent the use of inefficient capture systems that would allow the escape of uncontrolled curing emissions into the cooling exhaust, all three sections of the line have been considered in defining the affected facility.

Many production lines built in the last 10 years have been designed with forming and curing or forming, curing, and cooling emissions streams ducted together and controlled by a common pollution control device, and future lines are expected to be controlled in this manner. In addition, standards for the individual line components could not be established because emission data cannot be obtained from forming, curing, and cooling processes that are well controlled separately. For these reasons, the manufacturing line has been selected as the affected facility.

Selection of Basis of Proposed Standards

In the development of new source performance standards, applicable emission control technologies are first examined. Regulatory alternatives, based on the control techniques identified and representing different levels of overall emission control, are developed. The environmental, economic, and energy impacts of each alternative on individual model plants and the industry as a whole are compared, and one alternative is selected on the basis of this comparison. The following is a summary of the results of this development process for the proposed standard for wool fiberglass insulation manufacturing facilities.

Control Technology. The level of emissions control found in the wool fiberglass insulation manufacturing industry ranges from uncontrolled to control of forming, curing, and cooling emissions from a line. Control technologies currently used by the industry include wet ESP's, low- and high-pressure-drop wet scrubbers, low- and high-temperature thermal incinerators, high velocity air filters (HVAF's), and process modifications. Except for process modifications, these control technologies are available to all firms in the industry.

The process modifications used in this industry are considered confidential by the industry and are not generally available. Therefore, an important question in the assessment of technology which could form the basis

for the standard is whether process modifications, either alone or in combination with add-on controls, should be considered. The mechanisms by which process modifications reduce emissions are not well understood. Because of this, and because of the differences in the process design and operation employed among firms, and in the products produced by different firms (and in some cases by different plants within the same firm), the Agency does not have a basis upon which to conclude that a process modification which has been demonstrated at one plant will necessarily be applicable to another plant. Therefore, the Administrator has determined that process modifications are not an appropriate candidate BDT for this industry.

To determine the effectiveness of the add-on control devices used in this industry, the Agency conducted emission tests at representative facilities judged to be well controlled. (Detailed discussions of these tests are presented in Chapter 4 and Appendix C of the BID and in the section of this preamble entitled "Selection of Numerical Emission Limit.") The tests measured emission levels prior to primary control devices as well as emission levels after the devices. In this manner, the Agency was able to determine the range of efficiencies for the control devices.

The efficiency of emission reduction for wet ESP's preceded by water sprays and low-pressure-drop wet scrubbers ranged from 78 to 93 percent. The efficiency of high-pressure-drop venturi scrubbers ranged from 68 to 72 percent. High velocity air filters exhibited efficiencies ranging from 41 to 81 percent. No inlet data could be obtained for low-pressure-drop scrubbers. However, based on the facts that high-pressure-drop scrubbers can achieve efficiencies of approximately 70 percent and that low-pressure-drop scrubbers are used at some facilities to meet State emission standards, the Agency assumed that low-pressure-drop scrubbers can reduce emissions by about 50 percent. No efficiency could be determined for the high-temperature incinerator tested because no inlet data could be obtained.

Based on the information and test data obtained for add-on control devices, the Administrator has determined that wet ESP's preceded by water sprays and a low-pressure-drop wet scrubber can be used to reduce emissions from all affected facilities expected in the future. Therefore, this control system was selected as the basis for the regulatory alternatives that the Agency evaluated to select the basis for an NSPS. However, venturi scrubbers may, in some cases, be capable of achieving a level of emission control comparable to that achieved by wet ESP's.

Regulatory Alternatives and Selection of BDT. Based on the technologies demonstrated for the control of particulate emissions from rotary spin production lines, four regulatory alternatives were selected for consideration as the basis of the proposed standard. Each regulatory alternative more stringent than the baseline represents a level of emissions control achieved using a wet ESP preceded by water sprays and a low-pressure-drop scrubber. For each alternative, the environmental, energy, and economic impacts associated with that level of emissions control were analyzed. The impacts that each regulatory alternative would have on the environment, the industry, and the consumer were then evaluated. Wet scrubber control technology was also analyzed for each regulatory alternative because, as discussed later in this preamble, this technology may achieve the same degree of emission reduction that wet ESP's achieve. The environmental, energy, and economic impacts of the use of wet scrubbers are presented in Chapters 7 through 9 of the BID.

The emission estimates for Regulatory Alternatives II through IV, described below, are different from the estimates presented in the BID. The BID estimates were made early in the development of the NSPS and were based on the best information on control device efficiencies available at that time. The emission estimates summarized below are based on actual emission measurements that were made in developing the NSPS.

These estimates reflect the highest emission levels expected from a typical plant under each regulatory alternative. However, actual emissions from new facilities are expected to be less than the estimated emissions most, if not all, of the time. The emission estimates summarized below, therefore, may overstate the emissions impact. These estimates are presented in detail in item II–B–50 of docket A–80–27.

Regulatory Alternative I is the baseline, the level of emissions control that is representative of existing SIP control levels and the level that is expected in the absence of an NSPS. The baseline represents a level of total line emissions control achievable using a low-pressure-drop [1.2 kpa (5 in. w.c.)] wet scrubber on forming a low-temperature [315°C (600°F)] incinerator on curing, and no control of cooling. (The selection of baseline control technology is discussed in Chapter 3 of the BID.) The remaining alternatives represent more stringent levels of emissions reduction from wool fiberglass insulation manufacturing lines.

Regulatory Alternative II represents the level of emissions control achievable using a wet ESP on forming and baseline control technology on curing and cooling (low-temperature incinerator and uncontrolled, respectively). This option was developed and analyzed in the initial development of the standard because it was found that forming and curing emissions have been controlled separately at some older lines. More recent information has shown that it is not likely that these emissions would be separately controlled at new lines and that it would be difficult to set separate NSPS for each segment of the line because emission data cannot be obtained for each segment. Nevertheless, the estimated environmental, economic, and energy impacts of Alternative II are presented in the BID and in this preamble for comparative purposes.

Alternative III represents the level of total line emissions control achievable using a wet ESP on forming and curing and baseline control technology on cooling (uncontrolled). Alternative IV represents the level of control achievable using a wet ESP to control emissions from the entire line.

The environmental, energy and economic impacts of the regulatory alternatives were estimated for a medium-size manufacturing plant consisting of three production lines. This typical plant has a production capacity of 104,300 Mg/yr (115,000 tons/yr).

The uncontrolled particulate emission level for a typical plant is approximately 3,020 Mg/yr (3,330 tons/yr). The particulate emission level associated with baseline control (Regulatory Alternative I) is 1,650 Mg/yr (1,820 tons/yr), a 45 percent reduction in emissions.

All particulate matter captured by the control device would require disposal as solid waste. The mass (weight) of water associated with the control device sludge was disregarded in the solid waste impact analysis. The baseline level of control (Alternative I) would generate approximately 1,360 Mg/yr (1,510 tons/yr) of solid waste for a typical plant.

The energy impacts for a typical fiberglass insulation plant were developed for each of the regulatory alternatives. These impacts include the

electrical and natural gas energy demands of the control devices associated with each alternative. The baseline level of emission control (Alternative I) requires 147 TJ/yr (1.4×10^{11} Btu/yr to operate the low-pressure-drop scrubbers and low-temperature thermal incinerators at a typical plant. The energy required by the thermal incinerators represents approximately 90 percent of the annual energy demand for this regulatory alternative. Regulatory Alternatives III and IV, because they do not include thermal incineration as a control technology, are significantly less energy intensive than the baseline.

An analysis of the economic impacts of the regulatory alternatives on the wool fiberglass insulation industry and on the consumer was performed. In the absence of an NSPS, the capital and annualized control costs associated with the baseline level (Alternative I) of emission control for a typical plant are $3.1 million and $2.0 million, respectively. The environmental, energy, and economic impacts for a typical new plant are presented in Table 1 for Alternatives II through IV as compared to the baseline level of control.

TABLE 1.—INCREMENTAL IMPACTS OF REGULATORY ALTERNATIVES ON A TYPICAL NEW PLANT COMPARED TO ALTERNATIVE I

	Alternative II	Alternative III	Alternative IV
Environmental impacts:			
• Emission reduction	815 Mg/yr (895 tons/yr)	1,075 Mg/yr (1,185 tons/yr)	1,085 Mg/yr (1,200 tons/yr).
• Percent emission reduction	50	65	66.
• Percent increase in solid waste	60	78	79.
• Water pollution	No impact	No impact	No impact.
Energy impacts:			
• Total energy increase/decrease for emission controls	+19.8 TJ/yr ($+1.3 \times 10^{10}$ Btu/yr)	−113.7 TJ/yr (-1.1×10^{11} Btu/yr)	−111.7 TJ/yr (-1.1×10^{11} Btu/yr).
• Percent increase/decrease	+9	−77	−76.
Economic impacts:			
• Increase in capital control costs (January 1982 dollars)	$4.167 million	$4.539 million	$4.854 million.
• Increase in annualized control costs (January 1982 dollars)	$7.239 million	$0.511 million	$0.614 million.
• Incremental cost of pollutant removal	$1,520/Mg ($1,380/ton)	$475/Mg ($430/ton)	$565/Mg ($510/ton).

The environmental, energy, and economic impacts of the regulatory alternatives were also determined for all new affected facilities in the fifth year following proposal of the NSPS. These impacts are based on the projection that the equivalent of 3 new plants (each having 3 lines) and 17 new manufacturing lines at existing plants will be constructed in the 5-year period from 1983 to 1988. Under the level of control achieved by Regulatory Alternative I, particulate emissions in the fifth year would be 14,200 Mg (15,660 tons). The energy consumption in the fifth year associated with this level of control would be 1,590 TJ (1.5×10^{12} Btu). Under Alternative I, the total capital costs of emission controls through the first 5 years for new affected facilities would be $27.5 million, and the annualized costs of these controls in the fifth year would be $19.5 million. Table 2 presents the incremental impacts of Alternatives II through IV in the fifth year compared to the impacts under Alternative I.

TABLE 2.—INCREMENTAL IMPACTS OF REGULATORY ALTERNATIVES ON NEW AFFECTED FACILITIES IN THE FIFTH YEAR COMPARED TO ALTERNATIVE I

	Alternative II	Alternative III	Alternative IV
Environmental impacts:			
• Emission reduction	7,010 Mg (7,725 tons)	9,260 Mg (10,200 tons)	9,360 Mg (10,310 tons).
• Percent emission reduction	50	65	66.
• Percent increase in solid waste	60	78	79.
Energy impacts:			
• Total energy increase/decrease for emission controls	+1,710 TJ ($+1.6 \times 10^{12}$ Btu)	−1,280 TJ (-1.2×10^{12} Btu)	−1,280 TJ (-1.2×10^{12} Btu).
• Percent increase/decrease	+8	−60	−79.
Economic impacts:			
• Increase in capital control costs (January 1982 dollars)	$36.114 million	$41.443 million	$44.533 million.
• Increase in annualized control costs (January 1982 dollars)	$10.721 million	$3.148 million	$4.154 million.

Because the fiberglass insulation industry has a market structure such that a few large firms share the majority of total product sales, it is predicted that the firms in this industry would pass the control costs associated with these regulatory alternatives on to the consumer. Assuming costs would be passed through by the industry, the maximum product price increase under Alternative II would be less than 2 percent and under Alternatives III and IV would be less than 1 percent. If, however, the firms in this industry completely absorb the control costs associated with the regulatory alternatives, the maximum adverse impact on return on investment after taxes would range from a reduction of 0.7 percent for a small plant to a reduction of 1.2 percent for a large plant.

Implementation of an NSPS based on the level of emission reduction represented by Regulatory Alternative II would reduce particulate emissions 50 percent below the baseline level for a typical plant. The cost per unit of pollutant removed, compared to the baseline level of control, is approximately $1,520/Mg ($1,380/ton). An NSPS based on Regulatory Alternative III would reduce particulate emissions 65 percent below the baseline level, and the cost per unit of pollutant removed compared to the baseline level of control is $475/Mg ($430/ton). Regulatory Alterative IV would reduce particulate emissions 66 percent below the baseline level and, compared to the baseline, would cost $565/Mg ($510/ton) of pollutant removed. Therefore, compared to the baseline level of control, Alternative III is the most cost effective regulatory option.

Because the emission reduction under Alternative IV is greater than the emission reduction under Alternative III, Alternative IV would be preferred if the

additional cost of pollutant removal is reasonable. However, the additional cost of Alternative IV compared to Alternative III is unreasonably high [greater than $9,300/Mg ($8,400/ton)] because of the small incremental emission reduction achieved through control of cooling emissions.

The environmental, energy, and economic impacts of Regulatory Alternatives II through IV were also compared to an alternative baseline control device configuration consisting of a low-pressure-drop wet scrubber on forming and no control device on curing and cooling. This comparison was made because a significant number of the existing production lines surveyed by the Agency do not control curing emissions. Therefore, this revised baseline represents the same level of emissions control as the established baseline (because low-temperature incineration does not destroy particulate matter) but at a lower cost. Regulatory Alternative II was similarly revised for this alternative impact analysis by excluding the low-temperature incinerator on curing. The results of this analysis are presented in Tables 3 and 4 for the impacts on a typical new plant and industrywide in the fifth year of the NSPS, respectively.

TABLE 3.—INCREMENTAL IMPACTS OF REGULATORY ALTERNATIVES ON A TYPICAL NEW PLANT COMPARED TO REVISED ALTERNATIVE I

	Alternative II*	Alternative III	Alternative IV
Environmental impacts:			
● Emission reduction	815 Mg/yr (895 tons/yr)	1,075 Mg/yr (1,185 tons/yr)	1,085 Mg/yr (1,200 tons/yr).
● Percent emission reduction	50	65	66.
● Percent increase in solid waste	60	78	75.
● Water pollution	No impact	No impact	No impact.
Energy impacts:			
● Total energy increase for emission controls	13.8 TJ/yr (1.3×10^{10} Btu/yr)	17.7 TJ/yr (1.7×10^{10} Btu/yr)	19.7 TJ/yr (1.9×10^{10} Btu/yr).
● Percent increase	58	111	123.
Economic impacts:			
● Increase in capital control costs (January 1982 dollars)	$4.167 million	$5.244 million	$5.580 million.
● Increase in annualized control costs (January 1982 dollars)	$1.239 million	$1.591 million	$1.694 million.
● Incremental cost of pollutant removal	$1,520/Mg ($1,380/ton)	$1,460/Mg ($1,340/ton)	$1,560/Mg ($1,415/ton)

* Revised control device configuration.

TABLE 4.—INCREMENTAL IMPACTS OF REGULATORY ALTERNATIVES ON NEW AFFECTED FACILITIES IN THE FIFTH YEAR COMPARED TO REVISED ALTERNATIVE I

	Alternative II*	Alternative III	Alternative IV
Environmental impacts:			
● Emission reduction	7,010 Mg (7,725 tons)	9,260 Mg (10,200 tons)	9,360 Mg (10,310 tons).
● Percent emission reduction	50	65	66.
● Percent increase in solid waste	60	78	79.
Energy impacts:			
● Total energy increase for emission controls	119.7 TJ (1.1×10^{11} Btu)	164.1 TJ (1.6×10^{11} Btu)	163.7 TJ (1.7×10^{11} Btu).
● Percent increase	84	115	125.
Economic impacts:			
● Increase in capital control costs (January 1982 dollars)	$36.114 million	$47.954 million	$51.054 million.
● Increase in annualized control costs (January 1982 dollars)	$10.721 million	$14.599 million	$15.605 million.

* Revised control device configuration.

Under this alternative impact analysis, implementation of an NSPS based on Regulatory Alternatives II, III, and IV would reduce particulate emissions from a typical new plant by 50, 65, and 66 percent, respectively, compared to the baseline level. The cost of pollutant removal, compared to the baseline, would be $1,520/Mg ($1,380/ton) under Alternative II, $1,460/Mg ($1,340/ton) under Alternative III, and $1,560/Mg (1,415/ton) under Alternative IV. Alternative III is the most cost effective regulatory option compared to the baseline level of control. A comparison of the incremental cost effectiveness between alternatives shows that the additional cost of Alternative III over Alternative II is $1,350/Mg ($1,255/ton), and the additional cost of Alternative IV over Alernative III is $9,365/Mg ($8,495/ton). This incremental cost per megagram is higher than control costs at many particulate sources. However, most of the emissions from fiberglass operations result from condensation. These emissions are highly visible and are thought to be primarily fine particulate matter. Considering this and the generally urban location of these facilities, the incremental cost per megagram for Alternative III compared to the baseline or Alternative II is considered reasonable.

The analyses discussed above indicate that the cost, economic, environmental, and energy impacts associated with Regulatory Alternative III are reasonable. Therefore, the wet ESP control technology specified for Alternative III is considered to reflect BDT for wool fiberglass insulation manufacturing lines and is recommended as the basis for the proposed standard.

Selection of Format of Proposed Standard

The primary consideration in selecting the format for an NSPS is the degree to which it contributes to the reduction of mass emissions through the application of BDT on affected facilities. For the proposed NSPS for wool fiberglass insulation manufacturing facilities, several formats were evaluated: mass emission rate [kg/h (1b/h)], concentration [mb/dscm (gr/dscf)], percent reduction, and process weight factor [kg/Mg (1b/ton)]. A standard expressed in terms of mass emission rate would be achieved more easily by small lines than by large lines. Therefore, this format was rejected because it would not ensure application of BDT on all sizes of lines in the industry. Because process air flow rates for this industry vary over a wide range for facilities of the same production capacity, a concentration format would allow lines with high air flows per unit of production to emit more pollutants to the atmosphere than lines with low air flows per unit of production. This could

encourage the use of high air flows per unit of production that would result in high mass emission rates to the atmosphere. Therefore, concentration was rejected as a format of the standard. A percent reduction format would not provide credit for emission reductions that may be achievable through process modifications. In addition, the cost to industry would be higher under a percent reduction format than the cost under other formats because testing is required at both the inlet and outlet of the control device(s). However, because of process equipment configurations, inlet testing is not always possible in this industry. Therefore, a percent reduction format was rejected. A process weight factor is independent of operating time and process air flow rate. Because emissions increase as production rate increases, this format would result in the maximum reduction of emissions to the atmosphere and would ensure application of BDT on affected facilities. Production information on glass pull rate is routinely monitored at all manufacturing lines; therefore, this format would not result in higher costs for compliance testing compared to other formats. For these reasons, a format in kg/Mg (lb/ton) of glass pulled was selected as the format of the proposed standard.

Selection of Numerical Emission Limit

The numerical emission limit for the wool fiberglass insulation manufacturing NSPS is based on control levels achievable with the use of BDT. A particulate mass emission limit of 5.5 kg/Mg (11.0 lb/ton) of molten glass pulled is proposed for this industry. For the reasons explained under "Selection of Affected Facility," this limit would be applicable to total line emissions (forming, curing, and cooling) from new, modified, or reconstructed manufacturing lines during the production of any wool fiberglass insulation product. Based on the Agency's consideration of factors relevant to the level of controlled emissions (e.g., product type, product density) and the results of the emission test program, the Administrator has determined that the proposed emission limit is achievable in all circumstances that can be reasonably foreseen. A summary of the factors considered in the selection of the emission limit is presented below in the discussion of emission test data, and a complete discussion is presented in Chapter 3 of the BID.

A survey of wool fiberglass insulation manufacturers and regional, State, and local environmental control agencies was conducted to locate well-controlled manufacturing facilities. Based on this survey, nine wool fiberglass plants were visited to select the best lines for emissions testing. During the inspections of individual production lines, the control devices and ductwork configurations were visually inspected, opacity observations were made at control device outlet stacks, and, when available, emission test reports and engineering drawings were examined. The information collected during plant inspections was evaluated, and the best-controlled lines were selected for emissions testing.

Emission tests were conducted on nine rotary spin manufacturing lines at six plants. Data from six tests on four lines were considered in the selection of the numerical emission limit. Data from Line A were considered because Line A uses the control technology selected as BDT, a wet ESP preceded by water sprays and a wet scrubber. Data from Lines B, D, and L were considered because these lines use control systems that reduce emissions to levels lower than the emission levels measure at Line A. The control systems on these three lines are not considered BDT candidates because they include process modifications that may not be applicable to the entire industry. However, these control systems may be BDT in situations where they can be used. Most of the projected new production capacity will be added by the firms that presently use these process modifications. It is expected that these firms will use the same types of control systems on new lines that they use on existing lines and that they will, therefore, achieve emission levels lower than those measured at Line A.

Additional data were collected from uncontrolled production lines or were excluded from the data base because of process upset conditions, control equipment malfunctions, or procedural discrepancies with EPA test methods. The excluded test data and the reasons for their exclusion, as well as the data from the uncontrolled lines, are presented in Appendix C of the BID.

The four lines that comprise the data base for the proposed standard range in size from small to large. For each test, the operating conditions of the process and control devices were, unless otherwise noted, representative of normal plant operating conditions. The average production rates of the four lines during testing ranged from 1,800 to 5,900 kg/h (4,000 to 13,000 lb/h) or from 14,400 to 47,200 Mg/yr (16,000 to 52,000 tons/yr) and from 80 to 100 percent of design capacity. Tests were performed during the production of R–11 building insulation, R–19 building insulation, ductboard, and heavy density insulation; however, not all products could be tested on all four lines. These products have densities ranging from 8.2 to 118.5 kg/m³ (0.5 to 7.4 lb/ft³) and loss of ignition (LOI) values ranging from 3.9 to 18.0 percent. (The LOI of a product is a measure of the amount of binder present.) These products were identified by the industry as those that would reflect the range of emissions likely to be generated by wool fiberglass manufacturing operations. A summary description of the lines tested and the emission test results follow:

Manufacturing Line A is equipped with a wet ESP to control forming and curing emissions. Cooling emissions are uncontrolled. The wet ESP is preceded by low-pressure-drop [2.5 kPa (10 in. w.c.)] wet scrubbers and continuous water sprays whose function is to increase the moisture content of the gas stream before it enters the wet ESP. Separate tests were performed on this line during the production of three different products: R–11 building insulation, R–19 building insulation, and ductboard.

The average total line particulate emission levels at Line A (wet ESP outlet plus uncontrolled cooling emissions) ranged from 3.4 to 4.9 kg/Mg (6.8 to 9.9 lb/ton) of glass pulled for the three products tested. (The "average" mass emission level is the arithmetic average of the emission levels from individual test runs performed during production of the specified product. Usually, three or four test runs comprise an average.) The average emission levels by product were 3.4 kg/Mg (6.8 lb/ton) for R–11 building insulation, 4.0 kg/Mg (8.1 lb/ton) for R–19 building insulation, and 4.9 kg/Mg (9.9 lb/ton) for ductboard.

Line B utilizes a combination of process modifications and add-on control devices to limit emissions. Add-on devices include low-pressure drop [1.2 kPa (5 in. w.c.)] wet scrubbers and cyclone demisters on the forming section, a high-temperature [700°C (1300°F)] thermal incinerator on the curing section, and a settling chamber on the cooling section. The exhaust gases from the incinerator outlet and from the cyclone outlets are ducted to a mixing chamber and vented to the atmosphere. Tests were conducted on this line during the production of heavy density insulation. Cooling emissions were not measured. The average

particulate emission level at Line B for forming and curing emissions was 2.0 kg/Mg (4.0 lb/ton) of glass pulled.

Line D is equipped with a wet ESP to control forming, curing, and cooling emissions. The wet ESP is preceded by water sprays, drop-out chambers, and cyclonic separators on the forming section and water sprays on the curing and cooling sections. The forming section includes air recirculation, a process modification prior to the wet ESP that reduces the air flow to the control device relative to the total air flow from the forming section. Testing was performed on this line during the production of R–19 building insulation. The average total line particulate emission level at Line D was 1.6 kg/Mg (3.2 lb/ton) of glass pulled.

Line L utilizes high-pressure drop [designed for 6.7 kPa (35 in. w.c.)] venturi scrubbers to control emissions from the forming, curing, and cooling sections. The forming emissions are controlled by two scrubbers in parallel, both of which are preceded by cyclone separators. Forming air recirculation similar to that used on Line D is also used on this line prior to the cyclones and wet scrubbers. Curing and cooling emissions are ducted together and controlled by a third venturi scrubber. Water sprays are located in the ductwork from the curing oven to the scrubber. Testing was performed on this line during the production of R–19 building insulation. The average total line particulate emission level at Line L was 1.2 kg/Mg (2.5 lb/ton) of glass pulled.

Process modifications are used alone or in conjunction with add-on devices to control emissions from many wool fiberglass insulation manufacturing lines. The Agency's test data suggest that process modifications alone may, at least in some cases, reduce emissions to levels comparable to those achieved by add-on control devices on facilities where process modifications are not used. (For example, the emission level measured prior to the wet scrubber controls at Line L was 4.4 kg/Mg (8.7 lb/ton) of glass pulled, which is less than the outlet emission level from the wet ESP at Line A.) The data base shows that the lowest emission levels are achieved when process modifications are used concurrently with an add-on control device (Line D, Line L) rather than when only a wet ESP is used (Line A).

Data from the Agency's test program (Line L) show that venturi scrubbers in conjunction with forming air recirculation, which is a process modification, effectively reduce emissions from wool fiberglass insulation manufacturing facilities. However, data to evaluate the performance of venturi scrubbers on manufacturing lines without forming air recirculation could not be obtained. In addition, it was not possible to gather information on particle characteristics necessary to make a technical judgment as to what level of performance venturi scrubbers could achieve on lines without air recirculation under all process conditions. Therefore, although the Agency believes that venturi scrubbers may be capable of achieving a level of emission control comparable to that achieved by wet ESP's, the emission level achievable in all cases using scrubber control technology could not be determined. The Agency requests comments and information on the issue of whether venturi scrubbers can meet the proposed standard.

The proposed numerical emission limit of 5.5 kg/Mg (11.0 lb/ton) is based on the emission levels measured at Line A. The controlled emissions from this line, which has a wet ESP on the forming and curing sections and no control of cooling emissions, ranged from 4.7 to 5.1 kg/Mg (9.4 to 10.3 lb/ton) and averaged 4.9 kg/Mg (9.9 lb/ton) of glass pulled during the production of ductboard insulation. Although compliance with an emission limit is determined using the average of the individual test runs, the highest single test run at Line A was considered when selecting the proposed emission limit to ensure that the standard would be achievable under all normal operating conditions.

The proposed emission limit applies to emissions from forming, curing, and cooling sections of the production line. Therefore, although the proposed limit can be achieved by control of forming and curing emissions only (e.g., Line A), cooling emissions must also be measured to demonstrate compliance with the proposed emission limit. This requirement will ensure that significant quantities of uncontrolled curing emissions do not escape from the affected facility through the cooling section exhaust ductwork. At Line A, the highest controlled emissions level measured was 5.1 kg/Mg (10.3 lb/ton) and included uncontrolled cooling emissions of 0.1 kg/Mg (0.2 lb/ton). The highest uncontrolled cooling emissions level measured during the test program was 0.3 kg/Mg (0.6 lb/ton). Therefore, the proposed emission limit of 5.5 kg/Mg (11.0 lb/ton) is achievable for lines that do not control cooling emissions.

Test data were obtained during production of several different fiberglass insulation products. However, the data base did not show clear differences in the level of mass emissions to establish separate emission standards for each product. It is the Administrator's judgment that establishing a single emission limit will result in the use of BDT or its equivalent during the production of all insulation products.

The test data for Lines B, D, and L show that emissions can be reduced significantly below the proposed limit of 5.5 kg/Mg (11.0 lb/ton) on lines where process modifications are used. However, these modifications are not available to all firms in the industry. Therefore, a more stringent emission limit based on the use of process modifications as a control technology was not selected.

Selection of Monitoring Requirements

Section 302(1) of the Clean Air defines the term "standard of performance" to mean "a requirement of continuous emission reduction, including any requirement relating to the operation or maintenance of a source to assure continuous emission reduction." New source performance standards often include provisions to indicate that control equipment is properly operated and maintained and, thus, assure continuous emission reduction.

The opacity of visible emissions from control device stacks and control device operating parameters are both meaningful as indicators of proper operation and maintenance. Opacity limits can usually be established that, when they are exceeded, indicate when mass emission limits are being exceeded. Alternatively, there are certain critical control device operating parameters that, when maintained within a narrow range of values during normal operation of the control device, indicate proper operation and maintenance. These critical operating parameters are routinely measured at most plants in this industry.

The emissions streams from fiberglass manufacturing processes contain variable amounts of moisture; moisture levels from 5 to 15 percent have been measured in control device exhaust streams. When steam plumes are present at control device stack outlets, the visible emissions observer must determine the opacity of emissions at a point after the steam plume has dissipated, as specified in EPA Reference Method 9. Thus, the opacity of emissions is determined at some variable distance from the stack outlet at a point where the emissions have been diluted. This distance and, consequently, the amount of dilution of particulate matter in the plume may vary with the exhaust gas moisture content and with weather conditions. Therefore,

on a nationwide basis, an NSPS opacity limit for wool fiberglass insulation manufacturing facilities may not be as sensitive or useful an indicator of proper control device operation and maintenance as the monitoring of critical control device parameters. For these reasons, no visible emission standard is proposed under this NSPS. (In many cases, State and local visible emission standards apply to wool fiberglass insulation manufacturing facilities. The absence of an opacity limit in this NSPS does not affect these standards that are used to limit emissions and/or to facilities effective enforcement in the respective State or local area.) Therefore, to monitor the potential degradation in the performance of wet control devices over time, the proposed standard would require the owner or operator of wet ESP's and wet scrubbers to measure and record selected control device operating parameters. These recorded values would then be available to enforcement and industry personnel for comparison against the range of values of each operating parameter recorded during the performance test when the mass emission limit was being met.

The proposed standard would require the owner or operator of an affected facility using a wet ESP to comply with the proposed mass emission limit to install monitoring devices that measure the following wet ESP parameters: primary and secondary current (amperes) and voltage in each electrical field, and inlet water flow rate. In addition, the owner or operator would be required to determine and record the total solids content of the water entering the wet ESP once per day and to record the measurements noted above once every 4 hours. Monitoring of current and voltage is useful to detect electrical malfunctions in the ESP such as short circuiting, particle build-up on electrodes, broken electrodes, and cracked insulators. Monitoring of water flow rate and total solids concentration can indicate when water spray nozzles in the ESP become plugged and are no longer providing adequate cleaning of collection plates.

An owner or operator of an affected facility using wet scrubbers to comply with the proposed mass emission limit would be required to install monitoring devices that measure the gas pressure drop and the scrubbing liquid flow rate for each wet scrubber and to record the measurements noted above once every 4 hours. Monitoring of these parameters can indicate malfunctions in the water pumping equipment, blockage of pipes, and the need to adjust the variable throat opening (if applicable).

The Agency believes that changes in the values of operating parameters from those measured during a performance test are good indicators for an owner or operator and an enforcement agency to use to verify proper operation and maintenance of a control device. Not maintaining the operating parameters at levels within the range recorded during the performance test could indicate a violation of the requirements to operate and maintain properly the control equipment, as stated in § 60.11(d) of the General Provisions. This section states:

> At all times, including periods of startup, shutdown, and malfunction, owners and operators shall, to the extent practicable, maintain, and operate any affected facility including associated air pollution control equipment in a manner consistent with good air pollution practice for minimizing emissions. Determination of whether acceptable operating and maintenance procedures are being used will be based on information available to the Administrator, which may include, but is not limited to, monitoring results, opacity observations, review of operating and maintenance procedures, and inspection of the source.

Although periods of excursions from, or reductions in, the various operating parameters would not, of themselves, constitute a violation of the numerical emission limit, they may indicate to an enforcement agency the need to conduct a performance test. The results of the performance test would be used to determine compliance with the numerical emission limit in accordance with § 60.11(a) of the General Provisions.

Under § 60.7(d) of the General Provisions, the owner or operator is required to maintain the monitoring records at the source for a minimum of 2 years and to make these records available for inspection, upon request, by Agency personnel or their representatives.

Selection of Performance Test Method

Reference Method 5E, "Determination of Particulate Emissions From the Wool Fiberglass Insulation Manufacturing Industry," is proposed as a new test method to determine compliance with the proposed mass emission standard by wool fiberglass insulation manufacturing facilities. Reference Method 5E specifies the procedures to determine the total particulate catch, i.e., the mass of particulate matter caught by the nozzle, probe, and filter of the sampling train plus the mass of condensed material captured in the impingers. The Reference Method 5E sampling train is a modified version of the standard Reference Method 5 sampling train. The modifications include maintaining the temperature of the filtered gas stream, rather than the filter compartment air temperature, at 120°±14°C (248°±25°F) and the use of 0.1 *N* sodium hydroxide (NaOH) instead of water in each of the first two impingers. The first modification ensures that the sample gas stream is maintained at the desired temperature to prevent the condensation of material on the probe and filter. The second modification improves the capture efficiency of the impingers because the solubility of many organic compounds is greater in dilute NaOH than in water. The condensible emissions captured by the impingers will be measured as total organic carbon (TOC) using a TOC analyzer.

Total particulate catch (filter catch plus condensible fraction) is recommended as the test method because it best assesses performance that reflects the use of BDT for this industry. Wet control devices can effectively reduce the levels of solid and condensible particulate matter present in the emission stream from wool fiberglass insulation manufacturing facilities. However, because of the high moisture content of the exhaust gas stream from wet control devices, the sample gas stream must be heated to a temperature considerably higher than that of the exhaust gas stream to vaporize the water droplets to prevent clogging of the front half of the sampling train. This heating may also vaporize compounds that are aerosols at the stack gas temperature. These vaporized compounds are then cooled to a temperature below that of the exhaust gas stream and are condensed and collected in the impinger train.

The general requirements for performance testing to determine compliance with NSPS are specified in § 60.8 of the General Provisions to 40 CFR Part 60. Section 60.8(c) states in part that, "Performance tests shall be conducted under such conditions as the Administrator shall specify to the plant operator based on representative performance of the affected facility." Representatives of the wool fiberglass industry have indicated to the Agency that uncontrolled emissions are related to the LOI value of the product being produced, and that the higher the LOI value, the higher the contribution to uncontrolled emissions from the binder component of the product.

The proposed standard is set at a level that is achievable during production of products with the highest LOI values. Therefore, performance

tests must be conducted during the production of the product having the highest LOI value of those products made on the line tested. This ensures that the standard reflects BDT.

Impacts of Reporting and Recordkeeping Requirements

Two types of reports are required by the General Provisions of 40 CFR Part 60, which apply to all NSPS. First, there would be notification requirements, which would enable the Agency to keep abreast of facilities subject to the standard. Second, there would be reporting of the results of performance tests that would be conducted to determine compliance with the standard. In addition, the proposed standard would require the owners or operators of affected facilities to submit semiannual reports of any monitoring data that are less than 70 percent of the lowest value or greater than 130 percent of the highest value of each operating parameter recorded during the most recent performance test. On a semiannual basis, the owners or operators would also be required to submit documentation of, and a report of corrective maintenance required as a result of, quarterly calibrations of the monitoring devices. The reporting requirements associated with monitoring devices are waived for affected facilities in States where the program has been delegated if, in the course of delegation, the EPA approves reporting requirements or an alternative means of source surveillance adopted by the State. Such sources would be required to comply with the requirements adopted by the State.

The information collection requirements in this proposed rule have been submitted for approval to the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.* Comments on these requirements should be submitted to the Office of Information and Regulatory Affairs of OMB, marked "Attention: Desk Officer for EPA." The final rule package will respond to any OMB or public comments on the information collection requirements.

Regulatory Flexibility Analysis

The Regulatory Flexibility Act of 1980 requires that adverse effects of all Federal regulations upon small businesses be identified. To comply with this requirement, the EPA determines if small businesses are likely to be affected by a proposed regulation and, if so, performs a small business impact analysis.

For the purposes of the Regulatory Flexibility Act, a small business is "any business concern which is independently owned and operated and not dominant in its field as defined by the Small Business Administration Regulations under section 3 of the Small Business Act." Firms that own and operate wool fiberglass insulation manufacturing facilities are classified in SIC 3296. The Small Business Administration has determined that any firm classified in SIC 3296 that employs fewer than 750 workers is considered small in regard to the Small Business Act. None of the five firms in this industry qualify as a small business because each employs more than 750 workers.

Based on these considerations, it is the Administrator's determination that the proposed regulation would not affect any small business. Therefore, a small business impact analysis has not been prepared.

Public Hearing

If requested, a public hearing will be held to discuss the proposed standard in accordance with section 307(d)(5) of the Clean Air Act. Persons wishing to make oral presentations should contact the EPA at the address given in the **ADDRESSES** section of this preamble. Oral presentations will be limited to 15 minutes each. Any member of the public may file a written statement before, during, or within 30 days after the hearing. Written statements should be addressed to the Central Docket Section address given in the **ADDRESSES** section of this preamble.

A verbatim transcript of the hearing and written statements will be available for public inspection and copying during normal working hours at EPA's Central Docket Section in Washington, D.C. (see **ADDRESSES** section of this preamble).

Docket

The docket is an organized and complete file of all the information submitted to or otherwise considered by the Agency in the development of this proposed rulemaking. The principal purposes of the docket are (1) to allow interested parties to ide- tify and locate documents so that they can effectively participate in the rulemaking process and (2) to serve as the record in case of judicial reveiw [except for interagency review materials (section 307(d)(7)(A))].

Miscellaneous

As prescribed by section 111, establishment of a standard of performance for wool fiberglass insulation manufacturing facilities was preceded by the Administrator's determination (40 CFR 60.16, 44 FR 49222, dated August 21, 1979) that fiberglass manufacturing plants contribute significantly to air pollution which may reasonable be anticipated to endanger public health or welfare.

Standards of performance have other benefits in addition to achieving reductions in emissions beyond those required by a typical SIP. They establish a degree of national uniformity. Further, standards of performance provide documentation which reduces uncertainty in case-by-case determinations of best available control technology (BACT) for facilities located in attainment areas and lowest achievable emission rates (LAER) for facilities located in nonattainment areas. This documentation includes identification and comprehensive analysis of alternative emission control technologies, development of associated costs, an evaluation and verification of applicable emission test methods, and identification of specific emission limits achievable with alternate technologies. The costs are provided in a study of the economic impact of controls on an industry.

The rulemaking process that implements a performance standard assures adequate technical review and promotes participation of representatives of the industry being considered for regulation, government, and the public affected by that industry's emissions.

In accordance with section 117 of the Clean Air Act, publication of this proposal was preceded by consultation with appropriate advisory committees, independent experts, and Federal departments and agencies.

The Administrator will welcome comments on all aspects of the proposed regulation, including economic and technological issues, and on the proposed test method. Any comments submitted to the Administrator should contain specific information and data pertinent to an evaluation of the magnitude and severity of any adverse impact and should suggest alternative courses of action to avoid this impact.

This regulation will be reviewed 4 years from the date of promulgation as required by the Clean Air Act. This review will include an assessment of such factors as the need for integration with other programs, the existence of alternative methods, enforceability, improvements in emission control technology, and reporting requirements.

Section 317 of the Clean Air Act requires the Administrator to prepare an economic impact assessment for any new source performance standard

promulgated under section 111(b) of the Act. An economic impact assessment was prepared for the proposed regulation and for other regulatory alternatives. All aspects of the assessment were considered in the formulation of the proposed standard to ensure that the proposed standard would represent the best system of emission reduction considering costs. The economic impact assessment is included in the BID.

Under Executive Order 12291, the EPA must judge whether a regulation is "major" and therefore subject to the requirement of a regulatory impact analysis. This proposed regulation is not major because: (1) The national annualized compliance costs, including capital charges resulting from the standard, total less than $100 million; (2) the standard does not cause a major increase in prices or production costs; and (3) the standard does not cause significant adverse effects on domestic competition, employment, investment, productivity, innovation, or competition in foreign markets.

Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that this rule, if promulgated, will not have significant economic impact on a substantial number of small business entities because no small entities would be affected.

List of Subjects in 40 CFR Part 60

Air pollution control, Aluminum, Ammonium sulfate plants, Asphalt, Cement industry, Coal copper, Electric power plants, Glass and glass products, Grains, Intergovernmental relations, Iron, Lead, Metals, Metallic minerals, Motor vehicles, Nitric acid plants, Paper and paper products industry, Petroleum, Phosphate, Sewage disposal, Steel, Sulfuric acid plants, Waste treatment and disposal, Zinc, tires, Incorporation by Reference, Can surface coating, Sulfuric acid plants, Industrial organic chemicals, Organic solvent cleaners, Fossil fuel-fired steam generators, Fiberglass insulation.

Dated: January 26, 1984.

William D. Ruckelshaus,

Administrator.

PART 60—[AMENDED]

It is proposed that 40 CFR Part 60 be amended by amending § 60.17 of Subpart A, by adding a new Subpart PPP, and by adding a new reference method to Appendix A as follows:

1. Section 60.17 of Subpart A is amended by adding paragraphs(a)(34) and (e)(1) as follows:

§ 60.17 Incorporation by reference.

* * * * *

(a) * * *

(34) ASTM D2584–68, Standard Test Method for Ignition Loss of Cured Reinforced Resins, IBR approved (date) for § 60.685(e).

* * * * *

(e) The following material is available for purchase from the Water Pollution Control Federation (WPCF), 2626 Pennsylvania Avenue NW., Washington, D.C. 20037.

(1) Method 209A, Total Residue Dried at 103–105°C, in *Standard Methods for the Examination of Water and Wastewater*, 15th Edition 1980, IBR approved (date) for § 60.683(b).

2. A new Subpart PPP is added as follows:

Subpart PPP—Standard of Performance for Wool Fiberglass Insulation Manufacturing Plants

Sec.

60.680 Applicability and designation of affected facility.
60.681 Definitions.
60.682 Standard for particulate matter.
60.683 Monitoring of operations.
60.684 Recordkeeping and reporting requirements.
60.685 Test methods and procedures.

Authority: Secs. 111 and 301(a) of the Clean Air Act, as amended [42 U.S.C. 7411, 7601(a)], and additional authority as noted below.

Subpart PPP—Standard of Performance for Wool Fiberglass Insulation Manufacturing Plants

§ 60.680 Applicability and designation of affected facility.

(a) The affected facility to which the provisions of this subpart apply is each rotary spin wool fiberglass insulation manufacturing line.

(b) The owner or operator of any facility under paragraph (a) of this section that commences construction, modification, or reconstruction after February 7, 1984 is subject to the requirements of this subpart.

§ 60.681 Definitions.

As used in this subpart, all terms not defined herein shall have the meaning given them in the Act and in Subpart A of this part.

"Glass pull rate" means the mass of molten glass utilized in the manufacture of wool fiberglass insulation at a single manufacturing line in a specified time period.

"Manufacturing line" means the manufacturing equipment comprising the forming section, where molten glass is fiberized and a fiberglass mat is formed; the curing section, where the binder resin in the mat is thermally "set;" and the cooling section, where the mat is cooled.

"Rotary spin" Means a process used to produce wool fiberglass insulation by forcing molten glass through numerous small orifices in the side wall of a spinner to form continuous glass fibers that are then broken into discrete lengths by high velocity air flow.

"Wool fiberglass insulation" means a thermal insulation material composed of glass fibers and made from glass produced or melted at the same facility where the manufacturing line is located.

§ 60.682 Standard for particulate matter.

On and after the date on which the performance test required to be conducted by § 60.8 is completed, no owner or operator subject to the provisions of this subpart shall cause to be discharged into the atmosphere from any affected facility any gases which contain particulate matter in excess of 5.5 kg/Mg (11.0 lb/ton) of glass pulled.

§ 60.683 Monitoring of operations.

(a) An owner or operator subject to the provisions of this subpart who uses a wet scrubbing control device to comply with the mass emission standard shall install, calibrate, maintain, and operate monitoring devices that measure the gas pressure drop across each scrubber and the scrubbing liquid flow rate to each scrubber. The pressure drop monitor is to be certified by its manufacturer to be accurate within ±250 pascals (±1 inch water gauge) over its operating range, and the flow rate monitor is to be certified by its manufacturer to be accurate within ±5 percent over its operating range.

(b) An owner or operator subject to the provisions of this subpart who uses a wet electrostatic precipitator control device to comply with the mass emission standard shall install, calibrate, maintain, and operate monitoring devices that measure the primary and secondary current (amperes) and voltage in each electrical field and the inlet water flow rate. In addition, the owner or operator shall determine the total residue (total solids) content of the water entering the control device once per day using Method 209A, "Total Residue Dried at 103–105°C," in *Standard Methods for the Examination of Water and Wastewater*, 15th Edition, 1980 (incorporated by reference—see § 60.17). Total residue shall be reported as percent by weight. All monitoring devices required under this paragraph are to be certified by their manufacturers to be accurate within ±5 percent over their operating range.

(c) All monitoring devices required under this section are to be recalibrated quarterly in accordance with procedures under § 60.13 (b)(3).

(Sec. 114 of the Clean Air Act, as amended (42 U.S.C. 7414)

§ 60.684 Recordkeeping and reporting requirements.

(a) At 30-minute intervals during each 2-hour test run of each performance test of a wet scrubber control device and at least once every 4 hours thereafter, the owner or operator shall record the measurements required by § 60.683(a).

(b) At 30-minute intervals during each 2-hour test run of each performance test of a wet electrostatic precipitator control device and at least once every 4 hours thereafter, the owner or operator shall record the measurements required by § 60.683(b), except that the concentration of total residue in the water shall be recorded once during each performance test and once per day thereafter.

(c) Records of the measurements required in paragraphs (a) and (b) of this section must be retained for at least 2 years.

(d) Each owner or operator shall submit written semiannual reports of exceedances of control device operating parameters required to be monitored by paragraphs (a) and (b) of this section and written documentation of, and a report of corrective maintenance required as a result of, quarterly calibrations of the monitoring devices required in § 60.683(c). For the purpose of these reports, exceedances are defined as any monitoring data that are less than 70 percent of the lowest value or greater than 130 percent of the highest value of each operating parameter recorded during the most recent performance test.

(e) The requirements of this section remain in force until and unless the Agency, in delegating enforcement authority to a State under section 111(c) of the Act, approves reporting requirements or an alternative means of compliance surveillance adopted by such State. In that event, affected facilities within the State will be relieved of the obligation to comply with this section, provided that they comply with the requirements established by the State.

(Sec. 114 of the Clean Air Act, as amended (42 U.S.C. 7414))

§ 60.685 Test methods and procedures.

(a) Reference methods in Appendix A of this part, except as provided under § 60.8(b), shall be used to determine compliance with § 60.682 as follows:

(1) Method 1 for sample and velocity traverses;

(2) Method 2 for stack gas velocity and volumetric flow rate;

(3) Method 3 for stack gas dry molecular weight;

(4) Method 4 for stack gas moisture content; and

(5) Method 5E for the measurement of particulate emissions.

(b) The sampling time for each test run shall be at least 2 hours and the minimum volume of gas sampled shall be 2.55 dscm.

(c) The performance test shall be conducted while the product with the highest loss on ignition (LOI) expected to be produced by the affected facility is being manufactured.

(d) For each test run, the particulate mass emission rate, R, shall be computed as follows:

$$R = C_t \times Q_{sd} \times \frac{6 \times 10^{-5}\ \text{min-kg}}{\text{h-mg}}$$

where:
R = mass emission rate (kg/h),
C_t = particulate concentration as determined by Reference Method 5E (mg/dscm),
Q_{sd} = stack gas volumetric flow rate as determined by Reference Method 2 (dscm/min).

(e) The glass pull rate, P, for the manufacturing line shall be computed as follows:

$$P = L_s \times W_m \times M \times \left(\frac{100 - LOI}{100} \right) \times \frac{6 \times 10^{-5}\ \text{min-Mg}}{\text{h-g}}$$

where:
P = glass pull rate (Mg/h),
L_s = line speed (m/min),
W_m = trimmed mat width (m),
M = mat gram weight (g/m²),
LOI = loss on ignition (weight percent), as determined by ASTM Standard Test Method D2584-68, "Ignition Loss of Cured Reinforced Resins" (incorporated by reference—see § 60.17).

For each 2-hour test run, the average glass pull rate shall be computed from at least three glass pull rates determined at intervals of at least 30 minutes during the test run.

(f) For each test run, the particulate mass emission level, E, shall be computed as follows:

$$E = \frac{R}{P_{avg}}$$

where:
E = mass emission level (kg/Mg),
R = mass emission rate (kg/h),
P_{avg} = average glass pull rate (Mg/h).

(Sec. 114 of the Clean Air Act, as amended (42 U.S.C. 7414)

3. Appendix A to Part 60 is amended by adding new Reference Method 5E as follows:

Appendix A—Reference Methods

* * * * *

Method 5E—Determination of Particulate Emissions From the Wool Fiberglass Insulation Manufacturing Industry

1. *Applicability and Principle.*

1.1 *Applicability.* This method is applicable for the determination of particulate emissions from wool fiberglass insulation manufacturing sources.

1.2 *Principle.* Particulate matter is withdrawn isokinetically from the source and collected on a glass fiber filter maintained at a temperature in the range of 120°±14°C (248°±25°F) and in solutions of 0.1 *N* NaOH. The filtered particulate mass, which includes any material that condenses at or above the filtration temperature, is determined gravimetrically after removal of uncombined water. The condensed particulate material collected in the impinger solutions is determined as total organic carbon (TOC) using a nondispersive infrared type of analyzer. The sum of the filtered particulate mass and the condensed particulate matter is reported as the total particulate mass.

2. *Apparatus*

2.1 *Sampling Train.* The equipment list for the sampling train is the same as described in Section 2.1 of Reference Method 5 except as follows:

2.1.1 *Probe Liner.* Same as described in Section 2.1.2 of Reference Method 5 except use only borosilicate or quartz glass liners.

2.1.2 *Filter Holder.* Same as described in Section 2.1.5 of Reference Method 5 with the addition of a leak-tight connection in the rear half of the filter holder designed for insertion of a thermocouple or other temperature gauge for measuring the sample gas exit temperature.

2.2 *Sample Recovery.* The equipment list for sample recovery is the same as described in Section 2.2 of Reference Method 5 except three wash bottles are needed instead of two and only glass storage bottles and funnels may be used.

2.3 *Analysis.* The equipment list for analysis is the same as Section 2.3 of Reference Method 5 with the additional equipment for TOC analysis as described below:

2.3.1 *Sample Blender or Homogenizer.* Waring type or ultrasonic.

2.3.2 *Magnetic Stirrer.*

2.3.3 *Hypodermic Syringe.* 0- to 100-µl capacity.

2.3.4 *Total Organic Carbon Analyzer.* Beckman Model 915 with 215 B infrared analyzer or equivalent and a recorder.

2.3.5 *Beaker.* 30 ml.

2.3.6 *Water Bath.* Temperature-controlled.

2.3.7 *Volumetric Flasks.* 1,000 ml and 500 ml.

3. *Reagents.*

3.1 *Sampling.* The reagents used in sampling are the same as used in Reference Method 5 with the addition of 0.1 *N* NaOH (dissolve 40 g of ACS reagent grade NaOH in distilled water and dilute to 1 liter).

3.2 *Sample Recovery.* The reagents used in sample recovery are the same as used in Reference Method 5 with the addition of

distilled water and 0.1 *N* NaOH as described in Section 3.1.

3.3 *Analysis.* The reagents used in analysis are the same as in Reference Method 5 except as follows:

3.3.1 *Carbon Dioxide-Free Water.* Distilled or deionized water that has been freshly boiled for 15 minutes and cooled to room temperature while preventing exposure to ambient air with a cover vented with an ascarite tube.

3.3.2 *Hydrochloric Acid.* HCl, concentrated, with a dropper.

3.3.3 *Organic Carbon Stock Solution.* Dissolve 2.1254 g of dried potassium biphthalate in CO_2-free water and to 1 liter in a volumetric flask. This solution contains 1,000 mg/l organix carbon.

3.3.4 *Inorganic Carbon Stock Solution.* Dissolve 4.404 g anhydrous sodium carbonate in about 500 ml of CO_2-free water in a 1 liter volumetric flask. Add 3.497 g anhydrous sodium bicarbonate to the flask and dilute to 1 liter with CO_2-free water. This solution contains 1,000 mg/l inorganic carbon.

3.3.5 *Oxygen Gas.* CO_2-free.

4. *Procedure.*

4.1 *Sampling.* The sampling procedures are the same as in Section 4.1 of Reference Method 5 except as follows:

4.1.1 *Filtration Temperature.* The temperature of the filtered gas stream, rather than the filter compartment air temperature, is maintained at 120°±14°C (248±25°F).

4.1.2 *Impinger Solutions.* 0.1 *N* NaOH is used in place of water in the impingers. The volumes of the solutions are the same as in Reference Method 5.

4.2 *Sample Recovery.* The sample recovery procedure is as follows:

Water is used to rinse and clean the probe parts prior to the acetone rinse. Save portions of the water, acetone, and 0.1 *N* NaOH used for cleanup as blanks following the procedure as in Section 4.2 of Reference Method 5.

Container No. 1. The filter is removed and stored in the same manner as in Section 4.2 of Reference Method 5.

Container No. 2. Use water to rinse the sample nozzle, probe, and front half of the filter holder three times in the manner described in Section 4.2 of Reference Method 5 except that no brushing is done. Put all the wash water in one container, seal, and label.

Container No. 3. Rinse and brush the sample nozzle, probe, and front half of the filter holder with acetone as described for Container No. 2 in Section 4.2 of Reference Method 5.

Container No. 4. Place the contents of the silica gel impinger in its original container as described for Container No. 3 in Section 4.2 of Reference Method 5.

Container No. 5. Measure the liquid in the first three impingers and record the volume or weight as described for the Impinger Water in Section 4.2 of Reference Method 5. Do not discard this liquid, but place it in a sample container using a glass funnel to aid in the transfer from the impingers or graduated cylinder (if used) to the sample container. Rinse each impinger thoroughly with 0.1 *N* NaOH three times, as well as the graduated cylinder (if used) and the funnel, and put these rinsings in the same sample container. Seal the container and label to clearly identify its contents.

4.3 *Analysis.* The procedures for analysis are the same as in Section 4.3 of Reference Method 5 with exceptions noted as follows:

Container No. 1. Determination of weight gain on the filter is the same as described for Container No. 1 in Section 4.3 of Reference Method 5 except that the filters must be dried at 20°±6°C (68°F±10°F) and at ambient pressure.

Containers Nos. 2 and 3. Analyze the contents of Containers Nos. 2 and 3 as described for Container No. 2 in Section 4.3 of Reference Method 5 except that evaporation of the samples must be at 20°±6°C (68°F±10°F) and at ambient pressure.

Container No. 4. Weigh the spent silica gel as described for Container No. 3 in Section 4.3 of Reference Method 5.

"Water" and Acetone Blank" Containers. Determine the water and acetone blank values following the procedures for Acetone Blank Container in Section 4.3 of Reference Method 5. Evaporate the samples at ambient temperature [20°±6°C (68°±10°F)] and pressure.

Container No. 5. For the determination of total organic carbon, perform two analyses on successive identical samples, i.e., total carbon and inorganic carbon. The desired quantity is the difference between the two values obtained. Both analyses are based on conversion of sample carbon into carbon dioxide for measurement by a nondispersive infrared analyzer. Results of analyses register as peaks on a strip chart recorder.

The principle differences between operating parameters for the two channels involve the combustion tube packing material and temperature. In the total carbon channel, a high temperature [950°C (1740°F)] furnace heats a Hastelloy combustion tube packed with cobalt oxide-impregnated asbestos fiber. The oxygen in the carrier gas, the elevated temperature, and catalytic effect of the packing result in oxidation of both organic and inorganic carbonaceous material to CO_2 and steam. In the inorganic carbon channel, a low temperature [150°C (300°F)] furnace heats a glass tube containing quartz chips wetted with 85 percent phosphoric acid. The acid liberates CO_2 and steam from inorganic carbonates. The operating temperature is below that required to oxidize organic matter. Follow the manufacturer's instructions for assembly, testing, calibration, and operation of the analyzer.

As samples collected in 0.1 *N* NaOH often contain a high measure of inorganic carbon that inhibits repeatable determinations of TOC, sample pretreatment is necessary. Measure and record the liquid volume of each sample. If the sample contains solids or an immiscible liquid, homogenize the sample with a blender or ultrasonics until satisfactory repeatability is obtained. Transfer a representative portion of 10 to 15 ml to a 30-ml beaker, acidify with about 2 drops of concentrated HCl to a pH of 2 or less. Warm the acidified sample at 50°C (120°F) in a water bath for 15 minutes. While stirring the sample with a magnetic stirrer, withdraw a 20- to 50-µl sample from the beaker and inject it into the total carbon port of the analyzer. Measure the peak height. Repeat the injections until three consecutive peaks are obtained within ±10 percent of the average.

Repeat the analyses for all the samples and the 0.1 *N* NaOH blank. Prepare standard curves for total carbon and for inorganic carbon of 10, 20, 30, 40, 50, 60, 80, and 100 mg/l by diluting with CO_2-free water 10, 20, 30, 40, and 50 ml of the two stock solutions to 1,000 ml and 30, 40, and 50 ml of the two stock solutions to 500 ml. Inject samples of these solutions into the analyzer and record the peak heights as described above. The acidification and warming steps are not necessary for preparation of the standard curve.

Ascertain the sample concentrations for the samples from the corrected peak heights for the samples by reference to the appropriate standard curve. Calculate the corrected peak height for the standards and the samples by deducting the blank correction as follows:

$$\text{Corrected peak height} = A - B \qquad \text{Eq. 5E-1}$$

Where:

A = Peak height of standard or sample, mm or other appropriate unit.

B = Peak height of blank, mm or other appropriate unit.

If samples must be diluted for analysis, apply an appropriate dilution factor.

5. *Calibration.* Calibration of sampling and analysis equipment is the same as in Section 5 of Reference Method 5 with the addition of the calibration of the TOC analyzer described in Section 4.3 of this method.

6. *Calculations.* The calculations and nomenclature for the calculations are the same as described in Section 6 of Reference Method 5 with the addition of the following:

6.1 *Mass of Condensed Particulate Material Collected.*

$$m_c = (0.001)(C_c)(V_s) \qquad \text{Eq. 5E-2}$$

Where:

0.001 = Liters per milliliter.

m_c = Mass of condensed particulate material collected in the impingers measured as TOC, mg.

C_c = Concentration of TOC in the liquid sample from TOC analysis in Section 4.3, mg/l.

V_s = Total volume of liquid sample, ml.

6.2 *Concentration of Condensed Particulate Material.*

$$C_c = (0.001)[m_c / V_{m(std)}] \qquad \text{Eq. 5E-3}$$

Where:

0.001 = Grams per milligram.

C_c = Concentration of condensed particulate matter in stack gas, dry basis, corrected to standard conditions, g/dscm.

$V_{m(std)}$ = Volume of gas sample measured by the dry gas meter, corrected to standard conditions, dscm, from Section 6.3 of Reference Method 5.

6.3 *Total Particulate Concentration.*

$$C_t = C_s + C_c \qquad \text{Eq. 5E-4}$$

Where:

C_t = Total particulate concentration, dry basis, corrected to standard conditions, g/dscm.

C_s = Concentration of filtered particulate matter in stack gas, dry basis, corrected to standard conditions, g/dscm, from Equation 5-6 of Reference Method 5.

7. *Bibliography.* The bibliography is the same as in Section 8 of Reference Method 5 with the addition of the following:

7.1 American Public Health Association, American Water Works Association, Water Pollution Control Federation. Standard Methods for the Examination of Water and Wastewater. Fifteenth Edition. Washington, D.C. 1980.

[FR Doc. 84-3004 Filed 2-6-84; 8:45 am]

BILLING CODE 6560-50-M

federal register

Tuesday
February 7, 1984

Part III

Department of the Interior

National Park Service

National Registry of Natural Landmarks; Annual Supplemental Listing of Natural Landmarks; Notice

VOL
49
ISS
26
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1984
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DEPARTMENT OF THE INTERIOR

National Park Service

National Registry of Natural Landmarks

AGENCY: National Park Service, Interior.

ACTION: Public notice.

SUMMARY: This notice lists all natural landmarks designated by the Secretary of the Interior between March 1, 1983 and September 30, 1983, and included on the National Registry of Natural Landmarks, The listing published in the **Federal Register** on March 1, 1983 (48 FR 8682) contains all natural landmarks designated prior to that date and should be retained for reference purposes. Both listings provide information on each landmark's location, natural values, designation date, ownership, and owner agreement status. Federal agencies should consider the existence and location of natural landmarks when assessing the impact of their actions on the environment under Section 102(2)(c) of the National Environmental Policy Act of 1969 (83 Stat. 852; 42 U.S.C. 4321).

FOR FURTHER INFORMATION CONTACT: Mr. Arthur L. Stewart, Acting Chief, Natural Landmarks Branch, Interagency Resources Division, National Park Service, Washington, D.C. 20240, (202) 343–9525.

SUPPLEMENTARY INFORMATION: The Secretary of the Interior established the National Natural Landmarks Program in 1962 to identify and encourage the preservation of the full range of ecological and geological features that are nationally significant examples of the Nation's natural heritage. Potential natural landmarks are identified through studies conducted by the National Park Service (NPS), evaluated by expert natural scientists, and, if judged nationally significant, designated as natural landmarks by the Secretary of the Interior. Once a natural landmark is designated, it is included on the National Registry of Natural Landmarks, which currently lists 548 natural landmarks.

The National Natural Landmarks Program has been administered by NPS since May 18, 1962 with the exception of the period from January 25, 1978 to May 31, 1981 when it was administered by the former Heritage Conservation and Recreation Service.

The act designating an area as a natural landmark is not a land withdrawal and in no way affects the ownership of the site. It does not dictate the type or intensity of activity that may be undertaken in a natural landmark. Natural landmark preservation is often made possible only through the long-term commitment of public and private owners to protect an area's outstanding natural values. The Department of the Interior encourages owners and managers to protect the nationally significant values of their natural landmarks. This cooperation is voluntary and does not restrict the uses to which the land may be put. An owner who enters into a voluntary nonbinding agreement with NPS to protect a natural landmark is eligible to receive a certificate which recognizes the special status of the area. A bronze plaque may also be presented for appropriate display on the site.

Federal agencies should consider the existence and location of natural landmarks when they assess the effects of their actions on the environment under Section 102(2)(c) of the National Environmental Policy Act of 1969 (83 Stat. 852; 42 U.S.C. 4321).

NPS prepares an annual report for the Secretary of the Interior to transmit to the Congress which identifies all natural landmarks with known or anticipated damage or threats to the integrity of their resources (90 Stat. 1940; 16 U.S.C. 1a–5).

National Registry of Natural Landmarks

The National Registry of Natural Landmarks recognizes nationally significant ecological and geological features in 48 States, American Samoa, Guam, Puerto Rico, and the Virgin Islands. Of the 548 landmarks listed on the National Registry of Natural Landmarks, over one-half are administered solely by public agencies, e.g., Federal, State, county, or municipal governments. Almost one-third are owned entirely by private parties. The remaining natural landmarks are owned or administered by a mixture of public and private owners.

The following list contains all natural landmarks added to the National Registry of Natural Landmarks between March 1, 1983 and September 30, 1983. The natural landmarks are arranged alphabetically by State and county. A description of each landmark's location, natural values, designation date and ownership is provided. Each natural landmark's designation date is enclosed in parentheses. Ownership data are arranged in the following arbitrary order and do not reflect the relative amount of land owned by any party: Federal, State, County, Municipal, Private. An asterisk (*) indicates that the owner(s) of a landmark have entered into a voluntary agreement to protect the area's natural values.

Because many natural landmarks are privately owned and/or not managed for public access, landowner permission must be obtained before visits are made to these landmarks. The specific locations of some landmarks are not provided because of owner requests for minimum publicity and/or because of the fragility of the landmark's natural features.

Dated: November 22, 1983.

Russell E. Dickenson,

Director, National Park Service.

CALIFORNIA

Inyo County

*Eureka Dunes—Southern part of Eureka Valley, northwest of Death Valley National Monument. Excellent example of aeolian geological processes. Tallest dune complex in the Great Basin Natural Region of the United States. Contains grass genus listed as an endangered species and the only species capable of surviving on and stabilizing the steep dune slopes. (June 1983) Owner: Federal

NEW JERSEY

Bergen County

*Palisades of the Hudson (see New York)

NEW YORK

Rockland County

*Palisades of the Hudson—Along western bank of Hudson River from Sparkill, New York south 13 miles to below the George Washington Bridge in New Jersey. This is the best example of a thick diabase sill formation known in the United States. Columnar jointing, an olivine zone and thermal metamorphic effects are attributes found in rare combination at this site. The glaciated crest provides impressive evidence of the Pleistocene glacier. (June 1983) Owner: State

NORTH CAROLINA

Hyde County

Salyer's Ridge Natural Area—On western end of Mattamuskeet National Wildlife Refuge, 5 miles north of Swanquarter. Rare example of mature loblolly pine forest in process of succeeding to a deciduous forest. (June 1983) Owner: Federal

OKLAHOMA

Alfalfa County

*Salt Plains National Wildlife Refuge—Four miles east of Cherokee. Largest inland saline basin in the Central Lowlands Natural Region of the United States. Area is used as natural habitat by 75 percent of Nation's whooping cranes. Also one of few remaining habitats for inland least tern, snowy plover, Canadian geese and avocets in southern Central Lowlands. Important area for study of selenite crystal formation. (June 1983) Owner: Federal

TEXAS

Anderson County

Catfish Creek—20 miles northwest of Palestine. Best example of the few remaining undisturbed riparian habitats in the Western Gulf Coastal Plains. The site supports several wildlife species rarely found elsewhere in Texas. (June 1983) Owner: State

[FR Doc. 84–3135 Filed 2–6–84; 8:45 am]

BILLING CODE 4310–70–M

VOL
49
ISS
26
FE
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1984
UMI

federal register

Tuesday
February 7, 1984

Part IV

Department of the Interior

National Park Service

National Register of Historic Places; Annual Supplemental Listing of Historic Properties; Notice

DEPARTMENT OF THE INTERIOR

National Park Service

National Register of Historic Places; Annual Listing of Historic Properties

The National Historic Preservation Act of 1966, as amended (80 Stat. 915, 16 U.S.C. 470 et seq.), authorizes the Secretary of the Interior to expand and maintain a National Register of districts, sites, buildings, structures and objects significant in American history, architecture, archeology, engineering and culture. The National Park Service expands and maintains the National Register of Historic Places for the Secretary.

It is the purpose of this notice, through publication of the information included herein, to apprise the public, as well as governmental agencies, associations, and all other organizations and individuals interested in historic preservation of the properties added to the National Register between October 1, 1982, and September 30, 1983, and of the properties determined eligible for inclusion in the National Register from October 1, 1982, to September 30, 1983, and of those omitted in the list published March 1, 1983.

For a cumulative listing comprising all properties on the National Register, we recommend that users retain the **Federal Register** listings from February 6, 1979 (Vol. 44, No. 26, Part II); March 18, 1980 (Vol. 45, No. 54, Part II); February 3, 1981 (Vol. 45, No. 54, Part II); February 2, 1982 (Vol. 47, No. 22, Part III) and March 1, 1983 (Vol. 48, No. 41, Part II). Together these listings provide information for all National Register properties and for properties determined eligible for inclusion on the National Register through September 1983. A limited number of copies of the 1979, 1980, 1981, 1982, and 1983 issues of the **Federal Register** is available from the Department of the Interior, National Park Service, National Register of Historic Places, 18th and C Sts., NW., Washington, D.C. 20240.

Dated: November 22, 1983.

Russell E. Dickenson,

Director.

ALABAMA

Colbert County

Tuscumbia, *Rather, John Daniel, House,* 209 S. Cave St. (12/16/82)

Etowah County

Attalla, *U.S. Post Office,* 401 4th St. (06/21/83)
Gadsden, *Gadsden Times-News Building,* Fourth and Chestnut Sts. (01/11/83)

Greene County

Eutaw vicinity, *Coleman, John, House (Grassdale) (Antebellum Homes in Eutaw TR),* 1160 Mesopotamia St. (12/06/82)
Eutaw, *Cockrell, Samuel W., House (Antebellum Homes in Eutaw TR),* 210 Wilson St. (12/06/82)
Eutaw, *Wills, William B., House,* 108 Ashby Dr. (09/22/83)

Houston County

Columbia, *Purcell-Killingsworth House,* Main St. (12/16/82)
Dothan, *Main Street Commercial District,* E. Main, Foster, St. Andrews, Crawford, and Troy Sts. (04/21/83)

Jackson County

Scottsboro, *College Hill Historic District,* 402–308 and 405–411 College Ave. (03/30/83)

Jefferson County

Birmingham, *Episcopal Church of the Advent,* 20th St. and 6th Ave. N. (03/30/83)
Birmingham, *First National-John A. Hand Building,* 17 N. 20th St. (09/29/83)
Birmingham, *First Presbyterian Church,* 2100 4th Ave. N. (12/28/82)
Birmingham, *First United Methodist Church,* 6th Ave. and 19th St. N. (12/27/82)
Birmingham, *Five Points South Historic District,* Roughly bounded by 10th and 15th Aves., 19th and 21st. Sts. (03/16/83)
Birmingham, *Hotel Redmont,* 2101 Fifth Ave., N. (01/27/83)
Birmingham, *Jefferson County Courthouse,* 716 21st St. N. (12/27/82)
Birmingham, *Loveman, Joseph & Loeb Department Store,* 214–224 19th St. N. (04/14/83)
Birmingham, *St. Paul's Catholic Church,* 2120 3rd Ave. N. (12/27/82)
Birmingham, *Woodward Building,* 1927 1st Ave. N. (06/30/83)
Leeds, *Southern Railroad Depot,* 933 Thornton Ave., N.E. (06/30/83)

Lee County

Auburn, *U.S. Post Office,* 144 Tichenor Ave. (06/21/83)
Salem, *McLain, Dr. Andrew D., Office and Drug Store,* Main and Crawford Sts. (02/03/83)

Madison County

Huntsville, *Lincoln School,* 1110 N. Meridian St. (12/27/82)

Marshall County

Albertville, *U.S. Post Office,* 107 W. Main St. (06/21/83)

Mobile County

Mobile, *Cavellero House,* 7 N. Jackson St. (10/07/82)
Mobile, *Coley Building,* 56 St. Francis St. (10/22/82)
Mobile, *Greene-Marston House,* 2000 Dauphin St. (01/11/83)
Mobile, *Murphy High School,* 100 S. Carlen St. (11/04/82)
Mobile, *Weems House,* 1155 Springhill Ave. (10/07/82)
Theodore vicinity, *Bellingrath Gardens and Home,* S of Theodore off AL 59 (10/19/82)

Morgan County

Decatur, *Albany Heritage Neighborhood Historic District,* Roughly bounded by Gordon Dr., Summerville Rd., Jackson, 8th, Moulton, 6th, and 4th Aves. (02/03/83)

Perry County

Marion, *First Congregrational Church of Marion,* 601 Clay St. (12/17/82)
Marion, *Siloam Baptist Church,* 503 Washington St. (12/27/82)

St. Clair County

Springville, *Presley Store,* 601 Maine St. (01/11/83)

Talladega County

Talladega, *Boxwood,* 406 E. North St. (06/09/83)

ALASKA

Anchorage Division

Anchorage, *Fourth Avenue Theatre (AHRS Site No. ANC–284)* 630 W. 4th Ave. (10/05/82)

Fairbanks Division

Fairbanks, *Clay Street Cemetery (AHRS Site No. FAI–164),* 7th Ave. and Riverside Dr. (10/25/82)

Sitka Division

Sitka, *Russian Bishop's House,* Lincoln and Monastery Sts. (05/25/83)

ARIZONA

Apache County

St. Johns, *Isaacson Building,* 37 Commercial St. (09/12/83)

Cochise County

Bowie, *Bear Spring House, Guardhouse, and Spring,* S of Bowie off Apache Pass Rd. (03/18/83)
Willcox, *Norton, John H., and Company Store,* 180 N. Railroad Ave. (03/31/83)
Willcox, *Schwertner House,* 124 E. Stewart St. (08/25/83)

Coconino County

Flagstaff, *Railroad Addition Historic District,* Roughly bounded by Santa Fe RR tracks, Agassiz and Beaver Sts., Birch and Aspen Aves. (01/18/83)

Greenlee County

Duncan, *Billingsley, Benjamin F., House,* 202 Maine St. (08/25/83)

Maricopa County

Glandale, *First National Bank of Glendale Building,* 6838 N. 58th Dr. (08/25/83)
Phoenix, *Gibbes, Carter W., House,* 2233 N. Alvarado (08/25/83)
Phoenix, *U.S. Post Office,* 522 N. Central Ave. (02/10/83)

Mohave County

Kingman, *Mohave County Courthouse and Jail,* 310 N. 4th St. (08/25/83)
Oatman, *Durlin Hotel,* Main St. (08/25/83)

Navajo County

Homolovia II, (08/02/83)

Pima County

Tucson, *Cannon, Dr. William Austin, House (Prof. Andrew Ellicott Douglass House)*, 1189 E. Speedway (10/25/82)
Tuscon, *Coronado Hotel*, 410 E. 9th St. (11/30/82)
Tucson, *U.S. Post Office and Courthouse*, 55 E. Broadway (02/10/83)

Pinal County

Florence, *Florence Townsite Historic District*, Roughly bounded by 3rd and Florence Sts., Butte and Central Aves., and Chase/Ruggles Ditch (10/26/82)

Yavapai County

Clarkdale, *Clark Memorial Clubhouse*, Off N. 9th St. (10/29/82)

Yuma County

Yuma, *Balsz House (Yuma MRA)*, 475 Second Ave. (12/07/82)
Yuma, *Brinkley Avenue Historic District (Yuma MRA)*, 29–96 W. 2nd St., 198–200 S. Main, 201 S. 1st, and 102–298 Madison Aves. (12/07/82)
Yuma, *Brown House (Yuma MRA)*, 268 S. First Ave. (12/07/82)
Yuma, *Brownstetter House (Yuma MRA)*, 627 Orange Ave. (12/07/82)
Yuma, *Caruthers House (Yuma MRA)*, 441 Second Ave. (12/07/82)
Yuma, *Connor House (Yuma MRA)*, 281 S. First Ave. (12/07/82)
Yuma, *Double Roof House (Yuma MRA)*, 553 Fourth Ave. (12/07/82)
Yuma, *Dressing Apartments (Yuma MRA)*, 146 First Ave. (12/07/82)
Yuma, *Ewing, Frank, House (Yuma MRA)*, 700 Second Ave. (12/07/82)
Yuma, *Ewing, Ruth, House (Yuma MRA)*, 712 Second Ave., (12/07/82)
Yuma, *Fourth Avenue Junior High School (Yuma MRA)*, 450 S. Fourth Ave. (12/07/82)
Yuma, *Fredley Apartments (Yuma MRA)*, 406 Second Ave. (12/07/82)
Yuma, *Fredley House (Yuma MRA)*, 408 Second Ave. (12/07/82)
Yuma, *Gandolfo Theater (Yuma MRA)*, 200 S. First Ave., (12/07/82)
Yuma, *Griffin, Alfred, House (Yuma MRA)*, 641 First Ave. (12/07/82)
Yuma, *Hodges, Peter B., House (Yuma MRA)*, 209 Orange Ave. (12/07/82)
Yuma, *Hotel Del Ming (Yuma MRA)*, 300 Gila St. (12/07/82)
Yuma, *Jackson, W. B., House (Yuma MRA)*, 572 First Ave. (12/07/82)
Yuma, *Kent, Jenny, House (Yuma MRA)*, 450 Third Ave. (12/07/82)
Yuma, *Levy, Henry, House (Yuma MRA)*, 602 Second Ave. (12/07/82)
Yuma, *Marable, George, House (Yuma MRA)*, 482 Orange Ave. (12/07/82)
Yuma, *Mayhew, Carmelita, House (Yuma MRA)*, 660 First Ave. (12/07/82)
Yuma, *Methodist Episcopal Church (Yuma MRA)*, 256 S. First Ave. (12/07/82)
Yuma, *Methodist Parsonage (Yuma MRA)*, 248 S. First Ave. (12/07/82)
Yuma, *Mexican Consulate (Yuma MRA)*, 129 W. Fourth St. (12/07/82)
Yuma, *Ming, A. B., House (Yuma MRA)*, 468 Orange Ave. (12/07/82)
Yuma, *Norton House (Yuma MRA)*, 226 S. First Ave. (12/07/82)
Yuma, *Ortiz House (Yuma MRA)*, 206 S. First Ave. (12/07/82)
Yuma, *Pancrazi House (Yuma MRA)*, 432 S. Madison Ave. (12/07/82)
Yuma, *Pauley Apartments (Yuma MRA)*, 490 W. First St. (12/07/82)
Yuma, *Power Apartments (Yuma MRA)*, 20 W. Third St. (12/07/82)
Yuma, *Riley, Clara Smith, House (Yuma MRA)*, 734 Second Ave. (12/07/82)
Yuma, *Roosevelt School (Yuma MRA)*, 201 Sixth St. (12/07/82)
Yuma, *Russell-Williamson House (Yuma MRA)*, 652 Second Ave. (12/07/82)
Yuma, *Smith, J. Homer, House (Yuma MRA)*, 600 Fifth Ave. (12/07/82)
Yuma, *St. Paul's Episcopal Church (Yuma MRA)*, 637 Second Ave. (12/07/82)
Yuma, *Stoffela Store/Railroad Exchange (Yuma MRA)*, 447 S. Main St. (12/07/82)
Yuma, *Yuma City Hall (Yuma MRA)*, 181 W. First St. (12/07/82)
Yuma, *Yuma County Courthouse (Yuma MRA)*, 168 S. Second Ave. (12/07/82)

ARKANSAS

Ashley County

Portland, *Dean House (Thompson, Charles L., Design Collection TR)*, Off US 165 (12/22/82)
Portland, *Pugh House (Thompson, Charles L., Design Collection TR)*, Off US 165 (12/22/82)

Benton County

Benton City, *Benton County National Bank*, 123 W. Central (09/01/83)

Chicot County

Dermott, *Walker House (Thompson, Charles L., Design Collection TR)*, 606 Main St. (12/22/82)

Clark County

Arkadelphia, *Domestic Science Building (Thompson, Charles L., Design Collection TR)*, 11th and Haddock (12/22/82)

Columbia County

Magnolia, *Columbia County Jail (Thompson, Charles L., Design Collection TR)*, Calhoun & Jefferson Sts. (12/22/82)
Waldo, *Bank of Waldo (Thompson, Charles L., Design Collection TR)*, Locust and Main Sts. (12/22/82)

Conway County

Morrilton, *Coca-Cola Building (Thompson, Charles L., Design Collection TR)*, 211 N. Moose (12/22/82)
Morrilton, *First National Bank of Morrilton (Thompson, Charles L., Design Collection TR)*, Main at Moose St. (12/22/82)

Craighead County

Jonesboro, *West Washington Avenue Historic District*, 500–626 W Washington Ave. (10/22/82)

Dallas County

Carthage, *Bank of Carthage (Thompson, Charles L., Design Collection TR)*, AR 229 (12/22/82)
Fordyce, *Fordyce Home Accident Ins. Co. (Thompson, Charles L., Design Collection TR)*, 300 Main (12/22/82)
Fordyce, *Waters House (Thompson, Charles L., Design Collection TR)* 515 Oak St. (12/22/82)

Desha County

Arkansas City, *Thane House (Thompson, Charles L., Design Collection TR)*, Levy and First Sts. (12/22/82)
Dumas., *Merchants & Farmers Bank (Thompson, Charles L., Design Collection TR)*, Waterman and Main Sts. (12/22/82)

Faulkner County

Conway, *Brown House (Thompson, Charles L., Design Collection TR)*, 1604 Caldwell St. (12/22/82)
Conway, *Farmers State Bank (Thompson, Charles L., Design Collection TR)*, 1001 Front St. (12/22/82)
Conway, *First Baptist Church (Thompson, Charles L., Design Collection TR)*, Davis and Robinson Sts. (12/22/82)
Conway, *Fraunthal House (Thompson, Charles L., Design Collection TR)*, 631 Western (12/22/82)
Conway, *Galloway Hall (Thompson, Charles L., Design Collection TR)*, Hendrix College campus (12/22/82)
Conway, *Martin Hall (Thompson, Charles L., Design Collection TR)*, Hendrix College campus (12/22/82)
Conway, *President's House (Thompson, Charles L., Design Collection TR)*, Hendrix College campus (12/22/82)
Conway, *Smith, S. G., House (Thompson, Charles L., Design Collection TR)*, 1837 Caldwell St. (12/22/82)

Garland County

Hot Springs, *First Presbyterian Church (Thompson, Charles L., Design Collection TR)*, 213 Whittington (12/22/82)
Hot Springs, *Fordyce House (Thompson, Charles L., Design Collection TR)*, 746 Park Ave. (12/22/82)
Hot Springs, *Interstate Orphanage (Thompson, Charles L., Design Collection TR)*, 339 Combs (12/22/82)
Hot Springs, *Park Hotel (Thompson, Charles L., Design Collection TR)*, 210 Fountain (12/22/82)
Hot Springs, *Riviera Hotel (Thompson, Charles L., Design Collection TR)*, 719 Central (12/22/82)
Hot Springs, *St. Luke's Episcopal Church (Thompson, Charles L., Design Collection TR)*, Spring and Cottage Sts. (12/22/82)
Hot Springs, *Wade Building (Thompson, Charles L., Design Collection TR)*, 231 Central (12/22/82)

Hempstead County

Columbus, *Columbus Presbyterian Church*, AR 73 (11/17/82)
Hope, *Foster House (Thompson, Charles L., Design Collection TR)*, 303 N. Hervey St. (12/22/82)
Hope, *McRae House (Thompson, Charles L., Design Collection TR)*, 1113 E. 3rd St. (12/22/82)
Ozan, *Ozan Methodist Church*, Mulberry St. (11/04/82)

Hot Springs County

Malvern, *Clark House (Thompson, Charles L., Design Collection TR)*, 1324 S. Main St. (12/22/82)
Malvern, *Strauss House (Thompson, Charles L., Design Collection TR)*, 528 E. Page St. (12/22/82)
Rockport vicinity, *Old Rockport Bridge*, W of Rockport across Ouachita River (10/07/82)

Howard County

Nashville, *First Christian Church*, N. Main St. (11/04/82)

Independence County

Batesville, *Luster Urban Farmstead*, 487 N. Central Ave. (09/16/83)
Batesville, *Adler House (Thompson, Charles L., Design Collection TR)*, 292 Boswell St. (12/22/82)
Batesville, *Batesville Commercial Historic District*, Main and Central Sts. (10/07/82)
Batesville, *Dondy Building (Thompson, Charles L., Design Collection TR)*, 154 S. Third (12/22/82)
Batesville, *Mitchell House (Thompson, Charles L., Design Collection TR)*, 1138 Main St. (12/22/82)
Batesville, *St. Paul's Parish Church (Thompson, Charles L., Design Collection TR)*, 5th and Main (12/22/82)

Jackson County

Newport, *First Presbyterian Church (Thompson, Charles L., Design Collection TR)*, 4th and Main Sts. (12/22/82)
Newport, *Gregg House (Thompson, Charles L., Design Collection TR)*, 412 Pine St. (12/22/82)
Newport, *Newport Junior & Senior High School (Thompson, Charles L., Design Collection TR)*, Remmel Park (12/22/82)

Jefferson County

New Gascony, *Gracie House (Thompson, Charles L., Design Collection TR)*, Off AR 88 (12/22/82)
Pine Bluff, *Austin House (Thompson, Charles L., Design Collection TR)*, 704 W. 5th Ave. (12/22/82)
Pine Bluff, *Caldwell Hall (Thompson, Charles L., Design Collection TR)*, University Drive (12/22/82)
Pine Bluff, *Collier House (Thompson, Charles L., Design Collection TR)*, 1227 W. 5th St. (12/22/82)
Pine Bluff, *Fox House (Thompson, Charles L., Design Collection TR)*, 1303 S. Olive St. (12/22/82)
Pine Bluff, *Hospital and Benevolent Ass'n (Thompson, Charles L., Design Collection TR)*, 11th and Cherry (12/22/82)
Pine Bluff, *Howson House (Thompson, Charles L., Design Collection TR)*, 1700 S. Olive St. (12/22/82)
Pine Bluff, *Hudson House (Thompson, Charles L., Design Collection TR)*, 304 W. 15th St. (12/22/82)
Pine Bluff, *Johnson House (Thompson, Charles L., Design Collection TR)*, 315 Martin St. (12/22/82)
Pine Bluff, *Katzenstein House (Thompson, Charles L., Design Collection TR)*, 902 W. 5th St. (12/22/82)
Pine Bluff, *Puddephatt House (Thompson, Charles L., Design Collection TR)*, 1820 S. Olive St. (12/22/82)
Pine Bluff, *Russell House (Thompson, Charles L., Design Collection TR)*, 1617 S. Olive St. (12/22/82)
Pine Bluff, *Temple House (Thompson, Charles L., Design Collection TR)*, 1702 S. Oak St. (12/22/82)

Johnson County

Clarksville, *Davis House (Thompson, Charles L., Design Collection TR)*, 212 Fulton St. (12/22/82)
Clarksville, *Dunlap House (Thompson, Charles L., Design Collection TR)*, 101 Grandview (12/22/82)
Clarksville, *McKennon House (Thompson, Charles L., Design Collection TR)*, 115 Grandview (12/22/82)

Lawrence County

Clover Bend, *Clover Bend High School*, AR 228 (08/17/83)

Lee County

Marianna, *McClintock House (Thompson, Charles L., Design Collection TR)*, 43 Magnolia (12/22/82)

Lonoke County

Lonoke, *Eagle House (Thompson, Charles L., Design Collection TR)*, 217 Ash St. (12/22/82)
Lonoke, *Shull House (Thompson, Charles L., Design Collection TR)*, 418 Park (12/22/82)
Lonoke, *Trimble House (Thompson, Charles L., Design Collection TR)*, 518 Center St. (12/22/82)
Lonoke, *Walls House (Thompson, Charles L., Design Collection TR)*, 406 Jefferson St. (12/22/82)
Lonoke, *Wheat House (Thompson, Charles L., Design Collection TR)*, 600 Center St. (12/22/82)

Miller County

Texarkana, *First Methodist Church (Thompson, Charles L., Design Collection TR)*, 400 E. 6th (12/22/82)
Texarkana, *Kittrell House (Thompson, Charles L., Design Collection TR)*, 1103 Hickory St. (12/22/82)

Monroe County

Brinkley, *Gazzola and Vaccaro Building (Thompson, Charles L., Design Collection TR)*, 131–133 W. Cypress (12/22/82)
Brinkley, *Lo Beele House (Thompson, Charles L., Design Collection TR)*, 312 New York Ave. (12/22/82)
Clarendon, *Merchants and Planters Bank (Thompson, Charles L., Design Collection TR)*, 214 Madison (12/22/82)
Clarendon, *Moore-Jacobs House*, 500 N. Main St. (09/29/83)

Nevada County

Prescott, *Bemis Florist Shop (Thompson, Charles L., Design Collection TR)*, 117 E. Second (12/22/82)
Prescott, *McRae, D. L., House (Thompson, Charles L., Design Collection TR)*, 424 E. Main St. (12/22/82)
Prescott, *McRae, T. C., House (Thompson, Charles L., Design Collection TR)*, 506 E. Elm St. (12/22/82)

Phillips County

Helena, *Coolidge House*, 820 Perry St. (09/08/83)
Helena, *Keesee House*, 723 Arkansas St. (09/08/83)
Helena, *West House*, 229 Beech St. (09/08/83)
Helena, *White House (Thompson, Charles L., Design Collection TR)*, 1015 Perry St. (12/22/82)

Prairie County

Des Arc, *Bethel House (Thompson, Charles L., Design Collection TR)*, Erwin and 2nd Sts. (12/22/82)

Pulaski County

Little Rock, *Al-A min Temple (Thompson, Charles L., Design Collection TR)*, 2100 Main St. (12/22/82)
Little Rock, *Associated Reformed Presbyterian Church (Thompson, Charles L., Design Collection TR)*, 3323 W. 12th (12/22/82)
Little Rock, *BPOE Elks Club (Thompson, Charles L., Design Collection TR)*, 4th and Scott Sts. (12/22/82)
Little Rock, *Back House (Thompson, Charles L., Design Collection TR)*, 1523 Cumberland St. (12/22/82)
Little Rock, *Baer House (Thompson, Charles L., Design Collection TR)*, 1010 Rock St. (12/22/82)
Little Rock, *Beyerlein House (Thompson, Charles L., Design Collection TR)*, 412 W. 14th St. (12/22/82)
Little Rock, *Boone House (Thompson, Charles L., Design Collection TR)*, 4014 Lookout (12/22/82)
Little Rock, *Bush House (Thompson, Charles L., Design Collection TR)*, 1516 Ringo St. (12/22/82)
Little Rock, *Central Presbyterian Church (Thompson, Charles L., Design Collection TR)*, 1921 Arch (12/22/82)
Little Rock, *Cornish House (Thompson, Charles L., Design Collection TR)*, 1800 Arch St. (12/22/82)
Little Rock, *Croxson House (Thompson, Charles L., Design Collection TR)*, 1901 Gaines St. (12/22/82)
Little Rock, *Darragh House (Thompson, Charles L., Design Collection TR)*, 2412 Broadway (12/22/82)
Little Rock, *Dunaway House (Thompson, Charles L., Design Collection TR)*, 2022 Battery (12/22/82)
Little Rock, *England House (Thompson, Charles L., Design Collection TR)*, 2121 Arch St. (12/22/82)
Little Rock, *Farrell House (Thompson, Charles L., Design Collection TR)*, 2111 Louisiana (12/22/82)
Little Rock, *Farrell House (Thompson, Charles L., Design Collection TR)*, 2115 Louisiana (12/22/82)
Little Rock, *Farrell House (Thompson, Charles L., Design Collection TR)*, 2121 Louisiana (12/22/82)
Little Rock, *First Missionary Baptist Church*, 701 S. Gaines St. (09/29/83)
Little Rock, *Fletcher House (Thompson, Charles L., Design Collection TR)*, 909 Cumberland St. (12/22/82)
Little Rock, *Florence Crittenton Home (Thompson, Charles L., Design Collection TR)*, 3600 W. 11th St. (12/22/82)
Little Rock, *Forrey-Smith Apartments (Thompson, Charles L., Design Collection TR)*, 1017 W. 4th St. (12/22/82)

Little Rock, *Forrey-Smith Apartments (Thompson, Charles L., Design Collection TR)*, 409 Ringo St. (12/22/82)
Little Rock, *Forrey-Smith Apartments (Thompson, Charles L., Design Collection TR)*, 1019 W. 4th St. (12/22/82)
Little Rock, *Frauenthal House (Thompson, Charles L., Design Collection TR)*, 2008 Arch St. (12/22/82)
Little Rock, *French-England House (Thompson, Charles L., Design Collection TR)*, 1700 Broadway (12/22/82)
Little Rock, *Hall House (Thompson, Charles L., Design Collection TR)*, 32 Edgehill (12/22/82)
Little Rock, *Hardy House (Thompson, Charles L., Design Collection TR)*, 2400 Broadway (12/22/82)
Little Rock, *Healey and Roth Mortuary Building (Thompson, Charles L., Design Collection TR)*, 815 Main (12/22/82)
Little Rock, *Hemmingway House (Thompson, Charles L., Design Collection TR)*, 1720 Arch St. (12/22/82)
Little Rock, *Johnson House (Thompson, Charles L., Design Collection TR)*, 514 E. 8th St. (12/22/82)
Little Rock, *Johnson House (Thompson, Charles L., Design Collection TR)*, 516 E. 8th St. (12/22/82)
Little Rock, *Johnson House (Thompson, Charles L., Design Collection TR)*, 518 E. 8th (12/22/82)
Little Rock, *Keith House (Thompson, Charles L., Design Collection TR)*, 2200 Broadway (12/22/82)
Little Rock, *Little Rock Boys Club (Thompson, Charles L., Design Collection TR)*, 8th & Scott Sts. (12/22/82)
Little Rock, *Marshall House (Thompson, Charles L., Design Collection TR)*, 2009 Arch St. (12/22/82)
Little Rock, *McLean House (Thompson, Charles L., Design Collection TR)*, 470 Ridgeway (12/22/82)
Little Rock, *Mehaffey House (Thompson, Charles L., Design Collection TR)*, 2101 Louisiana (12/22/82)
Little Rock, *Mitchell House (Thompson, Charles L., Design Collection TR)*, 1415 Spring St. (12/22/82)
Little Rock, *Moore House (Thompson, Charles L., Design Collection TR)*, 20 Armistead (12/22/82)
Little Rock, *Mount Holly Mausoleum (Thompson, Charles L., Design Collection TR)*, 12th and Broadway (12/22/82)
Little Rock, *Nash House (Thompson, Charles L., Design Collection TR)*, 601 Rock St. (12/22/82)
Little Rock, *Nash House (Thompson, Charles L., Design Collection TR)*, 409 E. 6th St. (12/22/82)
Little Rock, *Reid House (Thompson, Charles L., Design Collection TR)*, 1425 Kavanaugh St. (12/22/82)
Little Rock, *Remmel Apartments (Thompson, Charles L., Design Collection TR)*, 1704–1706 Spring St. (12/22/82)
Little Rock, *Remmel Apartments (Thompson, Charles L., Design Collection TR)*, 1708–1710 Spring St. (12/22/82)
Little Rock, *Remmel Apartments (Thompson, Charles L., Design Collection TR)*, 409–411 W. 17th St. (12/22/82)
Little Rock, *Remmel Flats (Thompson, Charles L., Design Collection TR)*, 1700–1702 Spring St. (12/22/82)
Little Rock, *Retan House (Thompson, Charles L., Design Collection TR)*, 2510 Broadway (12/22/82)
Little Rock, *Rogers House (Thompson, Charles L., Design Collection TR)*, 400 W. 18th St. (12/22/82)
Little Rock, *Roselawn Memorial Park Gatehouse (Thompson, Charles L., Design Collection TR)*, 2801 Asher (12/22/82)
Little Rock, *Safferstone House (Thompson, Charles L., Design Collection TR)*, 2205 Arch St. (12/22/82)
Little Rock, *Sanders House (Thompson, Charles L., Design Collection TR)*, 2100 Gaines St. (12/22/82)
Little Rock, *Schaer House (Thompson, Charles L., Design Collection TR)*, 1862 Arch St. (12/22/82)
Little Rock, *Skillern House (Thompson, Charles L., Design Collection TR)*, 2522 Arch St. (12/22/82)
Little Rock, *Snyder House (Thompson, Charles L., Design Collection TR)*, 4004 S. Lookout (12/22/82)
Little Rock, *St. Edwards Church (Thompson, Charles L., Design Collection TR)*, 823 Sherman (12/22/82)
Little Rock, *Stewart House (Thompson, Charles L., Design Collection TR)*, 1406 Summit St. (12/22/82)
Little Rock, *Thurston House (Thompson, Charles L., Design Collection TR)*, 923 Cumberland St. (12/22/82)
Little Rock, *Turner House (Thompson, Charles L., Design Collection TR)*, 1701 Center St. (12/22/82)
Little Rock, *Vanetten House (Thompson, Charles L., Design Collection TR)*, 1012 Cumberland (12/22/82)
Little Rock, *Vaughan House (Thompson, Charles L., Design Collection TR)*, 2201 Broadway (12/22/82)
Little Rock, *Winfield Methodist Church (Thompson, Charles L., Design Collection TR)*, 1601 Louisiana (12/22/82)
North Little Rock vicinity, *Immaculate Heart of Mary Church (Thompson, Charles L., Design Collection TR)*, N of North Little Rock off AR 365 (12/22/82)
North Little Rock, *Matthews House*, 406 Goshen (09/29/83)
North Little Rock, *North Little Rock Post Office (Thompson, Charles L., Design Collection TR)*, 420 N. Main St. (12/22/82)

Searcy County

Gilbert, *Mays General Store*, Front St. (09/01/83)

Sebastian County

Ft. Smith, *Christ The King Church (Thompson, Charles L., Design Collection TR)*, Greenwood Ave. at S. S St. (12/22/82)

St. Francis County

Forrest City, *Mann House (Thompson, Charles L., Design Collection TR)*, 422 Forest St. (12/22/82)
Wheatly, *Smith House (Thompson, Charles L., Design Collection TR)*, Memphis Ave. (12/22/82)

Union County

El Dorado, *McKinney Henry Crawford, House*, 510 E. Faulkner (09/01/83)
El Dorado, *Municipal Building*, 204 N. West Ave. (06/30/83)
El Dorado, *Murphy Charles H., Sr., House*, 900 N. Madison Ave. (09/08/83)
El Dorado, *SAU at Dorado (Thompson, Charles L., Design Collection TR)*, Summit at Block Sts. (12/22/82)
El Dorado, *Union County Courthouse*, Union Sq. (06/30/83)

Washington County

Canehill vicinity, *McClellan, E.W., House (Canehill MRA)*, SW of Canehill off AR 45 (11/17/82)
Canehill vicinity, *Moore House (Canehill MRA)*, N W of Canehill on SR 13 (11/17/82)
Canehill vicinity, *Pyeatte Mill Site (Canehill MRA)*, S of Canehill on AR 45 (11/17/82)
Canehill vicinity *Pyeatte, Henry, House (Canehill MRA)*, N of Canehill on AR 45 (11/17/82)
Canehill, *Blackburn House (Canehill MRA)*, Main and College Sts. (11/17/82)
Canehill, *Canehill Cemetery (Canehill MRA)*, S R 13 (11/17/82)
Canehill, *Canehill College Building (Canehill MRA)*, McClellan and College Sts. (11/17/82)
Canehill, *Carroll, A R. Building (Canehill MRA)*, Main St (11/17/82)
Canehill, *Earle House (Canehill MRA)*, AR 45 (11/17/82)
Canehill, *Edmiston, D. N., House (Canehill MRA)*, Main St. (11/17/82)
Canehill, *Edmiston, John, House (Canehill MRA)*, Off AR 45 (11/17/82)
Canehill, *Edmiston, Zeb, House (Canehill MRA)*, Main St. (11/17/82)
Canehill, *Edmiston, Zeb, House (Canehill MRA)*, Main St. (11/17/82)
Canehill, *Methodist Manse (Canehill MRA)*, Main and Spring Sts. (11/17/82)
Canehill, *United Presbyterian Church of Canehill (Canehill MRA)*, Main St. (11/17/82)
Canehill, *Welch, William, House (Canehill MRA)*, Main St. (11/17/82)
Fayetteville, *Carnell, Ella, Hall (Thompson, Charles L., Design Collection TR)*, Arkansas Ave. and Maple St. (12/22/82)

White County

Searcy, *Deener House (Thompson, Charles L., Design Collection TR)*, 310 E. Center Ave. (12/22/82)
Searcy, *Lightle House (Thompson, Charles L., Design Collection TR)*, 605 Race Ave. (12/22/82)

Woodruff County

Augusta, *Woodruff County Courthouse (Thompson, Charles L., Design Collection TR)*, 500 N. 3rd St. (12/22/82)

CALIFORNIA

Alameda County

Oakland, *Oakland Public Library, 659 14th St. (08/11/83)*
Alameda, *Croll Building*, 1400 Webster St. (10/04/82)
Berkeley, Boone's University School, 2029 Durant Ave. (11/01/82)
Berkeley, *Hillside School*, 1581 LeRoy Ave. (10/29/82)

Berkeley, *Phi Delta Theta Chapter House*, 2717 Hearst Ave. (01/11/83)
Berkeley, *State Asylum for the Deaf, Dumb and Blind*, Bounded by Dwight Way, City line, Derby and Warring Sts. (10/14/82)
Oakland, *Oakland City Hall*, 1421 Washington St. (09/15/83)
Oakland, *Oakland Iron Works-United Works, and the Remillard Brick Company*, 552—592 2nd St. (08/25/83)

Butte County

Chico, *Silberstein Park Building*, 426, 430, 434 Broadway (02/17/83)
Oroville, *Oroville Commercial District (Old)*, Montgomery, Myers and Huntoon Sts. and Miners Alley (07/28/83)

Contra Costa County

Pacheco, *Hendrick, William T., House*, 218 Center Ave. (09/08/83)

Del Norte County

Crescent City, *Cresent City Lighthouse*, A St., Battery Point Island (09/15/83)

Fresno County

Fresno, *Bank of Italy*, 1015 Fulton Mall (10/29/82)
Fresno, *Brix H. H., Mansion*, 2844 Fresno St. (09/15/83)
Fresno, *Fresno Bee Building*, 1555 Van Ness Ave. (11/01/82)
Fresno, *Kindler, Paul, House*, 1520 E. Olive Ave. (10/29/82)

Humboldt County

Eureka, *McDonald, D. C., Building*, 108 F St. (11/17/82)
Eureka, *U.S. Post Office and Courthouse*, Fifth and H Sts. (02/10/83)
Ferndale, *Berding, A., House*, 455 Ocean Ave. (01/04/83)
Garberville, *Benbow Inn (Hotel Benbow)*, 445 Lake Benbow Dr. (09/15/83)

Kern County

Bakersfield, *Bakersfield Californian Building*, 1707 Eye St. (03/10/83)
Bakersfield, *Jastro Building (Standard Oil Building)*, 1800 19th St. (09/22/83)

Los Angeles County

Avalon, *Gano, Peter House*, 718 Crescent Ave. (09/15/83)
Hollywood, *Security Trust and Savings*, 6361—85 Hollywood Blvd. (08/18/83)
Long Beach, *Puvunga Indian Village Sites (Boundary Increase)*, E. Bixby Hill Rd. and E. 7th St. (05/22/82)
Hollywood, *Toberman, C. E., Estate*, 1847 Camino Palmero (09/15/83)
Los Angeles, *Bryson Apartment Hotel*, 2710 Wilshire Blvd. (04/07/83)
Los Angeles, *Engine House No. 18, 2616 S. Hobart Blvd. (10/29/82)*
Los Angeles, *Oviatt, James, Building*, 617 S. Olive St. (08/11/83)
Los Angeles, *Smith Estate*, 5905 El Mio Dr. (10/29/82)
Pasadena, *Cypress Court (Bungalow Courts of Pasadena TR)*, 623—641 N. Madison Ave. (07/11/83)
Pasadena, *Gortz Court (Gloria Court) (Bungalow Courts of Pasadena TR)*, 270 N. Madison (08/25/83)
Pasadena, *Rose Court (Bungalow Courts of Pasadena TR)*, 449—457 S. Hudson Ave. (07/11/83)
Pasadena, *Civic Center Financial District*, E. Colorado Blvd. and Marengo Ave. (10/29/82)
Pasadena, *Colonial Court (Bungalow Courts of Pasadena TR)*, 291—301 N. Garfield Ave. (07/11/83)
Pasadena, *Cottage Court (Bungalow Courts of Pasadena TR)*, 642—564 S. Marengo Ave. (07/11/83)
Pasadena, *Court (Bungalow Courts of Pasadena TR)*, 744—756½ S. Marengo Ave. (07/11/83)
Pasadena, *Court (Bungalow Courts of Pasadena TR)*, 497—503½ N. Madison Ave. (07/11/83)
Pasadena, *Court (Bungalow Courts of Pasadena TR)*, 732—744 Santa Barbara St. (07/11/83)
Pasadena, *Don Carlos Court (Bungalow Courts of Pasadena TR)*, 374–386 S. Marengo Ave. (07/11/83)
Pasadena, *Euclid Court (Bungalow Courts of Pasadena TR)*, 545 S. Euclid Ave. (07/11/83)
Pasadena, *Las Casitas Court (Bungalow Courts of Pasadena TR)*, 656 N. Summit Ave. (07/11/83)
Pasadena, *Marengo Gardens (Bungalow Courts of Pasadena TR)*, 982, 986, 990 S. Margengo Ave. and 221–241 Ohio St. (07/11/83)
Pasadena, *Mission Court (Bungalow Courts of Pasadena TR)*, 567 N. Oakland Ave. (07/11/83)
Pasadena, *Old Pasadena Historic District*, Roughly bounded by Pasadena, Fair Oaks, Raymond Aves., Arroyo Pkwy., Del Mar Blvd., and Corson St. (09/15/83)
Pasadena, *Orange Grove Court (Bungalow Courts of Pasadena TR)*, 745 E. Orange Grove Blvd. (07/11/83)
Pasadena, *Palmetto Court (Bungalow Courts of Pasadena TR)*, 100 Palmetto Dr. (07/11/83)
Pasadena, *Propsect Historic District*, Prospect Blvd., Square, Crescent, and Terrace, Rosemont Ave., Armada and Fremont Drs., and La Mesa Pl. (04/07/83)
Pasadena, *Sara-Thel Court (Bungalow Courts of Pasadena TR)*, 618–630 S. Marengo Ave. (07/11/83)
Whittier, *National Bank of Whittier Building*, 13002 E. Philadelphia St. (12/30/82)

Marin County

Larkspur, *Larkspur Downtown Historic District*, 234–552 ½ Magnolia Ave. (10/07/82)

Merced County

Merced vicinity, *Buhach Grammar School*, 2606 N. Buhach Rd. (04/07/83)
Merced, *Cook, Maj. George Beecher, House*, 356 W. 21st St. (09/15/83)
Merced, *U.S. Post Office*, 401 W. 18th St. (02/10/83)

Modoc County

Alturas, *Sacred Heart Catholic Church*, 507 E. 4th St. (08/30/83)

Monterey County

Gonzales, *Comunity Church of Gonzales*, 301 4th St. (09/15/83)
Monterey, *Finch, James W., House*, 410 Monroe St. (10/19/82)
Pacific Grove, *Centrella Hotel*, 612 Central Ave. (10/29/82)

Napa County

Calistoga, *Brannan, Sam, Cottage*, 109 Wapoo Ave.. (08/18/83)

Orange County

Anaheim, *Kraemer, Samuel, Building (American Savings Bank/First National Bank)*, 76 S. Claudina St. (06/16/83)
Anaheim, *Truxaw-Gervais House*, 887 S. Anaheim Blvd. (10/29/82)
Fullerton, *Elephant Packing House*, 201 W. Truslow Ave. (09/21/83)
Fullerton, *Chapman Building*, 110 E.Wilshire Ave. (09/22/83)
Orange vicinity, *Irvine Park*, 21401 Chapman Ave. (04/07/83)
San Clemente, *Easley, Oscar, Block*, 101 El Camino Real (02/17/83)
San Juan Capistrano, *Los Rios Street Historic District*, 31600–31921 Los Rios St. (04/04/83)
Santa Ana, *Odd Fellows Hall*, 309–311 N. Main St. (08/18/83)
Santa Ana, *Pacific Electric Sub-Station No. 14*, 802 E. 5th St. (09/22/83)
Santa Ana, *Rankin Building*, 117 W. 4th St. (02/24/83)
Santa Ana, *Santa Ana City Hall*, 217 N. Main St. (11/10/82)
Santa Ana, *Santora Building*, 207 N. Broadway (12/27/82)
Santa Ana, *Southern Counties Gas Co.*, 207 W. 2nd St. (07/28/83)
Santa Ana, *Wright, George L., House*, 831 N. Minter St. (11/12/82)
Seal Beach, *Seal Beach City Hall (Old)*, 201 8th St. (08/11/83)
Villa Park, *Smith and Clark Brothers Ranch and Grounds*, 18922 Santiago Blvd. (09/22/83)

Sacramento County

Sacramento, *Blue Anchor Building (California Fruit Exchange)*, 1400 Tenth St. (02/03/83)
Sacramento, *Hotel Regis*, 1024–1030 K St. (10/29/82)
Sacramento, *Old Tavern*, 2801 Capitol Ave., (09/15/83)
Sacramento, *Wetzlar, Julius, House*, 1021 H St. (03/31/83)
Walnut Grove, *Imperial Theater*, Market St. (10/29/82)

San Bernadino County

Barstow vicinity, *Bitter Spring Archaeological Site (4–SBr–2659)*, (12/20/82)
Fontana, *Fontana Farms Company Ranch House, Camp No. 1*, 8863 Pepper St. (11/01/82)

San Diego County

San Diego, *Coulter House*, 3162 2nd Ave. (09/30/83)
San Diego, *Park Place Methodist Episcopal Church South*, 508 Olive St. (09–15–83)
San Ysidro, *U.S. Inspection Station/U.S. Custom House*, Virginia and Tijuana Sts. (02/10/83)

San Francisco County

San Francisco, *Belden, C.A., House,* 2004–2010 Gought St. (09/11/83)
San Francisco, *Bush Street-Cottage Row Historic District,* 2101–2125 Bush St., 1–6 Cottage Row, and 1940–1948 Sutter St. (12/27/82)
San Francisco, *De Lano House,* 70 Buena Vista Terr. (10/29/82)
San Francisco, *Edwards, Frank C., House,* 1386 Guerrero St. (10/29/82)
San Francisco, *Herald Hotel,* 308 Eddy St. (10/29/82)
San Francisco, *Liberty Street Historic District,* Roughly 15–199 Liberty St. (09/15/83)
San Francisco, *MaMullen, John, House,* 827 Guerrero St. (09/15/83)
San Francisco, *Moss Flats Building,* 1626 Great Hwy. (02/24/83)
San Francisco, *National Carbon Company Building,* 599 8th St. (08/25/83)
San Francisco, *Paige Motor Car Company Building,* 1699 Van Ness Ave. (02/24/83)
San Francisco, *Park View Hotel,* 750 Stanyan St. (08/11/83)

San Joaquin County

Stockton, *Tretheway Block,* 229 E. Weber St. (10/29/82)
Stockton, *U.S. Post Office,* 401 N. San Joaquin St. (02/10/83)

San Luis Obispo County

Cambria, *Old Santa Rosa Catholic Church and Cemetery,* Main St. (10/29/82)
Paso Robles, *Brewster-Dutra House,* 1803 Vine St. (10/29/82)
San Luis Obispo, *Angel, Myron, House,* 714 Buchon St. (11/22/82)

San Mateo County

Redwood City, *Union Cemetery,* 316 Woodside Rd. (08/25/83)

Santa Clara County

Los Gatos, *Yung See San Fong House,* 16660 Cypress Way (09/08/83)
San Jose, *Hensley Historic District,* Roughly bounded by Julian, 1st, 7th, and Empire Sts. (06/21/83)
San Jose, *Moir Building,* 227–247 N. 1st St. (10/29/82)
San Jose, *Ross House,* 693 S. 2nd St. (10/29/82)
San Jose, *San Jose Downtown Historic District,* E. Santa Clara, South First, Second, Third and E. San Fernando Sts. (05/26/83)
Saratoga vicinity, *Masson, Paul, Mountain Winery,* Pierce Rd. (08/09/83).

Santa Cruz County

Ben Lomond vicinity, *Phillipshurst/Riverwood,* CA 9 (08/04/83)
Santa Cruz, *Hinds, A. J., House,* 529 Chestnut St. (08/25/83)
Watsonville, *Watsonville City Plaza,* Bounded by Main, Peck, Union and E. Beach Sts. (08/22/83)
Watsonville, *Mansion House Hotel,* 418–424 Main St. (08/18/83)
Watsonville, *Stoesser Block and Annex,* 331–341 Main St. (04/07/83)

Siskiyou County

Dunsmuir, *Dunsmuir Historic Commercial District,* Roughly bounded by Sacramento and Shasta Aves., Spruce and Cedar Sts. (both sides) (11/10/82)

Sonoma County

Santa Rosa, *Lumsden, W.H., House,* 727 Mendocino Ave. (09/11/83)

Stanislaus County

Modesto, *U.S. Post Office,* Twelfth and I Sts. (02/10/83)

Tulare County

Orosi, *Orosi Branch Library,* 12062 Ave. 416 (08/25/83)

Tuolumne County

Sonora, *City Hotel,* 145 S. Washington St. (06/30/83)

COLORADO

Boulder County

Lafayette, *Congregational Church (Lafayette Coal Mining Era Buildings TR),* 300 E. Simpson St. (05/20/83)
Lafayette, *Kullgren House (Lafayette Coal Mining Era Buildings TR),* 209 E. Cleveland St. (05/20/83)
Lafayette, *Lafayette House (Lafayette Coal Mining Era Buildings TR),* 660 E. Simpson St. (05/20/83)
Lafayette, *Lewis House (Lafayette Coal Mining Era Buildings TR),* 108 E. Simpson St. (05/20/83)
Lafayette, *Miller House (Lafayette Coal Mining Era Buildings TR),* 409 E. Cleveland St. (05/20/83)

Chaffee County

Salida, *Manhatan Hotel,* 225 F St. (04/21/83)

Delta County

Austin vicinity, *Ferganchick Orchard Rock Art Site,* (05/09/83)

Dever County

Denver, *Butters, Alfred, House,* 1129 Pennsylvania (10/29/83)
Denver, *Cheesman Park Duplex,* 1372 S. Pennsylvania St. (05/05/83)
Denver, *Curtis-Champa Streets Historic District (Boundary Increase),* Roughly 30th, Stout, Downin, and Arapahoe Sts. (09/22/83)
Denver, *Fleming-Hanington House,* 1133 Pennsylvania (10/29/82)
Denver, *Flower-Vaile House,* 1610 Emerson St. (10/21/82)
Denver, *General Electric Building,* 1441 18th St. (08/25/83)
Denver, *Glenarm Place Historic Residential District,* 2417—2462 Glenarm Pl. (08/25/83).
Denver, *Crafton, The,* 1001–1020 E. 17th Ave. (10/21/82)
Denver, *Haskell House,* 1651 Emerson St. (09/15/83).
Denver, *Kistler-Rodriguez House,* 700 E. 9th Ave. (05/27/83).
Denver, *Lang, William, Townhouse,* 1626 Washington St. (08/18/83)
Denver, *McCourt, Peter, House,* 1471 High St. (05/09/83).
Denver, *Palmer, Judge Peter L., House,* 1250 Ogden St. (10/21/82).
Denver, *Rocky Mountain Hotel,* 2301 7th St (04/21/83)
Denver, *St. Joseph's Polish Roman Catholic Church,* 517 E. 46th Ave. (04/21/83)
Denver, *Tallmadge and Boyer Block,* 2926–2942 Zuni St. (10/21/82)
Denver, *Zeitz Buckhorn Exchange,* 1000 Osage St. (04/21/83)

Dolores County

Rico, *Kauffman, William, House,* Silver St (10/29/82)

Douglas County

Waterton vicinity, *Roxborough State Park Archaeological District,* S of Waterton (01/27/83)

El Paso County

Colorado Springs, *DeGraff Building,* 110–118 N. Tejon St. (08/18/83)
Colorado Springs, *Giddings Building,* 101 N. Tejon St. (04/21/83)
Colorado Springs, *North End Historic District,* Roughly bounded by Monument Valley Wood, Nevada Ave., Madison and Unitah Sts. (12/17/82).
Colorado Springs, *Old Colorado City Historic Commercial District,* N side of Colorado Ave. from 24th St., W to 2611 Colorado Ave.; also includes 115 S. 26 St. and 2418 W Pikes Peak Ave. (11/02/82)
Colorado Springs, *Plaza Hotel,* 830 N. Tejon St. (09/01/83).
Manitou Springs, *Crystal Valley Cemetery (Manitou Springs MRA),* Plainview Ave. (11/18/82)
Manitou Springs, *Keithley Log Cabin Development District (Manitou Springs MRA),* Roughly bounded by Santa Fe Pl., Crystal Park Rd., and Spur Rd. (11/18/82)

Fremont County

Canon City vicinity, *Royal Gorge Bridge and Incline Railway,* NW of Canon City (09/02/83)
Canon City, *Canon City Municipal Building,* 612 Royal Gorge Blvd. (08/18/83)
Canon City, *First Presbyterian Church,* Macon and 7th Sts. (09/01/83)
Canon City, *Holy Cross Abbey,* US 50 (08/16/83).

Garfield County

Battlement Mesa, *Battlement Mesa Schoolhouse,* 7201 300 Rd. (04/21/83)

Grand County

Kremmling vicinity, *Yust, E. C., Homestead,* S of Kremmling off CO 9 (10/29/82)

Jefferson County

Arvada, *Russell-Graves House,* 5605 Yukon St. (05/09/83)
Golden, *Twelfth Street Historic Residential District,* Roughly bounded by 11th, 13th, Elm, and Arapahoe Sts. (09/22/83)

La Plata County

Bayfield vicinity, *Spring Creek Archeological District* (05/21/83)
Durango, *Colorado Ute Power Plant,* 14th St. and Animas River (09/29/83)

Mesa County

Clifton, *Kettle-Jens House*, 496 32nd Rd. (05/06/83)
Whitewater vicinity, *Bloomfield Site*, (01/20/83)

Montezuma County

Cortez vicinity, *Mud Springs Pueblo*, (10/29/82)

Otero County

La Junta, *Rourke, Eugene, House*, 619 Carson St. (05/09/83)

Park County

Como, *Como Roundhouse, Railroad Depot and Hotel Complex*, Off U.S. 285 (05/20/83)

Pitkin County

Redstone, *Osgood-Kuhnhausen House*, 0642 Redstone Blvd. (08/18/83)

Pueblo County

Pueblo, *Beaumont, Allen, J., House*, 425 W. 15th St. (08/18/83)
Pueblo, *City Park Carousel*, City Park (04/21/83)
Pueblo, *King, Dr. Alexander T., House and Carriage House*, 229 Quincy St. and 215 W Routt Ave. (04/21/83)
Pueblo, *Mechanics Building/Masonic Building*, 207–211 N. Main St. (08/18/83)
Pueblo, *Tutt Building*, 421 Central Plaza (08/18/83)
Pueblo, *Union Avenue Historic Commercial District*, Roughly bounded by R R tracks, Main St., Grand and Victoria Aves. (12/28/82)

Routt County

Oak Creek vicinity, *Foidel Canyon School*, N W of Oak Creek (05/09/83)
Toponas vicinity, *Rock Creek Stage Station*, E of Toponas off CO 84 (10/21/82)

Summit County

Frisco, *Frisco Schoolhouse*, 120 Main St. (09/15/83)

CONNECTICUT

Fairfield County

Bridgeport, *Barnum/Palliser Historic District*, Roughly bounded by Myrtle and Park Aves., Atlantic and Austin Sts. (both sides) (12/16/82)
Danbury, *Meeker's Hardware (The Red Block)*, 86–90 White St. (06/09/83)
Danbury, *Robinson, P., Fur Cutting Company*, Oil Mill Rd. (11/30/82)
Darien, *Boston Post Road Historic District*, 567–728 Boston Post Rd., 1–25 Brookside Rd., and 45–70 Old Kingshighway N. (12/16/82)
Shelton, *Commodore Hull School*, 130 Oak Ave. (06/30/83)
Stamford, *Linden Apartments*, 10–12 Linden Pl. (06/11/83)

Hartford County

Glastonbury, *Williams, J.B., Co. Historic District*, Hubbard, Williams, and Willieb Sts. (04/07/83)
Hartford, *Apartment at 49–51 Spring Street (Asylum Hill Historic MRA)*, 49–51 Spring St. (03/31/83)
Hartford, *Buckingham Square Historic District-(Boundary Increase)*, 248–250 Hudson St. (11/30/82)
Hartford, *Clay Hill Historic District*, Roughly bounded by Main, Mather, Garden, and Walnut Sts. (06/16/83)
Hartford, *Elizabeth Park*, Asylum Ave. (03/10/83)
Hartford, *House at 36 Forest Street (Asylum Hill Historic MRA)*, 36 Forest St. (02/24/83)
Hartford, *Linke, William L., House (Asylum Hill Historic MRA)*, 174 Sigourney St. (02/24/83)
Hartford, *Myers and Gross Building (Asylum Hill Historic MRA)*, 2 Fraser Pl. (03/31/83)
Hartford, *Pratt Street Historic District*, 31–101 and 32–110 Pratt St.; 196–260 Trumbull St. (03/10/83)
Hartford, *Spencer House (Asylum Hill Historic MRA)*, 1039 Asylum Ave. (02/24/83)
Hartford, *Sts. Cyril and Methodius Church*, 63 Governor St. (06/30/83)
Hartford, *Widows' Home*, 1846–1860 N. Main St. (03/10/83)
New Britain, *Burritt Hotel*, 67 W. Main St. (07/28/83)
New Britain, *Walnut Hill Park*, W. Main St. (11/26/82)
Simsbury, *Heublein Tower*, Talcott Mountain State Park (06/30/83)
Thompsonville, *Bigelow-Hartford Carpet Mills*, Main and Pleasant Sts. (03/10/83)

Litchfield County

Bethlehem, *Bethlehem Green Historic District*, Parts of N. Main St., S. Main St., East St., West Rd., and Munger Lane (12/16/82)
Canaan, *Lawrance, Isaac, House*, Elm St. (03/10/83)
Canaan, *South Canaan Congregational Church*, CT 63 and Barnes Rd. (03/16/83)
Colebrook vicinity, *Phelps Farms Historic District*, CT 183 (08/18/83)
Goshen, *Goshen Historic District*, CT 63 and 4, and Gifford Rd. (12/27/82)
Litchfield vicinity, *Bull, Capt. William, Tavern*, CT 202 (06/30/83)
New Milford, *Halpine, J.S., Tobacco Warehouse*, West and Mill Sts. (12/16/82)
Roxbury, *Roxbury Center*, CT 67; Weller's Bridge Rd., South and Church Sts. (07/28/83)

Middlesex County

East Haddam, *East Haddam Historic District*, CT 149, Broom, Norwich, Creamery, Lumberyard, and Landing Hill Rds. (04/29/83)
Middletown, *Main Street Historic District*, Roughly Main St. between College and Hartford Ave. (06/30/83)
Portland, *Indian Hill Avenue Historic District*, Main St. and Indian Hill Ave. to river (05/26/83)

New Haven County

Ansonia, *Upper Main Street Historic District*, 36–100, 85–117 Main St. (12/02/82)
Branford, *Branford Electric Railway Historic District*, 17 River St. to Court St. (06/03/83)
New Haven, *Quinnipiac Brewery*, 19–23 River St. (07/15/83)
New Haven, *Dwight Street Historic District*, Roughly bounded by Park, N. Frontage, Scranton, Sherman, and Elm Sts. (09/08/83)
New Haven, *Nicoll, Caroline, House*, 27 Elm St. (01/14/83)
New Haven, *Plymouth Congregational Church*, 1469 Chapel St. (07/28/83)
New Haven, *Welch Training School*, 495 Congress Ave. (04/21/83)
Seymour, *Downtown Seymour Historic District*, Roughly bounded by the Naugatuck River, Main, Wakeley, and DeForest Sts. (08/25/83)
Unionville, *Tunxis Hose Firehouse*, Lovely St and Farmington Ave. (07/28/83)
Waterbury, *Downtown Waterbury Historic District*, Roughly bounded by Main, Meadow, and Elm Sts. (08/03/83)
Waterbury, *Bank Street Historic District*, 207–231 Bank St. (07/28/83)
Waterbury, *Bishop School*, 178 Bishop St. (11/30/82)
Waterbury, *Elton Hotel*, 16–30 W. Main St. (06/30/83)
Waterbury, *Palace Theater*, 86–110 E. Main St. (06/30/83)
Waterbury, *Waterbury Clock Company (The Movement Shop Complex)*, N. Elm, Cherry Sts. and Cherry Ave. (11/30/82)
West Haven, *American Mills Web Shop*, 114–152 Orange Ave. (03/10/83)

New London County

Groton, *Groton Bank Historic District*, Roughly bounded by the Thames River, Broad, Cottage, and Latham Sts. (03/24/83)
Lyme, *Hamburg Bridge Historic District*, Joshuatown Rd. and Old Hamburg Rd. (03/10/83)
New London, *Winthrop Mill*, Mill St. (11/30/82)
North Stonington, *North Stonington Village Historic District*, CT 2, Main St., Wyassup, Babcock, Caswell, and Rocky Hollow Rds. (03/17/83)
Norwich, *Bean Hill Historic District*, Huntington and Vergason Aves., Sylvia Lane and W. Town St. (12/08/82)
Norwich, *Carroll Building*, 9–15 Main St., and 14–20 Water St. (11/14/82)
Salem, *Tiffany Simon, House*, Darling Rd. (06/30/83)

DELAWARE

Kent County

Clayton, *Byrd's AME Church*, Smyrna Ave. (10/19/82)
Kenton vicinity, *Attix, Thomas, House (Kenton Hundred MRA)*, DE 140 (06/27/83)
Kenton vicinity, *Arnold, George, House (Kenton Hundred MRA)*, DE 42 (06/27/83)
Kenton vicinity, *Betz, J.F., House (Kenton Hundred MRA)*, DE 6 (06/29/83)
Kenton vicinity, *Blackiston, Benjamin, House (Deer Park) (Kenton Hundred MRA)*, Off DE 6 (06/27/83)
Kenton vicinity, *Burrows, W.D., House (Hopewell) (Kenton Hundred MRA)*, DE 42 (06/27/83)
Kenton vicinity, *Davis, Thomas, House (Kenton Hundred MRA)*, DE 6 (06/29/83)
Kenton vicinity, *Denny, T.H., House (Mount Pinder) (Kenton Hundred MRA)*, DE 42 (06/27/83)
Kenton vicinity, *Downs, N.C., House (Kenton Hundred MRA)*, SR 1412 (06/27/83)
Kenton vicinity, *Hill, Robert, House (Kenton Hundred MRA)*, DE 6 (06/29/83)

Kenton vicinity, *Hoffecker-Lockwood House (Kenton Hundred MRA)*, DE 6 (06/27/83)
Kenton vicinity, *Hudson, Alfred L., House (Kenton Hundred MRA)*, DE 90 (06/27/83)
Kenton vicinity, *Lamb, Thomas, Farm (Brick House Farm) (Kenton Hundred MRA)*, DE 130 (08/29/83)
Kenton vicinity, *Lamb, Thomas, House (My Home) (Kenton Hundred MRA)*, DE 129 and DE 130 (08/29/83)
Kenton vicinity, *Lewis, Jefferson, House (Kenton Hundred MRA)*, DE 42 (06/27/83)
Kenton vicinity, *McDaniel, Delaplane, House (Kenton Hundred MRA)*, DE 92 (06/27/83)
Kenton vicinity, *Poinsett House (Kenton Hundred MRA)*, DE 6 (06/27/83)
Kenton vicinity, *Stevens, William, House (Kenton Hundred MRA)*, DE 6 (08/29/83)
Kenton vicinity, *Williams, James, House (Kenton Hundred MRA)*, DE 42 (06/27/83)
Kenton, *Green Mansion House (Kenton Hundred MRA)*, Main St. (06/27/83)
Kenton, *Clark-Pratt House (Kenton Hundred MRA)*, Main St. (06/27/83)
Kenton, *Kenton Historic District (Kenton Hundred MRA)*, Commerce St. (06/29/83)
Kenton, *Kenton Post Office (Kenton Hundred MRA)*, Main St. (06/27/83)
Kenton, *Wright-Carey House (Kenton Hundred MRA)*, Commerce St. (06/27/83)
Leipsic vicinity, *Raymond Neck Historic District*, N of Leipsic between Leipsic River and CR 85 (11/08/82)
Leipsic, *Katherine M. Lee (schooner) (Leipsic and Little Creek MRA)*, Fox's Dock at Front and Lombard Sts. (04/25/83)
Leipsic, *Laws, Alexander, House (Leipsic and Little Creek MRA)*, Front and Walnut Sts. (04/25/83)
Leipsic, *Maggie S. Myers (schooner) (Leipsic and Little Creek MRA)*, Killen's Dock at Front and Lombard Sts. (04/25/83)
Leipsic, *McClary House (Leipsic and Little Creek MRA)*, Main and McClary Sts. (04/25/83)
Leipsic, *Rawley House (Leipsic and Little Creek MRA)*, Main St. (04/25/83)
Leipsic, *Reed House (Leipsic and Little Creek MRA)*, Lombard St. (04/25/83)
Milford, *McColley, James, House (Milford MRA)*, 500–502 N W Front St. (01/07/83)
Milford, *Mill House (Milford MRA)*, 414 N W Front St. (01/07/83)
Milford, *North Milford Historic District (Milford MRA)*, Roughly bounded by Mispillion River, Silver Lake, N. Walnut and N W 3rd Sts. (01/07/83)
Milford, *Old Fire House (Milford MRA)*, Church Ave. (01/07/83)
Milford, *Walnut Farm*, Roosa Rd. (11/10/82)
Smyrna vicinity, *George Farmhouse*, E of Smyrna off DE 6 (10/19/82)
Smyrna vicinity, *Moore House*, 511 W. Mt. Vernon St. (10/19/82)
Smyrna vicinity, *Peterson and Mustard's Hermitage Farm*, E of Smyrna off DR 325 (10/20/82)
Smyrna vicinity, *Woodlawn*, SE of Smyrna on US 13 (10/19/82)
Williamsville, *Griffith's Chapel*, Jct of SR 442 and 443 (10/29/83)

New Castle County

Centreville, *Carpenter-Lippincott House (Centreville MRA)*, 5620 Kennett Pike (04/13/83)
Centreville, *Centreville Historic District (Centreville MRA)*, Kenneth Pike and Owls Nest/Twaddell Mill Rd. (04/13/83)
Centreville, *Chandler, Joseph, House (Centreville MRA)*, 5826 Kennett Pike (04/13/83)
Centreville, *Mt. Airy School No. 27 (Centreville MRA)*, 5925 Kennett Pike (04/13/83)
Christiana, *Old Fort Church (White Clay Creek Hundred MRA)*, Old Baltimore Pike (08/19/83)
Christina vicinity, *Allen, Charles, House (White Clay Creek Hundred MRA)*, 855 Canoe Rd. (08/19/83)
Christina vicinity, *Stewart, James, Jr., House (White Clay Creek Hundred MRA)*, Whitten Rd. (08/19/83)
McClellandville, *Lindsey, Samuel, House (White Clay Creek Hundred MRA)*, New London Rd. (08/19/83)
McClellandville, *Wesley M.E. Church (White Clay Creek Hundred MRA)*, DE 896 (08/19/83)
Newark vicinity, *England House and Mill Amendment*, 81 Red Mill Rd. (08/04/83)
Newark, *Anderson House (Newark MRA)*, 50 W. Park Pl. (02/24/83)
Newark, *Bank of Newark Building (Newark MRA)*, 102 E. Main St. (02/24/83)
Newark, *Bell Farmhouse (Newark MRA)*, 401 Nottingham Rd. (02/24/83)
Newark, *Belmont Hall (Newark MRA)*, 302 W. Main St. (02/24/83)
Newark, *Blue Hen Farm (Newark MRA)*, 505 Stamford Dr. (02/24/83)
Newark, *Building at 34 Choate Street (Newark MRA)*, 34 Choate St. (02/24/83)
Newark, *Chambers House (Newark MRA)*, S. College Ave. (02/24/83)
Newark, *Deer Park Farm (Newark MRA)*, 48 W. Park Pl. (02/24/83)
Newark, *Evans, John, House (Newark MRA)*, W. Main St. and N. College Ave. (02/24/83)
Newark, *Granite Manison (Newark MRA)*, 292 W. Main St. (02/24/83)
Newark, *Green Mansion (Newark MRA)*, 94–96 E. Main St. (02/24/83)
Newark, *Head of Christiana United Presbyterian Church (White Clay Creek Hundred MRA)*, 1100 Church Rd. (08/19/83)
Newark, *Kerr, Andrew, House (White Clay Creek Hundred MRA)*, 812 Elkton Rd. (08/19/83)
Newark, *Meteer Store House (Newark MRA)*, 325 Paper Mill Rd. (02/24/83)
Newark, *Morrow, James, House (White Clay Creek Hundred MRA)*, 1210 Ogletown Rd. (08/19/83)
Newark, *Phillips, Thomas, Mill Complex (White Clay Creek Hundred MRA)*, 708 and 712 Nottingham Rd. (08/19/83)
Newark, *Rhodes Pharmacy (Newark MRA)*, 36 E. Main St. (02/24/83)
Newark, *State Theater (Newark MRA)*, 39 E. Main St. (02/24/83)
Newark, *Steel, James, House (White Clay Creek Hundred MRA)*, 1016 W. Church St. (08/19/83)
Rockland vicinity, *Young, William, House*, E of Rockland on SR 228 (10/29/82)
Wilmington vicinity, *Fell Historic District*, Faulkland Rd. and New Fell's Lane (06/16/83)
Wilmington, *Eighth Street Park Historic District*, Roughly bounded by 6th, 10th, Harrison, and Broom Sts. (08/04/83)
Wilmington, *Grace United Methodist Church*, 9th and West Sts. (11/12/83)
Wilmington, *Lore, Charles B., Elementary School*, Fourth St. and Woodlawn Ave. (06/16/83)
Wilmington, *New Castle Leather Raw Stock Warehouse*, 14th and Poplar Sts. (06/16/83)
Wilmington, *New Century Club*, 1014 Delaware Ave. (06/16/83)
Wilmington, *Postles House*, 1007 N. Broom St. (11/12/82)
Wilmington, *St. Hedwig's Roman Catholic Church*, Linden and S. Harrison Sts. (11/12/82)
Wilmington, *St. Mary's School*, 502 Pine St. (01/05/83)
Newark, *Wilson, Edward R., House (Newark MRA)*, 521 S. College Ave. (01/25/83)

Sussex County

Bridgeville vicinity, *Eratt House*, W of Bridgeville on DE 572 (10/29/83)
Bridgeville vicinity, *Scott's Store*, NW of Bridgeville on DE 404 (10/29/83)
Lewes vicinity, *Norwood House*, SW of Lewes on DE 9 (10/25/82)
Milford, *Dawson, Dr., House (Milford MRA)*, 200 SE Front St. (01/07/83)
Milford, *Egglinton Hall (Milford MRA)*, 700 SE 2nd St. (01/07/83)
Milford, *Grier House (Rogers Funeral Home) (Milford MRA)*, 301 Lakeview Ave. (01/07/83)
Milford, *Milford Railroad Station (Milford MRA)*, DE 36 (01/07/83)
Milford, *Milford Shipyard Area Historic District (Milford M R A)*, Roughly bounded by Mispillion River, Franklin, Front and Marshall Sts. (01/07/83)
Milford, *South Milford Historic District (Milford MRA)*, Roughly bounded by Mispillion River, Maple Ave., Church and Washington Sts. (01/07/83)

DISTRICT OF COLUMBIA

Washington, *Takoma Park Historic District*, Roughly bounded by DC/MD boundary, 7th, Piney Branch, Aspen, and Fern Sts. (06/30/83)
Washington, *Meridian Mansions*, 2400 16th St. NW (07/28/83)
Washington, *Moran Building*, 501–509 G St., NW (09/26/83)
Washington, *Wyoming Apartments*, 2022 Columbia Rd., NW (09/27/83)
Washington, *Bond Building*, 1404 New York Ave., NW (09/15/83)
Washington, *Prince Hall Masonic Temple*, 1000 U St., NW (09/15/83)
Washington, *Schneider Triangle*, Bounded by Washington Circle, New Hampshire Ave. NW, K, 22nd, and L Sts. NW (12/13/82)
Washington, *Van Ness Mausoleum*, Oak Hill Cemetery, 3001 R St. NW (12/17/82)

FLORIDA

Brevard County

Melbourne, *Florida Power and Light Company Ice Plant*, 1604 S. Habor City Blvd. (11/17/82)

Dade County

Miami, *Warner, F.W., House*, 111 SW 5th Ave. (06/01/83)

Opa-locka, *Opa-locka Bank*, 940 Caliph St. (05/19/83)

Duval County

Jacksonville, *310 West Church Street Apartments*, 420 N. Julia St. (04/07/83)
Jacksonville, *Florida Theater*, 128–134 E. Forsyth St. (11–04–82)
Jacksonville, *Lane-Towers House*, 3730 Richmond St. (11/10/82)
Jacksonville, *Stanton, Edwin M., School*, 521 W. Ashley St. (09/29/83)

Escambia County

Pensacola, *Crystal Ice Company Building*, 2024 N. Davis St. (09/29/83)
Pensacola, *Edmunds, John, Apartment House (Mirador)*, 2007 E. Gadsden St. (09/29/83)
Pensacola, *North Hill Preservation District*, Roughly bounded by Blount, Palafox, Wright, Belmont, Reus, and DeVilliers Sts. (05/09/83)

Hamilton County

Jasper, *Old Hamilton County Jail*, 501 NE 1st Ave. (07/07/83)

Hillsborough County

Tampa, *Kress, S.H., and Co. Building*, 811 N. Franklin St. (04/07/83)

Jackson County

Marianna, *Russ, Joseph W., Jr., House*, 310 W. Lafayette St. (07/18/83)

Lake County

Eustis, *Pendleton, William Kimbrough, House (The Palms)*, 1208 Chesterfield Rd. (01/13/83)
Howey In the Hills, *Howey House*, Citrus St. (01/27/83)

Manatee County

Bradenton, *Braden Castle Park Historic District*, Roughly bounded by the Manatee and Braden Rivers, Ponce DeLeon St. and Pelot Ave. (05/09/83)
Sarasota Vicinity, *Seagate (Powel Crosley, Jr. House)*, 6565 N. Tamiami Trail (01/21/83)

Monroe County

Key West, *Key West Historic District (Extension)*, Roughly bounded by Emma, Whitehead Sts., Mallory Square, Caroline, White Sts., Eisenhower Dr., United, Von Phister, South Sts., Vernon, Seminole Aves, and the Atlantic Ocean (02/24/83)

Nassau County

Fernandina Beach, *Merrick-Simmons House, 102 S. 10th St. (01/19/83)*

Orange County

Maitland, *Maitland Art Center*, 231 W. Packwood Ave. (11/17/82)
Maitland, *Waterhouse, William H., House*, 820 S. Lake Lily Dr. (02/02/83)
Orlando, *Rogers Building*, 37–39 S. Magnolia Ave. (07/07/83)
Winter Park, *Comstock-Harris House*, 724 Bonita Dr. (01/13/83)

Palm Beach County

Lake Worth, *Gulf Stream Hotel*, 1 Lake Ave. (01/11/83)
Palm Beach, *U.S. Post Office*, 95 N. County Rd. (07/21/83)

Pinellas County

St. Petersburg, *Snell Arcade*, 405 Central Ave. (11/04/82)
St. Petersburg, *Veillard House*, 282 N. 4th Ave. (10/29/82)

Polk County

Lakeland, *Lake Mirror Promenade*, Between Lemon St. and Lake Mirror Dr. (01/27/83)

Santa Rosa County

Milton, *Louisville and Nashville Depot*, 206 Henry St. (10/29/82)
Milton, *Ollinger-Cobb House*, 302 Pine St. (01/11/83)

Sarasota County

Sarasota, *Caples'-Ringlings' Estates Historic District*, Roughly bunded by Sarasota Bay, US 41, Parkview and N. Shore Ave. (12/15/82)

St. Johns County

St. Augustine, *Model Land Company Historic District*, Roughly bounded by Ponce de Leon Blvd., King, Cordova, and Orange Sts. (08/02/83)
St. Augustine, *Abbott Tract Historic District*, Roughly bounded by Matanza's Bay, Pine, San Marco, and Shenandoah Aves. (07/21/83)
St. Augustine, *Bridge of Lions*, King St. (11/19/82)

Volusia County

Daytona Beach, *Kress, S.H., and Co. Building*, 140 S. Beach St. (07/07/83)
DeLand, *DeLand Hall*, Stetson University campus (01/27/83)

GEORGIA

Bacon County

Alma, *Alma Depot*, Dixon and 11th Sts. (04/07/83)

Bibb County

Macon, *Riverside Cemetery*, 1301 Riverside Dr. (04/28/83)

Bleckley County

Cochran, *Hillcrest*, 706 Beech St. (04/21/83)

Carroll County

Carrollton, *U.S. Post Office*, 402 Newnan St. (04/18/83)

Charlton County

Folkston vicinity, *Hopkins, John M., Cabin*, SW of Folkston, off GA 121/23 (03/04/83)

Chatham County

Savannah, *Laurel Grove-North Cemetery*, W. Anderson St. (08/04/83)
Savannah, *Slotin Building*, 101 W. Broad St. (03/24/83)

Cobb County

Smyrna, *Rice, John W., Summer Cottage*, 254 Concord Rd. (04/08/83)

Coffee County

Douglas, *Union Banking Company Building*, 102 Peterson Ave. (12/10/82)

Coweta County

Newnan, *Greenville Street-LaGrange Street Historic District*, LaGrange, Ninnons, Greenville, Powell, Reese, Powell, and Buchanan Sts. (04/28/83)

DeKalb County

Atlanta, *Candler Park Historic District*, Roughly bounded by Moreland, DeKalb, McLendan, and Harold Aves., Mathews St., and Clifton Terr. (09/08/83)

Emanuel County

Canoochee vicinity, *Davis, Josiah, House*, S of Canoochee on GA 192 (10/05/82)

Evans County

Claxton, *Daniel, Dr. James W., House*, 102 N. Newton St. (04/07/83)

Floyd County

Mt. Aventine Historic District, (08/18/83)
Rome, *Between the Rivers Historic District*, Roughly bounded by the Etowah and Oostanaula Rivers, and 7th Ave. (06/09/83)
Rome, *Lower Avenue A Historic District*, Avenue A between N. 5th St. and Turner-McCall Blvd. (09/01/83)
Rome, *Myrtle Hill Cemetery*, Bounded by S. Broad, and Myrtle Sts., Pennington, and Branham Aves. (09/01/83)
Rome, *Oakdene Place*, Roughly bounded by the Etowah River, Queen, and E. 6th Sts. (08/04/83)
Rome, *South Broad Street Historic District*, S. Broad St. and Etowah Terrace (08/18/83)
Rome, *Upper Avenue A Historic District*, Roughly bounded by Oostanaula River, Turner-McCall Blvd., Avenue B and W. 11th St. (09/01/83)

Franklin County

Lavonia, *Jones Street Residential Historic District (Lavonia MRA)*, Jones, Baker, and Old Carnesville Rd. (09/01/83)
Lavonia, *Killingsworth Farm (Lavonia MRA)*, Hartwell Rd. (09/01/83)
Lavonia, *Stovall Homeplace (Lavonia MRA)*, 114 West Ave. (09/01/83)
Lavonia, *Adams House (Lavonia MRA)*, Hartwell Rd. (09/01/83)
Lavonia, *Beasley House (Lavonia MRA)*, 75 Grogan St. (09/01/83)
Lavonia, *Burton House (Lavonia MRA)*, Augusta Rd. (09/01/83)
Lavonia, *Cannon-McDaniel House (Lavonia MRA)*, 128 West Ave. (09/01/83)
Lavonia, *Cason House (Lavonia MRA)*, 60 Grogan St. (09/01/83)
Lavonia, *Cheek House (Lavonia MRA)*, 38 Hartwell Rd. (09/01/83)
Lavonia, *Crawford-Shirley House (Lavonia MRA)*, 100 Augusta Rd. (09/01/83)
Lavonia, *Fisher House (Lavonia MRA)*, 221 Hartwell Rd. (09/01/83)
Lavonia, *Keese House (Lavonia MRA)*, 4 Burgess St. (09/01/83)
Lavonia, *Kidd House (Lavonia MRA)*, 222 Hartwell Rd. (09/01/83)
Lavonia, *Lavonia Carnegie Library (Lavonia MRA)*, Hartwell Rd. (09/01/83)
Lavonia, *Lavonia Commercial Historic District (Lavonia MRA)*, Jones, Augusta, Vickery, Grogan, and Bowman Sts. (09/01/83)
Lavonia, *Lavonia Cotton Mill (Lavonia MRA)*, Main St. (09/01/83)
Lavonia, *Lavonia Roller Mill (Lavonia MRA)*, E. Main St. (09/01/83)

Lavonia, *McMurray House (Lavonia MRA)*, Hartwell Rd. (09/01/83)
Lavonia, *Pure Oil Service Station (Lavonia MRA)*, 56 West Ave. (09/01/83)
Lavonia, *Queen House (Lavonia MRA)*, Hartwell Rd. (09/01/83)
Lavonia, *Southern Cotton Oil Co. (Lavonia MRA)*, W. Main St. (09/01/83)
Lavonia, *Stevenson House and Brickyard (Lavonia MRA)*, Hartwell Rd. (09/01/83)
Lavonia, *Stovall-Purcell House (Lavonia MRA)*, 110 West Ave. (09/01/83)
Lavonia, *Vandiver House (Lavonia MRA)*, Main St. (09/01/83)
Lavonia, *Vickery House (Lavonia MRA)*, Grogan St. (09/01/83)
Lavonia, *Vickery Street Historic District (Lavonia MRA)*, Vickery St. (09/01/83)
Lavonia, *West Avenue-Roberts Street Residential Historic District (Lavonia MRA)*, between Mason and Jones Sts. (09/01/83)
Lavonia, *Yow House (Lavonia MRA)*, 109 Hartwell Rd. (09/01/83)

Fulton County

Atlanta, *Atlanta City Hall*, 68 Mitchell St. S.W. (07/13/83)
Atlanta, *Bulter Street Colored Methodist Episcopal Church*, 23 Butler St., SE. (05/09/83)
Atlanta, *Imperial Hotel*, 355 Peachtree St. (03/31/83)
Atlanta, *Martin Luther King, Jr., National Historic Site and Preservation District*, Roughly bounded by Courtland, Randolph, Chamberlain Sts. and Irwin Ave. (10/10/80)

Grady County

Cairo vicinity, *Sasser Farm*, Sasser Farm Rd., S of Cairo (09/08/83)

Gwinnett County

Buford, *Bona, Allen, House*, 395 Main St. (09/01/83)

Liberty County

McIntosh, *Cassels' Store*, Off U.S. 82 (08/05/83)

Lowndes County

Valdosta, *Valdosta Commercial Historic District*, Roughly bounded by Savannah Ave., Lee, Toombs, and Valley Sts. (09/15/83)
Valdosta, *Converse-Dalton House*, 305 N. Patterson St. (04/28/83)

Lumpkin County

Dahlonega, *Dahlonega Commercial Historic District*, Chestatee, Park, and Main Sts. (04/07/83)

Meriwether County

Greenville, *Hill, Hiram Warner, House*, LaGrange St. (04/07/83)

Miller County

Colquitt, *Colquitt Town Square Historic District*, Cuthbert, 1st, College, and Main Sts. (03/31/83)

Mitchell County

Pelham, *Pelham Commercial Historic District*, Roughly bounded by RR tracks, Church, Blythe, Jackson Sts. and Hand Ave. (03/24/83)

Monroe County

Forsyth, *Forsyth Commercial Historic District*, Main, Lee, Johnston, Adams, Jackson, Kimball, and Harris Sts. (01/13/83)

Rabun County

Dillard vicinity, *Hambidge Center Historic District*, W of Dillard on Betty's Creek Rd. (10/05/82)

Screven County

Sylvania, *Lines, Samuel Shephard, House*, NE of Sylvania (07/14/83)

Stephens County

Toccoa, Simmons, James B., House, 130 W. Tugalo St. (04/07/83)

Sumter County

Americus, *Guerry-Mitchell House*, 723 McGarrah St. (06/16/83)

Terrell County

Sasser Commercial Historic District, (08/18/83)

Thomas County

Thomasville, *Gordon Avenue Apartments*, 424 Gordon Ave. (03/24/83)

Towns County

Young Harris, *Young Harris College Historic District*, Young Harris College campus, Appleby Dr. (08/22/83)

Troup County

LaGrange vicinity, *Potts Brothers Store*, Gabbettville Rd. (03/31/83)

Wilkes County

Washington, *Fitzpatrick Hotel*, 18 W. Public Square (12/17/82)

HAWAII

Hawaii County

Kailua-Kona, *Kamoa Point Complex*, Ali'i Dr. (07/14/83)
Napoopoo vicinity, *Kahikolu Church*, SE of Napoopoo (11/15/82)
Puako vicinity, *Pauko Petroglyph Archeological District*, Puako Beach Dr. (04/08/83)

Honolulu County

Honolulu, *Fort Ruger Historic District*, Diamond Head Rd. (07/14/83)
Honolulu, *Podmore, Joseph W., Building*, 202–206 Merchant St. (03/24/83)
Honolulu, *USS Bowfin*, 11 Arizona Memorial Dr. (11/16/82)
Waipahu, *Marigold Building*, 97–837 Waipahu St. (08/18/83)

Kauai County

Hanalei, *Haraguchi Rice Mill*, Ohiki Rd. (08/25/83)
Kapaa vicinity, *Opaekaa Road Bridge*, Opaekaa Rd. (03/28/83)
Kilauea, *Kilauea School*, Kolo Rd. (08/18/83)

Maui County

Kawela vicinity, *Archeological Site (T–10) 50–60–04–702*, NE of Kawela (11/03/82)
Kawela vicinity, *Archeological Site (T–108) 50–60–03–713*, N of Kawela (11/05/82)
Kawela vicinity, *Archeological Site (T–111–116; T–182) 50–60–04–710*, Onioni Dr. (11/05/82)
Kawela vicinity, *Archeological Site (T–125–6; T–181) 50–60–03–714*, N of Kawela (11/05/82)
Kawela vicinity, *Archeological Site (T–134) 5060–03–718*, E of Kawela (11/05/82)
Kawela vicinity, *Archeological Site (T–135–6) 50–60–03–719*, W of Kawela (11/05/82)
Kawela vicinity, *Archeological Site (T–155, T–158) 50–60–03–721*, W of Kawela (11/05/82)
Kawela vicinity, *Archeological Site (T–165–6) 50–60–03–727*, W of Kawela (11/05/82)
Kawela vicinity, *Archeological Site (T–19) 50–60–04–705*, NE of Kawela (11/04/82)
Kawela vicinity, *Archeological Site (T–5, T–122, T–178) 50–60–04–142*, Kupaia Pl. (11/03/82)
Kawela vicinity, *Archeological Site (T–57) 50–60–03–720*, W of Kawela (11/04/82)
Kawela vicinity, *Archeological Site (T–6 complex) 50–60–04–700*, Onioni Dr. and Kupaia Pl. (11/03/82)
Kawela vicinity, *Archeological Site (T–76) 50–60–03–724*, W of Kawela (11/04/82)
Kawela vicinity, *Archeological Site (T–78) 50–60–03–723*, W of Kawela (11/04/82)
Kawela vicinity, *Archeological Site (T–79) 50–60–03–726*, W of Kawela (11/04/82)
Kawela vicinity, *Archeological Site (T–88) 50–60–04–707*, N of Kawela (11/04/82)
Kawela vicinity, *Archeological Site (T–92) 50–60–04–708*, W of Kawela (11/05/82)
Kawela vicinity, *Archeological Site (T–12) 50–60–04–704*, E of Kawela (11/04/82)
Kawela vicinity, *Archeological Site (T–81, –100, –101, –105, –142) 50–60–03–717*, N of Kawela (11/04/82)
Kawela vicinity, *Archeological Site 50–60–04–140*, N of Kawela (11/03/82)
Kawela vicinity, *Archeological Site 50–60–04–144*, Kamehameha Hwy. and Onioni Dr. (11/03/82)
Kawela vicinity, *Kemehameha V Wall, Archeological Site (T–20 and T–42–3) 50–60–04–706*, W of Kawela (11/05/82)
Keokea, *Ket Hing Society Building (Chinese Tong Houses of Maui Island TR)*, Cross Rd. (11/15/82)
Kula, *Holy Ghost Catholic Church*, Lower Kula Rd. (08/18/83)
Lahaina, *Wo Hing Society Building (Chinese Tong Houses of Maui Island TR)*, 848 Front St. (11/15/82)
Wailuku, *Chee Kung Tong Society Building (Chinese Tong Houses of Maui Island TR)*, 2151 Vineyard St. (11/15/82)

IDAHO

Ada County

Boise, *Abbs, Walter, House (Tourtellotte and Hummel Architecture TR)*, 915 Fort St. (11/17/82)
Boise, *Ada Odd Fellows Tempie (Tourtellotte and Hummel Architecture TR)*, 109–115½ N. 9th St. (11/17/82)
Boise, *Allsup, Marion, House (Tourtellotte and Hummel Architecture TR)*, 1601 N. 10th (11/17/82)
Boise, *Beck, Albert, House(Tourtellotte and Hummel Architecture TR)*, 1101 Fort St. (11/17/82)

Boise, *Boise High School Campus (Tourtellotte and Hummel Architecture TR)*, Washington St. between 9th and 11th Sts. (11/17/82)
Boise, *Boise Junior College Administration Building (Tourtellotte and Hummel Architecture TR)*, Boise State University campus (11/17/82)
Boise, *Boise Junior High School (Tourtellotte and Hummel Architecture TR)*, 1105 N. 13th St. (11/17/82)
Boise, *Brunzell House (Tourtellotte and Hummel Architecture TR)*, 916 Franklin St. (11/17/82)
Boise, *Bryant, H. H., Garage (Tourtellotte and Hummel Architecture TR)*, 11th and Fronts Sts. (11/17/82)
Boise, *Burnett, H. C., House (Tourtellotte and Hummel Architecture TR)*, 124 W. Bannock St. (11/17/82)
Boise, *Cavanah, C. C., House (Tourtellotte and Hummel Architecture TR)*, 107 E. Idaho St. (11/17/82)
Boise, *Chinese Odd Fellows Building (Tourtellotte and Hummel Architecture TR)*, 610–612 Front St. (11/17/82)
Boise, *Coffin, Henry, House (Tourtellotte and Hummel Architecture TR)*, 1403 Franklin St. (11/17/82)
Boise, *Cole School and Gymnasium (Boise Public Schools TR)*, 7145 Fairview Ave. (11/08/82)
Boise, *Collister School (Boise Public Schools TR)*, 4426 Catalpa Dr. (11/08/82)
Boise, *Daly, John, House (Tourtellotte and Hummel Architecture TR)*, 1015 W. Hays St. (11/17/82)
Boise, *Davies, Dr. James, House (Tourtellotte and Hummel Architecture TR)*, 1107 W. Washington St. (11/17/82)
Boise, *Davis, R. K., House (Tourtellotte and Hummel Architecture TR)*, 1016 Franklin St. (11/17/82)
Boise, *Dunbar, William, House (Tourtellotte and Hummel Architecture TR)*, 1500 W. Hays St. (11/17/82)
Boise, *Dunton, Minnie Priest, House (Tourtellotte and Hummel Architecture TR)*, 908 Hays St. (11/17/82)
Boise, *Echevarria, Pedro, House (Tourtellotte and Hummel Architecture TR)*, 5605 State St. (11/17/82)
Boise, *Eichelberger Apartments (Tourtellotte and Hummel Architecture TR)*, 612–24 N. 9th St. (11/17/82)
Boise, *Fleharty, Alva House (Tourtellotte and Hummel Architecture TR)*, 907 Hays St. (11/17/82)
Boise, *Fort Street Historic District*, Roughly bounded by Fort, State, 6th, and 16th Sts. (11/12/82)
Boise, *Franklin School (Boise Public Schools TR)*, 5007 Franklin Rd. (11/10/82)
Boise, *Friedline Apartments*, 1312–1326 State St. (10/29/82)
Boise, *Fritchman, H. K., House (Tourtellotte and Hummel Architecture TR)*, 1207 W. Hays St. (11/17/82)
Boise, *Funsten, Bishop, House (Tourtellotte and Hummel Architecture TR)*, 2420 Old Penitentiary Rd. (01/03/82)
Boise, *Gakey, J. H., House (Tourtellotte and Hummel Architecture TR)*, 1402 Franklin St. (11/17/82)
Boise, *Garfield School (Boise Public Schools TR)*, 1914 Broadway Ave. (11/08/82)
Boise, *Green, John, Mausoleum (Tourtellotte and Hummel Architecture TR)*, Morris Hill Cemetery (11/17/82)
Boise, *Guernsey Dairy Milk Depot (Tourtellotte and Hummel Architecture TR)*, 2419 State St. (11/17/82)
Boise, *Haines, John, House (Tourtellotte and Hummel Architecture TR)*, 919 W. Hays St. (11/17/82)
Boise, *Hays, Samuel, House (Tourtellotte and Hummel Architecture TR)*, 612 Franklin St. (11/17/82)
Boise, *Hottes, Fred, House (Tourtellotte and Hummel Architecture TR)*, 509 W. Hays St. (11/17/82)
Boise, *Hyde Park Historic District*, Both sides of N. 13th St. beween Alturas and Brumback Sts. (10/29/82)
Boise, *Immanuel Methodist Episcopal Church (Tourtellotte and Hummel Architecture TR)*, 1406 Eastman (11/17/82)
Boise, *Jefferson, W. E., House (Tourtellotte and Hummel Architecture TR)*, 1117 N. 8th St. (11/17/82)
Boise, *Johnson J. M., House (Tourtellotte and Hummel Architecture TR)*, 1002 Franklin (11/17/82)
Boise, *Jones, T. J., Apartments (Tourtellotte and Hummel Architecture TR)*, 10th St. and Fort (11/17/82)
Boise, *Kieldson Double House (Tourtellotte and Hummel Architecture TR)*, 413–415 Jefferson St. (11/17/82)
Boise, *Kinney, Joseph, Mausoleum (Tourtellotte and Hummel Architecture TR)*, Morris Hill Cemetery (11/17/82)
Boise, *Longfellow School (Boise Public Schools TR)*, 1511 N. 9th St. (11/08/82)
Boise, *Lowell School (Boise Public Schools TR)*, 1507 N. 22nd St. (11/08/82)
Boise, *Marks, M. J., House (Tourtellotte and Hummel Architecture TR)*, 1001 Hays St. (11/17/82)
Boise, *McElroy, H. E., House (Tourtellotte and Hummel Architecture TR)*, 924 W. Fort St. (11/17/82)
Boise, *Mickle, Willis, House (Tourtellotte and Hummel Architecture TR)*, 1415 N. 8th St. (11/17/82)
Boise, *Mitchell Hotel (Tourtellotte and Hummel Architecture TR)*, 10th and Front Sts. (11/17/82)
Boise, *Morris Hill Cemetery Mausoleum (Tourtellotte and Hummel Architecture TR)*, Morris Hill Cemetery (11/17/82)
Boise, *Neal, W. Scott, House (Tourtellotte and Hummel Architecture TR)*, 215 E. Jefferson (11/17/82)
Boise, *Neitzel, H. R., House (Tourtellotte and Hummel Architecture TR)*, 705 N. 9th St. (11/17/82)
Boise, *Nixon, Axel, House (Tourtellotte and Hummel Architecture TR)*, 815 W. Hays St (11/17/82)
Boise, *Parker, John, House (Tourtellotte and Hummel Architecture TR)*, 713 Franklin St. (11/17/82)
Boise, *Paynton, Charles, House (Tourtellotte and Hummel Architecture TR)*, 1213 N. 8th St. (11/17/82)
Boise, *Pierce Park School (Boise Public Schools TR)*, 5015 Pierce Park Lane (11/08/82)
Boise, *Regan, John American Legion Hall (Tourtellotte and Hummel Architecture TR)*, 401 W. Idaho St. (11/17/82)
Boise, *Reiger, Fred, Houses (Tourtellotte and Hummel Architecture TR)*, 214 and 216–18 E. Jefferson St. (11/17/82)
Boise, *Roosevelt School (Boise Public Schools TR)*, 908 E. Jefferson St. (11/08/82)
Boise, *Rosedale Odd Fellows Temple (Tourtellotte and Hummel Architecture TR)*, 1755 Broadway (11/17/82)
Boise, *Rossi, Mrs. A. F., House (Tourtellotte and Hummel Architecture TR)*, 1711 Boise Ave. (11/17/82)
Boise, *Schmelzel, H. A., House (Tourtellotte and Hummel Architecture TR)*, 615 W. Hays St. (11/17/82)
Boise, *Schreiber, Adolph, House (Tourtellotte and Hummel Architecture TR)*, 524 W. Franklin St. (11/17/82)
Boise, *Sidenfaden, William, House (Tourtellotte and Hummel Architecture TR)*, 906 Franklin St. (11/17/82)
Boise, *Simpson, W. A., House (Tourtellotte and Hummel Architecture TR)*, 1004 N. 10th St. (11/17/82)
Boise, *Smith, Nathan, House (Tourtellotte and Hummel Architecture TR)*, Broadway and Targhee (01/03/83)
Boise, *South Boise Fire Station (Tourtellotte and Hummel Architecture TR)*, 1011 Williams St. (11/17/82)
Boise, *St. Alphonsus' Hospital Nurses' Home and Heating Plant/Laundry (Tourtellotte and Hummel Architecture TR)*, N. 4th St. between Washington and State Sts. (11/17/82)
Boise, *St. John's Cathedral Block (Tourtellotte and Hummel Architecture TR)*, 8th and Hays, 9th and Fort Sts. (11/17/82)
Boise, *St. Mary's Catholic Church (Tourtellotte and Hummel Architecture TR)*, State and 26th Sts. (11/17/82)
Boise, *St. Paul Missionary Baptist Church*, 124 Broadway Ave. (10/29/82)
Boise, *Stephan, Louis, House (Tourtellotte and Hummel Architecture TR)*, 1709 N. 18th St. (11/17/82)
Boise, *Tourtellotte, John, Building (Tourtellotte and Hummel Architecture TR)*, 210–222 N. 10th St. (11/17/82)
Boise, *Ustick School*, 2971 Mumbarto St. (10/29/82)
Boise, *Wallace, J. N., House (Tourtellotte and Hummel Architecture TR)*, 1202 Franklin St. (11/17/82)
Boise, *Waymire, C. H., Building (Tourtellotte and Hummel Architecture TR)*, 1521 N 13th St. (11/17/82)
Boise, *Welch, Edward, House (Tourtellotte and Hummel Architecture TR)*, 1321 E. Jefferson St. (11/17/82)
Boise, *Wellman Apartments (Tourtellotte and Hummel Architecture TR)*, 5th and Franklin Sts. (11/17/82)
Boise, *Whitney School (Boise Public Schools TR)*, 1609 S. Owyhee St. (11/08/82)
Boise, *Wolters Double Houses (Tourtellotte and Hummel Architecture TR)*, 712–16, 720–22 N. 8th St. (11/17/82)
Boise, *Zurcher Apartments (Tourtellotte and Hummel Architecture TR)* 102 S. 17th St. (11/17/82)
Eagle, *Aiken's Hotel*, 99 E. State St. (10/29/82)

Eagle, *Jackson, Orville, House (Tourtellotte and Hummel Architecture TR)*, 127 S. Eagle Rd. (11/17/82)
Garden City Vicinity, *Pierce-Borah House (Tourtellotte and Hummel Architecture TR)*, W of Garden City off US 26 (01/03/83)
Meridian, *Hunt, E. F., House (Tourtellotte and Hummel Architecture TR)*, 49 E. State (11/17/82)
Meridian, *Meridian Exchange Bank (Tourtellotte and Hummel Architecture TR)*, 109 E. 2nd St. (11/17/82)
Meridian, *Neal, Halbert F. and Grace, House*, 101 W. Pine St. (10/19/82)

Bannock County

Pocatello, *Hyde, William A., House*, 429 N. 7th St. (06/23/83)

Bear Lake County

Paris vicinity, *Cole House (Paris MRA)*, SW of Paris (11/18/82)
Paris vicinity, *Collings, James, Jr., House (Paris MRA)*, S of Paris on US 89 (11/18/82)
Paris vicinity, *Sheidigger, John, House and Outbuildings (Paris MRA)*, S of Paris on US 89 (11/18/82)
Paris vicinity, *Wallentine Farmstead (Paris MRA)*, NW of Paris (11/18/82)
Paris vicinity, *Weilermann, Gus, House (Paris MRA)*, SW of Paris (11/18/82)
Paris, *Allred, Ezra, Bungalow (Paris MRA)*, 93 Center St. (11/18/82)
Paris, *Allred, Ezra, Cottage (Paris MRA)*, 159 Main St. (11/18/82)
Paris, *Ashley, Dr. George, House (Paris MRA)*, 40 W. 2nd North (11/18/82)
Paris, *Ashley, George, Sr., House (Paris MRA)*, W. 2nd North (11/18/82)
Paris, *Bear Lake Market (Paris MRA)*, N. Main St. (11/18/82)
Paris, *Beck Barns and Automobile Storage (Paris MRA)*, Center St. (11/18/82)
Paris, *Bishop West Barn (Paris MRA)*, W. 2nd St. (11/18/82)
Paris, *Browning Block (Paris MRA)*, Main and Center Sts. (11/18/82)
Paris, *Budge Cottage (Paris MRA)*, Center St. (11/18/82)
Paris, *Budge, Alfred, House (Paris MRA)*, N. 1st W. at W. 1st North (11/18/82)
Paris, *Budge, Julia, House (Paris MRA)*, 57 W. 1st North (11/18/82)
Paris, *Budge, Taft, Bungalow (Paris MRA)*, 86 Center St. (04/13/83)
Paris, *Clayton, Russell, Bungalow (Paris MRA)*, 147 E. Center St. (04/13/83)
Paris, *Cook, Joseph, House (Paris MRA)*, 63 W. 2nd South (11/18/82)
Paris, *Davis, E. F., House (Paris MRA)*, 10 W. 2nd North (11/18/82)
Paris, *Grimmett, John, Jr., House and Outbuildings (Paris MRA)*, 135 W. 2nd North (04/13/83)
Paris, *Grimmett, Orson, Bungalow (Paris MRA)*, 28 W. 2nd North (04/13/83)
Paris, *Grunder Cabin and Outbuildings (Paris MRA)*, E. 1st North (11/18/82)
Paris, *Hoffman Barn (Paris MRA)*, N. 2nd East (11/18/82)
Paris, *Hoge, Walter, House (Paris MRA)*, Center and N. 1st East (11/18/82)
Paris, *Hotel Paris (Paris MRA)*, 7 Main St. (11/18/82)
Paris, *Hulme, Amos, Barn (Paris MRA)*, N. 1st East (11/18/82)
Paris, *Innes, Kate, House (Paris MRA)*, 100 E. 2nd South (04/13/83)
Paris, *Innes, Thomas, House (Paris MRA)*, 42 W. 1st St. South (11/18/82)
Paris, *Jaussi Bungalow (Paris MRA)*, 170 E. 2nd North (11/18/82)
Paris, *Keller House and Derick (Paris MRA)*, E. 1st North (11/18/82)
Paris, *Kelsey, Robert, Bungalow (Paris MRA)*, 24 E. 2nd South (04/13/83)
Paris, *LDS Seminary (Paris MRA)*, Tabernacle Block (11/18/82)
Paris, *LDS Stake Office Building (Paris MRA)*, S. Main St. (11/18/82)
Paris, *Latham Bungalow (Paris MRA)*, 152 S. 1st East (04/13/83)
Paris, *Law, Oren, House and Outbuildings (Paris MRA)*, 592 Main St. (11/18/82)
Paris, *Lewis Barn (Paris MRA)*, W. 2nd North (11/18/82)
Paris, *Lewis Bungalow (Paris MRA)*, W. 2nd North (04/13/83)
Paris, *Lewis, Fred, Cottage (Paris MRA)*, W. 2nd North (04/13/83)
Paris, *Linvall, J. L., House and Outbuilding (Paris MRA)*, E. 2nd South (11/18/82)
Paris, *Linvall, Robb, House (Paris MRA)*, Paris Canyon Rd. (11/18/82)
Paris, *Low, Morris, Bungalow (Paris MRA)*, 48 W. Center St. (11/18/82)
Paris, *Nye, James, House (Paris MRA)*, E. 1st South (04/13/83)
Paris, *Old LDS Tithing Office/Paris Post Building (Paris MRA)*, Main St. (11/18/82)
Paris, *Paris Cemetery (Paris MRA)*, Off US 89 (11/18/82)
Paris, *Paris Lumber Company Building (Paris MRA)*, Main St. (11/18/82)
Paris, *Paris Photo Studio (Paris MRA)*, W. Center St. (11/18/82)
Paris, *Paris Public School (Paris MRA)*, Main and 1st Sts. North (11/18/82)
Paris, *Pendrey Drug Store Building (Paris MRA)*, Main and Center Sts. (11/18/82)
Paris, *Pendrey, Joe and Zina, Bungalow (Paris MRA)*, N. Main St. (04/13/83)
Paris, *Poulson, Jim, House (Paris MRA)*, 146 E. 1st North (11/18/82)
Paris, *Preston Bungalow (Paris MRA)*, W. Center St. (04/13/83)
Paris, *Price, Dan, House (Paris MRA)*, W. 1st North and N. 1st West (11/18/82)
Paris, *Price, Fred, Bungalow (Paris MRA)*, N. 1st West (04/13/83)
Paris, *Price, Herber, Bungalow (Paris MRA)*, 60 W. 1st North (04/13/83)
Paris, *Price, Joe, House (Paris MRA)*, W. 1st North (11/18/82)
Paris, *Price, Robert, House (Paris MRA)*, N. 1st W. at W. 1st North (11/18/82)
Paris, *Rich, Landon, House (Paris MRA)*, W. 1st South (11/18/82)
Paris, *Rich, William L., House (Paris MRA)*, 34 W. 2nd South (11/18/82)
Paris, *Rich-Grandy Cabin (Paris MRA)*, E. 2nd South (11/18/82)
Paris, *Rogers, Franklin, Bungalow (Paris MRA)*, 55 E. Center St. (11/18/82)
Paris, *Rogers, Frederick, House (Paris MRA)*, W. 2nd North (11/18/82)
Paris, *Shepherd Bungalow (Paris MRA)*, 55 W. 1st North (04/13/83)
Paris, *Shepherd Hardware (Paris MRA)*, Main St. (11/18/82)
Paris, *Shepherd, Earl, Bungalow (Paris MRA)*, 104 Center St. (11/18/82)
Paris, *Shepherd, J. R., House (Paris MRA)*, 58 W. Center St. (11/18/82)
Paris, *Shepherd, Les and Hazel, Bungalow (Paris MRA)*, 185 Main St. (11/18/82)
Paris, *Shepherd, Ted, Cottage (Paris MRA)*, N. 1st West (11/18/82)
Paris, *Sleight, Thomas, Cabin (Paris MRA)*, Main St. (11/18/82)
Paris, *Smedley, Thomas, House (Paris MRA)*, E. 1st St. N. (11/18/82)
Paris, *Spencer, George, House (Paris MRA)*, Center St. and N. 1st East (11/18/82)
Paris, *Stoker, Henry, House and Outbuildings (Paris MRA)*, 192 S. 2nd East (11/18/82)
Paris, *Stucki, J. U., House and Outbuildings (Paris MRA)*, S. 1st West (04/13/83)
Paris, *Sutton, John, House (Paris MRA)*, 140 Main St. (11/18/82)
Paris, *Taylor's Candy Factory (Paris MRA)*, Main St. (04/13/83)
Paris, *Taylor, Arthur, House (Paris MRA)*, W. 2nd North (11/18/82)
Paris, *Telephone Company Bungalow (Paris MRA)*, Center St. (11/18/82)
Paris, *Tueller, Jacob, Jr., House (Paris MRA)*, 75 S. 1st East (11/18/82)
Paris, *Tueller, John, Sr., House (Paris MRA)*, 165 E. 1st South (11/18/82)
Paris, *Wives of Charles C. Rich Historic District, (Paris MRA)*, S. 1st West (11/18/82)

Bingham County

Blackfoot, *Jones, J. W., Building (Tourtellotte and Hummel Architecture TR)*, 104 NE Main St. (11/17/82)
Blackfoot, *Shilling Avenue Historic District*, Shilling Ave. between E. Idaho and Bingham Sts. and Bridge and Judicial Sts. to Stout Ave. (08/18/83)
Fort Hall, *Ross Fork Episcopal Church (Tourtellotte and Hummel Architecture TR)*, Mission Rd. (01/03/83)

Blaine County

Hailey, *Fox, J.C., Building*, S. Main St. (03/31/83)
Hailey, *St. Charles of the Valley Catholic Church and Rectory (Tourtellotte and Hummel Architecture TR)*, Pine and S. 1st Sts. (11/17/82)
Hailey, *Watt, W.H., Building*, 120 N. Main St. (03/31/83)
Ketchum, *Bald Mountain Hot Springs (Tourtellotte and Hummel Architecture TR)*, Main and 1st St. (11/17/82)
Ketchum, *Greenhow and Rumsey Store Building*, Main Ave. (08/18/83)

Bonner County

Sandpoint, *Bernd, W.A. Building*, 307—311 N. 1st. Ave. (08/18/83)

Bonneville County

Swan Valley vicinity, *Snake River Ranger Station*, U.S. 26 (09/20/83)

Boundary County

Eastport vicinity, *Snyder Guard Station Historical District*, S of Eastport on Forest Service Rd. 211 (08/19/83)

Canyon County

Caldwell, *Caldwell Odd Fellow Home for the Aged (Tourtellotte and Hummel Architecture TR)*, N. 14th Ave. (11/17/82)

Caldwell, *St. Mary's Catholic Church (Tourtellotte and Hummel Architecture TR)*, 616 Dearborn (11/17/82)
Caldwell, *Steunenberg, A. K., House (Tourtellotte and Hummel Architecture TR)*, 409 N. Kimball (11/17/82)
Givens Springs vicinity, *Map Rock Petroglyphs Historic District*, E of Givens Springs (11/15/82)
Nampa vicinity, *Idaho State Sanitorium Administration Building (Tourtellotte and Hummel Architecture TR)*, NE of Nampa on 11th Ave. N., (11/17/82)
Nampa, *Dewey, E. H., Stores (Tourtellotte and Hummel Architecture TR)*, 1013–15 1st. St., S. (11/17/82)
Nampa, *Nampa American Legion Chateau (Tourtellotte and Hummel Architecture TR)*, 1506 2nd St. S. (11/17/82)
Nampa, *Nampa Department Store (Tourtellotte and Hummel Architecture TR)*, 1st St. S., and 13th Ave. (11/17/82)
Nampa, *Nampa First Methodist Episcopal Church (Tourtellotte and Hummel Architecture TR)*, 12th Ave. S. and 4th St. (11/17/82)
Nampa, *Nampa Historic District*, 1200 and 1300 blocks S. 1st St. (08/18/83)
Nampa, *Nampa Presbyterian Church (Tourtellotte and Hummel Architecture TR)*, 2nd St. and 15th Ave. S. (11/17/82)
Nampa, *Nampa and Meridian Irrigation District Office (Tourtellotte and Hummel Architecture TR)*, 1503 1st St., S. (11/17/82)
Nampa, *St. Paul's Rectory and Sisters' House (Tourtellotte and Hummel Architecture TR)*, 810 15th Ave., S. (11/17/82)
Parma, *Sacred Hearts of Jesus and Mary Church (Tourtellotte and Hummel Architecture TR)*, 608 7th St. (11/17/82)
Roswell, *Roswell Grade School (Tourtellotte and Hummel Architecture TR)*, ID 18 and Stephan Lane (11/17/82)
Wilder vicinity, *Peckham Barn*, N of Wilder on US 95 (10/07/82)

Clearwater County

Orofino, *Orofino Historic District*, 2nd, Dewey, Main, Johnson, and 6th Sts. (10/29/82)
Pierce vicinity, *Moore Gulch Chinese Mining Site (10–CW–159)*, (01/27/83)

Custer County

Mackay, *Mackay Episcopal Church (Tourtellotte and Hummel Architecture TR)*, Park Ave. and College (11/17/82)
Stanley vicinity, *Stanley Ranger Station*, S of Stanley on US 93 (12/15/82)

Elmore County

Glenns Ferry, *Gorby Opera Theater (Tourtellotte and Hummel Architecture TR)*, Idaho St. (11/17/82)
Glenns Ferry, *McGimis, J.S., Building (Tourtellotte and Hummel Architecture TR)*, 1st and Commercial Sts. (11/17/82)
Glenns Ferry, *O'Neill Brothers Building (Tourtellotte and Hummel Architecture TR)*, Idaho St. (11/17/82)
Glenns Ferry, *Our Lady of Limerick Catholic Church (Tourtellotte and Hummel Architecture TR)*, 113 W. Arthur (11/17/82)
Mountain Home, *Ake, F.P., Building (Tourtellotte and Hummel Architecture TR)*, 160–72 Main St. (11/17/82)
Mountain Home, *Father Lobell House (Tourtellotte and Hummel Architecture TR)*, 125 4th St. E. (11/17/82)
Mountain Home, *Mountain Home Baptist Church (Tourtellotte and Hummel Architecture TR)*, 285 N. 4th East (11/17/82)
Mountain Home, *Moutain Home Hotel*, 195 N. 2nd West (10/29/82)

Fremont County

St. Anthony vicinity, *Idaho State Industrial School Women's Dormitory (Tourtellotte and Hummel Architecture TR)*, W of St. Anthony on N. Parker Hwy. (11/17/82)

Gem County

Emmett, *Bliss, F. T., House (Tourtellotte and Hummel Architecture TR)*, E. 2nd and McKinley Sts. (11/17/82)
Emmett, *Fletcher Oil Company Building (Tourtellotte and Hummel Architecture TR)*, Main St. and Boise Ave. (11/17/82)
Emmett, *Gem County Courthouse (Tourtellotte and Hummel Architecture TR)*, Main St. and McKinley Ave. (11/17/82)

Gooding County

Gooding, *Gooding College Campus (Tourtellotte and Hummel Architecture TR)*, ID 26 (03/18/83)
Gooding, *Thompson Mortuary Chapel (Tourtellotte and Hummel Architecture TR)*, 732 Main St. (11/17/82)
Gooding, *Trinity Episcopal Church (Tourtellotte and Hummel Architecture TR)*, 7th and Idaho Sts. (11/17/82)
Wendell vicinity, *West Point Grade School (Tourtellotte and Hummel Architecture TR)*, Off I–86 (11/17/82)

Jefferson County

Annis vicinity, *Scott, Josiah, House*, SW of Annis (11/08/82)

Jerome County

Eden vicinity, *Vineyard, Charles C., House (Lava Rock Structures in South Central Idaho TR)*, SW of Eden (09/08/83)
Hazelton vicinity, *Havens, Bert and Fay, House (Lava Rock Structures in South Central Idaho TR)*, N of Hazelton (09/08/83)
Hazelton vicinity, *Kelley, Marion and Julia, House (Lava Rock Structures in South Central Idaho TR)*, 450 4th st. E. (09/08/83)
Hazelton vicinity, *Shepard, L. Fay, House (Lava Rock Structures in South Central Idaho TR)*, S of Hazelton (09/08/83)
Jerome vicinity, *Barnes, Tom, Barn (Lava Rock Structures in South Central Idaho TR)*, E of Jerome (09/08/83)
Jerome vicinity, *Doughty, George V., House and Garage (Lava Rock Structures in South Central Idaho TR)*, NE of Jerome (09/15/83)
Jerome vicinity, *Jerome First Baptist Church (Lava Rock Structures in South Central Idaho TR)*, 1st Ave., E. (09/08/83)
Jerome vicinity, *Laughlin, Ben, Water Tank House-Garage (Lava Rock Structures in South Central Idaho TR)*, E of Jerome (09/08/83)
Jerome vicinity, *North Side Canal Company Slaughter House (Lava Rock Structures in South Central Idaho TR)*, NE of Jerome (09/08/83)
Jerome vicinity, *Ricketts, Julian T., House (Lava Rock Structures in South Central Idaho TR)*, SE of Jerome (09/08/83)
Jerome vicinity, *Spencer, Edward S., House and Garage and the Fred Nelson Barn (Lava Rock Structures in South Central Idaho TR)*, N of Jerome (09/08/83)
Jerome vicinity, *Veazie, William T. and Clara H., House (Lava Rock Structures in South Central Idaho TR)*, SW of Jerome (09/08/83)
Jerome vicinity, *Allton Building (Lava Rock Structures in South Central Idaho TR)*, 160 E. Main St. (09/08/83)
Jerome vicinity, *Bethune-Ayres House (Lava Rock Structures in South Central Idaho TR)*, E of Jerome (09/08/83)
Jerome vicinity, *Blessing, Carl, Outbuildings (Lava Rock Structures in South Central Idaho TR)*, NW of Jerome (09/08/83)
Jerome vicinity, *Bothwell, James, Water Tank House (Lava Rock Structures in South Central Idaho TR)*, N of Jerome (09/08/83)
Jerome vicinity, *Bower, Charles, House (Lava Rock Structures in South Central Idaho TR)*, N of Jerome (09/08/83)
Jerome vicinity, *Brick, Frank J., House (Lava Rock Structures in South Central Idaho TR)*, 300 N. Fillmore St. (09/08/83)
Jerome vicinity, *Callen, Dick, House (Lava Rock Structures in South Central Idaho TR)*, S of Jerome (09/08/83)
Jerome vicinity, *Cook, William H., Water Tank House (Lava Rock Structures in South Central Idaho TR)*, SE of Jerome (09/08/83)
Jerome vicinity, *Cooke, E.V., House (Lava Rock Structures in South Central Idaho TR)*, NE of Jerome (09/08/83)
Jerome vicinity, *Daniels, O.J., House (Lava Rock Structures in South Central Idaho TR)*, S of Jerome (09/08/83)
Jerome vicinity, *Epperson, George, House (Lava Rock Structures in South Central Idaho TR)*, SE of Jerome (09/08/83)
Jerome vicinity, *Erdman, G.H., House (Lava Rock Structures in South Central Idaho TR)*, W of Jerome (09/08/83)
Jerome vicinity, *Falls City School House (Lava Rock Structures in South Central Idaho TR)*, SE of Jerome (09/08/83)
Jerome vicinity, *Fry, Merritt, Farm (Lava Rock Structures in South Central Idaho TR)*, W of Jerome (09/08/83)
Jerome vicinity, *Gleason, E.C., House (Lava Rock Structures in South Central Idaho TR)*, 209 E. Ave. A (09/08/83)
Jerome vicinity, *Goff, Hugh and Susie, House (Lava Rock Structures in South Central Idaho TR)*, NE of Jerome (09/08/83)
Jerome vicinity, *Graves, Lulu, Farm (Lava Rock Structures in South Central Idaho TR)*, NW of Jerome (09/08/83)
Jerome vicinity, *Gregg, Edward M., Farm (Lava Rock Structures in South Central Idaho TR)*, SE of Jerome (09/08/83)
Jerome vicinity, *Huer Well House/Water Tank (Lava Rock Structures in South Central Idaho TR)*, NE of Jerome (09/08/83)
Jerome vicinity, *Jerome City Pump House (Lava Rock Structures in South Central Idaho TR)*, 600 Block of E. B St. (09/08/83)
Jerome vicinity, *Jerome Cooperative Creamery (Lava Rock Structures in South*

Central Idaho TR), 313 S. Birch St. (09/08/83)
Jerome vicinity, *Johnson, Edgar, House (Lava Rock Structures in South Central Idaho TR)*, S of Jerome (09/08/83)
Jerome vicinity, *Keating, Clarence, House (Lava Rock Structures in South Central Idaho TR)*, NE of Jerome (09/08/83)
Jerome vicinity, *Kehrer, Thomas J., House (Lava Rock Structures in South Central Idaho TR)*, N of Jerome (09/08/83)
Jerome vicinity, *Lawshe, George, Well House (Lava Rock Structures in South Central Idaho TR)*, SE of Jerome (09/08/83)
Jerome vicinity, *Lee, J.O., House (Lava Rock Structures in South Central Idaho TR)*, 5th Ave., E. (09/08/83)
Jerome vicinity, *Lee, J.O., Honey House (Lava Rock Structures in South Central Idaho TR)*, 5th Ave., E. (09/08/83)
Jerome vicinity, *Mandl, Joseph, House (Lava Rock Structures in South Central Idaho TR)*, 800 N. Fillmore St. (09/08/83)
Jerome vicinity, *Newman, J.W. and Rachel, House and Bunkhouse (Lava Rock Structures in South Central Idaho TR)*, E of Jerome (09/08/83)
Jerome vicinity, *Osborne, Jessie, House (Lava Rock Structures in South Central Idaho TR)*, W of Jerome (09/08/83)
Jerome vicinity, *Quay, Greer and Jennie, House (Lava Rock Structures in South Central Idaho TR)*, NE of Jerome (09/08/83)
Jerome vicinity, *Schmerschall, John F., House (Lava Rock Structures in South Central Idaho TR)*, 248 E. Ave. A (09/08/83)
Jerome vicinity, *Shoshone Falls Power Plant Caretaker's House (Lava Rock Structures in South Central Idaho TR)*, SE of Jerome (09/08/83)
Jerome vicinity, *Silbaugh, W.H., House (Lava Rock Structures in South Central Idaho TR)*, W of Jerome (09/08/83)
Jerome vicinity, *Stevens, Arnold, House (Lava Rock Structures in South Central Idaho TR)*, W of Jerome (09/08/83)
Jerome vicinity, *Stickel, John, House (Lava Rock Structures in South Central Idaho TR)*, W of Jerome (09/08/83)
Jerome vicinity, *Sugarloaf School (Lava Rock Structures in South Central Idaho TR)*, E of Jerome (09/08/83)
Jerome vicinity, *Thomason, Rice, Barn (Lava Rock Structures in South Central Idaho TR)*, E of Jerome (09/08/83)
Jerome vicinity, *Tooley, Don, House (Lava Rock Structures in South Central Idaho TR)*, NE of Jerome (09/08/83)
Jerome vicinity, *Van Hook, Jay, Potato Cellar (Lava Rock Structures in South Central Idaho TR)*, S of Jerome (09/08/83)
Jerome vicinity, *Van Wagener, Jacob B., Barn (Lava Rock Structures in South Central Idaho TR)*, SE of Jerome (09/08/83)
Jerome vicinity, *Van Wagener, Jacob B., Caretaker's House (Lava Rock Structures in South Central Idaho TR)*, SE of Jerome (09/08/83)
Jerome vicinity, *Vipham, Thomas, House (Lava Rock Structures in South Central Idaho TR)*, 313 E. Ave. D (09/08/83)
Jerome vicinity, *Webster, Archie, House (Lava Rock Structures in South Central Idaho TR)*, West Ave. and W. Ave. B (09/08/83)
Jerome vicinity, *Weigle, William, House and Water Tank (Lava Rock Structures in South Central Idaho TR)*, NW of Jerome (09/08/83)

Latah County

Bovill, *St. Joseph's Catholic Church (Tourtellotte and Hummel Architecture TR)* 1st and Cedar (11/17/82)
Moscow, *University of Idaho Gymnasium and Armory (Tourtellotte and Hummel Architecture TR)* University of Idaho campus (01/03/83)

Lemhi County

Salmon, *Salmon City Hall and Library (Tourtellotte and Hummel Architecture TR)* 200 Main St. (11/17/82)

Lincoln County

Dietrich vicinity, *Bate, S. A., Barn and Chicken House (Lava Rock Structures in South Central Idaho TR)*, SE of Dietrich (09/08/83)
Dietrich vicinity, *Berriochoa, Ignacio, Farm (Lava Rock Structures in South Central Idaho TR)*, NW of Dietrich (09/08/83)
Dietrich vicinity, *Hunt, Daniel A., House (Lava Rock Structures in South Central Idaho TR)*, SW of Dietrich (09/08/83)
Dietrich vicinity, *Paul, Denton J., Water Tank (Lava Rock Structures in South Central Idaho TR)*, E of Dietrich (09/08/83)
Richfield vicinity, *Boussuet, Birdie, Farm (Lava Rock Structures in South Central Idaho TR)*, W of Richfield (09/08/83)
Richfield vicinity, *Eskelton, Alvin, Barn (Lava Rock Structures in South Central Idaho TR)*, NW of Richfield (09/08/83)
Richfield vicinity, *Johnson, Louis, Barn (Lava Rock Structures in South Central Idaho TR)*, SW of Richfield (09/08/83)
Richfield vicinity, *Johnson, Louis, Water Tank House (Lava Rock Structures in South Central Idaho TR)*, W of Richfield (09/08/83)
Richfield vicinity, *Johnson, Quet, Farm (Lava Rock Structures in South Central Idaho TR)*, NW of Richfield (09/08/83)
Richfield vicinity, *Kohl, W. S., Barn (Lava Rock Structures in South Central Idaho TR)*, NE of Richfield (09/08/83)
Richfield vicinity, *Laine, James H., Barn (Lava Rock Structures in South Central Idaho TR)*, S of Richfield (09/08/83)
Richfield vicinity, *Lemmon Hardware Store (Lava Rock Structures in South Central Idaho TR)*, Main St. and Nez Perce Ave (09/08/83)
Richfield vicinity, *Phelphs, Kenneth G., Barn (Lava Rock Structures in South Central Idaho TR)*, W of Richfield (09/08/83)
Richfield vicinity, *Richland Pump House (Lava Rock Structures in South Central Idaho TR)*, SE of Richfield (09/08/83)
Richfield vicinity, *Turner, John G., House (Lava Rock Structures in South Central Idaho TR)*, W of Richfield (09/08/83)
Shoshone vicinity, *Byrne, Tom, House (Lava Rock Structures in South Central Idaho TR)*, NE of Shoshone (09/08/83)
Shoshone vicinity, *Gooding, Thomas, Water Tank House (Lava Rock Structures in South Central Idaho TR)*, NW of Shoshone (09/08/83)
Shoshone vicinity, *American Legion Hall (Lava Rock Structures in South Central Idaho TR)*, 107 W. A St. (09/08/83)
Shoshone vicinity, *Anasola, Jose and Gertrude, House (Lava Rock Structures in South Central Idaho TR)*, 120 N. Alta St. (09/08/83)
Shoshone vicinity, *Arambarri, Galo, Boarding House (Lava Rock Structures in South Central Idaho TR)*, 109 N. Greenwood St. (09/08/83)
Shoshone vicinity, *Baugh, W.H., House (Lava Rock Structures in South Central Idaho TR)*, E of Shoshone (09/08/83)
Shoshone vicinity, *Custer Slaughter House (Lava Rock Structures in South Central Idaho TR)*, W of Shoshone (09/08/83)
Shoshone vicinity, *Darrah House and Water Tank House (Lava Rock Structures in South Central Idaho TR)*, NE of Shoshone (09/08/83)
Shoshone vicinity, *Darrah, Ben, Water Tank and Well House (Lava Rock Structures in South Central Idaho TR)*, N of Shoshone (09/08/83)
Shoshone vicinity, *Dill, Charles W., House (Lava Rock Structures in South Central Idaho TR)*, E of Shoshone (09/08/83)
Shoshone vicinity, *Gaches, George H., Cellar and Ice House (Lava Rock Structures in South Central Idaho TR)*, NW of Shoshone (09/08/83)
Shoshone vicinity, *Gottfried, Gehrig, Cabin (Lava Rock Structures in South Central Idaho TR)*, NW of Shoshone (09/08/83)
Shoshone vicinity, *J.C. Penney Company Building (Lava Rock Structures in South Central Idaho TR)*, 104 S. Rail St. (09/08/83)
Shoshone vicinity, *Murphy, W.H., House (Lava Rock Structures in South Central Idaho TR)*, 607 S. Greenwood St. (09/08/83)
Shoshone vicinity, *Myers School (Lava Rock Structures in South Central Idaho TR)*, W of Shoshone (09/08/83)
Shoshone vicinity, *Newman, A.G., House (Lava Rock Structures in South Central Idaho TR)*, 309 E. C St. (09/08/83)
Shoshone vicinity, *Olley, Thomas, House (Lava Rock Structures in South Central Idaho TR)*, 522 N. Apple St. (09/08/83)
Shoshone vicinity, *Oughton, Jack, House (Lava Rock Structures in South Central Idaho TR)*, 123 N. Beverly St. (09/08/83)
Shoshone vicinity, *Ritter, William M., House (Lava Rock Structures in South Central Idaho TR)*, NE of Shoshone (09/08/83)
Shoshone vicinity, *Silva, Arthur D., Water Tank (Lava Rock Structures in South Central Idaho TR)*, NW of Shoshone (09/08/83)
Shoshone vicinity, *Silva, Arthur, D., Flume (Lava Rock Structures in South Central Idaho TR)*, NW of Shoshone (09/08/83)
Shoshone vicinity, *Silva, Arthur D., Ranch (Lava Rock Structures in South Central Idaho TR)*, NW of Shoshone (09/08/83)
Shoshone vicinity, *Silva, Manuel, Barn (Lava Rock Structures in South Central Idaho TR)*, E of Shoshone (09/08/83)
Shoshone, *Purdum Livery Stable (Lava Rock Structures in South Central Idaho TR)*, 113 N. Rail St. E. (09/15/83)

Madison County

Rexburg, *Brenner, Jacob, House*, 51 S. 1st West (10/29/82)

Nez Perce County

Lewiston vicinity, *Hatwai Village Site*, E of Lewiston on US 95 (11/08/82)
Lewiston, *Idaho Grocery Warehouse and Annex (Tourtellotte and Hummel Architecture TR)*, 1200 Main St. (11/17/82)
Lewiston, *Lewiston City Hall (Tourtellotte and Hummel Architecture TR)*, 207 3rd. St. (11/17/82)
Lewiston, *Lewiston Vineyards Gates (Tourtellotte and Hummel Architecture TR)*, 18th Ave. and 10th (04/14/83)

Owyhee County

Bruneau, *Bruneau Episcopal Church (Tourtellotte and Hummel Architecture TR)*, Off ID 51 (11/17/82)
Murphy, *Owyhee County Courthouse (Tourtellotte and Hummel Architecture TR)*, ID 45 (11/17/82)

Payette County

New Plymouth, *New Plymouth Congregational Church (Tourtellotte and Hummel Architecture TR)*, Southwest Ave. between West Park and Plymouth (11/17/82)
Payette, *Jacobsen N. A., Building (Tourtellotte and Hummel Architecture TR)*, N. 8th St. and 1st Ave. (11/17/82)
Payette, *Palumbo, J. C., Fruit Company Packing Warehouse Building (Tourtellotte and Hummel Architecture TR)*, 2nd Ave. and 6th St. (11/17/82)

Shoshone County

Pinehurst, *Pine Creek Baptist Church (Tourtellotte and Hummel Architecture TR)*, Main and S. 3rd Sts. (11/17/82)
Wallace, *Wallace Historic District*, Roughly bounded by Oak, Silver, C., Mullan, Canyon, Fir, and First Sts. (09/01/83)

Twin Falls County

Buhl vicinity, *Carlson, Alfred, Barn (Buhl Dairy Barns TR)*, NE of Buhl (09/07/83)
Buhl vicinity, *Kunze, Gustave, Barn (Buhl Dairy Barns TR)*, SE of Buhl (09/07/83)
Buhl vicinity, *Bowlby, T. P., Barn (Buhl Dairy Barns TR)*, NE of Buhl (09/07/83)
Buhl vicinity, *Dau-Weubbenhorst Barn (Buhl Dairy Barns TR)*, SE of Buhl (09/07/83)
Buhl vicinity, *Kunze, Rudolf, Barn (Buhl Dairy Barns TR)*, NE of Buhl (09/07/83)
Buhl vicinity, *Maxwell, Art and Frieda, Barn (Buhl Dairy Barns TR)*, SE of Buhl (09/07/83)
Buhl vicinity, *Schick, Henry, Barn (Buhl Dairy Barns TR)*, SE of Buhl (09/07/83)
Twin Falls, *McCollum, Robert, House*, 706 E. Shoshone St. (11/04/82)

Valley County

Donnelly vicinity, *Korvola, John, Homestead (Long Valley Finnish Structures TR)*, Roseberry Rd. and Farm to Market Rd. (11/17/82)
Donnelly vicinity, *Mahala, Jacob and Herman, Homestead (Long Valley Finnish Structures TR)*, N of Donnelly (11/17/82)
Donnelly vicinity, *Maki, Jacob, Homestead (Long Valley Finnish Structures TR)*, Off ID 55 (11/17/82)
Lakefork vicinity, *Jarvi, Thomas, Homestead (Long Valley Finnish Structures TR)*, E of Lakefork on Finn Rd. (11/17/82)
Lakefork vicinity, *Johnson, John G., (Rintakangas) Homestead (Long Valley Finnish Structures TR)*, NE of Lakefork off Pearson Rd. (11/17/82)
Lakefork vicinity, *Johnson, John S. (Sampila) Homestead (Long Valley Finnish Structures TR)*, NE of Lakefork off Pearson Rd. (11/17/82)
Lakefork vicinity, *Laituri, Gust, Homestead (Long Valley Finnish Structures TR)*, NE of Lakefork off Pearson Rd. (11/17/82)
Lakefork vicinity, *Ojala, Herman, Homestead (Long Valley Finnish Structures TR)*, NE of Lakefork off Pearson Rd. (11/17/82)
Lakefork vicinity, *Ruatsale, Matt, Homestead (Long Valley Finnish Structures TR)*, N of Kantola Lane (11/17/82)
McCall vicinity, *Hill, Matt N., Homestead Barn (Long Valley Finnish Structures TR)*, SE of McCall (11/17/82)
McCall vicinity, *Koski, Charles, Homestead (Long Valley Finnish Structures TR)*, SE of McCall (11/17/82)
McCall vicinity, *Wargelin, Nickolai Homestead (Long Valley Finnish Structures TR)*, SE of McCall (11/17/82)

Washington County

Weiser vicinity, *Butterfield Livestock Company House (Tourtellotte and Hummel Architecture TR)*, N of Weiser on Jenkins Creek Rd. (11/17/82)
Weiser vicinity, *Larsen, Archie, House (Tourtellotte and Hummel Architecture TR)*, S of Weiser on Larsen Rd. (11/17/82)
Weiser, *Anderson-Elwell House (Tourtellotte and Hummel Architecture TR)*, 547 W. 1st St. (11/17/82)
Weiser, *Haas, Herman, House (Tourtellotte and Hummel Architecture TR)*, 253 W. Idaho St. (11/17/82)
Weiser, *Kurtz-Van Sicklin House (Tourtellotte and Hummel Architecture TR)*, 439 W. 3rd St. (11/17/82)
Weiser, *Nesbit, G. V., House (Tourtellotte and Hummel Architecture TR)*, 308 W. Liberty (11/17/82)
Weiser, *Numbers, Dr. J. R., House (Tourtellotte and Hummel Architecture TR)*, 240 W. Main St. (11/17/82)
Weiser, *Sommer, Morris, House (Tourtellotte and Hummel Architecture TR)*, 548 W. 2nd St. (11/17/82)
Weiser, *Sommercamp, Mary Elizabeth, House (Tourtellotte and Hummel Architecture TR)*, 411 W. 3rd St. (11/17/82)
Weiser, *Varian, B. S., House (Tourtellotte and Hummel Architecture TR)*, 241 Main St. (11/17/82)
Weiser, *Weiser Post Office (Tourtellotte and Hummel Architecture TR)*, Main and W. 1st Sts. (11/17/82)

ILLINOIS

Adams County

Camp Point, *Thomas, F. D., House*, 321 N. Ohio St. (07/28/83)
Quincy, *Downtown Quincy Historic District*, Roughly bounded by Hampshire, Jersey, 4th and 8th Sts. (04/07/83)

Brown County

Dewitt, Benjamin, House, (07/28/83)

Bureau County

Princeton, *Greenwood Cottage*, 543 E. Peru St. (05/09/83)
Princeton, *Skinner, Richard M., House*, 627 E. Peru St. (02/10/83)

Carroll County

Mt. Carroll, *Mark, Caroline House*, 222 E. Lincoln St. (08/11/83)

Cass County

Beardstown, *Park House*, 200 W. Second St. (02/10/83)

Champaign County

Champaign, *Vriner's Confectionery*, 55 Main St. (05/09/83)

Clay County

Flora, *Shriver House*, 117 E. 3rd St. (05/09/83)

Cook County

Chicago, *Calumet Plant, R. R. Donnelley & Sons Company*, 350 E. 22nd St. (02/17/83)
Chicago, *Fort Dearborn Hotel*, 401 S. LaSalle St. (11/12/82)
Chicago, *Hotel Windermere East*, 1642 E. 56th St. (10/19/82)
Chicago, *King, Patrick J., House*, 3234 W. Washington Blvd. (02/10/83)
Chicago, *Schulze Baking Company Plant*, 40 E. Garfield Blvd. (11/12/82)
Chicago, *Sheffield Historic District (Boundary Increase)*, Montana, Altgeld Sts., and Southport Ave. (02/17/83)
Chicago, *Singer Building*, 120 S. State St. (02/10/83)
Chicago, *St. Luke's Hospital Complex*, 1435 S. Michigan Ave., 1400 Block S. Indiana Ave., (11/24/82)
Chicago, *Tri-Taylor Historic District*, Roughly bounded by Claremont, Harrison, Oakley, Polk, Ogden, and Roosevelt Rds. (03/03/83)
Chicago, *Villa Historic District*, 3948–3952 and 3949–3953 W. Waveland Ave. (Boundary increase) (03/10/83)
Cicero, *Morton, J. Sterling, High School East Auditorium*, 2423 S. Austin Blvd. (05/09/83)
Evanston, *Evanston Ridge Historic District*, Roughly bounded by Main, Asbury, Ashland, Emerson, Ridge and Maple Ave. (03/03/83)
Kenilworth, *Baldwin, Hiram, House*, 205 Essex Rd. (07/28/83)
Skokie, *Harrer Building*, 8051 Lincoln Ave. (02/17/83)

Douglas County

Filson vicinity, *McCarty, John, Round Barn (Round Barns in Illinois TR)*, NW of Filson (12/07/82)

Fayette County

Vandalia vicinity, *Forehand, Clarence, Round Barn (Round Barns in Illinois TR)*, W of Vandalia off Il 185 (12/07/82)

Gallatin County

Old Shawneetown, *Peeples, Robert and John McKee, Houses*, Main St. (02/24/83)

Jo Daviess County

East Dubuque, *East Dubuque School*, Montgomery Ave. (11/12/82)

Kane County

Aurora, *Stolp Woolen Mill Store*, 2 W. Downer Pl. (09/01/83)

Batavia, *United Methodist Church of Batavia*, 8 N. Batavia Ave. (07/28/83)
Elgin, *Elgin Historic District*, Roughly bounded by Villa, Center, Park, N. Liberty, and S. Channing Sts. (05/09/83)
St. Charles, *Hunt House*, 304 Cedar Ave. (11/12/82)

Lake County

Highland Park, *North Shore Sanitary District Tower (Highland Park MRA)*, Cary Ave. (06/30/83)
Highland Park, *Loeb, Ernest, House (Highland Park MRA)*, 1425 Waverly (05/18/83)

Lee County

Dixon, *Nachusa House*, 215 S. Galena Ave. (02/10/83)

Livingston County

Dwight, *Dwight Chicago and Alton Railroad Depot*, East St. (12/27/82)
Dwight, *Pioneer Gothic Church*, 201 N. Franklin St. (07/28/83)
Fairbury, *Beach, Thomas A., House*, 402 E. Hickory St. (07/28/83)

Logan County

Mt. Pulaski vicinity, *Buckles, Robert, Barn (Round Barns in Illinois TR)*, SE of Mt. Pulaski (02/10/83)

Madison County

Edwardsville, *St. Louis Street Historic District*, 603–1306 St. Louis St. (some exclusions) (05/09/83)
Edwardsville, *Weir, John, House*, 715 N. Main St. (05/09/83)
Troy, *Carney, John, House*, 306 E. Market St. (07/28/83)

McHenry County

Woodstock, *Woodstock Square Historic District*, Roughly bounded by Calhoun, Throop, Cass, Main, C and NW RR Tracks, and Jefferson Sts. (11/12/82)

McLean County

Bloomington, *Davis, David III & IV, House*, 1005 E. Jefferson (11/12/82)
Bloomington, *Scott-Vrooman House*, 701 E. Taylor St. (08/18/83)
Chenoa, *Scott, Matthew T., House*, 227 1st Ave. (02/10/83)

Mercer County

Keithsburg, *Commercial House*, 4th and Main St. (05/09/83)

Peoria County

Norwood Park vicinity, *Christ Church of Lower Kickapoo*, W of Norwood Park on Christ Church Rd. (02/10/83)

Pike County

Summer Hill, *Scott, Lyman, House*, U.S. 54 (02/10/83)

Putnam County

Putnam, *Condit, Cortland, House*, Off IL 29 (09/16/83)

Sangamon County

Springfield, *St. Nicholas Hotel*, 400 E. Jefferson St. (02/10/83)

St. Clair County

Belleville vicinity, *Knobeloch-Seibert Farm*, Off IL 177 (05/09/83)

Washington County

Okawville, *Schlosser, Frank, Complex*, W. Walnut St. (08/15/83)

Will County

Romeoville vicinity, *George, Ron, Round Barn (Round Barns in Illinois TR)*, NE of Romeoville off US 66 (12/07/82)

INDIANA

Allen County

Fort Wayne, *Fairfield Manor*, 2301 Fairfield Ave. (06/16/83)
Fort Wayne, *Journal-Gazette Building*, 701 S. Clinton St. (12/27/82)
Ft. Wayne, *Keplinger, Harry A., House*, 235 W. Creighton Ave. (09/01/83)

Bartholomew County

Columbus, *Columbus Historic District*, Roughly bounded by the Pennsylvania RR tracks, Chestnut, 3rd, Washington, and Franklin Sts. (12/10/82)

Boone County

Zionsville, *Town Hall (Castle Hall)*, 65 E. Cedar St. (06/09/83)

Brown County

Nashville, *Brown County Courthouse Historic District*, Courthouse, Old Log Jail, and the Historical Society Museum Bldg. (07/21/83)

Cass County

Logansport, *Ferguson House*, 803 E. Broadway (06/30/83)

Clark County

Charlestown, *Ferguson, Benjamin, House*, 673 High St. (06/16/83)
Charlestown, *Watson House*, 1015 Water St. (09/01/83)
Jeffersonville, *Grisamore House*, 111–113 W. Chestnut St. (05/09/83)

Daviess County

Washington, *Graham, Robert C., House*, 101 W. Maple St. (03/16/83)

DeKalb County

Garrett vicinity, *Bevier, Samuel, House (Keyser Township MRA)*, CR 52 and CR 11 (05/06/83)
Garrett vicinity, *Bowman, Joseph, Farmhouse (Keyser Township MRA)*, CR 19 and CR 40 (05/06/83)
Garrett vicinity, *Breechbill-Davidson House (Keyser Township MRA)*, IN 8 and CR 7 (05/06/83)
Garrett vicinity, *Brethren in Christ Church (Keyser Township MRA)*, CR 7 (05/06/83)
Garrett vicinity, *Clark, Orin, House (Keyser Township MRA)*, CR 48 and CR 3 (05/06/83)
Garrett vicinity, *DeKalb County Home and Barn (Keyser Township MRA)*, CR 40 (05/06/83)
Garrett vicinity, *Fountain, William, House (Keyser Township MRA)*, IN 8 (05/06/83)
Garrett vicinity, *Gump House (Keyser Township MRA)*, IN 8 (05/06/83)
Garrett vicinity, *Haag, J.H., House (Keyser Township MRA)*, CR 54 (05/06/83)
Garrett vicinity, *Kelham, Edward, House (Keyser Township MRA)*, CR 48 (05/06/83)
Garrett vicinity, *Keyser Township School 8 (Keyser Township MRA)*, E. Quincy St. (05/06/83)
Garrett vicinity, *Lehmbock, Charles, Farmstead (Keyser Township MRA)*, CR 15 (05/06/83)
Garrett vicinity, *Rakestraw House (Keyser Township MRA)*, CR 19 (05/06/83)
Garrett vicinity, *Shull, Henry, Farmhouse Inn (Keyser Township MRA)*, CR 11–A (05/06/83)
Garrett, *Garrett Historic District (Keyser Township MRA)*, Roughly bounded by Railroad, Britton, Warfield and Hamsher Sts., and 3rd Ave. (05/06/83)
Garrett, *Peters, Henry, House (Keyser Township MRA)*, 201 N. 6th St. (05/06/83)
Garrett, *Wilderson, John, House (Keyser Township MRA)*, 1349 S. Cowen St. (05/06/83)

Delaware County

Muncie vicinity, *Jump, Dr. Samuel Vaughn, House*, SE of Muncie on IN 2 (11/12/82)
Muncie, *Valentine, John, House*, 1101 Riverside Ave. (01/04/83)

Dubois County

Ferdinand, *Convent Immaculate Conception Historic District*, 802 E. 10th St. (07/13/83)
Jasper, *Gramelspacher-Gutzweiler House*, 11th and Main Sts. (02/28/83)

Elkhart County

Goshen, *Goshen Carnegie Public Library*, 202 N. 5th St. (02/17/83)
Goshen, *Goshen Historic District*, Bounded by Pike, RR, Cottage, Plymouth, Main, Purl, the Canal, and Second Sts. (02/17/83)

Fayette County

Brownsville vicinity, *Ranck, Thomas, Round Barn*, N of Brownsville on SR 500 N. (01/11/83)

Floyd County

New Albany, *Mansion Row Historic District*, Main St. between State and 15th Sts. and Market St. between 7th and 11th Sts. (05/09/83)

Franklin County

Oldenburg, *Oldenburg Historic District*, Bounded roughly by Sycamore, church land woods, Indiana, and Water Sts., and Gehring Farm (03/03/83)

Grant County

Marion, *Swayzee, Aaron, House*, 224 N. Washington St. (06/16/83)

Harrison County

Corydon, *Kintner-McGrain House*, 740 N. Capital Ave. (08/03/83)

Hendricks County

Danville, *Hendricks County Jail and Sheriff's Residence*, 170 S. Washinton St. (06/30/83)

Henry County

New Castle, *Grose, Gen. William, House*, 614 S. 14th St. (06/23/83)

Howard County

Greentown, *Hy-Red Gasoline Station*, 203 E. Main St. (09/01/83)

Huntington County

Huntington, *Moore/Corlew Building*, 400 and 410–418 N. Jefferson St. (09/01/83)

Jackson County

Seymour, *Farmers Club*, 105 S. Chestnut St. (06/11/83)

Jasper County

Rensselaer, *Jasper County Courthouse*, W. Washington St. (06/16/83)

Jay County

Portland, *Floral Hall*, W. Votaw and Morton Sts. (09/01/83)

LaPorte County

LaPorte, *Downtown LaPorte Historic District*, Roughly bounded by State, Jackson, Maple and Chicago Sts. (09/15/83)

Marion County

Indianapolis, *Dartmouth (Apartments and Flats of Downtown Indianapolis TR)*, 221 E. Michigan St. (09/15/83)
Indianapolis, *Forest Hills Historic District*, Bounded by the Minon RR tracks, Kessler Blvd., College and Northview Aves. (06/30/83)
Indianapolis, *Massachusetts (Apartments and Flats of Downtown Indianapolis TR)*, 421–427 Massachusetts Ave. (09/15/83)
Indianapolis, *Shortridge High School*, 3401 N. Meridian St. (09/15/83)
Indianapolis, *Sid-Mor (Apartments and Flats of Downtown Indianapolis TR)*, 401–403 Massachusetts Ave. (09/15/83)
Indianapolis, *Alameda (Apartments and Flats of Downtown Indianapolis TR)*, 37 W. St. Clair St. (09/15/83)
Indianapolis, *Alexandra (Apartments and Flats of Downtown Indianapolis TR)*, 402–416 N. New Jersey St. and 332–336 E. Vermont St. (09/15/83)
Indianapolis, *Ambassador (Apartments and Flats of Downtown Indianapolis TR)*, 39 E. 9th St. (09/15/83)
Indianapolis, *Baker (Apartments and Flats of Downtown Indianapolis TR)*, 310 N. Alabama St. and 341 Massachusetts Ave. (09/15/83)
Indianapolis, *Blacherne (Apartments and Flats of Downtown Indianapolis TR)*, 402 N. Meridian St. (09/15/83)
Indianapolis, *Burton (Apartments and Flats of Downtown Indianapolis TR)*, 821–823 N. Pennsylvania St. (09/15/83)
Indianapolis, *Byram-Middleton House*,1828 N. Illinois St. (05/09/83)
Indianapolis, *Cathcart (Apartments and Flats of Downtown Indianapolis TR)*, 103 E. 9th St. (09/15/83)
Indianapolis, *Chadwick (Apartments and Flats of Downtown Indianapolis TR)*, 1005 N. Pennsylvania St. (09/15/83)
Indianapolis, *Cole Motor Car Company*, 730 E. Washington St. (03/03/83)
Indianapolis, *Colonial (Apartments and Flats of Downtown Indianapolis TR)*, 128 E. Vermont St. and 402–408 N. Delaware St. (09/15/83)
Indianapolis, *Columbia Club*, 121 Monument Circle (01/27/83)
Indianapolis, *Delaware Court (Apartments and Flats of Downtown Indianapolis TR)*, 1001–1015 N. Delaware St. (09/15/83)
Indianapolis, *Delaware Flats (Apartments and Flats of Downtown Indianapolis TR)*, 120–128 N. Delaware St. (09/15/83)
Indianapolis, *Devonshire (Apartments and Flats of Downtown Indianapolis TR)*, 412 N. Alabama St. (09/15/83)
Indianapolis, *Emelie (Apartments and Flats of Downtown Indianapolis TR)*, 326–330 N. Senate Ave. and 301–303 W. Vermont St. (09/15/83)
Indianapolis, *Esplanade Apartments*, 3015 N. Pennsylvania St. (06/16/83)
Indianapolis, *Glencoe (Apartments and Flats of Downtown Indianapolis TR)*, 627 N. Pennsylvania St. (09/15/83)
Indianapolis, *Grover (Apartments and Flats of Downtown Indianapolis TR)*, 615 N. Pennsylvania St. (09/15/83)
Indianapolis, *Harriett (Apartments and Flats of Downtown Indianapolis TR)*, 124–128 N. East St. (09/15/83)
Indianapolis, *Herron-Morton Place Historic District*, Roughly bounded by Central Ave., 16th, Pennsylvania, and 22nd Sts. (06/16/83)
Indianapolis, *Jordan, Arthur, Memorial Hall*, 4600 Sunset Ave. (06/30/83)
Indianapolis, *Laurel and Prospect District (Fountain Square Commercial Areas TR)*, 1335 to 1419 E. Prospect St. (06/30/83)
Indianapolis, *Lockefield Garden Apartments*, 900 Indiana Ave. (02/28/83)
Indianapolis, *Lodge (Apartments and Flats of Downtown Indianapolis TR)*, 829 N. Pennsylvania St. (09/15/83)
Indianapolis, *Marott's Shoes Building*, 18–20 E. Washington St. (05/09/83)
Indianapolis, *Martens (Apartments and Flats of Downtown Indianapolis TR)*, 348–356 Indiana Ave. (09/15/83)
Indianapolis, *Massachusetts Avenue Commercial District*, Roughly bounded by one block to either side of Massachusetts Ave. from Delaware St. to US 65 (12/02/82)
Indianapolis, *Mayleeno (Apartments and Flats of Downtown Indianapolis TR)*, 416–418 E. Vermont St. (09/15/83)
Indianapolis, *McKay (Apartments and Flats of Downtown Indianapolis TR)*, 611 N. Pennsylvania St. (09/15/83)
Indianapolis, *Myrtle Ferm (Apartments and Flats of Downtown Indianapolis TR)*, 221 E. 9th St. (09/15/83)
Indianapolis, *Oxford (Apartments and Flats of Downtown Indianapolis TR)*, 316 E. Vermont St. (09/15/83)
Indianapolis, *Pennsylvania (Apartments and Flats of Downtown Indianapolis TR)*, 919 N. Pennsylvania St. (09/15/83)
Indianapolis, *Plaza (Apartments and Flats of Downtown Indianapolis TR)*, 902 N. Pennsylvania St. and 36 E. 9th St. (09/15/83)
Indianapolis, *Rink (Apartments and Flats of Downtown Indianapolis TR)*, 401 N. Illinois St. (09/15/83)
Indianapolis, *Savoy (Apartments and Flats of Downtown Indianapolis TR)*, 36 W. Vermont St. (09/15/83)
Indianapolis, *Scottish Rite Cathedral*, 650 N. Meridian St. (06/06/83)
Indianapolis, *Shelton (Apartments and Flats of Downtown Indianapolis TR)*, 825 N. Delaware St. (09/15/83)
Indianapolis, *Spink (Apartments and Flats of Downtown Indianapolis TR)*, 230 E. 9th St. (09/15/83)
Indianapolis, *St. Clair (Apartments and Flats of Downtown Indianapolis TR)*, 109 W. St. Clair St. (09/15/83)
Indianapolis, *State and Prospect District (Fountain Square Commercial Areas TR)*, State Ave. and Prospect St. (06/30/83)
Indianapolis, *Sylvania (Apartments and Flats of Downtown Indianapolis TR)*, 801 N. Pennsylvania St. and 108 E. St. Clair St. (09/15/83)
Indianapolis, *Test Building*, 54 Monument Circle (06/16/83)
Indianapolis, *Vienna (Apartments and Flats of Downtown Indianapolis TR)*, 306 E. New York St. (09/15/83)
Indianapolis, *Virginia Avenue District (Fountain Square Commercial Areas TR)*, Roughly Virginia Ave. from Grove Ave. to Prospect and Morris Sts. (06/30/83)
Indianapolis, *Wil-Fra-Mar (Apartments and Flats of Downtown Indianapolis TR)*, 318–320 E. Vermont St. (09/15/83)
Indianapolis, *Wilson (Apartments and Flats of Downtown Indianapolis TR)*, 643 Ft. Wayne Ave. (09/15/83)
Indianapolis, *Wyndham (Apartments and Flats of Downtown Indianapolis TR)*, 1040 N. Delaware St. (09/15/83)

Marshall County

Culver vicinity, *Woodbank*, 2738 East Shore Lane, Lake Maxinkuckee (12/02/82)
Plymouth, *Marshall County Court House*, 117 W. Jefferson St. (06/30/83)

Miami County

Chili vicinity, *Paw Paw Creek Bridge No. 52*, Paw Paw Pike (09/30/83)
Peru, *Brownell Block/Senger Dry Goods Company Building*, Broadway and 5th Sts. (09/01/83)

Monroe County

Bloomington, *Blair-Dunning House*, 608 W. 3rd St. (02/10/83)
Bloomington, *Illinois Central Railroad Freight Depot*, 301 N. Morton St. (06/23/83)
Bloomington, *Morgan House*, 532 N. Walnut St. (03/03/83)
Bloomington, *Princess Theatre*, 206 N. Walnut St. (06/16/83)
Bloomington, *Wicks Building*, 116 W. Sixth St. (03/03/83)

Morgan County

Martinsville vicinity, *Cross School*, Voiles and Townsend Rds. (06/16/83)

Noble County

Albion, *Noble County Sheriff's House and Jail*, W. Main and Oak Sts. (12/27/82)
Ligonier, *Ahavas Shalom Reform Temple*, 503 S. Main St. (06/16/83)

Perry County

Cannelton, *St. Luke's Episcopal Church*, Third and Washington Sts. (03/03/83)

Putnam County

Greencastle, *Nelson, F.P., House*, 701 E. Seminary (07/18/83)

Randolph County

Union City, *Union City Passenger Depot,* Howard St. (05/19/83)

Rush County

Rushville vicinity, *Norris Ford Covered Bridge (Kennedy, A. M., House and Covered Bridges of Rush County TR),* SR 150 (02/02/83)
Rushville vicinity, *Ferree Covered Bridge (Kennedy, A. M., House and Covered Bridges of Rush County TR),* Base Rd. (02/02/83)
Rushville vicinity, *Forsythe Covered Bridge (Kennedy, A. M., House and Covered Bridges of Rush County TR),* SR 650 (02/02/83)
Rushville vicinity, *Kennedy, Archibald M., House (Kennedy, A. M., House and Covered Bridges of Rush County TR),* SR 200 (02/02/83)
Rushville vicinity, *Moscow Covered Bridge (Kennedy, A. M., House and Covered Bridges of Rush County TR),* SR 875 and SR 625 (02/02/83)
Rushville vicinity, *Offutt Covered Bridge (Kennedy, A. M., House and Covered Bridges of Rush County TR),* SR 550 (02/02/83)
Rushville vicinity, *Smith Covered Bridge (Kennedy, A. M., House and Covered Bridges of Rush County TR),* SR 300 (02/02/83)

Spencer County

Rockport, *Sharp, Mathias, House,* 319 S. 2nd. St. (06/16/83)

St. Joseph County

Mishawaka, *Eller-Hosford House,* 722 Lincoln Way E. (01/27/83)
Mishawaka, *Merrifield-Cass House,* 816 E. Lincolnway (06/16/83)
South Bend, *Judie, James A., House,* 1515 E. Jefferson Blvd. (03/24/83)
South Bend, *Lawton, Chauncey N., House,* 405 W. Wayne St. (06/23/83)
South Bend, *Palais Royale Building,* 113–105 W. Colfax Ave. and 201–209 N. Michigan St. (07/21/83)

Steuben County

Angola vicinity, *Free Church,* Old Road 1 N. (03/24/83)
Fremont vicinity, *Lords, William L., House,* Clear Lake Rd. (06/16/83)

Tippecanoe County

Lafayette, *Centennial Neighborhood District,* Roughly bounded by Union, 3rd, 4th, Ferry, and 9th Sts. (06/16/83)
Lafayette, *Marian Apartments,* 615 North St. (06/30/83)
Lafayette, *Potter, William, House,* 915 Columbia St. (01/06/83)
West Lafayette, *Andrew, Jesse, House,* 123 Andrew Pl. (08/11/83)

Vanderburgh County

Evansville, *Boehne, John W., House,* 1119 Lincoln Ave. (02/17/83)
Evansville, *Evansville College,* 1800 Lincoln Ave. (02/03/83)
Evansville, *Koester/Patberg House,* 504 Herndon Dr. (03/03/83)
Evansville, *Maier, Peter Augustus, House,* 707 S. 6th St. (10/29/82)
Evansville, *Montgomery Ward Building (Downtown Evansville MRA),* 517 Main St. (10/06/82)

Vigo County

Terre Haute, *Building at 23–27 S. Sixth Street (Downtown Terre Haute MRA),* 23–27 S. 6th St. (06/30/83)
Terre Haute, *Building at 510–516 Ohio Street (Downtown Terre Haute MRA),* 510–516 Ohio St. (06/30/83)
Terre Haute, *Building at 810 Wabash Avenue (Downtown Terre Haute MRA),* 810 Wabash Ave. (06/30/83)
Terre Haute, *Carr's Hall (Downtown Terre Haute MRA),* 329–333 Walnut St. (06/30/83)
Terre Haute, *Chamber of Commerce Building (Downtown Terre Haute MRA),* 627 Cherry St. (06/30/83)
Terre Haute, *Citizens' Trust Company Building (Downtown Terre Haute MRA),* 19–21 S. 6th St. (06/30/83)
Terre Haute, *Dewees-Preston-Smith House,* 1339 Poplar St. (12/27/82)
Terre Haute, *Fire Station No. 9,* 1728 S. 8th St. (12/16/82)
Terre Haute, *First Congregational Church (Downtown Terre Haute MRA),* 630 Ohio St. (06/30/83)
Terre Haute, *Hippodrome Theatre (Downtown Terre Haute MRA),* 727 Ohio St. (06/30/83)
Terre Haute, *House at 209–211 S. Ninth Street (Downtown Terre Haute MRA),* 209–211 S. 9th St. (06/30/83)
Terre Haute, *House at 823 Ohio Street (Downtown Terre Haute MRA),* 823 Ohio St. (06/30/83)
Terre Haute, *Phoenix Club (Downtown Terre Haute MRA),* 201 S. 5th St. (06/30/83)
Terre Haute, *Star Building (Downtown Terre Haute MRA),* 601–603 Ohio St. (06/30/83)
Terre Haute, *Terminal Arcade (Downtown Terre Haute MRA),* 822 Wabash Ave. (06/30/83)
Vigo County Courthouse (Downtown Terre Haute MRA), Courthouse Square (06/30/83)
Terre Haute, *Wabash Avenue-East Historic District (Downtown Terre Haute MRA),* Wabash Ave., 7th and 8th Sts. (06/30/83)
Terre Haute, *Wabash Avenue-West Historic District (Downtown Terre Haute MRA),* Wabash Ave. and 6th St. (06/30/83)

Wabash County

North Manchester, *Lentz House (Hotel Sheller),* Walnut and 2nd Sts. (11/14/82)
Wabash, *Honeywell Memorial Community Center,* 275 W. Market St. (07/15/83)
Wabash, *First Christian Church,* 110 W. Hill St. (06/23/83)

Warrick County

Newburgh, *Original Newburgh Historic District,* Roughly bounded by IN 662, Water, Monroe, Main and Middle Sts. (06/16/83)

Wayne County

Richmond vicinity, *Smith, Samuel G., Farm,* W of Richmond at 3431 Crowe Rd. (01/14/83)
Richmond, *Gennett, Henry and Alice, House,* 1829 E. Main St. (08/11/83)

Whitley County

Columbia City, *Marshall, Thomas R., House,* 108 W. Jefferson St. (07/21/83)

IOWA

Allamakee County

Lansing, *Kerndt & Brothers Office Block,* 4th & Main Sts. (11/10/82)
Lansing, *Old Allamakee County Courthouse (County Courthouses in Iowa TR),* Second St. (02/24/83)
Waterville vicinity, *Old East Paint Creek Lutheran Church,* N of Waterville (07/07/83)

Benton County

Vinton vicinity, *Upper Stone Schoolhouse,* E of Vinton (07/07/83)
Vinton, *Ray, Frank G., House & Carriage House,* 912 First Ave. (12/10/82)
Vinton, *Vinton Public Library (Public Library Buildings in Iowa TR),* 510 and Ave. (05/23/83)

Black Hawk County

Waterloo, *Waterloo Public Library (West Branch) (Public Library Buildings in Iowa TR),* 528 W. 4th St. (05/23/83)
Waterloo, *YMCA Building,* 154 W. 4th St. (07/07/83)

Boone County

Boone, *Ericson Public Library (Public Library Buildings in Iowa TR),* 702 Greene St. (05/23/83)

Buchanan County

Quasqueton, *Walter, Lowell E., House,* NW of Quasqueton off SR W35 (03/02/83)

Buena Vista County

Storm Lake, *Buena Vista County Historical Museum (Public Library Buildings in Iowa TR),* E. 5th and Erie Sts. (05/23/83)

Cerro Gordo County

Clear Lake, *Etzel, John L., House,* 214 N. Third St. (01/27/83)

Clarke County

Osceloa, *Banta, J.V., House,* 22 McLane St. (07/14/83)

Clinton County

Clinton, *Clinton Public Library (Public Library Buildings in Iowa TR),* 306 8th Ave., S. (05/23/83)

Davis County

Bloomfield, *Wilson, Asa, House,* 207 S. Washington (12/10/82)

Decatur County

Lamoni vicinity, *Liberty Hall,* Main St. (09/29/83)

Des Moines County

Burlington, *Burlington, Cedar Rapids & Northern Freight House,* Front and High Sts. (01/27/83)
Burlington, *Hedge Block,* 401–407 Jefferson St. (10/07/82)
Burlington, *Heritage Hill Historic District,* Roughly bounded by Central Ave., High, 3rd, and Jefferson Sts. (12/21/82)

Burlington, *Starker-Leopold Historic District*, 101, 111 Clay and 110 Grand Sts. (02/02/83)

Dubuque County

Cascade, *Sauser-Lane House*, 101 2nd Ave., S.W. (07/14/83)
Dubuque, *Old Chapel Hall*, 2050 University Ave. (08/05/83)
Dubuque, *Garland House*, 1090 Langworthy Ave. (07/07/83)
Dubuque, *Old Maine Historic District*, Main St. between 1st and 4th Sts. (01/12/83)

Fayette County

Oelwein, *Hotel Mealey*, 102 S. Frederick Ave. (01/27/83)

Floyd County

Marble Rock, *Marble Rock Bank*, 313 Bradford St. (11/10/82)
Rockford, *Rockford Mill*, Shell Rock River at 4th and Main St. (07/28/83)

Fremont County

Hamburg, *Hamburg Public Library (Public Library Buildings in Iowa TR)*, 1301 Main St. (05/23/83)
Imogene, *St. Patrick Church*, 3rd St. (07/07/83)

Hamilton County

Stratford, *State Bank of Stratford*, 801 Shakespeare St. (07/07/83)
Webster City, *Kendall Young Public Library (Library Buildings in Iowa TR)*, 1201 Willson Ave. (05/23/83)

Hardin County

Eldora, *Eldora Public Public Library (Public Library Buildings in Iowa TR)*, 1219 14th Ave. (05/23/83)
Iowa Falls, *Carnegie-Ellsworth Public Library (Public Library Buildings in Iowa TR)*, 520 Rocksylvania Ave. (05/23/83)

Harrison County

Logan, *Harrison County Jail*, 105 S. 1st Ave. (04/14/83)
Magnolia, *Old Harrison County Courthouse (County Courthouses in Iowa TR)*, 401 Locust (02/24/83)

Henry County

Mount Pleasant, *Brazelton House*, 401 N. Main St. (01/27/83)
Mount Pleasant, *Mount Pleasant Public Library (Public Library Buildings in Iowa TR)*, 200 N. Main St. (05/23/83)

Howard County

Cresco, *South Ward School*, 500 S. Elm St. (11/10/82)

Humboldt County

Humboldt, *Humboldt Free Public Public Library (Public Library Buildings in Iowa TR)*, 30 6th St., N. (05/23/83)

Ida County

Ida Grove, *Bell, Alvin Bushnell, House*, 310 Quimby St. (01/27/83)

Iowa County

Norway vicinity, *Lenox Township Church of the New Jerusalem*, S. of Norway (09/29/83)
Parnell vicinity, *St. Michael's Church, Cemetery, Rectory and Ancient Order of Hibernians Hall*, E of Parnell on F 52 (01/20/83)

Jackson County

Sabula, *Wood, Jeremiah, House*, 802 River St. (11/10/82)

Jasper County

Newton, *Arthur, Thomas, House*, 322 N. 8th Ave. E. (10/07/82)

Jefferson County

Fairfield, *Barnett-Montgomery House*, 605 N. Third St. (01/27/83)
Fairfield, *Fairfield Public Library (Public Library Buildings in Iowa TR)*, Court and Washington (05/23/83)
Fairfield, *Henn Mansion (Ewing Hall)*, Maharishi International University campus (01/11/83)
Fairfield, *Wells, George A., House*, 304 S. Main St. (01/27/83)

Johnson County

Iowa City, *Billingsley-Hills House*, 629 Melrose Ave. (01/21/83)
Iowa City, *Boerner-Fry Company/Davis Hotel*, 322 E. Washington St. (01/27/83)
Iowa City, *Chicago, Rock Island and Pacific Railroad Passenger Station*, 115 Wright St. (12/10/82)
Iowa City, *Jackson-Swisher House and Carriage House*, 120 E. Fairchild St. (11/10/82)
Iowa City, *Pratt, A. W., House*, 503 Melrose Ave. (02/03/83)
Iowa City, *Summit Apartment Building*, 228 S. Summit St. (09/29/83)
Iowa City, *Van Patten House*, 9 S. Linn St. (01/27/83)

Jones County

Anamosa, *Anamosa Public Library (Public Library Buildings in Iowa TR)*, 100 E 1st St. (05/23/83)

Keokuk County

Sigourney, *Sigourney Public Public Library (Public Library Buildings in Iowa TR)*, 203 N. Jefferson St. (05/23/83)
South English, *White, Theodore, House*, Broadway St. (07/14/83)

Lee County

Keokuk, *St. Peter Church*, 301 S. 9th St. (07/14/83)
Primrose, *Primrose Mill*, Off IA 2 (03/17/83)

Linn County

Cedar Rapids, *Cedar Rapids Post Office and Public Building*, 305 2nd Ave., SE (11/10/82)
Cedar Rapids, *Iowa Building*, 221 Fourth Ave., SE (02/17/83)
Cedar Rapids, *Lattner Auditorium Building*, 217 Fourth Ave. SE (02/17/83)
Cedar Rapids, *Wolff, Philip A., House and Carriage House*, 1420 Seminole Ave., NW (10/07/82)
Lisbon vicinity, *Torrance House*, S of Lisbon (07/07/83)

Louisa County

Columbus City vicinity, *Springer, Judge Francis, House*, S of Columbus City (01/27/83)

Mahaska County

Oskaloosa, *Oskaloosa City Park and Band Stand*, City Park (07/28/83)
Oskaloosa, *Seeberger-Loring-Kilburn House*, 509 High Ave. E (07/14/83)

Marion County

Pella, *Scholte, Dominie Henry P., House*, 739 Washington St. (12/10/82)

Marshall County

Haverhill, *Edel, Mathew, Blacksmith Shop and House*, 1st St. and 3rd Ave. (03/11/83)

Monroe County

Albia, *Perry T.B., House*, 212 Benton Ave. W. (07/14/83)
Lovilia vicinity, *Buxton Historic Townsite*, NE of Lovilia (08/09/83)

Montgomery County

Red Oak, *Red Oak Public Library (Public Libary Buildings in Iowa TR)*, 2nd and Washington Sts. (05/23/83)
Sciola, *Sciola Missionary Baptist Church*, US 71 (07/18/83)

Muscatine County

Muscatine, *Clark-Blackwell House*, 206 Cherry St. (01/27/83)
Muscatine, *Fuller, W. Joseph, House*, 1001 Mulberry Ave. (12/10/82)

Palo Alto County

Emmetsburg, *Emmetsburg Public Library (Public Library Buildings in Iowa TR)*, 10th St. on Courthouse Sq. (05/23/83)

Polk County

Des Moines, *Crawford House*, 2203 Grand Ave. (01/27/83)
Des Moines, *Scottish Rite Consistory Building*, 6th Ave. and Park St. (09/29/83)
West Des Moines, *Valley Junction-West Des Moines City Hall and Engine House*, 137 Fifth St. (02/17/83)

Pottawattamie County

Hancock, *Hancock Savings Bank*, 311 Main St. (01/19/83)

Scott County

Bettendorf, *Bettendorf, Joseph E., House*, 1821 Sunset Dr. (01/27/83)
Davenport, *Buchanan School (Davenport MRA)*, 2104 W. 6th St. (07/07/83)
Davenport, *Cook, Clarissa C., Library/Blue Ribbon News Bldg. (Davenport MRA)*, 528 Brady St. (07/07/83)
Davenport, *Edinger, Edward, House (Davenport MRA)*, 1018 W. 9th St. (07/07/83)
Davenport, *Forrest Block (Davenport MRA)*, 401 Brady St. (07/07/83)
Davenport, *Adler, E.P., House (Davenport MRA)*, 2104 Main St. (07/07/83)
Davenport, *American Commercial and Savings Bank (Davenport MRA)*, 201–209 W. 3rd St. (07/07/83)
Davenport, *American Telephone & Telegraph Co. Bldg. (Davenport MRA)*, 529 Main St. (07/07/83)
Davenport, *Argyle Flats (Davenport MRA)*, 732 Brady St. (07/07/83)

Davenport, *Ballard, John W., House (Davenport MRA)*, 205 W. 16th St. (07/07/83)
Davenport, *Benton, Richard, House (Davenport MRA)*, 2204 and 2210 W. 3rd St. (07/07/83)
Davenport, *Berg, Henry, Building (Davenport MRA)*, 246 W. 3rd St. (07/07/83)
Davenport, *Bethel AME Church (Davenport MRA)*, 325 W. 11th St. (07/07/83)
Davenport, *Blackhawk Hotel (Davenport MRA)*, 309 Perry St. (07/07/83)
Davenport, *Boyle, John R., House (Davenport MRA)*, 408 E. 6th St. (07/07/83)
Davenport, *Brammer Grocery Store (Davenport MRA)*, 1649 W. 3rd St. (07/07/83)
Davenport, *Bryan, Alden, House (Davenport MRA)*, 2236 W. 3rd St. (07/07/83)
Davenport, *Building at 1119–1121 W. Third Street (Davenport MRA)*, 1119–1121 W. 3rd St. (07/07/83)
Davenport, *Building at 813–815 W. Second Street (Davenport MRA)*, 813–815 W. 2nd St. (07/07/83)
Davenport, *Calvary Baptist Church/First Baptist Church (Davenport MRA)*, 1401 Perry St. (07/07/83)
Davenport, *Carr, William V., House (Davenport MRA)*, 1531 W. 3rd St. (07/07/83)
Davenport, *Central Office Building (Davenport MRA)*, 230 W. 3rd St. (07/07/83)
Davenport, *Claussen, William, House (Davenport MRA)*, 2215 W. 2nd St. (07/07/83)
Davenport, *Clifton-Metropolitan Hotel (Davenport MRA)*, 130 W. River Dr. (07/07/83)
Davenport, *Cook, Clarissa, Home for the Friendless (Davenport MRA)*, 2223 W. 1st St. (07/07/83)
Davenport, *Cottage at 1514 and 1516 W. Second Street (Davenport MRA)*, 1514–1516 W. 2nd St. (07/07/83)
Davenport, *Currier House (Davenport MRA)*, 1421 Grand Ave. (07/07/83)
Davenport, *Davenport Crematorium*, 3902 Rockingham Rd. (01/19/83)
Davenport, *Davenport Hotel (Davenport MRA)*, 324 Main St. (07/07/83)
Davenport, *Democrat Building (Davenport MRA)*, 407–411 Brady St. (07/07/83)
Davenport, *Dillon Memorial (Davenport MRA)*, S. Main St. (07/07/83)
Davenport, *Dils-Downer House (Davenport MRA)*, 1020 E. 15th St. (07/07/83)
Davenport, *Donahue Building (Davenport MRA)*, 114 W. 3rd St. (07/07/83)
Davenport, *Ewert, Ferdinand, Building (Davenport MRA)*, 1107 W. 2nd St. (07/07/83)
Davenport, *Ferner, Matthias, Building (Davenport MRA)*, 212 Main St. (07/07/83)
Davenport, *Ficke Block (Davenport MRA)*, 307–309 Harrison St. (07/07/83)
Davenport, *Finch, Fred, House (Davenport MRA)*, 719 Main St. (07/07/83)
Davenport, *First Bible Missionary Church (Davenport MRA)*, 2202 W. 4th St. (07/07/83)
Davenport, *First National Bank Building (Davenport MRA)*, 201 W. 2nd. St. (07/07/83)
Davenport, *First Presbyterian Church (Davenport MRA)*, 316 E. Kirkwood Blvd. (07/07/83)
Davenport, *Fisher, Lewis M., House (Davenport MRA)*, 1003 Arlington Ave., (07/07/83)
Davenport, *French, Alice, House (Davenport MRA)*, 321 E. 10th St. (07/07/83)
Davenport, *Gabbert, William, House (Davenport MRA)*, 1210 Tremont St. (07/07/83)
Davenport, *Gannon, M.V., House (Davenport MRA)*, 631 Farnham St. (07/07/83)
Davenport, *Gaspard, D. Julius, House (Davenport MRA)*, 510 W. 10½ St. (07/07/83)
Davenport, *Germania-Miller/Standard Hotel (Davenport MRA)*, 712 W. 2nd St. (07/07/83)
Davenport, *Glaspell, Isaac, House (Davenport MRA)*, 621 LeClaire St. (07/07/83)
Davenport, *Goering, Jacob, House (Davenport MRA)*, 721 Harrison St. (07/07/83)
Davenport, *Goodrich, William T., House (Davenport MRA)*, 1156 E. 15th St. (07/07/83)
Davenport, *Hauschild's Hall (Davenport MRA)*, 1136 W. 3rd St. (07/07/83)
Davenport, *Hebert, Louis, House (Davenport MRA)*, 914 Farnan St. (07/07/83)
Davenport, *Heinz, Bonaventura, House (second) (Davenport MRA)*, 1130 W. 5th St. (07/07/83)
Davenport, *Henne, Robert, House (Davenport MRA)*, 1445 W. 3rd St. (07/07/83)
Davenport, *Hibernia Hall (Davenport MRA)*, 421 Brady St. (07/07/83)
Davenport, *Hoffman Building (Davenport MRA)*, 510 W. 2nd St. (07/07/83)
Davenport, *Hoffman, Samuel, Jr., House (Davenport MRA)*, 2108 W. 3rd. St. (07/07/83)
Davenport, *Hose Station No. 1 (Davenport MRA)*, 117 Perry St. (07/07/83)
Davenport, *Hose Station No. 6 (Davenport MRA)*, 1410 Marquette St. (07/07/83)
Davenport, *Hose Station No. 7 (Davenport MRA)*, 1354 W. 4th St. (07/07/83)
Davenport, *House at 1646 W. Second Street (Davenport MRA)*, 1646 W. 2nd St. (07/07/83)
Davenport, *House at 2123 W. Second Street (Davenport MRA)*, 2123 W. 2nd St. (07/07/83)
Davenport, *House at 318–332 Marquette Street (Davenport MRA)*, 318–332 Marquette St. (07/07/83)
Davenport, *Jansen, Theodore, House (Davenport MRA)*, 922 Myrtle St. (07/07/83)
Davenport, *Kahl Building (Davenport MRA)*, 326 W. 3rd St. (07/07/83)
Davenport, *Kahl, Henry, House (Davenport MRA)*, 1101 W. 9th St. (07/07/83)
Davenport, *Kimball-Stevenson House (Davenport MRA)*, 116 E. 6th St. (07/07/83)
Davenport, *Klindt, George, House (Davenport MRA), 902 Marquette St.* (07/07/83)
Davenport, *Koenig Building (Davenport MRA)*, 619 W. 2nd St. (07/07/83)
Davenport, *Koester,. Nicholas, Building (Davenport MRA)*, 1353 W. 3rd St. (07/07/83)
Davenport, *Kuhnen, Nicholas J., House (Davenport MRA)*, 702 Perry St. (07/07/83)
Davenport, *Lerch, Gustov C., House (Davenport MRA)*, 2222 W. 4th St. (07/07/83)
Davenport, *Lippincott, John, House (Davenport MRA)*, 2122 W. 3rd St. (07/07/83)
Davenport, *Littig Brothers/Mengel & Klindt/Eagle Brewery (Davenport MRA)*, 1235 W. 5th St. (07/07/83)
Davenport, *Mallet, Joseph, House (Davenport MRA)*, 415 E. 10th St. (07/07/83)
Davenport, *Martzahn, August F., House (Davenport MRA)*, 2303 W. 3rd St. (07/07/83)
Davenport, *McBride-Hickey House (Davenport MRA)*, 701 Iowa St. (07/07/83)
Davenport, *McKinney House (Davenport MRA), 512 E. 8th St.* (07/07/83)
Davenport, *McManus House (Davenport MRA)*, 2320 Telegraph Rd. (07/07/83)
Davenport, *Meiser Drug Store (Davenport MRA)*, 1115 W. 3rd St. (07/07/83)
Davenport, *Middleton, Dr. George McLelland, House and Garage*, 1221 Scott St. (11/10/82)
Davenport, *Miller Building (Davenport MRA)*, 724 Harrison St. (07/07/83)
Davenport, *Miller, F.H., House (Davenport MRA)*, 1527 Brady St. (07/07/83)
Davenport, *Miller, Severin, House (Davenport MRA)*, 2200 Telegraph Rd. (07/07/83)
Davenport, *Mueller Lumber Company (Davenport MRA)*, 501 W. 2nd St. (07/07/83)
Davenport, *Newcome, Daniel T., Double House (Davenport MRA)*, 722–724 Brady St. (07/07/83)
Davenport, *Newhall, Lucian, House (Davenport MRA)*, 526 Iowa St. (07/07/83)
Davenport, *Nichols, Oscar, House (Davenport MRA)*, 1013 Tremont St. (07/07/83)
Davenport, *Ochs Building (Davenport MRA)*, 214 Main St. (07/07/83)
Davenport, *Old City Hall (Davenport MRA)*, 514 Brady St. (07/07/83)
Davenport, *Pahl, Henry, House (Davenport MRA)*, 1946 W. 3rd St. (07/07/83)
Davenport, *Paulsen, Peter J., House (Davenport MRA)*, 705 Main St. (07/07/83)
Davenport, *Paustian, Henry, House (Davenport MRA)*, 1226 W. 6th St. (07/07/83)
Davenport, *Petersen's, J.H.C., Sons Store (Davenport MRA)*, 123–131 W. 2nd St. (07/07/83)
Davenport, *Petersen's, J.H.C., Sons Wholesale Building (Davenport MRA)*, 122–124 W. River Dr. (07/07/83)
Davenport, *Petersen, W.D., Memorial Music Pavillion (Davenport MRA)*, Beiderbecke Dr. (07/07/83)
Davenport, *Pierce School No. 13 (Davenport MRA)*, 2212 E. 12th St. (07/07/83)
Davenport, *Price, Hiram/Henry Vollmer House (Davenport MRA)*, 723 Brady St. (07/07/83)
Davenport, *Prien Building (Davenport MRA)*, 506–508 W. 2nd St. (07/07/83)
Davenport, *Ranzow-Sander House (Davenport MRA)*, 2128 W. 3rd St. (07/07/83)

Davenport, *Raphael, Jacob, Building (Davenport MRA)*, 628–630 Harrison St. (07/07/83)
Davenport, *Renwick Building (Davenport MRA)*, 322 Brady St. (07/07/83)
Davenport, *Renwick House (Davenport MRA)*, 1429 Brady St. (07/07/83)
Davenport, *Riepe Drug Store/C. Ott Block (Davenport MRA)*, 403 W. 2nd St. (07/07/83)
Davenport, *Rosyln Flats (Davenport MRA)*, 739 Perry St. (07/07/83)
Davenport, *Saengerfest Halle (Davenport MRA)*, 1012 W. 4th St. (07/07/83)
Davenport, *Schauder Hotel (Davenport MRA)*, 128 W. River Dr. (07/07/83)
Davenport, *Schebler, Richard, House (Davenport MRA)*, 1217 W. 7th St. (07/07/83)
Davenport, *Schick's Express and Transfer Co. (Davenport MRA)*, 118–120 W. River Dr. (07/07/83)
Davenport, *Schmidt Block (Davenport MRA)*, 115 E. 3rd St. (07/07/83)
Davenport, *Schmidt, F. Jacob, House (Davenport MRA)*, 2143 and 2147 W. 5th St. (07/07/83)
Davenport, *Schricker, John C., House (Davenport MRA)*, 1446 Clay St. (07/07/83)
Davenport, *Schroeder Bros. Meat Market (Davenport MRA)*, 2146 W. 3rd St. (07/07/83)
Davenport, *Scott County Jail (Davenport MRA)*, 428 Ripley St. (07/07/83)
Davenport, *Sharon, Fred B., House (Davenport MRA)*, 728 Farnan St. (07/07/83)
Davenport, *Shields Woolen Mill (Davenport MRA)*, 1235 E. River Dr. (07/07/83)
Davenport, *Simpson, Charles S., House (Davenport MRA)*, 1503 Farnan St. (07/07/83)
Davenport, *Sitz, Rudolph H., Building (Davenport MRA)*, 2202 W. 3rd St. (07/07/83)
Davenport, *Smith, Alvord, L., House (Davenport MRA)*, 2318 W. 3rd St. (07/07/83)
Davenport, *Smith, Henry H.-J.H. Murphy House (Davenport MRA)*, 512 E. 6th St. (07/07/83)
Davenport, *St. John's Methodist Church (Davenport MRA)*, 1325–1329 Brady St. (07/07/83)
Davenport, *St. Joseph's Catholic Church (Davenport MRA)*, W. 6th and Marquette Sts. (07/07/83)
Davenport, *St. Luke's Hospital (Davenport MRA)*, 121 W. 8th St. (07/07/83)
Davenport, *St. Paul's English Lutheran Church (Davenport MRA)*, 1402 Main St. (07/07/83)
Davenport, *Stewart, J.W., House (Davenport MRA)*, 212 E. 6th St. (07/07/83)
Davenport, *Swan, George B., House (Davenport MRA)*, 909 Farnan St. (07/07/83)
Davenport, *Swedish Baptist Church (Davenport MRA)*, 709 E. 6th St. (07/07/83)
Davenport, *Taylor School (Davenport MRA)*, 1400 Warren St. (07/07/83)
Davenport, *Templeton, I. Edward, House (Davenport MRA)*, 1315 Perry St. (07/07/83)
Davenport, *Tevoet, Lambert, House (Davenport MRA)*, 2017 W. 2nd St. (07/07/83)
Davenport, *Union Electric Telephone & Telegraph (Davenport MRA)*, 602 Harrison St. (07/07/83)
Davenport, *Union Savings Bank and Trust (Davenport MRA)*, 229 Brady St. (07/07/83)
Davenport, *Union Station and Burlington Freight House (Davenport MRA)*, 120 S. Harrison St. (07/07/83)
Davenport, *Walter-Gimble House (Davenport MRA)*, 123 W. 6th St. (07/07/83)
Davenport, *Warner Apartment Building (Davenport MRA)*, 414–416 E. 6th St. (07/07/83)
Davenport, *Worley, Philip, House (Davenport MRA)*, 425 Brady St. (07/07/83)
Davenport, *Wupperman Block/I.O.O.F. Hall (Davenport MRA)*, 508–512 Brady St. (07/07/83)
Davenport, *Young, Col. Joseph, Block (Davenport MRA)*, 502 Brady St. (07/07/83)
Davenport, *Zoller Bros-Independent Malting Co. (Davenport MRA)*, 1801 W. 3rd St. (07/07/83)
Le Claire, *Stone House*, 817 N. Second St. (07/07/83)

Story County

Ames, *Engineering Hall*, Union Dr., Iowa State University campus (01/10/83)
Nevada, *Silliman Memorial Library (Public Library Buildings in Iowa TR)*, 631 K Ave. (05/23/83)

Tama County

Toledo, *Hope Fire Company Engine House*, 109 S. Broadway (01/27/83)

Taylor County

Bedford, *Bedford Public Library (Public Library Buildings in Iowa TR)*, Jefferson St. (05/23/83)

Van Buren County

Bonaparte, *Meek's Flour Mill*, First St. (01/27/83)

Wapello County

Ottumwa, *Foster/Bell House*, 205 E. 5th St. (09/29/83)

Warren County

Indianola vicinity, *Polled Hereford Breed Origin Site*, SW of Indianola (06/24/83)

Washington County

Washington, *Smouse, Winfield, House*, 321 S. Iowa Ave. (01/27/83)

Winnesheik County

Burr Oak, *Burr Oak House/Masters Hotel*, State St. (01/27/83)
Decorah, *Steyer Bridge*, Oneata Rd. off US 52 (01/04/83)

Woodbury County

Sioux City, *Charles City College Hall*, 1501 Morningside Ave. (01/21/83)
Sioux City, *Everist, H. H., House*, 37 McDonald Dr. (09/29/83)
Sioux City, *Martin Hotel*, 410 Pierrce St. (01/27/83)
Sioux City, *Sioux City Public Library (Smith Villa Branch) (Public Library Buildings in Iowa TR)*, 1509 George Ave. (05/23/83)

KANSAS

Atchison County

Atchison, *Glancy/Pennell House*, 519 N. 5th St. (08/26/83)
Atchison, *Pease, Robert L., House*, 203 N. 2nd St. (08/26/83)

Chautauqua County

Elgin vicinity, *Cedar Creek Bridge (Rainbow Arch (Marsh Arch) Bridges of Kansas TR)*, FAS 96 (03/10/83)

Cherokee County

Baxter Springs vicinity, *Brush Creek Bridge (Rainbow Arch (Marsh Arch) Bridges of Kansas TR)*, N of Baxter Springs (03/10/83)

Coffey County

Hartford vicinity, *Neosho River Bridge (Rainbow Arch (Marsh Arch) Bridges of Kansas TR)*, E of Hartford (03/10/83)

Cowley County

Arkansas City, *Gladstone Hotel*, N. Summit St. (08/11/83)
Winfield, *Cowley County National Bank Building*, 820–822 Main St. (08/11/83)

Douglas County

Baldwin City, *Santa Fe Depot*, 1601 High St. (01/03/83)
Lawrence, *Bell, George and Annie, House*, 1008 Ohio St. (08/11/83)

Ellsworth County

Archeological Site No. 14EW14 (Elm Creek) (Kansas Rock Art TR), (07/09/83)

Ford County

Dodge City, *Sacred Heart Cathedral*, 903 Central Ave. (02/10/83)

Geary County

Junction City vicinity, *Conroe Bridge (Rainbow Arch (Marsh Arch) Bridges of Kansas TR)*, E of Junction City (03/10/83)

Gray County

Cimarron, *Cimarron Hotel*, 203 N. Main St. (02/10/83)

Labette County

Chetopa vicinity, *Harmon Site*, (05/09/83)
Edna, *First State Bank*, SW corner of Delaware and Main Sts. (11/01/82)

Linn County

Mound City vicinity, *Mine Creek Bridge (Rainbow Arch (Marsh Arch) Bridges of Kansas TR)*, E of Mound City (03/10/83)

Lyon County

Emporia vicinity, *Soden's Grove Bridge (Rainbow Arch (Marsh Arch) Bridges of Kansas TR)*, KS 57/99 (03/10/83)
Emporia, *Kress Building*, 702 Commercial St. (08/25/83)

Marshall County

Frankfort, *Old Frankfort City Jail*, Railway Ave. (11/01/82)

Miami County

Osawatomie vicinity, *Pottawatomie Creek Bridge (Rainbow Arch (Marsh Arch)*

Bridges of Kansas TR), FAS 1604 (03/10/83)
Osawatomie, *Creamery Bridge (Rainbow Arch (Marsh Arch) Bridges of Kansas TR)*, FAS 456 (03/10/83)

Montgomery County

Independence vicinity, *Dewlen-Spahnhauer Bridge (Rainbow Arch (Marsh Arch) Bridges of Kansas TR)*, US 160 (03/10/83)
Independence, *Booth Hotel*, 201–209 W. Main St. (04/28/83)

Riley County

Manhattan, *KSAC Radio Towers*, Kansas State University campus (08/27/83)

Saline County

Brookville, *Brookville Grade School, Jewitt and Anderson Sts. (11/02/82)*

Sedgwick County

Wichita, *Hayford Buildings*, 255 N. Market and 115–127 E. 2nd Sts. (11/02/82)
Wichita, *North Topeka Avenue–10th Street Historic District*, 1065, 1103, 1109, 1113, and 1108 N. Topeka Ave. (02/14/83)
Wichita, *Wall, Judge T.B., House*, 622 N. St. Francis Ave. (08/11/83)
Wichita, *Wichita Wholesale Grocery Company*, 619 E William St. (08/11/83)

Shawnee County

Topeka vicinity, *Blacksmith Creek Bridge (Rainbow Arch (Marsh Arch) Bridges of Kansas TR)*, W of Topeka (03/10/83)

Sheridan County

Studley vicinity, *Pratt, John Fenton, Ranch*, W of Studley on U.S. 24 (04/28/83

Sumner County

Caldwell, *Caldwell Carnegie Library*, 13 N. Osage St. (02/24/83)

KENTUCKY

Barren County

Austin vicinity, *Hicks, William, House (Barren County MRA)*, Jeff Hicks Rd. (05/20/83)
Beckton vicinity, *Edmunds, Charles Penn, House (Barren County MRA)*, E of Becton (05/20/83)
Bristle Town vicinity, *Site Bn–54 (Barren County MRA)*, Roseville Rd. (05/20/83)
Cave City, *Cave City Commercial District (Barren County MRA)*, Broadway between 1st and 2nd Sts. (07/20/83)
Cave City, *McCoy, Andrew, House (Barren County MRA)*, Railroad Ave. (05/20/83)
Finney vicinity, *Martin, Benjamin, House (Barren County MRA)*, Berry Store Rd. (05/20/83)
Glasgow vicinity, *Mayfield, John, House (Barren County MRA)*, SW of Glasgow (05/20/83)
Glasgow vicinity, *Page, William, House (Barren County MRA)*, S of Glasgow off KY 249 (05/20/83)
Glasgow, *Southwest Glasgow Residential District (Barren County MRA)*, Green St. between Cottage and College Sts.; Leslie Ave., Liberty, Brown, and Washington Sts. (08/30/83)
Glasgow, *First National Bank (Barren County MRA)*, Main St. (05/20/83)
Glasgow, *First Presbyterian Church (Barren County MRA)*, Washington and Broadway (05/20/83)
Glasgow, *Morris Building (Barren County MRA)*, Washington and Green Sts. (05/20/83)
Glasgow, *North Race Street Historic District (Barren County MRA)*, N. Race St. between Front and Cherry Sts. (07/20/83)
Glasgow, *Third National Bank (Barren County MRA)*, N. Green and Main Sts. (05/20/83)
Glasgow, *U.S. Post Office/Board of Education Building (Barren County MRA)*, 202 W. Washington St. (05/20/83)
Goodnight, *Quigley, G. F., and Son Grocery (Barren County MRA)*, Off U.S. 31–E (05/20/83)
Hiseville vicinity, *Wood, William Johnson, House (Barren County MRA)*, E of Hiseville (05/20/83)
Lucas vicinity, *White, Jesse and Simon, House (Barren County MRA)*, Off U.S. 31–E (05/20/83)
Park City vicinity, *Old Zion Methodist Church (Barren County MRA)*, SR 1297 (05/20/83)
Park City, *Renfro Hotel (Barren County MRA)*, S. Dixie Ave. (05/20/83)
Rocky Hill vicinity, *Octagon Cottage (Barren County MRA)*, Off SR 1297 (07/20/83)
Rocky Hill, *Settle, Franklin, House (Barren County MRA)*, KY 252 and KY 255 (05/20/83)
Roseville vicinity, *Landrum (Barren County MRA)*, SR 1318 (05/20/83)
Tracy vicinity, *Wooten, Joseph, House (Barren County MRA)*, Crabtree Rd. (05/20/83)
Tracy vicinity, *Young, Asa E., House (Barren County MRA)*, Off KY 921 (05/20/83)

Bath County

Owingsville vicinity, *Myrtle Hill*, S of Owingsville off US 64 (10/29/82)

Bell County

Middlesboro, *Middlesboro Downtown Commercial District*, Roughly bounded by Cumberland Ave., 19th, 20th Sts., and Edgewood Rd. (01/10/83)

Boone County

Archaeological Site 15 BE 36, (08/18/83)
Petersburg, *Carlton, Jonathon, House*, Market St. (11/10/82)
Union vicinity, *Fowler, Benjamin Piatt, House*, N of Union on US 40 (10/29/82)

Bourbon County

Carlisle vicinity, *Sandusky House (Early Stone Buildings of Central Kentucky TR)*, Off U.S. 68 (06/23/83)
Millersburg vicinity, *Williams, Hubbard, House (Early Stone Buildings of Central Kentucky TR)*, Off KY 32/36 (06/23/83)
Millersburg, *Miller's House at Ruddels Mills (Early Stone Buildings of Central Kentucky TR)*, SR 1940 (06/23/83)
Millersburg, *Stephens, Joseph L., House (Early Stone Buildings of Central Kentucky TR)*, SR 1940 (06/23/83)
N. Middletown vicinity, *Bayless quarters (Early Stone Buildings of Central Kentucky TR)*, KY 13 (06/23/83)
N. Middletown vicinity, *Harrod, Ephram, House (Early Stone Buildings of Central Kentucky TR)*, Off U.S. 460 (06/22/83)
N. Middletown vicinity, *Hopkins House (Early Stone Buildings of Central Kentucky TR)*, KY 537 (06/23/83)
Paris vicinity, *Buckner Site (15BB12)*, (01/27/83)
Paris vicinity, *Clay, Dr. Henry, House (Early Stone Buildings of Central Kentucky TR)*, Off KY 227 (06/22/83)
Paris vicinity, *McLeod Spring House (Early Stone Buildings of Central Kentucky TR)*, SR 1939 (06/23/83)
Paris vicinity, *Rodgers, Thomas, House (Early Stone Buildings of Central Kentucky TR)*, U.S. 460 (06/23/83)
Paris vicinity, *Widow McDowell House (Early Stone Buildings of Central Kentucky TR)*, KY 537 (06/23/83)
Shawhan vicinity, *Eales, James, House (Early Stone Buildings of Central Kentucky TR)*, Off Cook Rd. (06/23/83)
Shawhan vicinity, *Cooper's Run Baptist Church (Early Stone Buildings of Central Kentucky TR)*, Off U.S. 27 (06/23/83)
Shawhan vicinity, *Gerrard, James, House (Early Stone Buildings of Central Kentucky TR)*, Peacock Pike (06/23/83)
Shawhan vicinity, *Kennedy, Joseph, House (Early Stone Buildings of Central Kentucky TR)*, Off SR 1940 (06/23/83)
Shawhan vicinity, *Mauch, Rudolph, House (Early Stone Buildings of Central Kentucky TR)*, Off SR 1893 (06/23/83)
Shawhan vicinity, *Rymill, Elias, House (Early Stone Buildings of Central Kentucky TR)*, Off Brentsville Rd (06/23/83)
Shawhan vicinity, *Shipp, Loban, House (Early Stone Buildings of Central Kentucky TR)*, Off SR 1940 (06/23/83)
Shawhan vicinity, *Spears, Jacob, House (Early Stone Buildings of Central Kentucky TR)*, SR 1876 (06/23/83)
Shawhan vicinity, *Spears, Jacob, Distillery (Early Stone Buildings of Central Kentucky TR)*, SR 1876 (06/23/83)
Tyrone vicinity, Stone House on Steele's Grant (Early Stone Buildings of Central Kentucky TR), Off SR 1964 (06/23/83)

Boyle County

Bryantsville vicinity, *Crow, William, House (Early Stone Buildings of Central Kentucky TR)*, Off KY 52 (06/23/83)
Bryantsville vicinity, *Barber, John, House (Early Stone Buildings of Central Kentucky TR)*, KY 34 (06/23/83)
Bryantsville vicinity, *Stone House on Old Stage Road (Early Stone Buildings of Central Kentucky TR)*, KY 34 (06/23/83)
Danville vicinity, *Caldwell House (Early Stone Buildings of Central Kentucky TR)*, Off U.S. 150 (06/23/83)
Danville vicinity, *Harlan, Elijah, House (Early Stone Buildings of Central Kentucky TR)*, U.S. 150 (06/23/83)
Danville vicinity, *Knox, Abner, Farm (Early Stone Buildings of Central Kentucky TR)*, U.S. 150 (06/23/83)
Danville vicinity, *Mock, Randolf, Farm (Early Stone Buildings of Central Kentucky TR)*, Off KY 33 (06/23/83)
Danville vicinity, *Spring Hill (Thomas Lillard House)*, S of Danville on U.S. 150 (01/27/83

Danville vicinity, *Crow-Barber House (Old Crow Inn) (Early Stone Buildings of Central Kentucky TR)*, Stanford Rd. and Alta Ave. (06/23/83)
Junction City vicinity, *Marshall House (Early Stone Buildings of Central Kentucky TR)*, Off K Y 34 (06/23/83)
Perryville vicinity, *Thompson, William, House (Early Stone Buildings of Central Kentucky TR)*, Off U.S. 68 (06/23/83)

Breckinridge County

Cloverport, *Cloverport Historic District (Cloverport MRA)*, Roughly bounded by 3rd, Main, Chestnut, and Lynn Sts. (06/21/83)
Cloverport, *Fisher Homestead (Cloverport MRA)*, U.S. 60 (06/21/83)
Cloverport, *Oglesby-Conrad House (Cloverport MRA)*, Off U.S. 60 (06/21/83)
Cloverport, *Skillman House (Cloverport MRA)*, Tile Plant Rd. (06/21/83)

Calloway County

Murray, *Murray State University Historic Buildings, Addition: Main Library*, Murray State University campus (05/26/83)

Campbell County

Alexandria vicinity, *Barth, Peter, Farm (German Settlement, Four Mile Creek Area TR)*, Lower Tug Fork Rd. (03/09/83)
Alexandria vicinity, *Blenke House (German Settlement, Four Mile Creek Area TR)*, Four and Eight Mile Rd. (03/09/83)
Alexandria vicinity, *Fuhs, John, House (German Settlement, Four Mile Creek Area TR)*, Lower Tug Fork Rd. (03/09/83)
Alexandria vicinity, *Kremer, Frederich, House (German Settlement, Four Mile Creek Area TR)*, 317 Poplar Ridge Rd. (03/09/83)
Aexandria vicinity, *Kremer, Nicholas, House (German Settlement, Four Mile Creek Area TR)*, Four and Twelve Mile Pike (03/09/83)
Alexandria vicinity, *Ort-Heeb Farm (German Settlement, Four Mile Creek Area TR)*, Four Mile Pike (03/09/83)
Alexandria vicinity, *Reitman House (German Settlement, Four Mile Creek Area TR)*, Reitman Rd. (03/09/83)
Alexandria vicinity, *Ritter, Andrew, Farm (German Settlement, Four Mile Creek Area TR)*, Four Mile Pike (03/09/83)
Alexandria vicinity, *Sauser Farm (German Settlement, Four Mile Creek Area TR)*, Upper Tug Fork Rd. (03/09/83)
Alexandria vicinity, *St. John's Lutheran Cemetery (German Settlement, Four Mile Creek Area TR)*, Upper Tug Fork Rd. (03/09/83)
Alexandria vicinity, *St. Joseph's Catholic Church and Cemetery (German Settlement, Four Mile Creek Area TR)*, Four Mile Pike (05/16/83)
Alexandria vicinity, *Uebel House (German Settlement, Four Mile Creek Area TR)*, Upper Tug Fork Rd. (03/09/83)
California vicinity, *Herndon, Elijah, House*, N W of California on Washington Trace Rd. (10/29/83)
Camp Springs vicinity, *Bishoff House (German Settlement, Four Mile Creek Area TR)*, Upper Eight Mile Rd. (03/09/83)
Camp Springs vicinity, *Braun, John, House (German Settlement, Four Mile Creek Area TR)*, Eight Mile Rd. (03/09/83)
Camp Springs vicinity, *Camp Spring House (German Settlement, Four Mile Creek Area TR)*, Four Mile Pike (03/09/83)
Camp Springs vicinity, *Heiert Farm (German Settlement, Four Mile Creek Area TR)*, Upper Eight Mile Pike (03/09/83)
Camp Springs vicinity, *Hilbert Farm (German Settlement, Four Mile Creek Area TR)*, Gunkel Rd. (03/09/83)
Camp Springs vicinity, *Roth Farm (German Settlement, Four Mile Creek Area TR)*, Off Lower Eight Mile Rd. (03/09/83)
Camp Springs, *Baumann House (German Settlement, Four Mile Creek Area TR)*, Four Mile Pike (03/09/83)
Camp Springs, *Blau's Four Mile House (German Settlement, Four Mile Creek Area TR)*, Four Mile Pike (03/09/83)
Camp Springs, *Gubser-Schuchter Farm (German Settlement, Four Mile Creek Area TR)*, Four Mile Pike (03/09/83)
Camp Springs, *Kort Grocery (German Settlement, Four Mile Creek Area TR)*, Four Mile Pike (03/09/83)
Camp Springs, *Kremer, Matthias, House (German Settlement, Four Mile Creek Area TR)*, Four and Twelve Mile Rd. (03/09/83)
Camp Springs, *Leick House (German Settlement, Four Mile Creek Area TR)*, Four Mile Pike (03/09/83)
Camp Springs, *Reitman's St. Joseph House (German Settlement, Four Mile Creek Area TR)*, Four Mile Pike (03/09/83)
Melbourne vicinity, *Tiemeyer House (German Settlement, Four Mile Creek Area TR)*, K Y 8 (03/09/83)
Melbourne vicinity, *Trutschell House (German Settlement, Four Mile Creek Area TR)*, K Y 8 (03/09/83)
Newport, *East Newport Historic District*, Roughly bounded by the C & O RR, 6th, Saratoga, and Oak Sts. (08/25/83)

Carroll County

Carrollton, *Carrollton Historic District*, Roughly bounded by Main, Polk, 2nd, 7th, and both sides of Highland Ave. to 11th St. (11/12/82)
Ghent, *Ghent Historic District*, US 42, Fishing, Ann, Main Cross, Ferry, Water, Union and Liberty Sts. (08/25/83)

Christian County

Hopkinsville vicinity, *McRay Site (15 Ch 139)*, (02/03/83)
Hopkinsville, *Dalton, Monroe, House (Christian County MRA)*, 713 E. 7th St. (02/10/83)
Hopkinsville, *East 7th Street Historic District (Christian County MRA)*, Roughly bounded by E. 7th St. from Campbell to Belmont Sts. (09/07/83)
Hopkinsville, *Fairlelond (Christian County MRA)*, 1303 E. 7th St. (09/07/83)
Hopkinsville, *Freeman Chapel C.M.E. Church, (Christian County MRA)*, 137 S. Virginia St. (05/26/83)
Hopkinsville, *Walker, E.W., House (Christian County MRA)*, 1414 E. 7th St. (09/07/83)
Hopkinsville, *Yost, Frank K., House (Christian County MRA)*, 1131 E. 7th St. (09/07/83)

Clark County

Winchester, *Hickman, William, House*, 31 W. Hickman St. (11/24/82)

Cumberland County

Marrowbone, *Marrowbone Historic District*, K Y 90 (07/28/83)

Daviess County

Owensboro, *Owensboro Historic Commercial District*, 2nd St. between St. Ann and Lewis Sts. (01/12/83)

Fayette County

Centerville vicinity, *Buenna Hill (Innes Houses of Fayette County TR)*, Off Ferguson Rd. (06/29/83)
Centerville vicinity, *Corinthia (Innes Houses of Fayette County TR)*, Off Lemons Mill Rd. (06/29/83)
Centerville vicinity, *Innes House (Innes Houses of Fayette County TR)*, Off Lemons Mill Rd. (06/29/83)
Centerville vicinity, *Russel, Robert, House (Early Stone Buildings of Central Kentucky TR)*, Off K Y 353 (06/23/83)
Clintonville vicinity, *Shryack, Frederick, House (Early Stone Buildings of Central Kentucky TR)*, Off K Y 859 (06/23/83)
Ford vicinity, *Pettit's, James, Mill (Early Stone Buildings of Central Kentucky TR)*, KY 418 (06/23/83)
Lexington vicinity, *Bell, John, House (Early Stone Buildings of Central Kentucky TR)*, SR 1978 (06/23/83)
Lexington vicinity, *Burrier, John, House (Early Stone Buildings of Central Kentucky TR)*, SR 1966 (06/23/83)
Lexington vicinity, *McConnell, William, House (Early Stone Buildings of Central Kentucky TR)*, Forbes Rd. (06/23/83)
Lexington vicinity, *Payne, Henry, House (Early Stone Buildings of Central Kentucky TR)*, Off U.S. 421 (06/23/83)
Lexington, *Allen, James House*, 1020 Lane Allen Rd. (12/30/82)
Lexington, *Downtown Commercial District*, Roughly bounded by Main, Church, Walnut Sts., and Broadway (08/25/83)
Lexington, *Featherston, Edmonson and Clark Houses*, 218, 226 and 232 E. Maxwell St. (07/21/83)
Lexington, *Lexington Herald Building*, 121 Walnut St. (10/29/82)
Lexington, *Lexington-Fayette County Government Building Block*, 200–228 E. Main St. (05/19/83)
Lexington, *Maxwell Place (Judge James Hillary Mulligan House)*, Rose St., University of Kentucky (10/29/82)
Lexington, *McConnell, James, House (Early Stone Buildings of Central Kentucky TR)*, Old Frankfort Pike (06/23/83)
Lexington, *North Broadway-Short Street Historic District*, N. Broadway and W. Short St. (09/15/83)
Lexington, *Woodlands Historic District*, Roughly bounded by Main and High Sts., Ashland and Woodland Aves. (08/18/83)
Versailles vicinity, *O'Neal, Lewis, Tavern (Early Stone Buildings of Central Kentucky TR)*, Off U.S. 60 (06/23/83)

Fleming County

Flemingsburg vicinity, *Magowan, Abraham, House*, Maddox Pike (06/30/83)

Franklin County

Frankfort vicinity, *Old Stone Tavern (Early Stone Buildings of Central Kentucky TR)*, Scruggs Lane and Old Lustown Pk. (06/23/83)
Frankfort vicinity, *Patteson, Charles, House (Early Stone Buildings of Central Kentucky TR)*, SR 1689 (06/23/83)
Frankfort vicinity, *Todd, Robert, Summer home (Early Stone Buildings of Central Kentucky TR)*, U.S. 421 (06/23/83)
Frankfort, *Hume, E. E., Hall*, Kentucky State University campus (05/26/83)
Midway vicinity, *Haggin Farm (Early Stone Buildings of Central Kentucky TR)*, SR 1685 (06/23/83)

Garrard County

Bryantsville vicinity, *Leavell, John, Quarters (Spring Gardens) (Early Stone Buildings of Central Kentucky TR)*, Off KY 753 (06/23/83)
Bryantsville vicinity, *Proctor House (Early Stone Buildings of Central Kentucky TR)*, U.S. 27 (06/23/83)
Bryantsville vicinity, *Smith, James, Tanyard (Early Stone Buildings of Central Kentucky TR)*, Off U.S. 27 (06/23/83)
Buckeye vicinity, *Hutcherson, John, House (Early Stone Buildings of Central Kentucky TR)*, Off KY 39 (06/23/83)
Kirksville vicinity, *Wallace, Michael, House (Early Stone Buildings of Central Kentucky TR)*, Broadus Branch Rd. (06/23/83)
Lancaster vicinity, *Thomas, Kings, III, House (Early Stone Buildings of Central Kentucky TR)*, Off KY 39 (06/23/83)
Paint Lick vicinity, *Arnold, John, House (Early Stone Buildings of Central Kentucky TR)*, Off 1295 (06/23/83)

Graves County

Mayfield, *U.S. Post Office*, 9th St. and Broadway (12/02/82)

Greenup County

South Portsmouth vicinity, *Lower Shawneetown, (04/28/83)*

Harlan County

Benham, *Benham Historic District*, KY 160 Central Ave., McKnight and Cypress Sts. (07/21/83)

Harrison County

Cynthiana vicinity, *Fraizer, Joel, House (Early Stone Buildings of Central Kentucky TR)*, Off KY 982 (06/23/83)
Cynthiana vicinity, *Haviland House (Early Stone Buildings of Central Kentucky TR)*, Off U.S. 62 (06/23/83)
Cynthiana vicinity, *Stone House of Indian Creek (Early Stone Buildings of Central Kentucky TR)*, Off U.S. 62 (06/23/83)
Cynthiana, *Cynthiana Commercial District*, Pike St. From Church to Main Sts., and Main St. from Bridge to Pleasant Sts. (10/19/82)
Cynthiana, *Roberts, Wesley, House*, 113–115 N. Main St. (11/10/82)
Shawhan vicinity, *Williams, John, House (Early Stone Buildings of Central Kentucky TR)*, Off KY 32/36 (06/23/83)
Shawhan vicinity, *Hinkson, John, House (Early Stone Buildings of Central Kentucky TR)*, Off U.S. 27 (06/23/83)
Shawhan vicinity, *Lair, John, House (Early Stone Buildings of Central Kentucky TR)*, Old Lair Rd. (06/23/83)
Shawhan vicinity, *McKee, John, House (Early Stone Buildings of Central Kentucky TR)*, Cook Rd. (06/23/83)
Shawhan vicinity, *McMillian, Samuel, House (Early Stone Buildings of Central Kentucky TR)*, Off U.S. 62 (06/23/83)
Shawhan vicinity, *Shawin, Joseph, House (Early Stone Buildings of Central Kentucky TR)*, Off U.S. 27 (06/23/83)
Shawhan vicinity, *Smith House (Early Stone Buildings of Central Kentucky TR)*, Off Lair Rd. (06/23/83)

Henry County

Smithfield vicinity, *Hieatt, Samuel, House*, N of Smithfield on Hieatt Rd. (10/29/82)

Hopkins County

Madisonville vicinity, *Munn's School*, Princeton Rd. (08/30/83)

Jefferson County

Anchorage vicinity, *Bonavita-Weller House (Jefferson County MRA)*, 12008 Ridge Rd. (07/12/83)
Anchorage vicinity, *Bonnycot (Jefferson County MRA)*, 1111 Bellewood Rd. (07/12/83)
Anchorage vicinity, *Central Kentucky Lunatic Asylum (Jefferson County MRA)*, Lakewood Dr. (07/12/83)
Anchorage vicinity, *Garr House (Jefferson County MRA)*, 2100 Evergreen Rd. (07/12/83)
Anchorage vicinity, *Gwathmey, Richard, House (Jefferson County MRA)*, 1205 Elm Rd. (07/12/83)
Anchorage vicinity, *Hausgen House (Jefferson County MRA)*, 1404 Walnut Lane (07/12/83)
Anchorage vicinity, *May, Robert, House (Jefferson County MRA)*, 11104 Owl Creek Lane (07/12/83)
Anchorage vicinity, *Newland Log House (Jefferson County MRA)*, 12007 Log Cabin Lane (07/12/83)
Anchorage vicinity, *Presbyterian Manse (Jefferson County MRA)*, 125 Bellewood Rd. (07/12/83)
Anchorage vicinity, *Sherley Mansion (Jefferson County MRA)*, 2018 Homewood Dr. (07/12/83)
Anchorage vicinity, *Twin Gates Carriage House (Jefferson County MRA)*, 11801 Osage Rd. (07/14/83)
Anchorage vicinity, *Walker, James, House (Jefferson County MRA)*, 1902 Evergreen Rd. (07/12/83)
Anchorage vicinity, *Williams, Eustace, House (Jefferson County MRA)*, 11705 Owl Creek Lane (07/12/83)
Anchorage vicinity, *Yager House (Jefferson County MRA)*, Aiken Rd. (07/12/83)
Buechel vicinity, *Gaar-Fenton House (Jefferson County MRA)*, 4124 Nachand Lane (07/12/83)
Eastwood vicinity, *Hord, Robert, House (Jefferson County MRA)*, US 60 (07/12/83)
Fisherville vicinity, *Carmichael House (Jefferson County MRA)*, Off KY 155 (07/12/83)
Fisherville vicinity, *Fisher House (Jefferson County MRA)*, 15103 Old Taylorsville Rd. (07/12/83)
Fisherville vicinity, *Gilliland House (Jefferson County MRA)*, 1601 Gilliland Rd (07/12/83)
Fisherville vicinity, *Masonic Hall (Jefferson County MRA)*, 15116 Old Taylorsville Rd. (07/12/83)
Glenview vicinity, *Berry Hill (Jefferson County MRA)*, Dunraven Ct. (07/12/83)
Harrods Creek vicinity, *Allison-Barrickman House (Jefferson County MRA)*, Wolf Pen Branch Rd. (07/12/83)
Harrods Creek vicinity, *Ashbourne (Jefferson County MRA)*, Upper River Rd. (07/12/83)
Harrods Creek vicinity, *Fitzhugh House (Jefferson County MRA)*, Wolf Pen Branch Rd. (07/12/83)
Harrods Creek, *Nitta Yuma Historic District*, 5028, 5040, 5044, and 5051 Nitta Yuma (02/10/83)
Harrods Creek, *Shady Brook Farm (Jefferson County MRA)*, Avish Lane (06/16/83)
Jeffersontown vicinity, *Allen House (Jefferson County MRA)*, 2609 Hunsinger Lane (07/12/83)
Jeffersontown vicinity, *Beechland (Jefferson County MRA)*, 8500 Six Mile Lane (07/12/83)
Jeffersontown vicinity, *Bryan, William F., House (Jefferson County MRA)*, 8505 Six Mile Lane (07/12/83)
Jeffersontown vicinity, *Diamond Fruit Farm (Jefferson County MRA)*, 8101 Six Mile Lane (07/12/83)
Jeffersontown vicinity, *Hoke, Andrew, House (Jefferson County MRA)*, 2700 Llandovery Dr. (07/14/83)
Jeffersontown vicinity, *Hunsinger-Kennedy House (Jefferson County MRA)*, 4334 Taylorsville Rd. (07/12/83)
Jeffersontown vicinity, *Judge Kirby House (Jefferson County MRA)*, Kirby Lane (07/12/83)
Jeffersontown vicinity, *Reel, Jacob, House (Jefferson County MRA)*, Off I-64 (08/22/83)
Jeffersontown vicinity, *Rockdale (Jefferson County MRA)*, 12109 Taylorsville Rd. (07/12/83)
Jeffersontown vicinity, *Stout, Ben, House (Jefferson County MRA)*, 8830 Stout Rd. (07/12/83)
Jeffersontown vicinity, *Taylor, Robert, Place (Jefferson County MRA)*, 12803 Taylorsville Rd. (07/12/83)
Jeffersontown vicinity, *Tyler, Moses, House (Jefferson County MRA)*, 3200 Tucker Station Rd. (07/12/83)
Jeffersontown vicinity, *Westwood Farm (Jefferson County MRA)*, 7800 Six Mile Lane (07/12/83)
Jeffersontown vicinity, *Yenowine-Kennedy House (Jefferson County MRA)*, 4420 Taylorsville Rd. (07/12/83)
Louisville, *Bernheim Distillery Bottling Plant (West Louisville MRA)*, 822–828 S. 15th St. (09/08/83)
Louisville, *Diebold, Anton, House (West Louisville MRA)*, 4303 W. Broadway (09/08/83)
Louisville, *Glenview Historic District (Jefferson County MRA)*, Glenview Ave. (08/16/83)
Louisville, *Irvin, James F., House (West Louisville MRA)*, 2910 Northwestern Pkwy. (09/08/83)

Louisville, *National Tobacco Works Branch Drying House (West Louisville MRA)*, 2400 W. Main St. (09/08/83)
Louisville, *Oakdale District (South Louisville MRA)*, Roughly bounded by Terrace Park, Southern Pkwy., 4th and Kenton Sts. (09/06/83)
Louisville, *Tobacco Realty Company (West Louisville MRA)*, 118–126 N. 10th St. (09/08/83)
Louisville, *Atherton Carriage House (Jefferson County MRA)*, 3204 Woodside Rd. (08/16/83)
Louisville, *Bates, John, House (Jefferson County MRA)*, Pennsylvania Run Rd. (07/12/83)
Louisville, *Board of Extension of the Methodist Episcopal Church, South (North Old Louisville MRA)*, 1115 S. 4th St. (06/03/83)
Louisville, *Bosler Fireproof Garage*, 423 S. 3rd St. (08/18/83)
Louisville, *Bradford Mills (Textile Mills of Louisville TR)*, 1034 E. Oak St. (10/06/82)
Louisville, *Bridges, C.A., Tobacco Warehouse (West Louisville MRA)*, 1719–23 W. Main St. (09/08/83)
Louisville, *Brown Tobacco Warehouses (West Louisville MRA)*, 1019–25 W. Main St. (09/08/83)
Louisville, *Christ the King School and Church (West Louisville MRA)*, 718–724 S. 44th St. (09/08/83)
Louisville, *Church of Our Merciful Saviour (West Louisville MRA)*, 473 S. 11th St. (09/08/83)
Louisville, *Clifton Historic District*, Roughly bounded by Brownsboro Rd., William and E. Main Sts., Frankfort and N. Ewing Aves. (08/29/83)
Louisville, *Columbian School (West Louisville MRA)*, 18th and Wilson (09/08/83)
Louisville, *Crescent Hill Historic District*, Roughly bounded by Brownsboro and Lexington Rds, Peterson, Zorn, and Frankfort Aves., and Crabbs Lane (11/12/82)
Louisville, *Diebold, J. W., Jr. House (West Louisville MRA)*, 4119 W. Broadway (09/08/83)
Louisville, *District No. 1 (North Old Louisville MRA)*, S. Brook and E. Breckinridge St. (06/03/83)
Louisville, *District No. 2 (North Old Louisville MRA)*, W. Breckinridge St. and S. 2nd St. (06/03/83)
Louisville, *Doerhoefer, Basil, House (West Louisville MRA)*, 4432 W. Broadway (09/08/83)
Louisville, *Doerhoefer, Peter C., House (West Louisville MRA)*, 4422 W. Broadway (09/08/83)
Louisville, *Dumesnil Street ME Church (West Louisville MRA)*, 17th and Dumesnil Sts. (09/08/83)
Louisville, *Edgewood (Jefferson County MRA)*, 3605 Glenview Ave. (08/16/83)
Louisville, *Epworth Methodist Evangelical Church (South Louisville MRA)*, 412 M St. (09/06/83)
Louisville, *Ewing, D.H., & Sons Creamery (North Old Louisville MRA)*, 981 S. 3rd St. (06/03/83)
Louisville, *Falls City Jeans and Woolen Mills (Textile Mills of Louisville TR)*, 1010 S. Preston St. (10/06/82)
Louisville, *Farnsley, David, House (Jefferson County MRA)*, 4616 Cane Run Rd. (07/12/83)
Louisville, *First Lutheran Church*, 417 E. Broadway (10/29/82)
Louisville, *First National Bank-Kentucky Title Company Building*, 214 S. 5th St. (05/19/83)
Louisville, *Fishpool Plantation (Jefferson County MRA)*, 9710 Preston Hwy. (07/12/83)
Louisville, *Ford Motor Plant*, 1400 Southwestern Pkwy. (01/27/83)
Louisville, *Givens Headley and Co. Tobacco Warehouse (West Louisville MRA)*, 1119–1121 W. Main St. (09/08/83)
Louisville, *Greve, Buhrlage, and Company (West Louisville MRA)*, 1501 Lytle St. (09/08/83)
Louisville, *Greve, Buhrlage, and Company (West Louisville MRA)*, 312–316 N. 15th St. (09/08/83)
Louisville, *Hewett House (Jefferson County MRA)*, 3605 Woodside Rd. (08/16/83)
Louisville, *Heywood, John H., Elementary School (South Louisville MRA)*, 422 Heywood Ave. (09/06/83)
Louisville, *Highlands Historic District*, Roughly bounded by Barrett Ave, Eastern Pkwy., Frenwood, Bardstown, Woodbourne, Ellerbe, and Sherwood Aves. (02/11/83)
Louisville, *Holy Cross Catholic Church, School and Rectory (West Louisville MRA)*, 31st and Broadway (09/08/83)
Louisville, *Horner House (Jefferson County MRA)*, 3509 Woodside (08/16/83)
Louisville, *Ideal Theatre (West Louisville MRA)*, 2315–19 W. Market St. (09/08/83)
Louisville, *Immanuel Chapel Protestant Episcopal Church (South Louisville MRA)*, 410 Fairmont Ave. (09/06/83)
Louisville, *Keneseth Israel Synagogue*, 232–236 W. Jacob St. (10/29/82)
Louisville, *Kentucky Street School (North Old Louisville MRA)*, 119 E. Kentucky St. (06/03/83)
Louisville, *Kentucky Wagon Works (South Louisville MRA)*, 2601 S. Third St. (09/06/83)
Louisville, *Ladless Hill (Jefferson County MRA)*, 6501 Longview Lane (08/16/83)
Louisville, *Lincliff (Jefferson County MRA)*, 6100 Longview Lane (08/16/83)
Louisville, *Locust Avenue (Jefferson County MRA)*, 1814 Fern Valley Rd. (07/12/83)
Louisville, *Louisville Cotton Mills (Textile Mills of Louisville TR)*, 1008 Goss Ave. (10/06/82)
Louisville, *Louisville and Nashville Railroad Office Bldg. (West Louisville MRA)*, 908 W. Broadway (09/08/83)
Louisville, *Lowell, James Russell, Elementary School (South Louisville MRA)*, 4501 Crittenden Dr. (09/06/83)
Louisville, *Lower West Market Street District*, 1500–2200 W. Market St. (11/04/82)
Louisville, *Marlow Place Bungalows District (West Louisville MRA)*, 3139 to 3209 W. Broadway (09/08/83)
Louisville, *Marvin, Dr. J.B., House (North Old Louisville MRA)*, 809 S. 4th St. (06/03/83)
Louisville, *McFerran, J.B., School (West Louisville MRA)*, Cypress and Hill Sts. (09/08/83)
Louisville, *Meier, William G., Warehouse (West Louisville MRA)*, 2100 Rowan St. (09/08/83)
Louisville, *Mengel Box Company (West Louisville MRA)*, 1247–1299 S. 12th St. (09/08/83)
Louisville *Midlands (Jefferson County MRA)*, 25 Poplar Hill Rd. (08/16/83)
Louisville, *Monon Frieght Depot (West Louisville MRA)*, 1400 W. Main St. (09/08/83)
Louisville, *National Tobacco Work Branch Stemmery (West Louisville MRA)*, 2410–18 W. Main St. (09/08/83)
Louisville, *National Tobacco Works (West Louisville MRA)*, 1800–10 W. Main St. (09/08/83)
Louisville, *National Tobacco Works Warehouse (West Louisville MRA)*, 101–113 S. 24th St. (09/08/83)
Louisville, *Omer/Pound House (Jefferson County MRA)*, 6609 Billtown Rd. (07/12/83)
Louisville, *Parkland Evangelical Church (West Louisville MRA)*, 1102 S. 26th St. (09/08/83)
Louisville, *Parkland Junior High School (West Louisville MRA)*, 2509 Wilson Ave. (09/08/83)
Louisville, *Peaslee-Gaulbert Warehouse (West Louisville MRA)*, 1427 Lytle St. (09/08/83)
Louisville, *Phoenix Hill Historic District*, , Roughly bounded by Main, Campbell, Jefferson, Chestnut, Broadway, Hancock, Walnut, Shelby, Market and Floyd Sts. (01/10/83)
Louisville, *Pirtle House (Jefferson County MRA)*, 5803 Orion Rd. (08/16/83)
Louisville, *Planter's Tobacco Warehouse (West Louisville MRA)*, 1027–1031 W. Main St. (09/08/83)
Louisville, *Reed, J. V., and Company (West Louisville MRA)*, 1100 W. Main St. (09/08/83)
Louisville, *Rockledge (Jefferson County MRA)*, 4810 Upper River Rd. (08/16/83)
Louisville, *Sears, Roebuck and Company Store*, 800 W. Broadway (02/18/83)
Louisville, *Seebolt-Wilhoite-Pendergrass House (Jefferson County MRA)*, 6010 Fern Valley Rd. (07/12/83)
Louisville, *Shwab House (Jefferson County MRA)*, 4812 Upper River Rd. (08/16/83)
Louisville, *South Louisville Reformed Church (South Louisville MRA)*, 1060 Lynnhurst Ave. (09/06/83)
Louisville, *Southern Heights-Beechmont District (South Louisville MRA)*, Roughly bounded by Southern Pkwy., 6th St., Ashland, and Southern Heights Aves. (09/06/83)
Louisville, *Speed Building*, 319 Guthrie Green (05/18/83)
Louisville, *St. George's Roman Catholic Church*, 1909 Standard Ave. (10/29/82)
Louisville, *St. Bonifacius Kirche Complex*, 501–31 E. Liberty St. (10/29/82)
Louisville, *Thierman Apartments (North Old Louisville MRA)*, 416–420 W. Breckinridge St. (06/03/83)
Louisville, *Tiller, F. M., House (West Louisville MRA)*, 4309 W. Broadway (09/08/83)

Louisville, *Waverly Hills Tuberculosis Sanitarium Historic Buildings (Jefferson County MRA)*, 8101 Dixie Hwy. (07/12/83)
Louisville, *Wedekind House and Servant's Quarters (West Louisville MRA)*, 2630 and 2532 W. Burnett St. (09/08/83)
Louisville, *Western Junior High School (West Louisville MRA)*, 22nd and Main St. (09/08/83)
Louisville, *Winchester House (Jefferson County MRA)*, 613 Breckinridge Lane (07/12/83)
Louisville, *Winkworth (Jefferson County MRA)*, 3200 Boxhill Lane (08/16/83)
Louisville, *Woodside/John T. Bate House (Jefferson County MRA)*, 3100 Woodside Rd. (08/16/83)
Louisville, *Wrampelmeier Furniture Company (West Louisville MRA)*, 226–228 N. 15th St. (09/08/83)
Lyndon vicinity, *Murray, Dr. John, Farm (Jefferson County MRA)*, Murray Hill Pike (07/12/83)
Lyndon vicinity, *Soldiers Retreat (Jefferson County MRA)*, Seaton Springs Pkwy. (07/12/83)
Middletown vicinity, *Davis Tavern (Jefferson County MRA)*, 11180 Shelbyville Rd. (07/12/83)
Middletown vicinity, *Marders, Jefferson, House (Jefferson County MRA)*, 211 Madison Ave. (07/12/83)
Middletown, *Bank of Middletown (Jefferson County MRA)*, 11615 Main St. (07/12/83)
Okolona vicinity, *Pennsylvania Run Presbyterian Church (Jefferson County MRA)*, Vaughn's Mill Rd. (07/12/83)
St. Matthews vicinity, *Brown, James, House (Jefferson County MRA)*, Browns Lane (07/12/83)
St. Matthews vicinity, *Brown, Theodore, House (Jefferson County MRA)*, Browns Lane (07/12/83)
Valley Station, *Jones House (Jefferson County MRA)*, 4998 Valley Station Rd. (07/12/83)

Jessamine County

Keene vicinity, *Ebenezer Presbyterian Church (Early Stone Buildings of Central Kentucky TR)*, Off SR 1267 (06/23/83)
Keene vicinity, *January, Ephriam, House (Early Stone Buildings of Central Kentucky TR)*, Off SR 1267 (06/23/83)
Keene vicinity, *Lancaster, John, House (Early Stone Buildings of Central Kentucky TR)*, KY 169 (06/23/83)
Keene vicinity, *Steele, Robert, House (Early Stone Buildings of Central Kentucky TR)*, Troy Rd. (06/23/83)
Little Hickman vicinity, *Scott House (Early Stone Buildings of Central Kentucky TR)*, U.S. 27 (06/23/83)
Nicholasville vicinity, *Stone House on West Hickman (Early Stone Buildings of Central Kentucky TR)*, SR 1980 (06/23/83)
Wilmore vicinity, *Stone House on Brooklyn Hill (Early Stone Buildings of Central Kentucky TR)*, Off U.S. 68 (06/23/83)

Kenton County

Covington, *Covington Downtown Commercial Historic District*, Roughly bounded by C&O Railroad, Robbins, Greenup and 4th Sts. (06/09/83)
Covington, *Eleventh District School*, Parkway and Altamont St. (06/16/83)
Covington, *Wallace Woods Area Residential Historic District*, Roughly bounded by 24th St., Glenway, Wallace, and Madison Aves. (08/11/83)
South Ft. Mitchell, *Shinkle, Amos, Summer Residence*, U.S. 25 (04/28/83)

Lincoln County

Hubble vicinity, *Helm-Engleman House*, N of Hubble on Engleman Lane (01/27/83)
Hustonville, *Huston, Nathan, House (Early Stone Buildings of Central Kentucky TR)*, KY 78 (06/23/83)
Lancaster, *Hoffman House (Early Stone Buildings of Central Kentucky TR)*, U.S. 27 (06/23/83)

Logan County

Auburn, *Davidson, G. W., House and Bank*, Main St. (10/29/82)
Russellville vicinity, *Pleasant Run Methodist Church*, SE of Russellville on KY 663 (10/29/82)

Lyon County

Eddyville, *Mamie S. Barrett (towboat)*, Eddy Creek Marina (04/28/83)
Kuttawa vicinity, *Whalen Site (125–Ly–48)* (01/27/83)

Madison County

Bighill vicinity, *Indian Fort Mountain* (04/28/83)
Kirksville vicinity, *Hawkins, Nathan, House (Early Stone Buildings of Central Kentucky TR)*, Curtis Rd. (06/23/83)
Little Hickman, *Murphy, Stephen, House (Early Stone Buildings of Central Kentucky TR)*, Off KY 39 (06/23/83)
Moberly vicinity, *Moberly, John, House (Early Stone Buildings of Central Kentucky TR)*, Gum Bottom Rd. (06/23/83)
Richmond vicinity, *Newland, Isaac, House (Early Stone Buildings of Central Kentucky TR)*, Off U.S. 25 (06/23/83)
Richmond vicinity, *Noland Mound (15–Ma–14)* (01/27/83)
Ruthton vicinity, *Bogie Circle* (04/28/83)

Marshall County

Benton vicinity, *Archaeological Site 15 M1 109*, (01/27/83)

Mason County

Mays Lick vicinity, *Fox Farm* (05/09/83)
Maysville, *Maysville-Aberdeen Bridge*, Spans Ohio River between Maysville, KY, and Aberdeen, OH (06/30/83)
Minerva, *Brocken Baptist Church*, CR 1235 (04/28/83)

McCraken County

Paducah, *Anderson, Artelia, Hall*, 1400 H. C. Mathis Dr. (05/26/83)

Meade County

Flaherty vicinity, *Clarkson House*, Clarkson Rd. (05/24/83)

Mercer County

Cornishville vicinity, *McAfee, George House (Early Stone Buildings of Central Kentucky TR)*, Off SR 1160 (06/23/83)
Cornishville vicinity, *McGee, John, House (Early Stone Buildings of Central Kentucky TR)*, Jackson Rd. (06/23/83)
Harrodsburg vicinity, *Burton, Ambrose, House*, Unity Rd. (08/11/83)
Harrodsburg vicinity, *McAfee, James, House (Early Stone Buildings of Central Kentucky TR)*, Talmage Rd (06/23/83)
Harrodsburg vicinity, *Shaker Wist Lot Farm (Early Stone Buildings of Central Kentucky TR)*, Off U.S. 68 (06/23/83
Harrodsburg vicinity, *Stone Quarters on Burgin Road (Early Stone Buildings of Central Kentucky TR)*, KY 152 (06/23/83)
Harrodsburg, *Doniel, Benjamin, House*, NE of Harrodsburg off KY 68 (08/02/83)
Harrodsburg vicinity, *Honeysuckle Hill*, 712 Beaumont Ave. (08/11/83)
Harrodsburg vicinity, *Woods, Archibald, House*, 129 N. East St. (10/29/83)

Montgomery County

Mount Sterling, *KEAS Tabernacle Christian Methodist Episcopal Church*, 101 S. Queen St. (05/26/83)
Mt. Sterling vicinity, *Bondurant House (Early Stone Buildings of Central Kentucky TR)*, Off U.S. 60 (06/23/83)

Nelson County

Bardstown vicinity, *Stone House on Buffalo Creek*, Off SR 1330 (08/18/83)
Bardstown, *Bardstown Historic District*, Roughly bounded by 1st 3rd, and 5th Sts., Muir Ave., and RR tracks (02/17/83)

Nicholas County

Carlisle vicinity, *Riggs, Erasmus, House (Early Stone Buildings of Central Kentucky TR)* Off KY 13 (06/23/83)
Carlisle vicinity, *Stone Barn on Brushy Creek (Early Stone Buildings of Central Kentucky TR)*, U.S. 68 (06/23/83)
Millersbury vicinity, *Thompson, John Henry, House (Early Stone Buildings of Central Kentucky TR)*, Off KY 32/36 (06/23/83)

Oldham County

Buckner vicinity, *Ingram, William, House*, 6800 Shrader Lane (08/18/83)
Crestwood, *Clore, Albert E., House*, 6400 Clore Lane (05/26/83)
Goshen vicinity, *Hermitage, The*, Off U.S. 42 (12/02/82)
Goshen vicinity, *Locke-Mount House*, S of Goshen off U.S. 42 (11/24/82)
LaGrange vicinity, *Sale, Reuben, House*, 3700 Smith Lane (11/24/82)
Louisville vicinity, *Taylor, Philip R., House*, Shuler Lane (05/24/83)

Owsley County

Booneville, *Moyers Building*, S. Court St. (10/29/82)

Pendleton County

Falmouth, *Applegate, Leslie T., House (Falmouth MRA)*, 410 Maple St. (03/04/83)
Falmouth, *Bishop House (Falmouth MRA)*, 200 Fourth St. (03/04/83)
Falmouth, *Central Falmouth Historic District (Falmouth MRA)*, Roughly bounded by Shelby, 2nd, Montjoy, and Main Sts. (03/04/83)
Falmouth, *Charity's House (Falmouth MRA)*, 108 Montjoy St. (03/04/83)
Falmouth, *Chipman House (Falmouth MRA)*, 901 Shelby St. (03/04/83)
Falmouth, *House at 206 Park Street (Falmouth MRA)*, 206 Park St. (03/04/83)

Falmouth, *Hughes, Elzey, House (Falmouth MRA)*, 308 Second St. (03/04/83)
Falmouth, *Jameson, George W., House (Falmouth MRA)*, 308 Park St. (03/04/83)
Falmouth, *Kellum House (Falmouth MRA)*, 714 Shelby St. (03/04/83)
Falmouth, *McBride House (Falmouth MRA)*, 401 Main St. (03/04/83)
Falmouth, *Oldham Plantation (Falmouth MRA)*, KY 159 (03/04/83)
Falmouth, *Pendleton House (Falmouth MRA)*, 506 W. Shelby St. (03/04/83)
Falmouth, *Reed, Frederick, House (Falmouth MRA)*, 405 Broad St. (03/04/83)
Falmouth, *Seaman Sisters' House (Falmouth MRA)*, 706 Shelby St. (03/04/83)
Falmouth, *Sheehan House (Falmouth MRA)*, 206 N. Maple St. (03/04/83)
Falmouth, *Southgate House (Falmouth MRA)*, 106 Montjoy St. (03/04/83)
Falmouth, *Watson Store (Falmouth MRA)*, 504 W. Shelby St. (03/04/83)

Rowan County

Morehead, *Rowan County Courthouse*, Main St. (07/21/83)

Scott County

Centerville vicinity, *Flournoy, Matthew, House (Early Stone Buildings of Central Kentucky TR)*, Off Crumbough Pike (06/23/83)
Centerville vicinity, *Henry, Matthew, House (Early Stone Buildings of Central Kentucky TR)*, KY 922 (06/23/83)
Delaplain vicinity, *Briscoe, James, Quarters (Early Stone Buildings of Central Kentucky TR)*, Off U.S. 25 (06/23/83)
Delaplain vicinity, *Emison, Ash, Quarters (Early Stone Buildings of Central Kentucky TR)*, Off U.S. 25 (06/23/83)
Georgetown vicinity, *Coppage, Rhodin, Spring House (Early Stone Buildings of Central Kentucky TR)*, Off U.S. 25 (06/23/83)
Georgetown vicinity, *Suggett, John, House (Elkton) (Early Stone Buildings of Central Kentucky TR)*, U.S. 460 (06/23/83)
Georgetown vicinity, *Thomsons Mill Warehouse (Early Stone Buildings of Central Kentucky TR)*, Off U.S. 460 (06/23/83)
Georgetown vicinity, *Whitaker, Charles, House (Early Stone Buildings of Central Kentucky TR)*, Off Old Oxford Rd. (06/23/83)
Midway vicinity, *Branham, Richard, House (Early Stone Buildings of Central Kentucky TR)*, Prate Rd. (06/23/83)
Midway vicinity, *Patterson, Joseph, Quarters (Early Stone Buildings of Central Kentucky TR)*, Off U.S. 421 (06/23/83)

Simpson County

Franklin vicinity, *Sinking Creek Cave Systems*, (04/28/83)
Franklin, *Duncan House*, 301 N. Main St. (10/29/82)
Franklin, *Franklin Downtown Commercial District (Boundary Increase)*, 200 S. Main and 207 S. College Sts. (08/18/83)
Franklin, *Franklin Downtown Commercial District*, Roughly Main and College Sts. between Washington and Madison Sts. (02/17/83)

Taylor County

Campbellsville vicinity, *Hiestand, Jacob, House*, W of Campbellsville off KY 210 (02/10/83)
Campbellsville, *Campbellsville Historic Commercial District*, Roughly bounded by Columbia Ave., Broadway, 1st, Hotchkiss Sts., Central Ave. (both sides), and RR tracks (02/10/83)

Trimble County

Bedford vicinity, *Callis General Store and Post Office (Trimble County MRA)*, New Hope Rd. (07/21/83)
Bedford vicinity, *Humphrey Place (Trimble County MRA)*, N of Bedford on US 421 (07/21/83)
Bedford vicinity, *Old Kentucky Tavern (Trimble County MRA)*, US 42 (07/21/83)
Bedford vicinity, *Coleman, William L., House (Trimble County MRA)*, Sulpher-Bedford Rd. (07/21/83)
Bedford, *Coleman House (Trimble County MRA)*, Main St. (07/21/83)
Milton vicinity, *House on Moffett Cemetery Road (Trimble County MRA)*, Moffett Cemetery Rd. (07/21/83)
Milton vicinity, *Page-Bell House (Trimble County MRA)*, Cooper's Bottom Rd. (07/21/83)
Milton vicinity, *Preston House (Trimble County MRA)*, Rodgers Rd. (07/21/83)
Milton vicinity, *Trout House (Trimble County MRA)*, KY 625 (07/21/83)
Milton vicinity, *Ginn's Furniture Store (Trimble County MRA)*, Mains St. (07/21/83)
Milton, *Milton Masonic Lodge and County General Store (Trimble County MRA)*, Main St. (07/21/83)
Milton, *Rowlett's Grocery (Trimble County MRA)*, Main St. (07/21/83)
Wise's Landing, *Fixx, Dr. Carroll, House (Trimble County MRA)*, Barebone Rd. (07/21/83)

Washington County

Springfield, *Covington Institute Teachers' Residence*, 333 E. Main St. (01/27/83)

Wayne County

Monticello, *Monticello Historic Commercial District*, Main and Columbia Sts. (10/29/82)

Woodford County

Keene vicinity, *Allen, John, House (Early Stone Buildings of Central Kentucky TR)*, Off KY 169 (06/23/83)
Keene vicinity, *Garrett, William, House (Early Stone Buildings of Central Kentucky TR)*, Off KY 169 (06/23/83)
Keene vicinity, *Hammon, Ezra, House (Early Stone Buildings of Central Kentucky TR)*, Off KY 33 (08/22/83)
Midway vicinity, *Stone House-at Fisher's Mill (Early Stone Buildings of Central Kentucky TR)*, Off U.S. 421 (06/23/83)
Midway vicinity, *Alexander Plantation House ((Early Stone Buildings of Central Kentucky TR), Off Old Frankford Pike (06/23/83)*
Midway vicinity, *Shipp House*, Aiken Rd. (06/30/83)
Midway vicinity, *Stone House on Beale's Run (Early Stone Buildings of Central Kentucky TR), Off SR 1685 (06/23/83)*
Pinckard vicinity, *Jennings, Dr. William, House*, S of Pinckard on KY 169 (01/12/83)
Salvisa vicinity, *Miller's House at Mortonsville Mill (Early Stone Buildings of Central Kentucky TR)*, SR 1905 (06/23/83)
Salvisa vicinity, *Stone House on Tanner's Creek (Early Stone Buildings of Central Kentucky TR)*, Carpenter Pike (06/23/83)
Salvisa vicinity, *Thomas, Solomon, House (Early Stone Buildings of Central Kentucky TR)*, Craigs Creek Rd. (06/23/83)
Troy vicinity, *Guyn, Robert Jr., House (Early Stone Buildings of Central Kentucky TR)*, S of Troy on KY 33 (08/25/83)
Troy, *Guyn's Mill Historic District*, Mundy's Landing and Pauls Mill Rds. (08/29/83)
Tyrone vicinity, *DuPuy, Joel, House (Early Stone Buildings of Central Kentucky TR)*, Griers Creek Rd. (06/23/83)
Tyrone vicinity, *McCrackin, Cyrus, House and Quarters (Early Stone Buildings of Central Kentucky TR)*, Off Steele Rd. (08/22/83)
Tyrone vicinity, *Edwards, Thomas, House and Quarters (Early Stone Buildings of Central Kentucky TR)*, SR 1659 (06/23/83)
Tyrone vicinity, *McCrackin Distillery and Mill (Early Stone Buildings of Central Kentucky TR)*, SR 1659 (06/23/83)
Tyrone vicinity, *Muldrow, Andrew, Quarters (Early Stone Buildings of Central Kentucky TR)*, Griers Creek Rd. (06/23/83)
Tyrone vicinity, *Robertson Place (Early Stone Buildings of Central Kentucky TR)*, Clifton and Steele Rds. (06/23/83)
Tyrone vicinity, *Stone House on Clifton Pike (Early Stone Buildings of Central Kentucky TR)*, SR 1964 (06/23/83)
Versailles vicinity, *Hogan Quarters (Early Stone Buildings of Central Kentucky TR)*, Off KY 33 (08/22/83)
Versailles vicinity, *Humphries Estate Quarters (Early Stone Buildings of Central Kentucky TR)*, SR 1967 (06/23/83)
Versailles vicinity, *Moore, George F., Place (Early Stone Buildings of Central Kentucky TR)*, Off U.S. 62 (06/23/83)
Versailles vicinity, *Mt. Pisgah Presbyterian Church (Early Stone Buildings of Central Kentucky TR)*, Off U.S. 60 (08/22/83)
Versailles vicinity, *W. B. Spring House (Early Stone Buildings of Central Kentucky TR)*, Off U.S. 62 (06/23/83)
Versailles vicinity, *Wilson, Benjamin, House (Early Stone Buildings of Central Kentucky TR)*, Off U.S. 62 (06/23/83)
Versailles, *Rose Hill Historic District*, Rose Hill Ave. (12/17/82)

LOUISIANA

Ascension Parish

Burnside vicinity, *Tezcuco*, S of Burnside on River Rd. (03/03/83)
Donaldsonville vicinity, *Evan Hall Slave Cabins*, W of Donaldsonville (09/20/83)

Assumption Parish

Labadieville, *St. Philomene Catholic Church and Rectory*, LA 1 (09/27/83)
Paincourtville, *St. Elizabeth Catholic Church*, LA 402 (03/24/83)

Avoyelles Parish

Evergreen vicinity, *Lone Pine*, Off LA 361 (10/28/82)

Marksville, *Marksville Commercial Historic District*, Roughly bounded by Monroe, Washington, N. Ogden, and Bantempt Sts. (03/16/83)
Simmesport, *Lacour's Fish and Ice Company Building*, LA 1 (09/08/83)

Beauregard Parish

DeRidder, *DeRidder Commercial Historic District*, Roughly bounded by the RR line, Second, Stewart, and Port Sts. (08/09/83)
DeRidder, *Beauregard Parish Courthouse*, 1st St. (09/22/83)

Caddo Parish

Shreveport, *Antioch Baptish Church*, 1057 Texas Ave. (11/01/82)
Shreveport, *Wray-Dickinson Building*, 308 Market St. (03/24/83)

Calcasieu Parish

DeQuincy, *All Saints Episcopal Church*, Hall and Harrison Sts. (09/20/83)
DeQuincy, *Kansas City Southern Depot*, Lake Charles Ave. (09/22/83)

Caldwell Parish

Columbia vicinity, *Synope Plantation House*, N of Columbia off US 165 (10/05/82)

Catahoula Parish

Sicily Island vicinity, *Green-Lovelace House*, N of Sicily Island off LA 15 (04/05/83)

Claiborne Parish

Homer, *Capers-McKenzie House*, N. 5th St. (06/30/83)

DeSoto Parish

Mansfield vicinity, *Wood Park (Glassell-Turner House)*, S of Mansfield off LA 175 (01/21/83)
Mansfield, *U.S. Post Office*, 104 Jefferson St. (01/12/83)

East Baton Rouge Parish

Baker vicinity, *Leland College*, W of Baker off LA 19 (11/10/82)
Baton Rouge, *Barthel Pigeonnier (Magnolia Mound Plantation)*, 2161 Nicholson Dr. (07/13/83)
Baton Rouge, *U.S.S. Kidd*, Mississippi River near Government St. and River Rd. (08/09/83)
Baton Rouge, *Beaurgard Town Historic District (Boundary Increase)*, Front St. (04/14/83)
Baton Rouge, *Longwood*, 10417 River Rd. (07/07/83)

East Carroll Parish

Lake Providence vicinity, *Buckmeadow Plantation House*, NW of Lake Providence off LA 2 (09/15/83)

East Feliciana Parish

Clinton vicinity, *Avondale Plantation Home*, E of Clinton off LA 10 (12/17/82)
Clinton, *Silliman Institute*, Bank St. (04/18/83)

Franklin Parish

Fort Necessity, *Grayson House*, SE of Fort Necessity on LA 562 (10/27/82)
Gilbert vicinity, *Chennault House*, LA 15 S. of Gilbert (06/23/83)
Winnsboro, *Jackson Street Historic District*, Jackson St. (10/05/82)

Grant Parish

Colfax, *McNeely House*, 3rd, 4th, and Main Sts. (03/31/83)

Iberia Parish

Lydia, *Olivier Store*, LA 83 (10/25/82)
New Iberia, *Conrad Rice Mill*, 307 Ann St. (11/10/82)
New Iberia, *East Main Street Historic District*, East Main, Lee, Ann and Phillip Sts. (07/28/83)

Iberville Parish

Plaquemine, *St. Basil's Academy*, 311 Church St. (10/05/82)

Jackson Parish

Chatham, *Wilder House*, Shell and Pine Sts. (07/13/83)
Clay vicinity, *Simms-Ellis House*, LA 148 (07/07/83)

Jefferson Parish

Gretna, *Crockett, David, Fire Hall and Pumper*, 205 Lafayette St. (01/27/83)
Gretna, *Old Jefferson Parish Courthouse*, 200 Huey P. Long Ave. (01/21/83)
Gretna, *St. Joseph Church-Convent of the Most Holy Sacrament Complex*, Lavousier and 7th Sts. (04/15/83)
Harahan, *Harahan Elementary School*, 6723 Jefferson Highway (04/14/83)

LaSalle Parish

Good Pine, *Good Pine Lumber Company Building*, W. Bradford St. (10/26/82)
Jena vicinity, *White Sulphur Springs*, SW of Jena on LA 8 (12/17/82)

Lafayette Parish

Broussard, *Alesia (Broussard MRA)*, 108 N. Morgan St. (03/14/83)
Broussard, *Billeaud House (Broussard MRA)*, 303 W. Main St. (03/14/83)
Broussard, *Billeaud, Martial Jr., House (Broussard MRA)*, 118 N. Morgan St. (03/14/83)
Broussard, *Broussard, Valsin, House (Broussard MRA)*, 408 W. Main St. (03/14/83)
Broussard, *Comeaux House (Broussard MRA)*, 406 Second St. (03/14/83)
Broussard, *Ducrest Building (Broussard MRA)*, 101 W. Main St. (03/14/83)
Broussard, *Janin Store (Broussard MRA)*, 121 N. Morgan St. (03/14/83)
Broussard, *Main Street Historic District (Broussard MRA)*, 203–302 E. Main St. (03/14/83)
Broussard, *Roy-LeBlanc House (Broussard MRA)*, 105 St. Pierre St. (03/14/83)
Broussard, *St. Cecilia School (Broussard MRA)*, 302 W. Main St. (03/14/83)
Broussard, *St Julien House (Broussard MRA)*, 203 E. Second St. (03/14/83)
Lafayette, *Vermilion Inn*, 1304 Pinhook Rd. (07/13/83)
Lafayette, *Hope Lodge No. 145*, 116 E. Vermilion St. (01/21/83)

Lafourche Parish

Lockport vicinity, *Bouverans Plantation House*, LA 1 (07/21/83)
Raceland vicinity, *Thibodaux, Jean Baptiste, House*, W of Raceland on LA 308 (11/02/82)
Thibodaux vicinity, *Chatchie Plantation House*, E of Thibodaux on LA 308 (10/25/82)

Lincoln Parish

Dubach, *Dubach, Fred B., House*, LA 151 (09/08/83)

Madison Parish

Tallulah vicinity, *Montrose Plantation House*, SE of Tallulah on LA 603 (10/05/82)
Tallulah, *Scottland Plantation House*, 903 Bayou Dr. (11/02/82)

Orleans Parish

New Orleans, *Factors Row and Thiberge Buildings*, 401–405 Carondelet and 802–830 Perdido St. (04/04/83)
New Orleans, *Federal Fibre Mills Building*, 1101 S. Peters St. (03/24/83)
New Orleans, *Fort St. John*, Bayou St. John off Robert E. Lee Blvd. (02/11/83)
New Orleans, *Genella, Mary Louise Kennedy, House*, 5022–5028 Prytania St. (11/10/82)
New Orleans, *Louisiana State Bank Building*, 403–409 Royal St. (07/01/83) NHL
New Orleans, *Macheca Building*, 828 Canal St. (01/06/83)
New Orleans, *McDonogh School No. 6*, 4849 Chestnut St. (10/05/82)
New Orleans, *Park View Guest House*, 7004 St. Charles Ave. (11/05/82)
New Orleans, *Saux, Jean Marie, Building*, 900 City Park Ave. (01/12/83)
New Orleans, *St. James AME Church*, 222 N. Roman St. (10/26/82)
New Orleans, *Turner's Hall*, 606 O'Keefe St. (11/02/82)

Plaquemines Parish

Braithwaite vinicity, *Mary Plantation House*, LA 39 (07/13/83)
Pointe a la Hache vicinity, *Harlem Plantation House*, W of Pointe a la Hache on LA 39 (10/26/82)

Pointe Coupee Parish

Glynn, *Glynnwood*, LA 416 (11/02/82)
Oscar vicinity, *Riverlake*, LA 1 (04/13/83)

Rapides Parish

Pineville, *Rose Cottage*, Azalea St. (Central Louisiana State Hospital) (09/15/83)

Red River Parish

Coushatta, *Coushatta Bank Building*, 103 Carroll St. (09/08/83)

St. James Parish

Lutcher, *Longview*, LA 44 (09/21/83)

St. Landry Parish

Bunkie vicinity, *White's Chapel United Methodist Church*, S of Bunkie off LA 29 (04/05/83)
Eunice, *Midland Branch Railroad Depot*, First and North Sts. (03/03/83)
Grand Prairie vicinity, *Fontenot, Alexandre, fils, House*, S of Grand Prairie off LA 103 (10/22/82)
Opelousas vicinity, *Poiret Place*, NW of Opelousas off LA 167 (04/07/83)
Opelousas, *Labyche-Estorge House*, 427 N. Market St. (10/05/82)

Opelousas, *Old Federal Building*, 162 S. Court St. (12/28/82)
Eunice, *Midland Branch Railroad Depot*, 1st and North Sts. (09/27/83)

St. Martin Parish

Breaux Bridge vicinity, *Olivier Pigeonnier*, SW of Breaux Bridge off LA 94 (03/14/83)
St. Martinville vicinity, *Sandoz House*, W of St. Martinville on LA 96 (10/29/82)
St. Martinville, *St. Martinville Historic District*, LA 96 and LA 31 (01/27/83)

St. Mary Parish

Franklin, *Arlington Plantation House*, 56 E. Main St. (10/05/82)
Franklin, *Franklin Historic District*, US 90 (12/29/82)
Morgan City, *U.S. Post Office*, 1st and Everett Sts. (12/17/82)
Patterson vicinity, *Idleweild*, S of Patterson on LA 182 (11/02/82)

St. Tammany Parish

Abita Springs, *Longbranch Annex*, LA 36 and Gordon St. (07/21/83)
Covington, *Division of St. John Historic District*, US 190 and LA 21 (12/06/82)
Mandeville, *Flagstaff*, 1615 Lakeshore Dr. (09/15/83)
Mandeville, *Moore House*, 1717 Lakeshore Dr. (04/20/83)

Tagnipahoa Parish

Ponchatoula, *Ponchatoula Commercial Historic District*, Roughly bounded by 5th, 7th, Hickory and Oak Sts. (10/05/82)
Arcola, *Arcola Presbyterian Church*, Church St. (10/22/82)
Hammond, *June House*, 408 E. Coleman Ave. (03/31/83)
Hammond, *McGehee House*, 1106 S. Holly St. (11/02/82)
Hammond, *Stevenson House*, 113 S. Pine (11/17/82)
Independence, *Independence Historic District*, Roughly bounded by LA 40, 5th St., Anzalone, and E. and W. Railroad Aves. (10/05/82)
Loranger, *Loranger Methodist Church*, Allman Ave. and Magnolia Blvd. (10/05/82)

Tensas Parish

St. Joseph vicinity, *Lakewood*, N of St. Joseph on LA 606 (03/24/83)
Waterproof vicinity, *Moro Plantation House*, W of Waterproof off LA 566 (10/05/82)

Terrebonne Parish

Houma vicinity, *Ardoyne Plantation House*, NW of Houma on LA 311 (11/01/82)
Schriever vicinity, *Magnolia*, LA 311 (08/04/83)
Schriever, *St. George Plantation House*, LA 24 (10/05/82)

Union Parish

Marion, *Hopkins House*, Hopkins Lane (03/14/83)

Vernon Parish

Leesville, *Wingate House (Bogents House)*, 800 S. 8th St. (09/28/83)
Leesville, *Vernon Parish Courthouse*, 201 S. 3rd St. (09/22/83)

Washington Parish

Bogalusa, *U.S. Post Office*, 305 Avenue B (01/27/83)

Webster Parish

Cotton Valley vicinity, *Hodges House*, W of Cotton Valley off LA 7 and 160 (01/12/83)

West Feliciana Parish

Angola vicinity, *Bloodhound Site*, Angola Penitentiary (05/02/83)
St. Francisville vicinity, *Highland*, NW of St. Francisville, off Highland Rd. (08/23/83)
St. Francisville vicinity, *Rosale Plantation (Boundary increase)*, N of St. Francisville on U.S. 61 (06/16/83)
St. Francisville vicinity, *Afton Villa Gardens*, N of St. Francisville on U.S. 61 (02/24/83)
St. Francisville vicinity, *Solitude Plantation House*, NW of St. Francisville on Tunica Rd. (01/27/83)
St. Francisville, *St. Francisville Historic District* (boundary increase) Ferdinand and Sewell Sts. (10/01/82)

MAINE

Androscoggin County

Lewiston, *Atkinson Building*, 220 Lisbon St. (02/02/83)
Lewiston, *Martel, Dr. Louis J., House*, 122–124 Bartlett St. (01/04/83)
Lewiston, *Pilsbury Block*, 200–210 Lisbon St. (04/14/83)
Lewiston, *Sts. Peter and Paul Church*, 27 Bartlett St. (07/14/83)

Cumberland County

Portland, *Deering Street Historic District*, Congress, Deering, Mellen, and State Sts. (01/27/83)
Portland, *Hamblen Block*, 188–194 Danforth St. (07/21/83)
Portland, *Russwurm, John B., House*, 238 Ocean Ave. (07/21/83)
Portland, *Sparrow House*, 35 Arlington St. (10/29/82)

Franklin County

Farmington, *Greenacre*, 17 Court St. (10/29/82)

Hancock County

Bar Harbor vicinity, *Abbe, Robert, Museum of Stone Age Antiquities*, S of Bar Harbor off ME 3 (01/19/83)
Bucksport, *Wilson Hall*, Franklin St. (04/27/83)
Deer Isle vicinity, *Sellers, Salome, House*, S of Deer Isle on ME 172 (01/27/83)
Ellsworth, *Whiting, Samuel Kidder, House*, 214 Main St. (07/14/83)

Kennebec County

Augusta, *Gannett, Guy P., House*, 184 State St. (04/28/83)
Chelsea, *Davis, John, House*, ME 9 (07/14/83)
China vicinity, *Jones, Abel, House (Rufus Jones TR)*, Off ME 202 (08/04/83)
China vicinity, *Pendle Hill (Rufus Jones TR)*, Off ME 202 (08/04/83)
China vicinity, *Pond Meeting House (Rufus Jones TR)*, On ME 202 (08/04/83)
China vicinity, *South China Meeting House (Rufus Jones TR)*, S. China Village (08/04/83)
Gardiner, *Gardiner Railroad Station*, 51 Maine Ave. (10/29/82)
Vienna, *Vienna Town House*, ME 41 (10/29/82)

Knox County

Cushing vicinity, *Burton, Benjamin, Garrison Site*, (09/09/83)
Rockland, *Tillson, Gen. Davis, House*, 157 Talbot Ave. (01/11/83)
South Thomaston, *Thorndike, George, House*, ME 73 (01/11/83)
St. George vicinity, *Mosquito Island House*, S of St. George on Mosquito Island (09/29/83)

Lincoln County

Alna, *Smith, Asa, Homestead*, ME 218 (08/11/83)

Oxford County

Hartford vicinity, *Warren, David, House*, Off ME 140 (04/28/83)
South Paris, *Stone, Elisha F., House*, Gothic St. (04/28/83)

Penobscot County

Bangor, *Pierce Building*, 23–37 Franklin St. (01/14/83)
Brewer, *Sargent, Daniel, House*, 613 S. Main St. (10/29/82)
Dixmont, *Dixmont Corner Church*, US 202 (07/21/83)
Hampden Highlands, *Kinsley, Martin, House*, Main Rd. (04/14/83)

Somerset County

North Anson, *Temples Historic District*, Madison Ave. (05/12/83)
Pittsfield, *Pittsfield Public Library*, Main St. (01/04/83)
Pittsfield, *Pittsfield Universalist Church*, N. Main and Easy Sts. (07/14/83)
Skowhegan, *Skowhegan Free Public Library*, Elm St. (04/14/83)

Waldo County

Lincolnville Center, *Lincolnville Center Meeting House*, ME 173 (07/21/83)
Searsport, *Nichols, Capt. John P., House*, US 1 (01/04/83)

Washington County

Cherryfield, *Campbell, Frank, House*, US 1 (10/29/82)
Cherryfield, *Nash, William M., House*, River Rd. (01/04/83)
Dennysville, *Dennysville Historic District*, The Lane, Main and King Sts. (10/29/82)
East Machias, *Talbot, James R., House*, US 1 (01/04/83)

York County

Alfred, *Alfred Historic District*, U.S. 202, Kennebunk, and Saco Rds. (04/28/83)
Biddeford, *Dudley Block*, 28–34 Water St. (11/12/82)
Buxton, *Elden's Store*, ME 22 (04/28/83)
North Berwick, *North Berwick Woolen Mill*, Canal St. (07/21/83)
Saco, *Saco High School (Old)*, Spring St. (07/14/83)
York vicinity, *Breckinridge, Isabella, House*, Off U.S. 1 (04/28/83)

MARYLAND

Allegany County

Cumberland, *Downtown Cumberland Historic District*, Roughly bounded by

Mechanic, Bedford, George, and Harrison Sts. (08/04/83)
Frostburg, *Frostburg Historic District*, Western Rr, Mt. Pleasant Terr., Main, Frost, Water, Broadway, Bealls, and Fairview Sts. (09/08/83)
Frostburg, *Hocking House*, 144 E. Main St. (12/02/82)
Lonaconing, *Lonaconing Historic District*, MD 36, MD 657, and Douglas Ave., Church, E. Main and Railroad Sts. (09/15/83)
Mount Savage, *Mount Savage Historic District*, Roughly bounded by Foundry Row, Jennings Run, New School Rd., Yellow Row, Cherry St., and Columbia Ave. (09/08/83)

Anne Arundel County

Baltimore vicinity, *U.S. Coast Guard Yard Curtis Bay*, Off MD 173 (08/05/83)
Baltimore vicinity, *Arundel Cove Archeological Site*, (07/21/83)
Gambrills, *Anne Arundel County Free School*, 1298 Lavall Dr. (06/16/83)
Linthicum Heights, *Sunnyfields*, 825 Hammonds Lane (08/11/83)
Millersville vicinity, *Cross Roads Church*, 911 Old General's Highway (02/10/83)
Tracy's Landing vicinity, *Tracy's Landing Tobacco House No. 2, (Coe Barn)*, Off MD 2 (11/30/82)

Baltimore (Independent City)

Baltimore City College, 530 N. Howard St. (08/11/83)
Barre Circle Historic District, Roughly bounded by Scott, Ramsey, and Boyd, and Harber City Blvd. and S. Fremont Sts. (01/10/83)
Brown's, Arcade, 322–328 N. Charles St. (01/17/83)
Brown, Alex, Building, 135 E. Baltimore St. (12/02/82)
Building at 100 Hopkins Place, 100 Hopkins Pl. (04/14/83)
Butchers Hill Historic District, Roughly bounded by Patterson Park Ave., Fayette, Pratt, Chapel, Washington, and Chester Sts. (12/28/82)
Chamber of Commerce Building, 17 Commerce St. (02/02/83)
Clifton School, 2670 Kennedy Ave. (12/16/82)
Continental Trust Company Building, 1 S. Calvert St. (02/03/83)
Douglass Place, 516–524 S. Dallas St. (09/15/83)
Eutaw-Madison Apartment House Historic District, 2502 and 2525 Eutaw Pl., and 2601 Madison Ave. (05/12/83)
Evergreen House, 4545 N. Charles St. (01/17/83)
Federal Reserve Bank of Richmond, Baltimore Branch, 114 E. Lexington St. (01/27/83)
First Church of Christ, Scientist, 102 W University Pky. (12/27/82)
Franklin Square Historic District, Bounded by Mulberry, N. Carey, W. Baltimore, and N. Monroe Sts. (12/10/82)
Gallagher Mansion and Outbuilding, 431–435 Notre Dame Lane (09/15/83)
Garrett Building, 233–239 Redwood St. (12/16/82)
Lord Baltimore Hotel, 20 West St. (12/02/82)
Mercantile Trust and Deposit Company, 262 E. Redwood St. (03/17/83)
Null House, 1037 Hillen St. (01/27/83)
Perkins Square Gazebo, George St. and Myrtle Ave. (07/28/83)
Poppleton Fire Station, 756–760 W Baltimore St. (09/08/83)
Sonneborn Building, 110 S. Paca St. (10/29/82)
St. Leo's Church, 221 S. Exeter St. (07/28/83)
Taylor's Chapel, 6061 Hillen Rd., Mount Pleasant Park (07/28/83)
Union Square-Hollins Market Historic District, Roughly bounded by Fulton, Fayette, Pratt and Schroder Sts. (09/15/83)

Baltimore County

Baldwin, Glen Arm, and Hydes, *Long Green Valley Historic District*, Glen Arm, Baldwin Mill, Manor, and Harford Rds. areas (12/30/82)
Brooklandville vicinity, *Rockland*, 10214 Falls Rd. (02/02/83)
Catonsville, *St. Charles College Historic District*, 711 Maiden Choice Lane (09/30/83)
Glencoe, *Glencoe*, 1314 Glencoe Rd. (05/09/83)
Owings Mills vicinity, *Plinlimmon Farm*, 9401 Lyons Mill Rd. (05/19/83)

Caroline County

Williston, *Potter Hall*, Martin Lane (11/30/82)

Charles County

Bryantown vicinity, *Oakland*, MD 5 (08/04/83)

Dorchester County

Cambridge, *Dorchester County Courthouse and Jail*, 206 High St. (12/16/82)
Hurlock, *Glen Oak Hotel*, 201 Academy St. (09/08/83)

Frederick County

Frederick, *Motter, John C., House*, 1005 Motter Ave. (12/02/82)

Garrett County

Grantsville vicinity, *Stanton's Mill*, E of Grantsville on MD 40 (01/17/83)
Mountain Lake Park, *Mountain Lake Park Historic District*, Roughly bounded by Alleghany Dr., Oakland Ave., D and N Sts. (09/01/83)

Harford County

Aberdeen, *Baker, James B., House*, 452 W Bel Air Ave. (12/10/82)
Baldwin vicinity, *Hidden Valley Farm*, 2916 Green Rd. (01/17/83)
Bel Air vicinity, *Tudor Hall*, NE of Bel Air on Tudor Lane (Boundary decrease) (12/16/82)
Bel Air, *Joshua's Meadows*, 300 N. Tollgate Rd. (12/21/82)
Churchville vicinity, *Webster's Forest*, 500 Asbury Rd. (09/01/83)

Howard County

Columbia vicinity, *Woodlawn*, 9254 Old Annapolis Rd. (02/03/83)
Ellicott City vicinity, *Burleigh*, Centennial Lane (11/30/82)
Glenelg vicinity, *Glenelg Manor*, SE of Glenelg on Folly Quarter Rd. (02/03/83)

Kent County

Chestertown vicinity, *Brampton*, MD 20 (08/04/83)
Chestertown, *Chestertown Railroad Station*, Cross St. (12/08/82)
Georgetown, *Valley Cottage*, Princess Stop St. (01/11/83)

Montgomery County

Dawsonville vicinity, *Susanna Farm*, 17700 White Grounds Rd. (01/27/83)
Laytonsville vicinity, *Oaks II*, 5815 Riggs Rd. (11/30/82)
Poolesville vicinity, *Poole, Nathan Dickerson, House*, 15800 Edwards Ferry Rd. (01/24/83)
Rockville vicinity, *Montrose Schoolhouse*, Randolph Rd. (01/24/83)

Prince Georges County

Upper Marlboro vicinity, *Bowling Heights*, 3610 Old Crain Hwy. (11/30/82)
Upper Marlboro vicinity, *Compton Bassett*, 16508 Marlboro Pike (03/08/83)

Queen Annes County

Church Hill vicinity, *Kennersley*, Clabber Hill Rd. (05/19/83)
Stevensville, *Cray House*, Cockey's Lane (05/09/83)

Talbot County

Easton vicinity, *All Saints' Church*, MD 662 (05/27/83)
Easton vicinity, *Wye Town Farm House*, NW of Easton on Bruff's Island Rd. (12/16/82)

Washington County

Burtner vicinity, *Search Well*, SE of Burtner on Manor Church Rd. (01/17/83)
Hagerstown vicinity, *Antietam Furnace Complex Archeological Site*, Mt. Aetna and Mt. Lena Rds. (08/25/83)
Hagerstown, *Hagerstown Charity School*, 102 E. Washington St. (12/16/82)
Hagerstown, *Hagerstown Commercial Core Historic District*, Potomac, Washington, Franklin, Antietam, Summit and Jonathan Sts. (01/17/83)

Wicomico County

Hebron vicinity, *St. Giles*, SW of Hebron on MD 347 (12/20/82)•

MASSACHUSETTS

Barnstable County

Falmouth, *Woods Hole School*, 24 School St. (10/21/82)

Berkshire County

Adams, *Renfrew Mill No. 2*, 217 Columbia St. (10/14/82)
Cheshire, *Hall's Tavern*, 3 North St. (03/10/83)
Dalton, *Crane and Company (Old Stone Mill Rag Room)*, Off Main St. (07/01/83) NHL
Monterey, *Rock Ridge*, Tyringham Rd. (09/16/83)
North Adams, *Church Street Historic District*, Roughly E. Main St. from Church to Pleasant St., and Church St. from Summer St. to Elmwood Ave. (03/10/83)
Pittsfield, *Allen Hotel*, Wendell Ave. (09/01/83)
Williamstown, *Simond, Col. Benjamin, House*, 643 Simonds Rd. (09/01/83)

Bristol County

Attleboro, *Sadler, Herbert A., House*, 574 Newport Ave. (10/21/82)

Fall River, *Algonquin Printing Co. (Fall River MRA)*, Bay St. (02/16/83)
Fall River, *American Printing Co. and Metacomet Mill (Fall River MRA)*, Anawan St. (02/16/83)
Fall River, *Anthony, David M., House (Fall River MRA)*, 368 N. Main St. (02/16/83)
Fall River, *Ashley House (Fall River MRA)*, 3159 N. Main St. (02/16/83)
Fall River, *Barnard Mills (Fall River MRA)*, 641–657 Quarry St. (02/16/83)
Fall River, *Belmont Club/John Young House (Fall River MRA)*, 34 Franklin St. (02/16/83)
Fall River, *Blossom, Barnabus, House (Fall River MRA)*, 244 Grove St. (02/16/83)
Fall River, *Boguslavsky Triple-Deckers (Fall River MRA)*, 53–87 Albion St. (02/16/83)
Fall River, *Borden, A. J., Building (Fall River MRA)*, 91–111 S. Main St. (02/16/83)
Fall River, *Borden, Ariadne J. and Mary A., House (Fall River MRA)*, 92 Globe St. (02/16/83)
Fall River, *Borden, N. B., School (Fall River MRA)*, 43 Morgan St. (02/16/83)
Fall River, *Borden-Winslow House (Fall River MRA)*, 3063 N. Main St. (02/16/83)
Fall River, *Brayton Methodist Episcopal Church (Fall River MRA)*, 264 Griffin St. (02/16/83)
Fall River, *Brightman, Hathaway, House (Fall River MRA)*, 205 Crescent St. (02/16/83)
Fall River, *Bristol County Superior Court (Fall River MRA)*, 441 N. Main St. (02/16/83)
Fall River, *Canedy, Squire William B., House (Fall River MRA)*, 2511 N. Main St. (02/16/83)
Fall River, *Cataract Engine Company No. 3 (Fall River MRA)*, 116 Rock St. (02/16/83)
Fall River, *Central Congregational Church (Fall River MRA)*, 100 Rock St. (02/16/83)
Fall River, *Chace Mills (Fall River MRA)*, Lewiston and Salem Sts. (02/16/83)
Fall River, *Chace's, Oliver, Thread Mill (Fall River MRA)*, 505 Bay St. (02/16/83)
Fall River, *Chace, A. B., Rowhouses (Fall River MRA)*, 655–685 Middle St. (02/16/83)
Fall River, *Charlton Mill (Fall River MRA)*, 109 Howe St. (02/16/83)
Fall River, *Chase-Hyde Farm (Fall River MRA)*, 1281–1291 New Boston Rd. (02/16/83)
Fall River, *Children's Home (Fall River MRA)*, 427 Robeson St. (02/16/83)
Fall River, *Church of the Ascension (Fall River MRA)*, 160 Rock St. (02/16/83)
Fall River, *Collins, William, House (Fall River MRA)*, 3775 N. Main St. (02/16/83)
Fall River, *Connell, William M., School (Fall River MRA)*, 650 Plymouth Ave. (02/16/83)
Fall River, *Corky Row Historic District (Fall River MRA)*, Roughly bounded by Plymouth Ave. I–195, and 2nd St. (06/23/83)
Fall River, *Cornell Mills (Fall River MRA)*, Alden St. (02/16/83)
Fall River, *Couhlin School (Fall River MRA)*, 1975 Pleasant St. (02/16/83)
Fall River, *Crescent Mill (Fall River MRA)*, 30 Front St. (02/16/83)
Fall River, *Davol School (Fall River MRA)*, 112 Flint St. (02/16/83)
Fall River, *Davol, William C. Jr., House (Fall River MRA)*, 252 High St. (02/16/83)
Fall River, *Downtown Fall River Historic District (Fall River MRA)*, N. and S. Main, Bedford, Granite, Bank, Franklin, and Elm Sts. (02/16/83)
Fall River, *Durfee Mills (Fall River MRA)*, 359–479 Pleasant St. (02/16/83)
Fall River, *Earle, John M., House (Fall River MRA)*, 352 Durfee St. (02/16/83)
Fall River, *Fall River Bleachery (Fall River MRA)*, Jefferson St. (02/16/83)
Fall River, *First Baptist Church (Fall River MRA)*, 200–228 N. Main St. (02/16/83)
Fall River, *Flint Mills (Fall River MRA)*, Alden St. (02/16/83)
Fall River, *Foster Spinning Co. (Fall River MRA)*, Cover St. (02/16/83)
Fall River, *Globe Yarn Mills (Fall River MRA)*, Globe St. (02/16/83)
Fall River, *Greany Building (Fall River MRA)*, 1270–1288 Pleasant St. (02/16/83)
Fall River, *Hargraves Mill No. 1 (Fall River MRA)*, Quarry St . (02/16/83)
Fall River, *Hathaway, James D., House (Fall River MRA)*, 311 Pine St. (02/16/83)
Fall River, *Highlands Historic District (Fall River MRA)*, Roughly bounded by June, Cherry, and Weetamoe Sts., Lincoln, Highland, President, N. Main, and Hood Aves. (02/16/83)
Fall River, *House at 108–112 Quarry Street (Fall River MRA)*, 108–112 Quarry St. (02/16/83)
Fall River, *Jesus Marie Convent (Fall River MRA)*, 138 St. Joseph's St. (02/16/83)
Fall River, *Kennedy Park (Fall River MRA)*, Bounded by S. Main St., Bradford Ave., Middle, and Bay Sts. (02/16/83)
Fall River, *King Philip Mills (Fall River MRA)*, Kilburn St. (02/16/83)
Fall River, *Lindsey, William, House (Fall River MRA)*, 373 N. Main St. (02/16/83)
Fall River, *Massasoit Fire House No. 5 (Fall River MRA)*, 83 Freedom St. (02/16/83)
Fall River, *Mechanics Mill (Fall River MRA)*, 1082 Davol St. (02/16/83)
Fall River, *Narragansett Mills (Fall River MRA)*, 1567 N. Main St. (02/16/83)
Fall River, *North Burial Ground (Fall River MRA)*, N. Main St. between Brightman and Cory Sts. (02/16/83)
Fall River, *North Christian Congregational Church (Fall River MRA)*, 3538 N. Main St. (02/16/83)
Fall River, *North Dame School (Fall River MRA)*, 34 St. Joseph's St. (02/16/83)
Fall River, *Oak Grove Cemetery (Fall River MRA)*, 765 Prospect St. (02/16/83)
Fall River, *Osborn Street School (Fall River MRA)*, 160 Osborn St. (02/16/83)
Fall River, *Picard, Israel, House (Fall River MRA)*, 690 County St. (02/16/83)
Fall River, *Pilgrim Mills (Fall River MRA)*, 847 Pleasant St. (02/16/83)
Fall River, *Pine Street School (Fall River MRA)*, 880 Pine St. (02/16/83)
Fall River, *Pocasset Firehouse No. 7 (Fall River MRA)*, 1058 Pleasant St. (02/16/83)
Fall River, *Quequechan Club (Fall River MRA)*, 306 N. Main St. (02/16/83)
Fall River, *Quequechan Valley Mills Historic District (Fall River MRA)*, Quequechan, Jefferson, and Stevens Sts. between I–195 and Denver St. (02/16/83)
Fall River, *Read, Nathan, House (Fall River MRA)*, 506 N. Main St. (02/16/83)
Fall River, *Ruggles Park (Fall River MRA)*, Bounded by Seabury, Robeson, Pine, and Locust Sts. (02/16/83)
Fall River, *Sagamore Mill No. 2 (Fall River MRA)*, 1822 N. Main St. (02/16/83)
Fall River, *Sagamore Mills No. 1 and No. 3 (Fall River MRA)*, Ace St. (02/16/83)
Fall River, *Sanford Spinning Co. (Fall River MRA)*, Globe Mills Ave. (02/16/83)
Fall River, *Santo Christo Church (Fall River MRA)*, 240 Columbia St. (02/16/83)
Fall River, *Seaconnet Mills (Fall River MRA)*, E. Warren St. (02/16/83)
Fall River, *Smith, John Mace, House (Fall River MRA)*, 399 N. Main St. (02/16/83)
Fall River, *St. Anne's Church and Parish Complex (Fall River MRA)*, 780 S. Main St. (02/16/83)
Fall River, *St. Joseph's Church (Fall River MRA)*, 1355 N. Main St. (02/16/83)
Fall River, *St. Joseph's Orphanage (Fall River MRA)*, 56 St. Joseph's St. (02/16/83)
Fall River, *St. Louis Church (Fall River MRA)*, 440 Bradford Ave. (02/16/83)
Fall River, *St. Mary's Cathedral and Rectory (Fall River MRA)*, 407 Spring St. (02/16/83)
Fall River, *St. Patrick's Church (Fall River MRA)*, 1588 S. Main St. (02/16/83)
Fall River, *Stafford Mills (Fall River MRA)*, County St. (02/16/83)
Fall River, *Union Mills (Fall River MRA)*, Pleasant St. (02/16/83)
Fall River, *Valentine-French House (Fall River MRA)*, 5105 N. Main St. (02/16/83)
Fall River, *Wampanoag Mills (Fall River MRA)*, Quequechan St. (02/16/83)
Fall River, *Winslow, Luther Jr., House (Fall River MRA)*, 5225 N. Main St. (02/16/83)
Fall River, *Woman's Club of Fall River (Fall River MRA)*, 1542 Walnut St. (02/16/83)
New Bedford, *Times and Olympia Buildings*, 908–912 and 880–898 Purchase St. (07/07/83)
Rehoboth, *Allen, Elisha, House (Rehoboth MRA)*, 108 Homestead Rd. (06/06/83)
Rehoboth, *Anawan Club Clubhouse and Caretaker's House (Rehoboth MRA)*, 13 Gorham St. (06/06/83)
Rehoboth, *Anawan Rock (Rehoboth MRA)*, Anawan St. (06/06/83)
Rehoboth, *Baker House (Rehoboth MRA)*, 191 Hornbine Rd. (06/06/83)
Rehoboth, *Bliss, Abiah, House (Rehoboth MRA)*, 154 Agricultural Ave. (06/06/83)
Rehoboth, *Biss, Daniel, Homestead (Rehoboth MRA)*, 76 Homestead Ave. (06/06/83)
Rehoboth, *Bowen, Nathan, House (Rehoboth MRA)*, 26 Kelton St. (06/06/83)
Rehoboth, *Bramble Hill (Rehoboth MRA)*, 32 Moulton St. (06/06/83)
Rehoboth, *Briggs Tavern (Rehoboth MRA)*, 2 Anawan St. (06/06/83)
Rehoboth, *Brown House (Rehoboth MRA)*, 384 Tremont St. (06/06/83)
Rehoboth, *Carpenter Bridge (Rehoboth MRA)*, Carpenter St. (06/06/83)
Rehoboth, *Carpenter House (Rehoboth MRA)*, 89 Carpenter St. (06/06/83)
Rehoboth, *Carpenter, Christopher, House (Rehoboth MRA)*, 60 Carpenter St. (06/06/83)
Rehoboth, *Carpenter, Col. Thomas, III, House (Rehoboth MRA)*, 77 Bay State Rd. (06/06/83)
Rehoboth, *Cushing, Caleb, House and Farm (Rehoboth MRA)*, 186 Pine St. (06/06/83)

Rehoboth, *Drown, Nathaniel, House (Rehoboth MRA)*, 116 Summer St. (06/06/83)
Rehoboth, *Elm Cottage/Blanding Farm (Rehoboth MRA)*, 103 Broad St. (06/06/83)
Rehoboth, *Goff Farm (Rehoboth MRA)*, 158 Perryville Rd. (06/06/83)
Rehoboth, *Goff Homestead (Rehoboth MRA)*, 40 Maple Lane (06/06/83)
Rehoboth, *Hornbine Baptist Church (Rehoboth MRA)*, 141 Hornbine Rd. (06/06/83)
Rehoboth, *Hornbine School (Rehoboth MRA)*, 144 Hornbine Rd. (06/06/83)
Rehoboth, *Horton, Welcome, Farm (Rehoboth MRA)*, 122 Martin St. (06/06/83)
Rehoboth, *House at 197 Hornbine Road (Rehoboth MRA)*, 197 Hornbine Rd. (06/06/83)
Rehoboth, *House at 30 Kelton Street (Rehoboth MRA)*, 30 Kelton St. (06/06/83)
Rehoboth, *Ingalls-Wheeler-Horton Homestead Site (Rehoboth MRA)*, 214 Chestnut St. (06/06/83)
Rehoboth, *Kingsley House (Rehoboth MRA)*, 96 Davis St. (06/06/83)
Rehoboth, *Knapp, Seth, Jr., House (Rehoboth MRA)*, 82 Water St. (06/06/83)
Rehoboth, *Martin Farm (Rehoboth MRA)*, 121 Martin St. (06/06/83)
Rehoboth, *Peck-Bowen House (Rehoboth MRA)*, 330 Fairview Ave. (06/06/83)
Rehoboth, *Perry, James, House (Rehoboth MRA)*, 121 Perryville Rd. (06/06/83)
Rehoboth, *Pierce, Capt. Mial, Farm (Rehoboth MRA)*, 177 Hornbine Rd. (06/06/83)
Rehoboth, *Rehoboth Village Historic District (Rehoboth MRA)*, Bay State Rd. and Locust Ave. (06/06/83)
Rehoboth, *Viall, Samuel, House (Rehoboth MRA)*, 85 Carpenter St. (06/06/83)
Rehoboth, *Wheeler, Aaron, House (Rehoboth MRA)*, 371 Fairview Ave. (06/06/83)
Rehoboth, *Wheeler-Ingalls House (Rehoboth MRA)*, 51 Summer St. (07/05/83)

Dukes County

Tisbury, *William Street Historic District*, Williams St. from Wood Lawn Ave. to 24 Williams St. (01/27/83)

Essex County

Andover, *Academy Hill Historic District (Town of Andover MRA)* MA 28 (10/07/82)
Andover, *Andover Hill Historic District (Town of Andover MRA)* (10/07/82)
Andover, *Ballardvale District (Town of Andover MRA)* Off I-93 (10/07/82)
Andover, *Central Street District (Town of Andover MRA)* Irregular pattern along Central St. (10/07/82)
Andover, *Main Street-Locke Street District (Town of Andover MRA)* MA 28 (10/07/82)
Andover, *West Parish Center District (Town of Andover MRA)* MA 133 (10/07/82)
Beverly, *United Shoe Machinery Corporation Clubhouse*, 134 McKay St. (11/26/82)
Essex, *Burnham, David, House*, Pond St. (07/30/83)
Gloucester, *Annisquam Bridge*, (06/23/83)
Haverhill, *Primrose Street Schoolhouse*, 71 Primrose St. (06/23/83)
Ipswich, *Caldwell Block (Central Village, Ipswich, Massachusetts MRA)*, S. Main St. (07/07/83)
Ipswich, *Turner Hill*, 315 Topsfield Rd. (11/26/82)
Lynn, *Lynn Realty Company Building No. 2*, 672–608 Washington St. (03/31/83)
Lynn, *Tapley Building*, 206 Broad St. (03/31/83)
Lynn, *Vamp Building*, 3–15 Liberty Square (03/31/83)
Newbury, *Hale-Boynton House*, Middle St. (04/14/83)
North Andover, *Machine Shop Village District*, Roughly bounded by Main, Pleasant, Clarendon, Water, 2nd Sts., and B & M Railroad (10/14/82)
North Andover, *Stevens, Abiel, House*, 280 Salem St. (06/23/83)
Salem, *Bowker Place (Downtown Salem MRA)*, 144–156 Essex St. (07/29/83)
Salem, *Choate, Rufus, House*, 14 Lynde St. (11/12/82)
Salem, *Crombie Street District (Downtown Salem MRA)*, 7–15 and 16–18 Crombie St., and 13 Barton St. (09/16/83)
Salem, *Federal Street District (Downtown Salem MRA)*, Roughly bounded by Bridge, Washington, Federal, and Summer Sts. (09/16/83)
Salem, *First Universalist Church (Downtown Salem MRA)*, 6 Rust St. (07/29/83)
Salem, *Monroe, Bessie, House (Downtown Salem MRA)*, 7 Ash St. (07/29/83)
Salem, *Peabody, John P., House (Downtown Salem MRA)*, 15 Summer St. (07/29/83)
Salem, *Salem Laundry (Downtown Salem MRA)*, 55 Lafayette St. (07/29/83)
Salem, *Shepard Block (Downtown Salem MRA)*, 298–304 Essex St. (07/29/83)
Salem, *Wesley Methodist Church (Downtown Salem MRA)*, 8 North St. (07/29/83)
Salem, *West Cogswell House (Downtown Salem MRA)*, 5–9 Summer St. (07/29/83)
Salem, *YMCA (Downtown Salem MRA)*, 284–296 Essex St. (07/29/83)

Franklin County

Colrain vicinity, *Smith, Arthur A., Covered Bridge*, W of Colrain on Lyonsville Rd. (02/03/83)
Greenfield, *Garden Theater Block*, 353–367 Main St. (09/01/83)

Hampden County

Chicopee, *Ames Manufacturing Company*, 5–7 Springfield St. (06/23/83)
Chicopee, *Valentine School*, Grape and Elm Sts. (09/16/83)
Hampden, *Burgess, Thornton W., House*, 789 Main St. (04/21/83)
Longmeadow, *Longmeadow Historic District (The Green)*, Roughly Longmeadow St. from Birdie Rd. to Wheelmeadow Brook (11/12/82)
Springfield, *Apremont Triangle Historic District (Downtown Springfield MRA)*, Jct. Pearl, Hillman, Bridge, and Chestnut (05/27/83)
Springfield, *Bangs Block (Downtown Springfield MRA)*, 1119 Main St. (02/24/83)
Springfield, *Boystate Corset Block (Downtown Springfield MRA)*, 395–405 Dwight St. and 99 Taylor St. (02/24/83)
Springfield, *Bicycle Club Building (Downtown Springfield MRA)*, 264–270 Worthington St. (02/24/83)
Springfield, *Burbach Block (Downtown Springfield MRA)*, 1113–1115 Main St. (02/24/83)
Springfield, *Carlton House Block (Downtown Springfield MRA)*, 9–13 Hampden St. (02/24/83)
Springfield, *Chapin National Bank Building (Downtown Springfield MRA)*, 1675–1677 Main St. (02/24/83)
Springfield, *Colonial Block (Downtown Springfield MRA)*, 1139–55 Main St. (02/24/83)
Springfield, *Cutler and Porter Block (Downtown Springfield MRA)*, 109 Lyman St. (02/24/83)
Springfield, *Downtown Springfield Railroad District (Downtown Springfield MRA)*, Roughly bounded by Lyman, Main, Murray, and Spring Sts. (02/27/83)
Springfield, *Driscoll's Block (Downtown Springfield MRA)*, 211–13 Worthington St. (02/24/83)
Springfield, *Fitzgerald's Stearns Square Block (Downtown Springfield MRA)*, 300–308 Bridge St. (02/24/83)
Springfield, *French Congregational Church (Downtown Springfield MRA)*, 33–37 Bliss St. (02/24/83)
Springfield, *Fuller Block (Downtown Springfield MRA)*, 1531–1545 Main St. (02/24/83)
Springfield, *Guenther & Handel's Block (Downtown Springfield MRA)*, 7–9 Stockbridge St. (02/24/83)
Springfield, *Hampden Savings Bank (Downtown Springfield MRA)*, 1665 Main St. (02/24/83)
Springfield, *Haynes Hotel Waters Building (Downtown Springfield MRA)*, 1388–1402 Main St. (02/24/83)
Springfield, *Henking Hotel and Cafe (Downtown Springfield MRA)*, 15–21 Lyman St. (02/24/83)
Springfield, *Hibernian Block (Downtown Springfield MRA)*, 345–349 Worthington St. (02/24/83)
Springfield, *McIntosh Building (Downtown Springfield MRA)*, 158–64 Chestnut St. (02/24/83)
Springfield, *McKinney Building (Downtown Springfield MRA)*, 1121–27 Main St. (02/24/83)
Springfield, *Milton-Bradley Company (Downtown Springfield MRA)*, Park, Cross, and Willow Sts. (02/24/83)
Springfield, *Morgan Block (Downtown Springfield MRA)*, 313–333 Bridge St. (05/27/83)
Springfield, *Olmsted-Hixon-Albion Block (Downtown Springfield MRA)*, 1645–1659 Main St. (02/24/83)
Springfield, *Patton Building (Downtown Springfield MRA)*, 15–19 Hampden St. (02/24/83)
Springfield, *Patton and Loomis Block (Downtown Springfield MRA)*, 1628–40 Main St. (02/24/83)
Springfield, *Produce Exchange Building (Downtown Springfield MRA)*, 194–206 Chestnut and 115–125 Lyman St. (02/24/83)
Springfield, *Radding Building (Downtown Springfield MRA)*, 143–147 State St. (02/24/83)
Springfield, *Smith Carriage Company District (Downtown Springfield MRA)*, Bounded by Main, Peabody, Willow, and Park Sts. (both sides) 02/24/83)

Springfield, *Smith's Building (Downtown Springfield MRA)*, 201–207 Worthington St. (02/24/83)
Springfield, *Springfield District Court (Downtown Springfield MRA)*, 1600 E. Columbus Ave. (02/24/83)
Springfield, *Springfield Fire & Marine Insurance Co. (Downtown Springfield MRA)*, 195 State St. (02/24/83)
Springfield, *Springfield Steam Power Company Block (Downtown Springfield MRA)*, 51–59 Taylor St. (02/24/83)
Springfield, *St. Joseph's Church (Downtown Springfield MRA)*, Howard St. and E. Columbus Ave. (02/24/83)
Springfield, *Stacy Building (Downtown Springfield MRA)*, 41–43 Taylor St. (05/27/83)
Springfield, *Stearns Building (Downtown Springfield MRA)*, 289–309 Bridge St. (02/24/83)
Springfield, *Trinity Block (Downtown Springfield MRA)*, 266–84 Bridge St. (02/24/83)
Springfield, *United Electric Co. Building (Downtown Springfield MRA)*, 73 State St. (02/24/83)
Springfield, *Upper Worthington Historic District*, Worthington, Federal, Summit and Armory Sts. (03/31/83)
Springfield, *W C A Boarding House (Downtown Springfield MRA)*, 19 Bliss St. (02/24/83)
Springfield, *Walker Building (Downtown Springfield MRA)*, 1238–1244 Main St. (02/24/83)
Springfield, *Wells Block (Downtown Springfield MRA)*, 250–264 Worthington St. (02/24/83)
Springfield, *Whitcomb Warehouse (Downtown Springfield MRA)*, 32–34 Hampden St. (02/24/83)
Springfield, *Willy's Overland Block (Downtown Springfield MRA)*, 151–157 Chestnut and 10–20 Winter Sts. (02/24/83)
Springfield, *Worthy Hotel (Downtown Springfield MRA)*, 1571 Main St. (02/24/83)
Westfield, *State Normal Training School*, Washington St. (07/07/83)

Middlesex County

Action, *Action Centre Historic District*, Main St., Wood and Woodbury Lanes, Newton, Concord, and Nagog Hill Rds. (03/10/83)
Arlington, *Calvary Methodist Church*, 300 Massachusetts Ave. (06/23/83)
Arlington, *Greek Orthodox Church*, 735 Massachusetts Ave. (06/23/83)
Arlington, *Pleasant Street Congregational Church*, 75 Pleasant St. (06/23/83)
Cambridge, *Atwood, Ephraim, House (Cambridge MRA)*, 110 Hancock St. (06/30/83)
Cambridge, *Avon Hill Historic District (Cambridge MRA)*, Washington and Walnut Aves. and Agassiz, Humboldt, Arlington and Lancaster Sts. (06/30/83)
Cambridge, *Bradbury, William F., House (Cambridge MRA)*, 369 Harvard St. (06/30/83)
Cambridge, *Building at 102–104 Inman Street (Cambridge MRA)*, 102–104 Inman St. (06/30/83)
Cambridge, *Building at 104–106 Hancock St. (Cambridge MRA)*, 104–106 Hancock St. (06/30/83)
Cambridge, *Building at 1707–1709 Cambridge Street (Cambridge MRA)*, 1707–1709 Cambridge St. (06/30/83)
Cambridge, *Building at 1715–1717 Cambridge Street (Cambridge MRA)*, 1715–1717 Cambridge St. (06/30/83)
Cambridge, *Building at 259 Mount Auburn Street (Cambridge MRA)*, 259 Mt. Auburn St. (06/30/83)
Cambridge, *Cambridge Common Historic District Amendment (Cambridge MRA)*, Massachusetts Ave. and Garden, Waterhouse, Cambridge, and Peabody Sts. (06/30/83)
Cambridge, *Child, Francis J., House (Cambridge MRA)*, 67 Kirkland St. (06/30/83)
Cambridge, *Church of the New Jerusalem (Cambridge MRA)*, 50 Quincy St. (06/30/83)
Cambridge, *Cloverden (Man House) (Cambridge MRA)*, 29 Follen St. (06/30/83)
Cambridge, *Coolidge, Josiah, House (Cambridge MRA)*, 24 Coolidge Hill Rd. (06/30/83)
Cambridge, *East Cambridge Historic District (Cambridge MRA)*, Roughly bounded by Cambridge, 1st, Hurley and 5th Sts. (06/30/83)
Cambridge, *Ellis, Asa, House (Cambridge MRA)*, 158 Auburn St. (06/30/83)
Cambridge, *Fay, Issac, House (Cambridge MRA)*, 123 Antrim St. (06/30/83)
Cambridge, *Flentje, Ernst, House (Cambridge MRA)*, 129 Magazine St. (06/30/83)
Cambridge, *Frost, David, House (Cambridge MRA)*, 26 Gray St. (06/30/83)
Cambridge, *Frost, Elizabeth, Tenanthouse (Cambridge MRA)*, 35 Bowdoin St. (06/30/83)
Cambridge, *Garfield Street Historic District (Cambridge MRA)*, Garfield St. between Massachusetts Ave. and Oxford St. (06/30/83)
Cambridge, *Hall Tavern (Cambridge MRA)*, 20 Gray Gardens West St. (06/30/83)
Cambridge, *Hill, Aaron, House (Cambridge MRA)*, 17 Brown St. (06/30/83)
Cambridge, *Holmes, Joseph, House (Cambridge MRA)*, 144 Coolidge Hill St. (06/30/83)
Cambridge, *Hooper-Eliot House (Cambridge MRA)*, 25 Reservior Rd. (06/30/83)
Cambridge, *Howe House (Cambridge MRA)*, 6 Appleton St. (06/30/83)
Cambridge, *Jones, William R., House (Cambridge MRA)*, 307 Harvard St. (06/30/83)
Cambridge, *Lovell Block (Cambridge MRA)*, 1853 Massachusetts Ave. (06/30/83)
Cambridge, *Lowell, The (Cambridge MRA)*, 33 Lexington Ave. (06/30/83)
Cambridge, *Maple Avenue Historic District (Cambridge MRA)*, Maple Ave. between Marie Ave. and Broadway (06/30/83)
Cambridge, *Mason, W.A., House (Cambridge MRA)*, 87 Raymond St. (06/30/83)
Cambridge, *Mount Auburn Cemetery Reception House (Cambridge MRA)*, 583 Mt Auburn St. (06/30/83)
Cambridge, *North Avenue Congregational Church (Cambridge MRA)*, 183 Massachusetts Ave. (06/30/83)
Cambridge, *Old Cambridgeport Historic District (Cambridge MRA)*, Cherry, Harvard and Washington Sts. (06/30/83)
Cambridge, *Old Cambridge Historic District (Cambridge MRA)*, Irregular pattern along Brattle St. (06/30/83)
Cambridge, *Orne, Sarah, House (Cambridge MRA)* 10 Coolidge Hill Rd. (06/30/83)
Cambridge, *Porcellian Club (Cambridge MRA)*, 1320–24 Massachusetts Ave. (06/30/83)
Cambridge, *Saunders, William, House (Cambridge MRA)*, 6 Prentiss St. (06/30/83)
Cambridge, *Second Cambridge Savings Bank Building (Cambridge MRA)*, 11–21 Dunster St. (06/30/83)
Cambridge, *Second Waterhouse House (Cambridge MRA)*, 9 Follen St. (06/30/83)
Cambridge, *St. James Episcopal Church (Cambridge MRA)*, 1991 Massachusetts Ave. (06/30/83)
Cambridge, *St. John's Roman Catholic Church (Cambridge MRA)*, 2270 Massachusetts Ave. (06/30/83)
Cambridge, *Urban Rowhouse (Cambridge MRA)*, 26–32 River St. (06/30/83)
Cambridge, *Valentine Soap Workers Cottages (Cambridge MRA)*, 5–7 Cottage St. (06/30/83)
Cambridge, *Valentine Soap Workers Cottages (Cambridge MRA)*, 101 Pearl St. (06/30/83)
Cambridge, *Vinal, Albert, House (Cambridge MRA)*, 325 Harvard St. (06/30/83)
Cambridge, *Ware Hall (Cambridge MRA)*, 383 Harvard St. (06/30/83)
Cambridge, *cummings, e.e., House (Cambridge MRA)*, 104 Irving St. (06/30/83)
Concord, *Brown, Col. Roger, House*, 1694 Main St. (01/27/83)
Concord, *Wheeler-Merriam House*, 477 Virginia Rd. (11/26/82)
Framingham, *Concord Square Historic District*, Park, Concord, and Kendall Sts., and Union Ave. (03/10/83)
Framingham, *Gibbs, Paul, House*, 1147 Edmands Rd. (03/10/83)
Framingham, *Irving Square Historic District*, Irving Square, Waverly, South, Columbia, Irving, Gordon and Hollis Sts. (11/30/82)
Hopkinton, *Hopkinton Supply Co. Building*, 26–28 Main St. (03/10/83)
Malden, *Waitt Brick Block*, 422–424 Main St. (11/12/82)
Marlborough, *Temple Building*, 149 Main St. (03/10/83)
Marlborough, *Warren Block*, 155 Main St. (03/10/83)
Natick, *John Eliot Historic District*, Union, Eliot, Pleasant, and Auburn Sts. (06/23/83)
Weston, *Boston Post Road Historic District*, Both sides of the Boston Post Rd. from Plain Rd. to Stony Brook (02/11/83)
Winchester, *Wright, Philemon/Asa Locke Farm*, 78 Ridge St. (03/10/83)
Winchester, *Winchester Town Hall*, 71 Mount Vernon St. (03/31/83)

Norfolk County

Dedham, *Ames Schoolhouse*, 450 Washington St. (03/31/83)
Foxboro, *Foxboro Grange Hall*, 11–15 Bird St. (04/21/83)
Foxboro, *Memorial Hall*, 22 South St. (04/21/83)
Foxboro, *Pratt, Capt. Josiah, House*, 141 East St. (04/21/83)

Needham, *Fuller, Amos, House,* 220 Nehoiden St. (03/31/83)
Quincy, *Adams Building,* 1342–1368 Hancock St.; 1–9 Temple St. (06/23/83)
Quincy, *Quincy School,* 94 Newbury Ave. (06/23/83)
Weymouth, *Fogg Building,* 100–110 Pleasant St. and 6–10 Columbian St. (03/10/83)

Plymouth County

Rockland, *Rockland Almshouse,* 198 Spring St. (04/28/83)

Suffolk County

Boston, *Baker, Sarah J., School,* 33 Perrin St. (07/07/83)
Boston, *Charles Street African Methodist Episcopal Church,* 551 Warren St. (09/01/83)
Boston, *Codman Square District,* Norfolk, Talbot, Epping, Lithgow, Centre, and Moultrie Sts. (06/23/83)
Boston, *Gardner, Isabella Stewart, Museum,* 280 The Fenway (01/27/83)
Boston, *Harrison, Loring, House,* 789 E. Broadway St. (09/01/83)
Boston, *Harvard Avenue Fire Station,* 16 Harvard Ave. (03/31/83)
Boston, *Lawrence Model Lodging Houses,* 79, 89, 99 and 109 E. Canton St. (09/22/83)
Boston, *Newspaper Row,* 322–328 Washington St., 5–23 Milk St., and 11 Hawley St. (07/07/83)
Boston, *Wigglesworth Building,* 89–83 Franklin St. (10/21/82)
Revere, *Ronan, Mary T., School,* 154 Bradstreet Ave. (12/10/82)

Worcester County

Boylston, *Barlin Acres,* 284 School St. (11/26/82)
Gardner, *Heywood-Wakefield Company Complex,* 206 Central St. (09/15/83)
Gardner, *Garbose Building,* 3 Pleasant St. (04/12/83)
Milford, *Gillon Block,* 189 Main St. (10/21/82)
Milford, *Thom Block,* 83–89 Main St. (06/23/83)
Northbridge, *Rockdale Common Housing District,* 4–20 McBride, 46–58 Plantation, and 37–42 Taft Sts. (03/31/83)
Northbridge, *Whitinsville Historic District,* Church, East, Fletcher, Hill, Woodland, Lake, and Water Sts., Castle Hill Rd., and Linwood Ave. (04/07/83)
Templeton, *Templeton Common Historic District,* Athol, Gardner, Hubbardston, Dudley, Wellington, and South Rds. (07/07/83)
Westminster, *Wood, Ezra-Levi Warner Place,* 165 Depot Rd. (07/07/83)
Westminster, *Westminster Village-Academy Hill Historic District,* Bacon, Adams, Main, Dawley, Academy Hill, Leominster, and Pleasant Sts. (06/23/83)

MICHIGAN

Bay County

Bay City, *Clements, James, Airport Administration Building,* 614 S. River Dr. (11/22/82)

Calhoun County

Battle Creek, *Arnold, Adam C., Block,* 12–14 E. State St. (03/24/83)

Cheboygan County

Cheboygan, *Newton-Allaire House,* 337 Dresser St. (02/10/83)

Chippewa County

Sugar Island, *Church, Philetus S., House,* North Shore Rd. (11/24/82)

Emmet County

Waugoshance Island vicinity, *Waugoshance Light Station (U.S. Coast Guard Lighthouses and Light Stations on the Great Lakes TR),* NW of Waugoshance Island (08/04/83)

Genessee County

Atlas, *Atlas Grange Hall (Genessee County MRA),* 8530 Perry Rd. (11/26/82)
Byron, *Bird/Boyd Farm House (Genessee County MRA),* 14215 Bird Rd. (11/26/82)
Byron, *Middlesworth, Isaac R., Farm House (Genessee County MRA),* 11355 Rolston Rd. (11/26/82)
Clio, *Clio Depot (Genessee County MRA),* 300–308 W. Vienna Rd. (06/20/83)
Clio, *House at 4344 Frances Road (Genesee County MRA),* 4344 Frances Rd. (11/26/82)
Clio, *Mauk & Hammer/Houghton Elevator (Genesee County MRA),* 315 W. Vienna St. (11/26/82)
Clio, *Tinker, Harry C., House (Genesee County MRA),* 12030 Lewis Rd. (11/26/82)
Clio, *West Vienna United Methodist Church (Genesee County MRA),* 5461 Wilson Rd. (06/20/83)
Davison, *Van Buskirk, John, Farm House (Genesee County MRA),* 7348 Coldwater Rd. (06/20/83)
Davison, *Barn at 4277 Irish Road (Genesee County MRA),* 4277 Irish Rd. (11/26/82)
Davison, *House at 1339 Cummings Road (Genesee County MRA),* 1339 Cummings Rd. (11/26/82)
Davison, *McAra, John, House (Genesee County MRA),* 2127 Irish Rd. (11/26/82)
Fenton, *Bangs, Benjamin, House (Genesee County MRA),* 819 S. Leroy St. (11/26/82)
Fenton, *Church, Volney– Carlos B. Shotwell House (Genesee County MRA),* 812 Adelaide St. (11/26/82)
Fenton, *Colwell, David B., House (Genesee County MRA),* 901 S. Leroy St. (11/26/82)
Fenton, *Dibbleville-Fentonville Historic District (Genesee County MRA),* Roughly bounded by Shiawassee, Riggs, Holly and George Sts. (11/26/82)
Fenton, *Fenton Railroad Depot (Genesee County MRA),* 207 Silver Lake Rd. (06/20/83)
Fenton, *Fenton Seminary (Genesee County MRA),* 309 High St. (11/26/82)
Fenton, *Hinckley, Colonel J., House (Genesee County MRA),* 210 High St. (11/26/82)
Fenton, *Jennings, H. N., House (Genesee County MRA),* 800 S. East St. (11/26/82)
Fenton, *Trump, Edwin, House (Genesee County MRA),* 801 S. East St. (11/26/82)
Flint, *Aitken, Robert, Farm House (Genesee County MRA),* 1110 Linden Rd. (11/26/82)
Flint, *House at 4305 South Linden Road (Genesee County MRA),* 4305 S. Linden Rd. (11/26/82)
Flint, *House at 6112 Carpenter Road (Genesee County MRA),* 6112 Carpenter Rd. (11/26/82)
Flint, *Industrial Mutual Association Auditorium,* 815 E. 2nd Ave. (07/26/83)
Flint, *Thayer, H. Elmer, House (Genesee County MRA),* G–3202 Court St. (11/26/82)
Flushing, *Main Street Historic District (Genesee County MRA),* Main St. from Maple to 628 Main St. (06/20/83)
Flushing, *House at 10410 Stanley Road (Genesee County MRA),* 10410 Stanley Rd. (11/26/82)
Flushing, *House at 5556 Flushing Road (Genesee County MRA),* 5556 Flushing Rd. (11/26/82)
Flushing, *O'Sullivan, Daniel, House/Halfway House (Genesee County MRA),* 5035 Flushing Rd. (11/26/82)
Gaines, *Genesee Avenue-Walker Street Historic District (Genesee County MRA),* Roughly bounded by Washington, Elm, Lord Sts., and RR Tracks (06/20/83)
Goodrich, *Green, Alanson, Farm House (Genesee County MRA),* 11226 Green Rd. (11/26/82)
Goodrich, *Hegel Road Historic District (Genesee County MRA),* Hegel Rd. between Seneca and the Goodrich Millpond (11/26/82)
Grand Blanc, *First Baptist Church of Grand Blanc (Genesee County MRA),* 6101 S. Saginaw St. (06/20/83)
Linden, *Bridge Street-Broad Street Historic District (Genesee County MRA),* 3 Central blocks of Broad St., 2 blocks Bridge St. (11-26-82)
Linden, *House at 7066 Lobdell Road (Genesee County MRA),* 7066 Lobdell Rd. (11/26/82)
Linden, *McCaslin, William Henry and Lucinda, Farm House (Genesee County MRA),* 15237 McCaslin Lake Rd. (11/26/82)
Linden, *Murray, James H., House (Genesee County MRA),* 7232 Silver Lake Rd. (11/26/82)
Millington, *McClew, Alexander, Farm House (Genesee County MRA),* 7115 Farrand Rd. (11/26/82)
Ortonville, *Carmer, William, House (Genesee County MRA),* 10448 Washburn Rd. (11/26/82)
Otisville, *Parker and Dunstan Hardware/Dr. E. D. Lewis Building (Genesee County MRA),* 129–133 W. Main St. (11/26/82)
Otisville, *Swayze, E. S./Otisville Mason Lodge No. 401 (Genesee County MRA),* 106 Main St. (11/26/82)
Swartz Creek, *Bloss, Frank D., and Sons Farm House (Genesee County MRA),* 8380 Reid Rd. (11/26/82)
Swartz Creek, *Buck, Jesse H., Farm House (Genesee County MRA),* 6095 Baldwin Rd. (11/26/82)
Swartz Creek, *Gilbert, Horace/Morgan and Enos Miller House (Genesee County MRA),* 5023 Holland Dr. (11/26/82)

Gratiot County

Elwell, *MacLachlan, Dr. Charles H., Sanitarium and House,* 6482 Pingree Rd. (11/22/82)

Huron County

Harbor Beach, *Harbor Beach (Sand Beach) Lighthouse (U.S. Coast Guard Lighthouses and Light Stations on the Great Lakes TR),* Breakwater entrance (08/04/83)
Harbor Beach, *Grice, James and Jane, House,* 865 N. Huron Ave. (11/12/82)

Ingham County

Lansing, *Knapp, J.W., Company Building (Downtown Lansing MRA)*, 300 S. Washington Ave. (05/21/83)
Lansing, *Moon, Darius B., House*, 216 Huron St. (11–30–82)

Ionia County

Muir, *Muir Church of Christ*, 138 Garden St. (02–17–83)

Isabella County

Mt. Pleasant, *Michigan Condensed Milk Factory*, 320 W. Broadway St. (04/07/83)

Kalamazoo County

Kalamazoo, *Old Central High School (Kalamazoo MRA)*, 714 S. Westnedge Ave. (08/16/83)
Kalamazoo, *Vine Area Historic District (Kalamazoo MRA)*, Roughly bounded by S. Rose, S. Westnedge, W. Walnut, and Ranney Sts. (08/16/83)
Kalamazoo, *Appeldorn, Peter B., House (Kalamazoo MRA)*, 532 Village St. (05/27/83)
Kalamazoo, *Bronson Park Historic District (Kalamazoo MRA)*, Roughly bounded by S. Rose, S. Park, W. Lovell, and W. Michigan Sts. (05/27/83)
Kalamazoo, *Brown, Isaac, House (Kalamazoo MRA)*, 427 S. Burdick St. (05/27/83)
Kalamazoo, *Engine House No. 3 (Kalamazoo MRA)*, 607 Charlotte Ave. (05/27/83)
Kalamazoo, *Gibbs, John, House (Kalamazoo MRA)*, 3403 Parkview Ave. (05/27/83)
Kalamazoo, *Gilbert, Henry, House (Kalamazoo MRA)*, 415 W. Lovell St. (05/27/83)
Kalamazoo, *Haymarket Historic District (Kalamazoo MRA)*, Michigan Ave. between Portage St. and Grand Rapids & Indiana RR (05/27/83)
Kalamazoo, *Illinois Envelope Co. Building (Kalamazoo MRA)*, 400 Bryant St. (05/27/83)
Kalamazoo, *Lawrence and Chapin Building (Kalamazoo MRA)*, 201 N. Rose St. (05/27/83)
Kalamazoo, *Marlborough*, 471 W. South St. (05/27/83)
Kalamazoo, *Montague, Henry, House (Kalamazoo MRA)*, 814 Oakland Dr. (05/27/83)
Kalamazoo, *Oaklands (Kalamazoo MRA)*, 1615 W. Michigan Ave. (05/27/83)
Kalamazoo, *Old Fire House No. 4 (Kalamazoo MRA)*, 526 N. Burdick St. (05/27/83)
Kalamazoo, *Prentice, Alonzo T., House (Kalamazoo MRA)*, 839 W. Lovell St. (05/27/83)
Kalamazoo, *Roberts, Martin W., House (Kalamazoo MRA)*, 703 Wheaton Ave. (05/27/83)
Kalamazoo, *Rose Place Historic District (Kalamazoo MRA)*, Rose Pl. (05/27/83)
Kalamazoo, *Shaffer, Enoch, House (Kalamazoo MRA)*, 1437 Douglas Ave. (05/27/83)
Kalamazoo, *State Hospital Gatehouse (Kalamazoo MRA)*, 1006 Oakland Dr. (05/27/83)
Kalamazoo, *Stevens, Andrew J., House (Kalamazoo MRA)*, 4024 Oakland Dr. (05/27/83)
Kalamazoo, *Stuart Neighborhood/Henderson Park Historic District (Kalamazoo MRA)*, Roughly bounded by Michigan Central RR, Douglas, Forbes, W. Main, North, Elm Sts., Kalamazoo and Grand Aves. (05/27/83)
Kalamazoo, *Welsh, William L., Terrace (Kalamazoo MRA)*, 101–105 W. Dutton St. (05/27/83)

Kent County

East Grand Rapids, *Blodgett, John W., Estate (Brookby)*, 250 Plymouth Rd. SE (07/28/83)
Grand Rapids, *Aldrich Building*, 98 Monroe Center, NW (11/12/82)
Grand Rapids, *Fine Arts Building*, 220 Lyon St., NW (11/12/82)
Grand Rapids, *First (Park) Congregational Church*, 10 E. Park Pl., NE (11/12/82)
Grand Rapids, *Ledyard Block Historic District*, 123–145 Ottawa Ave., and 104–124 Monroe Center, NW (09/08/83)
Grand Rapids, *Loraine Building*, 124 E. Fulton St. (11/24/82)
Grand Rapids, *Michigan Trust Company Building*, 40 Pearl St., NW (02/24/83)

Keweenaw County

Isle Royale vicinity, *Rock of Ages Light Station (U.S. Coast Guard Lighthouses and Light Stations on the Great Lakes TR)*, SW of Isle Royale (08/04/83)
Isle Royale vicinity, *Isle Royale Light Station (U.S. Coast Guard Lighthouses and Light Stations on the Great Lakes TR)*, Managerie Island (08/04/83)

Leelanau County

Glen Haven, *Glen Haven Village Historic District*, MI 209 (06/24/83)

Lenawee County

Adrian, *St. Mary of Good Counsel Catholic Church*, 320 Division St. (02/24/83)

Mackinac County

Moran Township vicinity, *Gros Cap Archaeological District*, (10/29/82)
St. Ignace, *Marquette Street Archaeological District*, (10/29/82)

Marquette County

Marquette vicinity, *Granite Island Light Station (U.S. Coast Guard Lighthouses and Light Stations on the Great Lakes TR)*, Granite Island (08/04/83)
Marquette, *Harlow Block*, 100 W. Washington St. (03/24/83)

Mason County

Hamlin Township, *Big Sable Point (Grande Point au Sable) Light Station (U.S. Coast Guard Lighthouses and Light Stations on the Great Lakes TR)*, Big Sable Point (08/04/83)

Monroe County

Monroe, *River Raisin Battlefield Site (20MR227)*, Bounded by River Raisin, Detroit Ave., Mason Run, and S at Noble Ave. (12/10/82)
Rockwood vicinity, *Detroit River (Bar Point) Light Station (U.S. Coast Guard Lighthouses and Light Stations on the Great Lakes TR)*, Lake Erie (08/04/83)

Muskegon County

Muskegon, *Hovey, Horatio N., House*, 318 Houston Ave. (09/08/83)

Oakland County

Pontiac, *Franklin Boulevard Historic District*, Roughly bounded by Grand Trunk Western RR, Orchard Lake Ave., Miller and W. Huron Sts. (08/11/83)

Ottawa County

Holland, *Holland Historic District*, 11th, 12th, 13th Sts., and Washington, Maple, and Pine Aves. (05/12/83)

Presque Isle County

Presque Isle Township, *Presque Isle Light Station (U.S. Coast Guard Lighthouses and Light Stations on the Great Lakes TR)*, Presque Isle (08/04/83)

Saginaw County

Bridgeport vicinity, *Bugai Site (20SA215)*, (10/29/82)
Fosters vicinity, *Fosters Site (20SA74)*, (10/29/82)
St. Charles vicinity, *Mahoney Site (20SA193)*, (10/29/82)

Shiawassee County

Corunna, *Shiawassee County Courthouse*, Shiawassee St. (11/12/82)

Van Buren County

South Haven, *Bailey, Liberty Hyde, Birthplace*, 903 Bailey Ave. (04/08/83)

Washtenaw County

Ann Arbor, *First National Bank Building*, 201 S. Main St. (11/24/82)
Ann Arbor, *Germania Building Complex*, 119–123 W. Washington St. and 209–211 S. Ashley St. (03/10/83)
Ann Arbor, *Weinmann Block*, 219–223 E. Washington St. (09/08/83)

Wayne County

Dearborn, *Dearborn Inn and Colonial Homes*, 20301 Oakwood Blvd. (12/10/82)
Detroit, *Maccabees Building*, 5057 Woodward Ave. (07/07/83)
Detroit, *Cass Avenue Methodist Episcopal Church*, 3901 Cass Ave. (12/10/83)
Detroit, *Eastside Historic Cemetery District*, Bounded by Elmwood and Mt. Elliott Aves., Lafayette and Waterloo Sts. (12/02/82)
Detroit, *Grand Circus Park Historic District*, Roughly bounded by Clifford, John R. and Adams Sts. (02/28/83)
Detroit, *Palmer Park Apartment Building Historic District*, Roughly bounded by Pontchartrain Blvd., McNichols Rd. and Covington Dr. (05/21/83)
Detroit, *Palmer Woods Historic District*, Roughly bounded by Seven Mile Rd., Woodward Ave., and Strathcona Dr. (08/11/83)
Detroit, *Palms, Francis, Building & State Theater*, 2111 Woodward Ave. (11/24/82)
Detroit, *Parker, Thomas A., House*, 975 E. Jefferson Ave. (11/12/82)
Detroit, *Sacred Heart Seminary*, 2701 W. Chicago Blvd. (12/02/82)
Detroit, *St. Bonaventure Monastery*, 1740 Mt. Elliott Ave. (12/02/82)
Detroit, *St. Jasaphat's Roman Catholic Church Complex*, 715 E. Canfield Ave. (12/08/82)
Detroit, *Trinity Evangelical Lutheran Church Complex*, 1345 Gratiot Ave. (02/10/83)

Detroit, *Vanity Ballroom Building*, 1024 Newport St. (11/12/82)
Detroit, *Vinton Building*, 600 Woodward Ave. (02/17/83)
Detroit, *Virginia Park Historic District*, Both sides of Virginia Park from Woodward Ave. to John Lodge Service Dr. (12/02/82)

MINNESOTA

Blue Earth County

Mankato, *Mankato Second Normal School, Mankato State Teachers College*, 5th St. S. and Jackson St. (06/02/83)

Carver County

Waconia, *Waconia City Hall*, 9 W. 1st St. (05/09/83)

Clay County

Moorhead, *Fairmont Creamery Company*, 801 2nd Ave., N. (02/10/883)

Cook County

Grand Marais vicinity, *Naniboujou Club Lodge*, E of Grand Morals on US 61 (10/21/82)
Grand Marais, *Cook County Courthouse*, 5th Ave. W. and 2nd St. (05/09/83)

Fillmore County

Canton vicinity, *Lenora Methodist Church (Fillmore County MRA)*, Lenora Village (11/19/82)
Chatfield, *Haven, George H., House (Fillmore County MRA)*, 132–218 Winona St. (11/19/82)
Chatfield, *Lovell, Ellen, M., House (Fillmore County MRA)*, 218 Winona St. (11/19/82)
Spring Valley, *Parsons Block and Hall (Fillmore County MRA)*, 12 S. Broadway (11/19/82)

Hennepin County

Minneapolis, *Lumber Exchange Building*, 425 Hennepin Ave., 10 S. 5th St. (05/19/83)
Minneapolis, *Northwestern Knitting Company Factory*, 718 Glenwood Ave. (06/03/83)
Minneapolis, *Washburn A Mill Complex*, 1st St. S. at Portland Ave. (07/01/83) NHL

Houston County

Caledonia, *Houston County Courthouse and Jail (Houston County MRA)*, Courthouse Sq. (03/18/83)

Koochiching County

Littlefork vicinity, *White, Francis, Homestead (Forsythe Post Office)*, N of Littlefork off US 71 (01/27/83)
Northome, *Scenic Hotel*, Main and Third Sts. (01/27/83)
Ranier, *Finsted's Auto Marine Shop*, Sand Bay between Oak Ave. and Spruce St. (01/27/83)
Rauch vicinity, *St. Peter and St. Paul Russian Orthodox Church*, S of Rauch on MN 65. (01/27/83)

Lake County

Two Harbors, *Duluth and Iron Range Railroad Company Depot*, 6th St. off South Ave. (02/24/83)
Two Harbors, *Lake County Courthouse and Sheriff's Residence*, 3rd Ave. at 6th St. (02/24/83)

Lake of the Woods County

Angle Inlet vicinity, *Fort St. Charles Archeological Site* (04/08/83)
Baudette, *Spooner Public School*, First St. N. and Eighth Ave. E. (02/11/83)

LeSueur County

Waterville, *Dehn House (Lesueur County MRA) (additions)*, Herbert st. (11/19/82)

Murray County

Fulda, *First National Bank (Murray County MRA)*, 115 N. St. Paul Ave. (12/07/82)
Slayton, *Dinehart-Holt House (Murray County MRA)*, 2812 Linden Ave. (12/07/82)

Nicollet County

Norseland, *Norseland General Store*, CR 3 (05/19/83)
North Mankato, *North Mankato Public School*, 442 Belgrade Ave. (01/27/83)
St. Peter, *Church of the Holy Communion*, 116 N. Minnesota Ave. (05/19/83)
St. Peter, *Donahower, Frederick A., House*, 720 S. Minnesota Ave. (05/19/83)
St. Peter, *Johnson, John A., House*, 418 N. 3rd St. (05/19/83)
St. Peter, *Nicollet County Bank*, 224 S. Minnesota Ave. (05/19/83)
St. Peter, *St. Peter Public Library*, 429 S. Minnesota Ave. (05/19/83)
St. Peter, *Swift, Henry A., House*, 820 S. Minnesota Ave. (05/19/83)
St. Peter, *Union Presbyterian Church*, 311 W. Locust St. (05/19/83)

Norman County

Ada, *Norman County Courthouse*, 3rd Ave. E. and 1st St. E. (05/09/83)

Ottertail County

Fergus Falls, *Hotel Kaddatz*, 111–112 W. Lincoln Ave. (02/24/83)

Ramsey County

New Brighton, *Foss House*, 321 Silver Lake Rd. (05/19/83)
St. Paul, *Lowertown Historic District*, Roughly bound by Kellogg Blvd., Broadway, 7th and Jackson Sts. (06/21/83)
St. Paul, *Armstrong House*, 233–235 W. 5th St. (01/27/83)
St. Paul, *Central Presbyterian Church*, 500 Cedar St. (02/10/83)
St. Paul, *Church of St. Bernard*, 197 W. Geranium Ave. (02/24/83)
St. Paul, *First Baptist Church of St. Paul*, 449 Wacouta St. (02/24/83)
St. Paul, *Giesen–Hauser House*, 827 Mound St. (05/19/83)
St. Paul, *Krank Building*, 1855 W. University Ave. (02/24/83)
St. Paul, *Mickey's Dinner*, 36 W. Ninth St. (02/24/83)
St. Paul, *Northern Pacific Railway Company Como Shops Historic District*, DeCourcy Dr. (03/31/83)
St. Paul, *Salvation Army Women's Home and Hospital*, 1471 W. Como Ave. (02/10/83)
St. Paul, *St. Casimir Church*, 937 E. Jessamine Ave. (03/31/83)
St. Paul, *St. Paul City Hall and Ramsey County Courthouse*, 15 W. Kellogg Blvd. (02/11/83)
White Bear Lake, *Cobb, Cyrus B., House* 2199 1st St. (04/14/83)
White Bear Lake, *First National Bank of White Bear*, 4744 Washington Ave. (02/24/83)
White Bear Lake, *Hobe, E.H., House-Solheim*, 5590 W. Bald Eagle Blvd. (05/19/83)

Red Lake County

Red Lake Falls, *Red Lake County Courthouse*, Main Ave. (05/09/83)

St. Louis County

Buhl, *Buhl City Hall*, Jones Ave. at 4th St. (02/10/83)
Buhl, *Buhl Public Library*, Jones Ave. at Frantz St. (02/10/83)
Duluth, *Duluth South Breakwater Inner (Duluth Range Rear) Lighthouse (U.S. Coast Guard Lighthouses and Light Stations on the Great Lakes TR)*, S Breakwater (08/04/83)
Duluth, *Endion School*, 1801 E. First St. (02/10/83)

Stevens County

Alberta, *Alberta Teachers House*, Main St. (02/11/83)
Morris, *Morris Carnegie Library*, Nevada and 6th Sts. (01/27/83)

Waseca County

New Richland vicinity, *Vista Lutheran Church*, N. of New Richland off MN 13 (11/08/82)
Waseca vicinity, *Phelps Farmhouse*, W of Waseca on SR 2 (10/21/82)

Winona County

Winona, *Winona Hotel*, 151 Johnson St. (03/31/83)

MISSISSIPPI

Adams County

Natchez vicinity, *Buie House*, NE of Natchez (07/13/83)
Natchez vicinity, *Beechland*, S of Natchez off US 61 (11/04/82)
Natchez vicinity, *Cherry Grove Plantation*, S of Natchez off Kingston Rd. (03/31/83)
Natchez vicinity, *Laurel Hill Plantation*, S of Natchez off US 61 (10/26/82)
Natchez, *Airlie (Belvidere)*, 9 Elm St. (10/29/82)
Natchez, *Clifton Heights Historic District*, Roughly bounded by Ridge and Mulberry Alley, Natchez Bluff, Park Ave., and Maple St. (11/12/82)
Natchez, *Ravenna*, 601 S. Union St. (11/04/82)
Washington, *Meadvilla*, (11/17/82)

Choctaw County

French Camp, *Drane, Col. James, House*, Natchez Trace Pkwy. (07/21/83)

Claiborne County

Alcorn vicinity, *Canemount*, N of Alcorn off MS 552 (12/02/82)

Copiah County

Georgetown vicinity, *Alford–Little House*, S of Georgetown off MS 27 (10/19/82)

Forrest County

Hattiesburg, *U.S. Post Office (Mississippi Post Office 1931–41 TR)*, 115 W Pine St. (04/21/83)

Hancock County

Pearlington vicinity, *Claiborne Site (22 Ha 501)*, (11/12/82)

Harrison County

Gulfport, *Hewes Building*, 2505 14th St. (10/07/82)

Hinds County

Edwards, *Lewis, A.J., House*, S. Magnolia and Lewis Sts. (08/04/83)
Jackson, *Morris, Joseph Henry, House*, 305 N. State St. (08/11/83)
Jackson, *Sims House*, 513 N. State St. (03/31/83)

Jackson County

Moss Point *Griffin House*, 100 Griffin St. (07/07/83)

Leake County

Carthage, *Jordan House*, E. Franklin St. (11/30/82)
Carthage, *U.S. Post Office (Mississippi Post Office 1931–41 TR)*, 301 N. Pearl St. (04/21/83)

Lincoln County

Brookhaven, *Brookhaven City Hall*, Whitworth Ave. (06/16/83)

Lowndes County

Columbus, *U.S. Post Office (Mississippi Post Office 1931–41 Tr)*, 524 Main St. (04/21/83)

Marshall County

Byhalia vicinity, *Myers–Hicks Place*, MS 309 (03/07/83)
Holly Springs, *Depot-Compress Historic District (Holly Springs MRA)*, Bounded by RR tracks, Chesterman St., College and Van Dorn Aves. (04/20/83)
Holly Springs, *East Holy Springs Historic District (Holly Springs MRA)*, Bounded by Compress, Chesterman, Randolph and Spring Sts. and Salem, Van Dorn Aves. (04/20/83)
Holy Springs, *North Memphis Street Historic District (Holly Springs MRA)*, Bounded by N. Memphis St., Falconer, Salem, and Park Aves. and the Anderson Chapel (04/20/83)
Holly Springs, *Southwest Holly Springs Historic District (Holly Springs MRA)*, Bounded by S. Center, S. Memphis, and Craft Sts., Marbury Ct., Ghulahoma, Gholson, Elder and Mason Aves. (04/20/83)

Neshoba County

Philadelphia, *Philadelphia Historic District*, Holland and Poplar Aves., Jefferson Watkins and Welsh Sts. (03/04/83)

Noxubee County

Macon, *Yates-Flora House*, 100 N. Wayne St. (12/02/82)
Shuqualak, *Flora House*, Line St. (12/02/82)

Panola County

Sardis vicinity, *Well, The (Strickland Place)*, E of Sardis on Sardis-Union Rd. (12/17/82)

Pike County

McComb, *White-Alford House*, 845 White Blvd. (04/21/83)
Osyka, *Magnolia Manor*, 3rd and Amite Sts. (09/09/83)
Summit, *Bank of Summit*, 811 Robb St. (07/07/83)

Warren County

Vicksburg, *Luckett Compound*, 1116–1122 Crawford St. (07/28/83)

Washington County

Glen Allan vicinity, *Linden*, N of Glen Allan jct of SR 97 and 69 (11/12/82)
Greenville, *Atterbury House*, 148 N. Broadway (11/24/82)
Leland, *U.S. Post Office (Mississippi Post Office 1931–41 TR)*, 204 N. Broad St. (04/21/83)

Wilkinson County

Woodville vicinity, *Pleasant Hill*, E of Woodville on MS 24 (11/17/82)
Woodville, *Salisbury Plantation*, Off Woodville Rd. (06/16/83)

MISSOURI

Adair County

Kirksville, *Dockery Hotel*, Elson & McPherson Sts. (02/10/83)

Boone County

Columbia, *Gordon, David, House and Collins Log Cabin*, 2100 E. Broadway (08/29/83)

Buchanan County

St. Joseph, *Robidoux School*, 201 S. 10th St. (08/11/83)
St. Joseph, *Thompson-Brown-Sandusky House*, 207 E. Cliff St. (02/10/83)

Cape Girardeau County

Cape Girardeau, *Thilenius, Col. George C., House (Longview)*, 100 Longview Pl. (04/14/83)

Carroll County

Carrollton, *Wilcoxson and Company Bank*, 1 W. Washington Ave. (01/21/83)

Clark County

Kahoka, *Clark County Courthouse*, 101 E. Court St. (09/08/83)

Clay County

Excelsior Springs, *Hall of Waters*, 201 E. Broadway (06/09/83)

Cole County

Jefferson, *Lincoln Univ. Hilltop Campus Historic District*, 820 Chestnut St. (04/28/83)

Cooper County

Boonville, *Roeschel-Toennes-Oswald Property (Boonville, Missouri MRA)*, 515 W. Spring (07/07/83)
Boonville, *Historic District A (Boonville, Missouri MRA)*, Vine and 2nd Sts. (01/24/83)
Boonville, *Historic District B (Boonville, Missouri MRA)*, 4th and E. Spring Sts. (01/24/83)
Boonville, *Historic District C (Boonville, Missouri MRA)*, E. High and 4th Sts. (01/24/83)
Boonville, *Historic District D (Boonville, Missouri MRA)*, High and Main Sts. (01/24/83)
Boonville, *Historic District E (Boonville, Missouri MRA)*, High, Spring and Morgan Sts. (01/24/83)
Boonville, *Historic District F (Boonville, Missouri MRA)*, Extends North and South along 6th and 7th Sts. (01/24/83)
Boonville, *Historic District H (Boonville, Missouri MRA)*, SE corner of E. Morgan St. and Reformatory Dr. (01/24/83)

Dunklin County

Campbell vicinity, *Owens, Given, House*, Off MO 53 (03/29/83)

Gasconade County

Drake vicinity, *Ruskaup House*, W of Drake on U.S. 50 (03/29/83)
Hermann vicinity, *Kotthoff-Weeks Farm Complex*, Off SR J (03/28/83)
Morrison vicinity, *Shobe-Morrison House*, W of Morrison Off MO 100 (02/10/83)

Greene County

Springfield, *Commercial Street Historic District*, Commercial St. (05/24/83)
Springfield, *Stone Chapel*, Benton and Central Sts. (10/21/82)

Henry County

Clinton, *Dorman, Judge Jerubial Gideon, House*, 302 W. Franklin St. (02/10/83)
Clinton, *Williams, C. C., House*, 303 W. Franklin St. (10/21/82)

Holt County

Oregon vicinity, *Carroll Stagecoach Inn*, E of Oregon (08/18/83)

Howard County

Fayette vicinity, *Greenwood*, MO 5 (03/29/83)

Jackson County

Kansas City, *Continental Hotel (Hotels in Downtown Kansas City TR)*, 106 W. 11th St. (08/08/83)
Kansas City, *District I (Hotels in Downtown Kansas City TR)*, Roughly bounded by Baltimore Ave., W. 12th, W. 13th, and Wyandotte Sts. (08/08/83)
Kansas City, *District III (Armour Boulevard MRA)*, Armour Blvd. between Charlette St. and The Paseo (07/28/83)
Kansas City, *Loose, Jacob, House (Armour Boulevard MRA)*, 101 E. Armour Blvd. (07/28/83)
Kansas City, *Newcomer's, D.W., Sons Funeral Home*, 1331 Brush Creek (08/09/83)
Kansas City, *President Hotel (Hotels in Downtown Kansas City TR)*, 1327–1335 Baltimore Ave. (08/08/83)
Kansas City, *Ambassador Hotel Historic District*, 3527, 3600 Broadway and 435, 441 Knickerbocker Pl. (02/17/83)
Kansas City, *City Bank Building*, 1801 Grand Ave. (02/17/83)
Kansas City, *District I (Armour Boulevard MRA)*, Armour Blvd. between Broadway and Baltimore Aves. (07/28/83)
Kansas City, *District II (Armour Boulevard MRA)*, Armour Blvd. between Warwick and Kenwood Aves. (07/28/83)
Kansas City, *Elmwood Cemetery*, 4900 Truman Rd. (07/28/83)
Kansas City, *Floyd, Jacobs, House (Residential Structures by Mary Rockwell Hook TR)*, 5050 Sunset Dr. (09/08/83)
Kansas City, *Fowler, Henry T., House (Armour Boulevard MRA)*, 3 E. Armour Blvd. (07/28/83)

Kansas City, *Hook, Mary Rockwell, House (Residential Structures by Mary Rockwell Hook TR)*, 4940 Summit St. (09/08/83)
Kansas City, *House at 5011 Sunset Drive (Residential Structures by Mary Rockwell Hook TR)*, 5011 Sunset Dr. (09/08/83)
Kansas City, *House at 54 E. 53rd Terrace (Residential Structures by Mary Rockwell Hook TR)*, 54 E. 53rd Terr. (09/08/83)
Kansas City, *Loretto Academy*, 1111 W. 39th St. (07/28/83)
Kansas City, *Love, Emily Rockwell, House (Residential Structures by Mary Rockwell Hook TR)*, 5029 Sunset Dr. (09/08/83)
Kansas City, *McIntire, Levi, House (Armour Boulevard MRA)*, 710 E. Armour Blvd. (07/28/83)
Kansas City, *Myers, George J., House (Armour Boulevard MRA)*, 633 E. Armour Blvd. (07/28/83)
Kansas City, *Ostertag, Robert, House (Residential Structures by Mary Rockwell Hook TR)*, 5030 Summit St. (09/08/83)
Kansas City, *Pink House (Residential Structures by Mary Rockwell Hook TR)*, 5012 Summit St. (09/08/83)
Kansas City, *Repp, William D., House (Armour Boulevard MRA)*, 3500 Charlotte St. (07/28/83)
Kansas City, *Rockwell, Bertrand, House (Residential Structures by Mary Rockwell Hook TR)*, 1004 W. 52nd St. (09/08/83)
Kansas City, *Sophian Plaza*, 4618 Warwick Blvd. (07/05/83)
Kansas City, *South Side Historic District*, Roughly bounded by 38th, 40th, Walnut, and Baltimore Sts. (06/09/83)
Kansas City, *Tocama, The (Netherlands Hotel)*, 3835 Main St. (11/24/82)
Kansas City, *Toll, Alfred, House (Armour Boulevard MRA)*, 3502 Warwick Blvd. (07/28/83)

Jasper County

Carthage vicinity, *Phelps Country Estate (City of Carthage MRA)*, SR 1 (08/29/83)

Jefferson County

Kimmswick, *Windsor Harbor Road Bridge*, Windsor Harbor Rd. at Rock Creek (09/08/83)

Lafayette County

Higginsville, *Houx-Hoefer-Rehkop House*, 1900 Walnut St. (03/29/83)
Lexington vicinity, *Hicklin Hearthstone*, E of Lexington on US 24 (12/28/82)
Lexington, *Old Neighborhoods Historic District (Lexington MRA)*, Roughly bounded by 13th, 22nd, South Sts., Forest and Washington Aves. (08/04/83)
Lexington, *Commercial Community Historic District (Lexington MRA)*, Roughly bounded by 8th, 13th, South, Broadway, and Main Sts. (08/04/83)
Lexington, *Highland Avenue Historic District (Lexington MRA)*, Roughly bounded by Highland Ave. from Rock to Bluff Sts. (08/04/83)

Lewis County

Canton, *Lincoln School*, MO B (02/10/83)

Marion County

Hannibal, *Central Park Historic District*, Roughly bounded by 4th, 7th, North and Lyon Sts. (10/07/82)
Hannibal, *Ebert-Dulany House*, 1000 Center St. (02/17/83)
Palmyra vicinity, *Wilson, Ephraim J., Farm Complex*, E of Palmyra off MO 168 (12/28/82)

Monroe County

Florida, *Violette, Merritt, House*, Off MO 107 (09/08/83)

Nodaway County

Burlington Junction vicinity, *Possum Walk Hotel*, N of Burlington Junction (03/29/83)
Maryville, *Frank House*, 307 E. 7th St. (09/08/83)

Pettis County

Hughesville vicinity, *Thomson, Gen. David, House*, S of Hughesville on SR H (10/04/82)
Sedalia, *Missouri/Sedalia Trust Company*, 322 S. Ohio St. (03/29/83)

Phelps County

St. James, *St. James Chapel*, Church and Meramec Sts. (07/28/83)

Ray County

Richmond, *Watkins House*, 302 S. Camden St. (02/10/83)

Schuyler County

Downing, *Downing Railroad Depot*, City Park (03/29/83)

St. Charles County

Defiance vicinity, *Wolf-Ruebeling House*, MO 94 (03/29/83)

St. Louis (Independent City)

Soulard-Page District, Roughly bounded by Soulard, 8th, 12th, and LaSalle Sts. (08/19/83)
Speck District (LaSalle Park MRA), Roughly bounded by S. 11th, Park, Rutger, and S. 12th Sts. (08/15/83)
Ambassador Theater Building,, 411 N. 7th St. (03/29/83)
B'nai El Temple, 3666 Flad Ave. (07/21/83)
Blackwell-Wielandy Building, 1001–09 Locust St. (07/21/83)
Blair, Frank P., School, 2707 Rauschenbach Ave. (02/10/83)
Chouteau Apartments/Parkway Dwellings, 4937–4943 Laclede Ave. (02/10/83)
Crittenden Historic District, 3401 Arsenal, 3400 and 3500 blocks of Crittenden (07/07/83)
DePaul Hospital, 2415 N. Kingshighway Blvd. (03/29/83)
Frisco Building, 906 Olive St. (03/29/83)
Lambert Building, 2101–2107 Locust St. (02/24/83)
Leonardo, 4166 Lindell Blvd. (08/11/83)
Liggett & Myers Tobacco Co. Building, 1900–1912 Pine St. (02/10/83)
Lister Building, 4500 Olive St. (02/10/83)
May Company Department Store Building, 509–23 Washington Ave. (06/23/83)
Mullanphy Historic District, N. 14th St. between Mullanphy and Howard and N. 13th between Howard and Tyler (02/14/83)
Tiffany Neighborhood District, Roughly bounded by 39th St., Park, Grand, and Lafayette Aves. (02/10/83)

St. Louis County

Affton vicinity, *Sappington, Joseph, House*, SW of Affton at 10734 Clearwater Drive (10/14/82)
Manchester, *Manchester Methodist Episcopal Church*, 129 Woods Mill Rd. (02/10/83)
Webster Groves, *Webster College–Eden Theological Seminary Collegiate District*, 470 and 475 E. Lockwood Ave. (12/28/82)

Taney County

Branson vicinity, *Ross, John, House (Old Matt's Cabin)*, MO 76 (07/21/83)
Forsyth vicinty, *Swan Creek Bridge*, N of Forsyth (09/08/83)

Worth County

Grant City, *Worth County Courthouse*, Public Sq. (01/20/83)

MONTANA

Anaconda County

Anaconda, *Barich Block*, 416–420 E. Park St. (01/19/83)
Anaconda, *Davidson Building*, 301–303 E. Park St. (01/19/83)

Beaverhead County

Dillon vicinity, *Birch Creek CCC Camp*, N of Dillon on US FS Rd. 98 (12/07/82)

Carbon County

Red Lodge, *Red Lodge Commercial Historic District*, Broadway between 8th and 11th Sts. (04/14/83)

Flathead County

Flathead National Forest vicinity, *Hornet Lookout (24FH25)*, Hornet Mountain (08/19/83)
West Glacier vicinity, *Granite Park Chalet*, Glacier National Park (06/27/83)

Gallatin County

Belgrade, *Belgrade City Hall and Jail*, Broadway at Northern Pacific Blvd. (10/25/82)
Bozeman, *Blackmore Apartments*, 120 S. Black St. (07/07/83)
Bozeman, *Bozeman National Fish Hatchery*, 4050 Bridger Canyon Rd. (01/06/83)
Bozeman, *Gallatin County Jail*, 317 W. Main St. (01/19/83)
Bozeman, *Ketterer, Emil, House*, 35 N. Grand Ave. (03/31/83)
Three Forks, *Upper Madison School (One Room Schoolhouses of Gallatin County TR)*, Buffalo Jump Rd. (01/19/83)
West Yellowstone, *Kennedy Building (West Yellowstone MRA)*, 127 Yellowstone Ave. (05/13/83)
West Yellowstone, *Madison Hotel and Cafe (West Yellowstone MRA)*, 137 Yellowstone Ave. (05/13/83)
West Yellowstone, *West Yellowstone Oregon Shortline Terminus Historic District (West Yellowstone MRA)*, Yellowstone Ave. (04/13/83)

Glacier County (also in Flathead County)

West Glacier vicinity, *Going-to-the-Sun Road*, Glacier Rt. 1 (06/16/83)

Lewis and Clark County

Helena, *Appleton House No. 13*, 2200 Cannon (10/25/82)

Missoula County

Missoula, *Sterling, Fred T., House*, 1310 Gerald Ave. (07/07/83)
Missoula, *Belmont Hotel*, 430 N. Higgins Ave. (04/20/83)
Missoula, *Grand Pacific Hotel*, 118 W. Alder (09/29/83)
Missoula, *Keith, John M., House*, 1110 Gerald Ave. (07/07/83)
Missoula, *Palace Hotel*, 147 W. Broadway (10/25/82)
Missoula, *Toole, John R., House*, 1005 Gerald Ave. (04/25/83)

Park County

Livingston vicinity, *Sixty-Three Ranch*, (12/07/82)

Powell County

Gold Creek, *Northern Pacific Railroad Completion Site, 1883*, Off I90 (08/19/83)

Ravalli County

Stevensville, *May, George, House*, 100 Park Ave. (10/25/82)

Silver Bow County

Butte vicinity, *Silver Bow Brewery Malt House*, W of Butte off US 91 (01/19/83)

Stillwater County

Columbus, *Norton, W. H., House*, Third Ave. (10/25/82)

Valley County

Fort Peck, *Fort Peck Theatre*, Missouri Ave. (06/27/83)

Yellowstone County

Broadview vicinity, *Antelope Stage Station*, E of Broadview (01/19/83)

NEBRASKA

Boone County

Raeville, *St. Bonaventure Church Complex*, Off NE 14 (10/19/82)

Buffalo County

Kearney, *Barnd, John, House*, 320 E. 31st St. (03/31/83)

Cedar County

Hartington, *City Hall and Auditorium (Hartington Municipal Building)*, 101 N. Broadway (07/21/83)
Menominee, *St. Boniface Catholic Church Complex*, Main St. (07/21/83)

Cherry County

Valentine, *Walcott, F. M., House*, 431 N. Hall St. (10/07/82)

Colfax County

Schuyler vicinity, *Our Lady of Perpetual Help Catholic Church & Cemetery*, (11/12/82)
Schuyler, *Oak Ballroom*, Colfax St. (02/01/83)

Dawes County

Chadron, *Crites Hall (Chadron State College Historic Buildings TR)*, 10 and Main Sts. (09/08/83)
Chadron, *Miller Hall (Chadron State College Historic Buildings TR)*, 10 and Main Sts. (09/08/83)
Chadron, *Library (Chadron State College Historic Buildings TR)*, 10 and Main Sts. (09/08/83)
Chadron, *Sparks Hall (Chadron State College Historic Buildings TR)*, 10 and Main Sts. (09/08/83)
Chadron, *Work, Edna, Hall (Chadron State College Historic Buildings TR)*, 10 and Main Sts. (09/08/83)

Dixon County

Wakefield, *Swedish Evangelical Lutheran Salem Church*, Off NE 35 (02/01/83)

Dodge County

Fremont Vicinity, *Knoell, Christopher, Farmstead*, (01/13/83)

Douglas County

Omaha, *Bradford-Pettis House*, 404 S. 39th St. (07/21/83)
Omaha, *Brandeis, J. L., and Sons Store Building*, 200 S. 16th St. (10/20/82)
Omaha, *Garneau-Kilpatrick House*, 3100 Chicago St. (10/07/82)
Omaha, *Georgia Row House*, 1040–1044 S. 29th St. (11/12/82)
Omaha, *Havens-Page House*, 101 N. 39th St. (10/07/82)
Omaha, *Jewell Building*, 2221–2225 N. 24th St. (07/21/83)
Omaha, *Kelly, George H., House*, 1924 Binney St. (07/21/83)
Omaha, *McLaughlin, Charles D., House*, 507 S. 38th St. (11/08/82)
Omaha, *Poppleton Block*, 1001 Farnam St. (10/07/82)
Omaha, *Porter-Thomsen House*, 3426 Lincoln Blvd. (10/21/82)
Omaha, *Sacred Heart Catholic Church Complex*, 2218 Binney St. (03/24/83)
Omaha, *St. Martin of Tours Episcopal Church*, 2312 J St. (10/21/82

Franklin County

Bloomington vicinity, *Lost Creek Archeological Site*, (05/26/83)

Gage County

Wymore, *Lake Bridenthal House*, 113 S. 9th St. (02/24/83)

Kimball County

Kimball, *Fraternal Hall*, 2nd and Chestnut Sts. (02/28/83)
Kimball, *Stone Building*, 126 S. Chestnut St. (03/31/83)

Lancaster County

Lincoln, *Eddy-Taylor House*, 435 N. 25th St. (07/21/83)
Lincoln, *Gold and Company Store Building*, 1033 O St. (10/19/82)
Lincoln, *Whitehall (Olive White House)*, 5903 Walker (10/29/82)

Nemaha County

Brownville vicinity, *Bennett, John W., House*, Off NE 67 (09/16/83)

Otoe County

Nebraska City, St. Benedict's Catholic Church, 411 5th Rue (01/27/83)

Pawnee County

Pawnee City, *Hemnpstead, E.F., House*, 14th & H St. (10/19/82)

Saline County

Crete, *College Hill Historic District*, Roughly bounded by Juniper, 15th, Boswell and 8th Sts. (02/10/83)

Saunders County

Ashland, *Ashland Public Library (Carnegie)*, 207 N. 15th St. (01/27/83)
Ashland, *National Bank of Ashland*, 1442 Silver St. (01/27/83)
Wahoo, *Hanson, Howard, House*, 12th and Linden Sts. (01/27/83)

Scotts Bluff County

Gering, *Sorensen, Severin, House*, 2345 17th St. (03/31/83)
Mitchell, *Quivey, M.B., House*, 1462 19th Ave. (03/24/83)

NEVADA

Clark County

Boulder City, *Boulder City Historic District*, Roughly bounded by Nevada Hwy., Avenue L, Date, and 5th Sts. (08/19/83)
Las Vegas, *U.S. Post Office and Courthouse*, 301 E. Stewart Ave. (02/10/83)
Overton Vicinity, *Pueblo Grande de Nevada*, SE of Overton (10/08-82)

Douglas County

Minden, *Carson Valley Improvement Club Hall*, 1606 Esmeralda Ave. (08/04/83)

Humboldt County

Winnemucca, *Humboldt County Courthouse*, 5th and Bridge Sts. (08/9/83)
Winnemucca, *Nixon Opera House*, Winnemucca Blvd. and Melarkey St. (05/18/83)

Lyon County

Yerington, *I.O.O.F. Building, Mason Valley*, 1 S. Main St. (08/04/83)
Yerington, *Lyon County Courthouse*, 31 S. Main St. (03/24/83)

Nye County

Tonopah and vicinity, *Brown, Hugh H., House (Tonopah MRA)*, 129 Ellis St. (10/13/82)
Tonopah and Vicinity, *Campbell and Kelly Building (Tonopah MRA)*, Corona and Main Sts. (10/13/82)

Washoe County

Reno, *20th Century Club*, 335 W. First St. (04/21/83)
Reno, *Clifford House*, 339 Ralston St. (03/07/83)
Reno, *First United Methodist Church*, W. First and West Sts. (02/24/83)
Reno, *Francovich House*, 328 Ralston St. (04/25/83)
Reno, *Graham, William J., House*, 548 California Ave. (03/07/83)
Reno, *Humphrey House*, 467 Ralston St. (03/07/83)
Reno, *Levy House*, 111–121 California Ave. (02/24//83)

Reno, *Nevada-California-Oregon Railway Locomotive House and Machine Shop*, 401 E. 4th St. (05/09/83)
Reno, *Nortonia Boarding House*, 150 Ridge St. (02/24/83)
Reno, *Twaddle Mansion*, 485 W. Fifth St. (03/07/83)
Reno, *Tyson House*, 242 W. Liberty St. (02/24/83)

NEW HAMPSHIRE

Belknap County

Alton, *Alton Bay Railroad Station*, NH 11 (09/22/83)
Centre Harbor, *Centre Harbor Village Historic District*, Main and Plymouth Sts. (09/08/83)
Gilmanton, *Centre Congregational Church*, Province Rd. (09/08/83)
Gilmanton, *Gilmanton Academy*, Province Rd. (09/08/83)
Tilton vicinity, *Lochmere Archeological District*, (11–01–82)
Tilton, *Tilton Downtown Historic District*, Roughly Main St. between Central and Bridge Sts. (07/07/83)

Carroll County

Center Sandwich, *Hansen's Annex*, Main St. (09/22/83)
Sandwich, *Durgin Bridge*, Durgin Bridge Rd. (09/22/83)
Wakefield, *Wakefield House*, NH 153 (06/23/83)
Wakefield, *Wakefield Public Library*, Mtn. Laurel Rd. (09/08/83)
Wolfeboro, *Brewster Memorial Hall*, S. Main and Union Sts. (09/08/83)

Cheshire County

Dublin, *Morse Eli, Farm*, Lake Rd. (04/11/83)
Keene, *Colony Block*, 4–7 Central Square (03/24/83)
Richmond, *Richmond Community Church*, Fitzwilliam Rd. (03/24/83)

Coos County

Lancaster, *Garland Mill*, Garland Rd. (11/12/82)

Grafton County

Ashland, *Ashland Junior High School*, 12 School St. (04/08/83)
Ashland, *Ashland Railroad Station*, 39 Depot St. (11/10/82)
Ashland, *Ashland Town Hall*, 10 Highland St. (03/24/83)
Ashland, *First Free Will Baptist Church and Vestry*, 13–15 N. Main St. (04/08/83)
Bristol, *Central Square Historic District*, 2–27 Central Square, 1 Summer St., 1–3 N. Main St., and 2 S. Main St. (03/24/83)

Hillsborough County

Hudson, *Hills House*, 211 Derry Rd. (04/08/83)
Manchester, *District A (Amoskeag Manufacturing Company Housing Districts TR)*, Bounded by Pleasant, State, Granite, and Bedford Sts. (11/12/82)
Manchester, *District B (Amoskeag Manufacturing Company Housing Districts TR)*, Roughly bounded by Canal, Mechanic, Franklin, and Pleasant Sts. (11/12/82)
Manchester, *District C (Amoskeag Manufacturing Company Housing Districts TR)*, Roughly bounded by N. Hampshire Lane, Hollis, Canal, and Bridge Sts. (11/12/82)
Manchester, *District D (Amoskeag Manufacturing Company Housing Districts TR)*, Roughly bounded by Canal, Langdon, Elm, and W. brook Sts. (11/12/82)
Manchester, *District E (Amoskeag Manufacturing Company Housing Districts TR)*, 258–322 McGregor St. (11–12–82)
Weare vicinity, *Whittaker, Caleb, Place*, Perkins Pond Rd. (08/03/83)
Wilton vicinity, *Stonyfield Farm (Barrett Farm)*, NW of Wilton on Foster Rd. (08/03/83)

Laconia County

Belknap, *Laconia District Court*, Academy Sq. (11/09/82)

Merrimack County

Concord, *White Park*, Bounded by Washington, Centre, High, Beacon, and White Sts. (11/09/82)

Rockingham County

Epping, *Watson Academy*, Academy St. (11/09/82)
Hampton, *Lamprey, Reuben, Homestead*, 416 Winnacunnet Rd (11/09/82)
South Hampton, *Currier, Capt. Jonathan, House (South Hampton MRA)*, Hilldale Ave. (04/11/83)
South Hampton, *Highland Road Historic District (South Hampton MRA)*, Highland and Woodman Rds. (04/11/83)
South Hampton, *Jewell Town District (South Hampton MRA)*, W. Whitehall Rd. and Jewell St. (04/11/83)
South Hampton, *Smith's Corner Historic District (South Hampton MRA)*, Main Ave., South Stagecoach, and Chase Rds. (04/11/83)
South Hampton, *Town Center Historic District (South Hampton MRA)*, Main and Hilldale Aves. and Jewell St.(04/11/83)
South Hampton, *Woodman Road Historic District (South Hampton MRA)*, Woodman Rd. (04/11/83)
Stratham, *Crockett, John, House*, 245 Portsmouth Ave. (03/24/83)
Stratham, *Lane, Deacon Samuel and Jabez, Homestead*, Portsmouth Ave. (04/08/83)
Stratham, *Wiggin, Cornet Thomas, House*, 249 Portsmouth Ave. (03/24/83)

Strafford County

Dover, *First Parish Church Site-Dover Point*, Dover Point Rd. (05/27/83)
Dover, *Wyatt, Samuel, House*, 7 Church St. (12/02/82)
Rochester, *Rochester Commercial and Industrial Historic District*, N. Main, Wakefield, Hanson, S. Main Sts. and Central Square (04/08/83)
Strafford, *Strafford Union Academy*, NH 202A and 126 (09/22/83)

NEW JERSEY

Bergen County

Bergenfield, *Beauclaire-Vreeland House (Stone Houses of Bergen County TR)*, 88 E. Clinton Ave. (01/09/83)
Bogota, *Bogert House (Stone Houses of Bergen County TR)*, 4 Lynn Court (01/09/83)
Closter, *De Clark, William, House (Stone Houses of Bergen County TR)*, 145 Piermont Rd. (01/09/83)
Closter, *Haring-Aaryanson House (Stone Houses of Bergen County TR)*, 377 Piermont Rd. (08/15/83)
Closter, *Nagle, John, House (Stone Houses of Bergen County TR)*, 75 Harvard St. (01/09/83)
Closter, *Naugle, Henry, House (Stone Houses of Bergen County TR)*, 119 Hickory Lane (01/09/83)
Closter, *Naugle, Isaac, House (Stone Houses of Bergen County TR)*, 80 Hickory Lane (01/09/83)
Closter, *Tallman-Vanderbeck House (Stone Houses of Bergen County TR)*, 639 Piermont Rd. (01/09/83)
Closter, *Van Horn, David & Cornelius, House (Stone Houses of Bergen County TR)*, 11 Cedar Lane (01/09/83)
Closter, *Vervalen House (Stone Houses of Bergen County TR)*, 151 West St. (01/09/83)
Cresskill, *Blackledge-Gair House (Stone Houses of Bergen County TR)*, 111 Madison Ave. (01/09/83)
Cresskill, *Huyler, Peter, House (Stone Houses of Bergen County TR)*, 50 County Rd. (01/09/83)
Cresskill, *Westervelt Benjamin P., House (Stone Houses of Bergen County TR)*, 235 County Rd. (01/09/83)
Demarest, *Bogert House (Stone Houses of Bergen County TR)*, 324 County Rd. (01/09/83)
Demarest, *Demarest, John R., House (Stone Houses of Bergen County TR)*, 35 County Rd. (01/09/83)
Demarest, *Meyerhoff, John House (Stone Houses of Bergen County TR)*, 279 County Rd. (01/09/83)
Dumont, *Banata, Derick, House (Stone Houses of Bergen County TR)*, 180 Washington Ave. (01/09/83)
Dumont, *Demarest, Daniel, House (Stone Houses of Bergen County TR)*, 404 Washington Ave. (01/09/83)
Dumont, *North Church*, 120 Washington Ave. and 191 Washington Ave. (05/26/83)
Dumont, *Zabriskie-Christie House (Stone Houses of Bergen County TR)*, 2 Colonial Court (01/09/83)
East Rutherford, *Outwater, Richard, House (Stone Houses of Bergen County TR)*, 231 Hackensack St. (01/09/83)
Edgewater, *Ford Motor Company Edgewater Assembly Plant*, 309 River Rd. (09/15/83)
Elmwood Park, *Van Houten-Hillman House (Stone Houses of Bergen County TR)*, 891 River Rd. (01/09/83)
Englewood, *Benson, John G., House (Stone Houses of Bergen County TR)*, 60 Grand Ave. (01/09/83)
Englewood, *DeMott-Westervelt House (Stone Houses of Bergen County TR)*, 285 Grand Ave. (01/09/83)
Englewood, *Demarest, Thomas, House (Stone Houses of Bergen County TR)*, 370 Grand Ave. (01/09/83)
Englewood, *Lydecker, Garret House (Stone Houses of Bergen County TR)*, 228 Grand Ave. (01/09/83)
Fair Lawn, *Berdan, G.V.H., House (Stone Houses of Bergen County TR)*, 1219 River Rd. (01/09/83)

Fair Lawn, *Berdan, Richard J., House (Stone Houses of Bergen County TR)*, 24–07 Fair Lawn Ave. (01/09/83)
Fair Lawn, *Cadmus-Polly House (Stone Houses of Bergen County TR)*, 19–21 Fair Lawn Ave. (01/10/83)
Fair Lawn, *Naugle House (Stone Houses of Bergen County TR)*, 42–49 Dunkerhook Rd. (01/09/83)
Fair Lawn, *Vanderbeck, Jacob Jr., House (Stone Houses of Bergen County TR)*, 41–25 Dunkerhook Rd. (01/09/83)
Franklin Lakes, *Ackerman-Boyd House (Stone Houses of Bergen County TR)*, 1095 Franklin Lake Rd. (01/09/83)
Franklin Lakes, *De Gray House (Stone House of Bergen County TR)*, 650 Ewing Ave. (01/09/83)
Franklin Lakes, *Packer House (Stone Houses of Bergen County TR)*, 600 Ewing Ave. (01/09/83)
Franklin Lakes, *Pulis, Albert, House (Stone Houses of Bergen County TR)*, 322 Pulis Ave. (01/09/83)
Franklin Lakes, *Van Houten House (Stone Houses of Bergen County TR)*, 778 Vee Dr. (01/09/83)
Franklin Lakes, *Van Houten-Ackerman House (Stone Houses of Bergen County TR)*, 1150 Franklin Lake Rd. (01/09/83)
Franklin Lakes, *Winters-Courter House (Stone Houses of Bergen County TR)*, 831 Circle Ave. (01/09/83)
Glen Rock, *Ackerman-Hopper House (Stone Houses of Bergen County TR)*, 652 Ackerman Ave. (01/09/83)
Glen Rock, *Hopper, Andrew H., House (Stone Houses of Bergen County TR)*, 762 Prospect St. (01/09/83)
Glen Rock, *Hopper, Garret, House (Stone Houses of Bergen County TR)*, 470 Prospect St. (01/09/83)
Glen Rock, *Hopper, Hendrick, House (Stone House of Bergen County TR)*, 724 Ackerman Ave. (01/09/83)
Hackensack, *Reformed Dutch Church and Green*, 42 Court St. (06/09/83)
Hackensack, *Bergen County Court House Complex*, Court, Main and Essex Sts. (01/11/83)
Hackensack, *Hopper, John, House (Stone Houses of Bergen County TR)*, 231 Polifly Rd. (01/09/83)
Harrington Park, *Blanch-Haring House (Stone Houses of Bergen County TR)*, 341 Lafayette Rd. (01/09/83)
Harrington Park, *Blauvelt House (Stone Houses of Bergen County TR)*, 622 Lafayette Rd. (01/09/83)
Harrington Park, *Westervelt, John, House (Stone Houses of Bergen County TR)*, 29 The Parkway (01/09/83)
Haworth, *Durie, Garret J., House (Stone Houses of Bergen County TR)*, 371 Schraalenburgh Rd. (01/09/83)
Haworth, *Durie, John P., House (Stone Houses of Bergen County TR)*, 265 Schraalenburgh Rd. (01/09/83)
Haworth, *Zabriskie, Garret, House (Stone Houses of Bergen County TR)*, 317 Massachusetts Ave. (01/09/83)
Haworth, *Zabriskie, Henry, House (Stone Houses of Bergen County TR)* 58 Schraalenburgh Rd. (01/09/83)
Hillsdale, *Banta, John, House (Stone Houses of Bergen County TR)*, 211 Pascack Rd. (01/09/83)
Hillsdale, *Blauvelt-Demarest House (Stone Houses of Bergen County TR)*, 230 Broadway (01/09/83)
Hillsdale, *Durie, Garret, House (Stone Houses of Bergen County TR)*, 156 Ell Rd. (01/09/83)
Ho-Ho-Kus, *Ackerman-Demarest House (Stone Houses of Bergen County TR)*, 745 E. Saddle River Rd. (01/10/83)
Ho-Ho-Kus, *Terhune-Hopper House (Stone Houses of Bergen County TR)*, 825 E. Saddle River Rd. (01/10/83)
Ho-Ho-Kus, *Terhune-Ranlett House (Stone Houses of Bergen County TR)*, 933 E. Saddle River Rd. (01/10/83)
Ho-Ho-Kus, *Zabriskie House (Stone Houses of Bergen County TR)*, Franklin Turnpike & Sheridan Ave. (01/10/83)
Leonia, *Cole-Allaire House (Stone Houses of Bergen County TR)*, 112 Prospect St.(01/10/83)
Lyndhurst, *Winkle, Jacob W., House (Stone Houses of Bergen County TR)*, 316 Riverside Ave. (01/10/83)
Mahwah, *Bartholf, John, House (Stone Houses of Bergen County TR)*, 1122 Ramapo Valley Rd. (01/10/83)
Mahwah, *Bogert, Isaac, House (Stone Houses of Bergen County TR)*, 640 Campgaw Rd. (01/10/83)
Mahwah, *Garrison, Garret, House (Stone Houses of Bergen County TR)*, 980 Ramapo Valley Rd. (01/10/83)
Mahwah, *Hopper Gristmill Site*, (03/03/83)
Mahwah, *Smith, John House (Stone Houses of Bergen County TR)*, 290 Forest Rd. (01/10/83)
Mahwah, *Van Gelder, Abraham, House (Stone Houses of Bergen County TR)*, 86 W. Crescent Ave. (01/10/83)
Mahwah, *Vanderbeck House (Stone Houses of Bergen County TR)*, 69 Vanderbeck Ave. (01/10/83)
Maywood, *Romeyn-Oldis-Brinkerhoff House (Stone Houses of Bergen County TR)*, 279 Maywood Ave. (01/10/83)
Maywood, *Romine-Van Voorhis House (Stone Houses of Bergen County TR)*, 306 Maywood, Ave. (01/10/83)
Midland Park, *Baldwin, David, House (Stone Houses of Bergen County TR)*, 60 Lake Ave. (01/10/83)
Midland Park, *Myers-Masker House (Stone Houses of Bergen County TR)*, 179 Park Ave. (01/09/83)
Midland Park, *Van Zile House (Stone Houses of Bergen County TR)*, 714 Godwin Ave. (01/10/83)
Midland Park, *Wortendyke-Demund House (Stone Houses of Bergen County TR)*, 57 Demund Lane (01/10/83)
Montvale, *Eckerson House (Stone Houses of Bergen County TR)*, 200 Chestnut Ridge Rd. (01/10/83)
Montvale, *Holdrum-Van Houten House (Stone Houses of Bergen County TR)*, 43 Spring Valley Rd. (01/10/83)
Northvale, *Haring-Bauvelt House (Stone Houses of Bergen County TR)*, 454 Tappan Rd. (01/10/83)
Northvale, *Blanch, Capt. Thomas, House (Stone Houses of Bergen County TR)*, 130 Tappan Rd. (01/10/83)
Norwood, *Blauvelt House (Stone Houses of Bergen County TR)*, 54 Tappan Rd. (01/10/83)
Norwood, *Ferdon House (Stone Houses of Bergen County TR)*, 386 14th St. (01/10/83)
Norwood, *Haring-Vervalen House (Stone Houses of Bergen County TR)*, 200 Tappan Rd. (01/10/83)
Oakland, *Demarest House (Stone Houses of Bergen County TR)*, 213 Ramapo Valley Rd. (01/10/83)
Oakland, *Demarest, Jacobus, House (Stone Houses of Bergen County TR)*, 252 Ramapo Valley Rd. (01/10/83)
Oakland, *Demarest-Hopper House (Stone Houses of Bergen County TR)*, 21 Breakneck Rd. (01/10/83)
Oakland, *Van Winkle-Fox House (Stone Houses of Bergen County TR)*, 669 Ramapo Valley Rd. (01/10/83)
Old Tappan, *Haring, Frederick, House (Stone Houses of Bergen County TR)*, Old Tappan and De Wolf Rds. (01/10/83)
Old Tappan, *Haring, Gerrit, House (Stone Houses of Bergen County TR)*, 224 Old Tappan Rd. (01/10/83)
Old Tappan, *Haring-DeWolf House (Stone Houses of Bergen County TR)*, 95 De Wolf Rd. (01/10/83)
Oradell, *Demarest House (Stone Houses of Bergen County TR)*, 288 Grove St. (01/10/83)
Paramus, *Van Dien, Harmon, House (Stone Houses of Bergen County TR)*, 449 Paramus Rd. (01/10/83)
Park Ridge, *Ackerson, John G., House (Stone Houses of Bergen County TR)*, 142 Pascack Rd. (01/10/83)
Park Ridge, *Debaun, Isaac, House (Stone Houses of Bergen County TR)*, 124 Rivervale Rd. (01/10/83)
Park Ridge, *Perry, Peter D., House (Stone Houses of Bergen County TR)*, 107 Rivervale Rd. (01/10/83)
Park Ridge, *Wortendyke, Frederick, House (Stone Houses of Bergen County TR)*, 12 Pascack Rd. (01/10/83)
Ramsey, *Van Gelder, David, House (Stone Houses of Bergen County TR)*, 37 W. Crescent Ave. (01/10/83)
Ridgefield Park, *Paulison-Christie House (Stone Houses of Bergen County TR)*, 8 Homestead Pl. (01/10/83)
Ridgewood, *Ackerman House (Stone Houses of Bergen County TR)*, 222 Doremus Ave. (01/10/83)
Ridgewood, *Ackerman House (Stone Houses of Bergen County TR)*, 252 Lincoln Ave. (01/10/83)
Ridgewood, *Ackerman, David, House (Stone Houses of Bergen County TR)*, 415 E. Saddle River Rd. (01/10/83)
Ridgewood, *Ackerman-Van Emburgh, House (Stone Houses of Bergen County TR)*, 789 E. Glen Ave. (01/10/83)
Ridgewood, *Rathbone-Zabriskie House (Stone Houses of Bergen County TR)*, 570 N. Maple Ave. (01/10/83)
Ridgewood, *Van Dien House (Stone Houses of Bergen County TR)*, 627 Grove St. (01/10/83)
Ridgewood, *Vanderbeck House (Stone Houses of Bergen County TR)*, 249 Prospect St. (01/10/83)
Ridgewood, *Westervelt-Cameron House (Stone Houses of Bergen County TR)*, 28 E. Glen Ave. (01/10/83)

River Edge, *Ackerman-Zabriskie-Steuben House (Stone Houses of Bergen County TR)*, 1209 Main St. (01/10/83)
River Edge, *Campbell-Christie House (Stone Houses of Bergen County TR)*, 1201 Main St. (01/10/83)
River Edge, *Debaun-Demarest House (Stone Houses of Bergen County TR)*, 56 Spring Valley RD. (01/10/83)
River Edge, *Demarest House (Stone Houses of Bergen County TR)*, Main St. (01/10/83)
River Vale, *Haring-Blauvelt-Demarest House (Stone Houses of Bergen County TR)*, 525 Rivervale Rd. (01/10/83)
River Vale, *Holdrum, William, House (Stone Houses of Bergen County TR)*, 606 Prospect St. (01/10/83)
Rochelle Park, *Demarest, Cornelius, House (Stone Houses of Bergen County TR), 12 Rochelle Ave. (01/10/83)*
Rockleigh, *Concklin-Sneden House (Stone Houses of Bergen County TR)*, 37 Rockleigh Rd. (01/10/83)
Rockleigh, *Haring, Abraham A. House (Stone Houses of Bergen County TR)*, Piermont Rd. (01/10/83)
Rockleigh, *Haring, Nicholas, House (Stone Houses of Bergen County TR)*, Piermont Rd. (01/10/83)
Rutherford, *Kip Homestead (Stone Houses of Bergen County TR)*, 12 Meadow Rd. (01/10/83)
Rutherford, *Yereance-Berry House (Stone Houses of Bergen County TR)*, 91 Crane Ave. (01/10/83)
Saddle River, *Ackerman House (Stone Houses of Bergen County TR)*, 136 Chestnut Ridge Rd. (01/10/83)
Saddle River, *Ackerman, Abram, House (Stone Houses of Bergen County TR)*, 199 E. Saddle River Rd. (01/10/83)
Saddle River, *Ackerman-Dater House (Stone Houses of Bergen County TR)* 109 W. Saddle River Rd. (01/10/83)
Saddle River, *Van Buskirk, Andries Thomas, House (Stone Houses of Bergen County TR)*, 164 E. Saddle River Rd. (01/10/83)
Saddle River, *Van Buskirk, Laurance Thomas, House (Stone Houses of Bergen County TR)*, 116 E. Saddle River Rd. (01/10/83)
Teaneck, *Banta-Coe House (Stone Houses of Bergen County TR)*, 884 Lone Pine Lane (01/10/83)
Teaneck, *Brinkerhoff-Demarest House (Stone Houses of Bergen County TR)*, 493 Teaneck Rd. (01/10/83)
Teaneck, *Vandelinda, Adam, House (Stone Houses of Bergen County TR)*, 586 Teaneck Rd. (01/10/83)
Teaneck, *Vandelinda, James, House (Stone Houses of Bergen County TR)*, 566 Teaneck Rd. (01/10/83)
Teaneck, *Westervelt, Caspar, House (Stone Houses of Bergen County TR)*, 20 Sherwood Rd. (01/10/83)
Tenafly, *Westervelt House (Stone Houses of Bergen County TR)*, 81 Westervelt Ave. (08/15/83)
Tenafly, *Christie-Parsels House (Stone Houses of Bergen County TR)*, 195 Jefferson Ave. (01/10/83)
Tenafly, *Demarest-Lyle House (Stone Houses of Bergen County TR)*, 91 W. Clinton Ave. (01/10/83)
Upper Saddle River, *Hennion House (Stone Houses of Bergen County TR)*, 54 Pleasant Ave. (01/10/83)
Upper Saddle River, *Hopper House (Stone Houses of Bergen County TR)*, 72 Hopper Farm Rd. (01/10/83)
Upper Saddle River, *Hopper-Goetschius House (Stone Houses of Bergen County TR)*, 363 E. Saddle River Rd. (01/10/83)
Upper Saddle River, *Terhune-Hopper House (Stone Houses of Bergen County TR)*, 349 W. Saddle River Rd. (01/10/83)
Waldwick, *Smith, Albert, House (Stone Houses of Bergen County TR)*, 289 Wyckoff Ave. (01/10/83)
Waldwick, *White Tenant House (Stone Houses of Bergen County TR)*, 16 White's Lane (01/10/83)
Washington Township, *Zabriskie, Nicholas, House (Stone Houses of Bergen County TR)*, 25 Chimney Ridge Rd. (01/10/83)
Woodcliff Lake, *Crim-Tice House (Stone Houses of Bergen County TR)*, 16 County Rd. (01/10/83)
Woodcliff Lake, *Post, Peter P., House (Stone Houses of Bergen County TR)*, 259 Pascack Rd. (01/10/83)
Woodcliff Lake, *Westerwelt-Lydecker House (Stone Houses of Bergen County TR)*, Weirmus and Old Mill Rds. (01/10/83)
Woodcliff Lake, *Wortendyke, Frederick, House (Stone Houses of Bergen County TR)*, 168 Pascack Rd. (01/10/83)
Woodcliff Lake, *Wortendyke, Jacob, House (Stone Houses of Bergen County TR)*, 445 Chestnut Ridge Rd. (01/10/83)
Wyckoff, *Cairns-Whitten-Blauvelt House (Stone Houses of Bergen County TR)*, 160 Ravine Ave. (01/10/83)
Wyckoff, *Cruse-Hossington House (Stone Houses of Bergen County TR)*, 301 Newtown Rd. (01/10/83)
Wyckoff, *Folly House (Stone Houses of Bergen County TR)*, 310 Crescent Ave. (01/10/83)
Wyckoff, *Masker House (Stone Houses of Bergen County TR)*, 470 Wyckoff Ave. (01/10/83)
Wyckoff, *Stagg, John C., House (Stone Houses of Bergen County TR)*, 308 Sicomac Ave. (01/10/83)
Wyckoff, *Terhune House (Stone Houses of Bergen County TR)*, 161 Godwin Ave. (01/10/83)
Wyckoff, *Van Blarcom—Jardine House (Stone Houses of Bergen County TR)*, 380 Wyckoff Ave. (01/10/83)
Wyckoff, *Van Blarcom House (Stone Houses of Bergen County TR)*, 131 Godwin Ave. (01/10/83)
Wyckoff, *Van Blarcom, Albert, House (Stone Houses of Bergen County TR)*, 250 Crescent Ave. (01/10/83)
Wyckoff, *Van Gelder House (Stone Houses of Bergen County TR)*, 347 Godwin Ave. (01/10/83)
Wyckoff, *Van Horn-Ackerman House (Stone Houses of Bergen County TR)*, 101 Wyckoff Ave. (01/10/83)
Wyckoff, *Van Houten-Ackerman House (Stone Houses of Bergen County TR)*, 480 Sicomac Ave. (01/10/83)
Wyckoff, *Van Voorhees-Quackenbush House (Stone Houses of Bergen County TR)*, 421 Franklin Ave. (01/10/83)

Burlington County

Pemberton vicinity, *Jones, Benjamin, House (Halstead)*, Pemberton-Browns Mills Rd. (11/30/82)

Cumberland County

Bridgeton, *Bridgeton Historic District*, Roughly bounded by Teddy Pond, NW, SW, and Belmont Aves., Water and Commerce Sts., NJ Central RR, Irving, Walnut, Bank, Penn and Laural Sts. also South Ave. between Pine St. and Garfield Ave. (10/29/82)

Essex County

East Orange, *Central Avenue Commercial Historic District*, 560–654 Central Ave. (08/26/83)
Newark, *James Street Commons Historic District Addendum*, 18 Washington Pl. (09/22/83)

Hudson County

Jersey City, *Hamilton Park Historic District Extension (Boundary increase)*, Jersey Ave. and 10th St. (12/02/82)

Hunterdon County

Lambertville, *Lambertville Historic District*, NJ 29 and NJ 179 (06/30/83)

Mercer County

Pennington vicinity, *Van Cleve, Col. John, Homestead (Hopewell Township Poor Farm)*, NW of Pennington on Poor Farm Rd. (02/16/83)
Titusville, *Titusville Historic District*, River Dr. (03/17/83)
Trenton, *Stokely-Van Camp Industrial Complex*, Lalor Street at Stokely Ave. (03/11/83)

Morris County

Chatham, *Bower, David S., House (Harvey M. Lum House)*, 427 Main St. (11/30/82)
Chester vicinity, *German Valley Historic District*, NJ 24, Fairmont and Fairview Rds. (07/14/83)
Long Valley vicinity, *Flocktown Schoolhouse*, Flocktown and Naughright Rds. (11/30/82)
Mt. Arlington, *Mount Arlington Historic District*, Howard Blvd., Edgemere and Windemere Aves. (08/26/83)

Ocean County

Beach Haven, *Beach Haven Historic District (Beach Haven MRA)*, Roughly bounded by Bay and Atlantic Aves., Pearl and 3rd Sts. (07/14/83)
Beach Haven, *Converse Cottage (Beach Haven MRA)*, 504 Atlantic Ave. (07/14/83)
Beach Haven, *Williams, Dr. Edward H., House (Beach Haven MRA)*, 506 S. Atlantic Ave. (07/14/83)
Toms River, *Ocean County Courthouse (Old Village of Toms River MRA)*, Washington St. (08/16/83)
Toms River, *Ocean County Courthouse (Old Village of Toms River MRA)*, Washington St. (08/16/83)
Toms River, *Ocean County Jail (Old Village of Toms River MRA)*, Sheriff St. (08/16/83)

Somerset County

East Millstone, *East Millstone Historic District*, Amwell Rd. and Delaware & Raritan Canal (03/17/83)

Warren County

Phillipsburg vicinity, *Hixson-Skinner Mill Complex*, Still Valley Rd. (12/02/82)

NEW MEXICO

Bernalillo County

Albuquerque, *Albuquerque Veterans Administration Medical Center*, 2100 Ridgecrest, SE (08/19/83)
Albuquerque, *LaGlorieta House (Albuquerque Downtown Neighborhoods MRA)*, 1801 Central Ave. NW (08/19/83)
Albuquerque, *Bottger, Charles A., House*, 110 San Felipe NW (03/07/83)
Albuquerque, *Kromer House*, 1024 El Pueblo Rd. NW (10/04/82)
Albuquerque, *Menaul School Historic District*, Roughly bounded by Broadway, Claremont, Edith, and Menaul Aves. and 301 Menaul Blvd. N.E. (02/14/83)
Albuquerque, *Shoup Boardinghouse*, 707 1st St., SW (02/17/83)

Cibola County

Grants vicinity, *Candelaria Pueblo*, (03/10/83)

Grant County

Silver City, *St. Mary's Academy Historic District*, 1813 N. Alabama St. (09/15/83)
Silver City, *Silver City Historic District North Addition*, Roughly bounded by the San Vicente Arroyo, College Ave., Chloride and 13th Sts. (02/17/83)

Lincoln County

Jicarilla, *Jicarilla Schoolhouse*, NM 349, Lincoln National Forest (04/14/83)
Ruidoso vicinity, *New Mexico Military Institute Summer Camp, Main Building*, Carrizo Canyon (05/02/83)

Los Alamos County

White Rock, *Pajarito Springs Site*, (12/06/82)
Los Alamos, *Guaje Site*, (12/07/82)

Luna County

Deming, *Deming Armory*, 301 S. Silver Ave. (04/21/83)

Rio Arriba County

Abiquiu, *Abiquiu Mesa Grid Gardens*, (12/07/82)

San Miguel County

Las Vegas, *Douglas Avenue School*, 900 Douglas Ave. (08/05/83)
Las Vegas, *Douglas-Sixth Street Historic District*, Roughly bounded by Grand, Lincoln, and 7th Sts., and University Ave. (07/21/83)
Las Vegas, *North New Town Historic District*, Roughly bounded by National, Friedman, 3rd and 8th Sts. (08/18/83)

Santa Fe County

Pojoaque, *Bouquet, Jean, Historic/Archeological District*, Bouquet Lane (01/05/83)
Santa Fe, *Laboratory of Anthropology*, 708 Camino Lejo (07/12/83)
Santa Fe, *Don Gaspar Historic District*, Roughly bounded by Old Santa Fe Trail, Paseo de Peralta, Don Cubero and Houghton (07/21/83)
White Rock, *Navawi*, (12/08/82)

Socorro County

Lemitar, *Sagrada Familia de Lemitor Church, Los Dulces Nombres*, Off I–25 (02/24/83)
Socorro vicinity, *San Felipe Pueblo Ruin*, (04/26/83)

Taos County

Howiri-ouinge, (04/07/83)

NEW YORK

Albany County

Albany, *Quackenbush Pumping Station, Albany Water Works*, Quackenbush Sq. (06/30/83)
Altamont, *Altamont Historic District (Guilderland MRA)*, Main St between Thacher Dr. and the RR Station. (11/10/82)
Guilderland, *Apple Tavern (Guilderland MRA)*, 4450 Altamont Rd. (11/10/82)
Guilderland, *Aumic House (Guilderland MRA)*, Leesome Ln. (11/10/82)
Guilderland, *Chapel House (Guilderland MRA)*, Western Ave. (11/10/82)
Guilderland, *Coppola House (Guilderland MRA)*, Leesome Ln. (11/10/82)
Guilderland, *Crounse, Frederick, House (Guilderland MRA)*, 3960 Altamont-Voorheesville Rd. (11/10/82)
Guilderland, *Crounse, Jacob, Inn (Guilderland MRA)*, 3933 Altamont Rd. (11/10/82)
Guilderland, *Crounse, John and Henry, Farm Complex (Guilderland MRA)*, 3970 Altamont-Voorheesville Rd. (11/10/82)
Guilderland, *Freeman House (Guilderland MRA)*, 136 Main St. (11/10/82)
Guilderland, *Fuller's Tavern (Guilderland MRA)*, 6861 Western Tpk. (11/10/82)
Guilderland, *Gardner House (Guilderland MRA)*, 5661 Gardner Rd. (11/10/82)
Guilderland, *Gifford Grange Hall (Guilderland MRA)*, Western Tpk. (11/10/82)
Guilderland, *Gillespie House (Guilderland MRA)*, 2554 Western Tpk. (11/10/82)
Guilderland, *Guilderland Cemetery Vault (Guilderland MRA)*, In Guilderland Cemetery, NY 158 (11/10/82)
Guilderland, *Hamilton Union Church Rectory (Guilderland MRA)*, 2267 Western Tpk. (11/10/82)
Guilderland, *Hamilton Union Presbyterian Church (Guilderland MRA)*, 2291 Western Tpk. (11/10/82)
Guilderland, *Helderberg Reformed Dutch Church (Guilderland MRA)*, 140 Main St. (11/10/82)
Guilderland, *Hilton, Adam, House (Guilderland MRA)*, 6073 Leesome Ln. (11/10/82)
Guilderland, *Houck Farmhouse (Guilderland MRA)*, 6156 Ostrander Rd. (11/10/82)
Guilderland, *Knower House (Guilderland MRA)*, 3921 Altamont Rd. (11/10/82)
Guilderland, *McNiven Farm Complex (Guilderland MRA)*, 4178 Altamont Rd. (11/10/82)
Guilderland, *Mynderse-Frederick House (Guilderland MRA)*, 152 Main St. (11/10/82)
Guilderland, *Pangburn, Stephen, House (Guilderland MRA)*, 2357 Old State (11/10/82)
Guilderland, *Parker Charles, House (Guilderland MRA)*, 2273 Old State (11/10/82)
Guilderland, *Prospect Hill Cemetery Building (Guilderland MRA)*, Western Tpk. (11/10/82)
Guilderland, *Rose Hill (Guilderland MRA)*, 2259 Western Tpk. (11/10/82)
Guilderland, *Schoolcraft, John, House (Guilderland MRA)*, 2299 Western Tpk. (11/10/82)
Guilderland, *Schoolhouse No. 6 (Guilderland MRA)*, 206 Main St. (11/10/82)
Guilderland, *Sharp Brothers House (Guilderland MRA)*, 4382 Western Tpk. (11/10/82)
Guilderland, *Sharp Farmhouse (Guilderland MRA)*, 4379 Western Tpk. (11/10/82)
Guilderland, *St. Mark's Lutheran Church (Guilderland MRA)*, Main St. (11/10/82)
Guilderland, *Van Patten Born Complex (Guilderland MRA)*, 4773 Western Tpk. (11/10/82)
Guilderland, *Vanderpool Farm Complex (Guilderland MRA)*, 3647 Settles Hill Rd. (11/10/82)
Guilderland, *Veeder Farmhouse No. 1 (Guilderland MRA)*, 3770 Western Tpk. (11/10/82)
Guilderland, *Veeder Farmhouse No. 2 (Guilderland MRA)*, 3858 Western Tpk. (11/10/82)
Rensselaerville, *Rensselaerville Historic District*, Old Albany, Pond Hill, Methodist Hill Rds. and Main St. (09/15/83)

Bronx County

New York City, *Eighth Regiment Armory*, 29 W. Kingsbridge Rd. (12/21/82)
New York, *St. Peter's Church, Chapel and Cemetery Complex*, 2500 Westchester Ave. (09/26/83)
New York, *Wave Hill*, 675 W. 252nd St. (09/09/83)
New York, *48th Police Precinct Station*, 1925 Bathgate Ave. (05/06/83)
New York, *52nd Police Precinct Station House and Stable*, 3016 Webster Ave. (10/29/82)
New York, *Bronx County Courthouse*, 851 Grand Concourse (09/08/83)
New York, *Christ Church Complex*, 5030 Riverdale Ave. (09/08/83)
New York, *Colgate, Robert, House (Stonehurst)*, 5225 Sycamore Ave. (09/08/83)
New York, *Edgehill Church of Spuyten Duyvil*, 2550 Independence Ave. (10/29/82)
New York, *Longwood Historic District*, Roughly bounded by Beck St., Longwood, Leggett, and Prospect Aves. (09/26/83)
New York, *Morris High School Historic District*, Roughly bounded by Boston Rd., Jackson and Forrest Aves, and E. 166th and Home Sts. (09/15/83)
New York, *Public School 11*, 1257 Ogden Ave. (09/08/83)
New York, *Riverdale Presbyterian Church Complex*, 4761–4765 Henry Hudson Parkway (10/14/82)
New York, *Spaulding, Henry F., Coachman's House*, 4970 Independence Ave. (11/04/82)

New York, *Sunnyslope*, 812 Faile St. (09/15/83)
New York, *Washington Bridge*, Between Amsterdam and Undercliff Aves. (09/22/83)

Chautauqua County

Westfield, *Mack, Gerald, House (Westfield Village MRA)*, 79 N. Portage St. (09/26/83)
Westfield, *Bliss, L., House (Westfield Village MRA)*, 90 W. Main St. (09/26/83)
Westfield, *Campbell-Taylor, Harriet, House (Westfield Village MRA)*, 145 S. Portage St. (09/26/83)
Westfield, *Fay-Usborne Mill (Westfield Village MRA)*, 48 Pearl St. (09/26/83)
Westfield, *Hall, Frank A., House (Westfield Village MRA)*, 34 Washington St. (09/26/83)
Westfield, *Lake Shore & Michigan Southern Freight Depot (Westfield Village MRA)*, English St. (09/26/83)
Westfield, *McMahan Homestead (Westfield Village MRA)*, 232 W. Main R. (09/26/83)
Westfield, *Nixon Homestead (Westfield Village MRA)*, 119 W. Main St. (09/26/83)
Westfield, *Rorig Bridge (Westfield Village MRA)*, Water St. at Chautauqua Creek (09/26/83)
Westfield, *Thompson, Henry Dwight, House (Westfield Village MRA)*, 29 Wood St. (09/26/83)
Westfield, *Ward House (Westfield Village MRA)*, 118 W. Main St. (09/26/83)
Westfield, *Welch Factory Building No. 1 (Westfield Village MRA)*, 101 N. Portage St. (09/26/83)
Westfield, *Wright, Reuben Gridley, Farm Complex (Westfield Village MRA)*, 233 E. Main St. (09/26/83)
Westfield, *Wright, Reuben House (Westfield Village MRA)*, 309 E. Main St. (09/26/83)
Westfield, *York-Skinner House (Westfield Village MRA)*, 31 Union St. (09/26/83)

Cheymung County

Horsheads, *Hanover Square Historic District*, Jct. of E. and W. Franklin and N. and S. Main Sts. (10/29/82)

Chenango County

Afton, *Main Street Historic District*, 169–191 and 158–180 Main St. (06/30/83)
Bainbridge, *Bainbridge Historic District*, E. Main, Juliand, N. Main, Pearl, S. Main and W. Main Sts., Park Pl. and Railroad Ave. (11/09/82)
Sherburne, *Sherburne Historic District*, N. and S. Main, E. and W. State, Classic, Summit and Church Sts. and Park Ave. (10/29/82)
South Otselic, *South Otselic Historic District*, Gladding, N. and S. Main Sts., Clarence Church and Plank Rds., and Potter Ave. (09/08/83)
Earlville, *Earlville Historic District*, Fayette, N., S., E. and W. Main Sts. (10/29/82)

Clinton County

Plattsburgh, *Bailey, William, House (Plattsburgh City MRA)*, 176 Cornelia St. (11/12/82)
Plattsburgh, *Brinkerhoff Street Historic District (Plattsburgh City MRA)*, Brinkerhoff St. between Oak and N. Catherine Sts. (11/12/82)
Plattsburgh, *Carpenter, John B., House (Plattsburgh City MRA)*, 42 Prospect Ave. (11/12/82)
Plattsburgh, *Clinton County Court House Complex (Plattsburgh City MRA)*, 135 Margaret St. (11/12/82)
Plattsburgh, *Court Street Historic District (Plattsburgh City MRA)*, Court St. between Oak to Beekman Sts. (02/24/83)
Plattsburgh, *D & H Railroad Complex (Plattsburgh City MRA)*, Bridge St. (11/12/82)
Plattsburgh, *D'Youville Academy (Plattsburgh City MRA)*, 100 Cornelia St. (11/12/82)
Plattsburgh, *First Presbyterian Church (Plattsburgh City MRA)*, 34 Brinkerhoff St. (11/12/82)
Plattsburgh, *Hartwell, W. W., House & Dependencies (Regina Maria Retreat House) (Plattsburgh City MRA)*, 77 Brinkerhoff St. (11/12/82)
Plattsburgh, *Hawkins Hall (Plattsburgh City MRA)*, Beekman St. (11/12/82)
Plattsburgh, *House at 56 Cornelia Street (Plattsburgh City MRA)*, 56 Cornelia St. (11/12/82)
Plattsburgh, *Marshall, Paul, House (Plattsburgh City MRA)* 24–26 Cornelia St. (11/12/82)
Plattsburgh, *Platt, Charles C., Homestead (Plattsburgh City MRA)*, 96–98 Boynton Ave. (11/12/82)
Plattsburgh, *Point, The, Historic District (Plattsburgh City MRA)*, roughly bounded by Jay, Hamilton, Peru, and Bridge Sts. (11/12/82)
Plattsburgh, *Ritchie, Z., House (Plattsburgh City MRA)*, 26 S. Catherine St. (11/12/82)
Plattsburgh, *St. John the Baptist R. C. Church and Rectory (Plattsburgh City MRA)*, 20 Broad St. (11/12/82)
Plattsburgh, *Vilas, S.F., Home for Aged & Infirmed Ladies (Plattsburgh City MRA)*, Beekman and Cornelia Sts. (11/12/82)
Plattsburgh, *Wilcox, W. G., House (Plattsburgh City MRA)*, 45–51 Lorraine St. (02/24/83)
Plattsburgh, *Winslow-Turner Carriage House (Plattsburgh City MRA)*, 210 Cornelia St. (11/12/82)
Keeseville, *Double-span Metal Pratt Truss Bridge (Keeseville Village MRA)*, AuSable St. (05/20/83)
Keeseville, *Keeseville Historic District (Keeseville Village MRA)*, Roughly bounded by Vine, Chesterfield, Clinton, Hill, Pleasant, Front, and Beech Sts. (05/20/83)

Cortland County

Cortland vicinity, *Cortland County Poor Farm*, NE of Cortland off NY 13 (10/29/82)
Cortland, *Tompkins Street/Main Street Historic District*, Main St. from Thompkins St. to Clinton Ave. (Boundary Increase) (11/17/82)

Dutchess County

Beacon vicinity, *Mount Gulian*, N of Beacon off I–84 (11/19/82)
Beacon/Fishkill, *Mount Beacon Incline Railway and Power House (Hudson Highlands MRA)*, Howland Ave. and Wolcott St. (11/23/82)
Fishkill, *Bannerman's Island Arsenal (Hudson Highlands MRA)*, Pollepel Island. Off NY 9–D (11/23/82)
Fishkill, *Dutchess Manor (Hudson Highlands MRA)*, 400 Breakneck Rd. (11/23/82)
Pine Plains, *Pines, The*, Maple St. (09/26/83)
Poughkeepsie, *Academy Street Historic District (Poughkeepsie MRA)*, Academy St. between Livingston and Montgomery Sts. (11/26/82)
Poughkeepsie, *Adriance Memorial Library (Poughkeepsie MRA)*, 93 Market St. (11/26/82)
Poughkeepsie, *Amrita Club (Poughkeepsie MRA)*, 170 Church St. (11/26/82)
Poughkeepsie, *Balding Avenue Historic District (Poughkeepsie MRA)*, Balding Ave. between Mansion and Marshall Sts. (11/26/82)
Poughkeepsie, *Barrett House (Poughkeepsie MRA)*, 55 Noxon St. (11/26/82)
Poughkeepsie, *Booth, O. H., Hose Company (Poughkeepsie MRA)*, 532 Main St. (11/26/82)
Poughkeepsie, *Boughton/Haight House (Poughkeepsie MRA)*, 73–75 S. Hamilton St. (11/26/82)
Poughkeepsie, *Cedarcliff Gatehouse (Poughkeepsie MRA)*, 66 Ferris Lane (11/26/82)
Poughkeepsie, Church Street Row (Poughkeepsie MRA), Church St. from Academy to Hamilton St. (11/26/82)
Poughkeepsie, *Clark House (Poughkeepsie MRA)*, 85 Cedar Ave. (11/26/82)
Poughkeepsie, *Clinton House (Poughkeepsie MRA)*, 547 Main St. (11/26/82)
Poughkeepsie, *Dixon House (Poughkeepsie MRA)*, 49 N. Clinton St. (11/26/82)
Poughkeepsie, *Dutchess County Court House (Poughkeepsie MRA)*, 10 Market St. (11/26/82)
Poughkeepsie, *Dwight-Hooker Avenue Historic District (Poughkeepsie MRA)*, Dwight St. from Hamilton to Hooker, and 79–85 Hooker Ave. (11/26/82)
Poughkeepsie, *Eastman Terrace (Poughkeepsie MRA)*, 1–10 Eastman Terr (11/26/82)
Poughkeepsie, *Ethol House (Poughkeepsie MRA)*, 171 Hooker Ave. (11/26/82)
Poughkeepsie, *Farmer's and Manufacturer's Bank (Poughkeepsie MRA)*, 43 Market St. (11/26/82)
Poughkeepsie, *First Presbyterian Church (Poughkeepsie MRA)*, 25 S. Hamilton St. (11/26/82)
Poughkeepsie, *First Presbyterian Church Rectory (Poughkeepsie MRA)*, 98 Cannon St. (11/26/82)
Poughkeepsie, *Freer House (Poughkeepsie MRA)*, 70 Wilbur Blvd. (11/26/82)
Poughkeepsie, *Glebe House (Poughkeepsie MRA)*, 635 Main St. (11/26/82)
Poughkeepsie, *Gregory House (Poughkeepsie MRA)*, 140 S. Cherry St. (11/26/82)
Poughkeepsie, *Grey Hook (Poughkeepsie MRA)*, 5 Ferris Lane (11/26/82)
Poughkeepsie, *Harlow Row (Poughkeepsie MRA)*, 100–106 Market St. (11/26/82)
Poughkeepsie, *Hasbrouck (Poughkeepsie MRA)*, 75–77 Market St. (11/26/82)
Poughkeepsie, *Hershkind House (Poughkeepsie MRA)*, 30 Hooker Ave. (11/26/82)

Poughkeepsie, *Lady Washington Hose Company (Poughkeepsie MRA)*, 20 Academy St. (11/26/82)
Poughkeepsie, *Luckey, Platt & Company Department Store (Poughkeepsie MRA)*, 332–346 Main Mall (11/26/82)
Poughkeepsie, *Moder House (Poughkeepsie MRA)*, 101 Corlies Ave. (11/26/82)
Poughkeepsie, *Main Mall Row (Poughkeepsie MRA)*, 315 Main Mall to 11 Garden St. (11/26/82)
Poughkeepsie, *Market Street Row (Poughkeepsie MRA)*, 88–94 Market St. (11/26/82)
Poughkeepsie, *Moore House (Poughkeepsie MRA)*, 37 Adriance Ave. (11/26/82)
Poughkeepsie, *Mulrein House (Poughkeepsie MRA)*, 64 Montgomery St. (11/26/82)
Poughkeepsie, *New York State Armory (Poughkeepsie MRA)*, 61–65 Market St. (11/26/82)
Poughkeepsie, *Niagara Engine House (Poughkeepsie MRA)*, 8 N. Hamilton St. (11/26/82)
Poughkeepsie, *Pelton Mill (Poughkeepsie MRA)*, 110 Mill St. (11/26/82)
Poughkeepsie, *Phillips House (Poughkeepsie MRA)*, 18 Barclay St. (11/26/82)
Poughkeepsie, *Post-Williams House (Poughkeepsie MRA)*, 44 S. Clinton St. (11/26/82)
Poughkeepsie, *Poughkeepsie Trust Company (Poughkeepsie MRA)*, 236 Main St. (11/26/82)
Poughkeepsie, *Poughkeepsie Underwear Factory (Poughkeepsie MRA)*, 6–1 N. Cherry St. (11/26/82)
Poughkeepsie, *Reynolds House (Poughkeepsie MRA)*, 107 S. Hamilton St. (11/26/82)
Poughkeepsie, *Rombout House (Poughkeepsie MRA)*, New Hackensack Rd. (11/26/82)
Poughkeepsie, *Sague House (Poughkeepsie MRA)*, 167 Hooker Ave. (11/26/82)
Poughkeepsie, *South Hamilton Street Row (Poughkeepsie MRA)*, 81–87 S. Hamilton St. (11/26/82)
Poughkeepsie, *St. Paul's Episcopal Church (Poughkeepsie MRA)*, 161 Mansion St. (11/26/82)
Poughkeepsie, *Thompson House (Poughkeepsie MRA)*, 100 S. Randolph Ave. (11/26/82)
Poughkeepsie, *Travis House (Poughkeepsie MRA)*, 131 Cannon St. (11/26/82)
Poughkeepsie, *Trinity Methodist Episcopal Church and Rectory (Poughkeepsie MRA)*, 1–3 Hooker Ave. (11/26/82)
Poughkeepsie, *Upper Mill Street Historic District (Poughkeepsie MRA)*, Roughly Mill St. from Center Plaza to Catherine St. (11/26/82)
Poughkeepsie, *Vassar Warner Row (Poughkeepsie MRA)*, S. Hamilton from Montgomery to 40 Hamilton St. (11/26/82)
Poughkeepsie, *Young Men's Christian Association (Poughkeepsie MRA)*, 58 Market St. (11/26/82)

Erie County

Buffalo, *Buffalo North Breakwater South End Light (U.S. Coast Guard Lighthouses and Light Stations on the Great Lakes TR)*, Buffalo Harbor (08/04/83)
Buffalo, *Druham Memorial A.M.E. Zion Church*, 174 E. Eagle St. (09/15/83)
Buffalo, *Fosdick-Masten Park High School*, Masten Ave. and E. North St. (08/30/83)
Buffalo, *South Buffalo North Side Light (U.S. Coast Guard Lighthouses and Light Stations on the great Lakes TR)*, Buffalo Harbor (08/04/83)
Buffalo, *St. Andrew's Evangelical Lutheran Church Complex*, Sherman and Peckham Sts. (09/08/83)
Buffalo, *Young Men's Christian Association Central Building*, 45 W. Mohawk St. (09/08/83)
Kenmore, *Eberhardt Mansion*, 2746 Delaware Ave. (09/08/83)
Williamsville, *Williamsville Water Mill Complex*, 56 and 60 Spring St. (09/22/83)

Essex County

Keeseville, *Rembrandt Hall (Keeseville Village MRA)*, Clinton St. (05/20/83)
Keeseville, *Tomlinson House (Keeseville Village MRA)*, Kent St. (05/20/83)
Port Henry, *Van Ornam & Murdock Block*, Main St. (11/14/83)
Saranac Lake, *Will Rogers Memorial Hospital*, NY 86 (09/08/83)

Genesee County

Batavia, *Genesee County Courthouse Historic District*, Bounded by Porter and Jefferson Aves., and Main, Court, and Ellicott Sts. (12/10/82)

Greene County

Catskill, *Eleanor (sailing sloop)*, Off Lower Main St. in Catskill Creek (12/27/82)
Red Falls, *Morss Homestead/Federal City Homestead*, N Y 23 (09/30/83)

Jefferson County

Alexandria Bay, *Langue Vue Island*, St. Lawrence River (11/04/82)
Carthage, *State Street Historic District*, 249–401 State St.; 246–274 State St. and 106–108 Mechanic St. (09/22/83)
Evans Mills, *LeRay Hotel*, Main and Nobel Sts. (10/29/82)
Orleans, *Thousand Island Park Historic District*, S tip of Wellesley Island (11/14/82)
Sackets Harbor, *Sackets Harbor Village Historic District*, Main, Washington, Pike, Edmund, Hill, Hamilton, Broad, and Ambrose Sts. (09/15/83)
Sacketts Harbor vicinity, *Galloo Island Light (U.S. Coast Guard Lighthouses and Light Stations on the Great Lakes TR)*, Galloo Island (08/04/83)
Stone Mills, *Irwin Brothers Store*, NY 180 (09/15/83)

Kings County

Brookland, *St. Mary's Episcopal Church*, 230 Classon Ave. (07/21/83)
Brooklyn, *Albemarle-Kenmore Terraces Historic District*, Albermarle Terrace, Kenmore Terrace, and E. 21st St. (06/30/83)
Brooklyn, *Prospect Park South Historic District*, Roughly bounded by BMT RR Tracks, Beverly Rd., and Coney Island and Church Aves. (07/21/83)
New York, *Ditmas Park Historic District*, Bounded by Marlborough Rd., Dorchester, Ocean, and Newkirk Aves. (09/30/83)
New York, *Eastern Parkway*, Eastern Pkwy from Grand Army Plaza to Ralph Ave. (09/26/83)
New York, *U.S. Army Military Ocean Terminal*, 58th–65th St. and 2nd Ave. (09/23/83)
New York, *Astral Apartments*, 184 Franklin St. (10/29/82)
New York, *Boerum Hill Historic District*, Roughly bounded by Pacific, Wyckoff, Bergen, Nevins, Bond and Hoyt Sts. (09/26/83)
New York, *Carroll Gardens Historic District*, Carroll and President Sts. between Smith and Hoyt Sts. (09/26/83)
New York, *Flatbush Dutch Reformed Church Complex*, 890 Flatbush Ave and 2101–2103 Kenmore Terr. (09/08/83)
New York, *Fort Greene Historic District*, Roughly bounded by Ft. Greene Pl., Fulton St., Vanderbilt and Myrtle Aves. (09/26/83)
New York, *Friends Meetinghouse and School*, 110 Schermerhorn St. (11/04/82)
New York, *Greenpoint Historic District*, Roughly bounded by Kent, Calyer, Noble, and Franklin Sts., Clifford Pl. and Manhattan Ave. (09/26/83)
New York, *Knickerbocker Field Club*, 114 E. 18th St. (10/29/83)
New York, *Lincoln Club*, 65 Putnam Ave. (01/27/83)
New York, *New England Congregational Church and Rectory*, 177–179 S. 9th St. (09/15/83)
New York, *New Lots Reformed Church and Cemetery*, 630 New Lots Ave. (05/19/83)
New York, *Ocean Parkway*, From Church Ave. to Seabreeze Ave. (09/08/83)
New York, *Prospect Heights Historic District*, Roughly bounded by Pacific and Bergen Sts., Flatbush and Vanderbilt Aves. and Park Pl. (09/15/83)
New York, *Public School 71K*, 119 Heyward St. (11/04/82)
New York, *South Bushwick Reformed Protestant Dutch Church Complex*, 855–857 Bushwick Ave. (11/04/83)
New York, *South Congregational Church*, President and Court Sts. (11/04/82)
New York, *St. George's Protestant Epsicopal Church*, 800 Marcy Ave. (09/08/83)
New York, *Stoothoff-Baxter-Kouwenhoven House*, 1640 E. 48th St. (11/14/83)
New York, *Manhattan Bridge*, Spans East River, between Front and Canal Sts. (08/30/83)

Lewis County

Constableville, *Constableville Village Historic District*, Roughly bounded by Sugar River, Main, N. Main, W. Main, Church, High, West, and James Sts. (09/15/83)
West Martinsburg, *Methodist Episcopal Church of West Martinsburg*, W. Martinsburg Rd. (09/15/83)

Madison County

Leonardsville, *Wheeler House Complex*, NY 8 (09/22/83)
Oneida, *Main-Broad-Grove Streets Historic District*, Roughly bounded by Main, Broad, E. Grove, W. Grove, Wilbur, Elizabeth, E. Walnut, W. Walnut, and Stone Sts. (09/15/83)

Monroe County

Brighton, *Stone-Tolan House*, 2370 E. Ave. (07/21/83)

Rochester, *East High School*, 410 Alexander St. (6/30/83)
Rochester, *Eastman Dental Dispensary*, 800 E. Main St. (04/28/83)
Rochester, *Rochester City School No. 24 (Ellwanger and Barry School)*, Meigs St. (09/15/83)

Montgomery County

Amsterdam, *Vrooman Avenue School*, Vrooman Ave. (06/30/83)
Canajoharie, *Van Alstyne House*, Moyer St. (09/08/83)

Nassau County

Massapequa, *Grace Church Complex (old)*, Merrick and Dover Rds. (06/30/83)
Port Washington, *Main Street School*, Main and S. Washington St. (02/10/83)
Valley Stream, *Pagan-Fletcher House*, 127 Hendrickson Ave. (09/08/83)
Wantagh, *Wantagh Railroad Complex*, 1700 Wantagh Ave. (06/30/83)

New York County

New York City, *Trinity Chapel Complex*, 15 W. 25th St. (12/16/82)
New York City, *Hotel Gerard*, 123 W. 44th St. (02/10/83)
New York City, *New York School of Applied Design*, 160 Lexington Ave. 912/16/83)
New York, *Hamilton Heights Historic District*, Roughly bounded by St. Nicholas and Amsterdam Aves, W. 145th and W. 140th Sts. (09/30/83)
New York, *Hatch, Barbara Rutherford, House*, 153 E. 63rd St. (06/09/83)
New York, *Racquet and Tennis Club Building*, 370 Park Ave. (07/13/83)
New York, *Apartment at 1261 Madison Avenue*, 1261 Madison Ave. (10/29/82)
New York, *Barbizon Hotel for Women*, 140 E. 63rd St. (10/29/82)
New York, *Beacon Theater and Hotel*, 2124 Broadway (11/04/82)
New York, *Casa Italina*, 1151–1161 Amsterdam Ave. (10/29/82)
New York, *Central Park west Historic District*, Central Park West between 61st and 97th Sts. (11/09/82)
New York, *Chelsea Historic District (Boundary Increase)*, Roughly W. 22 to W. 23 Sts. and 8th to 10th Aves. (12/16/82)
New York, *Croton Aqueduct Gate House*, 135th St. and Convent Ave. (09/22/83)
New York, *Daily News Building*, 220 E. 42nd St. (11/14/82)
New York, *DeLamar Mansion*, 233 Madison Ave. (08/25/83)
New York, *Riverside Park and Drive*, From 72nd St. to 129th St. (09/02/83)
New York, *Brown, James, House*, 326 Spring St. (08/11/83)
New York, *Building at 361 Broadway*, 361 Broadway (09/15/83)
New York, *Cary Building*, 105–107 Chambers St. (09/15/83)
New York, *Central Savings Bank*, 2100–2108 Broadway (09/08/83)
New York, *Dorilton*, 171 W. 71st St. (09/08/83)
New York, *Empire State Building*, 350 Fifth Ave. (11/17/82)
New York, *First Police Precinct Station House*, South St. and Old Slip (10/29/82)
New York, *Fourteenth Ward Industrial School*, 256–258 Mott St. (01/27/83)
New York, *Gouverneur Hospital*, 621 Water St. (10/29/82)
New York, *Grand Central Terminal (Boundary Increase: Park Avenue Viaduct)*, 71–105 E. 42nd St., Park Ave. between E. 40th and E. 42nd Sts. (08/11/83)
New York, *Grand Hotel*, 1232–1238 Broadway (09/15/83)
New York, *House at 17 West 16th Street*, 17 W. 16th St. (05/26/83)
New York, *House at 203 Prince Street*, 203 Prince St. (05/26/83)
New York, *House at 120 and 122 East 92nd Street*, 120–122 E. 92nd St. (10/29/82)
New York, *Houses at 208–218 East 78th Street*, 208–218 E. 78th St. (06/30/83)
New York, *Houses at 311 and 313 East 58th Street*, 311–313 E. 58th St. (11/14/82)
New York, *Houses at 437–459 West 24th Street*, 437–459 W. 24th St. (10/29/82)
New York, *Houses at 647, 651–53 Fifth Avenue and 4 East 52nd Street*, 647, 651–53 5th Ave. and 4 E. 52nd St. (09/08/83)
New York, *Hughes, Langston, House*, 20 E. 127th St. (10/29/82)
New York, *IRT Broadway Line Viaduct (Manhattan Valley Viaduct)*, W. 122nd St. to W. 135th St., Broadway (09/15/83)
New York, *Kreischer House*, 4500 Arthur Kill Rd. (10/29/82)
New York, *LeRoy, Daniel, House*, 20 St. Mark's Pl. (10/29/82)
New York, *Liberty Tower*, 55 Liberty St. (09/15/83)
New York, *Lincoln Building*, 1 Union Sq. W. (09/08/83)
New York, *MacDougal-Sullivan Gardens Historic District*, 74–76 MacDougal St.; 170–188 Sullivan St. (06/30/83)
New York, *New York County Lawyers Association Building*, 14 Vesey St. (10/29/82)
New York, *New York Yacht Club*, 37 W. 44th St. (10/29/82)
New York, *Odd Fellows Hall*, 165–171 Grand St. (09/22/83)
New York, *Park East Synagogue, Congregation Zichron Ephraim*, 163 E. 67th St. (808/18/83)
New York, *Pomander Walk District*, 261–267 W. 94th St., 260–274 W. 95th St. and Pomander Walk (09/08/83)
New York, *Puck Building*, 295–309 Lafayette St. (07/21/83)
New York, *Red House*, 350 W. 85th St. (09/08/83)
New York, *Robbins & Appleton Building*, 1–5 Bond St. (10/29/82)
New York, *Rogers, John S., House*, 53 E. 79th St. (06/30/83)
New York, *Smith, Fleming, Warehouse*, 451–453 Washington St. (05/26/83)
New York, *Society for the Lying-in Hospital*, 305 2nd Ave. (09/01/83)
New York, *Stables at 167, 169 and 171 West 89th Street*, 167–171 W. 89th St (08/25/83)
New York, *Studio Apartments*, 44 W. 77th St. (05/19/83)
New York, *Turtle Bay Gardens Historic District*, 226–246 E. 49th St. and 227–245 E. 48th St. (07/21/83)
New York, *Van Rensselar, Stephen, House*, 149 Mulberry St. (06/16/83)
New York, *Vanderbilt, Mrs. Graham Fair, House*, 60 E. 93rd St. (10/29/82)
New York, *Warburg, Felix M., Mansion*, 1109 5th Ave. (10/29/82)
New York, *West 73rd–74th Street Historic District*, 73rd, 74th Sts. and Columbus Ave. (09/08/83)

Oneida County

Rome, *Jervis Public Library*, 613 N. Washington St. (11/04/82)
Utica, *Lower Genesee Street Historic District*, Roughly bounded by Genesee, Liberty, Seneca, and Whitesboro Sts. (both sides) (10/29/82)
Utica, *Utica Public Library*, 303 Genesee St. (10/29/82)

Onondaga County

Camillus, *Wilcox Octagon House, 5420 W. Genesee St. (07/28/83)*
Jordan, *Jordan Village Historic District*, Roughly bounded by N. Main, S. Main, Elbridge, Clinton, Hamilton, Lawrence, and Mechanic Sts. (09/15/83)
Manlius, *Mycenae Schoolhouse*, NY 5 (08/11/83)
Syracuse, *Walnut Park Historic District*, Walnut Pl. and Walnut Ave. (09/15/83)

Orange County

Cornwall, *Deer Hill (Hudson Highlands MRA)*, 58 Deerhill Rd. (11/23/82
Cornwall, *Gatehouse on Deerhill Road (Hudson Highlands MRA)*, Deerhill Rd. (11/23/82)
Cornwall, *LeDoux/Healey House (Hudson Highlands MRA)*, 60 Deerhill Rd. (11/23/82)
Cornwall, *River View House (Hudson Highlands MRA)*, 146 Bayview Ave. (11/23/82)
Cornwall-on-Hudson, *Barr, Amelia, House (Hudson Highlands MRA)*, Mountain Rd. (11/23/82)
Cornwall-on-Hudson, *Camp Olmsted (Hudson Highlands MRA)*, 114 Bayview Ave. (11/23/82)
Fort Montgomery, St. Mark's Episcopal Church (Hudson Highlands MRA), Canterbury Rd. and NY 9–W (11/23/82)
Highland Falls, *Church of the Holy Innocents and Rectory (Hudson Highlands MRA)*, 112 Main St. (11/23/82)
Highland Falls, *First Presbyterian Church of Highland Falls (Hudson Highlands MRA)*, 140 Main St. (11/23/82)
Highland Falls, *Highland Falls Railroad Depot (Hudson Highlands MRA)*, Dock Rd. (11/23/82)
Highland Falls, *Highland Falls Village Hall (Hudson Highlands MRA)*, Main St. (11/23/82)
Highland Falls, *House at 116 Main Street (Hudson Highlands MRA)*, 116 Main St. (11/23/82)
Highland Falls, *House at 37 Center Street (Hudson Highlands MRA)*, 37 Center St. (11/23/82)
Highland Falls, *Parry House (Hudson Highlands MRA)*, Michel Rd. (11/23/82)
Highland Falls, *Pine Terrace (Hudson Highlands MRA)*, Main St. (11/23/82)
Highland Falls, *Squirrels, The (Hudson Highlands MRA)*, 225 Main St. (11/23/82)
Highland Falls, *Stonihurst (Hudson Highlands MRA)*, NY 218 (11/23/82)
Highland Falls, *Webb Lane House (Hudson Highlands MRA)*, Webb Lane (11/23/82)
Highlands, *Cragston Dependencies (Hudson Highlands MRA)*, NY 218 (11/23/82)

Highlands, *Storm King Highway (Hudson Highlands MRA)*, NY 218 (11/23/82)

Orleans County

Albion, *Barlow, William V.N., House*, 223 S. Clinton St. (09/08/83)

Oswego County

Constantia, *Trinity Church*, NY 49 (10/29/82)
Oswego, *Pontiac Hotel*, W. 1st St. (07/21/83)
Pulaski, *Pulaski Village Historic District*, Jefferson, Broad, Bridge, Hubbel, and Lake Sts. (09/08/83)

Otsego County

Gilbertsville, *Gilbertsville Historic District*, Roughly bounded by incorporated village boundary (Boundary increase) (11/04/82)
Oneonta, *Municipal Building*, 238–242 Main St. (10/29/82)

Putnam County

Cold Spring, *Cold Spring Historic District (Hudson Highlands MRA)*, Roughly Main, Fair, Chestnut Sts., and Paulding Ave. (11/23/82)
Cold Spring, *Fair Lawn (Hudson Highlands MRA)*, NY 9–D (11/23/82)
Garrison, *Garrison Landing Historic District (Hudson Highlands MRA)*, Bounded by Hudson River and NY Central RR Tracks (11/23/82)
Garrison, *Garrison Union Free School (Hudson Highlands MRA)*, NY 9–D (11/23/82)
Garrison, *Hurst-Pierrepont Estate (Hudson Highlands MRA)*, NY 9–D (11/23/82)
Garrison, *Moore House (Hudson Highlands MRA)*, Nelson La. (11/23/82)
Garrison, *Rock Lawn and Carriage House (Hudson Highlands MRA)*, NY 9–D (11/23/82)
Garrison, *Walker House (Hudson Highlands MRA)*, Cat Rock Rd. (11/23/82)
Garrison, *Wilson House (Hudson Highlands MRA)*, Lower Station Rd. (11/23/82)
Garrison, *Woodlawn (Malcom Gordon School) (Hudson Highlands MRA)*, NY 9–D (11/23/82)
Nelsonville, *Champlin, H. D., & Son Horseshoeing and Wagonmaking (Hudson Highlands MRA)*, 286 Main St. (11/23/82)
Nelsonville, *Cold Spring Cemetery Gatehouse (Hudson Highlands MRA)*, Peekskill Rd. (11/23/82)
Nelsonville, *Dykman, J. Y., Flour and Feed Store (Hudson Highlands MRA)*, 289 Main St. (11/23/82)
Nelsonville, *Dykman, J. Y., Store (Hudson Highlands MRA)*, 255 Main St. (11/23/82)
Nelsonville, *First Baptist Church of Cold Spring (Hudson Highlands MRA)*, Main St. (11/23/82)
Nelsonville, *Fish and Fur Club (Hudson Highlands MRA)*, 258 Main St. (11/23/82)
Nelsonville, *House at 3 Crown Street (Hudson Highlands MRA)*, 3 Crown St. (11/23/82)
Nelsonville, *Hustis House (Hudson Highlands MRA)*, 328 Main St. (11/23/82)
Philipstown, *Birches, The (Hudson Highlands MRA)*, Cat Rock Rd. (11/23/82)
Philipstown, *Eagle's Rest (The Jacob Ruppert Estate) (Hudson Highlands MRA)*, NY 9–D (11/23/82)
Philipstown, *Glenfields (Archibald Gracie King House) (Hudson Highlands MRA)*, Old Manitou Rd. (11/23/82)
Philipstown, *Mandeville House (Hudson Highlands MRA)*, Lower Station Hill Rd. (11/23/82)
Philipstown, *Montrest (Hudson Highlands MRA)*, Late Gate Rd. (11/23/82)
Philipstown, *Normandy Grange (Hudson Highlands MRA)*, NY 9–D (11/23/82)
Philipstown, *Oulagisket (Sloan Estate) (Hudson Highlands MRA)*, NY 9–D (11/23/82)
Philipstown, *Thompson, Walter, House and Carriage House (Hudson Highlands MRA)*, Philipsebrook Rd. (11/23/82)
Putnam Valley vicinity, *Tompkins Corners United Methodist Church*, Peekskill Hollow Rd. (03/31/83)

Queens County

Jamaica, *Jamaica Chamber of Commerce Building*, 8931 161st St. (09/08/83)
Long Island City, *Steinway House*, 18–22 41st St. (09/08/83)
New York, *Cooper Avenue Row Historic District (Ridgewood MRA)*, 6434–6446 Cooper Ave. (09/30/83)
New York, *Long Island City Courthouse Complex*, 25–10 Court Square (09/28/83)
New York, *68th Avenue–64th Place Historic District (Ridgewood MRA)*, Roughly 64th Pl. from Catalpa Ave. to 68th Ave. from 64th St. to 65th St. (09/30/83)
New York, *75th Avenue–61st Street Historic District (Ridgewood MRA)*, Roughly bounded by St. Felix Ave., 60th Lane, 60th and 62nd Sts. (09/30/83)
New York, *Allen-Beville House*, 29 Center Dr. (09/22/83)
New York, *Central Avenue Historic District (Ridgewood MRA)*, Roughly bounded by Myrtle and 70th Ave., and 65th and 66th Sts. (09/30/83)
New York, *Central Ridgewood Historic District (Ridgewood MRA)*, Roughly bounded by Fresh Pond Rd., Putnam, 68th, Forest, Catalpa, Onderdonk, and 71st Aves. (09/30/83)
New York, *Cornelia-Putnam Historic District (Ridgewood MRA)*, Roughly bounded by Jefferson St., Putnam, Wyckoff, and Myrtle Aves. (09/30/83)
New York, *Cypress Avenue East Historic District (Ridgewood MRA)*, Roughly bounded by Linden and Cornelia Sts., Seneca and St. Nicholas Aves. (09/30/83)
New York, *Cypress Avenue West Historic District (Ridgewood MRA)*, Roughly bounded by St. Nicholas and Seneca Aves., Linden and Stockholm Sts. (09/30/83)
New York, *Forest-Norman Historic District (Ridgewood MRA)*, Forest Ave. from Summerfield to Stephen St. and Norman St. to Myrtle Ave. (09/30/83).
New York, *Fresh Pond-Traffic Historic District (Ridgewood MRA)*, Roughly bounded by Fresh Pond Rd., Traffic Ave., Woodbine and Linden Sts. (09/30/83)
New York, *Grace Episcopal Church Complex*, 15515 Jamaica Ave. (09/08/83)
New York, *Grove-Linden St. John's Historic District (Ridgewood MRA)*, Fairview Ave., St. John's Rd., Linden and Grove Sts. (09/30/83)
New York, *Jamaica Savings Bank*, 161–02 Jamaica Ave. (05/19/83)
New York, *Krutz, J., and Sons Store Building*, 162–24 Jamaica Ave. (09/08/83)
New York, *Madison-Putnam-60th Place Historic District (Ridgewood MRA)*, Roughly bounded by Woodbine St. 60th Pl., 67th and Forest Aves. (09/30/83)
New York, *RKO Keith's Theatre*, 129–143 Northern Blvd. (10/29/82)
New York, *Seneca Avenue East Historic District (Ridgewood MRA)*, Roughly Seneca Ave. E. between Hancock and Summerfield Sts. (09/30/83)
New York, *Seneca-Onderdonk-Woodward Historic District (Ridgewood MRA)*, Roughly bounded by Woodward, Seneca, and Catalpa Aves., and Woodbine St. (09/30/83)
New York, *Summerfield Street Row Historic District (Ridgewood MRA)*, 5912–5948 Summerfield St. (09/30/83)
New York, *Willoughby-Suydam Historic District (Ridgewood MRA)*, Suydam St., Willoughby, St. Nicholas, and Wyckoff Aves. (09/30/83)
New York, *Woodbine-Palmetto-Gates Historic District (Ridgewood MRA)*, Roughly bounded by Forest and Fairview Aves., Woodbine and Linden Sts. (09/30/83)

Richmond County

Eltingville, *St. Alban's Episcopal Church*, 76 St. Albans Place (10/29/82)
New York City, *House at 5910 Amboy Road*, 5910 Amboy Rd. (12/16/82)
New York, *Houses at 364 and 390 Van Duzer Street*, 364 and 390 Van Duzer St. (11/14/82)
New York, *Houseman, Peter, House*, 308 St. John Ave. (10/29/82)
New York, *McFarlane-Bredt House*, 30 Hylan Blvd. (09/08/83)
New York, *Hamilton Park Community Houses*, 105 Franklin Ave., 66 Harvard Ave., and 32 Park Pl. (09/26/83)
New York, *Office Building and U.S. Light-House Depot Complex*, 1 Bay St. (09/15/83)
New York, *Scott-Edwards House*, 752 Delafield Ave. (02/11/83)
New York, *Woodrow Methodist Church*, 1109 Woodrow Rd. (10/29/82)

Rockland County

Nyack, *Tappan Zee Playhouse*, 20 S. Broadway (07/21/83)
South Nyack, *Ross-Hand Mansion*, 122 S. Franklin St. (09/08/83)
Stony Point, *Bear Mountain Bridge and Toll House (Hudson Highlands MRA)*, NY 6/202 (11/23/82)

Saratoga County

Ballston Spa, *Verbeck House*, 20 Church Ave. (04/07/83)
Saratoga Springs, *Broadway Historic District (Amended)*, Phila, Caroline, and Bryon Sts., Maple and Woodlawn Aves. (04/15/83)
Saratoga Springs, *East Side Historic District*, Roughly bounded by George, Henry, East, and North Sts. (10/29/82)

Schenectady County

Schenectady, *Franklin School*, Ave. B and Mason St. (06/30/83)

Schenectady, *Union Street Historic District*, Union St. from Hudson River to Phoenix Ave. (11/17/82)

St. Lawrence County

Canton, *St. Lawrence University-Old Campus Historic District*, Park St. (09/15/83)
Canton, *Village Park Historic District (Boundary Increase)* 7–100 Main St., N and 70, 76, 80, 90, Main St. S (09/29/83)
Ogdensburg, *Acker and Evans Law Office*, 315 State St. (09/15/83)
Ogdensburg, *Library Park Historic District*, 303–323 Washington St., 100–112 Carolina St. and Liberty Park (11/04/82)
Pierrepont Center, *Pierrepont Town Buildings*, Main St. (11/04/82)
Potsdam vicinity, *French Family Farm*, SW of Potsdam on US 11 (11/04/82)

Steuben County

Bath, *McMaster House (Bath Village MRA)*, 207 E. Washington St. (09/30/83)
Bath, *Campbell-Rumsey House (Bath Village MRA)*, 225 E. Steuben St. (09/30/83)
Bath, *Cobbleston House (Bath Village MRA)*, 120 W. Washington St. (09/30/83)
Bath, *Davenport Library (Bath Village MRA)*, W. Morris St. (09/30/83)
Bath, *Gansevoort/East Steuben Streets Historic District (Bath Village MRA)*, E. Steuben and Gansevoort Sts. (09/30/83)
Bath, *Haverling Farm House (Bath Village MRA)*, 313 Haverling St. (09/30/83)
Bath, *Liberty Street Historic District (Bath Village MRA)*, Roughly Liberty St. from E. Morris St. to Haverling St. (09/30/83)
Bath, *Potter-Van Camp House (Bath Village MRA)*, 4 W. Washington St. (09/30/83)
Bath, *Robie, Reuben, House (Bath Village MRA)*, 16 W. Washington St. (09/30/83)
Bath, *Sedgwick House (Bath Village MRA)*, 101 Haverling St. (09/30/83)
Bath, *Shepherd, William, House (Bath Village MRA)*, 110 W. Washington St. (09/30/83)

Suffolk County

Riverhead, *Vail-Leavitt Music Hall*, Peconic Ave. (08/25/83)
Smithtown, *Blydenburgh Park Historic District*, Blydenburgh County Park (08/11/83)
Southampton, *Chase, William Merritt, Homestead*, Canoe Pl. Rd. (06/16/83)

Sullivan County

Narrowsburg, *Arlington Hotel*, Main St. (03/31/83)

Tompkins County

Indian Fort Road Site, (09/30/83)

Ulster County

Gardiner, *Aldrich, Peter, Homestead (Shawangunk Valley MRA)*, 168 Decker Rd. (09/26/83)
Gardiner, *Bevier House (Shawangunk Valley MRA)*, Bevier Rd. (09/26/83)
Gardiner, *Brykill (Shawangunk Valley MRA)*, Bruynswick Rd. (09/26/83)
Gardiner, *Van Vleck House (Shawangunk Valley MRA)*, Bruynswick Rd. (09/26/83)
Highland, *Yelverton, Anthony, House*, 39 Maple Ave. (09/22/83)
Rosendale, *Binnewater Historic District*, Sawdust Ave., Breezy Hill and Binnewater Rds., (11/04/82)
Shawangunk, *Miller's House at Red Mills (Shawangunk Valley MRA)*, Red Mills Rd. and Wallkill Ave. (09/26/83)
Shawangunk, *Decker, William, House (Shawangunk Valley MRA)*, New Prospect Rd. (09/26/83)
Shawangunk, *Dill Farm (Shawangunk Valley MRA)*, Off Goebel Rd. (09/26/83)
Shawangunk, *Jansen, Johannes, House and Dutch Barn (Shawangunk Valley MRA)*, Decker Rd. (09/26/83)
Shawangunk, *Jansen, Thomas, House (Shawangunk Valley MRA)*, Jansen Rd. (09/26/83)
Shawangunk, *Pearl Street Schoolhouse (Shawangunk Valley MRA)*, Awosting and Decker Rds. (09/26/83)
Shawangunk, *Terwilliger House (Shawangunk Valley MRA)*, Hoagerburgh Rd. (09/26/83)
Wallkill vicinity, *Crowell, J.B., and Son Brick Mould Mill Complex*, Lippencott Rd. (06/30/82)
Wallkill vicinity, *Reformed Dutch Church of New Hurley*, N of Wallkill on NY 208 (10/29/82)

Warren County

Bolton Landing vicinity, *Sagamore Hotel Complex*, Green Island and Federal Hill (07/21/83)

Washington County

Ft. Edward, *Old Fort House*, 29 Lower Broadway (09/15/83)
Hudson Falls, *Hudson Falls Historic District*, Roughly bounded by Main, Mechanic, Maple, Oak, River, Pearl, Cherry and Mulberry Sts., Village Park, Hudson Pl. and Park Pl. (09/15/83)

Westchester County

Armonk, *Smith Tavern*, 440 Bedford Rd. (09/15/83)
Cortlandt, *Bear Mountain Bridge Rd. (Hudson Highland MRA)*, NY 6/202, between Bear Mt. Bridge (11/23/82)
Elmsford, *Elmsord Reformed Church and Cemetery*, 30 S. Central Ave. (09/15/83)
Katonah, *Katonah Village Historic District*, Parkway, Valleyedge, Edgemont and Bedford Rds. (09/15/83)
Mount Kisco, *United Methodist Church and Parsonage*, 300 E. Main and 31 Smith Ave. (11/04/82)
Pelham Manor, *Pelhamdale*, 45 Iden Ave. (11/04/82)
Port Chester, *Putnam and Mellor Engine and Hose Company Firehouse*, 46 S. Main St. (09/15/83)
Rye, *Boston Post Road Historic District*, Roughly bounded by Boston Post Rd. and Milton Harbor (10/29/82)
Tarrytown, *First Baptist Church and Rectory*, 56 S. Broadway (07/21/83)
Yonkers, *Delavan Terrace Historic District*, Roughly bounded by Delaware Terr. and Palisade and Park Aves. (09/15/83)
Yonkers, *Smith, Alexander, Carpet Mills Historic District*, Roughly bounded by Saw Mill River Rd., Orchard St., Lake and Ashburton Aves. (08/11/83)
Yonkers, *Thompson, W.B., Mansion*, 1061 N. Broadway (10/29/82)

NORTH CAROLINA

Alamance County

Graham, *Graham Historic District*, E. and W. Harden, E. and W. Elm, N. and S. Main and W. Pine Sts. (04/07/83)
Mebane vicinity, *Griffis-Patton House*, NW of Melbane on SR 1927 (03/17/83)

Alexander County

Hiddenite, *Lucas Mansion*, Church St. (12/02/82)

Bertie County

Republican vicinity, *King-Freeman-Speight House*, W of Republican on NC 308 (12/02/82)

Buncombe County

Asheville, *Bryan, William Jennings, House*, 107 Evelyn Pl. (06/23/83)
Asheville, *Chestnut Hill Historic District*, Roughly bounded by Hillside, Washington, Broad, Hollywood, Orchards Sts. and Merrimon Ave. (03/17/83)
Black Mountain vicinity, *Black Mountain College Historic District*, SR 2468 (10/05/82)

Cabarrus County

Concord, *Odell-Locke-Randolph Cotton Mill*, Buffalo, Church, Peachtree, and Locust Sts. (03/28/83)

Caldwell County

Grandin vicinity, *Hagler, William, House*, N of Grandin on SR 1510 (12/28/83)

Chatham County

Pittsboro, *Clegg, Luther, House (Pittsboro MRA)*, S of Pittsboro on SR 1012 (10/05/82)
Pittsboro, *Freeman, Lewis, House (Pittsboro MRA)*, 205 W. Salisbury St. (10/05/82)
Pittsboro, *Hall-London House (Pittsboro MRA)*, 206 Hillsboro St. (10/05/82)
Pittsboro, *Kelvin (Pittsboro MRA)*, 503 W. Salisbury St. (10/05/82)
Pittsboro, *London Cottage (Pittsboro MRA)*, N of Pittsboro on SR 1516 (10/05/82)
Pittsboro, *McClenahan House (Pittsboro MRA)*, (10/05/82)
Pittsboro, *Moore-Manning House (Pittsboro MRA)*, 400 Hillsboro St. (10/05/82)
Pittsboro, *Reid House (Pittsboro MRA)*, 200 W. Salisbury St. (10/05/82)
Pittsboro, *St. Lawrence, Patrick, House (Pittsboro MRA)*, (10/05/82)
Pittsboro, *Terry, A. P., House (Pittsboro MRA)*, 601 Womack St. (10/05/82)

Cherokee County

Andrews, *Cover, Franklin Pierce, House*, SR 1388 (11/12/82)
Brasstown vicinity, *Campbell, John C., Folk School Historic District*, Off US 64 (08/22/83)

Clay County

Tusquitee vicinity, *Moore, John Covington, House*, SR 1307 (07/21/83)

Cleveland County

Shelby, *Central Shelby Historic District*, Roughly Washington St. from Gidney to Sumter; Graham and Warren St. to Morgan;

and Marion St. from Washington to Thompson St. (06/23/83)

Columbus County

Lake Waccamaw, *Lake Waccamaw Depot*, Flemington Ave. (07/21/83)

Cumberland County

Eastover vicinity, *Williams, Robert, House*, SR 1728 (07/21/83)
Fayetteville vicinity, *Gully Mill (Fayetteville MRA)*, S.R. 1839 (07/07/83)
Fayetteville, *Barge's Tavern (Fayetteville MRA)*, 519 Ramsey St. (07/07/83)
Fayetteville, *Hay Street Methodist Church (Fayetteville MRA)*, Hay St. at Ray and Old Sts. (07/07/83)
Fayetteville, *M & O Chevrolet Company (Fayetteville MRA)*, 412 W. Russell St. (07/07/83)
Fayetteville, *Phoenix Masonic Lodge No. 8 (Fayetteville MRA)*, 221 Mason St. (07/07/83)
Fayetteville, *Atlantic Coast Line Railroad Station (Fayetteville MRA)*, 472 Hay St. (07/07/83)
Fayetteville, *Camp Ground Methodist Church (Fayetteville MRA)*, Camp Ground Rd. (07/07/83)
Fayetteville, *Cape Fear and Yadkin Valley Railway Passenger Depot (Fayetteville MRA)*, 148 Maxwell St. (07/07/83)
Fayetteville, *Carolina Theater (Fayetteville MRA)*, 443 Hay St. (07/07/83)
Fayetteville, *Davis, John, House (Fayetteville MRA)*, 910 Arsenal Ave. (07/07/83)
Fayetteville, *Evans Metropolitan AME Zion Church (Fayetteville MRA)*, 301 N. Cool Spring St. (07/07/83)
Fayetteville, *Fayetteville Ice and Manufacturing Company: Plant and Engineer's House (Fayetteville MRA)*, 436 Rowan St. and 438 Rowan St. (07/07/83)
Fayetteville, *Fayetteville Mutual Insurance Company Building (Fayetteville MRA)*, 320 Hay St. (07/07/83)
Fayetteville, *First Baptist Church (Fayetteville MRA)*, 200 Old St. (07/07/83)
Fayetteville, *Haymount District (Fayetteville MRA)*, Roughly Hillside Ave. from Bragg Blvd. to Pershing St. (08/07/83)
Fayetteville, *Holt-Harrison House (Fayetteville MRA)*, 806 Hay St. (07/07/83)
Fayetteville, *Mallett House (Fayetteville MRA)*, 2720 Florence Dr. (07/07/83)
Fayetteville, *Market House Square District (Fayetteville MRA)*, Hay, Person, Green, and Gillespie Sts. (07/07/83)
Fayetteville, *McCall House (Fayetteville MRA)*, 822 Arsenal Ave. (07/07/83)
Fayetteville, *McDiarmid, William, House (Fayetteville MRA)*, 330 Dick St. (07/07/83)
Fayetteville, *McLean, Henry, House (Fayetteville MRA)*, 1006 Hay St. (07/07/83)
Fayetteville, *North Carolina Arsenal Site*, Off NC 87 (02/23/83
Fayetteville, *Oates, John A., House (Fayetteville MRA)*, 408 St. James Sq. (07/07/83)
Fayetteville, *Petterson, John E., House (Fayetteville MRA)*, 445 Moore St. (07/07/83)
Fayetteville, *Poe, Edgar Allan, House (Fayetteville MRA)*, 206 Bradford Ave. (07/07/83)
Fayetteville, *Prince Charles Hotel (Fayetteville MRA)*, 430 Hay St. (07/07/83)
Fayetteville, *Strange, Robert, Country House (Fayetteville MRA)*, 309 Kirkland Dr. (07/07/83)
Fayetteville, *Taylor-Utley House (Fayetteville MRA)*, 916 Hay St. (07/07/83)
Fayetteville, *U.S. Post Office (Fayetteville MRA)*, 301 Hay St. (07/07/83)
Fayetteville, *Waddill's Store (Fayetteville MRA)*, 220 Hay St. (07/07/83)
Grays Creek vicinity, *DeVane-MacQueen House*, NC 87 (07/21/83)
Grays Creek Vicinity, *McArthur-Council House*, SR 2244 (07/21/83)
Hope Mills vicinity, *Big Rockfish Presbyterian Church*, SR 2268 (07/21/83)

Dare County

Manteo, *Meekins, Theodore S., House*, 319 Sir Walter Raleigh St. (21/17/82)

Davidson County

High Point vicinity, *Spurgeon House*, W of High Point (04/23/83)
Lexington, *Holt, Dr. William Rainey, House*, 408 S. Main St. (06/23/83)

Forsyth County

Rural Hall, *Rural Hall Depot*, Depot St. (SR 1646) (07/21/83)
Vienna vicinity, *Schaub, John Jacob, House*, NE of Vienna off SR 1455 (10/07/82)
Winston-Salem, *Hylehurst*, 224 S. Cherry St. (07/21/83)
Winston-Salem, *Ludlow, Col. Jacob Lott, House*, 434 Summit St. (03/17/83)
Winston-Salem, *Nissen Building*, 310 W. Fourth St. (03/17/83)
Winston-Salem, *Salem Town Hall*, 301 S. Liberty St. (03/17/83)

Franklin County

Bunn vicinity, *Baker Farm*, SW of Bunn on SR 1720 (10/05/82)

Gaston County

Gastonia, *Gastonia High School*, S. York St. (03/17/83)
Lucia vicinity, *Carpenter, Andrew, House*, SR 1820 (03/17/83)

Guilford County

Greensboro, *Galloway, John Marion, House*, 1007 N. Elm St. (07/21/83)
Greensboro, *Latham-Baker House*, 412 Fisher Park Circle (11/12/82)
High Point, *Tomlinson Chair Manufacturing Company Complex*, 305 W. High St. (03/17/83)
Oak Ridge vicinity, *Benbow, Jesse, House II*, NC 150 (09/08/83)
Oak Ridge, *Oak Ridge Military Academy Historic District*, NC 150 and NC 150 and NC 68 (03/17/83)

Haywood County

Waynesville, *Boone-Withers House*, 305 Church St. (07/21/83)

Hertford County

Ahoskie vicinity, *King-Casper-Ward-Bazemore House*, W of A hoskie on NC 11 (11/26/82)
Murfreesboro vicinity, *Cedars, The*, SE of Murfreesboro off SR 1167 (09/22/83)
Murfreesboro *Myrick-Yeates-Vaughan House*, 327 W. Main St. (03/17/83)

Johnston county

Clayton Vicinity, *Ellington-Ellis Farm*, SR 1004 (07/21/83)
Clayton vicinity, *Stallings-Carpenter House*, SR 1713 (03/28/83)
Princeton, *Hastings-McKinnie House*, 201 S. Pierce St. (09/08/83)

Lee County

Sanford, *Temple Theatre*, 120 Carthage St. (09/08/83)

Mecklenburg County

Charlotte, *First Presbyterian Church*, 200 W. Trade St. (11/12/82)
Charlotte, *Overcarsh House*, 326 W. 8th St. (07/21/83)

Moore County

Cameron, *Cameron Historic District*, Carthage St. from US 1 to Seaboard RR tracks (03/17/83)
Carthage vicinity, *Blue, Daniel, House*, SR 1836 (07/21/83)
Pinehurst vicinity, *Lloyd-Howe House*, SW of Pinehurst (09/08/83)

Northampton County

Murfreesboro vicinity, *Parker, Francis, House*, W of Murfreesboro on US 158 (10/21/83)

Pasquotank County

Morgan's Corner vicinity, *Newland Road Site*, U.S. 17 (04/14/83)

Person County

Bushy Fork vicinity, *Henry-Vernon House*, S W of Bushy Fork on NC 49 (02/03/83)

Pitt County

Greenville, *Fleming, James L., House*, 302 S. Greene St. (07/21/83)

Polk County

Saluda, *Church of the Transfiguration*, Henderson and Charles Sts. (11/12/82)
Tryon vicinity, *Mills-Screven Plantation*, NE of Tryon on SR 1509 (02/17/83)

Richmond County

Rockingham, *Bank of Pee Dee Building (Rockingham MRA)*, 201 E. Washington St. (09/22/82)
Rockingham, *Hannah Pickett Mill No. 1 (Rockingham MRA)*, 300 King Edward St. (09/22/83)
Rockingham, *Roberdel Mill No. 1 Company Store (Rockingham MRA)*, 1106 Roberdel Rd. (09/22/83)
Rockingham, *U.S. Post Office and Federal Building (Rockingham MRA)*, 125 S. Hancock St. (09/22/83)
Rockingham, *Watson, H. C., House (Rockingham MRA)*, 526 Caroline St. (09/22/83)

Robeson County

Rowland vicinity, *Ashpole Presbyterian Church*, NW of Rowland off SR 1138 (10/19/82)

Rockingham County

Eden, *Dempsey-Reynolds-Taylor House*, 610 Henry St. (09/08/83)

Rowan County

Bear Poplar vicinity, *Hall Family House*, NE of Bear Poplar on NC 601 (10/05/82)
Cleveland vicinity, *Knox Farm Historic District*, Knox and Amity Hill Rds. (04/01/83)
Cleveland vicinity, *Third Creek Presbyterian Church and Cemetery*, SR 1973 (07/21/83)
Mill Bridge vicinity, *Owen-Harrison House*, Entrance off north side of SR 1768 (07/21/83)
Rockwell vicinity, *Bernhardt, George Matthias, House*, S of Rockwell on SR 2361 (11/26/82)
Woodleaf vicinity, *Bost, Henry Connor, House*, E of Woodleaf off US 601 (11/12/82)

Sampson County

Clinton, *Graves-Stewart House*, 600 College St. (09/08/83)

Scotland County

Laurinburg vicinity, *Laurel Hill Presbyterion Church*, SR 1321 and SR 1323 (08/18/83)
Silver Hill vicinity, *Monroe, Robert Nancy, House*, SR 1328 (03/17/83)

Surry County

Mt. Airy, *Carter, W F., House*, 418 S. Main St. (08/18/83)
Oak Grove vicinity, *Haystack Farm*, S of Oak Grove on SR 1480 (12/02/82)
Siloam vicinity, *Cundiff, C. C., House*, SR 2230 (07/21/83)

Swain County

Bryson City, *Frye-Randolph House and Fryemont Inn*, Fryemont Rd. (02/18/83)

Transylvania County

Brevard, *Breese, William, Jr., House*, 401 E. Main St. (06/23/83)

Wake County

Falls, *Falls of the Neuse Manufacturing Company*, Neuse River at SR 2000 (09/19/83)
Raleigh, *Moore Square Historic District*, Roughly bounded by Person, Morgan, Wilmington, and Davie Sts. (08/03/83)
Raleigh, *Lane-Bennett House*, 7408 Ebenezer Church Rd. (06/30/83)
Raleigh, *Lumsden-Boone Building*, 228 Fayetteville St. Mall (09/08/83)
Raleigh, *Professional Building*, 123–127 W Hargett and McDowell Sts. (09/08/83)

Watauga County

Boone, *Daniel Boone Hotel*, E. King St. (12/27/82)

Wilkes County

Wilkesboro, *St. Paul's Episcopal Church and Cemetery (Wilkesboro MRA)*, Cowles St. between Woodland Blvd. and West St. (10/19/82)

NORTH DAKOTA

Barnes County

Valley City, *Rudolf Hotel*, Central Ave. and 2nd St. (02/10/83)

Burleigh County

Bismarck, *Bismarck Tribune Building*, 22 N. 4th St. (10/22/82)
Bismarck, *Patterson, E. G.*, 412–414 Main St. (10/22/82)
Bismarck, *Soo Hotel*, 112–114 5th St. N. (05/09/83)

Cass County

Casselton, *Casselton Commercial Historic District*, Roughly bounded by Front and 1st St. between 6th and 8th Ave. (10/28/82)
Fargo, *Cole Hotel*, 401–407 Northern Pacific Ave. (05–09–83)
Fargo, *Fargo South Residential District*, Roughly by 5th and 17th Aves. S., 7th and 9th Sts. S. (09/19/83)
Fargo, *Fargo Theatre Building*, 314 Broadway (10/21/82)
Fargo, *Knerr Block, Floyd Block, McHench Building, and Webster and Coe Building*, 13, 15, 17–19, and 21–23 8th St. S. (05/12/83)
Fargo, *Powers Hotel*, 400 Broadway (05/12/83)

Emmons County

Linton vicinity, *Goldade, Johannes, House*, SE of Linton off ND 13 (01/27/83)

Golden Valley County

Sentinel Buttle, *Sentinel Butte Public School*, Byron St. (10/21/82)

Grand Forks County

Grand Forks, *DeRemer, Joseph Bell, House*, 625 Belmont Rd. (06/09/83)
Grand Forks, *Finks and Gokey Block (Downtown Grand Forks MRA)*, 414–420 DeMers Ave. (04/20/83)
Grand Forks, *Grand Forks Herald (Downtown Grand Forks MRA)*, 120–124 N. Fourth St. (11/30/82)
Grand Forks, *BPOE Lodge: Golden Block (Downtown Grand Forks MRA)*, 12 N. 4th St. (10/26/82)
Grand Forks, *Building at 201 S. 3rd St. (Downtown Grand Forks MRA)*, 201 S. 3rd St. (10/26/82)
Grand Forks, *Building at 205 DeMers Ave. (Downtown Grand Forks MRA)*, 205 DeMers Ave. (10/26/82)
Grand Forks, *Building at 312 Kittson Ave. (Downtown Grand Forks MRA)*, 312 Kittson Ave. (10/26/82)
Grand Forks, *Building at 317 S. 3rd St. (Downtown Grand Forks MRA)*, 317 S. 3rd St. (10/26/82)
Grand Forks, *Clifford Annex (Downtown Grand Forks MRA)*, 407–411 DeMers Ave. (10/26/82)
Grand Forks, *Dakota Block (Downtown Grand Forks MRA)*, 21 S. 4th St. (10/26/82)
Grand Forks, *Dinnie Block (Downtown Grand Forks MRA)* 109 N. 3rd Ave. (10/26/82)
Grand Forks, *Edgar Building (Downtown Grand Forks MRA)*, 314 Kittson Ave. (04/15/83)
Grand Forks, *Electric Construction Co. Building (Downtown Grand Forks MRA)*, 16 S. 4th St. (10/26/82)
Grand Forks, *First National Bank (Downtown Grand Forks MRA)*, 322 DeMers Ave. (10/26/82)
Grand Forks, *Flatiron Building (Downtown Grand Forks MRA)*, 323 Kittson Ave. (10/26/82)
Grand Forks, *Grand Forks City Hall (Downtown Grand Forks MRA)*, 404 N. 2nd Ave. (10/26/82)
Grand Forks, *Grand Forks Mercantile Co. (Downtown Grand Forks MRA)*, 124 N. 3rd St. (10/26/82)
Grand Forks, *Grand Forks Woolen Milils (Downtown Grand Forks MRA)*, 301 N. 3rd St. (10/26/82)
Grand Forks, *Hook and Ladder No. 1 and Hose Co. No. 2 (Downtown Grand Forks MRA)*, 215 S. 4th St. (10/26/82)
Grand Forks, *Iddings Block (Downtown Grand Forks MRA)*, 9 N. 3rd St. (10/26/82)
Grand Forks, *Lyons Garage (Downtown Grand Forks MRA)*, 214–218 N. 4th St. (10/26/82)
Grand Forks, *Masonic Temple (Downtown Grand Forks MRA)*, 413–421 Bruce Ave. (10/26/82)
Grand Forks, *New Hampshire Apartments (Downtown Grand Forks MRA)*, 105 N. 3rd St. (10/26/82)
Grand Forks, *Northern Pacific Depot and Freight House (Downtown Grand Forks MRA)*, 202 N. 3rd St. (10/26/82)
Grand Forks, *Odd Fellows Block (Downtown Grand Forks MRA)*, 23–25 S. 4th St. (10/26/82)
Grand Forks, *Red River Valley Brick Co. (Downtown Grand Forks MRA)*, 215 S. 3rd St. (10/26/82)
Grand Forks, *Roller Office Supply (Downtown Grand Forks MRA)*, 7 N. 3rd St. (10/26/82)
Grand Forks, *Speed Printing (Downtown Grand Forks MRA)*, 220 S. 3rd St. (10/26/82)
Grand Forks, *St. John's Block Commercial Exchange (Downtown Grand Forks MRA)*, 2 N. 3rd St. (10/26/82)
Grand Forks, *Stratford Building (Downtown Grand Forks MRA)*, 311 DeMers Ave. (10/26/82)
Grand Forks, *Telephone Co. Building (Downtown Grand Forks MRA)*, 24 N. 4th St. (10/26/82)
Grand Forks, *Viets Hotel (Richardson House) (Downtown Grand Forks MRA)*, 309–311 3rd St. S. (10/26/82)
Grand Forks, *Wright Block (Neil's Block) (Downtown Grand Forks MRA)*, 408–412 DeMers Ave. (10/26/82)

Hettinger County

New England, *Riverside*, 418 Main St. (05/12/83)

McHenry County

Velva, *Hotel Berry*, 100 W. Central Ave. (10/20/82)

McLean County

Wilton, *Holy Trinity Ukrainian Greek Orthodox Church*, Bismarck Ave. and 6th St. (10/22/82)

Morton County

Mandan, *Lewis and Clark Hotel*, 404 W. Main St. (05/09/83)

Ramsey County

Devils Lake, *St. Mary's Academy*, E. 7th St. (02/24/83)

Richland County

Galchutt vicinity, *South Wild Rice Church (St. John's Lutheran Church)*, SE of Galchutt at US 81 and C R 8 (10/22/82)

Wahpeton, *Wahpeton Hospital*, 720–722 Dakota Ave. (09/29/83)

Stutsman County

Jamestown, *St. James Catholic Church*, 622 1st Ave. South (10/22/82)

Ward County

Minot, *Union National Bank and Annex*, 2 N. Main and 7–11 E. Central Ave. (01/27/83)

OHIO

Allen County

Lima vicinity, *Breese, Griffith, Farm*, S of Lima at 2775 Fort Amanda Rd. (01/11/83)
Lima, *Adgate Block (Lima MRA)*, 300–306 S. Main St. (10/07/82)
Lima, *Armory LaTisona Building (Lima MRA)*, 440 S. Main St. (10/07/82)
Lima, *Cahill, Beck and R. C., Buildings (Lima MRA)*, 200–206 S. Main St. (10/07/82)
Lima, *Dorsey Building (Lima MRA)*, 208 S. Main St. (10/07/82)
Lima, *Elks Lodge (Lima MRA)*, 138 W. North St. (10/07/82)
Lima, *First National Bank and Trust Building (Lima MRA)*, 43–53 Public Sq. (10/07/82)
Lima, *Hotel Argonne (Lima MRA)*, 201 N. Elizabeth St. (10/07/82)
Lima, *Klaus Block (Lima MRA)*, 401–405 N. Main St. (10/07/82)
Lima, *Lima Cleaning and Pressing Company (Lima MRA)*, 436–438 S. Main St. (10/07/82)
Lima, *Linneman Building (Lima MRA)*, 210–212 S. Main St. (10/07/82)
Lima, *Martin Block and Kibby Block (Lima MRA)*, 140–146 S. Main St. (10/07/82)
Lima, *Neal Clothing (Terners') (Warlies Flower Shop) (Lima MRA)*, 74 Public Sq. (10/07/82)
Lima, *Ohio Theatre (Lima MRA)*, 122 W North St. (10/07/82)
Lima, *Renz Block (Lima MRA)*, 320 N. Main St. (10/07/82)
Lima, *U.S. Post Office (Lima MRA)*, 326 W. High St. (10/07/82)
Lima, *Union Block (Lima MRA)*, 20–38 Public Sq. (10/07/82)
Lima, *Wheeler Building (Lima MRA)*, 131–135 W. Market (10/07/82)

Ashtabula County

Ashtabula, *Ashtabula Harbor Light (U.S. Coast Guard Lighthouses and Light Stations on the Great Lakes TR)*, Ashtabula Harbor (08/04/83)
Jefferson, *Lake Shore & Michigan Southern Railroad Station*, 147 E. Jefferson St. (10/14/82)

Athens County

Athens, *Athens B & O Train Depot*, Depot St. (01/11/83)
Athens, *Beasley Building*, 93 W Union St. (10/07/82)

Belmont County

Bellaire, *Imperial Glass Company*, 29th and Belmont Sts. (09/08/83)
Brookside, *Frasier, Thomas T. and Wesley B. Houses*, 898 and 920 National Rd. (11/17/82)

Brown County

Aberdeen, *Maysville-Aberdeen Bridge*, Spans Ohio River between Maysville, KY, and Aberdeen, OH (08/30/83)
Ripley, *Farmers Branch State Bank of Ohio*, 14 Front St. (04/21/83)

Butler County

Hamilton, *Dayton-Campbell Historic District*, Roughly bounded by Buckeye, High, 6th, and 11 Sts. (06/30/83)
Hamilton, *Rentschler House*, 643 Dayton St. (04/21/83)
Oxford vicinity, *Austin-Magie Farm and Mill District*, N of Oxford at Four Mile Creek and Somerville Rd. (12/21/82)
Oxford vicinity, *Hunting Lodge Farm (Glen Ellen)*, NE of Oxford at 5349 Bonham Rd. (10/20/82)

Carroll County

Mechanicstown, *Herrington, John, House and Herrington Bethel Church*, 4070 Arbor Rd. NE (01/19/83)
Oneida, *Hull, Patrick, House*, 8187 Blade Rd. (12/15/82)

Clinton County

Wilmington, *Wilmington Commercial Historic District*, Roughly bounded by Columbus, Walnut, Sugartree, and Mulberry Sts. (10/14/82)

Coshocton County

Gambier vicinity, *Nichols, Eli, Farm* (11/29/82)

Cuyahoga County

Cleveland, *Cleveland West Pierhead Light (U.S. Coast Guard Lighthouses and Light Stations on the Great Lakes T R)*, Cleveland Harbor on Lake Erie (08/04/82)
Cleveland, *Allen Memorial Medical Library*, 11000 Euclid Ave. (11/30/82)
Cleveland, *Cleveland Home for Aged Colored People (Black History TR)*, 4807 Cedar Ave. (12/17/82)
Cleveland, *Halle Building* 1228 Euclid Ave. (09/08/83)
Cleveland, *House of Wills (Black History TR)*, 2491 E. 55th St. (12/17/82)
Cleveland, *Karamu House (Black History TR)*, 2355 E. 89th St. (12/17/82)
Cleveland, *Morgan, Garrett, House (Black History TR)*, 5202 Harlem Ave. (12/17/82)
Cleveland, *Shiloh Baptist Church (Black History TR)*, 5500 Scovill Ave. (12/17/82)
Cleveland, *St. John's AME Church (Black History TR)*, 2261 E. 40th St. (12/17/82)
Cleveland, *Universal Terminal Company Dock and Warehouse*, 5451 N. Marginal Rd. (09/08/83)
Cleveland, *Wade Park District*, Roughly bounded by E. 105 St., East Blvd., Chester and Euclid Aves. (12/02/82)
Lakewood, *Hackenberg, Harvey, House*, 1568 Grace Ave. (07/07/83)
Shaker Heights, *Commodore Apartment Building*, 15610 Van Aken Blvd. (04/21/83)

Darke County

Ansonia, *Brown Township Building*, Main and Weller Sts. (08/30/83)

Delaware County

Delaware vicinity, *Warren Tavern Complex*, U.S. 36 (08/30/83)
Delaware, *Delaware Public Library*, 101 N. Sandusky St. (01/11/83)
Delaware, *Sandusky Street Historic District*, 44 S. to 92 N. Sandusky, 47 E. to 31 W Winter, and 9 E. to 17 W William (12/17/82)
Sunbury vicinity, *Center Inn*, SE of Sunbury on OH 37 (01/11/83)

Erie County

Sandusky, *Barker School (Sandusky MRA)*, 1925 Barker St. (10/20/82)
Sandusky, *Barney, Freeland T., House (Sandusky MRA)*, 215–213 Fulton St. (10/20/82)
Sandusky, *Bates-Cockrem House (Sandusky MRA)*, 325 Lawrence St. (10/20/82)
Sandusky, *Bavarian Brewery (Sandusky MRA)*, 1816–1820 W. Jefferson St. (10/20/82)
Sandusky, *Bing's Hotel (Sandusky MRA)*, 302 E. Water St. (10/20/82)
Sandusky, *Boalt, John, House (Sandusky MRA)*, 631 Wayne St. (10/20/82)
Sandusky, *Boeckling Building (Sandusky MRA)*, 103–105 W. Shoreline Dr. (10/20/82)
Sandusky, *Boeckling, G. A., (side-paddlewheel steamboat)*, Jackson Steet Dock (03/03/83)
Sandusky, *Boeckling, G. A., House (Sandusky MRA)*, 614 Columbus Ave. (01/20/83)
Sandusky, *Boy with the Boot Fountain (Sandusky MRA)*, W. Washington St. Park (10/20/82)
Sandusky, *Cable, Frank, House (Sandusky MRA)*, 809 W. Washington St. (10/20/82)
Sandusky, *Cable, Laurence, House (Sandusky MRA)*, 910 W. Monroe St. (10/20/82)
Sandusky, *Campbell School (Sandusky MRA)*, 1215 Campbell St. (10/20/82)
Sandusky, *Coliseum (Sandusky MRA)*, Midway at Cedar Point (10/20/82)
Sandusky, *Columbus Avenue Historic District (Sandusky MRA)*, 102–162 Columbus Ave. (01/20/83)
Sandusky, *Commercial Banking & Trust Co. (Sandusky MRA)*, 115 E. Washington Row (10/20/82)
Sandusky, *Converse-Mertz Apartments (Sandusky MRA)*, 301–303 E. Washington St. (10/20/82)
Sandusky, *Cooke-Robertson House (Sandusky MRA)*, 412 Columbus Ave. (10/20/82)
Sandusky, *Cooke, Eleutheros, House (Sandusky MRA)*, 1415 Columbus Ave. (10/20/82)
Sandusky, *Cooke, Eleutheros, House (Sandusky MRA)*, 410 Columbus Ave. (10/20/82)
Sandusky, *Curtis, William D., House (Sandusky MRA)*, 1411 Hayes Ave. (10/20/82)
Sandusky, *Emmanuel Church (Sandusky MRA)*, 334 Columbus Ave. (10/20/82)
Sandusky, *Engels, Herman, House (Sandusky MRA)*, 117 Hancock St. (10/20/82)
Sandusky, *Engine House No. 1 (Sandusky MRA)*, 901 W. Market St. (10/20/82)
Sandusky, *Erie County Jail (Sandusky MRA)*, 204 W. Adams St. (10/20/82)
Sandusky, *Erie County Oil Products Co. (Sandusky MRA)*, 649 Tiffin Ave. (10/20/82)
Sandusky, *Facer's Store (Sandusky MRA)*, 279 E. Market St. (10/20/82)

Sandusky, *First Church of Christ Scientist (Sandusky MRA)*, 128 E. Adams St. (10/20/82)
Sandusky, *First Congregational Church (Sandusky MRA)*, 431 Columbus Ave. (10/20/82)
Sandusky, *Fox's Brewery-Diamond Wine Co. (Sandusky MRA)*, 334 Harrison St. (10/20/82)
Sandusky, *Godfrey—Johnson House (Sandusky MRA)*, 417 Columbus Ave. (10/20/82)
Sandusky, *Grace Episcopal Church (Sandusky MRA)*, 315 Wayne St. (10/20/82)
Sandusky, *Graefe, Henry, House (Sandusky MRA)*, 1429 Columbus Ave. (10/20/82)
Sandusky, *Harper, Rice, House (Sandusky MRA)*, 403 E. Washington St. (10/20/82)
Sandusky, *Hemminger Saloon (Sandusky MRA)*, 333 W. Market St. (10/20/82)
Sandusky, *Hinde & Dauch Paper Co. (Sandusky MRA)*, 409 W. Water St. (10/20/82)
Sandusky, *Hinde & Dauch Paper Co. (Sandusky MRA)*, 401 W. Shoreline Dr. (10/20/82)
Sandusky, *Hinde & Dauch Paper Co. (Sandusky MRA)*, 407 Decatur St. (10/20/82)
Sandusky, *Hinde, James J., House (Sandusky MRA)*, 317 Fulton St. (10/20/82)
Sandusky, *Holy Angels Church (Sandusky MRA)*, W. Jefferson St. at Tiffin Ave. and Clinton St. (10/20/82)
Sandusky, *Hubbard, Lester, House (Sandusky MRA)*, 134 E. Adams St. (10/20/82)
Sandusky, *Hubbard, S. B., House (Sandusky MRA)*, 1205 Columbus Ave. (10/20/82)
Sandusky, *Jackson Jr. High School (Sandusky MRA)*, 414 W. Madison St. (10/20/82)
Sandusky, *Kerber's Marine Grocery (Sandusky MRA)*, 1006 Tiffin Ave. (10/20/82)
Sandusky, *Kuebeler-Stang Block (Sandusky MRA)*, 634 Hancock St. (10/20/82)
Sandusky, *Kuebeler, August, House (Sandusky MRA)*, 1319 Tiffin Ave. (10/20/82)
Sandusky, *Lane, Ebenezer, House (Sandusky MRA)*, 318 Huron Ave. (10/20/82)
Sandusky, *Lea Block (Sandusky MRA)*, 174–186 E. Market St. (10/20/82)
Sandusky, *Lotz, Henry, Store (Sandusky MRA)*, 1119 W. Wasington St. (10/20/82)
Sandusky, *Mallroy, Ogden, House (Sandusky MRA)*, 410 Warren St. (10/20/82)
Sandusky, *March, George, House (Sandusky MRA)*, 532 Wayne St. (10/20/82)
Sandusky, *Marshall, James E., House (Sandusky MRA)*, 514 Wayne St. (10/20/82)
Sandusky, *McKenster-Groff House (Sandusky MRA)*, 334 E. Washington St. (10/20/82)
Sandusky, *Monroe School (Sandusky MRA)*, 328 E. Monroe St. (10/20/82)
Sandusky, *Moss-Foster House (Sandusky MRA)*, 621 Wayne St. (10/20/82)
Sandusky, *Muller, Daniel C., Carousel (Sandusky MRA)*, Midway at Cedar Point (10/20/82)
Sandusky, *Murschel House (Sandusky MRA)*, 1221 N. Depot St. (10/20/82)
Sandusky, *No. 5 Fire Station (Sandusky MRA)*, W. Madison and Tiffin Ave. (10/20/82)
Sandusky, *Oakland Cemetery Chapel and Superintendent's House and Office*, 2917 Milan Rd. (05/06/83)
Sandusky, *Ohio Theatre (Sandusky MRA)*, 205–211 W. Market St. (10/20/82)
Sandusky, *Old First Church (Sandusky MRA)*, 265 Jackson St. (10/20/82)
Sandusky, *Osborne School (Sandusky MRA)*, 922 W. Osborne St. (10/20/82)
Sandusky, *Red Popcorn Wagon (Sandusky MRA)*, 102 W. Washington Row (10/20/82)
Sandusky, *Root, Joseph, House (Sandusky MRA)*, 231 E. Adams St. (10/20/82)
Sandusky, *Ross Hardware (Sandusky MRA)*, 708 Hancock St. (10/20/82)
Sandusky, *Schine State Theatre (Sandusky MRA)*, 101–109 Columbus Ave. (10/20/82)
Sandusky, *Simpson, Walter, House (Sandusky MRA)*, 521 Hancock St. (10/20/82)
Sandusky, *Simpson, William A., House (Sandusky MRA)*, 230 E. Washington St. (10/20/82)
Sandusky, *St. Mary's Girls Grade School (Sandusky MRA)*, 514 Decatur St. (10/20/82)
Sandusky, *St. Mary's Rectory (Sandusky MRA)*, 429 Central Ave. (10/20/82)
Sandusky, *St. Mary's School (Sandusky MRA)*, 410 W. Jefferson St. (10/20/82)
Sandusky, *St. Stephens' AME Church (Sandusky MRA)*, 312 Neil St. (10/20/82)
Sandusky, *Stang, John, House (Sandusky MRA)*, 629 Columbus Ave. (10/20/82)
Sandusky, *Stoffel, Henry, Blacksmith Shop (Sandusky MRA)*, 321 E. Market St. (Rear) (10/20/82)
Sandusky, *Stoll, Adam J., House (Sandusky MRA)*, 531 Wayne St. (10/20/82)
Sandusky, *Stone's Block (Sandusky MRA)*, 202 Columbus Ave. (10/20/82)
Sandusky, *Sts. Peter & Paul Church and Rectory (Sandusky MRA)*, Columbus Ave. at E. Jefferson St. (01/20/83)
Sandusky, *Taylor-Frohman House (Sandusky MRA)*, 1315 Columbus Ave. (10/20/82)
Sandusky, *Third National Bank (Sandusky MRA)*, 220 W. Market St. (10/20/82)
Sandusky, *Townsend, William T., House (Sandusky MRA)*, 515 W. Washington St. (10/20/82)
Sandusky, *U.S. Coast Guard Building (Sandusky MRA)*, Cedar Point, off Perimeter Rd. (10/20/82)
Sandusky, *U.S. Post Office (Sandusky MRA)*, W. Washington & Jackson Sts. (10/20/82)
Sandusky, *Von Schulenburg, Ernst, House (Sandusky MRA)*, 922 W. Adams St. (10/20/82)
Sandusky, *Wadsworth, James, House (Sandusky MRA)*, 519 Huron Ave. (10/20/82)
Sandusky, *Wagner Palace (Sandusky MRA)*, 804–806 Hayes Ave. (10/20/82)
Sandusky, *West Market School (Sandusky MRA)*, 211 Fulton St. (10/20/82)
Sandusky, *Wichman's Grocery (Sandusky MRA)*, 1118 W. Washington St. (10/20/82)
Sandusky, *Zion Lutheran Church (Sandusky MRA)*, 501–503 Columbus Ave. (10/20/82)

Fairfield County

Baltimore vicinity, *Pugh-Kittle House*, 2140 Bickel Church Rd. (06/16/83)
Lancaster, *Lancaster Historic District*, Roughly bounded by 5th Ave., Penn Central RR tracks, OH 33 and Tennant St. (06/11/83)
West Rushville, *Ijams, Joseph, House*, Broad and Main Sts. (06/16/83)

Franklin County

Bexley, *Jeffrey, Malcolm, House* 358 N. Parkview (05/06/83)
Columbus, *Columbia Building*, 161–167 N. High St. (06/12/83)
Columbus, *Jaeger Machine Company Office Building*, 550 W. Spring St. (06/16/83)
Columbus, *Pierce, Elijah, Properties*, 534 E. Long St. and 142–44 N. Everett Alley (06/03/83)
Columbus, *Capital University Historic District*, E. Main St. and College Ave. (12/17/82)
Columbus, *Columbus Transfer Company Warehouse*, 55 Nationwide Blvd. (02/24/83)
Columbus, *Great Southern Hotel and Theatre*, S. High and E. Main Sts. (12/02/82)
Columbus, *Hamilton Park Historic District*, Broad and Long Sts. (07/28/83)
Columbus, *Jefferson Avenue Historic District*, Roughly bounded by I–71, E. Broad, 11th, and Long Sts. (12/02/82)
Columbus, *North Market Historic District*, Roughly bounded by W. Goodale, Park, High, Front and Vine Sts. (12/30/82)
Columbus, *Schlee-Kemmler Building*, 328 S. High St. (12/02/82)
Columbus, *Second Presbyterian Church*, 132 S. Third St. (01/11/83)
Columbus, *Valley Dale Ballroom*, 1590 Sunbury Rd. (12/17/82)

Fulton County

Wauseon, *Clement, George S., House*, 137 Clinton St. (04/21/83)

Geauga County

Chesterland, *Chester Township District School No. 2*, 7798 Mayfield Rd. (11/04/82)

Greene County

Fairborn, *Bath Township Consolidated School*, 221 N. Central Ave. (09/22/83)
Yellow Springs vicinity, *Grinnell Mill Historic District*, Grinnell Mill and Bryan Park Rd. (11/29/82)

Guernsey County

Cambridge, *Berwick Hotel*, 600–615 Wheeling Ave. (03/29/83)
Cambridge, *Broom Building*, 701 Wheeling Ave. (02/17/83)

Hamilton County

Cincinnati, vicinity, *Pine Meer (William C. Schott House)*, 5336 Cleves-Warsaw Pk. (11/30/82)
Cincinnati, *Madison and Woodburn Historic District*, Woodburn Ave. and Madison Rd. (06/30/83)
Cincinnati, *Main and Third Street Cluster*, 300–302, 304–306 Main St., and 208–210 E. 3rd St. (07/15/83)
Cincinnati, *Bauer Apartments*, 2015–2017 Madison Rd. (12/02/82)
Cincinnati, *Bernheim House*, 195 Greenhills Rd. (03/29/83)
Cincinnati, *Cincinnati Gymnasium and Athletic Club*, 111 Shillito Pl. (02/17/83)

Cincinnati, *Cincinnati Tennis Club*, Dexter and Wold Aves. (03/29/83)
Cincinnati, *East Walnut Hills Firehouse*, Madison Rd. and Hackberry St. (02/17/83)
Cincinnati, *Eckert Building*, 2600 Woodburn Ave. (09/29/83)
Cincinnati, *Krumberg, Theodore, Building*, 1201 Main St. (12/17/82)
Cincinnati, *Lillybanks*, 2386 Grandin Rd. (07/07/83)
Cincinnati, *Over-the-Rhine Historic District*, Roughly bounded by Dorsey, Sycamore, Liberty, Reading, Central Pkwy, McMicken Ave., and Vine Sts. (05/17/83)
Cincinnati, *Park Flats*, 2378–2384 Park Ave. (09/08/83)
Cincinnati, *Withrow High School*, 1488 Madison Rd. (01/19/83)
Montgomery, *Blair House*, 7844 Remington Rd. (11/30/82)

Hancock County

Findlay, *Linaweaver, Dr. Albert, House*, 1224 S. Main St. (09/29/83)

Huron County

Norwalk, *Dunton House*, Benedict Ave. (12/16/82)

Lake County

Willoughby, *Smart Building*, 4143–4145 Erie St. (09/29/83)

Licking County

Granville vicinity, *Bryn Mawr (Fassett's Folly)*, 3758 Lancaster Rd., SW (03/29/83)
Newark, *West Side Planing Mill*, 197 Maholm St. (01/21/83)
Pataskala, *Pataskala Banking Company (Pataskala MRA)*, 354 S. Main St. (09/22/83)
Pataskala, *Bethel Baptist Church (Pataskala MRA)*, Vine and Cedar Sts. (09/22/83)
Pataskala, *Casterton House (Pataskala MRA)*, 105 Broadway (09/22/83)
Pataskala, *Kauber, Warren F., Funeral Home (Pataskala MRA)*, 289 S. Main St. (09/22/83)
Pataskala, *Mead House (Wind Flower House) (Pataskala MRA)*, 245 S. Main St. (09/22/83)
Pataskala, *Pataskala Elementary School (Pataskala MRA)*, 396 S. High St. (09/22/83)
Pataskala, *Pataskala Jail (Pataskala MRA)*, Main St. (09/22/83)
Pataskala, *Pataskala Town Hall (Pataskala MRA)*, 430 Main St. (09/22/83)
Pataskala, *Pataskala United Methodist Church (Pataskala MRA)*, 458 S. Main St. (09/22/83)

Lorain County

Lorain, *Antlers Hotel*, SW. Erie and Washington Aves. (11/30/82)
Lorain, *U.S. Post Office*, Ninth St. and Broadway Ave. (12/09/82)

Lucas County

Toledo vicinity, *West Sister Island Light (U.S. Coast Guard Lighthouses and Light Stations on the Great Lakes TR)*, West Sister Island (08/04/83)
Toledo, *Gendron, Peter, House*, 1413 Walnut St. (03/03/83)
Toledo, *Riverview Apartments*, 1829–1837 Summit St. (04/21/83)
Toledo, *Spitzer Building*, 514–526 Madison Ave. (04/21/83)
Toledo, *St. Ann Roman Catholic Church Complex*, 1105 W. Bancroft and 1120 Horace Sts. (05/05/83)
Toledo, *Toledo Harbor Light (U.S. Coast Guard Lighthouses and Light Stations on the Great Lakes TR)*, Toledo Harbor (08/04/83)

Madison County

London, *Swetland House*, 147 E. High St. (01/11/83)

Medina County

Medina, *King-Phillips-Deibel House*, 506 N. Broadway St. (12/16/82)

Meigs County

Rock Springs, *Meigs County Fairgrounds, Grandstand and Racetrack*, OH 124 (11/29/82)

Mercer County

Celina, *Celina Main Street Commercial Historic District*, Roughly bounded by Walnut, W. Livingston, Ash and Warren Sts. (11/30/82)

Miami County

Piqua, *African Jackson Cemetery*, N of Piqua on Zimmerlin Rd. (12/16/82)
Tipp City, *Old Tippecanoe Main Street Historic District*, 5–439 W. Main St. and 3–225 E. Main St. (07/07/83)
Troy, *Dye, John Minor, Stone House*, 9 S. Children's Home Rd. (07/07/83)

Montomery County

Dayton, *Duncarrick*, Webster and Keowee Sts. (06/30/83)
Dayton, *Central Avenue Historic District*, 201–338 Central Ave. (12/16/82)
Dayton, *Commercial Building*, 44 S. Ludlow St. (12/02/82)
Dayton, *Eagles Building*, 320 S. Main St. (11/04/82)
Dayton, *First Lutheran Church*, 138 W. 1st St. (03/29/83)
Dayton, *Mutual Home & Savings Association Building*, 120 W. 2nd St. (12/16/82)
Dayton, *St. Mary Roman Catholic Church*, 543 Xenia Ave. (04/21/83)
Dayton, *Stengel, John S., House*, 325 W. 2nd St. (04/21/83)
Huber Heights, *Miami-Erie Canal Lock No. 70*, Fishburg and Endicott Rds. (12/20/82)

Morgan County

Ringgold vicinity, *Rock Hollow School*, S of Ringgold on SR 67 (01/11/83)

Morrow County

Mount Gilead, *Trimble, James S., House*, 187 Iberia St. (11/30/82)

Muskingum County

New Concord, *Stormont, David, House*, 103 W. Main St. (04/21/83)
Zanesville, *Arlington Hotel*, 722 Main St. (12/16/82)
Zanesville, *Belt Line and New York Central Freight House (Zanesville Historic Railroad Depots TR)*, 3rd and Market Sts. (03/24/83)
Zanesville, *Fairmont Avenue Historic District*, Fairmont Ave. (11/30/82)
Zanesville, *Pittsburgh, Cincinnati, and St. Louis Depot (Zanesville Historic Railroad Depots TR)*, Market St. (03/24/83)
Zanesville, *St. John's Lutheran Church*, Market and N. 7th Sts. (12/02/82)
Zanesville, *Zanesville YMCA*, 34 S. 5th St. (07/28/83)

Noble County

Harrietsville, *St. Henry Roman Catholic Church and Rectory*, 36573 County Rd. 47 (12/02/82)

Ottawa County

Lakeside, *Lakeside Historic District*, Roughly bounded by Lake Erie, RR tracks, Poplar and Oak Aves. (03/29/83)
Port Clinton vicinity, *Catawba Island Wine Company*, 3845 Wine Cellar Rd. (05/05/83)

Paulding County

Paulding, *Paulding County Carnegie Library*, 205 S. Main St. (04/21/83)

Portage County

Ravenna vicinity, *Beebe, Horace Y., House*, 6538 Cleveland Rd. (06/16/83)

Preble County

Eaton vicinity, *Christman, Daniel, Homestead*, W of Eaton on US 35 (11/04/82)

Richland County

Mansfield, *Barr, Jacob H., House (Park Avenue West MRA)*, 646 Park Ave., W. (07/08/83)
Mansfield, *Bissman, B. F., House (Park Avenue West MRA)*, 458 Park Ave., W. (07/08/83)
Mansfield, *Bissman, Peter, House (Park Avenue West MRA)*, 462 Park Ave., W. (07/08/83)
Mansfield, *Building at 240 Park Avenue West (Park Avenue West MRA)*, 240 Park Ave., W. (07/08/83)
Mansfield, *Central United Methodist Church (Park Avenue West MRA)*, 378 Park Ave., W. (07/08/83)
Mansfield, *Colonial, The (Park Avenue West MRA)*, 283 Park Ave., W. (07/08/83)
Mansfield, *Cook, J. M., House (Park Avenue West MRA)*, 429 Park Ave., W. (07/08/83)
Mansfield, *Douglas, S. M., House (Park Avenue West MRA)*, 437 Park Ave., W. (07/08/83)
Mansfield, *Dow House (Park Avenue West MRA)*, 564 Park Ave., W. (07/08/83)
Mansfield, *First English Lutheran Church (Park Avenue West MRA)*, 53 Park Ave., W. (07/08/83)
Mansfield, *Fraser House (Park Avenue West MRA)*, 681 Park Ave., W. (07/08/83)
Mansfield, *Kern, Rufus A., House (Park Avenue West MRA)*, 608 Park Ave., W. (07/08/83)
Mansfield, *Krause, John, House (Park Avenue West MRA)*, 428 Park Ave., W. (07/08/83)
Mansfield, *Mansfield Women's Club (Park Avenue West MRA)*, 145 Park Ave., W. (07/08/83)
Mansfield, *Mansfield, Judge, House (Park Avenue West MRA)*, 228 Park Ave., W. (07/08/83)

Mansfield, *Mechanics Building and Loan Company (Park Avenue West MRA)*, 2 S. Main St. (07/08/83)
Mansfield, *Ohio State Reformatory*, Olivesburg Rd. (04/14/83)
Mansfield, *Ohio Theatre (Park Avenue West MRA)*, 136 Park Ave. W. (05/31/83)
Mansfield, *Old Carriage Barn (Park Avenue West MRA)*, 337 Park Ave., W. (07/08/83)
Mansfield, *Pacific Curios Antiques (Park Avenue West MRA)*, 365 Park Ave., W. (07/08/83)
Mansfield, *Park Avenue Baptist Church (Park Avenue West MRA)*, 296 Park Ave., W. (07/08/83)
Mansfield, *Richland Trust Building (Park Avenue West MRA)*, 3 Park Ave., W. (07/08/83)
Mansfield, *Sandiford, Robert, House (Park Avenue West MRA)*, 544 Park Ave., W. (07/08/83)
Mansfield, *Sherman, John, Memorial Gateway (Park Avenue West MRA)*, 699 Park Ave., W. (07/08/83)
Mansfield, *Spreng, Wilfred J., House (Park Avenue West MRA)*, 414 Park Ave., W. (07/08/83)
Mansfield, *Stewart Towers (Park Avenue West MRA)*, 13 Park Ave., W. (07/08/83)
Mansfield, *Sturges, Susan, House (Park Avenue West MRA)*, 317 Park Ave., W. (07/08/83)
Mansfield, *Tappan House (Park Avenue West MRA)*, 308 Park Ave., W. (07/08/83)
Mansfield, *Upson House (Park Avenue West MRA)*, 234 Park Ave., W. (07/08/83)
Mansfield, *Ward, W. S., House (Park Avenue West MRA)*, 350 Park Ave., W. (07/08/83)

Ross County

Hallsville vicinity, *Buchwalter House-Applethorpe Farm*, 292 Whissler Rd. (05/26/83)

Sandusky County

Fremont, *Fabing, Frederick, House*, 201 S. Park Ave. (05/26/83)
Lindsey vicinity, *Overmyer-Waggoner-Roush Farm*, 654 S. Main St. (09/08/83)

Scioto County

Portsmouth, *Hurth Hotel*, 222 Chillicothe St. (07/28/83)

Seneca County

New Riegel, *St. Boniface Roman Catholic Church, School, Rectory, and Convent of the Sister of the Precious Blood*, N. Perry St. (11/17/82)

Stark County

Canal Fulton, *Canal Fulton Historic District*, Ohio-Erie Canal, Market, Canal, Cherry and High Sts. (12/02/82)
Canton, *Mellett-Canton Daily News Building*, 401 W. Tuscarawas St. (04/21/83)
Canton, *Ridgewood Historic District*, Roughly bounded by Market and Gibbs Ave., and 21st and 24th Sts. (12/19/82)
Massillon vicinity, *Kettering, William, Homestead*, N of Massillon at 5509 Wales Ave. (01/11/83)
Wilmot vicinity, *Serquet, Emanuel and Frederick, Farm*, N of Wilmot at 14091 Stoneford (12/02/82)

Summit County

Akron, *Akron Post Office and Federal Building*, 168 E. Market St. (05/26/83)
Akron, *Akron Public Library*, 69 E. Market St. (01/19/83)
Akron, *Merriman, Wells E., House*, 641 W. Market St. (09/29/83)
Akron, *Young Women's Christian Association*, 146 S. High St. (11/04/82)

Trumbull County

Southington Township, *Harshman, Charles, House*, 3932 Painesville-Warren State Rd., NW (07/07/83)
Girard, *Barnhisel, Henry II, House*, 1011 N. State St. (12/19/82)
Warren, *Warren Commercial Historic District*, Roughly bounded by Mahoning, Monroe, Franklin and Pines Sts. (06/16/83)

Van Wert County

Van Wert, *Van Wert Bandstand*, Van Wert County Farigrounds, OH 127 (10/14/82)

Warren County

Lebanon vicinity, *Stokes, Benjamin A., House*, 5587 OH 48 (07/18/83)

Washington County

Lowell vicinity, *Sprague, Jonathan, House*, W of Lowell off OH 60 (01/11/83)
Marietta, *Mississippi III*, 237 Front St. (09/21/83)
Marietta, *Cisler Terrace*, 7th and Ephraim Cutler Sts. (01/19/83)

Wood County

Rossford, *Eagle Point Colony Historic District*, Colony Rd. Riverside, Eagle Point, Park, and Forest Drs. (09/22/83)

OKLAHOMA

Beaver County

Knowles, *Knowles Grain Elevator (Woodframe Grain Elevators of Oklahoma Panhandle TR)*, U.S. 64 (05/13/83)
Turpin, *Turpin Grain Elevator (Woodframe Grain Elevators of Oklahoma Panhandle TR)*, Off U.S. 64 (05/13/83)
Rosston vicinity, *Old Settler's Irrigation Ditch*, Intersects US 283 N of Rosston (07/27/83)

Beckham County

Elk City, *Hedlund Motor Company Building*, 206 S. Main (09/22/83)

Blaine County

Okeene vicinity, *Shinn Family Barn*, SE of Okeene (03/10/83)
Southard vicinity, *Old Salt Works*, SE of Southard (07/28/83)
Southard, *Old Plant Office Building, U.S. Gypsum Co.*, OK 51A (05/13/83)
Watonga vicinity, *Cronkhite Ranch House*, N of Watonga off OK 51A (09/22/83)
Watonga, *Wagner, J. H., House*, 521 N. Prouty Ave. (03/10/83)

Canadian County

El Reno, *Rock Island Depot*, 400 W. Wade St. (03/07/83)
Yukon vicinity, *West Point Christian Church*, SW of Yukon (09/02/83)

Carter County

Ardmore, *Ardmore Historic Commercial District*, Main St. and Hinkle Ave. (03/14/83)

Cleveland County

Stella vicinity, *Mardock Mission*, SE of Stella off OK 9 (03/14/83)

Comanche County

Lawton, *Mahoney-Clark House*, 513–515 W. Gore Ave. (12/08/82)

Cotton County

Walters, *First United Methodist Church*, 202 E. Oklahoma (09/15/83)

Creek County

Drumright vicinity, *Wheeler No. 1 Oil Well*, Off OK 99 (03/14/83)

Custer County

Weatherford, *Owl Balcksmith Shop*, 208 W. Rainey (07/27/83)

Delaware County

Bassett Grove Ceremonial Grounds, (07/20/83)
Grove, *Corey House/Hotel*, N. Main at 2nd St. (12/17/82)

Harper County

Buffalo, *I.O.O.F. Building of Buffalo*, 110 W. Truner St. (07/14/83)
Buffalo, *Monhollow Artificial Stone House*, Off US 183 (07/14/83)

Hughes County

Holdenville, *Turner, John E., House*, 401 E. 10th St. (01/27/83)
Stuart, *Stuart Hotel*, Off US 270 (10/07/82)

Mayes County

Chouteau, *Farmers and Merchants Bank*, 201 W. Main St. (07/14/83)
Chouteau, *Territorial Commercial District*, Main St. (09/22/83)
Salina, *Lewis Ross/Cherokee Orphan Asylum Springhouse*, Off OK 20 (08/18/83)

Muskogee County

Muskogee, *Railroad Exchange Building (Pre-Depression Muskogee Skyscrapers TR)*, Second and Courts Sts. (08/11/83)
Muskogee, *Escoe Building*, 228–230 N. 2nd St. (07/14/83)
Muskogee, *Manhattan Building (Pre-Depression Muskogee Skyscrapers TR)*, 325 W. Broadway (08/11/83)

Oklahoma County

Oklahoma City, *Avery Building (Red Brick Warehouses of Oklahoma City TR)*, 15 E. California Ave. (08/12/83)
Oklahoma City, *Case, J. I., Plow Works Building (Red Brick Warehouses of Oklahoma City TR)*, 2 E. California Ave. (08/12/83)
Oklahoma City, *Kingman-More Building (Red Brick Warehouses of Oklahoma City TR)*, 100 E. California Ave. (08/12/83)
Oklahoma City, *Mesta Park*, Roughly bounded by NW 16th and 23rd St. and Western and Walker Aves. (07/26/83)

Oklahoma City, *Mideke Supply Building (Red Brick Warehouses of Oklahoma City TR)*, 100 E. Main St. (08/12/83)
Oklahoma City, *Miller-Jackson Building (Red Brick Warehouses of Oklahoma City TR)*, 121 E. California Ave. (08/12/83)
Oklahoma City, *Oklahoma Hardware Building (Red Brick Warehouses of Oklahoma City TR)*, 27 E. California Ave. (08/12/83)
Oklahoma City, *Rock Island Plow Building (Red Brick Warehouses of Oklahoma City TR)*, 29 E. Reno Ave. (08/12/83)
Oklahoma City, *Sherman Machine and Iron Works Building (Red Brick Warehouses of Oklahoma City TR)*, 28 E. Main St. (08/12/83)
Oklahoma City, *Stanford Furniture Co. Building (Red Brick Warehouses of Oklahoma City TR)*, 1 E. Sheridan Ave. (08/12/83)
Oklahoma City, *Wells Fargo Depot (Red Brick Warehouses of Oklahoma City TR)*, 115 E. Reno Ave. (08/12/83)
Oklahoma City, *Farmers Public Market*, 311 S. Klein St. (12/02/82)
Oklahoma City, *Goodholm House*, 3101 W. Gen. Pershing Blvd. (03/30/83)
Oklahoma City, *Luster, Melvin F., House*, 300 N.E. 3rd St. (06/07/83)
Oklahoma City, *Spanish Village Historic District*, 2909–3024 Paseo (02/24/83)

Okmulgee County

Henryetta, *Henry, Hugh, House*, N. 3rd St. (08/18/83)
Okmulgee, *St. Anthony's Catholic Church*, 515 S. Morton St. (07/14/83)
Okmulgee, *Okmulgee Public Library*, 218 S. Okmulgee Ave. (07/28/83)

Ottawa County

Miami vicinity, *Peoria Indian School (Confederated Peoria Indian TR)*, E of Miami (03/21/83)
Miami vicinity, *Peoria Tribal Cemetery (Confederated Peoria Indian TR)*, E of Miami (03/21/83)
Miami, *Coleman Theater*, 1st and Main Sts. (05/19/83)
Miami, *Coleman, George L., Sr., House*, 1001 Rockdale St. (05/09/83)
Miami, *Commerce Building/Hancock Building*, 103 E. Central (05/09/83)

Payne County

Stillwater, *Hoke Building (Comercial Buildings in Stillwater TR)*, 121 W. 7th Ave. (09/12/83)
Stillwater, *Selph Building (Comercial Buildings in Stillwater TR)*, 119 W. 7th Ave. (09/12/83)
Stillwater, *Walker Building (Comercial Buildings in Stillwater TR)*, 117 W. 7th Ave. (09/12/83)

Pottawatomie County

Asher vicinity, *Sacred Heart Mission Site*, Off OK 39 (09/15/83)
Shawnee, *Beard Cabin (Shawnee Histroric Homes TR)*, Woodland Park (04/08/83)
Shawnee, *Governor's Mansion (Giza House) (Shawnee Historic Homes TR)*, 618 N. Park St. (01/21/83)
Shawnee, *Kerfoot House (Shawnee Historic Homes TR)*, 740 N. Beard St. (01/21/83)
Shawnee, *Nuckolls House (Shawnee Historic Homes TR)*, 200 E. Federal St. (01/21/83)
Shawnee, *Walker House (Shawnee Historic Homes TR)*, 1801 N. Broadway (04/08/83)

Rogers County

Chelsea, *Hogue House*, 1001 S. Olive St. (12/17/82)
Claremore, *Mendenhall's Bath House*, 601 E. 7th St. (03/23/83)
Oologah, *Oologah Pump*, Maple and Cooweescoowee Sts. (12/17/82)

Stephens County

Marlow, *Montgomery-Liman House*, 301 N. 5th St. (09/22/83)

Texas County

Adams, *Adams Woodframe Grain Elevator (Woodframe Grain Elevators of Oklahoma Panhandle TR)*, N of OK 3 (05/13/83)
Baker, *Baker Woodframe Elevator (Riffe & Gilmore Co.) (Woodframe Grain Elevators of Oklahoma Panhandle TR)*, SR 2847 (05/13/83)
Baker, *Baker Woodframe Grain Elevator (Baker Kimber Co.) (Woodframe Grain Elevators of Oklahoma Panhandle TR)*, Off U.S. 64 (05/13/83)
Eva, *Eva Woodframe Grain Elevator (Woodframe Grain Elevators of Oklahoma Panhandle TR)*, OK 95 (05/13/83)
Hooker, *Hooker Woodframe Grain Elevator (Woodframe Grain Elevators of Oklahoma Panhandle TR)*, Off Texas Ave. (05/13/83)
Hough, *Hough Woodframe Elevator (Woodframe Grain Elevators of Oklahoma Panhandle TR)*, OK 95 (05/13/83)
Mouser, *Mouser Woodframe Grain Elevator/Collingwood Elevator (Woodframe Grain Elevators of Oklahoma Panhandle TR)*, Off SR 136 (05/13/83)
Muncey, *Tracey Woodframe Grain Elevator (Woodframe Grain Elevators of Oklahoma Panhandle TR)*, N of U.S. 64 (05/13/83)
Optima, *Optima Grain Elevator (Woodframe Grain Elevators of Oklahoma Panhandle TR)*, U.S. 54 (05/13/83)

Tulsa County

Tulsa, *Maple Ridge Historic Residential District*, Roughly bounded by Hazel Blvd., S. Peoria Ave., 14th St., and Railroad (04/06/83)
Tulsa, *St. John Vianney Training School for Girls*, 4001 E. 101st St. (06/07/83)

Wagoner County

Wagoner, *First National Bank of Wagoner*, 114 E. Cherokee St. (03/10/83)

Woods County

Alva, *Science Hall*, Nothwestern Oklahoma State University (07/14/83)

OREGON

Benton County

Corvallis vicinity, *Rickard, Peter, Farmstead*, SW of Corvallis (09/15/83)
Corvallis, *Woodward, Elias, House*, 442 NW 4th St. (08/11/83)

Clackamas County

Canby vicinity, *Kraft-Brandes-Culbertson Farmstead*, N of Canby at 2525 N. Baker Dr. (11/01/82)
Oregon City, *Babcock, Charles C., House*, 1214 Washington St. (10/29/82)
Oregon City, *Storey, George Lincoln, House*, 910 Pierce St. (03/10/83)

Clatsop County

Astoria, *Clatsop County Jail (Old)*, 732 Duane St. (05/19/83)

Columbia County

St. Helens, *Cox-Williams House*, 280 S. 1st St. (11/01/82)

Coos County

Coos Bay, *Marshfield Elks Temple*, 195 S. 2nd St. (05/19/83)
Coquille, *Paulson, John E. and Christina, House*, 86 N. Dean St. (08/11/83)

Deschutes County

LaPine vicinity, *I.O.O.F. Organization Camp, Paulina Lake*, Deschutes National Forest (07/14/83)

Douglas County

Myrtle Creek, *Rice Brother and Adams Building*, 136 Main St. (08/11/83)

Grant County

Dayville, *Dayville Hotel*, Franklin St. (03/10/83)
Granite vicinity, *Fremont Powerhouse*, Umatilla National Forest (08/19/83)

Harney County

Burns vicinity, *Double-O Ranch Site*, (10/25/82)

Jackson County

Ashland, *Chappel-Swedenburg House*, 990 Siskiyou Blvd. (11/30/82)
Ashland, *Lithia Park*, 59 Winburn Way (11/22/82)
Ashland, *Nininger, Amos and Vera, House*, 80 Hargadine St. (10/29/82)
Medford, *Clark, Frank Chamberlain, House*, 1917 E. Main St. (10/29/82)
Medford, *Fluhrer Bakery Buillding*, 29 N. Holly St. (05/16/83)
Medford, *Hafer, Edgar F., House*, 428 W. 6th St. (09/01/83)
Medford, *Pickel, Dr. E. B., Rental House*, 815 W. Main St. (10/29/82)

Josephine County

Grants Pass, *Ahlf, John and Susanna, House*, 726 NW 6th St. (05/09/83)
Grants Pass, *Flanagan, Dr. William H., House*, 720 NW 6th St. (05/09/83)
Grants Pass, *Smith, Herbert and Katherine, House*, 139 SW I St. (05/09/83)

Lake County

Lakeview, *Nevada-California-Oregon Railway Passenger Station*, 1400 Center St. (08/22/83)

Lane County

Eugene, *Alpha Tau Omega Fraternity House (Old)*, 1143 Oak St. (09/01/83)
Eugene, *Eugene Hotel*, 222 E. Broadway (10/07/82)
Springfield, *Springfield General Hospital*, 846 F St. (09/01/83)

Linn County

Albany, *Albany Downtown Commercial Historic District*, Roughly bounded by Willamette River, Montgomery, Washington, and 5th Sts. (12/09/82)
Brownsville, *Cooley, George C., House*, 220 Blakely Ave. (05/09/83)
Brownsville, *Starr and Blakely Drug Store*, 421 N. Main St. (10/29/82)
Morin Forks vicinity, *Independence Prairie Ranger Station*, Willamette National Forest (03/29/83)

Marion County

Salem, *First Methodist Episcopal Church of Salem*, 600 State St. (05/09/83)
Salem, *Robertson, Dr. and Mrs. Charles G., House and Garden*, 460 S. Leffelle St. (05/19/83)
Salem, *South First National Bank Block*, 241–247 Commercial St., NE (03/31/83)
Sublimity, *Silver Falls State Park Concession Building Area*, 20024 Silver Falls Hwy. (06/30/83)

Morrow County

Heppner, *Heppner Hotel*, 124 N. Main St. (10/29/82)

Multnomah County

Portland, *Barnes, Frank C., House*, 3533 NE Klickitat (09/01/83)
Portland, *Benson, Simon, House*, 1504 SW 11th Ave. (08/11/83)
Portland, *Bergman, Joseph, House*, 2134 NW Hoyt St. (09/01/83)
Portland, *Clovelly Garden Apartments*, 6309 NE Union Ave. (05/19/83)
Portland, *Dolph Building*, 615 SW Broadway (09/01/83)
Portland, *Grand Stable Building and Adjacent Commercial Building*, 415–421 SW 2nd Ave. (10/07/82)
Portland, *Hochapfel, Edward C., House*, 1520 SW 11th Ave. (08/11/83)
Portland, *Hollywood Theatre*, 4122 NE Sandy Blvd. (09/01/83)
Portland, *Lytle, Robert F., House*, 1914 NE 22nd Ave. (05/19/83)
Portland, *Mizpah Presbyterian Church of East Portland*, 2456 SE Tamarack Ave. (05/19/83)
Portland, *Spalding Building*, 319 SW Washington St. (10/07/82)
Portland, *Swedish Evangelical Mission Convenant Church*, 1624 NW Glisan St. (10/07/82)
Portland, *Tanner, Albert H., House*, 2248 NW Johnson St. (03/11/83)
Portland, *White, Catherine, House*, 1924 SW 14th Ave. (03/10/83)
Portland, *Whitney and Gray Building and Jake's Famous Crawfish Restaurant*, 401–409 SW 12th Ave. (08/11/83)
Portland, *Wickersham Apartments, 410 NW 18th Ave. (03/10/83)*

Umatilla County

Weston, *Weston Commercial Historic District*, E. Main St., between Water and Broad Sts. (10/05/82)

Union County

La Grande, *Slater Building, 216–224 Fir St. (08/11/83)*

Yamhill County

McMinnville, *Fenton, Frank W., House*, 434 N. Evans St. (09/01/83)

PENNSYLVANIA

Allegheny County

Pittsburgh, *Schenley Farms Historic District*, Roughly bounded by Andover Terr., Centre, Bellefield, and Parkman Aves., Dithridge, Thackeray, Forbes and Mawhinney Sts. (07/22/83)
Pittsburgh, *Hartley-Rose Belting Company Building*, 425–427 1st Ave. (08/25/83)
Thornburg, *Thornburg Historic District*, Off PA 60 (12/10/82)
Upper St. Clair, *Boyce Station*, 1050 Boyce Rd. (11/14/82)

Armstrong County

Apollo, *Drake Log Cabin*, Williams Alley (03/03/83)

Beaver County

New Brighton, *Merrick Art Gallery*, 5th Ave. and 11th St. (08/05/83)

Bedford County

Everett vicinity, *Juniata Woolen Mill and Newry Manor*, W of Everett on Lutzville Rd. (03/31/83)

Berks County

Birdsboro, *St. Michael's Protestant Episcopal Church, Parish House and Rectory*, Mill and Church Sts. (12/20/82)
East Berkley, *Davies House*, Berkley Rd. (11/14/82)
Oley Township, *Oley Township Historic District*, PA 73 (03/11/83)
Stouchsburg, *Spicker, Peter, House*, 150 Main St. (04/22/83)

Bucks County

Buckingham vicinity, *Byecroft Farm Complex*, Off US 202 (09/09/83)
Solebury, *Phillips Mill Historic District*, River Rd. between Limeport and Chapel Rd. (06/30/83)

Chester County

Downingtown vicinity, *Bridge Mill Farm*, Marshall Rd. (03/09/83)
Glen Moore, *Pleasant Hill Plantation*, Little Conestoga Rd. (02/24/83)
New London vicinity, *Thompson Farm*, 632 Chambers Rock Rd. (07/14/83)
Paoli vicinity, *Great Valley Mill*, 72 N. Valley Rd. (09/01/83)
Parkerford, *Parker's Ford*, Old Schuylkill Rd. (03/17/83)
Strafford, *Cromond*, 95 Crestline, Rd. (06/30/83)
West Chester, *Farmers and Mechanics Trust Company Building*, Market and High Sts. (01/06/83)
West Chester, *New Century Clubhouse*, High and Lacey Sts. (02/24/83)

Columbia County

Bloomsburg, *Bloomsburg Historic District*, Roughly bounded by Penn, 5th West, Willow, Millville and Light Sts. (09/08/83)

Crawford County

Springboro vicinity, *Shadeland*, N of Springboro on PA (05/06/83)

Cumberland County

Mechanicsburg, *Irving Female College*, Filbert, Main, and Simpson Sts. (05/06/83)
Mechanicsburg, *Mechanicsburg Commercial Historic District*, Main St. from Arch to High St. (04/21/83)
Mechanicsburg, *Simpson Street School*, Simpson & High Sts. (02/24/83)
Newville vicinity, *Sterrett-Hassinger House*, Three Squares Hollow Rd. (09/15/83)

Dauphin County

Harrisburg, *Colonial Theatre*, 3rd and Market Sts. (11/09/82)
Harrisburg, *Greenawalt Building*, 118–120 Market St. (02/24/83)
Harrisburg, *Harrisburg Technical High School*, 423 Walnut St. (12/07/82)
Harrisburg, *Kunkel Building*, 301 Market St. (11/09/82)
Harrisburg, *Midtown Harrisburg Historic District*, Roughly bounded by Susquehanna River, Forster, Verbeke, and 3rd Sts. (04/21/83)
Harrisburg, *Old Downtown Harrisburg Commercial Historic District*, Dewberry, Chestnut, Blackberry, and S. 3rd Sts. (07/14/83)
Harrisburg, *Senate Hotel*, 122 Market St. (12/16/82)
Hershey, *Hershey, Milton S., Mansion*, Mansion Rd. and Chocolate Ave. (07/01/83) NHL

Delaware County

Glen Mills, *Newlin Mill Complex*, S. Cheyney Rd. (03/09/83)
Villanova, *Camp-Woods*, 745 Newtown Rd. (09/01/83)

Erie County

Erie, *Watson-Curtze Mansion*, 356 W. 6th St. (07/16/83)
Erie, *Cashiers House and Cooch House (Boundary Increase)*, 413 State St., 11 E. 4th St. (03/09/83)
Erie, *Presque Isle Light (U.S. Coast Guard Lighthouses and Light Stations on the Great Lakes TR)*, Presque Isle Peninsula on Lake Erie (08/04/83)
North East, *Short's Hotel*, 90 S. Pearl St. (08/25/83)

Franklin County

Lamasters vicinity, *Findlay Farm*, 6801 Findlay Rd. (04/21/83)
Waynesboro vicinity, *Welty's Mill Bridge*, S of Waynesboro on PA 997 (01/06/83)

Greene County

West Findley vicinity, *Fisher Site (36GR21)*, (11/15/82)

Indiana County

Indiana, *Indiana Borough 1912 Municipal Building*, 39 7th St. (09/07/83)
Robinson and vicinity, *Western Division of the PA Canal*, Along the Conemaugh River (11/14/82)

Jefferson County

Brookville, *Brookville Presbyterian Church and Manse*, White and Main Sts. (11/26/82)

Lackawanna County

Carbondale, *Carbondale City Hall and Courthouse*, One N. Main St. (01/06/83)

Lancaster County

Columbia, *Columbia Historic District*, Roughly bounded by Susquehanna River, Union, Cedar, 4th, and 5th Sts., Chestnut to 9th St. (05/06/83)
Lancaster, *New Era Building*, 39–41 N. Queen St. (07/14/83)
Lancaster, *Kirk Johnson Building*, 16–18 W. King St. (07/07/83)
Lancaster, *Krauskap, Henry, House and Store*, 301–303½ W. King St. (10/07/82)
Lancaster, *Lancaster Crematorium*, Greenwood Cemetery, 719 Highland Ave. (04/14/83)
Lancaster, *Stevens High School*, W. Chestnut and Charlotte Sts. (06/30/83)
Lititz, *Congregational Store*, 120–122 E. Main St. (01/06/83)
Marietta, *Linden House*, 606 E. Market St. (01/06/83)
Mascot, *Mascot Roller Mills (Ressler's Mill)*, Newport and Stumptown Rds. (09/29/83)
Maytown, *Grove Mansion*, 133 River Rd. (04/21/83)
Strasburg, *Strasburg Historic District*, E. and W. Main, W. Miller, S. Decatur Sts. (03/03/83)

Lehigh County

Allentown, *High German Evangelical Reformed Church*, 620 Hamilton St. (07/28/83)

Luzerne County

Nescopeck vicinity, *Evans, Benjamin, House*, Off PA 93 (08/25/83)

McKean County

Bradford, *Barrett, Rufus, Stone House*, 11 Boylston St. (11/14/82)

Montgomery County

Glenside, *Keswick Theatre*, 291 Keswick Ave. (06/30/83)
Huntingdon Valley, *Lady Washington Inn*, 2550 Huntingdon Pike (11/26/82)
Norristown vicinity, *Cold Point Historic District*, I–276, Butler Pike, Militia Hill and Narcissa Rds. (09/09/83)
Port Kennedy, *Kennedy Mansion*, 1050 Valley Forge Rd. (06/21/83)

Northampton County

Easton, *Easton Historic District*, Roughly bounded by Riverside and Bushkill Drs., Ferry and 7th Sts. (05/06/83)

Philadelphia County

Philadelphia, *Frank, Henry S., Memorial Synagogue*, York and Tabor Rds. (07/12/83)
Philadelphia, *Harrison Building (Harrison Stores)*, 1001–1023 Filbert St. (07/29/83)
Philadelphia, *Spring Garden District (Boundary Increase)*, Roughly bounded by Fairmount, Mt. Vernon, 15th and 19th Sts. (09/12/83)
Philadelphia, *Bair, Oliver H., Funeral Home*, 1818–1820 Chestnut St. (11/14/82)
Philadelphia, *Baptist Institute for Christian Workers*, 1425–1429 Snyder Ave. (04/21/82)
Philadelphia, *Belgravia Hotel*, 1811 Chestnut St. (11/14/82)
Philadelphia, *Board of Education Building*, 21st St. and Benjamin Franklin Pkwy. (08/25/83)
Philadelphia, *Breslyn Apartments*, 4624–4642 Walnut St., 201–213 S. 47th St. (11/14/82)
Philadelphia, *Delmar Apartments*, 319 W. Chelten Ave. (11/14/82)
Philadelphia, *Drexel Development Historic District*, Roughly bounded by Pine, Delancy, 39th and 40th Sts. (11/14/82)
Philadelphia, *Fleisher, Samuel S., Art Memorial*, 711–721 Catharine St. (11/14/82)
Philadelphia, *George, Henry, Birthplace*, 413 S. Tenth St. (04/01/83)
Philadelphia, *Girard Group*, Delaware Ave. and Arch St. (05/06/83)
Philadelphia, *Harrington Machine Shop*, 1640–1666 Callowhill St. (05/06/83)
Philadelphia, *Hockley Row*, 237–241 S. 21st St., 2049 Locust St. (04/21/83)
Philadelphia, *Integrity Title Insurance, Trust and Safe Deposit Company*, 4th and Green Sts. (11/14/82)
Philadelphia, *Malvern Hall*, 8655 McCallum St. (08/25/83)
Philadelphia, *Manayunk Main Street Historic District*, Roughly bounded by Reading RR, Flat Rock Dam, Schuylkill River, and Lot 4025 Main St. (03/18/83)
Philadelphia, *Monte Vista*, 917–931 N. 63rd St., 6154–6160 Oxford St., 6151–6157 Nassau St. (03/03/83)
Philadelphia, *Poth and Schmidt Development Houses*, 3306–3316 Arch St. (04/21/83)
Philadelphia, *Rittenhouse Historic District*, Roughly bounded by Waverly, 15th, Sanson, Ludlow, 23rd and 25th Sts. (08/25/83)
Philadelphia, *St. John's Church*, 220–30 Brown St. (02/24/83)
Philadelphia, *Sun Oil Building*, 1608–1610 Walnut St. (08/25/83)
Philadelphia, *WCAU Studios*, 1618–22 Chestnut St. (01/27/83)

Pike County

Lackawaxen vicinity, *Grey, Zane, House*, Roebling Rd. (05/06/83)
Milford, *Forester's Hall*, Broad and Hartford Sts. (07/14/83)

Sullivan County

Lopez vicinity, *Ricketts, Clemuel, Mansion*, Off PA 487 (06/09/83)

Westmoreland County

Irwin vicinity, *Fullerton Inn*, 11029 Old Trail Rd. (06/30/83)
Vandergrift, *St. Gertrude Roman Catholic Church*, 311 Franklin Ave. (09/23/83)
Youngstown vicinity, *Kingston House*, U.S. 30 (06/30/83)

York County

Delta, *Delta Historic District*, Main St. (09/15/83)
Dover, *Pettit's Ford*, 4400 Colonial Rd. (05/03/83)
Wrightsville, *Wrightsville Historic District*, Roughly bounded by the Susquehanna River, Vine, 4th and Willow Sts. (09/12/83)
York, *Northwest York Historic District*, Roughly bounded by Carlisle, Texas, Pennsylvania, Newberry, Park, and Linden Ave. (09/12/83)

PUERTO RICO

Comerio County

Comerio vicinity, *Cueva La Mora*, (03/10/83)

Humacao County

Naguabo vicinity, *Villa Del Mar*, PR 3 (06/23/83)

Mayaguez County

San German vicinity, *Hacienda Buena Union*, PR 362 (08/23/83)
San German, *Casa De Los Ponce De Leon*, Dr. Santiago Veve Num. 13 (03/09/83)

San Juan County

Bayamon, *Puerto Rico National Cemetery*, PR 168 (09/28/83)
Puerta de Tierra, *School of Tropical Medicine*, Ponce de Leon Ave. (09/29/83)
San Juan, *Casa de Espana*, Ponce de Leon Ave. (07/05/83)

RHODE ISLAND

Kent County

Warwick, *Elizabeth Spring (Warwick MRA)*, Off Forge Rd. (08/18/83)
Warwick, *Budlong Farm (Warwick MRA)*, 595 Buttonwoods Ave. (08/18/83)
Warwick, *Gardiner, Capt. Oliver, House (Warwick MRA)*, 4451 Post Rd. (08/18/83)
Warwick, *Gorton, Caleb, House (Warwick MRA)*, 987 Greenwich Ave. (08/18/83)
Warwick, *Greene, Moses, House (Warwick MRA)*, 11 Economy Ave. (08/18/83)
Warwick, *Greene, Peter, House (Warwick MRA)*, 1124 W. Shore Rd. (08/18/83)
Warwick, *Green, Richard Wickes, House (Warwick MRA)*, 27 Homestead Ave. (08/18/83)
Warwick, *Greene-Durffee House (Warwick MRA)*, 1272 W. Shore Rd. (08/18/83)
Warwick, *Hopelands (Rocky Hill School) (Warwick MRA)*, Wampanoag Rd. (08/18/83)
Warwick, *Indian Oaks (Warwick MRA)*, 836 Warwick Neck Ave. (08/18/83)
Warwick, *Rhode Island State Airport Terminal (Warwick MRA)*, 572 Occupasstuxet Rd. (08/18/83)
Warwick, *Waterman, John R., House (Warwick MRA)*, 100 Old Homestead Rd. (08/18/83)
Warwick, *Wickes, Oliver A., House (Warwick MRA)*, 794 Major Potter Rd. (08/18/83)

Newport County

Little Compton vicinity, *Sakonnet Light Station*, S of Little Compton on Little Cormorant Rock (02/10/83)
Newport, *Seamen's Church Institute of Newport*, 18 Market Square (08/04/83)

Providence County

North Smithfield, *Mowry, William, House*, Farnum Pike (02/10/83)
North Smithfield, *Todd Farm*, 670 Farnum Pike (02/10/83)
Pawtucket, *Leroy Theatre*, 66 Broad St. (08/04/83)
Providence, *Aylesworth Apartments*, 188–194 Broad St. (11/12/82)
Providence, *Hay and Owen Buildings*, 101 and 117–135 Dyer St. (11/12/82)

Providence, *Providence Telephone Company Building*, 112 Union St. (08/04/83)
Providence, *Rhodes Street Historic District*, Rhodes, Janes, and Alphonso Sts. (11/12/82)
Providence, *Wesleyan Avenue Historic District*, Roughly Wesleyan Ave. between Taylor and Broad Sts. (11/23/82)
Woonsocket, *1761 Milestone (Woonsocket MRA)*, 640 S. Main St. (11/24/82)
Woonsocket, *Arnold, John, House (Woonsocket MRA)*, 99 Providence St. (11/24/82)
Woonsocket, *Coto Hill Historic District (Woonsocket MRA)*, Roughly bounded by Arnold, Blackstone, Cherry, and Railroad Sts. (Boundary increase) (11/24/82)
Woonsocket, *Darling, Henry, House (Woonsocket MRA)*, 786 Harris Ave. (11/26/82)
Woonsocket, *Gaulin, Alphonse, Jr., House (Woonsocket MRA)*, 311 Elm St. (11/24/82)
Woonsocket, *Grove Street Elementary School (Woonsocket MRA)*, 312 Grove St. (11/24/82)
Woonsocket, *Hanora Mills (Woonsocket MRA)*, 1 Main St. (11/24/82)
Woonsocket, *Jenckes Mansion (Woonsocket MRA)*, 837–839 Social St. (11/24/82)
Woonsocket, *Linton Block (Woonsocket MRA)*, 3–5 Monument Sq. (11/24/82)
Woonsocket, *Logee House (Woonsocket MRA)*, 225 Logee St. (11/24/82)
Woonsocket, *North End Historic District (Woonsocket MRA)*, Roughly bounded by Verry, Highland, Winter, and Summer Sts. (11/24/82)
Woonsocket, *Pothier House (Woonsocket MRA)*, 172 Pond St. (11/24/82)
Woonsocket, *Smithfield Friends Meeting House, Parsonage & Cemetery (Woonsocket MRA)*, 126 Smithfield Rd. (11/24/82)
Woonsocket, *South Main Street Historic District (Woonsocket MRA)*, Roughly bounded by Mason, Coe, Andrews Sts., and Bernice Ave. (11/24/82)
Woonsocket, *St. Andrews Episcopal Chapel (Woonsocket MRA)*, 576 Fairmount St. (11/24/82)
Woonsocket, *St. Ann's Church Complex (Woonsocket MRA)*, Cumberland and Elm Sts. and Gaulin Ave. (11/24/82)
Woonsocket, *St. Charles Borromeo Church Complex (Woonsocket MRA)*, N. Main, Daniels and Earle Sts. (02/24/83)
Woonsocket, *Wilbur, Frank, House (Woonsocket MRA)*, 1273 Park Ave. (11/23/82)
Woonsocket, *Woonsocket Civil War Monument (Woonsocket MRA)*, Monument Sq. (11/24/82)
Woonsocket, *Woonsocket District Courthouse (Woonsocket MRA)*, 24 Front St. (11/24/82)

Washington County

New Shoreham, *U.S. Weather Bureau Station*, Beach Ave. (08/04/83)
North Kingstown vicinity, *Lischio Site, RI-1000*, (06/07/83)
Shannock, *Shannock Historic District*, Main St., N. Shannock and W. Shannock Rds. (08/04/83)

SOUTH CAROLINA

Abbeville County

Abbeville vicinity, *Harbison College President's Home*, N of Abbeville on SC 20 (01/13/83)

Aiken County

Aiken, *Pickens House*, 101 Gregg Ave. (05/19/83)

Allendale County

Fairfax, *Young, Virginia Durant, House*, US 278 (08/08/83)

Bamberg County

Bamberg, *Bamberg Historic District*, E. Railroad Ave., 2nd, Midway, Elm, Cannon, N. Carlisle, and Church St. (05/19/83)

Beaufort County

Bluffton vicinity, *Rose Hill Plantation House*, Off U.S. 278 (05/19/83)

Charleston County

Adams Run vicinity, *Summit Plantation House*, Off CR 390 (07/28/83
Charleston, *Farmfield Plantation House*, Farmfield Rd. (10/29/82)
Charleston, *Robb, William, House*, 12 Bee St. (09/08/83)
Longbranch Estates vicinity, *Battery Wilkes (Civil War Defenses of Charleston TR)*, St. Andrew's Parish (10/21/82)
Mount Pleasant vicinity, *Slave Street, Smokehouse, and Allee, Boone Hall Plantation*, N of Mt. Pleasant off US 17 (07/14/83)
Mt. Pleasant vicinity, *Savannah (nuclear ship)*, W of Mt. Pleasant on E side of Charleston Harbor (11/14/82)
Mt. Pleasant vicinity, *USS Laffey*, W of Mt. Pleasant on E side of Charleston Harbor (04/12/83)
Mt. Pleasant vicinity, *USS Yorktown (CV–10)*, W of Mt. Pleasant on E side of Charleston Harbor (11/10/82)

Chester County

Chester, *Kumler Hall (Brainerd Institute)*, Lancaster and Cemetery Sts. (01/27/83)
Lowrys, *People's Free Library of South Carolina*, Church St. (10/29/82)

Clarendon County

Manning vicinity, *Davis House*, S of Manning on SR 63 (01/13/83)

Darlington County

Hartsville, *Coker, J. L., Company Building*, 5th St. and Carolina Ave. (02/09/83)

Edgefield County

Johnston, *Johnston Historic District*, Calhoun, Edisto, Lee, Mims, Jackson, Church and Addison Sts. (08/25/83)

Florence County

Florence vicinity, *Red Doe (Evander Gregg House)*, E of Florence on SC 327 (10/29/82)
Florence, *Poyner Junior High School*, 301 S. Dargan St. (05/19/83)
Timmonsville, *Smith-Cannon House*, 106 W. Market St. (07/28/83)

Greenville County

Simpsonville vicinity, *Cureton-Huff House*, SW of Simpsonville off SC 176 (01/13/83)
Travelers Rest vicinity, *Goodwin, John H., House*, SC 11 at U.S. 25 (09/08/83)

Greenwood County

Ninety Six vicinity, *Moore-Kinard House*, US 178 and S–24–44 (08/04/83)

Kershaw County

Camden vicinity, *Cantey, Zachariah, House*, CR 92 (05/19/83)

Laurens County

Laurens, *Irby-Henderson-Todd House*, 112 Todd Ave. (09/08/83)

Lexington County

Batesburg, *Old Batesburg Grade School (Batesburg-Leesville MRA)*, 306 E. Columbia Ave. (05/27/83)
Batesburg, *Southern Railway Depot (Batesburg-Leesville MRA)*, SE corner of Perry and Wilson Sts. (05/27/83)

Marion County

Mullins, *Rasor and Clardy Company Building*, 202 S. Main St. (10/29/82)

McCormick County

Troy vicinity, *Long Cane Massacre Site*, W of Troy off SC 10 (01/27/83)

Oconee County

Walhalla, *Oconee County Cage (Oconee County Penal System TR)*, Church St. (11/14/82)
Walhalla, *Oconee County Jail (Oconee County Penal System TR)*, Short St. (11/14/82)

Orangeburg County

Orangeburg, *Tingley Memorial Hall, Claflin College*, College Ave. (08/04/83)
Rowesville vicinity, *Cattle Creek Campground*, Off SC 210 (05/19/83)

Richland County

Columbia, *Arcade Building (Columbia MRA)*, 1332 Main St. (11/17/82)
Columbia, *West Gervais Street Historic District (Columbia MRA)*, Roughly bounded by Gadsden, Senate, Park, and Lady Sts. (04/27/83)

Spartanburg County

Glenn Springs vicinity, *Williams Place*, SW of Glenn Springs on SR 113 (11/10/82)
Glenn Springs, *Glenn Springs Historic District*, SC 150 and Rich Hill Rd. (11/04/82)
Spartanburg, *Franklin Hotel*, 185 E. Main St. (07/28/83)
Spartanburg, *Hampton Heights Historic District*, Roughly bounded by Spring, Henry, Hydrick, Peronneau Sts., Hampton Dr., and Hampton Ave. (both sides). (01/27/83)
Spartanburg, *Spartanburg Historic District*, W. Main, Magnolia, Wall, Ezell, and Springs Sts. (05/19/83)

Sumter County

Sumter vicinity, *Myrtle Moor*, (01/13/83)

Union County

Union, *South Street Historic District*, Roughly South St. between Church and Boyce Sts. (05/19/83)

SOUTH DAKOTA

Bon Homme County

Tabor, *Tabor School*, Off SD 50 (09/02/83)

Brown County

Aberdeen, *Great Northern Railway Passenger and Freight Depot*, One Court St. (01/27/83)
Groton, *Trinity Episcopal Church*, 3rd Ave. E. and 3rd St. N. (01/27/83)

Charles Mix County

Platte, *Farmers State Bank of Platte*, 404 N. Main St. (01/27/83)

Clay County

Vermillion, *Clay County Courthouse*, 211 W. Main St. (08/18/83)
Vermillion, *Vermillion-Andrew Carnegie Library*, 12 Church St. (08/18/83)

Custer County

Custer vicinity, *Custer State Game Lodge*, E of Custer on US 16–A (03/30/83)
Hermosa vicinity, *Custer State Park Museum*, W of Hermosa on US 16–A (03/30/83)

Hughes County

Pierre, *Hyde Buildings*, 101½, 105, 108½, and 109 S. Pierre St. and 105 ½ Capitol Ave. (02/01/83)
Pierre, *McMillen, George, House*, 111 E. Broadway (08/18/83)
Pierre, *Soldiers & Sailors World War Memorial*, Capitol Ave. (01/27/83)

Minnehaha County

Sioux Falls, *Orpheum Theatre*, 315 N. Phillips Ave. (06/23/83)
Sioux Falls, *First Congregational Church*, 303 S. Dakota Ave. (08/18/83)
Sioux Falls, *Illinois Central Passenger Depot*, Big Sioux River at 8th St. (08/18/83)
Sioux Falls, *Miller, L. O., Funeral Home*, 507 S. Main Ave. (08/18/83)
Sioux Falls, *Old Courthouse and Warehouse Historic District*, Roughly bounded by Big Sioux River, St. Paul's R W., 4th, 6th, and Dakota Aves. (08/18/83)

Moody County

Flandreau, *Few, George, House*, 208 1st Ave. E. (08/18/83)
Flandreau, *St. Vincent's Hotel*, 100 North Wind (01/27/83)

Pennington County

Custer vicinity, *Harney Peak Lookout Tower, Dam, Pumphouse and Stairway*, NE of Custer (03/10/83)

Tripp County

Winner, *Barnum, E. C., House*, 205 Van Buren (01/27/83)

Turner County

Centerville, *Thomson, James S., House*, 1121 Washington St. (08/18/83)

Walworth County

Mobridge, *Brown Palace Hotel*, 301 Main St. (01/27/83)

TENNESSEE

Bedford County

Shelbyville, *Shelbyville Courthouse Square Historic District*, Public Square (Main, Spring, Depot, and Holland Sts. (10/27/82)

Bradley County

Cleveland, *U.S. Post Office*, 155 Broad St. N.W. (06/30/83)

Carter County

Elizabethton, *U.S. Post Office*, 201–203 N. Sycamore St. (08/09/83)

Davidson County

Brentwood, *McCrory-Mayfield House*, 1280 Hickory Blvd. (12/27/82)
Nashville, *Gladstone Apartments*, 3803 West End Ave. (06/16/83)
Nashville, *Hatch Show Print Company Building*, 116–118 4th Ave. (06/16/83)
Nashville, *Longview (Norvell-Caldwell House)*, 811 Caldwell Lane (01/12/83)
Nashville, *Richland Hall*, 4822 Charlotte Ave. (09/01/83)
Nashville, *Savage House*, 167 Eighth Ave., N. (01/11/83)
Nashville, *Young Women's Christian Association Building*, 211 7th Ave. N. (12/16/82)

Dyer County

Dyersburg, *Bank of Dyersburg*, 100 N. Main St. (06/16/83)

Giles County

Pulaski, *Church of the Messiah*, W. Madison and N. 3rd Sts. (07/28/83)
Pulaski, *First Presbyterian Church of Pulaski*, 202 S. Second St. (07/28/83)
Pulaski, *Pulaski Courthouse Square Historic District*, First, Jefferson, Madison, and Second Sts. (08/11/83)
Waco vicinity, *White, Elisha, House*, W of Waco on Yokley Rd. (03/04/83)

Greene County

Greenville vicinity, *Rankin, David, House*, Snapp's Ferry Rd. (08/26/83)

Hamblen County

Morristown, *Morristown College Historic District*, 417 N. James St. (09/15/83)
Morristown, *U.S. Post Office*, 134 N. Henry St. (04/25/83)

Hamilton County

Chattanooga, *Audubon Acres Site (40 HA 84)*, (10/07/82)
Chattanooga, *Southern Railway Freight Depot*, 1140 Newby St. (06/16/83)

Henderson County

Lexington, *Edwards, Thompsie, House*, 113 Main St. (08/30/83)

Houston County

Erin, *Harris, V. R., House*, Main St. (08/18/83)

Jefferson County

Jefferson City vicinity, *Cox's Mill*, N of Jefferson City on Fielden's Store Rd. (01/27/83)

Knox County

Knoxville vicinity, *New Salem United Methodist Church*, 2417 Tipton Station Rd. (08/11/83)
Knoxville, *Knoxville Business College*, 209 W. Church St. (01/27/83)
Knoxville, *Mechanics' Bank and Trust Company Building*, 612 S. Gay St. (01/27/83)
Knoxville, *Old Knoxville City Hall (Tennessee School for the Deaf)*, Summit Hill Dr. (12/02/82)
Knoxville, *Park City Junior High School*, 523 Bertrand St. (06/30/83)

Lincoln County

Kelso vicinity, *Kelso Bowstring Arch Truss Bridge*, N of Kelso on Stephens Creek Rd. (01/04/83)
Mimosa, *Mimosa School*, Mimosa Rd. (07/28/83)

Madison County

Denmark, *Denmark Presbyterian Church*, Jackson-Denmark Rd. (08/16/83)
Jackson, *Ross-Sewell House*, 909 Highland Ave. (01/27/83)

Marion County

South Pittsburg vicinity, *Primitive Baptist Church of Sweeten's Cove*, Sweden Cove Rd. (06/30/83)

Marshall County

South Berlin vicinity, *Harris, Robert C., House*, W of South Berlin on TN 50 (01/27/83)

Maury County

Columbia vicinity, *Fairmont*, Mooresville Pike (09/01/83)
Columbia, *Mercer Hall*, 902 Mercer Court (12/16/82)
Cross Bridges vicinity, *Vine Hill*, Sawdust Rd. (07/15/83)

McMinn County

Riceville vicinity, *McClatchey-Gettys Farm*, S of Riceville on SR 1 (12/28/82)

McNairy County

Bethel Springs, *Bethel Springs Presbyterian Church*, 3rd Ave. (08/18/83)

Meigs County

Birchwood vicinity, *Blythe Ferry (Meigs County MRA)*, N of Birchwood on TN 60 at Tennessee River (01/05/83)
Decatur vicinity, *Hastings-Locke Ferry (Meigs County MRA)*, W of Decatur on TN 30 at Tennessee River (01/05/83)

Monroe County

Eve Mills, *Fowler, William J., Mill and House*, Sweetwater Rd. (01/27/83)

Obion County

South Fulton, *Morris, W. W., House*, 305 W. State Line Rd. (01/27/83)

Polk County

Ducktown, *Burra Burra Mine Historic District*, TN 68 and Burra St. (03/17/83)

Roane County

Kingston, *Morgan, Col. Gideon, House*, 149 Kentucky St. (01/27/83)

Shelby County

Memphis, *Ashlar Hall*, 1397 Central Ave. (01/13/83)
Memphis, *Ellis, William C., and Sons Ironworks and Machine Shop*, 231-245 S. Front St. (08/25/83)
Memphis, *Lowenstein, B., & Brothers Building*, 27 S. Main St. (06/16/83)
Memphis, *Madison-Monroe Historic District*, Madison and Monroe Aves., Main and 2nd Sts. (05/19/83)
Memphis, *Scimitar Building*, 179 Madison Ave. (06/30/83)
Memphis, *South Parkway-Heiskell Farm Historic District*, S. Parkway E. and E. Parkway S. (02/11/83)
Memphis, *Stratton, Leslie M., YMCA*, 245 Madison Ave. (06/30/83)
Memphis, *Tennessee Trust Building*, 81 Madison Ave. (12/09/82)

Smith County

Carthage, *Cullum Mansion*, 609 Cullum St. (01/04/83)
Carthage, *Davis-Hull House*, 1004 N. Main St. (01/04/83)

Sullivan County

Bristol, *Parlett House*, 728 Georgia Ave. (08/18/83)

Sumner County

Hendersonville, *Donelson, Daniel Smith, House*, 178 Berrywood Dr. (01/04/83)

Tipton County

Covington, *Hotel Lindo*, 116 W. Liberty St. (12/27/82)

Warren County

McMinnville vicinity, *Oakham*, US 70 Bypass (08/11/83)

Washington County

Jonesboro, *Hoss, Henry, House*, Blountville Rd. (12/16/82)

Williamson County

Brentwood vicinity, *Ravenswood*, Wilson Pike (07/07/83)

TEXAS

Anderson County

Brushy Creek vicinity, *Anderson Camp Ground*, W of Brushy Creek on SR 837 (12/27/82)

Austin county

Wallis, *Church of the Guardian Angel (Churches with Decorative Interior Painting TR)*, 5614 Demel St. (06/21/83)
Wesley, *Wesley Brethren Church (Churches with Decorative Interior Painting TR)*, Off TX 332 (06/21/83)

Bell County

Belton, *Miller-Curtis House*, 1004 N. Main St. (04/07/83)
Salado, *Anderson House and Store (Salado MRA)*, Main St. (04/05/83)
Salado, *Armstrong-Adams House (Salado MRA)*, Main St. and Thomas Arnold Rd. (04/05/83)
Salado, *Baines, George Washington, House (Salado MRA)*, Royal St. (04/05/83)
Salado, *Barton House (Salado MRA)*, Main St. (04/05/83)
Salado, *Davis House (Salado MRA)*, Main St. (04/05/83)
Salado, *Fowler House (Salado MRA)*, Main St. (04/05/83)
Salado, *Halley, Capt. Robert, House (Salado MRA)*, Main St. (04/05/83)
Salado, *Robertson, Col. Elijah Sterling Clack, Plantation (Salado MRA)*, I-35 (04/05/83)
Salado, *Stagecoach Inn (Salado MRA)*, Main and Front Sts. (04/05/83)
Salado, *Tenney, Levi, House (Salado MRA)*, Pace Park Dr. (04/05/83)
Salado, *Twelve Oaks (McKie House) (Salado MRA)*, Center Circle (04/05/83)
Salado, *Tyler House (Salado MRA)*, Main St. (04/05/83)
Salado, *Vickrey House (Salado MRA)*, Main St. (04/05/83)
Salado, *White-Aiken House (Salado MRA)*, I-35 (04/05/83)

Bexar County

San Antonio, *Garcia-Garza House*, 214 W. Salinas St. (07/07/83)
San Antonio, *Thiele House and Thiele Cottage*, 411 and 415 Sixth St. (03/03/83)
San Antonio, *Thomas Jefferson High School*, 723 Donaldson Ave. (09/22/83)
San Antonio, *Wright, L.T., House*, 342 Wilkins Ave. (04/01/83)

Bosque County

Clifton vicinity, *Bekken, J. H., House (Norwegian Settlement of Bosque County TR)*, NW of Clifton (07/22/83)
Clifton vicinity, *Brandhagen Houses (Norwegian Settlement of Bosque County TR)*, W of Clifton on FM 182 (07/22/83)
Clifton vicinity, *Brogdon Farm (Norwegian Settlement of Bosque County TR)*, W of Clifton (07/22/83)
Clifton vicinity, *Bronstad House (Norwegian Settlement of Bosque County TR)*, SW of Clifton (07/22/83)
Clifton vicinity, *Colwick, John and Mary, Farm (Norwegian Settlement of Bosque County TR)*, SW of Clifton (07/22/83)
Clifton vicinity, *Dahl, Peder, Farm (Norwegian Settlement of Bosque County TR)*, SW of Clifton on FM 219 (07/22/83)
Clifton vicinity, *Ellingson Farm (Norwegian Settlement of Bosque County TR)*, W of Clifton (07/22/83)
Clifton vicinity, *Erickson, Even and Petrine, Farm (Norwegian Settlement of Bosque County TR)*, NW of Clifton (07/22/83)
Clifton vicinity, *Finstad, Ole and Elizabeth, Homesite (Norwegian Settlement of Bosque County TR)*, SW of Clifton on FM 219 (07/22/83)
Clifton vicinity, *Godager, Adolf and Christine, Homesite (Norwegian Settlement of Bosque County TR)*, NW of Clifton (07/22/83)
Clifton vicinity, *Grimland, Gunsten and Lofise, House (Norwegian Settlement of Bosque County TR)*, SW of Clifton on FM 219 (07/22/83)
Clifton vicinity, *Grimland, Keddel and Liv, Farm (Norwegian Settlement of Bosque County TR)*, SW of Clifton on FM 219 (07/22/83)
Clifton vicinity, *Hoff-Ulland Farm (Norwegian Settlement of Bosque County TR)*, SW of Clifton (07/22/83)
Clifton vicinity, *Jenson, James Jens and Martha, House (Norwegian Settlement of Bosque County TR)*, NW of Clifton on FM 2136 (07/22/83)
Clifton vicinity, *Knudson, Christen and Johanne, Farm (Norwegian Settlement of Bosque County TR)*, SW of Clifton on FM 219 (07/22/83)
Clifton vicinity, *Lahlum, A. H., House (Norwegian Settlement of Bosque County TR)*, SW of Clifton (07/22/83)
Clifton vicinity, *Larson, Martin, House (Norwegian Settlement of Bosque County TR)*, SW of Clifton (07/22/83)
Clifton vicinity, *Linberg, Eric and Martha, Farm (Norwegian Settlement of Bosque County TR)*, W of Clifton (07/22/83)
Clifton vicinity, *Norway Mill (Norwegian Settlement of Bosque County TR)*, SW of Clifton on FM 182 (07/22/83)
Clifton vicinity, *Olson, Joseph and Anna, Farm (Norwegian Settlement of Bosque County TR)*, SW of Clifton on FM 182 (07/22/83)
Clifton vicinity, *Olson-Hanson Farm (Norwegian Settlement of Bosque County TR)*, SW of Clifton on FM 219 (07/22/83)
Clifton vicinity, *Olson-Nelson Farm (Norwegian Settlement of Bosque County TR)*, W of Clifton (07/22/83)
Clifton vicinity, *Pederson, John, Farm (Norwegian Settlement of Bosque County TR)*, SW of Clifton on FM 219 (07/22/83)
Clifton vicinity, *Pierson, Ole and Ann, Farm (Norwegian Settlement of Bosque County TR)*, W of Clifton (07/22/83)
Clifton vicinity, *Questad, Carl and Sedsel, Farm (Norwegian Settlement of Bosque County TR)*, W of Clifton (07/22/83)
Clifton vicinity, *Reeder-Omenson Farm (Norwegian Settlement of Bosque County TR)*, SW of Clifton on FM 182 (07/22/83)
Clifton vicinity, *Reierson, Hans and Berthe, House (Norwegian Settlement of Bosque County TR)*, SW of Clifton (07/22/83)
Clifton vicinity, *Ringness, Jens and Kari, Farm (Norwegian Settlement of Bosque County TR)*, SW of Clifton on FM 219 (07/22/83)
Clifton vicinity, *Rogstad, Tom and Martha, Farm (Norwegian Settlement of Bosque County TR)*, W of Clifton (07/22/83)
Clifton vicinity, *Schultz, Tobias and Wihelmine, Farm (Norwegian Settlement of Bosque County TR)*, SW of Clifton (07/22/83)
Clifton vicinity, *Shefstad, Gunarus and Ingerborg, House (Norwegian Settlement of Bosque County TR)*, N of Clifton (07/22/83)
Clifton vicinity, *Wilson Homesite (Norwegian Settlement of Bosque County TR)*, W of Clifton (07/22/83)
Granfills Gap vicinity, *Upper Settlement Rural Historic District (Norwegian Settlement of Bosque County TR)*, E of Granfills Gap off TX 22 (07/22/83

Brazos County

Bryan, *Temple Freda*, 205 Parker St.(09/22/83)

Brown County

Brownwood, *Brown County Jail*, 401 W. Broadway (09/22/83)

Cameron County

Brownsville, *Manautou House*, 5 E. Elizabeth St. (07/14/83)

Collin county

Farmersville, *Aston Building*, 113 S. Main St. (06/30/83)
McKinney, *McKinney Commercial Historic District*, Roughly bounded by Herndon, Wood, Cloyd, Davis, Louisiana, MacDonald, and Virginia Sts. (01/10/83)

Dallas County

Dallas, *Adolphus Hotel*, 1315 Commerce St. (07/14/83)
Dallas, *Continental Gin Company*, 3301–3333 Elm St., 212 and 232 Trunk Ave. (02/14/83)
Dallas, *Grace Methodist Episcopal Church*, 4105 Junius St. (11/04/82)
Dallas, *McIntosh, Roger D., House*, 1518 Abrams Rd. (04/07/83)

Fayette County

Ammansville, *St. John the Baptist Catholic Church (Churches with Decorative Interior Painting TR)*, FM 1383 (06/21/83)
Fayetteville, *Zapp Building*, Fayette and Washington Sts. (06/23/83)
High Hill, *Nativity of Mary, Blessed Virgin Catholic Church (Churches with Decorative Interior Painting TR)*, FM 2672 (06/21/83)
Praha, *St. Mary's Church of the Assumption (Churches with Decorative Interior Painting TR)*, FM 1295 (06/21/83)

Galveston County

Galveston, *Lasker Home for Homeless Children*, 1019 16th St. (04/14/83)
Galveston, *St. Joseph's Catholic Church (Churches with Decorative Interior Painting TR)*, 2201 Avenue K (06/21/83)

Gillespie County

Fredericksburg vicinity, *Morris Ranch Schoolhouse*, Morris Ranch Rd. (03/29/83)
Fredericksburg, *St. Mary's Catholic Church (Churches with Decorative Interior Painting TR)*, 306 W. San Antonio (06/21/83)

Grimes County

Navasota, *Navasota Commercial Historic District*, Roughly bounded by La Salle, Holland, 9th and Brule Sts. (11/30/82)

Hale County

Plainview, *Plainview Commercial Historic District*, Roughly bounded by E. 4th, Austin, E. 9th, and Ash Sts. (both sides) (12/02/82)

Harris County

Houston, *Allbach House (Houston Heights MRA)*, 2023 Arlington St. (06/22/83)
Houston, *McDonald House (Houston Heights MRA)*, 1801 Ashland St. (06/22/83)
Houston, *All Saints Roman Catholic Church (Houston Heights MRA)*, 201 E. 10th St. (06/22/83)
Houston, *Banta House (Houston Heights MRA)*, 119 E. 20th St. (06/22/83)
Houston, *Beaconsfield*, 1700 Main St. (03/29/83)
Houston, *Building at 430 Harvard Street (Houston Heights MRA)*, 430 Harvard St. (06/22/83)
Houston, *Burge House (Houston Heights MRA)*, 1801 Heights Blvd. (06/22/83)
Houston, *Countryman House (Houston Heights MRA)*, 402 E. 9th St. (06/22/83)
Houston, *Cummings House (Houston Heights MRA)*, 1418 Heights Blvd. (06/22/83)
Houston, *Eaton House (Houston Heights MRA)*, 510 Harvard St. (06/22/83)
Houston, *Elkins House (Houston Heights MRA)*, 602 E. 9th St. (06/22/83)
Houston, *Ellis, Dr. Billie V., House (Houston Heights MRA)*, 1515 Heights Blvd. (06/22/83)
Houston, *Gulf Building*, 710–724 Main St. (08/30/83)
Houston, *Hartley House (Houston Heights MRA)*, 315 W. 17th St. (06/22/83)
Houston, *Heights Christian Church (Houston Heights MRA)*, 1703 Heights Blvd. (06/22/83)
Houston, *Heights State Bank Building (Houston Heights MRA)*, 3620 Washington St. (06/22/83)
Houston, *House at 1237 Rutland Street (Houston Heights MRA)*, 1237 Rutland St. (06/22/83)
Houston, *House at 1343 Allston Street (Houston Heights MRA)*, 1343 Allston St. (06/22/83)
Houston, *House at 1421 Harvard St. (Houston Heights MRA)*, 1421 Harvard St. (06/22/83)
Houston, *House at 1421 Heights Boulevard (Houston Heights MRA)*, 1421 Heights Blvd. (06/22/83)
Houston, *House at 1421–1423 Waverly Street (Houston Heights MRA)*, 1421–1423 Waverly St. (06/22/83)
Houston, *House at 1437 Heights Boulevard (Houston Heights MRA)*, 1437 Heights Blvd. (06/22/83)
Houston, *House at 1437 Waverly Street (Houston Heights MRA)*, 1437 Waverly St. (06/22/83)
Houston, *House at 1443 Allston Street (Houston Heights MRA)*, 1443 Allston St. (06/22/83)
Houston, *House at 1509 Allston Street (Houston Heights MRA)*, 1509 Allston St. (06/22/83)
Houston, *House at 1515 Allston Street (Houston Heights MRA)*, 1515 Allston St. (06/22/83)
Houston, *House at 1517 Cortland Street (Houston Heights MRA)*, 1517 Cortland St. (06/22/83)
Houston, *House at 1537 Tulane Street (Houston Heights MRA)*, 1537 Tulane St. (06/22/83)
Houston, *House at 1640 Harvard Street (Houston Heights MRA)*, 1640 Harvard St. (06/22/83)
Houston, *House at 201 W. 15th Street (Houston Heights MRA)*, 201 W. 15th St. (06/22/83)
Houston, *House at 2035 Rutland Street (Houston Heights MRA)*, 2035 Rutland St. (06/22/83)
Houston, *House at 2402 Rutland Street (Houston Heights MRA)*, 2402 Rutland St. (06/22/83)
Houston, *House at 402 E. 11th Street (Houston Heights MRA)*, 402 E. 11th St. (06/22/83)
Houston, *House at 532 Harvard Street (Houston Heights MRA)*, 532 Harvard St. (06/22/83)
Houston, *House at 828 Heights Boulevard (Houston Heights MRA)*, 828 Heights Blvd. (06/22/83)
Houston, *House at 844 Columbia Street (Houston Heights MRA)*, 844 Columbia St. (06/22/83)
Houston, *House at 844 Cortlandt (Houston Heights MRA)*, 844 Cortlandt (06/22/83)
Houston, *Houston Heights Fire Station (Houston Heights MRA)*, Yale and 12th Sts. (06/22/83)
Houston, *Houston Heights Waterworks Reservior (Houston Heights MRA)*, W. 20 and Nicolson Sts. (06/22/83)
Houston, *Houston Heights Woman's Club (Houston Heights MRA)*, 1846 Harvard St. (06/22/83)
Houston, *Houston Negro Hospital School of Nursing Building*, Holman Ave., and Ennis St. (12/27/82)
Houston, *Houston Negro Hospital*, 3204 Ennis St. (12/27/82)
Houston, *Immanuel Lutheran Church (Houston Heights MRA)*, 1448 Cortlandt St. (06/22/83)
Houston, *Isbell House (Houston Heights MRA)*, 639 Heights Blvd. (06/22/83)
Houston, *Jones House (Houston Heights MRA)*, 1115–1117 Allston St. (06/22/83)
Houston, *Kleinhaus House (Houston Heights MRA)*, 803 Yale St. (06/22/83)
Houston, *Knittel House (Houston Heights MRA)*, 1601 Ashland St (06/22/83)
Houston, *Kronenberger House (Houston Heights MRA)*, 612 W. 26th St. (06/22/83)
Houston, *Lund House (Houston Heights MRA)*, 301 E. 5th St. (06/22/83)
Houston, *Main Street/Market Square Historic District*, Roughly bounded by Buffalo Bayou, Fannin, Texas, and Milam Sts. (07/18/83)
Houston, *Mansfield House (Houston Heights MRA)*, 1802 Harvard St. (06/22/83)
Houston, *Milroy House (Houston Heights MRA)*, 1102 Heights Blvd. (06/22/83)
Houston, *Ogle, Joseph, House (Houston Heights MRA)*, 530 Harvard St. (06/22/83)
Houston, *Oriental Textile Mill (Houston Heights MRA)*, 2201 Lawrence St. (06/22/83)
Houston, *Perry-Swilley House (Houston Heights MRA)*, 1101 Heights Blvd. (06/22/83)
Houston, *Schauer Filling Station (Houston Heights MRA)*, 1400 Oxford St. (06/22/83)
Houston, *Sterling-Berry House*, 4515 Yoakum Blvd. (07/14/83)
Houston, *Thornton, Dr. Penn B., House (Houston Heights MRA)*, 1541 Tulane St. (06/22/83)
Houston, *Trinity Church*, 3404 S. Main St. (05/26/83)
Houston, *Upchurch House (Houston Heights MRA)*, 301 E. 14th St. (06/22/83)
Houston, *Ward House (Houston Heights MRA)*, 323 W. 17th St. (06/22/83)
Houston, *Webber, Samuel H., House (Houston Heights MRA)*, 407 Heights Blvd. (06/22/83)

Houston, *Williams-Brueder House (Houston Heights MRA)*, 245 W. 18th St. (06/22/83)
Houston, *Woodward House (Houston Heights MRA)*, 1605 Heights Blvd. (06/22/83)
Morgan's Point, *Sterling, Ross S., House*, 515 Bayridge Rd. (10/29/82)

Harrison County

Marshall, *Hochwald House*, 211 W. Grand Ave. (07/14/83)
Marshall, *Weisman-Hirsch House*, 313 S. Washington St. (07/07/83)

Hays County

San Marcos, *Green and Faris Buildings (San Marcos MRA)*, 136–144 E. San Antonio St. (08/26/83)
San Marcos, *Barber House (San Marcos MRA)*, 100 Burleson St. (08/26/83)
San Marcos, *Belger-Cahill Lime Kiln (San Marcos MRA)*, Lime Kiln Rd. (08/26/83)
San Marcos, *Caldwell House (San Marcos MRA)*, 619 Maury St. (08/26/83)
San Marcos, *Cape House (San Marcos MRA)*, 316 W. Hopkins St. (08/26/83)
San Marcos, *Episcopalian Rectory (San Marcos MRA)*, 225 W. Hopkins St. (08/26/83)
San Marcos, *Farmers Union Gin Company (San Marcos MRA)*, 120 Grove St. (08/26/83)
San Marcos, *Fire Station and City Hall (San Marcos MRA)*, 224 N. Guadalupe St. (08/26/83)
San Marcos, *Fisher Hall (San Marcos MRA)*, 1132 Belvin St. (08/26/83)
San Marcos, *Goforth-Harris House (San Marcos MRA)*, 401 Comanche St. (08/26/83)
San Marcos, *Hardy-Williams Building (San Marcos MRA)*, 127 E. Hopkins St. (08/26/83)
San Marcos, *Hays County Jail (San Marcos MRA)*, 170 Fredericksburg St. (08/26/83)
San Marcos, *Heard House (San Marcos MRA)*, 620 W. San Antonio St. (08/26/83)
San Marcos, *Hofheinz, Augusta, House (San Marcos MRA)*, 1104 W. Hopkins St. (08/26/83)
San Marcos, *Hutchison House (San Marcos MRA)*, LBJ Dr. and University St. (08/26/83)
San Marcos, *Johnson House (San Marcos MRA)*, 1030 Belvin St. (08/26/83)
San Marcos, *Main Building, Southwest Texas Normal School (San Marcos MRA)*, Old Main St., Southwest Texas State University campus (08/26/83)
San Marcos, *Moore Grocery Company (San Marcos MRA)*, 101 S. Edward Gary St. (08/26/83)
San Marcos, *Ragsdale-Jackman-Yarbough House (San Marcos MRA)*, 621 W. San Antonio St. (08/26/83)
San Marcos, *Rylander-Kyle House (San Marcos MRA)*, 711 W. San Antonio St. (08/26/83)
San Marcos, *San Marcos Telephone Company (San Marcos MRA)*, 138 W. San Antonio St. (08/26/83)
San Marcos, *Simon Building (San Marcos MRA)*, 124–126 W. Hopkins St. (08/26/83)
San Marcos, *Smith House (San Marcos MRA)*, 322 Scott St. (08/26/83)
San Marcos, *Williams-Tarbutton House (San Marcos MRA)*, 626 Lindsey St. (08/26/83)

Hidalgo County

Progreso vicinity, *Toluca Rancho*, FM 1015 (07/21/83)

Houston County

Crockett, *Mary Allen Seminary for Colored Girls, Administration Building*, 803 N. 4th St. (05/12/83)

Kendall County

Comfort vicinity, *Hygieostatic Bat Roost*, E. of Comfort (03/28/83)

Kleberg County

Kingsville, *King, Henrietta M., High School*, Kleberg Ave. and 3rd St. (05/09/83)

Lamar County

Paris, *First United Methodist Church (Churches with Decorative Interior Painting TR)*, 322 Lamar St. (06/21/83)
Paris, *Scott-Roden Mansion*, 425 S. Church St. (09/15/83)

Lavaca County

Moravia, *Ascension of Our Lord Catholic Church (Churches with Decorative Interior Painting TR)*, FM 957 (06/21/83)
Shiner, *Sts. Cyril and Methodius Church (Churches with Decorative Interior Painting TR)*, 100 St. Ludmilla St. (06/21/83)
St. Mary's, *Church of the Immaculate Conception of Blessed Virgin Mary (Churches with Decorative Interior Painting TR)*, FM 2672 (06/21/83)
Sweet Home, *Church of the Blessed Virgin Mary, the Queen of Peace (Churches with Decorative Interior Painting TR)*, FM 340 (06/21/83)

McLennan County

Waco, *Artesian Manufacturing and Bottling Company Building (Home of Dr. Pepper)*, 300 S. 5th St. (05/26/83)
Waco, *Hippodrome*, 724 Austin Ave. (04/28/83)

Nolan County

Sweetwater, *First National Bank Building*, 101 E. Third St. (05/26/83)

Nueces County

Corpus Christi, *Gugenheim, Simon, House*, 1601 N. Chaparral St. (03/10/83)
Corpus Christi, *Lichtenstein, S. Julius, House*, 1617 N. Chaparral St. (03/10/83)
Corpus Christi, *Sidbury, Charlotte, House*, 1609 N. Chaparral St. (03/10/83)

Potter County

Amarillo, *First Baptist Church (Churches with Decorative Interior Painting TR)*, 218 W. 13th St. (06/21/83)

Randall County

Umbrager, *St. Mary's Catholic Church (Churches with Decorative Interior Painting TR)*, Off U.S. 60 (06/21/83)

Smith County

Tyler, *Ramey House*, 605 S. Broadway St. (10/29/83)

Tarrant County

Fort Worth, *Austin, Stephen F., Elementary School*, 319 Lipscomb St. (03/10/83)
Fort Worth, *M.G. Ellis School (1914)*, 213 N.E. 14th St. (06/16/83)
Fort Worth, *Sanquinet, Marshall R., House*, 4729 Collinwood Ave. (06/07/83)

Taylor County

Abilene, *Paramount Theater*, 352 Cypress St. (12/27/82)

Tom Green County

San Angelo, *Rackley, J.J., Building*, 118 S. Chadbourne (06/30/83)
San Angelo, *San Angelo National Bank Building*, 201 S. Chadbourne St. (12/16/82)

Travis County

Austin vicinty, *Barr, William Braxton, House*, NE of Austin at 10463 Sprinkle Rd. (01/10/83)
Austin, *Fischer House*, 1006 West Ave. (12/16/82)
Austin, *Haynes-DeLashwah House*, 1209 Rosewood Ave. (03/03/83)
Austin, *Hofheintz-Reissig Store*, 600 E. 3rd. St. (06/23/83)
Austin, *Jernigan, A. J., House*, 602 Harthan (09/22/83)
Austin, *Shipe, Col. Monroe M., House*, 3816 Avenue G (03/29/83)

Washington County

Brenham, *Bassett and Bassett Banking House*, 222 E. Main St. (04/21/83)
Chappell Hill, *Waverly*, FR 2447 (04/14/83)

Williamson County

Round Rock, *Round Rock Commercial Historic District*, 100 and 200 Blks E. Main St. (06/09/83)
Round Rock, *Round Rock Post Office and William M. Owen House*, Chisholm Trail and Emanuel St. (07/07/83)

TRUST TERRITORY OF THE PACIFIC ISLANDS

Kosrae District

Lelu Island, *Leluh Ruins* (08/16/83)

Truk District

Puluwat Atoll, *Japanese Lighthouse*, Allei Island (08/16/83)

Yap District

Bechiel Village, *Bechiel Village Historic District*, (08/16/83)

UTAH

Beaver County

Beaver, *Atkins and Smith House (Beaver MRA)*, 390 N. 400 West (04/15/83)
Beaver, *Beaver City Library (Beaver MRA)*, 50 W. Center St. (04/15/83)
Beaver, *Bird, Edward, House (Beaver MRA)*, Center and 300 East (04/15/83)
Beaver, *Boyter, Alexander, House (Beaver MRA)*, 590 N. 200 West (04/15/83)
Beaver, *Boyter, James, House (Beaver MRA)*, 90 W. 200 North (04/15/83)
Beaver, *Boyter, James, Shop (Beaver MRA)*, 50 W. 200 North (04/15/83)
Beaver, *Crosby, Alma, House (Beaver MRA)*, 115 E. 1st North (04/15/83)
Beaver, *Fennemore, James, House (Beaver MRA)*, 195 N. 2nd East (04/15/83)

Beaver, *Fotheringham, William, House (Beaver MRA)*, 190 W. 1st North (04/15/83)
Beaver, *Gale, Henry C., House (Beaver MRA)*, 95 E. 500 North (04/15/83)
Beaver, *Harris, Louis W., House (Beaver MRA)*, 55 E. 200 North (04/15/83)
Beaver, *Harris, Sarah Eliza, House (Beaver MRA)*, 375 E. 200 North (04/15/83)
Beaver, *Huntington, Joseph, House (Beaver MRA)*, 215 S. 2nd West (04/15/83)
Beaver, *McEvan, Mathew, House (Beaver MRA)*, 205 N. 100 West (04/15/83)
Beaver, *Morgan, William, House (Beaver MRA)*, 110 W. 600 North (04/15/83)
Beaver, *Powell, David, House (Beaver MRA)*, 115 N. 400 West (04/15/83)
Beaver, *Robinson, William, House (Beaver MRA)*, 95 N. 300 West (04/15/83)
Beaver, *Shepherd, Dr. Warren, House (Beaver MRA)*, 50 W. 1st North (04/15/83)
Beaver, *Tanner, Henry M. (Beaver MRA)*, 400 N. and 300 East (04/15/83)
Beaver, *Tanner, Sidney, House (Beaver MRA)*, 195 E. 200 North (04/15/83)
Beaver, *Whitaker, James, House (Beaver MRA)*, 395 N. 300 East (04/15/83)

Cache County

Mendon, *Baker, George Washington, House*, 115 N. 100 West (02/10/83)
Mendon, *Baker, Samuel, House*, 150 W. 200 North (03/31/83)
Mendon, *Willie, James G., House*, 97 N. 100 West (04/13/83)
Wellsville, *Bradshaw, George, House and Joshua Salisbury/George Bradshaw Barn*, 73 S. Center St. (11/19/82)
Wellsville, *Mitton, Samuel Crowthers, House*, 242 E. Main St. (11/19/82)

Davis County

Antelope Island, *Fielding Garr Ranch*, Off UT 127 (01/21/83)
Centerville, *Tingey, Thomas, House*, 20 N. 300 East (07/28/83)

Iron County

Cedar City vicinity, *Caretaker's Cabin, Cedar Breaks National Monument*, Off UT 14 (06/04/83)
Cedar City vicinity, *Visitor Center, Cedar Breaks National Monument*, Off UT 14 (08/04/83)
Paragonah, *Ensign-Smith House*, 96 N. Main St. (05/19/83)

Juab County

Nephi, *Booth, Oscar M., House*, 395 E. 100 South (04/18/83)

Millard County

Scipio, *Thuesen-Petersen House (Scandinavian-American Pair-house TR)*, 280 W. Center St. (03/01/83)

Salt Lake County

Draper, *Smith, Lauritz, House*, 1350 E. 12400 South (06/24/83)
Murray, *Cahoon, John P., House*, 4872 S. Poplar St. (03/03/83)
Salt Lake City, *Cannon, George M., House*, 720 E. Ashton Ave. (07/18/83)
Salt Lake City, *Kelly, Albert H., House*, 418 S. 200 West (07/20/83)
Salt Lake City, *Kelly, John B., House*, 422 S. 200 West (07/20/83)
Salt Lake City, *Orem, Frank M., House*, 274 S. 1200 East (08/05/83)
Salt Lake City, *Beattie, Jeremiah, House*, 655 E. 200 South (07/07/83)
Salt Lake City, *Building at 561 W. 200 South, (Salt Lake City Business District MRA)*, 561 W. 200 S. (12/27/82)
Salt Lake City, *Building at Rear, 537 W. 200 South (Salt Lake City Business District MRA)*, Rear, 537 W. 200 S. (12/27/82)
Salt Lake City, *Casto, Santa Anna, House*, 2731 Casto Lane (02/03/83)
Salt Lake City, *Continental Bank Building (Salt Lake City Business District MRA)*, 200 S. Main St. (12/27/82)
Salt Lake City, *Firestation No. 8*, 258 S. 1300 East (07/28/83)
Salt Lake City, *Greenwald Furniture Company Building (Salt Lake City Business District MRA)*, 35 W. 300 (12/27/82)
Salt Lake City, *Langton, James and Susan R., House*, 648 E. 100 South (11/19/82)
Salt Lake City, *Malin, Millard F., House*, 133 S. 400 East (07/07/83)
Salt Lake City, *McAllister, James G., House*, 306 Douglas St. (12/17/82)
Salt Lake City, *Myer, Frederick A. E., House*, 929 E. 200 South (07/07/83)
Salt Lake City, *Old Clock at Zion's First National Bank, (Salt Lake City Business District MRA)*, SW Corner of 1st S. and Main St. (12/27/82)
Salt Lake City, *Royle, Jonathan C. and Eliza K., House*, 635 E. 100 South (01/03/83)
Salt Lake City, *Rumel, Eliza Gray, House*, 358 S. 500 East (07/07/83)
Salt Lake City, *Smith, Albert, House*, 349 S. 200 West (07/07/83)
Salt Lake City, *Stratford Hotel (Salt Lake City Business District MRA)*, 175 E. 200 (12/27/82)
Salt Lake City, *Tampico Restaurant (Salt Lake City Business District MRA)*, 169 Regent St. (12/27/82)
Salt Lake, *Hintze, Anders, House (Scandinavian-American Pair-houses TR)*, 4249 S. 2300 East (02/01/83)
South Jordan, *Garside-McMullin House*, 10481 S. 1300 West (12/17/82)

San Juan County

Bluff, *Decker, James Bean, House*, UT 47 (08/04/83)
Bluff, *Redd, Lemuel H., Jr., House*, UT 47 (05/18/83)
Bluff, *Scorup, John Albert, House* UT 47 (04/13/83)

Sanpete County

Ephraim, *Andersen, Claus P., House (Scandinavian-American Pair-houses TR)*, 2nd South St. (02/01/83)
Ephraim, *Andersen, Lars S., House (Scandinavian-American Pair-houses TR)*, 213 N. 200 East (02/01/83)
Ephraim, *Jensen, Hans C., House (Scandinavian-American Pair-houses TR)*, 263 E. 100 South (02/01/83)
Ephraim, *Jensen, Rasmus, House (Scandinavian-American Pair-houses TR)*, 97 E. 100 South (02/01/83)
Ephraim, *Larsen, Oluf, House (Scandinavian-American Pair-houses TR)*, 75 S. 100 West (02/01/83)
Ephraim, *Nielsen, Jens, House (Scandinavian-American Pair-houses TR)*, 192 W. 200 South (02/01/83)
Ephraim, *Sorensen, Dykes, House (Scandinavian-American Pair-houses TR)*, 2nd East St. (10/20/82)
Fountain Green, *Barentsen, Andrew, House (Scandinavian-American Pair-houses TR)*, UT 30 (02/01/83)
Manti, *Hansen, Peter, House (Scandinavian-American Pair-houses TR)*, 247 S. 200 East (02/01/83)

Sevier County

Glenwood, *Johnson, Martin, House (Scandinavian-American Pair-houses TR)*, 45 W. 400 South (10/20/82)
Monroe, *Simonsen, Soren, House (Scandinavian-American Pair-houses TR)*, 55 W. 200 North (10/20/82)

Summit County

Peoa, *Lyons, Oscar F., House*, Woodenshoe Rd. (07/14/83)

Tooele County

Ophir, *Ophir Town Hall*, 43 S. Main St. (06/09/83)
Tooele, *Tooele County Courthouse and City Hall*, 71 E. Vine St. (07/21/83)

Utah County

Pleasant Grove vicinity, *Timpanogos Cave Historic District*, UT 80 (10/13/82)
Provo, *Taylor, George, Jr., House*, 187 N. 400 West (08/09/83)
Provo, *Alexander, William D., House*, 91 W. 200 South (07/28/83)
Provo, *Brown, George M., House*, 284 E. 100 North (12/01/82)
Provo, *Lewis Terrace*, 68–82 N. 700 East (04/07/83)
Springville, *Crandall Houses*, 112 and 136 E. 200 North (01/19/83)
Springville, *Wood-Harrison House*, 310 S. 300 West (01/19/83)

Washington County

St. George, *Pratt, Orson, House*, 76 W. Tabernacle St. (06/11/83)

Weber County

Ogden, *Lower 25th Street Historic District (Extension)*, Grant Ave. (02/25/83)
Ogden, *Ogden High School (Ogden Art Deco Buildings TR)*, 2828 Harrision Blvd. (06/07/83)
Ogden, Ogden/Weber Municipal Building (Ogden Art Deco Building TR), 2541 Washington Blvd. (06/07/83)

VERMONT

Addison County

Bristol, *Bristol Downtown Historic District*, Main St. (02/03/83)
East Middlebury vicinity, *Waybury Inn*, VT 125 (07/14/83)

Caledonia County

Waterford, *Lee Farm*, SR 25 (05/26/83)

Chittenden County

Burlington, *Champlain School*, 809 Pine St. (12/10/82)
Burlington, *City Hall Park Historic District*, Church, College, Main and St. Paul Sts. (06/09/83)
Burlington, *Kelsey, Martin L., House*, 43 Elmwood Ave. (02/24/83)

Burlington, *Wells-Jackson Carriage House Complex*, 192–194 Jackson Court and 370 Maple St. (12/10/82)
Charlotte, *Tavern on Mutton Hill*, Church Hill Rd. (12/10/82)
Jericho, *Jericho Center Historic District*, Brown's Trace, Bolger Hill and Varney Rds. (05/26/83)
Jonesville vicinity, *Jonesville Academy*, S of Jonesville at Cochran and Waterbury Rds. (11/02/82)

Franklin County

Georgia, *Evarts-McWilliams House*, Georgia Shore Rd. (10/21/82)
St. Albans, *Hathaway's Tavern*, 255 N. Main St. (07/14/83)

Lamoille County

Morrisville, *Morrisville Historic District*, Portland, Main, Railroad and Foundry Sts. (01/19/83)

Orange County

Chelsea, *Chelsea Village Historic District*, N. and S. Main, Jail, School, Court and Church Sts., Maple and Highland Aves. (09/29/83)
Newbury, *Newbury Village Historic District*, Main, Pulaski, Cross, and Pine Sts., Chapel Rd. and Romance Lane (08/04/83)
Newbury, *Bayley Historic District*, VT 5 and Oxbow St. (07/28/83)
Newbury, *Newbury Town House*, Scotch Hollow Rd. (07/28/83)
Newbury, *Oxbow Historic District*, VT 5 (07/28/83)
South Newbury, *South Newbury Village Historic District*, US 5 and Doe Hill Rd. (07/28/83)
Newbury, *Wells River Village Historic District*, Main, Center, Grove, Cross, and Water Sts. (07/28/83)
West Newbury, *West Newbury Village Historic District*, Snake and Tucker Mtn. Rds. (09/15/83)

Rutland County

Danby, *Danby Village Historic District*, Main St., Mt. Tabor Ave., Depot St., and Borough Hill Rd. (02/10/83)
West Haven, *Smith, Simeon, House*, W. Haven Rd. (03/03/83)
West Rutland, *West Rutland Town Hall*, Main and Marble Sts. (07/28/83)

Washington County

Northfield, *Mayo Building*, Main and East Sts. (07/14/83)
Plainfield, *Plainfield Village Historic District*, High, School, Main and Water Sts., and Brook Rd. (02/03/83)
Waitsfield vicinity, *Waitsfield Village Historic District*, VT 100 and Bridge St. (08/11/83)

Windham County

Bellows Falls, *Miss Bellows Falls Diner*, 90 Rockingham St. (02/15/83)
Brattleboro, *Brattleboro Downtown Historic District*, Main St. from Vernon to Walnut, Flat, Elliot, High, and Grove Sts. (02/17/83)
Newfane, *Newfane Village Historic District*, Main, West, Church, Court, Depot, and Cross Sts. (07/21/83)
South Londonderry vicinity, *Londonderry Town House*, Middletown Rd. (07/14/83)

Windsor County

Barnard vicinity, *Aiken Stand Complex*, E of Bernard off VT 12 (01/27/83)
Bethel, *Harrington House*, River St. and VT 107 (03/16/83)
Bethel, *Locust Creek House Complex*, VT 12 (12/10/82)
South Reading, *South Reading Schoolhouse*, Felchville-Tyson's Corner Rd. (02/03/83)
South Royalton vicinity, *Royalton Mill Complex*, N of South Royalton on Town Rd. 12 (02/03/83)
South Woodstock vicinity, *Moon, Owen, Farm*, S of South Woodstock off VT 106 (01/27/83)
Springfield, *Springfield Downtown Historic District*, Roughly bounded by Black River, Mineral, Pearl, Main, and Valley Sts. (08/11/83)

VIRGINIA

Albemarle County

Ivy vicinity, *D. S. Tavern*, U.S. 250 (09/29/83)
Greenwood vicinity, *Mirador*, U.S. 250 (04/07/83)

Alexandria (Independent City)

Stabler-Leadbeater Apothecary Shop, 105–107 S. Fairfax St. (11/24/82)

Amherst County

Clifford vicinity, *Geddes*, SR 700 (02/24/83)

August County

Middlebrook vicinity, *Mish, Henry, Barn*, N of Middlebrook on VA 876 (02/10/83)
Middlebrook, *Middlebrook Historic District*, Jct. VA 252 and 876 (02/10/83)
Staunton vicinity, *Augusta Military Academy*, N of Staunton on U.S. 11 (02/10/83)
Swoope vicinity, *Shuey, Lewis, House*, S of Swoope on VA 713 (02/10/83)

Bath County

Millboro Springs vicinity, *Old Stone House (Robert Sitlington House)*, SW of Millboro Springs on VA 664 (02/10/83)

Botetourt County

Eagle Rock vicinity, *Roaring Run Furnace*, NW of Eagle Rock on VA 621 (03/21/83)

Caroline County

Woodford vicinity, *Edge Hill*, W of Woodford on VA 632 (02/10/83)

Charles City County

Charles City vicinity, *Edgewood*, W of Charles City on VA 5 (02/10/83)
Charles City vicinity, *Upper Shirley*, W of Charles City on SR 608 (10/29/82)
Lamptie Hill vicinity, *Hardens*, W of Lamptie Hill on VA 5 (02/10/83)

Charlottesville (Independent City)

Hotel Gleason/Albemarle Hotel, Imperial Cafe (Charlottesville MRA), 617–619 W. Main St. (08/10/83)
House at Pireus (Charlottesville MRA), 302 Riverside Ave. (08/10/83)
King Lumber Company Warehouse (Charlottesville MRA), 608 Preston Ave. (08/10/83)
King-Runkle House (Charlottesville MRA), 201 14th St., NW (08/10/83)
McConnell-Neve House (Charlottesville MRA), 228 14th St., NW (08/10/83)
Pireus Store (Charlottesville MRA), 1901 E. Market St. (08/10/83)
Rose Cottage/Peyton House (Charlottesville MRA), 800 Delevan St. (08/10/83)
Tonsler, Benjamin, House (Charlottesville MRA), 327 6th St. (08/10/83)
Turner-LaRowe House (Charlottesville MRA), 1 University Court (08/10/83)
Updike, Robert L., House (Charlottesville MRA), 620 Prospect Ave. (08/10/83)
Anderson Brothers Building (Charlottesville MRA), 1417–1427 University Ave. (10/21/82)
Armstrong Knitting Factory (Charlottesville MRA), 700 Harris St. (10/21/82)
Borringer Mansion (Charlottesville MRA), 1404 Jefferson Park Ave. (10/21/82)
Belmont (Charlottesville MRA), 759 Belmont Ave. (10/21/82)
Carter-Gilmer House (Charlottesville MRA), 802 E. Jefferson St. (10/21/82)
Delvan Baptist Church (Charlottesville MRA), 632 W. Main St. (10/21/82)
Enderly (Charlottesville MRA), 603 Watson Ave. (10/21/82)
Ficklin-Crawford Cottage (Charlottesville MRA), 1200 Carlton Ave. (10/21/82)
Four Acres (Charlottesville MRA), 1314 Rugby Rd. (10/21/82)
Gardner-Mays Cottage (Charlottesville MRA), 1022 Grove St. (10/21/82)
Lewis Farm (Charlottesville MRA), 1201 Jefferson St. (10/21/82)
Locust Grove (Charlottesville MRA), 810 Locust Ave. (10/21/82)
Patton Mansion (Charlottesville MRA), 1018 W. Main St. (10/21/82)
Paxton Place (Charlottesville MRA), 503 W. Main St. (10/21/82)
Peyton-Ellington Building (Charlottesville MRA), 711 W. Main St. (10/21/82)
Pitts-Inge (Charlottesville MRA), 331–333 W. Main St. (10/21/82)
Ridge Street Historic District (Charlottesville MRA), 200–700 Ridge St. (10/21/82)
White Cross-Huntley Hall (Charlottesville MRA), 152 Stribling Ave. (10/21/82)
Woolen Mills Chapel (Charlottesville MRA), 1819 E. Market St. (10/21/82)
Wyndhurst (Charlottesville MRA), 605 Preston Pl. (10/21/82)
Young Building (Charlottesville MRA), 1102 Carlton Ave. (10/21/82)

Clarke County

Berryville, *Clarke County Courthouse (Old)*, 104 N. Church St. (07/07/83)
White Post, *White Post Historic District*, VA 658 and 628 (09/29/83)

Emporia (Independent City)

Greensville County Courthouse Complex, S. Main St. (07/21/83)

Essex County

Dunbrooke vicinity, *Cherry Walk*, S of Dunbrooke on VA 620 (02/10/83)

Fairfax County

Langley, *Langley Fork Historic District*, Jct. of Georgetown Pike and Old Chain Bridge Rd. (10/19/82)

Fauquier County

Casanova vicinity, *Melrose*, N of Casanova on VA 602 (02/10/83)
Upperville vicinity, *Oakley*, E of Upperville on U.S. 50 (02/24/83)

Fredericksburg (Independent City)

Farmers Bank of Fredericksburg, 900 Princess Anne St. (08/11/83)

Hanover County

Ashland, *Ashland Historic District*, Center, Racecourse, James, Howard, Clay Sts., Hanover and Railroad Aves. (02/11/83)
Studley vicinity, *Patrick Henry's Birthplace Archeological Site* (08/02/82)

Henry County

Stanleytown, *Stoneleigh*, VA 606 (11/24/82)

Isle of Wight County

Basses Choice/Days Point Archeological District (07/28/83)

King and Queen County

Newtown, *Newtown Historic District*, VA 721 and 625 (10/29/82)

Lancaster County

Lancaster, *Lancaster Court House Historic District*, VA 3 (08/11/83)

Lee County

Ely Mound (07/28/83)

Loudoun County

Leesburg, *Waverly*, 212 S. King St. (02/10/83)
Lincoln and vicinity, *Goose Creek Historic District*, Roughly bounded by Purcellville, VA 611, 728, 797, 622, 704, and 709 (11/14/82)
Middleburg, *Middleburg Historic District*, US 50, VA 626 and 776 (10/29/82)

Lynchburg (Independent City)

Daniel's Hill Historic District, Cabell, Norwood, Hancock, Stonewall from 6th to H St. (02/24/83)
Diamond Hill Historic District (Boundary Increase), Grace St. (04/14/83)
Rosedale, VA 128 (07/07/83)
Wood, J. W., Building, 23–27 Ninth St. (02/17/83)

Mecklenburg County

Chase City, *Shadow Lawn*, 27 N. Main St. (10/19/82)

Newport News (Independent City)

Queen Hith Plantation Complex Site (Oakland Farm Industrial Park MRA), (02/24/83)
Riverside Apartments, 4500–4600 Washington Ave. (07/28/83)
Skiffes Creek Sand Spit Site (Oakland Farm Industrial Park MRA), (02/24/83)
Southern Terminal Redoubt (Oakland Farm Industrial Park MRA), (02/24/83)

Norfolk (Independent City)

First Baptist Church, 418 E. Bute St. (07/21/83)
Lafayette Grammar and High School, 3109 Tidewater Dr. (02/10/83)

Portsmouth (Independent City)

Port Norfolk Historic District, Roughly bounded by Bayview Blvd., Chatauqua Ave., Hartford St., Douglas Ave. and Hull Creek (09/30/83)

Rappahannock County

Sperryville, *Sperryville Historic District*, VA 522, 600, 1001, and 1002 (02/10/83)

Richmond (Independent City)

Hasker and Marcuse Factory, 2401–2412 Venable St. (08/11/83)
Commonwealth Club Historic District, 319–415 and 400–500 W. Franklin St. (04/07/83)
English Village, 3418–3450 Grove Ave. (09/29/83)
Manchester Cotton and Wool Manufacturing Co., Hull St. at Mayo's Bridge (07/21/83)
Masonic Temple, 101–107 W. Broad St. (02/10/83)
Planters National Bank, 12th and E. Main Sts. (02/10/83)
Shockoe Slip Historic District, Roughly bounded by Seaboard RR tracks, Downtown Expressway, Main, Dock, and 12th Sts. (Boundary Increase) (04/20/83)
Shockoe Valley and Tobacco Row Historic District, Roughly bounded by Dock, 15th, Clay, Franklin, and Peach Sts. (02/24/83)
Union Seminary, 3401 Brook Rd. (04/14/83)
Virginia, The, 1 N. Fifth St. (02/10/83)

Richmond County

Simons Corner, *Woodford*, VA 610 (02/24/83)

Roanoke (Independent City)

Colonial National Bank, 202–208 Jefferson St. (02/17/83)
Roanoke City Market Historic District, Roughly bounded by Williamson Rd., Norfolk Ave., S. Jefferson St., and Church Ave. (04/20/83)
Roanoke Warehouse Historic District, 109–133 Norfolk Ave., SW (03/29/83)

Rockbridge County

Lexington vicinity, *Anderson Hollow Archeological District* (07/21/83)

Scott County

Flanary Archeological Site (44SC13), (07/07/83)

Shenandoah County

Quicksburg vicinity, *Zirkle Mill*, W of Quicksburg on VA 42 (02/10/83)

Spotsylvania County

Chancellor vicinity, *Tubal Furnace Archeological Site* (10/19/82)
Spotsylvania, *Spotsylvania Court House Historic District*, VA 208 (09/08/83)

Staunton (Independent City)

Augusta County Court House, 1/E. Johnson St. (10/28/82)
Newtown Historic District, Roughly bounded by Lewis St., C&O RR, S. Jefferson, W. Beverley, Thornrose Cemetery, Allegheny and Churchville Aves. (09/08/83)
Oakdene, 605 E. Beverley St. (11/24/82)

Tazewell County

Richlands, *Willams House*, 102 Suffolk Ave. (07/07/83)

Wythe County

Cornett Archeological Site (44 WY1), (09/29/83)

WASHINGTON

Clallam County

Port Angeles, *U.S. Post Office*, W. 1st and Oak Sts. (09/01/83)

Clark County

Vancouver, *Elks Building*, 916 Main St. (07/14/83)

Grays Harbor County

Cosmopolis, *Cooney, Neil, Mansion*, 802 E. 5th St. (07/14/83)

Jefferson County

Center, *Rover, Hanna, House (Eastern Jefferson County MRA)*, Chimacum-Center Rd. (07/14/83)
Chimacum, *Chimacum Post Office (Eastern Jefferson County MRA)*, Chimacum-Center Rd. (07/14/83)
Hadlock, *Methodist Episcopal Church of Port Hadlock (Eastern Jefferson County MRA)*, Randolph and Curtiss Sts. (07/14/83)
Hadlock, *Shibles, Capt. Peter, House (Eastern Jefferson County MRA)*, Curtiss St. (07/14/83)
Irondale, *Irondale Jail (Eastern Jefferson County MRA)*, Moore St. (07/14/83)
Irondale, *Williams, Hattie, House (Eastern Jefferson County MRA)*, Moore St. (07/14/83)
Lower Hadlock, *Galster House (Eastern Jefferson County MRA)*, Water St. (07/14/83)
Norland, *Johnson House (Eastern Jefferson County MRA)*, 287 Flagler Rd. (07/14/83)
Norland, *Sole, Tollef, House (Eastern Jefferson County MRA)*, 275 Flagler Rd. (07/14/83)
Port Ludlow vicinity, *Swanson, Hans, House (Eastern Jefferson County MRA)*, Swansonville Rd. (07/14/83)
Port Townsend vicinity, *Irondale Historic District (Eastern Jefferson County MRA)*, Port Townsend Bay and Admiralty Inlet (07/14/83)
Port Townsend vicinity, *Saint's Rest, Tukey's Pioneer Cabin and Homestead House (Eastern Jefferson County MRA)*, Chevy Chase Rd. (07/14/83)
Quilcene, *Oatman, Earl, House (Eastern Jefferson County MRA)*, Muncie St. (07/14/83)

King County

Dockton, *Dockton Hotel*, 260th St. SE and 99th Ave. SW (07/28/83)
Issaquah, *Pickering Farm*, 21809 SE 56th St. (07/07/83)
Seattle, *Eagles Auditorium Building*, 1416 7th Ave. (07/14/83)
Seattle, *Hoge Building*, 705 2nd Ave. (04/14/83)
Seattle, *Hull Building*, 2401–2405 First Ave. (01/27/83)
Seattle, *Interlake Public School*, 4416 Wallingford Ave. N. (07/14/83)
Seattle, *Old Georgetown City Hall*, 6202 13th Ave., S. (04/14/83)
Seattle, *Queen Anne Club*, 1530 N. Queen Anne Ave. (01/27/83)
Seattle, *Stuart House and Gardens*, 619 W. Comstock St. (04/14/83)
Seattle, *Times Building*, 414 Olive Way (01/27/83)

Seattle, *Wallingford Fire and Police Station*, 1629 N. 45th St. (01/27/83)

Mason County

Shelton, *Shelton Public Library and Town Hall*, 5th St. and Railroad Ave. (07/14/83)

Pierce County

Sumner, *Orton, Charles W., House*, 7473 Riverside Rd., East (07/28/83)
Tacoma, *Haddaway Hall*, 4301 N. Stevens (01/27/83)
Tacoma, *Pacific Avenue Historic District*, 1302–1356 Pacific Ave. (04/14/83)
Tacoma, *Rhodesleigh*, 10815 Greendale Dr., S.W. (01/27/83)
Tacoma, *Y.M.C.A. Building*, 714 Market St. (01/27/83)

Spokane County

Spokane, *Hutton Building*, 9 S. Washington St. (01/27/83)

Thruston County

Olympia, *Mottman Building*, 101–105 N. Capitol Way (06/16/83)
Tenino, *Tenino Stone Company Quarry*, City Park (07/28/83)

Whatcom County

Bellingham, *Donovan, J. J., House*, 1201 Garden St. (01/27/83)
Bellingham, *Eldridge Homesite and Mansion*, 2915 Eldridge Ave. (01/27/83)
Bellingham, *Flatiron Building*, 1311–1319 Bay St. (01/27/83)

WEST VIRGINIA

Doddridge County

Center Point vicinity, *Center Point Covered Bridge*, Off WV 23 (08/29/83)

Fayette County

Glen Jean, *Bank of Glen Jean*, Main St. (02/10/83)

Hardy County

Moorefield, *Allen, Judge J.W.F., House*, South Fork Rd. (02/10/83)

Jefferson County

Charles Town, *Gibson-Todd House*, 515 S. Samuel St. (09/16/83)
Rippon vicinity, *Ripon Lodge*, N of Rippon (08/18/83)
Sheperdstown vicinity, *Morgan-Bedinger-Dandridge House*, SW of Shepherdstown on WV 48 (05/13/83)
Shepherdstown vicinity, *Van Swearingen-Shepherd House*, N of Shepherdstown (08/18/83)

Kanawaha County

St. Albans, *Mohler, William E., House*, 819 Pennsylvania Ave. (02/10/83)

Mason County

Clifton, *Powell-Redmond House*, 23 Columbia St. (02/10/83)

Mercer County

Bramwell, *Bramwell Historic District*, Main, Rose, Bloch, Duhring, Wyatt, Church, N. and S. River Sts. (02/10/83)

Monongalia County

Harmony Grove, *Harmony Grove Meeting House*, Off I–79 (09/16/83)
Morgantown, *Walters House*, 221 Willey St. (08/18/83)

Morgan County

Berkeley Springs, *Dawson, T.H.B., House*, 300 S. Green St. (02/10/83)

Ohio County

Wheeling vicinity, *Carter Farm*, Boggs Hill Rd. (08/18/83)
Wheeling, *McKinley, Johnson Camden, House*, 147 Bethany Pike (08/18/83)

Preston County

Bretz, *Elkins Coal and Coke Company Historic District*, Off WV 7 (07/01/83) NHL

Randolph County

Elkins, *Kump, Gov. H. Guy, House*, US 33 and 250 (08/18/83)
Elkins, *Taylor-Condrey House*, 1700 Taylor Ave. (08/18/83)

Upshur County

Buckhannon, *Agnes Howard Hall*, West Virginia Wesleyan College campus (08/18/83)

Wayne County

Ceredo, *Ramsdell, Z.D., House*, 1106 B St. (08/18/83)

Wood County

Parkersburg, *Bethel AME Church (Downtown Parkersburg MRA)*, 820 Clay St. (10/08/82)
Parkersburg, *Blennerhassett Hotel (Downtown Parkersburg MRA)*, 316 Market St. (12/10/82)
Parkersburg, *Carnegie Library (Downtown Parkersburg MRA)*, 725 Green St. (10/08/82)
Parkersburg, *Case House (Downtown Parkersburg MRA)*, 710 Ann St. (10/08/82)
Parkersburg, *Chancellor Hardware (Downtown Parkersburg MRA)*, 114 3rd St. (12/10/82)
Parkersburg, *Citizens National Bank (Downtown Parkersburg MRA)*, 219 4th St. (10/08/82)
Parkersburg, *Elks Club (Downtown Parkersburg MRA)*, 515 Juliana St. (10/08/82)
Parkersburg, *First Baptist Church (Downtown Parkersburg MRA)*, 813 Market St. (12/10/82)
Parkersburg, *First Presbyterian Church/Calvary Temple Evangelical Church (Downtown Parkersburg MRA)*, 946 Market St. (12/10/82)
Parkersburg, *Gould House/Greater Parkersburg Chamber of Commerce (Downtown Parkersburg MRA)*, 720 Juliana St. (10/08/82)
Parkersburg, *House at 10th and Avery Sts. (Downtown Parkersburg MRA)*, 10th and Avery Sts. (12/10/82)
Parkersburg, *Logan, Henry, Memorial AME Church (Downtown Parkersburg MRA)*, Ann & 6th Sts. (12/16/82)
Parkersburg, *Masonic Temple (Downtown Parkersburg MRA)*, 900 Market St. (10/08/82)
Parkersburg, *Mather Building/Franklin & DeHaven Jewelers (Downtown Parkersburg MRA)*, 405 Market St. (10/08/82)
Parkersburg, *Oeldorf Building/Wetherell's Jewelers (Downtown Parkersburg MRA)*, 809 Market St. (12/10/82)
Parkersburg, *Parkersburg Woman's Club (Downtown Parkersburg MRA)*, 323 9th St. (10/08/82)
Parkersburg, *Robb Apartments (Downtown Parkersburg MRA)*, 201 8th St. (10/08/82)
Parkersburg, *Sharon Lodge No. 28 I.O.O.F. (Downtown Parkersburg MRA)*, 316 5th St. (10/08/82)
Parkersburg, *Sixth Street Railroad Bridge (Downtown Parkersburg MRA)*, 6th Street (12/10/82)
Parkersburg, *Smith Building (Downtown Parkersburg MRA)*, 310½ Market St. (12/10/82)
Parkersburg, *Smoot Theater (Downtown Parkersburg MRA)*, 213 5th St. (10/08/82)
Parkersburg, *Tavenner House*, 2401 Camden Ave. (11/10/82)
Parkersburg, *Trinity Episcopal Church Rectory (Downtown Parkersburg MRA)*, 430 Juliana St. (12/10/82)
Parkersburg, *Trinity Protestant Episcopal Church (Downtown Parkersburg MRA)*, 424 Juliana St. (12/10/82)
Parkersburg, *Union Trust & Deposit Co./Union Trust National Bank (Downtown Parkersburg MRA)*, 700 Market St. (10/08/82)
Parkersburg, *Van Winkle, Peter G., House (Downtown Parkersburg MRA)*, 600 Juliana St. (10/08/82)
Parkersburg, *Wait, Walton, House (Downtown Parkersburg MRA)*, 1232 Murdoch Ave. (12/10/82)
Parkersburg, *West Central WV Community Action Assoc., Inc. (Downtown Parkersburg MRA)*, 804 Ann St. (10/08/82)
Parkersburg, *Windmill Quaker State (Downtown Parkersburg MRA)*,800 Murdoch Ave. (10/08/82)

WISCONSIN

Ashland County

Apostle Islands National Lakeshore, *Manitou Camp*, Manitou Island, (01/19/83)
Bayfield vicinity, *La Pointe Light Station (U.S. Coast Guard Lighthouses and Light Stations on the Great Lakes TR)*, Long Island in Chequamagon Bay (08/04/83)

Brown County

De Pere, *North Broadway Street Historic District*, Broadway, Ridgeway Blvd., Morris, Fulton, Franklin, Cass, Front, and Wisconsin Sts. (09/08/83)

Chippewa County

Chippewa Falls, *McDonell High School (Notre Dame Parish TR)*, 3 S. High St. (10/06/82)
Chippewa Falls, *Notre Dame Church and Goldsmith Memorial Chapel (Notre Dame Parish TR)*, 117 Allen St. (04/07/83)

Dane County

Madison, *First Church of Christ Scientist*, 315 Wisconsin Ave. (11/24/82)
Madison, *Hyer's Hotel*, 854 Jenifer St. (09/22/83)
Madison, *Steensland, Halle, House*, 315 N. Carroll St. (11/30/82)

Madison, *University Heights Historic District*, Roughly bounded by Regent, Allen, Lathrop Sts., and Kendall Ave., (both sides) (12/17/82)
Stoughton, *Main Street Historic District*, Main St. from the Yahara River to Forest St. (10/21/82)

Dodge County

Hustisford, *Hustis, John, House*, N. Ridge St. (03/10/83)

Door County

Sturgeon Bay, *Louisiana Street/Seventh Avenue Historic District*, Roughly bounded by Louisiana and Kentucky Sts., N. 5th, N. 7th, and N. 8th Aves. (09/22/83)

Douglas County

Superior, *New Jersey Building*, 1422–1432 Tower Ave. and 1705–1723 Belknap Ave. (09/22/83)

Eau Claire County

Eau Claire, *Emery Street Bungalow District (Eau Claire MRA)*, Emery St. between Chauncey and Agnes Sts. (05/20/83)
Eau Claire, *Randall Park Historic District (Eau Claire MRA)*, Roughly bounded by Lake and Niagara Sts., 3rd and 5th Aves. (05/20/83)
Eau Claire, *Sacred Heart Church (Eau Claire MRA)*, 418 N. Dewey St. (03/03/83)
Eau Claire, *Third Ward Historic District (Eau Claire MRA)*, Roughly bounded by Chippewa River, Park Pl., Gilbert Ave., and Farwell St. (05/20/83)
Eau Claire, *Barber, James, House (Eau Claire MRA)*, 132 Marston Ave. (01/28/83)
Eau Claire, *Barron, Martin Van Buren, House (Eau Claire MRA)*, 221 Washington St. (01/28/83)
Eau Claire, *Brice, Orlando, House (Eau Claire MRA)*, 120 Marston Ave. (01/28/83)
Eau Claire, *Christ Church Cathedral and Parish House (Eau Claire MRA)*, 510 S. Farwell St. (01/28/83)
Eau Claire, *City Hall (Eau Claire MRA)*, 203 S. Farwell St. (01/28/83)
Eau Claire, *Eau Claire High School (Eau Claire MRA)*, 314 Doty St. (01/28/83)
Eau Claire, *Eau Claire Public Library (Eau Claire MRA)*, 217 S. Farwell St. (01/28/83)
Eau Claire, *Eichert, Christine, House (Eau Claire MRA)*, 527 N. Barstow St. (01/28/83)
Eau Claire, *Johnson, John, Saloon (Eau Claire MRA)*, 216 Fifith Ave. (01/28/83)
Eau Claire, *Kaiser Lumber Company Office (Eau Claire MRA)*, 1004 Menomonie St. (01/28/83)
Eau Claire, *Kenyon, A. L., House (Eau Claire MRA)*, 333 Garfield Ave. (01/28/83)
Eau Claire, *Ottawa House (Eau Claire MRA)*, 602 Water St. (01/28/83)
Eau Claire, *Owen, John S., House (Eau Claire MRA)*, 907 Porter Ave. (01/28/83)
Eau Claire, *Phoenix Manufacturing Company (Eau Claire MRA)*, Forest and Wisconsin Sts. (01/28/83)
Eau Claire, *Randall, Adin, House (Eau Claire MRA)*, 526 Menomonie St. (01/28/83)
Eau Claire, *Schofield Hall (Eau Claire MRA)*, 105 Garfield Ave. (01/28/83)
Eau Claire, *St. Patrick's Church (Eau Claire MRA)*, 322 Fulton St. (01/28/83)
Eau Claire, *Union National Bank (First Wisconsin Bank) (Eau Claire MRA)*, 131 S. Barstow St. (01/28/83)
Eau Claire, *Wilcox, Roy House (Eau Claire MRA)*, 104 Wilcox St. (01/28/83)

Grant County

Fennimore, *Parker, Dwight T., Public Library*, 925 Lincoln Ave. (03/10/83)
Lancaster, *Lancaster Municipal Building*, 206 S. Madison St. (03/10/83)

Iowa County

Highland vicinity, *Gottschall Site (47Io80)*, (06/30/83)

Jefferson County

Fort Atkinson, *Hoard, Arthur R., House*, 323 Merchants Ave. (11/30/82)

Juneau County

Mauston, *Juneau County Courthouse (County Courthouses of Wisconsin TR)*, 202 E. State St. (11/04/82)

La Crosse County

La Crosse, *Chase, Dr. H. H., and Henry G. Wohlhuter Bungalows*, 221 and 223 S. 11th St. (06/30/83)
Onalaska vicinity, *Sand Lake Site (47Lc44)*, (06/30/83)

Milwaukee County

Milwaukee, *Abbot Row*, 1019–1043 W. Ogden Ave. (03/03/83)
Milwaukee, *Baumbach Building*, 302 N. Broadway St. (03/03/83)
Milwaukee, *Blatz, Valentin, Brewing Company Office Building*, 1120 N. Broadway (03/31/83)
Milwaukee, *Germania Building*, 135 W. Wells St. (07/07/83)
Milwaukee, *Woman's Club of Wisconsin, (The Athenaeum)*, 813 E. Kilbourn Ave. (10/04/82)

Monroe County

Sparta, *St. John's Episcopal Church*, 400 N. Water St. (03/18/83)

Outagamie County

Appleton, *College Avenue Historic District*, 215 W. to 109 E., and 110 W. to 102 E. College Ave.; 100–114 N. Onida St. (12/02/82)

Ozaukee County

Grafton, *Cedarburg Woolen Co. Worsted Mill (Mills of Grafton TR)*, 1350 14th Ave. (06/30/83)
Grafton, *Grafton Flour Mill (Mills of Grafton TR)*, 1300 14th Ave. (06/30/83)
Port Washington, *Bolens, Harry W., House*, 824 W. Grand Ave. (06/25/83)

Rock County

Beloit, *Beloit Water Tower (Beloit MRA)*, 1005 Pleasant St. (01/07/82)
Beloit, *Bluff Street Historic District Beloit MRA)*, Roughly both sides of Bluff St. from Shirland Ave. to Merrill St. (01/07/83)
Beloit, *Brasstown Cottage (Beloit MRA)*, 1701 Colley Rd. (03/04/83)
Beloit, *Church of St. Thomas the Apostle (Beloit MRA)*, 822 E. Grand Ave. (01/07/83)
Beloit, *Crist, J. W., House (Beloit MRA)*, 2801 Afton Rd. (01/07/83)
Beloit, *Dow House and Carpenter-Douglas Barn (Beloit MRA)*, 910 Broad St. (01/07/83)
Beloit, *Fairbanks Flats (Beloit MRA)*, 205, 215 Birch Ave. and 206, 216 Carpenter Ave. (01/07/83)
Beloit, *Moran's Saloon (Beloit MRA)*, 312 State St. (01/07/83)
Beloit, *Near East Side Historic District (Beloit MRA)*, Roughly bounded by Pleasant, Clary Sts., Wisconsin and E. Grand Aves. (01/07/83)
Beloit, *Neese, Elbert, House (Beloit MRA)*, 1302 Bushnell St. (01/07/83)
Beloit, *Nye, Clark, House (Beloit MRA)*, 2501 Spring Creek Rd. (01/07/83)
Beloit, *Rau, Charles, House (Beloit MRA)*, 757 Euclid Ave. (01/07/83)
Beloit, *Rindfleisch Building (Beloit MRA)*, 512 E. Grand Ave. (01/07/83)
Beloit, *Slaymaker, Stephen, House (Beloit MRA)*, 348 Euclid Ave. (01/07/83)
Beloit, *Strong Building (Beloit MRA)*, 400–408 E. Grand Ave. (01/07/83)
Beloit, *Yates, Florence, House (Beloit MRA)* 1614 Emerson St. (01/07/83)
Janesville, *North Main Street Historic District (Boundary Reduction)*, 11–23 and 18–22 N. Main St., and Wall St. between N. Main and N. Parker Dr. (07/22/83)
Janesville, *Myers, Peter, Pork Packing Plant and Willard Coleman Building*, 117–123 N. Main St. (07/07/83)
Orfordville vicinity, *Smiley, Samuel, House*, SE of Orfordville on WI 213 (10/21/82)

Sheboygan County

Adell vicinity, *St. Patrick's Roman Catholic Church*, WI 1 (09/08/83)
Elkhart Lake, *Villa von Baumbach*, 754 Elkhart Lake Dr. (11/30/82)
Sheboygan, *Kohler, John Michael, House*, 608 New York Ave. (11/30/82)

Walworth County

Elkhorn, *Reynolds-Weed House*, 12 N. Church St. (03/31/83)
Lake Geneva, *Smith, T. C., House*, 865 Main St. (11/30/82)

Washington County

West Bend vicinity, *St. Peter's Church*, 1010 Newark Dr. (09/30/83)

WYOMING

Albany County

Centennial, *Centennial Depot*, WY 130 (11/08/82)
Laramie, *Cooper Mansion*, 1411 Grand Ave. (08/08/83)
Laramie, *Lehman-Tunnell Mansion*, 618 Grand Ave. (11/08/82)

Carbon County

Medicine Bow, *Medicine Bow Union Pacific Depot*, 405 Lincoln Hwy. (11/01/82)
Rawlins, *Ferris, George, Mansion*, 607 W. Maple St. (11/01/82)
Rawlins, *Wyoming State Penitentiary District*, 6th and Walnut Sts. (05/26/83)
Savery, *Baker, Jim, Cabin*, Off WY 70 (11/08/82)

Laramie County

Cheyenne, *Sturgis, William, House,* 821 E. 17th St. (11/08/82)

Natrona County

Casper vicinity, *Stone Ranch Stage Station,* N W of Casper on US 20/26 (11/01/82)

Park County

Cody, *Downtown Cody Historic District,* 1155 to 1313 and 1192 to 1286 Sheridan Ave. (08/15/83)
Mammoth Hot Springs vicinity, *Lamar Buffalo Ranch (Yellowstone National Park MRA),* E of Mammoth Hot Springs on Northeast Entrance Rd. (12/07/82)
Yellowstone National Park, *Norris Museum/Norris Comfort Station (Yellowstone National Park MRA),* Grand Loop Rd. (07/21/83)
Yellowstone National Park, *Roosevelt Lodge Historic District (Yellowstone National Park MRA),* Grand Loop Rd. (04/04/83)

Sheridan County

Sheridan, *Sheridan County Courthouse,* Burkett and Main St. (11/15/82)
Sheridan, *Sheridan Main Street Historic District,* Main St. from Burkitt to Mandel Sts. (11/09/82)

Sublette County

Pinedale vicinity, *Redick Lodge (Chambers Lodge),* N of Pinedale (03/18/83)

Sweetwater County

Green River, *Sweetwater Brewery,* 48 W. Railroad Ave. (11/01/82)

Tenton County

Tenton National Forest vicinity, *Huckleberry Mountain Fire Lookout,* Off US 89/287 (07/06/83)
Yellowstone National Park, *Old Faithful Historic District (Yellowstone National Park MRA),* Both sides of Grand Loop Rd. at Old Faithful Geyser (12/07/82)

The following properties have been determined to be eligible for inclusion in the "National Register." Determinations of eligibility are made at the request of the concern Federal Agency under the authority in section 2(b) and 1(3) of Executive Order 11593, and the National Historic Preservation Act of 1966, as amended. Determinations of eligibility are also made on nominations for privately owned property where the owner or a majority of owners for properties with multiple owners object to listing.

Historic properties which are determined to be eligible for inclusion in the National Register of Historic Places are entitled to protection pursuant to section 106 of the National Historic Preservation Act of 1966, as amended, and the procedures of the Advisory Council on Historic Preservation, 36 CFR, Part 800. Before an agency of the Federal Government may undertake any project which may have an effect on such an eligible property, the Advisory Council on Historic Preservation shall be given an opportunity to comment on the proposal.

ALABAMA

Chilton County

Clanton, *102 7th Street,* (03/25/83)

Hale County

Greensboro, *U.S. Post Office,* (11/30/82)

ALASKA

Anchorage Division

Anchorage, *Wendler Building,* 410 I St. (10/27/82)

Ketchikan Division

Ketchikan, *Headquarters Building, 16th Lighthouse District,* (09/06/83)

ARIZONA

Coconino County

Archeological Site AZ I–10–30, (01/24/83)

Navajo County

Archeological Site AZ D–10–7, (02/10/83)

Yuma County

Yuma, *Robertson, Peter T., House (Yuma MRA),* (12/07/82)

ARKANSAS

Calhoun County

Archeological Site 3CA3 (Bangs Landing Site), (05/10/83)

Garland County

Hot Springs, *Hot Springs Rehabilitation Center,* (10/26/82)

Johnson County

Clarksville, *May-Marlar Grocery (Thompson, Charles L., Design Collection TR),* (12/22/82)

Pope County

Russellville, *Swaim House (Thompson, Charles L., Design Collection TR),* (12/22/82)

Potter County

Archeological Site 41PT45, (06/15/83)

Pulaski County

Little Rock, *Geyer and Adams Company (Thompson, Charles L., Design Collection TR),* (12/22/82)

Randolph and Ripley Counties

Fourche Creek Watershed, (also located in Missouri) (12/09/82)

Sabastian County

Fort Smith, *Fort Smith National Cemetery,* (06/02/83)

Union and Calhoun Counties

Calion, *Chicago, Rock Island and Pacific Railroad Bridge,* (06/15/83)

Washington County

Fayetteville, *Fayetteville National Cemetery,* (12/28/82)

CALIFORNIA

Alameda County

Oakland, *Oakland Floral Depot Building,* (06/30/83)
San Leandro, *Original Caterpillar Company Office* 800 Davis St. (09/06/83)

Contra Costa County

Orinda, *Orinda Theatre and American Trust Bank Bldg,* 10–20 Moraga Way (10/25/82)

Fresno County

Prehistoric Site #Fre–805, (07/02/83)
Prehistoric Site #Fre–817, (07/02/83)

Humboldt County

Minon Creek Archeological Site, (02/22/83)

Humboldt and Trinity Counties

Pilot Ridge Archeological and Historic District, (04/11/83)

Inyo County

Death Valley, *Lee Historic District,* (10/05/82)

Los Angeles County

Archeological Site CA LAn 1010, (11/19/82)
Archeological Site CA LAn 1051, (11/19/82)
Archeological Site CA LAn 1055, (11/19/82)
Arroyo Seco Parkway, (03/31/83)
Dieterle House, (03/31/83)
Grokowsky, (03/31/83)
Grosse House, (03/31/83)
House at 921 Monterey Road, (03/31/83)
Markam Place District (Addendum), (03/31/83)
Marvin House, (03/31/83)
North of Mission District, (03/31/83)
Pasadena Avenue District (Addendum), (03/31/83)
Pierce, J. G., House, (03/31/83)
Sherry House, (03/31/83)
South of Mission District, (03/31/83)
Claremont, *Pitzer House,* (06/03/83)
Los Angeles, *Administration Building, United Church of Religious Science,* 3251 W. 6th St. (09/19/83)
Los Angeles, *Chapman Park Building,* 3501–3519 W. 6th St. (09/19/83)
Los Angeles, *Chapman Park Market Building,* 3451–3479 W. 6th St. (09/19/83)
Los Angeles, *Crocker Bank (Wilshire East) (Los Angeles Rail Rapid Project),* (05/24/83)
Los Angeles, *Garden Court Apartments,* 7021 Hollywood Blvd. (10/21/83)
Los Angeles, *Global Marine Building (Los Angeles Rail Rapid Project),* (05/24/83)
Los Angeles, *Hendricks Builders Supply Company (Toluca Southern Pacific Railroad Depot) (Los Angeles Rail Rapid Project),* (05/24/83)
Los Angeles, *Hollywood Bowl (Los Angeles Rail Rapid Project),* (05/24/83)
Los Angeles, *Hotel Clark (Los Angeles Rail Rapid Project),* (05/24/83)
Los Angeles, *MacArthur Park (Los Angeles Rail Rapid Project),* (05/24/83)
Los Angeles, *May Company (Los Angeles Rail Rapid Project),* (05/24/83)
Los Angeles, *McKinley Building (Los Angeles Rail Rapid Project),* (05/24/83)

Los Angeles, *Miracle Mile Historic District (Los Angeles Rail Rapid Project)*, (05/24/83)
Los Angeles, *Post Office Terminal Annex (Los Angeles Rail Rapid Project)*, (05/24/83)
Los Angeles, *Roosevelt Building (Los Angeles Rail Rapid Project)*, (05/24/83)
Los Angeles, *Security Pacific Bank Building (Hollywood) (Los Angeles Rail Rapid Project)*, (05/24/83)
Los Angeles, *Wilshire Christian Church (Los Angeles Rail Rapid Project)*, (05/24/83)
Los Angeles, *Wilson, Clem, Building (Mutual of Omaha) (Los Angeles Rail Rapid Project)*, (05/24/83)
Los Angeles, *Zephyr Club (Security First National Bank of Los Angeles) (Los Angeles Rail Rapid Project)*, (05/24/83)
Pasadena, *1495 N. Lake Avenue (Breiner House)*, (12/29/82)
Pasadena, *Bellevue Court (Bungalow Courts of Pasadena TR)*, 440 S. Marengo Ave. (07/11/83)
Pasadena, *Bryan Court (Bungalow Courts of Pasadena TR)*, 427 S. Marengo Ave. (07/11/83)
Pasadena, *Cornish Court (Bungalow Courts of Pasadena TR)*, 500 S. El Moline Ave. (07/11/83)
Pasadena, *Ehreton Court (Bungalow Courts of Pasadena TR)*, 503 S. Los Robles Ave. (07/11/83)
Pasadena, *Gartz Court (Bungalow Courts of Pasadena TR)*, 270 N. Madison Ave. (07/11/83)
Pasadena, *Miraflores Court (Bungalow Courts of Pasadena TR)*, 444 S. Euclid Ave. (07/11/83)
Pasadena, *Roseleigh Court (Bungalow Courts of Pasadena TR)*, 529 S. El Molino Ave. (07/11/83)
Pasadena, *San Pasqual Court (Bungalow Courts of Pasadena TR)*, 520 S. Los Robles Ave. (07/11/83)
Pasadena, *Shafer Court (Bungalow Courts of Pasadena TR)*, (07/11/83)
Santa Fe Springs, *Hawkins-Nimocks Estate and Patricio Ontiveros Adobe*, (11/01/82)

Merced and Mariposa Counties

Planada vicinity, *Bear Creek District*, (02/22/83)

Mono County

Archeological Site CA-Mno-11, (05/09/83)
Archeological Site CA-Mno-1644, (05/09/83)
Archeological Site CA-Mno-1645, (05/09/83)
Archeological Site CA-Mno-823, (05/09/83)

Orange County

Costra Mesa, *Station Master's House*, 2150 Newport Blvd. (10/13/82)

Riverside County

Liberty Bell Cafe, (07/05/83)

San Diego County

Archeological Site CA-SDi-5680, (06/06/83)
San Luis Rey River Bridge, (04/14/83)

San Francisco County

St. Joseph's Hospital, 355 Buena Vista Ave., East (08/22/83)
San Francisco, *590 Market Street (Hobart Building)*, (03/18/83)
San Francisco, *Federal Reserve Bank Building*, 400 Sansome St. (12/10/82)

San Luis Obispo County

Diablo Canyon Archeological Site #SLO-2, (12/14/82)

Santa Barbara County

Archeological Site CA-SBa-6, (12/17/82)
Santa Barbara, *Larco Building*, 214 State St. (08/18/83)

Santa Clara County

San Jose, *2343 North First Street*, (06/22/83)

Shasta County

Archeological Site 4-SHA-782, (10/26/82)
Double Springs, (08/08/83)
Old Man Cave, (08/08/83)
Rainbow Falls, (08/08/83)

Stanislaus County

Modesto, *Southern Pacific Railroad Depot*, (02/24/83)

COLORADO

Boulder County

Lower Boulder Ditch (5BL488), (02/10/83)

Chaffee County

Archeological Site 5CF358, (05/12/83)

Denver County

901 Wazee Street (5DV1004), (06/27/83)
Colorado Ice and Storage Company (5DV1393), (06/27/83)
St. Cajetan's Church (5DV702), (06/27/83)
West Wazee Street Warehouse District (5DV1005), (06/27/83)
Denver, *Delaware Street Tramway Power Substation*, (01/13/83)
Denver, *Zang Barn and Stable*, 2263 7th St. (01/24/83)

Gunnison County

Archeological Site 5GN1617, (05/12/83)
Archeological Site 5GN1618, (05/12/83)
Archeological Site 5GN289, (05/12/83)

Jefferson County

Conifer, *Barn (5JF308)*, (10/26/82)
Conifer, *Lubin-Blakeslee Place (5JF304)*, (10/26/82)
Conifer, *Midway House (5JF303)*, (10/26/82)

Larimer County

Archeological Site 5LR647, (12/10/82)

Otero County

Manzanola, *Otero County Shop (5OT98)*, (04/05/83)

Pitkin County

Coal Basin Townsite, (08/29/83)

CONNECTICUT

Fairfield County

Greenwich, *Greenwich YMCA*, 50 E. Putnam Ave. (07/20/83)

Hartford County

Farmington, *Meadow Road Bridge (Pequabuck Stone Bridge)*, (04/27/83)
West Hartford, *Mount St. Joseph Academy*, 235 Fern St. (12/08/82)

New Haven County

West Haven, *Mervin-Hubbard House*, 1 Hubbard Rd. (09/02/83)

New London County

Groton, *Building 70 (Escape Training Facility)*, (11/23/82)

DELAWARE

Kent County

Bailey, Mason, House (Kenton Hundred MRA), (06/27/83)
Wilds, David, House (Kenton Hundred MRA), (06/27/83)
Clayton vicinity, *Gootee, Dr. Benjamin S., House (Linwood) (Kenton Hundred MRA)*, (08/29/83)
Leipsic, *Hoffecker, H. T., House (Leipsic and Little Creek MRA)*, (04/25/83)

New Castle County

Hawthorn, W. N., Farmstead (Amended), (03/25/83)
Christiana, *Montgomery, Thomas, House (White Clay Creek Hundred MRA)*, 101 W. Main St. (06/19/83)
Newark, *District School No. 39*, (02/24/83)

Sussex County

Short, I.D., House, (01/07/83)
Lewes vicinity, *Marsh Grass Site*, (11/04/83)

DISTRICT OF COLUMBIA

Fort Lesly J. McNair, (12/29/82)
U.S. Post Office, N. Capitol and Massachusetts Ave., NE (06/16/83)

FLORIDA

Dade County

Opa-Locke, *Opa-Locke Railroad Station (Opa-Locke TR)*, 490 Ali Baba Ave. (11/17/82)

Hillsborough County

Tampa, *West Tampa Historic District*, (03/04/83)

Lee County

Fort Myers, *Langford-Kingston Home*, (06/03/83)
Fort Myers, *Murphy-Burroughs Home*, (06/03/83)

Santa Rosa County

Milton, *Exchange Hotel*, 300 Elmira St. (01/05/83)

GEORGIA

Chatham County

Savannah and Ogeechee Canal, (05/18/83)

Clarke County

Athens, *Edwards House*, (06/23/83)
Athens, *State Normal School*, (06/23/83)
Athens, *Whitehead-Haddock House*, (06/23/83)

Cobb County

Marietta, *Glover Machine Works*, (08/29/83)

Fulton and DeKalb Counties

Candler Park Historic District, (01/14/83)

Paulding County

Dallas, *301 Main Street (First Baptist Church)*, (03/22/83)
Dallas, *415 Main Street (Bartlett-Hutchens)*, (03/22/83)

Walton County

Between, *Briscoe's Store*, (06/21/83)

HAWAII

Honolulu County

Honolulu, *Toyo Theater*, (02/18/82)

IDAHO

Ada County

Boise, *Beaver River Power Station (Tourtellotte and Hummel Architectural TR)*, 621 S. 17th (11/17/82)
Boise, *Broadbent Building (Tourtellotte and Hummel Architectural TR)*, 112–124 W. 9th St. (11/17/82)
Boise, *Bunting Tractor Company Building (Tourtellotte and Hummel Architectural TR)*, 318 Capitol Blvd. (11/17/82)
Boise, *Hummel, Frederick C., House (Tourtellotte and Hummel Architectural TR)*, 220 E. Idaho St. (11/17/82)
Boise, *Jordan, J. O., and Son, Building (Tourtellotte and Hummel Architectural TR)*, 224 N. 9th St. (11/17/82)
Boise, *Joy, Charles, House (Tourtellotte and Hummel Architectural TR)*, (04/14/83)
Boise, *Kerr, B. L., House (Tourtellotte and Hummel Architectural TR)*, 1116 W. Hays (11/17/82)
Boise, *Kieldson, Louis, House (Tourtellotte and Hummel Architectural TR)*, 409 W. Jefferson (11/17/82)
Boise, *Pierce and Company Allen-Wright Building (Tourtellotte and Hummel Architectural TR)*, 817–819 Bannock St. (11/17/82)
Boise, *Pierce, Walter, House (Tourtellotte and Hummel Architectural TR)*, 1024 Hays St. (11/17/82)
Boise, *Stone, R. V., House (Tourtellotte and Hummel Architectural TR)*, 218 E. Idaho St. (11/17/82)
Boise, *Wills, F.C., House (Tourtellotte and Hummel Architectural TR)*, 220 E. Bannock St. (11/17/82)

Fremont County

Big Springs Fire Tower, Targhee National Forest (11/29/82)

Jefferson County

Ririe, *First National Bank Building of Ririe*, (07/05/83)

Jerome County

Eden vicinity, *Wilson Lake Reservior Spillway and Canal Walls (Lava Rock Structures in South Central ID)*, (09/08/83)
Hazelton, *Dunn, William S., House (Lava Rock Structures in South Central ID)*, (09/08/83)
Jerome Vicinity, *Bacon, T.C., Water Tank and Well House (Lava Rock Structures in South Central ID)*, (09/08/83)
Jerome Vicinity, *Ploss, A.G., House (Lava Rock Structures in South Central ID)*, (09/08/83)

ILLINOIS

Cook County

Chicago, *Brooks Building*, (10/08/82)
Chicago, *U.S. Post Office*, 433 W. Van Buren St. (04/06/83)
Oak Park, *Playhouse Theatre*, (08/08/83)
Oak Park, *Scoville Block No. 1*, (08/05/83)

Jo Daviess County

Apple River Archeological Site (11–Jd–140), (05/19/83)

Kane County

Batavia, *U.S. Post Office*, (04/26/83)

Lake County

Highland Park, *Goldberg, Julius, House (Highland Park MRA)*, (09/29/82)
Highland Park, *Jensen, Jens, Studio (Highland Park MRA)*, Dean Ave. (05/18/83)
Highland Park, *Van Bergen, John S., House (Highland Park MRA)*, 234 Cedar (05/18/83)

Lee County

Amboy, *Illinois Central Gulf Railroad Depot (Amboy)*, (04/08/83)

INDIANA

Fayette County

Connorsville, *U.S. Post Office*, (02/08/83)

Marion County

Indianapolis, *Dusenberg Factory Complex*, (06/16/83)
Indianapolis, *Indiana Dental College*, 141 E. Ohio (07/01/83)

Vigo County

Terre Haute, *House at 119 S. Ninth Street (Downtown Terre Haute MRA)*, 119 S. 9th St. (06/30/83)
Terre Haute, *First National Bank (Downtown Terre Haute MRA)*, (06/30/83)
Terre Haute, *Indiana Theatre (Downtown Terre Haute MRA)*, (06/30/83)
Terre Haute, *Odd Fellows Temple (Downtown Terre Haute MRA)*, (06/30/83)
Terre Haute, *St. Joseph's Church and School District (Downtown Terre Haute MRA)*, (06/30/83)
Terre Haute, *U.S. Trust Company Building (Downtown Terre Haute MRA)*, (06/30/83)

IOWA

Burlington Northern C, B & O Bridge, Spans Missouri River (also located in Nebraska) (01/11/83)

Black Hawk County

Waterloo, *Burlington, Cedar Rapids, and Northern Railway Passenger Depot*, 605 Bluff St. (07/27/83)

Buchanan County

Independence, *Illinois Central Railroad Depot*, 2nd Ave., NW (02/02/83)

Scott County

Davenport, *Bettendorf, W. P., House (Davenport MRA)*, (07/28/83)
Davenport, *Black, George W., House (Davenport MRA)*, (07/28/83)
Davenport, *Cazatt, James, House (Davenport MRA)*, (07/28/83)
Davenport, *Chicago, Milwaukee, St. Paul and Pacific Freight (Davenport MRA)*, (07/28/83)
Davenport *Chicago, Milwaukee, St. Paul and Pacific R R Nahant Classification Yards Roundhouse (Davenport MRA)*, (07/28/83)
Davenport, *Chicago, Rock Island and Pacific R R Elevated Track (Davenport MRA)*, (07/28/83)
Davenport, *Davenport Commercial Club (Davenport MRA)*, (07/28/83)
Davenport, *Haak Ferd,-Victor Animatograph Company (Davenport MRA)*, (07/28/83)
Davenport, *Harrison, Issac W., House (Davenport MRA)*, (07/28/83)
Davenport, *Koltmann, Carl H., House (Davenport MRA)*, (07/28/83)
Davenport, *North Harrison Trust and Savings (Davenport MRA)*, (07/28/83)
Davenport, *Putnam-Parker Building (Davenport MRA)*, (07/28/83)
Davenport, *Stoltenberg, Adolph, House (Davenport MRA)*, (07/28/83)
Davenport, *Von Maur, C. J., House (Davenport MRA)*, (07/28/83)
Davenport, *Voss, Fritz, House (Davenport MRA)*, (07/28/83)

KANSAS

Cloud County

Concordia, *U.S. Post Office*, 211 W. Iron St. (11/19/82)

Ford County

Dodge City, *U.S. Post Office*, (11/29/82)

Jackson County

Archeological Site 14JN332, (04/14/83)

McPherson County

McPherson, *U.S. Post Office*, 115 E. Kansas Ave. (11/29/82)

Shawnee County

Dover, *Store-Lodge Hall*, (03/25/83)
Dover, *Wirth House*, (03/25/83)

KENTUCKY

Anderson County

Lawrenceburg, *U.S. Post Office*, (10/07/82)

Boone County

Cleek McCabe Archeological Site, (09/09/83)

Bourbon County

Millersburg, *Butterton, Samuel, Farm (Early Stone Buildings of Central Kentucky TR)*, (06/23/83)

Boyd County

Ashland, *U.S. Post Office*, (10/05/82)
Cathettsburg, *U.S. Post Office and Courthouse*, 25th and Broadway (10/14/82)

Boyle County

Danville, *Crutchfield House (BO–D–138)*, (01/13/83)
Junction City, *Wilson, James, House (Early Stone Buildings of Central Kentucky TR)*, (06/23/83)

Breathitt County

Jackson, *U.S. Post Office*, (12/30/82)

Campbell County

Melbourne, *Trutschell House (DeMoss House) (German Settlement, Four Mile Creek Area TR)*, Box A1, (03/09/83)
Melbourne, *Walter House (German Settlement, Four Mile Creek Area TR)*, Box 138 (03/09/83)

Christian County

Hopkinsville, *Higgins, Archie, House (Christian County MRA)*, 1531 E. 7th St. (09/07/83)

Clark County

Archeological Site 15CK 126, (11/29/82)
Archeological Site 15CK 127, (11/29/82)
Archeological Site 15CK 275, (11/29/82)
Archeological Site 15CK 362, (11/29/82)

Fayette County

Centerville, *Malmaison Hall (Innes Houses of Fayette County TR)*, (08/30/83)

Greenup County

Hardin Village (Archeological 15 Gp 22), (06/22/83)

Hardin County

Stamper Pirtle House, Howe Valley (05/23/83)

Harlan County

Harlan, *U.S. Post Office*, (10/05/82)

Jefferson County

Glore-Taylor House (North Old Louisville MRA), 829 S. 2nd (08/03/83)
Harrods Creek vicinity, *Croghan-Blakenbaker House (Jefferson County MRA)*, River Rd. (07/12/83)
Jefferson vicinity, *Funk's Branch-Funk House (Jefferson County MRA)*, 9011 Taylorsville Rd. (07/12/83)
Louisville, *642 S. Fourth Street*, (10/26/82)
Louisville, *644–46 S. Fourth Street*, (10/26/82)
Louisville, *658–660 S. Fourth Street*, (10/26/82)
Louisville, *Breslin Building*, (09/02/83)
Louisville, *Building at 1495 S. 11th St. (West Louisville MRA)*, (09/08/83)
Louisville, *Columbia Auditorium (North Old Louisville MRA)*, 824 S. 4th (08/29/83)
Louisville, *Jacob, Charles D., House (North Old Louisville MRA)*, 1020 S. 4th St. (08/03/83)
Louisville, *Kentucky and Indian Terminal Railroad Company Roundhouse and Turntable (West Louisville MRA)*, (09/08/83)
Louisville, *Kosair Temple (North Old Louisville MRA)*, 814 S. 2nd (08/29/83)
Louisville, *Merchant's and Manufacturing Building (West Louisville MRA)*, (09/08/83)
Louisville, *Rickman House (North Old Louisville MRA)*, 825 S. 2nd St. (08/03/83)
Louisville, *State Forest Service Exhibition Building (West Louisville MRA)*, (09/08/83)
Middletown vicinity, *Beynroth House (Jefferson County MRA)*, 11503 Main St. (07/12/83)

Jessamine County

Nicholasville, *Crockett, Joseph, House (Early Stone Buildings of Central Kentucky TR)*, (06/23/83)

Marion County

Lebanon, *U.S. Post Office*, (10/12/82)

Mercer County

Harrodsburg, *U.S. Post Office*, (10/12/82)

Pendleton County

Falmouth, *Applegate, W. M., House (Falmouth MRA)*, 306–308 Maple (03/04/83)

Woodford County

Versailles, *Summer's Forest Whiskey Warehouse (Early Stone Buildings of Central Kentucky TR)*, (06/23/83)

LOUISIANA

Ascension Parish

Archeological Site 16AN29, (10/05/82)

Iberville Parish

Bayou Sorrel Mounds (16IV4), (08/15/83)

Plaquemines Parish

Harlem Plantation (16P184), (02/15/83)

Rapides Parish

Alexandria, *O'Shee House*, 1606 Fourth St. (12/10/82)

St. Landry and Pointe Coupee Parishes

Atchafalaya River Bridge, (08/04/83)

St. Martin Parish

Ruth, *Bayou Teche Bridge*, (06/02/83)

MARYLAND

Allegany County

Frostburg, *39 and 41 W. Main Street*, (10/27/82)

Anne Arundel County

Grasslands, (04/22/83)
Lowman Farm, (04/22/83)

Baltimore (Independent City)

100 Hopkins Place ((Old Peoples Bank Building), (10/14/82)
Boyd/Booth Historic District, (12/17/82)
Merchants National Bank, 301 Water St. (10/04/82)
Poppleton Historic District, (02/24/83)
Public School No. 85, Lakewood Ave. and Oliver St. (11/22/82)
Reservior Hill, (06/20/83)
Upton Historic District, (12/17/82)
Burnt Historic District (Extension), (10/04/82)

Baltimore County

Dundalk, *U.S. Post Office*, (07/18/83)

Caroline County

Denton, *Denton Historic District*, (03/25/83)

Carroll County

Sykesville, *Sykesville B&O Railroad Station*, Main St. (12/19/82)

Washington County

Hagerstown, *Hagerstown Commercial Core Historic District*, (10/13/82)

Wicomico County

Salisbury, *Downtown Historic District*, (06/02/83)

MASSACHUSETTS

Bristol County

Fall River, *Ashworth Brothers Mill (Fall River MRA)*, (02/16/83)
Fall River, *Granite Mills (Fall River MRA)*, (02/16/83)
Fall River, *Kerr Thread Mill (Fall River MRA)*, (02/16/83)
Fall River, *Laurel Lake Mills (Fall River MRA)*, (02/16/83)
Fall River, *Wyoming Mills (Fall River MRA)*, (02/16/83)

Hampden County

Springfield, *Edisonia Theater Block (Downtown Springfield MRA)*, (05/27/83)
Springfield, *Massachusetts Mutual Life Insurance Company (Downtown Springfield MRA)*, (02/24/83)
Springfield, *Y.M.C.A. Building (Downtown Springfield MRA)*, (02/24/83)

Middlesex County

Cambridge, *Mount Auburn Hospital-Main Building*, (06/30/83)
Cambridge, *Worcester, Frederick, House (Cambridge MRA)*, (06/30/83)

Norfolk County

Canton, *East Branch Workshop 19–NF–179*, (08/05/83)
Canton, *Meadowlands 19–NF–156*, (08/05/83)

Suffolk County

Boston, *Kennedy's Building*, (05/19/83)

MICHIGAN

Calhoun County

F-Drive Bridge, Crossing Kalamazoo River (05/06/83)

Chippewa County

Kinross vicinity, *Caldwell, William H., Loghouse*, S of Kinross on Caldwell Rd. (02/10/83)

Genesee County

Adams-Van Atta House (Genesee County MRA), 209 E. High St. (11/23/82)
Murray, James H., Mill (Genesee County MRA), (06/20/83)
Flint, *Kearsley Park Pavilion and Pool*, (08/04/83)

Ingham County

East Lansing, *Howland House*, (04/14/83)

Ionia County

Chesapeake and Ohio Railway Bridge #12.0, (11/04/82)

Kalamazoo County

Kalamazoo, *Bank of Kalamazoo Building (Kalamazoo MRA)*, 136 E. Michigan Ave. (05/27/83)
Kalamazoo, *Cobb, James B., House (Kalamazoo MRA)*, 526 S. Burdick St. (05/27/83)
Kalamazoo, *Lilienfield, David, House (Kalamazoo MRA)*, 447 W. South St. (05/27/83)
Kalamazoo, *Potter, Allen, Octagon House (Kalamazoo MRA)*, (05/27/83)
Kalamazoo, *State Theater (Kalamazoo MRA)*, (05/27/83)

Kent County

Grand Rapids, *Pearl Street Bridge*, (10/13/82)

Mackinaw County

Cut River Bridge, (06/21/83)

St. Clair County

Blue Water Bridge and U.S. Customs-Toll Plaza, (03/04/83)

Wayne County

Detroit, *Basso Building,* (Woodward Avenue Light Rail Transit Project) (09/14/83)
Detroit, *Cathedral Church of St. Paul Episcopal,* (03/03/82)
Detroit, *Elwood Bar,* (Woodward Avenue Light Rail Transit Project) (09/14/83)
Detroit, *Fox Theater,* (Woodward Avenue Light Rail Transit Project) (09/14/83)
Detroit, *MacArthur Bridge (Belle Isle Bridge),* (10/13/82)
Detroit, *Meyer Treasure Chest Stores (Rayl Building),* (Woodward Avenue Light Rail Transit Project) (09/14/83)
Detroit, *Northern Senior High School,* (Woodward Avenue Light Rail Transit Project) (09/14/83)
Detroit, *Palms Francis, Building and State Theater,* (01/24/83)
Detroit, *Park Shelton Apartments (Wardwell Apts.),* (Woodward Avenue Light Rail Transit Project) (09/14/83)
Detroit, *Purple Heart Value Village (Gar Wood Engineering),* (Woodward Avenue Light Rail Transit Project) (09/14/83)
Detroit, *Utley, Henry M., Branch Library,* (Woodward Avenue Light Rail Transit Project) (09/14/83)

MINNESOTA

Allegan County

Allegan, *U.S. Post Office,* (08/25/83)

Carlton County

Moose Lake, *Moose Lake's Burlington Northern Depot,* (08/25/83)

Goodhue County

Archeological Site 21GD4, (02/10/83)
Archeological Site 21GD45, (Bryan Site), (02/10/83)

Hennepin County

Minneapolis, *Munsingwear Building (Northwestern Knitting Company),* 700–728 Glenwood Ave. (01/28/83)

Koochiching County

International Falls, *Minnesota and Ontario Paper Company Office,* 2nd St. (03/07/83)

Otter Tail County

Fergus Falls vicinity, *Kennedy Park Site,* (01/14/83)

Ramsey County

St. Paul, *Salvation Army Headquarters,* 57 W. 10th St. (02/24/83)

MISSISSIPPI

Alcorn County

Corinth, *Corinth National Cemetery,* (03/30/83)

Itawamba County

Archeological Site 22It643, (03/04/83)

Montgomery County

Winona, *Old Rose House,* (01/14/83)

MISSOURI

Boone County

Archeological Site 23BO1048, (08/18/83)
Centralia, *U.S. Post Office,* (11/19/82)

Crawford, Franklin and Washington Counties

Meramec Park Lake Archeological District, (10/14/82)

Grundy County

Trenton, *U.S. Post Office,* (11/19/82)

Jackson County

Kansas City, *U.S. Post Office,* (02/24/83)

Jasper County

Archeological Site 23JP164, (11/23/82)
Webb City, *U.S. Post Office,* (11/19/82)

Marion County

Hannibal, *Mitchell-Anderson House,* (09/21/83)

Saline County

Marshall, *U.S. Post Office,* (11/19/82)

St. Charles County

Little Hills Expressway Site (23SCS572), (01/28/83)

St. Louis (Independent City)

18th Street Bridge, (12/17/82)
21st Street Bridge, (08/29/83)
S.S. Admiral, (09/02/83)

St. Louis County

St. Louis, *Sigma Chemical Company (Cherokee Industrial Site),* (03/23/83)

MONTANA

Custer, Fallon, McCone, Richland Counties

Historic Resources of the Fort Union Coal Region (Partial Inventory) (25 Prehistoric Sites), (12/10/82)

Flathead County

Kalispell, *Kalispell Multiple Resource Area,* This MRA included 4 Dist. and 64 indiv. properties (02/10/83)

Granite County

Sliderock Lookout (24GN136), (06/21/83)

Lewis and Clark County

Baxendale School, Hwy. 12 (09/29/83)
Cody Ranch/RV Ranch, Hwy. 12 (09/29/83)
Greunenfelder Homestead, Hwy. 12 (09/29/83)
Isaak Fanm-G.W. Reed Homestead, Hwy. 12 (09/29/83)
Munding-Sieban Ranch, Hwy 12 (09/29/83)
State Nursery and Seed Company, Hwy. 12 (09/29/83)

Madison County

Bozeman Trail, (03/16/83)

Mineral County

Thompson Peak Lookout, (06/21/83)

Missoula County

Upper Eustache Cabin, (06/21/83)
DeSmet, *Old DeSmet School,* (06/21/83)

Park County

Fort Parker Site, (06/15/83)

NEVADA

Washoe County

Reno, *Howell House,* 448 Hill St. (03/07/83)
Reno, *St. Thomas Acquinas Cathedral,* 300 and 310 W. 2nd St. (03/07/83)

NEW HAMPSHIRE

Hillsborough County

Stone Arch Bridge, (08/25/83)
Hillsborough, *Dascomb House,* (08/25/83)
Manchester, *South Willow Street Bridge,* (11/29/82)

Merrimack County

Concord, *Centennial Block,* (03/29/83)
Concord, *Hill, James R., Building,* (03/29/83)
Concord, *State Block,* (03/29/83)
Concord, *State Block-North Main Street Addition,* 71 N. Main St. (03/29/83)

NEW JERSEY

Atlantic County

Harding Lakes, *Abbott's Modern Cabins,* W of Harding Lakes on US 40 (10/28/82)

Bergen County

Closter, *Durie-Turnure House (Stone House of Bergen County TR),* 257 Schraalenburgh Rd. (01/09/83)
Dumont, *Demarest, Daniel J., House (Stone House of Bergen County TR),* 480 Washington Ave. (01/09/83)
Englewood, *DeMott House (Stone House of Bergen County TR),* 488 Grand Ave. (01/09/83)
Franklin Lakes, *Pulisfelt-Courter House (Stone House of Bergen County TR),* 211 Mabel Ann Ave. (01/09/83)
Leonia, *Moore House (Stone House of Bergen County TR),* 215 Fort Lee Rd. (01/09/83)
Rutherford, *Yereance-Kettel House (Stone House of Bergen County TR),* 245 Union Ave. (01/09/83)
Teaneck, *Ackerman, John, House (Stone House of Bergen County TR),* 1286 River Rd. (01/09/83)

Camden County

Camden, *Broadway Subway Station,* 30–32 and 33–37 S. Broadway (05/06/83)

Hudson County

Kearny and Secaucus, *Pennsylvania, New Jersey and New York Railroad Co. Portal Bridge,* Spans Hackensack River at US 95 (10/14/82)

Mercer County

Gropp's Lake Prehistoric Site, (07/18/83)
Hamilton Township, *Abbottville,* (07/18/83)
Hamilton Township, *Abott, C. C., Farmstead,* (07/18/83)
Hamilton Township, *Bordentown Waterworks-White Horse Circle Prehistoric Site,* (07/18/83)
Hamilton Township, *Hutchinson's Mill Site,* (07/18/83)
Hamilton Township, *Pearson, Robert, Farmstead,* (07/18/83)
Hamilton Township, *Tindal-Pearson Farmstead,* (07/18/83)

Ocean County

Beach Haven, *Sherbourne Farm (Beach Haven MRA), (07/14/83)*

Passaic County

Dublin Historic District, (11/05/82)

Warren County

Hamlin Historic Archeological Site, (04/14/83)
Still Valley Prehistoric District, (07/07/83)

NEW MEXICO

Eddy County

Carlsbad vicinity, *Archeological Site LA 18161 (ENM10418)*, (09/28/83)

Harding County

Archeological Site LA 15928 (Mills Site), (10/07/82)

San Juan County

144 Archeological Sites (Ute Mountain Land Exchange), (03/25/83)

Santa Fe County

Pueblo Colorado (North), (12/09/82)
Pueblo She', (12/09/83)
San Cristobal Archeological District, (12/08/82)

NEW YORK

Albany County

Albany, *Strassburg House (Guilderland MRA)*, 1 McKown Rd. (11/10/82)

Broome County

Binghamton, *Binghamton Project Area*, Dickinson St. and Winding Way (09/08/83)
Binghamton, *House at 33 Way Street, (08/18/83)*
Binghamton, *229, 233, 235 and 237 Chenango Street*, (11/12/82)
Johnson City, *CFJ Pool*, (10/04/82)

Cayuga County

Auburn, *U.S. Post Office*, 153 Genessee St. (05/23/83)

Chautauqua County

Westfield, *Nickleplate Railroad, Norfolk and Western Freighthouse and Depot (Westfield Village MRA)*, (09/26/83)

Clinton County

Plattsburgh, *St. Peter's R. C. Church and Rectory (Plattsburgh City MRA)*, 114 Cornelia St. (11/12/82)
Plattsburgh, *Story, H.W., House (Plattsburgh City MRA)*, 11 Lorraine St. (11/12/82)

Dutchess County

Poughkeepsie, *Church Building (Poughkeepsie MRA)*, (11/26/82)
Poughkeepsie, *First Baptist Church (Poughkeepsie MRA)*, (12/14/82)
Poughkeepsie, *Hoffman House (Poughkeepsie MRA)*, (11/26/82)
Poughkeepsie, *Innis Dye Works (Poughkeepsie MRA)*, (11/26/82)
Poughkeepsie, *Old St. Peter's Church (Poughkeepsie MRA)*, (11/26/82)
Poughkeepsie, *Poughkeepsie Journal Building (Poughkeepsie MRA)*, (11/26/82)
Poughkeepsie, *Wilkinson House (Poughkeepsie MRA)*, (11/26/82)

Erie County

Allen Site, (05/19/83)
Swede Hill Site, (05/19/83)
YMCA Building, (04/07/83)
Buffalo, *Carroll Street Freight Station*, (01/14/83)
Buffalo, *Roosevelt Apartment*, (11/04/82)

Kings County

Brooklyn, *Lott, Hendrick T., House*, (09/26/83)
New York, *Greenwood Cemetery*, (09/26/83)

Madison County

Canastota, *Buda House*, (09/15/83)
Canastota, *Cali House*, (09/15/83)

Monroe County

Rochester, *Old East High School*, (10/29/83)

Montgomery County

Amsterdam, *Vrooman Avenue School*, (12/28/82)

New York County

Manhattan, *Loew's Victoria Theater*, (09/02/83)
New York, *Apollo Theatre, 253 W. 125th St.* (01/06/83)
New York, *Clarke, Thomas B., House*, 22 E. 35th St. (02/10/83)
New York, *Empire Building*, 71 Broadway (02/27/83)
New York, *Mount Sinai Dispensary*, 149–151 E. 67th St. (09/02/83)
New York, *Scribner's Charles, Sons Building*, 597 5th Ave. (09/20/82)
New York, *Trinity and United States Realty Company Buildings*, 111 and 115 Broadway (02/08/83)
New York, *United Methodist Church of St. Paul and St. Andrew Complex*, (08/05/83)

Oneida County

Utica, *902 John Street*, (11/04/82)

Putnam County

St. Philips Church in the Highlands Complex (Hudson Highlands MRA), (11/23/82)
Philipstown, *Osborn, Frederick, House (Hudson Highlands MRA)*, (11/23/82)

Richmond County

Staten Island, *Church of St. Andrew*, Arthur Hill and Old Mill Rds. (11/13/82)
Staten Island, *St. John's Church Complex*, (09/26/83)

Schenectady County

Schenectady, *State Theater*, 238–244 Liberty St. (11/12/82)

Steuben County

Bath, *Perine, M. W., House (Bath Village MRA)*, 1 Haverling St. (09/30/83)

Ulster County

Saugerties, *Washburn Brothers Company Brickyard District*, (06/16/83)

NORTH CAROLINA

Craven County

New Bern, *New Bern Historic District (Extension)*, (03/11/83)

Durham, Granville and Wake Counties

Wake, *Rolling View Archeological District*, (11/08/82)

NORTH DAKOTA

Cass County

Fargo, *Black Building*, (09/22/83)
Fargo, *Merchants National Bank Building*, (09/22/83)

Grand Folks County

Grand Forks, *Security Trust Company Building (Dowtown Grand Forks MRA)*, 101 N. Third St. (10/26/82)

OHIO

Allen County

Lima, *Cardosi Building (Hetrick Block) (Lima MRA)*, (10/07/82)
Lima, *Kewpee Restaurant (Lima MRA)*, (10/07/82)
Lima, *Prescription Center-Madison's (Lima MRA)*, (10/07/82)
Lima, *Sigma Theatre (Lima MRA)*, (10/07/82)
Lima, *Thomas Building (Savings Building) (Lima MRA)*, (10/07/82)

Belmont County

Bellaire, *Imperial Glass Corporation*, (03/30/83)

Clermont County

Neville vicinity, *Maple Creek Site (33 CT 52)*, (11/08/82)

Defiance County

Defiance, *U.S. Post Office*, (01/31/83)

Erie County

Sandusky, *Masonic Temple (Sandusky MRA)*, 302 Wayne St. (01/20/83)
Sandusky, *The Harbour Sites (33–ER–279, 33–ER–280 and 33–ER–282)*, (01/05/83)

Guernsey County

Byesville, *Central High School Building*, (04/25/83)

Hamilton County

Cincinnati, *Main-Third Street Buildings*, (02/26/83)

Marion County

Caledonia Village Hall, 110 E. Marion St. (11/18/82)

Meigs County

Pomeroy, *Meigs County Children Home* (12/28/82)

Montgomery County

Dayton, *Wright Cycle Company*, 22 S. Williams St. (03/29/83)

Morgan County

McConnelville vicinity, *Morgan County Home and Home for the Insane* (11/17/82)

Muskingum County

Adamsville vicinity, *St. Matthews Protestant Episcopal Church* (01/18/83)
Zanesville, *Wheeling and Lake Erie RR Passenger Depot (Zanesville Historic Railroad Depots TR)* (03/24/83)

Perry County

New Lexington, *Mount Aloysius* (05/24/83)

Ross County

Old Infirmary Lane Site (33R0315) (06/02/83)

Stark County

Canton, *Medill, Margaret, House* (06/30/83)
Canton, *Trinity Lutheran Church* (06/30/83)

Summit County

Akron, *O'Neils Department Store* (03/16/83)

Warren County

Strout Road Bridge (06/06/83)

OKLAHOMA

Caddo County

Anadarko, *U.S. Post Office* (10/05/82)

Muskogee County

Coody Creek Site (34Ms31) (12/17/82)
Muskogee, *Baltimore Hotel (Pre-Depression Muskogee Skyscrapers TR)* (08/11/83)
Muskogee, *Surety Building (Pre-Depression Muskogee Skyscraper TR)* (08/11/83)

Oklahoma County

Oklahoma City, *Merchants Transfer and Storage (Red Brick Warehouses of OK City TR)*, 19 E. California (08/12/83)

OREGON

Clackamas County

Hugh Creek Archeological Site (35CL61), Mt. Hood National Forest (09/07/83)
Ripple Archeological Site (35CL55) (02/10/83)

Douglas County

Tahkenitch Landing (35–DO–130) (02/10/83)

Jackson County

Medford, *Gilford, Amy Fay, House (South Oakdale Historic District Extension)*, 425 S. Oakdale Ave. (11/29/82)

Lincoln County

Cape Perpetua Shell Middens (12/17/82)
Rose Lodge, *Smith Barn* (07/19/83)

Linn County

Albany, *Morgan, William C., House* (01/27/83)

Multnomah County

Portland, *St. Johns Station Post Office*, (08/08/83)

PENNSYLVANIA

Blair County

Altoona, *U.S. Post Office* (08/18/83)

Bucks County

Bristol, *U.S. Post Office* (09/15/83)

Chester County

Coatesville, *U.S. Post Office* (01/31/83)

Dauphin County

Duncan House (04/14/83)
Pennsylvania Canal (04/14/83)
Southern Portion of Duncan's Island (04/14/83)

Lehigh County

Archeological Site 36–LH–15 (05/06/83)
Archeological Site 36–LH–43 (05/06/83)
George Shuler-Thomas Unger Farmstead (05/06/83)
Heller's Tavern (05/06/83)
Macungie-Vera Cruz Prehistoric Archeological District (05/06/83)
Saltsburg Historic District (05/06/83)
Stephen, Jacob, Farmstead (05/06/83)
Allentown, *Old Fairgrounds Historic District* (09/15/83)

Luzerne County

SES–11 (02/10/83)
SES–3 (02/10/83)
SES–6 (02/10/83)
SES–8 (02/10/83)

Montgomery County

Port Kennedy, *Kennedy Mansion*, 1050 Valley Forge Rd. (PA 23) (04/29/83)

Northampton County

Easton, *Easton Historic District (Addition)*, (05/06/83)
Archeological Site 36NM110, (07/21/83)
Archeological Site 36NM116, (07/21/83)
Archeological Site 36NM117, (07/21/83)
Archeological Site 36NM74, (07/21/83)
Archeological Site 36NM80, (07/21/83)

Philadelphia County

Benjamin Franklin Parkway District, (03/29/83)
Block 1 (Riverfront Settlement), (03/29/83)
Block 20 (19th Century Black Enclave), (03/29/83)
Philadelphia, *Benjamin Franklin Bridge Monument (Plaza)*, (03/29/83)
Philadelphia, *Benjamin Franklin Bridge*, (03/29/83)
Philadelphia, *Bishop's Place*, (03/29/83)
Philadelphia, *Block 15 (Moravian Cemetery)*, (03/29/83)
Philadelphia, *Boy Scouts of America Administration Building*, (03/29/83)
Philadelphia, *Chinatown Historic District*, (03/29/83)
Philadelphia, *Chinese Gospel Temple*, (03/29/83)
Philadelphia, *Equitable Trust Building*, 1405 Locust St. (05/12/83)
Philadelphia, *Family Court Building*, (03/29/83)
Philadelphia, *Franklin Institute*, (03/29/83)
Philadelphia, *Free Library of Pennsylvania*, (03/29/83)
Philadelphia, *Friends Center*, (03/29/83)
Philadelphia, *Friends Meeting House*, (03/29/83)
Philadelphia, *Hires/Sacks Building*, 210–214 N. Broad St. (03/29/83)
Philadelphia, *House at 104–114 N. Mole Street*, (03/29/83)
Philadelphia, *House at 117–129 N. Mole Street*, (03/29/83)
Philadelphia, *Philadelphia Technical Institute*, (03/29/83)
Philadelphia, *Powelton Village*, (08/16/83)
Philadelphia, *Roman Catholic High School*, (03/29/83)
Philadelphia, *Town Hall*, (03/29/83)

Wayne County

Honesdale, *Honesdale Coal Pockets*, (06/20/83)

PUERTO RICO

San Juan County

San Juan, *U.S. Post Office and Courthouse (Old San Juan Federal Building)*, (06/30/83)

Toa Baja County

Santa Elena Hacienda, (07/22/83)

RHODE ISLAND

Newport County

Joyner Site (RI 706), (04/14/83)
Keeler Site (RI 707), (04/14/83)

Providence County

Pawtucket, *Division Street Bridge*, (11/06/82)

SOUTH CAROLINA

Barnwell County

Archeological Site 38BR286, (06/28/83)

Richland County

Columbia, *Greyhound Bus Depot (Columbia MRA additions)*, (11/17/82)

TENNESSEE

Bedford County

Moore Road Bridge, (03/22/83)

Bradley County

McPherson Bridge, (01/19/83)

Davidson County

Nashville, *Treppard-Baldwin House*, (01/27/83)

Henry and Stewart Counties

Paris Landing (Scott Fitzhugh Bridge), (01/19/83)

Meigs County

Decatur, *Lillard, Jasper Worth, House and Tenant House (Meigs County MRA)*, Lillard Ave. (08/30/82)

Polk County

Dentville Road Bridge, (01/19/83)

Roane County

Weaver Road Bridge, (01/19/83)

Scott County

Bandy Creek Archeological District, (05/06/83)

Sullivan County

Riverside Bridge, (01/19/83)
Bristol, *Bunting's Drug Store*, 420 State St. (02/01/83)

Washington County

Knob Creek Historic District, (05/24/83)

Williamson County

Ashlawn, (11/22/82)
Owen Chapel Church of Christ, (11/22/82)
Rozell Place (Montview), (11/22/82)

TEXAS

Denton County

Dallas, *McKamy House*, (08/23/83)

El Paso County

El Paso, *Capri Theater*, (04/25/83)
El Paso, *Grand Hotel*, (04/25/83)
El Paso, *Texas Finance/Del Norte Annex*, (04/25/83)

Galveston County

Archeological Site 41GV66, (05/20/83)

Gray County

Pampa, *U.S. Post Office*, (09/20/83)

Harris County

Archeological Site 41HR18, (02/24/83)
Houston, *Burnett House (Houston Heights MRA)*, 219 W. 11th St. (06/22/83)

Houston, *Cole, Judge Robert L., House (Houston Heights MRA)*, 945 Harvard St. (06/22/83)
Houston, *Houston Rail Rapid Transit Project*, 28 Bldgs and Main St-Market Sq. Historic District (05/20/83)
Houston, *Love House (Houston Heights MRA)*, 1505 Heights Blvd. (06/22/83)
Houston, *Southwestern Bell Telephone Company (Houston Heights MRA)*, 743 Harvard St. (06/22/83)
Houston, *Zagst House (Houston Heights MRA)*, 347 W. 20th Ave. (06/22/83)

Marion County

Jefferson, *Joseph House*, (04/21/83)

UTAH

Davis County

Fruit Heights, *Raymond, Grandison Sr., House*, 88 S. Mountain Rd. (02/02/83)

Salt Lake County

Utah Ice and Storage Company Building (Salt Lake City Business District MRA), (12/30/82)
Salt Lake City, *Fisher, Albert, Mansion and Carriage House*, 1208 W. 200 South (06/09/83)
Salt Lake City, *Snelgrove, Charles R., House*, 774 South W. Temple St. (07/19/83)

San Juan County

Old Fort Cabins, (11/18/82)

Sanpete County

Empraim, *Jacobsen-Jensen House (Scandinavian-American Pair-Houses TR)*, 207 S. 100 West (02/01/83)
Empraim, *Mortensen Niels, House (Scandinavian-American Pair Houses TR)*, 149 N. 100 East (02/01/83)

Sevier County

Richfield, *Petersen, Andrew, House (Scandinavian-American Pair Houses TR*, 92 E. 200 South (10/20/82)

Unitah County

Vernal, *Uintah Stake Tabernacle*, 500 West and 200 South (03/15/83)

Utah County

Gray-Ward House, (01/20/83)
Provo, *Perry, Philander J., House*, 670 West 200 North (12/17/82)
Provo, *St. Francis Catholic Church*, 172 N. 500 West (02/10/83)

VIRGINIA

C.S.S. Florida, (02/24/83)
U.S.S. Cumberland, (02/24/83)

Loudon County

Carrolton Drive Archeological District, (44LD271, 155, 272, 283 and 284) (01/31/83)

Petersburg (Independent City)

U.S. Post Office, (04/25/83)

Shenandoah County

Clary vicinity, *Boehm-Coffelt Place*, Appalachian Corridor H Project (09/06/83)
Strasburg, *Elijah Pifer House (Vesper Hall)*, Appalachian Corridor H Project (09/06/83)

Wythe County

Wytheville, *U.S. Post Office*, (09/30/83)

WASHINGTON

Yakima County

Outlook Irrigation District, (09/26/83)

WEST VIRGINIA

Grant County

Cabins vicinity, *Grant County Poor House*, Appalachian Corridor H Project (09/06/83)
Petersburg vicinity, *Welton Farm (Fontacella)*, Appalachian Corridor H Project (09/06/83)

Hardy County

Buzzard Ford Bridge, (03/25/83)
Baker vicinity, *Baughman House*, Appalachian Corridor H Project (09/06/83)
Baker vicinity, *Warden, William, House*, Appalachian Corridor H Project (09/06/83)
Fisher vicinity, *Fisher, Will, Farm (Fairview Farm)*, Appalachian Corridor H Project (09/06/83)
Fisher vicinity, *Inskeep, Abraham, House*, Appalachian Corridor H Project (09/06/83)
Fisher vicinity, *Inskeep, John, House*, Appalachian Corridor H Project (09/06/83)
Needmore vicinity, *Bott, John, House*, Appalachian Corridor H Project (09/06/83)
Needmore vicinity, *Hawes, William, House*, Appalachian Corridor H Project (09/06/83)
Wardensville vicinity, *Godlove, Francis, House*, Appalachian Corridor H Project (09/06/83)
Wardensville vicinity, *Nicholas Swisher House*, Appalachian Corridor H Project (09/06/83)
Wardensville vicinity, *Valentine Swisher House*, Appalachian Corridor H Project (09/06/83)

Kanawha County

Elkview Bridge, (03/25/83)

Mason County

Archeological Site 46 MS110, (09/08/83)
Archeological Site 46MS121, (09/08/83)
Archeological Site 46MS121, (09/08/83)
Archeological Site 46MS14, (09/08/83)

Pendleton County

Onego, *Dolly House*, Appalachian Corridor H Project (09/06/83)
Onego, *Onego Historic District*, Appalachian Corridor H Project (09/06/83)
Senaca Rocks vicinity, *Boggs, William, House*, Appalachian Corridor H Project (09/06/83)
Seneca Rocks vicinity, *Hevner, William, House*, Appalachian Corridor H Project (09/06/83)

Randolph County

Elkins vicinity, *Odd Fellows Home*, Appalachian Corridor H Project (09/06/83)

Summers County

Green Sluphur Springs Archeological Site, (03/31/83)

Wood County

Parkersburg, *Central Banking and Security Company (Downtown Parkersburg MRA)*, 615–617 Market St. (12/10/82)
Parkersburg, *Dils House-Kimes Funeral Home (Downtown Parkersburg MRA)*, 521 5th (10/08/82)
Parkersburg, *Gilmer House (Downtown Parkersburg MRA)*, 559–561 5th St. (12/10/82)
Parkersburg, *Howe-Ferguson House (Downtown Parkersburg MRA)*, 520 Green St. (10/08/82)
Parkersburg, *Logan-Conrath House (Downtown Parkersburg MRA)*, 402 Avery St. (10/08/82)

WISCONSIN

Chippewa County

Lake Wissota Bridge (C.T.H."S"), (05/12/83)

Eau Claire County

Eau Claire, *Ager, Waldemar, House (Eau Claire MRA)*, 429 Chestnut St. (01/28/83)
Eau Claire, *Chicago, St. Paul, Minneapolis and Omaha Railroad Depot (Eau Claire MRA)*, 324 Putnam Ave. (01/28/83)
Eau Claire, *James, Charles L., House (Eau Claire MRA)*, 411 Union St. (03/31/83)
Eau Claire, *Merril, Levi, House (Eau Claire MRA)*, 120 Ferry St. (01/28/83)
Eau Claire, *Old Wells Road Bridge (Eau Claire MRA)*, Old Wells Rd. (01/28/83)

Grant County

Edwards, Fred, Site (47 Gt377), (12/20/82)

Milwaukee County

Milwaukee, *South 11th Street Bridge*, Over the Burnham Canal (09/29/83)

Outagamie County

Appleton, *Appleton Wire Works*, 600 S. Atlantic St. (10/04/83)

Portage County

Stevens Point, *Stevens Point Commercial Historic District*, (06/21/83)

Rock County

Beloit, *Thompson, L. Waldo, House (Beloit MRA)*, 1335 Chapin St. (01/07/83)

St. Croix County

North Hudson, *Chicago, St. Paul, Minneapolis and Omaha Railroad Car Repair Shops*, (08/25/83)

Winnebago County

Oshkosh, *240 Algoma Blvd. (Beach Building)*, (03/23/83)
Oshkosh, *425 Division Street (Recreation Department)*, (03/23/83)
Oshkosh, *Building at 228 Algoma Blvd. (Fox Valley Technical Institute)*, (03/23/83)

WYOMING

Albany County

Archeological Site 48AB122, (04/11/83)

Carbon County

Rawlins, *U.S. Post Office*, (04/22/83)

Crook County

Archeological Site 48CR256, (11/04/82)

Fremont County

Archeological Site 48FR1235, (12/17/82)
Archeological Site 48FR1241, (12/17/82)

Goshen County

Torrington, *U.S. Post Office*, (04/22/83)

Johnson County

Buffalo, *U.S. Post Office*, (04/22/83)

Lincoln County

Kemmerer, *Miyake Building*, (09/19/83)
Kemmerer, *U.S. Post Office*, (09/19/83)

Sweetwater County

Rock Springs vicinity, *Archeological Site 48SW5222*, (04/11/83)

Weston County

New Castle, *U.S. Post Office*, (04/22/83)

[FR Doc. 84–3134 Filed 2–6–84; 8:45 am]
BILLING CODE 4310-70-M

federal register

Tuesday
February 7, 1984

Part V

Department of Energy

Federal Energy Regulatory Commission

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978; Notice

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Vol. 1057]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: February 1, 1984.

The following notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" before the section code. Estimated annual production (PROD) is in million cubic feet (MMCF).

The applications for determination are available for inspection except to the extent such material is confidential under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol St., Washington, D.C. Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 275.204, file a protest with the Commission within fifteen days after publication of notice in the **Federal Register.**

Source data from the Form 121 for this and all previous notices is available on magnetic tape from the National Technical Information Service (NTIS). For information, contact Stuart Weisman (NTIS) at (703) 487–4808, 5285 Port Royal Rd, Springfield, Va. 22161.

Categories within each NGPA section are indicated by the following codes:

Section 102–1: New OCS lease
102–2: New well (2.5 Mile rule)
102–3: New well (1000 Ft rule)
102–4: New onshore reservoir
102–5: New reservoir on old OCS lease

Section 107–DP: 15,000 feet or deeper
107–GB: Geopressured brine
107–CS: Coal Seams
107–DV: Devonian Shale
107–PE: Production enhancement
107–TF: New tight formation
107–RT: Recompletion tight formation

Section 108: Stripper well
108–SA: Seasonally affected
108–ER: Enhanced recovery
108–PB: Pressure buildup

Kenneth F. Plumb,
Secretary.

NOTICE OF DETERMINATIONS

ISSUED FEBRUARY 1, 1984

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
LOUISIANA OFFICE OF CONSERVATION									
-ALLEN H S				RECEIVED:	01/05/84	JA: LA			
8415041	83-1495	1707321998		108		STANDLEY #1	MONROE	18.3	MID LOUISIANA GAS
-AMINOIL USA INC				RECEIVED:	01/05/84	JA: LA			
8415036	83-1707	1707323092		108		SL 212 A #10 LM 21 RASU	LAKE WASHINGTON	1285.0	SOUTHERN NATURAL
-APD CO				RECEIVED:	01/05/84	JA: LA			
8415005	83-0208	1704720684		102-4		E B SCHWING JR #2	BAYOU BLEU	520.0	FLORIDA GAS TRANS
-ARCO OIL AND GAS COMPANY				RECEIVED:	01/05/84	JA: LA			
8415039	83-1101	1707323105		102-2		DELACROIX CORP "F" #1	SPANISH LAKE FIELD	700.0	
-BASS ENTERPRISES PRODUCTION CO				RECEIVED:	01/05/84	JA: LA			
8415003	83-1555	1706120327		102-4	103	R F ROBERSON #1 CV DAVIS RB SUT	MIDDLEFORK	145.0	UNITED GAS PIPE L
-BETHLAM PRODUCTION CORP				RECEIVED:	01/05/84	JA: LA			
8415061	83-1377	1711123942		103		MONTEREY #3	MONROE	8.0	IMC PIPELINE CO I
8415060	83-1378	1711123944		103		MONTEREY #6	MONROE	8.0	IMC PIPELINE CO I
8415044	83-1492	1711123949		103		MONTEREY #7	MONROE	8.0	IMC PIPELINE CO I
-BROCK PETROLEUM CORP				RECEIVED:	01/05/84	JA: LA			
8415004	83-0259	1708720334		102-4		R C MARTIN & SONS INC #1	COTEAU FREME	1825.0	TEXAS EASTERN TRA
-BROWN OPERATING & MANAGEMENT CORP				RECEIVED:	01/05/84	JA: LA			
8415027	83-0952	1701723302		108		G M MUCKABY #1 SERIAL #166653	CADDO PINE ISLAND	8.0	ARKANSAS LOUISIAN
-CAR-TEX PRODUCING CO				RECEIVED:	01/05/84	JA: LA			
8415008	83-1184	1703122190		102-4	103	MAGNESS #1 L GR RA SUGG	LOGANSPORT	458.0	TENNESSEE GAS PIP
-CHEVRON U S A INC				RECEIVED:	01/05/84	JA: LA			
8415057	83-1695	1778020196		103		S L 3839 #11	WEST CAMERON 17	1360.0	NATURAL GAS PIPEL
-CONOCO INC				RECEIVED:	01/05/84	JA: LA			
8415063	83-1348	1705320788		102-4		S M PATIN #1 MBY RA SUC	EAST ROANOKE FIELD	2020.0	LOUISIANA GAS SYS
8415048	83-0904	1703920250		103		VIDRINE-DEVILLE #5	VILLE PLATTE	1.0	LOUISIANA INTRAST
8415014	83-0903	1703920250		103		VIDRINE-DEVILLE #5-D	VILLE PLATTE	5.0	LOUISIANA INTRAST
-COTTON PETROLEUM CORPORATION				RECEIVED:	01/05/84	JA: LA			
8415038	83-1164	1710922656		102-4	103	J W COLE #2	BOURG	8.0	DOW INTRASTATE GA
-D C BINTLIFF				RECEIVED:	01/05/84	JA: LA			
8415054	83-0018	1704720492		102-4		WILBERT'S-SONIO #1 MT RB SUA	SOUTH KLONDIKE	530.0	TRANSCONTINENTAL
-DAVIS OIL COMPANY				RECEIVED:	01/05/84	JA: LA			
8415049	83-0907	1705320777		102-4		JAMES P MARTIN #1	LAKE ARTHUR	730.0	
-DELTA ENERGY RESOURCES INC				RECEIVED:	01/05/84	JA: LA			
8415055	83-1699	1705300142		103		W C WATKINS #1 VU A	WOODLAWN	8.0	LOUISIANA GAS SYS
-DESOTO OIL & GAS CORP				RECEIVED:	01/05/84	JA: LA			
8415058	83-1694	1703121904		103		SAMPLE SCOTT #3 SERIAL #180752	GAY ISLAND	0.0	LOUISIANA INTRAST
-EDWIN L COX				RECEIVED:	01/05/84	JA: LA			
8415019	83-0896	1708120780		102-4		HEMSGEMS #2 HAYES RC SUA	ELLIS	280.0	LOUISIANA GAS SYS
-EMTEX INC				RECEIVED:	01/05/84	JA: LA			
8414992	83-1255	1709920955		103		C C ST GERMAIN #1	ANSE LA BUTTE FIELD	44.0	LOUISIANA GAS SYS
-EXXON CORPORATION				RECEIVED:	01/05/84	JA: LA			
8415056	83-1696	1704520684		103		PETIT ANSE B #61	AVERY ISLAND	30.0	COLUMBIA GAS TRAN
8415064	83-1300	1709920933		103		S L 1392 #16 DL OPERC 9 RA NVU	DUCK LAKE	700.0	UNITED GAS PIPE L
-FRANKS PETROLEUM INC ETAL				RECEIVED:	01/05/84	JA: LA			
8415015	83-1490	1706320072		102-4		C W ONEAL #1 2 WXRA SUA	LOCKHART CROSSING	730.0	SOUTHERN NATURAL
-FRONTIER EXPLORATION INC				RECEIVED:	01/05/84	JA: LA			

BILLING CODE 6717-01-M

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8414997	83-1240	1706900000		103		MARTIN TIMBER #3	ASHLAND	164.4	UNITED GAS PIPE L
8414998	83-1238	1706900000		103		NESBITT #1	ASHLAND	164.0	UNITED GAS PIPE L
-GENERAL AMERICAN OIL COMPANY OF TEX				RECEIVED:	01/05/84	JA: LA			
8415038	83-0918	1706120302		103		GAO FEE #1 CV DAVIS RA SUD	UNIONVILLE (DAVIS SAN	365.0	
-GEORGE R BROWN				RECEIVED:	01/05/84	JA: LA			
8415010	83-0635	1711321272		102-A		FRANK A GODCHAUX ST & JR #3	LIVE OAK	730.0	
-GRAHAM EXPLORATION LTD DRILLING PAR				RECEIVED:	01/05/84	JA: LA			
8415034	83-0914	1709720524		103		MANUEL FARMS INC #1 KOCH RA VUA	BAYOU MALLET	0.0	FLORIDA GAS TRANS
-GRIGSBY PETROLEUM INC				RECEIVED:	01/05/84	JA: LA			
8414987	83-0834	1705120493		102-A		SL 7323 #1 SERIAL #159950	W LAKE PONTCHARTRAIN	365.0	SUGAR BOWL GAS CO
-GULF OIL CORPORATION				RECEIVED:	01/05/84	JA: LA			
8414994	83-1249	1709720669		103		KZS SU KU #52	KROTZ SPRINGS	730.0	MICHIGAN WISCONSI
8415069	83-0912	1705721772		103		S L PP 192 #283	TIMBALIER BAY	62.0	TENNESSEE GAS PIP
8414998	83-0754	1705721894		102-A		S L PP 192 #287	TIMBALIER BAY	110.0	TENNESSEE GAS PIP
8415001	83-1553	1707522551		102-A		S L 195 OO #92	BLACK BAY (WEST)	500.0	SOUTHERN NATURAL
8415053	83-0024	1707522752		102-A		S L 195 QQ #307 SUB	QUARANTINE BAY	120.0	UNITED GAS PIPELI
8414995	83-1245	1707523067		103		S L 195 QQ #91	NORTH BLACK BAY	9.2	SOUTHERN NATURAL
8415025	83-1563	1707522929		102-A		S L 195 QQ WELL #322	QUARANTINE BAY	113.0	UNITED GAS PIPELI
8415026	83-1564	1707522939		102-A		S L 195 QQ WELL #324	QUARANTINE BAY FIELD	299.0	UNITED GAS PIPELI
8415047	83-1547	1707522297		102-A		S L 195 QQ WELL #70	NORTH BLACK BAY FIELD	175.0	SOUTHERN NATURAL
-GULF OIL CORPORATION				RECEIVED:	01/06/84	JA: LA			
8415149	83-1692	1707522671		103		S/L 192 PP 142 VU 60	WEST BAY	350.0	TEXAS EASTERN TRA
-HARVEY BROYLES & MUNOCO CO				RECEIVED:	01/05/84	JA: LA			
8415050	83-0899	1707321736		102-A		MANVILLE FOREST #1 HOSS E-1 RB SUA	CHENIERE CREEK	180.0	MANVILLE FOREST P
-HAWTHORNE OIL & GAS CORPORATION				RECEIVED:	01/05/84	JA: LA			
8415046	83-1626	1711321203		102-A		HARDSCRAMBLE #2	SOUTHWEST GUEYDAN	1095.0	LOUISIANA GAS SYS
-HENRY GOODRICH D/B/A GOODRICH OIL C				RECEIVED:	01/05/84	JA: LA			
8415024	83-0855	1705721977		102-A		RENE P LEBLANC #1	VALENTINE	365.0	MONTEREY PIPELINE
8415035	83-1715	1701521630		102-A		TOOKE #1	ELM GROVE	180.0	SOUTHWESTERN ELEC
-HOGAN EXPLORATION INC				RECEIVED:	01/05/84	JA: LA			
8415018	83-0897	1702120999		102-A		A A BRADDOCK #3 WX RA SUB	PISTOL THICKET	75.0	LOUISIANA INTRAST
8415016	83-1489	1702120993		102-A		ROWLAND #2 WX RA SUB	DAVIS LAKE	50.0	LOUISIANA INTRAST
-JEEMS BAYOU PRODUCTION CORP				RECEIVED:	01/05/84	JA: LA			
8415023	83-0885	1703122199		102-A		ABNEY #1	BUFFALO BAYOU	189.0	MID LOUISIANA GAS
8414996	83-1243	1703121953		103		BISSELL #2	BENSON 1440	292.0	LOUISIANA INTRAST
-JOHN O CLAY EXPLORATION INC				RECEIVED:	01/05/84	JA: LA			
8415032	83-0916	1712720818		102-2		PARDEE LAND CO #1	HATTAWAY BRANCH	30.0	UNITED GAS PIPELI
-KERR-MCGEE CORPORATION				RECEIVED:	01/05/84	JA: LA			
8415037	83-1706	1772620297		103		S L 1999 #42	BRETON SOUND BLOCK 28	331.0	SOUTHERN NATURAL
-LGS EXPLORATION INC				RECEIVED:	01/05/84	JA: LA			
8415070	83-0110	1705721919		102-A		SABINE CORP #1	LAKE BOEUF	339.0	MONTEREY PIPELINE
8415028	83-0927	1702321871		102-A		STATE LEASE 9211 #1	PECAN LAKE	1497.0	
-LINSCO EXPLORATION CO				RECEIVED:	01/05/84	JA: LA			
8415029	83-0919	1710922629		103		SHORE OIL CORPORATION #1	SOUTH BOURG	0.0	UNITED GAS PIPE L
-LYNAL INC				RECEIVED:	01/05/84	JA: LA			
8414988	83-0838	1704720764		102-A		CECILIA BAIST #1	NORTHWEST BAYOU SORRE	497.0	FLORIDA GAS TRANS
-MCOR OIL DEVELOPMENT INC				RECEIVED:	01/06/84	JA: LA			
8415151	83-1657	1710121251		103		S L 2963 #1 ROB 2 RB SUB	PATTERSON	365.0	TENNESSEE GAS PIP
-MELREN OIL & GAS EXPLORATION INC				RECEIVED:	01/05/84	JA: LA			
8415043	83-1493	1706721726		103		CITIES SERVICE #4	MONROE	0.0	IMC PIPELINE CO I
8415042	83-1494	1706721728		103		CITIES SERVICE #5	MONROE	0.0	IMC PIPELINE CO I
-MICH-LA OIL & GAS EXPLORATION				RECEIVED:	01/05/84	JA: LA			
8414993	83-1253	1703122017		103		W G LORD #8	GROGAN	12.0	TENNESSEE GAS PIP
-MID LOUISIANA GAS COMPANY				RECEIVED:	01/05/84	JA: LA			
8415012	83-1496	1711124050		103		MLGC FEE GAS #1236	MONROE GAS FIELD	27.0	MID LOUISIANA GAS
-MITCHELL ENERGY CORPORATION				RECEIVED:	01/05/84	JA: LA			
8415068	83-1488	1704920152		102-A		DAVIS BROS SHLDRS A #1 CV RA SUD	KELLEYS	0.0	LOUISIANA GAS PUR
8415045	83-1491	1704920168		102-A		HEARD #1 CV RA SUE	KELLEYS	192.0	LOUISIANA GAS PUR
-OXOCO EXPLORATION CORP				RECEIVED:	01/05/84	JA: LA			
8414986	83-0908	1704520717		102-A		C J ST JULIEN #1 LA SER 177825	JEFFERSON ISLAND	913.0	TEXAS GAS TRANSMI
-PATRICK PETROLEUM CORP (MI)				RECEIVED:	01/05/84	JA: LA			
8414989	83-0755	1705721888		102-A		BOWIE LUMBER CO #2 SERIAL #177818	LAKE BOEUF	0.0	MONTEREY PIPELINE
-PENNZOIL COMPANY				RECEIVED:	01/05/84	JA: LA			
8415066	83-1284	1772120345		102-2		S PASS 57-58 #A-10 SL 6310 A #10	SOUTH PASS 57-58 AREA	1168.0	LOUISIANA INTRAST
8415067	83-1283	1772120345		102-2		S PASS 57-58 #A-10D SL 6310 A #10D	SOUTH PASS 57-58 AREA	1468.0	LOUISIANA INTRAST
8415065	83-1285	1772120346		102-2		S PASS 57-58 #A-11 SL 6310 A #11	SOUTH PASS 57-58 AREA	1750.0	LOUISIANA INTRAST
8414991	83-1276	1772120351		102-2		S PASS 57-58 #A-14 SL 6310 A #14	SOUTH PASS 57-58 AREA	1750.0	LOUISIANA INTRAST
-SAMSON RESOURCES COMPANY				RECEIVED:	01/05/84	JA: LA			
8415021	83-0887	1707321212		108		NEWT MILLS #1	CALHOUN	7.6	TEXAS GAS TRANSMI
-SAYE PETROLEUM INC				RECEIVED:	01/05/84	JA: LA			
8415052	83-0898	1702120997		102-A		MEARS-PIONEER #1	SPAULDING	72.0	LOUISIANA INTRAST
-SEVARG COMPANY INC				RECEIVED:	01/06/84	JA: LA			
8415150	83-1691	1709720662		103		CEDRIC FRUGE #1 VU B	SAVOY	91.0	TEXAS EASTERN TRA
-SHELL OFFSHORE INC				RECEIVED:	01/05/84	JA: LA			
8415006	83-0693	1772120269		103		SPB 27 FLD SL 1812 #264	SOUTH PASS BLOCK 27 F	2.0	TENNESSEE GAS PIP
-STONE PETROLEUM CORP				RECEIVED:	01/05/84	JA: LA			
8415048	83-1607	1711321214		102-A		MEUSE BROUSSARD #2	NORTH PARCPERDUE	1115.0	TEXAS GAS TRANSMI
-SUN EXPLORATION & PRODUCTION CO				RECEIVED:	01/05/84	JA: LA			
8415031	83-0917	1701724500		102-2		CLEMENTS #2 CV RA SU 14	NORTH MISSIONARY LAKE	60.0	CRYSTAL OIL CO
8415017	83-1462	1705722009		103		CYPRESS #17	CHACAHOULA	535.0	LOUISIANA INTRAST
-SUPERIOR OIL CO				RECEIVED:	01/05/84	JA: LA			
8415071	83-0030	1710922650		102-A		R W BUCKLEY UNIT 9 #12 VUB	FOUR ISLE DOME	1000.0	UNITED GAS PIPELI
-SUPERIOR OIL CO				RECEIVED:	01/06/84	JA: LA			
8415152	83-1656	1702321799		103		S L 344 #28	GRAND LAKE FIELD	400.0	TRUNKLINE GAS CO
-TENNECO OIL COMPANY				RECEIVED:	01/05/84	JA: LA			
8415059	83-1693	1707523040		103		BURAS LEVEE DISTRICT #15	BASTIAN BAY	548.0	TENNESSEE GAS PIP
-TEXACO INC				RECEIVED:	01/05/84	JA: LA			
8415002	83-1554	1710121162		102-A 103		BAL SU WKL #38	BATEMAN LAKE	2300.0	CITY OF MORGAN CI
8415009	83-0902	1701724913		102-A 108		CADDO LEVEE DISTRICT 9248 #1	CADDO PINE ISLAND	15.0	
8415013	83-0555	1701725485		102-A 103		CLD 9248 #4 SLI RC SU 123	CADDO PINE ISLAND	11.0	
8415007	83-0901	1770720110		102-A		SL 340 MOUND POINT #89	MOUND POINT	944.0	KAISER ALUMINUM &
8415011	83-0554	1701724912		102-A 103		SL 8935 #1 SLI RC SUB	CADDO PINE ISLAND	0.0	
-TEXAS GENERAL PETROLEUM CORP				RECEIVED:	01/05/84	JA: LA			
8415008	83-1096	1773020011		102-2		STATE LEASE 9943 WELL #1	WILDCAT 9739 CHANDELE	675.0	
-THOMAS E TURMAN				RECEIVED:	01/05/84	JA: LA			
8415062	83-1304	1712720736		103		THOMAS TURMAN-PARDEE #2 - 161156	WILDCAT	0.0	UNITED GAS PIPE L
-TIPCO				RECEIVED:	01/05/84	JA: LA			
8415033	83-0915	1772720079		103		STATE LEASE 2220 #49-D	ELOI BAY	113.0	SOUTHERN NATURAL
-TRAILLOUR OIL CO				RECEIVED:	01/05/84	JA: LA			
8414999	83-1233	1701901380		107-PE		RYAN LYONS #4	GILLIS ENGLISH BAYOU	70.0	LOUISIANA GAS SYS
-TXO PRODUCTION CORP				RECEIVED:	01/05/84	JA: LA			
8415020	83-0893	1703122154		102-A		HUNTER "A" #2 LAFITTE RA SUT	RED RIVER BULL BAYOU	182.5	TEXAS EASTERN TRA
-UNION TEXAS PETROLEUM				RECEIVED:	01/06/84	JA: LA			
8415153	83-1655	1706120297		103	107-TF	HOOD 12 #1	TERRYVILLE	547.5	SUGAR BOWL GAS CO

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-VIKING RESOURCES (LA)				RECEIVED:	01/05/84	JA: LA			
8415022	83-0886	1711123787		108		OLIN #9	MONROE	20.0	PETRO-LEWIS FUNDS
-WWF OIL CORPORATION				RECEIVED:	01/05/84	JA: LA			
8415051	83-0905	1710121255		102-4		D C BINTLIFF & W W F OIL SL 4801 #9	ATCHAFALAYA BAY	182.0	TENNESSEE GAS PIP
WEST VIRGINIA DEPARTMENT OF MINES									
-ALLEGHENY & WESTERN ENERGY CORP				RECEIVED:	01/05/84	JA: WV			
8415098		4701100734		107-DV		DONAHOE #1	BARBOURSVILLE DISTRIC	36.0	COLUMBIA GAS TRAN
8415106		4701100734		103		DONAHOE #1	BARBOURSVILLE DISTRIC	36.0	COLUMBIA GAS TRAN
8415099		4701100735		107-DV		E WALKER #2	BARBOURSVILLE DISTRIC	36.0	COLUMBIA GAS TRAN
8415105		4701100735		103		E WALKER #2	BARBOURSVILLE DISTRIC	36.0	COLUMBIA GAS TRAN
8415096		4701100728		107-DV		L HARLESS #1	BARBOURSVILLE DISTRIC	36.0	COLUMBIA GAS TRAN
8415108		4701100728		103		L HARLESS #1	BARBOURSVILLE DISTRIC	36.0	COLUMBIA GAS TRAN
8415095		4701100736		107-DV		LINCOLNOGGER #1	BARBOURSVILLE DISTRIC	36.0	COLUMBIA GAS TRAN
8415104		4701100736		103		LINCOLNOGGER #1	BARBOURSVILLE DISTRIC	36.0	COLUMBIA GAS TRAN
8415094		4701100737		107-DV		LINCOLNOGGER #2	BARBOURSVILLE DISTRIC	36.0	COLUMBIA GAS TRAN
8415103		4701100737		103		LINCOLNOGGER #2	BARBOURSVILLE DISTRIC	36.0	COLUMBIA GAS TRAN
8415109		4701100726		103		NASH #2	BARBOURSVILLE DISTRIC	36.0	COLUMBIA GAS TRAN
8415110		4701100726		107-DV		NASH #2	BARBOURSVILLE DISTRIC	36.0	COLUMBIA GAS TRAN
8415097		4701100731		107-DV		W SELF #1	MCCOMAS DISTRICT	36.0	COLUMBIA GAS TRAN
8415107		4701100731		103		W SELF #1	MCCOMAS DISTRICT	36.0	COLUMBIA GAS TRAN
-ALLEGHENY LAND & MINERAL COMPANY				RECEIVED:	01/05/84	JA: WV			
8415117		4709702478		103		A - 1159	WASHINGTON DISTRICT	0.0	COLUMBIA GAS TRAN
8415115		4702104006		103		A-1103	GLENVILLE DISTRICT	0.0	CONSOLIDATED GAS
8415118		4708300639		103		A-1145	MIDDLE FORK DISTRICT	0.0	COLUMBIA GAS TRAN
8415116		4700701818		103		A-1147	SALTLICK DISTRICT	0.0	CONSOLIDATED GAS
8415120		4708506203		103		A-1261	MURPHY DISTRICT	0.0	CONSOLIDATED GAS
8415119		4704102946		108		A-924	SKIN CREEK DISTRICT	0.0	CONSOLIDATED GAS
-ASHLAND EXPLORATION INC				RECEIVED:	01/05/84	JA: WV			
8415083		4701900435		108		EASTERN GAS & FUEL W&M - 089191	PAINT CREEK	18.0	COLUMBIA GAS TRAN
-CABOT OIL & GAS CORP				RECEIVED:	01/05/84	JA: WV			
8415084		4700501312		108		LITTLE COAL C-1	WASHINGTON	15.7	TENNESSEE GAS PIP
8415085		4700501333		108		LITTLE COAL C-2	WASHINGTON	14.0	TENNESSEE GAS PIP
-CHESTERFIELD ENERGY CORP				RECEIVED:	01/05/84	JA: WV			
8415079		4709702251		108		BAILEY WELL #1 47-097-2251	UNION	0.0	PARTNERSHIP PROPE
8415080		4709702253		108		JOHNSON WELL #1 47-097-2253	UNION	0.0	PARTNERSHIP PROPE
8415082		4709702256		108		LESURE WELL #1 47-097-2254	UNION	0.0	PARTNERSHIP PROPE
8415108		4700101419		108		RICOTTILLI WELL #1 47-001-1419	VALLEY	0.0	PARTNERSHIP PROPE
8415081		4709702255		108		SANDRIDGE WELL #1 47-097-2255	UNION	0.0	PARTNERSHIP PROPE
-DEEP ROCK OIL & GAS CO				RECEIVED:	01/05/84	JA: WV			
8415148		4710501076		107-DV		S COOPER #6A	BURNING SPRINGS	62.0	CONSOLIDATED GAS
-DOM WALL LEASING CO				RECEIVED:	01/05/84	JA: WV			
8415093		4708506358		103		HILL #1	GRANT DISTRICT	64.0	CONSOLIDATED GAS
-FOSTER MCKENZIE CO				RECEIVED:	01/05/84	JA: WV			
8415136		4710300349		108		BARR #1	GRANT DISTRICT	2.0	EQUITABLE GAS CO
-J & J ENTERPRISES INC				RECEIVED:	01/05/84	JA: WV			
8415127		4709702103		103		B-278	BUCKHANNON	0.0	COLUMBIA GAS TRAN
8415128		4709702133		103		B-360	MEADE	0.0	COLUMBIA GAS TRAN
8415137		4700101170		108		J-1 (SALESKY)	VALLEY	0.0	CONSOLIDATED GAS
8415138		4700101447		108		J-330	VALLEY	0.0	CONSOLIDATED GAS
8415139		4700101448		108		J-331	VALLEY	0.0	CONSOLIDATED GAS
8415140		4700101463		108		J-377	VALLEY	0.0	CONSOLIDATED GAS
8415141		4700101464		108		J-378	VALLEY	0.0	CONSOLIDATED GAS
8415142		4700101515		108		J-399	VALLEY	0.0	CONSOLIDATED GAS
8415135		4700101558		108		J-496	NEW MILTON	0.0	CONSOLIDATED GAS
8415134		4701702571		108		J-51	CLAY	0.0	CONSOLIDATED GAS
8415122		4708505986		103		J-684	UNION	0.0	EASTERN AMERICAN
8415129		4709702540		103		J-751	CLAY	0.0	CONSOLIDATED GAS
8415123		4708506428		103		J-781	COVE	0.0	CONSOLIDATED GAS
8415133		4701702576		108		J-88			
-KEPCO INC				RECEIVED:	01/05/84	JA: WV			
8415145		4708506162		107-DV		B B HARPER #3 (WK-212)	CLAY DISTRICT	27.0	TENNESSEE GAS PIP
8415089		4703302855		103		B L COFFINDAFFER (WK-245)	UNION DIST	46.0	TEXAS EASTERN TRA
8415090		4703302856		103		B L COFFINDAFFER (WK-246)	UNION DIST	55.0	TEXAS EASTERN TRA
8415088		4701703180		103		E M CARDER (WK-247)	GREENBRIER DIST	15.0	TEXAS EASTERN TRA
8415125		4708506164		103		H K HAYMOND JR #10 (WK-215)	CLAY DISTRICT	31.0	TENNESSEE GAS PIP
8415144		4708506164		107-DV		H K HAYMOND JR #10 (WK-215)	CLAY DISTRICT	31.0	TENNESSEE GAS PIP
8415126		4708506168		103		H K HAYMOND JR #11 (WK-210)	CLAY DISTRICT	27.0	TENNESSEE GAS PIP
8415132		4708506168		107-DV		H K HAYMOND JR #11 (WK-210)	CLAY DISTRICT	27.0	TENNESSEE GAS PIP
8415124		4708506160		103		H K HAYMOND JR #7 (WK-208)	CLAY DISTRICT	18.0	TENNESSEE GAS PIP
8415146		4708506160		107-DV		H K HAYMOND JR #7 (WK-208)	CLAY DISTRICT	18.0	TENNESSEE GAS PIP
8415102		4701703182		103		J M HINKLE (WK-248)	GREENBRIER DIST	75.0	TEXAS EASTERN TRA
8415131		4708506257		107-DV		R T ROBERTSON #3 (WK-213)	CLAY DISTRICT	35.0	TENNESSEE GAS PIP
8415130		4708506431		107-DV		R T ROBERTSON #4 (WK-96)	CLAY DISTRICT	35.0	TENNESSEE GAS PIP
-L & B OIL CO INC				RECEIVED:	01/05/84	JA: WV			
8415147		4707301546		107-DV		GAULT #1	UNION	40.0	
-OHIO & WESTERN RESOURCES INC				RECEIVED:	01/05/84	JA: WV			
8415121		4707301480		103		W D FOX #2	MCKIM	15.0	BROWNING OIL LTD
-PETROLEUM DEVELOPMENT CORP				RECEIVED:	01/05/84	JA: WV			
8415143		4708506024		102-3		M & F SMITH #2	GRANT	14.0	CONSOLIDATED GAS
-PHILLIPS PETROLEUM COMPANY				RECEIVED:	01/05/84	JA: WV			
8415072		4706100294		108-PB		BORM A #2	SOUTH BURNS CHAPEL	16.1	CONSOLIDATED GAS
8415074		4706100305		108-PB		DALTON B #1	SOUTH BURNS CHAPEL	20.0	CONSOLIDATED GAS
8415075		4706100305		108-PB		DALTON B #1	SOUTH BURNS CHAPEL	20.0	CONSOLIDATED GAS
8415076		4706100311		108-PB		HARWORTH A #1	SOUTH BURNS CHAPEL	0.0	CONSOLIDATED GAS
8415077		4707700102		108-PB		HOLMES B #1	SOUTH BURNS CHAPEL	0.0	CONSOLIDATED GAS
8415073		4706100303		108-PB		PERRY A #1	SOUTH BURN CHAPEL	0.0	CONSOLIDATED GAS
8415078		4706100308		108-PB		WHETSELL A #1	SOUTH BURNS CHAPEL	0.0	CONSOLIDATED GAS
-ROSS-WHARTON GAS CO				RECEIVED:	01/05/84	JA: WV			
8415087		4708300721		103		HOUSH-TUG #1	MIDDLE FORK	36.5	COLUMBIA GAS TRAN
8415101		4708300721		102-3		HOUSH-TUG #1	MIDDLE FORK	36.5	COLUMBIA GAS TRAN
-SENECA-UPSHUR PETROLEUM CO				RECEIVED:	01/05/84	JA: WV			
8415112		4705901049		107-DV		C-52	HARDEE	35.0	COLUMBIA GAS TRAN
8415114		4705901045		107-DV		C-54	HARDEE	35.0	COLUMBIA GAS TRAN
8415113		4705901048		107-DV		C-56	HARDEE	35.0	COLUMBIA GAS TRAN
8415111		4705901051		107-DV		C-57	HARDEE	35.0	COLUMBIA GAS TRAN
-VISTA OIL & GAS CORP				RECEIVED:	01/05/84	JA: WV			
8415086		4707301627		107-DV		H S MILLER #1	JEFFERSON	20.0	HAUGHT INC
8415091		4707301609		103		R L CORNELL #2	JEFFERSON	17.0	CONSOLIDATED GAS
8415092		4707301655		103		VICTOR MERCER #1	MCKIM	19.0	BROWNING OIL LTD

[FR Doc. 84-3107 Filed 2-6-84; 8:45 am]

BILLING CODE 6717-01-C

[Vol. 1058]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: February 1, 1984.

The following notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" before the section code. Estimated annual production (PROD) is in million cubic feet (MMCF).

The applications for determination are available for inspection except to the extent such material is confidential under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol St., Washington, D.C. Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 275.204, file a protest with the Commission within fifteen days after publication of notice in the **Federal Register**.

Source data from the Form 121 for this and all previous notices is available on magnetic tape from the National Technical Information Service (NTIS). For information, contact Stuart Weisman (NTIS) at (703) 487–4808, 5285 Port Royal Rd, Springfield, Va 22161.

Categories within each NGPA section are indicated by the following codes:

Section 102–1: New OCS lease
102–2: New well (2.5 Mile rule)
102–3: New well (1000 Ft rule)
102–4: New onshore reservoir
102–5: New reservoir on old OCS lease
Section 107–DP: 15,000 feet or deeper
107–GB: Geopressured brine
107–CS: Coal Seams
107–DV: Devonian Shale
107–PE: Production enhancement
107–TF: New tight formation
107–RT: Recompletion tight formation
Section 108: Stripper well
108–SA: Seasonally affected
108–ER: Enhanced recovery
108–PB: Pressure buildup

Kenneth F. Plumb,
Secretary.

NOTICE OF DETERMINATIONS
ISSUED FEBRUARY 1, 1984

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
TEXAS RAILROAD COMMISSION									
-ADOBE OIL & GAS CORPORATION				RECEIVED:	01/06/84	JA: TX			
8415233	F-09-076358	4209732322		102-4	103	BURRELL #5	DELAWARE BEND NO (HAN	110.0	LONE STAR GAS CO
-AGAR & AGAR INC				RECEIVED:	01/06/84	JA: TX			
8415263	F-8A-076556	4211531420		103		COZART #2 ID #63106	PATRICIA WEST (SPRABE	11.7	PHILLIPS PETROLEU
-ALEXANDER G KASPAR				RECEIVED:	01/06/84	JA: TX			
8415297	F-7C-076625	4246132052		103		HOLLY #6	AMACKER-TIPPETT SW (W	91.2	PHILLIPS PETROLEU
-AMAX PETROLEUM CORPORATION				RECEIVED:	01/06/84	JA: TX			
8415166	F-10-072633	4239330937		102-4	103	PAYNE 2-8	MCMORDIE RANCH (11000	250.0	WESTAR TRANSMISSI
-ANADARKO PRODUCTION COMPANY				RECEIVED:	01/06/84	JA: TX			
8415253	F-09-076519	4249700000		108		MONROE GREEN UNIT	BOONSVILLE (BEND CONG	6.0	LONE STAR GAS CO
8415254	F-09-076520	4223700000		108		STEWART TRYON	BOONESVILLE	7.0	LONE STAR GAS CO
-ARLEDGE TERRY				RECEIVED:	01/06/84	JA: TX			
8415179	F-03-074554	4204130883		102-2		ABBOTT #1 WELL (16558)	KURTEN (BUDA) FIELD	108.0	FERGUSON CROSSING
8415180	F-03-074555	4204130853		102-4		GRAHAM #1 (16222)	BRYAN (BUDA) FIELD	130.0	FERGUSON CROSSING
8415178	F-03-074553	4204130898		102-2		LINERODE #1 (16557)	KURTEN (BUDA) FIELD	100.0	FERGUSON CROSSING
-AUSTIN RIDGE PETROLEUM CO INC				RECEIVED:	01/06/84	JA: TX			
8415234	F-03-076372	4205132482		103		F C ANDERSON-B #8 AR-004	WILLARD (NAVARRO)	19.3	FERGUSON CROSSING
-B & B DRILLING CO				RECEIVED:	01/06/84	JA: TX			
8415163	F-03-071331	4205132459		102-4		TODD-STANDLEE #1 - 016598	INEZ-JAMESON (NAVARRO	365.0	FERGUSON CROSSING
-B & N PETROLEUM INC				RECEIVED:	01/06/84	JA: TX			
8415189	F-06-075322	4240131712		103	107-TF	OAK HILL GAS UNIT #3	OAK HILL S (COTTON VA	360.0	TEXAS EASTERN TRA
-BANAM CORP				RECEIVED:	01/06/84	JA: TX			
8415198	F-7B-075829	4215100000		102-4		RASBERRY 1-22	SATURDAY EAST (CANYON	164.3	CONOCO INC
-BARBEE INC				RECEIVED:	01/06/84	JA: TX			
8415220	F-7B-076114	4225332642		102-4		SHANNON #4	JEFFERIES LUCK (BROWN	25.0	CONOCO INC
8415219	F-7B-076113	4225332650		102-4		VERNON STANLEY #2	TRUBY S W (STRAWN A)	15.0	CONOCO INC
8415218	F-7B-076112	4225332643		102-4		W D RAMSEY #2	JEFFERIES LUCK (BROWN	15.0	CONOCO INC
-BELCO DEVELOPMENT CORP				RECEIVED:	01/06/84	JA: TX			
8415192	F-08-075558	4231730468		108		WOODARD B-1	SPRAYBERRY (TREND ARE	0.0	PHILLIPS PETROLEU
-BENNETT & GUINN INC				RECEIVED:	01/06/84	JA: TX			
8415205	F-09-075965	4250336138		103		F A HOWETH #2 23454	RICE (CONGL)	75.0	LONE STAR GAS CO
-BENTLEY OIL & GAS CO				RECEIVED:	01/06/84	JA: TX			
8415224	F-7B-076192	4243331439		102-2		HINES #1	STOVALL (CANYON 4050)	11.0	TEXAS UTILITIES F
-BEST PETROLEUM EXPLORATION INC				RECEIVED:	01/06/84	JA: TX			
8415193	F-09-075573	4223735270		103		SANDERS EAST #3	DEARING (CADDO)	189.0	LONE STAR GAS CO
8415165	F-09-07228	4223700000		103		SANDERS WEST #1	PLEMONS (CONGL)	60.0	LONE STAR GAS CO
-CABOT CORPORATION				RECEIVED:	01/06/84	JA: TX			
8415286	F-10-076612	4223331360		103		YAKE CABOT-FAULCONER #11-4	PANHANDLE HUTCHINSON	13.0	PANHANDLE EASTERN
8415287	F-10-076613	4223331608		103		YAKE CABOT-FAULCONER #12-4	PANHANDLE HUTCHINSON	4.0	PANHANDLE EASTERN
-CAL-T OIL CO				RECEIVED:	01/06/84	JA: TX			
8415246	F-10-076483	4223331583		103		CARVER AREA WATERFLOOD #1 02712 #46	PANHANDLE - HUTCHINSO	0.0	DIAMOND CHEMICALS
-CHAMPLIN EXPLORATION INC				RECEIVED:	01/06/84	JA: TX			
8415208	F-03-076063	4228731280		102-2		RUFUS JOHNSON #1	GIDDINGS (AUSTIN CHAL	48.0	PHILLIPS PETROLEU
-CHASE PRODUCTION CO				RECEIVED:	01/06/84	JA: TX			
8415282	F-10-076608	4217900000		103		COMBS-WORLEY D #4 RRC-00531	PANHANDLE	18.0	PHILLIPS PET CO
8415285	F-10-076611	4217900000		103		COMBS-WORLEY D #5 RRC-00531	PANHANDLE	6.0	PHILLIPS PET CO

BILLING CODE 6717-01-M

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8415284	F-10-076610	4217900000		103		P A COOMLY #16 RRC-00532	PANHANDLE	12.0	PHILLIPS PET CO
8415283	F-10-076609	4217900000		103		P A COOMLY #17 RRC-00532	PANHANDLE	14.0	PHILLIPS PET CO
-CHRISTI CO INC		RECEIVED: 01/06/84 JA: TX							
8415247	F-7B-076485	4208333654		102-4		CHRISTI-SMITH #1	DUSTY (GRAY)	225.0	UNION TEXAS PRODU
-CRYSTAL OIL AND LAND COMPANY		RECEIVED: 01/06/84 JA: TX							
8415190	F-02-075388	4229733287		102-4		EL PASO NAT GAS "G" #1	CHAPA RANCH	438.0	SUNBURST ENERGIES
-DINERO OIL CO		RECEIVED: 01/06/84 JA: TX							
8415221	F-04-076118	4242731768		103		GUERRA GAS UNIT #1	SALINAS (2060)	146.0	ESPERANZA TRANSMI
-EDWIN L COX		RECEIVED: 01/06/84 JA: TX							
8415168	F-8A-072821	4216900000		102-4		HUNTLEY #6 "S"	HUNTLEY	11.0	MIDPLAINS PIPELIN
8415169	F-8A-072827	4216900000		102-4		HUNTLEY #8 "X"	HUNTLEY	3.6	MIDPLAINS PIPELIN
-ENSERCH EXPLORATION INC		RECEIVED: 01/06/84 JA: TX							
8415162	F-09-071093	4219700000		103		LOVE 20 #3	LOVE	131.0	LONE STAR GAS CO
-EXCELSIOR OIL CORP		RECEIVED: 01/06/84 JA: TX							
8415209	F-06-076071	4218300000		103		C F MAGEE HEIRS GAS UNIT #2-1	DANVILLE (TRAVIS PEAK	36.0	WESTERN GAS CORP
-EXXON CORPORATION		RECEIVED: 01/06/84 JA: TX							
8415223	F-03-076181	4237330558		102-4		C B GRANBURY #83	LIVINGSTON (WILCOX SW	47.0	UNITED TEXAS TRAN
8415222	F-03-076180	4237330558		102-4		C B GRANBURY #87	LIVINGSTON (WILCOX SW	43.0	UNITED TEXAS TRAN
8415251	F-04-076515	4227331184		102-4		KING RANCH VISNAGA 16 (10348)	YEARY (I-05)	40.0	ARMCO STEEL CORP
8415225	F-04-076208	4227331752		103		KING RANCH VISNAGA 26 (05922)	YEARY (I-63)	50.0	ARMCO STEEL CORP
8415176	F-7C-074482	4243131331		101		LOU E JOHNSON ESTATE A/C 1 #48	JAMESON (STRAWN)	2.0	KOCH HYDROCARBON
8415284	F-7C-076008	4243131334		101		LOU E JOHNSON ESTATE A/C 1 #51	JAMESON (STRAWN)	22.0	
8415250	F-04-076514	4204731226		103		R J KLEBERG JR TR VIB 109-F(10340)	VIBORAS (MASSIVE FIRS	58.0	ARMCO STEEL CORP
8415252	F-04-076516	4204731255		102-4		R J KLEBERG JR TR VIB 114-F(107781)	VIBORAS (ZONE 3-C V)	438.0	ARMCO STEEL CORP
-GENERAL PRODUCTION CO INC		RECEIVED: 01/06/84 JA: TX							
8415187	F-03-075276	4205132565		103		FRANK C ANDERSON "A" #7	WILLARD (NAVARRO)	0.0	FERGUSON CROSSING
8415170	F-03-073692	4228731407		102-2		LLOYD WUBBENHORST #2	GIDDINGS (AUSTIN CHAL	0.0	CLAJON GAS CO
8415188	F-03-075277	4205132530		102-2		PLASEK UNIT 1 #1	WILLARD (NAVARRO)	0.0	FERGUSON CROSSING
8415185	F-03-075201	4247730521		102-2		WEBER-STEPHENS #1	GIDDINGS (AUSTIN CHAL	0.0	CLAJON GAS CO
-GEODYNE RESOURCES INC		RECEIVED: 01/06/84 JA: TX							
8415279	F-10-076603	4229531248		102-4		PEIL #1	DUKE MAY (TONKAWA)	27.0	DIAMOND CHEMICALS
8415278	F-10-076602	4229531353		102-4		PEIL #2	DUKE-MAY (TONKAWA)	23.0	DIAMOND CHEMICALS
8415277	F-10-076601	4229531385		102-4		PEIL #3	DUKE-MAY (TONKAWA)	44.2	DIAMOND CHEMICALS
-GHR ENERGY CORP		RECEIVED: 01/06/84 JA: TX							
8415194	F-04-075585	4250530513		108		J H WHITE #3 ID# 070971	J C MARTIN (6700)	2.0	UNITED TEXAS TRAN
8415195	F-04-075586	4250531106		108		JENNINGS #1 ID# 088741	JENNINGS RANCH (WILCO	2.0	UNITED TEXAS TRAN
-GULF OIL CORPORATION		RECEIVED: 01/06/84 JA: TX							
8415196	F-08-075737	4213534300		143		GOLDSMITH SAM ANDRES UNIT #1384	GOLDSMITH	37.0	PHILLIPS PETROLEU
-HEA EXPLORATION INC		RECEIVED: 01/06/84 JA: TX							
8415173	F-03-074043	4204130971		102-2		ANGELINA RUFFINO #1 16795	BRYAN NORTH (GEORGETO	0.0	FERGUSON CROSSING
8415172	F-03-074042	4204130953		102-2		JOHN E MARINO #1 16600	KURTEN (BUDA)	0.0	FERGUSON CROSSING
-HILLIARD OIL & GAS INC		RECEIVED: 01/06/84 JA: TX							
8415204	F-8A-075944	4211531845		102-2		E O BARRON "A" #2	KEY WEST	11.0	PHILLIPS PETROLEU
-HRUBETZ OIL CO		RECEIVED: 01/06/84 JA: TX							
8415264	F-7B-076558	4208333629		102-4		THOMAS L SOUTH #4	HRUBETZ (ELLEN)	18.0	LONE STAR GAS CO
-HUGHES & HUGHES		RECEIVED: 01/06/84 JA: TX							
8415233	F-04-076390	4247933638		103	107-TF	H S MEADOR #6	LAS TIENDAS	183.0	HOUSTON PIPE LINE
-J A LEONARD		RECEIVED: 01/06/84 JA: TX							
8415237	F-03-076458	4228700000		102-4		MUELLER #1	HOOKER CREEK (NAVARRO	0.4	PHILLIPS PETROLEU
8415236	F-03-076457	4228700000		102-4		MUELLER #2	HOOKER CREEK (NAVARRO	9.0	PHILLIPS PETROLEU
-KA-HUGH INTERNATIONAL INC		RECEIVED: 01/06/84 JA: TX							
8415262	F-02-076544	4246932082		102-4		KRAUSE ET AL UNIT #1	COLETTOVILLE EAST (31	150.0	DELHI GAS PIPELIN
-KOTHMANN AWBREY		RECEIVED: 01/06/84 JA: TX							
8415186	F-7C-075235	4226700000		102-4		AWBREY KOTHMANN #1 98442	KOTHMANN RANCH	29.0	CIBOLO GAS INC
-MCCANN CORP		RECEIVED: 01/06/84 JA: TX							
8415177	F-08-074513	4222733034		102-2	103	O'DANIEL "2" #2	MCCANN (BASAL WOLFCAM	17.0	GETTY OIL CO
-MCCORMICK OPERATING CO		RECEIVED: 01/06/84 JA: TX							
8415160	F-03-069564	4224500000		102-4		SHELLHAMMER #1	DEVIL (FAULT BLOCK B)	1080.0	HOUSTON PIPE LINE
8415164	F-03-071724	4224500000		103		1ST SECURITY BANK #1	ANGELINA/13000	750.0	HOUSTON PIPELINE
-MOBIL PRDG TEXAS & NEW MEXICO INC		RECEIVED: 01/06/84 JA: TX							
8415167	F-08-072795	4232931133		103		A B HARRINGTON #3	PARKS (ATOKA LOWER)	30.3	EL PASO NATURAL G
-NELSON & TUCKER OPERATING CO		RECEIVED: 01/06/84 JA: TX							
8415182	F-03-074712	4248132471		102-4		DUNCAN "D" 5	SPANISH CAMP (FRIO 48	146.0	UNITED TEXAS TRAN
-PETER HENDERSON OIL CO		RECEIVED: 01/06/84 JA: TX							
8415228	F-7C-076282	4245131284		102-2	103	TARA TURNER #8	T D (6575)	91.3	ESPERANZA PIPELIN
-PHILLIPS PETROLEUM COMPANY		RECEIVED: 01/06/84 JA: TX							
8415268	F-10-076563	4220500000		108		ALTHOUSE #1	PANHANDLE WEST	0.0	EL PASO NATURAL G
8415266	F-10-076561	4234100000		108		ANSLEY 1-A	PANHANDLE WEST	0.0	EL PASO NATURAL G
8415157	F-10-065026	4242130281		102-4		CRAIG H #2	CRAIG RANCH (MORROW)	0.0	MICHIGAN WISCONSI
8415267	F-10-076562	4220500000		108		DENA #1	PANHANDLE WEST	0.0	EL PASO NATURAL G
8415270	F-10-076565	4234100000		108		ELLIE #2	PANHANDLE WEST	0.0	EL PASO NATURAL G
8415159	F-10-067134	4229531267		103		FELKER A #2	NW HORSE CREEK (CLEVE	0.0	PANHANDLE EASTERN
8415171	F-10-074002	4235731419		103		HERRINGTON A #1	PERRYTON WEST (CLEVEL	0.0	
8415265	F-10-076560	4220500000		108		MODINE #2	PANHANDLE WEST	0.0	EL PASO NATURAL G
8415155	F-10-061068	4248331068		102-4		SHELTON C #1	CANDICE MORROW	0.0	WESTAR TRANSMISSI
8415269	F-10-076564	4223300000		108		WHITTENBURG J A #73	PANHANDLE - HUTCHINSO	0.0	GETTY OIL CO
-PONCE M A DEVELOPERS INC		RECEIVED: 01/06/84 JA: TX							
8415229	F-08-076330	4200333685		103		UNIVERSITY "13" E #1	FUHRMAN-MASCHO	9.2	PHILLIPS PETROLEU
8415230	F-08-076331	4200333690		103		UNIVERSITY "14" #2	FUHRMAN-MASCHO	12.8	PHILLIPS PETROLEU
8415232	F-08-076333	4200333688		103		UNIVERSITY "25" #1	FUHRMAN-MASCHO	5.4	PHILLIPS PETROLEU
8415231	F-08-076332	4200333689		103		UNIVESITY "24" E #1	FUHRMAN-MASCHO	7.3	PHILLIPS PETROLEU
-PRINGLE PETROLEUM INC		RECEIVED: 01/06/84 JA: TX							
8415154	F-03-060287	4220100000		102-4	107-TF	JOHN IVY #1	HOUSTON N (COOK MOUNT	54.0	UNITED TEXAS TRAN
-RANKIN OIL CO		RECEIVED: 01/06/84 JA: TX							
8415207	F-08-076039	4249531621		103		COWDEN "B" #1	HENDRICK	36.0	PHILLIPS PETROLEU
8415255	F-08-076524	4200333273		103		SAM "B" #1	FUHRMAN-MASCHO	0.0	PHILLIPS PETROLEU
-RICHEY & CO INC		RECEIVED: 01/06/84 JA: TX							
8415217	F-7B-076111	4213333116		102-4		B HARRISON D #1	JMJ	48.0	EL PASO HYDROCARB
-SAGE DRILLING CO INC		RECEIVED: 01/06/84 JA: TX							
8415276	F-10-076586	4235732300		103		RUSS SAVAGE #1	FALCON (MORROW UPPER)	0.0	PHILLIPS PETROLEU
-SERENDIPITY EXPLORATION INC		RECEIVED: 01/06/84 JA: TX							
8415202	F-7B-075896	4236732327		102-4		JONES #1	DENNIS WEST (STRAWN)	75.0	NORTHERN GAS PROD
-SHAR-ALAN OIL CO		RECEIVED: 01/06/84 JA: TX							
8415161	F-03-070735	4231330435		102-4		M T VICK #2	MADISONVILLE NE (GEOR	0.0	LONE STAR GAS CO
-SHELL OIL CO		RECEIVED: 01/06/84 JA: TX							
8415271	F-08-076572	4200300000		108		LOGSDON C W -E- #7	UNION	3.3	PHILLIPS PETROLEU
8415272	F-8A-076574	4250131916		108		OWNBY (SAN ANDRES) UNIT #62	OWNBY	4.3	AMOCO PRODUCTION
8415274	F-08-076576	4213500000		148		SLAT #7	TXL (SAN ANDRES)	1.4	SHELL OIL CO
8415275	F-8A-076577	4216500000		108		SOUTH WASSON CLEARFORK UNIT #7402-S	WASSON 72	3.1	COLTEXO CORP
8415273	F-08-076575	4200100000		108		UNIVERSITY -D- #4	ANDREWS SOUTH (DEVONI	10.2	EL PASO NATURAL G
-SHILLELAGH CORP		RECEIVED: 01/06/84 JA: TX							
8415201	F-7B-075868	4242933651		103		M WILSON "E" #1 19977	STEPHENS COUNTY REGUL	135.0	WARREN PETROLEUM
-SPOOL OIL CO		RECEIVED: 01/06/84 JA: TX							
8415156	F-10-061631	4223100000		108-ER		TARBOX #2	PANHANDLE	0.0	PHILLIPS PETROLEU

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-STEVE STAMPER									
8415245	F-09-076479	4223735160		RECEIVED:	01/06/84	JA: TX			
				103		T D WILLIAMS #2	WILDCAT - JACK COUNTY	66.8	SOUTHWESTERN GAS
-SUNNYBROOK OIL & GAS INC				RECEIVED:	01/06/84	JA: TX			
8415239	F-06-076464	4240131694		102-4	103	HENRY JIMMERSON #1	BRACHFIELD (RODESSA)	548.0	TEXAS UTILITIES F
8415238	F-06-076463	4240131692		102-4	103	ROSS JIMMERSON #1	BRACHFIELD (TRAVIS PE	280.0	TEXAS UTILITIES F
-SUPERIOR OIL CO				RECEIVED:	01/06/84	JA: TX			
8415280	F-8A-076604	4203330742		102-4	103	BEAVER #1	FUMAR (FUSSELMAN)	9.0	
8415281	F-8A-076605	4203330904		102-4	103	F J BEAVER #2	FUMAR (FUSSELMAN)	42.0	
-TARTAN RESOURCES CORP				RECEIVED:	01/06/84	JA: TX			
8415183	F-03-075014	4220131438		102-4		PAPADOPOLOUS WGU #1	DELHI NORTH (FIRST WI	200.0	PANHANDLE GAS CO
-TAUBERT & STEED				RECEIVED:	01/06/84	JA: TX			
8415227	F-06-076270	4249931504		102-4		BRIDGES #1	NEUHOFF (PALUXY)	2.0	UNITED GAS PIPELI
-TENNECO OIL COMPANY				RECEIVED:	01/06/84	JA: TX			
8415248	F-10-076503	4217931489		103		COMBS "D" 176	PANHANDLE GRAY	0.5	PHILLIPS PETROLEU
-TEXACO INC				RECEIVED:	01/06/84	JA: TX			
8415199	F-8A-075848	4221934068		103		MONTGOMERY ESTATE DAVIES NCT-2 #104	LEVELLAND	13.5	AMOCO PRODUCTION
8415197	F-8A-075754	4221934050		103		MONTGOMERY ESTATE DAVIES NCT-2 #107	LEVELLAND	0.0	AMOCO PRODUCTION
8415203	F-8A-075918	4221934081		103		MONTGOMERY ESTATE DAVIES NCT-2 #111	LEVELLAND	40.9	AMOCO PRODUCTION
8415200	F-8A-075842	4221934085		103		MONTGOMERY ESTATE DAVIES NCT-2 #117	LEVELLAND	16.8	AMOCO PRODUCTION
8415184	F-08-075108	4243131372		102-4		STERLING "T" FEE #7	CONGER SW	133.2	VALERO TRANSMISSI
-TEXCOLADA OIL CO				RECEIVED:	01/06/84	JA: TX			
8415211	F-7B-076080	4213332511		102-4		A E HENSLEE #3	TIN CUP	35.0	NORTHERN GAS PROD
8415210	F-7B-076079	4213332204		102-4		D S HOWARD #1	TIN CUP	20.0	NORTHERN GAS PROD
8415212	F-7B-076082	4214300000		108		EMMA TURPIN #1	DESDEMONA E	20.0	NORTHERN GAS PROD
8415216	F-7B-076086	4214300000		108		EMMA TURPIN #2	DESDEMONA E	20.0	NORTHERN GAS PROD
8415215	F-7B-076085	4214300000		108		HALLMARK "A" #1	DESDEMONA E	21.0	NORTHERN GAS PROD
8415214	F-7B-076084	4214300000		108		S T COATES #1	DESDEMONA E	20.0	NORTHERN GAS PROD
8415213	F-7B-076083	4214300000		108		W W KIKER #1	DESDEMONA E	18.0	NORTHERN GAS PROD
-TXO PRODUCTION CORP				RECEIVED:	01/06/84	JA: TX			
8415174	F-06-074408	4240131732		102-4		BIRDWELL #3-C	MINDEN E (PETTIT UPPE	0.0	DELHI GAS PIPELIN
8415175	F-06-074409	4240131732		102-4		BIRDWELL #3-T	LANEVILLE NE (PETTIT	0.0	DELHI GAS PIPELIN
-U S OPERATING INC				RECEIVED:	01/06/84	JA: TX			
8415181	F-03-074575	4228731413		102-2		KATIE "J" #1 RRC ID # N/A	GIDDINGS (AUSTIN CHAL	0.0	PERRY PIPELINE CO
-VERNON E FAULCONER INC				RECEIVED:	01/06/84	JA: TX			
8415158	F-06-065473	4220300000		108-ER		O B PATTON 1-T #029525	BETHANY (TRAVIS PEAK)	0.0	UNITED GAS PIPE L
-W L BRUCE OPERATOR				RECEIVED:	01/06/84	JA: TX			
8415300	F-10-076633	4234130998		103		PETER #4 (ID # 05292)	PANHANDLE MOORE FIELD	139.0	TRANS-PAN GATHERI
-WAGNER & BROWN				RECEIVED:	01/06/84	JA: TX			
8415299	F-08-076632	4243131308		103		FLINT #4-24	CONGER (PENN) FIELD	99.0	TEXAS UTILITIES F
8415298	F-08-076631	4243131359		103		GLASS "D" #5-25	CONGER (PENN)	115.1	TEXAS UTILITIES F
-WCS PETROLEUM CO				RECEIVED:	01/06/84	JA: TX			
8415191	F-03-075502	4228731484		102-2		WOOD #2	GIDDINGS (AUSTIN CHAL	0.0	PHILLIPS PETROLEU
—-WESSELY ENERGY CORPORATION				RECEIVED:	01/06/84	JA: TX			
8415226	F-7B-076215	4225332681		103		W P SCOTT #4	WOODLEKIRK (ELLENBURG	10.0	TEXAS UTILITIES F
-WHEELER OIL COMPANY				RECEIVED:	01/06/84	JA: TX			
8415244	F-10-076477	4248331102		103		BELL (05328) #1	PANHANDLE WHEELER COU	4.0	HIGH PLAINS NATUR
8415243	F-10-076476	4248331103		103		BELL (05328) #2	PANHANDLE WHEELER COU	4.0	HIGH PLAINS NATUR
8415242	F-10076474	4248331007		103		BLAKE (05088) #1	PANHANDLE WHEELER COU	30.0	HIGH PLAINS NATUR
8415261	F-10-076539	4248331009		103		CALCOTE (102536) #1	EAST PANHANDLE	77.0	HIGH PLAINS NATUR
8415241	F-10-076473	4248331099		103		CLAIRE (05342) #3	PANHANDLE WHEELER COU	4.0	HIGH PLAINS NATUR
— 8415260	F-10-076538	4248330947		103		CLOSE (102543) #1	EAST PANHANDLE	8.0	HIGH PLAINS NATUR
- 8415259	F-10-076537	4248331114		103		COPELAND (05384) #1	PANHANDLE WHEELER COU	4.0	HIGH PLAINS NATUR
8415257	F-10-076535	4248331115		103		EDITH (105399) #1	EAST PANHANDLE	89.0	HIGH PLAINS NATUR
8415258	F-10-076536	4248331112		103		FRANCES (106372) #1	EAST PANHANDLE	55.0	HIGH PLAINS NATUR
8415256	F-10-076533	4248330692		103		MELVIN HYMAN (103138) #1	EAST PANHANDLE	5.0	HIGH PLAINS NATUR
8415296	F-10-076623	4248330960		103		MORRIS (100825) #1	EAST PANHANDLE	16.0	HIGH PLAINS NATUR
8415295	F-10-076622	4248331098		103		NORMA (05311) #1	PANHANDLE WHEELER COU	7.0	HIGH PLAINS NATUR
8415294	F-10-076621	4248331130		103		O'GORMAN (05455) #1	PANHANDLE WHEELER COU	1.0	HIGH PLAINS NATUR
8415289	F-10-076616	4208730214		103		POWELL (107389) #3	EAST PANHANDLE	85.0	HIGH PLAINS NATUR
8415288	F-10-076615	4217931306		103		SUSAN (05547) #1	PANHANDLE GRAY COUNTY	2.0	GETTY OIL CO
8415290	F-10-076617	4248331123		103		TINSLEY (107390) #1	EAST PANHANDLE	157.0	HIGH PLAINS NATUR
8415291	F-10-076618	4247331131		103		VERMILLION (05438) #1	PANHANDLE WHEELER COU	1.0	HIGH PLAINS NATUR
8415292	F-10-076619	4248331116		103		WILLENE (105398) #1	EAST PANHANDLE	48.0	HIGH PLAINS NATUR
8415293	F-10-076620	4248330943		103		WISCHKAEMPER (5) (100826) # B-1	EAST PANHANDLE	15.0	HIGH PLAINS NATUR
-WILLIAM T LEWIS				RECEIVED:	01/06/84	JA: TX			
8415240	F-09-076471	4250337216		103		CAVITT #23718	JEAN N (MISS)	48.0	GAS ASSOCIATED SY
-X-L ENERGY CO				RECEIVED:	01/06/84	JA: TX			
8415249		4216531240		103		TRINITY UNIVERSITY #1	HOMANN (SAN ANDRES)	3.0	PHILLIPS PETROLEU

[FR Doc. 84-3198 Filed 2-6-84; 8:45 am]

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federal register

Tuesday
February 7, 1984

Part VI

Office of Management and Budget

Cumulative Report on Rescissions and Deferrals; Notice

OFFICE OF MANAGEMENT AND BUDGET

Cumulative Report on Rescissions and Deferrals

In accordance with the Impoundment Control Act of 1974, I herewith report nine rescission proposals totaling $634,711,454, thirteen new deferrals of budget authority totaling $143,595,000 and five revised deferrals of budget authority totaling $68,152,365.

The rescissions affect programs in the Departments of Housing and Urban Development and Interior, the Corporation for Public Broadcasting, the Delaware and Susquehanna River Basin Commissions, the Panama Canal Commission, and two Department of Agriculture off-budget revolving funds.

The deferrals affect the Departments of Agriculture, Education, Energy, Interior, State, and Transportation, and the Tennessee Valley Authority. The details of the rescission proposals and deferrals are contained in the attached reports.

Ronald Reagan,

The White House.

February 1, 1984.

BILLING CODE 3110-01-M

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CONTENTS OF SPECIAL MESSAGE

CONTENTS OF SPECIAL MESSAGE
(in thousands of dollars)

Rescission #	Item	Budget Authority
	Department of Housing and Urban Development	
	Public and Indian Housing programs	
R84-2	Payment for operation of low-income housing.	331,431
	Department of the Interior	
	National Park Service	
R84-3	Land acquisition	30,000
	Delaware and Susquehana River Basin Commissions	
	Salaries and expenses, Delaware River Basin	
R84-4	Commission	19
	Salaries and expenses, Susquehana River Basin	
R84-5	Commission	24
	Panama Canal Commission	
R84-6A	Operating expenses	17,750
R84-6B	Capital outlay	7,625
	Off-budget Federal Entities	
	Department of Agriculture	
	Rural Electrification Administration	
	Rural electrification and telephone revolving	
R84-7	fund	197,862
R84-8	Rural telephone bank	30,000
	Corporation for Public Broadcasting	
R84-9	Public broadcasting fund	20,000
	Subtotal, rescissions	634,711

Deferral #	Item	Budget Authority
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	Soil Conservation Service	
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	Forest Service	
D84-37	Construction	10,814
	Department of Education	
	Office of Post Secondary Education	
D84-38	Higher education	500
	Department of Energy	
	Energy Programs	
D84-39	Energy supply, research and development	10,052
D84-21B	Fossil energy research and development	9,493
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D84-41	Energy conservation	10,077
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	Power Marketing Administration	
	Operation and maintenance, Southwestern	
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	Departmental Administration	
D84-43	Departmental administration	29,053

CONTENTS OF SPECIAL MESSAGE
(in thousands of dollars)
(continued)

Deferral #	Item	Budget Authority
	Department of the Interior	
	National Park Service	
D84-23A	Land acquisition and state assistance	2,700
	Bureau of Mines	
D84-44	Mines and minerals	1,667
	Department of State	
	International organizations and conferences	
D84-45	Contributions for international peacekeeping activities	10,879
D84-46	Contributions to international organizations	4,723
	Department of Transportation	
	Maritime Administration	
D84-47	Ship construction	7,000
	Tennessee Valley Authority	
D84-48	Tennessee Valley Authority fund	2,192
	Subtotal, deferrals	211,748
	Total, rescissions and deferrals	846,459

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SUMMARY OF SPECIAL MESSAGES
FOR FY 1984
(in thousands of dollars)

	Rescissions	Deferrals
Sixth special message:		
New items	634,711	143,595
Revisions to previous special messages	---	39,445
Effects of sixth special message	634,711	183,040
Amounts from previous special messages that are changed by this message (change noted above)	---	28,707
Subtotal, rescissions and deferrals	634,711	211,748
Amounts from previous special messages that are not changed by this message	1,700	7,020,817
Total amount proposed to date in all special messages	636,411	7,232,564

R84-2

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Payments for Operation of Low-Income Housing Projects

Of the funds appropriated under this head in the Department of Housing and Urban Development-Independent Agencies Appropriation Act, 1984, $331,431,454 are rescinded.

Rescission Proposal No. R84-2

PROPOSED RESCISSION OF BUDGET AUTHORITY

Report Pursuant to Section 1012 of P.L. 93-344

Agency: Department of Housing & Urban Development	New Budget Authority (P.L. 98-45) $1,362,300,00
Bureau: Public and Indian Housing Programs	Other Budgetary Resources 196,231,454
Appropriation Title & Symbol	Total Budgetary Resources 1,558,431,454
Payments for operation of low-income housing projects 863.40163 1/	Amount proposed for rescission $ 331,431,454
OMB Identification Code: 86-0163-0-1-604	Legal Authority (in addition to Sec. 1012): ☐ Antideficiency Act ☐ Other
Grant program ☒ Yes ☐ No	
Type of account or fund: ☒ Annual ☐ Multiple Year September 30, 1984 (expiration date) ☐ No-year	Type of budget authority ☒ Appropriation ☐ Contract Authority ☐ Other

Justification: This rescission is proposed because the carryover of 1983 resources plus the 1984 appropriation are expected to be greater than 1984 program requirements. The 1984 program level is expected to be lower than earlier estimates because of a decline in utility expenses for public and Indian housing and increased rental income from tenants. Savings will also be realized from the implementation of a redefinition of adjusted tenant income (which, in effect, raises PHA income from tenant rents) a recent regulatory change requiring the use of a three-year rolling base in estimating utility costs, and year-end rental income adjustments.

Estimated Program Effect: None.

Outlay Effects: (in millions of dollars)

1984 Outlay Estimate		Outlay Savings			
Without Rescission	With Rescission	1984	1985	1986	1987
1,346.0	1,180.0	166.0	165.0	4	---

1/ This account was the subject of a similar rescission proposal in FY 1983 (R83-15).

R84-3

Rescission Proposal No: R84-3

R84-3

Rescission Proposal No: R84-3

National Park Service

Land acquisition and State assistance

The contract authority provided for fiscal year 1984 by 16 U.S.C. 460*l*-10a is rescinded.

PROPOSED RESCISSION OF BUDGET AUTHORITY
Report Pursuant to Section 1012 of P.L. 93-344

Agency: Department of the Interior	New budget authority: $203,650,000 (P.L. 98-146; P.L. 98-181; 16 U.S.C. 460l-9 & 10a)
Bureau: National Park Service	Other budgetary resources: 116,296,418
Appropriation title & symbol: Land Acquisition and State Assistance 14X5035 1/	Total budgetary resources: 319,946,418
	Amount proposed for rescission: $ 30,000,000
OMB identification code: 14-5035-0-2-303	Legal authority (in addition to sec. 1012): ☐ Antideficiency Act ☐ Other
Grant program: ☐ Yes ☒ No 2/	
Type of account or fund: ☒ Annual ☐ Multiple-year ____ (expiration date) ☒ No-year 2/	Type of budget authority: ☒ Appropriation ☒ Contract authority (annual) 2/ ☐ Other

Justification: This appropriation provides (1) funds to acquire land for inclusion in the National Park system, and (2) grants to States for outdoor recreation purposes.

Under existing law (16 U.S.C. 460*l*-10a), $30 million in contract authority is made available each fiscal year for use as an anti-cost escalation measure in purchasing authorized Federal recreation land. This authority was last used in 1969 and 1970, and there are no plans to use it in the future. The contract authority lapsed in fiscal years 1971-1981 and was rescinded by congressional action for 1982 (P.L. 97-257) and 1983 (P.L. 98-63).

Consequently, the $30 million in 1984 contract authority is proposed for rescission. The Administration is also requesting that Congress permanently terminate the availability of this contract authority. This amount was previously deferred (D84-23).

Estimated Program Effect: None.

Outlay Effect: None.

1/ This account is also subject to a deferral in 1984 (D84-23).
2/ The funding proposed for rescission is non-grant contract authority with a one-year availability.

R84-4

Delaware River Basin Commission

Salaries and Expenses

Of the funds made available under this head in P.L. 98-50, $19,000 are rescinded.

Rescission Proposal No: 84-4

PROPOSED RESCISSION OF BUDGET AUTHORITY
Report Pursuant to Section 1012 of P.L. 93-344

Agency Delaware River Basin Commission	New budget authority (P.L. 98-50) $ 191,000
Bureau	Other budgetary resources -0-
Appropriation title & symbol: Salaries and expenses, Delaware River Basin Commission 4640100	Total budgetary resources 191,000
	Amount proposed for rescission $ 19,000
OMB identification code: 46-0100-0-1-301	Legal authority (in addition to sec. 1012): ☐ Antideficiency Act ☐ Other
Grant program: ☐ Yes ☒ No	
Type of account or fund: ☒ Annual ☐ Multiple-year (expiration date) ☐ No-year	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other

Justification: The Administration proposed consolidation of the offices of the Federal Representative for the Delaware and Susquehanna River Basin Commissions for 1984 and requested $191,000 to fund the office. Congress, however, funded each office at the level of the consolidated request. The funds appropriated for each Commisssion are more than sufficient to operate at levels consistent with prior years. Therefore, we are proposing to rescind excess funds.

Estimated Program Effect: None.

Outlay Effect: None.

R84-5

Susquehanna River Basin Commission

Salaries and Expenses

Of the funds made available under this head in P.L. 98-50, $24,000 are rescinded.

Rescission Proposal No: R84-5

PROPOSED RESCISSION OF BUDGET AUTHORITY
Report Pursuant to Section 1012 of P.L. 93-344

Agency: Susquehanna River Basin Commission
Bureau:
Appropriation title & symbol: Salaries and expenses, Susquehanna River Basin Commission 4640500
OMB identification code: 46-0500-0-1-301
Grant program: ☐ Yes ☒ No
Type of account or fund: ☒ Annual ☐ Multiple-year _____ (expiration date) ☐ No-year

New budget authority (P.L. 98-50): $ 191,000
Other budgetary resources: -0-
Total budgetary resources: 191,000
Amount proposed for rescission: $ 24,000
Legal authority (in addition to sec. 1012): ☐ Antideficiency Act ☐ Other _____
Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other _____

Justification: The Administration proposed consolidation of the offices of Federal Representative for the Delaware and Susquehanna River Basin Commissions for 1984 and requested $191,000 to fund the office. Congress, however, funded each office at the level of the consolidated request. The funds appropriated for each Commission are more than sufficient to operate at levels consistent with prior years. Therefore, we are proposing to rescind excess funds.

Estimated Program Effect: None.

Outlay Effect: None.

R84-6A

Rescission Proposal No: 84 6A

PANAMA CANAL COMMISSION

Of the funds made available under this head in P.L. 98-78, $17,750,000 are rescinded.

PROPOSED RESCISSION OF BUDGET AUTHORITY

Report Pursuant to Section 1012 of P.L. 93-344

Agency: Panama Canal Commission

Bureau: Panama Canal

Appropriation title & symbol: Operating expenses 9545191

OMB identification code: 95-1203-0-1-403

Grant program: ☐ Yes ☒ No

Type of account or fund:
☒ Annual
☐ Multiple-year _____ (expiration date)
☐ No-year

New budget authority (P.L. 98-78): $ 409,662,000
Other budgetary resources: 2,402,000
Total budgetary resources: 412,064,000

Amount proposed for rescission: $ 17,750,000

Legal authority (in addition to sec. 1012):
☐ Antideficiency Act
☒ Other P.L. 96-70 Section 1302 (c) 1-2.

Type of budget authority:
☒ Appropriation
☐ Contract authority
☐ Other _____

Justification: Actual traffic and tolls revenue experience for 1983 and the beginning of 1984 is well below original budget estimates. Subsequent reviews and revised traffic forecasts suggest that the fiscal year 1984 revenues could fall below original budget estimates. Since the Panama Canal Commission is mandated by law to recover, as nearly as practicable, the total cost of its operation, 1984 expenditures are being reduced to match the revised revenue forecast. Total Commission expenditures have therefore been reviewed, and a rescission is proposed to reduce operating expenses by $17,750,000.

Estimated Program Effect: Commission operating programs have been reduced. Although the principal areas affected were those where significant workload falloffs occurred as a consequence of the decline in ship traffic, all Commission units have contributed to offsetting the reduction in transit revenues.

Outlay Effect: Gross of 1984 outlays would be reduced by $17,750,000 due to the rescission. Revenues are reduced by the same amount for a net change of zero.

R84-68

PANAMA CANAL COMMISSION

Of the funds made available under this head in P.L. 98-78, $7,625,000 are rescinded.

Rescission Proposal No: R84-68

PROPOSED RESCISSION OF BUDGET AUTHORITY

Report Pursuant to Section 1012 of P.L. 93-344

Agency Panama Canal Commission	New budget authority (P.L. 98-78) $ 29,438,000
Bureau Panama Canal	Other budgetary resources
Appropriation title & symbol: Capital outlay 95X5190	Total budgetary resources 29,438,000
	Amount proposed for rescission $ 7,625,000
OMB identification code: 95-1203-0-1-403	Legal authority (in addition to sec 1012): ☐ Antideficiency Act ☒ Other P.L. 96-70 Section 1302 (c) 1-2.
Grant program ☐ Yes ☒ No	
Type of account or fund: ☐ Annual ☐ Multiple-year _____ (expiration date) ☒ No-year	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other _____

Justification: Actual traffic and tolls revenue experience for fiscal year 1983 and the beginning of fiscal year 1984 is well below original budget estimates. Subsequent reviews and revised traffic forecasts suggest that the fiscal year 1984 revenues could fall below original budget estimates. Since the Panama Canal Commission is mandated by law to recover, as nearly as practicable, the total cost of its operation, i.e., balancing expenditures against revenues, 1984 expenditures are being reduced to match the revised revenue forecast. Total Commission expenditures have therefore been reviewed, and a rescission is proposed to reduce capital expenditures by $7,625,000. Capital expenditures for this fiscal year have been revised accordingly.

Estimated Program Effect: Capital outlays will be reduced by $7.625 million. The reduction includes $5.4 million associated with a tugboat procurement which will be purchased from prior year savings. The savings from prior years result from a favorable bid for the purchase of a tugboat in 1983.

Outlay Effect: Gross 1984 outlays would be reduced by $7,625,000. Revenues are reduced by the same amount for a net change of zero.

R84-7

Rescission Proposal No: R84-7

DEPARTMENT OF AGRICULTURE

Rural Electrification Administration

Rural electrification and telephone revolving fund

Of the funds made available under this head in H.R. 3223, as enacted into law by section 101(d) of P.L. 98-151, $197,862,000 are rescinded.

PROPOSED RESCISSION OF BUDGET AUTHORITY

Report Pursuant to Section 1012 of P.L. 93-344

Agency Department of Agriculture	New budget authority (P.L. 98-151) $ 197,862,000
Bureau Rural Electrification Administration	Other budgetary resources ---
Appropriation title & symbol	Total budgetary resources 197,862,000
Rural Electrification and Telephone Revolving Fund 12X4230	Amount proposed for rescission $ 197,862,000
OMB identification code: 12-4230-0-3-271	Legal authority (in addition to sec 1012) ☐ Antideficiency Act ☐ Other
Grant program ☐ Yes ☒ No	
Type of account or fund: ☐ Annual ☐ Multiple-year ____ (expiration date) ☒ No-year	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other

Justification: This appropriation is to reimburse the Rural Electrification and Telephone Revolving Fund for interest subsidies and losses sustained in prior years. This rescission is proposed because the Fund has not incurred a loss that would necessitate use of the appropriations. In fact, the Fund has never incurred a loss since its inception in 1973. Net income to the Fund of $109 million in 1982 and $91 million in 1983 exceeds the $198 million appropriated for losses. The Fund has not incurred losses because it is exempted by statute from paying $307 million in annual interest costs to the Treasury on advances totaling $7.9 billion.

It is true that (when the costs to the Treasury are added to the net income of the Fund) the Rural electrification and telephone program has cost the Federal Government $1.3 billion since 1973. However, these costs have been sustained by the Treasury, not the Fund. Therefore reimbursement to the Fund for losses is incorrect.

The Administration is proposing legislation to set interest rates for REA borrowers at the Treasury cost of borrowing in accord with the original Rural Electrification Act in order to reduce interest subsidies and help offset these losses sustained by the Treasury.

Estimated Program Effect: None.

Outlay Effect: None.

UMI

R84-8

DEPARTMENT OF AGRICULTURE

Rural Electrification Administration

Rural Telephone Bank

Of the funds made available under this head in H.R. 3223, as enacted into law by section 101(d) of P.L. 98-151, $30,000,000 are rescinded.

R84-8

Rescission Proposal No R84-8

PROPOSED RESCISSION OF BUDGET AUTHORITY
Report Pursuant to Section 1012 of P.L. 93-344

Agency Department of Agriculture	New budget authority (P.L. 98-151) $ 30,000,000
Bureau Rural Electrification Administration	Other budgetary resources ...
Appropriation title & symbol	Total budgetary resources 30,000,000
Rural Telephone Bank 12X4231 1/	Amount proposed for rescission $ 30,000,000
OMB identification code: 12-4231-0-3-452	Legal authority (in addition to sec 1012): ☐ Antideficiency Act ☐ Other
Grant program ☐ Yes ☒ No	
Type of account or fund: ☐ Annual ☐ Multiple-year (expiration date) ☒ No-year	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other

Justification: The Rural Telephone Bank provides loans to rural telephone systems. Since its inception in 1971, the Bank has approved 524 loans, totaling $1.9 billion, at an average 8.1% rate of interest. This appropriation provides capital to the Bank with a 2% rate of return. The difference between the Treasury's cost of borrowing and 2% is paid by the Federal taxpayer.

A rescission of this capital appropriation is proposed because the Federal Government has already provided $360 million in capital, $60 million over the amount called for in the original statute establishing the Bank. The Bank has the authority to raise funds in private credit markets on this capital, as well as borrow from the Treasury at the Treasury's cost of money interest rate, with 50-year repayment terms.

Estimated Program Effect: This rescission would not affect the ability of the Bank to lend money at below market rates.

Outlay Effect: None to the Bank. However, Treasury would save about $12 million over five years in interest.

1/ This account was the subject of a similar rescission proposal in 1983 (R83-20).

UMI

R83-9

Corporation for Public Broadcasting

Of the funds provided for "The Corporation for Public Broadcasting" for fiscal year 1986 in Public Law 98-139, $20,000,000 are rescinded.

Rescission Proposal No: R84-9

PROPOSED RESCISSION OF BUDGET AUTHORITY
Report Pursuant to Section 1012 of P.L. 93-344

Agency	New budget authority (P.L. 98-139) $ 130,000,000
Bureau: Corporation for Public Broadcasting	Other budgetary resources ---
Appropriation title & symbol	Total budgetary resources 130,000,000
Public Broadcasting Fund 2060151 1/	Amount proposed for rescission $ 20,000,000
OMB identification code: 20-0151-0-1-503	Legal authority (in addition to sec. 1012): ☐ Antideficiency Act ☐ Other
Grant program ☒ Yes ☐ No	
Type of account or fund: ☒ Annual (1984 advanced appropriation) ☐ Multiple-year (expiration date) ☐ No-year	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other

Justification: The Corporation for Public Broadcasting (CPB) provides Federal assistance to the 260 radio and 176 television stations that comprise the non-commercial broadcasting system. It is the Administration's policy to encourage user and private support whenever possible. The Administration believes that public broadcasting can and should be supported by its audience and through private donations, allowing for the continued reduction of Federal support. The 2-year advance notice provided by this rescission proposal should permit time to plan for the ensuing reductions in Federal funding.

Estimated Program Effect: The allocation of the CPB's appropriation among its programs is mandated by the Omnibus Reconciliation Act of 1981. Therefore, the $20 million proposed rescission would be similarly distributed. This distribution would allow approximately $68 million for Community Service Grants, $31 million for direct program production and $11 million for the remaining costs and expenses of the Corporation.

Outlay Effect: ($ in millions)

1986 Outlay Estimates		Outlay Savings			
Without Rescission	With Rescission	1984	1985	1986	1987
$130	$110	--	--	$20	--

1/ This account was the subject of a similar rescission proposal in FY 1983 (R83-19).

Deferral No: 084-36

Deferral No: 084-37

Deferral No: 084-36

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

Agency: Department of Agriculture	New budget authority (P.L. 98-151): $183,200,000
Bureau: Soil Conservation Service	Other budgetary resources: 97,111,250
Appropriation title & symbol: Watershed and Flood Prevention Operations 12X1072 1/	Total budgetary resources: 280,311,250
	Amount to be deferred: Part of year: 8,138,000; Entire year:
OMB identification code: 05-78-1072-0-1-301	Legal authority (in addition to sec. 1013): [X] Antideficiency Act; [ ] Other
Grant program: [X] Yes [ ] No	
Type of account or fund: [ ] Annual; [ ] Multiple-year (expiration date); [X] No-year	Type of budget authority: [X] Appropriation; [ ] Contract authority; [ ] Other

Justification: These funds were provided under the FY 1984 Continuing Resolution for technical and financial assistance to sponsors of projects authorized under P.L. 566 and P.L. 534. These projects are planned works of improvement to protect, develop and utilize the land and water resources in small watersheds (under 250,000 acres) and in the sub-watersheds of the eleven authorized river basins.

These amounts are proposed for deferral until such time as supplemental appropriation language is passed to transfer them to other accounts of the Soil Conservation Service to be used to meet increased pay costs pursuant to E.O. 12456 dated December 30, 1983.

Estimated Program Effect: This deferral action is consistent with the President's request to transfer funds available from this account to other accounts of the Soil Conservation Service to help defray the cost of the pay act. This action will not interfere with providing both the technical and financial assistance for the new construction starts that Congress directed the Soil Conservation Service to initiate pursuant to provisions of the FY 1984 Continuing Resolution. It will reduce funds available for technical and financial assistance to projects already under construction in FY 1984.

Outlay Effect: This deferral action has no significant effect on FY 1984 outlays since all funds will be used to pay costs associated to salaries.

1/ This account was the subject of a similar rescission proposal in FY 1983 (R83-41).

Deferral No: 084-37

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

Agency: Department of Agriculture	New budget authority (P.L. 11 USC 535): $251,724,000
Bureau: Forest Service	Other budgetary resources: 68,055,796
Appropriation title & symbol: Construction 12X1103	Total budgetary resources: 319,779,796
	Amount to be deferred: Part of year: 10,814,000; Entire year:
OMB identification code: 12-1103-0-1-302	Legal authority (in addition to sec. 1013): [X] Antideficiency Act; [ ] Other
Grant program: [ ] Yes [X] No	
Type of account or fund: [ ] Annual; [ ] Multiple-year (expiration date); [X] No-year	Type of budget authority: [X] Appropriation; [ ] Contract authority; [ ] Other

Justification: This deferral reflects a portion of the 9/30/83 unobligated balance for this account, specifically purchaser credit dollars which are residual from prior years when these funds were appropriated to the Forest Service. The Forest Service proposes $10,814,000 be deferred and available for appropriation for pay costs to be transferred to the following appropriations: National Forest System, Forest Research; State and Private Forestry and Land Acquisition.

Estimated Program Effect: There are no programmatic effects resulting from this deferral. Due to a change in the accounting for timber purchaser road construction credit, any remaining unobligated balances would have lapsed. Instead, the proposed pay supplementals for the aforementioned accounts will be derived by transfer from the available unobligated balances in the Construction account.

Outlay Effect: None.

Deferral No: D84-38

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

Agency: Department of Education
Bureau: Office of Postsecondary Education
Appropriation title & symbol:
Higher Education
9140201 (Deferral is against this account)
91X0201
913/50201
913/80201

OMB identification code: 91-0201-0-1-502
Grant program: ☐ Yes ☒ No

Type of account or fund:
☒ Annual
☒ Multiple-year 9/30/85; 9/30/88 (expiration date)
☒ No-year

New budget authority (P.L.)	P.L. 98-181	500,000
	98-1393	408,366,000
	98-151	10,000,000
Other budgetary resources		18,733,230 *
Total budgetary resources		437,599,230
Amount to be deferred: Part of year		500,000
Entire year		

Legal authority (in addition to sec. 1013):
☐ Antideficiency Act
☒ Other

Type of budget authority:
☒ Appropriation
☐ Contract authority
☐ Other

Justification: The Department of Education Appropriation Act, 1984 (P.L. 98-139) provided $2 million for the Public Service Education Fellowships Program, part B of title IX of the Higher Education Act of 1965. Under P.L. 98-181, an additional $500 thousand became available. Conference report language (see page 20, Conferenc Report on H.R. 3959) stated that it was "the intent of the conferees that a major portion of these funds should be used to support the Sam J. Ervin, Jr. Program in Public Affairs." However, there is no authority in part B of title IX for the Department to comply with congressional intent as stipulated in the report language. As a result, the 1985 Budget proposes supplemental language that will provide authority to make the $500 thousand available for the Sam Ervin program. Obligation of the funds, originally scheduled for April, 1984, is deferred pending congressional action on the proposed supplemental.

Estimated Program Effect: The effect of this deferral will be to preserve these funds pending congressional action on the proposed supplemental language. If the supplemental is not enacted, these one-year funds will be used in 1984 for additional grants under part B of title IX.

Outlay Effect: None.

* Includes estimated 1984 recoveries of $26 thousand.

Deferral No: DR4-39

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

Agency: Department of Energy
Bureau: Energy Programs
Appropriation title & symbol:
Energy Supply Research and Development Activities
89X0224 1/

OMB identification code: 89-0224-0-1-271
Grant program: ☐ Yes ☒ No

Type of account or fund:
☐ Annual
☐ Multiple-year (expiration date)
☒ No-year

New budget authority (P.L. 98-50)	P.L. 98-181	$1,959,609,000
Other budgetary resources		545,942,703
Total budgetary resources		2,505,551,703
Amount to be deferred: Part of year		
Entire year		10,052,000

Legal authority (in addition to sec. 1013):
☒ Antideficiency Act
☐ Other

Type of budget authority:
☒ Appropriation
☐ Contract authority
☐ Other

Justification: This account funds a variety of R&D programs in nuclear fission, fusion and solar and renewables technologies as well as supporting research. The deferral of $10,052,000 reflects unobligated prior year funds in solar and renewables R&D programs that are in excess of 1984 program requirements. These funds are being deferred into 1985 to partially offset the 1985 appropriation request. The deferred funds include Solar Buildings ($40[illegible],000), Photovoltaics ($1,000,000), Solar Thermal ($70[illegible],000), Biofuels ($200,000), Wind Energy Systems ($3,00[illegible],000), Ocean Energy Systems ($200,000), International ($75,0[illegible]), Solar Information ($200,[illegible]), Solar Program Direction ($1,500,000), Geothermal Technology Development ($273,000), Geothermal Program Direction ($250,000), Hydropower Program Direction ($300,000), Hydrothermal Industrialization ($75,000), Electric Energy Systems (Systems Technology, $886,000), and Thermal and Mechanical Storage ($943,000).

Estimated Program Effects: None.

Outlay Effects: This deferral action will shift $10,052,000 of potential 19[illegible]4 outlays to 1985.

1/ This account was the subject of deferrals in 1983 (D83-70 and D83-[illegible])

D84-218

Deferral No: D84-218

D84-218

Supplementary Report

Report Pursuant to Section 1014(c) of Public law 93-344.

This report updates Deferral No. D84-21A transmitted to Congress on December 14, 1983.

This is an increase of $8,993,000 to a previous deferral of $500,000 in the Department of Energy's fossil energy research and development account, resulting in a total of $9,493,000 deferred. These funds are not currently programmed for use in 1984 and are being deferred into 1985 to partially offset the 1984 appropriation request.

Deferral No: D84-218

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

Agency: Department of Energy	P.L. 98-146 New budget authority (P.L. 98-181): $ 860,214,000 *
Bureau: Energy Programs	Other budgetary resources: 88,503,434 *
Appropriation title & symbol: Fossil Energy Research & Development 89X0213 1/	Total budgetary resources: 348,717,434 *
	Amount to be deferred: Part of year: *
	Entire year: 9,493,000 *
OMB identification code: 89-0213-0-1-271	Legal authority (in addition to sec. 1011): ☒ Antideficiency Act ☐ Other
Grant program: ☐ Yes ☒ No	
Type of account or fund: ☐ Annual ☐ Multiple-year _____ (expiration date) ☒ No-year	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other

Justification: * This account funds research and development activities in coal, petroleum and unconventional natural gas. The $9,493,000 to be deferred is an increase of $8,993,000 over the previous deferral of $500,000. The deferral consists of three major components: $2,750,000 of unobligated prior year funds (including $500,000 previously deferred in the surface coal gasification program); $2,000,000 appropriated in 1984 for geopressured methane research activities which duplicate work funded in the Department of Energy Geothermal Energy program; and $4,743,000 in reimbursements from the foreign contributions to the Solvent Refined Coal (SRC-II) demonstration project. These funds are not currently programmed for use in 1984 and are being deferred into 1985 to partially offset the 1985 appropriation request.

Estimated Program Effects: None.

Outlay Effects: This deferral action will shift an additional $8,993,000 in outlays from FY 1984 to FY 1985.

1/ This account was the subject of deferrals in 1983 (D83-8A, D83-73 and D83-80)

* Revised from previous report.

D84-25A

Supplementary Report

Report Pursuant to Section 1014(c) of Public law 93-344.

This report updates Deferral No. D84-25 transmitted to Congress on December 14, 1983.

This is an increase of $23,196,000 to a previous deferral of $14,000,000 in the Department of Energy's fossil energy construction account, resulting in a total of $37,196,000 deferred. These funds are not currently programmed for use in 1984 and are being deferred into 1985 to partially offset the 1985 appropriation request.

Deferral No: D84-25A

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

Agency Department of Energy	New budget authority (P.L.) $
Bureau Energy Program	Other budgetary resources 56,481,070
Appropriation title & symbol Fossil Energy Construction 89X0214 1/	Total budgetary resources 56,481,070
	Amount to be deferred: Part of year Entire year 37,196,000
OMB identification code: 89-0214-0-1-271	Legal authority (in addition to sec. 1013): ☐ Antideficiency Act ☐ Other
Grant program ☐ Yes ☒ No	
Type of account or fund: ☐ Annual ☐ Multiple-year (expiration date) ☒ No-year	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other

Justification: This account funds major construction projects related to fossil energy. The $37,196,000 to be deferred is an increase of $23,195,000 over the previous deferral of $14,000,000. These funds consist of recoveries of prior year obligations for projects which have been completed or terminated. The majority of this amount, $23,158,000, is a reimbursement from foreign contributions to the Solvent Refined Coal (SRC-II) demonstration project. These funds are not currently programmed for use in 1984 are being deferred into 1985 to partially offset the 1985 appropriation request.

Estimated Program Effects: None.

Outlay Effects: This deferral action will shift an additional $23,196,000 in outlays from FY 1984 to FY 1985.

1/ This account was the subject of a deferral in 1983 (D83-49A)

Deferral No: D84-40

DEFERRAL OF BUDGET AUTHORITY

Deferral No: D84-41

Deferral No: D84-40

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

Agency Department of Energy	New budget authority (P.L. 98-146) $ 256,600,000
Bureau Energy Programs	Other budgetary resources 7,086,715
Appropriation title & symbol: Naval Petroleum and Oil Shale Reserves 89X0219	Total budgetary resources 261,686,715
	Amount to be deferred: Part of year $ ____ Entire year 41,500,000
OMB identification code: 89-0219-0-1-271	Legal authority (in addition to sec. 1013): [X] Antideficiency Act [ ] Other ____
Grant program [ ] Yes [X] No	
Type of account or fund: [ ] Annual [ ] Multiple-year ____ (expiration date) [X] No-year	Type of budget authority: [X] Appropriation [ ] Contract authority [ ] Other ____

Justification: This account primarily funds activities necessary to operate, explore, conserve, develop and produce the naval petroleum reserves at the maximum efficient rate and to conserve the oil shale reserves. The remainder of this account includes appropriations from prior years for solar federal buildings and coal loan guarantee activities. This deferral includes $39,000,000 under the Naval Petroleum and Oil Shale Reserve Program. As a result of changes in the primary development drilling program, these funds are not required in 1984. Future wells will be primarily associated with the development of waterflood and enhanced oil recovery activities -- not producing wells. Consequently, these funds are being deferred into 1985 to partially offset the 1985 appropriation request. In addition, this deferral includes $2,500,000 for prior year unobligated funds for the coal loan guarantee program. These funds are being deferred into 1985 because no qualified applicants have been identified, and are proposed for transfer to the fossil energy R&D account to partially offset the 1985 appropriation request for that account.

Estimated Program Effects: None.

Outlay Effects: This deferral action will shift $41,500,000 of potential 1984 outlays to 1985 and 1986.

Deferral No: D84-41

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

Agency Department of Energy	New budget authority (P.L. 98-146) $ 431,131,000
Bureau Energy Programs	Other budgetary resources 5%,807,387
Appropriation title & symbol: Energy Conservation 89X0215 1/	Total budgetary resources 409,938,387
	Amount to be deferred: Part of year ____ Entire year 10,077,000
OMB identification code: 89-0215-0-1-27[illegible]	Legal authority (in addition to sec. 1013): [X] Antideficiency Act [ ] Other ____
Grant program [ ] Yes [X] No	
Type of account or fund: [ ] Annual [ ] Multiple-year ____ (expiration date) [X] No-year	Type of budget authority: [X] Appropriation [ ] Contract authority [ ] Other ____

Justification: This account funds a variety of energy R&D and grant programs providing support for buildings and community systems, industry, transportation, multi-sector research and state and local assistance. The deferral of $10,077,000 reflects unobligated prior year funds in energy conservation R&D and grant programs that are in excess of 1984 program requirements. These funds are being deferred into 1985 to partially offset the 1985 appropriation request. The deferred funds include Building and Community Systems ($3,000,000), Industry ($4,077,000), Transportation ($1,000,000), Multi-sector ($1,000,000) and State and Local Assistance Program Direction ($1,000,000).

Estimated Program Effect: None.

Outlay Effect: This deferral action will shift $10,077,000 of potential 1984 outlays to 1985.

1/ This account was the subject of deferrals in 1983 (D83-24, D83-74 and D83-76).

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D84-26A

Supplementary Report

Report Pursuant to Section 1014(c) of Public law 93-344.

This report updates Deferral No. D84-26 transmitted to Congress on December 14, 1983.

This is a revision to a previous deferral of $12,707,000 in the Department of Energy's strategic petroleum reserve account, to $12,963,651; a net increase of $256,651. This revised deferral consists of prior year unobligated funds that have been set aside as a contingency to cover possible over-budget deficiency judgments on land condemnation cases. These funds are being deferred under the provisions of 31 U.S.C. 1512. As the need arises these funds will be released.

Deferral No: D84-26A

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

Agency: Department of Energy	New budget authority (P.L. 98-146): $ 158,770,000
Bureau: Energy Programs	Other budgetary resources: 121,452,365 *
Appropriation title & symbol: Strategic Petroleum Reserve 89X0218 1/	Total budgetary resources: 280,222,365 *
	Amount to be deferred: Part of year: 12,963,651 *
	Entire year:
OMB identification code: 89-0218-0-1-274	Legal authority (in addition to sec. 1013): ☒ Antideficiency Act ☐ Other
Grant program: ☐ Yes ☒ No	
Type of account or fund: ☐ Annual ☐ Multiple-year (expiration date) ☒ No-year	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other

Justification: *Funds appropriated to this account are for the development of the Strategic Petroleum Reserve (SPR), including facilities construction, planning and program administration.

The total amount of $12,963,651 to be deferred is an increase of $256,651 above the previous deferral of $12,707,000. This deferral consists of prior year unobligated funds that have been set aside as a contingency to cover possible over-budget deficiency judgments on land condemnation cases. Since the timing and magnitude of these judgments cannot be known in advance, it is possible that some or all of these funds may not be obligated during FY 1984. Hence, these funds are being deferred under the provisions of 31 U.S.C. 1512. As the need arises, these funds will be released.

Estimated Program Effect: None.

Outlay Effect: None.

1/ This account was the subject of a deferral in FY 1983 (D83-50).

* Revised from previous report.

D84-22A

Deferral No: D84-22A

D84-22A

Supplementary Report

Report Pursuant to Section 1014(c) of Public law 93-344.

This report updates Deferral No. D84-22 transmitted to Congress on November 17,1983.

This is a revision to a previous deferral of $13,800,000 in the Department of Energy's, Energy security reserve and alternate fuels production account. The deferral was earlier revised to $1,500,000 to reflect transfer of $13,000,000 to the Fossil energy account for use during FY 1984. The current revision increases the deferral to $5,800,000; a net increase of $4,300,000. These funds are unobligated balances made available from completed alternative fuel projects.

Deferral No: D84-22A

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

Agency Department of Energy	New budget authority (P.L.) $
Bureau Energy Program	Other budgetary resources 7,587,470 *
Appropriation title & symbol Energy Security Reserve, Alternate Fuels Production 89X5180 1/	Total budgetary resources 7,587,470 *
	Amount to be deferred: Part of year Entire year 5,800,000 *
OMB identification code: 89-5180-0-2-271	Legal authority (in addition to sec. 1013): [X] Antideficiency Act [ ] Other
Grant program [ ] Yes [X] No	
Type of account or fund: [ ] Annual [ ] Multiple-year (expiration date) [X] No-year	Type of budget authority: [X] Appropriation [ ] Contract authority [ ] Other

Justification: * This program funds feasibility studies and cooperative agreements for the development and production of alternative fuels. The deferral total of $5,800,000 is an increase of $4,300,000 above the previous deferral of $1,500,000. These funds are unobligated balances made available from completed alternative fuel projects. They are not currently programmed for use in 1984 and are being deferred into 1985 and proposed for transfer to the Fossil Energy R&D account to partially offset the 1985 appropriation request for that account.

Estimated Program Effects: None.

Outlay Effects: This deferral will shift an additional $4,300,000 in outlays from FY 1984 to FY 1985.

1/ This account is the subject of a deferral in 1983 (D83-77)

* Revised from previous report

Deferral No: D84-42

DEFERRAL OF BUDGET AUTHORITY

Report Pursuant to Section 1013 of P.L. 93-344

Agency: Department of Energy	New budget authority (P.L. 98-50): $ 36,229,000
Bureau: Power Marketing Administration	Other budgetary resources: 13,077,308
Appropriation title & symbol: Southwestern Power Administration Operations and Maintenance 89X0303	Total budgetary resources: 49,306,308
	Amount to be deferred: Part of year: ____ Entire year: 7,000,000
OMB identification code: 89-0303-0-1-271	Legal authority (in addition to sec. 1013): [X] Antideficiency Act [ ] Other ____
Grant program: [ ] Yes [X] No	
Type of account or fund: [ ] Annual [ ] Multiple-year ____ (expiration date) [X] No-year	Type of budget authority: [X] Appropriation [ ] Contract authority [ ] Other ____

Justification: This account funds the activities of the Southwestern Power Administration (SWPA), an agency which markets wholesale hydroelectric power produced at Corps of Engineers dams in six southwestern States. SWPA activities also include construction, operation and maintenance of approximately 1,660 miles of transmission lines over which the power is distributed to customers. The deferral includes a total of $7,000,000 of unobligated balances from prior year appropriations for various construction and operation and maintenance efforts that changes in original planning assumptions have made unnecessary at the current time. Because these projects and activities have been indefinitely postponed, the funds are not needed in 1984. Consequently, the funds are being deferred into 1985 to offset part of the 1985 appropriation request for the account.

Estimated Program Effect: None. The deferral will have no programmatic effects, because the funds deferred are in excess of the amount necessary for conduct of SWPA's normal power marketing and systems operation and maintenance activities.

Outlay Effect: None.

Deferral No: D84-43

D84-23A

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D84-23A

Supplementary Report

Report Pursuant to Section 1014(c) of Public law 93-344.

This report updates Deferral No. D84-23 transmitted to Congress on November 17, 1983.

The $30,000,000 originally deferred in this account has been proposed for rescission in the 1985 Budget; the $2,700,000 is deferred pending enactment of appropriation language to make contingency grant funds available for administrative expenses.

Deferral No: D84-43

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

Agency: Department of Energy	New budget authority (P.L. 98-50): $365,056.00
Bureau: Departmental Administration	Other budgetary resources: 74,420.80
Appropriation title & symbol: Departmental Administration 89X0228 1/	Total budgetary resources: 440,476.80
	Amount to be deferred: Part of year: ____ Entire year: 29,053.80
OMB identification code: 89-0228-0-1-276	Legal authority (in addition to sec. 1013): [X] Antideficiency Act [ ] Other ____
Grant program: [ ] Yes [X] No	
Type of account or fund: [ ] Annual [ ] Multiple-year ____ (expiration date) [X] No-year	Type of budget authority: [X] Appropriation [ ] Contract authority [ ] Other ____

Justification: This account funds a variety of Department of Energy Administrative activities, including policy development and analysis activities, institutional and public liaison functions, and other program support requirements necessary to ensure effective departmental operations and management. The Department of Energy has prepared a program plan for these activities in accordance with the guidance contained in the 1984 Appropriations Bill Conference Report and as a result, use of the entire amount of prior year unobligated balances is not needed in 1984. Accordingly, the excess is being deferred into 1985 to partially offset the 1985 appropriated request. This deferral action is taken under the provisions of the Antideficiency Act (31 U.S.C. 1512).

Estimated Program Effect: This deferral will not have any identifiable programmatic effects since the funds deferred are in excess of the amount required to satisfy congressional directives.

Outlay Effect: This deferral will have no effect on FY 1984 outlays.

1/ This account was the subject of a deferral in 1983 (D83-[illegible]).

Deferral No: D84-23A

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

Agency: Department of the Interior	New budget authority (P.L. 98-146; 98-181; 16 USC 4608-10a): $203,650,000 *
Bureau: National Park Service	Other budgetary resources: 116,296,418 *
Appropriation title & symbol: Land Acquisition and State Assistance 14X5035 1/ *	Total budgetary resources: 319,946,418 *
	Amount to be deferred: Part of year: —; Entire year: 2,700,000 *
OMB identification code: 14-5035-0-2-303	Legal authority (in addition to sec. 1013): ☐ Antideficiency Act ☐ Other
Grant program: ☒ Yes ☒ No 2/	
Type of account or fund: ☒ Annual ☐ Multiple-year ____ (expiration date) ☒ No-year 2/	Type of budget authority: ☒ Appropriation 2/ ☒ Contract authority (annual) ☐ Other

Justification: *This appropriation provides (1) matching grants to the States for outdoor recreation purposes (as authorized by 16 U.S.C. 4601-8), and (2) funds to acquire land for inclusion in the National Park System (16 U.S.C. 460l-9 & 10a). The Administration proposes in the FY 1985 Budget to pay administrative expenses for prior-year grants to States from unobligated prior-year balances. Accordingly, $318,000 of the Secretary contingency fund for grants and $2,382,000 of administrative expense funds are being deferred to cover estimated administrative costs in FY 1985. Appropriation language is proposed in the 1985 Budget to make contingency grant funds available for administrative expenses.

Estimated Program Effect: Funding availability for outdoor recreation grants from the Secretary's contingency fund will be reduced by $318,000. The exact impact on services to the public will depend on the availability of other resources at the State level to offset this reduction. By using unobligated balances of prior-year administrative expense funds, the $2,382,000 for administrative expense funding can be deferred without reducing the 1984 operating program level.

Outlay Effect: This deferral action will shift $2,382,000 in outlays from FY 1984 to FY 1985, and will cause $318,000 in outlays that probably would have been paid in 1984 through 1986 in varying amounts for grants to be paid in 1985 for administration.

1/ This account was the subject of a deferral in FY 1983 (D83-11A).
2/ The deferred funds are grant appropriations with no-year availability.
* Revised from previous report; $30 M deferred part of the year in that report is now proposed for rescission.

Deferral No: D84-44

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

Agency: Department of the Interior	New budget authority (P.L. 97-257): $5,064,000
Bureau: Bureau of Mines	Other budgetary resources: ...
Appropriation title & symbol: Mines and Minerals 14X0959	Total budgetary resources: 5,064,000
	Amount to be deferred: Part of year: ...; Entire year: 1,667,000
OMB identification code: 14-0959-0-1-306	Legal authority (in addition to sec. 1013): ☐ Antideficiency Act ☐ Other
Grant program: ☐ Yes ☒ No	
Type of account or fund: ☐ Annual ☐ Multiple-year ____ (expiration date) ☒ No-year	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other

Justification:

The 1982 Supplemental, P.L. 97-257, provided $5,064,000 for construction of a new building at Bruceton, Pennsylvania, for relocation of the Bureau of Mines' operations located at Forbes Avenue in Pittsburgh. The 1984 Interior Appropriations Act, P.L. 98-146, required the Bureau to offset its appropriation requirements by $2,564,000 of the $5,064,000, leaving a balance of $2,500,000 for a replacement building. This deferral of $1,667,000 of the remaining $2,500,000 is being requested because the Bureau is not planning to continue its in-house printing operation, currently located at Forbes Avenue, beyond 1984. The need for additional space in the new facility, therefore, can be reduced by approximately two-thirds, from 30,000 sq. ft. to 10,000 sq. ft..

Estimated Program Effects:

There should be no program effect from not constructing a building for printing operations because the Bureau's printing previously done in-house will be accomplished by private contractors. Further, it is proposed that the $1,667,000 be used to offset the Bureau's appropriation requirements for fiscal year 1985.

Outlay Effect:

Current outlay estimates for FY 1984:

Without deferral	$2,500,000
With deferral	833,000
Current outlay savings	$1,667,000

Deferral No: D84-45

Deferral No: D84-46

Deferral No: D84-45

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

Agency: Department of State	New budget authority (P.L. 98-166): $ 66,279,000
Bureau: International Organizations & Conferences	Other budgetary resources:
Appropriation title & symbol: Contributions for International Peacekeeping Activities, State, 1984, 1941124	Total budgetary resources: 66,279,000
	Amount to be deferred: Part of year: 10,879,000
	Entire year:
OMB identification code: 19-1124-0-1-153	Legal authority (in addition to sec. 1013): [X] Antideficiency Act [ ] Other
Grant program: [ ] Yes [X] No	
Type of account or fund: [X] Annual [ ] Multiple-year (expiration date) [ ] No-year	Type of budget authority: [X] Appropriation [ ] Contract authority [ ] Other

Justification: This appropriation provides the United States assessed share of funding the anticipated costs of two United Nations peacekeeping operations, the United Nations Disengagement Observer Force on the Golan Heights (UNDOF) and the United Nations Interim Force in Lebanon (UNIFIL). These groups were established by the Security Council, with the strong support of the United States, to maintain a ceasefire and contribute to an atmosphere in which negotiations could take place between the conflicting parties. The support cost for the UNIFIL Peacekeeping Forces is considerably reduced resulting from the decreased use of the forces.

These funds are deferred pending transfer to other accounts. If the transfer is not approved by the Congress, these funds will be proposed for rescission.

Estimated Program Effect: None.

Outlay Effect: This deferral action will have no effect on outlays. The transfer request, if approved by the Congress, will increase outlays in the account receiving the funds if the Congress approves the transfer request.

Deferral No: D84-46

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

Agency: Department of State	New budget authority (P.L. 98-166): $520,515,000
Bureau: International Organizations & Conferences	Other budgetary resources:
Appropriation title & symbol: Contributions to International Organizations 1941126 1/	Total budgetary resources: 520,515,000
	Amount to be deferred: Part of year: 3,783,000
	Entire year:
OMB identification code: 19-1126-0-1-153	Legal authority (in addition to sec. 1013): [X] Antideficiency Act [ ] Other
Grant program: [ ] Yes [X] No	
Type of account or fund: [X] Annual [ ] Multiple-year (expiration date) [ ] No-year	Type of budget authority: [ ] Appropriation [ ] Contract authority [ ] Other

Justification: This appropriation provides the United States' share of the costs of the United Nations and specialized agencies, Inter-American organizations, regional organizations and other international organizations. The United States' membership in these organizations, which has been authorized by conventions, treaties or specific acts of Congress, constitutes an obligation for payment of its share of the assessed budgets.

Most savings have been realized by credits made available through the accession of Spain to the North Atlantic Treaty Organization. Other savings have been realized from new credits made available to the United States from prior year surpluses, lower tax reimbursement estimates, and exchange rate savings for several organizations.

These funds are deferred pending transfer to other accounts. If the transfer is not approved by the Congress, these funds will be proposed for rescission.

Estimated Program Effect: None.

Outlay Effect: This deferral action will have no effect on outlays. The transfer request, if approved by the Congress, will increase outlays in the account receiving the funds if the Congress approves the transfer request.

1/ This account was the subject of a deferral during 1983 (D83-57).

Deferral No: 284-4

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

Agency: Department of Transportation	New budget authority (P.L. ____): $ -0-
Bureau: Maritime Administration	Other budgetary resources: 17,918,181
Appropriation title & symbol:	Total budgetary resources: 17,918,181
Ship Construction 69X1708	Amount to be deferred: Part of year: $ ____
	Entire year: 7,000,000
OMB identification code: 69-1708-0-1-403	Legal authority (in addition to sec. 1013): ☐ Antideficiency Act
Grant program: ☐ Yes ☒ No	☐ Other ____
Type of account or fund: ☐ Annual ☐ Multiple-year ____ (expiration date) ☒ No-year	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other ____

Justification: In FY 1983, $25,000,000 was appropriated to the Ship Construction appropriation specifically for the acquisition of certain vessels for the National Defense Reserve Fleet. The acquisition will be completed in FY 1984, but all of the appropriation will not be required. Therefore an unobligated balance of $7,000,000 is proposed for deferral. The 1985 budget proposes that the $7,000,000 be transferred to offset 1985 appropriation requirements in the Research and Development program, 69X1716.

Estimated Program Effect: None. Transfer of the funds to the Research and Development program will reduce by $7,000,000 the need for new budget authority in FY 1985.

Outlay Effect: None.

Deferral No: 284-48

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

Agency: Tennessee Valley Authority	New budget authority (P.L. 98-50): $ 78,229,000
Bureau:	Other budgetary resources: 186,574,000
Appropriation title & symbol:	Total budgetary resources: 264,803,000
Tennessee Valley Authority Fund 64X4110 1/	Amount to be deferred: Part of year: $ ____
	Entire year: 2,192,000
OMB identification code: 64-4110-0-3-999	Legal authority (in addition to sec. 1013): ☒ Antideficiency Act
Grant program: ☐ Yes ☒ No	☐ Other ____
Type of account or fund: ☐ Annual ☐ Multiple-year ____ (expiration date) ☒ No-year	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other ____

Justification: This program funds TVA's natural resources, fertilizer and agriculture, and economic and community development activities. Programs included in the 1984 appropriation fully reflect the intent of Congress, and along with funds appropriated under the 1983 Continuing Resolution, are more than necessary to meet TVA's requirements. As a result, unobligated balances totaling $2,192,000 carried forward into 1984 are available for deferral into 1985 to partially offset the 1985 appropriation request.

Estimated Program Effect: None.

Outlay Effect: This action defers potential outlays of $2,192,000 from 1984 to 1985.

1/ This account was the subject of a deferral in 1983 (D83-66)

[FR Doc. 84-3319 Filed 2-6-84; 8:45 am]
BILLING CODE 3110-01-C

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2-8-84
Vol. 49 No. 27

federal register

Wednesday
February 8, 1984

United States
Government
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OF DOCUMENTS
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Federal Register
(ISSN 0097-6326)

**********5-DIGIT 48106

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SECOND CLASS NEWSPAPER

VOL
49
ISS
27
FE
8
1984
UMI

2-8-84
Vol. 49 No. 27
Pages 4715–4930

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Internal Revenue Service

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FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

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Questions and requests for specific information may be directed to the telephone numbers listed under INFORMATION AND ASSISTANCE in the READER AIDS section of this issue.

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The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 910

[Lemon Reg. 448, Amdt. 2]

Lemons Grown in California and Arizona; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Amendment to final rule.

SUMMARY: This action increases the quantity of California-Arizona lemons that may be shipped to the fresh market to 250,000 cartons during the period January 29–February 4, 1984. Such action is needed to provide for orderly marketing of fresh lemons for the period due to the marketing situation confronting the lemon industry.

DATES: Effective for the period January 29–February 4, 1984.

FOR FURTHER INFORMATION CONTACT: William J. Doyle, Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone 202–447–5975.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under Secretary's Memorandum 1512–1 and Executive Order 12291 and has been designated a "non-major" rule. William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this action will not have a significant economic impact on a substantial number of small entities.

This final rule is issued under Marketing Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona. The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The action is based upon the recommendations and information submitted by the Lemon Administrative Committee and upon other available information. It is hereby found that this action will tend to effectuate the declared policy of the Act.

This action is consistent with the marketing policy currently in effect. The committee met by telephone on February 2, 1984, to consider the current and prospective conditions of supply and demand and recommended an increase in the quantity of lemons deemed advisable to be handled during the specified week. The committee reports the demand for lemons is good.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this amendment is based and the effective date necessary to effectuate the declared policy of the Act, and it relieves restrictions on the handling of lemons. It is necessary to effectuate the declared purposes of the Act to make these regulatory provisions effective as specified, and handlers have been appraised of such provisions and the effective time.

List of Subjects in 7 CFR Part 910

Marketing agreements and orders, California, Arizona, Lemons.

PART 910—[AMENDED]

1. Section 910.748 *Lemon Regulation 448* is revised to read as follows:

§ 910.748 Lemon Regulation 448.

The quantity of lemons grown in California and Arizona which may be handled during the period January 29, 1984, through February 4, 1984, is established at 250,000 cartons.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: February 3, 1984.

Russell L. Hawes,

Acting Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 84-3359 Filed 2-7-84; 8:45 am]

BILLING CODE 3410-02-M

Food Safety and Inspection Service

9 CFR Parts 301, 317, 320, and 381

[Docket No. 82-018F]

Policy Governing Inspection of Packaging Materials

Correction

In FR Doc. 84-1442, beginning on page 2230, in the issue of Thursday, January 19, 1984, make the following corrections:

1. On page 2231, in the thrid column, in the first complete paragraph, in the eighth line, "is on" should read "is no".

2. On page 2232, in the first column, in the second complete paragraph, in the fourth line from the bottom, "They content" should read "They contend".

3. One page 2233, in the second column, in paragraph "7." in the last line "recommend" should read "recommended".

BILLING CODE 1505-01-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 250 and 259

[Release No. 35-23214; File No. S7-993]

Revision of Annual Report of Registered Holding Companies, and Related Amendment to Rule 48(b)

AGENCY: Securities and Exchange Commission.

ACTION: Final rule.

SUMMARY: The Securities and Exchange Commission ("Commission") has adopted an amended annual report (Form U5S) on registration statements for registered holding companies under the Public Utility Holding Company Act of 1935 ("Act"), and an amendment to Rule 48(b) (17 CFR § 250.48(b)). The action simplifies the annual report and avoids duplicative reporting. Rule 48(b), concerning advances to employees, is amended to conform to the reporting requirements in the U5S Form.

EFFECTIVE DATE: February 8, 1984. The amended form shall apply to reports to be filed for the calendar or fiscal years ending in 1983, and thereafter.

FOR FURTHER INFORMATION CONTACT: Grant G. Guthrie (202 272–7677), Associate Director, Robert P. Wason (202 272–7649), Chief Financial Analyst,

or James E. Lurie (202 272–7640), Special Council, Office of Public Utility Regulation, Securities and Exchange Commission, 450 Fifth Street NW, Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION: The Commission proposed on September 22, 1983, a revised Form U5S, the annual report for registered holding company systems under the Act.[1] Seven comments were received, two from state commissions, which expressed satisfaction with the proposed report, a joint comment on behalf of twelve registered systems, and four supplemental comments by individual registered holding companies containing additional suggestions. Those who referred to Rule 48 endorsed its amendment.

All comments endorsed the revision. The registered systems suggested clarifications and simplifications, none of which raised substantive issues and most of which have been adopted. They are identified in the following summary of revisions to the proposal, which also discusses more fully the changes not accepted.

The revised form continues the requirement (Rule 1(c) (17 CFR 250.1(c)) that the annual report be signed by each registered holding company in the system. Pursuant to section 11(b)(2) of the Act the Commission eliminated most intermediate holding companies. However, several operating utility subsidiaries are also statutory holding companies because they own interests in power supply companies. All of them are exempt under section 3(a)(2) of the Act and Rule 2(b) from obligations imposed upon holding companies. A comment suggested the need for an instruction expressly stating that such exempt subsidiary holding companies are not required to sign the report.

We have adopted the revision, suggested in the joint comment, which requires the annual report to be filed within 120 days after the end of the fiscal year, by registered holding companies using a fiscal year. The only such company joined in that recommendation.

Two comments suggested, in different ways, the need to define the statutory term "facilities in place," the subject of Item 2, reporting exempt acquisitions or sales of utility assets. We have substituted "utility plant in service or under construction," which has the same meaning in the context used in the annual report. It was suggested that a dollar threshold be provided with respect to a transfer of utility assets that also involves a transfer of retail service area. The omission of a threshold was intentional. Such a change has significance under the integration standards of the Act, which are directed to the location, rather than the size, of the territory served.

This comment and another suggestion questioning the usefulness of aggregate reporting of minor transactions, indicated that Item 2 and instruction 1 thereto may be overly broad. For example, boundary adjustments in fringe areas between neighboring utilities may include transfers of plant in service and affect a retail service area. Item 2 and instruction 1 have been revised to define retail service area as a discrete territory separately served or to be served by another utility company or municipality, and to exclude reporting of other transactions.

Two comments dealt with the reporting of aggregate exempt short-term borrowings in Item 3. The data supplied in Schedule 9 to Form 10K does provide the information needed as to the amounts and weighted average interest rates. While it includes, and in practice consists entirely of, the short-term borrowings reported under Rule 24 and intended to be excluded from Item 3, it would include any borrowings to which the statutory exemption applied.[2] The technical distinction in the form of authorization has no substantive significance and the combined figure will be more useful. Item 3 has been modified to permit incorporation of Schedule 9 of the Form 10Ks.

Acquisition of outstanding securities and their retirement are different transactions, each with its own significance. When bonds or preferred stock are reacquired, usually in anticipation of sinking fund requirements but not retired until a subsequent year, the ultimate fate of the reacquired securities depends on the issuer's subsequent action and is significant to the holders of other outstanding securities of that issue. Item 4 of the form, like its predecessor, requires that the ultimate disposition be reported. We do not agree with the two comments suggesting that disclosure is unnecessary.

We have deleted temporary cash investments from Item 5 and renumbered the other two subjects accordingly. As the joint comment pointed out, the amount of temporary cash investments appears separately in the balance sheet in the form.

The joint comment and other comments correctly pointed out that reporting of contributions to charitable, social or community welfare programs has never heretofore been required in the annual report for holding companies. For reasons stated in the proposal, it has been required in the specialized service company report. Its appearance in the proposed Form U5S was an error. The explanation for deletion of dues, on pages 7 and 8 of the proposal, would have been equally applicable to charitable contributions had they been included in the existing form. Accordingly, the contributions have been deleted from the form.

The suggestion that directors be deleted from Part III of Item 6 cannot be accepted. Both the Act and the 1934 Act require disclosure of the compensation of and transactions with directors. If, as is common in registered holding company systems, there are no material transactions, Item 6 III will say little about directors, but it will contain whatever is required in the 1934 Act reports on the subject.

As noted above, wholly owned subsidiaries with their own executive officers and directors, exist in the registered holding company systems. In the gas systems they conduct virtually all of the business of the system, but are not reporting companies under the 1934 Act. Part III of Item 6 requires that information as to such executive officers and directors be included on the same basis as those of 1934 Act reporting companies.[3] We cannot omit executive officers and directors of wholly owned subsidiaries from the comprehensive system report required by section 5(b) and 14 of the Act. Nor does the alternate suggestion, that we develop different reporting requirements for them, have merit.

Materiality does not turn on whether an operating utility company issues its senior securities to its parent, which raises the funds by sale of its own securities, rather than a sale of the senior securities directly to the public. However, application of certain requirements to non-reporting subsidiaries on a separate company basis, such as those applying to the five most highly compensated executive officers and directors, may multiply the additional disclosures. Part III of Item 6 has been revised to treat the non-

[1] HCAR No. 23066, 48 FR 44226, September 28, 1983

[2] Orders increasing the statutory exempt level have uniformly been drawn to include all borrowings, since any attempt to differentiate would be arbitrary and inordinately complicate reporting. The 10 day statutory report under the last sentence of section 6(b) has been needed for many years.

[3] This is not a new requirement. Both the Act and the existing form apply to all officers and directors in the system. If the parent includes this data in its Form 10K and proxy statement, the additional requirement does not apply.

reporting subsidiaries and their parent on a consolidated basis for purposes of determining whether additional disclosures are required as to the non-reporting subsidiaries' individual officers and directors.

In addition to deleting category (3) of Item 7, which inadvertently added itemized reports of charitable contributions, we have raised the reporting threshold of category (2) from $3,000 to $10,000 as suggested by the joint comment, in recognition of changes in price levels since the existing form was adopted. We assume that political contributions will never be reported in category (1), in view of the prohibition of section 12(h) of the Act. Category (1) remains in the final rule for disclosure of lawful expenses under the Federal Election Campaign Act amendments.

Instruction 4 to Item 8 defines the jointly-owned facilities and jointly-employed personnel which are not included in the report required by Item 8. The second sentence does not require a report as to these transactions. It was intended to make explicit the limitation of the exclusion to the defined joint facilities and employees, in view of a recent misinterpretation of the existing instructions. we have added the adjective "separate" to the second sentence to correct a latent ambiguity identified by Northeast Utilities.

Since the form U5S is an annual updating of the initial registration statement on Form U5B, Exhibits B and C follow the initial form for continuity. A comment noted that similar requirements appear in Regulation S–K Item 601(b) (3) and (4) (17 CFR 229.601(b) (3) and (4)) and suggested the adoption of Regulations S–K. On review, it became apparent that provisions limiting the pertinent parts of that regulation to filings under other Acts precluded reliance on Regulation S–K for Form U5S. The preparers of the report are familiar with the present requirements, while Item 601(b) specifies a somewhat different classification of essentially the same documents. The suggestion nevertheless has merit and should be considered when Regulation S–K is next reviewed.

Paperwork Reduction Act

The information collection required by these amendments has been cleared through November 30, 1986, by the Office of Management and Budget and given clearance number 3235–0164.

Regulatory Flexibility Act Certification

Pursuant to section 605(b) of the Regulatory Flexibility Act, 5 U.S.C. 605(b), the Chairman of the Commission has certified that the amendments proposed herein will not, if adopted, have a significant economic impact on a substantial number of small entities. The Commission did not receive any comments on that certification.

Statutory Basis

The Commission amends 17 CFR Part 250 and adopts a revised Form U5S pursuant to the authority contained in sections 5(b), 9(c) and 14 of the Act, 15 U.S.C. 79e(b), 79i(c) and 79m.

List of Subjects in 17 CFR Parts 250 and 259

Accounting, Reporting and recordkeeping requirements, Securities, Utilities.

Text of Amendments

The Commission hereby amends Part 250, of Chapter II, Title 17, Code of Federal Regulations, and adopts a revised Form U5S as set forth below. The text of Form U5S does not appear in the Code of Federal Regulations.

PART 250—GENERAL RULES AND REGULATIONS, PUBLIC UTILITY HOLDING COMPANY ACT OF 1935

1. Paragraph (b) (1), (2), and (3) of § 250.48 is revised to read as follows:

§ 250.48 Certain exemptions in connection with appliance sales and loans to officers or employees.

* * * * *

(b) * * *

(1) If such transaction is made pursuant to a personnel policy of general application adopted in writing by the board of directors of such company, or by a committee or executive officer authorized by the board of directors so to act and communicated to the class of employees to which it applies; and does not cause the total amount of guarantees and loans of all companies in the holding-company system to or for the account of such employee, outstanding at the time of the transaction, to exceed the limits specified in the applicable personnel policy.

(2) The exemption also extends to securities or guarantees incident to bona fide advances to the employee for travel or other reimbursable expenses and current indebtedness of the employee for goods or services sold by the system companies in the ordinary course of business.

(3) Each company intending to avail itself of this exemption subsequent to the effective date of this rule shall file, as an exhibit or as an amendment to the system's annual report on Form U5S, a copy of such personnel policy.

* * * * *

PART 259—FORMS PRESCRIBED UNDER THE PUBLIC UTILITY HOLDING COMPANY ACT OF 1935

2. By amending the annual report on Form U5S to provide in full as follows:

OMB Approval

3235–0164 Expires 11/30/86

Securities and Exchange Commission, Washington, D.C.—Form U5S, Annual Report

For the year ended December 31, 19—, or fiscal year ended ————

Filed pursuant to the Public Utility Holding Company Act of 1935 by

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(Name and address of each registered holding company in the system)

General Instructions

1. Use of Form.—An annual report covering the preceding calendar or fiscal year shall be filed on Form U5S with the Commission on or before the first day of May in each year, but no later than 120 days after the close of fiscal year of a holding company reporting a year which does not end on December 31, for each holding company registered pursuant to section 5 of the Public Utility Holding Company Act of 1935 ("Act"). Where a holding company system includes more than one registered holding company, a single report shall be filed on behalf of all registered holding companies in the system. A subsidiary holding company which is exempt from registration under section 3(a)(2) of the Act and Rule 2(b) is not a registered holding company and should not sign the report.

2. Formal Requirements.—

(a) Two copies of the report on this form, including the exhibits specified, shall be filed with the Commission. At least one of such copies shall be manually signed and filed at the place designated by the Commission for filings under the laws it administers. The second copy shall be addressed to the Division or Office responsible for administering the Act.

Every amendment to the annual report shall comply with the formal requirements governing an original annual report with respect to the number of copies filed, signature and similar matters. Each such amendment should be numbered and contain an index of the contents thereof.

(b) The annual report, and where practicable all documents filed as part thereof, shall be on good quality, unglazed white paper, 8½" x 11" in size. Tabulations may be placed either vertically or horizontally on a page, may utilize facing pages, and may be

reduced. All papers included in the annual report, except exhibits not especially prepared for such purpose, shall have a side margin of at least 1½" for binding, and each copy should be firmly bound on the left side.

(c) The report or any portion thereof may be prepared by any process. All copies shall be legible and suitable for repeated photocopying. Accordingly, items in tabulations which must be subtracted rather than added shall be distinguished in a manner which will not be obscured by black and white reproduction.

(d) The report shall contain the item number and caption of each item in the form, but shall omit all instructions and text. If any item is inapplicable or the answer thereto is negative, it shall be so stated. These items may be collected on a single page to economize on the space required. Information requested in tabular form shall be supplied in substantially the form indicated.

3. Incorporation by Reference.—Incorporation by reference is permitted only where specifically provided in the form.

4. Information Unknown or Not Available.—Information required need be given only insofar as it is known or can be obtained by the system company without unreasonable effort or expense. Omissions should be explained briefly.

5. Definitions.—"Holding company system" or "system" as used in this form means the parent registered holding company together with all its subsidiary companies, including all subsidiary registered holding companies and all mutual service companies of which such registered holding company or any subsidiary company thereof is a member company. A "system company" means any company in the holding company system. Unless the context clearly indicates the contrary, all terms used in this form and the instructions have the same meaning as in the Public Utility Holding Company Act of 1935 and in the rules and regulations issued thereunder.

6. Any system company may be identified elsewhere in the report by an abbreviation stated in Item 1.

7. The report is for the system's fiscal year and references to the period covered mean that year. The form has been drawn for the calendar year almost universally used, but a system using a different fiscal year shall substitute the date of the end of its fiscal year for December 31.

ITEM 1.—SYSTEM COMPANIES AND INVESTMENT THEREIN AS OF DECEMBER 31, 19—

Name of company (add abbreviation used herein)	Number of common shares owned	Percent of voting power	Issuer book value	Owner's book value

Instructions to Item 1

1. List the parent holding company and all statutory subsidiaries, direct or indirect, including registered holding companies, mutual service companies, inactive and nonutility companies and statutory subsidiaries which have pending applications for exemption. Inactive companies should be indicated by an asterisk (*).

2. Subsidiaries of a single subsidiary shall be listed under that subsidiary and identified as such by indentation or otherwise. Subsidiaries of more than one system company shall be identified by a footnote showing the owners, and the division of the investment, as tabulated, among such owners.

3. Noncorporate subsidiaries, such as a trust or partnership, shall be identified by a footnote, stating the form of organization and the form of equity investment, the amount of which shall be included in the tabulation as though it were common stock.

4. Subsidiaries added during the year shall be identified by footnote, stating the jurisdiction under the laws of which the subsidiary was organized, its date of organization, the date of acquisition, if different and briefly describing the business of the subsidiary. Changes in the status of an existing subsidiary during the year shall be identified in the same manner.

5. Voting power refers to the percentage of votes for the election of directors, as of the end of the year, without regard to voting rights which other classes of securities might have on hypothetical contingencies, such as dividend defaults. Applicable qualifications, such as other shareholders' cumulative voting rights or special provisions for selection of directors (or equivalent representatives for trusts or partnerships) shall be stated briefly by footnote.

6. The line in the tabulation stating the company name shall show the common stock investment, or equivalent. Investments, if any, in other equity securities, in unsecured debt and in secured debt, shall be summarized, in aggregate amount, by those three categories, on additional lines under the company name. The book values specified refer to the investment, as defined in Rule 26, with respect to the owner, and the balance sheet amount with respect to the issuer, in both cases including applicable paid in capital and retained earnings.

To the extent convenient, the other investments may be described in the tabulation or by footnote. Investments consisting of numerous series, however, shall be described in schedules annexed to the Form U5S, which may be reproductions of issuer's schedules included in its reports to the Federal Energy Regulatory Commission, a state commission or this commission, with any needed additions or annotations. The description will include the principal amount, interest or dividend rate, and maturity date, and distinguish between the amounts owned within the system and those otherwise outstanding. The amount of arrears of dividends or interest, if any, excluding unmatured accruals will be shown.

Item 2. Acquisitions or Sales of Utility Assets

Excluding transactions reported in a certificate filed pursuant to Rule 24, provide a brief description of acquisitions or sales, if any, by each system company, of utility plant in service or under construction of any electric utility company or retail gas utility company for the production, transmission or distribution of electric energy or distribution of natural or manufactured gas, stating the name of the system company (both system companies if the transfer is within the system), the consideration, a brief description of the transaction, the location and the exemption claimed for transactions which have the effect of adding or disposing of a discrete territory separately served or to be served at retail by another utility company, cooperative or government (as defined in Section 2(c) of the Act), and transactions which involve a consideration of more than one million dollars including reasonably estimated completion costs incurred or eliminated by transfer of facilities under construction. Other transactions need not be identified.

Instructions to Item 2

1. The exemption claimed shall be identified by reference to the Section of the Act or rule relied on. If Section 9(b) is relied on, the State commission order shall be identified and a copy included as an exhibit.

2. This item is directed to utility plant. Do not include disposal of abandoned or salvaged facilities, even if the purchaser

is to effect the removal or conversion to non-utility use.

Item 3. Issue, Sale, Pledge, Guarantee or Assumption of System Securities

Excluding transactions reported in a certificate filed pursuant to Rule 24, or described in Item 2 as part of the consideration for an acquisition, and transactions of a subsidiary exempted as such under section 3(d) of the Act, provide a brief description of issuances, sales or pledges of securities of system companies or guaranty or assumption by system companies or securities of other persons, including system companies of exempted subsidiaries, stating the name of the issuer, the name of the system company if different, describing the securities, the date and form of the transaction, the consideration and the exemption claimed.

Instructions to Item 3

1. Recurrent transactions shall be reported by system companies in the aggregate, stating only the total balance of the end of the year, the highest balance during the year, with its date, and the effective average interest rate, including commitment fees and other charges of the lenders, for the year. If such borrowings were secured by pledge or lien, the security shall be described and the secured borrowings shall be stated in the same manner as specified above, but separately. If short-term borrowing subject to this instruction is included in the borrowing reported in the Form 10K, schedule 9, that schedule may be incorporated by reference, without segregation, even though it may include borrowing reported under Rule 24.

2. Pledges and guarantees incident to the procurement of surety bonds, workmen's compensation deposits and comparable obligations incurred in the ordinary course of the system company's business may similarly be reported in the aggregate, stating the balance at the end of the year and the highest amount outstanding during the year. Describe the purposes thereof and any consideration received by a system company, other than accomplishment of the purpose described on reimbursements for administrative costs of transaction.

3. Issuance and concurrent retirement of securities as a formal means of satisfying indenture or charter requirements need not be reported.

4. The exemption claimed shall be indicated by reference to the section of the Act or rule relied on.

Item 4. Acquisition, Redemption or Retirement of System Securities

Excluding short term debt, and transactions of a subsidiary exempted as such under Section 3(d) of the Act, provide a brief description of any system securities acquired, redeemed, or retired, stating the name of the issuer, the name of the system company acquiring or retiring the securities, if different, the consideration, whether the securities have been extinguished or are held for further disposition, and the authorization or exemption relied on.

Instructions to Item 4

1. Securities paid on maturity, or retired by sinking fund or otherwise pursuant to indenture or charter provisions or acquired in anticipation of such requirements pursuant to Rule 42(c)(4) or orders authorizing the issuance of redeemable preferred stock, and securities redeemed in a transaction reported in a certificate filed pursuant to Rule 24, shall be reported in the aggregate, by company, distinguishing only bonds, unsecured debt and preferred stock. Schedules shall be annexed to the report, which may be reproductions of the issuer's reports to the Federal Energy Regulatory Commission, a state commission or this Commission, with any needed additions or annotations, to identify the annual amount retired or acquired and consideration for each series or issue. Issuance and concurrent retirement of securities to formally satisfy indenture or charter provisions may be omitted, and only the aggregate consideration for each issue or series need be stated.

2. If the consideration consisted in whole or in part of other than cash, set forth separately the cash consideration, and the dollar amount of securities or other property. The dollar amount of securities should be stated at the approximate book value thereof on the books of issuer as of the date of the transaction. Other property should be stated at book cost on the books of the owner thereof immediately prior to the transaction.

3. If securities acquired in a prior year are retired in the year of the report, their retirement shall be reported.

4. Exemptions claimed shall be identified by reference to the section of the Act or rule, and authorization by reference to the Holding Company Act Release Number, except the reference to such number may be omitted with respect to redeemable preferred stock.

Item 5. Investments in Securities of Nonsystem Companies

For each system company, excluding subsidiaries exempted from regulation as such pursuant to section 3(d), securities representing obligations of customers incurred in the ordinary course of business, and temporary cash investments acquired under Rule 40(a)(1), (2) or (3), report as of the end of the year:

1. Aggregate amount of investments in persons operating in the retail service area of the owner, or of its subsidiaries, and not exceeding $100,000 in each person. State the number of persons included and describe generally the kind of persons included.

2. With respect to securities owned not included in category 1, state the name of the issuer, describe the securities, including number of shares and percentage of voting power as to equity securities, indicate the general nature of the issuer's business, and state the owner's book value of the investment.

Instructions to Item 5

1. The "person" whose securities are owned may be any form of entity, but for purposes of category 1, the amount of the investment shall be calculated on a consolidated basis including all persons known to be under common control, and all investments of the system in that person shall be aggregated.

2. Reports of the owner to the Federal Energy Regular Regulatory Commission, a state commission or this Commission, with any necessary additions or annotations, may be annexed to the report to provide, in whole or in part, the information specified.

Item 6. Officers and Directors

Except for officers and directors of subsidiaries exempted under section 3(d) of the Act:

Part I. As of December 31, 19——

1. List the names and principal business address of the officers and directors of all system companies as of the end of the calendar or fiscal year.

2. Under the column for each system company, designate by appropriate symbols positions held in such company.

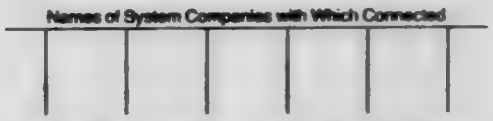

Part II. With respect to each officer and director with a financial connection within the provisions of Section 17(c) of the Act, show:

Name of officer or director	Name and location of financial institution	Position held in financial institution	Applicable exemption rule
(1)	(2)	(3)	(4)

This information may be included in the Part I tabulation, if feasible.

Part III. State the disclosures made in each system company's most recent proxy statement and annual report on Form 10–K with respect to:

(a) The compensation of directors and executive officers of system companies;

(b) Their interest in the securities of system companies including options or other rights to acquire securities;

(c) Their contracts and transactions with system companies;

(d) Their indebtedness to system companies;

(e) Their participation in bonus and profit-sharing arrangements and other benefits;

(f) Their rights to indemnity.

If any executive officers or directors of system companies are not included in the specified reports under the Securities Exchange Act of 1934, provide the same information, as though the company with which they serve were a division of the first direct or indirect parent filing a proxy statement and Form 10K under that Act.

Instructions to Item 6

1. The data specified shall be physically in the report and shall be substantially the same, without omission, as that reported under the securities laws. It may be edited to eliminate repetition or duplication and to put related information together. If officers and directors participate in benefits of more general application and the filings referred to rely on cross reference to a general description of the benefits, that description may be edited to eliminate irrelevant aspects. Contracts, documents and other exhibits may be incorporated by reference. Any material change after the date of publication of the source report shall be noted in Item 6.

2. The proxy statement and Form 10–K for the report year will ordinarily be filed before the filing date specified for the Form U5S. If the filing of one or more of those reports is delayed for any reason, the data therefrom specified in Item 6 shall be omitted and filed by amendment concurrently with the filing of the delayed report.

3. The term "executive officer" shall mean an executive officer as defined in the rules under the Securities Act of 1933 (17 CFR § 230.405) as that rule may be amended or replaced.

Item 7. Contributions and Public Relations

Excluding any service company filing an annual report on Form U–13–60, and any subsidiary exempted as such under Section 3(d), state, for parent holding company and for each subsidiary, the expenditures, disbursements or payments during the year, in money, goods or services, directly or indirectly to or for the account of:

(1) Any political party, candidate for public office or holder of such office, or any committee or agent therefor; or

(2) Any citizens group, or public relations counsel identifying the total paid to or for the account of each ultimate beneficiary during the year, the purpose of the payment and the account of the company to which it was charged, except that payments to an ultimate beneficiary of less than $10,000 during the year in category (2) for similar purposes, may be aggregated by stating the number of beneficiaries, the purposes and the account charged.

Instructions to Item 7

1. The current definitions and regulations of the Federal Election Commission shall be followed in determining the extent to which expenses incurred by the company or its employees or agents with respect to political action committees or other activities, whether Federal or local, should be included in the amounts to be reported in category 1. The reporting company's applicable accounting policies will be followed in including incidental expenses or overhead in the other categories.

2. Each reporting subsidiary shall supply the parent holding company with its Item 7 report, signed by the officer of the subsidiary responsible for its accounts and records. The parent holding company shall keep these reports with its copy of the Form U5S.

Item 8. Service, Sales and Construction Contracts

Excluding contracts for the purchase, sale or interchange of electricity or gas, transactions included in the annual report on Form U–13–60 of a service company, and the sharing of costs of jointly owned facilities or jointly employed personnel:

Part I. Furnish the information required by the following table as to contracts for services, including engineering or construction services, or goods supplied or sold by a system company to another system company, and state, in the tabulation or by footnote, the date of the contract and whether it remained in effect at year end.

Transaction	Serving company	Receiving company	Compensation

Part II. Does any system company have a contract to purchase services or goods from any affiliate (other than a system company), or from a company in which any officer or director of the receiving company is a partner or owns 5% or more of any class of equity securities? If the answer to Part II is yes, and the contract has not already been reported in Item 6, report such contracts in substantially the same detail as specified for Part I, also describing the affiliation.

Part III. Does any system company employ any other person for the performance on a continuing basis of management, supervisory or financial advisory services?

If the answer to Part III is yes, state the name of each such person, describe the contract, and the scope of the services and the annual consideration.

Instructions to Item 8

1. Similar and related transactions between the same companies should be aggregated into annual totals.

2. The tabulation may omit: (a) One or more contracts if the aggregate consideration passing between the same companies is less than $100,000, and a general description of the omitted kinds of contracts is given; (b) utility service exempted by Rule 81, and (c) the non-recurrent transactions exempted by Rule 85; or Rule 87 (a)(3) and (b)(2), (4) or (5).

3. A purchase of goods or services by a system company necessarily involves an agreement as to price and terms between buyer and seller, whether expressed or implied. The reference to the contract in the text is not an exemption of informal or tacit agreements for continuous or recurrent transactions, which are expressly prohibited by Rules 84 and 86, with the limited exceptions made by Rules 85 and 87.

4. Jointly owned facilities are facilities, such as a generating plant, owned as cotenants by two or more associate companies which receive the output of such facilities for their respective use, and jointly employed personnel are employees or independent contractors concurrently working for and separately compensated by their respective employers. The exception does not apply to use of separate facilities or employees of one company to render services to an associate

company for a charge, even if limited to a calculated cost reimbursement. Instruction 2, however, may permit omission of some such contracts.

Item 9. Financial Statements and Exhibits

List all financial statements and exhibits filed as a part of this annual report.

Financial statements

Consolidating financial statements for the parent holding company and each of its subsidiaries for the year of the report, including a balance sheet, income statement, statement of retained earnings and statement of changes in financial position. The plant and related depreciation and amortization accounts shall be supported by classified schedules as prescribed below. The individual financial statements shall be those included in the audited consolidated financial statements reported for the same year in the Form 10–K or annual reports to shareholders incorporated therein and in substantially the same form. They shall be reconciled to said consolidated financial statements by an elimination column, the entries in which shall be keyed to identify by item, offsetting debits and credits.

Exhibits

Exhibit A. The report shall incorporate by reference the annual report of each system company filed for the same year under the Securities Exchange Act of 1934. A copy of such reports including annual reports to shareholders incorporated therein shall be included in the duplicate copy of the Form U5S addressed to the Division administering the Act, but not in the filed copy. Exhibits B and C may also be incorporated by reference.

Exhibit B. With respect to the parent holding company and each subsidiary company thereof, a copy of the charter, articles of incorporation, trust agreement, voting trust agreement, or other fundamental document of organization, and a copy of its by-laws, rules and regulations, or other instruments corresponding thereto. If such documents do not set forth fully the rights, priorities and preferences of the holders of each outstanding class of capital stock and those of the holders of any warrants, options or other rights to acquire capital stock, and of any limitations on such rights, there shall also be included a copy of each certificate, resolution or other document establishing or defining such rights and limitations. Each such document shall be in the amended form effective at the date of filing of the report or shall be accompanied by copies of any amendments to it then in effect.

Exhibit C. (a) With respect to each outstanding class of funded debt, a copy of the indenture or other fundamental document defining the rights of the holders of such security, and a copy of each contract or other instrument evidencing the liability of the parent holding company or a subsidiary company thereof as endorser or guarantor of such security. Include a copy of each amendment of such document and of each supplemental agreement, executed in connection therewith. If there have been any changes of trustees thereunder, such changes, unless otherwise shown, should be indicated by notes on the appropriate documents. No such indenture or other document need be filed in connection with any such issue if the total amount of securities that are now, or may at any time hereafter, be issued and outstanding thereunder does not exeed either $1,000,000 or an amount equal to 10% of the total of the debit accounts shown on the most recent balance sheet of the company which issued or guaranteed such securities or which is the owner of property subject to the lien of such securities, whichever of said sums is the lesser.

(b) As to each outstanding and uncompleted contract or agreement entered into by the parent holding company or any subsidiary company thereof relating to the acquisition of any securities, utility assets (as defined in section 2(a)(18) of the Act), or any other interest in any business, submit a copy of such contract or agreement and submit details of any supplementary understandings or arrangements that will assist in securing an understanding of such transactions.

Exhibit D. A copy of the tax allocation agreement for the year of the report pursuant to Rule 45(c).

Exhibit E. Copies of other documents prescribed by rule or order, such as Rule 48(b), for incorporation into the annual report.

Exhibit F. Schedules supporting items of the report.

Instructions for Financial Statements

1. The opinion of the independent accountants as to the consolidated financial statements and the footnotes to such statements shall be included in Form U5S. The opinion need not extend to the components of the consolidating statements.

2. If the statements of certain companies are customarily omitted from the consolidated statements of the registrant and its subsidiaries, the statements of such companies may be omitted from the consolidating statements required herewith, if statements for such companies are annexed.

3. In the balance sheets, equity securities, which are minority interests in the consolidated balance sheet, shall be shown separately from equity securities, even of the same class, which are eliminated in consolidation.

4. The consolidating financial statements may be divided into subgroups in order to adjust the number of columns needed on a page or facing pages. In such groupings, consolidations shall first be effected for each group consisting of a subsidiary and companies all of whose common stock is owned directly or indirectly by that subsidiary. Other inactive subsidiaries may be combined as a single group, and all of the financial statements of that group may be included on a single page. Further groupings shall combine companies with similar businesses.

5. The elimination column need not be supported by a recapitulation of the items in journal entry form, but such entries, in a form which will permit identification of the source by company of each elimination shall be kept with the parent holding company's copy of the Form U5S.

6. Utility plant accounts, including for the purpose of this instruction a natural gas company under the Natural Gas Act or any company regulated as a utility under state law, shall be supported by reproductions of the classified plant accounts included in the annual report of such company to its utility commission, and the related depreciation or amortization reserve schedules, together with any such schedules of other property or investments.

Signature

Each undersigned system company has duly caused this annual report to be signed on its behalf by the undersigned thereunto duly authorized pursuant to the requirements of the Public Utility Holding Company Act of 1935. The signature of each undersigned company shall be deemed to relate only to matters having reference to such company or its subsidiaries.[1]

Date _____

By _____

(Signature and printed name and title of signing officer)

By the Commission.

[1] Where the annual report is being filed on behalf of more than one system company, there shall be a separate signature for each such company by its authorized officer.

Date: February 2, 1984.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84-3274 Filed 2-7-84; 8:45 am]

BILLING CODE 4810-01-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 5f

[T.D. 7942]

Income Tax; Elections and Miscellaneous Matters

AGENCY: Internal Revenue Service, Treasury.

ACTION: Temporary regulations.

SUMMARY: This document contains rules relating to elections and miscellaneous matters under section 224 of the Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA), as amended by the Technical Corrections Act of 1982 (TCA). The temporary regulations provide guidance to taxpayers subject to section 224. The text of § 5f.338–1 of the temporary regulations set forth in this document also serves as the text of the proposed regulations cross-referenced in the notice of proposed rulemaking in the Proposed Rules section of this issue of the Federal Register.

DATE: These temporary regulations are generally effective as of February 7, 1984, and apply to stock acquisitions made after August 31, 1982 (§§ 5f.338–1 and 5f.338–3(b)). There are two exceptions (§§ 5f.338–2 and 5f.338–3(a). The transitional election rule applies to acquisitions after August 31, 1980, and before September 1, 1982 (§ 5f.338–2). A LIFO recapture rule applies to acquisitions subject to section 338 that occur before 1983. (§ 5f.338–3(a)).

FOR FURTHER INFORMATION CONTACT: Duane H. Pellervo of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, D.C. 20224 (Attention: CC:LR:T) (202–566–3458, not a toll-free call).

SUPPLEMENTARY INFORMATION:

Background

This document contains temporary regulations relating to elections under section 338 of the Internal Revenue Code of 1954 (the "Code"), as added by section 224 of TEFRA (Pub. L. 97–248; 96 Stat. 324), and as amended by section 306 of the Technical Corrections Act of 1982 (Pub. L. 97–448; 96 Stat. 2365). The temporary regulations also contain a special rule coordinating section 224 of TEFRA with section 101 of the Miscellaneous Revenue Act of 1982 (Pub. L. 97–362, 96 Stat. 1726), which provides a transitional rule for the application of the LIFO recapture provisions of section 403 of the Crude Oil Windfall Profit Tax Act of 1980 (Pub. L. 96–223, 94 Stat. 229). A special rule exempting the acquisition of certain financial institutions from the provisions of section 224 of TEFRA is also provided. These temporary regulations will remain in effect until superseded by later temporary or final regulations relating to these matters. These temporary regulations, which amend other temporary regulations published in the **Federal Register** on November 22, 1982 (47 FR 52433), are contained in 26 CFR Part 5f, Temporary Income Tax Regulations under TEFRA. Certain provisions of these temporary regulations were announced in a news release. IR–83–36 (Feb. 25, 1983).

Section 338 of the Code

Section 224 of TEFRA adds a new section 338 to the Code and repeals the rules under section 334(b)(2). New section 338 generally applies if a corporation makes a qualified purchase of stock in another corporation (target). In general, under section 338(d)(3), a qualified stock purchase is the purchase of 80% control of the target over a 12-month period. At the election (or "deemed election") of the purchasing corporation, the target is deemed to have sold its assets in a single transaction under section 337 at the end of the first day on which there is a qualified stock purchase (the "acquisition date"). The target is subsequently treated as a new corporation ("new target") which purchased those assets at the beginning of the following day. The target is deemed to have sold (and purchased) those assets for an amount equal to the purchasing corporation's basis in target's stock on the acquisition date, with certain adjustments. The rules of section 338 apply if the acquisition date of a target occurs after August 31, 1982. The rules also apply, with certain limitations, to a target for which the acquisition date occurs after August 31, 1980, and before September 1, 1982, if a transitional rule election under section 338 is made within a specified period of time.

The taxable year of "old" target ends immediately after its deemed asset sale. Thus, any tax liability triggered by the deemed sale is reported in the final income tax return of old target. As a general rule, the target's deemed sale cannot be reported in a consolidated return of the purchasing corporation since old target generally cannot be a member of the purchaser's affiliated group. H.R. Rep. 97–760, 97th Cong., 2d Sess. 539 (1982) (Conference Report).

Section 306(a)(8) of the Technical Corrections Act of 1982 (TCA) amended section 224 of TEFRA to clarify that, with certain exceptions, tax liability resulting from the target's deemed sale of assets is excluded from the selling corporation's consolidated return (if any). For acquisitions occurring after August 31, 1982, this result is achieved by treating a target as disaffiliated from all affiliated groups with respect to its deemed sale of assets. (For acquisitions occurring during the transitional rule period, the TCA mechanism for excluding deemed sale tax liability from the selling corporation's consolidated return also permits inclusion of such liability in the purchasing corporation's consolidated return. Transitional rule elections are discussed under a separate heading below.) In the case of a post-August 31, 1982 acquisition, a separate final return of old target must be filed to report tax liability arising from the deemed sale of assets if target is included in the seller's consolidated return for the acquisition date. (Target is included in that consolidated return for the acquisition date, and thus must file a separate return for the deemed sale, if target is affiliated with the group including the selling corporation (selling group) at the beginning of the acquisition date. See § 5f.338–1(f)(3).) The temporary regulations provide that target is disaffiliated immediately before the deemed sale, which occurs at the close of the acquisition date and is considered the last transaction of old target. The deemed sale is considered to occur in a separate taxable year, and target's attributes carry over to that year from the consolidated return of the selling group (and, similarly, carry back from that year) under the rules applicable to corporations leaving a consolidated return group. The separate taxable year rule is subject to one exception: Solely for purposes of determining the number of years in a carryover or carryback period, the deemed sale is considered to occur in the same taxable year of target as is represented by the seller's consolidated return for the period including the acquisition date.

Because the "deemed sale return" is considered the final return of old target, any tax attributes that cannot be used in that return (or carried back to a prior return) are extinguished. Except for carryover items, target's deemed sale return includes only items resulting from the deemed sale. Although target, for the

deemed sale, may not be included in any consolidated return filed by the purchasing corporation, target generally will be considered a component member of the purchaser's controlled group for purposes of determining, among other items, the taxable income bracket amounts available in calculating tax liability on the deemed sale return.

These temporary regulations provide that a target is not subject to the disaffiliation rule if it is the common parent of a group of corporations filing consolidated returns or a subsidiary in a consolidated return group the common parent of which is also a target. In such cases, a final consolidated return for the taxable year which ends at the close of the acquisition date must be filed by the common parent target, and the deemed sale of such common parent is reported in the final consolidated return. If a subsidiary of that common parent is also a target with a deemed sale occurring on the same acquisition date, that deemed sale also is reported in the final consolidated return of the group. As a further exception to the disaffiliation rule, items resulting from the deemed sale may be included in a selling group's consolidated return under a binding contract rule discussed below.

Under regulations to be prescribed at a later date pursuant to section 338(h)(9), as added by the TCA, an election may be made for the target to recognize gain or loss on its deemed sale as if it were an actual sale of assets, with any resulting tax included in the selling group's consolidated return. To the extent provided by regulations, the selling corporation would recognize no gain or loss on the actual sale of target's stock. An election under this provision may be made only when regulations are issued, and only as provided in such regulations.

Elections for Acquisitions Occurring After August 31, 1982

In General

Rules for making elections under section 338(g) for post-August 31, 1982, acquisitions are provided in § 5f.338–1 of these temporary regulations. As published in the **Federal Register** on November 22, 1983, § 5f.338–1 provided generally that no election would be due before 30 days after publication of regulations specifying the rules for making an election. As revised by this document, § 5f.338–1(c) provides that no election will be due before 60 days after the date of publication of the next set of temporary regulations under section 338. It is contemplated that such regulations will be issued within 60 days. Additional time is provided in § 5f.338–1 (j) and (k) for foreign and certain other corporations. A special rule for foreign corporations under which a section 338 election is not required until relevant for United States tax purposes applies when the purchasing corporation, the target, and certain related corporations have minimal or no contacts with the United States tax system during the acquisition period of target. In such cases, a section 338 election is not due until a specified time after significant U.S. contacts are established. See § 5f.338–1(k)(2).

The next set of temporary regulations, which will be in the form of questions and answers, will include substantive guidance as to some of the major consequences of a section 338 election in a domestic context. In light of section 338(g)(3), which provides that section 338 elections, once made, are irrevocable, taxpayers should be aware that any elections made prior to the issuance of those questions and answers will be binding and subject to the rules set forth in those temporary regulations and any future regulations.

Pursuant to an amendment made by section 306(a)(8)(B) of the TCA, these temporary regulations also provide that an election made before March 1, 1983, may be revoked before March 1, 1983. (A procedure for revoking an election, in § 5f.338–1(g), was previously announced in a news release issued on February 25, 1983 (IR–83–36).)

Suspension of Time To Elect Under Section 338

Under § 5f.338–1(j)(1) of the temporary regulations, the last day for making a section 338 election is suspended in certain cases until the date specified in regulations to be published under section 338(h)(6)(B). This suspension is necesssary because of the absence of regulations explaining the provisions of section 338(h)(6)(B). Under section 338(g)(6)(B), the consistency rules of section 338 (e) and (f) (which operate to force, or prohibit, a section 338 election in certain cases) are applicable to foreign and certain other types of corporations to the extent and subject to the conditions provided in regulations. Thus, for example, if an election were required prior to the issuance of regulations under section 338(h)(6)(B) for a target that had a foreign target affiliate for which a qualified stock purchase was made, the purchasing corporation would be required to make a decision regarding a section 338 election for target without knowledge of the consequences of that election to its foreign target affiliate under section 338(f)(1). The purchasing corporation could find itself in a similar position if the qualified stock purchase of a foreign target was followed, several months later, by the qualified stock purchase of its domestic target affiliate sister corporation. Until regulations under section 338(h)(6)(B) are published, the purchasing corporation will not know whether failure to elect for the foreign target will bar a later election for the domestic target by reason of section 338(f)(2). Because it would be unfair to place purchasing corporations in such a position, the time requirement for elections is suspended for acquisitions that could be affected by regulations under section 338(h)(6)(B). Subject to a special precedural requirement, a purchasing corporation is permitted to make an election notwithstanding the suspension. Such an election will be subject to all of the provisions of section 338 as well as the provisions of regulations issued or to be issued thereunder, including regulations under section 338(h)(6). The suspension is not available if one of the principal purposes for the acquisition of stock in a corporation is to qualify for the suspension.

Time for Filing Final Return of Old Target; Taxable Year and Method of Accounting of New Target

The temporary regulations clarify that old target's final return reflecting the deemed sale generally is due on the 15th day of the third calendar month following the month in which the acquisition date occurs. Special rules are provided for DISCs and certain foreign corporations. New target is not presumed to follow old target's annual accounting period and may choose any taxable year that is consistent with section 441 and any other applicable provisions of the Code and regulations. Similarly, new target may adopt any method of accounting that is consistent with section 446 and any other applicable provisions of the Code and regulations. In neither case is the prior consent of the Commissioner required.

Waiver of Additions to Tax; Certain Elections Considered Timely

Certain additions to tax or additional amounts ("additions") may arise by reason of a section 338 election. For example, an election may be made for a target which, by reason of that election, has a final return retroactively due before that election is filed, resulting, technically, in additions to tax for failure to file a return and for failure to pay tax shown on a return. The temporary regulations waive certain additions, arising on or before the 60th day after the date of publication of the

next set of temporary regulations under section 338, which would not exist but for a section 338 election. This waiver is conditioned on corrective action being taken on or before such day. Only additions that are excusable upon a showing of reasonable cause are waived under this rule. Interest on any underpayment of tax will run from the due date of the particular return.

The temporary regulations provide that any election or other action that must be specified in a timely filed return for the taxable period covered by a late-filed return to which the waiver rule applies will be considered timely if specified in the late-filed return. A special rule is provided for a new target included in the purchaser's consolidated return.

Selling Group Tax Liability: The Binding Contract Rule.

As an exception to the general rule that old target's deemed sale may not be included in a consolidated return filed by the selling group, the binding contract rule in section 306(a)(8)(A)(ii) of the TCA permits the deemed sale to be included in that consolidated return.

The deemed sale will be reported in such a return if the purchasing corporation acquired stock of a target (which was counted as part of a qualified stock purchase) pursuant to a binding stock purchase contract entered into after September 2, 1982, and before January 13, 1983, and if the purchasing corporation is able to establish by clear and convincing evidence that the contract was negotiated on the contemplation that any tax liability of target resulting from its deemed sale of assets would be reported in the selling group's consolidated return. The regulations explain how the binding contract rule is asserted, and provide standards for determining whether the clear and convincing evidence test has been satisfied.

The regulations specify that the clear and convincing evidence requirement is not considered satisfied if the purchasing corporation is contractually obligated to indemnify the selling group in the event that the selling group is legally obligated to pay any tax resulting from the deemed sale. Such an indemnification provision presupposes that the stock sale price was calculated on the assumption that the purchasing corporation was liable for any deemed sale tax.

The binding contract rule does not apply if the purchasing corporation fails to notify the selling group, within the time and in the manner prescribed by these regulations, of its intent to assert the rule. Even though the selling group agrees to a contract that qualifies under the binding contract rule, it cannot be forced to file a consolidated return unless the consolidated return regulations impose that obligation. If a consolidated return is not filed, the binding contract rule is inapplicable and the selling group is not statutorily liable for tax on the deemed sale. Under these circumstances, tax liability for the deemed sale must be reported in the final separate return of old target for its taxable year ending at the close of the acquisition date.

Transitional Rule Elections

In General

A purchasing corporation may elect to apply section 338 to an acquisition occurring in the two-year period ending on August 31, 1982, by making a transitional rule election under section 338 in the manner prescribed in § 5f.338–2 of these temporary regulations. The consistency rules of section 338 (e), (f), and (i) and the provisions of section 338(h) (4), (6), (8), and (9) do not apply to transitional rule elections. These regulations amend § 5f.338–2, as published in the **Federal Register** on November 22, 1982, in several ways, such as by adding a new procedure for selecting the deemed sale date and by providing generally that a copy of the statement of election must be attached to the first income tax return of new target as well as to the last return of old target. (If both of these taxable periods are included in a single consolidated return of the purchasing corporation, the statement of election is simply attached to that consolidated return.) Elections filed on or before February 28, 1983, in accord with § 5f.338–2 as originally promulgated, are valid and need not be amended. If the purchasing corporation or the target is a foreign corporation, a statement of transitional rule election that constitutes a reasonable attempt to comply with the requirements of these regulations will be valid.

Selected Deemed Sale Date

The temporary regulations provide procedures for selecting the date of the deemed section 338 asset sale, which under section 306(a)(8)(B)(i) of the TCA can be no earlier than the day after the acquisition date. (These procedures codify rules announced in a new release issued on February 25, 1983. IR–83–36.) Two important consequences flow from the separation of the deemed sale date from the actual stock acquisition date. First, while old target cannot be included in the seller's consolidated return for the deemed sale date, old target may be included in the purchasing corporation's consolidated return for that date, with the result that tax triggered by the deemed sale is reported in the purchaser's return. Second, the basis of target's assets after the election is made must be adjusted for operations of target between the acquisition date and the deemed sale date in a manner similar to the adjustment prescribed in regulations under the last sentence of section 334(b)(2), as in effect on August 31, 1982. (Such adjustments are not required with respect to acquisitions after August 31, 1982, since in such cases the deemed sale date is always the acquisition date.)

Time for Filing Return: Waiver of Additions to Tax

The final return of old target generally is due on the 15th day of the third calendar month following the month in which the deemed sale occurs. (Special rules are provided for DISCs and certain foreign corporations.) The rule summarized above for waiver of additions to tax (and additional amounts) also applies to transitional rule elections.

Date of Section 338 Election for Purposes of Special LIFO Recapture Rule

The Miscellaneous Revenue Act of 1982 (MRA) amended the LIFO recapture provisions of the Crude Oil Windfall Profit Tax Act of 1980 to provide generally that, for a plan of liquidation adopted in 1982, the LIFO recapture amount is reduced by $1 million. The MRA specifically provided that the $1 million exemption applies to a section 338 election if the election is made during 1982. Because no guidance on making elections for post-August 31, 1982, acquisitions was available to taxpayers in 1982, § 5f.338–3(a) of these temporary regulations provides that any election (including a transitional rule election) that could have been made in 1982 will be treated as if made in 1982 for purposes of the LIFO recapture rule if a timely election under section 338 is actually made. For transitional rule section 338 elections, this special rule will apply only if a 1982 deemed sale date is selected.

Election Out for Financial Institutions

Under section 224(d)(3) of TEFRA, the purchasing corporation may elect not to have section 224 of TEFRA apply to the acquisition of a financial institution even though the acquisition date occurs after August 31, 1982, if certain requirements are satisfied. The principal effect of such an election is that section 334(b)(2), as in effect on August 31, 1982,

rather than section 338 will apply to the determination of the basis of the assets of the acquired financial institution. The procedure for electing out of section 224 is provided in § 5f.338–3(b).

Regulatory Flexibility Act; Executive Order 12291; and Paperwork Reduction Act of 1980

No general notice of proposed rulemaking is required by 5 U.S.C. 553(b) for temporary regulations. Accordingly, the Regulatory Flexibility Act does not apply and no Regulatory Flexibility Analysis is required for this rule. The Commissioner of Internal Revenue has determined that this temporary rule is not a major rule as defined in Executive Order 12291 and that a Regulatory Impact Analysis is therefore not required. The reporting requirements added by this document have been submitted to the Office of Management and Budget (OMB) in accordance with the requirements of the Paperwork Reduction Act of 1980. The reporting requirements have been approved by OMB.

Drafting Information

The principal author of these temporary regulations is Duane H. Pellervo of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulations, both on matters of substance and style.

List of Subjects in 26 CFR Part 5f

Income taxes, Tax Equity and Fiscal Responsibility Act of 1982.

Adoption of Amendments to the Regulations

Accordingly, Part 5f of Title 26 of the Code of Federal Regulations is amended as follows:

Paragraph 1. Section 5f.338–1 is revised to read as follows:

§ 5f.338–1 Elections under section 338(g) of the Internal Revenue Code of 1954.

(a) *Scope.* This section prescribes rules relating to elections under section 338, as added by TEFRA and as amended by the Technical Corrections Act of 1982. This section also prescribes rules under certain related provisions not included in the Internal Revenue Code. This section only applies with respect to acquisitions for which the acquisition date (determined without section 224(d)(5) of TEFRA) occurs after August 31, 1982.

(b) *Definitions—(1) TEFRA.* "TEFRA" is the Tax Equity and Fiscal Responsibility Act of 1982.

(2) *Acquisition date.* The "acquisition date" of a corporation is the first day on which there is a qualified stock purchase of such corporation. Thus, in the event of a series of stock purchases over a period of time, the acquisition date is the first day on which the aggregate of the stock purchases satisfies the requirements of section 338(d)(3).

(3) *Common parent.* The term "common parent" has the same meaning as in section 1504.

(4) *Purchasing corporation.* The term "purchasing corporation" has the same meaning as in section 338(d)(1).

(5) *Qualified stock purchase.* The term "qualified stock purchase" has the same meaning as in section 338(d)(3).

(6) *Selling group; purchasing group.* The "selling group" is the affiliated group (as defined in section 1504) that is eligible to file a consolidated return that includes the target for the acquisition date and that does not have a target as common parent for the taxable year including the acquisition date. See § 5f.338–1(f)(3) (i) and (ii). The "purchasing group" is the affiliated group that includes the purchasing corporation.

(7) *Old target; new target.* The "target" is the target corporation as defined in section 338(d)(2). "Old target" refers to the target for periods ending as of the close of the date of the target's deemed sale of assets. "New target" refers to the target for subsequent periods.

(8) *Old target's final return.* "Old target's final return" is the income tax return of old target that includes the deemed sale of assets under section 338. If the disaffiliation rule of paragraph (f)(3)(i) of this section applies, target's "deemed sale return" is considered old target's final return.

(c) *Time and manner of making election.* The purchasing corporation makes an election under section 338(g) only by filing, not later than 75 days after the acquisition date (or, if later, the 60th day after the date of publication of the next set of temporary regulations under section 338), a statement of election with the Internal Revenue Service Center with which it files its annual income tax return. If the purchasing corporation is considered to have made a qualified stock purchase of more than one corporation by reason of section 338(h)(3)(B), then a statement of election is required only for the corporation the stock of which is directly purchased. For a special suspension of time to elect under section 338, see paragraph (j) of this section. For special rules applicable to certain foreign corporations and DISCs, see paragraph (k) of this section.

(d) *Statement of election.* The statement of election under section 338 must be made by the purchasing corporation on Form 8023. If the form is not yet available, a statement prepared by the purchasing corporation will be satisfactory. The heading of the statement should prominently identify the statement as an election under section 338. Except as provided in paragraphs (j)(2) and (k) (4) and (5) of this section, the statement must—

(1) Contain the name, address, and employer identification number of the purchasing corporation and the target,

(2) Identify the election as an election under section 338(g) of the Code,

(3) For elections filed after May 8, 1984, specify the acquisition date, and

(4) Be signed by a person who states under penalties of perjury that he or she is authorized to make the election on behalf of the purchasing corporation.

(e) *Schedule of corporations; copy of statement attached to returns of target—(1) Schedule of corporations subject to election.* A schedule must be attached to the statement of election providing the name, address, and employer identification number of each corporation subject to the election by reason of section 338(h)(3)(B). Failure to attach the schedule will not invalidate the election.

(2) *Copy of statement of election attached to returns of target.* A copy of the statement of election under section 338 must be attached to old target's final return and to the first return of new target. Alternatively, if the target is a foreign corporation not subject to United States tax (as defined in paragraph (k)(3)(iii) of this section), a copy of the statement of election must be attached to the return(s) specified in paragraph (k)(6) of this section. Failure to attach the statement to these returns will not invalidate the election.

(f) *Certain consequences of section 338 election—(1) Exclusion of old target's deemed sale from purchasing group's consolidated return.* Notwithstanding the provisions of § 1.1502–76(b)(5) (i)(relating to elective inclusion in an affiliated group), old target is not includible in a consolidated return of the purchasing group with respect to its deemed sale of assets under section 338.

(2) *Old target's final taxable year not otherwise included in consolidated return of selling group—(i) General rule.* If a valid election under section 338 is made for a target that is not includible

in any consolidated return for a period that includes the acquisition date, then a final return must be filed for old target's taxable year that ends at the close of the acquisition date by reason of the section 338 election. Any tax liability resulting from the deemed sale of assets under section 338 is reported in that final return and may not be included in any consolidated return of the purchasing group.

(ii) *Old target the common parent of affiliated group or a subsidiary in a group with a common parent target.* If a valid election under section 338 is made for a target that is the common parent of an affiliated group, the final return specified in paragraph (f)(2)(i) of this section may be a consolidated return of that group. If such a final consolidated return is filed, any tax liability resulting from the deemed sale of such target, as well as from any deemed sales occurring on the same date of subsidiaries in target's group, is reported in that consolidated return (along with any tax liability on other income of the group for the taxable year ending at the close of the acquisition date) and may not be included in any consolidated return of the purchasing group. Thus, the final consolidated return of the common parent target is also the final return for each subsidiary of such target that is also a target with the same acquisition date.

(3) *Old target's final taxable year otherwise included in consolidated return of selling group*—(i) *General rule.* If a valid election under section 338 is made for a target that is includible in a consolidated return filed by the selling group for a period that includes the acquisition date, then old target is disaffiliated from that group immediately before its deemed sale of assets under section 338 and must file a final return including only the items resulting from the deemed sale and the carryover items specified in paragraph (f)(3)(iv) of this section ("deemed sale return"). The deemed sale occurs at the close of the acquisition date and is the last transaction of old target. If a "deemed sale return" must be filed, then any transactions of old target occurring on the acquisition date prior to the deemed sale are reported in the selling group's consolidated return.

(ii) *Old target includible in selling group's consolidated return.* Old target is considered to be includible in a consolidated return filed by the selling group for a period that includes the acquisition date if target is an includible corporation (within the meaning of section 1504) with respect to that group at the beginning of the acquisition date and if the 30-day rule option in § 1.1502–76(b)(5)(ii) (relating to elective exclusion from an affiliated group), is not exercised. For the definition of "selling group," see paragraph (b)(6) of this section.

(iii) *Separate taxable year.* The deemed sale of old target reported in the "deemed sale return" under this subparagraph (3) occurs in a separate taxable year, except that such sale is treated as occurring in the same taxable year of target as is represented by the selling group's consolidated return (for the period including the acquisition date) for purposes of determining the number of years in a carryover or carryback period.

(iv) *Carryover and carryback of tax attributes.* Target's attributes may be carried over to, and carried back from, the "deemed sale return" under the rules applicable to a corporation that ceases to be a member of an affiliated group during a consolidated return year. See generally §§ 1.1502–21 and 1.1502–79.

(v) *Old target is a component member of purchasing corporation's controlled group.* For purposes of its deemed sale return, target is a component member of the controlled group of corporations including the purchasing corporation unless target is treated as an excluded member under section 1563(b)(2).

(vi) *Exception.* This subparagraph (3) does not apply if the binding contract rule of paragraph (l) of this section applies.

(4) *EIN not affected.* New target shall use the same employer identification number old target used.

(5) *Liquidating target before election.* Liquidating target on or after the acquisition date and before the filing of an election under section 338 has no effect on the validity of the election. If target liquidates on the acquisition date, the liquidation will be considered to occur on the following day and immediately after new target's deemed purchase of assets.

(6) *Due date for old target's final return*—(i) *General rule.* Old target's final return (as defined in paragraph (b)(8) of this section) is due on the 15th day of the third calendar month following the month in which the acquisition date occurs. If old target is sold by a selling group, § 1.1502–76(c) may be applicable to old target's final return.

(ii) *Exceptions.* If the final taxable period of old target is includible in the consolidated return of the selling group by reason of the binding contract rule of paragraph (l) of this section, the due date of that consolidated return controls. For special rules applicable to certain foreign corporations and DISCs, see paragraph (k)(7) of this section.

(7) *New target's taxable year and method of accounting*—(i) *Selection.* Except as otherwise provided in the Code and the Income Tax Regulations, new target may adopt, without obtaining prior approval from the Commissioner, any taxable year that meets the requirements of section 441 and any method of accounting that meets the requirements of section 446.

(ii) *First return due on or before the 60th day after the date of publication of the next set of temporary regulations under section 338.* Notwithstanding § 1.441–1(b)(3), a new target may adopt a taxable year for which the first return is due on or before the 60th day after the date of publication of the next set of temporary regulations under section 338 (not including extensions of time) by filing its first return as new target for the desired taxable year on or before the 60th day after the date of publication of the next set of temporary regulations under section 338.

(8) *Example.* The provisions of this paragraph (f) may be illustrated by the following example. A capital letter refers to a domestic corporation.

Example. S is the common parent of an affiliated group that includes T. The S group files calendar year consolidated returns. At the close of June 30, 1983, P purchases all of the T stock from S. P makes a timely election under section 338(g), and the tax resulting from T's deemed sale of assets is triggered to T as of the close of the acquisition date (June 30). T is considered disaffiliated for purposes of reporting the deemed sale. Accordingly, T is included in the consolidated return of the selling group for the acquisition date except that the tax liability resulting from the deemed sale of assets will be reported in a separate "deemed sale return" of T. The result would be the same if P purchased the T stock at 10 a.m. on June 30, 1983. See paragraph (f)(3) (i) and (ii) of this section. Provided that T is not treated as an excluded member under section 1563(b)(2), T is a component member of P's controlled group for the taxable year represented by the deemed sale, and the taxable income bracket amounts available in calculating tax on the deemed sale return must be limited accordingly. If the S group does not file consolidated returns and if old T filed on the calendar year, a separate return must be filed for old T for its short taxable year beginning on January 1, 1983, and ending on June 30, 1983, which would include the deemed sale.

(g) *Revoking election made before March 1, 1983*—(1) *In general.* An election under section 338(g) made before March 1, 1983, that meets all the requirements of paragraphs (c) and (d) of this section may be revoked by filing a statement of revocation before March 1, 1983, with the Internal Revenue

Service Center with which the statement of election was filed. Technical Corrections Act of 1982, section 306(a)(8)(B)(i) (Pub. L. 97–448; 96 Stat. 2365). (A statement filed with the Internal Revenue Service that does not meet all the requirements of paragraphs (c) and (d) of this section is not a valid election and need not be revoked.) The revocation of an election does not bar a later, timely election under section 338 with respect to the same acquisition. The heading of the statement of revocation should prominently identify the statement as a revocation of section 338 election, and a copy of the statement of election previously filed must be attached. The statement of revocation must—

(i) Identify the purchasing corporation and the target by name, address, and employer identification number,

(ii) Indicate that the previously filed election under section 338 is revoked, and

(iii) Be signed by a person who states under penalties of perjury that he or she is authorized to revoke the election on behalf of the purchasing corporation.

(2) *Perfection of revocation.* A statement of revocation filed before March 1, 1983, that sufficiently identifies the prior election and is signed by a person authorized to revoke the election but does not meet all of the requirements of paragraph (g)(1) of this section will nonetheless be considered valid if a statement of perfection is filed with the appropriate Internal Revenue Service Center not later than May 8, 1984. The statement of perfection must contain the information omitted from the original statement of revocation and be signed in the manner required for a statement of revocation. A copy of the previously filed statement of revocation must be attached to the statement of perfection.

(h) *Waiver: certain additions to tax and times to act, etc.*—(1) *Waiver of certain additions to tax arising on or before the 60th day after of publication of the next set of temporary regulations under section 338.* An addition to tax or additional amount (addition) under Subchapter A of Chapter 68 arising on or before the 60th day after the date of publication of the next set of temporary regulations under section 338, by reason of circumstances that would not exist but for an election under section 338, is waived if (i) under the particular statute the addition is excusable upon a showing of reasonable cause and (ii) corrective action is taken on or before the 60th day after the date of publication of the next set of temporary regulations under section 338. The Service should be notified at the time of correction (*e.g.*, by attaching a statement to a return that constitutes corrective action) that the waiver rule of this paragraph (h) is being asserted.

(2) *Elections or other actions required to be specified on a timely filed return*—(i) *In general.* If the addition to tax for failure to file a return is waived under paragraph (h)(1) of this section, then any election or other action that must be specified on a timely filed return for the taxable period covered by the late filed return described in that paragraph (h)(1) will be considered timely if specified on that late-filed return.

(ii) *New target in purchasing group's consolidated return.* If new target is includible for its first taxable year in a consolidated return filed by the purchasing group on or before the 60th day after the date of publication of the next set of temporary regulations under section 338, then any election or other action that must be specified in a timely filed return for new target's first taxable year (but which is not specified in the consolidated return) will be considered timely if specified in an amended return (or, if the contents of the return itself are not affected by the election or other action, a separate statement), filed on or before the 60th day after the date of publication of the next set of temporary regulations under section 338, with the Internal Revenue Service Center with which the consolidated return was filed. If the election is made on a separate statement, such statement must cite this provision and must include the name, address, and EIN of the parent corporation of the purchasing group.

(3) *Moot return not required.* If a timely election under section 338 is made, then an income tax return need not be filed for the taxable year of old target which, had an election not been made, would have included any day after the acquisition date.

(4) *Examples.* The provisions of this paragraph (h) may be illustrated by the following examples. A capital letter refers to a domestic corporation.

Example (1). T is an unaffiliated corporation filing income tax returns on the basis of a fiscal year ending October 31. At the close of September 20, 1982, T is acquired by P. P does not file consolidated returns. P files an election under section 338 on or before the 60th day after the date of publication of the next set of temporary regulations under section 338, which causes T's taxable year to end as of the close of September 20, 1982. An income tax return for T's taxable period ending on September 20, 1982, was due on December 15, 1982. Additions to tax for failure to file a return and to pay tax shown on a return will not be imposed if T's return is filed and the tax paid on or before the 60th day after the date of publication of the next set of temporary regulations under section 338. (This waiver applies even if the acquisition date coincides with the last day of T's former taxable year, *i.e.*, October 31, 1982.) Interest on any underpayment of tax for old T's short taxable year ending September 20, 1982, will run from December 15, 1982. A statement indicating that the waiver rule of § 5f.338–1(h) is being asserted should be attached to T's return.

Example (2). Assume the same facts as in Example (1). Assume further that new T adopts the calendar year. Under paragraph (f)(7)(ii) of this section, a calendar year will be properly adopted if new T files its first return on or before the 60th day after the date of publication of the next set of temporary regulations under section 338, indicating that a calendar year is adopted for new T (including the period beginning on September 21, 1982, and ending on December 31, 1982). Any additions to tax or additional amounts described in this paragraph (h) which arise by reason of the late filing of a return for the period ending on December 31, 1982, are waived, since they are based on circumstances that would not exsit but for the section 338 election. Notwithstanding this waiver, however, the return is still considered due on March 15, 1983, and interest on any underpayment runs from that date. Although prior to the election old T had a return due on January 15, 1983, that return need not be filed since a timely election under section 338 was made. See paragraph (h)(3) of this section.

(i) [Reserved]

(j) *Suspension of time to elect under section 338 in certain cases*—(1) *In general.* The last day for making an election under this section is suspended until the date specified in a Treasury decision setting forth regulations under section 338(h)(6)(B) if—

(i) the target (A) is a foreign corporation, a DISC, a corporation described in section 934(b), or a corporation to which section 936 applies, and (B) has a target affiliate or

(ii) the target has a target affiliate that either (A) is a foreign corporation, a DISC, a corporation described in section 934(b), or a corporation to which section 936 applies, or (B) owns stock in a foreign corporation or a domestic corporation that is a DISC or described in section 1248(e).

(2) *Option to make election notwithstanding suspension.* A purchasing corporation may opt to make an election notwithstanding the suspension by filing a statement of election within the latest time prescribed in paragraph (c) or (k) of this section. Such statement of election must include, in addition to the other requirements specified in this section, a declaration that the election is made pursuant to the option in "§ 5f.338–1(j)(2)" to make the section 338 election notwithstanding the suspension. A statement of election that does not contain this declaration is invalid unless

the purchasing corporation files a perfecting declaration on or before the 60th day after the date of publication of the next set of temporary regulations under section 338, with the Internal Revenue Service Center with which it filed the statement of election. The perfecting declaration must be signed by a person who states under penalties of perjury that he or she is authorized to make the declaration on behalf of the purchasing corporation, and a copy of the previously filed statement of election must be attached. An election made pursuant to this paragraph (j)(2) is subject to all of the provisions of section 338 as well as the provisions of regulations issued or to be issued thereunder, including regulations under section 338(h)(6).

(3) *Exception.* The suspension will not apply to a target if one of the principal purposes for the acquisition of stock is to qualify for the suspension.

(4) *Target affiliate.* For the definition of target affiliate, see paragraph (k)(3)(ii) of this section.

(k) *Special rules for foreign corporations or DISCs*—(1) *Election by foreign purchasing corporation not subject to U.S. tax.* Except as otherwise provided in this paragraph (k) or in paragraph (j) of this section, a foreign purchasing corporation not subject to United States tax for its taxable year that includes the acquisition date is required to file a statement of election under section 338 on or before the 15th day of the sixth calendar month following the month in which the acquisition date occurs (or, if later, the 60th day after the date of publication of the next set of temporary regulations under section 338). The statement of election must be filed with the Philadelphia Service Center, Philadelphia, Pennsylvania 19255.

(2) *Election not required until relevant*—(i) *General rule.* A qualifying foreign purchasing corporation is not required to file a statement of election for a qualifying foreign target before the 180th day after the close of the purchasing corporation's taxable year within which a triggering event occurs.

(ii) *Qualifying foreign purchasing corporation.* A purchasing corporation is a "qualifying foreign purchasing corporation" only if, during the acquisition period of a qualifying foreign target, all the corporations in the purchasing corporation's affiliated group (as defined in section 338(h)(5)) are foreign corporations that are not subject to United States tax.

(iii) *Qualifying foreign target.* A target is a "qualifying foreign target" only if the target and its target affiliates are foreign corporations that, during the acquisition period of target, are not subject to United States tax (and will not become subject to United States tax during such period by reason of a section 338 election). A target affiliate is taken into account for purposes of the preceding sentence only if, during the acquisition period of target, it is or becomes a member of the affiliated group (as defined in section 338(h)(5)) that includes the purchasing corporation of target.

(iv) *Triggering event.* A triggering event occurs in the taxable year of the qualifying purchasing corporation in which either that corporation or any corporation in its affiliated group (as defined in section 338(h)(5)) becomes subject to United States tax.

(v) *Special rule.* For purposes of this paragraph (k)(2), a corporation is considered "subject to United States tax" if it is subject to a tax described in paragraph (k)(3)(iii) of this section or if it is a controlled foreign corporation, a foreign investment company, or a foreign corporation the stock ownership of which is described in section 552(a)(2).

(3) *Definitions.* For purposes of this paragraph (k)—

(i) *Acquisition period.* The "acquisition period" is the period beginning at the end of the day before the first day of the "12-month acquisition period" (as defined in section 338(h)(1)) and ending at the beginning of the day following the acquisition date.

(ii) *Target affiliate.* The term, "target affiliate," has the same meaning as in section 338(h)(6) (applied without section 338(h)(6)(B)(i)).

(iii) *United States tax.* "United States tax" is a tax under Subtitle A of the Internal Revenue Code of 1954 (other than a tax under section 881 thereof). Subtitle A relates to income taxes.

(4) *Statement of election may be filed by United States shareholders in certain cases.* The United States shareholders (as defined in section 951(b)) may file a statement of election on behalf of a foreign purchasing corporation described in paragraph (k)(1) of this section if such corporation is also a controlled foreign corporation (as defined in section 957(a)). The statement of election must include the name, address, taxpayer identification number, and stock interest of each United States shareholder. In lieu of the requirement of paragraph (d)(4) of this section, the statement must be jointly signed by each United States shareholder, with each such shareholder stating under penalties of perjury that he or she holds the stock interest specified for such shareholder in the statement of election. (As an alternative to a jointly signed statement of election, the shareholder signatures may be contained in separate statements attached to the statement of election.) If a United States shareholder is not an individual or has delegated authority to sign the statement of election, the statement must be signed by a person who states under penalties of perjury that he or she is authorized to execute the statement on behalf of the United States shareholder. A copy of the statement of election must be attached to the Form 5471 (information return with respect to a foreign corporation) filed with respect to the purchasing corporation by each United States shareholder for the purchasing corporation's taxable year that includes the acquisition date (or, if paragraph (k)(2) of this section applies to the election, for the purchasing corporation's taxable year within which it becomes a controlled foreign corporation). The provisions of § 1.964–1(c) (including § 1.964–1(c)(7)) do not apply to an election made by the United States shareholders.

(5) *EIN not required for certain corporations.* Paragraph (d)(1) of this section requires that the employer identification numbers (EINs) of the purchasing corporation and target be specified in the statement of election. This requirement does not apply for a corporation that does not have, and is not otherwise required to have, an EIN.

(6) *Copy of statement of election for certain foreign target corporations attached to return.* If a valid election under section 338 is made for a foreign target corporation not subject to United States tax, a copy of the statement of election must be attached to the first United States income tax return of such target or the first Form 5471 each United States person files with respect to such target subsequent to the acquisition date. Failure to attach the statement to these returns will not invalidate the election.

(7) *Special rules for due date of old target's final return*—(i) *Old target a foreign corporation subject to United States tax.* The final return of old target is due on the 15th day of the sixth calendar month following the month in which the acquisition date occurs if old target is subject to United States tax for its taxable year that includes the acquisition date but does not have an office or fixed place of business in the United States during such period.

(ii) *Old target a foreign corporation not subject to United States tax.* A final return of old target is not required if old target is not subject to United States tax

for its taxable year including the acquisiton date.

(iii) *Old target a DISC.* The final return of old target is due on the 15th day of the ninth calendar month following the month in which the acquisition date occurs if old target is a DISC for its taxable year that includes the acquisition date.

(l) *Binding contracts entered into after September 2, 1982, and before January 13, 1983*—(1) *In general.* This paragraph (l) is prescribed under section 306(a)(8)(A)(ii) of the Technical Corrections Act of 1982. Notwithstanding the disaffiliation rule of paragraph (f)(3)(i) of this section, the target's deemed sale of assets is reported in the selling group's consolidated return for a period including the acquisition date if—

(i) Any portion of the stock of target that is part of the qualified stock purchase is acquired by the purchasing corporation pursuant to a binding contract (the "contract") entered into after September 2, 1982, and before January 13, 1983, and

(ii) The purchasing corporation establishes by clear and convincing evidence that the contract was negotiated on the contemplation that any tax liability resulting from the target's deemed section 338 sale would be reported in the selling group's consolidated return.

(2) *Clear and convincing evidence*—(i) *Requirement considered satisfied.* The purchasing corporation is considered to have satisfied the clear and convincing evidence requirement of paragraph (l)(1)(ii) of this section if, in the absence of contradictory evidence—

(A) Language in the contract plainly and unequivocally provides that the Federal income tax liability resulting from the deemed section 338 sale will be reported in the selling group's consolidated return;

(B) Documents contemporaneous with the negotiation of the contract plainly and unequivocally provide that the Federal income tax liability resulting from the deemed section 338 sale will be reported in the selling group's consolidated return, provided that the provisions of such documents relating to the selling group's liability were relied upon by both the buyer and seller in computing the contract selling price; or

(C) A statement, signed under penalties of perjury by a person authorized to act on behalf of the common parent of the selling group that files a consolidated return for a period including the acquisition date, plainly and unequivocally provides that the contract was negotiated on the contemplation that the Federal income tax liability resulting from the deemed section 338 sale would be reported in the selling group's consolidated return.

(ii) *Requirement not considered satisfied.* In no event will the purchasing corporation be considered to have satisfied the clear and convincing evidence requirement if the stock sale contract (or collateral documents) requires the purchasing corporation to indemnify the selling group for any Federal income tax liability resulting from the deemed section 338 sale in the event that applicable law or regulations impose that liability on the selling group.

(3) *Manner of asserting binding contract rule*—(i) *In general.* The purchasing corporation asserts the binding contract rule of this paragraph (l) by filing a "binding contract statement" with the statement of election under section 338 (or with a copy of a previously filed statement of election, provided that the binding contract statement and such copy are filed with the appropriate Internal Revenue Service Center on or before the due date for making the section 338 election).

(ii) *Contents of binding contract statement.* The binding contract statement must—

(A) Contain the name, address, and employer identification number of the common parent of the selling group;

(B) State that the binding contract rule is asserted;

(C) Indicate the date of entry into the binding contract;

(D) Set forth the facts which demonstrate that the parties contemplated selling group liability for target's deemed sale of assets; and

(E) Be signed by a person who states under penalties of perjury that he or she is authorized to make the binding contract statement on behalf of the purchasing corporation.

(iii) *Notice to common parent or selling corporations.* The binding contract rule does not apply unless, on or before the due date for filing a statement of election, a copy of the binding contract statement and the statement of election are provided the common parent of the selling group or each selling corporation.

(4) *Binding contract rule inapplicable if no consolidated return.* If a consolidated return including the target for a period including the acquisition date is not filed by the selling group (or if such return is filed but is properly withdrawn), then old target's final return is a separate return for its year ending on the acquisition date.

(The reporting requirements of this section have been assigned OMB Control Number 1545-0702)

Par. 2. Section 5f.338-2 is revised to read as follows:

§ 5f.338-2 Transitional rule elections.

(a) *In general*—(1) *Scope.* This section prescribes rules relating to section 338 "transitional rule" elections permitted by reason of section 224(d)(2) of TEFRA, as amended by section 306(a)(8)(B) of the Technical Corrections Act of 1982. See also section 224(d) (4) and (5) of TEFRA as added by such section 306(a)(8)(B). In general, a transitional rule election may be made for a corporation for which the acquisition date occurs after August 31, 1980, and before September 1, 1982.

(2) *Definitions.* The definitions contained in § 5f.338-1(b) also apply to this section.

(b) *Manner of making election.* The purchasing corporation makes a transitional rule election only by filing a statement of election not later than February 28, 1983, with the Internal Revenue Service Center with which it files its annual income tax return.

(c) *Statement of election*—(1) *General rule.* The heading of the statement of election should prominently identify the statement as a transitional rule election under section 338. Form 8023 is not used for this purpose. The statement must—

(i) Contain the name, address, and employer identification number of the purchasing corporation and the target,

(ii) Identify the election as an election under section 338(g) of the Code that is permitted by section 224(d)(2) of TEFRA, and

(iii) Be signed by a person who states under penalties of perjury that he or she is authorized to make the election on behalf of the purchasing corporation.

(2) *Purchasing corporation or target a foreign corporation.* If the purchasing corporation or the target is a foreign corporation, then a statement of transitional rule election filed not later than February 28, 1983, that constitutes a reasonable attempt to comply with the rules of paragraphs (b) and (c)(1) of this section will be valid.

(d) *Copy of statement of election attached to returns of target.* A copy of the statement of transitional rule election must be attached to old target's final return and to the first return of new target. Alternatively, if the target is a foreign corporation not subject to United States tax (as defined in § 5f.338-1(k)(3)(iii)), a copy of the statement of election must be attached to the return(s) specified in § 5f.338-1(k)(6). Failure to attach the statement to these returns will not invalidate the election.

(e) *Certain consequences of transitional rule election*—(1) *Taxable*

year ends at close of selected deemed sale date. Old target's taxable year ends at the close of the deemed sale date selected under paragraph (f) of this section. Because that date is never earlier than the day after the acquisition date, old target's tax liability resulting from its deemed sale of assets may not be included in the consolidated return of a selling group but may be included in the consolidated return of the purchasing group.

(2) *EIN not affected.* New target shall use the same employer identification number as old target used.

(3) *Rules similar to old section 334(b)(2); certain provisions of section 338 inapplicable.* If a transitional rule election is made, then—

(i) A rule similar to the last sentence of section 334(b)(2) (as in effect on August 3, 1982) applies, and

(ii) Subsections (e), (f), and (i) of section 338 and paragraphs (4), (6), (8), and (9) of section 338(h) do not apply.

(4) *Liquidating target before election.* Liquidating target on or after the deemed sale date (or after August 31, 1982, if later) and before the filing of a transitional rule election under section 338 has no effect on the validity of the election. If target liquidates on the deemed sale date, the liquidation will be considered to occur on the following day and immediately after new target's deemed purchase of assets.

(5) *Due date for old target's final return*— (i) *General rule.* Old target's final return is due on the 15th day of the third calendar month following the month in which the deemed sale date occures. If old target is sold by a selling group, § 1.1502–76(c) may be applicable to old target's final return.

(ii) *Exceptions.* If the final taxable period of old target is includible in the consolidated return of the purchasing group, the due date of that consolidated return controls. For special rules applicable to DISCs and certain foreign corporations, see § 5f.338–1(k)(7) (applied by replacing the phrase, "acquisition date," wherever it occurs, with the phrase, "deemed sale date")

(6) *New target's taxable year and method of accounting.* The rules of § 5f.338–1(f)(7) also apply to transitional rule elections.

(f) *Selection of deemed sale date by purchasing corporation*—(1) *In general.* The date of the target's deemed sale of assets under seciton 338(a) is the date selected by the purchasing corporation in the statement of transitional rule election or in a deemed sale date statement, rather than the acquisition date specified in section 338(h)(2). For purposes of determining whether the transitional election rules apply to the particular acquisition and for purposes of determining when target can be included in the consolidated return filed by the affiliated group that includes the purchasing corporation, the acquisition date rather than the selcted deemed sale date controls.

(2) *Date selcted as deemed sale date*—(i) *In general.* The purchasing corporation may select any deemed sale date in the statement of transitional rule election or deemed sale date statement, so long as such date—

(a) Is after the later of the acquisition date or June 30, 1982, and

(B) Is no later than (*1*) the date the statement of transitional rule election specifying a deemed sale date is filed or (*2*) if a deemed sale date is selected in a deemed sale date statement filed subsequent to the filing of a statement of transitional rule election (whether or not that election specified a deemed sale date), not later than the earlier of the date the deemed sale date statement is filed or February 28, 1983.

(ii) *Unspecified deemed sale date.* If a timely filed statement of transitional rule election does not specify a deemed sale date and a deemed sale date statement is not filed, the date of filing the election is considered the selected deemed sale date.

(iii) *Filing date.* For purposes of determining the date on which the deemed sale occurs, the date of mailing a statement, as evidenced by the postmark date, is considered the date of filing.

(3) *Selecting deemed sale date after filing transitional rule election*—(i) *Deemed sale date statement.* A purchasing corporation may select a deemed sale date after timely filing a valid statement of transitional rule election, whether or not that election specifies a deemed sale date, by filing a deemed sale date statement on or before May 8, 1984, with the Internal Revenue Service Center with which it filed the election. A copy of the statement of transitional rule election must be attached. The deemed sale date statement should contain the name, address, and employer identification number of the purchasing corporation and the target, identify the deemed sale date, and be signed by a person who states under penalties of perjury that he or she is authorized to select a deemed sale date on behalf of the purchasing corporation. The EIN requirement does not apply for a corporation that does not have, and is not otherwise required to have, an EIN.

(ii) *Revoking and filing new election.* As an alternative to the deemed sale date statement procedure, the purchasing corporation may revoke the previously filed election in accordance with paragraph (g) of this section and file a new election which specifies the desired deemed sale date. The prior election must be revoked and the new election filed before March 1, 1983.

(g) *Revoking election made before March 1, 1983.* A timely filed transitional rule election that meets all the requirements of paragraphs (b) and (c) of this section may be revoked only in the manner prescribed in § 5f.338–1(g).

(h) *Waiver: certain additions to tax and times to act, etc.* The rules of § 5f.338–1(h) also apply to transitional rule elections, except that § 5f.338–1(h)(3) is applied by substituting the phrase "deemed sale date" for the phrase "acquisition date."

(i) [Reserved]

(j) *Examples.* The provisions of this section may be illustrated by the following examples. In each example, a capital letter refers to a domestic corporation.

Example (1). (i) S is the common parent of an affiliated group that includes T. The S group files calendar year consolidated returns. At the close of May 31, 1982, S sells all of the stock of T to P, a calendar year corporation, and on November 10, 1982, P files a statement of transitional rule election with respect to T. The statement of election meets all the requirements of this section but does not specify a deemed sale date. P will file a separate return for the 1982 calendar year. Unless P takes action to specify a different date, the date of filing the statement of transitional rule election will be considered the selected deemed sale date. Thus, T's deemed sale occurs and its taxable year ends at the close of November 10, 1982. T's income from January 1, 1982, through May 31, 1982, is included in the consolidated return of the S group. Any income tax liability resulting from the deemed sale under section 338 is reported in old T's return for its final taxable period which begins on June 1, 1982, and ends on November 10, 1982. Under paragraph (e)(5)(i) of this section, this return is due on February 15, 1983. Assuming new T adopts the calendar year, another return will be required for the period from November 11, 1982, through December 31, 1982, which is T's first taxable period as "new target." Under paragraph (e)(6) of this section, new T may adopt the calendar year on its first income tax return if that return is filed on or before the 60th day after the date of publication of the next set of temporary regulations under section 338.

(ii) Because a return would not be due on February 15, 1983, but for the transitional rule election under section 338, additions to tax under section 6651(a) (1) and (2) are waived if that return is filed and the tax shown thereon paid on or before the 60th day after the date of publication of the next set of temporary regulations under section 338. See paragraph (h) of this section. These additions to tax are also waived with respect to the return of new T due on March 15, 1983, if that return is filed

and the tax shown thereon paid on or before the 60th day after the date of publication of the next set of temporary regulations under section 338. Interest on any underpayment of tax, however, runs from the due date of these returns.

(iii) If P files a consolidated return for the 1982 calendar year, T's income for its final taxable period as old target and for its first taxable period as new target will be included in P's consolidated return, to which a copy of the statement of transitional rule election must be attached. See paragraph (d) of this section. The waiver rule applies only to additions that would not arise but for the section 338 election.

Example (2). Assume the same facts as in Example (1)(i), except that P wishes to select a deemed sale date other than November 10, 1982. If P files a proper deemed sale date statement under paragraph (f) of this section after February 28, 1983, and on or before May 8, 1984, P may select as the deemed sale date any date after June 30, 1982, and before March 1, 1983. If July 1, 1982, is selected as the deemed sale date and P does not join with T in filing a consolidated return for 1982, any income tax liability resulting from the deemed sale of assets (occurring at the close of July 1, 1982) is reported in old T's final return for its taxable period beginning on June 1, 1982, and ending on July 1, 1982. Under paragraph (e)(5)(i) of this section, that return is due on October 15, 1982. Assuming that new T adopts the calendar year as its taxable year, another return will be required for the period beginning on July 2, 1982, and ending on December 31, 1982, which is new T's first taxable period as new target. If these returns are filed on or before the 60th day after the date of publication of the next set of temporary regulations under section 338, additions to tax for failure to file a return and to pay tax shown on a return will be waived. The return of old T which, had an election not been made, woudl have been due on March 15, 1983 (for the period from June 1, 1982, to December 31, 1982) need not be filed. See paragraph (h) of this section. If P acquired all of the stock of T at the close of June 30, 1982, and selected July 1, 1982, as the deemed sale date, old T's final return would consist of July 1, 1982 (*i.e.*, only one day).

(The reporting requirements of this section have been assigned OMB Control Number 1545-0702)

Par. 3. A new § 5f.338-3 is added to read as follows:

§ 5f.338-3 Miscellaneous rules under section 224 of TEFRA.

(a) *Date of section 338 election for purposes of the LIFO recapture rule of the Miscellaneous Revenue Act of 1982*—(1) *In general.* Solely for purposes of section 403(b)(4)(D) of the Crude Oil Windfall Profit Tax Act of 1980, as added by section 101 of the Miscellaneous Revenue Act of 1982, an election under section 338(g) that could have been made during 1982 is considered to have been made during 1982 if an election under section 338(g) is actually made before the expiration of the time for making such an election.

(2) *Election that could have been made during 1982*—(i) *In general.* Except as provided in paragraph (a)(2)(ii) of this section, an election is considered one that could have been made during 1982 if the qualified stock purchase as defined in section 338(d)(3) occurred before January 1,1983.

(ii) *Transitional rule elections.* For transitional rule elections, an election is not considered made in 1982 unless the deemed sale date occurs in 1982. For selection of deemed sale date, see § 5f.338-2(f).

(b) *Certain acquisitions of financial institutions*—(1) *In general.* The amendments made by section 224 of TEFRA do not apply to the acquisition of control (within the meaning of section 368(c)) of a financial institution in certain cases if the purchasing corporation elects out under section 224(d)(3) of TEFRA.

(2) *Manner of electing out.* A purchasing corporation is considered to elect out only if the requirements of section 224(d)(3) of TEFRA are satisfied and the purchasing corporation files a statement of election-out within 30 days after adoption of the plan of complete liquidation of the financial institution specified in section 224(d)(3)(C) (or by May 8, 1984, if later) with the Internal Revenue Service Center with which it files its annual income tax return.

(3) *Statement of election-out.* The heading of the statement of election-out should prominently identify the statement as an election-out under section 224(d)(3) of TEFRA. The statement must—

(i) Contain the name, address, and employer identification number of the purchasing corporation and financial institution,

(ii) Identify the election as an election-out under section 224(d)(3) of TEFRA,

(iii) Specify the date of entry into the binding contract to acquire control of the financial institution,

(iv) Specify the date of final approval of the last regulatory authority granting final approval of the acquisition,

(v) Specify the date of adoption of the plan of complete liquidation of the financial institution, and

(vi) Be signed by a person who states under penalties of perjury that he or she is authorized to make the election on behalf of the purchasing corporation.

(4) *Copy of statement of election-out attached to return of purchasing corporation.* A copy of the statement of election-out should be attached to the income tax return of the purchasing corporation for its taxable year in which the liquidation begins. Failure to attach the statement to that return will not invalidate the election-out.

(5) *Financial institution.* For purposes of this section, a financial institution is an entity described in section 585 or 593 or a bank holding company within the meaning of section 2(a) of the Bank Holding Company Act of 1956.

(6) *Adoption of plan of complete liquidation; date of final approval.* The statement of election-out is valid only if a plan of complete liquidation of the financial institution is adopted within 90 days after the date of final approval of the acquisition by the last regulatory authority granting approval. The date of final approval by the last regulatory authority includes, where applicable, the expiration date of the period under 12 U.S.C. § 1849 within which the Attorney General is authorized to commence an action under the antitrust laws with respect to the acquisition (provided that no such action is commenced).

(7) *Election-out invalidates prior section 338 election.* A valid election-out invalidates a prior section 338 election made for the target financial institution. If a prior section 338 election has been made, the statement of election-out should indicate that such prior election is invalidated by the election-out.

(The reporting requirements of this section have been assigned OMB Control Number 1545-0702)

There is a need for immediate guidance with respect to the provisions contained in this Treasury decision. For this reason, it is found impracticable to issue it with notice and public procedure under subsection (b) of section 553 of Title 5 of the United States Code or subject to the effective date limitation of subsection (d) of that section.

This Treasury decision is issued under the authority contained in sections 338 and 7805 of the Internal Revenue Code of 1954 (96 Stat. 324, 26 U.S.C. 338; 68A Stat. 917, 26 U.S.C. 7805, respectively).

Roscoe L. Egger, Jr.,

Commissioner of Internal Revenue.

Approved: January 25, 1984.

John E. Chapoton,

Assistant Secretary of the Treasury.

[FR Doc. 84-3480 Filed 2-7-84; 8:45 am]

BILLING CODE 4830-01-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 920

Maryland Permanent Regulatory Program; Approval of State Program Amendments

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Final rule.

SUMMARY: This document amends 30 CFR Part 920 to approve amendments to the Maryland permanent regulatory program under the Surface Mining Control and Reclamation Act of 1977 (SMCRA).

On October 28, 1982, and October 21 and November 23, 1983, Maryland submitted to OSM amendments to its approved permanent regulatory program. The general areas of revision to the State's regulations include definitions, permit application requirements and regulatory authority review procedures and decision, coal exploration, permit review and transfer of permit rights, designation of areas unsuitable for mining, roads, performance bonds, hydrologic balance, sediment control measures, explosives, special performance standards, and backfilling and grading.

After providing opportunity for public comment and conducting a thorough review of the program amendments in accordance with 30 CFR 732.17, the Director, OSM, has decided to approve the modifications contained in the amendments.

EFFECTIVE DATE: February 8, 1984.

FOR FURTHER INFORMATION CONTACT: David H. Halsey, Director, Charleston Field Office, Office of Surface Mining, 603 Morris Street, Charleston, West Virginia 25301, Telephone: (304) 347–7158.

ADDRESSES: Copies of the amendments to the Maryland program and all written comments received on the proposed amendments are available for public review at the OSM Headquarters Office, the OSM Charleston Field Office and the Office of the State Regulatory Authority listed below, Monday through Friday, 9:00 a.m. to 4:00 p.m., excluding holidays.

Office of Surface Mining Reclamation and Enforcement, 603 Morris Street, Charleston, West Virginia 25301.

Office of Surface Mining Reclamation and Enforcement, 1100 "L" Street, N.W., Room 5315, Washington, D.C. 20240.

Maryland Bureau of Mines, 69 Hill Street, Frostburg, Maryland 21532.

SUPPLEMENTARY INFORMATION: On March 3, 1980, OSM received a proposed regulatory program from the State of Maryland. This proposed program was conditionally approved by the Secretary of the Interior on December 1, 1980 (45 FR 79430–79451). On February 18, 1982, following submission of program amendments to satisfy the conditions of approval, the Maryland program was fully approved by the Secretary (47 FR 7214–7217).

Submission of Program Amendments

On October 28, 1982, the State submitted certain proposed regulations (Administrative Record No. MD 194) to replace those contained in its approved program. The general areas of revision to the State's regulations include definitions, permit application requirements and regulatory authority review procedures and decision, coal exploration, permit review and transfer of permit rights, designation of areas unsuitable for mining, roads, performance bonds, hydrologic balance, sediment control measures, explosives, special performance standards, and backfilling and grading. On November 16, 1982, OSM published a notice in the **Federal Register** to announce receipt of the amendments, public comment period and opportunity for public hearing (47 FR 51590). The public comment period closed on December 16, 1982. A public hearing scheduled for December 7, 1982, was not held because no one expressed an interest in participating. Following this opportunity for a public hearing and the public comment period, OSM met with the State on May 19, 1983, and presented to the State its tentative findings and possible deficiencies of the proposed regulations (Administrative Record No. MD 216). On June 13, 1983, the State submitted a letter stating its understanding of the action required to correct each deficiency (Administrative Record No. MD 217).

On October 21, 1983, the State submitted revisions to correct the deficiencies contained in the October 28, 1982 amendment (Administrative Record No. MD 219). Following this submission, OSM reopened the public comment period on November 7, 1983 (48 FR 51158). That comment period closed on November 22, 1983.

Following public comment and review of the revised regulations, OSM determined that a clarification of one provision would be necessary in order to effectively evaluate the proposed amendment. In addition, three revisions which the State had indicated would be made to the proposed amendment had not been made. This clarification and the three revisions were discussed with the State on November 23, 1983 (Administrative Record No. 225). On the same date, the State submitted the required clarification and regulation revisions (Administrative Record No. MD 226). These were made available for public comment and review on December 8, 1983 (48 FR 54996– 54997). The public comment period closed on December 23, 1983.

Director's Findings

Set forth below, pursuant to 30 CFR 732.15 and 732.17, are the Director's findings concerning the state program revisions submitted by Maryland to amend the approved Maryland regulatory program.

1. The Director initially determined that the October 28, 1982, revised definition of "disturbed area" found in the Annotated Code of Maryland (COMAR) .08.13.09.01B.(24) was less effective than the federal definition in that the State definition did not include the removal of vegetation. Following discussion of this deficiency at the May 19, 1983, meeting between the State and OSM (see Administrative Record No. MD 216), the State revised the definition to include the removal of vegetation and included the new definition in the October 21, 1983, regulation submission (Administrative Record No. MD 219). The Director finds the State's revised definition to be no less effective than the Federal definition.

2. The State regulations submitted on October 28, 1982, proposed to delete the requirements of COMAR .08.13.09 02I.(11)(c). This provision required submission of information concerning administrative and judicial proceedings relating to violations. The State indicated that although this provision would be deleted, it would revise the State's permit application form to require submission of the information formerly required by the regulation. On November 23, 1983, the State submitted information that indicated that the permit application had not been revised, but that the State was requiring and would continue to require this information. Pending receipt of the State's revised permit application form, the Director is unable to find the State provision to be no less effective than the Federal regulations at 30 CFR 778.14(c). Therefore, action on this proposed deletion is deferred pending receipt of that application form.

3. The October 28, 1982, regulations proposed to provide a waiver for the statement of results of test borings or

core samplings as required by COMAR .08.13.09.02K.(2)(d) if the Bureau of Mines determines it is unnecessary. In its letter of June 13, 1983, the State indicated that the waiver would be granted based on the availability of equivalent information as required by 30 CFR 780.22(d) or when no overburden is disturbed. Based on these clarifications, the Director finds the State provision to be no less effective than the Federal requirements.

4. The October 28, 1982, regulations proposed to delete the provision of COMAR .08.13.09.05A.(5) which requires that the proposed mining operation would not adversely affect any publicly owned parks or places included in the National Register of Historic Places unless approved by the appropriate jurisdictional agency. After discussion with OSM, the State agreed to retain this provision. The regulations submitted on October 21, 1983, did include this provision at COMAR .08.13.09.05A.(5), and the Director finds the State regulations to be no less effective than the Federal requirements.

5. The October 28, 1982, regulations proposed deletion of COMAR .08.13.09.05A.(12) which requires the protection of endangered or threatened species and their critical habitats. The October 21, 1983, regulations retain this provision and the Director finds the State regulations to be no less effective than 30 CFR 773.15(c)(10).

6. The October 28, 1982, regulations proposed to delete the provision of COMAR .08.13.09.05A.(13) which requires that activities be conducted so as to maximize the use of the coal. The October 21, 1983, regulations re-promulgated this provision. Therefore, the Director finds the State's regulations to be no less effective than the Federal provisions.

7. The October 28, 1982, regulations omitted the provision of 30 CFR 776.11(b)(2) which requires an exploration notice to include the name, address and telephone number of the representative who will be present on the exploration site. This provision was included in the State's submission of November 23, 1983 (Administrative Record No. MD 226) at COMAR .08.13.09.07B.(3). The Director finds the State's provision to be no less effective than the Federal provision.

8. The October 28, 1982, regulations proposed to delete the provision of COMAR .08.13.09.07H.(1) which requires the identification and protection of habitats of unique value for fish, wildlife, and other related environmental values. At the meeting held on May 19, 1983 (Administrative Record No. MD 216), the State indicated that the provision would be retained. However, the revised regulations submitted on October 21, 1983, did not contain this provision. On November 23, 1983 (Administrative Record No. MD 225), this omission was communicated to the State and the State submitted the required provision to OSM as a supplement to the October 21, 1983, regulations. Therefore, the Director finds the State's provision to be no less effective than the Federal regulation.

9. The October 28, 1982, regulations proposed a revision to COMAR .08.13.09.07H.(3) concerning blasting on coal exploration operations. OSM informed the State that the revision must specify that any blasting must be conducted in accordance with the approved regulatory program. On November 23, 1983 (Administrative Record No. MD 226) the State submitted a revision to its regulations at COMAR .08.13.09.07G.(5) requiring that all blasting shall be conducted in compliance with the approved regulatory program. The Director finds the revised regulation to be no less effective than the Federal requirements.

10. The October 28, 1982, regulations at COMAR .08.13.09.25A.(4) provide that blasting shall be conducted by or under the supervision of a person certified by the Maryland Bureau of Mines or any State with an equivalent blasting training program. OSM expressed concern that the "equivalent blasting training program" must be a program approved by the Secretary of the Interior under the provisions of SMCRA. On June 13, 1983, the State provided a policy statement (Administrative Record No. MD 217) which indicated that it interprets the term "equivalent" to mean that the program has been approved by the Secretary of the Interior. Based on this interpretation, the Director finds the State provision to be no less effective than the Federal requirements.

Disposition of Public Comments

Public comments on the revised Maryland program were solicited on three occasions. Comments were requested by publication of Federal Register notices on November 16, 1982, November 7, 1983, and December 8, 1983 (47 FR 51590, 48 FR 51158–51159 and 48 FR 54996–54997, respectively). No public comments were received.

Pursuant to section 503(b) of SMCRA and 30 CFR 732.17(h)(10)(i), comments were solicited from various Federal agencies on the proposed State permanent program amendments. Of those agencies invited to comment, responses were received from the following Federal agencies: U.S. Department of the Interior, Fish and Wildlife Service and Bureau of Mines; U.S. Department of Agriculture, Forest Service; U.S. Department of Defense, Army Corps of Engineers; and U.S. Environmental Protection Agency.

The following is a summary of comments received from Federal agencies on the revised Maryland regulations (Administrative Record Nos. MD 194, MD 219, and MD 226).

1. The U.S. Environmental Protection Agency (EPA) stated that COMAR .08.13.09.01B. (24) should include the term "borrow pit" in the definition of "disturbed area." The definition found in the State regulation is broad enough to include any area used as a "borrow pit" and is no less effective than the Federal definition.

2. The EPA stated the definition of "general area" found in COMAR .08.13.09.01B.(34) should include a reference to wetlands. The State's definition includes the surface and sub-surface water systems contained in the area surrounding the permit area. If this area contained a wetland, it would necessarily be included.

3. The EPA stated that COMAR .08.13.09.02I.(11) should apply to the parent company and any company of which the parent company is a subsidiary. In addition, EPA stated that the provision should apply to contractors and subcontractors. On September 28, 1983 (48 FR 44344–44400), the Federal regulations at 30 CFR 778.14 were revised to require that violation notices received by any subsidiary, affiliate or persons controlled by or under common control with the applicant be identified in the permit application. Prior to that time, only violation notices received by the applicant were required to be identified. In accordance with 30 CFR 732.17(d), OSM is now reviewing this provision and other recently revised Federal requirements and the approved State programs to determine which new provisions each State must include in its approved program. When the review is completed, each State will be informed of any required program amendments. However, the revised Federal requirements do not apply to contractors and subcontractors.

4. The EPA commented that COMAR .08.13.09.02k.(2)(d) should specify the methodology of the required overburden analysis. Neither 30 CFR 779.14(b)(1)(iv) nor 30 CFR 780.22(b)(2) which replaced it (48 FR 43987, 9/26/83) specifies the methodology required to implement the Federal provisions. Therefore, the State regulations is no less effective than the Federal provision.

5. The EPA stated that COMAR .08.13.09.02k.(2)(o) should describe the terrestrial ecosystem. A description of the terrestrial ecosystem is not required by 30 CFR 779.22(b), the counterpart to the State regulation. Therefore, the State provision is no less effective than the Federal provision.

6. The EPA stated that COMAR .08.13.09.22C.(4)(1) was not sufficiently specific to assure containment of acid-producing material or to guard against oxidation and thus acid seep development. The performance standards and requirements found in COMAR .08.13.09.22 are intended to complement other performance standards found throughout the Maryland regulations. This approach is consistent with that taken in the revision of the Federal requirements for roads found at 30 CFR 816.150(b). *See* 48 FR 22112, 5/16/83.

7. The EPA questioned the deletion of the provisions of COMAR .08.13.09.22C.(4)(n) which requires the use of temporary erosion control measures during the construction of roads. The State's regulations at COMAR .08.13.09.22A.(1) require that road construction minimize erosion and siltation and, therefore, is no less effective than 30 CFR 816.150(b)(1).

8. The U.S. Department of the Interior, Fish and Wildlife Service (FWS) stated that COMAR .08.13.09.04B.(4) should not delete the Wildlife Administration from the list of agencies to receive a copy of each permit application. The Federal regulations contain no provisions specifying what State agencies must receive copies of permit applications. Therefore, the State regulations are no less effective than the Federal requirements.

9. The FWS stated that the deletion of COMAR .08.13.09.05A.(12) was not in compliance with 30 CFR 786.19(o) or Section 7 of the Endangered Species Act of 1973, as amended. See Finding 5, above for a discussion of this issue.

10. The FWS stated that the deletion of COMAR .08.13.09.22C.(4) (m) and (n) appears to rescind the general environmental protection theme contained in COMAR .08.13.09.22A. The deletion of the specific performance standards does not rescind any environmental protection theme of the State regulations. The revised standards for the location, design, construction, reconstruction, use, maintenance and reclamation of roads contained in COMAR .08.13.09.22 are intended to complement the other performance standards found throughout COMAR .08.13.09. This approach is consistent with that taken in the revision of the Federal requirements for roads found in 30 CFR 816.150(b). *See* 48 FR 22112, 5/16/83.

11. The FWS stated that provisions of COMAR .08.13.09.22D.(3)(a) would result in overtopping of roads and/or creation of a backwater. The FWS stated that culverts should be designed for more than a one-year storm. The Federal requirements relating to roads were published in the **Federal Register** on May 16, 1983 (48 FR 22110–22124). In accordance with 30 CFR 732.17(d), OSM is now reviewing these provisions and the approved State programs to determine which revised provisions each State must include in its program. When the review is completed, each State will be informed of any required program amendments.

Additional Information

Compliance with the National Environmental Policy Act: The Secretary has determined that, pursuant to Section 702(d) of SMCRA, 30 U.S.C. 1292(d), no environmental impact statement need be prepared on this rulemaking.

Executive Order No. 12291 and the Regulatory Flexibility Act: On August 28, 1981, the Office of Management and Budget (OMB) granted OSM an exemption from Sections 3, 4, 7, and 8 of Executive Order 12291 for actions directly related to approval or conditional approval of State regulatory programs. Therefore, this action is exempt from preparation of a Regulatory Impact Analysis and regulatory review by OMB.

The Department of the Interior has determined that this rule will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This rule will not impose any new requirements; rather, it will ensure that existing requirements established by SMCRA and the Federal rules will be met by the State.

Paperwork Reduction Act: This rule does not contain information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3507.

Environmental Protection Agency Concurrence: On November 23, 1983, the EPA transmitted its written concurrence on the Maryland program amendments submitted on October 28, 1982, and October 21, 1983, as they relate to air or water quality standards under the authority of the Clean Air Act, as amended (42 U.S.C. 1857 *et seq.*), and the Clean Water Act, as amended (33 U.S.C. 1251 *et seq.*). Since the revised regulations submitted by Maryland on November 23, 1983, did not involve changes to proposed air and water quality standards that EPA had already reviewed, it was not necessary to obtain EPA concurrence on those revisions.

List of Subjects in 30 CFR Part 920

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

Dated: February 2, 1984.

James R. Harris,

Director, Office of Surface Mining.

Authority: Pub. L. 95–87, Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201 *et seq.*).

PART 920—MARYLAND

1. Part 920 is amended by adding a new § 920.15 as set forth below:

§ 920.15 Approval of amendments to State regulatory program.

(a) The following amendments were approved effective February 8, 1984. Maryland revised regulations and policy statements submitted October 28, 1982, as amended on October 21, and November 23, 1983.

[FR Doc. 84–3425 Filed 2–7–84; 8:45 am]
BILLING CODE 4310–05–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A–8–FRL 2521–6]

Approval and Promulgation of State Implementation Plans; PSD Redesignation—Fort Peck Reservation

AGENCY: Environmental Protection Agency.

ACTION: Final rulemaking.

SUMMARY: The purpose of this notice is to approve the redesignation of the Fort Peck Reservation in the State of Montana of Class I under EPA's regulations for Prevention of Significant Deterioration of air quality (PSD). Class I applies to areas where only small increases in ambient levels of particulates and sulfur dioxide are allowed.

EPA is taking this action in response to a request from Fort Peck Tribal Council. The request and EPA's response is made under the provisions of the Clean Air Act. The action is intended to provide significant deterioration of air quality on the Fort Peck Reservation.

DATES: This action will be effective on April 9, 1984.

ADDRESSES: Copies of the revision are available for public inspection between

8:00 a.m. and 4:00 p.m. Monday through Friday at the following offices:

Environmental Protection Agency, Region VIII, Air Programs Branch, 1860 Lincoln Street, Denver, Colorado 80295.

Environmental Protection Agency, Montana Office, Federal Office Building, 301 S. Park, Helena, Montana 59626.

FOR FURTHER INFORMATION CONTACT: Thomas O. Harris, Environmental Protection Agency, Federal Building, 301 South Park, Drawer 10096, Helena, Montana 59626, (406) 449–5486.

SUPPLEMENTARY INFORMATION: In an August 2, 1983 **Federal Register** notice (48 FR 34976), EPA proposed to approve the January 24, 1983 request of the Fort Peck Tribal Council to redesignate the Fort Peck Reservation to Class I (PSD). The notice specified that comments were to be submitted by September 1, 1983. No comments were received raising any issues regarding the Tribal Council's compliance with the applicable procedures.

As explained in the notice of proposed rulemaking, EPA must approve a redesignation request if the procedural requirements of section 164 of the Clean Air Act have been met. One set of comments was received from the U.S. Bureau of Land Management (BLM) District Office in Miles City, Montana. Those comments were primarily concerned about the impact of the redesignation on development of energy resources in the vicinity of the reservation. Since, under section 164 of the Act, EPA may evaluate a redesignation request only on procedural grounds, the comments of the BLM are not specifically addressed herein because they did not raise procedural issues.

The Fort Peck Tribal Council has complied with the procedural requirements of section 164 of the Clean Air Act, and since no objections to the proposed redesignation based on procedural grounds were received, EPA is approving the redesignation.

Under section 307(b)(1) of the Clean Air Act, petitions for review of this action must be filed in the United States Court of Appeals for the appropriate circuit by (60 days from date of publication). This action may not be challenged later in proceedings to enforce its requirements (See 307(b)(2)).

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, and Hydrocarbons.

This rulemaking is issued under the authority of section 164 of the Clean Air Act (42 U.S.C. 7474).

Dated: February 1, 1984.

William D. Ruckelshaus,

Administrator.

PART 52—[AMENDED]

Title 40, Part 52 of the Code of Federal Regulations is amended as follows:

Subpart BB—Montana

1. Section 52.1382 paragraph (c)(4) is added as follows:

§ 52.1382 Significant deterioration of air quality.

* * * * *

(c) * * *

(4) The Fort Peck Indian Reservation is designated Class I.

[FR Doc. 84–3282 Filed 2–7–84; 8:45 am]

BILLING CODE 6560–50–M

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40 CFR Part 145

[WH–FRL 2515–5]

Kansas Corporation Commission and Kansas Department of Health and Environment Underground Injection Control Program

AGENCY: Environmental Protection Agency.

ACTION: Approval of State Program.

SUMMARY: The State of Kansas has submitted applications under sections 1422 and 1425 of the Safe Drinking Water Act for the approval of an Underground Injection Control (UIC) program governing Class II oil and natural gas related injection wells. After careful review of the applications and comments received from the public, the Agency has determined that the State's injection well program for Class II wells meets the requirements of sections 1422 and 1425 of the Act. Therefore, these applications covering Class II injections are approved.

EFFECTIVE DATE: February 8, 1984.

FOR FURTHER INFORMATION CONTACT: Victor E. Ziegler, Ground Water Section, U.S. Environmental Protection Agency, 324 East 11th Street, Kansas City, Missouri 64106. PH: (816) 374–6514. Copies of the responsiveness summary are available from the above address.

SUPPLEMENTARY INFORMATION: Part C of the Safe Drinking Water Act (SDWA) provides for an Underground Injection Control (UIC) program. Section 1421 of the SDWA requires the Administrator to promulgate minimum requirements for effective State programs to prevent underground injection which endangers drinking water sources. The Administrator is also to list in the **Federal Register** each State for which in his judgment a State UIC program may be necessary. Each State listed shall submit to the Administrator an application which contains a showing satisfactory to the Administrator that the State: (i) has adopted after reasonable notice and public hearings, a UIC program which meets the requirements of regulations in effect under section 1421 of the SDWA; and (ii) will keep such records and make such reports with respect to its activities under its UIC program as the Administrator may require by regulations. After reasonable opportunity for public comment, the Administrator shall by rule approve, disapprove or approve in part and disapprove in part, the State's UIC program.

The SDWA was amended on December 5, 1980, to include Section 1425, which establishes an alternative method by which a State may obtain primary enforcement responsibility for those portions of its UIC program related to the recovery and production of oil and natural gas (Class II wells). Specifically, instead of meeting the Federal Regulations (40 CFR Parts 124, 144, 145) and related Technical Criteria and Standards (40 CFR Part 146), a State may demonstrate that its program meets the more general statutory requirements of section 1421(b)(1) (A) through (D) and represents an effective program to prevent endangerment of underground sources of drinking water.

The State of Kansas was listed as needing a UIC program on September 25, 1978 (43 FR 43420). The Kansas Underground Injection Control Program is divided between the Kansas Corporation Commission (KCC) and the Kansas Department of Health and Environment (KDHE). The KCC regulates all Class II injection wells, except those dealing with storage of liquid hydrocarbons. The KDHE regulates all Class I, III, IV, and V injection wells and Class II wells for storage of liquid hydrocarbons. Consequently, two applications were considered in evaluating the complete Kansas Class II program. The State submitted one application under section 1425 on January 14, 1983, for the approval of a UIC program governing Class II injection wells, except those

used for storage of hydrocarbons to be administered by the KCC. EPA published notice on February 14, 1983, of its receipt of the application, requested public comments, and scheduled a public hearing on the UIC program submitted by the KCC (48 FR 6563). A public hearing was held on March 18, 1983, in Wichita, Kansas. The State submitted a second application under section 1422 on February 25, 1983, for approval of a UIC program governing Class I, III, IV, and V injection wells and Class II wells for storage of liquid hydrocarbons, to be administered by the KDHE. EPA published notice of its receipt of the application, requested public comments, and scheduled a public hearing on the UIC program submitted by the KDHE (48 FR 10721). A public hearing was held on April 18, 1983, in Topeka, Kansas. After careful review of these applications and comments received from the public, I have determined that the Kansas UIC program for Class II injection wells meets the requirements of Sections 1422 and 1425 of the SDWA, and hereby approve it. (The KDHE Class I, III, IV, and V program was approved by EPA on December 2, 1983, 48 FR 54350). The effect of this approval is to establish this program as the applicable underground injection control program under the SDWA for the State of Kansas to regulate Class II injection wells. The requirements of this program include State statutes and regulations set forth at: *Kan. Stat. Ann.*, Chapter 55, Articles 1, 9, & 10 (1976 and Supp. 1982), and *Kan. Admin. Regs.* 82–3–100 through –504 (as effective May 1, 1983) (regulating salt water disposal and enhanced recovery wells); and *Kan. Stat. Ann.*, Chapter 65, and *Kan. Admin. Regs.* 28–45–1 through –10 (1982) (regulating liquid hydrocarbon storage wells).

Since this action simply adopts as the Federal program the State laws and regulations already in effect, EPA is publishing this approval effective immediately. This will enable Kansas to begin immediately issuing UIC permits for Class II injection wells under the Federally approved program.

In these applications, Kansas chooses not to assert jusisdiction over Indian lands or reservations for purposes of its UIC program. Therefore, the EPA will, at a future date, prescribe a UIC program governing injection wells on any Indian lands or reservations in Kansas.

List of Subjects in 40 CFR Part 145

The terms listed below comprise a complete listing of the thesaurus terms associated with 40 CFR Part 145, which sets forth the requirements for a State requesting the authority to operate its own permit program of which the Underground Injection Control program is a part. These terms may not all apply to this particular notice.

Indians—lands, Reporting and recordkeeping requirements, Intergovernmental relation, Penalties, Confidential business information, Water supply.

OMB Review: The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Certification Under the Regulatory Flexibility Act

Pursuant to the provisions of 5 U.S.C. 605(b), I certify that approval by EPA under section 1425 of the Safe Drinking Water Act of these applications by the State of Kansas will not have a significant economic impact on a substantial number of small entities, since this rule only approves State actions. It imposes no new requirements on small entities.

(42 U.S.C. 300)

Dated: February 1, 1984.

William D. Ruckelshaus,

Administrator.

[FR Doc. 84–3376 Filed 2–7–84; 8:45 am]

BILLING CODE 6560–50–M

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40 CFR Part 180

[PP 2E2710/R642; PH–FRL 2519–8]

Tolerances and Exemptions From Tolerances for Pesticide Chemicals in or on Raw Agricultural Commodities; S-[2-(Ethylsulfinyl)Ethyl] O, O-Dimethyl Phosphorothioate

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes a tolerance for the combined residues of the pesticide *S*-[2-(ethylsulfinyl)ethyl] *O, O*-dimethyl phosphorothioate and its cholinesterase-inhibiting metabolites in or on the raw agricultural commodity apricots. The regulation to establish a maximum permissible level for residues of the pesticide in or on the commodity was requested in a petition submitted by the Interregional Research Project No. 4 (IR–4).

EFFECTIVE DATE: Effective on February 8, 1984.

ADDRESS: Written objections may be submitted to the: Hearing Clerk (A–110), Environmental Protection Agency, 410 M St., SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Donald Stubbs, Registration Support and Emergency Response Branch, Registration Division (TS–767C), Environmental Protection Agency, Rm. 716B, CM#2, Arlington, VA 22202 (703–557–1192).

SUPPLEMENTARY INFORMATION: EPA issued a proposed rule, published in the **Federal Register** of December 21, 1983 (48 FR 56415), which announced that the Interregional Research Project No. 4 (IR–4), New Jersey Agricultural Experiment Station, P.O. Box 231, Rutgers University, New Brunswick, NJ 08903, had submitted pesticide petition 2E2710 to EPA on behalf of the IR–4 Technical Committee and the Agricultural Experiment Station of Idaho proposing that 40 CFR 180.330 be amended by establishing a tolerance for residues of the pesticide *S*-[2-(ethylsulfinyl)ethyl] *O, O*-dimethyl phosphorothioate and its cholinesterase-inhibiting metabolites in or on the raw agricultural commodity apricots at 0.5 part per million.

There were no comments received in response to the proposed rule.

The data submitted in the petition and other relevant material have been evaluated and discussed in the proposed rule. The pesticide is considered useful for the purpose for which the tolerance is sought. It is concluded that the tolerance would protect the public health and is established as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication of this document in the **Federal Register**, file written objections with the Hearing Clerk, at the address given above. Such objections should specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests.

(Sec. 408(e), 68 Stat 512 (21 U.S.C. 346(e)))

Dated: January 30, 1984.

Edwin L. Johnson,

Director, Office of Pesticide Programs.

PART 180—[AMENDED]

Therefore, 40 CFR 180.330 is amended by adding and alphabetically inserting

the entry for the raw agricultural commodity apricots, to read as follows:

§ 180.330 S-[2-(Ethylsulfinyl)ethyl] O,O-dimethyl phosphorothioate; tolerances for residues.

* * * * *

Commodities	Parts per million
* * * * *	
Apricots	0.5
* * * * *	

[FR Doc. 84-3253 Filed 2-7-84; 8:45 am]
BILLING CODE 6560-50-M

40 CFR Part 180

[PP 2E2644/R644; PH-FRL 2520-2]

Tolerances and Exemptions From Tolerances for Pesticide Chemicals in or on Raw Agricultural Commodities; Chlorpyrifos

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes a tolerance for the combined residues of the insecticide chlorpyrifos and its metabolite in or on the raw agricultural commodity asparagus. The regulation to establish a maximum permissible level for residues of the insecticide in or on the commodity was requested in a petition submitted by the Interregional Research Project No. 4 (IR-4).

EFFECTIVE DATE: Effective on February 8, 1984.

ADDRESS: Written objections may be submitted to the: Hearing Clerk (A-110), Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Donald Stubbs, Registration Support and Emergency Response Branch, Registration Division (TS-767C), Environmental Protection Agency, Rm. 716B, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703-557-1192).

SUPPLEMENTARY INFORMATION: EPA issued a proposed rule, published in the **Federal Register** of December 21, 1983 (48 FR 56414), which announced that the Interregional Research Project No. 4 (IR-4), New Jersey Agricultural Experiment Station, P.O. Box 231, Rutgers University, New Brunswick, NJ 08903, had submitted pesticide petition number 2E2644 to EPA on behalf of the IR-4 Technical Committee and the Agricultural Experiment Station of Washington proposing that 40 CFR 180.342 be amended by establishing a tolerance for residues of the insecticide chlorpyrifos in or on the raw agricultural commodity asparagus at 5.0 parts per million.

There were no comments received in response to the proposed rule.

The data submitted in the petition and other relevant material have been evaluated and discussed in the proposed rule. The pesticide is considered useful for the pupose for which the tolerance is sought. It is concluded that the tolerance would protect the public health and is established as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication of this document in the **Federal Register**, file written objections with the Hearing Clerk, at the address given above. Such objections should specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests.

(Sec. 408(e), 68 Stat. 512 (21 U.S.C. 346a(e)))

Dated: January 30, 1984.

Edwin L. Johnson,

Director, Office of Pesticide Programs.

PART 180—[AMENDED]

Therefore, 40 CFR 180.342 is amended by adding and alphabetically inserting the entry for the raw agricultural commodity asparagus, to read as follows:

§ 180.342 Chlorpyrifos; tolerances for residues.

* * * * *

Commodities	Parts per million
* * * * *	
Asparagus	5.0
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[FR Doc. 84-3255 Filed 2-7-84; 8:45 am]
BILLING CODE 6560-50-M

40 CFR Part 180

[PP 3E2913/R645; PH-FRL 2520-1]

Tolerances and Exemptions From Tolerances for Pesticide Chemicals in or on Raw Agricultural Commodities; Ethyl 3-Methyl-4-(Methylthio)Phenyl (1-Methylethyl) Phosphoramidate

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes a tolerance for the combined residues of the nematocide ethyl 3-methyl-4-(methylthio)phenyl (1-methylethyl) phosphoramidate and its cholinesterase-inhibiting metabolites in or on the raw agricultural commodity asparagus. The regulation to establish a maximum permissible level for residues of the nematocide in or on the commodity was requested in a petition submitted by the Interregional Research Project No. 4 (IR-4).

EFFECTIVE DATE: Effective on February 8, 1984.

ADDRESS: Written comments by mail to: Hearing Clerk (A-110), Rm. 3708, Environmental Protection Agency, 401 M St. SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Donald Stubbs, Registration Support and Emergency Response Branch, Registration Division (TS-767C), Environmental Protection Agency, Rm. 716B, CM No. 2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703-557-1192).

SUPPLEMENTARY INFORMATION: EPA issued a proposed rule, published in the **Federal Register** of December 21, 1983 (48 FR 56416), which announced that the Interregional Research Project No. 4 (IR-4), New Jersey Agricultural Experiment Station, P.O. Box 231, Rutgers University, New Brunswick, N.J. 08903, had submitted pesticide petition 3E2913 to EPA on behalf of the IR-4 Technical Committee and the Agricultural Experiment Station of New Jersey proposing that 40 CFR 180.349 be amended by establishing a tolerance for residues of the nematocide 3-methyl-4-(methylthio)phenyl (1-methylethyl) phosphoramidate in or on the raw agricultural commodity asparagus at 0.02 part per million.

There was no comments received in response to the proposed rule.

The data submitted in the petition and other relevant material have been evaluated and discussed in the proposed rule. The pesticide is considered useful for the purpose for which the tolerance is sought. It is concluded that the

tolerance would protect the public health and is established as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication of this document in the **Federal Register**, file written objections with the Hearing Clerk, at the address given above. Such objections should specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests.

(Sec. 408(e), 68 Stat. 512 (21 U.S.C. 346a(e)))

Dated: January 30, 1984.

Edwin L. Johnson,

Director, Office of Pesticide Programs.

PART 180—[AMENDED]

Therefore, 40 CFR 180.349(a) is amended by adding and alphabetically inserting the entry for the raw agricultural commodity asparagus, to read as follows:

§ 180.349 Ethyl 3-methyl-4-(methylthio)phenyl (1-methylethyl) phosphoramidate; tolerances for residues.

(a) * * *

Commodities	Parts per million
* * * * *	
Asparagus	0.02
* * * * *	

[FR Doc. 84-3254 Filed 2-7-84; 8:45 am]

BILLING CODE 8560-50-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control

42 CFR Parts 85 and 85a

Use of Personal Sampling Devices During NIOSH Investigations

AGENCY: National Institute for Occupational Safety and Health (NIOSH), Centers for Disease Control, Public Health Service, HHS.

ACTION: Final rule.

SUMMARY: This document amends the regulations covering health hazard evaluations (42 CFR Part 85) and research investigations (42 CFR Part 85a) of the workplace to provide expressly for the use of personal sampling devices as an investigative technique. The amendment clarifies that employees may be requested to wear personal sampling devices as part of the environmental sampling procedures used by NIOSH during its workplace investigations.

EFFECTIVE DATE: March 9, 1984.

FOR FURTHER INFORMATION CONTACT: Ms. Annette N. McElhannon, Regulations Specialist, NIOSH, Building 1, Room 3421, Centers for Disease Control, 1600 Clifton Road, N.E., Atlanta, Georgia 30333, telephone (404) 329-3691 or FTS: 236-3691.

SUPPLEMENTARY INFORMATION: This final rule implements revisions proposed in a Notice of Proposed Rulemaking (NPRM) published in the **Federal Register** on March 11, 1983 (48 FR 10377). The Occupational Safety and Health Act (29 U.S.C. 651 *et seq.*) and the Federal Mine Safety and Health Act (30 U.S.C. 801 *et seq.*) direct the Secretary of Health and Human Services to conduct occupational health and safety research. To implement these functions, the Secretary promulgated Parts 85 and 85a to Title 42, Code of Federal Regulations, to establish the procedures for NIOSH's conduct of occupational health and safety research investigations at places of employment. Part 85 governs the evaluation of workplace conditions requested by employers or authorized representatives of employees, while Part 85a concerns the conduct of investigation under NIOSH-initiated research projects.

Included among these procedures is a recital of the various investigative activities NIOSH is authorized to perform. Thus, § 85.7(c) and 85a.5(d) provide that NIOSH is authorized to, among other things, collect environmental samples and samples of substances, to measure environmental conditions and employee exposures, and to employ other reasonable investigative techniques. Since the promulgation of these regulations, NIOSH has interpreted the regulations as authorizing the use of personal sampling devices to measure individual employee exposures to substances and physical agents. The most common personal sampling devices are those that use sampling pumps to draw air through liquid or solid sorbents, filters, etc., and those in which a reaction takes place directly on the sorbent. The latter devices are known as passive chemical monitors. The other common personal sampling device, the noise dosimeter, is used for measuring cumulative employee noise exposures over a given period of time. The sampling medium or dosimeter is attached to the worker's clothing as near as possible to the worker's breathing or hearing zone. The remainder of the sampling device (if required), such as a sampling pump or recording unit, is connected by flexible hose or wire to the sampling medium or dosimeter and also is attached to the worker in a place that interferes the least with work requirements (e.g., on the employee's belt). NIOSH uses personal sampling devices because they are the most accurate way to monitor a worker's exposure during the normal work routine and workday.

NIOSH's use of personal sampling devices to measure individual employee exposure has been judicially upheld. In *Establishment Inspection of Keokuk Steel Castings, Division of Kast Metals*, 638 F. 2d 42 (8th Cir. 1981), the Court upheld enforcement of the warrant issued to NIOSH which included the use of personal samplers by workers willing to wear them. In so holding, the Eight Circuit expressly disagreed with the Ninth Circuit decision in *Plum Creek Lumber Co.*, v. *Hutton*, 608 F. 2d 1289 (9th Cir. 1979), which involved an Occupational Safety and Health Administration (OSHA) compliance inspection. In *Plum Creek*, the Court held that it was without authority to order an employer to permit its employees to wear personal sampling devices contrary to the employer's written policy in absence of a regulation or law specifying the use of such devices.

In *Establishment Inspection of Metro-East Manufacturing Co.*, 655 F. 2nd 805 (7th Cir. 1981), the only other Circuit Court decision on this issue, a divided panel held that the OSHA regulations did not give employers fair warning of what is required or prohibited because they failed to specify the use of personal samplers as a reasonable investigative technique. The Court suggested that the OSHA regulations be amended to give employers this fair warning, and subsequently OSHA amended their regulations (29 CFR Part 1903) on December 10, 1982 (47 FR 55478), to provide this information. Since the workplace regulations are similar to those of OSHA, NIOSH proposed on March 11, 1983, to amend Parts 85 and 85a to clarify expressly the use of personal sampling devices in the

conduct of NIOSH research investigations.

Public comments were invited in the proposed rule. Three comments were received—one from a national labor union and two from trade associations. The comments from the two trade associations indicated that they did not believe the amendment was justified in that (1) personal sampling is inaccurate, (2) potential safety and health hazards exist when personal sampling is used, (3) the devices are disruptive and interfere with ongoing work, (4) use of personal sampling goes beyond the authority of NIOSH mandates under the Occupational Safety and Health Act and the Federal Mine Safety and Health Act, and (5) the amendment failed to state that wearing the personal sampling devices is voluntary on the employee's part. The national labor union supported the amendment in that (1) the amendment does provide specific notice to employees that NIOSH may use personal sampling, (2) personal sampling provides key data on individual employee exposure that is not available from area sampling, and (3) the union does not have records nor has it received information concerning any accidents caused by wearing personal sampling devices.

In response to the comments made by the trade associations, NIOSH does not have in its possession, nor was evidence provided, that personal sampling is not accurate. On the contrary, it is NIOSH's opinion, as noted in OHSA's final rule on use of personal sampling devices (29 CFR Part 1903) that personal sampling is the "most effective means of determining exposure levels and producing statistically valid data while at the same time being the most accurate means available to measure employee exposure."

No information was provided to support the contention that potential safety and health hazards exist when personal sampling devices are used or that the devices are disruptive and interfere with work. Similarly, no such information was presented to OSHA for their rulemaking (47 FR 55478).

In regard to NIOSH's authority to use personal sampling devices, this authority is provided to NIOSH within sections 8 and 20 of the Occupational Safety and Health Act and section 501 of the Federal Mine Safety and Health Act. Also, wearing the personal sampling device is voluntary on the employee's part. Employees who decline to wear personal sampling devices are not compelled to do so. Again, NIOSH's policy parallels that of OSHA, as stated in their final rule (47 FR 55478), "* * * *With respect to those who decline, it is neither agency practice nor policy to compel an employee to wear a personal sampling device. Rather, when faced with such a refusal, the agency attempts to ascertain and alleviate the employee's concern; if these efforts are unsuccessful, another employee is asked to wear the device* * * *." However, to clarify the amendment, the final rule now states that wearing the personal sampling device is voluntary.

Since NIOSH believes that no new information was provided during the comment period and that similar provisions were promulgated by OSHA (47 FR 55478), the amendment to 42 CFR Parts 85 and 85a is adopted as proposed, except for the clarification mentioned above.

This rule is primarily a clarification of procedures currently in use. Experience indicates that personal sampling devices are compact, take minimal time to attach to the employee, and neither hinder nor obstruct employee job performance. There are not substantive adverse effects on productivity due to the use of personal sampling devices. NIOSH is unaware of any injuries or accidents caused by the use of these devices. Personal sampling devices used during an investigation are provided by NIOSH at no cost to the employer. For these reasons, the Secretary has determined that this rule is not a "major rule" under Executive Order 12291. Further, because these regulations do not have a singificant economic impact on a substantial number of small entities, a regulatory flexibility analysis under the Regulatory Flexibility Act of 1980 is not required.

List of Subjects

42 CFR Part 85

Investigations, Mine safety and health, Occupational safety and health, Poison prevention.

42 CFR Part 85a

Investigations, Mine safety and health, Occupational safety and health.

For the reasons stated in the preamble, Parts 85 and 85a of Title 42, Code of Federal Regulations, are amended as set forth below.

Dated: October 24, 1983.

Edward N. Brandt, Jr.,
Assistant Secretary for Health.

Approved: January 10, 1984.

Margaret M. Heckler,
Secretary.

PART 85—REQUESTS FOR HEALTH HAZARD EVALUATIONS

1. In § 85.7, paragraph (c) is revised to read as follows:

§ 85.7 Conduct of investigations.

* * * * *

(c) NIOSH officers are authorized to collect environmental samples and samples of substances or measurements of physical agents (including measurement of employee exposure by the attachment of personal sampling devices to employees with their consent), to take or obtain photographs related to the purpose of the investigation, employ other reasonable investigative techniques, including medical examinations of employees with the consent of such employees, and to question privately any employer, owner, operator, agent, or employee. The employer shall have the opportunity to review photographs taken or obtained for the purpose of identifying those which contain or might reveal a trade secret.

* * * * *

PART 85a—OCCUPATIONAL SAFETY AND HEALTH INVESTIGATIONS OF PLACES OF EMPLOYMENT

1. In § 85a.5, paragraph (d)(1) is revised to read as follows:

§ 85a.5 Conduct of investigations of places of employment.

* * * * *

(d)(1) NIOSH authorized representatives are authorized: To collect environmental samples and samples of substances; to measure environmental conditions and employee exposures (including measurement of employee exposure by the attachment of personal sampling devices to employees with their consent); to take or obtain photographs, motion pictures or videotapes related to the purpose of the investigation; to employ other reasonable investigative techniques, including medical examinations, anthropometric measurements and standardized and experimental functional tests of employees with the informed consent of such employees; to review, abstract, and duplicate such personnel records as are pertinent to mortality, morbidity, injury, safety, and other similar studies; and to question and interview privately any employer,

owner, operator, agency, or employee from the place of employment. The employer, owner, operator, or agency shall have the opportunity to review photographs, motion pictures, and videotapes taken or obtained for the purpose of identifying those which contain or might reveal a trade secret.

* * * * *

(Sec. 8(g) 84 Stat. 1600; 29 U.S.C. 657(g) and Sec. 508, 83 Stat. 803; 30 U.S.C. 957)

[FR Doc. 84-3232 Filed 2-7-84; 8:45 am]

BILLING CODE 4160-19-M

Health Care Financing Administration

42 CFR Part 431

Medicaid Program; Reduction in Error Rate Tolerance; Medicaid Quality Control Program

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Final rule.

SUMMARY: This final rule implements the provisions of section 133 of the Tax Equity and Fiscal Responsibility Act of 1982 (Pub. L. 97-248). Under these regulations, Federal financing participation will be disallowed to the extent that a State has a Medicaid eligibility payment error rate (as measured by the Medicaid quality control system) that exceeds the statutorily mandated three-percent national standard for any of the three quarters beginning April 1, 1983 and ending December 31, 1983.

The regulations further provide that we will project a payment error rate for each State for each of these three quarters and will reduce the State's quarterly grant award (based on its estimated expenditures) to the extent that the anticipated error rate exceeds the three-percent national standard.

EFFECTIVE DATE: April 1, 1983.

FOR FURTHER INFORMATION CONTACT: Randolph Graydon, Bureau of Quality Control, Health Care Financing Administration, Room 239, East High Rise, 6325 Security Boulevard, Baltimore, MD 21207, (301) 597-1381.

SUPPLEMENTARY INFORMATION:

I. Background

The medicaid quality control (MQC) system was designed to reduce erroneous medical assistance payments by monitoring and improving the quality of eligibility determinations, third-party liability activities, and claims processing. The system uses sampling methodology to calculate the rate, or percentage, of erroneous medical assistance payments for each State, for each six-month sampling period (April–September and October–March of each year).

Within each six-month period, a State must select a sample of Medicaid beneficiary cases every month and review them for errors. We then review a subsample of the State-selected cases to verify the State's findings. At the end of each six-month review period, we calculate a State's payment error rate based on the findings submitted by the State and the findings of the Federal subsample. If a State fails to complete a valid review for any period, we assign the State an error rate based on either the weighted average of its error rate in the last three review periods, a special Federal sample or audit, or a Federal subsample.

Section 201 of the FY 1980 Labor-HEW Appropriation Bill (Pub. L. 96-123), commonly referred to as the Michel amendment, required States to reduce their erroneous Medicaid expenditures to a four-percent level by September 30, 1982, and directed the Secretary to reduce Federal payments to States that failed to achieve target error rate levels during the interim periods.

On January 25, 1980, we published final regulations at 42 CFR 431.802 (45 FR 6326) to implement the provisions of the Michel amendment. The regulations provided for a phased reduction in each State's July–December 1978 base period payment error rate to a four-percent target over the Federal fiscal years (FYs) 1981, 1982, and 1983. Under the regulations, if a State failed to meet a target error rate, Federal matching funds associated with erroneous expenditures in excess of the target error rate would be disallowed. If a State made a "good faith effort" but failed to meet its target error rate, the Secretary could waive or reduce the amount of a disallowance. (The regulations provided that the waivers are limited to extraordinary circumstances.)

In section 133 of the Tax Equity and Fiscal Responsibility Act (TEFRA) of 1982 (Pub. L. 97-248), Congress set the Medicaid payment error rate tolerance level, the national standard, at three percent, and specified that the States must achieve that rate in the third and fourth quarters of FY 1983 and in each succeeding fiscal year. Section 133 amended section 1903 of the Social Security Act (Act) by adding a subsection (u).

Before enactment of Pub. L. 97-248, the regulations provided only for quality control disallowances that were computed after actual payment error rates were established for each period and after requests by the States for waivers of the disallowances were assessed by the Secretary (§ 431.802). However, in addition to the disallowance calculation, section 1903(u)(1)(c) of the Act now requires that each State's quarterly estimate of expenditures for medical assistance be reduced to the extent that the State's anticipated payment error rate exceeds the three-percent national standard. The method for projecting this anticipated error rate is left to the discretion of the Secretary.

Section 1903(u)(1)(E) of the Act excludes from a State's error rate calculation payments made as a result of technical errors. Also excluded are payments made for services provided to any individual whose eligibility was determined exclusively by the Social Security Administration (SSA) under section 1634 of the Act. (Under that section, the Secretary and a State may enter into an agreement under which SSA determines Medicaid eligibility on behalf of the State for individuals who are eligible for Supplemental Security Income (SSI) or who are receiving a State supplementary payment that is federally administered, or both.) Section 1903(u)(1)(E) of the Act also provides that the Secretary may exclude any other classes of individuals whose eligibility was determined in part under a section 1634 agreement.

On June 24, 1983, we published in the **Federal Register** (48 FR 29450) interim final regulations with a 60-day comment period to implement the provisions of section 1903(u) of the Act. The provisions of the interim final regulations, the comments received, our responses, and the changes we made in response to those comments are discussed below.

II. Provisions of the Interim Final Regulations

A. Calculation of the Payment Error Rate

As required by section 1903(u)(1)(A) of the Act, the interim regulations (§ 431.803(b)) specified that a State's payment error rate will be expressed as a ratio of erroneous payments for medical assistance to total medical assistance expenditures under the State plan.

Erroneous payments are defined in the regulations (§ 431.803(b)) as medical assistance payments that were made for an individual (or a family) under quality control review who:

- Was ineligible for the review month or at the time services were received, or
- Had not properly met beneficiary liability prior to receiving Medicaid services.

Beneficiary liability is defined as either the amount of excess income that must be offset with incurred medical expenses to gain eligibility (spenddown) or the amount of payment a beneficiary must make toward the cost of long term care (§ 431.803(b)). In determining the amount of erroneous payments for cases involving beneficiaries who are determined to be ineligible due to excess resources, the lesser of the amount of excess resources or the amount of medical assistance payments for the review month is the amount of the error (§ 431.803(c)(3)(i)). Similarly, in determining the amount of the error for cases in which there is a beneficiary liability error, the amount of the error is the smaller of the unmet beneficiary liability or the amount of medical assistance payments for the review month (§ 431.803(c)(3)(iii)).

In the interim final regulations, we provided that all payments made on behalf of SSI beneficiaries whose eligibility is determined exclusively by SSA under section 1634 agreements are excluded from the calculation of the payment error rate (§ 431.803(c)(2)). Also excluded from the determination of errroneous payments are payments made as a result of a technical error (§ 431.803(c)(4)). We defined technical errors for MQC purposes as errors in conditions of eligibility that, if corrected, would not result in a difference in the amount of medical assistance paid (§ 431.803(b)). These errors include, but are not limited to, those attributable to Work Incentive Program requirements, the assignment of Social Security numbers, the requirement for a separate Medicaid application, and monthly reporting requirements. Errors resulting from any change in financial circumstances or categorical eligibility will be counted.

B. Determining a State's Anticipated Payment Error Rate

The interim final regulations (§ 431.803(d)) implemented the statutory requirement that the Secretary project an anticipated payment error rate for each State and reduce the State's quarterly estimate of expenditures for medical assistance by the percentage that the State's error rate exceeds three percent. The interim regulations based the projections on the weighted average of the error rates of the two most recently completed six-month review periods.

In determining the anticipated payment error rate, we evaluate the data from the two six-month review periods most recently completed by HCFA and the State. As provided in § 431.803(c), determination of a State's anticipated payment error rate excludes technical errors and takes into account the revised method of assigning dollar amounts for resource errors prescribed by section 133 of Pub. L. 97–248. After the error rates for those two review periods have been adjusted for these revisions, the weighted average error rate is calculated. This error rate is then adjusted to reflect corrective actions implemented by the State, and becomes the anticipated payment error rate for the quarter in question. The State's quarterly estimate of medical assistance expenditures is reduced by the difference between the State's anticipated payment error rate and the three-percent national standard.

C. Establishing an Error Rate for States That Fail To Cooperate

Under § 431.803(c)(5) of the regulations, if a State fails to cooperate in providing information for establishing its error rate or its anticipated error rate, we establish the State's error rate based on—

- A special sample or audit;
- The Federal subsample; or
- Other similar arrangements as the Administrator may prescribe.

This may be done directly or under a contractual or other arrangement. Regardless of the method used, the full costs associated with determining the error rates must also be withheld from the State's quarterly estimate of expenditures.

D. Computations for Disallowance of FFP

When States submit their quarterly estimate of expenditures for medical assistance, under § 431.803(d)(4), we reduce the amount of the estimate by the percentage difference between the three-percent national standard and the anticipated payment error rate established by us for that quarter. At the close of the quarter, this reduction is adjusted to represent the appropriate percentage of the State's actual expenditures for the quarter. As set forth at § 431.803(d)(4), these quarterly reductions, which are noted on the State's grant award, are not disallowances and, therefore, are not appealable.

The actual error rates are either those determined from the State reviews and subsequent Federal re-reviews or, if the State fails to complete a valid sample, those determined by us. The disallowance amount is the product of (1) the difference between the three-percent national standard and the State's actual error rate, and (2) the Federal share of the State's actual medical assistance expenditures for the review period.

After the actual error rates for the April-September 1983 review period and for each fiscal year thereafter are determined, the disallowance amount is computed, a disallowance letter is issued and, in the absence of a waiver (see section II.E., below), adjustments are made in the FFP previously calculated for each State. These adjustments are made by comparing the disallowance amount to the amounts previously withheld from the quarterly grant awards for the appropriate quarters. If the actual disallowance is less than the amounts withheld for the appropriate quarters, the excess amounts withheld will be returned to the State. If the disallowance exceeds the amounts withheld, then the additional amounts will be withheld from the State's next quarterly grant.

E. Notice of Disallowance and Waivers of Disallowance Based on "Good Faith"

Under § 431.803(e), the Administrator is permitted to waive, in certain limited cases, all or part of an FFP disallowance if a State is unable to reach the three-percent national standard despite a good faith effort. We evaluate requests for waivers prior to taking the actual disallowance. States are allowed 30 days from the date of the notice of a disallowance to apply for a waiver. We respond within 90 days of receipt of all information needed to reach a decision on the State's request for a waiver.

F. Applicability

Section 1903(u)(4) of the Act excludes Guam, Puerto Rico, the Virgin Islands, the Northern Marianas, and American Samoa from the provisions of section 1903(u) of the Act. The interim final regulations, therefore, excluded those entities from the provisions of § 431.803.

III. Discussion of Comments

In response to the interim final regulations, we received 39 comments from or on behalf of State and local health or welfare agencies. Following are specific comments received and our responses.

A. Effective Date of the Regulations

Comment—Twelve commenters objected to the manner in which the interim final rule was published because it did not allow for comments prior to the regulations' effective date. Some States commented that issuing interim final rules without the benefit of prior public comment denies the States the opportunity to adequately respond and provide input. The States contended that

this process is not only undesirable, in general, but, in their opinion, is particularly inappropriate when applied to policies that, in their view, deprive the State of funds. They believe that the Federal government should be especially sensitive to the solicitation and careful consideration of comments from the States when rules that could potentially result in "fiscal penalties" are proposed.

Response—Section 1903(u) of the Act was effective upon enactment (September 3, 1982) and requires that States achieve the three-percent national standard for the period April-September 1983 and for each full fiscal year thereafter. We were, therefore, required to make the effective date of the interim final rule April 1, 1983.

Although we were unable to provide a public comment period prior to the effective date of that rule, we did provide for a comment period and are responding to those comments in this final rule.

Comment—One State commented that the regulations are being implemented before an ongoing major HHS study on the present quality control system has been completed.

Response—The statute was effective upon enactment, and the Secretary was mandated to enforce its provisions. While there is an ongoing study that could ultimately result in changes to the quality control program, under the present statutory mandate, we cannot delay implementation of the statute's provisions by delaying the effective date of these regulations.

B. Three-Precent National Standard

Comment—Three States commented that the three-percent national standard is arbitrary and is too low to be met in a cost beneficial manner.

Response—Section 1903(u)(1)(A) of the Act requires that the State payment error rate tolerance level be set at three percent. Therefore, we have no authority to set any other level in these regulations.

Comment—Three States commented that the regulations are punitive and do not provide a balance system of fiscal penalties and rewards.

Response—These regulations implement congressionally prescribed tolerance levels for erroneous expenditures for medical assistance. The statute provided only for disallowances of excess erroneous expenditures. It did not provide the Secretary with the authority to provide enhanced funding for States with low error rates.

C. Impact on States Due to Disallowances Under These Regulations

Comment—Six States objected to the imposition of "fiscal sanctions" based on the quality control system. The States point out that the primary purpose of quality control is the reduction and elimination of errors through corrective action. They contend that today, due to the fiscal problems suffered by almost all States, States are experiencing a severe lack of financial and staff resources. States believe that imposition of sanctions is very likely to produce a situation in which the basic goals of quality control are retarded, not advanced, since sanctions would exacerbate the State's financial predicament.

The States noted that the preamble to the interim final rule (48 FR 29451) stated that the national average payment error rate has decreased from 6.6 percent for the July–December 1978 base period to a projected rate of near three percent for the April–September 1981 and October 1981–March 1982 assessment periods. The States claims that this substantial reduction in the error rate was accomplished by the States *without* having fiscal sanctions imposed on them.

Response—As stated previously, the statute (section 1903(u)(1)(A) of the Act) mandates the disallowance of erroneous expenditures above the three-percent national standard. Therefore, the regulations must provide for the disallowance of these expenditures. It should also be noted that the reduction in error rates cited above occurred during time periods when disallowance provisions similar to these regulations were in place.

Comment—Four States expressed the opinion that errors caused by State policies that are not in compliance with the State plan should not be included in the payment error rate because disagreement between State and Federal staff regarding interpretation of regulations or law can increase a State's error rate through the Federal re-review process prior to a resolution of the disagreement.

Response—We do not concur with this recommendation. Section 431.800(d)(1) specifies that the State must operate its MQC system in accordance with policies, sampling methods, review procedures, etc., as specified in MQC manuals issued by HCFA. The *State Medicaid Manual*, Part 7, section 7250 specifies that reviews must be conducted against written State policies and procedures that are in accordance with the State plan. If a policy is in conflict with the State plan, reviews must be conducted against the State plan.

As provided in section 7220 of the *Manual*, if an error is cited by Federal reviewers, the State may either accept the Federal finding or request a conference to discuss the Federal and State review difference. The State must reflect the resolution of the difference as determined by the Regional Administrator in its statistical reports. These reports are submitted to HCFA at the end of each review period and accurately reflect whether or not an error is cited *after* the resolution of the difference.

Comment—One commenter stated that if States have funds withheld based on projected error rates but, in fact, have acceptable error rates when the final calculations are done, these States should not only receive the withheld funds but should also receive interest on these funds. This would be consistent with § 433.38, which requires States to pay interest on disallowed claims determined by us, and would be less disruptive to States; cash flow.

Response—We do not agree that States should receive interest on funds that were withheld based on projected error rates. Funds withheld based on the anticipated error rate are reductions in the States' grant awards and do not constitute disallowances. Since these reductions are not disallowances, they are not subject to the provisions of section 1903(d)(5) of the Act, which provide States the option of retaining disallowed funds and paying interest on them should it be determined that the funds were properly disallowed or of permitting the Federal government to retain the funds pending the appeal decision. Further, since Congress did not specify in the statute that interest should be paid on excessive funds withheld under section 1903(u) of the Act, there is no basis in the law that provides for us to pay interest on these withholdings.

Comment—Two States recommended that disallowance amounts should be offset to the extent that erroneous payments are recouped by the State. This would reduce the impact of disallowances on States.

Response—In the event that States have recovered overpayments due to ineligibility and have credited HCFA with the Federal share of their recoveries, we will deduct the amount credited from the grant reduction made under the provisions of these final regulations for the quarter in which the credit was given. States must identify credits for ineligibility recoveries in order to receive their deductions.

D. Prospective Withholdings Based on Anticipated Error Rates

Comment—Four States did not agree with the concept of withholding funds prospectively. They argued that this process is outside the philosophy of quality control as a management tool. They also expressed the opinion that this process is administratively cumbersome in that monies could be withheld based on an anticipated excessive error rate, only to be repaid later when the actual error rate is determined not to be over the three-percent national standard. The commenters strongly urged that we consider fiscal penalties for excessive error rates only on a retrospective basis.

Response—The provision for reducing a State's quarterly estimates of expenditures is mandated by section 1903(u)(1)(C) of the Act. We are, therefore, required to implement a system for prospective reductions.

Comment—One State commented that projected error rate data should be released to the States at least three months in advance of the quarter to which the rate will apply.

Response—For purposes of administering the process in the interim final regulations, we believe that advance notice of our intent to reduce grant awards was adequate. We have, however, included time frames for furnishing States with projected error rates in the final regulations that will govern future error rate projections (§ 431.804). These regulations were published in the **Federal Register** on December 1, 1983 (48 FR 54224). The provisions of § 431.804 will be applied to States beginning with the January–March 1984 quarter.

Comment—Twenty respondents expressed strong opposition to the fact that quarterly withholdings are not considered disallowances and, therefore, are not appealable. The regulations (§ 431.803(d)(4)) state that the reduction in the grant award for the quarter does not constitute a disallowance and is not appealable. An appeal cannot be filed until we compute the actual amount of the disallowance. This could be up to two years after the withholding is made. The States believe that the reductions should be appealable because their effect is an adverse action on the State.

Response—The quarterly reductions are based on the statutorily required estimates of erroneous expenditures and do not represent actual data for disallowances, but rather reductions to the State's estimates of expenditures. The Senate Finance Committee report accompanying Public Law 97–248 states that if the estimated prospective reduction proves to be inaccurate when actual data from the period becomes available, appropriate adjustments will be made in subsequent grants (S. Rep. No. 97–494, 97th Congress, 2nd Session 39 (1982)). This provides clear guidance that estimates are not to be adjusted until actual data are available. Therefore, the final regulations retain the provision that appeals will not be entertained until the actual disallowance has been taken based on actual error rate data.

E. Determination of a State's Final Payment Error Rate

Comment—Five States commented that error rates can be subject to intense distortion from a large overpayment in a single case, and, therefore, the dollar rate is a most unreliable indication of program quality having little relation to the more meaningful case error rate.

Response—Section 1903(u) of the Act clearly requires that error rates be calculated by taking a ratio of "erroneous payments" to "total payments". We believe that this can only be properly implemented by using dollar amounts rather than the percentage of cases in error.

Comment—Five States commented on the use of the "point estimate" in determining a State's actual payment error rate. This rate is arrived at by taking a sample of the State's Medicaid beneficiary cases, and extrapolating the percentage of errors in the sample to the universe of Medicaid beneficiaries. The result is called the "point estimate," and is considered by us to be the best estimate of the actual error rate. Because the result is, however, still an estimate, the "true" error rate may be somewhat different. This "true" rate lies somewhere within a certain range greater or lesser than the point estimate. This range is known as the "confidence interval," and five States recommended that the value at the lowest end of this confidence interval be used as the actual error rate, rather than using the point estimate that lies in the middle of this interval.

Response—The point estimate continues to be a generally accepted statistical measure of the true error rate. Use of the lower end of the confidence interval would constantly understate the State's true error rate as would the use of the upper end overstate the error rate. In addition, under the current MQC methodology the final "point estimate" reflects a "regression" adjustment to account for differences between the State findings in the main sample, and Federal findings that result from our review of a subsample of the main sample. The greater the difference between the Federal and State findings, the larger the confidence interval will be. Thus, the State could be encouraged to conduct poor reviews to increase differences, thus artificially lowering the lower limit. Use of the point estimate encourages thorough reviews and more closely reflects the true error rate. We will, therefore, continue to use the point estimate in establishing error rates.

Comment—Eight States addressed the issue of agency- versus client-caused errors. They state that the standards for client- and agency-caused errors should be differentiated to reflect the reality that client-caused errors are particularly difficult to control. They recommended that sanctions should apply only to agency-caused errors or that these two types of errors be weighted differently.

Response—The statute does not distinguish between agency- or client-caused errors, and provides no basis for giving these errors different weights in computing the final payment error rate. It clearly states that erroneous payments made above the three-percent national standard are to be disallowed. Therefore, we will continue to calculate the payment error rate based on erroneous payments made as a result of either agency- or client-caused errors. Furthermore, we wish to provide an incentive to States to develop procedures for assuring prompt reporting from clients and to develop methods for agency tracking of changes in beneficiaries' circumstances.

Comment—Four States commented that the regulations should provide that the reduction of grant awards and disallowance of FFP exclude expenditures for SSI beneficiaries. One State also recommended that the regulations provide a method for determining the amount of the benefits paid to SSI beneficiaries and a procedure to exclude them in section 1634 States.

Response—The regulations (§ 431.803 (d)(3) and (d)(6)) do provide for the exclusion of all payments made on behalf of beneficiaries who receive SSI payments in section 1634 States. These payments are excluded by reducing total payments made by the State for medical services subject to FFP by the percentage of payments made on behalf of SSI beneficiaries (§ 431.803(d)(6)). This calculation is shown on an attachment to each grant award that is reduced under this provision.

Comment—Eleven States commented on the definition of technical errors as set forth in the regulations. In general, the States approve of the fact that allowance is being given for "technical

errors." However, they proposed a change in wording that would allow for inclusion of additional types of technical errors as they are encountered and agreed to by us.

Response—We agree with these comments, and the final regulations (§ 431.803(b)) adopt the States' suggestion. However, we have provided that errors other than those specifically mentioned may be cited as technical errors only after receiving approval from us. States should submit to their Regional Offices a description of the error and a explanation as to why this error should be cited as a technical error. The Regional Office will forward this information to HCFA Central Office. After review, the Central Office will advise the Regional Office whether or not the error can be classified as technical.

Comment—One State commented that the regulations should contain provisions that would allow States to appeal Federal re-review findings.

Response—The *State Medicaid Manual*, Part 7, Quality Control, at section 7220, provides for appeal of re-review findings to the HCFA Regional Administrator. We do not believe it appropriate to codify this mechanism in the disallowance provisions that are the subject of these regulations, but we will consider publishing this appeals procedure as a part of the MQC regulations at a later time.

F. Determining a State's Anticipated Error Rate

1. *Use of two six-month periods as a base for error rate projections.*

Comment—We received 20 comments from or on behalf of States regarding the use of data from the two most recently completed six-month periods as a base for projecting States' anticipated error rates. States were concerned that these data are inadequate for an accurate projection of error rates. We received the following recommendations as alternative data bases that could be used to project error rates:

- Use the lower error rate from the two most recent review periods.
- Base projections on the two completed sample periods following the date Pub. L. 97-248 became law (September 3, 1982).
- Recompute the projected error rate at the end of each review period.
- Use some latitude in selecting which two periods are used to project error rates.

Response—We have reviewed States' suggestions regarding which data base to use in making projections of anticipated error rates. We have amended the regulations (§ 431.803(d)(1)) to provide that projections will be based on the lower of either the error rate from the most recently completed six-month review period or the weighted average of the error rates from the two most recently completed six-month review periods.

This methodology provides for using the most recently completed data unless it disadvantages the State. In that case, projections would be based on the average of the two most recently completed periods. This method provides the advantage of using either the more stable data from a 12-month period or the most recent data available from the latest 6-month period if an error reduction has occurred.

2. *Use of the expected impact of corrective action in projecting anticipated error rates.* The interim final regulations do not rely only on data showing recent actual experience as a basis for estimating future error rates. The regulations allow us to lower our projection of the anticipated error rate by assuming that implementation of a State's corrective action plan will to some extent reduce the rate of future errors from the error rate experienced in the past.

Comment—Three States commented that the methodology we used to estimate the effect of corrective action plans is subjective and does not recognize unique factors within a State. Several States recommended that the rule describe the method used to reduce the anticipated error rate in light of the expected impact of corrective action.

Response—Under the governing statute, section 1903(u) of the Act, estimation of a State's anticipated error rate is part of the previously established process by which we estimate the amount of Federal funds that are to be paid to a State each quarter, until a final settlement is made after a State has submitted documentation of its actual Medicaid expenditures. This estimation process necessarily requires a highly discretionary evaluation by us of the likely effect of events during the quarter on a State's Medicaid expenditures. Nothing in section 1903(u) of the Act suggests that any less discretionary approach was intended for the adjustment to this estimate necessary to account for the anticipated error rate.

Accordingly, the interim final regulations' consideration of the possible effects of corrective action is inherently subjective, as the comments noted. Estimating the impact of corrective actions that have not yet been fully implemented and evaluated necessarily requires a subjective assessment of the extent to which the actions will be successful, and judgments of this nature are not amenable to mechanical rules. It might well be argued that these assessments are so speculative that they should not be made at all, and that estimates of future error rates should be based solely on actual data of recent experience. Indeed, it was this concern for the uncertain reliability of estimating the effects of corrective action that led us to issue new regulations that do not utilize the possible impact of corrective action in the estimation process (48 FR 54224; Dec. 1, 1983). But since consideration of the possible effect of corrective action can only benefit a State by lowering the error rate that would otherwise be anticipated by looking only to recent experience, we do not believe that States are disadvantaged by the subjective nature of this consideration.

To assure relatively uniform treatment of all States, we have developed a general framework for estimating the future effect of corrective action plans. We start with the following four basic criteria and assign weights to them:

Criterion	Weight (percent)
Did the State correctly identify the major cause of errors?	20
Did the State develop corrective actions designed to address the error causes identified?	20
Did the State implement the planned corrective actions?	30
Is there any preliminary evidence that implemented corrective actions are reducing the State's error rate?	30

Each of these criteria was selected because it represents one of the four basic steps of the corrective action process: Identification of error causes; planning appropriate corrective action; implementation of the plan; and evaluation of the effectiveness of the corrective actions. Additional weight is given to implementation and evaluation because of the greater likelihood that a plan already implemented will produce results, and the greater confidence we have in an action for which some results of effectiveness already exist.

For each cause of errors that is identified in the corrective action plan, we assign a score for each of the four criteria reflecting our judgment about the State's efforts. Scores for the various causes of errors are then combined. This combined score is translated into a projected reduction of the State's error rate, subject to the restriction that no estimated future error rate will be reduced more than 25 percent based on analysis of the corrective action plan.

The 25 percent limit on the credit given to corrective action plans was the subject of numerous critical comments, which contended that this was an

arbitrary limit on the estimated impact of a corrective action plan. We continue to believe, however, that our estimation of the likely impact of corrective action plans is properly subject to a 25-percent limit because of the inherent weaknesses in projecting error rates based on the expected effects of actions that are not fully implemented and proven. The average annual reduction of error rates by States has been 19.8 percent, which suggests to us that States are not likely actually to achieve significantly greater reductions no matter how promising their corrective action efforts may appear. Moreover, a State's corrective action plan may not be designed to correct all the errors detected in a previous sample. Our historical evidence relating to error rate reduction indicates that when a State directs corrective action activity to one cause of errors, other sources of error frequently develop. In summary, given the judgmental manner in which the possible effects of corrective action plans must be evaluated and the potential for overestimating the value of a corrective action plan, we believe that it is inappropriate to assume, for estimation purposes, that a corrective action plan can in the short run achieve more than a 25-percent reduction from the error rate that a State has actually been shown to have incurred in the recent past. Of course, once the effects of corrective action are reflected in data from actual samples, there is no limit to the improvement that will be recognized.

As this description of the evaluation methodology should indicate, there is limited value in setting it out in detail in the text of the regulations. The critical part of the process is the judgment about the State's success in identifying and remedying each cause of error, and, since this assessment is subjective, the regulations can at most simply describe the framework in which these judgments take place. We have, however, included the four basic criteria for evaluating corrective action in these regulations to suggest the outlines of the process, as well as a reference to the maximum 25 percent reduction in the estimate that will be attributed to the possible effects of a corrective action plan (§ 431.803(d)(2)).

Comment—Fifteen comments received from or on behalf of States requested that the regulations fully define the method by which a State's base period error rate is adjusted to develop an anticipated error rate. They believe that we have failed to explain the specific procedures by which we will make these adjustments. For example, the States asked whether consideration will be given to (1) technical errors, (2) the revised method of assigning dollar amounts for resource errors, and (3) corrective action implemented by the State. They also asked whether HCFA will go back and actually re-review the cases from the two six-month review periods most recently completed to look for technical and resource errors, or whether HCFA will just assume that a certain percentage of errors were "technical" and that the resources errors were a certain amount, and apply these assumptions to the two review periods.

Response—We have amended the regulations (§ 431.803(d)(1)) to reflect more clearly that for periods prior to October 1983 we will examine all cases in both the full State sample and the Federal subsample to identify cases with errors due to excess resources or technical errors. The individual case findings will then be adjusted to reflect the new error definitions set forth in this document. However, by October 1983 the States had sufficient time to become familiar with and implement the error definition provisions of the interim final regulations. Thus, beginning with the October 1983 sample month, it is the State's responsibility to apply the new error definitions and we will make adjustments only to the extent that review of the Federal subsample (as part of the "Federal difference resolution process" described in section 7220 of the Manual) reveals errors in the State's application of the error definitions.

After case findings are adjusted for the new error definitions in Pub. L. 97–248, if the resultant error rate is above the three-percent tolerance level, then the State's corrective action activity will be assessed to determine if the anticipated error rate should be further reduced.

Comment—Two States commented that it is unfair to penalize States on the sample estimate (error rates established from sampling rather than enumerating the entire population) alone and suggested that the regulations should mandate the use of trend analysis and other statistically sound methods for predicting error rates.

Response—Our research has shown that trend analyses are not good indicators of future performance and that the point estimate for the most recently completed sample period is a better predictor of the point estimate of the next sample period. We therefore rejected the proposal of using trend analyses.

G. Problems With the Quality Control Review Process

Comment—One State raised the issue of the effect of large dollar cases on the error rate. It believes that the MQC process needs a mechanism to adjust error findings for aberrant situations. On occasion, one or two highly unusual cases with large dollar errors might skew the resulting error rate. Since these figures can result in a significant penalty to a State, there should be a mechanism, other than the proposal for a statistically valid sample, to account for these unusual circumstances.

Response—We do not agree. As pointed out in the State's comment, these cases only appear in the sample on occasion. As such, they properly reflect the fact that erroneous payments are made for high dollar cases that may not appear in other sample periods.

Comment—One State commented that the regulations should stipulate that State and Federal quality control staffs should use the same eligibility verification processes as State eligibility staff.

Response—We are not adopting this suggestion because we believe it would increase, rather than reduce errors. In fact, we believe that the reverse would be more desirable. Eligibility staff should be encouraged to use verification procedures as exhaustive as those used by the quality control staff. This would serve to improve the accuracy of eligibility determinations, which is the primary purpose of the MQC program.

Comment—Eighteen comments were received from or on behalf of States concerning the need for States to receive error rate information on a more timely basis. States commented that one weakness of the Federal quality control system is the delay in reporting actual data until many months after the events which they measure have occurred. The extraordinary length of time, which can and does exist, between the occurrence of errors and the final measurement undermines the ability of States to take timely, cost-effective corrective actions. For example, at the present time, sanctions in Medicaid are being proposed by the Federal government for Federal Fiscal Year 1981, which ended two years ago. Time limits should be established in which a State's final error rate is determined so that corrective action by the State can be taken in a timely and cost-effective manner.

Response—Since calculation of final payment error rates is dependent upon the State's completion and reporting of its own reviews and the completion and reporting by SSA of AFDC–QC sample

data, we cannot establish a firm time frame for completion of the calculation. However, we have amended the final regulations at § 431.803(d)(5) to commit ourselves to making the necessary adjustment in grant awards previously reduced based on anticipated error rates within 30 days of establishing the actual error rate for the particular quarter. The delay in Federal computation of final error rates for disallowance purposes does not preclude States from using initial State data to begin corrective action planning. States are encouraged to use data available to them to initiate actions to reduce erroneous payments and case errors.

Comment—One State expressed concern about its inability to control liability errors. The State found it hard to keep beneficiary liability amounts current where health insurance premiums are involved because premium amounts decrease and increase and policies are begun and terminated before the agencies are able to reflect the changes for eligibility purposes. Regulations in this area will work to cause high error rates in these cases because the status of the premiums is very erratic. The States are eventually going to be damaged if changes are not made in this policy.

Response—We are aware of the difficulties in administering the policy as required under § 435.725 to protect patients' income for noncovered medical expenses. This policy is under review by the Department. However, we will continue to base MQC reviews on the policy currently in place until that policy is revised. In addition, we do allow States to provide in their State plans for the proration of prepaid insurance premiums for the period for which the insurance policy is in effect.

Comment—One State had a question about errors that occur because a beneficiary did not meet his or her liability amount. The State wanted to know if a liability error, which is later adjusted so that there is no payment error, falls in the category of a technical error. These errors, which occur because of processing timing and receive automatic adjustment, do not result in misspent funds.

Response—Claims that are paid in the correct amount or are properly adjusted during the claims processing administrative period do not result in payment errors.

Comment—Two States commented on the quality control process. The States believe that, although the intent of the current quality control system is laudable, the procedures are questionable. There has not been enough emphasis placed on the validity of the quality control process. The whole quality control process should be reevaluated by Federal and State officials before actual disallowances are imposed. As an example, it could be argued that the sample pulled in a State is too small to accurately identify error prone areas in order to take corrective action.

Response—We do not agree that our current quality control procedures are questionable. We believe that the MQC system is strong and is a viable method for determining payment error rates for disallowance purposes. We are, nevertheless, constantly looking for approaches to improve the current system. For example, we are currently testing in one State a methodology of retrospective sampling to determine its effect on system improvement.

With regard to a State's sample size, if a State does not believe its minimum sample size is adequate to identify error prone areas, it may increase its sample size at its discretion as provided in § 431.800(d)(7). FFP is available for the costs of these additional reviews.

H. Good Faith Waivers

Comment—Four States commented on the time frame for submitting good faith waivers. They believe that States should be given at least 65 days (rather than the proposed 30 days) from the receipt of notification of intent to disallow funds to present evidence for good faith waivers. The regulations implementing the Michel amendment's provisions (§ 431.802) allow 65 days, and this time frame should not be reduced in these regulations.

Response—We agree with this comment and have amended the text of these final regulations to reflect the comment.

Comment—Five respondents objected to the restriction of good faith waivers to "extraordinary circumstances."

Response—Section 1903(u)(1)(B) of the Act prescribes that the Secretary may waive, "in certain limited cases," all or part of the reduction required if a State is unable to reach the national standard despite a "good faith" effort. Since the statutory language clearly indicates that waivers should be granted only on a limited basis, we elected to retain the language currently in the regulations at § 431.802 which limits waivers to "extraordinary circumstances."

I. Michel Amendment Disallowances

Comment—Eight States commented on the potential for double penalties because of the overlap of the Michel amendment and the Pub. L. 97–248 provisions. States believe that the regulations should be more specific on this issue. States could be faced with double penalties over the next fiscal year due to the overlap of the Michel amendment and Pub. L. 97–248 provisions. The States argue that since the Pub. L. 97–248 national standard (three percent) is lower than that under the Michel amendment (four percent), the imposition of double sanctions would seem to be unwarranted. They object to the fact that there is no clear detailed discussion in the regulations of this overlap and the potential for double penalties.

Response—The provisions of section 133 of Pub. L. 97–248 replaced the provisions of the Michel amendment for periods after September 30, 1982. This provided for a six-month hiatus period from disallowance provisions before the new provisions took effect in April 1983. Thus, States will be subject to disallowances under Michel through September 30, 1982 and to disallowances under Pub. L. 97–248 for periods after April 1, 1983.

The Michel disallowances are retroactive and reflect the error rates for the periods October 1980–September 1981 and October 1981–September 1982. Pub. L. 97–248 provides for both prospective reductions and retroactive disallowances, both of which are for periods beginning April 1, 1983. Therefore, there is no overlap of periods of disallowance. However, projections of anticipated erroneous payments under Pub. L. 97–248 will be based on Michel period data adjusted for error definitions in Pub. L. 97–248 until data under that law are available.

Comment—Two States questioned the authority on which the disallowance provisions under the Michel amendment are enforced.

Response—The authority for Michel amendment disallowances is section 201 of the Labor-HEW Appropriation Bill for FY 1980 as referenced in the continuing resolution for FY 1980 (Pub. L. 96–123).

J. Other General Comments

Comment—One State identified what it believes was an omission to the regulations. It wanted to know what procedure would be used when a State that has had a previous reduction in FFP reaches a final error rate of *less* than three percent.

Response—The final regulations (§ 431.803(d)(5)) have been clarified to make clear that if, after final error data are available, we determine that the amount withheld on a prospective basis exceeds the actual error rate, an adjustment will be made to the State's grant award within 30 days of the final disallowance calculation. If the State's

actual error rate is less than the anticipated error rate, the State's grant award will be increased accordingly. If the actual error rate remains above three percent, the State may file a good faith waiver request.

Comment—The States question the statutory authority for reducing grant awards for the third quarter of FY 1983 after the beginning of the quarter. The States believe that Pub. L. 97–248 does not give us the authority to reduce the grant awards unless we do so by reducing the initial estimate of expenditures prior to the beginning of the quarter. They believe that penalizing the States at the end of the third quarter was not justified and again has caused unanticipated fiscal difficulties in a number of States. The States believe that the intent of Congress was to institute rules and policies regarding this program *prospectively* and to disallow the Federal funds prospectively. The States should not be penalized because we were unable to promptly publish regulations.

Response—The statute requires that beginning April 1, 1983 *each* quarter's estimate must be adjusted based on the anticipated error rate. Since the interim final regulations were not published until after the issuance of the grant award for the third quarter of FY 1983, in order to meet the statutory requirement, we issued a supplemental grant award under the authority of section 1903(d)(2) of the Act reducing the initial award in the amount of the projected overpayment.

We interpret the statute to require only that we reduce the State's estimate of expenditures prior to the computation of the actual error rate and the subsequent disallowance amount, and not necessarily prior to the beginning of each quarter. The statute requires us to adjust each quarter's grant award. If, as a result of an administrative delay, this does not occur until after the beginning of a quarter, it would thwart congressional intent to allow a State to retain funds that by statutory mandate should have been withheld. Furthermore, our failure to make the reduction prior to the quarter is advantageous to the State rather than causing it any undue harm, because it allows the State to have use of the funds for a longer period of time.

IV. Summary of Changes in the Regulations

A. The definition of technical error in § 431.803(b) is changed to allow errors other than those specifically mentioned in that section to be classified as technical errors upon approval by HCFA.

B. The base period error rate to be used in calculating the anticipated error rate, as specified in § 431.803(d)(1) (previously § 431.803(d)(2)), is changed from the weighted average of the actual error rates of the two most recently completed six-month review periods to the lower of that weighted average or the error rate of the most recently completed six-month review period.

C. Section 431.803(d)(1) (previously § 431.803(d)(2)) is amended to more clearly reflect that all cases for sample periods prior to October 1983, in both the full State sample and the Federal subsample, will be examined to identify those cases with excess resource and technical errors. Those cases will be adjusted to reflect the new error definitions. For periods prior to October 1983, we will identify cases with these errors. Beginning October 1983, these adjustments will be made through the Federal difference resolution process if they are not reflected in the original State findings.

D. We have amended § 431.803(d)(2) (previously § 431.803(d)(3)) to include the criteria that are used by us to assess the effect of States' corrective actions on their anticipated payment error rates.

E. We have amended § 431.803(d)(5) (previously § 431.803(d)(6)) to state that within 30 days after the actual error rate is calculated for a particular quarter, we will increase the State's grant award to the extent that the final disallowance amount is less than the amount previously withheld for that quarter.

F. In § 431.803(e)(1)(i), we have lengthened the time States have for submitting good faith waiver requests from 30 days after date of receipt of notification of the potential disallowance to 65 days from that same date.

G. We have made the following technical changes in these regulations:

- We revised the title of § 431.803 to more clearly state the applicability of that section.
- Language was added to § 431.803(b) to clarify the definition of "erroneous payments."
- The language in §§ 431.803 (b), (c)(2), and (c)(3) was amended to clarify the definition of "State payment error rate." A similar conforming change was made in § 431.804(b).
- We moved § 431.803(d)(1) to § 431.803(c)(1) and renumbered the other paragraphs of those sections accordingly. In addition, we made conforming changes to § 431.803 to take into account this redesignation of Paragraphs (c) and (d).
- We changed the title of § 431.803(d) to more clearly state what the subject of that section is.
- We revised § 431.803(d)(3) (previously § 431.803(d)(4)) to clarify that payments to SSI beneficiaries in section 1634 contract States are not included in the calculation of the quarterly reduction. We also revised that section to clarify that the quarterly reductions are not disallowances and, therefore, are not appealable.
- The term "reduction" replaces the term "withholding" in § 431.803(d)(6) (previously § 431.803(d)(7)).
- The term "national standard" replaces the term "target error rate" in §§ 431.803 (e)(1)(ii), (e)(1)(iii), and (e)(2).
- In § 431.803(e)(2)(v)(A), the date for submittal of the States' annual corrective action plan is changed from July 31 to August 31 to conform with previously published change made to § 431.800(g).
- Sections 431.803 (e)(4) and (e)(5) are redesignated as (e)(3) and (e)(4) to correct a technical error that was made when the interim final regulations were published.
- We made a minor editorial correction to the title of § 431.804.

V. Waiver of 30-Day Delay in Effective Date

The regulations published in the interim final rule were effective on April 1, 1983. Although we have amended those regulations in this **Federal Register** document, the effective date of this final rule will remain as April 1, 1983.

The changes we have made in the regulations at § 431.803 will not result in an increase in any State's quarterly reductions made for the April–June 1983 and July–September 1983 quarters. In fact, these regulations will, for many States, reduce the amount of the reductions made in grants for those quarters.

We would be unable to promptly increase the States' grant awards for past quarters if we were to provide the usual 30-day delay in the effective date. Therefore, we find good cause to waive the delay in the effective date.

VI. Impact Analysis

Executive Order 12291 requires us to prepare and publish a regulatory impact analysis for any regulations that are likely to have an annual effect on the economy of $100 million or more, cause a major increase in costs or prices, or meet other threshold criteria that are specified in the order. In addition, the Regulatory Flexibility Act (Pub. L. 96–354) requires us to prepare and publish a regulatory flexibility analysis for regulations unless the Secretary certifies that the regulations will not have a significant economic impact on a

substantial number of small entities. Under both the Executive Order and the Regulatory Flexibility Act, such analyses must, when prepared, show that the agency issuing the regulations has examined alternatives that might minimize unnecessary burden or otherwise ensure that the regulations are cost-effective.

A. Executive Order 12291

In this final rule, we discuss the interim final regulations, the comments received, our responses, and the changes made in response to those comments. These final regulations provide for disallowance of FFP for the period April 1 through December 31, 1983 to the States whose eligibility payment error rate for Medicaid, as measured by the MQC system, exceeds three percent.

In the interim final regulations implementing section 133 of Pub. L. 97–248 (published on June 24, 1983), we estimated that the regulations would result in withholding of FFP in the amount of $12 million in FY 1983 and $22 million in FY 1984. These estimates reflected the product of the difference between the three-percent national standard and the adjusted error rate, and the amount of the Federal share of the medical assistance expenditures for those States that we anticipate would exceed the three-percent level.

However, we have changed our initial estimate from the interim final regulations to reflect the following changes in the final regulations. First, we have established, at § 431.804, new regulations concerning the disallowance of FFP for excess erroneous State payments that take effect January 1, 1984. Therefore, our current regulations, at § 431.803, will only be effective April 1 through December 31, 1983.

Second, we are using more recent State error rate data in our calculations. These error rates are based on the Pub. L. 97–248 definition of error rates and, for our reestimate of FY 1983 savings, reflect the data from the period April 1981 through March 1982. For our reestimate of FY 1984 savings, our data represent the period from October 1981 through September 1982.

Finally, we have made several methodological refinements in our estimating process. However, these refinements have a negligible effect on the reeestimates.

Therefore, our estimate of savings resulting from these final regulations are:

Fiscal year	Savings (in millions)
1983	$10
1984	8.5

The fiscal year 1983 savings are for the last two quarters of that fiscal year and the fiscal year 1984 savings are for the first quarter of fiscal year 1984 (October 1 through December 31, 1983).

Since these estimates do not meet the $100 million threshold, and as it is the statutory provisions and not these final regulations that result in the estimated savings, we have determined that these final regulations are not a major rule as defined by section 1(b) of the Executive Order.

B. Regulatory Flexibility Analysis

These final regulations implement a congressionally mandated national standard for erroneous payments in the Medicaid program. The regulations affect only State agencies, which do not fall into the category of small governmental jurisdictions as defined by Pub. L. 96–354.

The Secretary certifies, under 5 U.S.C. 605(b) enacted by the Regulatory Flexibility Act, that these regulations will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 42 CFR Part 431

Administrative practice and procedure, Contracts (Agreements), Fair hearings, Federal financial participation, Grant-in-Aid program—health, Health facilities, Health maintenance organizations (HMO), Indians, Information (Disclosure), Medicaid, Mental health centers, Prepaid health plans, Privacy, Quality control, Reporting requirement.

42 CFR Part 431 is amended as set forth below:

PART 431—STATE ORGANIZATION AND GENERAL ADMINISTRATION

1. The authority citation for Part 431 reads as follows:

Authority: Sec. 1102 of the Social Security Act, (42 U.S.C. 1302), unless otherwise noted.

2. The table of contents for Part 431, Subpart P is amended by revising the title of §431.803 to read as follows:

Subpart P—Quality Control

Sec.

* * * * *

431.803 Disallowance of Federal financial participation for erroneous State payments during the period April 1 through December 31, 1983.

* * * * *

3. Section 431.803 is amended by revising the title; revising the definitions of "Erroneous payments", "State payment error rate," and "Technical error" in paragraph (b); redesignating paragraph (d)(1) as paragraph (c)(1) and redesignating paragraphs (c)(1) through (c)(6) as paragraphs (c)(2) through (c)(7); revising redesignated paragraphs (c)(2) and (c)(7), respectively; revising the title of paragraph (d); removing paragraph (d)(1) and redesignating paragraphs (d)(2) through (d)(9) as paragraphs (d)(1) through (d)(8), respectively; revising redesignated paragraphs (d)(1), (d)(2), (d)(3), and (d)(5); revising paragraph (e)(1), the introductory language of paragraph (e)(2), and paragraphs (e)(2)(iv) and (e)(2)(v)(A); and redesignating paragraphs (e)(4) and (e)(5) as (e)(3) and (e)(4) to read as follows:

§ 431.803 Disallowance of Federal financial participation for erroneous State payments during the period April 1 through December 31, 1983.

* * * * *

(b) *Definitions.* For purposes of this section—

* * * * *

"Erroneous payments" means the Medicaid payment that was made for an individual or family under review who—

(1) Was ineligible for the review month or, if full month coverage is not provided, at the time services were received; or

(2) Had not properly met beneficiary liability prior to receiving Medicaid services.

* * * * *

"State payment error rate" means the ratio of erroneous payments for medical assistance to total expenditures for medical assistance (less payments to Supplemental Security Income beneficiaries in section 1634 contract States) for cases under review under the MQC system for each assessment period.

"Technical error" means errors in eligibility conditions that, if corrected, would not result in a difference in the amount of medical assistance paid. These errors include, but are not limited to, Work Incentive Program requirements, assignment of social security numbers, the requirement for a separate Medicaid application, monthly reporting requirements, and assignment of rights to third-party benefits as a condition of eligibility for Medicaid. Errors other than those listed must be

approved by HCFA before they are classified as technical errors.

(c) *Setting the State's payment error rate.*

(1) Each State must, for the April–September 1983 period and for each annual assessment period thereafter, have a payment error rate no greater than 3 percent or be subject to a disallowance in FFP.

(2) A payment error rate for each State is determined by HCFA for the period April-September 1983 and for each annual assessment period thereafter by computing the ratio of erroneous payments for medical assistance made on behalf of individuals or cases in the sample for services received during the review month to total expenditures for medical assistance made on behalf of individuals or cases in the sample for services received during the review month under the State plan in effect at the time of review. This ratio incorporates the findings of a federally re-reviewed subsample of the State's review findings and is projected to the universe of total medical assistance payments for a particular quarter in order to calculate the amount of disallowance, if any, under paragraph (d)(7) of this section.

(3) The State's payment error rate does not include payments made on behalf of individuals whose eligibility determinations were made exclusively by the Social Security Administration under an agreement under section 1634 of the Act.

(4) The amount of erroneous payments is determined as follows:

(i) For ineligible cases resulting from excess resources, the amount of error is the lesser of—

(A) The amount of the payments made on behalf of the family or individual for the review month; or

(B) The difference between the actual amount of countable resources of the family or individual for the review month and the State's applicable resource standard in the approved State plan.

(ii) For ineligible cases resulting from other than excess resources, the amount of error is the total amount of medical assistance payments made for the individual or family under review for the review month.

(iii) For erroneous payments resulting from failure to properly meet beneficiary liability, the amount of error is the lesser of—

(A) The amount of payments made on behalf of the family or individual for the review month; or

(B) The difference between the correct amount of beneficiary liability and the amount of beneficiary liability met by the individual or family for the review month.

(5) In determining the amount of erroneous payments, errors caused by technical errors are not included.

(6) If a State fails to cooperate in completing a valid MQC sample or individual reviews in a timely and appropriate fashion as required, HCFA will establish the State's payment error rate based on either—

(i) A special sample or audit;

(ii) The Federal subsample; or

(iii) Other arrangements as the Administrator may prescribe.

(7) When it is necessary for HCFA to exercise the authority in paragraph (c)(6) of this section, the amount that would otherwise be payable to the State under title XIX of the Act is reduced by the full costs incurred by HCFA in making these determinations. HCFA may make these determinations either directly or under contractual or other arrangements.

(d) *Computation of anticipated error rate.*

(1) Before the beginning of each quarter, HCFA will project the anticipated State payment error rate for each State for that quarter. The anticipated error rate is based on the lower of the weighted average of the actual error rates for the two most recent 6-month review periods or the actual error rate of the most recently completed 6-month review period. In either case, the review period must have been completed by both the State and HCFA. Adjustments for the amount of erroneous payments due to excess resources and for technical errors will be made for all cases in the State and Federal samples for periods prior to October 1, 1983. Beginning with the October 1983–March 1984 sample period, these adjustments will be made only through the Federal difference resolution process if they are not reflected in the original State findings. If a State fails to provide HCFA with information needed to project an anticipated payment error rate, HCFA will assign the State an error rate as prescribed in paragraph (c)(6) of this section.

(2) The anticipated payment error rate established in paragraph (d)(1) of this section will then be adjusted by HCFA up to 25 percent based on the effect anticipated by HCFA of corrective action implemented by the State and a final anticipated payment error rate will be established by the Administrator. The following criteria will be used in assessing the effect of corrective action on the anticipated payment error rate:

(i) The State's correct identification of the major causes of errors.

(ii) The State's development of corrective actions designed to address the error causes identified by the State.

(iii) The State's implementation of the planned corrective actions.

(iv) The State's evaluation of whether or not corrective actions reduced the State's error rate.

(3) Based on the anticipated error rate established in paragraphs (d)(1) and (d)(2) of this section, HCFA will reduce the State's estimate of its FFP requirements for FFP for medical assistance for the quarter by the percentage by which the anticipated payment error rate exceeds the 3-percent national standard. This reduction will be applied against the State's total estimate of FFP for medical assistance expenditures (less payments to Supplemental Security Income beneficiaries in section 1634 contract States) prior to any other required reductions. The reduction will be noted on the State's grant award for the quarter and does not constitute a disallowance. The reduction, therefore, is not appealable.

(4) After the end of each quarter, an adjustment to the reduction will be made based on the State's actual expenditures.

(5) After the actual payment error rate has been established for an assessment period, HCFA will compute the actual amount of the disallowance and adjust the FFP payable to each State based on the difference between the amounts previously withheld for each of the quarters during the appropriate assessment period and the amount that should have been withheld based on the State's actual final error rate. Within 30 days after the actual error rate is calculated for a particular quarter, HCFA will increase the State's grant award to the extent that the final disallowance amount is less than the amount previously withheld for that quarter.

(6) HCFA will compute the amount to be withheld or disallowed as follows:

(i) Subtract the 3-percent national standard from the State's anticipated or actual payment error rate percentage.

(ii) If the difference is greater than zero, the Federal medical assistance funds for the period, excluding payments for those individuals whose eligibility for Medicaid was determined exclusively or in part by the Social Security Administration under a section 1634 agreement, are multiplied by that percentage. This product is the amount of the disallowance or reduction.

(7) A State's payment error rate for an annual assessment period is the sum of the weighted average of the payment error rates in the two 6-month review periods.

(8) The weights are established as the percent of the total annual payments that occur in each of the 6-month periods.

* * * * *

(e) *Notice of States and showing of good faith.*

(1) When the actual payment error rate data are finalized for the April–September 1983 assessment period and each annual assessment period thereafter, HCFA will establish each State's error rate and the amount of any disallowance. States that have error rates above the national standard will be notified by letter of their error rates and the amount of the potential disallowance.

(i) The State has 65 days from the date of receipt of this notification to show that this disallowance should not be made because it made a good faith effort to meet the national standard.

(ii) The Administrator finds that the State did not meet the national standard despite a good faith effort, HCFA will reduce the disallowance in whole, or in part, as the Administrator finds appropriate under the circumstances shown by the State.

(iii) A finding that a State did not meet the national standard despite a good faith effort will be limited to extraordinary circumstances.

(iv) The decision of the Administrator will be communicated to the State by letter.

(2) Some examples of circumstances under which the Administrator may find that a State did not meet the national standard despite a good faith effort are—

(i) * * *

(iv) State actions resulting from incorrect written policy interpretations to the State by a Federal official reasonably assumed to be in a position to provide that interpretation; and

(v) The State timely developed and implemented a corrective action plan which the Administrator finds to be reasonably designed to meet the national standard, but the national standard was not achieved. In evaluating whether the State made a good faith effort in these circumstances, the Administrator will consider the following factors:

(A) Submittal of annual corrective action plans to the HCFA Regional Office by August 31 of each year with revisions to the plan made within 60 days of identification of additional error prone areas, other significant changes in the error rate, or changes in planned corrective action.

* * * * *

(3) The failure of a State to act upon necessary legislative changes or to obtain budget authorization for needed resources is not a ground for a waiver.

(4) A State may request reconsideration of a disallowance under this section in accordance with the procedures specified in 45 CFR Part 16.

4. Section 431.804 is amended by revising the title and the definition of "State payment error rate" in paragraph (b) to read as follows:

§ 431.804 Disallowance of Federal financial participation for erroneous State payments (effective January 1, 1984).

* * * * *

(b) *Definitions.* For purposes of this section—

* * * * *

"State payment error rate" means the ratio of erroneous payments for medical assistance to total expenditures for medical assistance (less payments to Supplemental Security Income beneficiaries in section 1634 contract States) for cases under review under the MQC system for each assessment period.

* * * * *

(Catalog of Federal Domestic Assistance Program No. 13.714, Medical Assistance Program)

Dated: January 8, 1984.

Carolyne K. Davis,

Administrator, Health Care Financing Administration.

Approved: January 16, 1984.

Margaret M. Heckler,

Secretary.

[FR Doc. 84-3411 Filed 2-7-84; 8:45 am]

BILLING CODE 4120-03-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Parts 59, 60, 61, 62, 64, 65, 66, 67, 70, 75, and 77

Changes in Assignments of Officials in FEMA Regulations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Final rule.

SUMMARY: This document changes numerous references in FEMA regulations from the Associate Director, State and Local Programs and Support, FEMA (called the Associate Director) to references to the Federal Insurance Administrator. The change is needed because the activities described in the regulations are now, as a result of a recent transfer of functions, being performed by the Administrator.

EFFECTIVE DATE: February 8, 1984.

FOR FURTHER INFORMATION CONTACT: William L. Harding, Office of General Counsel, FEMA, 500 C Street SW., Washington, D.C. 20472, (202) 287–0377.

SUPPLEMENTARY INFORMATION: This regulation makes changes needed to reflect new organizational assignments within FEMA. It relates to internal management and, thus, is not a subject to Executive Order 12291 and the Regulatory Flexibility Act. It is categorically excluded from environmental requirements of 44 CFR Part 10. It is not substantive rule. Thus, notice and public comment are unnecessary and the rule can be made effective immediately. There is no information collection involved.

List of Subjects

44 CFR Part 59

Flood insurance, Floodplains.

44 CFR Part 60

Flood insurance, Floodplains.

44 CFR Part 61

Flood insurance.

44 CFR Part 62

Flood insurance.

44 CFR Part 64

Flood insurance.

44 CFR Part 65

Flood insurance.

44 CFR Part 66

Flood insurance, Floodplains, Intergovernmental relations.

44 CFR Part 67

Flood insurance, Floodplains.

44 CFR Part 70

Flood insurance, Floodplains.

44 CFR Part 75

Flood insurance, Floodplains.

44 CFR Part 77

Flood insurance, Floodplains, Grant programs/environmental protection.

Accordingly, Subchapter B, Chapter I of Title 44, Code of Federal Regulations, is amended as follows:

PART 59—GENERAL PROVISIONS

§§ 59.1, 59.2, 59.22, and 59.24 [Amended]

1. 44 CFR Part 59 is amended by removing the title "Associate Director"

and adding the title "Administrator" in place thereof in the following sections:

Sections 59.1 in definition of "Eligible Community", "Flood elevation determination", "Flood Hazard Boundary Map", "Flood Insurance Rate Map", "Participating Community", "Project Cost", "Regular Program", and "States Coordinating Agency" 59.2(a), 59.2(b), 59.22(a)(9) (i) and (v), 59.22(b)(2), 59.24(a) (9 times), 59.24(b) (6 times).

2. Section 59.22(a)(9)(ii) is amended by removing the words "and the Associate Director."

PART 60—CRITERIA FOR LAND MANAGEMENT AND USE

§§ 60.1–60.6, 60.11, 60.13 and 60.25 [Amended]

3. 44 CFR Part 60 is amended by removing the title "Associate Director" and adding the title "Administrator" in place thereof in the following sections: §§ 60.1(a), 60.1(b), 60.2(a) (2 times), 60.2(f), 60.2(h) (2 times), 60.3 introductory text (5 times), 60.3(a), 60.3(b), 60.3(b)(4), 60.3(b)(6), 60.3(c), 60.3(c)(2), 60.3(c)(4), 60.3(d), 60.3(e), 60.4 introductory text (5 times), 60.4(a), 60.4(b), 60.4(b)(2), 60.5 introductory text (5 times), 60.5(a), 60.5(b), 60.5(b)(2), 60.6(a) (3 times), 60.6(a)(6), 60.6(b)(1) (2 times), 60.6(b)(2), 60.6(b)(3), 60.6(b)(4), 60.11(a), 60.11(b) (first time only), 60.13, 60.25(a)(4), 60.25(b).

4. Section 60.25(a)(17) is amended by removing the words "and the Associate Director".

PART 61—INSURANCE COVERAGE AND RATES

§§ 61.1, 61.9 and 61.12 [Amended]

5. Section 61.1 is amended by removing the title "Associate Director, State and Local Programs and Support" and adding "Administrative" in place thereof.

6. 44 CFR Part 61 is amended by removing the title "Associate Director, State and Local Programs and Support" and adding the title "Administrator" in § 61.9.

7. 44 CFR Part 61 is amended by removing the title "Associate Director" and adding the title "Administrator" in place thereof in the following sections:

§§ 61.12(a), 61.12(b), 61.12(c), 61.12(d), 61.12(e), and 61.12(f).

8. Section 61.12(c) is amended by removing the words "Engineering Branch, Office of Natural and Technological Hazards, Office of State and Local Programs and Support" and adding in its place the words "Risk Studies Division, Office of Risk Assessment, Federal Insurance Administration."

PART 62—SALE OF INSURANCE AND ADJUSTMENT OF CLAIMS

§§ 62.3 and 62.4 [Amended]

9. 44 CFR Part 62 is amended by removing the title "Associate Director" where it appears in § 62.3(a), and in § 62.4(a) and adding the title "Administrator" in place thereof.

PART 64—COMMUNITIES ELIGIBLE FOR THE SALE OF INSURANCE

§§ 64.1, 64.3, 64.4, and 64.5 [Amended]

10. Section 64.1(a) is amended by removing the title "Associate Director, State and Local Programs and Support" and adding the title "Administrator" in place thereof.

11. 44 CFR Part 64 is amended by removing the title "Associate Director" and adding the title "Administrator" in its place in the following sections: 64.1(b), 64.3(a), 64.3(a)(2), 64.3(c)(1), 64.4(b), 64.4(c), 64.4(d), 64.5(a) (2 times).

PART 65—IDENTIFICATION AND MAPPING OF SPECIAL HAZARD AREAS

§ 65.3 [Amended]

12. 44 CFR Part 65 is amended by removing the title "Associate Director" and adding the title "Administrator" in its place in the following sections: § §65.3, 65.3(a), 65.3(a)(2), 65.3(c).

13. Section 65.3(b) is amended by removing the words "Engineering Branch, National Hazards Division, Office of Natural and Technological Hazards," and adding "Risk Studies Division, Office of Risk Assessment, Federal Insurance Administration" in its place thereof.

PART 66—CONSULTATION WITH LOCAL OFFICIALS

§§ 66.1, 66.3, 66.4, and 66.5 [Amended]

14. 44 CFR Part 66 is amended by removing the title "Associate Director" and adding the title "Administrator" in its place in the following sections: §§ 661.(c), 66:1(c)(3), 66.3(a), 66.3(b), 66.4 (3 times), 66.5(b).

15. 44 CFR Part 66 is amended by removing the title "Associate Director's" and adding the title "Administrator's" in its place in § 66.3(b).

16. Section 66.4(a) is amended by removing the words "for State and Local Programs and Support (Associate Director)".

PART 67—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

§§ 67.3, 67.4, 67.6–67.9 and 67.12 [Amended]

17. 44 CFR Part 67 is amended by removing the title "Associate Director"and adding the title "Administrator" in its place in the following sections: § §67.3 introductory text, 67.3(e), 67.3(f), 67.4 introductory text, 67.7(b), 67.7(d), 67.8(a), 67.8(b), 67.8(c), 67.8(e), 67.9(a), 67.12(a).

§§ 67.5, 67.7 and 67.11 [Amended]

18. 44 CFR Part 67 is amended by removing the possessive form of the title "Associate Director's" and adding the possessive form of the title "Administrator's" in place thereof in the following sections: § §67.5 (2 times), 67.7(a) (2 times), 67.7(d), 67.11.

PART 70—PROCEDURE FOR MAP CORRECTION

§§ 70.1 and 70.3–70.7 [Amended]

19. 44 CFR Part 70 is amended by removing the title "Associate Director"and adding the title "Administrator" in its place in the following sections: § §70.1, 70.3(a), 70.4, 70.5, 70.6(a), 70.7(a).

20. Section. 70.7(a) is amended by removing the words for "State and Local Programs and Support".

PART 75 —EXEMPTION OF STATE-OWNED PROPERTIES UNDER SELF INSURANCE PLAN

§§ 75.1, 75.10, 75.11 and 75.13 [Amended]

21. 44 CFR Part 75 is amended by removing the words "State and Local Director"and adding "Administrator" in place thereof in the following sections: §§ 75.1, 75.10, 75.11(a) (2 times) and 75.13(c).

PART 77—ACQUISITION OF FLOOD DAMAGED STRUCTURES

§§ 77.1 and 77.2 [Amended]

22. 44 CFR Part 77 is amended by removing the title "Associate Director"and adding in its place "Administrator" in the following sections: § §77.1(b), 77.2(b), 77.2(b)(1), 77.2(b)(4), 77.2(b)(5), 77.2(d)(1) (2 times).

23. Section 77.2(d)(3) is amended by removing the title "Director" and "Director's" and adding "Administrator" and "Administrator's" in place thereof.

Authority: Reorganization Plan No. 3 of 1978, Executive Order 12127.

Dated: February 1, 1984.

Louis O. Giuffrida,

Director.

[FR Doc. 84-3353 Filed 2-7-84; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 67

Letter Regarding Interpretation of the Jurisdictional Separations Manual

AGENCY: Federal Communications Commission.

ACTION: Interpretation letter.

SUMMARY: Under delegated authority the Common Carrier Bureau in response to a request by Southwestern Bell has provided an interpretation of the FCC–NARUC Jurisdictional Separations Manual, Part 67 of the FCC Rules and Regulations. The issue concerns the updating of Operator Work Time by periodic studies for use as a basis for apportioning costs in state/interstate separations.

FOR FURTHER INFORMATION CONTACT: Michael E. Wilson, Audits Branch, Common Carrier Bureau, Federal Communications Commission, Washington, D.C. 20554, Telephone No. (202) 634–1965.

William J. Tricarico,

Secretary, Federal Communications Commission.

January 31, 1984.

Mr. D. D. Dupre,
General Attorney,
Southwestern Bell,
1111 West Capitol Avenue,
Little Rock, Arkansas 72203

Dear Mr. Dupre: This is in response to your letter of December 8, 1983, to Jack Smith requesting an interpretation of the *Jurisdictional Separations Manual (Manual)* concerning the updating of Operator Work Time (OWT) studies. The basic issue is whether an update to OWT is a proper implementation of the *Manual* procedures or whether OWT was frozen in 1970, requiring regulatory approval for use of updated studies for separations.

In the *Manual* under Section 11.2, Fundamental Principles Underlying Procedures, Paragraph 11.212, is the following statement:

> In the development of "actual use" measurements, measurements of use are: (1) Determined for telephone plant or for work performed by operating forces on a unit basis (e.g., conversation-minute-mile per message, traffic units per call) in studies of traffic handled or work performed during a representative period* * *.

It is our interpretation that the performance of regular studies to update OWT is consistent with the general principle of representativeness, as expressed in the above citation, and therefore is a proper implementation of *Manual* requirements. Consistent with this interpretation and with the provision in Paragraph 11.211 requiring that separations be "made on the 'actual use' basis, which gives consideration to relative occupancy and relative time measurements," it is our opinion that OWT was not frozen in 1970. Such a freeze would be arbitrary and contrary to providing proper consideration to relative occupancy and time. Accordingly, updated studies of OWT are required to assure representativeness. And, use of such studies for separations is required to provide conformance with the "actual use" principle and does not routinely require a Joint Board or FCC hearing for approval—though, of course, the studies are always subject to FCC oversight.

If you have any questions concerning this response, please contact Michael Wilson, Chief, Audits Branch, on (202) 634–1965.

Sincerely,

Gerald P. Vaughan,

Chief, Accounting and Audits Division

[FR Doc. 84-3346 Filed 2-7-84; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 83-738; RM-4457]

FM Broadcast Station in Silverton, Colorado; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Action taken herein assigns Class C Channel 297 to Silverton, Colorado, as that community's third FM broadcast service, in response to a petition filed by Patsy Jensen.

EFFECTIVE DATE: April 2, 1984.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Nancy V. Joyner, Mass Media Bureau (202) 634–6530.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations (Silverton, Colorado); MM Docket No. 83–738, RM–4457.

Report and Order (Proceeding Terminated)

Adopted: January 13, 1984.
Released: January 27, 1984.

By the Chief, Policy and Rules Division.

1. The Commission herein considers the *Notice of Proposed Rule Making*, 48 FR 36169, proposing the assignment of Class C Channel 297 to Silverton, Colorado, as that community's third FM broadcast service,[1] in response to a petition filed by Patsy Jensen ("petitioner"). Supporting comments were filed by petitioner in which she reaffirmed her intention to file for the channel, if assigned. No oppositions to the proposal were received.

2. In view of the expressed interest in the allocation of Channel 297 to Silverton, Colorado, and the fact that the proposed assignment could provide a third FM broadcast service to that community, the Commission believes that the public interest would be served by a grant thereof.

3. As indicated in the *Notice*, Class C Channel 297 can be assigned to Silverton in conformity with the minimum distance separation requirements of § 73.207 of the Commission's Rules.

4. Accordingly, pursuant to the authority contained in §§ 4(i), 5(c)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is ordered, That effective April 2, 1984, the FM Table of Assignments, § 73.202(b) of the Commission's Rules, is amended with respect to the community listed below, as follows:

City	Channel No.
Silverton, Colo.	257A, 280A, and 297.

5. It is further ordered, That this proceeding is terminated.

6. For further information concerning the above, contact Nancy V. Joyner, Mass Media Bureau (202) 634–6530.

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 84-3342 Filed 2-7-84; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 81-737; RM-3882]

FM Broadcast Stations in Montevideo, Olivia, and Ortonville, Minnesota; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

[1] A petition has been filed by Longhorn Communications, Inc., licensee of FM Station KDRW (Channel 280A) Silverton, requesting the substitution of Class C Channel 297 for Channel 280A, and modification of its license to specify operation on the Class C Channel (see MM Docket 83-1131, 48 FR 50575, published November 2, 1983).

ACTION: Final rule.

SUMMARY: Action taken herein denies a petition for reconsideration, filed by Tri-State Broadcasting Company, of our previous action assigning Class C Channel 268 to Ortonville, Minnesota, as that community's second FM broadcast service.

EFFECTIVE DATE: April 2, 1984.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Nancy V. Joyner, Mass Media Bureau, (202) 634–6530.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Memorandum Opinion and Order (Proceeding Terminated)

In the Matter of amendment of § 73.202(b), Table of Assignments, FR Broadcast Stations (Montevideo, Olivia, and *Ortonville*, Minnesota); BC Docket No. 81–737, RM–3882.

Adopted: January 17, 1984.
Released: January 27, 1984.

By the Chief, Policy and Rules Division.

1. Before the Commission is a petition for reconsideration [1] filed by Tri-State Broadcasting Company [2] ("Tri-State"), of the *Report and Order*, 47 FR 30989, published July 16, 1982, assigning Class C Channel 268 to Ortonville, Minnesota, as that community's second FM broadcast service. An opposition to the petition was filed by CGN Corporation ("CGN"), the initiating proponent.

2. In its petition, Tri-State opposed the assignment of Channel 268 to Ortonville because it argues that the basis for the assignment has been rendered invalid by succeeding vents. Specifically, it alleges that the degree of first and second FM or aural services to be provided by the Class C assignment to Ortonville may be significantly reduced, or, in fact, eliminated in view of the recent assignments of FM channels to Sisseton, South Dakota, and Breckenridge, Minnesota. Moreover, Tri-State notes that although the *Report and Order* herein indicated that the assignment would provide a first FM service to 6,600 persons and a second service to 1,700 persons, the Commission also recognized that the assignment of Channels 257A and 275 to Sisseton [3] would reduce the degree of such service since the respective contours overlap. Even so, it notes, the Commission found that the assignment would still provide service to a substantial number of persons unserved by existing stations which the Class A assignment at Ortonville could not reach.

3. Tri-State also claims that the Commission's subsequent action on a proposal to assign Class C Channel 286 to Breckenridge, Minnesota,[4] would provide service to the remaining persons previously unserved. Thus, Tri-State asserts that, in view of the foregoing factors, the Ortonville assignment of Class C Channel 268 should be clarified to determine whether, in fact, it could now provide coverage to any white or grey areas.

4. In opposition , CGN claims that Tri-State has presented no new facts to alter the commission's decision, but rather is merely attempting to detract from its showing of service to sparsely served areas by the inclusion of other recent nearby assignments. Therefore, having failed to produce any previously unknown facts, as required by § 1.429(b) of the Commission's Rules, CGN urges denial of the petition to permit prompt consideration of its application to provide service to the residents of Ortonville and surrounding underserved areas.

5. The question of whether or not the Ortonville assignment would provide coverage to previously unserved and underserved areas was correctly treated at the time of the *Report and Order*. The Sisseton assignment was considered in the Commission's computation of first and second FM service. The Commission found that service to substantial unserved and underserved areas could be provided. Thus, in that regard no error has been shown. As for the Breckenridge proposal, the Commission does not generally take into consideration the impact of proposed assignments in *Roanoke Rapids* showings. See paragraph 20 of the *Report and Order* in this proceeding. Nevertheless, the Breckenridge assignment does not significantly diminish the first and second FM service to substantial underserved areas. This fact alone would be sufficient to reaffirm the decision.

6. However, the Commission, in the *Second Report and Order* in BC Docket No. 80–130, *Revision of FM Assignment Policies and Procedures*, 90 F.C.C. 2d 88 (1982), simplified the assignment priorities by eliminating many previously imposed standards. In that proceeding, the Commission determined, *inter alia*, that the necessity to demonstrate service to previously unserved or underserved areas in order to justify a Class C assignment would no longer be required in nonconflicting situations. Therefore, we need not consider this factor in reaffirming the need for this new channel assignment.

7. In view of the above findings, and since the Ortonville assignment could provide service to substantial unserved and underserved areas, the petition for reconsideration filed by Tri-State is lacking in merit. Therefore, we reaffirm our previous decision to assign Class C Channel 268 to Ortonville, Minnesota.

8. Accordingly, it is ordered, That the petition for reconsideration filed by Tri-State Broadcasting Company, is denied.

9. It is further ordered, That this proceeding is terminated.

10. For further information concerning the above, contact Nancy V. Joyner, Mass Media Bureau (202) 634–6530.

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 84–3345 Filed 2–7–84; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 73

[MM Docket No. 83–480; RM–4366]

FM Broadcast Stations Baraga and Marquette, Michigan; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action assigns Class C Channel 282 to Baraga, Michigan, in response to a petition filed by Keweenaw Bay Tribal Center. The assignment could provide for a first FM service to Baraga.

EFFECTIVE DATE: April 2, 1984.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Montrose H. Tyree, Mass Media Bureau, (202) 634–6530.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Report and Order (Proceeding Terminated)

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations (Baraga and Marquette,[1] Michigan); MM Docket No. 83–480; RM–4386, RM–4463.

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[1] Public Notice of the petition was given August 25, 1982, Report No. 1373.

[2] Tri-.State has been issued a construction permit for FM Station KBAA (Channel 292A) in Ortonville (File No. 811209AL).

[3] See BC Docket No. 82–4, 47 FR 24577, published June 7, 1982.

[4] BC Docket No. 82–241, 47 FR 37896, published August 27, 1982.

[1] This community has been added to the caption.

Adopted: January 6, 1984.
Released: January 27, 1984.
By the Chief, Policy and Rules Division.

1. In response to a petition filed by Keweenaw Bay Tribal Center ("petitioner"), the Commission adopted a *Notice of Proposed Rule Making*, 48 FR 27573, published June 16, 1983, proposing to assign Class C Channel 278 to Baraga, Michigan. Comments were filed by the petitioner restating its intention to apply for the channel, if assigned. In response to the *Notice* counterproposals were filed by Stereo 100, Inc. and by David C. Schaberg,[2] to which petitioner responded.

2. Stereo 100, Inc.'s counterproposal requests the assignment of Channel 277 to Marquette, Michigan. This proposal is also a counterproposal to MM Docket 83-486 in which Channel 277 has been proposed for Negaunne, Michigan. Here we have determined that Channel 282 can be used at Baraga without a site restriction and thus avoid the conflict with the Marquette proposal. The Marquette proposal will be treated in MM Docket 83-468.

3. In his counterproposal Schaberg suggested that Channel 288A be assigned to L'Anse, Michigan. Schaberg claims that L'Anse is only three miles from Baraga and could provide coverage for most of Baraga County. In response, the petitioner argues that it is in total disagreement with the L'Anse proposal. We have instituted a separate proceeding (RM-4495) to consider assigning Channel 288A to L'Anse, Michigan, since no conflict exists with the Baraga proposal.

4. Canadian concurrence has been obtained in the assignment of Channel 282 to Baraga, Michigan.

5. In view of the apparent need for a first FM assignment the Commission believes that the public interest would be served by adopting the proposal. The petitioner has indicated its interest in operating a Class C facility at Baraga.

6. Accordingly, pursuant to the authority contained in §§ 4(i), 5(c)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is ordered, That effective April 2, 1984, the FM Table of Assignments, § 73.202(b) of the Rules, is amended with regard to the following community:

City	Channel No.
Baraga, Mich	282

7. It is further ordered, That this proceeding is terminated.

8. For further information concerning this proceeding, contact Montrose H. Tyree, Mass Media Bureau, (202) 634-6530.

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 84-3343 Filed 2-7-84; 8:45 am]

BILLING CODE 6712-01-M

[2] Public Notice of the counterproposal was given on June 2, 1983.

47 CFR Part 73

[MM Docket No. 83-470; RM-4299]

TV Broadcast Station Nashville, Tennessee; Changes Made in Table of Assignments

AGENCY: Federal Communication Commission.

ACTION: Final rule.

SUMMARY: Action taken herein assigns UHF television Channel 58 to Nashville, Tennessee, as that community's eighth television broadcast service, in response to a request filed by David Allen Crabtree.

EFFECTIVE DATE: April 2, 1984.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Nancy V. Joyner, Mass Media Bureau, (202) 634-6530.

List of Subjects in 47 CFR Part 73

Television broadcasting.

Report and Order (Proceeding Terminated)

In the matter of amendment of § 73.606(b), Table of Assignments, TV Broadcast Stations (Nashville, Tennessee), MM Docket No. 83-470, RM-4299.

Adopted: January 20, 1984.
Released: January 27, 1984.
By the Chief, Policy and Rules Division.

1. Before the Commission for consideration is the *Notice of Proposed Rule Making*, 48 FR 26468, published June 8, 1983, a issued in response to a request by David Allen Crabtree ("petitioner"), proposing the assignment of UHF television Channel 58 to Nashville, Tennessee, as that community's eighth television broadcast service. Supporting comments were filed by the petitioner reaffirming his intention to apply for the channel, if assigned. No oppositions to the proposal were received.

2. Nashville (population 455,651),[1] the seat of Davidson County (population 477,811), and the capital of Tennessee, is located in the north central part of the State. Currently, Nashville is served by commercial television Stations WNGE-(TV) (Channel 2), WSMV (TV) (Channel 4), WTVF (TV) (Channel 5), WZTV (TV) (Channel 17), and WCAY-TV (Channel 30). Additionally, it is served by noncommercial educational television Station WDCN (TV) (Channel *8), as well as Channel *42 (vacant and unapplied for).

3. We believe the public interest would be served by assigning UHF television Channel 58 to Nashville, Tennessee, since it could provide an eighth television broadcast service to that community. As explained in the *Notice*, the assignment herein can be made in conformity with the minimum distance separation requirements of §§ 73.610 and 73.698 of the Commission's Rules, provided the transmitter is located 1.2 miles southeast of Nashville to avoid short spacing to a construction permit on Channel 51 in Hopkinsville, Kentucky.

4. Accordingly, pursuant to the authority contained in sections 4(i), 5(c)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is ordered, That effective April 2, 1984, the Television Table of Assignments, § 73.606(b) of the Commission's Rules, is amended with respect to the community listed below, as follows:

City	Channel No.
Nashville, Tenn	2-, 4+, 5, *8+, 17+, 30+, *42, and 58.

5. It is further ordered, That this proceeding is terminated.

6. For further information concerning the above, contact Nancy V. Joyner, Mass Media Bureau, (202) 634-6530.

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division Mass Media Bureau.

[FR Doc. 84-3344 Filed 2-7-84; 8:45 am]

BILLING CODE 6712-01-M

[1] Population figures were extracted from the 1980 U.S. Census.

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 574

[Docket No. 70-12; Notice 25]

Tire Identification and Recordkeeping

AGENCY: National Highway Traffic Safety Administration (NHTSA), Transportation.

ACTION: Final rule.

SUMMARY: This final rule sets forth the requirements relating to the registration of new tires sold by independent dealers and distributors. Recording the names and addresses of the first purchasers and transmitting this information to the manufacturers will make it possible for those purchasers to be contacted in the event that the tires are recalled by the manufacturers for safety reasons. These requirements supersede those contained in the interim final rule on this subject published in the May 19, 1983 edition of the **Federal Register**.

This rule primarily clarifies some aspects of the provisions of the interim final rule concerning the tire registration form to be provided by the tire manufacturers to the independent dealers. These changes, which were made to maximize the registration of tires sold through independent dealers, are as follows—

(1) The size of the registration form to be given to the consumer by independent dealers has been reduced, so that only a 13 cent postcard stamp need be affixed to the registration form. The interim final rule had specified that a first class mail sized card be used for the registration form. This change was made to minimize the costs for consumers to register their tires.

(2) The statement in the upper left corner of that registration form, informing the tire purchaser of the importance of completing and returning the form, has been modified so as to be more comprehensible and more effective at motivating the purchaser to register his or her tires.

(3) Instructions to the tire purchaser have been added, so that the purchaser will print instead of write his or her name on the registration form.

(4) That portion of the registration form which is to be filled in by the independent dealer (i.e., the portion for filling in suitable identification of the dealer and the tire identification number(s) of the tire(s) sold) must be shaded with a 10 percent screen tint. This change was made to emphasize to the tire purchaser the limited amount of information which the purchaser must fill in to register his or her tires.

EFFECTIVE DATE: The changes made by this notice become effective March 26, 1984. As of that date, the tire manufacturers will be required to provide registration forms in compliance with this rule, and they must cease their distribution of the forms specified by the interim final rule. Independent dealers may continue to use the forms specified by that rule until their existing supplies of that form are exhausted or until April 1, 1984, whichever comes first.

ADDRESS: Petitions for reconsideration may be submitted within 30 days after publication of this notice in the **Federal Register** to: Administrator, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, D.C. 20590.

FOR FURTHER INFORMATION CONTACT: Arturo Casanova, Office of Vehicle Safety Standards, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, D.C. (202-426-1715).

SUPPLEMENTARY INFORMATION:

Background

Motor Vehicle Safety and Cost Savings Authorization Act of 1982

The Motor Vehicle Safety and Cost Savings Authorization Act of 1982 (hereinafter referred to as "the Authorization Act") amended the National Traffic and Motor Vehicle Safety Act of 1966 (hereinafter referred to as "the Safety Act") by requiring this agency to change its tire registration requirements insofar as they applied to independent tire dealers and distributors. (This class of dealers and distributors is defined below.) These requirements are set forth in 49 CFR Part 574, *Tire Identification and Recordkeeping*. Before the Authorization Act became effective, Part 574 required all tire dealers and distributors to comply with the mandatory registration system. Under that system, dealers and distributors were required to record certain information (i.e., the tire purchaser's name and address, seller's name and address, and the identification number(s) of the tire(s) sold) on a registration form and send the completed form to the tire manufacturer or the brand name owner (hereinafter collectively referred to as "tire manufacturers") or a designee of the tire manufacturer.

The tire registration requirements were adopted pursuant to requirements in the Safety Act intended to ensure that tire purchasers could be notified if their tires are recalled for safety reasons, either because they contain a safety related defect or because they do not comply with an applicable safety standard. The purchasers of unregistered tires would not be directly notified in those instances and would instead unknowingly continue to drive on unsafe tires.

On examining the rate of tire registration, Congress found a substantial difference between the rates for tires sold by independent dealers (dealers and distributors whose business is not owned or controlled by a tire manufacturer) and those sold by nonindependent dealers (dealers and distributors whose business is owned or controlled by a tire manufacturer). Independent dealers, who handle slightly less than half of the replacement tires sold annually, registered about 20 percent of the tires they sold. Non-independent dealers, whose sales account for the balance of annual replacement tire sales, registered between 80 and 90 percent of their tires.

Given the importance of tire registration to safety, Congress determined that an alternative method of registration should be instituted for tires sold by independent dealers. Accordingly, it included provisions in the Authorization Act prohibiting the Secretary of Transportation from requiring independent dealers to comply with the mandatory registration requirements. (In view of the high rate of registration of tires sold by non-independent dealers, Congress did not mandate any change in the application of the mandatory registration requirements to those dealers.) The prohibition regarding independent dealers was self-executing (i.e., its effectiveness was not conditioned on any prior rulemaking or other implementing action by this agency) and became effective on the date that the Authorization Act became law, October 15, 1982.

In lieu of requiring independent dealers to comply with the mandatory registration process, Congress directed that they comply with a voluntary registration process to be established by the Secretary. Under the voluntary process, the primary responsibility for registering tires sold by independent dealers is borne by the purchaser instead of the dealer. NHTSA is mandated by the Safety Act, as amended by the Authorization Act, to require that independent dealers (1) fill in the tire identification number(s) of the tire(s) sold to a purchaser on a registration form and then (2) give the form to the purchaser. If the purchaser wishes to register the tires, he or she may do so by filling in his or her name and address, adding postage, and

sending the form to the tire manufacturer or its designee.

To ascertain whether the changes mandated by the Authorization Act have the desired effect of increasing the registration of tires sold by independent dealers, Congress directed NHTSA to conduct an evaluation covering the two year period ending October 14, 1984. Upon completion of the evaluation, NHTSA must determine the extent to which independent dealers have encouraged purchasers to register their tires and the extent to which those dealers have complied with the voluntary tire registration procedures. Further, the agency is required to determine whether to impose any additional requirements on the independent dealers or the manufacturers for the purpose of promoting higher levels of tire registration.

The provision in the Authorization Act mandating a voluntary registration system for independent dealers was not self-executing. Thus, the voluntary system could not become effective until NHTSA issued a rule establishing that system. An interim final rule doing so was published at 48 FR 22572, May 19, 1983, and became effective June 20, 1983.

Interim Final Rule

The interim final rule imposed the following requirements on the various parties:

Tire manufacturers. Except as noted, new registration forms had to be provided for independent dealers. All of those forms were required to be identical in format and content and within the size range specified in the interim final rule. Alternatively, the manufacturer could provide independent dealers with pre-addressed envelopes in which tire purchasers could mail the mandatory registration forms. In either case, the manufacturer would have to maintain a record of all returned registration forms for at least three years after receipt.

No change was made in the requirements regarding forms provided to non-independent dealers.

Tire dealers and distributors which sell tires to other dealers and distributors. These parties are required to give the purchasing dealer or distributor the registration forms provided by the tire manufacturers so that that dealer or distributor can comply with the applicable tire registration requirements. The new forms must be provided to independent dealers.

Non-independent dealers. No changes were made to the tire registration requirements applicable to these parties. They are still required to follow the mandatory tire registration system formerly applicable to all tire dealers. Thus, the non-independent dealers must record the purchaser's name and address, the tire identification number(s) of the tire(s) sold, and a suitable identification of themselves as the selling dealer on a tire registration form and return the completed forms to the tire manufacturers or their designees.

Independent dealers. These dealers were required by the interim final rule to record the tire identification number(s) of the tire(s) sold along with their name and address on a registration from and give the from to the tire purchaser.

The interim final rule sought comments on the issues raised by the requirements specificed therein, and specifically asked commenters to address the issue of adopting the registration form devised by the American Institute for Research in the Behavioral Sciences pursuant to a contract with the agency.

Final Rule

After considering the comments on the interim final rule, NHTSA has decided to retain most of the requirements in that rule. Several changes have been made to the requirements regarding the forms to be provided to independent dealers. These changes are relatively minimal and do not disturb the essential continuity of the voluntary registration requirements. Accordingly, both the tire manufacturers and the independent dealers should be able to implement the voluntary registration system as amended by this rule with minimal disruption to the practices they have been following since the interim final rule became effective.

Voluntary Tire Registration Procedures

Several commenters stated that independent dealers that wish to continue following the mandatory tire registration requirements should be permitted to do so. The premise underlying these comments is that mandatory registration, when properly implemented, is the most effective means of ensuring that virtually all replacement tires are registered.

While NHTSA does not disagree with the premise of these commenters, the agency is not free to adopt their suggestion. Section 158(b)(2)(B) of the Safety Act specifies that this agency—

> * * *shall require *each* * * * (independent dealer) to furnish the first purchaser with a registration form (containing the tire identification number of the tire) which the purchaser may complete and return directly to the manufacturer of the tire. (Emphasis added.)

This mandate to the agency is completely inclusive, directing the agency to make the voluntary registration procedures applicable not simply to independent dealers in general, but to "each" independent dealer. Further, this mandate is not offset by any express authority to make exceptions.

As a practical as well as a legal matter, independent dealers may nevertheless register the tires they sell if they first comply with the voluntary registration procedures. Independent dealers are not prohibited from filling in the information required by the voluntary procedures on the forms specified by those procedures, furnishing the forms to tire purchasers, and then offering to fill in the balance of the information and mail the form to the manufacturer.

Based on the comments, it appears that some commenters are confused about the status of motor vehicle dealers under the mandatory and voluntary registration procedures. The preamble to the interim final rule mentioned motor vehicle dealers only very briefly because they are minimally affected by the voluntary registration procedures. The preamble stated that there are two situations in which motor vehicle dealers are considered to be tire dealers and are required to register the tires on the vehicles as specified in section 574.9. In those situations, the preamble noted that whether the motor vehicle dealer would be required to follow the mandatory or voluntary registration procedures would depend on whether the motor vehicle dealer's business was owned or controlled by a tire manufacturer. Since such ownership or control seems highly improbable, the preamble stated that the motor vehicle dealer would in all likelihood have to follow the voluntary registration procedures.

The discussion in that notice left some commenters uncertain whether the original equipment tires on new vehicles were subject to mandatory or voluntary registration procedures. This uncertainty apparently arose because the interim final rule made no mention of the mandatory tire registration requirements that have been applicable to original equipment tires since 1971. No mention of these requirements was made since the notice did not propose to amend § 574.10, which specifies the actions to be taken by motor vehicle manufacturers to register their original equipment tires.

The two situations to which the interim final rule's preamble referred are those situations in which the motor

vehicle dealer, as opposed to the motor vehicle manufacturer, is responsible for registering tires. These situations, which are relatively infrequent, are set forth in § 574.9. First, if a motor vehicle dealer sells a used vehicle or leases a vehicle for more than 60 days, and the vehicle is equipped with new tires, the dealer must register the tires on the vehicle. Second, if a motor vehicle dealer sells a new vehicle and the vehicle is equipped with tires other than those shipped with the vehicle by the motor vehicle manufacturer, the motor vehicle dealer must register the tires on the vehicle. The interim final rule was intended to make clear that motor vehicle dealers whose business is not owned or controlled by a tire manufacturer should follow the voluntary registration procedures in those two rare types of situations, when the vehicle dealer is responsible for registering the tires on the vehicle.

One commenter urged that NHTSA delete the requirement that independent dealers record their name and address on the registration form before giving that form to the tire purchaser. This commenter noted that Congress stated the Authorization Act's voluntary registration provisions had been adopted partially for the purpose of reducing the burdens which mandatory registration procedures placed on independent dealers. Further, the commenter asserted that the Authorization Act requires only that the independent dealers record the tire identification number on the registration form, and that the absence of any mention of further specific information to be filled in by independent dealers is evidence that Congress did not intend those dealers to have to fill in any information other than the identification number. Finally, this commenter noted that NHTSA had indicated in the preamble to the interim final rule that the dealer's name and address was needed on the registration form to aid the agency in evaluating the voluntary registration process. This commenter stated that it would be sufficient for evaluation purposes for the registration forms used by independent dealers to show simply that they came from that class of dealers, instead of identifying a specific independent dealer. It was further suggested that this information would be all that was needed for the agency to determine the extent to which voluntary registration had been successful at increasing the rate of tire registration for tires sold by independent dealers.

Similarly, two tire manufacturers commented that a manufacturer should not be required any longer to maintain records which show, for each of its tires sold by an independent dealer, the identity of that particular dealer. They argued that manufacturers should only be required to maintain registration for independent dealers as a group. These commenters also asserted that this information was all that the agency needed to determine whether or not voluntary registration had successfully increased the registration rate for tires sold by independent dealers.

The preamble to the interim final rule may not have adequately explained the full breadth of the evaluative task which Congress instructed the agency to perform. In order to conduct a proper evaluation which not only reports the aggregate results of the voluntary registration program but also attempts to explain those results, the agency will need to be able to determine registration rates for individual dealers. With that ability, the agency can differentiate between dealers with high rates from dealers with low ones and then proceed to attempt to assess the reasons for those differences. Having performed that analysis, the agency would be in a position to provide Congress with insight about the impact of the voluntary registration program. It would also enable the agency to determine what additional requirements, if any, should be adopted to improve the registration program. NHTSA may find that those improvements can be more effectively obtained by enforcing the requirements established by this notice than by imposing additional requirements on all independent dealers.

NHTSA believes that it has authority under the Authorization Act to require independent dealers to record not only the tire identification numbers on registration forms but also their names and addresses. There is no express prohibition against the agency's requiring dealers to fill in more than the tire identification numbers. While the Authorization Act makes no mention of requiring dealers to fill in their names and addresses, the agency does not regard that fact to be dispositive. The Authorization Act does not, in fact, specify that the dealer's name and address is to be filled in by either the dealer or the purchaser. Since there isn't any clear indication that it was Congress' intent that this information no longer be required, the agency will not infer such an intent from the Congress's decision not to assign that task expressly to any particular party. It appears that Congress has left the question of that assignment to NHTSA's discretion. Since the names and addresses of dealers have long been recorded on registration forms and since that information is needed to enable the agency to conduct an effective evaluation, this agency believes that it should continue to be recorded. In view of the fact that dealers are more likely than purchasers to provide this information accurately and since dealers can easily resort to the expediency of a stamp bearing their name and address, NHTSA reaffirms its decision to assign the task of filling in that information to the dealers.

As to the tire manufacturers, the burden on them regarding the identity of specific independent dealers is simply to continue doing what they have been doing once 1971, i.e., maintaining registration records for each dealer. The agency believes that continued maintenance of these records is warranted by the value of dealer specific information to the evaluation and to tire recall campaigns. In fact, the agency recently issued a special order to nine tire manufacturers to obtain information on the registration rates for individual independent dealers. The agency will continue to monitor those rates.

Several commenters suggested that the agency, when conducting its evaluation of the effect of the voluntary registration program on the registration rate, determine its own baseline for registration of tires sold by independent dealers before that program began. The commenters urged that the agency not adopt the 20 percent rate mentioned in the legislative history of the Authorization Act. In lieu of that figure, the commenters offered several lower ones, including a figure of 7 percent. The agency intends to determine its own baseline. The special order mentioned above will provide the information necessary for that determination.

Registration Forms

In selecting the registration form to be used by independent dealers under the interim final rule, the agency consciously sought to find a form that would satisfy all of the statutory requirements for the voluntary registration system while making as few changes as possible to existing forms being used under the mandatory registration system. This conservative approach was necessary since the amendments to the Vehicle Safety Act did not provide adequate time to follow normal rulemaking procedures and seek comments on more far-reaching changes.

To determine outside the strictures of a rigid time schedule what type of form

would be most effective in inducing tire purchasers to register their tires, NHTSA contracted with the American Institute for Research in the Behavioral Sciences (AIRBS) to conduct a study. AIRBS designed a postcard-size registration form separated into two parts by a line of perforation. The top part, which would be detached and retained by the purchaser, would contain a message explaining the importance of tire registration to the purchaser and motivating the purchaser to register the tires by sending the form to the manufacturer. On the reverse of the top side, there would be a space where the purchaser could record the registration information and save it for his or her personal records.

The bottom part of the AIRBS registration form would be the part that would be sent to the tire manufacturer. On one side would be the manufacturer's preprinted address. On the other would be space for filling in the tire registration information.

The agency placed the AIRBS study and form in the public docket and requested in the interim final rule that interested persons comment on the contractor's recommendations. Several commenters addressed the desirability of adopting the AIRBS form as the registration form to be used by independent dealers. Many commenters stated that a postcard-sized form was too small to allow the necessary information to be legibly recorded. One commenter argued that the AIRBS form would not be any more effective at encouraging consumers to register their tires that the simple one part card mandated in the interim final rule, and that the AIRBS form might actually be more confusing. Another commenter objected to the AIRBS form because the perforated edge of the portion of the form to be returned to the manufacturer could not be automatically fed through a microfilming machine. The same commenter also argued that the printing costs for the AIRBS form would be about 12 percent higher than those for the form mandated in the interim final rule.

After considering these comments, NHTSA has decided not to adopt the AIRBS form. That form poses a number of potential problems which neither AIRBS nor the agency foresaw. Further, NHTSA does not believe that use of a two-part form is necessary. AIRBS stated in its study that the reason for its recommending a two-part form was its belief that the space available on a single part form was insufficient to allow the printing of the motivational message to the consumer, the instructions, and the necessary registration information with type and spacing large enough to permit easy reading. In the agency's own judgment, the single part form mandated by this final rule will not be overly crowded, will avoid the potential problems which commenters attributed to the two-part form and will be almost as successful in motivating consumers to register their tires as would the two-part form.

However, the agency has adopted the AIRBS recommendation that the registration forms provided to consumers be postcard-size. It will be less expensive for tire purchasers to use $0.13 postcard stamps to mail registration forms of that size, and this low cost might motivate some purchasers who would not otherwise do so to register their tires. The maximum dimensions permitted by the U.S. Postal Corporation for a postcard are 4¼ by 6 inches. This area is, in NHTSA's judgment, sufficient to permit the motivational message and the space for recording the required information to appear on the same side of the card, without being overly crowded or difficult to read. Given the importance of encouraging consumers to return the completed tire registration forms, and the likely effectiveness of lower postage costs at encouraging consumers to return the forms, this rule specifies that the registration forms be of the dimensions permitted for using postcard stamps.

Some other minor changes are made in this notice to the registration form required by the interim final rule. First, the motivational message has been changed so that it is now identical to that recommended by AIRBS. The AIRBS message provides stronger encouragement to send the form to the manufacturer and will be readily understood by consumers.

Second, the agency has decided to require the form to include instructions to the tire purchaser to print his or her name and address on the form. Those instructions were inadvertently omitted from the interim final rule. They have now been added at the urging of several of the commenters.

One commenter requested that tire manufacturers be allowed to divide the spaces for recording the purchaser's name and address into little boxes so that each letter or number would be printed in a separate box. According to this commenter, this approach would help ensure accurate transcription by the manufacturer of the information on the registration forms. Based on its assessment of the AIRBS study, the agency has decided not to adopt this change. AIRBS indicated to this agency that the use of boxes discourages people from filling in information on forms and that the return rate for the registration forms would therefore be higher if boxes were not used.

Third, NHTSA is adopting a requirement that contrasting shading be used for the area of the form containing the blanks to be completed by the independent dealer and that a white background be used for the areas to be completed by the tire purchasers. AIRBS recommended this requirement in its study as a means of emphasizing to the tire purchaser the minimal quantity of information which he or she must record in order to register his or her tires. AIRBS indicated that the shading could be achieved by using a 10 percent screen tint. The tinted form would be inexpensive to produce and still easily readable by data processors.

One manufacturer commented that independent dealers should be required to enter both their name and address and their dealer identification number assigned by the manufacturer on the registration form. The dealer identification number is a unique identifier assigned by a tire manufacturer to each dealer selling that manufacturer's tires. This commenter asserted that requiring the dealer identification number to be placed on the registration forms would greatly simplify the data processing task for the manufacturer as it recorded the information from the registration forms sent in by tire purchasers.

NHTSA agrees that such a requirement would simplify the manufacturers' task, but only at the cost of significantly complicating the registration responsibilities of the independent dealers. The dealer identification numbers assigned to a particular dealer are not coordinated among the various tire manufacturers. Thus, an independent dealer which sells tires produced by seven different manufacturers would have seven different dealer identification numbers assigned to it. The interim final rule required independent dealers to record their name and address on the registration form. This could be done simply by purchasing and using a rubber stamp with the dealer's name and address on it. If the final rule were amended to require the dealer to also record its dealer identification number, and the independent dealer sold seven different manufacturers' tires as in the example above, the dealer would either have to fill in its name, address, and identification number by hand on each registration form or buy seven different

rubber stamps. If it chose to purchase seven different rubber stamps, the dealer would also have to be certain that it used the appropriate stamp for each manufacturer's registration form. If the dealer used the wrong dealer identification number on a manufacturer's registration form, it would complicate the manufacturer's data processing task. After considering these facts, NHTSA has decided not to adopt this comment, and the independent dealers remain subject to the requirement that they record their name and address on the registration form before giving the form to the tire purchaser.

Other Issues

Several commenters objected to the language in the interim final rule stating that enforcement of this regulation would be under the authority of sections 108–110 of the Safety Act (15 U.S.C. 1397–1399) and that each violation could subject the violator to a penalty of $1,000. These commenters noted that the Committee report on the Authorization Act stated an expectation that independent dealers which failed to comply with the voluntary registration requirements would not have to pay the maximum penalty unless there was a clear, continuous pattern of violations.

The statutory provisions recited in the interim final rule are consistent with the committee report. Section 109 of the Safety Act provides that the amount of any penalty imposed by the agency should reflect consideration of the size of the business which committed the violation and of the gravity of the violation. As a matter of practice, the agency makes a distinction in its enforcement activities between isolated violations and continuous patterns of violations. The agency will continue to make this distinction and thus will be following the guidance in the committee report.

Some commenters urged that the agency permit continued use of registration forms addressed to clearinghouses. These forms, which were permitted under mandatory registration, were generic instead of manufacturer specific (i.e., they did not bear any mark or information identifying them for use in registering a particular manufacturer's tires) and thus could be used to register any manufacturer's tires. The tire dealer would fill in the manufacturer or brand name owner identified on the tire to be registered, and send the forms to a clearinghouse. The clearinghouse would then forward the information to the appropriate manufacturer or brand name owner.

As explained in the preamble to the interim final rule, the amendments to section 158(b) of the Safety Act and their legislative history compel an end to the practice of using forms which are not addressed to a specific manufacturer or its designee. Section 158(b) requires that the purchaser be able to send the form directly to the manufacturer of the tire, and that the forms used by independent dealers be standardized for all tires. Hence, the agency cannot permit continued used of forms which are not manufacturer specific and which are not addressed to a particular manufacturer or its designee.

One commenter asked that dealers be allowed to continue to use the forms mandated by the interim final rule until the supply was exhaused. The interim final rule permitted the continued use of the forms used under mandatory registration so long as the manufacturers provided pre-addressed envelopes in which to enclose those forms. To minimize the expenses and disruption associated with the transition from the interim final rule to this final rule, independent dealers will be permitted to continue using the forms specified by the interim final rule until their existing supplies are exhausted, or until April 1, 1984, whichever comes first. As of the effective date of this rule, the manufacturers will be required to provide registration forms in compliance with this rule, and distribution of the forms specified under the interim final rule must be ended.

A related issue was raised in a petition which Cooper Tire & Rubber Company ("Cooper") submitted for reconsideration of the interim final rule. Cooper currently has a no-charge warranty program for two tire lines. As part of that program, Cooper has printed a booklet and registration form. The form, which was developed and printed before the interim final rule was issued, contains a different motivational statement than was mandated by the interim final rule. Further, it does not contain a notation to affix first class postage on the reverse side. Cooper reported that it had achieved a 66 percent registration rate for the two tire lines using its own registration forms.

After considering these minor variations, the agency has decided that this Cooper registration form can be considered as complying with the requirements of the interim final rule. It is significant that Cooper prepared and began distributing these forms in December 1982, before the interim final rule had been published. From the interval of January 1, 1983, to June 20, 1983, Cooper achieved a 66 percent registration rate for tires sold by independent dealers, when there were no registration requirements applicable to independent dealers. This suggests that the Cooper form has been effective at motivating consumers to return that form, and achieving higher tire registration rates is the goal of the change in tire registration procedures.

NHTSA wishes to emphasize that Cooper was in a unique position, and that permitting the variations in the Cooper form from that mandated by the interim final rule does not mean that the agency will countenance variations from the form prescribed by this final rule. This form has been developed after considering the AIRBS study, and it is important that it be used in connection with tire registration, to ensure that the NHTSA evaluation of the voluntary tire registration system is conducted with an effective standardized registration form.

One commenter suggested that there would be a stronger incentive for consumers to register their tires if the agency were to require the manufacturers to prepay the postage for the registration forms. Adopting such a requirement was one of the actions which the House committee report indicated could be adopted after the two year evaluation period if the agency determined that further steps were necessary to achieve adequate registration rates. The implication of this discussion in the report is that the requirement may not be adopted at an earlier time. Accordingly, the agency is not adopting a requirement for prepaid postage.

Several commenters stated that the 30-day period between the publication of the interim final rule and its effective date was inadequate to allow the necessary registration forms to be printed and distributed to all of the manufacturer's independent dealers. Accordingly, they asked that a longer leadtime period be established for this final rule. The agency understands that it is asking the manufacturers to move very expeditiously to print and distribute the voluntary registration forms. NHTSA believes that short leadtime periods are necessary due to the importance of registration and to the requirement to conduct an evaluation of voluntary registration two years after passage of the Authorization Act. At the same time, the agency wishes to make some accommodation of the request for additional leadtime. Accordingly, the agency is specifying an effective date of 45 days after publication of this notice. This date will still require expeditious action by the manufacturers, but does

provide two more weeks than were allowed for the interim final rule.

The information collection requirements contained in this rule have been submitted to and approved by the Office of Management and Budget (OMB), pursuant to the requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*). Those requirements have been approved through May 31, 1985 (OMB # 2127-0050). All printed registration forms must display this OMN clearance number and expiration date in the upper right hand corner of the form.

NHSTA has analyzed the impacts of this rule and determined that it is neither "major" within the meaning of Executive Order 12291 nor "significant" within the meaning of the Department of Transportation regulatory policies and procedures. The changes in the requirements for the registration forms to be provided by tire manufacturers to independent dealers will impose minimally higher costs on those manufacturers. Compared to the costs and administrative burdens imposed on independent dealers under mandatory registration, those dealers should achieve a slight savings under this rule. Consumers purchasing tires from independent dealers will now have to pay for postage if they wish to register their new tires. The assumption of that cost by consumers was mandated by Congress. For this reason, a full regulatory evaluation has not been prepared.

The agency has also considered the impacts of his rule on small entities as required by the Regulatory Flexibility Act. NHSTA believes that few, if any, of the tire manufacturers are small businesses. Although many of the dealers could be considered small businesses, this rule will not have a significant impact on them. As noted above, they may experience a slight savings as compared to the mandatory registration requirements. The requirements for tire manufacturers are unchanged, except for some minor changes which they must make to the registration forms to be provided to independent dealers. Small organizations and governmental units will have to bear the minor expenses of paying postage for any new tires they register. Based on the foregoing, I certify that this rule will not have a significant economic impact on a substantial number of small entities.

Finally, NHSTA has considered the environmental implications of this rule in accordance with the National Environmental Policy Act and determined that the rule will not significantly affect the human environment.

List of Subjects in 49 CFR Part 574

Consumer protection, Motor vehicle safety, Motor vehicles, Rubber and rubber products, Tires.

In consideration of the foregoing, the following amendments are made to Part 574, Tire Identification and Recordkeeping, of Title of the Code of Federal Regulations.

PART 574—[AMENDED]

1. Section 574.1 is revised to read as follows:

§ 574.1 Scope.

This part sets forth the method by which new tire manufacturers and new tire brand name owners shall identify tires for use on motor vehicles and maintain records of tire purchasers, and the methods by which retreaders and retreaded tire brand name owners shall identify tires for use on motor vehicles. This part also sets forth the methods by which independent tire dealers and distributors shall record, on registration forms, their names and addresses and the identification number of the tires sold to tire purchasers and provide the forms to the purchasers, so that the purchasers may report their names to the new tire manufacturers and new tire brand name owners, and by which other tire dealers and distributors shall record and report the names of tire purchasers to the new tire manufacturers and new tire brand name owners.

2. Section 574.3 is amended by adding a new paragraph (c)(1) immediately after *"Definitions used in this part."* and redesignating existing paragraphs (c)(1) through (c)(4) as paragraphs (c)(2) through (c)(5):

§ 574.3 Definitions.

* * * * *

(c) * * *

(1) "Independent" means, with respect to a tire distributor or dealer, one whose business is not owned or controlled by a tire manufacturer or brand name owner.

* * * * *

3. Section 574.7 is revised to read as follows:

§ 574.7 Information requirements—new tire manufacturers, new tire brand name owners.

(a)(1) Each new tire manufacturer and each new tire brand name owner (hereinafter referred to in this section and § 574.8 as "tire manufacturer") or its designee, shall provide tire registration forms to every distributor and dealer of its tires which offers new tires for sale or lease to tire purchasers.

(2) Each tire registration form provided to independent distributors and dealers pursuant to Paragraph (a)(1) of this section shall contain space for recording the information specified in paragraphs (a)(4)(A) through (a)(4)(C) of this section and shall conform in content and format to Figures 3a and 3b. Each form shall be:

(i) Rectangular;

(ii) Not less than .007 inches thick;

(iii) Greater than 3½ inches, but not greater than 4¼ inches wide; and

(iv) Greater than 5 inches, but not greater than 16 inches, long.

(3) Each tire registration form provided to distributors and dealers, other than independent distributors and dealers, pursuant to paragraph (a)(1) of this section shall be similar in format and size to Figure 4 and shall contain space for recording the information specified in paragraphs (a)(4)(A) through (a)(4)(C) of this section.

(4)(A) Name and address of the tire purchaser.

(B) Tire identification number.

(C) Name and address of the tire seller or other means by which the tire manufacturer can identify the tire seller.

(b) Each tire manufacturer shall record and maintain, or have recorded and maintained for it by a designee, the information from registration forms which are submitted to it or its designee. No tire manufacturer shall use the information on the registration forms for any commercial purpose detrimental to tire distributors and dealers. Any tire manufacturer to which registration forms are mistakenly sent shall forward those registration forms to the proper tire manufacturer within 90 days of the receipt of the forms.

(c) Each tire manufacturer shall maintain, or have maintained for it by a designee, a record of each tire distributor and dealer that purchases tires directly from the manufacturer and sells them to tire purchasers, the number of tires purchased by each such distributor or dealer, the number of tires for which reports have been received from each such distributor or dealer other than an independent distributor or dealer, the number of tires for which reports have been received from each such independent distributor or dealer, the total number of tires for which registration forms have been submitted to the manufacturer or its designee, and the total number of tires sold by the manufacturer.

(d) The information that is specified in paragraph (a)(4) of this section and recorded on registration forms submitted to a tire manufacturer or its designee shall be maintained for a

period of not less than three years fr the date on which the information is recorded by the manufacturer or its designee.

4. Section 574.8 is revised to read as follows:

§ 574.8 Information requirements—tire distributors and dealers.

(a) *Independent distributors and dealers.* (1) Each independent distributor and each independent dealer selling or leasing new tires to tire purchasers or lessors (hereinafter referred to in this section as "tire purchasers") shall provide each tire purchaser at the time of sale or lease of the tire(s) with a tire registration form.

(2) The distributor or dealer may use either the registration forms provided by the tire manufacturers pursuant to § 574.7(a) or registration forms obtained from another source. Forms obtained from other sources shall comply with the requirements specified in § 574.7(a) for forms provided by tire manufacturers to independent distributors and dealers.

(3) Before giving the registration form to the tire purchaser, the distributor or dealer shall record in the appropriate spaces provided on that form:

(A) The entire tire identification number of the tire(s) sold or leased to the tire purchaser, and

(B) The distributor's or dealer's name and address or other means of identification known to the tire manufacturer.

(4) Multiple tire purchases or leases by the same tire purchaser may be recorded on a single registration form.

(b) *Other distributors and dealers.* (1) Each distributor and each dealer, other than an independent distributor or dealer, selling new tires to tire purchasers shall submit the information specified in § 574.4(a)(4) to the manufacturer of the tires sold, or to its designee.

(2) Each tire distributor and each dealer, other than an independent distributor or dealer, shall submit registration forms containing the information specified in § 574.7(a)(4) to the tire manufacturer, or person maintaining the information, not less often than every 30 days. However, a distributor or dealer which sells less than 40 tires, of all makes, types and sizes during a 30-day period may wait until he or she sells a total of 40 new tires, but in no event longer than six months, before forwarding the tire information to the respective tire manufacturers or their designees.

(c) Each distributor and each dealer selling new tires to other tire distributors or dealers shall supply to the distributor or dealer a means to record the information specified in § 574.7(a)(4), unless such a means has been provided to that distributor or dealer by another person or by a manufacturer.

(d) Each distributor and each dealer shall immediately stop selling any group of tires when so directed by a notification issued pursuant to sections 151 and 152 of the Act (15 U.S.C. 1411 and 1412).

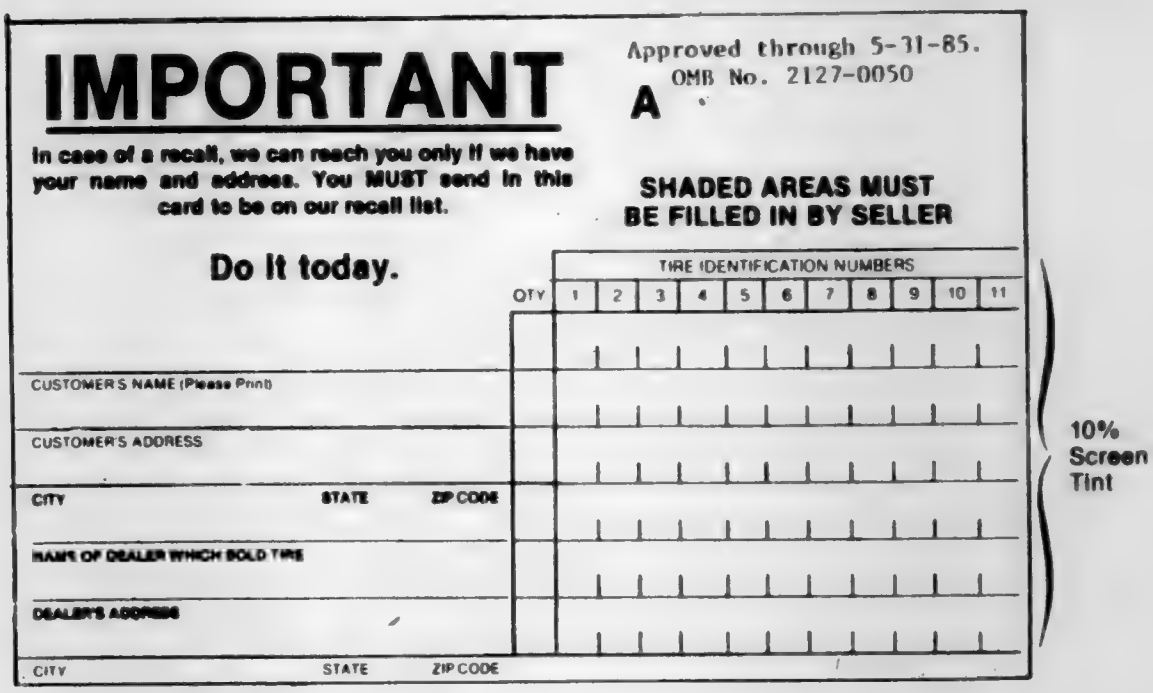

A—Preprinted tire manufacturer's name—unless the manufacturer's name appears on reverse side of the form.

Figure 3a—Registration form for independent distributors and dealers—tire identification number side

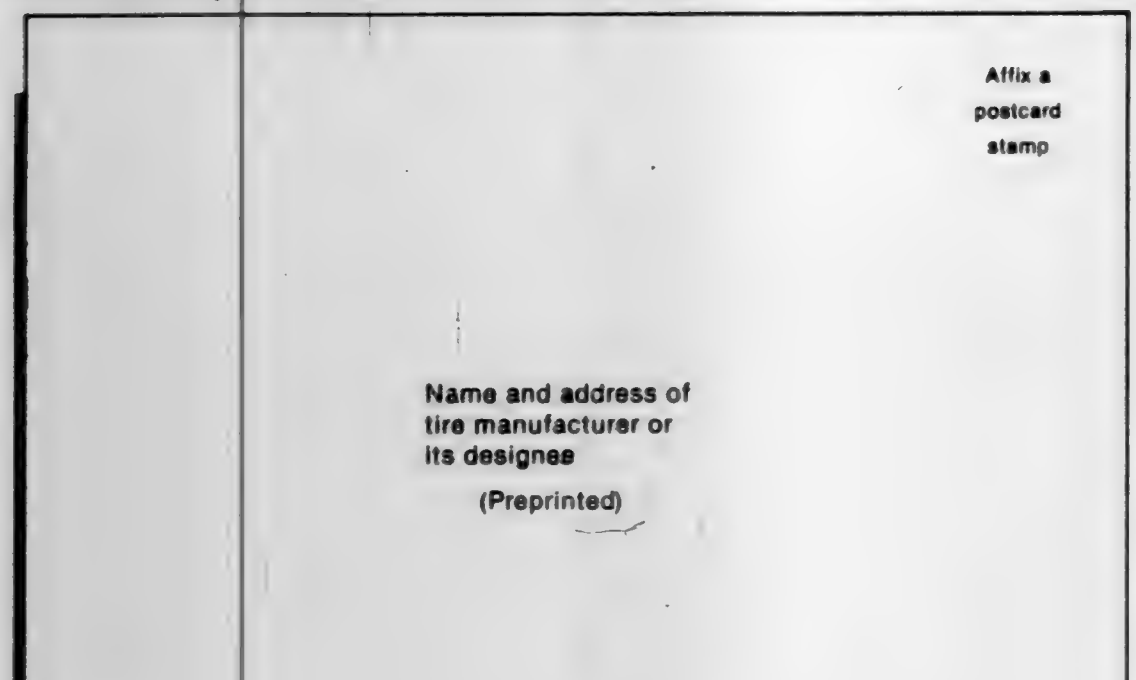

Figure 3b—Registration form for independent distributors and dealers—address side

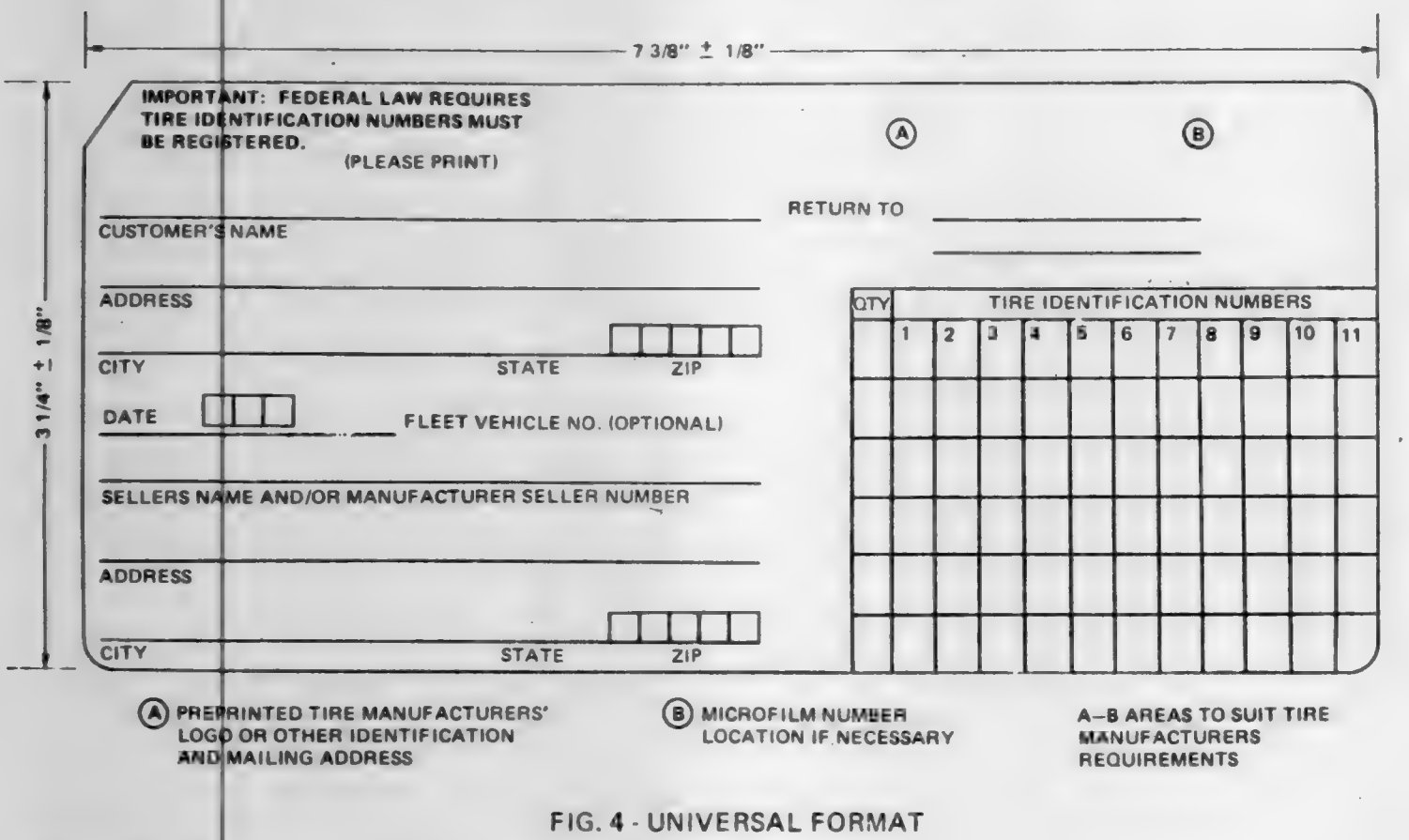

FIG. 4 - UNIVERSAL FORMAT

Authority: Secs. 108, 119, and 201, Pub. L. 89–563, 80 Stat. 718 (15 U.S.C. 1392, 1407, and 1421); sec. 4, Pub. L. 97–311, 96 Stat. 1619 (15 U.S.C. 1418); and delegation of authority at 49 CFR 1.50.

Issued on February 3, 1984.

Diane K. Steed,

Administrator.

[FR Doc. 84–3421 Filed 2–7–84; 8:45 am]

BILLING CODE 4910-59-M

Proposed Rules

Federal Register
Vol. 49, No. 27
Wednesday, February 8, 1984

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 985

Spearmint Oil Produced in the Far West; Proposed Salable Quantities and Allotment Percentages for the 1984–85 Marketing Year

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This is a proposal to establish the quantity of spearmint oil produced in the Far West, by class, that may be purchased from, or handled for, producers by handlers during the 1984–85 marketing year which begins June 1, 1984. This action is taken under the marketing order for spearmint oil produced in the Far West to promote orderly marketing conditions. The proposal was recommended by the Spearmint Oil Administrative Committee which works with USDA in administering the order.

DATE: Comments due February 23, 1984.

ADDRESSES: Comments should be sent to the Hearing Clerk, Room 1077, South Building, U.S. Department of Agriculture, Washington, D.C. 20250. Two copies of all written material should be submitted, and they shall be made available for public inspection at the office of the Hearing Clerk, during regular business hours.

FOR FURTHER INFORMATION CONTACT: Frank M. Grasberger, Acting Chief, Specialty Crops Branch, Fruit and Vegetable Division, AMS, U.S. Department of Agriculture, Washington, D.C. 20250 (202) 447–5053.

SUPPLEMENTARY INFORMATION: The proposed rule has been reviewed under USDA guidelines implementing Executive order 12291 and Secretary's Memorandum No. 1512–1 and has been classified a "non-major" rule under criteria contained therein.

The proposal is being published with less than a 60-day comment period because handlers and growers are currently making preparations for handling and growing 1984 crop spearmint oil. In some growing areas, spearmint roots are planted in the fall while in other areas they are planted in the spring. In any case planting must be completed no later than the beginning of April. Therefore, handlers and growers must know as soon as possible what salable quantities and allotment percentages will be effective for the 1984–85 marketing year so they can plan their operations accordingly.

William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this action will not have a significant economic impact on a substantial number of small entities.

The proposed salable quantity and allotment percentage for each class of spearmint oil would be established in accordance with the provisions of Marketing Order No. 985, regulating the handling of spearmint oil produced in the Far West, hereinafter referred to as the "order". The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The proposal was recommended by the Spearmint Oil Administrative Committee, which works with the USDA in administering the order.

The salable quantity and allotment percentage proposed for each class of spearmint oil for the 1984–85 marketing year beginning June 1, 1984, are based upon recommendations of the Committee and the following data and estimates:

(1) "Class 1" Oil (Scotch Spearmint)

(A) Estimated carryin on June 1, 1984—186,769 pounds.

(B) Estimated trade demand (domestic and export) for the 1984–85 marketing year based on prior 3-year average sales—728,467 pounds.

(C) Recommended desirable carryout on May 31, 1985—50,000 pounds.

(D) Salable quantity required from 1984 production—591,698 pounds.

(E) Total allotment bases for "Class 1" Oil—1,602,434 pounds.

(F) Computed allotment percentage—36.9 percent.

(G) The Committee's recommendation for the salable quantity—673,022 pounds.

(H) Recommended allotment percentage—42 percent.

(2) "Class 3" Oil (Native Spearmint)

(A) Estimated carryin on June 1, 1984—206,227 pounds.

(B) Estimated trade demand (domestic and export) for the 1984–85 marketing year based on 3-year average sales—811,508 pounds.

(C) Recommended desirable carryout on May 31, 1985—0 pounds.

(D) Salable quantity required from 1984 production—605,281 pounds.

(E) Total allotment bases for "Class 3" Oil—1,774,169 pounds.

(F) Computed allotment percentage—34.1 percent.

(G) The Committee's recommendation for the salable quantity—745,151 pounds.

(H) Recommended allotment percentage—42 percent.

The salable quantity is the total quantity of each class of oil which handlers may purchase from or handle on behalf of producers during a marketing year. Each producer is allotted a share of the salable quantity by applying the allotment percentage to his allotment base for the applicable class.

When the order was established in 1980, producer stocks of spearmint oil were very large and producer prices severely depressed. Volume regulations in effect under the order since that time have aided in reducing these burdensome stocks and in creating a more stable market for all classes of oil. However, general economic conditions adversely affected sales of spearmint oil during the 1982–83 marketing year. Sales fell far short of estimates and as a consequence carryover stocks on June 1, 1983, were larger than estimated. The Committee's obective is to bring excess supplies into balance with needs to maintain a stable market for each class of oil and promote orderly marketing.

The aim of the proposed regulation for "Class 1" Oil for the 1984–85 marketing year is to further reduce the balance of the excess producer held stocks of oil, and aid in the continued gradual adjustment of supplies resulting in further stabilization of producer prices.

Sales of "Class 3" Oil lagged behind expectations in the 1982–83 marketing year. However, sales during the 1983–84 marketing year are projected to exceed 1982–83 sales by 94,000 pounds. The volume regulation in effect for the 1983–84 marketing year, coupled with

anticipated market improvement for "Class 3" Oil is expected to reduce producer inventories to a reasonable level. The proposed 1984–85 volume regulation for "Class 3" Oil is intended to continue to establish a stable market, thus maintaining orderly marketing conditions for this class of oil.

In conformity with the order's provisions, the Committee conducted a drawing on October 4, 1983, and issued additional allotment bases to both new and existing producers for the 1984–85 marketing year. New producers were issued allotment bases in units of 1,823 pounds for "Class 1" Oil and 2,205 pounds for "Class 3" Oil. Existing producers who had initially received small allotment bases and applied for additional allotment base were issued an amount of allotment base that would bring their total base up to a more economic unit. The issuance of the additional allotment bases increased the total of "Class 1" Oil bases by 26,450 pounds and "Class 3" Oil by 10,077 pounds.

The Committee's recommendations are based on expected increased sales of spearmint oil during the 1984–85 marketing year and a further reduction in the quantity of spearmint oil held by producers. The committee's recommendations appear appropriate for the 1984–85 season and are expected to aid in achieving the objectives of the act.

List of Subjects in 7 CFR Part 985

Marketing agreements and orders, Oregon, Washington.

Therefore, the proposal is to add a new § 985.204 under Subpart—Salable Quantities and Allotment Percentages to read as follows: (The following provisions will not be published in the Code of Federal Regulations).

§ 985.204 Salable quantities and allotment percentages—1984–85 marketing year.

The salable quantity and allotment percentage for each class of spearmint oil during the marketing year which begins June 1, 1984, shall be as follows:

(a) "Class 1" Oil—a salable quantity of 673,022 pounds and, an allotment percentage of 42 percent.

(b) "Class 3" Oil—a salable quantity of 745,151 pounds, and an allotment percentage of 42 percent.

Dated: February 2, 1984.

Russell L. Hawes,

Acting Deputy Director, Fruit and Vegetable Division.

[FR Doc. 84–3431 Filed 2–7–84; 8:45 am]

BILLING CODE 3410–02–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Ch. I

[Summary Notice No. PR–84–1]

Petitions for Rulemaking; Summary of Petitions Received and Dispositions of Petitions Denied or Withdrawn

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for rulemaking and of dispositions of petitions denied or withdrawn.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for rulemaking (14 CFR Part 11), this notice contains a summary of certain petitions requesting the initiation of rulemaking procedures for the amendment of specified provisions of the Federal Aviation Regulations and of denials or withdrawals of certain petitions previously received. The purpose of this notice is to improve the public's awareness of this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATES: Comments on petitions received must identify the petition docket number involved and be received on or before. April 9, 1984.

ADDRESSES: Send comments on the petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC–204), Petition Docket No. ———, 800 Independence Avenue, SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT: The petition, any comments received, and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC–204), Room 916, FAA Headquarters Building (FOB–10A), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591, telephone (202) 426–3644.

This notice is published pursuant to paragraphs (b) and (f) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, D.C. on February 2, 1984.

John H. Cassady,

Assistant Chief Counsel, Regulations and Enforcement Division.

PETITIONS FOR RULEMAKING

Docket No.	Petitioner	Description of the petition
23637	Professional Aviation Maintenance Association.	Description of Petition: To amend § 65.15 to require reapplication for mechanics certificates every 5 years. Present mechanic certificates would expire on the holders' birthday, and mechanics would be required to reapply for a certificate prior to that date. New mechanic certificates or reissued certificates would expire in 5 years. Regulations Affected: 14 CFR Part 65.15. Petitioner's Reason for Rule: a. To identify the exact number of mechanics in the world today. b. To be able to communicate with these mechanics by having their current names and addresses. c. Safety matters, such as FAR changes, etc., can then be communicated to the mechanics; d. Public interest—to be able to project future needs and requirements in the aviation industry; and e. Government interest—highly skilled mechanics now able to be located, can be called upon in case of national emergency or any other national needs.

[FR Doc. 84–3393 Filed 2–7–84; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 71

[Airspace Docket No. 83-AWA-22]

Proposed Alteration of the Dallas-Fort Worth Terminal Control Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The FAA is considering a minor alteration of the Dallas-Fort Worth, TX, Terminal Control Area (TCA). This action would modify Area B southeast of the airport to fully contain large turbine-powered aircraft executing an ILS Runway 31R approach, thereby complying with FAA's policy to ensure all large turbine-powered aircraft remain within the confines of the TCA while executing standard instrument approach procedures (SIAP's).

DATES: Comments must be received on or before March 26, 1984.

ADDRESSES: Send comments on the proposal in triplicate to: Director, FAA, Southwest Region, Attention: Manager, Air Traffic Division, Docket No. 83-AWA-22, Federal Aviation Administration, P.O. Box 1689, Fort Worth, TX 76101.

The official docket may be examined in the Rules Docket, weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m. The FAA Rules Docket is located in the Office of the Chief Counsel, Room 916, 800 Independence Avenue, SW., Washington, D.C.

An informal docket may also be examined during normal business hours at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Boyd V. Archer, Airspace and Air Traffic Rules Branch (AAT-230), Airspace-Rules and Aeronautical Information Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426-8783.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 83-AWA-22." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, SW., Washington, D.C. 20591, or by calling (202) 426-8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2 which describes the application procedure.

The Proposal

The FAA is considering an amendment to § 71.401(a) of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to modify Area B of the Dallas-Fort Worth, TX, TCA. Aircraft executing an ILS Runway 31R approach to the Dallas-Fort Worth Airport, while on the glide slope, are exiting the TCA in Area C four-tenths of a mile prior to entering Area B. This discrepancy was not recognized by the FAA during the original design or a subsequent amendment to the TCA airspace. In order to correct the situation, alternatives such as: raising the glide slope, relocating approach fixes, and raising final approach altitudes, were considered to resolve the discrepancy. However, these actions are not considered appropriate, and the FAA is now considering extending Area B one and one-half miles each side of the localizer course extending to an arc 9.5 miles southeast of the airport. There will be no change in flight paths and aircraft altitudes or increased use of the expanded area as a result of the proposed action. Section 71.401(a) of Part 71 of the Federal Aviation regulations was republished in Advisory Circular AC 70-3A dated January 3, 1983.

List of Subjects in 14 CFR Part 71

Airspace, Navigation (air), Terminal control area.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 71.401(a) of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

Dallas-Fort Worth, TX—[Amended]

In Area B, by inserting the words "to lat. 32°49'42"N., long. 96°52'12"W.; thence clockwise along a 9.5-mile arc of the Dallas-Fort Worth Airport to lat. 32°47'30"N., long. 96°55'00"W.; to lat. 32°47'30"N., long. 96°55'00"W.;" after the words "lat. 32°50'10"N., long 96°52'30"W.;"

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); (49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983)); and 14 CFR 11.65)

Note.—The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore: (1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Washington, D.C., on February 1, 1984.

Beauford A. Bancroft,

Acting Manager, Airspace—Rules and Aeronautical Information Division.

[FR Doc. 84-3392 Filed 2-7-84; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 73

[Airspace Docket No. 83-AWA-26]

Proposed Department of Energy Prohibited Areas

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Advance notice of proposed rulemaking (ANPRM).

SUMMARY: This advance notice initiates rulemaking on a Department of Energy

(DOE) request that the Federal Aviation Administration (FAA) establish or modify existing prohibited airspace areas at nine DOE nuclear facilities located at Aiken, South Carolina (SC); Golden, Colorado (CO); Idaho Falls, Idaho (ID); Los Alamos, New Mexico (NM); Oak Ridge, Tennessee (TN); Richland, Washington (WA); San Francisco, California (CA); Livermore, California (CA); and Amarillo, Texas (TX). The DOE has the responsibility for the design, development, and production of the Nation's nuclear weapons. DOE also has the responsibility for protecting and defending the highly valuable and hazardous resources housed at these facilities. The proposed establishment or modification of prohibited airspace over these sites is one segment of a DOE comprehensive effort to enhance the protection of these vital nuclear weapons research, development, and production facilities. This notice is also a response to the concerns for greater airspace security over these facilities expressed by the National Security Council and the Subcommittee for Oversight and Investigation of the House of Representatives Committee for Energy and Commerce. If established, helicopter operations at any altitude over the designated sites would be prohibited without prior DOE authorization.

Operation of fixed-wing aircraft would be affected at five of the nine sites, but only to 3,000 feet AGL (except at Amarillo, TX, where the present 1,200 feet AGL prohibition would be retained; and Los Alamos, NM, where the present designated airspace ceiling would be raised from 12,000 feet MSL to 14,500 feet MSL). These proposed airspace designations may affect existing airways and airport approaches.

DATES: Comments must be received on or before April 9, 1984.

Meeting scheduled for March 13, 1984; 9:00 a.m. to 5:00 p.m.

ADDRESSES: Send comments on the proposal in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket [AGC-204], Docket No. 83-AWA-28, 800 Independence Avenue, SW., Washington, D.C. 20591; or deliver comments in duplicate to FAA Rules Docket, Room 916, 800 Independence Avenue, SW., Washington, D.C.

The official docket may be examined in the Rules Docket, weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m.

Meeting location: Rooms 9A, B, C; 800 Independence Avenue SW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: B. Keith Potts, Airspace-Rules and Aeronautical Information Division, Air Traffice Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426-3731.

SUPPLEMENTARY INFORMATION:

Comments Invited

This ANPRM is being issued in accordance with the FAA's policy for the early public participation in rulemaking proceedings. The FAA believes it would be helpful to have public comments on the total DOE proposal described later in this document prior to the initiation of individual rulemaking actions with respect to each of the airspace actions that would be required by the DOE proposal. Comments are specifically invited on the economic concerns and questions noted as well as the overall regulatory, economic, environmental, and energy aspects of the proposal. Following review of the comments received, the FAA will issue a Notice of Proposed Rulemaking and schedule a public hearing at or near any of the airspace areas the FAA determines should be the subject of additonal rulemaking action.

Interested parties are invited to participate in this process by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Communications should identify the airspace docket and be submitted in duplicate to the address listed above. Commenters wishing the FAA to achnowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 83-AWA-26." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking further action on the DOE request. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket. Inasmuch as this ANPRM is in response to a DOE request, copies of all comments received will be forwarded to DOE. After submission of comments, the FAA will obtain DOE response to all issues raised.

In addition to seeking written comments on this ANPRM, the FAA will hold a public meeting in Washington, D.C., on March 13, 1984, to receive additional input with respect to the DOE proposal.

Availability of ANPRM

Any person may obtain a copy of this ANPRM by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue SW., Washington, D.C. 20591, or by calling (202) 426-8058. Communications must identify the notice number of this ANPRM. Persons interested in being placed on a mailing list for future ANPRM's and NPRM's should also request a copy of Advisory Circular No. 11-2 which describes the application procedure.

Request To Make a Presentation

Interested persons are invited to attend the public meeting and to participate by making oral or written statements. Written statements should be submitted in triplicate and will be made a part of the rules docket. Request to make an oral presentation at the public meeting should identify the docket number, the time required (times may be limited depending upon the number of presentations) and be sent to Boyd V. Archer, Airspace and Air Traffic Rules Branch (AAT-230), Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591. Requests must be received on or before March 6, 1984, to ensure a place on the list of speakers. Presentations will be scheduled on a first-come, first-served basis as time may permit within the meeting schedule.

Meeting Procedures

Persons who plan to attend the meetings should be aware of the following procedures to be followed:

(a) The meeting will be informal in nature and will be conducted by the designated representative of the Administrator under 14 CFR 11.33. Each participant will be given an opportunity to make a presentation.

(b) The meeting will begin at 9:00 a.m. (local time). There will no be admission fee or other charge to attend and participate. The meeting will be open to all persons on a space available basis. The presiding officer may accelerate the

meeting agenda to enable early adjournment if the progress of the meeting is more expeditious than planned.

(c) The meeting will be recorded by a court reporter. Anyone interested in purchasing the transcript should contact the court reporter directly. A copy of the court reporter's transcript will be filed in the docket.

(d) Position papers or other handout material relating to the substance of the meeting may be accepted at the discretion of the presiding officer. Participants submitting handout materials must present an original and two copies to the presiding officer for approval before distribution. If approved by the presiding officer, there should be an adequate number of copies provided for further distribution to all participants.

(e) Statements made by FAA participants at the hearing should not be taken as expressing a final FAA position.

Public Meeting Schedule

The schedule for the meeting is as follows:

Date: March 13, 1984; 9:00 a.m. to 5:00 p.m.

Place: Rooms 9A, B, and C; 800 Independence Avenue, SW., Washington, D.C.

Agenda:

9:00 to 9:15 Presentation of Meeting Procedures
9:15 to 10:00 FAA Presentation of ANPRM
10:15 to 12:00 Public Presentations and Discussion
1:30 to 5:00 Public Presentations and Discussion

The Proposed Airspace Designations

Part 73 of the Federal Aviation Regulations (FAR) designates certain airspace as "special use airspace" in which aircraft operations may be restricted or prohibited because of the nature of the activities being conducted within that airspace, including activities on the surface of the earth. Based on DOE's request, the FAA is considering amending Subpart C of Part 73 of the FAR's to establish or modify prohibited areas at nine DOE nuclear facilities located at Aiken, SC; Golden, CO; Idaho Falls, ID; Los Alamos, NM; Oak Ridge, TN; Richland, WA; San Francisco, CA; Livermore, CA; and Amarillo, TX. Such action would entail the amendment of FAR's Part § 73.89 and § 73.93 to modify and expand the prohibited areas at Armarillo, TX, and San Francisco, CA, and to establish new prohibited areas at the other locations. Subpart C of Part 73 was republished in Advisory Circular AC 70-3A dated January 3, 1983. A copy is on file in the public docket.

In accordance with the Atomic Energy Act of 1954, as amended and the Energy Reorganization Act of 1974, DOE is responsible for the design, development, and production of nuclear weapons and the production and control of nuclear materials used for atomic energy and other civil purposes. DOE also has the responsibility for protecting and defending the highly valuable and hazardous resources housed at these facilities.

The proposed establishment or modifications of prohibited airspace over these sites is one segment of a comprehensive DOE effort to enhance the protection of its facilities at which these vital nuclear weapons research, development, and production activities are conducted. DOE believes aircraft operations in this airspace should be prohibited to the extent specified in the proposal unless the operation is specifically authorized by DOE. This will enable DOE to have continuous knowledge of the aircraft operating in this airspace. The DOE security forces are required to restrict and prohibit operations over its facilities to the extent necessary to prevent illegal entry and sabotage or theft of vital defense weapons.

If the prohibited airspace areas proposed by the DOE are established by the FAA, helicopter operations at any altitude over the designated sites would be prohibited without prior authorization. Operation of fixed-wing aircraft would be affected at five of the nine sites, but only to 3,000 feet AGL (except at Amarillo, TX, where the present 1,200 feet AGL prohibition would be retained; and Los Alamos, NM, where the present designated airspace ceiling would be raised from 12,000 feet MSL to 14,500 feet MSL). It should be noted that FAR Part 73 § 73.83 provides that no person may operate an aircraft in a prohibited area unless authorization has been granted by the using agency. Comments are specifically requested concerning the extent and circumstances under which flights should be authorized in the subject airspace.

Regulatory Evaluation and Economic Questions

An important consideration in the FAA regulatory process is the examination of the benefits and costs of rulemaking actions. Agencies of the Federal Government are required by Executive Order 12291 to adopt only those regulatory programs in which the potential benefits to society outweigh the potential costs to society.

Because of the FAA's lack of current data on the potential economic impacts of the DOE proposal, a full regulatory evaluation has not been prepared at this time. However, any regulatory proposal FAA might make will be accompanied by a full evaluation which will quantify, to the extent possible, the benefits and costs of such a proposal. Therefore, it is essential that comments for or against the proposals discussed here are accompanied by statements of the economic impacts perceived by the commenter.

FAA specifically solicits comments from individuals, corporate entities and organizations on the economic impacts of the proposed regulations. In particular, the FAA is concerned about the "excess cost" associated with proposed regulations. By "excess cost," FAA means the difference between complying with the proposed regulations, and the cost of complying with current regulations or standard practices. For example, what is the excess cost for a fixed-wing aircraft operator to fly "over the top" or circumnavigate the proposed prohibited airspace at Aiken, SC, compared to the normal operating practices of fixed-wing aircraft operations in that airspace?

With this in mind, the FAA poses several additional questions:

1. What are the benefits associated with restricting operations in the proposed prohibited airspace over the specified DOE nuclear facilities (i.e., prevent illegal entry and sabotage or theft of vital defense weapons)?

2. What are the "excess costs" to rotorcraft operators associated with eliminating operation of rotorcraft in the proposed prohibited airspace areas (i.e., circumnavigation costs, impacts on rotorcraft-related businesses)?

3. What are the cost impacts on the aviation public, particularly helicopters, with regard to:

a. Elimination of an instrument approach (Amarillo)?

b. Revision of a standard terminal arrival route (San Francisco)?

c. Revision of standard instrument departures (Dallas/Ft. Worth, Denver and San Francisco)?

d. The realignment of numerous low altitude airways near or penetrating proposed prohibited airspace?

e. The realignment of airport traffic patterns?

f. The impact of the proposed rule on public use airports that lie nearby the proposed prohibited airspace areas?

4. Is the proposed rule believed to have a significant negative economic impact on small businesses, nonprofit organizations or governmental

jurisdictions? If so, what are the types and sizes of the entities affected? Also, what is the nature and magnitude of the negative economic impact?

Responses to these questions should fully address the nature of the impact, the site-specific location of impact, and the groups or types of operators, businesses or entities that are impacted. Commenters should describe and quantify the specific benefits and costs supported by factual data to the extent possible, or explain why costs are not quantifiable. Commenters should also provide the rationale for their opinions, which might include information pertaining to frequency of flight in the area, number of miles and minutes to avoid the area, type of operation and typical aviation practices. The FAA will examine separately the costs imposed on the Federal Government (e.g. impact on military training routes, revision of instrument approach procedures, relocation of NAVAIDS).

The benefit and cost questions outlined above cover the broad areas of this ANPRM. The FAA desires comments pertaining to these areas of impact and other areas which the commenter feels may be of impact. The FAA invites particularly interested groups to gather the preferences, ideas and comments of their group members, through such devices as articles in membership publications and polls of their membership.

List of Subjects in 14 CFR Part 73

Aviation safety.

Descriptions of the prohibited areas that the DOE has requested the FAA to designate or amend, at the nine DOE installations, are set forth below and depicted on the charts at the end of this document.

§ 73.89 P–47 Amarillo, TX—[Revoked]

Amarillo, TX (Rotorcraft) [New] Boundaries. Beginning at lat. 35°21'09" N., long. 101°37'03" W.; to lat. 35°21'11" N., long. 101°32'27" W.; to lat. 35°18'09" N., long. 101°32'27" W.; to lat. 35°18'09" N., long. 101°34'48" W.; to lat. 35°17'55" N., long. 101°35'08" W.; to lat. 35°17'55" N., long. 101°35'37" W.; to lat. 35°19'05" N., long. 101°35'40" W.; to lat. 35°19'05" N., long. 101°36'04" W.; to lat. 35°18'02" N., long. 101°36'27" W.; to lat. 35°18'02" N., long. 101°37'03" W.; to the point of beginning.

Designated altitudes. Surface to unlimited.

Time of designation. Continuous.

Controlling agency. FAA.

Using agency. United States Department of Energy, Amarillo Area Office.

Amarillo, TX [New] Boundaries. Beginning at Lat. 35°21'09" N., long. 101°37'03" W.; to lat. 35°21'11" N., long. 101°32'27" W.; to lat. 35°18'09" N., long. 101°32'27" W.; to lat. 35°18'09" N., long. 101°34'48" W.; to lat. 35°17'55" N., long. 101°35'08" W.; to lat. 35°17'55" N., long. 101°35'37" W.; to lat. 35°19'05" N., long. 101°35'40" W.; to lat. 35°19'05" N., long. 101°36'04" W.; to lat. 35°18'02" N., long. 101°36'27" W.; to lat. 35°18'02" N., long. 101°37'03" W.; to the point of beginning.

Designated altitudes. Surface of 4,800 feet MSL (1,200 feet AGL).

Time of designation. Continuous.

Controlling agency. FAA.

Using agency. United States Department of Energy, Amarillo Area Office.

San Francisco, CA (Rotorcraft) [New] Boundaries. Beginning at lat. 37°41'40" N., long. 121°42'49" W.; to lat. 37°41'40" N., long. 121°41'45" W.; to lat. 37°40'47" N., long. 121°41'44" W.; to lat. 37°40'48" N., long. 121°42'05" W.; to lat. 37°40'15" N., long. 121°42'05" W.; to lat. 37°40'06" N., long. 121°42'16" W.; to lat. 37°40'06" N., long. 121°42'27" W.; to lat. 37°40'35" N., long. 121°42'27" W.; to lat. 37°40'48" N., long. 121°42'39" W.; to lat. 37°40'48" N., long. 121°42'50" W.; to lat. 37°41'40" N., long. 121°42'49" W.; to the point of beginning.

Designated altitudes. Surface to unlimited.

Time of designation. Continuous.

Controlling agency. FAA.

Using agency. United States Department of Energy, San Francisco Operations Office.

Livermore, CA (Rotorcraft) [New] Boundaries. Beginning at lat. 37° 41'15" N., long. 121° 33'58" W.; to lat. 37°41'11" N., long. 121°30'38" W.; to lat. 37°89'07" N., long. 121°30'40" W.; to lat. 37°39'05" N., long. 121°29'21" W.; to lat. 37°38'05" N., long. 121°29'36" W.; to lat. 37°38'00" N., long. 121°30'05" W.; to lat. 37°37'49" N., long. 121°30'41" W.; to lat. 37°37'47" N., long. 121°31'22" W.; to lat. 37°38'18" N., long. 121°34'00" W.; to the point of beginning.

Designated altitudes. Surface to unlimited.

Time of designation. Continuous.

Controlling agency. FAA.

Using agency. United States Department of Energy, San Francisco Operations Office.

Aiken, SC (Rotorcraft) [New] Boundaries. Beginning at lat. 33°24'30" N., long. 81°47'00" W.; to lat. 33°10'30" N., long. 81°47'00" W.; to lat. 33°05'30" N., long. 81°38'30" W.; to lat. 33°11'30" N., long. 81°28'00" W.; to lat. 33°21'00" N., long. 81°28'00" W.; to lat. 33°24'30" N., long. 81°32'00" W.; to the point of beginning.

Designated altitudes. Surface to unlimited.

Time of designation. Continuous.

Controlling agency. FAA.

Using agency. United States Department of Energy, Savannah River Operations Office.

Aiken, SC [New] Boundaries. Beginning at lat. 33°24'30" N., long. 81°47'00" W.; to lat. 33°12'25" N., long. 81°47'00" W.; to lat. 33°09'17" N., long. 81°44'35" W.; to lat. 33°09'17" N., long. 81°41'55" W.; to lat. 33°15'30" N., long. 81°30'00" W.; to lat. 33°21'45" N., long. 81°30'00" W.; to lat. 33°24'30" N., long. 81°44'30" W.; to the point of beginning.

Designated altitudes. Surface to 3,000 feet AGL.

Time of designation. Continuous.

Controlling agency. FAA.

Using agency. United States Department of Energy, Savannah River Operations Office.

Golden, CO (Rotorcraft) [New] Boundaries. Beginning at lat. 39°54'51" N., long. 105°14'10" W.; to lat. 39°54'37" N., long. 105°09'54" W.; to lat. 39°52'14" N., long. 105°09'53" W.; to lat. 39°52'14" N., long. 105°13'18" W.; to lat. 39°53'07" N., long. 105°13'20" W.; to lat. 39°53'07" N., long. 105°14'09" W.; to the point of beginning.

Designated altitudes. Surface to unlimited.

Time of designation. Continuous.

Controlling agency. FAA.

Using agency. United States Department of Energy, Rocky Flats Area Office.

Idaho Falls, ID (Rotorcraft) [New] Boundaries. Beginning at lat. 43°59'20" N., long. 112°43'50" W.; to lat. 43°50'20" N., long. 112°30'00" W.; to lat. 43°32'00" N., long. 112°35'00" W.; to lat. 43°27'00" N., long. 113°03'00" W.; to lat. 43°34'30" N., long. 113°11'50" W.; to lat. 43°48'48'40" N., long. 112°49'40" W.; to the point of beginning.

Designated altitudes. Surface to unlimited.

Time of designation. Continuous.

Controlling agency. FAA.

Using agency. United States Department of Energy, Idaho Operations Office.

Idaho Falls, ID [New] Boundaries. Beginning at lat. 43°59'20" N., long. 112°43'50" W.; to lat. 43°56'00" N., long. 112°40'00" W.; to lat. 43°31'00" N., long. 112°35'00" W.; to lat. 43°28'00" N., long. 113°03'00" W.; to lat. 43°34'30" N., long. 113°11'50" W.; to lat. 43°48'40" N., long. 112°49'40" W.; to the point of beginning.

Designated altitudes. Surface to 3,000 feet AGL.

Time of designation. Continuous.

Controlling agency. FAA.

Using agency. United States Department of Energy, Idaho Operations Office.

Los Alamos, NM (Rotorcraft) [New] Boundaries. Beginning at lat. 35°47'00" N., long. 106°14'48" W.; to lat. 35°50'03" N., long. 106°21'36" W.; to lat. 35°52'22" N., long. 106°20'42" W.; to lat. 35°52'52" N., long. 106°16'48" W.; to lat. 35°52'30" N., long. 106°14'48" W.; to the point of beginning.

Designated altitudes. Surface to unlimited.

Time of designation. Continuous.

Controlling agency. FAA.

Using agency. United States Department of Energy, Los Alamos Area Office.

Los Alamos, NM [New] Boundaries. Beginning at lat. 35°47'00" N., long. 106°14'48" W.; to lat. 35°50'03" N., long. 106°21'36" W.; to lat. 35°52'22" N., long. 106°20'42" W.; to lat. 35°52'52" N., long. 106°16'48" W.; to lat. 35°52'30" N., long. 106°14'48" W.; to the point of beginning.

Designated altitudes. Surface to 14,500 feet MSL.

Time of designation. Continuous.

Controlling agency. FAA.

Using agency. United States Department of Energy, Los Alamos Area Office.

Oak Ridge, TN (Rotorcraft) [New] Boundaries. Beginning at lat. 35°57'02" N., long. 84°26'37" W.; to lat. 36°00'56" N., long. 84°13'55" W.; to lat. 35°59'34" N., long. 84°12'47" W.; to lat. 35°56'22" N., long. 84°18'41" W.; to lat. 35°55'00" N., long. 84°17'34" W.; to lat. 35°52'45" N., long. 84°21'41" W.; to lat. 35°52'55" N., long. 84°23'10" W.; to the point of beginning.

Designated altitudes. Surface to unlimited.

Time of designation. Continuous.

Controlling agency. FAA.

Using agency. United States Department of Energy, Oak Ridge Operations Office.

Oak Ridge, TN [New] Boundaries. Beginning at lat. 35°58'30" N., long. 84°20'00" W.; to lat. 36°00'00" N., long. 84°13'30" W.; to lat. 35°59'20" N., long. 84°13'00" W.; to lat. 35°54'30" N., long. 84°20'00" W.; to lat. 35°58'30" N., long. 84°20'00" W.; to the point of beginning.

Designated altitudes. Surface to 3,000 feet AGL.

Time of designation. Continuous.

Controlling agency. FAA.

Using agency. United States Department of Energy, Oak Ridge Operations Office.

Richland, WA (Rotorcraft) [New] Boundaries. Beginning at lat. 46°44'25" N., long. 119°25'00" W.; to lat. 46°39'30" N., long. 119°25'00" W.; thence along the NE bank of Columbia River; to lat. 46°34'10" N., long. 119°20'00" W.; to lat. 46°30'00" N., long. 119°20'00" W.; to lat. 46°30'00" N., long. 119°15'30" W.; thence along the E bank of the Columbia River; to lat. 46°21'00" N., long. 119°16'00" W.; to lat. 46°21'00" N., long. 119°23'00" W.; to lat. 46°23'20" N., long. 119°24'50" W.; thence along State Highway Nos. 240 and 24; to the point of beginning.

Designated altitudes. Surface to unlimited.

Time of designation. Continuous.

Controlling agency. FAA.

Using agency. United States Department of Energy, Richland Operations Office.

Richland, WA [New] Boundaries. Beginning at lat. 46°44'25" N., long. 119°25'00" W.; to lat. 46°39'30" N., long. 119°25'00" W.; thence along the NE bank of Columbia River; to lat. 46°34'10" N., long. 119°20'00" W.; to lat. 46°30'00" N., long. 119°20'00" W.; to lat. 46°26'20" N., long. 119°20'00" W.; to lat. 46°23'20" N., long. 119°22'15" W.; to lat. 46°23'20" N., long. 119°24'50" W.; thence along State Highway Nos. 240 and 24; to the point of beginning.

Designated altitudes. Surface to 3,000 feet AGL.

Time of designation. Continuous.

Controlling agency. FAA.

Using agency. United States Department of Energy, Richland Operations Office.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); (49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983)); and 14 CFR 11.65)

Note.—The FAA has determined that implementing by regulation the airspace restrictions proposed by DOE is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979).

Issued in Washington, D.C., on December 29, 1983.

B. Keith Potts,

Acting Associate Administrator for Air Traffic Service.

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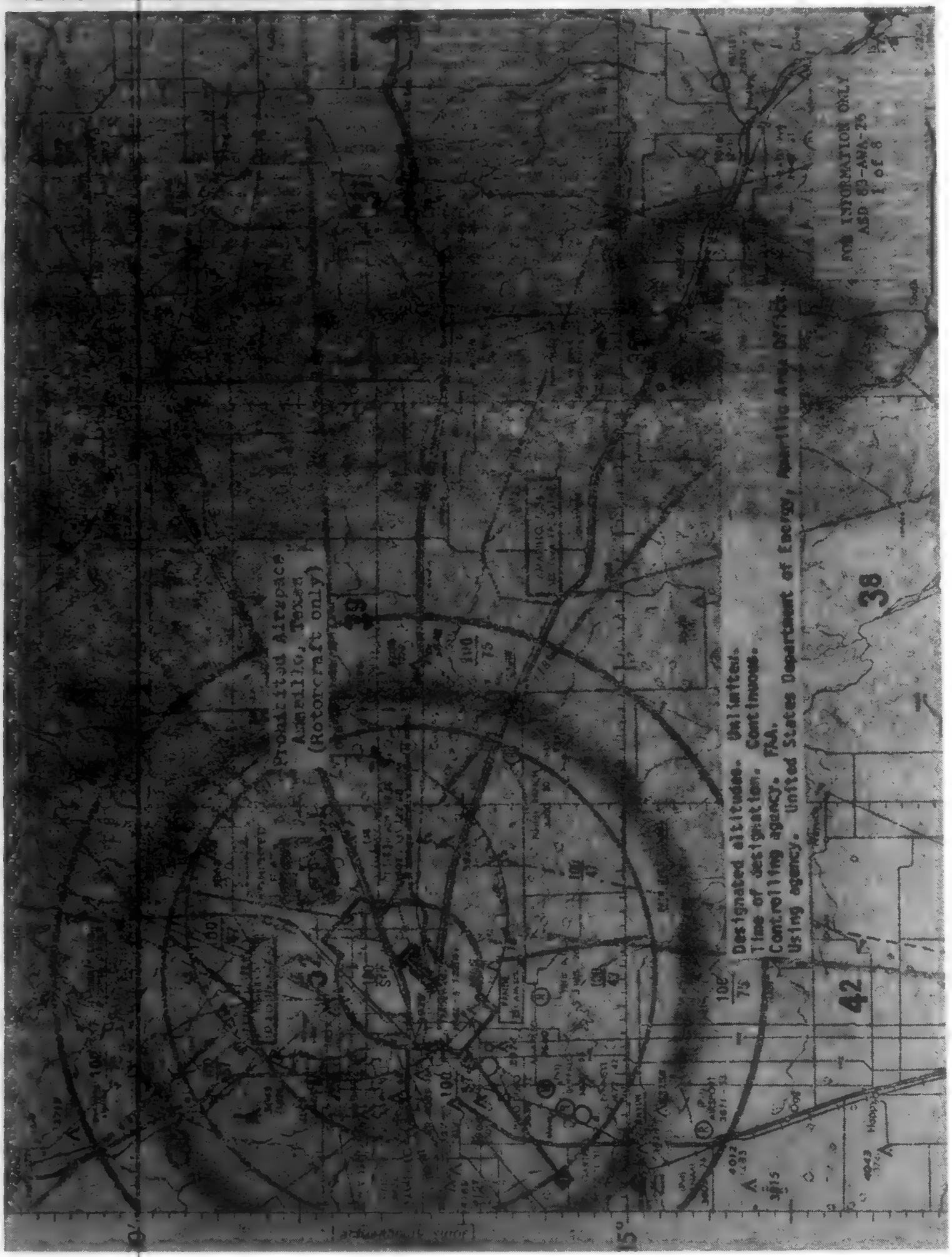
NO INFORMATION ONLY
ASR 83-AWA-26
1 of 8
Designated altitudes. Unlimited.
Time of designation. Continuous.
Controlling agency. FAA.
Using agency. United States Department of Energy, Amarillo Area Office.
38
42
Amarillo, Texas
(Rotorcraft only)

FOR INFORMATION ONLY
ASD 83-AWA-26
2 of 8
Prohibited Airspace
Livermore, California
(Hercules)

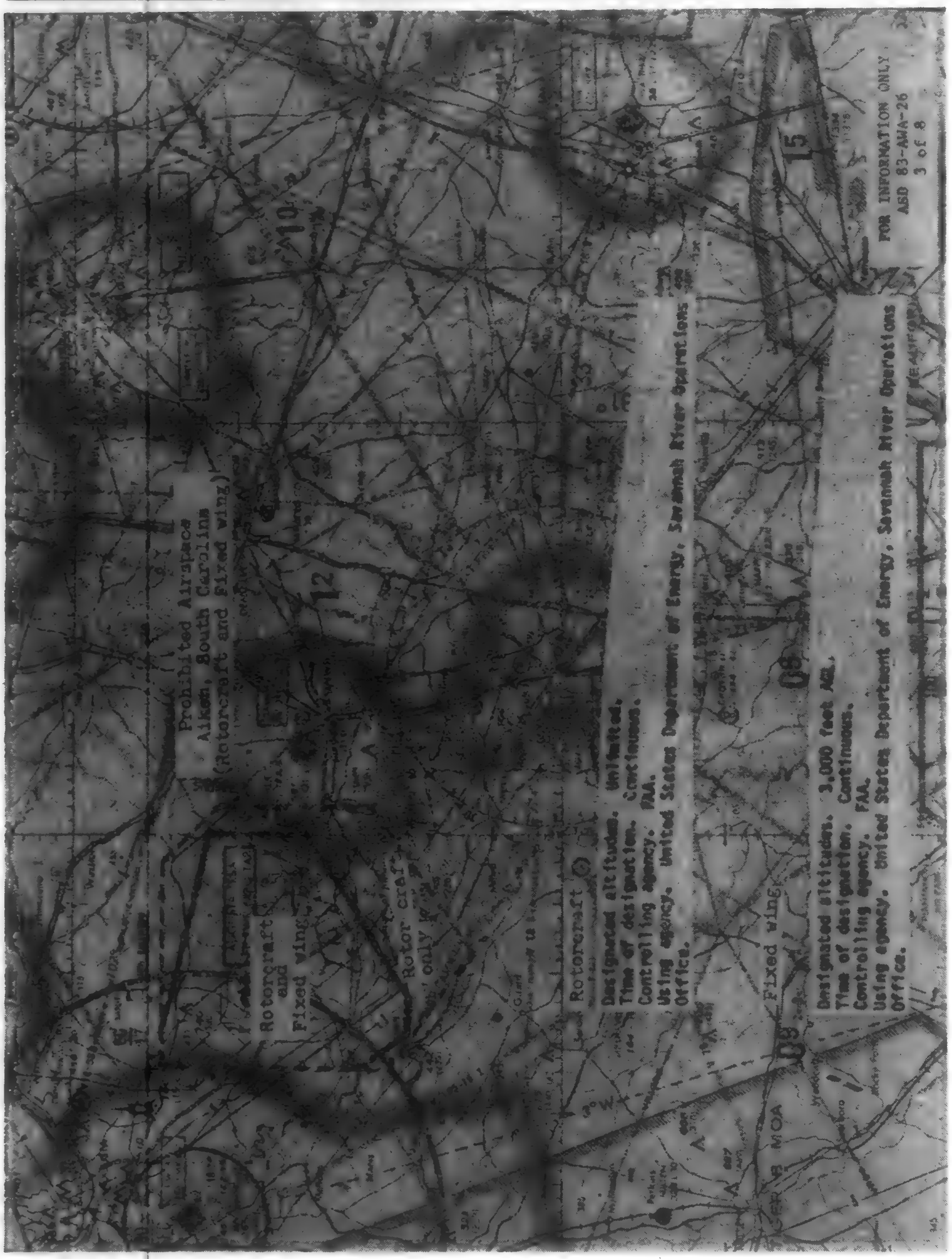
Prohibited Airspace
Aiken, South Carolina
(Rotorcraft and Fixed wing)
Rotorcraft and Fixed wing
Rotor craft only
Rotorcraft
Fixed wing
Designated altitudes. Unlimited.
Time of designation. Continuous.
Controlling agency. FAA.
Using agency. United States Department of Energy, Savannah River Operations Office.
FOR INFORMATION ONLY
ASD 83-AWA-26
3 of 8
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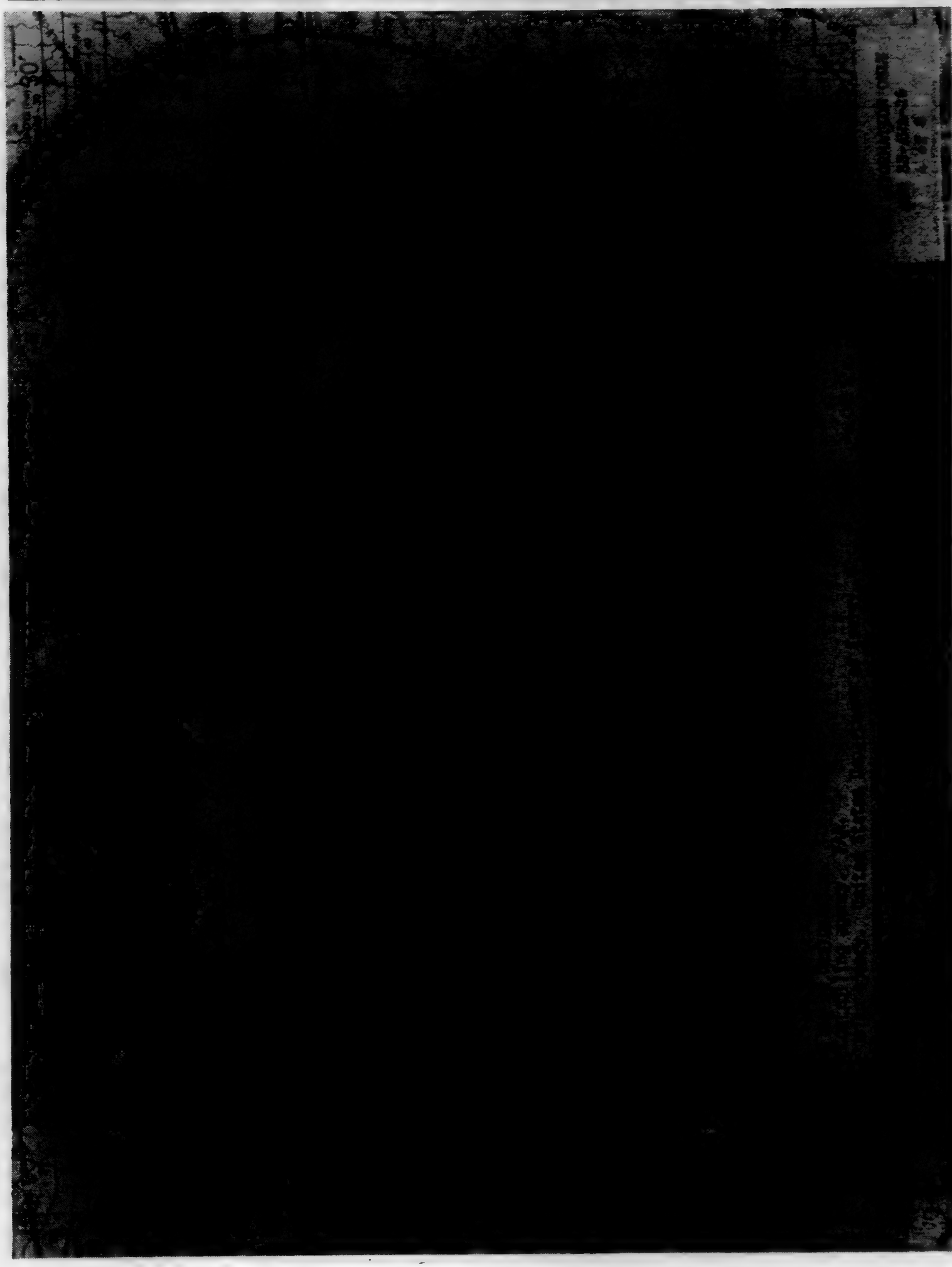

Prohibited Airspace
Idaho Falls, Idaho
(Rotorcraft and Fixed wing)
Rotorcraft
and
Fixed wing
Rotorcraft
Designated altitudes. Unlimited.
Time of designation. Continuous.
Controlling agency. FAA.
Using agency. United States Department of Energy, Idaho Operations Office.
Fixed Wing
Designated altitudes. 3,000 feet AGL.
Time of designation. Continuous.
Controlling agency. FAA.
Using agency. United States Department of Energy, Idaho Operations Office.
FOR INFORMATION ONLY
ASD 83-AWA-26
5 of 8
78°

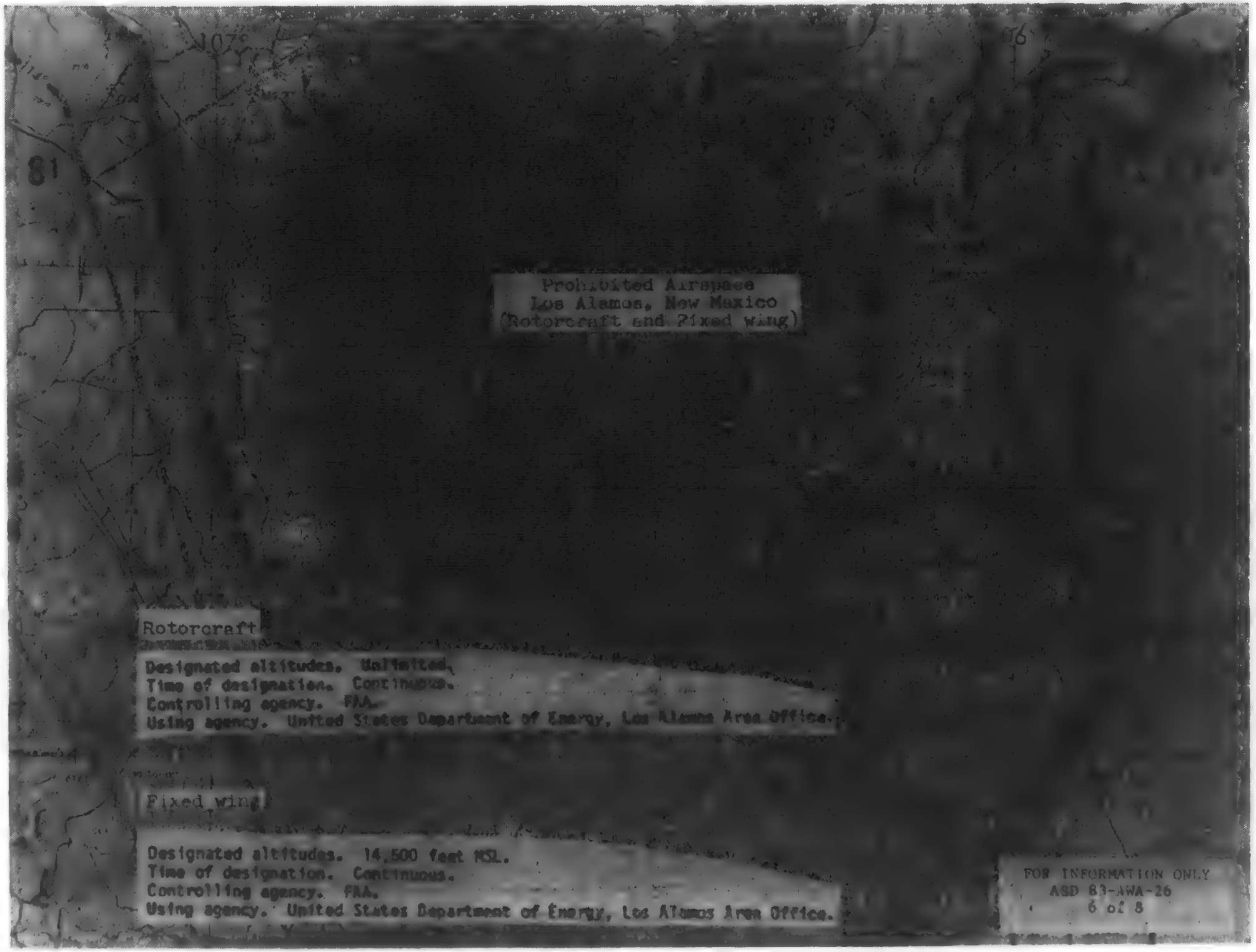
Prohibited Airspace
Los Alamos, New Mexico
(Rotorcraft and Fixed wing)
Rotorcraft
Designated altitudes. Unlimited.
Time of designation. Continuous.
Controlling agency. FAA.
Using agency. United States Department of Energy, Los Alamos Area Office.
Fixed wing
Designated altitudes. 14,500 feet MSL.
Time of designation. Continuous.
Controlling agency. FAA.
Using agency. United States Department of Energy, Los Alamos Area Office.
FOR INFORMATION ONLY
ASD 83-AWA-26
6 of 8

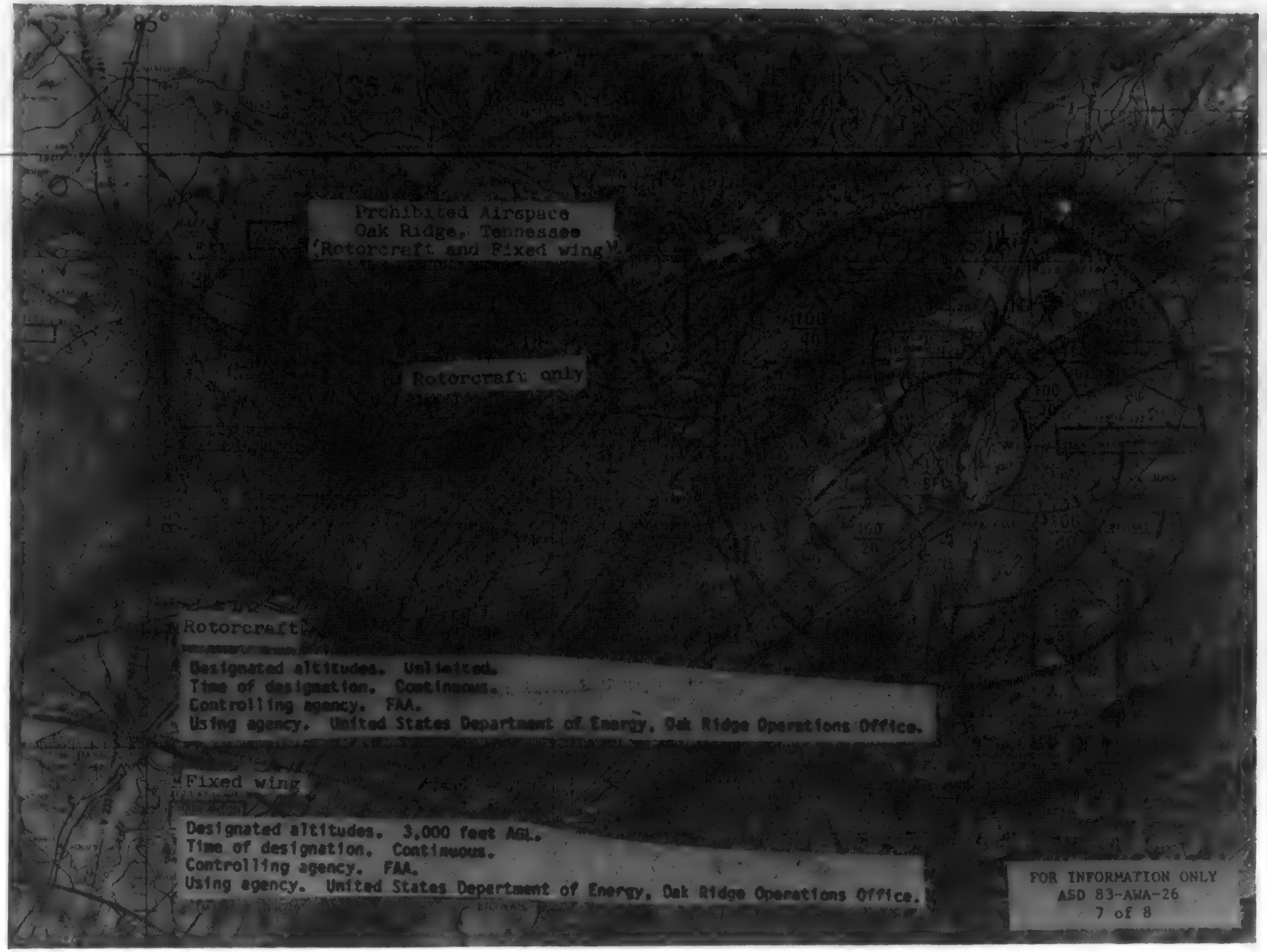

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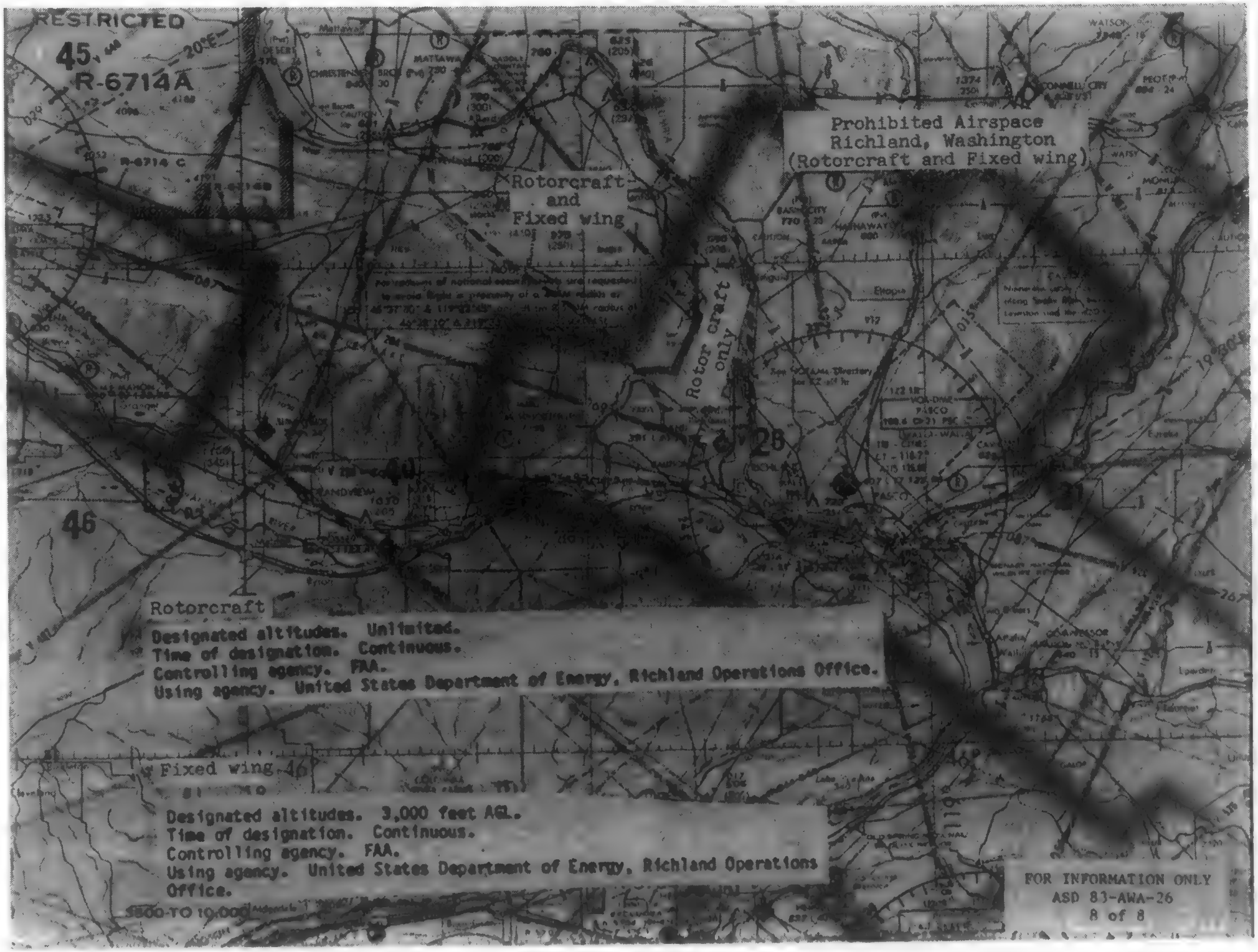
RESTRICTED
45
R-6714A
Prohibited Airspace
Richland, Washington
(Rotorcraft and Fixed wing)
Rotorcraft
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46
Rotorcraft
Designated altitudes. Unlimited.
Time of designation. Continuous.
Controlling agency. FAA.
Using agency. United States Department of Energy, Richland Operations Office.
Fixed wing
Designated altitudes. 3,000 feet AGL.
Time of designation. Continuous.
Controlling agency. FAA.
Using agency. United States Department of Energy, Richland Operations Office.
FOR INFORMATION ONLY
ASD 83-AWA-26
8 of 8

14 CFR Part 75

[Airspace Docket No. 83-AGL-29]

Proposed Alteration of Jet Route J-106—Green Bay, WI

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to realign Jet Route J-106 between the Green Bay, WI, VORTAC and the Flint, MI, VORTAC. The realigned route would reduce route mileage to users and reduce controller workload.

DATES: Comments must be received on or before March 26, 1984.

ADDRESSES: Send comments on the proposal in triplicate to: Director, FAA, Great Lakes Region, Attention: Manager, Air Traffic Division, Docket No. 83-AGL-29, Federal Aviation Administration, 2300 East Devon, Des Plaines, IL 60018.

The official docket may be examined in the Rules Docket, weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m. The FAA Rules Docket is located in the Office of the Chief Counsel, Room 916, 800 Independence Avenue, SW., Washington, D.C.

An informal docket may also be examined during normal business hours at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Neil Saunders, Airspace and Air Traffic Rules Branch (AAT-230), Airspace—Rules and Aeronautical Information Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426-8783.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted i n triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 83-AGL-29." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, SW., Washington, D.C. 20591, or by calling (202) 426-8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2 which describes the application procedure.

The Proposal

The FAA is considering an amendment to § 75.100 of Part 75 of the Federal Aviation Regulations (14 CFR Part 75) to realign Jet Route J-106 between Green Bay, WI, VORTAC and Flint, MI, VORTAC. The realignment would establish a direct course between the cited VORTACs resulting in reduced route mileage to users and reduced coordination workload for controllers. Section 75.100 of Part 75 of the Federal Aviation Regulations was republished in Advisory Circular AC 70-3A dated January 3, 1983.

List of Subjects in 14 CFR Part 75

Airspace, Navigation (air), Jet routes.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 75.100 of Part 75 of the Federal Aviation Regulations (14 CFR Part 75) as follows:

J-106 [Amended]

By deleting the words "INT Green Bay 106° and Flint, MI, 310° radials; Flint" and substituting the words "Flint, MI"

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); (49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983)); and 14 CFR 11.65)

Note.—The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore: (1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Washington, D.C., on February 1, 1984.

John W. Baier,

Acting Manager, Airspace—Rules and Aeronautical Information Division.

[FR Doc. 84-3391 Filed 2-7-84; 8:45 am]

BILLING CODE 4910-13-M

COMMODITY FUTURES TRADING COMMISSION

17 CFR Parts 3, 4 and 140

Commodity Pool Operators and Commodity Trading Advisors; Exemption From Registration and From Subpart B of Part 4 for Certain Otherwise Regulated Persons and Other Regulatory Requirements

AGENCY: Commodity Futures Trading Commission.

ACTION: Proposed rules.

SUMMARY: The Commodity Futures Trading Commission (the "Commission") is proposing to exempt certain otherwise regulated persons from registration as a commodity pool operator ("CPO") and from the provisions of Subpart B of Part 4 of the Commission's regulations upon the filing of a notice of eligibility with the Commission. To implement this proposal, certain other amendments would be made to the Commission's regulations. Similarly, and so that it may know the identities of all persons who are operating as a CPO pursuant to an exemption from registration as such, the Commission is proposing to require that each person who is exempt from registration as a CPO pursuant to § 4.13(a)—the operators of family, club and small pools—file with the Commission the prescribed statement of exemption that it currently is required to deliver to prospective participants pursuant to § 4.13(b)(1). The Commission also is proposing to

prohibit CPOs from receiving income generated from their pools' assets other than for the purpose of recovering actual organizational and offering expenses. Without specifying any proposed language at this time, the Commission further is considering the adoption of other amendments to the Part 4 regulations that would: exempt other persons from registration as a CPO or from certain provisions of Part 4; exempt certain persons registered as an investment adviser ("IA") under the Investment Advisers Act of 1940 (the "IAA") from registration as a commodity trading advisor ("CTA"); supplement the current format for presenting the actual past performance records of CPOs, and their principals; and establish financial requirements for CPOs.

DATE: Comments must be received by April 9, 1984.

ADDRESS: Comments should be sent to: Commodity Futures Trading Commission, 2033 K Street NW., Washington, D.C. 20581. Attention: Secretariat.

FOR FURTHER INFORMATION CONTACT: Barbara R. Stern, Special Counsel for Commodity Pool Operators and Commodity Trading Advisors, Division of Trading and Markets, 2033 K Street NW., Washington, D.C. 20581. Telephone: (202) 254–8955.

SUPPLEMENTARY INFORMATION:

I. Proposed Exemption for Certain Otherwise Regulated Persons from Registration as a CPO and From the Provisions of Subpart B of Part 4

A. Introduction

The term "commodity pool operator" is defined in section 2(a)(1)(A) of the Commodity Exchange Act, as amended (the "Act"), 7 U.S.C. 2 (1982), to mean:

> [A]ny person engaged in a business which is of the nature of an investment trust, syndicate, or similar form of enterprise, and who, in connection therewith, solicits, accepts, or receives from others, funds, securities, or property, either directly or through capital contributions, the sale of stock or other forms of securities, or otherwise, for the purpose of trading in any commodity for future delivery on or subject to the rules of any contract market, but does not include such persons not within the intent of this definition as the Commission may specify by rule or regulation or by order.

Section 4m(1) of the Act, 7 U.S.C. 6m(1) (1982), makes it unlawful for any person to engage in business as a CPO without being registered as such. Part 4 of the Commission's regulations, 17 CFR Part 4 (1983), as amended by 48 FR 35248 (August 3, 1983), governs the operations and activities of CPOs.[1] In particular, § 4.10(d) defines the term "pool" to mean "any investment trust, syndicate or similar form of enterprise operated for the purpose of trading commodity interests." [2] In adopting this definition, the Commission stated:

> Whether a particular entity is operated 'for the purpose' of trading commodity interests, and thus is a pool within the scope of § 4.10(d), depends on an evaluation of all the facts relevant to the entity's operation. The Commission recognizes that in the past its staff has issued interpretations of the Part 4 rules. Consistent with that practice, the Commission invites interested persons to seek such staff interpretation of § 4.10(d) . . . . 46 FR 26004, 26006 (May 8, 1981).

Pursuant to this invitation certain interested persons have sought and have received staff interpretations [3] that they would not be CPOs and that the entities they operated would not be pools within the scope of § 4.10(d).[4] The representations given in connection with the receipt of these "not a pool" letters typically stated that the entity in question (1) was subject to extensive Federal or State regulation; (2) would be using commodity interests for hedging purposes; (3) would commit only a small percentage of its assets—*e.g.*, 5%—to its commodity interest trading; (4) would not be promoted as a commodity pool; and (5) would disclose, as appropriate, the purpose of and limitations on its commodity interest trading.[5]

In connection with the adoption of the Futures Trading Act of 1982, Pub. L. No. 97–444, 96 Stat. 2294 *et seq.* (1983) (the "1982 Act"), the Senate Committee on Agriculture, Nutrition, and Forestry (the "Committee") considered an amendment to the CPO definition which would have exempted the persons specified therein from the CPO definition. As the Committee Report states:

> Chairman Helms then offered an amendment to clarify the definition of the term "commodity pool operator." In general, the amendment would exempt from the definition of "commodity pool operator" (1) any group of individuals less than five in number, (2) any person regulated under the Investment Company Act of 1940 or any insurance company or any trust department of a bank or trust company, each of which utilizes less than 10 percent of its pooled assets (as initial margins or options premiums) for futures trading and which was not established to conduct business as a commodity pool, (3) any benefit plan that is subject to the provisions of the Employee Retirement Income Security Act of 1974, and (4) any other person exempted by the Commission. . . . The Chairman indicated that adoption of the amendment would make it easier for commercial interests which pool funds for long-term investment in bonds and other long-term interest bearing vehicles to hedge the risk associated with fluctuation in interest rates. The Chairman further stated that, since virtually all the persons or entities to which the exception would apply are regulated by other Federal or State agencies, it is reasonable to take them out of this regulatory mechanism. S. Rep No. 384, 97th Cong., 2d Sess. 79–80 (1982).

In connection with the Committee's consideration of this amendment, the Commission made the Committee aware of the "not a pool" interpretations its staff previously had provided and of the representations upon which these interpretations had been based.[6]

After discussing whether the amendment may have been too broad and after noting the fact that the Commission intended to further review the issue of which entities should not be treated as commodity pools, the Committee declined to adopt the suggested amendment. Instead, the

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[1] Part 4 also governs the operations and activities of CTAs. For the purposes of this **Federal Register** release, references to a particular Part 4 regulation may be found in 17 CFR Part 4 (1983).

While the Act provides the Commission with general authority to regulate both CPOs and commodity pools, it provides the Commission with specific authority only to register CPOs. With respect to the registration of commmodity pools and of units of participation therein, Section 4m(2), 7 U.S.C. 6m(2) (1982), states:

> Nothing in this Act shall relieve any person of any obligation or duty, or affect the availability of any right or remedy available to the Securities and Exchange Commission or any private party arising under the Securities Act of 1933 or the Securities Exchange Act f 1934 governing the issuance, offer, purchase, or sale of securities of a commodity pool, or of persons engaged in transactions with respect to such securities, or reporting by a commodity pool.

[2] The term "commodity interest" is defined in § 4.10(a) to mean:

(1) Any contract for the purchase or sale of a commodity for future delivery; and

(2) Any contract, agreement or transaction subject to Commission regulation under section 4c or 19 of the Act.

[3] These interpretations have been issued by the Commission's Division of Trading and Markets, which is responsible for, among other things, administering and interpreting the Part 4 regulations.

[4] *See, e.g., IDS Bond Fund, Inc.* (available December 23, 1981); *Harris Trust and Savings Bank* (available November 13, 1981); *Montgomery Street Income Securities, Inc.* (available August 14, 1981).

[5] It should be noted that not all of the persons who requested such "not a pool" staff interpretations received them. Where one or more of these representations were absent, the Division of Trading and Markets has declined to issue such an interpretation. The Division has, however, afforded such persons certain relief from the Part 4 rules. The nature of this relief is discussed below in Part II of this **Federal Register** release.

[6] The Commission also advised the Committee that the staff had been proceeding very cautiously in issuing these interpretations in light of the recent expanded interest of institutional investors in commodity related pooled investment media.

Committee directed the Commission to issue regulations which would have the effect of exempting certain otherwise regulated persons from registration as a CPO. Specifically, the Committee Report states:

> The Committee believes, consistent with the amendment offered by Chairman Helms, that certain entities are not within the intent of the definition of the term "commodity pool operator", as that term is defined in the Act, unless these entities have other attributes or features which would warrant their regulation as a commodity pool operator. Specifically, an entity regulated under the Investment Company Act of 1940 or an insurance company or a bank or trust company acting in its fiduciary capacity and subject to regulation by any State or the United States could ordinarily be excluded from the definition of the term "commodity pool operator," provided that (1) the entity uses commodity futures contracts of options thereon solely for hedging purposes; (2) initial margin requirements or premiums for such futures or options contracts will never be in excess of 5 percent of the fair maket value of the entity's assets (in the case of an investment company) or of the assets of any trust, custodial account or other separate unit of investment for which the entity is acting as a fiduciary; (3) the entity has not been and will not be, marketing participations to the public as or in a commodity pool or otherwise as or in a vehicle for trading in the commodities markets; and (4) the entity will disclose to each prospective participant the purpose of and limitations on the scope of the commodity futures or commodity option trading it conducts for such participants.
>
> Also, a defined benefit plan that is subject to the provisions of the Employee Retirement Income Security Act of 1974 (ERISA) and is insured by the Pension Benefit Guaranty Corporation, or any fiduciary thereof, ordinarily could be excluded from the definition of the term "commodity pool operator", provided that its commodity futures (or options on futures) trading activity is solely incidental to the conduct of its business as such a plan or as a fiduciary thereof. The Committee understands that such a plan and its fiduciaries are subject to extensive regulation under ERISA. Therefore, while the Commission should retain discretion in this area, the Committee believes that, unless otherwise inappropriate, exemption by rule, regulation, or order from commodity pool operator registration and related requirements, other than antifraud provisions, should generally be granted to these classes of entities. *Id.* at 80.

To implement this directive, by this **Federal Register** release the Commission is proposing § 4.5 and certain related amendments to its regulations.

B. Proposed § 4.5

Prior to discussing the mechanics of the proposed rule, the Commission believes that a general discussion of the relationship between a CPO and its pool would be helpful to persons who would be affected by the proposal.

Under the Commission's regulatory framework, a CPO and its pool generally must be organized as separate entities. Specifically, Rule 4.20(a) provides that, subject to exception in the case of certain corporations, a CPO must operate its pool as an entity cognizable as a legal entity separate from that of the pool operator.[7] The rule leaves to the discretion of the CPO the form of organization of its pool, so long as that form is one which would be recognized as a separate entity by a court of competent jurisdiction—e.g., a general partnership, a limited partnership, a trust or other form of association. Among other things, Rule 4.20(a) is intended to afford pool participants the maximum amount of protection in the event of the CPO's insolvency, to prohibt a CPO from soliciting or accepting orders from members of the public for the purchase or sale of commodity futures contracts without being registered as a futures commission merchant ("FCM"),[8] and to clarify the responsibility of the CPO for the activities and investment policies of its pool.

Frequently, Commission staff is called upon by members of the public to offer guidance on determing who, in fact, would be the CPO of a particular pool. In providing such guidance, the staff typically looks at such factors as who will be acting in the manner contemplated by the statutory definition of the term "commodity pool operator"—*e.g.*, who will be promoting the pool by soliciting, accepting or receiving from others, property for the purpose of commodity interest trading—and who will have the authority to hire (and to fire) the pool's CTA and to select (and to change) the pool's FCM.

To be effective, then, any exemption under proposed § 4.5 must not only be applicable to a " person" who could be deemed to be a CPO but also to the pool such person intended to operate—*i.e.*, its "qualifying entity.,"Accordingly, paragraph (a) of the proposed rule pertains to the persons that would be eligible for exemption from CPO registration and from Subpart B and paragraph (b) specifies the corresponding qualifying entity for which such exemption would be available. The Commission has strictly followed the language of the Committee Report in specifying the persons and the qualifying entities eligible for the exemption. Since who the pool operator of a given entity would be might extend to operating officials, principals or employees, to clarify the scope of the exemption, paragraph (a) includes not only the person itself (*e.g.*, a bank or trust company) but also "any principal or employee thereof."[9] For similar reasons, paragraph (b) provides that a qualifying entity must be operated in a specified manner, which essentially is the manner specified in the Committee Report, discussed below.

To qualify for the exemption, a person would file a notice of eligibility with the Commission, as provided for in paragraph (c). The Commission is not now proposing that this notice be supported by any specific documentation. The Commission is, however, requesting comment on whether such documentation would be appropriate and, if so, what would be approrpiate.[10] (In this connection, the

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[7] 4.20(a) provides:

(a)(1) Except as provided in paragraph (a)(2) of this section, a commodity pool operator must operate its pool as an entity cognizable as a legal entity separate from that of the pool operator.

(a)(2) The Commission may exempt a corporation from the requirements of paragraph (a)(1) if:

(i) The corporation represents in writing to the Commission that each participant in its pool will be issued stock or other evidences of ownership in the corporation for all funds, securities or other property that the participant contributes for the purchase of an ownership interest in the pool;

(ii) The corporation demonstrates to the satisfaction of the Commission that it has established procedures adequate to assure compliance with paragraphs (b) and (c) of this section; and

(iii) The Commission finds that the exemption is not contrary to the public interest and the purposes of the provision from which the exemption is sought.

Pargarphs (b) and (c) of Rule 4.20 provide:

(b) All funds, securities or other property received by a commodity pool operator from an existing or prospective pool participant for the purchase of an interest or as an assessment (whether voluntary or involuntary) on an interest in a pool that it operates or that it intends to operate must be received in the pool's name.

(c) No commodity pool operator may commingle the property of any pool that it operates or that it intends to operate with the property of any other person.

[8] Section 2(a)(1)(A) of the Act defines the term "futures commission merchant" to mean:

[Any person] engaged in soliciting or in accepting orders for the purchase or sale of any commodity for future delivery on or subject to the rules of any contract market and that, in or in connection with such solicitation or acceptance of orders, accepts any money, securities, or property (or extends credit in lieu thereof) to margin, guarantee, or secure any trades or contracts that result or may result therefrom.

Section 4d(1) of the Acxt, U.S.C. 6d(1) (1982), makes it unlawful for any person to engage in business as a FCM without being reqisteredc as such.

The other prohibited activities specified in paragraphs (b) and (c) of Rule 4.20 similarly are intended to insure that a CPO does not improperly commingle, convert or otherwise mishandle the property of its pool. *See* 45 FR 51600, 51604 (August 4, 1980) and 46 FR 34310, 34311 (July 1, 1981).

[9] *See* § 4.20(a)(2), *Supra* n. 7, which allows for an entity to also be its CPO in certain cases.

[10] For example, documentation that an entity is a registered investment company—and therefore is a

Continued

Commission requests that the comments addressed to this issue, and to all other issues raised by proposed § 4.5, specifically identify the person and qualifying entity to which such comments are addressed.[11])

Under the proposal, the notice of eligibility would be required to contain the names of the person and the qualifying entity and the applicable provisions under paragraphs (a) and (b) pursuant to which they are eligible for exemption. The Commission is aware that an entity registered as an investment company under the Investment Company Act of 1940 (the "ICA"), which is one of the specified qualifying entities, may be accorded certain exemptions under the Federal securities laws concerning disclosure and financial reporting to participants and other matters.[12] The Commission is concerned that the nature and extent of such exemptions could be such that the investment company should not be treated as "an otherwise regulated entity" for purposes of proposed § 4.5.[13] Therefore, where the qualifying entity is a registered investment company, the notice of eligibility also would contain information on any such exemptions to which the company was subject or, if it was not so subject, a statement to that effect. The Commission is not aware that any of the other qualifying entities specified in the proposal may be accorded exemptions concerning disclosure and financial reporting to participants or other exemptions from their respective regulatory schemes sufficient to warrant reconsideration of the applicability of proposed § 4.5 to them and, therefore, the Commission has not proposed that the notice contain similar information with respect to any other qualifying entities. However, the Commission requests comments on this issue.

The notice of eligibility also would be required to contain certain representations concerning the standards by which the qualifying entity would be operated. As discussed more fully below, these standards—which are criteria for the exemption—generally would require the entity: (1) To trade commodity interests solely for hedging purposes; (2) to commit no more than 5% of its assets as margin or premiums for its commodity interest trading; (3) to not market itself as a commodity pool; (4) to disclose to its participants the purpose of and limitations on its, commodity interest trading; and (5) to submit to special calls for information by the Commission. With the exception of the representation concerning special calls, which is intended to permit the Commission to monitor the continued applicability of the exemption by verifying compliance with the terms and conditions of the exemption, these standards of operation are taken from the Committee Report. It should be noted that although this proposal has not itself gone beyond the specific langauge of the Committee Report to further define the meaning and scope of these criteria, the Commission specifically is requesting comments on the actual content of these representations which address specifically the differences in the other regulatory frameworks to which the qualifying entities set forth in the proposal are subject. The Commission expects that the final rules on these representations will more fully describe the parameters of such operating conditions. Moreover, the Commission expects to interpret the express criteria of the rule in accord with the specific standards contained in the staff interpretations of § 4.10(d) which have been issued to date. Absent comment which suggests further interpretation or modification of the rule itself, the Commission expects to continue to follow such interpretations and to consider requests for further delineation of the criteria based on specific fact situations.

The first representation concerning the standards by which a qualifying entity would be operated is that the entity must "use commodity futures or options contracts solely for bona fide hedging purposes." In this regard, the Commission believes that the definition of the term "bona fide hedging transactions and positions" contained in § 1.3(z)(1), 17 CFR 1.3(z)(1) (1983), should be controlling.[14] Among other things, this means that in using commodity futures and options contracts the qualifying entity must take into account the correlation in the fluctuations in the value of its futures or options positions relative to the value of its actual or anticipated cash positions. This also means that such futures or options positions must be entered into with the intent required by § 1.3(z)(1).

In this connection, Commission staff has found that certain "anticipatory" or "long hedge" strategies do not, in fact, come within the scope of § 1.3(a)(1). With respect to futures contracts, a traditional anticipatory hedge is a transaction in which a futures contract is purchased to protect against an increase in the price of the commodity subject to the futures contract where there is a fixed commitment to purchase the underlying commodity at a later date. With respect to options, a so-called anticipatory hedge typically would involve the purchase of a call option to protect against an increase in the price of the commodity subject to the option where there is a fixed commitment to purchase such commodity. Where there is an anticipatory transaction but no fixed commitment to make a transaction at a later time in a physical marketing channel, the Commission is concerned that distinguishing between what is the anticipatory reduction of risk and speculation may be exceedingly difficult. This is particularly true in the case of pooled investment media where there is no independent business need generated by the commercial activities of the entity (other than the need to increase investment return) for using the

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qualifying entity—might include the most recent prospectus for the investment company.

[11] This request refers to generic identities—*e.g.*, a bank subject to Federal regulation and the assets of any trust for which it is acting as a fiduciary—and not to actual identities—*e.g.*, XYZ Bank, N.A. and the XYZ Bank, N.A. Collective Trust.

[12] For example, Section 8(c) of the ICA, 15 U.S.C. 80a-8(c) (1982), provides:

The Commission by rules and regulations upon its own motion, or by order upon application, may conditionally or unconditionally exempt any person, security, or transaction, or any class or classes of persons, securities, or transactions, from any provision or provisions of this [Act] or of any rule or regulation thereunder, if an to the extent that such exemption is necessary or appropriate in the public intrerest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of this [Act].

[13] As stated above, the Committee Report excludes from its scope otherwise qualifying entities having "attributes or features" which warrant their regulation by the Commission.

[14] Section 1.3(z)(1) states:

Bona fide hedging transactions and positions shall mean transactions or positions in a contract for future delivery on any contract market, where such transactions or positions normally represent a substitute for transactions to be made or positions to be taken at a later time in a physical marketing channel, and where they are economically appropriate to the reduction of risks in the conduct and management of a commercial enterprise, and where they arise from:

(i) The potential change in the value of assets which a person owns, produces, manufactures, processes, or merchandises or anticipates owning, producing, manufacturing, processing, or merchandising,

(ii) The potential change in the value of liabilities which a person owes or anticipates incurring, or

(iii) The potential change in the value of services which a person provides, purchases or anticipates providing or purchasing.

Notwithstanding the foregoing, no transactions or positions shall be classified as bona fide hedging for purposes of section 4a of the Act unless their purpose is to offset price risks incidental to commercial cash or spot operations and such positions are established and liquidated in an orderly manner in accordance with sound commercial practices and unless the provisions of paragraphs (z) (2) and (3) of this section and §§ 1.47 and 1.48 of the regulations have been satisfied.

commodity markets to anticipate future commitments.

Nonetheless, the Commission believes that there may be situations where it would not be economically appropriate for such an entity to complete an anticipatory hedge.[15] In this connection, the staff has employed an intent test to determine whether an anticipatory hedge which is not in fact followed by the purchase of the commodity—*i.e.*, "completed"—is outside the scope of § 1.3(z)(1). Accordingly, Commission staff previously has required that to receive a "not a pool" interpretation an entity must represent that it "will use commodity futures or options contracts solely for bona fide hedging purposes" and, further, that: (1) All transactions will be entered into with the intent required by § 1.3(z)(1); and (2) a substantial majority—*i.e.*, 75%—of all anticipatory hedge transactions entered into each year will be completed.[16] The Commission proposes to continue to so interpret the hedging criteria for purposes of the exemption in § 4.5 but specially requests comments on whether additional or different standards should be set forth.

Second, the qualifying entity must "not enter into commitments which require as deposits for initial margin for [its] futures or options contracts more than 5 percent of the fair market value of its assets." The reason for this criterion is that the exemption is not intended to be for pooled media primarily dealing in commodity interest trading but for qualifying entities that use commodity interests as risk reduction transactions as an adjunct to their other stated investment activities.

Third, the qualifying entity must be operated in a manner so that it "will not be, and has not been, marketing participations to the public as or in a commodity pool or otherwise as or in a vehicle for trading in the commodity futures or commodity options markets." For purposes of this representation, the Commission proposes to interpret the term "marketing" to include oral, written and electronic promotional materials.[17] The Commission further proposes that an entity would be "marketing participations" in a manner inconsistent with the required representation if it was actively promoted as a hybrid—*e.g.*, a securities *and* a commodities—trading vehicle or as an investment vehicle in which commodity futures and options trading was particularly significant and critical to the growth of its assets, as opposed to being incidental to protecting those assets against a decline in value. The Commission is aware, however, that the other regulatory agencies to which the qualifying entity is subject may prescribe the form and content of the entity's marketing materials.[18] The Commission therefore is requesting comment on whether "marketing" should be further interpreted in light of the prescriptions of such other regulatory agencies.[19]

Fourth, the qualifying entity must disclose in writing to each prospective participant the purpose of and limitations on its commodity futures and options trading. Again, in view of the differences in the other regulatory frameworks to which the entity may be subject and, in particular, any differences in applicable disclosure requirements, the Commission requests comment on whether further specificity as to how this criterion would best be met is needed.

Fifth, and finally, the qualifying entity must "submit to such special calls as the Commission shall make of it to demonstrate compliance with the requirements for exemption" specified in § 4.5.[20] The Commission believes that it must be able to readily obtain such information as may be necessary to verify compliance with the terms and conditions of the exemption and would expect to make very limited use of this special call provision. Inasmuch as proposed § 4.5 would provide for exemption from the recordkeeping requirements of § 4.23, this provision would enable the Commission upon complaint to establish whether an entity operating under the exemption was in continued compliance with the exemption criteria. It may also help the Commission to further refine the hedging or other criteria required by the exemption or to expand such criteria by rendering data on commodity interest activity by such entities generally accessible.

The Committee Report contemplated that any rule proposed by the Commission in response thereto would not require prior approval on a case-by-case basis to apply. The Commission therefore has proposed that the notice of eligibility under § 4.5 would be effective upon filing.[21] To continue the effectiveness of the exemption, the Commission has proposed in paragraph (d) that a supplemental notice be filed to render the information contained in the notice of eligibility accurate and complete. For example, a supplemental notice would be required to be filed in the event of a change in the name of the person as to whom the exemption was effective or the qualifying entity for which it was effective. Similarly, a supplemental notice would be required to be filed in the event the person as to whom the exemption was effective or the entity for which it was effective had ceased to come within the scope of paragraph (a) or (b), respectively—*e.g.*, such entity had ceased to be registered as an investment company under the ICA or had ceased doing business as such. In the cases presented in this latter example, however, and as discussed below, the exemption would cease to be effective. The supplemental notice would be due fifteen business days after the occurrence of such event. This proposed requirement recognizes the continued importance of the Commission knowing who is operating under the exemption and, accordingly, compliance therewith would be essential to continue the effectiveness of the exemption.

As the representations given in connection with the receipt of the previously issued "not a pool" staff interpretative letters closely parallel the representations which would be required in connection with qualifying for the exemption contained in proposed § 4.5, the Commission does not believe that it should be necessary for the recipients of such interpretative letters to, in effect, "re-submit" an application for exemption—*i.e.*, to file an initial notice of eligibility—in the event the proposal is adopted. However, to insure that these persons (and entities) would

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[15] For example, if due to drastically changed market conditions since the purchase of a long futures contracts, the cash market for the commodity subject to the contract has declined *and a further decline appears likely*, the purchase of the commodity at the time of offset of the contract may not be prudent.

[16] *See Pension Hedge Fund Inc.*, Comm. Fut. L. Rep. (CCH) ¶21,906 (available November 3, 1983); *SteinRoe Bond Fund, Inc.*, Comm. Fut. L. Rep. (CCH) ¶21,908 (available October 21, 1983); *Prudential-Bache Option Growth Fund, Inc.*, Comm. Fut. L. Rep. (CCH) ¶21,905 (available September 13, 1983). *See also Piedmont Income Fund, Inc.*, Comm. Fut. L. Rep. (CCH) ¶21,910 (available November 21, 1983).

[17] This is consistent with the revised definition of the term "commodity trading advisor" in Section 2(a)(1)(A) of the Act and with the staff's "not a pool" interpretative letters. *See* Section 201(2) of the 1982 Act, 96 Stat. 2297–98 and *supra* n. 16, respectively.

[18] *See, e.g.*, Section 8(b)(5) of the ICA, 15 U.S.C. 80a–8(b)(5) (1982).

[19] *CF.* Division of Trading and Markets Staff Intepretative Letter, Comm. Fut. L. Rep. (CCH) ¶21,788 (available March 18, 1983).

[20] The Commission is proposing in § 140.93(a)(5) to delegate to the Director of the Division of Trading and Markets the authority to make such special calls. This would be consistent with other delegations of authority under Part 4 that the Commission has made. *See* §§ 140.93(a) (1)–(4), 17 CFR 140.93(a) (1)–(4) (1983).

[21] Under proposed § 4.5(c)(3), the notice of eligibility would be required to be filed with the Commission "*prior* to the date upon which such person intends to operate the qualifying entity" (emphasis added).

be in compliance with the requirements of the proposed rule, the Commission intends to take the position that such persons must file supplemental notices in the event that any of the representations they previously had made to the Commission changed or that, to the extent that the proposal would require any additional representations, they were not in compliance with them. This position would ensure equal treatment of all persons claiming exemption under the rule.

Under paragraph (e), an exemption effective under the rule would immediately cease to be effective upon the ineligibility of the person as to whom the exemption was effective or the entity for which it was effective for inclusion in paragraph (a) or (b), respectively, or upon the failure of the entity to be operated in the manner specified in paragraph (c)(2). The Commission emphasizes that failure to provide a supplemental notice of this information under paragraph (d) would not affect the fact that the exemption had ceased. (conversely, the providing of this information in a supplemental notice would not affect the fact that the exemption had ceased.) Under paragraph (e), the Commission also could terminate an exemption if it determined that: (1), The notice of eligibility was inaccurate or incomplete; (2) a person or qualifying entity thereof possesses other attributes or features which warrant CPO registration—*e.g.*, in the event of substantial de-regulation of the person or qualifying entity; or (3) the continuance of the exemption would be contrary to the public interest. This termination authority was contemplated by the Committee Report, which states that "the Commission should retain discretion in this area." It should be noted, however, that the Commission has not proposed to delegate its authority to terminate an exemption to the staff.

The final paragraph of the proposed rule, paragraph (f), specifies the requirements for each notice required to be filed under the proposal—*i.e.*, it must be in writing, signed by a duly authorized representative, and filed at the address stated in § 4.2.

C. The Effects of Proposed § 4.5

The proposed rule would provide relief for the otherwise regulated persons specified therein in two ways. First, it would exempt them from registration as a CPO with the Commission. Therefore, unlike registered CPOs, these persons would not be required to file registration applications and fingerprint cards with the Commission nor would they be subject to any registration fees. *See generally* Part 3 of the Commission's regulations, 17 CFR Part 3 (1983), as amended by 48 FR 35246. In furtherance of this relief from registration, the Commission is proposing to amend § 3.16(a)(4) to provide that an associated person of a person exempt from CPO registration and from Subpart B under § 4.5 would, likewise, be exempt from registration with the Commission.[22]

Second, the proposed rule would provide relief from *all* of the provisions of Subpart B of Part 4. This means relief from the disclosure, reporting and recordkeeping requirements under §§ 4.21, 4.22 and 4.23, respectively, for each CPO who is "registered or required to be registered." This also means relief from the prohibited activities specified in § 4.20, discussed above, for each person that comes within the CPO definition and which apply regardless of whether that person is registered or required to be registered as a CPO.[23] As noted, the purpose of § 4.20 is to insure that pool participants' funds will not be improperly commingled, converted or otherwise mishandled by their pool's CPO. The Commission believes that the other regulatory frameworks to which the persons and qualifying entities specified in proposed § 4.5 are subject generally address the purposes of the prohibitions contained in § 4.20.[24] Therefore, the Commission believes that such relief is appropriate.[25] The Commission nonetheless requests comments on this matter.

Pursuant to the directive of the Committee Report, the Commission also is proposing to amend § 4.15. This proposal would exclude from the reparations provisions of setion 14 of the Act, 7 U.S.C. 18 (1982), any person exempt from registration as a CPO under Part 4—*e.g.*, under § 4.5.[26] Although such person would continue to be subject to the anti-fraud provisions of section 4*o* of the Act, 7 U.S.C. 6*o* (1982), the Commission is declining at this time to exercise its authority to subject such person to the reparations provisions of section 14. Moreover, with respect to the persons specified in proposed § 4.5, this exclusion would be consistent with the Committee Report language that "exemption . . . other than [from] antifraud provisions . . . should generally be granted." In contrast, and for this same reason, the Commission has not proposed to amend § 4.41, which prescribes certain advertising standards for all CPOs, to exclude therefrom any person who would be exempt from CPO registration under § 4.5.[27] Therefore, § 4.41 would continue to apply to each person who comes within the CPO definition, whether or not such person is required to register as a CPO with the Commission.

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[22] Section 1.3(aa), 48 FR 35248, 35279, defines the term "associated person" to mean in pertinent part: [A]ny natural person who (as provided in Section 4k of the Act) is associated in any of the following capacities with:

* * * * *

(3) A commodity pool operator as a partner, officer, employee, consultant, or agent (or any natural person occupying a similar status or performing similar functions), in any capacity which involves (i) the solicitation of funds, securities, or property for a participation in a commodity pool or (ii) the supervision of any person or persons so engaged * * *.

[23] The Commission notes that by this **Federal Register** release it is proposing to amend § 4.20 to prohibit certain additional activities. This proposal is discussed later at Part II of this release.

[24] *See, e.g.*, Section 17(f) of the ICA, 15 U.S.C. 8a–17(f) (1982).

[25] In this connection, it should be noted that if a person (or qualifying entity) was operating in a manner inconsistent with the purpose of § 4.20, under proposed § 4.5(e) the Commission would have the authority to terminate the person's exemption.

[26] This proposal also would apply to persons exempt from registration as a CPO under § 4.13, which currently is the only section of Part 4 which provides for such an exemption and to persons exempt from registration as a CTA under § 4.14.

[27] Section 4.41 provides:

(a) No commodity pool operator, commodity trading advisor, or any principal thereof, may advertise in a manner which:

(1) Employs any device, scheme or artifice to defraud any participant or client or prospective participant or client; or

(2) Involves any transaction, practice or course of business which operates as a fraud or deceit upon any participant or client or any prospective participant or client.

(b)(1) No person may present the performance of any simulated or hypothetical commodity interest account, transaction in a commodity interest or series of transactions in a commodity interest of a commodity pool operator, commodity trading advisor, or any principal thereof, unless such performance is accompanied by the following statement: "Hypothetical or simulated performance results have certain inherent limitations. Unlike an actual performance record, simulated results do not represent actual trading. Also, since the trades have not actually been executed, the results may have under-or-over compensated for the impact, if any, of certain market factors, such as lack of liquidity. Simulated trading programs in general are also subject to the fact that they are designed with the benefit of hindsight. No representation is being made that any account will or is likely to achieve profits or losses similar to those shown."

(2) If the presentation of such simulated or hypothetical performance is other than oral, the prescribed statement must be prominently disclosed.

(c) The provisions of this section shall apply:

(1) To any publication, distribution or broadcast of any report, letter, circular, memorandum, publication, writing, advertisement or other literature or advice, including the texts of standardized oral presentations and of radio, television, seminar or similar mass media presentations, and

(2) Regardless of whether the commodity pool operator or commodity trading advisor is exempt from registration under the Act.

II. Other Proposals

A. Introduction

The Part 4 regulations were issued by the Commission on January 2, 1979 and they became effective April 1, 1979. *See* 44 FR 1918. Based upon the significant growth in CPO and CTA activity and the Commission's experience in monitoring the implementation of and compliance with these original regulations, revisions to the Part 4 regulations were issued on May 8, 1981, and they essentially became effective on August 24, 1981. *See* 46 FR 26004; 46 FR 34799 (July 6, 1981). Based upon the continuing growth of CPO and CTA activity and experience with these revisions, the Commission today is proposing further amendments to the Part 4 regulations.

B. Proposed Amendments to Existing Regulations

Section 4.13: Exemption from registration as a CPO. Section 4.13 exempts the operators of family, club and small pools from registration as a CPO.[28] Under paragraph (b)(1) of this rule, a persons who qualifies for and operates pursuant to such exemptions must deliver a prescribed statement to each prospective participant in its pools. This statement essentially advises the prospective participant that the CPO is not registered as such with the Commission and therefore that the CPO is not required to comply with the disclosure and reporting requirements applicable to registered CPOs under §§ 4.21 and 4.22, respectively. The statement must also describe the exemption pursuant to which the CPO is not registered.

Currently, § 4.13(b)(1) does not require that this prescribed statement be filed with the Commission. Because it is critical to the Commission's oversight of the operations and activities of CPOs to know the identities of *all* persons who are acting as a CPO, the Commission is proposing to amend § 4.13(b)(1) to require that the statement specified therein be filed with the Commission.[29] It should be noted that this proposal is in no way intended to affect who is eligible for exemption from registration as a CPO under § 4.13 or to delay the effectiveness of any such exemption.[30]

Section 4.20: Prohibited activities for CPOs. The Commission believes that a CPO has a fiduciary duty to its pool participants to use the assets of its pool for a program of commodity interest trading which can result in gain—that is, to use assets for purposes for which they were contributed.[31] The Commission further believes that the current regulatory framework for CPOs under Part 4 may not contain adequate provisions to ensure tha this fiduciary duty is fulfilled. Specifically, the Commission is concerned that, absent any prohibition, a CPO may not commit sufficient assets of its pool to commodity interest trading but, instead, may keep those assets our of the commodity interest markets to permit the § 4.21 to receive the income generated therefrom.[32] This would not be permitted if properly disclosed under § 4.21(a)(9).

Accordingly, the Commission is proposing in § 4.20(d) to prohibit a CPO from receiving income generated by its pool's assets other than for the sole purpose of offsetting the actual organizational and offering expenses of the pool which have been incurred by the CPO. The term "organizational and offering expenses" would be defined in § 4.20(d)(2)(ii) to include legal and accounting fees, printing expenses, escrow charges, and filing, registration and recording fees. The Commission specifically requests comment on this proposed definition.

C. Notice of Further Rulemaking

In addition, the Commission also is considering the adoption of certain other amendments to Part 4 of its regulations. Set forth below is a narrative discussion of these other amendments that the Commission is considering as well as a discussion of certain issues related thereto on which the Commission seeks comment. The Commission has not yet formulated specific language to implement these proposals and, accordingly, no such language is reflected in the text of the proposals reprinted at the end of the notice.

Exemptions for other CPOs. As noted, the Commission has strictly followed the Senate Report in specifying the persons and qualifying entities who would be eligible for exemption under proposed § 4.5. The Commission does, however, request comments on which other persons and entities, if any, are subject to such pervasive Federal or State regulation so as to make the availability of the proposed exemption appropriate as to them. Of course, such other persons and entities would still be required to meet the criteria specified in § 4.5 to be eligible for the exemption.

The Commission wishes to make clear that it does not believe that the mere liability of a person or entity to its participants under such other Federal or State regulation would be sufficient to make the proposed exemption appropriate.[33] Rather, such person or

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[28] *See* 44 FR 1918, 1919. Specifically, § 4.13(a) provides in pertinent part:

A person is not required to register under the Act as a commodity pool operator if:

(1)(i) It does not receive any compensation or other payment, directly or indirectly, for operating the pool, except reimbursement for the ordinary administraative expenses of operating the pool;

(ii) It operates only one commodity pool at any time;

(iii) It is not otherwise required to register with the Commission and is not a business affiliate of any person required to register with the Commission; and

(iv) Neither the person nor any other person involved with the pool does any advertising in connection with the pool (for purposes of this section, advertising includes the systematic solicitation of prospective participants by telephone or seminar presentation); or

(2)(i) The total gross capital contributions it receives for units of participation in all of the pools that it operates of that it intends to operate do not in the aggregate exceed $200,000; and

(ii) None of the pools operated by it has more than 15 participants at any time.

[29] This proposal would parallel proposed § 4.5(c), discussed above.

[30] Section 4.14 exempts certain persons from registration as a CTA. That rule does not, however, require the delivery of any prescribed statement such as that specified in § 4.13(b)(1) for CPOs.

[31] For example, if a CPO were to place but a minimal amount of is pool's assets at risk in the commodity interest markets, the CPO might be in breach of its fiduciary duty to afford its pool participants the opportunity of achieving their objective of profiting from their participation in the pool. *See also Stewart* v. *Decade Management Co.*, Com. Fut. L. Rep. (CCH) ¶ 20,664 (Initial Decision Aug. 29, 1978), wherein it was stated the a CPO assumes a fiduciary obligation to its pool participants by accepting the participants' funds and receiving the power of attorney to trade those funds.

In making this statement, however, the Commission is not unmindful of the fact that for prudent business pruposes, a CPO typically does not commit all the assets of its pool for initial margin and premiums on futures and options contracts but maintains a reserve of pool assets for the payment of such items as additional margin and legal and accounting fees. This statement, then, is in now way intended to impair the ability of a CPO to maintain a reserve of pool reserve of pool assets for such purposes or other purposes related to the prudent management of pool assets or to affect the propriety of such activity. Rather, this proposal is intended to remove any incentive for personal gain on the part of the CPO related to the form of investment of the pool's assets.

[32] Thus, if only small portion of the assets it collected from its pool participants were placed into the commodity interest markets, the CPO, although deriving income from such assets in its own behalf, would virtually assure that the participants would not profit from their investments in the pool. This is because in order for a pool participant to profit from his investment, a sufficient percentage of the pool's assets must be deposited as initial margin. Otherwise, the pool would have to generate a virtually unattainable rate of return.

[33] Compare, for example, the regulatory requirements applicable to a company that is registered as an investment company unde the ICA ans whose securities have been registered under the Securities Act of 1933 with those applicable to a company that has sold its securities in reliance upon the availablility of an exemption from such registration in Regulation D issued under such Act. 17 CFR 230.501–230–506 (1983).

entity must be subject to ongoing regulation of its activities with respect to its participants in a manner generally equivalent to the regulation of a CPO's activities as provided for under the Part 4 regulations. [34]

In this connection, the Commission is aware that in the course of administering Part 4, its staff has issued certain exemptions from the disclosure requirements of Rule 4.21 and the reporting requirements of Rule 4.22 to persons and entities who would not be eligible for exemption under proposed § 4.5. [35] These exemptions were conditioned upon effectiveness of such persons' registration as a CPO and were based upon, among other things, representations that: (1) The entity was organized and would be operated for a purpose other than commodity interest trading; (2) the entity was restricted by its enabling documents [36] to committing a small percentage of its net assets—*e.g.*, 10%—as initial margin and option premium deposits; (3) the entity had not been, and would not be, marketed as a commodity pool; (4) the entity would disclose the purpose of and limitations on its commodity interest trading to its participants; and (5) the entity was required by its enabling documents to furnish certified financial statements to its participants on an annual basis. [37] Upon such representations, the staff has exempted these persons from the specific requirements of Rules 4.21 and 4.22 and has accepted in lieu thereof the disclosure and reporting documents that they intended to provide to their participants under the regulations which address the primary purpose of the entity's operation. [38] The staff required such persons, however, to remain subject to the recordkeeping requirements of § 4.23.

The Commission is considering adopting a rule that would codify both the relief accorded under these exemptions and the representations upon which such relief was based. The Commission requests comments on this proposal and, in particular, on the representations that would be required to be made thereunder.

Exemption from registration as a CTA for certain persons registered as an IA. In connection with the recent amendments to the Act, the CTA definition was amended to, among other things, exclude additional persons thereform. Specifically, Section 2(a)(1)(A) of the Act now defines the term "commodity trading advisor" to mean:

> [A]ny person who, for compensation or profit, engages in the business of advising others, either directly or through publications, writings or electronic media, as to the value of or the advisability of trading in any contract of sale of a commodity for future delivery made or to be made on or subject to the rules of a contract market, any commodity option authorized under section 4c, or any leverage transaction authorized under section 19, or who, for compensation or profit, and as part of a regular business, issues or promulgatets analyses or reports concerning any of the foregoing; but such term does not include (i) any bank or trust company *or any person acting as an employee thereof*, (ii) any news reporter, news columnist, or news editor of the print or electronic media, or any lawyer, accountant, or teacher, (iii) any floor broker or futures commission merchant, (iv) the publisher or producer or any print or electronic data of general and regular dissemination, including its employees, (v) *the fiduciary of any defined benefit plan which is subject to the provisions of the Employee Retirement Income Security Act of 1974*, (vi) any contract market, and (vii) such other persons not within the intent of this definition as the Commission may specify by rule, regulation, or order; Provided, that the furnishing of such services by the foregoing persons is solely incidental to the conduct of their business or profession* * *. (Emphasis added.)

As a result of this amendment, it appears that many of the persons who would be providing advice on commodity interest trading to persons and entities who have qualified for exemption under proposed § 4.5 would, themselves, be excluded from the CTA defintion—*i.e.*, banks, trust companies and employees thereof, and the named fiduciary of any defined benefit plan subject to ERISA or any fiduciary whose sole business is to advise that plan. [39]

Section 2(a)(1)(A) was not amended to exclude from the CTA definition a person registered as an IA under the IAA. [40] The Commission is aware that there may be situations in which a person registered as an IA would desire to provide advice on both securities and commodity interest trading to persons and entities who have qualified for exemption under proposed § 4.5. Since Section 2(a)(1)(A) does not exclude a person registered as an IA from the CTA definition, absent an exemption such person would be required to register as a CTA with the Commission. [41]

Section 4m(1) of the Act provides in general for registeration as a CTA. Section 4m(1) does, however, exempt from registration as CTA certain persons who come within the statutory definition, by providing in pertinent part:

> [T]he provisions of this section shall not apply to any commodity trading advisor who, during the course of the preceding twelve months, has not furnished commodity trading advice to more than fifteen persons *and* who does not hold himself out generally to the public as a commodity trading advisor. (Emphasis added.)

In furtherance of the purpose of the Committee Report, but in light of the limits of Section 4m(1), the Commission is considering adopting a rule that would exempt from registration as a CTA a person who is registered as an IA and who was formed for the sole purpose of and whose sole business is to provide investment advice to a person and an entity who have qualified for exemption under proposed § 4.5. The Commission wishes to emphasize that this rule would not apply to a registered IA who advised two or more persons and entities who had qualified under proposed § 4.5—because that IA would be "[holding] himself out generally to the public as a commodity trading advisor." Moreover, a person exempted

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[34] As noted above, among other things Part 4 provides for disclosure, reporting and recordkeeping requirements for CPOs.

[35] These exemptions have been issued pursuant to Rule 140.93(a)(1), which delegates to the Director of the Division of Trading and Markets the authority to issue exemptions from the Part 4 regulations.

[36] Typically, such documents have been limited partnership agreements.

[37] *See, e.g.*, Division of Trading and Markets Staff Interpretative Letters available May 24, 1983 and January 28, 1983.

[38] Typically, these documents have included, with respect to Rule 4.21, confidential offering memoranda prepared in accordance with Regulation D and, with respect to Rule 4.22, a certified annual report containing Statement of Financial Condition, Income (Loss), Changes in Financial Position and Changes in Ownership Equity.

[39] *See* the definition of the term "commodity trading advisor" contained in § 1.3(bb), 48 FR 35248, 35279.

[40] Section 202(a)(11) of the IAA, 15 U.S.C. 80b–2(a)(11) (1982), defines the term "investment adviser" to mean:

> [A]ny person who, for compensation, engages in the business of advising others, either directly or through publications or writing, as to the value of securities or as to the advisability of investing in, purchasing, or selling securities, or who, for compensation and as part of a regular business, issues or promulgates analyses or reports concerning securities; but does not include [certain specified persons].

Section 203(a), 15 U.S.C. 80b–3(a) (1982), generally makes it unlawful for a person to engage in business as an IA without being registered as such.

[41] In this connection, the Commission notes that the staff of the Division of Investment management of the Securities and Exchange Commission has stated that it would not recommend that that Commission take any enforcement action under:

> the Investment Advisers Act, if, without registering under such Act, [certain commodity pools'] trading advisers provide the [pools] with advice concerning approved futures and CFTC options, provided that such advisers are not otherwise investment advisers as defined in the Investment Advisers Act who are required to register under the Investment Advisers Act. Peavey Commodity Futures Fundings I, II and III, Fed. Sec. L. Rep. (CCH) ¶ 77,511 at 78,652 (available June 2, 1983).

from registration as a CTA under this rule would continued to be subject to the anti-fraud provisions of Section 4*o* of the Act and to the advertising standards for CTAs specified in Rule 4.41, discussed above.[42]

Prohibited activities of CPOs. As stated above, the Commission believes that a CPO has a fiduciary duty to its pool participants to use the assets of its pool for a program of commodity interest trading which can result in gain. In this connection, the Commission further believes that a CPO has a fiduciary duty to its pool participants to serve as the pool's CPO until either another CPO assumes responsibility for operating the pool or until the pool's assets are liquidated.

The current Part 4 rules, however, contain no specific provisions to ensure that this fiduciary duty is fulfilled. Accordingly, the Commission also is considering the adoption of an additional provision in § 4.20 that would prohibit a CPO from abandoning its pool. The Commission requests comments on this proposal.

Presentation of actual past performance of CPOs, CTAs, and their principals. Sections 4.21(a) and 4.31(a) respectively require each CPO who must register under the Act and certain CTAs who must register[43] to furnish a Disclosure Document to prospective customers. In particular, §§ 4.21 (a)(4) and (a)(5) and § 4.31(a)(3) require the Disclosure Document to contain information on the actual past performance of CPOs, CTAs, and their principals in a specified format.

As originally adopted, this format included an annual rate of return (compounded annually) and a table of periodic net asset values. 44 FR 1918, 1925–1926 and 1928. The Commission adopted this format to require that past performance be presented in an understandable and meaningful manner to prospective customers and in a uniform format that would enable members of the public to compare the performance of different commodity interest accounts and to compare those accounts with other financial investments. *See* 44 FR 1918, 1921. Experience with this format indicated that it was not, however, completely fulfilling its purposes. Therefore, the Commission determined to revise the format by adopting "a less complex approach to the presentation of past performance, which may sacrifice comparability but which is more readily understood." 45 FR 51600, 51602.

This revised format, which currently is in effect, requires that actual past performance must be displayed in a table showing at least quarterly the following information: (A) Beginning net asset value; (B) all additions; (C) all withdrawals and redemptions; (D) net performance; (E) ending net asset value; and (F) the rate of return, calculated by dividing net performance by beginning net asset value. Specifically, this format is required by §§ 4.21 (a)(4)(ii) and (a)(5)(ii) for CPOs and by § 4.31(a)(3)(ii) for CTAs.[44] Based upon its experience with this current format for the presentation of actual past performance the Commission believes that certain further revisions may be appropriate and seeks comments thereon as discussed below.

The Commission's experience with the current format indicates that the format does not specifically take into account when additions or withdrawals occurred during a particular performance period in arriving at the net performance for such period.[45] This is because the format assumes that any such additions or withdrawals occurred at the end of the performance period. Therefore, when there have been net additions—*i.e.*, more additions than withdrawals—during the period, the specified format may produce a higher percentage of gain than that which would be produced under a format that takes the timing of such additions into account. Conversely, when there have been net withdrawals—*i.e.*, more withdrawals than additions—during the period, the specified format may produce a lower percentage of loss than that which would be produced under a format that takes the timing of such withdrawals into account. Accordingly, the Commission seeks comment on whether the past performance format for CPOs, CTAs, and their principals should be revised to take the timing of additions and withdrawals into accounts and, if so, how this revision would best be made.

The current format also does not specifically account for situations where commodity interests have been traded for hedging—as opposed to speculative—purposes. The Commission is aware that a growing number of CPOs and, in particular, CTAs are seeking to trade in such instruments as financial and stock index futures and options contracts for hedging purposes in managing customers' assets which include the instruments underlying these contracts. Accordingly, the Commission seeks comments on whether the past performance format should be supplemented to take the results of such trading for hedging purposes into account and, if so, how this revision would best be made.

The Commission's experience with the current format further indicates that the format might best serve it purposes if it were to also require past performance to be presented on an annual basis. As noted above, currently performance must only be presented "at least quarterly." However, the Commission's experience indicates that for performance to be presented in a meaningful manner and in a manner capable of ready comparison with other investment vehicles, it also should be presented on an annual basis. Therefore, the Commission seeks comments on whether the past performance format for CPOs, CTAs, and their principals should be revised to require, in addition to the current information called for at least quarterly, an annual rate of return and, if so, how this rate of return should be computed.

Financial requirements for CPOs. The framework of the Act and the Commission's regulations thereunder allows three categories of registrants to have direct access to customer funds committed for the purpose of trading commodity interests: FCMs, introducing brokers ("IBs") and CPOs.[46] For FCMs and IBs, the Commission has established certain minimum financial and related reporting requirements [47] to

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[42] In making this proposal, the Commission is not seeking to define the term "person" for purposes of the exemption from registration as a CTA in Section 4m(1) but, as stated above, is acting in furtherance of the purposes of the Committee Report. In this regard, the Commission notes that the Court of Appeals for the Ninth Circuit has held that a person who furnishes trading advice to a futures commission merchant which "incorporate[s] that advice directly into actual transactions" for its discretionary account customers who number more than fifteen people is thus furnishing trading advice to more than fifteen people. *CFTC* v. *Savage*, 611 F. 2d 270, 281 (9th Cir. 1979).

[43] Section 4.31(a) only applies to those CTAs who must register and who seek to direct or to guide a client's commodity interest account.

[44] In addition, under § 4.21(a)(4)(ii)(G) a CPO must also include in the prescribed table the number of units outstanding at the end of each period for which performance is disclosed.

[45] Of course, under the current rules a CPO or a CTA could supplement the specified format so as to take this information into account. As the Commission stated:

[T]he format the Commission has adopted for the presentation of past performance is a minimum disclosure standard which CPOs and CTAs must meet. More comprehensive or more frequent disclosure could thus be made as needed—*e.g.*, where the format potentially could mislead prospective customers. 46 FR 26004, 26006.

See also §§ 4.21(h) and 4.31(g).

[46] Section 4.30 generally prohibits a CTA from receiving customers funds committed for the purpose of trading commodity interests.

[47] *See* §§ 1.10, 1.12, 1.16, 1.17 and 1.18, 17 CFR 1.10, 1.12, 1.16, 1.17 and 1.18 (1983), *as amended* by 48 FR 35248.

ensure that they meet their obligations as registrants and "to guarantee accountability and responsible conduct." [48] For CPOs, however, the Commission has not established such requirements to date.

Section 1.17(a) prescribes these minimum financial requirements. For an FCM, who may receive customer funds directly in its own name, this requirement basically is an adjusted net capital of $50,000. For an IB who, like a CPO, may not receive customer funds directly in its own name but who must transmit those funds to an FCM,[49] this requirement basically is an adjusted net capital of $20,000.

In proposing minimum financial requirements for IBs, the Commission stated:

> [R]equiring a registered intorducing broker to have a permanent capital base not only would establish a benchmark of economic viability, but would also be an important element of customer protection. 48 FR 14933, 14942 (April 6, 1983).

The Commission believes that financial requirements for CPOs similarly would serve these vital functions. The Commission further believes that because CPOs, like IBs, must transmit their customers' funds to an FCM, financial requirements for CPOs similar to those for IBs would be appropriate. In this connection, the Commission requests comments on the actual dollar amounts and the method of computing of such amounts as they should apply to CPOs.[50]

III. Related Matters

A. Regulatory Flexibility Act

The Regulatory Flexibility Act ("RFA"), 5 U.S.C. 601 *et seq.* (1982), requires that agencies, in proposing rules, consider the impact of those rules on small business. The Commission has already established certain definitions of "small entities" to be used by the Commission in evaluating the impact of its rules on such small entities in accordance with the RFA.[51]

These definitions do not address the persons and qualifying entities set forth in proposed § 4.5 because, by the very nature of the proposal, the operations and activities of such persons and entities generally are regulated by Federal and State authorities other than the Commission.[52] Assuming, *arguendo*, that such persons and entities would be "small entities" for purposes of the RFA, the Commission does not believe that proposed § 4.5 would have a significant economic impact on them because it merely would require the filing of a notice with the Commission, the documentation for which should be pre-existing. Moreover, the proposal would relieve these persons (and entities) from the requirement to register as a CPO and from the disclosure, reporting and recordkeeping requirements applicable to registered CPOs is required. With respect to persons exempt from registration as a CPOs. As for other persons who may come within the CPO definition, the Commission has determined that registered CPOs are not small entities for purposes of the RFA.[53] Thus, no economic analysis of these proposals as they relate to registered CPOs is required. With respect to persons exempt from registration as a CPO pursuant to § 4.13(a), however, such analysis may be required. The proposals that would affect such exempt CPOs are found in §§ 4.13(b)(1) and 4.20(d).[54] The Commission does not believe that these two proposals should have a significant economic impact on such exempt CPOs because, in the case of the revision to § 4.13(b)(1), the proposal would merely require the CPO to provide the Commission with a copy of an already required statement of exemption and, in the case of § 4.20(d), the proposal would affect only the manner in which the CPO could be compensated but not the amount of such compensation. Thus, with respect to CPOs, pursuant to Section 3(a) of the RFA, 5 U.S.C. 605(b), the Chairman, on behalf of the Commission, certifies that these proposed rules will not have a significant economic impact on a substantial number of small entities. The Commission nonetheless invites comments from any CPO which believes that these rules would have a significant impact on its operations.[55]

B. Paperwork Reduction Act

The Commission has submitted to the Director of the Office of Management and Budget ("OMB"), pursuant to the provisions of the Paperwork Reduction Act, 44 U.S.C. Chapter 35, an explanation and details of the information collection and recordkeeping requirements which would be necessary to implement these proposals. Since all of the information collection proposals contained herein consist of proposed amendments to Part 4, which has already been assigned an OMB control number, the Commission understands that these proposals will be assigned the same OMB control number.[56]

Interested members of the public may obtain a complete copy of the information collection proposals relating to the proposed rules contained herein by contacting Joseph Salazar at (202) 254–9735. Persons wishing to comment on the Paperwork Reduction Act implications of these proposals are asked to send a copy of their comments to Mr. Salazar at the Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581, and to the OMB Desk Officer for the agency, Katie Lewin, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503.

List of Subjects

17 CFR Part 3

Registration, Associated persons, Commodity futures.

17 CFR Part 4

Commodity pool operators, Commodity trading advisors, Commodity futures.

17 CFR Part 140

Authority delegation (Government agencies), Commodity futures.

In consideration of the foregoing and pursuant to the authority contained in the Commodity Exchange Act and, in particular, Sections 2(a)(1), 4k, 4l, 4m, 4n, 4*o*, 8a and 14 thereof, 7 U.S.C. 2, 6k, 6l, 6m, 6n, 6*o*, 12a and 18 (1982), and in 5 U.S.C. 552 and 552b (1982), the Commission hereby proposes to amend Chapter I of Title 17 of the Code of Federal Regulations as follows:

PART 3—REGISTRATION

1. Section 3.16(a)(4) is proposed to be revised to read as follows:

[Note.—Paragraph (a) is not proposed to be amended but is included solely for the convenience of the reader inasmuch as it does not at this time appear in the Code of Federal Regulations]:

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[48] *See* S. Rep. No. 384 at 41.

[49] *See* the discussion of § 4.20, *supra*, for CPOs and § 1.57(c), 48 FR 35248, 35291 for IBs.

[50] The Commission intends that such financial requirements would be applicable only to CPOs registered or required to be registered under the Act. This would be consistent with the purposes of exemption from registration as a CPO—whether that exemption be for an "otherwise regulated entity" under proposed § 4.5 or for the operator of a "family, club or small pool" under § 4.13(a).

[51] 47 FR 18618–18621 (April 30, 1982).

[52] For example, a registered investment company is regulated by the Securities and Exchange Commission.

[53] 47 FR 18619–18620.

[54] Section 4.20(d) would also apply to CPOs who are registered or required to be registered with the Commission.

[55] Proposed § 3.16(a)(4) would exempt from registration as an AP of a CPO an AP of a person exempt under § 4.5. An AP must be an individual: *See* Section 4k of the Act, 7 U.S.C. 6k (1982). Because the RFA does not apply to "individuals," no economic analysis of proposed § 3.16(a)(4) is required.

[56] The OMB control number for Part 4 is 3038–0005.

§ 3.16 Registration of associated persons of commodity trading advisors and commodity pool operators.

(a) *Registration required.* Except as otherwise provided in § 3.12(f) or in paragraph (e) of this section, it shall be unlawful for any person to be associated with a commodity trading advisor or with a commodity pool operator as an associated person unless that person:

* * * * * *

(4) Is exempt from registration as a commodity pool operator pursuant to the provisions of § 4.5 or 4.13 of this chapter or is associated with a person who is so exempt from registration: *Provided,* That the provisions of this paragraph (a)(4) shall not apply to the solicitation of funds, securities, or property for a participation in a commodity pool, or the supervision of any person or persons so engaged, by, for, or on behalf of a commodity pool operator (i) which is not exempt from registration pursuant to the provisions of § 4.5 or 4.13 of this chapter or (ii) which is registered as a commodity pool operator notwithstanding the availability of any such exemption;

* * * * * *

PART 4—COMMODITY POOL OPERATORS AND COMMODITY TRADING ADVISORS

2. Section 4.5 is proposed to be added to read as follows:

§ 4.5 Exemption for certain otherwise regulated persons from registration as a commodity pool operator and from the provisions of Subpart B.

(a) The following persons, and any principal or employee thereof, shall be eligible for exemption from registration as a commodity pool operator and from the provisions of Subpart B with respect to the operation of a qualifying entity specified in paragraph (b) of this section:

(1) An investment company registered as such under the Investment Company Act of 1940;

(2) An insurance company subject to regulation by any State;

(3) A bank or trust company subject to regulation by any State or the United States; and

(4) A trustee or named fiduciary of a defined benefit pension plan.

(b) For the purposes of this section, the term "qualifying entity" means:

(1) With respect to any person specified in paragraph (a)(1) of this section, an investment company registered as such under the Investment Company Act of 1940;

(2) With respect to any person specified in paragraph (a)(2) of this section, assets of any trust, custodial account or other separate unit of investment for which it is acting as fiduciary;

(3) With respect to any person specified in paragraph (a)(3) of this section, the assets of any trust, custodial account or other separate unit of investment for which is is acting as a fiduciary; and

(4) With respect to any person specified in paragraph (a)(4) of this section, a defined benefit pension plan that is subject to the provisions of the Employee Retirement Income Security Act of 1974 and is insured by the Pension Benefit Guaranty Corporation; *Provided, however,* that such entity will be operated in the manner specified in paragraph (c)(2) of this section

(c) Any person who desires to qualify for exemption pursuant to this section shall file with the Commission a notice of eligibility.

(1) The notice of eligibility must contain the following information:

(i) The name of such person;

(ii) The applicable subparagraph of paragraph (a) of this section pursuant to which such person is eligible for exemption;

(iii) The name of the qualifying entity which such person intends to operate pursuant to the exemption; and

(iv) (A) The applicable subparagraph of paragraph (b) of this section pursuant to which such entity is a qualifying entity.

(B) If such qualifying entity is an investment company registered as such under the Investment Company Act of 1940, the notice of eligibility must specify and fully describe each exemption concerning disclosure and financial reporting to participants to which such entity is subject under said Act or under the Securities Act of 1933 or the Securities Act of 1934. If such entity is not subject to any such exemption, the notice of eligibility must contain a statement to that effect.

(2) The notice of eligibility must contain representations that such person will operate the qualifying entity specified therein in a manner such that the qualifying entity:

(i) Will use commodity futures or commodity options contracts solely for bona fide hedging purposes;

(ii) Will not enter into commitments which require as deposits for initial margin or premiums for such futures or options contracts more than 5 percent of the fair market value of its assets;

(iii) Will not be, and has not been, marketing participations to the public as or in a commodity pool or otherwise as or in a vehicle for trading in the commodity futures or commodity options markets;

(iv) Will disclose in writing to each prospective participant the purpose of and the limitations on the scope of the commodity futures and commodity options trading in which the entity intends to engage; and

(v) Will submit to such special calls as the Commission shall make of it to demonstrate compliance with the requirements for exemption specified in this section.

(3) The notice of eligibility must be filed with the Commission prior to the date upon which such person intends to operate the qualifying entity pursuant to the exemption provided by this section.

(4) The notice of eligibility shall be effective upon filing.

(d)(1) Each person as to whom an exemption has become effective hereunder must, in the event that any of the information contained or representations made in the notice of eligibility becomes inaccurate or incomplete, file a supplemental notice with the Commission to that effect which, if applicable, includes such amendments as may be necessary to render the notice of eligibility accurate and complete.

(2) The supplemental notice required by paragraph d(1) of this section shall be due within fifteen business days after the occurrence of such event.

(e)(1) An exemption effective hereunder shall cease to be effective upon any change which would render:

(i) A person as to whom such exemption is effective ineligible under paragraph (a) of this section;

(ii) The entity for which such exemption is effective ineligible under paragraph (b) of this section; or

(iii) Either the representations made pursuant to paragraph (c)(2) of this section inaccurate or the continuation of such representations false or misleading.

(2) The Commission may terminate an exemption effective hereunder by providing written notice of such termination to a person as to whom such exemption is effective if the Commission determines that:

(i) The notice of eligibility is inaccurate or incomplete in any respect;

(ii) A person as to whom such exemption is effective, or the qualifying entity for which it is effective, possesses other attributes or features which would make the treatment of such person as a commodity pool operator more consistent with the definition of and regulations applicable to a commodity pool operator; or

(iii) The continued effectiveness of the exemption would be contrary to the public interest.

(f) Any notice required to be filed hereunder must be:

(1) In writing;

(2) Signed by a duly authorized representative of a person specified in paragraph (a) of this section as follows: if such person is a corporation, by the chief executive officer, chief financial officer or counterpart thereto; if a partnership, by a general partner; and if a sole proprietorship, by the sole proprietor; and

(3) Filed with the Commission at the address specified in § 4.2.

3. Section 4.13 is proposed to be amended by revising paragraph (b)(1) to read as follows:

§ 4.13 Exemption from registration as a commodity pool operator.

* * * * *

(b)(1) No person who is exempt from registration as a commodity pool operator under paragraphs (a)(1) or (a)(2) of this section and who is not registered as such pursuant to that exemption may, directly or indirectly, solicit, accept or receive funds, securities or other property from any prospective participant in a pool that it operates or that it intends to operate unless, on or before the date it engages in that activity, the person delivers or causes to be delivered to the prospective participant a written statement that must disclose this fact as follows: "The commodity pool operator of this pool is not required to register, and has not registered, with the Commodity Futures Trading Commission. Therefore, unlike a registered commodity pool operator, this commodity pool operator is not required by the Commission to furnish a Disclosure Document, periodic Account Statements, and an Annual Report to participants in the pool." The person must:

(i) Describe in the statement the exemption pursuant to which it is not registered as a commodity pool operator;

(ii) Provide its name, main business address and main business telephone number on the statement;

(iii) Manually sign the statement as follows: if such person is a corporation, by the chief executive officer, chief financial officer or counterpart thereto; if a partnership, by a general partner; and if a sole proprietorship, by the sole proprietor; and

(iv) File two copies of the statement with the Commission at the address specified in § 4.2 within seven business days after the date the statement is first delivered to a prospective participant.

* * * * *

4. Section 4.15 is proposed to be revised to read as follows:

§ 4.15 Continued applicability of antifraud section.

The provisions of section 4*o* of the Act shall apply to any person even though such person is exempt from registration under this Part 4, and it shall continue to be unlawful for any such person to violate section 4*o* of the Act.

5. Section 4.20 is proposed to be amended by adding paragraph (d) to read as follows:

§ 4.20 Prohibited activities.

* * * * *

(d)(1) Except as provided in paragraph (d)(2) of this section, no commodity pool operator may receive any income generated from the assets of any pool that it operates or that it intends to operate.

(2)(i) A commodity pool operator may receive income generated from the assets of any pool that it operates or that it intends to operate provided that such income is received for the sole purpose of recovering the organizational and offering expenses of such pool which have been incurred by the commodity pool operator and that such income is limited to the actual amount of such organizational and offering expenses.

(ii) For purposes of this paragraph (d)(2) of this section, the term "organizational and offering expenses" may include legal and accounting fees, printing expenses, escrow charges, and filing, registration and recording fees.

PART 140—ORGANIZATION, FUNCTIONS AND PROCEDURES OF THE COMMISSION

6. Section 140.93 is proposed to be amended by adding paragraph (a)(5) to read as follows:

§ 140.93 Delegation of Authority to the Director of the Division of Trading and Markets.

(a) * * *

(5) All functions reserved to the Commission in § 4.5(c)(2)(v) of this Chapter.

* * * * *

Issued in Washington, D.C. on February 2, 1984, by the Commission.

Jane K. Stuckey,

Secretary of the Commission.

[FR Doc. 84-3341 Filed 2-7-84; 8:45 am]

BILLING CODE 6351-01-M

DEPARTMENT OF TREASURY

Internal Revenue Service

26 CFR Part 1

[LR-26-83]

Elections and Miscellaneous Procedural Matters Under Section 338 of the Internal Revenue Code

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking by cross-reference to temporary regulations.

SUMMARY: In the Rules and Regulations portion of this issue of the **Federal Register**, the Internal Revenue Service is issuing amendments to temporary income tax regulations relating in part to elections and miscellaneous procedural matters under section 338 of the Internal Revenue Code of 1954. The text of § 5f.338–1 of the temporary regulations as revised also serves as the comment document for this notice of proposed rulemaking.

DATES: Written comments and requests for a public hearing must be delivered or mailed by April 9, 1984. The regulations are proposed to be effective, generally, for stock acquisitions made after August 31, 1982.

ADDRESS: Send comments and requests for a public hearing to: Commissioner of Internal Revenue, Attention: CC:LR:T (LR–26–83) Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: Duane H. Pellervo of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, D.C. 20224, Attention: CC:LR:T (202–566–3458, not a toll-free call).

SUPPLEMENTARY INFORMATION:

Background

The temporary regulations in the Rules and Regulations portion of this issue of the **Federal Register** revise §§ 5f.338–1 and 5f/338–2 of the Temporary Income Tax Regulations under the Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA), as published in the **Federal Register** on November 22, 1982 (47 FR 52433), and add new § 5f.338–3. The final regulations that are proposed to be based on § 5f.338–1, as revised by these temporary regulations, would be added to Part 1 of Title 26 of the Code of Federal Regulations to provide rules for making elections under section 338(g) (other than elections subject to section 224(d)(2) of TEFRA, as amended by

section 306 of the Technical Corrections Act of 1982) and to provide guidance relating to miscellaneous procedural matters. For the text of the temporary regulations, see T.D. 7942, published in the Rules and Regulations portion of this issue of the **Federal Register**. The preamble to the temporary regulations explains the addition to the regulations.

Regulatory flexibility Act and Executive Order 12291

Although this document is a notice of proposed rulemaking that solicits public comment, the Internal Revenue Service has concluded that the regulations proposed herein are interpretative and that the notice and public procedure requirements of 5 U.S.C. 553 do not apply. Accordingly, these proposed regulations do not constitute regulations subject to the Regulatory Flexibility Act (5 U.S.C. chapter 6). The Commissioner of Internal Revenue has determined that this proposed rule is not a major rule as defined in Executive Order 12291 and that a Regulatory Impact Analysis is therefore not required.

Comments and Requests for a Public Hearing

Before adopting these proposed regulations, consideration will be given to any written comments that are submitted (preferably seven copies) to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying. A public hearing will be held upon written request to the Commissioner by any person who has submitted written comments. If a public hearing is held, notice of the time and place will be published in the **Federal Register**. The collection of information requirements contained herein have been submitted for OMB review under the Paperwork Reduction Act, and comments on them should be sent to the Office of Information and Regulatory Affairs of OMB, ATTN: Desk Office for Internal Revenue Service, New Executive Office Bldg, Washington, D.C. 20503. The Internal Revenue Service requests persons submitting comments to OMB to also send copies of the comments to the Service.

Drafting Information

The principal author of these proposed regulations is Duane H. Pellervo of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulations, both on matters of substance and style.

List of Subjects in 26 CFR 1.301–1.385–6

Income taxes, Corporations, Corporate distributions, Corporate adjustments, Reorganizations

These amendments are necessary because of the addition of section 338 to the Code by Pub. L. 97–248 (96 Stat. 324). These regulations are proposed to be issued under the authority contained in sections 338 and 7805 of the Internal Revenue Code of 1954 (96 Stat. 324, 26 U.S.C. 338; 68A Stat. 917, 26 U.S.C. 7805, respectively).

Roscoe L. Egger, Jr.,

Commissioner of Internal Revenue.

[FR Doc. 84–3459 Filed 2–7–84; 8:45 am]

BILLING CODE 4830–01–M

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26 CFR Part 48

[I–99–82]

Excise Tax on Tires

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed amendments which revise the regulations concerning the excise tax on tires. This revision would change the definition of manufacturing for excise tax purposes to exclude a particular method of recapping or retreading tires. The regulations provide necessary guidance to the public for compliance with the law and affect all persons required to pay excise taxes on recapped or retreaded tires.

DATES: Written comments and requests for a public hearing must be delivered or mailed by March 9, 1984. The amendments are proposed to be effective for articles sold on or after January 1, 1984.

ADDRESS: Send comments and requests for a public hearing to: Commissioner of Internal Revenue, 1111 Constitution Avenue NW., Wasington, D.C. 20224, Attention: CC:LR:T (I–99–82).

FOR FURTHER INFORMATION CONTACT: Jane E. Wilson of the Interpretative Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, D.C. 20224, Attention: CC:LR:T, 202–566–4069 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

This document contains proposed amendments to the Manufacturers and Retailers Excise Tax Regulations (26 CFR Part 48) under section 4071 of the Internal Revenue Code of 1954 (Code) with respect to the excise tax on recapped or retreaded tires.

Prior to its amendment by section 514 of the Highway Revenue Act of 1982 (Pub. L. 97–424), effective on January 1, 1984, referred to as the 1982 Act, section 4071(a) generally imposed excise taxes on manufacturers, producers, and importers of tires and tread rubber. The excise tax on tires exceeded the tax on tread rubber.

Section 48.4071—1(d) of the regulations draws a distinction between tires that have been retreaded from "shoulder to shoulder," a retreading process that involves the application of tread rubber to the road surface of the worn tire, and tires that have been retreaded from "bead to bead," a retreading process that involves not only the application of tread rubber to the road surface of the worn tire, but also the application of a veneer of rubber on the outside of each tire over the sidewall.

Under the existing regulations, retreading a tire from shoulder to shoulder is not classified as manufacturing of a taxable tire. No excise tax is payable on a tire retreaded shoulder to shoulder so long as there had been a prior taxable sale of the tire in the United States. Retreading a tire from bead to bead, however, does constitute manufacturing of a taxable tire under the current regulations, with the result that the excise tax imposed on the sale of tires under section 4071 of the Code applies to a tire that has been retreaded from bead to bead. The distinction between shoulder to shoulder and bead to bead retreaded tires was adopted in section 4071(f) which subjects an imported, shoulder to shoulder retreaded tire to the manufacturers excise tax on the sale of tread rubber. Section 4071(f) does not apply to bead to bead retreaded tires, since imported, bead to bead retreaded tires are subject to the manufacturers excise tax on the sale of tires.

As amended by the 1982 Act, section 4071(a) no longer imposes an excise tax on tread rubber. The amendment is generally effective for articles sold on or after January 1, 1984. Section 4071(f), therefore, ceases applicability on or after that date.

This document proposes to remove the distinction drawn in § 48.4071–1(d) between shoulder to shoulder and bead to bead retreaded tires. The difference between the two types of retreaded tires is cosmetic rather than structural. The bead to bead process is used where the tire carcass has small defects in the sidewall, which if not recapped, would detract from the attractiveness of the tire. A bead to bead retreaded tire does

not compete with a new tire in the original equipment market and would only compete, if ever, with the lowest quality of new tire in the replacement market. A retreaded tire must be sold for less than a new tire, if it is to be marketed. A bead to bead retreaded tire competes with a shoulder to shoulder retreaded tire in the replacement market. Thus, the proposed regulations would treat bead to bead retreaded tires in the same manner as shoulder to shoulder retreaded tires are treated under § 48.4071–1(d).

The proposed amendment to the regulations would be effective for articles sold on or after January 1, 1984.

Comments and Requests For a Public Hearing

Before adopting these proposed regulations, consideration will be given to any written comments that are submitted (preferably seven copies) to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying. A public hearing will be held upon written request to the Commissioner by any person who has submitted written comments. If a public hearing is held, notice of the time and place will be published in the **Federal Register.**

Regulatory Flexibility Act and Executive Order 12291

Although this document is a Notice of Proposed Rulemaking that solicts public comments, the Internal Revenue Service has concluded that the requlations proposed herein are interpretative and that the notice and public procedure requirments of 5 U.S.C. 553 do not apply. Accordingly, these proposed regulations do not constitute regulations subject to the regulatory Flexibility Act (5 U.S.C. Chapter 6). The Commissioner of the Internal Revenue Service has also determined that the proposed regulation is not a major regulation as defined in Executive Order 12291 and therefore a regulatory impact analysis is not required.

Drafting Information

The principal author of these proposed regulations is Jane E. Wilson of the Interpretative Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulations both on matters of substance and style.

List of Subjects in 26 CFR Part 48

Agriculture, Arms and munitions, Coal, excise taxes, Gasohol, Gasoline, Motor vehicles, Petroleum, Sporting goods, Tires

Proposed Amendments to the regulations

The proposed amendments to 26 CFR Part 48 are as follows:

PART 48—[AMENDED]

Section 48.4071–1(d) is revised to read as set forth below:

§ 48.4071–1 Imposition and rates of tax.

* * * * *

(d) *Recapped or retreaded tires.* The recapping or retreading of a tire, whether from shoulder to shoulder or bead to bead, does not consititute manufacture of a taxable tire. The tax on tires imposed by section 4071 does not apply to the sale of a recapped or retreaded tire, except that a used tire or tire carcass not previously sold in the United States that is recapped or retreaded from shoulder to shoulder or bead to bead in a foreign country and imported into the United States is subject to the tax imposed by section 4071 when such tire is sold or used by the importer. This paragraph (d) is effective for recapped and retreaded tires sold on or after January 1, 1984.

* * * * *

Roscoe L. Egger, Jr.,
Commissioner of Internal Revenue.

[FR Doc. 84–3457 Filed 2–7–84; 8:45 am]
BILLING CODE 4830–01–M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 938

Public Comment and Opportunity for Public Hearing on the Modification to the Pennsylvania Permanent Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Proposed rule.

SUMMARY: OSM is announcing procedures for the public comment period and for a public hearing on the substantive adequacy of a program amendment submitted by the Commonwealth of Pennsylvania as a modification to the Pennsylvania Permanent Regulatory Program (hereinafter referred to as the Pennsylvania program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The amendment pertains to changes in the State's regulations relating to reaffecting previously mined lands with pollutional discharges.

This notice sets forth the times and locations that the Pennsylvania program and the proposed amendment are available for public inspection, the comment period during which interested persons may submit written comments on the proposed program elements, and the procedures that will be followed regarding the public hearing.

DATES: Written comments must be received on or before 4:00 p.m., March 9, 1984 to be considered.

If requested, a public hearing on the proposed modifications will be held on March 5, 1984, beginning at 10:00 a.m. at the location shown below under "**ADDRESSES.**"

ADDRESSES: Written comments should be mailed or hand delivered to: Robert Biggi, Harrisburg Field Office, Office of Surface Mining, 101 South 2nd Street, Suite L–4, Harrisburg, Pennsylvania 17101.

If a public hearing is held its location will be at: The Holiday Inn, 5401 Carlisle Pike, Mechanicsburg, Pennsylvania 17055.

FOR FURTHER INFORMATION CONTACT: Robert Biggi, Harrisburg Field Office, Office of Surface Mining, 101 South 2nd Street, Suite L–4, Harrisburg, Pennsylvania 17101, Telephone: (717) 782–4036.

SUPPLEMENTARY INFORMATION:

I. Public Comment Procedures

Availability of Copies

Copies of the Pennsylvania program, the proposed modifications to the program, a listing of any scheduled public meeting and all written comments received in response to this notice will be available for review at the OSM offices and the office of the State regulatory listed below, Monday through Friday, 8:00 a.m. to 4:00 p.m., excluding holidays.

Harrisburg Field Office, Office of Surface Mining, 101 South 2nd Street, Suite L–4, Harrisburg, Pennsylvania 17101.

Office of Surface Mining Reclamation and Enforcement, Room 5315, 1100 "L" Street, NW., Washington, D.C. 20240.

Pennsylvania Department of Environmental Resources, Fulton Bank Building, Third and Locust Streets, Harrisburg, Pennsylvania 17120.

Written Comments

Written comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of the commenter's recommendations. Comments received after the time indicated under **"DATES"** or at locations other than Harrisburg, Pennsylvania, will not necessarily be considered and included in the Administrative Record for this final rulemaking.

Public Hearing

Persons wishing to comment at a public hearing should contact the person listed under **"FOR FURTHER INFORMATION CONTACT"** by the close of business February 23, 1984. If no one requests to comment at a public hearing, the hearing will not be held.

If only one person requests to comment, a public meeting, rather than a public hearing, may be held and the results of the meeting included in the Administrative Record.

Filing of a written statement at the time of the hearing is requested and will greatly assist the transcriber. Submission of written statements in advance of the hearing will allow OSM officials to prepare appropriate questions.

The public hearing will continue on the specified date until all persons scheduled to comment have been heard. Persons in the audience who have not been scheduled to comment and wish to do so will be heard following those scheduled. The hearing will end after all persons scheduled to comment and persons present in the audience who wish to comment, have been heard.

Public Meeting

Persons wishing to met with OSM representatives to discuss the proposed amendments may request a meeting at the OSM office listed in **"ADDRESSES"** by contacting the person listed under **"FOR FURTHER INFORMATION CONTACT."**

All such meetings are open to the public and, if possible, notices of meetings will be posted in advance in the Administrative Record. A written summary of each public meeting will be made a part of the Administrative Record.

II. Background on the Pennsylvania State Program

On February 29, 1980, the Secretary of the Interior received a proposed regulatory program from the State of Pennsylvania. On October 22, 1980, following a review of the proposed program as outlined in 30 CFR Part 732, the Secretary disapproved the Pennsylvania program. The State resubmitted its program on January 25, 1982, and subsequently the Secretary approved the program subject to the correction of minor deficiencies. Information pertinent to the general background, revisions, modifications, and amendments to the proposed permanent program submission, as well as the Secretary's findings, the disposition of comments and a detailed explanation of the conditions of approval of the Pennsylvania program can be found in the July 30, 1982 **Federal Register** notice (47 FR 33050).

III. Submission of Program Amendment

By a letter dated December 23, 1983, Pennsylvania submitted to OSM pursuant to 30 CFR 732.17, a revision to its approved program pertaining to the reaffecting of previously mined lands with pollutional discharges.

In the amendment, Pennsylvania proposes to amend its regulations at Subchapter F of Chapter 87 and Subchapter G of Chapter 88. The proposed changes allow an operator to reaffect mined lands with pollutional discharges without the operator being required to treat discharges to applicable effluent limitations unless the discharges become worse.

Additionally, the proposal povides a mechanism for bond release for these areas when the water quality does not meet approved effluent limitations. Pennsylvania hopes to provide, through this amendment, an incentive for industry to remine these areas and therefore reclaim previously mined lands with pollutional discharges. The full text of the proposed amendment is available for review at the addresses listed above.

Therefore, the Director is seeking public comment on the adequacy of the proposed program amendment. Comments should specifically address the issues of whether the proposed amendments are consistent with SMCRA and no less effective than the Federal regulations. If approved, the amendment will become part of the Pennsylvania program.

IV. Additional Determinations

1. *Compliance with the National Environmental Policy Act:* The Secretary has determined that, pursuant to Section 702(d) of SMCRA, 30 U.S.C. 1292(d), no environmental impact statement need be prepared on this rulemaking.

2. *Executive Order No. 12291 and the Regulatory Flexibility Act:* On August 28, 1981, the Office of Management and Budget (OMB) granted OSM an exemption from Sections 3, 4, 7, and 8 of Executive Order 12291 for actions directly related to approval or conditional approval of State regulatory programs. Therefore, this action is exempt from preparation of a Regulatory Impact Analysis and regulatory review by OMB.

The Department of the Interior has determined that this rule would not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This rule would not impose any new requirements; rather, it would ensure that existing requirements established by SMCRA and the Federal rules would be met by the State.

3. *Paperwork Reduction Act:* This rule does not contain information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3507.

List of Subjects in 30 CFR Part 938

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

Authority: Pub. L. 95–87, Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201 *et seq.*).

Dated: January 31, 1984.

James R. Harris,

Director, Office of Surface Mining.

[FR Doc. 84–3143 Filed 2–7–84; 8:45 am]

BILLING CODE 4310–05–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[KY–007; A–4–FRL 2522–4]

Approval and Promulgation of Implementation Plans; Kentucky, 1982 Ozone and Carbon Monoxide Attainment Plans for Jefferson County

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: On February 3, 1983 (48 FR 5040) EPA proposed to disapprove the 1982 State Implementation Plan (SIP) revision to the Jefferson County ozone and carbon monoxide (CO) plans, which were submitted in draft by Kentucky on June 30, 1982. The reason for the proposed disapproval was the absence of the required auto inspection/maintenance (I/M) program. The remainder of the plan appeared approvable with the correction of numerous minor deficiencies outlined in the notice. The final plan was submitted February 9, 1983, with additional submittals on June 15, September 12, November 21 and December 9, 1983.

Kentucky has added the required I/M plan and has corrected the remaining minor deficiencies. The revised plans now meet the requirements of the Clean Air Act and EPA policy; therefore, EPA now proposes to approve these revisions.

DATE: EPA must receive your comments on or before March 9, 1984.

ADDRESSES: Send any comments to Thomas P. Lyttle, Air Planning Section, US EPA Region IV, 345 Courtland Street NE., Atlanta, Georgia 30365.

You may inspect copies of the submittal and EPA's evaluation during normal business hours at the following locations:

EPA, Region IV, Air Management Branch, 345 Courtland Street, NE., Atlanta, Georgia 30365.
Kentucky Division of Air Pollution Control, 18 Reilly Road, Frankfort, Kentucky 40601.
Kentucky Regional Planning and Development Agency, 914 E. Broadway, Louisville, Kentucky 40204.

FOR FURTHER INFORMATION CONTACT: Thomas P. Lyttle at the address above or 404/881-2864 (FTS 257-2864).

SUPPLEMENTARY INFORMATION: The Clean Air Act Amendments of 1977 added a new Part D to Title I of the Act. Part D required the states to revise their SIPs for all nonattainment areas and submit the revisions to EPA by January 1, 1979. The revised plans had to provide for attainment by December 31, 1982, unless the states demonstrated that they could not attain either the ozone (O_3) or carbon monoxide (CO) standard by that date.

If EPA approved this demonstration, the attainment date for O_3 or CO could be extended up to December 31, 1987. States receiving such extensions were to submit a second SIP revision that provides for attainment by the approved attainment date and complies with all of the Part D requirements.

These second SIP revisions had to be submitted by July 1, 1982. On January 22, 1981 (46 FR 7182), EPA published final criteria for reviewing these revisions. The criteria supplement the "General Preamble for SIP Revisions for Nonattainment Areas", which was published on April 4, 1979 (44 FR 20372).

Kentucky submitted an initial SIP revision for the Jefferson County CO/O_3 nonattainment area in June 1979. Kentucky requested that EPA extend the attainment date for the CO standard in this area until December 31, 1987. EPA approved this request and approved the initial CO plan revision on August 7, 1981 (46 FR 40186). Kentucky also requested an extension to December 1987 for attaining the O_3 standards in Jefferson County. This extension was granted on January 25, 1980 (45 FR 6092), when EPA conditionally approved the ozone SIP for Jefferson County; full approval was given on August 7, 1981 (46 FR 40188).

Kentucky submitted draft revisions to the Jefferson County CO and ozone SIPs on June 30, 1982. On February 3, 1983 (48 FR 5040), EPA proposed to disapprove the SIP because of its failure to provide for an I/M program. Various other deficiencies were pointed out in the proposal notice, although it was expected many of these deficiencies would be corrected in the final submittal. The final submittal was made on February 9, 1983. Additional submittals were made on June 15, September 12, November 21 and December 9, 1983. These submittals correct the deficiencies noted in the draft document, includling I/M.

In its February 3 proposal, EPA found that, except for I/M, the draft SIP revisions were genrally approvable. The draft submittal, and EPA's evaluation of it, were discussed in detail in that notice and will not be repeated in detail here. Three main items will be discussed in this notice: (1) corrections to the minor deficiencies in the SIP, (2) the I/M program and (3) public comments on the February 3 proposal.

A. Corrections to Minor Deficiencies

Various deficiencies were noted in the draft revisions. In the final version and subsequent submittals, revised or additional data were provided to correct these deficiencies. A discussion of the deficiencies and the corrective actions follows.

1. Emisssion Inventories

For the ozone SIP, several minor problems were noted with the emission inventory. Among these were lack of documentation for the volatile organic compounds (VOC) point source growth factors used. The final submission indicates that an overall growth factor for employment in manufacturing was applied to the 1980 base year point source inventory. These factors, which were supplied by the Department of Commerce, were 0.74% per year growth for 1978–1985 and 0.92% per year for 1985–1990. These factors were applied to all VOC point sources, except for whiskey warehouses. This category has been experiencing a significant decline in activity. A survey of existing sources projected a reduction of 41% in the number of barrels stored from 1980 to 1987 and this factor was used for whiskey warehousing emissions.

EPA requested a revised 1978 point source listing to account for the use of these growth factors. This list was provided in the final document. EPA also noted minor discrepancies between the Kentucky and Indiana SIP inventories for the Indiana point source categories. Indiana has recently submitted a new inventory. A brief review of the Indiana inventory indicates there are still minor differences between the two states' inventories, but the differences are insignificant, especially considering the relatively small contribution of the Indiana counties compared to Jefferson County. The revised Indiana inventory also claims lower emission reduction from RACT controls than were in the original inventory. This addresses another point made in EPA's initial review.

The main deficiency noted in both the CO and VOC inventories was the use of a January 1983 start-up date for the I/M program for the purposes of calculating the mobile source emission reductions in 1987. Delays in the I/M program have pushed back the start-up date to January 1, 1984, which would cause I/M to deliver a smaller emission reduction, assuming no other changes were made. Jefferson County has performed additional modeling and has determined that the one year delay will cause emission in 1987 to increase by only about 1% overall. Thus, the delay in start-up will not cause problems with the 1987 attainment projection. The program will still produce sufficient emission reduction to meet the RACT requirement.

Based on these corrections, EPA proposes to approve the emissions inventories.

2. Stationary Source Controls

The draft did not include a specific commitment to adopt regulations for sources covered by Group III of EPA's Control Techniques Guidelines (CTGs) or for other 100 ton per year sources not covered by CTGs. The Jefferson County Air Pollution Control District (APCD) has committed to adopt such regulations within 1 year of publication of CTG's or within 1 year of the discovery of the need for controls for non-CTGs sources. APCD had already included a demonstration that exist major non-CTG sources already have in place the equivalent of RACT control. The final SIP contains these commitments. Based on these commitments, EPA proposes to approve the stationary source controls.

3. Transportation Control Measures (TCM's)

The draft submittal did not include commitments to implement all TCM

measures contained in the SIP. The final submittal included in the Transportation Improvement Program all but twoTCMs and identified funding sources and the responsible agencies. Initially, three CO "hot spot" intersections were not projected to meet the CO standard by the end of 1987. A further analysis of one of the intersections indicated the I/M and planned TCM's would allow it to meet the standard by 1987. For the remaining two intersections, additional intersection improvements were necessary. Commitments to implement the last two intersection improvements have since been submitted.

Based on the correction of the deficiencies in the TCM commitments, EPA proposes to approve the TCM portion of the SIP.

4. Reasonable Further Progress (RFP)

The draft submittal did not include RFP demonstrations for CO or hydrocarbons. The final submittal contained RFP demonstration for both pollutants. Subsequently, RFP demonstrations which account for the delayed start-up of the I/M program were submitted. These demonstrations meet EPA requirements. Therefore, EPA proposes to approve the RFP portion of the SIP.

B. Inspection/Maintenance (I/M)

The draft submittal contained no provision for an I/M program for Jefferson County. Because of indecision on the part of the local governments as to which agency would be responsible for the program, no significant progress was made until late 1982. On January 5, 1983, the Jefferson County Air Pollution Control Board adopted an I/M program by regulation and established an implementation schedule for the program. The program adopted will be centralized and run by a private contractor. The schedule called for award of a contract by June 1, 1983, and start-up of the program by July 1, 1983, or as soon as possible thereafter, as determined in the contract. The contract was signed on June 7 with a start-up date of January 1, 1984. The contract was included as part of the SIP submittal. The I/M program started in January 1983.

EPA's 1982 SIP policy for I/M areas published on January 22, 1982 (46 FR 1782), contains several items which must be contained in an approvable I/M plan. A discussion of each of these items as contained in the submittal follows.

The basic requirement of the program is that it must produce HC and CO emission reductions of at least 35 percent (using Mobile II) by 1987. The Louisville program has been demonstrated to produce HC and CO reductions of slightly over 40 percent by 1987.

1. Inspection Test Procedures

The test to be used is an idle test with a preconditioning period of 15 seconds at half throttle prior to the test. Vehicle identification will be entered into the data handling system on the analyzers and test results will automatically be recorded, compared to the applicable standards and the pass/fail decision made for both CO and HC.

HC and CO tests are required for all gasoline powered automobiles, light trucks up to 10,000 pounds gross vehicle weight rating, heavy duty vehicles with official registration and 4-cycle motorcycles. In addition, an opacity test is required for diesel vehicles and 2-cycle motorcycles. All model years are covered, except those vehicles registered as "historic" (vehicles over 25 years old) are exempted.

These procedures meet current requirements for Section 207(b) warranty coverage. EPA has proposed requiring an engine restart test procedure for most Ford vehicles. If EPA's proposal is adopted, minor modifications to APCD's test procedure would be necessary to continue 207(b) warranty coverage for such vehicles.

Provisions are also made for fleet testing either by the fleet operators or by contractor personnel. The test requirements are equivalent to the regular test procedures.

2. Emission Standards

Emission standards for the various vehicle classes have been adopted as part of the I/M regulations. Based on the EPA recommended cut points, the standards for the light duty vehicles are expected to produce a program stringency of 20%. Emission standards for automobiles and light trucks are consistent with the 207(b) warranty requirements.

3. Emission Analysis Specifications and Maintenance/Calibration Requirements

Jefferson County's request for proposals specified that analyzers used in the program meet the EPA recommended specifications contained in technical reports EPA–AA–IMS–80–5–A, B, and C for computerized analyzers. Alterations to these specifications were allowed if justified by the contractor. The analyzers chosen for the program were designed to BAR 80 specifications and generally meet the EPA recommended specifications. The analyzers also meet 207(b) warranty requirements.

Regular scheduled maintenance includes weekly filter changes and cleaning by contractor personnel and monthly preventative maintenance performed by the analyzer manufacturer.

4. Record Keeping and Submittal

The contractor has agreed to supply weekly, monthly, and annual reports to APCD on basic program data such as number of vehicles tested, failure rates, retest results, warning notices for failure to obtain a test, repair cost data and quality control. The computerized data base will also allow generation of other specialized reports as required. APCD has agreed to provide EPA with a detailed annual status report on the program.

5. Quality Control, Audit and Surveillance

Quality control of testing and the analyzers is largely insured by the use of computerized analyzers and data handling. The contractor is required to perform various weekly and monthly calibration procedures as described above. APCD will be conducting weekly calibration audits and random audits of the contractor's performance and records. APCD will also perform periodic financial and management audits.

6. Procedures To Ensure Non-Complying Vehicles Will Not be Operated on Public Roads

Jefferson County does not have authority to require I/M testing as a prerequisite for obtaining annual registration. The Kentucky General Assembly refused to enact such authority in 1982. Recognizing potential problems with sticker enforcement, APCD developed a procedure to verify compliance by comparing test records with monthly vehicle registration lists. When a vehicle is registered, a notice will be given to the motorist informing him that his car must be tested during the following two months. If the vehicle is not tested, a warning notice will be issued. If the vehicle is still not tested by the following month, a summons to appear in court will be issued. When the motorist appears in court, he is subject to a fine of $10.00 to $50.00, plus court costs of $37.50. This system effectively ties the testing requirement to registration and should allow identification and prosecution of all motorists who do not comply with the I/M requirement. The details of the enforcement mechanism are contained

in APCD Regulation 8 and the contract, which are part of the submittal.

7. Other Rules, Regulations and Procedures

The program regulations contain a provision to limit the amount of money a motorist must spend to repair his car if it fails the test. If the cost limit is reached, the motorist will be given a one year exemption even if his car does not meet the standards on the retest. The cost limits vary depending on the model year of the vehicle. For 1980 and earlier vehicles the limits are $15.00 for CO failures, $35.00 for HC failures and $50.00 for both. This reflects the fact that simple repairs will usually bring such cars into compliance. For 1981–83, vehicles, the limits are $30.00, $50.00 and $65.00, respectively. For 1984 and later vehicles, which will be in the program from the start, the limits are $100.00, $100.00 and $200.00. In all cases, a basic tune up procedure must be completed as part of the cost in order to qualify for a waiver.

8. Public Information Plan

APCD has contracted with a local marketing firm to develop and implement a public information program for the I/M program. The public information program includes a preliminary information campaign which began December 1, 1983, the main information campaign which will commence with the start of testing on January 3, and surveys to identify specific public awareness issues which need to be addressed. The initial campaign utilizes press conferences, public speaking engagements, brochures and slide presentations to explain why the program is being implemented and how it will work. The main campaign will also utilize television and radio advertising to increase public understanding of the program.

9. Mechanics Training Program

Mechanics training is provided by the Jefferson State Vocational School under contract to APCD. The school is offering 12 hour—2 week courses of instruction to all mechanics in the County. The course includes basic emission tune up information, a description of the operation of the inspection program and how to properly complete the vehicle repair form issued to vehicles which fail the test.

Although the program missed the Decembr 31, 1982, start-up date required by EPA policy, this issue is no longer significant since the program is now operating here. EPA finds all of the other elements meet the I/M requiements and therefore proposes to approve the I/M portion of the SIP.

C. Comments on February 3, 1983, Proposal

Three comments were received in response to the February 3 proposal to disapprove the Jefferson County SIP revision. The Kentucky Natural Resources and Environmnetal Protection Cabinet and APCD both responded that substantial progress had been made on I/M from January 5 through April. Available information, including the general form of the program and the implementation schedule were included, along with a promise to forward the remaining I/M elements as soon as they were developed. Both agencies also noted that many deficiencies noted in the draft SIP revisions had been corrected in the official submittal of February 9. APCD also included miscellaneous comments to address other deficiencies noted in the notice.

In response to these comments, EPA agrees that the deficiencies noted in the February 3, 1983, notice have been corrected. For those reasons EPA is now proposing to approve the SIP revisions in full.

An environmental group commented that the automobile manufacturers, rather than motorists, should be required to clean up auto emissions. In response, EPA believes the auto manufacturers have contributed significantly to cleaning up emissions and that I/M is the most effective way to futher reduce such emissions. This is the basis for the inclusion of the I/M requirement in the Clean Air Act.

Proposed Action

All deficiencies noted in the February 3, 1983, proposal to disapprove the Jefferson County CO and ozone SIP have now been corrected. The revisions to CO and ozone SIPs for Jefferson County submitted by Kentucky on February 9, 1983, and supplementary submittals of June 15, September 14, November 21, and December 9, 1983, meet the requirements of the Clean Air Act and EPA policy. Therefore, EPA now proposes to approve these SIP revisions.

Interested parties who wish to participate in this rulemaking may do so by sending comments to the address given above.

Under U.S.C. 605(b), the Administrator has certified that SIP approvals do not have a significant economic impact on a substantial number of small entities (46 FR 8709).

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons, Intergovernmental relations.

(Secs. 110 and 172 of the Clean Air Act (42 U.S.C. 7410 and 7502))

Dated: December 22, 1983.

Charles R. Jeter,

Regional Administrator.

[FR Doc. 84-3378 Filed 2-7-84; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 52

[A-9-FRL 2522-5]

Approval and Promulgation of Implementation Plans; California State Implementation Plan (SIP) Revision

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed rulemaking.

SUMMARY: The State of California recently submitted to EPA eighteen volatile organic compound (VOC) rules. These rules have been evaluated and found to be in conformance with the requirements of 40 CFR Part 51 and EPA policy. This notice proposes to approve the rules and incorporate them into the State Implementation Plan. The intended effect of this action is to achieve net VOC emissions reductions in ozone nonattainment areas and meet the requirements of Part D of the Clean Air Act.

DATES: Comments may be submitted on or before March 9, 1984.

ADDRESSES: Comments may be sent to: Regional Administrator, Attn: Air Management Division, Air Programs Branch, State Implementation Plan Section (A-2-3), Environmental Protection Agency, Region 9, 215 Fremont Street, San Francisco, CA 94105.

Copies of the proposed revisions and EPA's associated Evaluation Report are available for public inspection during normal business hours at the EPA Region 9 office at the above address, and at the following location: California Air Resources Board, 1102 "Q" Street, P.O. Box 2815, Sacramento, CA 95812.

FOR FURTHER INFORMATION CONTACT: Douglas Grano, Acting Chief, State Implementation Plan Section, Air Programs Branch, Air Management Division, Environmental Protection Agency, Region 9, (415) 974-7640.

SUPPLEMENTARY INFORMATION:

Background

Part D of the Clean Air Act requires states to revise their State Implementation Plan for all areas that have not attained the National Ambient Air Quality Standards (NAAQS).

EPA's April 4, 1979 General Preamble describes the Part D requirements for submittal of Reasonably Available Control Technology (RACT) regulations. The first set of RACT regulations for VOC was required for sources covered by the Group I Control Techniques Guidelines (CTG) documents published before January 1978. Regulations for sources covered by the Group I documents here to have been submitted by January 1, 1979. A second set of RACT regulations was required for sources covered by the Group II CTG documents, published between January 1978 and January 1979. Regulations for sources covered by the Group II CTG documents were to have been submitted January 1, 1981.

EPA published the CTGs in order to assist the states in determining RACT. The CTGs contain information on available air pollution control techniques and provide recommendations on what EPA calls the "presumptive norms" for RACT.

This notice addresses several Group I and II CTG rules and 4 non-CTG/VOC rules including a semiconductor operations rule of the Bay Area Air Quality Management District. This new rule will require installation of carbon adsorption control devices and solvent metal cleaning control devices for the source category.

Description of Regulations

The State of California submitted revisions to the following regulations on the indicated date, which cover *Group I CTG categories:*

(July 19, 1983)

Merced County Air Pollution Control District

Rule 409.5. Cutback Asphalt Paying Materials
Rule 411 Gasoline Transfer Phase I

San Diego County Air Pollution Control District

Rule 67.4. Can and Coil Coating Operations
Rule 67.6 Solvent Cleaning Operation

Shasta County Air Pollution Control District

Rule 3.3(b). Gasoline Loading and Transfer
Rule 3.15(c) Cutback Asphalt Paving Materials

In addition, the State submitted the following rules which cover *Group II CTG categories,* on July 19, August 2 and August 30, 1983:

(July 19, 1983)

Fresno County Air Pollution Control District

Rule 409.4. Surface Coating of Manufactured Metal Parts and Products

Merced County Air Pollution Control District

Rule 409.4. Surface Coating of Manufactured Metal Parts and Products
Rule 409.7 Graphic Arts

Sacramento County Air Pollution Control District

Rule 17. Surface Coating of Manufactured Metal Parts and Products

San Diego County Air Pollution Control District

Rule 67.3. Coating of Metal Parts and Products

(August 2, 1983)

Kings County Air Pollution Control District

Rule 414.4. Pumps and Compressor Seals at Petroleum Refineries

Yuba County Air Pollution Control District

Rule 3.9. Storage of Petroleum Products

(August 30, 1983)

Yolo-Solano County Air Pollution Control District

Rule 2.13(1). Graphic Arts

The State also submitted the following non-CTG rules on July 19 and August 30, 1983 respectively:

(July 19, 1983)

Merced County Air Pollution Control District

Rule 411.1 Transfer of Gasoline Phase II

Shasta County Air Pollution Control District

Rule 3.4(d) Industrial Use of Organic Solvents

(August 30, 1983)

Bay Area Air Management District

Rule 8.30 Semiconductor Manufacturing

Stanislaus County Air Pollution Control District

Rule 409.1 Architectural Coatings

Proposed Actions

EPA proposes to approve, under Part D, the rules listed above since they are consistent with the Clean Air Act, EPA policy and 40 CFR Part 51. These rules have been evaluated and found to represent reasonably available control technology. A copy of EPA's evaluation is available for inspection at the Region 9 Office.

I certify that SIP approvals do not have a significant economic impact on a substantial number of small entities. The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

List of Subjects in 40 CFR Part 52:

40 CFR 52, Air Pollution Control, Ozone, Sulfur oxides, Nitrogen dioxides, Lead, Particulate matter, Carbon monoxide, Hydrocarbons, Intergovernmental relations.

Authority: Sections 110, 129, 171 to 178 and 301(a) of the Clean Air Act as amended (42 U.S.C. 7410, 7429, 7501 to 7508, and 7601(a)).

Dated: December 29, 1983.

Judith E. Ayres,

Regional Administrator.

[FR Doc. 84-3339 Filed 2-7-84; 8:45 am]
BILLING CODE 6560-50-M

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40 CFR Part 52

[A-5-FRL 2521-8]

Approval and Promulgation of Implementation Plans; Ohio

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rulemaking.

SUMMARY: The EPA announces proposed rulemaking on a revision to the ozone portion of the Ohio State Implementation Plan (SIP) for Volatile Organic Compounds (VOC). The SIP revision will provide for an alternative emission reduction plan (bubble) and an extended compliance schedule for eight vinyl coating lines at B.F. Goodrich's (BFG) facility located in Washington County, Ohio. This revision will allow BFG additional time to convert to waterborne coatings and inks. EPA's action is based upon a request which was submitted by the State.

DATE: Comments on this revision and on the proposed EPA action must be received by March 9, 1984.

ADDRESS: Copies of the SIP revision are available for inspection at the following addresses: (It is recommended that you telephone Uylaine E. McMahan, at (312)

353–0396 before visiting the Region V Office).

Environmental Protection Agency, Region V, Air and Radiation Branch, 230 South Dearborn Street, Chicago, Illinois 60604.

Ohio Environmental Protection Agency, Office of Air Pollution Control, 361 East Broad Street, Columbus, Ohio 43216.

Written comments should be sent to: Gary Gulezian, Chief, Regulatory Analysis Section, Air and Radiation Branch (5AR–26), Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Uylaine E. McMahan, (312) 353–0396.

SUPPLEMENTARY INFORMATION: On April 7, 1982 (47 FR 15076), the Environmental Protection Agency issued a proposed Emissions Trading Policy Statement which sets forth general principles for the creation, banking and use of emission reduction credits. This statement indicated that it is the policy of EPA to encourage use of emissions trades to achieve more flexible, rapid and efficient attainment of national ambient air quality standards (NAAQS). It describes emissions trading, sets out general principles EPA will use to evaluate emissions trades under the Clean Air Act, and expands opportunities for States and industry to use these less costly control approaches. The April 7, 1982, notice noted that, until EPA takes final action on its policy statement, State actions involving emission trades would be evaluated under the provisions set forth in the proposed statement.

On March 9, 1983, the Ohio Environmental Protection Agency (OEPA) submitted a revision to its ozone SIP for BFG. The revision request contains an alternative emission control program (bubble) and an alternative compliance schedule which is in the form of a variance for eight vinyl coating lines located at BFG's facility in Washington County, Ohio. Under the existing federally approved SIP, each vinyl coating line is subject to the emission control requirements contained in Ohio Administrative Code (OAC) Rule 3745–21–09(H) and to the compliance schedule contained in OAC Rule 3745–21–04(C)(7). EPA approved these rules as meeting the reasonably available control technology (RACT) requirements of the Clean Air Act on June 29, 1982.

In lieu of the limitations contained in the existing federally approved SIP, the State is proposing a bubble for eight vinyl coating lines. Under the proposed bubble, BFG will convert to waterborne coatings and inks to achieve an emission limitation of 4.8 pounds of VOC per gallon of coating and ink solids (lbs VOC/gal coating and ink solids), excluding water, for the eight vinyl coating lines. Compliance with this limitation will be determined on a monthly basis and represents a 68 percent VOC reduction from the uncontrolled emission limits. In addition, the eight vinyl coating lines are also limited in total to a daily maximum of 6,000 pounds of VOC emissions, based on the RACT emission limitation at the historical maximum daily production rate. The 68 percent emission reduction attributable to the alternative control program is equivalent to the emission reduction required under OAC Rule 3745–21–09(H)(1)(a) or (H)(2) of the existing federally approved SIP.

The variance contains a compliance schedule which includes legally enforceable increments of process toward compliance. To ensure reasonable progress in achieving the allowable emission limitations, minimum reductions in average VOC content of all waterborne coatings and inks are established for: December 1982, December 1983, December 1984, and December 1985. The table below specifies the the emission reductions required.

The BFG's facility is located in Washington County, Ohio which has always been an rural ozone attainment area.

Date	Percent of coatings and inks which are waterborne [1]	Pounds of VOC per gallon of coating and inks, excluding water [1]	Pounds of VOC per gallon of solids [1]	Percent reduction in VOC emissions [2]
	0	5.95	49.0	0
Dec. 1982	27	5.5	36.8	42
Dec. 1983	37	5.3	23.6	52
Dec. 1984	43	5.1	20.4	59
Dec. 1985	52	4.8	16.1	68

[1] Volume-weighted average for month.
[2] Percent reduction in VOC emissions is based upon the reduction in pounds of VOC per gallon of solids employed.

BFG is required to submit annual reports to the OEPA which demonstrate compliance with these minimum VOC reductions. If BFG cannot achieve compliance with emission limitations discussed above solely through the use of waterborne coatings and inks, BFG is required by December 31, 1985, to commence installation of add-on control equipment to achieve compliance with OAC 3745–21–09 (H)(2), according to a schedule contained in the variance, which results in compliance by December 1, 1987. Any vinyl coating line where add on control equipment subsequently installed would not be included in the above mentioned bubble.

The BFG's facility is located in Washington County, Ohio, an ozone attainment area. Therefore, the extended compliance schedule and use of monthly averaging will not interfere with the attainment or the maintenance of the ozone NAAQS.

EPA has determined that the bubble is consistent with EPA's proposed Emissions Trading Policy Statement. The bubble consists of enforceable emission limitations which are equivalent to RACT, and there will be no increase in total allowable emissions.

Although the variance and permits each expire 3 years after final approval by USEPA, the emission limitations and other requirements contained therein will remain the enforceable SIP beyond the expiration dates under State law. USEPA is specifically approving not only the permits and variances but also the emission limitations and other permit requirements mentioned above, that are contained in the permits and issuances.

EPA is providing a 30-day comment period on this notice of proposed rulemaking. Public comments received on or before March 9, 1984 will be considered in EPA's final rulemaking. All comments will be available for inspection during normal business hours at the Region V office listed at the front of this notice.

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

Under 5 U.S.C. 605(b), the Administrator has certified that SIP approvals do not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709).

List of Subjects in 40 CFR Part 52

Air Pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons, Intergovernmental relations.

(Sec. 110 of the Clean Air Act, as amended 42 U.S.C. 7410)

Dated: July 19, 1983.

Valdas V. Adamkus,

Regional Administrator.

[FR Doc. 84–3380 Filed 2–7–84; 8:45 am]

BILLING CODE 6560–50–M

40 CFR Part 81

[A-5-FRL 2522-1]

Designation of Areas for Air Quality Planning Purposes; Attainment Status Designations; Illinois

AGENCY: Environmental Protection Agency (USEPA).

ACTION: Proposed rule.

SUMMARY: USEPA proposes to change the total suspended particulates (TSP) attainment status designations of all, or part, of 15 Illinois counties: Adams, Cook, DeKalb, DuPage, Grundy, Knox, Lake, LaSalle, Madison, Monroe, St. Clair, Peoria, Tazewell, Will, and Woodford. The proposed revisions are based upon a January 27, 1983, request from the State of Illinois to redesignate these areas, and on supporting data submitted by the State. The request was amended on May 2, 1983, and supplemental information as provided on July 27, 1983. USEPA is also proposing to reject Illinois' request to redesignate the TSP attainment status designations of all, or part, of the following 8 counties: Cook, Kendall, LaSalle, Madison, Peoria, Rock Island, Tazewell, and Will. Under the Clean Air Act (Act) designations can be changed if sufficient data are available to warrant such change.

DATE: Comments on this revision and on the proposed USEPA action must be received by March 9, 1984.

ADDRESSES: Copies of the redesignation request, the technical support documents, and the supporting air quality data are available at the following addresses:

Environmental Protection Agency, Region V, Air Programs Branch, 230 S. Dearborn Street, Chicago, Illinois 60604.

Illinois Environmental Protection Agency Division of Air Pollution Control, 2200 Churchill Road, Springfield, Illinois 62706.

Comments on this proposed rule should be adressed to: Gary Gulezian, Chief, Regulatory Analysis Section, Air and Radiation Branch (5AR–26), USEPA, Region V, 230 South Dearborn Street, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Randolph O. Cano, Air and Radiation Branch (5AR–26), Environmental Protection Agency, Region V, Chicago, Illinois 60604, (312) 886–6035.

SUPPLEMENTARY INFORMATION: Under Section 107(d) of the Act, the Administrator of USEPA has promulgated the National Ambient Air Quality Standards (NAAQS) attainment status for each area of Illinois. See 43 FR 8962 (March 3, 1978) and 43 FR 45993 (October 5, 1978).

Section 107(d)(5) of the Act, as amended in 1977, permits a State to request USEPA to rulemake on a change in the NAAQS attainment/nonattainment status of an area, when the available data warrant such a change. On January 27, 1983, the Illinois Environmental Protection Agency (IEPA) submitted a request to USEPA proposing redesignation of all, or part, of 17 Counties for the pollutant TSP. IEPA amended its request on May 2, 1983, and provided additional information on July 27, 1983. The current designation of each area for which a change has been requested, and the requested change, are as follows:

1. Adams County:	
Ellington, Melrose, and Riverside Townships.	Secondary Nonattainment to Attainment.
2. Cook County:	
Berwyn, Calumet, Lake, Lyons, N. Stickney, Riverside, and Thornton Townships.	Primary Nonattainment to Secondary Nonattainment.
Bremen, Hanover, Lemont, Oak Park, Orland, Palos, and Rich Townships.	Secondary Nonattainment to Attainment.
3. DeKalb County:	
DeKalb and Mayfield Townships.	Do.
4. DuPage County:	
Addison and York Townships.	Primary Nonattainment to Attainment.
Bloomingdale, Downers Grove, Lisle, and Naperville Townships.	Secondary Nonattainment to Attainment.
5. Grundy County:	
AuxSable and Morris Townships.	Unclassified to Secondary Nonattainment.
6. Kendall County:	
Entire County	Secondary Nonattainment to Attainment.
7. Knox County:	
Entire County	Do.
8. Lake County:	
All Secondary Nonattainment Townships.	Do.
9. LaSalle County:	
LaSalle Township	Primary Nonattainment to Attainment.
Ottawa Township	Secondary Nonattainment to Attainment.
10. Madison County:	
Alton Township	Primary Nonattainment to Attainment.
Alhambra, Edwardsville Hamel, Helvetia, Jarvis, Marine, Omphghent, Pin Oak Saline, and St. Jacob Townships.	Secondary Nonattainment to Attainment.
11. Monroe County:	
Township T.2S–R.10W	Secondary Nonattainment to Attainment.
12. St. Clair County:	
Caseyville, Shiloh Valley, and St. Clair Townships.	Primary Nonattainment to Secondary Nonattainment.
Freeburg, Lebanon, O'Fallon, and Smithton Townships.	Secondary Nonattainment to Attainment.
13. Peoria County:	
Limestone and Peoria Townships.	Primary Nonattainment to Secondary Nonattainment.
All Secondary Nonattainment Townships except Hollis, Richmond, Kickapoo, and Medina Townships.	Secondary Nonattainment to Attainment.
14. Rock Island County:	
Rock Island and S. Rock Island Townships.	Primary Nonattainment to Secondary Nonattainment.
South Moline Township	Primary Nonattainment to Unclassified.
15. Tazewell County:	
Fondulac and Groveland Townships.	Primary Nonattainment to Secondary Nonattainment.
All Secondary nonattainment Townships except Cincinnati, Elm Grove, Pekin, Morton, and Washington Townships.	Secondary Nonattainment to Attainment.
16. Will County:	
DuPage, Lockport, and Joliet Townships.	Primary Nonattainment to Secondary Nonattainment.
Florence, Frankfort Green Garden, Homer, Manhatten, Peotone, and Wilton Township.	Secondary Nonattainment to Attainment.
Monee Township	Attainment to Secondary Nonattainment.
17. Woodford County:	
All Secondary Nonattainment Townships.	Secondary Nonattainment to Attainment.

USEPA's criteria for 107 designations are summarized in the April 21, 1983, memorandum, "Section 107 Designation Policy Summary", by Sheldon Meyers, Director of USEPA's Office of Air Quality Planning and Standards. In general, all available information relative to the attainment status of the area should be reviewed. These data should include the most recent eight consecutive quarters of quality-assured, representative ambient air quality data, plus evidence of an implemented control strategy. Supplemental information, including the available air quality modeling, emissions data, etc., should be used to determine if the monitoring data accurately characterize the worst-case air quality in the area. Information submitted to support attainment redesignations must adequately and accurately reflect long-term operating rates and economic conditions.

A discussion of each proposed redesignation follows:

Adams County

Ellington, Melrose and Riverside Townships (From Secondary Nonattainment to Attainment)

This redesignation is supported by the available monitor and modeling data. The only current monitoring site, located in Quincy, has recorded a violation since 1976. The old sewage treatment plant monitoring site, discontinued after 1977, recorded secondary standard violations which formed the basis for the original secondary standard designation. IEPA's Part D SIP modeling shows attainment at this location.

Cook County

Berwyn, Calumet, Lake, Lyons, N. Stickney Riverside and Thornton Townships (From Primary Nonattainment to Secondary Nonattainment)

For five townships (Berwyn, Riverside, N. Stickney, Lake and Thornton), the redesignation is suupported by the available monitoring and modeling data. There have been no primary standard violations at the two monitors located in Thornton Township, or the three monitors in Lake Township. Thornton and Lake are the only two of these five townships that contain major TSP sources. The modeling suggests only secondary nonattainment in Berwyn, Riverside, and N. Stickney. IEPA attributes recent air quality improvement to the implementation of RACT in nearby industrialized areas, as well as on the major TSP sources located in Lake and Thornton.

For Lyons and Calumet Townships, the redesignations are not supported by the available information. In Lyons, IEPA's modeling predicts substantial primary nonattainment attributable to two firms, Material Services Corporation and Vulcan Material. Two monitors, which were discontinued in 1980, recorded primary standard violations in the late 1970's. In Claumet, IEPA's modiling shows marginal primary nonattainment close to the only major TSP sources in the township, and nearby monitors (Blue Island and Carver High School) have recorded recent primary standard violations.

It is noted that IEPA's redesignation request for Cook County merely involves the narrowing of the primary/secondary nonattainment area boundaries. The Southeast Chicago area's major TSP source area, and the commercialized areas near downtown Chicago remain primary nonattainment.

Bremen, Honover, Lemont, Oak Park, Orland, Palos and Rich Townships (From Secondary Nonattainment to Attainment)

This redesignation is supported by the available monitoring and modeling data. There are three monitors in these townships, one each in Bremen, Rich and Oak Park, which have not recorded violations since 1979, 1976, and 1972, respectively. There are only a few major TSP sources within these townships. For a good portion of these areas, the data would have supported an original designation of attainment. IEPA attributes any recent improvement in ambient TSP levels to the implementation of RACT in the more heavily industrialized upwind areas.

DeKalb County

DeKalb and Mayfield Townships (From Secondary Nonattainment to Attainment)

This redesignation is supported by the available monitoring/modeling data. There are no major TSP sources in the county. The original nonattainment designation is based on secondary standard violations recorded at a monitoring site that was discontinued in 1979.

DuPage County

Addision Township (From Primary to Secondary Nonattainment)

This redesignation is supported by the available monitoring and modeling data, contingent upon IEPA's May 3, 1983, assertion that Chicago Stone Company, the main contributor to modeled violations, has shutdown. Before USEPA can finally approve the redesignation of Addison Township, the State must demonstrate the Chicago Stone Company has permanently shutdown and that the facility has been removed from the emission inventory.

York Township (From Primary Nonattainment to Attainment)

This redesignation is supported by the available monitoring and modeling data. The shutdown of Chicago Stone will also alleviate modeled violations in this township.

Bloomingdale, Downers Grove, Lisle, and Naperville Townships (Secondary Nonattainment to Attainment)

This redesignation is supported by the available monitoring and modeling data. There has not been a monitored violation of the secondary standard since 1978 at the three monitoring sites in these townships. There is only one major TSP source in this area. The improvement is attributed by IEPA to the implementation of RACT in upwind urban areas, and by the shutdown of Chicago Stone (Lisle Township).

Grundy County

AuxSable and Morris Townships (From Unclassified to Secondary Nonattainment)

This redesignation is supported by the available monitoring data. A new monitor, located in Morris, recorded a violation of the secondary standard in 1982.

Kendall County

Entire County (From Secondary Nonattainment to Attainment)

At present, there are no monitors in this county. A monitor in Plano was discontinued in 1977. Secondary violations were recorded in each of three previous years while the monitor was in operation. IEPA indicated that there are no major traditional TSP sources in the county. This redesignation cannot be approved unless IEPA can provide justification for not relying on the only available monitor data.

Knox County

Entire County (From Secondary Nonattainment to Attainment)

This redesignation is supported by the available monitoring and modeling data. There have been no violations of the secondary standard at the monitor in this county since 1976. IEPA attributes any improvement in the county's TSP air quality to the implementation of RACT both within and outside the county.

Lake County

(Remaining Secondary Nonattainment Townships to Attainment)

This redesignation is supported by the available monitoring and modeling data. There have been no violations of the secondary standard at any site in the county since 1978. IEPA attributes any recent air quality improvement to the implementation of controls in the Chicago area, upwind of Lake County.

LaSalle County

LaSalle Township (From Primary Nonattainment to Unclassified)

This redesignation is not supported by the available data. Monitored violations occurred near Marquette Cement through 1981, when the existing monitor sites were discontinued. IEPA has recently negotiated a settlement agreement with Marquette Cement, which will result in a 30% reduction of TSP emissions, and IEPA requests that the township be redesignated to unclassified until an new monitor verifies that the standards have been attained. However, it is not consistent with USEPA's policy to redesignate an area to unclassified at this time. This township should remain primary nonattainment until there is sufficient monitoring and/or other data available to support redesignation.

Ottawa Township (From Secondary Nonattainment to Attainment)

This redesignation is supported by the available monitoring and modeling data. There has been only one violation of the secondary standard (in 1976) at the Ottawa site since its startup in 1974. IEPA's modeling analysis predicts no standard violations in this aren. The

original designation could just as well have been attainment in this township.

Madison County

Alton Township (From Primary Nonattainment to Secondary Nonattainment)

The monitoring data from the remaining site in Alton shows attainment of primary standards since 1980. IEPA's modeling predicts primary nonattainment attributable to Mississippi Lime (for which the monitor is not particularly well located). IEPA indicates that substantial emission reductions have been achieved from Mississippi Lime, and from other sources in the area. Until such time as IEPA documents specific legally enforceable emission reductions beyond RACT levels, and their expected ambient impact, from Mississippi Lime and/or other sources which are contributing to the high modeled concentrations, this redesignation cannot be approved.

Alhambra, Edwardsville, Hamel, Helvetia, Jarvis, Marine, Imphghent, Pin Oak, Saline, and St. Jacob Townships (From Secondary Nonattainment to Attainment)

This redesignation is supported by the available modeling data. There are no monitors in this area. IEPA has withdrawn the redesignation request for Choteau Township because a major source in his township is out of compliance with existing TSP regulations. The original designation for this area should have been attainment (based on IEPA's modeling and the lack of major TSP sources).

Monroe County

Township T.22–R.10W (From Secondary Nonattainment to Attainment)

This redesignation is supported by the available monitoring and modeling data. The Waterloo site has shown attainment since its startup in 1979. IEPA's modeling predicts attainment of the TSP NAAQS.

St. Clair County

Caseyville, Shiloh Valley and St. Clair Townships (From Primary Nonattainment to Secondary Nonattainment)

This redesignation is supported by the available monitoring and modeling data. The Bellville and Chahokia sites have recorded violations of the primary standard only once since 1976 (Bellville 1980). No violations have occurred, however, in the last 8 quarters of data. There are only two major TSP sources in this area. IEPA's modeling predicts marginal primary nonattainment at a few locations, which is attributable to major area sources. Because the monitors (not influenced by many major TSP sources) have not recorded levels as high as those modeled, and are likely to be representative of the air quality in these townships, these data can be relied on to support the redesignation.

Freeburg, Lebanon, O'Fallon, and Smithton Townships (From Secondary Nonattainment to Attainment)

This redesignation is supported by the available modeling data. There are no monitors in these townships. Any recent improvement in TSP air quality is atttributable, according to IEPA, to the implementation of RACT in the upwind industrialized area.

Peoria County

Peoria and Limestone Townships (From Primary Nonattainment to Secondary Nonattainment)

This redesignation is supported by the available monitoring and modeling data. The two monitors in Peoria Township have not recorded a violation of the primary standard since 1980. IEPA's modeling analysis predicted violations of the magnitude as previously monitored violations. The modeling, however, predicted little impact from the major TSP sources which are likely to have the greatest impact, "dirt roads and entrainment", and Hiram Walker, which has shutdown. The existing monitors are representative of impacts from these types of sources and, consequently, can be relied upon for this redesignation. However, prior to USEPA's approval of the Peoria Township redesignation, the compliance status of major TSP sources in this area must be resolved.

All Secondary Nonattainment Townships Except Hollis, Richmond, Kickapoo and Medina Townships (From Secondary Nonattainment to Attainment)

This redesignation is supported by the available modeling data. There are no monitors in this rural portion of the county, which contains no major TSP sources. There is no valid basis for the original secondary nonattainment designation for these townships.

Rock Island County

Rock Island and South Rock Island Townships (From Primary to Secondary Nonattainment)

This redesignation is supported by the available monitoring and modeling data, with the exception of the southern portion of S. Rock Island Township. In this area, IEPA's modeling predicted substantial primary nonattainment which is attributable to the Allied Stone Company in nearby Rock Island. Any recent air quality improvement can be attributed to the implementation of RACT in the Quad Cities area. There has not been a monitored violation of the primary standard in these townships since 1976. However, these redesignations will not be approved until IEPA:

(1) Provides information that legally enforceable emission reductions have occurred at the Allied Stone Company, which impacts S. Rock Island Township.

(2) Provides certification that a major TSP source in Rock Island Township is in compliance with existing SIP requirements, or that compliance is not necessary to assure attainment and maintenance of the NAAQS in Rock Island Township.

South Moline Township (Primary Nonattainment to Unclassified)

The monitor at 915 16th Avenue had recorded violations of the primary annual standard through 1981. IEPA feels that this site was unduly influenced by eddy effects of the nearby roof and reloacted the monitor to a different section of the roof in April, 1982. IEPA requests an unclassified designation until such time as sufficient data at the relocated site are available. However, it is consistent with USEPA's policy on redesignation to retain the primary nonattainment status until sufficient data are available to redesignate.

Tazewell County

Fondulac and Groveland Townships (From Primary Nonattainment to Secondary Nonattainment)

This redesignation is supported by the same rationale as discussed for Peoria and Limestone Townships in Peoria County (just across the river). Prior to approval of this redesignation, IEPA must certify that the two major utility TSP sources are in compliance with existing SIP requirements or that compliance is not necessary to assure attainment and maintenance of the primary standard.

All Secondary Nonattainment Townships Except Cincinnati, Elm Grove, Pekin, Morton and Washington Townships (From Secondary Nonattainment to Attainment)

This redesignation is supported by the available modeling data. There are no monitors in this rural area. The modeling indicates that the original designation

for this section of the county could have been attainment.

Will County

Joliet, DuPage, and Lockport Townships (From Primary to Secondary Nonattainment)

There has not been a monitored violation of the TSP primary standard since 1980 in Joliet Township, and since 1976 in DuPage and Lockport Townships. IEPA's modeling predicts primary nonattainment in Joliet as a result of the significant contributions from both Commonwealth Edison's Joliet Station and the Olin Corporation. IEPA claims that both of these firms have made recent substantial reductions beyond RACT levels. However, the Joliet redesignation should not be approved until additional information is supplied which demonstrates that these, or other permanent, legally enforceable emission reductions, are sufficient to assure attainment and maintenance of the primary standard. Similarly, IEPA must provide additional information for DuPage and Lockport Townships, demonstrating that recent emission reductions at the Material Service Corporation and the Chicago Stone Company will alleviate modeled high concentrations in these areas.

Florence, Frankfort, Green Garden, Homer, Manhatten, Peotone and Wilton Townships (From Secondary Nonattainment to Attainment)

This redesignation is supported by the available information. There are no monitors or major TSP sources in these areas. IEPA's modeling, which shows marginal secondary nonattainment in portions of this area, is not considered sufficiently reliable in rural areas where major contributors are nonathropogenic area source emissions. There is no basis for the original secondary nonattainment designations.

Monee Township (From Attainment to Secondary Nonattainment)

There has been a recent violation of the secondary standard recorded by a monitor in this township.

Woodford County

All Secondary Nonattainment Townships (From Secondary Nonattainment to Attainment)

This redesignation is supported by the available information. There are no monitors in this rural county and no major TSP sources. IEPA's modeling predicts attainment of the TSP standards. There is no basis for the original secondary nonattainment designation.

Proposed Action

USEPA proposed to change the TSP attainment status designations of the following Illinois townships, as indicated:

1. Adams County:	
Ellington, Melrose, and Riverside Townships.	Secondary Nonattainment to attainment.
2. Cook County:	
Berwyn, Lake, N. Stickney, Riverside, and Thornton Townships.	Primary Nonattainment to Secondary Nonattainment.
Bremen, Hanover, Lemont, Oak Park, Orland, Palos, and Rich Townships.	Secondary Nonattainment to Attainment.
3. DeKalb County:	
DeKalb and Mayfield Townships.	Do.
4. DuPage County:	
Addison, and York Townships.	Primary Nonattainment to Attainment.
Bloomingdale, Downers Grove, Lisle, and Naperville Townships.	Secondary Nonattainment to Attainment.
5. Grundy County:	
AuxSable and Morris Townships.	Unclassified to Secondary Nonattainment.
6. Knox County:	
Entire County	Secondary Nonattainment to Attainment.
7. Lake County:	
All secondary nonattainment townships.	Do.
8. LaSalle County:	
Ottawa township	Do.
9. Madison County:	
Alhambra, Edwardsville, Hamel, Helvetia, Jarvis, Marine, Omphghent, Pine Oak, Saline, and St. Jacob Townships.	Do.
10. Monroe County:	
Township T.2S–R.10W	Do.
11. St. Clair County:	
Caseyville, Shiloh Valley, and St. Clair Townships.	Primary Nonattainment to Secondary Nonattainment.
Freeburg, Lebanon, O'Fallon, and Smithton Townships.	Secondary Nonattainment to Attainment.
12. Peoria County:	
Limestone Township	Primary Nonattainment to Secondary Nonattainment.
All secondary nonattainment townships except Hollis, Richmond, Kickapoo, and Medina Townships.	Secondary Nonattainment to Attainment.
13. Tazewell County:	
All secondary nonattainment townships except Cincinnati, Elm Grove, Pekin, Morton and Washington townships.	Do.
14. Will County:	
Florence, Frankfort, Green Garden, Homer, Manhatten, Peotone, and Wilton Townships.	Do.
Monee Township	Attainment to Secondary Nonattainment
15. Woodford County:	
All secondary nonattainment townships.	Secondary Nonattainment to Attainment.

USEPA Proposes to reject Illinois' request to change the TSP attainment/nonattainment status of the following Illinois Townships:

1. Cook County: Lyons and Calumet Townships.
2. Kendall County:
3. LaSalle County: LaSalle Township.
4. Madison County: Alton Township.
5. Peoria County: Peoria Township.
6. Rock Island County: Rock Island, South Rock Island and South Moline Townships.
7. Tazewell County: Fondulac and Groveland Townships.
8. Will County: Joliet, DuPage, and Lockport Townships.

USEPA has determined that there is insufficient information available to support the requested redesignation for the above areas at this time. If, however, the State provides adequate technical support during the public comment period, which addresses the problem noted in the above discussion for these redesignations, USEPA will take final action to approve the State's requested redesignation of these townships.

All interested persons are invited to submit written comments on the proposed redesignations. Written comments received by the date specified above will be considered in determining whether USEPA will approve the redesignations. After review of all comments submitted, the Administrator of USEPA will publish in the **Federal Register** the Agency's final action on the redesignations.

Under 5 U.S.C. 605(b), the Administrator has certified that redesignations do not have a significant economic impact on a substantial number of small entities (See 46 FR 8709).

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

List of Subjects in 40 CFR Part 8

Air pollution control, National parks, Wilderness areas.

(Sec. 107(d) of the Act, as amended (42 U.S.C. 7407))

Dated: December 29, 1983.

Valdas V. Adamkus,

Regional Administrator.

[FR Doc. 84-3377 Filed 2-7-84; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 180

[OPP-300084; PH-FRL 2520-4]

Synthetic Paraffin and Its Succinic Derivatives; Proposed Exemptions From the Requirement of a Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This document proposes that synthetic paraffin and its succinic derivatives be exempted from the requirement of a tolerance when used as

inert ingredients in pesticide formulations. This proposed regulation was requested by the Petrolite Corp.

DATE: Written comments must be received on or before March 9, 1984.

ADDRESS: By mail, submit comments to:

Program Management and Support Division (TS–767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

In person, deliver comments to:

Registration Support and Emergency Response Branch, Registration Division (TS–767), Environmental Protection Agency, Rm. 724A, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202.

FOR FURTHER INFORMATION CONTACT:

By mail:

N. Bhushan Mandava, Registration Support and Emergency Response Branch, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

Office location and telephone number:

Registration Support and Emergency Response Branch, Rm. 716, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202 (703–557–7700).

SUPPLEMENTARY INFORMATION: At the request of the Petrolite Corp., the Administrator proposes to amend 40 CFR 180.1001 by establishing an exemption from the requirement of a tolerance for synthetic paraffin and its succinic derivatives as a carrier, binder, and coating agent in pesticide formulations applied to growing crops or to raw agricultural commodities after harvest.

Inert ingredients which are not active ingredients as defined in 40 CFR 162.3(c), and include, but are not limited to, the following types of ingredients (except when they have a pesticidal efficacy of their own): solvents such as water; baits such as sugar, starches, and meat scraps; dust carriers such as talc and clay; fillers; wetting and spreading agents; propellants in aerosol dispensers; and emulsifiers. The term "inert" is not intended to imply nontoxicity; the ingredient may or may not be chemically active.

Preambles to proposed rulemaking documents of this nature include the common or chemical name of the substance under consideration, the name and address of the firm making the request for the exemption, and toxicological and other scientific bases used in arriving at a conclusion of safety in support of the exemption.

Name of inert ingredient: Synthetic paraffin and it succinic derivatives.

Name and address of requestor: Petrolite Corp., Tulsa, OK 74112.

Basis for approval: Synthetic paraffin and its succinic derivatives are cleared under 21 CFR 172.275 as direct food additives for use in fruit coatings.

Based on the above information, and review of its use, it has been found that, when used in accordance with good agricultural practices, these ingredients are useful and do not pose a hazard to humans or the environment. It is concluded, therefore, that the proposed amendment to 40 CFR Part 180 will protect the public health, and it is proposed that the regulation be established as set forth below.

Any person who has registered or submitted an application for registration of a pesticide under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended, which contains this inert ingredient, may request within 30 days after publication of this notice in the **Federal Register** that this rulemaking proposal be referred to an Advisory Committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a(e)).

Interested persons are invited to submit written comments on the proposed regulation. Comments must bear a notation indicating both the subject and the petition and document control number, "[OPP–300084]". All written comments filed in response to this notice of proposed rulemaking will be available for public inspection in the Registration Support and Emergency Response Branch at the address given above from 8 a.m. to 4: p.m., Monday through Friday, except legal holidays.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96–534, 94 Stat. 1164, 5 U.S.C. 601–612), the Administration has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests.

(Sec. 408(e), 68 Stat. 514, 21 U.S.C. 346a(e))

Dated: January 23, 1984.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

PART 180–[AMENDED]

Therefore, it is proposed that 40 CFR 180.1001(c) be amended by adding and alphabetically inserting the inert ingredient as follows:

§ 180.1001 Exemptions from the requirement of a tolerance.

* * * * *

(c) * * *

Insert ingredients	Limits	Uses
* * * * *		
Synthetic paraffin and its succinic derivatives conforming to 21 CFR 172.275.	.....	Carrier, binder, and coating agent.
* * * * *		

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[FR Doc. 84–3256 Filed 2–7–84; 8:45 am]

BILLING CODE 6560–50–M

40 CFR Part 260

[SHW–FRL 2505–5]

Processing Delisting Petitions; Additional Information Request

AGENCY: U.S. Environmental Protection Agency.

ACTION: Notice of intent to request additional information in processing delisting petitions.

SUMMARY: This notice announces our intention to request additional information from those persons who have submitted exclusion ("delisting") petitions pursuant to 40 CFR 260.20 and 260.22 of the Resource Conservation and Recovery Act (RCRA). This is needed so that the EPA can be assured that the waste no longer must be managed as a hazardous waste.

FOR FURTHER INFORMATION CONTACT: RCRA Hotline, toll free at (800) 4524–9346 or at (202) 382–3000. For technical information contact Messrs. Myles Morse or William Sproat, Office of Solid Waste (WH–562), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460, (202) 382–4761.

SUPPLEMENTARY INFORMATION: On January 16, 1981, as part of its final and interim final regulations implementing Section 3001 of the Resource Conservation and Recovery Act (RCRA), EPA published an amended list of hazardous waste from non-specific and specific sources. See 40 CFR 261.31 and 261.32. These wastes were listed as

hazardous because they typically and frequently exhibit the characteristics of hazardous waste identified in Subpart C of Part 261 or meet the criteria for listing contained in 40 CFR 261.11(a)(2) or 261.11(a)(3).

Individual waste streams may vary, however, depending on raw materials, industrial processes, and other factors. Thus, while a waste that is described in these regulations is typically hazardous, a specific waste meeting the listing description from an individual facility may not be hazardous. For this reason, §§ 260.20 and 260.22 of the hazardous waste regulations provide an exclusion procedure, allowing persons to demonstrate that a specific waste from a particular generating facility should not be regulated as a hazardous waste.

Most of the hazardous wastes identified in Subpart D of Part 261 are toxic according to the criteria described in § 261.11(a)(3). In listing these wastes as hazardous, the Agency has identified the specific toxic constituents which caused the waste to be listed (see Appendix VII of Part 261). The existing standard for delisting, however, requires petitioners to address only those factors considered by the Agency in listing the waste as hazardous, *i.e.*, the specific toxic constituents identified by the Agency. Therefore, there could be a situation where a specific waste may not contain the toxic constituents that caused the waste to be listed (or may not contain them in an immobile form or at levels below those of regulatory concern) while it contains other toxicants at harmful levels. Such situations have actually occurred in the past.

We believe that such an outcome is unacceptable because it precludes the Agency from addressing other hazardous constituents known to be in the waste and may force the Agency to "delist" a waste that may still be hazardous. As a result, the Office of Solid Waste intends to amend the delisting procedures to require the Agency to consider these additional constituents before making a decision.

A number of bills being considered by Congress would amend RCRA to require the Agency to evaluate wastes, for which exclusion petitions are filed, for the presence of hazardous constituents other than those for which a waste is listed. These bills would also require notice and comment before any new exclusions are granted and would further require the Agency to make final determinations on pending temporary exclusions within a short time. (The House of Representatives already has passed such legislation (see Hazardous Waste Control and Enforcement Act of 1983, H.R. 2867, Section 13) while the Senate Committee on Environment and Public Works has favorably reported such legislaton (Solid Waste Disposal Act Amendments of 1983, S. 757, Section 8).)

Consequently, the Office of Solid Waste and Emergency Response will soon begin to request this additonal information. EPA does not intend to withhold consideration of petitions under the existing regulations. Once new legislation is enacted, the Agency will have a very short time to finalize all existing temporary exclusions. Given this deadline, the Agency would probably have a difficult time meeting this schedule unless the additional information is already in hand. Furthermore, with respect to new petitions, if we proceed with delisting decisions without addressing data on other hazardous constituents that may be present in the waste, we probably would have to withdraw the rules once legislation is enacted or shortly thereafter. Such action would continue to leave petitioners uncertain as to the regulatory status of their wastes.

Therefore, we intend to request that petitioners, on an individual basis, address additional factors and hazardous constituents other than those for which their waste was initially listed. Our concern is limited to those constituents for which there is a reasonable basis to believe that their presence in the waste could pose a significant threat to human health or the environment. Although the type and amount of additional information that will be requested for each petition will vary, we will be asking for the following general type of information:

Generators of Hazardous Waste

- A complete list of raw materials, intermediates, by-products, and products used in the manufacturing process (grouped by sub-process);
- A description and schematic diagram of each process which may contribute waste to the waste stream petitioned for exclusion;
- Testing of representative waste samples for total oil and grease and total organic carbon (TOC);
- Testing of representative waste samples for all of the Extraction Procedure (EP) toxic metals listed in Table 1 of 40 CFR 261.24, nickel, and cyanide (both total and free) for bulk analysis using a complete digestion procedure; and
- Testing of representative waste samples for all of the EP toxic metals listed in Table 1 of 40 CFR 261.24, nickel, and cyanide (both total and free) using an appropriate leachate procedure.

If, after reviewing this data, the Agency finds that other toxicants are used at the facility and reasonably may be present in the waste at significant levels, additional representative test data may be requested.

Hazardous Waste Treatment Facilities

- Testing of representative waste samples for total oil and grease;
- Testing of representative waste samples for the Appendix VIII toxic constituents or some sub-set of them; and
- Testing of representative samples for all the EP toxic metals listed in Table 1 of 40 CFR 261.24, nickel, and cyanide (both total and free) using an appropriate leachate procedure.

All petitioners will be notified, by letter, of the particular, additional information they will be requested to provide.

Dated: January 3, 1984.

Lee M. Thomas,

Assistant Administrator.

[FR Doc. 84-3257 Filed 2-7-84; 8:45 am]
BILLING CODE 6560-50-M

COUNCIL ON ENVIRONMENTAL QUALITY

40 CFR Parts 1502 and 1508

Withdrawal of Proposed Guidance Memorandum of August 11, 1983

AGENCY: Council on Environmental Quality, Executive Office of the President.

ACTION: Notice—Withdrawal of Proposed Guidance Memorandum for Federal Agency NEPA Liaisons.

SUMMARY: Due to suggestions received during the public comment period, the Council on Environmental Quality withdraws the proposed guidance regarding the worst case analysis (40 CFR 1502.22) which was published in the **Federal Register** on August 11, 1983 at 48 FR 36486. CEQ is continuing its examination of this issue and intends to publish a new proposal in the near future.

FOR FURTHER INFORMATION CONTACT: Dinah Bear, General Counsel, Council on Environmental Quality, 722 Jackson Place NW., Washington, D.C. 20006, (202) 395–5754.

Dated: February 3, 1984.

A. Alan Hill,

Chairman.

[FR Doc. 84-3443 Filed 2-7-84; 8:45 am]
BILLING CODE 3125-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 17 and 222

Listing Endangered and Threatened Species and Designating Critical Habitat; Action on a Petition to List the Guadalupe Fur Seal

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

ACTION: Petition for Rulemaking and Request for Information.

SUMMARY: The National Marine Fisheries Service has received a petition to add the Guadalupe fur seal, *Arctocephalus townsendi*, to the U.S. List of Endangered and Threatened Wildlife (50 CFR Part 17). A list of endangered species under the jurisdiction of the Department of Commerce is contained in 50 CFR 222.23. In accordance with Section 4 of the Endangered Species Act of 1973, the Assistant Administrator for Fisheries has determined the petition presents substantial scientific information indicating that the action may be warranted. As required by Section 4(b)(3)(A) of the Act, the Service has commenced a review of the status of *A. townsendi* to determine if the petitioned action is warranted. To ensure that the review is comprehensive, the Service is soliciting information and data concerning the status of *A. townsendi*.

DATE: Comments and information should be received by April 9, 1984.

ADDRESS: Assistant Administrator for Fisheries, National Oceanic and Atmospheric Administration, National Marine Fisheries Service, Washington, D.C. 20235.

FOR FURTHER INFORMATION CONTACT: Ms. Patricia Montanio, Office of Protected Species and Habitat Conservation, National Marine Fisheries Service, Washington, D.C. 20235, ((202) 634–7471) or Mr. Dane J. Seagars, Southwest Region, National Marine Fisheries Service, 300 South Ferry Street, Terminal Island, California 90731, ((213) 548–2518).

SUPPLEMENTARY INFORMATION:

Background

Section 4 of the Endangered Species Act of 1973 (ESA) contains provisions allowing interested persons to petition the Secretary of the Interior or the Secretary of Commerce to add a species to, or remove a species from the List of Endangered and Threatened Wildlife (List). Section 4(b)(3)(A) of the ESA requires that, to the maximum extent practicable, within 90 days after receiving such a petition the Secretary must determine whether the petition presents substantial scientific or commercial information indicating that the petitioned action may be warranted. This information standard for petitions is the result of an amendment made to Section 4 of the ESA in 1982. Proposed regulations implementing these amendments were published in the **Federal Register** (48 FR 36062–36069) on August 8, 1983. These regulations have not yet been finalized. The Service interprets "substantial scientific or commercial information" to mean the amount of information that would lead a reasonable person to believe that the proposed measure may be warranted. The criteria used in making such determinations are found in 50 CFR 424.14(b).

These criteria are essentially the same as those contained in the proposed regulations implementing the 1982 amendments to Section 4 of the ESA (48 FR 36062–36069).

Listing Factors and Basis for Determinations

Pursuant to Section 4(a)(1) of the ESA, a species is determined to be endangered or threatened for any of the following reasons: (1) Present or threatened destruction, modification, or curtailment of its habitat or range; (2) Overutilization for commercial, recreational, scientific, or educational purposes; (3) Disease or predation; (4) Inadequacy of existing regulatory mechanisms; or (5) Other natural or manmade factors affecting its continued existence.

The 1982 amendments to the ESA clarify that determinations concerning decisions on listings shall be made solely on the best scientific and commercial data available after conducting a status review of the species and after taking into account those efforts, if any, being made by any State, or foreign nation, or subdivision thereof, to protect such species. The purpose of these amendments is to ensure that decisions in every phase of the process to list or delist species are made solely on biological criteria and to prevent non-biological considerations from affecting such decisions (H.R. Rept. No. 97–835, 97th Cong., 2d Sess. 19 (1982) Conference Report).

Petition Received

On November 21, 1983, the Service received a petition from Mr. Richard T. Tinney, Jr., Seal Rescue Fund, Center for Environmental Education, to list the Guadalupe fur seal, *Arctocephalus townsendi*, as an endangered species.

The Assistant Administrator for Fisheries has determined that the petition presents substantial scientific information indicating that the petitioned action may be warranted. Pursuant to Section 4 of the ESA, this determination requires that a review of the status of *A. townsendi* be conducted to determine if the petitioned action is warranted. In addition, Section 4 also requires that within 12 months of the date of receipt of a "substantial" petition the Secretary must make one of the following findings: (1) The petitioned action is not warranted; (2) the petitioned action is warranted; or (30 the petitioned action is warranted, but pending listing proposals preclude immediate proposal of a regulation to implement the action. A Notice of the finding must be published in the **Federal Register** and in the case of (2), above, the complete text of a proposed regulation to implement the action must be included.

Biological Information Solicited

To ensure that the review is complete and is based on the best available scientific and commercial data concerning *A. townsendi*, the Service is soliciting information and comments concerning the status of the species from any interested party. The Service requests that such data, information, and comments be accompanied by: (1) Supporting documentation, such as maps, bibliographic references, or reprints of pertinent publications; and (2) the Party's name, address, and any association, institution, or business that the Party represents.

List of Subjects in 50 CFR Part 17

Endangered and threatened species.

Dated: January 30, 1984.

Carmen J. Blondin,

Deputy Assistant Administrator for Fisheries Resource Management, National Marine Fisheries Service.

[FR Doc. 84–3033 Filed 2–7–84; 8:45 am]

BILLING CODE 3510–22–M

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50 CFR Part 268

[Docket No. 30706–125]

Proposed United States Standards and Labeling Requirements for Minced Fish Meat

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of proposed rulemaking with request for comments.

SUMMARY: The Department of Commerce proposes to amend the Federal regulations for fishery products by establishing standards of identity and quality (including parameters for measuring compliance), and labeling requirements for the small-particle product resulting from the application of mechanical equipment employed to separate edible fish meat from bone and skin. The product recovered by this process is a relatively formless mass of small-particle fish meat essentially free from skin and bone.

This proposed rule is based upon information and data accumulated by industry and Government research and development activities since 1972. The requirements to be established by this proposal would assure that U.S. consumers receive a safe and wholesome product, suitable for human food use.

DATE: Comments must be received on or before August 6, 1984.

ADDRESS: Send comments to the Director, Office of Utilization Research, National Marine Fisheries Service, NMFS, National Oceanic and Atmospheric Administration, U.S. Department of Commerce, Washington, D.C. 20235.

FOR FURTHER INFORMATION CONTACT: Mr. James Brooker, (Project Leader, NMFS), 202–634–7458.

SUPPLEMENTARY INFORMATION:

Background

The Department of Commerce proposes to amend the Federal Fishery Products Inspection Regulations by establishing standards of identity, minimum quality, (including parameters for measuring compliance), and labeling for minced fish meat produced by employing available technology currently in use in the meat, poultry, and fish processing industries.

The impact of the proposed standards would assure the production of a consistent product of uniform quality which would be wholesome, safe, and suitable for use directly as human food, or as a suitable ingredient in combination with other animal or vegetable protein ingredients. Use of these standards by industry will facilitate the production and use of a variety of food products for the benefit of U.S. consumers and industry.

Classification

The NOAA Administrator (Administrator) has reviewed this proposed rule in accordance with Executive Order 12291, and has determined that it is not a "major rule" since promulgation of these standards will have no adverse effect on the economy, costs or prices, and no impact on competition, employment, investments, or productivity. This rule will not result in an annual effect on the economy of $100 million or more. There will be no major increase in cost or prices for consumers; individual industries; Federal, State, or local government agencies; or geographic regions. It will not result in significant adverse effects on competition, employment, investment, productivity, innovations, or the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets. Accordingly, a regulatory impact analysis is not required.

The General Counsel of the Department of Commerce has certified to the Small Business Administration that the proposed rule will not have a significant economic impact on a substantial number of small entities under the provisions of the Regulatory Flexibility Act, because the proposal only relates to the processing of one particular type of fishery product which is currently being produced by very few firms in the United States. It does not address or affect all processed fishery products.

The Administrator has determined that this proposed rule does not require the preparation of an environmental impact statement under the National Environmental Policy Act of 1969.

The proposed rulemaking requires no collection of information from those members of the public who wish to participate in the seafood inspection and grading program; and thereby, contains no information collection requirements as defined by the Paperwork Reduction Act. Participation in the NMFS seafood inspection program is strictly voluntary.

This activity has been identified by the Office of Management and Budget as an observer function and therefore, does not constitute a collection of information requirements under the Paperwork Reduction Act.

Request for Comments

Interested persons are invited to submit written comments concerning this proposal. The Agency is particularly interested in receiving additional scientific information on methods and procedures that can easily be employed by the industry and could be used as possible alternative process controls in the processing of minced fish meat to assure that a wholesome, safe, suitable product is produced.

Written comments should be sent to the Office of Utilization Research. Comments should reference the docket number which appears in the heading of this document.

All comments submitted on this notice will be made available for public inspection in the Office of Utilization Research between 9:30 a.m. and 3:30 p.m., Monday through Friday.

List of Subjects in 50 CFR Part 268

Food grades and standards, Food labeling, Seafood.

Dated: September 22, 1983.

William G. Gordon,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

For reasons set forth in the preamble, a new Part 268 is proposed to be added to Chapter II of 50 CFR to read as follows:

PART 268—UNITED STATES STANDARDS FOR MINCED FISH MEAT

Subpart A—Minced Fish Meat From Codfishes

Sec.

268.100 Product identity.
268.101 Handling, processing, and packaging.
268.102 Processing controls.
268.103 Quality requirements.
268.104 Labeling.
268.105 Methods of analysis and sampling.

Authority: 7 U.S.C. 1621–1630.

Subpart A—Minced Fish Meat From Codfishes

§ 268.100 Product identity.

(a) Minced fish meat (MFM) is the food product mechanically separated from any four species of the family Gadidae—codfishes:

(1) *Gadus morhua*—Atlantic cod;

(2) *Merluccius bilinearis*—silver hake (aka whiting);

(3) *Theragra chalcogramma*—walleye pollock (aka Alaska pollock); and

(4) *Urophycis chuss*—red hake.

The MFM mechanically spearated from the skin and bone must be processed and maintained in accordance with good commercial practices and meet the provisions of this part.

(b) No more than 2 percent of the bone particles present in MFM by weight may have a length greater than 5.0 millimeters, and no bone may be greater than 10 millimeters in length.

(c) The MFM resulting from the separating process may not have a calcium content exceeding 0.20 percent, must have a minimum protein content (Kjedahl determination) of not less than 14.5 percent and a minimum protein efficiency ratio (PER) of 2.6, and must have a fat content of not more than 2.0

percent. No food additives are allowed in this product.

§ 268.101 Handling, processing, packaging.

Fish to be processd into MFM must be preserved at sea and ashore at temperatures not to exceed 36°F (2°C) for a period not to exceed 4 days. If frozen at sea or ashore, the fish must be hard frozen (0°F at thermal center) within 48 hours after the freezing process has begun, and maintained at temperatures not to exceed 0°F (−18°C). Parts of fish ("V" and "J" cuts, tail portions of frames, and belly flaps) containing edible fish meat but excluding heads and whole frames to be subjected to the separation process may be held for no more than 24 hours at 36°F (2°C) or held in coded containers or packaging material suitable for direct contact with food for a period not to exceed 60 days at 0°F (−18°C) or less before the separating process is carried out. Minced fish meat directly after being separated, must be used immediately as an ingredient in a food product except that it may be held prior to such use for no more than 12 hours at 36°F (2°C) or less; or must be frozen to an internal temperature of 0°F (−18°C) or less within 12 hours after the freezing process has commenced, and held prior to use for no more than 180 days in coded containers or packaging material suitable for direct contact with food.

§ 268.102 Processing controls.

Minced fish meat must be produced in accordance with the good manufacturing regulations contained in 21 CFR Part 110.

§ 268.103 Quality requirements.

(a) In addition to the requirements given in § 268.100, MFM must have an odor (for the raw product) and flavor and odor (for the cooked product) that are characteristic of the species and free from rancidity, bitterness, staleness, and off-flavors and off-odors.

(b) Frozen minced fish meat must be thawed for evaluation of the raw odor. For the evaluation of flavor and odor of MFM after cooking, any of the AOAC cooking procedures may be used. Sensory evaluation of cooked samples will be carried out as soon as practical after cooking while the samples are warm.

§ 268.104 Labeling.

Packaged MFM requires special handling to maintain the quality and wholesomeness condition and must have prominently displayed on the container—

(a) The date of manufacture of the minced fish meat:

(b) Marked "Keep Refrigerated," "Keep Frozen," "Perishable Keep Under Refrigeration," as is appropriate; or similar statements.

§ 268.105 Methods of analysis and sampling.

(a) Finished product samples of MFM will be analyzed in accordance with "Official Methods of Analysis of the Association of Official Analytical Chemists" (AOAC), 13th ed., 1980, Sections 43.212–43.216 (pages 774–775), 18.003 (page 285), 18.002 (page 289) and the Journal of the Association of Official Analytical Chemists (JAOAC), Vol. 66, No. 2, 1983, Sections 24.D01–24.D02 (pages 530–531), and 43.D01–43.D02 (page 543), which are incorporated by reference. Alternative methods of analysis may be submitted to the Administrator to determine their acceptability based upon their accuracy, repeatability, reproduceability, and lowest level of reliable measurement as demonstrated by at least three laboratories. Copies of AOAC methods may be obtained from: AOAC, 1111 N. 19th Street, Arlington, VA 22209.

(b) When Type I—Official establishment and product inspection is requested and provided by the U.S. Department of Commerce, the following sampling plans and procedures for determining compliance shall be used:

(1) Except as provided below, a sample of at least one pound of MFM will be taken from each lot to verify the requirements contained in § 269.100 and § 268.103. For purposes of this paragraph, a lot consists of MFM produced in no more than one continuous shift of up to 12 hours. All units of any lot must be available for inspection.

(2) Analysis of calcium, protein, and fat quality may be performed on a one pound sample from only one randomly selected lot out of every five consecutive lots if the preceding ten consecutive analyses for calcium, protein, and fat establish compliance with the requirement of § 268.100.

(3) Analysis for the PER value in § 268.100 will be performed on a one pound sample at a rate of at least once per month during production. If the preceding three consecutive analyses establish compliance with the requirements of § 268.100, these analyses may be performed on a one pound sample only once every six months.

(c) When Type II—Lot inspection is requested and provided by the U.S. Department of Commerce, the sampling plans and procedures as provided in 50 CFR Part 260 shall be used.

[FR Doc. 84–3263 Filed 2–7–84; 8:45 am]

BILLING CODE 3510-22-M

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50 CFR Parts 654 and 658

Gulf of Mexico Fishery Management Council; Shrimp/Stone Crab Public Hearings

Correction

FR Doc. 84–2367 was published on page 3504 in the Friday, January 27, 1984 issue of the **Federal Register**. This document announced public hearings by the Gulf of Mexico Fishery Management Council to discuss a proposed amendment to the Shrimp and Stone Crab Fishery Management Plans. This document was inadvertently published in the Notices section of the **Federal Register**. It should have appeared in the Proposed Rules section.

BILLING CODE 1505-02-M

Notices

Federal Register
Vol. 49, No. 27
Wednesday, February 8, 1984

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

ACTION

Information Collection Request Under Review

AGENCY: ACTION.

ACTION: Information Collection Request Under Review.

SUMMARY: This notice sets forth certain data about an information collection proposal by ACTION, the National Volunteer Agency.

Background

Under the Paperwork Reduction Act (44 U.S.C., Chapter 35), the Office of Management and Budget (OMB) reviews and acts upon proposals to collect information from the public or to impose recordkeeping requirements. ACTION has submitted the information collection proposal described below to OMB. OMB and ACTION will consider comments on proposed collection of information and recordkeeping requirements. Copies of the proposed forms and supporting documents (request for clearance (SF 83), supporting statement, instructions, transmittal letter, and other documents) may be obtained from the agency clearance officer.

Information About This Proposed Collection

Agency Clearance Officer—William W. Lovelace—202–634–9310
Agency Address: ACTION, 806 Connecticut Ave., NW., Washington, D.C. 20525
Office of ACTION Issuing Proposal: Domestic Operations
Title of Form: Project Application (Young Volunteers In ACTION (YVA))
Type of Request: Reinstatement
Frequency of Collection: Annually
General Description of Respondents: ACTION will award grants to State or local governments, non-profit institutions, and small organizations.
Estimated Annual Reporting or Disclosure Burden: 8,500 hours.
Respondent's Obligation to Reply: Required to obtain or retain benefit.
Person responsible for OMB Review: James L. Thomas, 202–395–6880

James B. Williams,
Director, Office of Policy and Planning, ACTION.

[FR Doc. 84–3410 Filed 2–7–84; 8:45 am]
BILLING CODE 5050–28–M

ADVISORY COUNCIL ON HISTORIC PRESERVATION

Meeting

AGENCY: Advisory Council on Historic Preservation.

ACTION: Notice.

SUMMARY: Notice is hereby given in accordance with Section 800.6(d)(3) of the Council's regulations, "Protection of Historic and Cultural Properties" (36 CFR Part 800), that the Advisory Council on Historic Preservation will meet in the Auditorium of the Georgia World Congress Center, 285 International Boulevard, Atlanta, Georgia, on February 27, 1984, and in the Veterans Hall Room of the Alumni Hall, Georgia State University, 30 Courtland Street, Atlanta, Georgia, on February 28, 1984.

The Council was established by the National Historic Preservation Act of 1966 (16 U.S.C. Section 470) to advise the President and Congress on matters relating to historic preservation and to comment upon Federal, federally assisted, and federally licensed undertakings having an effect upon properties listed in or eligible for inclusion in the National Register of Historic Places. The Council's members are the Architect of the Capitol, the Secretaries of the Interior, Agriculture, Housing and Urban Development, Treasury, Transportation; the General Services Administrator; the Chairman of the National Trust for Historic Preservation; the President of the National Conference of State Historic Preservation Officers; a Governor, a mayor, and eight non-Federal members appointed by the President.

The Agenda for the meeting includes the following:

Call to Order
Chairman's Welcome
Order of Business
Consideration of Minutes of December 12–13, 1983, Meeting
I. Section 106 Case: Presidential Parkway, Atlanta, Georgia
II. Report of the Executive Director
III. Report of the General Counsel: Regulations Review
IV. Report of the Office of Cultural Resource Preservation
V. New Initiatives: Policy and Planning
VI. New Business

DATE: The meeting will begin at 9:00 a.m., Monday, February 27, 1984, and continue through February 28, 1984.

FOR FURTHER INFORMATION CONTACT: Additional information concerning either the meeting agenda or the submission of oral and written statements to the Council is available from the Executive Director, Advisory Council on Historic Preservation, 1100 Pennsylvania Avenue NW., Suite 809, Washington, D.C. 20004, 202–786–0503.

Dated: February 3, 1984.

Robert R. Garvey, Jr.,
Executive Director.

[FR Doc. 84–3414 Filed 2–7–84; 8:45 am]
BILLING CODE 4310–10–M

DEPARTMENT OF AGRICULTURE

Forms Under Review by Office of Management and Budget

February 3, 1984.

The Department of Agriculture has submitted to OMB for review the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35) since the last list was published. This list is grouped into new proposals, revisions, extensions, or reinstatements. Each entry contains the following information:

(1) Agency proposing the information collection; (2) Title of the information collection; (3) Form number(s), if applicable; (4) How often the information is requested; (5) Who will be required or asked to report; (6) An estimate of the number of responses; (7) An estimate of the total number of hours needed to provide the information; (8) An indication of whether section 3504(h) of Pub. L. 96–511 applies; (9) Name and telephone number of the agency contact person.

Questions about the items in the listing should be directed to the agency person named at the end of each entry.

Copies of the proposed forms and supporting documents may be obtained from: Department of Clearance Officer, USDA, OIRM, Room 108–W, Admin. Bldg., Washington, D.C. 20250, (202) 447–4414.

Comments on any of the items listed should be submitted directly to: Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503, Attn.: Desk Officer for USDA.

If you anticipate commenting on a submission but find that preparation time will prevent you from doing so promptly, you should advise the OMB Desk Officer of your intent as early as possible.

Reinstatement

- Extension Service

Wisconsin Forests Products Price Review Survey Forms
2A, 2B, 3A, 4, 5, 6, 7A, 8A, 8C, 9
Quarterly, Semi-Annually
State or Local Government, Federal Agencies or Employees, Small Businesses or Organizations: 900 responses; 150 hours, not applicable under 3504(h)
Theodore Peterson, (606) 262–0249

Revised

- Animal and Plant Health Inspection Service

9 CFR Part 166 Swine Health Protection
VS—13—15
On Occasion, Recordkeeping
Farms, Businesses: 200 responses; 132 hours; not applicable under 3504(h)
R. D. Good, (301) 436–8487

- Agricultural Marketing Service

Dairy Research and Promotion Order
DA—15, 16, 17, 18, 19, 20, 26
On Occasion, Monthly
State or Local Government, Farms, Businesses: 92,290 responses; 19,437 hours; not applicable under 3504(h)
Benjamin C. Weaver, (207) 447–7101

Extension (Burden Change)

- Statistical Reporting Service

Listing Sampling Frame Surveys
On Occasion
Farms: 102,000 responses; 8,500 hours; not applicable under 3504(h)
Lee Sandberg, (202) 447–6820

Susan B. Hess,

Acting Department Clearance Officer.

[FR Doc. 84–3429 Filed 2–7–84; 8:45 am]

BILLING CODE 3410–01–M

Packers and Stockyards Administration

Deposting of Stockyards

It has been ascertained, and notice is hereby given, that the livestock markets named herein, originally posted on the respective dates specified below as being subject to the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 *et* seq.), no longer come within the definition of a stockyard under said Act and are, therefore, no longer subject to the provisions of the Act.

Facility No., name, and location of stockyard	Date of posting
MN–134 Motley Livestock Sales, Motley, Minnesota.	Jan. 19, 1963.
MN–143 Rushford Sale Barn, Rushford, Minnesota.	Mar. 16, 1971.
MN–147 Wisconsin Feeder Pig Marketing Cooperative, Sauke Centre, Minnesota.	Aug. 31, 1970.
MN–165 Wisconsin Feeder Pig Marketing Cooperative, Perham, Minnesota.	Sept. 9, 1974.
MN–167 Simon Horse Co.; Rosemount, Minnesota.	Sept. 8, 1975.
ND–112 Tri-State Auction Market, Hettinger, North Dakota.	May 22,1959

Notice or other public procedure has not preceded promulgation of the foregoing rule. There is no legal justification for not promptly deposting a stockyard which is no longer within the definition of that term contained in the Act.

The foregoing is in the nature of a change relieving a restriction and may be made effective in less than 30 days after publication in the **Federal Register**. This notice shall become effective upon publication in the **Federal Register**.

(42 Stat. 159, as amended and supplemented; 7 U.S.C. 181 *et seq.)*

Done at Washington, D.C., this 1st day of February, 1984.

Jack W. Brinckmeyer,

Chief, Financial Protection Branch Livestock Marketing Division.

[FR Doc. 84–336 Filed 2–7–84; 8:45 am]

BILLING CODE 3410–02–M

CIVIL RIGHTS COMMISSION

Wyoming Advisory Committee; Agenda and Notice of Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Wyoming Advisory Committee to the Commission will convene at 1:00 p.m. and will end at 4:00 p.m., on March 30, 1984, at the Laramie County Community College, ARP Building, Room 142, Cheyenne, Wyoming. The purpose of this meeting is to present material on Section 504 of the Rehabilitation Act of 1973 and discuss future projects.

Persons desiring additional information, or planning a presentation to the Committee, should contact the Chairperson, Fuji Adachi, at (307) 766–6139 or the Rocky Mountain Regional Office at (303) 837–2211.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., February 3, 1984.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 84–3394 Filed 2–7–84; 8:45 am]

BILLING CODE 6335–01–M

Wyoming Advisory Committee; Amendment

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights that a meeting of the Advisory Committee of the Commission originally scheduled for February 11, 1984, at Laramie, Wyoming (FR Doc 84–2100 on page 3231), has a new convening date.

The meeting will be on March 3, 1984. The address and time will remain the same.

Dated at Washington, D.C., February 3, 1984.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 84–3395 Filed 2–7–84; 8:45 am]

BILLING CODE 6335–01–M

DEPARTMENT OF COMMERCE

Office of the Secretary

Agency Form Under Review by the Office of Management and Budget (OMB)

DOC has submitted to OMB for clearance the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C Chapter 35).

Agency: Bureau of the Census
Title: Survey of Government Finances (School Systems)
Form Numbers: Agency—F–33, F–33–1, F–33–L1 OMB—0607–0165
Type of Request: Revision of a Currently Approved Collection
Burden: 524 respondents; 1,125 reporting hours
Needs and Uses: This survey collects financial data for public school systems. Data are incorporated with other local government finance data and entered into the national income accounts. Tax data gathered in this survey are used by the Treasury Department to determine the tax effort portion of the formula used to administer the State and Local Fiscal

Assistance Program of 1972 (General Revenue Sharing) School Finance data are supplied annually to the Bureau of Economic Analysis (BEA) for use in determining the gross national product.

Affected Public: State or Local Governments

Frequency: Annually

Respondent's Obligation: Voluntary

OMB Desk Officer: Timothy Sprehe, 395–4814.

Copies of the above information collection proposal can be obtained by calling or writing DOC Clearance Officer, Edward Michals (202) 377–4217, Department of Commerce, Room 6622, 14th and Constitution Avenue, NW., Washington, D.C. 20230.

Written comments and recommendations for the proposed information collection should be sent to the respective OMB Desk Officer, Room 3235, New Executive Office Building, Washington, D.C. 20503.

Dated: February 2, 1984.

Edward Michals,

Department Clearance Officer.

[FR Doc. 84–3360 Filed 2–7–84; 8:45 am]

BILLING CODE 3510-CW-M

Bureau of the Census

Members of the Bureau of the Census Performance Review Board

The following individuals will serve as members of the Bureau of the Census Performance Review Board:

(1) Barbara A. Bailar
(2) Bryant Benton
(3) William P. Butz
(4) Jerome A. Mark
(5) Roland H. Moore
(6) Charles A. Waite
(7) Katherine K. Wallman

Dated: February 2, 1984.

C. L. Kincannon,

Deputy Director, Bureau of the Census.

[FR Doc. 84–3430 Filed 2–7–84; 8:45 am]

BILLING CODE 3510-07-M

International Trade Administration

Export Trade Certificate of Review; Application

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of application.

SUMMARY: The Office of Export Trading Company Affairs, International Trade Administration, Department of Commerce has received an application for an Export Trade Certificate of Review. This notice summarizes the conduct for which certification is sought and invites interested parties to submit information relevant to the determination of whether a certificate should be issued.

DATES: Comments on these applications must be submitted on or before February 28, 1984.

ADDRESS: Interested parties should submit their written comments, original and five (5) copies, to: Office of Export Trading Company Affairs, International Trade Administration, Department of Commerce, Room 5618, Washington, D.C. 20230.

Comments should refer to this application as "Export Trade Certificate of Review, application number 84–00006."

FOR FURTHER INFORMATION CONTACT: Charles S. Warner, Director, Office of Export Trading Company Affairs, International Trade Administration, 202/377–5131, or Eleanor Roberts Lewis, Assistant General Counsel for Export Trading Companies, Office of General Counsel, 202/377–0937. These are not toll-free numbers.

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 (Pub. L. 97–290) authorizes the Secretary of Commerce to issue Export Trade Certificates of Review. The regulations implementing Title III are found at 48 FR 10596–10604 (March. 11, 1983) (to be codified at 15 CFR Part 325). A certificate of review protects its holder and the members identified in it from private treble damage actions and from civil and criminal liability under Federal and state antitrust laws for the export trade, export trade activities and methods of operation specified in the certificate and carried out during its effective period in compliance with its terms and conditions.

Standards for Certification

Proposed export trade, export trade activities, and methods of operation may be certified if the applicant establishes that such conduct will:

1. Result in neither a substantial lessening of competition or restraint of trade within the United States nor a substantial restraint of the export trade of any competitor of the applicant,

2. Not unreasonably enhance, stabilize, or depress prices within the United States of the goods, wares, merchandise, or services of the class exported by the applicant.

3. Not constitute unfair methods of competition against competitors engaged in the export of goods, wares, merchandise, or services of the class exported by the applicant, and

4. Not include any act that may reasonably be expected to result in the sale for consumption or resale within the United States of the goods, wares, merchandise, or services exported by the applicant.

The Secretary will issue a certificate if he determines, and the Attorney General concurs, that the proposed conduct meet these four standards. For a further discussion and analysis of the conduct eligible for certification and of the four certification standards, see "Guidelines for the Issuance of Export Trade Certificates of Review," 48 FR 15937–10 (April 13, 1983).

Request for Public Comments

The Office of Export Trading Company Affairs (OETCA) is issuing this notice in compliance with section 302(b)(1) of the Act which requires the Secretary to publish a notice of the application in the **Federal Register** identifying the persons submitting the application and summarizing the conduct proposed for certification. The OETCA and the applicant have agreed that this notice fairly represents the conduct proposed for certification. Through this notice, OETCA seeks written comments from interested persons who have information relevant to the secretary's determination to grant or deny the application below. Information submitted by any person in connection with the application(s) is exempt from disclosure under the Freedom of Information Act (5 U.S.C. 552).

The OETCA will consider the information reiceved in determining whether the proposed conduct is "export trade," "export trade activities," or a "method of operation" as defined in the Act, regulations and guidelines and whether it meets the four certification standards. Based upon the public comments and other information gathered during the analysis period, the Secretary may deny the application or issue the certificate with any terms or conditions necessary to assure compliance with the four standards.

The OETCA has received the following application for an Export Trade Certificate of Review:

Applicant: Fleetwood International, Inc., Wall Street Plaza, 88 Pine Street, New York, NY 10005.

Telephone No.: 212–425–2100.

Application No.: 84–00006.

Date Received: January 24, 1984.

Date Deemed Submitted: January 25, 1984.

Members in Addition to Applicant: None.

Controlling Entity: Balfour, Maclaine International, Ltd. (BMIL), which is in turn a wholly owned subsidiary of Kay Corporation. Summary of Application: Fleetwood International, incorporated in the State of Delaware, currently exports under its own name and the trade name of BMIL International. Fleetwood International submitted an application seeking certification for the following export trade activities and methods of operation.

A. Export Trade

1. Commercial and industrial refrigeration equipment; coldstore, cold storage and freezer equipment, including insulated panels for the construction of cold storage and freezer facilities; spare parts and supplies; and complementary products ("Refrigeration and Cold Storage Equipment").

2. *Related Services:* including export marketing sales research, product research and design, foreign advertising, bid preparation, joint trade promotions, financing, transportation, insurance, warehousing, legal, management, engineering and architectural services.

B. Export Markets

Worldwide.

C. Export Trade Activities and Methods of Operation

1. To enter into agreements to act as an exclusive export representative for Bally Case & Cooler, Inc. and other manufacturers of Refrigeration and Cold Storage Equipment and, in so acting, to provide Related Services.

2. To enter into exclusive agreements with distributors in the U.S. and foreign countries for export sales of Refrigeration and Cold Storage Equipment in foreign countries.

3. For its own account or with manufacturers, distributors and sales or marketing agents to enter into agreements to determine prices, quantities, territories and customers for export sales.

4. To exchange confidential business information among manufacturers, distributors, sales or marketing agents and customers.

5. To act as a Purchasing Agent for buyers in the Export Markets.

Dated: February 3, 1984.

Irving P. Margulies,

Acting General Counsel.

[FR Doc. 84-3428 Filed 2-7-84; 8:45 am]

BILLING CODE 3510-DR-M

[Case No. 646]

Microelectronics Research Institute and Dr. Athol M. Harrison; Order Temporarily Denying Export Privileges

This Order consolidates, reverses the sequence of listing the respondents, and corrects errors in two orders issued previously in this proceeding: The Order of November 23, 1983 (48 FR 54259 (December 1, 1983)), and the Order of December 21, 1983 (48 FR 57347 (December 29, 1983)). The Order of November 23, 1983 temporarily denied the respondents Microelectronics Research Institute and Dr. Athol M. Harrison, and eleven named related parties all privileges of participating in any manner or capacity in the export of U.S.-origin commodities or technical data. The Order of December 21, 1983 amplified the addresses listed in the Order of November 23, 1983 for Dr. Harrison and three of the named related parties.

The instant Order consolidates the two previous Orders, thus listing in one place the addresses as amplified for all respondents and related parties, reverses the sequence of listing the two respondents, and also corrects the following two errors in the Order of November 23, 1983. First, in the addresses of respondents Microelectronics Research Institute and Dr. Harrison, that Order spelled "Cape Town" as one word, rather than as two. Second, that Order inadvertently omitted, from Paragraph IV, immediately before the colon preceding Subparagraph (a), the following phrase:

, or carry on negotiations with respect thereto, in any manner or capacity, on behalf of or in any association with the respondent or any related party, or whereby the respondent or any related party may obtain any benefit therefrom or have any interest in or participation therein, directly or indirectly.

The Department of Commerce (the "Department"), pursuant to the provisions of section 388.19 of the Export Administration Regulations (15 CFR Parts 368–399 (1983)) (the "Regulations"), has petitioned the Hearing Commissioner for an order temporarily denying all export privileges: to the Microelectronics Research Institute, P.O. Box 7232 Loop Station, 7th Floor, Motor and General Building, Cape Town, South Africa, and Banhock Road, Stellenbosch, South Africa; and to Dr. Athol M. Harrison, Administrative Director, P.O. Box 7232 Loop Station, 7th Floor, Motor and General Building, Cape Town, South Africa, and 13th Floor, BP Center, Thiebolt Center, Cape Town, South Africa. The Microelectronics Research Institute and Dr. Harrison are hereinafter referred to collectively as "respondents."

The Department states that the respondents are under investigation by the Department's Office of Export Enforcement and that its investigation gives it reason to believe: (1) That respondents reexported to West Germany and attempted to divert to the Soviet Union U.S.-origin commodities exported to the respondents; (2) that, without obtaining specific authorization from the Department, respondents have engaged in transactions, involving U.S.-origin commodities, with Richard Mueller, a person previously denied all U.S. export privileges by Order dated August 6, 1981; and (3) that respondents may make similar attempts to reexport or divert U.S.-origin commodities or technical data, and engage in transactions involving such commodities or technical data with persons denied all U.S. export privileges, contrary to the Regulations, unless appropriate action is taken to preclude such attempts.

Based on the showing made by the Department, I find that an order temporarily denying all export privileges to the Microelectronics Research Institute and Dr. Athol M. Harrison, and to parties related to them, is required in the public interest to facilitate enforcement of the Export Administration Act of 1979, as amended (50 U.S.C. app. 2401–2420 (Supp. V 1981)), and the Regulations and to permit completion of the Department's investigation.

Anyone who is now or may in the future be dealing with the above-named respondents or any related party in transactions that in any way involve U.S.-origin commodities or technical data is specifically alerted to the provisions set forth in Paragraph IV below.

Accordingly, it is hereby ordered:

I. All outstanding validated export licenses in which respondents appear or participate, in any manner or capacity, are hereby revoked and shall be returned forthwith to the Office of Export Administration for cancellation.

II. The respondents, their successors or assignees, officers, partners, representatives, agents, and employees hereby are denied all privileges of participating, directly or indirectly, in any manner or capacity, in any transaction involving commodities or technical data exported from the United States in whole or in part, or to be exported, or that are otherwise subject to the Regulations. Without limitation of the generality of the foregoing, participation prohibited in any such

transaction, either in the United States or abroad, shall include participation, directly or indirectly, in any manner or capacity: (a) As a party or as a representative of a party to a validated export license application, (b) in the preparation or filing of any export license application or reexport authorization, or of any document to be submitted therewith, (c) in the obtaining or using of any validated or general export license or other export control document, (d) in the carrying on of negotiations with respect to, or in the receiving, ordering, buying, selling, delivering, storing, using, or disposing of, in whole or in part, any commodities or technical data exported from the United States, or to be exported, and (e) in the financing, forwarding, transporting, or other servicing of such commodities or technical data.

III. Such denial of export privileges shall extend not only to the respondents, but also to their agents and employees and to any successors. After notice and opportunity for comment, such denial may also be made applicable to any person, firm, corporation, or business organization with which respondents are now or hereafter may be related by affiliation, ownership, control, position of responsibility, or other connection in the conduct of export trade or related services. Those parties now known to be affiliated with at least one of the respondents, and which are accordingly subject to the provisions of this order, are:

Detleff Heppner, c/o Electronica-Stellsels, 101 Connaught Road, Parow, Cape Town, South Africa
Manfred Schroder, Buitenverwachtung Farms, Constantia, South Africa
Dr. Hendrik Christo Viljoen, c/o Microelectronics Research Institute, P.O. Box 7232 Loop Station, 7th Floor, Motor and General Building, Cape Town, South Africa
Clive Whitton, 46 Moss Street, Newlands, South Africa
Act-Com, Pty. Ltd., Cape Town, South Africa
Computer Add-ons Pty. Ltd., Cape Town, South Africa
Dancontrol, AG, Zug, Switzerland
Electronica-Stellsels, 101 Connaught Road, Parow, Cape Town, South Africa
Optronix Pty. Ltd., 101 Connaught Road, Parow, South Africa
SEM Investments Pty. Ltd., Cape Town, South Africa
Electronika S.A. (pty.) Ltd., 101 Connaught Road, Beaconvale (Parow), Cape Town, South Africa, and P.O. Box 7232, Roggebuai, Cape Province, 8012, South Africa

IV. No person, firm, corporation, partnership or other business organization, whether in the United States or elsewhere, without prior disclosure to and specific authorization from the Office of Export Administration, shall, with respect to U.S.-origin commodities and technical data, do any of the following acts, directly or indirectly, or carry on negotiations with respect thereto, in any manner or capacity, on behalf of or in any association with the respondent or any related party, or whereby the respondent or any related party may obtain any benefit thereform or have any interest in or participation therein, directly or indirectly: (a) Apply for, obtain, transfer, or use any license, Shipper's Export Declaration, bill of lading, or other export control document relating to any export, reexport, transshipment, or diversion of any commodity or technical data exported in whole or in part, or to be exported by, to, or for the respondent or any related party denied export privileges; or (b) order, buy, receive, use, sell, deliver, store, dispose of, forward, transport, finance, or otherwise service or participate in any export, reexport, transshipment, or diversion of any commodity or technical data exported or to exported from the United States.

V. In accordance with the provisions of § 388.19(b) of the Regulations, the respondents or any related party may move at any time to vacate or modify this temporary denial order by filing with the Hearing Commissioner, International Trade Administration, U.S. Department of Commerce, Room 6716, 14th and Constitution Avenue, NW., Washington, D.C. 20230, an appropriate motion for relief, supported by substantial evidence, and may also request an oral hearing thereon, which, if requested, shall be held before the hearing Commissioner at the earliest convenient date.

VI. This Order is effective immediately, and supersedes, as of the date hereof, the Order of November 23, 1983 and the Order of December 21, 1983. The instant Order remains in effect until the final disposition of any administrative or judicial proceedings initiated against the respondents as a result of the ongoing investigation. A copy of this Order and Parts 387 and 388 of the Regulations shall be served upon the respondents and the above-named related parties.

Dated: January 31, 1984, 5:00 pm E.S.T.

Thomas W. Hoya,

Hearing Commissioner.

[FR Doc. 84-3403 Filed 2-7-84; 8:45 am]
BILLING CODE 3510-DT-M

[A-588-014]

Tuners (of the Type Used in Consumer Electronic Products) From Japan; Partial Revocation of Antidumping Finding

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of partial revocation of antidumping finding.

SUMMARY: On October 25, 1983, the Department of Commerce published a tentative determination to revoke in part the antidumping finding on tuners (of the type used in consumer electronic products) from Japan. The tentative determination to revoke in part applied to one exporter, the Sharp Corporation. Sharp made all sales of this merchandise to the United States at not less than fair value during the period January 1, 1973 through January 31, 1977.

Interested parties were provided an opportunity to submit oral or written comments on the tentative determination to revoke in part. We received no comments. Based on its analysis, the Department is revoking the antidumping finding on tuners (of the type used in consumer electronic products) from Japan with regard to merchandise from Sharp.

EFFECTIVE DATE: February 8, 1984.

FOR FURTHER INFORMATION CONTACT: Edward Haley or John Kugelman, Office of Compliance, International Trade Administration, Department of Commerce, Washington, D.C. 20230, telephone: (202) 377-3601.

SUPPLEMENTARY INFORMATION:

Background

On October 25, 1983, the Department of Commerce ("the Department") published in the **Federal Register** (48 FR 49328) a tentative determination to revoke in part the antidumping finding on tuners (of the type used in consumer electronic products) from Japan (35 FR 18914, December 12, 1970).

Scope of the Review

Imports covered by the partial revocation are shipments of tuners (of the type used in consumer electronic products) from Sharp. These imports consist primarily of television receiver tuners and tuners used in radio receivers such as household radios, stereo and high fidelity radio systems, and automobile radios. They are virtually all in modular form, aligned and ready for simple assembly into the consumer electronic product for which they were designed. The term "consumer electronic products" relates

to television sets, radios, and other electronic products of a type commonly bought at retail by household consumers, whether or not used in or around the household. Excluded are complete stereophonic tuners which are consumer products themselves, but not excluded are modular-type stereophonic tuners, which are intended to become component parts of such complete stereophonic tuners. These turners are currently classifiable under item numbers 685.1700 and 685.2976 of the Tariff Schedules of the United States Annotated.

The partial revocation is based on the period January 1, 1973 through January 31, 1977, during which Sharp made all sales of tuners (of the type used in consumer electronic products) to the United States at not less than fair value.

Partial Revocation of Finding

We invited interested parties to comment on the tentative determination to revoke in part. We received no comments on requests for a hearing. Based on our analysis, the Department revokes the antidumping finding on tuners (of the type used in consumer electronic products) from Japan with regard to merchandise from Sharp. This partial revocation applies to all unliquidated entries of this merchandise from Sharp entered, or withdrawn from warehouse, for consumption on or after January 19, 1977. The Department will instruct Customs officers to proceed with liquidation of this merchandise without regard to antidumping duties.

This partial revocation and notice are in accordance with sections 751 (a)(1) and (c) of the Tariff Act of 1930 (19 U.S.C. 1675(a)(1), (c)) and §§ 353.53 and 353.54 of the Commerce Regulations (19 CFR 353.53, 353.54).

Dated: January 27, 1984.

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 84-3389 Filed 2-7-84; 8:45 am]

BILLING CODE 3510-DS-M

Minority Business Development Agency

Financial Assistance; California

AGENCY: Minority Development Agency, Commerce.

ACTION: Notice.

SUMMARY: The Minority Business Development Agency (MBDA) announces that it is soliciting applications under its Minority Business Development Center (MBDC) program to operate two projects for a 10-month period in the following locations:

BAKERSFIELD MBDC—PROJECT I.D. No. 09 10 84011-01	
Basic MBDA Contribution	$120,416
SCS Contribution	12,042
Total Federal Contribution	132,458
Minimum Cost Sharing Contribution	23,375
Minimum Total Project Cost	155,833
Start and End Date: July 1, 1984 to April 30, 1985.	
NAVAJO MBDC—PROJECT I.D. No. 09 10-84012-01	
Basic MBDA Contribution	$121,125
SCS Contribution	12,112
Total Federal Contribution	133,237
Minimum Cost Sharing Contribution	23,512
Minimum Total Project Cost	156,749
Start and End Date: July 1, 1984 to April 30, 1985.	

Applicants shall be required to contribute at least 15% of the total program cost through Non-Federal funds. Cost sharing contributions can be in the form of cash contributions, fee for services or in-kind contributions.

CLOSING DATE: March 8, 1984.

ADDRESS: Minority Business Development Agency, U.S. Department of Commerce, 450 Golden Gate Avenue, Box 36114, San Francisco, California 94102.

FOR FURTHER INFORMATION CONTACT: Ms. Liz Embry at (415) 556-6733.

SUPPLEMENTARY INFORMATION:

A. Scope and Purpose of this Announcement. Executive Order 11625 authorizes MBDA to fund projects which will provide technical and management assistance to eligible clients in areas related to the establishment and operation of businesses. The MBDC program is specifically designed to assist those minority businesses that have the highest potential for success. In order to accomplish this, MBDA supports MBDC programs that can: coordinate and broker public and private sector resources on behalf of minority individuals and firms; offer them a full range of management and technical assistance; and serve as a conduit through which and from which information and assistance to and about minority businesses are funneled.

B. Eligible Applicants. Awards shall be open to all individuals, non-profit organizations, for-profit firms, local and state governments, American Indian tribes and educational institutions.

C. Evaluation Process. All proposals received as a result of this announcement will be evaluated by a MBDA review panel.

D. Evaluation Criteria for Minority Business Development Center Applications. The evaluation criteria is designed to facilitate an objective evaluation of competitive applications for the Minority Business Development Center program.

MBDA reserves the right to reject any or all applications, including the application receiving the highest evaluation, and will exercise this right when it is determined that it is in the best interest of the Government to do so (e.g., the apparent successful applicant has serious unresolved audit issues from current or previous grants, contracts or cooperative agreements with an agency of the Federal Government).

Evaluation of proposals will employ the following criteria:

I. *Capability and Experience of Firm/Staff*—Provide information that demonstrates the organization's capabilities and prior experiences in addressing the needs of minority business individuals and firms. Provide information that demonstrates the staff's capabilities and prior experiences in providing management and technical assistance to minority individuals and firms. Indicate previous experience in MBE community to be served in terms of: inventorying resources and opportunities; the brokering thereof; and providing management and technical assistance.

The following are key factors to be considered in this section:

Firm

—The organization's receptivity in the MBE community to be served, i.e., business contacts in the public and private sector; leadership responsibilities; and experience in assisting MBE business persons and firms. (References from clients assisted are pertinent.)

—Background credientials and references for the owners of the organization and a capability statement of what the organization can do.

—Knowledge of the geographic area to be served in terms of the needs of minority businesses and past ongoing relationships with local, public and private—entities that can possibly enhance the BDC program effort—i.e, Chambers of Commerce, trade association, venture capital organizations, banks, SBA, HUD, state, city and county government agencies, etc.

Staff

—List personnel to be used. Indicate their salaries, educational level and previous experience. Provide resumes for all professional staff personnel.

—Demonstrate competence among staff to effectuate mergers, acquisitions, spin-offs and joint-ventures.
—Provide organizational chart, job descriptions and qualification standards involving all professional staff persons to be utilized on the project.
—If any contractors are to be utilized, identify and indicate areas and level of experience. *Primary consideration will be given to inhouse capability.*

Note.—All contracting proposed should be in accordance with procurement standards in Attachment O of OMB Circulars A–110 or A–102.

II. *Techniques and Methodology*—specify plans for achieving the goals and objectives of the project. This section should be developed by using the outline of the Work Requirements and the MBDC responsibilities as *guides* and will become part of the award document. Include start-up plan and example of work plan format. Fully explain the procedures for: outreach, screening, assisting and monitoring clients; maintaining the profile inventory of minority businesses; and brokering of new business ownership, market and capital opportunities and prevention of business failures. In summary, address how, when and where work will be done and by whom. Including level of performance.

III. *Resources*—address technical and administrative resources, i.e., computer facilites, voluntary staff time and space; and finanical resources in terms or meeting MBDA's 15% cost-sharing requirement and including a fee for services for assistance provided clients. A fee for services in the amount of 10% of the cost of assistance will be charged to all clients receiving management and technical assistance.

Cost-sharing is that portion of project costs not borne by the Federal Government. The composition and amount of cost-sharing are key factors that will be considered in determining the merit of this section. The cost sharing requirement can be met through the following order or priority: (1) Cash contributions; (2) fee for services; and (3) in-kind contributions.

A. *Cash contribution*—means cash that is contributed or donated by the recipient, and other Non-Federal sources, i.e., public agencies and institutions, private organizations, corporations and individuals.

B. *Fee for services*—is a charge to a client for assistance provided by the MBDC for M&TA and-or SCS.

C. *In-Kind contribution*—represents the value of non-cash contributions provided by the recipient and other Non-Federal sources. The order of priority for in-kind contributions are: high technology systems to be utilized to achieve program objectives; top level staff personnel and real and personal property donated by other public agencies, institutions and private organizations. Property purchased with Federal funds will not be considered as the recipient's in-kind contribution. Under no circumstances can the in-kind contribution exceed 50% of the total Non-Federal contribution.

IV. *Costs*—demonstrate in narrative format that costs being proposed will give the minority business client and the government the most effective program possible in terms of quality, quantity, timeliness and efficiency.

Include the principal costs involved for achieving work plan under Cooperative Agreement by completing Part III—the Budget Information Section of the Request for Application.

Provide cost-sharing plan information in terms of methodology and format for billing the costs of management and technical assistance and specialized consulting services to clients.

Total project cost will be evaluated in terms of:

—Clear explanations of all expenditures proposed, and
—The extent to which the applicant can leverage Federal program funds and operate with *economy* and *efficiency.*

In conclusion, the applicant's schedule for start of the MBDC operation should be included in Part II. Part II will be known as the applicant's plan of operation and will be incorporated into the Cooperative Agreement Award.

A detailed justification of all proposed costs is required for Part III for each item must be fully explained.

The failure to supply information in any given category of the criteria will result in the application being considered non-responsive and dropped from competitive review.

All information submitted is subject to verification by MBDA.

E. Disposition of Proposals. Notification of awards will be made by the Grants Officer, U.S. Department of Commerce (DOC) Organizations whose proposals are unsuccessful will be advised by MBDA, DOC.

F. Proposal Instructions and Forms. Questions concerning the preceding information, copies of application forms, and applicable regulations can be obtained at the above address.

Nothing in this solicitation shall be construed as committing MBDA to divide available funds among all qualified applicants.

G. A pre-application conference to assist all interested applicants will be held at the following address and time: San Francisco, Minority Business Development Agency, U.S. Department of Commerce, 450 Golden Gate Avenue, Room 15022, San Francisco, California 94102, February 15, 1984, at 10:00 a.m.

(11.800 Minority Business Development—Catalog of Federal Domestic Assistance)

Dated: February 2, 1984.

Xavier Mena,

Regional Director.

[FR Doc. 84–3424 Filed 2–7–84; 8:45 am]

BILLING CODE 3510–21–M

National Oceanic and Atmospheric Administration

Deep Seabed Mining; Receipt of Amendments to Applications for Exploration Licenses

AGENCY: National Oceanic and Atmospheric Administration.

ACTION: Notice of receipt of amendments to applications for Deep Seabed Mining Exploration Licenses and of intention to prepare an Environmental Impact Statement.

SUMMARY: On June 25, 1982, the National Oceanic and Atmospheric Administration (NOAA) published a notice, at 47 FR 27583, that it had received applications from Ocean Minerals Company (OMCO), 465 N. Bernardo Avenue, Mountain View, California 94043 for licenses to conduct deep seabed mining exploration activities in the Northeastern Equatorial Pacific Ocean within the seabed area generally known as the Clarion-Clipperton Fracture Zone. On September 21, 1983, at 48 FR 43073 and November 1, 1983 at 48 FR 50387, NOAA published notice of amendments to those applications, which consolidated into one application. On January 11, 1984, OMCO filed an amendment to its application withdrawing certain areas of the deep seabed previously included in the application areas and adding new areas not previously included in the application.

NOAA announces its intention to prepare an environmental impact statement (EIS), as required by section 109(d) of the Deep Seabed Hard Mineral Resources Act, upon certification of OMCO's application for an exploration license, and invites participation of interested agencies and persons. NOAA will use information in its programmatic environmental impact statement on first generation seabed mining, which was filed with the Environmental Protection Agency (EPA) in September, 1981, in preparing the EIS on the license

application. NOAA will further make use of public discussion on the general National Pollutant Discharge Elimination System Permit on exploration activities being developed by EPA, as well as any public comments in response to this notice in determing the scope of the EIS. Alternatives to be considered by NOAA are to issue or not issue the license. NOAA expects to act on the EIS and license during 1984.

Subject to 15 CFR 970.902, which excludes confidential information from public disclosure, interested persons will be permitted to examine the materials relevant to the amended application and to provide comments on the contents of the license or on the content or scope of the EIS to NOAA by April 9, 1984. Information concerning the date of certification of this application may be obtained from the officials listed below.

FOR FURTHER INFORMATION CONTACT:
John W. Padan or Laurence J. Aurbach, Division of Ocean Minerals and Energy, Office of Ocean and Coastal Resource Management, NOAA, Suite 105, Page 1 Building, 2001 Wisconsin Avenue, NW., Washington, D.C. 20235 (202) 653–8257.

Dated: February 3, 1984.
Approved:

Paul M. Wolff,

Assisting Administrator for Ocean Services and Coastal Zone Management.

[FR Doc. 84–3465 Filed 2–7–84; 8:45 am]

BILLING CODE 3510–12–M

Deep Seabed Mining; Amendments to Applications for Exploration Licenses

AGENCY: National Oceanic and Atmospheric Administration, Commerce.

ACTION: Notice of receipt of amendments to applications for Deep Seabed Mining Exploration Licenses and of intention to prepare an Environmental Impact Statement.

SUMMARY: On June 25, 1982, the National Oceanic and Atmospheric Administration (NOAA) published a notice, at 47 FR 27583, that it had received applications from Ocean Mining Associates (OMA), Box 2, Gloucester Point, Virginia 23062 for licenses to conduct deep seabed mining exploration activities in the Northeastern Equatorial Pacific Ocean within the seabed area generally known as the Clarion-Clipperton Fracture Zone. On October 28, 1982 at 47 FR 47903 and November 1, 1983, at 48 FR 50386 NOAA published a notice of amendments to these applications which were consolidated into one application. On January 20, 1984, OMA filed an amendment to its application withdrawing certain areas of the deep seabed previously included in the application areas.

NOAA announces its intention to prepare an environmental impact statement (EIS), as required by section 109(d) of the Deep Seabed Hard Mineral Resources Act, upon certification of OMA's application for an exploration license, and invites participation of interested agencies and persons. NOAA will use information in its programmatic environmental impact statement on first generation seabed mining, which was filed with the Environmental Protection Agency (EPA) in September, 1981, in preparing the EIS on the license application. NOAA will further make use of public discussion on the general National Pollutant Discharge Elimination System Permit on exploration activities being developed by EPA, as well as any public comments in response to this notice in determining the scope of the EIS. Alternatives to be considered by NOAA are to issue or not issue the license. NOAA expects to act on the EIS and license during 1984.

Subject to 15 CFR 970.902, which excludes confidential information from public disclosure, interested persons will be permitted to examine the materials relevant to the amended application and to provide comments on the contents of the license or on the content or scope of the EIS to NOAA by April 9, 1984. Information concerning the date of certification of this application may be obtained from the officials listed below.

FOR FURTHER INFORMATION CONTACT:
John W. Paden or Laurence J. Aurbach, Division of Ocean Minerals and Energy, Office of Ocean and Coastal Resource Management, NOAA, Suite 105, Page 1 Building, 2001 Wisconsin Avenue NW., Washington, D.C. 20235, (202) 653–8257.

Dated: February 3, 1984.

Paul M. Wolff,

Assistant Administrator for Ocean Services and Coastal Zone Management.

[FR Doc. 84–3466 Filed 2–7–84; 8:45 am]

BILLING CODE 3510–12–M

Deep Seabed Mining; Amendments to Applications for Exploration Licenses

AGENCY: National Oceanic and Atmospheric Administration, Commerce.

ACTION: Notice of receipt of amendments to applications for Deep Seabed Mining Exploration Licenses and of intention to prepare an Environmental Impact Statement.

SUMMARY: On June 25, 1982, the National Oceanic and Atmospheric Administration (NOAA) published a notice, at 47 FR 27583, that it had received two applications from the Kennecott Consortium (KCON), 1515 Mineral Square, Salt Lake City, Uath 84147 for licenses to conduct deep seabed mining exploration activities in the Northeastern Equatorial Pacific Ocean within the seabed area generally known as the Clarion-Clipperton Fracture Zone. On November 1, 1983, at 48 FR 50386, NOAA published notice of an amendment of the applications. On January 11, 1984, KCON filed an amendment to its applications withdrawing certain areas of the deep seabed previously included in the application areas.

NOAA announces its intention to prepare an environmental impact statement (EIS), as required by section 109(d) of the Deep Seabed Hard Mineral Resources Act, upon certification of KCON's applications for an exploration license, and invites participation of interested agencies and persons. NOAA will use information in its programmatic environmental impact statement on first generation seabed mining, which was filed with the Environmental Protection Agency (EPA) in September, 1981, in preparing the EIS on the license applications. NOAA will further make use of public discussion on the general National Pollutant Discharge Elimination System Permit on exploration activities being developed by EPA, as well as any public comments in response to this notice in determining the scope of the EIS. Alternatives to be considered by NOAA are to issue or not issue the licenses. NOAA expects to act on the EIS and licenses during 1984.

Subject to 15 CFR 970.902, which excludes confidential information from public disclosure, intertested persons will be permitted to examine the materials relevant to the amended applications and to provide comments on the contents of the licenses or on the content or scope of the EIS to NOAA by April 9, 1984. Information concerning the date of certification of these applications may be obtained from the officials listed below:

FOR FURTHER INFORMATION CONTACT:
John W. Padan or Laurence J. Aurback, Division of Ocean Minerals and Energy, Office of Ocean and Coastal Resource Management, NOAA, Suite 105, Page 1 Building, 2001 Wisconsin Avenue NW., Washington, D.C. 20235, (202) 653–8257.

Dated: February 3, 1984.

Approved:

Paul M. Wolff,

Assistant Administrator for Ocean Service and Coastal Zone Management.

[FR Doc. 84-3467 Filed 2-7-84; 8:45 am]

BILLING CODE 3510-12-M

CONSUMER PRODUCT SAFETY COMMISSION

Policy Regarding Export of Products Which Fail To Comply With Rules Issued Under the Consumer Product Safety Act and Federal Hazardous Substances Act; Notice of Meeting

AGENCY: Consumer Product Safety Commission.

ACTION: Notice of meeting.

SUMMARY: The Consumer Product Safety Commission gives notice that it will discuss the issue of the policy to be applied to export of products which fail to comply with an applicable rule issued under the Consumer Product Safety Act or the Federal Hazardous Substances Act at a public meeting.

DATE: The meeting will begin at 10:00 a.m., February 15, 1984.

Place: The meeting will be in the third floor conference room, 1111 18th Street NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Alan H. Schoem, Assistant General Counsel, Consumer Product Safety Commission, Washington, D.C. 20207; telephone: (301) 492–6980.

SUPPLEMENTARY INFORMATION: The Consumer Product Safety Commission will discuss matters relevant to the policy it will apply to exportation of products which fail to comply with rules issued under the Consumer Product Safety Act (CPSA, 15 U.S.C. 2051 *et seq.*) or the Federal Hazardous Substances Act (15 U.S.C. 1261 *et seq).*

Last year, the Commission announced that items which fail to comply with an applicable standard of flammability issued under the Flammable Fabrics Act (FFA, 15 U.S.C. 1191 *et seq.*) may be exported, whether or not those items have been in domestic commerce. This statement of export policy under the FFA was made in a Memorandum Order and Decision *In the Matter of Imperial Carpet Mills, Inc.* (Docket No. 80–2), issued on July 6, 1983.[1] Thereafter, the Commission received a request from four public interest groups to reconsider the export policy statement made in the *Imperial Carpet Mills* decision. On January 11, 1984, the Commission voted not to reconsider that policy statement.[2]

At the meeting of February 15, 1984, the Commission will discuss factors relevant to the issue of whether an export policy similar to that for noncomplying items subject to FFA standards should be applied to items which fail to comply with rules issued under the CPSA or FFA.

Provisions of the CPSA applicable to export are in section 18 of that act (15 U.S.C. 2057); provisions of the FHSA applicable to export are in sections 5(b) and 18(d) of that act (15 U.S.C. 1264(b) and 1261, note).

The Commission meeting to discuss the export policy to be applied to products not in compliance with rules issued under the CPSA or FHSA will begin at 10:00 a.m., February 15, 1984, in the Commission conference room, 3rd floor, 1111 18th Street NW., Washington, D.C. The meeting will be open to the public; the number of persons who may attend will be limited only by availability of space.

Dated: February 3, 1984.

Sheldon Butts,

Acting Secretary, Consumer Product Safety Commission.

[FR Doc. 84-3461 Filed 2-7-84; 8:45 am]

BILLING CODE 6355-01-M

[1] Commissioner Edith Barksdale Sloan voted against issuance of the Memorandum Decision and Order, and issued a dissenting opinion in this case. The Memorandum Decision and Order and Commissioner Sloan's dissenting opinion are available for inspection in Commission's public reading room, 8th floor, 1111 18th Street NW., Washington, D.C. or by writing or calling the Office of the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207; telephone (301) 492–6800.

[2] Commissioner Sam Zagoria voted to reconsider the export policy statement contained in the Memorandum Order and Decision *In the Matter of Imperial Carpet Mills, Inc.*, and filed a dissenting statement. Chairman Nancy Harvey Steorts and Commissioners Terrence M. Scanlon, Stuart M. Statler, and Saundra Brown Armstrong also filed separate statements explaining their reasons for voting against reconsideration. All of these statements are available in the Commission's public reading room, or by writing or calling the Office of the Secretary.

DEPARTMENT OF DEFENSE

Defense Advisory Committee on Military Personnel Testing; Meeting

Pursuant to Public Law 92–463, notice is hereby given that a meeting of the Defense Advisory Committee on Military Personnel Testing is scheduled to be held from 9:00 a.m. to 5:00 p.m. on 15 and 16 March 1984 in Room 1E801, The Pentagon, Washington, D.C. Meeting sessions will be open to the public.

The purpose of the meeting is to review the development and calibration of the Armed Services Vocational Aptitude Battery Forms 11, 12, and 13, scheduled for implementation in October 1984. The agenda for the next Committee meeting, scheduled for July 1984, in Washington, D.C., will also be discussed.

Persons desiring to make oral presentations or submit written statements for consideration at the Committee meeting must contact Dr. W. S. Sellman, Executive Secretary, Defense Advisory Committee on Military Personnel Testing, Office of the Assistant Secretary of Defense (Manpower, Installations, and Logistics), Room 2B271, The Pentagon, Washington, D.C. 20301, telephone (202) 695–5525, no later than 29 February 1984.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

February 2, 1984.

[FR Doc. 84-3350 Filed 2-7-84; 8:45 am]

BILLING CODE 3810-01-M

Department of the Air Force

Air Force Institute of Technology, Subcommittee of the Air University Board of Visitors; Meeting

The Air Force Institute of Technology Subcommittee of the Air University Board of Visitors will hold an open meeting at 0900 on 7 March 1984 in room 2004 (ten seats available), bldg 125, Wright-Patterson Air Force Base, Ohio.

The purpose of the meeting is to give the Subcommittee the opportunity to present to the Commandant, Air Force Institute of Technology, a report of findings and recommendations concerning the Institute's educational programs. The findings of the Subcommittee will also be reported to the Commander, Air University, at the next regularly scheduled meeting of the Air University Board of Visitors.

For further information on this meeting, contact Captain Peter Macchia, Jr., Assistant Chief, Instructional Technology, Directorate of Educational Plans and Programs, Air Force Institute of Technology, (513) 255–5760 or 3791.

Winnibel F. Holmes,

Air Force Federal Register Liaison Officer.

[FR Doc. 84-3423 Filed 2-7-84; 8:45 am]

BILLING CODE 3910-01-M

Department of the Navy

Chief of Naval Operations Executive Panel Advisory Committee, Anti-Submarine Warfare Task Force; Closed Meeting, Correction

Notice was given December 16, 1983, at 48 FR 55897 of a meeting of the Chief of Naval Operations Executive Panel Advisory Committee Anti-Submarine Warfare Task Force on February 14–15, 1984, from 9 a.m. to 5 p.m. each day. The dates and times for that meeting have been changed to February 28–29 and March 1, 1984, from 9 a.m. to 5 p.m. each day. All other information in the previous notice remains effective.

For further information on this meeting contact Lieutenant Thomas E. Arnold, Executive Secretary of the Chief of Naval Operations Executive Panel Advisory Committee, telephone (703) 756–1205.

Dated: February 3, 1984.

William F. Roos, Jr.,

Lieutenant, JAGC, U.S. Naval Reserve, Federal Register Liaison Officer.

[FR Doc. 84-3419 Filed 2-7-84; 8:45 am]

BILLING CODE 3810-AE-M

Naval Research Advisory Committee; Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. App. I), notice is hereby given that the Naval Research Advisory Committee Panel on Hospital Care will meet on March 2 and 3, 1984, at the Office of Naval Research, Room 915, Arlington, Virginia. The first session of the meeting will commence at 9:00 a.m. and terminate at 4:00 p.m. on March 2, 1984. The second session will commence at 9:00 a.m. and terminate at 4:00 p.m. on March 3, 1984. All sessions of the meeting will be closed to the public.

The purpose of the meeting is to identify critical medical issues in support of Marine Corps amphibious operations and sustained operations ashore in a conventional warfare environment. In addition, the Panel members will review the initial preparation of the final report which will include sections on planning, disposition and utilization of Navy and Marine Corps medical assets in wartime scenarios. These matters constitute classified information that is specifically authorized under criteria established by Executive order to be kept secret in the interest of national defense and is in fact properly classified pursuant to such Executive order. The classified and nonclassified matters to be discussed are so inextricably intertwined as to preclude opening any portion of the meeting. Accordingly, the Secretary of the Navy has determined in writing that the public interest requires that all sessions of the meeting be closed to the public because they will be concerned with matters listed in section 552b(c)(1) of title 5, United States Code.

For further information concerning this meeting contact: Commander M. B. Kelley, U.S. Navy, Office of Naval Research (Code 100N), 800 North Quincy Street, Arlington, VA 22217, Telephone number (202) 696–4870.

Dated: February 3, 1984.

William F. Roos, Jr.,

Lieutenant, JAGC, U.S. Naval Reserve, Alternate Federal Register Liaison Officer.

[FR Doc. 84-3418 Filed 2-7-84; 8:45 am]

BILLING CODE 3810-AE-M

DEPARTMENT OF EDUCATION

Discretionary Grant Programs Under the Rehabilitation Act of 1973, As Amended; Application Notices Establishing Closing Dates for Transmittal of Fiscal Year 1984 Applications

AGENCY: Department of Education.

ACTION: Application notices establishing closing dates for transmittal of fiscal year 1984 applications.

SUMMARY: The purpose of this application notice is to inform potential applicants of fiscal and programmatic information and closing dates for transmittal of applications for new projects under certain grant programs awarded by the Department of Education under Titles I and III of the Rehabilitation Act of 1973, as amended.

Organization of Notice

This notice covers certain discretionary grant programs administered by the Rehabilitation Services Administration within the Department of Education in which there is expected to be competition for new projects in fiscal year 1984.

This notice contains two parts. Part I includes, in chronological order, the list of all closing dates covered by this notice. Part II consists of the individual application announcements for each program. These announcements are in the same order as the closing dates listed in Part I.

Instructions for Transmittal of Applications

Applicants should note specifically the instructions for the transmittal of applications included below:

Transmittal of Applications: Applications for all projects must be mailed or hand delivered on or before the closing date given in the individual program announcements included in this document.

Applications Delivered by Mail: Except where otherwise specified immediately below and in the individual program announcements, applications for new projects must be addressed to the Department of Education Application Control Center, Attention: (Appropriate CFDA No.), Washington, D.C. 20202.

Note.—Applicants for programs under 84.129D (Rehabilitation Continuing Education Programs) and 84.129Z (State Vocational Rehabilitation Unit In-Service Training Program) are required to send applications to the Regional Offices of the U.S. Department of Education. The individual program announcements for these programs specifically direct applicants to transmit applications to the appropriate Regional Office. In these cases applications must be mailed or hand delivered to the appropriate address below:

Region I

RSA Regional Commissioner,
Department of Education, OSERS,
John F. Kennedy Federal Building,
Room E–400, Boston, Massachusetts
02203

Region II

RSA Regional Commissioner,
Department of Education, OSERS, 26
Federal Plaza, Room 4106, New York,
New York 10278

Region III

RSA Regional Commissioner,
Department of Education, OSERS,
3535 Market Street, Room 3550,
Philadelphia, Pennsylvania 19101

Region IV

RSA Regional Commissioner,
Department of Education, OSERS, 101
Marietta Street, N.W., Suite 821,
Atlanta, Georgia 30323

Region V

RSA Regional Commissioner,
Department of Education, OSERS, 300
South Wacker Drive, 15th Floor,
Chicago, Illinois 60606

Region VI

RSA Regional Commissioner,
Department of Education, OSERS,
1200 Main Tower Building, Room 1400,
Dallas, Texas 75202

Region VII

RSA Regional Commissioner,
Department of Education, OSERS, 324

E. 11th Street, 11 Oak Building, 10th Floor, West, Kansas City, Missouri 64106

Region VIII

RSA Regional Commissioner,
Department of Education, OSERS,
Federal Office Building, Room 7415,
19th and Stout Streets, Denver,
Colorado 80202

Region IX

RSA Regional Commissioner,
Department of Education, OSERS,
Federal Office Building, Room 480, 50
United Nations Plaza, San Francisco,
California 94102

Region X

RSA Regional Commissioner,
Department of Education, OSERS,
2901 Third Avenue, Room 120, Seattle,
Washington 98121

An applicant must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other evidence of mailing acceptable to the U.S. Secretary of Education.

If an application is sent through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing: (1) A private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

Applicants are encouraged to use registered or at least first class mail.

Each late applicant for a new award will be notified that its application will not be considered.

Applications Delivered by Hand: Hand-delivered applications must be taken to the U.S. Department of Education, Application Control Center, Room 5673, Regional Office Building, #3, 7th and D Streets, SW., Washington, D.C.

or

To the appropriate Regional Office at the address given above.

The Application Control Center will accept hand-delivered applications between 8:30 a.m. and 4:30 p.m. (Washington, D.C. time) daily, except Saturdays, Sundays and Federal holidays.

The Regional Offices will accept hand-delivered applications between 8:30 and 4:30 p.m. (local time) daily, except Saturdays, Sundays, and Federal holidays.

Part I—Programs Listed in Chronological Order

CFDA No. and program	Closing date
84.129, Rehabilitation Long-Term Training Projects (New Projects).	Apr. 2, 1984.
84.128E, Special Projects and Demonstrations for Providing Vocational Rehabilitation Services to Severely Handicapped Individuals (Spinal Cord Injury System Projects—New Projects).	Mar. 26, 1984.
84.128H, Handicapped American Indian Vocational Rehabilitation Service Projects (New Projects).	Mar. 26, 1984.
84.128J, Projects for, Initiating Special Recreation Programs for Handicapped Individuals (New Projects).	Apr. 2, 1984.
84.129D, Rehabilitation Continuing Education Projects (New Projects—Region V only).	May 1, 1984.
84.129Z, State Vocational Rehabilitation Unit In-Service Trainwng Program (New Projects—Regions I, II, V, IX and X only).	May 15, 1984.

Part II—Application Announcements for Each Program

84.129—Rehabilitation Long-Term Training Projects

Closing date: April 2, 1984—New Projects

Authority for this program is contained in Section 304 of the Rehabilitation Act of 1973, as amended. (29 U.S.C. 774).

Awards are made under this program to State vocational rehabilitation agencies and other public or nonprofit agencies or organizations, including institutions of higher education.

The purpose of the Rehabilitation Long-Term Training Program is to support projects designated for training personnel available for employment in public or private agencies involved in the rehabilitation of physically amd mentally handicapped individuals, especially those who are the most severely handicapped. Historically Black colleges and universities are encouraged to participate in this program.

Available Funds: The total amount of funds available for rehabilitation training in Fiscal Year 1984 is $22,000,000, including $6,268,000 for new rehabilitation long-term training projects. Of this amount, $4,019,000 is planned for the categories listed below. The range of funded projects is expected to be from $15,000 to $175,000. These estimates do not bind the Department of Education to a specific number of grants or to the amount of any grant unless that amount is otherwise specified by statute or regulations.

It is estimated that the following funds will be available for new projects in these Long-Term Training categories:

	Dollars (rounded)
Rehabilitation Medicine	[illegible]
Rehabilitation Counseling	[illegible]
Prosthetics and Orthotics	[illegible]
Rehabilitation Facility Administration	414,000
Rehabilitation Nursing	415,000
Physical Therapy	[illegible]
Occupational Therapy	172,000
Speech Pathology and Audiology	[illegible]
Rehabilitation of the Blind	[illegible]
Rehabilitation of the Deaf	216,000
Job Placement/Job Development	[illegible]
Undergraduate Education in the Rehabilitation Services	337,000
Total	4,019,000

An announcement for the Long-Term Training categories of Vocational Evaluation and Work Adjustment, Rehabilitation Psychology, Rehabilitation of the Mentally Ill, and Other Fields and Experimental and Innovative Training Projects will be made at a future date.

These long-term training categories are included in the list of training fields set forth in the program regulations in 34 CFR 386.1 and are considered annual funding priorities in accordance with 34 CFR 75.105(b)(2)(ii).

Application forms: Application forms and program information packages for new awards are available and may be obtained by writing to the Office of Development Programs, Rehabilitation Services Administration, Office of Special Education and Rehabilitation Services, U.S. Department of Education, Room 3329, Mary E. Switzer Building, 400 Maryland Ave., SW., Washington, D.C. 20202.

Application forms and program information packages will be mailed to grantees who are completing rehabilitation long-term training projects during the 1983–1984 academic year.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package. The program information is intended to aid applicants in applying for assistance under this competition. Nothing in the program information package is intended to impose any paperwork, application content, reporting, or grantee performance requirement beyond those specifically imposed under the statute and regulations governing the competition.

The Secretary urges that the narrative portion of the applications for new awards not exceed 25 pages in length. The Secretary further urges that only the information required be submitted.

All applicants for new projects must submit their applications to the Department of Education Application Control Center.

Applicable regulations: Regulations applicable to this program include the following:

(a) Regulations governing the Rehabilitation Long-Term Training Program (34 CFR Parts 385 and 386); and

(b) Education Department General Administrative Regulations (EDGAR) (34 CFR Parts 74, 75, 77, and 78).

Further information: Martin W. Spickler, Ph.D., Director, Division of Resource Development, Rehabilitation Services Administration, U.S. Department of Education, Room 3319, Mary E. Switzer Building, 400 Maryland Avenue, SW., Washington, D.C. 20202. Telephone: (202) 245–0087.

84.128E—Special Projects and Demonstrations for Providing Vocational Rehabilitation Services to Severely Handicapped Individuals (Spinal Cord Injury System Projects)

Closing date: March 26, 1984—New Projects

Authority for this program is contained in Section 311(a)(1) of the Rehabilitation Act of 1973, as amended. (29 U.S.C. 777a(a)(1)).

Awards are made under this program to States and public and other nonprofit agencies and organizations.

The purpose of this program is to support projects designed to expand or otherwise improve vocational rehabilitation services and other services for severely handicapped individuals including spinal cord injuries. Projects serving exclusively individuals with spinal cord injuries are included in the list of authorized project activities set forth in the program regulations in 34 CFR 373.10. In accordance with 34 CFR 75.105(b)(2)(ii), the Secretary has selected Spinal Cord Injury System projects as an annual funding priority by reserving funds for those projects.

Available funds: The total amount of funds awarded under this grant program in Fiscal Year 1983 for spinal cord injury system projects was $4,598,614. Average project cost of the 17 funded projects was about $271,000. The total amount of funds available for spinal cord injury system projects in Fiscal Year 1984 is $5,240,000. An estimated 19 new projects will be awarded at an average project cost of $276,000. These estimates do not bind the Department of Education to a specific number of grants or to the amount of any grant unless the amount is otherwise specified by statute or regulation.

It is expected that all new projects funded under this program in Fiscal Year 1984 will be limited to one year of support.

Application forms: Application forms and program information packages are available and may be obtained by writing to the Office of Developmental Programs, Rehabilitation Services Administration, Office of Special Education and Rehabilitation Services, U.S. Department of Education, Room 3329, Mary E. Switzer Building, 400 Maryland Avenue, SW., Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package. The program information is intended to aid applicants in applying for assistance under this competition. Nothing in the program information package is intended to impose any paperwork, application content, reporting, or grantee performance requirement beyond those specifically imposed under the statute and regulations governing the competition.

The Secretary urges that the narrative portion of the application not exceed 25 pages in length. The Secretary further urges that applicants not submit information that is not requested.

All applicants for new projects must submit their applications to the Department of Education Control Center.

Applicable Regulations: Regulations applicable to this program are as follows:

(a) Regulations governing the Special Projects and Demonstration for Providing Vocational Rehabilitation to Severely Handicapped Individuals (34 CFR Parts 369 and 373); and

(b) Education Department General Administrative Regulations (EDGAR) (34 CFR Parts 74, 75, 77, and 78).

Further information: J. Paul Thomas, Project Manager, Model Spinal Cord Injury System Program, Rehabilitation Services Administration, Office of Special Education and Rehabilitative Services, U.S. Department of Education, 400 Maryland Avenue, SW., Room 3425, Mary E. Switzer Building, Washington, D.C. 20202. Telephone (202) 447–8477.

84.128H—HANDICAPPED AMERICAN INDIAN VOCATIONAL REHABILITATION SERVICE PROJECTS

Closing date: March 26, 1984—New Projects

Authority for this program is contained in Section 130 of the Rehabilitation Act of 1973, as amended. (29 U.S.C. 750)

Awards are made under this program to the governing bodies of Indian tribes located on Federal and State reservations.

The purpose of the Handicapped American Indian Vocational Rehabilitation Projects Program is to support projects designed to provide vocational rehabilitation services to handicapped American Indians who reside on Federal or State reservations in order to prepare them for suitable employment.

Available funds: The total amount of funds awarded under this grant program for Fiscal Year 1983 was $650,000. As mandated by the Congress, all FY 1983 funds were awarded to the Navajo Nation. The total amount of funds for this program in Fiscal Year 1984 is $715,000. It is expected that three new projects will be awarded. The range of funded projects is expected to be from approximately $25,000 to $650,000. These estimates do not bind the U.S. Department of Education to a specific number of grants or to the amount of any grant unless that amount is otherwise specified by statute or regulations.

It is expected that new projects funded under this program in Fiscal Year 1984 will be limited to one year of support.

Application forms: Application forms and program information packages are available and may be obtained by writing to the Office of Developmental Programs, Rehabilitation Services Administration, Office of Special Education and Rehabilitation Services, U.S. Department of Education, Room 3329, Mary E. Switzer Building, 400 Maryland Avenue, SW., Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package. The program information is intended to aid applicants in applying for assistance under this competition. Nothing in the program information package is intended to impose any paperwork, application content, reporting, or grantee performance requirement beyond those specifically imposed under the statute and regulations governing the competitions.

The Secretary strongly urges that the narrative portion of the application not exceed 25 pages in length. The Secretary further urges that applicants not submit information that is not requested.

All applicants for new projects must submit their applications to the

Department of Education Application Control Center.

Applicable regulations: Regulations applicable to this program include the following:

(a) Regulations governing the Handicapped American Indian Vocational Rehabilitation Service Projects Program (34 CFR Parts 369 and 371); and

(b) Education Department General Administration Regulations (EDGAR) (34 CFR Parts 74, 75, 77 and 78).

Further information: Frank S. Caracciolo, Division of Special Projects, Rehabilitation Services Administration, Office of Special Education and Rehabilitative Services, U.S. Department of Education, Room 3327, Mary E. Switzer Building, 400 Maryland Avenue, SW., Washington, D.C. 20202. Telephone: (202) 245–0389.

84.128J—Projects for initiating special recreation programs for handicapped individuals

Closing date: April 2, 1984—New Projects

Authority of this program is contained in Section 316 of the Rehabilitation Act of 1973, as amended. (29 U.S.C. 777(f))

Awards are made under this program to States and public and other nonprofit agencies and organizations.

The purpose of this program is to support projects which initiate programs of recreational services for handicapped individuals.

Available funds: The total amount of funds awarded under this grant program for Fiscal Year 1983 was $2,000,000. The total amount of funds available for Projects for Initiating Special Recreation Programs for Handicapped Individuals in Fiscal Year 1984 is $2,000,000. These funds will be available only for new projects. An estimated 27 grants will be awarded with an average grant totalling about $74,000. These estimates do not bind the Department of Education to a specific number of grants or to the amount of any grant unless that amount is otherwise specified by statute or regulations.

It is expected that new projects funded under this program in Fiscal year 1984 will be limited to one year of support.

Application forms: Application forms and program information packages are available and may be obtained by writing to the Office of Developmental Programs, Rehabilitative Services Administration, Office of Special Education and Rehabilitation Services, U.S. Department of Education, Room 3329, Mary E. Switzer Building, 400 Maryland Avenue SW., Washington, D.C. 20202. Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package. The program information is intended to aid applicants in applying for assistance under this competition. Nothing in the program information package is intended to impose any paperwork, application content, reporting, or grantee performance requirement beyond those specifically imposed under the statute and regulations governing the competitions.

The Secretary strongly urges that the narrative portion of the application not exceed 25 pages in length. The Secretary further urges that applicants not submit information that is not requested.

All applicants for new projects must submit their applications to the Department of Education Application Control Center.

Applicable regulations: Regulations applicable to this program include the following:

(a) Regulations governing Projects for Initiating Special Recreation Programs for Handicapped Individuals (34 CFR Parts 369 and 378); and

(b) Education Department General Administrative Regulations (EDGAR) (34 CFR Parts 74, 75, 77, and 78).

Further information: Frank S. Caracciolo, Division of Special Projects, Rehabilitation Services Administration, Office of Special Education and Rehabilitative Services, U.S. Department of Education, Room 3327, Mary E. Switzer Building, 400 Maryland Avenue, SW., Washington, D.C. 20202. Telephone: (202) 245–0389.

84.129D—Rehabilitation Continuing Education Projects

Closing date: May 1, 1984—New Projects (Region V only)

Authority for this program is contained in Section 304 of the Rehabilitation Act of 1973, as amended. (29 U.S.C. 774)

Awards are made under this program to State vocational rehabilitation agencies, and other public or nonprofit agencies and organizations, including institutions of higher education.

The purpose of this program is to support training centers that serve either a Federal region or another multi-State geographical area and provide for a broad integrated sequence of training activities that focus on meeting recurrent training needs of rehabilitation personnel employed in public and nonprofit programs providing rehabilitation services to severely physically and mentally disabled individuals.

Available funds: The total amount of funds available for rehabilitation training in Fiscal Year 1984 is $22,000,000. Of this amount approximately $2,200,000 is available for the Rehabilitation Continuing Education Program including $274,001 for the support of new projects in Region V. In order to achieve a geographical distribution of projects as provided for in 34 CFR 385.33, funds are available for the support of new projects under this program in Fiscal Year 1984 in Region V only. Availability of the balance of $1,952,999 for the support of noncompeting continuation projects in the other nine Federal Regions was announced in a separate **Federal Register** notice dated January 10, 1984.

These estimates do not bind the Department of Education to a specific number of grants or to the amount of any grant unless that amount is otherwise specified by statute or regulations.

Application forms: Application forms and program information packages will be mailed to grantees who are completing Rehabilitation Continuing Education Programs during Fiscal Year 1984. Additional forms and instructions may be obtained by writing to the Office of Developmental Programs, Rehabilitation Services Administration, Office of Special Education and Rehabilitative Services, U.S. Department of Education, Room 3329, Mary E. Switzer Building, 400 Maryland Avenue, SW., Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package. The program information is intended to aid applicants in applying for assistance under this competition. Nothing in the program information package is intended to impose any paperwork, application content, reporting, or grantee performance requirement beyond those specifically imposed under the statute and regulations governing the competitions.

The Secretary urges that the narrative portion of the application not exceed 25 pages in length. The Secretary further urges that applicants not submit information that is not requested.

All applicants for new projects under this program must submit their applications to the Regional Office in Region V.

Applicable regulations: Regulations applicable to this program include the following:

(a) Regulations governing the Rehabilitation Continuing Education Program (34 CFR Parts 385 and 389); and

(b) Education Department General Administrative Regulations (EDGAR) (34 CFR Parts 74, 75, 77 and 78).

Further information: Ralph A. Church, Regional Commissioner, Rehabilitation Services Administration, Office of Special Education and Rehabilitative Services, U.S. Department of Education, 300 South Wacker Drive, 15th Floor, Chicago, Illinois 60606. Telephone: (312) 886-5372.

84. 129Z—State Vocational Rehabilitation Unit In-Service Training Program

Closing Date: May 15, 1984—New Projects (Regions I, II, V, IX and X only)

Authority for this program is contained in Section 304 of the Rehabilitation Act of 1973, as amended. (29 U.S.C. 774).

Awards are made under this program to State vocational rehabilitation agencies, and other public or nonprofit agencies and organizations, including institutions of higher education.

The purpose of this program is to support special projects for training personnel employed by State vocational rehabilitation units in program areas essential to the effective management of the State unit program of vocational rehabilitation services or in skill areas which will enable State unit personnel to improve their ability to provide vocational rehabilitation services to severely handicapped individuals.

Available funds: The total amount of funds available for rehabilitation training in Fiscal Year 1984 is $22,000,000. Of this amount approximately $2,800,000 is available for new and noncompeting continuation projects under the State Vocational Rehabilitation Unit In-Service Training program in Fiscal Year 1984.

In order to achieve a geographical distribution of projects as provided for in (34 CFR 385.33) funds for new projects under this program are expected to be distributed in Fiscal Year 1984 to the following Federal Regions:

Region I	$224,469
Region II	29,103
Region V	267,220
Region IX	199,231
Region X	146,965

Availability of the balance of $1,933,012 under this program for the support of noncompeting continuation projects in Federal Regions II, III, IV, V, VI, VII, VIII and IX was announced in a separate **Federal Register** notice dated January 10, 1984.

These estimates do not bind the Department of Education to a specific number of grants or to the amount of any grant unless that amount is otherwise specified by statute or regulations.

Application forms: Application forms and program information packages will be mailed to grantees who are completing State Vocational Rehabilitation Unit In-Service training projects during Fiscal Year 1984.

Additonal forms and program information packages for new awards are available and may be obtained by writing to the Office of Developmental Programs, Rehabilitation Services Administration, Office of Special Education and Rehabilitative Services, U.S. Department of Education, Room 3329, Mary E. Switzer Building, 400 Maryland Avenue, SW., Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package. The program information is intended to aid applicants in applying for assistance under this competition. Nothing in the program information package is intended to impose any paperwork, application content, reporting, or grantee performance requirement beyond those specifically imposed under the statute and regulations governing the competitions.

The Secretary urges that the narrative portion of the application not exceed 25 pages in length. The Secretary further urges that only the information required be submitted.

All applicants for new projects under this program must submit their applications to the appropriate Regional Office.

Applicable Regulations: Regulations applicable to this program include the following:

(a) Regulations governing the State Vocational Rehabilitation Unit In-Service Training program (34 CFR Parts 385 and 388); and

(b) Education Department General Administrative Regulations (EDGAR) (34 CFR Parts 74, 75, 77 and 78).

Further information: Martin W. Spickler, Ph.D., Director, Division of Resource Development, Rehabilitation Services Administration, Office of Special Education and Rehabilitative Services, U.S. Department of Education, Room 3319, Mary E. Switzer Building, 400 Maryland Avenue, SW., Washington, D.C. 20202. Telephone: (202) 245-0087.

Dated: February 3, 1984.

T. H. Bell,

Secretary of Education.

[FR Doc. 84-3416 Filed 2-7-84; 8:45 am]

BILLING CODE 4000-01-M

National Diffusion Network Program; Application

AGENCY: Office of Educational Research and Improvement, Department of Education.

ACTION: Application Notice for Fiscal Year 1984.

Applications are invited for new Developer Demonstrator projects under the National Diffusion Network program for fiscal year 1984.

Authority for this program is contained in Section 583 of the Education Consolidation and Improvement Act of 1981 (Pub. L. 97-35). (20 U.S.C. 3851)

The program issues awards to State educational agencies, local educational agencies, institutions of higher education, and other nonprofit institutions or agencies, that have developed exemplary educational programs which have been approved by the Department of Education's Joint Dissemination Review Panel.

The purpose of the program is to promote the widespread installation across the Nation of rigorously evaluated, exemplary educational programs. Developer Demonstrator projects disseminate a specific exemplary educational program nationwide. No funds are available for program development.

Closing Date for Transmittal of Applications: An application for a grant must be mailed or hand delivered by March 30, 1984.

Applications Delivered by Mail:

An application sent by mail must be addressed to the U.S. Department of Education, Application Control Center, Attention: 84.073 A, Washington, D.C. 20202.

An applicant must show proof of mailing consisting of one of the following:

(1) A legible dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other evidence of mailing acceptable to the U.S. Secretary of Education.

If an application is sent through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing: (1) A private metered

postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first class mail.

Each late applicant for a new Developer Demonstrator grant will be notified that its application will not be considered.

Applications Delivered by Hand:

An application that is hand delivered must be taken to the U.S. Department of Education, Application Control Center (Room 5673, Regional Office Building 3), 7th and D Streets, SW., Washington, D.C.

The Application Control Center will accept hand-delivered applications between the hours of 8:00 a.m. and 4:30 p.m. (Washington, D.C. time) daily, except Saturdays, Sundays, and Federal holidays.

An application for a new Developer Demonstrator grant that is hand delivered will not be accepted by the Application Control Center after 4:30 p.m. on the closing date.

Program Information: Because of the limited resources available, the Secretary has selected priorities taking into account unmet national needs. Programs will be selected for funding by a separate competition in each priority area. This year, applications will be accepted in the following priorities:

1. *Technology*—Computer science programs that enable students to accomplish one or more of the following—

(i) Understand the computer as an information, computation, and communication device;

(ii) Use the computer to enhance instruction in English, mathematics, science, social studies, or for personal and work-related purposes; or

(iii) Understand the world of computers, electronics, and related technologies.

(2). *Adult literacy*—Programs for functionally illiterate adults or pre-adults.

3. *Preservice-Inservice*—Programs that improve teaching and the quality of instruction through either or both of the following—

(i) The identification and transfer of non-traditional practices;

(ii) The application of current research findings in learning, teaching, and management.

Under this priority, the Secretary particularly invites applications from programs that utilize incentives for improving instructional effectiveness, teacher recognition programs, and career ladder programs. Included in this invitation are programs designed to reduce attrition and improve performance of college students in difficult courses or areas of study.

4. *Gifted and Talented*—Programs for gifted and talented students.

5. *Special Education*—Programs for handicapped students.

6. *Early Childhood*—Programs for preschool and early elementary school children.

7. *Career Education, Vocational Education, and the Arts*—Programs that advance students' personal, educational, and occupational goals, such as courses in the fine and performing arts, vocational education, and industrial arts.

8. *Foreign Languages*—Foreign language programs that accomplish one or more of the following—

(i) Introduce students to non English-speaking cultures;

(ii) Heighten awareness and comprehension of one's native tongue; or

(iii) Serve the Nation's needs in commerce, diplomacy, defense, and education.

9. *Science.*

10. *Reading.*

11. *Written or Oral Communications.*

12. *Mathematics or Higher Mathematics.*

13. *Health.*

14. *Social Studies.*

It is expected that new Developer Demonstrator awards will be for a project period not to exceed four years, contingent on performance and availability of funds.

Intergovernmental Review

On June 24, 1983, the Secretary published in the **Federal Register** final regulations (34 CFR Part 79, published at 48 FR 29158 *et seq.)* implementing Executive Order 12372 entitled "Intergovernmental Review of Federal Programs." The regulations took effect September 30, 1983.

This program is subject to the requirements of the Executive Order and the regulations in 34 CFR Part 79. The objective of Executive Order 12372 is to foster an intergovernmental partnership and a strengthened federalism by relying on State and local processes for State and local government coordination and review or proposed Federal financial assistance.

The Executive Order—

- Allows States, after consultation with local officials, to establish their own process for review and comment on proposed Federal financial assistance;
- Increase Federal responsiveness to State and local officials by requiring Federal agencies to accommodate State and local views or explain why not; and
- Revokes OMB Circular A–95.

Transactions with nongovernmental entities, including State post-secondary educational institutions and federally recognized Indian tribal governments, are not covered by Executive Order 12372. Also excluded from coverage are research, development, or demonstration projects that do not have a unique geographic focus and are not directly relevant to the governmental responsibilities of a State or local government within that geographic area.

The following is the current list of States that have established a process, designated a single point of contact, and have selected this program for review:

Arizona	Michigan	South Carolina
Arkansas	Mississippi	South Dakota
California	Minnesota	Tennessee
Colorado	Missouri	Texas
Connecticut	Montana	Utah
Delaware	Nebraska	Vermont
Florida	Nevada	Virginia
Georgia	New Hampshire	Washington
Hawaii	New Jersey	West Virginia
Illinois	New Mexico	Wisconsin
Indiana	New York	Wyoming
Iowa	North Carolina	District of Columbia
Kansas	Ohio	Puerto Rico
Kentucky	Oklahoma	Virgin Islands
Louisiana	Oregon	
Maryland	Pennsylvania	
Massachusetts	Rhode Island	

Immediately upon receipt of this notice, applicants that are governmental entities, including local educational agencies, must contact the appropriate State single point of contact to find out about, and to comply with, the State's process under the Executive Order. Applicants proposing to perform activities in more than one State should contact, immediately upon receipt of this notice, the single point of contact for each State and follow the procedures established in those States under the Executive Order. However, for this program, if the specific States in which the applicant may work have not been determined, this requirement need not be accomplished now. A list containing the single point of contact for each State is included in the application package for this program.

In States not listed above, State, areawide, regional, and local entities may submit comments directly to the Department.

Any State process recommendation and other comments submitted by a State single point of contact and any comments from State, areawide, regional, and local entities must be mailed or hand delivered by May 29, 1984, to the following address:

The Secretary, U.S. Department of Education, Room 4181, 84.073A, 400 Maryland Avenue, SW., Washington, D.C. 20202. Telephone Number (202) 245–7913. (Proof of mailing will be determined on the same basis as for applications.)

PLEASE NOTE THAT THE ABOVE ADDRESS IS NOT THE SAME ADDRESS AS THE ONE TO WHICH THE APPLICANT SUBMITS ITS COMPLETED APPLICATION. *DO NOT SEND APPLICATIONS TO THE ABOVE ADDRESS.*

Available Funds: The estimated amount available for new awards included in this announcement will be $1,390,000. It is estimated that twenty-eight (28) new projects will be funded. This estimate does not bind the Department of Education to a specific number of grants or to the amount of any grant, unless that amount is otherwise specified by statute or regulations.

Application Forms: Application forms will be available on February 10, 1984 and may be obatined by writing to the National Diffusion Network, U.S. Department of Education, 400 Maryland Avenue, SW., Room 613 Brown Building, Washington, D.C. 20202. An application must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package. However, the program information package is only intended to aid applicants in applying for assistance under this program. Nothing in the program information package is intended to impose any paperwork, application content, reporting, or grantee performance requirements beyond those specifically imposed under the statute and regulations governing this program. The Secretary urges that the narrative portion of an application be as brief as possible. The Secretary urges applicants not to submit information that is not requested. (Approved OMB #1850–0086, expiration date 10/86)

Applicable Regulations: Regulations applicable to this program include the following:

(a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR Parts 74, 75, 77, 78 and 79.

(b) Regulations governing the National Diffusion Network Program, as proposed for codification in 34 CFR Part 796, published in the **Federal Register** at 48 FR 57090 on December 27, 1983, when published as final regulations, will govern awards for fiscal year 1984.

Applications are being accepted based on the proposed rules. If any substantive changes are made in the final regulations, applicants will be given the opportunity to revise their applications.

Further information: For further information, contact Ms. Lois N. Weinberg, Education Program Specialist, National Diffusion Network, U.S. Department of Education, 400 Maryland Avenue, SW., Room 613 Brown Building, Washington, D.C. 20202. Telephone: (202) 653–7006.

(Catalog of Federal Domestic Assistance Number 84.073, National Diffusion Network Program)

Dated: February 1, 1984.

T. H. Bell,

Secretary of Education.

[FR Doc 84–3417 Filed 2–7–84; 8:45 am]

BILLING CODE 4000–01–M

National Advisory Council on Adult Education; Meeting

AGENCY: National Advisory Council on Adult Education.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the National Advisory Council on Adult Education. This notice also describes the functions of the Council. Notice of this meeting is required under section 10(a)(2) of the Federal Advisory Committee Act.

DATE: February 27, 1984, 8:30 a.m. to 1:00 p.m., adult basic education volunteer program visitation to Operation Mainstream, YMCA, Lee Circle; 1:00 p.m. to 5:00 p.m., committee meetings. February 28–29, 1984 9:00 a.m. to 5:00 p.m., full Council meeting.

ADDRESS: Monteleone Hotel, 214 Rue Royale, New Orleans, La.

FOR FURTHER INFORMATION CONTACT: Helen Banks, Administrative Assistant, National Advisory Council on Adult Education, 425 13th St., NW., Washington, D.C. 20004 (202/376–8892).

SUPPLEMENTARY INFORMATION: The National Advisory Council on Adult Education is established under section 313 of the Adult Education Act (20 U.S.C. 1201). The Council is established to:

Advise the Secretary in the preparation of general regulations and with respect to policy matters arising in the administration of this title, including policies and procedures governing the approval of State plans under section 306 and policies to eliminate duplication, and to effectuate the coordination of programs under this title and other programs offering adult education activities and services.

The Council shall review the administration and effectiveness of programs under this title, make recommendations with respect thereto, and make annual reports to the President of its findings and recommendations (including recommendations for changes in this title and other Federal laws relating to adult education activities and services). The President shall transmit each such report to the Congress together with his comments and recommendations.

The meeting of the Council is open to the public. The proposed agenda includes;

- Review and analysis of testimony received by the Council on the Adult Education Act.
- Review and analysis of the Council's Literacy Report.
- Final Review of the Council's 1983 Annual Report.

Records are kept of all Council proceedings, and are available for public inspection at the office of the National Advisory Council on Adult Education, 425 13th St., NW., Suite 323, Washington, D.C. 20004, from the hours of 8:00 a.m. to 4:30 p.m.

Signed at Washington, D.C. on February 2, 1984.

Rick Ventura,

Executive Director, National Avisory Council on Adult Education.

[FR Doc. 84–3399 Filed 2–7–84; 8:45 am]

BILLING CODE 4000–01–M

National Advisory Council on Indian Education; Meeting

AGENCY: National Advisory Council on Indian Education.

ACTION: Notice of Meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the Annual Report Committee. Notice of this meeting is required under section 10(a)(2) of the Federal Advisory Committee Act.

DATES: February 22, 1984, 9 a.m. until conclusion of business.

ADDRESS: National Advisory Council on Indian Education, 425 13th Street, NW., Suite 326, Washington, D.C. 20004, 202/376–8882.

FOR FURTHER INFORMATION CONTACT: Lincoln C. White, Executive Director, National Advisory Council on Indian Education, Pennsylvania Building, Suite 326, 425 13th Street, NW., Washington, D.C. 20004 (202)/376–8882)

SUPPLEMENTARY INFORMATION: The National Advisory Council on Indian Education is established under section 442 of the Indian Education Act (20 U.S.C. 1221g). The Council is established to assist the Secretary in carrying out

responsibilities under section 441(a) of the Indian Education Act (Title IV of Pub. L. 92–318), through advising Congress, the Secretary of Education, the Under Secretary of Education and the Assistant Secretary of Elementary and Secondary Education with regard to programs benefiting Indian children and adults.

The meeting will be open to the public. This meeting will be held at the Council Office.

The proposed agenda includes:

(1) Development of the 10th Annual Report.

Records shall be kept of all Council proceedings and shall be available for public inspection at the office of the National Advisory Council on Indian Education located at 425 13th Street, NW., Suite 326, Wshington, D.C. 20004.

Date: February 3, 1984. Signed at Washington, D.C.

Lincoln C. White,

Director, National Advisory Council on Indian Education.

[FR Doc. 84-3398 Filed 2-7-84; 8:45 am]

BILLING CODE 4000-01-M

National Advisory Council on Indian Education; Meeting

AGENCY: National Advisory Council on Indian Education.

ACTION: Notice of Partially Closed Meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the National Advisory Council on Indian Education. Notice of this meeting is required under section 10(a)(2) of the Federal Advisory Committee Act.

DATES: February 29, 1984, 8:30 a.m. until conclusion of business (8:30 a.m. to 9:30 a.m. Closed); March 1, 1984, 9:00 a.m. until conclusion of business.

ADDRESS: Sheraton Hotel and Tower, 225 S. West Temple Street, Salt Lake City, Utah 84110 (801/328–2000).

FOR FURTHER INFORMATION CONTACT: Lincoln C. White, Executive Director, National Advisory Council on Indian Education, Pennsylvania Building, Suite 326, 425 13th Street, NW., Washington, D.C. 20004 (202)/376–8882)

SUPPLEMENTARY INFORMATION: The National Advisory Council on Indian Education is established under section 442 of the Indian Education Act (20 U.S.C. 1221g). The Council is established to assist the Secretary in carrying out responsibilities under section 441(a) of the Indian Education Act (Title IV of Pub. L. 292–318), through advising Congress, the Secretary of Education, the Under Secretary of Education and the Assistant Secretary of Elementary and Secondary Education with regard to programs benefiting Indian children and adults.

On February 29, 1984, from 8:30 a.m. to 9:30 a.m., the Search Committtee will present to the full Council its report reagarding the "Search" for the Director, Indian Education programs. The meeting will be closed, for that time period, as the report will touch upon matters that would disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy if conductd in open session. Such matters are protected by exemption (6) of section 552b(c) of Title 5 U.S.C., and as provided for in section 10(d) of the Federal Advisory Committee Act.

The remainder of the meeting will be open to the public. The proposed agenda includes:

(1) Report from the Search Committee (closed)
(2) Chairman's Report
(3) Executive Director's Report
(4) Review of NACIE FY'84 Budget
(5) Action on Previous Minutes
(6) Election of Officers
(7) Committee Discussions and Reports
(8) Status of Title IV Reauthorization
(9) Public Testimony.

Records shall be kept of all Council proceedings including a summary of the activities of the closed portion of the meeting which would be informative to the public consistent with the policy of section 552b(c) of title and will be available to the public at the Council's Office, 425 13th Street, NW., Suite 326, Washington, D.C. 20004.

Date: February 1, 1984. Signed at Washington, D.C.

Lincoln C. White,

Executive Director, National Advisory Council on Indian Education.

[FR Doc. 84-3400 Filed 2-7-84; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Office of the Secretary

International Atomic Energy Agreements; Proposed Subsequent Arrangement; Japan

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of proposed "subsequent arrangements" under the Agreement for Cooperation Between the Government of the United States of America and the Government of Japan Concerning Civil Uses of Atomic Energy, as amended, and the Additional Agreement for Cooperation Between the Government of the United States of America and the European Atomic Energy Community (EURATOM) Concerning Peaceful Uses of Atomic Energy, as amended.

These subsequent arrangements would give approval, which must be obtained under the above mentioned agreements, for the transfer of special nuclear material of United States origin from Japan to France and to the United Kingdom for the purpose of reprocessing.

The proposed transfers are as follows:

(1) 528 irradiated fuel assemblies containing 237,200 kilograms of uranium, enriched to 1.17 percent in U-235, and 2,196 kilograms of plutonium from the Mihama Units 1, 2, and 3, the Takahama Units 1 and 2, and the Ohi Units 1 and 2 to France;

(2) 112 irradiated fuel assemblies containing 43,200 kilograms of uranium, enriched to 0.98 percent in U-235, and 379 kilograms of plutonium from the Mihama Units 1, 2, and 3, the Takahama Units 1 and 2, and the Ohi Units 1 and 2 to the United Kingdom;

(3) 24 irradiated fuel assemblies containing 9,400 kilograms of uranium, enriched to 1.38 percent in U-235, and 80 kilograms of plutonium from the Ikata Unit No. 1 to France;

(4) 63 irradiated fuel assemblies containing 24,486 kilograms of uranium, enriched to 1.16 percent in U-235, and 230 kilograms of plutonium from the Genkai Units 1 and 2 to the United Kingdom; and

(5) 119 irradiated fuel bundles containing 23,000 kilograms of uranium, enriched to 1.39 percent in U-235, and 180 kilograms of plutonium from the Tokai Unit No. 2 to France.

The foregoing proposed transfers are designated as RTD/EU (JA)—60, 61, 62, 63, and 64, respectively.

The Department of Energy has received a letter of assurance from the Government of Japan that the recovered uranium and plutonium will not be transferred from the reprocessing sites, not put to any use, without the prior approval of the United States Government.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that the approval of these subsequent arrangements will not be inimical to the common defense and security.

These subsequent arrangements will take effect no sooner than fifteen days after the date of publication of this notice, and after fifteen days of continuous session of the Congress, beginning the day after the date on

which the reports required by section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) are submitted to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate. The two time periods referred to above shall run concurrently.

For the Department of Energy.

Dated: February 2, 1984.

George J. Bradley, Jr.,

Principal Deputy Assistant Secretary for International Affairs.

[FR Doc. 84-3356 Filed 2-7-84; 8:45 am]

BILLING CODE 6450-01-M

International Atomic Energy Agreements; Proposed Subsequent Arrangement; Switzerland

Pursuant to Section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" under the Agreement for Cooperation Between the Government of the United States of America and the Government of Switzerland Concerning Civil Uses of Atomic Energy, as amended, and the Additional Agreement for Cooperation Between the Government of the United States of America and the European Atomic Energy Community (EURATOM) Concerning Peaceful Uses of Atomic Energy, as amended.

This subsequent arrangement would give approval, which must be obtained under the above mentioned agreements, for the transfer of special nuclear material of United States origin from Switzerland to the United Kingdom for the purpose of reprocessing. The material consists of 49 irradiated fuel elements containing 15,137 kilograms of uranium enriched to 0.99 percent in U-235, and 139 kilograms of plutonium, from the Beznau nuclear power stations. This subsequent arrangement is designated as RTD/EU (SD)-48.

The Department of Energy has received a letter of assurance from the Government of Switzerland that the recovered uranium and plutonium will not be transferred from the reprocessing site, nor put to any use, without the prior approval of the United States Government.

In accordance with Section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that the approval of this subsequent arrangement will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice, and after fifteen days of continuous session of the Congress, beginning the day after the date on which the reports required by Section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) are submitted to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate. The two time periods referred to above shall run concurrently.

For the Department of Energy.

Dated: February 2, 1984.

George J. Bradley, Jr.,

Principal Deputy Assistant Secretary for International Affairs.

[FR Doc. 84-3357 Filed 2-7-84; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket No. ER82-481-006]

Arizona Public Service Co.; Refund Report

February 3, 1984.

Take notice that on November 17, 1983, Arizona Public Service Company (Arizona) submitted for filing its refund report, pursuant to a Commission Letter Order of October 4, 1983.

Arizona states that the required refund was forwarded to Colorado River Indiana Irrigation Project (CRIIP).

On December 5, 1983, Arizona submitted for filing a revised refund report. Arizona states and an inadvertent error was in the original refund computations, which omitted appropriate sales tax amounts and applicable interest for the billing months of January 1983 through September 1983.

Arizona further states that a check in the amount of $2,067.60 was forwarded to CRIIP on December 1, 1983. This amount represents Arizona's additional refund obligation for the sales tax, as well as interest on the difference calculated to the day of the supplement refund (December 1, 1983).

Any person desiring to be heard or to protest this filing should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, on or before February 13 1984. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-3433 Filed 2-7-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA84-1-21-001 (PGA84-1, IPR84-1, AP84-1)]

Columbia Gas Transmission Corp.; Proposed Changes in FERC Gas Tariff

February 3, 1984.

Take notice that Columbia Gas Transmission Corporation (Columbia) on January 30, 1984, tendered for filing the following proposed changes to its FERC Gas Tariff, Original Volume No. 1, to be effective on March 1, 1984:

Ninety-second Revised Sheet No. 16
Third Revised Sheet Nos. 16B through 16D
Thirty-first Revised Sheet No. 64
Tenth Revised Sheet Nos. 64E through 64I

Columbia states that the rates set forth in Ninety-second Revised Sheet No. 16 reflect a $1.12 demand decrease and a 11.64¢/dth commodity increase, which results in an approximate increase of $343,500 applicable to sales rate schedules for the subject PGA period. This reduction is composed of the net of (1) a downward adjustment to Columbia's base sales rates, (2) a Purchased Gas Adjustment which reflects a decrease in the current cost of gas, (3) a net increase in the PGA surcharge, (4) a decrease in the Advance Payment Adjustment, (5) twelve-month surcharge associated with retroactive payments to Columbia's pipeline and producer suppliers, and (6) a six-month surcharge relating to take-or-pay reimbursement to Panhandle Eastern Pipe Line Company.

In addition, the Purchased Gas Surcharge amounts set forth on Third Revised Sheet Nos. 16B through 16D provides for the recovery of $704,272 in gas purchase costs over the six-month period ending August 31, 1984, such costs to be recovered from customers receiving service under Columbia's Rate Schedule SGES.

Further, Columbia's filing also contains material related to the affiliated entities test contained in section 601(b)(1)(E) of the NGPA. Copies of the filing were served upon the Company's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, Union Center Plaza Building, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before Februrary 13, 1984. Protests will be considered by the Commission in determining the

appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of Columbia's filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-3435 Filed 2-7-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP79-28-003]

Columbia Gulf Transmission Co.; Proposed Changes in FERC Gas Tariff

February 3, 1984.

Take notice that Columbia Gulf Transmission Company (Columbia Gulf), on January 30, 1984, tendered for filing proposed changes to its FERC Gas Tariff as follows:

Original Volume No. 1

First Revised Sheet No. 58
First Revised Sheet No. 117
First Revised Sheet No. 118

Original Volume No. 2

Tenth Revised Sheet No. 72
Tenth Revised Sheet No. 73
Seventh Revised Sheet No. 92
Seventh Revised Sheet No. 93
Seventh Revised Sheet No. 126
Eighth Revised Sheet No. 145
Eighth Revised Sheet No. 146
Seventh Revised Sheet No. 263
Sixth Revised Sheet No. 320
Sixth Revised Sheet No. 337
Sixth Revised Sheet No. 386
Sixth Revised Sheet No. 387
Sixth Revised Sheet No. 440
Sixth Revised Sheet No. 484
Sixth Revised Sheet No. 493
Sixth Revised Sheet No. 567
Sixth Revised Sheet No. 596
Fifth Revised Sheet No. 628
Fifth Revised Sheet No. 750
Fourth Revised Sheet No. 1097
Third Revised Sheet No. 1194
Third Revised Sheet No. 1195
Second Revised Sheet No. 1268
Second Revised Sheet No. 1302
Second Revised Sheet No. 1303
Second Revised Sheet No. 1338
Second Revised Sheet No. 1339
Second Revised Sheet No. 1370
Second Revised Sheet No. 1371
Second Revised Sheet No. 1438
First Revised Sheet No. 1462
First Revised Sheet No. 1521
First Revised Sheet No. 1555
First Revised Sheet No. 1587
First Revised Sheet No. 1588

The revised tariff sheets proposed to become effective March 1, 1984, reflect a reduction in Columbia Gulf's annual jurisdictional revenues of $586,449 in compliance with the Commission's Order of October 4, 1983, at Docket No. RP79-28-000 approving the uncontested Stipulation and Agreement of Offshore Construction of Natural Gas Pipelines. The annual reduction to Columbia Gulf's revenues consist of $467,717 applicable to Columbia Gas Transmission Corporation (Columbia Gas) and $118,732 to other jurisdictional customers. Columbia Gas will file the annual reduction ($467,717) to its base rates in their PGA filing on January 30, 1984, with the rates to be effective March 1, 1984.

Copies of this filing are being mailed to each of Columbia Gulf's jurisdictional customers, as well as to each of Columbia Gas' jurisdictional customers and interested State commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, Union Center Plaza Building, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 385.211 and 385.214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before February 13, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of Columbia Gulf's filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-3434 Filed 2-7-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA84-1-22-003]

Consolidated Gas Transmission Corp.; Proposed Changes in FERC Gas Tariff

February 3, 1984.

Take notice that Consolidated Gas Supply Corporation (Consolidated) on January 30, 1984, filed revised tariff sheets pursuant to Sections 12 (PGA Clause), 12A (Incremental pricing Surcharges), and 13 (Research, Development and Demonstration Cost Adjustment) of the General Terms and Conditions of its tariff. The revisions, shown on Thirty-Eighth Revised Sheet No. 16 and Tenth Revised Sheet No. 72-C provide for Consolidated's semiannual PGA to be effective March 1, 1984.[1]

Consolidated has included in its filing:

(a) Rate increases from pipeline suppliers in the amount of $27.9 million; and

(b) Rate decreases from producer suppliers in the amount of $12.4 million;

(c) A surcharge of 16.30 cents per dekatherm to recoup amounts accumulated in account 191, Unrecovered Purchased Gas Costs.

Consolidated states that it is continuing to collect the *Mid-Louisiana*[2] special surcharge which was placed into effect September 1, 1983, and that it has reflected purchases from producers at quantities and prices computed on a "saturated" basis.

Copies of the filing were served upon Consolidated's jurisdictional customers as well as interested state commissions.

Any person desiring to be hear or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214 and 385.211). All such petitions or protests should be filed on or before February 13, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-3436 Filed 2-7-84; 8:45 am]

BILLING CODE 6717-01-M

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[1] By order issued December 20, 1983, in Docket No. CP80-346-000, the Commission authorized a corporate reorganization by which Consolidated Gas Transmission Corporation succeeds to substantially all of the business and properties of Consolidated Gas Supply Corporation, effective as of January 1, 1984.

Consolidated states that the reorganization is scheduled to be consummated in mid-February, after which Consolidated Gas Transmission Corporation will adopt the tariff of Consolidated Gas Supply Corporation. Although the instant filing is being made by Consolidated Gas Supply Corporation, it is anticipated that it will become effective on March 1, 1984, as part of the tariff (by adoption) of Consolidated Gas Transmission Corporation. Accordingly, the filing reflects Hope Gas, Inc., as a jurisdictional customer of Consolidated, and contains supporting materials bearing the name of Consolidated Gas Transmission Corporation.

[2] *Public Service Commission of the State of New York vs. Mid-Louisiana Gas Company, et al.* 103 S. Ct. 3024 (June 28, 1983) affirming *Mid-Louisiana Gas Company v. FERC*, 664 F 2d. 530 (1981).

[Docket No. ER84-225-000]

El Paso Electric Co.; Filing

February 3, 1984.

The filing Company submits the following:

Take notice that on January 25, 1984, El Paso Electric Company (El Paso) tendered for filing as an initial rate filing, an "Interchange Agreement between El Paso and M-S-R Public Power Company," dated December 30, 1983 (Agreement). El Paso states that this Agreement provides a basis for exchange of energy between parties on a returnable basis and on an economy basis. The Agreement also provides for emergency assistance. El Paso has requested that this Agreement be accepted for filing and made effective on April 1, 1984.

El Paso further states that copies of this filing have been served upon the Public Utility Commission of Texas, the Mexico Public Service Commission, and M-S-R Public Power Agency.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before February 20, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-3437 Filed 2-7-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. ER80-315-000 and ER80-450-001]

Kansas City Power & Light Co.; Compliance Filing

February 3, 1984.

Take notice that by letter dated January 19, 1984, Kansas City Power & Light Company (KCPL) submitted for filing its compliance report in compliance with the Commission's Order of March 3, 1983, and in compliance with a letter from the Commission Staff dated December 23, 1983. The report shows that no refunds are owing to any of the customers by virtue of the Commission's Order of March 3, 1983, as well as the terms of the approved Settlement between KCPL and the customers in Docket No. EL81-11-000 which was previously consolidated with the referenced dockets. KCPL also states that it is seeking Commission or Staff advice as to the proper procedures for recovering from the customers amounts over-refunded to them by KCPL in the referenced dockets and in Docket No. EL81-11-000.

Copies of this filing are being sent to all parties of record.

Any person desiring to be heard or to protest this filing should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before February 13, 1984. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-3438 Filed 2-7-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA84-1-60-000]

Locust Ridge Gas Co.; Change In Rates

February 3, 1984.

Take notice that on January 31, 1984, Locust Ridge Gas Company (Locust Ridge) submitted for filing as part of its FERC Gas Tariff, Original Volume No. 3 and Original Volume No. 1 and the following tariff sheets to be effective March 1, 1984:

Sixteenth Revised Sheet No. 1A
Ninth Revised Sheet No. 1A

Locust Ridge states the purpose of the filing is to submit, for approval by the Commission, a revision in Locust Ridge's rate to reflect proposed changes in the Purchase Gas Adjustment (PGA) component of Locust Ridge's rate for the period of March 1, 1984, through September 30, 1984. The overall effect of the filed for adjustments to Locust Ridge's sales rate is a decrease of $0.4924 per MMBTU.

Locust Ridge requests waiver of the Commission's regulations to the extent, if any, required to put the proposed tariff sheets into effect on March 1, 1984.

A copy of this filing has been mailed to Locust Ridge's jurisdictional customers.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.211 and 385.214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before February 14, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of the application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-3439 Filed 2-7-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA84-1-25-002]

Mississippi River Transmission Corp., Rate Change in Filing

February 3, 1984.

Take notice that on January 30, 1984, Mississippi River Transmission Corporation ("Mississippi") tendered for filing Second Revised sheet No. 4 and First Revised Sheet No. 4A to its FERC Gas Tariff, Second Revised Volume No. 1. An effective date of March 1, 1984, is proposed.

Second Revised Sheet No. 4 is being submitted pursuant to Mississippi's gas tariff to track pipeline and producer rate changes and to recover gas costs which have accumulated in Mississippi's Unrecovered Purchased Gas Cost Account. First Revised Sheet No. 4A indicates that Mississippi projects zero incremental pricing surcharges to its direct market and sale for resale customers.

Mississippi states that the overall effect of the purchased gas cost adjustments contained on Second Revised Sheet No. 4 is to increase Mississippi's Rate Schedule CD-1 and CD-2 demand rates by $1.142 per Mcf and decrease its Rate Schedule CD-1 and CD-2 commodity rates by $.4312 per Mcf. Appropriate adjustments were also made to Mississippi's Rate Schedule SGS-1 and Rate Schedule PI-1 single part rates. Mississippi states that the annualized cost impact of the pipeline and producer cost changes is an approximate increase of $.8 million. The increase in purchased gas costs is coupled with a decrease in the Surcharge Adjustments from those previously in effect. The cost impact of the reduced Surcharge Adjustments over the next six month period is an approximate $15.6 million decrease. It is

claimed that the net effect of the gas cost increases and the Surcharge Adjustment reduction over the next six month period is a cost reduction of $13.6 million.

Mississippi states that copies of its filing have been served on all jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said application should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 385.211 and 385.214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before February 13, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-3440 Filed 2-7-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-485-000]

Texas Gas Transmission Corp.; Amended Application

February 2, 1984.

Take notice that on January 27, 1984, Texas Gas Transmission Corporation (Texas Gas) filed an amended application in the above-docketed proceeding concerning its application to transport natural gas to the City of Memphis Light, Gas, and Water Division (MLGW) for delivery to the W. R. Grace (Grace) fertilizer plant located north of the city. This filing is more commonly known as the "AMFEED" application.

Texas Gas proposes in its amendment that the Commission authorize its new "Transportation Program" which would implement, with some modification, the AMFEED program on a system-wide basis to retain load in the Texas Gas system.

Texas Gas would file and place into effect new transportation rates designated the TSC rates. It is equal to the fixed costs component of its presently effective commodity rate per zone. The TSC rate applicable to the zone in which MLGW and Grace are located is the same transportation rate proposed in the original AMFEED application.

Texas Gas further states that the TSC rates will be available only to those Texas Gas customers subject to its SG, G, CD, or CDL rate schedules and to the extent and only to the extent that Texas Gas performs transportation services for its customers for the ultimate benefit of industrial or large commercial end-users who at the time they begin participating in the Transportation Program, have requirements of at least 3,000 Mcf of gas each month from the customer, and who either (a) have closed wholly or partially, or will close wholly or partially, their existing facilities due to the economics of gas supplies; (b) have switched or will switch from natural gas to alternate fuels to satisfy the requirements of their facility; or; (c) have commenced purchasing, or intend to commence purchasing their gas requirements directly or indirectly from a supplier serving the customer with supplies other than supplies provided by Texas Gas to such customers. It may also be necessary to place a volumetric limitation on the amount of gas transported under the proposed program.

Texas Gas notes that it will retain the revenues realized in connection with the transportation services to be performed under the Transportation Program. Such rate treatment is appropriate under the Transportation Program, since any transportation revenues received will be off-set to revenues from sales that would otherwise have been made.

The implementation of the Transportation Program does not contemplate the release of any volumes of gas partially committed or dedicated to Texas Gas for use in its general system supply. However, Texas Gas seeks only abandonment authority on behalf of its producer-suppliers with respect to certain volumes presently dedicated to Texas Gas which are classified under section 102(d) of the NGPA and, volumes of gas dedicated to Texas Gas which are classified under sections 102(c), 103(c), and 107 of the NGPA which at the time such volumes are released, are priced at or above Texas Gas' then weighted average cost of gas (WACOG). Texas gas requests that the Transportation Program be authorized for a limited term of one year from the date of the order authorizing the implementation of this program.

Any person desiring to be heard or to make any protests with reference to said amended application should on or before February 23, 1984, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR § 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR § 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to the proceeding or to participate as a party in any hearing therein must a file a motion to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-3442 Filed 2-7-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP84-45-000

Texas Gas Pipe Line Corp.; Proposed Changes in FERC Gas Tariff

February 3, 1984.

Take notice that Texas Pipe Line Corporation (TGPLC), on January 31, 1984 tendered for filing proposed changes in its FERC Gas Tariff Second Revised Volume No. 1. The proposed changes would increase revenues, exclusive of purchased gas cost adjustments, from jurisdictional sales and service by $42,568 based on the 12-month period ending October 31, 1983, as adjusted. TGPLC states that the principal reason for the proposed rate increases are attributable to increased gas costs. Filing for new rates is made pursuant to regulation 154.38 requiring a rate base tariff filing every 36 months maximum.

Copies of the filing were served upon the company's jurisdictional customers.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 385.211 and 385.214 of the Commission's Rules of Practice and Procedure. (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before February 14, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are now on file with the

Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-3441 Filed 2-7-84; 8:45 am]

BILLING CODE 6717-01-M

Western Area Power Administration

Central Valley Project Proposed Transmission Rate Adjustment

AGENCY: Western Area Power Administration, DOE.

ACTION: Notice of a Proposed Adjustment in the Rate Schedule for Third Party Transmission—Central Valley Project, California.

SUMMARY: The Western Area Power Administration (Western) is proposing a minor rate adjustment to update and supersede the transmission charges contained in the Central Valley Project (CVP) customers' power sales contracts. Charges and losses assessed for delivery of power by the Pacific Gas and Electric Company (PGandE) at 44–kV or above, within the wheeling area boundary designated by Contract 14–06–200–2948A (Contract 2948A) between PGandE and Western, are included in the CVP wholesale firm power rate. PGandE assesses a higher rate and additional losses for below 44–kV deliveries and also assesses different charges and losses for deliveries that are outside the Contract 2948A wheeling area boundary. Western proposes to bill those CVP customers whose power is wheeled by PGandE and delivered at below 44–kV, or delivered outside of the wheeling area boundary, for all costs greater than the charges and losses associated with the 44–kV or above deliveries within the wheeling area boundary.

DATE: All comments are due within 30 days after the publication of this notice in the **Federal Register**. Since this is a minor rate adjustment as defined by the "Procedures for Public Participation in Power and Transmission Rate Adjustments and Extensions for the Alaska, Southeastern, Southwestern, and Western Area Power Administrations," 10 CFR 903, there will be no formal public information/comment forums.

ADDRESS: For further information contact: Mr. David G. Coleman, Area Manager, Sacramento Area Office, Western Area Power Administration, 2800 Cottage Way, Sacramento, CA 95825, (916) 484–4251.

SUPPLEMENTARY INFORMATION: Contract 2948A provides that PGandE will wheel CVP power over PGandE's transmission system from Tracy Substation, which is designated as load center to the customers' delivery points. The contract stipulates that higher rates and additional losses will be charged for below 44–kV transmission service, than for service at or above 44–kV. At the time Contract 2948A was executed, the Bureau of Reclamation (and later Western) policy regarding repayment of transmission costs was to include in the wholesale firm power rates the 1 mill per kWh wheeling cost and 5 percent losses associated with at or above 44–kV service. The policy for repayment of below 44–kV service was to bill below 44–kV customers all additional costs and losses associated with below 44–kV service. The transmission charges incorporated in the CVP contracts reflect this policy.

In setting the wholesale firm power rates since 1979, Western has included in those rates the costs charged by PGandE for providing at or above 44–kV transmission service. The proposed transmission rate schedule will establish Western's practice with regard to passing on the transmission costs related to the below 44–kV service to the below 44–kV customers.

In 1967, the transmission rates charged by PGandE for wheeling to customers within the Contract 2948A wheeling area boundary were set at 1 mill per kWh for deliveries at 44–kV or above and 1 mill per kWh plus $.22 per kW-month for below 44–kV deliveries. Under article 32 of Contract 2948A, the rates could be adjusted at 5-year intervals starting on April 1, 1971. Losses of 5 percent for 44-kV or above deliveries and 9 percent for below 44-kV deliveries were set in 1967 and were changed in 1971 to 4.5 percent and 8 percent, respectively. In 1976, PGandE proposed to change the wheeling charges to 1.7 mills per kWh for 44–kV or above deliveries and 3.9 mills per kWh for below 44–kV deliveries. No changes in losses were proposed. These proposed charges were opposed by the Bureau of Reclamation (and later Western) and the CVP customers. Since a settlement of these rates was not approved, the matter was set for hearing (docket No. ER76–532) before the Federal Power Commission, now the Federal Energy Regulatory Commission (FERC). The Federal Power Commission allowed the rates to go into effect on April 1, 1976, subject to refund.

By Opinion No. 143 issued August 16, 1982 (20 FERC ¶ 61,190), as modified by Opinion No. 143–A issued November 22, 1982 (21 FERC ¶ 61,115), the FERC ordered the 1976 to 1981 transmission rates for wheeling CVP power over the PGandE transmission system to be 1.7 mills per kWh for 44–kV or above deliveries and 1.7 mills per kWh plus $.75 per kW-month for below 44–kV deliveries. The costs of the 44–kV or above deliveries and associated losses are included in the current CVP power rates. The $.75 per kW-month charge was billed to the below 44–kV customers effective January 1, 1983. This charge had previously been $.22 per kW-month. Those costs not recovered from the below 44–kV customers are incorporated in the current CVP power rates.

On August 17, 1982, as completed October 15, 1982, PGandE filed with the FERC (docket No. ER82–729–000) new transmission rates for the December 1982 to April 1986 period. PGandE proposed to increase revenues for transmission service for customers receiving CVP power in two steps (Phase I and Phase II). The Phase I rates would increase revenues by about $5.5 million, and the Phase II by an additional $2 million. Western filed a motion to intervene, as did the Northern California Power Agency and its members, the Sacramento Municipal Utility District, certain irrigation districts which are CVP commercial power customers, and the Department of Energy (DOE) laboratories in the CVP service area. In its Order of December 14, 1982 (21 FERC ¶ 61,296), the FERC allowed the Phase I rates to become effective on December 16, 1982, subject to refund. These rates were $1.354 per kW-month for 44–kV or above and $2.470 per kW-month for below 44–kV service. The Phase II rates were $1.551 per kW-month for 44–kV or above and $2.841 per kW-month for below 44–kV service. FERC allowed the Phase II rates to go into effect on May 16, 1983, subject to refund. Because Western intervened to protest these rate increases, the $.75 per kW-month charge billed to the below 44–kV customers was not increased by Western to reflect these new rates.

A Settlement Agreement resolving FERC docket No. ER82–729–000 was signed August 5, 1983, between PGandE and Western, settling the dispute over these Phase I and II rates. FERC approved this settlement on December 21, 1983. The settlement states that the Phase I rates would be effective from December 16, 1982, to July 31, 1983, and that effective August 1, 1983, the new transmission rates would be $1.275 per kW-month for 44–kV or above deliveries and $2.335 per kW-month for below 44–kV deliveries. The settlement rates are lower than the Phase I rates; however, the Phase I rate differential of $1.102 per kW-month for below 44–kV service was

never billed from Western to the CVP customers, and Western will not bill retroactively for the Phase I rate. Effective the first full billing month (January 1984) after the FERC approval of the settlement, Western will bill the below 44–kV customers $1.06 per kW-month for the additional cost incurred from PGandE to deliver to the below 44–kV customers. (The $1.06 is the difference between the at or above 44–kV charge of $1.275 per kW-month and the below 44–kV charge of $2.335 per kW-month.)

Also effective January 1, 1984, the 5-percent charge for transmission system losses previously included in the wholesale firm power rate will be reduced to 4.5 percent to reflect the current amounts assessed by PGandE in the delivery of all capacity and energy at 44–kV or above within the wheeling area boundary. Those losses above 4.5 percent incurred for the below 44–kV deliveries will be billed on the monthly charge to the below 44–kV customers. The loss factor for the below 44–kV deliveries will be changed from the existing 3 percent that is added to the bill to 3.5 percent. This will then reflect the current loss assessment of 4.5 and 8 percent incurred by the CVP from PGandE for wheeling power over its system with the wheeling area boundary.

In January 1980, Western increased the customer load level by 102 MW and certain entities outside the Contract 2948A wheeling area became eligible to receive CVP power. Like the entities within the Contract 2948A wheeling area boundary, PGandE bills Western for wheeling CVP power over its transmission system from the load center at Tracy to the delivery point. The wheeling rates and amounts of losses charged by PGandE depend upon whether the service received is 44–kV or above or below 44–kV. Since the delivery outside the Contract 2948A wheeling area boundary is provided under separate contracts, the wheeling rates and loss amounts are not likely to be the same as for those entities within the boundary and may vary from one entity to another outside the boundary. Effective the first full billing month (January 1984) after the FERC approval of the settlement, Western will pass through all costs greater than the $1.275 per kW-month and 4.5-percent losses to the outside the boundary customers. The out-of-boundary transmission costs that were incurred prior to the approval of this procedure will not be retroactively billed to the out-of-boundary customers. Those costs, along with the below 44–kV charges not retroactively billed to the within-the-boundary customers, will be recovered in the wholesale firm power rate.

The charges and losses contained in the preceding paragraphs for absorbing the $1.275 per–kW-month and 4.5 percent losses in the wholesale firm power rate and passing through to the below 44–kV customers, or outside the Contract 2948A wheeling area customers, the additional costs and losses associated with those deliveries may change periodically. However, before the charges or losses are changed in the customer bill, the FERC, the CVP, and the CVP customers will have an opportunity to review these changes as transmission rates and losses must be filed by PGandE with the FERC before they become effective.

Regulatory Flexibility Analysis

Pursuant to the Regulatory Flexibility Act of 1980 (5 U.S.C. 601, *et seq.*), each agency, when required by 5 U.S.C. 553 to publish a proposed rule, is further required to prepare and make available for public comment an initial regulatory flexibility analysis to describe the impact of the proposed rule on small entities. In this instance, the rate adjustment for the CVP relates to nonregulatory services provided by Western at a particular rate. Under 5 U.S.C. 601(2), rates or services of particular applicability are not considered "rules" within the meaning of the Act. Since the rate is of limited applicability and is being set in accordance with Contract 2948A and FERC Order, Western believes that no flexibility analysis is required.

Executive Order 12291

The DOE has determined that this is not a major rule within the meaning of the criteria of section 1(b) of that Order. In addition, Western has received an exemption from sections 3, 4, and 7 of Executive Order 12291, and therefore, will not prepare a Regulatory Impact Statement.

Environmental Evaluation

In compliance with the National Environmental Policy Act of 1969 and the DOE guidelines published in the **Federal Register** on February 23, 1982 (47 FR 7975), Western conducts environmental evaluations of certain rate and allocation actions. Under the DOE regulations, Western has made an evaluation of the possible environmental impacts of the proposed change in the CVP transmission rate schedule. A memorandum was signed October 5, 1983, documenting that the proposed action will clearly have no significant environmental effects.

Availability of Information

All brochures, studies, comments, letters, memorandums, and other documents made or kept by Western for the purpose of developing the proposed rate are and will be available for inspection and copying at the Sacramento Area Office, Western Area Power Administration, 2800 Cottage Way, Sacramento, CA 95825, (916) 484–4251.

Issued in Golden, Colorado, January 27, 1984.

Robert L. McPhail,

Administrator.

Schedule of Transmission Rates

Effective: January 1, 1983.

Available: In the area served by the Central Valley Project (CVP).

Applicable: To customers of the CVP who require transmission service to receive power and energy sold by Western.

Character and Conditions of Service: Transmission service for three-phase alternating current at 60 hertz, delivered and metered at the voltages and points specified in the service contract.

Monthly Rate: When the United States utilizes transmission facilities other than its own in providing service under a customer's power sales contract, and costs are incurred by the United States for the use of such facilities.

1. The customer:

(a) shall pay that portion of such costs, including transmission losses, which are in excess of the at or above 44–kV customers' transmission charge and in excess of the at or above 44–kV customers' transmission losses specified by Contract 14–06–200–2948A incurred in the delivery of,

(i) all power up to the number of kilowatts on which the demand or capacity applies; and

(ii) all energy up to the amount equal to the number of kilowatt-hours on which the energy charge applies; and

(b) Shall pay all such costs, including transmission energy losses incurred in the delivery of all energy (including secondary and dump energy) in excess of the amount stated in (a) of this rate schedule.

2. The transmission losses charageable to the customer shall, for billing purposes, be added to the meter readings of the power and energy delivered to the customer under the customer's power sales contract with the United States.

Minimum Bill: None.

Adjustments: None.

[FR Doc. 84-3358 Filed 2-7-84; 8:45 am]
BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPP-62004A; PH-FRL 2520-6]

Applications to Use Sodium Fluoracetate (Compound 1080) to Control Predators; Final Decision

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: On October 31, 1983, a final decision concerning pesticide registration applications to use sodium fluoroacetate (Compound 1080) to control predators was issued by the Agency. The final decision is reprinted in its entirety in this notice.

FOR FURTHER INFORMATION CONTACT: By mail: Walter Waldrop, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

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SUPPLEMENTARY INFORMATION: Lee Thomas, Assistant Administrator for Solid Waste and Emergency Response, issued the final decision on the predacide uses of Compound 1080. Mr. Thomas was acting on behalf of the Administrator, William D. Ruckelshaus, who recused himself from consideration in this matter on July 18, 1983. A final decision by the Administrator's designee, Mr. Thomas, was made necessary because several parties to formal adjudicatory hearings on the predacide uses of Compound 1080 appealed the initial findings of Administrative Law Judge Spencer Nissen. Judge Nissen presided over these formal hearings, which were announced in the **Federal Register** of December 7, 1981 (46 FR 59622), and which were concluded in August of 1982. Judge Nissen, who issued his initial findings on October 22, 1982, found that registrants could apply for registration of the toxic collar and the single lethal dose bait delivery mechanisms. He denied applications for the large bait station and the smear post. Administrator Thomas affirmed Judge Nissen's position regarding the denial of registration for the large bait station and the smear post and registration of the toxic collar. He also affirmed, with modification, Judge Nissen's finding on the single lethal dose baits. This modification requires that users of Compound 1080 single lethal dose baits (Federal and State employees) complete a special Federal certification program before they are allowed to use the baits. The decision follows.

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

Before the Administrator

[FIFRA Docket No. 502]

In the Matter of Notice of Hearing on the Applications to Use Sodium Fluoroacetate (Compound 1080) to Control Predators.

Final Decision

This matter is before me pursuant to exceptions taken by numerous parties to Judge Spencer Nissen's October 22, 1982 Initial Decision, in which he granted applications for registration of sodium fluoroacetate (Compound 1080) for certain anti-predator uses. Judge Nissen granted applications which would allow the use of Compound 1080 in toxic collars and, subject to stringent restrictions, in single lethal dose baits. He dismissed applications to allow use of Compound 1080 in large bait stations and smear posts. Under the authority of 40 CFR Part 164, which establishes the Rules of Practice governing hearings under the Federal Insecticide, Fungicide and Rodenticide Act, this action is before the Administrator on exceptions taken to Judge Nissen's decision. On July 18, 1983, Administrator Ruckelshaus recused himself from consideration of this matter and designated me to rule on the exceptions. I have the authority to make the final Agency decision in this matter, including ruling on any exceptions filed by the parties, and even those matters to which no party has taken issue with Judge Nissen's decision. The Initial Decision is hereby affirmed with respect to the toxic collar, large bait station and smear post, and affirmed as modified herein with respect to the single lethal does bait.

Procedural Background

On March 9, 1972 Administrator Ruckelshaus suspended and cancelled the registration of several poisons, including Compound 1080, as mammalian predacides, finding that the use of Compound 1080 against predators constituted an imminent hazard. After receiving a number of applications to register a variety of antipredator uses involving Compound 1080, including applications for emergency exemptions pursuant to FIFRA section 18 (Federal Insecticide, Fungicide and Rodenticide Act, 7 U.S.C. 152), and after holding information-gathering hearings in July 1981, Administrator Gorsuch announced on December 7, 1981 that substantial new evidence was available to warrant reconsideration of the 1972 suspension/cancellation, and ordered hearings scheduled pursuant to subpart D of EPA's Rules of Practice. 46 FR 59622; 40 CFR 164.130 through 164.133. She specified seven issue areas to aid in determining the ultimate issues—whether substantial new evidence exists, based on the hearing record, to require reversal or modification of the 1972 suspension and cancellation order. Hearings were held in Washington, D.C.; San Angelo, Texas; and Denver, Colorado beginning on March 30, 1982 and ending on August 6, 1982. Well over 20,000 pages in hearing testimony and exhibits were generated with dozens of parties actively participating in the proceeding. Over 90 witnesses testified. Following Judge Nissen's October 22, 1982 decision allowing Compound 1080 use in the toxic collar and the single lethal dose bait, and denying the applications for such use in the large bait station and smear post, exceptions were filed on November 12, 1982 by Defenders of Wildlife, et al.,[1] the State of Wyoming,[2] et al., the State of South Dakota,[3] the United States Department of the Interior, the United States Department of Agriculture and the National Wildlife Federation. The Defenders of Wildlife (Defenders) took exception to Judge Nissen's granting the applications for use of the toxic collar and single lethal dose bait. Wyoming took exception to Judge Nissen's denial of the applications for the large bait station and the smear post, and to a number of the restrictions imposed by Judge Nissen on the single lethal does bait. The United States Department of Interior's Fish Wildlife Service (FWS) took exception to a number of the

[1] The Defenders of Wildlife, et al. are a coalition of opponents to Compound 1080 reregistration. They are: Defenders of Wildlife, National Audubon Society, Humane Society of the United States, American Humane Association, Animal Protection Institute of America, National Parks and Conservation Association, Animal Welfare Institute, Fund for Animals, National Resources Defense Council, Inc., The Sierra Club, Friends of the Earth, and the Environmental Defense Fund.

[2] The State of Wyoming, et al. are a coalition of proponents of Compound 1080 reregistration. They are: State of Wyoming, Colorado Department of Agriculture, Missouri Department of Agriculture, Oregon Department of Agriculture, West Virginia Commissioner of Agriculture, Zuni Tribe, National Cattlemen's Association (and 37 State associations), National Woolgrower's Association (and 13 State associations), Public Land Council and nine individuals.

[3] The State of South Dakota filed its exceptions in an untimely matter. However, since its exceptions only were an adoption of the State of Wyoming, et al. exceptions, I will accept their filing.

restrictions on the single lethal dose bait as did the U.S. Department of Agriculture (USDA), which also briefly excepted to the Judge's denial of large bait station use under limited conditions. South Dakota endorsed Wyoming's exceptions while the National Wildlife Federation generally endorsed those of Defenders. The U.S. Environmental Protection Agency's Office of Pesticides and Toxic Substances filed a brief asking for affirmance of Judge Nissen's decision, with some suggested modifications to further restrict single lethal does bait uses. Exceptions were taken to most of Judge Nissen's findings on the nonultimate issues—such as the extent of predation and feasibility of alternate means of predator control.[4]

Legal Background

No pesticide may be distributed, sold or otherwise placed in commerce unless it has been registered under section 3 of FIFRA. When a pesticide has been suspended or cancelled, as is the case with Compound 1080, any application to allow its use constitutes a petition for reconsideration of the cancellation or suspension order and is governed by 40 CFR 164 Subpart D. Following the requirements of 40 CFR 164.131, Administrator Gorsuch reviewed the applications for registration of Compound 1080 for use in the large bail station, single lethal dose bait, toxic collar and smear post, including supporting data provided by applicants and developed during information-gathering hearings in July 1981, as well as information from other sources, and determined that substantial new evidence existed to justify reconsideration of the Agency's 1972 decision. 46 FR 59622 et seq., December 7, 1981. She also determined that "such evidence could not, through the exercise of due diligence, have been discovered by the parties to the cancellation or suspension proceeding prior to the issuance of the" 1972 order. 40 CFR 164.131(a). She accordingly announced these hearings.

The regulations make it clear that the burden of proof in these hearings was on the applicants for reconsideration of the 1972 order. 40 CFR 164.132(a). The ultimate issue at hearing is whether applicants can meet the burden of proving that, for each proposed use, substantial new evidence exists requiring reversal or modification of the 1972 cancellation/suspension order. As the regulations make clear, "the determination of these issues shall be made taking into account the human and environmental risks found by the Administrator in his cancellation or suspension determination and the cumulative effect of all past and present uses, involving the requested use, and uses which may reasonably be anticipated to occur in the future as a result of granting the requested reversal or modification." 40 CFR 164.132(b).

The meaning of the "substantial new evidence" standard was the subject of much discourse throughout this proceeding. Essentially, Defenders argued that the standard prevents looking at any information which was available prior to the 1972 order, while Wyoming argued for a system where certain pre-1972 information would be examined. Judge Nissen followed the standard adopted by the Administrator in a 1975 proceeding (Applications to Register Sodium Cyanide for Use in the M–44 Device to Control Predators, FIFRA Docket No. 382, September 16, 1975), which held, in essence, that the mere fact that evidence was not new did not render it inadmissible. Judge Nissen pertinently pointed out that while the validity of the 1972 orders is not an issue here (See *Wyoming* v. *Hathaway*, 525 F.2d 66 (10th Cir. 1975) *cert. den.* 426 U.S. 906 (1976)), this proceeding is in fact one of reconsideration and that it would be quite difficult ot evaluate whether an order should be modified or reversed based on substantial new evidence without comparing it with the evidence available to the Administrator in 1972. I agree with Judge Nissen's interpretation.

In the course of Judge Nissen's decision, he made over 250 findings of fact. I find no need to specifically discuss each of his findings in rendering this decision on appeal. These findings not modified, contradicted or reversed are adopted by me.[5]

Discussion of Exceptions

In order to assist in my determination of whether to modify or overturn the 1972 ban on Compound 1080, the Administrative Law Judge was asked to make findings on a number of issues, so that all relevant information concerning the risks and benefits of Compound 1080 use would be in the record. Thus, the Administrative Law Judge was asked to make determinations concerning the impact of predation on the livestock industry, the alternatives to Compound 1080 use, the economic impact of predation and how Compound 1080 might affect the economics of the livestock industry, and the environmental and human safety of Compound 1080, both in an absolute sense and in its proposed uses. The Judge was also asked to make determinations concerning the specific proposed uses of Compound 1080, particularly with regard to efficacy, the potential hazards/benefits created by these uses, and what restrictions, if any, should be imposed on these uses, assuming I should decide to modify or reverse the 1972 ban.

Predation and the Livestock Industry

From the early 1940s to the late 1970s sheep raising, as an industry, sharply declined in the United States. This decline, which continued apparently unaffected by the availability of Compound 1080, appeared to end in 1978 when the sheep population had decreased to approximately 12.2 million, down from its high of over 56.6 million in 1942. This decline is attributable to a number of factors, including a switch in consumer meat preferences; the relatively high cost of lamb; the relatively low cost, in terms of labor, of raising cattle; competition from overseas; competition from synthetic fibers, lack of available help; and predation. Since 1978, sheep numbers have increased, and the general condition of the sheep-raising industry has improved.

Coyotes, along with feral dogs, are the leading cause of predation losses in the

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[4] Wyoming, when filing its exceptions and supporting brief, also requested oral argument pursuant to 40 CFR 164.101(c)(1). Given the large size of the record in this proceeding, including extensive briefs and proposed findings on every issue presented for review, I do not feel that oral argument would be helpful and accordingly deny Wyoming's Motion.

Two other motions were made during the course of this appeal. Wyoming moved to strike a portion of Defenders' Brief in Response to Exceptions for implicitly accusing Wyoming of "attempt[ing] to perpetrate a fraud upon the Administrator." I find the motion to be without basis, and it is hereby denied. USDA moved that I "Disregard" a portion of Defenders Brief in Response to Exceptions for not accurately representing the record before Judge Nissen. This motion is essentially an attempt to file a short "rebuttal" brief and is denied.

[5] "There is no authority which precludes an appellate administrative tribunal from affirming the findings of a subordinate board without restatement." *United State v. Orr*, 474 F. 2d 1365, 1369 (2d Cir. 1973). Thus, it has been held that "where the (Interstate Commerce) Commission finds no material error in the statement of facts and conclusions thereon by the hearing examiner, it is not required to prepare a detailed report as its own . . ." *Carolina Freight Carriers Corporation v. United States*, 323 F. Supp. 1290, 1296 (W.D.N.C. 1971). "No more is required [citations omitted]." *NLRB v. Process Corp.* 412 F. 2d 215, 217 (7th Cir. 1969). *Accord: General Motors Corporation v. United States*. 33 Ad.L.2d 278, 280–283 (E.D. Mich. 1973); *Borek Motor Sales, Inc. v. NLRB*, 425 F. 2d 1312 (7th Cir. 1970); *American President Lines, Ltd. v. NLRB*, 340 F. 2d 490, 492 (9th Cir. 1965); *In Re Shell Oil Company, et al.* at 2–3, FIFRA Docket Nos. 401, *et al.* (Denial of Motion for Reconsideration, dated June 6, 1979); Dibromochloropropane (DBCP) proceeding, FIFRA Docket No. 485 (Final Decision, November 9, 1979).

sheep and goat industry. On the other hand, coyotes are very useful to many farmers and ranchers, as well as to the public at large. Coyotes play a very important role in the ecosystem for their ability to prey on crop-destroying jackrabbits and numerous other small nuisance animals. In addition, the hunting of coyotes for pelts, particularly in winter, has become a lucrative industry.

One of the principal issues raised in the course of this proceeding was the extent to which predation is really a problem for the sheep industry. In the 1972 ban order, Administrator Ruckelshaus found that "certain data that are presently available indicate predator losses may in fact be of such a low magnitude as to be a minor part of total losses." The applicants urged that this conclusion in 1972 was incorrect, and that in any event predation had drastically increased since the 1972 Compound 1080 ban. Opponents of reregistration contended that this conclusion concerning predation losses in 1972 was correct and, in any event, predation losses have gone down since 1972. Judge Nissen held that predation was not that serious a problem to the sheep industry as a whole, that lamb losses to predators as a percentage of all losses have not increased since 1972, but that coyote predation certainly is "a very serious problem" for certain individual producers. The Judge further found that predation losses to goats and cattle have increased somewhat since 1972. The State of Wyoming took exception to Judge Nissen's finding that sheep and lamb losses to predators have not increased since 1972.

Many witnesses testified as to a great number of studies, both pre-1972 and post-1972, from general surveys to in-dept multi-year studies at certain ranchers, on the extent of predation. Upon sifting through the mass of statistical data on predation, Judge Nissen concluded that only a minority of sheep and lamb ranchers were suffering high predation losses. He further found that lamb losses to predators as a percent of losses to all causes have not increased since 1972 and, in fact, apparently have declined since 1978.[6] While he also found that perdator losses of calves and goats have increased since 1972, looking at the whole of the evidence, I cannot say that applicants have met their burden of showing any overall increase in livestock predation since the 1972 ban.

This finding does not end the matter, however. While predation may not have significantly increased, if it has increased at all, there is no question that it is a significant problem to many sheep ranchers. The record is replete with references to devastating losses suffered by many individual ranchers as a result of coyote predation. Many ranchers testified firsthand about their experiences, often unsuccessful, in dealing with coyote predation. There is not doubt that coyote predation has driven many ranchers out of the sheep business. I find that many ranchers are suffering "excessive" predation, and that no party seriously disputed that a "killer" coyote should, in fact, be killed. Thus, the real concern to me regarding predation losses is whether Compound 1080 can be safely used to control predation losses of those ranchers who are suffering losses to coyotes, assuming no feasible alternative control measures are available.

Alternatives to 1080

In enacting the 1972 ban, the Administrator relied heavily on the alleged availability of "effective" non-chemical alternatives to Compound 1080, for the maintenance of predator control programs. The 1972 decision further relied on a commitment by the Federal Government to conduct research into methods of controlling predators by means other than the use of poisons. In the December 7, 1981 notice, one of the issues set for hearing was whether certain alternatives to Compound 1080 were generally effective in reducing predation. Applicants for Compound 1080 usage recognized that Compound 1080 is but one of a great variety of means available for predation control and that it should be used, when needed, in conjunction with one or more other alternative means. Defenders excepted to that portion of Judge Nissen's findings concerning the effectiveness of these alternatives and argued that the evidence indicated that the alternatives, in combination, were effective. While a number of the alternatives are useful and effective, they are not all consistently effective and economically feasible for many livestock raising situations. Briefly, the principal lethal means of controlling coyote predation are trapping, snaring, aerial hunting, calling and shooting, denning, and the use of legal poisons (the M–44 device). Trapping and snaring, two of the traditional tools of hunters, are not very selective in that they often catch other than the desired prey. In addition, they require a good deal of labor to set and check, they are often rendered inoperative by weather and other conditions, and there is evidence that coyotes become "trap-wise" with the passage of time. Calling and shooting is the means by which coyotes are often hunted by rifle from the ground. It is very selective in that there is little danger in catching an animal other than the coyote, but it is somewhat labor intensive. Aerial hunting, either by helicopter or fixed-wing aircraft is very selective towards coyotes, but is useful only for certain topographical and climatic conditions—being more effective in open country with heavy snow cover. Aerial hunting is also extremely expensive and presents significant human hazard, with a number of deaths and serious injuries resulting from plane crashes. The M–44, a device which uses sodium cyanide, is quite selective but is very unreliable mechanically. Denning involves finding the den or a litter of coyote pups and/or the mating pair. It is a very difficult and time consuming process. While these techniques do much to prevent predation, they are by no means sufficient to prevent all predation, or even excessive predation in particular locations.

The anticipated studies referred to in the 1972 ban concerning the development of methods of controlling predators other than the use of poisons, dealt with a variety of non-lethal means to prevent predation. Substantial resources were devoted to the study of taste aversion, principally with the chemical lithium chloride as the aversive agent. The theory is that coyotes eating meat containing lithium chloride would become violently ill and no longer kill or eat sheep or lambs. I am not convinced that the effectiveness of aversive conditioning has been established. Similarly, the use of other chemicals, including diethylstilbesterol as an anti-fertility agent, or various chemical repellants, in addition to mechanical repellants such as the use of sound and light, have not been shown to be an effective method of deterring or controlling predation.

Perhaps the most successful non-lethal means of preventing predation are more aptly characterized as animal husbandry techniques. I believe the single most effective technique is shed lambing, whereby sheep drop their lambs in enclosed facilities rather than outdoors or on the open range. This is extremely successful in preventing predation on newborn lambs and is used generally in the farm flock situation. Unfortunately, it does not lend itself to

[6] The Gee Study, Sheep and Lamb Losses to Predators and Other Causes in the Western United States, which Judge Nissen found overestimated sheep and lamb losses, showed that 45% of survey respondents suffered no lamb predation, that 67% had no sheep predation, and that only a small percentage suffered high rates of predation.

the range lambing situation, since the ewes give birth many miles from the home ranch. Corralling livestock at night is also somewhat successful in reducing coyote predation, but is costly in terms of time and is also not appropriate to the range flock situation.

Another husbandry alternative involved the use of fencing. The evidence showed that electric fencing is very effective, under proper terrain conditions, in preventing or reducing coyote predation. However, it is costly to build and maintain, is not very useful in heavy shrubbery or hilly situations, and would be prohibitively expensive on range land.

Another closely examined alternative was the use of guard dogs. The evidence showed that certain breeds of dogs are very useful in guarding livestock against predation. However, guard dogs are quite expensive and are not very useful until they are about 18–24 months of age, and have been trained extensively. On numerous occasions, guard dogs have attacked the very livestock they were supposed to guard. It is very questionable whether guard dogs have much utility in the open range, since the guard dogs' sense of territoriality is one of the characteristics that make them useful.

The shortage of good farm labor is also a major contributing factor to the difficulty of controlling predation. In particular, good herders are extremely important in preventing predation, but are very difficult to find due to the general availability of higher paying jobs in other areas, and the very lonely lifestyle of a herder.

While there are thus many alternative measures available to control coyote predation on livestock, the evidence establishes that for some ranching conditions, particularly in the open range, these alternatives are not feasible. Thus, there are certain situations where there are no currently available satisfactory alternatives to Compound 1080 for the control of coyote predation.

Economics of Predation

Judge Nissen's examination of the effects of predation on the livestock industry and the general economy, and the potential impact of Compound 1080 on profits of individual ranchers in the livestock industry, produced a wide range of testimony. While not everyone agreed that predation losses resulted in an overall adverse economic impact, the evidence is clear that those ranchers who suffered heavily from predation were affected severely.

Hazards of Compound 1080

A major motivation prompting issuance of the 1972 ban was the perceived hazards created by the use of Compound 1080. Of particular concern were the possible Compound 1080 poisonings of numerous non-target animals, as well as potential human hazard. A vast amount of expert testimony was received on these issues.

Compound 1080 is extremely poisonous and toxic to all animals. It is a white power soluble in water, and is very stable. However the amount of Compound 1080 needed to cause various non-lethal and lethal effects varies greatly from species to species. While there was some dispute as to the validity of the evidence concerning the various LD_{50} and LD_{100} values for various species (LD_{50} is a dose of Compound 1080 which is lethal to 50% of those receiving that dose; LD_{100} is a dose lethal to 100% of those receiving that dose), the evidence very clearly indicates that canines are far more sensitive to Compound 1080 than virtually any other species, including most wildlife and humans. The problem is in assuring that the target animal—here the coyote and/or the feral dog—is the only animal harmed by Compound 1080, and that no other environmental or human hazards are created.

Compound 1080 kills by disrupting the Krebs cycle. Very briefly, the Compound 1080 is metabolized into sodium flurocitrate which inhibits the activity of the enyme aconitase, causing the blocking of the Krebs cycle, which is essentially the energy producing process for cells. The cells die, causing over a few hours loss of cardiac or respiratory function, and death. Some experiments with sub-lethal doses of fluorocitrate have indicated kidney damage and growth problems from which the animals, principally rats, were able to totally or substantially recover. In some tests, sub-lethal doses accumulated to lethal levels, while in others animals developed an increased tolerance over time. Compound 1080 can be absorbed through open wounds, but ingestion throught the gastrointestinal tract is by far the most likely means of exposure.

Whether, and to what extent, primary or secondary poisoning of non-target animals will occur from the various proposed uses of Compound 1080, was one of the principal concerns in 1972, and remains so today. By "primary" non-target poisoning, I refer to the potential hazard to a non-target animal from directly eating any bait containing Compound 1080. By "secondary" non-target poisoning, I refer to the potential hazard to an animal scavenging the corpse of a target aninal that has been poisoned by Compound 1080. One of the difficulties throughout this proceeding relates to the delay between ingestion of Compound 1080, the eventual onset of symptoms of Compound 1080 poisoning, and death. The evidence showed that two-and-a-half to five hours was a normal period between ingestion of a lethal dose by a coyote and its death, and that for all animals this time period is measured in hours. Since the poisoned animal can travel a long way in the period of several hours, whether by land or, in the case of a scavenging bird, by air, an extremely small number of animals estimated to have been killed by Compound 1080—both target and non-target—are ever found. This problem is compounded by the tendency of wildlife to hide when they become aware that death is approaching. The fact is, whenever we talk about target or non-target Compound 1080 losses, we are to a large extent indulging in a guessing game where we can never know for sure the right answer. I do find that with the large bait station, the risk to non-target animals is greater than the possible benefits from its use warrants. (For more detailed discussion of the large bait station and other delivery systems, see below.) Indeed, the death of several eagles and a California condor brought the Coumpound 1080 issue to a head in 1972. When the large bait station—100 pounds of horse or sheep carcasss injected with a solution of 1.6 grams of Compound 1080—is properly used, it is frozen solid. There are few animals—the coyote among them—which can feed on a bait in this frozen condition, reducing potential non-target exposure. However, with occasional winter thaws and the onset of warm weather in general, the large bait station may be scavenged by a great variety of creatures. Even though, due to the difference in doses necessary to cause death, it takes four to sixteen ounces of properly dosed bait to kill an eagle, while only an ounce or two will kill a coyote, an eagle eats two pounds of food per day. Thus, a hungry eagle or other non-target bird, coming upon a 1080 large bait station that is not frozen solid, can easily consume a fatal dose. Since the effects of Compound 1080 poisoning will not manifest themselves for a considerable period of time, the chances of ever actually finding an eagle or other bird that has consumed a fatal dose are remote. Similar logic applies to other animals. On the other hand, it is clear that a single lethal dose bait will not kill an eagle, or for that matter, most non-canine species. (Single lethal dose baits are discussed in more detail

below.) Unless Compound 1080 can be used in a way to avoid non-target exposure, there will be a very real primary non-target poisoning hazard.

It now appears that the potential hazard from secondary poisoning from Compound 1080 was overestimated in 1972. A great variety of experiments that were described at the hearing indicated that it is very difficult even to induce such poisoning, under test conditions, in a variety of species. The Judge's finding that secondary poisoning was "unlikely" to cause a hazard to a scavenging bird or other animal was amply supported.

Compound 1080 is unquestionably poisonous to humans. However, with proper precautions, the chance of human injury or death from exposure to the use of Compound 1080 as a predacide is remote. Of the approximately two dozen human deaths reasonably known to have been caused by Compound 1080, half were suicides, and the remainder were accidents caused by the grossest negligence. With the restrictions imposed on the uses authorized by this decision, I find that Compound 1080 will present little or no hazard to human life.

There is, at present, no known antidote and/or medical treatment which effectively counteracts the effects of Compound 1080 poisoning. However, the use restrictions imposed by this decision should prevent any human Compound 1080 poisoning.

The Large Bait Station

The Compound 1080 large bait station consists of a 50–100 pound piece of fresh meat that has been injected with a solution containing Compound 1080, at a concentration of 1.6 grams of 1080 per 100 pounds of meat. Usually, bait is prepared by slaughtering a horse or sheep, quartering it, and injecting a Compound 1080/water solution at frequent intervals into the carcass. The bait is usually prepared in the field, and is left over-night to freeze before final placement. It was designed to reduce predation by substantially reducing coyote population during the winter months. When Compound 1080 was banned in 1972, the large bait station had been the basic delivery mechanism for Compound 1080. That decision was largely based on the Report of the Cain Committee, which found that Compound 1080 as used really did not reduce predation in that its benefits were "only ill-defined and speculative." The Administrator found that there was "no reliable data as to the amount of predator control achieved by" the use of Compound 1080. The Cain Committee further found that various non-target poisonings were occurring and that instructions concerning proper preparation and placement of the large bait stations were not being followed.

I believe that there is still no reliable data as to the amount of predator control achieved by the Compound 1080 large bait station. The evidence showed that the large bait station, which was principally designed to achieve substantial coyote population reduction and thereby reduce predation, has never worked very well. Its effects are transitory at best, since only a massive killing of coyotes will achieve a significant population reduction. This is due in large part to the tendency of the coyote to increase litter size and mate at an earlier age than normal in response to conditions which reduce their numbers. Even when the Compound 1080 large bait station was legal, the number and use was steadily decreasing, presumably because they were not very effective either in relation to their costs or in terms of preventing predation. The number of coyotes killed by the large bait station is utterly speculative, since coyotes killed by Compound 1080 are very infrequently found, due to the time lapse between ingestion and onset of symptoms.

The principal sources of evidence on large bait station use since the 1972 ban are the Canadian provinces of Alberta and British Columbia. Under their programs, the Compound 1080 large bait station was used very infrequently, was generally placed in the field for short periods of time, and was closely monitored. The results of these programs were mixed, and provide insufficient evidence to overturn the 1972 decision. Similarly, while a Compound 1080 large bait station program was alluded to as being successfully used for dingo control in Australia, no substantial evidence was introduced on the workings of that program. Finally, from 1975 to 1977 the State of Wyoming implemented a Compound 1080 large bait station program, after deciding the 1972 ban was somehow inapplicable to them. Without commenting on the legality of the program, which was the subject of litigation until discontinued, it is clear that many of the 1972 concerns of both the Cain Committee and the Administrator are still amply justified. Baits which were supposed to be picked up in April were often out until July, ranchers often moved baits on their own, ranchers were often asked to dispose of baits, and recordkeeping was poor.

Given the unconvincing evidence concerning the efficacy of the Compound 1080 large bait station, and the potential hazards created by the use of the large bait station, I am convinced that the Judge's decision—that proponents did not show that "substantial new evidence" supports a reversal of the 1972 ban in this area—should be sustained. As I stated previously, the evidence indicates that some non-target species will be poisoned by the large bait station. In addition, the evidence amply supports the validity of the Administrator's 1972 finding, reflecting the findings of the Cain Committee, that the use restrictions imposed on large bait station users before the 1972 ban were often violated or ignored. The restrictions suggested by the applicants for the large bait station, based on the standard of the American Society for Testing and Materials, were virtually identical in all significant respects to the standards imposed by the Fish and Wildlife Service on pre-1972 use. The history of 1080 large bait station use indicates that improper placement of baits, improper monitoring of baits, over injection of Compound 1080 into the baits, illegal movement and disposal of baits, and unaccounted for overuse of Compound 1080, were common problems. Given the hazards created by the Compound 1080 large bait station, and the lack of evidence as to its efficacy, I affirm Judge Nissen's decision not to overturn the 1972 ban on Compound 1080 use in the large bait station.

Single Lethal Dose Baits

The Compound 1080 single lethal dose bait is a small ball or cube of meat, tallow or similar material containing a lethal dose of Compound 1080. It can be placed in locations so as to greatly increase the probability of it being taken by a coyote, and there is evidence that, with the proper scenting and visual lures, it can be made even further attractive to a coyote and less likely to be taken by other species. Generally they are placed near "draw stations," which are usually simply animal carcasses.

The Compound 1080 single lethal dose bait was not generally used before 1972. Prior to the 1972 ban small drop baits, generally containing strychnine, were used in great volume—nearly a million in 1964—as a coyote population suppression measure. More recent studies have indicated that the Compound 1080 single lethal dose bait has great potential usefulness towards eliminating specific coyote predation problems. While single lethal dose bait placement is not an exact science, one of the benefits of the single lethal dose bait is that one will not kill most wildlife species, but will kill a coyote or feral

dog. Thus, even occasional accidental exposure to nontarget wildlife has a greatly reduced potential hazardous effect.

While only Defenders excepted to Judge Nissen's allowing the use of Compound 1080 single lethal dose baits, exceptions were taken by both applicants and opponents, as well as the EPA Trial Staff, to the use restrictions imposed in the initial decision. The applicants contended the use restrictions were too strict, objecting to the dosage, the dye requirement, verification of coyote kills, bait placement restrictions concerning location and number of baits, the requirement that baits be covered, and monitoring. Defenders and the EPA Trial Staff urged me to restrict use even further than did Judge Nissen. While I will now discuss some of the considerations regarding the imposition of use restrictions, there are certain questions concerning this delivery mechanism where further information must be developed for the subsequent registration proceeding to be successful.

I find that substantial new evidence supports the use of Compound 1080 in single lethal dose baits under certain very limited, tightly controlled circumstances. While it appears that some further testing must be done before actual registration for this use will be approved, there is sufficient evidence to rescind the 1972 ban at this point. This testing, which should be conducted under an Experimental Use Permit, should develop information regarding the use restrictions discussed in the following paragraphs. In imposing these use restrictions, I wish to make it clear that single lethal dose baits containing Compound 1080 are to be used in a most limited fashion, so as to eliminate specific predating coyotes under carefully controlled circumstances.

Proper Dose

There was considerable dispute over the proper dose of Compound 1080 in a single lethal dose bait. Judge Nissen set the maximum dose at 3.6 milligrams of Compound 1080 solution. The State of Wyoming urges that I adopt the 5.0 milligram standards approved by the American Society of Testing and Materials. Since Judge Nissen found that the LD_{100} for a coyote is approximately 0.16 mg/kg, the concern that a bait containing the lower dose of Compound 1080 might not be fatal for larger coyotes appears to be well-founded. Accordingly, a dose of up to 5.0 mg 1080 per single lethal dose bait is authorized if otherwise justified during registration proceedings.

Verification

The verification requirements imposed by Judge Nissen are particularly crucial to any 1080 single lethal dose program to be approved by EPA. While verification admittedly increases the cost of such a program, I want to assure that Compound 1080 is not utilize unless there is confirmed evidence of coyote predation. The details of the verification process can be decided at the registration proceeding.

Monitoring

Similarly, monitoring of the baits is also essential. Most proponents of single lethal dose baits recognized the need for proper monitoring, and the seven-day requirement imposed by Judge Nissen was not seriously objected to. Two of the proponents' most knowledgeable witnesses (Boddicker and Tompa) indicated that monitoring at more frequent intervals was an essential aspect of an effective single lethal dose bait program. While a final decision on this requirement should be left for registration, the frequency of monitoring should be at least every seven days, unless some exceptional circumstances arise.

The Certification Process

The overwhelming evidence supports the finding of Judge Nissen that applicators of Compound 1080 single lethal dose be certified. I want to assure that certain specific factors be incorporated into any certification program. Given the potential hazards of Compound 1080, I find that a Federal certification process is essential to assure proper application of the baits. I do not intend to restrict application to Federal employees, but the process of certification must be a Federal one, and I specifically affirm Judge Nissen's decision that applicators be Federal or State employees. Prior to registration, EPA should assure itself that the mechanism of the certification process is established, that a proper training curriculum has been developed and that any appropriate certification guidelines have been published.

Bait Manufacture and Distribution

In order to carefully control the introduction of Compound 1080 into the environment, it was generally agreed that some sort of centralized bait manufacturing and distribution process was necessary. While the details of bait manufacture and distribution are appropriate for the registration proceeding, a mechanism for a centralized system, preferably operated through the U.S. Department of Agriculture or the Fish and Wildlife Service, must be in place in order for registration to be approved.

Number of Bait Stations/Number of Baits

Judge Nissen proposed that no more than one bait station be in place in any given section (square mile) and that no more than two Compound 1080 single lethal dose baits be placed at any station. Proponents of the single lethal dose bait have urged that anywhere from five to thirty baits be allowed per station, but that stations should be limited to one per township (six miles square). Thus, under Judge Nissen's system as many as 72 baits can be placed in a single township. Though there is strong evidence suggesting the utility of the single lethal dose bait, there is little specific evidence favoring one set of bait numbers over another. While I affirm Judge Nissen's approach, which attempts to minimize the amount of 1080 baits used, it is apparent to me that more information must be developed concerning these numbers prior to registration. Carefully crafted studies under a well-designed Experimental Use Permit program should provide enough information to decide this difficult issue at registration.

Dyes and Scents

Proponents of the baits also generally excepted to the requirements imposed by Judge Nissen concerning dyes and scents. I specifically affirm these requirements. The evidence indicates that inactive dyes which would not make baits attractive to scavenging birds are readily available. Since birds primarily detect food using vision, while coyotes rely more on a sense of smell, this dye could substantially reduce the chances of non-target poisoning with no detriment to the chances of poisoning the target coyote.

Posting and Recordkeeping

I also affirm Judge Nissen's use restrictions concerning posting and recordkeeping. The need for careful recordkeeping at all stages of Compound 1080 use is well-justified by the toxicity of Compound 1080. At registration, the Office of Pesticides and Toxic Substances should assure that recordkeeping and appropriate reporting provisions be in place at the manufacture, distribution and application stages.

All other restrictions imposed by Judge Nissen governing the use of Compound 1080 single lethal dose baits are affirmed.

In sum, I am holding that substantial new evidence exists to warrant the use of Compound 1080 in single lethal dose baits to remove predating coyotes and feral dogs.[7] While further evidence needs to be developed concerning appropriate use restrictions, these restrictions, subject to the above-described boundaries, will best be handled at the subsequent registration proceeding.

Toxic Collars

Judge Nissen's approval of the applications to allow the use of the Compound 1080 toxic collar, including use restrictions, is hereby affirmed with some modification. The toxic collar, basically a rubber reservoir containing a solution of Compound 1090, attached to the neck of a "sacrificial" lamb or goat, has been extensively tested under several Experimental Use Permits. It has been developed since the 1972 ban. It is excellent in terms of targeting predating coyotes since, if a coyote attacks the lamb or goat by the throat—which it normally does—it will break the reservoir and sustain a fatal dose of Compound 1080. While there is some spillage of the Compound 1080 solution, most of the spillage is on the lamb or goat and the coyote, both of which are going to die. There is virtually no exposure of non-target wildlife.

While there was some evidence of potential human hazard, particularly from broken collars, the overwhelming evidence indicated that, with proper handling by or under the direction of certified applicators, including the wearing of protective gloves and prompt disposal of broken collars, the chance of human injury is remote. While at least one witness contended it was "inevitable" that a small child will go into a pasture and break or come across a broken toxic collar, and then suffer Compound 1080's toxic effects, I find this highly unlikely, and hold that with proper precautions, as provided by the Initial Decision's use restrictions, hazards to humans should not be presented.

The toxic collar may not be useful for the open range situation, due to the difficulty of isolating a target flock, but is clearly useful in both the farm flock and the large fenced ranch situation. Though it is fairly expensive, considering the cost of the collar itself and the labor involved in placing the collars and isolating the target flock, not to mention the cost of sacrificing animals, it can be a safe and useful tool under proper use restrictions.

Two futher use restrictions should be imposed before toxic collar registration is completed. First, dose limitations should be set for the collar. A variety of 1080 solutions were tested during the course of the toxic collar experiments, and any final use restriction developed in the subsequent registration proceeding (like the single lethal dose bait, the toxic collar must go through a registration proceeding when the 1972 ban is lifted) should set appropriate limitations. In addition, proper labelling is necessary to prevent accidental mishandling of the collars. The label should warn of the hazardous nature of Compound 1080, the need for appropriate personal protective equipment, etc. The label should also particularly warn that intentional misuse of Compound 1080 will result in presecution under section 12 of FIFRA, 7 U.S.C. 146.[8]

Smear Posts

Only one witness testified in favor of the State of Wyoming's application to use Compound 1080 on smear posts. The smear post was described as a wooden 4 x 4 post coated with a Compound 1080 solution. Smear posts would be placed near draw stations, consisting of dead livestock, and were also coated with an unidentified scent to attract coyotes. The coyotes would lick the coated posts and thereby receive a lethal dose of Compound 1080. From my reading of the record, the entire testimony on smear posts use is based on one witness' experiment with three smear posts used during the winter of 1956–1957. The minimal, stale evidence on smear posts gives me no ground whatever for reversing Judge Nissen. I affirm his denial of the smear post application.

Conclusion

For the reasons described above, Judge Nissen's decision is affirmed as modified.

[7] While fox predation was a subject of this proceeding, very little evidence as to the need for Compound 1080 to prevent such predation was presented.

[8] On October 21, 1983 Defeners of Wildlife filed a Motion to Reopen Hearing pursuant to 40 CFR 164.110. Citing EPA Efficacy Reviews of the New Mexico Department of Agriculture Experimental Use Permit Study of the Toxic Collar, Defenders argued that new evidence of the toxic collar's degree of hazard and lack of effectiveness warranted reopening of the hearing. Aside from the questionable timeliness of this motion (the most recent document attached to the motion was dated February 3, 1983), there was no new evidence submitted which contradicted Judge Nissen's findings, affirmed in this Final Decision, that with proper targeting and proper use restrictions, the Compound 1080 toxic collar can be a useful predation control technique. The Motion to Reopen Hearing is accordingly denied.

Dated October 31, 1983.

Lee M. Thomas,

Assistant Administrator for Solid Waste and Emergency Response

Following the issuance of the final Agency decision by Assistant Administrator Thomas, two parties to the hearing appealed the decision. Pacific Legal Foundation filed an appeal in the U.S. Court of Appeals for the 10th Circuit, in Denver, Colorado. Defenders of Wildlife filed an appeal in the U.S. Court of Appeals for the District of Columbia Circuit.

Dated: January 30, 1984.

Edwin L. Johnson,

Director, Office of Pesticide Programs.

[FR Doc. 84-3239 Filed 2-7-84; 8:45 am]
BILLING CODE 6560-50-M

[OPP-30237; PH-FRL 2519-1]

Certain Companies; Applications To Register Pesticide Products Containing New Active Ingredients

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces receipt of applications to register pesticide products containing active ingredients not included in any previously registered pesticide products pursuant to the provisions of section 3(c)(4) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended.

DATE: Comment by March 7, 1984.

ADDRESS: Written comments, identified by the document control number [OPP-30237] and the file symbol, should be submitted by mail, attention of the Product Manager named in each application at the following address: Program Management and Support Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

In person, bring comments to: Rm. 236, CM#2, Registration Division (TS-767C), Environmental Protection Agency, 1921 Jefferson Davis Highway, Arlington, VA 22202.

FOR FURTHER INFORMATION CONTACT: The product manager at the telephone and room number cited.

SUPPLEMENTARY INFORMATION: EPA received applications as follows to register pesticide products containing active ingredients not included in any previously registered pesticide products pursuant to the provisions of section 3(c)(4) of FIFRA. Notice of receipt of these applications does not imply a

decision by the Agency on the applications.

Applications Received

1. File Symbol: 40810–T. Applicant: Ciba-Geigy Corp., Three Skyline Dr., Hawthorne, NY 10532. Product name: Belclene 350. Algicide, Fungicide, Bactericide. Active ingredient: Tri-*n*-butyletradecylphosphonium chloride 50%. Proposed classification/Use: General. For formulating use. Type registration: Conditional. (Product Manager PM–23, Richard Mountfort, Rm. 237, CM#2, 703–557–1830).

2. File Symbol: 34147–E. Applicant: American Hoechst Corp., Rte 202–204 North Somerville, NJ 08876. Product name: Scout Insecticide. Insecticide. Active ingredient: [1R,[1(S*)]]-2,2-dimethyl-3-(1,2,2,2-tetrabromoethyl) cyclopropanecarboxylic acid alpha-cyano-(3-phenoxyphenyl)methyl ester 3.75%. Proposed classification/Use: Restricted. For use on cotton to control various insects. Type registration: Conditional. (PM–17, Timothy Gardner, Rm. 207, CM#2, (703–557–2690)).

3. File Symbol: 34147–R. Applicant: American Hoechst Corp. Product name: Scout Manufacturing Use Product. Insecticide. Active ingredient: [1R,[1(S*)]]-2,2-dimethyl-3-(1,2,2,2-tetrabromoethyl) cyclopropanecarboxylic acid alpha-cyano-(3-phenoxyphenyl)methyl ester 23.75%. Proposed classification/Use: Restricted. For formulating use only. Type registration: Conditional. (PM–17, Timothy Gardner, Rm. 207, CM#2, (703–557–2690)).

Notice of approval or denial of an application to register a pesticide product will be announced in the **Federal Register**. The procedure for requesting data will be given in the **Federal Register** if an application is approved.

Comments received within the specified time period will be considered before a final decision is made; comments received after the time specified will be considered only to the extent possible without delaying processing of the application.

Written comments filed pursuant to this notice, will be available in the product manager's office from 8:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays. It is suggested that persons interested in reviewing the application file, telephone the product manager's office to ensure that the file is available on the date of intended visit.

(Sec. 3(c)(4) of FIFRA, as amended)

Dated: January 23, 1984.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 84–3125 Filed 2–7–84; 8:45 am]

BILLING CODE 6560–50–M

[OPP–31066, PH–FRL 2518–8]

Certain Companies; Applications To Register Pesticide Products Involving Changed Use Pattern

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces receipt of applications to register, or amend registration of, pesticide products involving a changed pattern pursuant to the provisions of section 3(c)(4) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended.

DATE: Comment by March 7, 1984.

ADDRESS: Written comments, identified by the document control number [OPP–31066] and the file symbol or registration number, should be submitted by mail, attention of the Product Manager named in each application at the following address: Program Management and Support Division (TS–767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St. SW., Washington, D.C 20460.

In person, bring comments to: Rm. 236, CM#2, Registration Division (TS–767C), Environmental Protection Agency, 1921 Jefferson Davis Highway, Arlington, VA 22202.

FOR FURTHER INFORMATION CONTACT: The product manager at the telephone and room number cited.

SUPPLEMENTARY INFORMATION: EPA received applications as follows to register, or amend registration of, pesticide products involving a changed use pattern pursuant to the provisions of section 3(c) (4) of FIFRA. Notice of receipt of these applications does not imply a decision by the Agency on the applications

Applications Received

1. EPA Registration No.: 100–617. Applicant: Ciba-Geigy Corp., PO Box 18300, Greensboro, NC 27419. Product name: Tilt® Fungicide. Fungicide. Active ingredient: 1-[[2-(2,4-dichlorophenyl)-4-propyl-1,3-dioxolan-2-yl] methyl]-1-*H*-1,2,4-triazole 41.8%. Proposed classification/Use: General. To include in its presently registered use on turf grasses and for production of grass seeds, new use on pecans for control of pecan scab, downy spot, brown leaf spot, liver spot, vein spot, zonate leaf spot, and fungal leaf scorch. (Product Manager (PM–21, Henry Jacoby, CM#2, Rm. 229, 703–557–1900).)

2. File Symbol: 10182–IL. Applicant: ICI Americas, Inc., Wilmington, DE 19897. Product name: Cosmocil FB. Preservative. Active ingredient: Poly (iminoimidocarbonyliminoimido-carbonyliminohexamethylene hydrochloride 20%. Proposed classification/Use: General. To include in its presently registered use for manufacturing use and swimming pool disinfection, the new use as a textile preservative to provide protection against bacterial degradation. Type registration: Conditional. (PM–32, Arturo Castillo, CM#2, Rm. 244, 703–557–7170.)

3. EPA Registration No: 47159–1. Applicant: Ralph R. Grams, M.D., 2025 NW 24th St., Gainesville, FL 32605. Product name: Compound X. Anti-foulant. Active ingredient: Oxytetracycline 50%. Proposed classification/Use: General. To include in its presently registered terrestial use, new use aquatic non-food use. Type registration: Conditional. (PM–23, Richard Mountfort, CM#2, Rm. 237, 703–557–1830.)

Notice of approval or denial of an application to register a pesticide product will be announced in the **Federal Register**. The procedure for requesting data will be given in the **Federal Register** if an application is approved.

Comments received within the specified time period will be considered before a final decision is made; comments received after the time specified will be considered only to the extent possible without delaying processing of the application.

Written comments filed pursuant to this notice, will be available in the product manager's office from 8:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays. It is suggested that persons interested in reviewing the application file, telephone the product manager's office to ensure that the file is available on the date of intended visit.

(Sec. 3(c)(4) of FIFRA, as amended)

Dated: January 23, 1984.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 84–3124 Filed 2–7–84; 8:45 am]

BILLING CODE 6560–50–M

[OPP-30225A; PH-FRL 2519-2]

Sevana Co.; Approval of Application To Conditionally Register a Pesticide Product Containing a New Active Ingredient

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has approved the application by Sevana Co. to conditionally register the pesticide product Sevana Bird Repellent containing an active ingredient not included in any previously registered pesticide product pursuant to the provisions of section 3(c)(4) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended.

FOR FURTHER INFORMATION CONTACT: By mail: William Miller, Product Manager PM16, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460. Office location and telephone number: Rm. 211, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202 (703-557-2600).

SUPPLEMENTARY INFORMATION: EPA issued a notice published in the **Federal Register** of March 9, 1983 (48 FR 9931), which announced that Sevana Co., 5336 E. Easterby Dr., N. Fresno, CA 93727, had submitted an application to register the pesticide product Sevana Bird Repellent containing 4 percent of the active ingredient allium sativum (garlic), an ingredient not included in any previously registered product.

The application was approved on December 29, 1983 for general use in pesticide formulation. The product was assigned EPA Registration No. 47319-1.

A copy of the approved label and the list of data references used to support registration are available for public inspection in the office of the product manager. The data and other scientific information used to support registration will be available for public inspection in accordance with section 3(c)(2) of FIFRA within 30 days after the registration date. Requests for data must be made in accordance with the provisions of the Freedom of Information Act and must be addressed to the Freedom of Information Office (A-101), EPA, 401 M St., SW., Washington, D.C. 20460. Such requests should: (1) Identify the product name and registration number and (2) specify the data or information desired.

(Sec. 3(c)(2), FIFRA, as amended)

Dated: January 19, 1984.

Edwin L. Johnson,

Director, Office of Pesticide Programs.

[FR Doc. 84-3126 Filed 2-7-84; 8:45 am]

BILLING CODE 6560-50-M

[PF-362; PH-FRL 2519-4]

Dow Chemical Co.; Pesticide, Feed, and Food Additive Petitions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received pesticide, feed, and food additive petitions relating to the establishment and/or amendment of tolerances for residues of the insecticide chlorpyrifos in or on certain commodities.

ADDRESS: By mail submit written comments to: Program Management and Support Division (TS-757C), Attn: Product Manager (PM) 12, Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

In person, deliver comments to: Rm. 236, CM#2, Environmental Protection Agency, 1921 Jefferson Davis Highway, Arlington, VA 22202.

Written comments must be identified by the document control number [PF-362]. All written comments filed in response to this notice will be available for public inspection in the Program Management and Support Division office at the address above from 8:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT: Jay Ellenberger, PM-12, (703-557-1900).

SUPPLEMENTARY INFORMATION: EPA gives notice that the Agency has received the following pesticide, feed, and food additive petitions relating to the establishment and/or amendment of tolerances for the combined residues of the insecticide chlorpyrifos[*O,O*-diethyl *O*-(3,5,6-trichloro-2-pyridyl) phosphorothioate] and its metabolite 3,5,6-trichloro-2-pyridinol in or on certain commodities in accordance with the Federal Food, Drug, and Cosmetic Act. The analytical method for determining residues, where required, is given in each petition.

I. Initial Filings

1. *PP 4F3008.* Dow Chemical Co., P.O. Box 1706, Midland MI 48640. Proposes amending 40 CFR 180.342 by increasing the established tolerances and/or amending the tolerance expression in or the combined residues of the insecticide chlorpyrifos, and its metabolite in or on the commodities as follows:

Commodities	Parts per million
Alfalfa, hay (of which no more than 13.0 ppm is chlorpyrifos)	15.0
Cattle, fat, meat, and meat byproducts (mbyp) (of which no more than 2.0 ppm is chlorpyrifos)	2.5
Goats, fat, meat, and meat mbyp (of which no more than 1.0 ppm is chlorpyrifos)	2.0
Hogs, fat, meat, and mbyp (of which no more than 0.3 ppm is chlorpyrifos)	0.5
Horses, fat, meat, and mbyp (of which no more than 0.8 ppm is chlorpyrifos)	1.5
Milk, whole (of which no more than 0.02 ppm is chlorpyrifos)	0.03
Poultry (including turkeys), fat, meat, and mbyp (of which no more than 0.1 ppm is chlorpyrifos)	0.5

Commodities	Parts per million
Cattle, meat, fat, and meat byproducts (mbyp) (of which no more than 2.0 ppm is chlorpyrifos)	2.5
Goats, fat, meat, and mbyp (of which no more than 1.0 ppm is chlorpyrifos)	2.0
Hogs, fat, meat, and mbyp (of which no more than 0.3 ppm is chlorpyrifos)	0.5
Horses, fat, meat, and mbyp (of which no more than 0.8 ppm is chlorpyrifos)	1.5
Milk, fat (of which no more than 0.25 ppm is chlorpyrifos)	0.5
Milk, whole (of which no more than 0.02 ppm is chlorpyrifos)	0.03
Sheep, fat, meat, and mbyp (of which no more than 1.0 ppm is chlorpyrifos)	2.0
Tomatoes, (of which no more than 1 ppm is chlorpyrifos)	1.5

The proposed analytical method for determining residues is gas chromatography using a flame photometric detector.

II. Amended Petitions

1. *FAP 1H5295.* Dow Chemical Co. EPA issued a notice published in the **Federal Register** of June 10, 1981 (46 FR 30692) which announced that Dow Chemical Co., had submitted feed additive petition (FAP) 1H5295 to the Agency proposing to amend 21 CFR 561.98 by establishing a regulation permitting the combined residues of the insecticide chlorpyrifos and its metabolite in or on the commodity tomato pomace at 35.0 ppm.

Dow has amended the petition by increasing the tolerance proposal for residues in tomato pomace from 35.0 ppm to 100.0 ppm (of which no more than 65.0 ppm is chlorpyrifos).

2. *PP 3F2884.* Dow Chemical Co. EPA issued a notice published in the **Federal Register** of June 22, 1983 (48 FR 28545) which announced that Dow Chemical Co. had submitted pesticide petition (PP) 3F2884 to the Agency proposing to amend 40 CFR 180.342 by establishing tolerances for the insecticide chlorpyrifos and its metabolite in or on the certain commodities.

Dow Chemical Co. has amended the petition as follows:

a. Increasing and/or decreasing the proposed tolerances for residues in or on the following commodities:

Commodities	Parts per million
Sheep, fat, meat, and mbyp (of which no more than 1.0 ppm is chlorpyrifos)	2.0
Sorghum, fodder (of which no more than 4.0 ppm is chlorpyrifos)	6.0
Sorghum, forage (of which no more than 1.0 ppm is chlorpyrifos)	1.5

b. Withdrawing the proposed tolerances on alfalfa, grain forage; apples; citrus fruit; peppers; and soybean forage.

3. *FAP 3H5396.* Dow Chemical Co. EPA issued a notice published in the **Federal Register** of June 22, 1983 (48 FR 28545) which announced that Dow Chemical Co. had submitted feed additive petition (FAP) 3H5396 to the Agency proposing amending 21 CFR 561.98 by establishing a regulation permitting the combined residues of the insecticide chlorpyrifos and its metabolite in or on certain commodities. Dow has amended the petition by:

a. Increasing the tolerance proposal for residues in or on sorghum, grain, milling fractions to 1.5 ppm (of which no more than 0.8 ppm is chlorpyrifos).

b. Withdrawing the proposed tolerances on apples, dried pomace; dried citrus pulp; and tomato pomace.

4. *FAP 3H5396.* Dow Chemical Co. EPA issued a notice published in the **Federal Register** of June 22, 1983 (48 FR 28545) which announced that Dow Chemical Co. had submitted food additive petition (FAP) 3H5396 to the Agency proposing amending 21 CFR 193.325 by establishing a regulation permitting the combined residues of the insecticide chlorpyrifos and its metabolite in or on the commodities citrus oil, corn oil, mint oil, and peanut oil.

Dow Chemical Co. has amended the petition by withdrawing the commodity citrus oil.

(Sec. 408(d)(2) 68 Stat. 512, (21 U.S.C. 43a(d)(2); (Sec. 409(c)(1), 72 Stat. 1786 (21 U.S.C. 3489(c)(1)))

Dated: January 26, 1984.

Douglas D. Campt,

Director Registration Division, Office of Pesticide Programs.

[FR Doc. 84-3123 Filed 2-7-84; 8:45 am]

BILLING CODE 6560-50-M

[PF-365; PH-FRL 2519-3]

Union Carbide Corp.; Pesticide and Food Additive Petitions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received pesticide and food additive petitions relating to the establishment of tolerances for residues of the insecticide thiodicarb in or on certain commodities.

ADDRESS: By mail submit written comments to: Program Management and Support Division (TS-767C), Attn: Product Manager (PM-12), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

In person, deliver comments to: Rm. 236, CM#2, Environmental Protection Agency, 1921 Jefferson Davis Highway, Arlington, VA 22202.

Written comments must be identified by the document control number [PF-365]. All written comments filed in response to the notice will be available for public inspection in the Program Management and Support Division office at the address above from 8:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT: Jay Ellenberger (PM-12), CM#2, Rm. 205 (703-557-2386).

SUPPLEMENTARY INFORMATION: EPA gives notice that the Agency has received the following pesticide and food additive petitions relating to the establishment of tolerances for residues of the insecticde thiodicarb (dimethyl *N, N'*-(thiobis ((methylimino)carbonyloxy)) bis(ethanimidothioate)) and its metabolite methomyl, *S*-methyl *N*-((methylcarbamoyl)oxy) thioacetimidate in or on certain commodities in accordance with the Federal Food, Drug, and Cosmetic Act. The analytical method for determining residues, where required, is given in each petition.

Initial Filings

1. *PP 4F3013.* Union Carbide Corp., T.W. Alexander Drive, Research Triangle Park, NC 27709. Proposes amending 40 CFR Part 180 by establishing tolerances for the combined residues of the insecticide thiodicarb in or on the commodity tomatoes at 3.0 parts per million (ppm). The proposed analytical method for determining residues is liquid chromatography.

2. *FAP 4H5421.* Union Carbide Corp. Proposes amending 21 CFR Part 193 by establishing a regulation permitting residues of the insecticide thiodicarb in or on the commodity tomato paste at 5.0 ppm.

(Secs. 408(e), 68 Stat. 514 (21 U.S.C. 346a(e)) and 409(c)(1), 72 Stat. 1786 (21 U.S.C. 348(c)(1)))

Dated: January 26, 1984.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 84-3127 Filed 2-7-84; 8:45 am]

BILLING CODE 6560-50-M

[PF-361; PH-FRL 2523-1]

Certain Companies; Pesticide, Feed, and Food Additive Petitions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received pesticide, food/feed additive petitions relating to the establishment of tolerances for residues of certain pesticide chemicals in or on certain commodities.

ADDRESS: By mail, written comments may be sent to the following address, attention Product Manager (PM) named in each petition: Program Management and Support Division (TS-757C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

In person, deliver comments to: Rm. 236, CM#2, Environmental Protection Agency, 1921 Jefferson Davis Highway, Arlington, VA 22202.

Written comments must be identified by the document control number [PF-361]. All written comments filed in response to this notice will be available for public inspection in the Program Management and Support Division office at the address above from 8:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT: The Product Manager at the telephone and room number given in each petition.

SUPPLEMENTARY INFORMATION: EPA gives notice that the Agency has received the following pesticide (PP) and food/feed additive (FAP) petitions relating to the establishment of tolerances for residues of certain pesticide chemicals in or on certain commodities in accordance with the Federal Food, Drug, and Cosmetic Act. The analytical method for determining residues, where required, is given in each petition.

Initial filings

1. *PP 4F2989.* Mobay Chemical Corp., P.O. Box 4913, Kansas City, MO 64120. Proposes amending 40 CFR 180.387 by establishing tolerances for the combined residues of the insecticide 1-methylethyl 2-[[ethoxy[(1-methylethyl)amino] phosphinothioyl]oxy]benzoate and its chlolinesterase-inhibiting metabolites 1-

methylethyl 2-((ethoxy((1-methylethyl)amino)phosphinoyl)oxy) benzoate, 1-methylethyl 2-((ethoxy(1-amino)phosphinoyl)oxy)benzoate, and 1-methylethyl 2-((ethoxy(1-amino)phosphinothioyl)oxy)benzoate in or on the commodity potatoes at 1.5 parts per million (ppm). The proposed analytical method for determining residues is gas liquid chromatographic procedure using a thermionic detector. (William Miller, PM-16, CM#2, Rm. 211, (703-557-2600).)

2. *PP 3F2917.* Mobay Chemical Corp.. Proposes amending 40 CFR 180.387 by establishing tolerances for the combined residues of the above insecticide (PP 4F2989) and its metabolites in or on the commodities broccoli, brussels sprouts, cabbage, and cauliflower at 0.3 ppm. The proposed analytical method for determining residues is gas liquid chromatography procedure using a thermionic detector. (William Miller, PM-16, CM#2, Rm. 211, (703-557-2600).)

3. *FAP 4H5417.* Mobay Chemical Corp. Proposes amending 21 CFR Part 193 by establishing a regulation permitting residues of the above insecticide (PP 4F2989) and its metabolites in or on the commodities dried potatoes, potato chips, and potato granules at 5.0 ppm. (William Miller, PM-16, CM#2, Rm. 211, (703-557-2600).)

4. *PP 4F2993.* American Hoechst Corp., Rte 202-206 North Somerville, NJ 08876. Proposes amending 40 CFR Part 180 by establishing tolerances for residues of the insecticide [1*R*,[1[*S**]3(*RS**)]]-2,2-dimethyl-3-(1,2,2,2-tretrabromethyl)cyclopropanecarboxylic acid alpha-cyano-(3-phenoxyphenyl)methylester in or on the commodity cottonseed at 0.02 ppm (negligible). The proposed analytical method for determining residues is gas chromatography. (Timothy A. Gardner, PM-17 CM#2, Rm. 207, (703-557-2690).)

5. *FAP 4H5416.* Mobay Chemical Corp., P.O. Box 4913, Hawthorne Rd., Kansas City, MO 64120. Proposes amending 21 CFR Part 193 by establishing a regulation permitting residues of the insecticide cyano (4-fluoro-3-phenoxyphenyl)methyl 3-(2,2-dichloroethenyl)-2,2-dimethylcyclopropanecarboxylate in or on the commodities cottonseed oil at 2.0 ppm and soybean oil at 0.09 ppm and 21 CFR Part 561 in or on the animal feed commodities cottonseed hulls at 2.50 ppm and soybean hulls at 0.30 ppm. (Timothy A. Gardner, PM-17, CM#2, Rm. 207, (703-557-2690).)

6. *PP 7F1983.* Ciba Geigy Corp.. Proposes amending 40 CFR 180.298 by:

a. Establishing tolerances for residues of the insecticide methidathion (*O,O*-dimethyl phosphorodithioate, *S*-ester with 4-(mercaptomethyl)-2-methoxy-delta ²-1,3,4-thiadiazolin-5-one in or on the commodities clover, clover hay, grass, and grass hay at 12.0 ppm.

b. Establishing tolerances for the combined residues of the insecticide methidathion, its oxygen analog (*s*-[(5-methoxy-2-oxo-1,3,4-thiadiazol-3(2*H*)-yl) methyl] (*O,O*-dimethyl phosphorodithioate), the sulfoxide (2-methyl-4-(methylsulfonylmethyl)-delta²-1,3,4-thiadiazolin-5-one) and the sulfone (2-methoxy-4-(methylsulfonylmethyl)-delta²-1,3,4-thiladiazolin-5-one) metabolites in or on the following commodities:

Commodities	Parts per million (ppm)
Milk and dairy products	0.02
Eggs	0.05
Fat, meat and meat byproducts of cattle, goats, hogs, horses, poultry, and sheep	0.05

The proposed analytical method for determining residues is gas chromatography. (Jay Ellenberger, PM-12, CM#2, Rm. 205, (703-557-2386).)

(Sec. 408(d)(2), 68 Stat. 512 (21 U.S.C. 436a(d)(2); (Sec. 409(c)(1), 72 Stat. 1786 (21 U.S.C 348(c)(1)))

Dated: January 31, 1984.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 84-3386 Filed 2-7-84; 8:45 am]

BILLING CODE 6560-50-M

[PF-363; PH-FRL 2523-2]

FMC Corp.; Pesticide Petitions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received pesticide petitions relating to the establishment of tolerances for residues of the insecticide (±+) cyano (3-phenoxyphenyl)methyl (±) *cis/trans* 3-(2,2-dichloroethenyl)-2,2 dimethylcyclopropanecarboxylate [cypermethrin] in or on certain commodities.

ADDRESS: By mail submit written comments to: Program Management and Support Division (TS-757C), Attn: Product Manager (PM) 17, Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

In person, deliver comments to: Rm. 236, CM #2, Environmental Protection Agency, 1921 Jefferson Davis Highway, Arlington, VA 22202.

Written comments must be identified by the document control number [PF-363]. All written comments filed in response to the notice will be available for public inspection in the Program Management and Support Division office at the address above from 8:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT: Timothy A. Gardner, (PM-17), CM #2. Rm. 207, (703-557-2690).

SUPPLEMENTARY INFORMATION: EPA gives notice that the Agency has received the following pesticide petitions relating to the establishment of tolerances for residues in the insecticide (±) cyano (3-phenoxyphenyl)methyl (±) *cis/trans* 3-(2,2-dichloroethenyl)-2,2 dimethylcyclopropanecarboxylate [cypermethrin] in or on certain commodities in accordance with the Federal Food, Drug, and Cosmetic Act. The analytical method for determining residues, where required, is given in each petition.

Initial Filings

1. *PP 4F3010.* FMC Corp., 2000 Market St., Philadelphia, PA 19103. Proposes amending 40 CFR Part 180 by establishing tolerances for residues of the above insecticide in or on the commodities corn fodder and forage at 8.0 parts per million (ppm); and corn grain at 0.05 ppm. The analytical method for determining residues is gas chromatography.

2. *PP 4F3011.* FMC Corp. Proposes amending 40 CFR Part 180 by establishing tolerances for residues of the above insecticide in or on the commodity cabbage at 1.5 ppm. The proposed analytical method for determining residues is gas chromatography.

3. *PP 4F3012.* FMC Corp. Proposes amending 40 CFR Part 180 by establishing tolerances for residues of the above insecticide in or on the commodities sweet corn, fodder and forage at 40.0 ppm; and sweet corn, kernel and corn with husk removed (K+CWHR) at 0.1 ppm. The proposed analytical method for determining residues is gas chromatography.

(Sec. 408(d)(2) 68 Stat. 512, (21 U.S.C. 346a(d)(2)))

Dated: January 31, 1984.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 84-3384 Filed 2-7-84; 8:45 am]

BILLING CODE 6560-50-M

[OPTS-140043; TSH-FRL 2522-8]

Research Triangle Institute; Transfer of Data to Contractor

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA will transfer to its contractor, Research Triangle Institute (RTI) of Research Triangle Park, North Carolina, information submitted to EPA by manufacturers, processors, and importers of asbestos or asbestos products under section 8(a) of the Toxic Substances Control Act (TSCA). RTI will review this information and use it to perform analyses for regulatory actions in conjunction with review or revision of the asbestos national emission standards for hazardous air pollutants (NESHAP) under 40 CFR Part 61, Subpart B, that have been proposed or promulgated under the authority of the Clean Air Act (CAA), 42 U.S.C. 7414. Some of the section 8(a) information to be reviewed by RTI may be claimed to be confidential.

DATE: The transfer of confidential data submitted to EPA will occur no sooner than 10 working days after publication of this notice in the **Federal Register.**

FOR FURTHER INFORMATION CONTACT: Jack P. McCarthy, Director, TSCA Assistance Office (TS-779), Office of Toxic Substances, Environmental Protection Agency, Rm. E-543, 401 M St., SW., Washington, D.C. 20460, Toll Free: (800-424-9065), In Washington, D.C.: (554-1404), Outside the USA: (Operator—202-554-1404).

SUPPLEMENTARY INFORMATION: Under the authority of section 112 of the CAA and Executive Order 12291, EPA is reviewing the asbestos NESHAP (40 CFR Part 61, Subpart B) that currently regulates selected manufacturers and processors of asbestos. In reviewing the NESHAP, EPA needs to consider various courses of action that would expand or decrease the coverage or increase or decrease the stringency of the NESHAP. EPA needs to evaluate the economic and environmental impact of each course of action or regulatory alternative. Section 114 of the CAA provides EPA the authority to gather information to support this decisionmaking. However, under the TSCA section 8(a) Asbestos Reporting Requirements Rule, which was published in the **Federal Register** of July 30, 1982 (47 FR 33198), EPA collected sufficient information to perform these analyses. EPA has determined that it would be overly burdensome and inefficient to ask industry to furnish similar information a second time. Therefore, EPA plans to use the section 8(a) information to support CAA regulatory actions that would revise the asbestos NESHAP. Under EPA Contract Nos. 68-02-3056 and 68-02-3812, Research Triangle Institute of Research Triangle Park, N.C. will perform analyses to support the Agency's consideration of modifications to the asbestos NESHAP.

Pursuant to 40 CFR 2.306(j), EPA has determined that it will need to disclose confidential business information to RTI since much of the asbestos industry data submitted to the Agency under section 8(a) of TSCA were claimed as confidential.

Under contract No. 68-02-3056, TSCA section 8(a) data will be used primarily for developing representative-sized air pollution control system equipped model plants for the various types of asbestos milling, manufacturing, and fabrication facilities. Under Contract No. 68-02-3812, the TSCA data will be used primarily to evaluate the economic impact of the various courses of regulatory action being considered by the Agency.

RTI is already authorized access to TSCA confidential business data under separate contracts or subcontracts with EPA, including Contract No. 68-02-6287 which was announced in the **Federal Register** of February 24, 1983 (48 FR 7806).

RTI has been authorized to have access to TSCA confidential business information under the EPA "Contractor Requirements for the Control and Security of TSCA Confidential Business Information" security manual. EPA has approved the RTI security plan and has conducted the required inspections of the RTI facilities and found them to be in compliance with the provisions of the manual.

Since RTI will review information claimed to be confidential, EPA is issuing this notice to inform all submitters of data on asbestos under section 8(a) of TSCA that RTI will receive confidential business information from EPA. After completing the asbestos regulatory project, RTI will return all confidential business information to EPA.

The RTI personnel will be required to sign a nondisclosure agreement before they are permitted access to confidential information. RTI is required to treat all confidential business information in accordance with the requirements of the TSCA Confidential Business Information Security Manual and the Contractor Requirements manual.

Dated: February 1, 1984.

Don R. Clay,

Director, Office of Toxic Substances.

[FR Doc. 84-3385 Filed 2-7-84; 8:45 am]

BILLING CODE 6560-50-M

[[PF-364] PH-FRL 2523-4]

Shell Oil Co.; Pesticide and Feed Additive Petitions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received pesticide and feed additive petitions relating to the establishment of tolerances for residues of the insecticide cyano (3-phenoxyphenyl) methyl-4-chloro-alpha-(1-methylethyl) benzeneacetate in or on certain commodities.

ADDRESS: By mail submit written comments to: Program Management and Support Division (TS-767C), Attn: Product Manager (PM-17), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

In person, deliver comments to: Rm. 236, CM#2, Environmental Protection Agency, 1921 Jefferson Davis Highway, Arlington, VA 22202.

Written comments must be identified by the document control number [PF-364]. All written comments filed in response to the notice will be available for public inspection in the Program Management and Support Division office at the address above from 8:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT: Timothy A. Gardner, (PM-17), CM#2, Rm. 207, (703-557-2690).

SUPPLEMENTARY INFORMATION: EPA gives notice that the Agency has received the following pesticide and feed additive petitions relating to the establishment of tolerances for residues of the insecticide cyano (3-phenoxyphenyl) methyl-4-chloro-alpha-(1-methylethyl) benzeneacetate in or on certain commodities in accordance with the Federal Food, Drug, and Cosmetic Act. The analytical method for determining residues, where required, is given in each petition.

Initial Filings

1. *PP 2F2657.* Shell Oil Co., Suite 200, 1025 Connecticut Ave., Washington, D.C. 20036. Proposes amending 40 CFR 180.379 by establishing tolerances for residues of the above insecticide in or on the commodities as follows:

Commodities	Parts per million (ppm)
Eggs	0.3
Fat of cattle, goats, hogs, horses, and sheep	2.5
Grapes	10.0
Meat of cattle, goats, hogs, horses, and sheep	0.5
Meat byproducts of cattle, goats, hogs, horses, and sheep	1.5
Milk, fat	12.0
Milk, whole	0.6
Poultry fat and meat byproducts	0.2
Poultry meat	0.05

The proposed analytical method for determining residues is gas chromatography.

2. *FAP 2H5340.* Shell Oil Co. Proposes amending 21 CFR Part 561 by establishing a regulation permitting residues of the above insecticide in or on the commodities grape pomace (dry) at 75.0 ppm and raisin waste at 25.0 ppm.

(Secs. 408(e), 68 Stat. 514 (21 U.S.C. 346a(e)) and 409(c)(1), 72 Stat. 1786 (21 U.S.C. 348(c)(1)))

Dated: January 31, 1984.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 84-3386 Filed 2-7-84; 8:45 am]

BILLING CODE 6560-50-M

[OPP-240041; PH-FRL 2523-3]

State Registration of Pesticides

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received notices of registration of pesticides to meet special local needs under section 24(c) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) from 15 States. A registration issued under this section of FIFRA shall not be effective for more than 90 days if the Administrator disapproves the registration or finds it to be invalid within that period. If the Administrator disapproves a registration or finds it to be invalid after 90 days, a notice giving that information will be published in the **Federal Register.**

FOR FURTHER INFORMATION CONTACT: Sandra English, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C.

Office location and telephone number: Rm. 718, CM#2, 1921 jefferson Davis Highway, Arlington, VA, (703-557-2126).

SUPPLEMENTARY INFORMATION: Most of the registrations listed below were received by the EPA in November 1983. Receipts of State registrations will be published periodically. Except as indicated by (CUP) in seven registrations listed below, there is no change in use pattern in any of these registrations.

Arizona

EPA SLN No. AZ 83 0014. E. I. du Pont de Nemours and Co. Registration is for Du Pont Vydate L Insecticide/ Nematicide to be used on citrus to control nematodes. November 21, 1983.

California

EPA SLN No. CA 83 0070. California Department of Food and Agriculture Control and Eradication Unit. Registration is for Ground Squirrel Bait Strychnine-Treated Grain to be used to control ground squirrels. November 7, 1983.

EPA SLN No. CA 83 0071. California Department of Food and Agriculture Control and Eradication Unit. Registration is for Jackrabbit Bait Strychnine-Treated Grain to be used to control jackrabbits. November 7, 1983.

EPA SLN No. CA 83 0073. California Department of Food and Agriculture. Registration is for Blackbird and Cowbird Bait Strychnine-Treated Grain to be used on strychnine-treated grain (paddy rice, milo, whole oats, or rolled barley) to control blackbirds and cowbirds. November 7, 1983.

EPA SLN No. CA 83 0074. California Department of Food and Agriculture. Registration is for House Finch (Linnet) Bait Strychnine-Treated Grain to be used on strychnine-treated grain (rape seed and canary seed) to control house finches (linnet). November 7, 1983.

EPA SLN No. CA 83 0075. California Department of Food and Agriculture. Registration is for Sparrow Bait Strychnine-Treated Grain to be used on strychnine-treated grain-cracked grain bait (chick scratch or canary grass seed) to control sparrows. Novembr 7, 1983.

EPA SLN No. CA 83 0076. California Department of Food and Agriculture. Registration is for Marmot and Squirrel Bait-Strychnine Greens to be used on strychnine greens (dandelion greens, cabbage, or green alfafa tips) to control marmots and squirrels. November 7, 1983.

EPA SLN No. CA 83 0077. California Department of Food and Agriculture. Registration is for Horned Lark Bait Strychnine-Treated Grain to be used on strychnine-treated grain (chick scratch, lettuce seed, cracked mile, canary grass seed, and whole or cracked groats) to control horned larks. November 7, 1983.

EPA SLN No. CA 83 0078. California Department of Food and Agriculture. Registration is for Kangaroo Rat Bait Strychnine-Treated Grain to be used on strychnine-treated grain (barley, crimped oats, or squirrel oat groats) to control kangaroo rats. November 7, 1983.

EPA SLN No. CA 83 0079. California Department of Food and Agriculture. Registration is for Methyl Bromide 100 to be used on almond meats and almonds in-shell to control navel orangeworms. November 7, 1983.

EPA SLN No. CA 83 0080. Placer County Department of Agriculture. Registration is for Rodent Bait Chlorophacinone-Treated Grain (0.005%) to be used on wood rat runways or dens to control Norway rats, house mice, ground squirrels, golden-mantled ground squirrels, muskrats, jackrabbits, meadow mice, and wood rats. November 28, 1983.

EPA SLN No. CA 83 0081. Placer County Department of Agriculture. Registration is for Rodent Bait Chlorophacinone-Treated Grain (0.01%) to be used on active burrows or runways to control ground squirrels, deer mice, and house mice. November 28, 1983.

EPA SLN No. CA 83 0082. Placer County Department of Agriculture. Registration is for Rodent Bait Block Chlorophacinone-Treated Grain/ Paraffin (0.005%) to be used on treated grain to control Norway rats, muskrats, and wood rats. November 28, 1983.

EPA SLN No. CA 83 0083. Placer County Department of Agriculture. Registration is for Rodent Bait Diphacinone-Treated Grain (0.005%) to be used on treated grain to control Norway rats, roof rats, house mice, ground squirrels, golden-mantled ground squirrels, muskrats, jackrabbits, meadow mice, and wood rats. November 28, 1983.

EPA SLN No. CA 83 0084. Placer County Department of Agriculture. Registration is for Rodent Bait Diphacinone-Treated Grain (0.01%) to be used on treated grain to control deer mice, ground squirrels, and house mice. November 28, 1983.

EPA SLN No. CA 83 0085. Placer County Department of Agriculture. Registration is for Rodent Bait Block Diphacinone-Treated Grain/Paraffin (0.005%) to be used on treated grain to control Norway rats, muskrats, and wood rats. November 28, 1983.

Florida

EPA SLN No. FL 83 0028. The Land, EPCOT Center. Registration is for Mavrik Aquaflow to be used on crops grown in The Land, EPCOT Center, Lake Buena Vista, to control insects. November 16, 1983.

EPA SLN No. FL 83 0029. Chevron Chemical Co. Registration is for Orthene 75S Soluble Powder to be used on

residential and commerical turf and golf courses to control sod webworm and leafhoppers. November 28, 1983.

Hawaii

EPA SLN No. HI 83 0012. Western Farm Service, Inc. Registration is for Thiram 65% Wettable Powder Fungicide to be used on ornamental plants, orchids, and foilages to control damping off, black spot, and root rot. (CUP) November 28, 1983.

Illinois

EPA SLN No. IL 83 0026. FMC Corp. Registration is for Furadan 4F to be used on strawberries to control root weevil. November 29, 1983.

Maryland

EPA SLN No. MD 83 0008. The Dow Chemical Co. Registration is for Dursban TC Insecticide Concentrate to be used on plenum-type structures to control subterranean termites. November 22, 1983.

EPA SLN No. MD 83 0012. American Hoechst Corp. Registration is for Hoelon 3EC herbicide to be used on wheat to control annual ryegrass. November 15, 1983.

Michigan

EPA SLN No. MI 83 0021. Chevron Chemical Co. Registration is for Ortho Paraquat + Plus to be used on alfalfa to control weeds between cuttings. November 1, 1983.

EPA SLN No. MI 83 0022. SDS Biotech Corp. Registration is for Daconil 2782 Fungicide to be used on turfgrasses to control gray snow mold. (CUP) November 30, 1983.

Nevada

EPA SLN No. NV 83 0009. Nevada Department of Agriculture. Registration is for 5.1% Strychnine Alkaloid Paste to be used on rangeland, pasture, cropland, and nonagricultural sites to control ground squrriels, black-tailed jack rabbits, yellow-bellied marmots, and pocket gophers. November 22, 1983.

EPA SLN No. NV 83 0010. Nevada Department of Agriculture. Registration is for 0.29% Strychnine Sparrow Bait to be used on the ground to control house sparrows. November 22, 1983.

EPA SLN No. NV 0011. Nevada Department of Agriculture. Registration is for Strychnine Cabbage Bait to be used on rangeland, pasture, cropland, and nonagricultural sites to control ground squirrels, black-tailed jack rabbits, and yellow-bellied marmots. November 22, 1983.

EPA SLN No. NV 83 0012. Nevada Department of Agriculture. Registration is for 0.29% Strychnine Grain Bait to be used on rangeland, pasture, cropland and nonagricultural sites to control ground squirrels, black-tailed jack rabbits, cotton rats, kangaroo rats, and pocket gophers. November 22, 1983.

New Mexico

EPA SLN No. NM 83 0016. Abbott Laboratories. Registration is for Dipel 4L to be used on alfalfa to control alfalfa caterpillars. November 2, 1983.

Oklahoma

EPA SLN No. OK 83 0031. E. I. du Pont de Nemours and Co. Registration is for Du Pont Karmex Weed Killer to be used on highway rights-of-way to control barnyardgrass, crabgrass, kochia, lambsquarters, pigweed, ragweed, and Bermuda grass. (CUP) November 8, 1983.

Oregon

EPA SLN No. OR 83 0062. Basf Wyandotte Corp. Registration is for Poast Herbicide to be used on fescue grass fields grown for seed to control troublesome perennial grass seed weeds. November 22, 1983.

EPA SLN No. OR 83 0063. SDS Biotech Corp. Registration is for Daconil 2787 Flowable Fungicide to be used on turfgrass to control fusarium (gerlachia) patch. (CUP) November 30, 1983.

EPA SLN No. OR 83 0064. SDS Biotech Corp. Registration is for Daconil 2787 Fungicide to be used on turfgrass to control fusarium (gerlachia) patch. (CUP) November 30, 1983.

Pennsylvania

EPA SLN No. PA 83 0019. Tri Bio Laboratories, Inc. Registration is for Paraformaldehyde Flakes to be used on poultry houses and equipment to control viruses, parasites, bacteria, and molds. (CUP) November 10, 1983.

Utah

EPA SLN No. UT 83 0014. Wilbur-Ellis Co. Registration is for Malathion 5 Pyrethrum 0.1 P.B. to be used on mushrooms to control mites and phorid and sciarid flies. November 29, 1983.

West Virginia

EPA SLN No. WV 83 0007. The Archem Corp. Registration is for Parapel Paraffinized Pellets to be used on orchards to control pine voles and meadow voles. November 2, 1983

EPA SLN No. WV 83 0008. Velsicol Chemical Corp. Registration is for Banvel Herbicide to be used on pasture, rangeland, drainage ditch banks, general farmstead, fence rows, and roadways to control multiflora rose. (CUP) November 3, 1983.

Wyoming

EPA SLN No. 83 0007. Degesch America, Inc. Registration is for Degesch Phostoxin New Coated Tablets-R to be used for outdoor use only to control black-tailed prairie dogs. November 21, 1983.

Dated: January 31, 1984.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 84-3387 Filed 2-7-84; 8:45 am]

BILLING CODE 6560-50-M

[A-6-FRL 2521-7]

Issuance of Prevention of Significant Deterioration Permit; Valero Gathering Company, DeWitt County, Texas

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of PSD Permit Issuance.

SUMMARY: On April 22, 1983, the Environmental Protection Agency, Region 6, issued a Prevention of Significant Deterioration (PSD) permit to Valero Gathering Company allowing the modification of the their Gohlke natural gas treating facility located near Terryville, DeWitt county, Texas. On June 13, 1983, a petition was filed with the Administrator for review of this PSD permit. Because such a review was requested the permit, PSD-TX-449, was no longer a final agency action and was not effecive. On December 13, 1983, the Administrator denied the petition for review. Therefore, EPA issued a final permit to Valero dated December 22, 1983.

DATE: Under Section 307(b)(1) of the Clean Air Act, judicial review of this determination is available only by the filing of a petition for review in the United States Court of Appeals in the appropriate circuit within sixty (60) days of today's notice. Under Section 307(b)(2) of the Clean Air Act, any requirements associated with the above action may not be challenged later in civil or criminal proceedings that may be brought by the EPA to enforce the requirements.

In the above case, the appropriate court is the U.S. Court of Appeals, for the 5th Circuit for sources in Texas. A petition for review must be filed with the appropriate court on or before (60 days from date of notice).

ADDRESSES: Documents relevant to the above action and related information are available for public inspection during normal business hours at the following location: Environmental

Protection Agency, Region 6, Air Branch, InterFirst II, 1201 Elm Street, Dallas, Texas 75270, (214) 767–1594.

FOR FURTHER INFORMATION CONTACT: Jack S. Divita, (214) 767–2746.

Dated: January 27, 1984.

Frances E. Phillips,

Acting Regional Administrator.

[FR Doc. 84–3383 Filed 2–7–84; 8:45 am]

BILLING CODE 6560–50–M

ENVIRONMNTAL PROTECTION AGENCY

[OPP–30217A; PH–FRL 2520–3]

Rhone-Poulenc, Inc.; Approval of Applications To Register Pesticide Products Containing a New Active Ingredient

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has approved the applications by Rhone-Poulenc, Inc. to register the pesticide products Aliette Fungicide and Fosetyl-Al Technical, containing an active ingredient not included in any previously registered pesticide product pursuant to the provisions of section 3(c)(5) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended.

FOR FURTHER INFORMATION CONTACT:

By mail: Henry Jacoby, Product Manager PM 21, Registration Division (TS–767C), Office of Pesiticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460

Office location and telephone number: Rm. 229, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202 (703–557–1900).

SUPPLEMENTARY INFORMATION: EPA issued a notice published in the **Federal Register** of May 12, 1982 (47 FR 20377), which announced that Rhone-Poulenc, Inc., P.O. Box 125, Monmouth Junction, NJ 08852, had submitted applications to register the pesticide products Aliette Fungicide (359–TNA) and Fosetyl-Al Technical (359–TNL), containing 80 and 95 percent respectively of the active ingredient aluminum tris (*O*-ethyl phosphonate), and ingredient not included in any previously registered products.

The applications were approved on August 2, 1983 for Fosetyl-Al Technical (359–705) for general use in pesticide formulations and for Aliette Fungicide (359–706) for general use to control phytophthora root rot on ornamentals. On October 21, 1983, the registration for Aliette Fungicide was expanded to include the use on pineapple seed pieces for control of phytophthora rot.

The use of Aliette on pineapple seed pieces was conditionally issued. The condition of registration requires Rhone-Poulenc, Inc. to carry out a residue monitoring study for pineapple seed pieces handlers. The protocol for the study must have Agency approval before initiation.

A copy of the approved label and the list of data references used to support registration are available for public inspection in the office of the product manager. The data and other scientific information used to support registration will be available for public inspection in accordance with section 3(c)(2) of FIFRA within 30 days after registration date. Requests for data must be made in accordance with the provisions of the Freedom of Information Act and must be addressed to the Freedom of Information Office (A–101), EPA, 401 M St., SW., Washington, D.C. 20460. Such requests should: (1) Identify the product name and registration number and (2) specify the data or information desired.

(Sec. 3(c)(2) FIFRA, as amended)

Dated: January 30, 1984.

Edwin L. Johnson,

Director, Office of Pesticide Programs.

[FR Doc. 84–3237 Filed 2–7–84; 8:45 am]

BILLING CODE 6560–55–M

[OPP–240040; PH–FLR 2520–5;]

State Registration of Pesticides

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received notices of registration of pesticides to meet special local needs under section 24(c) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) from 15 States. A registration issued under this section of FIFRA shall not be effective for more than 90 days if the Administrator disapproves the registration or finds it to be invalid within that period. If the Administrator disapproves a registration or finds it to be invalid after 90 days, a notice giving that information will be published in the **Federal Register**.

DATE: The last entry for each item is the date the State registration of the product became effective.

FOR FURTHER INFORMATION CONTACT: By mail: Sandra English, Registration Division (TS–767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C.

Office location and telephone number: Rm. 718, CM#2, 1921 Jefferson Davis Highway, Arlington, VA, (703–557–2126).

SUPPLEMENTARY INFORMATION: Most of the registrations listed below were received by EPA in October 1983. Receipts of State registrations will be published periodically. Except as indicated by (CUP) in 15 registrations listed below, there is no change in use patterns in any of these registrations.

Arizona

EPA SLN No. AZ 83 0012. Rohm and Haas Co. Registration is for Goal 2E Herbicide to be used on jojoba plantings to control broadleaf weeds. October 6, 1983.

EPA SLN No. AZ 83 0013. Rohm and Haas Co. Registration is for Goal 1.6E Herbicide to be used on jojoba plantings to control broadleaf weeds. October 6, 1983.

California

EPA SLN No. CA 83 0031. Solano County Agriculture Dept. Registration is for Devrinol 50 WP Devrinol 2E to be used on basil, marjoram, rosemary, and summer and winter savory to control annual grasses and broadleaf weeds. October 20, 1983.

EPA SLN No. CA 83 0066. Department of Health Services. Registration is for SBP–1382/Piperonyl Butoxide Insecticide Concentrate 18%+54% to be used on noncrop land to control mosquitoes. October 11, 1983.

EPA SLN No. CA 83 0067. Santa Barbara County Agriculture Dept. Registration is for Degesch Phostoxin New Coated Tablets-R Fumitoxin New Coated Tablets-R to be used on rodent burrows in artichoke fields to control meadow mice. October 7, 1983.

EPA SLN No. CA 83 0068. Monterey County Agriculture Dept. Registration is for Kerb 50–W in Water Soluble Pouches to be used on artichokes to control annual bluegrass, foxtail, ryegrass, volunteer grains, wild oats, nettle, cheeseweed, chickweed, henbit, knotweed, wild mustard, nettleleaf, goosefoot, and hairy nightshade. (CUP) October 11, 1983.

EPA SLN No. EPA No. CA 83 0069. Madera County Agriculture Dept. Registration is for Hivol–44 to be used on tangelos and temple oranges (royal mandarins) to control preharvest fruit drop. October 18, 1983.

Florida

EPA SLN No. FL 83 0024. Rhone-Poulenc, Inc. Registration is for Mocap 10G to be used on leatherleaf fern (*rumohra adiatiformis*) to control nematodes. October 4, 1983.

EPA SLN No. FL 83 0025. Florida Celery Exchange. Registration is for Monitor 4 to be used on celery to control dipterous leafminers, aphids, lepidopterous, and insects. October 7, 1983

EPA SLN No. FL 83 0026 Shell Chemical Co. Registration is for Vendex 50WP Miticide to be used on pecans to control pecan mites and hickory mites. October 23, 1983.

EPA SLN No. FL 83 0027. Shell Chemical Co. Registration is for Vendex 4L Miticide to be used on pecans to control pecan mites and hickory mites. October 23, 1983.

Maryland

EPA SLN No. MD 83 0011. E.I. du Pont de Nemours and Co. Registration is for Du Pont Sinbar Weed Killer to be used on alfalfa to control barnyardgrass, cheatgrass, chickweed, crabgrass, fall panicum foxtail, henbit, lambsquarters, and marestail. (CUP) October 17, 1983.

Michigan

EPA SLN No. MI 83 0020. Velsicol Chemical Corp. Registration is for Banvel Herbicide to be used on field corn and sorghum to control hemp dogbane. September 27, 1983.

Montana

EPA SLN No. MT 83 0007. Velsicol Chemical Corp. Registration is for Banvel Herbicide to be used on wheat and barley to control kochia, wild buckwheat, and Russian-thistle weeds. (CUP) October 12, 1983.

Nevada

EPA SLN No. NV 83 0008. Nevada Department of Agriculture. Registration is for D.Z.N. Diazinon AG to be used on garlic to control onion maggots and seed corn maggots. (CUP) October 28, 1983.

North Carolina

EPA SLN No. NC 83 0023. Rohm and Haas Co. Registration is for Goal 1.6E Herbicide to be used on clary sage to control henbit. October 17, 1983.

EPA SLN No. NC 83 0024. Union Carbide Agricultural Products Co. Registration is for Carbaryl Insecticide 20% Bait to be used on poultry houses to control darkling beetles. October 27, 1983.

Oklahoma

EPA SLN No. OK 83 0027. E.I. du Pont de Nemours and Co. Registration is for Du Pont Glean Weed Killer to be used on winter wheat to control preemergence weeds. (CUP) October 7, 1983.

EPA SLN No. OK 83 0028. Ciba-Geigy Corp. Registration is for AAtrex 80W Herbicide to be used on wheat harvests in a wheat-fallow-wheat rotation to control broadleaf and grass weeds. (CUP) October 31, 1983.

EPA SLN No. OK 83 0029. Ciba-Geigy Corp. Registration is for AAtrex 4L Herbicide to be used on wheat harvests in a wheat-fallow-wheat rotation to control broadleaf and grass weeds. (CUP) October 31, 1983.

EPA SLN No. OK 83 0030. Ciba-Geigy Corp. Registration is for AAtrex Nine-O Herbicide to be used on wheat harvests in a wheat-fallow-wheat rotation to control broadleaf and grass weeds. (CUP) October 31, 1983.

Oregon

EPA SLN No. OR 83 0040. Chevron Chemical Co. Registration is for 75S Soluble Powder to be used on radishes (for seed crops only) to control cabbage aphids, green peach aphids, diamond-backed moths, cabbage loopers, imported cabbage worms, and variegated and red-backed cutworms. October 7, 1983.

EPA SLN No. OR 83 0061. Elanco Products Co. Registration is for Surflan AS to be used in commercial plantings of bulbous iris, narcissus, and tulip plantings to control annual weeds. (CUP) October 3, 1983.

Pennsylvania

EPA SLN No. PA 83 0017. Agway, Inc. Registration is for Agway Greenlawn Plus Fertilizer with Oftanol Insect Killer to be used on turf grasses to control white grub larvae, Japanese beetle, and black turf grass. October 25, 1983.

EPA SLN No. PA 83 0018. Agway, Inc. Registration is for Agway Professional Fairway and Athletic Turf 19–4–9 Fertilizer with Oftanol Insect Killer to be used on turf grasses to control white grub larvae, Japanese beetles, and black turf grass. October 25, 1983.

South Dakota

EPA SLN No. SD 83 0008. Hopkins Agricultural Chemical Co. Registration is for Hopkins Malathion 57% Emulsifiable Liquid Insecticide-B to be used on stored sunflower seeds to control cereal leaf beetles, granary weevils, indian meal moths, lesser grain borers, red flour beetles, and rice weevils. October 6, 1983.

Tennessee

EPA SLN No. TN 83 0020. Red Panther Chemical Co. Registration is for Red Panther Super Juce to be used on cotton to control johnsongrass, nutsedge, dallisgrass, cocklebur, barnyardgrass, ragweed, sandbur, and puncture vines. (CUP) October 3, 1983.

EPA SLN No. TN 83 0021. Red Panther Chemical Co. Registration is for Red Panther DSMA Liquid to be used on cotton to control johnsongrass, nutsedge, dallisgrass, cocklebur, barnyardgrass, radweed, sandbur, and puncture vines. (CUP) October 3, 1983.

EPA SLN No. TN 83 0022. Union Carbide Agricultural Products Co., Inc. Registration is for Emulsamine E–3 to be used along drainage ditchbanks to control weeds and brush. October 3, 1983.

EPA SLN No. TN 83 0023. Union Carbide Agricultural Products Co., Inc. Registration is for Weedone 2,4-DP Woody Plant Herbicide to be used on forest site preparation (aerial or ground spray) to control oaks, elms, cherry, willow, and other species before planting pine seedlings. October 3, 1983.

EPA SLN No. TN 83 0024. E.I. du Pont de Nemours and Co. Registration is for Du Pont Lexone DF Weed Killer to be used on soybeans to control beggarweed, redroot, pigweed (careless weed) carpetweed, common cocklebur, dayflower, mexicanweed, common purslane, sicklepod (coffee weed), velvetleaf, and crabgrass. (CUP) October 19, 1983.

EPA SLN No. TN 83 0025. E.I. du Pont de Nemours and Co. Registration is for Du Pont Lexone Weed Killer to be used on soybeans to control beggarweed, redroot, pigweed, carpetweed, common cocklebur, dayflower, mexicanweed, common purslane, sicklepod (coffee weed), velvetleaf, and crabgrass. (CUP) October 19, 1983.

EPA SLN No. TN 83 0026. E.I. du Pont de Nemours and Co. Registration is for Du Pont Lexone 4L Weed Killer. Registration is for Du Pont Lexone 4L Weed Killer to be used on soybeans to control beggarweed, redroot, pigweed, carpetweed, common cocklebur, dayflower, mexicanweed, common purslane, sicklepod (coffee weed), velvetleaf, and crabgrass. (CUP) October 19, 1983.

Texas

EPA SLN No. TX 83 0036. Gustafson, Inc. Registration is for Gustafson Apron-F1 Fungicide to be used on sorghum to control systemic downy mildew. (CUP) October 14, 1983.

Washington

EPA SLN No. WA 83 0041. Orco, Inc. Registration is for Gopher Grain Bait-Milo to be used on forestry, forage crops, orchards, grass seeds, and noncrop areas to control burrowing pocket gophers. October 27, 1983.

EPA SLN No. WA 83 0042. Orco, Inc. Registration is for Gopher Grain Bait-

Wheat to be used on forestry, forage crops, orchards, grass seeds, and noncrop areas to control burrowing pocket gophers. October 27, 1983.

EPA SLN No. WA 83 0043. Orco, Inc. Registration is for Field Mouse Plus to be used on forestry areas to control mice and voles. October 27, 1983.

EPA SLN No. WA 83 0044. Platte Chemical Co. Registration is for Clean Crop Low Vol B-4 2,4-D Herbicide to be used as a conifer release to control alder. October 27, 1983.

Dated: January 26, 1984.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 84-3238 Filed 2-7-84; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

Meeting of Interested Parties to CC Docket No. 81-343, Policy for Overseas Common Carrier Facilities, Pacific Region, 1981-1995

February 1, 1984.

Members of the Common Carrier Buerau staff will convene a meeting of all interested parties to the Pacific Planning Process (CC Docket No. 81-343) in Room 330, Brown Building, 1200 19th Street, NW., Washington, D.C. at 10:00 a.m. on Tuesday, February 21, 1984.

The agenda of the meeting will include: (1) Submission of data and/or discussion of U.S. carriers' forecasted circuit demands and circuit requests for the 1987-1995 time frame; (2) discussion of alternative facilities plans proposed for construction during the 1987-1995 period; (3) disucssion of the proposed introduction and configuration of a fiber optic TPC-3 cable in 1988; (4) discussion of any citical dates by which facilities decisions must be made; (5) the scheduling of Public Meetings; and (6) any other matters related to this proceeding.

This meeting will be open to the public and anyone who wishes to attend and express views is invited. For additional information, contact Stuart Chiron or Laura Stein (202) 632-4047.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 84-3348 Filed 2-7-84; 8:45 am]

BILLING CODE 6712-01-M

[MM Docket No. 84-25, File No. BPCT-830801KO; and MM Docket No. 84-26, File No. BPCT-831017KE]

Way of the Cross of Selma[1] and John R. Powley; Hearing Designation Order

Adopted: January 10, 1984.
Released: January 30, 1984.

By the Chief, Mass Media Bureau.

1. The Commission, by the Chief, Mass Media Bureau, acting pursuant to delegated authority, has before it the above captioned mutually exclusive applications for a new commercial television station to operate on Channel 29, Selma, Alabama.

2. Section V-C, item 10, FCC Form 301, requires that an applicant submit figures for the area and population within its predicted grade B contour. Neither applicant has specified the population within its Grade B contour. Consequently we are unable to determine whether there would be a significant difference in the size of the area and population that each proposes to serve. Each applicant will be required to submit an amendment showing the required information, within 20 days after this Order is released, to the presiding Administrative Law Judge. If it is determined that there is a significant disparity between the areas and populations, the presiding Administrative Law Judge will consider it under the standard comparative issue.

3. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. Since these applications are mutually exclusive, the Commission is unable to make the statutory finding that their grant will serve the public interest, convenience and necessity. Therefore, the applications must be designated for hearing in a consolidated proceeding on the issues specified below.

4. Accordingly, it is ordered, That, pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, before an Administrative Law Judge at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine which of the proposals would, on a comparative basis, better serve the public interest.

2. To determine, in light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

5. It is further ordered, That, Way of the Cross of Selma and John R. Powley shall each submit an amendment indicating population within its predicted Grade B contour, to the presiding Administrative Law Judge, within 20 days after this Order is released.

6. It is further ordered, That, to avail themselves of the opportunity to be heard, the applicants herein shall, pursuant to § 1.221(c) of the Commission's Rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission, in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this Order.

7. It is further ordered, That, the applicants herein shall, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594 of the Commission's Rules, give notice of the hearing within the time and in the manner prescribed in such Rule, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the Rules.

Federal Communications Commission.

Roy J. Steward, ,

Chief, Video Services Division, Mass Media Bureau.

[FR Doc. 84-3347 Filed 2-7-84; 8:45 am]

BILLING CODE 6712-01-M

[1] On August 19, 1983, an amendment was filed to change the applicant's name to ACB, Inc., but the amendment was not signed by an officer of the corporate applicant as required by § 73.3513(a) of the Commission's Rules. On December 15, 1983, another amendment was filed, reporting a change in prinicipals, but the amendment was signed by someone with no apparent connection with the applicant. Both amendments were returned as unacceptable for filing.

FEDERAL ELECTION COMMISSION

Presidential Election Campaign Fund; Denial of Rulemaking Petition

AGENCY: Federal Election Commission.

ACTION: Notice of Denial of Rulemaking Petition.

SUMMARY: The Commission announces denial of a Petition for Rulemaking filed on July 26, 1983, by the National Taxpayers Legal Fund (48 FR 39295, August 30, 1983). The petition sought revision of the definition of "political party" at 11 CFR 9002.15 for the purposes of the Presidential Election Campaign Fund Act (26 U.S.C. 9001 *et seq.*).

DATE: February 2, 1984.

FOR FURTHER INFORMATION CONTACT: Susan E. Propper, Assistant General Counsel, 1325 K Street, N.W.,

Washington D.C. 20463 (202) 523–4143 or (800) 424–9530.

SUPPLEMENTARY INFORMATION: On July 26, 1983, the National Taxpayers Legal Fund (NRLF) filed a petition for rulemaking with the Federal Election Commission. The petition sought amendment of section 9002.15 of the Commission's regulations, which defines the term "political party" for purposes of the Presidential Election Campaign Fund Act (26 U.S.C. 9001 et seq.). NTLF's proposal would provide additional requirements to be met by any organization in order to qualify as a political party under the Fund Act.

The Commission invited public comment on the Petition and received comments from 16 interested persons. The Commission also sought comments from the Internal Revenue Service pursuant to 2 U.S.C. 438(f). The IRS has taken no position on the petition to date.

At its open meeting of February 2, 1984, the Commission voted to deny the Petition. Copies of the General Counsel's recommendation on which the Commission's decision was based are available for public inspection and copying in the Commission's Public Records Office, 1325 K Street, N.W., Washington, D.C. 20463, (202) 523–4161 or toll-free (800) 424–9530.

Dated: February 2, 1984.

Lee Ann Elliott,

Chairman, Federal Election Commission.

[FR Doc. 84–3375 Filed 2–7–84; 8:45 am]

BILLING CODE 6715–01–M

FEDERAL MARITIME COMMISSION

Agreements Filed

The Federal Maritime Commission hereby gives notice that the following agreements have been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and may request a copy of each agreement and the supporting statement at the Washington, D.C. Office of the Federal Maritime Commission, 1100 L Street, N.W., Room 10325. Interested parties may submit protests or comments on each agreement to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after the date of the **Federal Register** in which this notice appears. The requirements for comments and protests are found in § 522.7 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Any person filing a comment or protest with the Commission shall, at the same time, deliver a copy of that document to the person filing the agreement at the address shown below.

Agreement No.: T–4161.

Title: San Francisco Port Commission and Marine Terminals Corporation Non-exclusive Management Agreement.

Parties: San Francisco Port Commission (Port) and Marine Terminals Corporation (MTC).

Synopsis: Agreement No. T–4161 provides for the Non-exclusive management by MTC of the Port's operations at Piers 27/29 in the Port of San Francisco. MTC shall also engage in cargo solicitation for the facility. The agreement provides for revenue sharing between the Port and MTC under a formula set forth therein. Charges, collected pursuant to the Port's tariff, for demurrage and wharfage shall accrue to MTC. The agreement is for five-years with a five-year renewal option.

Filing Party: Samuel B. Nemirow, Hill, Betts & Nash, 1220 Nineteenth Street, N.W., Suite 302, Washington, D.C. 20036.

Agreement No.: T–4162.

Title: The Port of Portland and Sammi Line Preferential Berth Use Agreement.

Parties: The Port of Portland (Port) and Sammi Line (Sammi).

Synopsis: Agreement No. T–4162 provides that Sammi will have preferential use of certain berths at the Port's Terminal No. 1, at Portland. The term will be for one-year with an option for an additional one-year period. The Port will assess Sammi charges at the Port's tariff rates, except the service and facilities charge rate, which will be assessed on quantities up to 45,000 metric tons, less 10 percent.

Filing Party: Milton A. Mowat, Manager, Traffic and Regulatory Affairs, Port of Portland, Post Office Box 3529, Portland, Oregon 97208.

Agreement No.: 8900–24.

Title: The 8900 Lines Agreement.

Parties: Barber Blue Sea Line, Maersk Line, Nedlloyd Lijnen, B.V., Sea-Land Service, Inc., The National Shipping Company of Saudi Arabia, United Arab Shipping Company (S.A.C.), Waterman Steamship Corp.

Synopsis: Agreement No. 8900–24 would authorize the Agreement to share office space, personnel, and related facilities with other rate agreements or conferences.

Filing Party: Jeffery F. Lawrence, Esquire, Billig, Sher & Jones, P.C., Suite 300, 2033 K Street, NW., Washington, D.C. 20006.

Agreement No.: 10301–2.

Title: Trans-Atlantic Associated Freight Conferences (London).

Parties: Continental/North Atlantic Westbound Freight Conference, North Atlantic Westbound Freight Association, Scandanavia-Baltic/U.S. North Atlantic Westbound Freight Conference.

Synopsis: The proposed amendment would allow the agreement to locate its offices in a location in the United Kingdom other than London.

Filing Party: Howard A. Levy, Esquire, 17 Battery Place, Suite 727, New York, New York 10004.

By Order of the Federal Maritime Commission.

Dated: February 2, 1984.

Francis C. Hurney,

Secretary

[FR Doc. 84–3340 Filed 2–7–84; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

CNB Bancshares, Inc., et al.; Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (49 FR 794) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated for that application. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. With respect to each application, interested persons may express their views in writing to the Reserve Bank indicated for that application or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than March 1, 1984.

A. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. *CNB Bancshares, Inc.*, Sevierville, Tennessee; to become a bank holding company by acquiring 80 percent of the voting shares of citizens National Bank of Sevierville, Sevierville, Tennessee.

2. *Professional Bancorp*, Coral Gables, Florida; to become a bank holding company by acquiring 100 percent of the voting shares of Dixie National Bank of Dade County, Miami, Florida.

B. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *General Bancshares Corporation of Indiana*, Fort Wayne, Indiana; to become a bank holding company by acquiring 100 percent of the voting shares of Anthony Wayne Bank, Fort Wayne, Indiana.

2. *Salem Capital Corp.*, Elkhart, Indiana; to become a bank holding company by acquiring 44.0 percent of the voting shares of Salem Financial Corporation, Goshen, Indiana and thereby indirectly acquire Salem Bank and Trust Company, Goshen, Indiana.

3. *Whitney Corporation of Iowa*, Atlantic, Iowa; to acquire 100 percent of the voting shares or assets of Schroeder-Goodenow Management Co., Exira, Iowa, and thereby indirectly acquire Exchange State Bank, Exira, Iowa.

C. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Kimball Bancorp, Inc.*, Kimball, Nebraska; to become a bank holding company by acquiring 98.7 percent of the voting shares of American National Bank of Kimball, Kimball, Nebraska.

2. *Town & Country Bancshares, Inc.*, Bixby, Oklahoma; to become a bank holding company by acquiring 80 percent of the voting shares of Town & Country Bank, Bixby, Oklahoma.

Board of Governors of the Federal Reserve System, February 2, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-3364 Filed 2-7-84; 8:45 am]

BILLING CODE 6210-01-M

Eagle Financial Services, Inc.; Formations of, Acquisitions by, and Mergers of Bank Holding Companies and Acquisitions of Nonbanking Companies

The organization listed in this notice has applied under § 225.14 of the Board's Regulation Y (49 FR 794) for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) to become a bank holding company or to acquire voting securities of a bank or bank holding company. The listed company has also applied to under § 225.23(a)(2) of Regulation Y (49 FR 794) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (49 FR 794) to acquire or control voting securities or assets a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. With respect to the application, interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice a lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding this application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than March 1, 1984.

A. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Eagle Financial Services, Inc.*, Northfield, Illinois, to become a bank holding company by acquiring 80 percent or more of the voting shares of State Bank of Richmond, Richmond, Illinois. E. F. Wonderlic Companies, Inc., Northfield, Illinois; to become a bank holding company by acquiring 100 percent of the voting shares of Eagle Financial Services, Inc., Northfield, Illinois, the proposed parent of State Bank of Richmond, and 100 percent of E. F. Wonderlic and Associates, Inc., Northfield, Illinois and thereby engage in consumer finance activities.

Board of Governors of the Federal Reserve System, February 2, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-3366 Filed 2-7-84; 8:45 am]

BILLING CODE 6210-01-M

Eldon Bankshares, Inc., et al.; Formation of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become bank holding companies by acquiring voting shares or assets of a bank. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. **Federal Reserve Bank of Chicago** (Frankling D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Eldon Bankshares, Inc.*, Eldon, Iowa; to become a bank holding company by acquiring 100 percent of the voting shares of First National Bank of Eldon, Eldon, Iowa. Comments on this application must be received not later than March 2, 1984.

B. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Financial Holdings, Inc.*, Boulder, Colorado, to become a bank holding company by acquiring 100 percent of the voting shares of Omnibank Louisville, Louisville, Colorado. Comments on this application must be received not later than March 2, 1984.

C. **Federal Reserve Bank of Dallas** (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Provident Bancorp, Inc.* Dallas, Texas; to become a bank holding company by acquiring 100 percent of the voting shares of Celina Bancorp, Inc., Dallas, Texas (parent of First State Bank, Celina, Texas), and at least 96

percent of the voting shares of First State Bank, Wylie, Texas; and at least 95 percent of the voting shares of the The Security State Bank, Commerce, Texas; and 100 percent of the voting shares of Provident Bank—Dallas, Dallas, Texas; and 100 percent of the voting shares of DeSoto State Bank, DeSota, Texas. Comments on this application must be received not later than March 2, 1984.

Board of Governors of the Federal Reserve System, February 2, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-3369 Filed 2-7-84; 8:45 am]

BILLING CODE 6210-01-M

First Jersey National Corp., et al., Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and section 225.14 of the Board's Regulation Y (49 FR 794) to become a bank holding company or to acquire a bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated for that application. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Govenors. With respect to each application, interested persons may express their views in writing to the Reserve Bank indicated for that application or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than March 2, 1984.

A. **Federal Reserve Bank of New York** (A. Marshall Puckett, Vice President) 33 Liberty Street, New York, New York 10045:

1. *First Jersey National Corporation,* Jersey City, New Jersey; to acquire 10.06 percent of the voting shares or assets of The Peoples National Bank of Central Jersey, Piscataway, New Jersey.

B. **Federal Reserve Bank of Cleveland** (Lee S. Adams, Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. *Commercial Grayson Bancshares,* Inc., Grayson, Kentucky; to become a bank holding company by acquiring 100 percent of the voting shares of The Commercial Bank of Grayson, Grayson, Kentucky.

C. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Acorn Bankshares, Inc.,* Bloomingdale, Illinois; to become a bank holding company by acquiring 100 percent of the voting shares of Bloomingdale State Bank, Bloomingdale, Illinois.

2. *Ball–1, Co.,* Early, Iowa; to become a bank holding company by acquiring 99.0 percent of the voting shares of Early Savings Bank, Early, Iowa.

3. *Financial National Bancshares, Co.,* Elgin, Illinois; to acquire 100 percent of the voting shares or assets of The Larking Bank, Elgin, Illinois.

D. **Federal Reserve Bank of Minneapolis** (Bruce J. Hedblom, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Security Financial Services, Inc.,* Hibbing, Minnesota; to become a bank holding company by acquiring 97.5 percent of the voting shares of Security State Bank of Hibbing, Hibbing, Minnesota.

E. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Burke Bankshares Corporation,* Hutchinson, Kansas; to become a bank holding company by acquiring 85.956 percent of the voting shares of The Maize State Bank, Maize, Kansas.

F. **Federal Reserve Bank of Dallas** (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Mid-Cities Bancshares, Inc.,* Hurst, Texas; to become a bank holding company by acquiring 80 percent of the voting shares of Mid-Cities National Bank, Hurst, Texas. Comments on this application must be received not later than February 28, 1984.

2. *Texas Regional Bancshares, Inc.,* McAllen, Texas; to become a bank holding company by acquiring 100 percent of the voting shares of Texas State Bank, McAllen, Texas and Harlingen State Park, Harlingen, Texas. Comments on this application must be received no later than February 29, 1984.

G. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President) 101 Market Street, San Francisco, California 94105:

1. *Pioneer Bancorp,* Fullerton, California; to become a bank holding company by acquiring 100 percent of the voting shares of Pioneer Bank, Fullerton, California.

Board of Governors of the Federal Reserve System, February 2, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-3370 Filed 2-7-84; 8:45 am]

BILLING CODE 6210-01-M

First Place Financial Corp.; Formation of a Bank Holding Company

The company listed in this notice has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring voting shares or assets of a bank. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated. With respect to the application, interested persons may express their views in writing to the address indicated. Any comment on the application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *First Place Financial Corporation,* Farmington, New Mexico; to become a bank holding company by acquiring 100 percent of the voting shares of First National Bank of Farmington, Farmington, New Mexico. Comments on this application must be received not later than March 2, 1984.

Board of Governors of the Federal Reserve System, February 2, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-3366 Filed 2-7-84; 8:45 am]

BILLING CODE 6210-01-M

First Railroad & Banking Company of Georgia, et al.; Engaging de Novo in Permissible Nonbanking Activities

The bank holding companies listed in this notice have filed a notice under § 225.23(a)(1) of the Board's Regulation Y (49 FR 794) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and section 225.21(a) of

Regulation Y (49 FR 794) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated for that application. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. With respect to each notice, interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated for the application or the offices of the Board of Governors not later than February 28, 1984.

A. Federal Reserve Bank of Atlanta (Robert E. Heck, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. *First Railroad & Banking Company of Georgia*, Augusta, Georgia; to engage indirectly in certain nonbanking activities through its subsidiary, First Financial Management Corporation, Atlanta, Georgia, in providing data processing and transmission services in Mississippi in addition to the states in which it currently provides these services.

B. Federal Reserve Bank of Kansas City (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Allied Oklahoma Bancorp, Inc.*, Oklahoma City, Oklahoma; to engage through its subsidiary, Mortgage Services Corp., in making and acquiring residential and commercial mortgage loans and other extensions of credits such as would be made by a mortgage company, including the servicing and selling of those loans, and such other activities as are directly related to a mortgage banking operation. These activities would be performed in the State of Oklahoma.

2. *Las Vegas Bancorporation*, Albuquerque, New Mexico; to generate loans and other extensions of credit for its own account and the account of its subsidiary, The Bank of Las Vegas, Las Vegas, New Mexico, and to service such loans and other extensions of credit. These activities will be conducted in New Mexico.

C. Federal Resere Bank of San Francisco (Harry W. Green, Vice President) 101 Market Street, San Francisco, California 94105:

1. *BankAmerica Corporation*, San Francisco; to engage *de novo* through its subsidiary Charles Schwab & Co., Inc., San Francisco, California, in securities brokerage activities consisting principally of buying and selling securities solely upon the order and for the account of customers, and of extending margin credit in conformity with Regulation T, pursuant to § 225.25(b)(15) of Regulation Y. These activities would be conducted worldwide from an office located in London, England.

Board of Governors of the Federal Reserve System, February 2, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-3372 Filed 2-7-84; 8:45 am]

BILLING CODE 6210-01-M

Hawarden Banshares, Inc.; Acquisitions of Companies Engaged in Permissible Nonbanking Activities

The organization listed in this notice has applied under section 225.23 (a)(2) or (f) of the Board's Regulation Y (49 FR 794) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (49 FR 794) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. With respect to the application, interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding this application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than March 1, 1984.

A. Federal Reserve Bank of Chicago (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Hawarden Banshares, Inc.*, Hawarden, Iowa; to acquire Gearhart Insurance Agency, Hawarden, Iowa and Williams Insurance Agency, Hawarden, Iowa and thereby engage in the sale of general insurance in a town with population not exceeding 5,000, by merging the two agencies and forming a newly created subsidiary, Farmers State Agency, Ltd., Hawarden, Iowa.

Board of Governors of the Federal Reserve System, February 2, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-3382 Filed 2-7-84; 8:45 am]

BILLING CODE 6210-01-M

The Merchants Holding Co.; Formation of a Bank Holding Company

The Merchants Holding Company, Winona, Minnesota, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 100 percent of the voting shares of The Merchants National Bank of Winona, Winona, Minnesota. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The Merchants Holding Company, Winona, Minnesota, has also applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to engage in the activity of

equipment leasing. This activity would be performed from Applicant's offices in Winona, Minnesota and the geographic areas to be served are the City of Winona, Winona County, and adjacent communities in Minnesota and Wisconsin. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Minneapolis.

Any views or requests for hearing should be submitted in writing and revceived by the Reserve Bank not later than March 1, 1984.

Board of Governors of the Federal Reserve System, February 2, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-3371 Filed 2-7-84; 8:45 am]

BILLING CODE 6210-01-M

NCB Financial Corp.; Engaging de Novo in Permissible Nonbanking Activities

The organization listed in this notice has filed a notice under § 225.23(a)(1) of the Board's Regulation Y (49 FR 794) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (49 FR 794) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. With respect to the notice, interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding this application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than February 27, 1984.

A. Federal Reserve Bank of Philadelphia (Thomas K. Desch, Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105:

1. *NCB Financial Corporation,* Williamsport, Pennsylvania; to engage through its subsidiary Northern Central Life Insurance Company, Phoenix, Arizona in underwriting, as reinsurer, credit life, accident and health insurance directly related to extensions of credit by Northern Central Bank, from offices in Williamsport, Pennsylvania, serving the State of Pennsylvania.

Board of Governors of the Federal Reserve System, February 2, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-3363 Filed 2-7-84; 8:45 am]

BILLING CODE 6210-01-M

Preferred Equity Investors of Florida, Inc.; Merger of Bank Holding Companies

Preferred Equity Investors of Florida, Inc., Knoxille, Tennessee, has applied for the Board's approval under 3(a)(3) and 3(a)(5) of the Bank Holding Company Act (12 U.S.C. 1842 (a)(3) and (a)(5)) to acquire the successor by merger of its subsidiary Landmark Banking Corporation of Florida, Fort Lauderdale, Florida, with Southwest Florida Banks, Inc., Fort Myers, Florida. Applicant will indirectly acquire First National Bank & Trust Company, Naples; Gulf Coast National Bank, Sarasota; Gulf Coast First National Bank, Fort Myers; North First Bank, Fort Myers; Charlotte County National Bank, Port Charlotte; Gulf Coast Bank of Pinellas, Medeira Beach; First Commercial of Fort Myers, Fort Myers; South County Bank, Southvenice; Peoples Bank of Hillsborough County, Tampa; First Bank of Marco Island, N.A., Marco Island; The National Trust Company, Fort Myers; East First National Bank, Fort Myers; First National Bank in Fort Myers, Fort Myers; Peoples Bank of Pasco County, Elfers; Palm State Bank, Palm Harbor; National Bank of Sarasota, Sarasota; The Palmetto Bank and Trust Company, Palmetto; First County Bank, Riverview, all located in Florida. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Preferred Equity Investors of Florida, Inc., Knoxille, Tennessee and Landmark Banking Corporation of Florida, Fort Lauderdale, Florida, have also applied to engage in the following nonbank activities: Mortgage banking, data processing, credit-related insurance, real estate appraisal and electronic funds transfer. In addition to the factors considered under section 3 of the Act (banking factors), the Board will consider the nonbanking aspects of the proposal under the provisions and prohibitions of section 4 of the Act (12 U.S.C. 1843).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Atlanta.

Any person wishing to comment on the application should submit views in writing to William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than March 1, 1984. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, February 1, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-3368 Filed 2-7-84; 8:45 am]

BILLING CODE 6210-01-M

Tascosa Financial Corp.; Acquisition of Bank Shares by a Bank Holding Company

The company listed in this notice has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire voting shares or assets of a bank. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated. With respect to the application, interested persons may express their views in writing to the address indicated. Any comment on the application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. **Federal Reserve Bank of Dallas** (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Tascosa Financial Corporation*, Amarillo, Texas; to acquire 100 percent of the voting shares or assets of Tascosa National Bank South, Amarillo, Texas. Comments on this application must be received not later than March 2, 1984.

Board of Governors of the Federal Reserve System, February 2, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-3367 Filed 2-7-84; 8:45 am]

BILLING CODE 6210-01-M

Marine Midland Banks, Inc., et al.; Acquisition of a Bank and Formation of a Bank Holding Company.

Marine Midland Banks, Inc., Buffalo, New York and its parent bank holding companies The Hong Kong and Shanghai Banking Corporation, Hong Kong, B.C.C., Kellett N.V., Curacao, Netherlands Antilles and HSBC Holdings B.V., Amsterdam, the Netherlands ("The Applicants"), have applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 percent of the voting shares of Marine Midland Bank (Delaware), Wilmington, Delaware, a proposed new bank. The Applicants propose to acquire the shares of Marine Midland Bank (Delaware) through Marine Midland Bank, Inc.'s wholly owned subsidiary Marine Midland National Corporation, Buffalo, New York, which by reason of this proposed acquisition has applied to become a bank holding company pursuant to section 3(a)(1) of the Act (12 U.S.C. 1842(a)(1)). The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Marine Midland National Corporation, has also applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to continue to engage in the underwriting of credit-related insurance through its existing subsidiary Marmid Life Insurance Company, Phoenix, Arizona. These activities would be performed from offices of Applicant's subsidiary in Phoenix, Arizona and the geographic areas to be served are the States of New York and Pennsylvania. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweight possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of New York.

Any views or requests for hearing should be submitted in writing and received by William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. not later than March 2, 1984.

Board of Governors of the Federal Reserve System, February 3, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-3403 Filed 2-7-84; 8:45 am]

BILLING CODE 6210-01-M

GENERAL SERVICES ADMINISTRATION

Agency Information Collection Under Review by the Office of Management and Budget (OMB); Schedules for Construction Contracts

AGENCY: Office of Policy and Management Systems, GSA.

ACTION: Notice.

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), the General Services Administration (GSA) plans to request the Office of Management and Budget (OMB) to review and approve an existing information collection in use without an OMB control number.

COMMENT: Submit comments on this information collection before February 27, 1984.

ADDRESSES: Send comments to Franklin S. Reeder, GSA Desk Officer, Room 3235, NEOB, Washington, D.C. 20503, and to John F. Gilmore, GSA Clearance Officer, General Services Administration (ATRAI), Washington, D.C. 20405.

FOR FURTHER INFORMATION CONTACT: Victoria Moss, Office of Acquisition Policy (202-523-4799).

SUPPLEMENTARY INFORMATION: a. *Purpose of collection.* The requirement helps to monitor work of Federal contractors. Contractors may be required to submit proposed progress schedules that show the work will be performed.

b. *Annual reporting burden.* This is estimated as follows: Respondents 390, responses 780, hours 780.

c. *Obtaining copies of proposal.* Requestors may obtain copies of the proposal by contracting the Directives and Reports Management Branch (ATRAI), Room 3004, GS Building, Washington, D.C. 20405, telephone (202-566-0666).

Dated: January 23, 1984.

William W. Hiebert,

Acting Director, Information Management Division.

[FR Doc. 84-3412 Filed 2-7-84; 8:45 am]

BILLING CODE 6820-34-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Burroughs Wellcome Co., Dequalinium Chloride, Methylene Blue and Urea Powder; Withdrawal of Approval of NADA

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is withdrawing approval of a new animal drug application (NADA) sponsored by Burroughs Wellcome Co. for dequalinium chloride, methylene blue and urea powder. The firm requested withdrawal of approval.

EFFECTIVE DATE: February 21, 1984.

FOR FURTHER INFORMATION CONTACT: Howard Meyers, Bureau of Veterinary Medicine (HFV–218), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4093.

SUPPLEMENTARY INFORMATION: Wellcome Animal Health Division, Burroughs Wellcome Co., Kansas City, MO 64108, is the sponsor of NADA 12–202 for Decton® Blue Powder (dequalinium chloride, methylene blue and urea powder). The drug is labled for use as an antiseptic, proteolytic surface wound dressing for dogs, cats, cattle, and horses, and for early treatment of keratoconjunctivitis (pinkeye) in cattle.

Burroughs Wellcome Co. stated by letter dated December 16, 1983, that Decton® Blue Powder is no longer being manufactured and that all marketable stocks have been depleted.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(e), 82 Stat. 345–347 (21 U.S.C. 360b(e))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.84) and in accordance with § 514.115 *Withdrawal of approval of applications* (21 CFR 514.115), notice is given that approval of NADA 12–202 and all supplements thereto is hereby withdrawn, effective February 21, 1984.

Dated: February 1, 1984.

Lester M. Crawford,

Director, Bureau of Veterinary Medicine.

[FR Doc. 84–3339 Filed 2–7–84; 8:45 am]

BILLING CODE 4160–01–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Bakersfield District Grazing Advisory Board; Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Bakersfield District Grazing Advisory Board Meeting.

SUMMARY: Notice is hereby given in accordance with the Federal Advisory Committee Act (Pub. L. 92–463) and the Federal Land Policy and Management Act (Pub. L. 94–579) that the Bakersfield District Grazing Advisory Board will meet formally on Friday, March 9, 1984 in Room 224 of the Federal Building, 800 Truxtun Avenue, Bakersfield, California. The meeting will be held from 8 a.m. to 4 p.m.

SUPPLEMENTARY INFORMATION: The agenda for the meeting will include:

(1) Orientation of newly elected Board members to the district range program.

(2) Status of 1984 range improvement projects.

(3) Discussion of the nomination results for Cooperative Management Agreements.

(4) Review of allotment ranking to determine range program priorities for each Resource Area.

The meeting is open to the public. Interested persons may make oral statements to the Board, or file written statements for the Board's consideration. Anyone wishing to make an oral statement must notify, in writing, the Bakersfield District Manager (Bureau of Land Management, 800 Truxtun Avenue, Room 311, Bakersfield, California 93301) by March 2, 1984.

Summary minutes of the meeting will be maintained in the Bakersfield District Office and will be available for reproduction, during regular business hours, within 30 days following the meeting.

FOR FURTHER INFORMATION CONTACT: Marta Witt, Public Affairs Officer, Bureau of Land Management, Bakersfield District, 800 Truxtun Avenue, Room 311, Bakersfield, California 93301, (805) 861–4191.

Dated: January 31, 1984.

Robert D. Rheiner, Jr.,

District Manager.

[FR Doc. 84–3409 Filed 2–7–84; 8:45 am]

BILLING CODE 4310–40–M

[M–12496]

Montana; Termination of Classification of Public Lands for Multiple Use Management

1. Pursuant to authority delegated to me, the Bureau of Land Management Multiple Use Classification published in 35 FR 244 dated December 17, 1970, which segregated the lands described below from public land laws generally and from location and entry under the mining laws, is hereby terminated.

Principal Meridian, Montana

T. 9 S., R. 28 E.,
- Sec. 4, W½E½, SE¼, SE¼, lying west of the Big Horn Canyon National Recreation Area;
- Sec. 9, E½E½, lying west of the Big Horn Canyon National Recreation Area;
- Sec. 10, SW¼SW¼, lying west of the Big Horn Canyon National Recreation Area;
- Sec. 15, W½NW¼, SW¼, lying west of the Big Horn Canyon National Recreation Area;
- Sec. 22, E½NW¼, lying west of the Big Horn Canyon National Recreation Area.

The lands described aggregate approximately 280 acres in Carbon County, Montana.

2. At 8 a.m. on February 29, 1984, the lands above described shall be open to operation of the public land laws generally, subject to valid existing rights the provisons of existing withdrawals and the requirements of applicable law. All valid applications received prior to 8 a.m. on February 29, 1984, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered on order of filing.

3. All lands in paragraph 1 will be open to location and entry under the general mining laws at 8 a.m. on February 29, 1984. Appropriation of lands under the general mining laws prior to date and time of restoration is unauthorized. Any such attempted appropriation, including attempted adverse possession under 30 U.S.C. Sec. 38, shall vest no rights against the United States. Acts required to establish a location and to initiate a right of possession are governed by state law where not in conflict with federal law. The Bureau of Land Management will not intervene in disputes between rival locators over possession rights since Congress has provided for such determinations in local courts. These lands have been, and continue to be, open to applications and offers under the mineral leasing laws.

Inquiries concerning the land should be addressed to the Chief, Branch of Land Resources, Bureau of Land Management, P.O. Box 36800, Billings, Montana 59107.

Dated: January 30, 1984.

Kannon Richards,

Acting State Director.

[FR Doc. 84-3407 Filed 2-7-84; 8:45 am]

BILLING CODE 4310-DH-M

New Mexico; Filing of Plat of Survey

January 31, 1984.

The plat of survey described below was officially filed in the New Mexico State Office, Bureau of Land Management, Santa Fe, New Mexico, effective at 10 a.m. on January 31, 1984.

New Mexico Principal Meridian

A retracement of a portion of the Arizona and New Mexico State line and a dependent resurvey of a portion of the east boundary, a portion of the subdivisional lines in T. 11 N., R. 21 W., NMPM, under Group 729, and was accepted January 26, 1984.

This survey was requested by the Bureau of Indian Affairs, Albuquerque, New Mexico.

The plat will be placed in the open files of the New Mexico State Office, Bureau of Land Management, P.O. Box 1449, Santa Fe, New Mexico 87501. Copies of the plat may be obtained from that office upon payment of $2.50 per sheet.

Gary S. Speight,

Chief, Branch of Cadastral Survey.

[FR Doc. 84-3408 Filed 2-7-84; 8:45 am]

BILLING CODE 4310-FB-M

Reschedule the Federal-State Coal Advisory Board Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice to reschedule a meeting.

SUMMARY: In the **Federal Register** of January 31, 1984 (49 FR 3937–3938), it was announced that the Federal-State Coal Advisory Board would meet in Denver, Colorado, on February 15 and 16, 1984, to review the final report of the Commission on Fair Market Value Policy for Federal Coal Leasing. Because the Commission will not issue its report until at least February 10, 1984, the advisory board's meeting to review the report has been rescheduled to February 28 and, if necessary 29, 1984. All other information in the notice of January 31, 1984, remains unchanged.

DATE: The board will meet at 8:30 a.m. on February 28, 1984, and, if necessary, will continue at 8:30 a.m. on February 29, 1984.

ADDRESS: The meeting will be held at the Holiday Inn—Downtown, 1450 Glenarm Place, Denver, Colorado 80202, telephone (303) 573–1450.

FOR FURTHER INFORMATION CONTACT: Myra Musialkiewicz (202/FTS 343–6821).

Dated: February 6, 1984.

James M. Parker,

Acting Director, Bureau of Land Management.

[FR Doc. 84-3487 Filed 2-7-84; 8:45 am]

BILLING CODE 4310-84-M

Minerals Management Service

Outer Continental Shelf; Proposed Lease Sale of Polymetallic Sulfide Minerals in the Gorda Ridge Area; Extension of Comment Period on Draft Environmental Impact Statement

AGENCY: Minerals Management Service, Interior.

ACTION: Extension of comment period.

SUMMARY: On January 5, 1984, the Minerals Management Service (MMS) published a Notice of Availability of a draft environmental impact statement (EIS) for a proposed lease sale of polymetallic sulfide minerals in the Gorda Ridge area on the Outer Continental Shelf, offshore Oregon and northern California (49 FR 667, January 5, 1984). The Notice requested that comments on the draft EIS be submitted to the MMS on or before February 29, 1984.

Several recipients of the draft EIS have asked that the comment period be extended to allow additional time for the preparation of comments. The MMS is hereby extending the comment period by 15 days.

DATE: Written comments on the draft EIS must be postmarked or received on or before March 15, 1984.

ADDRESS: Written comments should be submitted to: Jeffrey P. Zippin, Minerals Management Service, Mail Stop 644, 12203 Sunrise Valley Drive, Reston, Virginia 22091.

FOR FURTHER INFORMATION CONTACT: Jeffrey P. Zippin, Minerals Management Service, Mail Stop 644, 12203 Sunrise Valley Drive, Reston, Virgina 22091, telephone (703) 860–6461; or Buford Holt, Minerals Management Service, 1340 West Sixth Street, Los Angeles, California 90017, telephone (213) 688–2033.

SUPPLEMENTARY INFORMATION: The January 5, 1984, Notice of Availability announced that public hearings on the draft EIS would be held on February 14, 1984, at the Pony Village Lodge, North Bend, Oregon, and on February 16, 1984, at the Eureka Inn, Eureka, California, beginning at 9:00 a.m., PST, with an evening session if necessary. No change has been made on these public hearing dates, times, and places.

Dated: January 30, 1984.

John B. Rigg,

Associate Director for Offshore Minerals Management.

[FR Doc. 84-3354 Filed 2-7-84; 8:45 am]

BILLING CODE 4310-MR-M

Outer Continental Shelf; Oil Gas and Sulphur Operations; Texoma Production Co.; Plan of Development/ Production

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the Receipt of a Proposed Development Operations Coordination Document (DOCD).

SUMMARY: Notice is hereby given that Texoma Production Company has submitted a DOCD describing the activities it proposes to conduct on Leases OCS–G 5395, 3389, and 2566, Blocks 341, 340, and 347, East Cameron Area, offshore Louisiana. Proposed plans for the above area provide for the development and production of hydrocarbons with support activities to be conducted from an onshore base located at Cameron, Louisiana.

DATE: The subject DOCD was deemed submitted on January 18, 1984. Comments must be received within 15 days of the date of this Notice or 15 days after the Coastal Management System receives a copy of the plan from the Minerals Management Service.

ADDRESSES: A copy of the subject DOCD is available for public review at the Office of the Regional Manager, Gulf of Mexico Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana (Office Hours: 9 a.m. to 3:30 p.m., Monday through Friday). A copy of the DOCD and the accompanying Consistency Certification are also available for public review at the Coastal Management System Office located on the 10th Floor of the State Lands and Natural Resources Building, 625 North 4th Street, Baton Rouge, Louisiana (Office Hours: 8 a.m. to 4:30 p.m., Monday through Friday). The public may submit comments to the Coastal Management Section, *Attention OCS Plans,* Post Office Box 44396, Baton Rouge, Louisiana 70805.

FOR FURTHER INFORMATION CONTACT: Mr. Hossein Hekmatdoost, Minerals Management Service, Gulf of Mexico Region; Rules and Production; Plans, Platform and Pipeline Section, Exploration/Development Plans Unit; Phone (504) 838–0873.

SUPPLEMENTARY INFORMATION: The purpose of this Notice is to inform the public, pursuant to sec. 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the DOCD and that it is available for public review. Additionally, this Notice is to inform the public, pursuant to section 930.61 of Title 15 of the CFR, that the Coastal Management Section/Louisiana Department of Natural Resources is reviewing the DOCD for consistency with the Louisiana Coastal Resources Program.

Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in DOCD available to affected states, executives of affected local governments, and other interested parties became effective December 13, 1979 (44 FR 53685). Those practices and procedures are set out in revised section 250.34 of Title 30 of the CFR.

Dated: February 1, 1984.

John L. Rankin,

Regional Manager, Gulf of Mexico Region.

[FR Doc. 84-3420 Filed 2-7-84; 8:45 am]

BILLING CODE 4310-MR-M

INTERNATIONAL TRADE COMMISSION

[332-178]

U.S. Imports of Goods Manufactured by Convict, Forced, or Indentured Labor

AGENCY: International Trade Commission.

ACTION: The notice of investigation No. 332-178, issued February 1, 1984, published elsewhere in this issue, is hereby amended to indicate a change in the hearing date from July 6, 1984, to July 10, 1984.

By order of the Commission.
Issued: February 3, 1984.

Kenneth R. Mason,

Secretary.

[FR Doc. 84-3458 Filed 2-7-84; 8:45 am]

BILLING CODE 7020-02-M

[332-178]

Goods Manufactured by Convict, Forced, or Indentured Labor

AGENCY: United States International Trade Commission.

ACTION: Institution of an investigation under section 332(g) of the Tariff Act of 1930 (19 U.S.C. 1332(g)) concerning U.S. imports of goods manufactured by convict, forced, or indentured labor, at the request of the Senate Committee on Finance, and the scheduling of a hearing in connection therewith.

EFFECTIVE DATE: January 30, 1984.

FOR FURTHER INFORMATION CONTACT: Mr. Reuben Schwartz of Mr. Joseph Williams, Textiles, Leather Products, and Apparel Division, Office of Industries, U.S. International Trade Commission, Washington, D.C. 20436, telephone 202-523-0114 or 202-523-5702, respectively.

Background and Scope of Investigation

The Commission instituted the investigation, No. 332-178, following receipt on December 29, 1983, of a request therefor from the Senate Committee on Finance. In accordance with the Committee's request, the Commission will examine the nature and extent of imports into the United States of goods that are wholly or partially manufactured by convict, forced, or indentured labor. In addition, as requested by the Committee, the Commission will review the application of domestic and international law to international trade in such items, particularly section 307 of the Tariff Act of 1930 (19 U.S.C. 1307).

In conducting its investigation, the Commission, at the Committee's direction, will seek to obtain information on the type of products, the countries or origin, and the extent of importation of such goods into the United States. The Commission also will seek to provide information on the conditions under which the products are produced, the number of workers involved, and similar pertinent background material.

The Commission's scheduled completion date for the report is November 12, 1984.

Public hearing.—A public hearing in connection with the investigation will be held in the Commission Hearing Room, 701 E Street, NW., Washington, D.C. 20436, beginning at 10:00 a.m., on July 6, 1984. All persons shall have the right to appear by council or in person, to present information, and to be heard. Requests to appear at the public hearing should be filed with the Secretary, United States International Trade Commission, 701 E Street, NW., Washington, D.C. 20436, not later than noon, June 6, 1984.

Written submissions.—In lieu of or in addition to appearances at the public hearing, interested persons are invited to submit written statements concerning the investigation. Written statements should be received by the close of business June 28, 1984. Commercial or financial information which a submitter desires the Commission to treat as confidential must be submitted on separate sheets of paper, each clearly marked "Confidential Business Information" at the top. All submissions requesting confidential treatment must conform with the requirements of §201.6 of the Commission's Rules of Practice and Procedure (19 CFC 201.6). All written submissions, except for confidential business information, will be made available for inspection by interested persons. All submissions should be addressed to the Secretary at the Commission's office in Washington, D.C.

Issued: February 1, 1984.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 84-3448 Filed 2-7-84; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-162]

Certain Cardiac Pacemakers and Components Thereof; Commission Decision Not To Review Initial Determination Joining Cordis Corp. as a Respondent

AGENCY: U.S. International Trade Commission.

ACTION: The Commission has determined not to review an initial determination (ID) (Order No. 16) to join Cordis Corp. (Cordis) as a respondent in the above-captioned investigation.

Authority: 19 U.S.C. 1337; 19 CFR 210.53(c), 210.53(h), and 210.54(b).

SUPPLEMENTARY INFORMATION: On November 14, 1983, the respondents moved (Motion No. 162-13) to amend the complaint and notice of investigation to join Cordis as a respondent in the above-captioned investigation. On December 14, 1984, the presiding officer issued an ID joining Cordis as a respondent. A petition for review was filed by Cordis on January 6, 1984. The petition was supported by complainant and by the Commission investigative attorney. On January 26, 1984, the Commission determined not to review the ID.

FOR FURTHER INFORMATION CONTACT: Jack Simmons, Esq., Office of the General Counsel, telephone 202-523-0493.

Issued: January 31, 1984.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 84-3453 Filed 2-7-84; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 104-TAA-20]

Certain Castor Oil Products From Brazil; Determination

Based on the record [1] developed in investigation No. 104-TAA-20, the Commission determines, pursuant to section 104(b) of the Trade Agreements Act of 1979 (19 U.S.C. 1671 note), that an industry in the United States would be materially injured by reason of imports of hydrogenated castor oil (HCO), as provided for in item 178.20 of the Tariff Schedules of the United States (TSUS), from Brazil if the countervailing duty order were to be revoked.[2] The Commission further determines that an industry in the United States would be materially injured by reason of imports of 12-hydroxystearic acid (HSA), as provided for in item 490.26 of the TSUS, from Brazil if the countervailing duty order were to be revoked.[2]

Background

The outstanding countervailing duty order was issued, on March 16, 1976, as a result of an investigation that was conducted by the U.S. Department of the Treasury after Union Camp Corp. filed a countervailing duty petition on April 30, 1975.

On July 17, 1981, the Brazilian Government requested the U.S. International Trade Commission to review the outstanding countervailing duty order under section 104(b)(1) of the act to determine whether an industry in the United States would be materially injured, or threatened with material injury, or the establishment of an industry would be materially retarded by reason of imports of certain castor oil products from Brazil if the outstanding countervailing duty order applicable to such castor oil products were to be revoked. Accordingly, on September 21, 1983, the Commission instituted investigation No. 104-TAA-20, *Certain Castor Oil Products from Brazil.*

Notice of the institution of the Commission's investigation was given by posting copies of the notice in the office of the Secretary, United States International Trade Commission, Washington, D.C., and by publishing the notice in the **Federal Register** on October 5, 1983 (48 FR 45479). A public hearing in connection with the investigation was held on December 8, 1983, and the Commission voted on the investigation in public session on January 18, 1984.

The Commission transmitted its report on the investigation to the U.S. Department of Commerce on January 27, 1984. A public version of the report, *Certain Castor Oil Products from Brazil* (investigation No. 104-TAA-20, USITC Publication 1483, 1984), contains the views of the Commissioners and information developed during the investigation. Copies may be obtained after February 3, 1984, by calling 202-523-5178 or from the Office of the Secretary, 701 E Street, NW., Washington, D.C. 20436.

Issued: January 27, 1984.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 84-3455 Filed 2-7-84; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-160]

Certain Composite Diamond Coated Textile Machinery Components; Grant of Application for Interlocutory Review and Denial of Motion for Termination of Respondent

AGENCY: U.S. International Trade Commission.

ACTION: Granting of application for interlocutory review and affirmance of presiding officer's denial of motion for termination of respondent.

Authority: Section 210.60(b) of the Commission's Rules of Practice and Procedure, 19 CFR 210.60(b).

SUPPLEMENTARY INFORMATION: Pursuant to section 337 of the Tariff Act of 1930, (19 U.S.C. 1337) and 19 U.S.C. 1337a, the Commission is currently conducting an investigation of alleged unfair acts and unfair methods of competition in connection with the importation or sale of certain composite diamond coated textile machinery components.

On September 26, 1983, respondent Electroschmelzwerk Kempten GmbH (ESK) moved (Motion No. 160-2) that it be terminated as a respondent to this investigation for lack of personal jurisdiction. The presiding officer denied the motion on November 30, 1983 (Order No. 5) and granted ESK leave to file an application for interlocutory review of Order No. 5 on December 20, 1983 (Order No. 16). ESK filed an application for interlocutory review of Order No. 5 on December 29, 1983. The Commission has granted ESK's application for interlocutory review and affirmed the presiding officer's denial of ESK's motion for termination.

Notice of the institution of this investigation was published in the **Federal Register** of August 26, 1983 (48 FR 38907).

Copies of Order No. 5 the Commission's Action and Order, and the Commission Memorandum Opinion issued in support thereof are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, Docket Section, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, telephone 202-523-0471.

FOR FURTHER INFORMATION CONTACT: N. Tim Yaworski, Esq., Office of General Counsel, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436; telephone 202-523-0311.

Issued: February 1, 1984.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 84-3452 Filed 2-7-84; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-153]

Certain Microprocessors, Related Parts and Systems; Commission Determination Not to Review Initial Determination Terminating Investigation on the Basis of a Settlement Agreement

AGENCY: U.S. International Trade Commission.

ACTION: The Commission has determined not to review an initial determination (I.D.) to terminate this investigation on the basis of a settlement agreement.

Authority: 19 U.S.C. 1337, 47 FR 25134, June 10, 1982, and 48 FR 20225, May 5, 1983 (to be codified at 19 CFR 210.53(c) and (h)).

SUPPLEMENTARY INFORMATION: Notice of the I.D. was published in the **Federal Register** of January 11, 1984. (49 FR 1433.) The Commission has received neither a petition for review of the I.D. nor comments from the public or other Government agencies.

Copies of the initial determination and all other nonconfidential documents filed in connection with this

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[1] The "record" is defined in § 207.2(i) of the Commission's Rules of Practice and Procedure.

[2] Commissioner Stern determines that industries in the United States would not be materially injured or threatened with material injury, nor would the establishment of industries in the United States be materially retarded, by reason of imports of certain castor oil products (HCO and HSA) from Brazil, if the countervailing duty order covering such imports were to be revoked.

investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, telephone 202–523–0350.

FOR FURTHER INFORMATION CONTACT: Wayne W. Herrington, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202–523–0480.

Issued: January 31, 1984.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 84–3454 Filed 2–7–84; 8:45 am]

BILLING CODE 7020–02–M

[Investigation No. 337–TA–157]

Certain Office Desk Accessories and Related Products; Notice to All Parties

Notice is hereby given that the prehearing conference will commence at 9:00 a.m. on February 27, 1984, at the Waterfront Center, Room 201, 1010 Wisconsin Avenue NW., Washington, D.C. 20007, and the hearing will commence immediately thereafter.

The Secretary shall publish this notice in the **Federal Register.**

Issued: January 31, 1984.

Janet D. Saxon,

Administrative Law Judge.

[FR Doc. 84–3451 Filed 2–7–84; 8:45 am]

BILLING CODE 7020–02–M

[Investigation No. 337–TA–160]

Composite Diamond Coated Textile Machinery Components; Commission Decision Not To Review Initial Determination Amending Complaint

AGENCY: U.S. International Trade Commission.

ACTION: The Commission has determined not to review an initial determination (ID) to amend the notice of investigation to add prevention of establishment of an industry in the United States to the scope of the investigation.

Authority: 19 U.S.C. 1337, 47 FR 25134, June 10, 1982, and 48 FR 20225, May 5, 1983 (codified at 19 CFR 210.53 (c) and (h)).

SUPPLEMENTARY INFORMATION: On January 4, 1984, the presiding officer issued an initial determination (Order No. 17) granting complainant Surface Technology, Inc.'s motion to amend the complaint and notice of investigation to add prevention of the establishment of a domestic industry as a ground for relief. The Commission did not receive any petitions for review or comments from other Government agencies.

FOR FURTHER INFORMATION CONTACT: N. Tim Yaworski, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202–523–0311.

Issued: February 3, 1984.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 84–3449 Filed 2–7–84; 8:45 am]

BILLING CODE 7020–02–M

[Investigation No. 337–TA–180]

Certain X-Ray Image Intensifier Tubes; Order

Pursuant to my authority as Chief Administrative Law Judge of this Commission, I hereby designate Administrative Law Judge James P. Timony as Presiding Officer in this investigation.

The Secretary shall serve a copy of this order upon all parties of record and shall publish it in the **Federal Register.**

Issued: February 1, 1984.

Donald K. Duvall,

Chief Administrative Law Judge.

[FR Doc. 84–3446 Filed 2–7–84; 8:45 am]

BILLING CODE 7020–02–M

[Investigation No. TA–406–10]

Ferrosilicon From the Union of Soviet Socialist Republics; Determination

On the basis of information developed in the course of investigation No. TA–406–10, the Commission (Chairman Eckes dissenting) has determined, with respect to imports of ferrosilicon which are the product of the Union of Soviet Socialist Republics and are provided for in items 606.35, 606.36, 606.37, 606.39, and 606.40 of the Tariff Schedules of the United States, that market disruption does not exist.

Background

This report is being furnished pursuant to section 406(a)(3) of the Trade Act of 1974 (19 U.S.C. 2436(a)(3)) and is based on an investigation conducted under section 406(a)(1) of the Trade Act. The Commission instituted the investigation on November 16, 1983, following receipt of a request received on November 2, 1983, from the United States Trade Representative.

Notice of the institution of the Commission's investigation and of a public hearing was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, D.C., and by publishing the notice in the **Federal Register** of November 25, 1983 (48 FR 53187).

A public hearing in this proceeding was held in the Hearing Room of the U.S. International Trade Commission Building in Washington, D.C. on January 6, 1984. All interested parties were given an opportunity to be present, to present evidence, and to be heard.

The information in this report was obtained from field work, questionnaires sent to domestic producers and importers, the Commission's files, other Government agencies, testimony presented at the hearing, briefs filed by interested parties, and other sources.

The Commission transmitted its report on the investigation to the President on February 2, 1984. A public version of the Commission's report, *Ferrosilicon from the U.S.S.R.* (investigation No. 406–TA–10, USITC Publication 1484, 1984), contains the views of the Commission and information developed during the investigation.

Issued: February 2, 1984.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 84–3450 Filed 2–7–84; 8:45 am]

BILLING CODE 7020–02–M

[Investigation No. TA–201–50]

Nonrubber Footwear

AGENCY: United States International Trade Commission.

ACTION: Institution of an investigation under section 201 of the Trade Act of 1974 (19 U.S.C. 2251) and scheduling of hearings to be held in connection with the investigation.

EFFECTIVE DATE: January 23, 1984.

SUMMARY: Following receipt of a petition filed on January 23, 1984, on behalf of the Footwear Industries of America, Inc., Amalgamated Clothing and Textile Workers Union, AFL–CIO, and United Food & Commercial Workers International Union, AFL–CIO, the Commission instituted investigation No. TA–201–50 under section 201 of the Trade Act of 1974 to determine whether footwear, provided for in items 700.05 through 700.45, inclusive, 700.56, 700.72 through 700.83, inclusive, and 700.95 of the Tariff Schedules of the United States, is being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or the threat thereof, to the domestic industry producing articles like or

directly competitive with the imported articles. The Commission must report its determination to the President by July 23, 1984.

FOR FURTHER INFORMATION CONTACT: Miriam A. Bishop, Investigator (202/523–0291), or Vera A. Libeau, Supervisory Investigator (202/523–0368), U.S. International Trade Commission, Washington, D.C. 20436.

SUPPLEMENTARY INFORMATION:

Participation in the investigation.—Persons wishing to participate in this investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided in § 201.11 of the Commission's Rules of Practice and Procedure (19 CFR 201.11), not later than 21 days after the publication of this notice in the **Federal Register**. Any entry of appearance filed after that date will be referred to the Chairman, who shall determine whether to accept the late entry for good cause shown by the person desiring to file the entry.

Upon the expiration of the period for filing entries of appearance, the Secretary shall prepare a service list containing the names and addresses of all persons, or their representatives, who are parties to the investigation (19 CFR 201.11(d)). Each document filed by a party to this investigation must be served on all other parties to the investigation (as identified by the service list), and a certificate of service must accompany the document. The Secretary will not accept a document for filing without a certificate of service (19 CFR 201.16(c)).

Public hearing.—The Commission will hold a public hearing in connection with the injury phase of this investigation beginning at 10:00 a.m., on May 2, 1984, in the Hearing Room, U.S. International Trade Commission Building, 701 E Street, NW, in Washington, D.C. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission no later than the close of business (5:15 p.m.) on April 16, 1984.

Prehearing procedures.—To facilitate the hearing process, it is requested that persons wishing to appear at the injury hearing on May 2, 1984, submit prehearing briefs enumerating and discussing the issues which they wish to raise at the hearing. An original and 22 copies of such prehearing briefs should be submitted to the Secretary no later than the close of business on April 25, 1984. Confidential submissions should be in accordance with the requirements of § 201.6 of the Commission's rules (19 CFR 201.6). Copies of any prehearing briefs submitted will be made available for public inspection in the Office of the Secretary. Any prepared statements submitted will be made a part of the transcript. Oral presentations at the hearing should, to the extent possible, be limited to issues raised in the prehearing briefs.

A prehearing conference will be held on April 23, 1984, at 10:00 a.m., in Room 117 of the U.S. International Trade Commission Building.

Persons not represented by counsel or public officials who have relevant matters to present may give testimony without regard to the suggested prehearing procedures outlined above.

Written submissions.—As mentioned, parties to this investigation may file prehearing briefs by the date shown above. Posthearing briefs must be submitted no later than the close of business on May 9, 1984. In addition, any person who has not entered an appearance as a party to the investigation may submit a written statement of information pertinent to the subject of the investigation on or before May 9, 1984. A signed original and 22 copies of each submission must be filed with the Secretary to the Commission. All written submissions, except for confidential business information, will be available for public inspection during regular business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary to the Commission.

Commercial or financial data and any information for which confidential treatment is desired should be submitted separately. The envelope and all pages of such submissions must be clearly marked "Confidential Business Information." Confidential submissions and requests for confidential treatment must conform with the requirements of § 201.6 of the Commission's Rules (19 CFR 201.6).

Remedy.—In the event that the Commission makes an affirmative injury determination in this investigation, a public hearing on the subject of remedy recommendations will be held beginning at 10:00 a.m., on June 14, 1984, at the U.S. International Trade Commission Building. A prehearing conference will be held on June 11, 1984, beginning at 10:00 a.m., in Room 117 of the U.S. International Trade Commission Building. Prehearing briefs will be due to the Secretary no later than the close of business on June 11, 1984, and must conform with the requirements of §201.6 of the Commission's rules. Posthearing briefs will be due to the Secretary no later than the close of business on June 22, 1984.

Inspection of petition.—The petition filed in this case is available for public inspection at the Office of the Secretary, U.S. International Trade Commission.

For further information concerning the conduct of the investigation, hearing process, and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201 and part 206, subparts A and B (19 CFR Parts 201 and 206, subparts A and B.

Issued: February 3, 1984.

By order of the Commission.

Kenneth R. Mason,

Secretary

[FR Doc. 84–3445 Filed 2–7–84; 8:45 am]

BILLING CODE 7020–02–M

[332–179]

Tariff and Nontariff Barriers; Import on U.S. Sheet Vinyl Flooring Industry

AGENCY: United States International Trade Commission.

ACTION: Institution of an investigation under section 332(b) of the Tariff Act of 1930 (19 U.S.C. 1322(b)) for the purpose of assessing the impact of tariff and nontariff barriers on the competitive position of the United States in the world trade of sheet vinyl flooring.

EFFECTIVE DATE: January 31, 1984.

FOR FURTHER INFORMATION CONTACT: Mark D. Estes, General Manufactures Division, Office of Industries, U.S. International Trade Commission, Washington, D.C. 20436, telephone 202–724–0977.

Background and Scope of Investigation

The Commission instituted the investigation on its own motion following receipt of a request therefor dated December 20, 1983, from the Subcommittee on Trade of the House Committee on Ways and Means. In accordance with the Subcommittee's request, the Commission will investigate the impact of tariffs on the competitive position of the United States in world trade in vinyl floor coverings of the kind described in item 728.2440 of the Tariff Schedules of the United States Annotated (TSUSA).

In its report the Commission will analyze the comparative tariff levels, the base on which tariffs are computed, customs valuation systems, and nontariff barriers to U.S. exports. The Commission will also examine the factors that are influencing domestic and foreign markets for vinyl floor coverings.

TSUSA item 728.2440 covers sheet vinyl flooring, and the Commission's investigation will focus on this product. The investigation will not cover vinyl

tile, vinyl asbestos tile, and other vinyl floor coverings.

At the Subcommittee's request the Commission's investigation will be restricted to the use of nonproprietary company data due to the small number of U.S. manufacturers of sheet vinyl flooring and the possibility of linking data to a particular manufacturer.

The Commission expects to complete its study by August 20, 1984.

Written Submissions

While there is no public hearing scheduled for this study, written submissions from interested parties are invited. Although the Commission is not actively seeking proprietary company data, commercial or financial information which a party desires the commission to treat as confidential must be submitted on separate sheets of paper, each clearly marked "Confidential Business Information" at the top. All submissions requesting confidential treatment must.conform with the requirements of § 201.6 of the Commission's *Rules of Practice and Procedure* (19 CFR 201.6). All written submissions, except for confidential business information, will be made available for inspection by interested parties. To be ensured of consideration by the Commission, written statements should be received by the close of business on May 18, 1984. all submissions should be addressed to the Secretary at the Commission's office in Washington, D.C.

Issued: February 2, 1984.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 84-3447 Filed 2-7-84; 8:45 am]

BILLING CODE 7020-02-M

NATIONAL FOUNDATION ON THE ARTS AND HUMANITIES

Agency Information Collection Activities Under OMB Review

DATE: February 3, 1984.

AGENCY: National Endowment for the Humanities.

ACTION: Notice.

SUMMARY: The National Endowment for the Humanities (NEH) has sent to the Office of Management and Budget (OMB) the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Charter 35).

DATES: Comments on this information collection must be submitted by March 9, 1984.

ADDRESSES: Send comments to Ms. Ingrid Foreman, Management Assistant, National Endowment for the Humanities, Administrative Services Office, Room 202, 1100 Pennsylvania Avenue NW., Washington, D.C. 20506, (202) 786-0233 or Mr. Joseph Lackey, Office of Management and Budget, New Executive Office Building, 726 Jackson Place NW., Room 3208, Washington, D.C. 20503, (202) 395-6880.

FOR FURTHER INFORMATION CONTACT: Ms. Ingrid Foreman, National Endowment for the Humanities, Administrative Services Office, Room 202, 1100 Pennsylvania Avenue NW., Washington, D.C. 20506, (202) 786-0233 from whom copies of forms and supporting documents are available.

Category: New Forms
Title: Planning and Assessment Studies Program Review Process
Form Nos. OP-R 3/83; OP-P 3/83; OP-A 12/83
Frequency of Collection: Once
Respondents: Reviewers, panelists, applicants
Use: Decision-making concerning grant applications
Estimated Number of Respondents: 260
Estimated Hours For Respondents to Provide Information: 2675.

Dated: February 3, 1984.

Victor Loughnan,

Director of Administration.

[FR Doc. 84-3462 Filed 2-7-84; 8:45 am]

BILLING CODE 7635-01-M

DEPARTMENT OF STATE

Office of the Secretary

[Public Notice CM-8/710]

Shipping Coordinating Committee, Subcommittee on Safety of Life at Sea, Working Group on Radio Communications; Meeting

The Working Group on Radio Communications of the Subcommittee on Safety of Life at Sea will conduct an open meeting at 0930 on February 28, 1984, in Room 8334-8336 of the Department of Transportation, 400 Seventh Street, SW., Washington, D.C.

The purpose of the meeting is to prepare position documents for the Twenty-seventh Session of the Subcommittee on Radiocommunications of the International Maritime Organization to be held in London during March 1984. In particular the working group will discuss the following topics:

Maritime Distress System
Digital Selective Calling
Satellite EPIRBs
Preparation for the ITU WARC for Mobile Telecommunications
Preparations for CCIR Study Group 8

Members of the public may attend up to the seating capacity of the room.

For further information contact Mr. Richard Swanson, U.S. Coast Guard Headquarters (G-TPP-3/63), 2100 Second Street, SW., Washington, D.C. 20593. Telephone: (202) 426-1231.

Dated: January 27, 1984.

Samuel V. Smith,

Executive Secretary, Shipping Coordinating Committee.

[FR Doc. 84-3405 Filed 2-7-84; 8:45 am]

BILLING CODE 4710-07-M

[Public Notice CM-8/709]

Study Group B of the U.S. Organization for the International Telegraph and Telephone Consultative Committee (CCITT); Meeting

The Department of State announces that Study Group B of the U.S. Organization for the International Telegraph and Telephone Consultative Committee (CCITT) will meet on February 23, 1984, at 10:00 a.m. in Room 1207, Department of State, 2201 C Street NW., Washington, D.C. This Study Group deals with international telegraph operations.

The purpose of this meeting is to prepare for the upcoming CCITT Study Group VIII meeting in Geneva, March 1-9, 1984. The February 23 meeting will deal primarily with videotex issues.

Members of the general public may attend the meeting and join in the discussion subject to instructions of the Chairman. Admittance of public members will be limited to the seating available. In that regard, entrance to the Department of State building is controlled and entry will be facilitated if arrangements are made in advance of the meeting. It is requested that prior to the meeting, persons who plan to attend, so advise Mr. Earl Barbely, Department of State, Washington, D.C.; telephone (202) 632-3405. All attendees must use the C Street entrance to the building.

Dated: January 26, 1984.

Earl S. Barbely,

Chairman, U.S. CCITT National Committee.

[FR Doc. 84-3404 Filed 2-7-84; 8:45 am]

BILLING CODE 4710-07-M

DEPARTMENT OF THE TREASURY

[Department Circ. Public Debt Series—No. 3-84]

11¾ percent Treasury Notes of November 15, 1993; Series D–1993

I. Invitation for Tenders

1. The Secretary of the Treasury, under the authority of Chapter 31 of Title 31, United States Code, invites tenders for approximately $5,250,000,000 of United States securities, designated 11–¾ percent Treasury Notes of November 15, 1993, Series D–1993 (CUSIP No. 912827 QD 7). The securities will be sold at auction, with bidding on the basis of yield. Payment will be required at the price equivalent of the bid yield of each accepted tender. The price equivalent of each accepted bid will be determined in the manner described below. Additional amounts of these securities may be issued to Government accounts and Federal Reserve Banks for their own account in exchange for maturing Treasury securities. Additional amounts of the new securites may also be issued at the average price to Federal Reserve Banks, as agents for foreign and international monetary authorities.

2. Description of Securities

2.1. The securities will be issued February 15, 1984, and are offered as an additional amount of 11–¾ percent Treasury Notes of November 15, 1993, Series D–1993 (CUSIP No. 912827 QD 7) dated November 15, 1983. Payment for the securities will be based on the price equivalent to the bid yield determined in accordance with this circular, plus accured interest from Novembr 15, 1983, to February 15, 1984. Interest on the securities offered as an additional issue is payable on a semiannual basis on May 15, 1984, and each subsequent 6 months on November 15 and May 15 until the principal becomes payable. They will mature November 15, 1993, and will not be subject to call for redemption prior to maturity. In the event an interest payment date or the maturity date is a Saturday, Sunday, or other nonbusiness day, the interest or principal is payable on the next-succeeding business day.

2.2 The securities are subject to all taxes imposed under the Internal Revenue Code of 1954. The securities are exempt from all taxation now or hereafter imposed on the obligation or interest thereof by any State, any possession of the United States, or any local taxing authority, except as provided in 31 U.S.C. 3124.

2.3. The securities will be acceptable to secure deposits of public monies. They will not be acceptable in payment of taxes.

2.4. Securities registered as to principal and interest will be issued in denominations of $1,000, $5,000, $10,000 $100,000, and $1,000,000. Book-entry securities will be available to eligible bidders in multiples of those amounts. Interchanges of securities of different denominations and of registered and book-entry securities, and the transfer of registered securities will be permitted. Bearer securities will not be available, and the interchange of registered or book-entry security for bearer securities will not be permitted.

2.5. The Department of the Treasury's general regulations governing United States securities apply to the securities offered in this circular. These general regulations include those currently in effect, as well as those that may be issued at a later date.

3. Sale Procedures

3.1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, D.C. 20239, prior to 1:30 p.m., Eastern Standard time, Wednesday, February 8, 1984. Noncompetitive tenders as defined below will be considered timely if postmarked no later than Tuesday, February 7, 1984, and received no later than Wednesday, February 15, 1984.

3.2. The face amount of securities bid for must be stated on each tender. The minimum bid is $1,000, and larger bids must be in multiples of that amount. Competitive tenders must also show the yield desired, expressed in terms of an annual yield with two decimals, e.g., 7.10 percent. Common fractions may not be used. Noncompetitive tenders must show the term "noncompetitive" on the tender form in lieu of a specified yield. No bidder may submit more than one noncompetitive tender, and the amount may not exceed $1,000,000.

3.3. Commercial banks, which for this purpose are defined as banks accepting demand deposit, and primary dealers, which for this purpose are defined as dealers who make primary markets in Government securities and report daily to the Federal Reserve Bank of New York their positions in and borrowings on such securites, may submit tenders for account of customers if the names of the customers and the amount for each customer are furnished. Others are permitted to submit tenders only for their own account.

3.4. Tenders will be received without deposit for their own account from commercial banks and other banking institutions; primary dealers, as defined above; Federally-insured savings and loan associations; States, and their political subdivisions or instrumentalities; public pension and retirement and other public funds; international organizations in which the United States holds membership; foreign central banks and foreign states; Federal Reserve Banks; and Government accounts. Tenders from others must be accompanied by full payment for the amount of securities applied for, plus accrued interest as specified in Section 5 (in the form of cash, maturing Treasury securities, or readily collectible checks), or by a payment guarantee of 5 percent of the face amount applied for, from a commercial bank or a primary dealer.

3.5. A noncompetitive bidder may not have entered into an agreement, or make an agreement with respect to the purchase or sale or other disposition of any noncompetitive awards of this issue in this auction prior to the designated closing time for receipt of tenders.

3.6. Immediately after the closing hour, tenders will be opened, followed by a public announcement of the amount and yield range of accepted bids. Subject to the reservations expressed in Section 4, noncompetitive tenders will be accepted in full, and then competitive tenders will be accepted, starting with those at the lowest yields, through successively higher yields to the extent required to attain the amount offered. Competitive tenders at yields higher than 12.13 percent will not be accepted, because the equivalent prices would fall below the original issue discount limit of 97.750. Tender at the highest accepted yield will be prorated if necessary. After the determination is made as to which tenders are accepted, the price on each competitive tender allotted will be determined and each successful competitive bidder will be required to pay the price equivalent to the yield bid. Those submitting noncompetitive tenders will pay the price equivalent to the weighted average yield of accepted competitive tenders. Price calculations will be carried to three decimal places on the basis of price per hundred, e.g., 99.923, and the determinations of the Secretary of the Treasury shall be final. If the amount of noncompetitive tenders received should absorb all or most of the offering, competitive tenders will be accepted in an amount sufficient to provide a fair determination of the yield. Tenders received from Government accounts and Federal Reserve Banks will be accepted at the price equivalent to the weighted average yield of accepted competitive tenders.

3.7. Competitive bidders will be advised of the acceptance or rejection of their tenders. Those submitting noncompetitive tenders will be notified only if the tender is not accepted in full, or when the price is over par

4. Reservations

4.1. The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders in whole or in part, to allot more or less than the amount of securities specified in Section 1, and to make different percentage allotments to various classes or applicants when the Secretary considers it in the public interest. The Secretary's action under this Section is final.

5. Payment and Delivery

5.1. Settlement for allotted securities must be made at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt, wherever the tender was submitted, and must include accrued interest from November 15, 1983, to February 15, 1984, in the amount of $29.69780 per $1,000 of securities allotted. Settlement on securities allotted to institutional investors and to others whose tenders are accompanied by a payment guarantee as provided in Section 3.4., must be made or completed on or before Wednesday, February 15, 1984. Payment in full (including accrued interest) must accompany tenders submitted by all other investors. Payment must be in cash; in other funds immediately available to the Treasury; in Treasury bills, notes, or bonds (with all coupons detached) maturing on or before the settlement date but which are not overdue as defined in the general regulations governing United States securities; or by check drawn to the order of the institution to which the tender was submitted, which must be received from institutional investors no later than Monday, February 13, 1984. When payment has been submitted with the tender and the purchase price of allotted securites is over par, settlement for the premium must be completed timely, as specified in the preceding sentence. When payment has been submitted with the tender and the purchase price is under par, the discount will be remitted to the bidder. Payment will not be considered complete where registered securities are requested if the appropriate identifying number as required on tax returns and other documents submitted to the Internal Revenue Service (an individual's social security number or an employer identification number) is not furnished. When payment is made in securities, a cash adjustment will be made to or required of the bidder for any difference between the face amount of securities presented and the amount payable on the securities allotted.

5.2. In every case where full payment has not been completed on time, an amount of up to 5 percent of the face amount of securities allotted, shall, at the discretion of the Secretary of the Treasury, be forfeited to the United States.

5.3. Registered securities tendered in payment for alotted securities are not required to be assigned if the new securities are to be registered in the same names and forms as appear in the registrations or assignments of the securities surrendered. When the new securities are to be registered in names and forms different from those in the inscriptions or assignments of the securities presented, the assignment should be to "The Secretary of the Treasury for (securities offered by this circular) in the name of (name and taxpayer identifying nunber)." Specific instructions for the issuance and delivery of the new securities, signed by the owner or authorized representative, must accompany the securities presented. Securities tendered in payment should be surrendered to the Federal Reserve Bank or Branch or to the Bureau of the Public Debt, Washington, D.C. 20239. The securities must be delivered at the expense and risk of the holder.

5.4. Delivery of securities in registered form will be made after the requested form of registration has been validated, the registered interest account has been established, and the securities have been inscribed.

6. General Provisions

6.1. As fiscal agents of the United States, Federal Reserve Banks are authorized and requested to receive tenders, to make allotments as directed by the Secretary of the Treasury, to issue such notices as may be necessary, and to receive payment for and make delivery of securities on full-paid allotments.

6.2. The Secretary of the Treasury may at any time issue supplemental or amendatory rules and regulations governing the offering. Public announcement of such changes will be promptly provided.

Carole Jones Dineen,

Fiscal Assistant Secretary.

[FR Doc. 84-3401 Filed 2-7-84; 8:45 am]

BILLING CODE 4810-40-M

[Dept. Circ. Public Debt Series—No. 2-84]

Treasury Notes of February 15, 1987; Series M-1987

February 2, 1984.

1. Invitation for Tenders

1.1. The Secretary of the Treasury, under the authority of Chapter 31 of Title 31, United States Code, invites tenders for approximately $6,500,000,000 of United States securities, designated Treasury Notes of February 15, 1987, Series M-1987 (CUSIP No. 912827 QL 9) The securities will be sold at auction, with bidding on the basis of yield. Payment will be required at the price equivalent of the bid yield of each accepted tender. The interest rate on the securities and the price equivalent of each accepted bid will be determined in the manner described below. Additional amounts of these securities may be issued to Government accounts and Federal Reserve Banks for their own account in exchange for maturing Treasury securities. Additional amounts of the new securities may also be issued at the average price to Federal Reserve Banks, as agents for foreign and international monetary authorities

2. Description of Securities

2.1. The securities will be dated February 15, 1984, and will bear interest from that date, payable on a semiannual basis on August 15, 1984, and each subsequent 6 months on February 15 and August 15 until the principal becomes payable. They will mature February 15, 1987, and will not be subject to call for redemption prior to maturity. In the event an interest payment date or the maturity date is a Saturday, Sunday, or other nonbusiness day, the interest or principal is payable on the next-succeeding business day.

2.2. The securities are subject to all taxes imposed under the Internal Revenue Code of 1954. The securities are exempt from all taxation now or hereafter imposed on the obligation or interest thereof by any State, any possession of the United States, or any local taxing authority, except as provided in 31 U.S.C. 3124.

2.3. The securities will be acceptable to secure deposits of public monies. They will not be acceptable in payment of taxes.

2.4. Securities registered as to principal and interest will be issued in denominations of $5,000, $10,000, $100,000, and $1,000,000. Book-entry securities will be available to eligible bidders in multiples of those amounts. Interchanges of securities of different denominations and of registered and

book-entry securities, and the transfer of registered securities will be permitted. Bearer securities will not be available, and the interchange of registered or book-entry securities for bearer securities will not be permitted.

2.5. The Department of the Treasury's general regulations governing United States securities apply to the securities offered in this circular. These general regulations include those currently in effect, as well as those that may be issued at a later date.

3. Sale Procedures

3.1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, D.C. 20239, prior to 1:30 p.m., Eastern Standard time, Tuesday, February 7, 1984. Noncompetitive tenders as defined below will be considered timely if postmarked no later than Monday, February 6, 1984, and received no later than Wednesday, February 15, 1984.

3.2. The face amount of securities bid for must be stated on each tender. The ninimum bid is $5,000, and larger bids must be in multiples of that amount. Competitive tenders must also show the yield desired, expressed in terms of an annual yield with two decimals, e.g., 7.10%. Common fractions may not be used. Noncompetitive tenders must show the term "noncompetitive" on the tender form in lieu of a specified yeild. No bidder may submit more than one noncompetitive tender, and the amount may not exceed $1,000,000.

3.3. Commercial banks, which for this purpose are defined as banks accepting demand deposits, and primary dealers, which for this purpose are defined as dealers who make primary markets in Government securities and report daily to the Federal Reserve Bank of New York their positions in and borrowings on such securities, may submit tenders for account of customers if the names of the customers and the amount for each customer are furnished. Others are permitted to submit tenders only for their own account.

3.4. Tenders will be received without deposit for their own account from commercial banks and other banking institutions; primary dealers, as defined above; Federally-insured savings and loan associations; States, and their political subdivisions or instrumentalities; public pension and retirement and other public funds; international organizations in which the United States holds membership; foreign central banks and foreign states; Federal Reserve Banks; and Government accounts. Tenders from others must be accompanied by full payment for the amount of securities applied for (in the form of cash, maturing Treasury securities, or readily collectible checks), or by a payment guarantee of 5 percent of the face amount applied for, from a commercial bank or a primary dealer.

3.5. A noncompetitive bidder may not have entered into an agreement, or make an agreement with respect to the purchase or sale or other disposition of any noncompetitive awards of this issue in this auction prior to the designated closing time for receipt of tenders.

3.6. Immediately after the closing hour, tenders will be opened, followed by a public announcement of the amount and yield range of accepted bids. Subject to the reservations expressed in Section 4, noncompetitive tenders will be accepted in full, and then competitive tenders will be accepted, starting with those at the lowest yields, through successively higher yields to the extent required to attain the amount offered. Tenders at the highest accepted yield will be prorated if necessary. After the determination is made as to which tenders are accepted, an interest rate will be established, on the basis of a ⅛ of one percent increment, which results in an equivalent average accepted price close to 100.000 and a lowest accepted price above the original issue discount limit of 99.250. That rate of interest will be paid on all of the securities. Based on such interest rate, the price on each competitive tender allotted will be determined and each successful competitive bidder will be required to pay the price equivalent to the yield bid. Those submitting noncompetitive tenders will pay the price equivalent to the weighted average yield of accepted competitive tenders. Price calculations will be carried to three decimal places on the basis of price per hundred, e.g., 99.923, and the determinations of the Secretary of the Treasury shall be final. If the amount of noncompetitive tenders received would absorb all or most of the offering, competitive tenders will be accepted in an amount sufficient to provide a fair determination of the yield. Tenders received from Government accounts and Federal Reserve Banks will be accepted at the price equivalent to the weighted average yield of accepted competitive tenders.

3.7. Competitive bidders will be advised of the acceptance or rejection of their tenders. Those submitting noncompetitive tenders will be notified only if the tender is not accepted in full, or when the price is over par.

4. Reservations

4.1. The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders in whole or in part, to allot more or less than the amount of securities specified in Section 1, and to make different percentage allotments to various classes of applicants when the Secretary considers it in the public interest. The Secretary's action under this Section is final.

5. Payment and Delivery

5.1. Settlement for allotted securities must be made at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt, wherever the tender was submitted. Settlement on securities allotted to institutional investors and to others whose tenders are accompanied by a payment guarantee as provided in Section 3.4., must be made or completed on or before Wednesday, February 15, 1984. Payment in full must accompany tenders submitted by all other investors. Payment must be in cash; in other funds immediately available to the Treasury; in Treasury bills, notes, or bonds (with all coupons detached) maturing on or before the settlement date but which are not overdue as defined in the general regulations governing United States securities; or by check drawn to the order of the institution to which the tender was submitted, which must be received from institutional investors no later than Monday, February 13, 1984. When payment has been submitted with the tender and the purchase price of allotted securities is over par, settlement for the premium must be completed timely, as specified in the preceding sentence. When payment has been submitted with the tender and the purchase price is under par, the discount will be remitted to the bidder. Payment will not be considered complete where registered securities are requested if the appropriate identifying number as required on tax returns and other documents submitted to the Internal Revenue Service (an individual's social security number or an employer identification number) is not furnished. When payment is made in securities, a cash adjustment will be made to or required of the bidder for any difference between the face amount of securities presented and the amount payable on the securities allotted.

5.2. In every case where full payment has not been completed on time, an amount of up to 5 percent of the face amount of securities allotted, shall, at the discretion of the Secretary of the Treasury, be forfeited to the United States.

5.3. Registered securities tendered in payment for allotted securities are not required to be assigned if the new securities are to be registered in the same names and forms as appear in the

registrations or assignments of the securities surrendered. When the new securities are to be registered in names and forms different from those in the inscriptions or assignments of the securities presented, the assignment should be to "The Secretary of the Treasury for (securities offered by this circular) in the name of (name and taxpayer identifying number)." Specific instructions for the issuance and delivery of the new securities, signed by the owner or authorized representative, must accompany the securities presented. Securities tendered in payment should be surrendered to the Federal Reserve Bank or Branch or to the Bureau of the Public Debt, Washington, D.C. 20239. The securities must be delivered at the expense and risk of the holder.

5.4. Delivery of securities in registered form will be made after the requested form of registration has been validated, the registered interest account has been established, and the securities have been inscribed.

6. General Provisions

6.1. As fiscal agents of the United States, Federal Reserve Banks are authorized and requested to receive tenders, to make allotments as directed by the Secretary of the Treasury, to issue such notices as may be necessary, and to receive payment for and make delivery of securities on full-paid allotments.

6.2. The Secretary of the Treasury may at any time issue supplemental or amendatory rules and regulations governing the offering. Public announcement of such changes will be promptly provided.

Carole Jones Dineen,

Fiscal Assistant Secretary.

[FR Doc. 84-3402 Filed 2-7-84; 8:45 am]

BILLING CODE 4810-40-M

Internal Revenue Service

Art Advisory Panel of the Commissioner of Internal Revenue

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of determination of necessity for reestablishment of the Art Advisory Panel.

SUMMARY: It is in the public interest to continue the existence of the Art Advisory Panel.

FOR FURTHER INFORMATION CONTACT: Karen Carolan, CC:C:E:V:4, 1111 Constitution Avenue NW., Room 5553, Washington, D.C. 20224, Telephone No. (202) 566-4196, (not a toll free number).

Pursuant to the Federal Advisory Committee Act, 5 U.S.C. app. (1976), the Commissioner of Internal Revenue announces the reestablishment of the following advisory committee:

Title. The Art Advisory Panel of the Commissioner of Internal Revenue.

Purpose. The Panel assists the Internal Revenue Service by reviewing and evaluating the acceptability of property appraisals submitted by taxpayers in support of the fair market value claimed on works of art involved in Federal Income, Estate or Gift taxes in accordance with sections 170, 2031, and 2512 of the Internal Revenue Code of 1954.

Providing this assistance requires Panel records and discussions to include tax return information. Therefore, the Panel meetings will be closed to the public since all portions of the meetings will concern matters that are exempted from disclosure under the provisions of section 552b(c) (3), (4), (6) and (7) of Title 5 of the U.S. Code. This determination, which is in accordance with section 10(d) of the Federal Advisory Committee Act, is necessary to protect the confidentiality of tax returns and return information as required by section 6103 of Title 26 of the U.S. Code.

Statement of Public Interest. It is in the public interest to continue the existence of the Art Advisory Panel. The Secretary of Treasury, with the concurrence of the Office of Management and Budget, and the General Services Administration, has also approved continuation of the Panel. The membership of the Panel is balanced between museum directors and art dealers to afford differing points of view in determining fair market value.

Authority for this Panel will expire two years from the date the charter is approved by the Assistant Secretary of the Treasury for Administration and filed with the appropriate congressional committees unless, prior to the expiration of its charter, the Panel is renewed.

This document does not meet the criteria for significant regulations set forth in paragraph 8 of the Treasury Directive appearing in the **Federal Register** for Wednesday, November 8, 1978. (43 FR 52122).

James I. Owens,

Acting Commissioner.

[FR Doc. 84-3456 Filed 2-7-84; 8:45 am]

BILLING CODE 4830-01-M

Sunshine Act Meetings

Federal Register
Vol. 49, No. 27
Wednesday, February 8, 1984

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 2:30 p.m. on Monday, February 13, 1984, the Federal Deposit Insurance Corporation's Board of Directors will meet in closed session, by vote of the Board of Directors, pursuant to sections 552b(c)(2), (c)(6), (c)(8), and (c)(9)(A)(ii) of Title 5, United States Code, to consider the following matters:

Summary Agenda: No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Recommendations with respect to the initiation, termination, or conduct of administrative enforcement proceedings (cease-and-desist proceedings, termination-of-insurance proceedings, suspension or removal proceedings, or assessment of civil money penalties) against certain insured banks or officers, directors, employees, agents or other persons participating in the conduct of the affairs thereof:

Names of persons and names and locations of banks authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6), (c)(8), and (c)(9)(A)(ii)).

Note.—Some matters falling within this category may be placed on the discussion agenda without further public notice if it becomes likely that substantive discussion of those matters will occur at the meeting.

Discussion Agenda:

Personnel actions regarding appointments, promotions, administrative pay increases, reassignments, retirements, separations, removals, etc.:

Names of employees authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(2) and (c)(6) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(2) and (c)(6)).

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550—17th Street, NW., Washington, D.C.

Requests for further information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 389-4425.

Dated: February 6, 1984.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 84-3541 Filed 2-6-84; 3:16 pm]

BILLING CODE 6714-01-M

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FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 4:55 p.m. on Friday, February 3, 1984, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session, by telephone conference call, to: (1) Receive bids for the purchase of certain assets of and the assumption of the liability to pay deposits made in Emerald Empire Banking Company, Springfield, Oregon, which was closed by the Superintendent of Banks for the State of Oregon on Friday, February 3, 1984; (2) accept the bid for the transaction submitted by Citizens Valley Bank, Albany, Oregon, an insured State nonmember bank; (3) approve the application of Citizens Valley Bank, Albany, Oregon, for consent to purchase the assets of and to assume the liability to pay deposits made in Emerald Empire Banking Company, Springfield, Oregon, and for consent to establish the two offices of Emerald Empire Banking Company as branches of Citizens Valley Bank; and (4) provide such financial assistance, pursuant to section 13(c)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1823(c)(2)), as was necessary to effect the purchase and assumption transaction.

The Board of Directors also: (1) Received bids for the purchase of certain assets of and the assumption of the liability to pay deposits made in The Tucker County Bank, Parsons, West Virginia, which was closed by the Acting Commissioner of Banking for the State of West Virginia on Friday, February 3, 1984; (2) accepted the bid for the transaction submitted by Citizens National Bank of Elkins, Elkins, West Virginia; and (3) provided such financial assistance, pursuant to section 13(c)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1823(c)(2)), as was necessary to facilitate the purchase and assumption transaction.

In calling the meeting, the Board determined, on motion of Chairman William M. Isaac, seconded by Director Irvine H. Sprague (Appointive), concurred in by Mr. Doyle L. Arnold, acting in the place and stead of Director C. T. Conover (Comptroller of the Currency), that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting pursuant to subsections (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

Dated: February 6, 1984.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc 84-3542 Filed 2-6-84; 8:45 am]

BILLING CODE 6714-01-M

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FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that the Federal Deposit Insurance Corporation's Board of Directors will

meet in open session at 2:00 p.m. on Monday, February 13, 1984, to consider the following matters:

Summary Agenda: No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Disposition of minutes of previous meetings.

Application for consent to merge and establish 21 branches:

Citizens Bank and Trust Company of Maryland, Riverdale, Maryland, an insured State nonmember bank, for consent to merge, under its charter and title, with Peoples Security Bank of Maryland, Landover (P.O. Hyattsville), Maryland, and for consent to establish the 21 offices of People Security Bank of Maryland as branches of the resultant bank.

Applications for consent to purchase assets and assume liabilities and establish branches:

South Mississippi Bank, Prentiss, Mississippi, an insured State nonmember bank, for consent to purchase the assets of and assume the liability to pay deposits made in the Bassfield Branch, Bassfield, Mississippi, of First Mississippi National Bank, Hattiesburg, Mississippi, and for consent to establish that office as a branch of South Mississippi Bank.

First Independent Bank, Vancouver, Washington, an insured State nonmember bank, for consent to purchase the assets of and assume the liability to pay deposits made in Columbia Gorge Bank, Stevenson, Washington, and for consent to establish the three offices of Columbia Gorge Bank as branches of First Independent Bank.

Applications for consent to establish a branch:

The Women's Bank, Richmond, Virginia, for consent to establish a branch at the intersection of Midlothian Turnpike and Mall Drive, Chesterfield County, Virginia.

Juniper Banking Company, Madras, Oregon, for consent to establish a branch at 513 West Fir, Redmond, Oregon.

Application for consent to establish a remote service facility:

Northern Michigan Bank, Escanaba, Michigan, for consent to establish a remote service facility on U.S. Highway 41, between First and Second Streets, Powers, Michigan.

Application for consent to establish a limited service branch (courier service):

Lewis and Clark State Bank, Lake Oswego, Oregon, for consent to establish a limited service branch (courier service) to serve the greater Portland metropolitan area, including Multnomah, Clackmas and Washington Counties.

Recommendation regarding the liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Memorandum and Resolution re: The Deschutes Bank, Redmond, Oregon

Reports of committees and officers:

Minutes of actions approved by the standing committees of the Corporation pursuant to authority delegated by the Board of Directors.

Reports of the Division of Bank Supervision with respect to applications, requests, or actions involving administrative enforcement proceedings approved by the Director or an Associate Director of the Division of Bank Supervision and the various Regional Directors pursuant to authority delegated by the Board of Directors.

Discussion Agenda:

No matters scheduled.

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550—17th Street, N.W., Washington, D.C.

Requests for further information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 389–4425.

Dated: February 6, 1984.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 84–3543 Filed 2–6–84; 3:16 pm]

BILLING CODE 6714–01–M

4

FEDERAL ENERGY REGULATORY COMMISSION

Notice

February 1, 1984.

The following notice of meeting is published pursuant to Section 3(a) of the Government in the Sunshine Act (Pub. L. 94–409), 5 U.S.C. 552b:

TIMES AND DATES: 10:00 a.m., February 8, 1984.

PLACE: 825 North Capitol Street, NE., Room 9306, Washington, D.C. 20426.

STATUS: Open.

MATTERS TO BE CONSIDERED: Agenda.

Note.—Items listed on the agenda may be deleted without further notice.

CONTACT PERSON FOR MORE INFORMATION: Kenneth F. Plumb, Secretary, Telephone (202) 357–8400.

This is a list of matters to be considered by the Commission, it does not include a listing of all papers relevant to the items on the agenda; however, all public documents may be examined in the Division of Public Information.

Consent Power Agenda

785th Meeting—February 8, 1984, Regular Meeting (10:00 a.m.)

CAP–1:
- Project No. 6755–001, Brown's Industries, Inc.

CAP–2:
- Project No. 3598–001, Cook Electric Company
- Project No. 4881–002, Ada County, the city of Boise, and Arthur L. Bloom

CAP–3:
- Project No. 4506–002, city of Westernport, Maryland

CAP–4:
- Project Nos. 6442–000, 001, 002, 004, and 005, Lester Kelley, Vernon Ravenscroft
- Project Nos. 6230–002 and 003, Helen Chenoweth
- Project Nos. 7184–002, 003 and 004, Richard A. and Carol K. Sorensen
- Project Nos. 6810–000, 001, 002, 004 and 6811–000, 001, 002 and 004, Douglas Mendenhall
- Project Nos. 6591–002 and 003, Hi-Tech

CAP–5:
- Project No. HB–24–63–3–005, Public Service Company of Colorado

CAP–6:
- Project No. 7570–003, Calaveras Public Utility District

CAP–7:
- Project No. 3415–002, Southeastern Renewable Resources, Inc., and the County of Mingo, West Virginia
- Project No. 3972–000, Energenics Systems, Inc.
- Project No. 4151–001, city of Bedford, et al.

CAP–8:
- Project No. 5695–002, Paradise Irrigation District

CAP–9:
- Project No. 7082–001, Fall Creek Associates
- Project No. 7134–001, Mountain West Hydropower, Inc.
- Project No. 7176–001, Hydro-Cor, Inc.
- Project No. 7028–001, Grisdale Hill Company

CAP–10:
- Project No. 7038–001, Great Northern Hydro Company

CAP–11:
- Project No. 4314–001, Henwood Associates, Inc.

CAP–12:
- Docket No. ER83–729–002, New England Power Company

CAP–13:
- Docket No. ER84–108–000, Virginia Electric and Power Company

CAP–14:
- Docket No. ER83–369–004, Alabama Power Company

CAP–15:
- Docket No. EL84–2–000, North Carolina Utilities Commission V. Tapoco, Inc.; Nantahala Power and Light Company; and Aluminum Company of America

Consent Miscellaneous Agenda

CAM–1:
- Docket No. SA82–25–001, Amoco Production Company

Consent Gas Agenda

CAG–1:
Docket No. TA84–1–59–003, Northern Natural Gas Company, Division of Internorth, Inc.
CAG–2:
Docket Nos. CP83–81–004, RP83–11–016 and RP83–30–012, Transcontinental Gas Pipe Line Corporation
CAG–3:
Docket No. RP84–1–001, and Pipeline Company (formerly Michigan Wisconsin Pipe Line Company)
CAG–4:
Docket No. RP84–15–001, MIGC, Inc.
Docket No. RP84–7–003, Colorado Interstate Gas Company
CAG–5:
Docket Nos. RP84–40–000 and RP84–41–000, Great Lakes Gas Transmission Company
CAG–6:
Docket Nos. RP80–66–000, RP81–26–000, RP82–15–000 and RP83–28–000, Grand Bay Company
CAG–7:
Docket No. RP83–90–000, GHR Energy Corporation
CAG–8:
Docket No. RP83–7–000, Columbia Gas Transmission Corporation v. Texas Eastern Transmission Corporation
Docket No. RP83–9–000, Texas Eastern Transmission Corporation
CAG–9:
Docket No. RP83–84–000, Michigan Consolidated Gas Company v. Panhandle Eastern Pipeline Company
CAG–10:
Docket Nos. TA83–1–29–000 and 001, Transcontinental Gas Pile Line Corporation
CAG–11:
Docket No. RP83–93–000 (Phase II), Trunkline Gas Company
CAG–12:
Docket No. RP83–32–000 and RP83–94–000, Eastern Shore Natural Gas Company
CAG–13: Docket Nos. RP77–140–000, RP78–52–015 and RP79–22–015, Consolidated Gas Supply Corporation
CAG–14: Docket No. RP83–104–000, Florida Gas Transmission Company
CAG–15: Docket No. RI83–8–010, Mobil Oil Corporation and Northern Natural Gas Producing Company
CAG–16:
Docket No. G–9947, et al., Tenneco Oil Company (operator), et al., (agent for Tema Oil Company), et al.
Docket No. CI81–437–000, Sonat Exploration Company
CAG–17: Docket Nos. CI77–329–001, CP77–304–001 and CP84–97–000, Texaco Inc.
CAG–18: Docket Nos. RI74–188–021 and RI75–21–016, Independent Oil & Gas Association of West Virginia
CAG–19: Docket No. ST83–694–000, Cranberry Pipeline Corporation
CAG–20: Docket No. ST83–697–000, Consumers Power Company
CAG–21: Docket Nos. ST82–307–000 and ST82–308–000, SW Pipeline Company
CAG–22: Docket No. CP77–459–004, Midwestern Gas Transmission Company
CAG–23: Docket No. CP77–494–007, Columbia Gulf Transmission Company and Texas Eastern Transmission Corporation
CAG–24: Docket No. CP82–158–006, Transcontinental Gas Pipe Line Corporation, Tennessee Gas Pipeline Company, a Division of Tenneco Inc., Columbia Gulf Transmission Company, Michigan Wisconsin Pipe Line Company, Northern Natural Gas Company, Division of Internorth, Inc., and Southern Natural Gas Company
CAG–25:
Docket Nos. RP83–11–015 and RP83–30–011, Transcontinental Gas Pipe Line Corporation
Docket No. CP83–279–009, Producer-Suppliers of Transcontinental Gas Pipe Line Corporation
Docket No. CP83–340–010, Producer-Suppliers of Transco Gas Supply Company
Docket No. CP83–428–009, Producer-Suppliers of Transco Gas Company and Transcontinental Gas Pipe Line Corporation
CAG–26: Docket No. CP81–388–018, Northwest Alaskan Pipeline Company
CAG–27:
Docket No. CP83–273–000, El Paso Natural Gas Company
Docket No. CP83–322–000, Northwest Pipeline Corporation
CAG–28: Docket No. CP83–533–000, Mountain Fuel Supply Company
CAG–29: Docket No. CP83–211–000, Columbia Gulf Transmission Company
CAG–30: Docket No. CP84–41–000, South Georgia Natural Gas Company
CAG–31: Docket No. CP81–316–005, Montana-Dakota Utilities Co.
CAG–32: Docket No. TC82–42–000, Texas Eastern Transmission Corporation
CAG–33: Docket Nos. CP81–366–000, ST82–34–001, ST83–133–000, ST83–567–000 and ST84–20–000, Llano, Inc.
CAG–34: Docket No. RP83–105–001, National Fuel Gas Supply Corporation
CAG–35: Docket No. CP83–501–001, 002, 003 and 004, Tennessee Gas Pipeline Company, a Division of Tenneco Inc.

Power Agenda

I. Licensed Project Matters

P–1:
Project Nos. 4190–000 and 4392–000, Consolidated Hydroelectric, Inc.
Project Nos. 4830–000 and 4973–000, city of Rohnert Park, California
Project Nos. 4953–001 and 5224–000, Modesto Irrigation District
Project Nos. 5232–001 and 5374–002, Tehama County Flood Control and Water Conservation District
P–2:
Project No. 5275–000, Hydro Resource Company
Project No. 5325–000, Capital Development Company
Project No. 6014–001, Pud No. 1 of Lewis County, Washington
Project No. 6600–000, Eagle Power Company
P–3: Project No. 7406–000, Cook Industries, Inc.
P–4: Project No. 7191–000, Orofino Falls Hydro Limited Partnership

II. Electric Rate Matters

ER–1: Docket No. EC83–13–001, Union Electric Company, Missouri Utilities Company, Missouri Power & Light Company and Missouri Edison Company
ER–2: Docket Nos. ER84–198–000, ER84–40–000, ER83–706–000, ER83–567–000, ER83–541–000, ER83–334–000, ER83–187–000, ER83–46–000, ER83–45–000, ER83–44–000, ER82–715–000 and ER82–448–000, Puget Sound Power and Light Company
Docket No. ER84–163–000, Portland General Electric Company
Docket No. ER–84–156–000, Montana Power Company
ER–3: Docket No. ER83–656–002, Kentucky Utilities Company
ER–4: Docket No. QF84–31–000, PRI Energy Systems, Inc.
ER–5: Docket Nos. QF83–219–000, QF83–223–000, QF83–224–000, QF83–219–001, QF83–223–001, QF83–224–001, QF83–219–002, QF83–223–002 and QF82–224–002, El Dorado County Water Agency and El Dorado Irrigation District
ER–6: Omitted

Miscellaneous Agenda

M–1: Reserved
M–2: Reserved
M–3: Docket Nos. RM83–73–001, 002, 003, 004, 005, 006, 007, and 008, Standard Form for Purchased Gas Adjustment Filings Submitted by Natural Gas Pipeline Companies: FERC Form No. 542–PGA
M–4: Omitted
M–5:
(A) Docket No. RM83–50–000, Regulations Relating to Independent Producer Filing Requirements and Notice of Receipt of Determinations of Eligibility
(B) Rate Schedule No. 43, et al., Aminoil USA, Inc., et al.

Gas Agenda

I. Pipeline Rate Matters

RP–1: Docket Nos. RP83–35–011, RP74–41–029, RP74–41–030 and RP74–41–031 (RP81–109, RP82–37, RP78–87), Texas Eastern Transmission Corporation
RP–2: Docket Nos. RP84–11–001 and 003, Columbia Gas Transmission Corporation
RP–3: Docket No. RP81–34–000, Distrigas of Massachusetts Corporation
RP–4: Docket No. OR84–2–000, Hydrocarbon Trading and Transport Company, Inc. v. Texas Eastern Transmission Corporation
RP–5: Docket Nos. RP81–49–013, 014, 015, 016 and 020, Natural Gas Pipeline Company of America

II. Producers Matters

CI–1: Reserved

III. Pipeline Certificate Matters

CP–1: Docket Nos. CP80–17–000, 001 and 002 (Phase I), TransAnadarko Pipeline System
CP–2: Omitted
CP–3:
Docket No. CP83–439–001, Southern Natural Gas Company
Docket No. CP83–479–001, Louisiana Intrastate Gas Corporation

CP-4: Docket No. CP82-355-000, Natural Gas Pipeline Company of America

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-3444 Filed 2-3-84; 4:21 pm]

BILLING CODE 6717-01-M

5

FEDERAL HOME LOAN BANK BOARD

TIME AND DATE: 2:30 p.m., Tuesday, February 14, 1984.

PLACE: Board Room, 6th Floor, 1700 G St., NW., Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION: Ms. Gravelee (202-377-6970).

MATTERS TO BE CONSIDERED:

Five Year Averaging
Deposit Growth Plan
Interim Net Worth Standard for Brokered Funds
Insurance Company and Joint Accounts

John M. Buckley, Jr.,

Acting Secretary.

Dated: February 6, 1984.

[FR Doc. 84-3559 Filed 2-6-84; 8:45 am]

BILLING CODE 6720-01-M

6

FEDERAL RESERVE SYSTEM

TIME AND DATE: 10:00 a.m., Monday, February 13, 1984.

PLACE: 20th Street and Constitution Avenue, NW., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204.

Dated: February 3, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-3476 Filed 2-6-84; 10:10 am]

BILLING CODE 6210-01-M

7

NATIONAL CREDIT UNION ADMINISTRATION

Change in Subject of Meeting

The National Credit Union Administration Board has determined that its business requires that the previously announced closed meeting on February 7, 1984 (49 FR 4449) include two additional items, which are closed to public observation:

1. Termination of Outstanding Cease and Desist Order Issued Against a Federal Credit Union. Closed pursuant to exemptions (8) and (10).
2. Review of Item in Fiscal Year 1984 Agency Budget. Closed pursuant to exemption (2).

The Board voted unanimously to add these items to the closed agenda.

The previously announded items were:

1. Approval of Minutes to Previous Closed Meeting.
2. Special Assistance to Prevent Liquidation Under Section 208(a)(1) of the Federal Credit Unioin Act. Closed pursuant to exemptions (8) and (9)(a)(ii).
3. Appeal of Regional Director's Disapproval of a Charter Application for a Proposed New Federal Credit Union. Closed pursuant to exemptions (6), (7)(C) and (8).
4. Appeal of Regional Director's Denial of Field of Membership Expansion Request. Closed pursuant to exemptions (8) and (9)(a)(ii).
5. Personnel Actions. Closed pursuant to exemptions (2) and (6).

The meeting will be held at 2:00 p.m. in the 7th Floor Board Room, National Credit Union Administration, 1776 G Street, NW., Washington, D.C. 20456.

FOR MORE INFORMATION CONTACT: Rosemary Brady, Secretary of the Board, telephone: (202) 357-1100.

Rosemary Brady,

Secretary of the Board.

[FR Doc 84-3502 Filed 2-6-84; 2:42 pm]

BILLING CODE 7535-01-M

8

NUCLEAR REGULATORY COMMISSION

DATE: Week of February 6, 1984 (Revised).

PLACE: Commissioners' Conference Room, 1717 H Street, NW., Washington, D.C.

STATUS: Open and Closed.

MATTERS TO BE DISCUSSED:

Monday, February 6

1:30 p.m.
Discussion of Physical Security at Domestic Research Reactors (Closed—Ex. 1) (Postponed from January 27)
3:00 p.m.
Discussion of LEU/HEU Guidance (Public Meeting) (Time Change)

Tuesday, February 7

9:30 a.m.
Briefing on Status of Byron (Closed—Ex. 10) (Date Change)
10:30 a.m.
Briefing by Executive Branch (Closed—Ex. 1) (New Item)
2:00 p.m.
Meeting with Regional Administrators (Open/Portion may be Closed)

Wednesday, February 8

10:00 a.m.
Discussion of Reviews Performed for Other Agencies (Closed—Ex. 1) (As Announced)

Thursday, February 9

2:00 p.m.
Discussion of Management-Organization and Internal Personnel Matters (Closed—Ex. 2 and 6) (As Announced)
3:30 p.m.
Affirmation/Discussion and Vote (Public Meeting) (New Item)
a. Revised General Statement of Policy and Procedure for Enforcement Actions (Postponed from February 2)

Friday, February 10

10:00 a.m.
Comments by Parties on Diablo Canyon Criticality and Low Power Operation (Public Meeting) (As Announced)

ADDITIONAL INFORMATION:

Affirmation of NRC Response to Court Decision Vacating Interim Rule on Environmental Qualification Deadline scheduled for January 26, *postponed.*

The Commission voted 4-0 (Commissioner Asselstine not present) on January 26 to hold Discussion of Memorandum on Future Steps in TMI-1 Restart, held that day.

The Commission voted 4-0 (Commissioner Asselstine not present) on January 26 to hold Possible Vote on Memorandum on Future Steps in TMI-1 Restart, held on January 27.

The Commission voted 5-0 on January 31 to hold Discussion of Management-Organization and Internal Personnel Matters, held that day.

TO VERIFY THE STATUS OF MEETINGS CALL: (Recording)—(202) 634-1498.

CONTACT PERSON FOR MORE INFORMATION: Walter Magee (202) 634-1410.

Walter Magee,

Office of the Secretary.

February 2, 1984.

[FR Doc. 84-3553 Filed 2-6-84; 3:23 pm]

BILLING CODE 7590-01-M

9

PAROLE COMMISSION

Pursuant to the Government in the Sunshine Act, Public L. 94-409 (5 U.S.C. 552b)

AGENCY HOLDING MEETING: U.S. Parole Commission, National Commissioners (the Commissioners presently maintaining offices at Chevy Chase, Maryland Headquarters.)

TIME AND DATE: 2:00 p.m., Thursday, February 9, 1984.

PLACE: Room 420-F, One North Park Building, 5550 Friendship Boulevard, Chevy Chase, Maryland 20815.

STATUS: Closed pursuant to a vote to be taken at the beginning of the meeting.

MATTERS TO BE CONSIDERED: Referrals from Regional Commissioners of

approximately 5 cases in which inmates of Federal prisons have applied for parole or are contesting revocation of parole or mandatory release.

CONTACT PERSON FOR MORE INFORMATION: Linda Wines Marble, Chief Case Analyst, National Appeals Board, United States Parole Commission, (301) 492–5987.

Dated: February 3, 1984.

Joseph A. Barry,

General Counsel, United States Parole Commission.

[FR Doc. 84–3499 Filed 2–6–84; 1:39 pm]

BILLING CODE 4410–10–M

10

SYNTHETIC FUELS CORPORATION

Meeting of the Board of Directors

ENTITY: United States Synthetic Fuels Corporation.

ACTION: Notice of Meeting.

SUMMARY: Interested members of the public are invited to attend and observe a meeting of the Board of Directors of the United States Synthetic Fuels Corporation to be held at the time date and place specified below. This public announcement is made pursuant to the open meeting requirements of Section 116(f)(1) of the Energy Security Act (9 Stat. 611, 637; 42 U.S.C. 8701, 8712(f)(1) and Section 4 of the Corporation's Policy on Public Access to Board meetings. During the meeting, the Board of Directors will consider a resolution to close a portion of the meeting pursuant to Article II, Section 4 of the Corporation's By-laws, Section 116(f) of the said Act and Sections 4 and 5 of the said policy.

MATTERS TO BE CONSIDERED:

Open Session

1. Call to Order (9:30 a.m.)
   A. Chairman's Remarks
2. Approval of Minutes
3. Consideration of Final Approval of the Retrofit Solicitation
4. Consideration of Final Approval of the Fourth General Solicitation
5. Report of the Audit Committee
   A. Management Audit
   B. Other
6. Report of the Compensation Committee
   A. Officer Elections/Positions
   B. Employee Incentives
7. Report of the Comprehensive Strategy Committee
   A. Options
   B. Timing
8. Consideration of Policy on Standards of Conduct
   A. Cohen Subcommittee Recommendations
   B. Political Activities
9. Consideration of Basic Business Plan
10. Other Matters
    A. Committee Memberships
    B. Interests of Directors
11. Resolution to Close Meeting

Closed Session

12. Consideration of the First Colony Project
13. Consideration of the Enpex Project
14. Consideration of Conditions, Term Sheets and Negotiation Status of Other Pending Projects
15. Consideration of Requests for Minutes

In addition, the Board of Directors will consider such other matters as may be properly brought before the meeting.

TIME AND DATE: 9:30 a.m., February 16, 1984.

PLACE: U.S. Synthetic Fuels Corporation, 2121 K Street, NW., Room 503, Washington, D.C. 20586.

PERSON TO CONTACT FOR MORE INFORMATION: If you have any questions regarding this meeting, please contact Mr. Owen J. Malone, Assistant Secretary, at (202) 822–6336.

United States Synthetic Fuels Corporation.

Leonard C. Axelrod,

Acting Group Vice President-Corporate.

February 6, 1984.

[FR Doc. 84–3557 Filed 2–6–84; 8:45 am]

BILLING CODE 0000–00–M

federal register

Wednesday
February 8, 1984

Part II

Department of Energy

Office of Conservation and Renewable Energy

10 CFR Part 430

Energy Conservation Program for Consumer Products; Test Procedures for Water Heaters; Public Hearing; Proposed Rule

DEPARTMENT OF ENERGY

Office of Conservation and Renewable Energy

10 CFR Part 430

[Docket No. CAS-RM-79-105]

Energy Conservation Program for Consumer Products; Test Procedures for Water Heaters; Public Hearing

AGENCY: Office of Conservation and Renewable Energy.

ACTION: Proposed rule.

SUMMARY: The Department of Energy (DOE) hereby proposes to amend its test procedure for water heaters. Test procedures are one part of the energy conservation program for consumer products established pursuant to the Energy Policy and Conservation Act as amended by the National Energy Conservation Policy Act. The purpose of today's proposed amendments to the Water heater test procedure is threefold. First, to extend coverage of the test procedure to heat pump water heaters, a relatively new water heater design that is not covered by the existing test procedures. Second, to prescribe changes to the existing test procedure to allow for more accurate determinations of energy efficiency and cost of operation. Third, to prescribe a new method of testing to determine the first hour rating of water heaters equipped with thermal compensating dip tubes.

DATES: Written comments in response to this notice by April 9, 1984; requests to speak at the public hearing by March 9, 1984; speakers to be notified by March 12, 1984; statements by March 13, 1984; public hearing to be held on March 15, 1984, at 9:00 a.m.

ADDRESSES: Written comments, requests to speak at the public hearing, and copies of statement to: U.S. Department of Energy, Office of Conservation and Renewable Energy, Office of Hearings and Dockets, Water Heater Test Procedure, Docket No. CAS-RM-79-105, Room 6B-025, Forrestal Building, 1000 Independence Avenue SW., Washington, D.C. 20585, (202) 252-9319.

Public hearing to be held at Room 1E-245, Forrestal Building, 1000 Independence Avenue SW., Washington, D.C. 20585.

Copies of the transcript of the public hearing, and the public comments received may be read in the DOE Freedom of Information Reading Room: Room 1E-190, 1000 Independence Avenue SW., Washington, D.C. 20585.

FOR FURTHER INFORMATION CONTACT: Michael J. McCabe, U.S. Department of Energy, Office of Conservation and Renewable Energy, Forrestal Building, Mail Station CE-112.1, 1000 Independence Avenue SW., Washington, D.C. 20585, (202) 252-9127

U.S. Department of Energy, Office of Conservation and Renewable Energy, Office of Hearings and Dockets, Forrestal Building, Room 6B-025, 1000 Independence Avenue SW., Washington, D.C. 20585, (202) 252-9319

Eugene Margolis, Esq., U.S. Department of Energy, Office of General Counsel Forrestal Building, Mail Station GC-33, 1000 Independence Avenue SW., Washington, D.C. 20585, (202) 252-9513.

SUPPLEMENTARY INFORMATION:

I. Background

On October 1, 1977, the Department of Energy (DOE) assumed the authority of the Federal Energy Administration (FEA) for the energy conservation program for consumer products, under Section 301 of the Department of Energy Organization Act (DOE Act) (Pub. L. 95-91). The energy conservation program for consumer products was established by FEA pursuant to Title III, Part B of the Energy Policy and Conservation Act (EPCA) (Pub. L. 94-163). Subsequently, EPCA was amended by the National Energy Conservation Policy Act (NECPA) (Pub. L. 95-619). References in this notice to the Act, or to sections of the Act, refer to EPCA as amended by NECPA. Among other program elements, Section 323 of the Act requires that standard methods of testing be prescribed for covered products, including water heaters. Test procedures appear at 10 CFR Part 430, Subpart B.

The water heater test procedure was prescribed by FEA by notice issued September 27, 1977 (42 FR 54110, October 4, 1977). DOE amended the water heater test procedure by notice issued October 13, 1978 (43 FR 48986, October 19, 1978), in order to correct an error in the derivation of energy factor, DOE's overall measure of efficiency of a water heater. DOE again amended the water heater test procedure by notice issued August 30, 1979 (44 FR 52632, September 7, 1979), in order to prescribe a new measure of capacity for water heaters called first hour rating.

The purpose of today's proposed amendments to the water heater test procedure is threefold. First, to extend coverage of the test procedure to heat pump water heaters, a relatively new water heater design that is not covered by the existing test procedure. Second, to prescribe changes to the existing test procedure to allow for more accurate determinations of energy efficiency and cost of operation. Third, to prescribe a new method of testing to determine the first hour rating of water heaters equipped with thermal compensating dip tubes. This third purpose is intended to satisfy the requirements of § 430.27(h) of this subpart since, by notice issued November 9, 1982 (47 FR 53942, November 30, 1982), DOE granted a waiver from the first hour rating test of section 4.8 of the existing water heater test procedure to A. O. Smith Corporation for its gas storage water heaters equipped with theirmal compensating dip tubes. Today's proposed rule would extend the alternate test procedure for determining the first hour rating of water heaters with thermal compensating dip tubes prescribed in the A. O. Smith Corporation waiver to all manufacturers using thermal compensating dip tubes.

II. Discussion

a. Heat Pump Water Heater Test Procedure

The heat pump water heater is a relatively new design of water heater which is appearing in increasing numbers in the marketplace. As its name implies, a heat pump water heater utilizes a heat pump, a mechanical refrigeration unit consisting of a compressor, a condenser, an expansion device and an evaporator, to heat water. The heat pump extracts heat energy from its surroundings, boosts it with electromechanical energy, and delivers the total heat energy to water which is stored in a storage tank connected to the domestic hot water supply system of a household.

Heat pump water heaters have the potential to heat water much more efficiently than other types of water heaters since they utilize the heat energy available from their surroundings to do part of the work of heating water. This is the key distinction between heat pump water heaters and other types of water heaters. With these other types of water heaters, all heat energy imparted to the water comes directly from the conversion of the source energy (gas, oil, or electricity) to heat energy.

While heat pump water heaters may operate very efficiently from the standpoint of the amount of water heated versus the amount of energy directly consumed by the heat pump, to evaluate the true cost of operation one must consider where the heat energy comes from. A heat pump water heater which is located in the conditioned space of the home will extract heat

energy from the conditioned space. The heat energy extracted must be replaced by the home heating system during the winter heating season. On the other hand, during summer months, a heat pump water heater will reduce the load on the home air conditioning system. This interaction of the heat pump water heater with the home heating and cooling system must be accounted for to determine the true cost of operating a heat pump water heater. Of course, heat pump water heaters need not be installed in the conditioned space of a home, it is likely that many units will be located in basements, utility closets, or garages which may be indirectly affected by the home space conditioning system or not affected at all. In these cases, the available heat energy in the vicinity of the heat pump water heater is likely to be a function of the climatic conditions of the geographical location.

This brings up another important operational characteristic of heat pump water heaters. The amount of heat energy that a heat pump water heater can extract from its surroundings and deliver to the water per unit of energy consumed directly by the heat pump itself is strongly affected by the temperature of the surroundings and the temperature difference between the water being heated and the surroundings. Generally speaking, the lower the temperature of the surroundings, the less heat energy that a heat pump water heater extracts from it per unit of energy consumed directly. Also, in general, the greater the difference in temperature between the water being heated and the surroundings, the less heat energy that a heat pump water heater extracts from its surroundings per unit of energy consumed directly.

Because of the sensitivity of the energy consumption and hence, efficiency, of a heat pump water heater to the temperature of its surroundings and to the temperature difference between the water being heated and the surroundings, DOE exercised careful judgement in developing the temperature specifications for the test conditions for heat pump water heaters. This issue is addressed in greater depth later in this notice.

Heat pump water heaters can be classified into two categories: those with storage tanks and those without storage tanks. Heat pump water heaters with storage tanks are intended for use as sold to meet the hot water demands of a household. Heat pump water heaters without storage tanks, on the other hand, are not. Heat pump water heaters without storage tanks are intended to be used in conjunction with a separate storage tank which must be supplied by the homeowner. In actual usage, there will be no functional difference between these two categories of heat pump water heaters. Both will consist of a heat pump unit and a storage tank, be it supplied with the heat pump unit or not.

Within each of these two categories of heat pump water heaters there can be differences in design. For example, many heat pump water heaters without storage tanks are designed as self-contained units which are connected to a source of electricity using an electrical power cord and which are connected to a storage tank by hoses or pipes. To heat the water in the storage tank, these types of units utilize a self-contained water pump to pump water from the storage tank to the heat pump water heater by means of one of the hoses or pipes. The water is pumped through the refrigerant-to-water heat exchanger (condenser) of the operating heat pump where it is heated by the hot, high-pressure liquid refrigerant entering the heat exchanger. The heated water is then returned to the storage tank by means of a second hose or pipe.

Another type of heat pump water heater without storage tank has a remote condenser which is installed inside of the storage tank itself. This type of unit has no need of a water pump or water pipes or hoses since the hot high-pressure liquid refrigerant is routed through the condenser inside of the storage tank to heat the water contained within it directly.

Heat pump water heaters with storage tanks are typically integral units—the heat pump is securely attached to the storage tank, usually on top. These units will also typically have the heat pump condenser located inside of the storage tank to heat the water contained within it directly.

In today's proposed rule, DOE recognizes another type of heat pump water heater with storage tank, i.e. any prepackaged assembly of a heat pump unit (which, by itself, might fall into the category of a heat pump water heater without storage tank) and a storage tank offered for sale by a manufacturer as a single product.

The purpose behind the definitions of "heat pump water heater with storage tank" and "heat pump water heater without storage tank" that are included in today's proposed test procedure is to insure that any heat pump water heater that is supplied with a storage tank by the manufacturer, whether as an integral unit or an assembly, shall be tested with that particular storage tank and that any heat pump water heater without storage tank shall be tested with a standard test storage tank. (The development of the specification for the "standard test storage tank" is discussed later in this notice.)

In consideration of this unique design of water heater, DOE is faced with difficult issues in developing a test procedure. The issues and DOE's decisions on these issues which led to today's proposed rule are discussed below.

1. *Test set-up specifications for heat pump water heaters without storage tanks.* Since a heat pump water heater without a storage tank is intended to be used in conjunction with a storage tank in the home, it was necessary for DOE to develop specifications for the storage tank or storage tanks to be used for testing purposes in order to simulate characteristic home use.

DOE expects that almost all homeowners who purchase heat pump water heaters will use their existing storage water water heater or a newly purchased storage water heater as the storage tank for the heat pump water heater, disabling it so that all water heating is performed by the heat pump. Also, while a heat pump water heater without a storage tank can be connected to almost any gas, oil, or electric storage water heater, DOE expects the vast majority to be connected to electric storage water heaters. The primary reason for this is one of economics. In most areas of the country, electricity is a much more costly form of energy than is natural gas, propane, or oil.[1] Even after accounting for the efficiency advantage that electric storage water heaters have over gas and oil storage water heaters, the cost of operating an electric storage water heater is often twice the cost of operating a gas or oil storage water heater, or more. At the representative average unit costs of energy forecasted by DOE for 1983, DOE estimates that the average cost of operation of an electric storage water heater will be in the range of $400 to $500 per year, the average cost of operation of a gas storage water heater will be in the range of $190 to $230 per year for natural gas and $260 to $350 per year for propane, and the

[1] Referring to the representative average unit costs of four residential energy sources forcasted for 1983 by DOE and published in the January 25, 1983, **Federal Register** (48 FR 3400), one finds that the estimated cost of electricity (7.63 cents per kilowatt-hour or, equivalently, $22.36 per million Btu) is 3.6 times that of natural gas (62.7 cents per therm or, equivalently, $6.27 per million Btu), 2.6 times that of propane (76.7 cents per gallon or, equivalently, $8.65 per million Btu), and 2.5 times that of No. 2 heating oil ($1.22 per gallon or, equivalently, $8.80 per million Btu) when compared on a common basis of dollars spent per unit of energy purchased.

average cost of operation of an oil storage water heater will be approximately $300 per year. DOE estimates that, in typical usage, the cost of operation of a heat pump water water will be about one half the cost of operation of an electric storage water heater, or $200 to $250 per year at DOE's current average cost of electricity.[2] Comparing these estimated annual operating costs for different types of water heaters, one finds that homeowners with electric storage water heaters stand to gain the most by switching to a heat pump water heater (estimated annual operating cost savings of $150 to $300 per year). Homeowners with natural gas storage water heaters stand to gain very little, if anything, and homeowners with propane storage water heaters and oil storage water heaters stand to gain, at most, one half the estimated annual operating cost savings of homeowners with electric storage water heaters. In consideration of the purchase cost of heat pump water heaters, approximately $500 to $800 for a heat pump water heater without storange tank and $800 to $1,000 for a heat pump water heater with storage tank, DOE's cost estimates lead DOE to believe that few homeowners with natural gas, propane, or oil water heaters will switch to heat pump water heaters because they will find the economic payback period of the changeover unacceptable.[3]

Another consideration which lends support to DOE's belief that the vast majority of heat pump water heaters without storage tanks will be connected to electric storage water heaters has to do with the typical storage capacities of electric, gas and oil storage water heaters. Most commonly, gas storage water heaters found in homes have a rated storage capacity of 30 or 40 gallons, oil storage water heaters have a rated storage capacity of about 30 gallons, and electric storage water heaters have a rated storage capacity of 40 gallons, 50 gallons, or 52 gallons. Electric storage water heaters are slightly larger because, in general, they heat water more slowly than gas or oil storage a water heaters. A typical electric storage water heater heats water at about one half the heating rate of a typical gas storage water heater and at about one fourth that of an oil storage water heater. Therefore, it is more dependent upon its stored hot water supply to meet hot water demands. A typical heat pump water heater heats water at about one half the rate of a typical electric storage water heater. Therefore, a heat pump water heater is even more dependent upon its stored hot water supply to meet hot water demands than is an electric storage water heater. It follows, then, that a heat pump water heater without storage tank connected to a disabled gas or oil storage water heater with a rated storage capacity of 30 or 40 gallons will have a much reduced capacity to satisfy hot water demands and will take much longer to replenish the supply of hot water than the gas or oil storage water heater would if it were left to operate normally. DOE believes that those homeowners with gas or oil storage water heaters who purchase heat pump water heaters without storage tanks will not use their existing gas or oil storage water heater as a storage tank for the heat pump water heater, at least not for long, but will purchase an electric storage water heater of larger storage capacity than their existing gas or oil storage water heater to maintain the equivalent hot water delivery performance of the gas or oil storage water heater and take advantage of the additional energy savings due to the lower standby loss of an electric storage water heater compared to gas and oil storage water heaters.

In the belief that the vast majority of heat pump water heaters without storage tanks will be connected to electric storage water heaters, as discussed above, DOE is proposing in today's rule that heat pump water heaters without storage tanks be tested while connected to a standard "test" electric storage water heater only and that the results of such testing be used to predict measures of energy consumption in cases where the heat pump water heater without storage tank is connected to any other design of electric storage water heater.

DOE has not provided for testing heat pump water heaters without storage tanks while connected to a gas or an oil storage water heater for the reason that the small number of consumers who would make use of the results of such testing do not justify the test burden that would be imposed on the heat pump water heater industry if such testing were required.

Having made the determinations discussed above, the next step was to develop the specifications for the electric storage water heater to be used for testing heat pump water heaters without storage tanks. Only storage capacity and standby loss need be specified since the electric storage water heater will only be used as a storage tank for test purposes. Recovery efficiency of the original electric storage water heater is not a consideration when testing the add-on system. With regard to storage capacity, DOE consulted industry water heater sales statistics and determined that electric storage water heaters with rated storage capacities of 50 or 52 gallons dominate in shipments over other standard electric storage water heater capacity sizes. DOE then reviewed the July 1982 issue of the Gas Appliance Manufacturers Association's (GAMA) "Directory of Certified Water Heater Efficiency Ratings" to determine the number of models of electric storage water heaters with capacities of 50 or 52 gallons at each standby loss level. It was found that the standby loss ratings ranged from 0.6 to 2.1 percent per hour and that about one half of the models listed had standby loss ratings between 0.7 and 0.9 percent per hour while most of the other models listed had standby loss ratings between 1.3 and 2.1 percent per hour. To determine the standby loss specification for the electric storage water heater to be used for test purposes, DOE considered that the type of homeowner who is likely to make the rather large investment in purchasing a heat pump water heater to reduce the cost of heating water is also likely to have, or to purchase, an electric storage water heater with a low standby loss, one which was manufactured with more or better performing insulation, or one to which the homeowner has added a retrofit insulation blanket to reduce standby loss. this consideration led DOE to select a standby loss specification equivalent to 0.9 ± 0.05 percent per hour. (The actual specification in the dimensional units used in the test procedure is 0.009 ± 0.0005 per hour.) This standby loss specification is met by a large number of models of electric storage water heaters listed in the GAMA Directory and is representative

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[2] This estimate is based on the heat pump water heater operational conditions specified in today's proposed test procedure.

[3] The following are the simple payback periods associated with switching to a heat pump water heater: (1) Without storage tank and (2) with storage tank from various types of storage water heaters. These values were determined using the estimated annual operating cost figures already presented for each type of water heater: for electric storage water heaters, (1) 1.7–5.3 years, and (2) 2.7–8.7 years. For natural gas storage water heaters the minimum payback period is 16.7 years. This exceeds the estimated life of the equipment. For propane storage water heaters, (1) 3.3–80 years and (2) 5.3–100. Again, in most cases the estimated payback period exceeds the estimated life of the equipment. For oil storage water heaters, (1) 5–16, and (2) 8–20. These payback periods are sufficiently long to convince DOE that few homeowners with oil storage water heaters will switch to heat pump water heaters. The price of energy sources varies widely between different geographical areas of the country so there may be local situations with more attractive and less attractive payback periods.

of high efficiency (well insulated) electric storage water heaters.

Having specified the standby loss rating of the electric storage water heater to be used for test purposes, DOE then reviewed the GAMA Directory to determine the number of models of 50 and 52 gallon rated storage capacity electric storage water heaters with a rated standby loss of 0.9±0.05 percent per hour and found that there are more models of 52 gallon water heaters at this rated standby loss available than there are 50 gallon water heaters available. DOE has, therefore, selected 52 gallons as the rated storage capacity specification for the electric storage water heater to be used for test purposes.

2. *Method of testing heat pump water heaters.* The existing test procedure for water heaters was developed for the purposes of testing gas, oil and electric storage water heaters. It evaluates these types of water heaters to determine their two major performance factors: recovery efficency and standby loss. For the recovery efficiency test, each unit must heat a full tank of water through a 90°F temperature rise. For the standby loss test, each unit is operated for a 48 hour period to maintain the water at a temperature of 90°F above the test room ambient temperature. Once values are determined for recovery efficiency and standby loss, values for daily energy consumption, annual operating cost, and energy factor can be calculated. While this approach suffices for these types of water heaters, DOE believes it is inappropriate for heat pump water heaters, particularly the recovery efficiency test.

In performing the recovery efficiency test of the existing test procedure for water heaters on gas, oil, or electric storage water heaters, the stored water is heated through a 90°F temperature rise. This temperature rise was determined as the temperature difference between the national average inlet water temperature of 55°F and the national average gas, oil, and electric storage water heater thermostat setting of 145°F, as specified by DOE for the purposes of the test procedure. Hence, the recovery efficiency test of the existing test procedure simulates heating a full tank of water from the inlet water temperature to the thermostatically-controlled temperature. This does not represent characteristic conditions of recovery operation of these types of water heaters; however, it is not necessary to simulate characteristic conditions of operation to determine the recovery efficiency of gas, oil, and electric storage water heaters, as is explained below.

Under characteristic conditions of operation, hot water will be withdrawn from the water heater at its thermostatically-controlled temperature. Cold water will enter the water heater as the hot water is withdrawn and will begin mixing with the hot water in the tank. The "starting" water temperature for the water heater to recover from the hot water draw will be a function of how much hot water was withdrawn from the tank, or equivalently, how much cold water entered the tank. The less hot water withdrawn, the higher the starting water temperature, and the lower the temperature rise for recovery since there will be less cold water entering the tank to mix with the hot water. Conversely, the more hot water withdrawn, the lower the starting water temperature, and the greater the temperature rise for recovery. However, even under the extreme condition of a hot water demand that exceeds the capability of the water heater to supply enough hot water to meet the demand, mixing between the hot and cold water will occur during the draw and the homeowner will most likely consider that the hot water supply has been exhausted and terminate the draw before the temperature of the water in the tank has dropped to the inlet water temperature. Therefore, even under this extreme condition, the starting water temperature for recovery would be higher than the water inlet. Thus, the temperature rise for recovery would still be less than 90°F.

It is not necessary to simulate characteristic conditions of operation to determine the recovery efficiency of gas, oil, and electric storage water heaters because the recovery efficiency of these types of water heaters is relatively constant over a wide range of initial and final stored water temperatures for the recovery efficiency test. For these types of water heaters, it is found that the amount of energy consumed in heating the stored water in the tank from one temperature to a higher temperature is a function of the difference between the two temperatures, not the two temperature values themselves, i.e. the amount of energy consumed in heating water from 55°F to 65°F will nearly be the same as that consumed in heating water from 135°F to 145°F since the difference in temperature is the same, 10°F, in each case. Recognizing this characteristic of gas, oil, and electric storage water heaters, DOE chose to prescribe a recovery efficiency test requiring the stored water to be heated through a temperature rise of 90°F for the purpose of improving the accuracy of the test results because a large temperature rise test is inherently more accurate.

The behavior of heat pump water heaters, though, is not similar to storage water heaters with regard to their energy consumption characteristics. The amount of heat energy that a heat pump water heater can extract from the air and deliver to the water per unit of electrical energy consumed directly by the heat pump (i.e. the recovry efficiency) decreases as the relative difference in temperature between the water and the air increases.[4]

Therefore, it a heat pump water heater were to be put through the recovery efficiency test of the existing water heater test procedure, the amount of energy consumed in heating the stored water in the tank through the first 10°F or 20°F of the 90°F temperature rise (when the difference in temperature between the water and the air would be small) would be much less than that would be consumed in heating in the stored water in the tank through the final 10°F or 20°F of the 90°F temperature rise (when the difference in temperature between the water and the air would be much larger).

DOE believes that because the energy consumption of heat pump water heaters is affected by the changing temperatures of its heat energy "source" and "destination," a meaningful determination of its efficiency and estimated annual operating cost can be best made by testing units under "simulated use" conditions of operation. The major advantage of this approach is that no laboratory test considerations need be given to how the performance of the heat pump water heater varies as a function of the temperature difference between the heat energy "source" and "destination" since the total energy consumption measured under a

[4]This behavior of heat pump water heaters is characteristics of any mechanical refrigeration system. It is a principle of thermodynamics that the amount of heat energy "moved" by a refrigeration system per unit of energy consumed by the refrigeration system is dependent on the temperature of the heat energy "source" and the temperature of the heat energy "destination." As the refigeration system acts to elevate the temperature of the heat energy "destination" relative to the temperature of the heat energy "source," it creates an even higher thermodynamic "hill" over which it works to move the heat energy. This "hill" is the temperature difference between the heat energy "destination" and the "source" at any particular instant of operation. As this temperature difference (the "hill") becomes larger, the amount of work that the refrigeration system must do to move a given amount of heat energy across it (up the "hill") becomes larger. This shows up as less heat energy moved per unit energy consumed (lower recovery efficiency).

simulated use test should fairly reflect the energy consumption that homeowners will experience in actual usage. DOE believes that this advantage of a simulated use test approach outweighs the disadvantages of its somewhat greater complexity and diminished repeatability when compared to the approach of the existing test procedure. DOE is specifically interested in receiving comments and/or data on the relative magnitude of testing burden and diminished repeatability when comparing one method to the other.

3. *Simulated use test requirements (water draw).* Today's proposed rule specifies a simulated use test for heat pump water heaters which is 24 hours in duration and involves making three draws of hot water of specified volume at specified times. Since testing at the National Bureau of Standards (NBS) of several representative designs of heat pump water heaters [5] revealed that the energy consumption of such units is relatively insensitive to the hot water draw schedule employed in a simulated use test, so long as the same total volume of hot water was withdrawn over the same period of time, today's proposal calls for a hot water draw schedule that minimizes test burden while still insuring test accuracy and repeatability.

The test is to begin with the heat pump water heater in operation with a full tank of hot water. The first draw of hot water is to commence immediately after a thermostat cut-out at a rate of 3.0±0.25 gallons per minute (the same rate is used for all water draws) and is to be terminated when 21.4 gallons ±0.5 gallons of water have been withdrawn from the unit. This volume of hot water is approximately one third of the total daily hot water usage specified by DOE in the existing test procedure for water heaters (64.3 gallons per day). The same specifications for the first draw of water apply to the second draw which is to commence as soon as the heat pump has totally replenished the supply of hot water. The third and final water draw shall commence as soon as the heat pump has totally replenished the supply of hot water after the second water draw. For the third water draw, the volume of water withdrawn shall be that amount which brings the total amount of hot water withdrawn from the heat pump water heater over all three water draws to 64.3 gallons with a total permissible tolerance of ±0.5 gallon. No further water draws are made over the remainder of the 24 hour period of the simulated use test. Employing this water draw schedules, DOE expects that the simulated use test for heat pump water heaters can be started and all of the water draws completed within a standard eight hour workday and the unit can be left to operate unattended for the remaining portion of the test so long as the specified test conditions are met at all times.

4. *National average operating conditions for heat pump water heaters.* The existing test procedures for water heaters require that the water supply to the water heater be maintained at a temperature between 68°F and 72°F, that the ambient air temperature be maintained at a temperature between 65°F and 85°F (and not vary more than ±7°F throughout the test), and that the thermostat on the water heater be set to achieve a maximum mean tank temperature within the range of 160°F±5°F. These test conditions were established to simulate the national average field conditions of operation for water heaters, estimated by DOE at that time to be: a stored water temperature of 145°F, an inlet water temperature of 55°F, and a room ambient air temperature of 55°F. It was for the convenience of testing that these temperatures were uniformly elevated 15°F to arrive at the test temperatures. Elevating these temperatures virtually assured that the inlet water temperature could be attanied at all times in all test laboratories without need of water chilling refrigeration equipment.

At the time that the existing test procedure for water heaters was being developed, there was no available field data on the thermostat setting of water heaters used by households or the ambient air temperature in the vicinity of water heaters located in the dwellings of households sufficient to arrive at a confident estimate of national average field conditions of use.

Lacking such field data, DOE arrived at its estimates of national average field conditions of use by other means. The national average inlet water temperature specification of 55°F was derived from U.S. Geological Survey data that indicates that 55°F is the national average ground water temperature of the continental United States.

The national average water heater thermostat setting of 145°F was arrived at by computing the average thermostat setting specification of gas and electric storage water heaters as set by the manufacturer at the factory prior to shipping. While there was no specific data available on the thermostat setting of water heaters as shipped from the factory, information from water heater industry officials indicated that gas storage water heater thermostats were set to achieve a stored water temperature of approximately 140°F when shipped from the factory and electric storage water heater thermostats were set to achieve a stored water temperature of approximately 150°F when shipped from the factory. Oil storage water heater factory-set thermostat settings were not investigated since oil storage water heaters account for less than one percent of total water heater shipments. Gas and electric storage water heater shipments were roughly equal at the time so the average of the two factory-set thermostat settings, 145°F, was taken as the national average thermostat setting.

In lieu of performing an arduous field survey, the national average room ambient air temperature specification of 55°F was derived by calculation using field data on actual gas and electric storage water heater energy consumption in the residential sector obtained from a survey of 50 gas and 50 electric utility companies conducted by NBS [6] in July 1974. Thirty-eight companies responded to this survey Eighteen of them supplied metered data. The data obtained was normalized to a 90°F water temperature rise and a family size of four persons. Two of the companies responding supplied data on both water usage and energy usage. NBS used the data supplied by these two companies to compute an average energy factor for gas and electric storage water heaters. These energy factors were then applied to the energy use data supplied by the other companies to derive average hot water usage of households and associated average room ambient air temperature. Following this approach, NBS determined the average hot water usage of households to be 450 gallons per week, or 64.3 gallons per day and the average room ambient air temperature to be 55°F for the purposes of DOE's test procedures for water heaters. DOE acknowledged at the time that this average ambient room temperature specification may or may not simulate actual ambient temperature conditions where water heaters are installed; however, the use of this specification coupled with the daily hot water usage specification of 64.3 gallons per day

[5] NBS Letter Report: "Energy Use of a Heat Pump Water Heater by Various Draw Schedules," October 1982.

[6] The results of this survey are presented in an internal NBS memorandum entitled, "Results of Survey Utility Companies for Energy Consumption of Water Heaters," dated April 2, 1975.

resulted in calculated values of energy consumption that agree with actual energy consumption obtained from field data.

At the time of the initial development of the existing test procedures for water heaters, the method of arriving at the national average conditions of usage was considered satisfactory since all water heaters subject to the test procedure would be tested under these conditions and their relative rankings in terms of the measures of energy consumption derived from the test would be fairly reflected. A key consideration at the time was that while small changes in the temperature specifications on the order of 10°F either way would affect the values of the measures of engery consumption derived for gas, oil, and electric storage water heaters, such changes would have little effect on the relative rankings of such water heaters based on these measures. The same holds true for the hot water usage specification: a small change, on the order of a few gallons either way, would not affect these rankings significantly. For this reason, DOE did not attempt to gather further field data on the national average conditions of operation of water heaters.

In developing today's proposal, DOE reevaluated the national average field conditions of operation for gas, oil, and electric storage water heaters that are a part of the existing test procedures for water heaters to determine their applicability to heat pump water heaters. DOE was particularly concerned with the uncertainty associated with its temperature specifications for a water heater's surroundings and its thermostat setting since the energy consumption (and efficiency) of a heat pump water heater is strongly influenced by the selection of these temperature specifications. Unlike gas, oil, and electric storage water heaters whose relative efficiency rankings would change little if small changes were to be made to these temperature specifications, the rankings of heat pump water heaters relative to gas, oil, and electric storage water heaters can be significantly altered as a result of small changes to these temperature specifications. (The reasons for this have to do with the characteristic operation of mechanical refrigeration systems, including heat pumps, which was discussed previously.

This reevaluation of national average field conditions of use had the following results: The specifications for inlet water temperature (55°F), Thermostat setting 145°), and daily hot water usage (64.3 gallons per day) that were developed for the existing test procedures for water heaters are used in today's proposed test procedures for heat pump water heaters and a new value has been specified for the ambient temperature of the surroundings of heat pump water heaters. This new value is 65°F. The existing test procedure for water heaters uses the value 55°F for this specification. The rationale for the national average field conditions of use specifications included in today's proposal are discussed below.

Regarding the specification for inlet water temperature of 55°F, DOE believes that the derivation of this specification from U.S. Geological Survey data on average ground water temperature was, and still is, the most appropriate approach to derive this specification. Therefore, it remains unchanged in today's proposal.

The thermostat setting specification of 145°F found in today's proposal is that which was derived for gas, oil, and electric storage water heaters. DOE has only limited consumer usage data for heat pump water heaters. The data is from heat pump water heater field test programs which were so closely controlled by the test sponsors who supplied the heat pump water heaters.. installed them, and set their thermostats, that it is questionable whether they totally reflect true consumer usage. DOE believes that it would be inappropriate to base projections of national average conditions of use for heat pump water heaters on the limited field data currently available. Lacking such field data, DOE then considered whether there is any inherent reason why consumers would set the thermostats on heat pump water heaters to a setting different from that of a gas, oil, or more likely, an electric storage water heater used in its place. DOE could not conceive of any such reason. Therefore, lacking sufficient field data and lacking any intuitive rationale to justify a thermostat setting for heat pump water heaters different from that of gas, oil, and electric storage water heaters, DOE is proposing that heat pump water heaters be tested at the 145°F thermostat setting determined for gas, oil and electric storage water heaters.

Since DOE determined that there is no basis to believe that consumers would set the thermostats on heat pump water heaters to different setting than that at which they would set the thermostat of a gas, oil, and electric storage water heater, DOE also determined that there is no basis to believe that consumers with heat pump water heaters would use any more or less hot water than consumers with gas, oil, and electric storage water heaters.

If DOE had some basis for proposing a different thermostat setting for heat pump water heaters, then DOE would have considered making a change in the daily hot water usage for heat pump water heaters from that specified for gas, oil, and electric storage water heaters in the existing test procedures for water heaters. The basis for counsidering making such a change if this were the case is the matter that a significant amount of the hot water used by a household is for personal use, i.e., bathing and showering. For these applications people use their bathroom faucets to mix hot water with cold water in proportions which result in a comfortable water temperature. It follows that the amount of hot water used by a household for bathing and showering will be different for different hot water storage temperatures since the members of the household are expected to adjust the bathroom faucets to achieve the same comfortable water temperature. The amount of hot water used for bathing and showering will decrease with increasing hot water temperature and increase with decreasing hot water temperature. Since DOE has not changed the thermostat setting specification for heat pump water heaters, this need not be considered. It is mentioned here, however, to make it clear that there is a definite relationship between the temperature of the hot water supplied by a water heater and the volume of hot water used by the households served by that water heater. If DOE were to consider establishing a different thermostat setting specification for the heat pump water heaters, then the issue of its effect on the daily hot water usage rate of households served by heat pump water heaters would have to be addressed.

DOE has given much consideration to its national average room ambient air temperature specification found in the existing test procedure for water heaters. The method of derivation of the value used in the existing test procedure, 55°F, is open to criticism, and there is no comprehensive data on which to base an estimate. Even if such information was available, one would likely find a quite significant spread in the data collected since there is no single predominant operational environment for residential water heaters. Many water heaters are located in basements of homes, some of these basements may be directly heated and/or cooled by the home space conditioning equipment, some may be

indirectly heated and/or cooled by the home space conditioning equipment, and others may not be affected by the home space conditioning equipment at all. Another common location for water heaters is in utility "closets" in homes. Some of these colsets open into the living space of the home. In these cases, the closet is likely to be heated and/or cooled by the home space conditioning equipment. Other which open to the outdoors are unlikely to be affected by such equipment.

For those water heaters which are located in a space which is heated and/or cooled by the home space conditioning equipment directly, the average ambient air temperature would be about 70°F. For water heaters which are located in a space which is indirectly heated and/or cooled by the home space conditioning equipment, the average ambient air temperature is likely to be lower since most areas of the country have a higher heating load than cooling load. For water heaters which are located in spaces which are not at all affected by the home space conditioning equipment, the average ambient air temperature is likely to be lower still.

Yet another consideration bearing on average ambient air temperature that is unique to heat pump water heaters is that as the heat pump extracts thermal energy from the surrounding air, it lowers the temperature of the air. How much the average temperature of the air surrounding a heat pump water heater drops when the heat pump operates and how quickly it rises again after the heat pump stops operating will largely be a function of where it is installed in a house. The smaller the volume of the space in which it is located and/or the "tighter" the space is from the standpoint of air circulation between the space and its surroundings, the more the temperature will drop and the slower it will be to rise again. Therefore, all other things being equal, the average ambient air temperature in the vicinity of a heat pump water heater will likely be lower than it would be for a gas, oil or electric storage water heater used in its place. While DOE is aware of this consideration, DOE has no basis for making a determination of how much lower the average ambient air temperature for heat pump water heaters might be compared to that for gas, oil, and electric storage water heaters.

To arrive at an average ambient air temperature specification for the purposes of determining measures of energy consumption for heat pump water heaters, DOE narrowed the list of factors that it could possible consider down to the following two: (1) The uncertainty associated with the national average ambient air temperature specification included in the existing test procedure for water heaters, and (2) the high degree of sensitivity of the measures of energy consumption for heat pump water heaters to the selection of the average ambient air temperature for test purposes. DOE believes that there is simply not enough information available regarding the other factors which have a bearing on this issue to have included them in its deliberations on this issue.

The method used to derive the national average ambient air temperature specification of 55°F for gas, oil, and electric storage water heaters found in the existing test procedure for water heaters has already been briefly described. DOE believes that there is a higher degree of uncertainty associated with the derivation of this specification than any of the other temperature specifications included in the existing test procedure for water heaters. This belief is based on the methodology employed to derive this specification. Using its formulas for calculating the estimated energy consumption of gas and electric storage water heaters, DOE substituted its specifications for average thermostat setting, average inlet water temperature, and average hot water usage, as well as estimated values of average recovery efficiency and standby loss, into each formula, then set each formula equal to the appropriate average water heater energy consumption values determined from the utility-supplied field data and solved each equation for average ambient air temperature. This meant that DOE used the average ambient air temperature to adjust for the cumulative effect of all of the errors associated with all of DOE's other specifications, assumptions, DOE's formulas, and the utility-supplied data.

There is no means at DOE's disposal to estimate the magnitude of this total error. Intuitively, the 55°F temperature specification does not seem to be an unreasonable assumption; however, DOE is concerned that this estimate may be below the true value. If it is, then not only would the measures of energy consumption for all water heaters be in error, but the relative rankings of heat pump water heaters compared to gas, oil, and electric water heaters would be erroneous also. As was previously discussed, the relative rankings of gas, oil and electric storage water heaters made on the basis of energy factor or estimated annual operating cost are little affected by small changes in estimated national average conditions of use. The relative rankings of heat pump water heaters compared to gas, oil, and electric storage water heaters, on the other hand, are significantly affected by such changes. DOE believes that it is important to avoid the risk that the relative rankings of heat pump water heaters compared to other water heaters will be lower than they should be. Therefore, in today's proposal DOE is using 65°F as the ambient air temperature specification for testing heat pump water heaters. DOE believes that this estimate should insure that heat pump water heaters will not be unfairly ranked compared to other water heaters.

Since this temperature specification for the ambient air temperature for heat pump water heaters is not based on field data, DOE especially invites comments on this issue and welcomes any available field data bearing on this issue. DOE is also interested in comments concerning the issue of whether all types of water heaters should be tested to reflect identical operational conditions.

5. *Measures of energy consumption for heat-pump water heaters without storage tanks.* As previously discussed, today's proposal calls for testing heat pump water heaters while connected to an electric storage water heater that meets certain specifications, including having a storage capacity of 52 gallons. However, in actual usage, heat pump water heaters are likely to be connected to any number of designs of electric storage water heaters which differ by storage capacity and standby loss.[7] Since the Act specifically requires that test procedures for consumer products under Part 430 shall be designed to determine the estimated annual operating cost of such products, DOE had to devise a method to determine the estimated daily energy consumption of a heat pump water heater without a storage tank in order to determine its estimated annual operating cost. The method devised, as reflected in today's proposal, is a formula which expresses estimated daily energy consumption as a function of the storage capacity of the electric storage water heater to which it is connected.

The formula is expressed as the sum of two terms. The first term is the

[7] As previously discussed, DOE believes that the number of occurances of heat pump water heaters without storage tanks being connected to gas and oil storage water heaters will be quite small.

amount of energy consumed by the heat pump water heater in heating the 64.3 gallons of water used daily, as determined by testing. This term is unaffected by the storage capacity of the electric storage water heater to which the heat pump water heater is to be connected. The second term is a prediction of the amount of energy that the heat pump water heater will consume daily to replace the heat energy lost by the storage water heater to which it is connected. To solve for this term, the amount of energy consumed by the heat pump water heater to replace the standby losses of the specified electric storage water heater, as determined by testing, is first divided by the storage capacity of the standard test electric storage water heater, 52 gallons, to determine the amount of energy consumed per gallon of storage capacity, and then multiplied by the storage capacity of the water heater to which the heat pump water heater is to be connected. Basing the amount of energy that a heat pump water heater will consume to replace the standby losses on storage capacity is not as accurate a method as basing it on the storage water heater tank surface area. However, in DOE's experience, tank surface area is not a measure which is disclosed on storage water heaters or in the accompanying literature while rated storage capacity is disclosed on all storage water heaters in accordance with industry procedures. Since tank service area generally increases with increasing storage capacity and since consumers are more accustomed to comparing storage water heaters on the basis of storage capacity, DOE considered the approach to determining the estimated annual operating cost of heat pump water heaters without storage tanks that is included in today's proposal to be the most useful and understandable approach for consumers to use.

Today's proposal also provides for the determination of the energy factor of a heat pump water heater without storage tank in a manner similar to that used for determining the estimated annual operating cost.

As a final matter concerning measures of energy consumption for heat pump water heaters, today's proposal provides for a new measure of energy consumption for heat pump water heaters alone. This measure is entitled "coefficient of performance." It is defined as equal to the recovery efficiency of a heat pump water heater as determined by test in accordance with today's proposal. This measure is useful in that it is a measure of the efficiency of the heat pump component of a heat pump water heater alone. It thereby permits efficiency comparisons between heat pump water heaters with and without storage tanks to be readily made regardless of the capacity of the integral storage tank or the separate water heater to which it is or will be connected.

6. *Recovery efficiency test for heat pump water heaters.* As previously discussed, DOE has proposed a simulated use test for heat pump water heaters for the purposes of measuring the energy consumption of such units. While this change in test methodology from the approach taken in the existing test procedure eliminates any need for determining the recovery efficiency of a heat pump water heater to determine its energy consumption, there remain other needs for determining the recovery efficiency of heat pump water heaters in today's proposal, namely the determination of first hour rating and the determination of estimated annual operating cost for heat pump water heaters without storage tanks when connected to storage water heaters with capacities other than 52 gallons, the capacity of the standard test electric storage water heater (for which estimated annual operating cost can be computed directly from the test results of the simulated use test).

In today's proposal, DOE calls for determining the recovery efficiency of a heat pump water heater from energy consumption measurements made during the simulated use test. As previously discussed, the simulated use test for heat pump water heaters begins with a series of hot water draws from the heat pump water heater storage tank. Since the water draws are conducted consecutively, the heat pump water heater is operating in the recovery mode throughout the first portion of the stimulated use test. The total amount of water withdrawn during the simulated use test is 64.3±0.5 gallons. By measuring the total amount of energy consumed by the heat pump water heater during the water draw portion of the stimulated use test, the recovery efficiency of the heat pump water heater can be computed as the energy content of 64.3 gallons of hot water divided by this measured valued.

DOE acknowledges that this method of determining recovery efficiency will yield a lower value of efficiency compared to conducting the recovery efficiency test over a 90°F rise in stored tank temperature from a cold start. However, DOE believes that the recovery efficiency value determined using the approach which is included in today's proposal is representative of that which consumers are likely to experience in typical usage of heat pump water heaters.

b. Proposed Changes To Existing Test Procedures for Water Heaters

1. *First hour rating test.* Included in today's proposal is a revised specification for the water draw rate for the first hour rating water draw test. Today's proposal calls for a water draw rate of 3.0±0.25 gallons per minute. The existing test procedure requires the water draw rate to be 5.0±0.25 gallons per minute. This proposed change is prompted by a change in DOE's position on the proper basis for determining this measure of the hot water delivery performance of a storage water heater. As was made clear in DOE's response to comments on the proposed rule to amend the test procedures for water heaters to include the measure, first hour rating,[*] DOE considered a hot water draw rate of 5 gallons per minute to be a rate which is likely to occur in typical household hot water usage. DOE did not, however, consider such a hot water draw rate to be representative of average conditions of hot water usage of households. At the time of this rulemaking, many commenters estimated 3 gallons per minute to be a representative average hot water flow rate for typical hot water usage. In reevaluating this issue in developing today's proposed rule, DOE now considered a hot water draw rate of 3.0±0.25 gallons per minute to be more appropriate for the first hour rating water draw test on the basis that it is more representative of the average hot water flow rate for a typical household. The previous flow rate specification of 5.0±0.25 gallons per minute was representative of typical severe conditions of hot water usage of households. The first hour ratings determined in accordance with the existing test procedures for water heaters are by themselves very useful measures; however, DOE now believes that first hour ratings determined in accordance with today's proposed first hour rating water draw test will be more useful measures for consumers. DOE is interested in obtaining comments on this matter of the proper flow rate specification for the first hour rating hot water draw test.

A further change pertaining to the determination of first hour rating that is a part of today's proposal is a change in

[*] See the final rule notice prescribing amendments to the test procedures for water heaters to include the measure: First hour rating. (44 FR 52032, September 7, 1979.)

the temperature ratio adjustment factor in the formula for computing first hour rating from test results. The purpose of this temperature ratio adjustment factor is to normalize the first hour rating water draw test results on the basis of the energy content of the hot water withdrawn. The existing test procedure requires that the temperature of the water at the water heater outlet be recorded every 15 seconds from the start of the first hour rating water draw test. At the conclusion of the test, the maximum temperature reading recorded is labeled the initial water temperature and the mean of all of the outlet water temperature readings is computed. The volume of water withdrawn is then multiplied by the ratio of the mean of the outlet water temperature readings divided by the initial outlet water temperature. Multiplying by this ratio was intended to adjust, on an energy basis, the actual volume of water withdrawn during the test to that volume of water at the initial outlet water temperature which has an equivalent hot water energy content.

To understand the purpose of the temperature ratio adjustment factor, one must first understand that the Energy Guide labeling program of the Federal Trade Commission (FTC) acts as an incentive for water heater manufacturers to produce a range of water heater designs which yield the highest values of first hour rating for the lowest values of estimated annual operating cost.

In developing test methods for consumer products, not only does DOE have to consider whether a particular candidate test method will yield results which are fair and representative for all products which will be subject to the testing requirement, but also whether the test method itself will act as an incentive to manufacturers to alter the design of their products in ways which may adversely affect the utility of their products from the user's standpoint. Such was DOE's concern in developing the first hour rating water draw test for water heaters. The test method developed stipulates that starting with a full tank of hot water, water is to be withdrawn from the water heater until the temperature of the water being withdrawn drops 20°F from its initial value. The total volume of the water withdrawn is then determined. If under this test method, water heaters which are designed to deliver most of their stored hot water at the initial stored water temperature (i.e. those designs which inhibit mixing between the incoming cold water and the stored hot water when hot water is being withdrawn) will generally yield less water than those water heaters of identical storage capacity and configuration which exhibit a gradual reduction in outlet water temperature due to mixing between the hot and cold water in the tank of the water heater.

Consider the following two theoretical water heater designs of identical storage capacity. The first water heater design has the capability to precisely control mixing between the incoming cold water and the stored hot water in such a way that when DOE's first hour rating water draw test is performed, it is found that the outlet water temperature drops immediately to a value just less than 20°F below the initial value and then stays constant until all of the stored hot water has been withdrawn. The second water heater design has the capability to prevent any mixing from occurring and delivers its entire supply of stored hot water at its initial stored temperature when subjected to the first hour rating water draw test. The volume of water withdrawn from the first water heater as a result of the test will be 29 percent greater [9] than that amount withdrawn from the second water heater despite the fact that they both began the test with the same amount of hot water at the same temperature and they both ended the test with a full tank of cold water.

Mixing between incoming cold water and stored hot water will occur to some extent in all storage water heaters when hot water is withdrawn from the water heater. Most water heater manufacturers try to design their storage water heaters to minimize the amount of mixing that occurs when hot water is withdrawn from the water heater. At least one manufacturer, however, equips some of his models of gas storage water heaters with a special dip tube design (e.g. thermal compensating) specifically intended to facilitate mixing between the incoming cold water and the stored hot water in a controlled fashion.

DOE sees merit in both approaches to controlling the temperature of the hot water delivered by a storage water heater. Therefore, in order to avoid encouraging one storage water heater design approach over another regarding this matter of promoting or inhibiting mixing between incoming cold water and stored hot water under conditions of a hot water draw, DOE developed the temperature ratio adjustment factor mentioned previously. When the measured volume of water withdrawn from the water heater during the first hour rating water draw test is multiplied by the temperature ratio adjustment factor, the effects of mixing on the test results are negated. Referring again to the previous example involving the two theoretical water heaters, the first water heater would yield 29 percent more water during the water draw test than would the second water heater. However, the larger volume of water delivered by the first water heater would have been at a temperature 20°F lower than the lesser volume of water delivered by the second water heater. Applying the temperature ratio adjustment factor to the test results of the first water heater would reduce the test results by 22 percent, effectively eliminating the 29 percent difference in the original test results. The temperature ratio adjustment factor for the second water heater would be unity. Applying it to the test results of the second water heater would make for no change in the results. The "adjusted" test results for the two water heaters would, therefore, be equal. This is appropriate since both water heaters are of equal storage capacity and both delivered their entire supply of stored hot water during the test.

Today, DOE is proposing to revise the temperature ratio adjustment factor included in the existing test procedures for water heaters on the basis that it is inconsistent with the approach for determining other measures of energy consumption. In the existing test procedure, the temperature adjustment ratio factor is defined as the mean of the outlet water temperature readings taken every 15 seconds for the duration of the first hour rating water draw test divided by the initial outlet water temperature reading of the test. This approach is inconsistent with that of the overall test procedure since it does not account for the inherent assumption that the useful energy content of hot water is determined as a function of its temperature above 55°F, the national average inlet water temperature to water heaters. To be consistent with the overall approach of the existing test procedure, today's proposal defines two temperature ratio adjustment factors. The first factor is applicable to heat pump water heaters and to gas, oil, and electric storage water heaters with thermal compensating dip tubes only. It is defined as having the mean of the outlet water temperature readings minus 55°F for its numerator, and the initial outlet water temperature reading minus

[9] Since the first of the two theoretical water heaters described in this example would yield the most water from the first hour rating water draw test, and the second would yield the least, this value represents the maximum difference in the first hour rating water draw test results possible between water heaters of like storage capacity and configuration.

55°F as its denominator. The second temperature ratio adjustment factor is applicable to gas, oil and electric storage water heaters without thermal compensating dip tubes. It is defined as having the mean of the outlet water temperature readings minus 70°F for its numerator and the initial outlet water temperature reading minus 70°F as its denominator. Recall that for the convenience of testing, the temperatures identified as national average conditions of use were uniformly elevated 15°F for all testing of gas, oil, and electric storage water heaters under the existing test procedure. Hence, the use of 70°F in place of 55°F in the temperature ratio adjustment factor for gas, oil and electric storage water heaters without thermal compensating dip tubes. Since today's proposal also provides for performing the first hour rating water draw test at the temperatures specified as national average conditions of use for all heat pump water heaters and for gas, oil and electric storage water heaters with thermal compensating dip tubes, the temperature ratio adjustment factor applicable to these types of water heaters uses the 55°F reference temperature specification.

2. *Determination of the effectiveness of heat traps.* In the existing test procedure, the installation instructions require that heat traps be installed in the hot water outlet and cold water inlet piping to the water heater unless the water heater is already equipped with heat traps for the hot and cold water pipe connections on the water heater. The piping is then insulated along its vertical length in accordance with the installation instructions. In the calculation section of the existing test procedure, the formula for computing the daily energy consumption of a water heater from test results includes daily energy savings credits for heat traps installed as an integral part of the water heater. These credits (1,311 Btu per day for a heat trap installed in the hot water outlet connection and 983 Btu per day for one installed in the cold water inlet connection) are subtracted from the daily energy consumption computed from test results.

This approach was taken to eliminate pipe heat losses from affecting the measures of energy consumption of a water heater and yet credit water heaters, that are equipped with heat traps by the manufacturer as an integral part of the water heater, for the energy savings attributable to the heat traps that are expected to occur in actual consumer usage of water heaters.

At the request of DOE, NBS has investigated the performance of a number of heat trap designs.[10] The test results showed a significant variation in the energy savings performance of the various designs investigated.

While the magnitude of the energy savings achievable by even the best performing heat trap would have only a minimal effect on the energy consumption of any water heater, DOE believes that the approach of the existing test procedure of crediting all heat trap designs with the same fixed daily energy savings credits which are then subtracted from the average daily energy consumption computed for the water heater, is inappropriate.

Included in today's proposal are modifications to the installation specifications of the existing test procedure. Today's proposal calls for four foot lengths of uninsulated copper pipe to be connected to the hot water outlet and the cold water inlet connections of the water heater. The water heater is then tested in this configuration. Thus, any contribution to energy savings resulting from heat traps which are an integral part of the water heater should be directly reflected in the test results for the water heater. Consequently, today's proposal eliminates the fixed daily energy savings credits for heat traps found in the existing test procedure since they are no longer needed. DOE considers the approach of today's proposed test procedure to be the most appropriate to account for the contribution of heat traps to improving the efficiency of water heaters.

c. First Hour Rating Water Draw Test for Gas Storage Water Heaters With Thermal Compensating Dip Tubes:

On May 4, 1981, A. O. Smith Corporation (A. O. Smith), a manufacturer of water heaters, filed a petition for waiver from the DOE test procedures for water heaters on the ground that the procedures give materially inaccurate estimates of the first hour rating of its gas storage water heaters equipped with thermal compensating dip tubes. First hour rating is a measure of capacity for water heaters. It represents the volume of hot water, expressed in gallons, available to be delivered on demand by a water heater. A. O. Smith's petition alleged that the first hour rating test requirements of a starting temperature of 160°F and a 20°F temperature drop yields an inaccurate estimate of the performance of gas storage water heaters equipped with thermal compensating dip tubes.

In response to A. O. Smith's petition, DOE found that, unlike gas storage water heaters equipped with conventional open-end dip tubes which direct all of the incoming cold water to the bottom of the tank, water heaters equipped with thermal compensating dip tubes can exhibit different first hour rating water draw test results for different stored water starting temperatures. This is because thermal compensating dip tubes function over a specific fixed temperature range. Their purpose is to provide controlled mixing of incoming cold water with stored hot water when water is being withdrawn from the water heater. In the case of A. O. Smith's thermal compensating dip tube, this was accomplished by means of its perforated tube and perforated sleeve construction. Under the condition of high stored water temperature in the water heater, the perforations in the tube and in the sleeve assembly align. Thus, at the start of a water draw, cold water bleeds out of these holes along the length of the dip tube mixing with the stored hot water. This results in an immediate tempering of the outlet water temperature. As the water draw continues and this tempering effect lowers the temperature of the water in the water heater, the thermal compensating feature of the dip tube causes the perforated sleeve and tube to change position relative to each other. This changes the alignment of the perforations, effectively throttling the amount of cold water bleeding out of the sides of the dip tube. Eventually, the temperature of the water in the water heater lowers to the point where the perforations do not overlap at all. When this occurs, the thermal compensating dip tube performs in the same manner as a conventional open-end dip tube, that is, it directs all incoming cold water out the bottom end of the dip tube.

The existing test procedure for water heaters specifies that the first hour rating water draw test shall be conducted with a stored water starting temperature of 160°F±5°F, a water supply temperature of between 68°F and 72°F, and an ambient room temperature of between 65°F and 85°F. As discussed previously, these test conditions were established to simulate the national average field conditions of operation for water hearters, i.e., a stored water temperature of 145°F, an inlet water temperature of 55°F, and a room ambient temperature of 55°F. It was for the convenience of testing that these

[10] The results of NBS's investigation are presented in the NBS Report, "Test Results on the Effectiveness of Heat Traps on Water Heaters," May 1982.

temperatures were uniformly elevated 15°F to arrive at the test temperatures.

Since subjecting A. O. Smith's water hearters equipped with thermal compensating dip tubes to the first hour rating water draw test at these elevated test temperature specifications may yield unrepresentative results compared to the actual field performance of such water heaters, DOE determined that A. O. Smith should be granted a waiver from the test procedures for water heaters for its gas storage water heaters equipped with thermal compensating dip tubes to permit first hour rating tests to be conducted with the maximum mean tank temperature in the range of 145°F±5°F and the water supply to the water heater inlet at a temperature in the range of 55°F±2°F. In all other regards, the conditions and requirements of the first hour rating test remained unchanged by the waiver. (DOE made no change to the ambient room temperature specification as a condition of the waiver because ambient room temperature has little effect on the results of first hour rating water draw tests.) DOE's Decision and Order to grant a waiver to A.O. Smith was published in the **Federal Register** on November 30, 1982 (47 FR 53942).

Today's proposed rule provides that the first hour rating water draw test for all water heaters equipped with thermal compensating dip tubes shall be conducted with the maximum mean tank temperature in the range of 145°F±5°F and the water supply to the water heater inlet at a temperature in the range of 55°F±2°F. This procedure is equivalent to that found in the A. O. Smith Decision and Order after having made the change in the water draw rate of the first hour rating water draw test (from 5.0 gallons per minute to 3.0 gallons per minute) as previously discussed. Today's rule also includes a definition of the term "thermal compensating dip tube."

d. Miscellaneous

DOE has incorporated certain minor technical and editorial changes in today's proposed test procedure that are not specifically discussed above. For example, DOE has made slight changes to the existing definition of the term "water heater" beyond the addition of the subcategories "heat pump water heaters with storage tanks" and "heat pump water heaters without storage tanks." These changes streamline the definition without altering its coverage. (While a change has been made in the maximum energy input rating specification for oil water heaters covered by the test procedure from 103,875 Btu per hour to 104,000 Btu per hour, DOE does not consider this change as increasing the coverage of the test procedures.) Today's proposal requires that the power input to an oil water heater be determined using instrumentation with a measurement error of no greater than ±1 percent. This does not represent a change from the existing test procedure. Thus at 100,000 Btu per hour, the permissible measurement error would allow the measured value to fall between 99,000 Btu per hour and 101,000 Btu per hour. Obviously, the last three of the six significant figures of the existing oil water heater maximum input rating specification are unnecessary. Therefore, DOE has rounded off the specified value to three significant figures in today's proposal.

Also concerning definitions, DOE has defined the term "electric resistance heating element" and "immersed electric resistance heating element" in section 430.2 in today's proposal as well as defining the terms "condenser," "cut-in," "evaporator" and "thermal compensating dip tube," revising the definitions of "cut-out" and "design power rating" and deleting the definitions of "heat trap," "recovery efficiency" and "standby loss" in Appendix E.

An additional minor change in today's proposal is that the procedure for determining the tank storage capacity of a storage water heater or the storage tank of a heat pump water heater is included in the test procedure. In the existing test procedure, section 2.26 of the American National Standard for Gas Water Heaters, Volume I, designated ANS Z21.10.1–1975 is referenced as the procedure for determining tank storage capacity. The procedure discussed in today's proposal is essentially the same as that of the existing test procedure.

III. Comment Procedure

a. Written Comment

Interested persons are invited to participate in the rulemaking by submitting data, views, or arguments with respect to the proposed amendments set forth in this notice to the address indicated at the beginning of the notice.

Comments should be identified on the outside of the envelope and on documents submitted to DOE with the designation "Water Heater Test Procedures (Docket No. CAS–RM–79–105)." Seven (7) copies are requested to be submitted. All comments received by the date specified at the beginning of this notice and all other relevant information will be considered by DOE before final action is taken on the proposed regulation. Pursuant to the provisions of 10 CFR 1004.11, any person submitting information which he or she believes to be confidential and exempt by law from public disclosure should submit one complete copy of the document, and 6 copies, if possible, from which the information believed to be confidential has been deleted. DOE will make its own determination with regard to the confidential status of the information and treat it according to its determination.

Factors of interest to DOE, when evaluating requests to treat as confidential information that has been submitted, include: (1) A description of the item; (2) an indication as to whether and why such items of information have been treated by the submitting party as confidential, and whether and why such items are customarily treated as confidential within the industry; (3) whether the information is generally known or available from other sources; (4) whether the information has previously been made available to others without obligation concerning its confidentiality; (5) an explanation of the competitive injury to the submitting person which would result from public disclosure; (6) an indication as to when such information might lose its confidential character due to the passage of time; and (7) whether disclosure of the information would be in the public interest.

b. Public Hearing

1. *Procedures for Submitting Requests to Speak.* The time and place of the public hearing are indicated at the beginning of this notice. DOE invites any person who has an interest in today's proposed rule amendments, or who is a representative of a group or class of persons that has an interest in the proposed amendments, to make a written request for an opportunity to make an oral presentation. Such requests should be directed to the address indicated at the beginning of this notice and must be received by the time specified at the beginning of this notice. Requests may be hand delivered to such address between the hours of 8:30 a.m. and 4:30 p.m., Monday through Friday. Requests should be labeled "Water Heater Test Procedures (Docket No. CAS–RM–79–105)" both on the document and on the envelope.

The person making the request should briefly describe the interest concerned and, if appropriate, state why he or she is a proper representative of the group or class of persons that has such an interest, and give a telephone number where he or she may be contacted. Each person requesting an opportunity to

speak should give a concise summary of the proposed oral presentation.

DOE will notify, by the date indicated at the beginning of this notice, each person selected to be heard at the hearing. Each person selected to be heard is requested to submit seven copies of his or her statement to the address and by the date given in the beginning of this notice. In the event any person wishing to testify cannot meet this requirement, alternative arrangements can be made with the Office of Hearings and Dockets in advance of the hearing by so indicating in the letter requesting to make an oral presentation.

2. *Conduct of Hearing.* DOE reserves the right to select the persons to be heard at this hearing, to schedule the respective presentations, and to establish the procedures governing the conduct of the hearing. Each presentation shall be limited to 20 minutes.

A DOE official will be designated to preside at the hearing. The hearing will not be a judicial or an evidentiary-type hearing, but will be conducted in accordance with 5 U.S.C. 553 and Section 336 of the Act. At the conclusion of all initial oral statements, each person who has made an oral statement will be given the opportunity to make a rebuttal statement. The rebuttal statements will be given in the order in which the initial statements were made and will be subject to time limitations.

Any interested person who wishes to ask a question at the hearing may submit the question in writing to the presiding officer to be asked of any person making a statement at the hearing. The presiding officer will determine whether the question is relevant and whether time limitations permit it to be presented for answer.

Any further procedural rules regarding proper conduct of the hearing will be announced by the presiding officer.

A transcript of the hearing will be made and the entire record of the hearing, including the transcript, will be retained by DOE and made available for inspection at the DOE Freedom of Information Reading Room, Room 1E–152, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C., between the hours of 8:30 a.m. and 4:00 p.m., Monday through Friday. For information concerning the availability of records at the Freedom of Information Reading Room, call (202) 252–5969. In addition, any person may purchase a copy of the transcript from the reporter.

IV. Environmental Review

Pursuant to Section 7(c)(2) of the Federal Energy Administration Act of 1974, a copy of this notice has been submitted to the Administrator of the Environmental Protection Agency for his comments concerning the impact of this proposal on the quality of the environment.

Since test procedures under the energy conservation program for consumer products will be used only to standardize the measurement of energy usage and will not affect the quality of distribution of energy usage, prescribing test procedures will not result in any environmental impacts. DOE, therefore, has determined that prescribing test procedures under the energy conservation program for consumer products clearly is not a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969. Consequently, neither an Environmental Impact Statement nor an Environmental Assessment is required for the proposed rule.

V. Review Under Executive Order 12291

The proposed rule has been reviewed in accordance with Executive Order 12291 which directs that all regulations achieve their intended goals without imposing unnecessary burdens on the economy, on individuals, on public or private organizations, or on State and local governments. The Executive Order also requires that regulatory impact analyses be prepared for "major rules." The Executive Order defines "major rule" as any regulation that is likely to result in: (1) An annual effect on the economy of $100 million or more; (2) a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) significant adverse effects on competition, investment, productivity, innovation, or on the ability of the United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

This proposed rule would prescribe test procedures for heat pump water heaters with and without storage tanks and would make changes to the existing test procedures for water heaters to allow for more accurate determinations of energy efficiency and cost. Since the act of prescribing test procedures alone does not impose any burden on any person, industry, or government entity, DOE has determined that the proposed rules do not come within the definition of "major rule."

VI. Regulatory Flexibility Act

The Regulatory Flexibility Act, Pub. L. 96–354 (5 U.S.C. 601–612), requires that an agency prepare an initial regulatory flexibility analysis to be published at the time the proposed rule is published. This requirement (which appears in Section 603) does not apply if the agency "certifies that the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities." The proposed rule affects manufacturers of water heaters. As previously discussed, the proposed changes would not have significant economic impacts, but rather would simply improve the test procedures. Therefore, DOE certifies that the proposed rules, if promulgated, would not have a "significant economic impact on a substantial number of small entities."

In consideration of the foregoing, it is proposed to amend Part 430 of Chapter II of Title 10, Code of Federal Regulations, as set forth below.

Issued in Washington, D.C., January 16, 1984.

Pat Collins,

Acting Assistant Secretary, Conservation and Renewable Energy.

List of Subjects in 10 CFR Part 430

Administrative practice and procedure, Energy conservation, Household appliances.

PART 430—ENERGY CONSERVATION FOR CONSUMER PRODUCTS

1. Section 430.2 is amended by revising subparagraph (5) under the definition for the term "Basic model", as it applies to water heaters, by adding definitions of the terms "electric resistance heating element", and "immersed electric resistance heating element", and by revising the definition of the term "water heater", and by removing the definition of the term "immersed heating element", to read as follows:

§ 430.2 Definitions.

* * * * *

"Basic model" * * *

(5) With respect to water heaters, which have the same primary energy source and which, with the exception of immersed electric resistance heating elements, do not have any differing electric, physical, or functional characteristics that affect energy consumption.

* * * * *

"Electric resistance heating element" means a device which is designed to directly convert electrical energy to heat

energy by employing an electrical conductor which opposes the flow of electric current, resulting in the generation of heat in the conducting material.

* * * * *

"Immersed electric resistance heating element" means an electric resistance heating element which is designed to operate while totally immersed in water in such a manner that the heat generated in the element is imparted directly to the water.

* * * * *

"Water heater" means an appliance that heats water to a thermostatically controlled temperature for delivery on demand for domestic purposes other than for space heating and which must be one of the following:

(a) "Electric storage water heater" means a water heater which utilizes electricity as the energy source for heating the water, in which heating is solely provided by electric resistance heating elements, which has a manufacturer's specified energy input rating of 12 kilowatts or less at a voltage no greater than 250 volts, and which has a storage capacity of not less than 20 gallons nor more than 120 gallons.

(b) "Gas storage water heater" means a water heater which utilizes gas as the energy source for heating the water, which has a manufacturer's specified energy input rating of 75,000 Btu per hour or less, and which has a storage capacity of not less than 20 gallons nor more than 100 gallons.

(c) "Oil storage water heater" means a water heater which utilizes oil as the energy source for heating the water, which has a manufacturer's specified energy input rating of 104,000 Btu per hour or less, and which has a storage capacity of 50 gallons or less.

(d) "Heat pump water heater with storage tank" means a water heater which utilizes electricity as the energy source to operate a mechanical refrigeration unit consisting of a compressor, a condenser, an expansion device and an evaporator to extract thermal energy from the surrounding air and deliver it to the water in the unit, which may or may not be equipped with electric resistance heating elements, which has a manufacturer's specified energy input rating of 12 kilowatts or less at a voltage no greater than 250 volts, and which has a storage capacity of not less than 20 gallons nor more than 120 gallons.

(e) "Heat pump water heater without storage tank" means a water heater which utilizes electricity as the energy source to operate a mechanical refrigeration unit consisting of a compressor, a condenser, an expansion device and an evaporator to extract thermal energy from the surrounding air and deliver it to the water in the unit, which has a manufacturer's specified energy input rating of 12 kilowatts or less at a voltage no greater than 250 volts, and which in intended to be connected to an electric, gas or oil storage water heater which has a storage capacity of not less than 20 gallons nor more than 120 gallons.

* * * * *

2. Section 430.22 is amended by revising paragraph (e) to read as follows:

§ 430.22 [Amended]

* * * * *

(e) *Water heaters.* (1) The estimated annual operating cost for water heaters shall be—

(i) For a gas or oil storage water heater, the product of the representative average use cycle of 365 days per year times the sum of (A) the product of the average daily auxiliary electrical energy consumption in kilowatt-hours per day, determined according to section 4.9.1 of Appendix E for this subpart, times the representative average unit cost of electricity in dollars per kilowatt-hour as provided by the Secretary plus (B) the product of the average daily gas or oil energy consumption in Btu per day, determined according to section 4.9.2 of Appendix E of this subpart, times the representative average unit cost of gas or oil, as appropriate, in dollars per Btu as provided by the Secretary, the resulting product then being rounded off to the nearest dollar per year;

(ii) For an electric storage water heater, the product of the following three factors: (A) The representative average use cycle of 365 days per year, (B) the average daily energy consumption in kilowatt-hours per day, determined according to section 4.9.4 of Appendix E of this subpart, and (C) the representative average unit cost of electricity in dollars per kilowatt-hour as provided by the Secretary, the resulting product then being rounded off to the nearest dollar per year;

(iii) For a heat pump water heater with storage tank, the product of the following three factors: (A) The representative average use cycle of 365 days per year, (B) the average daily energy consumption in kilowatt-hours per day, determined according to section 4.9.5.1 of Appendix E of this subpart, and (C) the representative average unit cost of electricity in dollars per kilowatt-hour as provided by the Secretary, the resulting product then being rounded off to the nearest dollar per year; and

(iv) For a heat pump water heater without storage tank, the product of the following three factors: (A) The representative average use cycle of 365 days per year, (B) the average daily energy consumption in kilowatt-hours per day, determined according to section 4.9.5.2 of Appendix E of this subpart, and (C) the representative average unit cost of electricity in dollars per kilowatt-hour as provided by the Secretary, the resulting product then being rounded off to the nearest dollar per year.

(2) The energy factor for water heaters shall be—

(i) For a gas or oil storage water heater, the quotient of the daily hot water energy consumption, determined according to section 4.4 of Appendix E of this subpart, divided by the average daily energy consumption, determined according to section 4.9.3 of Appendix E of this subpart, the resulting quotient then being rounded off to the nearest 0.01;

(ii) For an electric storage water heater, the quotient of the daily hot water energy consumption, determined acccording to section 4.4 of Appendix E of this subpart, divided by the product of the average daily energy consumption, determined according to section 4.9.4 of Appendix E of this subpart, times 3,413 Btu per kilowatt-hour, the resulting quotient then being rounded off to the nearest 0.01;

(iii) For a heat pump water heater with storage tank, the quotient of the daily hot water energy consumption, determined according to section 4.4 of Appendix E of this subpart, divided by the product of the average daily energy consumption, determined according to section 4.9.5.1 of Appendix E of this subpart, times 3,413 Btu per kilowatt-hour, the resulting quotient then being rounded off to the nearest 0.01; and

(iv) For a heat pump water heater without storage tank, the quotient of the daily hot water energy consumption, determined according to section 4.4 of Appendix E of this subpart, divided by the product of the average daily energy consumption, determined according to section 4.9.5.2 of Appendix E of this subpart, times 3,413 Btu per kilowatt-hour, the resulting quotient then being rounded off to the nearest 0.01.

(3) The coefficient of performance for a heat pump water heater with or without storage tank shall be the recovery efficiency determined according to section 4.2.4 of Appendix E of this subpart, rounded off to the nearest 0.01.

(4) Other useful measures of energy consumption for water heaters shall be those measures of energy consumption

which the Secretary determines are likely to assist consumers in making purchasing decisions and which are derived from the application of Appendix E of this subpart.

* * * * *

3. Appendix E to Subpart B of Part 430 is revised to read as follows:

Appendix E to Subpart B of Part 430—Uniform Test Method for Measuring the Energy Consumption of Water Heaters

1. *Definitions.*

1.1 "Condenser" means that component of a heat pump water heater which is designed to transfer heat energy from the refrigerant in the condenser to the water.

1.2 "Cut-in" means the action by a water heater thermostat to initiate the water heating process.

1.3 "Cut-out" means the action by a water heater thermostat to terminate the water heating process.

1.4 "Design power rating" means the nominal power rating that a water heater manufacturer assigns to a particular design of electric resistance heating element, expressed in kilowatts.

1.5 "Evaporator" means that component of a heat pump water heater which is designed to transfer heat energy from the ambient air to the refrigerant in the evaporator.

1.6 "Thermal compensating dip tub" means a dip tube which when water is withdrawn from the water heater is designed to provide controlled mixing of incoming cold water with stored hot water to achieve nearly immediate tempering of the water drawn from the water heater when the temperature of the stored water exceeds the manufacturer's recommended design temperature, and resulting in no tempering, or almost no tempering, of the water drawn from the water heater when the temperature of the stored water is below this recommended design temperature.

2. *Test Conditions.*

2.1 *Installation.*

2.1.1 *Installation requirements for gas, oil, and electric storage water heaters and for heat pump water heaters with storage tanks.* Install the water heater according to the manufacturer's directions on a ¾ inch thick plywood platform. The inlet and outlet piping shall be four foot vertical runs of bare ¾ inch copper pipe with appropriate copper fittings. If the inlet or outlet pipe connections are horizontal, then the four foot vertical runs shall be connected as close as possible to the horizontal inlet or outlet pipe connections using appropriate copper fittings. In no case shall the vertical pipe runs be closer than one inch from the surface of the water heater at any point along the pipe runs. The copper piping and fittings shall be uninsulated.

For heat pump water heaters with storage tanks, install a water flow meter in the hot water outlet piping downstream of the four foot vertical run which can measure, with an error not greater than ± 0.5 gallon, the volume of water withdrawn from the water heater.

2.1.2 *Installation requirements for heat pump water heaters without storage tanks.* For a heat pump water heater without storage tank, install a standard test electric storage water heater according to section 2.1.1 and connect the heat pump water heater to the standard test electric storage water heater, as specified by the manufacturer using 10 Feet ± 0.5 feet of tubing. Install a water flow meter in the hot water outlet piping of the standard test electric storage water heater downstream of the four foot vertical run which can measure, with an error no greater than ± 0.5 gallon, the volume of water withdrawn from the water heater. The standard test electric storage water heater shall have a rated storage capacity of 52 gallons, as specified by the manufacturer on the water heater nameplate; shall have a standby loss of 0.009 ± 0.0005 per hour as determined in accordance with section 3.4.2; shall be equipped with two immersed electric resistance heating elements, each with a design power rating of 4,500 watts, and shall not be equipped with a thermal compensating dip tube. Disconnect only those immersed electric resistance heating elements specified to be disconnected by the manufacturer of the heat pump water heater in the installation instructions for the unit.

2.2 *Flue requirements for gas and oil storage water heaters.*

2.2.1 *Flue requirements for gas storage water heaters.* For a gas storage water heater having a vertically discharging draft hood outlet, a 5 foot vertical flue pipe extension, having a diameter equal to the largest flue collar size of the draft hood, shall be connected to the draft hood outlet. For a storage water heater having a horizontally discharging draft hood outlet, a 90 degree elbow, having a diameter equal to the largest fuel collar size of the draft hood, shall be connected to the draft hood outlet, a 5 foot length of flue pipe shall be connected to the elbow and oriented to discharge vertically upward. Perform all tests with the natural draft established by this length of flue pipe. Direct vent gas storage water heaters shall be installed with venting equipment as specified in the manufacturer's instructions; however, the vertical length of the flue pipe shall be no greater than 5 feet.

2.2.2 *Flue requirements for oil storage water heaters.* For an oil storage water heater, establish a draft at the flue collar equivalent to at least 0.02 inch of water column during periods of burner firing. For an oil storage water heater having a vertically discharging draft hood outlet, establish the draft by using a sufficient length of flue pipe connected to the water heater flue outlet and directed vertically upward. For an oil storage water heater having a horizontally discharging draft hood outlet, a 90 degree elbow, having a diameter equal to the largest flue collar size of the draft hood, shall be connected to the draft hood outlet. A length of flue pipe sufficient to establish the draft shall be connected to the elbow fitting and oriented to discharge vertically upward. Direct vent oil storage water heaters should be installed with venting equipment as specified in the manufacturer's instructions. When ceiling height limits the use of a sufficient length of vertical flue pipe for an oil storage water heater, a mechanical draft inducer may be used during periods of burner firing to establish the specified draft at the flue collar.

2.3 *Water supply.* For gas, oil, and electric storage water heaters, maintain the water supply to the water heater inlet at a temperature at 70 °F ± 2°F, except as specified in section 3.8.2 for the first hour rating water draw test for units equipped with thermal compensating dip tubes. Maintain the water supply to the water heater inlet at a gauge pressure of between 40 pounds per square inch and the maximum pressure specified by the manufacturer for the water heater under test. If the water supply pressure varies outside of these limits during testing, the water heater shall be isolated by use of a shut-off valve in the water supply line with an expansion tank installed in the water supply line downstream of the shut-off valve. There shall be no shut-off means between the expansion tank and the water heater inlet.

For a heat pump water heater with storage tank, maintain the water supply to the heat pump water heater inlet at a temperature of 55°F±2°F and at a gauge pressure of between 40 pounds per square inch, and the maximum pressure specified by the manufacturer for the water heater under test.

For a heat pump water heater without storage tank, maintain the water supply to the standard test electric storage water heater inlet at a temperature of 55°F±2°F and at a gauge pressure of between 40 pounds per square inch, and the maximum pressure specified by either the manufacturer of the standard test electric storage water heater or the manufacturer of the heat pump water heater without storage tank, whichever is lower.

2.4 *Energy supply.*

2.4.1 *Electrical supply.* For a water heater utilizing electricity, maintain the electrical supply voltage within ±1 percent of the center of the voltage range specified by the water heater manufacturer on the water heater nameplate throughout the entire operating portion of each test.

2.4.2 *Gas supply.*

2.4.2.1 *Natural gas.* For a water heater utilizing natural gas, maintain the gas supply at a normal inlet test pressure immediately ahead of all controls at 7 to 10 inches of water column. If the water heater is equipped with a gas appliance pressure regulator, the regulator outlet pressure at the normal test pressure shall be that recommended by the manufacturer. All burners shall be adjusted to achieve an hourly Btu rating that is within ±2 percent of the hourly Btu rating specified by the manufacturer. Use natural gas with a higher heating value of approximately 1,025 Btu per standard cubic foot. Determine the actual higher heating value (H_N) in Btu per standard cubic foot, for the natural gas to be used in the test, with an error no greater than ±1 percent, and use that value for all calculations included herein. Alternatively, the test can be conducted using "bottled" natural gas of a higher heating value of approximately 1,025 Btu per standard cubic foot as long as the actual higher heating value of the bottled natural gas has been determined with an error no greater than ±1 percent as certified by the supplier.

2.4.2.2 *Propane gas.* For a water heater utilizing propane, maintain the gas supply at a normal inlet test pressure immediately ahead of all controls at 11 to 13 inches of water column. If the water heater is equipped with a gas appliance pressure regulator, the regulator outlet pressure at normal test perssure shall be that recommended by the manufacturer. All burners shall be adjusted to achieve an hourly Btu rating that is within ±2 percent of the hourly Btu rating specified by the manufacturer. Use propane with a higher heating value of approximately 2,500 Btu per standard cubic foot. Determine the actual higher heating value (H_f) in Btu per standard cubic foot, for the propane to be used in the test, with an error no greater than ±1 percent, and use that value for all calculations included herein. Alternatively, the test can be conducted using "bottled" propane of a higher heating value of approximately 2,500 Btu per standard cubic foot as long as the actual higher heating value of the bottled propane has been determined with an error no greater than ±1 percent as certified by the supplier.

2.4.3 *Oil supply.* For a water heater utilizing fuel oil, maintain an uninterrupted supply of fuel oil to the water heater during the entire operating portion of the test cycle. Use fuel oil with a heating value of approximately 138,500 Btu per gallon. Determine the actual heating value (H_o) in Btu per gallon for the fuel oil to be used in the test with an error no greater than ±1 percent, and use that value for all calculations included herein. Alternatively, the tests can be conducted using a tested fuel oil with a certified higher heating value of approximately 138,500 Btu per gallon as long as the actual higher heating value of the test fuel oil has been determined with an error of no greater than ±1 percent as certified by the supplier.

2.5 *Thermocouple installation.* Install six thermocouples inside the water heater tank. Position each thermocouple measuring junction along a vertical line at the level of the center horizontal plane of each of six nonoverlapping sections of approximately equal volume from the top to the bottom of the tank such that each thermocouple is surrounded by water and is as far as possible from any heating element, anodic protective device, condenser, or a water tank or flue wall. The anodic protective device may be removed in order to install the thermocouples and all testing may be carried out with the device removed. Install thermocouples in both the cold-water inlet pipe and the hot-water outlet pipe not more than six inches from the connections to the water heater or, where those connections are inaccessible, at the closest accessible point to those connections. Install in the test room a thermocouple with junction shielded against direct radiation from the water heater and from the direct air currents from the fan of the heat pump and positioned at the vertical mid-point of the water heater at a perpendicular distance of approximately 24 inches from the surface of the water heater jacket. Provide an associated temperature measurement and indicator system to assure that the temperature indicated for the thermocouple location is within ±1°F of the actual temperature at that location.

2.6 Thermostat setting.

2.6.1 *Thermostat setting for gas, oil, and electric storage water heaters.* Starting with a tank of unheated water, initiate normal operation of the water heater. After cut-out, determine whether the maximum value of the mean tank temperature is within the range of 160°F±5°F, except as specified in section 3.8.2 for the first hour rating water draw test for water heaters with thermal compensating dip tubes. If not, turn off the water heater, adjust the thermostat, empty the tank and refill with unheated water, then initiate normal operation of the water heater, and once again determine the maximum mean tank temperature after cut-off. Repeat this sequence until the maximum mean tank temperature after cut-out is within the range of 160°F±5°F, except as specified in section 3.8.2 for the first hour rating water draw test for water heaters with thermal compensating dip tubes, at which time the thermostat is properly set.

For electric storage water heaters with two thermostats, the thermostat which controls the upper electric resistance heating element shall be set first to yield a maximum water temperature of 160°F±5°F acter cut-out, as measured by the topmost tank thermocouple, except as specified in section 3.8.2 for the first hour rating water draw test for water heaters with thermal compensating dip tubes. The thermostat which controls the lower electric resistance heating element shall then be set to yield a maximum mean tank temperature of 160°F±5°F after cut-out, except as specified in section 3.8.2 for the first hour rating water draw test for water heaters with thermal compensating dip tubes.

2.6.2 *Thermostat setting for heat pump water heaters with and without storage tanks.* Starting with a tank of unheated water, initiate normal operation of the water heater. After cut-out, determine whether the maximum value of the mean tank temperature is within the range of 145°F±3°F. If not, turn off the water heater and, in the case of a water heater which is equipped with an adjustable thermostat, adjust the thermostat, empty the tank and refill with unheated water, then initiate normal operation of the water heater and once again determine the maximum mean tank temperature after cut-out. Repeat this sequence until the maximum mean tank temperature after cut-out is within the range of 145°F±3°F, at which time the thermostat is properly set. In the case of a water heater which is equipped with a nonadjustable thermostat, replace the thermostat with one which is set or can be set to achieve a maximum mean tank temperature after cut-out within the range of 145°F±3°F and proceed with setting the thermostat as described for water heaters with adjustable thermostats.

For heat pump water heaters with and without storage tanks which have two thermostats, the thermostat that controls the electric resistance heating element shall be set to yield a miximum tank temperature after cut-out of 145°F±3°F for the top thermocouple, unless specified differently by the heat pump water heater manufacturer, in which case it shall be set in acordance with the heat pump water heater manufacturer's specifications.

2.7 *Energy consumption measurement.* Install one or more instruments which measure, as appropriate, and with an error no greater than ±1 percent, the quantity of electrical energy, natural gas, propane or fuel oil consumed by a water heater. Electrical energy consumption is to be expressed in units of kilowatt-hours. Natural gas and propane consumption shall be expressed in units of standard cubic feet, i.e., measured cubic feet corrected to standard conditions of 60±F temperature and 30 inches of mercury column pressure. Fuel oil consumption is to be expressed in units of gallons. Also, install one or more instruments which measure, as appropriate, and with an error no greater than ±1 percent, the rate of electrical energy, natural gas, propane or fuel oil consumption by a water heater. The rate of electrical energy consumption shall be expressed in units of kilowatts. The rate of natural gas and propane consumption shall be expressed in units of standard cubic feet per hour. The rate of fuel oil consumption shall be expressed in units of gallons per hour.

2.8 *Test room ambient air temperature and humidity.* For gas, oil, and electric storage water heaters, maintain the ambient air temperature of the test room at 75°F±7°F, as measured according to section 3.5.

For heat pump water heaters with and without storage tanks, maintain the ambient air termperature of the test room at 65°F±2°F, as measured according to section 3.5 and the relative humidity of the test room between 40 percent and 60 percent relative humidity.

3. *Test Procedures and measurements.*

3.1 *Tank storage capacity.* Using an appropriate weighting scale, weigh the water heater to be tested when empty (dry) to determine its weight (W_E), in pounds, with an error no greater then ±2 percent. Fill the water heater to be tested with water, eliminating any residual air remaining in the tank. Weigh the water heater when full of water to determine its weight (W_F), in pounds, with an error no greater than ±2 percent.

3.2 *Power input determination.*

3.21 *Power input determination for gas and oil storage water heaters and electric storage water heaters with other than immersed electric resistance heating elements.* Initiate normal operation of the water heater, and by using the appropriate instrumentation specified in section 2.7 and the appropriate fuel heating values of section 2.4, determine the power imput (P) to the main burners (including pilot light power, if any) or electric resistance heating elements of the water heater under test, in Btu per hour or kilowatts, as appropriate. In addition, determine the power input (P_{AE}) to any auxiliary electrical system of a gas or oil storage water heater when the main burners are in operation, in kilowatts; and the power input (P_{AS}) to any auxiliary electric system of a gas or oil storage water heater when the main burners are not in operation, in kilowatts.

3.2.2 *Power input determination for electric storage water heaters with immersed electric resistance heating elements.* The power imput (P) to the immersed electric

resistance heating element of an electric storage water heater with one immersed electric resistance heating element shall be taken to be the design power rating of the immersed electric resistance heating element, in kilowatts. For an electric storage water heater with dual immersed electric resistance heating elements, the power input (P) to the immersed electric resistance heating elements shall be taken to the arithmetic mean of the design power ratings of the immersed electric resistance heating elements, if, in characteristic operation of the water heater, only one immersed electric resistance heating element will be energized at any time; otherwise, the power input (P) shall be taken to be the sum of the design power ratings of the immersed electric resistance heating elements, in kilowatts.

3.2.3 *Power input determination for heat pump water heaters with and without storage tanks.* The power input to heat pump water heaters with and without storage tanks is derived for the results of the simulated use test of section 3.7.

3.3 *Recovery efficiency.*

3.3.1 *Recovery efficiency for gas and oil storage water heaters and electric storage water heaters with other than immersed electric resistance heating element.* With the water heater turned off, fill the tank with water and eliminate any residual air remaining in the tank. If the mean tank temperature is constant and within 70°F±2°F, record the mean tank temperature (T_{TRI}), in degrees F, initiate normal operation of the water heater, and begin measuring the fuel or electrical energy flow to the burners (including pilot light fuel if any) or electric resistance heating elements of the water heater using the appropriate instrumentation specified in section 2.7. After cut-out, determine the maximum mean tank temperature (T_{TRF}), in degrees, F, and record the total fuel flow (Q_R) for a gas or oil storage water heater, or the total electrical energy flow (Z_R) to the electric resistance heating elements of an electric storage water heater, from initiation to cut-out, in cubic feet, gallons or kilowatt-hours, as appropriate.

3.3.2 *Recovery efficiency for electric storage water heaters with immersed electric resistance heating elements.* The recovery efficiency of electric storage water heaters with immersed electric resistance heating elements is derived from the results of the standby loss test to section 3.4.2.

3.3.3 *Recovery efficiency for heat pump water heaters with and without storage tanks.* The recovery efficiency of heat pump water heaters with and without storage tanks is derived from the results of the simulated use test of section 3.7.

3.4 *Standby loss.*

3.4.1 *Standby loss for gas and oil storage water heaters and electric storage water heaters with other than immersed electric resistance heating elements.* Establish normal water heater operation within the maximum mean tank temperature range specified in section 2.6.1 and with all air eliminated from the tank. Begin the standby loss test immediately after a cut-out. At the beginning of the standby loss test record the time, the mean tank temperature (T_{TSI}), in degrees F, the ambient air temperature, and begin measuring the fuel or electrical energy flow to the burners (including pilot light fuel if any) or electric resistance heating elements of the water heater using the appropriate instrumentation specified in section 2.7.

At the end of the first 15 minute interval and at the end of each subsequent 15 minute interval during the period of the test, record the mean tank temperature and the ambient air temperature, in degrees F. Terminate the test at an elapsed time of 48 hours from the start of the test unless an electric resistance heating element or main burner is on at that time, in which case, terminate the test at the first subsequent cut-out. When the test is terminated, record the total fuel flow (Q_S) for a gas or oil storage water heater, or the total electrical energy flow (Z_S) to the electric resistance heating elements of an electrical storage water heater, over the period of the test, in cubic feet, gallons or kilowatt-hours, as appropriate, the final mean tank temperature (T_{TSF}), in degrees F, the final ambient air temperature, in degrees F, and the elapsed time (t_S) of the standby loss test, in hours, rounded off to the nearest tenth of an hour. Determine the mean of the recorded values of the mean tank temperature (T_{TSM}) and of the ambient air temperature (T_{ASM}) taken at the end of each time interval, in degrees F, including in each case the initial and final values.

3.4.2 *Standby loss for electric storage water heaters with immersed electric resistance heating elements.* All water heaters shall be equipped with immersed electric resistance heating elements that have a design power rating of 4,500 watts unless such a design power rating exceeds the maximum design power rating specified by the manufacturer for the water heater to be tested, in which case the standby loss test will be conducted with the water heater equipped with electric resistance heating elements of a design power rating equal to the manufacturer's specified maximum design power rating. All water heaters capable of operating with dual immersed electric resistance heating elements will be equipped and tested with dual immersed electric resistance heating elements of equal design power rating in accordance with the provisions specified above. Tests shall be conducted in accordance with the same procedures as those specified in section 3.4.1.

3.5 *Ambient air temperature measurement.* Ambient air temperature wherever specified shall be the temperature determined using the test room thermocouple described in section 2.5.

3.6 *Mean tank temperature measurement.* Mean tank temperature, the average temperature of the water in a water heater tank, wherever specified shall be the mean of the temperatures measured using the six water heater tank thermocouples described in section 2.5.

3.7 *Simulated use test for heat pump water heaters with and without storage tanks.* Establish normal water heater operation with the maximum mean tank temperature within the range specified in section 2.6.2 and with all air eliminated from the tank. Any electric resistance heating elements shall be operational according to section 2.1.2 and the thermostats for the electric resistance heating elements shall be set as specified in section 2.6.

The simulated use test is conducted over a 24 hour period and involves withdrawing water from the hot water outlet of the water heater in three separate consecutive water draws. For both the first and second water draws, 21.4 gallons ±0.5 gallon of water shall be withdrawn from the water heater. The third water draw shall be of a sufficient volume to bring the total volume of water withdrawn from the water heater by means of these three water draws to 64.3 gallons ±0.5 gallon. Water shall be withdrawn at a rate of 3.0±0.25 gallons per minute for each of the three water draws. All water volume measurements shall be made using the water flow meter specified in sections 2.1.1 and 2.1.2.

Begin the simulated use test immediately after a cut-out by recording the mean tank temperature (T_{TS}), in degrees F, recording the time, recording the water flow meter reading, commencing electrical energy flow measurement to the heat pump and electric resistance heating elements, if any, and starting the first water draw. Immediately upon the conclusion of the first water draw, record the inlet water temperature, in degrees F. Record also the water flow meter reading. Immediately after the first cut-out following the conclusion of the first water draw, record the mean tank temperature, in degrees F, and begin the second water draw. Record the time when the first cut-in occurs after the start of the second water draw. Immediately upon the conclusion of the second water draw, record the inlet water temperature (T_{IDS}), in degrees F. Record also the water flow meter reading. Immediately after the first cut-out following the conclusion of the second water draw, record the time, record the mean tank temperature (T_{TDS}), in degrees F, and begin the third water draw. Immediately upon the conclusion of the third water draw, record the inlet water temperature, in degrees F. Immediately after the first cut-out following the conclusion of the third water draw, record the mean tank temperature, in degrees F, record the water flow meter reading, and record the total amount of electrical energy consumed by the water heater since the start of the test (Z_S), in kilowatt-hours. Determine the mean of the mean tank temperature recordings (T_{TWD}) and the mean of the inlet water temperature recordings (T_{IWD}), in degrees F. Determine the total amount of water withdrawn from the water heater over all three water draws (V_{WD}), in gallons, from the appropriate recorded water meter readings. Determine the volume of water withdrawn from the water heater over the second water draw (V_{DS}), in gallons, from the appropriate recorded water meter readings. Determine the elapsed time between the cut-in subsequent to the start of the second water draw and the first cut-out following the conclusion of the second water draw (t_{DDS}), in hours, rounded to the nearest 0.01 hour, from the appropriate time recordings.

Conclude the simulated use test after 24 hours have elapsed from the start of the test by shutting off all electrical power to the water heater and recording the time, the

amount of electrical energy consumed by the water heater (C_{EU}), during the test, in kilowatt-hours, and the maximum mean tank temperature after the conclusion of the test (T_{TE}), in degrees F.

3.8 *First hour rating water draw test.*

3.8.1 *First hour rating water draw test for all water heaters except gas, oil, and electric storage water heaters with thermal compensating dip tubes.* Establish normal water heater operation with the maximum mean tank temperature within the range specified in section 2.6 and with all air eliminated from the tank. Begin the first hour rating water draw test immediately after a cut-out by recording the hot water outlet temperature, in degrees F, recording the time, and withdrawing water from the water heater through the hot water outlet at a rate of 3.0 + 0.25 gallons per minute. Interrupt all fuel or electrical energy flow to the water heater to prevent the burner, the electric resistance heating elements, or the heat pump from operating during this test. Collect all of the water withdrawn from the water heater during the test in a suitable container for the purpose of determining its weight at the conclusion of the test.

Alternatively, a water flow meter may be used to measure the volume of water withdrawn from the water heater directly. Beginning 15 seconds after the start of the test and at every subsequent 15 second interval throughout the duration of the water draw, record the outlet water temperature, in degrees F. For the purposes of this test, the maximum recorded temperature shall be referred to as the initial outlet water temperature (T_{OI}). Monitor the functioning of the water heater thermostats and record the time that a thermostat on the water heater acts to operate an electric resistance heating element, the heat pump, or the main burner. Continue the withdrawal of water until the outlet water temperature drops to a value of 20°F below T_{OI}, the initial outlet water temperature, at which time terminate the withdrawal. Determine the weight of the water withdrawn (W_D), in pounds measured with an error no greater than ± 2 percent, or the volume of water withdrawn (V_D), in gallons, measured with an error no greater than ± 2 percent. Determine the mean of the outlet water temperature readings recorded (T_{OM}), in degrees F. Determine the elapsed time of the test prior to a thermostat on the water heater acting to operate the main burner, an electric resistance heating element, or the heat pump, (t_T) in hours measured with an error no greater than ± 0.01 hours. If a thermostat on the water heater does not act to operate an electric resistance heating element, the heat pump, or the main burner within one hour after the start of the test, the test is to be terminated and t_T shall be taken to be one hour.

3.8.2 *First hour rating water draw test for gas, oil, and electric storage water heaters with thermal compensating dip tubes.* For gas, oil, and electric storage water heaters with thermal compensating dip tubes, maintain the water supply to the water heater inlet at a temperature of 55° F ± 2° F, set the thermostat following the procedure specified in section 2.6.1 except that the maximum mean tank temperature wherever specified shall be within the range of 145± F ± 5° F. Conduct the first hour rating water draw test in accordance with the procedure specified in section 3.8.1.

4. *Calculations.*

4.1 *Tank storage capacity.* Calculate the tank storage capacity (V) expressed in gallons and defined as:

$$V=\frac{(W_F-W_E)}{d}$$

where:

W_F = weight of the water heater when full of water, determined in accordance with section 3.1, expressed in pounds

W_E = weight of the water heater when empty, determined in accordance with section 3.1, expressed in pounds

d = 8.25 pounds per gallon, the nominal density of water

4.2 *Recovery efficiency.*

4.2.1 *Recovery efficiency for gas and oil storage water heaters.* For a gas or oil storage water heater, calculate the recovery efficiency (E_R) expressed as a dimensionless quantity and defined as:

$$E_R=\frac{(k)(V)(T_{TRF}-T_{TRI})}{(Q_R)(H)}$$

where:

k = 8.25 Btu per gallon °F, the nominal specific heat of water

V = tank storage capacity, as defined in section 4.1, expressed in gallons

T_{TRF} = final maximum mean tank temperature for the recovery efficiency test, determined in accordance with section 3.3.1, expressed in degrees F

T_{TRI} = initial mean tank temperature for the recovery efficiency test, determined in accordance with section 3.3.1, expressed in degrees F

Q_R = total fuel flow in the recovery test, determined in accordance with section 3.3.1, expressed in cubic feet or gallons, as appropriate

H = higher heating value for the appropriate fuel type (H_N, H_P, or H_O), as determined in accordance with section 2.4, expressed in Btu per cubic foot or Btu per gallon, as appropriate

4.2.2 *Recovery efficiency for electric storage water heaters with other than immersed electric resistance heating elements.* For an electric storage water heater with other than immersed electric resistance heating elements, calculate the recovery efficiency (E_R) expressed as a dimensionless quantity and defined as:

$$E_R=\frac{(k)(V)(T_{TRF}-T_{TRI})}{(3{,}413)(Z_R)}$$

where:

k = 8.25 Btu per gallon °F, the nominal specific heat of water

V = tank storage capacity, as defined in section 4.1, expressed in gallons

T_{TRF} = final maximum mean tank temperature for the recovery efficiency test, determined in accordance with section 3.3.1, expressed in degrees F

T_{TRI} = initial mean tank temperature for the recovery efficiency test, determined in accordance with section 3.3.1, expressed in degrees F

3,413 = conversion factor to convert energy in terms of kilowatt-hours to energy in terms of Btu

Z_R = total electrical energy flow to the electric resistance heating elements in the recovery test, determined in accordance with section 3.3.1, expressed in kilowatt-hours

4.2.3 *Recovery efficiency for electric storage water heaters with immersed electric resistance heating elements.* For an electric storage water heater with immersed electric resistance heating elements, calculate the recovery efficiency (E_R) expressed as a dimensionless quantity and defined as:

$$E_R=1-\left[\frac{(S)(k)(V)(\Delta T_{TAR})}{(3{,}413)(P)}\right]$$

where:

S = standby loss, as defined in section 4.3.2, expressed as a ratio per hour

k = 8.25 Btu per gallon °F, the nominal specific heat of water

V = tank storage capacity, as defined in section 4.1, expressed in gallons

ΔT_{TAR} = 45°F, the nominal average difference between the mean tank temperature and the ambient air temperature during the recovery efficiency test

3,413 = conversion factor to convert energy in terms of kilowatt-hours to energy in terms of Btu

P = water heater input power, determined in accordance with section 3.2.2, expressed in kilowatts

4.2.4 *Recovery efficiency for heat pump water heaters with and without storage tanks.* For a heat pump water heater with or without storage tank, calculate the recovery efficiency (E_R) expressed as a dimensionless quantity and defined as:

$$E_R=\frac{(k)(V_{WD})(T_{TWD}-T_{IWD})}{(3{,}413)(Z_R)}$$

where:

k = 8.25 Btu per gallon °F, the nominal specific heat of water

V_{WD} = volume of water withdrawn from the water heater over all three water draws of the simulated use test, determined in accordance with section 3.7, expressed in gallons

T_{TWD} = mean of the mean tank temperature recordings made over the period of the three water draws of the simulated use test, determined in accordance with section 3.7, expressed in degrees F

T_{IWD} = mean of the inlet water temperature recordings made over the period of the three water draws of the simulated use test, determined in accordance with section 3.7, expressed in degrees F

3,413 = conversion factor to convert energy in terms of kilowatt-hours to energy in terms of Btu

Z_R = total amount of electrical energy consumed by the water heater over the

period of the three water draws of the simulated use test, determined in accordance with section 3.7, expressed in kilowatt-hours

4.3 *Standby loss.*

4.3.1 *Standby loss for gas and oil storage water heaters:* For a gas or oil storage water heater, calculate the standby loss (S) expressed as a ratio per hour and defined as:

$$S=\frac{(Q_S)(H)-\left[\frac{(k)(V)(T_{TSF}-T_{TSI})}{E_R}\right]}{(k)(V)(T_{TSM}-T_{ASM})(t_S)}$$

where:

Q_S = total fuel flow in the standby loss test, determined in accordance with section 3.4.1, expressed in cubic feet or gallons, as appropriate

H = higher heating value for the appropriate fuel type (H_N, H_P, or H_O), as determined in accordance with section 2.4, expressed in Btu per cubic foot or Btu per gallon, as appropriate

k = 8.25 Btu per gallon °F, the nominal specific heat of water

V = tank storage capacity, as defined in section 4.1, expressed in gallons

T_{TSF} = final mean tank temperature for the standby loss test, determined in accordance with section 3.4.1, expressed in degrees F

T_{TSI} = initial mean tank temperature for the standby loss test, determined in accordance with section 3.4.1, expressed in degrees F

E_R = recovery efficiency, as defined in section 4.2.1, expressed as a dimensionless quantity

T_{TSM} = mean of the mean tank temperature recordings made over the period of the standby loss test, determined in accordance with section 3.4.1, expressed in degrees F

T_{ASM} = mean of the ambient air temperature recordings made over the period of the standby loss test, determined in accordance with section 3.4.1, expressed in degrees F

t_S = duration of the standby loss test, determined in accordance with section 3.4.1, expressed in hours

4.3.2 *Standby loss for electric storage water heaters.* For an electric storage water heater, calculate the standby loss (S) expressed as a ratio per hour and defined as:

$$S=\frac{(Z_S)(3.413)-\left[\frac{(k)(V)(T_{TSF}-T_{TSI})}{E_R{}^*}\right]}{(k)(V)(T_{TSM}-T_{ASM})(t_S)}$$

where:

Z_S = total electrical energy flow in the standby loss test, determined in accordance with section 3.4.1 for units with other than immersed electric resistance heating elements, or section 3.4.2 for units with immersed electric resistance heating elements, expressed in kilowatt-hours

3.413 = conversion factor to convert energy in terms of kilowatt-hours to energy in terms of Btu

k = 8.25 Btu per gallon °F, the nominal specific heat of water

V = tank storage capacity, as defined in section 4.1, expressed in gallons

T_{TSF} = final mean tank temperature for the standby loss test, determined in accordance with section 3.4.1 for units with other than immersed electric resistance heating elements, or section 3.4.2 for units with immersed electric resistance heating elements, expressed in degrees F

T_{TSI} = initial mean tank temperature for the standby loss test, determined in accordance with section 3.4.1 for units with other than immersed electric resistance heating elements, or section 3.4.2 for units with immersed electric resistance heating elements, expressed in degrees F

$E_R{}^*$ = E_R as defined in section 4.2.2 for units with other than immersed electric resistance heating elements, or 0.98 for units with immersed electric resistance heating elements, expressed as a dimensionless quantity

T_{TSM} = mean of the mean tank temperature recordings made over the period of the standby loss test, determined in accordance with section 3.4.1 for units with other than immersed electric resistance heating elements, or section 3.4.2 for units with immersed electric resistance heating elements, expressed in degrees F

T_{ASM} = mean of the ambient air temperature recordings made over the peroid of the standby loss test, determined in accordance with section 3.4.1 for units with other than immersed electric resistance heating elements, or section 3.4.2 for units with immersed electric resistance heating elements, expressed in degrees F

t_S = duration of the standby loss test, determined in accordance with section 3.4.1 for units with other than immersed electric resistance heating elements, or section 3.4.2 for units with immersed electric resistance heating elements, expressed in hours

4.4 *Daily hot water enery consumption.* Calculate the daily hot water energy consumption (C_D), the energy content of the nominal daily hot water usage, expressed in Btu per day and defined as:

$$C_D=(k)(U)(\Delta T_{IO})$$

where:

k = 8.25 Btu per gallon °F, the nominal specific heat of water

U = 64.3 gallons per day, the nominal daily hot water usage

ΔT_{IO} = 90°F, the nominal difference in temperature between the stored hot water in a water heater and the water supplied to the water heater.

4.5 *Daily water heating energy consumption.* Calculate the daily water heating energy consumption (C_{WH}) the energy required to heat the nominal amount of hot water used daily, expressed in Btu per day and defined as:

$$C_{WH}=\frac{C_D}{E_R}$$

where:

C_D = daily hot water energy consumption, as defined in section 4.4, expressed in Btu per day.

E_R = recovery efficiency, as defined in section 4.2.1 for gas and oil storage water heaters, section 4.2.2 for electric storage water heaters with other than immersed electric resistance heating elements, section 4.2.3 for electric storage water heaters with immersed electric resistance heating elements, or section 4.2.4 for heat pump water heaters with and without storage tanks, expressed as a dimensionless quanity

4.6 *Average hourly hot water storage energy consumption for gas, oil, and electric storage water heaters.* Calculate the average hourly hot water storage energy consumption of a gas, oil, or electric storage water heater (C_S), the average energy required per hour to maintain stored water temperature, expressed in Btu per hour and defined as:

$$C_S=(S)(k)(V)(\Delta T_{TAS})$$

where:

S = standby loss as defined in section 4.3.1 for gas and oil storage water heaters or section 4.3.2 for electric storage water heaters, expressed as a ratio per hour

k = 8.25 Btu per gallon °F, the nominal specific heat of water

V = tank storage capacity, as defined in section 4.1, expressed in gallons

Δ_{TAS} = 90°F, the nominal difference between the stored hot water heater and the ambient temperature of its surroundings

4.7 *Recovery rate.*

4.7.1 *Recovery rate for gas and oil storage water heaters.* For a gas or oil storage water heater, calculate the recovery rate (R) expressed in gallons per hour and defined as:

$$R=\frac{(P)(E_R)}{(k)(\Delta T_{IO})}$$

where:

P = power input to the burner, determined in accordance with section 3.2.1, expressed in Btu per hour

E_R = recovery efficiency, as defined in section 4.2.1, expressed as a dimensionless quantity

k = 8.25 Btu per gallon °F, the nominal specific heat of water

ΔT_{IO} = 90°F, the nominal difference in temperature between the stored hot water in a water heater and the water supplied to the water heater

4.7.2 Recovery rate for electric storage water heater. For an electric storage water heater, calculate the recovery rate (R) expressed in gallons per hour as defined as:

$$R = \frac{(P^*)\,(E_R)\,(3.413)}{(k)\,(\Delta T_{IO})}$$

where:

P^* = P, power input to the electric resistance heating elements, expressed in kilowatts, determined in accordance with section 3.2.1 for units with other than immersed electric resistance heating elements or section 3.2.2 for units with immersed electric resistance heating elements, with the following exception: For units with dual immersed electric resistance heating elements which, in characteristic operation of the water heater, are not energized simultaneously at any time, P^* shall be taken as the design power rating of the electric resistance heating element in closest proximity to the hot water outlet of the water heater, expressed in kilowatts

E_R = recovery efficiency, as defined in section 4.2.2 for units with other than immersed electric resistance heating elements or section 4.2.3 for units with immersed electric resistance heating elements, expressed as a dimensionless quantity

3.413 = conversion factor to convert energy in terms of kilowatt-hours to energy in terms of Btu

k = 8.25 Btu per gallon °F, the nominal specific heat of water

Δ_{IO} = 90°F, the nominal difference in temperature between the stored hot water in a water heater and the water supplied to the water heater

4.7.3 *Recovery rate for heat pump water heaters with and without storage tanks.* For heat pump water heaters with and without storage tanks, calculate the recovery rate (R) expressed in gallons per hour and defined as:

$$R = \left(\frac{V_{D2}}{t_{RD2}}\right)\left(\frac{T_{TD2} - T_{ID2}}{\Delta T_{IO}}\right)$$

where:

V_{D2} = volume of water withdrawn from the water heater over the second water draw, determined in accordance with section 3.7, expressed in gallons

t_{RD2} = elapsed time between the cut-in subsequent to the start of the second water draw and the first cut-out following the conclusion of the second water draw, determined in accordance with section 3.7, expressed in hours

T_{TD2} = mean tank temperature at the first cut-out following the conclusion of the second water draw, determined in accordance with section 3.7, expressed in degrees F

T_{ID2} = inlet water temperature for the second water draw, determined in accordance with section 3.7, expressed in degrees F

Δ_{IO} = 90°F, the nominal difference in temperature between the stored hot water in a water heater and the water supplied to the water heater

4.8 *First hour rating.*

4.8.1 *First hour rating for all water heaters except heat pump heaters without storage tanks.* For a gas, oil, or electric storage water heater, and for a heat pump water heater with storage tank, calculate the first hour rating (F) expressed in gallons and defined as:

$$F = \left(\frac{W_D}{d}\right)\left(\frac{T_{OM} - T_I}{\Delta T_{IO}}\right) + (R)\,(1 - t_T),$$

or

$$F = (V_D)\left(\frac{T_{OM} - T_I}{\Delta T_{IO}}\right) + (R)\,(1 - t_T)$$

where:

W_D = weight of the water withdrawn during the first hour rating water draw test, determined in accordance with section 3.8.1 for gas, oil, and electric storage water heaters not equipped with thermal compensating dip tubes and for heat pump water heaters with storage tanks, or section 3.8.2 for gas, oil, and electric storage water heaters with thermal compensating dip tubes, expressed in pounds

d = 8.25 pounds per gallon, the nominal density of water

V_D = volume of the water withdrawn during the first hour rating water draw test, determined in accordance with section 3.8.1 for gas, oil, and electric storage water heaters not equipped with thermal compensating dip tubes and for heat pump water heaters with storage tanks, or section 3.8.2 for gas, oil, and electric storage water heaters with thermal compensating dip tubes, expressed in gallons

T_{OM} = mean of the outlet water temperature recordings made over the period of the first hour rating water draw test, determined in accordance with section 3.8.1 for gas, oil, and electric storage water heaters not equipped with thermal compensating dip tubes and for heat pump water heaters with storage tanks, or section 3.8.2 for gas, oil, and electric storage water heaters with thermal compensating dip tubes, expressed in degrees F

T_I = nominal inlet water temperature for test purposes: 70°F for gas, oil, and electric storage water heaters not equipped with thermal compensating dip tubes; 55°F for gas, oil, and electric storage water heaters equipped with thermal compensating dip tubes and for heat pump water heaters with storage tanks

ΔT_{IO} = 90°F, the nominal difference in temperature between the stored hot water in a water heater and the water supplied to the water heater

R = recovery rate, as defined in section 4.7.1 for gas and oil storage water heaters, section 4.7.2 for electric storage water heaters, or section 4.7.3 for heat pump water heaters with storage tanks, expressed in gallons per hour

t_T = elapsed time from the start of the first hour rating water draw test until a thermostat on the water heater acts to operate the main burner, an electric resistance heating element, or the heat pump, determined in accordance with section 3.8.1 for gas, oil, and electric storage water heaters not equipped with thermal compensating dip tubes and for heat pump waterheaters with storage tanks, or section 3.8.2 for gas, oil, and electric storage water heaters with thermal compensating dip tubes, expressed in hours

4.8.2 *First hour rating for heat pump water heaters without storage tanks.* For a heat pump water heater without storage tank, calculate the first hour rating (F) expressed in gallons and defined as:

$$F = \left(\frac{W_D}{d}\right)\left(\frac{T_{OM} - T_I}{\Delta T_{OI}}\right) + (R)\,(1 - t_T) + (0.837)\,(V_R - 52)$$

where:

W_D = weight of the water withdrawn during the first hour rating water draw test, determined in accordance with section 3.8.1, expressed in pounds

d = 8.25 pounds per gallon, the nominal density of water

V_D = volume of the water withdrawn during the first hour rating water draw test, determined in accordance with section 3.8.1, expressed in gallons

T_{OM} = mean of the outlet water temperature recordings made over the period of the first hour rating water draw test, determined in accordance with section 3.8.1, expressed in degrees F

T_I = 55°F, the nominal inlet water temperature for test purposes

ΔT_{OI} = 90°F, the nominal difference in temperature between the stored hot water in a water heater and the water supplied to the water heater

R = recovery rate, as defined in section 4.7.3, expressed in gallons per hour

t_T = elapsed time from the start of the first hour rating water draw test until a thermostat on the water heater acts to operate the heat pump or an electric resistance heating element, if so equipped, determined in accordance with section 3.8.1, expressed in hours

0.837 = nominal relationship between the volume of water withdrawn from an electric storage water heater during the first hour rating water draw test and its rated storage capacity, determined by a linear regression analysis of test data, expressed as a dimensionless quantity

V_R = storage capacity of the storage water heater to which the heat pump water heater without storage tank is to be connected, expressed in gallons

52 = rated storage capacity of the standard test electric storage water heater used for test purposes, expressed in gallons

4.9 *Average daily energy consumption.*

4.9.1 *Average daily auxiliary electrical energy consumption for gas and oil storage water heaters.* For a gas or oil storage water heater, calculate the average daily auxiliary electrical energy consumption (C_{AUX}) expressed kilowatt-hours per day and defined as:

$$C_{AUX} = (24)(P_{AS}) + \frac{(C_{WH})(P_{AR}-P_{AS})}{P}$$

where:
24 = conversion factor to convert time in terms of hours to time in terms of days.
P_{AS} = power input to any auxiliary electrical system during periods when the main burner is not in operation, determined in accordance with section 3.2.1, expressed in kilowatts
C_{WH} = daily water heating energy consumption, as defined in section 4.5, expressed in Btu per day
P_{AR} = power input to any auxiliary electrical system during periods of main burner operation, determined in accordance with section 3.2.1, expressed in kilowatts
P = power input to the main burner, determined in accordance with section 3.2.1, expressed in Btu per hour

4.9.2 *Average daily gas or oil energy consumption for gas and oil storage water heaters.* For a gas or oil storage water heater, calculate the average daily gas or oil energy consumption (C_F) expressed in Btu per day and defined as:

$$C_F = C_{WH} + (C_S)\left(24 - \frac{C_{WH}}{P}\right)$$

where:
C_{WH} = daily water heating energy consumption, as defined in section 4.5, expressed in Btu per day
C_S = average hourly hot water storage enery consumption, as defined in section 4.6, expressed in Btu per hour
24 = conversion factor to convert time expressed in hours to time expressed in days
P = power input to the main burner, determined in accordance with section 3.2.1, expressed in Btu per hour

4.9.3 *Average daily energy consumption for gas and oil storage water heaters.* For a gas or oil storage water heater, calculate the average daily energy consumption (C_E) expressed in Btu per day and defined as:

$$C_E = C_F + (3{,}413)(C_{AUX})$$

where:
C_F = average daily gas or oil energy consumption as defined in section 4.9.2, expressed in Btu per day
3,413 = conversion factor to convert energy in terms of kilowatt-hours to energy in terms of Btu
C_{AUX} = average daily auxiliary electrical energy consumption, as defined in section 4.9.1, expressed in kilowatt-hours per day

4.9.4 *Average daily energy consumption for electric storage water heaters.* For an electric storage water heater, calculate the average daily energy consumption (C_E) expressed in kilowatt-hours per day and defined as:

$$C_E = \frac{C_{WH} + (C_S)\left[24 - \frac{C_{WH}}{(P)(3.413)}\right]}{3{,}413}$$

where:
C_{WH} = daily water heating energy consumption, as defined in section 4.5, expressed in Btu per day
C_S = average hourly hot water storage energy consumption as defined in section 4.6, expressed in Btu per hour
24 = conversion factor to convert time expressed in hours to time expressed in days
P = power input to the electric resistance heating elements, determined in accordance with section 3.2.1 for units with other than immersed electric resistance heating elements, or section 3.2.2 for units with immersed electric resistance heating elements, expressed in kilowatts
3,413 = conversion factor to convert energy in terms of kilowatt-hours to energy in terms of Btu

4.9.5 *Average daily energy consumption for heat pump water heaters with and without storage tanks.*

4.9.5.1 *Average daily energy consumption for heat pump water heaters with storage tanks.* For a heat pump water heater with storage tank, calculate the average daily energy comsumption (C_E) expressed in kilowatt-hours per day and defined as:

$$C_E = C_{SU} + \frac{(k)(V)(T_{TS}-T_{TE})}{(E_R)(3.413)}$$

where:
C_{SU} = amount of electrical energy consumed during the simulated use test, determined in accordance with section 3.7, expressed in kilowatt-hours
k = 8.25 Btu per gallon °F, the nominal specific heat of water
V = tank storage capacity, as defined in section 4.1, expressed in gallons
T_{TS} = mean tank temprature at the start of the simulated use test, determined in accordance with section 3.7, expressed in degrees F
T_{TE} = mean tank temperature at the end of the simulated use test, determined in accordance with section 3.7, expressed in degrees F
E_R = recovery efficiency as defined in section 4.2.4, expressed as a dimensionless quantity
3,413 = conversion factor to convert energy in terms of kilowatt-hours to energy in terms of Btu

4.9.5.2 *Average daily energy consumption for heat pump water heaters without storage tanks.* For a heat pump water heater without storage tank, calculate the average daily energy consumption (C_E) expressed in kilowatt-hours per day and defined as:

$$C_E = Z_R + \left[C_{SU} + \frac{(k)(V)(T_{TS}-T_{TE})}{(E_R)(3.413)} - Z_R\right]\left(\frac{V_R}{52}\right)$$

where:
Z_R = amount of electrical energy consumed over the period of the three water draws of the simulated use test, determined in accordance with section 3.7, expressed in kilowatt-hours
C_{SU} = amount of electrical energy consumed during the simulated use test, determined in accordance with section 3.7, expressed in kilowatt-hours
k = 8.25 Btu per gallon °F, the nominal specific heat of water
V = tank storage capacity, as defined in section 4.1, expressed in gallons
T_{TS} = mean tank temperature at the start of the simulated use test, determined in accordance with section 3.7, expressed in degrees F
T_{TE} = mean tank temperature at the end of the simulated use test, determined in accordance with section 3.7, expressed in degrees F
E_R = recovery efficiency, as defined in section 4.2.4, expressed as a dimensionless quantity
3,413 = conversion factor to convert energy in terms of kilowatt-hours to energy in terms of Btu
V_R = storage capacity of the storage water heater to which the heat pump water heater without storage tank is to be connected, expressed in gallons
52 = storage capacity of the standard test electric storage water heater used for test purposes, expressed in gallons.

[FR Doc. 84-2985 Filed 2-7-84; 8:45 am]
BILLING CODE 6450-01-M

VOL
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Wednesday
February 8, 1984

Part III

Department of Housing and Urban Development

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Part 888

Section 8—Fair Market Rents for New Construction and Substantial Rehabilitation—All Market Areas; Interim Rule

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Part 888

[Docket No. R-84-1137; FR-1664]

Section 8—Fair Market Rents for New Construction and Substantial Rehabilitation—All Market Areas

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Interim rule.

SUMMARY: This rule amends the Section 8 Fair Market Rents applicable to New Construction and Substantial Rehabilitation for all market areas in compliance with the requirements of Section 8(c)(1) of the U.S. Housing Act of 1937. Revised Section 8 Fair Market Rents (FMRs) must be published at least annually in the **Federal Register**. HUD published the last annual revision of the FMRs for Section 8 New Construction and Substantial Rehabilitation on April 15, 1983 at 48 FR 16424.

The amended Fair Market Rents reflect the changes which have occurred in the general level of market rents for recently completed or newly constructed dwelling units of modest design within each market area since their last Annual or Special (Interim) Revision.

DATES: Effective Date: After the comment deadline date set forth below, notice of the effective date of this rule will be published in the **Federal Register**.

Comments must be received by: March 9, 1984.

ADDRESS: Comments should be sent to the Rules Docket Clerk, Room 10278, Office of the General Counsel, Department of Housing and Urban Development, 451 7th Street, S.W., Washington, D.C. 20410. Each person submitting a comment should include his/her name and address and refer to the docket number and title shown in the heading of this rule and give reasons for any recommendation. A copy of each comment submitted will be available for public inspection in the Office of the Rules Docket Clerk during regular business hours. In order to expedite consideration of comments, a copy of each comment should also be sent to the HUD Field Office having jurisdiction for the market area involved.

FOR FURTHER INFORMATION CONTACT: Edward M. Winiarski, Chief Appraiser, Valuation Branch, Technical Support Division, Office of Multifamily Housing Development, 451 7th Street, S.W., Washington, D.C. 20410; (202) 755-5743. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Fair Market Rents are based primarily on the level of rentals paid for recently completed or newly-constructed dwelling units of modest design within each market area, as determined by HUD Field Office staff. They are estimates of rentals that prospective tenants who are not receiving federal rental subsidies would be willing to pay for recently completed or newly-constructed dwelling units of modest design.

The revised Fair Market Rents in Schedule A of Part 888, as adopted by this Interim Rule, have been trended ahead to October 1, 1985, to allow for the period of construction or rehabilitation of the projects involved.

This interim rule includes Fair Market Rents for 0, 1, 2, 3, and 4 or more bedroom units in five structural categories (detached, semi-detached/row, walkup, elevator 2-4 story, and 5 plus story). Construction or rehabilitation of elevator projects for families with children is legally prohibited unless there is no practical alternative. Fair Market Rents for family units in elevator structures have been listed in these schedules for appropriate market areas. However, the determination that there is "no practical alternative" must be made on a project-by-project basis.

Proposals involving combinations of structural types and unit sizes for which Fair Market Rents have not yet been published may not be approved until the applicable Fair Market Rents are published and become effective.

With respect to a particular project, when the Fair Market Rents contained in this rule for the appropriate market area and structure type are lower than the Fair Market Rents in effect before this amendment, use the following policies to determine the Fair Market Rents to apply:

1. In the State Agency Program (under 24 CFR Part 883), the Fair Market Rents in effect on the date the "Application for Assignment of Portion of Set-Aside to Specific Project" is submitted to HUD shall apply, except in those instances where a Proposal or Preliminary Proposal is submitted before the Application. In the latter cases, the Fair Market Rents that are in effect on the date of the submission of the Proposal or Preliminary Proposal shall apply.

2. For New Construction and Substantial Rehabilitation Projects (under 24 CFR Parts 880, 881, and 885) which are not subject to a Notice of Fund Availability (NOFA) nor to a deadline in a NOFA, the Fair Market Rents in effect on the date that the Preliminary Proposal or Section 202 Application for Fund Reservation is submitted shall apply.

3. For New Construction and Substantial Rehabilitation Projects which are subject to deadlines stated in NOFAs, the Fair Market Rents stated in the NOFA shall apply.

For all projects where the Fair Market Rents are revised upward after the date of the processing stage specified above, the revised Fair Market Rents shall apply to all subsequent processing in reviewing Contract Rents.

Interested persons will have a 30-day comment period after publication of this Interim Rule in which to submit comments on the revised Fair Market Rents contained in Schedule A. If evaluation of comments submitted during that period indicates a need to change any of the Fair Market Rents in Schedule A, such Fair Market Rents will be withdrawn or revised, before this Interim Rule is made effective.

In addition, interested persons may submit comments or other information (with adequate documentation) on Fair Market Rents at any time, even after expiration of the 30-day public comment period provided in this rule. Any data submitted will be considered in initiating interim revisions to the Fair Market Rent schedules. In order to expedite consideration of any submission, a copy should be sent to the HUD Field Office having jurisdiction for the market area involved.

HUD regulations in 24 CFR Part 50, which implement Section 102(2)(C) of the National Environmental Policy Act of 1969, contain categorical exclusions from their requirements for the actions, activities and programs specified in § 50.20. Since the amendments made by this rule are within the exclusion set forth in paragraph (1) of § 50.20, no environmental assessment is required for this rule, and no environmental finding has been prepared.

This rule does not constitute a "major rule" as that term is defined in Section 1(b) of Executive Order 12291 on Federal Regulation. Analysis of the rule indicates that it does not: (1) Have an annual effect on the economy of $100 million or more; (2) cause a major increase in cost or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) have a significant adverse effect on competition, employment, investment, productivity, innovation, or on the

ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

This rule was listed as Item No. H–69–83 in the Department's Semiannual Agenda of Regulations published on October 17, 1983 (48 FR 47441), pursuant to Executive Order 12291 and the Regulatory Flexibility Act.

Pursuant to the provisions of 5 U.S.C. 605(b) (the Regulatory Flexibility Act), the undersigned hereby certifies that this rule does not have a significant economic impact on a substantial number of small entities. Although this rule will have an effect on developers and owners of Section 8 projects, some of whom may constitute small entities, it is not expected that the economic impact on them will be significant.

The Catalog of Federal Domestic Assistance Program number and title for the activities covered by this rule is 14.156, Lower Income Housing Assistance Program (Section 8).

List of Subjects in 24 CFR Part 888

Rent subsidies.

Accordingly, Schedule A of 24 CFR Part 888 is revised to read as set forth below.

Authority: Section 8(c)(1) of the U.S. Housing Act of 1937, 42 U.S.C. 1437f(c)(1); sec. 7(d), Department of HUD Act, 42 U.S.C. 3535(d).

Dated: February 1, 1984.

W. Calvert Brand,

General Deputy Assistant Secretary for Housing—Federal Housing Commissioner.

PART 888—[AMENDED]

Schedule A—Fair Market Rents for New Construction and Substantial Rehabilitation (Including Housing Finance and Development Agencies Program)

These Fair Market Rents have been trended ahead to October 1, 1985, to update the current Fair Market Rent schedules which these revised schedules will replace.

Note.—The Fair Market Rents for: (1) Dwelling units designed for the elderly or handicapped are those for appropriate size units, not to exceed 2 bedrooms for the elderly, multiplied by 1.05; (2) congregate housing dwelling units are the same as for noncongregate units; (3) single room occupancy dwelling units (applicable only for Substantial Rehabilitation projects) are 75 percent of those for zero bedroom units of the same structural type; (4) living units in a group home (each composed of a bedroom plus a proportionate part of common living space which is ordinarily included in a living unit) are those for zero bedroom or one bedroom units of the walkup structural type (or, if the group home contains an elevator, of the elevator 2–4 story structural type). In group homes, one bedroom Fair Market Rents may be applied only when the bedroom space plus the proportionate part of the common space is at least 450 square feet; (5) manufactured homes (unit and space) shall be 95 percent of the rents for detached units of the appropriate bedroom size (except that where a manufactured home Fair Market Rent is given on the schedule for the area, the amount on the schedule shall be the Fair Market Rent); (6) manufactured home spaces in newly-constructed or substantially rehabilitated manufactured home parks shall be the Fair Market Rents for spaces published for the Existing Housing Program under Schedule D, multiplied by 1.25.

All rents computed in accordance with this note shall be rounded down to the nearest whole dollar.

Similarly, all Fair Market Rents increased by up to 10 percent with the approval of the HUD field office manager, or by up to 20 percent with the approval of the HUD Assistant Secretary for Housing should have the result rounded down to the nearest whole dollar.

SCHEDULE A FAIR MARKET RENTS FOR NEW CONSTRUCTION AND SUBSTANTIAL REHABILITATION
(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAMS)

REGION 1

BOSTON, MASSACHUSETTS AREA OFFICE

	MARKET: BOSTON NUMBER OF BEDROOMS					MARKET: WORCESTER NUMBER OF BEDROOMS					MARKET: FALL RIVER NUMBER OF BEDROOMS				
STRUCTURE TYPE	-0-	-1-	-2-	-3-	-4+	-0-	-1-	-2-	-3-	-4+	-0-	-1-	-2-	-3-	-4+
DETACHED			721	925	1005			669	855	950			691	831	845
SEMI-DETACHED/ROW		607	712	841	932		538	662	772	885		535	677	820	831
WALKUP	524	592	709	782	887	481	512	642	728	836	499	517	639	732	767
ELEVATOR 2-4 STY	543	660	762	1046	1150	491	564	675			516	535	653		
ELEVATOR 5+ STY	543	660	762	1065	1174	515	594	710			518	564	682		
MANUFACTURED HOME															
	EFFECTIVE DATE 100183					EFFECTIVE DATE 100183					EFFECTIVE DATE 100183				
	TRENDED DATE 100185					TRENDED DATE 100185					TRENDED DATE 100185				

HARTFORD, CONNECTICUT AREA OFFICE

	MARKET: HARTFORD NUMBER OF BEDROOMS					MARKET: NEW HAVEN NUMBER OF BEDROOMS					MARKET: NEW LONDON NUMBER OF BEDROOMS					MARKET: NEW MILFORD NUMBER OF BEDROOMS				
STRUCTURE TYPE	-0-	-1-	-2-	-3-	-4+	-0-	-1-	-2-	-3-	-4+	-0-	-1-	-2-	-3-	-4+	-0-	-1-	-2-	-3-	-4+
DETACHED			638	710	731			620	700	749			617	689	719			571	637	654
SEMI-DETACHED/ROW		528	608	689	710		511	575	677	728		458	586	654	697		496	571	637	654
WALKUP	438	508	578	652	673	437	489	554	631	652	409	439	577	648	671	412	478	543	612	633
ELEVATOR 2-4 STY	444	516	582			449	503	589			412	453	599			417	485	547		
ELEVATOR 5+ STY	459	561	646			466	555	656			436	500	617			431	527	607		
MANUFACTURED HOME																				
	EFFECTIVE DATE 100183					EFFECTIVE DATE 100183					EFFECTIVE DATE 100183					EFFECTIVE DATE 100183				
	TRENDED DATE 100185					TRENDED DATE 100185					TRENDED DATE 100185					TRENDED DATE 100185				

	MARKET: WINDHAM NUMBER OF BEDROOMS					MARKET: BRIDGEPORT NUMBER OF BEDROOMS					MARKET: RIDGEFIELD NUMBER OF BEDROOMS					MARKET: NORWICH NUMBER OF BEDROOMS				
STRUCTURE TYPE	-0-	-1-	-2-	-3-	-4+	-0-	-1-	-2-	-3-	-4+	-0-	-1-	-2-	-3-	-4+	-0-	-1-	-2-	-3-	-4+
DETACHED			530	587	608			619	661	690			718	769	797			571	637	654
SEMI-DETACHED/ROW		454	505	566	589		512	590	639	668		594	684	748	775		504	571	637	654
WALKUP	370	431	483	535	551	425	492	558	620	642	492	572	650	728	749	420	488	554	613	632
ELEVATOR 2-4 STY	403	449	493			431	515	565			500	581	657			426	495	559		
ELEVATOR 5+ STY	419	475	542			448	544	627			516	631	726			441	530	617		
MANUFACTURED HOME																				
	EFFECTIVE DATE 100183					EFFECTIVE DATE 100183					EFFECTIVE DATE 100183					EFFECTIVE DATE 100183				
	TRENDED DATE 100185					TRENDED DATE 100185					TRENDED DATE 100185					TRENDED DATE 100185				

PREPARED ON 113083

BILLING CODE 4210-27-M

SCHEDULE A- FAIR MARKET RENTS FOR NEW CONSTRUCTION AND SUBSTANTIAL REHABILITATION
(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAMS)

REGION 1

MANCHESTER, NEW HAMPSHIRE SERVICE OFFICE

MARKET: MAINE STATEWIDE

STRUCTURE TYPE	NUMBER OF BEDROOMS				
	-0-	-1-	-2-	-3-	-4+
DETACHED		525	592	675	783
SEMI-DETACHED/ROW	413	485	553	636	737
WALKUP	370	450	527	598	674
ELEVATOR 2-4 STY	414	495	623		
ELEVATOR 5+ STY	460	552	693		
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: VERMONT STATE

NUMBER OF BEDROOMS				
-0-	-1-	-2-	-3-	-4+
	544	636	717	816
453	508	599	671	758
405	474	564	635	700
460	525	622		
510	582	691		

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: NEW HAMPSHIRE ST.

NUMBER OF BEDROOMS				
-0-	-1-	-2-	-3-	-4+
	523	595	674	783
[illegible]	495	557	638	740
392	440	505	575	654
414	501	577		
460	556	641		

EFFECTIVE DATE 100183
TRENDED DATE 100185

PROVIDENCE, RHODE ISLAND SERVICE OFFICE

MARKET: PROVIDENCE

STRUCTURE TYPE	NUMBER OF BEDROOMS				
	0-	-1-	-2-	-3-	-4+
DETACHED			642	747	836
SEMI-DETACHED/ROW		468	545	606	653
WALKUP	351	457	527	594	640
ELEVATOR 2-4 STY	347	478	612		
ELEVATOR 5+ STY	353	485	618		
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

REGION 2

BUFFALO, NEW YORK AREA OFFICE

MARKET: BUFFALO

STRUCTURE TYPE	NUMBER OF BEDROOMS				
	-0-	-1-	-2-	-3-	-4+
DETACHED			534	604	681
SEMI-DETACHED/ROW		402	469	551	637
WALKUP	306	362	435	511	544
ELEVATOR 2-4 STY	401	441	584		
ELEVATOR 5+ STY	436	476	619		
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: ELMIRA

NUMBER OF BEDROOMS				
-0-	-1-	-2-	-3-	-4+
		518	600	665
	416	473	559	623
320	364	428	530	601
384	460	541		
419	495	576		

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: JAMESTOWN

NUMBER OF BEDROOMS				
-0-	-1-	-2-	-3-	-4+
		528	593	665
	415	481	551	630
319	375	445	511	590
390	460	565		
425	495	599		

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: ROCHESTER

NUMBER OF BEDROOMS				
-0-	-1-	-2-	-3-	-4+
		516	577	640
	406	474	551	623
314	365	438	497	560
404	460	551		
439	495	589		

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: ALBANY

STRUCTURE TYPE	NUMBER OF BEDROOMS				
	-0-	-1-	-2-	-3-	-4+
DETACHED			507	613	679
SEMI-DETACHED/ROW		374	448	544	602
WALKUP	319	364	427	502	569
ELEVATOR 2-4 STY	319	392	496		
ELEVATOR 5+ STY	347	429	534		
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: PLATTSBURGH

NUMBER OF BEDROOMS				
-0-	-1-	-2-	-3-	-4+
		516	608	671
	435	474	548	611
342	375	435	507	578
381	451	548		
416	486	587		

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: SYRACUSE

NUMBER OF BEDROOMS				
-0-	-1-	-2-	-3-	-4+
		523	602	689
	387	459	552	620
319	361	440	502	578
320	401	508		
358	437	546		

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: BINGHAMTON

NUMBER OF BEDROOMS				
-0-	-1-	-2-	-3-	-4+
		504	608	672
	371	448	535	595
317	362	425	499	564
317	394	500		
352	419	537		

EFFECTIVE DATE 100183
TRENDED DATE 100185

NEW YORK, NEW YORK AREA OFFICE

MARKET NEW YORK CITY

STRUCTURE TYPE	NUMBER OF BEDROOMS				
	-0	-1-	-2-	-3-	-4+
DETACHED					
SEMI DETACHED/ROW		610	840	997	1217
WALKUP	548	572	779	933	1127
ELEVATOR 2-4 STY	585	752	804	1013	1190
ELEVATOR 5+ STY	763	929	1032	1309	1496
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET SUFFOLK

NUMBER OF BEDROOMS				
-0-	-1-	-2-	-3-	-4+
		741	899	1001
561	594	703	735	875
450	524	631	687	759
578	679	827		
624	696	859		

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: WESTCHESTER

NUMBER OF BEDROOMS				
-0-	-1-	-2-	-3-	-4+
		841	982	1075
	601	704	867	943
470	561	671	810	890
582	666	817	956	
630	747	870		

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: ORANGE

NUMBER OF BEDROOMS				
-0-	-1-	-2-	-3-	-4+
		618	701	764
	451	558	662	724
315	447	529	620	685
506	564	695		
544	622	763		

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET ROCKLAND

STRUCTURE TYPE	NUMBER OF BEDROOMS				
	-0-	1-	2-	-3-	-4+
DETACHED			832	902	969
SEMI-DETACHED/ROW		596	742	864	937
WALKUP	442	561	700	813	900
ELEVATOR 2-4 STY	500	602	747		
ELEVATOR 5+ STY	547	651	787		
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET NASSAU

NUMBER OF BEDROOMS				
-0-	-1-	-2-	-3-	-4+
		888	1013	1113
	630	812	921	1021
487	606	735	844	935
501	620	771		
507	712	822		

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: PUTNAM

NUMBER OF BEDROOMS				
-0-	-1-	-2-	-3-	-4+
		775	891	969
	522	665	798	870
422	495	570	713	828
593	671	734		
634	730	810		

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: POUGHKEEPSIE

NUMBER OF BEDROOMS				
-0-	-1-	-2-	-3-	-4+
		645	753	860
	471	561	645	708
376	449	559	599	665
571	667	768		
598	693	830		

EFFECTIVE DATE 100183
TRENDED DATE 100185

PREPARED ON 113083

SCHEDULE A- FAIR MARKET RENTS FOR NEW CONSTRUCTION AND SUBSTANTIAL REHABILITATION
(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAMS)

REGION 2

NEWARK, NEW JERSEY AREA OFFICE

MARKET NEWARK
NUMBER OF BEDROOMS

STRUCTURE TYPE	-0-	-1-	-2-	-3-	-4+
DETACHED			1025	1144	1217
SEMI-DETACHED/ROW	580	645	817	947	1031
WALKUP	510	570	731	848	929
ELEVATOR 2-4 STY	589	655	834	971	1049
ELEVATOR 5+ STY	662	742	946	1108	1195
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET NORTH BERGEN
NUMBER OF BEDROOMS

	-0-	-1-	-2-	-3-	-4+
			1018	1138	1210
	636	700	812	941	1024
	565	624	724	841	922
	643	709	[illegible]	965	1042
	716	797	940	1101	1188

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET FREEHOLD
NUMBER OF BEDROOMS

	-0	-1-	-2-	-3-	-4+
			942	1061	1134
	571	636	739	866	947
	501	559	654	765	847
	578	644	751	889	966
	651	732	864	1025	1113

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET CAMDEN
NUMBER OF BEDROOMS

	-0-	-1-	-2-	-3-	-4+
			899	1012	1082
		555	678	824	900
	410	475	583	722	808
	528	592	720	864	939
	602	679	845	1001	1085

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET ATLANTIC CITY
NUMBER OF BEDROOMS

STRUCTURE TYPE	0-	-1-	-2-	-3-	-4+
DETACHED			866	979	1036
SEMI-DETACHED/ROW		581	661	788	867
WALKUP	462	517	585	700	774
ELEVATOR 2-4 STY	556	619	698	830	904
ELEVATOR 5+ STY	630	707	810	966	1051
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET BURLINGTON
NUMBER OF BEDROOMS

	0-	-1-	-2-	-3-	-4+
			899	1012	1082
		555	695	824	900
	435	490	619	734	808
	529	592	732	864	939
	602	679	845	1001	1085

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET GLOUCESTER
NUMBER OF BEDROOMS

	-0-	-1-	-2-	-3-	-4+
			899	1012	1082
		555	688	824	900
	428	490	593	732	808
	529	592	730	864	939
	602	679	845	1001	1085

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET TRENTON
NUMBER OF BEDROOMS

	-0-	-1-	-2-	-3-	-4+
			917	1031	1100
		624	712	841	918
	475	541	637	752	827
	593	663	750	881	957
	678	756	863	1018	1104

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET VINELAND
NUMBER OF BEDROOMS

STRUCTURE TYPE	0	-1-	-2	-[illegible]	-4+
DETACHED			788	902	971
SEMI-DETACHED/ROW		512	585	712	790
WALKUP	366	436	508	624	698
ELEVATOR 2-4 STY	488	556	622	753	829
ELEVATOR 5+ STY	568	644	734	890	975
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET ASBURY PARK
NUMBER OF BEDROOMS

	0	1-	-2-	-3-	-4+
			904	1024	1096
	523	587	699	828	911
	451	510	610	728	809
	530	596	714	851	928
	602	689	827	987	1075

EFFECTIVE DATE 100183
TRENDED DATE 100185

CARIBBEAN AREA OFFICE

MARKET SAN JUAN
NUMBER OF BEDROOMS

STRUCTURE TYPE	-0-	-1-	-2-	-3-	-4+
DETACHED			497	556	610
SEMI-DETACHED/ROW		419	464	526	561
WALKUP	319	380	448	504	554
ELEVATOR 2-4 STY					
ELEVATOR 5+ STY	367	416	468	537	599
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET MAYAGUEZ
NUMBER OF BEDROOMS

	-0-	-1-	-2-	-3-	-4+
			471	554	620
		418	462	545	619
	312	370	416	473	544
	350	397	493	567	611

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET PONCE
NUMBER OF BEDROOMS

	-0-	-1-	-2-	-3-	-4+
			455	534	579
		426	455	534	579
	312	370	416	473	544
	350	397	493	567	611

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET ARECIBO
NUMBER OF BEDROOMS

	0-	-1-	-2-	-3-	-4+
			471	554	620
		418	462	545	619
	312	370	416	473	544
	350	397	493	567	611

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET ST. CROIX
NUMBER OF BEDROOMS

STRUCTURE TYPE	-0-	-1-	-2-	-3-	-4+
DETACHED			630	688	776
SEMI-DETACHED/ROW		471	553	621	707
WALKUP	338	392	477	536	598
ELEVATOR 2-4 STY					
ELEVATOR 5+ STY					
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET ST. THOMAS
NUMBER OF BEDROOMS

	-0-	-1-	-2-	-3-	-4+
			630	688	776
		471	553	621	707
	345	399	486	543	610

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET OLD SAN JUAN
NUMBER OF BEDROOMS

	-0-	-1-	-2-	-3-	-4+
		660	734	800	889
	552	606	682	744	804

EFFECTIVE DATE 100183
TRENDED DATE 100185

PREPARED ON 113083

SCHEDULE A FAIR MARKET RENTS FOR NEW CONSTRUCTION AND SUBSTANTIAL REHABILITATION
(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAMS)

REGION 3

BALTIMORE, MARYLAND AREA OFFICE

MARKET: BALTIMORE

STRUCTURE TYPE	NUMBER OF BEDROOMS				
	0-	-1-	-2-	-3-	-4+
DETACHED			666	751	882
SEMI-DETACHED/ROW		463	539	623	827
WALKUP	376	463	532	634	722
ELEVATOR 2-4 STY	390	507	579		
ELEVATOR 5+ STY	431	532	678		
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: HAGERSTOWN

	NUMBER OF BEDROOMS				
	0-	-1-	-2-	-3-	-4+
			630	721	847
		430	510	613	792
	350	430	504	602	686
	356	463	548		
	408	492	641		

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: SALISBURY

	NUMBER OF BEDROOMS				
	0-	-1-	-2-	-3-	-4+
			566	624	732
		395	460	533	685
	305	395	454	527	599
	316	433	494		
	349	454	578		

EFFECTIVE DATE 100183
TRENDED DATE 100185

CHARLESTON, WEST VIRGINIA SERVICE OFFICE

MARKET CHARLESTON

STRUCTURE TYPE	NUMBER OF BEDROOMS				
	-0-	-1-	-2-	-3-	-4+
DETACHED			498	547	608
SEMI-DETACHED/ROW		442	474	588	667
WALKUP	318	395	460	470	531
ELEVATOR 2-4 STY	399	462	521		
ELEVATOR 5+ STY	404	468	527		
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: BLUEFIELD

	NUMBER OF BEDROOMS				
	-0-	-1-	-2-	-3-	-4+
			474	522	581
		351	447	488	525
	299	351	397	443	487
	373	443	496		
	390	449	503		

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: HUNTINGTON

	NUMBER OF BEDROOMS				
	0-	-1-	-2-	-3-	-4+
			452	545	593
		361	442	515	568
	232	361	442	491	537
	353	419	502		
	358	425	507		

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: PARKERSBURG

	NUMBER OF BEDROOMS				
	-0-	-1-	-2-	-3-	-4+
			423	488	536
		354	398	461	507
	287	365	388	437	482
	363	437	530		
	371	443	536		

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET WHEELING

STRUCTURE TYPE	NUMBER OF BEDROOMS				
	-0-	-1-	-2-	-3-	-4+
DETACHED			465	515	576
SEMI-DETACHED/ROW		342	438	501	553
WALKUP	266	335	423	465	506
ELEVATOR 2-4 STY	349	417	505		
ELEVATOR 5+ STY	354	423	510		
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: MARTINSBURG

	NUMBER OF BEDROOMS				
	0-	-1-	-2-	-3-	-4+
			458	515	576
		345	419	491	553
	276	336	419	465	525
	395	434	483		
	401	439	489		

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET FAIRMONT

	NUMBER OF BEDROOMS				
	0-	-1-	-2-	-3-	-4+
			491	545	610
		410	463	522	585
	305	381	445	491	540
	417	458	510		
	424	464	516		

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: POINT PLEASANT

	NUMBER OF BEDROOMS				
	0-	-1-	-2-	-3-	-4+
			422	486	531
		315	394	458	504
	258	317	387	431	479
	361	431	483		
	366	439	490		

EFFECTIVE DATE 100183
TRENDED DATE 100185

PHILADELPHIA, PENNSYLVANIA AREA OFFICE

MARKET PHILADELPHIA

STRUCTURE TYPE	NUMBER OF BEDROOMS				
	0-	1-	-2-	-3-	-4+
DETACHED			873	993	1051
SEMI-DETACHED/ROW		539	675	800	874
WALKUP	423	476	601	713	785
ELEVATOR 2-4 STY	514	575	711	839	912
ELEVATOR 5+ STY	585	660	821	972	1054
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET ALLENTOWN

	NUMBER OF BEDROOMS				
	0-	-1-	-2-	-3-	-4+
		451	561	656	724
	385	424	528	616	688
	454	479	562		
	467	513	629		

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: BELLEFONTE

	NUMBER OF BEDROOMS				
	0-	-1-	-2-	-3-	-4+
		456	558	644	704
	363	444	519	614	660
	395	461	572		
	439	495	611		

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: HARRISBURG

	NUMBER OF BEDROOMS				
	0-	-1-	-2-	-3-	-4+
		460	506	645	704
	363	424	490	604	658
	412	478	528		
	446	517	572		

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET LANCASTER

STRUCTURE TYPE	NUMBER OF BEDROOMS				
	0-	1-	-2	-3-	-4+
DETACHED					
SEMI DETACHED/ROW		428	526	647	671
WALKUP	354	413	515	620	646
ELEVATOR 2-4 STY	429	496	644		
ELEVATOR 5+ STY	451	518	666		
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: YORK

	NUMBER OF BEDROOMS				
	0-	-1-	-2-	-3-	-4+
		428	526	647	671
	354	413	515	620	646
	429	496	644		
	451	518	666		

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: READING

	NUMBER OF BEDROOMS				
	0-	-1-	-2-	-3-	-4+
		451	539	648	721
	359	433	518	612	671
	410	484	561		
	444	531	622		

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: SCRANTON

	NUMBER OF BEDROOMS				
	-0-	-1-	-2-	-3-	-4+
		478	555	631	690
	397	439	528	605	671
	450	522	589		
	478	556	627		

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET WELLSBORO

STRUCTURE TYPE	NUMBER OF BEDROOMS				
	0-	-1-	2	3-	-4+
DETACHED					
SEMI DETACHED/ROW		456	558	644	704
WALKUP	363	444	519	614	660
ELEVATOR 2-4 STY	395	461	572		
ELEVATOR 5+ STY	439	495	611		
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

PITTSBURGH, PENNSYLVANIA AREA OFFICE

MARKET PITTSBURGH

STRUCTURE TYPE	NUMBER OF BEDROOMS				
	0-	-1-	-2-	-3-	-4+
DETACHED			556	648	680
SEMI-DETACHED/ROW		475	529	618	723
WALKUP	369	439	519	598	688
ELEVATOR 2-4 STY	400	469	531		
ELEVATOR 5+ STY	414	484	565		
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: ERIE

	NUMBER OF BEDROOMS				
	0-	-1-	-2-	-3-	-4+
			543	631	738
		471	518	595	696
	325	401	466	536	611
	393	441	521		
	405	455	554		

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: ALTOONA

	NUMBER OF BEDROOMS				
	-0-	-1-	-2-	-3-	-4+
			523	603	706
		451	495	513	672
	330	407	497	571	653
	389	456	504		
	397	469	537		

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: JOHNSTOWN

	NUMBER OF BEDROOMS				
	0-	-1-	-2-	-3-	-4+
			523	606	709
		437	498	577	675
	341	412	485	558	636
	390	455	509		
	399	469	543		

EFFECTIVE DATE 100183
TRENDED DATE 100185

PREPARED ON 113083

SCHEDULE A FAIR MARKET RENTS FOR NEW CONSTRUCTION AND SUBSTANTIAL REHABILITATION
(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAMS)

REGION 3

RICHMOND, VIRGINIA AREA OFFICE

MARKET: NORTON
NUMBER OF BEDROOMS

STRUCTURE TYPE	0-	-1-	-2-	-3-	-4+
DETACHED					
SEMI-DETACHED/ROW		332	399	494	554
WALKUP	245	303	385	489	527
ELEVATOR 2-4 STY	276	334	416		
ELEVATOR 5+ STY	318	376	497		
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: HARRISONBURG
NUMBER OF BEDROOMS

STRUCTURE TYPE	0	-1-	-2-	-3-	-4+
DETACHED					
SEMI-DETACHED/ROW		374	476	508	563
WALKUP	290	344	427	492	547
ELEVATOR 2-4 STY	321	375	458		
ELEVATOR 5+ STY	409	466	580		
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: NEWPORT NEWS
NUMBER OF BEDROOMS

STRUCTURE TYPE	-0-	-1-	-2-	-3-	-4+
DETACHED					
SEMI-DETACHED/ROW		369	425	530	576
WALKUP	291	329	397	474	529
ELEVATOR 2-4 STY	322	359	427		
ELEVATOR 5+ STY	437	490	598		
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: NORFOLK
NUMBER OF BEDROOMS

STRUCTURE TYPE	-0-	-1-	-2-	-3-	-4+
DETACHED					
SEMI-DETACHED/ROW		395	471	530	580
WALKUP	339	382	452	530	573
ELEVATOR 2-4 STY	370	413	483		
ELEVATOR 5+ STY	445	535	651		
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: CHARLOTTESVILLE
NUMBER OF BEDROOMS

STRUCTURE TYPE	0-	-1-	-2-	-3-	-4+
DETACHED					
SEMI-DETACHED/ROW		414	489	578	614
WALKUP	340	385	461	512	569
ELEVATOR 2-4 STY	371	416	492		
ELEVATOR 5+ STY	429	508	625		
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: RICHMOND
NUMBER OF BEDROOMS

STRUCTURE TYPE	0-	-1-	-2-	-3-	-4+
DETACHED					
SEMI-DETACHED/ROW		382	443	518	563
WALKUP	311	364	434	512	558
ELEVATOR 2-4 STY	342	394	465		
ELEVATOR 5+ STY	397	470	621		
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

WASHINGTON, D.C. AREA OFFICE

MARKET: WASHINGTON D.C
NUMBER OF BEDROOMS

STRUCTURE TYPE	-0-	-1-	-2-	-3-	-4+
DETACHED					
SEMI-DETACHED/ROW	458	530	630	685	775
WALKUP	369	483	554	641	716
ELEVATOR 2-4 STY	406	521	644	734	
ELEVATOR 5+ STY	420	539	680	844	
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

PREPARED ON 113083

SCHEDULE A FAIR MARKET RENTS FOR NEW CONSTRUCTION AND SUBSTANTIAL REHABILITATION
(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAMS)

REGION 3

WILMINGTON, DELAWARE VALUATION AND ENDORSEMENT STATION

MARKET WILMINGTON, DEL	NUMBER OF BEDROOMS				
STRUCTURE TYPE	0	1	2	3	4+
DETACHED			591	730	763
SEMI-DETACHED/ROW		424	518	622	682
WALKUP	351	386	479	557	597
ELEVATOR 2-4 STY	297	352	569		
ELEVATOR 5+ STY	411	524	581		
MANUFACTURED HOME					
EFFECTIVE DATE			100183		
TRENDED DATE			100185		

MARKET DOVER, DEL	NUMBER OF BEDROOMS				
	0-	-1-	-2-	-3-	-4+
			556	697	753
		389	468	576	628
	343	370	421	501	541
	349	428	506		
	370	472	562		
EFFECTIVE DATE			100183		
TRENDED DATE			100185		

ATLANTA, GEORGIA AREA OFFICE

MARKET: ATLANTA	NUMBER OF BEDROOMS				
STRUCTURE TYPE	0-	-1-	-2-	-3-	-4+
DETACHED					
SEMI-DETACHED/ROW	411	459	498	600	638
WALKUP	400	425	486	588	625
ELEVATOR 2-4 STY	426	451	511		
ELEVATOR 5+ STY	477	508	582		
MANUFACTURED HOME					
EFFECTIVE DATE			100183		
TRENDED DATE			100185		

MARKET: ALBANY	NUMBER OF BEDROOMS				
	0-	-1-	-2-	-3-	-4+
			452	526	595
	303	341	402	476	520
	292	330	391	464	510
	317	355	416		
	367	405	466		
EFFECTIVE DATE			100183		
TRENDED DATE			100185		

MARKET: AUGUSTA	NUMBER OF BEDROOMS				
	0-	-1-	-2-	-3-	-4+
			408	479	520
	311	344	386	460	494
	301	330	372	445	483
	328	356	398		
	366	396	457		
EFFECTIVE DATE			100183		
TRENDED DATE			100185		

MARKET: BRUNSWICK	NUMBER OF BEDROOMS				
	0-	-1-	-2-	-3-	-4+
			443	533	580
	322	358	417	507	553
	311	347	402	494	539
	337	373	429		
	399	434	481		
EFFECTIVE DATE			100183		
TRENDED DATE			100185		

MARKET: COLUMBUS	NUMBER OF BEDROOMS				
STRUCTURE TYPE	0-	-1-	-2-	-3-	-4+
DETACHED			416	508	548
SEMI-DETACHED/ROW	300	334	374	479	515
WALKUP	288	322	362	467	503
ELEVATOR 2-4 STY	313	348	387		
ELEVATOR 5+ STY	365	401	437		
MANUFACTURED HOME					
EFFECTIVE DATE			100183		
TRENDED DATE			100185		

MARKET: MACON	NUMBER OF BEDROOMS				
	0-	-1-	-2-	-3-	-4+
			425	469	511
	333	354	401	448	492
	319	337	388	424	472
	346	365	416		
	397	424	482		
EFFECTIVE DATE			100183		
TRENDED DATE			100185		

MARKET: ROME	NUMBER OF BEDROOMS				
	0-	-1-	-2-	-3-	-4+
			378	446	480
	250	288	329	396	440
	239	277	329	385	429
	264	302	354		
	314	352	404		
EFFECTIVE DATE			100183		
TRENDED DATE			100185		

MARKET: SAVANNAH	NUMBER OF BEDROOMS				
	0-	-1-	-2-	-3-	-4+
			473	549	586
	332	366	440	499	546
	320	354	428	487	535
	347	383	453		
	405	448	503		
EFFECTIVE DATE			100183		
TRENDED DATE			100185		

MARKET: VALDOSTA	NUMBER OF BEDROOMS				
STRUCTURE TYPE	0-	-1-	-2-	-3-	-4+
DETACHED			399	456	522
SEMI-DETACHED/ROW	285	315	375	449	511
WALKUP	275	298	366	427	488
ELEVATOR 2-4 STY	304	329	397		
ELEVATOR 5+ STY	360	390	481		
MANUFACTURED HOME					
EFFECTIVE DATE			100183		
TRENDED DATE			100185		

PREPARED ON 12228

SCHEDULE A- FAIR MARKET RENTS FOR NEW CONSTRUCTION AND SUBSTANTIAL REHABILITATION
(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAMS)

REGION 4

BIRMINGHAM, ALABAMA AREA OFFICE

MARKET BIRMINGHAM

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			550	703	779
SEMI-DETACHED/ROW		341	405	490	525
WALKUP	301	335	393	472	508
ELEVATOR 2-4 STY	312	353	416		
ELEVATOR 5+ STY	324	370	440		
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET DOTHAN

NUMBER OF BEDROOMS 0-	-1-	-2-	-3-	-4+
		464	594	667
	329	383	447	487
293	323	367	430	470
304	340	390		
316	358	414		

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET FLORENCE

NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
		516	660	742
	325	386	469	507
283	320	374	451	494
295	337	397		
307	354	421		

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET HUNTSVILLE

NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
		514	650	741
	357	426	503	547
298	352	421	490	539
341	379	457		
352	397	480		

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET MOBILE

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			498	636	713
SEMI-DETACHED/ROW		345	411	492	528
WALKUP	295	339	403	473	515
ELEVATOR 2-4 STY	320	357	426		
ELEVATOR 5+ STY	332	374	449		
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET MONTGOMERY

NUMBER OF BEDROOMS 0-	-1-	-2-	3-	-4+
		480	611	685
	329	418	495	547
300	324	400	490	536
312	341	423		
323	358	447		

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET TUSCALOOSA

NUMBER OF BEDROOMS 0-	-1-	-2-	-3	-4+
		516	657	734
	351	407	506	540
311	346	395	489	526
331	363	418		
343	380	441		

EFFECTIVE DATE 100183
TRENDED DATE 100185

COLUMBIA, SOUTH CAROLINA AREA OFFICE

MARKET GREENVILLE

STRUCTURE TYPE	NUMBER OF BEDROOMS 0-	1	2	3-	4+
DETACHED	415	460	520	595	650
SEMI-DETACHED/ROW	330	440	500	575	630
WALKUP	395	425	480	560	605
ELEVATOR 2-4 STY	429	492	577		
ELEVATOR 5+ STY	452	515	590		
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET GREENWOOD

NUMBER OF BEDROOMS 0-	1	-2	-3-	-4+
411	456	507	540	591
387	436	487	522	573
382	421	468	509	551
419	474	565		
441	498	575		

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET MYRTLE BEACH

NUMBER OF BEDROOMS 0-	-1-	-2	-3-	-4+
444	477	551	632	679
424	457	530	611	659
[illegible]	441	509	591	631
441	504	606		
464	527	629		

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET ORANGEBURG

NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
362	406	471	525	574
341	389	454	508	557
336	380	441	495	540
413	457	527		
421	465	536		

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET ROCKHILL

STRUCTURE TYPE	NUMBER OF BEDROOMS -0	-1	2	-3-	4+
DETACHED	420	457	515	580	634
SEMI-DETACHED/ROW	399	436	498	561	614
WALKUP	384	421	481	546	595
ELEVATOR 2-4 STY	419	474	572		
ELEVATOR 5+ STY	441	498	596		
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET COLUMBIA

NUMBER OF BEDROOMS 0	1-	-2-	-3-	-4+
415	465	532	595	650
390	445	515	575	630
385	435	492	560	610
429	492	577		
452	515	600		

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET AIKEN

NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
408	457	515	585	585
383	436	498	517	568
379	421	481	504	550
419	474	572		
441	498	589		

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET ANDERSON

NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
394	437	485	530	580
370	418	466	513	562
366	404	[illegible]	500	541
429	488	540		
452	498	549		

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET BEAUFORT

STRUCTURE TYPE	NUMBER OF BEDROOMS 0-	-1	2	3-	4+
DETACHED	444	477	551	632	679
SEMI-DETACHED/ROW	424	457	530	611	659
WALKUP	408	441	509	591	633
ELEVATOR 2-4 STY	441	504	606		
ELEVATOR 5+ STY	464	527	629		
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET CHARLESTON

NUMBER OF BEDROOMS 0	1-	-2-	-3-	-4+
444	475	551	632	679
420	455	530	611	659
408	441	509	591	633
441	504	606		
464	527	629		

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET FLORENCE

NUMBER OF BEDROOMS -0	-1-	2-	-3	-4+
397	445	503	540	591
374	426	485	522	573
369	417	471	509	555
419	474	564		
441	498	573		

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET SPARTANBURG

NUMBER OF BEDROOMS -0-	1-	-2-	-3-	-4+
401	444	[illegible]	525	574
377	425	479	508	557
372	411	460	495	536
429	492	555		
452	507	565		

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET NORTH AUGUSTA

STRUCTURE TYPE	NUMBER OF BEDROOMS 0-	1	2	3	4+
DETACHED	408	457	515	535	585
SEMI-DETACHED/ROW	383	436	498	517	568
WALKUP	379	421	481	504	550
ELEVATOR 2-4 STY	419	474	572		
ELEVATOR 5+ STY	441	498	589		
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

PREPARED ON 113083

SCHEDULE A FAIR MARKET RENTS FOR NEW CONSTRUCTION AND SUBSTANTIAL REHABILITATION
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REGION 4

GREENSBORO, NORTH CAROLINA AREA OFFICE

MARKET GREENSBORO

STRUCTURE TYPE	NUMBER OF BEDROOMS 0	1	2	3	4+
DETACHED			446	509	603
SEMI DETACHED/ROW		360	431	479	575
WALKUP	309	360	431	474	571
ELEVATOR 2-4 STY	329	392	455		
ELEVATOR 5+ STY	468	503	609		
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET ASHEVILLE

STRUCTURE TYPE	NUMBER OF BEDROOMS 0	1	2	3	4+
DETACHED			426	519	601
SEMI DETACHED/ROW		344	396	499	570
WALKUP	293	344	396	494	570
ELEVATOR 2-4 STY	326	376	428		
ELEVATOR 5+ STY	426	479	566		
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET CHARLOTTE

STRUCTURE TYPE	NUMBER OF BEDROOMS 0	1	2	3	4+
DETACHED			487	563	631
SEMI DETACHED/ROW		381	452	527	604
WALKUP	336	381	452	523	604
ELEVATOR 2-4 STY	363	413	484		
ELEVATOR 5+ STY	470	504	604		
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET DURHAM

STRUCTURE TYPE	NUMBER OF BEDROOMS 0	1	2	3	4+
DETACHED			476	547	642
SEMI DETACHED/ROW		358	442	536	613
WALKUP	336	358	442	531	608
ELEVATOR 2-4 STY	367	390	472		
ELEVATOR 5+ STY	467	509	618		
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET GREENVILLE

STRUCTURE TYPE	NUMBER OF BEDROOMS 0	1	2	3	4+
DETACHED			414	476	566
SEMI DETACHED/ROW		333	400	451	521
WALKUP	268	329	395	451	521
ELEVATOR 2-4 STY	298	349	415		
ELEVATOR 5+ STY	401	466	558		
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET RALEIGH

STRUCTURE TYPE	NUMBER OF BEDROOMS 0	1	2	3	4+
DETACHED			480	571	667
SEMI DETACHED/ROW		404	471	524	602
WALKUP	336	399	466	519	597
ELEVATOR 2-4 STY	363	419	486		
ELEVATOR 5+ STY	509	572	679		
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET WINSTON SALEM

STRUCTURE TYPE	NUMBER OF BEDROOMS 0	1	2	3	4+
DETACHED			434	517	615
SEMI DETACHED/ROW		351	405	485	564
WALKUP	286	349	405	480	559
ELEVATOR 2-4 STY	312	369	433		
ELEVATOR 5+ STY	448	479	574		
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET FAYETTEVILLE

STRUCTURE TYPE	NUMBER OF BEDROOMS 0	1	2	3	4+
DETACHED			413	483	553
SEMI DETACHED/ROW		326	383	445	512
WALKUP	285	325	383	445	512
ELEVATOR 2-4 STY	313	356	415		
ELEVATOR 5+ STY	393	441	524		
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET WILMINGTON

STRUCTURE TYPE	NUMBER OF BEDROOMS 0	1	2	3	4+
DETACHED			427	504	573
SEMI DETACHED/ROW		336	405	461	528
WALKUP	290	336	405	461	528
ELEVATOR 2-4 STY	319	356	425		
ELEVATOR 5+ STY	418	464	557		
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET ELIZABETH CITY

STRUCTURE TYPE	NUMBER OF BEDROOMS 0	1	2	3	4+
DETACHED			442	524	632
SEMI DETACHED/ROW		310	392	477	577
WALKUP	262	305	387	472	572
ELEVATOR 2-4 STY	294	362	446		
ELEVATOR 5+ STY	448	525	650		
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

JACKSON, MISSISSIPPI AREA OFFICE

MARKET: JACKSON

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			469	566	641
SEMI-DETACHED/ROW	372	372	464	548	617
WALKUP	326	372	421	498	556
ELEVATOR 2-4 STY	464	520	604		
ELEVATOR 5+ STY	478	536	624		
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: CORINTH

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			384	486	561
SEMI-DETACHED/ROW	288	314	373	469	543
WALKUP	255	304	368	463	525
ELEVATOR 2-4 STY	400	461	560		
ELEVATOR 5+ STY	415	477	581		
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: GREENVILLE

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			465	492	565
SEMI-DETACHED/ROW	364	380	440	477	555
WALKUP	329	360	420	444	511
ELEVATOR 2-4 STY	471	515	602		
ELEVATOR 5+ STY	485	532	622		
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: GREENWOOD

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			438	467	550
SEMI-DETACHED/ROW	343	372	425	447	525
WALKUP	295	345	400	415	476
ELEVATOR 2-4 STY	427	484	575		
ELEVATOR 5+ STY	441	500	595		
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: GULFPORT

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			436	511	585
SEMI-DETACHED/ROW	360	374	431	504	535
WALKUP	298	345	392	479	535
ELEVATOR 2-4 STY	442	520	613		
ELEVATOR 5+ STY	456	540	635		
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: HATTIESBURG

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			421	505	594
SEMI-DETACHED/ROW	342	344	407	488	556
WALKUP	263	322	394	471	526
ELEVATOR 2-4 STY	402	468	577		
ELEVATOR 5+ STY	416	484	597		
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: SOUTHAVEN

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			458	530	603
SEMI-DETACHED/ROW	310	383	436	517	594
WALKUP	298	378	436	505	581
ELEVATOR 2-4 STY	428	515	604		
ELEVATOR 5+ STY	447	531	624		
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

PREPARED ON 122303

SCHEDULE A- FAIR MARKET RENTS FOR NEW CONSTRUCTION AND SUBSTANTIAL REHABILITATION
(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAMS)

REGION 4

JACKSONVILLE, FLORIDA AREA OFFICE

	MARKET JACKSONVILLE NUMBER OF BEDROOMS				
STRUCTURE TYPE	-0-	-1-	-2-	-3-	-4+
DETACHED			590	665	740
SEMI-DETACHED/ROW	378	434	524	590	652
WALKUP	339	394	477	557	627
ELEVATOR 2-4 STY	400	448	557		
ELEVATOR 5+ STY	458	508	633		
MANUFACTURED HOME					
EFFECTIVE DATE 100183					
TRENDED DATE 100185					

	MARKET: PENSACOLA NUMBER OF BEDROOMS				
STRUCTURE TYPE	-0-	-1-	-2-	-3-	-4+
DETACHED			552	635	691
SEMI-DETACHED/ROW	390	447	533	603	664
WALKUP	345	393	465	522	581
ELEVATOR 2-4 STY	405	457	537		
ELEVATOR 5+ STY	456	517	604		
MANUFACTURED HOME					
EFFECTIVE DATE 100183					
TRENDED DATE 100185					

	MARKET: KEY WEST NUMBER OF BEDROOMS				
STRUCTURE TYPE	-0-	-1-	-2-	-3-	-4+
DETACHED			667	737	811
SEMI-DETACHED/ROW	529	579	654	727	799
WALKUP	434	486	596	669	742
ELEVATOR 2-4 STY	508	563	691		
ELEVATOR 5+ STY	576	634	782		
MANUFACTURED HOME					
EFFECTIVE DATE 100183					
TRENDED DATE 100185					

	MARKET: MIAMI NUMBER OF BEDROOMS				
STRUCTURE TYPE	-0-	-1-	-2-	-3-	-4+
DETACHED			667	737	811
SEMI-DETACHED/ROW	529	579	654	727	799
WALKUP	434	486	596	669	742
ELEVATOR 2-4 STY	508	563	691		
ELEVATOR 5+ STY	576	634	782		
MANUFACTURED HOME					
EFFECTIVE DATE 100183					
TRENDED DATE 100185					

	MARKET: TAMPA NUMBER OF BEDROOMS				
STRUCTURE TYPE	-0-	-1-	2-	-3-	-4+
DETACHED			645	710	796
SEMI-DETACHED/ROW	386	441	530	599	669
WALKUP	353	407	490	557	620
ELEVATOR 2-4 STY	432	489	593		
ELEVATOR 5+ STY	509	567	673		
MANUFACTURED HOME					
EFFECTIVE DATE 100183					
TRENDED DATE 100185					

	MARKET: ORLANDO NUMBER OF BEDROOMS				
STRUCTURE TYPE	-0-	-1-	-2-	-3-	-4+
DETACHED			645	725	799
SEMI-DETACHED/ROW	374	429	528	589	657
WALKUP	350	405	479	543	611
ELEVATOR 2-4 STY	429	488	595		
ELEVATOR 5+ STY	498	555	657		
MANUFACTURED HOME					
EFFECTIVE DATE 100183					
TRENDED DATE 100185					

LOUISVILLE, KENTUCKY AREA OFFICE

	MARKET: LOUISVILLE NUMBER OF BEDROOMS				
STRUCTURE TYPE	-0-	-1-	-2-	-3-	-4+
DETACHED			516	585	656
SEMI-DETACHED/ROW		431	494	555	620
WALKUP	356	388	455	528	575
ELEVATOR 2-4 STY	387	419	485		
ELEVATOR 5+ STY	464	508	606		
MANUFACTURED HOME					
EFFECTIVE DATE 100183					
TRENDED DATE 100185					

	MARKET: ASHLAND NUMBER OF BEDROOMS				
STRUCTURE TYPE	-0-	-1-	-2-	-3-	-4+
DETACHED			489	556	624
SEMI-DETACHED/ROW		404	466	529	596
WALKUP	360	395	449	513	574
ELEVATOR 2-4 STY	393	425	484		
ELEVATOR 5+ STY	472	515	611		
MANUFACTURED HOME					
EFFECTIVE DATE 100183					
TRENDED DATE 100185					

	MARKET: COVINGTON NUMBER OF BEDROOMS				
STRUCTURE TYPE	-0-	-1-	-2-	-3-	-4+
DETACHED			491	587	675
SEMI-DETACHED/ROW		404	466	537	618
WALKUP	360	395	449	513	574
ELEVATOR 2-4 STY	393	425	484		
ELEVATOR 5+ STY	477	515	618		
MANUFACTURED HOME					
EFFECTIVE DATE 100183					
TRENDED DATE 100185					

	MARKET: OWENSBORO NUMBER OF BEDROOMS				
STRUCTURE TYPE	-0-	-1-	-2-	-3-	-4+
DETACHED			515	580	646
SEMI-DETACHED/ROW		397	480	555	620
WALKUP	327	366	439	525	572
ELEVATOR 2-4 STY	387	406	485		
ELEVATOR 5+ STY	439	493	606		
MANUFACTURED HOME					
EFFECTIVE DATE 100183					
TRENDED DATE 100185					

	MARKET: PADUCAH NUMBER OF BEDROOMS				
STRUCTURE TYPE	-0-	-1-	-2-	-3-	-4+
DETACHED			514	581	645
SEMI-DETACHED/ROW		397	480	556	622
WALKUP	327	366	439	524	571
ELEVATOR 2-4 STY	387	419	485		
ELEVATOR 5+ STY	451	495	591		
MANUFACTURED HOME					
EFFECTIVE DATE 100183					
TRENDED DATE 100185					

	MARKET: PIKEVILLE NUMBER OF BEDROOMS				
STRUCTURE TYPE	-0-	-1-	-2-	-3-	-4+
DETACHED			539	615	674
SEMI-DETACHED/ROW		423	504	570	627
WALKUP	360	400	461	528	576
ELEVATOR 2-4 STY	403	432	518		
ELEVATOR 5+ STY	465	509	618		
MANUFACTURED HOME					
EFFECTIVE DATE 100183					
TRENDED DATE 100185					

PREPARED ON 113083

SCHEDULE A FAIR MARKET RENTS FOR NEW CONSTRUCTION AND SUBSTANTIAL REHABILITATION
(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAMS)

REGION 4

KNOXVILLE, TENNESSEE AREA OFFICE

MARKET KNOXVILLE
NUMBER OF BEDROOMS

STRUCTURE TYPE	0	1	2	3	4+
DETACHED			442	520	550
SEMI DETACHED/ROW		370	427	500	545
WALKUP	335	360	417	485	535
ELEVATOR 2-4 STY	340	385	442		
ELEVATOR 5+ STY	385	405	468		
MANUFACTURED HOME					
EFFECTIVE DATE			100183		
TRENDED DATE			100185		

MARKET CHATTANOOGA
NUMBER OF BEDROOMS

0	1	2	3	4+
		435	515	550
	390	425	500	535
355	380	410	490	525
380	400	435		
400	425	460		
EFFECTIVE DATE		100183		
TRENDED DATE		100185		

MARKET JOHNSON CITY
NUMBER OF BEDROOMS

0	1	2	3	4+
		435	505	540
	356	425	495	530
322	338	410	480	510
351	368	440		
373	396	465		
EFFECTIVE DATE		100183		
TRENDED DATE		100185		

MARKET KINGSPORT
NUMBER OF BEDROOMS

0	1	2	3	4+
		435	505	540
	356	425	495	530
322	338	410	480	515
351	365	440		
370	396	465		
EFFECTIVE DATE		100183		
TRENDED DATE		100185		

MARKET OAKRIDGE
NUMBER OF BEDROOMS

STRUCTURE TYPE	0	1	2	3	4+
DETACHED			442	520	550
SEMI DETACHED/ROW		370	427	500	545
WALKUP	335	360	417	485	535
ELEVATOR 2-4 STY	380	385	442		
ELEVATOR 5+ STY	385	405	468		
MANUFACTURED HOME					
EFFECTIVE DATE			100183		
TRENDED DATE			100185		

NASHVILLE, TENNESSEE SERVICE OFFICE

MARKET: NASHVILLE
NUMBER OF BEDROOMS

STRUCTURE TYPE	-0-	-1-	-2-	-3-	-4+
DETACHED			452	527	566
SEMI-DETACHED/ROW	346	384	436	515	555
WALKUP	316	366	429	509	550
ELEVATOR 2-4 STY	326	384	436		
ELEVATOR 5+ STY	333	398	452		
MANUFACTURED HOME					
EFFECTIVE DATE			100183		
TRENDED DATE			100185		

MARKET: CLARKSVILLE
NUMBER OF BEDROOMS

-0-	-1-	-2-	-3-	-4+
		415	487	527
336	338	396	474	515
288	328	391	469	509
293	345	396		
299	356	414		
EFFECTIVE DATE		100183		
TRENDED DATE		100185		

MARKET: COLUMBIA
NUMBER OF BEDROOMS

-0-	-1-	-2-	-3-	-4+
		415	473	518
305	305	361	466	498
254	299	351	452	492
260	316	358		
270	338	391		
EFFECTIVE DATE		100183		
TRENDED DATE		100185		

MARKET: MEMPHIS
NUMBER OF BEDROOMS

-0-	-1-	-2-	-3-	-4+
		406	465	543
338	340	388	437	495
262	293	342	412	443
305	366	431		
345	405	470		
EFFECTIVE DATE		100183		
TRENDED DATE		100185		

MARKET: JACKSON
NUMBER OF BEDROOMS

-0-	-1-	-2-	-3-	-4+
		388	452	533
296	310	364	420	488
255	293	354	409	466
312	335	421		
325	371	458		
EFFECTIVE DATE		100183		
TRENDED DATE		100185		

MARKET: UNION CITY
NUMBER OF BEDROOMS

-0-	-1-	-2-	-3-	-4+
		370	431	508
295	295	348	400	465
244	280	337	391	444
297	354	449		
325	393	458		
EFFECTIVE DATE		100183		
TRENDED DATE		100185		

PREPARED ON 122283

SCHEDULE A FAIR MARKET RENTS FOR NEW CONSTRUCTION AND SUBSTANTIAL REHABILITATION
(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAMS)

REGION 5

CHICAGO, ILLINOIS AREA OFFICE

MARKET CHICAGO

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			719	854	985
SEMI-DETACHED/ROW	520	590	660	775	859
WALKUP	441	509	608	729	765
ELEVATOR 2-4 STY	471	554	653	776	777
ELEVATOR 5+ STY	510	638	759	787	833
MANUFACTURED HOME					
EFFECTIVE DATE	100183				
TRENDED DATE	100185				

MARKET: BELLEVILLE

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			610	691	769
SEMI-DETACHED/ROW	402	446	537	606	700
WALKUP	357	424	490	553	611
ELEVATOR 2-4 STY	381	450	524		
ELEVATOR 5+ STY	449	493	572		
MANUFACTURED HOME					
EFFECTIVE DATE	100183				
TRENDED DATE	100185				

MARKET: MOLINE

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			647	772	853
SEMI-DETACHED/ROW	418	450	558	678	763
WALKUP	381	444	536	642	674
ELEVATOR 2-4 STY	444	471	570		
ELEVATOR 5+ STY	472	515	619		
MANUFACTURED HOME					
EFFECTIVE DATE	100183				
TRENDED DATE	100185				

MARKET: SPRINGFIELD

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			667	746	827
SEMI-DETACHED/ROW	397	441	526	616	701
WALKUP	351	413	489	559	620
ELEVATOR 2-4 STY	394	455	528		
ELEVATOR 5+ STY	440	494	578		
MANUFACTURED HOME					
EFFECTIVE DATE	100183				
TRENDED DATE	100185				

MARKET: EAST ST. LOUIS

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			528	607	683
SEMI-DETACHED/ROW	371	423	480	564	643
WALKUP	330	381	458	515	572
ELEVATOR 2-4 STY	351	406	490		
ELEVATOR 5+ STY	424	481	581		
MANUFACTURED HOME					
EFFECTIVE DATE	100183				
TRENDED DATE	100185				

CINCINNATI, OHIO SERVICE OFFICE

MARKET: CINCINNATI

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			641	793	826
SEMI-DETACHED/ROW		455	518	621	683
WALKUP	319	375	472	537	620
ELEVATOR 2-4 STY	351	468	558		
ELEVATOR 5+ STY	488	574	653		
MANUFACTURED HOME					
EFFECTIVE DATE	100183				
TRENDED DATE	100185				

MARKET: DAYTON

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			563	730	807
SEMI-DETACHED/ROW		392	455	545	614
WALKUP	325	382	447	511	571
ELEVATOR 2-4 STY	357	474	566		
ELEVATOR 5+ STY	494	580	627		
MANUFACTURED HOME					
EFFECTIVE DATE	100183				
TRENDED DATE	100185				

PREPARED ON 113083

SCHEDULE A FAIR MARKET RENTS FOR NEW CONSTRUCTION AND SUBSTANTIAL REHABILITATION
(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAMS)

REGION 5

CLEVELAND, OHIO SERVICE OFFICE

MARKET CLEVELAND

STRUCTURE TYPE	NUMBER OF BEDROOMS				
	-0-	-1-	-2-	-3-	4+
DETACHED			723	783	845
SEMI-DETACHED/ROW		481	550	621	667
WALKUP	345	415	482	559	606
ELEVATOR 2-4 STY	353	420	527		
ELEVATOR 5+ STY	41[illegible]	428	536		
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET AKRON

	NUMBER OF BEDROOMS				
	0-	-1-	-2-	-3-	-4+
			700	774	829
		471	546	624	657
	340	392	477	559	602
	342	397	530		
	345	405	539		

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET FINDLAY

	NUMBER OF BEDROOMS				
	-0-	-1-	-2-	3-	-4+
			602	688	753
		431	487	595	633
	331	364	429	532	574
	344	391	481		
	356	411	515		

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET LORAIN

	NUMBER OF BEDROOMS				
	0-	-1-	-2-	-3-	-4+
			614	702	766
		416	494	568	631
	308	340	407	500	540
	328	345	410		
	345	350	427		

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET MANSFIELD

STRUCTURE TYPE	NUMBER OF BEDROOMS				
	-0-	-1-	-2	-3-	-4+
DETACHED			583	660	726
SEMI-DETACHED/ROW		419	476	551	613
WALKUP	325	358	395	503	535
ELEVATOR 2-4 STY	335	368	441		
ELEVATOR 5+ STY	341	392	450		
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET TOLEDO

	NUMBER OF BEDROOMS				
	-0-	-1-	-2-	-3-	-4+
			644	728	792
		467	523	599	661
	355	389	438	533	563
	361	393	454		
	396	401	463		

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET YOUNGSTOWN

	NUMBER OF BEDROOMS				
	-0-	-1-	-2-	-3-	-4+
			618	698	745
		463	494	569	604
	340	370	426	510	552
	355	374	442		
	363	382	451		

EFFECTIVE DATE 100183
TRENDED DATE 100185

COLUMBUS, OHIO AREA OFFICE

MARKET COLUMBUS

STRUCTURE TYPE	NUMBER OF BEDROOMS				
	-0-	-1-	-2-	-3-	-4+
DETACHED			657	741	773
SEMI-DETACHED/ROW		373	449	500	553
WALKUP	293	364	425	485	551
ELEVATOR 2-4 STY	327	405	484		
ELEVATOR 5+ STY	466	558	667		
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET ATHENS

	NUMBER OF BEDROOMS				
	-0-	-1-	-2-	-3-	-4+
			639	710	737
		349	443	483	545
	289	358	414	479	545
	321	399	473		
	460	566	684		

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET LIMA

	NUMBER OF BEDROOMS				
	-0-	-1-	-2-	-3-	-4+
			639	710	737
		349	443	483	545
	289	358	414	479	545
	321	399	473		
	460	566	684		

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET NEWARK

	NUMBER OF BEDROOMS				
	-0-	-1-	-2-	-3-	-4+
			639	710	737
		349	443	483	545
	289	358	414	479	545
	321	399	473		
	460	566	684		

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET SPRINGFIELD

STRUCTURE TYPE	NUMBER OF BEDROOMS				
	-0-	-1-	-2	-3-	-4+
DETACHED			639	710	737
SEMI-DETACHED/ROW		349	443	483	545
WALKUP	289	358	414	479	545
ELEVATOR 2-4 STY	321	399	473		
ELEVATOR 5+ STY	460	566	684		
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: SIDNEY

	NUMBER OF BEDROOMS				
	-0-	-1-	-2-	-3-	-4+
			639	710	737
		349	443	483	545
	289	358	414	479	545
	321	399	473		
	460	566	684		

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET. ZANESVILLE

	NUMBER OF BEDROOMS				
	-0-	-1-	-2-	-3-	-4+
			639	710	737
		349	443	483	545
	289	358	414	479	545
	321	399	473		
	460	566	684		

EFFECTIVE DATE 100183
TRENDED DATE 100185

PREPARED ON 113083

SCHEDULE A FAIR MARKET RENTS FOR NEW CONSTRUCTION AND SUBSTANTIAL REHABILITATION
(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAMS)

REGION 5

DETROIT MICHIGAN AREA OFFICE

MARKET DETROIT
NUMBER OF BEDROOMS

STRUCTURE TYPE	0	1	2	3	4+
DETACHED			593	668	704
SEMI DETACHED/ROW		368	482	578	636
WALKUP	300	368	453	496	554
ELEVATOR 2-4 STY	337	397	474		
ELEVATOR 5+ STY	336	432	490		
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET FLINT
NUMBER OF BEDROOMS

0	-1-	-2	-3	-4+
		486	553	590
	327	441	498	554
276	318	382	498	554
285	349	388		
288	361	424		

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET SAGINAW
NUMBER OF BEDROOMS

0	-1-	-2	-3	-4+
		486	553	590
	327	441	498	554
276	318	382	498	554
285	349	388		
288	361	424		

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET ANN ARBOR
NUMBER OF BEDROOMS

0-	-1-	-2-	-3-	-4+
		593	668	704
	368	482	578	636
300	368	453	496	554
337	397	474		
336	432	490		

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET YPSILANTI
NUMBER OF BEDROOMS

STRUCTURE TYPE	0	-1	2-	3	-4+
DETACHED			593	668	704
SEMI DETACHED/ROW		368	482	578	636
WALKUP	300	368	453	496	554
ELEVATOR 2-4 STY	337	397	474		
ELEVATOR 5+ STY	336	432	490		
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

GRAND RAPIDS, MICHIGAN SERVICE OFFICE

MARKET MT PLEASANT
NUMBER OF BEDROOMS

STRUCTURE TYPE	-0-	-1-	-2-	-3-	-4+
DETACHED			542	642	684
SEMI-DETACHED/ROW		400	461	570	616
WALKUP	246	326	364	452	486
ELEVATOR 2-4 STY	254	342	380		
ELEVATOR 5+ STY	409	466	539		
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: GRAND RAPIDS
NUMBER OF BEDROOMS

-0-	-1-	-2-	-3-	-4+
		538	636	667
	376	464	549	593
273	340	432	473	506
290	358	450		
394	459	509		

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET BENTON HARBOR
NUMBER OF BEDROOMS

0-	1-	-2-	-3-	-4+
		517	614	646
	379	472	567	599
265	307	379	464	493
281	323	395		
382	438	501		

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: BATTLE CREEK
NUMBER OF BEDROOMS

0-	-1-	-2-	-3-	-4+
		563	662	697
	419	513	615	660
264	347	417	523	552
281	363	433		
404	468	525		

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: LANSING
NUMBER OF BEDROOMS

STRUCTURE TYPE	-0	-1-	-2-	-3-	-4+
DETACHED			540	664	703
SEMI-DETACHED/ROW		378	452	558	600
WALKUP	291	341	413	498	528
ELEVATOR 2-4 STY	307	358	429		
ELEVATOR 5+ STY	401	478	520		
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: MUSKEGON
NUMBER OF BEDROOMS

0-	-1-	-2-	-3-	-4+
		546	644	676
	425	504	592	629
301	351	415	501	502
319	369	432		
401	468	520		

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: TRAVERSE CITY
NUMBER OF BEDROOMS

0-	1-	-2-	-3-	-4+
		584	683	715
	443	513	630	665
281	365	411	504	541
296	382	427		
443	512	567		

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: MARQUETTE
NUMBER OF BEDROOMS

0-	-1-	-2-	-3-	-4+
		507	607	639
	369	463	557	589
209	292	376	467	502
225	307	392		
408	477	491		

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: JACKSON
NUMBER OF BEDROOMS

STRUCTURE TYPE	0-	-1-	-2-	-3-	-4+
DETACHED			540	644	693
SEMI-DETACHED/ROW		366	451	546	588
WALKUP	284	352	402	494	520
ELEVATOR 2-4 STY	290	368	419		
ELEVATOR 5+ STY	420	479	542		
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

PREPARED ON 113083

SCHEDULE A- FAIR MARKET RENTS FOR NEW CONSTRUCTION AND SUBSTANTIAL REHABILITATION
(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAMS)

REGION 5

INDIANAPOLIS, INDIANA AREA OFFICE

MARKET: INDIANAPOLIS

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			557	623	694
SEMI-DETACHED/ROW		395	471	546	592
WALKUP	324	364	434	497	533
ELEVATOR 2-4 STY	358	387	461		
ELEVATOR 5+ STY	443	491	575		
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: BLOOMINGTON

NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
		527	592	662
	374	446	506	572
308	350	413	468	519
342	372	440		
427	475	555		

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: EVANSVILLE

NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
		513	576	643
	384	453	519	578
305	347	413	468	517
341	369	440		
414	464	538		

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: FORT WAYNE

NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
		526	588	657
	377	450	500	559
305	345	409	459	506
338	367	436		
425	471	550		

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: HAMMOND

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			571	637	691
SEMI-DETACHED/ROW		435	507	570	645
WALKUP	355	404	468	535	571
ELEVATOR 2-4 STY	396	426	495		
ELEVATOR 5+ STY	465	523	599		
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: LAFAYETTE

NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
		548	614	686
	390	456	521	588
317	358	422	476	525
350	380	449		
440	489	566		

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: SOUTH BEND

NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
		542	609	681
	403	468	534	602
315	358	420	474	523
352	381	448		
431	488	564		

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: TERRE HAUTE

NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
		544	613	687
	388	465	526	592
313	357	428	489	543
348	379	455		
427	478	561		

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: GARY

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			571	625	689
SEMI-DETACHED/ROW		432	498	570	645
WALKUP	355	404	468	535	571
ELEVATOR 2-4 STY	396	426	495		
ELEVATOR 5+ STY	488	497	566		
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

MILWAUKEE, WISCONSIN AREA OFFICE

MARKET: MADISON

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			614	698	736
SEMI-DETACHED/ROW		452	526	636	677
WALKUP	385	393	469	574	
ELEVATOR 2-4 STY	381	411	489		
ELEVATOR 5+ STY	491	533	639		
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: REEDSVILLE

NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
		583	661	703
	431	493	605	651
322	373	439	547	
339	390	456		
466	516	613		

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: SUPERIOR

NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
		606	698	748
	449	509	615	666
333	388	451	569	
350	405	468		
472	539	635		

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: MILWAUKEE

NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
		673	727	804
	521	577	696	741
379	431	514	632	
396	448	531		
523	587	704		

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: EAU CLAIRE

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			536	641	686
SEMI-DETACHED/ROW		426	487	594	637
WALKUP	327	372	438	543	
ELEVATOR 2-4 STY	346	392	458		
ELEVATOR 5+ STY	455	509	605		
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: GREEN BAY

NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
		553	645	686
	405	476	585	629
300	348	421	524	
319	365	438		
442	482	593		

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: WAUSAU

NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
		528	642	671
	415	471	582	626
309	357	417	519	
326	374	434		
449	501	591		

EFFECTIVE DATE 100183
TRENDED DATE 100185

PREPARED ON 113083

SCHEDULE A FAIR MARKET RENTS FOR NEW CONSTRUCTION AND SUBSTANTIAL REHABILITATION
(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAMS)

REGION 5

MINNEAPOLIS-ST. PAUL, MINNESOTA AREA OFFICE

MARKET: MINNEAPOLIS	NUMBER OF BEDROOMS				
STRUCTURE TYPE	0-	-1-	2	-3	4+
DETACHED					
SEMI-DETACHED/ROW		393	526	604	675
WALKUP	321	368	439	561	581
ELEVATOR 2-4 STY	356	422	529		
ELEVATOR 5+ STY	363	479	604		
MANUFACTURED HOME					
EFFECTIVE DATE			100183		
TRENDED DATE			100185		

MARKET: DULUTH	NUMBER OF BEDROOMS				
STRUCTURE TYPE	0-	-1-	-2-	-3-	-4+
DETACHED					
SEMI-DETACHED/ROW		348	458	531	595
WALKUP	299	326	413	498	528
ELEVATOR 2-4 STY	316	371	[illegible]		
ELEVATOR 5+ STY	322	386	489		
MANUFACTURED HOME					
EFFECTIVE DATE			100183		
TRENDED DATE			100185		

MARKET: MANKATO	NUMBER OF BEDROOMS				
STRUCTURE TYPE	0-	-1-	-2-	3-	-4+
DETACHED					
SEMI-DETACHED/ROW		406	503	572	640
WALKUP	315	352	438	505	534
ELEVATOR 2-4 STY	348	386	452		
ELEVATOR 5+ STY	375	495	586		
MANUFACTURED HOME					
EFFECTIVE DATE			100183		
TRENDED DATE			100185		

MARKET: ROCHESTER	NUMBER OF BEDROOMS				
STRUCTURE TYPE	-0-	-1-	-2-	-3-	-4+
DETACHED					
SEMI-DETACHED/ROW		422	507	588	657
WALKUP	322	359	442	509	539
ELEVATOR 2-4 STY	351	389	459		
ELEVATOR 5+ STY	390	514	582		
MANUFACTURED HOME					
EFFECTIVE DATE			100183		
TRENDED DATE			100185		

MARKET: ST. CLOUD	NUMBER OF BEDROOMS				
STRUCTURE TYPE	0	1-	2	-3-	-4+
DETACHED					
SEMI-DETACHED/ROW		333	408	508	569
WALKUP	277	312	395	476	505
ELEVATOR 2-4 STY	300	342	413		
ELEVATOR 5+ STY	308	406	503		
MANUFACTURED HOME					
EFFECTIVE DATE			100183		
TRENDED DATE			100185		

MARKET: WORTHINGTON	NUMBER OF BEDROOMS				
STRUCTURE TYPE	-0-	-1-	-2-	-3-	-4+
DETACHED					
SEMI-DETACHED/ROW		305	410	475	532
WALKUP	261	296	369	445	472
ELEVATOR 2-4 STY	277	324	390		
ELEVATOR 5+ STY	282	372	470		
MANUFACTURED HOME					
EFFECTIVE DATE			100183		
TRENDED DATE			100185		

DALLAS, TEXAS AREA OFFICE

MARKET: DALLAS	NUMBER OF BEDROOMS				
STRUCTURE TYPE	-0-	-1-	2-	-3-	-4+
DETACHED			551	643	686
SEMI-DETACHED/ROW	364	401	507	598	649
WALKUP	313	376	482	556	632
ELEVATOR 2-4 STY	330	415	523		
ELEVATOR 5+ STY	463	525	675		
MANUFACTURED HOME					
EFFECTIVE DATE			100183		
TRENDED DATE			100185		

MARKET: SHERMAN	NUMBER OF BEDROOMS				
STRUCTURE TYPE	-0-	-1-	-2-	-3-	-4+
DETACHED			425	510	578
SEMI-DETACHED/ROW	255	298	[illegible]	457	525
WALKUP	242	287	[illegible]	425	495
ELEVATOR 2-4 STY	253	317	[illegible]		
ELEVATOR 5+ STY	354	423	553		
MANUFACTURED HOME					
EFFECTIVE DATE			100183		
TRENDED DATE			100185		

MARKET: TYLER	NUMBER OF BEDROOMS				
STRUCTURE TYPE	-0-	-1-	-2-	-3-	-4+
DETACHED			491	571	636
SEMI-DETACHED/ROW	334	363	459	535	593
WALKUP	275	340	433	502	562
ELEVATOR 2-4 STY	298	374	472		
ELEVATOR 5+ STY	418	502	632		
MANUFACTURED HOME					
EFFECTIVE DATE			100183		
TRENDED DATE			100185		

MARKET: WACO	NUMBER OF BEDROOMS				
STRUCTURE TYPE	0-	-1-	-2-	-3-	-4+
DETACHED			442	523	587
SEMI-DETACHED/ROW	284	319	402	474	545
WALKUP	251	306	382	440	513
ELEVATOR 2-4 STY	261	328	415		
ELEVATOR 5+ STY	367	440	575		
MANUFACTURED HOME					
EFFECTIVE DATE			100183		
TRENDED DATE			100185		

MARKET: MARSHALL	NUMBER OF BEDROOMS				
STRUCTURE TYPE	-0-	-1-	-2-	-3-	-4+
DETACHED			491	571	636
SEMI-DETACHED/ROW	334	363	459	535	593
WALKUP	275	340	433	502	562
ELEVATOR 2-4 STY	[illegible]	374	472		
ELEVATOR 5+ STY	418	502	632		
MANUFACTURED HOME					
EFFECTIVE DATE			100183		
TRENDED DATE			100185		

MARKET: FORT WORTH	NUMBER OF BEDROOMS				
STRUCTURE TYPE	0-	-1-	-2-	-3-	-4+
DETACHED			499	642	697
SEMI-DETACHED/ROW	327	362	457	528	628
WALKUP	285	342	433	500	582
ELEVATOR 2-4 STY	297	372	470		
ELEVATOR 5+ STY	417	500	652		
MANUFACTURED HOME					
EFFECTIVE DATE			100183		
TRENDED DATE			100185		

MARKET: WICHITA FALLS	NUMBER OF BEDROOMS				
STRUCTURE TYPE	-0-	-1-	-2-	-3-	-4+
DETACHED			455	537	605
SEMI-DETACHED/ROW	301	343	422	497	557
WALKUP	272	332	415	478	550
ELEVATOR 2-4 STY	284	357	450		
ELEVATOR 5+ STY	399	478	612		
MANUFACTURED HOME					
EFFECTIVE DATE			100183		
TRENDED DATE			100185		

MARKET: SAN ANGELO	NUMBER OF BEDROOMS				
STRUCTURE TYPE	0-	-1-	-2-	-3-	-4+
DETACHED			505	600	667
SEMI-DETACHED/ROW	315	350	440	519	605
WALKUP	275	332	418	483	562
ELEVATOR 2-4 STY	287	360	454		
ELEVATOR 5+ STY	402	483	642		
MANUFACTURED HOME					
EFFECTIVE DATE			100183		
TRENDED DATE			100185		

MARKET: ABILENE	NUMBER OF BEDROOMS				
STRUCTURE TYPE	-0-	-1-	-2-	-3-	-4+
DETACHED			524	638	706
SEMI-DETACHED/ROW	359	360	456	537	626
WALKUP	284	337	436	500	581
ELEVATOR 2-4 STY	296	372	468		
ELEVATOR 5+ STY	416	500	661		
MANUFACTURED HOME					
EFFECTIVE DATE			100183		
TRENDED DATE			100185		

MARKET: LUBBOCK	NUMBER OF BEDROOMS				
STRUCTURE TYPE	-0-	-1-	-2-	-3-	-4+
DETACHED			471	552	619
SEMI-DETACHED/ROW	306	341	430	507	573
WALKUP	268	329	408	471	548
ELEVATOR 2-4 STY	280	352	443		
ELEVATOR 5+ STY	393	470	586		
MANUFACTURED HOME					
EFFECTIVE DATE			100183		
TRENDED DATE			100185		

MARKET: AMARILLO	NUMBER OF BEDROOMS				
STRUCTURE TYPE	-0-	-1-	-2-	-3-	-4+
DETACHED			457	539	606
SEMI-DETACHED/ROW	299	335	423	498	575
WALKUP	263	331	401	463	540
ELEVATOR 2-4 STY	276	346	435		
ELEVATOR 5+ STY	386	463	578		
MANUFACTURED HOME					
EFFECTIVE DATE			100183		
TRENDED DATE			100185		

MARKET: EL PASO	NUMBER OF BEDROOMS				
STRUCTURE TYPE	-0-	-1-	-2-	-3-	-4+
DETACHED			458	530	594
SEMI-DETACHED/ROW	294	330	417	491	555
WALKUP	259	325	395	456	532
ELEVATOR 2-4 STY	270	340	429		
ELEVATOR 5+ STY	380	456	568		
MANUFACTURED HOME					
EFFECTIVE DATE			100183		
TRENDED DATE			100185		

MARKET: MIDLAND	NUMBER OF BEDROOMS				
STRUCTURE TYPE	-0-	-1-	-2-	-3-	-4+
DETACHED			559	689	752
SEMI-DETACHED/ROW	386	387	488	575	672
WALKUP	305	358	441	534	623
ELEVATOR 2-4 STY	347	398	502		
ELEVATOR 5+ STY	444	534	711		
MANUFACTURED HOME					
EFFECTIVE DATE			100183		
TRENDED DATE			100185		

MARKET: ODESSA	NUMBER OF BEDROOMS				
STRUCTURE TYPE	-0-	-1-	-2-	-3-	-4+
DETACHED			559	689	752
SEMI-DETACHED/ROW	386	387	488	575	672
WALKUP	305	358	441	534	623
ELEVATOR 2-4 STY	347	398	502		
ELEVATOR 5+ STY	444	534	711		
MANUFACTURED HOME					
EFFECTIVE DATE			100183		
TRENDED DATE			100185		

MARKET: ALBUQUERQUE NM	NUMBER OF BEDROOMS				
STRUCTURE TYPE	-0-	-1-	-2-	-3-	-4+
DETACHED			479	559	624
SEMI-DETACHED/ROW	307	342	434	510	591
WALKUP	269	315	409	474	553
ELEVATOR 2-4 STY	283	354	444		
ELEVATOR 5+ STY	396	462	612		
MANUFACTURED HOME					
EFFECTIVE DATE			100183		
TRENDED DATE			100185		

MARKET: ISLETA NM	NUMBER OF BEDROOMS				
STRUCTURE TYPE	-0-	-1-	-2-	-3-	-4+
DETACHED			479	559	624
SEMI-DETACHED/ROW	307	342	434	510	591
WALKUP	269	315	409	474	553
ELEVATOR 2-4 STY	283	354	444		
ELEVATOR 5+ STY	396	462	612		
MANUFACTURED HOME					
EFFECTIVE DATE			100183		
TRENDED DATE			100185		

PREPARED ON 113083

SCHEDULE A- FAIR MARKET RENTS FOR NEW CONSTRUCTION AND SUBSTANTIAL REHABILITATION
(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAMS)

REGION 6

DALLAS, TEXAS AREA OFFICE

MARKET: ALAMOGORDO NM

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			376	439	490
SEMI-DETACHED/ROW	214	282	359	418	464
WALKUP	230	268	345	400	435
ELEVATOR 2-4 STY	249	294	372		
ELEVATOR 5+ STY	320	363	480		
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: FORT SUMNER NM

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			360	420	469
SEMI-DETACHED/ROW	228	270	340	400	444
WALKUP	220	256	320	369	417
ELEVATOR 2-4 STY	242	280	353		
ELEVATOR 5+ STY	307	347	460		
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: LAS CRUCES NM

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			376	439	490
SEMI-DETACHED/ROW	214	282	359	418	464
WALKUP	230	268	345	400	435
ELEVATOR 2-4 STY	249	294	372		
ELEVATOR 5+ STY	320	363	480		
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: SOCORRO NM

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			479	559	624
SEMI-DETACHED/ROW	307	342	434	510	591
WALKUP	269	315	409	474	553
ELEVATOR 2-4 STY	283	354	444		
ELEVATOR 5+ STY	396	462	612		
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: MESCALERO NM

NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
		376	439	490
214	282	359	418	464
230	268	345	400	435
249	294	372		
320	363	480		

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: GALLUP NM

NUMBER OF BEDROOMS 0-	-1-	-2-	-3-	-4+
		479	559	624
307	345	434	510	591
269	315	409	474	553
283	354	444		
396	462	612		

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: LAS VEGAS NM

NUMBER OF BEDROOMS -0	-1-	-2-	-3-	-4+
		488	569	635
320	337	425	503	587
264	316	404	467	545
277	348	438		
390	467	622		

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: RUIDOSO NM

NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
		376	439	490
214	282	359	418	464
230	268	345	400	435
249	294	372		
320	363	480		

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: ARTESIA NM

NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
		423	522	583
282	321	370	435	508
236	288	349	402	469
257	300	379		
336	402	536		

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: LAGUNA NM

NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
		479	559	624
307	345	434	510	591
269	315	409	474	553
283	354	444		
396	462	612		

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: LOS ALAMOS NM

NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
		488	569	635
320	337	425	503	587
264	316	404	467	545
277	348	438		
390	467	622		

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: SANTA FE NM

NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
		488	569	635
320	337	425	503	587
264	316	404	467	545
277	348	438		
390	467	622		

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: CARLSBAD NM

NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
		423	522	583
282	321	370	435	508
236	288	349	402	469
257	300	379		
336	402	536		

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: HOBBS NM

NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
		507	615	686
327	349	441	521	607
275	328	419	484	564
287	359	455		
402	484	644		

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: RATON NM

NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
		488	569	635
320	337	425	503	587
264	316	404	467	545
277	348	438		
390	467	622		

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: POJOAQUE NM

NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
		488	569	635
320	337	425	503	587
264	316	404	467	545
277	348	438		
390	467	622		

EFFECTIVE DATE 100183
TRENDED DATE 100185

DALLAS, TEXAS AREA OFFICE

MARKET: SILVER CITY NM

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			376	439	490
SEMI-DETACHED/ROW	214	282	359	418	464
WALKUP	230	268	345	400	435
ELEVATOR 2-4 STY	249	294	372		
ELEVATOR 5+ STY	320	363	480		
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: JEMEZ NM

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			479	559	624
SEMI-DETACHED/ROW	307	342	434	510	591
WALKUP	269	315	409	474	553
ELEVATOR 2-4 STY	283	354	444		
ELEVATOR 5+ STY	396	462	612		
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: CLOVIS NM

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			360	420	469
SEMI-DETACHED/ROW	228	270	340	400	444
WALKUP	220	256	320	369	417
ELEVATOR 2-4 STY	242	280	353		
ELEVATOR 5+ STY	307	347	460		
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: TRUTH OR CONSEQ NM

NUMBER OF BEDROOMS 0	-1-	-2-	-3-	-4+
		376	439	490
214	282	359	418	464
230	268	345	400	435
249	294	372		
320	363	480		

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: TAOS NM

NUMBER OF BEDROOMS 0-	-1-	-2-	-3-	-4+
		488	569	635
320	337	425	503	587
264	316	404	467	545
277	348	438		
390	467	622		

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: TIERRA AMARI NM

NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
		488	569	635
320	342	434	510	596
269	321	409	474	553
283	354	441		
396	470	623		

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: PENASCO NM

NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
		488	569	635
320	337	425	503	587
264	316	404	467	545
277	348	438		
390	467	622		

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: DULCE NM

NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
		488	569	635
320	342	434	510	596
269	321	409	474	553
283	354	444		
396	470	623		

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: FARMINGTON NM

NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
		465	542	605
305	348	443	517	573
284	331	427	494	537
303	364	460		
396	448	594		

EFFECTIVE DATE 100183
TRENDED DATE 100185

PREPARED ON 113083

SCHEDULE A FAIR MARKET RENTS FOR NEW CONSTRUCTION AND SUBSTANTIAL REHABILITATION
(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAMS)

REGION 6

HOUSTON, TEXAS SERVICE OFFICE

MARKET: HOUSTON

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			596	728	843
SEMI-DETACHED/ROW	350	413	536	673	767
WALKUP	330	395	500	616	683
ELEVATOR 2-4 STY	397	500	599		
ELEVATOR 5+ STY	503	587	679		
MANUFACTURED HOME					
	EFFECTIVE DATE			100183	
	TRENDED DATE			100185	

MARKET: BEAUMONT

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			556	674	778
SEMI-DETACHED/ROW	334	395	467	587	686
WALKUP	315	364	448	565	675
ELEVATOR 2-4 STY	377	437	537		
ELEVATOR 5+ STY	498	529	642		
	EFFECTIVE DATE			100183	
	TRENDED DATE			100185	

MARKET: BRYAN

STRUCTURE TYPE	NUMBER OF BEDROOMS 0-	-1-	-2-	-3-	-4+
DETACHED			516	682	791
SEMI-DETACHED/ROW	330	399	492	646	724
WALKUP	311	369	475	564	669
ELEVATOR 2-4 STY	363	438	546		
ELEVATOR 5+ STY	480	576	720		
	EFFECTIVE DATE			100183	
	TRENDED DATE			100185	

MARKET: LUFKIN

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			492	577	668
SEMI-DETACHED/ROW	311	382	469	546	632
WALKUP	293	344	424	496	585
ELEVATOR 2-4 STY	347	420	521		
ELEVATOR 5+ STY	460	500	614		
	EFFECTIVE DATE			100183	
	TRENDED DATE			100185	

MARKET: EL CAMPO

STRUCTURE TYPE	NUMBER OF BEDROOMS 0-	-1-	-2-	-3-	-4+
DETACHED			507	594	688
SEMI-DETACHED/ROW	318	350	467	562	631
WALKUP	300	341	441	535	614
ELEVATOR 2-4 STY	349	409	571		
ELEVATOR 5+ STY	425	501	619		
MANUFACTURED HOME					
	EFFECTIVE DATE			100183	
	TRENDED DATE			100185	

MARKET: TEXAS CITY

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			589	671	777
SEMI-DETACHED/ROW	335	403	504	636	712
WALKUP	316	396	504	606	693
ELEVATOR 2-4 STY	400	474	604		
ELEVATOR 5+ STY	503	587	679		
	EFFECTIVE DATE			100183	
	TRENDED DATE			100185	

LITTLE ROCK, ARKANSAS AREA OFFICE

MARKET: FAYETTEVILLE

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			473	567	620
SEMI-DETACHED/ROW	327	391	456	548	597
WALKUP	307	359	430	517	562
ELEVATOR 2-4 STY	330	385	462		
ELEVATOR 5+ STY	395	461	540		
MANUFACTURED HOME					
	EFFECTIVE DATE			100183	
	TRENDED DATE			100185	

MARKET: LITTLE ROCK

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			494	578	655
SEMI-DETACHED/ROW	340	395	475	550	611
WALKUP	311	385	434	540	595
ELEVATOR 2-4 STY	334	414	468		
ELEVATOR 5+ STY	398	464	550		
	EFFECTIVE DATE			100183	
	TRENDED DATE			100185	

MARKET: TEXARKANA

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			455	569	644
SEMI-DETACHED/ROW	315	354	438	531	591
WALKUP	299	344	424	522	571
ELEVATOR 2-4 STY	326	371	458		
ELEVATOR 5+ STY	395	461	540		
	EFFECTIVE DATE			100183	
	TRENDED DATE			100185	

MARKET: FORT SMITH

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			438	530	604
SEMI-DETACHED/ROW	294	332	421	486	544
WALKUP	279	329	394	473	519
ELEVATOR 2-4 STY	304	349	427		
ELEVATOR 5+ STY	401	463	553		
	EFFECTIVE DATE			100183	
	TRENDED DATE			100185	

MARKET: JONESBORO

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			442	543	613
SEMI-DETACHED/ROW	307	351	431	526	590
WALKUP	285	337	406	496	541
ELEVATOR 2-4 STY	315	366	451		
ELEVATOR 5+ STY	388	455	536		
MANUFACTURED HOME					
	EFFECTIVE DATE			100183	
	TRENDED DATE			100185	

PREPARED ON 113083

SCHEDULE A FAIR MARKET RENTS FOR NEW CONSTRUCTION AND SUBSTANTIAL REHABILITATION
(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAMS)

REGION 6

NEW ORLEANS, LOUISIANA AREA OFFICE

MARKET: NEW ORLEANS

STRUCTURE TYPE	NUMBER OF BEDROOMS				
	0-	-1-	2-	-3-	-4+
DETACHED			522	635	725
SEMI-DETACHED/ROW		403	486	594	699
WALKUP	303	378	458	563	653
ELEVATOR 2-4 STY	315	396	489		
ELEVATOR 5+ STY	481	573	643		
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: LAKE CHARLES

STRUCTURE TYPE	NUMBER OF BEDROOMS				
	0-	-1-	-2-	-3-	-4+
DETACHED			478	571	661
SEMI-DETACHED/ROW		377	463	552	634
WALKUP	296	347	428	510	572
ELEVATOR 2-4 STY	313	364	445		
ELEVATOR 5+ STY	444	500	622		
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: LAFAYETTE

STRUCTURE TYPE	NUMBER OF BEDROOMS				
	0-	-1-	-2-	-3-	-4+
DETACHED			531	677	763
SEMI-DETACHED/ROW		404	508	659	734
WALKUP	293	379	479	630	683
ELEVATOR 2-4 STY	312	397	496		
ELEVATOR 5+ STY	473	550	701		
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: BATON ROUGE

STRUCTURE TYPE	NUMBER OF BEDROOMS				
	0-	-1-	-2-	-3-	-4+
DETACHED			464	574	665
SEMI-DETACHED/ROW		375	448	555	638
WALKUP	281	332	398	496	554
ELEVATOR 2-4 STY	298	349	415		
ELEVATOR 5+ STY	434	493	597		
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: HOUMA

STRUCTURE TYPE	NUMBER OF BEDROOMS				
	0	-1	2-	3-	-4+
DETACHED			491	583	670
SEMI-DETACHED/ROW		403	477	565	644
WALKUP	328	382	454	539	601
ELEVATOR 2-4 STY	345	400	471		
ELEVATOR 5+ STY	472	528	654		
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: SHREVEPORT

STRUCTURE TYPE	NUMBER OF BEDROOMS				
	0	1-	-2-	-3-	-4+
DETACHED			456	542	630
SEMI-DETACHED/ROW		317	434	531	602
WALKUP	263	309	403	495	546
ELEVATOR 2-4 STY	344	371	422		
ELEVATOR 5+ STY	399	455	582		
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: ALEXANDRIA

STRUCTURE TYPE	NUMBER OF BEDROOMS				
	0-	-1-	-2-	-3-	-4+
DETACHED			406	483	552
SEMI-DETACHED/ROW		322	400	471	534
WALKUP	261	305	387	456	504
ELEVATOR 2-4 STY	307	349	404		
ELEVATOR 5+ STY	393	445	558		
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: MONROE

STRUCTURE TYPE	NUMBER OF BEDROOMS				
	0-	-1-	-2-	-3-	-4+
DETACHED			416	523	598
SEMI-DETACHED/ROW		321	388	495	580
WALKUP	264	309	381	494	558
ELEVATOR 2-4 STY	288	366	399		
ELEVATOR 5+ STY	398	450	559		
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

OKLAHOMA CITY, OKLAHOMA AREA OFFICE

MARKET: OKLAHOMA CITY

STRUCTURE TYPE	NUMBER OF BEDROOMS				
	0-	-1-	-2-	-3-	-4+
DETACHED			459	559	625
SEMI-DETACHED/ROW		375	444	546	613
WALKUP	297	321	383	481	531
ELEVATOR 2-4 STY	309	342	405		
ELEVATOR 5+ STY	315	371	439		
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: ADA

STRUCTURE TYPE	NUMBER OF BEDROOMS				
	0-	-1-	-2-	-3-	-4+
DETACHED			485	572	624
SEMI-DETACHED/ROW		370	471	558	610
WALKUP	290	316	408	491	528
ELEVATOR 2-4 STY	323	355	435		
ELEVATOR 5+ STY	335	370	478		
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: ARDMORE

STRUCTURE TYPE	NUMBER OF BEDROOMS				
	0-	-1-	-2-	-3-	-4+
DETACHED			483	569	621
SEMI-DETACHED/ROW		364	468	555	607
WALKUP	282	311	408	491	528
ELEVATOR 2-4 STY	307	336	431		
ELEVATOR 5+ STY	335	370	478		
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: ENID

STRUCTURE TYPE	NUMBER OF BEDROOMS				
	0-	-1-	-2-	-3-	-4+
DETACHED			497	560	624
SEMI-DETACHED/ROW		396	476	547	610
WALKUP	253	315	384	452	499
ELEVATOR 2-4 STY	284	338	418		
ELEVATOR 5+ STY	307	399	486		
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: GUYMON

STRUCTURE TYPE	NUMBER OF BEDROOMS				
	-0-	-1-	-2-	-3-	-4+
DETACHED			442	528	593
SEMI-DETACHED/ROW		350	428	512	576
WALKUP	263	292	364	439	485
ELEVATOR 2-4 STY	275	309	402		
ELEVATOR 5+ STY	318	352	434		
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: LAWTON

STRUCTURE TYPE	NUMBER OF BEDROOMS				
	-0-	-1-	-2-	-3-	-4+
DETACHED			530	557	638
SEMI-DETACHED/ROW		428	517	545	625
WALKUP	324	374	458	472	535
ELEVATOR 2-4 STY	341	413	502		
ELEVATOR 5+ STY	388	434	527		
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: SHAWNEE

STRUCTURE TYPE	NUMBER OF BEDROOMS				
	-0-	-1-	-2-	-3-	-4+
DETACHED			425	467	515
SEMI-DETACHED/ROW		347	414	455	500
WALKUP	260	289	350	381	417
ELEVATOR 2-4 STY	270	305	387		
ELEVATOR 5+ STY	314	349	419		
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: STILLWATER

STRUCTURE TYPE	NUMBER OF BEDROOMS				
	0-	-1-	-2-	-3-	-4+
DETACHED			439	506	570
SEMI-DETACHED/ROW		363	426	493	552
WALKUP	258	306	363	422	466
ELEVATOR 2-4 STY	279	325	398		
ELEVATOR 5+ STY	313	368	433		
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: WOODWARD

STRUCTURE TYPE	NUMBER OF BEDROOMS				
	-0-	-1-	-2-	-3-	-4+
DETACHED			470	566	616
SEMI-DETACHED/ROW		365	459	545	603
WALKUP	283	311	395	470	511
ELEVATOR 2-4 STY	295	327	435		
ELEVATOR 5+ STY	336	370	464		
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: BARTLESVILLE

STRUCTURE TYPE	NUMBER OF BEDROOMS				
	-0-	-1-	-2-	-3-	-4+
DETACHED			427	502	557
SEMI-DETACHED/ROW		341	415	488	543
WALKUP	282	307	357	428	467
ELEVATOR 2-4 STY	291	314	366		
ELEVATOR 5+ STY	299	330	415		
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: MC ALESTER

STRUCTURE TYPE	NUMBER OF BEDROOMS				
	-0-	-1-	-2-	-3-	-4+
DETACHED			424	492	542
SEMI-DETACHED/ROW		310	412	479	529
WALKUP	218	246	341	399	441
ELEVATOR 2-4 STY	229	262	359		
ELEVATOR 5+ STY	272	305	405		
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: MUSKOGEE

STRUCTURE TYPE	NUMBER OF BEDROOMS				
	-0-	-1-	-2-	-3-	-4+
DETACHED			386	445	504
SEMI-DETACHED/ROW		342	372	433	490
WALKUP	242	279	310	384	416
ELEVATOR 2-4 STY	259	295	322		
ELEVATOR 5+ STY	305	337	368		
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

PREPARED ON 113083

SCHEDULE A FAIR MARKET RENTS FOR NEW CONSTRUCTION AND SUBSTANTIAL REHABILITATION
(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAMS)

REGION 6

SAN ANTONIO, TEXAS AREA OFFICE

MARKET SAN ANTONIO

	NUMBER OF BEDROOMS				
STRUCTURE TYPE	0	1	2	3	4+
DETACHED			600	727	826
SEMI-DETACHED/ROW	343	407	528	629	731
WALKUP	296	348	441	547	633
ELEVATOR 2 & 3 STY	362	425	562		
ELEVATOR 5+ STY	495	583	816		
MANUFACTURED HOME					
EFFECTIVE DATE					100183
TRENDED DATE					100185

MARKET AUSTIN

	NUMBER OF BEDROOMS				
	0	1	2	3	4+
			626	750	834
	363	439	562	679	798
	314	375	466	563	664
	385	457	589		
	525	632	850		
EFFECTIVE DATE					100183
TRENDED DATE					100185

MARKET CORPUS CHRISTY

	NUMBER OF BEDROOMS				
	0	1	2	3	4+
			602	749	872
	376	461	567	673	793
	325	396	468	562	670
	398	473	590		
	540	619	860		
EFFECTIVE DATE					100183
TRENDED DATE					100185

MARKET: EAGLE PASS

	NUMBER OF BEDROOMS				
	0	1	2	3	4+
			567	738	786
	341	418	524	659	752
	291	347	417	519	622
	371	429	542		
	512	611	802		
EFFECTIVE DATE					100183
TRENDED DATE					100185

MARKET HARLINGEN

	NUMBER OF BEDROOMS				
STRUCTURE TYPE	0	1	2	3	4+
DETACHED			577	709	842
SEMI-DETACHED/ROW	334	412	526	655	784
WALKUP	283	337	498	607	690
ELEVATOR 2 & 3 STY	349	410	535		
ELEVATOR 5+ STY	497	601	808		
MANUFACTURED HOME					
EFFECTIVE DATE					100183
TRENDED DATE					100185

MARKET LAREDO

	NUMBER OF BEDROOMS				
	0	1	2	3	4+
			555	724	786
	333	408	511	644	752
	283	337	404	504	603
	363	420	530		
	504	602	802		
EFFECTIVE DATE					100183
TRENDED DATE					100185

MARKET VICTORIA

	NUMBER OF BEDROOMS				
	0	1	2	3	4+
			603	749	872
	400	489	576	673	793
	349	424	502	612	718
	422	501	624		
	563	677	871		
EFFECTIVE DATE					100183
TRENDED DATE					100185

MARKET: DEL RIO

	NUMBER OF BEDROOMS				
	0	1	2	3	4+
			563	734	786
	338	415	520	655	752
	288	344	413	515	610
	368	426	538		
	509	608	810		
EFFECTIVE DATE					100183
TRENDED DATE					100185

REGION 7

DES MOINES, IOWA SERVICE OFFICE

MARKET DES MOINES

	NUMBER OF BEDROOMS				
STRUCTURE TYPE	0	1	2	3	4+
DETACHED			567	655	756
SEMI-DETACHED/ROW		409	491	552	632
WALKUP	314	360	419	471	522
ELEVATOR 2-4 STY	378	419	495		
ELEVATOR 5+ STY	407	454	539		
MANUFACTURED HOME					
EFFECTIVE DATE					100183
TRENDED DATE					100185

MARKET: BETTENDORF

	NUMBER OF BEDROOMS				
	0	1	2	3	4+
			576	664	767
		425	500	561	642
	321	359	429	482	535
	385	427	503		
	415	463	549		
EFFECTIVE DATE					100183
TRENDED DATE					100185

MARKET: CEDAR RAPIDS

	NUMBER OF BEDROOMS				
	0	1	2	3	4+
			576	664	768
		406	482	550	633
	314	343	418	479	543
	384	426	502		
	415	462	548		
EFFECTIVE DATE					100183
TRENDED DATE					100185

MARKET: COUNCIL BLUFF

	NUMBER OF BEDROOMS				
	0	1	2	3	4+
			518	600	694
		391	467	526	598
	293	337	397	443	491
	371	421	484		
	403	456	539		
EFFECTIVE DATE					100183
TRENDED DATE					100185

MARKET DUBUQUE

	NUMBER OF BEDROOMS				
STRUCTURE TYPE	0	1	2	3	4+
DETACHED			576	664	768
SEMI-DETACHED/ROW		417	500	561	642
WALKUP	316	316	401	491	545
ELEVATOR 2-4 STY	381	424	499		
ELEVATOR 5+ STY	410	460	545		
MANUFACTURED HOME					
EFFECTIVE DATE					100183
TRENDED DATE					100185

MARKET MASON CITY

	NUMBER OF BEDROOMS				
	0	1	2	3	4+
			554	639	729
		417	500	561	642
	296	341	400	461	526
	378	421	496		
	410	460	545		
EFFECTIVE DATE					100183
TRENDED DATE					100185

MARKET SIOUX CITY

	NUMBER OF BEDROOMS				
	0	1	2	3	4+
			561	639	738
		415	498	559	640
	297	332	402	462	536
	381	424	499		
	410	460	545		
EFFECTIVE DATE					100183
TRENDED DATE					100185

MARKET DAVENPORT

	NUMBER OF BEDROOMS				
	0	1	2	3	4+
			576	664	767
		425	500	561	642
	321	359	429	482	535
	385	427	503		
	415	463	549		
EFFECTIVE DATE					100183
TRENDED DATE					100185

MARKET WATERLOO

	NUMBER OF BEDROOMS				
STRUCTURE TYPE	0	1	2	3	4+
DETACHED			577	664	768
SEMI-DETACHED/ROW		417	499	560	642
WALKUP	316	316	401	491	545
ELEVATOR 2-4 STY	381	424	499		
ELEVATOR 5+ STY	410	460	545		
MANUFACTURED HOME					
EFFECTIVE DATE					100183
TRENDED DATE					100185

PREPARED ON 113083

SCHEDULE A FAIR MARKET RENTS FOR NEW CONSTRUCTION AND SUBSTANTIAL REHABILITATION
(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAMS)

REGION 7

KANSAS CITY, MISSOURI AREA OFFICE

MARKET KANSAS CITY

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	2	3	-4+
DETACHED					
SEMI-DETACHED/ROW	349	388	443	559	607
WALKUP	312	357	415	508	539
ELEVATOR 2-4 STY	325	373	466		
ELEVATOR 5+ STY	423	478	623		
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET JOPLIN

STRUCTURE TYPE	NUMBER OF BEDROOMS -0	-1-	-2-	-3	-4+
DETACHED					
SEMI-DETACHED/ROW	286	324	420	498	540
WALKUP	238	284	364	468	508
ELEVATOR 2-4 STY	300	345	430		
ELEVATOR 5+ STY	391	440	574		
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET ST. JOSEPH

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	3-	-4+
DETACHED					
SEMI-DETACHED/ROW	298	344	432	531	577
WALKUP	295	340	406	497	538
ELEVATOR 2-4 STY	309	355	443		
ELEVATOR 5+ STY	402	455	592		
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET SEDALIA

STRUCTURE TYPE	NUMBER OF BEDROOMS 0-	-1-	-2-	-3-	-4+
DETACHED					
SEMI-DETACHED/ROW	315	364	405	507	544
WALKUP	290	335	389	453	494
ELEVATOR 2-4 STY	314	360	450		
ELEVATOR 5+ STY	408	461	601		
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET SPRINGFIELD

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	2-	-3-	4+
DETACHED					
SEMI-DETACHED/ROW	268	291	390	471	515
WALKUP	225	271	367	462	504
ELEVATOR 2-4 STY	267	307	384		
ELEVATOR 5+ STY	349	394	512		
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET TOPEKA

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED					
SEMI-DETACHED/ROW	300	355	431	529	584
WALKUP	283	304	398	482	550
ELEVATOR 2-4 STY	327	378	469		
ELEVATOR 5+ STY	391	440	575		
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET GARDEN CITY

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2	-3-	-4+
DETACHED					
SEMI-DETACHED/ROW	348	348	416	521	574
WALKUP	279	327	416	472	524
ELEVATOR 2-4 STY	319	368	460		
ELEVATOR 5+ STY	380	428	560		
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET PITTSBURG

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED					
SEMI-DETACHED/ROW	330	336	403	506	545
WALKUP	259	298	356	448	492
ELEVATOR 2-4 STY	313	363	453		
ELEVATOR 5+ STY	373	421	551		
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET SALINA

STRUCTURE TYPE	NUMBER OF BEDROOMS 0	1	2	-3-	-4+
DETACHED					
SEMI-DETACHED/ROW	312	348	412	521	574
WALKUP	268	304	379	454	515
ELEVATOR 2-4 STY	319	372	460		
ELEVATOR 5+ STY	380	428	560		
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET WICHITA

STRUCTURE TYPE	NUMBER OF BEDROOMS 0	1-	-2	-3-	4+
DETACHED					
SEMI-DETACHED/ROW	328	392	459	548	591
WALKUP	279	333	429	507	555
ELEVATOR 2-4 STY	325	375	469		
ELEVATOR 5+ STY	387	436	570		
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

REGION 7

OMAHA, NEBRASKA AREA OFFICE

MARKET OMAHA

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED					
SEMI-DETACHED/ROW		353	450	512	564
WALKUP	273	330	406	502	531
ELEVATOR 2-4 STY	280	370	445		
ELEVATOR 5+ STY	307	383	461		
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET GRAND ISLAND

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED					
SEMI-DETACHED/ROW		349	441	506	558
WALKUP	273	329	406	502	547
ELEVATOR 2-4 STY	280	366	445		
ELEVATOR 5+ STY	310	383	461		
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET LINCOLN

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED					
SEMI-DETACHED/ROW		345	436	500	551
WALKUP	272	330	406	496	546
ELEVATOR 2-4 STY	280	372	445		
ELEVATOR 5+ STY	319	383	461		
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET NORFOLK

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED					
SEMI-DETACHED/ROW		349	441	506	558
WALKUP	273	329	406	502	547
ELEVATOR 2-4 STY	280	366	445		
ELEVATOR 5+ STY	310	383	461		
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET NORTH PLATTE

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED					
SEMI-DETACHED/ROW		322	407	467	515
WALKUP	256	319	382	466	512
ELEVATOR 2-4 STY	267	338	426		
ELEVATOR 5+ STY	287	362	445		
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET SCOTTS BLUFF

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED					
SEMI-DETACHED/ROW		343	434	498	548
WALKUP	272	334	406	496	545
ELEVATOR 2-4 STY	284	360	454		
ELEVATOR 5+ STY	305	386	473		
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

PREPARED ON 113083

SCHEDULE A FAIR MARKET RENTS FOR NEW CONSTRUCTION AND SUBSTANTIAL REHABILITATION
(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAMS)

REGION 7

ST. LOUIS, MISSOURI AREA OFFICE

MARKET ST. LOUIS

STRUCTURE TYPE	NUMBER OF BEDROOMS				
	0	1	2	3	4+
DETACHED			572	673	724
SEMI-DETACHED/ROW		451	545	645	710
WALKUP	339	429	511	579	638
ELEVATOR 2-4 STY	368	462	552		
ELEVATOR 5+ STY	410	533	719		
MANUFACTURED HOME					
	EFFECTIVE DATE		100183		
	TRENDED DATE		100185		

MARKET CAPE GIRARDEAU

STRUCTURE TYPE	NUMBER OF BEDROOMS				
	0	1	2	3	4+
DETACHED			438	515	553
SEMI-DETACHED/ROW		332	420	516	564
WALKUP	253	318	391	474	493
ELEVATOR 2-4 STY	280	350	422		
ELEVATOR 5+ STY	309	381	565		
MANUFACTURED HOME					
	EFFECTIVE DATE		100183		
	TRENDED DATE		100185		

MARKET COLUMBIA

STRUCTURE TYPE	NUMBER OF BEDROOMS				
	0	1	2	3	4+
DETACHED			456	547	590
SEMI-DETACHED/ROW		348	434	526	585
WALKUP	276	347	424	519	572
ELEVATOR 2-4 STY	299	376	458		
ELEVATOR 5+ STY	333	425	613		
MANUFACTURED HOME					
	EFFECTIVE DATE		100183		
	TRENDED DATE		100185		

MARKET KIRKSVILLE

STRUCTURE TYPE	NUMBER OF BEDROOMS				
	0	1	2	3	4+
DETACHED			438	538	579
SEMI-DETACHED/ROW		337	417	526	574
WALKUP	253	320	403	498	538
ELEVATOR 2-4 STY	275	345	435		
ELEVATOR 5+ STY	306	408	582		
MANUFACTURED HOME					
	EFFECTIVE DATE		100183		
	TRENDED DATE		100185		

MARKET ROLLA

STRUCTURE TYPE	NUMBER OF BEDROOMS				
	0	1	2	3	4+
DETACHED			429	523	563
SEMI-DETACHED/ROW		325	415	505	559
WALKUP	242	306	386	466	510
ELEVATOR 2-4 STY	263	330	416		
ELEVATOR 5+ STY	293	383	557		
MANUFACTURED HOME					
	EFFECTIVE DATE		100183		
	TRENDED DATE		100185		

REGION 8

DENVER, COLORADO REGIONAL AREA OFFICE

MARKET DENVER, CO

STRUCTURE TYPE	NUMBER OF BEDROOMS				
	0	1	2	3	4+
DETACHED			595	643	702
SEMI-DETACHED/ROW	396	443	532	601	634
WALKUP	332	400	473	582	624
ELEVATOR 2-4 STY	332	400	510		
ELEVATOR 5+ STY	342	417	527		
MANUFACTURED HOME					
	EFFECTIVE DATE		100183		
	TRENDED DATE		100185		

MARKET GRAND JUNCT.CO

STRUCTURE TYPE	NUMBER OF BEDROOMS				
	0	1	2	3	4+
DETACHED			554	602	642
SEMI-DETACHED/ROW	388	427	510	563	614
WALKUP	344	396	473	541	580
ELEVATOR 2-4 STY	361	409	482		
ELEVATOR 5+ STY	375	423	489		
MANUFACTURED HOME					
	EFFECTIVE DATE		100183		
	TRENDED DATE		100185		

MARKET ASPEN/VAIL

STRUCTURE TYPE	NUMBER OF BEDROOMS				
	0	1	2	3	4+
DETACHED			546	624	661
SEMI-DETACHED/ROW	352	422	482	573	616
WALKUP	315	380	458	533	579
ELEVATOR 2-4 STY	359	431	469		
ELEVATOR 5+ STY	370	440	478		
MANUFACTURED HOME					
	EFFECTIVE DATE		100183		
	TRENDED DATE		100185		

MARKET FARGO, ND

STRUCTURE TYPE	NUMBER OF BEDROOMS				
	0	1	2	3	4+
DETACHED			521	618	665
SEMI-DETACHED/ROW	351	387	487	574	626
WALKUP	325	362	437	559	607
ELEVATOR 2-4 STY	343	409	488		
ELEVATOR 5+ STY	354	417	559		
MANUFACTURED HOME					
	EFFECTIVE DATE		100193		
	TRENDED DATE		100185		

MARKET BISMARK, ND

STRUCTURE TYPE	NUMBER OF BEDROOMS				
	0	1	2	3	4+
DETACHED			521	586	625
SEMI-DETACHED/ROW	315	384	492	531	576
WALKUP	291	378	450	516	570
ELEVATOR 2-4 STY	351	390	491		
ELEVATOR 5+ STY	385	423	540		
MANUFACTURED HOME					
	EFFECTIVE DATE		100183		
	TRENDED DATE		100185		

MARKET DICKENSON, ND

STRUCTURE TYPE	NUMBER OF BEDROOMS				
	0	1	2	3	4+
DETACHED			521	623	657
SEMI-DETACHED/ROW	310	369	470	577	623
WALKUP	277	364	426	552	600
ELEVATOR 2-4 STY	351	410	487		
ELEVATOR 5+ STY	379	414	537		
MANUFACTURED HOME					
	EFFECTIVE DATE		100183		
	TRENDED DATE		100185		

MARKET HELENA, MT

STRUCTURE TYPE	NUMBER OF BEDROOMS				
	0	1	2	3	4+
DETACHED			424	500	537
SEMI-DETACHED/ROW	291	354	414	491	528
WALKUP	283	344	404	491	520
ELEVATOR 2-4 STY	300	364	426		
ELEVATOR 5+ STY	313	379	438		
MANUFACTURED HOME					
	EFFECTIVE DATE		100183		
	TRENDED DATE		100185		

MARKET: BILLINGS, MT

STRUCTURE TYPE	NUMBER OF BEDROOMS				
	0	1	2	3	4+
DETACHED			506	595	611
SEMI-DETACHED/ROW	324	378	494	565	602
WALKUP	296	357	456	553	593
ELEVATOR 2-4 STY	328	387	500		
ELEVATOR 5+ STY	340	400	513		
MANUFACTURED HOME					
	EFFECTIVE DATE		100183		
	TRENDED DATE		100185		

MARKET: GREAT FALLS,MT

STRUCTURE TYPE	NUMBER OF BEDROOMS				
	0	1	2	3	4+
DETACHED			449	517	555
SEMI-DETACHED/ROW	294	354	439	505	546
WALKUP	286	344	430	497	536
ELEVATOR 2-4 STY	307	358	451		
ELEVATOR 5+ STY	321	372	464		
MANUFACTURED HOME					
	EFFECTIVE DATE		100183		
	TRENDED DATE		100185		

MARKET: MISSOULA, MT

STRUCTURE TYPE	NUMBER OF BEDROOMS				
	0	1	2	3	4+
DETACHED			435	512	552
SEMI-DETACHED/ROW	317	373	426	504	543
WALKUP	303	365	407	483	521
ELEVATOR 2-4 STY	330	383	469		
ELEVATOR 5+ STY	342	395	479		
MANUFACTURED HOME					
	EFFECTIVE DATE		100183		
	TRENDED DATE		100185		

MARKET SALT LAKE CITY

STRUCTURE TYPE	NUMBER OF BEDROOMS				
	0	1	2	3	4+
DETACHED			502	631	693
SEMI-DETACHED/ROW	329	369	443	569	623
WALKUP	255	357	420	529	579
ELEVATOR 2-4 STY	318	418	471		
ELEVATOR 5+ STY	351	448	523		
MANUFACTURED HOME					
	EFFECTIVE DATE		100183		
	TRENDED DATE		100185		

MARKET CEDAR CITY, UT

STRUCTURE TYPE	NUMBER OF BEDROOMS				
	0	1	2	3	4+
DETACHED			447	490	533
SEMI-DETACHED/ROW	317	340	400	448	481
WALKUP	246	333	382	443	463
ELEVATOR 2-4 STY	312	375	433		
ELEVATOR 5+ STY	328	417	478		
MANUFACTURED HOME					
	EFFECTIVE DATE		100183		
	TRENDED DATE		100185		

MARKET: VERNAL, UT

STRUCTURE TYPE	NUMBER OF BEDROOMS				
	0	1	2	3	4+
DETACHED			538	629	691
SEMI-DETACHED/ROW	329	406	503	622	[illegible]
WALKUP	268	368	427	506	571
ELEVATOR 2-4 STY	328	429	465		
ELEVATOR 5+ STY	368	459	512		
MANUFACTURED HOME					
	EFFECTIVE DATE		100183		
	TRENDED DATE		100185		

MARKET: SIOUX FALLS,SD

STRUCTURE TYPE	NUMBER OF BEDROOMS				
	0	1	2	3	4+
DETACHED			466	504	546
SEMI-DETACHED/ROW	300	341	440	475	519
WALKUP	282	330	404	462	500
ELEVATOR 2-4 STY	312	365	430		
ELEVATOR 5+ STY	316	353	435		
MANUFACTURED HOME					
	EFFECTIVE DATE		100183		
	TRENDED DATE		100185		

MARKET PIERRE, SD

STRUCTURE TYPE	NUMBER OF BEDROOMS				
	0	1	2	3	4+
DETACHED			475	516	561
SEMI-DETACHED/ROW	235	293	385	495	540
WALKUP	230	278	344	468	523
ELEVATOR 2-4 STY	276	331	430		
ELEVATOR 5+ STY	300	336	437		
MANUFACTURED HOME					
	EFFECTIVE DATE		100183		
	TRENDED DATE		100185		

MARKET RAPID CITY, SD

STRUCTURE TYPE	NUMBER OF BEDROOMS				
	0	1	2	3	4+
DETACHED			499	605	644
SEMI-DETACHED/ROW	310	378	481	575	625
WALKUP	303	356	439	561	595
ELEVATOR 2-4 STY	316	370	467		
ELEVATOR 5+ STY	321	378	472		
MANUFACTURED HOME					
	EFFECTIVE DATE		100183		
	TRENDED DATE		100185		

PREPARED ON 113083

SCHEDULE A- FAIR MARKET RENTS FOR NEW CONSTRUCTION AND SUBSTANTIAL REHABILITATION
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REGION 8

DENVER, COLORADO REGIONAL AREA OFFICE

MARKET: CASPER, WY

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			681	717	762
SEMI-DETACHED/ROW	450	497	585	682	759
WALKUP	395	459	540	625	747
ELEVATOR 2-4 STY	422	495	591		
ELEVATOR 5+ STY	432	506	605		
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: CHEYENNE, WY

NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
		526	571	621
320	364	487	559	608
265	326	402	555	604
294	364	455		
304	375	469		

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: CODY, WY

NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
		670	738	846
371	497	585	682	777
361	459	540	625	743
408	495	591		
432	506	605		

EFFECTIVE DATE 100183
TRENDED DATE 100185

REGION 9

HONOLULU, HAWAII AREA OFFICE

MARKET: HONOLULU

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			630	1012	1075
SEMI-DETACHED/ROW		490	588	651	714
WALKUP	398	467	517	644	704
ELEVATOR 2-4 STY	429	500	550		
ELEVATOR 5+ STY	444	609	809		
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: GUAM

NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
		585	674	732
	456	538	626	685
[illegible]	346	431	532	

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: KAUAI

NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
		647	691	756
	525	637	679	744
345	400	524	655	717
376	433	550		

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: MAUI

NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
		697	822	882
	586	679	810	872
358	466	585	712	772
391	498	616		

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: HILO

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			542	618	672
SEMI-DETACHED/ROW		425	531	606	661
WALKUP	315	370	445	576	628
ELEVATOR 2-4 STY	348	401	478		
ELEVATOR 5+ STY					
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: KONA

NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
		656	775	838
	538	644	764	828
398	455	524	654	715
429	486	555		

EFFECTIVE DATE 100183
TRENDED DATE 100185

PREPARED ON 112083

SCHEDULE A FAIR MARKET RENTS FOR NEW CONSTRUCTION AND SUBSTANTIAL REHABILITATION
(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAMS)

REGION 9

LOS ANGELES, CALIFORNIA AREA OFFICE

MARKET: LOS ANGELES

STRUCTURE TYPE	NUMBER OF BEDROOMS 0-	-1-	-2-	-3-	-4+
DETACHED			759	854	968
SEMI-DETACHED/ROW		598	689	781	896
WALKUP	457	527	635	757	844
ELEVATOR 2-4 STY	501	567	685	785	853
ELEVATOR 5+ STY	621	704	867		
MANUFACTURED HOME					
EFFECTIVE DATE	100183				
TRENDED DATE	100185				

MARKET: BAKERSFIELD

NUMBER OF BEDROOMS 0-	-1-	-2-	-3-	-4+
		589	696	796
	423	557	660	738
325	399	534	636	691
341	417	553		
487	571	747		
EFFECTIVE DATE	100183			
TRENDED DATE	100185			

MARKET: SANTA BARBARA

NUMBER OF BEDROOMS 0-	-1-	-2-	-3-	-4+
		942	1000	1022
	859	918	972	991
418	466	601	681	739
434	487	622	701	759
565	630	806		
EFFECTIVE DATE	100183			
TRENDED DATE	100185			

MARKET: VENTURA

NUMBER OF BEDROOMS 0-	-1-	-2-	-3-	-4+
		721	808	890
	520	578	705	768
447	489	548	671	717
467	509	569		
608	661	762		
EFFECTIVE DATE	100183			
TRENDED DATE	100185			

MARKET: PASO ROBLES

NUMBER OF BEDROOMS 0-	1-	2-	3-	4+
		682	761	827
	459	570	685	762
382	431	531	632	683
400	450	552	659	721
543	606	750		
EFFECTIVE DATE	100183			
TRENDED DATE	100185			

MARKET: LANCASTER

NUMBER OF BEDROOMS 0	-1-	-2-	-3-	-4+
		562	647	754
	440	531	614	717
344	414	508	587	669
367	437	531		
517	591	733		
EFFECTIVE DATE	100183			
TRENDED DATE	100185			

MARKET: OXNARD

NUMBER OF BEDROOMS 0-	-1-	-2-	-3-	-4+
		721	808	890
	520	578	705	768
447	439	548	671	717
467	509	569		
608	661	762		
EFFECTIVE DATE	100183			
TRENDED DATE	100185			

MARKET: SANTA ANA

NUMBER OF BEDROOMS 0-	-1-	-2-	-3-	-4+
		742	898	977
	629	729	881	957
503	591	679	814	862
505	608	700		
644	759	891		
EFFECTIVE DATE	100183			
TRENDED DATE	100185			

MARKET: SAN DIEGO

NUMBER OF BEDROOMS 0-	1	-2	3	4+
		621	737	815
	501	598	677	794
404	461	558	654	701
437	504	608		
523	610	746		
EFFECTIVE DATE	100183			
TRENDED DATE	100185			

MARKET: EL CAJON

NUMBER OF BEDROOMS 0-	1-	-2-	-3-	4+
		621	737	815
	501	598	677	794
404	461	558	654	701
437	504	608		
523	610	746		
EFFECTIVE DATE	100183			
TRENDED DATE	100185			

MARKET: SANTA MARIA

NUMBER OF BEDROOMS 0	1	2-	3	-4+
		678	737	841
	594	654	710	810
373	422	489	543	598
394	442	509	564	619
529	591	693		
EFFECTIVE DATE	100183			
TRENDED DATE	100185			

MARKET: SAN BERNARDINO

NUMBER OF BEDROOMS 0-	-1-	-2-	-3-	-4+
		565	680	766
	465	554	644	750
395	445	523	619	688
422	464	542		
569	615	736		
EFFECTIVE DATE	100183			
TRENDED DATE	100185			

PHOENIX, ARIZONA SERVICE OFFICE

MARKET: PHOENIX

STRUCTURE TYPE	NUMBER OF BEDROOMS 0	-1-	-2-	-3-	-4+
DETACHED			549	663	743
SEMI-DETACHED/ROW	393	451	539	639	685
WALKUP	375	435	514	601	641
ELEVATOR 2-4 STY	403	463	542		
ELEVATOR 5+ STY	494	564	677		
MANUFACTURED HOME					
EFFECTIVE DATE	100183				
TRENDED DATE	100185				

MARKET: CASA GRANDE

NUMBER OF BEDROOMS 0-	-1-	-2-	-3-	-4+
		507	577	661
353	394	457	527	618
333	378	437	490	543
355	398	458		
EFFECTIVE DATE	100183			
TRENDED DATE	100185			

MARKET: FLAGSTAFF

NUMBER OF BEDROOMS 0-	-1	-2-	-3	4+
		585	668	748
398	443	540	620	704
375	426	529	603	666
402	453	556		
517	572	675		
EFFECTIVE DATE	100183			
TRENDED DATE	100185			

MARKET: KEARNS CANYON

NUMBER OF BEDROOMS 0	-1-	-2-	-3-	-4+
		488	543	609
285	349	449	526	555
244	310	408	484	538
271	337	435		
EFFECTIVE DATE	100183			
TRENDED DATE	100185			

MARKET: TUCSON

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			498	600	653
SEMI-DETACHED/ROW	329	381	464	536	631
WALKUP	310	359	459	522	589
ELEVATOR 2-4 STY	338	387	487		
ELEVATOR 5+ STY	490	552	702		
MANUFACTURED HOME					
EFFECTIVE DATE	100183				
TRENDED DATE	100185				

MARKET: YUMA

NUMBER OF BEDROOMS 0-	-1-	-2-	-3-	-4+
		573	637	722
391	455	532	597	683
360	410	527	587	646
388	438	555		
EFFECTIVE DATE	100183			
TRENDED DATE	100185			

PREPARED ON 113083

SCHEDULE A FAIR MARKET RENTS FOR NEW CONSTRUCTION AND SUBSTANTIAL REHABILITATION
(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAMS)

REGION 9

SACRAMENTO, CALIFORNIA SERVICE OFFICE

MARKET SACRAMENTO	NUMBER OF BEDROOMS				
STRUCTURE TYPE	0	1	2	3	4+
DETACHED			540	565	648
SEMI-DETACHED/ROW		445	508	559	614
WALKUP	354	410	474	552	614
ELEVATOR 2-4 STY	452	509	572		
ELEVATOR 5+ STY	550	618	698		
MANUFACTURED HOME					
EFFECTIVE DATE					100183
TRENDED DATE					100185

MARKET REDDING	NUMBER OF BEDROOMS				
	0	1	2	3	4+
			494	517	593
		427	465	511	587
	311	363	417	459	576
	459	511	530		
EFFECTIVE DATE					100183
TRENDED DATE					100185

MARKET PLACERVILLE	NUMBER OF BEDROOMS				
	0	1	2	3	4+
			566	593	680
		467	533	587	645
	361	424	487	580	645
	464	521	589		
EFFECTIVE DATE					100183
TRENDED DATE					100185

MARKET EUREKA	NUMBER OF BEDROOMS				
	0	1	2	3	4+
			554	580	665
		457	521	574	630
	365	421	499	566	630
	487	540	594		
EFFECTIVE DATE					100183
TRENDED DATE					100185

MARKET S LAKE TAHOE	NUMBER OF BEDROOMS				
STRUCTURE TYPE	0	1	2	3	4+
DETACHED			651	692	794
SEMI-DETACHED/ROW		545	622	685	752
WALKUP	401	474	560	616	676
ELEVATOR 2-4 STY	524	600	691		
ELEVATOR 5+ STY					
MANUFACTURED HOME					
EFFECTIVE DATE					100183
TRENDED DATE					100185

SAN FRANCISCO, CALIFORNIA AREA OFFICE

MARKET: SAN FRANCISCO	NUMBER OF BEDROOMS				
STRUCTURE TYPE	0	1	2	3	4+
DETACHED			1227	1540	1631
SEMI-DETACHED/ROW		762	987	1221	1379
WALKUP	523	604	790	963	1057
ELEVATOR 2-4 STY	575	694	867		
ELEVATOR 5+ STY	731	848	1073		
MANUFACTURED HOME					
EFFECTIVE DATE					100183
TRENDED DATE					100185

MARKET FRESNO	NUMBER OF BEDROOMS				
	0	1	2	3	4+
			524	745	831
		370	477	626	706
	312	365	440	573	655
	391	465	579		
	584	694	859		
EFFECTIVE DATE					100183
TRENDED DATE					100185

MARKET MODESTO	NUMBER OF BEDROOMS				
	0	1	2	3	4+
			445	602	633
		339	412	517	563
	321	339	407	517	558
	414	465	582		
	585	624	761		
EFFECTIVE DATE					100183
TRENDED DATE					100185

MARKET: SAN JOSE	NUMBER OF BEDROOMS				
	0	1	2	3	4+
			878	1023	1082
		515	628	761	837
	425	510	606	723	788
	455	529	613		
	645	738	854		
EFFECTIVE DATE					100183
TRENDED DATE					100185

MARKET: OAKLAND	NUMBER OF BEDROOMS				
STRUCTURE TYPE	0	1	2	3	4+
DETACHED			800	943	980
SEMI-DETACHED/ROW		589	749	857	946
WALKUP	484	563	698	790	875
ELEVATOR 2-4 STY	520	569	767		
ELEVATOR 5+ STY	710	776	1009		
MANUFACTURED HOME					
EFFECTIVE DATE					100183
TRENDED DATE					100185

MARKET: MARIN	NUMBER OF BEDROOMS				
	0	1	2	3	4+
			809	943	980
		589	749	857	946
	484	563	698	790	875
	520	569	767		
	710	776	1009		
EFFECTIVE DATE					100183
TRENDED DATE					100185

MARKET: EUREKA	NUMBER OF BEDROOMS				
	0	1	2	3	4+
			530	682	758
		352	439	646	724
	253	352	423	625	695
	322	426	554		
	625	748	908		
EFFECTIVE DATE					100183
TRENDED DATE					100185

MARKET: SANTA ROSA	NUMBER OF BEDROOMS				
	0	1	2	3	4+
			736	912	988
		463	570	730	790
	398	463	570	730	790
	512	593	750		
	731	848	1071		
EFFECTIVE DATE					100183
TRENDED DATE					100185

MARKET: SANTA CRUZ	NUMBER OF BEDROOMS				
STRUCTURE TYPE	0	1	2	3	4+
DETACHED			650	808	887
SEMI-DETACHED/ROW		439	597	761	838
WALKUP	369	439	561	723	788
ELEVATOR 2-4 STY	455	562	677		
ELEVATOR 5+ STY	591	706	822		
MANUFACTURED HOME					
EFFECTIVE DATE					100183
TRENDED DATE					100185

MARKET: RENO	NUMBER OF BEDROOMS				
	0	1	2	3	4+
			625	743	787
		435	539	673	740
	380	435	539	650	740
	489	564	713		
	740	817	1013		
EFFECTIVE DATE					100183
TRENDED DATE					100185

MARKET: LAS VEGAS	NUMBER OF BEDROOMS				
	0	1	2	3	4+
			664	732	794
		423	552	693	755
	361	423	552	648	703
	459	540	715		
	713	809	969		
EFFECTIVE DATE					100183
TRENDED DATE					100185

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SCHEDULE A FAIR MARKET RENTS FOR NEW CONSTRUCTION AND SUBSTANTIAL REHABILITATION
(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAMS)

REGION 10

ANCHORAGE, ALASKA AREA OFFICE

MARKET: ANCHORAGE

STRUCTURE TYPE	NUMBER OF BEDROOMS				
	-0-	-1-	-2-	-3-	-4+
DETACHED			708	783	809
SEMI-DETACHED/ROW		608	678	739	764
WALKUP	423	498	584	691	716
ELEVATOR 2-4 STY	554	652	729		
ELEVATOR 5+ STY	563	663	741		
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: FAIRBANKS

	NUMBER OF BEDROOMS				
	0-	-1-	-2-	-3-	-4+
			897	760	827
		597	669	752	811
	517	569	643	723	796
	622	738	794		
	632	753	804		

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: JUNEAU

	NUMBER OF BEDROOMS				
	-0-	-1-	-2-	-2-	-4+
			738	841	874
		592	716	801	841
	474	530	659	763	809
	532	600	688		
	558	629	716		

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: KETCHIKAN

	NUMBER OF BEDROOMS				
	-0-	-1-	-2-	-3-	-4+
			648	738	821
		526	618	703	782
	407	478	561	640	710
	487	556	652		
	511	566	670		

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: BARTER IS. N

STRUCTURE TYPE	NUMBER OF BEDROOMS				
	-0-	-1-	-2-	-3-	-4+
DETACHED			1043	1148	1263
SEMI-DETACHED/ROW		920	1013	1115	1226
WALKUP	811	893	958	1083	1191
ELEVATOR 2-4 STY					
ELEVATOR 5+ STY					
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: COASTAL AREA

	NUMBER OF BEDROOMS				
	0-	-1-	-2-	-3-	-4+
			1043	1146	1263
		920	1013	1115	1226
	811	893	958	1083	1191

EFFECTIVE DATE 100183
TRENDED DATE 100185

PORTLAND, OREGON AREA OFFICE

MARKET: PORTLAND

STRUCTURE TYPE	NUMBER OF BEDROOMS				
	0	-1-	-2-	-3-	-4+
DETACHED			440	543	589
SEMI-DETACHED/ROW	282	350	399	485	531
WALKUP	270	336	386	445	518
ELEVATOR 2-4 STY	281	349	408		
ELEVATOR 5+ STY	339	402	543		
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: BEND

	NUMBER OF BEDROOMS				
	-0-	-1-	-2-	-3-	-4+
			336	432	482
		263	304	399	445
	192	247	286	385	424
	203	265	302		

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: COOS BAY

	NUMBER OF BEDROOMS				
	-0-	-1-	-2	-3-	-4+
			336	393	437
		260	306	374	416
	204	248	296	361	404
	215	260	312		

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: MEDFORD

	NUMBER OF BEDROOMS				
	0-	-1-	-2-	-3-	-4+
			383	448	501
		301	353	401	484
	241	289	329	383	417
	255	300	340		

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: ONTARIO

STRUCTURE TYPE	NUMBER OF BEDROOMS				
	-0	-1	-2-	-3-	-4+
DETACHED			374	441	489
SEMI-DETACHED/ROW		271	346	396	436
WALKUP	217	259	312	383	415
ELEVATOR 2-4 STY	229	270	325		
ELEVATOR 5+ STY					
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: WEST SALEM

	NUMBER OF BEDROOMS				
	0-	-1-	-2-	-3-	-4+
			302	383	423
		229	277	357	395
	182	225	272	347	387
	199	243	290		
	276	341	408		

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: PENDLETON

	NUMBER OF BEDROOMS				
	-0-	-1-	-2-	-3-	-4+
			378	437	491
		278	348	389	436
	217	266	330	371	408
	230	277	343		

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: BOISE

	NUMBER OF BEDROOMS				
	0	-1-	-2-	-3-	-4+
			429	493	525
		290	351	414	454
	231	277	341	405	443
	289	307	364		
	305	382	477		

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: IDAHO FALLS

STRUCTURE TYPE	NUMBER OF BEDROOMS				
	0-	-1-	-2-	3-	4+
DETACHED			355	450	497
SEMI-DETACHED/ROW		267	338	417	443
WALKUP	209	251	316	389	419
ELEVATOR 2-4 STY	221	261	329		
ELEVATOR 5+ STY					
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: MCCALL

	NUMBER OF BEDROOMS				
	0-	-1-	-2-	-3-	-4+
			315	355	395
		241	281	328	368
	178	221	261	315	355

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: POCATELLO

	NUMBER OF BEDROOMS				
	-0-	-1-	-2-	-3-	-4+
			351	422	456
		238	311	375	408
	175	220	294	372	397
	186	232	317		

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: TWIN FALLS

	NUMBER OF BEDROOMS				
	-0-	-1-	-2-	-3-	-4+
			365	460	493
		254	358	419	462
	191	237	321	380	409
	204	248	337		

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: LEWISTON

STRUCTURE TYPE	NUMBER OF BEDROOMS				
	-0-	-1-	-2-	-3-	-4+
DETACHED			343	463	505
SEMI-DETACHED/ROW		243	303	374	415
WALKUP	193	232	293	364	404
ELEVATOR 2-4 STY	207	250	317		
ELEVATOR 5+ STY					
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: COEUR D'ALEN

	NUMBER OF BEDROOMS				
	-0	-1-	-2-	-3-	-4+
			316	402	469
		239	296	353	409
	187	224	272	337	371
	217	251	290		

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: EUGENE

	NUMBER OF BEDROOMS				
	-0-	-1-	-2-	-3-	-4+
			353	436	481
		246	320	372	410
	220	226	288	354	385
	233	239	305		
	315	332	431		

EFFECTIVE DATE 100183
TRENDED DATE 100185

PREPARED ON 113083

SCHEDULE A FAIR MARKET RENTS FOR NEW CONSTRUCTION AND SUBSTANTIAL REHABILITATION
(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAMS)

REGION 10

SEATTLE, WASHINGTON AREA OFFICE

MARKET SEATTLE	NUMBER OF BEDROOMS				
STRUCTURE TYPE	0-	-1-	-2-	-3-	-4+
DETACHED			554	616	736
SEMI-DETACHED/ROW		393	468	553	655
WALKUP	313	396	436	525	539
ELEVATOR 2-4 STY	382	406	537		
ELEVATOR 5+ STY	422	491	560		
MANUFACTURED HOME					
EFFECTIVE DATE					100183
TRENDED DATE					100185

MARKET BELLINGHAM	NUMBER OF BEDROOMS				
	0-	-1-	-2-	-3-	-4+
			422	528	569
		310	380	462	509
	232	296	366	446	496
	248	312	382		
	378	443	553		
					100183
					100185

MARKET OLYMPIA	NUMBER OF BEDROOMS				
	0	-1-	-2-	-3-	-4+
			423	520	638
		334	381	469	610
	233	297	365	450	518
	249	313	381		
	379	445	554		
					100183
					100185

MARKET: YAKIMA	NUMBER OF BEDROOMS				
	0-	-1-	-2-	-3-	-4+
			396	500	622
		320	373	471	564
	218	288	336	436	493
	233	303	352		
	369	449	556		
					100183
					100185

MARKET: SPOKANE	NUMBER OF BEDROOMS				
STRUCTURE TYPE	0-	-1-	-2-	-3-	-4+
DETACHED			417	517	638
SEMI-DETACHED/ROW		299	393	473	562
WALKUP	224	273	337	415	474
ELEVATOR 2-4 STY	239	305	353		
ELEVATOR 5+ STY	370	423	535		
MANUFACTURED HOME					
EFFECTIVE DATE					100183
TRENDED DATE					100185

MARKET: KENNEWICK	NUMBER OF BEDROOMS				
	-0-	-1-	-2-	-3-	-4+
			483	549	670
		296	363	435	484
	245	281	345	418	467
	284	320	384		
	370	417	492		
					100183
					100185

PREPARED ON 113093

[FR Doc. 84-3355 Filed 2-7-84; 8:45 am]
BILLING CODE 4210-27-C

federal register

Wednesday
February 8, 1984

Part IV

Department of Education

34 CFR Part 661

Business and International Education Program; Proposed Rulemaking and Notice

DEPARTMENT OF EDUCATION

34 CFR Part 661

Business and International Education Program

AGENCY: Department of Education.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Secretary of Education proposes regulations for the Business and International Education Program. The regulations are needed to implement the provisions of the Higher Education Amendments of 1980. The regulations would provide the procedures and the criteria the Secretary would use to make awards under this program.

DATES: Comments must be received on or before March 26, 1984.

ADDRESSES: Mr. Kenneth D. Whitehead, Director, Office of International Education Programs, 400 Maryland Avenue SW., (Room 3919, ROB–3), Washington, D.C. 20202. Telephone (202) 245–9691.

FOR FURTHER INFORMATION CONTACT: Mr. Stanley B. Patterson, Chief, International Studies Branch, 400 Maryland Avenue SW., (Room 3916 ROB–3), Washington, D.C. 20202. Telephone (202) 245–2794.

SUPPLEMENTARY INFORMATION: These proposed regulations govern the program of assistance authorized under Title VI–B, of the Higher Education Act of 1965, as amended (HEA)—20 U.S.C. 1130–1130b. The purpose of the program is (1) to promote the Nation's capacity for international understanding and economic enterprise through the provision of suitable international education and training for business personnel in various stages of professional development; and (2) to promote institutional and non-institutional educational and training activities that will contribute to the ability of United States businesses to prosper in an international economy.

In order to receive assistance under this program applicants must meet the matching requirements indicated under section 661.40 of the regulations.

Executive Order 12291

These proposed regulations have been reviewed in accordance with Executive Order 12291.

They are classified as non-major because they do not meet the criteria for major regulations established in the order.

Regulatory Flexibility Act

The Secretary certifies that these proposed regulations will not have a significant impact on a substantial number of small entities. These proposed regulations simplify and clarify statutory provisions. They will not have a significant economic impact on any small entities participating in the program.

Invitation to Comment

Interested persons are invited to submit comments and recommendations regarding these proposed regulations. Written comments and recommendations may be sent to the address given at the beginning of this document. All comments submitted on or before the 45th day after publication of this document will be considered before the Secretary issues final regulations.

All comments submitted in response to these proposed regulations will be available for public inspection, during and after the comment period, in Room 3919, Regional Office Building 3, 7th and D Streets, SW., Washington, D.C. 20202, between the hours of 8:30 a.m. and 4:00 p.m., Monday through Friday of each week except Federal holidays.

Paperwork Reduction Act

The information collection requirements in these proposed regulations will be submitted to the Office of Management and Budget for review under the Paperwork Reduction Act of 1980.

To assist the Department in complying with the specific requirements of Executive Order 12291 and the Paperwork Reduction Act of 1980 and their overall requirement of reducing regulatory burden, public comment is invited on whether there may be further opportunities to reduce any regulatory burdens found in these regulations.

Comments concerning information collection requirements only should be addressed to the Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3208, 17th and Pennsylvania Avenue, NW., Washington, D.C. 20503. Attention: Desk Officer for the U.S. Department of Education. All other comments regarding these proposed regulations should be sent to the Department of Education at the address given at the beginning of this preamble.

Assessment of Educational Impact

The Secretary particularly requests comments on whether the regulations in this document would require transmission of information that is being gathered by or is available from any other agency or authority of the United States.

List of Subjects in 34 CFR Part 661

Colleges and universities, Contracts, Education, Educational study programs, Grant programs.

Citation of Legal Authority

A citation of statutory or other legal authority is placed in parentheses on the line following each substantive provision of these proposed regulations.

(Catalog of Federal Domestic Assistance Number 84.153, Business and International Education Program)

Dated: February 2, 1984.

T. H. Bell,

Secretary of Education.

The Secretary of Education proposes to amend Title 34 of the Code of Federal Regulations to add a new Part 661 to read as follows:

PART 661—BUSINESS AND INTERNATIONAL EDUCATION PROGRAM

Subpart A—General

Sec.
661.1 What is the Business and International Education Program?
661.2 Who is eligible to apply for a grant under the Business and International Education Program?
661.3 What regulations apply to the Business and International Education Program?
661.4 What definitions apply to the Business and International Education Program?

Subpart B—What Kinds of Activities Does the Secretary Assist Under This Program?

661.10 What activities does the Secretary assist under this program?

Subpart C—How Does One Apply for a Grant?

661.20 What must an application include?

Subpart D—How Does the Secretary Make a Grant?

661.30 How Does the Secretary evaluate an application?
661.31 What selection criteria does the Secretary use?
661.32 What priorities may the Secretary establish?

Subpart E—What Conditions Must Be Met by a Grantee?

661.40 What are the matching requirements?

Authority: Sections 611–613 of the Higher Education Act of 1965, as amended, 20 U.S.C. 1130–1130b, unless otherwise noted.

Subpart A—General

§ 661.1 What is the Business and International Education Program?

The Business and International Education Program is designed to promote linkages between institutions of higher education and American

businesses engaged in international economic activities. The purpose of each project assisted under this Part is to both enhance the international academic programs of institutions of higher education, and provide appropriate services to the business community that will enable it to expand its capacity to sell its goods and services outside the United States.

(20 U.S.C. 1130)

§ 661.2 Who is eligible to apply for a grant under the Business and International Education Program?

Under this program the Secretary considers applications from institutions of higher education that have entered into agreements with business enterprises, trade organizations or associations engaged in international economic activity—or a combination or consortium of these enterprises, organizations or associations—for the purposes of pursuing the activities authorized under this program.

(20 U.S.C. 1130a)

§ 661.3 What regulations apply to the Business and International Education Program?

The following regulations apply to this program:

(a) The regulations in 34 CFR Part 655;

(b) The Education Department General Administrative Regulations (EDGAR) (34 CFR Parts 74, 75, 77, and 78); and

(c) The regulations in this Part 661.

(20 U.S.C. 1130–1130a)

§ 661.4 What definitions apply to the Business and International Education Program?

Definitions in EDGAR and in the International Education Programs General Provisions Regulations. The following terms used in this part are defined ir 34 CFR Part 77 and 34 CFR 655.4(b):

Applicant	Grant
Application	Grantee
Award	Nonprofit
Budget	Profit
Contract	Private
EDGAR	Public
Equipment	Secretary
Facilities	Supplies
Fiscal Year	

(20 U.S.C. 1130–1130a)

Subpart B—What Kinds of Activities Does the Secretary Assist Under this Program?

§ 661.10 What activities does the Secretary assist under this program?

The activities that the Secretary may assist institutions of higher education to conduct under this program, include but are not limited to—

(a) Innovation and improvement of international education curricula to serve the needs of the business community, including the development of new programs for nontraditional, midcareer, or part-time students;

(b) Development of programs to inform the public of increasing international economic interdependence and the role of American business within the international economic system;

(c) Internationalization of curricula at junior and community colleges, and at undergraduate and graduate schools of business;

(d) Development of area studies programs and interdisciplinary international programs;

(e) Establishment of export education programs through cooperative arrangements with regional and world trade centers and councils, and with bilateral and multilateral trade associations;

(f) Research for and development of teaching materials relating to international education, including language materials, and facilities appropriate to business-oriented students;

(g) Establishment of student and faculty fellowships and internships for training and education in international business activities;

(h) Development of opportunities for business and other professional school junior faculty to acquire or strengthen international skills and perspectives; and

(i) Development of research programs on issues of common interest to institutions of higher education and private sector organizations and associations engaged in or promoting international economic activity.

(20 U.S.C. 1130a)

Subpart C—How Does One Apply for a Grant?

§ 661.20 What must an application include?

An institution that applies for a grant under this program shall include the following:

(a)(1) A copy of the agreement between the applicant and the other party or parties described in § 661.2 for the purpose of carrying out the activities for which the applicant seeks assistance.

(2) The agreement shall be signed by all parties and it must describe the manner in which the business enterprise, trade association, or organization will assist in carrying out the activities proposed in the application.

(b) An assurance that the applicant will use the funds to supplement and not to supplant activities conducted by the applicant as described in § 661.10.

(20 U.S.C. 1130a)

Subpart D—How Does the Secretary Make a Grant?

§ 661.30 How does the Secretary evaluate an application?

(a) The Secretary evaluates an application for a grant under this program on the basis of the criteria in § 661.31.

(b) The Secretary awards up to 100 possible points for these criteria. The maximum possible points for each criterion are shown in parentheses.

(20 U.S.C. 1130a)

§ 661.31 What selection criteria does the Secretary use?

The Secretary uses the following criteria to evaluate applications for a grant under this program.

(a) *Plan of operation.* (Maximum 30 points.) (See 34 CFR 655.31(a).)

(b) *Qualifications of the key personnel.* (Maximum 10 points.) (See 34 CFR 655.31(b).)

(c) *Budget and cost effectiveness.* (Maximum 15 points.) (See 34 CFR 655.31(c).)

(d) *Evaluation plan.* (Maximum 15 points.) (See 34 CFR 655.31 (d).)

(e) *Adequacy of resources.* (Maximum 10 points.) (See 34 CFR 655.31(e).)

(f) *Need for the project.* (Maximum 20 points.)

The Secretary reviews each application for information that shows the need for the project, and the extent to which the proposed project will promote linkages between institutions of higher education and the business community involved in international economic activities.

(20 U.S.C. 1130a)

§ 661.32 What priorities may the Secretary establish?

(a) The Secretary may each year establish priorities for funding from the activities described in § 661.10.

(b) The Secretary announces any priorities in the application notice published in the Federal Register.

(20 U.S.C. 1130a)

Subpart E—What Conditions Must be Met by a Grantee?

§ 661.40 What are the matching requirements?

The grantee pays a minimum of 50 percent of the cost of the project for each fiscal year.

(20 U.S.C. 1130a)

[FR Doc. 84-3413 Filed 2-7-84; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF EDUCATION

Office of Postsecondary Education

Business and International Education Program; Application Notice for New Awards for Fiscal Year 1984

Applications are invited for new awards under the Business and International Education Program.

Authority for this program is contained in sections 611, 612, and 613 of Part B of Title VI of the Higher Education Act of 1965, as amended (HEA), 20 U.S.C. 1130-1130b.

The Secretary is authorized to make matching grants under this program to qualified institutions of higher education.

The purposes of the awards are: (1) To increase and to promote the Nation's capacity for international understanding and economic enterprise through the provisions of suitable international education and training for business personnel in various stages of professional development; and (2) to promote institutional and noninstitutional education and training activities that will contribute to the ability of the United States business to prosper in an international economy.

Closing Date for Transmittal of Applications: An application for a grant award must be mailed or hand delivered by April 16, 1984.

Applications Delivered by Mail: An application sent by mail must be addressed to the U.S. Department of Education, Application Control Center, Attention: 84.153 (Business and International Education Program), 400 Maryland Ave., S.W., Washington, D.C. 20202.

An applicant must show proof of mailing consisting of one of the following:

(a) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping lable, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the U.S. Secretary of Education.

If an application is sent through the U.S. Postal Service, the Secretary does not accept a private metered postmark or a private mail receipt as proof of mailing. An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first class mail. Each late applicant will be notified that its application will not be considered.

Applications Delivered by Hand: An application that is hand delivered must be taken to the U.S. Department of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets SW., Washington, D.C. 20202.

The Application Control Center will accept a hand-delivered application between 8:00 a.m. and 4:30 p.m. (Washington, D.C. time) daily, except Saturdays, Sundays, and Federal holidays.

An application that is hand delivered will not be accepted after 4:30 p.m. on the closing date.

Program Information: Under the Business and International Education Program, the Secretary is authorized to make grants to institutions of higher education to pay up to 50 percent of the cost of programs designed to promote linkages between institutions and the American business community engaged in international economic activities.

The purposes of each grant is to enhance the international academic programs of institutions of higher education, and provide appropriate services to the business community which will enable it to expand its capacity to engage in commerce abroad.

Under section 612 (b) of the HEA, the Secretary may support the following activities:

(1) Innovation and improvement in international education curricula to serve the needs of the business community, including development of new programs for nontraditional, midcareer, or part-time students;

(2) Development of programs to inform the public of increasing international economic interdependence and the role of American business within the international economic system;

(3) Internationalization of curricula at the junior and community college level, and at undergraduate and graduate schools of business;

(4) Development of area studies programs and interdisciplinary international programs;

(5) Establishment of export education programs through cooperative arrangements with regional and world trade centers and councils, and with bilaterial and multilateral trade associations;

(6) Research for and development of specialized teaching materials, including language materials, and facilities appropriate to business-oriented students;

(7) Establishment of student and faculty fellowships and internships for training and education in international business activities;

(8) Development of opportunities for junior business and other professional school faculty to acquire or strengthen international skills and perspectives; and

(9) Development of research programs on issues of common interest to institutions of higher education and private sector organizations and associations engaged in or promoting international economic activity.

Section 612(c) of the HEA requires that an institutional grantee enter into an agreement with a business enterprise, trade organization or association engaged in international economic activity, or a combination or consortium of such enterprises, organizations or associations, for the purpose of establishing, developing, improving, or expanding activities eligible for assistance under this program. Section 612 (c) further requires each institutional application for a grant to be accompanied by a copy of one of these agreements.

The Secretary strongly encourages applicants to select those authorized activities which are most useful in developing, enhancing or promoting excellence in export trade programs.

Available Funds: The Department of Education Appropriation Act, 1984, Pub. L. 98–139, authorizes $25.8 million for new awards under the International Education and Foreign Language Studies (IEFLS) Programs. Business and International Education was allocated $2 million of the $25.8 million appropriation for FY 1984.

The Secretary is not setting an average grant award or a range of grant awards. Furthermore, because grants will be for one year duration, applicants are encouraged to request funds for those activities which have the greatest possibility of support from other sources after the first year of the project.

Application Forms: Application forms and program information packages are expected to be ready by February 22, 1984.

Application packages may be obtained by contacting the International Studies Branch, Division of International Services and Improvement, U.S. Department of Education, (ROB–3, Room 3916) 400 Maryland Avenue SW., Washington, D.C. 20202. Telephone (202) 245–2794.

Applications must be prepared and submitted in accordance with regulations, instructions, and forms included in the program information

package. The Secretary suggests that the narrative portion of the application not exceed 20 pages in length. The Secretary further urges that applicants not submit information that is not requested.

The program information package is intended to aid applicants in applying for assistance under this competition Nothing in the program information package is intended to impose any paperwork, application content, reporting, or grantee performance requirement beyond those specifically imposed under the statute and regulations governing the competition.

Applicable Regulations: Regulations applicable to this program include the following:

(a) Education Department General Administrative Regulations (EDGAR) (34 CFR Parts 74, 75, 77, and 78), and

(b) Regulations governing the Business and International Education Program, as proposed in a Notice of Proposed Rulemaking published in this issue of the **Federal Register** (to be codified in 34 CFR Part 661). Applications are being requested and will initially be evaluated on the basis of the Notice of Proposed Rulemaking. If any substantive changes are made when the final regulations are published, applicants will be given an opportunity to revise their applications.

FOR FURTHER INFORMATION CONTACT: For further information, contact Dr. Stanley B. Patterson, Chief, International Studies Branch, International Education Programs, U.S. Department of Education, (Room 3916, Regional Office Building 3), 7th and D Streets SW., Washington, D.C. 20202. Telephone: (202) 245–2794.

(20 U.S.C. 1130–1130b)

Dated: February 2, 1984

T. H. Bell,

Secretary of Education.

(Catalog of Federal Domestic Assistance Number: 84.153—Business and International Education Program)

[PR Doc. 84–3415 Filed 2–7–84; 8:45 am]

BILLING CODE 4000-01-M

VOL
49
ISS
27
FE
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federal register

Wednesday
February 8, 1984

Part V

Department of Energy

Federal Energy Regulatory Commission

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978; Notice

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Vol. 1059]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: February 2, 1984.

The following notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" before the section code. Estimated annual production (PROD) is in million cubic feet (MMCF).

The applications for determination are available for inspection except to the extent such material is confidential under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol St., Washington, D.C. Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 275.204, file a protest with the Commission within fifteen days after publication of notice in the **Federal Register.**

Source data from the Form 121 for this and all previous notices is available on magnetic tape from the National Technical Information Service (NTIS). For information, contact Stuart Weisman (NTIS) at (703) 487–4808, 5285 Port Royal Rd., Springfield, Va. 22161.

Categories within each NGPA section are indicated by the following codes:

Section 102–1: New OCS lease
102–2: New well (2.5 Mile rule)
102–3: New well (1000 Ft rule)
102–4: New onshore reservoir
102–5: New reservoir on old OCS lease
Section 107–DP: 15,000 feet or deeper
107–GB: Geopressured brine
107–CS: Coal Seams
107–DV: Devonian Shale
107–PE: Production enhancement
107–TF: New tight formation
107–RT: Recompletion tight formation
Section 108: Stripper well
108–SA: Seasonally affected
108–ER: Enhanced recovery
108–PB: Pressure buildup

Kenneth F. Plumb,

Secretary.

NOTICE OF DETERMINATIONS

ISSUED FEBRUARY 2, 1984

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
KENTUCKY DEPARTMENT OF MINES & MINERALS									
-KENTUCKY WEST VIRGINIA GAS CO		RECEIVED: 01/09/84		JA: KY					
8415470	506313	1613300000		107-DV		A B POTTER #6851	KENTUCKY EAST	5.8	
8415539	506382	1613300000		107-DV		A B POTTER #6898	KENTUCKY EAST	5.1	
8415438	506273	1611500000		107-DV		A J RICE -#6959	KENTUCKY EAST	2.9	
8415477	506328	1611500000		107-DV		A J RICE #6872	KENTUCKY EAST	2.1	
8415484	506327	1611500000		107-DV		A J RICE #6979	KENTUCKY EAST	9.0	
8415543	506386	1613300000		107-DV		AARON ANDERSON #6904	KENTUCKY EAST	7.6	
8415440	506283	1619300000		107-DV		ADA SPARKMAN #7144	KENTUCKY EAST	2.5	
8415472	506315	1611900000		107-DV		ALEX FRANCIS #6858 D	KENTUCKY EAST	1.0	
8415572	506415	1613300000		107-DV		ALEX STAMPER #7086	KENTUCKY EAST	0.7	
8415575	506418	1613300000		107-DV		ALEX STAMPER #7093	KENTUCKY EAST	1.8	
8415406	506249	1611900000		107-DV		ANDERSON COMBS #6712D	KENTUCKY EAST	6.8	
8415442	506285	1619300000		107-DV		B T FIELDS #7156	KENTUCKY EAST	5.8	
8415446	506289	1619300000		107-DV		B T FIELDS #7173	KENTUCKY EAST	5.1	
8415499	506342	1607100000		107-DV		BEN BALDRIDGE #7018	KENTUCKY EAST	10.4	
8415570	506413	1607100000		107-DV		BEN BALDRIDGE #7081	KENTUCKY EAST	7.5	
8415456	506299	1619300000		107-DV		BENJAMIN CAUDILL #6828	KENTUCKY EAST	2.9	
8415462	506305	1619300000		107-DV		BENJAMIN CAUDILL #6839	KENTUCKY EAST	7.2	
8415512	506355	1619300000		107-DV		BENJAMIN COMBS #6789	KENTUCKY EAST	2.3	
8415554	506397	1611900000		107-DV		BENJAMIN SMITH #7026	KENTUCKY EAST	9.7	
8415372	506215	1619300000		107-DV		C C HALL - #6740	KENTUCKY EAST	6.1	
8415379	506222	1619300000		107-DV		C C HALL -#6754	KENTUCKY EAST	7.9	
8415506	506349	1619300000		107-DV		C G BOWMAN #6777	KENTUCKY EAST	16.2	
8415524	506367	1611900000		107-DV		C P PATRICK #6814	KENTUCKY EAST	1.0	
8415387	506230	1615900000		107-DV		C W PREECE - #5383D	KENTUCKY EAST	5.6	
8415434	506277	1613300000		107-DV		CLINT ISON -#7111	KENTUCKY EAST	4.0	
8415541	506384	1619300000		107-DV		D Y COMBS & J M HALL #6901	KENTUCKY EAST	2.5	
8415549	506392	1619300000		107-DV		D Y COMBS & JAMES M HALL #6913	KENTUCKY EAST	1.8	
8415382	506225	1619300000		107-DV		DAN CORNETT - #6766	KENTUCKY EAST	6.8	
8415380	506223	1619300000		107-DV		DAN CORNETT -#6757	KENTUCKY EAST	9.5	
8415503	506346	1619300000		107-DV		DAN CORNETT #6773	KENTUCKY EAST	5.4	
8415488	506251	1613300000		107-DV		DAVID D CAUDILL #6715	KENTUCKY EAST	1.8	
8415421	506264	1613300000		107-DV		DAVID S FIELDS #6938	KENTUCKY EAST	1.8	
8415437	506280	1619300000		107-DV		DOCK FIELDS -#7129	KENTUCKY EAST	3.1	
8415364	506207	1619300000		107-DV		E C CORNETT - #6729	KENTUCKY EAST	7.2	
8415373	506216	1619300000		107-DV		E L CORNETT - #6742	KENTUCKY EAST	10.8	
8415550	506393	1619300000		107-DV		ELHANNON CORNETT #6914	KENTUCKY EAST	7.9	
8415426	506269	1619300000		107-DV		ELI BRASHEARS #6954	KENTUCKY EAST	10.8	
8415521	506364	1619300000		107-DV		ELIJAH SUMNER #6810	KENTUCKY EAST	6.6	
8415486	506329	1619300000		107-DV		ELIJAH SUMNER #6988	KENTUCKY EAST	5.1	
8415491	506334	1619300000		107-DV		ELIJAH SUMNER #7002	KENTUCKY EAST	9.0	
8415480	506323	1611900000		107-DV		ELIZA SMITH #6973	KENTUCKY EAST	5.4	
8415564	506407	1619300000		107-DV		FUGATE HEIRS #7067	KENTUCKY EAST	0.7	
8415428	506271	1613100000		107-DV		G M CAUDILL -#6957	KENTUCKY EAST	2.9	
8415478	506321	1613100000		107-DV		G M CAUDILL #6971	KENTUCKY EAST	3.2	
8415479	506322	1611500000		107-DV		G W WELLS #6972	KENTUCKY EAST	2.5	

BILLING CODE 6717-01-M

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8415393	506236	1611900000		107-DV		GEO HAGINS - 06690D	KENTUCKY EAST	6.2	
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8415540	506383	1611900000		107-DV		GEORGE TERRY 06900	KENTUCKY EAST	2.4	
8415465	506308	1619500000		107-DV		GEORGE W MITCHELL 06843	KENTUCKY EAST	5.4	
8415504	506347	1619300000		107-DV		GILBERT COMBS 06774	KENTUCKY EAST	4.3	
8415386	506229	1607100000		107-DV		GOLDIE COLLINSWORTH - 0260	KENTUCKY EAST	12.8	
8415494	506337	1613300000		107-DV		GRANT ISOM 07007	KENTUCKY EAST	1.0	
8415559	506402	1607100000		107-DV		GRANVILLE STRATTON - 7054	KENTUCKY EAST	10.4	
8415443	506286	1613300000		107-DV		H B BRANSON 07160	KENTUCKY EAST	8.4	
8415498	506333	1619300000		107-DV		H G PRATT 06999	KENTUCKY EAST	2.1	
8415516	506359	1619300000		107-DV		HANEY FRANCIS 06799	KENTUCKY EAST	4.7	
8415573	506416	1611500000		107-DV		HENRY C WELLS HEIRS 07087	KENTUCKY EAST	2.8	
8415510	506353	1613300000		107-DV		I D WHITTAKER 06786	KENTUCKY EAST	2.6	
8415453	506296	1613300000		107-DV		I D WHITTAKER 06822	KENTUCKY EAST	4.5	
8415384	506227	1619300000		107-DV		IRA COMBS - 06769	KENTUCKY EAST	11.7	
8415585	506348	1619300000		107-DV		IRA COMBS 06775	KENTUCKY EAST	5.4	
8415466	506309	1613300000		107-DV		ISAAC POTTER JR 06846	KENTUCKY EAST	6.8	
8415533	506376	1613300000		107-DV		ISAAC POTTER JR 06886	KENTUCKY EAST	4.3	
8415388	506231	1619300000		107-DV		J F COMBS- 06269	KENTUCKY EAST	13.7	
8415514	506357	1619300000		107-DV		J H HALL 06796	KENTUCKY EAST	13.0	
8415525	506368	1619300000		107-DV		J H HALL 06818	KENTUCKY EAST	10.5	
8415468	506311	1619300000		107-DV		J H HALL 06848	KENTUCKY EAST	4.7	
8415481	506324	1607100000		107-DV		J M PORTER 06976	KENTUCKY EAST	1.0	
8415488	506331	1607100000		107-DV		J M PORTER 06992	KENTUCKY EAST	8.7	
8415399	506242	1607100000		107-DV		J M RICHARDSON - 06701	KENTUCKY EAST	4.0	
8415448	506291	1619300000		107-DV		J M SHEPHERD 07182	KENTUCKY EAST	12.1	
8415553	506396	1619300000		107-DV		J P DIXON 07025	KENTUCKY EAST	3.2	
8415361	506204	1611900000		107-DV		J W STACY - 0 6721	KENTUCKY EAST	6.5	
8415447	506290	1619300000		107-DV		JACKSON COMBS 07176	KENTUCKY EAST	6.1	
8415527	506370	1613300000		107-DV		JAMES BLACK 06821	KENTUCKY EAST	1.3	
8415461	506304	1613300000		107-DV		JAMES C DIXON 06838	KENTUCKY EAST	2.8	
8415366	506209	1619300000		107-DV		JAMES C STACY - 06731	KENTUCKY EAST	5.4	
8415419	506262	1619300000		107-DV		JAMES D PRATT 06936	KENTUCKY EAST	7.2	
8415438	506281	1619300000		107-DV		JAMES D PRATT- 07135	KENTUCKY EAST	4.3	
8415391	506234	1619300000		107-DV		JAMES DOBSON- 06687	KENTUCKY EAST	12.5	
8415523	506366	1619500000		107-DV		JAMES K JOHNSON 06812	KENTUCKY EAST	7.6	
8415537	506380	1619300000		107-DV		JAMES M HALL 06893	KENTUCKY EAST	4.3	
8415487	506338	1619300000		107-DV		JAMES M HALL 06989	KENTUCKY EAST	1.0	
8415498	506341	1619300000		107-DV		JAMES M HALL 07017	KENTUCKY EAST	0.7	
8415495	506338	1613300000		107-DV		JAMES Q HOLBROOK 07089	KENTUCKY EAST	5.1	
8415562	506405	1619300000		107-DV		JAMES RIDDLE 07062	KENTUCKY EAST	1.4	
8415563	506406	1607100000		107-DV		JAMES W AUXIER 07064	KENTUCKY EAST	4.3	
- 8415375	506218	1619300000		107-DV		JASPER J MULLINS - 06766	KENTUCKY EAST	1.7	
8415417	506260	1613300000		107-DV		JEFFERSON ISON 06936	KENTUCKY EAST	11.8	
8415581	506344	1613300000		107-DV		JEFFERSON ISON 07021	KENTUCKY EAST	5.4	
8415445	506288	1613300000		107-DV		JEFFERSON ISON 07165	KENTUCKY EAST	4.7	
8415436	506279	1613300000		107-DV		JEPTHA WATTS -07122	KENTUCKY EAST	5.9	
8415377	506220	1619300000		107-DV		JOE FELTNER - 06752	KENTUCKY EAST	2.5	
8415485	506328	1619300000		107-DV		JOEL PRATT 06987	KENTUCKY EAST	1.1	
8415511	506356	1619300000		107-DV		JOHN BABCOCK 06788	KENTUCKY EAST	2.7	
- 8415518	506361	1619300000		107-DV		JOHN BABCOCK 06803	KENTUCKY EAST	8.3	
8415519	506362	1619300000		107-DV		JOHN BABCOCK 06804	KENTUCKY EAST	1.4	
8415368	506211	1611900000		107-DV		JOHN BEGLEY - 06733	KENTUCKY EAST	3.8	
8415449	506292	1613300000		107-DV		JOHN BRASHEAR 06963	KENTUCKY EAST	5.4	
8415567	506410	1613300000		107-DV		JOHN BRASHEAR 07072	KENTUCKY EAST	11.5	
8415574	506417	1613300000		107-DV		JOHN BRASHEAR 07089	KENTUCKY EAST	8.6	
8415439	506282	1613300000		107-DV		JOHN BRASHEAR 07142	KENTUCKY EAST	12.3	
8415558	506401	1613300000		107-DV		JOHN C ELDRIDGE 07043	KENTUCKY EAST	1.0	
8415566	506409	1613300000		107-DV		JOHN C ELDRIDGE 07069	KENTUCKY EAST	1.0	
8415538	506381	1619300000		107-DV		JOHN M HALL 06896	KENTUCKY EAST	1.0	
8415415	506258	1619300000		107-DV		JOHN M HALL 06931	KENTUCKY EAST	1.0	
8415513	506356	1607100000		107-DV		JOHN HAMILTON 06790	KENTUCKY EAST	14.3	
8415534	506377	1619300000		107-DV		JOHN J BRASHEARS 06887	KENTUCKY EAST	1.0	
8415362	506205	1619300000		107-DV		JOHN J GODSEY - 06723	KENTUCKY EAST	8.8	
8415402	506245	1619300000		107-DV		JOHN J GODSEY 06785	KENTUCKY EAST	2.1	
8415407	506250	1619300000		107-DV		JOHN J GODSEY 06713	KENTUCKY EAST	7.2	
8415517	506360	1619300000		107-DV		JOHN J GODSEY 06808	KENTUCKY EAST	3.2	
8415474	506317	1619300000		107-DV		JOHN J GODSEY 06861	KENTUCKY EAST	11.2	
8415536	506379	1619300000		107-DV		JOHN J GODSEY 06890	KENTUCKY EAST	7.9	
8415577	506420	1613300000		107-DV		JOHN J LEWIS 07101	KENTUCKY EAST	1.5	
8415530	506373	1619300000		107-DV		JOHN M BRASHEAR 06881	KENTUCKY EAST	5.1	
8415568	506411	1619300000		107-DV		JOHN M GODSEY 07077	KENTUCKY EAST	6.8	
8415571	506414	1607100000		107-DV		JOHN O GEORGE 07083	KENTUCKY EAST	7.4	
8415545	506388	1613300000		107-DV		JOHN POTTER 06907	KENTUCKY EAST	3.6	
8415459	506302	1619300000		107-DV		JOHN PRATT 06836	KENTUCKY EAST	2.9	
8415531	506374	1619300000		107-DV		JOHN PRATT 06882	KENTUCKY EAST	5.6	
8415569	506412	1619300000		107-DV		JOHN SHEPHERD 07078	KENTUCKY EAST	1.4	
8415411	506254	1613300000		107-DV		JOHN W LUSK 06924	KENTUCKY EAST	2.4	
8415381	506224	1613300000		107-DV		JOSEPH HALL - 6763	KENTUCKY EAST	16.3	
8415383	506226	1619300000		107-DV		LACY COMBS - 06767	KENTUCKY EAST	4.3	
8415507	506350	1611900000		107-DV		LEVI COLLINS 06778	KENTUCKY EAST	8.8	
8415423	506266	1607100000		107-DV		LOUISA BURCHETT 06946	KENTUCKY EAST	2.6	
8415492	506335	1613300000		107-DV		M C BENTLEY 07004	KENTUCKY EAST	19.5	
8415376	506219	1619300000		107-DV		M C GRIGSBY -06749	KENTUCKY EAST	2.9	
8415371	506214	1611900000		107-DV		M D STACY - 06738	KENTUCKY EAST	2.5	
8415489	506332	1607100000		107-DV		M M NESBIT 06994	KENTUCKY EAST	6.1	
8415493	506336	1607100000		107-DV		M M NESBIT 07005	KENTUCKY EAST	1.1	
8415496	506339	1607100000		107-DV		M M NESBIT 07011	KENTUCKY EAST	6.8	
8415464	506307	1619300000		107-DV		MARION CORNETT 06842	KENTUCKY EAST	2.1	
8415548	506391	1611900000		107-DV		MARTIN P PATRICK 06912	KENTUCKY EAST	1.0	
8415451	506294	1611900000		107-DV		MARTIN P PATRICK 06969	KENTUCKY EAST	1.2	
8415431	506274	1619300000		107-DV		MCINTYRE & LUSK -06962	KENTUCKY EAST	10.0	
8415547	506390	1619300000		107-DV		MCINTYRE & LUSK 06909	KENTUCKY EAST	5.1	
8415424	506267	1619300000		107-DV		MCINTYRE & LUSK 06951	KENTUCKY EAST	11.3	
- 8415502	506348	1619300000		107-DV		MCINTYRE & LUSK 07024	KENTUCKY EAST	10.1	
8415551	506394	1613300000		107-DV		MINERAL FUEL CO 06917	KENTUCKY EAST	6.1	
8415552	506395	1613300000		107-DV		MINERAL FUEL CO 06928	KENTUCKY EAST	3.5	
8415416	506259	1613300000		107-DV		MINERAL FUEL CO 06932	KENTUCKY EAST	7.2	
8415560	506403	1613300000		107-DV		MINERAL FUEL CO 07057	KENTUCKY EAST	5.1	
8415529	506363	1619300000		107-DV		MORGAN CORNETT 06805	KENTUCKY EAST	4.0	
8415367	506210	1619300000		107-DV		NANNIE STACY - 06732	KENTUCKY EAST	10.0	
8415509	506352	1613500000		107-DV		R E ROBERTSON 06785	KENTUCKY EAST	6.7	
- 8415522	506365	1619300000		107-DV		R M MCINTIRE 06811	KENTUCKY EAST	8.5	
- 8415528	506371	1619300000		107-DV		R M MCINTIRE 06875	KENTUCKY EAST	1.1	

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8415497	506198	1619300000		107-DV		R M MCINTIRE #7013	KENTUCKY EAST	3.6	
8415390	506233	1619300000		107-DV		R O DAVIS - #6684	KENTUCKY EAST	4.3	
8415396	506239	1619300000		107-DV		R O DAVIS - #6696	KENTUCKY EAST	2.5	
8415418	506261	1619300000		107-DV		R O DAVIS #6935	KENTUCKY EAST	9.0	
8415508	506351	1619300000		107-DV		RICHARD COMBS #6788	KENTUCKY EAST	1.4	
8415401	506244	1611900000		107-DV		RILEY COMBS #6704D	KENTUCKY EAST	8.6	
8415394	506237	1619300000		107-DV		ROBERT C REAM #6694D	KENTUCKY EAST	5.8	
8415412	506255	1619300000		107-DV		ROBERT CAUDILL #6925	KENTUCKY EAST	6.5	
8415435	506278	1619300000		107-DV		ROBERT CORNETT -#7113	KENTUCKY EAST	2.5	
8415576	506419	1619300000		107-DV		ROBERT CORNETT #7100	KENTUCKY EAST	5.4	
8415414	506257	1619300000		107-DV		ROBERT GAYHEART #6929	KENTUCKY EAST	5.8	
8415476	506319	1607100000		107-DV		ROBERT MITCHELL #6871	KENTUCKY EAST	15.2	
8415365	506208	1619300000		107-DV		S M NAPIER - #6730	KENTUCKY EAST	1.0	
8415378	506221	1619300000		107-DV		S M NAPIER #6753	KENTUCKY EAST	2.9	
8415488	506243	1611900000		107-DV		SAM CAMPBELL - #6703	KENTUCKY EAST	2.4	
8415529	506372	1619300000		107-DV		SAMPSON ENGLE #6876	KENTUCKY EAST	9.4	
8415397	506240	1619300000		107-DV		SAMPSON SMITH - #6697	KENTUCKY EAST	5.4	
8415370	506213	1619300000		107-DV		SAMPSON SMITH - #6735	KENTUCKY EAST	8.2	
8415410	506253	1619300000		107-DV		SAMPSON SMITH #6720	KENTUCKY EAST	9.4	
8415473	506316	1619300000		107-DV		SAMUEL BRASHEARS #6859	KENTUCKY EAST	6.1	
8415546	506389	1619300000		107-DV		SAMUEL BRASHEARS #6908	KENTUCKY EAST	6.8	
8415422	506265	1613300000		107-DV		SAMUEL P COLLIER #6943	KENTUCKY EAST	3.6	
8415369	506212	1607100000		107-DV		SEWARD ARNETT - #6734	KENTUCKY EAST	3.2	
8415398	506241	1611900000		107-DV		SIMON HAGANS - #6700D	KENTUCKY EAST	11.6	
8415433	506276	1611900000		107-DV		SUSAN HAYS - #7107	KENTUCKY EAST	17.1	
8415463	506308	1619300000		107-DV		SYLVESTER STACY #6841	KENTUCKY EAST	2.1	
8415413	506256	1619300000		107-DV		T G WOODS #6926	KENTUCKY EAST	12.6	
8415444	506287	1619300000		107-DV		T G WOODS #7163	KENTUCKY EAST	2.9	
8415475	506318	1613300000		107-DV		THOMAS HALL #6868	KENTUCKY EAST	6.0	
8415535	506378	1613300000		107-DV		THOMAS HALL #6888	KENTUCKY EAST	2.5	
8415450	506293	1613300000		107-DV		THOMAS HALL #6966	KENTUCKY EAST	1.1	
8415425	506268	1619300000		107-DV		THOMAS JENT #6952	KENTUCKY EAST	8.3	
8415392	506235	1611900000		107-DV		W A COMBS - #6689	KENTUCKY EAST	1.5	
8415403	506246	1611900000		107-DV		W A COMBS #6706	KENTUCKY EAST	9.2	
8415457	506300	1619300000		107-DV		W B ENGLE #6829	KENTUCKY EAST	1.0	
8415441	506284	1619300000		107-DV		W C FIELDS #7152	KENTUCKY EAST	3.5	
8415429	506272	1613300000		107-DV		W F BENTLEY -#6958	KENTUCKY EAST	1.0	
8415526	506369	1619300000		107-DV		W H MILLER #6820	KENTUCKY EAST	2.0	
8415454	506297	1619300000		107-DV		W H MILLER #6826	KENTUCKY EAST	5.0	
8415455	506298	1619300000		107-DV		W H MILLER #6827	KENTUCKY EAST	3.6	
8415556	506399	1619300000		107-DV		W H MILLER #7037	KENTUCKY EAST	14.9	
8415555	506398	1613300000		107-DV		W J CAUDILL #7033	KENTUCKY EAST	13.0	
8415557	506400	1613300000		107-DV		W J CAUDILL #7041	KENTUCKY EAST	2.1	
8415561	506404	1613300000		107-DV		W J CAUDILL #7059	KENTUCKY EAST	4.9	
8415395	506238	1611900000		107-DV		W J NOBLE - #6695	KENTUCKY EAST	6.1	
8415427	506270	1619300000		107-DV		W M CORNETT -#6955	KENTUCKY EAST	10.8	
8415420	506263	1619300000		107-DV		W M CORNETT #6937	KENTUCKY EAST	6.8	
8415482	506325	1619300000		107-DV		W M CORNETT #6975	KENTUCKY EAST	8.7	
8415483	506326	1619300000		107-DV		W M CORNETT #6978	KENTUCKY EAST	1.4	
8415500	506343	1619300000		107-DV		W M CORNETT #7020	KENTUCKY EAST	6.5	
8415405	506248	1619300000		107-DV		W R COMBS #6710D	KENTUCKY EAST	12.1	
8415409	506252	1619300000		107-DV		W R COMBS #6719D	KENTUCKY EAST	11.1	
8415404	506247	1607100000		107-DV		W R HALL SR #6707	KENTUCKY EAST	3.2	
8415467	506310	1611900000		107-DV		W RILEY COMBS #6847	KENTUCKY EAST	2.5	
8415374	506217	1613300000		107-DV		WILBURN HAMPTON #6745	KENTUCKY EAST	3.7	
8415471	506314	1619300000		107-DV		WILLIAM C BRASHEAR #6856D	KENTUCKY EAST	1.8	
8415532	506375	1619300000		107-DV		WILLIAM C BRASHEAR #6885	KENTUCKY EAST	1.0	
8415363	506206	1613300000		107-DV		WILLIAM J DIXON - #6726	KENTUCKY EAST	0.7	
8415385	506228	1613300000		107-DV		WILLIAM J DIXON - #6770	KENTUCKY EAST	0.5	
8415515	506358	1613300000		107-DV		WILLIAM J DIXON #6798	KENTUCKY EAST	0.8	
8415452	506295	1619300000		107-DV		WILLIAM M CORNETT #6970D	KENTUCKY EAST	2.5	
8415469	506312	1613300000		107-DV		WILLIAM MCINTYRE #6850	KENTUCKY EAST	5.6	
8415544	506387	1613300000		107-DV		WILLIAM MCINTYRE #6905	KENTUCKY EAST	4.9	
8415458	506301	1619300000		107-DV		WILLIE YOUNG #6833	KENTUCKY EAST	3.2	
8415565	506488	1613300000		107-DP		WILSON WHITTAKER #7068	KENTUCKY EAST	1.0	
8415389	506232	1611900000		107-DV		WM GAYHART - #6683	KENTUCKY EAST	3.9	
8415460	506303	1611900000		107-DV		ZACHARIA PATRICK #6837	KENTUCKY EAST	1.0	
8415432	506275	1607100000		107-DV		ZACHARIAH BALDRIDGE -#7105	KENTUCKY EAST	8.5	
		LOUISIANA OFFICE OF CONSERVATION							
-CRYSTAL OIL AND LAND COMPANY		RECEIVED: 01/09/84 JA: LA							
8415310	83-1710	1701724117		103		CLEMENTS #2 CV RA SU33	NORTH MISSIONARY LAKE	36.5	ARKANSAS LOUISIAN
8415311	83-1709	1701724763		103		CLEMENTS #9 CV RA SU2	NORTH MISSIONARY LAKE	18.3	ARKANSAS LOUISIAN
-J P OWEN AND COMPANY INC		RECEIVED: 01/09/84 JA: LA							
8415314	83-868	1702321814		102-4		STATE LEASE 6698 #1	JOHNSONS BAYOU FIELD	385.0	LOUISIANA INTRAST
-JOHN O CLAY EXPLORATION INC		RECEIVED: 01/09/84 JA: LA							
8415309	83-1711	1712721076		103		LOUISIANA PACIFIC #1	CROSSROADS	50.0	LOUISIANA INTRAST
-SOURCE PETROLEUM INC		RECEIVED: 01/09/84 JA: LA							
8415312	83-1708	1700320267		103		MARY G OSTERLAND #1 VUB	BUNCHY CREEK	0.0	TEXAS EASTERN TRA
-TEXACO INC		RECEIVED: 01/09/84 JA: LA							
8415308	83-1713	1770700028		103		SL 340 MOUND POINT WELL #100	MOUND POINT	4246.0	NATURAL GAS PIPEL
-TXO PRODUCTION CORP		RECEIVED: 01/09/84 JA: LA							
8415313	83-1628	1703121391		102-4		BURFORD-SHOWS #1	BETHANY-LONGSTREET	31.0	ARKANSAS-LOUISIAN
		NEW MEXICO DEPARTMENT OF ENERGY & MINERALS							
-EL PASO NATURAL GAS COMPANY		RECEIVED: 01/09/84 JA: NM							
8415317		3003920683		108		SAN JUAN 28-7 UNIT #171 (PC & CH)	SOUTH BLANCO - PICTUR	15.0	EL PASO NATURAL G
-MITCHELL ENERGY CORPORATION		RECEIVED: 01/09/84 JA: NM							
8415342		3001500000		103		FLAG "TD" STATE COM #1 LG-945	TURKEY TRACK MORROW	0.0	TRANSWESTERN PIPE
-SHELL OIL CO		RECEIVED: 01/09/84 JA: NM							
8415316		3002500000		108		H HOBBS (G-SA) UNIT SEC 25 #241	HOBBS (G-SA)	0.4	PHILLIPS PETROLEU
8415315		3002500000		108		STATE I #2	VACUUM-GLORIETTA	6.9	PHILLIPS PETROLEU
-YATES PETROLEUM CORPORATION		RECEIVED: 01/09/84 JA: NM							
8415335		3001524394		103		EAGLE CREEK "BL" #4	EAGLE CREEK SAN ANDRE	0.0	TRANSWESTERN PIPE
8415336		3001524310		103		EAGLE CREEK SAN ANDRES	EAGLE CREEK SAN ANDRE	0.0	TRANSWESTERN PIPE
8415346		3001520479		103		GISSLER "AV" #16	EAGLE CREEK SAN ANDRE	0.0	TRANSWESTERN PIPE
8415319		3001523233		103		GISSLER "AV" #17	EAGLE CREEK SAN ANDRE	0.0	TRANSWESTERN PIPE
8415343		3001523234		103		GISSLER "AV" #18	EAGLE CREEK SAN ANDRE	0.0	TRANSWESTERN PIPE
8415329		3001523235		103		GISSLER "AV" #19	EAGLE CREEK SAN ANDRE	0.0	TRANSWESTERN PIPE
8415341		3001523401		103		GISSLER "AV" #20	EAGLE CREEK SAN ANDRE	0.0	TRANSWESTERN PIPE
8415345		3001523408		103		GISSLER "AV" #21	EAGLE CREEK SAN ANDRE	0.0	TRANSWESTERN PIPE
8415327		3001523480		103		GISSLER "AV" #22	EAGLE CREEK SAN ANDRE	0.0	TRANSWESTERN PIPE

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8415326		3001523481		103		GISSLER "AV" #23	EAGLE CREEK SAN ANDRE	0.0	TRANSWESTERN PIPE
8415334		3001523527		103		GISSLER "AV" #24	EAGLE CREEK SAN ANDRE	0.0	TRANSWESTERN PIPE
8415333		3001523632		103		GISSLER "AV" #25	EAGLE CREEK SAN ANDRE	0.0	TRANSWESTERN PIPE
8415330		3001523633		103		GISSLER "AV" #26	EAGLE CREEK SAN ANDRE	0.0	TRANSWESTERN PIPE
8415318		3001524216		103		GISSLER "AV" #27	EAGLE CREEK SAN ANDRE	0.0	TRANSWESTERN PIPE
8415325		3001524219		103		GISSLER "AV" #28	EAGLE CREEK SAN ANDRE	0.0	TRANSWESTERN PIPE
8415332		3001524220		103		GISSLER "AV" #29	EAGLE CREEK SAN ANDRE	0.0	TRANSWESTERN PIPE
8415338		3001524317		103		GISSLER "AV" #30	EAGLE CREEK SAN ANDRE	0.0	TRANSWESTERN PIPE
8415337		3001524318		103		GISSLER "AV" #31	EAGLE CREEK SAN ANDRE	0.0	TRANSWESTERN PIPE
8415322		3001524319		103		GISSLER "AV" #32	EAGLE CREEK SAN ANDRE	0.0	TRANSWESTERN PIPE
8415321		3001524320		103		GISSLER "AV" #33	EAGLE CREEK SAN ANDRE	0.0	TRANSWESTERN PIPE
8415320		3001524436		103		GISSLER "AV" #34	EAGLE CREEK SAN ANDRE	0.0	TRANSWESTERN PIPE
8415344		3001524537		103		GISSLER "AV" #35	EAGLE CREEK SAN ANDRE	0.0	TRANSWESTERN PIPE
8415339		3001524533		103		GISSLER "AV" #36	EAGLE CREEK S/A	0.0	TRANSWESTERN PIPE
8415331		3001524539		103		GISSLER "AV" #37	EAGLE CREEK S/A	0.0	TRANSWESTERN PIPE
8415328		3001524540		103		GISSLER "AV" #38	EAGLE CREEK SAN ANDRE	0.0	TRANSWESTERN PIPE
8415340		3001521372		103		JOHNSON "FE" #3	EAGLE CREEK SAN ANDRE	0.0	TRANSWESTERN PIPE
8415323		3001524434		103		JOHNSON "FE" #4	EAGLE CREEK SAN ANDRE	0.0	TRANSWESTERN PIPE
8415348		3001521372		103		MITCHELL "IN" #3	EAGLE CREEK SAN ANDRE	0.0	TRANSWESTERN PIPE
8415324		3001524315		103		MITCHELL "IN" #4	EAGLE CREEK SAN ANDRE	0.0	TRANSWESTERN PIPE
8415347		3001524398		103		MITCHELL "IN" #5	EAST SAN ARROYO	213.0	NATURAL GAS PIPEL
** UTAH DIVISION OF OIL,GAS, & MINING									
-PALMER OIL & GAS COMPANY		RECEIVED: 01/09/84 JA: UT							
8415349 K-101-2		4301930500		103		STATE #32-11			
** WEST VIRGINIA DEPARTMENT OF MINES									
-PHILLIPS PETROLEUM COMPANY		RECEIVED: 01/11/84 JA: WV					VALLEY DIST	0.0	CONSOLIDATED GAS
8415360		4707700187		108		JASPER #01			
** DEPARTMENT OF THE INTERIOR, BUREAU OF LAND MANAGEMENT, ALBUQUERQUE,NM									
-BEACH EXPLORATION INC		RECEIVED: 01/09/84 JA: NM 4					SAWYER (SAN ANDRES)	456.3	WARREN PETROLEUM
8415304 RNM-00011-83		3002528130		103		ARCO-FEDERAL #1	PECOS SLOPES ABO	365.0	TRANSWESTERN PIPE
-DEPCO INC		RECEIVED: 01/09/84 JA: NM 4					JUSTIS	0.0	EL PASO NATURAL G
8415302 RNM-0088-83		3000561929		102-2	107-TF	ROSE FEDERAL #9	TEAGUE BLINEBRY	5.9	EL PASO NATURAL G
-EL PASO EXPLORATION CO		RECEIVED: 01/09/84 JA: NM 4					WEST PECOS SLOPE ABO	612.0	TRANSWESTERN PIPE
8415307 NM-0545-83PB		3002500000		108-PB		CARLSON FEDERAL #1	DIAMOND MOUND	19.0	NORTHERN NATURAL
-GULF OIL CORPORATION		RECEIVED: 01/09/84 JA: NM 4					BUFFALO VALLEY PENN	35.0	TRANSWESTERN PIPE
8415305 NM-0547-83		3002522433		108		C E LAMUNYON #27			
-MESA PETROLEUM CO		RECEIVED: 01/09/84 JA: NM 4					GREATER CISCO AREA	108.0	NORTHWEST PIPELIN
8415303 RNM-0072-83		3000561811		102-2	107-TF	DEBBIE FEDERAL #3			
8415306 NM1651-82		3001523229		108		DEPCO FEDERAL #1			
-READ & STEVENS INC		RECEIVED: 01/09/84 JA: NM 4							
8415301 RNM-0013-83		3000561597		102-4		ROSE FEDERAL #4			
** DEPARTMENT OF THE INTERIOR, BUREAU OF LAND MANAGEMENT, CASPER,WY									
-CLAYTON INVESTMENT		RECEIVED: 01/09/84 JA: UT 5							
8415354 026-83		4301930908		103		NICOLE #1			
-GULF OIL CORPORATION		RECEIVED: 01/09/84 JA: UT 5							
8415358 029-83		4304730676		103		UTE TRIBAL 1-32A1E			
-HIKO BELL MINING & OIL CO		RECEIVED: 01/09/84 JA: UT 5							
8415357 028-83		4304715674		102-4		BONANZA #3			
-J C THOMPSON		RECEIVED: 01/09/84 JA: UT 5							
8415359 064-83		4301915672		108		SEGUNDO #2			
-TERRA RESOURCES INC		RECEIVED: 01/09/84 JA: UT 5							
8415355 026-83		4301930597		103		BAR X #12			
8415356 027-83		4301930598		103		BAR X #13			
-TXO PRODUCTION CORP		RECEIVED: 01/09/84 JA: UT 5							
8415351 001-83		4301930708		107-TF		BAILEY FEDERAL #1			
8415353 003-83		4304730963		107-TF		DUNCAN FEDERAL #1			
8415352 002-83		4301930780		107-TF		PTASYNSKI FEDERAL #1			
-BELCO PETROLEUM CORPORATION		RECEIVED: 01/09/84 JA: WY 5							
8415350 W5-3T		4902320492		101	107-TF	STEAD CANYON 9-11			

WASATCH (WASATCH)	27.0	GARY OPERATING CO
BONANZA	0.0	MOUNTAIN FUEL SUP
WESTWATER	3.0	NORTHWEST PIPELIN
BAR X	145.0	NORTHWEST PIPELIN
BAR X	160.0	NORTHWEST PIPELIN
WILDCAT	383.0	NORTHWEST PIPELIN
FENCE CANYON	225.0	NORTHWEST PIPELIN
EAST CANYON	151.0	NORTHWEST PIPELIN
STEAD CANYON UNIT	0.0	NORTHWEST PIPELIN

[FR Doc. 84-3432 Filed 2-7-84; 8:45 am]

BILLING CODE 6717-01-C

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federal register

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Federal Register
(ISSN 0097-6326)

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FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1001

Order Amending Order Regulating Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This order amends the order regulating the handling of milk in the Eastern Ohio-Western Pennsylvania marketing area. The amendments were proposed by the Eastern Ohio-Western Pennsylvania Federal Milk Marketing Order Producer Committee and were approved by producers in a referendum. The amendments change the method for computing the Class I price differential, the location adjustment for milk received at pool plants, and the producer price differential.

Rules and Regulations

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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 959

Onions Grown in South Texas; Amendment No. 3 to Handling Regulation

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule further amends the continuing regulation § 959.322 to delete the ten-percent limitation on consumer-size packages, add 2, 3, 5 and 10-pound bags to container requirements and require city destinations on inspection certificates. It enables handlers to ship unlimited quantities in consumer size packages and help the committee develop information on distribution patterns. The amendment will promote orderly marketing of such onions by removing limitations and providing marketing information.

EFFECTIVE DATE: March 10, 1984.

FOR FURTHER INFORMATION CONTACT: Robert F. Matthews, Vegetable Branch, F&V, AMS, USDA, Washington, D.C. 20250 (202) 447-5764.

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act.

Information collection requirements contained in this regulation (7 CFR Part 959) have been approved by the Office of Management and Budget under the provisions of 44 U.S.C. Chapter 35 and have been assigned OMB #0581-0074.

This rule has been reviewed under Secretary's Memorandum 1512-1 and Executive Order 12291 and has been designated a "nonmajor" rule. Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this action will not have a significant economic impact on a substantial number of small entities.

Notice was published in the December 30, 1983, **Federal Register** (48 FR 57498) regarding the proposal. It afforded interested persons an opportunity to file written comments by January 28, 1984. None was filed.

Marketing Agreement No. 143 and Order No. 959, both as amended, regulate the handling of onions grown in designated counties in South Texas. It is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). The South Texas Onion Committee, established under the order, is responsible for its local administration.

Because requirements under this program have changed infrequently, in October 1981 the committee recommended, and the Secretary approved, a regulation which would continue in effect from marketing season to marketing season indefinitely unless modified, suspended or terminated by the Secretary upon recommendation submitted by the committee or other information available to the Secretary.

At its public organizational meeting in Laredo, Texas, on November 3, 1983, the committee recommended that the regulation continue in effect again this season with two changes.

The committee recommended that the 10 percent limitation on consumer packages be deleted and 2, 3, 5 and 10-pound packages be included in paragraph (c), *Container requirements.* For the past decade onions shipped in consumer-sized packages were handled under paragraph (f) *Special purpose shipments,* and the volume so shipped was limited to not more than 10 percent of a handler's total volume. However, the committee has concluded that conditions that prompted this restriction no longer exist and the handlers are able to provide a higher-quality pack that will not deteriorate when packed in plastic or other types of material customarily used for consumer-sized packages.

The committee also recommended that city designations be added to inspection certificates. During the past season the committee carried out a market development and promotion project aimed at increasing trade awareness of South Texas onions in various city markets. They believe that requiring city destinations on inspection certificates will help the committee to further identify markets that would respond to future market development projects.

Although the regulation being amended is effective for an indefinite period, the committee will continue to meet prior to or during each season to consider recommendations for modification, suspension, or termination of the regulation. Prior to making any such recommendations, the committee will submit to the Secretary a marketing policy for the season including an analysis of supply and demand factors having a bearing on the marketing of the crop. Committee meetings are open to the public and interested persons may express their views at these meetings or may file comments with the Fruit and Vegetable Division before February 1 each year. The Department will evaluate committee recommendations and information submitted by the committee, and other available information, and determine whether modification, suspension or termination of the regulations on shipments of South Texas onions would tend to effectuate the declared policy of the act.

Findings. After consideration of all relevant matters, including the proposal set forth in the notice, it is hereby found that the following amendment, as hereinafter set forth, will tend to effectuate the declared policy of the act.

List of Subjects in 7 CFR Part 959

Marketing agreements and orders, Onions, Texas.

PART 959—ONIONS GROWN IN SOUTH TEXAS

Section 959.322 (47 FR 8551, 48 FR 7427, and 48 FR 25169) is hereby further amended by redesignating (c)(3) as (c)(4), adding a new (c)(3), revising (d)(1) and (f)(2), removing (f)(2) (i), (ii), (iii), and revising the introductory text of (g) as follows:

§ 959.322 Handling regulation.

* * * * *

(c) *Container requirements.* * * *

(3) 2-pound, 3-pound, 5-pound and 10-pound bags. The average gross weight per lot of onions packed in master containers shall not exceed 115 percent of the designated net contents.

(4) These container requirements shall not be applicable to onions sold to Federal agencies or for export.

(d) *Inspection.* (1) No handler may handle any onions regulated hereunder, except pursuant to paragraphs (e), (f)(1), or (f)(4)(ii) of this section, unless an inspection certificate has been issued by the Texas-Federal Inspection Service covering them and the certificate is valid at the time of shipment. City destinations shall be listed on inspection certificates and release forms.

* * * * *

(f) *Special purpose shipments.* * * *

(2) Onions may be packed in 50-pound cartons. Such shipments shall be exempt from paragraph (c) of this section, but must meet the provisions of paragraphs (a), (b) and (d) or paragraph (e) of this section and be handled in accordance with paragraph (g) of this section. The average net weight per carton shall not exceed 55 pounds.

* * * * *

(g) *Safeguards.* Each handler making shipments of onions for relief, charity, canning, freezing or experimental purposes or onions packed in 50-pound cartons shall:

* * * * * *

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: February 6, 1984, to become effective March 10, 1984.

Russell L. Hawes,

Acting Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 84–3612 Filed 2–8–84; 8:45 am]

BILLING CODE 3410–02–M

FEDERAL ELECTION COMMISSION

11 CFR Part 114

[Notice 1984–4]

Trade Association Solicitation Authorization

AGENCY: Federal Election Commission.

ACTION: Final rule, announcement of effective date.

SUMMARY: On October 20, 1983 (48 FR 48650), the Commission published the text of revisions to 11 CFR 114.8 (c)(2), (d)(2), and (d)(4), as transmitted to Congress. These regulations permit trade associations to request and receive approval from their corporate members to solicit contributions to the trade association's separate segregated fund, in a year prior to that in which the solicitation is to occur. The Commission announces that these regulations are effective as of February 9, 1984.

EFFECTIVE DATE: February 9, 1984.

FOR FURTHER INFORMATION CONTACT: Ms. Susan E. Propper, Assistant General Counsel, 1325 K Street, NW., Washington, D.C. 20463.

SUPPLEMENTARY INFORMATION: 2 U.S.C. 438(d) requires that any rule or regulation prescribed by the Commission to implement Title 2, United States Code, be transmitted to the Speaker of the House of Representatives and the President of the Senate prior to final promulgation. Because these regulations have been before both Houses of Congress for 30 legislative days, the Commission may finally prescribe the regulations in question. The regulations made effective by this notice were transmitted to Congress on October 17, 1983. Thirty legislative days expired in the Senate on January 27, 1984, and in the House of Representatives on January 31, 1984.

Announcement of Effective Date

11 CFR 114.8 (c)(2), (d)(2), and (d)(4), as published at 48 FR 48650, are effective as of February 9, 1984.

Dated: February 6, 1984.

Lee Ann Elliott,

Chairman, Federal Election Commission.

[FR Doc. 84–3504 Filed 2–8–84; 8:45 am]

BILLING CODE 6715–01–M

FEDERAL RESERVE SYSTEM

12 CFR Parts 207, 220, 221 and 224

Securities Credit Transactions; Regulations G, T, U and X

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: The List of OTC Margin Stocks is comprised of stocks traded over-the-counter (OTC) that have been determined by the Board of Governors of the Federal Reserve System to be subject to the margin requirements under certain Federal Reserve regulations. The List is published from time to time by the Board as a guide for lenders subject to the regulations and the general public. This document sets forth additions to or deletions from the previously published List effective June 20, 1983 and the First Supplement to that List, effective October 17, 1983, and will serve to give notice to the public about the changed status of certain stocks.

EFFECTIVE DATE: February 21, 1984.

FOR FURTHER INFORMATION CONTACT: Jamie Lenoci, Financial Analyst, Division of Banking Supervision and Regulation, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, 202–452–2781.

SUPPLEMENTARY INFORMATION: Set forth below are stocks representing additions to or deletions from the Board's List of stocks traded over-the-counter on file at the Office of the Federal Register as of June 20, 1983. The complete List of OTC Margin Stock is comprised of the June 20, 1983 List of OTC Margin Stocks (48 FR 26587, June 9, 1983), the October 17, 1983 Supplement (48 FR 45533, October 6, 1983), and this February 21, 1984 Supplement. The List, as amended, includes those stocks that the Board of Governors has found meet the criteria specified by the Board and thus have the degree of national investor interest, the depth and breadth of market, and the availability of information respecting the stock and its issuer to warrant incorporating such stocks within the requirements of Regulations G, T, U and X (12 CFR Parts 207, 220, 221 and 224). Copies of the current List and the Supplement of changes thereto may be obtained from any Federal Reserve Bank. Such copies are also on file at the Office of the Federal Register.

The requirements of 5 U.S.C. 553 with respect to notice and public participation were not followed in connection with the issuance of this amendment due to the objective character of the criteria for inclusion and continued inclusion on the List specified in 12 CFR 207.6 (a) and (b), 220.17 (a) and (b), and 221.7 (a) and (b). No additional useful information would be gained by public participation. The full requirements of 5 U.S.C. 553 with respect to deferred effective date have not been followed in connection with the issuance of this amendment because the Board finds that it is in the public interest to facilitate investment and credit decisions based in whole or in part upon the composition of this List as soon as possible. The Board has responded to a request by the public and allowed a two-week delay before the List is effective.

List of Subjects

12 CFR Part 207

Banks, Banking, Credit, Federal Reserve System, Margin, Margin requirements, Reporting and recordkeeping requirements, Securities.

12 CFR Part 220

Banks, Banking, Brokers, Credit, Federal Reserve System, Margin, Margin requirements, Investments, Reporting and recordkeeping requirements, Securities.

12 CFR Part 221

Banks, Banking, Credit, Federal Reserve System, Margin, Margin requirements, Reporting and recordkeeping requirements, Securities.

12 CFR Part 224

Banks, Banking, Borrowers, Credit, Federal Reserve System, Margin, Margin requirements, Reporting and recordkeeping requirements, Securities.

Accordingly, pursuant to the authority of sections 7 and 23 of the Securities Exchange Act of 1934, as amended (15 U.S.C. 78g and 78w) and in accordance with § 207.2(k) and 6(c) of Regulation G, § 220.2(s) and 17(c) of Regulation T, and § 221.2(j) and 7(c) of Regulation U, there is set forth below a listing of additions to and deletions from the Board's List:

Board of Governors of the Federal Reserve System, Second Supplement to June 20, 1983 List of OTC Margin Stocks,[1] February 21, 1984

Additions to the List

ACRO Energy Corporation
No par common
Activision, Inc.
No par common
Advance Circuits, Inc.
$.10 par common
Agency Rent-A-Car, Inc.
$.05 par common
Alaska Bancorporation
$.01 par common
Allnet Communication Services, Inc.
No par common
American Carriers, Inc.
No par common
Amgen
No par common
Applied Biosystems, Inc.
No par common
Applied Solar Energy Corporation
Warrants (expire 08–06–85)
Artel Communications Corporation
$.01 par common
Associated Banc-Corp
$1.00 par common
Avant-Garde Computing, Inc.
No par common
BFI Communications Systems, Inc.
$.01 par common
BR Communications
No par common
Banc One Corporation
Series A, convertible preferred
Bankeast Corporation
$1.00 par common
Basic American Medical, Inc.
No par common
Beck/Arnley Corporation
$.25 par common
Bingo King Company, Inc.
$.01 par common
Biogen N.V.
$.01 par common
Bird Incorporated
$1.00 par cumulative convertible preferred
Bishop Graphics, Inc.
$.00666 par common
Burr-Brown Corporation
$.01 par common
Calibre Corp.
No par common
California Silver Ltd.
No par common
Calmar Inc.
$.10 par common
Calny, Inc.
$.01 par common
Care Enterprises
No par common
Carhart Photo, Inc.
Class A, $.10 par common
Chapman Energy, Inc.
$.001 par common
Chemfix Technologies, Inc.
$.01 par common
City Federal Savings & Loan Association (New Jersey)
Series B, $25.00 par cumulative convertible preferred
Clayton Homes, Inc.
$.10 par common
Cogenic Energy Systems, Inc.
$.01 par common
Collins Industries, Inc.
$.10 par common
Compaq Computer Corporation
$.01 par common
Compushop Incorporated
$.01 par common
Computer Data Systems, Inc.
$.10 par common
Computer Horizons Corp.
$.10 par common
Computer Language Research, Inc.
$.01 par common
Continental Health Affiliates, Inc.
$.02 par common
Warrants (expire 04–30–86)
Converse Inc.
$1.00 par common
Corestates Financial Corporation
No par cumulative preferred
Cosmo Communications Corporation
$.01 par common
DMI Furniture, Inc.
$.10 par common
Daisy Systems Corporation
$.01 par common
Damon Biotech, Inc.
$.01 par common
Datapower, Inc.
No par common
Datum Inc.
$.25 par common
Davis Water & Waste Industries, Inc.
$1.00 par common
Deb Shops, Inc.
$.01 par common
Dento-Med Industries, Inc.
$.01 par common
Distributed Logic Corporation
No par common
Dixon Ticonderoga Company
$1.00 par common
EMF Corporation
No par common
El Chico Corporation
$.10 par common
Elan Pharmaceutical Research Corp.
$.01 par common
Electronic Mail Corporation of America
$.01 par common
Endata, Inc.
$.10 par common
Energro, Inc.
$.10 par common
Energetics, Inc.
$.01 par common
Engineering Measurements Company
$.01 par common
Environmental Systems Company
$.01 par common
Erie Lackawanna Inc.
No par capital stock, $1.00 stated value
Fabric Wholesalers Inc.
No par common
Farm Fresh, Inc.
$.01 par common
First Data Resources Inc.
$.01 par common
First Federal Savings and Loan Association of Arizona
$.01 par common
First Federal Savings & Loan Association of Roanoke
$.10 par common
First Fidelity Savings and Loan Association (Florida)
$1.00 par common
First Financial Management Corp.
$.10 par common
First Midwest Bancorp, Inc.
No par common
Forum Group, Inc.
Warrants (expire 12–31–85)
Foster Medical Corporation
$1.00 par common
Foxmeyer Corporation
$.01 par common
Gambro AB
American Depository Receipts for non-restricted B shares (nominal value SEK 20)
General Homes Corporation
$.01 par common
General Microwave Corporation
$.01 par common
Georgia Bonded Fibers, Inc.
$.10 par common
Gibson, C. R., Company, The
$1.25 par common
Gibson Greetings, Inc.
$.01 par common
Good Taco Corporation, The

[1] The complete List of OTC Margin Stocks is comprised of the June 20, 1983 List of OTC Margin Stocks, the October 17, 1983 Supplement and this Second Supplement.

$.01 par common
Great American Federal Savings Bank (California)
$1.00 par common
Green Tree Acceptance, Inc.
$.01 par common
HPSC, Inc.
$.01 par common
Halifax Engineering, Inc.
$.35 par common
Helionetics, Inc.
Warrants (expire 11–30–87)
Home Federal Savings and Loan Association (Arizona)
$.01 par common
Houston Oil Fields Company
$.10 par common
Howard Savings Bank, The (New Jersey)
$2.00 par common
Hytek Microsystems, Inc.
No par common
Immunogenetics, Inc.
$.01 par common
Institutional Networks Corporation
$.25 par capital
Integrated Circuits Incorporated
No par common
Integrated Software Systems Corporation
No par common
Intelligent Communications Networks, Inc.
No par common
Warrants (expire 09–30–84)
Interand Corporation
$.01 par common
Interface Flooring Systems, Inc.
Class A, $.10 par common
International Lease Finance Corporation
$.10 par common
Jamaica Water Properties, Inc.
$.10 par common
Jeffrey Martin, Inc.
$.10 par common
Key Tronic Corporation
No par common
King International Corporation
$1.00 par common
Kinney System, Inc.
$.01 par common
Laidlaw Industries, Inc.
Series A, $1.00 par cumulative convertible preferred
Live Care Communities Corporation
$.01 par common
Local Federal Savings and Loan Association (Oklahoma)
$.01 par common
Lotus Development Corporation
$.01 par common
Lyphomed, Inc.
$.01 par common
MCI Communications Corporation
7¾% convertible subordinated debentures
Mack Trucks, Inc.
$1.00 par common
Magnetic Information Technology, Inc.
$.01 par common
Maine National Corp.
$5.00 par common
Marine Transport Lines, Inc.
$.10 par common
Marquest Medical Products, Inc.
No par common
Maxwell Laboratories, Inc.
$1.00 par common
Medar, Inc.
No par common, $.20 stated value
Medical 21 Corp.
$.01 par common
Merchants Savings Bank (New Hampshire)
$1.00 par common
Merry Land & Investment Company, Inc.
No par common
Methode Electronics, Inc.
Class B, $.50 par common
Metropolitan Federal Savings and Loan Association of Fargo
$.01 par common
Microbiological Sciences, Inc.
$.10 par common
Micropolis Corporation
No par common
Midwest Financial Group, Inc.
$10.00 par common
Mini Mart Corporation
$.05 par common
Mobile Communications Corporation of America
Class A, $1.00 par common
Morgan, Keegan & Company, Inc.
$.625 par common
NFA Corp.
$.10 par common
Nash-Finch Company
$1.66⅔ par common
Nobel Insurance Limited
$1.00 par capital
Norsk Data A.S
American Depository Receipts for Class B, non-voting shares (par value NKR 20)
Northwest Pennsylvania Corp.
$5.00 par common
1 Potato 2, Inc.
$.01 par common
Overland Express, Inc.
No par common
Pasquale Food Company, Inc.
Class A, $1.00 par common
Paul Harris Stores, Inc.
No par common
Pearle Health Services, Inc.
$1.00 par common
Petroleum Helicopters, Inc.
Voting, $.08⅓ par common
Philadelphia Saving Fund Society, The
$1.00 par common
Phone-Mate, Inc.
$.10 par common
Piezo Electric Products, Inc.
$1.00 par cumulative convertible preferred
Pittsburgh Brewing Company
$1.00 par common
Poe & Associates, Inc.
$.10 par common
Possis Corporation
$.40 par common
Power Conversion, Inc.
$.01 par common
Powertec, Inc.
No par common
Programming and Systems, Inc.
$.08 par common
Prudential Bank, a Savings Bank (Seattle, WA)
$5.00 par common
Publisher Equipment Corporation
No par common
Quantech Electronics Corp.
$.01 par common
RJ Financial Corporation
$.01 par common
Reading Company
$.01 par common
Realamerica Co.
$1.00 par common
Realist, Inc.
$3.00 par common
Recoton Corporation
$.20 par common
Regis Corporation
$.05 par common
Republic Health Corporation
$.05 par common
River Oaks Industries, Inc.
$.01 par common
Robeson Industries Corp.
$10.00 par common
Royal Apex Silver, Inc.
$.05 par common
Royale Airlines, Inc.
No par common
SIS Corporation
No par common
Scan-Tron Corporation
No par common
Scientific Systems Services, Inc.
$.01 par common
Shoney's South, Inc.
$.05 par common
Smith Laboratories, Inc.
No par common
Solv-Ex Corporation
$.01 par common
Southern Hospitality Corporation
$.08⅓ par common
Span-America Medical Systems, Inc.
No par common
Statewide Bancorp
$5.00 par capital
Stratus Computer, Inc.
$.01 par common
Sturm, Ruger & Company, Inc.
$1.00 par common
Systems Associates, Inc.
$.01 par common
TBC Corporation
$.10 par common
Technodyne, Inc.
$.50 par common
Telecrafter Corporation
No par common

Telemation, Inc.
Class B, $1.00 par common
Teleram Communications Corporation
$.01 par common
Thermal Profiles, Inc.
$.15 par common
Thoratec Laboratories Corporation
No par common
Thunander Corporation
$.01 par common Warrants (expire 01–10–87)
Trak Auto Corporation
$.01 par common
Trust Company of New Jersey, The
$7.25 par common
Trustco Bank Corp. NY
$10.00 par common
202 Data Systems, Inc.
$.10 par common
Ultra Bancorporation
$5.00 par common
Ungermann-Bass, Inc.
$.01 par common
Unioil
$.01 par common
United Bancorporation Alaska, Inc.
$.20 par common
United Bank, a Savings Bank (Tacoma, WA)
$5.00 par common
United First Federal Savings and Loan Association (Florida)
$.01 par common
United Michigan Corporation
$5.00 par common
U.S. Shelter
No par shares of beneficial interest
Universal Telephone, Inc.
$1.00 par common
Usacafes
$.10 par common
VLI Corporation
$.01 par common
VSE Corporation
$.05 par common
Vacu-Dry Company
$.10 par common
Value Line, Inc.
$.10 par common
Vanzetti Systems Inc.
$.01 par common
Vega Biotechnologies, Inc.
$.01 par common
Vipont Laboratories, Inc.
$.01 par common
Vitality Unlimited, Inc.
$.03 par common
Walker Telecommunications Corporation
Warrants (expire 04–05–90)
Waxman Industries, Inc.
No par common
Weatherford, R. V. CO.
No par common
Western Steer-Mom 'N' Pop's, Inc.
$1.00 par common
Western Waste Industries, Inc.
No par common
Westside Federal Savings & Loan Association (Seattle, WA)
$.01 par common
Wicat Systems, Inc.
$.01 par common
Winn Enterprises
$.10 par shares of beneficial interest

Deletions From the List

AMFI Corporation[2]
$1.00 par common
AMAREX, Inc.[2]
No par common
Amdisco Corporation
$1.00 par common
American States Life Insurance Company
$1.00 par common
Banc One Corporation
No par common, $5.00 stated value
Bear Creek Corporation
$.10 par common
Belo, A. H. Corporation
$1.67 par common
Brooks Fashion Stores, Inc.
$.10 par common
Chart House Inc.
No par common
Coopervision, Inc.
$.10 par common
County Tower Corporation
$5.00 par common
Dependable Insurance Group, Inc. of America, The
$.10 par common
Dixon, Joseph Crucible Company, The
$10.00 par common
Federated Income & Private Placement Fund
$1.00 par capital
Fidelity Federal Savings and Loan Association (California)
$.01 par common
First & Merchants Corporation
$3.75 par common
First City Federal Savings and Loan Association (Florida)
$.01 par common
Flagship Banks Inc.
$1.00 par common
Florida Coast Banks, Inc.[2]
Series A, no par cumulative convertible preferred
Geophysical Systems Corporation[2]
$1.00 par common
Hittman Corporation[2]
$.10 par common
Instacom, Inc.
$.01 par common
Intel Corporation[2]
7% convertible subordinated debentures
McRae Consolidated Oil & Gas, Inc.
$.01 par common
Midlantic Banks Inc.
First Series, no par convertible preferred[2]
Second Series, no par convertible preferred[2]
Navco Corporation
$.25 par common
Northern National Corporation
$5.00 par common
Pacific Resources, Inc.
No par common
Pandick Press, Inc.
$.10 par common
Real Estate Investment Properties[2]
$1.00 par shares of beneficial interest
Sega Enterprises, Inc.
$1.00 par common
Spiral Metal Company, Inc.[3]
$.01 par common
Sunlite Oil Company
$1.00 par common
Sunrise Savings & Loan Association of Florida[3]
Warrants (expire 09–03–85)
Team, Inc.
$.30 par common
Telerent Leasing Corporation
$.50 par common
Tomlinson Oil Company, Inc.[3]
Warrants (expire 09/06/83)
Tull, J. M. Industries, Inc.
$1.00 par common
Vanderbilt Energy Corporation
$.10 par common
Vaughan-Jacklin Corporation, The
$.10 par common
Voyager Group, Inc.
$1.00 par common
Wisconsin Real Estate Investment Trust[3]
$1.00 par shares of beneficial interest

[2] Removed for failing continued listing requirement.

NAME CHANGES AND REORGANIZATIONS

From	To
Alaska Mutual Bank: $1.00 par common.	Alaska Mutual Bancorporation: $1.00 par common.
CGA Computer Associates, Inc.: $.10 par common.	CGA Computer, Inc.: $.10 par common.
California Federal Savings & Loan Association: $1.00 par common.	Cal Fed, Inc.: $1.00 par common.
Capital Energy Corporation: No par common.	Life Chemistry, Inc.: No par common.
Cenvill Development Corp.: $.01 par common.	Cenvill Development Corp., Cenvill Properties Inc.: Paired certificates, $.01 par common.
Dayton Malleable Inc.: No par common.	Amcast Industrial Corporation: No par common.
Food Lion, Inc.: $.50 par common.	Food Lion, Inc.: Class A, $.50 par common; Class B, $.50 par common.
Godfather's Pizza, Inc.: $.01 par common.	Diversifoods, Inc.: $.01 par common.
Gulf Interstate Company: $1.00 par common.	Gulf Applied Technologies, Inc.: $1.00 par common.
Hechinger Company: $.10 par common.	Hechinger Company: Class A, $.10 par common; Class B, $.10 par common.
Industrial Valley Bank and Trust Company: $5.00 par common.	IVB Financial Corporation: $5.00 par common.
MPSI Group Inc., The: $.05 par common.	MPSI Systems, Inc.: $.05 par common.
Matagorda Drilling and Exploration Company: $.02 par common.	Stanley Well Service, Inc.: $.02 par common.

[3] Removed for failing continued listing requirements.

NAME CHANGES AND REORGANIZATIONS—Continued

From	To
Preston Trucking Company, Inc.: $1.00 per common.	Preston Corporation: $1.00 per common.
Tennessee Natural Gas Lines, Inc.: $1.00 par common.	Tennessee Natural Resources, Inc.: $1.00 per common.
Virginia National Bankshares, Inc.: $5.00 per common.	Sovran Financial Corporation: $5.00 per common.

By order of the Board of Governors of the Federal Reserve System acting by its Director of the Division of Banking Supervision and Regulation pursuant to delegated authority (12 CFR 265.2(c)(18)), January 31, 1984.

William W. Wiles,

Secretary of the Board.

[FR Doc. 84-3474 Filed 2-8-84; 10:07 am]

BILLING CODE 6210-01-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 211

[Release No. SAB-56]

Staff Accounting Bulletin No. 56; Disclosure Concerning Mandated Reserves

AGENCY: Securities and Exchange Commission.

ACTION: Publication of Staff Accounting Bulletin.

SUMMARY: This Staff Accounting Bulletin expresses the staff's views concerning disclosures under the Federal securities laws about certain reserves mandated by the Federal banking agencies for purposes of the regulatory and supervisory functions of those agencies.

DATE: January 1, 1984.

FOR FURTHER INFORMATION CONTACT: Michael P. McLaughlin, Office of the Chief Accountant (202–272–2130) or Howard P. Hodges, Jr., Division of Corporation Finance (202–272–2553), Securities and Exchange Commission, Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION: The statements in Staff Accounting Bulletins are not rules or interpretations of the Commission nor are they published as bearing the Commission's official approval; they represent intepretations and practices followed by the Division of Corporation Finance and the Office of the Chief Accountant in administering the disclosure requirements of the Federal securities laws.

By the Commission.

George A. Fitzsimmons,

Secretary.

February 6, 1984.

PART 211—[AMENDED]

Accordingly, Part 211 of Title 17 of the Code of Federal Regulations is amended by adding Staff Accounting Bulletin No. 56 to the table found in Subpart B.

Staff Accounting Bulletin No. 56

The staff hereby adds Section I to Topic 11 of the Staff Accounting Bulletin Series. Section I discusses the staff's views concerning disclosures under the Federal securities laws about certain reserves mandated by the Federal banking agencies for purposes of the regulatory and supervisory functions of those agencies.

Topic 11: Miscellaneous Disclosures

* * * * *

I. Reporting of an Allocated Transfer Risk Reserve in Filings Under the Federal Securities Laws

Facts: The Comptroller of the Currency, Board of Governors of the Federal Reserve System and Federal Deposit Insurance Corporation jointly issued final rules, pursuant to the International Lending Supervision Act of 1983, requiring banking institutions to establish special reserves (Allocated Transfer Risk Reserve "ATRR") against the risks presented in certain international assets when the Federal banking agencies determine that such reserves are necessary. The rules provide that the ATRR is to be accounted for separately from the General Allowances for Possible Loan Losses, and shall not be included in the banking institution's capital or surplus. The rules also provide that no ATRR provisions are required if the banking institution writes down the assets in the requisite amount.

Question: How should the ATRR be reported in filings under the Federal Securities Laws?

Interpretive Response: It is the staff's understanding that the three banking agencies believe that those bank holding companies that have not written down the designated assets by the requisite amount and, therefore, are required to establish an ATRR should disclose the amount of the ATRR. The staff believes that such disclosure should be part of the discussion of Loan Loss Experience, Item IV of Guide 3. Part A under Item IV calls for an analysis of loss experience in the form of a reconciliation of the allowance for loan losses, and the staff believes that it would be appropriate to show and discuss separately the ATRR in the context of that reconciliation.

Registrants should recognize that the amount provided as an ATRR, or the write off of the requisite amount, represents the identification of an amount which those regulatory agencies have determined should not be included as a part of the institution's capital or surplus for purposes of administration of the regulatory and supervisory functions of those agenices. In this context, the staff believes that disclosure of the ATRR, as part of the footnote required to be presented in a registrant's financial statements by Item 7(d) of Rule 9–03 of Regulation S–X, may provide a more complete explanation of charge offs and provisions for loan losses. It should be noted, however, that the ATRR amount to be excluded from the institution's capital and surplus does not address the more general issue of the adequacy of allowances for any particular bank holding company's loans. It is still the responsibility of each registrant to determine whether generally accepted accounting principles require an additional provision for losses in excess of the amount required to be included in an ATRR (or the requisite amount written off).

* * * * *

[FR Doc. 84-3613 Filed 2-8-84; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 35

[Docket Nos. RM83-62 -001 and -002]

Treatment of Purchased Power in the Fuel Cost Adjustment Clause for Electric Utilities; Order Granting Rehearing for Purposes of Further Consideration

Issued: February 6, 1984.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Order granting rehearing for purposes of further consideration.

SUMMARY: On December 7, 1983, the Federal Energy Regulatory Commission (Commission) issued Order No. 352 (48 FR 55429, December 13, 1983), a final rule amending § 35.14 of the Commission's regulations. The amended regulations broaden the treatment of purchased power expenses in the fuel cost adjustment clause used by electric utilities in jurisdictional rate schedules. On January 6, 1984, applications for

rehearing of Order 352 were filed by Wholesale Customers and by Public Systems. In addition, Public Systems also moved for clarification of certain aspects of the rule.

In order to have sufficient time to consider the applications, the Commission grants rehearing solely for purposes of further consideration.

FOR FURTHER INFORMATION CONTACT: Wilbur C. Earley (202) 357–8158 or Robert S. Angyal (202) 357–8228.

SUPPLEMENTARY INFORMATION:

On December 7, 1983, the Federal Energy Regulatory Commission (Commission) issued Order No. 352 (48 FR 55429, December 13, 1983), a final rule amending § 35.14 of the Commission's regulations. The amended regulations broaden the treatment of purchased power expenses in the fuel cost adjustment clause used by electric utilities in jurisdictional rate schedules. On January 6, 1984, applications for rehearing of Order 352 were filed by Wholesale Customers and by Public Systems. In addition, Public Systems also moved for clarification of certain aspects of the rule.

In order to have sufficient time to consider the applications, the Commission grants rehearing solely for purposes of further consideration.

The Commission orders:

The applications for rehearing filed by the above-named groups are granted solely for purposes of further consideration. This action does not constitute a grant or denial of the applications on the merits in whole or in part. As provided in § 385.713(d) of the Commission's regulations, no answers to the applications will be entertained by the Commission because this order does not grant rehearing on any substantive issues.

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84–3565 Filed 2–8–84; 8:45 am]

BILLING CODE 6717–01–M

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18 CFR Part 271

[Docket No. RM79–76–202; Texas–37; Order No. 358]

High-Cost Gas Produced From Tight Formations; Texas

AGENCY: Federal Energy Regulatory Commission, Energy.

ACTION: Final rule.

SUMMARY: The Federal Energy Regulatory Commission is authorized by section 107(c)(5) of the National Gas Policy Act of 1978 to designate certain types of natural gas as high-cost gas where the Commission determined that the gas is produced under conditions which present extraordinary risks or costs. Under section 107(c)(5), the Commission issued a final regulation designating natural gas produced from tight formations as high-cost gas which may receive an incentive price (18 CFR 271.703). This rule established procedures for jurisdictional agencies to submit to the Commission recommendations of areas for designation as tight formations. This final order adopts the recommendation of the Railroad Commission of Texas that the Lower Vicksburg (P through S) Sandstone located in Hidalgo County, Texas be designated as a tight formation under § 271.703(d).

EFFECTIVE DATE: This rule is effective March 7, 1984.

FOR FURTHER INFORMATION CONTACT: Steven Ross, (202) 357–8571, or Walter W. Lawson, (202) 357–8556.

SUPPLEMENTARY INFORMATION:

Issued: February 6, 1984.

The Commission hereby amends § 271.703(d) of its regulations (18 CFR 271.703(d) (1983)) to include the Lower Vicksburg (P through S) Sandstone as a designated tight formation eligible for incentive pricing under § 271.703. The amendment was proposed in a Notice of Proposed Rulemaking by the Director, Office of Pipeline and Producer Regulation, issued June 24, 1983 (48 FR 29880, June 29, 1983) [1] based on a recommendation by the Railroad Commission of Texas (Texas) in accordance with § 271.703, that the Lower Vicksburg (P through S) Sandstone, located in Hidalgo County, Texas be designated as a tight formation.

Evidence submitted by Texas supports the assertion that the Lower Vicksburg (P through S) Sandstone, located in Hidalgo County, Texas meets the guidelines contained in § 271.703(c)(2).[2] The Commission adopts the Texas recommendation.

This amendment shall become effective March 7, 1984.

List of Subjects in 18 CFR Part 271

Natural gas, Incentive price, Tight formations.

In consideration of the foregoing, Part 271 of Subchapter H, Chapter, I, *Code of Federal Regulations*, is amended as set forth below.

By the Commission.

Kenneth F. Plumb,

Secretary.

PART 271—[AMENDED]

Section 217.703 is amended to read as follows:

1. The authority citation for Part 271 reads as follows:

Authority: Department of Energy Organization Act, 42 U.S.C. 7101 *et seq.*; Natural Gas Policy Act of 1978, 15 U.S.C. 3301–3432; Administrative Procedure Act, 5 U.S.C. 553.

2. Section 271.703 is amended by adding paragraph (d)(159) to read as follows:

§ 271.703 Tight formations.

* * * * *

(d) Designated tight formations. * * *

(159) *Lower Vicksburg (P though S) Sandstone in Texas.* RM 79–76–202 (Texas—37).

(i) *Delineation of formation.* The Lower Vicksburg (P through S) Sandstone is located in Hidalgo County, Texas, Railroad Commission District 4, approximately seven miles east of the city of La Reforma and includes approximately 16,000 acres in the north part of the "Santa Anita" Manuel Gomez A–63 Grant.

(ii) *Depth.* The top of the Lower Vicksburg (P through S) Sandstone is the top of the "P" sand which occurs at an average depth of about 10,600 feet in the western portion of the designated area. In the east, the "P" sand is found at a depth of about 12,000 feet. The top of the lowermost section of the designated sandstone, the "S" sand, occurs at an average depth of about 13,500 feet in the west. In the east, the "S" sand is found at a depth of about 13,000 feet. Total thickness is approximately 4,000 feet.

[FR Doc. 84–3563 Filed 2–8–84; 8:45 am]

BILLING CODE 6717–01–M

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[1] Comments on the proposed rule were invited and one comment supporting the recommendation was received. No party requested a public hearing and no hearing was held.

[2] The calculations for permeability and flow rates submitted by Texas are based on median values, rather than average values. However, using the data submitted by Texas in support of its recommendation, the Commission has determined that the arithmetic average values for permeability and flow rates for the subject formation satisfy the Commission's guidelines in § 271.703(c)(2).

18 CFR Part 271

[Docket No. RM79-76-162; Texas-31; Order No. 359]

High-Cost Gas Produced From Tight Formations; Texas

AGENCY: Federal Energy Regulatory Commission, Energy.

ACTION: Final rule.

SUMMARY: The Federal Energy Regulatory Commission is authorized by section 107(c)(5) of the Natural Gas Policy Act of 1978 to designate certain types of natural gas as high-cost gas where the Commission determined that the gas is produced under conditions which present extraordinary risks or costs. Under section 107(c)(5), the Commission issued a final regulation designating natural gas produced from tight formations as high-cost gas which may receive an incentive price (18 CFR 271.703). This rule established procedures for jurisdictional agencies to submit to the Commission recommendations of areas for designation as tight formations. This final order adopts the recommendation of the Railroad Commission of Texas that the Upper Wilcox (Mackhank) (First Tom Lyne) Formation located in Live Oak County, Texas be designated as a tight formation under § 271.703(d).

EFFECTIVE DATE: This rule is effective March 7, 1984.

FOR FURTHER INFORMATION CONTACT: Steven Ross, (202) 357-8571, or Walter W. Lawson, (202) 357-8556.

SUPPLEMENTARY INFORMATION:

Issued: February 6, 1984.

The Commission hereby amends § 271.703(d) of its regulations (18 CFR 271.703(d)) (1983) to include the Upper Wilcox (Mackhank) (First Tom Lyne) Formation as a designated tight formation eligible for incentive pricing under § 271.703. The amendment was proposed in a Notice of Proposed Rulemaking by the Director, Office of Pipeline and Producer Regulation, issued January 24, 1983 (48 FR 4001, January 28, 1983)[1] based on a recommendation by the Railroad Commission of Texas (Texas) in accordance with § 271.703, that the Upper Wilcox (Mackhank) (First Tom Lyne) Formation located in Live Oak County, Texas be designated as a tight formation.

Evidence submitted by Texas[2] supports the assertion that the Upper Wilcox (Mackhank) (First Tom Lyne) Formation located in Live Oak County, Texas meets the guidelines contained in § 271.703(c)(2). The Commission adopts the Texas recommendation.

This amendment shall become effective March 7, 1984.

List of Subjects in 18 CFR Part 271

Natural gas, Incentive price, Tight formations.

In consideration of the foregoing, Part 271 of Subchapter H, Chapter I, *Code of Federal Regulations,* is amended as set forth below.

By the Commission.

Kenneth F. Plumb,

Secretary.

PART 271—[AMENDED]

Section 271.703 is amended to read as follows:

1. The authority citation for Part 271 reads as follows:

Authority: Department of Energy Organization Act, 42 U.S.C. 7101 *et seq.;* Natural Gas Policy Act of 1978, 15 U.S.C. 3301-3432; Administrative Procedure Act, 5 U.S.C. 553.

2. Section 271.703 is amended by adding paragraph (d)(158) to read as follows:

§ 271.703 Tight formations.

* * * * *

(d) *Designated tight formations.* * * *

(158) *Upper Wilcox (Mackhank) (First Tom Lyne) Formation in Texas.* RM79-76-162 (Texas—31).

(i) *Delineation of formation.* The Upper Wilcox (Mackhank) (First Tom Lyne) Formation is located in the southwestern portion of Live Oak County, Texas, Railroad Commission District 2, approximately five miles east of the townsite of Clegg, Texas, and consists of the following surveys: A. B. & M. 167 A-47, and 173 A-50, B. S. & F. 301 A-741, 29 A-132, 251 A-113, 253 A-114, 255 A-115, 257 A-116, 259 A-117, 177 A-92, 261 A-118, 181 A-94, 263 A-19, 265 A-120, 175 A-81, and 179 A-93, F. L. Beall 178 A-823, R. H. Brown 526 A-734, and 525 A-732, R. F. Byler 530 A-999, T. J. Davis 32 A-567, A. A. Dinn 182 A-941, 82 A-940, and 90 A-939, James Dinn 296 A-942, J. A. Dowdy 298 A-944, and 266 A-919, C. R. Evans 36 A-969, and 176 A-945, G. H. & RR. 1 A-198, G. M. & D. 4 A-214, F. E. Goodwin 2 A-640, H & G. N. RR. 45 A-249, and 47 A-248, D. Harris 7 A-235, J. A. Harrymans 174-A-922, Hooper & Wade 303 A-251, James Latham 3 A-275, R. McCampbell 262 A-929, 96 A-928, 94 A-927, and 50 A-926, Jno. McClane 48 A-765, L. A. McIntosh 31 A-542, J. Poitevent 95 A-378, 93 A-377, 49 A-350, 35 A-347, 31 A-363, 29 A-359, 95 A-1084, 91 A-376, and 89 A-375, Joe Russell 36 A-932, S. K. & K. 297 A-515, Pat Sheeran 254 A-783, O. B. & E. E. Shipp 92 A-811, J. M. Torres 62 A-884, O. Torres 60 A-882, Pedro Torres 61 A-883, 264 A-1023 and A-1083, and 50 A-1036 and A-926, W. Tullos 3 A-1037, G. I. Vanmeter 168 A-848, and 46 A-847, Geo. W. West 408 A-794, and 260 A-818, Ike West 3 A-822, Isaac West 258 A-819, and 186 A-820, Jacob White 174 A-955, O. P. Williams 6 A-487, W. Williams 67 A-908, and Jessie Wilson 2 A-995.

(ii) *Depth.* The average depth to the top of the Upper Wilcox (Mackhank) (First Tom Lyne) Formation is approximately 14,000 feet and the thickness is between 300 feet and 400 feet.

[FR Doc. 84-3564 Filed 2-8-84; 8:45 am]

BILLING CODE 6717-01-M

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18 CFR Part 290

[Docket Nos. RM83-9-000 and RM83-9-001]

Exemption From, and Revisions to, Procedures Governing Collection and Reporting of Information Concerning Cost of Providing Retail Electric Service

February 6, 1984.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Order on Reconsideration.

SUMMARY: The Federal Energy Regulatory Commission (Commission) is making technical corrections to Order No. 353 in which it exempted utilities that had shown that gathering the information required under 18 CFR Part 290 was not likely to carry out the purposes of section 133 of the Public Utility Regulatory Policies Act (PURPA). Section 290.101 of the Commission's regulations exempts those utilities that are specifically listed in Appendix A. The Commission received a petition for reconsideration from Puget Sound Power and Light Company requesting exemption based on the comments they had filed prior to the final rule. The order amends Appendix A of Order No. 353 to add the petitioner and other utilities that had qualified for the exemption but that had been unintentionally omitted from the list. These omissions were technical

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[1] Comments on the proposed rule were invited and one comment supporting the recommendation was received. No party requested a public hearing and no hearing was held.

[2] By letter filed with the Commission on October 3, 1983, Texas forwarded letters from the applicant which petitioned Texas for the tight sand designation. In these letters, the applicant deleted certain acreage from the original petition filed with Texas. Accordingly, the aforementioned acreage was deleted from Texas' recommendation.

oversights. Additionally, the order makes a typographical correction in § 290.101 to change an "and" to an "or" where the Commission intended the use of a disjunctive and not a conjunctive

EFFECTIVE DATE: February 6, 1984.

FOR FURTHER INFORMATION CONTACT:

Michael A. Stosser, Office of the General Counsel, Federal Energy Regulatory Commission, 825 N. Capitol Street NE., Washington, D.C. 20426 (202) 357–8033.

Daniel G. Lewis, Office of Electric Power Regulation, Federal Energy Regulatory Commission, 825 N. Capitol Street NE., 307–RB, Washington, D.C. 20426 (202) 376–9227.

SUPPLEMENTARY INFORMATION:

On December 22, 1983, the Federal Energy Regulatory Commission (Commission) received a Petition for Reconsideration of Order No. 353 [1] from Puget Sound Power and Light Company (Puget), Docket No. RM83–9–001. In Order No. 353, the Commission exempted utilities that had shown that gathering the information required in 18 CFR Part 290 of the Commission's regulations was not likely to carry out the purposes of section 133 of the Public Utility Regulatory Policies Act (PURPA).[2] In response to the petition, this order amends Appendix A of Order No. 353 and adds Puget to the list exempting utilities. In addition, this order also adds to Appendix A three other utilities that has been unintentionally omitted and corrects a typographical error in the regulation.

I. Typographical Error

Newly amended § 290.101(b) of the Commission's regulations exempts from compliance with Part 290 any utility listed in Appendix A (paragraph (b)(1)) or that have total sales of electric energy for purposes other than resale of less than 2 billion kilowatt-hours per year. The Commission intended that these classes of exempted utilities be presented in the alternative, that is, in the disjunctive, not the conjunctive. It intended to exempt a utility that met either of the criteria. Therefore, it is amending the regulation and is replacing the word "and" with the word "or."

II. Appendix A

In Order No. 353, the Commission exempted all utilities and classes of utilities that showed, in accordance with the statute, that gathering the required information was not likely to carry out the purposes of section 133 of PURPA. In order to qualify for an exemption, a utility had to show that PURPA section 133 information was not needed for consideration of the rate standards and policies under Title I of PURPA and that the state regulatory authority or the governing authority of a nonregulated utility seldom or never used, and therefore did not need, the section 133 information in retail rate proceedings. Furthermore, an exemption must be based on a clear indication that the costs of gathering and reporting under PURPA section 133 exceeded the benefit that a state regulatory authority or the public would derive from the data. This list of utilities that made a suffficient showing is contained in Appendix A to Part 290.

On March 31, 1983, Puget filed comments in response to the Notice of Proposed Rulemaking in this docket. In those comments, Puget supplied data on the usefulness of the PURPA section 133 data that it filed which was sufficient to constitute a showing that the company should be exempt from compliance with Part 290. However, the pleading on its face indicated no request to obtain an exemption. Because not all utilities that commented on the proposed rule described were exempted, the Commission did not act at that time to exempt Puget.

In its Petition for Reconsideration, however, Puget makes clear that it requests an exemption from all requirements of Part 290. Therefore, the Commission is amending Appendix A to add Puget.

In addition, the Commission notes that in compiling the lists for Appendix A it failed to include three utilities that had applied and qualified for exemption, and that had expressly requested it. The Commission is therefore rectifying this error of omission by adding Central Hudson Gas and Electric Corporation, Commonwealth Electric Company, Iowa Power and Light Company, Northern Indiana Public Service Company, and Public Utility District of Grant County (Washington) to Appendix A as an indication that the Commission has also found that those utilities are entitled to exemption and have made a sufficient showing under PURPA section 133(b).

The Commission believes that further notice and comment is not necessary under Section 553 of the Administrative Procedure Act (5 U.S.C. § 553 (1982)) because this is a technical change to correct unintentional errors and omissions. For this reason, this order is effective immediately upon issuance.

[1] Final Rule, "Exemption From, and Revisions to Procedures Governing Collection and Reporting of Information Concerning Cost of Providing Retail Electric Service," issued December 7, 1983, 48 FR 55438, Dec. 13, 1983.

[2] 16 U.S.C. 2601–2645 (1978).

List of Subjects in 18 CFR Part 290

Electric utilities, Penalties, Reporting requirements, Uniform Systems of Accounts.

In consideration of the foregoing, Part 290 of Chapter 1, Title 18 of the *Code of Federal Regulations*, is amended as set forth below.

By the Commission.

Kenneth F. Plumb,

Secretary.

PART 290—[AMENDED]

1. The authority citation for Part 290 reads as follows:

Authority: Public Utility Regulatory Policies Act, Pub. L. 95–617, 92 Stat. 3117 (1978); Federal Power Act, 16 U.S.C. 791a–828c (1976 & Supp. V 1981); Department of Energy Organization Act, 42 U.S.C. 7101–7352 (Supp. V 1981); Executive Order 12,009, 3 CFR 142 (1978).

§ 290.101 [Amended]

2. Section 290.101(b)(1) is amended by removing the word "and" at the end of that sentence and inserting instead the word "or."

3. The Appendix to Part 290 is amended by adding in the list entitled "Investor-Owned Utilities," in appropriate alphabetical order, the names "Central Hudson Gas and Electric Corporation," "Commonwealth Electric Company," "Iowa Power and Light Company," "Northern Indiana Public Service Company," and "Puget Sound Power and Light Company;" and in the list entitled "Publicly-Owned Utilities," in appropriate alphabetical order, the name "Public Utility District of Grant County (WA)."

[FR Doc. 84-3566 Filed 2-8-84; 8:45 am]

BILLING CODE 4717-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 14

Allergenic Extracts Panel; Termination

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is announcing the termination of the Panel on Review of Allergenic Extracts (the Panel) because the Panel has completed its work. This document removes the Panel from the agency's list of standing advisory committees.

EFFECTIVE DATE: February 9, 1984.

FOR FURTHER INFORMATION CONTACT: Clay Sisk, National Center for Drugs and Biologics (HFN–6), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–5455.

SUPPLEMENTARY INFORMATION: FDA announced the reestablishment of the Allergenic Extracts Panel on January 18, 1982 (**Federal Register** of March 2, 1982 (47 FR 8763)) to review and evaluate available data on the safety, effectiveness, and adequacy of labeling of biological products for the diagnosis, prevention, and treatment of allergies and allergic diseases. The Panel has submitted to the Commissioner of Food and Drugs its findings and recommendations on the safety, effectiveness, and labeling of these products. FDA will publish in a future issue of the **Federal Register** the Panel's findings and recommendations. Thus, the Panel is no longer needed, and on December 31, 1983, the charter for the Panel expired. Accordingly, FDA is announcing the termination of the Panel.

FDA advises that concurrent with its meetings as an efficacy review panel, the Panel also provided advice to FDA's National Center for Drugs and Biologics, Office of Biologics Research and Review, on other matters, such as the licensing of new products. FDA has received requests from numerous allergists that the agency establish a continuing advisory committee for allergenic extracts. While FDA believes that it is desirable to have an advisory committee to review the licensing of new extracts, new drug studies, and regulatory research conducted by the FDA staff, such a committee would have a structure, mission, and functions different from the original Panel. Therefore, as a separate action, FDA is in the process of requesting a new charter for a continuing Advisory Committee on Allergenic Products.

List of Subjects in 21 CFR Part 14

Administrative practice and procedure, Advisory committees, Color additives, Drugs, Radiation protection.

PART 14—PUBLIC HEARING BEFORE A PUBLIC ADVISORY COMMITTEE

§ 14.100 [Amended]

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 701(a), 52 Stat. 1055 (21 U.S.C. 371(a))) and under authority delegated to the Commissioner (21 CFR 5.10), Part 14 is amended in § 14.100 *List of standing advisory committees* by removing and reserving paragraph (b)(1)(i).

Effective date. Because this is a technical conforming amendment to Part 14, the Commissioner of Food and Drugs finds that there is good cause for the rule to be published without notice and comment and to be effective immediately upon publication in the **Federal Register**, February 9, 1984.

(Sec. 701(a), 52 Stat. 1055 (21 U.S.C. 371(a)))

Dated: January 31, 1984.

Mark Novitch,

Acting Commissioner of Food and Drugs.

[FR Doc. 84-3477 Filed 2-8-84; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Parts 811 and 883

[Docket No. N–84–1142; FR–1662]

Tax-Exempt Construction Financing for Turnkey Public Housing Projects

AGENCY: Office of the Secretary, HUD.

ACTION: Rule-related notice; statement of HUD policy.

SUMMARY: HUD is giving notice of a modification of its policy concerning tax-exempt construction financing for development of turnkey public housing projects as it applies to State housing finance agencies.

EFFECTIVE DATE: February 9, 1984.

FOR FURTHER INFORMATION CONTACT: Raymond W. Hamilton, Director, Public Housing Development Division, Office of Public Housing, Department of Housing and Urban Development, 451 7th Street, SW., Washington, D.C. 20410; (202) 426–0938. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On March 21, 1983, HUD published a Notice in the **Federal Register** (48 FR 11775) announcing its policy concerning tax-exempt construction financing for development of turnkey public housing projects. The requirements in that Notice were made applicable to all agencies, including State housing finance agencies. After publication of the Notice, numerous State agencies filed objections with HUD. The agencies claimed that their function as finance agencies, using tax-exempt authority under Section 103 of the Internal Revenue Code (the Code) for Section 8 projects, is independent of detailed HUD review. The agencies argued that the HUD policies set forth in the Notice were, as applied to State agencies, unnecessary and overly burdensome. They pointed out that the policies were intended to govern individual public housing agencies (PHAs) issuing obligations for an individual project. Since the State agencies did not issue obligations for individual projects, the agencies urged that many of the requirements caused them an undue hardship.

HUD has determined that these arguments have merit and is modifying the procedures applicable to State agencies issuing obligations under Section 103 of the Code. (These procedures are set out in part II of this Notice.) Most of the material contained in HUD's March 21, 1983 Notice is included in part I of this Notice and remains HUD's policy. However, for purposes of clarity, this Notice supersedes the March 21, 1983 Notice.

I. Information and Commitments to be Submitted to the Field Office by a PHA (or by an agency or instrumentality PHA)

The PHA (or agency or instrumentality PHA as defined in 24 CFR 811.102(b)) proposing to provide tax-exempt construction financing to the turnkey developer shall submit the following information to the Field Office for review. The submission must be made in sufficient time to allow review and approval by the Field Office before execution of the Contract of Sale.

a. A request from the PHA that the tax-exempt financing be approved by HUD.

b. Depending upon the source of tax-exemption, paragraph (1) or (2) below is applicable:

(1) If a PHA is issuing obligations under Section 11(b) of the U.S. Housing Act of 1937 (Act), an opinion of counsel for the PHA that it has the legal authority to provide tax-exempt construction financing and may do so in accordance with State law. If the submission is by an agency or instrumentality PHA, evidence of compliance with the requirements set forth in 24 CFR 811.105.

(2) If the issuance is under Section 103 of the Code, an opinion of bond counsel that the issuance will be in compliance with all requirements of Federal law and regulations.

c. A copy of the proposed construction loan documents, including the trust indenture and related documents, and any agreements between the developer, the issuer, trustee and lender.

d. A statement identifying the amount for the construction financing costs to be included in the Contract of Sale price and an itemization of all amounts to be paid to the lender underwriter and other parties, whether as interest, discounts or fees. (These information collection requirements have been approved by the Office of Management and Budget under OMB control number 2502–0248).

Field Office Review

In addition to the normal turnkey review discussed in Handbooks 7417.1 or 7417.1 REV–1, as applicable, the Field Office shall review the documents outlined above and ensure that the following requirements are met:

a. Neither the PHA nor the agency or instrumentality PHA shall assume any liability in connection with the tax-exempt obligations other than the obligation to acquire the completed project pursuant to the turnkey Contract of Sale.

b. The entity issuing the tax-exempt obligations shall not receive any compensation in connection with the construction financing, except for HUD-approved expenses.

c. The maturity date of the tax-exempt obligations shall not unreasonably exceed the anticipated construction period incorporated in the turnkey Contract of Sale and the period of tax-exemption shall be explicitly limited to this period.

d. The turnkey developer's price shall reflect the cost savings to be realized by using tax-exempt construction financing.

e. The amount of the tax-exempt obligations shall not exceed the total developer's price as stated in the turnkey Contract of Sale.

f. Any income realized from investment of the tax-exempt funds before they are advanced to the developer must accrue to the PHA or the agency or instrumentality PHA to be used as a donation to reduce the total development cost of the project. This income should be invested to earn interest in time deposits that are federally insured, in Treasury securities, in securities issued by a Federal agency or federally sponsored agency, or in certificates of deposit that are fully secured by a pledge of securities similar to those listed above.

g. The interest rate proposed must be reasonable; the current ceiling for obligations issued under 24 CFR Part 811 Subpart A should be used as a guide in determining reasonable construction interest rates. The expenses of issuing the obligations and the financing costs must be reasonable and necessary for the issuance and servicing of the obligations. Tax-exempt financing should not be approved unless the interest and financing costs of the tax-exempt issuance are significantly less than non-tax-exempt construction financing.

Field Office Notification of Approval

If the Field Office approves the use of tax-exempt construction financing, notifications to the PHA or the agency or instrumentality PHA and to the developer shall be prepared by the Chief Counsel for the signature of the Field Office Manager. The notification shall indicate the following:

a. Identification of the project number and the tax-exempt obligations.

b. The total amount of the tax-exempt obligations, including the specific amounts included for interest on the obligations and for all financing costs.

c. If the tax-exemption is under Section 11(b) of the Act, a statement that HUD has approved the obligations in accordance with that section.

d. A statement that the issuance is approved under Section 422 of the Annual Contributions Contract.

e. A statement that before settlement under the Contract of Sale, the PHA or the agency or instrumentality PHA and trustee or lender must submit to the Field Office a report of all advances made in connection with the construction of the project (separately identifying interest payments and all discounts, fees and expenses paid) and a statement as to the amount of investment income realized from the tax-exempt funds before each advance to the developer.

Applicability of this policy

The policy set out in part I of this Notice is applicable to tax-exempt construction financing provided by a PHA or an agency or instrumentality PHA for any turnkey project for which the executed Contract of Sale is approved by HUD after the effective date of this Notice.

Information Collection requirements contained in this Notice have been approved by the Office of Management and Budget under the provisions of the Paperwork Reduction Act of 1980 and have been assigned OMB control number 2502–0248.

II. Information and Commitments to be Submitted to the Field Office by a State Housing Financing Agency

Any State housing finance agency approved by HUD under 24 CFR Part 883 which proposes to provide tax-exempt construction financing to a turnkey developer under Section 103 of the Code shall submit the following information to the Field Office for review. The submission must be made in sufficient time to allow review by the Field Office before approval of the Contract of Sale.

a. A statement identifying the issuer as a State housing finance agency approved under 24 CFR Part 883 and stating that the source of tax exemption will be Section 103 of the Code (or the Federal Relations Act for Puerto Rico, where applicable).

b. A statement of the interest rate committed to by the construction lender to be charged on the developer's loan during construction, and a statement by the State agency, concurred in by the developer, that, if there is a later reduction in this rate, the agency will disclose to the Field Office the actual rate charged and that the Contract of Sale price will be reduced before settlement to reflect the reduced rate.

c. A certification by the agency, and by any financial institution which lends tax-exempt proceeds under a loan-to-lender or other arrangement, that no kickback, rebate or other compensation has been paid or will be paid to the developer from any source, including investment income resulting from the tax-exempt issue.

(These information collection requirements have been submitted for approval by the Office of Management and Budget.)

Field Office Notification of Approval

If the Field Office receives all statements required by this Notice and has no substantial reason to question them, the Field Office will notify the State agency that the financing is approved and will approve the Contract of Sale. If the interest rate to be charged the developer is reduced, the State agency shall notify the Field Office, and the Contract of Sale price will be reduced at settlement to reflect the reduced rate.

Applicability of This Policy

The policy set out in part II of this Notice is applicable to tax-exempt construction financing provided by a State housing finance agency under Section 103 of the Code for any turnkey project for which the executed Contract of Sale is approved by HUD after the effective date of this notice.

Other Matters

Information collection requirements contained in part II of this Notice have been submitted for approval by the Office of Management and Budget under the provisions of the Paperwork Reduction Act of 1980 and are not effective until notice of approval is published.

Authority: Section 7(d), Department of HUD Act (42 U.S.C. 3535(d)).

Dated: February 1, 1984.

Samuel R. Pierce, Jr.,

Secretary.

[FR Doc. 84–3513 Filed 2–8–84; 8:45 am]

BILLING CODE 4210–27–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD7 84-02]

Drawbridge Operation Regulations; West Palm Beach Canal, Florida

AGENCY: Coast Guard, DOT.

ACTION: Final rule; revocation.

SUMMARY: This amendment revokes the regulations for the Olive Avenue drawbridge, mile 0.4, because the bridge has been removed. Notice and public procedure have been omitted from this action due to the removal of the bridge concerned.

EFFECTIVE DATE: This rule becomes effective on March 12, 1984.

FOR FURTHER INFORMATION CONTACT: Mr. James R. Kretschmer, Senior Bridge Administration Specialist, telephone (305) 350-4108.

Drafting Information: The drafters of this rule are Bridge Administration Specialist Mr. Walter Paskowsky, project officer, and Lieutenant Commander K. E. Gray, project attorney.

SUPPLEMENTARY INFORMATION: This action has no economic consequences. It merely revokes regulations that are now meaningless because they pertain to a drawbridge that no longer exists. Consequently, this action cannot be considered to be a major rule under Executive Order 12291. Furthermore, it has been found to be non-significant under the Policies and Procedures for Simplification, Analysis, and Review of Regulations (DOT Order 2100.5 of 5/2/80), and does not warrant preparation of an economic evaluation. Because no notice of proposed rulemaking is required under 5 U.S.C. 553, this action is exempt from the Regulatory Flexibility Act (5 U.S.C. 605(b)). However, this action will not have a significant effect on a substantial number of small entities.

List of Subjects in 33 CFR Part 117

Bridges.

§ 117.441a [Removed]

In consideration of the foregoing, Part 117 of Title 33, Code of Federal Regulations, is amended by revoking and removing § 117.441a.

(33 U.S.C. 499; 49 U.S.C. 1655(g)(2); 49 CFR 1.46(c)(5); 33 CFR 1.05-1(g)(3))

Dated: January 26, 1984.

A. D. Breed,

Captain, U.S. Coast Guard District, Commander, Acting.

[FR Doc. 84-3519 Filed 2-8-84; 8:45 am]

BILLING CODE 4910-14-M

POSTAL SERVICE

39 CFR Part 111

Mail Security; Customs Service; Narcotics and Dangerous Drugs

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: The Postal Service adopts its proposal to amend its mail security regulations to permit inspectors to reopen an inbound sealed mail article which is known through a reliable field test or laboratory examination to contain illegal narcotics or dangerous drugs, and which is to be delivered to the addressee under circumstances reasonably calculated to determine whether the addressee or someone else has guilty knowledge of the illegal contents. This action is taken in response to a recent Supreme Court decision and in aid of a national program to curtail the availability of illegal narcotics and dangerous drugs.

EFFECTIVE DATE: March 10, 1984.

FOR FURTHER INFORMATION CONTACT: Charles R. Braun at (202) 245-4620.

SUPPLEMENTARY INFORMATION: A detailed explanation of the nature of the proposal and the reasons for its proposed adoption accompanied its publication in the **Federal Register** on December 21, 1983 (48 FR 56405). One comment concerning the proposal was received, and it supported the proposal. Accordingly, the Postal Service hereby adopts, without change, the following amendments of the Domestic Mail Manual which is incorporated by reference in the Code of Federal Regulations. See 39 CFR 111.1.

List of Subjects in 39 CFR Part 111

Postal Service.

PART 111—[AMENDED]

115 Mail Security

Amend part 115 by adding new paragraphs 115.21e and 115.91e as follows:

115.2 Opening, Reading, and Searching of Sealed Mail Generally Prohibited

.21 General. In general, no person may open, read, search, or divulge the contents of mail sealed against inspection, even though such mail may be believed to contain criminal or otherwise nonmailable matter or evidence of the commission of a crime. The only exceptions to this general rule are:

* * * * *

e. A postal inspector, acting in accordance with 115.91e.

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115.9 Mail Security, Law Enforcement, and Other Government Agencies.

.91 Customs Service.

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e. *Controlled Delivery of Drugs in Sealed Mail.* When a postal inspector decides, upon the request of a federal, military, state, or local narcotics agent, to make a controlled postal delivery of a sealed mail article which the Customs Service has opened in accordance with 115.91, and which the Customs Service has determined through a reliable field test or reliable laboratory examination to contain illegal narcotics or dangerous drugs, the postal inspector may reopen the article without a search warrant. The inspector may reopen the article without a warrant only for the purpose of preparing the article for such a controlled delivery in such way or ways as will lawfully and reasonably aid in the investigation of the crime of importing such substances through the mails. No correspondence inside such an article may be read or divulged without a search warrant as described in 115.6.

A transmittal letter making these changes in the pages of the Domestic Mail Manual will be published and will be transmitted to subscribers automatically. Notice of issuance of the transmittal letter will be published in the **Federal Register** as provided in 39 CFR 111.3.

(39 U.S.C. 401(2), 401(10), 404(a)(1), 404(a)(7), 3623(d))

W. Allen Sanders,

Associate General Counsel, General Law & Administration.

[FR Doc. 84-3558 Filed 2-8-84; 8:45 am]

BILLING CODE 7710-12-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 228

[WH-FRL 2523-6]

Ocean Dumping; Final Designation of Site

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA today establishes a temporary ocean dumping site in the Gulf of Mexico for the one-time disposal of a damaged platform jacket. This action is necessary to provide a location for the disposal of this jacket since it is currently a hazard to navigation and Department of Interior regulations require that it must eventually be removed. Delay in removal will increase the hazards of disposal because of continued corrosion.

DATE: This site designation shall become effective on March 12, 1984.

ADDRESSES: The material supporting this designation and the letters of comment are available for public inspection at the following locations:

EPA Public Information Reference Unit (PIRU); Room 2904 (rear), 401 M Street Southwest, Washington, DC.

EPA Region VI, Water Management Division, 1201 Elm Street, Dallas, Texas.

FOR FURTHER INFORMATION CONTACT: Mr. T. A. Wastler, 202/755-0356.

SUPPLEMENTARY INFORMATION: Section 102(c) of the Marine Protection, Research, and Sanctuaries Act of 1972, as amended, 33 U.S.C. 1401 et seq. (hereafter "the Act"), gives the Administrator of EPA the authority to designate sites where ocean dumping may be permitted. On September 19, 1980, the Administrator delegated the authority to designate ocean dumping sites to the Assistant Administrator for Water and Waste Management, now the Assistant Administrator for Water. This site designation is being made pursuant to that authority.

The EPA Ocean Dumping Regulations (40 CFR Chapter I, Subchapter H, § 228.4) state that ocean dumping sites will be designated by publication in this Part 228. Section 228.4(b) provides that the Administrator may designate specific locations for temporary use for disposal of small amounts of materials under a special permit without the need of disposal site designation studies when such materials satisfy the Criteria in 40 CFR Part 227 and the Administrator determines that the quantities to be disposed of at the site will not result in significant impact on the environment. Such designations will be done by promulgation in this Part 228 and will be for a specified period of time and for specified quantities of materials. The designation of a site is not sufficient to authorize dumping at that site; a permit must also be issued in accordance with the regulations.

EPA Region VI has received a completed application from Chevron U.S.A. Inc. for a special permit to transport a damaged platform jacket from its present location, approximately 80 miles offshore south of Atchafalaya Bay, Louisiana, to another location approximately 44 miles southeast of the present location. The proposed site, which was recommended by the Department of the Interior, Minerals Management Service, is approximately 101 miles off the Louisiana coast in approximately 600 fathoms of water with coordinates as follows:

27d 39'44.665" N, 91d 10'03.059" W; 27d 39' 42.304" N, 91d 07'06.927" W; 27d 37'05.471" N, 91d 07'09.610" W; 27d 37'07.828" N, 91d 10'05.672" W.

The site is a square area, three statute miles on the side.

The platform jacket which Chevron wishes to dispose of was installed during July 1980, and was heavily damaged by collision with a tanker on August 21, 1980. After a thorough review of the damage to the jacket, Chevron concluded that it would not be practical to repair or safe to use. The insurance underwriters concurred with this assessment and declared the jacket a total loss. There is currently no approved EPA ocean dumping site in the Gulf of Mexico for dumping of this type of material.

The jacket consists of approximately 4,780 tons of fabricated structural steel pipe in a truncated pyramid shape approximately 325 feet high with a rectangular base 214 feet by 137 feet and a top 150 feet by 45 feet. Chevron proposes to sever the jacket legs below the Gulf bottom, raise the jacket in one piece and attach it to flotation barges. The barges will be towed to the disposal site where the jacket will be cut loose and allowed to sink.

On August 5, 1983, EPA proposed designation of this site in the **Federal Register**, 48 FR 35673. The proposed rulemaking contained detailed information regarding the site and the circumstances surrounding the request to dispose of the damaged platform jacket at the site. The comment period on this proposed rulemaking closed on September 19, 1983.

Two letters of comment were received in response to the proposed rule. One commenter did not object to the proposed designation, but questioned whether the proposed site would be appropriate for disposal of additional platform jackets, since the site is within one Outer Continental Shelf (OCS) block of recently granted leases and could possibly be included in a future lease sale. EPA is designating this site for the one-time disposal of the damaged platform jacket and does not contemplate that additional platforms or parts of platforms would be dumped there in the future.

This commenter also recommended that a simplified procedure for permitting ocean dumping of platforms be developed and that a permanent dump site in a deepwater OCS area not subject to oil and gas operations should be designated for unneeded platforms. EPA is considering amending its general permit for the disposal of vessels to include the disposal of platform jackets or parts of platforms. At that time the Agency would stipulate depth, distance from shore, and other requirements to be placed on any such disposal.

The Mineral Management Service of the Department of the Interior did not object to the designation of the site for the emergency disposal of the damaged structure but pointed out its policy to encourage the conversion of selected obsolete oil and gas structures into artificial reefs. EPA is aware of this policy and also encourages conversions of this type in appropriate circumstances. However, in this particular case, the location available for this use in a fishery enhancement program would require a towing distance of 300 miles, substantially increasing the risks involved in moving such a large structure.

EPA Region VI has determined that the material to be dumped satisfies the Criteria of Part 227 and published a public notice of tentative determination to issue a special permit on March 5, 1983. The public notice and a fact sheet explaining the basis for the determination are available for inspection at the addresses listed above. No comments or requests for a public hearing were received in response to the public notice, and EPA Region VI intends to issue a special permit for this disposal effective at the time the site designation becomes effective.

This site designation is made in accordance with section 228.4(b) of the Ocean Dumping Regulations, which permits the designation of ocean disposal sites for temporary use without disposal site designation studies for small amounts of materials which meet the Criteria of Part 227. Chevron has prepared a special report in support of its ocean dumping application which addresses general and specific site selection criteria. EPA has reviewed this report and agrees with its conclusions, which were summarized in the proposed site designation. For a more complete discussion of the ocean dumping site selection criteria considered, interested persons should examine the Chevron Special Report for Ocean Dumping Application No. 82OD001 which is

available for inspection at the addresses listed above.

From the available data, EPA has determined that the disposal of the jacket at the proposed site will not adversely affect the environment of the Gulf. No impact is anticipated on commercial or recreational fishing, commercial shipping, or any other legitimate marine interest. Disposal of the damaged jacket at the proposed site is the least hazardous of the alternatives considered.

This temporary site designation is being published as final rulemaking in accordance with section 228.4(b) of the Criteria. Management authority of this site will be delegated to the Regional Administrator of EPA Region VI.

Under the Regulatory Flexibility Act, EPA is required to perform a Regulatory Flexibility Analysis for all rules which may have a significant impact on a substantial number of small entities. EPA has determined that this action will not have a significant impact on small entities since the site designation will only have the effect of providing a disposal option for this damaged platform jacket. Consequently, this action does not necessitate preparation of a Regulatory Flexibility Analysis.

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore subject to the requirement of a Regulatory Impact Analysis. This action will not result in an annual effect on the economy of $100 million or more or cause any of the other effects which would result in its being classified by the Executive Order as a "major" rule. Consequently, this rule does not necessitate preparation of a Regulatory Impact Analysis.

This rule does not contain any information collection requirements subject to OMB review under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 et seq.

List of Subjects in 40 CFR Part 228

Water polution control.

Authority: 33 U.S.C. 1412 and 1418.

Dated: February 2, 1984.

Jack E. Ravan,

Assistant Administrator for Water

PART 228—[AMENDED]

In consideration of the foregoing, Subchaper H of Chapter I of Title 40 is amended by adding to § 228.12 a paragraph (b)(16) an ocean dumping site for Region VI as follows:

§ 228.12 Delegation of management authority for interim ocean dumping sites.

* * * * *

(b) * * *

(16) Gulf of Mexico Platform jacket site—Region VI.

Location: 27d 39'44.665" N, 91d 10'03.059" W; 27d 39'42.304" N, 91d 07'06.927" W; 27d 37'05.471" N, 91d 07'09.610" W; 27d 37'07.828" N, 91d 10'05.672" W.

Size: 3 statute miles on the side (9 square statute miles total area).

Depth: 600 fathoms.

Primary Use: One-time disposal of damaged platform jacket. Period of Use: Until the one-time dump of the damaged jacket is concluded; however, the period of use shall not exceed three years from the date of publication of this Notice.

[FR Doc. 84-3510 Filed 2-8-84; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Part 67

[CGD 82-085]

Documentation of Vessels

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is amending the standards for determining when a vessel is considered "built in the United States" for purposes of documentation entitling a vessel to engage in the domestic trade. This change is being made because it is not necessary to determine the source of machinery and other components which are not an integral part of the hull or superstructure in order to determine whether a vessel is considered "built in the United States." As a result of this change, U.S. shipyards and vessel purchasers will have greater flexibility in selecting machinery and other components for vessels.

EFFECTIVE DATE: March 12, 1984.

FOR FURTHER INFORMATION CONTACT: Lieutenant Commander Robert R. Meeks (Staff Attorney), Office of Merchant Marine Safety, (202) 426–1492, or (202) 426–1493. Normal office hours are between 7 a.m. and 5 p.m. Monday through Friday, except holidays.

Drafting Information: The principal persons involved in drafting this rulemaking are Lieutenant Commander Robert R. Meeks (Staff Attorney), Office of Merchant Marine Safety; and Lieutenant Commander William B. Short (Project Attorney), Office of the Chief Counsel.

SUPPLEMENTARY INFORMATION: The regulations governing documentation of vessels, contained in Part 67 of Title 46, Code of Federal Regulations, were extensively revised in a final rule published on June 24, 1982. That rulemaking project was undertaken primarily to simplify documentation procedures and was in implementation of the Vessel Documentation Act (Pub. L. 96–594). Comments received during the pendency of that rulemaking were critical of proposed § 67.09–3 which pertains to U.S. build determinations. That section reads:

A vessel is considered built in the United States if:

(a) All major components of its hull and superstructure are fabricated in the United States; and

(b) The vessel is assembled entirely in the United States; and

(c) At least fifty (50) percent of the cost of all machinery (including propulsion) and components which are not an integral part of the hull or superstructure relates to items procured in the United States.

(d) For the purposes of this section, United States includes American Samoa.

The comments received concerning that section before it became final said the words "procured," "components," and "superstructure" as used there were vague. Other commenters said the "fifty percent of cost rule" in paragraph (c) had no basis in law, conflicted with past agency practice, was more restrictive than industry practice, would present great difficulties in terms of proof where older vessels are involved, and would be ineffective due to practical problems relative to enforcement. One commenter also said the regulation constitutes a non-tariff customs barrier.

In the supplementary information published with the final rule on June 24, 1982, the Coast Guard recognized that the regulations were deficient in treating some of the issues raised by the comments, and stated that a further rulemaking to address those issues would be initiated. An Advanced Notice of Proposed Rulemaking (ANPRM) was published on October 14, 1982 (47 FR 45888) and the public was given until December 13, 1982 to comment. As a result of comments received in response to that ANPRM, a Notice of Proposed Rulemaking (NPRM) to delete paragraph (c) was published in the **Federal Register** on May 5, 1983 (48 FR 20249). The comment period for the NPRM ended on July 5, 1983 and analysis of all comments has been completed.

One late comment requested a public hearing. In view of the fact that this rule was subject to comments during the development of the Vessel Documentation regulations in 1981, the advance notice of proposed rulemaking in October-December 1982, and the NPRM in May-July 1983, the Coast Guard believes that holding a public hearing based on this single request is not warranted.

Discussion of Comments

Eighty relevant comments were placed in the official docket file during the NPRM comment period. These were added to the 28 comments filed in the same docket file in response to the ANPRM. Commenters included shipping companies, marine equipment manufacturers and suppliers, members of Congress, steel companies, trade associations, naval architects and engineers, fishing companies, shipbuilders, and others. In addition, 15 other relevant comments were placed in the docket file more than three weeks after the NPRM comment period had closed. These late comments were found to contain no significant information not covered by comments filed during the comment period. Although two-thirds of the comments opposed the proposal, the nature of the comments received and the variety of interests and organizations represented make numerical comparisons inappropriate. For example, 12 comments in opposition gave no reasons for their position.

Other commenters offered a variety of reasons for disagreeing with the proposal. The following were among the reasons mentioned by one or more commenters:

a. Increased foreign competition.
b. Deterioration of marine equipment supplier base.
c. Difficulty obtaining spare parts or service on foreign items.
d. Tariffs or trade barriers inadequate to protect suppliers.
e. The spirit of nationalism dictates "Buy American."
f. Congress intended to protect entire shipbuilding industry.
g. All machinery is part of vessel.
h. Other countries subsidize their products and refuse ours.
i. Unemployment is high and will increase.
j. Response to national emergencies/defense will suffer.
k. Economy needs help with recovery.
l. Balance of trade will be adversely affected.

The variety of responses indicated that many of the commenters misunderstood the application and effect of the rule and the proposed change.

Although 24 commenters opposing the proposal said they thought its adoption would increase foreign competition for manufacturers and suppliers of items used by shipbuilders, there was virtually no factual information presented in support of this position. As the discussion in our NPRM pointed out, the machinery and components rule has had little practical effect on shipbuilding over the past several years and its elimination should have a negligible effect on manufacturers and suppliers. Related fears about deterioration of the marine equipment supplier base are unwarranted for the same reason. One commenter who supported the Coast Guard proposal pointed out that since 1978 its foreign company has supplied foreign-manufactured engines for some 24 vessels built in the United States. It went on to say that while the company was aware of the rule it had not yet prevented the company from supplying an engine for a vessel being built in the United States.

Concern about limited availability of spare parts or service is not a legitimate factor for consideration in deciding whether or not to adopt the proposed rule. A purchaser who is concerned about the matter may specify that machinery and components be manufactured in the United States. Parts and service availability can also be addressed in vessel construction contracts and there are companies in the United States capable of taking over the service responsibility or providing replacement parts for foreign items as required. One commenter opposed to the proposal said it has done that on a number of occasions.

While the Coast Guard appreciates the concern expressed by commenters who feel the practices of other countries, such as subsidizing manufacturers in their own country and refusing to purchase American marine products, are harmful to domestic suppliers and manufacturers of marine equipment, the resolution of that is completely outside the scope of our rulemaking. The same is true for concerns expressed about the adequacy or effectiveness of existing trade barriers and tariffs, or anticipated changes in our balance of trade.

Several commenters expressed concern about our ability to respond to national emergencies or meet national defense needs if the Coast Guard proposal is adopted. These comments were of two types. Some commenters based their objections on factors such as availability of spare parts and maintenance of suppliers for construction or operation of merchant vessels which might be needed for emergencies or national defense. For the reasons discussed in the two preceding paragraphs, the Coast Guard does not feel that these objections are a valid base for changing the proposal. Another group of commenters raised concerns about national defense or emergencies based on the mistaken belief, apparently gained from third party reports as to the contents of the NPRM, that the Coast Guard intends to permit purchases of its vessels from foreign sources and allow the government to use tax revenues to purchase foreign goods. Those concerns are misplaced and are not valid justification for changing the proposal. This rulemaking has no effect on "Buy American" policies involved in the procurement of vessels by the government. It only affects the basis for deciding whether a vessel qualifies for use in certain domestic trades as a documented vessel. Since vessels of the Coast Guard are not used in domestic trades and are not documented, this rulemaking has no effect on procurement of Coast Guard vessels. The extent to which foreign materials are included in vessels of the armed forces is controlled by government procurement regulations, not by the vessel documentation regulations. Therefore, there is no reason to believe our defense capability or our ability to respond to national emergencies will be affected by the rule.

Some commenters disagreed with the discussion in the NPRM concerning the intent of Congress in using the phrase "built in the United States." They feel the phrase was meant to protect the entire shipbuilding industry, not just the shipyards. Some commenters also said the mood of Congress when it enacted the various laws pertaining to vessels qualifying for the domestic trade was "build and buy American." It is clear that use of the phrase "built in the United States" in the Vessel Documentation Act necessarily benefits shipyards in the United States. We note that when Congress has intended to extend "Buy American" benefits to manufacturers and suppliers it has done so explicitly. For example, Section 505 of the Merchant Marine Act, 1936 states in part "In all such construction the shipbuilder, subcontractors, materialmen, or suppliers shall use, so far as practicable, only articles, materials, and supplies of the growth, production, or manufacture of the United States. . . ." However, that statute relates to construction of vessels for which federal funds are provided to the owner in the form of a construction differential subsidy and has no application to the subject of this rulemaking. As the NPRM pointed out, no statute specifically authorizes the use of a "Buy American" requirement in connection with the vessel documentation regulations, no statute requires it, and reasonable assurance that vessels qualified for domestic trades are the product of United States shipyards may be attained without use of such a provision. Under these circumstances the Coast Guard does not

agree that Congress meant us to impose a rule for the benefit of manufacturers or suppliers which is burdensome to the public at large.

A spirit of nationalism does not provide a basis for a "Buy American" rule not required or supported by the statutes. Neither does the present state of the economy or prevailing levels of unemployment justify a rule of that type. The Coast Guard has no reason to believe there is a significant cause and effect relationship between use of the machinery and components rule and the overall state of the economy or levels of unemployment.

Those commenting that all machinery must be considered part of the vessel were urging that a vessel should have 100% domestic content in order to be considered U.S. built. The Coast Guard has never applied this criterion. The shipbuilder has always been able to use foreign material in the hull and superstructure and has been free to install some foreign machinery and components. As discussed above, the concept of 100% American origin is not justified.

The commenters who supported the Coast Guard proposal did so mainly for the reasons discussed in the NPRM. That is, there is little or not legal basis for the machinery and components rule; the rule creates serious problems for those engaged in the fisheries; the proposed change is consistent with the intent of Congress as reflected in the Jones Act and other laws; and costs of domestic vessel construction as well as costs passed through to the public for shipping may be reduced by eliminating the rule. One commenter who agreed with the Coast Guard proposal to eliminate the rule felt it did not go far enough. The commenter suggested the single criterion for "built in the United States" should be that the vessel be "erected entirely in the United States." The Coast Guard is not willing to adopt that proposal. The commonly understood meanings of the words "erected" and "built" are so similar that a regulation substituting erected for built would provide no more guidance than the statute itself.

Although fewer comments were received in support of the Coast Guard proposal than in opposition to it, several of the comments supporting the proposal were from those speaking on behalf of many members of the shipping public, such as trade associations representing those engaged in the fisheries or domestic and international shipping operations, and shipowners.

Regulatory Evaluation

This regulation has been reviewed under the provisions of Executive Order 12291 and determined not to be a major rule. It is considered non-significant within the guidelines of the Policies and Procedures for Simplification, Analysis, and Review of Regulations (DOT Order 2100.5 of May 22, 1980). The economic impact of this final rule has been found to be so minimal that a full regulatory evaluation is unnecessary. That determination is based on the following circumstances:

When the new vessel documentation regulations were proposed in 1981 an effort was made to include various longstanding agency practices. The rule for machinery and components, § 67.09–3(c) as quoted above, was included on that basis. However, before the regulation was published in final form in June, 1982 it became apparent that paragraph (c), whatever its value or history as a "rule of thumb," would be impossible to implement as a regulation. Rather than change the final regulations, action to deal with § 67.09–3 was deferred to a subsequent rulemaking project and the public was so advised.

From the comments received before publication of the final vessel documentation regulations and in response to an ANPRM and NPRM dealing with this change, it is apparent that the existence of a fifty percent of cost policy relative to the machinery and components of a vessel, as a Coast Guard guideline or "rule of thumb" for U.S. build determinations, was not well-known either within the Coast Guard or the shipbuilding industry and was rarely used. Therefore, it is reasonable to conclude that this guideline had little effect on the construction of vessels to be documented for the domestic trades prior to its promulgation as a rule in June 1982. It is highly unlikely that that situation changed then, since the Coast Guard advised the public that § 67.09–3 would be subjected to further rulemaking action. No doubt affected parties have taken into account the likelihood that paragraph (c) might be removed. Thus, deletion of that paragraph should produce no more than a minimal impact on anyone. For the same reasons, it is certified in accordance with section 605(b) of the Regulatory Flexibility Act (94 Stat. 1164) that this rule would not have a significant impact on a substantial number of small entities.

List of Subjects in 46 CFR Part 67

Vessels, Documentation.

In consideration of the foregoing, 46 CFR Part 67 is amended as follows:

PART 67—[AMENDED]

1. The authority citation for Part 67 is revised to read as follows:

Authority: 46 U.S.C. 12113, 12115, 12103, 12120, 12121; 65 Stat. 290 (31 U.S.C. 483a); 41 Stat. 1002, 80 Stat. 795 (46 U.S.C. 927); 41 Stat. 1006 (46 U.S.C. 983); 94 Stat. 978 (42 U.S.C. 9101).

2. Revise 46 CFR 67.09–3 to read as follows:

§ 67.09–3 United States built

A vessel is considered built in the United States if:

(a) All major components of its hull and superstructure are fabricated in the United States; and

(b) The vessel is assembled entirely in the United States.

(c) For the purposes of this section, United States includes American Somoa.

Dated: December 23, 1983.

Clyde T. Lusk, Jr.,

Rear Admiral, U.S. Coast Guard.

[FR Doc. 84–3518 Filed 2–8–84; 8:45 am]

BILLING CODE 4910–14–M

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46 CFR Parts 111 and 151

[CGD 82–096]

Unmanned Barges Carrying Certain Dangerous Bulk Cargoes

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: In the interest of safety, the Coast Guard reviews all chemicals proposed for bulk shipment by water. All cargoes classified as dangerous are regulated. Safety requirements for such cargoes are continuously reviewed in the light of new developments. This final rule corrects and adds electrical hazard class and group ratings to regulated cargoes, corrects editorial errors, and modifies the provisions of Subchapter J, Electrical Engineering Regulations, to include barges carrying inorganic acids.

EFFECTIVE DATE: March 12, 1984.

FOR FURTHER INFORMATION CONTACT: Joseph J. Jakabcin, G–MTH–3, Room 1208, U.S. Coast Guard Headquarters, Washington, D.C. 20593. Telephone 202–426–6262.

SUPPLEMENTARY INFORMATION: On April 14, 1983 (48 FR 16083), the Coast Guard published a notice of proposed rulemaking. Comments were invited for a period of 45 days ending on May 31, 1983. A public hearing was to be scheduled if requested by anyone

raising a genuine issue. No request for a public hearing was received and no comments on the proposed rulemaking were received.

Drafting Information

The principal persons involved in drafting this document are Mr. Joseph J. Jakabcin, Office of Merchant Marine Safety, and Mr. Michael N. Mervin, Office of the Chief Counsel.

Regulatory Evaluation and Certification

This final rule is considered to be non-major under Executive Order 12291 and non-significant under DOT regulatory policies and procedures (44 FR 11034, February 26, 1979).

The economic impact of this regulation has been found to be so minimal that further regulatory evaluation is unnecessary. The addition of the approximately 61 electrical hazard class and group ratings updates and codifies existing Coast Guard policies. About 1,080 barges are certified for the carriage of cargoes whose ratings are affected. We estimate that 90 percent of these existing barges carrying hazardous materials have no electrical equipment located in hazardous areas. This change, therefore, would have no effect on these barges. For these reasons, in accordance with section 605(b) of the Regulatory Flexibility Act (94 Stat. 1164), it is certified that this final rule will not have a significant economic impact on a substantial number of small entities.

List of Subjects

46 CFR Part 111

Vessels.

46 CFR Part 151

Hazardous materials, Barges.

In consideration of the foregoing, it is proposed to amend Chapter I of Title 46, Code of Federal Regulations as follows:

PART 111—ELECTRICAL SYSTEMS—GENERAL REQUIREMENTS

1. By revising § 111.105–9(c) to read as follows:

§ 111.105–9 Explosion-proof equipment.

* * * * *

(c) In a Group B atmosphere, if the cargo is an inorganic acid.

2. By revising the heading and paragraphs (a) (introductory text) and (l) (introductory text) of § 111.105–31 to read as follows:

§ 111.105–31 Flammable or combustible cargo with a flashpoint below 60 degrees C (140 degrees F), liquid sulfur and inorganic acid carriers.

(a) *Applicability.* Each vessel that carries combustible or flammable cargo with a closed-cup flashpoint lower than 60 degrees C (140 degrees F) or liquid sulphur cargo, or inorganic acid cargo must meet the requirements of this section, except—

* * * * *

(l) *Weather locations.* A location in the weather, except on an inorganic acid carrier, must have only explosion-proof electrical equipment, purged and pressurized equipment, and through runs of armored or MI type cable if it is—

* * * * *

PART 151—UNMANNED BARGES CARRYING CERTAIN BULK DANGEROUS CARGOES

§ 151.05 [Amended]

3. By amending Table 151.05, Summary of Minimum Requirements column entries under "Cargo name", replacing the old cargo names with the new cargo names, to read as follows:

Old	*New*
N-butyl acrylate	n-Butyl acrylate
Isobutyl acrylate	iso-Butyl acrylate
Butyraldehyde, (N)	n-Butyraldehyde
Carbon bisulfide	Carbide disulfide
2-Ethyl, 3-Propyl Acrolein	2-Ethyl-3-propyl acrolein

4. By amending the Table 151.05 column entry under "Electrical hazard" to read "I–A" for "Carbon disulfide".

5. By amending the Table 151.05 column entry under "Electrical hazard" to read "I–B" for the following cargoes:

Chlorosulfonic acid
Hydrochloric acid
Hydrochloric acid, spent (15% or less)
Hydrofluoric acid
Hydrofluorsilicic acid (25% or less)
Hydrogen chloride
Hydrogen fluoride
Nitric acid (70% or less)
Oleum
Phosphoric acid
Sulfuric acid
Sulfuric acid, spent

6. By amending the Table 151.05 column entry under "Electrical hazard" to read "I–C" for the following cargoes:

Allyl alcohol
n-Butyraldehyde
iso-Butyraldehyde
Crotonaldehyde
Epichlorohydrin
2-Ethyl-3-propyl acrolein
Formaldehyde solution 37–50%
Furfural
Morpholine

7. By amending the Table 151.05 column entry under "Electrical hazard" to read "I–D" for the following cargoes:

Acetic acid
Acetic anhydride
Ammonium hydroxide, not to exceed 28% NH^3
n-Butyl acrylate
iso-Butyl acrylate
Camphor oil (light)
Chlorobenzene
Chlorohydrins (crude)
Dichloropropane
Ethyl acrylate
Ethyl chloride
Ethylene diamine
Ethylene dichloride
Formic acid
Isoprene
Methyl acrylate
Motorfuel antiknock compounds
Propionic acid
Vinylidene chloride inhibited

8. By amending the Table 151.05 column entry under "Electrical hazards" to read "NA" for the following cargoes:

Acetone cyanohydrin
Adiponitrile
Aminoethyl ethanolamine
Aniline
Carbolic oil
Carbon tetrachloride
Caustic potash solution
Caustic soda solution
Chlorine
Chloroform
Cresols
Dichlorodifluoromethane
Diethanolamine
Diethylenetramine
Diisopropanolamine
Ethylene cyanohydrin
Monochlorodifluoromethane
Monoethanolamine
Monoisopropanolamine
Phenol
Phosphorus, elemental
Triethanolamine
Triethylene tetramine

9. By removing and reserving Footnote 1 to Table 151.05.

Footnotes:
1 [Reserved]

* * * * *

(46 U.S.C. 391a, 49 CFR 1.46(t))

Dated: January 11, 1984.

Clyde T. Lusk, Jr.,

Rear Admiral, U.S. Coast Guard, Chief, Office of Merchant Marine Safety.

[FR Doc. 84–3520 Filed 2–8–84; 8:45 am]
BILLING CODE 4910–14–M

Proposed Rules

Federal Register
Vol. 49, No. 28
Thursday, February 9, 1984

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

SMALL BUSINESS ADMINISTRATION

13 CFR Part 112

Nondiscrimination in Federally Assisted Programs of SBA Effectuation of Title VI of the Civil Rights Act of 1964

AGENCY: Small Business Administration.

ACTION: Proposed rule.

SUMMARY: In accordance with the requirements of 28 CFR 42.403(d) published by the Department of Justice on December 1, 1976, the Small Business Administration proposes to revise Appendix A of its listing of financial assistance programs. (The proposed rule published in the **Federal Register** (47 FR 21554) on May 19, 1982, is withdrawn.) However, in order to comply fully with the Department of Justice's guidelines, it is necessary to amend our definition of "financial assistance" to coincide with the definition which appears at 28 CFR 42.102(c), and to amend Appendix A by revising the listing of financial assistance programs and by adding a listing of nonfinancial assistance programs which are provided by the Agency.

DATE: Comments on this proposed rule must be received by March 12, 1984.

ADDRESSES: Send comments to: Office of Civil Rights Compliance, Small Business Administration, 1441 L Street, NW., Room 501, Washington, D.C. 20416.

FOR FURTHER INFORMATION CONTACT: Adelino Sanchez, Chief, (202) 653–6054.

SUPPLEMENTARY INFORMATION: Title VI of the Civil Rights Act of 1964 ("Act") provides that no person in the United States shall, on the ground of race, color or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity receiving Federal financial assistance from the Small Business Administration. This part 112 of Title 13 of the Code of Federal Regulations effectuates such provision. Section 42.102(c) of Title 28 of the Code of Federal Regulations, a subsection of the Department of Justice Title VI implementation regulation, states that the term "Federal financial assistance" includes (1) grants and loans of Federal funds, (2) the grant or donation of Federal property and interests in property, (3) the detail of Federal personnel, (4) the sale and lease of, and the permission to use (on other than a casual or transient basis), Federal property or any interest in such property without consideration or at a nominal consideration, or at a consideration which is reduced for the purpose of assisting the recipient, or in recognition of the public interest to be served by such sale or lease to the recipient, and (5) any Federal agreement, arrangement, or other contract which has as one of its purposes the provision of assistance. This proposed rule would adopt the definition of Federal financial assistance used in 28 CFR 42.102(c), by adding a new § 112.2(b). This definition will be consistent with that used by the Department of Justice and other agencies which enforce Title VI.

SBA hereby certifies that this rule, if promulgated in final form, will not constitute a major rule for the purposes of Executive Order 12291. In addition, for purposes of the Regulatory Flexibility Act, this rule will not have a significant economic impact on a substantial number of small entities. The rule constitutes a non-substantive procedural change, and by its terms will not significantly affect the administration of any of SBA's financial assistance programs.

List of Subjects in 13 CFR Part 112

Civil rights, Small businesses.

PART 112—[AMENDED]

Accordingly, pursuant to the authority contained in section 5(b)(6) of the Small Business Act (15 U.S.C. 634(b)(6)), Part 112, Chapter 1, Title 13 of the Code of Federal Regulations, is proposed to be amended as follows:

1. Paragraphs (b) and (c) of § 112.2 are redesignated as paragraphs (c) and (d), respectively, and a new paragraph (b) would be added to read as follows:

§ 112.2 Application of this part.

* * * * *

(b) The term "Federal financial assistance" includes (1) grants and loans of Federal funds, (2) the grants or donation of Federal property and interests in property, (3) the detail of Federal personnel, (4) the sale and lease of, and the permission to use (on other than a casual or transient basis), Federal property or any interest in such property without consideration, or at a nominal consideration, or at a consideration which is reduced for the purpose of assisting the recipient, or in recognition of the public interest to be served by such sale or lease to the recipient, and (5) any Federal agreement, arrangement, or other contract which has as one of its purposes the provision of assistance.

* * * * *

2. Appendix A of Part 112 of Title 13 of the Code of Federal Regulations is revised to read as follows:

APPENDIX A

Name of program	Authority
Regular business loans	Small Business Act, sec. 7(a) and 7(a) (11).
Handicapped Assistance loans.	Small Business Act, sec. 7(a) (10).
Small Business Energy Loans.	Small Business Act, sec. 7(a) (12).
Small General Contractors.	Small Business Act, sec. 7(a) (9).
Debtor State development company loans (501) and their small business concerns (No funds have been authorized for this program through FY 1984).	Small Business Investment Act, Title V.
Debtor small business investment companies and their small business concerns.	Small Business Investment Act, Title III.
Pollution Control	Small Business Investment Act, Title IV, Part A.
Disaster Loans	
Physical	Small Business Act, sec. 7(b) (1).
Economic injury (EIDL)	Small Business Act, sec. 7(b) (2).
Federal Action Loan Program.	Small Business Act, sec. 7(b)(3) (No funds have been authorized for this program through FY 1984.
Nonfinancial Programs	
Women's Business Enterprise.	Executive Order 12138.
Small Business Innovation and Research.	Small Business Act, sec. 9.
Procurement Automated Source System.	Small Business Act, sec. 8 and Pub. L. 95-302.
Business Development Program.	Small Business Act, sec. 8(a) and Pub. L. 95-507, as amended by Pub. L. 96-481.
Small Business Institute Program.	Small Business Act, sec. 8(b)(1) and Pub. L. 85-536.
Certificate of Competency	Small Business Act, sec. 8(b)(7) and Pub. L. 95-89.
Subcontracting Assistance Program.	Small Business Act, sec. 8(d), and Pub. L. 95-507.
Technology Assistance Program.	Small Business Act, sec. 9.
Small Business Development Centers.	Small Business Act, sec. 21 and Pub. L. 96-302.

APPENDIX A—Continued

Name of program	Authority
International Trade Progam.	Small Business Act, sec. 22 and Pub. L. 96-481.
Service Corps of Retired Executives and Active Corps of Executives.	Small Business Act, secs. 101 and 8(b)(1) and Pub. L. 95-510.
Veterans Affairs Program	Public Law 93-237.
Private Sector Initiatives	Small Business Act, sec. 8(b)(1).

Note: All programs listed above are also covered by Part 113 of Title 13 of the Code of Federal Regulations.

(Catalog of Federal Domestic Assistance Programs No. 59.001 through 59.031)

Dated February 2, 1984.

James C. Sanders,

Administrator.

[FR Doc. 84-3614 Filed 2-8-84; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1926

[Docket No. S106]

Electrical Standards for Construction

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Notice of informal public hearing.

SUMMARY: This notice schedules an informal public hearing on the proposed electrical standards for construction published in the **Federal Register** on October 7, 1983 (48 FR 45872).

DATES: The hearing will begin on April 10, 1984, at 9:30 a.m., and may continue for more than one day based on the number of notices of intention to appear which are received. Notices of intention to appear at the public hearing must be postmarked by March 9, 1984. Written comments relating to the hearing issues, and testimony and evidence which will be introduced into the hearing record must be postmarked by March 23, 1984.

ADDRESSES: The informal public hearing will be held in the Auditorium, Frances Perkins Department of Labor Building, 200 Constitution Avenue, NW., Washington, D.C. 20210.

Send written comments to: Docket Officer, Docket S106, Room S6212, 200 Constitution Avenue, NW., Washington, D.C. 20210. Telephone: (202) 523-7894.

Send notices of intention to appear and testimony and evidence which will be introduced into the hearing record to: Mr. Tom Hall, OSHA, Division of Consumer Affairs, Room N3662, 200 Constitution Avenue, NW., Washington, D.C. 20210. Telephone: (202) 523-7178.

FOR FURTHER INFORMATION CONTACT:

Hearing: Mr. Tom Hall, OSHA, Division of Consumer Affairs, Room N3662, 200 Constitution Avenue, NW., Washington, D.C. 20210. Telephone: (202) 523-7178.

Proposal: Mr. James Foster, OSHA, Office of Information, Room N3662, 200 Constitution Avenue, NW., Washington, D.C. 20210. Telephone: (202) 523-8151.

SUPPLEMENTARY INFORMATION: On October 7, 1983, OSHA published (48 FR 45872) a proposed revision of its electrical safety standards for construction contained in 29 CFR Part 1926, Subpart K. Interested persons were given until November 21, 1983, to submit written comments on the proposal, to file objections, and to request a hearing. At the request of several parties, the comment period was extended to December 31, 1983 (48 FR 54652).

Public Hearing: OSHA has received 36 comments on the proposal, including requests for a hearing. In response to the objections raised and hearing requests received and in accordance with section 6(b)(3) of the Occupational Safety and Health Act and section 107 of the Construction Safety Act, OSHA has scheduled an informal public hearing to be held on April 10, 1984. The hearing is being held to examine the following issues raised in the requests for a hearing:

1. Existing electrical installations in general industry workplaces are required to comply with the provisions of 29 CFR Part 1910, Subpart S. Sometimes, construction activities, which are subject to the provisions of 29 CFR Part 1926, are performed at these existing facilities. Under the existing Part 1910 and Part 1926 regulations, the possibility that Subpart K of Part 1926 would be applied to the permanent wiring of the facility has resulted in some confusion. A hearing request raised the issue of whether OSHA should modify the application of Subpart K to cover existing facilities where construction activities are being performed.

2. The existing and the proposed Subpart K apply only to installations providing power and light for the construction jobsite. Installations which provide for the transmission and distribution of electricity are covered by Subpart V rather than Subpart K. (See existing § 1926.400(b) and proposed § 1926.402.) A hearing request raised the issue of whether some industrial transmission and distribution installations (i.e., those that are less than 15 kV) should be covered by Subpart K.

3. The existing Subpart K incorporates the 1971 National Electrical Code (NEC) by reference. The proposal, which would delete this incorporation by reference, contains provisions of the NEC which OSHA has determined are relevant to worker safety involving electrical wiring used in construction. Certain NEC requirements set forth in the proposal are based on related aspects of the National Fire Protection Association's *Electrical Safety Requirements for Employee Workplaces, NFPA 70E, Part I* applicable to construction. (See preamble to the proposal, 48 FR 45873 through 45874.) A hearing request objected to the proposed elimination of the NEC from the regulations and the consequent use of portions of NFPA 70E as a basis for a standard on electrical installations for construction. Specifically, the objector noted that proposed §§ 1926.404(f)(3) (portable and vehicle mounted generator grounding), 1926.405(a)(2)(ii)(C) (receptacles not allowed on lighting circuits), and 1926.405(a)(2)(ii)(H) (junction boxes on temporary wiring) are covered by the 1984 NEC and that the proposed requirements would be unnecessary if the 1984 NEC were incorporated by reference in Subpart K. OSHA invites comments on whether the NEC should continue to be incorporated by reference and, if not, whether the standard should be based only on applicable provisions of NFPA 70E relevant to construction.

4. Detailed requirements related to bonding and grounding are set forth in § 1926.401 of the existing standard and in Article 250 of the 1971 NEC. OSHA has proposed to retain these provisions in more performance oriented language, as given in § 1926.404(f). A hearing request objected to this approach and requested that OSHA retain the more detailed language of the existing standard, particularly paragraphs (d), (e) and (g) of § 1926.401 dealing with specific ground resistance values and bonding techniques. Comments are invited on this issue.

5. Whether receptacles in existing installations should be permitted to be grounded by means of grounded cold water pipes, as is the case in the existing standards (1971 NEC Section 250-50), or whether they should be required, as proposed, to be grounded by a separate equipment grounding conductor connected back to the service.

6. Existing § 1926.401(j)(2) requires temporary lights to be equpped with "heavy duty" cords. In § 1926.405(a)(2)(ii)(B), the proposed standard would allow other methods of wiring temporary lights, including open conductors, cables suitable for the environment, and conduit. An objection

to the proposal was that the existing requirement in § 1926.401(j)(2) for "heavy duty" cords would be eliminated. Comments are requested on the issue of whether temporary lighting should be required to be installed with "heavy duty" cords rather than with other means, such as conductors within multiconductor cable assemblies or as open conductors.

7. The specific language in existing paragraphs (a)(1), (a)(3), (a)(6), and (a)(8) of § 1926.402 would be eliminated by the proposal. These requirements, dealing with design details of attachment plugs and receptacles and with protection of cables from damage, are covered by other proposed performance-oriented requirements (see Distribution Table in proposal at 48 FR 45875). A hearing request objected to the deletion of the language contained in the four paragraphs. Comments are requested on the issue of whether the language of these paragraphs from the present standard should be retained, or whether their objectives are adequately addressed in the proposal.

8. Proposed § 1926.403(j) and the existing standard in 1971 NEC Article 710 contain general provisions relating to installations of more than 600 volts, nominal. An interested person objected, stating that voltages addressed by the proposed paragraph are normal supply-side voltages, and that the proposal should cover such voltages wherever they are found in construction. In light of the fact that neither the proposal nor the existing standard apply to distribution installations, OSHA requests comments on the issue of whether proposed § 1926.403(j) should apply to equipment on the supply side of the service conductors and, if so, suggestions on how the scope of the standard should be modified so that such equipment is covered.

9. Both the existing standard, in 1971 NEC section 250–33, and the proposal, in § 1926.404(f)(7)(i), contain a requirement for metal enclosures for conductors to be grounded. Two exemptions, however, are provided in each standard: one for enclosures used to protect cable assemblies from damage and the other for enclosures for conductors added to existing installations of open wire, knob-and-tube wiring, and nonmentallic-sheathed cable, under certain restrictions. A hearing request objected to the proposal's inclusion of these two exceptions (contained in § 1926.404(f)(7)(i) (A) and (B)). Therefore, OSHA solicits comments on the issue of whether these exemptions should be removed.

10. The definitions in the proposal are derived from and are consistent with those in the National Electrical Code. In some cases, certain minor differences have resulted from NEC changes over the years. Also, as explained in the preamble to the proposal (48 FR 45877), definitions related to "approval" are proposed to be modified to remove references to specific testing laboratories. One interested person objected to several of the proposed definitions—to some because they are not consistent with the 1984 NEC, to those related to "approval" because they are "inappropriate and unenforceable," and to the definition of "qualified person" because it is diferent from the general definition of that term in § 1926.32. OSHA invites comments on the issue of whether the definitions as proposed are appropriation or whether they should be modified to conform to those either in the 1984 NEC or in the existing standard.

11. One of the requests for a hearing raised two other issues— one resulted from a misunderstanding of the proposal, the other from a mistake in the printing of the proposal. The request objected to the removal of existing § 1926.400(h), dealing with ground-fault protection. However, as noted in the preamble to the proposal (48 FR 45878) and in the proposal itself (48 FR 45881), this paragraph would be redesignated as § 1926.404(b)(1). This paragraph in the proposed text was reserved for this purpose. The other issue raised was of the omission of the word "grounding" from proposed § 1926.404(a)(1). As noted in the hearing request, the correct wording of the second sentence of this paragraph is: "A conductor used as an equipment grounding conductor shall be identifiable and distinguishable from all other conductors." The concerns raised in these two issues will be addressed in the final rule.

Public Participation

Written comments on the issues listed in this notice must be postmarked by March 23, 1984. These comments should be submitted, in quadruplicate, to the Docket Office, Docket No. S106, Room S6212, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20210. Telephone: (202) 523–7894. All materials submitted will be available for inspection and copying at this address.

Additionally, under section 6(b)(3) of the Occupational Safety and Health Act, and 29 CFR Part 1911, an opportunity to testify orally concerning the issues raised in this notice will be provided at an informal public hearing.

Notice of Intention to Appear

Persons desiring to participate at the hearing, including those who previously requested that a public hearing be held, must file a notice of intention to appear with Mr. Tom Hall, OSHA Division of Consumer Affairs, Room N3662, 200 Constitution Avenue, NW., Washington, D.C. 20210. Telephone: (202) 523–7178. This notice must be postmarked by March 9, 1984.

The notice of intention to appear, which will be available for inspection and copying at the OSHA Docket Office (address previously listed), must contain the following information:

1. The name, address and telephone number of each person to appear;
2. The capacity in which the person will appear;
3. The approximate amount of time required for the presentation;
4. The specific issue(s) that will be addressed;
5. A detailed statement of the position that will be taken with respect to each issue addressed; and
6. Whether the party intends to submit documentary evidence, and a summary of the evidence proposed to be adduced at the hearing.

Filing of Testimony and Evidence Before the Hearing

Any party requesting more than 10 minutes for a presentation at the hearing, or who will submit documentary evidence, must provide, in quadruplicate, the complete text of the testimony including all documentary evidence to the OHSA Division of Consumer Affairs. This material will be available for inspection and copying at the Docket Office. This material must be postmarked by March 23, 1984. Each submission will be reviewed in light of the amount of time requested in the notice of intention to appear. In instances where the information contained in the submission does not justify the amount of time requested, a more appropriate amount of time will be allocated and the participant will be notified of that fact.

Any party who has not substantially complied with this requirement may be limited to a 10 minute presentation and may be requested to return for questioning at a later time. Any party who has not filed a notice of intention to appear may be allowed to testify, as time permits, at the discretion of the Administrative Law Judge.

Conduct of the Hearing

The hearing will commence at 9:30 a.m. on April 10, 1984, in the Auditorium of the Frances Perkins Department of

Labor Building, 200 Constitution Avenue, NW., Washington, D.C. 20210, with the resolution of any procedural matters relating to the proceeding. The hearing will be presided over by an Administrative Law Judge who will have all the powers necessary and appropriate to conduct a full and fair informal hearing as provided in 29 CFR Part 1911, including the powers:

1. To regulate the course of the proceedings;

2. To dispose of procedural requests, objections and comparable matters;

3. To confine the presentation to the matters pertinent to the issues raised;

4. To regulate the conduct of those present at the hearing by appropriate means;

5. In the Judge's discretion, to question and permit questioning of any witness; and

6. In the Judge's discretion, to keep the record open for a reasonable stated time to receive written information and additional data, views, and arguments from any person who has participated in the oral procedings.

Following the close of the hearing, the presiding Administrative Law Judge will certify the record of the hearing to the Assistant Secretary of Labor for Occupational Safety and Health. Proposed Subpart K of 29 CFR Part 1926 will be reviewed in light of all testimony and written submissions received as part of the record, and a standard will be issued, or a determination will be made not to issue a rule, based on the entire record of the proceeding, including the earlier written comments and evidence received through the public.

Authority

This document was prepared under the direction of Thorne G. Auchter, Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20210.

It is issued pursuant to Sec. 6(b) of the Occupational Safety and Health Act of 1970 (84 Stat. 1593, 29 U.S.C. 655); Sec. 107 of the Construction Safety Act (83 Stat. 96, 40 U.S.C. 333); Secretary of Labor's Order No. 9–83 (48 FR 35736); and 29 CFR Part 1911.

Signed at Washington, D.C. this 3rd day of February, 1984.

Thorne G. Auchter,

Assistant Secretary of Labor.

[FR Doc. 84–3478 Filed 2–8–84; 8:45 am]

BILLING CODE 4510-26-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Reopening of Comment Period on Proposed Endangered Status and Critical Habitat for the Fresno Kangaroo Rat

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; extension of comment time.

SUMMARY: The Service gives notice that the comment period on the proposed endangered status and critical habitat for the Fresno kangaroo rat will be reopened for a period of 30 days. This measure will allow an opportunity for parties that may not have originally received sufficient notification of the proposal to provide comments to the Service.

DATES: Comments must be received by March 12, 1984. Public hearing requests will be accepted until this date.

ADDRESSES: Comments and materials should be sent to the Regional Director, U.S. Fish and Wildlife Service, Lloyd 500 Building, Suite 1692, 500 NE. Multnomah Street, Portland, Oregon 97232. Comments and materials received will be available for public inspection during normal business hours, by appointment, at this address.

FOR FURTHER INFORMATION CONTACT: Mr. Sanford R. Wilbur at the above address, (503/231–6131 or FTS 429–6131).

SUPPLEMENTARY INFORMATION:

Background

In the **Federal Register** of November 21, 1983 (48 FR 52608–52611), the Service proposed to determine endangered status and critical habitat for the Fresno kangaroo rat. This small, hopping mammal is restricted to the native grasslands of Fresno County in the San Joaquin Valley of California. From 1938 to 1981, over 90 percent of the approximately 100,000 acres of these grasslands was destroyed by agricultural development, and a recent survey found only about 857 acres to be actually occupied by the kangaroo rat.

The Endangered Species Act of 1973, as amended, requires a number of notifications with respect to proposed regulations. Among others, these requirements include publishing a summary of the proposal in a newspaper of general circulation in each area of the United States in which the involved species occurs. Because of a problem in mail routing, the relevant summary on the Fresno kangaroo rat proposal was not published. As a consequence, persons who might have received notice of the proposal through the newspaper summary were not given sufficient time to submit comments. Therefore, the Service now reopens the comment period for 30 days. The newspaper summary will be published promptly upon appearance of this notice in the **Federal Register.**

Author

The primary author of this notice is Ronald M. Nowak, Office of Endangered Species, U.S. Fish and Wildlife Service, Washington, D.C. 20240.

Dated: January 31, 1984.

J. Craig Potter,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 84–3484 Filed 2–8–84; 8:45 am]

BILLING CODE 4310-55-M

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Proposed Endangered Status and Critical Habitat for the Key Largo Woodrat and Key Largo Cotton Mouse

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The Service proposes to list two small mammals, the Key Largo woodrat and the Key Largo cotton mouse, as endangered and to determine their critical habitat. Both species are endemic to Key Largo, Monroe County, Florida. Destruction of tropical hardwood hammock forest, to which these rodents are restricted, is a threat to their continued existence. Forest vegetation is being reduced by residential and commercial development on north Key Largo. Almost all of the Key Largo woodrat and cotton mouse populations are on private land where further habitat destruction is imminent. Both species have already been listed as endangered through an emergency rule, but that rule will expire on May 18, 1984, and permanent protection by the Endangered Species Act is now required. The Service seeks data and comments from the public on this proposal.

DATES: Comments from the public and the State of Florida must be received by April 9, 1984. Public hearing requests must be received by March 26, 1984.

ADDRESSES: Comments and materials concerning this proposal should be sent to the Endangered Species Field

Supervisor, U.S. Fish and Wildlife Service, 2747 Art Museum Drive, Jacksonville, Florida 32207. Comments and materials received will be available during normal business hours, by appointment, at the above address.

FOR FURTHER INFORMATION CONTACT: Mr. David Wesley, Endangered Species Field Supervisor, at the above address (907/791–2580 or FTS 946–2580).

SUPPLEMENTARY INFORMATION:

Background

The Key Largo woodrat (*Neotoma floridana smalli*) was described by Sherman (1955). It is the southernmost subspecies of woodrat in the U.S., and is separated by a 150-mile gap from other Florida woodrat (*N. f. floridana*) populations. The Key Largo cotton mouse (*Peromyscus gossypinus allapaticola*) was described by Schwartz (1952). Both the woodrat and cotton mouse are endemic to Key Largo, Monroe County, Florida. Both species were introduced to Lignum Vitae Key, Monroe County, Florida in 1970. The woodrat has apparently flourished on Lignum Vitae Key, a State preserve, and may have reached the carrying capacity of the available habitat on this 90-hectare (220-acre) key. The status of the cotton mouse on Lignum Vitae Key is unknown. The Florida Department of Parks and Recreation had considered relocating the woodrat and cotton mouse from Lignum Vitae Key, because neither species is native there. No such translocation efforts are presently planned, however.

On May 19, 1980, Dr. Stephen R. Humphrey of the Florida State Museum, Gainesville, Florida, petitioned the Service to add the Key Largo woodrat and cotton mouse to the U.S. List of Endangered and Threatened Wildlife, pursuant to the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*). The petition included a status report prepared under contract to the Florida Game and Fresh Water Fish Commission. Portions of the report were recently published (Barbour and Humphrey, 1982). In the **Federal Register** of July 28, 1980 (45 FR 49961–49962), the Service published a notice of petition acceptance and status review, and announced its intention to propose listing the two Key Largo rodents. In the **Federal Register** of September 21, 1983 (48 FR 43040–43043), the Service issued an emergency rule listing both species as Endangered (for details, see below under "Available Conservation Measures."

The upland areas which the woodrat and cotton mouse inhabit on north Key Largo reach an elevation of about 4 meters (13 feet). The uplands support a rich biota, including many rare plant species. The climax vegetation type is a hardwood hammock forest with close floristic affinities to the West Indies. The hammocks are restricted to upland areas because they do not tolerate the intrusion of salt water in the tidal lowland areas.

Species associated with the north Key Largo hammocks include the Schaus swallowtail butterfly (*Papilio aristodemus ponceanus*), federally threatened; and several Florida State-listed plant species: tamarindillo (*Acacia choriophylla*), powdery catopsis (*Catopsis berteroniana*), prickly apple (*Cereus gracilis* var. *simpsonii*, a cactus that the Service presently has under review (45 FR 82496) for possible listing as endangered or threatened), silver palm (*Coccothrinax argentata*), lignum-vitae (*Guaiacum sanctum*), inkwood (*Hypelate trifoliata*), mahogany mistletoe (*Phoradendron rubrum*), and brittle thatch palm (*Thrinax microcarpa*).

Tropical hardwood hammocks develop a closed canopy when they are mature, providing a more moderate, humid environment than the surrounding habitats. The Key Largo woodrat and cotton mouse are restricted to these hammocks. Tropical hardwood hammocks were originally found from Key West northward into the southern peninsula of Florida. Many of the hardwood hammocks on the peninsula, however, have been destroyed due to human activities. This habitat is one of the most limited and threatened ecosystems in Florida. The hammocks on north Key Largo represent some of the largest remaining tracts of this vegetation type.

Hersh (1981) studied the ecology of the woodrat on north Key Largo. Woodrat densities on the 5.25-hectare (13-acre) study area varied between 2 and 2.5 woodrats per hectare (0.8–1.0 woodrats per acre). Mean home range was 0.2368 hectares (0.6 acres). Each woodrat used several stick nests (about 5.6 nests per woodrat). Woodrats fed on leaves, buds, seeds, and flowers of a variety of plants.

Barbour and Humphrey (1982) found that the woodrat and cotton mouse were most abundant in mature hammocks and were rare or absent in young or recovering hammocks. Cotton mouse density was estimated to be 21.8 mice per hectare (8.8 per acre) in mature forest, but only 1.2 per hectare (0.5 per acre) in successional forest. About 466 hectares (1,150 acres) on north Key Largo were occupied by woodrats. The average density of nests was 7.7 per hectare (3.1 per acre). The total woodrat population was estimated to be 654 individuals.

Both studies recommended protection of hammock forest habitat if the Key Largo woodrat and cotton mouse were to survive on north Key Largo.

Summary of Factors Affecting the Species

Section 4(a)(1) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*) and regulations promulgated to implement the listing provisions of the Act (codified at 50 CFR Part 424; under revision to accommodate 1982 amendments to the Act) set forth the procedures for adding species to the Federal lists. The Secretary of the Interior shall determine whether any species is an endangered or a threatened species due to one or more of the five factors described in Section 4(a)(1) of the Act. These factors and their application to the Key Largo woodrat and cotton mouse are as follows:

A. *The present or threatened destruction, modification, or curtailment of its habitat or range.* The native range of the Key Largo woodrat and cotton mouse is Key Largo, Monroe County, Florida. Both species are dependent on tropical hardwood hammock forest. The rodents are presently found only on 1,150 acres of the northern portion of Key Largo, where most of the remaining hardwood hammocks occur. Increased protection for mangroves and wetlands in Florida has moved development pressure to the much more limited upland areas where tropical hammocks occur. The remaining hammocks of north Key Largo are the proposed sites for a large number of residential developments. Intensive development in the Keys generally results in destruction of the hammock ecosystem, even though individual large trees may be preserved. The Florida Keys Aqueduct Authority is presently completing a new pipeline to the Keys. A spur of the pipeline now extends into north Key Largo, and increased availability of water is expected to accelerate the rate of residential, commercial, and recreational development. The Florida Keys Electric Cooperative has requested a loan from the Rural Electrification Administration for construction of a substation to provide increased electrical delivery on northern Key Largo. Up to 6,000 new residential units could be served by this system. Therefore, accelerated development would likely result and a substantial part of the habitat of the Key Largo woodrat and cotton mouse would probably be lost.

B. *Overutilization for commercial, recreational, scientific, or educational purposes.* Not applicable.

C. *Disease or predation.* Not applicable.

D. *The inadequacy of existing regulatory mechanisms.* Monroe County Ordinance 18–1975 for Site Clearing and Tree Protection recognizes the uniqueness and fragility of the tropical hardwood hammocks in the Keys and regulates clearing of the hammocks. Numerous violations of the Ordinance have occurred, however, and penalties have been small enough that they are not necessarily a deterrent to potential violators. More importantly, the ordinance does not specifically protect the integrity of hammocks, but instead emphasizes the protection of individual large trees. The Key Largo woodrat and cotton mouse are considered endangered by the State of Florida (Chapter 39–27.03 of the Florida Administrative Code), but this legislation does not protect the habitat of these species.

E. *Other natural or manmade factors affecting its continued existence.* The Key Largo woodrat may be at the carrying capacity of the available habitat on Lignum Vitae Key. Ths status of the cotton mouse on this key is presently unknown. Should these species be removed from Lignum Vitae Key, where they are not native, it would be difficult to locate sufficient suitable habitat to introduce them into.

Critical Habitat

Section 4(a)(3) of the Endangered Species Act, as amended, requires the Secretary, to designate the "critical habitat" of a species, concurrent with listing, "to the maximum extent prudent and determinable." The Act defines critical habitat as: (i) The specific areas within the geographical area occupied by the species, at the time it is listed in accordance with the provisions of Section 4 of the Act, on which are found those physical or biological features: (I) Essential to the conservation of the species and (II) which may require special management considerations or protection; and (ii) specific areas outside the geographical area occupied by the species at the time it is listed in accordance with the provisions of Section 4 of the Act, upon a determination by the Secretary that such areas are essential for the conservation of the species.

The proposes critical habitat of the Key Largo woodrat and cotton mouse consists of approximately 810 hectares (2,000 acres) of uplands on north Key Largo which support tropical hardwood hammock, disturbed hammock, and transition (between hammock and mangrove) vegetation. Within this overall zone, currently suitable habitat is fragmented, not continuous. Neither is the area currently occupied by the species continuous. The proposed critical habitat includes about 344 hectares (850 acres) not now occupied by the woodrat or cotton mouse, but which are essential to the conservation of the species. Section 3(3) of the Act defines "conservation" as the use of all methods and procedures necessary to bring a protected species to the point where the Act's protections are no longer necessary. The areas within the proposed critical habitat not currently occupied include many disturbed tracts that formerly provided habitat for the two mammals, and that will again become suitable as the hammock vegetation recovers and matures. If these tracts are not protected, the range of the mammals would become excessively and permanently fragmented. If the population in any one segment of the current range were to be eliminated by fire, storm, disease, predation, or some other factor, that population could not be replaced by natural movement of animals from another segment. Such fragmentation and loss of potential habitat would ensure that woodrat and cotton mouse numbers remained small and highly vulnerable, and that recovery would not be possible. The unoccupied portion of the proposed critical habitat also includes tracts of transition vegetation adjacent to the hammocks. These tracts protect the shallow-rooted hammock trees from blowdowns, and so are necessary to the integrity of the hammocks. Thus, the proposed critical habitat outside the current range of the species is not only essential to the recovery of the species, but is crucial to the protection of the species in their current range.

In considering designation of critical habitat, the Service is required by 50 CFR 424.12(b) to focus on the biological or physical constituent elements within the defined area that are essential to the conservation of the species involved. With respect to the Key Largo woodrat and cotton mouse, the areas designated as critical habitat satisfy all known criteria for the ecological, behavioral, and physiological requirements of the animals. These elevated forest areas, on an island covered otherwise mainly by mangrove wetlands, have sufficient drainage and vegetation to provide protective cover, a variety of tropical plants for food, and suitable sites for the terrestrial nests of the cotton mouse and the elaborate stick houses of the woodrat.

Section 4(b)(8) of the Act requires, to the maximum extent practicable, that any determination of critcal habitat be accompanied by a brief description and evaluation of those activities which, in the opinion of the Secretary, may adversely modify such habitat if undertaken, or may be affected by such designation. Activities most likely to adversely modify the critical habitat of the Key Largo woodrat and cotton mouse are the continued clearing of hardwood hammocks for residential, commercial, and recreational development. Minor adverse private activities include poaching of tropical hardwoods, dumping of trash and exotic plant debris, and setting fires.

Subsection 4(b)(2) of the Act requires the Service to consider economic and other impacts of specifying a particular area as critical habitat. Therefore, an impact analysis will be prepared prior to the time of a final permanent rule and will be used as the basis for a decision on whether or not to exclude any area from critical habitat for the Key Largo woodrat and cotton mouse. The Service is notifying Federal agencies that may have jurisdiction over the land and water under consideration. These agencies and other interested parties are requested to submit information on economic or other impacts of the proposed measure.

There are a number of Federal activities that may relate to the proposed critical habitat of the Key Largo woodrat and cotton mouse. These are described below under "Available Conservation Measures." It should be emphasized, however, that critical habitat designation does not necessarily prevent Federal activities. If appropriate, the impacts will be addressed during consultation with the Service as required by Section 7 of the Endangered Species Act, as amended. Modification, and not curtailment, of the affected Federal activity has traditionally been the result of Section 7 consultations.

Available Conservation Measures

Endangered Species regulations already published in Title 50, Section 17.21 of the Code of Federal Regulations set forth a series of general prohibitions and exceptions which apply to all endangered wildlife species. These prohibitions, in part, would make it illegal for any person subject to the jurisdiction of the United States to take, import or export, ship in interstate commerce in the course of a commercial activity, or sell or offer for sale any Key Largo woodrat or cotton mouse in interstate or foreign commerce. It also

would be illegal to possess, sell, deliver, carry, transport, or ship any such wildlife which was illegally taken. Certain exceptions would apply to agents of the U.S. Fish and Wildlife Service and State conservation agencies.

Permits may be issued to carry out otherwise prohibited activities involving endangered wildlife under certain circumstances. Regulations governing such permits are codified at 50 CFR 17.22 and 17.23. Such permits are available for scientific purposes, to enhance the propagation or survival of the species, and for incidental takings in limited circumstances. In some instances, permits may be issued during a specified period of time to relieve undue economic hardship which would be suffered if such relief were not available.

This proposed rule requires Federal agencies to satisfy their statutory obligations with respect to the Key Largo woodrat and cotton mouse. Agencies will now be required, in accordance with Section 7(a)(4), to informally confer with the Service on any action that is likely to jeopardize these species or result in the destruction or adverse modification of their proposed critical habitat. Moreover, if the Key Largo woodrat and cotton mouse are ultimately added to the List of Endangered and Threatened Wildlife, Section 7(a)(2) would require Federal agencies to insure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of these species or result in the destruction or adverse modification of their critical habitat that has been determined by the Secretary (this requirement is currently in effect under the emergency rule of September 21, 1983).

A possible Federal involvement in the upland areas of north Key Largo would be the flood insurance provided by the Federal Emergency Management Agency (FEMA). Monroe County regulations qualify the area under the National Flood Insurance Program administered by this agency. Insurance is provided only for completed structures. Should this program be restricted on north Key Largo, increased risk or increased insurance costs could result. Development would be less attractive in the area.

Due to the high-cost, luxury type of development planned for north Key Largo, future loans by such Federal agencies as the Federal Housing Administration, Veterans Administration, and Small Business Administration are not considered likely. If loans were sought from these agencies, however, their availability might be affected by the need to consider the welfare of the Key Largo woodrat and cotton mouse. Some increases in costs, e.g., higher interest rates, could result. Development would continue on north Key Largo, however, without the assistance of these particular federal agencies.

The U.S. Fish and Wildlife Service is presently acquiring lands on north Key Largo for the Crocodile Lake National Wildlife Refuge. The projected size of the refuge in about 7,000 acres. At present, 203 acres have been acquired with an additional 450 acres planned for acquisition in 1983. The projected refuge boundaries include about 800 acres of the proposed critical habitat of the Key Largo woodrat and cotton mouse. Service management would preserve the hardwood hammock vegetation on these uplands. Few if any increased costs to the refuge would result from this listing action.

A previous Service consultation pursuant to Section 7 of the Endangered Species Act occurred in relation to the Farmers Home Administration (FmHA) funding of the Florida Keys Aqueduct Authority's (FKAA) new aqueduct in the Florida Keys. The Service's concern was that the new pipeline would encourage development, thereby adversely affecting listed species. FmHA entered into consultation with the Fish and Wildlife Service on February 4, 1980. The consultation involved one Endangered species, the American crocodile (*Crocodylus actus*), and one Threatened species, the Schaus swallowtail butterfly (*Papilio aristodemus ponceanus*) on north Key Largo. A biological opinion, issued by the Service on May 29, 1980, indicated that these species would be jeopardized by the project. FmHA accepted, as a condition of its loan, a requirement to restrict water delivery on north Key Largo, thus avoiding a violation of subsection 7(a)(2) of the Endangered Species Act. The areas excluded from water delivery were within the boundaries of the Crocodile Lake National Wildlife Refuge as well as uplands of several sections of land east of the refuge. About 45 percent of the total Key Largo woodrat and cotton mouse population on north Key Largo occurs in hammocks denied water in conformity with existing biological opinion. Much of the most densely occupied habitat, however, lies outside these areas. Since the FmHA is not involved with the construction or operation of the pipeline, no future Federal involvement with this project is anticipated.

In addition, on June 27, 1983, the Rural Electrification Administration (REA) submitted to the U.S. Fish and Wildlife Service a request for immediate initiation of formal consultation on a proposed loan to the Florida Keys Electric Cooperative (FKEC) for construction of a substation to provide increased electrical delivery on northern Key Largo. Such consultation was required by Section 7 of the Endangered Species Act, as amended, because of the presence of the threatened Schaus swallowtail butterfly and the endangered American crocodile, which may be affected by the project. Subsection 7(a)(2) requires consultation to insure that Federal actions are not likely to jeopardize the continued existence of listed species or result in the destruction of adverse modification of their critical habitat.

The proposed electric delivery system, which could serve up to 6,000 new residential units, would probably have even greater adverse effects on the Key Largo woodrat and cotton mouse, which were not listed at the time consultation was initiated. These two species occur exclusively in upland hardwood hammocks, which are prime targets of development. Even though a portion of the habitat of these species lies within the authorized boundaries of the approved Crocodile Lake National Refuge, little of the upland habitat has been acquired so far, and future acquisitions are expected to proceed slowly. Moreover, most habitat of these species is outside the refuge boundaries. Increased availability of electric power would likely result in accelerated residential and commercial development both within and outside the authorized refuge boundaries. Consequently, a substantial part of the habitat of the Key Largo woodrat and cotton mouse would probably be lost, and the survival of these species would be jeopardized.

Since the Key Largo woodrat and cotton mouse were not on the U.S. List of Endangered and Threatened Wildlife at the time consultation on the REA loan was initiated, their welfare could not then be given full consideration in the consultation process. Even if a proposed rule had been issued at that time, it could not have been made final in time for such consideration to have been given, because normally: (1) The proposed rule must be published at least 90 days before the effective date of the final listing, and (2) the consultation process relative to Federal actions must be completed within 90 days of initiation. Also, if these two species were only proposed for listing, they would only be subject to subsection

7(a)(4) of the Endangered Species Act, which requires that Federal agencies informally "confer" on actions likely to jeopardize the continued existence of proposed species. Unlike the protection afforded listed species, this subsection does not legally prohibit such actions, one informal conferral has taken place, and does not prohibit agencies from making irreversible or irretrievable commitments of resources with respect to such actions. Thus, proposed species are afforded no substantive protection pursuant to the Act. Therefore, in order to insure that the welfare of the Key Largo woodrat and cotton mouse was considered in regard to the REA loan, an emergency rule determining both species as endangered was issued in the **Federal Register** of September 21, 1983 (48 FR 43040–43043). Consequently, the opinion issued by the Service on the REA loan indicated that the proposed electric delivery system would result in development that would jeopardize the continued survival of the two species. The emergency rule, however, will expire on May 18, 1984, and it is now necessary to propose permanent Endangered status.

National Environmental Policy Act

In accordance with a recommendation from the Council on Environmental Quality (CEQ), the Service has not prepared any NEPA documentation for this proposed rule. The recommendation from CEQ was based, in part, upon a decision in the Sixth Circuit Court of Appeals which held that the preparation of NEPA documentation was not required as a matter of law for listings under the Endangered Species Act. *PLF v. Andrus* 657 F.2d 829 (6th Cir. 1981).

Public Comments Solicited

The Service intends that the rules finally adopted will be as accurate and effective as possible in the conservation of any endangered or threatened species. Therefore, any comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, private interests, or any other interested party concerning any aspect of these proposed rules are hereby solicited. Comments particularly sought include:

(1) Biological, commercial, or other relevant data concerning any threat (or lack thereof) to the Key Largo woodrat and cotton mouse;

(2) The location of and the reasons why any habitat of these species should or should not be determined to be critical habitat as provided for by Section 4 of the Act;

(3) Additional information concerning the range and distribution of these species;

(4) Current or planned activities that may adversely modify the areas being considered for designation as critical habitat; and

(5) The foreseeable economic and other impacts of the critical habitat designation on Federal activities, private individuals, etc.

Final promulgation of the regulations on the Key Largo woodrat and cotton mouse will take into consideration the comments and any additional information received by the Service, and such communications may lead to a final regulation that differs from this proposal.

The Endangered Species Act provides for a public hearing on this proposal, if requested. Requests must be filed within 45 days of the date of the proposal. Such requests should be made in writing and addressed to the Endangered Species Field Supervisor, U.S. Fish and Wildlife Service, 2747 Art Museum Drive, Jacksonville, Florida 32207. Copies of the base map dated March 31, 1983, which sets out the critical habitat proposed by this rule, are also available at this office, in the Service's Regional Office in Atlanta, Georgia, and at the Service's Office of Endangered Species in Washington, D.C.

Author

The primary author of this proposed rule is Dr. Michael M. Bentzien, U.S. Fish and Wildlife Service, 2747 Art Museum Drive, Jacksonville, Florida 32207 (904/791–2580).

References

Barbour, D. B., and S. R. Humphrey. 1982. Status and habitat of the Key Largo woodrat and cotton mouse (*Neotoma floridana smalli* and *Peromyscus gossypinus allapaticola*). J. Mamm. 63:144–148.

Hersh, S. L. 1981. Ecology of the Key Largo woodrat (*Neotoma floridana smalli*). J. Mamm. 62:201–206.

Schwartz, A. 1952. Three new mammals from southern Florida. J. Mamm. 33:381–385.

Sherman, H. B. 1955. Description of a new race of woodrats from Key Largo, Florida. J. Mamm. 36:113–120.

List of Subjects in 50 CFR Part 17

Endangered and threatened wildlife, Fish, Marine mammals, Plants (agriculture).

Proposed Regulations Promulgation

PART 17—[AMENDED]

Accordingly, it is hereby proposed to amend Part 17, Subchapter B of Chapter I, Title 50 of the U.S. Code of Federal Regulations, as set forth below:

1. The authority citation for Part 17 reads as follows:

Authority: Pub. L. 93–205, 87 Stat. 884; Pub. L. 94–359, 90 Stat. 911; Pub. L. 95–632, 92 Stat. 3751; Pub. L. 96–159, 93 Stat. 1225; Pub. L. 97–304, 96 Stat. 1411 (16 U.S.C. 1531, *et seq.*).

2. It is proposed to amend § 17.11(h) by adding the following, in alphabetical order, to the List of Endangered and Threatened Wildlife under Mammals:

§ 17.11 Endangered and threatened wildlife.

* * * * *

(h) * * *

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
Mouse, Key Largo cotton	*Peromyscus gossypinus allapaticola.*	U.S.A. (Florida)	Entire	E		17.95(a)	N/A
Woodrat, Key Largo	*Neotoma floridana smalli*	U.S.A. (Florida)	Entire	E		17.95(a)	N/A

3. It is further proposed that § 17.95(a), *Mammals,* be amended by adding the critical habitat of the Key Largo cotton mouse after that of the Florida manatee as follows:

§ 17.95 Critical habitat—fish and wildlife.

(a) * * *

* * * * *

Key Largo Cotton Mouse

(*Peromyscus gossypinus allapatiola*)

Florida. Hammocks (elevated tracts of land naturally supporting hardwood vegetation), distrubed hammocks, and zones of transition between hammocks and mangrove (as designated on a base map prepared by the U.S. Fish and Wildlife Service, dated March

31, 1983, the original of which is on file at the Service's Regional Office, Richard B. Russell Federal Building, 75 Spring Street, S.W., Atlanta, Georgia 30303) constituting approximately 810 hectares within the following areas of Key Largo in Monroe County (Tallahassee meridian): Areas in T59S R40E sec. 13 west of Old State Road 905 and south of the east-west road connecting Old State Road 905 with State Road 905 south of the Ocean Reef property; areas, in T59S R40E sec. 13 and 14 west of State Road 905 and south of a line extended westward at a bearing of S89°38'W from the junction of said connecting road and State Road 905; areas in T59S R40E sec. 24 west of Old State Road 905; areas in T59S R40E sec. 24 east of Old State Road 905 and south of the fence line that forms the southern boundary of the Harbor Course section of the Ocean Reef community; areas in T59S R40E sec. 25 and 26 along the east and west sides of both State Road 905 and Old State Road 905; and areas in T59S R40E sec. 23, 34, and 35, and in T60S R40E sec. 2, 3, 9, 10, 15, 16, 20, 21, 28, 29, and 30 along the east and west sides of State Road 905.

Within these areas, the major constituent elements that are known to require special management considerations or protection are uplands and associated tropical hardwood hammock forest trees and shrubs that provide food and cover for the Key Largo cotton mouse.

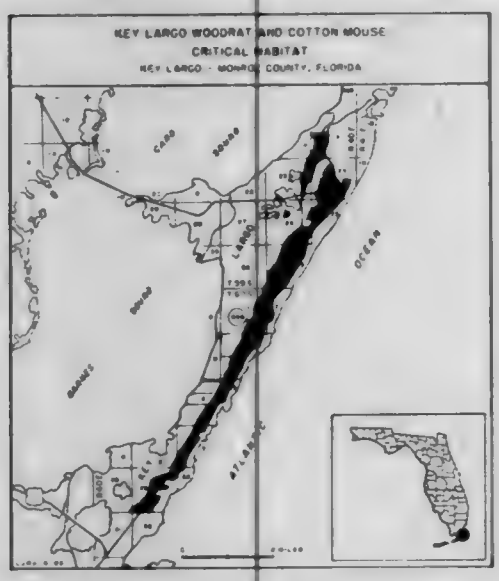

* * * * *

4. It is further proposed that § 17.95(a), Mammals, be amended by adding the Critical Habitat of the Key Largo woodrat after that of the gray wolf as follows:

Key Largo Woodrat

(*Neotoma floridana smalli*)

* * * * *

Florida. Hammocks (elevated tracts of land naturally supporting hardwood vegetation), disturbed hammocks, and zones of transition between hammocks and mangrove (as designated on a base map prepared by the U.S. Fish and Wildlife Service, dated March 31, 1983, the original of which is on file at the Service's Regional Office, Richard B. Russell Federal Building, 75 Spring Street, SW., Atlanta, Georgia 30303) within the following areas of Key Largo in Monroe County (Tallahassee Meridian): areas in T59S R40E sec. 13 west of Old State Road 905 and south of the east-west road connecting Old State Road 905 with State Road 905 south of the Ocean Reef property; areas in T59S R40E secs. 13 and 14 west of State Road 905 and south of a line extended westward at a bearing of S89°38' W from the junction of said connecting road and State Road 905; areas in T59S R40E sec. 24 west of Old State Road 905; areas in T59S R40E sec. 24 east of Old State Road 905 and south of the fence line that forms the southern boundary of the Harbor Course section of the Ocean Reef community; areas in T59S R40E secs. 25 and 26 along the east and west sides of both State Road 905 and Old State Road 905; and areas in T59S R40E secs. 23, 34, and 35, and in T60S R40E secs. 2, 3, 9, 10, 15, 16, 20, 21, 28, 29, and 30 along the east and west sides of State Road 905.

Within these areas, the major constituent elements that are known to require special management considerations or protection are uplands and associated tropical hardwood hammock forest trees and shrubs that provide food and cover for the Key Largo woodrat.

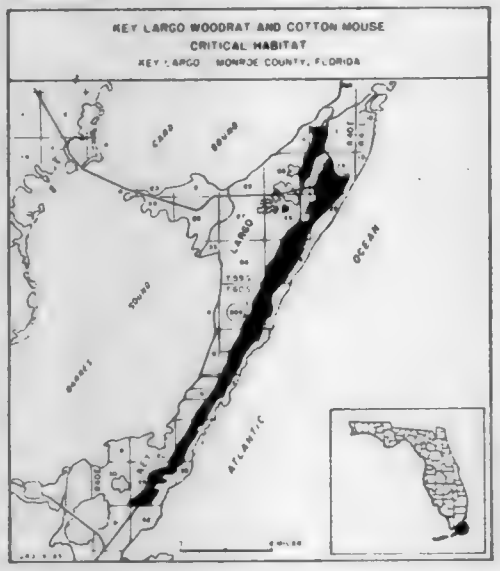

Dated: January 25, 1984.

J. Craig Potter,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc 84-3483 Filed 2-8-84; 8:45 am]

BILLING CODE 4310-55-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 611

[Docket No. 31004-196]

Foreign Fishing; Groundfish of the Bering Sea and Aleutian Islands Area; withdrawal of Proposed Rule

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Withdrawal of proposed rulemaking.

SUMMARY: NOAA by this document withdraws the proposed rule to implement Amendment 6 to the fishery management plan for the groundfish fishery in the Bering Sea and Aleutian Islands area that appeared at page 45806 in the **Federal Register** of Friday, October 7, 1983 (48 FR 45806). This rulemaking was disapproved by the Secretary of Commerce under Section 304(b)(2) of the Magnuson Fishery Conservation and Management Act on December 8, 1983 for additional analysis of the potential impacts of the action and opportunity for public review.

FOR FURTHER INFORMATION CONTACT:

Susan J. Salveson (Regional Plan Coordinator, Alaska Region, National Marine Fisheries Service), 907-586-7230.

(16 U.S.C. 1801 *et seq.*)

Dated: February 3, 1984.

Joseph W. Angelovic,

Deputy Assistant Administrator for Science and Technology, National Marine Fisheries Service.

[FR Doc. 84-3479 Filed 2-8-84; 8:45 am]

BILLING CODE 3510-22-M

Notices

Federal Register
Vol. 49, No. 28
Thursday, February 9, 1984

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Soil Conservation Service

Winfield Creek Critical Area Treatment RC&D Measure, Steuben County, New York, Sullivan Trails RC&D Area; Finding of No Significant Impact

The measure concerns a plan for reducing critical erosion along Goff Road as a result of high flows in adjacent Winfield Creek due to storm events. The planned works of improvement include a 20 foot extension of an existing culvert, placement of rock riprap in critical areas, installation of 2 rock riprap sills in the channel bottom, reshaping and vegetative stabilization of exposed banks, and installation of rock riprap wingwalls upstream of existing culvert. Benefits will be derived from the protection of Goff Road, a public highway. The annual cost of maintenance will be reduced, water quality and public safety will be enhanced.

An environmental assessment as part of the measure planning process was conducted. The assessment revealed no significant adverse impacts to the environment would occur as a result of project implementation.

The environmental assessment prepared for this measure is available for public review at the James M. Hanley Federal Building, 100 South Clinton Street, Room 771, Syracuse, New York 13260.

Based on the facts derived from the assessment, it was concluded that an environmental impact statement would not be necessary.

Dated: January 31, 1984.

Paul A. Dodd,

State Conservationist, Soil Conservation Service, Syracuse, New York.

[FR Doc. 84-3556 Filed 2-8-84; 8:45 am]

BILLING CODE 3410-16-M

CIVIL AERONAUTICS BOARD

[Docket 40201]

Air New England/Mackey International Airlines; Employee Protection Program Investigation; Hearing

Notice is hereby given that a hearing in the above-entitled matter is assigned to commence on May 16, 1984, at 9:30 a.m. (local time) in Room 1027, Universal Building, 1825 Connecticut Ave., NW., Washington, D.C., before the undersigned Chief Administrative Law Judge.

Dated at Washington, D.C., February 2, 1984.

Elias C. Rodriguez,

Chief Administrative Law Judge.

[FR Doc. 84-3606 Filed 2-8-84; 8:45 am]

BILLING CODE 6320-01-M

Order Establishing International Cargo Rate Flexibility Policy

Correction

In FR Doc 84-3037 appearing on page 4228 in the issue of Friday, February 3, 1984, in the second column, third paragraph, line 6, ".9335" should read ".9355."

BILLING CODE 1505-01-M

DEPARTMENT OF COMMERCE

International Trade Administration

Export Trade Certificate of Review

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of Application.

SUMMARY: The Office of Export Trading Company Affairs, International Trade Administration, Department of Commerce has received an application for an Export Trade Certificate of Review. This notice summarizes the conduct for which certification is sought and invites interested parties to submit information relevant to the determination of whether a certificate should be issued.

DATES: Comments on these applications must be submitted on or before February 29, 1984.

ADDRESS: Interested parties should submit their written comments, original and five (5) copies, to: Office of Export Trading Company Affairs, International Trade Administration, Department of Commerce, Room 5618, Washington, D.C. 20230.

Comments should refer to this application as "Export Trade Certificate of Review, application number 84-00004."

FOR FURTHER INFORMATION CONTACT: Charles S. Warner, Director, Office of Export Trading Company Affairs, International Trade Administration, 202/377-5131, or Eleanor Roberts Lewis, Assistant General Counsel for Export Trading Companies, Office of General Counsel, 202/377-0937. These are not toll-free numbers

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 (Pub. L. 97-290) authorizes the Secretary of Commerce to issue Export Trade Certificates of Review. The regulations implementing Title III are found at 48 FR 10596-10604 (Mar. 11, 1983) (to be codified at 15 CFR Part 325). A certificate of review protects its holder and the members identified in it from private treble damage actions and from civil and criminal liability under Federal and state antitrust laws for the export trade, export trade activities and methods of operation specified in the certificate and carried out during its effective period in compliance with its terms and conditions.

Standards for Certification

Proposed export trade, export trade activities, and methods of operation may be certified if the applicant establishes that such conduct will:

1. Result in neither a substantial lessening of competition or restraint of trade within the United States nor a substantial restraint of the export trade of any competitor of the applicant,

2. Not unreasonably enhance, stabilize, or depress prices within the United States of the goods, wares, merchandise, or services of the class exported by the applicant,

3. Not constitute unfair methods of competition against competitors engaged in the export of goods, wares, merchandise, or services of the class exported by the applicant, and

4. Not include any act that may reasonably be expected to result in the sale for consumption or resale within the United States of the goods, wares,

merchandise, or services exported by the applicant.

The Secretary will issue a certificate if he determines, and the Attorney General concurs, that the proposed conduct meet these four standards. For a further discussion and analysis of the conduct eligible for certification and of the four certification standards, see "Guidelines for the Issuance of Export Trade Certificates of Review," 48 FR 15937–10 (April 13, 1983).

Request for Public Comments

The Office of Export Trading Company Affairs (OETCA) is issuing this notice in compliance with section 302(b)(1) of the Act which requires the Secretary to publish a notice of the application in the **Federal Register** identifying the persons submitting the application and summarizing the conduct proposed for certification. The OETCA and the applicant have agreed that this notice fairly represents the conduct proposed for certification. Through this notice, OETCA seeks written comments from interested persons who have information relevant to the Secretary's determination to grant or deny the application below. Information submitted by any person in connection with the application(s) is exempt from disclosure under the Freedom of Information Act (5 U.S.C. 552).

The OETCA will consider the information received in determining whether the proposed conduct is "export trade," "export trade activities," or a "method of operation" as defined in the Act, regulations and guidelines and whether it meets the four certification standards. Based upon the public comments and other information gathered during the analysis period, the Secretary may deny the application or issue the certificate with the four standards.

The OETCA has received the following application for an Export Trade Certificate of Review:

The OETCA has received the following application for an Export Trade Certificate of Review:

Applicant: Farmers' Rice Cooperative, P.O. Box 696, West Sacramento, CA 95691

Application #: 84–00005
Date Received: January 20, 1984
Date Deemed Submitted: January 27, 1984
Members in Addition to Applicant:
Entities or firms having California rice products available for export who join with the Applicant from time to time in certified contractual arrangements.

A. Export Trade

The Applicant intends to bid on, negotiate and perform commercial contracts for the export of California rice products (milled and unmilled) to foreign purchasers.

B. Export Markets

The Applicant intends to market its products worldwide, primarily in the Pacific areas and Far East, Europe an South America.

C. Activities/Methods of Operation

Farmers' Rice Cooperative (FRC) seeks certified contractual arrangements by which: (1) The Cooperative, together with other entities having California rice products available for export, will aggregate their available supplies in order jointly to bid on, negotiate and perform commercial contracts for the supply of California rice products to foreign purchasers; and (2) the Cooperative may provide, to all participating entities, coordinated storage, shipping, delivery and associated administrative services. These arrangements are to be exclusive with respect to the particular foreign commercial contract for which the arrangement is made, and limited to those entities that, apart from the Cooperative, have under their contract or control no more than thirty percent of California rice production, and that, together with the Cooperative, have under their contract or control no more than sixty percent of California rice production.

The OETCA is issuing this notice in compliance with section 302(b)(1) of the Act which requires the Secretary to publish a notice of the application in the **Federal Register** identifying the persons submitting the application and summarizing the conduct proposed for certification. Interested parties have twenty (20) days from the publication of this notice in which to submit written information relevant to the determination of whether a certificate should be issued.

Dated: February 6, 1984.

Irving P. Margulies,

Acting General Counsel.

[FR Doc. 84–3603 Filed 2–8–84; 8:45 am]

BILLING CODE 3510-DR-M

[A-351-012, A-351-014]

Final Determinations of Sales at Less Than Fair Value: Hot-Rolled Carbon Steel Plate and Hot-Rolled Carbon Steel Sheet From Brazil

Correction

In FR Doc. 84–2012, beginning on page 3102 in the issue of Wednesday, January 25, 1984, the effective date appearing near the top of the second column on page 3102 should have read, "January 25, 1984."

BILLING CODE 1505-01-M

[Case No. 652]

Order Temporarily Denying Export Privileges; Edward F. King, et al.

In the matter of: Edward F. King, 5122 Grandview Avenue, Yorba Linda, California; Louis R. Klement, 1255 Genoa Place, Placentia, California; Hendrik G. Wasmoeth, Berenkoog 29, 1822 BH Alkamaar, Holland; Ognian Bozarov, 57 Boul. Tcherni Vrah, Sofia, Bulgaria and Assen Koinov, 57 Boul. Tcherni Vrah, Sofia, Bulgaria.

The Department of Commerce (the "Department"), pursuant to the provisions of § 388.19 of the Export Administration Regulations [15 CFR 368, *et seq.* (1983)] (the "Regulations"), has petitioned the Hearing Commissioner for an order temporarily denying all export privileges to Edward F. King, Louis, R. Klement, Hendrik G. Wasmoeth, Ognian Bozarov, and Assen Koinov.

The Department states that, in November 1983, a federal grand jury, in a 10-count indictment, charged: (1) King, Klement, Wasmoeth, Bazarov and Koinov with conspiring to export and cause the export of U.S.-origin equipment from the United States to Bulgaria without obtaining the required validated export license; (2) King and Klement, aided and abetted by Wasmoeth, with exporting and causing to be exported U.S.-origin equipment without obtaining the required validated export license, and (3) King and Klement, aided and abetted by Wasmoeth, with exporting and diverting, and causing to be exported and diverted U.S.-origin equipment from the United States through Holland to Bulgaria by falsely stating and representing on Shipper's Export Declarations the destination of the subject U.S.-origin equipment to be Holland when in fact it was Bulgaria.

The Department further states that King and Klement are the principal officers of Printemps Corporation of

Yorba Linda, California, and that Wasmoeth was or is doing business as Data Maintenance, Kintraco B.V., and Traco Supplies B.V. with an address in Alkamaar, Holland.

Based on the showing made by Department, I find that an order temporarily denying all export privileges to Edward F. King, Louis R. Klement, Hendrik G. Wasmoeth, Ognian Bozarov, and Assen Koinov is required in the public interest to facilitate enforcement of the Export Administration Act of 1979, as amended (50 U.S.C. app. 2401–2420 (Supp. V 1981)) and the Regulations.

Anyone who is now or may in the future be dealing with the above-named respondents or any related party in transactions that in any way involve U.S.-origin commodities or technical data is specifically alerted to the provisions set forth in Paragraph IV below.

Accordingly, it is hereby ordered:

I. All outstanding validated export licenses in which any respondent or any related party appears or participates, in any manner or capacity, are hereby revoked and shall be returned forthwith to the Office of Export Administration for cancellation.

II. The respondents, their successors, or assignees, officers, partners, representatives, agents, and employees hereby are denied all privileges of participating, directly or indirectly, in any manner or capacity, in any transaction involving commodities or technical data exported from the United States in whole or in part, or to be exported, or that are otherwise subject to the Regulations. Without limitation of the generality of the foregoing, participation prohibited in any such transaction, either in the United States or abroad, shall include participation, directly or indirectly, in any manner or capacity: (a) As a party or as a representative of a party to any export license application, (b) in preparing for filing with the Department any export license application or request for reexport authorization, or any document to be submitted therewith, (c) in obtaining from the Department or using any validated or general export license or other export control document, (d) in carrying on negotiations with respect to, or in the receiving, ordering, buying, selling, delivering, storing, using, or disposing of any commodities or technical data, in whole or in part, exported or to be exported from the United States, and subject to the Regulations; and (e) in the financing, forwarding, transporting, or other servicing of such commodities or technical data.

III. Such denial of export privileges shall extend not only to the respondents, but also their agents and employees and to any successors. After notice and opportunity for comment, such denial may also be made applicable to any person, firm, corporation, or business organization with which respondents are now or hereafter may be related by affiliation, ownership, control, position of responsibility, or other connection in the conduct of export trade or related services. Business organizations and individuals now known to be owned by or affiliated with the named respondents, and which are accordingly subject to the provisions of this order, are:

Printemps Corporation, 4854 Main Street, Suite F, Yorba Linda, California 92686
Nancy P. King, 5122 Grandview Avenue, Yorba Linda, California 92686
Data Maintenance, Berenkoog 29, 1822 BH Alkamaar, Holland
Kintraco, Berenkoog 29, 1822 BH Alkamaar, Holland
Traco Supplies BV, Berenkoog 29, 1822 BH Alkamaar, Holland

IV. No person, firm, corporation, partnership or other business organization, whether in the United States or elsewhere, without prior disclosure to and specific authorization from the Office of Export Administration, shall, with respect to U.S.-origin commodities and technical data, do any of the following acts, directly or indirectly, or carry on negotiations with respect thereto, in any manner or capacity, on behalf of or in any association with the respondents or any related party, or whereby the respondents or any related party may obtain any benefit therefrom or have any interest or participation therein, directly or indirectly: (a) Apply for, obtain, transfer, or use any license, Shipper's Export Declaration, bill of lading or other export control document relating to any export, reexport, transshipment, or diversion of any commodity or technical data exported in whole or in part, or to be exported by, to, or for any respondent or any related party denied export privileges; or (b) order, buy, receive, use, sell, deliver, store, dispose of, forward, transport, finance, or otherwise service or participate in any export, reexport, transshipment, or diversion of any commodity or technical data exported or to be exported from the United States.

V. In accordance with the provisions of § 388.19(b) of the Regulations, any respondent or any related party may move at any time to vacate or modify this temporary denial order by filing with Hearing Commissioner, International Trade Administration, U.S. Department of Commerce, Room 6716, 14th and Constitution Avenue, NW., Washington, D.C. 20230, an appropriate motion for relief, and may also request an oral hearing thereon, which, if requested, shall be held before the Hearing Commissioner at the earliest convenient date.

VI. This order is effective immediately. It remains in effect until the final disposition of any administrative and/or judicial proceedings initiated against the respondents as a result of the ongoing investigation. A copy of this order and Parts 387 and 388 of the Regulations shall be served upon the respondents and the above-named related parties.

Dated: February 3, 1984, 2:25 pm EST.

Thomas W. Hoya,

Hearing Commissioner.

[FR Doc. 84-3500 Filed 2-8-84; 8:45 am]
BILLING CODE 3510-25-M

[A-469-401]

Certain Stainless Steel Sheet and Strip Products From Spain; Initiation of Antidumping Investigations

AGENCY: International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: On the basis of a petition filed in proper form with the United States Department of Commerce, we are initiating antidumping investigations to determine whether certain stainless steel sheet and strip products from Spain are being, or are likely to be, sold in the United States at less than fair value. We are notifying the United States International Trade Commission (ITC) of the action, so that it may determine whether imports of this merchandise are materially injuring, or threatening to materially injure, a United States industry. If the investigations proceed normally, the ITC will make its preliminary determination or or before February 27, 1984, and we will make our own on or before June 21, 1984.

EFFECTIVE DATE: February 9, 1984.

FOR FURTHER INFORMATION CONTACT: William D. Kane, Office of Investigations, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230, telephone: (202) 377–1776.

SUPPLEMENTARY INFORMATION: On January 13, 1984, we received a petition in proper form from counsel for

Allegheny Ludlum Steel Corporation, Armco Inc., Carpenter Technology Corporation, Eastern Stainless Steel Company, J&L Specialty Steels, Inc., Jessup Steel Company, Republic Steel Corporation, Universal-Cyclops Specialty Steel Division of Cyclops Corporation, Washington Steel Corporation, and the United Steelworkers of America, AFL/CIO-CLC.

In compliance with the filing requirements of section 353.36 of the Commerce Regulations (19 CFR 353.36), the petition alleges that imports of the subject merchandise from Spain are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Tariff Act of 1930, as amended (19 U.S.C. 1673) (the Act), and that these imports are materially injuring, or are threatening to materially injure, a United States industry. The allegations of sales at less than fair value of the merchandise under investigation from Spain are supported by comparisons of United States price, based variously on unit values derived from U.S. Customs import statistics and on actual sales and offers of Spanish stainless steel by a U.S. broker, and home market prices, based on the prices of a Spanish stainless steel service center netted back to reflect the manufacturer's wholesale prices.

Initiation of Investigations

Under section 732(c) of the Act, we must determine, within 20 days after a petition is filed, whether it sets forth the allegations necessary for the initiation of an antidumping investigation and whether it contains information reasonably available to the petitioners supporting the allegations. We have examined the petition filed by counsel for the domestic stainless steel sheet and strip industry and the United Steelworkers of America, and we have found that it meets the requirements of section 732(b) of the Act. Therefore, we are initiating antidumping investigations to determine whether certain stainless steel sheet and strip products are being, or are likely to be, sold at less than fair value in the United States. If our investigation proceeds normally, we will make our preliminary determination by June 21, 1984.

Scope of Investigations

The merchandise covered by these investigations consists of certain stainless steel sheet and strip products. For a further description of these products see the appendix appearing with this notice.

Notification to the ITC

Section 732(d) of the Act requires us to notify the ITC of this action and to provide it with the information we used to arrive at this determination. We will notify the ITC and make available to it all nonprivileged and nonconfidential information. We will also allow the ITC access to all privileged and confidential information in our files, provided it confirms that it will not disclose such information either publicly or under an administrative protective order without the written consent of the Deputy Assistant Secretary for Import Administration.

Preliminary Determination by ITC

The ITC will determine within 45 days of the date the petition was received whether there is a reasonable indication that imports of certain stainless steel sheet and strip products from Spain are materially injure, or are likely to materially injuring, a United States industry. If its determination is negative, these investigations will terminate; otherwise they will proceed according to the statutory procedures.

Dated: February 1, 1984.

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

Appendix

Product Description: Certain Stainless Steel Sheet and Strip Products

For the purpose of this investigation the term "certain stainless steel sheet and strip products" covers hot or cold rolled stainless steel sheet or strip, excluding hot or cold rolled stainless steel strip not over 0.01 inch in thickness, currently provided for in items 607.7610, 607.9010, 607.9020, 608.4300, and 608.3700 the Tariff Schedules of the United States Annotated.

Hot rolled stainless steel sheet covers hot rolled stainless steel sheet products whether or not corrugated or crimped and whether or not pickled; not cold rolled; not cut, not pressed, and not stamped to non-rectangular shape; not coated or plated with metal; and under 0.1875 inch in thickness and over 12 inches in width.

Hot rolled stainless steel strip is a flat-rolled stainless steel product whether or not corrugated or crimped and whether or not pickled; not cold rolled; not cut, not pressed, and not stamped to non-rectangular shape; and under 0.1875 inch in thickness and not over 12 inches in width. Hot rolled stainless steel strip, including razor blade strip, not over 0.01 inch in thickness is not included.

Cold rolled stainless steel sheet covers cold rolled stainless steel sheet products whether or not corrugated or crimped and whether or not pickled; not cut, not pressed, and not stamped to non-rectangular shape; not coated or plated with metal; and under 0.1875 inch in thickness and over 12 inches in width.

Cold rolled stainless steel strip is a flat-rolled stainless steel product whether or not corrugated or crimped and whether or not pickled; not cut, not pressed, and not stamped to non-rectangular shape; under 0.1875 inch in thickness and over 0.50 inch in width but not over 12 inches in width. Cold rolled stainless steel strip, including razor blade strip, not over 0.01 inch in thickness is not included in this investigation.

[FR Doc. 84-3501 Filed 2-8-84; 8:45 am]

BILLING CODE 3510-DS-M

National Bureau of Standards

[Docket No. 31109-222]

Approval of Federal Information Processing Standard 10-3, Countries, Dependencies, Areas of Special Sovereignty, and Their Principal Administrative Divisions

Under the provisions of Pub. L. 89-306 (79 Stat. 1127; 40 U.S.C. 759(f)) and Executive Order 11717 (38 FR 12315, dated May 11, 1973), the Secretary of Commerce (Secretary) is authorized to establish uniform Federal automatic data processing standards. Responsibilities of the National Bureau of Standards for the development, publication, and promulgation of data element and representation standards are defined in Part 6 of Title 15 of the Code of Federal Regulations. On April 21, 1981, a notice was published in the **Federal Register** (46 FR 22779-22780) that a revised standard for Countries, Dependencies, Areas of Special Sovereignty, and Their Principal Administrative Subdivisions was being proposed for Federal use to supersede FIPS 10-2, Countries, Dependencies and Areas of Special Sovereignty. Interested parties were invited to submit written comments concerning this revised standard to the National Bureau of Standards (NBS).

The written comments submitted by interested parties and other material available to the Department relevant to this revised standard were reviewed by NBS. On the basis of this review, NBS recommended to the Secretary his approval of the revised Federal Information Processing Standard (FIPS), and prepared a detailed justification document for the Secretary's review in support of that recommendation. The purpose of this notice is to announce that the Secretary has approved the revision of FIPS 10-2, and that the revision shall be published as FIPS Publication 10-3. This revision becomes effective upon publication in the **Federal Register** of this notice. Use by Federal agencies is encouraged when such use

contributes to operational benefits, efficiency, or economy.

The detailed justification document which was presented to the Secretary, and which includes an analysis of the written comments received, is part of the public record and is available for inspection and copying in the Department's Central Reference and Records Inspection Facility, Room 6622, Herbert C. Hoover Building, 14th Street between Constitution Avenue and E Street, NW., Washington, D.C. 20230.

FIPS PUB 10–3 expands the code set for countries, dependencies and areas of special sovereignty by adding codes to identify principal administrative divisions within those units. In addition, the revision consolidates changes to country codes that have been announced in change notices over the past several years.

Expected benefits to Federal agencies using this revised standard in their data processing applications include reduced costs of data management and related paperwork, and improved opportunities for more effective use of data resources. The revised standard is expected to reduce duplication and promote coordination in information exchange involving international concerns.

The approved FIPS contains two portions: (1) An announcement portion which provides information concerning the applicability, implementation, and maintenance of the standard and (2) a specifications portion which deals with the technical requirements of the standard. Only the announcement portion of the standard is provided in this notice.

Interested parties may purchase copies of this revised standard, including the specifications portion, from the National Technical Information Service (NTIS). Specific ordering information from NTIS for this revised standard is set out in the Where to Obtain Copies section of the announcement portion of the standard.

Persons desiring further information about this standard may contact Mr. Roy Saltman, Center for Programming Science and Technology, Institute for Computer Sciences and Technology, National Bureau of Standards, Washington, D.C. 20234, (301) 921–3491.

Dated: February 6, 1984.

Ernest Ambler,

Director.

Federal Information Processing Standards Publication 10–3

(Date)

Announcing the Standard for Countries, Dependencies, Areas of Special Sovereignty, and Their Principal Administrative Divisions

Federal Information Processing Standards Publications (FIPS PUBS) are issued by the National Bureau of Standards in accordance with section 111(f)(2) of the Federal Property and Administrative Services Act of 1949, as amended, Pub. L. 89–306 (79 Stat. 1127), Executive Order 11717 (38 FR 12315 dated May 11, 1973), and Part 6 of Title 15 Code of Federal Regulations.

1. *Name of Standards:* Countries, Dependencies, Areas of Special Sovereignty, and Their Principal Administrative Divisions (FIPS PUB 10–3).

2. *Category of Standard:* Data Standards and Guidelines; Representations and Codes.

3. *Explanation:* This Standard provides a list of the basic geopolitical entities in the world, together with the principal administrative divisions that comprise each entity. Each basic geopolitical entity that was listed in FIPS PUB 10–2, *Countries, Dependencies, and Areas of Special Sovereignty,* as updated, is included; it is represented by the same two-character, alphabetic "country code." Each principal administrative division is identified by a four-character code consisting of the two-character "country code" followed by a two-character "administrative division code."

This Standard may be applied either in the two-character format of FIPS PUB 10–2, in which only a basic entity is identified, or in the four-character format that identifies both a basic entity and one of its principal divisions. FIPS Pub 10–2 is superseded in its entirety by this Standard.

4. *Approving Authority:* The Secretary of Commerce.

5. *Maintenance Agency:* Office of the Geographer, Department of State, Washington, DC 20520.

Questions concerning the list of entities and codes should be addressed to the Maintenance Agency. The Maintenance Agency will provide information to the National Bureau of Standards on changes as they occur. These may include changes in names (as approved by the U.S. Board on Geographic Names), or changes in definitions or codes.

Change notices to this FIPS PUB will be issued by the National Bureau of Standards. Users who wish to receive such notices should complete the Change Request Form provided in this publication and return it to the address indicated on the form.

6. *Cross Index:* Federal Information Processing Standards Publication (FIPS PUB) 104, Guideline for Implementation of ANSI Codes for the Representation of Names of Countries, Dependencies, and Areas of Special Sovereignty.

7. *Applicability:* This Standard is intended for applications that require a set of country and related area codes that are maintained by the U.S. Department of State, and for other applications that must interchange data with systems that have adopted these codes. Applications requiring data interchange with organizations that have adopted the codes of the International Organization for Standardization (ISO) specified in ISO 3166, or that have adopted standard Z39.27 of the American National Standards Institute (ANSI), should use the codes provided in FIPS PUB 104. The latter publication implements ANSI Z39.27 which adopts, with qualifications, the codes of ISO 3166.

This Standard is intended for applications involving the interchange of international data. Applications limited primarily to domestic data, i.e., concerning the U.S. and its outlaying areas, should use FIPS Pub 5–1, *States and Outlying Areas of the United States.*

8. *Implementation Schedule:* This Standard becomes effective upon publication in the **Federal Register** of an announcement by the National Bureau of Standards of approval by the Secretary of Commerce. Use by Federal agencies is encouraged when such use contributes to operational benefits, efficiency, or economy.

9. *Specifications:* Federal Information Processing Standard 10–3 (FIPS PUB 10–3), Countries, Dependencies, Areas of Special Sovereignty, and Their Principal Administrative Divisions (affixed).

10. *Where to Obtain Copies of the Standard:* Copies of this publication are available for sale by the National Technical Information Service (NTIS), U.S. Department of Commerce, Springfield, VA 22161. When ordering, please refer to Federal Information Processing Standards Publication 10–3 (FIPS PUB 10–3) and title. When microfiche is desired, this should be specified.

Inquiries concerning the FIPS data elements program may be directed to the Program Manager, Data Administration Group, Institute for Computer Sciences and Technology, National Bureau of Standards, Washington, DC 20234; telephone (301) 921–3491.

[FR Doc. 84–3503 Filed 2–8–84; 8:45 am]

BILLING CODE 3510–CN–M

National Oceanic and Atmospheric Administration

Dismissal of Federal Consistency Appeal of Mr. J. T. Taylor, From Objection by the North Carolina Department of Natural Resources and Community Development

AGENCY: National Oceanic and Atmospheric Administration, Commerce.

ACTION: Notice of Dismissal of Appeal.

SUMMARY: By letter dated January 19, 1984, the consistency appeal filed by Mr. J. T. Taylor on August 5, 1983, of the decision by the North Carolina Department of Natural Resources and Community Development that Mr. Taylor's proposed unpermitted filling of a forested wetlands area near the Trent River is inconsistent with North Carolina's Coastal Management Program was dismissed by the Secretary of Commerce for failure to allege the correct statutory grounds for a

Secretarial override and to provide necessary supporting information.

Notice is hereby given that the appeal by Mr. J. T. Taylor is dismissed in accordance with NOAA regulations at 15 CFR 930.128 (b) and (d) and 930.130(d).

(Federal Domestic Assistance Catalog No. 11.419 Coastal Zone Management Program Administration)

Dated: January 30, 1984.

Robert J. McManus,

General Counsel, National Oceanic and Atmospheric Administration.

[FR Doc. 84-3580 Filed 2-8-84; 8:45 am]

BILLING CODE 3510-08-M

Gulf of Mexico Fishery Management Council; Shrimp Workshop

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

SUMMARY: The Gulf of Mexico Fishery Management Council, established by section 302 of the Magnuson Fishery Conservation and Management Act (Pub. L. 94-265, as amended), will convene Shrimp Workshops to obtain public comment on the advisability of opening or closing areas of the Tortugas Sanctuary. The effectiveness of enforcement of the Sanctuary is one of the factors the Council will consider in its decision on this issue.

DATES: The public workshops will be convened on February 22-23, 1984, convening at 7 p.m., February 22, adjourning at approximately 10 p.m.; reconvening on February 23, at 5:30 p.m., and adjourning at approximately 10 p.m.

ADDRESS: The February 22, workshop will take place at the Hall of 50 States, Edward Drive (adjacent to the Chamber Tourist Center), Ft. Myers, Florida; the February 23, Workshop will take place at the Key West Poinciana Elementary School Auditorium, 1212 14th St., Key West, Florida.

FOR FURTHER INFORMATION CONTACT: Gulf of Mexico Fishery Management Council, Lincoln Center, Suite 881, 5401 West Kennedy Boulevard, Tampa, Florida 33609, Telephone: (813)-228-2815.

Dated: February 6, 1984.

Roland Finch,

Director, Office of Fisheries Management, National Marine Fisheries Service.

[FR Doc. 84-3609 Filed 2-8-84; 8:45 am]

BILLING CODE 3510-22-M

New England Fishery Management Council; Closed Meeting

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

ACTION: Notice of Public Meeting With a Partially Closed Session.

SUMMARY: The New England Fishery Management Council, established by Section 302 of the Magnuson Fishery Conservation and Management Act (Pub. L. 94-265, as amended), will hold a public meeting with a closed session to discuss the following topics:

Public Meeting: Discuss reports of the herring, groundfish, bluefish, foreign fishing, surf clams, scallops and gear conflict oversight committees; reports on striped bass and the Mid-Atlantic Council meeting; as well as other fishery management and administrative matters.

Closed Session: Discuss the U.S./Canadian Boundary Arbitration. Only those Council members and selected staff having security clearances will be allowed to attend this closed session.

DATES: *Public Meeting;* The open session of the meeting will convene on February 22, 1984, at approximately 10:00 a.m., and adjourn of February 23, at approximately 11:30 a.m. The meeting may be lengthened or shortened, or agenda items rearranged, depending on progress on the agenda.

Closed Session: The closed session of the meeting will convene of February 23, 1984, at approximately 1:00 p.m., and adjourn at approximately 3:30 p.m., on the same day.

ADDRESS: The meeting will take place at King's Grant Inn, Danvers, Massachusetts.

FOR FURTHER INFORMATION CONTACT: Douglas G. Marshall, Executive Director, New England Fishery Management Council, Suntaug Office Park, 5 Broadway (Rte. 1), Saugus, Massachusetts 01906, Telephone: 617-231-0422.

SUPPLEMENTARY INFORMATION: For information on seating arrangements, changes to the agenda, and/or written comments, contact the Executive Director.

Dated: February 6, 1984.

Roland Finch,

Director, Office of Fisheries Management, National Marine Fisheries Service.

[FR Doc. 84-3611 Filed 2-8-84; 8:45 am]

BILLING CODE 3510-22-M

Pacific Fishery Management Council's Salmon Plan Development Team; Public Meeting

AGENCY: National Marine Fisheries Services, NOAA, Commerce.

SUMMARY: The Pacific Fishery Management Council, established by section 302 of the Magnuson Fishery Conservation and Management Act (Pub. L. 94-265, as amended), has established a Salmon Plan Development Team (SPDT) to assist the Council in carrying out its responsibilities. This notice sets forth the schedule and proposed agents of the forthcoming meetings of the SPDT.

DATES: February 15-16, 21-24, 1984.

ADDRESS: The public meetings will be held in the Chinook Room of the Oregon Department of Fish and Wildlife, 506 SW. Mill Street, Portland, Oregon.

FOR FURTHER INFORMATION CONTACT: Mr. Joseph C. Greenley, Executive Director, Pacific Fishery Management Council, 526 SW. Mill Street, Portland, Oregon 97201, phone: (503) 221-6352.

AGENDA: Session opens 10 a.m., February 15; recesses 5 p.m., February 16; reconvenes 10 a.m., February 21, and ends 5 p.m., February 24. The SPDT will prepare sections of the 1984 salmon report on status of the 1984 stocks, management goals for 1984, and management measures for achieving the 1984 goals. A public comment period will be held at 3 p.m., February 15.

Dated: February 6, 1984.

Roland Finch,

Director, Office of Fisheries Management, National Marine Fisheries Service.

[FR Doc. 84-3610 Filed 2-8-84; 8:45 am]

BILLING CODE 3510-22-M

Marine Mammals; Receipt of Application for Permit; Mark Blane McHugh

Notice is hereby given that an Applicant has applied in due form for a Permit to take marine mammals as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216).

1. Applicant:

a. Name: Mr. Mark Blane McHugh (P336), The University of Texas Marine Science Inst., Port Aransas Marine Labs.

b. Address: Port Aransas, Texas 78373.

2. Type of Permit: Scientific Research.

3. Name and Number of Animals: Bottlenose dolphins (*Tursiops truncatus*)—Unspecified.

4. Type of Take: Potential harassment while conducting census behavior, and photographic reidentification studies.

5. Location of Activity: Waters of Port Aransas, Texas.

6. Period of Activity: 2 years.

Concurrent with the publication of this notice in the **Federal Register**, the Secretary of Commerce is forwarding

copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors.

Written data or views, or requests for a public hearing on this application should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, U.S. Department of Commerce, Washington, D.C. 20235, within 30 days of the publication of this notice. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be apropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries.

All statements and opinions contained in this application are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

Documents submitted in connection with the above application are available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street NW., Washington, D.C.; and

Director, National Marine Fisheries Service, Southeast Region, 9450 Koger Boulevard, St. Petersburg, Florida 33702.

Dated: February 3, 1984.

Joseph W. Angelovic,

Deputy Assistant Administrator for Science and Technology, National Marine Fisheries Service.

[FR Doc. 84-3554 Filed 2-8-84; 8:45 am]

BILLING CODE 3510-22-M

National Marine Fisheries Service; Marine Fisheries Advisory Committee; Public Meeting

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

SUMMARY: As required by section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1982), notice is hereby given of subcommittee meetings of the Marine Fisheries Advisory Committee (MAFAC).

MAFAC was established by the Secretary of Commerce on February 17, 1971, to advise the Secretary on matters pertinent to the Department's responsibilities for marine fisheries resources and on means to facilitate cooperation between public and private interests in these matters.

DATE: The meetings will convene on February 21, 1984, at 8:00 a.m. and adjourn at approximately 5:30 p.m.

ADDRESS: The meetings will be held in the Ficus Room, Hilton Inn Florida Center, Orlando, Florida.

Meeting agenda. The Budget and Strategic Planning subcommittee will meet from 8:00 a.m. to 9:30 a.m. to discuss the FY 84–85 budgets for NMFS and the NMFS strategic planning system. The State/Federal/Regional Council Living Marine Resources Planning subcommittee will meet from 9:30 a.m. to 10:30 a.m. to discuss coastal fisheries interjurisdictional management; and Council fishery management plan update. The Marine Recreational Fishing subcommittee will meet from 10:30 a.m. to 12:00 noon to discuss the status of NMFS MRF statistical program; Artificial Reef Development Center; 1984 Fisheries Conference; U.S. Fisheries Development Corporation; and expanded Dingell-Johnson program. The Consumer Affairs subcommittee will meet from 1:00 p.m. to 2:00 p.m. to discuss legislative proposal for Seafood Marketing Council; and consumer educational/domestic marketing activities. The Commercial Fishing subcommittee will meet from 2:00 p.m. to 3:30 p.m. to discuss the proposed national fisheries marketing council; the U.S. fishermen joint ventures with foreign processors; quality assurance monitoring of canned tuna imports; need for extension of CCF to shoreside facilities; and need for a California Fishery Management Council. The Habitat Conservation subcommittee will meet from 3:30 p.m. to 5:30 p.m. to discuss mitigation banking; NMFS habitat conservation policy; and regulatory reform.

FOR FURTHER INFORMATION CONTACT: Ann Smith, Executive Secretary, Marine Fisheries Advisory Committee, National Marine Fisheries Service, Washington, DC 20235, telephone: (202) 634–9563.

Dated: February 3, 1984.

Joseph W. Angelovic,

Deputy Assistant Administrator for Science and Technology, National Marine Fisheries Service.

[FR Doc. 84-3480 Filed 2-8-84; 8:45 am]

BILLING CODE 3510-22-M

National Marine Fisheries Service; Marine Fisheries Advisory Committee; Public Meeting with Partially Closed Session

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

SUMMARY: As required by section 10(a)(2) of the Federal Advisory Committee, 5 U.S.C. App. (1982), notice is hereby given of a partially closed meeting of the Marine Fisheries Advisory Committee (MAFAC). MAFAC was established by the Secretary of Commerce on February 17, 1971, to advise the Secretary on matters pertinent to the Department's responsibilities for marine fishery resources and on means to facilitate cooperation between public and private interests in these matters.

DATES: The meeting will convene February 22, 1984, at 9:00 a.m. and adjourn at approximately 4:00 p.m. on February 23, 1984. The closed session of the meeting will commence at 2:45 p.m. on February 23, 1984, and adjourn at 4:00 p.m.

ADDRESS: The meeting will be held at the Hilton Inn Florida Center, Orlando, Florida.

Meeting agenda. The proposed meeting agenda is as follows:

Agenda

Open session—February 22, 1984 (9:00 a.m.–11:30 a.m.) Interjurisdictional Fisheries Management panel presentation.

Open session—February 22, 1984 (1:00 p.m.–3:00 p.m.) Discussion: interjurisdictional fisheries management issues.

Open session—February 23, 1984 (8:30 a.m.–2:30 p.m.) (a) mitigation banking; (b) Year of the Ocean, and (c) subcommittee reports.

Closed session—February 23, 1984 (2:45 a.m.–4:00 p.m.) Consider and discuss the living marine resources proposals of the NOAA FY 1986 budget.

SUPPLEMENTARY INFORMATION: The Acting Assistant Secretary of Administration of the Department of Commerce, with the concurrence of the General Counsel, formally determined on February 2, 1984, pursuant to section 10(d) of the Federal Advisory Committee Act, that the agenda item to be covered during the closed session may be exempt from the provisions of the Act relating to open meetings and public participation therein, because the item will be concerned with matters that are within the purview of 5 U.S.C.

Section 552b(c)(9)(B) has information the premature disclosure of which will be likely to significantly frustrate the implementation of proposed agency action. (A copy of the determination is available for public inspection and duplication in the Central Reference and Records Inspection Facility, Room 6628, Department of Commerce.) All other other portions of the meeting will be open to the public.

For further information or copies of minutes contact: Ann Smith, Executive Secretary, Marine Fisheries Advisory Committee, National Marine Fisheries Service, NOAA, Washington, D.C. 20235. Telephone (202) 634–9563.

Dated: February 3, 1984.

Joseph W. Angelovic,

Deputy Assistant Administrator for Science and Technology, National Marine Fisheries Service.

[FR Doc. 84-3481 Filed 2-8-84; 8:45 am]

BILLING CODE 3510-22-M

National Technical Information Service

Intent to Grant Exclusive Patent License; Bio-Digital Science, Inc.

The National Technical Information Service (NTIS), U.S. Department of Commerce, intends to grant to Bio-Digital Sciences, Inc., having a place of business at Brookside, New Jersey 07926, an exclusive right to practice the invention embodied in U.S. Patent No. 4,035,150, "Test for Occult Blood in an Emulsified Aqueous/Organic System." The patent rights in this invention have been assigned to the United States of America, as represented by the Secretary of Commerce.

The proposed exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 41 CFR 101-4.1. The proposed license may be granted unless, within sixty days from the date of this Notice, NTIS receives written evidence and argument which establishes that the grant of the proposed license would not serve the public interest.

Inquiries, comments and other materials relating to the proposed license must be submitted to the Office of Government Inventions and Patents, NTIS, Box 1423, Springfield, VA 22151.

Dated: February 3, 1984.

Douglas J. Campion,

Patent Licensing, Office of Government Inventions and Patents, U.S. Department of Commerce, National Technical Information Service.

[FR Doc. 84-3473 Filed 2-8-84; 8:45 am]

BILLING CODE 3510-04-M

National Telecommunications and Information Administration

Frequency Management Advisory Council; Open Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1976), notice is hereby given that the Frequency Management Advisory Council (FMAC) will meet from 9:30 a.m. to 3:30 p.m. on March 1, 1984, in Room 1605 at the United States Department of Commerce, 14th Street and Pennsylvania Avenue, NW., Washington, D.C. (Public entrance to the building is on 14th Street, between Pennsylvania Avenue and Constitution Avenue.)

The Council was establishment on July 19, 1965. The objective of the Council is to advise the Secretary of Commerce on radio frequency spectrum allocation matters and means by which the effectiveness of Federal Government frequency management may be enhanced. The Council consists of 15 members whose knowledge of telecommunications is balanced in the functional areas of manufacturing, anlaysis and planning, operations, research, academia and international negotiations.

The principal agenda items for the meeting will be:

(1) Principles that should be Embodied in the Constitution and Convention of the International Telecommunication Union (ITU).

(2) High-Definition Television.

(3) Coordination Between Government and Industry Relative to Incidential and Restricted Radiation Devices.

(4) Update and Discussion of Recent Developments Relative to Radio Frequency Radiation Side Effects.

The meeting will be open to public observation; and a period will be set aside for oral comments or questions by the public which do not exceed 10 minutes each per member of the public. More extensive questions or comments should be submitted in writing before February 29, 1984. Other public statements regarding Council affairs may be submitted at any time before or after the meeting. Approximately 10 seats will be available for the public on a first-come first-served basis.

Copies of the minutes will be available on request 30 days after the meeting.

Inquiries may be addressed to the Executive Secretary, FMAC, Mr. Charles L. Hutchison, National Telecommunications and Information Administration, Room 4701, U.S. Department of Commerce, 14th Street and Pennsylvania Avenue, NW., Washington, D.C. 20230, telephone 202-377-0805.

Dated: February 6, 1984.

Charles L. Hutchison,

Executive Secretary, FMAC, National Telecommunications and Information Administration.

[FR Doc. 84-3544 Filed 2-8-84; 8:45 am]

BILLING CODE 3510-60-M

DEPARTMENT OF DEFENSE

Office of the Secretary

Establishment of the CJCS/Media-Military Relations Committee Study

Under the provisions of Pub. L. 92-463, Federal Advisory Committee Act, notice is hereby given that the CJCS/Media-Military Relations Committee Study has been found to be in the public interest in connection with the performance of duties imposed on the Department of Defense by law.

The Chairman, Joint Chiefs of Staff (CJCS) has directed that this committee address the question of "How do we conduct military operations in a manner that safeguards the lives of our military and protects the securtiy of the operation while keeping the American public informed through the media?"

The committee will serve the public interest by establishing general guidelines for future operations on which both the media and the Defense Department can agree.

The 15-day timely notice requirement has been waived by the Committee Management Secretariat, GSA, in order that the committee begin its deliberations as soon as possible.

Dated: February 6, 1984.

M. S. Healy,

OSD Federal Register Liaison Officer, Washington Headquarters Services, Department of Defense.

[FR Doc. 84-3485 Filed 2-8-84; 8:45 am]

BILLING CODE 3810-01-M

Public Information Collection Requirement Submitted to OMB for Review

The Department of Defense has submitted to OMB for review the following request for renewal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Each entry contains the following information: (1) Type of Submission; (2) Title of Information Collection and Form Number if applicable; (3) Abstract statement of the need for the uses to be made of the information collected; (4) Type of Respondent; (5) An estimate of the number of responses; (6) An estimate of the total number of hours needed to provide the information; (7) To whom comments regarding the information collection are to be forwarded; and (8) The point of contact from whom a copy of the information proposal may be obtained.

Extension/Reinstatement

Application for ROTC Four Year Scholarship

DD Form 1893 is the application form used by all Services for persons applying to become candidates for consideration for the Reserve Officer Training Corps (ROTC) scholarship. Information requested pertains to the qualifications of the applicants.

Individuals; 40,000 respondents; 30,000 hours.

Forward comments to Mr. Edward Springer, OMB Desk Officer, Room 3235, NEOB, Washington, DC 20503, and Mr. Daniel J. Vitiello, DOD Clearance Officer, WHS/DIOR, Room 1C535, Pentagon, Washington, DC 20301, telephone (202) 694–0187.

A copy of the information collection proposal may be obtained from Mr. Robert L. Newhart, OASD MI&L(PI), Room 3C800, Pentagon, Washington, DC 20301, telephone (202) 695–0643. This is a revision and not for contract.

Dated: February 6, 1984.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 84-3556 Filed 2-8-84; 8:45 am]

BILLING CODE 3810-01-M

DEPARTMENT OF ENERGY

National Petroleum Council, Coordinating Subcommittee of the Committee on Enhanced Oil Recovery; Meeting

Notice is hereby given that the Coordinating Subcommittee of the NPC Committee on Enhanced Oil Recovery will meet in February 1984. The National Petroleum Council was established to provide advice, information, and recommendations to the Secretary of Energy on matters relating to oil and natural gas or the oil and natural gas industries. The Committee on Enhanced Oil Recovery will investigate the technical and economic aspects of increasing the Nation's petroleum production through enhanced oil recovery. Its analysis and findings will be based on information and data to be gathered by the various task groups. The time, location, and agenda of the Coordinating Subcommittee meeting follows:

The Coordinating Subcommittee wil hold its sixteenth meeting on Thursday, February 16, 1984, starting at 9:30 a.m., in the Brussels Room of the Guest Quarters-Galleria West Hotel, 5353 Westheimer, Houston, Texas.

The tentative agenda for the Coordinating Subcommittee meeting follows:

1. Opening remarks by the Chairman and Government Cochairman.
2. Discuss study assignments.
3. Review task group study assignments.
4. Discuss any other matters pertinent to the overall assignment from the Secretary of Energy.

The meeting is open to the public. The chairman of the Coordinating Subcommittee is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Coordinating Subcommittee will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements should inform Gerald J. Parker, Office of Oil, Gas and Shale Technology, Fossil Energy, 301/353–2918, prior to the meeting and reasonable provision will be made for their appearance on the agenda.

Summary minutes of the meeting will be available for public review at the Freedom of Information Public Reading Room, Room 1E–190, DOE Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C., between the hours of 8:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, D.C., on January 31, 1984.

William A. Vaughan,

Assistant Secretary, Fossil Energy.

[FR Doc. 84-3694 Filed 2-8-84; 8:45 am]

BILLING CODE 6450-01-M

National Petroleum Council, Miscible Displacement Task Group of the Committee on Enhanced Oil Recovery; Meeting

Notice is hereby given that the Miscible Displacement Task Group of the Committee on Enhanced Oil Recovery will meet in February 1984. The National Petroleum Council was established to provide advice, information, and recommendations to the Secretary of Energy on matters relating to oil and natural gas or the oil and natural gas industries. The Committee on Enhanced Oil Recovery will investigate the technical and economic aspects of increasing the Nation's petroleum production through enhanced oil recovery. Its analysis and findings will be based on information and data to be gathered by the various task groups. The time, location, and agenda of the Miscible Displacement Task Group meeting follows:

The Miscible Displacement Task Group will hold its fourteenth meeting on Wednesday and Thursday, February 8 and 9, 1984, starting at 9:00 a.m., in Room 1603, Mobil Exploration and Production Services Inc., 7200 North Stemmons Freeway, Dallas, Texas.

The tentative agenda for the Miscible Displacement Task Group meeting follows:

1. Opening remarks by the Chairman and Government Cochairman.
2. Review progress of Task Group study assignments.
3. Discuss any other matters pertinent to the overall assignment from the Secretary of Energy.

The meeting is open to the public. The Chairman of the Miscible Displacement Task Group is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Miscible Displacement Task Group will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements should inform G. J. Parker, Office of Oil, Gas and Shale Technology, Fossil Energy, 301/353–3032, prior to the meeting and reasonable provision will be made for their appearance on the agenda.

Summary minutes of the meeting will be available for public review at the Freedom of Information Public Reading Room, Room 1E–190, DOE Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C., between the hours of 8:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, D.C., on January 31, 1984.

William A. Vaughan,

Assistant Secretary Fossil Energy.

[FR Doc. 84-3695 Filed 2-8-84; 8:45 am]

BILLING CODE 6450-01-M

National Petroleum Council, Costs and Economics Task Group of the Committee on Enhanced Oil Recovery; Meeting

Notice is hereby given that the Costs and Economics Task Group of the Committee on Enhanced Oil Recovery will meet in February 1984. The National Petroleum Council was established to provide advice, information, and recommendations to the Secretary of Energy on matters relating to oil and natural gas or the oil and natural gas industries. The Committee on Enhanced Oil Recovery will investigate the technical and economic aspects of increasing the Nation's petroleum

production through enhanced oil recovery. Its analysis and findings will be based on information and data to be gathered by the various task groups. The time, location and agenda of the Costs and Economics Task Group meeting follows:

The Costs and Economics Task Group will hold it sixteenth meeting on Wednesday, February 15, 1984, starting at 9:00 a.m., in the Geneva Room of the Guest Quarters-Galleria West Hotel, 5353 Westheimer, Houston, Texas.

The tentative agenda for the Costs and Economics Task Group meeting follows:

1. Opening remarks by the Chairman and Government Cochairman.
2. Review progress of Task Group study assignments.
3. Discuss any other matters pertinent to the overall assignment from the Secretary of Energy.

The meeting is open to the public. The Chairman of the Costs and Economics Task Group is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Costs and Economics Task Group will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements should inform G. J. Parker, Office of Oil, Gas, and Shale Technology, Fossil Energy, 301/353-3032, prior to the meeting and reasonable provision will be made for their appearance on the agenda.

Summary minutes of the meeting will be available for public review at the Freedom of Information Public Reading Room, Room 1E-190, DOE Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. between the hours of 8:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, D.C. on January 31, 1984.

William A. Vaughan,

Assistant Secretary, Fossil Energy.

[FR Doc. 84-3498 Filed 2-8-84; 8:45 am]

BILLING CODE 6450-01-M

International Atomic Energy Agreements; Proposed Subsequent Arrangement; Canada

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" under the Agreement for Cooperation Between the Government of the United States of America and the Government of Canada Concerning Civil Uses of Atomic Energy, as amended.

The subsequent arrangement to be carried out under the above mentioned agreement involves approval of the following sale: Contract Number S-CA-347, to the University of Toronto, 20 milligrams of thorium-230, for use as a standard reference material for determination of the concentration of thorium-232 in minerals.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that the furnishing of the nuclear material will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice.

For the Department of Energy.

Dated: February 6, 1984.

George J. Bradley, Jr.,

Principal Deputy Assistant Secretary for International Affairs and Energy Emergencies.

[FR Doc. 84-3599 Filed 2-8-84; 8:45 am]

BILLING CODE 6450-01-M

International Atomic Energy, Agreements; Proposed Subsequent Arrangement; Canada and Sweden

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" under the Agreement for Cooperation Between the Government of the United States of America and the Government of Canada Concerning Civil Uses of Atomic Energy, as amended, and the Agreement for Cooperation Between the Government of the United States of America and the Government of Sweden Concerning Civil Uses of Atomic Energy, as amended.

The subsequent arrangement to be carried out under the above mentioned agreements involves approval of the following retansfer: RTD/CA(SW)-2, from Sweden to Canada, 3 kilograms of natural uranium, and 5 kilograms of uranium depleted in the isotope U-235, for use by Eldorado Mining, Ottawa, Canada for experimental purposes.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that this subsequent arrangement will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice.

Dated: February 6, 1984

For the Department of Energy.

George J. Bradley, Jr.,

Principal Deputy Assistant Secretary for International Affairs.

[FR Doc. 84-3602 Filed 2-8-84; 8:45 am]

BILLING CODE 6450-01-M

International Atomic Energy Agreements; Proposed Subsequent Arrangement; European Atomic Energy Community

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160), notice is hereby given of a proposed "subsequent arrangement" under the Additional Agreement for Cooperation Between the Government of the United States of America and the European Atomic Energy Community (EURATOM) Concerning Peaceful Uses of Atomic Energy, as amended.

The subsequent arrangement to be carried out under the above mentioned agreement involves approval of the following sale: Contract Number S-EU-795, for the sale of 0.002 grams of uranium, enriched to 33 percent in U-235, and 0.002 grams of uranium-233, for use as standard reference material by the Netherlands Energy Research Foundation.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that the furnishing of the nuclear material will not be inimical to the common defense and security. This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice.

Dated: February 6, 1984.

For the Department of Energy.

George J. Bradley, Jr.,

Principal Deputy Assistant Secretary for International Affairs.

[FR Doc. 84-3601 Filed 2-8-84; 8:45 am]

BILLING CODE 6450-01-M

International Atomic Energy Agreements; Proposed Subsequent Arrangement; European Atomic Energy Community

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" under the Additional Agreement for Cooperation Between the Government of the United States of America and the European Atomic Energy Community (EURATOM) Concerning Peaceful Uses of Atomic Energy, as amended, and the Agreement for Cooperation Between the Government of the United States of

America and the Government of Japan Concerning Civil Uses of Atomic Energy, as amended.

The subsequent arrangement to be carried out under the above mentioned agreements involves approval of the following retransfer: RTD/JA(EU)–29, from the Federal Republic of Germany to Japan, 2,600 grams of uranium, enriched to 10% in the isotope U–235. The material is to be utilized in the manufacture of a fuel pin by Nuclear Fuel Industries, for subsequent irradiation in the Nuclear Safety Research Reactor, and post-irradiation examination.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that this subsequent arrangement will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice.

Dated: February 6, 1984.

For the Department of Energy.

George J. Bradley, Jr.,

Principal Deputy Assistant Secretary for International Affairs and Energy Emergencies.

[FR Doc. 84–3598 Filed 2–8–84; 8:45 am]

BILLING CODE 6450–01–M

International Atomic Energy Agreements; Proposed Subsequent Arrangement; Switzerland

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" under the Agreement for Cooperation Between the Government of the United States of America and the Government of Switzerland Concerning Civil Uses of Atomic Energy, as amended.

The subsequent arrangement to be carried out under the above mentioned agreement involves approval of the following contract: Contract Number WC–SD–19, with the Ecole Polytechnique Federale de Lausanne, Switzerland, 13.3 milligrams of uranium-233, 2 milligrams of thorium-232, and 40 grams of natural thorium, for use in fusion-fission hybrid reactor research. The material is to be returned to the United States at the conclusion of the work.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that the furnishing of the nuclear material will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice.

Dated: February 6, 1984.

For the Department of Energy.

George J. Bradley, Jr.,

Principal Deputy Assistant Secretary for International Affairs.

[FR Doc. 84–3600 Filed 2–8–84; 8:45 am]

BILLING CODE 6450–01–M

Office of Conservation and Renewable Energy

State and Local Assistance Programs; Notice of DOE's Plans for Implementation of EO 12372 as They Affect Funding

AGENCY: Department of Energy.

ACTION: Notice of the Department of Energy's plans for implementation of Executive Order 12372 "Intergovernmental Review of Federal Programs" as they affect applications for funding of State and Local Assistance Programs.

SUMMARY: On June 24, 1983, the Secretary published in the **Federal Register** final regulations (10 CFR Part 1005, published at 48 FR 29174 *et seq.*) implementing Executive Order 12372 "Intergovernmental Review of Federal Programs." The regulations took effect September 30, 1983. In accordance with the Order, this notice is intended to provide early notification of the Department's plans for intergovernmental review of the programs listed below:

Grant Program for Schools and Hospitals and for Buildings owned by units of local Government and Public Care Institutions (ICP), Program Regulations found at 10 CFR Part 455.

Energy Extension Service (EES), Program Regulations found at 10 CFR Part 465.

State Energy Conservation Program (SECP), Program Regulations found at 10 CFR Part 420.

Weatherization Assistance for Low-Income Persons (WAP), Program Regulations found at 10 CFR Part 440.

These programs are subject to the requirements of the Executive Order and the regulations at 10 CFR Part 1005. The objective of Executive Order 12372 is to foster an intergovermental partnership and a strengthened Federalism by relying on State and local processes for State and local government coordination and review of proposed Federal financial assistance.

The Executive Order—

- Allows states, after consultation with local officials, to establish their own processes for review and comment on proposed Federal financial assistance;
- Allows states to select which eligible programs they wish to review;
- Increases Federal responsiveness to State and local officials by requiring Federal agencies to accommodate State and local views or explain why not, and
- Revokes OMB Circular A–95.

All applications from governmental entities are covered by the Executive Order as implemented by 10 CFR Part 1005. (A Government entity is any State; independent State organization, board or commission; general purpose local government; special purpose local or regional government; nonprofit organization established by State law or local ordinance exclusively to provide a governmental service and the substantial portion of the funding for which is Federal; State and municipal colleges and universities are considered non-governmental entities.)

The following is the current list of States which have established a process and selected one or more of these programs for review, the programs selected, and the point of contact for further information concerning applicant responsibilities under that State process. If a State is not listed, it indicates that the State has either not established a process or that the State has not selected any of these programs for review.

EXECUTIVE ORDER 12372 PROGRAM COVERAGE BY STATE

State	SECP	WAP	EES	ICP
Arizona	+	+	+	+
Arkansas	+	+	+	+
California	+	+	+	+
Colorado	+	–	+	–
Connecticut	+	+	+	+
Delaware	+	+	+	+
D.C.	+	+	+	+
Florida	+	+	+	+
Georgia	–	+	+	–
Hawaii	+	+	+	+
Illinois	+	+	+	+
Indiana	+	+	+	+
Iowa	+	+	+	–
Kentucky	+	+	+	+
Louisiana	+	+	+	+
Massachusetts	+	+	+	+
Michigan	+	+	+	+
Minnesota	–	+	–	–
Mississippi	+	+	+	+
Missouri	+	+	+	+
Montana	+	+	+	+
Nebraska	+	+	+	+
Nevada	+	+	+	–
New Hampshire	+	+	+	+
New Jersey	+	+	+	+
New Mexico	+	+	+	+
New York	+	+	+	+
North Carolina	+	+	+	+
Ohio	+	+	+	+
Oklahoma	+	+	+	+
Oregon	+	+	+	+
Rhode Island	+	+	–	+
South Carolina	+	+	+	+
South Dakota	+	+	+	+

EXECUTIVE ORDER 12372 PROGRAM COVERAGE BY STATE—Continued

State	SECP	WAP	EES	ICP
Tennessee	+	+	+	+
Texas	+	+	+	+
Utah	+	+	+	+
Vermont	+	+	+	+
Virginia	+	+	+	+
Washington	+	+	+	+
West Virginia	+	+	+	+
Wisconsin	+	+	+	+
Wyoming	+	+	+	+
Puerto Rico	+	-	+	+
Commonwealth of the Northern Mariana Islands	+	+	+	+

+ = Indicates State has selected the programs for review.
- = Indicates these programs not selected for review.

Point of Contact List

Arizona
Office of Economic Planning and Development, State of Arizona, Executive Tower, Room 505, 1700 W. Washington Street, Phoenix, Arizona 85007, Tel. (602) 255–4331

Arkansas
State Clearinghouse, Office of Intergovernmental Services, Department of Finance and Administration, P.O. Box 3278, Little Rock, Arkansas 72203, Tel. (501) 371–2311

California
Office of Planning and Research, 1400 Tenth Street, Sacramento, California 95814, Tel. (916) 445–0282

Colorado
State Clearinghouse, Division of Local Government, 1313 Sherman Street, Room 520, Denver Colorado 80203, Tel. (303) 866–2156

Connecticut
Intergovernmental Review Coordinator, Comperhensive Planning Division, Office of Policy and Management, 80 Washington Street, Hartford, Connecticut 06106–4459, Tel. (203) 566–4298

Delaware
Marna C. Whittington, Director of the Budget Office, P.O. Box 4101, Dover, Delaware 19903, Tel. (302) 736–4101

Florida
Ron Fahs, Executive Office of the Governor, Office of Planning and Budgeting, The Capital, Tallahassee, Florida 32301, Tel. (904) 488–8114

Georgia
Charles H. Badger, Administrator, Georgia State Clearinghouse, 270 Washington Street, S.W., Atlanta, Georgia 30334, Tel. (404) 656–3855

Hawaii
Kent M. Keith, Director, Department of Planning and Economic Development, P.O. Box 2359, Honolulu, Hawaii 96804

Illinois
Tom Berkshire, Office of the Governor, State of Illinois, Springfield, Illinois 62706, Tel. (217) 782–8639

Indiana
Susan J. Kennell, State Budget Agency, 212 State House, Indianapolis, Indiana 46204, Tel. (317) 232–5604

Iowa
Office of Planning and Programming, Capital Annex, 523 East 12th Street, Des Moines, Iowa 50319, Tel. (515) 218–6483

Kentucky
Kentucky State Clearinghouse, 2nd Floor, Capital Plaza Tower, Frankfort, Kentucky 40601, Tel. (502) 564–2382

Louisiana
Wallace L. Walker, Executive Director, Louisiana State Planning Office of the Governor, P.O. Box 44426, Baton Rouge, Louisiana 70804, Tel. (504) 342–7410

Massachusetts
Executive Office of Communities and Development, 100 Cambridge Street, Room 1401, Boston, Massachusetts 02202

Michigan
Carol Hoffman, Director, Office of Business and Community Development, Michigan Department of Commerce, P.O. Box 30004, Lansing, Michigan 48909, Tel. (517) 378–8363

Minnesota
Thomas N. Harren, Minnesota State Planning Agency, Capitol Square Building, Room 101, 550 Cedar Street, St. Paul, Minnesota 55101, Tel. (612) 296–3698

Mississippi
Rich Haydel, Governor's Office of Federal State Programs, Department of Planning and Policy, 1504 Walter Sillers Building, 500 High Street, Jackson, Mississippi 39202, Tel. (601) 359–3069

Missouri
Missouri Federal Assistance Clearinghouse, Office of Administration, Division of Budget and Planning, Jefferson City, Missouri 65102, Tel. (314) 751–4834 or 751–2345

Montana
Manager, Intergovernmental Review Clearinghouse, c/o Office of the Lieutenant Governor, Capitol Station, Helena, Montana 59620, Tel. (406) 449–311 x58

Nebraska
Policy Research Office, P.O. Box 94601, Room 1321, State Capitol, Lincoln, Nebraska 68509, Tel. (402) 417–2314

Nevada
Linda A. Ryan, Director, Office of Community Services, Capitol Complex, Carson City, Nevada 89710, Tel. (720) 885–4420

New Hampshire
David G. Scott, Acting Director, New Hampshire Office of State Planning, 2½ Beacon Street, Concord, New Hampshire 03301, Tel. (603) 271–2155

New Jersey
Barry Skokowski, Director, Division of Local Government Services, Department of Community Affairs, CN 803, 363 West Street, Trenton, New Jersey 08625, Tel. (609) 292–6613

New Mexico
Peter C. Pence, Director, Department of Finance and Administration, State of New Mexico, 515 Don Gaspar, Santa Fe, New Mexico 87503, Tel. (505) 827–3885

New York
New York State Clearinghouse, Division of the Budget, State Capitol, Albany, New York 12224, Tel. (518) 474–1605

North Carolina
Chrys Baggett, Director, State Clearinghouse, Department of Administration, 116 West Jones Street, Raleigh, North Carolina 27611, Tel. (919) 733–4131

Ohio
Leonard E. Roberts, Deputy Director, Office of Budget and Management, State Clearinghouse, 30 East Broad Street, Columbus Ohio 43215, Tel. (614) 466–0699

Oklahoma
Office of Federal Assistance Management, 4545 North Lincoln Blvd., Oklahoma City, Oklahoma 73105, Tel. (405) 528–8200

Oregon
Intergovernmental Relations Division, State Clearinghouse, Executive Building, 155 Cottage Street, N.E., Salem, Oregon 97310, Tel. (503) 373–1998

Rhode Island
Daniel W. Varin, Chief, Rhode Island Statewide Planning Program, 265 Melrose Street, Providence, Rhode Island 02907, Tel. (401) 277–2656

South Carolina
Danny L. Cromer, Grant Services, Office of the Governor, 1205 Pendleton Street, Room 477, Columbia South Carolina 29201, Tel. (803) 758–2417

South Dakota
Jeff Stroup, Commissioner of the Bureau of Intergovernmental Relations, Second Floor, Capitol Building, Pierre, South Dakota 57501, Tel. (605) 773–3661

Tennessee
Tennessee State Planning Office, 1800 James K. Polk Building, 505 Deaderik Street, Nashville, Tennessee 37219, Tel. (615) 741–1676
Texas
Bob McPherson, State Planning Director, Office of the Governor, Austin, Texas 78711, Tel. (512) 475–6156
Utah
Michael B. Zuhl, Director, Office of Planning and Budget, State of Utah, 116 State Capitol Building, Salt Lake City, Utah 84114, Tel. (801) 533–5245
Vermont
State Planning Office, Pavilion Office Building, 109 State Street, Montpelier, Vermont 05602, Tel. (802) 828–3326
Virginia
Robert H. Kirby, Intergovernmental Review Officer, Department of Planning and Budget, P.O. Box 1422, Richmond, Virginia 23211, Tel. (804) 786–1921
Washington
Washington Planning and Community Affairs Agency, North and Columbia Building, Olympia, Washington 98504, Tel. (206) 753–2200
West Virginia
Fred Cutlip, Director, Community Development Division, Governor's Office of Economic and Community Development, Building #6, Room 553, Charleston, West Virginia 25305, Tel. (304) 348–4010
Wisconsin
Secretary Doris J. Hanson, Wisconsin Department of Administration, 101 South Webster Street, GEF 2, Madison, Wisconsin 53702, Tel. (608) 266–1212
Wyoming
Wyoming State Clearinghouse, State Planning Coordinator's Office, Capitol Building, Cheyenne, Wyoming 82002, Tel. (307) 777–7574
District of Columbia
Pauline Schneider, Director, Office of Intergovernmental Relations, Room 416, District Building, Washington, D.C. 20004
Puerto Rico
Nelson Soto, President, Puerto Rico Planning Board, P.O. Box 4119 Minilla Station, San Juan, Puerto Rico 00940, Tel. (202) 727–6265
Commonwealth of the Northern Mariana Islands
Planning and Budget Office, Office of the Governor, Saipan, CM 96950

Applicants who are submitting applications subject to state process review under Executive Order 12372 should immediately get in touch with the appropriate state point of contact to find out about and to comply with the state's process.

State, areawide, regional, and local entities not submitting comments through a state process may submit comments directly to the Department.

Covered applicants must submit their applications or such other documentation as is required by the state process, to the state process in accordance with state instructions, but in any event no later than the date the application is provided to the Department. All submissions from state single points of contact, and any other comments from state, areawide, regional, and local entities must be mailed or hand delivered to the addresses shown below no later than 60 days after the application is provided to the Department by the applicant except in the case of noncompeting continuation applications in which case the period is 30 days.

ADDRESS FOR SUBMISSION OF COMMENTS

Send submission to	For these States
Boston Support Office, U.S. Department of Energy, 150 Causeway Street, Boston, MA 02114.	Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont.
New York Support Office, U.S. Department of Energy, 26 Federal Plaza, Room 3200, New York, NY 10278.	New Jersey, New York, Puerto Rico, Virgin Islands.
Philadelphia Support Office, U.S. Department of Energy, 1421 Cherry Street, Philadelphia, PA 19102.	Delaware, District of Columbia, Maryland, Pennsylvania, Virginia, West Virginia.
Atlanta Support Office, U.S. Department of Energy, 1655 Peachtree Street, NE., Atlanta, GA 30309.	Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee.
Chicago Operations Office, U.S. Department of Energy, 9800 South Cass Avenue, Argonne, IL 60439.	Illinois, Indiana, Michigan, Minnesota, Ohio, Wisconsin.
Dallas Support Office, U.S. Department of Energy, P.O. Box 35228, Dallas, TX 75235.	Arkansas, Louisiana, New Mexico, Oklahoma, Texas.
Kansas City Support Office, U.S. Department of Energy, 324 East 11th Street, Kansas City, MO 64106.	Iowa, Kansas, Missouri, Nebraska.
Denver Support Office, U.S. Department of Energy, P.O. Box 26247, Belmar Branch, Lakewood, CO 80226.	Colorado, Idaho, Montana, North Dakota, South Dakota, Utah, Wyoming.
San Francisco Operations Office, U.S. Department of Energy, 1333 Broadway, Oakland, CA 94612.	American Samoa, Arizona, California, Guam, Hawaii, Nevada, Commonwealth of the Northern Mariana Islands, Trust Territory of the Pacific Islands.
Richland Operations Office, U.S. Department of Energy, P.O. Box 550, Richland, WA 99352.	Alaska, Oregon, Washington.

Issued in Washington, D.C., January 31, 1984.

Pat Collins,

Acting Assistant Secretary, Conservation and Renewable Energy.

[FR Doc. 84-3493 Filed 2-8-84; 8:45 am]

BILLING CODE 6450-01-M

Energy Information Administration

National Petroleum Council, Coordinating Subcommittee on Petroleum Inventories and Storage Capacity; Meeting

Notice is hereby given that the Coordinating Subcommittee of the National Petroleum Council's Committee on Petroleum Inventories and Storage Capacity will meet in February, 1984. The National Petroleum Council was established pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770), to provide advice, information, and recommendations to the Secretary of energy on matters relating to petroleum and natural gas or the oil and gas industries. The Committee on Petroleum Inventories and Storage Capacity will study and update the analysis of minimum operating levels as well as update the estimates of total storage capacity available for use. The Subcommittee was established to assemble information and report to the Committee on matters relating to petroleum inventories and petroleum product storage capacities.

The Coordinating Subcommittee will hold its meeting on Wednesday and Thursday, February 22–23, 1984, 9:00 a.m. each day in the Corinthian Room of the Biltmore Hotel, 515 South Olive Street, Los Angeles, California.

The tentative agenda for the Coordinating Subcommittee meeting follows:

1. Review draft report.
2. Review the schedule for completion of the study effort.
3. Discuss any other matters pertinent to the overall assignment of the Coordinating Subcommittee.
4. Public Comment (10 minute rule).

The meeting is open to the public. The Chairman of the Coordinating Subcommittee is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Coordinating Subcommittee will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements should contact Jimmie L. Petersen, Office of Oil and Gas, Energy Information Administration, Forrestal Building—Room 2H–058, Washington, D.C., 202/252–6401, prior to the meeting and reasonable provision will be made for their appearance on the agenda.

Minutes of the meeting will be available for public review and copying approximately 30 days following the

meeting at the freedom of Information Public Reading Room, Room 1E–190, Department of Energy, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C., between the hours of 8:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, D.C. on February 3, 1984.

J. Erich Evered,

Administrator, Energy Information Administration.

[FR Doc. 84-3487 Filed 2-8-84; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket No. CP79–169–010]

ANR Pipeline Co. (Formerly Michigan Wisconsin Pipe Line Co.); Notice of Petition To Amend

February 3, 1984.

Take notice that on January 23, 1984, ANR Pipeline Company (Petitioner), 500 Renaissance Center, Detroit, Michigan 48243, filed in Docket No. CP79–169–010 a petition pursuant to Section 7(b) and 7(c) of the Natural Gas Act to amend the order issued September 25, 1979, in Docket No. CP79–169, as amended, so as to extend Petitioner's authorization to transport natural gas for Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee), for a period through October 31, 1984, and for permission and approval to abandon a comparable service for Natural Gas Pipeline Company of America (Natural), all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Petitioner states that by orders issued in Docket No. CP66–110 *et al.*, Midwestern Gas Transmission Corporation (Midwestern) and Great Lakes Gas Transmission Company (Great Lakes) were authorized to import from Canada a total of 132,000,000 Mcf of natural gas for a period ending October 31, 1983. Petitioner further states that approximately 67,000,000 Mcf of gas authorized for import have been imported and sold and that, to enable the balance of the authorized quantity to be imported and sold, Midwestern and Great Lakes have filed a joint application to amend their authorizations. Petitioner states that Midwestern sells a portion of the imported gas to Natural and Tennessee and Petitioner provides transportation services which enable Natural and Tennessee to receive the subject gas. Petitioner states further that Natural no longer requires the service since it has advised Midwestern it would no longer purchase Canadian gas in accordance with the arrangement authorized by the Commission.

Petitioner states that the authorization for the transportation service expired on October 31, 1983, and that it requests authority to continue the transportation service for Tennessee until October 31, 1984, and abandon the service for Natural effective October 31, 1983.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before February 24, 1984, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-3488 Filed 2-8-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84–74–000]

Canal Electric Co.; Order Resolving Reserved Issue

Issued: February 3, 1984.

On January 6, 1984, we accepted for filing and suspended a rate schedule filed by Canal Electric Company (Canal). The rate schedule filed was a unit sale based upon an executed power contract between Canal, Commonwealth Electric Company (Commonwealth) and Cambridge Electric Light Company (Cambridge). In our order we summarily disposed of one issue, ordered a hearing on the justness and reasonableness of the rate and deferred until now disposition of the issue of whether the filing is, as characterized by Canal, an initial rate.

The executed agreement provides that Canal will recover currently its CWIP costs as allowed by the Commission regulations. Canal's filing purports to recover 50% of its CWIP, presumably because it has characterized its filing as an initial rate which is not subject to the 6% limitation on CWIP filings imposed by the Commission's rules 18 CFR 35.26(d)(3).[1]

Upon further consideration of the filing and the facts presented, we are of the belief that Canal is correct in its characterization of the rate schedule as an initial rate. The instant rate schedule involves unit sales for nuclear units heretofore uncommitted to these customers. Although Canal has two other unit sale contracts with these customers, the service provided is different under each such agreement because of the exclusive nature of each unit sales agreement. Thus, we agree with Canal that the first filing of a unit sale contract is an initial rate filing.[2]

Since we find that Canal's filing is an initial rate filing, the 6% limitation on CWIP recovery is not applicable. Therefore, we shall order no further modifications to the rate at this time.

The Commission orders:

(A) Canal's proposed CWIP-based charges shall remain in effect subject to the conditions expressed in the body of this order and the conditions of the January 9, 1984, which do not conflict with this order.

(B) The Secretary shall promptly publish this order in the **Federal Register.**

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-3470 Filed 2-8-84; 8:45 am]

BILLING CODE 6717-01-M

[1] "(3) Initial rates. The limitation in this paragraph does not apply to initial rate schedules filed under § 35.12." The Commission provided a mechanism for gradual inclusion of CWIP in rate base to avoid a rate surge. In the CWIP rule, initial rates were expressly excluded from the initial limitation. Inasmuch as initial rates do not supersede existing rate schedules, and therefore cannot be said to increase rates, a rate surge would not be a problem if the maximum allowable amount of CWIP were immediately included in rate base. Consequently, the initial limitation is not applicable to the initial rate filing.

[2] As we recognized in *Connecticut Light and Power Company*, Opinion No. 701, 52 FPC 175 (1974), unit sales look to costs associated with particular units and as such are treated differently for ratemaking purposes than sales from an entire system. Canal has chosen to utilize the unit sale arrangement exclusively; thus each of its customers bears the fixed and running costs of the particular unit, including return on investment in that unit. These fixed charges are to be paid during the term of the contract regardless of whether the unit is out of service for any reason. *See also, Public Service Company of New Hampshire*, Opinion No. 161, 22 FERC ¶61,229 (February 24, 1983).

[Docket Nos. ER84-131-000 and ER83-628-000]

Kansas Gas and Electric Co.; Order Accepting for Filing and Suspending Rates in Part, Noting Intervention, Waiving Filing Requirements, Consolidating Dockets, and Establishing Hearing and Price Squeeze Procedures

Issued: February 3, 1984.

On December 5, 1983, Kansas Gas and Electric Company (KG&E) tendered for filing an unexecuted agreement for wholesale electric service (the "Agreement"), Rate Schedules PWM-883 and PWM-384, and a fuel adjustment clause rider applicable to full requirements service to the City of Girard, Kansas (Girard).[1] Although, to date, KG&E has provided Girard with partial requirements service under FERC Rate Schedule No. 147, the company proposes by this submittal to convert Girard to full requirements service subject to the rates currently applicable to KG&E's other full requirements wholesale customers.[2] Girard requested this change in service commencing August 1, 1983, due to a complete outage experienced at Girard's municipal generating plant. KG&E requests waiver of the notice requirements so that its full requirements Rate Schedule PWM-883 may become effective for service to Girard on January 31, 1984. KG&E proposes to bill under the revisions to these rates, incorporated in Rate Schedule PWM-384, beginning on February 29, 1984, when the suspension period as to these rates ends in Docket No. ER83-628-000.[3]

Notice of KG&E's filing was published in the **Federal Register** with comments due by December 27, 1983. On that date, Girard filed a motion to intervene. Girard also requests that the unexecuted Agreement be rejected, claiming that it would impose restrictive terms not contained in KG&E's existing full requirements tariffs.[4] If not rejected, Girard requests that the proposed Agreement not be allowed to become effective until justified by KG&E in a section 206 proceeding. While not opposing Rate Schedule PWM-883, Girard requests that Rate Schedule PWM-384 be rejected in its entirety, noting that secton 35.17 of the Commission's regulations precludes the filing of increases in rates while a suspended filing applicable to the same customer is pending.[5] Barring rejection of rate Schedule PWM-384, Girard requests that those rates be suspended for five months[6] and that KG&E be ordered to reduce its PWM-384 rates to reflect the exclusion of all non-pollution control construction work in progress (CWIP) from rate base, consistent with Commisson regulations permitting increases in CWIP only every 10 months. 18 CFR 35.26(d)(1)(ii).[7] Finally, Girard requests consolidation of this filing with KG&E's pending rate proceeding in Docket No. ER83-628-000 and alleges price squeeze and undue price discrimination.[8]

KG&E responded to Girard's pleading by answer filed on January 11, 1984. While not objecting to Girard's intervention, KG&E opposes the city's requests for rejection of the proposed Agreement and Rate Schedule PWM-384, argues in favor of its proposed effective dates, and opposes Girard's allegations of price squeeze and price discrimination.[8]

Discussion

Pursuant to Rule 214(c) of the Commission's Rules of Practice and Procedure (18 CFR 385.214), Girard's timely motion to intervene serves to make it a party to this proceeding.

We note that Girard's argument regarding the timing of KG&E's CWIP filings is misplaced in this case, since the company is not proposing to revise the level of its previously filed rates but, rather, is simply converting Girard's service from partial to full requirements. Under these circumstances, the limitation on CWIP (18 CFR 35.26), designed to preclude multiple increases in the *amount* of CWIP requested, is inapplicable. In addition, since the company is not proposing to amend the terms, conditions, or rate under the suspended partial requirements portion of its filing in Docket No. ER83-628-000 as it currently applies to Girard, but is simply changing the type of service which Girard receives (at the latter's request), we find that § 35.17 of our regulations does not apply. In any event, we would grant special permission for the filing under these circumstances. Because the Commission finds that KG&E's submittal substantially complies with the applicable filing requirements,[9] we shall deny Girard's motions to reject or to summarily reject the CWIP portion of the company's rates.

As noted, the PWM-883 rate which KG&E initially seeks to implement for Girard reflects an approved settlement. Further, Girard does not oppose implementation of that rate as of January 31, 1984. Accordingly, we shall grant KG&E's request for waiver of the notice requirements and permit KG&E to apply Rate Schedule PWM-883 to Girard as requested without suspension or hearing. We shall also permit KG&E's

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[1] *See* Attachment for rate schedule designations.

[2] The full requirements rates in Rate Schedule PWM-883 reflect settlement rates in Docket No. ER82-412-000 which were approved by letter order issued on August 1, 1983. On July 15, 1983, in Docket No. ER83-628-000, KG&E filed proposed changes in rates applicable to several customers, which included revisions to Rate Schedule PWM-883. The modifications to Rate Schedule PWM-883 are reflected in the proposed Rate Schedule PWM-384. The Commission's order in Docket No. ER83-628-000, dated September 29, 1983, *inter alia*, accepted Rate Schedule PWM-384 for filing and suspended the rates for five months, to become effective on February 29, 1984, subject to refund. 24 FERC ¶ 61,377. The proposed fuel adjustment clause rider reflects the fuel clause proposed by KG&E for full requirements service to the City of Augusta in Docket No. ER80-259-000. The Commission issued an opinion and order in the consolidated proceeding involving that docket on October 4, 1983. Opinion No. 188, 25 FERC ¶ 61,007, *Reh. denied*, 25 FERC ¶ 61,328 (Dec. 1, 1983). Pending approval of final compliance filings, rates associated with the fuel adjustment clause are being collected subject to refund.

[3] *See* note 2, *supra*.

[4] Girard protests several restrictions contained in the Agreement for full requirements service, including: (1) A provision restricting its power and energy demand to a maximum of 7500 kw and a minimum of 2500 kw per month; (2) the duration of the proposed contract; (3) a provision permitting KG&E to unilaterally change the rates; (4) the waiver and liability provisions of the Agreement; (5) a provision regarding disclaimer of liability for interruption in service; and (6) the proposed effective date (January 31, 1984), which is six months beyond the date on which Girard effectively began to take full requirements service from KG&E (August 1, 1983). Girard further protests aspects of KG&E's alleged cost support. With respect to the proposed effective date, we note that Girard's *existing* agreement commits the city to firm partial requirements service through 1986, regardless of the operating condition of its generating units or the redetermination of a particular power year's contract demand. Therefore, there is on file a rate applicable to service from August 1, 1983 to January 31, 1984, and we find Girard's arguments supporting an August 1, 1983 effective date for the proposed filing to be groundless.

[5] The city states that the increase in rates filed by KG&E in Docket No. ER83-628-000 and suspended until February 29, 1984, includes proposed rates applicable to Girard. However, only the changes in the partial requirements rates included in Docket No. ER83-628-000 are applicable to Girard.

[6] In Docket No. ER83-628-000, the Commission ordered a maximum suspension of KG&E's proposed rates. Girard asserts that, because KG&E is relying upon the same test period as in Docket No. ER83-628-000, the result here should be the same. In addition, Girard claims that KG&E's requested rate of return on equity is excessive and protests KG&E's proposed end-of-period capital structure and debt costs.

[7] Girard asserts that KG&E's rate increase in Docket No. ER83-628-999, filed on July 15, 1983, includes CWIP in rate base for Girard and that, therefore, the PWM-384 CWIP rates should be disallowed.

[8] KG&E contends that any issue of price squeeze or price discrimination with respect to Girard's PWM rates should be litigated in Docket No. ER83-628-000 in any event, since the PWM rates proposed for Girard are identical to those proposed for other KG&E municipal customers in that docket.

[9] *See Municipal Light Boards of Reading and wakefield, Massochusetts* v. *FPC*, 450 F.2d 1341 (D.C. Cir. 1971), *cert. denied*, 405 U.S. 989 (1972).

proposed fuel clause rider to take effect as of January 31, 1984, inasmuch as this provision is identical to the fuel adjustment clause rider contained in the rates found to be just and reasonable by the Commission in Opinion No. 188. However, the fuel clause rider will be suspended for a nominal period so that, pending acceptance of the company's compliance filing in Docket No. ER80–259–000, revenues thereunder will remain subject to refund.

However, our preliminary review of the remainder of KG&E's submittal and the pleadings indicates that the proposed rates, terms and conditions have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful. Therefore, we shall accept the balance of KG&E's submittal for filing and suspend it as ordered below.

In *West Texas Utilities Company*, Docket No. ER82–23–000, 18 FERC ¶ 61,189 (1982), we noted that rate filings would ordinarily be suspended for one day where preliminary review indicates that the proposed increase may be unjust and unreasonable but may not generate substantially excessive revenues, as defined in *West Texas*. We note that the Commission, in Docket No. ER83–628–000, suspended the PWM–384 rate for a period of five months, based on the preliminary finding that it may produce substantially excessive revenues. However, given the fact that KG&E is not proposing to revise that rate, we believe that a nominal suspension and refund contingency will adequately protect Girard while properly maintaining rate parity for similar services to similarly situated wholesale customers. Accordingly, we shall suspend those portions of KG&E's filing other than the PWM–883 rate and the fuel adjustment clause, to become effective, subject to refund, on February 29, 1984. Given the commonality of issues presented in Docket Nos. ER84–131–000 and ER83–628–000, we shall consolidate those dockets for purposes of hearing and decision.

Finally, in accordance with the Commission's policy and practice established in *Arkansas Power and Light Company*, Docket No. ER79–339, 8 FERC ¶ 61,131 (1979), we shall phase the price squeeze issues raised by Girard.

The Commission orders:

(A) Girard's motion to reject KG&E's rates is hereby denied.

(B) KG&E's request for waiver of the notice requirements is hereby granted.

(C) Rate Schedule PWM–883, as applied to Girard, is hereby accepted for filing, to become effective, without suspension or hearing, on January 31, 1984; KG&E's proposed fuel clause rider is accepted for filing and suspended to become effective on January 31, 1984, subject to refund, pending acceptance of KG&E's compliance filing in Docket No. ER80–259–000; the balance of KG&E's submittal is accepted for filing and suspended, to become effective, subject to refund, on February 29, 1984.

(D) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by section 402(a) of the Department of Energy Organization Act and by the Federal Power Act, particularly sections 205 and 206 thereof, and pursuant to the Commission's Rules of Practice and Procedure and the regulations under the Federal Power Act (18 CFR Chapter I), a public hearing shall be held concerning the justness and reasonableness of KG&E's rates and service schedule changes.

(E) Docket Nos. ER84–131–000 and ER83–628–000 are hereby consolidated for purposes of hearing and decision.

(F) A presiding administrative law judge, to be designated by the Chief Administrative Law Judge, shall convene a conference in this proceeding to be held within approximately fifteen (15) days of the date of this order in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. This conference shall be held for purposes of pursuing settlement, defining the scope of this proceeding, and establishing a procedural schedule. The presiding judge is authorized to establish procedural dates and to rule on all motions (except motions to dismiss) as provided in the Commission's Rules of Practice and Procedure.

(G) The Commission hereby orders initiation of price squeeze procedures and further orders that this proceeding be phased so that the price squeeze procedures begin after issuance of a Commission opinion establishing the rate which, but for consideration of price squeeze, would be just and reasonable. The presiding judge may modify this schedule for good cause shown. The price squeeze portion of this case shall be governed by the procedures set forth in § 2.17 of the Commission's regulations as they may be modified prior to the initiation of the price squeeze phase of this proceeding.

(H) The Secretary shall promptly publish this order in the Federal Register.

By the Commission.

Kenneth F. Plumb,

Secretary.

Attachment—Kansas Gas & Electric Company, Docket No. ER84–131–000

Rate Schedule Designations

Filing Date: December 5, 1983

Effective Date: January 31, 1984, (1, 2 and 4) February 29, 1984, (3) subject to refund

Other Party: City of Girard, Kansas

Designation	Description
(1) Rate Schedule FERC No. 157 (Supersedes Rate Schedule FERC No. 147, as supplemented).	Agreement for full requirements service
(2) Supplement No. 1 to Rate Schedule FERC No. 157.	Rate Schedule PWM—883.
(3) Supplement No. 2 to Rate Schedule FERC No. 157 (Supersedes Supplement No. 1).	Rate Schedule PWM—384.
(4) Supplement No. 3 to Rate Schedule No. 157.	Fuel Adjustment Clause Rider FAPWM—580.

[FR Doc. 84–3471 Filed 2–8–84; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER83–736–000]

Pennsylvania-New Jersey-Maryland Interconnection and Philadelphia Electric Co.; Order Accepting for Filing and Suspending Rate Schedules, Noting Intervention, Denying Motions To Reject and To Consolidate Dockets, and Establishing Procedures

Issued: February 3, 1984.

On December 5, 1983, the Pennsylvania-New Jersey-Maryland Interconnection (PJM), on behalf of the signatories to the PJM Agreement,[1] completed [2] the filing of revised rate schedules under the PJM Agreement.[3] PJM states that the revised schedules: (1) Increase the charge that PJM members assess each other for the use of their unutilized share of transmission system import capability from $185/MW-Week to $5.50/MW-Hour; (2) introduce provisions for accounting within PJM for economical energy purchased from outside systems under transaction categories other than

[1] Public Service Electric and Gas Company, Philadelphia Electric Company, Pennsylvania Power & Light Company, Baltimore Gas and Electric Company, Jersey Central Power & Light Company, Metropolitan Edison Company, Pennsylvania Electric Company, Potomac Electric Power Company, and Delmarva Power & Light Company.

[2] PJM initially tendered the revisions for filing on September 8, 1983. By letter dated November 2, 1983, the Director of the Commission's Office of Electric Power Regulation notified PJM that its filing was deficient. In response, PJM submitted the requisite information on December 5, 1983.

[3] *See* Attachment A for rate schedule designations.

Economy Energy; (3) modify the procedures for allocating within PJM payments and receipts for adders on non-economy transactions with others, the procedure for sharing inadvertent interchange, and the internal billing formulae for pumping energy without replacement; and (4) revise the PJM members' shares of capability to import power from electric systems located to the west of PJM. In addition, PJM states that the proposed revisions are intended to clarify the parties' intent and to improve consistency of language or method among the schedules.

Initially, PJM requested an effective date of November 7, 1983; accordingly, it requested waiver of the notice requirements. In its subsequent filing, however, PJM states that its members would accept an effective date commencing on a Monday not later than February 6, 1984. PJM characterizes the filing as a negotiated settlement which, according to PJM, is conditioned upon the Commission's acceptance of the filing without suspension or modification. In the event that the Commission does not accept the filing without suspension or modification or permit it to become effective on the date requested, PJM states that the filing should be deemed "withdrawn, null, void, and without any effect whatsoever." PJM also requests waiver of Part 35 of the Commission's regulations, to the extent that additional supporting materials would otherwise be required.

On December 2, 1983, Philadelphia Electric Company (PE) completed[4] the filing, on behalf of the PJM members, of a Transmission Enhancement Facilities Agreement supplementing the parties' EHV Transmission System Agreement dated August 24, 1967. The Transmission Enhancement Facilities Agreement provides for a sharing among the signatories of annual carrying charges on the investment by some of the signatories in facilities which are part of the PJM Interconnection. According to PE, the signatories have agreed to share such charges because the enhancement benefits each of the signatories.

As in the case of the PJM submittal, PE initially requested a November 7, 1983 date, together with waivers of the notice requirements and of Part 35 of the regulations. Its subsequent filing, however, indicated that the company would accept a February 6, 1984 effective date, subject to the same condition that PJM sought to attach in the event that the filing is not accepted as tendered.

Notices of the instant filings were published in the **Federal Register** [5] with comments due on or before October 3, 1983, as to the PJM filing, and October 18, 1983, as to the PE filing. A timely motion to intervene was filed in connection with the PJM filing by the Easton Utilities Commission of the Town of Easton, Maryland (Easton). Easton also protested the PE filing one day after the specified comment deadline. This pleading was styled as a "Second supplement" to Easton's original motion to intervene.[6]

With respect to the PJM filing, Easton requests that the Commission suspend those portions of the submittal providing for revised import capability shares for one day, set the matter for hearing, and consolidate the docket with *Town of Easton, Maryland* v. *Delmarva Power & Light Co. and Pennsylvania-New Jersey-Maryland Interconnection,* Docket No. EL82–1–000.[7] Easton states that PJM has failed to submit any support for the revised import capability shares and that, as a result, it cannot determine whether the revised percentages are fair or reasonable.[8] On October 7, 1983, Easton moved to supplement its motion to intervene,[9] requesting that PJM's request for waiver of Part 35 of the Commission's regulations be denied, and that the revised schedules be suspended for five months. In support of its position, Easton alleges that it cannot determine the actual impact of the revised schedules tendered by PJM.[10]

With respect to the submittal tendered by PE, Easton requests that the Transmission Enhancement Facilities Agreement be suspended and set for hearing in the same manner requested in Easton's first supplemental pleading. Easton contends that, in view of the 25-year duration of the Transmission Enhancement Facilities Agreement, the filing constitutes "a transparent effort by PJM to avoid the effect of the Commission's order of August 24, 1983 in Docket No. EL82–1–000" and would "lock up for 25 years a changed allocation of import capability without giving the Commission opportunity to scrutinize . . . whether the allocation is just and reasonable. . . ."

On October 18, 1983, the PJM members filed a joint answer to Easton's original motion to intervene and first supplement. The companies object to Easton's requests for suspension of and hearings on the revised transmission allocation percentages and the PJM schedules. Consistent with PJM's characterization of the filing in its transmittal letter, the PJM members urge that the Commission accept the agreement as a contested settlement pursuant to Rule 602(h)(1)(i) of the Commission's Rules of Practice and Procedure (18 CFR 385.602). The PJM utilities also request that Easton's motion to consolidate be denied. In support of their position, they dispute the allegations made by Easton and claim that Easton's pleading amounts to nothing more than an attempt to reargue points rejected by the Commission in Docket No. EL82–1–000.

On November 1, 1983, the PJM members filed an answer to Easton's second supplement, stating that the Transmission Enhancement Facilities Agreement is wholly unrelated to the allocation agreements addressed in Docket No. EL82–1–000. The PJM members deny that the filing by PE undermines the Commission's order in Docket No. EL82–1–000, and requests that the Commission accept the filing as set forth in PE's transmittal letter and the answer filed by PJM on October 18, 1983.

[4] PE initially tendered this agreement for filing on September 23, 1983. PE was also advised that its submittal was deficient by letter dated November 2, 1983.

[5] The PJM submittal was noticed at 48 FR 43385, and the PE submittal at 48 FR 46614.

[6] As good cause for its delay in filing, Easton states that it did not receive a copy of the Commission's notice of the PE filing until October 17, 1983, and of the filing itself until the following day. We note that PJM's filing referenced the later PE submittal and characterized the two filings as a single package to be considered together by the Commission. Thus, a separate docket was not assigned to the PE filing and it was not necessary for Easton to separately intervene in opposition to PE's proposal. Nonetheless, what is essentially a protest to PE's filing was required to be filed within the prescribed comment period.

[7] 24 FERC ¶ 61,251 (1983), *reh. den.* 25 FERC ¶ 61,407 (1983). In Docket No. EL82–1–000, the Commission denied Easton's request to investigate the reasonableness of the PJM members' transmission allocation agreements and related practices and procedures, and terminated the proceeding. However, the Commission directed the PJM members to file portions of their agreements dealing with transmission capacity allocation percentages or the methodology for determining such percentages.

[8] On December 15, 1983, Easton filed a letter with the Commission regarding the additional information tendered by PJM. In its letter, Easton contends that the submittal does not satisfy the deficiency letter issued by the Office of Electric Power Regulation and, accordingly, requests that PJM's filing be rejected. In the alternative, Easton requests that still further information be required.

[9] As grounds for its motion to supplement, Easton states that it was unaware of the potential impact of the revised schedules on the Town until the purposes of the revisions were explained at a meeting held on October 4, 1983, among Easton, PJM, and Delmarva Power & Light Company.

[10] Specifically, Easton objects to revised Schedules 5.01, 5.02, 5.03, 5.05, 6.01, 6.03, 6.04, 7.01, 7.02, and 7.03.

Discussion

Pursuant to Rule 214(c) of the Commission's Rules of Practice and Procedure (18 CFR 385.214), the timely motion to intervene in this docket serves to make Easton a party to this proceeding. Further, we find that good cause exists to accept Easton's motions to supplement its original pleading, and we shall also consider the letter filed by Easton on December 15, 1983, in evaluating the instant filings. It appears that multiple comment deadlines and the need for Easton to undertake a bifurcated review of the PJM/PE submittals was largely a result of the filing parties' decision to separately tender these rate schedule changes as well as the initial deficiencies in the filings. Under these circumstances, Easton has expressed its concerns with reasonable dispatch.

We find that the filings of PJM and PE, as completed by the submission of additional information, substantially comply with Part 35 of the Commission's regulations.[11] Therefore, we shall deny Easton's motions to reject the filings.

Our review of the instant filings and the issues raised by Easton indicates that the filings have not been shown to be just and reasonable, and may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful.[12] Accordingly, we shall accept the submittals for filing and suspend their operation as ordered below.[13]

In *West Texas Utilities Company*, Docket No. ER82-23-000, 18 FERC ¶61,189 (1982), the Commission explained its suspension policy and noted that rate filings would ordinarily be suspended for a nominal period if preliminary review indicates that the submittal may be unjust and unreasonable but may not generate substantially excessive revenues as defined in *West Texas*. In the instant case, our review indicates that the proposed rate schedule changes submitted by PJM and PE may not result in substantially excessive revenues. Accordingly, we shall suspend the filings to become effective, subject to refund, on February 6, 1984.

As indicated previously, PJM and PE state that in the event the Commission does not accept the instant submittals as filed and permit them to become effective as requested, they are to be deemed withdrawn, null, void, and without any effect. The parties to the filings may enter into such an agreement among themselves. The Federal Power Act contemplates the setting of rates, in the first instance by private parties; such agreements remain subject, however, to the Commission's "paramount power to modify them when necessary in the public interest." *United Gas Pipe Line Co.* v. *Mobile Gas Service Corp.*, 350 U.S. 332, 334 (1956). *See also FPC* v. *Sierra Pacific Power Co.*, 350 U.S. 356 (1956). We note that the revised rate schedules purport to reflect a negotiated agreement among each of the PJM members. To the extent that such an underlying agreement exists, the appropriate rate schedules must remain on file pursuant to section 205 of the Federal Power Act. PJM and PE have asked only that their "filings" be considered nullities, but have not addressed the effect of any Commission action on the contractual commitments of the parties. Barring any elucidation of this point in the pleadings or in the rate schedules themselves, we are not prepared to conclude that the filings of PJM or PE may be lawfully withdrawn as a result of our suspension. In the event that all of the contracting parties have, in fact, intended that suspension would void all contractual undertakings, the parties should so advise the Commission (within 10 days of this order) together with evidence of mutuality among all PJM members. The Commission will subsequently act on any such pleading as a motion to withdraw the effective rate schedule.

Because Docket No. EL82-1-000 was previously terminated by the Commission, Easton's motion for consolidation with that docket is moot.

The Commission orders:

(A) Easton's motions to reject the filings submitted by PJM and PE or, in the alternative, to suspend them for five months are hereby denied.

(B) Easton's motions to file supplemental pleadings are hereby granted.

(C) The submittals of PJM and PE are hereby accepted for filing and suspended to become effective as of February 6, 1984, subject to refund.

(D) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by section 402(a) of the Department of Energy Organization Act and by the Federal Power Act, particularly sections 205 and 206 thereof, and pursuant to the Commission's Rules of Practice and Procedure and the regulations under the Federal Power Act (18 CFR, Chapter I), a public hearing shall be held concerning the justness and reasonableness of the revised schedules to the PJM Agreement and the Transmission Enhancement Facilities Agreement.

(E) A presiding administrative law judge, to be designated by the Chief Administrative Law Judge, shall convene a prehearing conference in this proceeding to be held within approximately fifteen (15) days of the date of this order in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C., 20426. This conference shall be held for purposes of establishing a procedural schedule and defining the appropriate scope of this proceeding. The presiding judge is authorized to establish procedural dates and to rule on all motions (except motions to dismiss) as provided in the Commission's Rules of Practice and Procedure.

(F) The Secretary shall promptly publish this order in the Federal Register.

By the Commission.

Kenneth F. Plumb,

Secretary.

Attachment—Rate Schedule Designations, Docket No. ER83-736

Filed: September 8, 1983

Description

(1) Schedule 4.02, (2) Schedule 5.01, (3) Schedule 5.02, (4) Schedule 5.03, (5) Schedule 5.04, (6) Schedule 5.05, (7) Schedule 6.01, (8) Schedule 6.03, (9) Schedule 6.04, (10) Schedule 7.01, (11) Schedule 7.02, (12) Schedule 7.03

Designation	Description
Supplement No. 73 (Supersedes Supplement No. 70).	(1)
Supplement No. 74 (Supersedes Supplement No. 4 to Supplement No. 51)	(2)
Supplement No. 75 (Supersedes Supplement No. 5 to Supplement No. 51).	(3)
Supplement No. 76 (Supersedes Supplement No. 5 to Supplement No. 47).	(4)
Supplement No. 77	(5)
Supplement No. 78	(6)
Supplement No. 79 (Supersedes Supplement No. 6 to Supplement No. 51).	(7)
Supplement No. 80 (Supersedes Supplement No. 16 to Supplement No. 7).	(8)

[11] *See Municipal Light Boards of Reading and Wakefield, Massachusetts* v. *FPC*, 450 F.2d 1341 (D.C. Cir. 1971). Given our finding of substantial compliance with the filing regulations, we need not address the original requests by PJM or PE for waiver of such regulations.

[12] As discussed in *Baltimore Gas and Electric Company*, Docket No. ER83-672-000, 26 FERC ¶61,006 (1984), the parties to this proceeding should address, *inter alia*, the question of whether the proposed transmission rate for import capability would be appropriate for long-term transactions, taking into account considerations of reliability and economy, as opposed to the short-term economic transactions contemplated by PJM.

[13] As noted, PJM and PE contend that Easton is seeking to reargue issues previously decided in Docket No. EL82-1-000. In setting the instant filings for hearing, it is not our intention to reopen questions already resolved in Docket No.

Designation	Description
Supplement No. 81 (Supersedes Supplement No. 17 to Supplement No. 51).	(9)
Supplement No. 82 (Supersedes Supplement No. 10 to Supplement No. 51).	(10)
Supplement No. 83 (Supersedes Supplement No. 11 to Supplement No. 51).	(11)
Supplement No. 84 (Supersedes Supplement No. 15 to Supplement No. 51).	(12)
The above supplements apply to the following Rate Schedules:	
Pennsylvania Electric Company	FPC No. 24.
Public Service Electric and Gas Company.	FPC No. 23.
Philadelphia Electric Company	FPC No. 21.
Metropolitan Edison Company	FPC No. 7.
Baltimore Gas and Electric Company.	FPC No. 8.
Pennsylvania Power and light Company.	FPC No. 21.
Jersey Central Power and Light Company.	FPC No. 7.
Potomac Electric Power Company	
Supplement No. 51 (Supersedes Supplement No. 46).	(1)
Supplement No. 52 (Supersedes Supplement No. 4 to Supplement No. 30).	(2)
Supplement No. 53 (Supersedes Supplement No. 5 to Supplement No. 30).	(3)
Supplement No. 54	(4)
Supplement No. 55 (Supersedes Supplement No. 15 to Supplement No. 30).	(5)
Supplement No. 56 (Supersedes Supplement No. 31).	(6)
Supplement No. 57 (Supersedes Supplement No. 6 to Supplement No. 30).	(7)
Supplement No. 58 (Supersedes Supplement No. 16 to Supplement No. 30).	(8)
Supplement No. 59 (Supersedes Supplement No. 17 to Supplement No. 30).	(9)
Supplement No. 60 (Supersedes Supplement No. 50).	(10)
Supplement No. 61 (Supersedes Supplement No. 11 to Supplement No. 30).	(11)
Supplement No. 62 (Supersedes Supplement No. 15 to Supplement No. 30 to Rate Schedule FPC No.19).	(12)
Atlantic City Electric Company	
Supplement No. 11 (Supersedes Supplement No. 8).	(1)
Supplement No. 12	(2)
Supplement No. 13	(3)
Supplement No. 14	(4)
Supplement No. 15	(5)
Supplement No. 16	(6)
Supplement No. 17	(7)
Supplement No. 18 (Supersedes Supplement No. 4).	(8)
Supplement No. 19	(9)
Supplement No. 20 (Supersedes Supplement No. 10).	(10)
Supplement No. 21	(11)
Supplement No. 22	(12)
Delmarva Power and Light Company	
Supplement No. 11 (Supersedes Supplement No. 8).	(1)
Supplement No. 12	(2)
Supplement No. 13	(3)
Supplement No. 14	(4)
Supplement No. 15	(5)
Supplement No. 16	(6)
Supplement No. 17	(7)
Supplement No. 18 (Supersedes Supplement No. 4).	(8)
Supplement No. 19	(9)
Supplement No. 20 (Supersedes Supplement No. 10).	(10)
Supplement No. 21	(11)
Supplement No. 22	(12)

[FR Doc. 84-3472 Filed 2-8-84; 8:45 am]

BILLING CODE 6717-01-M

Finality of Oil Pipeline Valuation Reports

February 6, 1984.

The Federal Energy Regulatory Commission, by order issued February 10, 1978, established an Oil Pipeline Board and delegated to the Board its functions with respect to the issuance of valuation reports pursuant to Section 19a of the Interstate Commerce Act.

The Board has issued the tentative valuation report(s) for the following common carriers by oil pipeline:

Docket No. PV- and carrier	Year(s)
1364-000 Acorn Pipe Line Company	1980, 1981.
1473-000 Algonquin Pipe Line Company.	1980 (Initial).
1414-000 Allegheny Pipeline Company.	1980, 1981.
1439-000 Amdel Pipeline, Inc.	1980, 1981
1440-000 American Petrofina Pipe Line Company.	1980.
1302-000 Amoco Pipeline Company	1980, 1981.
1378-000 Arapahoe Pipe Line Company.	1980.
1329-000 ARCO Pipe Line Company	1980, 1981.
1291-000 Ashland Pipe Line Company.	1980, 1981.
1381-000 Badger Pipe Line Company.	1980, 1981.
1430-000 Belle Fourche Pipeline Company.	1980, 1981.
1425-000 Black Lake Pipe Line Company.	1981, 1981.
1322-000 Buckeye Pipe Line Company.	1980, 1981.
1382-000 Butte Pipe Line Company	1980, 1981.
1404-000 Calnev Pipe Line Company.	1980, 1981.
1452-000 Chase Transportation Company.	1974 (Initial), 1977, 1978.
1416-000 Chevron Pipe Line Company.	1980, 1981.
1388-000 Cheyenne Pipeline Company.	1980, 1981.
1427-000 Chicap Pipe Line Company.	1980, 1981.
1312-000 Cities Service Pipe Line Company.	1980, 1981.
1464-000 Cochin Pipeline System	1979 (Initial)
1433-000 Collins Pipeline Company	1980, 1981.
1422-000 Colonial Pipeline Company.	1980.
1316-000 Continental Pipe Line Company.	1980, 1981.
1426-000 Cook Inlet Pipe Line Company.	1980, 1981.
1341-000 CRA, Inc.	1980, 1981.
1365-000 Crown-Rancho Pipe Line Corporation.	1980, 1981.
1349-000 Diamond Shamrock Corporation.	1980, 1981.
1411-000 Dixie Pipeline Company	1980, 1981.
1447-000 Dome Pipeline Corporation, Eastern Delivery System.	1979 (Initial).
1467-000 Dorchester Liquid Transportation Corporation.	1980 (Initial).
1385-000 Emerald Pipe Line Corporation.	1980, 1981.
1441-000 Explorer Pipeline Company.	1980, 1981.
1394-000 Exxon Pipeline Company	1980.
1389-000 Four Corners Pipe Line Company.	1980, 1981.
1402-000 Getty Pipeline, Inc.	1980, 1981.
1436-000 Gulf Central Pipeline Company.	1980, 1981.
1333-000 Gulf Pipeline Company	1980, 1981.
1409-000 Hess Pipeline Company	1980, 1981.
1431-000 Hydrocarbon Transportation, Inc..	1980, 1981.
1406-000 Jayhawk Pipeline Corporation.	1980, 1981.
1413-000 Jet Lines, Inc.	1980, 1981.
1375-000 Kaneb Pipe Line Company	1981, 1981.
1299-000 Kaw Pipe Line Company	1980, 1981.
1399-000 Kerai Pipe Line Company	1980, 1981.
1429-000 Kerr-McGee Pipeline Corporation.	1980, 1981.
1435-000 Kiantone Pipeline Corporation.	1980, 1981.
1419-000 Lake Charles Pipe Line Company.	1980, 1981.
1354-000 Lakehead Pipe Line Company.	1980, 1981
1403-000 Laurel Pipe Line Company	1980, 1981.
1392-000 Marathon Pipe Line Company.	1980, 1981.
1395-000 Mid-America Pipeline System.	1980, 1981.
1353-000 Mid-Valley Pipeline Company.	1980, 1981.
1384-000 Minnesota Pipe Line Company.	1980, 1981
1448-000 Mobil Eugene Island Pipeline Company.	1977 (Initial), 1978, 1979, 1980, 1981.
1311-000 Mobil Pipe Line Company	1980, 1981.
1332-000 National Transit Company	1980, 1981.
1455-000 Ohio Oil Gathering Corporation II.	1979 (Initial), 1980, 1981.
1292-000 Ohio River Pipe Line Company.	1980, 1981.
1451-000 Okie Pipe Line Company	1978 (Initial), 1978.
1417-000 Olympic Pipe Line Company.	1980, 1981.
1453-000 Osage Pipe Line Company	1978 (Initial), 1977, 1978, 1979, 1980.
1456-000 Owensboro-Ashland Company.	1980, 1981.
1420-000 Paloma Pipe Line Company.	1980, 1981.
1320-000 Phillips Pipe Line Company.	1980, 1981.
1372-000 Pioneer Pipe Line Company.	1980, 1981.
1343-000 Plantation Pipe Line Company.	1980, 1981.
1367-000 Platte Pipe Line Company	1980, 1981.
1458-000 Pogo Offshore Pipeline Company.	1977 (Initial), 1978, 1979, 1980, 1981
1410-000 Portal Pipe Line Corporation.	1980, 1981.
1347-000 Portland Pipe Line Company.	1980, 1981.
1437-000 Powder River Corporation	1980, 1981.
1327-000 Pure Transportation Company.	1980, 1981.
1428-000 Santa Fe Pipeline Company.	1980, 1981.
1450-000 Seaway Pipeline, Inc.	1977 (Initial), 1978, 1979, 1980, 1981
1368-000 Shamrock Pipe Line Corporation, The.	1980, 1981.
1326-000 Shell Pipe Line Corporation.	1980, 1981.
1335-000 Sohio Pipe Line Company	1980, 1981.
1424-000 Southcap Pipe Line Company.	1980, 1981.
1393-000 Southern Pacific Pipe Lines, Inc..	1980, 1981.
1370-000 Sun Oil Line Company of Michigan.	1980, 1981.
1315-000 Sun Pipe Line Company	1980, 1981.
1386-000 Tecumseh Pipe Line Company.	1980, 1981.
1300-000 Texaco-Cities Service Pipe Line Company.	1980, 1981.
1406-000 Texas Eastern Transmission Corporation.	1980, 1981.
1293-000 Texas-New Mexico Pipe Line Company.	1980, 1981.
1330-000 Texas Pipe Line Company, The.	1980, 1981.
1449-000 Texoma Pipe Line Company.	1980, 1981.
1466-000 Tonkawa Pipe Line Company.	1980 (Initial), 1981.
1357-000 Total Pipeline Corporation	1980, 1981.
1379-000 Trans Mountain Oil Pipe Line Corporation.	1980, 1981.
1412-000 Trans-Ohio Pipeline Company.	1980, 1981.
1388-000 West Emerald Pipe Line Corporation.	1980, 1981.
1463-000 Western Oil Transportation Company, Inc..	1978 (Initial), 1979.
1396-000 West Shore Pipe Line Company.	1980, 1981.
1362-000 West Texas Gulf Pipe Line Company.	1980, 1981.

Docket No. PV- and carrier	Year(s)
1421-000 White Shoal Pipeline Corporation.	1980, 1981.
1423-000 Williams Pipe Line Company.	1980, 1981.
1377-000 Wolverine Pipe Line Company.	1980, 1981.
1355-000 Wyco Pipe Line Company	1980, 1981
1373-000 Yellowstone Pipe Line Company.	1980, 1981.

Notice is hereby given that protests were made and subsequently withdrawn for Sohio Pipeline Company's (Sohio) 1980 and 1981 valuation reports. No protests to valuation reports of the other listed carriers have been received. Except for Sohio, all valuations are final as of the date issued by the Board. Sohio filed for withdrawal of protest on October 21, 1983 and pursuant to Rule 216 (FERC section 28.826) the withdrawal became effective 15 days later; consequently, Sohio's valuations are final.

Francis J. Connor,

Administative Officer, Oil Pipeline Board.

[FR Doc. 84-3473 Filed 2-8-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ES84-28-000]

El Paso Electric Co.; Application

February 6, 1984.

Take notice that on January 20, 1984, El Paso Electric Company (Applicant) filed an application with the Federal Energy Regulatory Commission (Commission) seeking authority pursuant to Section 204 of the Federal Power Act to issue and sell in a private placement to institutional investors up to $50 million principal amount of Long-Term Promissory Notes and possibly to issue up to a like amount of Second Morgage Bonds to secure the notes.

Any persons desiring to be heard or to make any protest with reference to said application should, on or before February 21, 1984, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 or 385.214). Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-3579 Filed 2-8-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ES84-19-000]

Gulf States Utilities Co.; Amended Application [1]

February 6, 1984.

On January 23, 1984, Gulf States Utilities Company (Applicant) filed an amendment to its application, pursuant to Section 204 of the Federal Power Act, seeking an increase in its authorization from 5,000,000 to 6,000,000 shares of Common Stock, without par value, to be issued over a two-year period.

Any persons desiring to be heard or to make any protest with reference to the application should, on or before February 23, 1984, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 or 385.214). The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-3581 Filed 2-8-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP84-218-000]

Panhandle Eastern Pipe Line Co.; Request Under Blanket Certificate

February 3, 1984.

Take notice that on January 30, 1984, Panhandle Eastern Pipe Line Company (Panhandle), P.O. Box 1642, Houston, Texas 77001, filed in Docket No. CP84-218-000 a request pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) that Panhandle proposes to transport natural gas for eligible end-users under the authorization issued in Docket No. CP83-83-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open for public inspection.

Panhandle proposes to transport up to 8,000 Mcf of natural gas per day and up to 2,200,000 Mcf of natural gas per year on behalf of seven end-user costomers [1] of Citizens Gas and Coke Utility (Citizens). It is asserted that Pandandle would receive gas from its participating producers in the states of Texas and Oklahoma and deliver this released gas to Citizens at an existing interconnection in Marion County, Indiana, for distribution to the seven end-users. It is further asserted that Panhandle's transportation charge would be based upon Panhandle's Rate Schedule IT and there is no 5-cent AIC charge proposed.

The end-user customers would use the gas transported for boiler use as an alternative for residual oil, it is explained. Pandhandle states that no new facilities are needed to effectuate the proposed transportation services which are now being performed pursuant to section 157.209(e)(1) and would continue for ninety days after issuance of a certificate approving Pandhandle's transportation agreement with the PanMark Gas Company in Docket No. CP83-333-000, *et al.*; if no such certificate is granted, service would terminate at 11:50 p.m. on June 30, 1985, or upon thirty-day written notice whichever occurs first.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-3584 Filed 2-8-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP84-192-000]

Tennessee Gas Pipe Line Co.; Application

February 6, 1984.

Take notice that on January 9, 1984,[1] Tennessee Gas Pipe Line Company (Applicant), 1200 Parkway Towers, 404 James Robertson Parkway, Nashville, Tennessee 37219, filed in Docket No. CP84-192-000 an application pursuant to

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[1] Amends a notice issued December 3, 1983 (48 FR 55317, December 12, 1983).

[1] The following companies have been listed as the end-user customers: Reilly Tar & Chemical Corporation, National Starch & Chemical Corporation, National By-Products Company, Inc., ILWD, Inc., Detroit Diesel Allison Plant #3 G.M.C., U.S- Corrugated Fiber Box Company, Inc., RCA.

[1] The application was initially tendered for filing on January 9, 1984; however, the fee required by § 159.1 of the Regulations under the Natural Gas Act (18 CFR 159.1) was not paid until January 12, 1984; thus, filing was not completed until the latter date.

Section 1(c) of the Natural Gas Act for exemption from the provisions of the Natural Gas Act and the Regulations of the Commission thereunder, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that in the first quarter of 1983, it merged into United Cities Gas Company (UCG) with UCG's being the surviving corportion and Applicant's being the disappearing corporation. Applicant explains that prior to the merger it operated a 12.61-mile transportation pipeline from a point on the main transmission line of Texas Eastern Transmission Corporation near Smyrna, Tennessee, to the UCG city gate at Murfreesboro, Tennessee. It is stated that as the population of its Murfreesboro franchise area has increased, UCG has utilized Applicant's transmission line as a part of its distribution system. It is asserted that with the merger, Applicant and UCG have become one entity and the gas originally sold to UCG and transported by Applicant is now transported by UCG as part of its distribution operation.

Applicant states that all of the gas is received and distributed within the boundaries of the State of Tennessee. It is further stated that UCG is wholly regulated by the Tennessee Public Service Commission. Applicant avers that all of its gas supply for the State of Tennessee is purchased and sold within Tennessee. Applicant, therefore, requests a declaration of exemption pursuant to Section 1(c) of the Natural Gas Act.

Any person desiring to be heard or to make any protest with reference to said application should on or before February 27, 1984, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214, or 385 .211). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceedings. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-3585 Filed 2-8-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF84-91-001]

Carolina Cogeneration Co., Inc.; Application for Commission Certification of Qualifying Status of a Cogeneration Facility

February 6, 1984.

On January 13, 1984, Carolina Cogeneration Company, Inc. (Applicant), c/o SJE Investments, 1960 Lincoln Park West, Chicago, Illinois 60614 submitted for filing an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The combined-cycle congeneration facility will be located at the Texasgulf, Inc. phosphate complex, Little Creek Facility, near Aurora, North Carolina. The primary energy source for the facility will be low-Btu gas derived from biomass which is in the form of peat. The facility will consist of a combustion turbine generator, a waste heat recovery steam boiler, and a steam turbine generator. The useful thermal energy output will be used in a peat drying process and in production processes by Texasgulf, Inc. The electric power production capacity of the facility will be 44.5 megawatts.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests should be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-3578 Filed 2-8-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF84-143-000]

Georgetown Irrigation Co.; Application for Commission Certification of Qualifying Status of a Small Power Production Facility

February 6, 1984.

On January 23, 1984, Georgetown Irrigation Company (Applicant), of P.O. Box 44, Georgetown, Idaho 83239, submitted for filing an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The 300 kW hydroelectric facility (P-6445-000) is located near Georgetown Creek in Bear Lake County, Idaho.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street N.E., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests should be filed within 15 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

A separate application is required for a hydroelectric project license, preliminary permit or exemption from licensing. Comments on such applications are requested by separate public notice. Qualifying status serves only to establish eligibility for benefits provided by PURPA, as implemented by the Commission's regulations, 18 CFR Part 292. It does not relieve a facility of any other requirements of local, State, or Federal law, including those regarding siting, construction, operation, licensing and pollution abatement.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-3580 Filed 2-8-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF84-136-000]

Mutual Energy Co., Inc.; Application for Commission Certification of Qualifying Status of a Small Power Production Facility

February 6, 1984.

On January 23, 1984, Mutual Energy Co., Inc. (Applicant), of 3451 Longview Drive, Suite 130, North Highlands, California 95660, submitted for filing an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The 315 kW hydroelectric facility (P-7686) is located near South Gooding Main Canal in Gooding County, Idaho.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rule 211 or 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests should be filed within 15 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

A separate applicaton is required for a hydroelectric project license, preliminary permit or exemption from licensing. Comments on such applications are requested by separate public notice. Qualifying status serves only to establish eligibility for benefits provided by PURPA, as implemented by the Commission's regulations, 18 CFR Part 292. It does not relieve a facility of any other requirements of local, State or Federal law, including those regarding siting, construction, operation, licensing and pollution abatement.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-3582 Filed 2-8-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF84-76-000]

Northwest Pipeline Corp.; Application for Commission Certification of Qualifying Status of a Cogeneration Facility

February 6, 1984.

On November 29, 1983, Northwest Pipeline Corporation (Applicant), of 295 Chipeta Way, Salt Lake City, Utah 84108, submitted for filing an application for certification of a facility as a qualifying facility pursuant to § 292.207 of the Commission's regulations. On January 24, 1984, the Applicant filed supplemental information. No determination has been made that the submittal constitutes a complete filing.

The combined-cycle cogeneration facility will be located at the Applicant's existing gas conditioning/extraction plant in Ignacio, La Plata County, Colorado. The primary energy source for the facility will be natural gas. The facility will consist of three gas turbine driven compressor units, three waste heat recovery boilers, and a steam turbine generator. The useful thermal energy output, which will be in the form of process steam, will be used for building heat, regeneration heat for the amine and fractionation reboilers, and heat tracing. The electric power production capacity of the facility will be 6.2 megawatts.

Any person desiring to be heard or objecting to the granting of qualifying status should file petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rule 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-3583 Filed 2-8-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF84-138-000]

Valley View Energy Corp.; Application for Commission Certification of Qualifying Status of a Small Power Production Facility

February 6, 1984.

On January 17, 1984, Valley View Energy Corporation (Applicant), of 4100 InterFirst One, Dallas, Texas 75202, submitted for filing an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The facility will be located five miles northeast of Hereford, Texas. The electric power production capacity will be 42 megawatts. The primary energy source will be biomass. Supplemental oil or gas will only be used for boiler light off and standby fuel.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 15 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-3586 Filed 2-8-84; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPTS-5914A/142A/143A; TSH-FRL 2524-3]

Certain Chemicals; Approval of Test Marketing Exemptions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces EPA's

approval of four applications for test marketing exemptions (TMEs) under section 5(h)(6) of the Toxic Substances Control Act (TSCA), TME–84–16, TME–84–17, TME–84–18 and TME–84—19. The test marketing conditions are described below.

EFFECTIVE DATE: February 2, 1984.

FOR FURTHER INFORMATION CONTACT: Joe B. Boyd, Premanufacture Notice Management Branch, Chemical Control Division (TS–794), Office of Toxic Substances, Environmental Protection Agency, Rm. E–202, 401 M St. SW., Washington, D.C. 20460 (202–382–3739).

SUPPLEMENTARY INFORMATION: Section 5(h)(1) of TSCA authorizes EPA to exempt persons from premanufacture notification (PMN) requirements, and to permit them to manufacture or import new chemical substances for test marketing purposes, if the Agency finds that the manufacture, processing, distribution in commerce, use and disposal of the substances for test marketing purposes will not present any unreasonable risk of injury to health or the environment. EPA may impose restrictions on test marketing activities.

EPA hereby approves TME–48–16, TME–84–17, TME–84–18, and TME–84–19. EPA has determined that test marketing of the new chemical substances described below, under the conditions set out in the TME applications and for the time periods specified below, will not present any unreasonable risk of injury to health or the environment. Production volumes, number of workers exposed to the new chemicals, and the levels and durations of exposure must not exceed those specified in the applications. All other conditions described in the applications must be met.

The following additional restrictions apply to TME–84–16: workers are required to wear full-face respirators and protective gloves during manufacturing and processing operations that involve transfer of the substance. The Material Safety Data Sheet (MSDS) must include the requirements for workers to wear full-face respirators and gloves. Processing operations arranged under contract with another company (hereinafter "the Contract Manufacturer") must include an agreement that the workers will be subject to the same MSDS requirements. The manufacturer of TME–84–16 (hereinafter "the Company") may not cause TME–84–16 to be processed by any other person, except under the restrictions imposed in this exemption and subject to the following:

1. The Contract Manufacturer must be under contract to the Company to process TME–84–16 solely for the Company and may not distribute the substance to any person other than the Company. The contract must specify: the identity of the substance; the total quantity to be processed; the process to be used for processing; and the location of the processing site.

2. The contract shall include a copy of this exemption as an express provision of the contract and shall expressly provide that processing of TME–84–16 by the Contract Manufacturer must comply with the restrictions imposed by the TME. The company is responsible for insuring that the Contract Manufacturer complies with the terms of the TME and the contract. The Company acknowledges that, for the purposes of processing the substance, the Contract Manufacturer is acting as the Company's agent.

3. The Company shall provide to EPA a copy of any such contract, within ten days of the date the contract is signed, and shall provide to EPA the name of the Contract Manufacturer, the process to be used for processing, and the location of processing site, to the extent this information is not contained in the copy of the contract.

4. The Company shall notify EPA within ten days of receipt of any information which indicates that the Contract Manufacturer has failed to comply with the contract provision specified above.

5. The Company shall immediately cease to have any TME–84–16 substance processed by, to obtain any TME–84–16 substance from, or to provide any TME–84–16 substance to a Contract Manufacturer, if the Company or the Agency determines that the Contract Manufacturer is not in compliance with the terms of the contract provisions previously specified. The Company shall maintain records of any such determination, and documentation that any activities described in the above paragraphs have ceased, including the dates in which they were terminated.

TME 84–16

Date of Receipt: November 29, 1983.
Notice of Receipt: December 16, 1983 (48 FR 55915).
Voluntary Suspension of Review Period: December 16, 1983 through January 15, 1984.
Applicant: Confidential.
Chemical: (Generic) Methyl-oxo-ethyl-disubstituted heteromonocycle.
Use: (Generic) A destructive use.
Production Volume: Confidential.
Number of Customers: Confidential.
Exposure Information: Confidential.
Test Marketing Period: 90 days.
Commencing on: February 2, 1984.
Risk Assessment: Based on analogy with structurally related substances, the Agency identified potential health effect concerns. In addition, actual test data showed severe eye irritation. However, worker exposure is expected to be very low and EPA is granting this TME subject to the conditions outlined above. Although EPA identified ecological effect concerns, no environmental releases are expected. Therefore, the test market substance should not pose any unreasonable environmental risk.
Public Comments: None

TME 84–17

Date of Receipt: December 20, 1983.
Notice of Receipt: January 6, 1984 (49 FR 929).
Applicant: Confidential.
Chemical: (Generic) Copolymer of acrylic acid with alkyl methacrylates and an alkyl acrylate.
Use: Dispersive use as an industrially applied coating.
Production Volume: 2000 kg.
Number of Customers: 5.
Exposure Information: Manufacturer and processing; dermal, a total of 15 workers, up to 2 hrs/day, up to 16 days/yr.
Test Marketing Period: 75 days.
Commencing on: February 2, 1984.
Exposure Information: Manufacturer and processing; dermal, a total of 15 workers, up to 2 hrs/day, up to 16 days/yr.
Test Marketing Period: 75 days.
Commencing on: February 2, 1984.
Risk Assessment: No significant health or environmental concerns were identified. The estimated worker exposure to the test market substance is expected to be low. Due to expected low releases, the test market substance should not pose an unreasonable environmental risk.
Public Comments: None.

TME 94–18

Date of Receipt: December 21, 1983.
Notice of Receipt: January 6, 1984 (49 FR 932).
Applicant: CasChem Incorporated.
Chemical: (G) Castor oil polymer.
Use: Used for industrial applications.
Production Volume: Confidential.
Number of Customers: 20.
Worker Exposure: Manufacture: dermal and inhalation, a total of 20–40 workers, up to 20 min/day.
Test Marketing Period: 1 year.
Commencing on: February 2, 1984.
Risk Assessment: No significant health or environmental concerns were identified. The estimated worker exposure to the test market substance is expected to be low. Due to expected low releases, the test market substance should not pose an unreasonable environmental risk.

Public Comments: None.

TME 83-19

Date of Receipt: December 23, 1983.
Notice of Receipt: January 6, 1984 (49 FR 932).
Applicant: American Hoechst Corporation.
Chemical: Benzenediazonium, 2-methoxy-4-(phenylamino)-, sulfate.
Use: Diazo photoresist produced to improve photospeed.
Production Volume: <1 kg.
Number of Customers: 1.
Exposure Information: It was stated that there will be a one time only exposure during the weighing of the substance by one technician under the supervision of a chemist. Duration of the weighing operation is one-half hour. The material will be handled in a fume hood and the technician will wear a lab coat, rubber gloves, and safety glasses.
Test Marketing Period: 3 months.
Commencing on: February 2, 1984.
Risk Assessment: No significant health concerns were identified. The estimated worker exposure to the test market substance is expected to be low. Although the substance is analogous to substances which exhibit adverse ecological effects, no environmental releases are expected. Therefore, the test market substance should not pose any unreasonable environmental risk.
Public Comments: None.

The Agency reserves the right to rescind approval of an exemption should any new information come to its attention which casts significant doubt on its finding that the test marketing activities will not present an unreasonable risk to health or the environment.

Dated: February 2, 1984.

Don R. Clay,

Director, Office of Toxic Substances.

[FR Doc. 84-3506 Filed 2-8-84; 8:45 am]
BILLING CODE 6560-50-M

[OPTS-51505; TSH-FRL 2524-2]

Certain Chemicals; Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in EPA statements of the final rule published in the **Federal Register** of May 13, 1983 (48 FR 21722). This notice announces receipt of eighteen PMNs and provides a summary of each.

DATES: Close of Review Period:
PMN 84-360—April 25, 1984.
PMN 84-361, 84-362 and 84-364—April 28, 1984.
PMN 84-365, 84-366, 84-367, 84-368, 84-369, 84-370, 84-371, 84-372 and 84-373—April 29, 1984.
PMN 84-374, 84-375 and 84-376—April 30, 1984.
PMN 84-377—May 1, 1984.
Written comments by:
PMN 84-360—March 26, 1984.
PMN 84-361, 84-362 and 84-364—March 29, 1984.
PMN 84-365, 84-366, 84-367, 84-368, 84-369, 84-370, 84-371, 84-372 and 84-373—March 30, 1984.
PMN 84-374, 84-375 and 84-376—March 31, 1984.
PMN 84-377—April 1, 1984.

ADDRESS: Written comments, identified by the document control number "[OPTS-51505]" and the specific PMN number should be sent to: Document Control Officer (TS-793), Office of Toxic Substances, Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-409, 401 M St., SW., Washington, D.C. 20460, (202-382-3532).

FOR FURTHER INFORMATION CONTACT: Margaret Stasikowski, Acting Chief, Premanufacture Notice Management Branch, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Rm. E-216, 401 M St., SW., Washington, D.C. 20460, (202-382-3729).

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the non-confidential version of the submission provided by the manufacturer on the PMNs received by EPA. The complete non-confidential document is available in the Public Reading Room E-107 at the above address.

PMN 84-360

Importer. Confidential.
Chemical. (G) Substituted nonyl phenol polymer.
Use/Import. (S) Industrial and consumer emulsifier for a disperse dye carrier for polyester. Import range: Confidential.
Toxicity Data. Acute oral: > 7,500 mg/kg; Irritation: Skin—Non-irritant, Eye—Non-irritant; Biodegradability (static method)—22% after 28 days; LC50 96 hrs (Zebra fish)—320 mg/1
Toxicity Data. Acute oral: > 7,500 mg/kg; Irritation: Skin—Non-irritant, Eye—Non-irritant; biodegradability (static method)—22% after 28 days; LC_{50} 96 hrs (Zebra fish)—320 mg/1 of water; IC_{50} — > 1 g/1.
Exposure. Processing: a total of 1 worker, ½ hr.
Environmental Release/Disposal. Disposal by on-site biological treatment system.

PMN 84-361

Importer. Confidential.
Chemical. (G) Substituted cyclohexane.
Use/Import. (G) Highly dispersive use. Import range: Confidential.
Toxicity Data. Acute oral: > 8,000 mg/kg; Acute dermal: 2,000-8,000 mg/kg; Irritation: Skin—Non-irritant, Eye—Slight to moderate; Phototoxicity—Negative; Skin sensitization: Non-sensitizer.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

PMN 84-362

Manufacture. Confidential.
Chemical. (G) Poly amido-amine.
Use/Production. (G) Intermediate. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

PMN 84-364

Manufacturer. Adhesive Engineering Company.
Chemical. (G) Amine adduct of fatty acid glycidyl ester.
Use/Production. (S) Commercial curing agent or epoxy adhesives used in underwater application. Prod. range: 1,000-4,000 kg/yr.
Toxicity Data. No data submitted.
Exposure. Manufacture: dermal, a total of 4 workers, up to 2 hrs/da, up to 4 da/yr.
Environmental Release/Disposal. 0.1 kg/batch released to water. Disposal by approved off site disposal.

PMN 84-365

Manufacturer. Confidential.
Chemical. (G) Vinyl ether monomer.
Use/Production. (S) Site limited and industrial intermediate. Prod. range: Confidential.
Toxicity Data. Acute oral: 4,000 mg/kg; Irritation: Skin—Non-irritant, Eye—Non-irritant; Inhalation: 983 parts per million (ppm).
Exposure. Confidential.
Environmental Release/Disposal. Confidential. Disposal by navigable waterway.

PMN 84–366

Manufacturer. Confidential.
Chemical. (G) Vinyl ether monomer.
Use/Production. (S) Site limited and industrial intermediate. Prod. range: Confidential.
Toxicity Data. Acute oral: 4,000 mg/kg; Irritation: Skin—Non-irritant, Eye—Non-irritant; Inhalation: 983 (ppm).
Exposure. Confidential.
Environmental Release/Disposal. Confidential. Disposal by navigable waterway.

PMN 84–367

Manufacturer. Confidential.
Chemical. (G) Vinyl ether monomers.
Use/Production. (S) Site limited and industrial intermediate. Prod. range: Confidential.
Toxicity Data. No date submitted.
Exposure. Confidential.
Environmental Release/Disposal. Confidential. Disposal by navigable waterway.

PMN 84–368

Manufacturer. Confidential.
Chemical. (G) Substituted styrene, substituted acrylate, derivatized copolymer.
Use/Production. (G) Polymer manufacturing. Prod. range: Confidential.
Toxicity Data. Acute oral: > 5.0 g/kg; Acute dermal: > 2.0 g/kg; Irritation: Skin—Non-irritation; Eye—Non-irritant.
Exposure. Manufacture: dermal, a total of 6 workers.
Environmental Release/Disposal. Release to water. Disposal by incineration.

PMN 84–369

Manufacturer. Confidential.
Chemical. (S) Benzenemethanaminium: 4-ethenyl-N-dodecyl-N,N-dimethyl chloride.
Use/Production. (G) Emulsion polymerization intermediate. Prod. range: Confidential.
Toxicity Data. No data on the PMN substance submitted.
Exposure. Manufacture and use: dermal, a total of 6 workers.
Environmental Release/Disposal. Release to water. Disposal by incineration.

PMN 84–370

Manufacturer. Confidential.
Chemical. (G) (Substituted-heterocycle)alkymine derivative.
Use/Import. (G) Adjuvant for polymers, contained use. Import range: Confidential.
Toxicity Data. Acute oral: > 2,500 mg/kg; Irritation: Skin—Minimal, Eye—Slight; Ames Test: Negative.
Exposure. Import: dermal and inhalation, a total of 50–150 workers, up to 1–2 hrs/da, up to 200 da/yr.
Environmental Release/Disposal. Less the 150 kg-yr released to air. Disposal by incineration and landfill.

PMN 84–371

Manufacturer. Confidential.
Chemical. (G) Polymer of acrylate and methacrylate esters.
Use/Production. (G) Binder for an industrial use coating (open use). Prod. range: 1,500–2,000 kg/yr.
Toxicity Data. No data submitted.
Exposure. Manufacture and processing: dermal, a total of 19 workers, up ot 3 hrs/da, up to 22 da/yr.
Environmental Release/Disposal. 0.2–10 kg/batch released to land. Disposal by incineration and approved landfill.

PMN 84–372

Importer. EM Industries, Inc.
Chemical. (G) 4-(substituted cycloakyl)-alkoxybenzene.
Use/Import. (S) Industrial mixture used to manufacture displays (watches, instruments, calculators, computers etc). Import range: Confidential.
Toxicity Data. Acute Oral: > 5,000 mg/kg; Irritation: Skin—Slight, Eye—Non-irritant; Ames Test: Negative.
Exposure. Processing: dermal, a total of 20–50 workers, up to 8 hrs/da, up to 240 da/yr.
Environmental Release/Disposal. No release.

PMN 84–373

Importer. EM Industries, Inc.
Chemical. (G) 4-(substituted cycloalkyl)-alkoxybenzene.
Use/Import. (S) Industrial mixture used to manufacture displays (watches, instruments, calculators, computers, etc). Import range: Confidential.
Toxicity Data. Acute oral: > 5,000 mg/kg; Irritation: Skin—Slight, Eye—Non-irritant; Ames Test: Negative.
Exposure. Processing: dermal, a total of 20–50 workers, up to 8 hrs/da, up to 240 da/yr.
Environmental Release/Disposal. No release.

PMN 84–374

Manufacturer. Confidential.
Chemical. (S) Polymer of: Neopentyl glycol; phthalic anhydride; adipic acid; isophthalic acid; benzoic acid; trimethylol propane.
Use/Production. (G) Open use. Prod. range; 5,000–9,000 kg/yr.
Toxicity Data. No data on the PMN substance submitted.
Exposure. Manufacture: dermal, a total of 3 workers, up to 2 hrs/da.
Environmental Release/Disposal. Minimal release to air. Disposal by approved landfill.

PMN 84–375

Manufacturer. Confidential.
Chemical. (G) Sodium salt of alkyl dithiocarbamates.
Use/Production. (G) Open, non-dispersive use. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Manufacture: dermal, a total of 5 workers.
Environmental Release/Disposal. 0.4–1.6 kg/batch released to water. Disposal by publicly owned treatment works (POTW) and deep well.

PMN 84–376

Manufacturer. Confidential.
Chemical. (G) Aryl esters of alkyl dithiocarbamates.
Use/Production. (G) Open, non-dispersive use. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Manufacture and processing: dermal, a total of 8 workers.
Environmental Release/Disposal. 0.5–4.0 kg/batch released to water. Disposal by POTW and deep well.

PMN 84–377

Manufacturer. Hercules Incorporated.
Chemical. (G) Organotungsten compound.
Use/Production. (S) Industrial component for polymerization catalyst. Reaction injection molding dicyclopentadiene. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Manufacture and processing: dermal, a total of 7 workers, up to 8 hrs/da, up to 330 da/yr.
Environmental Release/Disposal. No release.

Dated: February 3, 1984.

V. Paul Fuschini,

Acting Director, Information Management Division.

[FR Doc. 84–3507 Filed 2–8–84; 8:45 am]
BILLING CODE 6560–50–M

[OPP–00174 PH FRL 2523–8]

State-FIFRA Issues Research and Evaluation Group; Open Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: There will be a one-day meeting of the State FIFRA Issues Research and Evaluation Group

(SFIREG). The meeting will be open to the public.

DATE: Thursday, March 1, 1984, beginning at 8:30 a.m. and ending prior to 12 noon.

ADDRESS: The meeting will be held at: Hyatt Regency Crystal City, 2799 Jefferson Davis Highway, Arlington VA 22202.

FOR FURTHER INFORMATION CONTACT: By mail Philip H. Gray, Jr., Office of Pesticide Programs (TS–766C), Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460. Office location and telephone number: Rm. 1115, Crystal Mall No. 2, 1921 Jefferson Davis Highway, Arlington, VA. (703–557–7096).

SUPPLEMENTARY INFORMATION: The tentative agenda thus far includes the following topics:

1. Action items from the December 1983 meeting of the full Group (List available from Mr. Gray's office.).
2. Regional reports.
3. Working Committee reports.
4. Other topics which may have arisen during the February 27–29, 1984 meeting of the Association of American Pesticide Control Officials.

Dated: February 3, 1984.

James M. Conlon,

Acting Director, Office of Pesticide Programs.

[FR Doc. 84–3508 Filed 2–8–84; 8:45 am]
BILLING CODE 6560–50–M

[WH–FRL–25–22–3]

Reallotment of Funds Under Wastewater Treatment Works Construction Grants Program

AGENCY: Environmental Protection Agency.

ACTION: Notice of reallotment of funds under Wastewater Treatment Works Construction Grants Program (40 CFR Part 35, Subpart I).

SUMMARY: This notice announces the distribution of unobligated fiscal year (FY) 1982 construction grant funds subject to reallotment after September 30, 1983, under section 205 of the Clean Water Act, 33 U.S.C. 1285; and explains the procedure by which the reallotment distribution was determined.

Section 205(d) of the Clean Water Act (the Act) requires that funds allotted for FY and beyond which are not obligated by the end of the initial allotment availability period "* * * shall be immediately reallotted by the Administrator * * *". This notice advises the public of the amounts available to the eligible States to be added to their allotments for grants for the construction of municipal wastewater treatment facilities. Under section 205(d), these funds are available for obligation until September 30, 1985.

DATE: February 9, 1984.

FOR FURTHER INFORMATION CONTACT: Mr. Arnold B. Speiser, Program Policy Branch, Municipal Construction Division (WH–547), Office of Water Program Operations, (202) 382–7377.

SUPPLEMENTARY INFORMATION: Sums allotted to a State under section 205 of the Act remain available for obligation during the fiscal year in which appropriated and the following 12 months (40 CFR 35.2010(b)). Funds not obligated at the end of the period of availability are reallotted to the States which fully obligated their allotments. $2,400,000,000 was appropriated by Pub. L. 97–216 for FY 1982. At the close of the availability period for the FY 1982 allotment (September 30, 1983), States and territories had not obligated $13,404,822 of the $2.4 billion available in FY 1982 allotments.

As explained below, not all of the unobligated funds remaining after the period of availability are subject to reallotment at this time. Due to several exceptions, the total amount reallotted is $9,145,271. These exceptions are as follows:

1. *Northern Mariana Islands:* Section 3(b)(2) of Pub. L. 95–348 (1978) provides that any funds made available to the Northern Mariana Islands 9(NMI) by the Congress after March 24, 1976 "* * * are hereby authorized to remain available until expended." Accordingly, construction grant funds allotted to the NMI which remain unobligated at the close of the period of availability prescribed by section 205(d) of the Act are not subject to reallotment. The amount remaining is $225,700 in FY 1982 funds. However, since only those States which fully obligate their allotments during the allotment availability period can participate in the reallotment process, NMI is not a participant in the reallotment of the unobligated balances of other States.

2. *New York City Convention Center Project:* Section 205(k) of the Act (as amended by Pub. L. 97–117) required a separate allotment of funds appropriated for FY 1982 to fund a connection sewer to serve the New York City Convention Center. Pub. L. 97–216 (Urgent FY 1982 Supplemental Appropriations Act) provided that the section 205(k) allotment be drawn in three equal parts from New York's construction grants allotment, New Jersey's construction grants allotment and the remaining States' construction grants funds. EPA established this separate allotment of $2,799,000, which remains unobligated. Because section 205(d) does not require the reallotment of unobligated section 205(k) funds at the end of FY 1983, neither New York nor New Jersey are considered as States which failed to obligate their FY 1982 allotments. Consequently, they were not precluded, on the basis of the 205(k) funds, from receiving their respective shares of the realloted funds.

If the Administrator ultimately determines that the project will not be constructed due to the availability of other conveyance/treatment facilities to serve the Convention Center, the funds will be distributed to the States from which they were derived and in the same manner.

3. *EPA Region V:* FY 1982 funds in the amounts of $58,370 in Illinois, $166,142 in Minnesota and $1,010,339 in Ohio were unobligated after September 30, 1983. Because the balances resulted from grant transaction errors in the EPA Regional Office, these funds are not being reallotted.

Reallotment Procedure

To distribute the $9,145,271 balance subject to reallotment in accordance with the requirements of section 205(d) of the Act, the following procedure was used:

1. The percentages listed in section 205(c)(2) of the Act (as amended by Pub. L. 97–117) were adjusted to reflect the absence of States which had not fully obligated their funds (§ 35.2010(b)).

2. The resulting percentages were applied to the $9,145,271 to arrive at the individual State allotments.

3. The resulting figures (rounded to the nearest $100) are listed in the table which follows. The table also identifies the States which did not fully obligate their funds and the amounts subject to reallotment.

State	Subject to reallotment	Reallotment
Alabama		130,200
Alaska		69,700
Arizona		78,700
Arkansas		76,200
California		832,800
Colorado	157,959	
Connecticut	419,681	
Delaware	225,959	
Dist. of Columbia	472,404	
Florida		393,100
Georgia		196,900
Hawaii	93,624	
Idaho		56,700
Illinois		526,600
Indiana		280,600
Iowa		157,600
Kansas		105,100
Kentucky		148,200
Louisiana	1,041,907	
Maine		98,000
Maryland	263,685	
Massachusetts		395,400

State	Subject to reallotment	Reallotment
Michigan	1,006,399	
Minnesota		214,000
Mississippi		104,900
Missouri		322,800
Montana		56,700
Nebraska		59,600
Nevada		56,700
New Hampshire	398,937	
New Jersey		475,800
New Mexico		56,700
New York		1,292,071
North Carolina		210,200
North Dakota	20,568	
Ohio		655,500
Oklahoma		94,100
Oregon		131,500
Pennsylvania		461,300
Rhode Island		77,100
South Carolina	671,387	
South Dakota		56,700
Tennessee		169,200
Texas		442,400
Utah		61,400
Vermont	414,385	
Virginia		236,300
Washington	1,250,430	
West Virginia	211,428	
Wisconsin		314,800
Wyoming		56,700
Guam	70,320	
Puerto Rico	2,217,096	
Virgin Islands	71,464	
American Samoa	56,102	
Trust Territory of Pacific Islands	79,536	
Northern Mariana Islands		
Total	9,145,271	[1] 9,145,271

[1] Individual reallotments rounded to $100 except for New York which received the $71 difference between the true total ($9,145,271) and the rounded total ($9,145,200)

These funds are available for obligation until September 30, 1985. After that date, unobligated balances will be reallotted under section 205(d) of the Act (§ 35.2010). Grants from these funds may be awarded as of the date of issuance of advices of allowance to the EPA Regional Administrators by the Comptroller of EPA.

Dated: January 27, 1984.

William D. Ruckelshaus,

Administrator.

[FR Doc. 84-3381 Filed 2-8-84; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL MEDIATION AND CONCILIATION SERVICE

Labor-Management Cooperation Program; Application Solicitation

AGENCY: Federal Mediation and Conciliation Service.

ACTION: Final FY 1984 Program Announcement/Application Solicitation.

SUMMARY: Federal Mediation and Conciliation Service (FMCS) published the draft Fiscal Year 1984 Program Announcement for the Labor-Management Cooperation Program in the December 6, 1983 issue (48 FR 54697) of the **Federal Register**. Extensive written public comments from area labor-management committees were received, resulting in several changes. The deadline for application submission has been changed from from May 1, 1984 to May 15, 1984.

FOR FURTHER INFORMATION CONTACT: Peter L. Regner, Director, Labor-Management Grant Programs, Federal Mediation and Conciliation Service, 2100 K Street NW., Washington, DC 20427.

SUPPLEMENTARY INFORMATION: Extensive comments were received concerning various aspects of the draft FY 84 Program Announcement/Application Solicitation. The following major issues were specifically addressed: (a) No funding should be provided for public sector labor-management committee; (b) the Employee Recognition Program should be eliminated as a specific model for in-plant labor-management committees; (c) the requirement for individual project evaluations should be dropped in favor of other evaluation alternatives; (d) the restriction against funding two committees of the same category from the same jurisdiction should be eliminated; (e) funding of applications should not be separated into four committee categories; (f) the 10 percent cash match requirement should be changed to a 10 percent in-kind match requirement; (g) the application deadline should be moved from May 1, 1984 to June 1, 1984; and (h) the potential project funding period should be extended past the present maximum of three years.

Upon consideration of these comments, the following decisions/changes have been made: (a) Public sector committees will continue to be eligible for funding. Congressional intent supports the inclusion of public sector employees; (b) the Employee Recognition Program (ERP) has been eliminated. FMCS will consider any innovative or unique approach submitted under the in-plant category. The ERP model was based upon the efforts of Diamond International Corporation under a prior FMCS grant. Those individuals wishing to know more about those efforts are encouraged to contact Dan Boyle, Diamond International Corporation, P.O. Box 230, Palmer, Massachusetts 01069. Applicants may submit applications based upon the Diamond International Corporation effort if they desire; (c) individual project evaluations will not be required. FMCS will provide a national evaluation of selected grantees; (d) the restriction against funding two committees of the same category from the same jurisdiction has been eliminated; (e) the four categories of committees will initially be separated and scored independently. FMCS anticipates at least two grant awards in each category. Remaining applications will be awarded according to highest score, regardless of category; (f) the 10 percent cash match remains in effect; (g) the application deadline has been changed to May 15, 1984; and (h) the potential project funding period remains a maximum of three years.

Labor-Management Cooperation Program Application Solicitation—FY 1984

A. Introduction

The following is the final announcement for the Fiscal Year 1984 cycle of the Labor-Management Cooperation Progam. These guidelines represent the fourth year of efforts of the Federal Mediation and Conciliation Service to implement the provisions of the Labor-Management Cooperation Act of 1978 which was approved in October 1978.

The Act generally authorized FMCS to:

> Provide assistance in the establishment and operation of plant, area, and industrywide labor and management committees which—
>
> (A) Have been organized jointly by employers and labor organizations representing employees in that plant, area, or industry; and
>
> (B) Are established for the purpose of improving labor management relationships, job security, organizational effectiveness, enhancing economic development or involving workers in decisions affecting their jobs including improving communication with respect to subjects of mutual interest and concern.

The Act also prohibited FMCS from awarding any grants or contracts under the following three circumstances:

(1) No assistance can be given for plant labor-management committees unless the employees in that plant are represented by a labor organization and there is in effect at that plant a collective bargaining agreement;

(2) No assistance can be given for an area or industrywide labor-management committee unless its participants include any labor organizations certified or recognized as the representative of the employees of an employer participating in such a committee. However, employers whose employees are not represented by a labor organization may participate on such area or industrywide committees; and

(3) No assistance can be given to any committee which FMCS finds to have as one of its purposes the discouragement of the exercise of rights contained in section 7 of the National Labor Relations Act (29 U.S.C. 157) or the

interference with collective bargaining in any plant or industry.

With respect to item (2) above, applicants for area or industrywide grants should offer committee memberships to every labor organization having a collective bargaining contract with any employer participating on the committee. Any labor organization so desiring may voluntarily elect not to participate on the Committee. Documentation of all this (i.e., the listing of each participating employer and corresponding labor organizations and written declinations those labor organizations not electing to participate on the committee) should be included as part of the application.

The Program Description and other sections that follow as well as a separately published FMCS Financial and Administrative Grants Manual make up the basic guidelines, criteria, and program elements a potential applicant for assistance under this program must know in order to develop an application for funding consideration for either a plant, areawide, industry, or public sector labor-management committee. Directions for obtaining an application kit may be found in Section F.

B. Program Description

Objectives

The Labor Management Cooperation Act of 1978 identified the following seven general areas for which financial assistance would be appropriate:

(1) To improve communications between representatives of labor and management;

(2) To provide workers and employers with opportunities to study and explore new and innovative joint approaches to achieving organizational effectiveness;

(3) To assist workers and employers in solving problems of mutual concern not susceptible to resolution within the collective bargaining process;

(4) To study and explore ways of eliminating potential problems which reduce the competitiveness and inhibit the economic development of the plant, area, or industry;

(5) To enhance the involvement of workers in making decisions that affect their working lives;

(6) To expand and improve working relationships between workers and managers; and

(7) To encourage free collective bargaining by establishing continuing mechanisms for communication between employers and their employees through Federal assistance to the formation and operation of labor-management committees.

The primary objective of this program is to encourage and support the establishment and operation of joint labor-management committees to carry out specific objectives that meet the aforementioned general criteria and conform to the restrictions noted in Section A (Introduction). These committees may be found at either the plant, area, industry, or public sector levels. A plant committee is generally characterized as restricted to one or more organizational or productive units operated by a single employer. An area committee is generally composed of multiple employers of diverse industries as well as multiple labor unions operating within and focusing upon city, county, contiguous multicounty, or statewide jurisdictions. An industry committee generally consists of a collection of agencies or enterprises and related labor unions producing a common product or service in the private sector on a local, state, regional, or nationwide level. A public sector committee consists of government employees and managers in one or more units of a local or state government. In deciding whether an application is for an area or industry committee, consideration should be given to the above definitions as well as to the focus of the committee.

In FY84, competition will be open to plant, area, private industry, and public sector committees. In-plant committee applications must offer an innovative or unique effort.

Required Program Elements

1. *Problem Statement*—The application, which should have numbered pages, must discuss in detail what specific problem(s) face the plant, area, government, or industry and its work force that will be addressed by the committee. Applicants must document the problems using as much relevant data as possible and discuss the full range of impacts these problems could have or are having on the plant, government, area, or industry. An industrial or economic profile of the area and work force might prove useful in explaining the problems. This section basically discusses WHY the effort is needed.

2. *Results or Benefits Expected*—By using specific goals and objectives, the application must discuss in detail WHAT the labor-management committee as a demonstration effort will accomplish during the life of the grant. While a goal of "improving communication between employers and employees" may suffice as one overall goal of a project, the objectives must, whenever possible, be expressed in measurable terms. Applicants should focus on the impacts or changes that the committee's efforts will have. Existing committee should focus on *expansion* efforts/results expected from FMCS funding. The goals, objectives, and projected impacts will become the foundation for future monitoring and evaluation efforts.

3. *Approach*—This section of the application specifies HOW the goals and objectives will be accomplished. At a minimum, the following elements must be included in all grant applications:

(a) A discussion of the strategy the committee will employ to accomplish its goals and objectives;

(b) A listing, by name and title, of all proposed members of the labor-management committee. Be sure to identify the chairperson(s) and the role he/she will play. The application should also offer a rationale for the section of the committee members (e.g. members represent 70% of the area or plant work force).

(c) A discussion of the number, type, and role of all committee staff persons. Include proposed position descriptions for all staff that will have to be hired as well as résumés for staff already on board;

(d) In addressing the proposed approach, applicants must also present their justification as to why Federal funds are needed to implement the proposed approach;

(e) A statement of how often the committee will meet as well as any plans to form subordinate committees for particular purposes; and

(f) For applications from existing committees (i.e., in existence at least 12 months prior to the submission deadline), a discussion of the past efforts and accomplishments and how they would integrate with the proposed future expanded effort.

4. *Major Milestones*—This section must include an implementation plan that indicates what major steps, operating activities, and objectives will be accomplished as well as a timetable for WHEN they will be finished. A milestone chart must be included that indicates what specific accomplishments (process and impact) will be completed by month over the life of the grant. The chart should identify months as "month 1, 2" etc., rather than by name of month as the grant start date will not be determined until all applications are reviewed. The accomplishment of these tasks and objectives, as well as problems and delays therein, will serve as the basis for quarterly progress reports to FMCS.

5. *Evaluation*—Applicants must provide for an internal assessment of the project's success in meeting its goals and objectives.

An internal assessment plan must be developed which will briefly discuss what basic questions or issues the assessment would examine and what baseline data the committee staff would already have/or will gather for the assessment. This section should be written with the application's own goals and objectives clearly in mind and impacts or changes that the effort is expected to cause.

FMCS will conduct a national evaluation of selected FY84 grantees. This section should contain an assurance that the applicant will grant free access and full cooperation to any evaluator selected by FMCS to evaluate the project's progress and impact.

6. *Letters of Commitment*—Applications must include current letters of commitment from all proposed or existing committee participants and chairpersons. These letters should indicate that the participants support the application and are willing to personally attend scheduled committee meetings.

7. *Other Requirements*—Applicants are also responsible for the following:

(a) The submission of data indicating how many employees will be covered or represented through the labor-management committee;

(b) From existing committees, a copy of the existing staffing levels, a breakout of annual operating costs and identification of all sources and levels of financial support;

(c) A detailed budget narrative based on policies and procedures contained in the FMCS Financial and Administrative Grants Manual;

(d) An assurance that the labor-management committee will not interfere with any collective bargaining agreements; and

(e) An assurance that written minutes of all committee meetings will be prepared and made available to FMCS.

Selection Criteria

The following criteria will be used in the scoring and selection of applications for award:

(1) The extent to which the application has clearly identified the problems and justified the needs that the proposed project will address.

(2) The degree to which appropriate and measurable goals and objectives have been developed to address the problems/needs of the area. For existing committees, the extent to which the committee will focus on expanded efforts.

(3) The feasibility of the approach proposed to attain the goals and objectives of the project and the perceived likelihood of accomplishing the intended project results. For inplant applicants, this section will address the degree of innovativeness or uniqueness of the proposed effort.

(4) The appropriateness of committee membership and the degree of commitment of these individuals to the goals of the application.

(5) The feasibility and thoroughness of the implementation plan in specifying major milestones and target dates.

(6) The cost effectiveness and fiscal soundness of the application's budget request, as well as the application's fiscal feasibility vs. its goals and approach.

(7) The overall feasibility of the proposed project in light of all of the information presented for consideration and quality of the application; and,

(8) the cost value to the government of the application in light of the overall objectives of the Labor-Management Cooperation Act of 1978. This includes such factors as innovativeness, site location, and other qualities that enhance an applicant's value in encouraging the labor-management committee concept.

C. Eligibility

Eligible grantees include State and local units of government, private non-profit labor-management committees, or a labor or management entity on behalf of the committee that will be created through the grant, and certain third party private non-profit entities on behalf of one or more committees to be created through the grant. Federal government agencies are not eligible.

Third party private non-profit entities which can document that a major purpose or function of their organization has been the improvement of labor relations are eligible to apply. However, all funding must be directed to the functioning of the labor-management committee, and all requirements under Part B must be followed. Applications from third-party entities must document particularly strong support and participation from all labor and management parties with whom the applicant will be working. Applicants from third-parties which do not directly support the operation of a new or expanded committee will not be deemed eligible.

Applicants who received funding under this program in FY 81 are not eligible to apply for funding to continue or expand their prior efforts.

D. Allocations

FMCS has received an FY 84 appropriation of $1 million for the Labor-Management Cooperation Program. Specific funding levels will not be established for each type of committee. Instead, the review process will be conducted in such a manner that at least two awards will be made in each category (in-plant, industry, public sector, and area), providing that FMCS determines that at least two outstanding applications exist in each category. After these applications are selected for award, the remaining applications will be awarded according to highest score without regard to category.

Partial continuation funding will be available for eligible FY82 grantees. Eligibility will be based upon the following: (a) Budget periods had not expired as of November 7, 1983, (b) projects were not originally intended primarily as one-time efforts, and (c) projects are judged to have been successful in meeting their goals and objectives and other grant requirements.

FMCS reserves the right to retain up to 10 percent of the FY84 appropriation to contract for program support purposes (e.g., evaluation, program development, etc.)

E. Dollar Range and Length of Grants and Continuation Policy

Awards to continue and expand existing labor-management committees (i.e., in existence at least 12 months prior to the submission deadline) will be for a period of 12 months. If successful progress is made during this initial budget period and if sufficient appropriations for expansion and continuation projects are available, these grants may be continued up to an additional 12 months at double the initial cash match ratio. The total project period will thus normally be no more than 24 months.

Initial awards to establish new labor-management committees (i.e., not yet established or in existence less than 12 months prior to the submission deadline), will be for a period of 18 months. If successful progress is made during this initial budget period and if sufficient appropriations for expansion and continuation projects are available, these grants may be continued up to an additional 18 months at double the initial cash match ratio. The total project period will thus normally be no more than 36 months.

The dollar range of awards is as follows:

—Up to $35,000 in FMCS funds per annum for existing in-plant applicants.

up to $50,000 over 18 months for new in-plant committee applicants;
—Up to $75,000 in FMCS funds per annum for existing area, industry and public sector committee applicants;
—Up to $100,000 per 18-month period for new area, industry, and public sector committee applicants.

Applicants are reminded that these figures represent maximum Federal funds only. If total costs to accomplish the objectives of the application exceed the maximum allowable Federal funding level and grantee match, applicants may supplement these funds through voluntary contributions from other sources.

F. Match Requirements and Cost Allowability

In FY84, applicants for new labor-management committees must provide at least 10 percent of the total allowable project costs. Applicants of existing committees must provide at least 25 percent of the total allowable project costs. All matching funds must be in cash rather than in-kind goods or services. Matching funds may come from state or local government sources or private sector contributions, but may generally not include other Federal funds. Funds generated by grant-supported efforts are considered "project income," and may not be used for matching purposes.

It will also be the policy of this program to reject all requests for indirect or overhead costs. In addition, grant funds must not be used to supplant private or local/state government funds previously made available for these purposes. Also, under no circumstances will business or labor officials participating on a labor-management committee be paid or otherwise compensated out of grant funds for time spent at committee meetings or time spent in training sessions.

For a more complete discussion of cost allowability, applicants are encouraged to consult the FMCS Financial and Administrative Grants Manual which will be included in the application kit.

G. Application Submission and Review Process

Applications must be postmarked no later than May 15, 1984. No applications or supplementary materials can be accepted after the deadline. An original application, containing numbered pages, plus three copies should be addressed to the Federal Mediation and Conciliation Service, Labor-Management Grant Programs, 2100 K Street, NW, Washington, DC 20427.

After the deadline has passed, all eligible applications will be reviewed and scored initially by an FMCS Grant Review Board. The Director, Labor-Management Grant Programs, will finalize the scoring and place the application in one of the following three categories: (a) Unacceptable for funding, (b) potentially acceptable for funding but funds are unavailable, and (c) recommended for funding.

All FY 84 grant applicants will be notified of results, and all grant awards will be made, prior to September 30, 1984.

Applications submitted after the deadline dates or that fail to adhere to eligibility or other major requirements will be administratively rejected prior to the convening of the Grant Review Board.

H. Contact

Individuals wishing to apply for funding under this program should contact the Federal Mediation and Conciliation Service as soon as possible to obtain an application kit. These kits, as well as additional information or clarification, can be obtained by contacting Peter L. Regner, Federal Mediation and Conciliation Service, Labor-Management Grant Programs, 2100 K Street, NW, Washington, DC 20427, or calling 202/653–5320.

Kay McMurray,

Director, Federal Mediation and Conciliation Service.

[FR Doc. 84–3524 Filed 2–8–84; 8:45 am]

BILLING CODE 6732–01–M

FEDERAL RESERVE SYSTEM

Business Bancorp; Engaging de novo in Permissible Nonbanking Activities

The organization listed in this notice has filed a notice under § 225.23(a)(1) of the Board's Regulation Y (49 FR 794) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and §225.21(a) of Regulation Y (49 FR 794) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. With respect to the notice, interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding this application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than February 28, 1984.

A. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President) 101 Market Street, San Francisco, California 94105:

1. *Business Bancorp*, San Jose, California; to engage, through its subsidiary Bancorp BIDCO, San Jose, California, in community development activities pursuant to section 225.4(a) of Regulation Y.

Board of Governors of the Federal Reserve System, February 3, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84–3489 Filed 2–8–84; 8:45 am]

BILLING CODE 6210–01–M

Citicorp Holdings, Inc., et al.; Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and section 225.14 of the Board's Regulation Y (49 FR 794) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated for that application. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. With respect to each application, interested persons may express their views in writing to the

Reserve Bank indicated for that application or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than March 2, 1984.

A. **Federal Reserve Bank of New York** (A. Marshall Puckett, Vice President) 33 Liberty Street, New York, New York 10045:

1. *Citicorp Holdings, Inc.*, Wilmington, Delaware; to become a bank holding company by acquiring 100 percent of the voting shares of Citibank (Delaware), New Castle, Delaware; Citibank (South Dakota), Sioux Falls, South Dakota; and Citibank (Maryland), Towson, Maryland.

B. **Federal Reserve Bank of Philadelphia** (Thomas K. Desch, Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105:

1. *Meridian Bancorp, Inc.*, Reading, Pennsylvania, to acquire 100 percent of the voting shares or assets of First National Bancorp of Allentown, Inc., Allentown, Pennsylvania, and thereby indirectly acquire The First National Bank of Allentown, Allentown, Pennsylvania.

C. **Federal Reserve Bank of Cleveland** (Lee S. Adams, Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. *Farmers Bancorp of Nicholasville, Inc.*, Nicholasville, Kentucky; to become a bank holding company by acquiring 100 percent of the voting shares of The Farmers Bank of Nicholasville, Nicholasville, Kentucky.

2. *First National Ban Corp Of Versailles*, Versailles, Kentucky; to become a bank holding company by acquiring 100 percent of the voting shares of First National Bank of Versailles, Versailles, Kentucky.

D. **Federal Reserve Bank of Richmond** (Lloyd W. Bostian, Jr., Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. *Sterling Bancorp, Inc.*, Eleanor, West Virginia; to become a bank holding company by acquiring 91.46 percent of the voting shares of Peoples Bank of Richwood, Inc., Richwood, West Virginia.

E. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, NW., Atlanta, Georgia 30303:

1. *Childersburg Bancorporation, Inc.*, Childersburg, Alabama; to become a bank holding company by acquiring 94.8 percent of the voting shares of First Bank of Childersburg, Childersburg, Alabama.

2. *Citizens and Southern Georgia Corporation*, Atlanta, Georgia; to merge with FSB Bancorp, Inc., Peachtree City, Georgia, and thereby indirectly acquire The Fayette State Bank, Peachtree City, Georgia.

F. **Federal Reserve Bank of St. Louis** (Delmer P. Weisz, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *Crossroads Bancorp, Inc.*, Mount Washington, Kentucky; to become a bank holding company by acquiring 80 percent of the voting shares of The Peoples Bank, Mount Washington, Kentucky.

2. *Delta Bancshares Company*, St. Louis, Missouri; to acquire 40.7 percent of the voting shares or assets of Eureka Bank Eureka, Missouri.

G. **Federal Reserve Bank of Minneapolis** (Bruce J. Hedblom, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Charter 95 Corporation*, Hudson, Wisconsin; to acquire 99.8 percent of the voting shares or assets of Hammond State Bank, Hammond, Wisconsin.

2. *WestBanco*, Bozeman, Montana; to become a bank holding company by acquiring 95.41 percent of the voting shares of 1st Security Bank of West Yellowstone, West Yellowstone, Montana.

H. **Federal Reserve Bank of Dallas** (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Texas Commerce Bancshares, Inc.*, Houston, Texas; to acquire 100 percent of the voting shares or assets of Texas Commerce Bank-River Oaks, N.A., Houston, Texas.

I. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President) 101 Market Street, San Francisco, California 94105:

1. *BNB Bancorp*, Covina, California; to become a bank holding company by acquiring 100 percent of the voting shares of Burbank National Bank, (In Organization), Burbank, California.

2. *Columbia Bancorp, Inc.*, Avondale, Arizona; to become a bank holding company by acquiring 100 percent of the voting shares of Columbia Bank (In Organization), Avondale, Arizona.

Board of Governors of the Federal Reserve System, February 3, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-3490 Filed 2-8-84; 8:45 am]

BILLING CODE 6210-01-M

FSC Bancshares, Inc.; Formation of Bank Holding Companies

The Company listed in this notice has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring voting shares or assets of a bank. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated. With respect to the application, interested persons may express their views in writing to the address indicated. Any comment on the application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *FSC Bancshares, Inc.*, Cameron, Missouri; to become a bank holding company by acquiring at least 80 percent of the voting shares of Farmers State Bank, Cameron, Missouri. Comments on this application must be received not later than March 5, 1984.

Board of Governors of the Federal Reserve System, February 3, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-3491 Filed 2-8-84; 8:45 am]

BILLING CODE 6210-01-M

United City Corp., et al.; Acquisition of Bank Shares by Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire voting shares or assets of a bank. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a

statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. **Federal Reserve Bank of Dallas** (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *United City Corporation*, Plano, Texas; to acquire 70.2 percent of the voting shares or assets of First State Bank of McKinney, McKinney, Texas. Comments on this application must be received not later than March 5, 1984.

B. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President) 101 Market Street, San Francisco, California 94105:

1. *Puget Sound Bancorp*, Tacoma, Washington; to acquire 100 percent of the voting shares or assets of Bellingham National Bank, Bellingham, Washington. Comments on this application must be received not later than March 5, 1984.

Board of Governors of the Federal Reserve System, February 3, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-3492 Filed 2-8-84; 8:45 am]

BILLING CODE 6210-01-M

GENERAL SERVICES ADMINISTRATION

Federal Telecommunication Standards

AGENCY: Office of Information Resources Management, General Services Administration.

ACTION: Notice for comment on proposed standard.

SUMMARY: The purpose of this notice is to solicit the views of Federal agencies, industry, the public, and State and local governments on a Federal Telecommunication Standard (FED-STD) proposed for adoption: DED-SID-1033, "Telecommunications: Digital Communication Performance Parameters".

DATE: May 9, 1984.

ADDRESS: Send comments to National Communications System, Office of Technology and Standards, Washington, DC 20305.

FOR FURTHER INFORMATION CONTACT: Mr. Dennis Bodson, National Communications System, telephone (202) 692-2124.

SUPPLEMENTARY INFORMATION:

1. The General Services Administration (GSA) is responsible under the provisions of the Federal Property and Administrative Services Act of 1949, as amended, for the Federal Standardization Program. On August 14, 1972, The Administrator of General Services designated the National Communications System (NCS) as the responsible agent for the development of Federal telecommunication standards for NCS interoperability and the computer-communication interface.

2. Prior to the adoption of proposed Federal standards, it is important that proper consideration be given to the needs and views of Federal agencies, industry, the public, and State and local governments.

3. Request for copies of the Proposed Draft FED-STD 1033 should be directed to the National Communications System, Office of Technology and Standards, Washington, DC 20305.

Dated: February 2, 1984.

Frank J. Carr,

Assistant Administrator, Office of Information Resources Management.

[FR Doc. 84-3475 Filed 2-8-84; 8:45 am]

BILLING CODE 6820-25-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of Human Development Services

Federal Council on the Aging; Meeting

Agency Holding the Meeting: Federal Council on the Aging.

Time and Date: Meeting begins at 9:00 AM on Wednesday, March 7, 1984 and ends at 11:45 AM on Thursday, March 8, 1984.

Place: Rooms 503-529A (fifth floor conference room), Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, DC 20201 on March 7, 1984 from 9:00 am-5:30 pm and from 9:00 am-11:45 am on Thursday, March 8, 1984.

Status: Meeting is open to the public.

Contact Person: Rita Lowry, Room 309D, HHH Building, 245-2451.

The Federal Council on the Aging was established by the 1973 Amendments to the Older Americans Act of 1965 (Pub. L. 93-29, 42 U.S.C. 3015) for the purpose of advising the President, the Secretary of Health and Human Services, the Commissioner on Aging and the Congress on matters relating to the special needs of older Americans.

Notice is hereby given pursuant to the Federal Advisory Committee Act (Pub. L. 92-453, 5 U.S.C. App. 1, Sec. 10, 1976) that the Council will hold a meeting on March 7 & 8, 1984 from 9:00 AM-5:30 PM and from 9:00 AM-11:45 AM respectively in Rooms 503-529A of the Hubert H. Humphrey Building, 200 Independence Avenue, SW, Washington, DC 20201.

The agenda will consist of presentations and discussions of the Department of Health and Human Services' health promotion initiatives, the Administration on Aging's plans for Older Americans Month, Social Security Advisory Committee's Medicare recommendations, Alzheimer's Task Force, and Older Worker studies commissioned by the National Commission on Employment Policy. In addition, time has been set aside for FCA committee meetings.

Dated: February 6, 1984.

Adelaide Attard,

Chairperson, Federal Council on the Aging.

[FR Doc. 84-3567 Filed 2-8-84; 8:45 am]

BILLING CODE 4130-01-M

National Institutes of Health

Professional Oncology Education Review Committee; Cancellation Notice of Meeting

Notice of the meeting of the Professional Oncology Education Review Committee, National Cancer Institute, National Institutes of Health, February 9-10, 1984, published in the **Federal Register** on December 27, 1983, (48 FR 57018) is hereby cancelled due to some unforeseen circumstances. For further information, please contact Dr. Robert L. Menning, Executive Secretary, National Cancer Institute, Westwood Building, Room 838, National Institutes of Health, Bethesda, Maryland 20205 (301/496-7721).

Dated: February 8, 1984.

Thomas E. Malone,

Deputy Director, National Institutes of Health.

[FR Doc. 84-3800 Filed 2-8-84; 11:17 am]

BILLING CODE 4140-01-M

Social Security Administration

Statement of Organization, Functions and Delegations of Authority

Part S of the Statement of Organization, Functions and Delegations of Authority for the Department of Health and Human Services covers the Social Security Administration (SSA). Section S.30 of the SSA Statement describes the Order of Succession in SSA. Sections SA.10 and SA.20 describe the organization and functions of the Office of the Commissioner (OC). Sections SL.00, SL.10 and SL.20 describe the mission, organization and functions

of SSA's Office of Assessment (OA). Sections SF.00, SF.10 and SF.20 describe the mission, organization and functions of SSA's Office of Family Assistance (OFA).

Notice is given that section S.30 is revised to recognize that there are additional Deputy Commissioners, and that sections SA.10 and SA.20 are amended to add the Deputy Commissioner of Social Security, Management and Assessment. Sections SL.00, SL.10 and SL.20 are amended to reflect the transfer of the program integrity function to the Office of the Inspector General (OIG); to transfer the Division of Aid to Families with Dependent Children (AFDC) Quality Control to the Office of Family Assistance; to establish the Office of Insurance Program Quality (OIPQ), the Office of Assistance Program Quality (OAPQ), the Office of Disability Program Quality (ODPQ) and the Office of Operational Reviews and Integrity (OORI); to revise the functional statement for the Field Assessment Office (FAO); and to abolish the Office of Payment and Eligibility Quality (OPEQ), the Office of Adjudication Process Quality (OAPQ), the Office of Security and Program Integrity (OSPI) and the Office of Evaluation (OE). Sections SF.00, SF.10 and SF.20 are amended to reflect the establishment of the Division of AFDC Quality Control in the Office of State Operations, Office of Family Assistance.

The SSA material is revised as follows:

Chapter S. *Social Security Administration*

Sec. S.30 *Social Security Administration—Order of Succession*

3. Second line: Omit "both;" substitute "the".

4. Second line: Omit "both;" substitute "the".

The Office of the Commissioner material is revised as follows:

Chapter SA. *Office of the Commissioner*

Sec. SA.10 *Office of the Commissioner—(Organization)*

Reletter "E." to "F." and add:

E. The Deputy Commissioner of Social Security, Management and Assessment (SA).

Sec. SA.20 *Office of the Commissioner—(Functions)*

Reletter "E." to "F." and add:

E. *The Deputy Commissioner of Social Security, Management and Assessment (SA)* assists the Commissioner in carrying out his/her responsibility for managing and directing administration of SSA program, concentrating on management support, assessment and quality control.

The OA material is revised as follows:

Sec. SL.00 *Office of Assessment—(Mission)*

In the 2nd line, omit "assures," and substitute "reviews, evaluates and assesses. . . ." In the 4th line, continue the sentence after "programs" by adding "and makes corrective action recommendations." In the 9th and 10th lines, omit "the handling of cases that may involve fraud. . . ." In the 12th line, after "security programs," add "and also evaluates and reviews the handling of cases that may involve fraud and recommends corrective action."

Sec. SL.10 *Office of Assessment—(Organization)*

D. Office of Payment and Eligibility Quality (SLQ)—Delete all material.

E. Office of Adjudication Process Quality (SLC)—Delete all material.

F. Office of Security and Program Integrity (SLB)—Delete all material.

H. Office of Evaluation (SLE)—Delete all material.

Add:

D. Office of Insurance Program Quality (SLA), which includes:

1. Division of RSI Quality Reports and Analysis (SLA1).

2. Division of RSI Policy and Quality Assurance Procedural Management (SLA2).

3. Division of Quality Assurance Sample Design and Operations (SLA3).

E. Office of Assistance Program Quality (SLG), which includes:

1. Division of Reports and Analysis (SLG1).

2. Division of Policies and Procedures (SLG2).

3. Division of Sampling and Data Management (SLG3).

F. Office of Disability Program Quality (SLH), which includes:

1. Division of Disability Quality Policy and Procedures (SLH1).

2. Division of Disability Operations Review and Data Management (SLH2).

3. Division of Disability Quality Operations (SLH3).

4. Division of Disability Reports, Analysis and Special Studies (SLH4).

H. Office of Operational Reviews and Integrity (SLJ), which includes:

1. Division of Evaluation and Quality Review (SLJ1).

2. Division of Operational Integrity and Security (SLJ2).

3. Division of Audit Management and Liaison (SLJ3).

Sec. SL.20 *Office of Assessment—(Functions)*

D. Office of Payment and Eligibility Quality (SLQ)—Delete all material.

E. Office of Adjudication Process Quality (SLC)—Delete all material.

F. Office of Security and Program Integrity (SLB)—Delete all material.

H. Office of Evaluation (SLE)—Delete all material.

Add:

D. *Office of Insurance Program Quality (SLA)* plans, designs and maintains a quality review system for the Retirement and Survivors Insurance (RSI) program, to assure quality in adjudication and payment error reduction. It designs sampling methods and techniques, and issues policies and procedures for reviews. It analyzes review data and prepares reports on findings, including recommendations for corrective action; changes in RSI program policies, procedures or computer systems routines reporting on RSI payments and workloads or legislation. The Office plans and designs special reviews of problems areas, and plans and utilizes an automated data base of findings in current and longitudinal analysis so that policy and operational managers can improve the management of the RSI program. The Office provides technical support and guidance to field assessment staff in the RSI Quality Review program, and conducts reviews of the Field Assessment Offices' (FAOs') adherence to OA review policies and procedures. It includes the following components and functions:

1. *Division of RSI Quality Reports and Analysis (SLA1):*

a. Reports on the quality of the SSA's Retirement and Survivors Insurance (RSI) program and the nonmedical aspects of the Disability Insurance (DI) program.

b. Analysis results of continuing, targeted and user support quality review studies of current claims, postadjudicative actions and ongoing payments. Based on these analyses, issues statistical and narrative reports that include recommendations for improvement of payment accuracy, EDP systems, operational processes, component performance and manpower utilization.

c. Designs and maintains a reporting system to communicate quality findings to management officials who need the information.

d. Plans, coordinates and conducts foreign validation surveys; analyzes findings and recommends changes in policies and procedures relating to the administration and operation of the social security programs abroad.

2. *The Division of RSI Policy and Quality Assurance Procedural Management (SLA2):*

a. Plans, directs and coordinates the development of technical and operational procedures necessary to implement and maintain a nationwide

program for the review of the quality of the RSI program.

b. Maintains an ongoing sample consistency review of all RSI quality review cases to evaluate and analyze the effectiveness of RSI quality review procedures and compliance with the procedures.

c. Reviews new operating policies, procedures, regulations and legislative proposals concerning the RSI program for impact on payment quality and on the uniformity and equity of national instructions.

d. Evaluates RSI claims policies for establishing entitlement and continuing eligibility for benefits, and assures that evidential and procedural requirements are uniform and equitable with respect to all applicants and beneficiaries.

3. *Division of Quality Assurance Sample Design and Operations (SLA3):*

a. Designs and develops sampling methods and techniques, statistical measures and methods of statistical evaluation for the efficient and valid measurement of the quality of the RSI and DI nonmedical phases of SSA programs.

b. Designs, develops and conducts tests of current and alternative quality review methodologies. Prepares data analysis plans and analyzes test results to determine more effective, efficient and cost beneficial methods of conducting payment accuracy/quality reviews.

c. Conducts a continuing quality review of, and issues reports on, the nondisability aspects of the initial claims and postadjudicative actions connected with the disability and foreign claims programs.

E. *Office of Assistance Program Quality (SLG)* plans, designs and maintains a quality review system for the Supplemental Security Income (SSI) program to assure quality in adjudication and payment. It designs sampling methods and techniques, and issues policies and procedures for reviews. It analyzes review data and prepares reports on findings, including recommendations for corrective action changes in SSI program policies, procedures or legislation. The Office plans and designs special reviews of problem areas, and utilizes an automated data base of findings in current and longitudinal analyses so that policy and operational managers can improve the operation of the SSI program. The Office provides technical support and guidance to field assessment staff in the SSI Quality Review Program, and conducts reviews of FAOs' adherence to OA review policies and procedures. It compiles quality review data for determining Federal fiscal liability to States for federally-administered state supplementary payments. It includes the following components and functions:

1. *Division of Reports and Analysis (SLG1):*

a. Designs and produces quality review reports on claims, posteligibility and redetermination actions, and on payment and eligibility accuracy of the SSI Program.

b. Analyzes reports and data, and identifies deficiency trends, anomalies, irregularities and weaknesses in SSI program and operations quality. Evaluates findings to ascertain probable causes and recommends improvements in EDP systems, operational processes and component performance.

c. Establishes requirements for FAO reporting and monitors quality of FAO SSI analyses and reports, manages the OAPQ interaction with the FAOs for all dealings in program operations and quality review study/evaluation.

2. *Division of Policies and Procedures (SLG2):*

a. Designs, develops and promulgates the procedures and forms necessary to implement and maintain a nationwide program for the continuing review of the accuracy and quality of ongoing SSI payments and the claims adjudication processes.

b. Maintains current SSI quality review procedures and related instructions to be employed in the case review processes, and reviews supplemental SSI quality review procedures developed by FAOs for consistency with national policies.

c. Maintains an ongoing sample consistency review of all SSI quality review cases to evaluate and analyze the effectiveness of SSI quality review procedures and compliance with the procedures.

d. Determines need for SSI quality review process training and technical assistance, and develops national level SSI quality review technical training policies, materials and resources. Reviews technical training materials developed by FAOs for consistency and possible national implementation.

3. *Division of Sampling and Data Management (SLG3):*

a. Monitors changes in SSI policy, specifically with regard to their impact on quality review operations and systems, and initiates changes and enhancements of existing quality review ADP systems.

b. Provides ongoing technical support to headquarters and field components for current and future SSI quality review ADP requirments.

c. Monitors ADP equipment utilization and data needs for the purpose of identifying equipment needs.

d. Designs and develops sampling methods and techniques for SSI payment and process accuracy review programs. Provides technical guidance in areas related to sample size, design and procedures for the SSI quality review programs.

e. Prepares reports and data regarding Federal fiscal liability (FFL) to States, and prepares fiscal year FFL estimates. Reviews cumulative FFL data to identify trends and variations. Monitors existing procedures and methodology for determining FFL to measure effectiveness.

F. *Office of Disability Program Quality (SLH)* plans, designs and maintains a quality review system for the title II and title XVI disability programs to assure quality in adjudication and payment. It designs sampling methods and techniques, and issues policies and procedures for reviews. It analyzes review data and prepares reports on findings, including recommendations for corrective action or changes in disability program policies, procedures or legislation. The Office plans and designs special reviews of problem areas, and plans and utilizes an automated data base of findings in current and longitudinal analyses so that policy and operational managers can improve the operation of the DI program. The Office provides technical support and guidance to field assessment staff in the DI quality review program, and conducts reviews of FAOs adherence to OA review policies and procedures. It includes the following components and functions:

1. *Division of Disability Quality Policy and Procedures (SLH1):*

a. Develops disability quality review policy, procedures, forms and instructions for use by State and Federal components in payment and adjudicative process consistency and preeffectuation reviews.

b. Identifies error-prone and user support type case review workloads, and plans targeted sampling procedures to produce appropriate quality review data. Verifies production of sample levels for targeted reviews. Provides sampling intervals for use by State agencies in their quality review operations.

c. Studies the adjudication and payment quality review programs, and modifies them to accomodate new workloads or to improve quality of the data.

d. Develops sampling techniques for adjudication and payment process

quality reviews. Modifies sampling to insure validity of data and to respond to disability program and quality review program changes.

2. *Division of Disability Operations Review and Data Management (SLH2):*

a. Reviews disability quality and preeffectuation review operations in FAOs in regard to operational goals, adherence to national policies and procedures and staffing needs.

b. Provides technical guidance and support to FAOs in regard to disability quality review operations. Develops technical training packages and programs for workload, policy or procedural changes.

c. Develops specifications for data processing and data bases used in quality review operations, and for the automated sample selection process. Monitors the realization of selected sample yields.

3. *Division of Disability Quality Operations (SLH3):*

a. Conducts quality reviews of the substantive and technical aspects of a sample of initial disabilty claims, reconsiderations and continuing disability investigations adjudicated and authorized by the Office of Disability Operations.

b. Conducts consistency quality reviews of a sample of cases given a quality or preeffectuation review by Disability Analysis Branches in the FAOs. These cases include initial claims, reconsiderations and continuing disability investigations.

c. Reviews samples of types of disability cases that have been identified as error prone or policy, procedural or operational problems. Prepares analytical reports and corrective action recommendations.

4. *Division of Disability Reports, Analysis and Special Studies (SLH4):*

a. Plans and issues periodic reports related to the quality of disability payment and eligibility processes for the title II and title XVI disability programs.

b. Analyzes data to identify repetitive and significant errors to determine their causes and costs and to target areas needing study to determine corrective action.

c. Determines the need for, and designs, special studies to supplement regular reports of disability quality reviews. Coordinates, reviews and evaluates these studies, and assists field offices in the development of field-initiated studies.

d. Works with program components in the identification of user requirements for various types of profiles and the implementation and evaluation of profiles.

G *Field Assessment Offices (SLF1–SLFX).* Replace with following:

The Field Assessment Offices manage OA quality assurance and evaluation activities in the field. They conduct independent reviews to determine payment and eligibility error rates in Social Security programs, including errors in federally-administered State supplementary payments. These reviews provide the basis for determining the Federal fiscal liability amounts reimbursable to States for which SSA administers State payments. The FAOs conduct independent reviews to determine the quality of adjudication processes of Social Security programs. The FAOs provide reports, data and analysis; they assist in identifying error trends and sources and they recommend corrective actions. They also perform special assessment surveys and analysis.

1. *Division of Payment and Eligibility Quality (SLF11–SLFXI).*

a. Line 20: Omit "to OPEQ".

b. Omit.

H. *Office of Operational Reviews and Integrity (SLJ)* plans and carries out evaluation programs for all aspects of SSA's operations, plans and maintains a quality review system for nonprogram specific and crosscutting functions and performs continuing and special analysis of trends and critical problem areas. It reports on findings and recommends corrective action, including changes in program policies, procedures or legislation. The Office manages an SSA-wide operational integrity and security program, it serves as SSA's liaison with the Department of Health and Human Services' Office of Inspector General (OIG) and enternal auditors and evaluators, prepares and coordinates the SSA response to all external audit and evaluation recommendations and monitors and evaluates the implementation of the recommendations requiring SSA actions. The Office provides statistical consultation and advice on sampling designs and data analysis for components within OA, and researches new statistical/operations research techniques. The Office provides guidance to FAO evaluation staffs.

1. *Division of Evaluation and Quality Review (SLJ1):*

a. Formulates and conducts reviews, studies and audits of SSA program and administrative operating policies and processes. Evaluates SSA policies, procedures and practices from the perspectives of efficiency, effectiveness, integrity and adequacy of public service.

b. Concentrates on SSA priorities, critical areas and major workloads, with emphasis on defining problems and developing recommendations for improvement.

c. Initiates and monitors national surveys, audits and studies, with input from field offices and other SSA components.

d. Performs ad hoc studies, requested by the Commissioner, Deputy Commissioners or Associate Commissioners, that require prompt and immediate attention in their area of responsibility.

e. Maintains liaison with SSA components in identifying potential areas of review, setting up logistics for reviews, holding entrance and exit conferences and monitoring progress on implementing recommendations.

f. Develops a program for the selection and conduct of quality reviews for Social Security number issuance and earnings maintenance functions, and other SSA functions that cross program lines. Provides analysis and recommendations, and monitors implementation of recommendations.

2. *Division of Operational Integrity and Security (SLJ2):*

a. Develops, manages and coordinates the SSA-wide security program. Develops, applies and interprets policies, standards, techniques, guidelines and procedures for assuring adherence to all statutory and regulatory requirements for the security of personal and program data which are gathered, processed, maintained and disposed of by SSA.

b. Develops and assists in the implementation of SSA policies, systems and procedures which minimize vulnerability to fraud and abuse, while maintaining the efficiency of program operations. Designs and conducts analyses and reviews to assure the integrity of program payments and the efficiency of program operations. Maintains liaison with the Office of the Inspector General on matters relating to fraud and abuse policies, procedures and case processing, and cooperates in the investigation of potential fraud, abuse and misconduct cases.

c. Maintains an SSA-wide security and integrity awareness program, and designs and participates in the delivery of training courses dealing with all phases of security and integrity.

d. Maintains liaison with outside agencies and higher monitoring authorities on security matters and those integrity/fraud matters which relate to operational processes.

e. Conducts a risk management program for operational processes, covering risk analysis, vulnerability identification and safeguard implementation.

f. Develops proposals and specifications for major security and integrity improvements of a cross-cutting, SSA-wide nature. Reviews proposals/specifications for new and major systems changes for adequacy of security provisions, and participates in system validations to ensure functioning of security controls.

g. Provides technical direction and consultation to security staffs throughout SSA, including being responsible for data communications access controls. Serves as SSA focal point for handling security breaches and fraud cases, controlling cases for corrective action. Maintains knowledge of all integrity and security activities, such as matching operations, security reviews, personnel security projects, etc.

3. *Division of Audit Management and Liaison (SLJ3):*

a. Plans and coordinates SSA involvement with audits planned and conducted by the General Accounting Office (GAO) or the HHS Audit Agency, and facilitates the access of audit teams to SSA.

b. Reviews and evaluates audit reports and prepares the SSA response to specific audit recommendations. Evaluates component commitments to audit recommendations, monitors and evaluates implementation of commitments, prepares progress reports and recommends corrective actions.

c. Monitors and evaluates implementation of internal and external survey recommendations, prepares progress reports and recommends corrective action.

d. Maintains liaison with operating management in the field, identifies problems and monitors corrective actions.

e. Maintains liaison with GAO, the HHS Audit Agency and other external auditors and evaluators; represents SSA's interests and discusses SSA positions.

The OFA material is revised as follows:

Chapter SF

Sec. SF.00 *Office of Family Assistance—(Mission)*

In the last sentence, omit "The Office assures that SSA regional offices provide. . . ," and substitute "The Office provides. . . ."

Sec. SF.10 *Office of Family Assistance—Organization)*

G. Office of State Operations (SFG), which includes:

Add:

3. Division of Quality Control (SFG3).

Sec. SF.20 *Office of Family Assistance—(Functions)*

G. *Office of State Operations (SFG).*

Add:

3. *Division of Quality Control (SFG3):*

a. Develops policies, standards and guidelines for the Federal/State Quality Control Systems used in the public assistance programs administered by the Office of Family Assistance.

b. Establishes, maintains and evaluates the effectiveness of the Federal monitoring system of State quality control operations, including technical and operating policies necessary to conduct Federal rereviews of State quality control (QC) findings.

c. Develops Federal/State quality control procedures and systems, and provides technical guidance and assistance to States and regional offices.

d. Conducts onsite reviews to appraise regional office and State agency adherence to QC review procedures.

e. Analyzes QC findings and consolidates State and Federal findings. Prepares national reports from data derived from quality control reviews.

f. Assists corrective action planning and implementation by providing data analysis and recommendations for corrective action.

K. *Office of Regional Family Assistance (SFF1–SFFX):*

2. Add after first sentence:

Plans and directs a regionwide quality control program.

Dated: February 1, 1984.

Margaret M. Heckler,

Secretary of Health and Human Services.

[FR Doc. 84-3498 Filed 2-8-84; 8:45 am]

BILLING CODE 4110-07-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. D-84-728; FR-1931]

Connecticut; Manager, Hartford Office; Designation and Delegation of Authority

AGENCY: Hartford Office, Department of Housing and Urban Development.

ACTION: Notice of Designation of Authority—Order of Succession.

SUMMARY: This document designates the order of succession to the position of Acting Manager in the absence of the Manager.

EFFECTIVE DATE: October 20, 1983.

FOR FURTHER INFORMATION CONTACT: Alan M. Cohen, Hartford Office, One Hartford Square, West Hartford, Connecticut 06106, (203) 244–3030. This is not a toll-free number.

Accordingly: During any period when by reason of absence or disability, the Manager is not available to exercise the powers and perform the duties of the Manager, appointees to the positions listed below are authorized to act as Manager and exercise all the powers, functions and duties assigned to or vested in the manager. However, no official shall act as Manager until all of the appointees listed before such officials title in this designation are unable to act by reason of absence, disability or vacancy in office.

1. Deputy Manager
2. Chief Counsel
3. Director, Housing Development Division
4. Director, Community planning and Development Division
5. Director, Housing Management Division

This designation shall be effective as of October 20, 1983 and shall supersede any previous designations.

Authority: Secretary's Delegation of Authority (36 FR 3389, February 23, 1971, as amended).

William H. Hernandez, Jr.,

Manager, Hartford Office.

[FR Doc. 84-3515 Filed 2-8-84; 8:45 am]

BILLING CODE 4210-32-M

[Docket No. D-84-729; FR-1920]

Office of The Field Office Manager; Charleston, West Virginia; Designation

AGENCY: Department of Housing & Urban Development.

ACTION: Designation of Order of Succession.

SUMMARY: The Field Office Manager is designating officials who may serve as Acting Field Office Manager during the absence, disability, or vacancy in the position of the Field Office Manager.

EFFECTIVE DATE: This designation is effective December 1, 1983.

FOR FURTHER INFORMATION CONTACT: Peter M. Campanella, Regional Counsel, Office of Counsel, Philadelphia Regional Office, Department of Housing & Urban Development, Curtis Building, 6th and Walnut Streets, Philadelphia, PA 19106, phone 215–597–2655. (This is not a toll-free number).

Designation

Each of the officials appointed to the following positions is designated to serve as Acting Field Office Manager during the absence, disability, or vacancy in the position of the Field Office Manager, with all of the powers, functions, and duties redelegated or assigned to the Field Office Manager: Provided, that no official is authorized to serve as Acting Field Office Manager unless all preceding listed officials in this designation are unavailable to act

by reason of absence, disability, or vacancy in the position:

1. Director, Housing Management Division
2. Director, Housing Development Division

This designation supersedes the designation effective May 1, 1981.

Authority: Delegation of Authority by the Secretary effective October 1, 1970; 36 FR 3389, February 23, 1971.

Dated: November 28, 1983.

Kenneth J. Finlayson,

Regional Administrator-Regional Housing Commissioner, Region III.

Dated: November 18, 1983.

Carl A. Smith,

Manager, Charleston, West Virginia Field Office.

[FR Doc. 84-3514 Filed 2-8-84; 8:45 am]

BILLING CODE 4210-32-M

[Docket No. N-84-1340; FR-1880]

Office of Interstate Land Sales Registration; Administrative Proceedings

AGENCY: Assistant Secretary for Housing—Federal Housing Commissioner, Office of Interstate Land Sales Registration, HUD.

ACTION: Notice of Proceedings and Opportunity for Hearing.

SUMMARY: The Office of Interstate Land Sales Registration gives public notice of its attempt to serve upon certain persons (defined by statute [15 U.S.C. 1701] as individuals, unincorporated organizations, partnerships, associations, corporations, trusts, or estates) at their last known addresses, a notice requiring revisions to their Statement of Record. Service of this notice was attempted by certified mail and was found to be undeliverable. Therefore, in accordance with 44 U.S.C. 1508, the Department is publishing this Notice of Proceedings and Opportunity for Hearing in order to effect constructive notice upon the persons listed in the attached Appendix.

DATE: Requests for hearings should be filed on or before February 24, 1984.

ADDRESS: Requests shall be filed with the Docket Clerk for Administrative Proceedings, Room 10270, HUD Building, 451 Seventh Street, SW., Washington, D.C. 20410.

FOR FURTHER INFORMATION CONTACT: Roger Henderson, Director, Land Sales Enforcement Division, Department of HUD, Room 4116, Washington, D.C. 20410. Telephone: (202) 755-5989. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: This Notice of Proceedings and Opportunity for Hearing is issued pursuant to the Interstate Land Sales Full Disclosure Act (15 U.S.C. 1706(d) and related regulations at 24 CFR 1710.45(b)(1) and 24 CFR 1720.220). The Department hereby serves the following Notice of Proceedings and Opportunity for Hearing to the persons listed in the attached Appendix:

Notice of Proceedings and Opportunity for Hearing

I

Docket No. _____
In the matter of:
(Subdivision) _____
(Developer) _____
Representative of Respondent OILSR No. _____

The Secretary in administering the Interstate Land Sales Full Disclosure Act of 1968, 15 U.S.C. 1701 et seq., and its Regulations finds his public files disclose that:

A. Respondent is a corporation organized under the laws of the State of _____
And has its principal office in _____

B. The mailing address of Respondent's last known principal office or place of business is _____

C. The Respondent filed a Statement of Record and Property Report for the above subdivision, located in _____ County, _____ which Statement of Record and Property Report, as amended, if any amendments have been filed, became effective on _____ and is still effective.

D. _____ is Representative of Respondent.

(Information for completing the above format follows. The captioned matters in the Appendix are listed alphabetically by subdivision in each State. Paragraph I of the Notice of Proceedings and Opportunity for Hearing includes the captions of the separate matters. Information for the completion of the captions of each of the matters is set out in columns 1 and 2 of the aforementioned Appendix. Information for Lines A, B and C above set out in columns 3, 4 and 5 respectively of the Appendix. Information for Line D of paragraph I is contained in the caption of the matter, and the same information is supplied in the last line of column 1 of the Appendix. The entire Notice is completed by inserting the applicable information from the Appendix in the appropriate blanks of paragraph I. In this form it is constructively noticed that the Notice of Proceedings and Opportunity for Hearing is served upon the persons listed in column 1 of the Appendix.)

II

The Office of Interstate Land Sales Registration (OILSR) from its records or from other sources has obtained information which tends to show, and it so alleges, that the Statement of Record and Property Report of the subdivision captioned above include untrue statements of material fact, or omit to state material facts required to be stated therein or necessary to make statements therein not misleading, to wit:

The developer has failed to file amendments to comply with revised regulations of the Office of Interstate Land Sales Registration or, alternatively, to file documentation establishing that no such amendments are necessary by the time required in 24 CFR 1730.100(b)(3), (4) and (5).

In view of the allegations contained in Part II above, the Secretary will provide an opportunity for a public hearing to determine:

A. Whether the allegations set forth in Part II are true and in connection therewith to afford Respondent an opportunity to establish any defenses to such allegations; and

B. What, if any, remedial action is appropriate in the public interest and for the protection of purchasers pursuant to the Interstate Land Sales Full Disclosure Act.

IV

If the Respondent desires a hearing, he shall file a request for hearing accompanied by an answer within 15 days after service of this Notice of Proceedings. Respondent is hereby notified that if he fails to file a response pursuant to 24 CFR 1720.240 and 1720-245 within 15 days after service of this Notice of Proceedings, Respondent shall be deemed in default, and the proceedings shall be determined against him, the allegations of which shall be determined to be true, and an order suspending the Statement of Record will be issued. The said order shall remain in effect until the Statement of Record and Property Report have been amended in accordance therewith, and thereupon the order shall cease to be effective.

V

Any request for hearing, answer, motion, amendment to pleadings, offer of settlement or correspondence forwarded during the pendency of this proceeding shall be filed with the Docket Clerk for Administrative Proceedings, Room 10270, HUD Building, 451 Seventh Street SW., Washington, D.C. 20410. All such papers shall clearly identify the type of matter and the docket number as set forth in this Notice of Proceedings.

VI

It is hereby ordered that upon request of the Respondent a public hearing for the purpose of taking evidence on the questions set forth in Part III hereof be held before an Administrative Law Judge, HUD Building, 451 Seventh Street, SW., Washington, D.C. 20410, at 10:00 a.m. on the 30th day after receipt of the answer or at such other time as the Secretary or a designee may fix by further order.

This Notice of Proceeding shall be served upon the Respondent pursuant to 24 CFR 1720.170 and/or 44 U.S.C. 1508.

Dated: February 1, 1984.

Maurice L. Barksdale,

Assistant Secretary for Housing—Federal Housing Commissioner.

In the matter of (subdivision) developer, representative and title, respondent	OILSR No. and land sales enforcement division docket No.	State of organization and location of principal office No.	Last kown mailing address	Location of subdivision (county, State) and effective date
1	2	3	4	5
ARIZONA				
Sunset Hills, M. W. Langdreth, vice-president and village of Oak Creek, respondent.	0-03567-02-695, 82-86-IS	Arizona; Sedona, AZ	4550 N. Black Canyon Highway, Phoenix, AZ 85018.	Yavapai County, AZ, Feb. 15, 1974.
COLORADO				
Glens of Decoro, Emco Development Co., Inc., respondent.	0-02605-05-281, 83-66-IS	Colorado; Denver, CO	P.O. Box 219, 5505 W. Colfax Avenue, Denver, Colorado 80214.	Weld County, Co. Sept 17, 1973
FLORIDA				
Blue Water Trailer Village Section 4, Andrew Murphy, authorized agent-respondent.	0-04458-09-116, 83-62-IS	Florida; Key Largo, FL	P.O. Box 1915, Key Largo, Florida 33037.	Monroe County, FL, Oct. 27, 1976.
Citrus Lakes, Interlachen Lakes Estates, Inc., S. Philip Malapeis, president-respondent.	0-01529-09-446 and (A), 82-98-IS.	Flordia; Miami, FL	11,575 7th NW Avenue, Miami, Florida 33172.	Palatka County, FL, Dec. 19, 1974.
KENTUCKY				
Agape Shores, John L. and Katherine E. O'Banion, owners.	0-03955-20-62, 82-109-IS	Kentucky; Louisville, KY	140 Chenowith Lane, Louisville, Kentucky 40207.	Breckinridge County, KY, Jan. 9, 1978.
Anderson Shores, Anderson Shores, Inc., Buddy Spann, president.	0-04231-20-71, 83-51-IS	Kentucky; Murray, KY	P.O. Box 505, Murray, Kentucky 42071.	Calloway County, KY, July 9, 1975.
MISSOURI				
Pine Hill Subdivision, Neal Land Development Co. Inc., Edward M. Welton, president-respondent.	0-01504-29-62, 82-57-IS	Missouri; Van Buren, MO	P.O. Box, 415, Van Buren, Missoun 63965.	Carter County, MO, Apr. 22, 1971.
NORTH CAROLINA				
Land of Lakes, First American Land Corp., Martin I. Price, president-respondent.	0-02539-38-123, 82-115-IS	West Virginia; Falling Waters, WV	P.O. Box 195, Falling Waters, West Virginia 25419.	Polk County, NC, Sept. 16, 1977.
OREGON				
Malheur Lake Ranches, Malheur Lake Ranches, Co., Norman B. Conte, president-respondent.	0-03617-43-47, 83-7-IS	Arizona; Temple, AZ	2000 South Priest Dr., Suite 111, Temple, Arizona 85282.	Harney County, OR, July 9, 1974.
PENNSYLVANIA				
Wilderness Acres, Dupont Mutual, Inc., Donald C. Simpson, president-respondent.	0-03321-44-232, 83-57-IS	Pennsylvania; Marshalls Creeks, PA.	P.O. Box 158, Marshall Creek, Pennsylvania 18335.	Monroe County, PA, Oct. 9, 1973.
TEXAS				
Kerrville Hills County Club, Kerrville Hills Development Co., Robert E. Owens, president-respondent.	0-01460-49-54, 83-8-IS	Texas; Kerrville, TX	P.O. Box 750, Kerrville, TX 78028	Kerr County, TX, Oct. 13, 1971.
Villa Conquestador No. 1, NCOA Communities, John L. Griffins, Jr., president-respondent.	0-02824-49-261, 83-12-IS	Texas; San Antonio, TX	c/o Ammest Dev. Corp., Inc., P.O. Box 1861, San Antonio, Texas 78297.	Bell County, TX, Mar. 4, 1975.
UTAH				
Scottsville Subdivision, Bonneville Investments, Inc., L. M. Sproul, president-respondent.	0-04777-52-106, 83-68-IS	Utah; Salt Lake City, UT	1973 Kensington Avenue, Salt Lake City, Utah 84108.	Iron County, UT, July 27, 1978.
WASHINGTON				
Paradise Lakes County Club, Gulf Land Company, Thomas E. Isenhart, president-respondent.	0-00423-56-5 and (A), (B), (XA), 83-3-IS.	Washington; Ferndale, WA	P.O. Box 1187, 450 Washington St., Ferndale, Washington 98248.	Whatcom County, WA, July 23, 1974.
Reintree, Reintree Corporation, George Samuels, president-respondent.	0-04395-56-141, 83-22-IS	Washington; Lynnwood, WA	16800 Highway 99, Lynnwood, Washington 98036.	Woodinville King County, WA, Dec. 15, 1975.

[FR Doc. 84-3512 Filed 2-8-84; 8:45 am]

BILLING CODE 4210-27-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AA-6709-A]

Alaska Native Claims Selection

In accordance with Departmental regulation 43 CFR 2650.7(d), notice is hereby given that a decision to issue conveyance under the provisions of Sec. 14 of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1611) (1976)) (ANCSA), will be issued to Ounalashka Corporation, for lot 1, Block 2, U.S. Survey No. 1992, Alaska, Unalaska Townsite, containing 0.009 acre.

The decision to issue conveyance will be published once a week, for four (4) consecutive weeks, in The Anchorage Times upon issuance of the decision.

For information on how to obtain copies, contact Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513.

Any party claiming a property interest in land affected by this decision, an agency of the Federal government, or regional corporation may appeal the decision to the Interior Board of Land Appeals, Office of Hearings and Appeals, in accordance with the regulations in 43 CFR Part 4, Subpart E, as revised.

If an appeal is taken, the notice of appeal must be filed in the Bureau of Land Management, Alaska State Office, Division of Conveyance Management (960), 701 C Street, Box 13, Anchorage, Alsaka 99513. Do not send the appeal directly to the Interior Board of Land Appeals. The appeal and copies of pertinent case files will be sent to the Board from this office. A copy of the appeal must be served upon the

Regional Solicitor, 701 C Street, Box 34, Anchorage, Alaska 99513.

The time limits for filing an appeal are:

1. Parties receiving service of the decision by personal service or certified mail, return receipt requested, shall have thirty days from the receipt of the decision to file an appeal.

2. Unknown parties, parties unable to be located after reasonable efforts have been expended to locate, parties who failed or refused to sign their return receipt, and parties who received a copy of the decision by regular mail which is not certified, return receipt requested, shall have until March 12, 1984 to file an appeal.

Any party known or unknown who is adversely affected by the decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Bureau of Land Management, Alaska State Office, Division of Conveyance Management.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeals. Further information on the manner of and requirements for filing an appeal may be obtained from the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513.

If an appeal is taken, the parties to be served with a copy of the notice of appeal are:

Mr. John F. Spencer, Jr., Chief, National Geodetic Information Center, OA/C18X2, NOS/NOAA, Rockville, Maryland 20852

Ounalashka Corporation. P.O. Box 149, Unalaska, Alaska 99685

The Aleut Corporation, 2550 Denali Street, Suite 900, Anchorage, Alaska 99503

Helen Burleson,

Section Chief, Branch of ANCSA Adjudication.

[FR Doc. 84-3540 Filed 2-8-84; 8:45 am]

BILLING CODE 4310-JA-M

[M 46372-E]

Montana; Conveyance of Public Land

AGENCY: Bureau of Land Management, Montana State Office, Interior.

ACTION: Notice of Conveyance of Public Land in Lewis and Clark County, Montana.

SUMMARY: Notice is hereby given that pursuant to Section 203 of the Act of October 21, 1976 (43 U.S.C. 1713 (1976)), the following described land was conveyed to John A. Giacoma and Loa Mae Giacoma:

Principal Meridian, Montana

T. 14 N., R. 3W.,
Sec. 34, lots 18, 20 and 21.
Containing 0.54 acre.

The purpose of this notice is to inform State and local governmental officials and other interested parties of the conveyance of the land to the Giacomas.

Edward H. Croteau,

Chief, Lands Adjudication Section.

February 2, 1984.

[FR Doc. 84-3528 Filed 2-8-84; 8:45 am]

BILLING CODE 4310-DN-M

Idaho; Closure of Public Lands

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Emergency Closure of Public Lands (Belle Marsh Creek).

SUMMARY: Notice is hereby given that effective immediately all public lands located in the Belle Marsh Creek Area are closed to motorized vehicles. The area is bounded generally by the U.S. Forest Service Road 009 on the west; I-15 on the north and east and Mormon Canyon on the south.

The legal description of this area is:

T. 8 S., R. 36 E., Boise Meridian, Portions of Sections 7, 17, 18, 20, 29, and 32,
T. 7 S., R. 36 E., Boise Meridian, Sections 5, 7 and 8

All Federal lands administered by the Bureau of Land Management within the above described area are closed to all motorized vehicles from the date of this notice until March 15, 1984 or until animals leave the area. Signs will be posted to identify the exterior boundaries.

The purpose of this closure is to protect wintering big game from all motor vehicles.

The authority for this closure is 43 CFR 8341.2. The closure will remain in effect until March 15, 1984 or until animals leave the area.

Dated: February 3, 1984.

O'dell A. Frandsen,

District Manager.

[FR Doc. 84-3535 Filed 2-8-84; 8:45 am]

BILLING CODE 4310-GG-M

[M-59847]

Montana; Realty Action, Exchange of Public Lands

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of realty action, exchange of public lands in Deer Lodge, Beaverhead, Madison, and Powell counties.

SUMMARY: The following described lands have been determined to be suitable for disposal by exchange under Section 206 of the Federal Land Policy and Management Act of 1976; 43 U.S.C. 1716:

Principal Meridian Montana

Madison County

T3S, R1W, Section 35, SW¼SW¼—40 acres
T4S, R1W, Section 3, Lot 1—39 acres
T13S, R1W, Section 5, SW¼SW¼—40 acres;
Section 6, Lot 3—40 acres

Powell County

T8N, R9W, Section 12, NE¼SE¼—40 acres

Beaverhead County

T1S, R11W, Section 5, Lot 2—29 acres;
Section 17, Lot 5—17 acres
T2S, R16W, Section 35, W½SW¼—80 acres
T3S, R16W, Section 10, NE¼NE¼—40 acres
T5S, R9W, Section 9, SW¼SE¼—40 acres
T11S, R6W, Section 35, NW¼NE¼—40 acres
T13S, R2W, Section 2, SE¼SE¼—40 acres
T14S, R5W, Section 29, Lot 6—43 acres
T14S, R8W, Section 1, Lots 1, 2—81 acres

Deer Lodge County

T1N, R14W,
Section 10, Lot 3—44 acres;
Section 20, NW¼NW¼, S½NW¼, N½SW¼, SW¼SW¼—280 acres;
Section 30, N½NE¼, SW¼NE¼, E½NW¼, NE¼SW¼, NW¼SE¼—280 acres.

In exchange for these lands, the Federal Government will acquire an equal value of private land in Lewis and Clark County from Nick and Mary Wirth. The land to be acquired will be selected from the following:

Principal Meridian Montana

T14N, R4W, Section 27: All—640 acres.
Section 28, That portion south and east of I-15 excepting certain tracts and roadways—519.08 acres;
Section 29, Small parcel in the E½E½SE¼—6.69 acres;
Section 31, All—660.64 acres;
Section 32, N½, SW¼, excepting highway—478.04 acres;
Section 33, All excepting highway, railroad, and small tract—550.65 acres;
Section 35, All—640 acres.

Totaling 3495.10 acres.

DATES: For a period of 45 days from the date of this notice, interested parties may submit comments to the address shown below. Any adverse comments will be evaluated by the BLM, Montana State Director, who may vacate or modify this realty action and issue a final determination. In the absence of any action by the State Director, this realty action will become the final determination of the Department of Interior.

FOR FURTHER INFORMATION CONTACT: Information related to the exchange,

including the environmental assessment and land report, is available for review at the Butte District Office, P.O. Box 3388, Butte, Montana 59702.

SUPPLEMENTARY INFORMATION: The purpose of the exchange is to acquire additional public land in the Sleeping Giant Area near Holter Lake. These lands have high recreational and wildlife values and will provide the first legal public access by land to the Sleeping Giant Area.

The exchange will be completed in two or three steps. In this, the first step, various isolated tracts identified for disposal in the Dillon Resource Area by the Dillon Programmatic Environmental Assessment for Public Land Adjustment will be exchanged. The tract in Powell County was previously offered for sale in the Garnet Resource Area.

The publication of this notice segregates the public lands described above from settlement, sale, location and entry under the public land laws, including the mining laws, but not from exchange pursuant to Section 206 of the Federal Land Policy and Management Act of 1976.

The exchange will be made subject to:

1. A reservation to the United States of a right-of-way for ditches or canals in accordance with 43 U.S.C. 945.
2. The reservation to the United States of any identified mineral values on the Federal lands being transferred.
3. All valid existing rights (e.g., rights-of-way, easements and leases of record).
4. Value equalization by cash payments or acreage adjustments.
5. The exchange must meet the requirements of 43 CFR 4110.4–2(b).

This exchange is consistent with Bureau of Land Management policies and planning and has been discussed with State and local officials. The public interest will be served by completion of this exchange.

Jack A. McIntosh,

District Manager.

[FR Doc. 84–3532 Filed 2–8–84; 8:45 am]

BILLING CODE 4310-ON-M

[I–20204]

Realty Action; Exchange of Public Land for Private Land All Within Blaine County, Idaho

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The purpose of the exchange is to acquire the non-Federal grazing land to improve the manageability of the public lands for livestock and wildlife habitat. The exchange is consistent with the Bureau's planning for the lands involved and has been discussed with Blaine County Commissioners and Idaho Department of Fish & Game. The public interest will be well served by making the exchange.

DATE: Comments should be submitted to the Shoshone District Office, Bureau of Land Management, P.O. Box 2B, Shoshone, Idaho 83352, by March 21, 1984.

The following described public lands have been determined to be suitable for disposal by exchange under Section 206 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1716:

T. 1 S., R. 20 E., Boise Meridian, Blaine County, Idaho,
Sec. 23: SW¼SW¼, W½W½SE¼SW¼;
Sec. 26: W½W½NE¼NW¼, W½NW¼SE¼NW¼.

Containing 65 acres.

In exchange for these lands, the Federal Government will acquire a parcel of non-Federal land from David Manookian, described as follows:

T. 1 S., R. 20 E., Boise Meridian, Blaine County, Idaho,
Sec. 25: Lot 2, NW¼SW¼.

Containing 81.55 acres.

The value of the lands to be exchanged is approximately equal, and the acreage will be adjusted or money will be used to equalize the values upon completion of the final appraisal of the lands.

There are no mineral reservations, including geothermal, on either the private or public land.

The patent when issued will contain the following reservations and conditions to the United States:

1. A right-of-way for ditches or canals constructed by the authority of the United States, Act of August 30, 1890, 26 Stat. 391, 43 U.S.C. 945;
2. Those rights for powerline transmission purposes as have been granted to Idaho Power Company under serial number I–20207;
3. The exchange proponent agrees that he takes the real estate subject to the existing grazing use of James West, holder of grazing record No. 5307. The rights of James West to graze domestic livestock on the real estate according to the conditions and terms of grazing record No. 5307 shall cease on December 28, 1985. The exchange proponent is entitled to receive annual grazing fees from James West in an amount not to exceed that which would be authorized under the Federal grazing fee published annually in the **Federal Register**.

The publication of this notice in the **Federal Register** will segregate the public lands described above to the extent that they will not be subject to appropriation under the public land laws, including the mining laws. As provided by the regulations of 43 CFR 2201.1(b), any subsequently tendered application, allowance of which is discretionary, shall not be accepted, shall not be considered as filed, and shall be returned to the applicant.

ADDRESS: Detailed information concerning the exchange, including the environmental analysis and the record of public discussions, is available for review at the Shoshone District Office, 400 West F Street, Shoshone, Idaho, or by calling Ervin Cowley at (208) 886–2206.

SUPPLEMENTARY INFORMATION: For a period of 45 days from the date of this notice, interested parties may submit comments to the Shoshone District Manager regarding the proposed action. Any adverse comments will be evaluated by the District Manager, who may vacate or modify this realty action and issue a final determination. In the absence of any action by the District Manager, this realty action will become the final determination of the Department of Interior.

Dated: February 3, 1984.

Charles Haszier,

District Manager.

[FR Doc. 84–3533 Filed 2–8–84; 8:45 am]

BILLING CODE 4310-GG-M

Carson City District Advisory Council; Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Meeting of the Carson City District Advisory Council.

DATE: March 10, 1984; 1:30 p.m.

ADDRESS: Dixie Valley Schoolhouse, Settlement Road, Dixie Valley, Churchill County, Nevada.

SUPPLEMENTARY INFORMATION: The agenda will include a hearing of the concerns of Dixie Valley residents. The public is invited, and anyone may appear before the Council at 2:00 p.m.

FOR FURTHER INFORMATION CONTACT: Steve Weiss, Public Affairs Officer, BLM, 1050 E. William St., Suite 335, Carson City, NV 89701 (702) 882–1631.

Dated: February 1, 1984.

Thomas J. Owen,

District Manager.

[FR Doc. 84–3523 Filed 2–8–84; 8:45 am]

BILLING CODE 4310-HC

Amendment To Review of Tar Sand Program; Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Amendment to the Federal Register Notice; Informal Meeting to Review Tar Sand Program.

SUMMARY: As part of the ongoing Federal Tar Sand Program, there will be an informal meeting to review possible changes in the tar sand program. Among topics that will be considered are paying quantities and production levels as they apply to Federal combined hydrocarbon leases. This is to inform all interested parties that a draft paper on Proposed Changes to the Tar Sand Program is available. Copies may be obtained from the Bureau of Land Management, Division of Solid Mineral Leasing, Branch of Leasable Minerals, Room 3610, Main Interior Building, 18th and C Streets, N.W., Washington, D.C. 20240 during regular business hours (7:45 a.m. to 4:15 p.m.), Monday through Friday.

DATE: The meeting will be held at 7:00 p.m. on February 23, 1984.

ADDRESS: Room 127, Salt Palace, Salt Lake City, Utah.

FOR FURTHER INFORMATION CONTACT: Edward E. Coggs (202) 343–3258 or Richard J. Aiken (202) 343–3258.

Dated: February 6, 1984.

James M. Parker,

Acting Director.

[FR Doc. 84–3545 Filed 2–8–84; 8:45 am]

BILLING CODE 4310–84–M

California Desert Advisory Grazing Board; Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Meeting of the California Desert District Grazing Advisory Board.

SUMMARY: Notice is hereby given in accordance with Pub. L. 94–579, Title IV, Section 403, that a public meeting of the California Desert Grazing Advisory Board will be held Wednesday, March 7, 1984, from 10 a.m. to 4:30 p.m. at the Coachella Valley Water District's Jenning's Auditorium, 52nd Avenue and Highway 111, Coachella, California 92236.

The agenda for the meeting will include:

—Election results for the 84–85 CDD Grazing Advisory Board.
—The Selection of a Grazing Advisory Board Chairman.
—1983 Plan Amendment Review.
—Cooperative Management Agreement Nomination Review.
—Grazing Program Status Review.
—Wild Horse and Burro Program Review.
—Monitoring Program.

The meeting is open to the public, with time allotted for public comment after each subject has been presented.

Summary minutes of the meeting will be maintained in the California Desert District and will be available for public inspection during regular business hours within 30 days following the meeting.

FOR FURTHER INFORMATION CONTACT: California Desert District, 1695 Spruce Street, Riverside, California 92507, (714) 351–6402.

Dated: January 26, 1984.

Gerald E. Hillier,

District Manager, California Desert District.

[FR Doc. 84–3531 Filed 2–8–84; 8:45 am]

BILLING CODE 4310–40–M

Spokane District Advisory Council; Meeting

Notice is hereby given in accordance with Pub. L. 94–579, and 43 CFR Part 1780 that a meeting of the Spokane District Advisory Council will be held on Thursday, March 8, 1984. The meeting will begin at 9:30 a.m., in the Conference Room of the BLM Spokane District Office, East 4217 Main Avenue, Spokane, Washington.

The agenda for the meeting is as follows:

1. Discussion of the Spokane District Annual Work Plan.
2. Discussion of the Spokane District Resource Management Plan/ Environmental Impact Statement.
3. Discussion of the Plan to establish a detached Resource Area Office in Wenatchee, Washington.
4. General discussion of unfinished business and introduction of any new items to be presented to the Council.
5. Public comments and statements.

Any responsible person wishing to make an oral statement should notify the District Manager, Bureau of Land Management, Spokane District Office, E. 4217 Main Avenue, Spokane, Washington 99202, or telephone (509) 456–2570 by the close of business, 4:30 p.m., Friday, March 2, 1984. Depending on the number of persons wishing to make oral statements, a per person time limit may be established by the District Manager.

A written report of the Council meeting will be maintained at the BLM Spokane District Office, and will be made available for public inspection. Reproduction of the meeting report will be made availabed to the public at the cost of duplication.

The meeting is open to the public and news media.

Albert L. Martin,

Acting District Manager.

[FR Doc. 84–3534 Filed 2–8–84; 8:45 am]

BILLING CODE 4310–84–M

Availability of Planning Criteria; Eagle Lake Resource Area

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of availability.

SUMMARY: Notice is hereby given that the criteria to be used in the planning amendment for the Eagle Lake Resource Area's Beckwourth Planning Unit is available for public review and comment.

DATES: Comments are being accepted from the public until March 12, 1984.

FOR FURTHER INFORMATION CONTACT: Mark T. Morse, Area Manager, Eagle Lake Resource Area, 2545 Riverside Drive, Susanville, California 96130, Telephone (916) 257–5381.

SUPPLEMENTARY INFORMATION: This planning amendment addresses land tenure adjustment. The NOI was published Tuesday, April 13, 1982 in the **Federal Register.**

Ben F. Collins,

Associate District Manager.

[FR Doc. 84–3539 Filed 2–8–84; 8:45 am]

BILLING CODE 4310–40–M

Surface Owner Consultation for Federal Coal Planning in the Buffalo Resource Area, Buffalo, Wyoming

AGENCY: Bureau of Land Management, Interior.

ACTION: Surface Owner Consultation on Federal Coal Land in Sheridan and Johnson Counties, Wyoming.

SUMMARY: The Buffalo Resource Area is initiating surface owner consultation on federal coal land in Sheridan and Johnson counties during land use plannng for the Buffalo Resource Management Plan (RMP). The RMP will be a comprehensive land use plan that will define management of the public land and resources in the Buffalo Resource Area for the next 10 or more years.

Qualified surface owners are requested to express their preference for or against surface coal mining on their private surface that may overlie federal coal in the following townships and ranges.

T58N, Ranges 76, 77, 78, 79, 83, 84, 85 and 86 West

T57N, Ranges 76, 77, 78, 82, 83, 84, 85 and 86 West
T56N, Ranges 76, 77, 79, 80, 81 and 82 West
T55N, Ranges 76, 77, 78, 79, 80, 81 and 82 West
T54N, Ranges 76, 77, 80, 81 and 82 West
T53N, Ranges 76, 77, 79, 80, 81, 82 and 83 West
T52N, Ranges 77, 79, 80, 81, 82 and 83 West
T51N, Ranges 77, 78, 79, 80, 81 and 82 West
T50N, Ranges 77, 78, 79, 80 and 81 West
T49N, Ranges 79 and 80 West
T48N, Ranges 79, 80 and 81 West
T47N, Ranges 80 and 81 West
T44N, Ranges 77, 78, 80 and 81 West
T43N, Ranges 78, 79, 80 and 81 West
T42N, Ranges 77 and 78 West

A qualified surface owner is defined as:

The natural person or persons (or corporation, the majority stock of which is held by a person or persons) who:

(1) Hold legal or equitable title to the surface of split estate lands;

(2) Have their principal place of residence on the land, or personally conduct farming or ranching operations upon a farm or ranch unit to be affected by surface mining operations; or receive directly a significant portion of their income, if any, from such farming and ranching operations; and

(3) Have met the conditions of paragraphs (1) and (2) for a period of at least 3 years.

At this time, no effort will be made by the BLM to determine the qualifications of surface owners. We do wish to consult with surface owners in general within the areas described above. Prior to completing the final RMP and Environmental Impact Statement, BLM will begin consultation with individual surface owners via certified letter in priority coal areas where development interest may result in considering federal coal leasing at some future time.

ADDRESS: Surface owners should send their comments to or contact by telephone: Mr. Glenn Bessinger, Area Manager, Buffalo Resource Area, P.O. Box 670, Buffalo, Wyoming 82834, Telephone No. (307) 684–5586.

Comments will be accepted from surface owners until March 19, 1984. The results of consulting with surface owners will be published in the Resource Management Plan and Environmental Impact Statement. In the event that surface owner consultation cannot be completed before the RMP is finalized, it will be completed before any proposed future coal lease tracts are identified. In addition, BLM will again consult with individual surface owners in specific areas, if and when, future coal tracts are to be identified for leasing consideration.

Dated: February 3, 1984.

James W. Monroe,

District Manager.

[FR Doc. 84–3537 Filed 2–8–84; 8:45 am]

BILLING CODE 4310–22–M

Colorado; Filing of Plats of Survey

February 2, 1984.

The plats of survey of the following described lands were officially filed in the Colorado State Office, Bureau of Land Management, Denver, Colorado, effective 10:00 a.m., February 2, 1984.

The plat representing the dependent resurvey of a portion of the subdivisional lines, T. 14, S., R. 66 W., Sixth Principal Meridian, Colorado, Group No. 609, was accepted January 10, 1984.

The plat representing the dependent resurvey of a portion of the west and north boundaries and subdivisional lines, T. 15 S., R. 66 W., Sixth Principal Meridian, Colorado, Group No. 609, was accepted January 10, 1984.

The supplemental plat, showing a subdivision of original lot 19, section 20, T. 10 N., R. 85 W., Sixth Principal Meridian, Colorado, was accepted January 3, 1984.

These surveys were executed and the supplemental plat prepared to meet certain administrative needs of this Bureau.

The plat representing the dependent resurvey of the west boundary, a portion of the south and north boundaries and subdivisional lines, and the survey of the subdivision of certain sections, T. 2 N., R. 83 W., Sixth Principal Meridian, Colorado, Group No. 650, was accepted January 13, 1984.

The plat representing the corrective dependent resurvey of a portion of the north boundary, T. 9 S., R. 95 W.; the dependent resurvey of a portion of the east boundary, subdivisional lines, and Tracts 48 and 49, T. 8 S., R. 95 W., Sixth Principal Meridian, Colorado, Group No. 722, was accepted January 10, 1984.

These surveys were executed to meet certain administrative needs of the U.S. Forest Service.

The plat representing the dependent resurvey of a portion of the subdivisional lines, and the survey of the subdivision of sections 21 and 28, T. 38 N., R. 15 W., New Mexico Principal Meridian, Colorado, Group No. 717, was accepted January 10, 1984.

The plat representing the dependent resurvey of the west boundary and a portion of the subdivisional lines; the survey of the subdivision of certain sections, and a metes-and-bounds survey in section 7, T. 39 N., R. 17 W., New Mexico Principal Meridian, Colorado, Group No. 717, was accepted January 10, 1984.

The plat representing the dependent resurvey of the east boundary, T. 40 N., R. 18 W., and the dependent resurvey of a portion of the south and west boundaries, and a portion of the subdivisional lines, and the survey of the subdivision of section 31, T. 40 N., R. 17 W., New Mexico Principal Meridian, Colorado, Group No. 717, was accepted January 10, 1984.

The plat representing the dependent resurvey of a portion of the south and west boundaries, the north boundary, and a portion of the subdivisional lines; the survey of the subdivision of certain sections and a metes-and-bounds survey in sections 6 and 18, T. 38 N., R. 18 W., New Mexico Principal Meridian, Colorado, Group No. 717, was accepted January 10, 1984.

These surveys were executed to meet certain administrative needs of the Bureau of Reclamation.

All inquiries about these lands should be sent to the Colorado State Office, Bureau of Land Management, 1037—20th Street, Denver, Colorado 80202.

Jack A. Eaves,

Acting Chief Cadastral Surveyor for Colorado.

[FR Doc. 84–3530 Filed 2–8–84; 8:45 am]

BILLING CODE 4310–84–M

Montana; Filing of Plat of Survey

AGENCY: Bureau of Land Management, Montana State Office, Interior.

ACTION: Notice of filing of plat of survey.

SUMMARY: Plats of survey of the lands described below accepted January 10, 1984, will be officially filed in the Montana State Office effective 8 a.m. on March 27, 1984.

Principal Meridian, Montana

Unsurveyed T. 5 S., R. 12 E.

The plat represents the dependent resurvey of a portion of Homestead Entry Survey No. 950 and the Metes and Bounds Survey of Tract 37 in Unsurveyed Township 5 South, Range 12, East, Principal Meridian, Montana. The area described is in Sweet Grass County.

This survey was executed at the request of the U.S. Forest Service, Region 1, to facilitate a proposed land exchange.

EFFECTIVE DATE: March 27, 1984.

FOR FURTHER INFORMATION CONTACT: Bureau of Land Management, 222 North 32nd Street, P.O. Box 36800, Billings, Montana 59107.

DATED: January 27, 1984.

Linda M. Wagner,

Chief, Branch of Records.

[FR Doc. 84-3529 Filed 2-8-84; 8:45 am]

BILLING CODE 4310-DN-M

Riley Ridge Natural Gas Project; Sublette, Lincoln, and Sweetwater Counties, Rock Springs District, Wyoming; Availability of the Record of Decision

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of availability of the Riley Natural Gas Project Record of Decision.

SUMMARY: Pursuant to Section 102(2)(c) of the National Environmental Policy Act of 1969, notice is hereby given that the Bureau of Land Management, U.S. Department of the Interior, has prepared a Record of Decision for the Riley Ridge Natural Gas Project located in Sublette, Lincoln, and Sweetwater Counties, Wyoming, and has made copies available for public review and comment.

Based upon the analysis of environmental consequences described in the Riley Ridge Natural Gas Project Environmental Impact Statement and in consideration of all public, State, and Federal agency, and industry scoping, hearing, and written comments received, the BLM and FS have jointly decided to approve a modification of the Shute Creek Alternative. The Shute Creek Alternative is modified to the extend that the East Dry Basin plant site is preferred to the Buckhorn plant site. Therefore, plant sites would be located at Carven Creek, Shute Creek, and East Dry Basin. Other alternatives considered were the Buckhorn, Northern, and No Action alternatives, as well as the proposed action.

The project is proposed by Northwest Pipeline Corporation and Mobil Oil Corporation; Exxon Company, U.S.A.; and American Quasar Petroleum Company and Williams Exploration Company

The project will involve the construction, operation, maintenance, and abandonment of deep gas well field in western Wyoming. It also includes gathering lines for the transportation of sour gas within the well field, trunk lines for shipment of sour gas from the well field gathering system to the treatment plants, the treatment plants, sales gas pipelines for delivery of sales gas to existing gas transmission pipelines, and facilities for the handling and transportation of by-products (sulfur and carbon dioxide) to markets.

As a result of any applicant delays in their project plans, the cumulative impacts associated with this project would be reevaluated prior to granting any of the requested Federal actions to determine if they are still within the parameters considered in the EIS.

DATES: The Record of Decision will be available on or about February 20, 1984.

FOR FURTHER INFORMATION OR COPIES CONTACT: Bill McMahon, Riley Ridge Project Coordinator, Bureau of Land Management, P.O. Box 1869, Rock Springs, Wyoming 82902, Telephone 307-382-5350.

Hillary A. Oden,

State Director.

[FR Doc. 84-3536 Filed 2-8-84; 8:45 am]

BILLING CODE 4310-22-M

[ORE-017845]

Oregon; Proposed Continuation of Withdrawal

AGENCY: Bureau of Land Management.

ACTION: Notice.

SUMMARY: The Bureau of Reclamation proposes that a 10-acre land withdrawal for the Vale Project continue for an additional 100 years. The land would remain closed to surface entry and mining but has been and would remain open to mineral leasing.

ADDRESS: Comments should be sent to: Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, P.O. Box 2965, Portland, Oregon 97208.

FOR FURTHER INFORMATION CONTACT: Champ C. Vaughan, Jr. Oregon State Office, 503-231-6905.

The Bureau of Reclamation proposes that the existing land withdrawal made by Public Land Order No. 4059 of July 18, 1966, be continued for a period of 100 years pursuant to Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751, 43 U.S.C. 1714.

The land involved is located approximately 40 miles east of Burns and contains 10 acres within Section 18, T. 23 S., R. 37 E., W.M., Malheur County, Oregon.

The purpose of the withdrawal is to protect an administrative site at the Warm Springs Dam and Reservoir which is part of the Vale Reclamation Project. The withdrawal segregates the land from operation of the public land laws generally, including the mining laws, but not the mineral leasing laws. No change is proposed in the purpose or segregative effect of the withdrawal.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal continuation may present their views in writing to the undersigned officer at the address specified above.

The authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the land and its resources. A report will also be prepared for consideration by the Secretary of the Interior, the President and Congress, who will determine whether or not the withdrawal will be continued and if so, for how long. The final determination on the continuation of the withdrawal will be published in the **Federal Register**. The existing withdrawal will continue until such final determination is made.

Dated: January 31, 1984.

Harold A. Berends,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 84-3538 Filed 2-8-84; 8:45 am]

BILLING CODE 4310-33-M

Fish and Wildlife Service

Information Collection Submitted to OMB for Review

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget (OMB) for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed information collection requirement and related forms and explanatory material may be obtained by contacting the Service's clearance officer at the phone number listed below. Comments and suggestions on the requirement should be made directly to the Service clearance officer and the OMB Interior Desk Officer, Washington, D.C. 20503, telephone 202-395-7313.

Title: North American Woodcock Singing-ground Survey.

Abstract: Such survey is conducted annually by the Service in cooperation with State and Canadian conservation agencies to assess the population status of the woodcock. The resulting assessment guides the Service in its promulgation of regulations for hunting the species. The information is also used by the conservation agencies, university associates, and others for various research and management programs designed to conserve the woodcock resource.

Bureau Form Number: 3-156.

Frequency: Annually.

Description of Respondents: Federal, State and Canadian conservation agencies; individuals and households.

Annual Responses: 1,000.

Annual Burden Hours: 580.

Service Clearance Officer: Arthur J. Ferguson, 202–653–7499.

Dated: January 27, 1984.

Ronald E. Lambertson,

Associate Director—Wildlife Resources.

[FR Doc. 84–3571 Filed 2–8–84; 8:45 am]

BILLING CODE 4310–55–M

Minerals Management Service

Outer Continental Shelf Development Operations Coordination Document; Texaco Inc.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the Receipt of a Proposed Development Operations Coordination Document (DOCD).

SUMMARY: Notice is hereby given that Texaco Inc. has submitted a DOCD describing the activities it proposes to conduct on Lease OCS 0310, Block 236, South Marsh Island Area, offshore Louisiana. Proposed plans for the above area provide for the development and production of hydrocarbons with support activities to be conducted from an onshore base located at Morgan City, Louisiana.

DATE: The subject DOCD was deemed submitted on January 24, 1984.

ADDRESSES: A copy of the subject DOCD is available for public review at the Office of the Regional Manager, Gulf of Mexico Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana (Office Hours: 9 a.m. to 3:30 p.m., Monday through Friday).

FOR FURTHER INFORMATION CONTACT: Mr. David J. Patz, Minerals Management Service, Gulf of Mexico Region; Rules and Production; Plans, Platform and Pipeline Section, Exploration/Development Plans Unit; Phone (504) 838–0876.

SUPPLEMENTARY INFORMATION: The purpose of this Notice is to inform the public, pursuant to Sec. 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the DOCD and that it is available for public review.

Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in DOCDs available to affected states, executives of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in revised § 250.34 of Title 30 of the CFR.

Dated: January 27, 1984.

John L. Rankin,

Regional Manager, Gulf of Mexico Region.

[FR Doc. 84–3572 Filed 2–8–84; 8:45 am]

BILLING CODE 4310–MR–M

Outer Continental Shelf; Plan of Development/Production; Pennzoil Exploration and Production Co.

AGENCY: Mineral Management Service, Interior.

ACTION: Notice of the Receipt of a Proposed Plan of Development/Production (POD/P).

SUMMARY: Notice is hereby given that Pennzoil Exploration and Production Company has submitted a POD/P describing the activities it proposes to conduct on Lease OCS–G 5040, Block 316, Eugene Island Area, offshore Louisiana. Proposed plans for the above area provide for the development and production of hydrocarbons with support activities to be conducted from an onshore base located at Intracoastal City, Louisiana.

DATE: The subject POD/P was deemed submitted on January 4, 1984. Comments must be received within 15 days of the date of this Notice or 15 days after the Coastal Management Section receives a copy of the plan from the Minerals Management Service.

ADDRESSES: A copy of the subject POD/P is available for public review at the Office of the Regional Manager, Gulf of Mexico Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metaire, Louisiana (Office Hours: 9a.m. to 3:30 p.m., Monday through Friday). A copy of the POD/P and the accompanying Consistency Certification are also available for public review at the Coastal Management Section Office located on the 10th Floor of the State Lands and Natural Resources Building, 625 North 4th Street, Baton Rouge, Louisiana (Office Hours: 8 a.m. to 4:30 p.m., Monday through Friday). The public may submit comments to the Coastal Management Section, *Attention OCS Plans,* Post Office Box 44396, Baton Rouge, Louisiana 70805.

FOR FURTHER INFORMATION CONTACT: Mr. Hossein Hekmatdoost, Minerals Management Service, Gulf of Mexico Region; Rule and Production; Plans, Platform and Pipeline Section, Exploration/Development Plans Unit; Phone (504) 838–0873.

SUPPLEMENTARY INFORMATION: The purpose of this Notice is to inform the public, pursuant to Sec. 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the POD/P and that it is available for public review. Additionally, this Notice is to inform the public, pursuant to § 930.61 of Title 15 of the CFR, that the Coastal Management Section/Louisiana Department of Natural Resources in reviewing the POD/P for consistency with the Louisiana Coastal Resources Program.

Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in POD/Ps available to affected states, executives of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in revised § 250.34 of Title 30 of the CFR.

Dated: January 31, 1984.

John L. Rankin,

Regional Manager, Gulf of Mexico Region.

[FR Doc. 84–3574 Filed 2–8–84; 8:45 am]

BILLING CODE 4310–MR–M

Office of Surface Mining Reclamation and Enforcement

Availability of Draft Environmental Impact Statement and Public, Hearing on the Proposed Montco Mine, Rosebud County, Montana

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Notice of availability of draft environmental impact statement and public hearing.

SUMMARY: The Office of Surface Mining (OSM) is making available for public review and comment a draft environmental impact statement (EIS) on the proposed Montco mine. This EIS has been prepared to assist the Department, in accordance with the Montana State-Federal cooperative agreement, in making a decision on whether to concur with the Montana Department of State Lands decision on the permit application by Montco for surface mining near the Tongue River in Rosebud County, Montana. A public hearing will be held to obtain comments on this draft EIS. All interesed parties are invited to attend this hearing to give their comments.

DATES: *Comment period:* The comment period for the draft EIS will extend until 5:00 p.m. (eastern time) on April 9, 1984.

Public hearing: A public hearing on the draft EIS will be held on March 20, 1984, at 7:00 p.m.

ADDRESSES: *Written comments:* Hand deliver or mail to the Office of Surface Mining, U.S. Department of the Interior, Division of Environmental and Economic Analysis, Room 134, Interior South Building, 1951 Constitution Avenue, NW., Washington, DC 20240.

Public hearing: Ashland Elementary School, Ashland, Montana.

Availability of copies: Copies of the draft EIS are available at the following OSM offices:

Office of Surface Mining, U.S. Department of the Interior, Room 134, Interior South Building, 1951 Constitution Avenue, NW., Washington, DC 20240 (telephone: 202–343–5854)

Office of Surface Mining, U.S. Department of the Interior, Western Technical Center, Administrator's Office, Brooks Towers, 1020 15th Street, Denver, Colorado 80202 (telephone: 303–837–5421)

FOR FURTHER INFORMATION CONTACT: Anna May Orellana, Office of Surface Mining, Room 134, Interior South Building, 1951 Constitution Avenue, NW., Washington, DC 20240 (telephone: 202–343–5854).

SUPPLEMENTARY INFORMATION: *Written comments:* Written comments should be as specific as possible. OSM appreciates all comments, but those most useful and likely to influence decisions in the preparation of the final EIS are those which provide facts and analyses to support any recommendations or conclusions. OSM cannot assure that written comments received after the time indicated under "dates" or at locations other than that in Washington, D.C., indicated under "addresses" will be considered or included in the preparation of the final EIS.

Public hearings: Filing of a written statement by commenters at the time of the hearing is requested and will greatly assist the transcribers. Submission of written statements in advance of the hearing will allow OSM officials to prepare appropriate questions. The public hearing will continue on the specified date until all persons who are present in the audience and wish to comment have been heard.

Background: This EIS analyzes the impact on the human environment that would result from concurrence by OSM with the decision of the Montana Department of State Lands (DSL) on the permit application of Montco for the proposed Montco mine in Rosebud County, Montana. OSM concurrence with the DSL decision is required by Article V.B.8. of the Montana State—Federal cooperative agreement (46 FR 20993, April 8, 1981). The analysis in this EIS was prepared by OSM with input from DSL. Concurrent with this EIS, DSL is preparing a corresponding EIS under the Montana Environmental Policy Act. OSM and DSL are cooperating to the fullest extent possible in the preparation of these separate EIS's.

Applicant's proposal: Montco proposes to open a surface coal mine in the Tongue River valley near Ashland, Montana. The initial permit application proposes to mine at a maximum rate of 6 million tons per year from about 500 acres in the proposed permit area. About 5,000 acres would be mined over the 24-year life of the mine. Annual production would reach 12 million tons by the year 2000 and would employ about 560 workers. The coal would be shipped via a new rail line that would connect with the Burlington Northern mainline along the Yellowstone River.

Alternatives: This EIS evaluates four alternatives that cover the range of decisions available to OSM regarding the DSL decision on the Montco permit application.

Alternative A (the no-action alternative) is not reasonable because part of the proposed facilities for the Montco mine would lie on Federal lands, and therefore a decision by OSM is required by the Montana State-Federal cooperative agreement.

Alternative B is OSM's preferred alternative in which OSM could concur with any of the five alternatives proposed by DSL in its draft EIS on the Montco mine as published in May 1982. These DSL alternatives are (1) approve the permit as proposed, (2) no action, (3) deny the permit, (4) selective denial of the permit, or (5) approve the permit with stipulations (conditions) or mitigating measures.

Alternative C is concurrence with the DSL decision with additional conditions proposed by OSM.

Alternative D would be to withhold concurrence.

Dated: February 3, 1984.

Brent Wahlquist,

Acting Assistant Director, Technical Services and Research.

[FR Doc. 84–3488 Filed 2–8–84; 8:45 am]

BILLING CODE 4310–05–M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

Public Information Collection Requirements Submitted to OMB for Review

The Agency for International Development submitted the following public information collection requirements to OMB for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96–511. Comments regarding these information collections should be addressed to the OMB reviewer listed at the end of the entry no later than (ten days after publication). Comments may also be addressed to, and copies of the submissions obtained from the Reports Management Officer, Ms. Melita E. Yearwood, (202) 632–3378, IRM/MMP, Room 708B, SA–12, Washington, D.C. 20523.

Date Submitted: February 2, 1984.

Submitting Agency: Agency for International Development.

OMB Number: None.

Form Number: NA.

Type of Submission: New.

Title: Information Collection Elements in the AID Acquisition Regulations (AIDAR).

Purpose: The AID Acquisition Regulations supplement the Federal Acquisition Regulations as a framework for AID contracts. It is used for determining responsibility of potential contractors and for appropriate action in the administration, monitoring, closeout, and other needs for the accomplishments of the AID mission.

Dated Submitted: February 2, 1984.

Submitting Agency: Agency for International Development.

OMB Number: None.

Form Number: NA.

Type of Submission: New.

Title: Grants and Cooperative Agreements Information Collection Requirements Contained in AID's Handbook 13.

Purpose: This collection is based upon a need for prudent management in the determination that a recipient either has the ability or is able to obtain it to competently manage or carry out development assistance programs utilizing public funds.

Reviewer: Francine Picoult (202) 395–7231, Office of Management and Budget,

Room 3201, New Executive Office Building, Washington, D.C. 20503.

Dated: February 2, 1984.

Richard F. Calhoun,

Chief, Mandated Management Programs.

[FR Doc. 84-3520 Filed 2-8-84; 8:45 am]

BILLING CODE 8116-01-M

INTERSTATE COMMERCE COMMISSION

[Finance Docket No. 30385]

Consolidated Rail Corp.; Trackage Rights Exemption Over Chesapeake and Ohio Railway Co.; Exemption

January 30, 1984.

Consolidated Rail Corporation (Conrail) has filed a notice of exemption under 49 CFR 1180.4(g) to permit relocation of a line of railroad. The relocation will be accomplished by Conrail: (1) Acquiring trackage rights over a line of the Chesapeake and Ohio Railway Company (Chessie) in the city of Grand Rapids, MI, and (2) abandoning its own line connecting the same points as the Chessie line. This abandonment will be the subject of a separate proceedings. The trackage rights agreement grants Conrail the right to operate its freight trains, cars, and engines, in either direction over the following Chessie lines in Grand Rapids: (1) Beginning at the C&O crossover in Grand Rapids, between Point of Switch at Valuation Station 8021+90 and the Point of Switch at Valuation Station 8019+38, near Grandville Avenue, a distance of 202 feet, and (2) between the Point of Switch at Valuation Station 8040+44 and Valuation Station 8072+33, near Butterworth and Fulton Streets, a distance of 3,199 feet.

This joint project is a relocation of a line of railroad in cooperation with an effect by Grand Rapids to revitalize its central business district. It does not disrupt service to shippers and is an exempt transaction pursuant to 49 CFR 1180.2(d)(5).

As a condition to use of this exemption, any employees affected by the trackage rights agreement shall be protected pursuant to *Norfolk and Western Ry. Co.—Trackage Rights—BN*, 354 I.C.C. 605 (1978), as modified by *Medocino Coast Ry., Inc.—Lease and Operate*, 360 I.C.C. 653 (1980).

By the Commission, Richard Lewis, Acting Director, Office of Proceedings.

James H. Bayne,

Acting Secretary.

[FR Doc. 84-3511 Filed 2-8-84; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

National Institute of Justice

Advisory Board; Meeting

Notice is hereby given that the National Institute of Justice Advisory Board will hold meetings on March 1–2, 1984 from 9:00 a.m. to 5:00 p.m. at the Henley Park Hotel, 929 Massachusetts Avenue NW., Washington, D.C.

The major items of business will include a briefing on FY '84 funding activities, FY '84 program priorities, and FY '84 Advisory Board activities.

The meeting is open to the public. For further information, please contact Betty M. Chemers, National Institute of Justice, U.S. Department of Justice, Washington, D.C. 20531 (202/724–2953).

Dated: February 1, 1984.

James K. Stewart,

Director, National Institute of Justice.

[FR Doc. 84-3525 Filed 2-8-84; 8:45 am]

BILLING CODE 4410-18-M

MERIT SYSTEMS PROTECTION BOARD

Extension of Deadline for Riders to Printing Requisition for "Political Activity and the Federal Employee" and "Political Activity and the State and Local Employee"; Ordering Procedure

AGENCY: Office of the Special Counsel; Merit Systems Protection Board.

ACTION: Notice of extension of deadline for ordering "Political Activity and the Federal Employee" and "Political Activity and the State and Local Employees"; ordering procedures.

SUMMARY: The purpose of this notice is to inform Federal agencies and State and local government offices that the deadline for ordering the Office of the Special Counsel publications entitled "Political Activity and the Federal Employee" and "Political Activity and the State and Local Employees" has been extended from January 30, 1984, to February 27, 1984. Federal agencies may order the publication "Political Activity and the Federal Employee" by riding the Merit Systems Protection Board printing requisition 4–00066. State and local government offices may order the publication "Political Activity and the State and Local Employees" by riding the Merit Systems Protection Board printing requisition 4–00067.

Agencies should submit their requirements to their headquarters printing procurement office. Printing procurement offices should submit consolidated requirements on Standard Form 1 to the Government Printing Office, Requisitions Section, Room 836, Washington, DC 20401, no later than February 27, 1984. Agencies may estimate cost by using the current Government Printing Office price list of printing services.

FOR FURTHER INFORMATION CONTACT: H. Alma Hepner, Director of Congressional and Public Relations, Office of the Special Counsel, Merit Systems Protection Board, Suite 1137, 1120 Vermont Avenue, NW, Washington, DC 20419, (202) 653–7984.

For the Special Counsel.

H. Alma Hepner,

Director of Congressional & Public Relations.

[FR Doc. 84-3482 Filed 2-8-84; 8:45 am]

BILLING CODE 7400-02-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 84-13]

NASA Advisory Council, Space Systems and Technology Advisory Committee; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council, Space Systems and Technology Advisory Committee, Ad Hoc Informal Subcommittee on Space Research and Technology for Future Planetary Missions.

DATE AND TIME: February 29–March 1, 1984, 8 a.m. to 5 p.m. each day.

ADDRESS: National Aeronautics and Space Administration, 600 Independence Avenue, SW., Building 10B, Room 625, Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Mrs. Lana M. Couch, National Aeronautics and Space Administration, Code RSC, Washington, DC 20546 (202/453–2864).

SUPPLEMENTARY INFORMATION: The Ad Hoc Subcommittee was established to review the adequacy of the current NASA Space research and technology programs supporting future planetary missions. The Subcommittee, chaired by Mr. Robert L. Walquist, is comprised of 8 members. The meeting will be open to the public up to the seating capacity of the room (approximately 40 persons

including the Subcommittee members and participants).

Type of Meeting: Open.

Agenda

February 29, 1984

8 a.m.—Welcome and Introduction.
8:30 a.m.—Future Planetary Mission Needs and Requirements.
—Mariner Mark II.
—Augmented Missions.
—Probes.
—Sensors and Instrumentation.
2 p.m.—Space Research and Technology Applicable to Future Planetary Missions—Overview.
2:30 p.m.—Aerothermodynamics.
3 p.m.—Materials and Structures.
3:40 p.m.—Controls.
4:20 p.m.—Electronics and Sensors.
5 p.m.—Adjourn.

March 1, 1984

8 a.m.—Communications.
8:30 a.m.—Power.
9:10 a.m.—Propulsion.
10 a.m.—Committee Deliberation.
5 p.m.—Adjourn.

Dated: January 31, 1984.

Richard L. Daniels,

Deputy Director, Logistics Management and Information Programs Division, Office of Management.

[FR Doc. 84-3468 Filed 2-8-84; 8:45 am]

BILLING CODE 7510-01-M

NUCLEAR REGULATORY COMMISSION

Documents Containing Reporting or Recordkeeping Requirements; Office of Management and Budget Review

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of the Office of Management and Budget review of information collection.

SUMMARY: The Nuclear Regulatory Commission has recently submitted to the Office of Management and Budget (OMB) for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

1. Type of submission, new, revision, or extension: New.

2. The title of the information collection: Required Actions Based on Generic Implications of Salem ATWS Events.

3. The form number if applicable: Not Applicable.

4. How often the collection is required: On occasion.

5. Who will be required or asked to report: Nuclear Power Plant Licensees.

6. An estimate of the number of responses: 257.

7. An estimate of the total number of hours needed to complete the requirement or request: 150,700 hours (50,233 annually).

8. An indication of whether Section 3504(h), Pub. L. 96-511 applies: Not Applicable.

9. Abstract: NUREG-1000, "Generic Implications of ATWS Events at the Salem Nuclear Power Plant," contains a number of intermediate-term actions to be implemented over the next two years. A subset of these actions have been selected to ensure immediate upgrade of the Reactor Protection System, the most important safety system in the plant.

Copies of the submittal may be inspected or obtained for a fee from NRC Public Document Room, 1717 H Street NW., Washington, D.C. 20555.

Comments and questions should be directed to the OMB reviewer, Jefferson B. Hill, (202) 395-7340.

NRC Clearance Officer is R. Stephen Scott, (301) 492-8585.

Dated at Bethesda, Maryland this 31st day of Jan. 1984.

For the Nuclear Regulatory Commission.

Patricia G. Norry,

Director, Office of Administration.

[FR Doc. 84-3552 Filed 2-8-84; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-317 and 50-318]

Baltimore Gas and Electric Co.; Consideration of Issuance of Amendments to Facility Operating Licenses and Proposed no Significant Hazards Consideration Determination and Opportunity for Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of amendments to Facility Operating License Nos. DPR-53 and DPR-69, issued to Baltimore Gas and Electric Company (the licensee), for operation of the Calvert Cliffs Units 1 and 2 located in Calvert County, Maryland.

The amendments would revise Limiting Conditions for Operation and Surveillance Requirements for the Control Element Assembly (CEA) Position Indicator channels. These changes would allow expanded use of the "full-in" or "full-out" electrical limit switches to provide indication of CEA position in accordance with the licensee's application for amendment dated September 20, 1983.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facilities in accordance with the proposed amendments would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The Limiting Conditions for Operation and Surveillance Requirements for the Control Element Assembly (CEA) Position Indicator Channels are addressed in Calvert Cliffs Units 1 and 2 Technical Specification (TS) 3/4.1.3.3. At the present time, TS 3/4.1.3.3 allows partial "credit" for full-in or full-out CEA position indication in that, with one CEA position indicating channel per CEA group inoperable, reactor operation may continue provided that the affected CEA position is verified via the full-in or full-out electrical limit reed switches. The proposed TS changes would allow expanded credit for these electrical limit reed switches by (1) reorganizing TS 3.1.3.3 to incorporate the full-in and full-out reed switch position indicating channels as one of three CEA position indicating means, (2) allow any CEA to have two of three operable CEA position indicating means, and (3) provide surveillance requirements in TS 4.1.3.3 for the two CEA position indicating means which are being utilized.

As indicated previously, three means of CEA position indication are provided. Each control rod drive mechanism at Calvert Cliffs Units 1 and 2 is provided with a reed switch system provides positive indication of control rod insertion status. The reed switch CEA position indication system utilizes a series of magnetically actuated reed switches, spaced at 2-inch intervals along the CEA housing and arranged with precision resistors in a voltage divider network, to provide voltage signals proportional to CEA position. These signals are displayed in bar chart form by a cathode ray tube (CRT) on the main control board. A logic package associated with the CRT provides redundant alarm functions. A backup readout is provided which can be utilized to read the output of any reed switch voltage divider. The collection of position indicating reed switches for CEA is referred to as a reed switch position indicating channel. In addition to the position indicating reed switches placed at 2-inch intervals, additional

reed switches are located at the "full-out" and "full-in" CEA positions. These reed switches provide verification of full-out/full-in status on a core mimic which is located on the main control panel. The third means of CEA position indication, referred to as "pulse counting" displays a numerical readout of the requested CEA position. At the present time, TS 3.1.3.3 allows "credit" for the full-out or full-in reed switches. Upon failure of up to one position indicating reed switch channel per CEA group, TS 3.1.3.3 allows power operation to continue provided that the positions of the associated CEAs are periodically verified via the full-out or full-in reed switches. The Basis for TS 3.1.3.3 states, in part, "The CEA "Full-In" and "Full-Out" limits provide an additional independent means for determining the CEA positions when the CEAs are at either their fully inserted or fully withdrawn positions. Therefore, the ACTION statements applicable to inoperable CEA position indicators permit continued operations when the positions of CEAs with inoperable position indicators can be verified by the "Full-In" or "Full-Out" limits."

The effect of the proposed TS change is to allow the position of any CEA, with an inoperable CEA position indicating channel, to be verified by the two remaining operable position indicating means. The existing Bases for TS 3/4/1.3.3 recognize all three CEA position indicating means, pulse counting, reed switch stacks, and full-in/full-out electrical limits, to be acceptable means for CEA position indication. The present restriction on use of the full-in/full-out electrical limits to single CEA per CEA group is unnecessary in that each CEA position is determined individually. Thus, the distinction with regard to CEA group is unnecessary in that each CEA, regardless of group assignment, is required to have at least two independent means of CEA position indication. Since each control rod is provided with rundant means of position indication, the margin of safety with regard to indication of accidentally misaligned control rods has not been reduced. In addition, chapter 14 of the Calvert Cliffs FSAR considers a number of accidents that result from misaligned CEAs. Since a high degree of certainty exists with regard to CEA position, neither the probability nor consequences of these accidents will increase. In addition since no changes will be made to plant equipment design or operating conditions no new or different types of accidents will occur. Accordingly, the Commission proposes to determine that the proposed changes to TS 3/4.1.3.3 involve no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination. The Commission will not normally make a final determination unless it receives a request for a hearing.

Comments should be addressed to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attn: Docketing and Service Branch.

By March 12, 1984, the licensee may file a request for a hearing with respect to issuance of the amendments to the subject facility operating licenses and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Request for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene if filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the preceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendments under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendments and make them effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendments.

If the final determination is that the amendment involve a significant hazards consideration, any hearing held would take place before the issuance of the amendment.

Normally, the Commission will not issue the amendments until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facilities, the Commission may issue the license amendments before the expiration of the 30-day notice period, provided that its final determination is that the amendments involve no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish a notice of issuance and provide for opportunity for a hearing

after issuance. The Commission expects that the need to take this action will occur very infrequently.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street NW. Washington, D.C., by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325–6000 (in Missouri (800) 342–6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to Mr. J. Miller: petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to George F. Trowbridge, Esq., Shaw, Pittman, Potts, and Trowbridge 1800 M Street NW., Washington, DC. 20036, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board designated to rule on the petition and/or request, that the petitioner has made a substantial showing of good cause for the granting of late petition and/or request. That determination will be based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the September 20, 1983 application for amendment which is available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., and at the Calvert County Library, Prince Frederick, Maryland.

Dated at Bethesda, Maryland this 3rd day of February, 1984.

For the Nuclear Regulatory Commission.

James R. Miller,

Chief, Operating Reactors Branch No. 3, Division of Licensing.

[FR Doc. 84–3546 Filed 2–8–84; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50–289]

GPU Nuclear Corporation (Three Mile Island Nuclear Station, Unit No. 1); Request for Action Under 10 CFR 2.206

Notice is hereby given that by petition dated January 20, 1984, the Union of Concerned Scientists has requested that the Commission take action to suspend the Three Mile Island Nuclear Station, Unit 1, operating license unless and until certain modifications are made to the Three Mile Island Nuclear Station, Unit 1, emergency feedwater system. The request is based upon information obtained over the last few years concerning the ability of the emergency feedwater system to mitigate design basis accidents for which the main feedwater system is unavailable. Three Mile Island Nuclear Station, Unit 1, was ordered shutdown following the accident at Three Mile Island Nuclear Station, Unit 2, and remains shutdown pending a Commission decision on restart. As provided in 10 CFR 2.206, action will be taken on the request within a reasonable time.

Copies of the request are available in the Commission's Public Document Room located at 1717 H Street, NW., Washington, D.C. 20555, and in the local Public Document Room for the facility, located at the Government Publications Section, State Library of Pennsylvania, Education Building, Commonwealth and Walnut Streets, Harrisburg, Pennsylvania 17126.

Dated at Bethesda, Maryland, this 27th day of January 1984.

For the Nuclear Regulatory Commission.

Harold R. Denton,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. 84–3547 Filed 2–8–84; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50–333]

Power Authority of the State of New York (James A. FitzPatrick Nuclear Power Plant); Exemption

I

The Power Authority of the State of New York (the licensee) is the holder of Facility Operating License No. DPR–59 which authorizes the licensee to operate the James A. FitzPatrick Nuclear Power Plant (the facility) at power levels not in excess of 2,436 megawatts thermal. The facility is a boiling water reactor (BWR) located at the licensee's site in Oswego County, New York. The license provides, among other things, that it is subject to all rules, regulations and Orders of the Commission now or hereafter in effect.

II

Section 50.48 of 10 CFR Part 50 requires that licensed operating reactors be subject to the requirements of Appendix R of 10 CFR Part 50. Appendix R contains the general and specific requirements for fire protection programs at licensed nuclear facilities. On February 17, 1981, the fire protection rule for nuclear power plants, 10 CFR 50.48 and Appendix R, became effective. This rule required all licensees of plants licensed prior to January 1, 1979, to submit by March 19, 1981: (1) Plans and schedules for meeting the applicable requirements of Appendix R. (2) a design description of any modifications proposed to provide alternative safe shutdown capability pursuant to Paragraph III.G.3 of Appendix R, and (3) exemption requests for which the tolling provision of § 50.48(c)(6) was to be invoked. On March 19, 1981, the licensee requested and was subsequently granted a schedular exemption for submitting the required information until February 1982.

The licensee responded to these requirements by letter dated February 26, 1982, and supplemented its response by information contained in letters dated July 13, and November 11, 1981; March 1, April 5, and May 19, 1983.

In these submittals, the licensee requested certain exemptions from the requirements of Section III.G of Appendix R to 10 CFR Part 50. Section III.G of Appendix R requires that one train of cables and equipment necessary to achieve and maintain safe shutdown be maintained free of fire damage by one of the following means:

a. Separation of cables and equipment and associated non-safety circuits of redundant trains by a fire barrier having a 3-hour rating. Structural steel forming a part of or supporting such fire barriers shall be protected to provide fire resistance equivalent to that required of the barrier;

b. Separation of cable and equipment and associated non-safety circuits of redundant trains by a horizontal distance of more than 20 feet with no intervening combustibles or fire hazards. In addition, fire detectors and an automatic fire suppression system shall be installed in the fire area; or

c. Enclosure of cables and equipment and associated non-safety circuits of one redundant train in a fire barrier having a 1-hour rating. In addition, fire detectors and an automatic fire suppression system shall be installed in the fire area.

If these conditions are not met, Section III.G.3 requires an alternative shutdown capability independent of the fire area of concern. It also requires that a fixed suppression system be installed in the fire area of concern if it contains a large concentration of cables or other combustibles. These alternative requirements are not deemed to be equivalent; however, they provide equivalent protection for those configurations in which they are accepted.

Because it is not possible to predict the specific conditions under which fires may occur and propagate, the design basis protective features are specified in the rule rather than the design basis fire. Plant specific features may require protection different than the measures specified in Section III.G. In such a case the licensee must demonstrate, by means of a detailed fire hazards analysis, the existing protection or existing protection in conjunction with proposed modifications will provide a level of safety equivalent to the technical requirements of Section III.G. of Appendix R.

Our general criteria for accepting an alternative fire protection configuration are the following:

- The alternative assures that one train of equipment necessary to achieve hot shutdown from either the control room or emergency control stations is free from damage.
- The alternative assures that fire damage to at least one train of equipment necessary to achieve cold shutdown is limited such that it can be repaired within a reasonable time (minor repairs with components stored on-site).
- Modifications required to meet Section III.G would not enhance fire protection safety above that provided by either existing or proposed alternatives.
- Modifications required to meet Section III.G would be detrimental to overall facility safety.

The exemption requests we found to be acceptable are as follows:

1. The licensee requested an exemption from the provisions of Section III.G.2 of Appendix R for zones RB–IE and RB–IW, located within east and west sections of the reactor building crescent area, to the extent that at least 20 feet of separation, without intervening combustible material, is required between redundant shutdown divisions.

Within these areas is a location referred to as the "HPCI Area," where Division A and Division B cabling are separated by a distance of 26 feet. However, the intervening space contains combustible material in the form of cable insulation in overhead trays and lubricating oil in the HPCI system. The licensee's justification for the exemption is based on the following:

A. The Crescent Area is equipped with a complete fire detection system.

B. The HPCI area near the boundary of RB–IE and RB–IW is protected by a manual activated foam fire suppression system and an automatically activated water spray system.

C. Cable trays between redundant systems at the RB–IE and RB–IW zone boundary will be equipped with a water spray system.

D. The Crescent Area contains minimal quantities of combustible material and is equipped with portable fire extinguishers and manual hose stations.

E. The design of the HPCI system is such as to reduce the likelihood of a lubricating oil fire from developing.

F. A fire model was utilized to assess the impact of a fire in the HPCI area. The results, according to the licensee, demonstrates that safe shutdown capability could be maintained after such a fire.

The requirements of Section III.G.2.b regarding separation and intervening combustible materials, are intended to achieve a degree of passive fire protection for redundant shutdown systems. The passive protection, coupled with the III.G.2.b requirements for an area-wide fire detection and fire suppression system, provide reasonable assurance that at least one train of shutdown systems will be free of fire damage. The technical requirements of Section III.G are not met because intervening combustible materials are located between redundant safety divisions.

The HPCI system has certain design features such as shielding of hot surfaces and trouble alarms which reduce the likelihood of a lubricating oil fire. If a fire should occur, the HPCI area is protected by a foam fire suppression system and a water spray system. Protection from fire involving the combustible cable insulation will be provided by the proposed cable tray water spray system.

The licensee used a fire model to verify that an acceptable level of passive fire protection was achieved by the present area configuration, taking no credit for the above referenced fire suppression and detection systems. The separation between redundant cables achieves a level of protection sufficient to provide reasonable assurance that no significant damage would be sustained by redundant safety systems pending fire suppression by the automatic and manual fire suppression systems or by the fire brigade.

Based on our review of the licensee's submittals, we conclude that additional modifications to meet the requirements of Section III.G.2 would not enhance fire safety above that provided by the existing alternative. Therefore, the licensee's request for exemption for zones RB–IE and RB–IW (East and West Sections of the Reactor Building Crescent Area) should be granted.

2. The licensee requested an exemption from the provisions of Section III.G.2.a of Appendix R for zones RB–1A and RB–IE located within the southeast quadrant of the reactor building at elevation 272 feet, and the east section of the crescent area, to the extent that a 3-hour fire rated barrier between redundant shutdown divisions is required.

Safe shutdown systems located in these zones consist primarily of Division B cabling and components, including those associated with RHR, Core Spray, HPCI, ESW, and manual ADS. Division A components in these areas include power and control cables for a RCIC steam supply valve (among others) and a motor control center.

Existing fire protection for these locations consists of an area-wide smoke detection system; manual hose stations and portable fire extinguishers; fixed fire suppression system for the HPCI enclosure; and a water spray fire suppression system for the cable trays at the southwest boundary of area RB–1A.

In lieu of a 3-hour fire rated enclosure around the open stairway, the licensee has proposed to install a fire barrier of a lesser fire resistance, designed to mitigate the propagation of products of combustion from elevation 227 (Area RB–1E) to elevation 272 (Area RB–1A). The licensee committed to provide a barrier with fire resistance that will be commensurate with the fire loading in the entire zone.

The zones are not in compliance with Appendix R because of the lack of a 3-hour fire rated barrier between redundant divisions at the open stairway between RB–1A and RB–1E.

Although Division A and Division B shutdown components are identified as being potentially damaged by a fire in the subject areas, the licensee has identified a redundant/alternate shutdown capability with systems located, in part, in adjoining fire zones. The viability of this safe shutdown capability is dependent upon the adequacy of the fire protection at zone boundaries, which is the subject of other exemption requests.

The concern with the open stairway between the subject areas is that a fire which orginates within RB–1E will propagate to RB–1A via the unprotected stairway. The quantity of combustibles in RB–1E is nearly 10,000 lbs. of cable insulation and lube oil. This represents a fire loading of approximately 41,000 BTUs/sq. ft., which corresponds to a fire severity on the ASTM E–119 time-temperature curve of about 30 minutes. It is the staff's judgment that a fire of this magnitude and duration would not occur because, to assume that it would, ignores the protection afforded by the fire detection and suppression systems previously identified and the damage mitigating actions of the plant fire brigade.

The above considerations provide adequate justification for the erection of a barrier having a fire resistance rating of at least 1-hour in lieu of, the 3 hours specified by Section III.G.2.a. Based on our review of the licensee's submittals, we conclude that the licensee's alternative fire protection configuration will provide reasonable assurance that one safe shutdown division will be free of fire damage and will achieve an acceptable level of fire protection equivalent to that provided by Section III.G.2. Therefore the licensee's request for exemption for zones RB–1A and RB–1E (southeast quadrant of the reactor building at elevation 272 feet, and the east section of the crescent area) should be granted.

3. The licensee requested an exemption from the provisions of Section III.G.2.a of Appendix R for zones RB–1A and RB–1C located within the northeast quadrant of the reactor building at elevations 300 and 320 feet, to the extent that a 3-hour fire rated barrier between redundant shutdown divisions is required.

Safe shutdown systems located in these zones consist primarily of Division B cabling and components, including those associated with RHR, Core Spray, ADS, RCIC, HPCI, and ESW. Division A components located in these areas consist of power and control cables for RCIC steam supply valve 13MOV–16, motor control center 151, and injection valves for Division A core spray.

Existing fire protection for these locations consists of an area-wide fire detection system; a manual water spray system above the cable trays at elevation 272 feet at the southwest zone boundary of RB–1A; manual hose stations; and portable fire extinguishers.

In lieu of a 3-hour fire rated enclosure around the stairway, the licensee has proposed to install a fire barrier of a lesser fire resistance, designed to mitigate the propagation of fire from elevation 300 feet (RB–1C) to elevation 326 feet (RB–1A). The licensee has committed to provide a barrier with fire resistance that will be commensurate with the fire loading in the entire zone.

The zones are not in compliance with Appendix R because of the lack of a 3-hour fire rated barrier between redundant divisions at the connecting stairway between them.

Although Division A and Division B shutdown components are identified as being potentially damaged by a fire in these areas, the licensee has identified a redundant/alternative shutdown capability with systems located, in part, in adjoining fire zones. The viability of this safe shutdown capability is dependent upon the adequacy of the fire protection at zone boundaries, which is the subject of other exemption requests.

The concern with the open stairway between these areas is that a fire which originates within RB–1C will propagate to RB–1A via the unprotected stairway. The quantity of combustibles in elevation 300 ft. (RB–1C) in nearly 17,000 lbs. of cable insulation. This represents a fire loading of approximately 15,000 BTUs/sq. ft. which corresponds to a fire severity on the ASTM E–119 time-temperature curve of about 12 minutes. To assume that a fire of this magnitude and duration would occur does not take into consideration the protection afforded by the fire protection systems that are available and the damage mitigating actions of the plant fire brigade.

The above considerations provide adequate justification for the erection of a barrier having a fire resistance rating of at least 1-hour in lieu of the 3-hours specified by Section III.G.2.a. Based on our review of the licensee's submittals, we conclude that the licensee's alternate fire protection configuration will provide reasonable assurance that one safe shutdown division will be free of fire damage and will achieve an acceptable level of fire protection equivalent to that provided by Section III.G.2. Therefore the licensee's request for exemption for Zones RB–1A and RB–1C (northeast quadrants of the reactor building at elevations 300 and 325 feet) should be granted.

4. The licensee requested an exemption from the provisions of Sections III.G.2, III.G.3 and III.L of Appendix R for zones RB–IE and RB–IW located within the east and west sections of the reactor building crescent area to the extent that these provisions require either (1) a 3-hour fire rated barrier between redundant shutdown divisions, (2) an area wide automatic fire suppression system with separation by 20 feet free of intervening combustibles or a 1-hour fire barrier, or (3) an alternate shutdown capability independent of the fire area.

Each of these zones contains shutdown systems that are redundant with systems located in the adjacent zone.

Specific safety related equipment located within the two zones consists of redundant core spray pumps, redundant RHP pumps, RCIC pump, redundant unit space coolers and motor control centers and related cabling.

Existing fire protection includes an area-wide ionization-type smoke detection system which alarms in the control room; an automatic water spray fire suppression system in the HPCI enclosure (with a capability for manual discharge); a manual foam fire suppression system in the HPCI enclosure; portable fire extinguishers and manual hose stations.

The licensee has committed to install a water spray fire suppression system at the interface area of zones RB–IE and RB–IW. The system will be designed to discharge water in a "curtain" pattern completely across the common zone boundary to preclude the spread of fire damage beyond a single zone.

The zones are not compliance with the above mentioned provisions of Sections III.G and III.L of Appendix R. The staff was concerned that, because of the absence of a complete fire rated barrier between zones, redundant shutdown related systems, which are located in adjoining zones, would be vulnerable to fire damage.

However, the fire zones are provided with complete fire detection systems which achieve area wide coverage. Upon activation, these systems alarm both visually and audibly in the control room. These systems provide reasonable assurance that a fire would be detected in its initial stage before significant damage occurred. The fire would then be extinguished by the fire brigade using manual fire fighting equipment.

If the fire propagated beyond the immediate area of fire origin, the masonry walls, floor and ceiling would confine the damage to the affected fire zone. At the common zone boundaries, where no such physical barriers exist, the proposed water spray system is designed to activate and discharge water in a "curtain" pattern so as to prevent fire spread into the horizontally or vertically adjoining zones. This type of system has been used successfully to protect conveyor openings in fire walls and escalator openings in buildings. Therefore, there is reasonable assurance that redundant shutdown systems in adjoining zones would remain free of

damage until the fire was suppressed manually.

Based on our review of the licensee's submittals, we conclude that the existing fire protection with the proposed modifications provide a level of fire protection equivalent to that provided by Section III.G. Therefore the exemption requested by the licensee for zones RB–IE and RB–IW (east and west sections of reactor building crescent area) should be granted.

5. The licensee requested an exemption from the provisions of Sections III.G.2, III.G.3 and III.L of Appendix R for zones RB–1A and RB–1B located within the southeast and southwest quadrants of the reactor building on elevations 272 and 300 feet to the extent that these provisions require either (1) a 3-hour fire rated barrier between redundant shutdown divisions, (2) an area wide automatic fire suppression system with separation by 20 feet free of intervening combustibles or a 1-hour fire barrier, or (3) an alternate shutdown capability independent of the fire area.

Each of these zones contains shutdown systems that are redundant with systems located in the adjacent zone.

Specific safety related equipment located within the two zones include Division A and Division B systems associated with RHR, core spray, and ADS; Division A, RCIC; and Division B, HPCI.

Existing fire protection for the zones consist of an area-wide fire detection system which alarms in the control room; manual water spray systems above the cable trays at elevation 272 at the southwest zone boundary of RB–1A and RB–1B; portable fire extinguishers; and manual hose stations.

The licensee has committed to install a water spray fire suppression system at the interface areas of zones RB–1A and RB–1B. The system will be designed to discharge water in a "curtain" pattern completely across the common zone boundary to preclude the spread of fire damage beyond a single zone.

The zones are not in compliance with the above mentioned provisions of Section III.G and III.L of Appendix R. The staff was concerned that, because of the absence of a complete fire rated barrier between zones, redundant shutdown-related systems, which are located in adjoining zones, would be vulnerable to fire damage. However, the fire zones are provided with complete fire detection systems which achieve area wide coverage. Upon activation, these systems alarm both visually and audibly in the control room. These systems provide reasonable assurance that a fire would be detected in its initial stage before significant damage occurred. The fire would then be extinguished by the fire brigade using manual fire fighting equipment.

If the fire propagated beyond the immediate area of fire origin, the masonry walls, floor and ceiling would confine the damage to the affected fire zone. At the common zone boundaries, where no such physical barriers exist, the proposed water spray system is designed to activate and discharge water in a "curtain" pattern so as to prevent fire spread into the horizontally or vertically adjoining zones. This type of system has been used successfully to protect conveyor openings in fire walls and escalator openings in buildings. Therefore, there is reasonable assurance that redundant shutdown systems in adjoining zones would remain free of damage until the fire was suppressed manually.

Based on our review of the licensee's submittals, we conclude that the existing fire protection with the proposed modifications provides a level of fire protection equivalent to that provided by Section III.G. Therefore, the exemption requested by the licensee for zones RB–1A and RB–1B (southeast and southwest quadrants of the reactor building on elevations 272 and 300 feet) should be granted.

6. The licensee requested an exemption from the provisions of Sections III.G.2, III.G.3 and III.L of Appendix R for zones RB–1B and RB–1C located within the northwest and southwest quadrants of the reactor building on elevation 300 feet to the extent that these provisions require either (1) a 3-hour fire rated barrier between redundant shutdown divisions, (2) an area wide automatic fire suppression system with separation by 20 feet free of intervening combustibles or a 1-hour fire barrier, or (3) an alternate shutdown capability independent of the fire area.

Each of these zones contains shutdown systems that are redundant with systems located in the adjacent zones.

Specific safety related equipment located within the two zones include Divisions A and B systems associated with RHR, Core Spray, ADS, and RCIC; Division B, HPCI; and motor control center 161 (B).

Existing fire protection includes an area wide fire detection system which alarms in the control room; a manual water spray system above the cable trays at elevation 272 feet at the southwest zone boundary of RB–1B; portable fire extinguishers and manual hose stations.

The licensee has committed to install a water spray fire suppression system at the interface area of zones RB–1B and RB–1C. The system will be designed to discharge water in a "curtain" pattern completely across the common zone boundary to preclude the spread of fire damage beyond a single zone.

The zones are not in compliance with the above mentioned provisions of Section III.G and III.L of Appendix R. The staff was concerned that, because of the absence of a complete fire rated barrier between zones, redundant shutdown related systems, which are located in adjoining zones, would be vulnerable to fire damage.

However, the fire zones are provided with complete fire detection systems which achieve area wide coverage. Upon activation, these systems alarm both visually and audibly in the control room. These systems provide reasonable assurance that a fire would be detected in its initial stage before significant damage occurred. The fire would then be extinguished by the fire brigade using manual fire fighting equipment.

If the fire propagated beyond the immediate area of fire origin, the masonry walls, floor and ceiling would confine the damage to the affected fire zone. At the common zone boundaries, where no such physical barriers exist, the proposed water spray system is designed to activate and discharge water in a "curtain" pattern so as to prevent fire spread into the horizontally or vertically adjoining zones. This type of system has been used successfully to protect conveyor openings in fire walls and escalator openings in buildings. Therefore, there is reasonable assurance that redundant shutdown systems in adjoining zones would remain free of damage until the fire was suppressed manually.

Based on our review of the licensee's submittals, we conclude that the existing fire protection with the proposed modifications provide a level of fire protection equivalent to that provided by Section III.G. Therefore, the exemption requested by the licensee for zones RB–1B and RB–1C (northwest and southwest quadrants of the reactor building on elevation 300 feet) should be granted.

7. The licensee requested an exemption from the provisions of Sections III.G.2, III.G.3 and III.L. of Appendix R for zones RB–1B and RB–1A located within the southwest quadrant of the reactor building at elevations 300 and 326 feet to the extent that these provisions require either; (1) a 3-hour fire rated barrier between redundant shutdown divisions, (2) an area wide

automatic fire suppression system with separation by 20 feet free of intervening combustibles or a 1-hour fire barrier, or (3) an alternate shutdown capability independent of the fire area.

Each of these zones contains shutdown systems that are redundant with systems located in the adjacent zone.

Specific safety related equipment located within the two zones include Division A and Division B systems associated with RHR, core spray, and ADS; Division A, RCIC; and Division B, HPCI.

Existing fire protection for the zones consists of an area wide fire detection system which alarms in the control room; manual water spray systems above the cable trays at elevation 272 at the southwest zone boundary of RB–1A and RB–1B; portable fire extinguishers; and manual hose stations.

The zones are not in compliance with the above mentioned provisions of Section III.G and III.L of Appendix R. The staff was concerned that because of the absence of a complete fire rated barrier between zones, redundant shutdown related systems, which are located in adjoining zones, would be vulnerable to fire damage.

However, the fire zones are provided with complete fire detection systems which achieve area wide coverage. Upon activation, these systems alarm both visually and audibly in the control room. These systems provide us with reasonable assurance that a fire would be detected in its initial stage before significant damage occurred. The fire would then be extinguished by the fire brigade using manual fire fighting equipment.

If the fire propagated beyond the immediate area of fire origin, the masonry walls, floor and ceiling would confine the damage to the affected fire zone. At the common zone boundaries, where no such physical barriers exist, the proposed water spray system is designed to activate and discharge water in a "curtain" pattern so as to prevent fire spread into the horizontally or vertically adjoining zones. This type of system has been used successfully to protect conveyor openings in fire walls and escalator openings in buildings. Therefore, there is reasonable assurance that redundant shutdown systems in adjoining zones would remain free until the fire was suppressed manually.

Based on our review of the licensee's submittals, we conclude that the existing fire protection with the proposed modifications provide a level of fire protection equivalent to that provided by Section III.G. Therefore, the exemption requested by the licensee for zones RB–1B and RB–1A (southwest quadrant of the reactor building at elevations 300 and 326 feet) should be granted.

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12, an exemption is authorized by law and will not endanger life or property or the common defense and security and is otherwise in the public interest. Therefore, the Commission hereby approves the following exemption request:

Exemption is granted to the extent indicated from the requirements of Sections III.G and III.L of Appendix R of 10 CFR Part 50 for the following areas:

1. Zones RB–IE and RB–IW (East and West sections of the Reactor Building Crescent area)—to the extent that at least 20 feet of separation, without intervening combustible materials, is required between the redundant shutdown divisions.

2. Zones RB–1A and RB–1E (Southeast Quadrant of the Reactor Building at Elevation 272 feet and the East section of the Crescent Area)—to the extent that a 3-hour fire rated barrier between redundant shutdown divisions is required.

3. Zones RB–1A and RB–1C (Northeast Quadrants of the Reactor Building at Elevations 300 and 320 feet)—to the extent that a 3-hour fire rated barrier between redundant shutdown divisions is required.

4. Zones RB–IE and RB–IW (East and West Sections of the Reactor Building Crescent Area)—to the extent that either (1) a 3-hour fire rated barrier between redundant shutdown divisions is required, (2) an area wide automatic fire suppression system with separation by 20 feet free of intervening combustibles, or a 1-hour fire barrier, is required, or (3) an alternative shutdown capability independent of fire area, is required.

5. Zones RB–1A and RB–1B (Southeast and Southwest Quadrants of the Reactor Building at Elevations 272 and 300 feet)—to the extent that either (1) a 3-hour fire rated barrier between redundant shutdown divisions is required, (2) an area wide automatic fire suppression system with separation by 20 feet free of intervening combustibles, or a 1-hour fire barrier, is required, or (3) an alternate shutdown capability independent of fire area, is required.

6. Zones RB–1B and RB–1C (Northwest and Southwest Quadrants of the Reactor Building at Elevation 300 feet)—to the extent that either (1) a 3-hour fire rated barrier between redundant shutdown divisions is required, (2) an area wide automatic fire suppression system with separation by 20 feet free of intervening combustibles, or a 1-hour fire barrier, is required, or (3) an alternate shutdown capability independent of fire area, is required.

7. Zones RB–1B and RB–1A (Southwest Quadrant of the Reactor Building at Elevations 300 and 326 feet)—to the extent that either (1) a 3-hour fire rated barrier between redundant shutdown divisions is required, (2) an area wide automatic fire suppression system with separation by 20 feet free of intervening combustibles, or a 1-hour fire barrier, is required, or (3) an alternate shutdown capability independent of fire area, is required.

The NRC Staff has determined that the granting of these exemptions will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4), an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with this action.

Dated at Bethesda, Maryland, this 1st day of February 1984.

For the Nuclear Regulatory Commission.

Darrell G. Eisenhut,

Director, Division of Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 84-3548 Filed 2-8-84; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50–286]

Power Authority of the State of New York (Indian Point Plant, Unit No. 3); Exemption

I

The Power Authority of the State of New York (the liecensee) is the holder of Facility Operating License No. DPR–64 which authorizes operation of the Indian Point Nuclear Plant, Unit No. 3 (the facility). This license provides, among other things that the facility is subject to all rules, regulations and Orders of the Nuclear Regulatory Commission (the Commission) now or herafter in effect.

The facility is a pressurized water reactor located at the licensee's site in Westchester County, New York.

II

Section 50.48 of 10 CFR Part 50 requires that licensed operating reactors be subject to the requirements of Appendix R of 10 CFR Part 50. Appendix R contains certain specific requirements of fire protection programs at licensed nuclear facilities. On February 17, 1981, the fire protection rule for nuclear power plants, 10 CFR 50.48 and Appendix R, became effective. This rule required all licensees of plants licensed prior to January 1, 1979, to submit: (1) Plans and

schedules for meeting the applicable requirements of Appendix R, (2) a design description of any modifications proposed to provide alternative safe shutdown capability pursuant to Paragraph III.G.3 of Appendix R, and (3) exemption requests for which the tolling provision of Section 50.48(c)(6) was to be invoked.

This exemption relates to the requirements of paragraph III.G2 and III.G3 of Appendix R as they apply to nine areas at Indian Point 3. Exemptions were requested by the licensee by letters dated July 1, 1982, November 22, 1982, and January 12, 1983. These nine areas are:

(1) Upper Electrical Penetration Area (Fire Area 73A)
(2) Upper Electrical Cable Tunnel (Fire Area 7A)
(3) Lower Electrical Cable Tunnel (Fire Area 60A)
(4) Intervening Combustible Material in the Cable Tunnels
(5) Sump and Pump Room (Fire Area 36A)
(6) Outer Annulus (Fire Area 72A)
(7) Outer Annulus (Fire Area 76A)
(8) Recirculation Pumps and RHR Heat Exchanger Area (Fire Area 78A)
(9) Control Room (Fire Area 15A)

The technical requirements of Section III.G.2 are not met in the Upper Electrical Penetrations Area and Cable Tunnels (areas 1, 2, 3, and 4 above) because redundant shutdown divisions are not separated by more than 20 feet without intervening combustible materials. In addition, the alternate shutdown capability for the vulnerable normal shutdown systems in the lower cable tunnel is not independent of the lower cable tunnel.

The fire hazard hazard in these areas is small. If a fire should occur, the existing fire detection system would provide reasonable assurance of early fire awareness by the plant operators and fire brigade, who would extinguish the fire with manual fire fighting equipment. If the fire propagates rapidly and room temperatures rise significantly above ambient before the arrival of the fire brigade, the automatic fire suppression system is expected to operate and limit fire damage. During the time interval between the advent of fire and the arrival of the plant fire brigade or the activation of the fire suppression system, the distance between shutdown systems, which varies between 12 feet and more than 40 feet, provides reasonable assurance that at least one shutdown division or the alternate shutdown capability cabling will remain free of fire damage.

Because of the glass and asbestos braid construction of the cables in these areas, fire is not expected to propagate along the cable to any significant degree. A series of tests were conducted on the cables. These tests were referenced in the licensee's letter of November 22, 1982. They included: A vertical flame spread test in accordance with ASTM D–470–59T, "Test for Rubber and Thermoplastic Insulated Wire and Cable"; a five minute vertical flame test made with cable held in a vertical position and a 1,750° F flame applied for 5 minutes; and a bonfire test which consists of exposing for 5 minutes bundles of three and six cables to a flame produced by igniting transformer oil in a 12-inch pail with the cable supported horizontally over the center of the pail and the lowest cable 3 inches above the top of the pail. The results of these tests indicate that a postulated fire commensurate with the transient fire hazard would not cause flame propagation along the cables to a significant degree.

Based on our evaluation, we conclude that the existing fire protection for the configuration inside the cable tunnels and electrical penetration area provides an acceptable level of fire protection equivalent to that provided by Section III.G.2, and therefore the request for this exemption is granted.

The technical requirements of Section III.G.2 are not met in the Sump and Pump Room, Outer Annulus and RHR Heat Exchanger Area (areas 5, 6, 7 and 8 above) because fire detection and fixed fire suppression systems have not been provided throughout the areas. Our concern with the level of fire safety is that a fire may occur, propagate and damage both normal and alternate shutdown systems before being discovered and extinguished by the plant fire brigade.

The licensee has identified an alternate or redundant shutdown capability for all of the safe shutdown systems located in the fire areas. The adequacy of the capability is dependent on fire damage not occurring beyond the boundary of the fire area.

In the sump and pump room (Fire Area 36A) the boundary walls, floor and ceiling are 3-hour fire rated. This fire-resistive construction, coupled with the limited fire loading, provides reasonable assurance that fire damage will be limited to the confines of the room.

In the three fire areas on elevation 46 feet of the containment building, no significant fire hazard exists within the principal fire zones. Because of the negligible amount of combustible material in these zones, smoke generation and elevated temperatures from any credible fire will not be extensive. In addition, because of the height of the ceiling in the outer annulus and the size of the total fire area, the damaging effects from a fire would be mitigated.

Based on our evaluation, we conclude that the licensee's alternate fire protection configuration, will achieve an acceptable level of fire protection equivalent to that provided by Section III.G.2 Therefore, the licensee's request for exemptions for the areas identified in this Section is granted.

The technical requirements of Section III.G.3 are not met in the Control Room (area 9 above) because of the absence of an area-wide, fixed fire suppression system. The fire hazard in this area is low. Because of the dispersion of the combustible materials that may ignite, a potential fire would tend to develop slowly. Because of the smoke detection system and the continuous manning in the control room, a fire would be detected in its initial state and extinguished before serious damage occurred.

If serious damage should occur before the arrival of the plant fire brigade, an alternate shutdown capability exists that is independent of the control room. Therefore, safe shutdown could be achieved and maintained.

These exemptions are contingent upon the licensee's maintenance of administrative control over transient combustibles which are equivalent to those specified in 10 CFR 50, Appendix R, Section III.K.1 through III.K.8 and any specific characterization of transient combustibles or design features related thereto that are specifically discussed in our SER.

Based on its evaluation, the staff concludes that the existing fire protection provides an acceptable level of safety equivalent to that achieved by compliance with Section III.G.2 and, therefore, the licensee's request for an exemption is approved.

Based on our evaluation, we find that the level of fire safety in the areas listed below is equivalent to that achieved by compliance with the technical requirements of Section III.G.2 and III.G.3 of Appendix R and, therefore, the licensee's request for exemption in these areas is granted:

1. Fire Area 73A (Electrical Penetration Area (Upper)),
2. Fire Area 7A (Upper Electrical Cable Tunnel),
3. Fire Area 60A (Lower Electrical Cable Tunnel),
4. Intervening Combustible Material in the Cable Tunnels,
5. Fire Area 36A (Sump and Pump Room),
6. Fire Area 72A (Outer Annulus),

7. Fire Area 78A (Outer Annulus),
8. Fire Area 78A (Recirc. Pumps and RHR Heat Exchanger Area), and
9. Fire Area 152 (Control Room).

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12, these exemptions are authorized by law and will not endanger life or property or the common defense and security, and are otherwise in the public interest. The Commission hereby approves the requested exemptions from Appendix R of 10 CFR Part 50 paragraph III.G.2 and III.G.3.

We have determined that the granting of this exemption will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with this action.

This exemption is effective upon issuance.

Dated at Bethesda, Maryland, this 2nd day of February 1984.

For the Nuclear Regulatory Commission.

Darrell G. Eisenhut,

Director, Division of Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 84-3540 Filed 2-8-84; 8:45 am]
BILLING CODE 7590-01-M

[Docket Nos. 50-272 and 50-311]

Public Service Electric and Gas Co. (Salem Nuclear Generating Station, Units 1 and 2); Modification of May 6, 1983, Order

I

Public Service Electric and Gas Company (the licensee) holds License Nos. DPR-70 and DPR-75 which authorize operation of Units 1 and 2 of the Salem Nuclear Generating Station. The facilities are Westinghouse pressurized water reactors (PWRs) located at the licensee's site at Hancock's Bridge, Salem County, New Jersey.

II

On February 25, 1983, an event occurred at Unit 1 of the Salem Nuclear Generating Station when the control rods failed to insert when the reactor-trip circuit breakers failed to automatically open following receipt of a valid trip signal from the Reactor Protection System. The manual trip system was used to shut down the reactor. Subsequently, it was concluded by the licensee that the failure to trip was caused by a malfunction of the undervoltage trip attachments in both reactor-trip circuit breakers. Evaluation of the event of February 25, 1983, revealed that a similar failure had occurred on February 22, 1983, at Salem 1. There had also been a previous event at Salem 2 involving a failure of one reactor trip circuit breaker to trip on January 6, 1983.

The NRC review of the event revealed a number of significant deficiencies relating to management supervision and control of the procedures governing the classification of the reactor trip breakers as safety-related, management supervision of maintenance techniques, and management attention to the safety implications of system malfunctions. This review was set forth in NUREG-0977, "NRC Fact-Finding Task Force Report on the ATWS Events at Salem Nuclear Generating Station. Unit 1, on February 22, and 25, 1983," dated March 1983.

By letters dated March 1, March 8, March 13, March 23, April 4, April 7, April 8, April 11, April 13, April 22, April 27, and April 28, 1873, the licensee submitted its Corrective Action Program related to the reactor trip breaker failures. This program included short-term remedial actions to be completed prior to startup of the unit and a number of longer term items which had not been completed but for which the licensee has established completion dates. The NRC staff reviewed the corrective action program and determined that the licensee's actions were necessary to assure continued safe operation of the facility.

Accordingly, by Order dated May 6, 1983, the licensee was directed to implement and maintain the items specified in the Corrective Action Program as more fully detailed in the licensee's letter dated April 28, 1983. One long term corrective action item identified in the Program required the development of a comprehensive Managed Maintenance Program for safety related systems to be implemented by January 1984. (Item C.8.a.4)

A Managed Maintenance Program had been originally initiated by the licensee in July 1982 to provide preventive maintenance for major components of both safety and non-safety related systems. Following the events of February 1983, the scope of the program was modified and increased such that all safety related components would be addressed by January 1984. Non-safety related components and systems were to be considered at a later date.

At the time the January 1984 commitment was made, the licensee believed the date to be achievable. However, due to the magnitude of the effort required to fully research every safety related component and the attention to detail required to ensure accuracy in the development process. the licensee now believes that additional time will be required to complete the programs, and that attempting to complete the program by the January 1984 commitment date would compromise the accuracy and quality of the program, thereby diminishing its overall effectiveness.

III

Accordingly by letter dated November 14, 1983, the licensee requested that the May 6, 1983, Order for Salem Generating Station Units 1 and 2 be amended to incorporate a revised schedule.

The licensee proposes that the following measures be taken in lieu of complete implementation of the Managed Maintenance Program by January 1984:

1. Implementation of the program for each safety related system is expected to commence as soon as its development is complete.

2. The fifteen (15) systems identified in the licensee's letter dated november 14, 1983, will be completed by February 1984. These systems were selectd based upon their importance in the safe shutdown and cooling of the reactor plant and in minimizing the potential release of radioactive material to the general public. Planned maintenance activities on these systems are expected to be performed as scheduled in the program.

3. Safety related systems not identified in the licensee's letter dated November 14, 1983, will be reviewed and critical components of those systems will have appropriate interim programs established by February 1984. Planned maintenance activities on these components are expected to be performed as scheduled in the program.

4. Implementation of the program for each safety related component and system not identified in the licensee's letter dated November 14, 1983, is expected to begin as soon as it is developed. This will be completed by June 1984.

5. If a new procedure or a revision to an existing procedure is required for a particular planned maintenance activity, that procedure or revision will be completed prior to the scheduled date of that activity.

6. A program will be established to identify those safety related items which have not been included in the Managed Maintenance Program as of June 30, 1984. For example, implementation would be delayed for an item where a design change has been installed following the time when the original

Managed Maintenance Program data was collected, or where a discrepancy such as conflicting information between two source documents has been identified and the engineering evaluation/resolution would then be pending. This program will contain a scheduled resolution date for each such item.

The Commission has been monitoring the status of all long lead items identified in the licensee's Corrective Action Program. The review has determined that the licensee is making a diligent effort to complete the Managed Maintenance Program and has established good cause for its proposed delay. Some of the reasons for the proposed delay are rejection of vendor initial submittals because of insufficient quality, increasing program scope, and administrative and computer difficulties during the early part of the program. The program is now working smoothly. A total of 50 fulltime individuals are now being applied to the program. The licensee appears to have properly prioritized the systems, and the more important systems will be completed by February 1984. The Commission has therefore determined to permit an extension of the completion date for the program to June 1984.

IV

According, pursuant to the Atomic Energy Act of 1954 as amended, including Sections 103 and 161i and the Commission's regulations in 10 CFR Parts 2 and 50, it is hereby ordered that the completion date for Item C.8.a.4 of the licensee's Corrective Action Program required pursuant to the May 6, 1983 "Order Modifying License Effective Immediately" is modified to as follows:

1. The Managed Maintenance Program for the 15 systems identified in the licensee's November 14, 1983, letter shall be completed by February 28, 1984.

2. An interim program for critical components of safety related systems not identified in the licensee's November 14, 1983, letter shall be completed by February 28, 1984.

3. Development of the Managed Maintenance Program for all safety related components and system shall be completed by June 30, 1984.

The Order of May 6, 1983, except as modified herein, remains in effect in accordance with its terms.

V

The licensee may request a hearing on this Order. Any request for hearing shall be submitted within 20 days of the date of publication of this Order in the **Federal Register** to the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. a copy of the request shall also be sent to the Executive Legal Director at the same address.

If a hearing is to be held, the Commission will issue an Order designating the time and place of any such hearing. If a hearing is held concerning this Order, the issue to be considered at such a hearing shall be whether the completion date for Item C.8.a.4 of the licensee's Corrective Action Program, required pursuant to the May 6, 1983 "Order Modifying License Effective Immediately" should be modified as provided in Section IV of this Order.

This Order shall become effective upon the licensee's consent or upon expiration of the period within which the licensee may request a hearing or, if a hearing is requested by the licensee, on the date specified in an Order issued following further proceedings on this Order.

For the Nuclear Regulatory Commission.

Dated at Bethesda, Maryland, this 31st day of January 1984.

Robert A. Purple,

Deputy Director, Division of Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 84-3550 Filed 2-8-84; 8:45 am]

BILLING CODE 7590-01-M

Availability of NUREG–1050 (Draft for Comment); "Probabilistic Risk Assessment (PRA); Status Report and Guidance for Regulatory Application"

In the plan to evaluate the NRC's Safety Goal Policy Statement (issued for comment in NUREG–0880, Rev. 1, in May 1983), the Office of Nuclear Regulatory Research was directed "* * * to collect available information on PRA studies and prepare a reference document that describes the current status of knowledge concerning the risks of plants licensed in the U.S. It is essential that a reference document be prepared and receive peer review so that the staff, licensees, and public have a common base of information on the dominant contributors to the probability of core melt and to the public risk due to radiation from serious nuclear accidents, the strengths and weaknesses of current plant designs and operations, and the usefulness of PRA and the safety goals in assessing such strengths and weaknesses." NUREG–1050 (draft for comment) has been prepared in response to that directive and is now available for public comment. This draft report presents the current status of PRA usage, discusses the level of maturity of the various elements of PRA methodology presents insights gained from analyses performed to date, and discusses potential uses of PRA techniques in the regulation of nuclear reactors.

Free single copies of draft NUREG–1050 may be requested for public comment by writing to the Publication Services Section, Division of Technical Information and Document Control, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

Public comment is solicited, and any comments received within 45 days of the date of the **Federal Register** notice will be considered in the final document. Comments and/or questions should be directed to Mr. Joseph A. Murphy, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, telephone 301–443–7921.

Also, a peer review workshop to discuss the draft report will be held in Atlanta, Georgia, on February 22 and 23 at the Westin Peachtree Plaza Hotel. The workshop will begin at 8:30 a.m. on both days and will be open to the public. While the discussions will normally be restricted to the invited workshop panelists, time will be allotted to receive limited comments from members of the public observing the meeting. Since facilities for this workshop are somewhat limited, members of the public planning to attend should notify Mr. Jack Hickman, Sandia National Laboratories, at 505–844–3874 as soon as possible.

After the public and workshop comments are considered, a final document will be issued in May 1984. As a final step in the peer review process, there will be an independent review of the final document by the National Science Foundation, to start in the late spring of 1984.

Dated at Rockville, Maryland, this 3rd day of February 1984.

Malcolm L. Ernst,

Acting Director, Division of Risk Analysis, Office of Nuclear Regulatory Research.

[FR Doc. 84-3551 Filed 2-8-84; 8:45 am]

BILLING CODE 7590-01-M

286th Meeting of the NRC Advisory Committee on Reactor Safeguards; Amendment

The schedule for the 286th ACRS Meeting to be held on February 9–11, 1984 in Room 1046 at 1717 H Street, NW., Washington, D.C. is revised as noted below:

"Friday, February 10, 1984, Room 1046, 1717 H Street, NW., Washington, D.C. 9:30 A.M.–10:30 A.M.: Edwin I.

Hatch Nuclear Power Plant Unit No. 2 (Open)—The members will hear and discuss a report from representatives of the NRC Staff regarding the detection of a major crack in a safety-related system (containment) at this facility. Members of the Committee will discuss proposed ACRS action/comments regarding the proposed method for inspection and/or repair of this and other plants of this type which are still in operation.

10:30 A.M.–12:00 NOON: Preparation of ACRS Reports (Open)—The members will discuss proposed reports to the NRC and the U.S. Congress regarding items considered at this meeting."

This change in meeting schedule is necessary to permit prompt consideration by the Committee of a safety issue of major significance with respect to several nuclear power plants currently in operation.

Dated: February 6, 1984.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 84–3673 Filed 2–8–84; 8:45 am]

BILLING CODE 7590–01–M

SECURITIES AND EXCHANGE COMMISSION

Midwest Stock Exchange, Inc., Applications for Unlisted Trading Privileges and of Opportunity for Hearing

February 6, 1984.

In the matter of applications of the Midwest Stock Exchange, Inc., for unlisted trading privileges in certain securities; Securities Exchange Act of 1934.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to Section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f–1 thereunder, for unlisted trading privileges in the following stocks:

El Torito Restaurants, Inc.
Common Stock, $.01 Par Value (File No. 7–7353)
Pandick, Inc.
Common Stock, $.10 Par Value (File No. 7–7354)
Midlands Energy
Common Stock, $.01 Par Value (File No. 7–7355)
Homestead Financial Corporation
Common Stock, $.375 Par Value (File No. 7–7356)
The New York Times
Common Stock, $.10 Par Value (File No. 7–7357)
Trans World Airlines, Inc.
$2.25 Cumulative Convertible Preferred B, $.001 Par Value (File No. 7–7358)
The Toro Company (Delaware)
Common Stock, $1 Par Value (File No. 7–7359)
Kaiser Steel Corporation (Delaware)
Common Stock, $.66 2/3 Par Value (File No. 7–7360)
Murphy Oil Company (Holding Company)
Common Stock, $1 Par Value (File No. 7–7361)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before February 28, 1984 written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84–3606 Filed 2–8–84; 8:45 am]

BILLING CODE 8010–01–M

Philadelphia Stock Exchange, Inc.; Applications for Unlisted Trading Privileges and of Opportunity for Hearing

February 6, 1984.

In the matter of applications of the Philadelphia Stock Exchange, Inc., for unlisted trading privileges in certain securities; Securities Exchange Act of 1934.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to Section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f–1 thereunder, for unlisted trading privileges in the following stocks:

Pacific Telesis Group
Common Stock, $.10 Par Value (File No. 7–7362)
Southwestern Bell Corp.
Common Stock, $1 Par Value (File No. 7–7363)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before February 28, 1984 written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84–3607 Filed 2–8–84; 8:45 am]

BILLING CODE 8010–01–M

SMALL BUSINESS ADMINISTRATION

[Proposed License No. 02/02–0459]

Domestic Capital, Corp.; Application for a License To Operate as a Small Business Investment Company

Notice is hereby given that an Application has been filed with the Small Business Administration pursuant to § 107.102 of the Regulations governing small business investment companies [13 CFR 107.102 (1983)] under the name of Domestic Capital, Corp., 815 reservoier Avenue, Cranston, Rhode Island 02910, for a License to operate as a small business investment company, under the provisions of the Small Business Investment Act of 1958, as amended, (the Act), (15 U.S.C. 661 *et seq.*) and the Rules and Regulations promulgated thereunder.

The proposed officers, directors and sole shareholder are as follows:

Nathaniel B. Baker, 738 Elmgrove Avenue, Providence, Rhode Island 02906—President, Treasurer and Director
James B. Lawton, 70 King Philip Avenue, Bristol, Rhode Island—Director
James B. Tavares, 9 White Street, Pawtucket, Rhode Island—Director
Norman Jay Bolotow, 4 Blount Circle, Barrington, Rhode Island 02806—Secretary

Domestic Safe Deposit Co. (DSDC) is the sole stockholder of the applicant. DSDC is wholly owned by Domestic

Credit Corporation (DCC). DCC is wholly owned by Sargeant Investors, Inc., (SII). SII is wholly owned by Nathaniel B. Baker, President of the applicant.

The Applicant, will begin with capitalization of $506,000 which will be a source of both equity and debt financing to qualified small business concerns for expansion and working capital.

Matters involved in SBA's consideration of the application include the general business reputation and character of the proposed owners and management, and the probability of successful operations of the company under their management, including adequate profitability and financial soundness, in accordance with the Act and Regulations.

Notice is further given that any person may, not later than 15 days from the date of publication of this Notice, submit to SBA in writing, relevant comments on the proposed licensing of this company. Any such communications should be addressed to the Deputy Associate Administrator for Investment, Small Business Administration, 1441 L Street, NW., Washington, D.C. 20416. A copy of this Notice shall be published in a newspaper of general circulation in Cranston, Rhode Island.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: February 2, 1984.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 84-3593 Filed 2-8-84; 8:45 am]

BILLING CODE 8025-01-M

[License No. 04/04-0226]

First Tampa Capital Corp.; Issuance of a Small Business Investment Company License

On November 8,m 1983, a notice was published in the **Federal Register** (48 FR 51392), stating that an application has been filed by First Tampa Capital Corporation, 4600 N. Dale Mabry Highway, Tampa, Florida 33614 with the Small Business Administration (SBA) pursuant to § 107.102 of the Regulations governing small business investment companies (13 CFR 107.102 (1984)) for a license as a small business investment company.

Interested parties were given until close of business November 23, 1983, to submit their comments to SBA. No comments were received.

Notice is hereby given that, pursuant to section 301(c) of the Small Business Investment Act of 1958, as amended, after having considered the application and all other pertinent information, SBA has issued License No. 04/04-0226 on January 18, 1984, to First Tampa Capital Corporation to operate as a small business investment company.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: February 2, 1984.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 84-3594 Filed 2-8-84; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area No. 3042 Amdt. No. 1]

Louisiana; Declaration of Physical Disaster Loan Area

The above numbered declaration (49 FR 1307) is amended pursuant to the Secretary of Agriculture's Designation authorizing Farmers Home Administration (FmHA) to accept emergency loan applications in the following area:

State of Louisiana

FmHA		Incident and date
Number	Date	
S110	12/22/84	Severe losses to crops caused by high winds, tornadoes, hail, excessive rainfall causing flooding and cold, wet spring beginning May 15, 1983, through June 15, 1983; and severe drought beginning July 1, 1983, and continuing through September 19, 1983. * Severe drought beginning July 1, 1983, and continuing through September 19, 1983.

Parishes

Caldwell and Catahoula * Morehouse and Union.

As a result of this designation, I have determined the above Parishes in the State of Louisiana constitute a disaster loan area for agricultural enterprises which are ineligible for disaster assistance from the FmHA because of alien status: corporations, partnerships and cooperatives not being primarily engaged in farming, farm owners who do not operate their farms, etc., and for Economic Injury Disaster loans for non-farm small business concerns.

The interest rates for eligible applicants under this designation are as follows:

	Percent
Agricultural enterprises with credit available elsewhere	10.5
Agricultural enterprises without credit available elsewhere	8.0
Non-farm small businesses (Economic Injury)	8.0

Loan applications for Physical Disaster Loans from elegible agricultural enterprises may be filed for a period not to exceed thirty days from the date of the letter of referral from FmHA, provided that the application for EM assistance from FmHA or the formal written request for a letter of referral by FmHA was filed within the time limits set forth in the FmHA designation. Loan applications for Economic Injury for non-farm small businesses may be filed until the close of business on June 22, 1984. The number assigned to this disaster is 3042 for Physical damage to eligible agricultural enterprises and for Economic Injury is 611801. Eligible enterprises may file applications for loans for physical damage or economic injury at: U.S. Small Business Administration, Area 3 Disaster Office, 2306 Oak Lane, Suite 110, Grand Prairie, Texas 75051, (800) 527-7735 and in Texas (800) 442-7206 or other locally announced locations.

(Catalog of Federal Domestic Assistance Programs Nos. 59002 and 59008)

Dated: February 1, 1984.

Bernard Kulik,

Deputy Associate Administrator for Disaster Assistance.

[FR Doc. 84-3591 Filed 2-8-84; 8:45 am]

BILLING CODE 8025-01-M

[License No. 04/05-0086]

Market Capital Corp.; Filing of Application for Approval of Conflict of Interest Transaction

Notice is hereby given that Market Capital Corporation (MCC), 1102 N. 28th Street, P.O. Box 22667, Tampa, Florida 33622, a Federal Licensee under the Small Business Investment Act of 1958 (Act), as amended, has filed and application with the Small Business Administration (SBA) pursuant to § 312 of the Act and covered by § 107.903 of the SBA Rules and Regulations, governing small business investment companies (13 CFR 107.903(1984)) for approval of conflict of interest transaction falling within the scope of the above Section of the Act and Regulations.

Subject to such approval, MCC proposes to invest $56,378 in Futral Markets, Inc. (Futral), 205 North Scenic Highway, Frostproof, Florida 33843, to increases its working capital.

The proposed financing is brought within the purview of § 107.1004 of the SBA Regulations since Mr. Robert H. Futral is a member of the Board of Directors of Affiliated of Florida, Inc., a retail cooperative, the membership of which are the stockholders of MCC. Accordingly, Mr. Futral is considered by SBA to be an Associate of MCC.

Notice is hereby given that any interested person may, not later than ten (10) days from the date of publication of this Notice, submit written comments on the proposed transaction to the Deputy Associate Administrator for Investment, Small Business Administration, 1441 "L" Street, NW., Washington, D.C. 20416.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: February 3, 1984.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 84-3595 Filed 2-8-84; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area No. 3043; Amdt. No. 1]

Michigan; Declaration of Physical Disaster Loan Area

The above declaration (49 FR 1307) is amended pursuant to the Secretary of Agriculture's Designation authorizing Farmers Home Administration (FmHA) to accept emergency loan applications in the following area:

State of Michigan

FmHA		Incident and date
Number	Date	
S112	12/16/83	Freezing temperatures occuring May 9, 1983 through May 26, 1983. * Freezing temperatures occurring May 9, 1983 through May 26, 1983, and drought, June 1, 1983 through September 1, 1983.

Counties

Manistee and * Van Buren.

As a result of this designation, I have determined the above counties in the State of Michigan constitute a disaster loan area for agricultural enterprises which are ineligible for disaster assistance from the FmHA because of alien status: Corporations, partnerships and cooperatives not being primarily engaged in farming, farm owners who do not operate their farms, etc., and for Economic Injury Disaster loans for non-farm small business concerns.

The interest rates for eligible applicants under this designation are as follows:

	Percent
Agricultural enterprises with credit available elsewhere	10.5
Agricultural enterprises without credit available elsewhere	8.0
Non-farm small businesses (Economic Injury)	8.0

Loan applications for Physical Disaster Loans from eligible agricultural enterprises may be filed for a period not to exceed thirty days from the date of the letter of referral from FmHA, provided that the application for EM assistance from FmHA or the formal written request for a letter of referral by FmHA was filed within the time limits set forth in the FmHA designation. Loan applications for Economic Injury for non-farm small businesses may be filed until the close of business on June 18, 1984. The number assigned to this disaster is 3043 for Physical damage to eligible agricultural enterprises and for Economic Injury 611901. Eligible enterprises may file applications for loans for physical damage or economic injury at: U.S. Small Business Administration, Area 2 Disaster Office, 75 Spring Stret SW., Suite 822, Atlanta, Georgia 30303, (800) 554-3455 and in Georgia (800) 241-5625 or other locally announced locations.

(Catalog of Federal Domestic Assistance Programs Nos. 59002 and 59008)

Dated: February 1, 1984.

Bernard Kulik,

Deputy Associate Administrator for Disaster Assistance.

[FR Doc. 84-3589 Filed 2-8-84; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area No. 3030]

South Dakota; Declaration of Physical Disaster Loan Area

Pursuant to the Secretary of Agriculture's Designation, Farmers Home Administration (FmHA) has authorized the acceptance of emergency loan applications in the following area:

State of South Dakota

Authorized by FmHA		Incident and date
Number	Date	
S115	12/29/83	Excessive rains and flooding beginning June 6, 1983 and continuing through June 28, 1983.

Authorized by FmHA		Incident and date
Number	Date	

Counties

Clay, Turner and Union.

As a result of this designation, I have determined the above counties in the State of South Dakota constitute a disaster loan area for agricultural enterprises which are ineligible for disaster assistance from the FmHA because of alien status; corporations, partnerships and cooperatives not being primarily engaged in farming, farm owners who do not operate their farms, etc., and for Economic Injury Disaster loans for non-farm small business concerns.

The interest rates for eligible applicants under this designation are as follows:

	Percent
Agricultural enterprises with credit available elsewhere	10.5
Agricultural enterprises without credit available elsewhere	8.0
Non-farm small businesses (Economic Injury)	8.0

Loan applications for Physical Disaster Loans from eligible agricultural enterprises may be filed for a period not to exceed thirty days from the date of the letter of referral from FmHA, provided that the application for EM assistance from FmHA or the formal written request for a letter of referral by FmHA was filed within the time limits set forth in the FmHA designation. Loan applications for Economic Injury for non-farm small businesses may be filed until the close of business on June 29, 1984. The number assigned to this disaster is 3030 for Physical damage to eligible agricultural enterprises and for Economic Injury 612001. Eligible enterprises may file applications for loans for physical damage or economic injury at: U.S. Small Business Administration, Area 4 Disaster Office, 77 Cadillac Drive, Suite 158, Sacramento, California 95825, (800) 468-1710 and in California (800) 468-1713 or other locally announced locations.

(Catalog of Federal Domestic Assistance Programs Nos. 59002 and 59008)

Date: February 1, 1984.

Bernard Kulik,

Deputy Associate Administrator for Disaster Assistance.

[FR Doc. 84-3590 Filed 2-8-84; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area No. 3025; Amdt. No. 2]

Texas; Declaration of Physical Disaster Loan Area

The above numbered declaration (48 FR 55798, Amendment #1—49 FR 57369) is amended pursuant to the Secretary of Agriculture's designation authorizing Farmers Home Administration (FmHA) to accept emergency loan applications in the following area:

State of Texas

FmHA		Incident and date
Number	Date	
[illegible]	12/16/83	Drought beginning June 19, 1983, and continuing.

County

Hall.

As a result of this designation, I have determined the above County in the State of Texas constitutes a disaster loan area for agricultural enterprises which are ineligible for disaster assistance from the FmHA because of alien status; corporations, partnerships and cooperatives not being primarily engaged in farming, farm owners who do not operate their farms, etc., and for Economic Injury Disaster loans for non-farm small business concerns.

The interest rates for eligible applicants under this designation are as follows:

	Percent
Agricultural enterprises with credit available elsewhere	10.5
Agricultural enterprises without credit available [illegible]	8.0
Non-farm small businesses (Economic injury)	8.0

Loan applications for Physical Disaster Loans from eligible agricultural enterprises may be filed for a period not to exceed thirty days from the date of the letter of referral from FmHA, provided that the application for EM assistance from FmHA or the formal written request for a letter of referral by FmHA was filed within the time limits set forth in the FmHA designation. Loan applications for Economic Injury for non-farm small businesses may be filed until the close of business on June 18, 1984. The number assigned to this disaster is 3025 for Physical damage to eligible agricultural enterprises and for Economic Injury 605801. Eligible enterprises may file applications for loans for physical damage or economic injury at: U.S. Small Business Administration, Area 3 Disaster Office, 2306 Oak Lane, Suite 110, Grand Prairie, Texas 75051, (800) 527–7735 and in Texas (800) 442–7206 or other locally announced locations.

(Catalog of Federal Domestic Assistance Programs Nos. 59002 and 59008)

Date: February 1, 1984.

Bernard Kulik,

Deputy Associate Administrator for Disaster Assistance.

[FR Doc. 84–3592 Filed 2–8–84; 8:45 am]

BILLING CODE 8025–01–M

[Declaration of Disaster Loan Area No. 3031]

Vermont; Declaration of Physical Disaster Loan Area

Pursuant to the Secretary of Agriculture's Designation. Farmers Home Administration (FmHA) has authorized the acceptance of emergency loan applications in the following area:

State of Vermont

FmHA		Incident and date
Number	Date	
S116	1/4/84	Losses to vegetable crops due to severe thunderstorms accompanied by high wind and hail during the evening of August 8, 1983.

County

Chittenden.

As a result of this designation, I have determined the above county in the State of Vermont constitutes a disaster loan area for agricultural enterprises which are ineligible for disaster assistance from the FmHA because of alien status: corporations, partnerships and cooperatives not being primarily engaged in farming, farm owners who do not operate their farms, etc., and for Economic Injury Disaster loans for non-farm small business concerns.

The interest rates for eligible applicants under this designation are as follows:

	Percent
Agricultural enterprises with credit available elsewhere	11.0
Agricultural enterprises without credit available elsewhere	8.0
Non-farm small businesses (economic injury)	8.0

Loan applications for Physical Disaster Loans from eligible agricultural enterprises may be filed for a period not to exceed thirty days from the date of the letter of referral from FmHA, provided that the application for EM assistance from FmHA or the formal written request for a letter of referral by FmHA was filed within the time limits set forth in the FmHA designation. Loan applications for Economic Injury for non-farm small businesses may be filed until the close of business on July 5, 1984. The number assigned to this disaster is 3031 for Physical damage to eligible agricultural enterprises and for Economic Injury 612601. Eligible enterprises may file applications for loans for physical damage or economic injury at: U.S. Small Business Administration, Area 1 Disaster Office, 15–01 Broadway, Fair Lawn, New Jersey 07410, (201) 794–8195 or other locally announced locations.

(Catalog of Federal Domestic Assistance Programs Nos. 59002 and 59008)

Dated: February 3, 1984.

Bernard Kulik,

Deputy Associate Administrator for Disaster Assistance.

[FR Doc. 84–3596 Filed 2–8–84; 8:45 am]

BILLING CODE 8025–01–M

DEPARTMENT OF STATE

[Public Notice 894]

Agency Form Submitted for OMB Review

AGENCY: Department of State.

ACTION: In accordance with the provisions of the Paperwork Reduction Act of 1980, the Department has submitted two collections of information to the Office of Management and Budget for review.

SUMMARY: The following summarizes the information collection proposals submitted to OMB:

1. Form number—Optional Form 156

Title—Nonimmigrant Visa Application.
Purpose—Used to apply for entry into the United States for a temporary stay.
Type of request—Revision/extension.
Origin—Bureau of Consular Affairs.
Frequency—On occasion.
Respondents—Aliens who wish to enter the United States for business or pleasure.
Estimated number of responses—3,000,000.
Estimated total number of hours needed to respond—600,000.

2. Form number—DSP–10

Title—Statement of Identity.
Purpose—Used to establish identity of a passport applicant who has not submitted adequate evidence with their application.
Type of request—Extension.
Origin—Bureau of Consular Affairs.
Fequency—On occasion.
Respondents—Persons acquainted with the passport applicant.
Estimated number of responses—2,600.
Estimated total number of hours needed to respond—216

Section 3504(h) of Pub. L. 96–511 does not apply.

Additional Information or Comments: Copies of the forms and supporting documents may be obtained from Gail J. Cook (202) 632–3602. Comments and questions should be directed to (OMB) Francine Picoult (202) 395–7231.

Dated: January 30, 1984

Robert E. Lamb,

Assistant Secretary for Administration.

[FR Doc. 84–3527 Filed 2–8–84; 8:45 am]

BILLING CODE 4710-22-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD 84–004]

Port Access Routes; Approach to New York

AGENCY: Coast Guard, DOT.

ACTION: Notice of study.

SUMMARY: The Coast Guard is undertaking a study of the potential vessel traffic density and the need for safe access routes in the Nantucket to Ambrose approach to New York. New safety fairways will be considered for this area. This study is being conducted in accordance with standards contained in the Ports and Waterways Safety Act (PWSA) (Pub. L. 95–474; 33 U.S.C. 1223 and 1224). As a result of this study, new or modified routing measures may be proposed in a future **Federal Register.** Also, the results of this study could cause restrictions in the manner in which specific offshore areas leased after the date of this notice may be explored and developed.

Specifically, the area to be examined during the study is bounded by a line connecting the following geographic positions:

(1) 40°28′15÷÷ N. 73°40′45÷÷ W.
(2) 40°32′30÷÷ N, 73°11′36÷÷ W.
(3) 40°32′36÷÷ N. 73°05′00÷÷ W.
(4) 40°35′48÷÷ N. 70°14′12÷÷ W.
(5) 40°37′00÷÷ N. 69°15′12÷÷ W.
(6) 40°23′36÷÷ N. 69°14′35÷÷ W.
(7) 40°22′25÷÷ N. 70°13′32÷÷ W.
(8) 40°19′06÷÷ N. 73°04′56÷÷ W.
(9) 40°18′54÷÷ N. 73°11′33÷÷ W.
(10) 40°24′48÷÷ N. 73°41′28÷÷ W.
(11) Then back to 40°28′15÷÷ N. 73°40′45÷÷ W.

The above area encompasses two parts of the existing traffic separation scheme (TSS) off New York: the Eastern approach, off Nantucket and the Eastern approach, off Ambrose Light. Additionally, it includes the "corridor" regularly used by vessels transiting from the "Eastern approach, off Nantucket" part of the TSS to the "Eastern approach, off Ambrose Light" part of the TSS and vice versa. The study area is approximately 500 meters wider than the existing TSS to allow for the study of the need for a fairway buffer area along the traffic lanes.

Port access routing needs in this area were previously studied in 1980; and results were published on October 5, 1981 in 46 FR 49035. It was announced that recent oil exploration did not create a need for additional routing measures at that time. However, the schedule of OCS lease sales including tracts in the area between the existing portions of the TSS pose a potentially significant impact on navigation and the Coast Guard has determined that the area must be restudied.

The Third Coast Guard District will be conducting the study and developing recommendations. Following is the name, address and telephone number of the project officer who will be responsible for the study of this area: Ltjg K. L. King, Commander (mpv-p), Third Coast Guard District, Governors Island, New York, NY 10004, (212) 668–7179.

The Coast Guard is interested in receiving information and opinions from persons who have an interest in safe routing of ships as affected by other uses of the area. Written comments should be mailed to the above address. In accordance with the PWSA, the Coast Guard will directly consult with the Secretaries of State, the Interior, Commerce and Army, and the Governors of the affected states during the study. In order to be most useful, any relevant information should be made available to the Third District office by June 30, 1984.

In particular, the Coast Guard would like comments pertaining to the need for and the benefits and costs of a shipping safety fairway between the "Eastern approach, off Nantucket" and "Eastern approach, off Ambrose Light" parts of the "Off New York" TSS. Vessel operators are invited to comment on any navigational benefits of having a safety fairway. Offshore developers are encouraged to identify and support any foreseeable cost impact of indirect access resulting from a new fairway.

Study Policies

The actions to be taken as a result of this study cannot be specified at this time. However, the Coast Guard will be governed by certain policies which are emphasized here to assist those who wish to submit comments. These policies and intentions are based on Coast Guard experience in the areas of vessel traffic management, navigation, shiphandling, the effects of weather, and prior analysis of the traffic density in certain regions, as well as the mandates of the PWSA.

The PWSA directs that the Secretary (Coast Guard) "* * * provide safe access routes for the movement of vessel traffic proceeding to and from ports * * * and shall designate necessary fairways and traffic separation schemes" in which the "paramount right of navigation over all other uses" shall be recognized. Before a designation can be made, the Coast Guard is required to "undertake a study of the potential traffic density and the need for safe access routes."

During the study, the Coast Guard is directed to consult with federal and state agencies and to "consider the views of representatives of the maritime community, port and harbor authorities or associations, environmental groups, and other parties who may be affected by the proposed action."

The use conflict which is of current concern in the area to be studied involves the present or potential placement of oil exporation and production facilities in or near traditional transatlantic traffic routes. The location of oil and gas exporation and development facilities in areas of heavy vessel traffic can be regulated by the establishment of shipping safety fairways. In accordance with 33 U.S.C. 1223(c), the Coast Guard will "to the extent practicable, reconcile the need for safe access routes with the needs of all other reasonable uses of the area involved." If the Coast Guard determines that a new routing measure designation is needed, a notice of proposed rulemaking will be published.

It is anticipated that the study will be concluded by January 31, 1985.

Dated: February 3, 1984.

H. H. Kothe,

Captain, Coast Guard, Acting Chief, Office of Navigation.

[FR Doc. 84–3521 Filed 2–8–84; 8:45 am]

BILLING CODE 4910-14-M

Federal Railroad Administration

[BS–Ap–No. 2216]

Seaboard System Railroad; Public Hearing

The Seaboard System Railroad has petitioned the Federal Railroad Administration (FRA) seeking approval of the proposed discontinuance of the traffic control and automatic block signal systems currently installed on its line between Lebanon Junction, Kentucky, and Sinks, Kentucky, a

distance of approximately 107 miles. This proceeding is identified as FRA Block Signal Application No. 2216.

After examining the carrier's proposal and the available facts, the FRA has determined that a public hearing is necessary before a final decision is made on this proposal.

Accordingly, a public hearing is hereby set for 10:00 a.m. on March 27, 1984, in Room 1052A of the Federal Office Building, 600 Federal Place, Louisville, Kentucky.

The hearing will be an informal one, and will be conducted in accordance with Rule 25 of the FRA Rules of Practice (49 CFR 211.25), by a representative designated by the FRA.

The hearing will be a nonadversary proceeding and, therefore, there will be no cross-examination of persons presenting statements. The FRA representative will make an opening statement outlining the scope of the hearing. After all initial statements have been completed, those persons who wish to make brief rebuttal statements will be given the opportunity to do so in the same order in which they made their initial statements. Additional procedures, if necessary for the conduct of the hearing will be announced at the hearing.

Issued in Washington, D.C., on February 2, 1984.

J. W. Walsh,

Associate Administrator for Safety.

[FR Doc. 84-3604 Filed 2-8-84; 8:45 am]

BILLING CODE 4910-06-M

National Highway Traffic Safety Administration

[Docket No. IP84-1; Notice 1]

General Motors Corp.; Receipt of Petition for Determination of Inconsequential Noncompliance

General Motors Corp. of Warren, Michigan, has petitioned to be exempted from the notification and remedy requirements of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1381 *et seq.*) for an apparent noncompliance with 49 CFR 571.120, Motor Vehicle Safety Standard No. 120, *Tire Selection and Rims for Motor Vehicles Other Than Passenger Cars.* The Basis of the petition is that the noncompliance is inconsequential as it relates to motor vehicle safety.

This notice of receipt of a petition is published under section 157 of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1417) and does not represent any agency decision or other exercise of judgment concerning the merits of the petition.

Paragraph S5.3(b) of Standard No. 120 requires that rim size designation be provided in a form permanently attached to the vehicle. General Motors has determined that certification labels on approximately 136 1983 Chevrolet and GMC C Series trucks contain incorrect rim size designations. Specifically, the rim size is given as 15x2, rather than the correct 15x6. Tire size and inflation pressure are correct. GM argues that the noncompliance is inconsequential because there is no rim size 15x2 available, and even if such a wheel could be obtained tires designed to be mounted on a 6-inch wide rim could not be mounted on a 2-inch wide rim. In the event wheel replacement is required, the correct designation is stamped on each truck wheel in accordance with other provisions of Standard No. 120.

Interested persons are invited to submit written data, views and arguments on the petition of General Motors Corp. described above. Comments should refer to the docket number and be submitted to: Docket Section, National Highway Traffic Safety Administration, Room 5109, 400 Seventh Street, SW., Washington, D.C., 20590. It is requested but not required that five copies be submitted.

All comments received before the close of business on the comment closing date indicated below will be considered. The application and supporting materials, and all comment received after the closing date will also be filed and will be considered to the extent possible. When the petition is granted or denied, notice will be published in the **Federal Register** pursuant to the authority indicated below.

The engineer and lawyer primarily responsible for this notice are A. Y. Casanova and Taylor Vinson, respectively.

Comment closing date: March 12, 1984.

(Sec. 102, Pub. L. 93-492, 88 Stat. 1470 (15 U.S.C. 1417); delegations of authority at 49 CFR 1.50 and 49 CFR 501.8

Issued on February 3, 1983.

Barry Felrice,

Acting Associate Administrator for Rulemaking.

[FR Doc. 84-3575 Filed 2-8-84; 8:45 am]

BILLING CODE 4910-59-M

Research and Special Programs Administration

Applications for Exemptions

AGENCY: Materials Transportation Bureau, D.O.T.

ACTION: List of Applicants for Exemptions.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR Part 107, Subpart B), notice is hereby given that the Office of Hazardous Materials Regulation of the Materials Transportation Bureau has received the applications described herein. Each mode of transportation for which a partiuclar exemption is requested is indicated by a number in the "Nature of Application" portion of the table below as follows: 1—Motor vehicle, 2—Rail freight, 3—Cargo vessel, 4—Cargo-only aircraft, 5—Passenger-carrying aircraft.

DATE: Comment period closes March 8, 1984.

ADDRESS COMMENTS TO: Dockets Branch, Office of Regulatory Planning and Analysis, Materials Transportation Bureau, U.S. Department of Transportation Washington, D.C. 20590. Comments should refer to the application number and be submitted in triplicate.

FOR FURTHER INFORMATION CONTACT: Copies of the applications are available for inspection in the Dockets Branch, Room 8426, Nassif Building, 400 7th Street, SW., Washington, DC.

NEW EXEMPTIONS

Application No.		Applicant	Regulation(s) affected	Nature of exemption thereof
9209-N		U.S. Department of Defense, Washington, DC	49 CFR 173.53	To classify triaminotrinitrobenzine (TATB) and munitions containing TATB, as other than an explosive. (modes 1, 2.)
9220-N		Allied Chemical, Morristown, NJ	49 CFR 173.266(c)	To authorize shipment of 8 percent hydrogen peroxide solution not to exceed 37 percent, in a DOT specification 12P fiberboard box with one insider DOT specification 2U polyethylene container of not over 5 gallons or two 2½ gallons capacity. (Modes 1, 2, 3.)

NEW EXEMPTIONS—Continued

Application No.	Applicant	Regulation(s) affected	Nature of exemption thereof
9210–N	Lobb Associates Paper & Packaging, Libertyville, IL.	49 CFR 172.504, 173.345(a),173.364(a)	To manufacture, mark and sell a packaging for shipment of certain small quantities of Class B poisonous liquids and solids, excepted from labeling and placarding requirements. (Mode 1.)
9211–N	Braintree Maritime Transportation Corp., Quincy, MA.	49 CFR 146.29.35(f)	To authorize the operation of electrically-powered lighting, air conditioning, alarm and fire detection systems in cargo holds of ships containing military explosives, class A, B and C. (Mode 3.)
9212–N	Gibson Cryogenics, Inc., Ogden, UT	49 CFR 173.315, 178.245	To manufacture, mark and sell non-DOT specification 304 stainless steel portable tanks similar to DOT specification 51 except for post weld heat treatment for shipment of carbon dioxide, classed as nonflammable gas. (Modes 1, 3.)
9213–N	Bulk-Pack, Inc., West Monroe, LA	49 CFR 173.182, 173.217, 173.245	To manufacture, mark and sell non-DOT specification polypropylene bags with a polyethene liner of approximately 2,000 pound capacity for shipment of corrosive or oxidizer solids. (Modes 1, 2, 3.)
9214–N	Government Services Institute (GSI) Inc., Spring Hill, FL.	49 CFR 177.841(e)	To authorize shipment of various poisonous materials in the same motor vehicle with food stuffs when contained in closed unit load devices used before or after transportation by air. (Mode 1.)
9215–N	Container Corporation of America, Baltimore, MD.	49 CFR 172.420, 175.3	To authorize use of approximately 15,000 DOT Specification 12B boxes which were inadvertenly printed with the flammable solid label displayed in two separate lines rather than together on one line. (Modes 1, 2, 3, 4, 5.)
9216–N	Freeman Industries, Inc., Tuckahoe, NY	49 CFR 173.270)(a)(2)	To authorize shipment of phosphorous tribromide, classed as a corrosive material, in non-DOT specification, 14 gallon capacity nickel drums comperable to DOT specification 5K drums. (Mode 1.)
9217–N	United Air Lines, Inc., Chicago, IL	49 CFR 173.21,175.30	To transport an ignited flame protected safety lamp fueled with naphtha in the cabin of a passenger carrying aircraft under controlled conditions. (Mode 5.)
9220–N	Custom Packaging Systems, Inc., Manistee, MI.	49 CFR 173.245, 173.365	To manufacture, mark and sell non-DOT specification polypropylene bags, with liner, of approximately 3,000 pounds capacity for shipment of certain corrosive or poisonous solids. (Modes 1, 2, 3, 4.)
9221–N	Applied Environments Corporation, Woodland Hills CA.	49 CFR 173.302(a)(4), 175.3, 178.44	To manufacture, mark and sell non-DOT specification welded steel cylinders comperable to DOT specification 3HT for shipment of various nonflammable gases. (Modes 1, 2, 4.)

This notice of receipt of applications for new exemptions is published in accordance with Section 107 of the Hazardous Materials Transportation Act (49 U.S.C. 1806; 49 CFR 1.53(e)).

Issued in Washington, DC, on February 2, 1984.

Joseph T. Horning,

Chief, Exemptions and Approvals Division, Office of Hazardous Materials Regulation, Materials Transportation Bureau..

[FR Doc. 84–3576 Filed 2–8–84; 8:45 am]

BILLING CODE 4910–60–M

Applications for Renewal or Modification of Exemptions or Applications To Become a Party to an Exemption

AGENCY: Materials Transportation Bureau, D.O.T.

ACTION: List of Applications for Renewal or Modification of Exemptions or Application to Become a Party to an Exemption.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR Part 107, Subpart B), notice is hereby given that the Office of Hazardous Materials Regulation of the Materials Transportation Bureau has received the applications described herein. This notice is abbreviated to expedite docketing and public notice. Because the sections affected, modes of transportation, and the nature of application have been shown in earlier **Federal Register** publications, they are not repeated here. Except as otherwise noted, renewal applications are for extension of the exemption terms only. Where changes are requested (e.g. to provide for additional hazardous materials, packaging design changes, additional mode of transportation, etc.) they are described in footnotes to the application number. Application numbers with the suffix "X" denote renewal; application numbers with the suffix "P" denote party to. These applications have been separated from the new applications for exemptions to facilitate processing.

DATE: Comment period closes February 28, 1984.

ADDRESS COMMENTS TO: Dockets Branch, Office of Regulatory Planning and Analysis, Materials Transportation Bureau, U.S. Department of Transportation, Washington, DC 20590. Comments should refer to the application number and be submitted in triplicate.

FOR FURTHER INFORMATION CONTACT: Copies of the applications are available for inspection in the Dockets Branch, Room 8426, Nassif Building, 400 7th Street, SW., Washington, DC.

Application No.	Applicant	Renewal of exemption
2587–X	Dension, Inc., Fredonia, KA	2587
2787–X	U.S. Department of Defense, Washington, DC.	2787
3121–X	U.S. Department of Defense, Washington, DC [1].	3121
3302–X	Airco Industrial Gases, Murray Hill, NJ.	3302
3992–X	Dow Chemical Co., Plaquemine, LA	3992
3992–X	LCP Transportation, Inc., Edison, NJ.	3992
3996–X	Stauffer Chemical Company, Westport, CT.	3996
4453–X	Wampum Hardware Company, New Galilee, PA.	4453
4453–X	Kentucky Powder Company, Lexington, KY.	4453
4719–X	Allied Corporation, Morristown, NJ [2].	4719
4850–X	Halliburton Services, Inc., Duncan, OK [3].	4850
5372–X	Airco Industrial Gases, Murray Hill, NJ.	5372
5749–X	E. I. du Pont de Nemours & Company, Inc., Wilmington, DE.	5749
5861–X	HTL Industries, Inc., Duarte, CA	5861
5951–X	Dow Chemical Company, Houston, TX.	5951
5967–X	Rocket Research Corp., Redmond, WA.	5967
6016–X	Harvey Company, Greensburg, PA	6061
6064–X	Sodyeco, Inc., Charlotte, NC	6064
6113–X	New Jersey Natural Gas Company, Wall, NJ.	6113
6197–X	....do	6197
6325–X	Atlas Powder Company, Dallas, TX	6325
6464–X	New Jersey Natural Gas Company; Wall, NJ.	6464
6501–X	GOEX, Inc., Cleburne, TX	6501
6530–X	Tri-State Supply Company, Bismarck, ND.	6530
6530–X	Liquid Air Corporation, San Francisco, CA.	6530
6530–X	Airco Industrial Gases, Murray Hill, NJ.	6530
6538–X	Pan Products Inc., Macedonia, OH [4].	6538
6563–X	Safety Medical Corp., Sharon Hill PA.	6563
6563–X	S.L.O. Health Products, Inc. Baywood Park, CA.	6563

Application No.	Applicant	Renewal of exemption
6602-X	Ethyl Corporation, Baton Rouge, LA.	6602
6602-X	Dow Chemical Co., Midland, MI	6602
6602-X	Great Lakes Chemical Corp., El Dorado, AR.	6602
6614-X	Hill Brothers Chemical Company, Tucson, AZ.	6614
6637-X	Russell-Stanley Southwest Inc., Woodbridge, NJ.	6637
6637-X	Advanced Chemical Technology, City of Industry, CA.	6637
6743-X	Atlas Powder Company, Dallas, TX	6743
6746-X	The Firestone Tire and Rubber Company, Akron, OH.	6746
6787-X	Russell-Stanley Southwest Inc., Woodbridge, NJ.	6787
6787-X	Advanced Chemical Technology, City of Industry, CA.	6787
[illegible]-X	Northern Petrochemical Company, Morris, IL.	[illegible]
6921-X	Airco Industrial Gases, Murray Hill NJ.	6921
[illegible]-X	Austin Powder Company, Cleveland, OH.	6984
[illegible]-X	Atlas Powder Company, Dallas, TX	6984
7011-X	Advanced Chemical Technology, City of Industry, CA.	7011
7052-X	Duracell International, Inc., Tarrytown, NY.	7052
7052-X	EG&G Environmental Equipment Div., Herndon, VA.	7052
7052-X	U.S. Department of Energy, Washington, DC.	7052
7052-X	U.S. Department of Defense, Washington, DC.	7052
7052-X	Altus Corporation, San Jose, CA	7052
7073-X	Ethyl Corporation, Baton Rouge, LA.	7073
7227-X	Richmond Low Equipment Company, Livermore, CA.	7227
7409-X	Puerto Rico Maritime Shipping Authority, San Juan, Puerto Rico.	7409
7438-X	Ethyl Corporation, Baton Rouge, LA.	7438
7477-X	Systron Donner Corporation, Concord, CA.	7477
7548-X	U.S. Department of Defense, Washington, DC.	7548
7558-X	Union Carbide Corporation, Danbury, CT [5].	7558
7595-X	American Cyanamid Co., Wayne, NJ.	7595
7616-X	The Atchison, Topeka and Santa Fe Railway Company, Chicago, IL.	7616
7638	Kelsey Welding Supply, Kenosha, WI.	7638
7638-X	Minnesota Valley Engineering, Inc., New Prague, MN [6].	7638
7651-X	Austin Powder Company, Cleveland, OH.	7651
7654-X	J. T. Baker Chemical Co., Phillipsburg, NJ.	7654
7654-X	Texas Eastman Company, Longview, TX.	7654
7657-X	Welker Engineering Company, Sugar Land, TX.	7657
7674-X	U.S. Department of Defense, Washington, DC.	7674
7737-X	Parker Hannifin Corporation, Eastlake, OH.	7737
7753-X	Monsanto Company, Saint Louis, MO.	7753
7770-X	Fauvet-Girel Paris, France	7770
7770-X	Eurotainer, Paris, France	7770
7803-X	Plastican, Inc., Leominster, MA	7803
7834-X	Magnaflux Corporation, Chicago, IL	7834
7887-X	Crown Rocket Technology, Mountlake Terrace, WA.	7887
7888-X	U.S. Department of Defense, Washington, DC.	7888
7915-X	Olin Corporation, East Alton, IL	7915
7915-X	U.S. Department of Defense, Washington, DC [7].	7915
7928-X	Alaska Marine Highway System, State of Alaska, Juneau, AK.	7928
7945-X	HTL Industries, Inc., Duarte, CA	7945
7972-X	E. I. du Pont de Nemours & Company, , Inc., Wilmington, DE.	7972
[illegible]-X	Wheaton Aerosols Co., Mays Landing, NJ.	[illegible]
8141-X	The Boeing Co., Seattle, WA [8]	8141
8153-X	Browning-Ferris Industries Chemical Services Inc., Houston, TX.	8153
8156-X	Union Carbide Corporation, Danbury, CT.	8156
8156-X	Scientific Gas Products, Inc., South Plainfield, NJ.	8156
8162-X	Structural Composites Industries, Inc., Pomona, CA.	8162
8180-X	Dow Corning Corporation, Midland, MI.	8180
8268-X	Alaska Explosives Limited, Anchorage, AK.	8268
[illegible]-X	Olin Corp., East Alton, IL	[illegible]
[illegible]-X	HTL Industries Inc., Duarte, CA	[illegible]
8303-X	Sodyeco, Inc., Charlotte, NC	8303
[illegible]-X	Sky Cab, Inc., East Brunswick, NJ	8303
[illegible]-X	Medical Emergency Transportation Corporation, Fairfield, NJ.	8300
8352-X	Degussa Corporation, Teterboro, NJ.	8352
8362-X	Altus Corporation, San Jose, CA	8362
[illegible]-X	Union Carbide Corporation, Danbury, CT [9].	[illegible]
[illegible]-X	Whirlpool Corporation, La Porte, IN	[illegible]
8427-X	U.S. Department of Defense, Washington, DC.	8427
8453-X	Atlas Powder Company, Dallas, TX	8453
8556-X	L'Air Liquide Corporation, Paris, FR	8556
8627-X	Chemlink Petroleum, Inc., Sand Springs, OK.	8627
8718-X	Structural Composites Industries, Inc., Pomona, CA.	8718
8751-X	Delta Tech Service, Inc., Martinez, CA.	8751
8761-X	The Heil Company, Milwaukee, WI	8761
8763-X	Liquid Air Corporation, San Francisco, CA.	8763
8779-X	Acme Resin Corporation, Forest Park, IL.	8779

[1] To authorize an additional cargo tank for shipment of liquid nitrogen tetroxide.
[2] To authorize alternate valve settings for the 120A300W tank cars in chlorodifluoromethane.
[3] To renew and to authorize detonating cords, metal clad as additional commodity.
[4] To authorize a propane butane mixture as an additional commodity.
[5] To renew, to make certain proper shipping name, retest and travel time changes in consonance with Docket HM-115 rulemaking.
[6] To authorize two additional cylinder models for shipment of carbon dioxide, liquefied and nitrous oxide liquefied.
[7] To renew and to expand on restricted points of transportation.
[8] To modify the bolt configuration used to secure the lithium battery overpack during transportation.
[9] To renew, to make certain proper shipping name, and travel time changes in consonance with Docket HM-115 rulemaking.

Application No.	Applicant	Parties to exemption
2582-P	GENUS, SAN Marcos, CA	2582
5600-P	....do	5600
6296-P	Uniroyal Chemical, Bethany, CT	6296
6626-P	Bishop's Welding Supply, Tampa, FL.	6626
6762-P	Dearborn Aqua-Serv of Lansing, Lansing, MI.	6762
7052-P	Ocean Technology, Inc., Burbank, CA.	7052
7835-P	Scott Specialty Gases, Plumsteadville, PA.	7835
8009-P	Natural Gas Transmission, Inc., Guthrie, OK.	8009
8129-P	Stauffer Chemical Company, Westport, CT.	8129
8129-P	Synergen, Inc., Boulder, CO	8129
8129-P	Chemical Waste Disposal Corp., Astona, NY.	8129
8129-P	Chemical Pollution Control, Inc., Bay Shore, NY.	8129
8129-P	Burroughs Welcome Company, Greenville, NC.	8129
8129-P	Drug & Laboratory Disposal, Inc., Plainwell, MI.	8129
8129-P	Cornell University, Ithaca, NY	8129
8129-P	The University of Wyoming, Laramie, WY	8129
8129-P	Environmental Response Inc., Hendersonville, TN.	8129
8129-P	E. I. DuPont De Nemours, Wilmington, DE.	8129
8445-P	....do	8445
8445-P	Rollins Environmental Services, Inc., Bridgeport, NJ.	8445
8480-P	Sears, Roebuck and Co., Chicago, IL.	8480
8489-P	CIBA-GEIGY Corporation, Greensboro, NC.	8489
8554-P	Mining Services International, Salt Lake City, UT.	8554
8582-P	Chicago and Northwestern Transportation Co., Chicago, IL.	8582
8988-P	Pengo Industries, Inc., Fort Worth, TX.	8988
8988-P	GOEX, Inc., Cleburne, TX	8988

This notice of receipts of applications for renewal of exemptions and for party to an exemption is published in accordance with Section 107 of the Hazardous Materials Transportation Act (49 U.S.C. 1806; 49 CFR 1.53(e)).

Issued in Washington, DC, on February 2, 1984.

Joseph T. Horning,

Chief, Exemptions and Approvals Division, Office of Hazardous Materials Operation, Materials Transportation Bureau.

[FR Doc. 84-3577 Filed 2-8-84; 8:45 am]

BILLING CODE 4910-60-M

DEPARTMENT OF THE TREASURY

[Treasury Department Order No. 155-2]

Designation as United States Mint

By virtue of the authority vested in me as Secretary of the Treasury, it is hereby ordered that:

1. The Bureau of the Mint shall hereafter be known as the United States Mint.

2. All regulations, rules, orders, decisions, forms, and other Mint and Treasury Documents are amended to conform to this order, but existing supplies of these materials shall be continued to be used without change until they are exhausted.

3. No action taken pursuant to this designation shall be invalid by reason of the fact that any statute or regulation provides or indicates that the action should have been taken under a different name.

Dated: January 9, 1984.

Donald Regan,

Secretary of the Treasury.

[FR Doc. 84-3597 Filed 2-8-84; 8:45 am]

BILLING CODE 4810-25-M

Sunshine Act Meetings

Federal Register
Vol. 49, No. 28
Thursday, February 9, 1984

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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Equal Employment Opportunity Commission	2
Federal Communications Commission	3
Federal Deposit Insurance Corporation	4
Federal Election Commission	5
Federal Home Loan Bank Board	6, 7
Federal Maritime Commission	8

1

CIVIL AERONAUTICS BOARD

TIME AND DATE: 10 a.m., February 9, 1984.

PLACE: Room 1027 (Open), Room 1012 (Closed), 1825 Connecticut Avenue, NW., Washington, D.C. 20428.

SUBJECT:

1. Ratification of Items Adopted by Notation.
2. *Unified Agenda of Federal Regulations.* (OGC)
3. Docket 41403, *Mid Pacific Airlines, Inc. Enforcement Proceeding.* Petition of Mid Pacific for discretionary review. (Memo 2204, OGC)
4. Docket 41686, EDR-466 Advance Notice of Proposed Rulemaking on Computer Reservations Systems. Request for Instructions. (OGC, BDA)
5. Docket 41749, Application of AERO EXCHANGE, INC. d/b/a PAN AERO INTERNATIONAL for approval of a trust under section 408 or exemption under section 416. (Memo 2206, BDA, OGC)
6. Docket 41748, Application of Florida West Airlines, Inc. under Subpart Q for a certificate authorizing scheduled interstate and overseas air transportation of persons, property and mail. (Memo 2201, BDA)
7. Docket 41805, Application of Tower Air, Inc. for a certificate of public convenience and necessity to engage in scheduled interestate and overseas air transportation. (Memo 2203, BDA)
8. Commuter carrier fitness determination of San Juan Airlines, Inc. (BDA)
9. Docket 40549, Petition of Atlantic Southeast Airlines, Inc., for compensation for losses incurred in providing essential air service at Athens, Georgia. (Memo 2202, BDA, OEA, BCCA, OCCCA, OC)
10. Docket 40475, Second-year subsidy rate for Atlantic Southeast Airlines, Inc., to serve Gadsen, Alabama. (Memo 1183-C, BDA, OEA, OC, OCCCA)
11. Docket 38623, IATA agreement proposing Noumea/Papeete-Los Angeles-San Francisco fare increases. (Memo 2207, BIA)
12. Dockets 41798, 41863, Applications for America West, Inc. and Western Air Lines for certificates of public convenience and necessity (Las Vegas-Edmonton/Calgary). (BIA, OGC, BALJ)
13. Dockets 41853, 41913, Applications of American Airlines, Inc., and Continental Air Lines, Inc., for certificates of public convenience and necessity (Houston/Dallas/Ft. Worth-Calgary/Edmonton-Anchorage/Fairbanks). (BIA)
14. Docket 41846 and 41911, *United States-Dublin Route Proceeding;* Applications of Northwest and Transamerica for United States-Dublin certificate authority. (BIA, OGC, BALJ)
15. Undocketed—Aeronaves del Peru petition for Board review of BIA staff denial of Fifth Freedom statement of authorization charter request. (Memo 2205, BIA, OGC)
16. Report on Peru Negotiations. (BIA)
17. Report on Switzerland Negotiations. (BIA)
18. Discussion on Canada. (BIA)
19. Discussion of the United Kingdom. (BIA)

STATUS: 1-14 Open; 15-19 Closed.

PERSON TO CONTACT: Phyllis T. Kaylor, The Secretary, (202) 673-5068.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 84-3615 Filed 2-7-84; 10:17 am]

BILLING CODE 6325-01-M

2

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

DATE AND TIME: Tuesday, February 14, 1984, 9:30 a.m. (Eastern Time).

PLACE: Commission Conference Room No. 200-C on the 2nd Floor of the Columbia Plaza Office Building, 2401 "E" Street, NW., Washington, D.C. 20507.

STATUS: Part will be open to the public and part will be closed to the public.

MATTERS TO BE CONSIDERED:

1. Announcement of Notation Votes
2. A Report on Commission Operations (Optional)
3. Freedom of Information Act Appeal No. 83-11-FOIA-217, concerning a request for certain personnel position classification review reports.
4. Freedom of Information Act Appeal No. 83-11-FOIA-223, concerning a request for investigative records.
5. Proposed Certifications for Illinois Department of Human Rights and for Puerto Rico Department of Labor and Human Resources, Anti-Discrimination Unit
6. Request for Approval of a Proposal for a Competitive Contract

Closed

1. Litigation Authorization; General Counsel Recommendations
2. Consideration of certain ORA Decision's
3. Consideration of certain Subpoena Determinations

Note.—Any matter not discussed or concluded may be carried over to a later meeting. (In addition to publishing notices on EEOC Commission Meetings in the **Federal Register**, the Commission also provides recorded announcements a full week in advance on future Commission sessions. Please telephone (202) 634-6748 at all times for information on these meetings).

CONTACT PERSON FOR MORE INFORMATION: Treva McCall, Executive Secretary to the Commission at (202) 634-6748.

Dated: February 7, 1984.

This Notice Issued February 7, 1984.

Treva McCall,

Executive Secretary to the Commission.

[FR Doc. 84-3706 Filed 2-7-84; 3:51 pm]

BILLING CODE 6750-06-M

3

FEDERAL COMMUNICATIONS COMMISSION

February 3, 1984.

Deletion of Agenda Items From February 3rd Open Meeting

The following items have been deleted from the list of agenda items scheduled for consideration at the February 3, 1984 Open Meeting and previously listed in the Commission's Notice of January 27, 1984.

Agenda, Item No. and Subject

General—1—Title: Requirements for Licensed Operators in Various Radio Services; Docket 83-322; RM-3292, RM-2643. Summary: The Commission will consider comments filed in Docket 83-322 and adoption of a Report and Order concerning the requirements for licensed operators in the Experimental Broadcast, International Broadcast, and Auxiliary Broadcast Service; the Private Land Mobile, Fixed, and Personal Radio Services; and the Domestic Public Fixed and Cable Television Relay Services; as well as certain changes in commercial radio operator licensing procedures and policies.

Policy—4—Title: Petition to require Station WOR-TV, Secaucus, New Jersey, to install translators in Southern New Jersey. Summary: The Commission will consider a

petition by U.S. Representative Matthew J. Rinaldo of New Jersey, requesting that RKO General, licensee of Station WOR–TV, Secaucus, New Jersey, be required to construct and operate translators in Southern New Jersey.
Issued: February 3, 1984.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 84–3670 Filed 2–7–84; 12:28 pm]
BILLING CODE 6712–01–M

4

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Changes in Subject Matter of Agency Meeting

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" [5 U.S.C. 552b(e)(2)], notice is hereby given that at its open meeting held at 2:00 p.m. on Monday, February 6, 1984, the Corporation's Board of Directors determined, on motion of Chairman William M. Isaac, seconded by Director C. T. Conover (Comptroller of the Currency), that Corporation business required the addition to the agenda for consideration at the meeting, on less than seven days' notice to the public, of the following matters:

Memorandum and resolution re: Final amendments to the Corporation's rules and regulations which would implement section 905(a) of the International Lending Supervision Act of 1983 by requiring banking institutions to establish special reserves against the risks presented in certain international assets.

Memorandum and resolution re: Proposed amendments to the Corporation's rules and regulations which would implement section 906 of the International Lending Supervision Act of 1983 by prescribing the accounting treatment for fees charged by banking institutions in connection with international loans.

Memorandum and resolution re: (1) Proposed amendments to Part 338 of the Corporation's rules and regulations, entitled "Fair Housing," which would eliminate the requirement that insured State nonmember banks collect and record in a log-sheet certain data concerning home loan inquiries while retaining the requirement that information on all home loan applications be recorded and retained for 25 months; and (2) a request for public comment on a possible reduction in the number of banks required to maintain log-sheets.

By the same majority vote, the Board further determined that no notice earlier than January 31, 1984 of these changes in the subject matter of the meeting was practicable.

Dated: February 6, 1984.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 84–3855 Filed 2–7–84; 12:28 pm]
BILLING CODE 6714–01–M

5

FEDERAL ELECTION COMMISSION

DATE AND TIME: 10 a.m., Tuesday, February 14, 1984.
PLACE: 1325 K Street NW., Washington, D.C.
STATUS: This meeting will be closed to the public.
ITEMS TO BE DISCUSSED: Compliance. Litigation. Audits. Personnel. Internal Procedures of the Reports and Analysis Division.

* * * * *

DATE AND TIME: 10 a.m., Thursday, February 16,1984.
PLACE: 1325 K Street NW., Washington, D.C. (Fifth Floor).
STATUS: This meeting will be open to the public.
MATTERS TO BE DISCUSSED:

Setting of dates of future meetings
Correction and approval of minutes
Eligibility report for candidates to receive Presidential primary matching funds
Check tendered by citizens for Larouche and Lyndon H. Larouche, Jr.
Draft Advisory Opinion #1983–48
Robert S. Lemle, Associate GC, Cablevision Systems Corporation
Finance Committee Report
First quarter management report for FY 1984
Proposed directive: Circulation Vote Procedures
Routine Administrative Matters

PERSON TO CONTACT FOR INFORMATION: Mr. Fred Eiland, Information Officer, Telephone: 202–523–4065.

Marjorie W. Emmons,

Secretary of the Commission.

[FR Doc. 84–3696 Filed 2–7–84; 2:38 pm]
BILLING CODE 6715–01–M

6

FEDERAL HOME LOAN BANK BOARD

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: Vol. No. 49, Page No.—None at this time. Date Published—None at this time.
PLACE: Board Room, 6th Floor, 1700 G St., NW., Washington, D.C.
STATUS: Open meeting.
CONTACT PERSON FOR MORE INFORMATION: Ms. Gravelee, (202–377–6970).
CHANGES IN THE METTING: The following item has been re-named as follows. This item is scheduled for the Bank Board meeting of Tuesday, February 14, 1984 at 2:30 p.m.

Old Name—Insurance Company and Joint Accounts
New Name—Insurance Coverage of Accounts Held by Investment Companies, Insurance of Joint Accounts

And the following items have been withdrawn from the same meeting:

Deposit Growth Plan
Intrim Net Worth Standard for Brokered Funds

J. J. Finn,

Secretary.

No. 72, February 7, 1984.
[FR Doc. 84–3697 Filed 2–7–84; 2:54 pm]
BILLING CODE 6720–01–M

7

FEDERAL HOME LOAN BANK BOARD

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: Vol. No. 49, Page No.—None at this time. Date published—None at this time.
PLACE: Board Room, 6th floor, 1700 G St., NW., Washington, D.C.
STATUS: Open meeting.
CONTACT PERSON FOR MORE INFORMATION: Ms. Gravelee, (202–377–6970).
CHANGES IN THE METTING: The following items has been re-named as follows:

Old Name—Five Year Averaging
New Name—Minimum Net-Worth Requirements of Insured Institutions

And the following item has been added to the open portion of the Bank Board meeting:

Conversion from Mutual to Stock Form

Both items are scheduled for the Bank Board meeting of Tuesday, February 14, 1984, at 2:30 p.m.

J. J. Finn,

Secretary.

No. 73, February 7, 1984.
[FR Doc. 84–3728 Filed 2–7–84; 3:48 pm]
BILLING CODE 6720–01–M

8

FEDERAL MARITIME COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: February 6, 1984, 49 F.R. 4449.
PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 9 a.m., February 8, 1984.
CHANGE IN THE MEETING:

The Commission meeting to be held on February 8, 1984 at 9:00 a.m. been changed to 10 a.m. on February 8, 1984.

Francis C. Hurney,

Secretary.

[FR Doc. 84–3560 Filed 2–6–84; 4:17 pm]
BILLING CODE 6730–01–M

federal register

Thursday
February 9, 1984

Part II

Small Business Administration

13 CFR Part 121

Small Business Size Standards; Revision; Final Rule

SMALL BUSINESS ADMINISTRATION

13 CFR Part 121

Small Business Size Standards; Revision

AGENCY: Small Business Administration.

ACTION: Final rule.

SUMMARY: SBA is amending its size standards regulations. These changes deal with the effects of inflation, address longstanding problems of defining small business in certain industries, provide one set of standards for both the procurement and financial assistance programs, and improve the readability of the regulations. This action is intended to update the size standards and clarify the regulations. In certain instances, however, existent regulations have been left in place.

DATE: These regulations are effective March 12, 1984.

ADDRESS: Submit written comments to: Andrew A. Canellas, Director, Size Standards Staff, Small Business Administration, 1441 L Street, NW., Washington, D.C. 20416.

FOR FURTHER INFORMATION CONTACT: Andrew A. Canellas, (202) 653–6373.

SUPPLEMENTARY INFORMATION:

Chronology

This is the sixth notice to appear in the **Federal Register** since March 10, 1980, describing SBA's efforts to revise its size standards across the board. Previous notices were:

(1) Advance Notice, March 10, 1980, 45 FR 15442; (2) Notice of Public Hearings, April 8, 1980, 45 FR 23704; (3) Public Notice, September 10, 1980, 45 FR 59587; (4) Second Advance Notice, May 3, 1982, 47 FR 18992; (5) Proposed Rule, May 6, 1983, 48 FR 20560.

Summary of Notices

SBA's first advance notice of proposed rulemaking attempted to set size standards based primarily on the industrial structure of each industry. Industries were categorized as either competitive, mixed, or concentrated, based on quantifiable features such as average firm size and concentration ratios. Relatively low standards were proposed for the competitive industries, reflecting SBA's desire to assist firms at the entry level in these industries. Higher size standards were proposed for the mixed industries and the highest standards were generally proposed for the concentrated industries, reflecting SBA's desire to assist firms in competition with dominant firms in their industries. Size standards in the notice were generally stated in terms of "employees" and ranged from 15 to 2,500 employees, depending on the industry in question.

In response to this notice, SBA received over 1,500 written comments from both affected private firms and Government agencies. These comments were generally critical of SBA's approach, most commentors favoring the existing size standards rather than the proposed revisions. Almost 75 percent of the total comments to the notice were adverse.

The Agency believed that the strong adverse response by commentors to the proposed changes justified a reevaluation of its approach. SBA felt that, ideally, the process of establishing size standards should not only have a technical base (industry structure) but should also consider the comments from the Federal procuring agencies and the private sector. Another consideration was overall adminstration policy which, because of perceived budgetary constraints, desired to focus more assistance toward smaller firms. Therefore, the second advance notice of May 3, 1982, differed from its predecessor in three important ways.

First, SBA chose to limit the maximum proposed size standard to 500 employees rather than the 2,500-employee level proposed in the first notice. This would have removed medium-size firms in manufacturing from eligibility. Second, SBA raised its lowest proposed size standards from 15 employees to 25 employees, thus responding to commentors who said that a 15-employee size standard was too low regardless of industry. Third, the SBA was responsive to sentiments within a number of procurement-sensitive industries that the proposed standards in the first advance notice had set standards too low for firms to satisfy the average Federal procurement.

The responses to this notice declined from 1,500 comments on the first notice to 500 comments on the second. However, a clear majority (72 percent) of the comments to this proposal continued to be negative, with many commentors voicing concern over the disruption they said would result from lowering size standards.

The proposed rule of May 6, 1983, placed greater weight on the comments of the private sector and Federal procuring agencies. The SBA interpreted the generally adverse response to the two advance notices as sufficient cause for a policy to retain most of the present size standards. This policy decision had the support of an SBA task force on size composed of the Agency's top program managers. The key features of this revision were: (1) The existing procurement size standards would be used as a base for uniform Agency size standards; (2) those size standards which are currently expressed in terms of "annual receipts" would be increased for inflation; (3) the size standards which are expressed in "number of employees" would generally remain the same; (4) a number of industries would be treated differently as a result of private industry and Federal agency comments.

The response to this proposal included over 600 separately written opinions. For the first time since the first advance notice was initially published in March 1980 (see following table), a majority of respondents favored the proposed revisions. Excluding the three most sensitive industries (engineering services, dredging, and oil wholesalers), almost 70 percent of the respondents favored the proposal.

In addition to being responsive to written comments from the public and affected Federal agencies in preparing this final rule, the SBA has considered the various viewpoints which were expressed at the Congressional hearings before the House Committee on Small Business, held on October 20 and 26, 1983.

Explanation of Final Rule

Since only a few differences exist between the May 1983 proposed rule and this final rule, the reasoning offered as a justification for the proposed rule at that time remains essentially the same (see 48 FR 20560–61) with respect to the final rule. SBA, again, is relying on four considerations in revising the size standards.

- Public comments.
- Federal procuring agency comments.
- SBA administrative policy.
- Structure of industries.

TABLE 1.—PUBLIC RESPONSE COMPARISON FIRST AND SECOND ADVANCE NOTICES AND NOTICE OF PROPOSAL TO REVISE SBA'S SIZE STANDARDS

	1st advance notice March 10, 1980	2d advance notice May 3, 1982	Notice of proposal May 6, 1983
Total letter responses	1,124	526	610
Position of respondents:			
For the proposal	201	87	299
Against some part of the proposal	836	378	281
Vague or indefinite in position	87	61	30
Percent of respondents:			
For the proposal	17.9	16.5	49.0
Against some part of the proposal	74.4	71.9	46.1
Vague or indefinite in position	7.7	11.6	4.9

TABLE 1.—PUBLIC RESPONSE COMPARISON FIRST AND SECOND ADVANCE NOTICES AND NOTICE OF PROPOSAL TO REVISE SBA'S SIZE STANDARDS—Continued

	1st advance notice March 10, 1980	2d advance notice May 3, 1982	Notice of proposal May 6, 1983
Specific industries with comment	218	144	104
Industries with 5 or more adverse comments	23	8	5
Position of respondents excluding comments on dredging; engineering architecture, and surveying services; and oil wholesalers (3 sensitive industries):			
For the proposal	181	70	275
Against some part of the proposal	740	265	121
Vague or indefinite in position	82	53	24
Percent with position in favor of proposal	19.7	20.9	69.4

As explained above, the May 1983 proposed rule was the first notice to revise the size standards which elicited a majority of public and procuring agency support. Table 1 indicates this. Because this proposal was less disruptive compared to the initial notice in 1980, SBA believes it was more acceptable. Thus, this final rule represents a fine-tuning of existing size standards rather than a comprehensive overhaul as advocated in the first two advance notices.

While recognizing that certain problems may still exist with some of the size standards, SBA decided to finalize the proposal for two reasons. First, the impact of inflation, 81 percent from 1975 through the third quarter of 1982, has significantly reduced the real value of dollar-denominated size standards for hundreds of industries. This adjustment is intended to return to the status quo of 1975 when the last inflationary adjustment was made. Second, the three different proposals to revise the size standards published since 1980 have created uncertainty and anxiety among the public and Federal agencies. A final rule will help clear the air. SBA, however, intends to keep the door open on requests for justifiable changes in its size standards once the final rule takes effect.

Implications of Final Rule

Common Size Standard for Programs

One factor that has remained consistent over time in these proposals is a single size standard, by industry, for all SBA programs. At present, financial and procurement programs often have different size standards for the same industry. This has resulted in confusion by both the public and by Federal employees responsible for administering the Government's many progams. With more than one standard for the same industry, firms often are eligible for one program while being ineligible for another. Thus, it is not surprising that public comments have consistently supported a single size standard for the major SBA programs, and this approach is implemented in the final rule.

Size Standards Based on SIC Codes

At present, size standards are defined by major industry divisions in terms of both SIC codes and product and service activities. At times, this has led to confusion in choosing whether to use a major division size standard, a size standard associated with an SIC code, or a size standard for an activity or product line. One major revision which SBA has incorporated into the final rule is a structured approach to this problem in which size standards are associated with 4-digit SIC codes rather than product lines, activities, or industry divisions. In general, this approach has received a favorable reception and it is retained in this final rule.

Explicitly Stated Size Standards

SBA's size standards have always been explicitly stated for only a partial list of SIC codes and/or product lines. The remaining industries have always been covered by clauses which stated that if no standard has been set forth, they will receive a 500-employee size standard in the procurement program or must request an ad hoc size standard in the loan program. SBA's new set of rules will correct this problem by explicitly stating a size standard for virtually every 4-digit SIC code industry. This approach has received a favorable response and SBA is retaining it in the final rule. In those few industries for which size standards do not exist, SBA would continue to provide ad hoc size standards when necessary.

Administration of Size Standards

There have always been problems associated with the administration of size standards. By using common, explicitly stated size standards for each SIC code for SBA's major programs, the Agency feels that it can significantly reduce the confusion associated with administering size standards. In addition, after publication of this final rule, SBA will rewrite some of its regulations dealing with size standards to make them more understandable. These will be proposed in 1984.

Intent To Revise 13 CFR Part 121

Subsequent to this publication of the final rule, SBA plans to revise the regulatory language in Part 121 of Title 13 of the Code of Federal Regulations. Certain size standards' regulations will be rewritten to conform with the use, generally, of uniform Agency standards and with other major amendments such as the use of the 4-digit Standard Industrial Classification Code (SIC) for all SBA programs. In addition, changes in the size standards' regulations are required for purposes of clarity and brevity.

Prior to the revision of the language in 13 CFR Part 121, SBA plans to utilize the expertise of the recently established Size Policy Board. The Board members are comprised of the Associate Administrator for Procurement and Technical Assistance (Chairman); the Associate Administrator for Finance and Investment; the Associate Administrator for Minority Small Business/Capital Ownership Development; the Assistant Administrator for Innovation, Research and Technology; and the Director, Size Standards Staff. The Board will consider and make recommendations relating to proposals on size policy, including improvements in SBA regulations, procedures, and directives as reflected in the revised 13 CFR Part 121. The Size Policy Board was established on November 14, 1983, as reflected in the public notice, 48 FR 51882.

Problem/Sensitive Industries

The process of setting size standards is never really complete. There are always parties interested in changing size standards who have new information to bear which might change SBA's viewpoint concerning a particular size standard. Thus, this final notice in no way implies that the present set of size standards will never be reviewed again. In particular, the SBA is committed to investigate further the size standards in at least two areas—dredging and engineering services—in the immediate period after these size standards are published. Other industries, such as wholesale trade and construction, will be reexamined, as warranted.

The size standard in the dredging industry reflects a deep polarization within the industry. Nearly one-quarter of all dredging firms have commented. Of a total of 40 comments opposed to our proposed size standard of $9.5 million, 28 wanted a lower standard, while 12 wanted the full inflationary increase. SBA, however, found it difficult to raise the size standard in dredging as in other industries when a preponderance of commentors favored a lower standard. Conversely, SBA

hestitated to lower the standard when other industries' size standards were being raised in response to inflation. SBA has now set up a task force in conjunction with the Corps of Engineers and other agencies to investigate this industry further, and to develop data that would be useful in formulating an equitable standard. In the interim, however, we will continue to use the $9.5 million standard which has been in effect since 1975.

The second industry to which SBA is committed to examine the size standard in the near future is engineering services. In our proposal we divided this industry into four components: nonmilitary engineering services with a proposed size standard of $3.5 million, militarily related engineering services with a proposed size standard of $13.5 million, marine engineering and naval architecture with a proposed size standard of $11.0 million, and architecture and surveying services with a proposed size standard of $3.5 million. For this final rule, SBA is raising the size standard for nonmilitary engineering services to $7.5 million, while lowering the marine engineering size standard to $9.0 million. Thus, these two engineering components will remain the same as the present standards. SBA, however, will continue to examine this industry in the near future.

Differences Between Final Rule and Proposed Rule for Individual Industries

The final rule differs from the rule proposed in the **Federal Register** on May 6, 1983, only in a few industries. Most of these are industries in which the size standard is sensitive for purposes of bidding on Government procurements ("procurement-sensitive industries") and are the ones which elicited the large majority of public comments on the proposed rule.

In some miscellaneous industries, also, size standards in the final rule differ from those in the proposed rule. These changes represent either fine-tuning of the previous proposal or efforts toward increased equity, based on public and Federal agency comments. The changes from the proposed rule and the rationale for the major changes, are as follows:

Wholesale Trade (Major Groups 50 and 51)

Wholesale trade consists of 61 separate industries; at present, all have a 500-employee procurement size standard. Loan size standards are presently expressed in dollar volume of receipts and vary among the wholesale industries, being either $9.5, $14.5, or $22 million.

In the proposed rule of May 6, 1983, SBA proposed that dollar standards of $15, $25, or $35 million be used, depending on characteristics of the specific wholesale industry, but no industry would be lower than its current loan standard. In effect, this would mean a substantially lower standard for procurement purposes in each wholesale industry than the present 500-employee limit.

Forty comments were received to this proposal, of which 35 were opposed. All those opposed wanted higher standards in dollar volume. Some wanted SBA to return to a single employee size standard for procurement. Though standards for 13 individual wholesale industries were commented on, many comments referred only to oil wholesalers. Here the dollar volume for firms with rather few employees is especially high. Comments from a number of Federal agencies indicate that a single employee-based size standard should be continued to simplify purchasing procedures. Therefore, SBA is retaining the current 500-employee procurement size standard. We will continue to study wholesale trade to determine whether future changes should be proposed.

Construction—General and Special Trades (Major Groups 15, 16, and 17)

SBA has become concerned that the proposed size standards of $21.5 million for general contractors, and $9.0 million for special trade contractors were too high, considering the highly competitive nature of these industries. (The average size of construction firms is only three employees and $300,000 in annual sales.)

Rather than apply the full inflationary increase of 81 percent, a lower increase is being used. This yields size standards of $17 million annual receipts in the general construction industries (Major Groups 15 and 16 except for dredging) and $7 million for special trades (Major Group 17), compared to the present standards of $12 million and $5 million, respectively. The $17 million limit also may be viewed as a ceiling for dollar-based size standards similar to the 1,500-employee ceiling used in manufacturing.

Engineering, Architectural, and Surveying Services (SIC–8911)

More comments were generated on the proposed size standards for the engineering services component of SIC–8911 than for any other industry. The current procurement size standard is $7.5 million for engineering services (except for Marine Engineering) which equates to approximately 150 employees. The current loan size standard is $3.5 million. In the proposed rule of May 6, 1983, this industry component was split into two separate segments, each with a separate size standard.

Engineering Services for Military and Aerospace Equipment and Military Weapons include highly sophisticated projects for the Department of Defense and NASA. Nearly all the comments supported the full inflationary adjustment which we proposed for this type of engineering service. This final rule establishes the $13.5 million size standard as proposed.

For Engineering Services, Except for Military and Aerospace Equipment, and Except for Military Weapons, SBA proposed a reduction of the size standard from $7.5 million to $3.5 million.

Only nine out of 83 comments to the May 6, 1983, proposal were in favor of a $3.5 million standard. Among those opposed were 41 large construction-related engineering firms that wanted size standards much lower than $3.5 million, some as low as $500,000. In addition, six small firms indicated that a $3.5 million standard was too high. However, 13 firms wanted to retain the current $7.5 million size standard, most of which would lose eligibility for set-aside contracts if the standard were lowered. Only four firms wished an inflationary increase. Three construction-related engineering associations all wanted standards much lower than $3.5 million.

Several Federal agencies would accept a lowering of the standard to $3.5 million, although the number of their set-asides would be affected. Other agencies indicated that a $7.5 million standard is required to meet their requirements for certain types of engineering.

This final rule retains the $7.5 million size standard for engineering services not related to military and aerospace equipment and weapons. If the standard had been reduced to $3.5 million, as proposed, 300 firms would lose eligibility for set-asides. Firms now eligible seem satisfied with the current size standard despite inflation. The needs of Federal agencies were also considered.

Marine Enginering and Naval Architecture. For both, a rise to $11 million from the current $9 million size standard was proposed in May. SBA received 15 comments to the May 6, 1983, proposal of which 14 were opposed. Four firms wanted a full inflation adjustment to $16 million. Nine of the remaining 10 firms preferred a lower size standard than the current $9

million, but four of the 10 found the current $9 million size standard at least acceptable. The Navy would prefer a 200-employee standard (about $11 million in sales) which would include firms with the capacity to design entire ships, but they pointed out that many smaller firms with capability in specialized areas could bid for contracts smaller than the design of entire ships. Therefore, the Navy could accept retaining the current $9 million standard. Since the majority of comments favor a standard no higher than the current $9 million level, at which sufficient contracts would be available, SBA is retaining the present standard for marine engineering and naval architecture.

Architectural and Surveying firms typically have only a handfull of employees. A size standard of $3.5 million, the lowest that is used for the service industries, is therefore established for these two services.

Accounting, Auditing, and Bookkeeping Services (SIC–8931)

While most commentors generally supported the higher size standards for accounting and auditing services ($5 million) and bookkeeping services ($3.5 million) proposed in May, many also argued that bookkeeping and accounting services were virtually identical. After investigating the situation in this industry, SBA came to agree with this viewpoint. The setting of the size standard at $4.0 million for all activities in this industry adjusts to this concern. It is equivalent to about 120 employees.

Gasoline Service Stations (SIC–5541) and *Retail Fuel Oil Dealers* (SIC–5983)

In both these retail industries, there have been exceptionally high price increases since 1975 because of the very large increase in cost of petroleum products. The Consumer Price Index for motor fuel increased 227 percent between 1975–82. Accordingly, the size standard for gasoline service stations is raised from the current $2 million to $4.5 million annual receipts, rather than the $3.5 million which was proposed in May.

A similar situation affects retail fuel oil dealers (SIC–5983). The retail fuel oil CPI increase of 284 percent since 1975 warrants a higher increase than that for retail trade in general. The size standard for this industry is thus set at $6 million in annual receipts, up from the $3.5 million in the proposed rule. (The current standard is 100 employees, an exception to the use of dollar standards is retail trade.)

Personnel Supply Services, N.E.C. (Including Base Maintenance and Facilities Management) (SIC–7369)

This industry consists of two components, both of which are defined in Footnote 13 of the final rule table below. Base maintenance continues to have a size standard of $13.5 million annual receipts, as proposed.

The second component is facilities management, a variety of office-related support services. Firms in this subindustry are much smaller than those in the maintenance component and, accordingly, the standard for facilities management is established at $3.5 million annual receipts, representing the general adjustment to the present loan standard of $2.0 million. This does constitute a change from the May proposal which, inadvertently, would have included facilities management at the $13.5 million level.

Footnote 13 also defines base housing maintenance. Since it predominantly consists of activities of special trade construction contractors (Major Group 17), it carries the same size standard of $7.0 million as the other special trades activities. As noted above, this standard is reduced from the $9.0 million proposed in May.

Miscellaneous Industries

• Ornamental Floriculture and Nursery Products (SIC–0181) is separated out of Agricultural Production—Crops, because of its much higher valued output per firm. Its standard becomes $500,000 annual receipts, up from the $100,000 proposed in May.

• Chicken Eggs (SIC–0252) involves a mass production factory-type operation with a minimum commercially feasible size. Its size standard is moved up to $1 million annual receipts from $100,000 in the May proposal in recognition of this.

• Agricultural Services (Major Group 07) is considered to be a group of service industries and should have the basic size standard as for other services of $3.5 million annual receipts. (50 employees was proposed in May.)

• Forestry (Major Group 08) primarily consists of service-type industries. Set-aside Federal procurements in this group are normally for services. It is established at the basic services size standard of $3.5 million (25 employees was previously proposed).

• Fishing, Hunting, and Trapping (Major Group 09). Based on information from the Department of Commerce and assessment of the minimum financially viable size for the fishing industry, the size standard for this group is established at $2.0 million in annual receipts. (Previous proposal was 25 employees.)

• Electric Power Generation, Transmission, or Distribution (SIC–4911) was mistakenly omitted in the May proposed rule. Its size standard, however, remains at 4 million megawatt hours in the firm's preceding fiscal year.

• Pipe Lines, N.E.C. (SIC–4619), consists of pipe lines for commodities other than oil or gas. A size standard of $17.0 million, the maximum dollar standard, is established. It had no prior size standard; $20 million was proposed in May.

The following table lists all the industry differences between the proposed rule and the final rule (dollar figures indicate annual receipts):

SIC or major group		May 1983 proposed rule	Final rule
0181	Ornamental Floriculture and Nursery Products	$100,000	$500,000.
0252	Chicken Eggs	$100,000	$1.0 million.
07	Agricultural Services	50 employees	$3.5 million.
08	Forestry	25 employees	$3.5 million.
09	Fishing, Hunting, and Trapping	25 employees	$2.0 million.
15, 16	Construction—General Contractors	$21.5 million	$17.0 million.
17	Construction—Special Trades	$9.0 million	$7.0 million.
-	Base Housing Maintenance	$9.0 million	$7.0 million.
4619	Pipe Lines, N.E.C.	$20.0 million	$17.0 million.
4911	Electric Services (Power generation, transmission and distribution)	None	4 million megawatt hours.
50, 51	Wholesale Trade	$15/$25/$25 million	500 employees.
5541	Gasoline Service Stations	$3.5 million	$4.5 million.
5983	Retail Fuel Oil Dealers	$3.5 million	$6.0 million.
7369	Facilities Management (part of Personnel Supply Services, N.E.C.)	$13.5 million	$3.5 million.
8911	Engineering, Architectural and Surveying Services:		
	—Engr. Services, except Military and Aerospace Equip. and Weapons	$3.5 million	$7.5 million.
	—Marine Engineering and Naval Architecture	$11.0 million	$9.0 million.

SIC or major group		May 1983 proposed rule	Final rule
8721	Accounting, Auditing, and Bookkeeping Services:		
	—Accounting and Auditing	$5.0 million	$4.0 million.
	—Bookkeeping	$3.5 million	$4.0 million.

Other Differences Between Proposed and Final Rules

- For purposes of receiving surety bond assistance, the maximum size for concerns in either construction or services remains at $3.5 million in annual receipts. A standard of $5.0 million for both industry groups was stated in the May proposed rule.
- The definition of "annual receipts," presently at § 121.3-2(b), is clarified at this time. In the final rule at § 121.2(c), the new wording defines receipts as revenues, and standardizes them to the accrual accounting method. Other revisions to the size standards regulatory language will be proposed in 1984.
- Footnote 5 of the final rule table, by SIC industry, concerning procurement of Tires and Inner Tubes (SIC–3011), has been corrected.

Economic Impact

A complete economic impact analysis is contained in the May proposed rule (see 48 FR 20564–67). Since the impact of the final rule will differ only slightly from that anticipated in the proposed rule, the complete analysis will not be repeated. The intent here is to discuss only the impact caused by changes in the final rule.

As indicated in Table 2, the final rule will increase the number of firms defined as small compared to the existing as well as the proposed rule. While in wholesale trade the retention of the 500-employee size standard will have no impact for procurement purposes, for financial assistance 9,000 additional firms compared to the proposed rule and 13,000 additional firms compared to the existing rules will gain small business status.

In construction, there will also be a net increase in the number of firms defined as small, but not so great an increase as would have occurred in the proposed rule. The final rule increases the size standard to $17.0 million for general contractors and $7.0 million for special trade contractors. The proposed rule had indicated $21.5 million and $9.0 million respectively. This will define 4200 additional firms as small rather than the 6500 firms that would have been added under the proposed rule.

TABLE 2.—ESTIMATED NUMBER OF SMALL FIRMS COMPARED TO INDUSTRY TOTALS UNDER CURRENT, PROPOSED, AND FINAL SIZE STANDARDS—BY INDUSTRY DIVISION *

SIC	Division	Total firms	Current small		Proposed small May 6, 1983	Final rule
			Loan	Proc.		
Agriculture, Forestry, and Fishing (Except Farms) [4]	A	96,342	95,703	95,876	95,709	95,859
Mining	B	23,097	22,667	22,667	22,667	22,667
Construction	C	1,176,135	1,166,963	1,167,233	1,173,413	1,171,181
Manufacturing	D	299,351	281,127	284,111	284,111	284,111
Transportation, Communications, and Utilities [1]	E	134,775	129,086	131,365	133,024	133,024
Wholesale [2]	F	286,925	273,117	286,614	277,551	286,614
Retail	G	1,567,071	1,514,687	N/A	1,527,957	1,528,540
Finance, Insurance, and Real Estate [3]	H	87,686	83,183	N/A	86,595	86,595
Services	I	1,763,992	1,752,297	1,753,709	1,756,616	1,756,116
Total		5,435,374	5,318,830	3,741,575	5,357,553	5,364,707
Farms		2,477,000	2,413,000	N/A	2,254,000	2,272,000

[1] Only those industries in which SBA makes loans are listed. Some industries in the Transportation, Communication, and Utilities division are not eligible for SBA programs. Source: 1980 D&B/USEEM, specially prepared for SBA.
[2] Merchant wholesalers, wholesale agents, brokers, and commission merchants are included. Sales outlets owned by manufacturers are not included as a wholesale function.
[3] Only those industries in which SBA makes or proposes to make loans are listed. These are (1) Fire, Casualty, and Marine Insurance Companies; (2) Insurance Agents and Brokers; and (3) Mobile Home Site Operators. Source: County Business Patterns, 1980.
[4] County Business Patterns, 1980.
*Based on statistics published in May 6, 1983, proposed rule (48 FR 20566).

In other industries, there will be similar changes, although affecting fewer firms than in wholesale or construction. These are described in Table 3.

Overall, comparing the proposed rule to the final rule, 7,200 additional firms will gain small business status for a total gain from the existing size standards of 46,000. This is not to say, however, that 46,000 additional firms will seek SBA assistance. Forty-six thousand is the theoretical maximum. SBA's experience is that only a small percentage of these, perhaps 5 percent, would desire either procurement or financial assistance (see proposed rule, 48 FR 20564).

As described in the May proposed rule, the impact on SBA financial assistance will be negligible. For procurement set-asides, there will be more larger firms eligible to bid as small businesses compared to the existing size standards. This will give Government procurement officials a greater base from which to solicit set-aside bids, and will also introduce more bidding competition among firms which desire set-aside contracts.

Implementation of Final Rule

The revised size standards will take effect 30 days from the date of publication in the **Federal Register**. After consultation with procuring officials in other agencies, SBA believes that this time lag will be sufficient to avoid confusion in the administration of the new size standards. For procurement set-aside purposes, the new size standards will apply to invitations for bids and requests for proposal issued on or after the 30-day period. For financial assistance other than disaster assistance, the new size standards apply to loan applications dated 30 days or more after this publication in the **Federal Register**. For disaster financial assistance, the new size standards apply to disasters commencing on or after 30 days from the date of publication in the **Federal Register**.

TABLE 3.—ANALYSIS OF CHANGE IN ESTIMATED NUMBER OF FIRMS DEFINED AS SMALL*

SIC	Division	Between proposed rule and final rule	Between current regulations and final rule [1]
Agriculture, forestry, and fishing (except farms).	A	+150	+156
Mining	B	0	0
Construction	C	−2,232	+4,218
Manufacturing	D	0	+2,984
Transportation, communications, and utilities.	E	0	+3,938
Wholesale	F	+9,063	+13,497
Retail	G	+673	+13,853
Finance, insurance and real estate.	H	0	+3,412
Services	I	−500	+3,819
Total		+7,154	+45,877
Farms	A	+18,000	−141,000

*Change based on statistics published in proposed rule.
[1] Using current loan size standard as a base. 500 employees used for mining as current base. If procurement size standards were used as the base, the number of firms changing status would be fewer.

Compliance With Regulatory Flexibility Act and Executive Order 12291

General

SBA considers that this rule, promulgated in final form, will have a significant economic impact on a substantial number of small entities for purposes of the Regulatory Flexibility Act. In addition, it constitutes a major rule for the purpose of E.O. 12291.

We have indicated at 48 FR 20560–67, and in the material above, a description of the reason why this action is being taken, a statement of the reasons for and objectives of this final rule, and a description of the significant alternatives to this rule. The legal basis for this rule is Sections 3 and 5(b) of the Small Business Act, 15 U.S.C. 632 and 634(b).

We have set forth an Economic Analysis of this rule at 48 FR 20564–67 and above which provides, among other things, a description and estimate of the number of small entities to which the rule would apply, an identification of overlapping and conflicting Federal rules, a description of the benefits and costs associated with the rule, and those likely to receive such benefits and costs.

Immediately above we have summarized the public comment in response to the May proposed regulation and the Agency's position on those comments. Changes from the proposal which resulted from the comments have been highlighted above.

Paperwork Reduction Act: The information collection requirements in this proposal are subject to the Paperwork Reduction Act (Pub. L. 96–511; 44 U.S.C. 35). The requirement has been submitted to OMB for review and comment and is approved under OMB No. 3245 0101.

List of Subjects in 13 CFR Part 121

Small businesses, Standard Industrial Classification Codes.

Part 121 of Title 13 of the Code of Federal Regulations is revised as follows:

PART 121—SMALL BUSINESS SIZE REGULATIONS

Sec.
121.1 Purposes and Method of Establishing Size Standards.
121.2 Standard Industrial Classifications and Size Standards.
121.3 General Definitions.
121.4 Small Business for Financial Programs.
121.5 Small Business for Government Procurement.
121.6 Small Business Property Sales or Lease of Government Property.
121.7 Small Business Innovation Research Program.
121.8 Size Determinations.
121.9 Protests of Small Business Status.
121.10 Size Standards Responsibilities.
121.11 Procedure for Size Appeals.
121.12 Small Business for Paying Reduced Patent Fees.

Authority: Secs. 3 and 5(b) of the Small Business Act, as amended (15 U.S.C. 632, 634).

§ 121.1 Purpose and method of establishing size standards.

"The essence of the American economic system of private enterprise is free competition. Only through full and free competition can free markets, free entry into business, and opportunities for the expression and growth of personal initiatives and individual judgment be assured. The preservation and expansion of such competition is basic not only to the economic well-being but to the security of this Nation. Such security and well-being cannot be realized unless the actual and potential capacity of small business is encouraged and developed. It is the declared policy of the Congress that the Government should aid, counsel, assist, and protect, insofar as is possible, the interests of small-business concerns in order to preserve free competitive enterprise, to insure that a fair proportion of the total purchases and contracts or subcontracts for property and services for the Government (including but not limited to contracts or subcontracts for maintenance, repair and construction) be placed with small-business enterprises, to insure that a fair proportion of the total sales of Government property be made to such enterprises, and to maintain and strengthen the overall economy of the Nation."

Small Business Act, Section 2(a), (15 U.S.C. 631).

(a) To implement this policy, Congress established the Small Business Administration (SBA) in 1953 and gave it the responsibility to administer a range of programs designed to achieve these and other social goals. Eligibility for SBA programs requires that a firm be "small." The actual setting of size standards, i.e., the size specification of "small" is delegated to the Administrator of the SBA.

(b) Size standards are established primarily to define eligibility for SBA programs and Federal procurement purposes. It is clear, both from the Act itself and from the legislative history, that the specification of what is a small business has been left to administrative, rather than legislative, determination. Size standards vary by industry with particular attention to the structure of the designated industry, Administration policy and the needs of the various Federal programs to which they apply. In its most basic sense, this is the approach of establishing size standards. Factors, among others, which are examined for the purpose of setting size standards include maximum size of firms, average firm size, the extent of industry dominance by large firms, the number of firms, the distribution by firm size of sales and employees in the industry, the presence of Federal procurement, and relation to other SBA programs. The development of size standards is not an exact quantitative procedure. No single measure or simple numerical device is the basis for establishing size standards.

(c) The process of establishing size standards is a complex one. The basic sources of data used in establishing size standards include: *The Standard Industrial Classification Manual,* which is used as a guide in defining industries; U.S. Bureau of the Census, Economic Censuses including *Concentration Ratios in Manufacturing, Enterprise Statistics;* special tabulations of the *Enterprise Statistics* and *Annual Survey of Manufactures* prepared for SBA by the U.S. Bureau of the Census; U.S. Department of Commerce, *U.S. Industrial Outlook, Survey of Current Business,* and *County Business Patterns;* Internal Revenue Service, *Statistics of Income;* Dun and Bradstreet, *DMI Market Profile;* and special USEEM tabulations; Economic Information Service, *Marketing Information; Federal Procurement Data System* statistics, SBA's own extensive files of articles and correspondence, and information provided by trade associations.

(d) Under the Regulatory Flexibility Act (Pub. L. 96–354), Federal agencies considering and promulgating regulations relating to small businesses generally utilize small business size criteria developed pursuant to the Small Business Act. However, SBA size

standards sometimes may not be appropriate for the particular regulation involved. In such cases where a Federal agency decides the SBA size standard is not appropriate, the agency may, after consultation with the SBA Office of Advocacy, establish a small business definition which is more appropriate to the activities of the agency.

(e) SBA assistance should not be regarded as permanent nor as the primary source of a firm's sales. It should be used to assist a firm to compete in the regular business world, without becoming dependent on continuing Government aid. Small businesses should not rely on Federal assistance from the cradle to the grave, but should plan for the day when they can compete without assistance.

§ 121.2 Standard industrial classifications and size standards.

(a) The following industry size standards apply to all SBA programs except the sales of government property (§ 121.6); physical disaster loans (no size standards); Small Business Investment Companies, Development Companies, and Pollution Control Bonds (see § 121.4). The industry size standards are set forth in the table following this section. Their relationship to the various SBA programs is set forth in §§ 121.4 and 121.5 of these regulations. The table column labeled "SIC" follows the standard industrial classification code as published by the U.S. Government in *the Standard Industrial Classification Manual*, Office of Management and Budget, Executive Office of the President. *The Standard Industrial Classification Manual* is intended to cover the entire field of economic activities. It classifies and defines activities by industry categories and is the source used by SBA as a guide in defining industries for size standards. (It is available for sale from the U.S. Government Printing Office [1] and is in the reference section of most libraries.) The number of employees or annual receipts indicates the maximum allowed for a concern (including its affiliates) to be considered small.

(b) For the purpose of these size standards, the term "number of employees" is a measure of the average employment of a business concern and means its average employment, including the employees of its domestic and foreign affiliates, based on the number of persons employed on a full-time, part-time, temporary, or other basis during each of the pay periods of the preceding 12 months. If a business has not been in existence for 12 months, "number of employees" means the average employment of such concern and its affiliates during the period that such concern has been in existence based on the number of persons employed during each of the pay periods of the period that such concern has been in business. If a business has acquired an affiliate during the applicable 12 month period, it is necessary, in computing the applicant's number of employees, to include the affiliate's number of employees during the entire period rather than only its employees during the period in which it has been an affiliate. The employees of a former affiliate are not included even if such concern had been an affiliate during a portion of the period.

(c)(1) "Annual receipts" of a concern which has been in business for 3 or more complete fiscal years means the annual average gross revenue of the concern taken for the last 3 fiscal years. For the purpose of this definition, gross revenue of the concern includes revenues from sales of products and services, interest, rents, fees, commissions and/or whatever other sources derived, but less returns and allowances, sales of fixed assets, interaffiliate transactions between a concern and its domestic and foreign affiliates, and taxes collected for remittance (and if due, remitted) to a third party. Such revenues shall be measured as entered on the regular books of account of the concern whether on a cash, accrual, or other basis of accounting acceptable to the U.S. Treasury Department for the purpose of supporting Federal income tax returns, except when a change in accounting method from cash to accrual or accrual to cash has taken place during such 3-year period, or when the completed contract method has been used.

(i) In any case of a change in accounting method from cash to accrual or accrual to cash, revenues for such 3-year period shall, prior to the calculation of the annual average, be restated to the accrual method. In any case where the completed contract method has been used to account for revenues in such 3-year period, revenues must be restated on an accrual basis using the percentage of completion method.

(ii) In the case of a concern which does not keep regular books of accounts, but which is subject to U.S. Federal income taxation, "annual receipts" shall be measured as reported, or to be reported to the U.S. Treasury Department, Internal Revenue Service for Federal income tax purposes, except that any return based on a change in accounting method or on the completed contract method of accounting must be restated as provided for in the preceding paragraphs.

(c)(2) "Annual receipts" of a concern that has been in business for less than 3 complete fiscal years means its total receipts for the period it has been in business, divided by the number of weeks including fractions of a week, that it has been in business, and multiplied by 52. In calculating total receipts under this provision (c)(2), the definitions, and adjustments related to a change of accounting method and the completed contract method of paragraph (c)(1) of this section are applicable.

FINAL RULE SIZE STANDARDS BY SIC INDUSTRY

SIC	Description	Size standards in number of employees or millions of dollars
		Final Rule
Division A—Agriculture		
Major Group 01—Agricultural Production—Crops		
0111–0191	Agricultural Production—Crops, except 0181.	[1] $0.1
0181	Ornamental Floriculture and Nursery Products.	$0.5
Major Group 02—Agricultural Production—Livestock		
0211	Beef Cattle Feedlots (Custom)	$1.0
0212–0291	Agricultural Production—Livestock, except 0211 and 0252.	$0.1
0252	Chicken Eggs	$1.0
Major Group 07—Agricultural Services		
All SIC's		$3.5
Major Group 08—Forestry		
All SIC's		$3.5
Major Group 09—Fishing, Hunting, and Trapping		
All SIC's		$2.0
Division B—Mining		
Major Group 10—Metal Mining		
1011	Iron Ores	500
1021	Copper Ores	500
1031	Lead and Zinc Ores	500
1041	Gold Ores	500
1044	Silver Ores	500
1051	Bauxite and Other Aluminum Ores.	500
1061	Ferroalloy Ores, Except VAnadium.	500
1081	Metal Mining Services	$3.5
1092	Mercury Ores	500
1094	Uranium-Radium-Vanadium Ores.	500
1099	Metal Ores, Not Elsewhere Classified.	500
Major Group 11—Anthracite Mining		
1111	Anthracite	500

[1] Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402 (Stock Number 4101–0066).

FINAL RULE SIZE STANDARDS BY SIC INDUSTRY—Continued

SIC	Description	Size standards in number of employees or millions of dollars
		Final Rule
1112	Anthracite Mining Services	$3.5
	Major Group 12—Bituminous Coal and Lignite Mining	
1211	Bituminous Coal and Lignite	500
1213	Bituminous Coal and Lignite Mining Services.	$3.5
	Major Group 13—Oil and Gas Extraction	
1311	Crude Petroleum and Natural Gas.	500
1321	Natural Gas Liquids	500
1381	Drilling Oil and Gas Wells	500
1382	Oil and Gas Field Exploration Services.	$3.5
1389	Oil and Gas Field Services, N.E.C.	$3.5
	Major Group 14—Mining and Quarrying of Non-Metallic Minerals, Except Fuels	
1411	Dimension Stone	500
1422	Crushed and Broken Limestone.	500
1423	Crushed and Broken Granite	500
1429	Crushed and Broken Stone, N.E.C.	500
1442	Construction Sand and Gravel	500
1446	Industrial Sand	500
1452	Bentonite	500
1453	Fire Clay	500
1454	Fuller's Earth	500
1455	Kaolin and Ball Clay	500
1459	Clay, Ceramic, and Refractory Minerals, N.E.C.	500
1472	Barite	500
1473	Fluorspar	500
1474	Potash, Soda, and Borate Minerals.	500
1475	Phosphate Rock	500
1476	Rock Salt	500
1477	Sulfur	500
1479	Chemical and Fertilizer Mineral Mining, N.E.C.	500
1481	Nonmetallic Minerals (Except Fuels) Services.	$3.5
1492	Gypsum	500
1496	Talc, Soapstone, and Pyrophyllite.	500
1499	Miscellaneous Nonmetallic Minerals, N.E.C.	500
	Division C—Construction	
	Major Group 15—Building Construction—General Contractors and Operative Builders	
1521	General Contractors—Single-Family House.	$17.0
1522	General Contractors—Residential Buildings, Other Than Single-Family.	$17.0
1531	Operative Builders	$17.0
1541	General Contractors—Industrial Buildings and Warehouses.	$17.0
1542	General Contractors—Nonresidential Buildings, Other Than Industrial Buildings and Warehouses.	$17.0
	Major Group 16—Construction Other Than Building Construction—General Contractors	
1611	Highway and Street Construction, Except Elevated Highways.	$17.0
1622	Bridge, Tunnel, and Elevated Highway Construction.	$17.0
1623	Water, Sewer, Pipe Line, Communication and Power Line Construction.	$17.0
1629	Heavy Construction, Except Dredging, N.E.C.	$17.0
1629	Dredging and Surface Cleanup Activities.[16]	500
	Major Group 17—Construction—Special Trade Contractors	
1711	Plumbing, Heating (Except Electric), and Air Conditioning.	$7.0
1721	Painting, Paper Hanging, and Decorating.	$7.0
1731	Electrical Work	$7.0
1741	Masonry, Stone Setting, and Other Stonework.	$7.0
1742	Plastering, Drywall, Acoustical, and Insulation Work.	$7.0
1743	Terrazzo, Tile, Marble, and Mosaic Work.	$7.0
1751	Carpentering	$7.0
1752	Floor Laying and Other Floor Work, N.E.C.	$7.0
1761	Roofing and Sheet Metal Work	$7.0
1771	Concrete Work	$7.0
1781	Water Well Drilling	$7.0
1791	Structural Steel Erection	$7.0
1793	Glass and Glazing Work	$7.0
1794	Excavating, and Foundation Work.	$7.0
1795	Wrecking and Demolition Work	$7.0
1796	Installation or Erection of Building Equipment, N.E.C.	$7.0
1799	Special Trade Contractors, N.E.C.	$7.0
xl	Base House Maintenance.[13]	$7.0
	Division D—Manfacturing[2]	
	Major Group 20—Food and Kindred Products	
2011	Meat Packing Plants	500
2013	Sausages and Other Prepared Meat Products.	500
2016	Poultry Dressing Plants	500
2017	Poultry and Egg Processing	500
2021	Creamery Butter	500
2022	Cheese, Natural and Processed.	500
2023	Condensed and Evaporated Milk.	500
2024	Ice Cream and Frozen Desserts.	500
2026	Fluid Milk	500
2032	Canned Specialties	1,500
2033	Canned Fruits, Vegetables, Preserves, Jams, and Jellies.[3]	500
2034	Dried and Dehydrated Fruits, Vegetables, and Soup Mixes.	500
2035	Pickled Fruits and Vegetables, Vegetable Sauces and Seasonings, and Salad Dressings.	500
2037	Frozen Fruit, Fruit Juices, and Vegetables.	500
2038	Frozen Specialties	500
2041	Flour and Other Grain Mill Products.	500
2043	Cereal Breakfast Foods	1,000
2044	Rice Milling	500
2045	Blended and Prepared Flour	500
2046	Wet Corn Milling	750
2047	Dog, Cat, and Other Pet Food	500
2048	Prepared Feeds and Feed Ingredients for Animals and Fowls, N.E.C.	500
2051	Bread and Other Bakery Products, Except Cookies and Crackers.	500
2052	Cookies and Crackers	750
2061	Cane Sugar, Except Refining Only.	500
2062	Cane Sugar Refining	750
2063	Beet Sugar	750
2065	Candy and Other Confectionery Products.	500
2066	Chocolate and Cocoa Products.	500
2067	Chewing Gum	500
2074	Cottonseed Oil Mills	500
2075	Soybean Oil Mills	500
2076	Vegetable Oil Mills, Except Corn, Cotton-seed, and Soybean.	1,000
2077	Animal and Marine Fats and Oils.	500
2079	Shortening, Table Oils, Margarine and Other Edible Fats and Oils, N.E.C.	750
2082	Malt Beverages	500
2083	Malt	500
2084	Wines, Brandy, and Brandy Spirits.	500
2085	Distilled, Rectified, and Blended Liquors.	750
2086	Bottled and Canned Soft Drinks and Carbonated Waters.	500
2087	Flavoring Extracts and Flavoring Syrups, N.E.C.	500
2091	Canned and Cured Fish and Seafoods.	500
2092	Fresh or Frozen Packaged Fish and Seafoods.	500
2095	Roasted Coffee	500
2097	Manufactured Ice	500
2098	Macaroni, Spaghetti, Vermicelli, and Noodles.	500
2099	Food Preparations, N.E.C.	500
	Major Group 21—Tobacco Manufactures	
2111	Cigarettes	1,000
2121	Cigars	500
2131	Tobacco (Chewing and Smoking) and Snuff.	500
2141	Tobacco Stemming and Redrying.	500
	Major Group 22—Textile Mill Products	
2211	Broad Woven Fabric Mills, Cotton.	1,000
2221	Broad Woven Fabric Mills, Man-Made Fiber and Silk.	500
2231	Broad Woven Fabric Mills, Wool (Including Dyeing and Finishing).	500
2241	Narrow Fabrics and Other Smallwares Mills: Cotton, Wool, Silk, and Man-Made Fiber.	500
2251	Women's Full Length and Knee Length Hosiery.	500
2252	Hosiery, Except Women's Full Length and Knee Length Hosiery.	500
2253	Knit Outerwear Mills	500
2254	Knit Underwear Mills	500
2257	Circular Knit Fabric Mills	500
2258	Warp Knit Fabric Mills	500
2259	Knitting Mills	500
2261	Finishers of Broad Woven Fabrics of Cotton.	1,000
2262	Finishers of Broad Woven Fabrics of Man-Made Fiber and Silk.	500
2269	Finishers of Textiles, N.E.C.	500
2271	Woven Carpets and Rugs	50
2272	Tufted Carpets and Rugs	500
2279	Carpets and Rugs, N.E.C.	500
2281	Yarn Spinning Mills: Cotton, Man-Made Fibers, and Silk.	500
2282	Yarn Texturizing, Throwing, Twisting, and Winding Mills: Cotton, Man-Made Fibers, and Silk.	500

FINAL RULE SIZE STANDARDS BY SIC INDUSTRY—Continued

SIC	Description	Size standards in number of employees or millions of dollars: Final Rule
2283	Yarn Mills, Wool, Including Carpet and Rug Yarn.	500
2284	Thread Mills	500
2291	Felt Goods, Except Woven Felts and Hats.	500
2292	Lace Goods	500
2293	Paddings and Upholstery Filling.	500
2294	Processed Waste and Recovered Fibers and Flock.	500
2295	Coated Fabrics, Not Rubberized.	1,000
2296	Tire Cord and Fabric	1,000
2297	Nonwoven Fabrics	500
2298	Cordage and Twine	500
2299	Textile Goods, N.E.C.	500
	Major Group 23—Apparel and Other Finished Products Made from Fabrics and Similar Materials	
2311	Men's, Youths', and Boys' Suits, Coats and Overcoats.	500
2321	Men's Youths', and Boys' Shirts (Except Work Shirts) and Nightwear.	500
2322	Men's Youths', and Boys' Underwear.	500
2323	Men's Youths', and Boys' Neckwear.	500
2327	Men's Youths', and Boys' Separate Trousers.	500
2328	Men's Youths', and Boys' Work Clothing.	500
2329	Men's Youths' and Boys' Clothing, N.E.C.	500
2331	Women's Misses', and Juniors' Blouses, Waists, and Shirts.	500
2335	Women's Misses', and Juniors' Dresses.	500
2337	Women's Misses', and Juniors' Suits, Skirts, and Coats.	500
2339	Women's Misses', and Juniors' Outerwear, N.E.C.	500
2341	Women's Misses', Children's and Infants' Underwear and Nightwear.	500
2342	Brassieres, Girdles, and Allied Garments.	500
2351	Millinery	500
2352	Hats and Caps, Except Millinery.	500
2361	Girls', Children's, and Infants' Dresses, Blouses, Waists, and Shirts.	500
2363	Girls', Children's, and Infants' Coats and suits.	500
2369	Girls', Children's, and Infants' Outerwear, N.E.C.	500
2371	Fur Goods	500
2381	Dress and Work Gloves, Except Knit and All-Leather.	500
2384	Robes and Dressing Gowns	500
2385	Raincoats and Other Waterproof Outer Garments.	500
2386	Leather and Sheep Lined Clothing.	500
2387	Apparel Belts	500
2389	Apparel and Accessories, N.E.C.	500
2391	Curtains and Draperies	500
2392	Housefurnishings, Except Curtains and Draperies.	500
2393	Textile Bags	500
2394	Canvas and Related Products	500
2395	Pleating, Decorative and Novelty Stitching, and Tucking for the Trade.	500
2396	Automotive Trimmings, Apparel Findings, and Related Products.	500
2397	Schiffli Machine Embroideries	500
2399	Fabricated Textile Products, N.E.C.	500

FINAL RULE SIZE STANDARDS BY SIC INDUSTRY—Continued

SIC	Description	Size standards in number of employees or millions of dollars: Final Rule
	Major Group 24—Lumber and Wood Products, Except Furniture	
2411	Logging Camps and Logging Contractors.	500
2421	Sawmills and Planing Mills, General.	500
2426	Hardwood Dimension and Flooring Mills.	500
2429	Special Products Sawmills, N.E.C.	500
2431	Millwork	500
2434	Wood Kitchen Cabinets	500
2435	Hardwood Veneer and Plywood.	500
2436	Softwood Veneer and Plywood	500
2439	Structural Wood Members, N.E.C.	500
2441	Nailed and Lock Corner Wood Boxes and Shook.	500
2448	Wood Pallets and Skids	500
2449	Wood Containers, N.E.C.	500
2451	Mobile Homes	500
2452	Prefabricated Wood Buildings and Components.	500
2491	Wood Preserving	500
2492	Particleboard	500
2499	Wood Products, N.E.C.	500
	Major Group 25—Furniture and Fixtures	
2511	Wood Household Furniture, Except Upholstered.	500
2512	Wood Household Furniture, Upholstered.	500
2514	Metal Household Furniture	500
2515	Mattresses and Bedsprings	500
2517	Wood Television, Radio, Phonograph, and Sewing Machine Cabinets.	500
2519	Household Furniture, N.E.C.	500
2521	Wood Office Furniture	500
2522	Metal Office Furniture	500
2531	Public Building and Related Furniture.	500
2541	Wood Partitions, Shelving, Lockers, and Office and Store Fixtures.	500
2542	Metal Partitions, Shelving, Lockers, and Office and Store Fixtures.	500
2591	Drapery Hardware and Window Blinds and Shades.	500
2599	Furniture and Fixtures, N.E.C.	500
	Major Group 26— Paper and Allied Products	
2611	Pulp mills	750
2621	Paper Mills, Except Building Paper Mills.	750
2631	Paperboard Mills	750
2641	Paper Coating and Glazing	500
2642	Envelopes	500
2643	Bags, Except Textile Bags	500
2645	Die-Cut Paper and Paperboard and Cardboard.	500
2646	Pressed and Molded Pulp Goods.	750
2647	Sanitary Paper Products	500
2648	Stationery, Tablets, and Related Products.	500
2649	Converted Paper and Paperboard Products, N.E.C.	500
2651	Folding Paperboard Boxes	500
2652	Set-up Paperboard Boxes	500
2653	Corrugated and Solid Fiber Boxes.	500
2654	Sanitary Food Containers	750
2655	Fiber Cans, Tubes, Drums, and Similar Products.	500
2661	Building Paper and Building Board Mills.	750

FINAL RULE SIZE STANDARDS BY SIC INDUSTRY—Continued

SIC	Description	Size standards in number of employees or millions of dollars: Final Rule
	Major Group 27—Printing, Publishing, and Allied Industries	
2711	Newspapers: Publishing, Publishing and Printing.	500
2721	Periodicals: Publishing, Publishing and Printing.	500
2731	Books: Publishing, Publishing and Printing.	500
2732	Book Printing	500
2741	Miscellaneous Publishing	500
2751	Commercial Printing, Letterpress, and Screen.	500
2752	Commercial Printing, Lithographic.	500
2753	Engraving and Plate Printing	500
2754	Commercial Printing, Gravure	500
2761	Manifold Business Forms	500
2771	Greeting Card Publishing	500
2782	Blankbooks, Looseleaf Binders and Devices.	500
2789	Bookbinding and Related Work	500
2791	Typesetting	500
2793	Photoengraving	500
2794	Electrotyping and Stereotyping	500
2795	Lithographic Platemaking and Related Services.	500
	Major Group 28—Chemicals and Allied Products	
2812	Alkalies and Chlorine	1,000
2813	Industrial Gases	1,000
2816	Inorganic Pigments	1,000
2819	Industrial Inorganic Chemicals, N.E.C.	1,000
2821	Plastics Materials, Synthetic Resins, and Nonvulcanizable Elastomers.	750
2822	Synthetic Rubber (Vulcanizable Elastomers).	1,000
2823	Cellulosic Man-Made Fibers	1,000
2824	Synthetic Organic Fibers, Except Cellulosic.	1,000
2831	Biological Products	500
2833	Medicinal Chemicals and Botanical Products.	750
2834	Pharmaceutical Preparations	750
2841	Soap and Other Detergents, Except Specialty Cleaners.	750
2842	Specialty Cleaning, Polishing, and Sanitation Preparations.	500
2843	Surface Active Agents, Finishing Agents, Sulfonated Oils and Assistants.	500
2844	Perfumes, Cosmetics, and Other Toilet Preparations.	500
2851	Paints, Varnishes, Lacquers, Enamels, and Allied Products.	500
2861	Gum and Wood Chemicals	500
2865	Cyclic (Coal Tar) Crudes, and Cyclic Intermediates, Dyes, and Organic Pigments (Lakes and Toners).	750
2869	Industrial Organic Chemicals, N.E.C.	1,000
2873	Nitrogenous Fertilizers	1,000
2874	Phosphatic Fertilizers	500
2875	Fertilizers, Mixing Only	500
2879	Pesticides and Agricultural Chemicals, N.E.C.	500
2891	Adhesives and Sealants	500
2892	Explosives	750
2893	Printing Ink	500
2895	Carbon Black	500
2899	Chemicals and Chemical Preparations, N.E.C.	500
	Major Group 29—Petroleum Refining and Related Industries	
2911	Petroleum Refining [6]	1,500
2951	Paving Mixtures and Blocks	500
2952	Asphalt Felts and Coatings	750
2992	Lubricating Oils and Greases	500

FINAL RULE SIZE STANDARDS BY SIC INDUSTRY—Continued

SIC	Description	Size standards in number of employees or millions of dollars: Final Rule
2999	Products of Petroleum and Coal, N.E.C.	500
	Major Group 30—Rubber and Miscellaneous Plastics Products	
3011	Tires and Inner Tubes [5]	1,000
3021	Rubber and Plastics Footwear	1,000
3031	Reclaimed Rubber	750
3041	Rubber and Plastics Hose and Belting.	500
3069	Fabricated Rubber Products, N.E.C.	500
3079	Miscellaneous Plastics Products.	500
	Major Group 31—Leather and Leather Products	
3111	Leather Tanning and Finishing	500
3131	Boot and Shoe Cut Stock and Findings.	500
3142	House Slippers	500
3143	Men's Footwear, Except Athletic.	500
3144	Women's Footwear, Except Athletic.	500
3149	Footwear, Except Rubber, N.E.C.	500
3151	Leather Gloves and Mittens	500
3161	Luggage	500
3171	Women's Handbags and Purses.	500
3172	Personal Leather Goods, Except Women's Handbags and Purses.	500
3199	Leather Goods, N.E.C.	500
	Major Group 32—Stone, Clay, Glass, and Concrete Products	
3211	Flat Glass	1,000
3221	Glass Containers	750
3229	Pressed and Blown Glass and Glassware, N.E.C.	750
3231	Glass Products, Made of Purchased Glass.	500
3241	Cement, Hydraulic	750
3251	Brick and Structural Clay Tile	500
3253	Ceramic Wall and Floor Tile	500
3255	Clay Refractories	500
3259	Structural Clay Products, N.E.C.	500
3261	Vitreous China Plumbing Fixtures and China and Earthenware Fittings and Bathroom Accessories.	750
3262	Vitreous China Table and Kitchen Articles.	500
3263	Fine Earthenwear (Whiteware) Table and Kitchen Articles.	500
3264	Porcelain Electrical Supplies	500
3269	Pottery Products, N.E.C.	500
3271	Concrete Block and Brick	500
3272	Concrete Products, Except Block and Brick.	500
3273	Ready-Mixed Concrete	500
3274	Lime	500
3275	Gypsum Products	1,000
3281	Cut Stone and Stone Products	500
3291	Abrasive Products	500
3292	Asbestos Products	750
3293	Gaskets, Packing, and Sealing Devices.	500
3295	Minerals and Earths, Ground or Otherwise Treated.	500
3296	Mineral Wool	750
3297	Nonclay Refractories	750
3299	Nonmetallic Mineral Products, N.E.C.	500
	Major Group 33—Primary Metal Industries	
3312	Blast Furnaces (Including Coke Ovens), Steel Works, and Rolling Mills.	1,000

FINAL RULE SIZE STANDARDS BY SIC INDUSTRY—Continued

SIC	Description	Size standards in number of employees or millions of dollars: Final Rule
3313	Electrometallurgical Products	750
3315	Steel Wire Drawing and Steel Nails and Spikes.	1,000
3316	Cold Rolled Steel Sheet, Strip, and Bars.	1,000
3317	Steel Pipe and Tubes	1,000
3321	Gray Iron Foundries	500
3322	Malleable Iron Foundries	500
3324	Steel Investment Foundries	500
3325	Steel Foundries, N.E.C.	500
3331	Primary Smelting and Refining of Copper.	1,000
3332	Primary Smelting and Refining of Lead.	1,000
3333	Primary Smelting and Refining of Zinc.	750
3334	Primary Production of Aluminum.	1,000
3339	Primary Smelting and Refining of Nonferrous Metals, N.E.C.	750
3341	Secondary Smelting and Refining of Nonferrous Metals.	500
3351	Rolling, Drawing, and Extruding of Copper.	750
3353	Aluminum Sheet, Plate, and Foil.	750
3354	Aluminum Extruded Products	750
3355	Aluminum Rolling and Drawing, N.E.C.	750
3356	Rolling, Drawing, and Extruding of Nonferrous Metals, Except Copper and Aluminum.	750
3357	Drawing and Insulating of Nonferrous Wire.	1,000
3361	Aluminum Foundries (Castings)	500
3362	Brass, Bronze, Copper, Copper Base Alloy Foundries (Castings).	500
3369	Nonferrous Foundries (Castings), N.E.C.	500
3398	Metal Heat Treating	750
3399	Primary Metal Products, N.E.C.	750
	Major Group 34—Fabricated Metal Products, Except Machinery and Transportation Equipment	
3411	Metal Cans	1,000
3412	Metal Shipping Barrels, Drums, Kegs, and Pails.	500
3421	Cutlery	500
3423	Hand and Edge Tools, Except Machine Tools and Hand Saws.	500
3425	Hand Saws and Saw Blades	500
3429	Hardware, N.E.C.	500
3431	Enameled Iron and Metal Sanitary Ware.	750
3432	Plumbing Fixture Fittings and Trim (Brass Goods).	500
3433	Heating Equipment, Except Electric and Warm Air Furnaces.	500
3441	Fabricated Structural Metal	500
3442	Metal Doors, Sash, Frames, Molding, and Trim.	500
3443	Fabricated Plate Work (Boiler Shops).	500
3444	Sheet Metal Work	500
3446	Architectural and Ornamental Metal Work.	500
3448	Prefabricated Metal Buildings and Components.	500
3449	Miscellaneous Metal Work	500
3451	Screw Machine Products	500
3452	Bolts, Nuts, Screws, Rivets, and Washers.	500
3462	Iron and Steel Forgings	500
3463	Nonferrous Forgings	500
3465	Automotive Stampings	500
3466	Crowns and Closures	500
3469	Metal Stampings, N.E.C.	500
3471	Electroplating, Plating, Polishing, Anodizing, and Coloring.	500

FINAL RULE SIZE STANDARDS BY SIC INDUSTRY—Continued

SIC	Description	Size standards in number of employees or millions of dollars: Final Rule
3479	Coating, Engraving, and Allied Services, N.E.C.	500
3482	Small Arms Ammunition	1,000
3483	Ammunition, Except for Small Arms, N.E.C.	1,500
3484	Small Arms	1,000
3489	Ordnance and Accessories, N.E.C.	500
3493	Steel Springs, Except Wire	500
3494	Valves and Pipe Fittings, Except Plumbers' Brass Goods.	500
3495	Wire Springs	500
3496	Miscellaneous Fabricated Wire Products.	500
3497	Metal Foil and Leaf	500
3498	Fabricated Pipe and Fabricated Pipe Fittings.	500
3499	Fabricated Metal Products, N.E.C.	500
	Major Group 35—Machinery, Except Electrical	
3511	Steam, Gas, and Hydraulic Turbines and Turbine Generator Set Units.	1,000
3519	Internal Combustion Engines, N.E.C.	1,000
3523	Farm Machinery and Equipment.	500
3524	Garden Tractors and Lawn and Garden Equipment.	500
3531	Construction Machinery and Equipment.	750
3532	Mining Machinery and Equipment, Except Oil Field Machinery and Equipment	500
3533	Oil Field Machinery and Equipment.	500
3534	Elevators and Moving Stairways.	500
3535	Conveyors and Conveying Equipment.	500
3536	Hoists, Industrial Cranes, and Monorail Systems.	500
3537	Industrial Trucks, Tractors, Trailers, and Stackers.	750
3541	Machine Tools, Metal Cutting Types.	500
3542	Machine Tools, Metal Forming Types.	500
3544	Special Dies and Tools, Die Sets, Jigs and Fixtures, and Industrial Molds.	500
3545	Machine Tool Accessories and Measuring Devices.	500
3546	Power Driven Hand Tools	500
3547	Rolling Mill Machinery and Equipment	500
3549	Metalworking Machinery, N.E.C.	500
3551	Food Products Machinery	500
3552	Textile Machinery	500
3553	Woodworking Machinery	500
3554	Paper Industries Machinery	500
3555	Printing Trades Machinery and Equipment.	500
3559	Special Industry Machinery, N.E.C.	500
3561	Pumps and Pumping Equipment.	500
3562	Ball and Roller Bearings	750
3563	Air and Gas Compressors	500
3564	Blowers and Exhaust and Ventilation Fans.	500
3565	Industrial Patterns	500
3566	Speed Changers, Industrial High Speed Drives, and Gears.	500
3567	Industrial Process Furnaces and Ovens.	500
3568	Mechanical Power Transmission Equipment, N.E.C.	500
3569	General Industrial Machinery and Equipment, N.E.C.	500

FINAL RULE SIZE STANDARDS BY SIC INDUSTRY—Continued

SIC	Description	Size standards in number of employees or millions of dollars: Final Rule
3572	Typewriters	1,000
3573	Electronic Computing Equipment.	1,000
3574	Calculating and Accounting Machines, Except Electronic Computing Equipment.	1,000
3576	Scales and Balances, Except Laboratory.	500
3579	Office Machines, N.E.C.	500
3581	Automatic Merchandising Machines.	500
3582	Commercial Laundry, Dry Cleaning, and Pressing Machines.	500
3585	Air Conditioning and Warm Air Heating Equipment and Commercial and Industrial Refrigeration Equipment.	750
3586	Measuring and Dispensing Pumps.	500
3589	Service Industry Machines, N.E.C.	500
3592	Carburetors, Pistons, Piston Rings, and Valves.	500
3599	Machinery, Except Electrical, N.E.C.	500
	Major Group 36—Electrical and Electronic Machinery, Equipment, and Supplies	
3612	Power, Distribution, and Specialty Transformers.	750
3613	Switchgear and Switchboard Apparatus.	750
3621	Motors and Generators	1,000
3622	Industrial Controls	750
3623	Welding Apparatus, Electric	500
3624	Carbon and Graphite Products	750
3629	Electrical Industrial Apparatus, N.E.C.	500
3631	Household Cooking Equipment	750
3632	Household Refrigerators and Home and Farm Freezers.	1,000
3633	Household Laundry Equipment	1,000
3634	Electric Housewares and Fans	750
3635	Household Vacuum Cleaners	750
3636	Sewing Machines	750
3639	Household Appliances, N.E.C.	500
3641	Electric Lamps	1,000
3643	Current-Carrying Wiring Devices.	500
3644	Noncurrent-Carrying Wiring Devices.	500
3645	Residential Electric Lighting Fixtures.	500
3646	Commercial, Industrial, and Institutional Electric Lighting Fixtures.	500
3647	Vehicular Lighting Equipment	500
3648	Lighting Equipment, N.E.C.	500
3651	Radio and Television Receiving Sets, Except Communication Types.	750
3652	Phonograph Records and Prerecorded Magnetic Tape.	750
3661	Telephone and Telegraph Apparatus.	1,000
3662	Radio and Television Transmitting, Signaling, and Detection Equipment and Apparatus.	750
3671	Radio and Television Receiving Type Electron Tubes, Except Cathode Ray.	1,000
3672	Cathode Ray Television Picture Tubes.	750
3673	Transmitting, Industrial, and Special Purpose Electron Tubes.	750
3674	Semiconductors and Related Devices.	500
3675	Electronic Capacitors	500
3676	Resistors, for Electronic Applications.	500

FINAL RULE SIZE STANDARDS BY SIC INDUSTRY—Continued

SIC	Description	Size standards in number of employees or millions of dollars: Final Rule
3677	Electronic Coils, Transformers, and Other Inductors.	500
3678	Connectors, for Electronic Applications.	500
3679	Electronic Components, N.E.C.	500
3691	Storage Batteries	500
3692	Primary Batteries, Dry and Wet	1,000
3693	Radiographic X-ray, Fluoroscopic X-ray, Therapeutic X-ray, and Other X-ray Apparatus and Tubes; Electromedical and Electrotherapeutic Apparatus.	500
3694	Electrical Equipment for Internal Combustion Engines.	750
3699	Electrical Machinery, Equipment, and Supplies, N.E.C.	500
	Major Group 37—Transportation Equipment	
3711	Motor Vehicles and Passenger Car Bodies.	1,000
3713	Truck and Bus Bodies	500
3714	Motor Vehicle Parts and Accessories.	500
3715	Truck Trailers	500
3716	Motor Homes	1,000
3721	Aircraft	1,500
3724	Aircraft Engines and Engine Parts.	1,000
3728	Aircraft Parts and Auxiliary Equipment, N.E.C.[15]	1,000
3731	Ship Building and Repairing	1,000
3732	Boat Building and Repairing	500
3743	Railroad Equipment	1,000
3751	Motorcycles, Bicycles, and Parts.	500
3761	Guided Missiles and Space Vehicles.	1,000
3764	Guided Missile and Space Vehicle Propulsion Units and Propulsion Unit Parts.	1,000
3769	Guided Missile and Space Vehicle Parts and Auxiliary Equipment, N.E.C.	1,000
3792	Travel Trailers and Campers	500
3795	Tanks and Tank Components	1,000
3799	Transportation Equipment, N.E.C.	500
	Major Group 38—Measuring, Analyzing, and Controlling Instruments; Photographic, Medical, and Optical Goods; Watches and Clocks	
3811	Engineering, Laboratory, Scientific, and Research Instruments and Associated Equipment.	500
3822	Automatic Controls for Regulating Residential and Commercial Environments and Appliances.	500
3823	Industrial Instruments for Measurement, Display, and Control of Process Variables, and Related Products.	500
3824	Totalizing Fluid Meters and Counting Devices.	500
3825	Instruments for Measuring and Testing of Electricity and Electrical Signals.	500
3829	Measuring and Controlling Devices, N.E.C.	500
3832	Optical Instruments and Lenses.	500
3841	Surgical and Medical Instruments and Apparatus.	500
3842	Orthopedic, Prosthetic, and Surgical Appliances and Supplies.	500
3843	Dental Equipment and Supplies.	500
3851	Ophthalmic Goods	500

FINAL RULE SIZE STANDARDS BY SIC INDUSTRY—Continued

SIC	Description	Size standards in number of employees or millions of dollars: Final Rule
3861	Photographic Equipment and Supplies.	500
3873	Watches, Clocks, Clockwork Operated Devices, and Parts.	500
	Major Group 39—Miscellaneous Manufacturing Industries	
3911	Jewelry, Precious Metal	500
3914	Silverware, Plated Ware, and Stainless Steel Ware.	500
3915	Jewelers' Findings and Materials, and Lapidary Work.	500
3931	Musical Instruments	500
3942	Dolls	500
3944	Games, Toys, and Children's Vehicles; Except Dolls and Bicycles.	500
3949	Sporting and Athletic Goods, N.E.C.	500
3951	Pens, Mechanical Pencils, and Parts.	500
3952	Lead Pencils, Crayons, and Artists' Materials.	500
3953	Marking Devices	500
3955	Carbon Paper and Inked Ribbons.	500
3961	Costume Jewelry and Costume Novelties, Except Precious Metal.	500
3962	Feathers, Plumes, and Artificial Trees and Flowers.	500
3963	Buttons	500
3964	Needles, Pins, Hooks and Eyes, and Similar Notions.	500
3991	Brooms and Brushes	500
3993	Signs and Advertising Displays	500
3995	Burial Caskets	500
3996	Linoleum, Asphalted-Felt-Base, and Other Hard Surface Floor Coverings, N.E.C.	750
3999	Manufacturing Industries, N.E.C.	500
	Division E—Transportation, Communications, Electric, Gas, and Sanitary Services	
	Major Group 40—Railroad Transportation	
4011	Railroads, Line-haul Operating	1,500
4013	Switching and Terminal Establishments.	500
	Major Group 41—Local and Suburban Transit and Interurban Highway Passenger Transportation	
4111	Local and Suburban Transit	$3.5
4119	Local Passenger Transportation, N.E.C.	$3.5
4121	Taxicabs	$3.5
4131	Intercity and Rural Highway Passenger Transportation.	$3.5
4141	Local Passenger Transportation Charter Service.	$3.5
4142	Passenger Transportation Charter Service, Except Local.	$3.5
4151	School Buses	$3.5
4171	Terminal and Joint Terminal Maintenance Facilities for Motor Vehicle Passenger Transportation.	$3.5
4172	Maintenance and Service Facilities for Motor Vehicle Passenger Transportation.	$3.5
	Major Group 42—Motor Freight Transportation and Warehousing	
4212	Local Trucking Without Storage.[6]	$12.5
4213	Trucking, Except Local	$12.5
4214	Local Trucking With Storage	$12.5

FINAL RULE SIZE STANDARDS BY SIC INDUSTRY—Continued

SIC	Description	Size standards in number of employees or millions of dollars: Final Rule
4221	Farm Product Warehousing and Storage.	$12.5
4222	Refrigerated Warehousing	$12.5
4224	Household Goods Warehousing and Storage.	$12.5
4225	General Warehousing and Storage.	$12.5
4226	Special Warehousing and Storage, N.E.C.	$12.5
4231	Terminal and Joint Terminal Maintenance Facilities for Motor Freight Transportation.	$3.5
	Major Group 44—Water Transportation [7]	
4411	Deep Sea Foreign Transportation.	500
4421	Transportation to and Between Non-contiguous Territories.	500
4422	Coastwise Transportation	500
4423	Intercoastal Transportation	500
4431	Great Lakes-St. Lawrence Seaway Transportation.	500
4441	Transportation on Rivers and Canals.	500
4452	Ferries	500
4453	Lighterage	500
4454	Towing and Tugboat Service	$3.5
4459	Local Water Transportation, N.E.C.	500
4463	Marine Cargo Handling	$12.5
4464	Canal Operation	$3.5
4469	Water Transportation Services, N.E.C.	$3.5
	Major Group 45—Transportation by Air [7]	
4511	Air Transportation, Certificated Carriers.	1,500
4521	Air Transportation, Noncertificated Carriers [8].	1,500
4582	Airports and Flying Fields	$3.5
4583	Airport Terminal Services	$3.5
	Major Group 46—Pipe Lines, Except Natural Gas	
4612	Crude Petroleum Pipe Lines	1,500
4613	Refined Petroleum Pipe Lines	1,500
4619	Pipe Lines, N.E.C	$17.0
	Major Group 47—Transportation Services	
4712	Freight Forwarding	$12.5
4722	Arrangement of Passenger Transportation.	$3.5
4723	Arrangement of Transportation of Freight and Cargo.	$3.5
4742	Rental of Railroad Cars With Care of Lading.	$3.5
4743	Rental of Railroad Cars Without Care of Landing.	$3.5
4782	Inspection and Weighing Services Connected With Transportation.	$3.5
4783	Packing and Crating	$12.5
4784	Fixed Facilities for Handling Motor Vehicle Transportation, N.E.C.	$3.5
4789	Services Incidental to Transportation, N.E.C.	$3.5
	Major Group 48—Communications	
4832	Radio Broadcasting	$3.5
4833	Television Broadcasting	$7.0
4899	Communication Services, N.E.C.	$7.5
	Major Group 49—Electric, Gas, and Sanitary Services	
4911	Electric Services	4 million megawatt hrs.
4941	Water Supply	$3.5
4952	Sewerage Systems	$3.5
4953	Refuse Systems [9]	$3.5
4959	Sanitary Services, N.E.C	$3.5
4961	Steam Supply	$3.5
4971	Irrigation Systems	$3.5

FINAL RULE SIZE STANDARDS BY SIC INDUSTRY—Continued

SIC	Description	Size standards in number of employees or millions of dollars: Final Rule
	Division F—Wholesale Trade	
	Major Group 50—Wholesale Trade—Durable Goods	
5012	Automobiles and Other Motor Vehicles	500
5013	Automotive Parts and Supplies	500
5014	Tires and Tubes	500
5021	Furniture	500
5023	Home Furnishings	500
5031	Lumber, Plywood, and Millwork	500
5039	Construction Materials, N.E.C.	500
5041	Sporting and Recreational Goods and Supplies.	500
5042	Toys and Hobby Goods and Supplies.	500
5043	Photographic Equipment and Supplies.	500
5051	Metals Service Centers and Offices.	500
5052	Coal and Other Minerals and Ores.	500
5063	Electrical Apparatus and Equipment, Wiring Supplies and Construction Materials.	500
5064	Electrical Appliances, Television and Radio Sets.	500
5065	Electronic Parts and Equipment.	500
5072	Hardware	500
5074	Plumbing and Heating Equipment and Supplies (Hydronics).	500
5075	Warm Air Heating and Air Conditioning Equipment and Supplies.	500
5078	Refrigeration Equipment and Supplies.	500
5081	Commercial Machines and Equipment.	500
5082	Construction and Mining Machinery and Equipment.	500
5083	Farm and Garden Machinery and Equipment.	500
5084	Industrial Machinery and Equipment.	500
5085	Industrial Supplies	500
5086	Professional Equipment and Supplies.	500
5087	Service Establishment Equipment and Supplies.	500
5088	Transportation Equipment and Supplies, Except Motor Vehicles.	500
5093	Scrap and Waste Materials	500
5094	Jewelry, Watches, Diamonds and Other Precious Stones.	500
5099	Durable Goods, N.E.C	500
	Major Group 51—Wholesale Trade—Nondurable Goods	
5111	Printing and Writing Paper	500
5112	Stationery Supplies	500
5113	Industrial and Personal Service Paper.	500
5122	Drugs, Drug Proprietaries, and Druggists' Sundries.	500
5133	Piece Goods (Woven Fabrics)	500
5134	Notions and Other Dry Goods	500
5136	Men's and Boys' Clothing and Furnishings.	500
5137	Women's, Children's and Infants' Clothing and Accessories.	500
5139	Footwear	500
5141	Groceries, General Line	500
5142	Frozen Foods	500

FINAL RULE SIZE STANDARDS BY SIC INDUSTRY—Continued

SIC	Description	Size standards in number of employees or millions of dollars: Final Rule
5143	Dairy Products	500
5144	Poultry and Poultry Products	500
5145	Confectionery	500
5146	Fish and Seafoods	500
5147	Meats and Meat Products	500
5148	Fresh Fruits and Vegetables	500
5149	Groceries and Related Products, N.E.C.	500
5152	Cotton	500
5153	Grain	500
5154	Livestock	500
5159	Farm-Product Raw Materials, N.E.C.	500
5161	Chemicals and Allied Products	500
5171	Petroleum Bulk Stations and Terminals.	500
5172	Petroleum and Petroleum Products Wholesalers, Except Bulk Stations and Terminals.	500
5181	Beer and Ale	500
5182	Wines and Distilled Alcoholic Beverages.	500
5191	Farm Supplies	500
5194	Tobacco and Tobacco Products.	500
5198	Paints, Varnishes, and Supplies.	500
5199	Nondurable Goods, N.E.C.	500
	Division G—Retail Trade	
	Major Group 52—Building Materials, Hardware, Garden Supply, and Mobile Home Dealers	
5211	Lumber and Other Building Materials Dealers.	$3.5
5231	Paint, Glass, and Wallpaper Stores.	$3.5
5251	Hardware Stores	$3.5
5261	Retail Nurseries, Lawn and Garden Supply Stores.	$3.5
5271	Mobile Home Dealers	$3.5
	Major Group 53—General Merchandise Stores	
5311	Department Stores	$13.5
5331	Variety Stores	$3.5
5399	Miscellaneous General Merchandise Stores.	$3.5
	Major Group 54—Food Stores	
5411	Grocery Stores	$13.5
5422	Freezer and Locker Meat Provisioners.	$3.5
5423	Meat and Fish (Seafood) Markets.	$3.5
5431	Fruit Stores and Vegetable Markets.	$3.5
5441	Candy, Nut, and Confectionery Stores.	$3.5
5451	Dairy Products Stores	$3.5
5462	Retail Bakeries—Baking and Selling.	$3.5
5463	Retail Bakeries—Selling Only	$3.5
5499	Miscellaneous Food Stores	$3.5
	Major Group 55—Automotive Dealers and Gasoline Service Stations	
5511	Motor Vehicle Dealers (New and Used).	$11.5
5521	Motor Vehicle Dealers (Used Only).	$11.5
5531	Auto and Home Supply Stores	$3.5
5541	Gasoline Service Stations	$4.5
5551	Boat Dealers	$3.5
5561	Recreational and Utility Trailer Dealers.	$3.5
5571	Motor cycle Dealers	$3.5
5599	Automotive Dealers, N.E.C. [10]	$3.5

FINAL RULE SIZE STANDARDS BY SIC INDUSTRY—Continued

SIC	Description	Size standards in number of employees or millions of dollars: Final Rule
	Major Group 56—Apparel and Accessory Stores	
5611	Men's and Boys' Clothing and Furnishings Stores.	$4.5
5621	Women's Ready-to-Wear Stores.	$4.5
5631	Women's Accessory and Specialty Stores.	$3.5
5641	Children's and Infants' Wear Stores.	$3.5
5651	Family Clothing Stores	$4.5
5661	Shoe Stores	$4.5
5681	Furriers and Fur Shops	$3.5
5699	Miscellaneous Apparel and Accessory Stores.	$3.5
	Major Group 57—Furniture, Home Furnishings, and Equipment Stores	
5712	Furniture Stores	$3.5
5713	Floor Covering Stores	$3.5
5714	Drapery, Curtain, and Upholstery Stores.	$3.5
5719	Miscellaneous Home Furnishing Stores.	$3.5
5722	Household Appliance Stores	$4.5
5732	Radio and Television Stores	$4.5
5733	Music Stores	$3.5
	Major Group 58—Eating and Drinking Places	
5812	Eating Places (Except Food Services).	$3.5
5812	Food Services	$10.0
5813	Drinking Places (Alcoholic Beverages).	$3.5
	Major Group 59—Miscellaneous Retail	
5912	Drug Stores and Proprietary Stores.	$3.5
5921	Liquor Stores	$3.5
5931	Used Merchandise Stores	$3.5
5941	Sporting Goods Stores and Bicycle Shops.	$3.5
5942	Book Stores	$3.5
5943	Stationery Stores	$3.5
5944	Jewelry Stores	$3.5
5945	Hobby, Toy, and Game Shops	$3.5
5946	Camera and Photographic Supply Stores.	$3.5
5947	Gift, Novelty, and Souvenir Shops.	$3.5
5948	Luggage and Leather Goods Stores.	$3.5
5949	Sewing, Needlework, and Piece Goods Stores.	$3.5
5961	Mail Order Houses	$12.5
5962	Automatic Merchandising Machine Operators.	$3.5
5963	Direct Selling Establishments	$3.5
5982	Fuel and Ice Dealers, Except Fuel Oil Dealers and Bottled Gas Dealers.	$3.5
5983	Fuel Oil Dealers	$6.0
5984	Liquefied Petroleum Gas (Bottled Gas) Dealers.	$3.5
5992	Florists	$3.5
5993	Cigar Stores and Stands	$3.5
5994	News Dealers and Newsstands.	$3.5
5999	Miscellaneous Retail Stores, N.E.C.	$3.5
	Division H—Finance, Insurance, and Real Estate[11]	
	Major Group 63—Insurance	
6331	Fire, Marine, and Casualty Insurance.	1,500
6411	Insurance Agents, Brokers, and Service.	$3.5
	Major Group 65—Real Estate	
6515	Operators of Residential Mobile Home Sites.	$3.5
	Leasing of Building Space to the Federal Government by Owners.[12]	$10.0
	Division I—Services	
	Major Group 70—Hotels, Rooming Houses, Camps, and Other Lodging Places	
7011	Hotels, Motels, and Tourist Courts.	$3.5
7021	Rooming and Boarding Houses.	$3.5
7032	Sporting and Recreational Camps.	$3.5
7033	Trailering Parks and Camp Sites for Transients.	$3.5
7041	Organization Hotels and Lodging Houses, on Membership Basis.	$3.5
	Major Group 72—Personal Services	
7211	Power Laundries, Family and Commercial.	$7.0
7212	Garment Pressing, and Agents for Laundries and Dry Cleaners.	$3.5
7213	Linen Supply	$7.0
7214	Diaper Service	$7.0
7215	Coin-operated Laundries and Dry Cleaning.	$3.5
7216	Dry Cleaning Plants, Except Rug Cleaning.	$2.5
7217	Carpet and Upholstery Cleaning.	$2.5
7218	Industrial Launderers	$7.0
7219	Laundry and Garment Services, N.E.C.	$3.5
7221	Photographic Studios, Portrait	$3.5
7231	Beauty Shops	$3.5
7241	Barber Shops	$3.5
7251	Shoe Repair Shops, Shoe Shine Parlors, and Hat Cleaning Shops.	$3.5
7261	Funeral Service and Crematories.	$3.5
7299	Miscellaneous Personal Services.	$3.5
	Major Group 73—Business Services	
7311	Advertising Agencies	$3.5
7312	Outdoor Advertising Services	$3.5
7313	Radio, Television, and Publishers' Advertising Representatives.	$3.5
7319	Advertising, N.E.C	$3.5
7321	Consumer Credit Reporting Agencies, Mercantile Reporting Agencies, and Adjustment and Collection Agencies.	$3.5
7331	Direct Mail Advertising Services.	$3.5
7332	Blueprinting and Photocopying Services.	$3.5
7333	Commercial Photography, Art, and Graphics.	$3.5
7339	Stenographic Services; and Reproduction Services, N.E.C.	$3.5
7341	Window Cleaning	$3.5
7342	Disinfecting and Exterminating Services.	$3.5
7349	Cleaning and Maintenance Services to Dwellings and Other Buildings, N.E.C.	$3.5
7351	News Syndicates	$3.5
7361	Employment Agencies	$3.5
7362	Temporary Help Supply Services.	$ 3.5
7369	Personnel Supply Services, N.E.C.[13]	$13.5
	Base Maintenance Facilities Management[17]	$3.5
7372	Computer Programming and Other Software Services.	$7.0
7374	Data Processing Services	$7.0
7379	Computer Related Services, N.E.C.	$12.5
7391	Research and Development Laboratories.[14]	500
7392	Management, Consulting, and Public Relations Services.	$3.5
7393	Detective Agencies and Protective Services.	$3.5
7394	Equipment Rental and Leasing Services.	$3.5
7395	Photofinishing Laboratories	$3.5
7396	Trading Stamp Services	$3.5
7397	Commercial Testing Laboratories.	$3.5
7399	Business Services, N.E.C.	$3.5
	Major Group 75—Automotive Repair, Services, and Garages	
7512	Passenger Car Rental and Leasing, Without Drivers.	$12.5
7513	Truck Rental and Leasing, Without Drivers.	$12.5
7519	Utility Trailer and Recreational Vehicle Rental.	$3.5
7523	Parking Lots	$3.5
7525	Parking Structures	$3.5
7531	Top and Body Repair Shops	$3.5
7534	Tire Retreading and Repair Shops.	$7.0
7535	Paint Shops	$3.5
7538	General Automotive Repair Shops.	$3.5
7539	Automotive Repair Shops, N.E.C..	$3.5
7542	Car Washes	$3.5
7549	Automotive Services, Except Repair and Car Washes.	$3.5
	Major Group 76—Miscellaneous Repair Services	
7622	Radio and Television Repair Shops.	$3.5
7623	Refrigeration and Air Conditioning Service and Repair Shops.	$3.5
7629	Electrical and Electronic Repair Shops, N.E.C.	$3.5
7631	Watch, Clock, and Jewelry Repair.	$3.5
7641	Reupholstery and Furniture Repair.	$3.5
7692	Welding Repair	$3.5
7694	Armature Rewinding Shops	$3.5
7699	Repair Shops and Related Services, N.E.C.[18].	$3.5
	Major Group 78—Motion Pictures	
7813	Motion Picture Production, Except for Television.	$14.5
7814	Motion Picture and Tape Production for Television.	$14.5
7819	Services Allied to Motion Picture Production.	$14.5
7823	Motion Picture Film Exchanges	$14.5

FINAL RULE SIZE STANDARDS BY SIC INDUSTRY—Continued

SIC	Description	Size standards in number of employees or millions of dollars: Final Rule
7824	Film or Tape Distribution for Television.	$14.5
7829	Services Allied to Motion Picture Distribution.	$3.5
7832	Motion Picture Theaters, Except Drive-in.	$3.5
7833	Drive-in Motion Picture Theaters.	$3.5
	Major Group 79—Amusement and Recreation Services, Except Motion Pictures	
7911	Dance Halls, Studios, and Schools.	$3.5
7922	Theatrical Producers (Except Motion Pictures) and Miscellaneous Theatrical Services.	$3.5
7929	Bands, Orchestras, Actors, and Other Entertainers and Entertainment Groups.	$3.5
7932	Billiard and Pool Establishments.	$3.5
7933	Bowling Alleys	$3.5
7941	Professional Sports Clubs and Promoters.	$3.5
7993	Coin-operated Amusement Devices.	$3.5
7996	Amusement Parks	$3.5
7999	Amusement and Recreation Services, N.E.C.	$3.5
	Major Group 80—Health Services	
8011	Offices of Physicians	$3.5
8021	Offices of Dentists	$3.5
8031	Offices of Osteopathic Physicians.	$3.5
8041	Offices of Chiropractors	$3.5
8042	Offices of Optometrists	$3.5
8049	Offices of Health Practioners, N.E.C.	$3.5
8051	Skilled Nursing Care Facilities	$3.5
8059	Nursing and Personal Care Facilities N.E.C.	$3.5
8062	General Medical and Surgical Hospitals.	$3.5
8063	Psychiatric Hospitals	$3.5
8069	Specialty Hospitals, Except Psychiatric.	$3.5
8071	Medical Laboratories	$3.5
8072	Dental Laboratories	$3.5
8081	Outpatient Care Facilities	$3.5
8091	Health and Allied Services, N.E.C.	$3.5
	Major Group 81—Legal Services	
8111	Legal Services	$3.5
	Major Group 82—Educational Services	
8299	Schools and Educational Services, N.E.C. Except Flight Training.	$3.5
8299	Flight Training Services	$12.5
	Major Group 89—Miscellaneous Services	
8911	Engineering Services, Except for Military and Aerospace Equipment and Except for Military Weapons.	$7.5
8911	Engineering Services for Military and Aerospace Equipment and for Military Weapons (Except Marine Engineering).	$13.5
8911	Marine Engineering and Naval Architecture.	$9.0
8911	Architectural Services (Except Naval) and Surveying Services.	$3.5

FINAL RULE SIZE STANDARDS BY SIC INDUSTRY—Continued

SIC	Description	Size standards in number of employees or millions of dollars: Final Rule
8931	Accounting, Auditing, and Bookkeeping Services.	$4.0
8999	Services, N.E.C.	$3.5

[1] Size standards preceded by a dollar sign ($) are in millions of dollars. All others are in number of employees unless specified otherwise.

[2] SIC Division D, Manufacturing: "Rebuilding on a factory basis or equivalent." For rebuilding machinery or equipment on a factory basis, use SIC code applicable for new manufactured product. The appropriate size standard is not limited to manufacturers. Ordinary repair services or preservation operations, however, are not considered rebuilding activities.

[3] SIC–2033: For purposes of Government procurement for food canning and preserving under SIC–2033, the standard of 500 employees shall be exclusive of agricultural labor as defined in section (k) of the Federal Unemployment Tax Act, 68A Stat. 454, 26 U.S.C. (I.R.C. 1954) 3306.

[4] SIC–2911: For purposes of Government procurement, the firm may not have more than 1500 employees nor may it have more than 50,000 barrels per day capacity. This capacity may be measured in terms of either crude oil or bona fide feedstocks or both, but the sum total of the various petroleum-based inputs into the process may not exceed 50,000 barrels. In addition to the direct owned capacity of the concern in question, counted capacity will include any leased facilities or any facilities made available to the concern under an arrangement such as (but not limited to) an exchange agreement or a throughput or other form or processing agreement (whereby another party processes the concern's own crude or feedstocks). Such an arrangement would have the same effect as though such facilities had been leased, and this would have to be included in the concern's own capacity. The total product to be delivered in the performance of the contract must be at least 90 percent refined by the successful bidder from either crude oil or bona fide feedstocks.

[5] SIC–3011: For purposes of Government procurement, a firm is small for bidding on a contract for pneumatic tires within Census Classification Codes 30111 and 30112, provided that (1) the value of tires within Census Classification Codes 30111 and 30112 which it manufactured in the United States during the previous calendar year is more than 50 percent of the value of its total worldwide manufacture, (2) the value of pneumatic tires within Census Classification Codes 30111 and 30112 which it manufactured worldwide during the preceding calendar year was less then 5 percent of the value of all such tires manufactured in the United States during said period, and (3) the value of the principal products which it manufactured or otherwise produced or sold worldwide during the preceding calendar year is less than 10 percent of the total value of such products manufactured or otherwise produced or sold in the United States during said period.

[6] SIC–4212: The component "Garbage and Refuse, Collecting and Transporting: Without Disposal" shall have a size standard of $6.0 million. This is the same size standard as SIC–4953, *Refuse Systems.*

[7] Offshore Marine Services: The applicable size standard shall be $14 million for firms furnishing specific transportation services to concerns engaged in offshore oil and/or natural gas exploration, drilling production or marine research; such services encompass passenger and freight transportation, anchor handling, and related logistical services to and from the work site or at sea.

[8] SIC–4521: Includes passenger or cargo transportation requiring the use of one or more helicopters or fixed-wing aircraft. For other services requiring the use of one or more helicopters or fixed-wing aircraft, a size standard of $6.5 million shall apply. This does not include offshore marine transportation services as defined in footnote 7.

[9] SIC–4953: "Garbage and Refuse, Collecting and Transportation: Without Disposal," a component of SIC–4212, has the same size standard as SIC–4953.

[10] SIC–5599: For retail firms whose principal line of business is the retail sale of aircraft, a $5 million size standard shall apply.

[11] Most industries in Division H—Finance, Insurance, and Real Estate—are excluded from SBA assistance.

[12] Leasing of building space to the Federal Government by owners—For the purpose of Government procurement, a size standard of $10 million in gross receipts is established for owners of building space that is leased to the Federal Government. The standard for these procurements shall apply to the owner of the property and not to those acting as an agent for the owner. There is no size standard concerning the agent.

[13] If one of the activities in base maintenance, as defined in SIC–7369, can be identified with a separate industry, and that activity (or industry) accounts for 50 percent or more of the value of an entire contract, then the proper size standard shall be that for the particular industry, and not the base maintenance size standard.

"Base maintenance" constitutes three or more separate activities. These activities may be either service or special trade construction related activities. As services, these activities must each be in a separate industry. These activities may include but are not limited to such separate maintenance activities as *Janitorial and Custodial Service, Protective Guard Service, Commissary Service, Fire Prevention Service,* the *Safety Engineering Service, Messenger Service,* and *Grounds Maintenance and Landscaping Service.* If the contract involves the use of special trade contractors (plumbing, painting, plastering, carpeting, etc.), all such specialized special trade construction activities will be considered a single activity, which is *Based Housing Maintenance.* This is only one activity of base maintenance and two additional activities must be present for the contract to be considered base maintenance. The size standard for Base Housing Maintenance is $7 million, the same size standard as for Special Trade Contractors.

[14] SIC–7391: For research and development contracts requiring the delivery of a manufactured product, the size standard to use is that of the manufacturing industry in which the specific product is classified.

Research and Development, as defined in the *SIC Manual,* means laboratory or other physical research and development on a contract or fee basis. Research and development for purposes of size determinations does not include the following: economic, educational, engineering, operations, systems or other nonphysical research; or computer programming, data processing, commercial and/or medical laboratory testing.

For purposes of the SBIR program only, a different definition has been established by law. See Part 121.7.

[15] Contracts for the rebuilding or overhaul of aircraft ground support equipment on a contract basis will be classified under SIC–3728.

[16] To be considered small, a firm must perform the dredging of at least 40 percent of the yardage with its own dredging equipment or equipment owned by another small dredging concern.

[17] *Facilities Management,* a component of SIC–7369, has the following definition: Establishments, not elsewhere classified, which provide overall management and the personnel to perform a variety of related support services in operating a complete facility, in or around a specific building, or within another business or government establishment. Facilities management means furnishing three or more personnel supply services which may include but are not limited to secretarial services, typists, telephone answering, reproduction or mimeograph services, mailing services, financial or business management, public relations, conference planning, travel arrangements, word processing, maintaining files and/or libraries, switchboard operation, writers, bookkeeping, minor office equipment maintenance and repair, use of information systems (not programming), etc.

§ 121.3 General definitions.

(a) *Affiliates:* Concerns, other than investment companies licensed, or state development companies qualifying under the Small Business Investment Act of 1958 and the regulations issued pursuant thereto, or investment companies registered under the Investment Company Act of 1940, are affiliates of each other when either directly or indirectly (1) one concern controls or has the power to control the other or (2) a third party or parties controls or has the power to control both. In determining whether concerns are independently owned and operated and whether or not affiliation exists, consideration shall be given to all appropriate factors, including common ownership, common management, and contractual relationships: Provided, however, That restraints imposed on a franchise by its franchise agreement shall not be considered in determining whether the franchisor controls or has the power to control and, therefore, is affiliated with the franchisee, if the franchisee has the right to profit from his effort, commensurate with ownership, and bears the risk of loss or failure.

(i) *Nature of Control.* Every business concern is considered as having one or more parties who directly or indirectly control or have the power to control it. Control may be affirmative or negative and it is immaterial whether it is

exercised so long as the power to control exists.

Example. A party owning 50 percent of the voting stock of a concern would have negative power to control such concern since he can block any action of the other stockholders. Also, the bylaws of a corporation may permit a stockholder with less than 50 percent of the voting stock to block any actions taken by the other stockholders. Affiliation exists when one or more parties have the power to control a concern while at the same time another party or other parties, may be in control of the concern at the will of the party with the power to control.

(ii) *Meaning of "party or parties."* The term "party" or "parties" includes, but is not limited to, two or more persons with an identity of interest such as members of the same family or persons with common investments in more than one concern. In determining who controls or has the power to control a concern, persons with an identity of interest may be treated as though they were one person.

(iii) *Control through stock ownership.* (A) A party is considered to control or have the power to control a concern if he controls or has the power to control 50 percent or more of its voting stock.

(B) A party is considered to control or have the power to control a concern even though he owns, controls, or has the power to control less than 50 percent of the concern's voting stock if the block of stock he owns, controls or has the power to control is large as compared with any other outstanding block of stock. If two or more parties each owns, controls or has the power to control less than 50 percent of the voting stock of a concern and such minority block is (*1*) equal or substantially equal in size, and (*2*) large as compared with any other block outstanding, there is a presumption that each such party controls or has the power to control such concern; however, such presumption may be rebutted by a showing that such control or power to control, in fact, does not exist.

(C) If a concern's voting stock is distributed other than as described above, its management (officers and directors) is deemed to be in control of such concern.

Example. In a corporation where the officers and directors own various size blocks of stock totalling 40 percent of a concern's voting stock, but no officer or director has a block sufficient to give him control or the power to control and the remaining 60 percent is widely distributed with no individual stockholder having a stock interest greater than 10 percent, management has the power to control.

(iv) *Stock options, convertible debentures, and agreements to merge.* Stock options and convertible debentures exercisable at the time or within a relatively short time after a size determination and agreements to merge in the future are considered as having a present effect on the power to control the concern. Therefore, in making a size determination, such options, debentures, and agreements are treated as though the rights held thereunder had been exercised.

Example. If company "A" holds an option to purchase a controlling interest in company "B" and such option can be exercised at any time by company "A," the situation is treated as though company "A" had exercised its rights and had become owner of a controlling interest in company "B." Further, if company "A" has entered into an agreement to merge with company "B" in the future, the situation is treated as though the merger had taken place.

(v) *Voting trusts.* If the purpose of a voting trust, or similar agreement is to separate voting power from beneficial ownership of voting stock for the purpose of shifting control of or the power to control a concern in order that such concern or another concern may qualify as a small business within the size regulations, such voting trust shall not be considered valid for this purpose regardless of whether it is or is not valid within the appropriate jurisdiction. However, if a voting trust is entered into for a legitimate purpose other than that described above, and it is valid within the appropriate jurisdiction, it may be considered valid for the purpose of a size determination, provided such consideration is determined to be in the best interest of the small business program.

(vi) *Control through common management.* A concern may be found as controlling or having the power to control another concern when one or more of the following circumstances are found to exist, and it is reasonable to conclude that under the circumstances, such concern is directing or influencing or has the power to direct or influence the operation of such other concern.

(A) *Interlocking management.* Officers, directors, employees, or principal stockholders of one concern serve as a working majority of the board of directors or officers of another concern.

(B) *Common facilities.* One concern shares common office space and/or employees and/or other facilities with another concern particularly where such concerns are in the same or related industry or field of operation, or where such concerns were formerly affiliated.

(C) *Newly organized concern.* Former officers, directors, principal stockholders, and/or key employees of one concern organize a new concern in the same or a related industry or field of operation, and serve as its officers, directors, principal stockholders, and/or key employees, and one concern is furnishing or will furnish the other concern with subcontracts, financial or technical assistance, and/or other facilities, whether for a fee or otherwise.

(vii) *Control through contractual relationships.* (A) *Definition of a joint venture for size determination purposes.* A joint venture for size determination purposes is an association of persons and/or concerns with interests in any degree or proportion by way of contract, express or implied, consorting to engage in and carry out a single specific business venture for joint profit for which purpose they combine their efforts, property, money, skill, or knowledge, but not on a continuing or permanent basis for conducting business generally. A joint venture is viewed as a business entity in determining power to control its management.

(B) *Joint ventures—financial assistance.* For the purpose of financial assistance to a joint venture, the parties thereto are considered as controlling or having the power to control each other and are considered as being affiliated. For the purpose of financial assistance to a concern which has requested assistance for its own use, but which is incidentally a party to a joint venture, such concern is not considered as being affiliated with its joint venturer.

(C) *Joint venture—procurement and property sale assistance.* Concerns bidding on a particular procurement or property sale as joint venturers are considered as affiliated and controlling or having the power to control each other with regard to performance of the contract. Moreover, an ostensible subcontractor which is to perform primary or vital requirements of a contract may have a controlling role such to be considered a joint venturer affiliated on the contract with the prime contractor. A joint venture affiliation finding is limited to particular contracts unless the SBA size determination finds general affiliation between the parties.

(D) Where a concern is not considered as being an affiliate of a concern with which it is participating in a joint venture, it is necessary, nevertheless, in computing annual receipts, etc., for the purpose of applying size standards to include such concern's share of the joint venture receipts (as distinguished from its share of the profits of such venture).

(E) *Franchise and license agreements.* If a concern operates or is to operate under a franchise (or a license) agreement, the following policy is

applicable: In determining whether the franchisor controls or has the power to control and, therefore, is affiliated with the franchisee, the retraints imposed on a franchisee by its franchise agreement shall not be considered provided that the franchisee has the right to profit from its effort and the risk of loss or failure, commensurate with ownership. Even though a franchisee may not be controlled by the franchisor by virtue of the contractual relationship between them, the franchisee may be controlled by the franchisor or others through common ownership or common management, in which case they would be considered as affiliated.

(b) "Concern" means any business entity organized for profit (even if its ownership is in the hands of a nonprofit entity) with a place of business located in the United States and which makes a significant contribution to the U.S. economy through payment of taxes and/or use of American products, material and/or labor, etc. "Concern" includes but is not limited to an individual, partnership, corporation, joint venture, association, or cooperative. For the purpose of making affiliation findings (see subsection (a) of this section) any business entity whether organized for profit or not, and any foreign business entity, i.e., any entity located outside the United States, shall be included.

(c) A concern is "not dominant in its field of operation" when it does not exercise a controlling or major influence on a national basis in a kind of business activity in which a number of business concerns are primarily engaged. In determining whether dominance exists, consideration shall be given to all appropriate factors, including volume of business, number of employees, financial resources, competitive status or position, ownership or control of materials, processes, patents, license agreements, facilities, sales territory, and nature of business activity.

§ 121.4 Small business for financial programs.

(a) The provisions within this section apply to the determination of the size of a firm for purposes of eligibility for SBA financial assistance, which includes the following SBA programs: Financial and Guarantee Assistance, Small Business Investment Companies, Development Companies, Surety Bond Guarantees, Pollution Control Financing Guarantees, and Minority Small Business and Capital Ownership Development, including the section 8(a) program. Such size eligibility is determined with reference to the size standard for the primary industry of the concern (including any affiliates) under the SIC code size standards in the table contained in § 121.2. The size standards are generally expressed in terms of four-digit industries set forth in the Standard Industrial Classification Manual. In addition to meeting the size standards of this regulation, a small business concern must be not dominant in its field of operation. (See § 121.3(c).) If a concern is engaged in a number of industries (or including its affiliates is engaged in several industries), the size standard shall be that of the concern's (or concerns') primary industry. The primary industry determination considers the distribution among industries during the most recent fiscal year and 12 month period of receipts and employees of the concern (or of an entire affiliated group if the group in its entirety has a different primary industry). The determination may also consider other factors (e.g., patents, contract awards, assets).

(b) After the appropriate size standard is ascertained, the eligibility of the concern under that size standard must be considered. In determining whether a concern is eligible under its applicable primary industry size standard, employees or receipts (or other size measurement under subsection (e) of this section, e.g., net worth) of the concern and its affiliates must be aggregated. (Section 121.3(a) sets forth the SBA affiliation definition.)

(c) A concern which applies for an SBA loan or guarantee to refinance an existing SBA loan or guarantee but which, since the date of the original financing, has by natural growth (as distinguished from, e.g., merger) grown to a size which exceeds the applicable size standard, is considered as small for the purpose of refinancing if SBA administratively determines that refinancing is necessary to protect the Government's financial interest.

(d) The concern's size status may be determined at the SBA District Office, the SBA Regional Office, or by any other SBA office or financial institution appropriately designated. The determination may be made at the time of application for assistance. The concern's size eligibility is determined as of the time of its application or self-certification as small by the concern. Except for firms participating in the section 8(a) program, subsequent changes in size will not affect a firm's size status.

(e) The applicable size standards for the purpose of all SBA financial and guarantee programs excluding the Section 8(a) Program and the Surety Bond Guarantee Assistance Program, are increased by 25 percent whenever the concern agrees to use the assistance within a "labor surplus area," or "redevelopment area." "Redevelopment area" is defined in the Public Works Economic Development Act of 1965 (Pub. L. 89–136, 79 Stat. 570, 42 U.S.C. 3211). "Labor surplus areas" are listed monthly in the Department of Labor publication "Area Trends."

(f) A small business concern for the purpose of receiving financial or other assistance from small business investment companies or development companies, or pollution control guarantee assistance, is one which: (1) Together with its affiliates, does not have net worth in excess of $6 million, and does not have an average net income after Federal income taxes for the preceding 2 years in excess of $2 million (average net income to be computed without benefit of any carryover loss); or (2) a concern is also eligible for these programs if it otherwise qualifies under this section as a small business concern for financial assistance.

(g) For purposes of the Minority Small Business and Capital Ownership Development Assistance (section 8(a)) program,

(1) In order to be eligible to participate in the section 8(a) program, an applicant concern must qualify as a small business concern as defined for purposes of Government procurement in § 121.2 of these rules. The particular size standard to be applied will be based on the primary industry classification of the applicant concern.

(2) In order to continue to participate in the section 8(a) program once a concern is admitted to the program, the concern must certify to SBA that it is a small business for the purpose of performing each individual contract which it is awarded. SBA, in turn, will verify such certifications.

(h) For purposes of surety bond guarantee assistance,

(1) Any construction concern (general or special trade) is small if its annual receipts average for its preceding three fiscal years does not exceed $5 million.

(2) Any concern performing a contract for services (including but not limited to services set forth in Division I, Services, of the Standard Industrial Classification Manual) is small if its annual receipts average for its preceding three fiscal years does not exceed $3.5 million.

(3) For other surety bond guarantee assistance, the provisions of § 121.4 (a) and (b) are applicable in determining eligibility as a small business concern.

§ 121.5 Small business for Government procurement.

(a) A small business concern for the purpose of Government procurement is a concern, including its affiliates, which is not dominant in the field of operation in which it is bidding on Government contracts and can further qualify under the criteria set forth in this section. The size status of a concern (including its affiliates) is determined as of the date of written self-certification as a small business as part of a concern's submission of a bid or offer. An opinion rendered by SBA to a contracting officer on the basis of published or commonly known information and without the benefit of an SBA inquiry, is not considered an SBA size determination.

(b)(1) The procurement is classified for size standard purposes in the most appropriate SIC code industry category (§ 121.2); giving consideration to the industry descriptions in the regulation and the SIC Manual, the product or service description in the solicitation and attachments thereto, the relative value of items in the procurement and the principal nature of the procurement. In borderline cases, consideration may be given to previous Government procurement classifications of the same or similar products or services, additional information on the industries and on the product or service being procured, and to evaluations on which industry classification would best serve the purposes of the Small Business Act. A concern which is bidding on a contract for a procurement in an SIC industry under § 121.2 must meet the size standard designated for that industry. The size standard and SIC industry designation are set forth in the solicitation.

(2) Any concern which submits a bid or offer in its own name, other than on a construction or service contract, but which proposes to furnish a product which it did not itself manufacture, is deemed to be a small business when:

(i) In the case of Government procurement reserved (i.e, set aside) for small businesses, such nonmanufacturer must furnish, in the performance of the contract, the product of a small business manufacturer or producer, which end product must be manufactured or produced in the United States. The term "nonmanufacturer" includes a concern which can manufacture or produce the product referred to in the specific procurement but does not do so in connection with that procurement. For size determination purposes there can be only one manufacturer of the end item being procured. The manufacturer of the end item being procured is the concern which, with its own forces, transforms inorganic or organic substances including raw materials and/or miscellaneous parts or components into such end item. Whether a bidder on a particular procurement is the manufacturer or a nonmanufacturer for the purpose of a size determination need not be consistent with whether such concern is or is not a manufacturer for the purpose of the Walsh-Healey Act.

(ii) A concern which purchases items and packages them into a kit is considered to be a nonmanufacturer small business and can qualify as such for a given procurement if it meets the size qualifications of a small nonmanufacturer for the procurement and if more than 50 percent of the total value of the kit and its contents is accounted for by items manufactured by small business.

(iii) If the procurement is subject to, and is actually processed under, "small purchase procedures" as defined in the Defense Acquisition Regulation (DAR), Federal Procurement Regulation (FPR), and the National Aeronautics and Space Administration Procurement Regulation (NASAPR), as applicable, such nonmanufacturer may furnish any domestically produced or manufactured product.

(iv) For the purpose of receiving a Certificate of Competency on an unrestricted procurement, a small business nonmanufacturer may furnish any domestically produced or manufactured product. The applicable size standard shall be that of the wholesale industry of the item being procured.

(c) If a procurement calls for two or more items with different size standards and the bidder can bid on any items, the bidder must meet the size standard for each item for which it submits a bid. If the procurement calls for more than one item and a bidder is required to bid on all items, the bidder can qualify as small business for such procurement if it meets the size standard for the item accounting for the greatest percentage of the total contract value.

(d) The determination of the appropriate classification of a product or service shall be made by the contracting officer of the procuring agency or his authorized representative. Both the SIC industry classification and the applicable size standard (number of employees, average annual receipts, etc.), shall be set forth in the solicitation and such determination of the contracting officer shall be final unless appealed to SBA in the manner provided in § 121.11; provided, however, that an unclear or incomplete classification action by the contracting officer may be supplied by the SBA if necessary in connection with a size determination or size appeal.

(e) In the submission of a bid or proposal on a Government procurement, a concern which meets the designated size standard and which either has not been determined by SBA to be ineligible under the same or a lower size standard, or has been determined to be ineligible but subsequently has been recertified by SBA, may represent that it is a small business concern within the size standard designated for the procurement. In the absence of a written protest by other bidders or other credible information which would cause a contracting officer to question the veracity of the self-certification, a contracting officer shall accept the self-certification at face value for the particular procurement involved. The contracting officer shall refer written protests to SBA; and, if he has cause, may refer his own protest to SBA for a size determination. The protest should provide specific factual reasons enabling the protested concern to respond to the particular allegations that it is not a small business concern within the size standard applicable to the procurement.

(f) If a concern has been determined by SBA to be ineligible as a small business under a particular size standard, and it has already self-certified as a small business on a pending procurement subject to the same or lower number of employees or annual receipts size standard (whichever is applicable), it shall immediately notify the contracting officer of such adverse size determination.

(g) For subcontracting purposes pursuant to Section 8(d) of the Small Business Act, a concern is small

(1) In connection with subcontracts of $10.000 or less which relate to Government procurements if, including its affiliates, its number of employees does not exceed 500 persons; and

(2) In connection with subcontracts exceeding $10,000 which relate to Government procurements if its number of employees or average annual receipts, (including its affiliates), does not exceed the size standard under § 121.2 for the product or service it is providing on the subcontract. Concerns may self-certify their status as a small subcontractor for the procurement.

(3) The contracting officer or other affected party in connection with small business subcontracting requirements, pursuant to section 8(d) of the Small Business Act, may protest a written representation of small business status, or the refusal to accept such written

representation, of a concern offering as a subcontractor on a particular procurement. The protest and related information shall be referred to the SBA Regional Office in which the concern has its principal office for a size determination or other appropriate SBA action.

§ 121.6 Small business for sales or lease of Government property.

In the submission of a bid or proposal for the purchase or lease of Government-owned property, a small business concern is one which meets the criteria provided in this section. The size status of a concern (including its affiliates) is determined as of the date of written self-certification as a small business as part of a concern's submission of a bid or offer. An opinion rendered by SBA to a contracting officer on the basis of published or commonly known information and without the benefit of an SBA inquiry is not considered an SBA size determination. In the absence of a written protest by other bidders or other credible information which would cause a contracting officer to question the veracity of a concern's self-certification as a small business, a contracting officer shall accept the self-certification at face value. The contracting officer shall refer written protests to SBA; and, if he has cause, may refer his own protest to SBA for a size determination. The protest should provide specific factual reasons enabling the protested concern to respond to the particular allegations that it is not a small business concern for the sale or lease on which protested. If a concern has been determined by SBA to be ineligible under the applicable size standard and has not been recertified, it shall not self-certify under that size standard until it has been recertified by SBA; and shall immediately notify the contracting officer on any pending sales or leases where it had self-certified under the same size standard.

(a) *Sales of Government-owned property other than timber.* A small business concern for the purpose of the sale of Government-owned property other than timber is a concern, including its affiliates, which is independently owned and operated, is not dominant in its field of operation, and can further qualify under the following criteria.

(1) *Manufacturers.* Any concern which is primarily engaged in manufacturing is small if its number of employees does not exceed 500 persons: *Provided, however,* That a concern primarily engaged in SIC Industry 2911, Petroleum Refining,[2] is small if its number of employees does not exceed 1,500 persons and it does not have more than 45,000 barrels per day crude oil or bona fide feed stock capacity from owned and/or leased facilities, or from facilities made available to such concern under an arrangement such as, but not limited to, an exchange agreement (except one on a refined-product-for-refined-product basis) or a throughput or other form of processing agreement, with the same effect as though such facilities had been leased.

(2) *Other than manufacturers.* Any concern which is primarily not a manufacturer (except as specified in paragraph (a)(3) of this section) is small if its average annual receipts for its preceding 3 fiscal years do not exceed $2 million.

(3) *Stockpile purchasers.* Any concern primarily engaged in the purchase of materials which are not domestic products is small if its annual receipts for its preceding 3 fiscal years do not exceed $42 million.

(b) *Sales of Government-owned timber.* (1) In connection with sale of Government-owned timber, a small business is a concern that:

(i) Is primarily engaged in the logging or forest products industry; [3]

(ii) Is independently owned and operated;

(iii) Is not dominant in its field of operation; and

(iv) Together with its affiliates, its number of employees does not exceed 500 persons.

(2) In the case of Government sales of timber reserved for or involving preferential treatment of small businesses, when the Government timber being purchased is to be resold, a concern is a small business when:

(i) It is a small business within the meaning of paragraph (b)(1) of this section, and

(ii) It agrees that it will not sell to a concern which is not a small business within the meaning of this paragraph more than 30 percent (50 percent in Alaska) of such timber. The term "sell" includes but is not limited to the exchange of sawlogs for sawlogs on a product-for-product basis with or without monetary adjustment, and an indirect transfer such as the sale of the assets of (or a controlling interest in) a concern after it has been awarded one or more set-aside sales of timber. Under the latter circumstances, if, after being awarded a set-aside sale of timber a small business concern merges with or becomes subject to the control of a large business, so much of such timber (or sawlogs therefrom) shall be sold to one or more small businesses as is necessary for compliance with the 30 percent (50 percent in Alaska) restriction.

(3) In the case of Government sales reserved for or involving preferential treatment of small businesses, when the Government timber purchased is not to be resold in the form of sawlogs to be manufactured into lumber and timbers, a concern is a small business when:

(i) It meets the criteria contained in paragraph (b)(1) of this section, and

(ii) It agrees that in manufacturing lumber or timbers from such sawlogs cut from the Government timber, it will do so only with its own facilities or those of concerns that qualify under paragraph (b)(1) of this section as a small business. This provision assumes that the successful bidder will remain a small business until the products have been manufactured. Accordingly, if, after acquiring the set-aside sale the bidder is purchased by, becomes controlled by, or merged with a large business, so much of such timber (or sawlogs therefrom) as is necessary shall be sold to one or more small businesses for compliance with the 30 percent (50 percent in Alaska) restriction. Any concern which self-certifies as a small business concern for the purpose of award under a small business set-aside sale of Government timber is expected to maintain evidence that it did so in good faith. Accordingly, such a concern will have to maintain for a period of 3 years the name, address, and size status of each concern to whom the timber or sawlogs were sold or disposed, and the log species, grades, and volumes involved. Such concern, and any subsequent small business concern that acquires the sawlogs, also shall require its small business purchasers to maintain similar records for a period of 3 years. Further, if the timber purchased is not to be resold in the form of sawlogs, but is to be manufactured into lumber or timbers by a concern other than the bidder, the bidder must maintain records to show the name, address; and the size status of the concern manufacturing the sawlogs into lumber or timbers.

(c) Special salvage timber sales. (1) In connection with sale of Government-owned special salvage timber, designated by the USFS as SSTS, a small business is a concern that:

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[2] See § 121.2 (footnotes) for definition of crude oil capacity and bona fide feed stock capacity.

[3] "Forest Products Industry" means logging, wood preserving, and the manufacture of lumber and wood related products such as veener, plywood, hardboard, particle board, or wood pulp, and of products of which lumber or wood related products are the principal raw material.

(i) Is primarily engaged in the logging or forests products industry;
(ii) Is independently owned and operated;
(iii) Is not dominant in its field of operation; and
(iv) Together with its affiliates, its number of employees does not exceed 25 persons during any pay period for the last 12 months.

(2) In the case of Government-owned special salvage timber reserved for or involving preferential treatment of small businesses, restricting the disposal of timber and, when the special salvage timber being purchased is to be resold, a concern is a small business when:
(i) It is a small business within the meaning of paragraph (c)(1) of this section, and
(ii) It agrees that it will not sell to a concern which is not a small business within the meaning of paragraph (b)(1) of this section more than 30 percent of such timber (50 percent in Alaska). The term "sell" includes but is not limited to the exchange of sawlogs for sawlogs on a product-for-product basis with or without monetary adjustment, and an indirect transfer such as the sale of the assets of (or a controlling interest in) a concern after it has been awarded one or more set-aside sales of timber. Under the latter circumstances, if, after being awarded a set-aside sale of timber a small business concern merges with or becomes subject to the control of a large business, so much of such timber (or sawlogs therefrom) shall be sold to one or more small businesses as is necessary for compliance with the 30 percent (50 percent in Alaska) restriction.
(iii) It agrees that as an eligible logger, it will accomplish a significant portion of the logging operation, exclusive of hauling, with its own employees. Significant logging of timber means using its own employees to accomplish two or more of the following elements: (A) felling and bucking, (B) yarding, (C) loading. It further agrees that such SSTS sale logging elements not accomplished with its own employees will be subcontracted only to concerns eligible for preferential award of an SSTS sale.

(3) In the case of Government-owned salvage timber reserved for or involving preferential treatment of small businesses, restricting the disposal of timber, and when the special salvage timber purchased is not to be resold in the form of sawlogs to be manufactured into lumber and timbers, a concern is a small business when
(i) It meets the criteria contained in paragraph (c)(1) of this section, and
(ii) It agrees that it will manufacture a significant portion of the logs with its own employees. Manufacture of logs means, at a minimum, a breakdown of the log into the rough cut of the finished product. This provision assumes that the successful bidder will remain a small business until the products have been manufactured. Accordingly, if, after acquiring the set-aside sale the bidder is purchased by, becomes controlled by, or merged with a large business, so much of such timber (or sawlogs therefrom) as is necessary shall be sold to one or more small businesses for compliance with the 30 percent (50 percent in Alaska) restriction. Any concern which self-certifies as a small business concern for the purpose of award under a small business set-aside sale of Government timber is expected to maintain evidence that it did so in good faith. Accordingly, such a concern will have to maintain for a period of 3 years the name, address, and size status of each concern to whom the timber or sawlogs were sold or disposed, and the log species, grades, and volumes involved. Such concern, and any subsequent small business concern that acquires the sawlogs, also shall require its small business purchases to maintain similar records for a period of 3 years. Further, if the timber purchased is not to be resold in the form of sawlogs but is to be manufactured into lumber or timbers by a concern other than the bidder, the bidder must maintain records to show the name, address, and size status of the concern manufacturing the sawlogs into lumber or timbers.
(iii) It further agrees that it will accomplish the logging of SSTS timber, exclusive of hauling, with its own employees, or will subcontract such logging only to concerns eligible for preferential award of an SSTS sale.

(4) In the case of Government-owned special salvage timber reserved for or involving preferential treatment of small businesses, the special salvage timber may be disposed of without restriction when there are less than two qualified mills in the market area.

(d) Any firm bidding to lease Government land for purposes of coal mining is classified as small if:
(1) It is independently owned and operated;
(2) It is not dominant in its field of operation;
(3) Together with its affiliates, its number of employees does not exceed 250 persons;
(4) It maintains management and control of the actual mining operations at the tract; and
(5) Any transfer of the lease from the holder of the original setaside must be to another small business within the meaning of this paragraph.

(e) In the submission of a bid or proposal for a Government lease of uranium prospecting or mining rights, a concern whose number of employees does not exceed 100 persons may represent that it is a small business. In the absence of a written protest or other information which would cause him to question the veracity of the self-certification, the contracting officer shall accept the self-certification at face value for the particular lease involved.

§ 121.7 Small Business Innovation Research Programs.

(a) A small business concern for purposes of award of any funding agreement under a solicitation pursuant to the Small Business Innovation Development Act of 1982 (Pub. L. 97–291, 15 U.S.C. 638(e)–(k)) is one which, including its affiliates, has a number of employees not exceeding 500. The term "affiliates" is defined in § 121.3(a) of this title. The term "number of employees" is defined in § 121.2(b) of this title.

(b) The Small Business Innovation Development Act of 1982 defines "research" or "research and development" as any " * * * activity which is (1) a systematic, intensive study directed toward greater knowledge or understanding of the subject studies; (2) a systematic study directed specifically toward applying new knowledge to meet a recognized need; or (3) a systematic application of knowledge toward the production of useful materials, devices, and systems or methods, including design, development, and improvement or prototypes and new processes to meet specific requirements"—15 U.S.C. 638, as amended by 96 Stat. 218, Sec. 4(e)(5).

(c) SBA has issued a policy directive (Policy Directive No. 65–01; 47 FR 52966, November 24, 1982) prescribing criteria for solicitations and award of funding agreements pursuant to the Small Business Innovation Research (SBIR) Program. Under SBIR program, the term "funding agreement" means any contract, grant, or cooperative agreement entered into between any Federal agency and any small business for the performance of experimental, developmental, or research work funded in whole or in part by the Federal Government.

§ 121.8 Size determinations.

(a) Original size determinations shall be made by the regional director, or his delegatee, serving the region in which the principal office of the concern (not including its affiliates) whose size is in question is loca ed, except that for lease

guarantee reinsurance purposes such determinations shall be made by the Associate Administrator for Finance and Investment. The regional director or his delegatee, or the Associate Administrator for Finance and Investment promptly shall notify in writing, by certified mail, return receipt requested, the concern in question and other interested persons of his decision. Such determination shall become effective immediately and shall remain in full force and effect unless and until reversed by the Small Business Administration. For the purpose of Government procurements or sales, a size determination shall be made only in the event of a protest pursuant to these regulations, a request for recertification, a request for a Certificate of Competency, or if the Associate Administrator for Procurement Assistance or his delegatee or a regional director or his delegatee determines it necessary to question the size status of a concern for the purpose of any Small Business contracting program or Procurement Source Program, or for property sales purposes or for any other purpose relating to Government procurement or sales. For the purpose of SBA financial assistance, a formal size determination under this provision shall be made by the Regional Office only (1) where the regular review of the loan file or other substantial evidence indicates the need therefor and a request is made by the appropriate SBA financial assistance official, or (2) where an initial determination is made by the SBA financial assistance officer that the concern is other than small and a request is made by the loan applicant. Initial nonformal financial assistance size determinations may not be appealed.

(b) Once properly instituted (i.e., by filing of a protest or by an official request for a determination) formal size determinations may be completed, even if the particular application, bid, or offer is subsequently withdrawn, or the Government procurement or sale is cancelled or awarded.

(c) The size determination will be based primarily on facts and allegations supplied by the parties to the SBA. If deemed necessary or appropriate SBA may utilize other information in its files and may make inquiries including requests to the parties or other persons for additional specific information. The burden of establishing its small business size by submitting full information to SBA shall be upon the concern whose size status is under consideration. Specific signed factual evidence will be weighed more heavily by SBA than general unsupported allegations or opinions. In the case of refusal or failure to furnish requested information within a required time period, SBA may assume that disclosure would be contrary to the interests of the party failing to make disclosure. The SBA formal size determination shall be based upon the record, including reasonable inferences therefrom, and shall state in writing the basis for its findings and conclusions.

(d) If SBA has made a formal size determination that a particular concern is not small, the concern will not be deemed eligible within such applicable size standard for any assistance under the Small Business Act or the Small Business Investment Act of 1958, unless it is thereafter recertified by SBA as a small business. After such an adverse size determination, the concern shall not self-certify itself as small within the same or a lower employee or annual receipts size standard (whichever is applicable) unless it is recertified. Applications for recertification shall be made to the SBA Regional Office which made the original size determination. Applications for recertification shall be accompanied by a current completed SBA Form 355 (OMB No. 3245–0101) and by any other pertinent information necessary to show a significant change in its ownership, management, contractual relations, or in other factors bearing on its status as a small concern. If good cause is shown in extraordinary cases, as determined by the Presiding Judge of the Office of Hearings and Appeals, the original decision on the application for recertification may be made by the Presiding Judge.

(1) Recertification shall not be required nor will the prohibition against future self-certification apply if the adverse SBA size determination is based solely on a finding of affiliation due to a joint venture (e.g., ostensible subcontracting) limited to a particular Government procurement or property sale, or is based on an ineligible nonmanufacturer size determination on a particular Government procurement.

(2) If SBA makes a size determination denying an application for recertification, such adverse size determination may be appealed to the SBA Office of Hearings and Appeals. Recertifications have future effect only and, except as to timber sales size determinations, are not appealable by other than the concern in question (however, the concern's later self-certification on subsequent set-aside procurements or property sales may be protested in the usual manner).

(e) Size determinations for compliance purposes. Upon request by other Government agencies, SBA size determinations under Part 121 may be made to assist in the enforcement or administration of regulations or contracts, as well as in connection with award of contracts or granting of assistance. SBA size determinations are findings on the size status of a concern (including its affiliates) as of a definite time and regarding a specific applicable SBA size standard, and do not rule on compliance, contractual or administrative matters which are handled by the other agencies.

§ 121.9 Protest of small business status.

(a) *How to protest:* Any bidder or offeror or other interested party may challenge the small business status of any other bidder or offeror on a particular Government procurement or sale. Such challenge shall be made by delivering a protest to the contracting officer responsible for the particular procurement or sale involved. In order to apply to the procurement or sale in question, such protest must be filed prior to the close of business on the 5th day, exclusive of Saturdays, Sundays, and legal holidays, after bid or proposal opening, except that in the case of negotiated procurements, a protest may be filed within 5 days exclusive of Saturdays, Sundays, and legal holidays after receipt from the contracting officer of notification of the identity of the offeror being protested. Such filing must be delivered to the contracting officer by hand, telegram, or mail within the 5-day period allotted: *Provided, however,* That a protest shall be considered timely if made by telephone to the contracting officer within the 5-day period allotted and the contracting officer thereafter receives a confirming letter (1) within such 5-day period or (2) postmarked no later than 1 day after the date of such telephone protest. Any contracting officer who receives a protest shall promptly forward such protest to the SBA regional office serving the geographical area in which the principal office of the protested concern, not including its affiliates, is located. A contracting officer may at any time after bid opening question the small business status of any bidder or offeror for the purpose of a particular procurement or sale by filing a protest with the SBA regional office serving the area in which the principal office of the protested concern, not including its affiliates, is located. A protest by a contracting officer shall be timely for the purpose of the procurement or sale in question whether filed before or after award. A protest received after the time limits set forth herein shall not apply to the

procurement or sale in question. A concern determined other than small business as a result of such late protest, however, shall be precluded from self-certification in any other procurement or sale in which the size standard is not higher than the standard in the procurement or sale in question. A protest must adequately set forth specific alleged grounds for the protest. A protest merely alleging that the protested concern is not small or is affiliated with unspecified other concerns will not be deemed to adequately specify grounds for the protest. Evidence supporting the protest may be submitted therewith. Protests which do not set forth specific alleged grounds for the protest will be dismissed.

(b) *Notification of protest:* Upon receipt of such protest, the SBA regional director or his delegatee shall immediately notify the contracting officer and the protestant of the date such protest has been received and that the size of the concern being protested is being considered by SBA. The regional director or his delegatee shall also advise the protested bidder or offeror of the receipt of the protest and shall forward to the protested bidder or offeror a copy of the protest and a blank SBA Form 355, Application for Small Business Size Determination (OMB No. 3245–0101), by certified mail, return receipt requested. Such bidder must, within 3 working days after receipt of the copy of the protest and SBA Form 355 (OMB No. 3245–0101), file the completed form as directed by SBA, must attach thereto a statement in answer to the allegations of the letter of protest, together with evidence to support such position. If such bidder or offeror does not submit the complete SBA Form 355 within the billing period provided above, or within any additional period of time granted by SBA for cause, SBA will rule the protested concern is other than a small business. If the bidder or offeror does not submit the completed SBA Form 355 (OMB No. 3245–0101) within the period provided above, or within any additional period of time provided by SBA upon application for good cause shown, SBA may assume that the disclosure of the Form or any missing part thereof would be contrary to the interests of the party failing to make such disclosure.

(c) Notification of determination: After receipt of a protest and responses thereto, SBA shall determine the small business status of the protested bidder or offeror and, by certified mail, return receipt requested, notify the contracting officer, the protestant, and the protested bidder or offeror of its decision within 10 working days, if possible.

(d) If SBA has determined that a concern is ineligible as a small business for the purpose of a particular procurement, it cannot thereafter become eligible for the purpose of such procurement by taking affirmative acts to constitute itself a small business.

(e) Multiple Award Schedules. Protests will be deemed timely if received by SBA at any time prior to the expiration of the contract period (including renewals) on a multiple award schedule procurement set aside for small business.

§ 121.10 Size standards responsibilities.

(a) Office of Size Standards Staff, Office of the Administrator, shall:

(1) Develop and recommend small business size standards to the Administrator of SBA for promulgation.

(2) Consider and take appropriate action on written requests to change existing size standards or establish new size standards.

(3) Conduct industry hearings pertaining to size standards.

(4) Perform other related functions (e.g., industry studies) as may be appropriate to administer the SBA size standards program.

(b) Requests to change the existing, or establish new, size standards should be addressed to the Director, Size Standards Staff, Office of the Administrator, 1441 L Street, NW., Washington, D.C. 20416, and should include information on the economic conditions and structure of the entire national industry, as well as specific reasons and justifications for the change or new size standard. The methodology described in the section on "Purpose and Method of Establishing Size Standards" (§ 121.1) provides basic criteria on the kinds of information desirable to make an appropriate request. If no size standard of an industry has been established in this part, then SBA, upon request, may issue a temporary size standard for the industry in question by appropriate publication of an interim emergency rule and subsequent notice and comment rulemaking in accordance with the Administrative Procedure Act.

(c) The Office of General Counsel, in conjunction with other interested SBA offices, shall develop and recommend to the Administrator regulations and procedures to assist in implementing the size standards.

(d) The SBA Size Policy Board shall consider and develop matters of size policy. It will consider and make recommendations relating to improvements in SBA regulations, procedures and directives concerning size matters.

(e) Pursuant to the provisions of § 121.11 of this Part, the Office of Hearings and Appeals will review appeals and make final decisions affirming, reversing or modifying:

(1) Determinations as to a concern's small business size status made pursuant to §§ 121.8 and 121.9 of this Part (size determination); and

(2) Designations by contracting officers of the Standard Industrial Classification (SIC) industry into which the product or service is classified and/or the Small Business Administration size standard applicable thereto, for the purpose of Government procurements and sales made pursuant to §§ 121.5 and 121.6 (product or service classification).

§ 121.11 Procedure for size appeals.

(a) *Jurisdiction of Office of Hearings and Appeals.* The jurisdiction of the Office of Hearings and Appeals under this Part shall be limited, as specified in subparagraphs (1) and (2) of this paragraph, to appeals from size determinations and product or service classifications. No appeal will be permitted from an informal opinion or advice concerning a company's future small business size status based on proposed but unexecuted changes in its organization, management, or contractual relations, or a small business size standard established by the Small Business Administration for a particular industry or field of operation, or any of the accompanying size regulations. The Office of Hearings and Appeals will review appeals and make final decisions pursuant to the provisions of paragraphs (b) through (w) of this section, affirming, reversing or modifying:

(1) Determinations as to a concern's small business size status made pursuant to §§ 121.8 and 121.9 of this part (size determination); and

(2) Classifications by contracting officers of the Standard Industrial Classification (SIC) code and/or the Small Business Administration (SBA) size standard applicable to a product or service for the purpose of government procurements and sales made pursuant to §§ 121.4 and 121.5 of this part (product or service classification).

(b) *Definitions.* The following definitions shall apply to this section:

(1) "Person" means an individual, partnership, corporation or association.

(2) "Participant" means any party or person that makes a filing pursuant to

this section. Except in the case of parties, participation in the proceeding may be limited at the discretion of the Presiding Judge.

(3) "Party" means the appellant, the concern whose size is at issue and all alleged affiliates of such concern that participate or are specifically afforded the opportunity to participate in the proceeding by the Presiding Judge, the contracting officer in a product or service classification appeal, and any other participant so designated at the discretion of the Presiding Judge. Parties will have full rights of participation in the proceeding and will be bound by the decision of the panel.

(c) *Who May Appeal.* Appeals from size determinations and product or service classifications may be filed with the Office of Hearings and Appeals by any of the following:

(1) Any interested person that has been adversely affected by a determination of a Regional Administrator, or his or her delegatee, or by the Associate Administrator for Finance and Investment made pursuant to § 121.4 of this part;

(2) Any interested person that has been adversely affected by a classification of a product or service by a contracting officer made pursuant to § 121.5 of this part; or

(3) The Small Business Administration Associate Administrator for the Small Business Administration program involved.

(d) *Where to Appeal.* Written Notices of Appeal conforming to paragraph (f) of this section, may be mailed to the Office of Hearings and Appeals, Small Business Administration, Washington, D.C. 20416, or may be personally delivered to the Office of Hearings and Appeals at 2100 K Street, NW., Washington, D.C. A submission shall be deemed to be filed on the date it is mailed, as indicated by the postmark, or on the date it is personally delivered to the Office of Hearings and Appeals.

(e) *Time Limits for Appeal.* The following time limits will apply to appeals filed pursuant to this section.

(1) Except as provided in paragraph (e)(2) of this section, an appeal from a size determination shall be filed in writing no later than thirty (30) calendar days after the date of receipt of such determination;

(2) An appeal from a size determination concerning a bidder or offeror in a pending procurement or a pending Government property sale shall be filed in writing no later than five (5) days, exclusive of Saturdays, Sundays, and legal holidays, after receipt of the determination made by a Regional Administrator, or his or her delegatee. Unless written notice of such an appeal is filed within the prescribed time limit, the appellant will be deemed to have waived all rights of appeal insofar as the pending procurement or sale is concerned, but the appeal may proceed to final determination and shall apply to future procurements and sales.

(3) An appeal from a product or service classification shall be filed no later than ten (10) days, exclusive of Saturdays, Sundays, and legal holidays, before the bid opening day or deadline for submitting proposals or quotations in cases when the bid opening day or deadline for submitting proposals or quotations is more than thirty (30) days after the issuance of the invitation for bids or request for proposals or quotations. In cases where the bid opening day or deadline for submitting proposals or quotations is less than thirty (30) days after the issuance of the invitation for bids or request for proposals or quotations, the appeal shall be filed no later than five (5) days, exclusive of Saturdays, Sundays, and legal holidays, before the bid opening day or deadline for submitting proposals or quotations. An untimely appeal from a product or service classification will be dismissed.

(f) *Initiation of Appeal.* The document that initiates the appeal is hereafter called the Notice of Appeal. No particular form is prescribed for the Notice of Appeal. The appellant shall file the Notice of Appeal with the Office of Hearings and Appeals, in writing and in duplicate. In the case of telegraphic notices, a duplicate is not required; however, a telegraphic notice shall be confirmed by next day mailing of a written Notice, in duplicate. In accordance with paragraph (n) of this section, the Notice of Appeal shall be certified and a copy shall be concurrently served by the appellant upon those parties and persons specified in subparagraph (6) of this paragraph. Upon receipt of a copy of the Notice of Appeal, the Regional Office shall forthwith send the entire case file to the Office of Hearings and Appeals. The Notice of Appeal shall include the following information:

(1) Name, address and telephone number of the party filing the appeal, identification of the person to be contacted for service of correspondence, notices, orders, pleadings and requests for information pertaining to the appeal;

(2) The substance and date of the size determination or product or service classification from which the appeal is taken, including identification of the concern whose size is being determined, or the SIC or SBA size standard being applied;

(3) If applicable, the invitation for bids or contract number and date, and the name, address and telephone number of the contracting officer;

(4) A full and specific statement of the reasons why the size determination or product or service classification appealed is alleged to be erroneous;

(5) Presentation of arguments in support of such allegations; and

(6) A statement certifying that copies of the Notice of Appeal have been served upon the following, where applicable:

(i) The contracting officer;

(ii) The Small Business Administration official whose determination is appealed;

(iii) A protestant who is not the appellant;

(iv) The concern whose size status is at issue; and

(v) Any other identifiable interested person.

(g) *Notification of Filing of Appeal.* The Office of Hearings and Appeals will notify the parties and persons specified in paragraph (f)(6) of this section of the date it received the Notice of Appeal and the docket number assigned.

(h) *Scope of Appeal and Burden of Proof.* The Office of Hearings and Appeals will not consider issues not previously presented to the Small Business Administration official who made the size determination appealed unless such consideration is determined to be necessary to prevent manifest injustice to a party and such omission was not due to the fault of such party. The appellant shall have the burden of proof in the proceeding.

(i) *Statements of Interested Persons.* After a Notice of Appeal has been filed, any interested person may file with the Office of Hearings and Appeals a signed statement, in duplicate, supporting or opposing the appeal and presenting appropriate argument and evidence. Such statement shall be filed no later than five (5) days, exclusive of Saturdays, Sundays, and holidays, after the receipt of the Notice of Appeal served pursuant to paragraph (f) of this section, and shall, in accordance with paragraph (n) of this section, be certified and concurrently served upon parties and persons specified in paragraph (f)(6) of this section.

(j) *Enforcement and Extensions of Time Limitations.* Time limitations on all filings will be strictly enforced. Unless requested by the Office of Hearings and Appeals, late filings and filings not specifically provided for in this section, may be disregarded to avoid delay in disposing of the appeal. In the exercise of discretion and for

good cause shown, the Presiding Judge may, after notice to all participants, waive any time limit set forth in this section, other than those time limits set forth in paragraph (e). A motion for an extension of time must be filed within the time period to which it applies.

(k) *Docket File.* Upon the receipt of a Notice of Appeal, the matter will be assigned a docket number. The docket file will consist of the Notice of Appeal, any responses thereto, the case file submitted by the Small Business Administration official, or any materials submitted by the contracting officer, including the related written determination of the official or officer, any additional pleadings, motions and other documents submitted pursuant to this section, unless not received into evidence by the Presiding Judge, the transcript or recording of any oral hearing or telephone conference, and any orders and decisions issued in the proceeding.

(l) *Public Access to Docket File.* The following rules will apply regarding public access to the docket file for a proceeding:

(1) Except as provided in paragraphs (l)(2) and (3) of this section, the docket file will be available for public inspection in the Office of Hearings and Appeals during normal business hours and copies of such material may be obtained upon payment of the applicable charges.

(2) The following information in the docket file shall not be subject to public inspection or copying:

(i) Information subject to a protective order issued pursuant to paragraph (o)(2) of this section; and

(ii) Any proprietary information the withholding of which is provided pursuant to paragraph (n) of this section, or which is identified and contained in the case file submitted by the Small Business Administration official or the contracting officer.

(3) The case file submitted by the Small Business Administration official will be returned to such official upon termination of the proceeding.

(m) *Assignment of Three Judge Panel.* Upon receipt of a Notice of Appeal, the Assistant Administrator for the Office of Hearings and Appeals will assign the appeal to a panel of three Judges, one of whom (the Presiding Judge) will be designated to preside over the panel. The panel will have jurisdiction to investigate and decide the controversy and to take such further appropriate action as may be necessary to issue a decision in the matter in accordance with applicable agency policy, precedent, and law. A decision agreed upon by a majority of the panel will be the final decision of the Small Business Administration.

(n) *Filing and Service of Pleadings.* The following rules will apply to all pleadings, motions and other documents filed pursuant to this section.

(1) Except as provided in paragraph (n)(2) of this section, all pleadings, motions, and other documents filed pursuant to this section shall be served upon the Presiding Judge (once identified) and all other participants in the proceedings or their respective counsel or other representative in the proceeding, personally or by registered or certified mail, and shall be accompanied by certification of such service.

(2) Tax returns, confidential data on SBA Form 355 and any other evidence that constitutes proprietary information need not be served, so long as such deletions are identified and described in the copies served pursuant to this paragraph.

(3) All pleadings, motions and other documents filed pursuant to this section shall be signed by an authorized person, who shall certify as follows:

"I have read this document and, under penalty of perjury and the sanctions imposed under 18 U.S.C. 1001, of which I am aware, I certify that, to the best of my knowledge, the statements made therein are true and correct, and that this document is not being filed for the purpose of delay or harassment."

(o) *Function of Presiding Judge.* The Presiding Judge of the panel to which the appeal is assigned is authorized to act upon and to dispose of all relevant motions, petitions, and other pleadings; to obtain such competent, material, and relevant facts as the Presiding Judge may deem necessary to a proper and just determination of the matters at issue, in an oral hearing or by other appropriate means (including, for example, telephone conferences); and to fix the time and place of any oral hearing or telephone conference. The Presiding Judge is also authorized to:

(1) Administer oaths and affirmations;

(2) Issue protective orders, and subpoenas as provided in paragraph (w) of this section;

(3) Request the attendance of Small Business Administration employees;

(4) Examine witnesses;

(5) Rule upon questions of procedure, evidence, policy and law, including the designation of party status in a proceeding and the nature and extent of participation for all other participants;

(6) Take or cause depositions to be taken;

(7) Regulate the course of the oral hearing, maintain decorum, and exclude from such hearing any person engaging in contumacious conduct or otherwise disrupting such hearing;

(8) Require the filing of memoranda and the presentation of oral argument with respect to any question upon which the Presiding Judge is required to rule during the course of the hearing;

(9) Hold conferences for the settlement or simplification of the issues or for other appropriate purposes;

(10) Dispose of procedural requests and similar matters;

(11) Take action and make decisions in conformity with the applicable law, policy, and procedures of the Small Business Administration;

(12) Act on motions to enlarge, modify, or delete issues in the proceeding; and

(13) Impose appropriate sanctions, if any party fails to comply with an order of the Presiding Judge, including but not limited to:

(i) Drawing an inference in favor of the requesting party regarding the information sought;

(ii) Prohibiting the party failing to comply with such order from introducing evidence concerning, or otherwise relying upon, evidence relating to the information sought;

(iii) Permitting the requesting party to introduce secondary evidence concerning the information sought;

(iv) Striking any part of the pleadings of the party failing to comply with such request; or

(v) Taking such other appropriate action as is deemed necessary to serve the ends of justice.

(p) *Oral Hearings and Telephone Conferences.* The following rules will apply to oral hearings and telephone conferences:

(1) The Presiding Judge will determine the issues presented upon the documentary record. Only when the Presiding Judge determines, upon examination of the docket file and consideration of such additional facts as may be acquired on notice to participants, that there is a genuine dispute as to any material fact of decisional significance which cannot be resolved except by confrontation of witnesses, will an oral hearing be afforded.

(2) If the Presiding Judge determines that there is a matter that cannot be resolved other than by a telephone conference or an oral hearing, he or she will fix a time and place for such conference or hearing to resolve such matter.

(3) Any oral hearing will be set at a site reasonably proximate and convenient to the parties and those participants permitted to participate in

the oral hearing by the Presiding Judge and notice thereof will set forth:

(i) A statement as to the purpose of the oral hearing; and

(ii) A statement as to the matters of fact and law involved and the issues that will be heard.

(4) The Office of Hearings and Appeals will provide a means for recording oral hearings and telephone conferences at which evidence is taken. A transcript or record, as applicable, may be obtained upon payment of the applicable charges.

(q) *Prohibited Ex Parte Communications.* Except to the extent required for the disposition of *ex parte* matters as authorized by law or regulation, no participant may consult a Judge on a fact or question of law at issue in an appeal except on notice and opportunity for all participants to participate.

(r) *The Record.* The following rules will apply to the record compiled in the proceeding:

(1) A transcript or recording of any testimony and exhibits, and any other documents included in the docket file pursuant to paragraph (r)(1) of this section shall constitute the exclusive record for decision. Where the decision is based on official notice of a material fact not appearing in the record, any participant may file a motion no later than five (5) days following receipt of the decision served pursuant to paragraph (u) of this section, advocating a contrary factual proposition and setting forth the factual or legal basis for the challenge.

(2) The record in a proceeding in which an oral hearing has been held will be closed by an announcement to that effect at such hearing by the Presiding Judge, when the taking of testimony has been concluded. When no oral hearing has been held, the Presiding Judge will inform the participants of the closing of the record by appropriate means. In the discretion of the Presiding Judge, the record may be closed as of a future specified date in order to permit the admission into the record of exhibits to be later prepared; *Provided* That the parties and other participants in the proceeding stipulate that they waive the opportunity to cross-examine or present evidence with respect to such exhibits. After the closing of the record, the transcript or recording of any testimony, together with all exhibits, will be certified by the Presiding Judge and filed in the docket file in the Office of Hearings and Appeals. A copy of such certification will be served on all participants in the proceeding.

(3) At any time during the course of the proceeding, or as directed by the Presiding Judge, but no later than five (5) days after receipt of notice of certification of the record made pursuant to paragraph (r)(2) of this section, any participant in the proceeding may file with the Presiding Judge a motion requesting the correction of a transcript, if any, which shall be accompanied by proof of service thereof upon all other participants in the proceeding. No later than five (5) days after the receipt of such a motion, other participants may file a response in support of, or in opposition to, such motion. Thereafter, the Presiding Judge will issue an order specifying the corrections to be made in the transcript. A copy of the order will be served upon all participants and will be made a part of the record. The Presiding Judge may, on his or her own motion, specify on notice to the participants corrections to be made in the transcript. Objection to any such proposed correction(s) shall be filed within three (3) days after receipt of such notice and such objection(s) will be the subject of appropriate rulings by the Presiding Judge.

(s) *Post-Hearing Procedures.* The following rules will apply to proposed findings and conclusions:

(1) After the conclusion of any oral hearing, any participant may, with the concurrence of the Presiding Judge, file proposed findings of fact and conclusions, briefs, and memoranda of law; *Provided,* That the Presiding Judge may, in any proceeding, direct any party to file proposed findings of fact and conclusions, briefs, and memoranda of law. Any proposed findings of fact, conclusions, briefs, and memoranda of law shall be filed within ten (10) days after receipt of notice of certification of the record pursuant to paragraph (r)(2) of this section, unless the Presiding Judge specifies otherwise.

(2) Proposed findings of fact shall be set forth in serially numbered paragraphs and shall set out with particularity all decisionally significant evidentiary facts developed on the record that are deemed to support the findings proposed, with citations to the transcript, where appropriate, and to other portions of the record relied on for each evidentiary fact. Proposed conclusions shall also be separately stated in serially numbered paragraphs. Proposed findings and conclusions may be limited to those issues that affect the interests of their proponent and may be accompanied by supporting briefs.

(3) In the absence of a showing of good cause therefor, the failure to file proposed findings of fact, conclusions, briefs, and memoranda of law when directed to do so by the Presiding Judge, will be deemed to constitute a waiver of the right to object to the findings and conclusions of the panel.

(t) *Decision.* Following receipt of proposed findings and conclusions authorized or directed pursuant to paragraph (s) of this section or default in the making of such filings, or upon closing of the record when such filings have not been authorized or directed, the Presiding Judge will prepare a proposed decision containing findings of fact and conclusions, as well as the reasons therefor, with respect to all the decisionally significant material issues of fact and law presented on the record. The proposed decision will also contain a proposed order, and the proposed sanction, relief, or denial thereof appropriate in the circumstances. The proposed decision will be circulated among the panel members for consideration and concurrence. Upon approval of that decision or a different decision by a majority of the panel, the decision will be issued; it shall be the final decision of the Small Business Administration and shall bind all parties to the proceeding.

(u) *Notice of Decision.* The Office of Hearings and Appeals will serve the decision upon all participants in the proceeding by certified mail. Where time is of the essence, notice of the ultimate determination may be communicated in a telegram or by telephone to the participants, to be followed by service of the full text.

(v) *Termination of Jurisdiction.* Except as provided in subparagraphs (1) and (2) of this paragraph, the authority of the panel over the proceeding shall cease upon issuance of the decision.

(1) Limited jurisdiction over the proceeding shall continue for the purpose of effecting certification, correcting the record and ruling on motions concerning official notice pursuant to paragraph (r) of this section.

(2) No later than thirty (30) days after service of the decision pursuant to paragraph (u) of this section, any participant may file a motion to reopen the proceeding for the limited purpose of presenting newly discovered evidence of decisional significance, together with a showing that such evidence was not available during the course of the proceeding, or could not have been available during that time upon the exercise of due diligence. The panel will dispose of such motion in such manner as to afford a just and proper disposition of the appeal.

(w) *Subpoenas.* The following rules will apply to subpoenas:

(1) Subpoenas will be authorized at the discretion of the Presiding Judge only with respect to oral hearings held

pursuant to paragraph (p) of this section. No subpoenas may be issued against Small Business Administration personnel or for documents in the custody or control of the Small Business Administration.

(2) Subpoenas requiring the attendance and testimony of witnesses, and subpoenas requiring the production of any books, papers, records, contracts, agreements, and other documents relating to an appeal under this section shall be signed and issued by the Presiding Judge.

(3) Unless submitted on the record while an oral hearing is in progress, requests for a subpoena *ad testificandum* shall be submitted in writing, identifying the person to be subpoenaed and showing the relevance, materiality, and the basis for requiring the testimony of such person.

(4) Written requests for a subpoena *duces tecum* shall be verified, and shall specify with particularity the books, papers, and documents desired and the facts expected to be proved thereby. A showing shall also be made as to the relevance and materiality of the evidence sought.

(5) Requests for subpoenas shall be submitted by a party in triplicate, and may be made *ex parte*.

(6) Any person or entity against whom a subpoena is directed may, prior to the return date, file with the Presiding Judge a motion to quash or limit the subpoena, setting forth the reasons the subpoena should not be complied with or should be limited in scope. That motion must be made upon notice to all other parties in the proceeding.

(7) Notice, including a brief statement of the reasons therefor, will be given for the denial, in whole or in part, of a request for subpoena or of a motion to quash.

(8) A subpoena may be served by any person who is not a party to or participant in the proceeding and who is not less than 18 years of age.

(9) Service of a subpoena upon the person named therein shall be made by exhibiting the original subpoena to such person, by reading the original subpoena if such person is unable to read, by delivering the duplicate subpoena to such person, and by tendering the fees for one day's attendance at the proceeding to which such person is summoned and the mileage allowed by law. If the subpoena is issued on behalf of the United States or an officer or agency thereof, attendance fees and mileage need not be tendered, but will be paid upon filing of an appropriate claim therefor.

(10) The person effecting service of a subpoena shall sign an affidavit thereof, stating the date, time, and manner of service.

(11) In case of failure to make service, the reasons for the failure shall be stated on the original subpoena by the person who attempted to make service.

(12) The original subpoena, bearing or accompanied by the required affidavit or statement, shall be returned forthwith to the Office of Hearings and Appeals or, if so directed on the subpoena, to the Presiding Judge before whom the person named in the subpoena is required to appear.

(13) The attendance of witnesses and the production of documentary evidence may be required from any place in the United States to any designated place of hearing. In case of disobedience of a subpoena, the Small Business Administration may invoke the aid of any court of the United States in requiring the attendance and testimony of witnesses and the production of documentary evidence.

(14) Witnesses who are subpoenaed and respond thereto are entitled to the same fees, including mileage, as are paid for like service in the courts of the United States. Fees shall be paid by the party at whose instance the subpoena is issued.

(15) In the exercise of discretion, the Presiding Judge authorizing and issuing any subpoena will, upon request or upon his or her own motion, devise and provide such protective order(s) as may be necessary and appropriate to protect the witness and/or such books, documents, materials, and records produced in response thereto, from harassment, undue expense, breach of confidentiality of information and data reasonably concluded to require protection from general disclosure, or for any other proper and relevant consideration.

(x) *Delegation of Authority When Judge Not Available.* In the event of the absence or unavailability of the Presiding Judge or other member of the panel to which the appeal is assigned, where such action is necessary, any Judge in the Office of Hearings and Appeals to whom such authority is delegated, is authorized to participate in rendering a final decision and to dispose of any motions or other interlocutory matters, as appropriate, pertaining to such appeal.

(y) *Effective Date.* This section shall apply to all appeals for which a decision has not been made by the Size Appeals Board as of December 23, 1983.

§ 121.12 Small business for paying reduced patent fees.

(a) Pursuant to Pub. L. 97–247, a small business concern for purposes of paying reduced fees under 35 U.S. Code 41 (a) and (b) to the Patent and Trademark Office means any business concern (1) whose number of employees, including those of its affiliates, does not exceed 500 persons and (2) which has not assigned, granted, conveyed, or licensed, and is under no obligation under contract or law to assign, grant, convey or license, any rights in the invention to any person who could not be classified as an independent inventor if that person had made the invention, or to any concern which would not qualify as a small business concern or a nonprofit organization under this section. For the purpose of this section concerns are affiliates of each other when either, directly or indirectly, one concern controls or has the power to control the other, or a third party or parties controls or has the power to control both. The number of employees of the business concern is the average over the fiscal year of the persons employed during each of the pay periods of the fiscal year. Employees are those persons employed on a full-time, part-time or temporary basis during the previous fiscal year of the concern.

(b) If the Patent and Trademark Office determines that a concern is not eligible as a small business concern within this section, the concern shall have a right to appeal that determination to the Small Business Administration. The Patent and Trademark Office shall transmit its written decision and the pertinent size determination file to the SBA in the event of such adverse determination and size appeal. Such appeals by concerns should be submitted to the SBA at 1441 L Street NW., Washington, D.C. 20416 [Attention: SBA Office of General Counsel]. The appeal should state the basis upon which it is claimed that the Patent and Trademark Office initial size determination on the concern was in error and the facts and arguments supporting the concern's claimed status as a small business concern under this section.

Dated: December 16, 1983.

James C. Sanders,

Administrator.

[FR Doc. 84–3183 Filed 2–8–84; 8:45 am]

BILLING CODE 8025–01–M

federal register

Thursday
February 9, 1984

Part III

Department of Housing and Urban Development

Urban Development Action Grants; Revised Minimum Standards for Large Cities and Urban Counties; Notice

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. N-84-1342; FR 1944]

Urban Development Action Grants; Revised Minimum Standards for Large Cities and Urban Counties

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: In accordance with 24 CFR 570.452(b)(1), the Department is providing Notice of the most current minimum standards of physical and economic distress for large cities (metropolitan cities and other cities over 50,000 population), and urban counties for the Urban Development Action Grant program.

This Notice revises the Notice published June 7, 1982 (47 FR 24652). It reflects a recent regulation change to the minimum distress standards which was published January 25, 1984. The change provides an additional minimum standard of distress based on long term high unemployment as used by the Department of Labor to identify Labor Surplus Areas. Also the minimum standards of distress have now changed generally as a result of applying new data from the Bureau of the Census and the Bureau of Labor Statistics. The standards of distress are also revised slightly, based on a change in the method for calculating the percentage of poverty and reducing the number of decimal places for expressing percentage values.

This Notice contains three lists: The first list identifies those cities and urban counties which qualify as distressed communities based upon the new minimum standards; the second list identifies those cities and urban counties which did not qualify when the June 7, 1982 list was published but which do qualify now; the third list identifies those cities and urban counties which were classified as distressed on the June 7, 1982 list, but which no longer qualify under the new minimum standards.

EFFECTIVE DATE: March 7, 1984.

FOR FURTHER INFORMATION CONTACT: Frank Ridenour, Office of Urban Development Action Grants, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, D.C. 20410, Telephone: 202/755-6784. For information on minimum distress standards or the data used to determine whether a community qualifies as distressed contact: John Nagoski, Telephone: 202/755-6042.

SUPPLEMENTARY INFORMATION: A Notice published by the Department on June 7, 1982 provided the minimum standards of physical and economic distress which were applicable up to the effective date of this Notice for large cities and urban counties.

Part I of this Notice specifies the new minimum standards of physical and economic distress. Part II of this Notice contains a revised list of all the large cities and urban counties which meet the new standards. Part III of this Notice lists those large cities and urban counties which, based upon the new minimum standards, appear on the list in Part II but did not qualify when the June 7, 1982 list was published. Part IV is a list of those cities which were classified as distressed on the June 7, 1982 list but which no longer qualify under the new minimum standards. These cities listed in Part IV have a period of time, as specified in Part IV, during which they may submit Action Grant applications.

The six minimum standards of distress (which were in effect prior to the recent change made January 25, 1984) have been changed as a result of new data from the Bureau of the Census and the Bureau of Labor Statistics. The updated census data are 1980 housing and poverty and 1979 per capita income. Previously, 1970 housing and poverty counts (adjusted for boundary changes through 1980) and 1977 per capita income were used. The Bureau of Labor Statistics data are updated from 1981 unemployment rates to 1982 unemployment rates. The data for the other standards remain unchanged from last year except for small corrections and additions to the data.

Also these standards were changed as a result of two other factors: First, there was a revision to the method for calculating the percentage of poverty. The new method uses the same percent as reported by the Bureau of the Census. The previous method gave a different result since the denominator was the latest population estimate or count, and was not adjusted to exclude certain people such as those living in group quarters. Second, the data and thresholds are rounded to one decimal place instead of two. Thus, the data correspond to the number of decimal places used by the Bureaus of the Census and Labor Statistics.

A recent regulation change published on January 25, 1984 at 49 FR 3074 added a seventh standard. A city or an urban county meets the standard if it is within an area that meets the unemployment criterion required for designation as a Labor Surplus Area. Since the number of criteria required for distress designation (3) remained the same, this regulation change did not result in the loss of distress designation for any city or urban county.

In general, LSAs are high unemployment cities with a population greater than 50,000, counties and county balances which are designated by the Department of Labor for the purpose of targeting Federal procurements. An area receives the LSA designation if it surpasses a threshold. This threshold is calculated by utilizing the national average unemployment rate. An area receives the LSA designation if it exceeds 120 percent of the national average unemployment rate over the last two years. The range of the threshold cannot exceed 10 percent or go below 6 percent.

The specified unemployment rate for the 1981-1982 period is 10 percent. A list of eligible labor surplus areas was published in the **Federal Register** on September 29, 1983 (48 FR 44676).

This Notice is published pursuant to 24 CFR 570.452(b)(1).

A large city or urban county must pass three minimum standards of physical and economic distress, except that if the percentage of proverty is less than half the minimum standard, the city or urban county must pass four standards. The most current minimum standards of physical and economic distress are:

A. *Age of Housing.* At least 21.0 percent of the applicant's year-round housing units must have been constructed prior to 1940, based on 1980 U.S. Census data, in order to meet this minimum standard;

B. *Per Capita Income Change.* The net increase in per capita income for the period of 1969-1979 must have been $4036 or less, based on U.S. Census data, in order to meet this minimum standard;

C. *Population Growth Lag/Decline.* For the period 1960-1980 the percentage rate of population growth (based on corporate boundaries in 1960 and as of the 1980 Census) must have been 20.7 percent or less, based on U.S. Census data, in order to meet this minimum standard;

D. *Unemployment.* The average rate of unemployment for 1982 must have been 9.4 percent or greater, based on data compiled by the Bureau of Labor Statistics, in order to meet this minimum standard;

E. *Job Lag/Decline.* The rate of growth in retail and manufacturing employment for the period 1972-1977 must have increased by 6.9 percent or less, based on U.S. Census data, in order to meet this minimum standard. If data are not

available for both retail and manufacturing employment, the percentage used will be the median for either retail employment or manufacturing employment, based upon the median for those cities on which both sets of data are available;

F. *Poverty.* The percentage of persons within the applicant's jurisdiction at or below the poverty level must be 12.4 percent or more, based on 1980 U.S. Census data, in order to meet this minimum standard;

G. *Labor Surplus Area.* The city or urban county must either coincide with or be within or be partially within an area which meets the criteria for designation as a Labor Surplus Areas as of October 1983. These areas include cities with populations of 50,000 or more, counties or county balance with an unemployment rate of 10 percent for calendar years 1981–1982.

II

A. The following cities meet the current minimum standards of physical and economic distress:

Alabama: Anniston, Bessemer, Birmingham, Dothan, Florence, Gadsden, Huntsville, Mobile, Montgomery, Tuscaloosa
Arizona: Tucson
Arkansas: Pine Bluff, Texarkana, West Memphis
California: Alhambra, Baldwin Park, Berkeley, Chico, Compton, El Monte, Freseno, Inglewood, Lompoc, Long Beach, Los Angeles, Norwalk, Oakland, Ontario, Oxnard, Pasadena, Pico Rivera, Pomona, Porterville, Richmond, Sacramento, Salinas, San Bernadino, San Francisco, Santa Cruz, Seaside, South Gate, Stockton, Tulare, Turlock, Yuba
Colorado: Denver, Pueblo
Connecticut: Bridgeport, Hartford, Meriden, Middletown, New Britain, New Haven, New London, Norwalk, Norwich, Waterbury, West Haven
Delaware: Wilmington
District of Columbia: Washington
Florida: Cocoa, Fort Pierce, Hialeah, Jacksonville, Lakeland, Miami, Miami Beach, Panama City, Pensacola, St. Petersburg, Tampa, West Palm Beach, Winterhaven
Georgia: Albany, Atlanta, Augusta, Columbus, Marietta, Savannah
Illinois: Alton, Aurora, Belleville, Berwyn, Champaign, Chicago, Chicago Heights, Cicero, Decatur, East St. Louis, Granite City, Joliet, Kankakee, Moline, Pekin, Peoria, Rockford, Rock Island, Springfield, Urbana, Waukegan
Indiana: Anderson, Bloomington, East Chicago, Elkhart, Evansville, Fort Wayne, Gary, Goshen, Hammond, Indianapolis, Kokomo, Lafayette, Mishawaka, Muncie, New Albany, South Bend, Terre Haute, West Lafayette
Iowa: Cedar Rapids, Council Bluffs, Davenport, Des Moines, Dubuque, Sioux City, Waterloo
Kansas: Kansas City, Lawrence
Kentucky: Ashland, Covington, Hopkinsville, Louisville, Owensboro
Louisiana: Alexandria, Lake Charles, Monroe, New Orleans, Thibodaux
Maine: Auburn, Bangor, Lewiston, Portland
Maryland: Annapolis, Baltimore, Cumberland, Hagerstown
Massachusetts: Attleboro, Boston, Brockton, Brookline, Cambridge, Chicopee, Fall River, Fitchburg, Gloucester, Haverhill, Holyoke, Lawrence, Lowell, Lynn, Malden, Medford, New Bedford, Northhampton, Pittsfield, Quincy, Salem, Somerville, Springfield, Waltham, Worcester
Michigan: Battle Creek, Bay City, Benton Harbor, Detroit, East Lansing, Flint, Grand Rapids, Holland, Jackson, Kalamazoo, Lansing, Lincoln Park, Muskegon, Muskegon Heights, Pontiac, Port Huron, Saginaw, St. Clair Shores
Minnesota: Duluth, Minneapolis, St. Cloud, St. Paul
Mississippi: Biloxi, Gulfport, Moss Point, Pascagoula
Missouri: Joplin, Kansas City, St. Joseph, St. Louis, Springfield
Nebraska: Omaha
New Hampshire: Dover, Manchester, Portsmouth, Rochester
New Jersey: Asbury Park, Atlantic City, Bayonne, Bridgeton, Camden, East Orange, Elizabeth, Hoboken, Irvington, Jersey City, Long Branch, Millville, Newark, New Brunswick, Passaic, Paterson, Perth Amboy, Trenton, Union City, Vineland
New York: Albany, Binghamton, Buffalo, Elmiar, Glen Falls, Middletown, Mount Vernon, Newburgh, New Rochelle, New York, Niagara Falls, Poughkeepsie, Rochester, Rome, Schenectady, Syracuse, Troy, Utica, Yonkers
North Carolina: Ashville, Burlington, Concord, Gastonia, Hickory, High Point, Jacksonville, Salisbury, Wilmington, Winston Salem
Ohio: Akron, Barberton, Bowling Green, Canton, Cincinnati, Cleveland, Cleveland Heights, Columbus, Dayton, Elyria, Hamilton City, Kent, Lancaster, Lima, Lorain, Mansfield, Marietta, Massillon, Middletown, Newark, Springfield, Steubenville, Toledo, Warren, Youngstown
Oklahoma: Lawton, Shawnee
Oregon: Portland, Springfield
Pennsylvania: Allentown, Altoona, Bethlehem, Bristol Township, Carlisle, Chester, Easton, Erie, Harrisburg, Hazleton, Johnstown, Lancaster, Lebanon, McKeesport, Norristown, Philadelphia, Pittsburgh, Reading, Scranton, Sharon, State College, Upper Darby, Wilkes-Barre, Williamsport, York
Rhode Island: Cranston, East Providence, Pawtucket, Providence, Woonsocket
South Carolina: Anderson, Charleston, Columbia, Florence, Greenville, North Charleston, Rock Hill, Spartanburg
Tennessee: Bristol, Chattanooga, Clarksville, Johnson City, Kingsport, Knoxville, Memphis, Murfreesboro
Texas: Brownsville, Denison, Edinburg, El Paso, Galveston, Harlingen, Killeen, Laredo, McAllen, Marshall, Mission, Orange, Pharr, Port Arthur, San Benito, Texarkana, Waco
Utah: Ogden, Provo, Salt Lake City
Vermont: Burlington
Virginia: Bristol, Charlottesville, Danville, Hopewell, Lynchburg, Newport News, Norfolk, Petersburg, Portsmouth, Richmond, Roanoke, Suffolk
Washington: Bellingham, Bremerton, Everett, Olympia, Pasco, Seattle, Spokane, Tacoma, Vancouver, Yakima
West Virginia: Charleston, Huntington, Parkersburg, Weirton, Wheeling
Wisconsin: Beloit, Eau Claire, Green Bay, Kenosha, La Crosse, Milwaukee, Oshkosh, Racine, Superior, Wausau
Puerto Rico: Toa Baja Municipio, Aguadilla Municipio, Arecibo Municipio, Bayamon Municipio, Caguas Municipio, Carolina Municipio, Fajardo Municipio, Guaynabo Municipio, Mayaguez Municipio, Ponce Municipio, San Juan Municipio, Trujillo Alto Municipio
Other cities over 50,000: Guam, Virgin Islands

B. The following urban counties meet the current standards of physical and economic distress:

State and county

California: Kern, Fresno
Flordia: Polk
Illinois: Madison, St. Clair
New Jersey: Hudson
New York: Erie
Ohio: Stark
Pennsylvania: Allegheny, Beaver, Luzerne, Washington, Westmoreland

III

The following large cities and urban counties which have been added to the list under Section II, above, meet the new standards of physical and economic distress:

State and place

Alabama: Dothan
Arizona: Tucson
California: El Monte, Inglewood, Lompoc, Oxnard, Sacramento, Salinas, South Gate, Turlock, Yuba
Florida: Hialeah, Winterhaven
Georgia: Marietta
Illinois: Aurora, Belleville, Granite City, Pekin
Indiana: Goshen, Mishawaka
Louisiana: Thibodaux
Massachusetts: Gloucester
Michigan: East Lansing, St. Clair Shores
New Hampshre: Rochester
Ohio: Lancaster, Stark
Oregon: Springfield
Pennsylvania: Carlisle, State College
South Carolina: Columbia
Tennessee: Kingsport, Murfreesboro
Virginia: Charlottesville, Hopewell, Newport News
Washington: Bremerton, Olympia, Pasco, Vancouver
Wisconsin: Green Bay

IV

The following list contains the names of those large cities and urban counties which met the minimum standards of physical and economic distress on June 7, 1982 but which no longer meet those

standards. In accordance with 24 CFR 570.452(b)(2), cities which cease to meet the minimum standards of physical and economic distress by virtue of a change in the data used by HUD will be permitted to submit an application during the two calendar quarters following the change in data. HUD will continue to consider those applications which have been submitted and are under review prior to a change in the minimum standards which otherwise makes them ineligibile. The final date for submission of an application by the cities listed below is July 31, 1984.

State and place

Arkansas: Fort Smith, Little Rock
California: Alameda, Santa Monica
Colorado: Greeley
Connecticut: Manchester
Florida: Brandenton
Illinois: Oak Park, Rantoul
Iowa: Iowa City
Kansas: Leavenworth
Massachusetts: Arlington, Weymouth
Michigan: Dearborn
Montana: Great Falls
New Jersey: Bloomfield, Essex
New Mexico: Las Cruces
New York: Union Town, Orange
Pennsylvania: Lower Merion
Texas: Forth Worth
Wisconsin: Sheboygan

Dated: February 3, 1984.

Stephen J. Bollinger,

Assistant Secretary for Community Planning and Development.

[FR Doc. 84-3517 Filed 2-8-84; 8:45 am]

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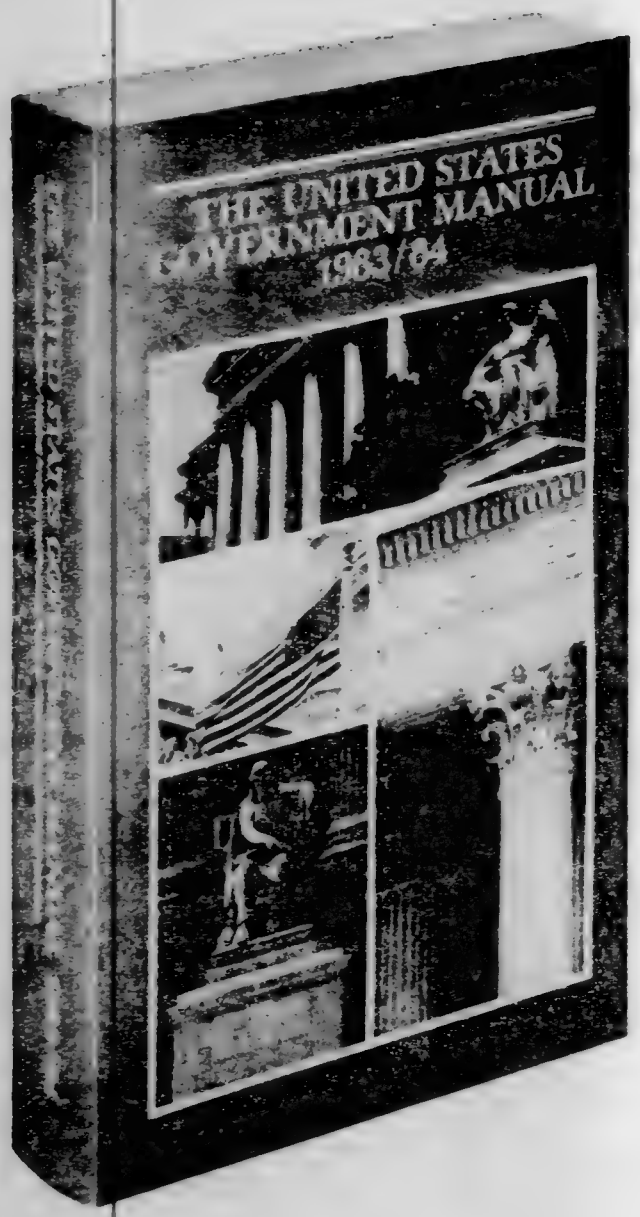

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FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

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Questions and requests for specific information may be directed to the telephone numbers listed under INFORMATION AND ASSISTANCE in the READER AIDS section of this issue.

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Rules and Regulations

Federal Register
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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 910

[Lemon Regulation 450]

Lemons Grown in California and Arizona; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of fresh California-Arizona lemons that may be shipped to market at 225,000 cartons during the period February 12–18, 1984. Such action is needed to provide for orderly marketing of fresh lemons for the period due to the marketing situation confronting the lemon industry.

EFFECTIVE DATE: February 12, 1984.

FOR FURTHER INFORMATION CONTACT: William J. Doyle, Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone 202–447–5975.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under Secretary's Memorandum 1512–1 and Executive Order 12291, and has been designated a "non-major" rule. William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this action will not have a significant economic impact on a substantial number of small entities.

This final rule is issued under Marketing Order No. 910, as amended (7 CFR Part 910) regulating the handling of lemons grown in California and Arizona. The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The action is based upon recommendations and information submitted by the Lemon Administrative Committee and upon other available information. It is hereby found that this action will tend to effectuate the declared policy of the Act.

This action is consistent with the marketing policy currently in effect. The committee met publicly on February 7, 1984, at Los Angeles, California, to consider the current and prospective conditions of supply and demand and recommended a quantity of lemons deemed advisable to be handled during the specified week. The committee reports the demand for lemons is slightly easier.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation is based and the effective date necessary to effectuate the declared purposes of the Act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting. It is necessary to effectuate the declared purposes of the Act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

List of Subjects in 7 CFR Part 910

Marketing agreements and orders, California, Arizona, Lemons.

Section 910.750 is added as follows:

§ 910.750 Lemon Regulation 450.

The quantity of lemons grown in California and Arizona which may be handled during the period February 12, 1984, through February 18, 1984, is established at 225,000 cartons.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: February 8, 1984.

Charles R. Brader,

Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 84–3874 Filed 2–9–84; 8:45 am]

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DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Part 238

Contracts With Transportation Lines; Addition of American Airlines, Inc.

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final rule.

SUMMARY: This rule amends the listing of carriers which have entered into agreements with the Service for the preinspection of their passenger and crews at locations outside the United States by adding the name of American Airlines, Inc.

EFFECTIVE DATE: January 26, 1984.

FOR FURTHER INFORMATION CONTACT: Loretta J. Shogren, Director, Policy Directives and Instructions, Immigration and Naturalization Service, 425 Eye Street NW., Washington, D.C. 20536, Telephone: (202) 633–3048.

SUPPLEMENTARY INFORMATION: The Commissioner of Immigration and Naturalization entered into an agreement with American Airlines, Inc. on January 26, 1984 to provide for the preinspection of its passengers and crews as provided by section 238(b) of the Immigration and Nationality Act, as amended (8 U.S.C. 1228(b)). Preinspection outside the United States facilitates processing passengers and crews upon arrival at a U.S. port of entry and is a convenience to the traveling public.

Compliance with 5 U.S.C. 553 as to notice of proposed rulemaking and delayed effective date is unnecessary because the amendment merely adds an air carrier's name to the present listing and is editorial in nature.

This order constitutes a notice to the public under 5 U.S.C. 552 and is not a rule within the definition of section 1(a) of E.O. 12291.

List of Subjects in 8 CFR Part 238

Air carriers, Airlines, Aliens, Government contracts, Inspections.

Accordingly, Chapter I of Title 8 of the Code of Federal Regulations is amended as follows:

PART 238—CONTRACTS WITH TRANSPORTATION LINES

§ 238.4 [Amended]

Section 238.4 is amended by adding the name "American Airlines, Inc." under "At Calgary".

(Secs. 103 and 238 of the Immigration and Nationality Act, as amended (8 U.S.C. 1103 and 1228))

Dated: February 7, 1984.

Andrew J. Carmichael, Jr.,

Associate Commissioner, Examinations, Immigration and Naturalization Service.

[FR Doc. 84-3704 Filed 2-9-84; 8:45 am]

BILLING CODE 4410-10-M

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8 CFR Part 238

Contracts With Transportation Lines; Addition of Hawaiian Airlines

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final rule.

SUMMARY: This rule adds Hawaiian Airlines to the list of carriers which have entered into agreements with the Service to guarantee the passage through the United States in immediate and continuous transit of aliens destined to foreign countries.

EFFECTIVE DATE: January 30, 1984.

FOR FURTHER INFORMATION CONTACT: Loretta J. Shogren, Director, Policy Directives and Instructions, Immigration and Naturalization Service, 425 Eye Street NW., Washington, D.C. 20536, Telephone: (202) 633-3048.

SUPPLEMENTARY INFORMATION: This amendment to 8 CFR 238.3 is published pursuant to 5 U.S.C. 552. The Commissioner of Immigration and Naturalization Service entered into an agreement with Hawaiian Airlines on January 30, 1984 to guarantee passage through the United States in immediate and continuous transit of aliens destined to foreign countries.

The agreement provides for the waiver of certain documentary requirements and facilitates the air travel of passengers on international flights while passing through the United States.

Compliance with 5 U.S.C. 553 as to notice of proposed rulemaking and delayed effective date is unnecessary because the amendment merely makes an editorial change to the listing of transportational lines.

In accordance with 5 U.S.C. 605(b), the Commissioner of Immigration and Naturalization certifies that the rule will not have a significant impact on a substantial number of small entities.

This order constitutes a notice to the public under 5 U.S.C. 552 and is not a rule within the definition of section 1(a) of E.O. 12291.

List of Subjects in 8 CFR Part 238

Airlines, Aliens, Government contracts, Travel, Travel restriction.

PART 238—CONTRACTS WITH TRANSPORTATION LINES

Accordingly, 8 CFR Part 238 is amended as follows:

§ 238.3 [Amended]

In § 238.3 Aliens in immediate and continuous transit, the listing of transportation lines in paragraph (b) *Signatory lines* is amended by adding in alphabetical sequence, "Hawaiian Airlines".

(Secs. 103, 66 Stat. 173 (8 U.S.C. 1103); 238, 66 Stat. 202 (8 U.S.C. 1228))

Dated: February 7, 1984.

Andrew J. Carmichael, Jr.,

Associate Commissioner, Examinations, Immigration and Naturalization Service.

[FR Doc. 84-3705 Filed 2-9-84; 8:45 am]

BILLING CODE 4410-10-M

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 92

[Docket No. 84-006]

Specifically Approved States Authorized To Receive Mares and Stallions Imported From CEM-Affected Countries

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Affirmation of interim rule.

SUMMARY: This document affirms the interim rule which added Louisiana to the list of approved States authorized to receive certain mares and stallions imported into the United States from countries affected with contagious equine metritis (CEM). This action is needed because the Deputy Administrator for Veterinary Services has determined that Louisiana has laws or regulations in effect to require the additional inspection, treatment, and testing of such horses to further ensure their freedom from CEM as required by the regulations. This action is necessary in order to avoid the imposition of unnecessary restrictions on importers of mares and stallions from countries affected with CEM.

EFFECTIVE DATE: February 10, 1984.

FOR FURTHER INFORMATION CONTACT: Dr. Mark Dulin, VS, APHIS, USDA, Federal Building, Room 844-AAA, 6505 Belcrest Road, Hyattsville, Maryland 20782, 301-436-8170.

SUPPLEMENTARY INFORMATION:

Background

Section 92.2(i) of the regulations in 9 CFR Part 92, among other things, authorities the importation of certain horses (mares and stallions over 731 days of age) into the United States from countries affected with contagious equine metritis (CEM) when specific requirements to prevent their introducing CEM into the United States are met, and the animals imported are moved into approved States for further inspection, treatment, and testing.

A document published in the **Federal Register** on November 25, 1983 (48 FR 53088-53089), set forth an interim rule amending § 92.4 of the regulations in 9 CFR Part 92 by adding Louisiana to the lists of States approved to receive these mares and stallions. The addition of Louisiana to the lists was based on the finding that it meets certain minimum standards concerning treatment, testing, and handling procedures for these mares and stallions.

The interim rule was made effective upon publication. Comments were solicited for 60 days after publication of the amendments. No comments were received. The factual situation which was set forth in the document of November 25, 1983, still provides a basis for the amendments.

Executive Order 12291 and Regulatory Flexibility Act

This action has been reviewed in conformance with Executive Order 12291 and Secretary's Memorandum 1512-1, and has been determined to be not a "major rule." Based on information compiled by the Department, it has been determined that this rule will not have a significant annual effect on the economy, will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and will not have adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

For this rulemaking action, the Office of Management and Budget has waived its review process required by Executive Order 12291 and the Department of Agriculture has waived the requirements of Secretary's Memorandum 1512-1.

This action affirms an interim rule which provides a means by which mares and stallions over 731 days of age from countries affected with CEM and bound for Louisiana can be imported directly into Louisiana. Otherwise, the mares and stallions would be allowed to be imported only to other States which have been approved to receive these mares and stallions from countries affected with CEM. The nearest State to Louisiana approved to receive mares and stallions from countries affected with CEM is Kentucky.This action should result in a decrease of transportation costs for such horses.

It is anticipated that fewer than 12 mares and stallions from countries affected with CEM will be imported into the State of Louisiana annually. This compares with 320 such animals imported into the entire United States during Fiscal Year 1983 and with approximately 40,000 horses of all classes imported into the United States during that same period.

Based on the circumstances explained above, Mr. Bert W. Hawkins, Administrator of the Animal and Plant Health Inspection Service, has determined that this action will not have significant economic effect on a substantial number of small entities.

List of Subjects in 9 CFR Part 92

Animal diseases, Canada, Imports, Mexico, Poultry and poultry products, Quarantine, Transportation, Wildlife.

Accordingly, the interim rule published at 48 FR 53088, November 25, 1983, is adopted as a final rule.

AUTHORITY: Sec. 2, 32 Stat. 792, as amended; secs. 4 and 11, 76 Stat. 130, 132; 21 U.S.C. 111, 134c, 134f; 7 CFR 2.17, 2.51, and 371.2(d).

Done at Washington, D.C., this 7th day of February 1984.

J.K. Atwell,

Deputy Administrator, Veterinary Services.

[FR Doc. 84-3730 Filed 2-9-84; 8:45 am]

BILLING CODE 3410-34-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 83-NM-68-AD; Amdt. 39-4806]

Airworthiness Directives; Airbus Industrie Model A300 B2 and B4 series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adds a new airworthiness directive (AD) applicable to certain Airbus Industrie Model A300 series B2 and B4 airplanes which requires inspections, modifications, and replacements, if necessary, of certain main landing gear hinge arm components. Corrosion has been found in areas of the main landing gear hinge arm which, if left uncorrected, could lead to collapse of the main landing gear.

EFFECTIVE DATE: March 19, 1984.

ADDRESSES: The service bulletins specified in this AD may be obtained upon request to Airbus Industrie, Airbus Support Division, Avenue Didier Daurat, 31700 Blagnac, France, or may be examined at the address shown below.

FOR FURTHER INFORMATION CONTACT: Mr. Sulmo Mariano, Foreign Aircraft Certification Branch, ANM-150S, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington, telephone (206) 431-2979. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: The Direction Generale de l'Aviation Civile (DGAC), which is the French Civil Aviation Authority, issued two AD's mandating compliance with four Airbus Industrie and four Messier-Hispano-Bugatti service bulletins. During routine maintenance inspections of several reinforced hinge arms on the main landing gear, corrosion was found at the hinge arm-trunnion blend radii on both the actuating cylinder and universal joint sides. The corrosion on the actuating cylinder side is on areas subjected to high stress levels which could lead to the formation of cracks, possible failure of the hinge arm, and eventual collapse of the main landing gear. The service bulletins prescribe inspections, and if corrosion is found, overhaul or replacement of the hinge arms. To prevent the corrosion from recurring, modifications are also prescribed.

A proposal to amend Part 39 of the Federal Aviation Regulations to include an airworthiness directive requiring inspections of the main landing gear hinge arms, incorporation of modifications, and if needed, replacement of components, was published in the **Federal Register** on September 14, 1983, (48 FR 41167). The comment period closed on October 31, 1983, and interested persons have been afforded an opportunity to participate in the making of this amendment. Two comments were received. These comments stated no objection to the proposal. The final rule has some editorial changes.

It is estimated that 22 U.S. registered airplanes will be affected by this AD, that it will take approximately 105 manhours per airplane to accomplish the required actions, and that the average labor cost will be $40 per manhour. Repair parts are estimated at $2,200 per airplane. Based on these figures, the total cost impact of this AD to the sole U.S. operator is estimated to be $140,800. For these reasons, the rule is not considered to be a major rule under the criteria of Executive Order 12291. No small entities within the meaning of the Regulatory Flexibility Act will be affected.

Therefore, the FAA has determined that air safety and the public interest require the adoption of the rule with minor editorial changes.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new airworthiness directive:

Airbus Industrie: Applies to Model A300 airplanes, certificated in all categories and whose serial numbers are listed in paragraph 1, Planning Information, of Airbus Industrie (AI) Service Bulletin A300-32-356, Revision 1, dated December 1, 1982. To prevent failure of main landing gear hinge arms, accomplish the following, unless previously accomplished:

A. Within 120 days from the effective date of this AD, measure the displacement of the bronze bushing fitted in the stirrup on the actuating cylinder side of all affected hinge arms in accordance with paragraph 2.B of Messier-Hispano-Bugatti (MHB) Service Bulletin 470-32-422, Revision 1, dated December 3, 1982. Depending on the results of the above measurements and within the number of landings specified in the service bulletin, repeat the measurement of the displacement or visually inspect for corrosion, as appropriate, the blending radii of attachment between the trunnions and the hinge arm body in accordance with the instructions of the service bulletin.

1. If no trace of corrosion is found, incorporate the modifications AI 4544/S53521 and AI 4544/S5548, described in AI Service Bulletins A300-32-348, Revision 2 and A300-32-355, Revision 2, both dated May 16, 1983, and in accordance with the instructions of MHB Service Bulletins 470-3.. -421, Revision 2 and 470-32-407, Revision 2, both dated March 31, 1983.

2. If corrosion is detected, replace the affected hinge arms prior to further flight

either with new arms or with arms modified in accordance with the instructions of MHB Service Bulletin 470-32-431, dated December 24, 1982, related to AI Service Bulletin A300-32-362, dated June 15, 1983, after incorporating the modifications required by paragraph A.1. of this AD.

B. Alternate means of compliance which provide an equivalent level of safety may be used when approved by the Manager, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region.

C. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base for the accomplishment of inspections and/or modifications required by this AD.

This amendment becomes effective March 19, 1984.

(Secs. 313(a), 314(a), 601 through 610, and 1102 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421 through 1430, and 1502); 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89)

Note.—For the reasons discussed earlier in the preamble, the FAA has determined that this regulation is not considered to be major under Executive Order 12291 or significant under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and it is further certified under the criteria of the Regulatory Flexibility Act that this rule will not have a significant economic effect on a substantial number of small entities since no small entities operate the Model A300 airplanes. A final evaluation has been prepared for this regulation and has been placed in the docket. A copy of it may be obtained by contacting the person identified under the caption **FOR FURTHER INFORMATION CONTACT.**

Issued in Seattle, Washington on February 1, 1984.

Wayne J. Barlow,

Acting Director, Northwest Mountain Region.

[FR Doc. 84-3625 Filed 2-9-84; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 83-NM-64-AD; Amdt. 39-4803]

Airworthiness Directives; Boeing Model 737 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adds an airworthiness directive (AD) that requires a periodic check of Boeing Model 737 fuel lines contained within the wing fuel tanks for air leakage. These checks are necessary to detect fuel line deterioration which, in conjunction with loss of fuel boost pumps, can result in simultaneous unrecoverable loss of power on both engines.

DATE: Effective March 12, 1984.

Compliance scheduled as prescribed in the body of the AD.

ADDRESSES: The applicable service bulletin may be obtained from the Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124. This information may also be examined at the address shown below.

FOR FURTHER INFORMATION CONTACT: Mr. Stewart R. Miller, Aerospace Engineer, Propulsion Branch, ANM-140S, Seattle Aircraft Certification Office, Federal Aviation Administration, Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington, telephone (206) 431-2969. Mailing Address: Federal Aviation Administration, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 (14 CFR Part 39) of the Federal Aviation Regulations to include an AD requiring periodic checks for air leakage into Boeing Model 737 fuel lines contained within the wing fuel tanks was published in the **Federal Register** on August 22, 1983 (48 FR 38005).

Interested persons have been afforded the opportunity to participate in the making of this amendment and due consideration has been given to all relevant data and comments received. Nine comments concerning the proposed rule were received from the type certificate holder, domestic airlines, and other interested parties. Several substantive changes and changes of an editorial and clarifying nature have been made to the proposed rule based upon the comments received and upon further review within the FAA.

Discussion of Comments

Two commenters felt that no AD is needed because a Service Bulletin would provide adequate operator incentive to perform the required check. The FAA does not accept this rationale. Service Bulletin compliance is optional, therefore, there is no assurance that necessary inspections will be performed on all aircraft in a timely manner unless an AD is adopted to make compliance mandatory.

One commenter objected to the AD because the MSG-2 maintenance analysis used by the industry for the Boeing Model 737 considers only single failure modes. This commenter contends that fuel line leaks plus four other conditions are necessary to cause simultaneous loss of power of both engines. The FAA agrees that conditions other than fuel line leaks must be present to cause loss of power of engines. However, the subject leaks are not detectable without the proposed inspections and could, therefore, be expected to gradually develop and remain for the life of the airplane. Loss of all electrical power, an event that has happened with significant frequency on the Model 737, would then be sufficient to result in loss of both engines. In the view of the FAA this is unacceptable.

One commenter proposed a pressure check as an alternative to the Boeing Service Bulletin procedure. A pressure check procedure failed to detect the original problems, so must be considered inadequate.

One commenter objected to the AD because it was discriminatory in that it only addressed the Boeing Model 737. The FAA is presently reviewing other transport aircraft fuel systems and will take additional action on other aircraft if required.

Several commenters felt that the compliance times proposed were unduly restrictive. Upon further review, the FAA determined that the compliance times given in Boeing Service Bulletin 737-28-1047, dated July 22, 1983, may be accepted without compromising safety.

Four commenters had no objection to the AD as proposed and indicated no compliance problems. Two other commenters had no objection to the intent of the AD, but recommended that additional repair and inspection options offered in Boeing Service Bulletin 737-28-1047 be included in the AD. The FAA agrees with this assessment and the final rule reflects this change.

Cost Estimate

It is estimated that a total of 300 airplanes will be affected by this AD, it will take less than 1 manhour per airplane to accomplish the proposed inspection, and the average labor cost will be $35 per manhour. Based on these estimates, the total cost impact of this AD will be $10,500 to operators of U.S. registered airplanes. Fuel line repair costs have not been included in this estimate since the potential extent of such is unknown. For these reasons, the proposed rule is not considered to be a major rule under the criteria of Executive Order 12291. Few, if any, small entities within the meaning of the Regulatory Flexibility Act would be affected because few, if any, small entities operate Boeing Model 737 aircraft.

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the proposed rule with the changes noted.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new airworthiness directive:

Boeing: Applies to Boeing Model 737 series airplanes certificated in all categories. Prior to the accumulation of either 20,000 flight hours or 7 years of age, or within 500 flight hours, whichever occurs later after the effective date of this AD:

A. Institute an inspection program in accordance with Boeing Service Bulletin 737–28–1047, dated July 22, 1983, or later FAA approved revision.

B. Alternate means of compliance with this AD which provide an equivalent level of safety may be used when approved by the Manager, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region.

C. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base for the accomplishment of inspections and/or repairs required by this AD.

This amendment becomes effective March 12, 1984.

Note.—For the reasons discussed in the preamble, the FAA has determined that this regulation is not considered to be major under Executive Order 12291 or significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is further certified under the criteria of the Regulatory Flexibility Act that this rule will not have a significant economic effect on a substantial number of small entities since few small entities operate the model 737. A final evaluation has been prepared for this regulation and has been placed in the docket. A copy of it may be obtained by contacting the person identified under the caption **FOR FURTHER INFORMATION CONTACT.**

(Secs. 313(a), 314(a), 601 through 610, and 1102 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421 through 1430 and 1502); 49 U.S.C. 106(g) (Revised, Pub. L. 97–449, January 12, 1983); and 14 CFR 11.89)

Issued in Seattle, Washington on January 26, 1984.

Wayne J. Barlow,

Acting Director, Northwest Mountain Region.

[FR Doc. 84–3627 Filed 2–9–84; 8:45 am]
BILLING CODE 4910–13–M

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14 CFR Part 39

[Docket No. 84–NM–07–AD; Amdt. 39–4808]

Airworthiness Directives; Lockheed-California Company Model L–1011–385 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adds a new airworthiness directive (AD) that requires an inspection of certain wire bundles in the aft compartment of Lockheed Model L–1011–385 series airplanes and corrective action, if necessary. This AD is prompted by reports of improper harness retention and wire bundles that have been severed by an adjacent mechanism. This action is necessary to minimize the likelihood of a fire hazard caused by chafed or severed wires.

DATES: Effective February 21, 1984.

Compliance schedule as prescribed in the body of the AD, unless already accomplished.

ADDRESSES: The applicable service information may be obtained from: Lockheed-California Company, P.O. Box 551, Burbank, California 91520, Attention: Commercial Support Contracts, Dept. 63–11, U–33, B–1. This information also may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or at 4344 Donald Douglas Drive, Long Beach, California.

FOR FURTHER INFORMATION CONTACT: Mr. Harry Wasinger, Aerospace Engineer, Systems & Equipment Branch, ANM–130L, FAA, Northwest Mountain Region, Los Angeles Aircraft Certification Office, 4344 Donald Douglas Drive, Long Beach, California 90808, telephone (213) 548–2831.

SUPPLEMENTARY INFORMATION: During pitch control system testing of a production aircraft at Palmdale, California, a wiring harness in the vicinity of the righthand stabilizer power servo was severed by the stabilizer servo feedback arm and arcing was observed. Inspection of the wiring harness and attachments determined that three of its clamps and an associated clip were not installed on the power servo. Other L–1011's at Palmdale were subsequently inspected and the absence of these clamps and clips on both righthand and lefhand servos was verified on these aircraft. A review of inspection records on delivered airplanes cannot conclusively determine if the subject clamps and clips were installed in all the fleet. Severance of the harness could occur on either the lefthand or righthand servos if the harness is not properly secured. A severed wire harness does not cause degradation of the pitch control authority under normal conditions, but it can cause arcing which could ignite combustible vapors in the aft compartment. A severed harness can be detected on an aircraft shut-down or on a preflight check by flight crew observations, but would not be detected in flight.

Since this situation is likely to exist or develop on other airplanes of the same type design, this AD requires an inspection for correct harness retention, damaged or severed wires, and corrective action, if necessary.

Since a situation exists that requires immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable, and good cause exists for making this amendment effective in less than 30 days.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new airworthiness directive:

Lockheed-California Company: Applies to Lockheed Model L–1011–385 series airplanes, certificated in all categories. Compliance required as indicated unless previously accomplished.

To prevent the possibility of a fire hazard due to electrical arcing in two aft body compartments, accomplish the following:

A. Prior to 300 flight hours after the effective date of this AD, perform the aircraft wiring inspection and corrective action, if necessary, in accordance with Part 2, Accomplishment Instructions, in Lockheed-California Company L–1011 Service Bulletin 093–27–285, dated July 12, 1983, or later revision approved by the Manager, Los Angeles Aircraft Certification Office, FAA, Northwest Mountain Region.

B. Alternate means of compliance which provide an equivalent level of safety may be used when approved by the Manager, Los Angeles Aircraft Certification Office, FAA, Northwest Mountain Region.

Note.—Airplanes previously inspected in accordance with Lockheed L–1011 Service Bulletin 093–27–285, dated July 12, 1983, or in accordance with alternate inspection procedures since June 24, 1983, approved by an FAA Principal Maintenance Inspector (PMI), are considered to comply with the inspection requirements of this AD.

C. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

All persons affected by this directive who have not already received these documents from the manufacturer may obtain copies upon request to Lockheed-California Company, P.O. Box 551, Burbank, California 91520, Attention: Commercial Support Contracts, Dept. 63–11, U–33, B–1. These documents also may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Los Angeles Aircraft Certification

Office, 4344 Donald Douglas Drive, Long Beach, California.

This Amendment becomes effective February 21, 1984.

(Secs. 313(a), 314(a), 601 through 610, and 1102 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421 through 1430, and 1502); 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89)

Note.—The FAA has determined that this regulation is an emergency regulation that is not major under Section 8 of Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant/major regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation is not required). A copy of it, when filed, may be obtained by contacting the person identified under the caption **FOR FURTHER INFORMATION CONTACT.**

Issued in Seattle, Washington on February 1, 1984.

Wayne J. Barlow,

Acting Director, Northwest Mountain Region.

[FR Doc. 84-3023 Filed 2-9-84; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 83-NM-76-AD; Amdt. 39-4807]

Airworthiness Directives; McDonnell Douglas Model DC-10 and KC-10A (Military) Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adds a new airworthiness directive (AD) that requires installation of a positive antirotational stop on the horizontal stabilizer single chain differential drive assembly on McDonnell Douglas Model DC-10 and KC-10A (Military) series airplanes. Installation of this unit will provide an automatic means of locking the horizontal stabilizer in position following the failure of a differential drive shear pin. This AD is required because a failure of the shear pin could allow uncommanded movement of the horizontal stabilizer and result in potentially hazardous airplane handling characteristics.

DATES: Effective March 19, 1984.

Compliance schedule as prescribed in the body of the AD, unless already accomplished.

ADDRESSES: The applicable service information may be obtained from: McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Director, Publications and Training, C1-750 (54-60). This information also may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or at 4344 Donald Douglas Drive, Long Beach, California.

FOR FURTHER INFORMATION CONTACT: Michael E. O'Neil, Aerospace Engineer, Airframe Branch, ANM-121L, FAA, Northwest Mountain Region, Los Angeles Aircraft Certification Office, 4344 Donald Douglas Drive, Long Beach, California 90808, telephone (213) 548-2825.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to adopt a new airworthiness directive (AD) to require the installation of a positive antirotational stop on the horizontal stabilizer single chain differential drive assembly on McDonnell Douglas DC-10 and KC-10A (Military) series airplanes was published in the **Federal Register** on August 18, 1983 (48 FR 37427). This action is necessary to require modification of the horizontal stabilizer drive assembly to minimize the possibility of uncommanded horizontal stabilizer movement during flight.

Interested persons have been afforded an opportunity to participate in the making of this amendment and due consideration has been given to all relevant data and comments provided. Four comments were received in response to the notice of proposed rulemaking. None of the parties who made comments objected to the intent of the proposed rule.

Discussion of Comments

All parties commented that they feel the compliance time for the final rule should be extended beyond the six months called for in the NPRM, with one commenter requesting 18 months. After consideration of all comments received, the FAA considers a six-month compliance period appropriate because: (1) Based on the anticipated effective date of the rule, this will have allowed operators approximately 18 months from the original issuance of the service bulletin; and (2) this will be consistent with manufacturer's recommended compliance date for the applicable service bulletin. Subsequent to publication of the NPRM, the manufacturer released Revision 1 to DC-10 Service Bulletin 27-192. Revision 1 revises the bulletin effectivity and resequences some of the accomplishment instructions. The changes made do not significantly affect the accomplishment of the proposed rule. For this reason the final rule is modified to incorporate McDonnell Douglas DC-10 Service Bulletin 27-192, Revision 1, dated August 1, 1983.

Cost Estimate

The estimated costs associated with this AD are as follows: 141 domestic airplanes will be affected, and it will require approximately 16 manhours per airplane to accomplish the required modification, at an average labor charge of $35.00 per hour. The modification kit can be obtained at a cost of approximately $4,000. Based upon these figures, the total economic impact is estimated to be $643,000. No small entities within the meaning of the Regulatory Flexibility Act would be affected.

After careful review of available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the proposed rule with tthe change previously noted.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, Section 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new airworthiness directive:

McDonnell Douglas: Applies to McDonnell Douglas Model DC-10 and KC-10A (Military) series airplanes, incorporating a horizontal stabilizer single chain differential drive system, certificated in all categories. Compliance require withing 6 months after the effective date of this AD, unless previously accomplished.

To prevent uncommanded movement of the horizontal stabilizer following fused drive system shear pin failure, accomplish the following:

A. Modify the horizontal stabilizer drive assembly in accordance with Section 2, Accomplishment Instructions, of McDonnell Douglas DC-10 Service Bulletin 27-192, Revision 1, dated August 1, 1983, or later revision approved by the Manager, Los Angeles Aircraft Certification Office, FAA, Northwest Mountain Region.

Note.—No additional work is required for those operators who accomplished the original issue of McDonnell Douglas DC-10 Service Bulletin 27-192, dated March 17, 1983.

B. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base for the

accomplishment of the modification required by this AD.

C. Alternate means of compliance which provide an equivalent level of safety may be used when approved by the Manager, Los Angeles Aircraft Certification Office, FAA, Northwest Mountain Region.

All persons affected by this directive who have not already received these documents from the manufacturer may obtain copies upon request to McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Director, Publications and Training, C1-750 (54-60). These documents also may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Los Angeles Aircraft Certification Office, 4344 Donald Douglas Drive, Long Beach, California.

This amendment becomes effective March 19, 1984.

(Secs. 313(a), 314(a), 601 through 610, and 1102 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421 through 1430, and 1502); 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89)

Note.—For the reasons discussed earlier in the preamble, the FAA has determined that this regulation is not considered to be major under Executive Order 12291 or significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979) and it is further certified under the criteria of the Regulatory Flexibility Act that this rule will not have a significant economic effect on a substantial number of small entities because few, if any, Model DC-10 airplanes are operated by small entities. A final evaluation has been prepared for this regulation and has been placed in the docket. A copy of it may be obtained by contacting the person identified under the caption **FOR FURTHER INFORMATION CONTACT.**

Issued in Seattle, Washington on February 1, 1984.

Wayne J. Barlow,

Acting Director, Northwest Mountain Region

[FR Doc. 84-3624 Filed 2-9-84; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 83-NM-65-AD; Amdt. 39-4805]

Airworthiness Directives; Boeing Model 747 and McDonnell Douglas Model DC-9 and DC-10 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adds a new airworthiness directive (AD) applicable to Boeing Model 747 series and McDonnell Douglas Model DC-9 series and DC-10 series airplanes which requires a one-time inspection and subsequent removal of certain nonconforming landing gear components manufactured by Precision Tube Draw and Machine, Inc., 401 East Alondra Blvd., Gardena, California 90427. This AD is prompted by discovery of three landing gear components at a repair station which were to have been scrapped during manufacture. Subsequent checks confirmed one of the components to be out of drawing tolerance. Additional landing gear components for which conformity could not be established are unaccounted for, and are assumed to have entered the market place through unauthorized channels. Use of unapproved parts could result in landing gear failure.

DATES: Effective March 19, 1984.

ADDRESSES: Federal Aviation Administration, Northwest Mountain Region, Office of the Regional Counsel, Attention: Airworthiness Rules Docket No. 83-NM-65-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

FOR FURTHER INFORMATION CONTACT: Mr. Owen Schrader, Airframe Branch, ANM-120S, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region, telephone (206) 431-2923. Mailing address: Seattle Aircraft Certification Office, FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168. Mr. Michael N. Asahara, Sr., Airframe Branch, ANM-120L, Los Angeles Aircraft Certification Office, FAA, Northwest Mountain Region, 4344 Donald Douglas Drive, Long Beach, California 90808, telephone (213) 548-2824.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include an AD to require inspection for and subsequent removal of certain nonconforming landing gear components was published in the **Federal Register** on September 6, 1983 (48 FR 40266). The comment period for the proposal closed on October 24, 1983.

Interested persons have been afforded an opportunity to participate in the making of this AD. Due consideration has been given to all comments received. Comments were received from eleven operators, the Air Transport Association of America, and two manufacturers.

Several commenters requested that the AD provide that components delivered with production airplanes or purchased from Boeing, Douglas, or Cleveland Pneumatic, as spares, not be affected by the AD. The FAA has determined that none of the affected components originated from these sources; therefore, paragraph A. has been changed accordingly.

Three commenters requested that additional time be granted after discovery of any nonconforming parts to allow for orderly scheduling of the airplane into a maintenance facility. The FAA does not concur. The 180-day time period allows ample time to schedule an airplane into a maintenance facility.

Two commenters requested that a specific time period be established as to when these components may have entered the market. The FAA concurs and has changed paragraph A. accordingly.

The manufacturer identified two parts by serial number that were found to be in conformity and requested that they be removed from the listing of affected parts. The FAA concurs and Table I has been revised by removing these two items.

Another commenter requested that conformity could be shown by records search. This was the original intent of the FAA and paragraph A. has been clarified in this regard.

Another commenter requested that the fourth column in Table I be deleted as the numbers shown are only used by the manufacturer and its subcontractors and do not appear on the parts. The FAA concurs that these numbers may cause confusion and therefore Table I has been revised by removing these numbers.

Another commenter requested that the serial numbers should have the prefix CPT, with the exception of serial number M495. All parts should also have the suffix PTM. This is necessary because the serial number without the prefix and suffix may be a duplicate of the serial number of another part. The FAA concurs and Table I has been revised.

One commenter noted a reference in Table I to the DC-9-80 for a group of parts which may be used on all DC-9 aircraft. This was an editorial error, and has been corrected in the final rule. The AD affects all DC-9 series airplanes.

Another commenter desired to delete the requirement to "render the parts unserviceable" if conformity cannot be shown. The FAA concurs and paragraph B. has been revised accordingly.

Another commenter stated that not all serial numbers are legible on these parts, which could cause unnecessary disruption of service and scrapping of legitimate parts. If the records, place of origin, date of purchase, or visible serial number of a specific part cannot confirm the state of conformity, then the part must be removed. The AD was not altered because of this comment.

Another commenter requested that the AD be specific as to who shall

determine conformity and to what specific criteria. The FAA believes this request has merit, and paragraph C. has been revised accordingly.

Since the installation of these nonconforming components is likely to have already occurred and their design conformity is unknown, an airworthiness directive is being issued, which requires a one-time inspection and subsequent removal of certain landing gear components listed in the body of the AD unless conformity can be shown to exist. If used, these parts could result in landing gear failure.

It is estimated that 800 airplanes of U.S. registry will be affected by this AD, that it will take approximately 8 manhours per airplane to accomplish the required actions, and that the average labor cost will be $35 per manhour. Based on these figures, the total cost impact of the AD is estimated to be $250,000. Replacement cost is not considered. For these reasons the AD is not considered to be a major rule under the criteria of Executive Order 12291. Few, if any, small entities within the meaning of the Regulatory Flexibility Act will be affected.

After careful review of the available date, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the proposed rule with the changes noted.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new airworthiness directive:

Boeing Model 747 and McDonnell Douglas Model DC–9 and DC–10 series airplanes certificated in all categories:

A. Within 180 days from the effective date of this AD, unless already accomplished, determine if any components listed by serial number in Table I, below, are installed on or in the landing gear assembly. This determination may be made by review of records or by inspection of parts to determine serial numbers. Components delivered with production airplanes or purchased from Boeing, Douglas, or Cleveland Pneumatics, as spares, are not affected by this AD. Components purchased prior to January 1, 1979, are not affected by this AD.

B. If any components listed in Table I are found replace them with approved parts before further flight.

C. Future use of any components listed by serial number in Table I is prohibited, unless it is determined by the manufacturer or demonstrated to the FAA that the component is in conformity to type design.

D. Upon request of the operator, an FAA Principal Mainfenance Inspector may adjust the compliance times if the request contains substantiating data to justify the change, and subject to prior approval by the Manager, Seattle Aircraft Certification Office, for the Boeing Model 747, or the Manager, Los Angeles Aircraft Certification Office, for the McDonnell Douglas Models DC–9 and DC–10.

E. Alternate means of compliance with the AD which provide an equivalent level of safety may be used when approved by the Manager, Seattle Aircraft Certification Office, for the Boeing Model 747, or the Manager, Los Angeles Aircraft Certification Office for the McDonnell Douglas Models DC–9 and DC–10.

F. Aircraft may be ferried to a base for maintenance in accordance with §§ 21.197 and 21.199 of the Federal Aviation Regulations.

TABLE I

Aircraft	Part nomenclature	Aircraft Manufacturers part No	Serial Nos.
Boeing 747-100/200	Brace Assembly Side Body Landing Gear	65B05280	CPT 1163 PTM CPT 1257 PTM
	Wing & Body Gear	65B05133	CPT 2474 PTM CPT 2714 PTM CPT 2828 PTM CPT 2836 PTM CPT 2838 PTM CPT 2839 PTM CPT 2886 PTM CPT 2908 PTM CPT 2959 PTM CPT 2981 PTM CPT 2982 PTM CPT 2991 PTM CPT 3048 PTM CPT 3056 PTM CPT 3063 PTM CPT 3090 PTM CPT 3091 PTM CPT 3101 PTM CPT 3149 PTM CPT 3691 PTM CPT 3733 PTM
Boeing 747-SP	Axle Wing & Body Gear	65B19917	CPT 3398 PTM
McDonnell Douglas DC-9	Nose Gear Cylinder	5920602-5 or 5920602-501	CPT 1134 PTM CPT 1160 PTM CPT 1201 PTM1207 PTM1210 PTM
	Nose Gear Piston	5950603-501 or 5920603-5	CPT 1129 PTM CPT 1395 PTM CPT 1310 PTM CPT 1308 PTM CPT 1417 PTM CPT 1422 PTM CPT 1440 PTM CPT 1301 PTM CPT 1306 PTM CPT 1160 PTM CPT 1161 PTM CPT 1178 PTM CPT 1208 PTM CPT 1209 PTM CPT 1246 PTM
McDonnell Douglas DC-10	Main Gear Link Assy Lower Down Lock	ARG7009-501 or ARG7009-7	CPT 402 PTM CPT 421 PTM
	Axle MLG	ARG7313-3 or ARG7313-1	CPT 4361 PTM
	Link	ARG7107-5 or ARG7107-1	CPT 0886 PTM
	Bolt—Torque, Link—Upper MLG	ARG7323-1	M 495 PTM

TABLE I—Continued

Aircraft	Part nomenclature	Aircraft Manufacturers part No.	Serial Nos.
	Arm—Downlock MLG	ARG7147–1 or ARG7147–3	CPT 1328 PTM
	Link Assembly Forward Brake	ARG7019–1 or ARG7019–5	CPT 019 PTM CPT 941 PTM
	Link Assembly Forward Brake MLG	ARG7378–1 or ARG7378–3	CPT 672 PTM CPT 756 PTM
	Bolt—Torque Link—Lower MLG	ARG7337–1	CPT [illegible] PTM CPT [illegible] PTM CPT 073 PTM CPT [illegible] PTM CPT 041 PTM

This amendment becomes effective March 19, 1984.

(Secs. 313(a), 314(a), 601 through 610, and 1102 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421 through 1430 and 1502); 49 U.S.C. 106(g) (Revised, Pub. L. 97–449, January 12, 1983); and 14 CFR 11.89)

Note.—For the reasons discussed earlier in the preamble, the FAA has determined that this regulation is not considered to be major under Executive Order 12291 or significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is further certified under the criteria of the Regulatory Flexibility Act that this rule will not have a significant economic effect on a substantial number of small entities since few, if any, small entities operate the Model 747, DC–9, or DC–10 airplanes. A final evaluation has been prepared for this regulation and has been placed in the docket. A copy of it may be obtained by contacting the person identified under the caption "FOR FURTHER INFORMATION CONTACT."

Issued in Seattle, Washington, on February 1, 1984.

Wayne J. Barlow,

Acting Director Northwest Mountain Region.

[FR Doc. 84–3628 Filed 2–9–84; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 39

[Docket No. 84–CE–1–AD; Amendment 39–4804]

Airworthiness Directives; Cessna Models 414A, 421C and 425 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD), applicable to certain Cessna Models 414A, 421C and 425 airplanes which requires a one-time inspection of windshield attachment fastener holes for cracks, and repair or replacement of cracked windshields as necessary. A limit on pressurization differential is also imposed until these inspections are accomplished. An instance of an inflight windshield failure has occurred on a Model 414A airplane. The pressurization limitation and inspection will assure the continued structural integrity and prevent failure or loss of the windshield.

EFFECTIVE DATE: February 16, 1984.

Compliance: As prescribed in the body of the AD.

ADDRESSES: Cessna Multi-engine Customer Care Service Information Letter ME83–33 dated September 30, 1983, and Revision 1 dated December 2, 1983, pertaining to this subject on Models 414A and 421C airplanes and applicable to this AD may be obtained from Cessna Aircraft Company, Piston Aircraft Marketing Division, Wichita, Kansas 62201; Telephone (316) 685–9111. Cessna Prop-Jet Customer Care Service Information Letter PJ83–18 dated September 30, 1983, and Revision 1 dated November 23, 1983, pertaining to this subject on the Model 425 airplanes and applicable to this AD may be obtained from Cessna Aircraft Company, Conquest Marketing Division, Wichita, Kansas 67277; Telephone (316) 946–6600. A copy of this information is also contained in the Rules Docket, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Lawrence S. Abbott, Aerospace Engineer, Aircraft Certification Office, Room 238, Terminal Building 2299, Mid-Continent Airport, Wichita, Kansas 67209; Telephone (316) 269–7005.

SUPPLEMENTARY INFORMATION: Windshields on Cessna Models 414A, 421C and 425 are secured to the fuselage by fasteners around the periphery of the windshield. Contact between the windshield and fastener is prevented by grommets in oversize fastener holes. There have been reports that cracks have developed at the fastener location in the acrylic windshield when improperly installed. Typically the fastener contacts an attachment hole in the windshield and initiates a crack at the contact point. The manufacturer believes that some windshields installed at the factory may have been improperly installed. Accordingly, Cessna issued Service Information Letters ME83–33, dated September 30, 1983, and Revision 1 dated December 2, 1983, and PJ83–18, dated September 30, 1983, and Revision 1 dated November 23, 1983, which recommend a one-time inspection of the windshield attach hole for cracks on airplanes with the original factory windshield installation. If one or more cracks are found, the Service Letters recommend the windshield be replaced or repaired and properly installed. This inspection, and windshield repair or replacement, if necessary, will eliminate the cracking problem described above and assure the continued structural integrity of the windshield.

Since the FAA has determined that the unsafe conditions described herein is likely to exist or develop in other airplanes of the same type design, an AD is being issued requiring a one-time inspection of the windshields per Cessna Service Information Letters ME83–33 and Revision 1 or PJ83–18 and Revision 1 as applicable on certain Cessna Models 414A, 421C, and 425 airplanes. Because an emergency condition exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impractical and contrary to the public interest, and good cause exists for making this amendment effective in less than 30 days.

List of Subjects in 14 CFR Part 39

Aviation Safety, Aircraft.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of the Federal Aviation

Regulations (14 CFR Section 39.13) is amended by adding the following new AD.

Cessna: Applies to Model 414A (Serial Numbers 414A0001 through 414A0833; 414A0835 through 414A0851; 414A0853 through 414A0856; and 414A0858), Model 421C (Serial Numbers 421C0273 through 421C1257), and Model 425 (Serial Number 425–0002 through 425–0177), airplanes with the original factory windshield installation certificated in any category.

Compliance: Required as indicated, unless already accomplished.

To prevent cracking and possible loss of the windshield, accomplish the following:

(a) Within 25 hours time-in-service after the effective date of this AD fabricate and install, adjacent to the cabin pressurization switch, a temporary placard having white letters of 3/16" minimum height on red background which reads:

"LIMIT PRESSURIZATION TO 3.0 PSI MAXIMUM";

and operate the airplane in accordance with this placard.

(b) Within 100 hours time-in-service after the effective date of this AD.

(1) Visually inspect the attach holes in the pilots and co-pilots windshield in accordance with applicable Cessna Service Information Letters ME83–33 dated September 30, 1983, and ME83–33 Revision 1 dated December 2, 1983, or PJ83–18 dated September 30, 1983, and PJ83–18 Revision 1 dated November 23, 1983.

(2) Replace or repair unacceptable windshields in accordance with the criteria and instruction in the applicable Cessna Service Information Letters and Revisions.

(3) Remove the temporary placard installed per paragraph a).

(c) Airplanes may be flown depressurized in accordance with FAR 21.197 to a location where this AD may be accomplished.

(d) The placard required by paragraph a) of this AD may be installed by the holder of at least an FAA private pilot certificate on any airplane he or she owns or operates. This person must make the prescribed entry in the aircraft maintenance records indicating compliance with paragraph a) of this AD.

(e) An equivalent means of compliance with this AD may be used if approved by the Manager, Aircraft Certification Office, Federal Aviation Administration, Room 238, Terminal Building 2299, Mid-Continent Airport, Wichita, Kansas, 67209; Telephone (316) 269–7000.

This amendment becomes effective on February 16, 1984.

(Secs. 313(a), 601 and 603 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421 and 1423); 49 U.S.C. 106(g) (Revised, Pub. L. 97–449, January 12, 1983); Sec. 11.89 of the Federal Aviation Regulations (14 CFR Sec. 11.89)).

Note.—The FAA has determined that this regulation is an emergency regulation that is not major under Section 8 of Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). It this action is subsequently determined to involve a significant regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation is not required). A copy of it, when filed, may be obtained by contacting the Rules Docket under the caption "ADDRESSES" at the location identified.

Issued in Kansas City, Missouri, on February 1, 1984.

Murray E. Smith,

Director, Central Region.

[FR Doc. 84–3628 Filed 2–9–84; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 97

[Docket No. 23897; Amdt. No. 1261]

Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAP's) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: An effective date for each SIAP is specified in the amendatory provisions.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

For Examination—

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, D.C. 20591;
2. The FAA regional Office of the region in which the affected airport is located; or.
3. The Flight Inspection Field Office which originated the SIAP.

For Purchase—

Individual SIAP copies may be obtained from:

1. FAA Public Inquiry Center (APA–430), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, D.C. 20591; or
2. The FAA Regional Office of the Region in which the affected airport is located.

By Subscription—

Copies of all SIAPs, mailed once every 2 weeks, are for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

FOR FURTHER INFORMATION CONTACT: Donald K. Funai, Flight Procedures Standards Branch (AFO–230), Air Transportation Division, Office of Flight Operations, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591; telephone (202) 426–8277.

SUPPLEMENTARY INFORMATION: This amendment to Part 97 of the Federal Aviation Regulations (14 CFR Part 97) prescribes new, amended, suspended or revoked Standard Instrument Approach Procedures (SIAPs). The complete regulatory description of each SIAP is contained in official FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. § 552(a), 1 CFR Part 51, and § 97.20 of the Federal Aviation Regulations (FARs). The applicable FAA Forms are identified as FAA Forms 8260–3, 8260–4 and 8260–5. Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form document is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

This amendment to Part 97 is effective on the date of publication and contains separate SIAPs which have compliance dates stated as effective dates based on related changes in the National Airspace System or the application of

new or revised criteria. Some SIAP amendments may have been previously issued by the FAA in a National Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for some SIAP amendments may require making them effective in less than 30 days. For the remaining SIAPs, an effective date at least 30 days after publication is provided.

Further, the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Approach Procedures (TERPs). In developing these SIAPs, the TERPS criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs is unnecessary, impracticable, and contrary to the public interest and, where applicable, that good cause exists for making some SIAPs effective in less than 30 days.

List of Subjects in 14 CFR Part 97

Approaches, Standard instrument, Aviation safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, Part 97 of the Federal Aviation Regulations (14 CFR Part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective at 0901 G.M.T. on the dates specified, as follows:

1. By Amending § 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN SIAPs identified as follows:

** * * Effective April 12, 1984*

Bowie, TX—Bowie Muni, VOR/DME RWY 17, Amdt. 2, Cancelled

** * * Effective March 15, 1984*

Washington, D.C.—Washington National, VOR/DME RWY 18, Amdt. 7
Jefferson, GA—Jackson County, VOR/DME RWY 34, Orig.
Marshalltown, IA—Marshalltown Muni, VOR RWY 12, Amdt. 5
Marshalltown, IA—Marshalltown Muni, VOR RWY 30, Amdt. 5
Olathe, KS—Johnson County Executive, VOR RWY 35, Amdt. 8
Presque Isle, ME—Northern Maine Regional Arpt at Presque Isle, VOR/DME RWY 1, Amdt. 10
Baldwin, MI—Baldwin Muni, VOR/DME–A, Orig.
Holland, MI—Tulip City, VOR–A, Amdt. 7
Glenwood, MN—Glenwood Muni, VOR RWY 33, Amdt. 1
Morris, MN—Morris-Stevens County, VOR RWY 32, Amdt. 2
Okolona, MS—Okolona Muni-Richard Stovall Field, VOR/DME RWY 18, Orig.
Laurel, MT—Laurel Muni, VOR RWY 21, Orig.
Clovis, NM—Clovis Muni, VOR RWY 22, Amdt. 2
Pembina, ND—Pembina Muni, VOR RWY 33, Amdt. 2
Lake Geneva, WI—Americana, VOR RWY 23, Amdt. 5
West Bend, WI—West Bend Muni, VOR RWY 13, Amdt. 4
West Bend, WI—West Bend Muni, VOR RWY 24, Amdt. 1
West Bend, WI—West Bend Muni, VOR RWY 31, Amdt. 7

** * * Effective January 26, 1984*

Sanford, ME—Sanford Muni, VOR RWY 7, Amdt. 1

** * * Effective January 19, 1984*

Rapid City, SD—Rapid City Regional, VOR/DME or TACAN RWY 14, Amdt. 13

** * * Effective January 12, 1984*

Statesville, NC—Statesville Muni, VOR/DME RWY 10, Amdt. 4

** * * Effective January 11, 1984*

Huntsville, AL—Huntsville-Madison Co Arpt—Carl T Jones Field, VOR–A, Amdt. 10

The FAA published an Amendment in Docket No. 23856, Amdt. No. 1257 to Part 97 of the Federal Aviation Regulations (VOL 48 FR No. 238 Page 55114; dated December 9, 1983) under Section 97.23 effective March 15, 1984, which is hereby amended as follows:

Alexandria, LA—Esler Regional, VOR RWY 14, Amdt. 12;
Alexandria, LA—Esler Regional, VOR RWY 32, Amdt. 13;
Bunkie, LA—Bunkie Muni, VOR/DME–A, Amdt. 1, Cancellation;
Marksville, LA—Marksville Muni, VOR/DME–A, Amdt. 1, Cancellation;
Marksville, LA—Marksville Muni, VOR/DME–B, Orig.; and
Pineville, LA—Pineville Muni, VOR–A, Amdt. 3 are rescinded.

The following will remain in effect:

Alexandria, LA—Esler Regional, VOR RWY 14, Amdt. 11;
Alexandria, LA—Esler Regional, VOR RWY 32, Amdt. 12;
Bunkie, LA—Bunkie Muni, VOR/DME–A, Amdt. 1;
Marksville, LA—Marksville Muni, VOR/DME–A, Amdt. 1; and
Pineville, LA—Pineville Muni, VOR–A, Amdt. 2.

2. By amending Part 97.25 LOC, LOC/DME, LDA, LDA/DME, SDF, and SDF/DME SIAPs identified as follows:

** * * Effective March 15, 1984*

Olathe, KS—Johnson County Executive, LOC RWY 17, Amdt. 4

** * * Effective February 16, 1984*

Springdale, AR—Springdale Muni, LOC RWY 18, Orig.

** * * Effective January 13, 1984*

Reno, NV—Reno Cannon Intl, LOC–1 RWY 16R, Amdt. 2
Reno, NV—Reno Cannon Intl, LOC–2 RWY 16R, Amdt. 1

The FAA published an Amendment in Docket No. 23856, Amdt. No. 1257 to Part 97 of the Federal Aviation Regulations (VOL 48 FR No. 238 Page 55114; dated December 9, 1983) under Section 97.25 effective March 15, 1984, which is hereby amended as follows:

Alexandria, LA—Esler Regional, LOC BC RWY 8, Amdt. 8 is rescinded.
Alexandria, LA—Esler Regional, LOC BC RWY 8, Amdt. 7 remains in effect.

3. By amending Part 97.27 NDB and NDB/DME SIAPs identified as follows:

** * * Effective May 10, 1984*

Covington/Cincinnati, KY—Greater Cincinnati Intl, NDB RWY 9R, Amdt. 8
Covington/Cincinnati, KY—Greater Cincinnati Intl, NDB RWY 18, Amdt. 13
Covington/Cincinnati, KY—Greater Cincinnati Intl, NDB RWY 36, Amdt. 28, Cancelled

** * * Effective March 15, 1984*

Show Low, AZ—Show Low Muni, NDB–A, Orig.
Hugoton, KS—Hugoton Muni, NDB RWY 2, Orig.
Frenchville, ME—Northern Aroostook Regional, NDB RWY 32, Amdt. 2
Medford, OK—Medford Muni, NDB RWY 17, Amdt. 1
Marysville, OH—Union County, NDB RWY 27, Amdt. 4, Cancelled
Marysville, OH—Union County, NDB RWY 27, Orig.
Presidio, TX—Presidio Lely Intl, NDB–A, Orig., Cancelled
Barre-Montpelier, VT—Edward F Knapp State, NDB RWY 35, Amdt. 2
West Dover, VT—Mount Snow, NDB RWY 1, Orig.
West Bend, WI—West Bend Muni, NDB RWY 31, Amdt. 8

** * * Effective January 13, 1984*

Reno, NV—Reno Canon Intl, NDB RWY 16R, Amdt. 2

** * * Effective January 12, 1984*

Statesville, NC—Statesville Muni, NDB RWY 20, Amdt. 6

** * * Effective January 11, 1984*

Huntsville, AL—Huntsville-Madison Co Arpt—Carl T Jones Field, NDB RWY 18R, Amdt. 10

The FAA published an Amendment in Docket No. 23856, Amdt. No. 1257 to Part 97 of the Federal Aviation Regulations (VOL 48 FR No. 238 Page 55114; dated December 9, 1983) under Section 97.27 effective March 15, 1984, which is hereby amended as follows:

Alexandria, LA—Esler Regional, NDB RWY 26, Amdt. 7;
DeRidder, LA— Beauregard Parish, NDB RWY 36, Amdt. 1;
New Roads, LA—False River Airpark, NDB RWY 36, Amdt. 1;

Marksville, LA—Marksville Muni, NDB RWY 4, Orig.; Cancellation;
Marksville, LA— Marksville Muni, NDB RWY 22, Orig.; and
Natchitoches, LA—Natchitoches Muni, NDB RWY 34, Amdt. 3 are rescinded.
The following will remain in effect:
Alexandria, LA—Esler Regional, NDB RWY 26, Amdt. 6;
DeRidder, LA— Beauregard Parish, NDB RWY 36, Orig.;
New Roads, LA—False River Airpark, NDB RWY 36, Orig.;
Marksville, LA—Marksville Muni, NDB RWY 4, Orig.; and
Natchitoches, LA—Natchitoches Muni, NDB RWY 34, Amdt. 2.

4 By amending Part 97.29 ILS ILS/DME, ISMLS, MLS, MLS/DME and MLS/RNAV SIAPs identified as follows:

** * Effective May 10, 1984*

Covington/Cincinnati, KY—Greater Cincinnati Intl, ILS RWY 9R, Amdt. 10
Covington/Cincinnati, KY—Greater Cincinnati Intl, ILS RWY 18, Amdt. 14
Covington/Cincinnati, KY—Greater Cincinnati Intl, ILS RWY 27L, Amdt. 7
Covington/Cincinnati, KY—Greater Cincinnati Intl, ILS RWY 36, Amdt. 30

** * Effective April 12, 1984*

Dallas-Fort Worth, TX—Dallas-Fort Worth Regional, ILS RWY 35L, Amdt.10, Cancelled
Dallas-Fort Worth, TX—Dallas-Fort Worth Regional, ILS RWY 36R, Amdt.10, Cancelled

** * Effective March 15, 1984*

Groton (New London), CT—Groton-New London, ILS RWY 5, Amdt. 7
Miami, FL—Miami Intl, ILS RWY 9L, Amdt. 28
Minneapolis, MN—Minneapolis-St. Paul Intl/Wold-Chamberlain/ , ILS RWY 4, Amdt. 21
Minneapolis, MN—Minneapolis-St. Paul Intl/Wold-Chamberlain/ , ILS RWY 11R, Amdt. 2
Minneapolis, MN—Minneapolis-St. Paul Intl/Wold-Chamberlain/, ILS RWY 22, Amdt. 1
Minneapolis, MN—Minneapolis-St. Paul Intl/Wold-Chamberlain/, ILS RWY 29L, Amdt. 38
Minneapolis, MN—Minneapolis-St. Paul Intl/Wold-Chamberlain/, ILS RWY 29R, Amdt. 5
Salt Lake City, UT—Salt Lake City Intl, ILS/DME RWY 16R, Amdt. 2

** * Effective January 25, 1984*

Greenville, SC—Greenville Downtown, ILS RWY 36, Amdt. 25

** * Effective January 20, 1984*

Syracuse, NY—Syracuse Hancock Intl, ILS RWY 10, Amdt. 3

** * Effective January 13, 1984*

Reno, NW—Reno Cannon Intl, ILS RWY 16R, Amdt. 4

** * Effective January 11, 1984*

Huntsville, AL—Huntsville-Madison Co Arpt—Carl T Jones Field, ILS RWY 18R, Amdt. 15
Huntsville, AL—Huntsville-Madison Co Arpt—Carl T Jones Field, ILS RWY 36L, Amdt. 2

The FAA published an Amendment in Docket No. 23856, Amdt. No. 1257 to Part 97 of the Federal Aviation Regulations (VOL 48 FR No. 238 Page 55114; dated December 9, 1983) under Section 97.27 effective March 15, 1984, which is hereby amended as follows:

Alexandria, LA—Esler Regional, ILS RWY 26, Amdt. 11 is rescinded.
Alexandria, LA—Esler Regional, ILS RWY 26, Amdt. 10 remains in effective.

5. By amending Part 97.31 RADAR SIAPs identified as follows:

** * * Effective May 10, 1984*

Covington/Cincinnati, KY—Greater Cincinnati Intl, RADAR-1, Amdt. 20

** * * Effective March 15, 1984*

Anchorage, AK—Anchorage Intl, RADAR-1, Amdt. 9
Galena, AK—Galena, RADAR-1, Amdt. 7

6. By amending Part 97.33 RNAV SIAPs identified as follows:

** * * Effective March 15, 1984*

Holland, MI—Tulip City, RNAV RWY 26, Amdt. 2
West Bend, WI—West Bend Muni, RNAV RWY 13, Amdt. 4

** * * Effective January 12, 1984*

Statesville, NC—Statesville Muni, RNAV RWY 2, Amdt. 4

(Secs. 307, 313(a), 601, and 1110, Federal Aviation Act of 1958 (49 U.S.C. §§ 1348, 1354(a), 1421, and 1510); 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); and 14 CFR 11.49(b)(3))

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Polices and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amemdment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Washington, D.C. on February 3, 1984.

Kenneth S. Hunt,

Director of Flight Operations.

Note.—The incorporation by reference in the preceding document was approved by the Director of the Federal Register on December 31, 1980, and reapproved as of January 1, 1982.

[FR Doc. 84-3618 Filed 2-9-84; 8:45 am]
BILLING CODE 4910-13-M

CIVIL AERONAUTICS BOARD

14 CFR Part 253

[Economic Reg; Amdt. No. 4; Docket 41443; ER-1375]

Terms of Contract of Carriage

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: The CAB is conforming its rules to allow air carriers to incorporate their domestic baggage liability rules by reference. These terms may include limits on the air carrier's liability for loss, damage, or delay of goods and baggage, including fragile and perishable goods. This rule is consistent with the final domestic baggage rule, ER-1374, that was adopted today. This action is taken in response to a petition by the Air Transport Association.

DATES: Adopted: December 23, 1983. Effective: April 10, 1984.

FOR FURTHER INFORMATION CONTACT: Joanne Petrie, Office of the General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428; 202-673-5442.

SUPPLEMENTARY INFORMATION: This rule is adopted for the reasons discussed in ER-1374, which was adopted today.

List of Subjects in 14 CFR Part 253

Advertising, Air carriers, Air transportation, Claims, Consumer protection, Freight, Law, and Travel.

PART 253—[AMENDED]

Accordingly, the Civil Aeronautics Board amends 14 CFR Part 253, *Notice of Terms of Contracts of Carriage,* as follows:

1. The authority for Part 253 is:

Authority: Secs. 204, 403, 404, and 411, Pub. L. 85-726, as amended, 72 Stat. 743, 758, 760, 769; 49 U.S.C. 1324, 1373, 1374, 1381.

2. Paragraph (b)(1) of § 253.5 is amended by adding a reference to baggage terms so that it reads:

§ 253.5 Notice of incorporated terms.

* * * * *

(b) * * *

(1) Limits on the air carrier's liability for personal injury or death of passengers, and for loss, damage, or delay of goods and baggage, including fragile or perishable goods.

* * * * *

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 84-3768 Filed 2-9-84; 8:45 am]

BILLING CODE 6320-01-M

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14 CFR Part 254

[Economic Reg.; Docket 41443; ER-1374]

Domestic Baggage Liability

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: The CAB is adopting final rules on domestic baggage liability for airlines. The rules apply to all flights on large aircraft (over 60 seats) and to small aircraft flights that are on the same ticket. These airlines may not limit their liability for lost, damaged or delayed baggage to less than $1250 per passenger. Airlines may notify passengers by a written notice on or with the airline ticket of their limitations on liability either by specific notice or by providing a Board-mandated notice. This rule is adopted partly on the Board's initiative, and partly in response to a petition by the Air Transport Association.

DATES: Adopted: December 23, 1983.

Effective: April 10, 1984.

FOR FURTHER INFORMATION CONTACT: Joanne Petrie, Office of the General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, D.C. 20428; 202-673-5442.

SUPPLEMENTARY INFORMATION: In September 1982, the Board adopted a final rule (ER-1305, 47 FR 52987, November 24, 1982) on baggage liability rules for air carriers in interstate and overseas air transportation. That rule, which was codified as 14 CFR Part 254, provided that airlines in interstate and overseas air transportation could not limit their liability for direct or consequential damages resulting from the disappearance of, damage to, or delay in delivery of, a passenger's personal property, including baggage, in its custody to less than $1000 per passenger.

The rule did not apply to flights on aircraft with less than 60 passenger seats. In addition, Part 254 required a carrier to provide written notice to passengers on or with its tickets concerning any limitation on its baggage liability, including its rules for fragile and perishable goods, and the availability, if the carrier provided it, of excess valuation insurance coverage. This rule was the result of a reexamination of the need for continued regulation in this area during and after sunset of the Board.

On December 17, 1982, the Air Transport Association (ATA) petitioned the Board to amend the new Part 254 prior to its effective date of February 22, 1983. ATA argued that requiring each carrier to give specific ticket notice of its baggage liability rules would undermine the usefulness of standard ticket stock used by travel agents. In addition, it argued that the Board failed to give adequate notice and opportunity to comment on its proposal to raise the minimum liability limit from $750 to $1000, and that the Board did not fulfill the requirements of the Administrative Procedure Act in adopting the notice provisions in Part 254.

In response to ATA's petition, the Board stayed the February 22, 1983, effective date of the rule by ER-1305A, 48 FR 6961, February 17, 1983. After some further deliberation, it adopted a notice of proposed rulemaking (EDR-458, 48 FR 52987, May 18, 1983) to address ATA's concerns and to request further comments on the applicability of the rule, the notice requirements and the minimum liability limitations.

EDR-458 proposed to:

1. Require carriers to provide specific notice of liability limitations to passengers on or with their tickets by either providing a statement of their actual monetary baggage liability limitation, or including a Board-prescribed statement;

2. Require any carrier, regardless of aircraft size, to observe the Board's minimum baggage liability limits for all flight segments included on the same ticket with a large-aircraft segment;

3. Increase the minimum liability limitation to either $1,000 or $1,250; and

4. Require carriers to provide excess valuation insurance coverage.

Comments were filed by airlines, consumer groups, governments, businesses and private individuals. The commenters included the Air Transport Association (representing Air Cal, Air Florida, Alaska, American, Capitol, Continental, Delta, Frontier, Midway, Northwest, Pan Am, PSA, TWA, United, USAir and Western), the Regional Airline Association (RAA), Global International Airways, People Express, Southwest, Transamerica, the Aviation Consumer Action Project (ACAP), the International Airline Passengers Association (IAPA), the State of Hawaii, Jewel Companies, the Natrona County International Airport, the law offices of Thomas A. Dickerson, and five individuals. Each issue will be discussed separately.

Notice to Passengers

ER-1305 required each carrier to provide written notice to passengers, on or with its tickets, concerning (1) any limitation on baggage liability, including rules for fragile or perishable goods, and (2) the availability, if the carrier provided it, of excess valuation insurance coverage.

The Board subsequently expressed concern that carrier-specific notice might levy unjustified costs on airlines and travel agents because each carrier would have to print and distribute its own ticket or stuffer to its entire sales network. The Board acknowledged that such carrier-specific notice might undermine the uniform ticket stock system, which provides many benefits for consumers, travel agents, and air carriers.

In EDR-458, the Board proposed to amend its requirement that each carrier provide specific notice of its liability limitation, to allow carriers to give notice of their liability limitation by using one of two options. The first option was to permit a carrier to include a statement of its actual monetary liability on or with its ticket. The second proposed option was to permit an airline to use the following statement:

> Federal rules require any limit on an airline's baggage liability to be at least $1000 per passenger, except for flights on small aircraft where lower limits may apply. Airlines may have higher limits.

EDR-458 proposed that this notice be printed on or with the uniform ticket stock. The Board included the reference to liability on small aircraft to alert connecting passengers that the small-aircraft operator may have lower baggage liability than airlines using large aircraft. In the alternative, the Board proposed to apply its minimum baggage liability limitation to all carriers on any flight segment that is included on the same ticket as a large aircraft segment. This issue is discussed below.

Most of the commenters that addressed the issue of notice supported the proposal, with some qualifications. ATA said that the proposal met its concerns and that the prescribed ticket notice would alert passengers to the minimum liability limits. In addition, it noted that the industry has already included a baggage liability limitation notice on uniform ticket stock.

RAA, Hawaii and Mr. Jones endorsed the proposal. Transamerica further asked that the requirement apply only to tickets printed after the effective date of the rule, since it keeps a full year's supply on hand.

Ms. Ann Stevens stated that passengers should be given oral and written notice of the carrier's liability policy, and asked to sign a "statement of understanding" at check-in. She suggested that the airline be required to keep the statement on file until the time for making claims has passed, and that if the carrier fails to do so, it should not be able to limit its liability. Additionally, she would not apply the limits in cases of gross negligence, such as failure to provide adequate security for the baggage. Finally, she advocated requiring an airline to demonstrate when items are lost that it has made an effort to locate the baggage.

Opposing the Board's proposal were Mr. Dickerson and ACAP. Dickerson stated that other businesses that provide bailments, such as railroads and inns, are not permitted to limit their liability through incorporation by reference. He argued that incorporation by reference "provides no effective notice and has been used in consumer litigation to justify the enforcement of contractual terms which consumers may never see". He concluded that liability limitations should be permitted only where there has been effective notice of the limitations.

ACAP disputed the Board's finding that the cost of using individual ticket stuffers is unjustified by the benefits consumers derive from them. It stated that baggage rules are of exceptional importance to all passengers because this is the area where they incur the greatest financial losses. According to ACAP, incorporation by reference will not give passengers adequate notice of the rules, because only well-educated passengers will know what incorporation by reference means, and most passengers have neither the time nor the incentive to look up the rules.

In recognition of the Board's intent to permit carriers to incorporate by reference, ACAP urged the Board to consider requiring carriers to notify passengers of their baggage rules through other, less burdensome means. Specifically, it suggested that ticket locations have counter signs explaining the baggage liability rules, and have explanations printed on a one-page document that would be available on a free, take-one basis. ACAP argued that this approach would not involve the Board in dictating the content of the rules and would not impose a burden on travel agents.

The Board considers that use of a notice similar to that specified in the rule will allow carriers to continue to use uniform ticket stock while giving passengers adequate notice of the minimum liability limitation. Uniform ticket stock is important to the functioning of the airline system, with the majority of tickets now sold by travel agents that act for almost all of the carriers. Standard ticket stock benefits all the parties involved by facilitating ticketing of passengers, settlements, and refunds and exchanges. In light of the number of carriers that are handled by a typical travel agent today—a number that is steadily increasing—the Board finds it impractical to require each agent to have different ticket stock or stuffers for each carrier. The benefits to the public from such a cumbersome system would be negligible.

The suggestion that the Board initiate a new form of passenger notice, through giveaway documents or counter signs, is outside the scope of the proposal in this rulemaking. Absent a further substantial demonstration of need, however, the Board remains of the opinion that the elaborate system of notice established by this Part 254 and by Part 253—ticket notice, summary of terms available through travel agents, and full contract terms available on request—is adequate for the purpose.

To some extent, the arguments raised by Dickerson and ACAP against incorporation by reference were considered and disposed of in the rulemaking on Part 253, ER–1302, 47 FR 52128, November 19, 1982. The Board concluded there that short-form ticketing was important to the efficiency of the air transportation system, and that there was no cost justification for replacing the tariff system with one of bulky individual contracts to be given out to each airline passenger. Baggage liability is just one of the many terms of the contract of carriage that are comprehended by that basic policy decision. The Board has recognized, however, the importance of baggage liability to passengers, and its special concern for that subject is the reason for the individual rules that are the subject of this proceeding. The intent of the rules is to alert every passenger directly, in simple terms, of the carrier's limitation of liability, while making the details available through less costly means under the provisions of Part 253. This type and level of notice is at least as detailed and "direct" as that provided by the tariff system that existed before 1983.

The Board has decided to adopt the proposed notice requirements, with some modifications. A carrier may provide conspicuous notice, on or with its tickets, of its liability limit by including either (1) the Board-mandated notice, or (2) a specific statement of its actual liability limitation. The Board finds that either of these types of notice, which states the amount of the limit, is more likely to be understood by passengers than a general notice that liability may be limited.

The Board has decided, however, to modify the Board-mandated notice for clarity and to conform to the changes made in this final rule. The revised text states:

> Federal rules require any limit on an airline's baggage liability to be at least $1250 per passenger.

The notice has been changed to reflect the minimum baggage liability limitation and to notify passengers as simply as possible of the applicability of the rule. The Board has omitted the sentence stating that the limit might be lower on small aircraft. Such a notice would have been irrelevant and potentially confusing, since as will be discussed below, the Board has decided to apply the rule to small aircraft operations that are included on the same ticket as a large-aircraft segment. Finally, the Board has omitted the sentence stating that liability limits may be higher because it was redundant.

The Board does not find Ms. Stevens' suggestions, for detailed written agreements and notices to be exchanged and retained as each passenger checks in, to be justified in light of the costs that would be involved. Her suggestions with respect to the effect of gross negligence and actions by the airline in response to a loss of baggage are outside the scope of this rulemaking. This proceeding does not concern the basic rules of tort law—degree of fault, mitigating action—that have always underlain the legal rights and duties between passengers and carriers.

In an accompanying final rule, the Board is amending paragraph (b)(1) of § 253.5, *Notice of incorporated terms*, to add the following item to the list of subjects on which passengers may obtain contract information from their ticket sellers: "Limits on the air carriers liability * * * for loss, damage, or delay of goods and baggage, including fragile and perishable items." This change will make each carrier's main provisions on baggage liability available to the public for inspection at every ticket-selling location, including travel agents.

Small Aircraft Operations

The Board has not in the past imposed any minimum baggage liability limitations directly on air taxis. Such carriers are, however, required to provide a notice under § 298.30 at all ticketing locations stating their policy on baggage liability. In addition, prior to

the sunset of domestic tariffs, air taxis that filed tariffs for their interline operations with certificated carriers were required to conform to the $750 minimum liability limitation.

In EDR–458, the Board expressed its concern that any prescribed form of ticket notice alert passengers to the fact that the rule only applied to flights on large aircraft. The Board was concerned that passengers, especially on connecting flights with large and small aircraft, would not know that different rules applied depending on the size of the aircraft. In addition, the Board recognized that when a bag is lost during interline travel involving both large and small aircraft, it is often difficult for the passenger to establish which airline is at fault and which liability limit applies.

To remedy this problem, the proposed Board-mandated notice included a warning that lower limits may apply to flights on small aircraft. In the alternative, the Board proposed to require operators of small aircraft to observe the minimum baggage liability limits for all flight segments included on the same ticket with a large-aircraft segment. The Board requested comments on both alternatives.

Most of the comments that addressed the problem supported extension of the minimum liability rules to air taxis. The supporters included ATA, IAPA, the State of Hawaii, Natrona County, and one individual. ATA stated that extension to these small aircraft operations is a good idea because passengers are unaware that travel on aircraft of different sizes might involve differing liability limits. Additionally, it maintained that a distinction in liability limits between operators of small and large aircraft was unjustified, because a small aircraft operator is just as likely to be at fault as a large aircraft operator. ATA and IAPA both noted that the size of the aircraft is irrelevant to the value of articles contained in a bag.

The State of Hawaii urged the Board to extend its rules to all carriers in scheduled service, without regard to interlining, and to on-demand carriers that interline. It argued that a two-tier baggage liability limitation would confuse passengers, especially foreign visitors.

IAPA contended that when a commuter and a certificated carrier interline, the large carrier often accepts liability only for the lower of the two maximum liability limits. Since there has been increased interlining between commuter and certificated carriers, it believed that all commuter carriers should be required to offer the same baggage protection as certificated carriers. One individual stated that some commuters have become "nearly small regional carriers" and as a result should be treated as other airlines.

The Regional Airline Association argued that since deregulation, consumer complaints concerning baggage have decreased. As a result, it stated, "the low level of complaints shows no compelling need for drastic reform of the practices of regional air carriers in this area, which are presently largely unregulated. RAA argued that the Board has not shown any change in the regulatory atmosphere since the adoption of ER–1305, where it rejected extension of the rule to commuter air carriers participating in joint tariffs. RAA's board of directors, however, voted not to object to the proposal if the $750 liability limit were retained and the rules were extended to all carriers.

RAA pointed out that extension to small-aircraft operations covered on the same ticket as another flight segment involving large aircraft will, as a practical matter, extend the Board's liability limits to all commuters. It stated that almost all regionals interline to a substantial extent, and it is not feasible for them to maintain two levels of baggage liability.

RAA stated that the proposed notice will adequately warn the public about possible lower liability limits on small-aircraft segments of multi-segment trips. It said that the Board historically has not regulated the baggage liability practices of uncertificated regional/commuter carriers, even though a standardized notice on uniform ticket stock has been used without any serious problems. It argued that the prescribed notice would not be the only warning that passengers will receive. In addition to that required under Part 253, 14 CFR 298.30 requires air taxis to post counter signs at ticket sales locations. RAA noted that under the common law, carriers avoid unlimited liability only by giving effective notice of their liability limits. Thus, carriers have a strong incentive to give notice of their baggage liability limits.

RAA also pointed out that extension of the baggage rules to small-aircraft operators will require some amendments to § 298.30 of the Board's rules, which requires noncertificated operators of small aircraft to post counter signs regarding their baggage rules. If commuters are required to maintain the same levels as certificated carriers, they argued that there is no reason to subject them to requirements more extensive than other carriers. Similarly, RAA noted that some amendment of the rules may be necessary insofar as § 221.176 requires certificated small-aircraft operators, but not noncertificated carriers, to post counter signs and ticket notices for international travel. The Board will consider these comments regarding special notice requirements in a separate proceeding. The RAA contentions concerning the level of liability limitation are discussed below under that heading.

The Board has decided to adopt the alternative proposal of applying the rule to all small-aircraft flight segments that are included on the same ticket as a large-aircraft segment. Most of the comments favored this course over a notice warning passengers of possible lower limits. The changes in domestic air transportation since the Deregulation Act of 1978 have prominently included a major increase in the extent of public travel by carriers using small aircraft, and in the importance of such aircraft to the transportation system. The shift to market-based allocation of resources has caused trunk airlines to drop many smaller routes that previously were subsidized by profits from long-haul routes, turning them over to commuter lines using small aircraft that are more efficient for such service. Many of the under-60-seat aircraft that are coming into use have amenities similar to those of larger craft, and passengers have reason to expect that, as integral parts of the air transportation system, their operators will be governed by similar Federal rules. Requiring all operations ticketed together with large aircraft to have the same liability limits will eliminate the possibility of passengers being misled by the liability figure printed on standard ticket stock.

As discussed below, the cost per passenger of baggage liability, evidently on the order of 10 cents, is not such as to raise the possibility of an unreasonable burden on small operators. The cost per passenger of this rule change will probably be far less than that, in actuality, since commuter airlines incur such liability now, albeit with lower limits in some cases. Furthermore, small airlines, with less necessity for highly mechanized baggage handling, should have even more ability than major carriers to minimize their baggage losses by careful handling operations.

Finally, this rule will prevent large aircraft operators from limiting their liability to the lower level set by carriers operating the small aircraft segment of an interline or connecting journey. IAPA stated that carriers often deny knowledge of whether the large or small aircraft operator was responsible for the loss, and therefore refuse to pay more than the lower limit of the two carriers.

Under this rule, all such segments included on the same ticket will be subject to a liability limitation not less than $1250.

Excess Valuation Coverage

EDR–458 proposed to require carriers to offer passengers the opportunity to purchase excess valuation coverage, and to provide conspicuous notice that it is available.

ATA supported the proposal on grounds that the requirement would not be burdensome, and that it is generally offered by ATA's member carriers. ATA recommended, however, that the requirement not apply to curbside check-in, because it would undermine quick baggage handling. ATA argued that current curbside facilities are not equipped to sell excess valuation coverage, and introduction of money drawers could pose security problems. In addition, the personnel at curbside facilities frequently are contract personnel, not regular airline employees, so that the requirement might cause additional security problems. Finally, it stated that any passenger wishing to purchase excess valuation coverage could use the regular check-in procedures.

ACAP stated that there is no historic evidence that requiring carriers to provide excess valuation insurance coverage is or would be burdensome. In addition, it stated that the existence of expedited methods of boarding should not be used to justify abolishing the requirement, because any particular burden could be handled by granting an exemption. Finally, it argued that if the Board decides not to explicitly require excess valuation insurance, the Board should leave the question of whether airlines have an obligation to provide excess coverage to State law.

Mr. Dickerson noted that the availability of excess insurance coverage and knowledge of its existence are important not only to passengers but to carriers seeking to enforce liability limitations under the common law. He concluded that the proposed requirement would benefit both passengers and airlines.

People Express opposed the requirement on the grounds that most carriers offer the coverage voluntarily and that in any event, most passengers can easily obtain it. It warned that by requiring carriers to offer excess valuation coverage, the Board would soon find itself progressively more involved in insurance transactions.

RAA argued that the Board lacks statutory authority to regulate this subject area. RAA stated that charges for excess coverage constitute an integral part of what the passenger pays for the transportation and that under the Airline Deregulation Act, the Board no longer has authority over domestic fares, rates and tariffs.

Transamerica opposed any requirement that carriers provide excess coverage on the grounds that carriers are not in the insurance business, and that they should be considered to be a source of such coverage only as a last resort. It stated that selling excess coverage would increase a carrier's costs and inconvenience other passengers.

The Board has decided not to specifically require airlines to provide excess valuation insurance. As noted by ATA, all or almost all carriers offer this insurance today without a detailed Board requirement. The Board has decided not to impose such a requirement without a more persuasive showing that regulatory intervention is needed.

It appears to be in the carrier's own interest to offer excess valuation insurance coverage, or at least to make sure that it is readily available. As noted in the *Baggage Liability Rules Case*, 45 CAB 182, 195, "it has long been held that a carrier may demand extra compensation for value in excess of what the passengers may reasonably ask to have transported as baggage. By providing a choice of rates with varying degrees of liability based on declared value, the basic limitation of liability is rendered legal, and is not considered an attempt by a carrier to free itself of responsibility for its own negligence. It is on this basis, therefore, that at common law, the carriers are enabled to limit their liability." Our rule is not intended to preempt state courts on the issue of excess valuation coverage.

The Level of Liability Limitation

EDR–458 requested detailed comment on whether to increase the minimum liability limitation from $750 to $1000 or to $1250.

ACAP, IAPA, Dickerson, Natrona County, and two individuals argued that the limit should be raised to $1250 because of the increases in the cost of consumer goods since the $750 limit was set in 1976. They stated that the limit should be set high enough to encourage carriers to improve their baggage handling systems. One commenter noted that with the current $750 limit, it is cheaper to simply pay the claims rather than institute anti-pilferage or security measures. Jewel Companies supported an increase that would reflect changes in the Consumer Price Index (CPI) since 1976 and suggested that the Board consider relating the limit to fluctuations in the CPI on an annual or semi-annual basis.

ATA, RAA, People Express, Southwest, and Transamerica opposed any increase in the limit. ATA and Transamerica questioned the propriety of relying on the general CPI because much of the increase since 1977 was due to inflation in housing costs and fuel prices. They suggested that the Board rely on the CPI for apparel and commodities, which has risen considerably less. People Express, on the other hand, argued that the Board has failed to establish any correlation between the CPI and the value of articles in passengers' baggage.

ATA, People Express and RAA noted that their average settlement is well below the current $750 limit. People Express stated that the bulk of its claims are below $250, whereas RAA contended that the average settlement its members made in 1982 was $295. ATA warned that raising the limit may encourage "irregular" claims, including overstated values.

ATA claimed that the problem of lost, damaged or delayed baggage is not severe. Industry-wide, its comment indicated that the ratio of lost to carried baggage in 1981 was only .00016. In addition, ATA stated that of the bags not delivered, 40% are not actually lost, but improperly identified so that they cannot be returned to their owners.

ATA and Transamerica stated that the Board's selection of a baggage liability level should reflect a reasonable level of protection and not one that will cover every passanger against every potential loss. In their view, passengers should be expected to protect themselves against major losses. Transamerica stated that it is unlikely that many passengers tender belongings having a value of more than $1000, expecially on domestic flights. Finally, Transamerica noted that passengers who fail to adequately protect themselves against loss or delay are passing on the costs of insuring their goods to all passengers.

RAA opposed any increase in the limit if Part 254 were extended to small-aircraft operators. It argued that fares in short-haul markets are already high and that the costs of providing a higher limit would have to be passed onto consumers. RAA argued that there is no need to increase the limit if passengers are given adequate notice of the limit and if the Board requires carriers to offer excess valuation coverage.

Southwest argued that the limit should be decreased to $250, if excess valuation coverage is offered. Such a decrease would allow carriers to unbundle fares

so that passengers would only have to pay for whatever services they want or need. It noted that it offers such excess coverage up to $2500.

The State of Hawaii asked the Board to clarify whether it intends to refer to replacement or depreciated value in establishing the minimum value. If the Board intended to require carriers to pay passengers the cost of replacing lost articles, it believed that the limit should be $1250. However, if the Board intended only to require carriers to pay passengers the depreciated value of their lost belongings, it believed that $1000 would be adequate.

Global asked the Board to permit charter carriers to establish their own minimum liability rates, provided that they are clearly stated and acknowledged by the passenger in writing. According to Global, it is often impossible for charter carriers to protect passengers' baggage because they must rely on outside baggage handling services. It argued that having the same liability limit as scheduled carriers would impose an unfair burden on charter carriers. It further noted that passengers that choose charter service pay a substantially lower fare, so that it is reasonable to expect a different quality of service.

Mr. Benjamin Ginsberg, a wholesale tour operator, suggested that charter passengers should be provided with a written explanation of their rights to relief for delayed or lost baggage. The Board notes in response that this rule will in fact apply to charter passengers, so that they must receive notice of the limit. Any contractual terms, such as times or methods of making claims for lost or damaged luggage, must appear in the written contract required to be furnished to charter passengers under 14 CFR Part 380. To the extent that Mr. Ginsberg would require any further explanations, the Board does not find justification for more regulatory protection for charter passengers than that provided to scheduled passengers.

The Board has decided to increase the limit to $1250. In May 1977, when the $750 level was as adopted, the Consumer Price Index for all Urban Consumers (U.S. City Average: all items) (CPI) was 180.6. In September 1983, the index was 301.8. A proportionate increase in the baggage liability limit would be to $1253.

The Board is aware that other price indices have risen less than the widely-used CPI. The Apparel-Commodities Index, for example, has risen 25 percent from May 1977 to September 1983. In contrast, ACAP in its comment devised a hypothetical packing list for a woman taking a 2-week vacation in Miami, and set forth the list price from a major catalog retailer for those items in 1966, 1978, and 1983. It concluded from this study that a proper limit would be $1280. In evaluating the ACAP study, however, the Board has not been made aware of any statistically verified data on the actual composition of checked baggage. In light of all the arguments presented, it concludes, therefore, that the $1250 level is the most appropriate amount.

The Board is of the opinion, moreover, that the $1250 level is in the public interest even if some specialized inflation indices point to a somewhat lower figure. The Board does not consider it feasible, as Jewel Companies suggested, to adjust the limit on an annual or semi-annual basis. Not only would this require a continuing regulatory effort, with possibly considerable controversy over the proper adjustment factors, but it would require airlines to change their liability notices frequently, imposing further costs. Granting that with imprecise data the level set by rule must contain an element of arbitrariness, the Board is of the opinion that a $1250 baggage liability limitation is reasonable, especially in light of the possibility of future price movements.

In addition, while carriers have some market incentive to reduce the incidence of baggage mishandling, a greater potential liability for that mishandling will in turn increase their incentive. The Board has decided at an earlier stage of this proceeding that it would not be desirable to remove all restrictions on carrier liability limitations, with any limitation subject to common law and market pressures. The Board must thus provide a substitute for those market forces. In so doing, it must determine what is reasonable in the public interest. It must balance the need for economic incentives to be placed on the carrier with the need for protection for the traveler. Based on the experience in this matter, the Board believes that a Federal limitation of $1250 combined with notice to the passenger provides that balance.

The Board does not find persuasive the arguments that average claims are below the current $750 limit, or that baggage losses are relatively infrequent. Since claims would normally be not more than the maximum allowable, it is to be expected that the average would be below it. Furthermore, to the extent, that a carrier is able to limit damage and loss to baggage, so that its claims frequency and level are low, the change in liability limit will have less effect on it. The liability should not be a measure of the "average amount of baggage" or the "average claim," but rather a figure set high enough to cover all but unusual cases, while protecting carriers against extraordinary claims.

The offering of excess valuation insurance is not, as Southwest suggested, a sufficient justification for lowering the liability limit from its present figure. For one thing, excess valuation insurance has been offered by almost all airlines continuously. The vast majority of passengers do not purchase excess valuation insurance, and evidently assume that they will be covered by the airline's liability. Baggage liability is indeed a cost spread over all passengers, but it is an arrangement that the public has become very much accustomed to, and one that most probably could not be grossly altered without substantial misunderstanding, inconvenience, and hardship.

Southwest's suggestion that lower limits would allow carriers to "unbundle" fares is rendered less persuasive by the low order of magnitude of costs involved. Using ATA's figures (a loss rate of 0.00016), the overall cost to carriers of baggage liability is on the order of 10 cents per passenger. Unbundling has no meaning with costs at that level; they are lost in the rounding of fares to the nearest dollar that is common throughout the industry.

The same answer applies to RAA's point that small carriers should not have their costs raised by applying the higher limit. Actually, as discussed above, the effect on carrier costs of raising the liability limit is bound to be far smaller than the actual total cost of baggage liability—that is, far smaller than 10 cents per passenger. Furthermore, the Board considers it especially important that interline passengers not experience different limits when moving from one airline to another. Passengers often cannot prove which airline is responsible for a loss, when their baggage is to be transferred directly from one aircraft to another.

The Board finds a logical gap between Global's premise, that charter carriers must often use outside baggage handling services, and its conclusion, that the Board should relieve charter carriers of any required baggage liability limit. If the use of outside contractors by charter carriers means that charter passenger baggage is more likely to be lost, then those passengers are even more in need of adequate liability limits. If it does not mean that, then the burden for charter carriers is no greater than for scheduled carriers. The Board notes that charter passengers typically embark for relatively long and extended trips. Accordingly, they probably have a

larger amount of baggage, on the average, than the overall average of scheduled passengers, which includes a large number of short-haul passengers with no checked baggage at all. Granting that charter service is frequently a low-cost, "no-frills" type of transportation, the Board is not persuaded that compensation for loss of their baggage is one of the "frills" that charter passengers are willing to forgo.

With respect to the State of Hawaii's question as to replacement or depreciated value: the Board rule has no bearing on the method of valuation. How the carrier's liability is measured is a matter of law ultimately to be resolved by the courts. The rule only sets a lower limit on the dollar figure that the carrier may insert in the contract of carriage as the limit of its liability, however computed.

Miscellaneous

Although not within the scope of this proceeding, People Express, RAA, and Southwest urged the Board to consider deregulating the area of baggage liability. ATA noted in a footnote that Delta, American and USAir had favored this option in earlier proceedings and still maintained this position.

People Express argued that the proposed baggage rules are inconsistent with the Airline Deregulation Act, Executive Order 12291 and OMB's stated position that this area should be deregulated. The Board, People Express argued, has failed to justify its conclusion that domestic baggage liability limitations are a proper subject for regulation. People Express contended that market forces will operate to protect passengers sufficiently.

The basic question of whether there should be any Federal baggage liability rule at all was considered and discussed in ER–1305, 47 FR 52987, November 24, 1982. The Board finds that the conclusions drawn at that time continue to be valid.

This rule will be effective 60 days after publication in the **Federal Register**, to provide sufficient lead-time for carriers to prepare and distribute new notices. The Board is not adopting Transamerica's suggestion that the new requirements apply only to tickets printed after the effective date of the rule. Such a rule, based on the capricious factor of availability of each carrier's ticket stock, would be confusing for both consumers and the industry, and lack the evenhandedness that should characterize any such regulation.

Regulatory Flexibility Analysis

The Board concludes that this rule will have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, Pub. L. 96–354.

One group affected are travel agents. There are about 20,000 travel agents, most of whom are small businesses. The effect of this rule will be to eliminate the burden of maintaining different ticket notices for each carrier for which they sell tickets. This represents a cost saving over the alternatives that involve specific notices for each carrier.

Secondly, this rule may have some economic impact on a number of small air carriers. The rule will impose significantly higher liability limitations, and correspondingly higher claims expenses for small carriers who interline with large carriers using the same tickets. There will be some compensating advantage for small carriers, however, in that their interlining with large carriers can take place easily, using the same ticket stock, with no need for the small carrier to furnish any documentation to ticket-selling locations. In addition, travel on the small carriers, in combination with larger ones, will be more attractive, and they may gain some business, to the extent that prospective passengers realize that any baggage losses will be as fully compensated as they are on large aircraft.

In the Board's judgment, the economic impact of this change will not be large, and the benefits to the public more than offset the costs to the small businesses involved. The alternative of continuing to allow a smaller liability limitation for small-aircraft operators, where a higher limit is shown on the ticket, presents a serious likelihood of misleading the public.

The need, objective, and legal basis for this rule and the reporting and recordkeeping requirements involved are described in more detail in the preceding Supplementary Information and the rule that follows. The rule does not duplicate, overlap, or conflict with other Federal rules.

McConnell, Vice Chairman, Concurring

I concur with the Board's decision in this amendment of the baggage liability rule. It is the least intrusive alternative. I question, however, whether there is a need for any rules in this area. Baggage handling, claims, and liability are areas that carriers could, and I believe would, use as a marketing tool. Absent Federal regulation, the carriers would have more of an incentive to improve those areas of service because of increased consumer responsibility thus interest, and because the recourse for passengers would be through court action against the carrier. Innovation would thus be encouraged once Federal protection is removed.

For these reasons, I support the higher $1250 limit in order to subject the carriers to at least some pressure of higher risk. In the absence of Federal rules, unreasonable carrier actions harming the consumer can be handled through court actions and market pressures.

Barbara E. McConnell

Morales, Member Concurring in Part and Dissenting in Part

I fully agree with the majority's decision not to require airlines to provide excess valuation insurance. I believe that this type of insurance will be available to those passengers who require it without the Board's regulatory intervention. The marketplace can, and in other areas of consumer need does, respond to such needs. Clearly, there is an entrepreneurial opportunity here which will be exploited without Board mandate. A Board mandate would more than merely "identify" such an opportunity. How could we require excess valuation insurance to be available and yet not require the airlines to provide it? The fact that airlines would not have to sell it cannot eliminate the burden of assuring that such insurance is in fact available. This type of insurance is almost universally available today; the Board knows of no problem with it; and, as a general rule, we should not impose detailed regulations without a demonstrated need.

I believe that raising the minimum baggage liability limitation to $1250 is an excessive regulatory intrusion into an area that, in my opinion, clearly does not need our intervention.

While I have supported imposing a minimum baggage limitation, I cannot agree that the *minimum* necessary is *more* than $750. I have carefully reviewed the history of this provision. It has become clear to me that even in the *hey-day* of regulation, the liability limit was viewed as a way to establish an amount below which carriers could not unreasonably limit the responsibility they assumed for passenger baggage. The minimum amount does not guarantee a monetary settlement. Consumers have always had and will continue to have to prove their damages to a carrier under these baggage rules. The question is whether the $750 limit has prevented consumers who have proven actual losses from recovering a reasonable amount from the carrier

responsible for their loss. The answer to that question is clearly "no". While the record in this case shows that inflation and the consumer price index have fluctuated wildly upward in previous years, we do not have a record which show that $750 is a figure which has been used as a carrier cut-off or excuse to avoid payment of valid consumer claims. The average settlements cited by commenters on this rule ranged between $250 and $300. Passage of time alone does not, in my opinion, justify raising a limit which seems to have protected the average person making and proving a baggage claim. I simply do not feel that we have the facts necessary to support raising this amount.

Diane K. Morales

Paperwork Reduction Act

This rule is not subject to OMB approval under the Paperwork Reduction Act of 1980. The Board anticipates that there will be fewer than 10 carriers providing carrier-specific notice. The Board expects that most carriers will use the Board-mandated notice, which is not subject to the Act.

List of Subjects in 14 CFR Part 254

Air carriers, Consumer protection, Freight.

Accordingly, the Civil Aeronautics Board amends 14 CFR Chapter II by reissuing and revising Part 254 so that it reads as follows:

PART 254—DOMESTIC BAGGAGE LIABILITY

Sec.

254.1 Purpose.
254.2 Applicability.
254.3 Definitions.
254.4 Carrier liability.
254.5 Notice requirement.

Authority: Secs. 204, 403, 404, and 411, Pub. L. 85–726, as amended, 72 Stat. 743, 758, 760, 769; 49 U.S.C. 1324, 1373, 1374, 1381.

§ 254.1 Purpose.

The purpose of this part is to establish rules for the carriage of baggage in interstate and overseas air transportation. The part sets permissible limitations of air carrier liability for loss, damage, or delay in the carriage of passenger baggage and requires air carriers to provide certain types of notice to passengers.

§ 254.2 Applicability.

This part applies to any air carrier that provides charter or scheduled passenger service in interstate or overseas air transportation.

§ 254.3 Definitions.

"Large aircraft" means any aircraft designed to have a maximum passenger capacity of more than 60 seats.

§ 254.4 Carrier liability.

In any flight segment using large aircraft, or on any flight segment that is included on the same ticket as another flight segment that uses large aircraft, an air carrier shall not limit its liability for provable direct or consequential damages resulting from the disappearance of, damage to, or delay in delivery of a passenger's personal property, including baggage, in its custody to an amount less than $1250 for each passenger.

§ 254.5 Notice requirement.

In any flight segment using large aircraft, or on any flight segment that is included on the same ticket as another flight segment that uses large aircraft, an air carrier shall provide to passengers, by conspicuous written material included on or with its ticket, either—

(a) Notice of any monetary limitation on its baggage liability to passengers; or

(b) The following notice: "Federal rules require any limit on an airline's baggage liability to be at least $1250 per passenger."

By the Civil Aeronautics Board:

Phyllis T. Kaylor,

Secretary.

[FR Doc. 84-3767 Filed 2-9-84; 8:45 am]

BILLING CODE 6320-01-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 240

[Release No. 34-20625, File No. S7-950]

Exemption for Certain Over-the-Counter Options on Exempted Securities

AGENCY: Securities and Exchange Commission.

ACTION: Final rule.

SUMMARY: The Commission is adopting Rule 3a12–7, which will designate as exempted securities under the Securities Exchange Act of 1934 (the "Exchange Act") over-the-counter options on government securities ("OTC government options") where (1) such options are traded otherwise than on a national securities exchange or an automated quotation system of a registered securities association; and (2) the options relate to securities representing obligations of $250,000 or more. The rule will not affect the status of any option with respect to the Securities Act of 1933.

EFFECTIVE DATE: February 10, 1984.

FOR FURTHER INFORMATION CONTACT: Kevin S. Fogarty, Esq., Branch of Options Regulation, Division of Market Regulation, (202) 272–7345.

SUPPLEMENTARY INFORMATION:

I. Introduction

In Securities Exchange Act Release No. 19162 (October 20, 1982), 47 FR 49400 (November 1, 1982) ("Initial Proposing Release"), the Commission proposed Rule 3a12–7 for comment. The proposal was to establish as "exempted securities" under the Exchange Act options or privileges which relate to securities guaranteed by the U.S. government or issued by the government or government corporations, and which are exclusively traded otherwise than on a national securities exchange or an automated quotation system of a registered securities association.

As discussed in the Initial Proposing Release, the market in OTC government options is a modest one and is dominated by options on the Government National Mortgage Association's mortgage-backed pass-through securities ("GNMAs"). The market is primarily an institutional one, with government securities dealers ordinarily providing market making services and non-dealer participants trading for hedging or income-producing purposes. While the Commission staff has generally taken the position that OTC government options are securities separate from the exempt securities underlying them,[1] the Commission has not, as a general administrative matter, required registration of firms that limit their activities to government securities and OTC government options. As originally proposed, Rule 3a12–7 would have codified this informal practice and also made it clear that the options are not subject to the margin requirements of Section 7 or to any other provision of the Exchange Act that does not apply to "exempted securities." All the provisions of the Securities Act of 1933, including the registration requirements, would remain applicable. The rule's principal purpose is to accommodate market professionals and institutions that trade OTC government options incidentally to their primary business and who, but for their dealings in those

[1] This position has now been written into the securities statutes by virtue of the securities legislation implementing the SEC/CFTC Jurisdictional Accord. *See, e.g.*, Securities Exchange Act of 1934, *as amended*, Section 3(a)(10), 15 U.S.C. 78c(a)(10).

options, would not be subject to registration and other requirements of the Exchange Act.

Comments opposing the proposal were submitted by the brokerage firm of Donaldson Lufkin & Jenrette and the Options and Derivative Products Committee of the Securities Industry Association. In particular, these commentators warned that a failure to regulate trading and the participants in this market might lead to some of the same irresponsible practices experienced in the late 1970's in the commodity options and GNMA securities markets. They stressed the importance of Commission rules in this market governing financial stability and recordkeeping, since the obligor on the OTC option contract (the "writer") is neither the government nor a well-financed clearing corporation.

As a result of this unexpected opposition to the proposed rule, the Commission resolicited comment [2] to learn more about the OTC government options market, the prospect for public investor participation in it, and the regulatory alternatives for dealing with it.

Six comment letters were received in response to the Resolicitation Release.[3] After the Commission staff had considered these comments and discussed with a number of the commentators the issues raised, the Commission reproposed Rule 3a12–7 with a provision limiting its application to OTC government options relating to underlying securities representing obligations of $250,000 or more. No further comments were received.

II. Discussion

As noted above, the Commission, in the exercise of administrative discretion, has not sought to impose the expense of registration and associated reporting, recordkeeping and financial requirements upon firms otherwise exempt from these requirements but for an incidental involvement in OTC government options. The rule adopted today, in part, formalizes this policy, conforms with Congressional expectations of an exemption for these products [4] and, of course, does not prevent the Commission from revisiting the exemption should problems arise in the future.

While some commentators warned that an exemption would leave few ways to assure or even to assess the good faith or financial responsibility of the obligor on the exempted options, others argued that this was no more true with respect to OTC government options than with respect to various other contractual arrangements relating to government securities, such as forward delivery contracts or dealer-financed cash purchases.[5]

In the Commission's view, the Exchange Act should not be applied comprehensively to firms doing business in government securities and OTC options on them without either evidence of abuse or specific Congressional direction. Such comprehensive regulation of OTC government options would more appropriately be considered as part of an overall review of the government securities market and not limited to a single product such as OTC government options.[6]

The Commission does, to some extent, share the concerns cited by commentators of potential selling practice abuses occurring in an unregulated trading environment for OTC government options. Therefore in order to help insure that the exemption is utilized only in the professional/institutional market it is aimed at, the Commission has limited the rule adopted today to options on debt instruments having aggregate principal amounts of $250,000 or more. While this limitation cannot preclude the sale of OTC government options to individual investors, particularly options well out-of-the-money (which generally have smaller premiums), the limitations should at least inhibit such sales efforts and should do so at very little inconvenience to the professional/institutional type of business that currently characterizes the OTC government options market.[7]

For the reasons stated above, the Commission adopts Rule 3a12–7 as set out below.

III. Regulatory Flexibility Act Considerations

The Chairman of the Commission certified in connection with the Proposing and Modifying Releases that Rule 3a12–7, if adopted, would not have a significant economic impact on a substantial number of small entities. None of the comments addressed the certification.

IV. Effects on Competition and Other Findings

Section 23(a)(2) of the Act [8] requires the Commission, in adopting rules under the Act, to consider the anti-competitive effect of such rules, if any, and to balance any impact against the regulatory benefits gained in terms of furthering the purposes of the Act. The Commission has considered Rule 3a12–7 in light of the standards cited in Section 23(a)(2) and believes that adoption of Rule 3a12–7 will not impose any burden on competition not necessary or appropriate in furtherance of the Act. As stated herein, the rule is designed to prevent unnecessary burden to traders, and insofar as it contains limitations, they are designed to promote the purposes of the Act by protecting the public against unscrupulous or financially irresponsible persons.

The Commission finds, in accordance with the Administrative Procedure Act,[9] that the adoption of Rule 3a12–7 relieves statutory registration and other requirements and is exemptive in nature. Accordingly, the Commission has determined to make the foregoing action effective immediately upon publication in the **Federal Register.**

List of Subjects in 17 CFR Part 240

Reporting and recordkeeping requirements, Securities.

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[2] Securities Exchange Act Release No. 19512 (February 10, 1983) 48 FR 6291 (February 28, 1983) ("Resolicitation Release").

[3] For further discussion of these letters, see Securities Exchange Act Release No. 20060 (August 12, 1983), 48 FR 37430 (August 18, 1983) ("Modifying Release").

[4] In connection with the legislation enacting the SEC/CFTC Jurisdictional Accord, both the Senate Committee on Banking, Housing and Urban Affairs and the House Committee on Energy and Commerce stated that they expected the Commission to define OTC government options as exempted securities. S. Rep. No. 390, 97th Cong., 2d Sess. 5 n. 2 (1982); H.R. Rep. No. 626, Pt. 1, 97th Cong., 2d Sess. 9 and 12 (1982). It should be noted, however, that Congress has since taken some action on its own, exempting OTC options on Federal Home Loan Mortgage Corporation certificates. Pub. L. No. 98–35, 98th Cong., 1st Sess., Section 5.

[5] *See* Resolicitation Release and Modifying Release.

[6] Although the market in exchange-traded government options has been and will continue to be fully regulated, this was anticipated when the SEC/CFTC Accord legislation was enacted. Such an approach was based on the greater accessibility of the listed options markets to individual public investors and the perception that such markets would be more closely associated in the minds and expectations of investors with the Commission's traditional regulatory role. If, for example, OTC government options were to become standardized and substantial public trading activity were to develop, the Commission believes it might be appropriate to revisit this exemption. This development is not, however, a present prospect.

[7] As noted in the Modifying Release, $250,000 was selected as a minimum because it represents the minimum principal amount for a mortgage package that can be guaranteed by GNMA. The Commission's understanding is that OTC government options generally are of substantially greater denominations, typically $1 million or more.

The wording proposed in the Modifying Release has been slightly amended to make clear that the obligations underlying an exempted option must in total represent $250,000 or more, rather than that the exempted option may relate only to at least one security individually representing a $250,000 obligation.

[8] 15 U.S.C. 78w(a)(2).

[9] 5 U.S.C. 553(d).

V. Statutory Basis

Rule 3a12-7 is adopted under the Act, 15 U.S.C. 78a *et seq.*, and particularly Sections 3(a)(12), 15(a)(2) and 23(a) [15 U.S.C. 78c(a)(12), 78*o*(a)(2) and 78w(a)].

VI. Text of the Amendment

PART 240—[AMENDED]

On the basis of the above discussion and analysis, the Commission amends Part 240 of Chapter II of Title 17 of the Code of Federal Regulations by adding § 240.3a12-7 as follows:

§ 240.3a12-7 Exemption for certain derivative securities traded otherwise than on a national securities exchange.

Any put, call, straddle, option, or privilege traded exclusively otherwise than on a national securities exchange and for which quotations are not disseminated through an automated quotation system of a registered securities association, which relates to any securities which are direct obligations of, or obligations guaranteed as to principal or interest by, the United States, or securities issued or guaranteed by a corporation in which the United States has a direct or indirect interest as shall be designated for exemption by the Secretary of the Treasury pursuant to section 3(a)(12) of the Act, shall be exempt from all provisions of the Act which by their terms do not apply to any "exempted security" or "exempted securities," provided that the securities underlying such put, call, straddle, option or privilege represent an obligation equal to or exceeding $250,000 principal amount.

By the Commission.

Dated: February 6, 1984.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84-3740 Filed 2-9-84; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 8

[Docket No. RM83-67-000]

Revision of Licensed Hydropower Development Recreation Report: FERC Form 80

Issued: February 6, 1984.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final rule; notice of effective date and OMB control number.

SUMMARY: On November 27, 1983 the Federal Energy Regulatory Commission issued a final rule in Docket No. RM83-67-000, 48 FR 53,090 (November 25, 1983), revising FERC Form 80, Licensed Hydropower Development Recreation Report. This document gives notice of the effective date and of the OMB control number for § 8.11 of the final rule.

EFFECTIVE DATE: This rule was effective January 24, 1984.

FOR FURTHER INFORMATION CONTACT: Karen Hurwitz, Rulemaking and Legislative Analysis Division, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, (202) 357-8033.

SUPPLEMENTARY INFORMATION: The Paperwork Reduction Act, 44 U.S.C. 3501-3520 (Supp. V 1981) and the Office of Management and Budget's (OMB) regulations, 5 CFR Part 1320 (1983), require that OMB approve certain information collection requirements imposed by agency rule. On January 20, 1984, OMB approved the information collection requirements of § 8.11 and issued control number 1902-0106 for that section. The final rule in Docket No. RM83-67-000 was effective on January 24, 1984.

§ 8.11 [Amended]

1. Section 8.11 is amended by adding "(Approved by the Office of Management and Budget under control number 1902-0106)," to the end thereof.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-3561 Filed 2-9-84; 8:45 am]

BILLING CODE 6717-01-M

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18 CFR Part 35

[Docket No. RM83-62-000]

Treatment of Purchased Power in the Fuel Cost Adjustment Clause for Electric Utilities; Correction

Issued: February 7, 1984.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of receipt of OMB approval and control number for final rule; corresponding correction.

SUMMARY: This document gives notice of receipt of approval by the Office of Management and Budget of the information collection provisions of a final rule issued by the Commission in Docket No. RM83-62-000 (Order No. 352) on December 7, 1983, and of receipt of an OMB control for those provisions. The final rule, which will be effective on February 13, 1984, amends the Commission's regulations with respect to the treatment of purchased power costs in the fuel cost adjustment clause for electric utilities. This document also amends the final rule by adding the OMB control number to the Commission's regulations.

DATE: As provided for in Order 352, the rule is effective on February 13, 1984.

FOR FURTHER INFORMATION CONTACT: Wilbur Earley, (202) 357-8158 or Robert S. Angyal, (202) 357-8228, Office of Regulatory Analysis, Federal Energy Regulatory Commission, Room 3000, 825 North Capitol Street NE., Washington, D.C. 20426.

SUPPLEMENTARY INFORMATION: On December 7, 1983, the Commission issued a final rule amending its regulations on the treatment of purchased power costs in the fuel cost adjustment clause used by electric utilities. Order No. 352, Docket No. RM83-62-000, 25 FERC ¶ 61,378, 48 FR 55429 (December 13, 1983). Because certain provisions of the final rule appeared to be subject to the Paperwork Reduction Act of 1980, 44 U.S.C. 3501-3520 (1982), those provisions were submitted to the Office of Management and Budget for review, and for the assignment of a control number upon approval by OMB.

OMB has now notified the Commission that it has approved the provisions of the rule submitted to it for review. OMB has assigned those provisions the following control number: 1902-0096. Accordingly, by this document, the Commission is amending its final rule to incorporate the OMB control number. The effective date of the rule is February 13, 1984.

The following correction is made in FR Doc. 83-33009, appearing on page 55437 of the December 13, 1983 issue of the **Federal Register**:

PART 35—[AMENDED]

§ 35.14 [Amended]

1. § 35.14 is amended by removing the period at the end of that paragraph (a)(12)(v) and adding the following:

(OMB) control No. 1902-0096)

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-3069 Filed 2-9-84; 8:45 am]

BILLING CODE 6717-01-M

18 CFR Parts 154, 157, 375 and 381

[Docket No. RM 82-25-000; Order No. 360]

Fees Applicable to Producer Matters Under the Natural Gas Act

Issued: February 6, 1984.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final rule.

SUMMARY: The Federal Energy Regulatory Commission (Commission) is amending its regulations to establish fees for the services and benefits it provides to producers under the Natural Gas Act. This rule is the first of a series of rules to be issued on fees. These fees are authorized by the Independent Offices Appropriations Act. That Act provides for the collection of fees to make agencies "self-sustaining to the full extent possible."

EFFECTIVE DATE: This rule will become effective April 25, 1984.

FOR FURTHER INFORMATION CONTACT: Karen S. Hurwitz, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, (202) 357-8033.

SUPPLEMENTARY INFORMATION:

I. INTRODUCTION

The Federal Energy Regulatory Commission (Commission) is adding a new Part 381 to its regulations to establish fees for services and benefits provided to natural gas producers under the Natural Gas Act (NGA).[1] This rule establishes the following fees for producer matters: (1) Blanket certificate for a small producer, $800; (2) producer certificate of public convenience and necessity, $1600; and (3) changes in producer rate schedules, $300. This rule is one part of the Commission's ongoing program to establish fair and equitable fees for the services and benefits provided to those entities subject to the Commission's regulatory jurisdiction. To establish Docket No. RM82-25-000 a major part of the fee structure for the Commission's NGA activities, this rule is being issued at the same time as the Commission's rule establishing fees for natural gas pipeline rate changes under the NGA (*see* companion Docket No. RM83-2-000].

II. BACKGROUND

The Commission is authorized under the Independent Offices Appropriation Act of 1952 (IOAA) to establish fees for services and benefits it provides.[2] The IOAA provides in pertinent part:

> [A]ny work, service, publication, report, document, benefit, privilege, authority, use, franchise, license, permit, certificate, registration, or similar thing of value or utility performed, furnished, provided, granted, prepared, or issued by any Federal agency . . . to or for any person . . . shall be self-sustaining to the full extent possible, and the head of each Federal agency is authorized by regulation . . . to prescribe therefore such fee, charge, or price, if any, which he shall determine, in case none exists, or redetermine, in case of an existing one, to be fair and equitable taking into consideration the direct and indirect costs to the Government, value to the recipient, public policy or interest served, and other pertinent facts, and any amounts so determined or redetermined shall be collected and paid into the Treasury as miscellaneous receipts . . . .

The principal interpretation of the IOAA is Bureau of the Budget Circular A-25,[3] which states that a fee should be assessed for each measurable unit or amount of government service or property from which an identifiable recipient derives a special benefit.[4]

In accordance with the IOAA and authoritative interpretations of that statute,[5] the Commission, in establishing any fee, must:

(a) Identify the service for which the fee is to be assessed;

(b) Explain why that particular service benefits an identifiable recipient more than it benefits the general public;

(c) Base the fee on as small a category of service as practical;

(d) Demonstrate what direct and indirect costs are incurred by the Commission in rendering the service, and show that those costs are incurred in connection with the service rendered to the beneficiary; and

(e) Set a fair and equitable fee for the service.

For the reasons detailed below, the Commission believes that the fees set forth in this final rule meet these requirements of the IOAA.

III. SUMMARY AND ANALYSIS OF COMMENTS

The services and benefits provided to producers under the NGA for which the Commission is instituting a fee are the following:

1. $800 for Commission review of applications for blanket certificates for small producers under section 7(c) of the NGA, filed in accordance with 18 CFR 157.40(b).

2. $1600 for Commission review of applications by producers for certificates of public convenience and necessity under section 7(c) of the NGA, filed in accordance with 18 CFR Part 157.

3. $300 for Commission review of changes in producer rate schedules under section 4 of the NGA, filed in accordance with 18 CFR 154.94.

A. Identification of Services

A small producer is an independent producer of natural gas who is not affiliated with a Class A natural gas pipeline company and whose total jurisdictional sales on a nationwide basis, together with such sales by affiliated producers, were not in excess of 10,000,000 Mcf at 1473 psia (60° F) during the preceding calendar year. To lessen the burden of filing requirements on small producers of gas, the Commission, under section 7(c) of the NGA, permits sales by small producers under a blanket certificate which covers all existing and future sales by the small producer subject to certain limitations.[6] The blanket certificate benefits the small producer in two important ways. First, it is a one time filing covering all existing and future jurisdictional small producer sales. This differs from large producers, who must secure a certificate for every new service. Second, the

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[1] 15 U.S.C. 717-717w (1976 & Supp. V 1981).

[2] Act of Aug. 31, 1951, Ch. 376, Title v, 501, 65 Stat. 290, *as codified*, 31 U.S.C. 483(a) (1970).

[3] Bureau of the Budget Circular A-25 (September 23, 1959). This interpretation has been cited by the United States Supreme Court as "the proper construction of the act." FPC v. New England Power Co., 415 U.S. 345, 351 (1974).

[4] Budget Circular A-25, at 1-2:

> *General Policy.* A reasonable charge . . . should be made to each identifiable recipient for a measurable unit or amount of Government service or property from which he derives a special benefit . . . For example, a special benefit will be considered to accrue and a charge should be imposed when a Government-rendered service:
>
> a. Enables the beneficiary to obtain more immediate or substantial gains or values (which may or may not be measurable in monetary terms) than those which accrue to the general public (e.g., receiving a patent, crop insurance, or a license to carry on a specific business); or
>
> b. Provides business stability or assures public confidence in the business activity of the beneficiary (e.g., certificates of necessity and convenience for airline routes, or safety inspections of craft). . . .
>
> c. Is performed at the request of the recipient and is above and beyond the services regularly received by other members of the same industry or group, or of the general public (e.g., receiving a passport, visa, airman's certificate, or an inspection after regular duty hours).

[5] *See* National Cable Television Association, Inc. v. United States, 415 U.S. 336 (1974); FPC v. New England Power Co., 415 U.S. 345 (1974); Mississippi Power & Light v. NRC, 601 F.2d 223 (5th Cir. 1979); National Cable Television Association, Inc. v. FCC, 554 F.2d 1094 (D.C. Cir. 1976); Electronic Industries Association v. FCC, 554 F.2d 1109 (D.C. Cir. 1976); National Association of Broadcasters v. FCC, 554 F.2d 1118 (D.C. Cir. 1976); Capital Cities Communications, Inc. v. FCC, 554 F.2d 1135 (D.C. Cir. 1976).

[6] See 18 CFR 157.40.

blanket certificate holder does not need to file its rate schedules with the Commission, and thus, does not have the obligation of filing all of its changes in rate schedules like the large producer.

A large producer is a producer whose total jurisdictional sales are in excess of 10,000,000 Mcf. Large producers under the NGA are required under section 7(c) of the Act to obtain from the Commission a certificate of public convenience and necessity prior to commencing any sale of gas for resale in interstate commerce. In certain situations is where the natural gas involved was committed or dedicated to interstate commerce on or before November 8, 1978, producers are required to file for authority to commence new sales and to modify existing certificate authority where appropriate. A certificate of public convenience and necessity benefits an applicant by allowing the applicant to engage in the business of sale for resale of natural gas.

Applications for producer certificates of public convenience and necessity and blanket certificates for small producers are processed by the Office of Pipeline and Producer Regulation (OPPR). Each application is noticed in the **Federal Register** and is reviewed for conformity with the Commission's regulations. A draft order is prepared and reviewed by the Office of the General Counsel for legal sufficiency. In most cases, the Director of OPPR conducts an abridged statutory hearing required under 18 CFR 385, Subpart H, and issues a certificate under delegated authority pursuant to 18 CFR 375.307.

All large producers are required to file rate schedules with the Commission detailing the terms, conditions, and rates for each of their jurisdictional gas sales contracts. Changes in such schedules cannot be made without prior notice to the Commission and the public. The Commission, under section 4 of the NGA, reviews changes in rate schedules filed by producers. Each of these changes must be analyzed to determine whether it conforms to the Commission's rules and regulations.

Large producers file changes in their rate schedules under § 154.94 of the NGA. These changes are reviewed and analyzed by the Rate Filing Branch of OPPR for conformity with statutes, Commission regulations or orders, and contractual entitlement. This review and analysis ensures that the changes are in the public interest and are just and reasonable. Once this analysis is complete, a staff memorandum on whether to approve or disapprove is prepared and submitted to the Office of the General Counsel for review. Then, the Director of OPPR reviews the staff memorandum and issues a letter of acceptance or rejection.

One commenter argues that there should not be a fee for changes in producer rate schedules because a rate increase is not always the subject of the change. While it is true that a rate increase is not always involved, Commission staff goes through the same procedure on all rate filings, whether or not a rate increase is involved, and must make a finding that the non-rate change filings conform to the Commission's rules and regulations as well. In addition, the Commission considers that it is reasonable to assume, for the purposes of this rule, that the majority of such filings will meet the standards for approval. Thus, the minor number of rejected filings should not control the application of a fee. Further, a producer can refile a change in rate schedule knowing what was found lacking on the first review. For these reasons, the Commission believes it reasonable to impose a fee for all filings for changes in producer rate schedules.

A number of commenters argue that the Commission should not include the costs associated with abandonments with the costs associated with certificates because the two are separate proceedings, and because an abandonment provides no benefit to a producer. The Commission has decided to exclude the costs of abandonments from the costs of certificates in devising its fees. The Commission agrees that an abandonment is not part of the same application or proceeding. Further, the Commission has decided not to charge a separate fee for applications for abandonment in this rule for two reasons. First, it believes that such fees could cause undue economic hardship on producers whose wells are no longer producing gas. And second, the Commission wants to encourage all producers to obtain the necessary abandonment authorization. However, the Commission has not concluded, as a final matter, that there is no benefit associated with an abandonment, and may consider instituting a fee for an abandonment in future rules.

A number of commenters state opposition to charging a fee for a certificate application filed to cover the sale of gas which is awaiting a jurisdictional agency determination under the NGPA that the gas will be produced from a new lease on the Outer Continental Shelf and, thus, ultimately exempted from NGA jurisdiction. Also, one commenter states that since no abandonment filing is required for sales from new OCS leases, the abandonment fee component should be removed from any fees charged for gas which is ultimately removed from NGA jurisdiction.[7] While it may be true that some of the applicants initially subject to the NGA are ultimately exempted from that Act, not all are. Further, the Commission goes through the same procedure in processing those certificates that are ultimately exempted. Therefore, there will be no blanket exemption from fees in such cases.

One commenter argues the Commission should give separate treatment to hearings and interventions in its fee calculations. The Commission has not established a fee for hearings in the producer area. Such hearings in the producer NGA area are extremely rare, leaving the Commission without sufficient data to establish a fee. Furthermore, some producer hearings held under the NGA might benefit one identifiable recipient more than they protect the general public interest. Absent more data on the nature of producer hearings held under the NGA, the Commission has decided not to establish a fee for filings set for hearings in this final rule. Under other circumstances, however, the Commission may be able to reach a different conclusion on the issue of charging fees for hearings. Hence, the Commission does retain the right to directly bill [see III. H. below] an applicant for the costs associated with a hearing in the producer area where the hearing provides a private benefit to an identifiable recipient and where the filing requires an extraordinary amount of Commission time and effort to process.

One commenter says that the Commission should not charge a fee for petitions for rehearing. It states that the rehearing process is a prerequisite to judicial review, and the IOAA provides no authority for the Commission to impose economic barriers to judicial review.

The Commission has decided not to establish a fee for filing a petition for rehearing at this time. In those cases where the applicant petitions for rehearing seeking a private benefit, the Commission believes it could charge a fee for reviewing that petition. However, there are also cases where an entity petitions for rehearing in the public's interest. In those cases, the Commission does not believe it would be reasonable to impose a fee. Because of the large

[7] As noted above, the work-months associated with applications for abandonment will be separately recorded and will not be included with the work-months associated with certificate applications.

administrative burden involved in trying to segregate which rehearing petitions could be subject to a fee and because of our decision not to charge a fee for producer hearings, the Commission has also decided not to set a fee for a petition for rehearing at this time.

Another commenter says the Commission should not charge a fee for rulemakings. The Commission is not charging a fee for rulemakings in this rule. The Commission is also not charging a fee for a number of other actions it takes relating to gas producers under the NGA. Those actions include declaratory orders, preliminary and formal enforcement investigations, enforcement-related settlements and litigation, news releases and litigation in the courts. As for preliminary and formal enforcement investigations, enforcement-related settlements and litigation, news releases, and litigation in the courts, the Commission believes that these actions generally result in a benefit to the public at large, and do not manifest the necessary, identifiable benefit to an individual entity. This is especially true in enforcement-related matters. As for rulemakings and declaratory orders, while the Commission believes that these actions might warrant fees, the Commission has decided not to establish a separate fee category for these items as they pertain to NGA producer certificate and rate matters.[8]

B. Special Benefits to Identifiable Recipients

In delineating the services or benefits for which agencies are permitted to charge under the terms of the IOAA, Budget Circular A-25 states that a fee may be charged to an identifiable recipient who derives a special benefit from a Government service.[9] In addition, the circular states that a "special benefit" has accrued if the recipient obtains "more immediate or substantial gains or values than those which accrue to the general public."[10]

A number of commenters state that in order to be classified as an allowable "fee" under the IOAA, a particular charge must be incident to a voluntary act. Changes in producer rate schedules and certificate applications, they say, are not voluntary acts but are required by the NGA and the Commission's regulations. This type of argument has previously been rejected in *National Cable Television Association, Inc. v. FCC*, 554 F.2d 1094 (D.C. Cir. 1976), and *Mississippi Power & Light v. NRC*, 601 F.2d 223 (5th Cir. 1979).

In response to the argument put forth by cable television operators that they receive no benefit from an FCC license because the cable television industry would have developed better without FCC regulation, the D.C. Circuit in *National Cable Television* said "[a]ll that may be true, but these distinctions have no relevance here. The fact is that the FCC has undertaken to regulate this industry and has so far been sustained by the Supreme Court in this endeavor, with the result that a certificate of compliance has become a necessary and therefore valuable license." [11] The Fifth Circuit in *Mississippi Power & Light* similarly held that since a license from the NRC is an absolute prerequisite to operating a nuclear facility, that license is a benefit not shared by other members of society.[12] Hence, the Commission believes this issue has been settled by the courts and need not be the subject of further discussion in this rule.

Many commenters argue that the proposed rule fails to explain how producers receive a greater benefit from the Commission's regulations than the general public. They claim that the Commission's regulations offer no greater benefit than the authorization to price and sell natural gas in interstate commerce in conformity with a regulatory scheme which benefits only the general public. Other commenters raise related arguments. That the Commission's regulation of producer prices and actions is not a benefit but a detriment to producers; that consumers are the real beneficiaries of producer regulation; that the courts have held the purpose of the entire natural gas regulatory scheme is to keep consumer natural gas prices low; and that the Commission itself has recognized that NGA certificate and rate review functions primarily benefit consumers.

While consumers may be ultimate beneficiaries from the regulation of natural gas, that is not determinative of the Commission's right to charge fees under the IOAA. The IOAA provides for the collection of fees for any "work, service, publication, document benefit, privilege, authority, use, franchise, license, permit, certificate, registration, or similar thing of value or utility." [13] Processing producer applications and rate schedule filings are the types of services for which the IOAA expressly authorizes the collection of fees. Not only is the statute clear on its face, but the D.C. Circuit has held that a fee otherwise authorized by the IOAA is not rendered invalid because the public may also enjoy downstream benefits.[14]

Furthermore, while it is true that in 1965 the Federal Power Commission (FPC) took an opposite approach toward fees, that approach does not prevent this successor Commission from adopting a different policy. Not until the 1970's did the courts begin reviewing fee structures of various agencies. It was after those cases were decided that the law became sufficiently clear, the Commission now believes that it can reasonably charge fees for the services and benefits provided to specific applicants.

C. Smallest Practical Unit

In designing a fee schedule, the Commission should establish fees on the smallest unit or category of service that is practical. In remanding fees established by the FCC, the United States Court of Appeals for the D.C. Circuit set forth the most authoritative interpretation of this IOAA requirement as follows:

> [W]e interpret the statute and the Supreme Court decisions to require reasonable particularization of the basis for the fees, accomplished by an allocation of costs to the smallest unit that is practical. In most cases, we expect this unit will be classes of carriers or applicants or grantees or services which the Commission has already singled out for separate treatment in its 1975 fee schedule. Classification is always a difficult problem, involving as its does the drawing of lines; but the solution is not to group dissimilar entities together. The Commission must examine its expenses and set forth the maximum particularization of costs which it conveniently can make, so that the correctness of its actions can be reviewed.[15]

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[8] The Commission is considering, in other rulemakings, both fees for declaratory orders under all of its jurisdictional statutes and fees to recover the costs of certain rulemakings. In those cases, the Commission believes that there are special benefits provided to identifiable recipients.

[9] Budget Circular A-25, at 1-2.

[10] *Id.* at 2.

[11] 554 F.2d at 1101-02.

[12] 601 F.2d at 229.

[13] 31 U.S.C. 483(a) (1970).

[14] Electronics Industries Association v. FCC, 554 F.2d 1109, 1115 (D.C. Cir. 1976). In that case, petitioners argued that fees should not be assessed for tariff filings or equipment testing and approval. The court answered that even though both activities were required by statute, the FCC was entitled to charge for services which assisted a person in complying with his statutory duties. Such services, the court said, create an independent private benefit since they provide a means for the carrier to obtain its revenues and to regulate subscriber use of its facilities. The court concluded that although the statute was enacted in order to protect the public against excessive or unreasonably discriminating or preferential charges, that result in only an incidental benefit from the service which is rendered by the agency, *i.e.*, providing the means for carriers to comply with the statute.

[15] Electronic Industries Association v. FCC, 554 F.2d 1109, 1116-17 (D.C. Cir 1976).

Further, Budget Circular A–25 states that "costs shall be determined or estimated from the best available records in the agency, and new cost accounting systems will not be established solely for this purpose."[16]

The Commission, in keeping with Budget Circular A–25, is classifying its fees by types of applications or proceedings. The Commission has calculated its fees from its Management Information Systems (MIS). The MIS is an agency system established to track workload. This MIS tracks time, by work-months, based on types of applications or proceedings. The Commission is establishing one fee for an entire application or proceeding because that application or proceeding is the smallest unit practical for the Commission to develop fees.[17]

D. Basis of Cost Recovery

1. Direct and Indirect Costs Included

The Commission's fee schedule is designed to account for all types of recoverable costs associated with the processing of the specified applications and filings under the NGA. The costs attributable to a particular Commission service are not merely the salaries of the employees who review the applications or filings. The attributable costs include the direct salary costs as well as the substantial amount of indirect costs which the Commission expends in its reviews. As the Fifth Circuit has stated, employees

> . . . must be supplied with working space, heating, lighting, telephone service and secretarial support. Arrangements must be made so that . . . [they are] hired, paid on a regular basis and provided specialized training courses. Those and other costs such as depreciation and interest on plant and capital equipment are all necessarily incurred in the process of reviewing an application.[18]

Accordingly, the Commission has included in its identification of costs the following items: salaries and benefits; travel; transportation of things; rents; communications and utilities; printing; other support services; supplies; and equipment.

2. Methodology

(a) Underlying Considerations

The Commission's calculation of the costs of providing each of the services represented by a fee category is directly related to the amount of time the Commission spends providing each of the services. The fees in this rule are based on information obtained through the Commission's Management Information System (MIS), which provides the amount of time spent on all Commission functions. The functions are grouped into categories which represent the Commission's various programs, including gas wellhead pricing, gas pipeline rates, gas pipeline certificates, gas producer certificates, gas producer rates, oil pipeline regulation, hydropower regulation, and electric power regulation. The MIS workload data is recorded on a monthly basis.

With respect to each function, the supervisor records for the MIS the number of projects initiated (receipts) and completed (completions) in a particular time period. Most Commission functions can be measured in terms of the number of projects initiated and completed. In accordance with Commission practice, these projects are generally assigned docket numbers and, for purposes of this discussion, will be referred to as "docketed activities". The supervisor in each organization unit reports to the MIS the amount of time spent by staff on each functional category in terms of work-months. A "work-month" is the unit of work represented by one employee's devotion of 100% of his or her time for one month. Time sheets are coded by functional categories and are filled out Commission wide every two weeks. The supervisor checks employee time sheets for accuracy in coding.

Support functions regularly undertaken, with respect to any program, are not docketed and may not be measured in terms of receipts and completions. The nature of these functions makes impractical any measurements in terms of receipts and completions, but these functions are nevertheless essential to the completion of any docketed activity. This time is also allotted and reported by unit supervisors in terms of work-months.

Only those support activities that are related to providing a benefit are included in the calculations. These support functions will be referred to as "support activities" and can be divided into three categories. First, there are support activities that involve general supervision, personnel management, and routine administrative functions such as maintenance of time and leave records, the handling of property and supplies, staff meetings, and the planning and organizing of leave. This category can be labeled as "administrative services" and is included in the fee structure because it is essential to the FERC's ability to complete docketed activities.

Second, support staff responds to requests for information that may not contribute directly to the completion of a docketed activity. Examples include requests for information from the public, from the Congress, from the General Accounting Office, and from other governmental agencies. The Commission has excluded from its calculation of fees the work-months associated with this second category of "inquiries and internal communications" because this type of support activity is not involved in completing docketed activities.

Third, support staff establishes or reviews certain Commission operations and procedures. This is "technical management and operations." These activities include work on the FERC budget, management information systems, and program development functions such as special studies or briefings on relevant subjects, but which are not identified with just one docketed activity. This category is therefore an integral part of completing docketed activities.

The comments indicate confusion as to the difference between indirect costs and support functions. While both are types of indirect costs, they are channeled into the cost calculation at different times. Direct and indirect costs (such as physical plant overhead) are added together to come up with an average monthly cost per Commission employee of ($4,770.67). That figure is multiplied by the time (in work-months) taken to review a type of application. Support activities represent work-months expended which cannot be allocated directly to each individually tracked, docketed activity. Therefore, the work-months used in the fee calculation consist both of time actually spent reviewing a particular type of application and also a pro-rata share of the time spent on support activities associated with reviewing that type of application.

(b) Calculation of Fee Amounts

For purposes of this rule, the Commission has used the following methodology to determine the cost of providing any service or benefit. First, the work-months reported for a class of docketed activity are added to a pro-rata share of the work-months reported for the relevant support activities for that activity. This figure, representing the total number of work-months dedicated to a class of docketed activity for a year, is divided by the number of completions for that year for the given activity. The resulting quotient

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[16] Budget Circular A–25, at 3.

[17] The Commission has recently updated the MIS by starting to track its workload on a new system (Time Distribution Reporting System) which may provide an even greater degree of accuracy of Commission workload. At this time, however, the Commission does not have a year's worth of data to develop actual fees from the new system.

[18] Miss. Power & Light v. NRC, 601 F.2d at 232.

represents the average number of work-months required to complete one proceeding in that given class of docketed activity.

Second, the Commission used the following data provided by its Office of Program Management to figure the average cost of a work-month, based on the Commission's fiscal year 1983 actual costs.

Salaries and benefits [1]	$46,228
Travel	726
Transportation of things	7
Rents, communications and utilities	3,185
Printing	1,899
Other Services—excludes direct program contracts	4,684
Supplies	477
Equipment	42
Total	57,248

[1] Based on year end payroll data and benefits at 26 percent.

The total was divided by 12 to yield an average work-month cost of $4,770.67.

Third, in order to determine the cost of an activity, the Commission multiplied the average cost per work-month by the average number of work-months required to complete the activity.[19]

There were numerous complaints about the cost methodology proposed in the Notice of Proposed Rulemaking, such as inadequate information to verify the costs, calculations based on salary and overhead from one year and time per project from another year, use of budgeted figures as opposed to actual figures, use of average work-month costs rather than median or mode, and use of only one year for determining fees.

As for what costs are permissible for inclusion, the IOAA provides for the collection of fees which include both direct and indirect costs to the Government. Thus, there is no reason to exclude any item except for support functions relating to inquiries and internal communications, as discussed above. Second, in devising its fee schedule, the Commission is authorized to "determine or estimate [its costs] from the best available records in the agency." [20] For this Commission, that means the MIS.

The Notice of Proposed Rulemaking (NOPR), 47 FR 20621 (May 13, 1982) used 1982 budgeted figures to determine its costs, and 1981 actual completions and work-months in the fee calculation.

[19] Updated data sheets have been placed in the Commission's Public File Room detailing the calculations.

[20] Budget Circular A–25, at 3.

Further, the method of updating the fees was tied to 1981. Each subsequent year was to be adjusted by the change in costs between the base year and the year in consideration. Many commenters argue that 1981 may not be a typical year for completions and work-months, and thus, should not be the base year. The Commission agrees with this argument, and believes it is much more accurate to calculate fees from actual completions and work-months, as well as actual costs. The Commission has decided to use actual fiscal year figures in this rule as well as in updating the fees in subsequent years (see section III E. below). This approach keeps data more current and is more representative of what actual fees should be. Therefore, the Commission has calculated the fees in this rule from actual fiscal year 1983 direct and indirect costs, completions, and work-months. This eliminates any inaccuracies which could arise from using budgeted figures.

Finally, a number of commenters claim that the Commission should not use an agency-wide figure for determining its direct costs. Instead, they maintain that the Commission should determine producer fees based on the salary of only those employees processing producer filings. As permitted under the requirements of Budget Circular A–25, since the Commission's accounting system employs an agency-wide figure, the Commission has used an agency-wide figure as the basis for its costs.

One commenter claims that the Commission gives no consideration to the number of staff personnel actually involved in a specific activity, but rather the commenter says the Commission assumes it will operate with a full staff. The Commission's MIS calculates work-months for every office at the end of each month, based on the number of full time employees actually working at the time of calculation. Thus, no assumptions are involved at all.

E. Actual Fees Established and Procedure for Updating Fees

The following table summarizes for 1983 the total number of work-months, and completions, and the average cost per completion in rendering the producer services for which the Commission is establishing fees in this final rule.

Service	Total WM's in 1983	Total completions in 1983	Average number WM's per completion in 1983	Average cost per completion in 1983
Review of applications for blanket certificates for small producers	32.7	179	.18	$858.72
Review of applications for producer certificates of public convenience and necessity	152.75	434	.35	1,669.73
Review of producer changes in rate schedules	249.4	3,472	.07	333.94

The following fees are therefore established: [21]

Services	Fee
Review of application for a blanket certificate for a small producer	$[illegible]
Review of application for a producer certificate of public convenience and necessity	1,600
Review of filing establishing a change in producer rate schedule	[illegible]

The Commission will update its fees each year to reflect the most current Commission costs. An updated fee schedule will be published annually in the **Federal Register**, after the close of the preceding fiscal year. The updated fees will be based on actual completions, work-months and costs from the preceding fiscal year. In this way, the fees will reflect, using the most current data available, the benefits to the recipients.

F. Exceptions to Full Cost Recovery

1. Reductions in Fee Amounts by Category

The Commission has established in this rule fees which include all the recoverable costs associated with the particular benefits and services provided. The Commission, based on its expertise, recognizes that there may be instances in the future in which establishing full cost recovery fees would have an adverse effect on applicants, or would undermine Commission activities. In such cases, the Commission may exercise discretion to reduce fees to less than full cost

[21] Fees are established by taking actual costs and rounding *down* to:

(1) The nearest $5 increment, if the total cost is $100 or less; and

(2) The nearest $100 increment, if the total cost is more than $100.

recovery in order to prevent a disproportionate economic impact or for other good cause. Good cause would include situations where the Commission wishes to encourage use of a service, where less Commission time is required than staff time, or where there is a reduction in the amount of time required to process a filing. Any reduction in a fee would be initiated only by the Commission by rulemaking. The same percentage of reduction would carry over to subsequent years unless further notice was given by the Commission that it was altering that reduction.

Two commenters say that the Commission needs more specific guidelines in this area, particularly to include undue economic hardship as a standard. The Commission believes that the standards enumerated are sufficiently specific, particularly since any categorical reductions in fee amounts will be done by means of a rulemaking. Moreover, any determination on whether to establish a fee at less than full cost recovery amount would take into account economic hardship, as discussed above, if it applies to a class of applicants. This is to be distinguished from the situation where an individual producer can demonstrate severe economic hardship and qualify for a waiver, as discussed below.

2. Case-by-Case Waiver Procedure

The Commission also realizes that a different situation could arise in which an individual applicant is unable to pay fees as set by the Commission due to severe economic hardship. The Commission does not expect this to happen often in the producer areas covered by this rule. If an applicant is suffering from a period of severe economic hardship, the applicant will have the burden of presenting evidence, such as a financial statement, to the Commission showing that the applicant is either economically unable to pay the fee, or that if the applicant does pay the fee, it will place the applicant in a state of financial distress or emergency. As stated by the D.C. Circuit:

> The applicant for waiver must articulate a specific pleading, and adduce concrete support, preferably documentary.[22]

This material must be included with the petition for waiver at the time of filing the application. The Commission, or its designee, will analyze petitions for waiver to determine whether the standards for waiver have been met. The Commission will notify the applicant as to whether the petition for waiver has been denied or accepted.

[22] United Gas Pipe Line Company v. FERC, 707 F.2d 1507, 1511 (D.C. Cir. 1983).

G. Procedures for Paying Fees

The Commission's notice states that fees must be submitted by certified check, made payable to the United States Treasury. A number of commenters argue that there is no reason to require certified checks. They state that a corporate check should be sufficient.

The Commission has decided to delete the certified check requirement. However, a check made payable to the United States Treasury must still be included with the filing or application, unless a petition for waiver is submitted in lieu of the fee. The check must indicate for what the fee is being submitted, *e.g.*, producer certificate of public convenience and necessity. This may be written on the bottom of the check. If the filing or application is not accompanied by either the appropriate fee or a petition for waiver, it will be considered deficient and will not be processed.

Two commenters complain of the Commission's decision to exclude the possibility of fee refunds. They argue that the Commission should include a provision in the final rule whereby an applicant could receive a refund if the application was rejected on grounds other than nonpayment of fees, or if the Commission did not respond within a reasonable amount of time. One commenter also argues the Commission must provide for refunds so that Commission business can continue while the proposed fees are undergoing judicial review.

The Commission's decision not to allow refunds is consistent with the policy behind the IOAA. That statute authorizes and orders Government agencies to become self-sustaining to the fullest extent possible. To do so, the agency is to collect fees for services and benefits it provides. The Congress gave this Commission the duty of carrying out the Natural Gas Act, part of which is to administer producer certificates and to review rate schedules. These are the services for which the IOAA authorizes the collection of fees. The service is reviewing the application or the rate change, not guaranteeing the issuance of a certificate or an increase in rates. The Commission reviews every application or rate change equally. Some are accepted, some are not, but the vast majority are accepted. The Commission's fees cover the time and cost of providing these services. It does not cost the Commission any less when it rejects an application or a rate change. Furthermore, the Commission's decision not to allow refunds is consistent with its current policy of no refunds of fees and annual charges under the NGA under Part 159 of the Commission's regulations.

H. Direct Billing

The methodology used to establish the fees in this rule is based on the actual time of processing filings and the actual agency-wide costs involved with this processing. The Commission takes the actual work-months associated with a class of docketed activity and divides it by the number of completions in that class to arrive at an average number of work-months per completion. That figure is then multiplied by the average cost per work-month to arrive at the fee.

However, the Commission occasionally receives filings which are not average. These filings may be extensive in scope and present factual, legal, or policy issues of such complexity that the Commission may devote an extraordinary amount of time and effort to processing them. The standard fees established in this rule bear no reasonable relationship to the actual cost of processing those extraordinary filings. Moreover, if the costs of processing extraordinary filings are included in the costs associated with average filings, persons submitting average filings would be subsidizing those submitting the extraordinary filings. Therefore, in the case of an extraordinary filing, the Commission reserves the option of ordering a direct billing procedure at the beginning of processing the filing or at any time up to one year after receiving a complete filing. While the Commission does not expect direct billings to be used often in the fee areas covered by this rule, it is necessary to allow this degree of flexibility. Also, direct billings may prove to be useful in other fee areas.

Under the direct billing procedure, the Commission will periodically bill the entity that submitted the filing for all the direct and indirect costs incurred by the Commission in processing the filing, unless a lesser amount is determined to be fair and equitable. If the decision to bill a lesser amount is based upon the presence of intervenors in a proceeding, the Commission is retaining the discretion to determine whether some of the costs not directly billed to an applicant should instead be billed to the intervenors. The Commission doubts this will occur frequently since intervenors in many instances are raising issues oriented toward protecting the public interest as opposed to a private interest. Any decision to directly bill intervenors will be made on a case-by-case basis when a hearing is actually held in the NGA producer area.

The staff resources devoted to processing a filing resulting in a direct billing will be separately recorded and will not be included in the work-months associated with processing average filings. This final rule also requires the Commission to credit an applicant whose filing becomes subject to direct billing with any fee paid under this fee system.

Seven commenters address this issue and each state that the direct billing procedure is entirely too vague. These commenters object to this direct billing method because they claim that the complexity of a filing might result simply from the participation of intervenors, that it is impossible to know beforehand if a matter will be complex, and that a proceeding may be complex because it contains important public policy issues where the potential benefit to the applicant is secondary to that of the public or to other industry members. A suggestion has been made that if the Commission does require direct billings in complex cases, it should allocate the fees among the intervenors as well as the applicant since the intervenors receive the same benefit as the original applicant. The Commission recognizes the points made by these commenters but, as indicated above, there is no reason to determine this issue generically in light of the Commission's decision not to establish a fee for filings set for hearings. The possible allocation of some costs to intervenors in direct billing situations will be handled on a case-by-case basis.

Also, a commenter requests that the Commission itemize all direct billings so that there will be a means of appealing the billed amount. Finally, one commenter suggests that, in the case of unsuccessful staff contests of filings, there be no additional direct billing costs.

Almost all of the filings in the producer areas covered by this rule are average in complexity and time spent. As noted above, it is rare to have an application go to hearing. Therefore, the number of times that the Commission expects to have direct billings of these producer fees is small. Where there is a direct billing, the Commission will itemize, to the best degree of accuracy under the MIS, the costs involved in the direct billing. There is no way the Commission can estimate in advance what the costs will be, but once the party is advised that direct billing will be used, it can then decide whether or not to pursue the matter in the filed application.

IV. SUMMARY OF FINAL RULE

This final rule establishes fees for services and benefits provided by the Commission to producers under the NGA in new Part 381 of Chapter 1, Title 18 of the Code of Federal Regulations.

Section 381.101 states the purpose of Part 381.

Section 381.102 provides the definition of "person", "work year cost", "work-month", and "filing".

Section 381.103 provides that each filing must be accompanied either by the proper fee or petition for waiver, or the filing will be considered deficient. Section 381.103 also provides that if a filing for one service or benefit could be considered as falling within two or more fee categories, the higher or highest of the respective fees is the applicable fee.

Section 381.104 requires the publication of an updated fee schedule each year to reflect the most current Commission costs and the resulting NGA producer fees.

Section 381.105 provides the appropriate method of payment of fees.

Section 381.106 provides that the Commission, or its designee, may in the case of severe economic hardship waive a fee for an individual applicant. Such a waiver depends on the individual applicant providing the Commission with evidence that the applicant is either unable to pay the fee, or, that if the applicant does pay the fee, the applicant will be placed in a state of financial distress or emergency. Such evidence would include a financial statement, and must be submitted at the time of filing the application. The Commission, or its designee, will notify the applicant as to whether the waiver has been denied or accepted. If the petition is denied, the applicant has 30 days from date of the notification of denial to submit the appropriate fee.

Section 381.107 provides that the Commission may order any filing, the processing of which requires an extraordinary amount of time and staff resources, to be subject to fees based upon a direct billing procedure. Any fees paid under Part 381 upon submission of the filing would be credited against the direct billings.

Section 381.201 establishes a $800 fee payable upon the submission of an application for a blanket certificate for a small producer under section 7(c) of the NGA.

Section 381.202 establishes a $1,600 fee payable upon submission of an application for a producer certificate of public convenience and necessity under section 7(c) of the NGA.

Section 381.203 establishes a $300 fee payable upon the filing of a producer change in rate schedule under section 4 of the NGA.

In addition, this rule makes a number of technical, conforming amendments to the Commission's regulations. These conforming amendments address the above-mentioned categories of service and ensure that the requirement for each producer to file the proper fee with the application or rate schedule filing is clearly stated in the appropriate sections of Parts 154, 157, and 375.

V. FINAL REGULATORY FLEXIBILITY ANALYSIS

When an agency promulgates a final rule under section 553 of the Administrative Procedure Act (APA), 5 U.S.C. 553, after being required by that section or any other law to publish a notice of proposed rulemaking, a final regulatory flexibility analysis may be appropriate under the Regulatory Flexibility Act of 1980. Each final regulatory flexibility analysis must contain (1) a statement of need for the rule, (2) a summary of the issues raised by the public comments in response to the initial regulatory flexibility analysis, and the agency response to those comments, and (3) a description of alternatives to the rule consistent with the stated objectives of the applicable statute which the agency considered and ultimately rejected.

In this preamble, the Commission has already detailed its reasons for this agency action, its objectives, and the legal basis for this rulemaking. As discussed, the rule establishes a schedule of fees to be paid to the Commission for certain benefits it provides, in accordance with the IOAA and Budget Circular A–25.

This rule affects natural gas producers. There are approximately 10,000 natural gas producers in the United States. The Small Business Administration's (SBA) regulations do not establish size standards for producers.[23] However, some producers would probably be classified as small businesses. Therefore, this rule may have some degree of economic impact on a number of small producers. But, there is no reason to expect that this impact will be significant for a substantial number of those small producers. Further, in the case of blanket certificates for small producers, there is only a one time fee for all small

[23] 5 U.S.C. 601(3) *citing to* section 3 of the Small Business Act, 15 U.S.C. 632 (Supp. V 1981). Section 3 of the Small Business Act defines "small-business concern" as a business which is independently owned and operated and which is not dominant in its field or operation. *See also* SBA's Small Business Size Standards, 13 CFR Part 121 (1983)

producer sales, after which the small producer, unlike a large producer, is not required to file rate changes, and therefore will not incur any additional fees.

Only one commenter discusses the Initial Regulatory Flexibility Analysis. The commenter simply states that the Commission's analysis is inadequate, and that the Commission does not consider the possibility of not imposing fees.

The Commission believes it followed the requirements of the Regulatory Flexibility Act in its notice of proposed rulemaking. Further, while the Commission has operated for a long time without charging fees for these categories of filings, its adoption of this fee schedule is authorized by statute.

Concerning the impacts on producers, and in particular small producers the final rule addresses those cases where there is either a disproportionate economic burden or severe economic hardship on a producer. The rule contains a provision for waiver of fees for an individual applicant which could protect small producers from undue economic hardship. However, the Commission is also required to satisfy the IOAA's statutory directive to be "self sustaining to the full extent possible." Hence, there is no blanket exemption for small entities. The Commission believes the rule as now promulgated represents a fair balance between the purposes of both the IOAA and the Regulatory Flexibility Act.

VI. PAPERWORK REDUCTION ACT STATEMENT AND EFFECTIVE DATE

The information collection provisions in § 381.106(b) of this rule will be submitted to the Office of Management and Budget (OMB) for its approval under the Paperwork Reduction Act, 44 U.S.C. 3501–3520 (Supp. V 1981), and OMB's regulations, 5 CFR Part 1320 (1983). Interested persons can obtain information on the information collection provisions by contacting the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, DC., 20426 (Attention: Karen Hurwitz, (202) 357–8033). Comments on the information collection provisions can be sent to the Office of Information and Regulatory Affairs of OMB (Attention: Desk Officer for the Federal Energy Regulatory Commission).

This rule will become effective April 25, 1984. If OMB's approval and control number have not been received by this effective date, the Commission will issue a notice temporarily suspending the effective date.

List of Subjects

18 CFR Parts 154 and 157

Natural gas.

18 CFR Part 375

Authority delegations (Government agencies), Seals and insignia, Sunshine Act.

18 CFR Part 381

Natural gas, General fees.

In consideration of the foregoing the Commission is amending Chapter I, Title 18, *Code of Federal Regulations*, as set forth below.

By the Commission.

Kenneth F. Plumb.

Secretary.

PART 154—RATE SCHEDULES AND TARIFFS

1. The authority citation for Part 154 is revised to read as follows:

Authority: Natural Gas Act, 15 U.S.C. 717–717z (1976 & Supp. V 1981); Department of Energy Organization Act, 42 U.S.C. 7101–7352 (Supp. V 1981); Executive Order 12009, 3 CFR 142 (1978).

2. In § 154.94, a new sentence is added at the end of paragraph (a) to read as follows:

§ 154.94 Changes in rate schedules.

(a) * * * Each filing of a change in rate schedule must be accompanied by the appropriate fee prescribed in § 381.203 of this chapter, unless a petition for waiver is submitted in lieu thereof under § 381.106 of this chapter.

* * * * *

PART 157—APPLICATIONS FOR CERTIFICATES OF PUBLIC CONVENIENCE AND NECESSITY AND FOR ORDERS PERMITTING AND APPROVING ABANDONMENT UNDER SECTION 7 OF THE NATURAL GAS ACT

3. The authority citation for Part 157 is revised to read as follows:

Authority: Secs. 7, 16, 52 Stat. 824, as amended, 830; 15 U.S.C. 717f, 717*o*; Executive Order 12009, 3 CFR 442 (1978); Independent Offices Appropriations Act, 31 U.S.C. 483a (1970), unless otherwise noted.

4. In § 157.24, a new paragraph (c) is added at the end thereof to read as follows:

§ 157.24 Contents of application.

* * * * *

(c) Each application for a certificate of public convenience and necessity required under § 157.23 must be accompanied by the appropriate fee prescribed in § 381.202 of this chapter, unless a petition for waiver is submitted in lieu thereof under § 381.106 of this chapter.

5. In § 157.40, a new paragraph (b)(7) is added to read as follows:

§ 157.40 Exemption of small producers from certain filing requirements.

* * * * *

(b) * * *

(7) Each application for a blanket certificate by a small producer must be accompanied by the appropriate fee prescribed in § 381.201 of this chapter, unless a petition for waiver is submitted in lieu thereof under § 381.106 of this chapter.

* * * * *

PART 375—THE COMMISSION

6. The authority citation for Part 375 is revised to read as follows:

Authority: Department of Energy Organization Act, 42 U.S.C. 7101–7352 (Supp. V 1981); Executive Order 12009, 3 CFR 142 (1978); Administrative Procedure Act, 5 U.S.C. 553 (1976 & Supp. V 1981).

7. In § 375.307, new paragraph (u) is added at the end thereof to read as follows:

§ 375.307 Delegation to the Director of the Office of Pipeline and Producer Regulation.

* * * * *

(u) Deny or accept, in whole or in part, petitions for waiver of the fees prescribed in §§ 381.201, 381.202, and 381.203 of this chapter, in accordance with § 381.106(b) of this chapter.

8. In Part 375, a new § 375.313 is added to read as follows:

* * * * *

Subpart C—Delegations

* * * * *

§ 375.313 Delegations to the Executive Director.

The Commission authorizes the Executive Director or the Executive Director's designee to prescribe the updated fees for §§ 381.201, 381.202, and 381.203 of this chapter, in accordance with § 381.104 of this chapter.

9. In Subchapter W, a new Part 381 is added to read as follows:

SUBCHAPTER W—REVISED GENERAL RULES

* * * * *

PART 381—FEES

Subpart A—General Provisions

Sec.

381.101 Purpose.
381.102 Definitions.
381.103 Filings.

Sec.
381.104 Annual adjustment of fees.
381.105 Method of payment.
381.106 Waivers.
381.107 Direct billing.

Subpart B—Fees Applicable To The Natural Gas Act And Related Authorities

381.201 Blanket certificates for small producers.
381.202 Producer certificates of public convenience and necessity.
381.203 Changes in producer rate schedules.

Subpart C—Fees Applicable To General Functions [Reserved]

Subpart D—Fees Applicable to the Natural Gas Policy Act of 1978 [Reserved]

Subpart E—Fees Applicable to the Federal Power Act [Reserved]

Subpart F—Fees Applicable to the Public Utility Regulatory Policies Act of 1978 [Reserved]

Subpart G—Fees Applicable to the Interstate Commerce Act and Related Authorities [Reserved]

Authority: Department of Energy Organization Act 42 U.S.C. 7102–7352 (Supp. V 1981); E.O. 12,009, 3 CFR 442 (1978); Independent Offices Appropriations Act, 31 U.S.C. 483a (1970); Natural Gas Act, 15 U.S.C. 717–717z (1976 and Supp. V 1981); Federal Power Act, 16 U.S.C. 791a–828c (1976 & Supp. V 1981); Natural Gas Policy Act, 15 U.S.C. 3301–3432 (Supp. V 1981); Public Utility Regulatory Policies Act, Pub. L. 95–617, 92 Stat. 3117 (1978), Interstate Commerce Act, 49 U.S.C. 1–27 (1976), unless otherwise noted.

Subpart A—General Provisions

§ 381.101 Purpose.

The purpose of this part is to set forth the fees charged by the Commission for services and benefits provided by the Commission.

§ 381.102 Definitions.

For purposes of this part, the following definitions apply.

(a) "Person" means any person, group, association, organization, partnership, corporation, or business, except those authorized to engage in the transaction of official business for the United States Government.

(b) "Work year cost" means the ratio of the Commission's budgeted expenses during any given fiscal year to the authorized staff level for that fiscal year.

(c) "Work-month" means the amount of work represented by one employee's devotion of 100 percent of his or her time for one month.

(d) "Filing" means any application, tariff or rate filing, intervention, complaint, petition, request, or motion submitted to the Commission in connection with any of the services or benefits for which a fee is established in this part.

§ 381.103 Filings.

(a) *Submittal of fees.* Except as provided in § 381.106(b), a fee in the amount set forth in this part shall accompany each filing for which a fee has been established.

(b) *Deficiencies.* (1) Any filing that is not accompanied by either the fee established for that filing or a petition for waiver in accordance with § 381.106(b) is deficient.

(2) The Secretary will inform any person submitting a deficient filing that:

(i) Such filing will be rejected unless the appropriate fee is submitted within a time specified by the Secretary;

(ii) The Commission will not process any filing that is deficient under this paragraph; and

(iii) The date of filing is the date on which the Commission receives the appropriate fee.

(3) This provision does not preclude a determination that a filing is deficient for any other reason.

(c) *Choice of two or more fees.* If a filing for one service or benefit may be considered as falling within two or more categories or services for which a fee is established, that filing must be accompanied by the higher or highest of the applicable fees.

§ 381.104 Annual adjustment of fees.

(a) *Update and publication.* The Commission, by its designee the Executive Director, will update its fees each fiscal year according to the formula in paragraph (c) of this section. The Executive Director will publish the fees in the **Federal Register.**

(b) *Payment of updated fees.* Any person who submits a filing for which a fee is established in this part must pay the currently effective fee unless a waiver is granted.

(c) *Formula.* The formula for determining each fee is the actual work-months dedicated to a given fee category for the previous fiscal year divided by the number of actual completions in the previous fiscal year multiplied by the average cost per work-month in the previous fiscal year. The fee is rounded down to the nearest $5 increment if the fee is $100 or less, and the nearest $100 increment if the fee is more than $100.

(d) *Effective date of fee.* Any fee updated under this section is effective on the thirtieth day after publication in the **Federal Register** of the revised sections in this part, unless otherwise specified in the **Federal Register** notice.

§ 381.105 Method of payment.

Fee payment shall be made by check or money order payable to the Treasurer of the United States. The check should state the nature of the filing and the docket number where applicable so that the fee category for which the check is being submitted is clearly identifiable.

§ 381.106 Waivers.

(a) *Filing of petition.* If an applicant is suffering from severe economic hardship at the time of filing an application which makes the applicant economically unable to pay the appropriate fee for the application, rate change, tariff, petition, request or other filing requiring a fee, the applicant may submit a petition for waiver with the application in lieu of the applicable fee. The petition for waiver must include evidence, such as a financial statement, clearly showing either that the applicant does not have the money to pay all or part of the fee, or that if the applicant does pay the fee, the applicant will be placed in financial distress or emergency.

(b) *Decision on petition.* The Commission or its designee will analyze each petition to determine whether the applicant has met the standards for waiver and then will notify the applicant of its grant or denial, in whole or in part. If the petition is denied, the applicant will have 30 days from the date of notification of the denial to submit the appropriate fee to the Commission.

§ 381.107 Direct billing.

(a) *Applicability.* If a filing presents an issue of fact law, or policy, procedural difficulty, or technical complexity, which requires an extraordinary amount of Commission time and effort to process the filing, the Commission will institute a direct billing procedure for the direct and indirect costs of processing that filing. The Commission will make a direct billing determination under this paragraph not later than one year after receiving a complete filing from an applicant. Fees assessed by a direct billing procedure in accordance with this section will supersede the fees otherwise established in this part for the category of service involved.

(b) *Procedures.* (1) Direct billing will not be instituted with respect to any filing until the person who submitted the filing is notified that direct billing will be applied to the filing in lieu of the fees established under this part.

(2) Any fee submitted with the filing will be applied, as a credit, to the amount billed directly for processing costs. The Secretary will thereafter periodically bill the person who submitted the filing for the actual direct and indirect costs of processing the filing.

(3) If the Commission institutes a direct billing for the costs of a hearing and reduces the fee to the applicant to less than full cost recovery due to the presence of intervenors, the Commission will consider, on a case-by-case basis, direct billing the intervenors for all or part of the reduced portion.

Subpart B—Fees Applicable to the Natural Gas Act and Related Authorities

§ 381.201 Blanket certificates for small producers.

The fee established for an application for a blanket certificate for a small producer is $800.00. This fee must be submitted in accordance with Subpart A of this part and § 157.40(b).

§ 381.202 Producer certificates of public convenience and necessity.

The fee established for an application for a producer certificate of public convenience and necessity is $1,600.00. This fee must be submitted in accordance with Subpart A of this part and § 157.24.

§ 381.203 Producer changes in rate schedules.

The fee established for filing producer changes in rate schedules is $300.00. This fee must be submitted in accordance with Subpart A of this part and § 154.94.

Subpart C—Fees Applicable to General Functions [Reserved]

Subpart D—Fees Applicable to the Natural Gas Policy Act of 1978 [Reserved]

Subpart E—Fees Applicable to the Federal Power Act [Reserved]

Subpart F—Fees Applicable to the Public Utility Regulatory Policies Act of 1978 [Reserved]

Subpart G—Fees Applicable to the Interstate Commerce Act and Related Authorities [Reserved]

[FR Doc. 84-3587 Filed 2-9-84; 8:45 am]
BILLING CODE 6717-01-M

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18 CFR Parts 154 and 381

[Docket No. RM83-2-000; Order No. 361]

Fees Applicable to Natural Gas Pipeline Rate Matters

Issued: February 6, 1984.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final rule.

SUMMARY: The Federal Energy Regulatory Commission is amending its regulations to establish fees for the services and benefits it provides pipelines with regard to pipeline rate matters under the Natural Gas Act. This is the second of a series of rules to be issued on fees. These fees are authorized by the Independent Offices Appropriations Act. That Act provides for the collection of fees to make agencies "self-sustaining to the full extent possible."

EFFECTIVE DATE: This rule will become effective April 25, 1984.

FOR FURTHER INFORMATION CONTACT: Karen S. Hurwitz, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426 (202) 357-8033.

SUPPLEMENTARY INFORMATION:

I. INTRODUCTION

The Federal Energy Regulatory Commission (Commission) is adding a new Part 381 to its regulations to establish fees for services and benefits provided to natural gas pipelines under the Natural Gas Act (NGA) and related authorities.[1] This rule establishes the following fees for pipeline rate matters: (1) Tariff filings for general changes in rates and for changes other than in rates, $2,000; (2) tariff filings that track certain changes in costs, $2,300; and (3) petitions seeking advance approval of rate treatment of research, development, and demonstration expenditures, directly billed.

This rule is the companion rule to Docket No. RM83-2-000, which sets the fees for NGA producer matters. Together, these rules establish a major part of the Commission's fee structure for activities under the NGA, and are key parts of the Commission's ongoing program to establish fair and equitable fees for the services and benefits provided to those entities subject to the Commission's regulatory jurisdiction.

II. BACKGROUND

The Commission is authorized under the Independent Offices Appropriation Act of 1952 (IOAA) to establish fees for services and benefits it provides.[2] The IOAA provides in pertinent part:

> [A]ny work, service, publication, report, document, benefit, privilege, authority, use, franchise, license, permit, certificate, registration, or similar thing of value or utility performed, furnished, provided, granted, prepared, or issued by any Federal agency . . . to or for any person . . . shall be self-sustaining to the full extent possible, and the head of each Federal agency is authorized by regulation . . . to prescribe therefore such fee, charge, or price, if any, which he shall determine, in case none exists, or redetermine, in case of an existing one, to be fair and equitable taking into consideration the direct and indirect costs to the Government, value to the recipient, public policy or interest served, and other pertinent facts, and any amounts so determined or redetermined shall be collected and paid into the Treasury as miscellaneous receipts . . .

The principal interpretation of the IOAA is Bureau of the Budget Circular A-25,[3] which states that a fee should be assessed for each measurable unit or amount of government service or property from which an identifiable recipient derives a special benefit.[4]

In accordance with the IOAA and authoritative interpretations of that statute,[5] the Commission, in establishing any fee, must:

(a) Identify the service for which the fee is to be assessed;

(b) Explain why that particular service benefits an identifiable recipient more than it benefits the general public;

(c) Base the fee on as small a category of service as practical;

(d) Demonstrate what direct and indirect costs are incurred by the

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[1] 15 U.S.C. 717-717z (1976 & Supp. V 1981). The Natural Gas Policy Act (NGPA), 15 U.S.C. 3301-3432 (1976 and Supp. V 1981) relates to the fees in this rule with respect to the Commission's jurisdiction over costs associated with purchase gas adjustments, incrementally priced gas, and transactions under section 311 of the NGPA.

[2] Act of Aug. 31, 1951, Ch. 376, Title V, 501, 65 Stat. 290, *as codified*, 31 U.S.C. 483(a) (1970).

[3] Bureau of the Budget Circular A-25 (September 23, 1959). This interpretation has been cited by the United States Supreme Court as "the proper construction of the act." FPC v. New England Power Co., 415 U.S. 345, 351 (1974).

[4] Budget Circular A-25, at 1-2:

General Policy. A reasonable charge . . . should be made to each identifiable for a measurable unit or amount of Government service or property from which he derives a special benefit . . . For example, a special benefit will be considered to accrue and a charge should be imposed when a Government-rendered service:

a. Enables the beneficiary to obtain more immediate or substantial gains or values (which may or may not be measurable in monetary terms) than those which accrue to the general public (e.g., receiving a patent, crop insurance, or a license to carry on a specific business); or

b. Provides business stability or assures public confidence in the business activity of the beneficiary (e.g., certificates of necessity and convenience for airline routes, or safety inspections of craft) . . . .

c. Is performed at the request of the recipient and is above and beyond the services regularly received by other members of the same industry or group, or of the general public (e.g., receiving a passport, visa, airman's certificates, or an inspection after regular duty hours).

[5] *See* National Cable Television Association, Inc. v. United States, 415 U.S. 336 (1974); FPC v. New England Power Co., 415 U.S. 345 (1974); Mississippi Power & Light v. NRC, 601 F.2d 223 (5th Cir. 1979); National Cable Television Association, Inc. v. FCC, 554 F.2d 1094 (D.C. Cir. 1976); Electronic Industries Association v. FCC, 554 F.2d 1109 (D.C. Cir. 1976); National Association of Broadcasters v. FCC, 554 F.2d 1118 (D.C. Cir. 1976); Capital Cities Communications, Inc. v. FCC, 554, F.2d 1135 (D.C Cir. 1976).

Commission in rendering the service, and show that those costs are incurred in connection with the service rendered to the beneficiary; and

(e) Set a fair and equitable fee for the service.

For the reasons detailed below, the Commission believes that the fees set forth in this final rule meet these requirements of the IOAA.

III. SUMMARY AND ANALYSIS OF COMMENTS

The services and benefits provided to pipelines under the NGA for which the Commission is instituting a fee are the following:

1. $2,000 for Commission review of pipeline tariff filings for general changes in rates and for changes other than in rates under section 4 or section 5 of the NGA, filed in accordance with 18 CFR 154.63.

2. $2,300 for Commission review of pipeline tariff filings that track certain changes in costs under section 4 or section 5 of the NGA, filed in accordance with 18 CFR 154.38 or pursuant to approved tariff provisions, orders of the Commission or settlement agreements with the Commission.

3. Direct billings for Commission review of petitions seeking advance Commission approval of rate treatment of research, development, and demonstration expenditures filed in accordance with 18 CFR 154.38(d)(5).

A. Description and Identification of Services Related to Pipeline Filings

At the outset, the Commission can identify a variety of services and activities that provide direct benefits to the applicant involved, as required under the IOAA and Budget Circular A-25. Without the performance of these services, the applicants would not be able to transport and sell gas. Therefore, the applicants involved are the recipients of special benefits that have more immediate value than those which accrue to the general public.

1. Tariff Filings

Commission acceptance of tariff filings that involve general changes in rates permits the pipeline to make the following changes [6] in rates: (1) General rate changes (increases or decreases) that affect the level for most, if not all, of the services provided by the pipeline and will enable it to recover its costs and earn a fair rate of return on jurisdictional sales; [7] and (2) minor rate increases that usually relate to a few rate schedules and are designed to bring them into harmony with general tariff policy, to eliminate inequities, or to achieve other formal adjustment. A pipeline must submit any change in its rates to the Commission for its review and acceptance.

Commission acceptance of tariff filings for changes other than in rates allows the pipeline to amend an existing gas tariff to change the terms and conditions of service. Such filings, if accepted by the Commission, permit changes in the general terms and conditions of the tariff, rate schedules, service agreements and other miscellaneous tariff provisions, none of which changes any rate level or generates a change in annual revenues.[8] A pipeline must submit any change in its gas tariff to the Commission for its review and acceptance.

Natural gas pipeline tariff filings are processed principally by the Office of Pipeline and Producer Regulation (OPPR) and the Office of General Counsel (OGC). A notice of the filing is published in the **Federal Register.** The filing is analyzed from a legal and technical standpoint to determine whether the proposed changes comply with the Commission's requirements for natural gas pipeline tariff filings, and, in the case of tariff filings that involve general changes in rates, whether the changes are consistent with the statutory "just and reasonable" standard.

If the filing is determined to comply with all statutory and regulatory requirements and is uncontested, the Commission staff prepares a letter order accepting the changes, together with a memorandum in which the staff summarizes the filing and the responses to the public notice, analyzes the filing, and makes a recommendation to accept the changes. The letter order and memorandum are sent either to the Commission or to the Director of OPPR for consideration. If the recommendations of staff are accepted, the letter order is issued by the Commission or by the Director of OPPR pursuant to delegated authority.

If the changes are found not to comply fully with applicable statutory and regulatory requirements, staff prepares a memorandum to the Commission in which staff summarizes the filing and the responses to the public notice, analyzes the filing, and makes recommendations whether to suspend the filing and set the matter for hearing. If the Commission does not set the matter for hearing, a letter order accepting the changes is issued either by the Commission or by the Director of OPPR pursuant to delegated authority.

In those cases where the Commission agrees with the staff recommendation to set the matter for hearing or determines that a genuine issue of material fact exists, the tariff filing is suspended and the case is set for hearing before an administrative law judge.

2. Tracking Filings

Another category of tariff filings permits the pipeline to adjust its rates for certain costs without the need to support the level of all other costs. These so-called "tracking filings" are treated separately for purposes of fees. Natural gas pipelines pass through certain "tracked costs" (such as for purchased gas) to their customers on the basis of the costs incurred.[9] The pipelines are reimbursed dollar-for-dollar for these tracked costs. Although the pipelines make no profit from pass-through of these costs, they avoid the attrition in earnings that would otherwise occur without tracking authority. In permitting pipelines to track certain costs for pass-through, the Commission has found that the nature of these costs is sufficiently distinguishable from other costs so that they can be tracked without jeopardizing the overall relationship between costs and revenues. Even so, this relationship is subject to periodic review. *See, e.g.,* 18 CFR 154.38(d)(4)(vi) (1983). The tracking filings themselves are subject to thorough review and analysis to ensure that only the proper costs are being tracked.

Tracking filings are also processed principally by OPPR and OGC. A notice of the filing is published in the **Federal Register**. The filing is also analyzed from a legal and technical standpoint to determine both if it meets the Commission's filing requirements and if it comports with the provisions of any approved tariff Commission order or settlement agreement which the tracking filing is intended to implement.

If the filing is determined to comply with all the above requirements and is

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[6] 18 CFR 154.63(a)(2)-(4) (1983).

[7] Sections 4 and 5 of the NGA, 15 U.S.C. 717c, 717d (1976 & Supp. V 1981).

[8] The Commission has incorporated into the proposed fees for pipeline certificate applications the costs incurred in reviewing tariff filings that relate directly to a natural gas pipeline certificate authorization or amendment thereto. Therefore, the Commission is not, in this rulemaking, assessing a separate fee for tariff filings submitted in connection with a pipeline certificate application.

[9] The Commission has the responsibility under sections 4 and 5 of the NGA to ensure that all rates charged by pipelines for the interstate transportation and sale of natural gas are just and reasonable, regardless of whether these rates are established by general rate change filings or by tracking filings.

uncontested, the Commission staff prepares a letter order accepting the tracking filing, together with a memorandum in which staff summarizes the filing and makes a recommendation to accept the tracking filing. The letter order and memorandum are sent either to the Commission or to the Director of OPPR. If the recommendations of staff are accepted, the letter order is issued either by the Commission or by the director of OPPR pursuant to delegated authority.

If the tracking filing is found not to comply fully with applicable statutory and regulatory requirements or not to implement properly the provisions of approved tariff provisions, Commission orders, or settlement agreements, the staff prepares a memorandum to the Commission in which the staff summarizes the filing and the responses to the public notice, analyzes the filing, and makes a recommendation whether to suspend the filing and set the matter for hearing. If the Commission decides not to set the matter for hearing, a letter order accepting the tracking filing is issued either by the Commission or by the Director of OPPR pursuant to delegated authority. In those cases where the Commission agrees with the staff recommendation to set the matter for hearing or determines that a genuine issue of material fact exists, the tracking filing is suspended and the case is set for hearing before an administrative law judge.

The NOPR proposed to recover the Commission costs associated with audits and refunds as they relate to tracking filings. However, the Commission now believes that it cannot reasonably find a particular identifiable benefit to the applicant in these services. For that reason, the Commission has excluded these costs from the calculation of the fee for tracking filings.

3. Research, Development, and Demonstration Expenses

Petitions that are filed by the pipelines, groups of pipelines, or entities acting on behalf of pipelines to obtain advance Commission approval for pass-through of research, development, and demonstration expenditures are processed by OPPR. A notice of the filing is published in the **Federal Register**.

The staff reviews the proposed projects and submits a memorandum to the Commission examining whether the expenditures are "valid, justifiable, and reasonable" [10] and, therefore, should be allowed to be passed through to the pipeline's jurisdictional customers. The Commission then considers the matter and issues an order either accepting or rejecting the petition, in whole or in part.

The Gas Research Institute, acting on behalf of its member pipelines, regularly files petitions to obtain advance Commission approval of its research, development, and demonstration expenditures. When the Gas Research Institute files such a petition, the Commission follows a special procedural schedule. The staff prepares a report in which it summarizes the proposed projects and discusses whether the expenditures are "valid, justifiable, and reasonable" and whether pass-through of the costs should be allowed. The report is sent to all intervenors.[11] Reply comments on the report from intervenors and final comments from the Gas Research Institute are then submitted to the Commission. The Commission then issues an order either accepting or rejecting the Gas Research Institute's petition, in whole or in part.

4. Hearings

The Notice of Proposed Rulemaking (NOPR), 47 FR 57943 (December 29, 1982), also proposed a fee structure that included charging for hearings held in connection with the categories of services involved in this rule—tariff filings that involve general rate changes, tariff filings for changes other than in rates, and tariff filings that track changes in costs. For several reasons, the Commission has decided not to charge fees to recover the costs of hearings related to the fee categories established in this rule.

First, a number of commenters contend that if the Commission chooses to charge a fee for tariff filings that are set for hearing, the Commission should charge a portion of that fee to parties which intervene. It is true that, in some instances, the intervenors raise issues related directly to their own welfare and not so related to overall public interest considerations. At other times, intervenors may be protecting the public interest to a greater extent than any identifiable recipient. Thus, it might be appropriate to charge intervenors, but only if the Commission expends the effort to distinguish between these two situations. This administrative obstacle complicates considerably the ability of the Commission to establish fee categories that include recovery of hearing costs.

Second, the Commission customarily does not track the time it spends on hearings on a case-by-case basis. Thus, it is not possible under the present circumstances to determine precisely how much of each hearing fee would be related directly to intervenors.

Third, the Commission believes that the range of complexity among hearings is so great that an "average hearing fee" might be viewed as unduly burdensome on many parties. If hearing costs are tracked more closely on a case-by-case or type-by-type basis, any potential inequity from an averaging approach can be avoided.

The above reasons outline the administrative and practical problems for the Commission to charge for hearings in the present circumstances. Even though the Commission could elect to charge for fees in this rule, the Commission, in its discretion, has decided not to do so at this time.

Therefore, this rule does not include a separate hearing fee category and does not include costs associated with hearings in any of the fee categories tha' are specified in this rule. The Commission may in the future reconsider its position on this point. Meanwhile, the Commission does retain the right to directly bill [*see* Section III.H below] an applicant for the costs associated with a hearing in the pipeline area where the hearing provides a private benefit to an identifiable recipient and where the hearing requires an extraordinary amount of Commission time and effort to process.

5. Other Considerations

The Commission is not establishing in this rulemaking fees for a number of other activities related to natural gas pipeline rate matters. Those actions include rehearings, declaratory orders, rulemakings, preliminary and formal enforcement investigations, enforcement-related settlements and litigation, news releases, and litigation in the courts. As for preliminary and formal enforcement investigations, enforcement-related settlements and litigation, news releases, and litigation in the courts, the Commission believes that these actions generally result in a benefit to the public at large, and do not manifest the necessary, identifiable benefit to an individual entity. This is especially true in enforcement related matters.

As for rulemakings and declaratory orders, while the Commission believes that these actions might warrant fees, the Commission has decided not to establish a separate fee category for these items as they pertain to NGA

[10] 18 CFR 154.38(d)(5)(1983).

[11] All state public utility commissions and all members of the Gas Research Institute automatically are made intervenors.

pipeline rate matters.[12] Finally, as for rehearings, in those cases where a petitioner for rehearing is seeking a private benefit, the Commission believes that it could charge a fee for reviewing that petition. However, there are also cases where an entity's petition for rehearing raises issues that are primarily in the public's interest. In those cases, the Commission does not believe it would be reasonable to impose a fee. Due to the administrative burden that would be involved in trying to segregate which petitions could be charged, the Commission has decided not to set a fee for petitions for rehearing or to include the costs associated with rehearings into the fee categories established in this rule.

B. Special Benefits to Identifiable Recipients

In delineating the services or benefits for which agencies are permitted to charge under the terms of the IOAA, Budget Circular A–25 states that a fee may be charged to an identifiable recipient who derives a special benefit from a Government service.[13] In addition, the circular states that a "special benefit" has accrued if the recipient obtains "more immediate or substantial gains or values than those which accrue to the general public."[14]

All of the commenters argue that there are no special benefits to natural gas pipelines that will substantiate a fee. Furthermore, many claim it is the public that receives the benefits of these filings. And, they say, it is the Commission's responsibility under the IOAA to show that the pipelines are receiving the benefits of these Commission services.

These arguments have previously been rejected in *National Cable Television Association, Inc. v. FCC*, 554 F. 2d 1094 (D.C. Cir. 1976), and *Mississippi Power & Light v. NRC*, 601 F. 2d 223 (5th Cir. 1979). In response to the argument put forth by cable television operators that they receive no benefit from an FCC license because the cable television industry would have developed better without FCC regulation, the D.C. Circuit in *National Cable Television* said "[a]ll that may be true, but these distinctions have no relevance here. The fact is that the FCC has undertaken to regulate this industry and has so far been sustained by the Supreme Court in this endeavor, with the result that a certificate of compliance has become a necessary and therefore valuable license."[15] The Fifth Circuit in *Mississippi Power & Light* similarly held that since a license from the NRC is an absolute prerequisite to operating a nuclear facility, that license is a benefit not shared by other members of society.[16] Hence, the Commission believes this issue has been settled by the courts and need not be the subject of further discussion in this rule.

In a similar vein, two commenters contrast the Commission's fees to those of the NRC. These commenters contend that while an NRC licensee receives a special benefit (for example, the ability to construct and operate a nuclear facility), a pipeline filing a tariff or rate change does not receive any similar benefit. Instead, the commenters claim a ratemaking proceeding under the NGA primarily protects the public's interest.

While consumers may be ultimate beneficiaries from the regulation of natural gas, that is not determinative of the Commission's right to charge fees under the IOAA. The IOAA provides for the collection of fees for any "work, service, publication, document benefit, privilege, authority, use, franchise, license, permit, certificate, registration, or similar thing of value or utility."[17] Processing pipeline rate filings is the type of service for which the IOAA expressly authorizes the collection of fees. Not only is the statute clear on its face, but the D.C. Circuit has held that a fee otherwise authorized by the IOAA is not rendered invalid because the public may also enjoy downstream benefits.[18]

Furthermore, while it is true that in 1965 the Federal Power Commission took an opposite approach toward fees,[19] that approach does not prevent this successor Commission from adopting a different policy. Not until the 1970's did the courts begin reviewing fee systems of various agencies. Since those cases were decided and the law became sufficiently clear, the Commission now believes that it can reasonably charge fees for the services and benefits provided to specific applicants.

C. Smallest Practical Unit

In designing a fee schedule, the Commission should establish fees on the smallest unit or category of service that is practical. In remanding fees established by the FCC, the United States Court of Appeals for the D.C. Circuit set forth the most authoritative interpretation of this IOAA requirement as follows:

> [W]e interpret the statute and the Supreme Court decisions to require reasonable particularization of the basis for the fees, accomplished by an allocation of costs to the smallest unit that is practical. In most cases, we expect this unit will be classes of carriers or applicants or grantees or services which the Commission has already singled out for separate treatment in its 1975 fee schedule. Classification is always a difficult problem, involving as it does the drawing of lines; but the solution is not to group dissimilar entities together. The Commission must examine its expenses and set forth the maximum particularization of costs which it conveniently can make, so that the correctness of its actions can be reviewed.[20]

Further, Budget Circular A–25 states that "costs shall be determined or estimated from the best available records in the agency, and new cost accounting systems will not be established solely for this purpose."[21]

The Commission, in keeping with Budget Circular A–25, is classifying its fees by types of applications or filings. The Commission has calculated its fees from its Management Information Systems (MIS). The MIS is an agency system established to track workload. The MIS tracks time, by work-months, based on types of applications or proceedings. The Commission is establishing one fee for an entire filing or proceeding because that filing or proceeding is the smallest unit practical for the Commission to develop fees.[22] In the NOPR in this docket, the Commission stated that it anticipated establishing two separate fee categories for tariff filings for general changes in rates and for tariffs filings for changes

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[12] The Commission is considering, in other rulemakings, both fees for declaratory orders under all of its jurisdictional statutes and fees to recover the costs of certain rulemakings. In those cases, the Commission believes that there are special benefits provided to identifiable recipients.

[13] Budget Circular A–25, at 1–2.

[14] *Id.* at 2.

[15] 554 F. 2d at 1101–02.

[16] 601 F. 2d at 229.

[17] 31 U.S.C. 483(a) (1970).

[18] Electronics Industries Ass'n v. FCC, 554 F.2d 1109, 1115 (D.C. Cir. 1976). In that case, petitioners argued that fees should not be assessed for tariff filings or equipment testing and approval. The court answered that even though both activities were required by statute, the FCC was entitled to charge for services which assisted a person in complying with his statutory duties. Such services, the court said, create an independent private benefit since they provide a means for the carrier to obtain its revenues and to regulate subscriber use of its facilities. The court concluded that although the statute was enacted in order to protect the public against excessive or unreasonably discriminating or preferential charges, that result is only an incidental benefit from the service which is rendered by the agency, *i.e.* providing the means for carriers to comply with the statute.

[19] 30 FR 12,077 (Sept. 15, 1965).

[20] Electronic Industries Association v. FCC, 554 F.2d 1109, 1116–17 (D.C. Cir. 1976).

[21] Budget Circular A–25, at 3.

[22] The Commission has recently updated the MIS by starting to track its workload on a new system (Time Distribution Reporting System) which may provide an even greater degree of accuracy of Commission workload. At this time, however, the Commission does not have a year's worth of data to develop actual fees from the new system.

other than in rates. After calculating the time spent on these two areas and the resulting fees, the Commission found the fees to be so nearly identical that, for logical and administrative efficiency reasons, only one fee category for both activities is being established. The Commission will continue to monitor these two subparts of the single category, however, and will establish two different fees if necessary in the future.

D. Basis of Cost Recovery

1. Direct and Indirect Costs Included

The Commission's fee schedule is designed to account for all types of recoverable costs associated with the processing of the specified applications or filings under the NGA. The costs attributable to a particular Commission service are not merely the salaries of the employees who review the applications or filings. The attributable costs include the direct salary costs as well as the substantial amount of indirect costs which the Commission expends in its reviews. As the Fifth Circuit has stated, employees

> * * * must be supplied with working space, heating, lighting, telephone service and secretarial support. Arrangements must be made so that . . . [they are] hired, paid on a regular basis and provided specialized training courses. Those and other costs such as depreciation and interest on plant and capital equipment are all necessarily incurred in the process of reviewing an application.[23]

Accordingly, the Commission has included in its identification of costs the following items: salaries and benefits; travel; transportation of things; rents; communications and utilities; printing; other support services; supplies; and equipment.

2. Methodology

(a) Underlying Considerations

The Commission's calculation of the costs of providing each of the services represented by a fee category is directly related to the amount of time the Commission spends providing each of the services. The fees in this rule are based on information obtained through the Commission's Management Information System (MIS), which provides the amount of time spent on all Commission functions. The functions are grouped into categories which represent the Commission's various programs, including gas wellhead pricing, gas pipeline rates, gas pipeline certificates, gas producer certificates, gas producer rates, oil pipeline regulation, hydropower regulation, and electric power regulation. The MIS workload data is recorded on a monthly basis.

With respect to each function, the supervisor in that area records for the MIS the number of projects initiated (receipts) and completed (completions) in a particular time period. Most Commission functions can be measured in terms of the number of projects initiated and completed. In accordance with Commission practice, these projects are generally assigned docket numbers and, for purposes of this discussion, will be referred to as "docketed activities". The supervisor in each organization unit reports to the MIS the amount of time spent by staff on each fuctional category in terms of work-months. A "work-month" is the unit of work represented by one employee's devotion of 100 percent of his or her time for one month. Time sheets are coded by functional activity and are filled out Commission-wide every two weeks. The supervisor merely checks employee time sheets for accuracy in coding.

Support functions regularly undertaken, with respect to any program, are not docketed and may not be measured in terms of receipts and completions. The nature of these functions makes impractical any measurements in terms of receipts and completions, but these functions are nevertheless essential to the completion of any docketed activity. This time is also allotted and reported by unit supervisors in terms of work-months.

Only those support activities that are related to providing a benefit are included in the calculations. These support functions will be referred to as "support activities" and can be divided into three categories. First, there are support activities that involve general supervision, personnel management, and routine administrative functions such as maintenance of time and leave records, the handling of property and supplies, staff meetings, and the planning and organizing of leave. This category can be labeled as "administrative services" and is included for fee recovery because it is essential to the FERC's ability to complete docketed activities.

Second, support staff responds to requests for information that may not contribute directly to the completion of a docketed activity. Examples include requests for information from the public, from the Congress, from the General Accounting Office, and from other governmental agencies. The Commission has excluded from its calculation of fees the work-months associated with this second category of "inquiries and internal communications" because this type of support activity is not involved in completing docketed activities.

Third, support staff establishes or reviews certain Commission operations and procedures. This is "technical management and operations." These activities include work on the FERC budget, management information systems, and program development funotions such as special studies or briefings on relevant subjects, but which are not identified with just one docketed activity. This category is therefore an integral part of completing docketed activities.

(b) Calculation of Fee Amounts

For purposes of this rule, the Commission has used the following methodology to determine the cost of providing any service or benefit. First, the work-months reported for a class of docketed activity are added to a pro-rata share of the work-months reported for the relevant support activities for that activity. This figure, representing the total number of work-months dedicated to a class of docketed activity for a year, is divided by the number of completions for that year for the given activity. The resulting quotient represents the average number of work-months required to complete one proceeding in that given class of docketed activity.

Second, the Commission used the following data provided by its Office of Program Management to figure the average cost of a work-month, based on the Commission's fiscal year 1983 actual costs.

Salaries and benefits based on year and payroll data and benefits at 26 percent	$46,228
Travel	726
Transportation of things	7
Rents, communications and utilities	3,185
Printing	1,899
Other services—excludes direct program contracts	4,684
Supplies	477
Equipment	42
Total	57,248

The total was divided by 12 to yield an average work-month cost of $4,770.67.

Third, in order to determine the cost of an activity, the Commission multiplied the average cost per work-month by the average number of work-months required to complete the activity.[24]

[23] Miss. Power & Light v. NRC, 601 F. 2d at 232.

[24] Updated data sheets have been placed in the Commission's Public File Room detailing the calculations.

There were numerous complaints about the cost methodology proposed in the Notice of Proposed Rulemaking, such as inadequate information to verify the costs, calculations based on salary and overhead from one year and time per project from another year, use of budgeted figures as opposed to actual figures, use of average work month costs; use of only one year for determining fees, and use of number of completions per year to determine the fees.

As for what costs are permissible for inclusion, the IOAA provides for the collection of fees which include both direct and indirect costs to the Government. Thus, there is no reason to exclude any item except for support functions relating to inquiries and internal communications, as discussed above. Second, in devising its fee schedule, the Commission is authorized to "determine or estimate [its costs] from the best available records in the agency." [25] For this Commission, that means the MIS.

The Notice of Proposed Rulemaking used 1982 budgeted figures to determine its costs, and 1981 actual completions and work-months in the fee calculation. Further, the method of updating the fees was tied to 1981. Each subsequent year was to be adjusted by the change in costs between the base year and the year in consideration. Many commenters argue that 1981 may not be a typical year for completions and work-months, and thus, should not be the base year. The Commission agrees with this argument, and believes it is much more accurate to calculate fees from actual completions and work-months, as well as actual costs. The Commission has decided to use actual fiscal year figures in this rule as well as in updating the fees in subsequent years (see section III E. below). This approach keeps data more current, and is more representative of what actual fees should be. Therefore, the Commission has calculated the fees in this rule from actual fiscal year 1983 direct and indirect costs, completions, and work-months. This is in keeping with the Commission's statement in the NOPR that it would use the most accurate and representative base year data available to establish fees. Furthermore, this approach eliminates any inaccuracies which could arise from using budgeted figures, as was done in the NOPR.

One commenter claims that the Commission should not use an agency-wide figure for determining its direct costs. Instead, it maintains, the Commission should determine pipeline fees based on the salaries of only those employees processing pipeline filings. As permitted under the requirements of Budget Circular A-25, since the Commission's accounting system employs an agency-wide figure, the Commission has used an agency-wide figure as the basis for its costs.

Two commenters claim that "number of completions" is insufficient for determining accurate fees. They argue that the Commission should also include cases in progress; otherwise, one commenter claims the fees will exceed the costs associated with completions. By using "number of completions," the Commission is attempting to recover the full amount it spends on any filing at the time the filing is submitted. While it is true that the fee in any one year is tied to an average based on completions in the immediately preceding year, those completions are the best and most current data available on the workload of the Commission. While an unusually high or low number of completions in any given year will raise or lower the fee in the succeeding year, these completions are a reasonable barometer of where the Commission is spending its resources. Since the workload in the gas pipeline rate area is not expected to fluctuate widely, the use of completions in a year is appropriate. Furthermore, if there is an unusual number of completions in a year, that number may reflect a future trend for which the succeeding year's fees should rise or fall accordingly. Finally, this approach will not overcharge any one applicant because it is assumed that most applications are worked on in more than one year. In other words, a filing might be filed at the end of 1982, and be completed in 1983. Rather than charge two fees (one for each year that the review of the filing is in progress), the Commission is able to charge one fee at the time of filing. Nevertheless, should a fee result, which the Commission views as being abnormally high, it may elect to use statistical averaging techniques to bring the fees to a more reasonable level.

Finally, one commenter objects to supervisors' monitoring the time spent by staff that is ultimately used to calculate Commission work-months. As was explained above, the role of the supervisor is only to check for accuracy in filling out time reporting forms. Commission employees fill out their own time reports, listing how their time was spent. This approach, which has been in operation for a little over a year, is different from that used at the NOPR stage. The Commission believes that actual time reporting by each employee is as accurate an account of how time is spent by this Commission as can be feasibly implemented.

E. Actual Fees Established and Procedures for Updating Fees

The following table summarizes for 1983 the total number of work-months, and completions, and the average cost per completion in rendering the pipeline services for which the Commission is establishing fees in this final rule.

Service	Total WM's in 1983	Total completions in 1983	Average number WM's per completion in 1983	Average cost per completion in 1983
Review of tariff filings for changes other than in rates, and general changes in rates	118.20	279	0.42	$2,000.58
Review of tariff filings that track changes in costs (tracking filings)	136.35	277	.49	2,337.63

The Commission uses the standard methodology set forth in this and other fees rulemakings to determine all of the fees for natural gas pipeline rates matters, except the fee for petitions seeking advance Commission approval of rate treatment of research, development, and demonstration expenditures. Rather than devise a single fee for reviewing these petitions, the Commission will use the direct billing procedure to recover these costs (see section III. H. below) for the following reasons. Most of the Commission time spent in reviewing these petitions is spent reviewing petitions filed by the Gas Research Institute (GRI). However, pipelines,

[25] Budget Circular A-25, at 3.

groups of pipelines, and entities acting on behalf of pipelines also file petitions seeking advance Commission approval of expenditures for their own projects. The projects are usually much smaller than GRI projects and require much less Commission time to review. If the Commission were to determine a fee based on the average cost per petition seeking advance approval of research, development, and demonstration expenditures, the result might be inequitable from two standpoints. On the one hand, the more lengthy GRI proceedings would tend to increase the fee for other pipeline petitions. On the other hand, the time spent on the pipeline petitions would tend to lessen the fee for GRI with the result that the other pipeline fees might be a subsidy for the cost of reviewing GRI's petitions. Therefore, the Commission will directly bill, by means of the procedures set forth in § 381.107,[26] for the costs of processing any petition seeking advance approval of rate treatment of research, development, and demonstration expenditures.

The following fees are therefore established: [27]

Services	Fee
Tariff filings for general changes in rates and for changes other than in rates.	$2,000
Tariff filings that track changes in costs	$2,300
Petitions seeking advance approval of rate treatment of research, development, and demonstration expenditures.	Direct billing.

The Commission will update its fees each year to reflect the most current Commission costs. An updated fee schedule will be published annually in the **Federal Register** after the close of the preceding fiscal year. The updated fees will be based on actual completions, work-months, and costs from the preceding fiscal year. In this way, the fees will reflect, using the most current data available, the benefits to the recipients.

Many commenters contend that the fees in the NOPR would be too high for small pipelines. They also claim that the customers of small pipelines will be hurt much more than those of the larger companies, who can spread their fees among many more customers.

[26] These general procedures for direct billing are discussed and promulgated in the companion final rule for NGA producer fees (Docket No. RM82–25–000).

[27] Fees are established by taking actual costs and rounding *down* to:

(1) The nearest $5 increment, if the total cost is $100 or less; and

(2) The nearest $100 increment, if the total cost is more than $100.

The Commission is required under the Regulatory Flexibility Act [28] to consider the degree of economic effect of its rules on small businesses and other small entities. The Commission has concern over a small pipeline's ability to pay for filings that include the costs of hearings (e.g., $46,000 as proposed in the NOPR for the hearing phase of tariff filings involving general changes in rates). As is discussed above, the Commission has decided not to establish fees to recover hearing costs in this rule. The Commission believes in light of that decision, small pipelines will not be overly or unfairly burdened by the fees established in this rule. Nevertheless, the final rule does provide for a waiver in the case of severe economic hardship (see section F.2, *infra*)

F. Exceptions to Full Cost Recovery

1. Reductions in Fee Amounts by Category

The Commission has established in this rule fees which include all the recoverable costs associated with the particular benefits and services provided. The Commission, based on its expertise, recognizes that there may be instances in the future in which establishing full cost recovery fees would have an adverse effect on applicants, or would undermine Commission activities. In such cases, the Commission may exercise discretion to reduce fees to less than full cost recovery in order to prevent a disproportionate economic impact or for other good cause. Good cause would include situations where the Commission wishes to encourage use of a service, where less Commission time is required than staff time, or where there is a reduction in the amount of time required to process a filing. Any reduction in a fee would be initiated only by the Commission by rulemaking. The same percentage of reduction would carry over to subsequent years unless further notice was given by the Commission that it was altering that reduction.

A number of commenters say that the Commission's guidelines on making reductions are too vague. The Commission believes that the standards enumerated are sufficiently specific, particularly since any categorical reductions in fee amounts will be done by means of a rulemaking. In addition, economic hardship to a class of applicants will be taken into account; this factor is as specific as possible given the degree of flexibility the Commission needs in determining good cause for a categorical reduction.

[28] 5 U.S.C. 601–612 (Supp. V 1981).

2. Case-by-Case Waiver Procedure

The Commission also realizes that a different situation could arise in which an individual applicant is unable to pay fees as set by the Commission due to severe economic hardship. The Commission does not expect this to happen often in the gas pipeline rate area since the Commission has reduced the fees significantly as a result of excluding any recovery of hearing costs. If an applicant is suffering from a period of severe economic hardship, the applicant will have the burden of presenting evidence, such as a financial statement, to the Commission showing that the applicant is either economically unable to pay the fee, or that if the applicant does pay the fee, it will place the applicant in a state of financial distress or emergency. As stated by the D.C. Circuit:

> The applicant for waiver must articulate a specific pleading, and adduce concrete support, preferably documentary.[29]

This material must be included with the petition for waiver at the time of filing the application. The Commission, or its designee, will analyze petitions for waiver to determine whether the standards for waiver have been met. The Commission will notify the applicant as to whether the petition for waiver has been denied or accepted.

G. Procedures for Paying Fees

The Commission's NOPR states that fees must be submitted by certified check, made payable to the United States Treasury. A number of commenters argue that there is no reason to require certified checks. They state that a corporate check should be sufficient.

The Commission has decided to delete the certified check requirement. However, a check made payable to the United States Treasury must still be included with the filing or application, unless a petition for waiver is submitted in lieu of the fee. The check must indicate for what the fee is being submitted, *e.g.*, tariff filing, general change in rates. This may be written on the bottom of the check. If the filing or application is not accompanied by either the appropriate fee or a petition for waiver, it will be considered deficient and will not be processed.[30]

[29] United Gas Pipe Line Company v. FERC, 707 F.2d 1507, 1511 (D.C. Cir. 1983).

[30] The fees categories established in this final rule are designed on the assumption that

Continued

A few commenters question the Commission's decision to exclude the possibility of fee refunds. The Commission's decision not to allow refunds is consistent with the policy behind the IOAA. That statute authorizes and orders Government agencies to become self-sustaining to the fullest extent possible. To do so, the agency is to collect fees for services and benefits it provides. The Congress gave this Commission the duty of carrying out the Natural Gas Act, part of which is to review and regulate pipeline rates. These are services for which the IOAA authorizes the collection of fees. The service is reviewing the tariff filing, not guaranteeing the acceptance of the filing or the desired increase in rates. The Commission reviews every tariff filing and rate change equally. Some are accepted, some are not, but the vast majority are accepted. The Commission's fees cover the time and cost of providing these services. It does not cost the Commission any less when it disallows a rate increase or a change in rate schedule or PGA clause. Furthermore, the Commission's decision not to allow refunds is consistent with the current policy of no refunds of fees and annual charges under the NGA under Part 159 of the Commission's regulations.

H. Direct Billing

The methodology used to establish the fees in this rule is based on the actual time of processing filings and the actual agency-wide costs involved with this processing. The Commission takes the actual work-months associated with a class of docketed activity and divides it by the number of completions in that class to arrive at an average number of work-months per completion. That figure is then multiplied by the average cost per work-month to arrive at the fee.

However, the Commission occasionally receives filings which are not average. These filings may be extensive in scope and present factual, legal, or policy issues of such complexity that the Commission may devote an extraordinary amount of time and effort to processing them. In addition, there may not be a truly representative average due to the small number of filings in a particular area.

The standard fees established in this rule bear no reasonable relationship to the actual cost of processing those extraordinary and atypical filings. Moreover, if the costs of processing extraordinary filings are included in the costs associated with average filings, persons submitting average filings would be subsidizing those submitting the extraordinary filings. Therefore, in the case of an extraordinary filing, the Commission reserves the option of ordering a direct billing procedure at the beginning of processing the filing or at any time up to one year after receiving a complete filing. As discussed above, in the case of petitions seeking advance Commission approval of rate treatment of research, development, and demonstration expenditures, the Commission has decided to use direct billing for the entire fee category due to the unavailability of reliable data to establish an average fee.

Under the direct billing procedure, the Commission will periodically bill the entity that submitted the filing for all the direct and indirect costs incurred by the Commission in processing the filing, unless a lesser amount is determined to be fair and equitable. The staff resources devoted to processing a filing resulting in a direct billing will be separately recorded and will not be included in the work-months associated with processing average filings. This final rule also requires the Commission to credit an applicant whose filing becomes subject to direct billing with any fee paid under this fee system.

Four commenters address this issue and each state that the direct billing procedure is entirely too vague. These commenters object to this direct billing method because they claim that the complexity of a filing might result simply from the participation of intervenors, or because it contains important public policy issues where the potential benefit to the applicant is secondary to that of the public or to other industry members. The Commission recognizes the points made by these commenters but, as indicated above, there is no reason to determine this issue generically in light of the Commission's decision not to establish fees to recover the costs associated with hearings in NGA pipeline rate matters. The possible allocation of some costs to intervenors in direct billing situations will be handled on a case-by-case basis.

jurisdictional entities will continue to submit filings and applications in the same manner as in the past. Although this fee schedule is designed to collect a separate fee for each discrete service or benefit provided, the Commission recognizes that the potential exists, in some cases, for jurisdictional entities to combine filings in order to avoid the assessment of fees. If the implementation of this fee schedule causes jurisdictional entities to alter their reporting practices, the Commission will consider additional means to ensure that the Commission does not recover all of the costs it incurs in providing these services.

IV. FINAL REGULATORY FLEXIBILITY ANALYSIS

When an agency promulgates a final rule under section 553 of the Administrative Procedure Act (APA), 5 U.S.C. 553, after being required by that section or any other law to publish a notice of proposed rulemaking, a final regulatory flexibility analysis may be appropriate under the Regulatory Flexibility Act of 1980. Each final regulatory flexibility analysis must contain (1) a statement of need for the rule, (2) a summary of the issues raised by the public comments in response to the initial regulatory flexibility analysis, and the agency response to those comments, and (3) a description of alternatives to the rule consistent with the stated objectives of the applicable statute which the agency considered and ultimately rejected.

In this preamble, the Commission has already detailed its reasons for this agency action, its objectives, and the legal basis for this rulemaking. As discussed, the rule establishes a schedule of fees to be paid to the Commission for certain benefits it provides, in accordance with the IOAA and Budget Circular A–25.

This rule affects natural gas pipelines subject to Commission jurisdiction under the NGA and the NGPA as well as non-jurisdictional entities seeking advance Commission approval of rate treatment of research, development, and demonstration expenditures. There are approximately 150 interstate natural gas pipelines in the United States. The Small Business Administration's (SBA) regulations do not establish specific size standards for natural gas pipelines. (*See* 13 CFR Part 121). However, natural gas pipelines, especially interstate pipelines, are large businesses. Only about 40 interstate natural gas pipelines possibly could be classified as small entities.[31] Petitioners seeking advance Commission approval of rate treatment of research, development, and demonstration expenditures are pipelines groups of pipelines, or entities owned or controlled by pipelines and,

[31] Generally, the Commission considers small pipelines to be those pipelines classified as Class C or Class D natural gas companies, that is, companies earning $25,000 or more per year, but less than $1,000,000. (*See* 18 CFR Parts 201, 204, Uniform System of Accounts Prescribed for Natural Gas Companies Subject to the Provisions of the Natural Gas Act.) In addition, the Commission considers small entity pipelines to include those companies earning less than $25,000 a year or those that are so new that they cannot yet be classified. The proposed change in nomenclature for these small pipelines in Docket No. RM 83–66–000, 48 Fed Reg. 46361 (October 12, 1983), does not affect in a significant way the conclusions reached herein.

therefore, usually are either large businesses or are owned and controlled by large businesses. Therefore, this rule may have some degree of economic impact on a number of small pipelines. But, there is no reason to expect that this impact will be significant for a substantial number of those pipelines. Furthermore, the fees established in this final rule are much lower than the fees proposed in the NOPR. This will assuage any potentially significant economic effect.

Concerning the impacts on pipelines, and in particular small pipelines, the final rule addresses those cases where there is either a disproportionate economic burden or severe economic hardship on a pipeline. The rule contains a provision for waiver of fees for an individual applicant which could protect small pipelines from undue economic hardship. However, the Commission is also required to satisfy the IOAA's statutory directive to be "self sustaining to the full extent possible." Hence, there is no blanket exemption for small entities. The Commission believes the rule as now promulgated represents a fair balance between the purposes of both the IOAA and the Regulatory Flexibility Act.

V. PAPERWORK REDUCTION ACT STATEMENT AND EFFECTIVE DATE

This rule does not contain any information collection provisions and therefore is not subject to the Paperwork Reduction Act, 44 U.S.C. 3501–3520 (Supp. V 1981). However, this rule is companion to RM82–25–000, which does contain information collection provisions. Since the information collection provisions in RM82–25–000 are the general procedures for collecting fees and are integral to the administration of this final rule, the effective date for this rule will be the same as that for RM82–25–000. Therefore, this rule will become effective April 25, 1984. If OMB's approval and control number have not been received for RM82–25–000 by this effective date, the Commission will issue a notice temporarily suspending the effective date of this final rule.

List of Subjects

18 CFR Part 154

Natural gas.

18 CFR Part 381

Natural gas, General fees.

In consideration of the foregoing, the Commission is amending Chapter I, Title 18, *Code of Federal Regulations*, as set forth below.

By the Commission.

Kenneth F. Plumb,

Secretary.

PART 154—[AMENDED]

1. The authority citation for Part 154 is revised to read as follows:

Authority: Natural Gas Act, 15 U.S.C. 717–717z (1976 & Supp. V 1981); Department of Energy Organization Act, 42 U.S.C. 7102–7352 (Supp. V 1981); Executive Order 12,009, 3 CFR 142 (1978); Independent Offices Appropriations Act, 31 U.S.C. 483a (1970).

§ 154.24 [Amended]

2. In Part 154, § 154.24 is amended by inserting at the end of the current text, following the word "part", the phrase "* * * or is not accompanied with the fee prescribed in Part 381, unless a petition for waiver is submitted in lieu thereof under § 381.106 of this chapter."

3. In Part 154, § 154.63 is amended by adding a new paragraph (b)(1)(iii) to read as follows:

§ 154.63 Changes in a tariff, executed service agreement or part thereof.

* * * * *

(b) * * *

(1) * * *

(iii) A fee in the amount prescribed in Part 381 of this chapter, unless a petition for waiver is submitted in lieu thereof under § 381.106 of this chapter.

* * * * *

PART 375—[AMENDED]

4. The authority citation for Part 375 continues to read as follows:

Authority: Department of Energy Organization Act, 42 U.S.C. 7101–7352 (Supp. V 1981); Executive Order 12,009, 3 CFR 142 (1978); Administrative Procedure Act, 5 U.S.C. 553 (1976 & Supp. V 1981).

5. In § 375.307, paragraph (u) is revised to read as follows:

§ 375.307 Delegation to the Director of the Office of Pipeline and Producer Regulation.

* * * * *

(u) Deny or accept in whole or in part, petitions for waiver of the fees prescribed in §§ 381.201, 381.202, 381.203, 381.204, 381.205, 381.206 of this chapter in accordance with § 381.106(b) of this chapter.

PART 381—[AMENDED]

6. The authority citation for Part 381 reads as follows:

Authority: Department of Energy Organization Act, 42 U.S.C. 7101–7352 (Supp. V 1981); Executive Order 12,009, 3 CFR 422 (1978); Independent Offices Appropriations Act, 31 U.S.C. 483a (1970); Natural Gas Act, 15 U.S.C. 717–717z (1976 and Supp. V 1981); Federal Power Act, 16 U.S.C. 791a–828c (1976 & Supp. V 1981); Natural Gas Policy Act, 15 U.S.C 3301–3432 (Supp. V 1981); Public Utility Regulatory Policies Act, Pub. L. 95–617, 92 Stat. 3117 (1978); Interstate Commerce Act, 49 U.S.C. 1–27 (1976).

7. In Part 381, Subpart B is amended by adding §§ 381.204 through 381.206 to read as follows:

Subpart B—Fees Applicable to the Natural Gas Act and Related Authorities

* * * * *

§ 381.204 Pipeline tariff filings for general changes in rates and for changes other than in rates.

The fee established for a tariff filing for general changes in rates and for changes other than rates is $2,000.

§ 381.205 Pipeline tariff filings that track certain costs.

The fee established for a tariff filing that tracks costs is $2,300.

§ 381.206 Petitions for advance approval of rate treatment of research, development, and demonstration expenditures.

The fee for a petition seeking advance Commission approval of rate treatment of research, development, and demonstration expenditures will be determined and billed according to the procedures for direct billing set forth under § 381.107 of this chapter.

* * * * *

[FR Doc. 84–3586 Filed 2–9–84; 8:45 am]
BILLING CODE 6717–01–M

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18 CFR Part 271

[Docket No. RM79–76–219 (Colorado—1 Amdt. II); Order No. 357]

High-Cost Gas Produced From Tight Formations; Colorado

Issued: February 6, 1984.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final rule.

SUMMARY: The Federal Energy Regulatory Commission is authorized by section 107(c)(5) of the Natural Gas Policy Act of 1978 to designate certain types of natural gas as high-cost gas where the Commission determined that the gas is produced under conditions which present extraordinary risks or costs. Under section 107(c)(5), the Commission issued a final regulation designating natural gas produced from tight formations as high-cost gas which may receive an incentive price (18 CFR 271.703). This rule established procedures for jurisdictional agencies to submit to the Commission

recommendations of areas for designation as tight formations. This final order adopts the recommendation of the State of Colorado Oil and Gas Conservation Commission that an additional area of the Wattenberg J Sand Formation previously adopted by the Federal Energy Regulatory Commission, located in Weld County, Colorado, be designated as a tight formation under § 271.703(d).

EFFECTIVE DATE: This rule is effective March 7, 1984.

FOR FURTHER INFORMATION CONTACT: Steven Ross, (202) 357–8571, or Victor H. Zabel, (202) 357–8616.

SUPPLEMENTARY INFORMATION:

Final Rule

Before Commissioners: Raymond J.O'Connor, Chairman; Georgiana Sheldon, J. David Hughes, A. G. Sousa and Oliver G. Richard III.

In the matter of High-Cost Gas Produced from Tight Formations; Docket No. RM79–76–219 (Colorado—1 Amendment II), Order No. 357.

Issued: February 6, 1984.

The Commission hereby amends § 271.703(d) of its regulations (18 CFR 271.703(d) (1983)) to include additional acreage in the Wattenberg J Sand Formation as a designated tight formation eligible for incentive pricing under § 271.703. The amendment was proposed in a Notice of Proposed Rulemaking by the Director, Office of Pipeline and Producer Regulation, issued November 14, 1983 (48 FR 52594, November 21, 1983)[1] based on a recommendation by the State of Colorado Oil and Gas Conservation Commission (Colorado) in accordance with § 271.703, that an additional area of the Wattenberg J Sand Formation located in Weld County, Colorado be designated as a tight formation.

On January 23, 1981, in Order No. 124 [2] the Commission adopted in part Colorado's recommendation that portions of the Wattenberg J Sand Formation located in Larimer, Weld, Adams and Boulder Counties, Colorado, be designated as a tight formation. Certain areas within the recommended area were not included in the designation pursuant to § 271.703(c)–(2)(i)(D) because these areas had been subject to infill drilling.[3] In the instant recommendation, Colorado requested that Order No. 124 be amended to include acreage that had incorrectly been identified as areas that were subject to infill drilling.

Evidence submitted by Colorado supports the assertion that the additional area of the Wattenberg J Sand Formation meets the guidelines contained in § 271.703(c)(2). The Commission adopts the recommendation.

This amendment shall become effective March 7, 1984.

List of Subjects in 18 CFR Part 271

Natural gas, Incentive price, Tight formations.

In consideration of the foregoing, Part 271 of Subchapter H, Chapter I, Code of Federal Regulations, is amended as set forth below.

By the Commission.

Kenneth F. Plumb,

Secretary.

PART 271—[AMENDED]

Section 271.703 is amended as follows:

1. The authority citation for Part 271 reads as follows:

Authority: Department of Energy Organization Act, 42 U.S.C. 7101 *et seq.*; Natural Gas Policy Act of 1978, 15 U.S.C. 3301–3432; Administrative Procedure Act, 5 U.S.C. 553.

§ 271.703 [Amended]

2. Section 271.703(d)(11)(i)(A) is amended by adding the following description to the end thereof:

Township 2 North, Range 68 West, 6th P.M., Sec. 13 W/2.

[FR Doc. 84-3562 Filed 2-9-84; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 101

[T.D. 84-39]

Customs Regulations Amendment Relating to the Customs Field Organization

AGENCY: Customs Service, Treasury.

ACTION: Final rule.

SUMMARY: This document amends the Customs Regulations relating to the field organization of the Customs Service by changing the status of the Customs district of Bridgeport, Connecticut. This change will not impair services to area businesses or the general public. The change is consistent with the Customs objective to effectively carry out its management responsibilities. This change will not disturb the present level of service at Bridgeport.

EFFECTIVE DATE: June 1, 1984.

FOR FURTHER INFORMATION CONTACT: Renee DeAtley, Office of Inspection and Control, U.S. Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229 (202–566–8157).

SUPPLEMENTARY INFORMATION:

Background

As part of a continuing program to obtain more efficient use of its personnel, facilities, and resources, and to provide better service to carriers, importers, and the public, by a notice published in the **Federal Register** on May 28, 1982, (47 FR 22964), Customs proposed to change the status of the Providence, Rhode Island, and Bridgeport, Connecticut, Customs districts.

Prior to publication of this notice Customs completed a survey of staffing and workload for the Providence and Bridgeport districts and, based on its findings, determined that the workload and manpower requirements do not warrant separate district organizations.

Discussion of Comments

In response to the notice, 100 comments were received from individuals, members of Congress, state governments, municipalities, customhouse brokers, shippers, banks, accounting firms, insurance companies, a college, a business council, a state representative, the Department of Commerce, and trade associations.

The majority of the comments were from the Providence and Bridgeport business communities and were in opposition to the proposal. There were some letters in favor of the change.

Those in favor believed that the change in status made good business sense, were pleased with the ability for licensed brokers to transact business within the Boston-Providence-Bridgeport areas interchangeably, and felt that the Boston district could handle any increase in workload adequately.

Those opposed to the change raised these issues most frequently: the area will suffer economic hardship by the loss of jobs to the business community; loss of business will minimize Government savings; effects on revitalization efforts and growth potential; and increased costs and delays of processing imports resulting in an overall deterioration of service.

It is Customs position that any change in district status will have no bearing on the services provided to the general

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[1] Comments on the proposed rule were invited and none were received. No party requested a public hearing and no hearing was held.

[2] Docket No. RM79–76 (Colorado—1), issued January 23, 1981, 46 FR 9921 (January 30, 1981).

[3] *See* Order No. 270, Docket No. RM79–128 (Colorado—1 Amendment), issued November 22, 1982, 21 FERC ¶61,087 wherein the Commission adopted a similar recommendation of Colorado.

public or business communities involved. There will be a continuance of the full range of Customs services at all ports of entry and no changes in the way the commercial community enters and clears importations.

One concern raised by commenters is that if the current level of imports cannot be increased, or at least maintained, revenues obtained through Customs duties will be decreased, thereby minimizing savings to the Government. They contend that this would make the proposal counter-productive. Customs maintains that no gain or loss of revenue as a result of such a change is expected.

Another concern expressed by the local business community seemed to be that of the revitalization and growth potential of the area. Specifically mentioned are upgrading harbor facilities, cargo container operations, return of cruise ships, modernization of airport facilities, and a pending application for a Foreign Trade Zone (FTZ) for Providence.

The change in the status should not interfere with any revitalization plans and, in fact, Customs would encourage this type of activity which would certainly attract new business to the area and ensure that current businesses remain. The existing FTZ in Bridgeport will not be affected by this change.

Change in Status

After consideration of the numerous comments received in response to the notice and further review of the matter, it has been determined to proceed with the change in the status of the Bridgeport district. No action will be taken in regard to the Providence district until further study.

It should be noted that brokers currently licensed to transact business in Bridgeport will be considered licensed in Boston. Likewise those brokers currently licensed to transact business in Boston also could do business in Bridgeport. Thus, licensed brokers will be allowed to transact business interchangeably in Boston and Bridgeport.

The change will place the Bridgeport port of entry under the Boston district. Also, the ports of entry currently under the jurisdiction of the Bridgeport district will be placed under the Boston district. Those ports are as follows: Bridgeport, Hartford, New Haven, and New London, Connecticut.

Another concern raised by area businesses is that unnecessary expense will be incurred when the need arises to deal directly with the Boston district. The Boston District Director will hold local meetings each month with brokers, importers, and transportation companies, to ensure that there will be no adverse impact on the trade community as a result of the change. Also a toll-free 800 telephone number will be installed for the benefit of the trade community.

Customs believes that the change in status of the Bridgeport district will result in more economical and efficient use of its personnel and resources in carrying out the Customs mission. As stated, there will be no reduction in Customs service to the general public or to those organizations conducting business in the Bridgeport district. In addition, Customs will be better able to meet the present needs and growth potential of the area.

Accordingly, Customs has determined that it is in the public interest to change the status of the Bridgeport, Connecticut, district.

Change in the Customs Field Organization

Under the authority vested in the President by section 1 of the Act of August 1, 1914, 38 Stat. 623, as amended (19 U.S.C. 2), and delegated to the Secretary of the Treasury by Executive Order No. 10289, September 17, 1951 (3 CFR 1949–1953 Comp., Ch. II), and pursuant to authority provided by Treasury Department Order No. 101–5 (47 FR 2449), the Customs district of Bridgeport, Connecticut, is placed under the Boston, Massachusetts, district. The limits of the amended district include all of the territory currently in the Boston, Massachusetts, and Bridgeport, Connecticut, districts.

List of Subjects in 19 CFR Part 101

Organization and functions (Government agencies).

Amendments to the Regulations

PART 101—[AMENDED]

§ 101.3 [Amended]

1. To reflect this change, the list of Customs regions, districts, and ports of entry, in § 101.3(b), Customs Regulations (19 CFR 101.3(b)), is amended by removing: "Bridgeport, Conn." directly below "Providence, R.I." under the column headed "Name and headquarters"; "The State of Connecticut" under the column headed "Area"; and references to Bridgeport, Hartford, New Haven, and New London under the column headed "Ports of entry".

2. Section 101.3(b) is further amended by revising the listing for the Boston, Massachusetts, district to read as follows:

Name and headquarters	Area	Ports of entry
Boston, Mass.	The States of Massachusetts and Connecticut. (T.D 84-39)	Boston, Mass. including territory and waters adjacent thereto described in T.D 56493 Bridgeport, Conn. including territory described in T.D 68-224 Fall River, Mass., including territory described in T.D 54478 Gloucester, Mass. Hartford, Conn., including territory described in T.D 68-224. Lawrence, Mass., including territory described in T.D 71-12 (E.O. 5444, Sept. 16, 1930), (E.O. 10068, Dec. 3 1949, 14 FR 7287) New Bedford, Mass. New Haven, Conn. including territory described in T.D 68-224. New London, Conn., including territory described in T.D 68-224. Plymouth, Mass. Salem, Mass. including Beverly, Marblehead, Lynn, and Peabody, Mass. (E.O. 9207 July 27, 1942). Springfield, Mass. (T.D 68-189) Worcester, Mass.

Executive Order 12291

Because this will not result in a "major rule" as defined in section 1(b) of E.O. 12291, the regulatory impact analysis and review prescribed by section 3 of the E.O. is not required.

Regulatory Flexibility Act

Pursuant to the provisions of section 605(b) of the Regulatory Flexibility Act (Pub. L. 96–354, 5 U.S.C. 601 et. seq.), it is certified that the regulation set forth in this document will not have a significant economic impact on a substantial number of small entities. Accordingly, the regulation is not subject to the regulatory analysis or other requirements of 5 U.S.C. 603 and 604.

Customs routinely establishes, expands and consolidates Customs ports of entry throughout the United States to accommodate the volume of Customs-related activity in various parts of the country. Although this amendment may have a limited effect upon some small entities in the Bridgeport, Connecticut, area, it is not expected to be significant because similar changes in the Customs field organization have not had a significant economic impact upon a substantial number of small entities to the extent contemplated by the Regulatory Flexibility Act.

Drafting Information

The principal author of this document was James S. Demb, Regulation Control Branch, U.S. Customs Service. However,

personnel from other Customs offices participated in its development.

William von Raab,

Commissioner of Customs.

Approved: January 24, 1984.

John W. Walker, Jr.,

Assistant Secretary of the Treasury.

[FR Doc. 84-3707 Filed 2-9-84; 8:45 am]

BILLING CODE 4820-02-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 5

Delegations of Authority and Organization; Director, National Center for Drugs and Biologics, et al.

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the regulations for delegations of authority on drug and biological product matters to add new delegations to National Center for Drugs and Biologics' officials. The new delegations of authority will expedite the administrative handling of certain routine actions.

EFFECTIVE DATE: February 10, 1984.

FOR FURTHER INFORMATION CONTACT: Robert L. Miller, Office of Management and Operations (HFA-340), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4976.

SUPPLEMENTARY INFORMATION: In § 5.31 (21 CFR 5.31), new paragraph (e)(3) is added delegating to the Director and Scientific Director, National Center for Drugs and Biologics (NCDB), the authority to issue 180-day tentative responses to citizen petitions on drug and biological product matters under § 10.30(e)(2)(iii) (21 CFR 10.30(e)(2)(iii)).

Also in § 5.31, paragraph (f) is being revised to delegate authority to the Director and the Scientific Director, NCDB, to issue final responses to citizen petitions in specific program areas for which the Director and Scientific Director already have final approval authority. The Director, NCDB, will refer to the Office of the Commissioner for signature any document involving a highly visible, controversial, or sensitive issue and any document that in the Director's judgment should be signed by the Commissioner, even though it is within the authority delegated to the Center.

The Office of the General Counsel will continue to review tentative and final responses to citizen petitions before issuance.

List of Subjects in 21 CFR Part 5

PART 5—DELEGATIONS OF AUTHORITY AND ORGANIZATION

Authority delegations (Government agencies), Organization and functions (Government agencies).

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 701(a), 52 Stat. 1055 (21 U.S.C. 371(a))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), Part 5 is amended in § 5.31 by adding new paragraph (e)(3) and by revising paragraph (f) to read as follows:

§ 5.31 Petitions under Part 10.

* * * * *

(e) * * *

(3) The Director and Scientific Director, NCDB, are authorized to issue 180-day tentative responses to citizen petitions on drug and biological product matters under § 10.30(e)(2)(iii) of this chapter that relate to the assigned functions of that Center.

(f)(1) The Director and Scientific Director, NCDB, are authorized to grant or deny citizen petitions submitted under § 10.30 of this chapter on drug and biological product matters in program areas where they have been delegated final approval authority in the following sections of this part: (i) section 5.68 *Issuance and revocation of licenses for the propagation or manufacture and preparation of biological products;* (ii) § 5.69 *Notification of release for distribution of biological products;* (iii) § 5.70 *Issuance of notices implementing the provisions of the Drug Amendments of 1962* (DESI); (iv) § 5.71 *Termination of exemptions for new drugs for investigational use in human beings or in animals;* (v) § 5.73 *Certification of insulin;* (vi) § 5.74 *Issuance, amendment, or repeal of regulations pertaining to drugs containing insulin;* (vii) § 5.75 *Designation of official master and working standards for antibiotic drugs;* (viii) § 5.76 *Certification of antibiotic drugs;* (ix) §5.78 *Issuance, amendment, or repeal of regulations pertaining to antibiotic drugs;* (x) § 5.79 *Issuance, amendment, or repeal of regulations establishing bioequivalence requirements for drug products for human use;* (xi) § 5.80 *Approval of new drug applications and their supplements;* and (xii) § 5.82 *Issuance of notices relating to proposals to refuse approval or to withdraw approval of new drug applications and their supplements.*

(2) The Director, Office of Drugs, NCDB, is authorized to issue responses to citizen petitions submitted under § 10.30 of this chapter seeking a determination of the suitability of an abbreviated new drug application for a drug product.

Effective date. This regulation shall become effective February 10, 1984.

(Sec. 701(a), 52 Stat. 1055 (21 U.S.C. 371(a)))

Dated: February 3, 1984.

Mark Novitch,

Acting Commissioner of Food and Drugs.

[FR Doc. 84-3652 Filed 2-9-84; 8:45 am]

BILLING CODE 4160-01-M

21 CFR Part 73

[Docket No. 83C-0179]

Listing of Color Additives for Coloring Contact Lenses; Correction

AGENCY: Food and Drug Administration.

ACTION: Final rule; correction.

SUMMARY: The Food and Drug Administration (FDA) is correcting the final rule that amended the color additive regulations to provide for the safe use in coloring contact lenses of the colored polymeric reaction products formed by chemically bonding certain dyes, used singly or in combination, with poly(hydroxyethyl methacrylate).

DATE: Effective February 6, 1984.

FOR FURTHER INFORMATION CONTACT: John L. Herrman, Bureau of Foods (HFF-334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-472-5740.

SUPPLEMENTARY INFORMATION: In FR Doc. 84-81 appearing at page 372 in the **Federal Register** of Wednesday, January 4, 1984, the following corrections are made:

1. In the left column on page 372, the first sentence in the "Summary" is corrected by changing the words "color polymeric reaction products" to read "colored polymeric reaction products".

2. In the center column on page 372, the first sentence of the first full paragraph is corrected by changing the words "that are subject of this petition" to read "that are the subject of this petition".

3. In the left column on page 373, the last sentence in the first paragraph is corrected by changing the words "color additive" to read "color additives".

4. In the center column on page 373, in § 73.3121 *Poly(hydroxyethyl methacrylate)-dye copolymers:*

a. The second sentence in paragraph (a) is corrected to read "The dyes are (1) Reactive Black 5 [2,7-naphthalenedisulfonic acid, 4-amino-5-hydroxy-3,6-bis[(4-((2-

(sulfooxy)ethyl)sulfonyl)phenyl)azo)-tetrasodium salt] (CAS Reg. No. 17095-24-8); (2) Reactive Blue 21 [copper, (29*H*,31*H*-phthalocyaninato(2-)-N^{29},N^{30},N^{31},N^{32})-, sulfo((4-((2-sulfooxy)ethyl)sulfonyl)phenyl) amino)sulfonyl derivs] (CAS Reg. No. 73049-92-0); (3) Reactive Orange 78 [2-naphthalenesulfonic acid, 7-(acetylamino)-4-hydroxy-3-((4-((2-(sulfooxy)ethyl)sulfonyl)phenyl)azo)-] (CAS Reg. No. 68189-39-9); and (4) Reactive Yellow 15 [benzensulfonic acid, 4-(4,5-dihydro-4-((2-methoxy-5-methyl-4-((2-(sulfooxy)ethyl)sulfonyl) phenyl)azo)-3-methyl-5-oxo-1*H*-pyrazol-1-yl)-] (CAS Reg. No. 60958-41-0)."

b. The second sentence in paragraph (b)(3) is corrected by changing the word "copolymers" to read "copolymer".

c. The words "color additive" in paragraph (c) are corrected to read "color additives".

d. Paragraph (d) is corrected to read "(d) *Exemption from certification.* Certification of these color additives is not necessary for the protection of the public health, and therefore these color additives are exempt from the certification requirements of section 706(c) of the act."

Dated: February 2, 1984.

William F Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 84-3651 Filed 2-9-84; 8:45 am]

BILLING CODE 4160-01-M

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21 CFR Part 74

[Docket No. 83C-0130]

[Phthalocyaninato(2-)]Copper; Listing as a Color Additive for Coloring Contact Lenses; Confirmation of Effective Date

AGENCY: Food and Drug Administration.

ACTION: Final rule; confirmation of effective date.

SUMMARY: The Food and Drug Administration (FDA) is confirming the effective date of September 2, 1983, for a regulation listing [phthalocyaninato(2-)] copper as a color additive for coloring contact lenses. This action responds to a petition filed by Wilsa, Inc.

Effective date: September 2, 1983.

FOR FURTHER INFORMATION CONTACT: Geraldine E. Harris, Bureau of Foods (HFF-334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: In a final rule published in the **Federal Register** of August 2, 1983 (48 FR 34946), FDA amended the color additive regulations to provide for the safe use of [phthalocyaninato(2-)]copper as a color additive for coloring contact lenses. This color additive had been listed for use in polypropylene sutures used in general and ophthalmic surgery (21 CFR 74.1045). However, to reflect the fact that sutures, which were regulated as drugs before the passage of the Medical Device Amendments of 1976, are now regulated as medical devices, the final rule removed § 74.1045 and incorporated the provisions of that section in new § 74.3045 (21 CFR 74.3045). Additionally, the agency revised the restriction that appeared in § 74.1045(c) (now § 74.3045(c)(3)) to state that the medical devices in which this color additive is used (including sutures) are subject to the requirements of sections 510(k), 515, and 520(g) of the Federal Food, Drug, and Cosmetic Act instead of section 505. In the final rule FDA gave interested persons until September 1, 1983, to file objections.

The agency received one letter in response to the final rule. This letter, which was from the Wesley-Jessen Division of the Schering Corp., is on file in the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, under the docket number found in the heading of this document. The agency is treating this letter as a comment, rather than as an objection, because it did not object to any of the provisions of the final rule. Instead, the comment requested that the agency increase the limit on the use of [phthalocyaninato(2-)] copper in contact lenses from 0.01 percent by weight (as it is in the final rule) to 0.10 percent by weight and submitted citations of toxicology studies that purportedly document that the additive may be safely used at the higher level. However, the comment did not include any of the details of studies.

The agency has completed its evaluation of the comment. FDA finds that in the absence of the details of the studies cited in the comment, it cannot determine whether the increased use level is safe. Thus, the agency concludes that the comment is not adequate to justify modification of the regulation listing [phthalocyaninato(2-)]copper as a color additive. Further, the agency notes that the type of modification suggested by the comment should be the subject of a color additive petition rather than of a comment.

No requests for a hearing were received in response to the listing regulation. Therefore, this document confirms the effective date as September 2, 1983, for the regulation listing [phthalocyaninato(2-)] copper.

List of Subjects in 21 CFR Part 74

Color additives, Color additives subject to certification, Cosmetics, Drugs, Medical devices.

PART 74—LISTING OF COLOR ADDITIVES SUBJECT TO CERTIFICATION

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 701(e), 706, 70 Stat. 919 as amended, 74 Stat. 399-407 as amended (21 U.S.C. 371(e), 376)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), notice is given that no objections or requests for hearing were filed in response to the August 2, 1983 final rule. Accordingly, the amendments promulgated thereby became effective September 2, 1983.

Dated: February 2, 1984.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 84-3653 Filed 2-9-84; 8:45 am]

BILLING CODE 4160-01-M

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21 CFR Parts 430, 436, 440, 442, 444, 450, and 452

[Docket No. 84N-0013]

Antibiotic Drugs; Updating and Technical Changes

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the antibiotic drug regulations by making corrections, updatings, and minor noncontroversial technical changes in certain regulations providing for accepted standards of antibiotic and antibiotic-containing drugs for human use. These changes will result in more accurate and up-to-date regulations.

DATES: Effective February 10, 1984. Comments, notice of participation, and request for hearing by March 12, 1984. Data, information, and analyses to justify a hearing by April 10, 1984.

ADDRESS: Written comments to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Joan M. Eckert, National Center for Drugs and Biologics (HFN-140), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4290.

SUPPLEMENTARY INFORMATION: FDA is amending the antibiotic drug regulations

by making corrections, updatings, and minor noncontroversial technical changes in certain regulations that provide for accepted standards of antibiotic and antibiotic-containing drugs intended for human use. In two instances, the need for a change was called to FDA's attention by industry representatives. To aid in understanding the types of changes included in this document, the changes have been grouped into three general classes for discussion in this preamble: monograph corrections, updatings, and technical changes.

Monograph Corrections

1. In § 440.49(b)(5), the word "200-milliliter" in the third sentence is corrected to read "200-millimeter."

2. In § 442.225c, paragraph (b)(1)(i) is corrected as follows:

a. In the third sentence, "1.0 percent potassium phosphate buffer," is corrected to read "1 percent potassium phosphate buffer,"; and

b. In the fourth sentence, "1.0 potassium phosphate buffer," is corrected to read "1 percent potassium phosphate buffer,".

Updatings

1. In § 440.107c, paragraph (a)(1)(iii) and (iv) is removed. These drug product formulations are no longer manufactured.

2. In § 440.236, paragraphs (a)(1) and (b)(5) are revised to remove provisions for the drug product containing EDTA, which is no longer manufactured, and to provide standards for the drug product without preservatives.

3. In §§ 452.310(b)(1) and 452.510a(b)(1), the sample preparation method for determining the potency of erythromycin ophthalmic ointment is revised to delete the size of the separatory funnel to reflect the official method.

Technical Changes

1. In §§ 430.4(a)(24), 430.5(a)(38) and (b)(38), 430.6(b)(41), 436.35, 436.105(a) and (b), 450.40, and 450.240, the name "Mithramycin" is changed to read "Plicamycin" to be in agreement with the United States Adopted Names (USAN) designation.

2. In § 444.342d(a)(1), the pH range for neomycin sulfate-polymyxin B sulfate-hydrocortisone ophthalmic suspension (5.0 to 7.0) is changed to read 4.1 to 7.0. The sole manufacturer has submitted adequate stability data to support the lower limit.

The agency has determined pursuant to 21 CFR 25.24(b)(22) (proposed December 11, 1979; 44 FR 71742) that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects

21 CFR Part 430

Administrative practice and procedure, Antibiotics.

21 CFR Part 436

Antibiotics.

21 CFR Part 440

Antibiotics, penicillin.

21 CFR Part 442

Antibiotics, cepha.

21 CFR Part 444

Antibiotics, oligosaccharide.

21 CFR Part 450

Antibiotics, antitumor.

21 CFR Part 452

Antibiotics, macrolide.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 507, 701 (f) and (g), 52 Stat. 1055–1056 as amended, 59 Stat. 463 as amended (21 U.S.C. 357, 371 (f) and (g))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), Parts 430, 436, 440, 442, 444, 450, and 452 are amended as follows:

PART 430—ANTIBIOTIC DRUGS; GENERAL

1. Part 430 is amended:

§ 430.4 [Amended]

a. In § 430.4 *Definitions of antibiotic substances*, paragraph (a)(24), by changing the name "Mithramycin" to read "Plicamycin" wherever it appears.

§ 430.5 [Amended]

b. In § 430.5 *Definitions of master and working standards*, paragraphs (a)(38) and (b)(38), by changing the name "Mithramycin" to read "Plicamycin" wherever it appears.

§ 430.6 [Amended]

c. In § 430.6 *Definitions of the term "unit" and "microgram" as applied to antibiotic substances*, paragraph (b)(41), by changing the name "Mithramycin" to read "Plicamycin" wherever it appears.

PART 436—TESTS AND METHODS OF ASSAY OF ANTIBIOTIC AND ANTIBIOTIC-CONTAINING DRUGS

2. Part 436 is amended:

§ 436.35 [Amended]

a. In § 436.35 *Depressor substances test*, in the table by changing the name "Mithramycin" to read "Plicamycin".

§ 436.105 [Amended]

b. In § 436.105 *Microbiological agar diffusion assay*, the table in paragraphs (a) and (b), by changing the name "Mithramycin" to read "Plicamycin".

PART 440—PENICILLIN ANTIBIOTIC DRUGS

3. Part 440 is amended:

a. In § 440.49(b)(5) by revising the third sentence to read as follows:

§ 440.49 Oxacillin sodium monohydrate.

* * * * *

(b) * * *

(5) * * * Pipette a 5.0-milliliter aliquot of the sample solution into a 22- by 200-millimeter test tube, and add 5 milliliters of 10*N* NaOH. * * *

* * * * *

§ 440.107c [Amended]

B. In § 440.107c *Ampicillin trihydrate for oral suspension* by removing paragraph (a)(1) (iii) and (iv).

c. In § 440.236 by revising paragraphs (a)(1) and (b)(5) to read as follows:

§ 440.236 Methicillin sodium monohydrate for injection.

(a) * * *

(1) *Standards of identity, strength, quality, and purity.* Methicillin sodium monohydrate for injection is methicillin sodium monohydrate with or without one or more suitable and harmless preservatives and the buffer sodium citrate in a quantity not less than 4 percent and not more than 5 percent by weight of its total solids (such sodium citrate conforms to the standards prescribed therefor by the U.S.P.). Its potency is satisfactory if it is not less than 90 percent and not more than 115 percent of the number of milligrams of methicillin that it is represented to contain. It is sterile. It is nonpyrogenic. It passes the safety test. Its pH in an aqueous solution containing 10 milligrams per milliliter is not less than 6.0 and not more than 8.5. Its moisture content is not more than 6.0 percent. The methicillin sodium monohydrate used conforms to the standards prescribed by § 440.36a(a)(1).

* * * * *

(b) * * *

(5) *pH.* Proceed as directed in § 436.202 of this chapter, using an aqueous solution containing 10 milligrams per millilter.

* * * * *

PART 442—CEPHA ANTIBIOTIC DRUGS

4. Part 442 is amended in § 442.225c(b)(1)(i) by revising the third and fourth sentences to read as follows:

§ 442.225c Cephalothin sodium for injection.

* * * * *

(b) * * *

(1) *Content; potency*—(i) *Sample preparation.* * * * Dilute with 1 percent potassium phosphate buffer, pH 6.0 (solution 1), for the microbiological agar diffusion assay or distilled water for the hydroxylamine colorimetric assay to obtain a stock solution of convenient concentration. In addition, if the cephalothin sodium is not isolated, dissolve an accurately weighed sample in sufficient 1 percent potassium phosphate buffer, pH 6.0 (solution 1), for the microbiological agar diffusion assay or distilled water for the hydroxylamine colorimetric assay to obtain a stock solution of convenient concentration. * * *

* * * * *

PART 444—OLIGOSACCHARIDE ANTIBIOTIC DRUGS

5. Part 444 is amended in §444.342d(a)(1) by revising the fourth sentence to read as follows:

§ 444.342d Neomycin sulfate-polymyxin B sulfate ophthalmic suspension (the blank being filled in with the established name(s) of the other active ingredient(s) present in accordance with paragraph (a)(1) of this section).

(a) * * *

(1) * * * Its pH is not less than 5.0 and not more than 7.0; except if it contains 10 milligrams per milliliter of hydro-cortisone, its pH is not less than 4.1 and not more than 7.0. * * *

* * * * *

PART 450—ANTITUMOR ANTIBIOTIC DRUGS

6. Part 450 is amended:

§ 450.40 [Amended]

a. In § 450.40 *Mithramycin* by changing the name "Mithramycin" to read "Plicamycin" Wherever it appears.

§ 450.240 [Amended]

b. In § 450.240 *Mithramycin for injection* by changing the name "Mithramycin" to read "Plicamycin" Wherever it appears.

PART 452—MACROLIDE ANTIBIOTIC DRUGS

7. Part 452 is amended:

a. In § 452.310(b)(1) by revising the first sentence to read as follows:

§ 452.310 Erythromycin ophthalmic ointment.

* * * * *

(b) * * *

(1) *Potency.* Proceed as directed in § 436.105 of this chapter, preparing the sample for assay as follows: Place an accurately weighed representative portion of the ointment in a separatory funnel containing 50 milliliters of reagent-grade petroleum ether. * * *

* * * * *

b. In § 452.510a by revising the first sentence in paragraph (b)(1) to read as follows:

§ 452.510a Erythromycin ointment.

* * * * *

(b) * * *

(1) *Potency.* Proceed as directed in § 436.105 of this chapter, preparing the sample for assay as follows: Place an accurately weighed representative portion of the ointment in a separatory funnel containing 50 milliliters of reagent-grade petroleum ether. * * *

* * * * *

These amendments institute changes that are corrective, editorial, or of a minor substantive nature. Because the amendments are not controversial and because when effective they provide notice of accepted standards, FDA finds that notice, public procedure, and delayed effective date are unnecessary and not in the public interest. The amendments, therefore, may become effective February 10, 1984. However, interested persons may, on or before March 12, 1984, submit written comments on this regulation to the Dockets Management Branch (address above). Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Any person who will be adversely affected by this regulation may file objections to it and request a hearing. Reasonable grounds for the hearing must be shown. Any person who decides to seek a hearing must file (1) on or before March 12, 1984, a written notice of participation and request for hearing, and (2) on or before April 10, 1984, the data, information, and analyses on which the person relies to justify a hearing, as specified in 21 CFR 430.20. A request for a hearing may not rest upon mere allegations or denials, but must set forth specific facts showing that there is a genuine and substantial issue of fact that requires a hearing. If it conclusively appears from the face of the data, information, and factual analyses in the request for hearing that no genuine and substantial issue of fact precludes the action taken by this order, or if a request for hearing is not made in the required format or with the required analyses, the Commissioner of Food and Drugs will enter summary judgment against the person(s) who request(s) the hearing, making findings and conclusions and denying a hearing. All submissions must be filed in three copies, identified with the docket number appearing in the hearing of this order and filed with the Dockets Management Branch.

The procedures and requirements governing this order, a notice of participation and request for hearing, a submission of data, information, and analyses to justify a hearing, other comments, and grant or denial of a hearing are contained in 21 CFR 430.20.

All submissions under this order, except for data and information prohibited from public disclosure under 21 U.S.C. 331(j) or 18 U.S.C. 1905, may be seen in the office of the Dockets Management Branch, between 9 a.m. and 4 p.m., Monday through Friday.

Effective date. This regulation shall be effective February 10, 1984.

(Secs. 507, 701 (f) and (g), 52 Stat. 1055–1056 as amended, 59 Stat. 463 as amended (21 U.S.C. 357, 371 (f) and (g)).)

Dated: February 6, 1984.

Philip L. Paquin,

Acting Associate Director for Regulatory Affairs.

[FR Doc. 84-3649 Filed 2-9-84; 8:45 am]

BILLING CODE 4160-01-M

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21 CFR Part 449

[Docket No. 84N-0019]

Antibiotic Drugs; Nystatin

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the antibiotic drug regulations to provide for the inclusion of accepted standards for a new use of nystatin. The manufacturer has supplied sufficient data and information to establish its safety and efficacy.

DATES: Effective February 10, 1984, comments, notice of participation, and request for hearing by March 12, 1984, data, information, and analyses to justify a hearing by April 10, 1984.

ADDRESS: Written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Joan M. Eckert, National Center for Drugs and Biologics (HFN–140), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4290.

SUPPLEMENTARY INFORMATION: FDA has evaluated data submitted in accordance with regulations promulgated under section 507 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 357), as amended, with respect to a request for approval of a new use (packaged for extemporaneous preparation of oral suspensions) of nystatin. The agency has concluded that the data supplied by the manufacturer concerning this antibiotic drug are adequate to establish its safety and efficacy when used as directed in the labeling and that the regulations should be amended in Part 449 (21 CFR Part 449) to provide for the new use of this product.

The agency has determined pursuant to 21 CFR 25.24(b)(22) (proposed December 11, 1979; 44 FR 71742) that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects in 21 CFR Part 449

Antibiotics, antifungal.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 507, 701 (f) and (g), 52 Stat. 1055–1056 as amended, 59 Stat. 463 as amended (21 U.S.C. 357, 371 (f) and (g))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), § 449.50 is amended by revising paragraphs (a) (1)(i) and (3)(i) and by adding paragraphs (a)(1) (vi) and (vii) and (b) (6) and (7) to read as follows:

PART 449—ANTIFUNGAL ANTIBIOTIC DRUGS

§ 449.50 Nystatin.

(a) * * *

(1) * * *

(i) Its potency is not less than 4,400 units of nystatin per milligram; except, if it is packaged for extemporaneous preparation of oral suspensions, its potency is not less than 5,000 units of nystatin per milligram.

* * * * *

(vi) If it is packaged for extemporaneous preparation of oral suspensions, it passes the suspendibility test.

(vii) If it is packaged for extemporaneous preparation of oral suspensions, it is crystalline.

* * * * *

(3) * * *

(i) Results of tests and assays on the batch for potency, safety, loss on drying, pH, and identity. In addition, if it is packaged for extemporaneous preparation of oral suspensions, results of tests and assays on the batch for suspendibility and crystallinity.

* * * * *

(b) * * *

(6) *Suspendibility test.* Transfer 200 milligrams of the sample into a 250-milliliter beaker containing 200 milliliters of water. Swirl the suspension gently with a stirring rod. Allow the beaker to remain still for 2 minutes and observe the bottom. It passes the test if the powder remains in suspension. If a significant amount of sediment is observed, withdraw an accurately measured aliquot of the undisturbed suspension and assay as directed in § 449.150c(b)(1) of this chapter. It passes the test if the suspension contains not less than 90 percent of the number of units of nystatin that it is represented to contain.

(7) *Crystallinity.* Proceed as directed in § 436.203(a) of this chapter.

This regulation announces standards that FDA has accepted in a request for approval of an antibiotic drug. Because this regulation is not controversial and because when effective it provides notice of accepted standards, notice and comment procedure and delayed effective date are found to be unnecessary and not in the public interest. The amendment, therefore, is effective February 10, 1984. However, interested persons may, on or before March 12, 1984, submit written comments to the Dockets Management Branch (address above). Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number in brackets in the heading of this document. Received comments may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Any person who will be adversely affected by this regulation may file objections to it and request a hearing. Reasonable grounds for the hearing must be shown. Any person who decides to seek a hearing must file (1) on or before March 12, 1984, a written notice of participation and request for hearing, and (2) on or before April 10, 1984, the data, information, and analyses on which the person relies to justify a hearing, as specified in 21 CFR 430.20. A request for a hearing may not rest upon mere allegations or denials, but must set forth specific facts showing that there is a genuine and substantial issue of fact that requires a hearing. If it conclusively appears from the face of the data, information, and factual analyses in the request for hearing that no genuine and substantial issue of fact precludes the action taken by this order, or if a request for hearing is not made in the required format or with the required analyses, the Commissioner of Food and Drugs will enter summary judgment against the person(s) who request(s) the hearing, making findings and conclusions and denying a hearing. All submissions must be filed in three copies, identified with the docket number appearing in the heading of this order and filed with the Dockets Management Branch.

The procedures and requirements governing this order, a notice of participation and request for hearing, a submission of data, information, and analyses to justify a hearing, other comments, and grant or denial of a hearing are contained in 21 CFR 430.20.

All submissions under this order, except for data and information prohibited from public disclosure under 21 U.S.C. 331(j) or 18 U.S.C. 1905, may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

Effective date. February 10, 1984.

(Secs. 507, 701 (f) and (g), 52 Stat. 1055–1056 as amended, 59 Stat. 463 as amended (21 U.S.C. 357, 371 (f) and (g)))

Dated: February 6, 1984.

Philip L. Paquin,

Acting Associate Director for Regulatory Affairs.

[FR Doc. 84–3648 Filed 2–9–84; 8:45 am]

BILLING CODE 4160–01–M

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21 CFR Part 520

Oral Dosage Form New Animal Drugs Not Subject to Certification; Diethylcarbamazine Citrate Capsules

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a supplemental new animal drug application (NADA) filed by Happy Jack, Inc., to revise the labeling to provide more specific directions for use of diethylcarbamazine citrate capsules

for prevention of heartworm disease in dogs.

EFFECTIVE DATE: February 10, 1984.

FOR FURTHER INFORMATION CONTACT: Bob G. Griffith, Bureau for Veterinary Medicine (HFV–112), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–3430.

SUPPLEMENTARY INFORMATION: Happy Jack, Inc., Snow Hill, NC 28580, filed a supplement to NADA 125–137 which covers use of 12.5-, 50-, 200-, and 400-milligram diethylcarbamazine citrate capsules for prevention of heartworm disease (*Dirofilaria immitis*) in dogs. The supplement provides for adding a statement to the label: "Capsules may be administered to the dog directly or added to the daily ration." Approval of this application does not change the approved use of the drug. The previously approved labeling provided for oral use of the drug, and the new statement merely provides more specific directions for use. The supplement is approved and the regulations are amended to reflect the approval.

NADA 125–137 was originally approved by a final rule published in the **Federal Register** of October 17, 1983 (48 FR 46979). The freedom of information summary made available under the provisions of Part 20 (21 CFR Part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), which consisted of a summary of safety and effectiveness data and information submitted to support approval of the original application, applies also to this supplemental application and may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

The Bureau of Veterinary Medicine has determined pursuant to 21 CFR 25.24(d)(1)(i) (proposed December 11, 1979; 44 FR 71742) that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects in 21 CFR Part 520

Animal drugs, oral use.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83), Part 520 is amended in § 520.622d by adding a sentence at the beginning of paragraph (b)(3)(ii) to read as follows:

PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

§ 520.622d Diethylcarbamazine citrate capsules.

* * * * *

(b) * * *

(3) * * *

(ii) *Limitations.* Capsules may be administered to the dog directly or added to the daily ration.* * *

Effective date. February 10, 1984.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)))

Dated: February 1, 1984.

Richard A. Carnevale,

Acting Associate Director for Scientific Evaluation.

[FR Doc. 84–3654 Filed 2–9–84; 8:45 am]

BILLING CODE 4160–01–M

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21 CFR Part 522

Implantation or Injectable Dosage Form New Animal Drugs Not Subject to Certification; Cloprostenol Sodium

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a supplemental new animal drug application (NADA) filed by Bayvet Division of Miles Laboratories, Inc., providing for use of a lower concentration cloprostenol sodium injection as an abortifacient (an agent that induces abortion) in pregnant feedlot heifers.

EFFECTIVE DATE: February 10, 1984.

FOR FURTHER INFORMATION CONTACT: Adriano R. Gabuten, Bureau of Veterinary Medicine (HFV–135), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4913.

SUPPLEMENTARY INFORMATION: Bayvet Division of Miles Laboratories, Inc., P.O. Box 390, Shawnee Mission, KS 66201, filed supplemental NADA 113–645 providing for intramuscular (IM) use of an additional concentration of 125 micrograms (μg) of cloprostenol (as cloprostenol sodium) per milliliter (mL) of injection solution. The drug product is indicated for inducing abortion in pregnant feedlot heifers from 1 week after mating until 4½ months of gestation. Bayvet has an existing approval for IM use of a 250-μg/mL cloprostenol solution in beef and dairy cattle for scheduling estrus, terminating unwanted pregnancies from mismatings, or treating unobserved (nondetected) estrus, mummified fetus, and luteal cysts. The additional lower concentration solution (i.e., 125 μg/mL cloprostenol) is limited to use as an abortifacient and is administered as a single injection of 375 μg. When the existing drug product is used as an abortifacient, it is also administered as a single injection but the dose is 500 μg. The supplemental NADA is approved and the regulations are amended to reflect the approval. The basis for approval is discussed in the freedom of information summary referred to below.

In addition, the current regulations do not specify the number of drug injections for the indications listed, therefore, the regulations are further amended to specify that treatment involves a single injection for all indications.

In accordance with the freedom of information provisions of Part 20 (21 CFR Part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

The Bureau of Veterinary Medicine has carefully considered the potential environmental effects of this action and has concluded that the action will not have a significant impact on the human environment and that an environmental impact statement therefore will not be prepared. The Bureau's finding of no significant impact and the evidence supporting this finding, contained in an environmental impact analysis report (pursuant to 21 CFR 25.1(j)), may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 522

Animal drugs, injectable.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner

of Food and Drugs (21 CFR 5.10) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83), Part 522 is amended in § 522.460 by redesignating existing paragraphs (a), (b), and (c) (1), (2) (i) (*a*), (*b*), (ii), (3), (4), and (5) as paragraph (a) (1), (2), (3) (i), (ii) (*a*) (*1*), (*2*), (*b*), (iii), (iv), and (v), respectively; by revising redesignated paragraph (a)(3)(ii)(*b*); and adding new paragraph (b) to read as follows:

PART 522—IMPLANTATION OR INJECTABLE DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

§ 522.460 Cloprostenol sodium.

(a)(1) *Specifications.* * * *

(2) *Sponsor.* * * *

(3) *Conditions of use.* * * *

(i) *Amount.* * * *

(ii) *Indications.*(*a*) * * *

(*1*) * * *

(*2*) * * *

(*b*) Single cloprostenol injection for terminating unwanted pregnancies from matings from 1 week after mating until 5 months after conception, or for treating unobserved (nondetected) estrus, mummified fetus, and luteal cysts.

(iii) * * *

(iv) * * *

(v) * * *

(b)(1) *Specifications.* Each milliliter of sterile aqueous solution contains 131.5 micrograms of cloprostenol sodium (equivalent to 125 micrograms of cloprostenol).

(2) *Sponsor.* See No. 000859 in § 510.600(c) of this chapter.

(3) *Special considerations.* Labeling shall bear the statements prescribed in paragraph (a)(3) (iii) and (iv) of this section.

(4) *Conditions of use*—(i) *Amount.* 3 milliliters (equivalent to 375 micrograms of cloprostenol) intramuscularly per animal as a single dose.

(ii) *Indications for use.* To induce abortion in pregnant feedlot heifers from 1 week after mating until 4½ months of gestation.

(iii) *Limitations.* Federal law restricts this drug to use by or on the order of a licensed veterinarian.

Effective date. February 10, 1984.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)))

Dated: February 2, 1984.

Lester M. Crawford,

Director, Bureau of Veterinary Medicine.

[FR Doc. 84-3850 Filed 2-9-84; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

24 CFR Part 51

[Docket No. R-84-709; FR-935]

Environmental Criteria and Standards; Siting of HUD-Assisted Projects Near Hazardous Operations Handling Petroleum Products or Chemicals of an Explosive or Flammable Nature

AGENCY: Department of Housing and Urban Development.

ACTION: Final rule.

SUMMARY: This final rule provides standards for the safe siting of HUD-assisted projects near hazardous operations handling petroleum products or chemicals of an explosive or flammable nature. The rule establishes standards and methods for calculating the acceptable separation distance of a proposed HUD-assisted project from such hazardous operations, and describes mitigating measures which can be taken to modify the application of the acceptable separation distance requirements.

EFFECTIVE DATE: March 22, 1984.

FOR FURTHER INFORMATION CONTACT: James L. Christopulos, Office of Environment and Energy, Department of Housing and Urban Development, 451 7th Street, SW., Washington, DC 20410, telephone number 202–755–7225 (this is not a toll free number).

SUPPLEMENTARY INFORMATION:

I. Proposed Rule

A Notice of Proposed Rulemaking was published August 19, 1980 (45 FR 55223) that proposed a new regulation establishing Departmental standards, requirements and guidelines for siting HUD-assisted projects near hazardous operations which store or process petroleum products or chemicals of an explosive or fire prone nature. The proposed rule would have established blast (overpressure) and thermal radiation (fire) safety standards. The effect of these standards would have been to withhold HUD assistance for projects located within a prescribed acceptable separation distance from specific hazardous operations.

The standards set forth in § 51.203 of the proposed rule and carried over into the final rule are:

	Thermal radiation	Blast overpressure
Amount of acceptable exposure allowed for building structures.	10,000 BTU/ft²hr.	0.5 psi.
Amount of acceptable exposure allowed for people in open areas.	450 BTU/ft²hr.....	0.5 psi.

The standards are based on the findings of two studies conducted for the Department: "Safety Consideration in Siting Housing Projects," prepared by Arthur D. Little, Inc. published in December, 1975 by the Office of Policy Development and Research, HUD, and "Urban Development Siting with Respect to Hazardous Commercial/Industrial Facilities," by Rolf Jensen and Associates, Inc., submitted April 2, 1982. A summary of these studies follows:

(a) Thermal Radiation

Flammable products stored in above-ground containers represent a definite, potential threat to human life and structures in the event of fire. The resulting flame from a fire emits thermal radiation which is absorbed by the surroundings. Combustible structures, such as wooden houses, may be ignited by the thermal radiation being emitted. The radiation can cause severe burn injuries and even death to exposed persons some distance away from the site of the fire.

Wooden buildings, window drapes and trees generally ignite spontaneously when exposed for a relatively long period of time to thermal radiation flux levels of approximately 10,000 BTU/hr. sq. ft. It will take 15 to 20 minutes for a building to ignite at the degree of thermal intensity. Since the reasonble response time for fire fighting units in urbanized areas is approximately five to ten minutes, a standard of 10,000 BTU/hr. sq. ft. is considered an acceptable level of thermal radiation for buildings.

People in outdoor areas exposed to a thermal radiation level of approximately 1,500 BTU/ft²hr will suffer intolerable pain after 15 seconds. Longer exposure causes blistering, permanent skin damage, and even death. Since it is assumed that children and the elderly could not take refuge behind walls or run away from the thermal effect of the fire within the 15 seconds before skin blistering occurs, unprotected (outdoor) areas, such a playgrounds, parks, yards, school grounds, etc., must be placed at such a distance from potential fire locations so that the radiation flux level is well below 1500 BTU/ft²hr. An acceptable flux level, particularly for elderly people and children, is 450 BTU/ft²hr. The skin can be exposed to this degree of thermal radiation for a prolonged period of time with no serious detrimental effect. The effects at this exposure would be the same as a bad sunburn. Therefore, the standard for areas in which there will be people in exposed settings (e.g., outdoor recreation areas such as playgrounds and parks) will not exceed 450 BTU/hr.

sq. ft. Areas covered also include open space ancillary to residential structures, such as yard areas and vehicle parking areas.

(b) Blast Overpressure

The range of sensitivity of the explosion tolerance of a material and the magnitude of the violent sudden release of energy can vary widely from one material to another. Therefore, for the sake of simplicity, the blast effect of an explosive material is compared to TNT, whose blast energies are well know. This method of comparison is known as "TNT Equivalent." The term "TNT Equivalent" (TNT_{eq}) refers to the amount of material (other than TNT) it would take to have the same blast effect as one pound of TNT.

The Acceptable Separation Distance (ASD) for people and structures from materials prone to explosion in dependent upon the resultant blast measured in pounds per square inch (psi) overpressure. The military services have determined that 0.5 psi in the acceptable level of blast overpressure for both buildings and occupants, because a frame structure can normally withstand the level of external exertion with no serious structural damage and it is unlikely that human beings inside the building would normally suffer any serious injury. Using this standard and after determining the TNT equialent for the material concerned, the ASD can be computed by determining the distance at which the blast overpressure will be 0.5 psi. The Arthur D. Little and the Rolf Jensen reports both corroborate 0.5 psi as the acceptable level of blast overpressure for both buildings and occupants. Therefore, HUD has adopted this standard.

The Acceptable Separation Distances for buildings, which are computed for fire and blast overpressure, delineate separate identifiable danger zones for each potential accident source. For some materials the fire danger zone will have the greatest radius, and cover the largest area, while for others the explosion danger zone will be the greatest. For example, conventional petroleum fuel products stored in unpressurized tanks do not emit blast overpressure of dangerous levels when ignited. In most cases, hazardous substances will be stored in pressurized containers. The resulting blast overpressure will be experienced at a greater distance than the resulting thermal flux at the standards set in this rule. The hazard requiring the greatest separation distance will govern in determining the location of HUD-assisted projects.

Appendix II to this rule provides an illustration of how this rule is applied. Procedures for calculating the ASD are described. A fuller treatment of the subject is included in a HUD guidebook entitled "Urban Development Siting With Respect to Hazardous Commercial/Industrial Facilities," which will be issued for use with this rule.

II. Public Comments

The following discussion summarizes changes that were to the final rule based upon significant comments received. Thirteen comment letters were received, and all comments were evaluated and given due consideration. The discussion is organized by section of the proposed rule.

1. *Proposed § 51.200, Purpose,* has been revised to indicate that the general purpose of the rule is to establish standards for the location of proposed HUD-assisted projects near hazardous operations handling chemicals of an explosive or fire prone nature, in order to minimize the possibility of loss of life and substantial property loss from such hazards.

The reasoned basis for this new regulation was not fully set forth in the proposed rule. HUD policy has been to consider the location of HUD-assisted projects near hazardous operations as part of its environmental assessment. No regulatory standards, however, were published. The policy took cognizance of the fact that projects and their occupants may be placed at unacceptable risk located too near a hazardous operation containing substances of an explosive or fire prone nature. For example, in 1975, during the environmental review process, the Department learned about the proposed construction of 1,250 units of public housing which were to be located within 120 feet of a public utility facility containing forty 60,000 gallon liquid propane storage tanks. An engineering analysis determined that an explosion of just one of the tanks would emit a force capable of destroying 60 percent of the project.

HUD policy was to approve projects to be located near hazardous operations if appropriate measures to mitigate the effects of unacceptable thermal radiation and blast overpressure conditions were used. For example, a high-rise housing facility for Senior Citizens was to be constructed within 282 feet of two 30,000 gallon liquid propane tanks. However, the safe separation distance, based on explosion and thermal radiation computations was determined to be 660 feet. Since there was no other economically acceptable site in the area, compliance with the safe separation distance computations would have meant cancellation of the project. After an engineer field analysis, it was determined that erection of an 18 foot high reinforced concrete wall, between the project and the tanks, designed to withstand 1.5 psi overpressure would contain the anticipated blast in event of an incident. Design changes to the upper portion of the structure that could withstand an anticipated thermal radiation flux level of 12,000 Btu per sq. ft. per hr. in the event of a fireball, were also recommended. These recommendations were incorporated into the project and the facility is now complete and occupied. The wall is effectively camouflaged with shrubbery and vines so that it is not descernible as a concrete wall.

More systematic data are available as to the need for limited regulation. The National Fire Protection Association (NFPA), an organization dedicated to promote the science and improve the methods of fire protection, reports that there are an average of approximately 3,000 incidents (nationwide) of fire/explosion per year, involving stationary chemical and petrochemical facilities. This report was corroborated by the United States Fire Administration, an adjunct of the Federal Emergency Management Administration (FEMA). FEMA reported 3,197 and 3,358 fire/explosion incidents for the years 1980 and 1981 respectively, as outlined below. FEMA data demonstrate that fires and explosions of the type relevant to this rule occur with resulting property damages to buildings and death and injuries to persons off the premises. These data show that the event, when it occurs, carries significant dangers; however, the incidence of such damage is infrequent. Therefore any regulation in this area needs to focus on those circumstances of potential adverse effects and not impose burdens on interested parties where there is little likelihood of adverse effects.

FIRE/EXPLOSION AT STATIONARY CHEMICAL-PETROCHEMICAL FACILITIES

Total	Damage off-premises
1980:	
3,197 incidents	
[illegible] deaths	7 deaths
444 injuries	198 injuries
$39,637,000 property loss	$15,800,000 property loss
1981:	
3,358 incidents	
10 deaths	4 deaths
445 injuries	225 injuries
$51,126,799 property loss	$23,200,000 property loss

2. *Proposed § 51.201, Definitions,* has been condensed to remove unnecessary language. The definition of "HUD-

assisted project" has been amended to indicate that the terms "rehabilitation" and "modernization" refer only to such repairs and renovation of a building or buildings as will result in an increased number of people being exposed to hazards by: (1) increasing residential densities; (2) converting the type of use of a building to habitation; or (3) making a vacant building habitable. This qualification was, in substantial part, contained in § 51.202(c)(2) of the proposed rule.

The broad definition of "Hazard" in § 51.201 has been revised to exempt from the definition containers with a storage capacity of 100 gallons or less when they contain common liquid industrial fuels, such as gasoline, fuel oil, kerosene, jet fuel or crude oil. The ASD from 100 gallons of common industrial liquid fuels is only 15 feet. Therefore, this threshold level was included in the definition on the basis of the Department's conclusion that common liquid industrial fuels in quantities of 100 gallons or less would generally pose no danger in terms of thermal radiation or blast overpressure consequences to a project, and that it is therefore unnecessary to calculate acceptable separation distances for such facilities. Also excepted are facilities which are shielded from a proposed HUD project by the topography, because these topographic features effectively provide a mitigating measure already in place. The regulation clarifies that the term "hazard" does not apply to pipelines for the transmission of hazardous substances if such pipelines are located underground or if they comply with applicable Federal, State and local safety standards.

3. *Proposed § 51.202, Policy.* Section 51.202(a) has been added to make clear that HUD will not approve applications for assistance if a project fails to satisfy the § 51.203 standards. In addition, the requirement in paragraph (d) of the proposed rule—grantees or sponsors of projects which have received HUD approval must notify the Department if they hear of any planned hazard to be located near the project, so that HUD could advise the appropriate local government on hazard implications and remedial measures—has been deleted as vague and without effect. Section 51.202 of the final rule authorizes HUD, in cases when HUD knows that operations involving hazardous substances are proposed to be built within the acceptable separation distance of the project, to require mitigating measures as a condition of approval of the project.

4. *Proposed § 51.203, Safety Standards,* has been revised by deleting explanatory information now contained in the appendix and in other sections of the final rule. The fire and explosion safety standards themselves have been retained. Clarification was necessary as to the applicability of the standards to Gas Transmission Pipelines and liquid natural gas (LNG) facilities. Of the 13 comments received, nine expressed concern that the proposed standards would be applicable to high pressure gas transmission lines. This is not the intent, and language appearing in the regulation has been changed to make it clear that the standards are only applicable to stationary storage facilities. Existing Department of Transportation Regulations and HUD Minimum Property Standards (MPS) govern proximity of structures to high pressure gas transmission lines.

Several of the reviewers questioned the necessity for the HUD regulation in view of the existing Federal Fire Safety Standards for Liquified Natural Gas (LNG) Facilities, 49 CFR Part 193, developed by the Materials Transportation Bureau (Department of Transportation). The DOT regulation establishes thermal radiation standards which are applicable *only* to LNG facilities, not to other petroleum products or chemicals of an explosive or fire prone nature. The HUD regulation establishes explosion and thermal radiation (fire) standards, both of which are applicable to 53 commonly encountered chemicals or petrochemicals of an explosive and/or fire prone nature, in addition to LNG. While the DOT standards may affect the location of proposed LNG facilities relative to existing projects, they do not govern the placement of HUD-assisted projects near existing LNG facilities.

5. *Proposed § 51.204, Responsibilities,* has been deleted. General implementation responsibilities are now found in § 51.206 of the final rule. The specific responsibilities applicable to HUD staff for carrying out the regulation will be continued in the HUD guidebook, "Urban Development Siting With Respect to Hazardous Commercial/Industrial Facilities."

6. *Proposed § 51.205, Exceptions,* has been deleted as redundant. The inclusion of the 100 gallon container and other exceptions in the final § 51.201 makes unnecessary the proposed section.

7. *Proposed § 51.206, Mitigating Measures,* has been renumbered § 51.205. One of the reviewers suggested that additional mitigation factors be listed. The final section on mitigating measures (§ 51.205) has accordingly been revised. The HUD field representative will determine whether an existing intervening structure can serve as an effective barrier against blast and thermal radiation.

8. A new *§ 51.206, Implementation,* has been added. It provides that the regulation shall be implemented for each proposed HUD-assisted project by the Departmental official responsible for environmental review of the project. In the case of HUD-assisted projects for which the Department's project selection criteria at 24 CFR § 200.700 *et seq.* are applicable, § 51.206 indicates that the regulation shall be implemented by the Departmental official responsible for determining compliance with such criteria.

9. A *New Appendix I* has been added which lists the most common hazardous substances. The preamble to the proposed rule provided illustrations—kerosene, gasoline, naptha, liquid propane, liquid butane, and liquified natural gas—of hazardous substances which triggered the regulatory requirement. The proposed rule, however, did not define hazardous substance creating ambiguity as to the coverage of the rule. The definition of hazardous substance in § 51.201 and Appendix I clarify this point. The list is based on a study prepared for the Department by Rolf Jensen and Associates, Inc., entitled "Urban Development Siting with respect to Hazardous Commercial/Industrial Facilities," dated April 2, 1982.

10. A new *§ 51.207* is added to prescribe the procedures for modifying the list of substances defined as hazardous under this Part. Paragraphs "a" and "b" allow the Secretary to act quickly either on a case-by-case basis or more generally when the facts warrant the enforcement of the policy with regard to the substance. The hazardous nature of the substance justifies expeditious application of the rule without the time consuming requirements of notice and comment. In cases where a substance is added to Appendix 1, notice in the **Federal Register** is required. The notice is to provide the basis for the action. Interested parties may petition changes to Appendix 1 pursuant to 24 CFR 15.20, the HUD procedure for issuing, amending or repealing a rule.

11. The material contained in parts one and two of the Appendix of the proposed rule has been retained without substantial revision to Appendix II of the rule.

Other Supplementary Information

The Department finds that based on the criteria set out in Executive Order

12291, this regulation is not a major rule in that it will not:

(a) Have an annual effect on the economy of $100 million or more;

(b) Cause a major increase in cost or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions;

(c) Have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The basic benefit of the regulation will be to assure that people and property are not unreasonably and unnecessarily exposed to potential explosion and thermal radiation hazards caused by hazardous substances.

The proposed regulation does not require action by, or generate direct costs to, local government, private enterprises, or individuals. It may, however, generate some indirect costs, or reduce expected profits in that it could limit the types of development that would occur with HUD assistance in areas near hazardous operations. The regulation may, for instance, preclude a local government from using cheaper land for some types of projects using HUD assistance, or it may prevent a private landowner from developing his/her land with HUD assistance for the use with the highest possible return.

However, based upon the Department's experience over the past several years, application of safety standards together with mitigating measures (where appropriate) have not imposed an undue burden on interested parties. The definitional exceptions to the term hazard and the use of mitigating measures minimizes the imposition of unjustified costs.

Pursuant to Section 605(b) of the Regulatory Flexibility Act, the undersigned hereby certifies that this Rule does not have a significant economic impact on a substantial number of small entities. The rule will affect only a small number of projects.

In evaluating the need for this regulation, the Department considered alternative approaches reliance on other standards and insurance coverage.

The Department surveyed professional societies, regulatory agencies, the National Fire Protection Association, Safety Councils and Boards, other Federal agencies, State and local entities, and The Insurance Information Institute, and found that the only extensive explosion and thermal radiation safety standards are as follows:

1. Explosion safety standards developed by the U.S. Air Force for liquid propelled Atlas "D," "E" and "F," and Titan I and II Inter Continental Ballistic Missiles (ICBM's). These standards were developed specifically for establishing safety easements around liquid propelled ICBM sites; they are predicated upon the TNT equivalent of the propellants used in the respective ICBM systems, and cannot be applied to HUD's purpose.

2. LNG thermal radiation standards developed by the Department of Transportation (DOT), discussed above.

3. National Fire Protection Association (NFPA) fire standards. These standards are limited to fire hazards, and are for the specific use of industry in determining the *internal* configuration of petrochemical facilities, rather than determining acceptable separation distances from such facilities.

Reliance on State and local controls would be an unsatisfactory alternative; few localities have extensive standards governing the siting of residences near hazardous operations. Moreover, the data on the incidence of off-premises damage caused by fires and explosions at stationary chemical and petrochemical facilities indicate that safety standards for storage tanks do not themselves provide sufficient protection against damage to nearby dwellings. Insurance was also rejected. While high insurance costs might deter many project sponsors from locating a project near a hazardous operations site, this result is not always the case. The potential outcome of personal injury and death are sufficient reasons for prohibiting the location of projects within dangerous proximity of hazardous operations.

As an alternative to issuing a regulation, the Department also considered issuing a handbook with guidelines. However, the Department determined that compulsory standards are necessary in order to ensure that residents of proposed HUD-assisted projects are sufficiently protected against hazardous operations.

The regulation will not create any new reporting or recordkeeping requirements for either HUD personnel or for local governments, private industries, or individuals. All procedures necessary to implement the regulation are already part of existing site and/or environmental review procedures currently followed by HUD personnel.

The Department determined that the regulation may affect the quality of the human environment. Therefore, a Draft Environmental Impact Statement (EIS) was prepared and circulated for agency and public comment in accordance with the National Environmental Policy Act of 1969 (U.S.C. 4321), Council on Environmental Quality Regulations (40 CFR Part 1500–1508) and HUD's Regulations (24 CFR Part 50). All comments received were reviewed, evaluated, and those which were substantially pertinent were incorporated into the Final EIS. A copy of this Final EIS will be available for inspection in the Office of the Rules Docket Clerk, Room 10278, Department of Housing and Urban Development, 451 7th Street, SW., Washington, DC 20410.

List of Subjects in 24 CFR Part 51

Hazardous substances, Housing standards.

PART 51—[AMENDED]

Accordingly, 24 CFR Part 51 is amended as follows:

1. By adding new Subpart C to read as follows:

Subpart C—Siting of HUD-Assisted Projects Near Hazardous Operations Handling Conventional Fuels or Chemicals of an Explosive or Flammable Nature

Sec.

51.200 Purpose.
51.201 Definitions.
51.202 Approval of HUD-Assisted Projects.
51.203 Safety Standards.
51.204 HUD-Assisted Hazardous Facilities.
51.205 Mitigating Measures.
51.206 Implementation.
51.207 Amendments of Appendix 1.
51.208 Reservation of Administrative and Legal Rights.

Authority: Sec. 2 Housing Act of 1949 (42 U.S.C. 1441); Sec. 7(d) Department of Housing and Urban Development Act (42 U.S.C. 3535(d)); Sec. 2, Housing and Urban Development Act of 1969 (42 U.S.C. 1441(a)).

Subpart C—Siting of HUD-Assisted Projects Near Hazardous Operations Handling Conventional Fuels or Chemicals of an Explosive or Flammable Nature

§ 51.200 Purpose.

The Depatment of Housing and Urban Development finds that it is necessary to establish standards for the location of proposed HUD-assisted projects near hazardous operations handling petroleum products or chemicals of an explosive or fire-prone nature in order to minimize the possibility of loss of life and substantial property loss from such hazards.

The purpose of this subpart is to:

(a) Establish safety standards which can be used as a basis for calculating acceptable separation distances (ASD) for HUD-assisted projects from specific.

stationary, hazardous operations which store, handle, or process hazardous substances;

(b) Alert those responsible for the siting of HUD-assisted projects to the inherent potential dangers when such projects are located in the vicinity of such hazardous operations;

(c) Provide guidance for identifying those hazardous operations which are most prevalent;

(d) Provide the technical guidance required to evaluate the degree of danger anticipated from explosion and thermal radiation (fire); and

(e) Provide technical guidance required to determine acceptable separation distances from such hazards.

§ 51.201 Definitions.

Acceptable Separation Distance (ASD)—means the distance beyond which the explosion or combustion of a hazard is not likely to cause structures or individuals to be subjected to blast overpressure or thermal radiation flux levels in excess of the safety standards in § 51.203. The ASD is determined by applying the safety standards established by this subpart to the guidance set forth in HUD Guidebook, "Urban Development Siting With Respect to Hazardous Commercial/Industrial Facilities."

Blast Overpressure—means the pressure, in pounds per square inch, in excess of normal atmospheric pressure on the surrounding medium caused by an explosion.

Danger Zone—means the land area circumscribed by the radius which delineates the ASD of a given hazard.

Department—means the Department of Housing and Urban Development (HUD).

Hazard—means any stationary container which stores, handles or processes hazardous substances of an explosive or fire prone nature. The term "hazard" does not include pipelines for the transmission of hazardous substances, if such pipelines are located underground or comply with applicable Federal, State and local safety standards. Also excepted are: (1) Containers with a capacity of 100 gallons or less when they contain common liquid industrial fuels, such as gasoline, fuel oil, kerosene and crude oil since they generally would pose no danger in terms of thermal radiation of blast overpressure to a project; and (2) facilities which are shielded from a proposed HUD-assisted project by the topography, because these topographic features effectively provide a mitigating measure already in place.

Hazardous Substances—means petroleum products (petrochemicals) and chemicals that can produce blast overpressure or thermal radiation levels in excess of the standards set forth in § 51.203. A specific list of hazardous substance is found in Appendix 1.

HUD-Assisted Project—the development, construction, rehabilitation, modernization or conversion with HUD subsidy, grant assistance, loan, loan guarantee, or mortgage insurance, of any project which is intended for residential, institutional, recreational, commercial or industrial use. For purposes of this subpart the terms "rehabilitation" and "modernization" refer only to such repairs and renovation of a building or buildings as will result in an increased number of people being exposed to hazardous operations by increasing residential densities, converting the type of use of a building to habitation, or making a vacant building habitable.

Secretary—means the Secretary of Housing and Urban Development.

Thermal Radiation Level—means the emission and propagation of heat energy through space or a material medium, expressed in BTU per square foot per hour (BTU/ft.^{2} hr.)

§ 51.202 Approval of HUD-assisted projects.

(a) It is HUD's policy that projects receiving HUD assistance will be located in a safe and healthful environment. The Department will not approve an application for assistance for a proposed project located at less than the acceptable separation distance from a hazard, as defined in § 51.201, unless appropriate mitigating measures, as defined in § 51.205, are implemented, or unless mitigating measures are already in place.

(b) In the case of all applications for proposed HUD-assisted projects, the Department shall evaluate projected development plans in the vicinity of these projects to determine whether there are plans to install a hazardous operation in close proximity to the proposed project. If the evaluation shows that such a plan exists, the Department shall not approve assistance for the project unless the Department obtains satisfactory assurances that adequate mitigating measures will be taken when the hazardous operation is installed.

§ 51.203 Safety standards.

The following standards shall be used in determining the acceptable separation distance of a proposed HUD-assisted project from a hazard:

(a) *Thermal Radiation Safety Standard.* Projects shall be located so that:

(1) The allowable thermal radiation flux level at the building shall not exceed 10,000 BTU/sq. ft. per hr.;

(2) The allowable thermal radiation flux level for outdoor, unprotected facilities or areas of congregation shall not exceed 450 BTU/sq. ft. per hour.

(b) *Blast Overpressure Safety Standard.* Projects shall be located so that the maximum allowable blast overpressure at both buildings and outdoor, unprotected facilities or areas shall not exceed 0.5 psi.

(c) If a hazardous substance constitutes both a thermal radiation and blast overpressure hazard, the ASD for each hazard shall be calculated, and the larger of the two ASDs shall be used to determine compliance with this subpart.

§ 51.204 HUD-assisted hazardous facilities.

In reviewing applications for proposed HUD-assisted projects involving the installation of hazardous facilities, the Department shall ensure that such hazardous facilities are located at an acceptable separation distance from residences and from any other facility or area where people may congregate or be present. The mitigating measures listed in § 51.205 may be taken into account in determining compliance with this section.

§ 51.205 Mitigating measures.

Application of the standards for determining an Acceptable Separation Distance (ASD) for a HUD-assisted project from a potential hazard of an explosion or fire prone nature is predicated on level topography with no intervening object(s) between the hazard and the project. Application of the standards can be eliminated or modified if:

(a) The nature of the topography shields the proposed project from the hazard.

(b) An existing permanent fire resistant structure of adequate size and strength will shield the proposed project from the hazard.

(c) A barrier is constructed surrounding the hazard, at the site of the project, or in between the potential hazard and the proposed project.

(d) The structure and outdoor areas used by people are designed to withstand blast overpressure and thermal radiation anticipated from the potential hazard (e.g., the project is of masonry and steel or reinforced concrete and steel construction).

§ 51.206 Implementation.

This subpart shall be implemented for each proposed HUD-assisted project by

the Departmental official responsible for Departmental review of the project. The implementation procedure will be part of the environmental assessment process in accordance with the decision points set forth in 24 CFR Part 50. In the case of HUD-assisted projects for which the Department's Project Selection Criteria at 24 CFR 200.700 *et seq.* are applicable, the requirements of this subpart shall be implemented by the Departmental official responsible for determining compliance with such criteria.

§ 51.207 Amendments to Appendix I.

(a) The Secretary may prescribe supplementary substances for inclusion in Appendix I without prior notice and public procedure. Specific notice of these supplementary substances, to include the reason for including the substances, shall be published in the **Federal Register**, in accordance with 5 U.S.C. 552 and 24 CFR 15.11. Such notice may incorporate these supplementary substances by reference. In addition, discussion of the basis for including these supplementary substances will be available for examination and distribution in the Office of Environment and Energy, Room 7152, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410, and in each HUD Regional and local office.

(b) The Secretary or his designee may, on a case-by-case basis, when circumstances warrant, require the application of this subpart with respect to a substance not listed in Appendix I that would create thermal or overpressure effect in excess of that listed in § 51.203.

(c) Any interested person may petition the Secretary for amendment of Appendix 1 in accordance with 24 CFR 10.20.

§ 51.208 Reservation of administrative and legal rights.

Publication of these standards does not constitute a waiver of any right: (a) Of HUD to disapprove a project proposal if the siting is too close to a potential hazard not covered by this Subpart, and (b) of HUD or any person or other entity to seek to abate or to collect damages occasioned by a nuisance, whether or not covered by the Subpart.

Dated: February 1, 1984.

Samuel R. Pierce, Jr.,

Secretary of Housing and Urban Development.

2. The Appendix, Definition of Acoustical Quantities is removed.

3. New Appendices I and II are added to Part 51 to read as follows:

Appendix I.—Specific Hazardous Substances

The following is a list of specific petroleum products and chemicals defined to be hazardous substances under § 51.201.

Hazardous Liquids

Acetic Acid	Ethyl Benzene
Acetic Anhydride	Ethyl Dichloride
Acetone	Ethyl Ether
Acrylonitrile	Gasoline
Amyl Acetate	Heptane
Amyl Alcohol	Hexane
Benzene	Isobutyl Acetate
Butyl Acetate	Isobutyl Alcohol
Butyl Acrylate	Isopropyl Acetate
Butyl Alcohol	Isopropyl Alcohol
Carbon Bisulfide	Jet Fuel and Kerosene
Carbon Disulfide	Methyl Alcohol
Cellosolve	Methyl Amyl Alcohol
Cresols	Methyl Cellosolve
Crude Oil (Petroleum)	Methyl Ethyl Ketone
Cumene	Naptha
Cyclohexane	Pentane
No. 2 Diesel Fuel	Propylene Oxide
Ethyl Acetate	Toluene
Ethyl Acrylate	Vinyl Acetate
Ethyl Alcohol	Xylene

Hazardous Gases

Acetaldehyde	Liquefied Natural Gas (LNG)
Butadiene	Liquefied Petroleum Gas (LPG)
Butane	Propane
Ethene	Propylene
Ethylene	Vinyl Chloride
Ethylene Oxide	
Hydrogen	

(Primary Source: "Urban Development Siting with respect to Hazardous Commercial/Industrial Facilities," by Rolf Jensen and Associates, Inc., April 1982)

Appendix II—Development of Standards; Calculation Methods

I. Background Information Concerning the Standards

(a) Thermal Radiation:

(1) *Introduction.* Flammable products stored in above ground containers represent a definite, potential threat to human life and structures in the event of fire. The resulting fireball emits thermal radiation which is absorbed by the surroundings. Combustible structures, such as wooden houses, may be ignited by the thermal radiation being emitted. The radiation can cause severe burn, injuries and even death to exposed persons some distance away from the site of the fire.

(2) *Criteria for Acceptable Separation Distance (ASD).* Wooden buildings, window drapes and trees generally ignite spontaneously when exposed for a relatively long period of time to thermal radiation levels of approximately 10,000 Btu/hr. sq. ft. It will take 15 to 20 minutes for a building to ignite at that degree of thermal intensity. Since the reasonable response time for fire fighting units in urbanized areas is approximately five to ten minutes, a standard of 10,000 BTU/hr. sq. ft. is considered an acceptable level of thermal radiation for buildings.

People in outdoor areas exposed to a thermal radiation flux level of approximately 1,500 Btu/ft^2 hr will suffer intolerable pain after 15 seconds. Longer exposure causes blistering, permanent skin damage, and even death. Since it is assumed that children and the elderly could not take refuge behind walls or run away from the thermal effect of the fire within the 15 seconds before skin blistering occurs, unprotected (outdoor) areas, such as playgrounds, parks, yards, school grounds, etc., must be placed at such a distance from potential fire locations so that the radiation flux level is well below 1500 Btu/ft^2 hr. An acceptable flux level, particularly for elderly people and children, is 450 Btu/ft^2 hr. The skin can be exposed to this degree of thermal radiation for 3 minutes or longer with no serious detrimental effect. The result would be the same as a bad sunburn. Therefore, the standard for areas in which there will be exposed people, e.g. outdoor recreation areas such as playgrounds and parks, is set at 450 Btu/hr. sq. ft. Areas covered also include open space ancillary to residential structures, such as yard areas and vehicle parking areas.

(3) *Acceptable Separation Distance From a Potential Fire Hazard.* This is the actual setback required for the safety of occupied buildings and their inhabitants, and people in open spaces (exposed areas) from a potential fire hazard. The specific distance required for safety from such a hazard depends upon the nature and the volume of the substance. The Technical Guidebook entitled "Urban Development Siting With Respect to Hazardous/Commercial Industrial Facilities," which supplements this regulation, contains the technical guidance required to compute Acceptable Separation Distances (ASD) for those flammable substances most often encountered.

(b) *Blast Overpressure:*

The Acceptable Separation Distance (ASD) for people and structures from materials prone to explosion is dependent upon the resultant blast measured in pounds per square inch (psi) overpressure. It has been determined by the military and corroborated by two independent studies conducted for the Department of Housing and Urban Development that 0.5 psi is the acceptable level of blast overpressure for both buildings and occupants, because a frame structure can normally withstand that level of external exertion with no serious structural damage, and it is unlikely that human beings inside the building would normally suffer any serious injury. Using this as the safety standard for blast overpressure, nomographs have been developed from which an ASD can be determined for a given quantify of hazardous substance. These nomographs are contained in the handbook with detailed instructions on their use.

(c) *Hazard evaluation:*

The Acceptable Separation Distances for buildings, which are determined for thermal radiation and blast overpressure, delineate separate identifiable danger zones for each potential accident source. For some materials the fire danger zone will have the greatest radius and cover the largest area, while for others the explosion danger zone will be the greatest. For example, conventional petroleum fuel products stored in unpressurized tanks do not emit blast overpressure of dangerous levels when ignited. In most cases, hazardous substances

will be stored in pressurized containers. The resulting blast overpressure will be experienced at a greater distance than the resulting thermal radiation for the standards set in Section 51.203. In any event the hazard requiring the greatest separation distance will prevail in determining the location of HUD-assisted projects.

The standards developed for the protection of people and property are given in the following table.

	Thermal radiation	Blast overpressure
Amount of acceptable exposure allowed for building structures.	10,000 BTU/ft²-hr.	0.5 psi.
Amount of acceptable exposure allowed for people in open areas.	450 BTU/ft²-hr	0.5 psi.

Problem Example

The following example is given as a guide to assist in understanding how the procedures are used to determine an acceptable separation distance. The technical data are found in the HUD Guidebook. Liquid propane is used in the example since it is both an explosion and a fire hazard.

In this hypothetical case a proposed housing project is to be located 850 feet from a 30,000 gallon liquid propane (LPG) tank. The objective is to determine the acceptable separation distance from the LPG tank. Since propane is both explosive and fire prone it will be necessary to determine the ASD for both explosion and for fire. The greatest of the two will govern. There is no dike around the tank in this example.

Nomographs from the technical Guidebook have been reproduced to facilitate the solving of the problem.

ASD For Explosion

Use Figure 1 to determine the acceptable separation distance for explosion.

The graph depicted on Figure 1 is predicated on a blast overpressure of 0.5 psi.

The ASD in feet can be determined by applying the quantity of the hazard (in gallons) to the graph.

In this case locate the 30,000 gallon point on the horizontal axis and draw a vertical line from that point to the intersection with the straight line curve. Then draw a horizontal line from the point where the lines cross to the left vertical axis where the ACCEPTABLE SEPARATION DISTANCE of 660 feet is found.

Therefore the ASD for explosion is 660 feet

Since the proposed project site is located 850 feet from the tank it is located at a safe distance with regards to blast overpressure.

ACCEPTABLE SEPARATION DISTANCE
BLAST OVERPRESSURE
(NO BLAST BARRIERS)
HAZARDOUS GAS CONTAINER

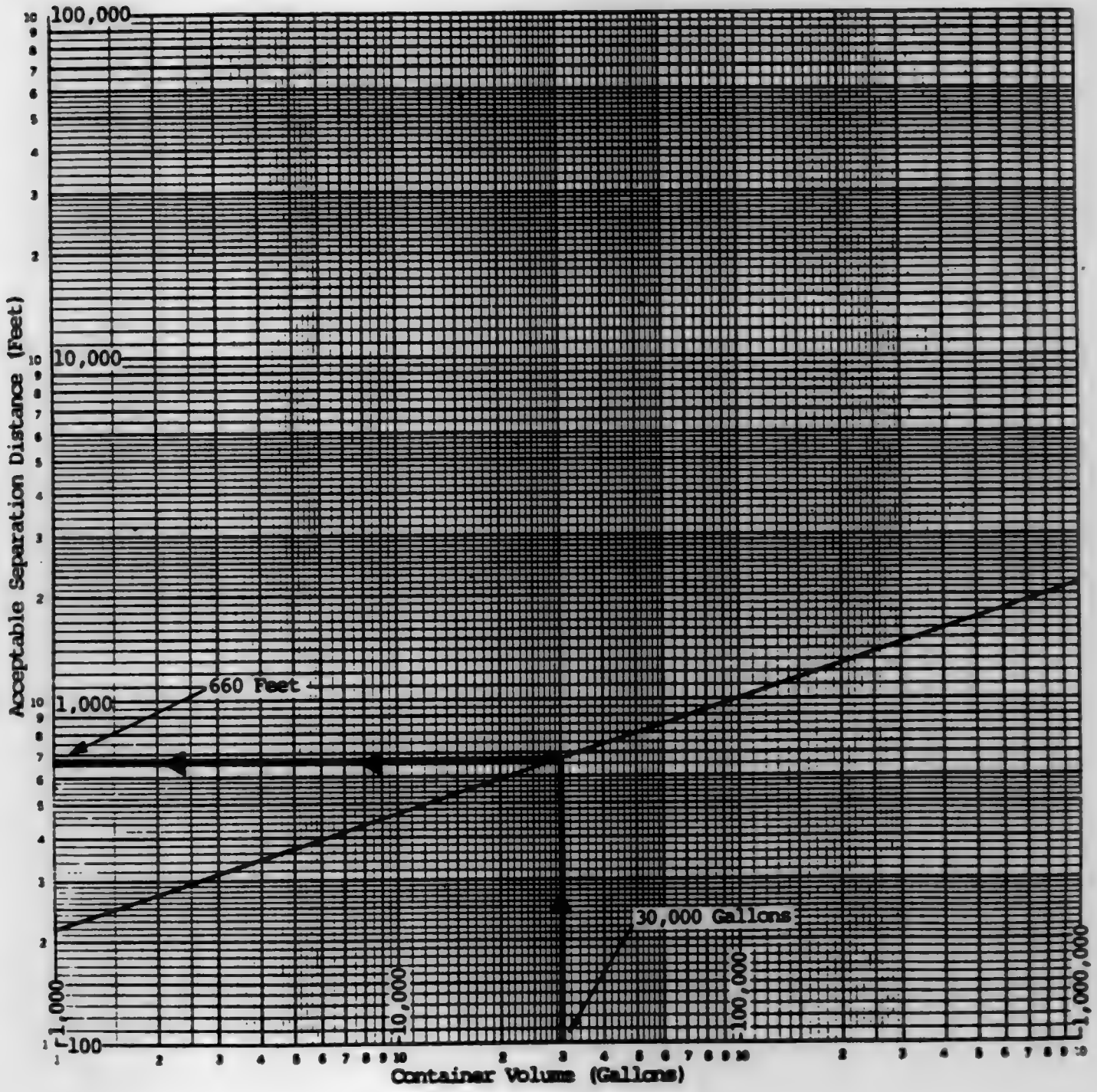

Figure 1

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ASD For Fire

To determine the ASD for fire it will be necessary to first find the fire width (diameter of the fireball) on Figure 2. Then apply this to Figure 3 to determine the ASD.

Since there are two safety standards for fire: (a) 10,000 BTU/ft²hr. for buildings; and (b) 450 BTU/ft²hr. for people in exposed areas, it will be necessary to determine an ASD for each.

To determine the fire width locate the 30,000 gallon point on the horizontal axis on *Figure 2* and draw a vertical line to the straight line curve. Then draw a horizontal line from the point where the lines cross to the left vertical axis where the FIRE WIDTH is found to be *350 feet*.

Now locate the 350 ft. point on the horizontal axis of *Figure 3* and draw a vertical line from that point to curves 1 and 2. Then draw horizontal lines from the points where the lines cross to the left vertical axis where the ACCEPTABLE SEPARATION DISTANCES of *240 feet* for buildings and *1,150 feet* for exposure to people is found.

Based on this the proposed project site is located at a safe distance from a potential fireball. However, exposed playgrounds or other exposed areas of congregation must be at least 1,150 feet from the tank, or be appropriately shielded from a potential fireball.

(Source: HUD Handbook, "Urban Development Siting With Respect to Hazardous Commercial/Industrial Facilities."]

BILLING CODE 4210-32-M

FIRE WIDTH - UNCONFINED SPILL
HAZARDOUS GAS CONTAINER
NOT DIKED

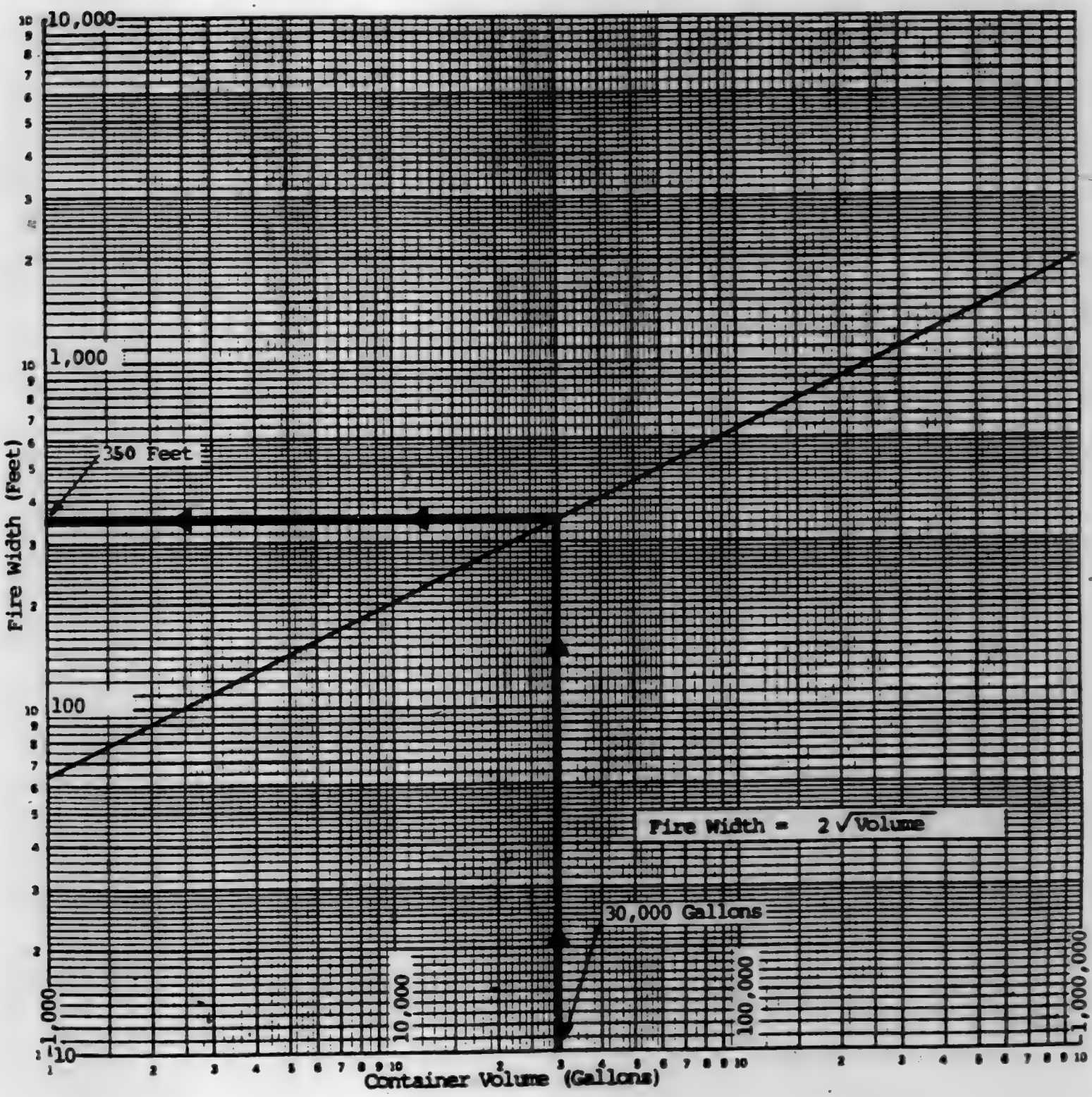

Figure 2

ACCEPTABLE SEPERATION DISTANCE
HAZARDOUS GAS CONTAINER
DIKED/UNDIKED

33

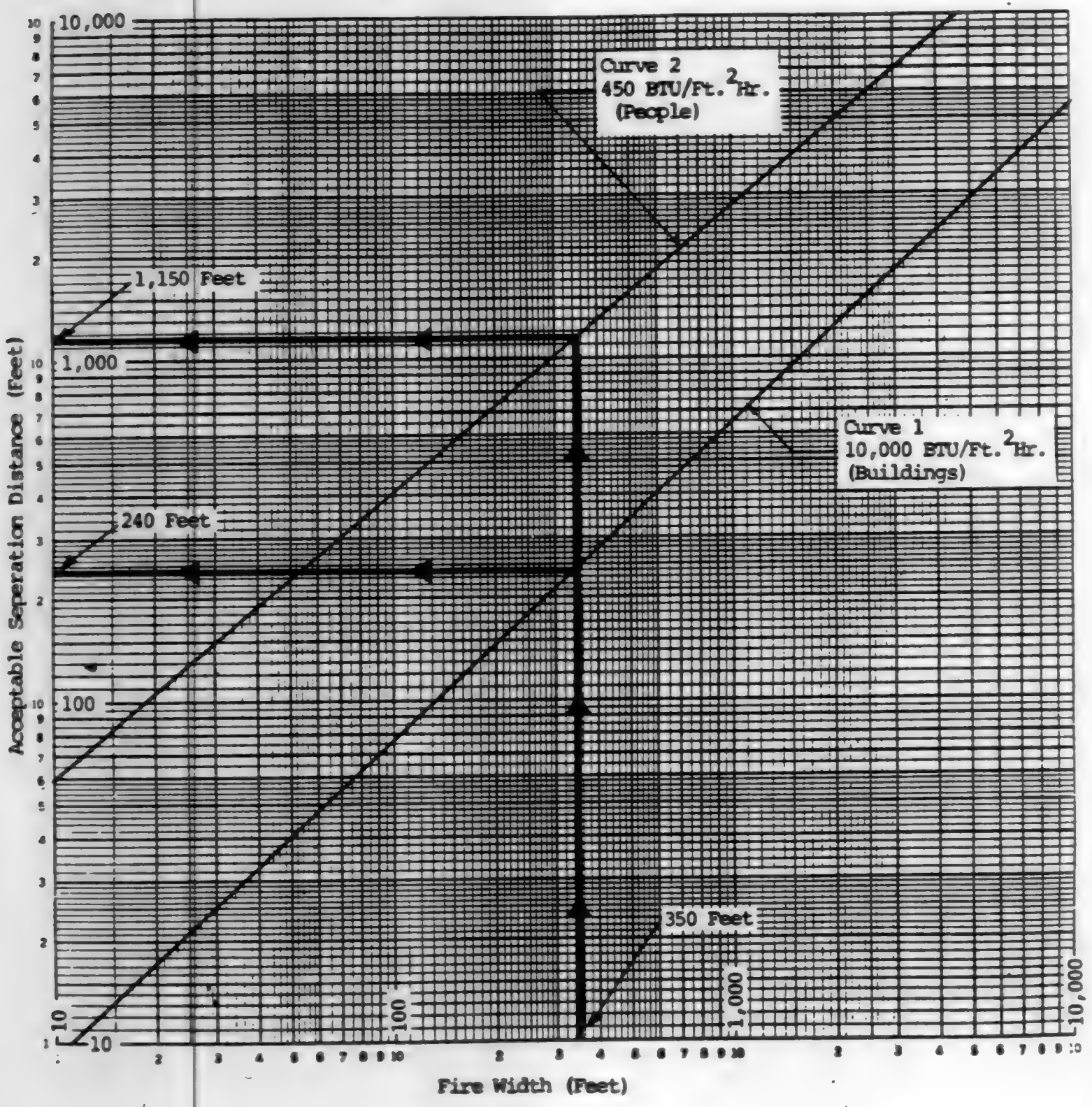

Figure 3

[FR Doc. 84-3516 Filed 2-9-84; 8:45 am]
BILLING CODE 4210-32-C

DEPARTMENT OF LABOR

Wage and Hour Division

29 CFR Part 500

Migrant and Seasonal Agricultural Worker Protection Regulations; Issuance of Farm Labor Contractor Certificates of Registration by States

AGENCY: Wage and Hour Division, Labor.

ACTION: Final rule.

SUMMARY: This is a procedural amendment authorizing the State of Florida by agreement with the Department of Labor to issue Farm Labor Contractor Certificates of Registration and Farm Labor Contractor Employee Certificates of Registration in compliance with the Migrant and Seasonal Agricultural Worker Protection Act and regulations issued thereunder. This document lists the State of Florida as a state authorized to issue farm labor contractor certificates of registration and farm labor contractor employee certificates of registration.

EFFECTIVE DATE: February 10, 1984.

FOR FURTHER INFORMATION CONTACT: Mr. William M. Otter, Administrator, Wage and Hour Division, U.S. Department of Labor, Room S–3502, 200 Constitution Avenue, NW., Washington, D.C. 20210, (202) 523–8305.

SUPPLEMENTARY INFORMATION: The Migrant and Seasonal Agricultural Worker Protection Act authorizes the Secretary to enter into agreements with Federal and State agencies to utilize their facilities and services, and to delegate to such agencies certain authority, other than rulemaking, as the Secretary deems necessary in carrying out the provisions of the Act. Under this authority the State of Florida, Department of Labor and Employment Security, Division of Labor, Employment and Training entered into an agreement with the Department of Labor to continue to receive, handle, and process applications and issue certificates of registration under the Migrant and Seasonal Agricultural Worker Protection Act. The State previously performed these functions under an agreement which had been entered into pursuant to the Farm Labor Contractor Registration Act, as amended. The Farm Labor Contractor Registration Act was repealed and replaced by the Migrant and Seasonal Agricultural Worker Protection Act, effective April 14, 1983.

This document incorporates into the existing regulations these delegated functions of the Secretary to the State of Florida and lists the State as being authorized to issue farm labor contractor certificates of registration and farm labor contractor employee certificates of registration under the Migrant and Seasonal Agricultural Worker Protection Act which are entitled to the same recognition in all states as if they had been issued by the Department of Labor.

The authority conferred by section 513 of the Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1863) requires the issuance of regulations which authorize the Department to enter into agreements with states to carry out delegated functions, such as the issuance of certificates of registration on behalf of the Secretary. These regulations were issued in final form on August 12, 1983 (48 FR 36761 *et seq.*) and appear at 29 CFR 500.155 through 500.162. Agreements entered into pursuant to this authority are effective upon execution and notice to the public thereof is required. The State of Florida has executed such agreement, effective November 2, 1983 and notice is hereby given.

This document was prepared under the direction and control of Herbert J. Cohen, Deputy Administrator, Wage and Hour Division, Employment Standards Administration, Department of Labor.

Publication in Final

The Department of Labor has determined, pursuant to 5 U.S.C. 553(b)(B), that good cause exists for waiving public comment on this procedural amendment to the regulation because such comment is unnecessary. This finding is made because section 513 of the Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1863) and the regulations issued thereunder at 29 CFR 500.155 through 500.162 authorizes the Secretary to enter into agreements with State agencies to use their facilities and services to perform functions delegated to them by the Secretary as may be useful in carrying out this Act. Such agreements are effective upon their execution as noted above and merely require notice of such execution.

Effective Date

The Department has determined that good cause exists for waiving the customary requirement for delay in the effective date of a final rule for 30 days following its publication. Therefore, this amendment shall be effective immediately. This finding is made because the agreement with the State of Florida became effective upon its execution (November 2, 1983) and affects only the procedural processing of certificates of registration.

Executive Order 12291

The Department has determined that the amendment is procedural in character and announces an agreement between a state and the Department of Labor. Therefore, this rule is not classified as a "major rule" under Executive Order 12291 on Federal Regulations, because it is not likely to result in (1) an annual effect on the economy of $100 million or more; (2) a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign based enterprises in domestic or export markets. Accordingly, no regulatory impact analysis is required.

Regulatory Flexibility Act

Because no notice of proposed rulemaking is required for the rule under 5 U.S.C. 553(b) the requirements of the Regulatory Flexibility Act, Pub. L. 96–354, 94 Stat. 1165, 5 U.S.C. 601 *et seq.* pertaining to regulatory flexibility analysis, do not apply to this rule. See 5 U.S.C. 601(2).

Paperwork Reduction Act

As the incorporation of the agreement with the State of Florida requires the collection of no additional information additional approval of the Office of Management and Budget is not required. See 44 U.S.C. 3501 *et seq.*

List of Subjects in 29 CFR Part 500

Administrative practice and procedure, Agricultural associations, Agricultural worker, Aliens, Carpooling, Day-haul, Farmers, Farm labor contractor, Health, Housing, Housing standards, Immigration, Insurance, Investigation, Migrant agricultural workers, Migrant labor, Motor carriers, Motor vehicle safety, Occupational safety and health, Penalties, Reporting and recordkeeping requirements, Seasonal agricultural workers, State of Florida, Transportation, Wages, Manpower training programs, Labor, Safety.

PART 500—MIGRANT AND SEASONAL AGRICULTURAL WORKER PROTECTION

For reasons set out in the preamble, Part 500 of Chapter V of Title 29 of the

Code of Federal Regulations, is amended as set forth below:

1. The authority citation for Part 500 reads as follows:

Authority: Pub. L. 97–470, 96 Stat. 2583 (29 U.S.C. 1801–1872); Secretary's Order No. 5–83, 48 FR 15352; and Employment Standards Order No. 83–1, 48 FR 15352.

2. Section 500.160 is amended by revising paragraph (a) and adding paragraph (c) to read as follows:

§ 500.160 Approved State plans.

(a) The Secretary, in accordance with the authority referred to in § 500.155 of this Part, has delegated the following functions to the States listed herein below:

[illegible]	Function
Florida	Receive, handle, process applications and issue certificates of registration

* * * * *

(c) Every enumerated delegated function shall be valid in all states.

Signed at Washington D.C., this 3rd day of February 1984.

William M. Otter,

Administrator, Wage and Hour Division, Employment Standards Administration.

[FR Doc. 84–3747 Filed 2–9–84; 8:45 am]

BILLING CODE 4510–27–M

Occupational Safety and Health Administration

29 CFR Part 1910

Access to Employee Exposure and Medical Records; Extension of Partial Stay

AGENCY: Occupational Safety and Health Administration, Labor.

ACTION: Extension of partial stay.

SUMMARY: OSHA is hereby extending the partial administrative stay of the access to employee exposure and medical records regulation, 29 CFR 1910.20, for the flavor and fragrance industries. The current partial stay, which expired February 1, 1984, is being extended until February 1, 1985, or until completion of the current rulemaking, whichever is sooner, to allow OSHA to complete consideration of the issues presented by the flavor and fragrance industries as part of its rulemaking on the records access rule.

DATE: The flavor and fragrance stay is extended to February 1, 1985, or until completion of the current rulemaking, whichever is sooner.

FOR FURTHER INFORMATION CONTACT: James Foster, Office of Information and Consumer Affairs, OSHA, Room N–3641, Third Street and Constitution Avenue, NW., Washington, D.C. 20210. Telephone: (202) 523–8151.

SUPPLEMENTARY INFORMATION: Since August 1980, the flavor and fragrance industries have been subject to a series of administrative stays of 29 CFR 1910.20, OSHA's access to employee exposure and medical records rule. The current partial stay, which expired February 1, 1984, is hereby being extended until February 1, 1985, or until completion of the current rulemaking, whichever is sooner, to allow OSHA to complete its consideration of the issues presented by the flavor and fragrance industries as part of its rulemaking on the records access rule. A proposal to modify the records access rule was published July 13, 1982 (47 FR 30420 *et seq.*), and it is anticipated that a final determination with respect to this proposal will be completed in advance of February 1, 1985.

The full text of the current administrative stay for the flavor and fragrance industries was published in the August 7, 1981, **Federal Register** (46 FR 40490).

(Secs. 6(b), 8(g); 84 Stat. 1593, 1600 (29 U.S.C. 655, 657); sec. 4 of the Administrative Procedure Act (5 U.S.C. 553))

Signed at Washington, D.C., this 7th day of February 1984.

Thorne G. Auchter,

Assistant Secretary of Labor.

[FR Doc. 84–3772 Filed 2–9–84; 8:45 am]

BILLING CODE 4510–26–M

VETERANS ADMINISTRATION

38 CFR Part 21

Veterans Education; Implementing Legislation

AGENCY: Veterans Administration.

ACTION: Final regulations.

SUMMARY: The following regulatory provisions implement some of the provisions of the Veterans' Compensation, Education and Employment Amendments of 1982 which affect people receiving educational assistance under chapters 34, 35 and 36, title 38, United States Code. Some of the changes are liberalizing. Some are more restrictive.

EFFECTIVE DATE: In keeping with Pub. L. 97–306, the effective date for the cancellation of § 21.4252(g) is October 1, 1982. The effective date for all other changes is October 14, 1982.

FOR FURTHER INFORMATION CONTACT: June C. Schaeffer (225), Assistant Director for Policy and Program Administration, Education Service, Department of Veterans Benefits, Veterans Administration, 810 Vermont Avenue, NW., Washington, D.C. 20420 (202–389–2092).

SUPPLEMENTARY INFORMATION: On pages 47011 through 47014 of the **Federal Register** of October 17, 1983 there was published a notice of intent to amend part 21 to implement some provisions of the Veterans' Compensation, Education and Employment Amendments of 1982.

Interested people were given 30 days to submit comments, suggestions or objections. The VA (Veterans Administration) received no comments, suggestions or objections. Accordingly, the agency is making the proposal final without change.

The VA has determined that these regulations do not contain a major rule as that term is defined by Executive Order 12291, entitled "Federal Regulation". The annual effect on the economy will be less than $100 million. They will not result in any major increases in costs or prices for anyone. They will have no significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The Administrator of Veterans' Affairs hereby certifies that these regulations will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (RFA), 5 U.S.C. 601–612. Pursuant to 5 U.S.C. 605(b), these regulations, therefore, are exempt from the initial and final regulatory flexibility analyses requirements of sections 603 and 604.

This certification can be made because the regulations dealing with payments to incarcerated veterans and eligible persons will affect only individual benefit recipients. They will have no significant impact on small entities, i.e., small businesses, small private and nonprofit organizations, and small governmental jurisdictions.

The regulations on disapproving courses for enrollments and reenrollments and suspending and discontinuing payments of educational assistance allowance will primarily affect individual benefit recipients. They may affect some small entities, such as privately-owned educational institutions or educational institutions supported by small school districts. However, in most cases where there are recordkeeping, reporting or approval violations, the educational institution either corrects the violation or the State approving

agency withdraws approval. The VA expects to suspend payments under these regulations less than 10 times annually. Some of the educational institutions affected will not be small entities. Therefore, the number of small entities affected by these regulations will not be substantial.

The Catalog of Federal Domestic Assistance numbers for the programs affected by these regulations are 64.111 and 64.117.

List of Subjects in 38 CFR Part 21

Civil rights, Claims, Education, Grant programs—education, Loan programs—education, Reporting and recordkeeping requirements, Schools, Veterans, Vocational education, Vocational rehabilitation.

Approved: January 25, 1984.

By direction of the Administrator.

Everett Alvarez, Jr.,

Deputy Administrator.

PART 221—[AMENDED]

The Veterans Administration amends 38 CFR Part 21 as follows:

1. In § 21.4131, paragraph (h) is revised and paragraph (i) is removed and reserved as follows:

§ 21.4131 Commencing dates.

* * * * *

(h) *Individuals in a penal institution.* If a veteran or eligible person is paid a reduced rate of educational assistance or no educational assistance under § 21.4136 (n), (o), (p), or (r) § 21.4137 (j) or (l), the rate will be increased or benefits will commence effective the earlier of the following dates:

(1) The date the tuition and fees are no longer being paid under another Federal program, or a State or local program, or

(2) The date of the release from the prison or jail.

(38 U.S.C. 1682(g), 1732(e); Pub. L. 97–306, 96 Stat. 1429)

(i) [Reserved].

2. Section 21.4133 is revised as follows:

§ 21.4133 Notification of suspension or discontinuance.

(a) *Presuspension notice.* Not less than 30 days before the Director of a Veterans Administration field station acts to make a mass suspension of payments of educational assistance allowance under § 21.4134(c) he or she shall send written notice to each affected veteran or eligible person. The notice—

(1) Shall state the Director's intent to suspend payments unless the educational institution takes corrective action;

(2) Shall give the Director's reasons for suspending payments; and

(3) Shall state the date on which the Director intends to suspend payments.

(38 U.S.C. 1790(b); Pub. L. 97–306, 96 Stat. 1429)

(b) *Notice of suspension and discontinuance.* When the Veterans Administration suspends or discontinues payment to any veteran or person under § 21.4134(b) or § 21.4135, the Veterans Administration shall send written notice of the suspension or discontinuance to the veteran or eligible person. The notice—

(1) Shall state the reasons for the suspension or discontinuance of payments, and

(2) Shall notify the veteran or eligible person that he or she has a right—

(i) To a hearing, and

(ii) To present evidence why payments should not be discontinued or suspended.

(38 U.S.C. 1790(b))

3. Section 21.4134 is revised as follows:

§ 21.4134 Suspension and discontinuance.

(a) *Suspension and discontinuance despite course approval.* Even though a State approving agency has approved a course offered by a school, the Director of the Veterans Administration field station of jurisdiction—

(1) May suspend payment of educational assistance allowance to any or all veterans and eligible persons enrolled in the course, and

(2) After following the procedures in § 21.4207 may discontinue payment of educational assistance to any or all veterans and eligible persons enrolled in the course.

(38 U.S.C. 1790)

(b) *Evidence requirements for individual suspensions.* The Director of the Veterans Administration field station of jurisdiction may suspend or discontinue payments of educational assistance allowance to a veteran or eligible person, even if the Director continues payment to other veterans or eligible persons enrolled in the course. Before the Director can do this, he or she must have evidence showing either that—

(1) The program of education or any course in which the veteran or eligible person is enrolled fails to meet any of the requirements of chapters 32, 34, 35, or 36, title 38, United States Code, or

(2) The educational institution offering the veteran's or eligible person's course has violated or failed to meet any of the requirements of chapters 32, 34, 35, or 36, title 38, United States Code, and

(3) The violation or failure results in erroneous payment of educational assistance to the veteran or eligible person.

(38 U.S.C. 1790(b))

(c) *Evidence requirements for mass suspension of payments.* Before suspending payments to all veterans and eligible persons enrolled in a course the Director must have evidence to support the suspension. The evidence must show that a substantial pattern of veterans and eligible persons enrolled in the course are not entitled to the educational assistance they are receiving because—

(1) One or more of the course approval requirements of chapter 36, title 38, United States Code are not met, or

(2) The educational institution offering the course has violated one or more of the recordkeeping or reporting requirements of chapters 32, 34, 35, or 36, title 38, United States Code.

(38 U.S.C. 1790(b); Pub. L. 97–306, 96 Stat. 1429)

(d) *Notification.* (1) The Director may suspend educational assistance allowance as provided in this section only after—

(i) He or she notifies the State approving agency concerned and the educational institution in writing of any failure to meet the approval requirements and any violation of recordkeeping or reporting requirements.

(ii) The educational institution—

(A) Refuses to take corrective action, or

(B) Does not take corrective action within 60 days (or 90 days if permitted by the Director); and

(iii) The Director notifies each veteran and eligible person as provided in § 21.4133.

(2) If an educational institution believes it cannot complete corrective action within 60 days, it may ask the Director for additional time (not to exceed 30 days) to take corrective action.

(38 U.S.C. 1790(b); Pub. L. 97–306, 96 Stat. 1429)

(e) *Action following suspension.* If following a suspension of payments the Director is convinced that the educational institution will not take corrective action and that the State approving agency will not disapprove the course, he or she will refer the facts to the station Committee on Educational Allowances. See §§ 21.4207 and 21.4208.

(38 U.S.C. 1790(b); Pub. L. 97-306, 96 Stat. 1429)

4. Immediately following § 21.4134, a cross reference is added as follows:

Cross reference: Overcharges—restrictions on enrollments. See § 21.4202.

5. In § 21.4135, paragraph (m) is revised and paragraph (x) is removed and reserved as follows:

§ 21.4135 Discontinuance dates.

* * * * *

(m) *Incarceration in prison or penal institution for conviction of a felony.* (1) The provisions of this paragraph apply to a veteran or eligible person whose educational assistance must be discontinued or who becomes restricted to payment of educational assistance allowance at a reduced rate under § 21.4136 (n), (o), (p) or (r) or § 21.4137(j) or (l).

(2) The reduced rate or discontinuance will be effective the latest of the following dates.

(i) The first day on which all or part of the veteran's or eligible person's tuition and fees were paid by a Federal, State or local program,

(ii) The date the veteran or eligible person is incarcerated in prison or penal institution, or

(iii) The commencing date of the award as determined by § 21.4131.

(38 U.S.C. 1682(g), 1732(e); Pub. L. 97-306, 96 Stat. 1429)

* * * * *

(x) [Reserved]

6. In § 21.4136, paragraph (m), (n), (o), (p), and (r) are revised and paragraph (q) is removed and reserved as follows:

§ 21.4136 Rates; educational assistance allowance; 38 U.S.C. Chapter 34.

* * * * *

(m) *Incarcerated veterans—general.* Notwithstanding the provisions of paragraphs (a) and (c) of this section, some incarcerated veterans and servicepersons may have their educational assistance allowance terminated or reduced.

(38 U.S.C. 1682(g); Pub. L. 97-306, 96 Stat. 1429)

(n) *No educational assistance allowance for some incarcerated servicepersons.* As with servicepersons who are not incarcerated, the Veterans Administration will not pay educational assistance allowance to an incarcerated serviceperson enrolled in a course for which there are no tuition and fees. Furthermore, the Veterans Administration will not pay educational assistance allowance to a serviceperson who—

(1) Is enrolled in a course where his or her tuition and fees are being paid for by a Federal program (other than one administered by the Veterans Administration) or by a State or local program, and

(2) Is incarcerated in a Federal, State or local prison or jail for conviction of a felony, and has incurred no expenses for supplies, books or equipment.

(38 U.S.C. 1682(g); Pub. L. 97-306, 96 Stat. 1429)

(o) *No educational assistance allowance for some incarcerated veterans.* The Veterans Administration will pay no educational assistance allowance to a veteran who—

(1) Is incarcerated in a Federal, State or local penal institution for conviction of a felony, and

(2) Is enrolled in a course—

(i) For which there are no tuition and fees, or

(ii) For which tuition and fees are being paid by a Federal program (other than one administered by the Veterans Administration) or by a State or local program, and

(3) Is incurring no charge for the books, supplies and equipment necessary for the course.

(38 U.S.C. 1682(g); Pub. L. 97-306, 96 Stat. 1429)

(p) *Reduced educational assistance allowance for some incarcerated servicepersons.* (1) The Veterans Administration will pay a reduced educational assistance allowance to a serviceperson who—

(i) Is incarcerated in a Federal, State or local penal institution for conviction of a felony, and

(ii) Is enrolled in a course where his or her tuition and fees are being paid for entirely or partly by a Federal program (other than one administered by the Veterans Administration) or by a State or local program, and

(iii) If all the tuition and fees are paid for by such a program, must buy books, supplies or equipment for the course.

(2) The monthly rate of educational assistance allowance payable to a serviceperson described in paragraph (p)(1) of this section shall equal the lowest of the following:

(i) The monthly rate of the portion of the tuition and fees paid by the serviceperson plus the monthly rate of the cost of books, supplies and equipment paid by the serviceperson;

(ii) The monthly rate of the portion of the tuition and fees paid by the serviceperson plus the monthly rate of the portion of tuition and fees paid by the Federal, State or local program; or

(iii) The monthly rate found in paragraph (c)(2) of this section.

(38 U.S.C. 1682(g); Pub. L. 97-306, 96 Stat. 1429)

(q) [Reserved].

(r) *Reduced educational assistance allowance for some incarcerated veterans—felony conviction.* (1) The Veterans Administration will pay a reduced educational assistance allowance to a veteran who—

(i) Is incarcerated in a Federal, State or local penal institution for conviction of a felony, and

(iii) Is enrolled in a course—

(A) For which the veteran pays some (but not all) of the charges for tuition and fees, or

(B) For which a Federal program (other then one administered by the Veterans Administration) or a State or local program pays all the charges for tuition and fees, but which requires the veterans to pay for books, supplies and equipment.

(2) The monthly rate of educational assistance allowance payable to such a veteran who is pursuing the course on a half-time or greater basis shall be the lesser or the following:

(i) The monthly rate of the portion of the tuition and fees that the veteran must pay plus the monthly rate of the charge to the veteran for the cost of necessary supplies, books and equipment, or

(ii) The monthly rate stated in paragraph (a) of this section for a veteran with no dependents.

(3) The monthly rate of educational assistance allowance payable to such a veteran who is pursuing the course on a less than half-time basis or on a one quarter-time basis shall be the lowest of the following:

(i) The monthly rate of the tuition and fees charged for the course,

(ii) The monthly rate of tuition and fees which the veteran must pay plus the monthly rate of the charge to the veteran for the cost of necessary supplies, books and equipment, or

(iii) The monthly rate stated in paragraph (a) of this section.

(38 U.S.C. 1682(g); Pub. L. 97-306, 96 Stat. 1429)

* * * * *

7. In § 21.4137, paragraphs (i), (j) and (l) are revised and paragraph (k) is removed and reserved as follows:

§ 21.4137 Rates; educational assistance allowance—38 U.S.C. Chapter 35.

* * * * *

(i) *Incarcerated eligible person—general.* Notwithstanding the provisions of paragraph (a) of this section, some incarcerated eligible persons may have

their educational assistance allowance eliminated or reduced.

(38 U.S.C. 1732(e); Pub. L. 97-306, 96 Stat. 1429)

(j) *No educational assistance allowance for some incarcerated eligible persons.* The Veterans Administration will pay no educational assistance allowance to an eligible person who—

(1) Is incarcerated in a Federal, State or local prison or jail for conviction of a felony, and

(2) Is enrolled in a course—

(i) For which there are no tuition or fees or charges for books, supplies and equipment; or

(ii) For which tuition and fees are being paid by a Federal program (other than one administered by the Veterans Administration) or by a State or local program, and the eligible person is incurring no charge for the books, supplies and equipment necessary for the course.

(38 U.S.C. 1732(e); Pub. L. 97-306, 96 Stat. 1429)

(k) [Reserved].

(l) *Reduced educational assistance allowance for some incarcerated eligible persons—felony conviction.* (1) The Veterans Administration will pay a reduced educational assistance allowance to an eligible person who—

(i) Is incarcerated in a Federal, State or local penal institution for conviction of a felony, and

(ii) Is enrolled in a course—

(A) For which the eligible person pays some (but not all) of the charges for tuition and fees, or

(B) For which a Federal program (other than one administered by the Veterans Administration) or a State or local program pays all the charges for tuition and fees, but which requires the eligible person to pay for books, supplies and equipment.

(2) The monthly rate of educational assistance allowance payable to such an eligible person who is pursuing a course on a half-time or greater basis shall be the lesser of the following:

(i) The monthly rate of the portion of the tuition and fees that the eligible person must pay plus the monthly rate of the charge to the eligible person for the cost of necessary supplies, books and equipment, or

(ii) The monthly rate stated in paragraph (a) of this section.

(3) The monthly rate of educational assistance payable to such an eligible person who is pursuing the course on a less than half-time basis or on a one quarter-time basis shall be the lowest of the following:

(i) The monthly rate of the tuition and fees charged for the course,

(ii) The monthly rate of tuition and fees which the eligible person must pay plus the monthly rate of the charge to the eligible person for the cost of necessary supplies, books and equipment, or

(iii) The monthly rate stated in paragraph (a) of this section.

(38 U.S.C. 1682(g), Pub. L. 97-306, 96 Stat. 1429)

* * * * *

8. In § 21.4140, paragraph (d)(1) is revised and paragraph (e) is removed and reserved as follows:

§ 21.4140 Apportionment.

* * * * *

(d) *Apportionment—incarceration due to a felony conviction.* (1) The provisions of this paragraph apply to a veteran whose educational assistance allowance is terminated or reduced because the veteran is incarcerated in a Federal, State or local penal institution for conviction of a felony.

(38 U.S.C. 3107(c); Pub. L. 97-306, 96 Stat. 1429)

* * * * *

(e) [Reserved].

9. In § 21.4202, the introductory portion of paragraph (b) and (b)(4) and (b)(7) are revised and paragraph (b)(8) is added so that the added and revised material reads as follows:

§ 21.4202 Over charges—restrictions on enrollments.

* * * * *

(b) *Restrictions on enrollments.* The Veterans Administration will disapprove a course for further enrollments or reenrollments and will discontinue educational assistance allowance to veterans or eligible persons already enrolled when one or more of the following conditions exist, and the conditions result in a substantial pattern of veterans or eligible persons or both receiving educational assistance allowance to which they are not entitled. If one or more of the following conditions exist at a school, but there is no pattern of overpayments of educational assistance allowance, the Veterans Administration will discontinue payments only to the affected veterans and eligible persons, and will disapprove new enrollments.

(38 U.S.C. 1790(b), Pub. L. 97-306, 96 Stat. 1429)

* * * * *

(4) The Veterans Administration has notified the school and the State approving agency in writing of a violation of a provision of the law or of failure of a course to meet the specific requirements of law other than approval criteria. The school has—

(i) Failed to correct the situation within 60 days (or 90 days if the director of the Veteran Administration field station of jurisdiction determines additional time is warranted), or

(ii) Has knowingly and willfully repeated the violation.

(38 U.S.C. 1790(b); Pub. L. 97-306, 96 Stat. 1429)

* * * * *

(7) The requirements of §§ 21.4250, 21.4253, 21.4254, 21.4261 and 21.4264 are not being met in respect to a substantial number of veterans and eligible persons.

(8) The Veterans Administration has given written notice to the state approving agency and the school as to specific violations—

(i) Within 60 days following the notice, or

(ii) Within 90 days following the notice when the Director of the Veterans Administration field station of jurisdiction determines that conditions warrant allowing additional time to take corrective action.

(38 U.S.C. 1790(b); Pub. L. 97-306, 96 Stat. 1429)

* * * * *

10. In § 21.4207, paragraph (a) is revised as follows:

§ 21.4207 Failure of school to meet requirements.

* * * * *

(a) *Committee and Educational Allowances.* (1) The Committee on Educational Allowances will consist of a minimum of three staff members designated by the Director of the field station.

(2) The Committee is authorized to recommend the action to be taken for the purposes of this section, subject to approval by the Director of the Veterans Administration field station. The Committee's recommendations may include, but are not limited to—

(i) Disapproval of the enrollment or reenrollment of veterans and eligible persons in any course, and

(ii) Discontinuance of payment of educational assistance allowance to eligible veterans and eligible persons enrolled in a course.

(3) The Committee may not recommend disapproval or discontinuance unless the evidence requirements of § 21.4202 are met. However, if the provisions of § 21.4202 require disapproval or discontinuance, those actions must be recommended by the Committee.

(4) The unanimous recommendations of the Committee, when approved by the

Director of the Veterans Administration field station, becomes the final administrative decision of the Veterans Administration unless an application for review is filed as provided in paragraph (d) of this section.

(38 U.S.C. 1671, 1721, 1790(b); Pub. L. 97-306, 96 Stat. 1429)

* * * * *

§ 21.4252 [Amended]

11. In § 21.4252, paragraph (g) is removed and reserved

* * * * *

(g) Reserved

* * * * *

[FR Doc. 84-3872 Filed 2-9-84; 8:45 am]
BILLING CODE 8320-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 64

[Docket No. FEMA 6585]

List of Communities Eligible for the Sale of Insurance Under the National Flood Insurance Program; Connecticut

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: This rule lists communities participating in the National Flood Insurance Program (NFIP). These communities have applied to the program and have agreed to enact certain flood plain management measures. The communities' participation in the program authorizes the sale of flood insurance to owners of property located in the communities listed.

EFFECTIVE DATES: The date listed in the fourth column of the table.

ADDRESSES: Flood insurance policies for property located in the communities listed can be obtained from any licensed property insurance agent or broker serving the eligible community, or from the National Flood Insurance Program (NFIP) at: P.O. Box 457, Lanham, Maryland 20706, Phone: (800) 638-7418.

FOR FURTHER INFORMATION CONTACT: Frank H. Thomas, Assistant Administrator, Office of Loss Reduction, Federal Insurance Administration, (202) 287-0222, 500 C Street, Southwest, FEMA—Room 509, Washington, D.C. 20472.

SUPPLEMENTARY INFORMATION: The National Flood Insurance Program (NFIP), enables property owners to purchase flood insurance at rates made reasonable through a Federal subsidy. In return, communities agree to adopt and administer local flood plain management measures aimed at protecting lives and new construction from future flooding. Since the communities on the attached list have recently entered the NFIP, subsidized flood insurance is now available for property in the community.

In addition, the Director of the Federal Emergency Management Agency has identified the special flood hazard areas in some of these communities by publishing a Flood Hazard Boundary Map. The date of the flood map, if one has been published, is indicated in the fifth column of the table. In the communities listed where a flood map has been published, Section 102 of the Flood Disaster Protection Act of 1973, as amended, requires the purchase of flood insurance as a condition of Federal or federally related financial assistance for acquisition or construction of buildings in the special flood hazard area shown on the map.

The Director finds that delayed effective dates would be contrary to the public interest. The Director also finds that notice and public procedure under 5 U.S.C. 553(b) are impracticable and unnecessary.

The Catalog of Domestic Assistance Number for this program is 83.100 "Flood Insurance."

Pursuant to the provisions of 5 U.S.C. 605(b), the Administrator, Federal Insurance Administration, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule, if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice stating the community's status in the NFIP and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 64

Flood insurance—flood plains.

PART 64—[AMENDED]

Section 64.6 is amended by adding in alphabetical sequence new entries to the table.

In each entry, a complete chronology of effective dates appears for each listed community. The entry reads as follows:

§ 64.6 List of eligible communities.

State and county	Location	Community No.	Effective dates of authorization/cancellation of sale of flood insurance in community	Special flood hazard area identified	Date certain Federal assistance no longer available in special flood hazard areas
Region I					
Connecticut:					
Fairfield	Bethel, town of	090001B	July 29, 1975, emergency, Feb. 15, 1984, regular, Feb. 15, 1984, suspended.	Apr. 5, 1974 and Feb. 18, 1977.	Feb. 15, 1984
Fairfield	New Fairfield, town of	090188A	Nov. 17, 1975, emergency, Feb. 15, 1984, regular, Feb. 15, 1984, suspended.	Jan. 31, 1975	Do.
Region II					
New Jersey:					
Monmouth	Middletown, township of	340313B	May 20, 1974, emergency, Feb. 15, 1984, regular, Feb. 15, 1984, suspended.	July 19, 1974 and July 9, 1976.	Do
Sussex	Vernon, township of	340561A	July 29, 1975, emergency, Feb. 15, 1984, regular, Feb. 15, 1984, suspended.	Apr. 11, 1975	Do.
Sussex	Wantage, township of	340562A	July 28, 1975, emergency, Feb. 15, 1984, regular, Feb. 15, 1984, suspended.	July 11, 1975	Do.
Region III					
Maryland:					
Kent	Chestertown, town of	240046B	Sept. 4, 1973, emergency, Feb. 15, 1984, regular, Feb. 15, 1984, suspended.	July 26, 1974 and Jan. 16, 1976.	Do.
Pennsylvania:					
Bucks	Langhorne Manor, Borough of	422386A	Oct. 5, 1976, emergency, Feb. 15, 1984, regular, Feb. 15, 1984, suspended.	Feb. 14, 1975	Do.
Region IV					
Florida:					
Sarasota	Sarasota, city of	1251508	Sept. 18, 1970, emergency, July 30, 1971, regular, Feb. 15, 1984, suspended.	July 30, 1971	Do.

State and county	Location	Community No.	Effective dates of authorization/cancellation of sale of flood insurance in community	Special flood hazard area identified	Date certain Federal assistance no longer available in special flood hazard areas
Martin	Ocean Breeze Park, town of	120163C	Apr. 15, 1976, emergency, Dec. 15, 1983, regular, Feb. 15, 1984, suspended.	Aug. 2, 1974 and Apr. 2, 1976.	Do.
Kentucky:					
Carter	Unincorporated areas	210050B	Jan. 20, 1976, emergency, Feb. 15, 1984, regular, Feb. 15, 1984, suspended.	Dec. 13, 1974 and Dec. 23, 1977.	Do.
Floyd	Martin, city of	210071B	Apr. 14, 1977, emergency, Feb. 15, 1984, regular, Feb. 15, 1984, suspended.	May 24, 1974, Feb. 27, 1976 and June 10, 1977.	Do.
Region V					
Illinois:					
Jefferson	Mt. Vernon, city of	170308B	Sept. 30, 1974, emergency, Feb. 15, 1984, regular, Feb. 15, 1984, suspended.	June 7, 1974 and June 11, 1976.	Do.
Ohio:					
Monroe	Unincorporated areas	390404B	Feb. 11, 1977, emergency, Feb. 15, 1984, regular, Feb. 15, 1984, suspended.	Feb. 14, 1975 and Feb. 10, 1978.	Do.
Region VI					
Oklahoma:					
Oklahoma	Unincorporated areas	400466B	May 6, 1983, emergency, Feb. 15, 1984, regular, Feb. 15, 1984, suspended.	July 13, 1982	Do.
Texas:					
Bell	Unincorporated areas	480706B	Jan. 19, 1978, emergency, Feb. 15, 1984, regular, Feb. 15, 1984, suspended.	Jan. 10, 1975 and Apr. 8, 1977.	Do.
Willacy	Unincorporated areas	480664B	July 25, 1975, emergency, Feb. 15, 1984, regular, Feb. 15, 1984, suspended.	May 16, 1977	Do.
Region VIII					
Colorado:					
Montrose	Unincorporated area	080124B	May 23, 1975, emergency, Feb. 15, 1984, regular, Feb. 15, 1984, suspended.	Aug. 30, 1974 and Aug. 30, 1977.	Do.
Region X					
Idaho:					
Payette	Unincorporated area	160198B	July 3, 1974, emergency, Feb. 15, 1984, regular, Feb. 15, 1984, suspended.	May 17, 1977	Do.
Washington:					
Snohomish	Marysville, city of	530188B	Oct. 16, 1974, emergency, Feb. 15, 1984, regular, Feb. 15, 1984, suspended.	Mar. 15, 1974 and Apr. 2, 1976.	Do.

(44 CFR § 64.6)
(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended, 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to the Administrator, Federal Insurance Administration)

Issued: February 6, 1984.

Jeffrey S. Bragg,

Administrator, Federal Insurance Administration.

[FR Doc. 84-3661 Filed 2-9-84; 8:45 am]
BILLING CODE 6718-03-M

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44 CFR Part 67

National Flood Insurance Program; Final Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are finalized for the communities listed below.

The base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM) showing base (100-year) flood elevations, for the community. This date may be obtained by contacting the office where the maps are available for inspection indicated on the table below.

ADDRESSES: See table below.

FOR FURTHER INFORMATION CONTACT: Dr. Brian R. Mrazik, Chief, Risk Studies Division, Federal Insurance Administration, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287–0230.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency gives notice of the final determinations of flood elevations for each community listed. Proposed base flood elevations or proposed modified base flood elevations have been published in the **Federal Register** for each community listed.

This final rule is issued in accordance with Section 110 of the Flood Disaster Protection Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448)), 42 U.S.C. 4001–4128, and 44 CFR Part 67. An opportunity for the community or individuals to appeal proposed determination to or through the community for a period of ninety (90) days has been provided.

The Agency has developed criteria for flood plain management in floodprone areas in accordance with 44 CFR Part 60.

Pursuant to the provisions of 5 U.S.C. 605(b), the Federal Insurance Administrator, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies for reasons set out in the proposed rule that the final flood elevation determinations, if promulgated, will not have a significant

economic impact on a substantial number of small entities. Also, this rule is not a major rule under terms of Executive Order 1229, so no regulatory analyses have been prepared. It does not involve any collection of information for purposes of the Paperwork Reduction Act.

List of Subjects in 44 CFR Part 67

Flood insurance, Flood plains.

Interested lessees and owners of real property are encouraged to review the proof Flood Insurance Study and Flood Insurance Rate Map available at the address cited below for each community.

The base (100-year) flood elevations are finalized in the communities listed below. Elevations at selected locations in each community are shown. No appeal was made during the 90-day period and the proposed base flood elevations have not been changed.

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Alabama	City of Piedmont, Calhoun County (FEMA-6521)	Mill Creek	Approximately 420 feet upstream of confluence of Dry Creek at State Highway 9.	*665
			Just upstream of State Highway 200	*694
			Approximately 100 feet upstream of confluence of Mill Creek Tributary 1.	*696
		Mill Creek Tributary	Just downstream of Southern Railway	*700
			Approximately 150 feet upstream of Seaboard Coast Line Railroad.	*707
		Dry Creek	Approximately 90 feet upstream of Old State Highway 9 (Centre Avenue).	*668
		Nances Creek	Approximately 100 feet upstream of Babbling Brook Road.	*682
			Just downstream of Spencer Street	*684
		Nances Creek Tributary 2	Just upstream of U.S. Highway 278	*675
Maps available for inspection at City Administration Building, 109 North Center Avenue and at Piedmont Public Library, 101 North Main Street, Piedmont, Alabama 36272.				
California	Concord (city), Contra Costa County (FEMA-6568)	Galindo Creek	East side of Newhall Parkway, 250 feet southeast of its intersection with Boxer Boulevard.	*247
			50 feet upstream from the center of Newhall Parkway	*249
		Pine Creek	Intersection of Arlington Road and Lexington Road	*36
			Intersection of the stream and the center of Treat Boulevard.	*92
		Ditch No. 2	Intersection of Newton Way and Markham Street	*53
			50 feet upstream from the center of Minert Road	*74
		Farm Bureau Road Drain	Intersection of stream and the center of Concord Boulevard.	*124
			50 feet upstream of the upstream culvert opening at Walnut Place.	*142
		Clayton Valley Drain	Intersection of Solano Way and Olivera Road	*18
			Intersection of the stream and center of Port Chicago Way.	*60
		Mt. Diablo Creek	Intersection of Huron Drive and Woodhaven Lane	#1
			40 feet upstream from the center of Ayers Road	*254
Maps available for inspection at the Department of Public Works, 1950 Parkside Drive, Concord, California.				
California	Fairfield (city), Solano County (FEMA-6550)	Suisun Creek	30 feet upstream from the center of Southern Pacific Railroad.	*18
		Green Valley Creek	100 feet upstream from the center of Central Way	*12
		Ponding	At the center of the intersection of Via Sombrero and Via Verdi.	*14
		Sheet Flow	400 feet north from the center of the intersection of Via Verdi and Via Sombrero.	#1
			At the center of the intersection of Central Way and Commerce Court.	#2
		Dan Wilson Creek	At the center of the intersection of Lookout Hill Road and Central Place.	*16
		McCoy Creek	30 feet upstream from Travis Air Force Base Railroad crossing.	*35
		Pennsylvania Avenue Creek	80 feet upstream from the center of Water Works Lane.	*14
		Ponding	50 feet north from the center of the intersection of Madison Street and Kentucky Street.	*18
		Sheet Flow	At the center of Second Street crossing	#1
		Ledgewood Creek	30 feet upstream from the center of Mafellan Road	#26
		Sheet Flow	At the center of the intersection of Henry Street and Stephen Street.	#1
		Laurel Creek	50 feet upstream from the center of Air Base Parkway	*57
		Sheet Flow	At the center of the intersection of Beauford Drive and Atlantic Avenue.	#1
		Union Avenue Creek	30 feet upstream from the center of Acacia Street	*34
		Ponding	At the intersection of Heather Drive and Dahlia Street	*62
		Sheet Flow	200 feet south from the center of the intersection of Clay Street and Delaware Street.	#1
		Suisun Slough	At the center of the intersection Illinois Street and Webster Street.	*7
Maps available for inspection at the Department of Public Works, 1000 Webster Street, Fairfield, California.				
California	San Diego County (unincorporated areas) (FEMA-6548).	Augua Hedionda Creek	At the intersection of Smilax Drive and South Santa Fe Avenue.	*460
		Buena Creek	At the intersection of South Santa Fe Avenue and Buena Creek Canyon Drive.	*442
		Broadway Creek	50 feet upstream from center of Magnolia Avenue	*408
		Carroll Canyon Creek	300 feet upstream from center of Northbound Interstate 15.	*459

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		Descanso Creek	50 feet upstream from center of Viejas Boulevard	*3,410
		Escondido Creek	100 feet upstream from center of El Camino Nal Norte	*754
		Hatfield Creek	50 feet upstream from center of Julian Road	*1,480
		Kit Carson Park Creek	1,000 feet upstream from center of Bear Valley Parkway (in City of Escondido).	*422
		North tributary to Santa Maria Creek.	50 feet upstream from Ramona Airport Road	*1,373
		Otay River	At the intersection of Failure Street and Jacque Street	*29
		Pacific Ocean	75 feet downstream from center of Camino Del Mar at San Elijo State Beach.	*8
		Reidy Creek	100 feet North of the intersection of La Entradita and Paseo Del Norte.	*783
		Sarnaguterna Creek	75 feet upstream from the center Cuyamaca Way	*3,506
		Santa Maria Creek	At the intersection of Durgin Street and Mitten Lane	*1,362
		San Diego River	100 feet downstream from the center of Friars Road Extension.	*70
		San Vicente Creek	At the intersection of Mary Lane and Topo Avenue	*414
		South Las Chollas Creek	100 feet upstream from the center of Imperial Avenue	*70
		South tributary to Santa Maria Creek.	At the intersection of creek and center of Julian Road	*1,379
		Sweetwater River	50 feet upstream of center of Steele Canyon Road	*348
		Sweetwater River (Descanso Area)	At the intersection of river and center of Viejas Boulevard.	*3,403
		Sweetwater (near National City)	50 feet upstream of center of Edgemore Avenue	*33
		Telegraph Canyon Creek	50 feet upstream from center of 4th Avenue	*77
		Tributary of south tributary to Santa Maria Creek.	At the intersection of creek and Julian Road	*1,379
		San Luis Rey River	50 feet upstream from center of Olive Hill Road	*155
			At the intersection of river and center of Wilson Way	*762

Maps available for inspection at County Department of Public Works, 5555 Overland Avenue, San Diego, California.

California	Visalia (city) Tulare County (FEMA-6442)	Shallow flooding	Center of intersection of Airport Drive and Plaza Drive	#1
			Center of intersection of Main Street and Cain Street	#3

Maps available for inspection at City Department of Public Works, 707 W. Acequia Street, Visalia, California.

California	Watsonville (city) Santa Cruz County (FEMA-6560)	Pajaro River	25 feet upstream from center of Main Street	*36
		Pajaro River—without consideration of levee.	Intersection of Beach Street and Errington Road	*21
		Struve Slough	Intersection of Struve Slough and center of Harkins Slough Road.	*15
		Watsonville Slough	25 feet downstream from center of Lee Road	*15
		Salsipuedes Creek	Intersection of Salsipuedes Creek and State Highway 129.	*37
		Salsipuedes Creek—without consideration of levee.	Intersection of Bridge Street and El Rio Street	*40
		Corralitos Creek	950 feet northeast of intersection of Packard Avenue and Kaddelry Lane along Packard Avenue.	*93

Maps are available for inspection at the Department of Planning, 250 Main Street, Watsonville, California 95076.

Connecticut	East Lyme (town), New London County (FEMA Docket No. 6560).	Long Island Sound	Entire shoreline of Long Island Sound within community.	*15
			Entire shoreline of Niantic Bay within community	*15
		Niantic River	Rope Ferry Road	*11
			Smith Street extended	*12
			Town Road extended	*13
			At U.S. Route 1	*11

Maps available for inspection at the East Lyme Town Hall, Niantic, Connecticut.

Connecticut	Madison (town), New Haven County (FEMA Docket No. 6560).	Long Island Sound	Entire shoreline within community	*16
		Hammonasset River	At U.S. Route 1	*10
			At River Road	*10
			Approximately 1.28 miles upstream of River Road	*15
			Approximately 2.14 miles upstream of River Road	*17
			Upstream of Chestnut Hill Road	*52
			Approximately .66 mile upstream of Chestnut Hill Road	*85
			At confluence of Camp Laurelwood Brook	*120
			Approximately 1.0 mile downstream of State Route 80	*150
			Approximately .57 mile downstream of State Route 80	*180
			Downstream of State Route 80	*213
		Camp Laurelwood Brook	At confluence with Hammonasset River	*120
			Approximately .5 mile upstream of confluence with Hammonasset River.	*131
			Approximately .8 mile upstream of confluence with Hammonasset River.	*140
			Upstream of Summer Hill Road	*185
		Bailey Creek	At Nathan Lane	*11
			Upstream of Salem Road	*12
			Upstream of Connecticut Turnpike	*17
		Neck River	At confluence with East River	*12
			At Overshore East extended	*11
			Upstream of U.S. Route 1	*14
			Upstream of CONRAIL	*20
			Upstream of Green Hill Road	*29
			Upstream of Warpas Road	*31
			Approximately .7 mile upstream of Warpas Road	*45
			Downstream of dam located just upstream of Opening Hill Road.	*68

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Maps available for inspection at the Town Engineer's Office, Town Hall, Madison, Connecticut				
Connecticut	Old Saybrook (town), Middlesex County (Docket No. FEMA-6535).	Connecticut River	South of CONRAIL crossing	*13
			Shoreline at Cornwell Place (extended north)	*13
			Shoreline at Dock Road (extended)	*15
			Shoreline of South Cove at Clinton Avenue (extended)	*13
			Shoreline of South Cove at Reed Court (extended)	*13
		Long Island Sound	Entire shoreline within community	*16
Maps available for inspection at Town Hall, 302 Main Street, Old Saybrook, Connecticut.				
Idaho	Boise (city), Ada County (FEMA-5330)	Boise River	100 feet southwest of intersection of Moore Street and Clover Drive.	*2,653
			At the intersection of Royal Boulevard and Dale Street	*2,684
		Boise River Side Channel	At the intersection of Mallard Street and Park Center Boulevard.	*2,710
		Stuart Gulch	Along Access Road to Hillside Jr. High School; 100 feet east of Stuart Gulch Road.	*2,692
			At the intersection of Catalpa Drive and Hill Road	#4
		Crane Gulch	At the intersection of Crane Creek Road and Ranch Road.	*2,788
			At the intersection of Good Street and Harrison Boulevard.	#4
		Cottonwood Creek	40 feet upstream of confluence with Freestone Creek	*2,796
			At the intersection of Krall Street and Avenue C	#2
		Hulls Gulch	At stream crossing of Mile High Road	*2,806
			At the intersection of Alturas Street and North 7th Street	#1
Maps available for inspection at Public Work Department, 150 North Capitol, Boise, Idaho.				
Illinois	(V) Birds, Lawrence County (Docket No. FEMA-6568)	Brushy Creek	About 900 feet downstream Main Street (At downstream corporate limits).	*440
			About 1,350 feet upstream Main Street (At upstream corporate limits).	*442
Maps available for inspection at the Post Office.				
Illinois	(V) Fisher, Champaign County (Docket No. FEMA-6574).	Owl Creek	Just upstream of U.S. Highway 136	*702
			Just downstream of Hamilton Street	*716
Maps available for inspection at the Water Plant, Fisher, Illinois.				
Illinois	(V) Hutsonville, Crawford County (Docket No. FEMA-6571).	Mill Creek	Mouth at Wabash River	*447
			About 475 feet upstream of West North Street	*452
		Hutson Creek	Within community	*447
		Wabash River	Within community	*447
		Mill Creek Tributary	Mouth at Mill Creek	*452
			At 0.35 mile above mouth	*473
Maps available for inspection at Village Hall.				
Iowa	(C) Sageville, Dubuque County (Docket No. FEMA-6566).	Little Maquoketa River	At confluence of Bloody Run Creek	*622
			About 0.64 mile upstream of U.S. Highway 52	*630
		Couler Valley	About 1,000 feet downstream of Chicago and North Western Railroad.	*629
			About 200 feet upstream of Chicago and North Western Railroad.	*629
		Couler Valley Tributary	Just upstream of Sageville Road	*622
			About 1,140 feet upstream of Sageville Road	*638
		Bloody Run Creek	At confluence with Little Maquoketa River	*622
			At upstream corporate limits	*622
		Union Park Hollow	About 300 feet downstream of U.S. Highway 52	*635
			Just upstream of County Road	*641
			At upstream corporate limits	*683
Maps available for inspection at Rt. 1, P.O. Box 245, Dubuque, Iowa.				
Louisiana	Harahan (city), Jefferson Parish (FEMA Docket No. 6558).	Mississippi River	Downstream corporate limits	*20
			Upstream corporate limits	*21
		Rainfall-Runoff Ponding	Between Jefferson Highway and Mississippi River levee, east of Colonial Club Drive to eastern corporate limits.	*12
			Between Jefferson Highway and Mississippi River levee, west of Colonial Club Drive to Woodlawn Avenue.	*11
			Between Jefferson Highway and Mississippi River levee, northwest of Woodlawn Avenue to northwestern corporate limits.	*8.5
			North of Suave Road to corporate limits	*2.5
			Between corporate limits, north of Grover Avenue, to a point approximately 900 feet north of Citrus Road.	*4
Maps available for inspection at the City Hall, Harahan, Louisiana.				
Louisiana	Lake Charles (city), Calcasieu Parish (FEMA Docket No. 6568).	Calcasieu River	Downstream corporate limits to Two O'Clock Point	*9
			Two O'Clock Point to upstream corporate limits	*10
		Bayou Contraband	Confluence with Calcasieu River to Lake Street	*9
		Pithon Coulee	Confluence with Lake Charles	*9
		English Bayou	Confluence with Calcasieu River	*10
		Little Bayou	Confluence with Bayou Contraband	*9

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Maps available for inspection at the City Hall, 326 Pujo, Lake Charles, Louisiana.				
Louisiana	Westwego (city), Jefferson Parish (FEMA Docket No. 6566).	Mississippi River	Downstream corporate limits	*19
			Upstream corporate limits	[illegible]
		Rainfall-Runoff Ponding	From western corporate limits along Old Spanish Trail to levee.	*4
			West of Texas and Pacific Railroad yard and north of Texas and Pacific Railroad to western corporate limits.	*2.5
			Along Southern Pacific Railroad to Pond Street extended.	*2
			East of Louisiana Avenue, south of 2nd Street, west of Patterson Street, and north of Texas and Pacific Railroad.	*3
			East of Patterson Street, south of River Road, west of Klein Street, and north of Texas and Pacific Railroad.	*3
			Along eastern corporate limits between River Road and Texas and Pacific Railroad.	*5
			South of Texas and Pacific Railroad and north of West Bank Expressway, from western corporate limits to eastern corporate limits.	[illegible]
			South of West Bank Expressway, west to levee, east to corporate limits, and south to corporate limits, over to Dugues Canal in eastern part of city.	*2.5
		Gulf of Mexico—Flooding Affecting Westwego.	Western corporate limits east to levee, north to Otto Street extended.	*5
			In eastern part of city, from Lapalco Boulevard south to southernmost corporate limits, along Dugues Canal.	*5
Maps available for inspection at the City Hall, 419 Avenue A, Westwego, Louisiana.				
Maine	Kittery (town), York County (FEMA Docket No. 6509)	Atlantic Ocean	Shoreline of community northwest of Horn Island	*16
			Inland of Wood Island	*14
		Spruce Creek	Wilson Road (downstream)	[illegible]
			Approximately 0.4 mile upstream of Wilson Road	*19
		Spinney Creek	Approximately 370 feet downstream of Leach Road	[illegible]
			Dennett Road (upstream)	[illegible]
Maps available for inspection at the Town Municipal Building, Kittery, Maine.				
Maine	Old Orchard Beach (town), York County (FEMA Docket No. 6509).	Atlantic Ocean	Shoreline at Atlantic Avenue (extended)	*13
			Shoreline at York Street (extended)	*14
			Shoreline at Odessa Avenue (extended)	*15
		Goosefare Brook	At mouth	[illegible]
			Downstream of Boston and Maine Railroad bridge	*10
			Downstream of Ocean Park Road	*17
			Downstream of Ross Road	[illegible]
			Upstream corporate limits	[illegible]
		Mill Brook	Upstream of Ross Road	*9
			430 feet downstream of Portland Road	*19
Maps available for inspection at the Planner's Office in the Town Hall, Old Orchard Beach, Maine.				
Massachusetts	Ashburnham, (town), Worcester County (Docket No. FEMA-6550).	Phillips Brook	Downstream corporate limits	[illegible]
			Upstream of Whitman Hill Road	*857
			Upstream of Factory Village Dam	*920
			Upstream of Puffer Road	*972
			Upstream of Old Mill Dam	*1,058
			Upstream of Ashby Road	*1,107
			Approximately 1,165 feet upstream of Ashby Road	*1,132
		Whitman River	Downstream corporate limits	[illegible]
			Upstream of Main Street	*882
			Upstream of Pleasant Street	*968
			Approximately 230 feet upstream of Center Street	*991
Maps available for inspection at the Selectman's Office, Town Hall, Ashburnham, Massachusetts.				
Massachusetts	Holland, (town), Hampden County (FEMA Docket No. 6470).	Hamilton Reservoir	Upstream from Sturbridge Road	*686
			Downstream from Mashapaug Road Causeway	[illegible]
			Upstream corporate limits	[illegible]
		Stevens Brook	Confluence with Hamilton Reservoir	*687
			Downstream from Marcey Road (first crossing)	*763
			Downstream from Marcey Road (second crossing)	*776
		May Brook	Confluence with Hamilton Reservoir	[illegible]
			Approximately 2,540 feet upstream from confluence with Hamilton Reservoir.	*736
Maps available for inspection at the Town Hall, Holland, Massachusetts.				
Massachusetts	New Braintree, (town), Worcester County (FEMA Docket No. 6550).	Ware River	Downstream corporate limits	*533
			Upstream of CONRAIL	*546
			Upstream Sibley Road	*556
			Upstream New Silver bridge	*566
			Upstream Wheelwright Dam	*575
			Upstream corporate limits	*579
		Winimusset Brook	Confluence with Ware River	[illegible]
		Upstream of Wine Road	*600	
		Sucker Brood	Downstream corporate limits	*791
			Upstream Utley Road	*869
			Upstream Barre Road	*919

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			Outlet to Gusky Pond upstream	*980
		Mill Brook	Downstream corporate limits	*644
			At confluence of Meadow Brook	*649
		Meadow Brook	Confluence with Mill Brook	*649
			Upstream Pierce Road/Barr Road	*668
			Upstream West Brookfield Road	*699
			Upstream corporate limits	*701
Maps available for inspection at the Planning Board, New Braintree Grade School, New Braintree, Massachusetts.				
Michigan	(C) Bloomfield Hills, Oakland County (Docket No. FEMA-6527).	Quarton Branch—River Rouge	Just upstream of Quarton Road	*754
			Just downstream of Lone Pine Road	*778
			Just upstream of Lone Pine Road	*783
			Just downstream of Cranbrook Road	*791
			About 50 feet upstream of Cranbrook Road	*795
			At confluence of Amy Drain	*822
		Stonycroft Branch—River Rouge	At confluence of Amy Drain	*822
			About 50 feet upstream of East Long Lake Road	*826
			At confluence of Hamlin Drain	*846
		Murphy Drain	At confluence of Hamlin Drain	*846
			Just downstream of Woodward Avenue	*873
			Just upstream of Woodward Avenue	*879
			Just downstream of Hickory Grove Road	*885
		Amy Drain	At mouth	*822
			Just upstream of the Grand Trunk and Western Railroad.	*838
			Upstream corporate limit	*847
		Sodon Lake Branch—River Rouge	At mouth	*817
			About 450 feet downstream of Vaughn Road	*821
			Just upstream of Vaughn Road	*829
			Just downstream of Lahser Road	*829
		Hamlin Drain	At mouth	*845
			Just downstream of the Grand Trunk and Western Railroad.	*854
			Just upstream of Kensington Road	*861
			Just downstream of New Bridge	*861
			Just upstream of New Bridge	*867
			About 550 feet upstream of New Bridge	*867
			About 750 feet upstream of New Bridge	*871
		Long Lake-Forest Lake Branch—River Rouge.	At mouth	*807
			Just downstream of Lake Placid Dam	*838
			Just upstream of Lake Placid Dam	*844
			Just downstream of Lahser Road	*858
Maps available for inspection at the City Manager's Office, City Hall, 45 East Long Lake Road, Bloomfield Hills, Michigan.				
Michigan	(Twp.) Buena Vista, Saginaw County (Docket No. FEMA-6568).	Saginaw River	About 600 feet upstream of Interstate 75 (At downstream corporate limits).	†586
			About 1.1 miles upstream of Interstate 75 (At upstream corporate limits).	†592
		Koehler Drain	At East Washington Road	†589
			Just upstream Chessie System	†595
			Just downstream of Wadsworth Road	†598
		Cheboygaining Creek	Within corporate limits	*586
Maps available for inspection at the Township Office.				
Mississippi	Unincorporated areas of Harrison County (FEMA-6568).	Gulf of Mexico/Mississippi Sound	Intersection of 3rd Street and Bayview Street	*13
		St. Louis Bay	Intersection of Jones Road and Menge Avenue	*12
		Back Bay of Biloxi	Intersection of Bay Shore Road and Lamey Bridge Road.	*11
Maps available for inspection at Harrison County Courthouse, 1801 23rd Avenue, Gulfport, Mississippi 39501.				
Nebraska	(C) Kearney, Buffalo County (Docket No. FEMA-6568)	Platte River	About 2.9 miles downstream of State Highway 10 and State Highway 44.	*2,121
			Just downstream of State Highway 10 and State Highway 44.	*2,143
			About 3.3 miles upstream of State Highway 10 and State Highway 44.	*2,164
		North Channel Platte River	About 700 feet downstream of County Highway 36	*2,116
			About 100 feet upstream of State Highway 10 and State Highway 44.	*2,142
			About 3.0 miles upstream of County Road X (just downstream of County Road).	*2,166
		Wood River	At confluence of Glenwood Park Creek	*2,139
			About 1,200 feet upstream of State Highway 10	*2,145
		Glenwood Park Creek	About 550 feet upstream of confluence with Wood River.	*2,139
			Just upstream of County Road D-V	*2,152
			Just upstream of Union Pacific Railroad	*2,159
			Just downstream of 17th Avenue	*2,188
			Just upstream of 17th Avenue	*2,195
			About 1,500 feet upstream of 56th Street	*2,209
		Kearney Canal	At confluence with North Channel Platte River	*2,147
			About 1,400 feet upstream of U.S. Highway 30	*2,153
			About 1,425 feet upstream of U.S. Highway 30	*2,210
			About 3.8 miles upstream of Conifer Avenue	*2,220
		North Dry Creek Ditch	About 100 feet upstream of North Channel Platte River (just upstream of County Road).	*2,153
			About 3,500 feet upstream of County Road	*2,155

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		Shallow Flooding (overflow from North Dry Creek Ditch).	Just east of North Dry Creek Ditch	#1

Maps available for inspection at City Hall, Kearney, Nebraska.

Nevada	Ely (city), White Pine County (FEMA–6560)	Gleason Creek	At the intersection of First and Aultman Streets	#1
		Murray Creek	At the intersection of North Street and Parker Avenue	#2
			At the intersection of Murry Street and Dickenson Avenue.	#1
			300 feet south on Murry Street from its intersection with Reilly Avenue.	*6,548

Maps available for inspection at City Clerk's Office, City Hall, Ely, Nevada.

New Jersey	Atlantic Highlands, borough, Monmouth County (FEMA Docket No. 6568).	Sandy Hook Bay	Shoreline from western corporate limits to Bowne Avenue, extended.	*18
			Shoreline from Bowne Avenue (extended) to First Avenue (extended.	*17
			Shoreline of Atlantic Highlands Yacht Harbor	*15
			Shoreline from Bellinswood Road extended to eastern corporate limits.	*17

Maps available for inspection at the Borough Hall, 100 First Avenue, Atlantic Highlands, New Jersey.

New Jersey	Orange, city, Essex County (FEMA Docket No. 6557)	Wigman Brook	Downstream corporate limits	*148
			Upstream Cleveland Street	*156
			Upstream corporate limits	*163
		East Branch Rahway River	Downstream corporate limits	*144
			Upstream of Tremont Avenue	*151
			Upstream corporate limits	*162
		East Fork of East Branch Rahway River.	Approximately 320 feet downstream of Freeman Street	*171
			Mitchell Street	*175
			Joyce Street	*176

Maps available for inspection at the City Hall, 29 North Day Street, Orange, New Jersey.

New York	Chautauqua, town, Chautauqua County (Docket No. FEMA–6554).	Chautauqua Lake	Entire shoreline within community	*1,310
		Big Inlet	Confluence with Chautauqua Lake	*1,310
			State Route 17	*1,315
			Approximately 1,170 feet upstream of Centralia Road	*1,318

Maps available for inspection at the Chautauqua Town Hall, Mayville, New York.

New York	Clinton, town, Dutchess County (FEMA Docket No. 6568).	Crum Elbow Creek	Downstream corporate limits	*263
			Upstream of State Route 9G	*280
			Upstream of Schultz Hill Road	*298
			Upstream of Frost Road	*321
			Upstream of downstream crossing of Spe Barracks Road.	*368
			At Private Drive upstream of State Quarry Road	*417
		East Branch Wappinger Creek	At confluence with Wappinger Creek	*254
			Upstream of Dam	*262
			Upstream corporate limits	*263
		Little Wappinger Creek	Downstream corporate limits	*252
			Upstream of Halstead Road	*276
			Upstream of dam located just upstream of Hollow Road.	*305
			Approximately 600 feet upstream of Nine Partners Road.	*337
		Wappinger Creek	Downstream corporate limits	*243
			Upstream of Taconic State Parkway	*249
			Upstream corporate limits	*254
		Silver Lake	Entire shoreline within community	*376
		Long Pond	Entire shoreline	*346

Maps available for inspection at the Town Hall, Center Road, Clinton Corners, New York.

New York	East Fishkill, town, Dutchess County (Docket No. FEMA–6566).	Fishkill Creek	Downstream corporate limits	*202
			Upstream Palen Road	*224
			Upstream State Route 376	*240
			Upstream Carol Road	*252
			Upstream of third dam	*267
			Upstream Taconic State Parkway	*295
			Upstream corporate limits	*311
		Sprout Creek	Confluence with Fishkill Creek	*224
			Upstream State Route 82	*251
			Upstream Brown Road	*245
			Upstream Montfort Road	*257
			Upstream Robinson Lane	*279
			Upstream corporate limits	*290
		Whortleberry Creek	Confluence with Fishkill Creek	*234
			Upstream second CONRAIL crossing	*250
			Upstream Creamery Road	*279
			Upstream Taconic State Parkway Ramp	*332
		Sylvan Lake Outlet	Confluence with Fishkill Creek	*295
			Upstream Bogardus Lane	*309
			Upstream corporate limits	*320

Maps available for inspection at the East Fishkill Town Hall, Route 376, Hopewell Junction, New York.

New York	Esopus, town, Ulster County (FEMA Docket No. 6568)	Rondout Creek	Confluence with Hudson River	*9
			State Route 213 (upstream side)	*12

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			Confluence of Wallkill River	*36
		Wallkill River	Approximately 125 feet downstream of Perrine's Bridge Road.	*179
			New York State Thruway	*187
			Upstream corporate limits	*192
		Hudson River	Entire shoreline within community	*9
Maps available for inspection at the Esopus Town Hall, Broadway and Sound Streets, Port Ewen, New York.				
New York	Fillmore, village, Allegany County (FEMA Docket No. 6569).	Cold Creek	Downstream corporate limits	*1,175
			1st upstream corporate limits	*1,176
		Genesee River	Confluence of Cold Creek	*1,175
Maps available for inspection at the Village Hall, Fillmore, New York.				
New York	Hyde Park, town, Dutchess County (FEMA Docket No. 6560).	Crum Elbow Creek	At confluence with Hudson River	*9
			At Access Road located upstream of Dock Street	*75
			Upstream of dam located just upstream of U.S. Route 9.	*134
			Upstream of downstream crossing of East Market Street.	*176
			Upstream of upstream crossing of East Market Street	*207
			Upstream of Mill Road	*226
			Upstream of South Cross Road (most upstream crossing).	*248
			Upstream of North Cross Road	*256
			Upstream of Mills Cross Road	*273
			Corporate limits	*280
		Fall Kill	At corporate limits	*216
			Upstream of Dutchess Hill Road	*217
			Upstream of Roosevelt Road	*224
			Upstream of Roosevelt Road North	*228
			Upstream of Cream Street	*248
		Maritje Kill	Approximately 150 feet downstream of U.S. Route 9	*71
			Upstream of Saint Andrew Road	*149
			Upstream of Newhold Road	*196
			Upstream of State Route 9G	*233
			Approximately 4,100 feet upstream of Crum Elbow Road.	*253
		Hudson River	Entire shoreline within community	*9
Maps available for inspection at the Town Hall, Albany Post Road, Hyde Park, New York.				
New York	Moreau, town, Saratoga County (FEMA Docket No. 6560).	Hudson River	Downstream corporate limits	*129
			Delaware and Hudson Railway upstream side	*131
			Approximately .5 mile downstream of Bakers Falls Dam.	*141
			Upstream Bakers Falls Dam	*211
			Downstream of Feeder Dam	*275
			Upstream of Feeder Dam	*290
Maps available for inspection at the Town Hall, 61 Hudson Street, South Glens Falls, New York.				
New York	Niagara, town, Niagara County (FEMA Docket No. 6560).	Cayuga Creek	Porter Road (upstream side)	*577
			Downstream corporate limits	*571
		West Tributary to Cayuga Creek	Drag Strip (downstream side)	*593
			Porter Road (upstream side)	*582
		Gill Creek	Upstream corporate limits	*599
			Downstream corporate limits	*586
		East Tributary to Gill Creek	CONRAIL (upstream side)	*601
			North Whitham Drive (upstream side)	*598
Maps available for inspection at the Town Hall, 7105 Lockport Road, Niagara Falls, New York.				
New York	Saratoga, town, Saratoga County (FEMA Docket No. 6557).	Hudson River	Downstream corporate limits	*97
			Confluence of The Cove	*99
			Upstream corporate limits	*102
		Fish Creek	Downstream corporate limits	*181
			Upstream of State Route 32	*196
			Upstream of Burgoyne Road	*198
			Upstream of State Route 29 (1st crossing)	*200
			Upstream of dam	*206
			Upstream of Bryant Road	*209
			Approximately 1,000 feet upstream of State Route 9P	*210
		Saratoga Lake	Entire shoreline within community	*210
Maps available for inspection at the Town Hall, Ferry Street, Schuylerville, New York.				
New York	Saratoga Springs, city, Saratoga County (FEMA Docket No. 6557).	Geyser Brook	Upstream of State Route 50	*268
			At confluence of Slade Creek and Rowland Hollow Creek.	*297
		Slade Creek	At confluence of Geyser Brook and Rowland Hollow Creek.	*297
			At confluence with Putnam Brook	*299
		Putnam Brook	At confluence with Slade Creek	*299
			Approximately 6,500 feet above State Route 9N	*312
		Rowland Hollow Creek	At confluence of Geyser Brook and Slade Creek	*297
			Upstream corporate limits	*318
		Spring Run	Upstream of State Route 29	*231
			Upstream Interstate 87 southbound	*248
			Downstream State Route 50	*261
		Keyaderoseeras Creek	At confluence with Saratoga Lake	*210

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			Upstream U.S. Route 9 south	*215
			Upstream corporate limits	*228
		Fish Creek	At corporate limits downstream of Stafford Road	*210
			At confluence with Saratoga Lake	*210
		Saratoga Lake	Entire shoreline within community	*210
Maps available for inspection at the City Hall, Lake Avenue, Saratoga Springs, New York.				
New York	Woodhull, village, Steuben County (FEMA Docket No. 6568).	Tuscarora Creek	Downstream corporate limits	*1,306
			Church Street (upstream side)	*1,316
			100 feet upstream of upstream corporate limits	*1,327
Maps available for inspection at the Village Hall, Sherwood Street, Woodhull, New York.				
Ohio	(V) Mantua, Portage County (Docket No. FEMA-6568)	Cuyahoga River	About 0.8 mile downstream of Main Street	*1,084
			About 0.6 mile upstream of High Street	*1,088
Maps available for inspection at the Village Hall, East High Street, Mantua, Ohio.				
Oregon	Canby (city), Clackamas County (FEMA-6568)	Molalla River	70 feet upstream from center of northwest Knights Bridge Road.	*94
		Willamette River	500 feet east from center of intersection of Redwood Street and the sewage treatment plant access road.	*84
Maps available at the Public Works Department, 182 N. Holly, Canby, Oregon.				
Oregon	Salem (city), Marion County (FEMA-6546)	Mill Creek	At center of Commercial Street Northeast	*141
			30 feet upstream of Interstate Highway 5 Northbound	*224
			850 feet west of the intersection of Penitentiary Annex Road and Mill Creek.	#1
		Mill Creek Overflow	Intersection of Waller Street Southeast and 15th Street Southeast.	*198
		Shelton Ditch	100 feet downstream of Winter Street Southeast	*149
		Pringle Creek	100 feet upstream 12th Street Southeast	*198
			200 feet west of the intersection of Davcor Court and 19th Street Southeast along Davcor Court.	#1
		Middle Fork Pringle Creek	100 feet upstream of Madrona Avenue Southeast	*203
		East Fork	100 feet upstream of McGilchrist Street Southeast	*243
			Intersection of 25th Street Southeast and McGilchrist Street Southeast.	#1
		West Fork Pringle Creek	100 feet upstream of Salishan Street Southeast	*197
		Battle Creek	At center of U.S. Highway 99E (Commercial Street Southeast).	*264
			Intersection of 13th Avenue Southeast and Doral Drive	#1
		Powell Creek	100 feet upstream of Doral Drive	*288
		Claggett Creek	Intersection of Felina Avenue and Deer Haven Drive	*156
		Willamette River	At center of State Highway 22 Westbound (Marion Street Northeast).	*142
Maps available for inspection at Public Works and Engineering Department, 555 Liberty Street, SE., Room 325, Salem Oregon.				
Pennsylvania	West Rockhill, township, Bucks County (FEMA Docket No. 6550).	Three Mile Run	At downstream corporate limits	*470
			Just upstream Mill Road	*479
			Just downstream of Catch Basin Road	*493
		Tributary No. 1 to Three Mile Run	Confluence with Three Mile Run	*481
			Just downstream of Forrest Road	*515
		Ridge Valley Creek	At downstream corporate limits	*397
			Upstream of downstream crossing Upper Rocky Dale Road.	*419
			Just downstream of Allentown Road	*451
		East Branch Perkiomen Creek	At downstream corporate limits	*275
			Upstream Cat Hill Road	*291
			Upstream U.S. Route 309	*298
			At upstream corporate limits	*302
Maps available for inspection at West Rockhill Township Municipal Building, 1028 Ridge Road, Sellersville, Pennsylvania.				
Tennessee	City of Clarksville, Montgomery County (FEMA-6568)	Cumberland River	Approximately 3,900 feet upstream of Louisville and Nashville Railroad.	*382
			Just upstream of New State Highway 13	*390
		Red River	Just downstream of U.S. Highway 79	*392
			Approximately 260 feet upstream of Warfield Boulevard.	*399
		Little West Fork	Approximately 250 feet downstream of Louisville and Nashville Railroad.	*406
			Approximately 1,000 feet upstream of U.S. Highway 41 Alternate.	*411
		Fletchers Fork	Approximately 950 feet upstream of downstream corporate limits (approximately 1.16 miles upstream of confluence with Little West Fork).	*425
Maps available for inspection at Clarksville-Montgomery County Regional Planning Commissioner's Office, or City Building Department or City Engineer's Office, City Hall, Public Square, Clarksville, Tennessee 37040.				
Tennessee	Unincorporated areas of Dickson County (FEMA-6550).	Barlons Creek	Just downstream of Soules Chapel Road	*478
		Yellow Creek	Just downstream of Yellow Creek Road (State Highway 46) First crossing from downstream.	*500
			Approximately 200 feet upstream of Yellow Creek Road, in the south of its intersection with Union Road (second crossing).	*500
		Willow Branch	Just upstream of Cowan Road	*718
		Furnace Creek	Just upstream of State Highway 48	*514

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		Jones Creek	Approximately 500 feet upstream of Hummingbird Lane.	*661
			Just upstream of Jones Creek Road	*667
		Cumberland River	Approximately 1,000 feet downstream of Cheatham Dam.	*399
			At the confluence of Harpeth River	*401
		Harpeth River	Approximately 800 feet downstream of Timberridge Road.	*418
			Approximately 700 feet downstream of Ashland City Road.	*425
Maps available for inspection at the Dickson County Executive's Office, County Courthouse Annex, Charlotte, Tennessee 37036.				
Tennessee	City of LaVergne, Rutherford County (FEMA-6566)	Finch Branch	Approximately 80 feet upstream of Minerva Drive	*554
			Just upstream of Murfreesboro Road	*556
		Hurricane Creek	Approximately 200 feet upstream of U.S. Highway 41	*554
		West Branch Hurricane Creek	Just upstream of Firestone Parkway	*581
		East Branch Hurricane Creek (Before Levee overtopping).	Approximately 700 feet upstream of Firestone Parkway	*579
		East Branch Hurricane Creek (After Levee overtopping).	Approximately 840 feet west of the intersection of Waldron Road and Firestone Parkway.	*579
Maps available for inspection at City Hall, 5218 Murfreesboro Highway, LaVergne, Tennessee 37086.				
Tennessee	City of Millersville, Sumner County (FEMA-6566)	Slaters Creek	Approximately 200 feet downstream of Cart Wright Drive extended.	*490
			Circle Drive extended	*492
		East Fork Slaters Creek	Approximately 200 feet downstream of Pole Hill Road	*526
Maps available for inspection at City Hall, 1378 Louisville Highway, Millersville, Tennessee 37072.				
Tennessee	Unincorporated areas of Montgomery County (FEMA-6568).	Big West Fork	Approximately 530 feet upstream of Boy Scout Road	*396
			Approximately 700 feet upstream of Peachers Mills Road.	*407
		Little West Fork	Approximately 800 feet upstream of State Highway 41	*411
			Approximately 1500 feet upstream of East End Road	*430
			Approximately 500 feet upstream of McNair Road	*437
		Red River	Approximately 600 feet upstream of Louisville and Nashville Railroad.	*392
			Approximately 850 feet upstream of northbound bridge of Interstate Highway 24.	*406
		Fletchers Fork	Approximately 400 feet upstream of Woodlawn Road	*456
			Approximately 250 feet upstream of Lafayette Road	*467
		Cumberland River	Just upstream of the confluence of Cumberland River and Red River.	*391
			Approximately 500 feet upstream of New State Route 13.	*393
Maps available for inspection at Montgomery County Executive's Office, County Courthouse, Commerce Street or Civil Defense Office, Commerce Street, Clarksville, Tennessee 37040.				
Tennessee	City of Pigeon Forge, Sevier County (FEMA-6560)	West Prong Little Pigeon River	Just upstream of U.S. Highway 441	*977
			Just upstream of Mill Dam	*1,017
			Just upstream of Gulf Road	*1,037
		Mill Creek	Just upstream of County Road	*971
			Just upstream of Pine Mountain Road	*1,004
		Walden Creek	At confluence with West Prong Little Pigeon River	*963
			At confluence of Mill Creek	*967
Maps available for inspection at Building Inspector's Office, City Hall, Pigeon Forge, Tennessee 37863.				
Tennessee	Unincorporated areas of Robertson County (FEMA-6556).	Sulphur Fork	Just upstream of State Road 6279	*535
			At the confluence of Beaver Dam Creek	*563
			Approximately 100 feet upstream of White House road	*601
			Just upstream of Still House Road	*620
			Just upstream of Mount Pleasant Road	*647
		Beaver Dam Creek	Just downstream of Owens Chapel Road	*588
			Approximately 150 feet downstream of Louis Draugthon Road.	*600
		Wartrace Creek	Approximately 50 feet upstream of Oakland Road (County Road 6341).	*663
		Lons Branch	At the intersection of Still House Road and an unnamed Road 1.56 miles above the confluence with Sulphur Fork.	*646
		Pole Bridge Branch	Just downstream of Kelley Willis Road	*703
		Savage Branch	Approximately 50 feet downstream of Still House Road.	*664
		Carr Creek	Approximately 200 feet downstream of New Chapel Road.	*523
			Approximately 100 feet upstream of Burr Road	*548
			Just upstream of New Cut Road	*525
			Just upstream of Lights Chapel Road	*641
		Brown Fork	Just downstream of Ammeto Larr Road	*524
		Millers Creek	Approximately 60 feet downstream of State Road 6280.	*548
		Unnamed Tributary of Millers Creek.	Approximately 40 feet downstream of State Road 6280.	*568
		Honey Run Creek	Just upstream of James Stone Road	*487
		Brush Creek	Just downstream of Edd Ross Road	*463
			Approximately 60 feet upstream of Stroudville Road	*550
			Just upstream of Charlie Maxie Road (State Road 6277).	*577

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			Just downstream of Pinkiet Road	*817
		West Fork	Just downstream of Harmony Road	*587
		Red River	Approximately 150 feet upstream of Highland Road	*[illegible]
			Just upstream of State Highway 52	*[illegible]
			Approximately 200 feet downstream of Stacks Road	*[illegible]
			Approximately 350 feet downstream of Interstate Highway 65.	*[illegible]
		Unnamed Tributary of Red River	Just upstream of Durers Mill Road	*[illegible]
		Frey Branch	Just upstream of Pleasant Grove Road	*[illegible]
Maps available for inspection at Planning and Zoning Office, Robertson County Office Building, Springfield, Tennessee 37172.				
Tennessee	Unincorporated areas of Rutherford County (FEMA-[illegible])	Stewart Creek	Approximately 350 feet upstream of Old Nashville Highway.	*527
			Just upstream of Interstate Highway 24, Eastbound Lane.	*541
			Just upstream of Burnt Knob Road	*569
		Finch Branch	Approximately 350 feet downstream of Fergus Road	*540
		Rock Spring Branch	Just upstream of Old Nashville Highway	*549
			Just upstream of Rock Spring Road, first crossing upstream of Interstate Highway 24.	*602
			Just upstream of Blair Road	*[illegible]
		Olive Branch	Just upstream of Interstate Highway 24, Eastbound Exit Ramp.	*[illegible]
			Just upstream of Lee Road	*[illegible]
		West Fork Stones River	Approximately 500 feet upstream of Old Jefferson Pike	*[illegible]
			Just downstream of Sulphur Spring Road	*524
			Just upstream of Water Treatment Plant Road	*[illegible]
			Just upstream of State Highway 99	*[illegible]
			Just downstream of Barfield Road	*[illegible]
			Just downstream of Stones River Road	*656
		Overall Creek	Just upstream of Asbury Road	*[illegible]
			Approximately 200 feet upstream of State Highway 96	*[illegible]
		Puckett Creek	Approximately 500 feet upstream of Franklin Road (State Highway 96).	*[illegible]
			Just downstream of State Highway 99 (Eagleville Pike)	*[illegible]
		Lytle Creek	Just downstream of Manchester Pike (State Highway 2 and U.S. Highway 41).	*617
			Just upstream of Dilton Road	*[illegible]
		Unnamed Tributary of West Fork Stones River.	Just upstream of State Highway 99	*[illegible]
		Middle Fork Stones River	Just upstream of State Highway 10 (U.S. Highway 231).	*[illegible]
			Just downstream of Elam Mill Road	*[illegible]
		East Fork Stones River	Approximately 250 feet upstream of Old Jefferson Pike	*[illegible]
			Just downstream of U.S. Highway 231 (Lebanon Pike)	*534
			Approximately 300 feet downstream of Sandford Road	*[illegible]
			Just downstream of State Highway 96	*[illegible]
		Wades Branch	Approximately 4,000 feet upstream of Barlow Lane	*536
		Bear Branch	Just upstream of Veterans Hospital Road	*547
			Approximately 300 feet downstream of Oakland School Road.	*[illegible]
		Bushman Creek	Approximately 500 feet upstream of Osborne Road	*562
			Approximately 200 feet downstream of State Highway 96.	*[illegible]
		Bradley Creek	Just upstream of Browns Mill Road	*[illegible]
			Just downstream of State Highway 96 (Jefferson Pike)	*[illegible]
		East Branch Hurricane Creek	Just upstream of Paul Road (which is located just upstream of Interstate Highway 24).	*[illegible]
Maps available for inspection at Rutherford County Executive's Office or Building Commission Office, Rutherford County Courthouse, Maple Street, Murfreesboro, Tennessee 37130.				
Tennessee	Unincorporated areas of Sevier County (FEMA-6560)	Middle Creek	Just upstream of Ridge Road	*949
			Just downstream of Centerview Road	*975
			Just downstream of Secondary Road 2605	*[illegible]
		Walden Creek	Just downstream of Secondary Road 2422 (Downstream Crossing).	*969
		Mill Creek	Just downstream of Secondary Road 2422	*969
			Just upstream of Pine Mountain Road	*1,004
			Approximately 100 feet upstream of Mill Creek Road	*1,041
		West Prong Little Pigeon River	Just downstream of Park Road	*[illegible]
			Just upstream of U.S. Highway 441	*[illegible]
			Just upstream of Pine Grove Road	*[illegible]
		Little Pigeon River	Just downstream of Boyds Creek Road	*[illegible]
			Just upstream of Boyds Creek Road	*[illegible]
			Just upstream of Walnut Grove Road	*[illegible]
		Gists Creek	Just upstream of U.S. Highway 411 and 441 (Chapman Highway) (Downstream-most Crossing).	*[illegible]
			Just downstream of Jess's Circle Road	*[illegible]
		West Fork Gists Creek	Approximately 120 feet downstream of Jess's Circle Road.	*923
			Approximately 150 feet upstream of Loafroad	*[illegible]
		Dudley Creek	Just downstream of Private Road	*1,542
Maps available for inspection at Sevier County Executive's Office, County Courthouse, Sevierville, Tennessee 37862.				
Tennessee	Unincorporated areas of Wilson County (FEMA-6568)	Bartons Creek	Just upstream of Coles Ferry Pike (FAS 6300)	*[illegible]
			Approximately 400 feet downstream of Hartman Drive	*[illegible]
			Just upstream of Hartman Drive	*[illegible]
			Just upstream of Tuckers Gap Road	*547

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		Stoners Creek	Approximately 300 feet downstream of Baptist Church Road.	*514
			Just downstream of Rutland Road	*566
		Cedar Creek	Approximately 200 feet upstream of U.S. Highway 70 and State Highway 24.	*477
			Just downstream of Louisville and Nashville Railroad	*520
			Just downstream of Leeville Road	*568
		Spring Creek	Approximately 200 feet downstream of Belotes Ferry Road.	*459
			Approximately 100 feet downstream of State Highway 141 (Lebanon Hartsville Pike).	*501
			Approximately 100 feet upstream of Interstate Highway 40.	*559
			Approximately 500 feet upstream of Louisville and Nashville Railroad.	*602
		Sugga Creek	Approximately 400 feet downstream of Mount Juliet Road	*516
			Just upstream of Mires Road	*545
			Approximately 100 feet downstream of Underwood Road.	*565
		Sinking Creek	Approximately 500 feet downstream of Sewage Plant Road (extended).	*521
			Approximately 400 feet upstream of Interstate Highway 40.	*575
			Just downstream of Stumpy Lane	*584
		Cumberland River	Just upstream of the confluence of Cumberland River and Spencer Creek.	*452
			Just downstream of State Highway 2317	*459
Maps available for inspection at Planning Office, Wilson County Courthouse, Lebanon, Tennessee 37087.				
Texas:	City of China Grove, Bexar County (FEMA-6568)	Calaveras Creek	Just downstream of FM 1516	*641
Maps available for inspection at Hero's Ice and Feed Store, Highway 87E and Real Road, China Grove, Texas.				
Texas	Nassau Bay, city, Harris County (Docket No. FEMA-6554).	Clear Lake	Northeastern shoreline of community at Sailboat Drive (extended).	*15
			From Bal Harbour Cove to confluence of Clear Creek	*14
			Shoreline of inland bay near confluence with Clear Creek.	*13
		Clear Creek	Shoreline from confluence with Clear Lake to Martinique Drive (extended).	*12
			Shoreline west of Martinique Drive (extended) including shoreline of Cow Bayou.	*11
Maps available for inspection at the City Hall, 1600 Nassau Road, Houston, Texas.				
Texas	Pearland, city, Brazoria and Harris Counties (FEMA Docket No. 6568).	Clear Creek	Downstream corporate limits	*33
			Country Club Drive (upstream side)	*40
			Confluence of Hickory Slough	*45
			Upstream corporate limits	*48
		Marys Creek	Downstream corporate limits	*32
			John Lizer Road	*47
			Upstream corporate limits	*51
		Marys Creek By-Pass Channel	Downstream corporate limits	*32
			Confluence with Marys Creek	*43
Maps available for inspection at the City Hall, Pearland, Texas				
Texas	Webster, city, Harris County (FEMA Docket No. 6557)	Cow Bayou	Entire shoreline within corporate limits	*11
		Clear Creek	From confluence of Cow Bayou to State Route 3	*11
			From State Route 3 to U.S. Route 75	*12
		Tributary to Clear Creek	At confluence with Clear Creek	*12
			West NASA Road (upstream side)	*20
			Medical Center Boulevard (upstream side)	*22
			Most upstream corporate limits	*24
Maps available for inspection at the City Hall, 311 Pennsylvania Avenue, Webster, Texas.				
Vermont	Hardwick, Town & Village, Caledonia County (FEMA Docket No. 6492).	Lamoille River	Downstream corporate limits	*784
			Upstream of Town Road 41	*788
			Upstream of Lake Hardwick Dam	*803
			Upstream of Cottage Street	*817
			Upstream of Main Street	*829
			Upstream of Lamoille Valley Railroad (downstream crossing).	*886
			Upstream of Lamoille Valley Railroad (upstream crossing).	*944
			Upstream of Town Road 31	*968
			Upstream of Town Road 30	*974
			Upstream of Town Road 28	1,046
			Upstream of State Route 16	*1,074
			Upstream of Town Road 62	*1,131
			Upstream corporate limits	*1,157
		Cooper Brook	Confluence with Lamoille River	*812
			Upstream of Elm Street	*815
			Upstream of State Route 14 (most downstream crossing).	*818
			Upstream corporate limits	*834

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		Nichols Brook	Confluence with Cooper Brook	*816
			Approximately 1,000 feet downstream of Town Road 48.	*856
			Upstream of Town Road 48 Downstream of Mackville Dam.	*[illegible]
			Upstream of Mackville Dam	*813
				*829

Maps available for inspection at the Town Hall, Town Offices, Hardwick, Vermont.

Washington	Snoqualmie (Town) King County (FEMA-6568)	Snoqualmie River	At the intersection of King Street and North Maple Avenue.	*422

Maps available for inspection at the Town Hall, 109 River Street, Snoqualmie, Washington.

West Virginia	Hancock County, Unincorporated Areas (FEMA Docket No. 6550).	Ohio River	Downstream County boundary	*675
			Upstream New Cumberland Lock and Dam	*680
			Upstream Newell Highway bridge	*687
			Upstream County boundary	690
		Kings Creek	Confluence with Ohio River	*675
			Upstream Private Road	*711
			Upstream Kings Creek Road (1st crossing)	*737
			Upstream Sandra Drive	*778
			Upstream Cutler Road	*805
			Upstream County Boundary	*829
		North Fork	Confluence with Kings Creek	*747
			Upstream North Fork Road	*778
		Tomlinson Run	Confluence with Ohio River	*[illegible]
			Approximately .96 mile upstream of confluence with Ohio River	*696

Maps available for inspection at the Hancock County Courthouse, New Cumberland, West Virginia.

West Virginia	Handley, town, Kanawha County (FEMA Docket No. 6568).	Kanawha River	Upstream corporate limits	*[illegible]
			Upstream of London Lock and Dam No. 3	*618
			Downstream corporate limits	*616
		Upper Creek	Upstream corporate limits	*736
			Confluence with Kanawha River	*[illegible]
		Lower Creek	Upstream corporate limits	*745
			Confluence with Kanawha River	*618

Maps available for inspection at the Town Hall, Route 61, Handley, West Virginia.

The base (100-year) flood elevations are finalized in the communities listed below. Elevations at selected locations in each community are shown. Appeals of the proposed base flood elevations were received and have been resolved by the Agency.

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
California	San Mateo County (Unincorporated Areas), FEMA-6356.	Colma Creek Shallow Flooding	200 feet southwest from center of intersection of El Camino Real and E Street.	[illegible]
		Lomita Channel Shallow Flooding	500 feet northeast from center of intersection of Cuardo Avenue and Corte Ana.	*4
		Montara Creek	50 feet upstream from center of State Highway 1	[illegible]
			25 feet upstream from center of Drake Street	*240
		San Vicente Creek	Center of intersection of Nevada Avenue and North Lake Street.	[illegible]
		Denniston Creek	50 feet upstream from center of State Highway 1	*44
		El Granada Creek	Center of intersection of Francisco Street and Alhambra Avenue.	*51
			Intersection of creek and San Carlos Avenue	*108
		Woodhams Creek	Center of intersection of Sueno Camino and Roquena Drive.	[illegible]
			25 feet upstream from center of Esmeralda Terrace	*730
		La Honda Creek	50 feet upstream from center of Entrada Way	[illegible]
		San Gregorio and Alpine Creeks	40 feet upstream from confluence with La Honda Creek.	[illegible]
		Pescadero Creek	25 feet upstream from center of State Highway 1	*11
			50 feet upstream from center of Butano Cutoff	*[illegible]
		San Francisco Bay	Vicinity of San Francisco International Airport	*7

Maps available for inspection at Department of Public Works, County Government Center, Redwood City, California

Massachusetts	Burlington, Town, Middlesex County (FEMA Docket No. 6333).	Vine Brook	At downstream corporate limits	*124
			Downstream of Wheeler Road	*144
			Upstream corporate limits	*180
		Sandy Brook	Confluence with Vine Brook	*126
			Approximately 1,000 feet upstream of Raymond Road extension.	*137
		Sawmill Brook	Downstream corporate limits	*107
			Approximately 300 feet upstream of Lucaya Circle (extended).	*126
		Tributary B to Vine Brook	Confluence with Vine Brook	*126
			Downstream of Route 3 Northbound	*141
			Upstream corporate limits	*146

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		Tributary C to Vine Brook	Confluence with Vine Brook	*138
			Approximately 0.3 mile upstream of Muller Road	*157

Maps available for inspection at the Office of the Town Engineer, Burlington Town Hall, 29 Center Street, Burlington, Massachusetts.

Massachusetts	Milford, Town, Worcester County (FEMA Docket No. 6298).	Charles River	Upstream of Mellen Street	*239
			Downstream of Howard Street	*242
			Approximately 200 feet upstream of Central Street	*247
			Approximately 700 feet upstream of Main Street	*270
			Approximately 300 feet downstream of Dilla Street	*273
			Approximately 66 feet upstream of Dilla Street	*278
			Downstream of Cedar Street	*307
			Downstream of Abandoned Railroad	*321
			Upstream corporate limits	*325
		Mill River	Upstream of Milford Street	*256
			Downstream of Whitewood Road	*301
			Upstream of Camp Road	*307
			Upstream of North Pond Dam	*351
		O'Brien Brook	Confluence with Godfrey Brook	*283
			Upstream of Vincenzo Road	*291
		Stall Brook	Downstream corporate limits	*236
			Upstream of Interstate Route 495	*243
			Upstream of Beaver Street	*245
		Godfrey Brook	Confluence with Charles River	*244
			Upstream of South Main Street	*254
			Confluence of O'Brien Brook	*283
			Upstream of West Street	*327
			Upstream of Congress Terrace Culvert	*380
		Huckleberry Brook	Downstream of Abandoned Railroad	*273
			Upstream of upper Louisa Lake Dam	*288
			Upstream of Ebin Street	*330
		Ivy Brook	Confluence with Huckleberry Brook	*300
			Approximately 1,400 feet downstream of Silver Hill Road.	316
			Approximately 1,300 feet upstream of Silver Hill Road	*333

Maps available for inspection at the Town Hall, 52 Main Street, Milford, Massachusetts.

Massachusetts	Tisbury, Town, Dukes County (FEMA Docket No. 6521).	Vineyard Sound	Shoreline at Memphremagog Avenue (extended)	*13
			Shoreline at Minnesota Street (extended)	*13
		Lake Tashmoo	Shoreline at Lake Street (extended)	*11
		Vineyard Haven Harbor	Shoreline at Grove Avenue (extended)	*12
			Approximately 650 feet east of intersection of Lagoon Pond Road and shoreline at Cronig Way (extended).	*10
		Lagoon Pond	Shoreline at Weaver Lane (extended)	*12

Maps available for inspection at the Tisbury Town Hall and the Town Hall Annex, Tisbury, Massachusetts.

Michigan	(C) Midland, Midland and Bay Counties (Docket No. FEMA-6485).	Tittabawassee River	About 900 feet downstream of Consumers Power Railroad.	*610
			At upstream corporate limits	*617
		Chippewa River	Mouth at Tittabawassee River	*615
			At upsteam corporate limits	*617
		Sturgeon Creek	At confluence with Tittabawassee River	*616
			At upstream corporate limits	*616
		Inman Drain	At confluence with Sturgeon Creek	*616
			At upstream corporate limits	*616
		Snake Creek	At confluence with Tittabawassee River	*616
			About 150 feet downstream of Crescent Drive	*618
			Just upstream of Saginaw Road	*626
			Just upstream of Wheeler Road	*630
			At East Wackerly Road	*637

Maps available for inspection at the City Hall, 202 Ashman Street, Midland, Michigan.

Minnesota	(C) Worthington, Nobles County (Docket No. FEMA-6218).	County Ditch No. 12	About 3,500 feet downstream of U.S. Highway 59	*1,561
			Just downstream of U.S. Highway 59	*1,568
			Just upstream of U.S. Highway 59	*1,568
			Just downstream of Interstate 90	*1,569
			Just upstream of Interstate 90	*1,572
			Just downstream of diversion with Whiskey Ditch	*1,578
		Whiskey Ditch	At confluence with Okabena Lake	*1,579
			Just downstream of Oxford Street	*1,584
			Just upstream of Oxford Street	*1,586
		Okabena Creek	At diversion with County Ditch No. 12	*1,586
			Just downstream of Interstate 90	*1,590
		County Ditch No. 6	About 1,250 feet downstream of U.S. Highway 59	*1,570
			Just upstream of Sherwood Street	*1,574
		West Inlet Creek	At confluence with Okabena Lake	*1,579
			Just downstream of County Highway 10	*1,582
			Just upstream of County Highway 10	*1,586
			Just downstream of Fox Farm Road	*1,585
		Lake Okabena	At Shoreline	*1,579

Maps available for inspection at City Hall, Worthington, Minnesota.

New York	Rotterdam, Town, Schenectady County (FEMA Docket No. 6509).	Mohawk River	Downstream corporate limits	*232
			Upstream of State Route 103	*251
			Upstream corporate limits	*258

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		Sandsea Kill	Confluence with Mohawk River	*258
			Upstream of Interstate Route 88	*274
			Upstream corporate limits	*318
		Normans Kill	Downstream corporate limits	*276
			Upstream Gifford Church Road	*278
			Upstream corporate limits	*282

Maps available for inspection at the Town Hall, 1100 Vinewood Avenue, Rotterdam, New York.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Ex. O. 12127, 44 FR 19367)

Jeffrey S. Bragg,

Administrator, Federal Insurance Administration.

January 31, 1984.

[FR Doc. 84–3660 Filed 2–9–84; 8:45 am]

BILLING CODE 6718–03–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 403

[OW–FRL–2504–3]

General Pretreatment Regulations for Existing and New Sources

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: On September 20, 1983, the United States Court of Appeals for the Third Circuit issued an opinion in the case of *National Association of Metal Finishers, et al.* v. *EPA* (Nos. 79–2256, et al.). The suit involved challenges to various provisions of the General Pretreatment Regulations (40 CFR Part 403) and the electroplating categorical pretreatment standards (40 CFR Part 413). The court upheld the electroplating standards and several of the pretreatment provisions. However, the court remanded to the Agency several other of the challenged pretreatment sections. Those remanded were the definitions of "new source" (§ 403.3(k)), interference" (§ 403.3(i)) and "pass through" (§ 403.3(n)), and the fundamentally different factors (FDF) variance provision (§ 403.13).

In accordance with the court's ruling, EPA is today taking the following final actions. First, EPA is suspending the regulatory definitions of "new source," "interference" and "pass through." Second, EPA is making a technical amendment to the pretreatment FDF provision to conform that section to the court's decision.

DATE: The effective date of this action is February 10, 1984.

FOR FURTHER INFORMATION CONTACT: Craig Jakubowics, Permits Division (EN–336), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460, (202) 426–4793.

SUPPLEMENTARY INFORMATION:

1. Background

On June 26, 1978, EPA promulgated the General Pretreatment Regulations establishing mechanisms and procedures for controlling the introduction of wastes from industry and other non-domestic sources into publicly owned treatment works (POTWs) (43 FR 27736). Following promulgation, several parties brought actions in Federal court challenging these regulations. On January 28, 1981, pursuant to the terms of a settlement agreement entered into by some of the parties, EPA promulgated amendments to the 1978 regulations (46 FR 9404). After some delay of the effective date of these amendments, EPA did, in response to a court order, put all of them into effect retroactive to March 30, 1981 (47 FR 42688, September 28, 1982.

On September 7, 1979, EPA promulgated the electroplating categorical pretreatment standards (40 CFR Part 413, 44 FR 52590). Following promulgation, several parties filed suits challenging the regulations. On March 7, 1980, EPA entered a settlement agreement with several parties, and pursuant to that agreement, EPA proposed several amendments to the electroplating standards (45 FR 45322, July 3, 1980). On January 28, 1981, final amendments to the electroplating pretreatment standards were promulgated (46 FR 9462). The deadlines for compliance with these standards are April 7, 1984 for non-integrated electroplating facilities, and June 30, 1984 for integrated electroplating facilities.

Various parties challenged the pretreatment regulations and the electroplating categorical pretreatment standards. All the cases were consolidated in *National Association of Metal Finishers (NAMF) et al.* v. *EPA* (Nos. 79–2256, et al.) in the United States Court of Appeals for the Third Circuit. The pretreatment provisions challenged in the litigation were the definitions of "new source" (§ 403.3(k)), "intereference" (§ 403.3(i)) and "pass through" (§ 403.3(n)), the combined wastestream formula (403.6(e)), the removal credits provision (§ 403.7) and the FDF variance provision (§ 403.13). On September 20, 1983, the Third Circuit issued its decision in this litigation. In its ruling, the court upheld the electroplating standards, the combined wastestream formula and the removal credits provision. However, the court remanded to the Agency the challenged definitions and the FDF provision of the General Pretreatment Regulations.

2. Suspension of the Definitions

Section 403.3(k)(2) of the General Pretreatment Regulations defined a "new source" as any source whose construction commenced after proposal of a categorical pretreatment standard applicable to such source, *but only if* the standard was promulgated within 120 days of its proposal. The Third Circuit held that the 120 day limitation cannot be reconciled with § 306(a)(2) of the Clean Water Act (CWA), and therefore remanded to the Agency the regulatory definition of new source.

Section 403.3(i) of the regulations defined "interference" as "an inhibition or disruption of the POTW, its treatment processes or operation, or its sludge processes, use or disposal which is a cause of or significantly contributes to" either a violation by the POTW of its NPDES discharge permit or prevention of sewage sludge use or disposal by the POTW. The regulatory provision specifically defined the subsidiary term "significantly contributes." Petitioners in the pretreatment litigation challenged the incorporation of the "significant contribution" concept into the definition of "interference" on the ground that it was contrary to the intent of the Clean Water Act because it could render an industrial discharger liable for interference even if its discharges did not *cause* the POTW permit violation or sludge problem. The court held that neither the language of the Act nor the

intent of Congress appears to contemplate liability without causation. Thus, the court also remanded the definition of interference.

The "pass through" definition in § 403.3(n) was challenged on procedural grounds. Petitioners argued that the definition was never proposed, thus eliminating the opportunity for public comment. EPA had conceded this procedural error and requested the court to remand the definition to the Agency. The court did remand the provision, and chose not to review the substance of the definition on its merits.

By today's action EPA is suspending the current definitions of new source, interference and pass through as they appear in the General Pretreatment Regulations. Revised definitions will be proposed in the near future in a separate rulemaking.

3. Technical Amendment to the FDF Provision

Section 403.13 of the General Pretreatment Regulations established the criteria and procedures for a FDF variance. The variance would be an adjustment, on a case-by-case basis, to the discharge limits in a categorical pretreatment standard as it applies to an individual indirect discharger if data specific to that indirect discharger indicate it presents factors fundamentally different from those considered by EPA in developing the categorical standard in question.

This provision was challenged in the pretreatment litigation on the grounds that EPA had no authority under the Clean Water Act to grant FDFs pretreatment standards, and that such a variance was contrary to § 301(l) of the Act. The court did not rule on whether EPA generally has authority to grant FDF variances from pretreatment standards. It held, however, that § 301(l) of the Act forbids modification of toxic pollutant discharge limits. Thus, it held that EPA cannot grant a FDF variance for a toxic pollutant regulated in a pretreatment standard. The court remanded the FDF provision to EPA.

In response to the court's ruling, EPA today is making a technical correction to § 403.13 of the General Pretreatment Regulations. The change will make clear that the pretreatment FDF variance provision is not available for toxic pollutants. FDF variances, therefore, are only possible for non-toxic pollutants regulated in a categorical pretreatment standard.

Executive Order 12291

Under Executive Order 12291, EPA must judge whether a regulation is major and therefore subject to the requirement of a Regulatory Impact Analysis. These changes do not satisfy any of the criteria specified in § 1(b) of the Executive Order and, as such, do not constitute a major rulemaking.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*, EPA must submit a copy of any rule that contains a collection of information requirements to the Director of OMB for review and approval. These changes contain no additional information collection requests and, therefore, the Paperwork Reduction Act is not applicable.

Regulatory Flexibility Act

Under the Regulatory Flexibility Act, 5 U.S.C. § 601 *et seq.*, EPA is required to prepare a Regulatory Flexibility Analysis to assess the impact of all proposed rules on small entities. Although this rule is not subject to this requirement because it is not being proposed, EPA has determined that the rule will not have a significant economic impact on a substantial number of small entities.

Final Agency Action and Effective Date

Today's action constitutes final Agency action. EPA has determied that this action does not necessitate notice and comment under the Administrative Procedure Act (APA), 5 U.S.C. § 551 *et seq.*, because it is being taken to respond to the court's decision in *NAMF et al.* v. *EPA*. Delay in compliance with the court's ruling would not be in the public interest. Therefore, good cause exists for taking this final action without providing for notice and comment as prescribed by the APA. For the same reason, the Agency has determined that good cause exists for the final action taken today to become effective immediately.

List of Subjects in 40 CFR Part 403

Confidential business information, Reporting and recordkeeping requirements, Waste treatment and disposal, Water pollution control.

Dated: February 1, 1984.

William D. Ruckelshaus,

Administrator.

PART 403—GENERAL PRETREATMENT REGULATIONS FOR EXISTING AND NEW SOURCES

For the reasons set out in the preamble, 40 CFR Part 403 is revised as follows:

1. The authority citation for part 403 reads as follows:

Authority: Section 54(c)(2) of the Clean Water Act of 1977 (Pub. L. 95–217), Sections 204(b)(1)(C), 208(b)(2)(C)(iii), 301(b)(1)(A)(ii), 301(b)(2)(A)(ii), 301(b)(2)(C), 301(h)(5), 301(i)(2), 304(e), 304(g), 307, 308, 309, 402(b), 405 and 501(a) of the Federal Water Pollution Control Act (Pub. L. 92–500), as amended by the Clean Water Act of 1977.

2. In § 403.3, paragraphs (i), (k) and (n) are suspended until further notice.

3. Section 403.13 is amended by revising paragraph (b) to read as follows:

§ 403.13 Variance from categorical preteratment standards for fundamentally different factors.

(a) * * *

(b) *Purpose and scope.* (1) In establishing categorical Pretreatment Standards for existing sources, the EPA will take into account all the information it can collect, develop and solicit regarding the factors relevant to pretreatment standards under section 307(b). In some cases, information which may affect these Pretreatment Standards will not be available or, for other reasons, will not be considered during their development. As a result, it may be necessary on a case-by-case basis to adjust the limits in categorical Pretreatment Standards, making them either more or less stringent, as they apply to a certain Industrial User within an industrial category or subcategory. This will only be done if data specific to that Industrial User indicates it presents factors fundamentally different from those considered by EPA in developing the limit at issue. Any interested person believing that factors relating to an Industrial User are fundamentally different from the factors considered during development of a categorical Pretreatment Standard applicable to that User and further, that the existence of those factors justifies a different discharge limit than specified in the applicable categorical Pretreatment Standard, may request a fundamentally different factors variance under this section or such a variance request may be initiated by the EPA.

(2) A fundamentally different factors variance is not available for any toxic pollutant controlled in a categorical Pretreatment Standard.

* * * * *

[FR Doc. 84-3669 Filed 2-9-84; 8:45 am]

BILLING CODE 6560-50-M

Proposed Rules

Federal Register
Vol. 49, No. 29
Friday, February 10, 1984

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1097

Milk in the Memphis, Tennessee, Marketing Area; Proposed Suspension of Certain Provisions of the Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed suspension of rules.

SUMMARY: This notice invites written comments on a proposal to suspend a portion of the base computation provisions of the seasonal base and excess plan for paying producers under the Memphis, Tennessee, milk order for the months of March through July 1984. The proposed action would suspend the requirement that bases for producers be computed by dividing each producer's deliveries during the base-making period of September–January by a minimum of 120 days. The suspension was requested by Malone and Hyde, the operator of a fluid milk plant that recently became regulated under the Memphis order. Proponent indicates that the proposed suspension is needed to provide a more equitable allocation of base and excess milk among producers supplying its plant and that such action would not have any significant impact on the computation of bases for other producers currently supplying handlers regulated under the Memphis order.

DATE: Comments are due on or before February 17, 1984.

ADDRESS: Comments (two copies) should be filed with the Hearing Clerk, Room 1077, South Building; U.S. Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Robert F. Groene, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447–2089.

SUPPLEMENTARY INFORMATION: William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this proposed action would not have a significant economic impact on a substantial number of small entities. Such action would tend to provide a more equitable allocation of base and excess milk among a large number of dairy farmers supplying a plant that became regulated under the Memphis order on January 1, 1984, 4 months after the start of the base-making period under the Memphis order.

Notice is hereby given that, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), suspension of the following provisions of the order regulating the handling of milk in the Memphis, Tennessee, marketing area is being considered for the months of March through July 1984:

In § 1097.92, the words "but not less than 120. In the case of producers delivering milk to a handler's plant which first became a fluid milk plant during or after the end of the base-forming period, the daily average base for each producer shall be that which would have been calculated for such producer for the entire base-forming period if the handler's plant had been a fluid milk plant during such period."

All persons who want to send written data, views or arguments about the proposed suspension should send two copies to the Hearing Clerk, U.S. Department of Agriculture, Washington, D.C. 20250, by the 7th day after publication of this notice in the **Federal Register**. The period for filing comments is limited to seven days because a longer period would not provide the time needed to complete the required procedures to make the suspension effective for March 1984 if this is found necessary.

The comments that are received will be made available for public inspection in the Hearing Clerk's office during normal business hours (7 CFR 1.27(b)).

Statement of Consideration

The proposed suspension would eliminate for the months of March through July the requirement in the base computation section of the Memphis order that producer deliveries during the base-making period of September–January be divided by at least 120 days of production. Malone and Hyde, a fluid milk plant operator which first became regulated under the Memphis order in January 1984, requested the suspension in order that approximately 225 producers delivering milk to the Malone and Hyde plant would be treated equitably in the issuance of producer bases and the resulting payments to producers for base and excess milk during the months of March through July 1984.

Malone and Hyde stated the suspension is needed to minimize the adverse impact on the bases of producers supplying its plant as a consequence of the plant's shift in regulation from the Nashville to Memphis, Tennessee, milk order. The handler's concern arises from the fact that, as a result of the plant's recent start-up, the average daily base of the 225 producers now supplying the plant would not be representative of their production during the base-making period. Some of the producers have been associated with the plant since October 31, 1983, when the plant began operating, while others have only recently associated their milk with the plant. Furthermore, none of the production history of these producers for the period of September 1, 1983 through October 30, 1983, can be utilized in the computation of their bases under the Memphis order because the Malone and Hyde plant did not start distributing milk until October 31, 1983. However, in the absence of any suspension action, each of the Malone and Hyde producers, despite having less than 120 days of delivery to Malone and Hyde, would have their daily base computed under the terms of the Memphis order by dividing their respective deliveries by 120 days. As a consequence, their resulting bases would not be representative of the producers' average daily milk production during the base-making period and the payments received by them for their base and excess milk from the Malone and Hyde plant for the months of March through July 1984 would be distributed inequitably among the producers delivering milk to that plant.

The handler states that in view of the individual handler pooling provisions of the Memphis order the suspension would have no impact on other producers supplying the Memphis order.

List of Subjects in 7 CFR Part 1097

Milk marketing orders, Milk, Dairy products.

(Secs. 1–19, 48 Stat. 31 as amended (7 U.S.C. 601–674))

Signed at Washington, D.C. on February 7, 1984.

Eddie F. Kimbrell,

Deputy Administrator, Commodity Services.

[FR Doc. 84–3835 Filed 2–9–84; 8:45 am]

BILLING CODE 3410–02–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 83–NM–115–AD]

Airworthiness Directives; McDonnell Douglas Model DC–8–70 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document proposes a new airworthiness directive (AD) requiring replacement of certain thrust reverser hydraulic control units (HCU's) installed on the inboard thrust reversers on McDonnell Douglas Model DC–8–70 series airplanes. This action is necessary to correct a design deficiency in certain HCU's, and prevent a situation where the thrust reversers cannot be stowed following an in-flight deployment. This action would supersede an existing AD applicable to the same components.

DATES: Comments must be received no later than Mar. 10, 1984. Compliance schedule as prescribed in the body of the AD, unless already accomplished.

ADDRESSES: The applicable service information may be obtained from: McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Director, Publications and Training, C1–750 (54–60). This information also may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington or at 4344 Donald Doulgas Drive, Long Beach, California.

FOR FURTHER INFORMATION CONTACT: Mr. Stephen P. Kolb, Aerospace Engineer, Propulsion Branch, ANM–140L, FAA, Northwest Mountain Region, Los Angeles Aircraft Certification Office, 4344 Donald Douglas Drive, Long Beach, California 90808, telephone (213) 548–2835.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified under the caption "AVAILABILITY OF NPRMS". All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Availability of NPRMS

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the FAA, Northwest Mountain Region, Office of the Regional Counsel, Attention: Airworthiness Rules Docket No. 83–NM–115–AD, 17900 Pacific Highway South, C–68966, Seattle, Washington 98168.

Discussion

Airworthiness Directive AD 82–19–51 RI, Amendment 39–4714, was published in the **Federal Register** September 6, 1983, (48 FR 40212), applicable to McDonnell Douglas Model DC–8–70 series airplanes, requiring a revision to the limitations section of the FAA approved Airplane Flight Manual (AFM). This revision to the (AFM) applies to airplanes with P/N C24466000 Thrust Reverser Hydraulic Control Units (HCU's) installed on inboard thrust reversers and remains in effect until those HCU's are replaced with P/N C24466000–/–2, P/N C24466001–2 or other FAA approved units. These modified HCU's incorporate features to prevent malfunction of the emergency stow system if main aircraft hydraulic system pressure to the thrust reversers is lost. The AFM revision was required as an interim procedure for operation of thrust reversers with a design deficiency, and further corrective action is considered necessary. The proposed AD will require HCU replacements and eliminate the need for the special AFM procedures.

Cost for replacement and rework of affected HCU's are covered by the manufacturers warranty. For this reason, the proposed rule is not considered to be a major rule under the criteria of Executive Order 12291. Few, if any, small entities within the meaning of the Regulatory Flexibility Act would be affected.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

The Proposed Amendment

Accordingly, the Federal Aviation Administration proposes to amend 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) by adding the following new airworthiness directive:

McDonnell Douglas: Applies to certain McDonnell Douglas Model DC–8–70 series airplanes equipped with P/N C24466000 Thrust Reverser Hydraulic Control Units (HCU's) on the inboard thrust reversers, certificated in all categories.

Compliance required as indicated in the body of this AD, unless previously accomplished:

A. Replace P/N C24466000 HCU's on both inboard (#2 & #3) engine thrust reversers with P/N C2446600–/–2, P/N C24466001–2 or other FAA approved units, prior to May 1, 1984. The AFM limitations required per AD 82–19–51 RI, Amendment 39–4714 may be removed after HCU's are replaced on all aircraft in each operator's fleet.

Note.—P/N C24466000 HCU's can be modified to P/N C24466000–/–2 in accordance with CFMI Service Bulletin (CFM–56–2) 78–057, dated March 30, 1982, or later FAA approved revisions.

B. Alternate means of compliance which provide an equivalent level of safety may be used when approved by the Manager, Los Angeles Aircraft Certification Office, FAA, Northwest Mountain Region.

C. Special Flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate the airplanes to a base to comply with the requirements of this AD.

This supersedes Amendment 39–4714 (48 FR 40212), AD 82–19–51.

All persons affected by this proposal who have not already received these documents from the manufacturer may obtain copies upon request to the McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Director, Publications and Training, C1–750 (54–60). These documents also may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or at the Los Angeles Aircraft Certification Office, 4344 Donald Douglas Drive, Long Beach, California.

(Sections 313(a), 314(a), 601 through 610, and 1102 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421 through 1430, and 1502); 49 U.S.C. 106(g) (Revised, Pub. L. 97–449, January 12, 1983); and 14 CFR 11.85)

Note.—For the reasons discussed earlier in the preamble: The FAA has determined that this document (1) involves a proposed regulation which is not major under Executive Order 12291, and (2) is not a significant rule pursuant to the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is certified under the criteria of the

Regulatory Flexibility Act that this proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small entities because few, if any, small entities operate DC–8–70 airplanes. A regulatory evaluation has been prepared and has been placed in the public docket. Issued in Seattle, Washington on January 26, 1984.

Wayne J. Barlow,

Acting Director, Northwest Mountain Region.

[FR Doc. 84–3619 Filed 2–9–84; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 39

[Docket No. 84–NM–01–AD]

Airworthiness Directives; McDonnell Douglas Model DC–10 and KC–10A (Military) Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes a new airworthiness directive (AD) that would require an inspection and torque check of the six bolts which attach the forward and aft cylinders to the trunnion block assemblies on the inboard aileron actuator control assemblies on McDonnell Douglas Model DC–10 series airplanes. Actuators have been found having loose and broken bolts which if not corrected could result in fluid leakage and rapid loss of pressure in two hydraulic systems. This AD is needed to minimize the possibility of duel hydraulic system failure which would reduce the capability of the flight control system.

DATES: Comments must be received on or before March 26, 1984.

ADDRESSES: The applicable service information may be obtained from: McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Director, Publications and Training, C1–750 (54–60). This information also may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington or at 4344 Donald Douglas Drive, Long Beach, California.

FOR FURTHER INFORMATION CONTACT: Mr. Gilbert L. Thompson, Aerospace Engineer, Systems and Equipment Branch, ANM–130L, FAA, Northwest Mountain Region, Los Angeles Aircraft Certification Office, 4344 Donald Douglas Drive, Long Beach, California 90808, telephone (213) 548–2831.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified under the caption "AVAILABILITY OF NPRMS." All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Availability of NPRMS

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the FAA, Northwest Mountain Region, Office of the Regional Counsel, Attention: Airworthiness Rules Docket No. 84–NM–01–AD, 17900 Pacific Highway South, C–68966, Seattle, Washington 98168.

Discussion: On March 4, 1983, during a routine maintenance check by an operator of a DC–10–10 aircraft, three of the six bolts attaching the main ram cylinders to the actuator trunnion block of the right-hand inboard aileron actuator, P/N 200900–5011, S/N 308, were found to have failed. The heads on the failed bolts were separated from the shank but still attached to the actuator by lockwire. A gap or separation was observed between the cylinders and the block. There was no hydraulic leakage. The actuator was an original installation on the aircraft and had accumulated 24,615 flight hours and 9,959 flights. The actuator was removed and subsequent investigation revealed the following.

(1) Failure of the three actuator assembly bolts was initiated by fatigue rupture with multiple origins in the head to shank fillet radius of each bolt.

(2) All the bolts were magnetic particle inspected to find any additional cracks. A circumferential crack with a depth of .030 inch was found in the head to shank fillet radius of bolt No. 2. The crack exhibited a fracture morphology typical of fatigue rupture.

(3) Neither the failed bolts nor the unfailed bolts revealed any evidence of material, processing, or dimensional discrepancies.

(4) The main control valve was tested for excessive phasing pressure. The maximum phasing pressure was 4500 PSI, as compared to a maximum pressure of 3900 PSI for a new unit. The 4500 PSI phasing pressure is substantially below the design snubbing pressure of 5578 PSI and is not considered to have contributed in any significant manner to the fatigue failure.

Four additional in-service actuators, serial numbers 306, 307, 309, and 310, have had torque checks of the affected nuts and bolts. These four actuators had not been overhauled; therefore, the associated bolts had not been touched since production. The original component manufacturer's production safety wire was intact and any torque stripes still visible were intact. Only five of the six bolts on each actuator were checked since the actuator manifold restricts access to the sixth bolt.

Actuator serial numbers 309 and 310 were found to have bolt torques above specified minimums and were considered serviceable. Serial number 306 was found to have four of the five bolts checked under minimum torque levels. All five bolts checked on serial number 307 were found under minimum acceptable levels. A review of service records indicated that actuator serial number 319, when removed due to an unassociated maintenance problem, was found to have one loose bolt and two bolts with low torque.

Douglas Aircraft Company issued an Operational Occurrence Report 10–8306, dated March 18, 1983, advising all DC–10 operators of the bolt failures. In addition, the actuator manufacturer has initiated a torque check of these bolts on actuators returned to them for service.

Variable bolt looseness is believed to have contributed to the reduced bolt fatigue life. It is not known if the bolt looseness was caused by assembly or service conditions. Actuators having loose bolts which are not corrected could result in fluid leakage and rapid loss of pressure in two hydraulic systems. This proposed AD would require initial visual inspections of the bolt condition and/or for a gap at the trunnion assembly and a subsequent torque check of the affected bolts to ensure bolt integrity and minimize the possibility of bolt failure. The proposed compliance times for the inspection and torque check are considered appropriate based upon all available data on the actuators inspected to date, a review of the actuator design parameters, and the resulting impact on overall airworthiness of the affected aircraft.

The estimated cost associated with the proposed AD are as follows: It is estimated that 181 U.S. registered airplanes would be affected by this AD, that it would take approximately 1.5 manhours per airplane to accomplish the

required inspection and 15.0 manhours per airplane to accomplish the required torque check, and that the average labor costs would be $35 per manhour. The actual costs of parts necessary to accomplish the torque check are estimated to be $80 per aircraft. Based on these figures, the total cost impact of this AD on the U.S. fleet is estimated to be $1,439,891. For these reasons, the proposed rule is not considered to be a major rule under the criteria of Executive Order 12291. No small entities within the meaning of the Regulatory Flexibility Act will be affected since no small entities operate DC–10 airplanes.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

The Proposed Amendment

Accordingly, the Federal Aviation Administration proposed to amend Section 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) by adding the following new airworthiness directive:

McDonnell Douglas: Applies to McDonnell Douglas Model DC–10–10, –10F, –15, –30, –30F, –40, and KC–10A (Military) series airplanes, certificated in all categories. Compliance required as indicated, unless previously accomplished.

To preclude the possibility of dual hydraulic system failure as a consequence of loose or broken inboard aileron actuator cylinder tie bolts, accomplish the following:

A. On inboard aileron actuator control assemblies, Parker Bertea Part Numbers 200900–5007, –5009, –5011, –5013, and 217300–5005:

1. Prior to the accumulation of 5000 flight hours since new or overhauled, or within the next 1000 flight-hours, whichever occurs later after the effective date of this AD; and at 1000 flight-hour intervals thereafter, until the accomplishment of paragraph A.2., below, perform the inspection outlined in the Accomplishment Instructions, Phase I, of McDonnell Douglas DC–10 Service Bulletin A27–196, dated December 7, 1983, and Parker Bertea Service Bulletin 200900/217300–27–102, dated November 15, 1983, or later revisions approved by the Manager, Los Angeles Aircraft Certification Office, FAA, Northwest Mountain Region.

2. Within the next 5000 flight-hours after the effective date of this AD, perform the torque check outlined in the Accomplishment Instructions, Phase II, of McDonnell Douglas DC–10 Service Bulletin A27–196, dated December 7, 1983, and Parker Bertea Service Bulletin 200900/217300–27–102, dated November 15, 1983, or later revisions approved by the Manager, Los Angeles Aircraft Certification Office, FAA Northwest Mountain Region.

B. Alternate means of compliance which provide an equivalent level of safety may be used when approved by the Manager, Los Angeles Aircraft Certification Office, FAA, Northwest Mountain Region.

Note.—Aircraft which have been inspected in accordance with the procedures specified in paragraph A.1. above, or according to equivalent inspection procedures approved by the FAA Principal Maintenance Inspector (PMI) since March 1, 1983, are considered to have complied with the initial inspection requirements of this AD.

C. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

All persons affected by this proposal who have not already received these documents from the manufacturer may obtain copies upon request to the McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Director, Publications and Training, C1–750 (54–60). These documents also may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington or at 4344 Donald Douglas Drive, Long Beach, California.

(Secs. 313(a), 314(a), 601 through 610, and 1102 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421 through 1430, and 1502); 49 U.S.C. 106(g) (Revised, Pub. L. 97–449, January 12, 1983); and 14 CFR 11.85).

Note.—For the reasons discussed earlier in the preamble: the FAA has determined that this document (1) involves a proposed regulation which is not major under Executive Order 12291 and (2) is not a significant rule pursuant to the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is certified under the criteria of the Regulatory Flexibility Act that this proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small entities since no small entities operate DC–10 airplanes. A regulatory evaluations has been prepared and has been placed in the public docket.

Issued in Seattle, Washington on January 26, 1984.

Wayne J. Barlow,

Acting Director, Northwest Mountain Region.

[FR Doc. 84–3621 Filed 2–9–84; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 71

[Airspace Docket No. 83–AWP–6]

Proposed Amendment to VOR Federal Airway

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to amend VOR Federal Airway V–460 to enhance the application of air traffic control separation procedures between en route IFR aircraft navigating on V–460 and military jet aircraft arriving and departing the Miramar Naval Air Station, San Diego, CA.

DATES: Comments must be received on or before March 27, 1984.

ADDRESSES: Send comments on the proposal in triplicate to: Director, FAA, Western-Pacific Region, Attention: Manager, Air Traffic Division, Docket No. 83–AWP–6, Federal Aviation Administration, P.O. Box 92007, Worldway Postal Center, Los Angeles, CA 90009

The official docket may be examined in the Rules Docket, weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m. The FAA Rules Docket is located in the Office of the Chief Counsel, Room 916, 800 Independence Avenue, SW., Washington, D.C.

An informal docket may also be examined during normal business hours at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: William C. Davis, Airspace and Air Traffic Rules Branch (AAT–230), Airspace-Rules and Aeronautical Information Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426–8783.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 83–AWP–6." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with

FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA–430, 800 Independence Avenue, SW., Washington, D.C. 20591, or by calling (202) 426–8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2 which describes the application procedure.

The Proposal

The FAA is considering an amendment to § 71.123 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to realign VOR Federal Airway V–460 eastward approximately 30 degrees. This realignment would enhance the application of air traffic control separation procedures between en route aircraft operating under IFR and military jet aircraft arriving and departing Miramar Naval Air Station, San Diego, CA. Section 71.123 of Part 71 of the Federal Aviation Regulations was republished in Advisory Circular AC 70–3A dated January 3, 1983.

List of Subjects in 14 CFR Part 71

VOR Federal airways, Aviation safety.

The Proposed Amendment

PART 71—[AMENDED]

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 71.123 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

V–460 [Amended]

By deleting the words "via Julian, CA;" and substituting the words "via INT Poggi 062° and Julian, CA, 184° radials; Julian;"

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); (49 U.S.C. 106(g) (Revised, Pub. L. 97–449, January 12, 1983)); and 14 CFR 11.65)

Note.—The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Washington, D.C., on February 3, 1984.

Beauford A. Bancroft,

Acting Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 84–3622 Filed 2–9–84; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 942

Reopening of Public Comment Period on the Status of the Tennessee Permanent Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Reopening of public comment period.

SUMMARY: OSM is reopening the public comment period on Tennessee's implementation of its approved regulatory program under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act). On December 21, 1983, the Director, OSM, scheduled a public hearing and public comment period to provide an opportunity for interested persons to express their concerns on the implementation of the Tennessee program. On January 26, 1984, the hearing was held and on January 31, 1984, the comment period closed.

In accordance with a citizen group request, OSM is reopening the comment period for ten days to provide interested persons additional time to review the testimony presented at the hearing and to comment on the State's implementation of the approved regulatory program.

DATE: Public comments must be received before February 21, 1984, in order to be considered in the Director's findings on the status of the Tennessee permanent regulatory program.

ADDRESSES: Written comments should be sent to Knoxville, Tennessee Field Office, Office of Surface Mining, 520 Gay Street, SW., Suite 400, Knoxville, Tennessee 37902.

Copies of the transcript for the hearing held January 26, 1984, are available for public inspection and copying during normal business hours at:

Office of Surface Mining, Room 5315, 1100 "L" Street, NW., Washington, D.C. 20240; Telephone: (202) 343–4728.

Office of Surface Mining, 530 Gay Street, SW., Suite 400, Knoxville, Tennessee 37902; Telephone: (615) 523–9523.

FOR FURTHER INFORMATION CONTACT:

Carl C. Close, Special Assistant to the Assistant Director, Program Operations and Inspection, Office of Surface Mining, 1951 Constitution Avenue, NW., Washington, D.C. 20240; Telephone (202) 343–4225.

James Curry, Knoxville, Field Office Director, Office of Surface Mining Reclamation and Enforcement, 530 Gay Street, SW., Suite 400, Knoxville, Tennessee 37902; Telephone: (615) 523–9523.

SUPPLEMENTARY INFORMATION: On December 21, 1983, the Director, OSM, scheduled a public hearing and public comment period in accordance with the provisions of section 733 of OSM's regulations to provide an opportunity for interested persons to express their concerns on the implementation of the Tennessee regulatory program under SMCRA (48 FR 56403). On January 26, 1984, the hearing was held and on January 31, 1984, the comment period closed.

Information on the events leading up to the hearing, and on the purpose of the hearing and comment period, is contained in the December 21, 1983 **Federal Register** notice.

Following the hearing, a citizen group contacted OSM to request that the comment period be extended. In accordance with this request, OSM is reopening the comment period until February 21, 1984 to provide interested persons additional time to review the testimony presented at the hearing and to comment on the State's implementation of the approved regulatory program. Copies of the hearing transcript are available for public review at the OSM Administrative Record offices at the addresses listed above.

During the hearing OSM indicated that it would be providing to the Tennessee Division of Surface Mining (OSM) additional written questions concerning the State's implementation of the approved regulatory program. OSM also stated that these questions as well as DSM's written response would be placed in the administrative record and an opportunity provided for the public to review and comment on the information contained in these documents.

OSM has since decided that it will not ask DSM to respond to any additional questions. Comment is sought on the

information contained in the January 26, 1984 hearing transcript or on any aspect of Tennessee's performance pertinent to the Director's concerns about the Tennessee program which were outlined in the December 21, 1983 Federal Register referenced above.

Following a review by OSM of all available information including the hearing transcript, written presentations and written comments, the Director will publish his findings on the status of Tennessee's program implementation in accordance with the provisions of 30 CFR 733.120(e).

Authority: Pub. L. 95-87, Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201 *et seq.*).

Dated: February 6, 1984.

William B. Schmidt,

Assistant Director, Program Operations and Inspection.

[FR Doc. 84-3737 Filed 2-9-84; 8:45 am]

BILLING CODE 4310-05-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[SWH-FRL 2526-5]

Maryland's Application for Interim Authorization, Phase II, Components B and C, Hazardous Waste Management Program; Public Hearing and Comment Period

AGENCY: Environmental Protection Agency, Region III.

ACTION: Notice of Public Hearing and Public Comment Period.

SUMMARY: Today EPA is announcing the availability for public review of the Maryland application for Phase II, Components B and C Interim Authorization, inviting public comment, and giving notice of a public hearing to be held on the application.

DATE: The public hearing on Maryland's application is scheduled for Monday, March 12, 1984 at 7:30 p.m. The State of Maryland will participate in any public hearing held by EPA on this subject. Written comments on the Maryland Phase II, Components B and C, Interim Authorization application must be received by the close of business on Monday, March 19, 1984.

ADDRESSES: Copies of the Maryland Phase II, Components B and C Interim Authorization application are available during normal business hours at the following addresses for inspection and copying:

Maryland Department of Health and Mental Hygiene, Waste Management Administration, 2nd Floor, O'Connor Building, 201 West Preston Street, Baltimore, Maryland 21201 (Contact: Bernard Bigham, Phone: 301/383-5740)

Office of Environmental Programs, Failinger Complex, Rt. 8 and Naves Crossroad, Cumberland, Maryland 21502 (Contact: Robert Creter, Phone: 301/777-2370)

Waste Management Administration, Centreville, Multi-Service Center, 120 Broadway, Centreville, Maryland 21617 (Contact: John Chlada, Phone: 301/758-2221)

EPA Headquarters Library, 401 M Street, SW., Washington, D.C. 20460 (Phone: 202/382-5926)

U.S. EPA, Region III, Library, 2nd Floor, 6th and Walnut Streets, Philadelphia, PA 19106 (Contact: Diane McCreary, Phone: 215/597-0580)

Written comments should be sent to John Humphries, State Programs Section (3HW31), U.S. EPA, Region III, 6th and Walnut Streets, Philadelphia, PA 19106 (215/597-2863)

The public hearing will be held in the 1st Floor Auditorium, State Office Complex, 300 West Preston Street, Baltimore, Maryland, on Monday, March 12, 1984 at 7:30 p.m.

FOR FURTHER INFORMATION CONTACT: John Humphries, State Programs Section (3HW31), US EPA, Region III, 6th and Walnut Streets, Philadelphia, PA 19106 (215/597-2863).

SUPPLEMENTARY INFORMATION: In the May 19, 1980 Federal Register (45 FR 33063) the Environmental Protection Agency promulgated regulations, pursuant to Subtitle C of the Resource Conservation and Recovery Act of 1976, as amended, to protect human health and the environment from the improper management of hazardous waste. These regulations included provisions under which EPA can authorize qualified State hazardous waste management programs to operate in lieu of the Federal program. The regulations provide for a transitional stage in which qualified state programs can be granted interim authorization. The interim authorization program is being implemented in two phases corresponding to the two stages in which the underlying Federal program will take effect.

Phase I of the Federal program, published in the May 19, 1980 Federal Register (45 FR 33063), includes regulations pertaining to the identification and listing of hazardous wastes; standards applicable to generators and transporters of hazardous waste, including a manifest system; and the "interim status" standards applicable to existing hazardous waste management facilities before they receive permits. The State of Maryland received interim authorization for Phase I on July 8, 1981.

In the January 26, 1981 Federal Register (46 FR 7965), the Environmental Protection Agency announced the availability of portions or components of Phase II of interim authorization. Phase II of the Federal program includes permitting procedures and standards for hazardous waste management facilities. Component A, published in the Federal Register January 12, 1981 (46 FR 2802), contains standards for permitting storage and treatment in containers, tanks, surface impoundments and waste piles. Maryland received Phase II, Component A interim authorization on November 23, 1983.

The permitting standards for hazardous waste incinerators (Phase II, Component B), were published in the Federal Register on January 23, 1981 (46 FR 7666). Component C, published in the Federal Register on July 26, 1982 (47 FR 32274), contains standards for permitting the land disposal of hazardous wastes in surface impoundments, waste piles, land treatment facilities and landfills. The State of Maryland is applying for Phase II, Components B and C, Interim Authorization which would enable them to operate their hazardous waste incineration and land disposal permit programs in lieu of the Federal program.

A full description of the requirements and procedures for State interim authorization is included in 40 CFR Part 271, Subpart B, as amended by 48 FR 14248.

As noted in the May 19, 1980 Federal Register, copies of complete state submittals for Phase II interim authorization are to be made available for public inspection and comment.

Compliance with Executive Order 12291

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

Certification Under the Regulatory Flexibility Act

Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that this authorization will not have a significant economic impact on a substantial number of small entities. The notice effectively continues the applicability of certain Federal regulations in Maryland. It does not impose any new burdens on small entities. This rule, therefore, does not require a regulatory flexibility analysis.

Authority

This notice is issued under the authority of Sections 2002(a), 3006, and 7004(b) of the Solid Waste Disposal Act as amended 42 U.S.C. 6912(a), 6926, 6974(b).

List of Subjects in 40 CFR Part 271

Hazardous materials, Indian lands, Reporting and recordkeeping requirements, Waste treatment and disposal, Intergovernmental relations, Penalties, Confidential business information.

Dated: February 7, 1984.

Thomas P. Eichler,

Regional Administrator.

[FR Doc. 84-3847 Filed 2-8 84; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 655

[Docket No. 40207-11]

Atlantic Mackerel, Squid, and Butterfish Fisheries

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of preliminary initial specifications and request for comments.

SUMMARY: NOAA issues this notice to propose preliminary initial specifications for the 1984–1985 fishing year for Atlantic mackerel, squid, and butterfish; comments are invited on these specifications. Regulations governing these fisheries require the Secretary of Commerce (Secretary) to publish preliminary initial specifications. This action will provide data and requests comments for the agency's determination of the initial specifications for the 1984–1985 fishing year.

DATE: Comments must be received on or before March 12, 1984.

ADDRESS: Send comments to Salvatore A. Testaverde, Northeast Regional Office, NMFS, NOAA, State Fish Pier, Gloucester, MA 01930–3097. Mark on the outside of the envelope, "Comments on MAC/SQU/BUA—Annual Specifications."

FOR FURTHER INFORMATION CONTACT: Salvatore A. Testaverde, 617–281–3600, extension 273.

SUPPLEMENTARY INFORMATION: The Director, Northeast Region (RD), National Marine Fisheries Service (NMFS), approved Amendment No. 1 to the Fishery Management Plan for Atlantic Mackerel, Squid, and Butterfish Fisheries (FMP) on December 9, 1983. Final regulations to implement Amendment 1 to the FMP were published January 4, 1984 (49 FR 402), and were effective on February 7, 1984. Section 655.22(b) requires the Secretary to publish a notice specifying the preliminary initial annual amounts of the respective optimum yields (OYs), as well as the amounts for domestic annual harvest (DAH), domestic annual processing (DAP), joint venture processing (JVP), total allowable levels of foreign fishing (TALFFs), and reserves (if any) for Atlantic mackerel, *Illex* and *Loligo* squids, and butterfish. Procedures for determining the initial annual amounts are found at § 655.21. The Secretary is required to publish this notice by February 1 of each year and to provide for a 30-day comment period on the preliminary specifications. These specifications are based on information submitted by the Mid-Atlantic Fishery Management Council (Council), including an analysis of the nine factors on which the initial squid specifications are based. The Council's recommendations and other relevant data are available for inspection at the regional office at the above address during the comment period. Recommendations by the New England Fishery Management Council were also considered. A notice of final determination of the initial amounts and responses to public comments will be published in the **Federal Register** after the conclusion of the comment period.

Specifications

The following Table lists the preliminary initial specifications in metric tons (mt) for the Allowable Biological Catch (ABCs), Initial OYs, DAHs, Domestic Annual Processing (DAPs), Reserve(s) and TALFFs for *Illex* and *Loligo* squids, Atlantic mackerel, and butterfish. These initial specifications are the amounts that the RD proposes for the 1984–1985 fishing year.

PRELIMINARY INITIAL SPECIFICATIONS FOR 1984–85

[In metric tons]

Species	ABC	IOY	DAH	DAP	JVP	Reserve	TALFF
Squid:							
Loligo	44,000	17,500	16,000	13,000	3,000	0	1,500
Illex	30,000	12,600	11,000	8,000	3,000	0	1,600
Atlantic mackerel	87,000	[1] 83,500	[1] 26,500	7,200	13,400	28,500	28,500
Butterfish	16,000	([2])	11,000	11,000		0	[3] 500

[1] These amounts may be increased by 3,500 mt based upon domestic performance; DAH includes 5,800 mt for the recreational mackerel fishery.
[2] This amount will be increased as reserves of hakes and mackerel are reallocated.
[3] Up to 16,000.

Although squid TALFF amounts have essentially been lowered to incidental catch levels only, except when allocations could benefit the U.S. industry, foreign nations should note the potential for increasing TALFFs and receiving allocations if suitable "fish and chips" agreements or JVs are developed. Since the foreign fisheries for *Illex* will not resume in the northwestern Atlantic Ocean until June 15th, foreign nations can plan their fishing agreements for the summer-fall *Illex* fishery. The fishing season for *Loligo* will not begin until April 1 and foreign nations have similar opportunities to plan their fishing.

Classification

This action is authorized by 50 CFR Part 655, and complies with E.O. 12291.

(16 U.S.C. 1801 *et seq.*)

Dated: February 7, 1984.

Carmen J. Blondin,

Deputy Assistant Administrator for Fisheries Resource Management.

[FR Doc 84-3763 Filed 2-7-84; 4:55 pm]

BILLING CODE 3510-22-M

50 CFR Part 655

[Docket No. 30104-201]

Atlantic Mackerel, Squid, and Butterfish Fisheries

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule; technical amendments and request for public comment.

SUMMARY: This document proposes technical amendments to the rule implementing Amendment 1 to the Fishery Management Plan for the Atlantic Mackerel, Squid, and Butterfish Fisheries that was proposed on October 24, 1983, at 48 FR 49077, and published as final on January 4, 1984 at 49 FR 402, and is requesting comments from the public. Paragraphs of § 655.21 Allowable levels of harvest differ from the Council-submitted text for Amendment 1. The intent is to correct the regulations so that the method of determining allowable levels of harvest for Atlantic mackerel is stated as the Council intended. A 15-day comment period is provided to allow the public an opportunity to comment beyond the previous 75-day period provided for this amendment and its proposed rule.

DATE: Comments should be submitted on or before February 23, 1984.

ADDRESS: Send comments to Salvatore A. Testaverde, Plan Coordinator, National Marine Fisheries Service, State Fish Pier, Gloucester, MA 01930-3097.

FOR FURTHER INFORMATION CONTACT: Salvatore A. Testaverde, 617-281-3600.

Dated: February 7, 1984.

Carmen J. Blondin,

Deputy Assistant Administrator for Fisheries Resource Management.

It is proposed to amend 50 CFR 655.21 as follows:

1. A new sentence is added to the end of the introductory text of paragraph (b)(2) to read as follows, and

2. In paragraph (b)(2)(ii), the introductory text of (A), (A)(*1*) and (A)(*2*) are revised; (B) is revised, and the introductory text of (C) and (C)(*2*) are revised to read as follows:

§ 655.21 Allowable levels of harvest.

* * * * *

(b) * * *

(2) *Atlantic mackerel.* * * * Terms used in specifying mackerel OY, DAH, DAP, and TALFF are:

C = estimated mackerel catch in Canadian waters for the upcoming fishing year

US = estimated U.S. mackerel catch for the upcoming year

S = mackerel spawning-stock size in the year after the upcoming fishing year

Bycatch = 2% of allocated portion of the silver hake TALFF and 1% of the allocated portions of the *Loligo, Illex,* and red hake TALFFs

AC = acceptable catch in U.S. waters for the upcoming fishing year

T = total catch in all waters (US and Canadian) for the upcoming fishing year

* * * * *

(ii) * * *

(A) If AC is less than 30,000 mt, and US is less than 30,000 mt, then:

(*1*) TALFF equals Bycatch.

(*2*) DAH equals US minus Bycatch (to the extent necessary).

* * * * *

(B) If AC is greater than or equal to 30,000 mt, and US is less than 30,000 mt, then:

(*1*) *TALFF plus reserve.* If OY minus DAH is less than 10,000 mt, then TALFF equals OY minus DAH (but no less than the fixed percentages specified in paragraph (b)(2)(i)(A) of this section), and there is no Reserve. If OY minus initial DAH is greater than or equal to 10,000 mt, then the difference between OY and initial DAH is divided evenly between TALFF and Reserve.

(*2*) OY equals AC minus (30,000 mt minus US).

(*3*) DAH equals US minus Bycatch (to the extent necessary).

(C) If AC is equal to or greater than 30,000 mt, and US is equal to or greater than 30,000 mt then:

(*1*) * * *

(*2*) DAH equals US minus Bycatch (to the extent necessary).

* * * * *

(16 U.S.C. 1801 *et seq.*)

[FR Doc. 84-3784 Filed 2-6-84; 12:07 pm]

BILLING CODE 3510-22-M

Notices

Federal Register
Vol. 49, No. 29
Friday, February 10, 1984

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forest Service

Apache National Forest Grazing Advisory Board; Meeting

The Apache National Forest Grazing Advisory Board will meet at 10:00 a.m., April 9, 1984 at the Alpine Ranger District Office, Alpine, Arizona. The purpose of this meeting is to include a discussion on expenditures of Range Betterment Funds for the Apache National Forest. Discussion of Allotment Management Planning will be included.

The meeting will be open to the public. Persons who wish to attend should notify the Forest Supervisor, P.O. Box 640, Springerville, Arizona 85938, (602) 333–4301. Written statements may be filed with the Board before or after the meeting.

The Board has established the following rules for public participation: any interested persons besides the Advisory Board Members are welcome to attend and will be afforded the opportunity to speak after being duly recognized by the Chairman of the Board.

Dated: February 2, 1984.

Nick W. McDonough,

Forest Supervisor.

[FR Doc. 84–3643 Filed 2–9–84; 8:45 am]

BILLING CODE 3410–11–M

Sitgreaves National Forest Grazing Advisory Board; Meeting

The Sitgreaves National Forest Grazing Advisory Board will meet at 10:30 a.m., March 12, 1984 at the Maxwell House in Show Low, Arizona. The purpose of this meeting is to include a discussion on expenditures of Range Betterment Funds for the Sitgreaves National Forest. Discussion of Allotment Management Planning will be included.

The meeting will be open to the public. Persons who wish to attend should notify the Forest Supervisor, P.O. Box 640, Springerville, Arizona 85938, (602) 333–4301. Written statements may be filed with the Board before or after the meeting.

The Board has established the following rules for public participation: any interested persons besides the Advisory Board Members are welcome to attend and will be afforded the opportunity to speak after being duly recognized by the Chairman of the Board.

Dated: February 2, 1984.

Nick W. McDonough,

Forest Supervisor.

[FR Doc. 84–3644 Filed 2–9–84; 8:45 am]

BILLING CODE 3410–11–M

Soil Conservation Service

Northeast Guilford Critical Area Treatment, RC&D Measure, North Carolina; Finding of No Significant Impact

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of a finding of no significant impact.

SUMMARY: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Northeast Guilford Critical Area Treatment RC&D Measure, Guilford County, North Carolina.

FOR FURTHER INFORMATION CONTACT: Mr. Coy A. Garrett, State Conservationist, Soil Conservation Service, Room 544, Federal Building, 310 New Bern Avenue, Raleigh, North Carolina 27611, Telephone (919) 755–4210.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Coy A. Garrett, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

This measure concerns treating critical eroding areas in a 35,400 acre region in Northeast Guilford County. Implementation of this measure will maintain the resource productivity of the agricultural land and will improve water quality of receiving streams.

The Notice of Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various Federal, State, and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address. Basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Coy A. Garrett.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the **Federal Register**.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program. Executive Order 12372, "Intergovernmental Review of Federal Programs" is applicable)

Dated: February 2, 1984.

Coy A. Garrett,

State Conservationist.

[FR Doc. 84–3642 Filed 2–9–84; 8:45 am]

BILLING CODE 3410–16–M

CIVIL AERONAUTICS BOARD

Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits

Filed under subpart Q of the board's procedural regulations.

Week ended February 3, 1984.

Subpart Q Applications

The due date for answers, conforming application or motions to modify scope are set forth below for each application. Following the answer period the board may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings. (See 14 CFR 302.1701 et seq.).

Date filed	Docket No.	Description
Jan. 30, 1984	41967	Lineas Aereas Costarricenses, S.A. (LACSA), c/o Robert D. Papkin, Squire, Sanders & Dempsey, 1201 Pennsylvania Avenue NW., Washington, D.C. 20004. Application of LACSA pursuant to Section 402 of the Act and Subpart Q of the Board's Procedureal Regulations applies for amendment of the foreign air carrier permit issued to it pursuent to Order 80-4-148 to add Panama City, Panama, as an additional intermediate point and San Juan, Puerto Rico, as an additional coterminal point on the existing route of that permit. Answers may be filed by February 27, 1984.
Jan. 31, 1984	41968	Virgin Island Air Services, Inc., c/o Harry A. Bowen, Bowen and Atkin, Suite 350, 2020 K Street, N.W., Washington, D.C. 20006 Application of Virgin Island Air Services, Inc. pursuant to Section 401 of the Act and Subpart Q of the Board's Procedural Regulations requests a certificate to engage in scheduled interstate and overseas air transportation of persons, property, and mail between all points in the United States, its territories, and possessions. Conforming Applications, Motions, to Modify Scope and Answers may be filed by February 28, 1984.
Do	41969	First Cabin Airlines, Inc., c/o Stephen D. Potts, Shaw, Pittman, Potts & Trowbridge, 1800 M Street NW., Washington, D.C. 200036 Application of First Cabin Airlines, Inc., pursuant to Section 401 of the Act and Subpart Q of the Board's Procedureal Regulations applies for a certificate of public convenience and necessity to provide interstate and oversees scheduled air transportation and for a fitness determination. Conforming Applications, Motions, to Modify Scope and Answers may be filed by February 28, 1984.
Feb. 2, 1984	41972	40-Mile Air, Ltd., c/o Charles M. Warbelow, Post Office Box 539, Tok, Alaska 99780. Application of 40-Mile Air, Ltd., Pursuant to Section 401 of the Act and Subpart Q of the Board's Procedural Regulations applies for a certificate of public convenience and necessity for an indefinite term to perform scheduled interstate air transportation of persons, property and mail within the State of Alaska between the terminal point of Fairbanks, the intermediate points of Delta Junction/Fort Greely, Tanacross, Tetlin, Chicken, Boundary, and Eagle, and terminal point of Tok. Conforming Applications, Motions to Modify Scope and Answers may be filed by March 1, 1984.
Jan. 30, 1984	41777	Transporte Aereo Rioplatense S.A.C. el., c/o Paul Reber, 67 Whittier Avenue, McLean, Virginia 22101. Supplemental Exhibits to the Application of Transporte Aereo Rioplatense S.A.C. el., for a Renewal of its Foreign Air Carrier Permit. Answers may be filed by February 28, 1984.
Do	41778	Aerotransportes Entre Rios S.R.L. (AER), c/o Paul Reiber, 6714 Whittier Avenue, Mclean, Virginia 22101. Supplemental Exhibits to the Application of Aerotransportes Entre Rios S.R.L. (AER) for a Renewal of its Foreign Air Carrier Permit. Answers May be filed by February 28, 1984.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 84-3709 Filed 2-9-84; 8:45 am]

BILLING CODE 6320-01-M

Fitness Determination of Wheeler Flying Service, Inc. d.b.a. Wheeler Airlines

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Commuter Air Carrier Fitness Determination—Order 84-2-14, Order to Show Cause.

SUMMARY: The Board is proposing to find that Wheeler Flying Service, Inc. d/b/a Wheeler Airlines is fit, willing, and able to provide commuter air carrier service under section 419(c)(2) of the Federal Aviation Act, as amended, and that the aircraft used in this service conform to applicable safety standards. The complete text of this order is available, as noted below.

DATES: Responses: All interested persons wishing to respond to the Board's tentative fitness determination shall serve their responses on all persons listed below no later than February 28, 1984, together with a summary of the testimony, statistical data, and other material relied upon to support the allegations.

ADDRESSES: Responses or additional data should be filed with the Special Authorities Division, Room 915, Civil Aeronautics Board, Washington, D.C. 20428, and with all persons listed in Attachment A to the order.

FOR FURTHER INFORMATION CONTACT: Patricia T. Szrom, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428, (202) 673-5068.

SUPPLEMENTARY INFORMATION: The complete text of Order 84-2-14 is available from the Distribution Section, Room 100, 1825 Connecticut Avenue, NW., Washington, D.C. 20428. Persons outside the metropolitan area may send a postcard request for Order 84-2-14 to that address.

By the Civil Aeronautics Board: February 3, 1984.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 84-3708 Filed 2-9-84; 8:45 am]

BILLING CODE 6320-01-M

CIVIL RIGHTS COMMISSION

Appointments of Individuals To Serve as Members of the Performance Review Board—Senior Executive Service

The Civil Service Reform Act of 1978, 5 U.S.C. 4314(c)(4) requires that notice of the appointments of individuals to serve as members of performance review boards be published in the **Federal Register**. Therefore, in compliance with this requirement, notice is hereby given that the individuals whose names and position titles appear below have been appointed to serve as members of the performance review board for the United States Commission on Civil Rights for the rating year beginning October 1, 1982 and ending September 30, 1983.

Caroline Gleiter: Assistant Staff Director for Program and Policy Review, USCCR

Lawrence B. Glick: Solicitor, USCCR

Anthony W. Hudson: Staff Director, Personnel, Headquarters Defense Logistics Agency

Harriett Jenkins: Assistant Administrator for Equal Opportunity Programs, NASA

Bert Silver: Assistant Staff Director for Administration USCCR (Chair)

Linda Chavez,

Staff Director.

[FR Doc. 84-3694 Filed 2-9-84; 8:45 am]

BILLING CODE 6335-01-M

DEPARTMENT OF COMMERCE

International Trade Administration

[C-201-018]

Certain Carbon Steel Products From Mexico; Preliminary Affirmative Countervailing Duty Determinations

AGENCY: International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: We preliminarily determine that certain benefits which constitute bounties or grants within the meaning of the countervailing duty law are being provided to manufacturers, producers, or exporters in Mexico of certain carbon steel products. The estimated net bounty or grant is 4.98 percent *ad valorem*. Therefore, we are directing the U.S. Customs Service to suspend liquidation of all entries of certain carbon steel products from Mexico which are entered, or withdrawn from warehouse, for consumption, and to require a cash deposit or bond on these products in the amount equal to the estimated net bounty or grant.

If these investigations proceed normally, we will make our final determinations by April 18, 1984.

EFFECTIVE DATE: February 10, 1984.

FOR FURTHER INFORMATION CONTACT: Roland MacDonald, Paul Tambakis, Loc Nguyen or Melissa Skinner, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230, telephone: (202) 377–5496.

SUPPLEMENTARY INFORMATION:

Preliminary Determinations

Based upon our investigations, we preliminarily determine there is reason to believe or suspect that certain benefits which constitute bounties or grants within the meaning of section 303 of the Tariff Act of 1930, as amended (the Act), are being provided to manufacturers, producers, or exporters in Mexico of certain carbon steel products. For purposes of these investigations, the following programs are preliminarily found to confer bounties or grants:

- Fund for the Promotion of Exports of Mexican Manufactured Products (FOMEX).
- Nacional Financiera, S.A. Loans (NAFINSA).
- Fund for Industrial Development (FONEI).
- Preferential Federal Tax Incentives (CEPROFI).
- Article 94 Loans.
- Accelerated Depreciation Allowance.

The estimated bounty or grant is 4.98 percent *ad valorem.*

Case History

On November 10, 1983, we received a petition from the United States Steel Corporation (U.S. Steel), Pittsburgh, Pennsylvania, on behalf of the certain carbon steel products industry. In compliance with the filing requirements of § 355.26 of the Commerce Regulations (19 CFR 355.26), the petition alleges that manufacturers, producers, or exporters in Mexico of certain carbon steel products receive, directly or indirectly, benefits which constitute bounties or grants within the meaning of section 303 of the Act and that these imports are materially injuring, or threatening to materially injure, a U.S. industry.

We found the petition to contain sufficient grounds upon which to initiate such investigations, and on November 30, 1983, we initiated such investigations (48 FR 55012). We stated that we expected to issue preliminary determinations by February 3, 1984.

Mexico is not a "country under the Agreement" within the meaning of section 701(b) of the Act, and therefore section 303 of the Act applies to these investigations. Because the merchandise being investigated is dutiable, the domestic industry is not required to allege that, and the U.S. International Trade Commission is not required to determine whether, imports of these products cause or threaten material injury to a U.S. industry.

We presented a questionnaire concerning the allegations to the government of Mexico in Washington, D.C., on December 16, 1983. On January 16, 1984, we received responses to the questionnaire.

Scope of Investigations

The products covered by these investigations are carbon steel structural shapes, galvanized carbon steel sheet, hot-rolled carbon steel sheet, cold-rolled carbon steel sheet, carbon steel plate in coil, carbon steel plate cut to length and small diameter carbon steel plate welded pipe (certain carbon steel products) which are described in Appendix I to this notice.

There are nine known producers and exporters in Mexico of certain carbon steel products which export to the United States. We have received information from the government of Mexico regarding Altos Hornos de México, S.A. (AHMSA); Fundidora Monterrey, S.A. (Fundidora); Tubacero, S.A.; Productos Tubulares de Monclova, S.A. (Protumsa); Campañía Siderúrgica de Guadalajara (CSG), S.A.; Galvak, S.A.; Hylsa, S.A.; Tubería Laguna, S.A. de C.V.; and Industrias Monterrey, S.A. (IMSA).

The period for which we are measuring benefits is the most recent fiscal or calendar year for which we have complete data. The period is calendar year 1982 for AHMSA, Fundidora, Protumsa, Tubacero, CSG, Galvak, and Hylsa; calendar year 1983 for Tuberia Laguna; and fiscal year 1983 for IMSA. In their responses, the government of Mexico and respondents provided data for the applicable periods.

Analysis of Programs

Throughout this notice, we have applied to the facts of the current investigations general principles described in detail in Appendix II which follows that notice. As per Appendix II, we will use the national average commercial rate, identified as the Percentage Cost Captation Average (CPP)+10 points (*See* "Preliminary Countervailing Duty Determination on Unprocessed Float Glass from Mexico," 48 FR 56095 for an explanation of this rate) as the benchmark for short-term borrowing. Because of the lack of information and time, we were unable to develop company specific benchmarks for long-term loans. Therefore, we will use the CPP+10 points as the best benchmark available.

For purposes of these preliminary determinations, we are calculating a country-wide *ad valorem* rate. We allocated benefits received during the period of investigation over the total sales value or export value, as appropriate, of all respondents.

We have consistently held that government provision of, or assistance in, obtaining capital or debt does not confer *per se* a subsidy. Government equity purchases or financial backing bestows a countervailable benefit only when it is on terms inconsistent with commercial considerations. To determine if such action is commercially unsound, we review and assess financial data for the company in question. Because of time constraints, we were unable to thoroughly assess each company's financial situation for these preliminary determinations. Before reaching our final determinations, we will conduct a considerably more comprehensive review, and also consider more fully what factors are relevant to a determination of inconsistency with commercial considerations. For these preliminary determinations only, we relied primarily on sales, cash flow, current, and debt-equity ratios to determine if government equity infusions, loans and loan guarantees were no inconsistent with commercial considerations. For loans and loan guarantees, we determined whether the company was "creditworthy," and in making this determination we focused on cash flow and other measures of each company's ability to meet its long-term debt obligations.

With regard to whether a company was a reasonable equity investment (a condition we have termed "equityworthiness"), we focused on profitability and the long term expectations for the company in question. Throughout the rest of this notice, we will use the term "creditworthiness" to refer to both the company's equityworthiness and creditworthiness even though the two are not precisely the same.

In these preliminary determinations, we assessed the creditworthiness form 1979 through 1982 of the companies the petitioner alleged to be uncreditworthy. Before reaching our final determinations, we will assess their creditworthiness in prior years to determine if residual benefits from those years were bestowed during the period of investigation. During that period, we

found Protumsa to be uncreditworthy and the remaining companies to be creditworthy.

Based upon our analysis of the petition and the responses to our questionnaire, we preliminarily determine the following:

I. Programs Preliminarily Determined To Confer Bounties or Grants

We preliminarily determine that bounties or grants are being provided to manufacturers, producers, or exporters in Mexico of certain carbon steel products under the following programs:

A. FOMEX

FOMEX is a trust established by the government of Mexico to promote the manufacturer and sale of exported products. The fund is administered by the Mexican Treasury Department with the Bank of Mexico acting as the trustee. The Bank of Mexico administers the financing of FOMEX loans through financial institutions which establish contracts for lines of credit with manufacturers and exporters. On July 27, 1983, FOMEX was formally incorporated into the National Bank of Foreign Trade.

In order for a company to be eligible for FOMEX financing for exports, the following requirements must be met: (1) The product to be manufactured must be included on a list made public by FOMEX; (2) the company must have majority Mexican capital; (3) the articles to be exported must have a minimum of 30 percent national content in direct production costs; (4) loans granted for pre-export must be in Mexican currency, while loans for export sales are established in U.S. dollars or any other foreign currency acceptable to the Bank of Mexico; and (5) the exporter must carry insurance against commercial risks to the extent of the loans. The maximum annual interest rate that credit institutions may charge borrowers for FOMEX pre-export financing is 8 percent, available only in Mexican pesos. The maximum annual interest rate for FOMEX export financing is 6 percent.

1. *Loans to Producers*

Protumsa, Hylsa and IMSA received short-term pre-export financing from FOMEX for exports to the U.S. of the subject merchandise. AHMSA, Fundidora, Protumsa, and IMSA received short-term export financing at 6 percent interest, available in U.S. dollars, from FOMEX for exports to the U.S. of certain carbon steel products during the period for which we are measuring bounties or grants. Hylsa received short-term financing at 4 percent interest from FOMEX for exports of certain steel products to the U.S. Since FOMEX pre-export and export financing provides loans for export-related purposes at interest rates significantly less than those for comparable commercially available loans, we preliminarily determine that this program confers a bounty or grant upon the exportation of certain carbon steel products.

We used as benchmarks for the commercial interest rate in Mexico the national average commercial rate for comparable short-term peso or dollar-denominated loans during the appropriated period. For peso loans, we used the CPP+10 points, as described *supra*. For dollar-denominated loans, we used interest information obtained from the U.S. Federl Reserve Board. Based on this information, we preliminarily determine that, during the appropriate periods, comparable peso-denominated loans were available commercially from 42.34 percent to 68.73 percent, and comparable dollar-denominated loans were available at 18.15 percent and 14.13 percent. For FOMEX pre-export and export loans, the Government of Mexico was able to identify the loans applicable to exports destined for the U.S.

We detemined the benefits from these loans according to the methodology outlined in Appendix II. We allocated the amount of the benefits over the value of total U.S. exports of certain carbon steel products. We calculated a bounty or grant in the amount of 1.38 percent *ad valorem*.

2. *Loans to U.S. Importers*

U.S. customers of Hylsa receive FOMEX loans. The customer obtains a letter of credit in a U.S. bank, for which the customer pays a fee. The customer can then draw on the line of credit as purchases are made and the U.S. bank accepts the draft. Moreover, Mexican banks accept the same drafts and entend the loan to the customers. These same drafts are finally accepted by FOMEX. The repayment schedule is due in full in 180 days at 6 percent per annum interest. Since FOMEX financing provides loans for export-related purposes at interest rates significantly less than those for comparable commercially available loans, we preliminarily determine that this program confers a bounty or grant upon the exportation of certain carbon stell products.

We determined the benefit for these loans in the same manner as described *supra* for FOMEX loans denominated in dollars. We calculated a bounty or grant in the amount of 0.18 percent *ad valorem*.

B. Nacional Financiera, S.A., Loans

AHMSA, Fundidora and Hylsa had outstanding loans form the Nacional Financiera, S.A. (NAFINSA), a government-owned development bank. Since NAFINSA provided short- and long-term debt financing for companies engaged in priority development areas and industries at interest rates less than those for comparable commercially available loans, we preliminarily determine that these loans confer a bounty or grant.

We determined the benefit from these loans according to the methodology outlined in Appendix II. For purposes of these preliminary determinations, we are using as our benchmark CPP+10 points, as desscribed *supra*. We allocated the amount of the benefits over total sales value of certain carbon steel products and determined a bounty or grant of 1.05 percent *ad valorem*.

C. Fund for Industrial Development (FONEI)

FONEI is a specialized financial development fund, administered by the Bank of Mexico, which grants long-term credit at below market rates for the creation, expansion or modernization of enterprises in order to foster industrial decentralization and the efficient production of goods capable of competing in the international market. FONEI loans are available under various programs having different eligibility requirements.

Galvak, IMSA, and CSG had FONEI loans outstanding for the period for which we are measuring bounties or grants. These companies received loans for plant expansion.

FONEI loans for plant expansion are only available to companies located outside of Zone IIIA (Mexico City and environs). Because such loans are limited to particular geographic regions and are made at below market rates, we preliminarily determine that FONEI loans for plant expansion and equipment confer a bounty or grant upon respondents.

We determined the benefits from these loans according to the methodology outlined in Appendix II. For purposes of these preliminary determinations, we are using CPP+10 points as our benchmark, as described *supra*. We allocated the amount of benefits from these loans over total sales value of certain carbon steel products. We determined a bounty or grant in the amount of 0.02 percent *ad valorem*.

D. CEPROFI

CEPROFIs are tax credits used to promote National Development Plan (NDP) goals, which include increased employment, encouragement of regional decentralization, and industrial development, particularly of small- and medium-sized firms.

CEPROFI certificates are tax certificates of fixed value which may be used for a five-year period to pay federal taxes. Certain CEPROFI certificates are granted for carrying out investments in "priority" industrial activities; others are available to all industries on equal terms.

Certain carbon steel products producers received six types of CEPROFIs for carrying out investments in priority industrial activities. These CEPROFIs were for: the purchase of Mexican-made capital goods (CEPROFIs at 15 or 20 percent of the value of the good); increased employment; investment in new plant and capacity expansion; investment in machinery and equipment to increase productivity; mining and exploration; and rental contracts. Because these types of CEPROFIs are limited to a specific groups of industries or to companies located in specific regions, we preliminarily determine that this program confers a bounty or grant.

Article 25 of the decree authorizing the issuance of CEPROFIs, published in the *Diario Oficial de la Federación (Diario Oficial)* on March 6, 1979, provides for a 4 percent supervision fee. All respondents received CEPROFI certificates over the period of investigation and paid the government this 4 percent fee for all CEPROFIs. We preliminarily determine that the 4 percent supervision fee is "paid in order to qualify for, or to receive" the CEPROFIs, and is therefore an allowable offset from the gross bounty or grant as defined by section 771(6)(A) of the Act. Therefore, the benefit provided by CEPROFIs is the amount of the certificate received less the supervision fee.

We allocated these CEPROFI benefits in 1982 over total sales of the merchandise under investigation. We determined a bounty or grant in the amount of 2.30 percent *ad valorem*.

E. Article 94 Loans

This program was titled "Encaje Legal" in prior investigations. A more accurate title is "Article 94 Loans."

Under section II of Article 94 of the *General Law of Credit Institutions and Auxiliary Organizations* (the Banking Law), the Bank of Mexico establishes channels of credit to different sectors of economic activity. There are 12 categories of credit under section II. They are as follows:

1. Loans of any type, intended to finance production of basis articles.
2. Loans of any type for small- and mid-size industry.
3. Loans for working capital, equipment and installations for tenant farmers, or small farmers of low income, or for agro-industrial enterprises.
4. Loans of any type for agriculture, aviculture, apiculture, fishing, livestock and related industries.
5. Investments or loans intended to finance activities of economic development.
6. Loans extended to brokerage firms.
7. Bonds and stocks of firms described in the subject circular and other firms approved by the National Commission on Investments, which are widely held either actual or projected.
8. Loans for constructing housing for families with minimum income.
9. Loans for constructing Type-A housing for families with low income.
10. Loans for constructing Type-B housing for families with medium income and/or for construction of rental housing.
11. Loans for constructing mid-size housing.
12. Loans to finance export of manufactured products, production and/or inventory of goods of national manufacture intended for sale abroad.

Most categories carry their own maximum interest rate which is set by the Bank of Mexico. Loans granted under category 12 are targeted to exports of manufactured products. The maximum interest rate under this category is 8 percent.

One respondent, IMSA, received short-term loans under section II of Article 94. One loan was granted under category 12, which is available only for exports. Therefore, we preliminarily determine that this loan confers a bounty or grant because it was made at preferential interest rates and was targeted to exports. The other Article 94 loans received by IMSA are discussed in the "Programs for Which More Information is Needed" section of this notice, *infra*.

We determined the benefit from this loan according to the methodology outlined in Appendix II. For purposes of these preliminary determinations, we are using as our benchmark CPP+10 points, as described *supra*. We allocated the amount of the benefit over the total value of U.S. exports. On this basis, we calculated a bounty or grant of 0.05 percent *ad valorem*.

F. Accelerated Depreciation Allowance

Petitioner alleged that the carbon steel products industry benefited from federal income tax reductions through accelerated depreciation on the construction or purchase of plants, equipment, warehouses and other facilities.

For purposes of economic development, the income Tax Department may grant accelerated depreciation on the basis of geographical regions or industrial activities. The iron and steel industry is allowed to use accelerated depreciation.

Under normal tax depreciation schedules, machinery and equipment is subject to straightline depreciation over a 10-year period. Under such a schedule, 10 percent of the cost of the asset would be tax deductible in each of the 10 years. Under an accelerated schedule, 20 percent of the cost of eligible assets are tax deductible in each of five years. Tuberia Laguna used both the normal and accelerated depreciation schedules. We preliminarily determine that accelerated depreciation allowances for machinery and equipment confer a bounty or grant because such allowances are limited to a specific group of industries or to companies located in specific regions.

To calculate the benefit received by this program, we took the amount of tax savings realized by Tuberia Laguna, from accelerated depreciation and divided that by total 1983 sales of the merchandise under investigation. On this basis, we calculated a bounty or grant in the amount of less than 0.001 percent *ad valorem*.

II. Programs Preliminarily Determined Not To Confer Bounties or Grants

We preliminarily determine bounties or grants are not being provided to manufacturers, producers, or exporters in Mexico of certain carbon steel products under the following programs:

A. Equity Infusions

Petitioner alleged that the government of Mexico has provided bounties or grants through equity infusions to Mexican steel companies—both directly and through the conversion of debt—on terms inconsistent with commercial considerations.

The responses state that AMHSA, Fundidora, Galvak and the company which owns Hylsa received equity infusions from the government of Mexico. We followed the guidelines outlined in Appendix II to determine whether the equity infusions were made on terms inconsistent with commercial considerations. Based on our review of

various financial ratios, operating results and other relevant data in each company's annual reports, we preliminarily determine that AMHSA, Fundidora, Galvak, the company which owns Hylsa, and Hylsa were reasonable commercial investments at the times made. Therefore, the equity infusions were not inconsistent with commercial considerations.

B. CEPROFIs for Salary Adjustment, the Purchase of Mexican Manufactured Capital Goods, the Acquisition of Pollution Control Equipment, Importing Goods With Mexican Flag Vessels, and for Companies Providing Research and Development Services to Other Companies

The certain carbon steel products industry received CEPROFIs for: adjusting salaries; purchasing Mexican made capital goods (CEPROFIs at 5 percent of the value of the goods); acquiring pollution control equipment (*Diario Oficial*, November 26, 1980); importing goods with Mexican flag vessels; and funding research and development services to other companies (*Diario Oficial*, November 26, 1980). We preliminarily determine that these types of CEPROFIs do not confer a bounty or grant because they are not limited to a specific industry, group of industries, or to companies located in specific regions of the country.

C. National Preinvestment Fund for Studies and Projects (FONEP)

Administered by the NAFINSA, FONEP finances such studies as economic, technical and feasibility studies, as well as basic and detailed engineering projects.

Two companies, Hylsa, and CSG, received FONEP loans for feasibility studies. Since the financing of such feasibility studies is available to all companies in Mexico, we preliminarily determine that these loans do not confer a bounty or grant.

D. Import Duty Reductions and Exemptions

Petitioner alleged that certain carbon steel products exporters receive import duty reductions or exemptions on equipment used in producing of exports. Two firms did receive some raw material in-bond for the production of exports of the merchandise under investigation. In the case of in-bond processing, a firm may import material duty-free under bond, but must export such material within a certain time limit or the importer must pay customs duty. We preliminarily determine that import duty reductions or exemptions on raw materials received by Hylsa and IMSA do not confer a bounty or grant. The Department's regulations (paragraph 3, annex 1 of 19 CFR Part 355) provide that the non/excessive drawback, rebate or remission of duties on imported items physically incorporated in the final product is not a subsidy. Although the drawback, rebate or remission of duties on imported capital goods or items not physically incorporated (e.g., capital equipment) is a subsidy, none of the respondents have imported machinery, parts or equipment in-bond.

E. FONEI Loan for Pollution Equipment

One steel company, CSG, received a FONEI for the acquisition of environmental control equipment. In our final determination of *Portland Hydraulic Cement and Cement Clinker from Mexico* (48 FR 43063), we determined that FONEI loans for this purpose were not countervailable if the purchase of the equipment was necessary for a company to comply with federal antipollution requirements.

While some types of FONEI loans are restricted to industries located in specific regions of the country, this loan is not so limited. Any industry in Mexico is eligible to receive FONEI loans in order to comply with the anti-pollution requirements. Because this FONEI loan is not limited to exporters, to a specific enterprise or industry, or to a group of enterprises or industries, we preliminarily determine the FONEI loan for acquisition of environmental control equipment does not confer a bounty or grant.

III. Programs Preliminarily Determined Not To Be Used

We preliminarily determine that the following programs have not been used by producers or exporters of certain carbon steel products. Unless otherwise indicated, the basis for these preliminary determinations is the Mexican government's statement that producers and exporters of certain carbon steel products did not receive benefits under these programs.

A. Wage Controls

Petitioner alleged that state-owned Mexican producers of certain carbon steel products may benefit from labor at preferential rates. In its response, the Mexican government stated that it does not set any limit on wages.

B. State Investment Incentives

Certain Mexican states offer selected industries exemptions from state taxes, free or low cost land, or infrastructure improvements as incentives to establish or expand industrial facilities and to export.

C. Port Facilities

Petitioner alleged that the Mexican government is constructing a special port to promote the export of certain carbon steel products by state-owned Mexican producers. In its response, the Mexican government stated that none of the companies under investigation has used specially constructed port facilities for exporting certain carbon steel products.

D. Guarantee and Development Fund for Medium and Samll Industries (FOGAIN)

FOGAIN provides financing at interest rates below prevailing commercial rates to small- and medium-sized firms in Mexico.

E. Trust for Industrial Parks, Cities, and Commercial Centers (FIDEIN)

This program is aimed at developing industrial parks and cities.

F. Fondo Nacional de Fomento Industrial (FOMIN)

FOMIN operates as a trust fund, providing funding to certain small- and medium-sized companies by either buying stock or providing loans at rates below those of commercial lending institutions.

G. The Mexican Institute of Foreign Trade (IMCE)

IMCE was created by a law published on December 31, 1970, in the *Diario Oficial*. IMCE was organized primarily for the purpose of promoting Mexico's foreign trade and coordinating efforts to stimulate such trade. IMCE performs a number of functions including organizing and directing trade fairs abroad, promoting the visits of foreign trade missions to Mexico, carrying out investigations to identify national products or services which might be in demand abroad, and providing exporters with technical assistance.

H. Preferential Vessel, Freight, Terminal, and Insurance Benefits

Petitioner alleged that industries in Mexico may benefit from rebates or other discounts on transportation, storage, and insurance expenses involved in exporting products to the United States.

I. Government-Financed Technology Development

Petitioner alleged that certain Mexican industries may receive benefits under the NIDP, in the form of grants to

purchase technological services at new plants.

J. PROFIDE

PROFIDE has been established under the auspices of FOMEX to administer a new financing program to provide exporters with foreign currency financing needed for imports.

IV. Programs Determined To Be Suspended

We preliminarily determine that the following program has been suspended.

A. Certificado de Devolución de Impuesto (CEDI)

The Certificado de Devolución de Impuesto (CEDI) is a tax certificate issued by the government of Mexico in an amount equal to a percentage of the f.o.b. value of the exported merchandise or, if national insurance and transportation are used, a percentage of the c.i.f. value of the exported product. The CEDIs are nontransferable and may be applied against a wide range of federal tax liabilities (including payroll taxes, value-added taxes, federal income taxes, and import duties) over a period of five years from the date of issuance.

The government of Mexico suspended eligibility for CEDI tax certificates by an Executive Order published on August 25, 1982, in the Diario Oficial. The order abrogates prior executive orders which contained the lsit of products eligible to receive CEDI certificates. Supension of eligibility to apply for the CEDI was effective one day after publication of the Executive Order in the *Diario Oficial.*

Before this program was supended, seven steel companies did receive CEDI tax rebates. However, CEDIs are used on a current basis and none remains outstanding. Since this program is suspended, it is highly unlikely that certain carbon steel products benefitting from CEDIs will enter the United States after the date of these preliminary determinations. Therefore, we are not calculating a net bounty or grant for CEDIs received by the steel industry before the suspension of this program.

If we issue countervailing duty orders and if this program is reactivated, the Department will review its applicability in administrative reviews under section 751 of the Act.

V. Programs for Which More Information is Needed

We preliminarily determine that more information is needed on the following programs:

A. Acquisition of Iron and Coal at Preferential Terms

Petitioner alleged that state-owned mines may supply iron ore and coal to Mexican producers of certain carbon steel products on preferential terms. In their responses, some Mexican companies stated that they own iron and coal mines. Other companies stated that they did not receive any such benefits. We will seek further information on this program.

B. Preferential Loan Guarantees

Petitioner alleged that the Mexican government provides special loans and loan guarantees to state-owned and private sector steel companies, especially for purposes of enabling debt restructuring of foreign loans. Petitioner further alleged that the government has also provided certain companies with special loans. Allegedly, these guarantees and loans enabled companies to obtain foreign financing which would not otherwise have been available.

Respondents state they have received no preferential loan guarantees and that the only loan guarantees received were made available to all Mexican public companies with foreign debt. Respondents further state that the Mexican government negotiated with the international banking community to restructure all public commercial debt payments within a certain time period. In doing this the government offered a guarantee to all international banks. We will seek further information on this program.

C. Line of Credit

The responses states that Banco Nacional de Obras y Servicios Públicos, S.A. (Banobras), a publically owned lending institution, extended a line of credit to Afko, S.A. (a finance company that is a separate subsidiary of Grupo Industrial Alfa, S.A.) with which it could finance the purchase of accounts receivable from other subsidiaries of Grupo Industrial Alfa, S.A., such as Hylsa. The response also states that Hylsa has sold some of its accounts receivables to Afko, S.A.

We will seek further information about this line of credit and the purchase of accounts receivable so that we can determine whether or not they were made on terms inconsistent with commercial considerations.

D. Article 94 Loans

One steel company, IMSA, received short-term loans under section II of Article 94, as described in the "Programs Preliminarily Determined to Confer Bounties or Grants" section of this notice. The company did not identify the category under which these loans were received. Although these loans were used to finance exports, they were obtained at interest rates above the maximum rate applicable to category 12 loans (exports). We will seek further information on these loans.

E. Preferential Prices for Natural Gas, Oil and Electricity

Petitioner alleged that prices for natural gas, oil and electricity are set by the Mexican government and could include a 30 percent discount for respondents. In its response, the Mexican government stated that energy pricing policies for energy are the same for carbon steel producers as policies for all other domestic industries in Mexico. We will seek further information on this program.

Verification

In accordance with section 776(a) of the Act, we will verify data used in making our final determinations.

Suspension of Liquidation

In accordance with section 703(d) of the Act, we are directing the U.S. Customs Service to suspend liquidation of all entries of certain carbon steel products from Mexico which are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register** and to require a cash deposit or bond for each such entry of this merchandise in the amount of 4.98 percent *ad valorem.*

This suspension will remain in effect until further notice.

Public Comment

In accordance with § 355.35 of the Commerce Department Regulations, if requested, we will hold a public hearing to afford interested parties an opportunity to comment on these preliminary determinations at 10 a.m. on March 22, 1984, at the U.S. Department of Commerce, Room 3708, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230. Individuals who wish to participate in the hearing must submit a request to the Deputy Assistant Secretary for Import Administration, Room 3099B, at the above address within 10 days of this notice's publication.

Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; (3) the reason for attending; and (4) a list of the issues to be discussed. In addition, at least 10 copies of the

prehearing briefs must be submitted to the Deputy Assistant Secretary by March 19, 1984. Oral presentations will be limited to issues raised in the briefs. All written views should be filed in accordance with 19 CFR 355.34, within 30 days of this notice's publication, at the above address and in at least 10 copies.

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

February 3, 1984.

Appendix I.—Description of Products

For purposes of these investigations:

1. The term *"carbon steel structural shapes"* covers hot-rolled, forged, extruded, or drawn, or cold-formed or cold-finished carbon steel angles, shapes, or sections, not drilled, not punched, and not otherwise advanced, and having a maximum cross-sectional dimension of 3 inches or more, as currently provided for in items 609. 8005, 609.8015, 609.8035, 609.8041, or 609.8045 of the *Tariff Schedules of the United States Annotated (TSUSA)*. Such products are generally referred to as structural shapes.

2. The term *"galvanized carbon steel sheet"* covers hot- or cold-rolled carbon steel sheet which has been coated or plated with zinc including any material which has been painted or otherwise covered after having been coated or plated with zinc, as currently provided for in items 608.0730, 608.1310, 608.1320, or 608.1330, of the *TSUSA*.

3. The term *"hot-rolled carbon steel sheet"* covers the following hot-rolled carbon steel products. Hot-rolled carbon steel sheet is a flat-rolled carbon steel product, whether or not corrugated or crimped; not cold-rolled, not cut, not pressed, and not stamped to non-rectangular shape; not coated or plated with metal; 0.1875 inch or more in thickness, over 8 inches in width and pickled; as currently provided for in item 607.8320 of the *TSUSA;* or under 0.1875 inch in thickness and over 12 inches in width, whether or not pickled, whether or not in coils, as currently provided for in items 607.6710, 607.6720, 607.6730, 607.6740, or 607.8342 of the *TSUSA*. Please note that the description of hot-rolled carbon steel sheet includes some products classified as plate in the *TSUSA*.

4. The term *"cold-rolled carbon steel sheet"* covers the following cold-rolled carbon steel products. Cold-rolled carbon steel sheet is a flat-rolled carbon steel product, whether or not corrugated or crimped; whether or not painted or varnished and whether or not pickled; not cut, not pressed, and not stamped to non-rectangular shape; not coated or plated with metal; over 12 inches in width, and 0.1875 or more in thickness; as currently provided for in item 607.8320 of the *TSUSA;* or over 12 inches in width and under 0.1875 inch in thickness whether or not in coils, as currently provided for in items 607.8350, 607.8355, or 607.8360 of the *TSUSA*. Please note that the description of cold-rolled carbon steel sheet includes some products classified as "plate" in the *TSUSA*.

5. The term *"carbon steel plate in coil"* covers the following hot-rolled carbon steel products. Hot-rolled carbon steel plate in coils is a flat rolled carbon steel product in coils 0.1875 inch or more in thickness and over 8 inches in width, currently provided for in item 607.6610 of the *TSUSA*.

6. The term *"carbon steel plate cut to length"* covers hot-rolled or cold-rolled carbon steel products, whether or not corrugated or crimped; not in coils; cut to length, not pressed, and not stamped to non-rectangular shape; 0.1875 inch or more in thickness and over 8 inches in width as currently provided for in item 607.6615 of the *TSUSA*. Semifinished products of solid rectangular cross section with a width at least four times the thickness in the as cast condition or processed only through primary mill hot rolling are not included.

7. The term *"small diameter carbon steel welded pipe"* covers hollow products of circular cross section of carbon steel, 0.375 inch or more in outside diameter and less than 16 inches in outside diameter, of welded construction, not cold-rolled or cold drawn and not for use as oil well tubing with wall thickness not less than 0.065 inch, whether or not galvanized, currently provided for in item 610.3206, 610.3209, 610.3231, 610.3232, 610.3241, 610.3244, or 610.3247 of the *TSUSA*.

Appendix II.—Revisions to Methodology

In Appendix 2 to our Final Affirmative Countervailing Determinations: Certain Steel Products from Belgium (47 FR 39304, 39316), we explained our methodology for dealing with government assistance to firms in the form of grants, loans, equity infusions, loss coverage, research and development projects and labor programs. We have used these methods in calculating countervailing duties in investigations and administrative reviews since then.

Through our experience, we have become aware of possible shortcomings in the Appendix 2 methodology or its application. To remedy these, we are preliminarily changing and clarifying that methodology in the current countervailing duty investigations of Certain Steel Products from Argentina, Brazil and Mexico. The purpose of this appendix is to describe these changes and clarifications, which are principally in the areas of the discount rate used in allocating benefits over time, loans to uncreditworthy companies, the time period over which grant benefits are allocated, and determinations that loans to and equity investments in companies were inconsistent with commercial considerations.

Allocating Benefits Over Time Through a Discount Rate

Funds provided under government direction or directly by the government provide a subsidy to the extent that the recipient pays less for the funds than it would on the open market. In the case of a loan, this is the difference between the cash flows—the company's receipts and expenditures—on the government loan and the cash flows for a similar commercial loan taken out by the same company. For equity, it is the difference between what the government paid for a share of the company and what the market would have paid for the share. For grants, because the market would not have extended funds free of any repayment or proceeds to the financing party, the savings to the recipient is the face value of the grant (i.e., the difference between what the company paid for the funds, nothing; and what it would have to pay on the open market to receive the funds, the face value of the grant). The difference in cash flows can arise in a single year, as with grants (complete receipt of the funds at once), or over several years, as with long-term loans through periodic repayment.

The timing of the benefits, the point(s) at which the difference in cash flows occurs, does not in many cases provide an appropriate schedule for assessing countervailing duties. The actual benefit to a firm is diffused around the time that the cash benefit occurs. For example, it would be inappropriate to allocate a $1 billion grant received on March 17, 1981, entirely to March 17, 1981. The grant continues to benefit the company after that date, and it would not counteract the subsidy to apply countervailing duties to goods exported on only that single day. Therefore, we must choose a period over which to allocate benefits, and decide how much of the benefit to allocate to each subperiod, usually each year. Also, we must choose a discount rate to reflect the time value of money; i.e., the fact that a given nominal amount of money has a changing real value over time.

Calculating and allocating subsidies therefore require calculating the cash flow of the benefits, choosing a discount rate for moving the money through time, and deciding both the length of time over which to allocate benefits and the shape of the allocated benefit stream. We describe the first task in the appropriate sections below on grants, loans, and equity.

The discount rate reflects the company's time preference for money. If a company is indifferent between receiving $1.00 today and $1.12 next year, its discount rate for the intervening year is 12%. We use the discount rate to ensure that our allocation of money over time does not change the value of that money to the firm. That is, we choose a discount rate such that the present value of the cash stream remains constant. For example, if a company receives a fully countervialable grant of $1000 in 1977, we wish to countervail no more or less than 1000 1977 dollars, regardless of the period over which we allocate the benefit.

In Appendix B to the notice of preliminary determinations for certain steel products from Belgium (preceding Appendix 2 to the notice of final determinations), we selected the company's weighted cost of capital as the appropriate discount rate. Since we lacked sufficient information to calculate the weighted cost of capital, we used as a substitute the national cost of long-term corporate debt. In Appendix 2, we selected instead the risk-free rate, the rate on government bonds in the country under investigation, as the most appropriate rate. We stated that using the risk-free rate appropriately avoided judging the riskiness of either the project undertaken with subsidized funds or the company as a whole. We further stated that the risk-free rate avoided

speculating how a project would have been financed absent government subsidization.

Upon reconsideration, we believe that the use of a risk-free rate inappropriately treats all companies as having an equal tradeoff between present and future income, a tradeoff equal to a government bond rate. Different companies engage in different activities of varying risk, and investors require a higher anticipated return from riskier companies. At the same time, riskier firms expect higher returns from their own investments; this is how they are able to pay debt and equity holders. Thus, different firms have different tradeoffs of income between periods. A high risk firm would require more future income to give up $1.00 today than a low risk firm; otherwise the former company would not be able to pay a satisfactory return to its debt and equity holders

Ideally we would use the rate of return expected by the firm on investments at the time the subsidy is received; *i.e.*, its opportunity cost of capital. Since this is not quantifiable, we have used the weighted cost of capital as the best surrogate for such expectations. This discount rate is the best pragmatic measure of what makes a firm indifferent between funds received today and funds received in the future, since a firm will finance to the point where further financing becomes unprofitable. By cost of capital we mean the marginal cost of capital; that is, we measure the marginal cost of new financing, not historical costs. We consider this rate appropriate because it measures the firm's current costs, and therefore what trade it is willing to make between present and future income. We are not judging the riskiness of the project undertaken with subsidized funds, but instead merely using the risk reflected in the company's capital structure.

The weighted cost of capital is the average of the marginal costs of debt and equity, weighted by the proportion each forms of total financing, with debt cost adjusted for taxes for tax-paying firms. It is calculated as follows:

$$WCC=(1-t)k_d(D/(D+E))+k_e(E/(D+E))$$

Where t is the tax rate
k_d is the marginal cost of debt
k_e is the marginal cost of equity
D is the value of outstanding debt
E is the value of outstanding equity

The equation assumes that the company will use debt and equity in the same proportions at the margin as it has historically. Since debt and more especially equity issuances often occur years apart, examining an arbitrary recent period would not provide a better measure of the proportions than the overall historic amounts. The actual marginal proportions are not observable. In using the historical proportions, we also avoid speculating on how a project would have been financed absent government involvement. We implicitly recognize that we do not know whether in a particular instance a company would raise money by issuing debt or equity, but that in the past it has done both.

For k_d, the marginal cost of debt, we prefer to use the interest rate on bonds issued or long-term loans received by the company in the period for which we are calculating the discount rate.

The marginal cost of equity, k_e, is the rate of return a commercial investor would require on his money invested in the firm. It is a function of three variables: the risk-free rate on alternative investment, the anticipated future rate of return on the Equity market as a whole, and the risk of the firm relative to the market (the "systematic risk"). The latter two are not observable, and so an exact calculation of the marginal cost of equity for a firm is not possible. Therefore, for each firm we have used k_d, plus the difference between the national average rate of return on equity and the national average debt cost. We have substituted the rate of return for the period for the second variable, the national cost of equity, which is the *anticipated* return on equity and therefore not observable. This provides our company cost of equity, which we weight-average with the cost of debt to derive the discount rate.

Since equity is riskier than debt, investors demand a higher return on equity than on debt. That is, the cost of equity—the *expected* returns on any company's equity—is greater than the cost of debt, the interest rate to be paid on its debt. While normally this is reflected in national historical experience, the national rate of return on equity can be lower than the national average cost of debt in two circumstances: (1) when investors have anticipated incorrectly, paying too much for equity; and (2) when less risky firms finance relatively more with equity than more risky firms, thereby lowering the cost of equity and raising the cost of debt over what constant debt/equity ratios across all firms would imply. Because of this, we have set a floor on the national return on equity (our surrogate for the national cost of equity). This floor is the national cost of debt. For our purposes, the weighted cost of capital will in no instance be lower than the cost of debt.

We note that we may not be able to apply in all cases a discount rate based on weighted cost of capital as described above. This is because we may not be able to obtain, *e.g.*, the national average long-term debt cost or return on equity. In such cases we then fall back to the next best surrogate available based on the particular facts in a case. For example, for national average return on equity, we may average returns on equity for some number of particular companies. If we believe that any reasonable weighted cost of capital figure is unavailable, we generally use instead the company's cost of long-term debt. Possible subsequent choices, in order of general preference, are national average long-term debt costs and the prime interest rate. In other words, we try to implement our first choice, but in some circumstances find ourselves compelled to use surrogates. Of course, if unavailability of necessary information results from a respondent's lack of cooperation, we will use best information available.

We must also consider the appropriate point in time at which to determine weighted cost of capital for discount rate purposes. Where a grant or a loan is actually received in a year subsequent to the year of agreement in principle on the terms of such grant or loan, we will determine the weighted cost of capital using the year in which agreement in principle was reached rather than the year of receipt or year in which an agreement was formally concluded.

Once a discount rate is calculated, we need to establish a schedule of payments in order to allocate benefits over time. For grants and long-term loans, we have reviewed our past preference for an annuity-style schedule, involving equal nominal payments, in light of the Court of International Trade's preference for a declining balance schedule. See *Michelin* v. *United States*, (8 CIT——, Slip Op. 83–136, December 22, 1983). Both methods are reasonable, as reflected in numerous commercial loans of each type. We continue to prefer equal nominal payments for several reasons. First, the use of equal nominal payments facilitates our administration of annual reviews under section 751 of the Act. Second, use of the declining balance schedule as formulated by the Court could result in countervailing duties whose present value exceeded the nominal amount of subsidies in the year of receipt, unless the first benefit for a grant is assigned one year after receipt. Third, the annuity-style schedule of payments is consistent with our decision (described *infra*) to allocate very small grants exclusively to the year of receipt. In using its formulation of the declining balance schedule of payments, the Court basically treats grants as loans. If so, then for a grant allocated in one year, countervailing duties would exceed the nominal amount of the grant since the firm would have incurred some cost in borrowing that amount, even if only for a short time. Thus, when funds are deemed to have conferred a benefit, that benefit will be allocated according to the formula:

$$A=x[(1-(1+d)^{-n})/d](1+d)$$

where A is the present value of the money received, d the discount rate, n is the number of years over which benefits are allocated and x is the dollar amount to be countervailed each year.

Given this approach for allocating benefits over time, it is necessary to look individually at grants, loans and equity purchases.

Grants

In Appendix 2 we allocated solely to the year of receipt all grants of less than one percent of a company's gross revenues. As a result, under Appendix 2 we would find no subsidies (and make a negative determination) for a firm that received only a grant of one percent of the company's gross revenues, because that grant would be allocated over time. However, we would find subsidies for a firm receiving solely a grant of .75 percent of the firm's gross revenues, since that amount would be allocated solely to the year of receipt and would not be *de minimis*. To prevent this anomaly, we will total all grants. If the sum is less than .5 percent of all sales concerned (for domestic subsidies) or .5 percent of all export sales concerned (for export subsidies), we will allocate such grants only to the year of receipt.

All other grants will be allocated over the average useful life of equipment used in the industry concerned, as reflected by United States Internal Revenue Service (IRS) in the 1977 Class Life Asset Depreciation Range System (Rev. Proc. 77–10, 1977–1 C.B. 548 (RR–38)). We would prefer to use estimated

economic useful life, but the IRS tax tables, which reflect reasonable accounting useful life, provide the best practicable means of consistently determining useful life. In the 1982 steel investigations, we based our estimation of average useful life upon IRS tax tables. In subsequent practice, we have sometimes considered alternatively the accounting useful life as reflected in company books or by tax tables used in the country in which the company is located. We now propose instead to base estimated average useful life exclusively on IRS tax tables in order to prevent inconsistent treatment of different companies within the same country and of companies in different countries. As we noted in Appendix 2, use of company books or even foreign government practice may yield extremely inconsistent results due to different accounting principles, extraordinary write-offs, and corporate reorganizations.

We have considered two other main alternatives for the allocation period: the average life of long-term debt for the company or country; and a single fixed allocation period, between 6 and 12 years, for all cases. The main argument for using life of long-term debt is that since the benefit is the lower price paid for financing through the government rather than through the open market, the average time it takes to turn over debt in some sense measures the life of the benefit. However, we continue to prefer average useful life of equipment because: (1) life of debt captures only one of the two financing alternatives, there being no apparent way to measure life of equity; and (2) the national life of debt, necessary at least in those cases where a company has no debt, does not have much relevance to a particular company's financing. The argument for using a single allocation period for all cases (in the range of 6 to 12 years) is premised on the idea that the choice of an allocation period is not an economic decision, and no period is more or less correct than any other in economic terms. The "life" of the countervailable benefit is indefinitely diffused around the time that the cash benefit arises. Therefore, the average life of equipment is arguably no more accurate a measure than simply choosing a number. The choice of a period is a matter of Departmental policy, not financial argument, as long as the present value of the benefit is kept constant. The argument for a period between 6 and 12 years is that allocating over this period would best countervail the subsidy, but avoid assessing duties on actions that occurred in the distant past. Further, it would greatly ease the administrative burden on the Department for cases involving industries with long useful lives of equipment. However, we have used the average life of equipment in these preliminary determinations because we remain uncomfortable with the superficial arbitrariness of choosing a single number and thereafter applying it to all cases.

In Appendix 2, we allocated very large grants (in those investigations, greater than $50 million), given expressly to purchase specific equipment, over the useful life of that particular equipment. We did so based upon our belief that the legislative history required such allocation as a *per se* rule. Based upon our reconsideration of that legislative history, we do not believe that an exceptional allocation technique is required for such grants. Therefore, large grants given to purchase specific equipment will be allocated over the normal period of time; i.e., the average useful life of equipment used in the industry concerned, as reflected by IRS tax tables.

In Appendix 2, we also treated exceptionally any grants used to cover operating losses. We allocated them exclusively to the year of receipt to reflect that operating losses are ordinarily expensed in the year incurred. We now believe that such deference to accounting practices is inappropriate, since generally the countervailable benefit to the firm of a grant extends beyond the year in which the losses were incurred. We prefer to apply to these grants the general grant methodology, *i.e.*, to allocate them over the average useful life of capital assets used in the industry concerned, as reflected by IRS tax tables.

In Appendix 2, we made exceptions for grants for labor and research and development. We now believe it is more appropriate to allocate these over the life of equipment, since the benefit is again what the company paid for the funds (nothing) versus what it would have paid on the market (the face value of the grant). The eventual stated use of the funds does not affect the value to the firm of having received them from the government rather than the market.

Loans

As discussed in Appendix 2, loans made by a government to a firm do not necessarily confer a subsidy. A subsidy arises when the terms of the government loan are inconsistent with commercial considerations; *i.e.*, more favorable than the terms of a loan that could be obtained in the borrowing market. This comparable loan from the commercial market is called the benchmark.

The first step to determine whether a loan is subsidized and, if so, to calculate the present value of the benefits accruing from it is to find a benchmark. In Appendix 2, we generally used the national average commercial interest rate as the benchmark. We usually compared a subsidized loan with what the average commercial borrower would have to pay for a loan of similar principal and duration.

Upon reconsideration, we have decided that the benchmark for long-term loans will be company-specific, unless the company lacks adequate comparable commercial experience. If the latter, then we will use a national average loan interest rate or the debt experience of a comparable company as the best benchmark available for creditworthy firms. Use of a company-specific benchmark for long-term borrowing enables us to capture the fact that certain firms are more (or less) risky than average, and that commercial lenders will take these risk characteristics into account in setting the conditions of the loan.

For short-term loans, however, we intend to continue to use a national average commercial rate as the benchmark. We believe this distinction is valid because short-term loans are usually not as risky for the lender because they often are secured by accounts receivable and are outstanding for a shorter period. Hence, we would not expect short-term rates to vary widely from the national average rate; there is little need for the lender to take into account the risk characteristics of the firm. Additionally, the use of company-specific benchmarks for short-term loans would significantly impair our general administration of annual reviews under section 751 of the Act.

We continue to believe that benefits of loans are most appropriately allocated over the life of the loan. Unlike grants, loans reflect the period of time in which the company has undertaken to repay the principal plus interest. Therefore, we will allocate loan benefits over the life of the loan, even for loans given expressly to purchase costly capital equipment. We do not believe a contrary result for loans "tied" to capital equipment is required.

Long-Term Loans for Companies Considered Uncreditworthy

Under Appendix 2, we have considered as uncreditworthy, for purposes of our investigations, any company receiving a government loan that would not, in our view, have been able to obtain comparable loans in the absence of government intervention. We now clarify that such determinations of uncreditworthiness take into account criteria in addition to profitability. We consider a firm creditworthy at a given time if it has resources or revenues, absent future government assistance, sufficient over time to meet its costs. This test involves two classes of evidence: (1) reflections of the present and past health of the company, particularly various financial statistics and ratios; and (2) the environment that was expected to face the company in the future, as reflected in market studies, general economic forecasts, etc.

Under Appendix 2, a loan to a company considered uncreditworthy was treated as equity in view of its great risk, very junior status, and low probability of repayment absent government intervention or direction. We then aplied our equity methodology, based upon an *ex post facto* comparison of the national average rate of return on equity and the subsidized company's rate of return. We considered the amount by which the company's rate of return on equity was lower than the national average rate of return to be a subsidy, less any principal and interest actually repaid on the loans. And in no case did we countervail a loan subsidy to either a creditworthy or an uncreditworthy company in a greater amount than if the government gave the principal as an outright grant.

For our equity methodology, we would prefer to determine what a private investor motivated solely by commercial considerations would have paid for equity in the firm at the time of its purchase. To date we have been unable to do so where the government buys shares directly from the company and similar shares are not traded on a market. Therefore, we continue to apply the Appendix 2 method for equity infusions. However, in view of its *ex post facto* element, we have decided not to apply

this method to determine subsidies conferred by government loans to companies considered uncreditworthy. We consider it preferable to add a risk premium to the highest interest rate commonly available in the country concerned. In Appendix 2, we described our inability at that time to find any reasonable and practical basis for selecting a risk premium. We now believe that the risk premium that we propose to use is both reasonable and practical. The first step is to find the difference between the highest commonly observed interest rate and the second highest in the United States. For purposes of these preliminary determinations, we have used the difference between Baa and A corporate bond rates. We then calculated the percentage such difference represents of the prime interest rate in the United States. This percentage is then applied to the prime interest rate in the country concerned. The resulting risk premium is then added to the highest interest rate commonly available to companies in that country. We believe this method is practical. Moreover, it seems reasonable since the spread in riskiness among companies in the United States, which has a highly sophisticated bond market, reasonably reflects the competitive forces determining the cost of debt. By applying the difference in riskiness as a portion of the U.S. prime interest rate to the prime interest rate in the country concerned, we expect to achieve a meaningful assessment of risk for companies unable to obtain a commercial loan without government intervention. As under Appendix 2, we will not impose greater countervailing duties for a subsidized loan (to a creditworthy or uncreditworthy company) than for an outright grant in the amount of the loan principal, because a loan cannot be worth more to a company than an outright grant of the same amount.

To calculate the benefit attributable to short-term loans, we did not apply the creditworthy test because of the low level of risk associated with debt that is repaid within a short period.

Equity

As indicated above, we have been unable to improve our method for calculating subsidies arising from equity infusions inconsistent with commercial considerations. When there is no market for the equity, that method first requires a determination whether the investment appeared reasonable at the time. If so, we conclude it does not confer a subsidy. If not, we then examine the difference between the company and the market rates of return. We wish to clarify the first step. Highly similar to the (clarified) way in which we determine "uncreditworthiness," we consider criteria in addition to profitability, not just profitability. For the second step, we welcome comments proposing and supporting alternative surrogates for what the market would have paid for the equity at the time of the government purchase.

Conclusion

Based upon comments received on this appendix, we will include in our final determinations a revised appendix that will describe, as thoroughly as possible, current countervailing duty methodology on these issues.

[FR Doc. 84-3711 Filed 2-9-84; 8:45 am]
BILLING CODE 3510-DS-M

[C-351-021]

Cold-Rolled Carbon Steel Sheet From Argentina: Preliminary Affirmative Countervailing Duty Determination

AGENCY: International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: We preliminarily determine that certain benefits which constitute bounties or grants within the meaning of the countervailing duty law are being provided to manufacturers, producers, or exporters in Argentina of cold-rolled carbon steel sheet. The estimated net bounty or grant is 6.03 percent *ad valorem*. We are directing the U.S. Customs Service to suspend liquidation of all entries of cold-rolled carbon steel sheet from Argentina which are entered, or withdrawn from warehouse, for consumption, and to require a cash deposit or bond on this product in the amount equal to the estimated net bounty or grant.

If this investigation proceeds normally, we will make our final determination by April 18, 1984.

EFFECTIVE DATE: February 10, 1984.

FOR FURTHER INFORMATION CONTACT: Andrew Debicki or Barbara Tillman: Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230, telephone: (202) 377–5403–0192.

SUPPLEMENTARY INFORMATION:

Preliminary Determination

Based upon our investigation, we preliminarily determine that there is reason to believe or suspect that certain benefits which constitute bounties or grants within the meaning of section 303 of the Tariff Act of 1930, as amended (the Act), are being provided to manufacturers, producers, or exporters in Argentina of cold-rolled carbon steel sheet. For purposes of this investigation, the following programs are preliminarily found to confer bounties or grants:

- "Reembolso"—tax rebate on exports.
- Post-financing of exports under Circular OPRAC 1–9.
- Government equity infusions.
- Loan guarantees.

We estimate the net bounty or grant to be 6.03 percent *ad valorem*.

Case History

On November 10, 1983, we received petitions from the United States Steel Corporation (U.S. Steel), Pittsburgh, Pennsylvania, filed on behalf of the hot-rolled and cold-rolled carbon steel sheet industries. The petition relating specifically to hot-rolled carbon steel sheet was subsequently withdrawn. In compliance with the filing requirements of § 355.26 of the Commerce Regulations (19 CFR 355.26), the remaining petition alleges that manufacturers, producers, or exporters in Argentina of cold-rolled carbon steel sheet receive directly or indirectly, benefits which constitute bounties or grants within the meaning of section 303 of the Act.

We found the petition to contain sufficient grounds upon which to initiate a countervailing duty investigation, and on November 22, 1983, we initiated such an investigation (48 FR 55012). We stated we expected to issue a preliminary determination by February 3, 1984.

Argentina is not a "country under the Agreement" within the meaning of section 701(b) of the Act; therefore, section 303 of the Act applies to this investigation. the merchandise being investigated is dutiable. Therefore, the domestic industry is not required to allege that, and the U.S. International Trade Commission is not required to determine whether, imports of this product cause or threaten material injury to a U.S. industry.

We presented a questionnaire concerning the allegations to the government of Argentina in Washington, D.C., on December 16, 1983. On January 16, 1984, we received responses to the questionnaire.

Scope of Investigation

The product covered by this investigation is cold-rolled carbon steel sheet which is described in Appendix I to the notice of "Certain Carbon Steel Products from Mexico; Preliminary Affirmative Countervailing Duty Determinations" in this issue of the Federal Register.

There are two known producers and exporters in Argentina of cold-rolled carbon steel sheet to the United States. We have received information from the government of Argentina regarding Somisa-Sociedad Mixta Siderúrgica Argentina (Somisa) and Propulsora Siderúrgica Saic (Propulsora) which represented over 85 percent of exports of this product to the United States during the period for which we are measuring bounties or grants, July 1982 through June 1983.

Analysis of Programs

Throughout this notice, references are made to general principles applied by the Department of Commerce to the facts of the current investigation. These general principles are described in detail in Appendix II of the notice of "Certain Steel Products from Mexico; Preliminary Affirmative Countervailing Duty Determinations" in this issue of the **Federal Register** (Appendix II). For purposes of this preliminary determination, we are calculating a country-wide *ad valorem* rate for the estimated net bounty or grant. We allocated the benefits received by respondents between July 1982 and June 1983 over the total sales value or export value, as appropriate, of all respondents.

As described in Appendix II, several programs alleged by the petitioner—government provisions of equity capital, long-term loans and loan guarantees—require an assessment of the producers' creditworthiness before we can determine if, and in what magnitude, a countervailable benefit has been conferred.

We have consistently held that government provision of, or assistance in, obtaining capital or debt does not *per se* confer a subsidy. Government equity purchases or financial backing bestow a countervailable benefit only when they occur on terms inconsistent with commercial considerations. To determine if such action is commercially unsound, we review and assess financial data for the company in question. Because of time constraints, we were unable to thoroughly assess each company's financial situation for this preliminary determination. Before reaching our final determination, we will conduct a considerably more comprehensive review, and also consider more fully what factors are relevant to a determination of inconsistency with commercial considerations. For this preliminary determination only, we relied primarily on sales, cash flow, current, and debt-equity ratios to determine if government equity infusions, loans, and loan guarantees were not inconsistent with commercial considerations. For loans and loan guarantees, we determined whether the company was "creditworthy," and in making this determination we focused on cash flow and other measures of the ability of each company to meet its long-term debt obligations.

With regard to whether a company was a reasonable equity investment (a condition we have termed "equityworthiness"), we focused on profitability and the long-term expectations for the company in question. Throughout the rest of this notice, we will use the term "creditworthiness" to refer to both a company's equityworthiness and creditworthiness, even though the two are not precisely the same.

In this preliminary determination, we assessed Propulsora's creditworthiness from 1979 through 1983 and Somisa's creditworthiness from 1974 through 1983. Before reaching our final determination, we will assess the two companies' creditworthiness in prior years to determine if residual benefits from those years accrue during the period of investigation. Propulsora's financial statements indicate that it remained creditworthy during the whole period. After reviewing financial ratios and other measurements derived from Somisa's financial statements, we preliminarily found the company to be uncreditworthy for the period 1976 through 1983.

In its response, the government of Argentina provided data for the applicable period including financial statements and debt information for both Somisa and Propulsora. In addition, Propulsora submitted a supplemental response containing information on Propulsora's use of the alleged programs. Based upon our analysis to date of the petition and the responses to our questionnaire, we preliminarily determine the following:

I. Programs Preliminarily Determined To Confer Bounties or Grants

We preliminarily determine that bounties or grants are being provided to manufacturers, producers, or exporters in Argentina of cold-rolled carbon steel sheet under the following programs.

A. "Reembolso"—Tax Rebate on Exports

The reembolso program was established in 1971. It authorized a refund by cash payment on export, of taxes "that bear directly or indirectly" on exported products and/or their component raw materials for the purpose of promoting exports. The amount of the reimbursement is equal to a fixed percentage of the f.o.b. value of the exported merchandise. This percentage varies by product.

Under the Act, the non-excessive rebate of indirect taxes levied at the final stage, and of prior stage cumulative indirect taxes borne by inputs that are physically incorporated into the final product, is not considered a subsidy. With respect to such non-VAT rebates, in order to determine whether a cash payment on export is a bona fide rebate of indirect taxes, we examine whether: (1) The program involved operates for the purpose of rebating indirect taxes; (2) whether there is a clear link between eligibility for payments on exports and indirect taxes paid; and (3) whether the government has reasonably calculated and documented the actual tax incidence borne by the product concerned and has demonstrated a clear link between such tax incidence and the rebate amount paid on export.

The reembolso program is designed to refund taxes that "bear directly or indirectly on export products." We view taxes borne by a product as indirect, and taxes on, for example, income and labor as direct.

Based on our review of the total tax incidence which the reembolso is designed to rebate, we are satisfied that the reembolso operates "for the purpose of rebating indirect taxes," and that it meets our first test.

Following a general reorganization of the reembolso program in 1976, the rate of reembolso on cold-rolled carbon steel sheet was set at five percent. At the time, the government of Argentina analyzed the steps of production and value added at each stage for each major sector of Argentine industry. The reembolso rate for each sector was then based on the estimated tax incidence derived from the analysis. This procedure provided the government of Argentina only a general model upon which the tax incidence for specific sectors could be estimated. Without more precise evidence of the indirect taxes levied on cold-rolled carbon steel sheet, we would not find the requisite link between indirect taxes actually paid and the reembolso payments (the second prerequisite for considering the reembolso not to be a bounty or grant).

In 1980, the Value Added Tax was established (Law 22.294/80) and in 1981, minor taxes were suspended (Law 22.374/81). As a result of these modifications to the Argentine tax system, the government reviewed the studies on the fiscal incidence of taxes in order to reevaluate the levels of the reembolso. This detailed review of specific taxes levied on cold-rolled carbon steel sheet. When considered in conjunction with the more general 1976 study, provides a sufficient basis for our preliminarily determining that the reembolso program meets the second test of a clear link between eligibility for the reembolso and indirect taxes paid.

In the questionnaire response, the government of Argentina provided us with data from its most recent analysis of the tax incidence on cold-rolled carbon steel sheet. This analysis shows that the taxes levied on cold-rolled

carbon steel sheet, which the reembolso is designed to rebate, total 16.14 percent of the f.o.b. value of the exports. Seven categories are included in the analysis: domestic raw material inputs, imported raw material inputs, variable costs, labor, indirect expenses, taxes paid directly, and export taxes.

The taxes on variable costs, labor and indirect expenses, which total 1.79 percent, do not meet our standard for physical incorporation into the final product. In addition, in its questionnaire response, the government of Argentina did not itemize certain taxes on domestic raw material inputs when calculating the indirect tax incidence. Since the taxes and their fiscal incidence on inputs are not itemized, we preliminarily determine that, for these taxes on domestic raw material inputs, our third test is not met; that is, the government has not reasonably calculated and documented the actual tax incidence borne by the product concerned and has not demonstrated a clear link between such tax incidence and the rebate paid on export. The incidence of these taxes on domestic raw materials equals 6.95 percent.

The other taxes itemized in the fiscal incidence calculation for domestic raw material inputs do meet our third test. In addition, the taxes in each of the three remaining categories—imported raw material inputs, taxes paid directly, and export taxes—meet our third test because they are itemized, and the rate of each tax and its incidence are calculated. These taxes, which include the stamp tax, the tax on transfer of foreign currency, insurance taxes, municipal taxes and the export contract stamp tax, are all indirect taxes.

Therefore, of the total 16.14 percent tax incidence claimed by the government of Argentina for cold-rolled carbon steel sheet, we have allowed 7.40 percent and disallowed 8.74 percent.

In order to determine whether the reembolso confers a bounty or grant on cold-rolled carbon steel sheet, we must compare what we have preliminarily determined as allowable to the reembolso rate currently in effect for cold-rolled carbon steel sheet. Since May 7, 1982, the reembolso for cold-rolled carbon steel sheet has been 10 percent (Resolution M.E. 8/82). In addition to the normal reembolso, the petitioner alleges the existence of bounties or grants through two additional reembolsos. Decree No. 1691 temporarily established an additional reembolso of 15 percent. This reembolso was abolished in April 1982 and, thus, was not in effect during the period for which we are measuring bounties or grants, July 1982 through June 1983. Decree No. 2863/72 granted an additional reembolso of five percent for exports to new markets. In its response, the government of Argentina stated that this program, which was abolished in April 1983, was not used for exports of cold-rolled carbon steel sheet to the United States.

Therefore, only the 10 percent reembolso is currently received by Somisa and Propulsora. To calculate the bounty or grant, we use the amount by which the reembolso payment of 10 percent exceeds the total allowable indirect taxes of 7.40 percent. This results in a bounty or grant on exports of 2.60 percent *ad valorem*.

B. Post-Financing of Exports Under Circular OPRAC 1–9

On September 24, 1982, the Central Bank of Argentina established a post-financing program for exports under Circular OPRAC 1–9. OPRAC 1–9 loans are granted for up to 30 percent of the peso equivalent of the foreign currency in which the export transaction was paid. The term of the loan is 180 days. According to the response, the interest rate on OPRAC 1–9 loans is the indexed market rate used by the commercial banks as required under Central Bank Regulations. Both Somisa and Propulsora received OPRAC 1–9 loans.

Although Appendix II states that the benchmark for short-term loans is the national average commercial rate, we do not have sufficient information available to determine this rate for Argentina for purposes of this preliminary determination. Instead, we are using as the benchmark the unregulated interest rates for short-term commercial bank loans, which are published in the "Indicadores de Conyuntura" (Current Economic Indicators) by the Fundación de Investigaciones Ecónomicas Latino-Americanas (FIEL). We are using the unregulated rates because we consider them a better reflection of average commercial rates than the regulated commercial bank rates. Using this benchmark, we calculate a bounty or grant on exports of 2.42 percent *ad valorem*.

C. Government Equity Infusions

Petitioner alleges that equity infusions into Somisa by the government of Argentina were on terms inconsistent with commercial considerations. In its response, the government of Argentina stated that, as a result of the June 1975 devaluation which negatively altered Somisa's financial structure, Somisa requested capital contributions from the government. An agreement was worked out in 1976 that provided, in effect, a capital infusion of U.S. $80 million. The terms of the agreement specified that Somisa would obtain long/term loans totalling U.S. $80 million, and the government would pay the debt in exchange for stock issued at par value. Through June 1983, the government had contributed almost half the amount due Somisa under this agreement. This amount was authorized by Decrees 2.887/78 and 1.832/81.

We also received information from the government and directly from Propulsora concerning the government's equity participation in Propulsora. The Banco National de Desarrollo (Banade), an entity controlled by the government of Argentina, participated in the original issuance of Propulsora's share capital in 1969. Propulsora bought out the bank's shares in 1980. The dollar price paid by Propulsora, which reflected an equivalent annual rate of return of 9.3 percent, took into account the cash dividends received by the bank and the alternative investment opportunities the bank could have undertaken.

In determining whether the government's equity participation in Somisa and Propulsora was on terms inconsistent with commercial considerations, we followed the guidelines outlined in Appendix II. After examining the financial ratios, operating profits or losses and other relevant data found in each company's annual reports, we preliminarily determine that Propulsora has been and continues to be a reasonable commercial investment. Although it is not directly relevant to our determination, we note the fact that the government-controlled bank received a 9.3 percent return on its investment, reinforcing our preliminary determination that the equity infusion into Propulsora was not on terms inconsistent with commercial considerations.

On the other hand, based on our review of Somisa's financial ratios, operating profits and losses and other relevant data, we preliminarily determine Somisa was not a reasonable commercial investment at the time of the 1976 agreement. We followed the methodology outlined in Appendix II for calculating the countervailable benefit from equity infusions made on terms inconsistent with commercial considerations when a firm's shares are not publicly traded, and calculated an estimated net bounty or grant of 0.34 percent *ad valorem*.

D. Loan Guarantees

Petitioner alleges the government of argentina has guaranteed loans to the steel industry. In the responses, Propulsora indicated that, during the

period of review, one of its supplier credits was guaranteed by the banco Ciudad de Buenos Aires, a government-controlled institution. Propulsora paid a guarantee fee to Banco Ciudad de Buenos Aires that was higher than the guarantee fees it paid to private banks for comparable supplier credits. Therefore, we preliminarily determine that the loan guarantee to Propulsora does not confer a bounty or grant.

Somisa reported that the Secretary of Finance guaranteed a number of medium-term loans during the period we consider Somisa to have been uncreditworthy. For purposes of this preliminary determination, based upon our review of Somisa's financial statements, access to non-guaranteed private debt and relevant financial ratios, we are treating these guaranteed loans in the same manner as we treat loans to uncreditworthy companies (see Appendix II). Under the methodology outlined in Appendix II, we would compare the interest rate paid by the company to the sum of the highest interest rate commonly available in Argentina and the risk premium. However, all but one of these loans are denominated in U.S. dollars, and the interest rates are quoted as a percentage above the London Interbank Offered Rate (Libor). Because these are non-peso loans with nonArgentine interest rates, it would be inappropriate to apply Argentine interest rates in calculating the benefits. Therefore, for purposes of this preliminary determination, we are using the Libor rate in effect at the time the loan was awarded, plus the spread that prevailed in argentina for medium-term loans denominated in U.S. dollars during that time, plus the risk premium. Using this rate as the benchmark, we calculated a net bounty or grant of 0.67 percent *ad valorem.*

II. Programs Preliminarily Determined Not To Confer Bounties or Grants

We preliminarily determine bounties or grants are not being provided to manufacturers, producers, or exporters in Argentina of cold-rolled carbon steel sheet under the following programs.

A. Subsidized Purchases of Inputs From Somisa

The petitioner alleges that Somisa, a state-owned company, offers semi-finished products at special discounts to other Argentine steel producers, particularly Propulsora, who use them to manufacture finished steel products for export.

Our information indicates that Propulsora purchases approximately 50 percent of its input requirements for cold-rolled carbon steel sheet from Somisa. These purchases were at prices comparable to those paid by Propulsora to its foreign suppliers. Furthermore, we have no indication that Propulsora receives special discounts on purchases of inputs intended for export production from Somisa. Consequently, we preliminarily determine that Propulsora receives no countervailable benefits through its purchases of inputs from Somisa.

B. Pre-Financing of Exports Through Dollar-Indexed Pesos

This program provides exporters with pre-export financing through peso loans denominated in U.S. dollars. The loans are given in pesos but denominated in U.S. dollars at the exchange rate prevailing at the time of the loan. Repayment must also be in pesos, but the peso amount is established by the exchange rate prevailing at the time of repayment. In addition to repaying the peso amount of the loan at the exchange rate prevailing at the time of repayment, the borrower must also pay a one percent interest rate.

The funds are drawn from the Central Bank of Argentina and then loaned through private commercial banks to individual corporate borrowers. The Central Bank currently limits these loans to 60 percent of the export's f.o.b. value. The maximum length of the loan is 120 days, but repayment must take place no later than 60 days from the effective export date. Prior to August 1981, the loans could be for 40 percent of the export's f.o.b. value and for up to 90 days.

The government of Argentina states that Somisa used this program to finance its exports during the period of review, while Propulsora did not. The government identified one loan to Somisa that was outstanding during the period for which we are measuring bounties or grants. When we compared what Somisa paid for this loan with what Somisa would have paid for the same loan, using as the benchmark, the unregulated rate for short-term commercial bank loans published by FIEL described *supra,* we found no benefit. Therefore, we preliminarily determine that this program does not confer a bounty or grant.

III. Programs Preliminarily Determined Not To Be Used

We preliminarily determine that the following programs listed in the notice of "Initiation of Countervailing Duty Investigation," were not used by the manufacturers, producers, or exporters in Argentina of cold-rolled carbon steel sheet.

A. Forgiveness or Assumption of Debt

Petitioner alleges there are indications that the Argentine government may have undertaken to pay the interest on at least a portion of debt. The responses indicate the government of Argentina has never forgiven or mandated, directly or indirectly, the forgiveness of any debt or interest on debt contracted by Somisa or Propulsora, except for the 1976 agreement with Somisa discussed in the section on "Government Equity infusions" *supra.* Therefore, we preliminarily determine that, except for the 1976 agreement with Somisa, neither Propulsora nor Somisa has received countervailable benefits as a result of direct or indirect government action to assume or forgive its debt.

B. Trade Promotion Programs

Petitioner alleges the Argentine steel industry receives countervailable benefits through export promotion programs conducted by the government. The response indicates neither Somisa nor Propulsora has participated in these programs.

C. Tax Incentives

Petitioner alleges the Argentine steel industry benefits from a variety of special tax incentives, including those provided under the Industrial Promotion Law of 1977, special treatment for state-owned enterprises, and certain exemptions available to firms locating in specified areas of Buenos Aires Province. The response indicates neither Somisa nor Propulsora has received benefits under these programs.

D. Pre-Financing of Exports Under Circular OPRAC 1–1

Circular OPRAC 1–1 instituted a pre-financing program for Argentine exports as a alternative to the Circular RF 153 program for pre-financing of exports through dollar indexed pesos described *supra.* This program was initiated on August 21, 1981, and terminated on March 31. Under Circular OPRAC 1–1, loans could not exceed one year, and firms receiving OPRAC 1–1 loans could not also receive Circular RF–153 loans. The government of Argentina has indicated that Propulsora used this program, but that no loans under Circular OPRAC 1–1 were outstanding during the period for which we are measuring bounties or grants. Somisa did not use this program.

E. Multiple Exchange Rate System

Petitioner asked us to investigate whether the Argentine system of multiple exchange rates operates to provide countervailable benefits based

on export performance to the steel industry.

In its response, the government of Argentina stated that a single exchange rate has been in effect since November 1, 1982. Therefore, we preliminarily find no bounty or grant.

F. Additional Programs Not Alleged

In the notice announcing the initiaton of this investigation, we stated our intent to investigate whether certain programs not specifically alleged by petitioner are providing bounties or grants to manufacturers, producers or exporters in Argentina of cold-rolled carbon steel sheet. The programs in question are:

- Grants from the Government of Argentina.
- Benefits provided under the Anti-Pollution Law of 1979.
- Additional Reembolso for exports from southern ports.

Our decision to investigate these programs was prompted by experience developed in prior Argentine investigations and our view that they might by relevant to this investigation. After analyzing the questionnaire responses regarding these programs, we preliminarily determine that these programs were not used by respondents.

IV. Programs for Which we Need Additional Information

A. Medium- and Long-Term Loans on Terms Inconsistent With Commercial Considerations

Petitioner alleges that the Argentine steel industry, particularly Somisa, has benefited from government programs providing medium- and long-term loans on terms inconsistent with commercial considerations. It further alleges the Argentine Treasury and the state-controlled Banco Nacional de Desarollo (Banade) are the primary sources of such loans and cites several decrees and laws as authorizing these programs.

The response indicates that neither Somisa nor Propulsora has received medium- or long-term loans related to any government regulations. In addition, the petition does not provide sufficiently detailed information to determine preliminarily that specific loans, on terms inconsistent with commercial considerations, were obtained under one of the programs cited by the petitioner. Consequently we will seek additional information regarding these programs.

B. Import Duty Exemptions

Petitioner alleges the Argentine steel industry benefits from preferential exemptions from import duties on capital equipment and raw materials provided under the industrial Promotion Law of July 1977.

The response indicates that although Somisa and Propulsora received some exemptions from import duties, they did so on terms no different than for any other Argentine industrial firm or industry. Since the drawback of duties on imported capital goods or other items involved in the production but not physically incorporated in the exported merchandise is countervailable, we will seek additional information on this program before making our final determination.

C. Subsidized Inputs of Raw Materials and Capital Equipment

Petitioner alleges the Argentine steel industry receives indirect benefits as a result of subsidies provided by the government to suppliers of raw materials and capital equipment used by cold-rolled sheet producers. It specifically alleges that Decree 619 operates to direct benefits such as equity capital, loans, loan gurarantees and tax deferrals to steel industry suppliers.

The response indicates that neither Somisa nor Propulsora purchases inputs from related suppliers and that all such purchases are made from independent domestic and foreign suppliers at prevailing market prices. We will seek additional information regarding this allegation.

D. Labor Wage Subsidies

Petitioner alleges that recent wage freezes for public employees imposed by the government of Argentina assure that state-owned firms like Somisa benefit from labor at subsidized wages.

As a privately owned company, Propulsora is not subject to a wage freeze for public employees. Somisa indicates that since it is governed by the laws and regulations applicable to corporations, it too falls outside the coverage of the wage freeze. We will seek additional information regarding Somisa's status with respect to laws and regulations governing wages paid public employees.

Verification

In accordance with section 776(a) of the Act, we are directing the U.S. Customs Service to suspend liquidation of all entries of cold-rolled carbon steel sheet from Argentina which are entered, or withdrawn from warehouse, for consumption, on or after the date of publication of this notice in the **Federal Register** and to require a cash deposit or bond for each such entry of this merchandise in the amounts of 6.03 percent *ad valoerm*.

This suspension will remain in effect until further notice.

Public Comment

In accordance with section 355.35 of the Commerce Department Regulations, if requested, we will hold a public hearing to afford interested parties an opportunity to comment on this preliminary determination at 10 a.m. on March 23, 1984, at the U.S. Department of Commerce, Room 3708, 14th Street and Constitution Avenue, N.W., Washington D.C. 20230. Individuals who wish to participate in the hearing must submit a request to the Deputy Assistant Secretary for Import Administration, Room 3099B, at the above address within 10 days of this notice's publication.

Requests should contain: (1) The party's name, address, and telephone number; 92) the number of participants; (3) the reason for attending; and (4) a list of the issues to be discussed. In addition, prehearing briefs in at least 10 copies must be submitted to the Deputy Asssitant Secretary by March 20, 1984. Oral presentations will be limited to issues raised in the briefs. All written views should be filed in accordance with 19 CFR 355.34, within 30 days of this notice's publication, at the above address and in at least 10 copies.

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

February 3, 1984.

[FR Doc. 84-3701 Filed 2-9-84; 8:45 am]

BILLING CODE 3510-DS-M

[A-580-009]

Tubes for Tires, Other Than for Bicycle Tires, From the Republic of Korea: Preliminary Determination of Sales at Not Less Than Fair Value

AGENCY: International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: We have preliminarily determined that tubes for tires, other than for bicycle tires, from the Republic of Korea (Korea) are not being, nor are likely to be, sold in the United States at less than fair value. In addition, since we have preliminarily determined that inner tubes have not been sold at less than fair value, the issue of "critical circumstances" is moot in this determination. We have notified the U.S. International Trade Commission (ITC) of our determination. If this investigation proceeds normally, we will

make a final determination by April 23, 1984.

EFFECTIVE DATE: February 10, 1984.

FOR FURTHER INFORMATION CONTACT: Steven Lim or Gary Taverman, Office of Investigations, Import Administration, International Trade Administation, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 377–1776 or 0161.

SUPPLEMENTARY INFORMATION:

Preliminary Determination

We have preliminarily determined that tubes for tires, other than for bicycle tires (inner tubes) from Korea are not being, nor are likely to be, sold in the United States at less than fair value, as provided in section 733 of the Tariff Act of 1930, as amended (the Act). We have found either no margins, or *de minimis* margins on sales of inner tubes by all of the firms investigated. In addition, since we have preliminarily determined that inner tubes have not been sold at less than fair value, the issue of "critical circumstances" is moot in this case.

We have found that the foreign market value of inner tubes exceeded the United States price on less than 1 percent of the sales we compared. These margins ranged from 0.026 percent to 60.409 percent. The overall weighted-average margin on all sales compared is 0.041 percent. This margin is *de minimis*.

If this investigation proceeds normally, we will make our final determination by April 23, 1984.

Case History

On August 1, 1983, we received a petition filed by counsel for Carlisle Tire & Rubber Company; Cooper Tire & Rubber Company; Cupples Company, Manufacturers; The Firestone Tire & Rubber Company; The B. F. Goodrich Company; The Indianapolis Rubber Company; and the Robbins Tire & Rubber Company, on behalf of the U.S. industry producing inner tubes.

In accordance with the filing requirements of § 353.36 of the Commerce Department Regulations (19 CFR 353.36), the petitioners alleged that inner tubes from Korea are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Act, and that these imports are materially injuring, or are threatening materially injure, a U.S. industry. The petitioners also alleged that "critical circumstances" exist in this case.

After reviewing the petition, we determined that it contained sufficient grounds upon which to initiate an antidumping investigation. We notified the ITC of our action and initiated such an investigation on August 1, 1983 (48 FR 36637). The ITC subsequently found, on August 25, 1983, that there is a reasonable indication that imports of inner tubes are materially injuring, or are threatening to materially injure, a United States industry.

The petitioner alleged that at least 18 Korean companies either produce for export, or export, inner tubes to the United States. However, we identified 2 producers whose exports account for approximately 90 percent of the exports of inner tubes to the United States. Questionnaires were presented in Korea to these producers and exporters on September 9, 1983.

Responses were received from Heung-Ah Tire Ind. Co., Ltd. (Heung-Ah) and Dong Ah Tire Ind. Co., Ltd. (Dong Ah) on October 24, 1983. In addition, Shin Hung Rubber Co., Ltd. (Shin Hung) and Hung-A Ind. Co., Ltd. (Hung-A) voluntarily submitted responses to the Department's questionnaire.

On November 18, 1983, we received a letter from counsel for petitioners requesting that the Department postpone its preliminary determination, pursuant to section 733(c)(1)(A); and on November 22, 1983, we postponed our preliminary determination until not later than February 6, 1984 (48 FR 53740).

On November 28, 1983, counsel for petitioners alleged that Heung-Ah and Dong Ah were selling the subject merchandise in the home market at less than the cost of production. On November 29, 1983, cost of production questionnaires were presented to Heung-Ah and Dong Ah and responses to the questionnaires were received on December 27, 1983. Verification of all information submitted to the Department was conducted in Pusan and Seoul, Korea during the period January 5–14, 1984.

Scope of Investigation

The merchandise covered by this investigation is all tubes of rubber or plastic for tires other than bicycle tires, currently classified under items 772.59 and 772.60 of the *Tariff Schedules of the United States* (1983) (TSUS).

Since the 4 respondents produced and exported approximately 90 percent of the inner tubes from Korea to the United States during the period of this investigation, we limited our investigation to them.

We investigated sales of inner tubes by these respondents during the period from February 1, 1983 to July 31, 1983.

Fair Value Comparison

To determine whether sales of the subject merchandise in the United States were made at less than fair value, we compared the United States price with the foreign market value.

United States Price

As provided in section 772 of the Act, we used the purchase price of the subject merchandise to represent the United States price because the merchandise was sold to unrelated purchasers prior to its importation into the United States.

We calculated the purchase price for each type of inner tube based on the C&F, CIF, or FOB, packed price to unrelated customers, for wharfage, brokerage and handling charges, foreign inland freight, marine insurance, U.S. customs duties, and U.S. inland freight. We made an addition for import duties and taxes, assessed upon the importation of materials used in the manufacture of inner tubes, which were later rebated by reason of the exportation of the merchandise to the United States, pursuant to section 772(d)(1)B) of the Act.

Foreign Market Value

In accordance with section 773(a) of the Act, we calculated foreign market value based on home market sales.

Petitioners alleged that sales in the home market by Heung-Ah and Dong Ah were at prices below the cost of production. After examining production costs which included all appropriate costs for materials, fabrication and general expenses, we found that sufficient sales of inner tubes were made at or above the cost of production to determine foreign market value. Therefore, we used those sales in making price-to-price comparisons with sales in the U.S. market.

We calculated the home market prices for each size of inner tube on the basis of delivered packed prices to unrelated purchasers. From these prices we deducted foreign inland freight and unloading charges, where appropriate. We made adjustments, where appropriate, for credit expenses, costs related to product liability insurance, advertising expenses, sales promotional activities, warranty and servicing expenses, and rebates, in accordance with § 353.15 of the Commerce Regulations. We also made adjustments, where appropriate, for the cost of materials, labor and direct factory overhead associated with differences in the merchandise in accordance with § 353.16 of the Commerce Regulations. An adjustment was also made, where

appropriate, for the differences between commissions on sales to the United States and indirect selling expenses in the home market used as an offset to U.S. commissions, in accordance with § 353.15(c) of the Commerce Regulations. We also deducted home market packing costs and added packing costs incurred on sales to the United States.

The following claims were disallowed in calculating foreign market value. Both Hung-A and Dong Ah requested a circumstance of sale adjustment for sales promotional expenses incurred in the home market. However, we did not make the adjustments because neither company provided sufficient information directly relating these expenses to the products under investigation. Dong Ah also requested a circumstance of sale adjustment for selling expenses incurred in the home market. However, we did not make the adjustment because the company did not provide sufficient information directly relating these expenses to home market sales of the products under investigation.

Allegation of "Critical Circumstances"

Petitioners alleged that imports of inner tubes present "critical circumstances", as defined by section 733(e) of the Act. Since we have preliminarily determined that inner tubes have not been sold in the United States at less than fair value, the issue of "critical circumstances" is moot in this determination.

Summary of Preliminary Findings

The weighted-average margins for the companies investigated are as follows:

Firm	Weighted-average margin percentage
Heung-Ah Tire Ind. Co., Ltd	.024
Dong Ah Tire Ind. Co., Ltd	.054
Shin Hung Rubber Co., Ltd	.000
Hung-A Ind. CO., Ltd	.000
All other producers manufacturers, or exporters	.041

Verification

For purposes of this preliminary determination, we verified cost of production data, sales data, and information relative to adjustments claimed by the Korean producers of inner tubes by using standard verification procedures. This included on-site inspection of the manufacturers' operations and examination of accounting records and selected documents containing relevent information. In accordance with 776(a) of the Act, we will verify all data used in reaching a final determination in this investigation.

ITC Notification

In accordance with section 773(f) of the Act, we will notify the ITC of our determination.

Public Comment

In accordance with 353.47 of the Commerce Department Regulations, if requested, we will hold a public hearing to afford interested parties an opportunity to comment on this preliminary determination at 10:00 a.m. on March 8, 1984, at the U.S. Department of Commerce, Room 3708, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230. Individuals who wish to participate in the hearing must submit a request to the Deputy Assistant Secretary for Import Administration, Room 3099B, at the above address within 10 days of this notice's publication. Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; (3) the reason for attending; and (4) a list of the issues to be discussed. In addition, prehearing briefs in at least 10 copies must be submitted to the Deputy Assistant Secretary by March 1, 1984. Oral presentations will be limited to issues raised in the briefs. All written views should be filed in accordance with 19 CFR 353.46, within 30 days of publication of this notice, at the above address in at least 10 copies.

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

February 3, 1984.

[FR Doc. 84-3699 Filed 2-9-84; 8:45 am]

BILLING CODE 3510-DS-M

[C-351-021]

Certain Carbon Steel Products From Brazil; Preliminary Affirmative Countervailing Duty Determinations

AGENCY: International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: We preliminarily determine that certain benefits which constitute subsidies within the meaning of the countervailing duty law are being provided to manufacturers, producers, or exporters in Brazil of certain carbon steel products. The estimated net subsidy is 27.42 percent *ad valorem*. Therefore, we have notified the United States International Trade Commission (ITC) of our determinations. We are directing the U.S. Customs Service to suspend liquidation of all entries of certain carbon steel products from Brazil which are entered, or withdrawn from warehouse, for consumption, and to require a cash deposit or bond on these products in the amount equal to the estimated net subsidy.

If these investigations proceed normally, we will make our final determinations by April 18, 1984.

EFFECTIVE DATE: February 10, 1984.

FOR FURTHER INFORMATION CONTACT: Mary S. Clapp, Alain Letort or Karen Nelson, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230, Telephone: (202) 377–2438, 377–5050, 377–0167.

SUPPLEMENTARY INFORMATION:

Preliminary Determinations

Based upon our investigations, we preliminarily determine that there is reason to believe or suspect that certain benefits which constitute subsidies within the meaning of section 701 of the Tariff Act of 1930, as amended (the Act), are being provided to manufacturers, producers, or exporters in Brazil of certain carbon steel products. For purposes of these investigations, the following programs are preliminarily found to confer subsidies:

- Government Provision of Equity Capital
- Government Assistance in Repaying Foreign Loans
- IPI Export Credit Premium
- Short-Term Financing (Resolution 674)
- Funding for Expansion through IPI Tax Rebates
- Resolution 68 (FINEX)
- Raw Materials (Iron Ore) Supplied at Government-Controlled Rates

We estimate the net subsidy to be 27.42 percent *ad valorem*.

Case History

On November 10, 1983, we received petitions from the United States Steel Corporation, Pittsburgh, Pennsylvania, on behalf of the U.S. industries producing hot- and cold-rolled carbon steel sheet, cut-to-length plate and plate in coils. In compliance with the filing requirements of section 355.26 of the Commerce Regulations (19 CFR 355.26), the petitions allege that manufacturers, producers, or exporters in Brazil of certain carbon steel products receive, directly or indirectly, benefits that constitute subsidies within the meaning of section 701 of the Act, and that these imports are materially injuring, or threatening to materially injure, a U.S.

industry. The petition submitted by U.S. Steel covering cut-to-length hot-rolled carbon steel plate was withdrawn.

We found that the remaining petitions contained sufficient grounds upon which to initiate countervailing duty investigations, and on November 30, 1983, we initiated such investigations (48 FR 55012). We stated that we expected to issue preliminary determinations by February 3, 1984.

Since Brazil is a "country under the Agreement" within the meaning of section 701(b) of the Act, injury determinations are required for these investigations. Therefore, we notified the U.S. International Trade Commission (ITC) of our initiations. On December 27, 1983, the ITC determined that there is a reasonable indication that these imports are materially injuring, or threatening to materially injure, a U.S. industry (49 FR 670).

We presented a questionnaire concerning the allegations to the government of Brazil in Washington, D.C., on December 16, 1983. On January 16, 1984, we received responses to the questionnaire.

Scope of Investigations

The products covered by these investigations are hot-rolled carbon steel plate in coil, hot-rolled carbon steel sheet, and cold-rolled carbon steel sheet (certain carbon steel products), which are described in Appendix I to the notice of "Certain Carbon Steel Products from Mexico; Preliminary Affirmative Countervailing Duty Determinations" in this issue of the **Federal Register**.

There are three known producers and exporters in Brazil of certain carbon steel products to the United States. We have received information from the government of Brazil regarding Companhia Siderúrgica Paulista (COSIPA), Companhia Siderúrgica Nacional (CSN), and Usinas Siderúrgicas de Minas Gerais S.A. (USIMINAS), which represented over 85 percent of exports of these products to the United States during the period of review. For purposes of these preliminary determinations, our period of review is calendar 1982.

Analysis of Programs

Throughout this notice, references are made to general principles applied by the Department of Commerce to the facts of the current investigations. These principles are described in Appendix II to the notice of "Certain Carbon Steel Products from Mexico; Preliminary Countervailing Duty Determinations" in this issue of the **Federal Register** (Appendix II).

For purposes of these preliminary determinations, we are calculating a country-wide *ad valorem* subsidy rate. We allocated the benefits received by respondents in 1982 over the total sales value or export value, as appropriate, of all respondents.

Based on the reconsideration of methodology described in Appendix II, we have decided that it is appropriate to reconsider whether government equity purchases in COSIPA and USIMINAS from 1977–1981 confer subsidies, and whether these two companies were uncreditworthy during this period, because we previously made determinations on these issues in the 1982 investigation of carbon steel plate from Brazil (49 FR 2568). We have decided reconsideration is warranted since we have reexamined the methodology used in the 1982 investigation. By reconsidering the issues, we will be able more accurately to measure the net subsidy during the period of investigation and avoid any inconsistency in our treatment of CSN (a company that was not investigated in the 1982 plate case), USIMINAS and COSIPA.

We have consistently held that government provision of, or assistance in obtaining, capital or debt does not *per se* confer a subsidy. Government equity purchases or financial backing bestow a countervailable benefit only when it is on terms inconsistent with commercial considerations. To determine if such action is commercially unsound, we review and assess financial data for the company in question. Because of time constraints, we were unable to assess thoroughly each company's financial situation for these preliminary determinations. Before reaching our final determinations, we will conduct a considerably more comprehensive review, and also consider more fully what factors are relevant to a determination of inconsistency with commercial considerations. For these preliminary determinations only, we relied primarily on profit on sales, cash flow, current, and debt-equity ratios to determine if government equity infusions were inconsistent with commercial considerations. For loans and loan guarantees, we determined whether the company was "creditworthy." In making these determinations, we focused on cash flow and other measures of each company's ability to meet its long-term debt obligations.

With regard to whether a company was a reasonable equity investment (a condition we have termed "equityworthiness"), we focused on profitability and the long-term expectations for the company in question. Throughout the rest of this notice, we will use the term "creditworthiness" to refer to both the company's equityworthiness and creditworthiness, even though the two are not precisely the same.

For these preliminary determinations we assessed COSIPA's, USIMINAS' and CSN's creditworthiness for the period 1977 through 1982. Based on the financial measurements outlined above, we preliminarily find COSIPA and USIMINAS to be creditworthy in 1977 and 1978 and uncreditworthy between 1979 and 1982. For CSN, we found the company to be creditworthy between 1977 and 1982.

Under section 771(6)(C) of the Act, the export tax imposed under the terms of the suspension agreement on carbon steel plate from Brazil may be an allowable offset. We are seeking additional information to determine specifically which of the products under investigation are subject to this tax. It appears that the tax is imposed on some forms of plate in coil. Until we so determine, we will not offset the gross subsidy amount by those taxes.

In its responses, the government of Brazil provided data for the applicable period, including financial statements and debt information for COSIPA, CSN, and USIMINAS.

Based upon our analysis to date of the petition and the responses to our questionnaire, we preliminarily determine the following:

I. Programs Preliminarily Determined to Confer Subsidies

We preliminarily determine that subsidies are being provided to manufacturers, producers, or exporters in Brazil or certain carbon steel products under the following programs.

A. Government Provision of Equity Capital

Siderúrgica Brasileira S.A. (SIDERBRAS) is a government controlled corporation under the jurisdiction of the Ministry of Industry and Commerce. Pursuant to Decree Law No. 6159 of December 6, 1974. SIDERBRAS became the holding company for the federally owned steel corporations. SIDERBRAS is a major shareholder of nine Brazilian steel producers and a minor shareholder of one small Brazilian steel producer.

SIDERBRAS has assumed certain debts for each of the companies in return for equity. All funds provided to these companies are specifically for expansion projects and are not available for coverage of operating losses. The

sources of SIDERBRAS' funds include: long-term loans obtained in the domestic and external financial markets, direct investment provided by the National Treasury, and earnings remitted by its subsidiaries and related companies.

During 1977–1982, SIDERBRAS provided its steel firms with funds in the form of loans, grants or equity. The amounts received include the loans made to COSIPA, CSN, and USIMINAS by the Banco Nacional do Desenvolvimento Econômico e Social (National Bank for Economic and Social Development, or BNDES, formerly known as BNDE) and assumed by the Brazilian government through SIDERBRAS. These transactions are in effect debt-to-equity conversions by the government of Brazil.

As stated in the "Analysis of Programs" section of this notice, we have preliminarily determined that COSIPA and USIMINAS were uncreditworthy in certain years. Consequently, the action of the government in taking an equity position in these companies in those years is inconsistent with commerical considerations and confers a subsidy.

To calculate the benefit, we compared COSIPA's and USIMINAS' rates of return on equity with the average rate of return in Brazil for the year in question. "We then apply the rate of return" shortfall to all purchases of equity which we consider to be inconsistent with commercial considerations. For these preliminary determinations, we used the average change in the yield indices of the Rio de Janeiro and São Paulo stock exchanges over the past 5.75 years. We preliminarily determine the *ad valorem* benefit from this program to be 3.14 percent.

B. Government Assistance in Repaying Foreign Loans

The Banco Central do Brasil (BCB) is unable to supply Brazilian companies with sufficient hard currency to settle their international debts because of the shortage of dollars in that country. The Aviso GB–588 program provides that under certain circumstances the Brazilian government, through the BCB, will assume the obligations for hard currency debts of state-owned companies which have overseas debt. Those companies are then required to pay the BCB in cruzeiros. The cruzeiro amount is based upon the dollar exchange rate on the date of repayment, but until the BCB has renegotiated the national debt the terms of repayment are unknown. Private companies that negotiate their own debt restructuring directly with creditor banks are not included in this program.

COSIPA and CSN has some of their debt covered under this program during 1982 and 1983. USIMINAS participated in this program in 1983. To date, there are no payback requirements for this debt moratorium, and it is unknown whether the amount eventually repaid will be subject to indexing for inflation. Yet this debt is carried on the companies' books as a liability, indicating that an obligation exists to repay the debt as some future date. Since the terms of the moratorium are not yet known, we treated it as a zero-interest, short-term loan equal to the amount of principal and interest payable during the review period. For our commercial benchmark, we used the published prime rate in Brazil to calculate a benefit of 0.41 percent *ad valorem*.

C. IPI Export Credit Premium

Brazilian exporters of manufactured products are eligible for a tax credit on the Imposto sôbre Produtos Industrializados (Tax on Manufactured Products, or IPI). The IPI export credit premium has been found to confer a benefit in previous countervailing duty investigations involving Brazilian products. After having suspended this program in December 1979, the government of Brazil reinstated it on April 1, 1981, in accordance with Ministry of Finance "Portaria" (Notice) No. 270 (amended by Portaria No. 252 on November 29, 1982).

The IPI tax credit is a cash reimbursement from the government of Brazil to the exporter which is paid through the bank involved in the export transaction. The tax credit is based on the "adjusted" f.o.b. value of the exported merchandise, which is obtained by deducting from the invoice price of the merchandise any agent commissions, rebates or refunds resulting from quality deficiencies or damage during transit, contractual penalties, and the value of imported inputs. In order to receive the maximum export credit premium, the exporter must demonstrate that 75 percent of the added value of the merchandise originated in Brazil. If this condition is not met, the f.o.b. invoice price is reduced only by the value of the imported inputs when calculating the base upon which the IPI export credit premium is to be paid.

Subsequent to April 1, 1981, this credit premium was partially phased out according to a schedule negotiated between the United States and Brazil pursuant to Article 14 of the Subsidies Code. The government of Brazil reduced the benefit from 15 percent to 14 percent on March 31, 1982; from 14 percent to 12.5 percent on June 30, 1982; and from 12.5 percent to 11 percent on September 30, 1982. This program is scheduled to be eliminated by May 1, 1985.

In December 1983, we verified use of this program as part of the section 751 review of the countervailing duty suspension agreement involving carbon steel plate from Brazil. We verified information regarding the use of the IPI credit premium by COSIPA and USIMINAS on an earned basis (as opposed to a receipt basis) for 1982. The use rates verified in that proceeding covered the IPI credit premiums accrued on all steel exports, including the products under investigation. We calculated a use rate for CSN, which was not included in the section 751 review of carbon steel plate from Brazil, according to the same method used for COSIPA and USIMINAS.

To calculate the benefit from this program we multiplied the average annual credit premium by the respective utilization rates of the respondents to arrive at the effective credit premium rate for each respondent. We then weight-averaged these effective rates by the respondents' respective share of exports to the United States of the products under investigation, and calculated a net subsidy of 9.97 percent *al valorem*.

D. Short-term Financing (Resolution 674)

Steel products are eligible for financing under Resolution 674 of the Banco do Brasil. Under this program, companies are declared eligible to receive working capital loans by the Carteira de Comercio Exterior (Foreign Trade Bureau, or CACEX) of the Banco do Brasil. These loans have a term of up to one year and are used to purchase inputs for the production of export goods. Resolution 674 provides financing for 12 to 40 percent of the net export value, depending on the product. The net export value is calculated by taking numerous deductions from the export value of the merchandise, including agent commissions, contractual penalties or refunds, exports denominated in cruzeiros, imported inputs over 20 percent of the export value, and a deduction for the company's trade deficit as a percentage of the value of its exports. In addition, any growth in the cruzeiro value of exports over the previous year will reduce the value of the benefit as a percentage of the current year's exports. All respondents have significant deductions which result in a reduction in the maximum amount of financing available.

In 1982, steel companies could obtain this financing for up to 20 percent of the net f.o.b. value of the previous year's exports, at interest rates below those available commercially. Use of this financing is not restricted or allocated by product. CACEX determines the maximum dollar eligibility of each exporter under this program; the dollar limit is stated on the "Certificado de Habilitação" issued to the recipient.

We preliminarily determine that such financing confers an export subsidy since it is contingent upon export performance. We allocate the benefit of these loans over the total value of all exports by the companies under investigation.

As in previous Brazilian countervailing duty cases, we used the rate established by the Banco do Brasil for discounting sales of accounts receivable as the commercial rate for the acquisition of short-term working capital. We have used this comparison because information provided by the government of Brazil indicates that, within the Brazilian financial system, working capital is normally raised through the sale of accounts receivable. When these loans were granted, the nominal discount rate for accounts receivable was 59.6 percent, plus a 6.9 percent tax on financial transactions (Imposto sôbre Operações Financeiras, or IOF) The subsidy is the difference between the effective interest rate actually received under Resolution 674 and the effective commercial rate of 85.55 percent (a nominal rate of 66.5 percent).

The interest rate on loans under Resolution 674 is approximately 40 percent with interest payable semiannually and the principal fully payable on the due date of the loan. The effective rate of interest for these loans is 44 percent. The Brazilian government provides an exemption from the IOF tax for these dollar loans. Therefore, the differential between these two types of financing is 41.55 percent (85.55—44.0). We calculated the benefit of 674 financing based on the date of replacement of the loan. The amount repaid is multiplied by the differential, 41.55 percent. This results in an export subsidy of 2.80 percent *ad valorem.*

E. Funding for Expansion Through IPI Tax Rebates

Decree Law 1547 (April 1977) provides funding for expanding the Brazilian steel industry through a rebate of the IPI, a value added tax imposed on sales at each stage of the production process. For steel products, the value added tax is 5 percent.

When it was originally enacted in 1977, the IPI tax applied to all domestic sales transactions. In 1979, the value added tax was eliminated for all producers except those in 14 product sectors, including tobacco, automobiles, spirits and alcohol, ceramics, rubber, and steel. The tax rate is different for each of the specified product sectors.

The full IPI tax is now paid by each respondent and none of the respondents receives any rebates. Under the new provision (Decree Law 1843 of December 1980), the rebates are made to SIDERBRAS as increases in capital. We do not consider funds received by SIDERBRAS to be subsidies to its subsidiaries unless these are passed on to them. The funds which were passed on are discussed elsewhere in this notice. We preliminarily determine that COSIPA, CSN and USIMINAS did not receive countervailable benefits under this program in 1982. However, to the extent that companies received countervailable benefits prior to 1981, we are including benefits from prior years which extend into the period of these investigations. Therefore, we calculate an *ad valorem* subsidy rate of 1.84 percent.

F. Resolution 68 (FINEX)

Resolution 68 of the Conselho Nacional do Comércio Exterior (National Council for Foreign Commerce, or CONCEX) provides that CACEX may grant subsidized export loans through the resources of the Fundo de Financiamento à Exportação (Export Finance Fund, or FINEX). Financing for a minimum of 180 days is available at a maximum level of 85 percent of the f.o.b. invoice price, plus freight and insurance. In order to obtain this financing, an exporter must demonstrate that the foreign purchaser has pre-paid 15 percent of the invoice price. The responses state that under this program, an exporter transfers the appropriately secured account receivable to the Banco do Brasil, or to a local bank, and discounts the value depending on the terms of payment. The payment on the account receivable is made directly to the bank in dollars. This type of financing is considered an advance on hard currency receivables and is not subject to the IOF tax.

The responses indicate that no FINEX loans were received on shipments to the United States. However, we verified in the recent antidumping investigations involving hot-rolled carbon steel plate and sheet from Brazil (49 FR 3102) that USIMINAS had received some FINEX financing on the products under investigation. For the purposes of these preliminarily determinations we determine that this program provides preferential financing on exports and, therefore, confers a countervailable benefit on the products under investigation.

We compare the rate at which the account receivable was discounted with the average commercial rate as found in Communication 331 for dollar-denominated loans. We use the short-term loan methodology to calculate the benefit which we then divided by the total value of exports to the United States and calculate an *ad valorem* subsidy of 0.02 percent.

G. Raw Materials (Iron Ore) Supplied at Government-Controlled Rates

Petitioner alleges that Brazilian steel producers benefit from government policies which maintain domestic iron-ore prices at levels substantially below international prices. Respondents reply that the price of iron ore is subject to government prices controls and that these prices apply to all transactions, regardless of whether the seller or buyer is a state enterprise or private sector company.

Although iron ore nominally is available to all industries on similar terms, we believe the steel industry is by far the dominant user of this input. Thus, in reality the price control on iron-ore provides a benefit to "a specific enterprise or industry." This is unlike the situation discussed in our final determinations on softwood lumber from Canada (48 FR 24159) and anhydrous and aqua ammonia from Mexico (48 FR 28522). There we determined that the input concerned was not used solely by a "specific . . . group of enterprises or industries."

Since the benefit is used only by a specific industry, we then considered whether it was a countervailable domestic subsidy. We believe that a controlled price is the "provision of goods and services" (section 771(5)(B)(ii) of the Act). Thus, it is a subsidy if provided at "preferential rates." As recognized in footnote 3 of section II.A of our final determination in softwood lumber from Canada (48 FR 24159), the number of users of iron ore is so limited that the normal standard of preferentiality—more favorable to some users than to others within the jurisdiction—cannot be applied. This being so, we concluded that international prices for iron ore provided the appropriate benchmark for measuring the level of the subsidy. We preliminarily determine that this program confers a countervailable benefit. We calculate an *ad valorem* subsidy of 9.24 percent.

II. Programs Preliminary Determined Not To Confer Subsidies

We preliminarily determine subsidies are not being provided to manufacturers, producers, or exporters in Brazil of certain carbon steel products under the following programs.

A. BNDES Financing

Long-term financing for the purchase of capital equipment, and long-term loans for expansion projects, are available from BNDES. Loans are available to private as well as state-controlled enterprises for a maximum of 20 years, and require an analysis of the economic viability of the project and the ability of the borrower to service the debt. All BNDES loans must be secured to the level of at least 130 percent of the value of the loan.

For creditworthy companies, we have determined (as we have in past investigations and reviews) that fully-indexed BNDES loans bestow no benefit, because they are not given on terms inconsistent with commercial considerations.

We also find, for these preliminary determinations, that these loans confer no benefit upon uncreditworthy companies because of the required security, and because they are not given on terms inconsistent with commercial considerations. However, we will examine more fully the nature of the security and the terms of the loans at verification.

B. FINAME Loans

Long-term financing in cruzeiros is available in Brazil only through government-controlled financial institutions, such as BNDES and the Agência Especial do Financiamento Industrial (Special Agency for Industrial Financing, or FINAME), a subsidiary of BNDES. This financing is available for the purchase of capital equipment manufactured in Brazil.

Generally, these loans are fully indexed to the inflation rate in Brazil and are made at fixed real interest rates. The index used for these loans is the ratio established for the ORTN. FINAME loans are granted through commercial banks rather than directly from BNDES and carry higher real interest rates than BNDES loans.

In past Bazilian steel investigations, we determined that fully indexed FINAME loans are generally available since they are not provided to a specific industry or group of industries, or to companies in specific regions, and consequently do not confer a countervailable domestic subsidy. All FINAME loans provided to public enterprises—including COSIPA, CSN, and USIMINAS—are fully indexed. Therefore, we preliminarily determine that these loans did not confer a subsidy upon the producers of products under investigation.

C. Government Loan Guarantees

In 1982, USIMINAS received a Brazilian government guarantee on a debenture issued on the Japanese market. The issuance was made in a period in which we consider USIMINAS to be uncreditworthy. To determine if a countervailable benefit was bestowed by the guarantee, we compared the terms of the debenture with the highest terms on a debenture issuance in Japan during 1982, plus the risk the premium. Our preliminary analysis indicates that the terms of the yen debenture guaranteed by the Brazilian government were less favorable than our benchmark. However, before making our final determinations, we will investigate this Brazilian loan guarantee further.

D. Rail Rate Subsidies Based on Payment in Steel

Petitioners allege that Brazilian steel mills pay the Rede Ferroviaria Federal (the federal railway or RFF) for rail freight charges with steel, and that RFF uses this steel to pay the state-owned PETROBRAS company for fuel. Petitioners also allege that Brazilian steel producers in general may receive preferential rates on steel shipments.

Respondents claim that RFF had accounts receivable outstanding from COSIPA and CSN, and also had accounts payable to PETROBRAS, the state-owned fuel company. They further claim that in settling its debt with PETROBRAS, RFF assigned the accounts receivable from COSIPA and CSN to PETROBRAS, and arranged for COSIPA and CSN to settle these accounts in the form of steel to INTERBRAS, the trading company of PETROBRAS. All parties involved signed a contract and the cost of the steel products, valued on the basis of list price, was offset against the assigned debt. The price charged for the steel is controlled by the fixed price for all commercial transactions, and the rail rates charged are published. PETROBRAS then resold the steel received in payment at the prevailing world market price. It appears that all companies involved in these transactions acted in accordance with normal commercial considerations.

The government of Brazil maintains that producers of certain carbon steel products do not receive any preferential treatment for use of rail facilities and that any barter agreements between COSIPA, CSN, and USIMINAS and the RFF are based on the list prices of the merchandise being traded. It appears that the companies involved in this transaction acted in accordance with commercial considerations. No preference was mandated by the Brazilian government or provided by the individual companies. Therefore, we preliminarily determine that this program confers no countervailable benefit upon respondents.

E. Exemption of IPI Taxes and Duties on Imported Equipment

The Conselho do Desenvolvimento (Industrial Development Council, or CDI) provides, pursuant to Decree Law 1428, for the exemption of 80 to 100 percent of the customs duties and 80 to 100 percent of the IPI tax on certain imported machinery for projects approved by the CDI. The recipient must demonstrate that the machinery or equipment for which an exemption is sought was not available from a Brazilian producer. The investment project must be deemed to be feasible and the recipient must demonstrate that there is a need for added capacity in Brazil.

Decree Law 1726 repealed this program in 1979. Subsequently, no new projects were eligible for these benefits. However, companies whose projects were approved prior to repeal may still receive these benefits pending completion of the project.

In prior cases the Department found this program to be countervailable. However, based upon information obtained by the Department in its verification of other cases which indicates that this program is generally available, we now preliminarily determine that this program is not countervailable.

F. Export Financing Under CIC–CREGE 14–11

All exporters of manufactured products with production cycles of under 180 days are eligible to apply to the Banco do Brasil for export financing under the CIC–CREGE 14–11 program. The bank's eligibility criteria are based on the value of the applicant's exports in the previous year. For companies receiving loans under Resolution 674, the maximum financing available is 10 percent, and for all other companies the maximum is 15 percent of the value of the applicant's exports in the previous year.

In December 1983, we verified this program as part of the section 751 review of the countervailing duty suspension agreement involving carbon

steel plate from Brazil. Under this program, a company obtains a loan with the Banco do Brasil in return for agreeing to exchange a certain amount of U.S. currency with the Banco do Brasil, thus giving the bank a secure source of the foreign currency needed to meet reserve requirements. The Banco do Brasil charges a commission on these loans. Furthermore, the loans are secured with collateral up to at least 170 percent of the value of the loan. There is no fixed interest rate for loans under this program, and the bank has complete discretion in making these loans. The government of Brazil provides no resources to the bank to enable it to perform these operations, nor does it set the interest rates. In the absence of any government action or direction, we have preliminarily determined that no countervailable benefit is conferred.

In prior cases the Department found this program to be countervailable. However, based upon additional information obtained by the Department in its verification of other cases and upon further consideration, we now preliminarily determine that this program is not countervailable.

G. Supplier Credits

Petitioner alleges that payments to suppliers by state-owned companies in Brazil are not adjusted for inflation, and that such non-indexation of overdue accounts payable can constitute a substantial benefit in Brazil's highly inflationary economy. Respondents claim that the government of Brazil does not mandate or direct any preferential treatment for late payments by public sector companies. Instead, contracting parties may decide whether accounts payable are indexed. In the absence of any government action or direction, we have preliminarily determined that no countervailable benefits are bestowed through preferential buyer credits.

H. Simultaneous Devaluation and Imposition of Export Taxes

Petitioner alleges that early in 1983, the government of Brazil devalued the cruzeiro in order to stimulate exports, and concurrently imposed an export tax on a number of products in order to offset the benefits of the devaluation. Petitioner claims these joint actions constitute a selective devaluation designed to favor certain exports over others.

Although the government of Brazil announced a 30 percent "maxi-devaluation" on February 21, 1983, and subsequently adjusted several export taxes, we do not consider this to confer a countervailable benefit for two reasons.

First, in order for a selective devaluation to occur, there must be a multiple exchange rate system. There is no such system in Brazil. The devaluation included no provisions to protect certain industries or groups of industries from the effects of the devaluation.

Second, the presumption that the government applied an export tax selectively to confer a benefit requires evidence that it did so to deliberately favor the export of some products over others. Governments set tax rates for various reasons; e.g., to raise revenue, and to *inhibit* the export of certain goods in order to dampen upward pressure on domestic prices created by devaluation. Absent evidence that the government imposed selective export taxes to purposefully benefit non-taxed exports, we do not consider them to confer a countervailable subsidy.

I. Certain Labor Programs

Petitioner alleges that the government of Brazil has provided assistance for the training and career development of steel industry personnel.

The government of Brazil responds that it has not provided funds or other forms of assistance for the training and career development of steel industry personnel, other than income tax deductions for employee training and meals which were determined not to confer countervailable benefits in *Carbon Steel Plate from Brazil*, January 20, 1983 (48 FR 2568). Accordingly, we preliminarily determine that this program does not confer a subsidy.

III. Programs Preliminarily Determined Not To Be Used

We preliminarily determine that manufacturers, producers or exporters in Brazil of certain carbon steel products did not use the following programs, listed in the notice of "Initiation of Countervailing Duty Investigations."

A. Government Funds To Cover Operating Losses

Based on evidence currently on the record, the government of Brazil has not provided any funds to cover the operating losses of the companies in the SIDERBRAS group. Equity infusions by SIDERBRAS were provided for expansion and are addressed in section I.A., supra. Accordingly, we preliminarily determine this program was not used by respondents.

B. Local Tax Incentives/Special Tax Deductions for SIDERBRAS

In its response, the government of Brazil states that there are no local tax measures which benefit respondents. As a result of a special concession by the government, CSN was allowed to use the losses of other companies in the SIDERBRAS group to offset its profits for income tax purposes in 1980. The government conceded this special dispensation to compensate for the fact that within the SIDERBRAS group, some companies consistently incur losses while others are profitable. However, such benefits received by CSN on its 1980 earnings, extended only through 1981. This concession was repealed shortly thereafter and this program no longer exists. Accordingly, we preliminarily determine that this program was not used by respondents during the period for which we are measuring subsidization.

C. Export Profits Exemption From Corporate Income Tax

Pursuant to Decree Laws 1158 and 1721, exporters of certain carbon steel products are eligible to participate in this program, under which some profits attributable to export revenue are exempt from income tax.

We preliminarily determine that none of the respondents have used this income tax exemption during the period of investigation.

D. Accelerated Depreciation for Equipment

- Pursuant to Decree Law 1137, any company which purchases Brazilian-made capital equipment and has an expansion project approved by the CDI may depreciate this equipment at twice the rate normally permitted under tax laws.

We preliminarily determine that none of the respondents used the accelerated depreciation provisions of this program.

E. Resolution 330 of the BCB

BCB Resolution 330 provides financing for up to 80 percent of the value of the merchandise placed in a specified bonded warehouse and destined for export. Exporters of certain carbon steel products would be eligible for financing under this program. However, COSIPA, CSN, and USIMINAS did not use this program because each company produces export sales to order and their products are not placed in a warehouse. Accordingly, we preliminarily determine that respondents did not use this program during the period for which we are measuring subsidization.

F. The BEFIEX Program

The Commissão para a Concessão de Benefícios Fiscais a Programas Especiais de Exportacão (Commission for the Granting of Fiscal Benefits to

Special Export Programs, or BEFIEX) is authorized by Decree Law 77065 to reduce by 70 to 90 percent import duties and the IPI tax on the import of machinery, equipment, apparatus, instruments, accessories and tools necessary for special export programs approved by the Ministry of Industry and Trade. Further, imports of components, raw materials and intermediary products may benefit from a reduction of 50 percent of import duties and IPI.

No respondent receives benefits through this program. Most of the merchandise produced by the respondents is sold in Brazil, and they are not able to make the required export commitments. Accordingly, we preliminarily determine that respondents did not use this program during the period for which we are measuring subsidization.

G. Apôio à Exportacao (Proex)

Petitioner alleges that a new line of short-term credit for exports was established under the Apôio à Exportaçao (Proex) program of BNDES. Respondents state that none of the respondents have been declared eligible under this program. Theefore, we preliminarily determine that respondents did not use this program during the period for which we are measuring subsidization.

H. Incentives for Trading Companies

Petitioner alleges that CSN and USIMINAS distribute their export sales through such intermediaries as trading companies, and that under Resolution 643 of the BCB, trading companies can obtain export financing similar to that obtained by manufacturers under Resolution 674.

Respondents state that no benefits were received under this program by the exported products. Accordingly, we preliminarily determine that this program was not used by respondents for the period in which we are measuring subsidization.

I. Raw Materials (Charcoal and Slab) Supplied at Preferential Rates

1. *Charcoal*

Petitioner alleges that the government of Brazil has given fiscal incentives to encourage the expansion of charcoal production through reforestation. Respondents claim that the Brazilian steel industry does not use wood charcoal to produce steel.

2. *Slab*

Petitioner also alleges that Brazilian producers of hot- and cold-rolled sheet and plate in coils will soon be using subsidized slab for SIDERBRAS' Tubarão mill. Resondents reply that neither COSIPA, CSN, nor USIMINAS purchased slab from the Tubarão mill during the period of investigation. Therefore, we preliminarily determine that respondents did not use subsidized charcoal or slab during the period of investigation.

J. Construction of Pòrts

Petitioner alleges that Brazil's Third National Development Plan (1980–85) provides for the construction of a port at Praia Mole designed mainly for the export of steel products and the import of coal. The government of Brazil denies this allegation. Therefore, we preliminarily determine that this program is not used by the respondents. However, we will seek additional information on the use of this port by other industries before making our final determinations.

K. Certain Labor Programs for Employees of State Enterprises

Petitioner alleges that the government of Brazil has restricted fringe benefits and pay levels of public employees, and that these restrictions confer a countervailable benefit on steel products manufactured in Brazil by state-owned companies.

We preliminarily determine that these programs were not used by respondents during the period for which we are measuring subsidization. Although Decree Laws 2036 and 2100 were not in effect during this period, we may examine them and other similar legislation in any annual reviews required under section 751 of the Act.

IV. Program for Which Additional Information is Needed

Fiscal Incentives, Donations and Grants

Petitioner alleges that CSN received a certain amount of "fiscal incentives, donations and grants" as stated in its 1981/82 Statement of Sources of Funds. In order to determine whether these funds were conferred under programs addressed above, additional information is required. We will seek this information from the government of Brazil and CSN during our verification.

Verification

In accordance with section 776(a) of the Act, we will verify the information used in making our final determinations.

Suspension of Liquidation

In accordance with section 703(d) of the Act, we are directing the U.S. Customs Service to suspend liquidation of all entries of certain carbon steel products from Brazil which are entered, or withdrawn from warehouse, for consumption, on or after the date of publication of this notice in the **Federal Register** and to require a cash deposit or bond for each such entry of this merchandise of 27.42 percent *ad valorem.*

This suspension will remain in effect until further notice.

ITC Notification

In accordance with section 703(f) of the Act, we will notify the ITC of our determinations. In addition, we are making available to the ITC all nonprivileged and nonconfidential information relating to these investigations. We will allow the ITC access to all privileged and confidential information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Deputy Assistant Secretary for Import Administration.

The ITC will make its determinations of whether these imports are materially injuring, or threatening to materially injure, a U.S. industry before the latter of 120 days after the Department makes its preliminary affirmative determinations or 45 days after the Department makes its final affirmative determinations.

Public Comment

In accordance with section 355.35 of the Commerce Department Regulations, if requested, we will hold a public hearing to afford interested parties an opportunity to comment on these preliminary determinations at 10 a.m. on March 21, 1984, at the U.S. Department of Commerce, Room 3708, 14th Street and Constitution Avenue NW., Washington, D.C. 20230. Individuals who wish to participate in the hearing must submit a request to the Deputy Assistant Secretary for Import Administration, Room 3099B, at the above address within 10 days of this notice's publication.

Requests should contain: (1) the party's name, address, and telephone number; (2) the number of participants; (3) the reason for attending; and (4) a list of the issues to be discussed. In addition, prehearing briefs in at least 10 copies must be submitted to the Deputy Assistant Secretary by March 16, 1984. Oral presentations will be limited to issues raised in the briefs. All written views should be filed in accordance with 19 CFR 355.34, within 30 days of this notice's publication, at the above address and in at least 10 copies.

Dated: February 3, 1984.

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 84-3700 Filed 2-9-84; 8:45 am]

BILLING CODE 3510-DS-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Announcing Import Control Levels for Certain Man-Made Fiber Textile Products From Taiwan

February 7, 1984.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: CITA is controlling imports of man-made fiber luggage in Category 670 (only TSUSA Nos. 706.4144 and 706.44152), produced or manufactured in Taiwan and exported during the year which began on November 29, 1982.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924) and December 14, 1983 (48 FR 55607), and December 30, 1983 (48 FR 57584).

SUMMARY: During consultations held on January 19 and 20, 1984, under Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), concerning man-made fiber Luggage from Taiwan, no agreement was reached on a mutually satisfactory level for Category 670 (only TSUSA Nos. 706.4144 and 706.4152), exported during the twelve-month period which began on November 29, 1983. Notice of the intention to hold these consultations was published in the **Federal Register** on December 6, 1983. The United States has decided to control imports in this category at the hold level of 58,004,491 pounds, pending the conclusion of consultations.

EFFECTIVE DATE: February 13, 1984.

FOR FURTHER INFORMATION CONTACT: William Boyd, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, Washington, D.C., (202/377–4212).

SUPPLEMENTARY INFORMATION: On December 16, 1982 a letter from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs was published in the **Federal Register** (48 FR 55695) which established levels of restraint for certain cotton, wool and man-made fiber textile products, produced or manufactured in Taiwan and exported during the twelve-month period which began on January 1, 1984. In the letter which follows this notice an additional level is being established for man-made fiber luggage in Category 670 (only TSUSA Nos. 706.4144 and 706.4152), during the twelve-month period which began on November 29, 1983 and extends through November 28, 1984.

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements

February 7, 1984

Committee for the Implementation of Textile Agreements.

Commissioner of Customs, Department of the Treasury, Washington, D.C. 20229.

Dear Mr. Commissioner: This directive further amends, but does not cancel, the directive of December 13, 1983 concerning cotton, wool and man-made fiber textile products, produced or manufactured in Taiwan and exported during 1984.

Effective on February 13, 1984, paragraph 1 of the directive of December 13, 1983 is hereby further amended to include a level of 58,004,491 pounds [1] for man-made fiber textile products in Category 670,[2] exported during the twelve-month period which began on November 29, 1983 and extends through November 28, 1984.

Textile products in Category 670 [2] which have been exported to the United States prior to November 29, 1983 shall not be subject to this directive.

Textile products in Category 670 [2] which have been released from the custody of the U.S. Customs Service under the provisions of 19 U.S.C. 1448(b) or 1484(a)(1)(A) prior to the effective date of this directive shall not be denied entry under this directive.

The Committee for Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553.

Sincerely,

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements

[FR Doc. 84-3700 Filed 2-9-84; 8:45 am]

BILLING CODE 3510-DS-M

[1] The level of restraint has not been adjusted to reflect any imports exported after November 28, 1983.

[2] In Category 670, only TSUSA Nos. 706.4144 and 706.4152.

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

Procurement List 1984 Additions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Additions to Procurement List.

SUMMARY: This action adds to Procurement List 1984 commodities to be produced by and a service to be provided by workshops for the blind and other severely handicapped.

EFFECTIVE DATE: February 10, 1984.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, Crystal Square 5, Suite 1107, 1755 Jefferson Davis Highway, Arlington, Virginia 22202.

FOR FURTHER INFORMATION CONTACT: C. W. Fletcher, (703) 557–1145.

SUPPLEMENTARY INFORMATION: On September 30, and October 28, 1983, the Committee for Purchase from the Blind and Other Severely Handicapped published notices (48 FR 44877 and 48 FR 49905) of proposed additions to Procurement List 1984, October 18, 1983 (48 FR 48415).

After consideration of the relevant matter presented, the Committee has determined that the commodities and service listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46–48c, 85 Stat. 77.

I certify that the following actions will not have a significant impact on a substantial number of small entities. The major factors considered were:

a. The actions will not result in any additional reporting, recordkeeping or other compliance requirements.

b. The actions will not have a serious economic impact on any contractors for the commodities and service listed.

c. The action will result in authorizing small entities to produce or provide commodities and a service procured by the Government.

Accordingly, the following commodities and service are hereby added to Procurement List 1984:

Class 7520

Box, Filing: 7520–00–139–3734, 7520–00–240–4830, 7520–00–240–4831, 7520–00–139–3734, 7520–00–240–4839

Cashbox: 7520–00–281–5931

SIC 7349

Janitorial Service, Alamo Exchange Region, Army and Air Force Exchange, 5315 Summit Parkway, San Antonio, Texas.

C. W. Fletcher,

Executive Director.

[FR Doc. 84-3729 Filed 2-9-84; 8:45 am]

BILLING CODE 6820-33-M

DEPARTMENT OF DEFENSE

Office of the Secretary

Privacy Act of 1974; Amendments to and Deletion of Notices for Systems of Records

AGENCY: Office of the Inspector General, DoD.

ACTION: Amendments to and deletion of notices for system notices.

SUMMARY: The Office of the Inspector General, Department of Defense proposes to amend and update the notices for five systems of records and to delete the notice for one system of records subject to the Privacy Act of 1974. Essentially the changes are to consolidate the notices for the various activities combined into the Office of the Inspector General and to clearly indicate where the systems are maintained by the various Inspector General components. The systems notices are amended are set forth below.

DATES: The amendment will be effective on or before March 12, 1984, unless public comments are received which result in a contrary determination.

ADDRESS: Send comments to: Office of the Assistant Inspector General for Management, Department of Defense, Washington, DC 20301.

FOR FURTHER INFORMATION CONTACT: Contact Mr. Mauri Hamilton at the above address or telephone: (202) 694–0493.

SUPPLEMENTARY INFORMATION: The Office of the Inspector General, DoD, has consolidated the system notices for the Defense Criminal Investigative Service and Defense Audit Agency into a single set of system notices and identified those activities within the Office of the Inspector General that will now be maintaining portions of the system. These changes will reflect to reflect the current structure of the Office of the Inspector General.

The current system identifiers and the former system identifiers are as follows:

Current identifier	Former identifier
CIG–01	CIS–01
CIG–02	CIS–02
CIG–03	CIS–03
CIG–04	CIS–04
CIG–06	CIS–06
CIG–07	DAS–01

The notice for system CIS–05 is cancelled as the Office of the Inspector General no longer maintains seperate security files. Systems notices for the systems being changed have been previously published in the Federal Register. All of these systems of records are subject to the Privacy Act of 1974, as amended, (5 U.S.C. 552a).

None of the changes require an altered system report (5 U.S.C. 552a(o)).

February 7, 1984.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

System Name: Privacy Act and Freedom of Information Act Files

Reason: System redesignated as CIG–01.

CIS–02

System Name: Applicant Records

Reason: System redesignated as CIG–02.

CIS–03

System Name: Personnel Locator Cards

Reason: System redesignated as CIG–03.

CIS–04

System Name: Case control System

Reason: System redesignated as CIG–04 and system name changed to "Case Control System-Investigative".

CIS–05

System Name: Security Records

Reason: System cancelled as records no longer maintained by the Office of the Inspector General, DoD.

CIS–06

System Name: Investigative Files

Reason: System redesignated as CIG–06.

DAS–01

System Name: Defense Audit Management Information System (DAS/MIS)

Reason: System redesignated as CIG–07 and renamed "Case Control System-Audit, Audit Follow-up, and Audit Policy and Oversight".

CIG–01

SYSTEM NAME:

Privacy Act and Freedom of Information Act Files.

SYSTEM LOCATION:

Office of the Assistant Inspector General for Management, Department of Defense, The Pentagon, Washington, DC 20301.

CATEGORIES OF INDIVIDUALS IN THE SYSTEM:

Individuals who have submitted or were the subjects of request made under the Privacy Act of 1974 (5 U.S.C. 552a) or the Freedom of Information Act (5 U.S.C. 552).

CATEGORIES OF RECORDS IN THE SYSTEM:

Copies of all Privacy Act and Freedom of Information Act requests and the answers thereto. Correspondence pertaining to the requests, the information released or withheld; summaries, logs of actions taken, and correspondence from and to other DoD and Federal agencies regarding specific requests of mutual interest. Documents pertaining to all appeals and legal actions concerning OIG actions in response to such requests.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Pursuant to the Inspector General Act of 1971, (Pub. L. 95–452), as amended, and DoD Directive 5106.1 (32 CFR Part 376) implementing that law, the DoD Inspector General is authorized to organize, direct and manage the Office of the Inspector General, to include the creation and maintenance of necessary records. See also 5 U.S.C. 552 and 5 U.S.C. 552a.

PURPOSES:

Records are used to respond individual requests for access to records made under either act and to respond to requests for amendment made under the Privacy Act, to document OIG actions in response to these requests, and any subsequent appeals regarding agency actions or litigation.

Records are used by OIG personnel to take and coordinate actions with other OIG, DoD, and Federal and state and agencies. OIG investigative, audit and inspection personnel when the release of the information requested may have an impact on these activities. Also, information may be provided to the appropriate OIG element when further action is needed to verify assertions of the requester or to obtain permission to release information obtained from sources.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Information from this system may be provided to other Federal agencies and state and local agencies when it is necessary to coordinate responses or denials.

See also the Blanket Routine uses for all OIG systems of records.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders.

RETRIEVABILITY:

Filed alphabetically by surname of requester.

STORAGE:

Records are stored in locked security containers accessible only to authorized personnel.

RETENTION AND DISPOSAL:

Privacy Act Records: Requests which are granted wholely, unappealed denials, and denials completely overruled on appeal by the appeal authority are destroyed two years after the reply or the final OIG, DoD action.

Denials and partial denials which are not overruled on appeal or are the subject of litigation are destroyed five years after the final OIG or judicial action, as appropriate.

Freedom of Information Act Records: Records of requests that are totally granted are destroyed two years after the date of the OIG reply. Records of all denials are destroyed five years after the OIG reply.

Records of appeals are destroyed four years after final OIG, DoD reply or three years after final adjudication by a court, whichever is sooner.

SYSTEM MANAGER AND ADDRESS:

Office of the Assistant Inspector General for Management, DoD, The Pentagon, Washington, DC 20301.

NOTIFICATION PROCEDURE:

Send your request to the System Manager. Please include full information regarding the previous request such as date, subject matter, and if available, copies of the previous OIG reply.

RECORD ACCESS PROCEDURE:

The OIG access procedures may be obtained from the System Manager.

CONTESTING RECORD PROCEDURE:

The OIG rules for contesting and appealing initial denials of amendment may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

From the individuals on whom records are maintained and official records.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

CIG-02

SYSTEM NAME:

Applicant Records.

SYSTEM LOCATION:

Primary Record: Office of the Assistant Inspector General for Management, Department of Defense, The Pentagon, Washington, D.C. 20301.

Portion of this system may be temporarily maintained by other OIG offices.

CATEGORIES OF INDIVIDUALS IN THE SYSTEM:

Individuals who have submitted applications or other correspondence directly to OIG or its components indicating an interest in employment with the OIG or any of its components.

CATEGORIES OF RECORDS IN THE SYSTEM:

Temporary records of the applicant's interest in or qualifications for employment with the OIG.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Pursuant to the Inspector General Act of 1971 (Pub. L. 95–452), as amended, and DoD Directive 5106.1 (32 CFR Part 376) implementing that law, the DoD Inspector General is authorized to organize, direct and manage the Office of the Inspector General, to include the creation and maintenance of necessary records.

PURPOSES:

To identify applicants and determine their eligibility for positions with the OIG. Used by OIG personnel and supervisory personnel to select employees and to respond to requests for employment.

Information may be coordinated with other DoD activities for verification purposes.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Information from this system may be provided to other Federal agencies when it is necessary to verify the information provided.

See also the Blanket Routine uses for all OIG systems of records.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders.

RETRIEVABILITY:

Filed alphabetically by surname of applicant.

STORAGE:

Records are stored in locked security containers accessible only to authorized personnel. Offices are locked after duty hours and security guards are used.

RETENTION AND DISPOSAL:

Records are temporary and are destroyed as classified waste as soon as a final OIG determination is made regarding the hiring action.

SYSTEM MANAGER AND ADDRESS:

Office of the Assistant Inspector General for Management, DoD, The Pentagon, Washington, D.C. 20301.

NOTIFICATION PROCEDURE:

Send your request to the System Manager. Written request should contain the full name of the applicant, and the approximate date of the application.

RECORD ACCESS PROCEDURE:

The OIG access procedures may be obtained from the System Manager.

CONTESTING RECORD PROCEDURE:

The OIG rules for contesting and appealing initial denials of amendment may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

From the individuals on whom records are maintained and official records.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

CIG-03

SYSTEM NAME:

Personnel Locator Cards

SYSTEM LOCATION:

Primary Location: Office of the Assistant Inspector General for Management, Department of Defense, Washington, D.C. 20301.

Other Locations: The various components and activities of the Office of the Inspector General, DoD, maintain locator cards on personnel assigned to them.

CATEGORIES OF INDIVIDUALS IN THE SYSTEM:

Personnel assigned or attached to the OIG or its components, and certain formerly assigned or attached individuals.

CATEGORIES OF RECORDS IN THE SYSTEM:

Locator cards reflecting the name location and telephone number of the assigned or attached individual.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Pursuant to the Inspector General Act of 1971, (Pub. L. 95–452), as amended, and DoD Directive 5106.1 (32 CFR Part 376) implementing that law, the DoD Inspector General is authorized to organize, direct and manage the Office of the Inspector General, to include the creation and maintenance of necessary records.

PURPOSES:

Records are used to locate individuals assigned or attached to OIG by OIG administrative and supervisory personnel at the OIG and in field activities. Records are used to aid in the

distribution of communications addressed to individuals, and to make and verify entries in personnel rosters, directories, and listings. Individuals are allowed to restrict the unofficial use of the information in the system. Locator information may be provided to agencies and individuals within DoD having a need for such information.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Locator information regarding specific individuals may be provided to other agencies and individuals upon request subject to the limits established by the individual.

See also blanket routine uses for all OIG systems of records.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records consist of paper forms.

RETRIEVABILITY:

Filed alphabetically by surname.

STORAGE:

Records are stored in security containers and locked file cabinets accessible only to authorized personnel.

RETENTION AND DISPOSAL:

Retained in active file until departure of the individual and then placed in inactive file. Destroyed one year after departure. Records are destroyed as if classified waste.

SYSTEM MANAGER AND ADDRESS:

Office of the Assistant Inspector General for Management, OIG, DoD, The Pentagon, Washington, D.C. 20301.

NOTIFICATION PROCEDURE:

Send your name to the System Manager. You may wish to include the dates of your assignment to OIG and the OIG component to which assigned.

RECORD ACCESS PROCEDURE:

The OIG access procedures may be obtained from the System Manager.

CONTESTING RECORD PROCEDURE:

The OIG rules for contesting and appealing initial denials of amendment may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

From the individuals on whom records are maintained and official records.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

CIG-04

SYSTEM NAME:

Case Control System—Investigative.

SYSTEM LOCATION:

Primary Location: Office of the Assistant Inspector General for Investigations (INV), Cameron Station, Alexandria, VA 22314, has primary control over the system. INV is a component of the Office of The Inspector General (OIG), Department of Defense (DoD).

Decentralized Locations: INV Regional Field Offices, Resident Agencies, and various INV Headquarters components have temporary control over portions of the records.

The Office of the Assistant Inspector General for Criminal Investigations and Policy and Oversight (CIPO) originates and has control over portions of the records.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Any person or activity which is the subject of an on-going or recently completed OIG investigation.

CATEGORIES OF RECORDS IN THE SYSTEM:

The file is composed of records of investigations which are being or have been conducted by the OIG. Records contain the name or other personal identifying information on individuals who are investigated.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Pursuant to the authority contained in the Inspector General Act of 1978, (Pub. L. 95–452), as amended, and DoD Directive 5106.1 (32 CFR Part 376) implementing the law, the Inspector General, DoD, is authorized to organize, direct, and manage the Office of the Inspector General, to include creating and maintaining necessary records.

PURPOSES:

The file contains open and closed case listings used to manage investigations, to produce statistical reports, and to control various aspects of the investigative process.

Users are the Case Control Officers; OIG Project Officers, and other OIG officials.

Used to determine the existence, location, and status of cases, control workload, and to prepare statistical reports.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

See blanket routine use for all OIG record systems.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records.

RETRIEVABILITY:

By name, Social Security Number, military service number or case control number.

SAFEGUARDS:

Files are maintained in locked cabinets accessible only to those with an official need-to-know.

RETENTION AND DISPOSAL:

Records are retained for one year and then disposed of as classified waste.

SYSTEM MANAGER AND ADDRESS:

Assistant Inspector General for Investigations, OIG, DoD, 8D490 Cameron Station, Alexandria, VA 22314.

NOTIFICATION PROCEDURE:

Information may be obtained from the System Manager at the above address. Requester should provide the full name of the subject company or individual, and all maiden or alias names under which the file may be maintained. Personal identifiers which should be included are date and place of birth, Social Security Number, and the last four digits of a military service number. These assist in locating files and are helpful in conducting the search. However, furnishing of personal identifiers is voluntary. Searches will be limited to the data furnished.

The office listed above may be visited from 9:00 am to 3:30 pm, Monday through Friday. Requesters visiting the office should bring personal documents as proof of identity.

RECORD ACCESS PROCEDURE:

The OIG rules for access to records and appealing initial denials of access by individauls may be obtained by writing the System Manager.

CONTESTING RECORD PROCEDURE:

The OIG rules for contesting contents of the records and appealing initial denials of requests for amendment by the individual concerned may be obtained by writing the System Manager.

RECORD SOURCE CATEGORIES:

OIG Case Control Centers.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

In accordance with 5 U.S.C. 552(j)(2) certain portions of the case control records may be exempted from the

provisions of 5 U.S.C. 552a(c) (3), (c)(4), (d), (e)(1), (e)(2), (e)(3), (e)(4)(G), (e)(4)(H), (e)(4)(I), (e)(5), (e)(8), (f), and (g). Information from this system will be withheld only to the extent that its release would interfere with the investigative process. See 32 CFR Part 293.

CIS-06

SYSTEM NAME:

Investigative Files.

SYSTEM LOCATION:

Primary Location: Office of the Assistant Inspector General for Investigations (INV), Cameron Station, Alexandria, VA 22314, has primary control over the system. The INV is a component of the Office of the Inspector General (OIG), Department of Defense (DoD).

Decentralized Locations: INV Regional Field Offices, Resident Agencies, and various INV Headquarters staff elements originate and have temporary control over portions of the records.

The Office of the Assistant Inspector General for Criminal Investigations Policy and Oversight (CIPO) and Office of the Assistant Inspector General for Inspections originate and have control over portions of the records.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

DoD civilian personnel; members of the Armed Forces of the United States, Reserve components, and National Guard units; DoD contractors; individuals residing on, having authorized official access to, or contracting or operating any business or other functions at any DoD installation or facility; and individuals not affiliated with the Department of Defense when their activities have directly threatened the functions, property or personnel of the Department of Defense, or they have threatened any other high ranking government personnel who are provided protective service mandated by the Secretary of Defense, or they have engaged in, or are alleged to engage in criminal acts on DoD installations or directed at the Department of Defense, its personnel or functions; or individuals information regarding DoD activities falling under the purview of OIG responsibilities.

CATEGORIES OF RECORDS IN THE SYSTEM:

Official Reports of Investigation (ROIs) including any attachments, prepared by OIG or other DoD Federal, state, or local official investigative activities;

Information Summary Reports (ISRs) which record unsolicited information of a criminal nature received by OIG concerning persons or incidents which are of direct interest to other DoD Components or Federal agencies;

Documents, information, and confidential source files which are not included in the ROIs, but which serve as the basis of investigations or which guide and facilitate investigative activities, including documents providing the data to open, direct, conduct, transfer and close cases;

OIG file administration and management documents accounting for disclosure, control, and access to a file; and

Grand Jury information not contained in reports, agent notes, fingerprint cards, duplicate files at the local level and other miscellaneous documents supporting the criminal investigation file.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Pursuant to the authority contained in the Inspector General Act of 1978 (Pub. L. 95-452), as amended, and DoD Directive 5106.1 (32 CFR Part 376) implementing that law, the DoD Inspector General is authorized to organize, direct and manage the Office of the Inspector General, to include the creation of necessary records.

PURPOSE:

Investigative information is collected at the request of appropriate DoD officials or agencies to identify offenders, to provide facts and evidence upon which to base prosecution, to effect corrective administrative action and to recover money and property which has been wrongfully appropriated. Information contained in ISRs is disseminated to interested DoD Components. Information is collected during reciprocal investigations conducted for other DoD investigative elements for maintenance and use by the requesting DoD activity.

Users of OIG investigative information include: OIG personnel in the course of their official duties; other accredited DoD investigative elements, DoD agencies, elements of the military departments and representatives of the Secretary of Defense and the Joint Chiefs of Staff.

OIG investigative records are used: In criminal law enforcement investigations including statutory violations, counterintelligence as well as counterespionage and counterterrorist activities and other security matters; to provide information in contractor responsibility and suspension/debarment determinations; to provide information in contractual actions; to make statistical evaluations of OIG investigative activities; to respond to Freedom of Information Act access requests; to determine loyalty, suitability, eligibility, and general trustworthiness of individuals for access to classified information and government facilities, for entry into, retention in and for personnel actions in the Armed Forces or federal employment; to provide information in response to Inspector General, Equal Employment, or other complaint investigations and congressional inquiries; to obtain relevant information from federal, state, local or foreign agencies; to obtain employment records, if necessary, from business enterprises; and to obtain information relevant to the on-going investigations.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information contained in ISR's is disseminated to interested Federal agencies. Information is collected during reciprocal investigations conducted for other Federal investigative elements (or in limited instances, for local or state law enforcement agencies) for maintenance and use by the requesting activity.

Users of OIG investigative information include: Accredited Federal criminal and civil law enforcement agencies; regulatory and licensing agencies; other accredited Federal agencies conducting investigations to evaluate suitability for employment or access to classified information; congressional committees; and the General Accounting Office.

OIG investigative records are used: In criminal law enforcement investigations including statutory violations; in counterintelligence as well as counterespionage and counterterrorist activities and other security matters conducted by other agencies; to assist agencies charged with the responsibility for investigating or prosecuting violations of laws, rules, regulations or orders; to provide information in judicial or adjudicative proceedings including litigation or in accordance with a court order; to determine loyalty, suitability, eligibility, and general trustworthiness of individuals for access to classified information and government facilities; by other Federal agencies in connection with hiring and retention of employees, issuance of security clearance, or other benefit by the requesting agency; to provide information pertinent to the protection of persons under the

provisions of 18 U.S.C. 3056; to obtain relevant information from federal, state, local or foreign agencies to obtain employment records, if necessary, from business enterprises; and to obtain information relevant to the on-going investigations. See also blanket routine uses set forth for all DoD systems (12 CFR Part 286a).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in file folders, on microfilm, and on supplementary index cards.

RETRIEVABILITY:

Investigations are centrally retrievable through the Defense Investigative Service (DIS) Case Control System DIS System, V5–04; or the Defense Central Index of Investigations (DCII), DIS System V5–02. Both systems are managed by DIS and have been described in the **Federal Register**.

SAFEGUARDS:

All OIG records are stored in locked safes and are accessible only to authorized personnel who have a need-to-know in conjuction with their official duties. Recipients of investigative information are responsible for safeguarding the information within the guidelines provided by OIG.

RETENTION AND DISPOSAL:

Retention of closed OIG investigative files is authorized for 25 years, except they may be offered to the National Archives after 15 years. Fraud prevention surveys are maintained for 10 years. General, ISRs are retained only 60 days. The partial duplicate records are retained for one year. All records are destroyed as if they were classified material.

SYSTEM MANAGER AND ADDRESS:

Assistant Inspector General for Investigations, DoD, 8D490 Cameron Station, Alexander, VA 22314.

NOTIFICATION PROCEDURE:

Requests should be addressed to the System Manager at the address given above. Include in the request, the full name, date, and place of birth and Social Security Number, and any other pertinent data concerning the topic of the criminal investigation. These items are necessary for retrieval of information. The requester's signature should be notarized. More information may be required. Individuals may visit INV at Bldg. 8, Room D490, Cameron Station, Alexandria, VA, to make direct inquiries regarding this system. A check of personal identification will be required of all visitors making such inquiries. Providing the personal data is voluntary. However, the record search will be limited to the data furnished.

RECORDS ACCESS PROCEDURES:

The OIG rule for access and appealing initial denials of access may be obtained by visiting or writing the System Manager.

CONTESTING RECORDS PROCEDURES:

The OIG rules for contesting and appealing initial denials of amendment may be obtained by writing or visiting the System Manager.

RECORD SOURCE CATEGORIES:

Subjects and suspects of OIG investigations.

Interview of witnesses, victims, and confidential sources.

All types of records and information maintained by all levels of government, private industry, and non-profit organizations reviewed during the course of the investigation or furnished the OIG.

Any other type of record deemed necessary to complete the OIG investigation.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Portions of this system of records, may fall within the scope of 5 U.S.C. 552a(j)(2) and are exempt from the provisions of 5 U.S.C. 552a (c)(3), (c)(4), (d), (e)(1), (e)(2), (e)(3), (e)(4)(G), (e)(4)(H), (e)(4)(I), (e)(5), (e)(8), (f) and (g). Information from this system will be withheld only to the extent that its release would interfere with the investigative process. See 32 CFR Part 293.

CIG–07

SYSTEM NAME:

Case Control System—Audit, Audit Follow-Up, & Audit Policy and Oversight.

SYSTEM LOCATION:

Office of the Assistant Inspector General for Auditing (AUD); Planning, Resources, and Reports Division. AUD is a component of the Office of the Inspector General (OIG), Department of Defense (DoD).

Portions of this system may be temporarily maintained by other OIG offices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All active personnel employed by the OIG audit activities with historical data. Records on former employees are maintained for two years after termination, reassignment or retirement.

CATEGORIES OF RECORDS IN THE SYSTEM:

Data on the individual's current position, current employment status, travel, audit experience training, and the following specific personal data: Name, Social Security Number (SSN), Date of Birth (DOB), Service Computation Date (SCD), career status, experience, address, assigned station, job series, clearance, education, and evaluation due date.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Pursuant to the authority contained in the Inspector General Act of 1978, (Pub. L. 95–452), as amended, and DoD Directive 5106.1, (32 CFR Part 376) implementing the law, the Inspector General, DoD, is authorized to organize, direct, and manage the Office of the Inspector General, to include creating and maintaining necessary records.

PURPOSES:

Information is used for:

(1) Security clearance notification alert; provided to all audited activities in advance of visits by audit personnel. Information provided in notice is name, SSN, Office of Assignment, and the security clearance for each auditor.

(2) Time and attendance reporting: provided by all audit activities, to include regional offices in the United States and Overseas. Time and attendance reports are used by various managers to track temporary duty (TDY) travel frequency and duration, to accrue manhour data on assigned audit projects, to categorize indirect time for end of year reporting to provide time and attendance data to the centralized payroll system. Information included in time and attendance reports are SSN, name, grade, assigned office, hours present for duty, annual leave hours, sick leave hours, other leave hours and type, TDY location, and TDY duration.

(3) Planned annual leave reporting; utilized by various managers for workload planning and travel scheduling. Information included is name, assigned office, and dates of planned leave.

(4) Audit status and auditor assignment reporting; used by managers to control audits and auditors, and to maximize effectiveness of manpower resources. Included information is audit number, audit requestor code, title milestone dates, audit cost summary, personnel manhours expended.

(5) Other personnel reporting: Used by the staff manager to determine training

needs, promotional eligibility, education and background, professional organization participation, and performance evaluation. Information included is name, assigned offices, education, professional activities training history (course title, dates attended), performance evaluation, date of birth, and service computation data.

(6) Travel reporting: used by managers to control temporary duty travel, travel costs, and issuances of blanket travel orders.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See Blanket Routine Uses for all OIG record systems

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Active records are stored on immediate access disk and magnetic tape. Inactive records are maintained on magnetic tape. Hard copy records are stored in file cabinets.

RETRIVABILITY:

Records are internally stored by employee SSN and are selectively retrievable by all data elements as specified in the Categories of Records in the System.

SAFEGUARDS:

All records reside in a "private library" which is not accessible by any other user. All system files are backed up upon creation and upon any update action. A "Master ID" with unrestricted access to all records in the private library is available only by MIS management personnel. A "Subordinate ID" which has restricted access, only to pertinent records, is used by field offices. Password protection is afforded at the session and file level. All user ID's are protected by separate validation. Password validation initiates immediate "log-off". Physical controls include limiting password to only authorized personnel. Master ID is located in a secure environment, and access to the terminal facility is restricted to MIS management employees who work within the area. Access to records containing personnel data is restricted to those who require the records in the performance of their official duties and to the individual who is subject of the record (or his authorized representative). Tape files are maintained in an environmentally secure vault area when not in use. Computer Science Corporation has been cleared to process personal data for Government agencies by General Services Administration on December 11, 1975.

RETENTION AND DISPOSAL:

Machine resident records are maintained for 2 years after they become inactive. All inactive records are afforded the same safeguards as active records and are maintained on magnetic tape within the computer center. Machine records are destroyed at the end of the 2 year period. Hard copy records are only retained until the records are replaced or become obsolete. Machine records are destroyed by erasure or overprnting. Paper records are destroyed as if classified waste.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Inspector General for Auditing, OIG, DoD, Suite 1200, Commonwealth Building, 1300 Wilson Boulevard, Arlingtron, VA 22209. Telephone: 202/697-9108.

NOTIFICATION PROCEDURE:

Written or personal request for information should be addressed to the System Manager.

RECORD ACCESS PROCEDURES:

Procedures for gaining access by an employee/previous employee to his/her records may be obtained from the System Manager. Written request for information should contain the full name of the employee/past employee and SSN. For personal visits, the employee should be able to identify himself/herself with Social Security Card and one other corrobrating personal identification.

The OIG rules for access and appealing initial denials of access may be obtained from the System Manager.

CONTESTING RECORD PROCEDURES:

The OIG rules for contesting contents and appealing initial denials of amendment maybe obtained from the System Manager.

RECORD SOURCE CATEGORIES:

Official Personnel Folder and other personnel documents, activity supervisors, applications and forms completed by the individual.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 84-3982 Filed 2-9-84; 8:45 am]
BILLING CODE 3810-01-M

Department of the Army

Privacy Act of 1974; Deletions of and Amendments to Notices for Systems of Records

AGENCY: Department of the Army, DoD.

ACTION: Deletion of the amendment to notices for systems of records.

SUMMARY: The Department of the Army proposes to delete 4 and amend 1 system notices for systems of records subject to the Privacy Act of 1974. Following identification of changes, amendment notice is printed below in its entirety.

DATES: Actions shall be effective on or before Mardh 12, 1984.

ADDRESSES: Comments may be submitted to Headquarters, Department of the Army, ATTN: DAAG-AMR-S, 2461 Eisenhower Avenue, Alexandria, VA 22331.

FOR FURTHER INFORMATION CONTACT: Mrs. Dorothy Karkanen, Office of The Adjutant General, Headquarters, Department of the Army, at the above address; telephone: 703/325-6163.

SUPPLEMENTARY INFORMATION: Army systems of records notices subject to the Privacy Act of 1974, as amended, Title 5, U.S.C. 552a, have been published previously in the **Federal Register.**

These actions do not require a report of an altered system pursuant to 5 U.S.C. 552a(o).

February 2, 1984.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

DELETIONS

A012.09aDASG

System name: House Staff Evaluation Report Files (48 FR 25738), June 6, 1983.

Reason: Records are covered by system notice A0708.08aDAPC, Career Management Individual Files.

A1012.11aDASG

System name: Continuing Medical Education Course (48 FR 25739), June 6, 1983.

Reason: Records are covered by system notice A0708.08aDAPC, Career Management Individual Files.

A1013.04DASG

System name: Residency, Subspecialty and Fellowship Training (48 FR 25741), June 6, 1983.

Reason: Records are covered by system notice A0708.08aDAPC, Career Management Individual Files.

A1013.05DASG

System name: US Army Graduate Medical Evaluation Trainee Card File (48 FR 25742), June 6, 1983.

Reason: Records are covered by system notice A0708.06aDAPC, Career Management Individual Files.

AMENDMENT

A0319.01DACA

System name: Out-of-Service Accounts Receivables (49 FR 2006 and 3239), January 17 and 26, 1984.

Changes:

Disclosure to Consumer Reporting Agencies:

Delete period and insert the following:

"when an individual is responsible for a debt to the U.S. Army, provided the debt has been validated, is overdue, and the debtor has been advised of the disclosure and his rights to dispute, appeal or review the claim; and/or whenever a financial status report is requested for use in the administration of the Federal Claims Collection Act. Claims of the United States may be compromised, terminated or suspended when warranted by information collected."

System A0319.01DACA reads as follows:

A0319.DACA

SYSTEM NAME:

Out-of-Service Accounts Receivables

SYSTEM LOCATION:

U.S. Army Finance and Accounting Center, Ft. Benjamin Harrison, IN 46249.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Separated and retired military/civilian personnel and others indebted to the U.S. Army.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records of current and former military members and civilian employees' pay accounts showing entitlements, deductions, payments made, and any indebtedness resulting from deductions and payments exceeding entitlements. These records include, but are not limited to:

a. Individual military pay records, substantiating documents such as military pay orders, pay adjsutment authorizations, military master pay account printouts from the Joing Uniform Pay System (JUMPS), records of travel payments, financial record data folders, miscellaneous vouchers, personal financial records, credit reports, promissory notes, individual financial statements, and correspondence;

b. Applications for waiver of erroneous payments or for remission of indebtedness with supporting documents, including, but not limited to statements of financial status (personal income and expenses), statements of commanders and/or accounting and finance officers, correspondence with members and employees;

c. Claims of individuals requesting additional payments for service rendered with supporting documents including, but not limited to, time and attendance reports, leave and earnings statements, travel orders and/or vouchers, and correspondence with members and employees;

d. Delinquent accounts receivable from field accounting and finance officers including, but not limited to, returned checks, medical services billings, collection records, and summaries of the Army Criminal Investigations Command and/or Federal Bureau of Investigation reports;

e. Reports from probate courts regarding estates of deceased debters;

f. Reports from bankruptcy courts regarding claims of the United States against debtors.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

31 U.S.C., section 3711; 10 U.S.C., section 2774; and 12 U.S.C., section 1715.

PURPOSE:

To process, monitor, and post-audit accounts receivable, to administer the Federal Claims Collection Act, and to answer inquiries pertaining thereto.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information may be disclosed to:

US Department of Justice-US Attorneys: For legal action and/or final dispostion of the debt claims. The litigation briefs (comprehensive, written referral recommendations) will restructure the entire scope of the collection cases.

Internal Revenue Service: To obtain locator status for delinquent accounts receivables; (Automated controls exists to preclude redisclosure of solicited IRS address date); and/or to report write-off amounts as taxable income as pertains to amounts compromised and accounts barred from litigation due to age.

Private Collection Agencies: For collection action when the Army has exhausted its internal collection efforts.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosures pursuant to 5 U.S.C. 552a(b)(12). Disclosures pursuant to 4 U.S.C. 552a(b)(12) may be made to 'consumer reporting agencies' as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)) when an individual is responsible for a debt to the US Army, provided the debt has been validated, is overdue, and the debtor has been advised of the disclosure and his rights to dispute, appeal or review the claim; and/or whenever a financial status report is requested for use in the administration of the Federal Claims Collection Act. Claims of the United States may be compromised, terminated or suspended when warranted by information collected.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in collection file folders and bulk storage; card files, computer magnetic tapes and printouts; microfiche.

RETRIEVABILITY:

By Social Security Number, name, and substantiating document number: conventional indexing is used to retrieve data.

SAFEGUARDS:

The US Army Finance and Accounting Center employs security guards. An employee badge and visitor registration system is in effect. Hard copy records are maintained in areas accessible only to authorized personnel who are properly screened, cleared and trained. Computerized records are accessed by custodian of the records system and by persons responsible for servicing the records system in the performance of their official duties. Certifying finance and accounting officers of debts have access to debt information to confirm .f the debt is valid and collection action is to be continued. Computer equipment and files are located in a separate secured area.

RETENTION AND DISPOSAL:

Individual military pay records and accounts receivables are converted to microfiche and retained for 6 years. Destruction is by shredding. Retention periods for other records vary according to category, but total retention does not exceed 56 years; these records are sent to the Federal Records Center, General Services Administration at Dayton, Ohio; destruction is by burning or salvage as waste paper.

SYSTEM MANAGER(S) AND ADDRESS:

Commander, US Army Finance and Accounting Center, Indianapolis, IN 46249.

NOTIFICATION PROCEDURE:

Individuals desiring to know whether this system of records contains information about them should contact the System Manager, ATTN: FINCP–F, furnishing full name, Social Security Number, and military status or other information verifiable from the record itself.

RECORD ACCESS PROCEDURES:

Individuals seeking access to records in this system pertaining to them should submit a written request as indicated in "Notification procedure" and furnish information required therein.

CONTESTING RECORD PROCEDURES:

The Army's rules for access to records and for contesting contents and appealing initial determinations are contained in Army Regulation 340–21 (32 CFR Part 505).

RECORD SOURCE CATEGORIES:

Information is received from Department of Defense staff and field installations, Social Security Administration, Treasury Department, financial organizations, and automated system interface.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 84-3685 Filed 2-9-84; 8:45 am]

BILLING CODE 3710-08-M

Army Science Board; Open Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following Committee Meeting:

Name of the Committee: Army Science Board (ASB).

Dates and Times of Meeting:

Tuesday, 28 February 1984—1300–1715 hours (Open)

Wednesday, 29 February 1984—0830–1700 hours (Open)

Thursday, 1 March 1984—0800–1100 hours (Open)

Place: Center for Leadership & Ethics, and Command and General Staff College, Fort Leavenworth, Kansas.

Agenda: The ASB Leadership Subpanel of the 1984 Summer Study on Leading and Manning Army 21 will meet for briefings and discussions on the leadership development system in the Army school system. This meeting is open to the public. Any interested person may attend, appear before, or file statements with the committee at the time and in the manner permitted by the committee. For further information please contact Sally Warner, the ASB Administrative Officer, at (202) 695–3039 or 695–7046.

Sally A. Warner,

Administrative Officer.

[FR Doc. 84-3774 Filed 2-9-84; 8:45 am]

BILLING CODE 3710-08-M

DEPARTMENT OF EDUCATION

Pell Grant Program; Deadline Dates

AGENCY: Department of Education.

ACTION: Notice of deadline dates for receipt of applications, reports, and other documents under the Pell Grant Program for the 1983–84 award year.

SUMMARY: The Assistant Secretary for Postsecondary Education announces the deadline dates for the receipt of documents from persons applying for financial assistance under, and from institutions participating in, the Pell Grant Program during the 1983–84 award year.

SUPPLEMENTARY INFORMATION: The purpose of the Pell Grant Program is to assist students in the continuation of their training and education at the postsecondary level by providing financial aid to help pay for their educational costs. Authority for the Pell Grant Program is contained in section 411 of the Higher Education Act of 1965, as amended (20 U.S.C. 1070a). The regulations for the Pell Grant Program are codified in 34 CFR Part 690.

Determination of Expected Family Contribution

As a prerequisite to receiving a Pell Grant, each applicant is responsible for submitting to an institution of higher education—or to the Secretary of Education in the case of institutions under the Alternate Disbursement System (ADS)—a valid Student Aid Report (SAR) that states the amount of the student's expected family contribution (referred to on the SAR as a student aid index) and the information used in calculating that amount. Consequently, each applicant must first submit to an agency listed in Table I of this notice his or her application for determining the expected family contribution. That application—referred to in this notice as the original application—must be submitted on one of the forms shown in Table I and received by the designated agency at the agency's address no later than the deadline date, May 1, 1984, shown in Table I.

TABLE I.—DEADLINE DATE FOR RECEIPT OF APPLICATION FORMS FOR DETERMINING EXPECTED FAMILY CONTRIBUTION: MAY 1, 1984

Type of form	Address for submission
Application for Federal student aid (AFSA).	Federal Student Aid Programs, P.O. Box 92831, Los Angeles, CA 90009.
Special condition application for Federal student aid.	Federal Student Aid Programs, P.O. Box 92831, Los Angeles, CA 90009.
Family financial statement (FFS).	Act Student Need Analysis Services, P.O. Box 1000, Iowa City, IA 52243.
Financial aid form (FAF)	College Scholarship Service, Box 2700, Princeton, NJ 08541, or College Scholarship Service, Box 380, Berkeley, CA 94701.
Pennsylvania Higher Education Assistance Agency (PHEAA).	Pennsylvania Higher Education Assistance Agency, P.O. Box 3157, Harrisburg, PA 17105.
Student aid application for California (SAAC).	College Scholarship Service, Box 70, Berkeley, CA 94701.

Other Documents

Once an applicant has filed his or her original application, additional information may be necessary. In some cases the agency receiving the original application may request the information. In other cases, the applicant is responsible for initiating a request that additional or alternative information be considered.

These other documents are listed in four categories in Table II of this notice. Each category designates an address to which the specified information or request must be sent, and the deadline date by which that information or request must be received at that address.

Category 1—If an original application is incomplete, the Secretary will send a correction application to the applicant. In addition, if an applicant has misreported his or her dependency status on the original application, the applicant has the responsibility for requesting a correction application. The correction application must be retured to the appropriate address listed in Table II and received at that address no later than the deadline date, July 16, 1984, shown in Table II.

Category 2—If an edit check causes the Secretary to return an SAR to an applicant for verification of correct information on the SAR, that SAR, with the verification statement checked—if appropriate—must be returned to the appropriate address listed in Table II and received at that address no later than the deadline date, July 16, 1984, shown in table II.

Note.—This verification of correct information is different from a request for validation, explained elsewhere in this notice.

Category 3—If an applicant wishes to have his or her student aid index recomputed—because of a clerical or arithmetic error or because of extraordinary circumstances as described in §§ 690.39(c) or 690.48)c) of the regulations for the Pell Grant Program—the applicant may request a recomputation of the index. In addition, if the applicant wishes to correct misreported data on the SAR he or she may do so. These requests must be on the SAR, sent to the appropriate address listed in Table II, and received no later than the deadline date, July 16, 1984, shown in Table II.

Category 4—If an applicant wishes to receive a duplicate SAR, the applicant must submit to the appropriate address listed in Table II a written request for that duplicate. The request must be received at that address no later than the deadline date, July 16, 1984, shown in Table II.

TABLE II.—DEADLINE DATE FOR RECEIPT OF OTHER DOCUMENTS: JULY 16, 1984

Type of form	Address for submission
Application for Federal student aid correction application (category 1).	Federal Student Aid Programs, P.O. Box 92842, Los Angeles, CA 90009.
Request for verification of correct information (category 2).	Federal Student Aid Programs, P.O. Box 92842, Los Angeles, CA 90009.
Request for: (1) Recomputation of a student aid index because of clerical or arithmetic errors, or because of extraordinary circumstances as described in §§ 690.39(c) and 690.48(c) of the Pell grant program regulations, (2) correction of misreported data (category 3).	Federal Student Aid Programs, P.O. Box 92842, Los Angeles, CA 90009.
Request in writing, for a duplicate SAR (category 4).	Federal Student Aid Programs, P.O. Box 92842, Los Angeles, CA 90009.

Students Enrolled in Institutions Under the Alternate Disbursement System (ADS)

In order to receive a Pell Grant payment, the applicant who attends an institution participating in the Pell Grant Program under the Alternate Disbursement System must submit a valid SAR and an ED Form 304, completed by the institution, to the appropriate address listed in Table III of this notice. The required documents must be received at that address no later than the appropriate deadline date specified in this notice.

If a student must submit an additional or corrected request for payment, that request must be made on ED Form 304–1, submitted to the appropriate address listed in Table III, and received at the address no later than the deadline date, August 20, 1984, shown in Table III.

TABLE III.—DEADLINE DATES FOR RECEIPT OF THE SAR AND ED FORMS UNDER THE ALTERNATE DISBURSEMENT SYSTEM

Deadline date	Form	Address for submission
June 11, 1984	Request for payment—SAR and ED form 304—for a student enrolled before May 1, 1984.	Federal Student Aid Programs, P.O. Box [illegible], Los Angeles, CA 90009.
July 10, 1984	Request for payment—SAR and ED form 304—for a student enrolled on or after May 1, 1984.	Federal Student Aid Programs, P.O. Box [illegible], Los Angeles, CA 90009.
Aug. 20, 1984	Additional and/or corrected request for payment—ED form 304–1.	Federal Student Aid Programs, P.O. Box [illegible], Los Angeles, CA 90009.

Note.—Table III does not apply to students enrolled in institutions that participate in the Pell grant program under the regular disbursement system (RDS).

Validation Procedures and Deadline Dates

The information submitted on an application and included on an SAR may be subject to verification. In that case, in order to receive a Pell Grant award for the 1983–84 award year, the applicant—and his or her parents, if applicable—must submit the necessary verification documents in accordance with the following validation procedures. The documents must be received no later than the deadline date specified in these procedures.

This part of the notice applies to applicants undergoing validation and does not conflict with nor supersede the deadline dates specified in Tables I, II, and III of this notice.

Regular Disbursement System

Verification of Information on Application. If an applicant is selected to have the information on his or her application verified under the validation procedures, and if the applicant attends an institution that participates in the Pell Grant Program under the Regular Disbursement System (RDS), he or she must complete the entire validation procedure as noted below within 60 days from his or her last day of enrollment or August 15, 1984, whichever comes first.

In order to complete the validation process, the applicant must submit all requested verification documents to his or her institution. If after submission of these documents the SAR needs to be corrected, the applicant must—

(1) make the correction on the SAR,

(2) submit the corrected SAR to the Department of Education's processing center at the address indicated on the insert to the SAR, and;

(3) resubmit the corrected/reprocessed SAR to the institution.

Alternate Disbursement System

Verification of information on application. If an applicant is selected to have the information on his or her application verified under the validation procedures and the applicant attends an institution that participates in the Pell Grant Program under the Alternate Disbursement System (ADS), he or she must submit the requested documents as specified below. The documents must be received within 60 days from his or her last day of enrollment or August 15, 1984, whichever comes first.

If the ADS institution conducts the verification, the applicant must: (1) submit the requested documents along with the SAR to the institution, (2) correct any inaccurate information reported on the SAR, (3) sign and resubmit the SAR with corrections to the Department of Education's Processing Center in Los Angeles, California by the deadline date established for correcting a Student Aid Report, and (4) submit the corrected/reprocessed SAR received from Los Angeles to the institution.

If the Department of Education conducts the verification, the applicant must: (1) submit his or her SAR along with requested documents to: ADS Validation, P.O. Box 23967, Washington, D.C. 20026, (2) correct any inaccurate information reported on the SAR, if requested by the Secretary or the institution, (3) sign and resubmit the SAR with corrections for reprocessing to the Department of Education, Student Validation Branch, P.O. Box 23967, Washington, D.C. 20036, and (4) submit the corrected/reprocessed SAR received from the Department of Education to the institution.

Receipt of Payment. To receive a payment, the student whose SAR was selected for validation must submit the corrected/reprocessed SAR, along with ED Form 304 or 304–1, completed by the institution to: Federal Student Aid Program, P.O. Box 92834, Los Angeles, California 90009. The documents must be received no later than September 30, 1984.

Progress Reports and Student Validation Rosters

An institution participating in the Pell Grant Program is required to provide to the Secretary progress reports and a student validation roster. These documents must be received at the address specified in Table IV of this notice no later than the appropriate

deadline date shown in Table IV. Failure of an institution to comply with these requirements may result in the initiation of a proceeding to fine, suspend, limit or terminate the institution in accordance with Subpart G of the Student Assistance General Provisions regulations in 34 CFR 668.

TABLE IV.—DEADLINE DATES FOR RECEIPT OF PROGRESS REPORTS AND THE STUDENT VALIDATION ROSTER

Deadline date	Type of form	Address for submission
Nov. 15	Oct. 31 progress report	Pell Grant Program, P.O. Box 2468, Washington, D.C. 20013.
Mar. 15	Feb. 28 progress report	Pell Grant Program, P.O. Box 2468, Washington, D.C. 20013.
July 15	June 30 progress report	Pell Grant Program, P.O. Box 2468, Washington, D.C. 20013.
Six weeks after its receipt by an institution.	Student validation roster	Pell Grant Program, P.O. Box 2468, Washington, D.C. 20013.

Application Forms and Information. Student aid application forms, correction application forms, and information brochures may be obtained from college and university financial aid administrators, high school counselors, Educational Opportunity Center counselors, or by writing to: Federal Student Aid Programs, P.O. Box 84, Washington, D.C. 20044.

Applicable Regulations. The regulations applicable to this program are the Pell Grant Program regulations in 34 CFR Part 690, and the Student Assistance General Provisions regulations in 34 CFR Part 668.

FOR FURTHER INFORMATION CONTACT: Ms. Gail L. Cornish, Pell Grant Program Specialist, Policy Section, Pell Grant Branch, Division of Policy and Program Development, Office of Student Financial Assistance, Office of Postsecondary Education, U.S. Department of Education, 400 Maryland Avenue SW., (ROB–3, Room 4318), Washington, D.C. 20202. Telephone (202) 472–4300.

(Catalog of Federal Domestic Assistance No. 84.063, Pell Grant Program)

Dated: February 2, 1984.

Edward M. Elmendorf,

Assistant Secretary for Postsecondary Education.

[FR Doc. 84–3050 Filed 2–9–84; 8:45 am]

BILLING CODE 4000–01–M

National Advisory Committee on Accreditation and Institutional Eligibility; Meeting

AGENCY: Department of Education.

ACTION: Notice of public meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a public meeting of the National Advisory Committee on Accreditation and Institutional Eligibility. It also describes the functions of the Committee. Notice of this meeting is required under Section 10(a)(2) of the Federal Advisory Committee Act. This document is intended to notify the general public of its opportunity to attend and to participate.

DATES: March 6, 1984, 9:00 a.m. to 5:00 p.m., local time; March 7, 8:30 a.m. to 5:00 p.m.; and March 8, 8:30 a.m. to 3:00 p.m. Requests for oral presentations before the Committee must be received on or before February 21, 1984. Written comments may be submitted at any time prior to the meeting and will be considered by the Advisory Committee.

ADDRESS: Sheraton National Hotel, Columbia Pike and Washington Boulevard, Arlington, Virginia.

FOR FURTHER INFORMATION CONTACT: Richard J. Rowe, Director, Eligibility and Agency Evaluation Staff, Office of Postsecondary Education, 400 Maryland Avenue, SW. (Room 3030 ROB–3), U.S. Department of Education, Washington, D.C. 20202 (202–245–9873).

SUPPLEMENTARY INFORMATION: The National Advisory Committee on Accreditation and Institutional Eligibility is authorized by Section 1205 of the Higher Education Act as amended by Pub. L. 96–374 (20 U.S.C. 1145). The Committee advises the Secretary of Education regarding his responsibility to publish a list of nationally recognized accrediting agencies and associations, State agencies recognized for the approval of public postsecondary vocational education, and State agencies recognized for the approval of nurse education.

The Committee also advises the Secretary of Education regarding policy affecting both recognition of accrediting and approval bodies, and institutional eligibility for participation in Federal funding programs. The meeting on March 6–8 will be open to the public. The meeting will be held at the Sheraton National Hotel, Columbia Pike and Washington Boulevard, Arlington, Virginia. On March 6 and 7, the Advisory Committee will review policy issues: Items scheduled for discussion include such matters as:

Should the Secretary limit the scope of recognition of specialized accrediting agencies to only free-standing institutions and to units or programs that are not located within institutionally accedited institutions?

Should an accrediting agency be required to obtain recognition from the Council on Postsecondary Accreditation before seeking recognition by the Department in order to establish compliance with criterion (c)(1) of the Criteria for Recognition?

Should an agency seeking initial recognition receive a recognition period longer than two years? Discuss and recommend the circumstances, conditions, and degree of compliance or deficiency which would ordinarily result in recognition periods of one, two, three or four years.

Should the Department of Education propose broadening the scope of the "Mondale Amendment" to include recognition of State agencies for approval of private, as well as public, postsecondary vocational education?

Should the Department of Education require as a criterion for recognition that accrediting agencies examine the "fiscal responsibility" (capability to effectively administer Federal funds) of institutions or programs reviewed? If so, precisely how should the criterion be stated? What would be an effective process to determine compliance with this criterion?

To what extent can, or should, the Advisory Committee encourage the coordination of accreditation activities of both the regional and specialized agencies as these relate to individual institutions and their programs?

Should the "Special Procedure" for processing renewal petitions and reports be continued, modified, or discontinued?

Review and discuss the present general procedures for the review of initial and renewal petitions.

Should the Eligibility and Agency Evalution Staff return to using a "rating sheet" or some other means of clearly indicating the criteria with which an agency complies, does not comply, or is in potential compliance?

How should the Department of Education conduct future reviews of the Committee on Allied Health Education and Accreditation and its cooperating review committees?

Review the policy book.

On March 8, the Advisory Committee will review petitions by the following accrediting and State approval agencies relative to initial or continued recognition by the Secretary of Education. The Committee will also hear presentations by representatives of these petitioning agencies and interested third parties. The agencies having petitions pending before the Committee are:

Petitions for Recognition as Nationally Recognized Accrediting Agencies and Associations

A. Petition for Initial Recognition

Commission on Opticianry Accreditation

B. Petitions for Continued Recognition

American Council on Pharmaceutical Education
Foundation for Interior Design Education Research, Committee on Accreditation
Southern Association of Colleges and Schools, Commission on Occupational Education Institutions
Western Association of Schools and Colleges, Accrediting Commission for Senior Colleges and Universities

C. Interim Report

National Accrediting Commission of Cosmetology Arts and Sciences

Petitions for Recognition as State Agencies for the Approval of Public Postsecondary Vocational Education

A. Petition for Initial Recognition

Washington State Board for Vocational Technical Education

B. Petitions for Continued Recognition

Oklahoma State Board for Vocational and Technical Education
Oklahoma State Regents for Higher Education

Petitions for Recognition as a State Agency for the Approval of Nurse Education

A. Request for Voluntary Withdrawal from Recognition

California Board of Registered Nursing

A portion of this meeting will be used by the Advisory Committee to make final recommendations to the Secretary on agencies reviewed under a special procedure. The list of agencies reviewed under the special procedure and a description of the procedure were published in the **Federal Register** on January 1984.

Requests for oral presentations before the Committee should be submitted in writing to Richard J. Rowe (address above). Request should include the names of all persons seeking an appearance, the organization they represent, and the purpose for which the presentation is requested. Requests should be received on or before February 21, 1984. Time constraints may limit oral presentations. However, all written materials will be considered by the Advisory Committee.

A record will be made of the proceedings of the meeting and will be available for public inspection at the office of the Eligibility and Agency Evaluation Staff, Office of Postsecondary Education, 400 Maryland Avenue, SW., (Room 3030 ROB–3), U.S. Department of Education, Washington, D.C. 20202, (202–245–9873) from the hours of 8:00 a.m. to 4:30 p.m., Monday through Friday.

Edward M. Elmendorf,

Assistant Secretary for Postsecondary Education.

[FR Doc. 84-3770 Filed 2-9-84; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP84–179–000]

El Paso Natural Gas Co.; Request Under Blanket Authorization

February 7, 1984.

Take Notice that on January 6, 1984, El Paso Natural Gas Company (El Paso), P.O. Box 1492, El Paso, Texas 79978, filed in Docket No. CP84–179–000 a request pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) that El Paso proposes to install and operate a sales meter station in order to permit the delivery of natural gas to Southern Union Gas (SUG) for resale to consumers in the communities of Belen and Los Lunas, Valencia County, New Mexico, under its authorization issued in Docket No. CP82–435–000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in its request on file with the Commission and open to public inspection.

El Paso states that it presently sells and delivers natural gas to SUG for distribution and resale to consumers situated in various communities and areas in New Mexico, pursuant to a service agreement dated February 1, 1970, between El Paso and SUG. El Paso states that it has received a written request from SUG for natural gas service at a new point on El Paso's existing 30-inch O.D. Permian—San Juan crossover line in Valencia County, New Mexico. In order to accommodate the subject request for natural gas service, El Paso proposes to install a sales meter station consisting of one 2⅜-inch O.D. tap and valve assembly, one 4½-inch O.D. standard orifice meter and one American 500B positive meter, with appurtenances, at a point on El Paso's existing 30-inch O.D. Permian—San Juan crossover line. SUG advises El Paso that the natural gas would be utilized to serve residential and commercial space heating requirements of consumers in the communities of Belen and Los Lunas, New Mexico, and environs and that the annual and maximum peak day deliveries required to serve the communities are estimated to be 418,020 Mcf and 4,491 Mcf, respectively, during the third full year of service. Initial deliveries of said natural gas are expected to begin by the end of March 1984, it is submitted.

El Paso states that the requested authorization would not alter SUG's entitlements under El Paso's permanent allocation plan. In addition, El Paso states the proposed sale of natural gas is permitted by and consistent with the high priority load growth provisions set forth in the General Terms and Conditions contained in El Paso's FERC Gas Tariff, First Revised Volume No. 1. El Paso and SUG would shortly execute revised Exhibits A and B to the service agreement in order to reflect SUG's requirements of natural gas at the proposed meter station, it is explained. El Paso further states that such requirements would not cause any shift in the pattern of El Paso's existing sales and that it would file revised Exhibits A and B with the Commission pursuant to Part 154 of the Commission's Regulations. El Paso believes that the proposed meter station would have a negligible effect upon its peak day and annual deliveries.

The total cost of the proposed facilities is estimated to be $75,000.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-3802 Filed 2-9-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP84-198-000]

Florida Gas Transmission Co.; Request Under Blanket Authorization

February 7, 1984.

Take notice that on January 16, 1984, Florida Gas Transmission Company (FGT), P.O. Box 44, Winter Park, Florida 32790, filed in Docket No. CP84-198-000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) that FGT proposes to construct and operate one sales tap at the delivery point to the City of Homestead (Homestead), Dade County, Florida, under the authorization issued in Docket No. CP82-553-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

FGT proposes to construct and operate a sales tap necessary to deliver additional volumes to Homestead. FGT states that it would construct approximately 8 miles of 6-inch pipeline from the 24-inch Turkey Point Lateral to the delivery point to Homestead, located at the end of the 4-inch Homestead Lateral. The 8-mile interconnection pipeline is an "eligible facility" within the meaning of § 157.202(b)(2), and since the project cost is within the automatic cost limit, it would be constructed and operated pursuant to Section 157.208(a), FGT asserts.

It is explained that Homestead uses gas to generate electricity and that the above-described additional facilities, which would be paid for by Homestead, would allow Homestead to increase its hourly takes of gas. FGT estimates that annually an additional 990 billion Btu would be sold to Homestead through the delivery point. The instant proposal would not affect Homestead's maximum annual contract quantity, it is submitted.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-3663 Filed 2-9-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP84-182-000]

Northern Natural Gas Company, Division of InterNorth, Inc.; Application

February 7, 1984.

Take notice that on January 9, 1984, Northern Natural Gas Company, Division of InterNorth, Inc. (Northern), 2223 Dodge Street, Omaha, Nebraska 68102, filed in Docket No. CP84-182-000 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation and exchange of natural gas with KN Energy, Inc. (KN), pursuant to the terms of a gas exchange agreement dated October 19, 1979, as amended, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

It is stated that the agreement provides for Northern and KN to gather, deliver, and exchange natural gas from acreage in Roger Mills County, Oklahoma. Northern explains that wells have been attached by the party having gathering facilities in the closest proximity in an effort to maximize utilization of gathering facilities. On June 30, 1980, the agreement was amended to add the #1-22 Abraham well in Roger Mills County and on December 8, 1982, the agreement was amended to correct the percent interest of three receipt points (No. 1 E.T. Gamble, No. 1 Spurlin, and No. 1-22 Abraham) in Roger Mills County, it is further stated.

Northern avers that the agreement provides that equal volumes of gas, on a thermal basis, are exchanged. If the gas received by one gathering party for the other gathering party's account are not equal, the agreement provides that Northern and KN use existing interconnections between their facilities in Kearny and Seward Counties, Kansas, as balancing points, it is further asserted. The use of these balancing points requires the use of jurisdictional pipeline facilities to conduct the exchange, it is explained. Northern avers that in the past exchanges pursuant to the agreement have taken place only within the field gathering systems. Currently, the exchange volumes delivered by KN are not sufficient to maintain a balance with volumes delivered by Northern and it is now necessary for the parties to use the balancing points, it is further stated.

Northern requests authorization to transport and exchange natural gas with KN pursuant to the terms of an October 19, 1979, gas exchange agreement, as amended. It is further requested that the Commission certificate the existing interconnections between Northern and KN in Seward and Kearny Counties as balancing points. Finally, Northern requests that the Commission grant authority to add and delete wells or other delivery and balancing points as required from time to time and to report such additions and deletions annually on or before January 31 of each year.

Any person desiring to be heard or to make any protest with reference to said application should on or before February 28, 1984, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be

unnecessary for Northern to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-3864 File 2-9-84; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. CP84-210-000]

Texas Eastern Transmission Corp.; Application

February 7, 1984.

Take notice that on January 26, 1984, Texas Eastern Transmission Corporation (Applicant), P.O. Box 2521, Houston, Texas 77252, filed in Docket No. CP84-210-000 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas for the account of Carnegie Natural Gas Company (Carnegie), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Pursuant to a transportation agreement dated January 12, 1984, Applicant proposes to transport up to 55,900 dt equivalent of natural gas per day for Carnegie from existing points of interconnection between Applicant and Carnegie located at either Applicant's meter station 1275 or meter station 008, both of which are located in Greene County, Pennsylvania. It is stated that equivalent volumes would be redelivered to Columbia Gas Transmission Corporation (Columbia), for the account of Carnegie, at existing delivery points between Applicant and columbia under Applicant's currently effective DCQ-C contract with Columbia. Further, it is stated, these volumes would only be redelivered to Columbia at points upstream of the points of interconnection between Applicant and Carnegie. Applicant requests a term for the proposed transportation commencing upon the date of the initial delivery and terminating on February 13, 1985.

Applicant proposes to charge Carnegie the applicable, effective Rate Schedule TS-1 rate. Applicant also proposes to retain all revenues derived from the proposed transportation service.

Any person desiring to be heard or to make any protest with reference to said application should on or before February 28, 1984, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-3865 Filed 2-9-84; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. CP84-122-000]

Texas Gas Transmission Corp.; Petition for Waiver of Rule

February 6, 1984.

Take notice that on February 3, 1984, Texas Gas Transmission Corporation (Petitioner), 3800 Frederica Street, Owensboro, Kentucky 42301, filed in Docket No. CP84-122-000 a petition for waiver of that part of § 157.209(e)(1) of the Regulations under the Natural Gas Act (18 CFR 157.209(e)(1)) which provides that service under the automatic authorization under said rule, under a certificate of public convenience and necessity issued pursuant to section 7(c) of the Natural Gas Act, shall not exceed a single term of 120 days.

In Docket No. CP84-122-000 Petitioner filed pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a prior notice request on December 9, 1983, as amended on December 29, 1983, for authorization to transport natural gas in interstate commerce on behalf of Armco Inc. under Petitioner's certificate of public convenience and necessity in Docket No. CP82-407-000. Service is said to have commenced October 14, 1983, and the 120-day period of automatic authorization will terminate February 13, 1984. Notice of the prior notice request for authorization was issued January 20, 1984, and the 45-day notice period will terminate March 5, 1984.

In its petition, Petitioner states that granting of a waiver would allow Armco Inc. to continue using low-cost gas in lieu of higher cost fuel. Further, it is stated, a waiver would benefit Petitioner's other customers since all transportation revenues in excess of one cent per Mcf and an added incentive charge of five cents per MMBtu are credited to Petitioner's customers. Petitioner requests that the rule be waived to permit service under the automatic authorization not only through the 45-day notice period but also through the 30-day reconciliation period provided by § 157.205(g) of the Regulations (18 CFR 157.205(g)), if necessary.

Any person desiring to be heard or to make any protest with reference to said petition should on or before February 10, 1984, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-3866 Filed 2-9-84; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. CP84-183-000]

Transcontinental Gas Pipe Line Corp.; Application

February 7, 1984.

Take Notice that on January 10, 1984, Transcontinental Gas Pipe Line Corporation (Transco), P.O. Box 1396, Houston, Texas 77251, filed in Docket No. CP84-183-000 an application pursuant to section 7(b) of the Natural

Gas Act for permission and approval to abandon certain facilities related to purchases of natural gas from Valero Interstate Transmission Company (Vitco), and jurisdictional service, if any, rendered by means of such facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Transco states that pursuant to the terms of a gas purchase agreement between Transco, as buyer, and Vitco, as seller, Transco has notified Vitco of its election to terminate said gas purchase agreement. Transco states that it purchases natural gas from Vitco at the South Texas Falfurrias Exchange located in Jim Wells County, Texas and the South Texas LaSalle Meter Station located in LaSalle County, Texas. Transco proposes to abandon its tap and valve at the South Texas Falfurrias Exchange and the measuring and regulating facilities at the South Texas LaSalle Meter Station that relate to delivery of gas from Vitco.

Transco states that the price it is obligated to pay Vitco for gas purchased under said agreement exceeds its average purchased gas cost. It is further stated that approval of this abandonment would allow Transco to replace the purchases from Vitco with more market responsive purchases. Transco further states that it has sufficient current supply to replace the purchases from Vitco, and that approval of this abandonment would not result in the termination of service to any of Transco's customers.

Any person desiring to be heard or to make any protest with reference to said application should on or before Feb. 28, 1984, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-3666 Filed 2-9-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-145-000]

Union Electric Co.; Order Conditionally Accepting for Filing and Suspending Rates, Granting Summary Disposition in Part, Granting Waiver of Notice Requirements, Denying Waiver of Cost Support Requirements, Noting Intervention, and Establishing Procedures

Issued: February 6, 1984.

On December 9, 1983, Union Electric Company (Union) tendered for filing a proposed unexecuted Electric Service Agreement between Missouri Utilities Company (Missouri) and the City of Malden, Missouri (Malden).[1] The proposed agreement is intended to supersede an existing service agreement between Missouri and Malden. Union also tendered for filing two unexecuted service schedules. Service Schedule A provides for interruptible power sales to Malden, while Service Schedule B provides for transmission service. On December 13, 1983, Union submitted revenue comparisons under the old and the new agreements which, according to Union, were inadvertently omitted from its December 9, 1983 filing.

At the time of filing, Missouri was a wholly-owned subsidiary of Union. However, on December 19, 1983, the Commission issued an order approving the merger of Missouri and several other subsidiaries into Union. *Union Electric Company*, 25 FERC ¶ 61,394. We have since been advised that the merger did, in fact, take place, effective January 1, 1984. Thus, Missouri has ceased to exist as a separate public utility. Presumably because the two companies were still separate entities on the date of filing, Union requested authorization to act as the designated representative of Missouri, pursuant to § 35.1(a) of the Commission's regulations, and to comply with sections 35.2(d) and 131.52 in the capacity of designated representative. These requests have been mooted by the merger.

Union asserts that the new service agreement is needed to reflect 1) the merger of Missouri with Union, and 2) Malden's desire for a transmission service agreement. Malden has been a wholesale partial requirements customer of Missouri taking service under Missouri's SFR-1 tariff. However, Malden has requested the transmission service in order to enable it to receive 5 MW of hydrolectric peaking power from the Southwestern Power Administration. (SWPA).

Union states that the rates contained in this filing are based on cost of service information already on file with the Commission in Docket No. ER83-646-000. Union therefore requests that the filing requirements of sections 35.13(d), (e), and (h) be waived to the extent that new documents are required, and that the Commission incorporate by reference the cost of service submitted in Docket No. ER83-646-000 in support of the rates proposed here.[2] Union also requests waiver of the notice requirements, a suspension of no more than one day, and an effective date of January 1, 1984, on the grounds that Malden must have an effective transmission service agreement by that date in order to be eligible to receive the peaking power from SWPA.

Notice of Union's filing was published in the **Federal Register** with responses due by January 3, 1984. Malden filed a timely motion to intervene requesting acceptance of portions of the filing and rejection of others. In particular, Malden asked that the Commission: (1) Accept the Electric Service Agreement and Schedule B (transmission service) to be effective on January 1, 1984, as requested by Union, with the exceptions noted below; (2) reject Schedule A (interruptible service); (3) reject sections 0.5, 1.1, 1.3, 2.1, 3.2, 3.4, and 6.6 of the proposed Service Agreement; (4) set for hearing the justness and reasonableness of those portions of the filing that are not rejected; and (5) deny waiver of section 35.13(h) of the Commission's regulations.

Malden stated that it was requesting that the agreement and transmission

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[1] *See* Attachment A for schedule designations.

[2] Docket No. ER83-646-000 involves a rate increase filing for service by Union to 14 wholesale customers, including those Union subsidiaries that have since been absorbed into Union by merger and Union's W-3 municipal full requirement customers.

schedule be accepted and suspended for no more than one day only because Malden cannot receive the SWPA power unless it has an effective arrangement for transmission service as of January 1, 1984. Malden does not, however, support the particular provisions of the Agreement or Schedule B, and in fact alleges that a number of provisions of both documents are unreasonable.[3] In addition, Malden has raised a variety of issues with respect to Service Schedule A.[4]

On January 17, 1984, Malden filed a request to withdraw its motion to reject Service Schedule A and related sections of the Service Agreement, consistent with a stipulation entered into by Malden and Union. Malden states that it executed the stipulation after being informed that Union would otherwise withdraw its proposed wheeling rates.

On January 20, 1984, Union filed an answer to Malden's motion to intervene and its original motion to reject. Union does not oppose the request for intervention, but does oppose rejection based on its understanding, from settlement discussions, that Malden had agreed not to object to Union's proposal to implement Service Schedules A and B concurrently.[5] Union also denies a number of Malden's allegations, without responding to the substance of the intervenor's claims, and objects to Malden's discussion of the parties' prior settlement negotiations.

[3] Malden has raised the following issues based on provisions of the Service Agreement: The interruptible nature of the proposed transmission service; the lack of a commitment to secure Missouri's cooperation; a late payment provision; a provision for interest on disputed bills; the right of the customer to be present at meter readings; notice required before emergency termination of service; waiver of liability; and a save harmless clause. Malden's challenges to the terms of Schedule B include: references to use of distribution facilities; conditions required before transmission service may be requested; conditions under which the company may decline to wheel; lack of firm transmission service and low priority of Malden as a transmission customer; obligation to suply reactive power; maintenance provisions; yearly review of the contract; a penalty for amounts exceed 5 MW; and a requirement that Malden supply copies of all correspondence and information pertaining to transmission service under the schedule.

[4] Malden has raised the following issues based on provisions of Schedule A: Discrimination; reasonableness of the demand charge; amortization of cancellation costs of Calloway Unit 2 revenue credit for a Westinghouse nuclear fuel settlement; price squeeze; effect of a minimum billing demand and penalty demand; lack of notice before a penalty demand is assessed; reasonableness of a supply facilities clause; reasonableness of the minimum monthly charge; and reasonableness of interruption of service provisions.

[5] Union also asserts that there is adequate cost support for the proposed rates and rate design, but does not identify any such support.

Discussion

Under Rule 214 of the Commission's Rules of Practice and Procedure (18 CFR § 385.214), Malden's timely motion to intervene serves to make it a party to this proceeding.

We note that the cost support which Union asks the Commission to adopt in this case was filed in another proceeding prior to Commission approval of Union's merger proposal; it does not reflect the system costs or the capitalization of the post-merger company which will be providing the proposed services. Further, we have been provided with no rational grounds upon which to conclude that the cost of service in Docket No. ER 83–646–000 represents reliable cost support for the rates to be charged by the surviving company.[6] Without proper support reflecting the costs of the utility providing service, the Commission will be unable to determine whether the currently proposed rates are just and reasonable. Therefore, Union's motion for waiver of sections 35.13 (d), (e), and (h) will be denied.

Typically, such a decision would cause the Commission to reject a utility's submittal. However, we note that Malden, the only affected customer, has specifically requested that Service Schedule B be accepted for filing and made effective promptly so that Malden may receive the SWPA peaking power. Malden has also withdrawn its motion to reject other portions of Union's filing in order to ensure its ability to secure wheeling service. Furthermore, we recognize that Union's submittal was tendered before its corporate merger was approved and that Union had no assurance as the whether or when the merger might be consummated. Thus, at the time of filing, Union arguably had little choice other than to rely upon its pre-merger costs. Under these narrow circumstances, we believe that an overly strict, after-the-fact approach to Union's filing would unduly penalize Union and unnecessarily complicate or jeopardize Malden's efforts to obtain the desired wheeling service. Accordingly, we shall accept Union's rates for filing, as set forth below, but we shall condition such acceptance on the requirement that Union provide appropriate cost support for the rates within 60 days of the date of this order.

[6] As noted in our order approving the Union merger in Docket No. EC83–13–000, Union indicated that the merger was expected to reduce the overall cost of serving Missouri customers. Union also stated in that proceeding that it intended to ultimately file rates that, as nearly as possible, mirror the rate schedules of its present subsidiaries and preserve existing relationships.

Malden has requested summary disposition with respect to three provisions of the Service Agreement on unrelated grounds. First, Malden argues that Section 3.2 would impermissibly allow the company to automatically terminate service if three monthly bills are outstanding. We agree. The provision in question contravenes section 35.15 of the Commission's regulations, which requires that a company file an appropriate notice of cancellation, as required by section 205 of the Federal Power Act, before service may be terminated. *Central Illinois Public Service Co.*, 17 FERC ¶ 61,090, p. 61,187 (1981). Indeed, a similar provision in an earlier proposed service agreement between Missouri and Malden was summarily rejected. *Missouri Utilities Co.*, 14 FERC ¶ 61,108, p. 61,200 (1981).

Second, Malden argues that Section 3.4 would impermissibly allow the company to add to the net bill any taxes "not included in [the] Company's determination" of the rates under which the billing will occur. As Malden notes, it is our policy not to permit tax clauses to be a basis for automatic changes in rates. *Arkansas Power & Light Co.*, 16 FERC ¶ 61,150, p. 61,341 (1981). Consistent with Commission precedent, we shall not reject this clause but we take this opportunity to advise the company that implementation of the clause will require a timely rate change filing pursuant to section 205 of the Federal Power Act and section 35.13 of our regulations.

Third, Malden asserts that Section 6.6 of the agreement, which requires the written consent of the company before Malden may modify or extend any existing interchange contracts or enter into any new ones, is anticompetitive. This allegation appears to raise questions of law or fact most appropriately addressed in the course of the hearing to be convened pursuant to this order.

Our review of Union's filing indicates that it has not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory or preferential or otherwise unlawful. Accordingly, we shall accept the submittal for filing, subject to the condition and summary dispositions discussed above, and we shall suspend the rates as ordered below.

The Commission explained its suspension policy in *West Texas Utilities Company*, Docket No. ER82–223–000, 18 FERC ¶ 61,189 (1982), noting that rate filings would ordinarily be suspended for five months where preliminary review indicates that the proposed rates may be unjust and

unreasonable and may generate substantially excessive revenues, as defined in *West Texas*. In the absence of adequate post-merger cost support, we are not persuaded that Union's filing will not produce substantially excessive revenues. However, in light of the clear request by Malden for a January 1, 1984 effective date for Service Schedule B, and in order to make the proposed transmission service immediately available, we shall grant waiver of the notice requirements and suspend the Service Agreement, as modified by summary disposition, as well as Service Schedule B to become effective, subject to refund, on January 1, 1984. The Schedule A rates for interruptible service will be suspended for five months from 60 days after filing, to become effective, subject to refund, on July 8, 1984.[7]

The Commission Orders

(A) Union's requests to utilize its cost of service study filed in Docket No. ER83-646-000 in support of its currently proposed rates and for waiver of the provisions of section 35.13 of the Commission's regulations are hereby denied.

(B) Union's request for waiver of the notice requirements is hereby granted.

(C) Summary disposition is hereby granted, as discussed in the body of this order, with respect to section 3.2 of Union's proposed Service Agreement.

(D) The proposed Service Agreement, exclusive of the provisions identified above, as well as the proposed Service Schedule B, are hereby accepted for filing and suspended to become effective, on January 1, 1984, upon the condition that within sixty (60) days of the date of this order, Union shall file cost support for its proposed rates conforming with section 35.13 of the Commission's regulations. Subject to the same condition, the proposed Schedule A rates are accepted for filing and suspended for five months to become effective, subject to refund, on July 8, 1984.

(E) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by section 402(a) of the Department of Energy Organization Act and by the Federal Power Act, particularly sections 205 and 206 thereof, and pursuant to the Commission's Rules of Practice and Procedure and the regulations under the Federal Power Act (18 CFR, Chapter I), a public hearing shall be held concerning the justness and reasonableness of the Union's rates.

(F) A presiding administrative law judge, to be designated by the Chief Administrative Law Judge, shall convene a conference in this proceeding, to be held within approximately fifteen (15) days of the date of this order, in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. The presiding judge is authorized to establish procedural dates and to rule on all motions (except motions to dismiss) as provided in the Commission's Rules of Practice and Procedure.

(G) The Secretary shall promptly publish this order in the **Federal Register.**

By the Commission.

Kenneth F. Plumb,

Secretary.

[7] Malden alleges that the interruptible power rate may create a price squeeze but does not request that formal price squeeze proceedings be initiated. If Malden continues to have such concerns following Union's submittal of appropriate cost support, it should seek the initiation of price squeeze procedures at that time.

Rate Schedule Designations

[Docket No. ER84-146-000]

Filed: December 8, 1983.

Effective: Conditional to Cost Support Filing; (1) and (3) January 1, 1984, and (2) July 8, 1984.

UNION ELECTRIC COMPANY

Designation	Description
(1) Rate Schedule, FERC No. 105.	Electric Service Agreement.
(2) Supplement No. 1 to Rate Schedule, FERC No. 105.	Service Schedule A—Interruptible Power Service.
(3) Supplement No. 2 to Rate Schedule, FERC No. 105.	Service Schedule B—Transmission Service.

[FR Doc. 84-3667 Filed 2-9-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-226-000]

Southwestern Electric Power Co.; Filing

February 7, 1984.

The filing Company submits the folowing:

Take notice that on January 27, 1984, Southwestern Electric Power Company (SWEPCO), tendered for fling a Letter Agreement between SWEPCO and the City of Lafayette, Louisiana (City), dated December 21, 1983, which provides for SWEPCO to furnish transmission service through its system for up to 12 megawatts of capacity and associated energy from the Southwestern Power Administration (SWPA) that City has arranged to be transmitted by SWEPCO to SWEPCO's interconnection with Central Louisiana Electric Company. The duration of the service is intended to be from January 1, 1984 through December 31, 1984.

SWEPCO requests an effective date of January 1, 1984, and therefore requests waiver of the Commission's notice requirements.

Copies of this filing were served upon the Arkansas Public Service Commission, Louisiana Public Service Commission, Public Utility Commission of Texas, Central Louisiana Electric Company, Southwestern Power Administration and the City of Lafayette, Louisiana.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before February 21, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-3709 Filed 2-9-84; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6232-001]

Steve Miller; Surrender of Preliminary Permit

February 7, 1984.

Take notice that Steve Miller, Permittee for the proposed Gregg Creek Hydroelectric Power Project No. 6232, has requested that his preliminary permit be terminated. The preliminary permit was issued on September 15, 1982, and would have expired March 31, 1984. The project would have been located on Gregg Creek in Humboldt County, California.

The Permittee filed his request on December 20, 1983, and the surrender of the preliminary permit for Project No. 6232 is deemed accepted as of December

20, 1983, and effective 30 days after the date of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-3710 Filed 2-9-84; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5229-001]

Tehama County Flood Control and Water Conservation District; Surrender of Preliminary Permit

February 7, 1984.

Take notice that Tehama County Flood Control and Water Conservation District (District), Permittee for the proposed Sulphur Creek Project No. 5229, has requested that its preliminary permit be terminated. The preliminary permit was issued on March 31, 1983, and would have expired on March 31, 1985. The project would have been located on Sulphur Creek in Tehama County, California. District cites that the project is not economically feasible for development.

District filed its request on December 27, 1983, and the surrender of its permit for Project No. 5229 is deemed accepted effective 30 days from the date of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-3711 Filed 2-9-84; 8:45 am]

BILLING CODE 6717-01-M

Alabama-Tennessee Natural Gas Co.; Interim Rate Filing

February 7, 1984.

Take notice that on February 1, 1984, Alabama-Tennessee Natural Gas Company (Alabama-Tennessee); Post Office 918, Florence, Alabama 35631, tendered for filing First Substitute Alternate Forty-Third Revised Sheet No. 3-A Superseding Alternate Forty-Third Revised Sheet No. 3-A to become effective January 1, 1984.

Alabama-Tennessee states that such revised tariff sheet is submitted in order to give its customers the benefit of substantial reductions in rates as provided for in rates as provided for in a Stipulation and Agreement filed concurrently with this tariff filing without awating Commission approval of such Stipulation and Agreement which has the ununanimous approval of all the parties, including the Commission's Staff.

Such revised tariff sheet provides for the following rates:

Rate schedule	Rates after current adjustment
G-1:	
Demand:	
D_1	$8.00
D_2	94.94¢
Commodity	312.63¢
SG-1: Commodity	365.95¢
I-1: Commodity	339.47¢

The above-stated rates are subject to the addition of a surcharge being added or to refund, in the event that the Commission disapproves the aforesaid Stipulation and Agreement. Alabama-Tennessee requests waiver of the notice or any other applicable provisions of the Commission's Regulations to permit the above-stated rates to become effective as of January 1, 1984.

Alabama-Tennessee states that copies of the tariff filing have been mailed to all of its jurisdictional customers and affected State Regulatory Commissions.

Any person desiring to be heard or to protest such filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C., 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before February 15, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene; provided however, that any person who has previously filed a petition to intervene in this proceeding is not required to file a further pleading. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-3712 Filed 2-9-84; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5088-001]

California Lumber; Surrender of Preliminary Permit

February 7, 1984.

Take notice that California Lumber, Permittee for the Long Ravine Hydroelectric Project, FERC No. 5088, has requested that its preliminary permit be terminated. The preliminary permit for Project No. 5088 was issued on January 31, 1983, and would have expired on January 31, 1985. The project would have been located on West Branch Feather River in Butte County, California.

California Lumber filed the request on November 7, 1983, and the surrender of the preliminary permit for Project No. 5088 is deemed accepted as of November 7, 1983, and effective as of 30 days after the date of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-3713 Filed 2-9-84; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6369-001]

Energenics Systems, Inc.; Surrender of Preliminary Permit

February 7, 1984.

Take notice that Energenics Systems, Inc. (ESI), Permittee for the Paint Creek Project No. 6369 located on Paint Creek in Highland County, Ohio has requested that its permit be terminated. The preliminary permit was issued on December 3, 1982, and would have expired on November 30, 1984.

ESI states that a lack of adequate head and flow at the proposed site has rendered the project infeasible.

ESI's request was dated January 6, 1984. The surrender of the permit is effective 30 days from the date of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-3714 Filed 2-9-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA84-1-24-000]

Equitable Gas Co.; Proposed Change in Rates

February 7, 1984.

Take notice that Equitable Gas Company (Equitable) on February 2, 1984, tendered for filing with the Commission Eighth Revised Sheet No. 10-G to its FERC Gas Tariff, First Revised Volume No. 1, to become effective March 1, 1984. Equitable Gas Company states that the change in rates results from the application of the Purchased Gas Cost Rate Adjustment provision in Section 5 of Rate Schedule GS-2 of FERC Gas Tariff, Original Volume No. 1, approved by the Commission in Docket No. CP80-473.

Equitable states that a copy of its filing has been served upon the purchaser and interested state commissions (and upon each party on the service list of Docket No. CP80-473).

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal

Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and the 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions and protests should be filed on or before February 16, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-3715 Filed 2-9-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-227-000]

Iowa Power and Light Co.; Filing

February 7, 1984

The filing Company submits the following:

Take notice that on January 27, 1984, Iowa Power and Light Company (Iowa) tendered for filing a Transmission Service Agreement dated September 7, 1983 (Agreement) between Company and Waverly Municipal Electric Utility ("Waverly").

The Agreement provides for utilization by Waverly of 6.9 MW of transmission capacity along Company's existing 345 KV transmission system from Hills Substation near Hills, Iowa to Sycamore Substation near Des Moines, Iowa.

Iowa states that the purpose of the proposed rate is to compensate Company for ownership costs of facilities to be provided, for associated operation and maintenance, and for transmission losses.

Iowa requests an effective date of July 1, 1983, and therefore requests waiver of the Commission's notice requirements.

Copies of this filing have been served upon the affected party and the Iowa State Commerce Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before February 21, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-3717 Filed 2-9-84; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 7084-001]

Lassen Associates; Surrender of Preliminary Permit

February 7, 1984.

Take notice that Lassen Associates Permittee for the Lassen Project, FERC No. 7084, has requested that his preliminary permit be terminated. The preliminary permit for Project No. 7084 was issued on July 29, 1983, and would have expired on December 31, 1984. The project would have been located on Parship Creek, in Lassen County, California.

Lassen Associates filed the request on November 18, 1983, and the surrender of the preliminary permit for Project No. 7084 is deemed accepted as of November 18, 1983, and effective as of 30 days after the date of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-3716 Filed 2-9-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP84-16-001]

Locust Ridge Gas Co.; Change in FERC Gas Tariff

February 7, 1984.

Take notice that on January 31, 1984, Locust Ridge Gas Company (Locust Ridge) tendered for filing the following revised sheets to its FERC Gas Tariff, as follows:

Original Volume No. 3—Substitute Fifteenth Revised Sheet No. 1A superceding Fifteenth Revised Sheet No. 1A.

Original Volume No. 1—Substitute Eighth Revised Sheet No. 1A superceding Eighth Revised Sheet No. 1A.

Locust Ridge states that copies have been sent to all parties of concern to this docket.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before February 14, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-3718 Filed 2-9-84; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5934-001]

Michael Earl Springer and James Baynard Boulden; Surrender of Preliminary Permit

February 7, 1984.

Take notice that Michael Earl Springer and James Baynard Boulden, Permittee for the Leavitt Creek Hydro Power Project, FERC No. 5934, have requested that their preliminary permit be terminated. The preliminary permit for Project No. 5934 was issued on April 16, 1982, and would have expired on February 29, 1984. The project would have been located on Leavitt Creek, in Mono County, California.

Michael Earl Springer and James Baynard Boulden filed the request on January 5, 1984, and the surrender of the preliminary permit for Project No. 5934 is deemed accepted as of January 5, 1984.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-3719 Filed 2-9-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP84-106-000]

Mid Louisiana Gas Co.; Informal Conference

February 7, 1984.

Take notice that an informal conference will be held to discuss the application filed by Mid Louisiana Gas Company on November 30, 1983 pursuant to § 157.209 of the Commission's Regulations for transport of natural gas under its blanket certificate issued in Docket No. CP82-539-000 to the Georgia Pacific Corporation.

The conference will be held February 10, 1984, at 10:00 a.m. in Rm 7312A at the offices of FERC, 825 North Capitol Street, NE., Washington, D.C. 20426. All interested parties are invited to

participate in the conference, and others may attend.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-3720 Filed 2-9-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP84-207-000]

Mississippi River Transmission Corp.; Request Under Blanket Authorization

February 7, 1984.

Take notice that on January 23, 1984, Mississippi River Transmission Corporation (MRTC), P.O. Box 14521, St. Louis, Missouri 63178, filed in Docket No. CP84-207-000 a request pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) that MRTC proposes to abandon natural gas service heretofore provided to Taracorp Industires, Inc. (Taracorp), at its plant located in Granite City, Illinois, and to abandon the facilities necessary to render such service under the authorization issued in Docket No. CP82-489-000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

MRTC states that Taracorp has consented to the proposed abandonment. It is estimated that the present cost applicable to removal and abandonment of the facilities would be approximately $4,000.

Any person or the Commission's staff may, within 45 days after issuance of the instand notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-3721 Filed 2-9-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP84-33-001]

Mountain Fuel Resources, Inc.; Change in FERC Gas Tariff

February 7, 1984.

Take notice that on January 30, 1984, Mountain Fuel Resources, Inc. (Resources) tendered for filing the following revision to its FERC Gas Tariff, Original Volume No. 1:

Substitute Original Sheet No. 5 to Resources' FERC Gas Tariff, Original Volume No. 1.

Resources states that this revision is to be in compliance with the January 6, 1984, letter order in Docket No. RP84-33-000. Resources was directed by the letter order to file a revised tariff sheet, which the above revision seeks to accomplish.

The revision is to be effective January 12, 1984, and Resources requests a waiver of those rules or regulations that may be necessary to allow for such an effective date.

Resources states that a copy of their filing has been sent to Northwest Pipeline Corporation, Northern Natural Gas Company and Mountain Fuel Supply Company.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before February 13, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-3722 Filed 2-9-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. RP82-126-005, CP80-78 and CP80-160]

Mountain Fuel Supply Co.; Proposed Changes in FERC Gas Tariff

February 7, 1984.

Take notice that on February 1, 1984, Mountain Fuel Supply Company (Mountain Fuel), tendered for filing and acceptance as part of its FERC Gas Tariff, Original Volume No. 1, the following tariff sheets:

Thirteenth Revised Sheet No. 1
Third Substitute Original Sheet No. 2-A
Second Revised Sheet No. 445
Second Revised Sheet No. 600
Second Revised Sheet No. 660
Substitute Original Sheet No. 736
Second Revised Sheet No. 765

The proposed effective date of Sheet Nos. 1, 445, 600, 660 and 765 is June 1, 1983. Sheet No. 2-A is to be effective for the period February 1, 1983, through May 31, 1983, and Sheet No. 736 is to be effective November 1, 1983. Mountain Fuel states that these tariff sheets have been filed in accordance with the November 16, 1983, Commission acceptance and approval of a Stipulation and Agreement in Docket No. RP82-126-000. (25 FERC ¶ 61,276.)

In addition to the tariff sheets, Mountain Fuel has submitted a report of amounts refunded to its jurisdictional transportation customers in connection with the three captioned dockets. Mountain Fuel states that a total of $1,935,842.74 was refunded and that $232,054.48 of the refund is attributable to the Commission's order in Docket No. CP80-78 (15 FERC ¶ 61,139), paid to Northern Natural Gas Company, and $160,135.82 of the refund is attributable to the Commission's order in Docket No. CP80-160 (15 FERC ¶ 61,241), paid to Natural Gas Pipeline Company of America. Mountain Fuel states that the amounts refunded include interest at rates that comport with section 154.67(c) of the Commission's Regulations.

Mountain Fuel states that it has provided a copy of this filing to its jurisdictional customers and affected state commissions pursuant to § 154.16(b) of the Commission's Regulations.

Any person desiring to be heard or to protest said filing should file a motion or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before February 15, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file

with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-3723 Filed 2-9-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. CP84-4-000 and CP82-355-000]

Natural Gas Pipeline Co. of America and Central Illinois Light Co.; Informal Conference

February 7, 1984.

Take notice that on February 16, 1984, an informal conference will be convened at the request of Natural Gas Pipeline Company of America and Central Illinois Light Company to discuss alleged differences in service proposed between the two companies in the above-captioned dockets. Said conference will be held in the offices of the Commission at 825 North Capitol Street, Washington, D.C., at 10:00 am, and all parties may at their option attend. Mere attendance will not serve to make one formally a party to either proceeding.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-3724 Filed 2-9-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA84-1-27-000]

North Penn Gas Co.; Proposed Changes in FERC Gas Tariff

February 7, 1984.

Take notice that North Penn Gas Company (North Penn) on February 2, 1984, tendered for filing proposed changes to its FERC Gas Tariff, First Revised Volume No. 1 pursuant to its PGA Clause for rates to be effective March 1, 1984.

Specifically, North Penn has included in its semiannual PGA, to be effective March 1, 1984, the following:

1. An increase of 50.638¢ per Mcf to reflect changes in the cost of gas purchased.

North Penn Gas Company, effective June 21, 1983, invoked the *force majeure* clauses in its gas pipeline supplier tariffs. North Penn has not paid any costs associated with volumes of gas not taken under its contracts with Consolidated Gas Supply Corporation and Tennessee Gas Pipeline Company.

North Penn has accumulated all gas costs billed and attributable to those volumes of gas not taken during the period May, 1983 through December 31, 1983 (i.e., demand costs and Winter the nongas fixed costs pertaining to those volumes below minimum bill level and the associated late payment charges computed through March 1, 1984) and has included the jurisdictional portion of these accumulated and unpaid costs ($3,099,480) as part of the current gas costs in this PGA filing.

2. A surcharge credit of 56.758¢ per Mcf (Appendix B) resulting from amounts accumulated in the Unrecovered Purchased Gas Cost Account for the period July 1, 1983 through December 31, 1983; the jurisdictional portion of supplier refunds received by North Penn for the same six-month period; carrying charges computed in accordance with the Federal Energy Regulatory Commission's (Commission) regulations; and a carry-over balance from the surcharge effective for the period March 1, 1983 through August 31, 1983.

As part of this filing, North Penn has also included Ninth Revised Sheet No. 15H which reflects no incremental pricing surcharges under Section 15 of the General Terms and Conditions of its tariff.

North Penn respectfully requests waiver of any of the Commission's Rules and Regulations as may be required to permit this filing to become effective March 1, 1984 as proposed.

Copies of this letter of transmittal and all enclosures are being mailed to each of North Penn's jurisdictional customers and interested State Commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before February 16, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-3725 Filed 2-9-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP84-43-000

Southwest Gas Corp. vs. Northwest Pipeline Corp.; Complaint

February 7, 1984.

Take notice that on January 31, 1984, Southwest Gas Corporation (Southwest) tendered for filing a Complaint against Northwest Pipeline Corporation (Northwest). This complaint requests refunds of wrongfully retained revenues from transportation services and further, for an order directing Northwest to treat future transportation revenues in accordance with the Stipulation and Agreement accepted by the Commission in *Northwest Pipeline Corporation*, 23 FERC ¶61,446, Docket No. RP82-56-000 (agreement) and Section 284.103(d) of the Commission's Regulations.

Southwest's argument is that Northwest's retention of certain transportation revenues is based upon using a definition of "representative level" that is borrowed from the agreement and applied to § 284.103(d) of the Commission's Regulations. The agreement spells out limitations concerning the representative level of services, but these limitations are not for the purpose of calculating the Part 284 credits to Account No. 191. By relying on the reduced definition supplied by the agreement, Northwest wrongfully decreased the credits and hence, wrongfully retained revenues.

This wrongful retention is in breach of the agreement and gives rise to Southwest's Compliant. In its Complaint, Southwest requests relief in the form of refunds and an order directing Northwest to discontinue its practice of reducing credits and retaining revenues.

The refunds are to be calculated by redefining the representation level of services using all Part 284 transactions and not the limited Part 284 transactions that were spelled out in the agreement. By looking at all Part 284 transactions, and redefining the representative level, Southwest feels that credits can be calculated and refunded, with interest, to all of Northwest's jurisdictional customers in a manner that will make them whole.

Furthermore, an order directing Northwest to discontinue its current practice has been requested by Southwest. Southwest requests that Northwest be directed to treat future transportation revenues in accordance with § 284.103(d) and the agreement, by taking into consideration all Part 284 transactions when defining the representative level of services.

Southwest states that its Compliant has been served upon Northwest and all

other persons designated on the official service list in Docket No. RP82–56–000.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before March 8, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84–3726 Filed 2–9–84; 8:45 am]

BILLING CODE 6717–01–M

Office of Hearings and Appeals

Issuance of Proposed Decisions and Orders, Period of December 19, 1983 Through January 20, 1984

During the period of December 19, 1983 through January 20, 1984, the proposed decision and order summarized below was issued by the Office of Hearings and Appeals of the Department of Energy with regard to applications for exception.

Under the procedural regulations that apply to exception proceedings (10 CFR Part 205, Subpart D), any person who will be aggrieved by the issuance of a proposed decision and order in final form may file a written notice of objection within ten days of service. For purposes of the procedural regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date an aggrieved person receives actual notice, whichever occurs first.

The procedural regulations provide that an aggrieved party who fails to file a Notice of Objection within the time period specified in the regulations will be deemed to consent to the issuance of the proposed decision and order in final form. An aggrieved party who wishes to contest a determination made in a proposed decision and order must also file a detailed statement of objections within 30 days of the date of service of the proposed decision and order. In the statement of objections, the aggrieved party must specify each issue of fact or law that it intends to contest in any further proceeding involving the exception matter.

Copies of the full text of these proposed decisions and orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room 1E–234, Forrestal Building, 1000 Independence Ave., SW., Washington, D.C. 20585, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays.

Dated: February 3, 1984.

George B. Breznay,

Director, Office of Hearings and Appeals.

Union Carbide Caribe, Inc., Phillips Petroleum Co., Phillips Puerto Rico Core, Inc., Commonwealth Oil Refining Company, Inc. HEE–0022, HEG–0015, HEE–0024, HEE–0025

Union Carbide Caribe, Inc., Phillips Petroleum Co., and Phillips Puerto Rico Core, Inc., and Commonwealth Oil Refining Co., Inc. filed Applications for Exception form the provisions of 10 CFR 211.67(d)(5)(iii). The exception requests, if granted, would permit the firms to be excused from refund requirements set forth in a decision issued by the Economic Regulatory Administration on March 11, 1982. In that decision, the ERA stated that due to an error in calculating entitlements for the applicants, the applicants received excessive entitlement benefits during 1977 and 1978, and that they should refund the excess benefits. On January 18, 1984, the Department of Energy issued a Proposed Decision and Order which determined that the exception requests be granted.

[FR Doc. 84–3657 Filed 2–9–84; 8:45 am]

BILLING CODE 6450–01–M

Cases Filed With the Office of Hearings and Appeals; Week of January 20 Through January 27, 1984

During the Week of January 20 through January 27, 1984, the appeals and applications for other relief listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Under DOE procedural regulations, 10 CFR Part 205, any person who will be aggrieved by the DOE action sought in these cases may file written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of the regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20585.

Dated: February 2, 1984.

George B. Breznay,

Director, Office of Hearings and Appeals.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS

[Week of Jan. 20 through Jan. 27, 1984]

Date	Name and location of applicant	Case no.	Type of submission
Jan. 23, 1984	Consolidated Materials, Inc., New Orleans, Louisiana	HRH–0023	Request for Evidentiary Hearing If granted: An evidentiary hearing would be convened in connection with Statement of Objections submitted by Consolidated Materials, Inc. in response to the December 10, 1982 Proposed Remedial Order issued to the firm.
Jan. 23, 1984	Halliburton Company, Houston, Texas	HRR–0078	Request for Modification/Rescission If granted: The May 25, 1983 Decision and Order (Case No. HRO–0111) issued to Halliburton Company would be modified regarding Halliburton Company's liability for overcharges.
Jan. 26, 1984	The Tulsa Tribune, Tulsa, Oklahoma	HFA–0207	Appeal of an Information Request Denial If granted: The December 20, 1983, Freedom of Information Request Denial issued by the Inspector General of the DOE would be rescinded, and The Tulsa Tribune would receive access to records of DOE's investigation of alleged "bad oil" at the Strategic Petroleum Reserve.

REFUND APPLICATIONS RECEIVED

[Week of Jan. 20 through Jan. 27, 1984]

Date	Name of refund proceeding/name of refund applicant	Case No.
Jan. 25, 1984	Amoco/Robert B. Wright	RF21-12266
Jan. 17, 1984	Amoco/Mateer Oil, Inc.	RF21-12267
Jan. 17, 1984	Amoco/Mateer Oil, Inc.	RF21-12266

[FR Doc. 84-3658 Filed 2-9-84; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[ER-FRL-2524-4]

Availability of Environmental Impact Statements Filed January 30 Through February 3, 1984 Pursuant to 40 CFR 1506.9

Responsible Agency: Office of Federal Activities, General Information (202) 382-5073 or (202) 382-5075.

EIS No. 840038, Final, UAF, WY, NB, Peacekeeper in Minuteman Silos 90th Strategic Missile Wing, F.E. Warren Air Force Base, Due: Mar. 12, 1984.

EIS No. 840039, Final, USN, GU, Outer Apra Harbor Ammunition Wharf, Construction, Mariana Islands, Due: Mar. 12, 1984.

EIS No. 840040, Draft, FWS, AK, Kenai National Wildlife Refuge, Conservation Mgmt. Plan, Kenai Peninsula Borough, Due: Mar. 31, 1984.

EIS No. 840041, Draft, STA, TT, LEG, Palau, Compact of Free Association, Trusteeship Termination and Implementations, Due: Mar. 26, 1984.

EIS No. 840042, Final, COE, IL, Eldred and Spankey Drainage and Levee District Flood Control, Greene and Jersey Counties, Due: Mar. 12, 1984.

EIS No. 840043, Report, COE, CA, Acme Landfill-Dredged Material Expansion, Permit, Contra Costa County.

EIS No. 840044, Report, COE, LA, Terrebonne Parish-wide Forced Drainage System, Permit.

EIS No. 840045, Draft, FHW, TN, Appalachian Corridor B, TN-61/TN-36, Improvement, Sams Gap to Erwin Bypass Unicoi County, Due: Mar. 26, 1984.

EIS No. 840046 Final, DOE, NH, VT, New England/Hydro-Quebec 450 Kv Direct Current Transmission Line Interconnection, Permit, Due: Mar. 12, 1984.

EIS No. 840047, Draft, COE, NY, Newton Creek Navigation Project, Maintenance Dredging, Kings and Queens Cos., Due: Apr. 5, 1984.

EIS No. 840048, Final, EPA, MA, Kingston Wastewater Collection and Treatment Facilities, Approval/Grant, Due: Mar. 12, 1984.

EIS No. 840049, Final, FHW, TX, TX-190, Construction, I-35E to TX-78, Dallas, Denton and Collin Cos., Due: Mar. 12, 1984.

EIS No. 840050, Final, UAF, OR, CA, WA, ID, West Coast Over-The-Horizon Backscatter Radar System, Construction/Operations, Due: Mar. 12, 1984.

Amended Notices:

EIS No. 840022, FSuppl, UPS, CT, US Postal Service General Mail Facility, Relocation, Fairfield County, Due: Feb. 27, 1984, Published FR 1-27-84 — Incorrect status.

EIS No. 770619, Draft, EPA, CA, Orange County Sanitation Districts Wastewater Management System, Improvement, Grant, Published FR 5-77 — Officially withdrawn.

EIS No. 840030, Draft, BLM, WY, UT, Powder River Coal Region, Round 2, Leasing, Due: Mar. 27, 1984. Published FR 02-03-84—Review extended.

Dated: February 7, 1984.

Allan Hirsch,

Director, Office of Federal Activities.

[FR Doc. 84-3739 Filed 2-9-84; 8:45 am]

BILLING CODE 6560-50-M

[PH-FRL 2517-6]

Pesticide Products; 2,4,5-T and Silvex Products; Filing of Objections To Intent To Cancel Registrations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Filing of Objections and Requests for Hearing.

Notice is hereby given, pursuant to § 164.8 of the rules of practice (40 CFR § 164.8) issued under the Federal Insecticide, Fungicide, and Rodenticide Act as amended (7 U.S.C. 136 *et seq.*) that objections and requests for hearings were filed by registrants and users of herbicide products containing, 2,4,5-trichlorophenoxy-acetic acid (2,4,5-T) or 2-(2,4,5-trichlorophenoxy-propionic acid (silvex)) in connection with the Administrator's October 14, 1983, notice of intent to cancel registrations, 48 FR 48434 (October 18, 1983). These proceedings have been consolidated for hearing by order of the Chief Administrative Law Judge dated December 9, 1a983.

Interested persons may refer to the dockets on file with the Hearing Clerk, U.S. Environmental Protection Agency (Mail Code A-110), Room 3708, Waterside Mall, 401 M Street, SW., Washington, D.C. 20460 (202-382-4865).

For Further Information Contact: Bessie Hammiel (202) 382-4865.

Washington, D.C., January 25, 1984.

J. F. Greene,

Administrative Law Judge.

[FR Doc. 84-3690 Filed 2-9-84; 8:45 am]

BILLING CODE 6560-50-M

[OW-FRL 2524-7]

Pretreatment Implementation Review Task Force; Establishment

This notice is published in accordance with Section 9(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463). Following consultation with the General Services Administration (GSA) and Office of Management and Budget, notice is hereby given that the Administrator of the Environmental Protection Agency is establishing the Pretreatment Implementation Review Task Force to provide advice and divergent views to the Administrator in the implementation of the national pretreatment program. It has been determined that establishment of this Task Force is in the public interest and will assist the Agency in performance of its duties as outlined by section 307 of the Federal Water Pollution Control Act, as amended.

In accordance with § 101-6.1015 of the GSA interim rule on Federal Advisory Committee Management, a waiver has been approved by GSA for good cause for publishing a notice less than 15 days prior to Congressional filing of the Charter. The Task Force's initial meeting will be held on February 14 and 15, in Conference Room S353, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C., as previously published in the **Federal Register.** It is necessary for the Task Force to begin work immediately as it is expected to produce an interim report in May 1984.

For Further Information Contact: Mary Anne Beatty, EPA Committee Management Officer (PM-213), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460, 202-382-5036.

Dated: February 5, 1984.

William D. Ruckelshaus,

Administrator.

[FR Doc. 84-3688 Filed 2-9-84; 8:45 am]

BILLING CODE 6560-50-M

[OPTS–44005; TSH–FRL 2524–8]

Alkyl Phthalates, Chlorinated Paraffins, 2-Chlorotoluene, Methyl Isobutyl Ketone, Formamide and Isophorone; Receipt of Test Data

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the data submissions from negotiated testing programs under section 4 of the Toxic Substances Control Act (TSCA) during the fourth quarter of 1983. These submissions include: (1) Results of a water solubility test for butyl 2-ethylhexyl phthalate; (2) reports on the teratogenic properties of an intermediate and a long-chain chlorinated paraffin, a 14-day dietary range-finding study of a short-chain chlorinated paraffin, a bioconcentration study of chlorinated paraffins, a dominant lethal study of a short-chain chlorinated paraffin, an *in vivo* cytogenetics study of a long-chain chlorinated paraffin, and environmental effects and environmental fate tests of various types of chlorinated paraffins; (3) a metabolism study of 2-chlorotoluene; (4) a 90-day inhalation study on methyl isobutyl ketone; (5) a 2-week range-finding study to assess dermal toxicity of formamide; and (6) an inhalation teratology probe study on isophorone.

FOR FURTHER INFORMATION CONTACT: Jack P. McCarthy, Director, TSCA Assistance Office (TS–799), Office of Toxic Substances, Environmental Protection Agency, Room E–543, 401 M Street SW., Washington, D.C. 20460, toll free: (800–424–9065), in Washington, D.C.: (554–1404), outside the USA: (Operator—202–554–1404).

SUPPLEMENTARY INFORMATION:

I. Alkyl Phthalates

The Chemical Manufacturers Association (CMA), on behalf of the Phthalates Esters Program Panel, is conducting testing on the alkyl phthalates, alkyl diesters of 1,2-benzenedicarboxylic acid, which are primarily used as plasticizers. The CMA's proposal was accepted by the Agency in lieu of a test rule under section 4 of the Toxic Substances Control Act and is described in the **Federal Register** of October 30, 1981 (46 FR 53775).

CMA's program examines aquatic toxicity, environmental transport and fate, and biodegradation of the high production alkyl phthalates and benzyl butyl phthalate. The program also examines, in a more experimental approach, potential oncogenic and mutagenic effects of selected alkyl phthalates and benzyl butyl phthalates. Basically, CMA's health effects testing program is a multi-stage test program consisting of two first-stage components: (1) A battery of short-term mutagenicity tests; and (2) a 21-day *in vivo* test with rats. CMA concurrently will be performing extensive metabolism work on di-2-ethylhexyl phthalate. Long-term tests, such as 2-year bioassays, will also be performed depending on the results of the short-term tests for other phthalates.

CMA submitted, as an addendum to their previous submission on water solubility of phthalate esters (48 FR 34119, July 27, 1983), the results of a water solubility test for butyl 2-ethylhexyl phthalate (BOP). BOP is a mixture of dibutyl, di-2-ethylhexyl, and butyl 2-ethylhexyl phthalates with different eluting times for each of the components. Solubility was measured using high performance liquid chromatography. A value of <4 parts per million (ppm) was calculated for the earliest eluting component and <1.2 ppm for the later eluting components of the compound. A theoretical water solubility value of 0.69 ppm was also calculated for BOP.

The studies submitted have been placed in the public file on alkyl phthalates and benzyl butyl phthalate (OPTS–42005).

II. Chlorinated paraffins

The Consortium of Chlorinated Paraffins Manufacturers is conducting a negotiated testing program on chlorinated paraffins, substances used primarily as flame retardants and plasticizers. This testing program, described in full in the **Federal Register** of January 8, 1982 (47 FR 1017), was accepted by the EPA in lieu of a chlorinated paraffins test rule under section 4 of TSCA. The negotiated testing program is a two-level testing scheme on four chlorinated paraffins of differing chain length and degree of chlorination. All four of the chlorinated paraffins have been tested in some of the lower-level tests, while other studies will test fewer. These lower-level tests included metabolism, teratology, and mutagenicity tests in bacteria and mammals, and subchronic toxicity tests in both mammals and aquatic organisms. The upper-level tests use the compound considered the most toxic in the lower-level tests, and will include a 2-generation reproductive study in rats and a number of specialized aquatic studies. The American members of the Consortium are also performing a reproductive study in mallard ducks with the short-chain chlorinated paraffin of 58 percent chlorination.

The Consortium has recently submitted the following studies.

1. The final report of a study in which sheepshead minnow embryos and larvae were exposed in a dynamic test system to the short-chain paraffin of 58 percent chlorination for a period of 28 days.

The authors reported that at the concentrations tested the chlorinated paraffin did not cause any significant effect on hatchability of embyros or on survival of larvae compared to the saline control. The highest concentration tested, 58.8 μg/l chlorinated paraffin, was considered to be a no-observed effect concentration (NOEC). An observed effect concentration (OEC) was not established in this study and a further study was initiated.

2. The final report of a study in which sheepshead minnow embryos and larvae were again exposed in a dynamic test system to the short-chain paraffin of 58 percent chlorination but for a period of 32 days.

The authors reported that at the concentrations tested the chlorinated paraffin did not cause any significant effect on the hatchability of embryos or on survival of larvae compared with the saline or acetone control populations.

However, statistically significant differences were found between exposed larvae and those from the saline control at the end of the study with respect to length and weight.

The OEC of the chlorinated paraffin was 620.5 μg/l. The highest NOEC tested was 279.7 μg/l.

3. The final report of studies designed to determine the background levels of chlorinated paraffins in organisms, fish food used in studies, and dilution waters.

The results for background levels indicate less than 2 μg/l total chloroparaffin in dilution waters, a range of 0.6 to 2.7 μg/kg total chloroparaffins in assorted fish feeds, and 1.3 and 1.4 μg/kg for total chloroparaffins in mussels and trout.

4. The final report of a study in which mussels (*Mytilus edulis*) were exposed to two concentrations of the short-chain paraffin of 58 percent chlorination in seawater for 12 weeks, at a temperature of 15° C.

The author reported that at measured concentration of 9.3 μg/l, the chlorinated paraffin caused a reduction in the growth rate of the mussels, as measured by both shell length increase and the weight of the soft tissues at the end of the exposure, compared with both the saline control and acetone

control. There were no significant effects on the shell growth or tissue weight of mussels exposed to a measured concentration of 2.3 μg/l, and there were no mortalities of the mussels at either of the concentrations of chlorinated paraffin.

5. The final report of a bioconcentration study in whch rainbow trout were exposed in a dynamic test system to the short-chain paraffin of 58 percent chlorination in freshwater at 12°C for a period of 168 days. From the analytical data, the approximate ranges of bioconcentration factors for chlorinated paraffin in the tissues and organs were 2,800–16,000 for liver, 11,700–15,500 for viscera, 1,300–1,600 for flesh, 3,400–5,000 for the carcass, and 3,600–5,300 for whole fish. (These factors relate to the mean maximum recorded during the exposure period and the mean level at the end of exposure.) Similarly, on depuration, elimination (expressed as half-life) was 9.9–11.6 days for the liver, 23.1–23.9 days for the viscera, 16.5–17.3 days for the flesh, 18.7–21.0 days for the carcass, and 18.7–19.8 days for the whole fish.

During the exposure period the chlorinated paraffin did not cause any significant mortality of the fish populations or any observed adverse physical effect; no behavioral differences were observed compared to controls.

6. The final report of a bioconcentration study in which common mussels were exposed in a dynamic test system to two concentrations (norminally 3 μg/l and 15 μg/l) of the short-chain paraffin of 58 percent chlorination in seawater. The exposure period at the lower test concentration was 147 days followed by a depuration period in seawater for an additional 98 days. Corresponding periods at the higher test concentration were 91 days and 84 days, respectively.

The results obtained can be summarized as follows:

The concentration of chlorinated paraffin in the separate organs measured and the whole animal were considered to have reached a plateau level during the exposure phase of the study. The bioconcentration factor (BCF) at the plateau level in whole mussels (defined as concentration in the animal/mean measured concentration in the water) was 40.9×10^3 at the lower exposure concentration, while at the higher exposure concentration, the BCF was 24.8×10^3. Of the individual tissues measured, the digestive gland showed the highest BCF with calculated values of 226×10^3 and 104×10^3 at the low and high exposure concentrations respectively, compared with 21.3×10^3 and 14.9×10^3 at the low and high exposure levels in the residual tissues. During depuration all mussel tissues rapidly lost the test substance, giving short half-lives of 9.2–9.9 days for mussels exposed to 10.1 μg/l (a mean concentration for the 15 μg/l does level) chlorinated paraffin and 13.1–19.8 days for mussels exposed to 2.35 μg/l (mean for 3 μg/l) chlorinated paraffin.

During the course of the study, the authors noted that the higher exposure concentraton of the chlorinated paraffin was exerting a toxic effect on the mussels.

7. The final report of a study on the acute and chronic toxicity of the short-chain paraffin of 58 percent chlorination in which mysid shrimp were investigated under continuous flow conditions in seawater of 20 percent salinity at a temperature of 25°C.

In the acute toxicity study, two separate test series were carried out. The 96-hour LC_{50} and 95 percent confidence limits (CL) for each were:

	96-hr LC_{50} (μg/l)	95% CL (μg/l)
Series 1	15.5	13.6–17.4
Series 2	14.1	12.0–16.3

These values were based on the measured concentrations of the test substance. The lowest measured concentration causing significant mortality of the mysids was 13.7 μg/l.

In the chronic toxicity (28-day) study there were no significant effects on the survival, sexual maturation, reproduction, or length of the mysid shrimp at the maximum measured concentration employed of 7.3 μg/l, compared with either the control or solvent control.

The "maximum acceptable toxicant concentration" was reported between 7.3 μg/l and 13.7 μg/l, based on measured concentrations.

8. The final report of a series of further investigations carried out on aqueous samples of four radiolabeled chlorinated paraffins generated in a study designed to determine their water solubility.

Using two separate analytical procedures strong evidence was found or chemical changes in the molecular structure of 59 percent chlorinated *n*-undecane-6-^{14}C when it was in contact with water for about 150 days. There was some evidence for less extensive chemical change in the molecules of chlorinated *n*-pentadecane and chlorinated *n*-pentacosane.

An attempt was made to determine the physical state of chlorinated *n*-undecane in the bulk water phase by filtration of samples through membranes of defined pore size. From the results obtained it was considered that somewhat less than half of the ^{14}C was present on particulate matter or present in very small droplets. The remainder could have existed in true solution.

Chlorinated *n*-undecane-6-^{14}C was used in admixture with a non-radiolabeled chlorinated paraffin in a series of aquatic toxicity tests. Using the same two analytical methods the compound was found to remain chemically stable for at least 14 days when in contact with water, thus according to the authors, demonstrating that the test animals had been exposed only to the intact chlorinated paraffin described in those studies.

9. The final report of a study in which rainbow trout were exposed in a dynamic test system to the short-chain paraffin of 58 percent chlorination for a period of 168 days (24 weeks).

At the concentrations tested, the chlorinated paraffin did not cause any significant mortality to the fish populations; no differences in behavior were observed compared with controls. The study also showed that there was no significant difference in growth of fish maintained in freshwater or in freshwater containing a solvent. Further, exposure of fish to 3.4 μg/l and 17.2 μg/l chlorinated paraffin did not inhibit growth. The authors reported that although there was an apparent enhancement of growth by exposure to 17.2 μg/l chlorinated paraffin compared with controls (which was seen in conjunction with increased food intake), this effect was only marginally statistically significant.

10. A report of a study conducted to determine the biodegradability of the short-chain paraffin of 58 percent chlorination under anaerobic conditions over a 56-day period. The authors report that major problems were encountered because of the development of a partial vacuum in the prescribed test system, resulting in an inability to obtain valid experimental data after a 10–14 day period.

However, the authors reported that ethanol, the reference substance, was readily biodegraded in the test system, in most cases by at least 50 percent after 3 days incubation. The authors report that the chlorinated paraffin did not appear to degrade in up to 28 days, the maximum period over which results were obtained.

11. The final report of a study in which *daphnia magna* were exposed in a dynamic test system to the short-chain paraffin of 58 percent chlorination for a period of 21 days.

Total mortality of the parent *Daphnia* occurred at measured concentrations of 16.3 mg/l and above within 6 days. There were no mortalities of the parent *Daphnia* at a measured concentration of 8.9 mg/l, but 37 percent of the offspring produced at this concentration were dead when separated from the exposure vessels, compared with 6 to 9 percent in the freshwater control and solvent control, respectively. There were no observed effects on the survival, reproduction, and growth (length after 21 days) of *Daphnia* exposed to a measured concentration of 5.0 mg/l. Based on this study the "maximum acceptable toxicant concentration" (MATC) was between 5.0 mg/l and 8.9 mg/l.

12. The final report of a study in which Charles River rats were used to determine the dominant lethal mutation potential of the short-chain paraffin of 58 percent chlorination.

Oral dosing with chlorinated paraffin at dose levels of 250, 750 or 2,000 mg/kg/day over a period of 5 days did not produce biologically meaningful differences in measured uterine parameters when compared to those of negative controls during the ten matings of the study. The authors concluded that no mutagenic potential was indicated for this chlorinated paraffin in this assay. In contrast, a dominant lethal mutation affecting the postmeiotic stage of spermatogenesis was detected in positive control group males as evidenced by statistically significant increases in early fetal deaths with corresponding decreases in the mean number of viable embryos during the first 4 weeks of mating.

13. The final report of a study in which male Fischer 344 rats were used to determine the *in vivo* cytogenetics of the long-chain paraffin of 70 percent chlorination to bone marrow cells.

No mortalities occurred among animals of this study. Body weight gain was minimal for 5 out of 8 rats treated with this chlorinated paraffin at 5,000 mg/kg/day; two of the remaining rats, however, showed a loss of body weight over the treatment period. During the period of treatment with cyclophosphamide, a mean body weight loss was noted for the test group.

There were statistically significant increases in most types of chromosomal aberrations for the group receiving cyclophosphamide, compared to the control group.

When administered to sexually mature male Fischer 344 rats at dosage levels up to 5,000 mg/kg/day by oral gavage for 5 consecutive days, this chloroparaffin did not produce any increase in the frequency of chromosome abnormalities, compared to control, and is described by the authors as not being clastogenic in this test system.

14. The final report of a range-finding teratology study in Charles River rats exposed to the long-chain paraffin of 70 percent chlorination from which exposure levels would be established for a teratology study.

The authors reported that there were no significant clinical or necropsy findings among the control or any treated group. Biologically meaningful differences were not found in mean maternal body weights and body weight changes for the 1,000 and 2,000 mg/kg/day dosage groups or in measured uterine parameters for any treated group when compared to those of the control group. Based on these results, dosage levels of 500, 2,000 and 5,000 mg/kg/day were selected for a teratology study in rats with this chlorinated paraffin.

15. The final report of a range-finding teratology study in Charles River rats exposed to the intermediate-chain paraffin of 52 percent chlorination from which exposure levels would be established for a terarology study.

The authors reported that survival was 100 percent in the control and 3,750 mg/kg/day groups. Treatment with chlorinated paraffin was associated with an increase in vaginal discharge and anogenital haircoat matting at the 5,000 mg/kg/day level only. No biologically meaningful differences in mean maternal body weight gain or measured uterine parameters were evident in the 3,750 or 5,000 mg/kg/day groups when compared to the control group. Based on these results, 5,000 mg/kg/day was selected as the highest dose level for a teratology study in rats with this chlorinated paraffin; the lower doses will be 500 and 2,000 mg/kg/day.

16. The final report of a teratology study in which Charles River rats were exposed to the long-chain paraffin of 43 percent chlorination. Dosage levels of 500, 2,000, and 5,000 mg/kg/day in corn oil were administered orally by gavage as a single daily dose on days 6 through 19 of gestation at a constant volume of 5 ml/kg.

No adverse treatment effects on maternal appearance, behavior, necropsy findings or mean body weight gain were observed. There were no dose-related or relevant statistically significant differences in the number and location of fetuses, resorptions, implantations, and corpora lutea, or the incidence of fetal malformations in the treated groups when compared to the control values.

This chlorinated paraffin was reported not to produce a teratogenic response when administered orally to pregnant rats at dose levels up to and including 5,000 mg/kg/day.

17. The final report of a 14-day dietary range-finding study in which Fischer 344 rats were exposed to the short-chain paraffin of 58 percent chlorination at 300, 1,000 and 3,000 mg/kg/day.

The authors reported that when compared with the controls, a marked reduction in body weight and food (with compound) consumption was seen for males and females of the 3,000 mg/kg/day dosage group. This effect was most evident during the first week of treatment. Slight reductions in body weight gain were seen at 1,000 mg/kg/day (males and females), with food consumption slightly reduced during the first measurement interval (days 1–3).

At the termination of the study, hepatic microsomal Lowry protein, aminopyrine demethylase (APDM) activity and cytochrome P–450 values were determined. Definite dose related increases were evident throughout all dosage groups, though APDM activity decreased slightly among high dose rats, as compared to the next lower dosage level.

Changes were also evident in the liver in some rats of the 300, 1,000 and 3,000 mg/kg/day dose groups. An increase in the mean absolute and relative liver weights was seen at all dose levels, most of which achieved statistical significance compared with control values. Microscopically, a dose-related increase in incidence and severity of hepatocellular hypertrophy was present in all dose groups. Myocardial atrophy was noted for all animals of the highest dosage group and 9 of 10 rats of the 1,000 mg/kg/days, with increased severity at the highest dose level.

The Agency is evaluating these data and the conclusions that can be drawn from the data in regard to further testing under this program. These studies have been inserted in the public file on chlorinated paraffins (OPTS–42004).

III. 2-Chlorotoluene

Occidental Chemical Corporation is conducting a negotiated testing program on 2-chlorotoluene, a solvent for agricultural pesticides and a general solvent replacement for 1,2-dichlorobenzene. Occidental's testing program was accepted by the Agency and a negotiated testing agreement was initiated rather than rulemaking under section 4(a) of TSCA. This decision was published in the **Federal Register** of April 28, 1982 (47 FR 18172). The testing scheme is multi-level in approach, with the EPA participating at a number of decision points. The toxicological areas

being addressed by this program are metabolism, teratology, mutagenicity, chronic toxicity, and environmental toxicity. Occidental has submitted a report on metabolism of 2-chloro[U-*ring*-^{14}C]toluene by rats dosed intravenously. Female rats were injected with ^{14}C-labeled 2-chlorotoluene intravenously and excretion and tissue distribution patterns of radiolabel were studied. Within 4 days after injection of 0.7 mg/kg (in a 50 percent ethanolic solution) the rat eliminated 69–81 percent of the administered dose in the urine and 14–18 percent as expired volatiles. Less than 0.04 percent of the administered dose was expired as $^{14}CO_2$. Urinary metabolites included mercapturic acid (22–24 percent), glucuronide (13–20 percent), 2-chlorohippurate (7–11 percent), and an unknown polar metabolite (11 percent). Of the volatile ^{14}C collected, 95 percent consisted of 2-chloro[^{14}C]toluene. Within 4 days less than one percent labeled 2-chlorotoluene remained in the body tissue. The highest remaining concentration was found in the lungs (<4 ppb).

These studies have been inserted in the public file on 2-chlorotoluene (OPTS–42011A).

IV. Methyl Isobutyl Ketone

The Ketones Program Panel of the Chemical Manufacturers Association (CMA) is conducting a testing program on methyl isobutyl ketone (MIBK) and methyl ethyl ketone (MEK) to characterize their potential health effects. These two compounds are used as part of various mixed solvents in the coatings industry and in allied industrial applications (e.g., adhesives). The Ketones Program Panel testing program was accepted by the Agency and a negotiated testing agreement was initiated rather than rulemaking under section 4(a) of TSCA. Notice of that decision was published in the **Federal Register** of December 29, 1982 (47 FR 58027). The testing consists of five short-term tests on both compounds plus an inhalation teratology test and a 90-day subchronic study on MIBK. The short-term studies include the Ames test, mouse lymphoma assay, BALB/3T3 mouse embryo cell transformation, cytogenic study using mouse micronucleus *in vivo*, and unscheduled DNA synthesis.

The inhalation teratology test on MIBK will be conducted on two species, rat and mouse, and three dose levels along with a negative control. The 90-day subchronic study will be performed on male and female rats and mice using whole body inhalation exposure to MIBK vapor, 6 hours per day, 5 days per week for 13 weeks at doses of 50, 250 and 1,000 ppm. A 90-day vapor inhalation range-finding study was completed June, 1982 and was included in a previous submission in response to the Proposed Negotiated Testing Agreement.

The Ketones Program Panel has submitted the results of a 90-day inhalation study conducted on rats and mice exposed to 1,000, 250 or 50 ppm of MIBK for 6 hours/day, 5 days/week for 14 weeks.

The Ketones panel reported that exposure of male rats and mice to 1000 ppm produced increases in liver weights of up to 11 percent from controls measured as both relative and absolute liver weights. Male mice at 260 ppm had increases in absolute liver weights only. No changes were reported in female liver weights at any dose level. There were no gross or microscopic lesions related to MIBK exposure. The CMA Ketones Program Panel stated that the only significant effects were the changes in liver weights. The Agency is reviewing and evaluating the study and the panel's conclusions.

The subchronic study has been placed in the public file on MIBK/MEK (OPTS–42017).

V. Formamide

BASF Wyandotte Corporation is conducting a negotiated testing program on formamide, a solvent and chemical intermediate. BASF's testing program was accepted by the Agency and a negotiated testing agreement was initiated rather than rulemaking under section 4(a) of TSCA. This decision was published in the **Federal Register** of December 29, 1983 (48 FR 57365).

The BASF Wyandotte Corporation testing program consists of a range-finding study followed by a 90-day subchronic study which is designed to characterize the potential subchronic effects of formamide. Because dermal exposure is the most common route of human exposure, the program is designed to clarify the doses at which formamide causes toxic effects after repeated exposure to intact skin over a prolonged period. The study will be performed in male and female Wistar rats, using dermal exposure for 6 hours/day and 5 days/week.

BASF Wyandotte Corporation has submitted the results of the 2-week range-finding study to assess the dermal toxicity of formamide in the rat. No marked toxic effects of formamide were found at any concentration up to 3000 mg/kg. No clinical signs or behaviorl abnormalities were detected in this study. Based on these data, they are proposing a dose regimen of 300, 1,000 and 3,000 mg/kg body weight for the 90 day study.

This range-finding study has been placed in the public file on formamide (OPTS–42032).

VI. Isophorone

The Ketones Program Panel of the Chemical Manufacturers Association (CMA) is conducting teratology and mutagenicity tests on isophorone under a Negotiated Testing Agreement with EPA. A final notice of acceptance of this NTA was published on January 17, 1984 (49 FR 2012).

The panel has submitted a draft report of the isophorone inhalation teratology probe study in rats and mice. Groups of twelve mated female rats or mice were exposed to 0, 50, 100, or 150 parts per million (ppm) isophorone for six hours/day on days six through fifteen of gestation.

External physical observations on the test animals showed maternal toxicity in rats at 100 and 150 ppm but not at 50 ppm; in mice, maternal toxicity was not demonstrated at any dose level. No fetal effects were noted at 50 or 100 ppm in either species; at 150 ppm one rat and three mouse fetuses exhibited exencephaly. There were considerable difficulties with attaining and controlling the 150 ppm concentration in the test chamber. Based on these findings, dose levels of 0, 25, 50, and 115 ppm will be used in the inhalation teratology study.

These studies have been placed in the public file on isophorone (OPTS–42029).

VII. Public Record

EPA has established public records for the test data and other relevant actions pertaining to these chemicals. These records are available for public inspection in the OPTS Reading Room, Rm. E–107, 401 M St., SW., Washington, D.C. 20460, from 8:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays. The material may be copied for a nominal fee.

Dated: February 2, 1984.

Don R. Clay,

Director, Office of Toxic Substances.

[FR Doc. 84–3885 Filed 2–9–84; 8:45 am]

BILLING CODE 8560–50–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

[Docket: FEMA–REP–3–PA–2]

Receipt of Plans

AGENCY: Federal Emergency Management Agency.

ACTION: Notice of Receipt of Plans.

SUMMARY: For continued operation of nuclear power plants, the Nuclear Regulatory Commission requires approved licensee and State and local governments' radiological emergency response plans. Since FEMA has the responsibility for reviewing the State and local governments' plans, the Commonwealth of Pennsylvania has submitted radiological emergency plans to the FEMA Regional Office. These plans support nuclear power plants which impact on Pennsylvania and include the plans of Columbia and Luzerne Counties which are near the Pennsylvania Power and Light Company's Susquehanna Steam Electric Station located in Luzerne County, Pennsylvania.

Date Plans Received: December 20, 1983.

FOR FURTHER INFORMATION CONTACT: Thomas M. Sherlock, Regional Director, FEMA Region III, 7th Floor, Curtis Building, Sixth and Walnut Streets, Philadelphia, Pennsylvania 19106.

Notice: In support of the Federal requirement for emergency response plans, FEMA has established a Rule describing its procedures for review and approval of State and local governments' radiological emergency response plans. Pursuant to this FEMA Rule (44 CFR Part 350.8) "Review and Approval of State Radiological Emergency Plans and Preparedness," 48 FR 44338, the Commonwealth of Pennsylvania Disaster Operations Plan, Annex E was received by the Federal Emergency Management Agency Region III Office.

Included are the plans for Columbia and Luzerne Counties, 27 municipalities, 8 school districts, and 7 support Counties, which are fully or partially within the plume exposure pathway emergency planning zone of the nuclear plant.

Copies of the Plan are available for review at the FEMA Region III Office, or they will be made available upon request in accordance with the fee schedule for FEMA Freedom of Information Act requests, as set out in subpart C of 44 CFR Part 5. There are 2,734 pages in the document, reproduction fees are $.10 a page payable with the request for copy.

Comments on the Plan may be submitted in writing to Mr. Thomas M. Sherlock, Regional Director, at the above address within thirty days of this Federal Register notice.

Thomas E. Hardy,

Deputy Regional Director.

[FR Doc. 84-3659 Filed 2-8-84; 8:45 am]

BILLING CODE 6718-01-M

FEDERAL HOME LOAN BANK BOARD

San Marino Savings and Loan Association San, Marino, California; Appointment of Conservator

Notice is hereby given that pursuant to the authority contained in section 406(c)(1)(B)(i)(I) of the National Housing Act, 12 U.S.C. 1729(c)(1)(B)(i)(I) (1982), the Federal Home Loan Bank Board duly appointed the Federal Savings and Loan Insurance Corporation as sole conservator for San Marino Savings and Loan Association, San Marino, California on February 3, 1984.

Dated: February 7, 1984.

J. J. Finn,

Secretary.

[FR Doc. 84-3698 Filed 2-9-84; 8:45 am]

BILLING CODE 6720-01-M

GENERAL SERVICES ADMINISTRATION

[GSA Control No. 5-D-OH-743-D]

Record of Decision; Environmental Considerations; Conveyance of Certain Portions, Rickenbacker Air National Guard Base, Franklin and Pickaway Counties, Ohio

Decision: The General Services Administration (GSA) will convey certain portions of the above property to the Rickenbacker Port Authority (RPA) for airport purposes pursuant to Section 13g of the Surplus Property Act of 1944 (50 U.S.C. app. 1622(g)). This conveyance will be subject to a joint use agreement between the RPA and the Department of the Air Force governing the operation of the airport. This conveyance will require the RPA to use the property for airport and airport related revenue generating purposes. Certain southern portions of the property will be sold by GSA subject to noise and aviation easements.

Alternatives:

No Action. This alternative contemplates no disposal of the property which the Air Force authorized GSA to dispose of. This is the environmentally preferred alternative as no nighttime noise is generated.

Disposal of the Property Without Air Cargo Use. This is identified as Alternative Number Four in the Environment Impact Statement (EIS). This alternative would also not create nighttime noise. However, it would deny the community the socio-economic benefits of the proposed action due to the much slower development of the property. As the property is being conveyed to the RPA subject to the joint use agreement, Air Force monitoring of airfield operations will continue.

Mitigations. The Air Force, through its joint use agreement, requires the RPA to prohibit all landings and takeoffs of civilian aircraft between the hours of 11 P.M. and 7 A.M. except for those civilian aircraft which do not exceed an 80 DBA noise level in Groveport at a point designated Point 1 in the Supplemental EIS. Point 1 is located at the intersection of Groveport and Delane Roads in the eastern part of Groveport.

Also, the RPA and the Village of Groveport are to agree on a noise mitigation plan before any noise above the 80 DBA level is permitted. In the event that no adequate plan is worked out and the property cannot be operated without serious noise impacts to the local communities, then the Secretary of the Air Force may take appropriate action and possibly revoke the joint use agreement with the Port Authority. If the Joint-Use Agreement is revoked by the Air Force, the Government, through the Federal Aviation Administration, may revert title of the property to the United States of America. This may be done in accordance with the terms of the application for Airport Property submitted by the RPA and with covenants which will appear in the deed covering this property to the RPA.

Proper noise and avigation easements will be retained over the portions of this property which are to be sold by GSA.

Authority: This Record of Decision was proposed in accordance with the Regulations of the Council on Environmental Quality for Implementing Provisions of the National Environmental Policy Act 40 CFR 1505.2.

Dated: January 27, 1984.

Robert M. Crouse,

Director, Disposal Division, Office of Public Buildings and Real Property, Region 5, General Services Administration.

[FR Doc. 84-3646 Filed 2-9-84; 8:45 am]

BILLING CODE 6820-23-M

GOVERNMENT PRINTING OFFICE

Depository Library Council to the Public Printer; Meeting

The Depository Library Council to the Public Printer will meet during the period April 11-13, 1984, at the

Sheraton-Atlanta Hotel, Atlanta, Georgia.

The purpose of this meeting is to discuss the Depository Library Program.

The meeting will be open to the public. Anyone who wishes to attend should notify the Administrative Librarian, Library Programs Service, U.S. Government Printing Office, 5236 Eisenhower Avenue, Alexandria, Virginia 22304 (Telephone: (703) 557–3892).

General participation by members of the public, or questioning of Council members or other participants, shall be permitted with approval of the Chair.

Dated: February 2, 1984.

William J. Barrett,

Acting Public Printer.

[FR Doc. 84-3645 Filed 2-9-84; 8:45 am]

BILLING CODE 1505-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Agency Forms Submitted to the Office of Management and Budget for Clearance

Each Friday the Department of Health and Human Services (HHS) publishes a list of information collection packages it has submitted to the Office of Management and Budget (OMB) for clearance in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). The following are those packages submitted to OMB since the last list was published on February 3.

Public Health Service

Health Resources and Services Administration

Subject: Health Education Assistance Loan (HEAL) Borrower Status Form (0915–0033)—Extension/no change
Respondents: Lending institutions
Subject: Lender's Manifest for Health Education Assistance Loan (HEAL) Program (0915–0034)—Extension/no change
Respondents: Lending institutions
Subject: Health Education Assistance Loan (HEAL) Transfer Statement (0915–0035)—Extension/no change
Respondents: Lending institutions
OMB Desk Officer: Fay S. Iudicello

National Institutes of Health

Subject: Annual Established Populations for Epidemiologic Studies of the Elderly Telephone Followup Survey (0925–0191)—Revision
Respondents: Participants in the "Establishment of Population for Epidemiologic Studies of the Elderly"
OMB Desk Officer: Fay S. Iudicello

Health Care Financing Administration

Subject: End Stage Renal Disease Medical Information System (0938–0064)—Extension/no change
Respondents: End Stage Renal Disease facilities
Subject: Statistical Report on Medical Care: Recipients, Payments, and Services (0938–0059)—Revision
Respondents: State Medicaid agencies
OMB Desk Officer: Fay S. Iudicello

Office of the Secretary

Subject: Evaluating by Physical Examination the Health Status of Southeast Asian Refugees After Approximately 18 Months in the United States—New
Respondents: Southeast Asian refugees
OMB Desk Officer: Milo Sunderhauf

Social Security Administration

Subject: State Agency Statement of Financial Plan for Aid to Families with Dependent Children (AFDC) (0960–025)—Reinstatement
Respondents: State agencies administering AFDC
OMB Desk Officer: Milo Sunderhauf

Copies of the above information collection clearance packages can be obtained by calling the HHS Reports Clearance Officer on 202–245–6511.

Written comments and recommendations for the proposed information collections should be sent directly to the appropriate OMB Desk Officer designated above at the following address: OMB Reports Management Branch, New Executive Office Building, Room 3208, Washington, D.C. 20503. ATTN: (name of OMB Desk Officer).

Dated: February 3, 1984.

Robert F. Sermier,

Deputy Assistant Secretary for Management Analysis and Systems.

[FR Doc. 84-3661 Filed 2-9-84; 8:45 am]

BILLING CODE 4150-04-M

Office of the Assistant Secretary for Health

National Center for Health Services Research; Assessment of Medical Technology

The Public Health Service (PHS), through the office of Health Technology Assessment (OHTA), announces that it is coordinating a reassessment of what is known of the safety and clinical effectiveness and use (indications) of photodensitometry (radiographic absorptiometry) for the determination of bone mineral density. Specifically, we are interested in the clinical effectiveness and appropriate use of radiographic absorptiometry in the determination of bone mineral density for patients with end-stage renal disease and in other conditions where disease affecting bone mineralization is suspected, i.e., osteoporosis, osteomalacia, metabolic disorders of bone, etc. We are seeking specific advice concerning the frequency of performing radiographic absorptiometry as it relates to studying the progression of bone mineral density changes in end-stage renal disease patients, osteoporotic patients, and others.

For the purpose of this assessment, photodensitometry is of two types: (1) The conventional aluminum-equivalency method, and (2) the radiographic absorptiometry method. This assessment will consider both the radiographic absorptiometry method, which is a computer assisted densitometric measurement of the x-ray image of the bone as developed at the Wright State University Research Institute, as well as the conventional equivalency method.

The PHS assessment consists of a synthesis of information obtained from appropriate organizations in the private sectors and from PHS agencies and others in the Federal Government. PHS assessments are based on the most current knowledge concerning the safety and clinical effectiveness of a technology. Based on this assessment, a PHS recommendation will be formulated to assist the Health Care Financing Administration (HCFA) in establishing Medicare coverage policy. Any person or group wishing to provide OHTA with information relevant to this assessment should do so in writing no later than May 30, 1984, or within 90 days from the date of publication of this notice.

The information being sought is a review and assessment of past, current, and planned research related to this technology, a bibliography of published controlled clinical trials and other well-designed clinical studies and other information related to the characterization of the patient population most likely to benefit, the clinical acceptability, and the effectiveness of this technology.

Written material should be submitted to: National Center for Health Services Research, Office of Health Technology Assessment, Park Building, Room 3–10, 5600 Fishers Lane, Rockville, Maryland 20857.

Further information is available from Mr. Martin Erlichman, Health Science Analyst, at the above address or by telephone (301) 443–4990.

Dated: January 30, 1984.

Enrique D. Carter, M.D.,

Acting Director, Office of Health Technology Assessment, National Center for Health Services Research.

[FR Doc. 84-3736 Filed 2-9-84; 8:45 am]

BILLING CODE 4160-17-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Endangered Species Permit; Receipt of Applications; Los Angeles Zoo, et al.

The following applicants have applied for permits to conduct certain activities with endangered species. This notice is provided pursuant to Section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531. *et seq.*):

APP No. 583938

Applicant: Los Angeles Zoo, Los Angeles. CA.

The applicant requests a permit to import one (1) male marbled cat (*Felis marmorata*) from Howletts and Port Lymphe Estates, Ltd., Kent, England, for enhancement of propagation.

APP No. 586803

Applicant: John Sutterlin, Aurburn, WA.

The applicant requests a permit to import a pair of white-eared pheasants (*Crossoptilon crossoptilon*) from Harry Hardy, British Columbia, Canada, for enhancement of propagation.

APP No. 616545

Applicant: University of Michigan Museum of Zoology, Ann Arbor, MI.

The applicants request a permit to import 46 frozen specimens of Puerto Rico boa (*Epicrates inornatus*) and 116 frozen specimens of Jamaican boa (*E. subflavus*), all born in captivity, from the Repitle Breeding Foundation, Ticton, Ontario, Canada, for scientific research.

APP No. 591775

Applicant: Zoological Society of San Diego; San Diego. CA.

The applicant requests a permit to import eight orangutans (*Pongo pygmaeus*) from Gordon Mills, Weybridge, England, for enhancement of propagation.

PRT 2-11185

Applicant: International Animal Exchange, Ferndale, MI.

The applicant requests a permit to purchase in interstate commerce and export one female ring-tailed lemur (*Lemur catta*) from Busch Gardens, Tampa. FL to Seoul Grand Park Zoo, Seoul, Korea, for enhancement of propagation.

APP No. 584476

Applicant: International Animal Exchange, Ferndale, MI.

The applicant requests a permit to export one male mongoose lemur (*Lemur mongoz*) to Seoul Grand Park Zoo, Seoul, Korea, for enhancement of propagation. Applicant's request to purchase this animal was published 1/26/84.

APP No. 117053

Applicant: Sheila Conant, University of Hawaii at Manoa, Honolulu, HI.

The applicant requests a permit to capture, band and release Laysan finches (*Telespyza cantans*) for scientific research and enhancement of propagation.

APP No. 586772

Applicant: Anthony F. Amos, Marine Science Institute-Port Aransas, Port-Aransas, TX.

The applicants requests a permit to take injured and dead specimens of the following sea turtle species: Kemp's Ridley (*Lepidochelys kempi),* green (*Chelonia mydas*), leatherback (*Dermochelys coriacea*), and hawksbill (*Eretmochelys imbricata*), for rehabilitation and research purposes and enhancement of survival.

Documents and other information submitted with these applications are available to the public during normal business hours (7:45 am to 4:15 pm) in Room 601, 1000 North Glebe Road, Arlington, Virginia, or by writing to the Director, U.S. Fish and Wildlife Service, P.O. Box 3654, Arlington, Virginia 22203.

Interested persons may comment on any of these applications within 30 days of the date of this publication by submitting written views, arguments, of data to the Director at the above address. Please refer to the appropriate PRT 2 No. or APP No. when submitting comments.

Dated: February 7, 1984.

R. K. Robinson,

Federal Wildlife Permit Office, U.S. Fish and Wildlife Service.

[FR Doc. 84-3733 Filed 2-9-84; 8:45 am]

BILLING CODE 4310-07-M

Endangered Species Permit; Receipt of Applications; Memphis Zoo, et al.

The following applicants have applied for permits to conduct certain activities with endangered species. This notice is provided pursuant to Section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531, *et seq.*):

APP No. 146807

Applicant: Memphis Zoo & Aquarium, Memphis, Tennessee.

APP No. 146810

Applicant: Columbus Zoo, Powell, Ohio.

APP No. 146809

Applicant: North Carolina Zoological Park, Asheboro, North Carolina.

The above applicants request permits to import a total of 7 (2 male and 5 female), lowland gorillas (*Gorilla gorilla),* now in captivity in Cameroon, for the enhancement of propagation at their facilities.

Documents and other information submitted with these applications are available to the public during normal business hours in Room 601, 1000 N. Glebe Rd., Arlington, Virginia, or by writing to the U.S. Fish & Wildlife Service, WPO, P.O. Box 3654, Arlington. VA 22203.

Interested persons may comment on these applications within 30 days of the date of this publication by submitting written data, views or arguments to the above address. Please refer to the file number when submitting comments.

Dated: February 7, 1984.

R. K. Robinson,

Chief Permit Branch, Federal Wildlife Permit Office, U.S. Fish & Wildlife Service.

[FR Doc. 84-3734 Filed 2-9-84; 8:45 am]

BILLING CODE 4310-07-M

Texas; Application

AGENCY: U.S. Fish and Wildlife Service, Department of the Interior.

ACTION: Public notice.

SUMMARY: Notice is hereby given that section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (37 Stat. 576), that Mantaray Pipeline Company, a wholly-owned subsidiary of Panhandle Eastern Corporation, has applied for a right-of-way permit to construct, operate, and maintain a 36-inch natural gas pipeline across the Matagorda Island State Park and Wildlife Management area, A Unit of the National Wildlife Refuge System in Calhoun County, Texas.

This proposed pipeline will transport natural gas from offshore to onshore and thereby into interstate commerce. It is necessary to cross refuge lands to get onshore, to minimize pipeline length, and to minimize environmental disturbance by crossing an area previously disturbed in the building of the abandoned Air Force base. The proposed pipeline will link Matagorda Island Blocks 622, 624, and 568 with the existing Trunkline Gas Company's, another wholly-owned subsidiary of

Pandhandle Eastern Corporation, mainline near Enda, Texas.

The purpose of this notice is to inform the public that the United States Fish and Wildlife Service will be proceeding with consideration of whether this application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should do so within thirty (30) days by sending their comments, with their name and address, to the Regional Director, U.S. Fish and Wildlife Service, P.O. Box 1306, Albuquerque, New Mexico 87103.

DATES: Comments must be submitted on or before March 12, 1984.

ADDRESSES: All written comments are to be submitted to: Regional Director, U.S. Fish and Wildlife Service (RE), P.O. Box 1306, Albuquerque, New Mexico 87103.

FOR FURTHER INFORMATION CONTACT: Mr. William B. Fisher, Realty Specialist, Division of Realty, U.S. Fish and Wildlife Service, 500 Gold Avenue S.W., Albuquerque, New Mexico 87103, Telephone: (505) 766–2174.

Jerry L. Stegman,

Acting Regional Director.

[FR Doc. 84–3355 Filed 2–9–84; 8:45 am]

BILLING CODE 4310–55–M

Endangered Species Permits Issued for the Months of October, November, December 1983

Notice is hereby given that the U.S. Fish and Wildlife Service has taken the following action with regard to permit applications duly received according to section 10 of the Endangered Special Act of 1973, as amended, 16 U.S.C. 1539. Each permit listed as issued was granted only after it was determined that it was applied for in good faith, that by granting the permit it will not be to the disadvantage of the endangered species; and that it will be consistent with the purposes and policy set forth in the Endangered Species Act of 1973, as amended.

Additional information on these permit actions may be requested by contacting the Federal Wildlife Permit Office, Box 3654, Arlington, VA 22203, telephone (703/235–1903) or by appearing in person at the Federal Wildlife Permit Office, 1000 N. Glebe Road, Room 605, Arlington, VA, between the hours of 9:00 a.m. and 3:00 p.m. weekdays.

October 1983		
Gibon & Gallinaceous	X10907	Oct 03
Walter B. Sturgeon	X10921	Oct 03
Smithsonian Institute (National Museum of Natural History)	X10916	Oct 11
Florida State Museum	X11024	Oct 11
Cheyenne Mountain Zoo Park	X10963	Oct 11
David Bechler	X10935	Oct 14
Knoxville Zoological Park	X10914	Oct 19
New York Zoological Society	X10995	Oct 21
San Francisco Zoo	X10941	Oct 21
International Animal Exchange	X11001	Oct 28
International Animal Exchange	X11002	Oct 28
International Animal Exchange	X10999	Oct 28
Miami Metrozoo	X10879	Oct 28
November 1983		
Howard Shellhammer	X10740	Nov 01
University of Hawaii	X10746	Nov 01
Caldwell Schools, Inc	X11038	Nov 03
Gustavo Cott	X10506	Nov 03
Fish & Wildlife Service	X11076	Nov 08
Charles Sivelle	X10900	Nov 08
Game Conservation International	X10745	Nov 15
International Animal Exchange	X11187	Nov 18
New York Zoological Society	X10994	Nov 18
San Antonio Zoological Gardens	X11183	Nov 22
Detroit Zoological Park	X11149	Nov 23
Sedgwick County Zool. Society	X11094	Nov 23
Clarence H Birr	X11189	Nov 25
Arlan Vaughn	X11257	Nov 29
New York Zoological Society	X9965	Nov 30
December 1983		
Southwick Animal Farm, Inc.	X11008	Dec 07
New York Zoological Society	X11125	Dec 07
National Zoo	X11088	Dec 08
International Animal Exchange	X11188	Dec 09
Anthony L. Devroude	X10977	Dec 09
International Animal Exchange	X11235	Dec 12
Fort Wayne Childrens Zoo	X11259	Dec 15
Zoological Society of San Diego	X11229	Dec 15
International Animal Exchange	X11253	Dec 15
Greater Baton Rouge Zoo	X11291	Dec 15
Duke University Primate Center	X11278	Dec 23
Duke University Primate Center	X11304	Dec 23

Dated: January 30, 1984.

R. K. Robinson,

Chief, Branch of Permits, Federal Wildlife Permit Office.

[FR Doc. 84–3735 Filed 2–9–84; 8:45 am]

BILLING CODE 4310–55–M

Bureau of Land Management

Availability of Report

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Availability.

SUMMARY: Notice is hereby given that the "Report on Public Involvement in Identification of the Issues for the Celeron/All American and the Getty Pipeline Projects" is available for public review and comment.

The report contains a summary of seven public scoping sessions held in November and December, 1983, at various points along the proposed pipeline route. The meetings were conducted jointly by the Bureau of Land Management, (California Desert District), Santa Barbara County, and the California State Lands Commission. The Issues identified by the meetings will be used to guide in the preparation of a joint Environmental Document (Environmental Impact Report/Environmental Impact Statement—EIR/EIS). This document will meet the requirements of the National Environmental Policy Act (NEPA) and the California Environmental Quality Act (CEQA) which calls for an assessment of a project's impacts upon the human and natural environment. Other federal, state, and local agencies in California, Arizona, New Mexico, and Texas will be involved in the Environmental Document throughout its preparation and review.

The Public Involvement Report addresses the following subject:

1. Purpose and Need for the Action.
2. Geographic Setting.
3. Public Scoping Sessions.
4. Significant Resource Values and Issues Identified.
5. EIR/EIS Preparation Schedule.
6. Future Public Participation.

Comments are being accepted from the public for 30 days following the date of this notice.

Dated: January 30, 1984.

Gerald E. Hillier,

District Manager.

[FR Doc. 84–3840 Filed 2–9–84; 8:45 am]

BILLING CODE 4310–40–M

Montana; North Dakota Grazing Environmental Impact Statement

AGENCY: Bureau of Land Management, Interior Department.

ACTION: Notice of availability of draft grazing environmental impact statement.

SUMMARY: Pursuant to Section 102(2)(c) of the National Environmental Policy Act of 1969, the Bureau of Land Management (BLM) has prepared a Draft Environmental Impact Statement (EIS) for livestock grazing upon the public lands in North Dakota. The EIS details four alternative livestock grazing levels on nearly 68,000 acres of public land within BLM's Dickinson District. The alternatives examined are: (1) Rangeland improvement; (2) No action, continue present management; (3) Reduced livestock use; (4) No grazing.

PUBLIC PARTICIPATION: Copies of the Draft Grazing EIS are available from the Dickinson District Office, P.O. Box 1229, 204 Sims Street, Dickinson, North Dakota 58602, phone (701) 225–9148. Public reading copies will be available for review at the following locations:

Office of Public Affairs, Location Building, 18th and C Streets NW., Washington, D.C. 20240

Bureau of Land Management, Montana State Office, Public Affairs Office, 222

N. 32nd Street, Billings, Montana 59101.

Written comments on the Draft Grazing EIS should be submitted between February 10 and April 13 (60-day comment period) to: Project Manager, Bureau of Land Management, P.O. Box 1229, Dickinson, North Dakota 58602. Written or oral comments concerning the adequacy of the Draft Grazing EIS will be considered in the preparation of the final Grazing EIS for the Dickinson District.

FOR FURTHER INFORMATION CONTACT: Project Manager, (701) 225-9148.

Dated: January 17, 1984.

Michael J. Penfold,

State Director.

[FR Doc. 84-2008 Filed 1-24-84; 8:45 am]

BILLING CODE 4310-DN-M

[N-38097, N-38097-A, N-38098 and N-38098-A]

Nevada Conveyance

Notice is hereby given that, pursuant to the Act of December 23, 1980 (94 Stat. 3381; 43 U.S.C. 1701) and Section 209(b) of the Act of October 21, 1976 (90 Stat. 2757; 43 U.S.C. 1719), Steven S. Miller, Inc. of Las Vegas, Nevada, purchased, by competitive sale, public lands in Clark County described as:

Mount Diablo Meridian, Nevada

T. 20 S., R. 60 E.,
Sec. 27, NE¼NE¼NW¼, N½NW¼N E¼NW¼;

Containing 15 acres.

The purpose of this notice is to inform the public and interested State and local government officials of the issuance of a conveyance document to Steven S. Miller, Inc.

Wm. J. Malenick,

Deputy State Director, Operations.

[FR Doc. 84-3639 Filed 2-9-84; 8:45 am]

BILLING CODE 4310-HC-M

Oregon; Notice of Realty Action; Exchange of Public Land For Private Land In Harney County, Oregon

The following described public lands have been examined and determined to be suitable for transfer out of Federal ownership by exchange under section 206 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2756; 43 USC 1716):

Willamette Meridian

T. 33 S., R. 31 E.
Sec. 20: All;
Sec. 28: All;
Sec. 29: All;
Sec. 32: SW¼NE¼, W½;
Sec. 34: N½,SE¼.

The area described aggregates approximately 2760.00(±) acres in Harney County.

In exchange for all or some of these lands the United States will acquire the following described private land from Rex Clemens Ranch, Inc., an Oregon Corporation.

Willamette Meridian

T. 33 S., R. 32¾ E., W.M.
Sec. 35: SE¼NE¼, E½SE¼;
Sec. 36: S½NW¼, N½SE¼.
T. 34 S., R. 32¾ E., W.M.
Sec. 1: Lots 3 & 4, S½NW¼, N½SW¼;
Sec. 2: Lot 1, S½NE¼, N½SE¼.
T. 33 S., R. 33 E., W.M.
Sec. 20: E½NE¼, NW¼NE¼, NE¼NW¼.

The area described aggregates approximately 881.30 acres in Harney County.

The purpose of the exchange is to facilitate the resource management program of the Bureau of Land Management. The private lands being offered have very important values for recreation, wildlife habitat, watershed, and livestock grazing. The public interest will be highly served by making this exchange.

This proposal is consistent with Bureau planning for the lands involved in that those plans have identified the Federal lands for disposal and have also identified the offered private lands as having a very high priority for acquisition through land exchange.

The comparative values per acre of the lands to be exchanged are unequal so acreage adjustments may be made if required to equalize the values, based upon the final appraisal of the lands. The monetary adjustment will be for no more than 25% of the appraised value of the Federal lands involved.

The exchange will be subject to:

(1) A reservation to the United States of a right-of-way for ditches or canals under the Act of August 30, 1890.

(2) Valid, existing rights including but not limited to any right-of-way, easement, or lease of record.

Publication of this notice has the effect of segregating all of the above described Federal land from appropriation, under the public land laws and these lands are further segregated from appropriation under the mining laws, but not from exchange pursuant to Section 206 of the Federal Land Policy and Management Act of 1976. The segregative effect of this notice will terminate upon issuance of patent or in two years from the date of the publication of this notice, whichever occurs first.

Detailed information concerning the exchange is available for review at the Burns District Office of the Bureau of Land Management, 74 South Alvord, Burns, Oregon 97720.

For a period of 45 days, interested parties may submit comments to the Burns District Manager at the above address. Any adverse comments will be evaluated by the Oregon State Director, BLM, who may vacate or modify this realty action and issue a final determination. In the absence of any action by the State Director, this realty action will become the final determination of the Department of the Interior.

Dated: February 3, 1984.

Joshua L. Warburton,

District Manager.

[FR Doc. 84-3637 Filed 2-9-84; 8:45 am]

BILLING CODE 4310-33-M

[W-80250 A]

Wyoming; Conveyance Sale of Public Land in Lincoln County, Wyoming

Notice is hereby given that pursuant to Section 203 of the Federal Land Policy and Management Act of 1976; 43 U.S.C. 1713 (1976), John Kovach has purchased and received a patent for the following described public land in Lincoln County, Wyoming:

Sixth Principal Meridian, Wyoming

T. 22 N., R. 116 W.,
Lot 4, 9, and 20 of Segregated Lot 57;
Lot 21 of Segregated Lot 62.

Containing 4.06 acres.

James L. Edlefsen,

Chief, Branch of Land Resources.

[FR Doc. 84-3638 Filed 2-9-84; 8:45 am]

BILLING CODE 4310-22-M

Kingman Resource Area C Phoenix District Grazing Advisory Board; Meeting

AGENCY: Bureau of Land Management, Phoenix District, Interior.

ACTION: Notice is hereby given in accordance with Pub. L. 92-463 of a meeting of the Kingman Resource Area (Phoenix District) Grazing Advisory Board.

DATE: Tuesday, March 13, 1984 at 9:00 a.m.

ADDRESS: 2475 Beverly Avenue, Kingman, Arizona 86041; BLM Conference Room.

SUMMARY: The agenda for the meeting will include:

1. Status of the Bureau's Land Exchange Program
2. Water Rights Acquisition
3. Threatened and Endangered

Species Program
4. Policy Review of the Distribution of 8100 Funds
5. Range Program Update Report
6. Cooperative Management Agreements
7. Arrangements for Future Meetings

The meeting is open to the public. Anyone wishing to make oral or written statements to the Board is requested to do so through the office of the District Manager, 2015 West Deer Valley Road, Phoenix, Arizona 85027 at least seven days prior to the meeting date.

Summary minutes of the Board meeting will be maintained in the District Office and be made available for public inspection and reproduction (during regular business hours) within 30 days following the meeting.

Dated: February 3, 1984.

Marlyn V. Jones,

District Manager.

[FR Doc. 84-3840 Filed 2-9-84; 8:45 am]

BILLING CODE 4310-32-M

Phoenix/Lower Gila Resource area (Phoenix District) Grazing Advisory Board; Meeting

AGENCY: Bureau of Land Management, Phoenix District, Interior.

ACTION: Notice is hereby given in accordance with Pub. L. 92-463 of a meeting of the Phoenix/Lower Gila Resource Areas (Phoenix District) Grazing Advisory Board.

DATE: Thursday, March 15, 1984 at 9:00 a.m.

ADDRESS: 2015 West Deer Valley Road, Phoenix, AZ 85027; BLM Conference Room.

SUMMARY: The agenda for the meeting will include:

1. Status of the Bureau's Land Exchange Program
2. Water Rights Acquisition
3. Threatened and Endangered Species Program
4. Wildlife/Livestock Management Interrelationships
5. Policy Review of the Distribution of 8100 Funds
6. Range Program Update Report
7. Cooperative Management Agreements
8. Arrangements for Future Meetings

The meeting is open to the public. Anyone wishing to make oral or written statements to the Board is requested to do so through the office of the District Manager, 2015 West Deer Valley Road, Phoenix, Arizona 85027 at least seven days prior to the meeting date.

Summary minutes of the Board meeting will be maintained in the District Office and be made available for public inspection and reproduction (during regular business hours) within 30 days following the meeting.

Dated: February 3, 1984.

Marlyn V. Jones,

District Manager.

[FR Doc. 84-3841 Filed 2-9-84; 8:45 am]

BILLING CODE 4310-32-M

National Park Service

Statue of Liberty-Ellis Island Centennial Commission; Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770), as amended, that a meeting of the Statue of Liberty-Ellis Island Centennial Commission will be held from 10:00 a.m. to 12 Noon on Friday, February 24, 1984, at Manufacturers Hanover Trust Company, 270 Park Avenue, 11th Floor Auditorium, New York, New York. The meeting is for the purpose of reviewing plans for rehabilitation of the Statue of Liberty and Ellis Island.

Further information concerning this meeting may be obtained from Garnet Chapin, National Park Service, Department of the Interior, 18th and C Streets NW, Washington, D.C. 20240 (202-343-3884).

Dated: Februray 6, 1984.

David G. Wright,

Associate Director, Planning and Development, National Park Service.

[FR Doc. 84-3732 Filed 2-9-84; 8:45 am]

BILLING CODE 4310-70-M

Crater Lake National Park; Public Meetings

Notice is hereby given that public meetings will be held concerning the Draft Development Concept Plan and Environmental Assessment of the Rim Village Area of Crater Lake National Park. The purpose of these meetings is to discuss alternatives for providing lodging within the park, improving the camping experience, and implementing actions for the improvement of interpretive programs and enhancement of the Rim Village Area environment. The final document will serve as an amendment to the current *General Management Plan* (dated December 1977).

The meetings will be held at the following times and places:

1. Klamath Falls, Oregon—March 20, 1984, 7:30 p.m., City Council Chambers (lower level of the City Administration Building), 500 Klamath Avenue.
2. Medford, Oregon—March 21, 1984, 7:30 p.m., City Hall, Municipal Court Room (second floor), 411 West Eighth Street.
3. Roseburg, Oregon—March 22, 1984, 7:30 p.m., Umpqua Community College, Science Building, Room 10.
4. Salem, Oregon—March 23, 1984, 7:30 p.m., Transportation Building, Conference Room 122 (East Summer and Center Streets; entrance off of Capitol Street).

Copies of the document may be obtained by writing: Regional Director, Pacfic Northwest Region, National Park Service, 2001 Sixth Avenue, Westin Building, Room 1920, Seattle, Washington 98121 or Superintendent, Crater Lake National Park, P.O. Box 7, Crater Lake, Oregon 97604; or by calling Connie Campbell-Blumen, Environmental Protection Specialist, at 206-442-5366.

Comments will be accepted until April 23, 1984.

Dated: January 31, 1984.

William J. Briggle,

Acting Regional Director, Pacific Northwest Region.

[FR Doc. 84-3731 Filed 2-9-84; 8:45 am]

BILLING CODE 4310-70-M

INTERSTATE COMMERCE COMMISSION

[Finance Docket No. 30379]

Graham County Railroad, Inc.; Exemption, Discontinuance of Operations—Graham County, NC

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Interstate Commerce Commission exempts from the requirements of prior approval under 49 U.S.C. 10903 *et. seq.*, by Graham County Railroad, Inc. the discontinuance of operations over a 12.5-mile line segment in Graham County, NC.

DATES: This exemption shall be effective on March 12, 1984. Petitions for reconsideration must be filed by March 1, 1984. Petitions to stay must be filed by February 21, 1984.

ADDRESSES: Send pleadings referring to Finance Docket No. 30379 to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.
(2) Petitioner's representative: Andrew P. Goldstein, 706 Ring Building, 1200 Eighteenth Street, N.W., Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer, (202) 275-7245.

SUPPLEMENTARY INFORMATION:
Additional information is contained in the Commission's decision. To purchase a copy of the full decision write to T.S. InfoSystems, Inc., Room 2227, Interstate Commerce Commission, Washington, DC 20423, or call 289–4357 (DC Metropolitan area) or toll free (800) 424–5403.

Decided: February 3, 1984.

By the Commission, Chairman Taylor, Vice Chairman Andre, Commissioners Sterrett and Gradison.

James H. Bayne,

Acting Secretary.

[FR Doc. 84–3676 Filed 2–9–84; 8:45 am]

BILLING CODE 7035–01–M

[Docket No. AB–31 (Sub-8)]

Grand Trunk Western Railroad Company; Abandonment in Montcalm and Gratiot Counties, MI; Findings

The Commission has found that the public convenience and necessity permit the Grand Trunk Western Railroad Company to abandon a 19.3 mile line of railroad located in Montcalm and Gratiot Counties, MI, between milepost 39.8 near Carson City, MI, and milepost 20.5 at Ashley, MI. A certificate will be issued authorizing this abandonment unless within 15 days after this publication the Commission finds that: (1) A financially responsible person has offered financial assistance (through subsidy or purchase) to enable the rail service to be continued; and (2) it is likely that the assistance would fully compensate the railroad.

Any financial assistance offer must be filed with the Commission and the applicant no later than 10 days from publication of this Notice. The following notation shall be typed in bold face on the lower lefthand corner of the envelope containing the offer: "Rail Section AB–OFA." Any offer previously made must be remade within this 10 day period.

Information and procedures regarding financial assistance for continued rail service are contained in 49 U.S.C. 10905 and 49 CFR 1152.27.

James H. Bayne,

Acting Secretary.

[FR Doc. 84–3679 Filed 2–9–84; 8:45 am]

BILLING CODE 7035–01–M

[Docket No. AB–31 (Sub-No. 18)]

Grand Trunk Western Railroad Co.; Abandonment in Oakland County, MI; Findings

The Commission has issued a certificate authorizing the Grand Trunk Western Railroad Company to abandon its line of railroad known as the Jackson Subdivision, extending from milepost 50.7 near Wixon, to the end of its line at milepost 60.3 near South Lyon, MI, a total distance of approximately 9.6 miles, and 0.5 miles of side tracks, all in Oakland County, MI. The abandonment certificate will become effective 30 days after this publication unless the Commission also finds that: (1) A financially responsible person has offered financial assistance (through subsidy or purchase) to enable the rail service to be continued; and (2) it is likely that the assistance would fully compensate the railroad.

Any financial assistance offer must be filed with the Commission and the applicant no later than 10 days from publication of this Notice. The following notation shall be typed in bold face on the lower left-hand corner of the envelope containing the offer: "Rail Section, AB–OFA". Any offer previously made must be remade within this 10-day period.

Information and procedures regarding financial assistance for continued rail service are contained in 49 U.S.C. 10905 and 49 CFR 1152.

James H. Bayne,

Acting Secretary.

[FR Doc. 84–3680 Filed 2–9–84; 8:45 am]

BILLING CODE 7035–01–M

[Docket No. AB–43 (Sub-108)]

Illinois Central Gulf Railroad Co.; Abandonment in Orleans Parish, LA; Findings

The Commission has issued a certificate authorizing Illinois Central Gulf Railroad Company to abandon .54 miles of rail line between milepost 909.98 near Carrollton Avenue and milepost 910.52 near Jefferson Davis Parkway in the City of New Orleans, Orleans Parish, LA.

The abandonment certificate will become effective 30 days after this publication unless the Commission also finds that: (1) A financially responsible person has offered financial assistance (through subsidy or purchase) to enable the rail service to be continued; and (2) it is likely that the assistance would fully compensate the railroad.

Any financial assistance offer must be filed with the Commission and the applicant no later than 10 days from publication of this Notice. The following notation shall be typed in bold face on the lower left-hand corner of the envelope containing the offer: "Rail Section, AB–OFA." Any offer previously made must be remade within this 10-day period.

Information and procedures regarding financial assistance for continued rail service are contained in 49 U.S.C. 10905 and 49 CFR 1152.27.

James H. Bayne,

Acting Secretary.

[FR Doc. 84–3678 Filed 2–9–84; 8:45 am]

BILLING CODE 7035–01–M

[Docket No. AB–43 (Sub-107)

Illinois Central Gulf Railroad Co.; Abandonment in Orleans Parish, LA; Findings

The Commission has issued a certificate authorizing the Illinois Central Gulf Railroad Company to abandon a portion of railroad extending between milepost 913.18 at Front Street and milepost 915.58 near Louisiana Avenue, a distance of 2.4 miles in New Orleans, Orleans Parish, LA. The abandonment certificate will become effective 30 days after this publication unless the Commission also finds that: (1) A financially responsible person has offered financial assistance (through subsidy or purchase) to enable the rail service to be continued; and (2) it is likely that the assistance would fully compensate the railroad.

Any financial assistance offer must be filed with the Commission and the applicant no later than 10 days from publication of this Notice. The following notation shall be typed in bold face on the lower left-hand corner of the envelope containing the offer "Rail Section, AB–OFA." Any offer previously made musts be remade within this 10-day period.

Information and procedures regarding financial assistance for continued rail service are contained in 49 U.S.C. 10905 and 49 CFR 1152.27.

James H. Bayne,

Acting Secretary.

[FR Doc. 84–3678 Filed 2–9–84; 8:45 am]

BILLING CODE 7035–01–M

[Docket No. AB–12 (Sub-72)]

Southern Pacific Transportation Co.; Abandonment in Jim Wells and Brooks Counties, TX; Findings

The Commission has issued a certificate authorizing the Southern Pacific Transportation Company to abandon its line of railroad between milepost 40.9 at Alice to milepost 80.2 at Falfurrias, a total distance of 39.3 miles, in Jim Wells and Brooks Counties, TX. The abandonment certificate will

become effective 30 days after this publication unless the Commission also finds that: (1) A financially responsible person has offered financial assistance (through subsidy or purchase) to enable the rail service to be continued; and (2) it is likely that the assistance would fully compensate the railroad.

Any financial assistance offer must be filed with the Commission and the applicant no later than 10 days from publication of this Notice. The following notation shall be typed in bold face on the lower left-hand corner of the envelope containing the offer: "Rail Section, AB–OFA." Any offer previously made must be remade within this 10-day period.

Information and procedures regarding financial assistance for continued rail service are contained in 49 U.S.C. 10905 and 49 CFR 1152.27.

James H. Bayne,

Acting Secretary.

[FR Doc. 84-3677 Filed 2-9-84; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF LABOR

Office of the Secretary

All Items Consumer Price Index for All Urban Consumers United States City Average

Pursuant to Section 112 of the 1976 amendments to the Federal Election Campaign Act (Pub. L. 94–283, 2 U.S.C. 441a), the Secretary of Labor has certified to the Chairman of the Federal Election commission and publishes this notice in the **Federal Register** that the United States City Average All Items Consumer Price Index for All Urban Consumers (1967=100) increased 102.0 percent from its 1974 annual average of 147.7 to its 1983 annual average of 298.4. Using 1974 as a base (1974=100), I certify that the United States City Average All Items Consumer Price Index for All Urban Consumers thus increased 102.0 percent from its 1974 annual average of 100 to its 1983 annual average of 202.0.

Signed at Washington, D.C., on the 2nd day of February 1984.

Raymond J. Donovan,

Secretary of Labor.

[FR Doc. 84-3748 Filed 2-9-84; 8:45 am]

BILLING CODE 4510-24-M

Employment and Training Administration

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance; E&R Packaging, Inc., et al.

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 ("The Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to Section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than February 21, 1984.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than February 21, 1984.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 601 D Street, N.W., Washington, D.C. 20213.

Signed at Washington, D.C., this 31st day of January 1984.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner: Union workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
E&R Packaging, Inc. (UAW)	Warren, MI	1/24/84	1/16 /84	TA-W-15, 184	Final assembly & metal finishing, auto trim, aluminum & stainless steil moulding.
Harnischfeger Corp. (UAW)	No. Escanaba, MI	1/23/84	1/16 /84	TA-W-15, 185	Construction equipment—trucks, crawlers, cranes, etc.
Jones & Laughlin Steel Corp., Cold Finished, Bar Div. (USWA).	Hammond, IN	1/25/84	1/10 /84	TA-W-15, 186	Cold finished steel bars.
Kitt Energy Corp. (workers)	Philippi, WV	1/17/84	1/14 /84	TA-W-15, 187	Metallurgical coal mine.
Marposs Gauges (workers)	Madison Hts, MI	1/18/84	1/12 /84	TA-W-15, 188	Amplifiers for inprocess gauging.
Do	Troy, MI	1/18/84	1/12 /84	TA-W-15, 189	Do.
Melville Footwear Mfg., Inc. (workers)	Hot Springs, NC	1/23/84	1/18 /84	TA-W-15, 190	Men's, boy's & womens' dress & casual shoes.
Mississippi Chemical, Corp. (workers)	Carlsbad, NM	1/24/84	1/19 /84	TA-W-15, 191	Potash.
Slimmetry, Inc. (ILGWU)	Newark, NJ	1/12/84	1/4 /84	TA-W-15, 192	Ladies' undergarments.
Tygart Industries, Inc. (Shopmen's Union)	McKeesrock, PA	1/24/84	1/20 /84	TA-W-15, 193	Plate warehouse (cuts & ship), counter weights for cranes, hi-lifts, elevators, etc.
Republic Steel Corp., Union Drawn Div. (USWA)	Beaver Falls, PA	1/24/84	1/18 /84	TA-W-15, 194	Cold finished carbon & alloy steel bars.
Bucyrus-Erie Co. (USWA)	Erie, PA	1/30/84	1/23 /84	TA-W-15, 195	Construction equipment—front end loaders, hydraulic backhoes & cranes.
Carole Manufacturing Corp. (ILGWU)	E. Nerwark, NJ	1/30/84	1/18 /84	TA-W-15, 196	Contractor of ladies' suits.
Gregory Galvanizing & Metal Processing, Inc. (USWA)	Canton, OH	1/30/84	1/23 /84	TA-W-15, 197	Cyclone fencing & galvanizing for various other companies.
Melville Footwear Mfg., Inc. (workers)	Wilkesboro, NC	1/30/84	1/25 /84	TA-W-15, 198	Men's dress and casual shoes.
Young Squire, Togs Plant (company)	Hookerton, NC	1/24/84	1/20 /84	TA-W-15, 199	Men's & boy's coats, slacks & vests, ladies' skirts & vests.
FirstMiss, Inc. (workers)	Ft. Madison, Iowa	1/16/84	1/9 /84	TA-W-15, 200	Anhydrous ammonia, phos. acid, sulfuric acid, diammondium phosphate.
Felmot Oil Corp. (company)	Olean, NY	1/27/84	1/24 /84	TA-W-15, 201	Ammonia.
Banner Iron Works, Steel Fabrication Div. (workers)	St. Louis, MO	1/31/84	1/25 /84	TA-W-15, 202	Steel fabrication.
Livonne Fashions (ILGWU)	Newark, NJ	10/13/83	10/11 /83	TA-W-15, 203	Ladies' coats, raincoats, sport coats & car coats.

[FR Doc. 84-3749 Filed 2-9-84; 8:45 am]

BILLING CODE 4510-30-M

Labor Surplus Area Classifications Under Executive Orders 12073 and 10582; Louisiana; Additions to Annual List

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice.

DATE: The additions to the annual list are effective on February 1, 1984.

SUMMARY: The purpose of this notice is to announce changes to the annual list of labor surplus areas.

FOR FURTHER INFORMATION CONTACT: James W. Higgins, United States Employment Service (Attention: TEEPA) 601 D Street, NW., Washington, D.C. 20213. Telephone: 202–376–6700.

SUPPLEMENTARY INFORMATION: Executive Order 12073 requires executive agencies to emphasize procurement set-asides in labor surplus areas. The Secretary of Labor is responsible under that Order for classifying and designating areas as labor surplus areas.

Under Executive Order 10582 executive agencies may reject bids or offers of foreign materials in favor of the lowest offer by a domestic supplier, provided that the domestic supplier undertakes to produce substantially all of the materials in areas of substantial unemployment as defined by the Secretary of Labor. The preference given to domestic suppliers under Executive Order 10582 has been modified by Executive Order 12260. Federal Procurement Regulations Temporary Regulation 57 (41 CFR Chapter 1, Appendix), issued by the General Services Administration on January 15, 1981 (46 FR 3519), implements Executive Order 12260. Executive agencies should refer to Temporary Regulation 57 in procurements involving foreign businesses or products in order to assess its impact on the particular procurements.

The Department of Labor's regulations implementing Executive Orders 12073 and 10582 are set forth at 20 CFR Part 654, Subparts A and B. Subpart A requires the Assistant Secretary of Labor to classify jurisdictions as labor surplus areas pursuant to the criteria specified in the regulations and to publish annually a list of labor surplus areas. Pursuant to those regulations the Assistant Secretary of Labor published the annual list of labor surplus areas on September 29, 1983 (48 FR 44676).

Subpart B of Part 654 states that an area of substantial unemployment for purposes of Executive Order 10582 is any area classified as a labor surplus area under Subpart A. Thus, labor surplus areas under Executive Order 12073 are also areas of substantial unemployment under Executive Order 10582.

The areas described below have been classified by the Assistant Secretary of Labor as labor surplus areas pursuant to 20 CFR 654.5(b) (48 FR 15615 April 12, 1983) and are added to the annual list of labor surplus areas, effective February 1, 1984. The following additions to the annual list of labor surplus areas are published for the use of all Federal agencies in directing procurement activities and locating new plants or facilities.

Signed at Washington, D.C., on January 30, 1984.

Patrick J. O'Keefe,

Acting Deputy Assistant Secretary of Labor.

ADDITIONS TO THE ANNUAL LIST OF LABOR SURPLUS AREAS

[Feb. 1, 1984]

Labor surplus area	Civil jurisdiction included
Louisiana:	
Lafourche Parish	Lafourche Parish.
Terrebonne Parish	Terrebonne Parish.

[FR Doc. 84–3750 Filed 2–9–84; 8:45 am]

BILLING CODE 4510–30–M

Native American Programs; Proposed Allocations, Allocation Formula, and Implementation Schedule for Program Year 1984 Regular Program and Calendar Year 1984 Summer Youth Employment and Training Program

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice.

SUMMARY: This Notice publishes the proposed Native American allocation, distribution formula and rationale, and individual grantee planning estimates for Program Year 1984 for programs funded under Title IV, Section 401 and for Calendar Year 1984 for programs funded under Title II, Part B, of the Job Training Partnership Act (JTPA), (Pub. L. 97–300) of October 13, 1982.

DATES: Comments on this proposal must be submitted on or before April 1, 1984.

FOR FURTHER INFORMATION CONTACT: Paul A. Mayrand, Acting Director, Office of Special Targeted Programs, 601 D Street, NW., Room 6122, Washington, D.C. 20213 Phone (202) 376–6225.

SUPPLEMENTARY INFORMATION: Pursuant to Section 162 of JTPA, the allocations and distribution formula for Native American grantees to be funded under Title IV, Section 401 and Title II, Part B, are published below for review and comment. The amount to be distributed is $62,243,000, for Title IV, Section 401 and $13,176,511 for Title II, Part B, for the Summer Youth Employment and Training Programs (SYEP) for the Summer of Calendar Year 1984.

The formula for Title IV, Section 401 provides that 25% of the funding will be based on the number of unemployed Native Americans in the grantee's area, and 75% will be based on the number of poverty level Native Americans in the grantee's area. Furthermore, for Program Year 1984 no grantee will receive less than 80% of the annualized funding level it received for the period October 1, 1983 through June 30, 1984, unless its territory to be served was increased or decreased. The rationale for the formula is that unemployment and poverty in an area are good indications of the need for employment and training programs.

The formula for allocating Title II, Part B, SYEP funds divides the funds among eligible recipients based on the proportion that the number of youths in their area bears to the total number of youths in all eligible areas. Further, in Calendar Year 1984 each grantee is guaranteed it will receive at least 80% of the SYEP funds it received in Fiscal Year 1983. The rationale for using the number of youths in the formula is that they are the program beneficiaries.

Statistics on youth, unemployed and poverty level Native Americans are derived from the Decennial Census of the Population, 1980. Subject to Congressional appropriation actions, the Department proposes to use a similar methodology for one more year for the Title IV, Section 401 program and two more years for the SYP, and thereafter allocate to each grantee the amount it

would receive by a direct application of the 1980 Census data without a hold harmless provision.

The following is the planned schedule of activities leading to Program Year 1984 implementation:

February 13, 1984—Department issues Program Year 1984 Grant Planning and Performance Standards instructions

March 21, 1984—Grantees submit Summer Planning Modification to the Department

March 31, 1984—Grantees submit Master Plans to the Department

April 13, 1984—Grantees submit Program Year 1984 Comprehensive Annual Plans to the Department

July 1, 1984—Department issues approved Program Year 1984 notices of obligation to the grantees

This schedule is being provided to assist grantees with program planning and management.

Following are the proposed allocations for designated grantees.

Signed at Washington, D.C., this 31st day of January 1984.

Paul Mayrand,

Acting Director, Office of Special Targeted Programs.

BILLING CODE 4510-30-M

U.S. DEPARTMENT OF LABOR - EMPLOYMENT AND TRAINING ADMINISTRATION
OFFICE OF FINANCIAL CONTROL AND MANAGEMENT SYSTEMS
PY 1984 JTPA NATIVE AMERICAN PLANNING ESTIMATES
1/23/84

CREEK NATION EAST OF MISS. INC.
ROUTE 3, BOX 243A
ATMORE, ALABAMA
36502

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	203,072	0
COST POOL	50,768	0
TOTAL	253,840	0

ALEUTIAN/PRIBILOF ISLANDS ASSOC.
1689 C STREET
ANCHORAGE, ALASKA
99501

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	71,240	31,229
COST POOL	17,824	7,907
TOTAL	89,122	39,736

ASSOC. OF VILLAGE COUNCIL PRESIDENTS
P.O. BOX 219
BETHEL, ALASKA
99559

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	497,579	255,471
COST POOL	124,395	63,868
TOTAL	621,974	319,339

BRISTOL BAY NATIVE ASSOCIATION
P.O. BOX 189
DILLINGHAM, ALASKA
99576

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	118,051	84,462
COST POOL	29,513	21,166
TOTAL	147,564	105,628

COOK INLET NATIVE ASSOCIATION
670 WEST FIREWEED LANE
ANCHORAGE, ALASKA
99503

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	295,537	176,746
COST POOL	73,884	44,187
TOTAL	369,421	220,933

INUPIAT COMMUNITY OF THE ARTIC SLOPE
P.O. BOX 927
BARROW, ALASKA
99723

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	86,036	59,014
COST POOL	21,509	14,754
TOTAL	107,545	73,768

KAWERAK INCORPORATED
P.O. BOX 962
NOME, ALASKA
99762

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	186,549	104,383
COST POOL	46,646	26,221
TOTAL	233,232	131,104

KENAITZE INDIAN TRIBE
P. O. BOX 988
KENAI, ALASKA
99611

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	57,986	15,793
COST POOL	14,496	3,948
TOTAL	72,482	19,741

KODIAK AREA NATIVE ASSOCIATION
DRAWER 1271
KODIAK, ALASKA
99615

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	56,923	77,350
COST POOL	14,231	19,338
TOTAL	71,154	96,688

MAURELIUK MARPOWER
P.O. BOX 125
KOTZEBUE, ALASKA
99752

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	141,004	82,149
COST POOL	35,252	20,542
TOTAL	176,256	102,711

METLAKATLA INDIAN COMMUNITY
P.O. BOX 8
METLAKATLA, ALASKA
99926

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	79,414	15,496
COST POOL	19,854	3,874
TOTAL	99,268	19,370

NORTH PACIFIC RIM
903 W. NORTHERN LIGHTS BLVD., SUITE 203
ANCHORAGE, ALASKA
99503

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	70,117	27,444
COST POOL	17,529	6,917
TOTAL	87,646	34,583

SITKA COMMUNITY ASSOCIATION
P.O.BOX 4360
MT. EDGECUMBE, ALASKA
99835

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	35,324	32,092
COST POOL	8,831	8,023
TOTAL	44,157	40,115

TANANA CHIEFS CONFERENCE, INC.
201 FIRST AVENUE - DOYON BLDG.
FAIRBANKS, ALASKA
99701

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	265,443	142,133
COST POOL	66,361	35,533
TOTAL	331,804	177,666

TLINGIT AND HAIDA COUNCIL
ONE SEALASKA PLAZA, SUITE 200
JUNEAU, ALASKA
99801

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	229,795	192,360
COST POOL	57,449	48,090
TOTAL	287,245	240,450

AFFILIATION OF ARIZONA IND. CNTRS. INC.
2721 NORTH CENTRAL AVE., SUITE 910
PHOENIX, ARIZONA
85004

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	354,116	0
COST POOL	88,529	0
TOTAL	442,647	0

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AMERICAN INDIAN ASSOC. OF TUCSON
72 WEST STAMSON ST.
TUCSON, ARIZONA
85701

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	301,719	9,187
COST POOL	75,428	2,297
TOTAL	377,147	11,484

COLORADO RIVER INDIAN TRIBES
ROUTE 1, BOX 23-B
PARKER, ARIZONA
85344

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	66,273	30,932
COST POOL	16,068	7,733
TOTAL	82,041	38,665

GILA RIVER INDIAN COMMUNITY
BOX 97
SACATON, ARIZONA
85247

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	396,274	113,874
COST POOL	99,068	28,468
TOTAL	495,330	142,342

HOPI TRIBAL COUNCIL
BOX 123
KYKOTSMOVI, ARIZONA
86039

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	310,520	90,422
COST POOL	77,630	22,605
TOTAL	388,150	113,277

INDIAN DEV. DIST. OF ARIZONA, INC.
4707 N. CAMELBACK ROAD, SUITE A-108
PHOENIX, ARIZONA
85015

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	87,044	41,618
COST POOL	21,761	10,404
TOTAL	108,805	52,022

NATIVE AMERICANS FOR COMMUNITY ACTION
15 NORTH SAN FRANCISCO STREET
P.O. BOX 572
FLAGSTAFF, ARIZONA 86002

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	202,555	[illegible]
COST POOL	50,639	0
TOTAL	253,194	0

NAVAJO TRIBE OF INDIANS
P.O.BOX 1689
WINDOW ROCK,ARIZONA
86515

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	5,503,330	1,998,385
COST POOL	1,375,833	499,571
TOTAL	6,879,163	2,497,957

THE PAPAGO TRIBE OF ARIZONA
P.O. BOX 837
SELLS, ARIZONA
85634

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	343,402	157,230
COST POOL	86,150	39,308
TOTAL	431,752	196,538

PHOENIX INDIAN CENTER, INC.
3302 N 7TH STREET
PHOENIX, ARIZONA
85014-5481

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	491,672	0
COST POOL	122,918	0
TOTAL	614,590	0

SALT RIVER PIMA-MARICOPA IND. COMMU.
ROUTE 1, BOX 216
SCOTTSDALE, ARIZONA
85256

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	77,470	39,577
COST POOL	19,368	9,894
TOTAL	96,838	49,471

SAN CARLOS APACHE TRIBE
P.O. BOX "O"
SAN CARLOS, ARIZONA
85550

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	252,761	99,520
COST POOL	63,190	24,905
TOTAL	315,926	124,525

WHITE MOUNTAIN APACHE TRIBE
P.O. BOX 700
WHITE RIVER, ARIZONA
85941

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	268,435	111,724
COST POOL	67,109	27,931
TOTAL	335,544	139,655

AA. INDIAN CENTER OF ARKANSAS, INC.
4318 WEST MARKHAM ST.
LITTLE ROCK, ARKANSAS
72205

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	159,810	0
COST POOL	39,953	0
TOTAL	199,763	0

CALIFORNIA INDIAN MANPOWER CONT.
4441 AUBURN BOULEVARD, SUITE J
SACRAMENTO, CALIFORNIA
95841

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	2,592,477	208,366
COST POOL	648,169	52,092
TOTAL	3,240,646	260,458

CAHUALANIA AMERICAN INDIAN COUNCIL
522 NORTH A STREET
OXNARD, CALIFORNIA
93030

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	295,972	[illegible]
COST POOL	73,993	0
TOTAL	369,965	[illegible]

CONT. OF UNITED INDIAN NATIONS
1404 FRANKLIN STREET, SUITE 420
OAKLAND, CALIFORNIA
94612

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	518,744	[illegible]
COST POOL	129,687	0
TOTAL	648,431	0

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FRESNO AMERICAN INDIAN COUNCIL
5150 N 6TH STREET SUITE 142-144
FRESNO, CALIFORNIA
93710

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	226,873	0
COST POOL	56,718	0
TOTAL	283,591	0

HOOPA VALLEY BUSINESS COUNCIL
P.O. BOX 819
HOOPA, CALIFORNIA
95546

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	50,910	35,622
COST POOL	12,727	8,906
TOTAL	63,637	44,528

INDIAN CENTERS, INC.
1111 W. WASHINGTON BLVD.
LOS ANGELES, CALIFORNIA
90015

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	1,350,082	0
COST POOL	337,520	0
TOTAL	1,687,602	0

INDIAN CENTER OF SAN JOSE, INC.
3485 EAST HILLS DRIVE
SAN JOSE, CALIFORNIA
95127

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	191,013	0
COST POOL	47,753	0
TOTAL	238,766	0

NORTHERN CALIF. IND. DEV. COUNCIL, INC.
241 F STREET
EUREKA, CALIFORNIA
95501

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	262,406	7,184
COST POOL	65,602	1,796
TOTAL	328,008	8,980

ORANGE COUNTY INDIAN CENTER, INC.
13129 BROOKHURST STREET, SUITE #1
GARDEN GROVE, CALIFORNIA
92643

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	258,252	[illegible]
COST POOL	64,563	0
TOTAL	323,315	[illegible]

TULE RIVER TRIBE
TULARE COUNTY DEPT. OF HEALTH, SAFETY & WELFARE
P.O. BOX 589
PORTERVILLE, CALIFORNIA 93258

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	107,930	5,782
COST POOL	26,983	1,446
TOTAL	134,913	7,228

YA-KA-AMA INDIAN EDUC. AND DEV., INC.
6215 EASTSIDE ROAD
HEALDSBURG, CALIFORNIA
95448

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	105,648	0
COST POOL	26,412	0
TOTAL	131,060	0

DENVER NATIVE AMERICANS UNITED
4407 ADDISON ROAD
DENVER, COLORADO
80219

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	498,303	0
COST POOL	124,576	0
TOTAL	622,879	0

NATIONAL INDIAN INDIAN COUNCIL, INC.
2256 SOUTH BROADWAY
DENVER, COLORADO
80210

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	321,008	521
COST POOL	80,252	130
TOTAL	401,260	651

SOUTHERN UTE INDIAN TRIBE
P.O. BOX 737
IGNACIO, COLORADO
81137

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	46,099	16,267
COST POOL	11,525	4,067
TOTAL	57,624	20,334

UTE MOUNTAIN UTE TRIBE
P.O. BOX 30
TOWAOC, COLORADO
81334

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	55,082	19,414
COST POOL	13,896	4,854
TOTAL	69,478	24,268

AMERICAN INDIANS FOR DEVELOPMENT, INC.
21 COOKE AVENUE
P.O. BOX 117
ANSONIA, CONNECTICUT 06450

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	155,192	0
COST POOL	38,798	0
TOTAL	193,990	0

DEPARTMENT OF LABOR, STATE OF DELAWARE
OFFICE OF CETA PLANNING AND ADMIN.
701 SHIPLEY STREET
WILMINGTON, DELAWARE 19801

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	32,053	0
COST POOL	4,013	0
TOTAL	40,166	0

FLA. GOVERNORS COUNCIL ON IND. AFFAIRS
521 E. COLLEGE AVENUE
TALLAHASSEE, FLORIDA
32301

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	388,952	0
COST POOL	97,238	0
TOTAL	486,190	0

MICCOSUKEE CORPORATION
P.O. BOX 440021, TAMIAMI STATION
MIAMI, FLORIDA
33144

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	98,729	10,461
COST POOL	24,681	2,615
TOTAL	124,017	13,076

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SEMINOLE TRIBE OF FLORIDA
DEPT DEPARTMENT
6073 STERLING ROAD
HOLLYWOOD, FLORIDA 33024

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	55,091	36,186
COST POOL	13,900	9,546
TOTAL	69,501	47,732

DEPARTMENT OF ARCHIVES AND HISTORY
OFFICE OF INDIAN HERITAGE
330 CAPITAL AVE., S.E.
ATLANTA, GEORGIA 30334

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	144,718	0
COST POOL	37,179	0
TOTAL	185,897	0

ALU LIKE, INC.
101 KAMAKEE ST. - 3RD FLOOR
HONOLULU, HAWAII
96814

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	2,047,897	184,807
COST POOL	511,949	46,202
TOTAL	2,559,846	231,009

HAWAII COUNCIL OF AM. INDIAN NATIONS
810 KONOI VINEYARD BOULEVARD
HONOLULU, HAWAII
96817

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	63,346	0
COST POOL	15,836	0
TOTAL	79,182	0

IDAHO INTER-TRIBAL POLICY BOARD
P.O. BOX 405
FORT HALL, IDAHO
83203

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	198,315	6,466
COST POOL	49,629	1,616
TOTAL	248,144	8,082

NEZ PERCE TRIBE
P.O. BOX 365
LAPWAI, IDAHO
83540-0305

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	63,993	20,898
COST POOL	15,998	5,225
TOTAL	79,991	26,123

SHOSHONE-BANNOCK TRIBES
FORT HALL INDIAN RESERVATION
P.O. BOX 306
FORT HALL, IDAHO 83203

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	110,503	34,450
COST POOL	27,626	8,613
TOTAL	138,129	43,063

AM. IND. HIS. ASSN. TRNG. AND EMPL. PROG.
1630 WEST WILSON AVE.
CHICAGO, ILLINOIS
60640

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	960,722	0
COST POOL	215,480	0
TOTAL	1,083,402	0

KICKAPOO TRIBAL COUNCIL
ROUTE 1, BOX 157A
HORTON, KANSAS
66439

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	51,082	11,744
COST POOL	12,771	2,992
TOTAL	63,853	14,736

MID AMERICA ALL INDIAN CENTER, INC.
650 N. SENECA
WICHITA, KANSAS
67203

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	133,842	0
COST POOL	33,144	0
TOTAL	167,328	0

UNITED TRIBES OF KANSAS AND S.E. NEB.
P.O. BOX 29
HORTON, KANSAS
66439

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	403,708	21,421
COST POOL	100,927	5,355
TOTAL	504,635	26,776

INTER-TRIBAL COUNCIL OF LOUISIANA, INC.
9141 INTERLINE DRIVE
SUITE 4102
BATON ROUGE, LOUISIANA 70809

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	370,956	7,744
COST POOL	92,739	1,936
TOTAL	463,695	9,680

CENTRAL MAINE INDIAN ASSOCIATION, INC.
95 MAIN STREET
ORONO, MAINE
04473

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	60,296	0
COST POOL	15,074	0
TOTAL	75,370	0

TRIBAL GOVERNORS, INC.
93 MAIN STREET
ORONO, MAINE
04473

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	86,902	22,520
COST POOL	21,726	5,555
TOTAL	108,628	28,275

CITY OF BALTIMORE
701 ST. PAUL STREET
BALTIMORE, MARYLAND
21202

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	261,196	0
COST POOL	65,299	0
TOTAL	326,495	0

BOSTON INDIAN COUNCIL, INC.
105 S. HUNTINGTON AVENUE
JAMAICA PLAIN, MASSACHUSETTS
02130

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	195,043	0
COST POOL	49,161	0
TOTAL	245,404	0

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WASHPEE-MANPAHAUG INDIAN TRIBAL COUNCIL
P.O. BOX 1048
MASHPEE, MASSACHUSETTS
02649

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	68,583	0
COST POOL	17,146	0
TOTAL	85,729	0

GRAND RAPIDS INTER-TRIBAL COUNCIL
40 LEXINGTON AVE., N.W.
GRAND RAPIDS, MICHIGAN
49504

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	98,150	0
COST POOL	24,538	0
TOTAL	122,588	0

GRAND TRAVERSE BAND OF OTTAWA AND CHIPPEWA INDIANS
ROUTE 1 BOX 135
SUTTONS BAY, MICHIGAN
49682

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	45,472	18,761
COST POOL	11,368	4,690
TOTAL	56,840	23,451

INTER-TRIBAL COUNCIL OF MICHIGAN, INC.
405 EAST EASTERDAY AVENUE
SAULTE ST. MARIE, MICHIGAN
49783

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	60,973	29,330
COST POOL	15,243	7,332
TOTAL	76,216	36,662

MICHIGAN INDIAN MANPOWER INC.
3415 SOUTH CEDAR STREET
LANSING, MICHIGAN
48910

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	593,422	0
COST POOL	148,356	0
TOTAL	741,778	0

NORTH AMERICAN INDIAN ASSOC. OF DETROIT
360 JOHN ROAD
DETROIT, MICHIGAN
48226

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	330,708	0
COST POOL	82,677	0
TOTAL	413,385	0

SAULT STE. MARIE TRIBE OF CHIPPEWA INDIANS
206 GREENOUGH STREET
SAULT STE. MARIE, MICHIGAN
49783

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	112,750	39,074
COST POOL	28,187	9,018
TOTAL	140,937	45,092

SOUTHEASTERN MICHIGAN INDIANS, INC.
P.O. BOX 861
WARREN, MICHIGAN
48090

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	27,452	0
COST POOL	7,293	0
TOTAL	36,315	0

AMERICAN INDIAN FELLOWSHIP ASSN.
2 E. SECOND STREET
DULUTH, MINNESOTA
55802

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	112,217	5,343
COST POOL	28,054	1,336
TOTAL	140,271	6,679

AMERICAN INDIAN OPPORTUNITIES CTR.
2300 CEDAR AVE. SOUTH
MINNEAPOLIS, MINNESOTA
55404

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	431,387	0
COST POOL	107,847	0
TOTAL	539,234	0

BOIS FORTE R. B. C.
P.O. BOX 698
NETT LAKE, MINNESOTA
55772

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	32,045	14,011
COST POOL	8,011	3,503
TOTAL	40,056	17,514

FOND DU LAC R.B.C.
105 UNIVERSITY ROAD
CLOQUET, MINNESOTA
55720

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	52,242	11,096
COST POOL	13,070	2,924
TOTAL	65,352	14,420

LEECH LAKE R.B.C.
BOX 308
CASS LAKE, MINNESOTA
56633

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	156,864	41,738
COST POOL	39,216	10,434
TOTAL	196,080	52,172

MILLE LACS R.B.C.
STAR ROUTE-BOX 194
ONAMIA, MINNESOTA
56359

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	30,069	11,043
COST POOL	7,517	2,761
TOTAL	37,586	13,804

MINNEAPOLIS AMERICAN INDIAN CENTER
1530 EAST FRANKLIN AVENUE
MINNEAPOLIS, MINNESOTA
55404

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	252,587	12,942
COST POOL	63,147	3,236
TOTAL	315,734	16,178

RED LAKE TRIBAL COUNCIL
RED LAKE, MINNESOTA
56671

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	118,950	53,274
COST POOL	29,738	13,318
TOTAL	148,688	66,592

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WHITE EARTH R.B.C.
BOX 418
WHITE EARTH, MINNESOTA
56591

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	132,755	87,928
COST POOL	33,076	21,982
TOTAL	165,831	109,910

REGION VII AMERICAN INDIAN COUNCIL, INC.
310 ARMOUR ROAD, SUITE 205
KANSAS CITY, MISSOURI
64116

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	423,430	0
COST POOL	105,992	0
TOTAL	529,412	0

BLACKFEET TRIBAL BUSINESS COUNCIL
P.O.BOX 1090
BROWNING, MONTANA
59417

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	294,600	132,612
COST POOL	73,650	33,153
TOTAL	368,000	165,765

CONFEDERATED SALISH & KOOTENAI TRIBES
P.O. BOX 278
PABLO, MONTANA
59855

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	208,116	70,430
COST POOL	52,029	17,608
TOTAL	260,145	88,038

FT. BELKNAP AGENCY
BOX 249
HARLEM, MONTANA
59526

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	80,405	57,282
COST POOL	20,101	14,320
TOTAL	100,506	71,602

NORTHERN CHEYENNE TRIBE
P.O. BOX 308
LAME DEER, MONTANA
59043

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	138,909	59,248
COST POOL	34,727	14,812
TOTAL	173,636	74,060

NEBRASKA INDIAN INTER-TRIBAL DEV. CORP.
ROUTE 1 - BOX 60-A
WINNEBAGO, NEBRASKA
68071

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	188,730	32,145
COST POOL	47,182	8,036
TOTAL	235,912	40,181

UNITED INDIANS OF NEBRASKA
1402 SOUTH 78TH ST.
OMAHA, NEBRASKA
68124

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	53,598	0
COST POOL	13,675	0
TOTAL	67,273	0

MISSISSIPPI BAND OF CHOCTAW INDIANS
ROUTE 7, BOX 21
PHILADELPHIA, MISSISSIPPI
39350

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	303,781	43,678
COST POOL	75,945	10,919
TOTAL	379,726	54,847

FORT PECK INDIAN RESERVATION
P.O. BOX 37
POPLAR, MONTANA
59255

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	193,747	73,301
COST POOL	48,437	18,325
TOTAL	242,184	91,626

CHIPPEWA CREE TRIBE, ROCKY BOYS RESERV.
ROCKY BOY ROUTE
BOX ELDER, MONTANA
59521

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	82,774	43,524
COST POOL	20,693	10,881
TOTAL	103,467	54,405

CROW INDIAN TRIBE
P.O. BOX 550
CROW AGENCY, MONTANA
59022

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	174,795	73,140
COST POOL	43,699	18,285
TOTAL	218,494	91,425

MONTANA UNITED INDIAN ASSOCIATION
435 NORTH LAST CHANCE GULCH SUITE 2-A
HELENA, MONTANA
59601

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	354,383	0
COST POOL	89,721	0
TOTAL	444,104	0

LINCOLN INDIAN CENTER, INC.
1100 MILITARY ROAD
LINCOLN, NEBRASKA
68508

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	109,274	0
COST POOL	27,318	0
TOTAL	136,592	0

SANTEE SIOUX TRIBE OF NEBRASKA
ROUTE 2 SANTEE
NIOBRARA, NEBRASKA
68760

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	23,762	11,502
COST POOL	5,940	2,875
TOTAL	29,702	14,377

INTER-TRIBAL COUNCIL OF NEVADA
P.O. BOX 7440
RENO, NEVADA
89510

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	281,999	68,226
COST POOL	70,414	17,056
TOTAL	352,042	85,282

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NATIONAL AMERICAN INDIAN CENTER, INC.
418 HOOVER AVE., ROOM ONE
LAS VEGAS, NEVADA
89101

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	62,594	0
COST POOL	15,648	0
TOTAL	78,242	0

SHOSHONE PAIUTE TRIBES
P.O. BOX 219
OWYHEE, NEVADA
89832

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	52,781	19,690
COST POOL	13,195	4,972
TOTAL	65,976	24,662

POWHATAN RENAPE NATION
P.O. BOX 629
RT. HOLLY, NEW JERSEY
08060

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	246,195	0
COST POOL	61,549	0
TOTAL	307,744	0

ALAMO NAVAJO SCHOOL BOARD
P.O. BOX 907
MAGDALENA, NEW MEXICO
87825

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	55,700	28,735
COST POOL	13,925	7,184
TOTAL	69,625	35,919

ALL INDIAN PUEBLO COUNCIL
P.O. BOX 6507- STAT. B
1015 INDIAN SCHOOL ROAD, N.W.
ALBUQUERQUE, NEW MEXICO 87197

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	278,574	124,704
COST POOL	69,644	31,176
TOTAL	348,218	155,880

EIGHT NORTHERN INDIAN PUEBLO COUNCIL
P.O. BOX 969
SAN JUAN PUEBLO, NEW MEXICO
87566

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	48,484	28,252
COST POOL	12,121	7,063
TOTAL	60,605	35,315

JICARILLA APACHE TRIBE
P.O. BOX 507
DULCE, NEW MEXICO
87528

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	55,862	26,358
COST POOL	13,966	6,590
TOTAL	69,828	32,948

MESCALERO APACHE TRIBE
P.O. BOX 176
MESCALERO, NEW MEXICO
88340

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	78,927	40,939
COST POOL	19,732	10,235
TOTAL	98,659	51,174

NATIONAL INDIAN YOUTH COUNCIL
201 HERMOSA DRIVE, N.E.
ALBUQUERQUE, NEW MEXICO
87108

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	595,602	0
COST POOL	148,901	0
TOTAL	744,503	0

PUEBLO OF ACOMA
P.O.BOX 469
PUEBLO OF ACOMA, NEW MEXICO
87034

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	84,992	34,958
COST POOL	21,248	8,740
TOTAL	106,240	43,698

PUEBLO OF LAGUNA
P.O. BOX 194
LAGUNA, NEW MEXICO
87026

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	109,656	76,469
COST POOL	27,414	19,117
TOTAL	137,070	95,586

PUEBLO OF TAOS
P.O. BOX 1846
TAOS, NEW MEXICO
87571

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	35,701	27,429
COST POOL	8,925	6,857
TOTAL	44,626	34,286

PUEBLO OF ZUNI
ZUNI TRIBAL COUNCIL
P.O. BOX 339
ZUNI, NEW MEXICO 87327

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	241,502	108,220
COST POOL	60,375	27,055
TOTAL	301,877	135,275

RAMAH NAVAJO SCHOOL BOARD, INC.
DRAWER G
PINE HILL, NEW MEXICO
87321

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	77,112	28,251
COST POOL	19,278	7,063
TOTAL	96,390	35,326

SANTA CLARA INDIAN PUEBLO
P.O. BOX 580
ESPANOLA, NEW MEXICO
87532

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	22,030	4,778
COST POOL	5,508	1,194
TOTAL	27,538	5,972

SANTO DOMINGO TRIBE
GENERAL DELIVERY
SANTO DOMINGO, NEW MEXICO
87052

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	105,126	34,958
COST POOL	26,281	8,740
TOTAL	131,407	43,698

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AMERICAN INDIAN COMMUNITY HOUSE, INC.
842 BROADWAY, 6TH FLOOR
NEW YORK CITY, NEW YORK
10003

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	644,731	5,820
COST POOL	161,183	1,455
TOTAL	805,914	7,275

NATIVE AMERICAN MANPOWER PROGRAMS, INC.
1047 GRANT STREET (REAR)
BUFFALO, NEW YORK
14207

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	174,026	0
COST POOL	43,506	0
TOTAL	217,532	0

THE NORTH AM. IND. CLUB OF SYRACUSE AND VICINITY, INC.
P.O. BOX 851
SYRACUSE, NEW YORK
13201

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	236,[illegible]	6,132
COST POOL	59,[illegible]	1,533
TOTAL	295,[illegible]	7,665

ST. REGIS MOHAWK TRIBE
COMMUNITY BUILDING
HOGANSBURG, NEW YORK
13655

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	86,696	26,498
COST POOL	21,674	7,124
TOTAL	108,370	33,622

SENECA NATION OF INDIANS
P.O. BOX 344
SALAMANCA, NEW YORK
14779

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	336,440	115,391
COST POOL	84,[illegible]0	28,973
TOTAL	420,[illegible]0	144,864

CUMBERLAND COUNTY ASSOC. FOR IND. PEOPLE
102 INDIAN DRIVE
FAYETTEVILLE, NORTH CAROLINA
28301

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	104,242	0
COST POOL	26,060	0
TOTAL	130,302	0

EASTERN BAND OF CHEROKEE INDIANS
P.O. BOX 455
CHEROKEE, NORTH CAROLINA
28719

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	235,234	73,320
COST POOL	58,809	18,330
TOTAL	294,043	91,650

GUILFORD NATIVE AMERICAN ASSOC.
P.O. BOX 5623
400 PRESCOTT STREET
GREENSBORO, NORTH CAROLINA 27403

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	79,234	0
COST POOL	19,809	0
TOTAL	[illegible]	[illegible]

LUMBEE REG. DEV. ASSOC.
P.O. BOX 68
PEMBROKE, NORTH CAROLINA
28372

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	1,337,[illegible]	[illegible]
COST POOL	334,[illegible]	0
TOTAL	1,671,[illegible]	[illegible]

METROLINA NATIVE AMERICAN ASSN.
800 UNION CREEK ROAD
CHARLOTTE, NORTH CAROLINA
28209

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	80,982	0
COST POOL	20,245	0
TOTAL	101,227	0

NORTH CAROLINA COMM. OF IND. AFFAIRS
P.O. BOX 27228
RALEIGH, NORTH CAROLINA
27611

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	319,213	[illegible]
COST POOL	79,803	[illegible]
TOTAL	399,016	[illegible]

DEVILS LAKE SIOUX TRIBE
P.O. BOX 300
FORT TOTTEN, NORTH DAKOTA
58335

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	111,290	40,194
COST POOL	28,323	10,348
TOTAL	141,613	50,242

STANDING ROCK SIOUX TRIBE
GENERAL DELIVERY
FORT YATES, NORTH DAKOTA
58538

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	206,[illegible]	129,815
COST POOL	51,[illegible]	31,704
TOTAL	258,[illegible]	158,519

THREE AFFILIATED TRIBES
BOX 597
NEW TOWN, NORTH DAKOTA
58763

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	112,866	49,378
COST POOL	28,216	12,345
TOTAL	141,082	61,723

TURTLE MOUNTAIN BAND OF CHIPPEWA IND.
TURTLE MOUNTAIN TRIBAL COUNCIL
BELCOURT, NORTH DAKOTA
58316

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	285,292	91,975
COST POOL	71,323	22,994
TOTAL	356,615	114,969

UNITED TRIBES - ED. TECH. CNTR.
3315 S. AIRPORT ROAD
BISMARCK, NORTH DAKOTA
58501

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	161,214	0
COST POOL	40,054	0
TOTAL	210,268	0

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OHIO INDIAN JOB TRAINING PARTNERSHIP AGENCY
3630 LAHAIN AVENUE
CLEVELAND, OHIO
44102

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	455,703	0
COST POOL	113,926	0
TOTAL	569,631	0

CADDO TRIBE
P.O. BOX 487
BINGER, OKLAHOMA
73009

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	61,877	11,626
COST POOL	15,469	2,906
TOTAL	77,346	14,532

CENTRAL TRIBES OF THE SHAWNEE AREA, INC.
624 NORTH BROADWAY
SHAWNEE, OKLAHOMA
74801

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	64,045	29,064
COST POOL	16,011	7,266
TOTAL	80,056	36,332

CHEROKEE NATION OF OKLAHOMA
P.O. BOX 948
TAHLEQUAH, OKLAHOMA
74464

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	1,270,892	622,730
COST POOL	317,723	155,682
TOTAL	1,588,615	778,412

CHEYENNE-ARAPAHO TRIBES
P.O. BOX 67
CONCHO, OKLAHOMA
73022

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	170,177	114,970
COST POOL	42,544	28,743
TOTAL	212,721	143,713

CHICKASAW NATION OF OKLAHOMA
P.O. BOX 1548
ADA, OKLAHOMA
74820

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	312,849	159,662
COST POOL	78,212	39,916
TOTAL	391,061	199,578

CHOCTAW NATION OF OKLAHOMA
DRAWER 1210
DURANT, OKLAHOMA
74701

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	625,142	277,438
COST POOL	156,285	69,359
TOTAL	781,427	346,797

CITIZENS BAND POTAWATOMI IND. OF OKLA.
RT. 5, BOX 151
SHAWNEE, OKLAHOMA
74801

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	197,903	99,525
COST POOL	34,976	24,906
TOTAL	197,879	124,431

COMANCHE TRIBE OF OKLAHOMA
P.O. BOX 908
LAWTON, OKLAHOMA
73502

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	170,369	99,040
COST POOL	42,592	24,710
TOTAL	212,961	124,350

CREEK NATION OF OKLAHOMA
P.O. BOX 580
OKMULGEE, OKLAHOMA
74447

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	562,486	265,319
COST POOL	140,672	66,330
TOTAL	703,358	331,649

FOUR TRIBES CONSORTIUM OF OKLAHOMA
P.O. BOX 1193
ANADARKO, OKLAHOMA
73005

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	59,560	31,295
COST POOL	14,890	7,824
TOTAL	74,450	39,119

INTER-TRIBAL COUNCIL OF N.E. OKLAHOMA
P.O. BOX 1308
MIAMI, OKLAHOMA
74355

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	68,394	30,419
COST POOL	17,098	7,605
TOTAL	85,492	38,024

KAW TRIBE OF OKLAHOMA
DRAWER 50
KAW CITY, OKLAHOMA
74641

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	23,864	6,412
COST POOL	5,966	1,603
TOTAL	29,830	8,015

KICKAPOO TRIBES OF OKLAHOMA
P.O. BOX 58
MCLOUD, OKLAHOMA
74851

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	10,162	12,502
COST POOL	2,540	3,126
TOTAL	12,702	15,628

KIOWA TRIBE OF OKLAHOMA
P.O. BOX 361
CARNEGIE, OKLAHOMA
73015

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	148,111	72,226
COST POOL	42,179	18,057
TOTAL	210,896	90,283

OKLAHOMA TRIBAL ASSISTANCE PROGRAM, INC.
P.O. BOX 2841
TULSA, OKLAHOMA
74101

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	312,613	[illegible]
COST POOL	78,153	0
TOTAL	391,766	[illegible]

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OSAGE TRIBAL COUNCIL
P.O. BOX 987 - OSAGE AGENCY CAMPUS
PAWHUSKA, OKLAHOMA
74056

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	110,838	61,794
COST POOL	27,710	15,449
TOTAL	138,548	77,243

OTOE-MISSOURIA INDIAN TRIBE OF OKLA.
P.O. BOX 68
RED ROCK, OKLAHOMA
74651

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	29,845	17,578
COST POOL	7,462	4,420
TOTAL	37,308	22,098

PAWNEE TRIBE OF OKLAHOMA
P.O. BOX 470
PAWNEE, OKLAHOMA
74058

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	16,977	22,858
COST POOL	4,244	5,714
TOTAL	21,221	28,572

PONCA TRIBE OF INDIANS
WHITE EAGLE - BOX 11
PONCA CITY, OKLAHOMA.
74601

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	44,764	40,692
COST POOL	11,191	10,173
TOTAL	55,955	50,865

SEMINOLE NATION OF OKLAHOMA
P.O. BOX 745
WEWOKA, OKLAHOMA
74884

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	124,238	56,098
COST POOL	31,060	14,174
TOTAL	155,298	70,272

TONKAWA TRIBE OF OKLAHOMA
P.O. BOX 70
TONKAWA, OKLAHOMA
74653

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	38,725	38,701
COST POOL	9,681	9,675
TOTAL	48,406	48,376

UNITED URBAN INDIAN COUNCIL
2900 SOUTH HARVEY
OKLAHOMA CITY, OKLAHOMA
73109

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	352,362	0
COST POOL	88,091	0
TOTAL	440,453	0

CONFED. TRIBES OF SILETZ INDIANS
P.O. BOX 549
101 E. BUFORD ST.
SILETZ, OREGON 97380

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	259,360	7,804
COST POOL	64,840	1,951
TOTAL	324,200	9,755

CONFED. TRIBES OF THE UMATILLA IND. RES.
P.O. BOX 638
PENDLETON, OREGON
97801

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	36,789	18,383
COST POOL	9,172	4,646
TOTAL	45,961	23,229

CONFEDERATE TRIBES OF WARM SPRINGS
P.O. BOX C
WARM SPRINGS, OREGON
97761

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	77,426	34,738
COST POOL	19,356	8,684
TOTAL	96,782	43,422

ORGANIZATION OF FORGOTTEN AMERICANS
3949 SO. 6TH STREET
KLAMATH FALLS, OREGON
97601

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	360,104	4,709
COST POOL	90,026	1,077
TOTAL	450,132	8,386

URBAN INDIAN COUNCIL
P.O. BOX 3198, 1634 S.W. ALDER
PORTLAND, OREGON
97208

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	232,626	0
COST POOL	58,157	0
TOTAL	290,783	0

COUNCIL OF THREE RIVERS
200 CHARLES STREET
PITTSBURGH, PENNSYLVANIA
15238

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	250,687	0
COST POOL	62,722	0
TOTAL	313,609	0

UNITED AM. INDIANS OF THE DEL. VALLEY
225 CHESTNUT STREET
PHILADELPHIA, PENNSYLVANIA
19106

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	163,451	0
COST POOL	40,863	0
TOTAL	204,314	0

RHODE ISLAND INDIAN COUNCIL
444 FRIENDSHIP ST.
ROOM 300
PROVIDENCE, RHODE ISLAND 02907

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	119,357	0
COST POOL	29,839	0
TOTAL	149,196	0

OFFICE OF THE GOVERNOR OF SOUTH CAROLINA
1800 ST. JULIAN PLACE
COLUMBIA, SOUTH CAROLINA
29204

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	191,462	0
COST POOL	47,866	0
TOTAL	239,328	0

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CHEYENNE RIVER SIOUX TRIBE
P.O. BOX 768
EAGLE BUTTE, SOUTH DAKOTA
57625

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	186,797	84,894
COST POOL	46,699	21,224
TOTAL	233,496	106,118

CROW CREEK SIOUX TRIBE
P.O. BOX 658
FORT THOMPSON, SOUTH DAKOTA
57339

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	84,859	32,011
COST POOL	21,215	8,003
TOTAL	105,074	40,014

LOWER BRULE SIOUX TRIBE
P.O. BOX 313
LOWER BRULE, SOUTH DAKOTA
57548

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	47,339	16,482
COST POOL	11,835	4,120
TOTAL	59,174	20,602

OGLALA SIOUX TRIBE
P.O. BOX C
PINE RIDGE, SOUTH DAKOTA
57770

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	589,517	329,652
COST POOL	147,379	82,466
TOTAL	736,896	412,328

ROSEBUD SIOUX TRIBE
BOX 38
ROSEBUD, SOUTH DAKOTA
57570

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	349,190	143,142
COST POOL	87,297	35,786
TOTAL	436,487	178,928

SISSETON-WAHPETON SIOUX TRIBE
P.O. BOX 262
SISSETON, SOUTH DAKOTA
57262

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	135,002	42,331
COST POOL	34,001	10,583
TOTAL	170,003	52,914

UNITED SIOUX TRIBES DEV. CORP.
P.O. BOX 1193
PIERRE, SOUTH DAKOTA
57501

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	475,570	55,214
COST POOL	118,892	13,804
TOTAL	594,462	69,018

USET INCORPORATED
1101 KERMIT DRIVE
SUITE 800
NASHVILLE, TENNESSEE 37217

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	293,633	0
COST POOL	73,408	0
TOTAL	367,041	0

ALABAMA-COUSHATTA INDIAN RESERVATION
P.O. BOX 1141
LIVINGSTON, TEXAS
77351

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	490,839	5,268
COST POOL	122,710	1,317
TOTAL	613,549	6,585

DALLAS INTER-TRIBAL CENTER
CARTER PLAZA
209 EAST JEFFERSON BLVD.
DALLAS, TEXAS 75231

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	246,322	0
COST POOL	61,580	0
TOTAL	307,902	0

TIGUA INDIAN TRIBE
P.O. BOX 17579 - YSLETA STATION
EL PASO, TEXAS
79917

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	305,677	9,954
COST POOL	76,419	2,489
TOTAL	382,096	12,443

UTE INDIAN TRIBE
P.O. BOX 190
FORT DUCHESNE, UTAH
84026

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	72,175	53,173
COST POOL	18,094	13,293
TOTAL	90,459	66,466

ABENAKI SELF-HELP ASSN./N.H.IND. COUNC.
BOX 276
SWANTON, VERMONT
05488

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	40,646	0
COST POOL	10,162	0
TOTAL	50,808	0

MATTAPONI PAMUNKEY MONACAN CONSORTIUM
P.O. BOX 771
PRINCE WILLIAM, VIRGINIA
23086

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	196,134	3,206
COST POOL	49,034	801
TOTAL	245,168	4,007

AMERICAN INDIAN COMMUNITY CENTER
1007 N. COLUMBUS STREET
SPOKANE, WASHINGTON
99202

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	167,222	0
COST POOL	41,805	0
TOTAL	209,027	0

CHE-HO-QUI-SHO
P.O. BOX 397
HOCHESTER, WASHINGTON
98579

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	29,037	13,477
COST POOL	6,509	3,369
TOTAL	32,546	16,846

U.S. DEPARTMENT OF LABOR - EMPLOYMENT AND TRAINING ADMINISTRATION
OFFICE OF FINANCIAL CONTROL AND MANAGEMENT SYSTEMS
PY 1984 JTPA NATIVE AMERICAN PLANNING ESTIMATES
1/23/84

COLVILLE CONFEDERATED TRIBES
P.O. BOX 150
NESPELEM, WASHINGTON
99155

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	169,429	94,934
COST POOL	41,357	23,733
TOTAL	206,786	118,667

EASTERN WASHINGTON INDIAN CONSORTIUM
P.O. BOX 223
WELLPINIT, WASHINGTON
99040

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	470,055	186,186
COST POOL	117,514	46,547
TOTAL	587,569	232,733

LUMMI INDIAN BUSINESS COUNCIL
2616 KWINA ROAD
BELLINGHAM, WASHINGTON
98225

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	36,297	42,528
COST POOL	9,044	10,597
TOTAL	45,341	53,285

N.W. INTER-TRIBAL COUNCIL
P.O. BOX 115
NEAH BAY, WASHINGTON
98357

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	55,377	27,871
COST POOL	13,844	6,958
TOTAL	69,221	34,839

PUYALLUP TRIBE
2002 EAST 28TH ST.
TACOMA, WASHINGTON
98404

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	133,559	64,595
COST POOL	33,390	16,149
TOTAL	166,949	80,744

QUINAULT INDIAN NATION
P.O. BOX 247
TAHOLAH, WASHINGTON
98587

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	44,406	21,102
COST POOL	11,602	5,276
TOTAL	58,008	26,378

SEATTLE INDIAN CENTER
121 STEWART STREET
SEATTLE, WASHINGTON
98101

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	349,884	0
COST POOL	87,471	0
TOTAL	437,355	0

WESTERN WASH. IND. EMPL. AND TRNG. PROG.
11006 PACIFIC AVENUE, SUITE 1 & 2
KELLER PROFESSIONAL BUILDING
TACOMA, WASHINGTON 98444

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	665,284	109,945
COST POOL	166,321	27,236
TOTAL	831,605	136,181

LAC COURTE OREILLES TRIBAL GOVERNING BOARD
ROUTE 2
HAYWARD, WISCONSIN
54843

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	65,439	27,644
COST POOL	16,360	6,911
TOTAL	81,799	34,583

LAC DU FLAMBEAU CONSORTIUM
P.O. BOX 24
LAC DU FLAMBEAU, WISCONSIN
54538

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	47,537	21,293
COST POOL	11,884	5,323
TOTAL	59,421	26,616

MENOMINEE INDIAN TRIBE OF WISCONSIN
P.O. BOX 397
KESHENA, WISCONSIN
54135-0397

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	100,305	40,771
COST POOL	25,076	10,193
TOTAL	125,381	50,964

MILWAUKEE AREA AM. IND. MANPOWER CONSC.
3121 W. WISCONSIN AVE.
MILWAUKEE, WISCONSIN
53208

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	187,731	0
COST POOL	46,933	0
TOTAL	234,664	0

ONEIDA TRIBE OF INDIANS OF WIS., INC.
P.O. BOX 365
ONEIDA, WISCONSIN
54155

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	166,425	26,995
COST POOL	41,606	6,749
TOTAL	208,031	33,744

ST. CROIX TRIBAL COUNCIL
STAR ROUTE
WEBSTER, WISCONSIN
54893

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	31,530	22,323
COST POOL	7,883	5,581
TOTAL	39,413	27,904

STOCKBRIDGE-MUNSEE COMMUNITY
ROUTE 1
BOWLER, WISCONSIN
54416

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	50,592	14,367
COST POOL	12,648	3,592
TOTAL	63,240	17,959

WISCONSIN INDIAN CONSORTIUM
P.O. BOX 439
ASHLAND, WISCONSIN
54806

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	83,180	40,788
COST POOL	21,370	10,197
TOTAL	104,850	50,985

U.S. DEPARTMENT OF LABOR - EMPLOYMENT AND TRAINING ADMINISTRATION
OFFICE OF FINANCIAL CONTROL AND MANAGEMENT SYSTEMS
PY 1984 JTPA NATIVE AMERICAN PLANNING ESTIMATES
1/23/84

MISCONSIN-MENOMINEE BUSINESS COMMITTEE
MR. I CREAMENT MD
NEKOOSA, MISCONSIN
54457

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	161,446	35,385
COST POOL	40,361	8,846
TOTAL	201,807	44,231

SHOSHONE/ARAPAHOE TRIBES
P.O. BOX 217
FORT WASHAKIE, WYOMING
82514

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	229,178	85,046
COST POOL	57,145	21,261
TOTAL	286,723	106,307

NATIONAL TOTAL

	TITLE IV-A	TITLE II-B CALENDAR YEAR 1984
PROGRAM	49,794,403	10,541,207
COST POOL	12,448,597	2,635,304
TOTAL	62,243,000	13,176,511

[FR Doc. 84-3738 Filed 2-9-84; 8:45 am]
BILLING CODE 4510-30-C

Mine Safety and Health Administration

[Docket No. M-83-31-C]

American Gilsonite Co.; Petition for Modification of Application of Mandatory Safety Standard

American Gilsonite Company, Bonanza, Utah 84008 has filed a petition to modify the application of 30 CFR 57.19-71 (transporting persons in skips or buckets) to its E-30 Mine (I.D. No. 42-01781), E-14 and 15 Mine (I.D. No. 42-01782), I-9 Mine (I.D. No. 42-01783), I-24 Mine (I.D. No. 42-01784), I-16 Mine (I.D. No. 42-01785), and its I-15 Mine (I.D. No. 42-01817), all located in Uintah County, Utah. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that persons not ride in skips or buckets with muck, supplies, materials, or tools other than small hand tools.

2. Mining is done by two persons in a working area. There is no electrical, diesel, or gasoline-powered equipment used in the underground areas; all materials and supplies must be handled by the miners manually.

3. Petitioner states that some materials are too awkward for one person to safely handle alone. Both miners exit the mine together to obtain timbers, air pipe, air lift pipe, and other materials.

4. As an alternate method, petitioner proposes that the miners be allowed to ride in the cage with the materials secured with a chain. The materials will be placed so that they cannot strike the outside of the cage onto shaft timbers. The cages would be long enough to allow the bonnet to be closed over the materials and supplies.

5. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before March 12, 1984. Copies of the petition are available for inspection at that address.

Dated: February 3, 1984.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 84-3750 Filed 2-9-84; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-83-165-C]

Bullion Hollow Enterprises, Inc.; Petition for Modification of Application of Mandatory Safety Standard

Bullion Hollow Enterprises, Inc., Route 1, Box 1090, Wise, Virginia 24293 has filed a petition to modify the application of 30 CFR 75.1710 (cabs or canopies) to its No. 22 Mine (I.D. No. 44-05097) located in Wise County, Virginia. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that cabs or canopies be installed on the mine's electric face equipment.

2. The coal seam ranges in height from 38 to 72 inches, with an average height of 54 inches. Humps and rolls are present throughout the mine's bottom.

3. Petitioner states that the installation of canopies on the mine's electric face equipment would result in a diminution of safety because the canopies restrict the equipment operator's visibility, forcing the operator to lean out from the canopy to see, exposing body parts to potential injury. The canopies can also strike and dislodge roof supports, increasing the chances of an accident.

4. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before March 12, 1984. Copies of the petition are available for inspection at that address.

Dated: February 3, 1984.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 84-3754 Filed 2-9-84; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-83-157-C]

Eastern Coal Corp.; Petition for Modification of Application of Mandatory Safety Standard

Eastern Coal Corporation, P.O. Box 219, Stone, Kentucky 41567 has filed a petition to modify the application of 30 CFR 75.305 (weekly examinations for hazardous conditions) to its Stone No. 4 Mine (I.D. No. 15-02096) located in Pike County, Kentucky. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that return aircourses be examined in their entirety on a weekly basis.

2. Section 001-0 has experienced extreme adverse roof conditions in all four entries. A roof fall occurred in the number four return entry. This fall is from rib to rib and about 20 feet high. This airway is not part of the mine's escapeway system and the primary and secondary escapeways are travelable.

3. Petitioner states that clean-up of the fall and subsequent resupporting of this area would expose the miners affected to hazardous conditions, resulting in a diminution of safety.

4. As an alternate method, petitioner proposes to install mandoors in the stoppings on the inby and outby sides of the fall. Evaluation points will be established at two strategic locations on the inby and outby sides of the fall. Weekly checks for methane and direction and velocity of air will be made by a certified person. The results of these tests will be recorded on a date board at each location. A map showing the direction of the airflow will be posted at each evaluation point.

5. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before March 12, 1984. Copies of the petition are available for inspection at that address.

Dated: February 3, 1984.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 84-3761 Filed 2-9-84; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-83-38-M]

Homestake Mining Co.; Petition for Modification of Application of Mandatory Safety Standard

Homestake Mining Company, P.O. Box 875, Lead, SD 57754 has filed a petition to modify the application of 30 CFR 57.6-8 (blasting agents) to its Homestake Mine (I.D. No. 39-00055) located in Lawrence County, South Dakota. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that ammonium nitrate-fuel oil blasting agents be physically separated from other explosives, safety fuses, or detonating cord stored in the same magazine and in such a manner that oil does not contaminate the other explosives, safety fuse, or detonating cord.

2. As an alternate method, petitioner proposes that "Tovex" water gels be excluded from the requirements of the standard. In support of this request, petitioner states that the Tovex is an ammonium nitrate water gel with commercial sensitizer. Because of the covering film, there is no danger of oil entering the mixture. The six percent oil added to the product is "Corvus Oil", instead of fuel oil. Unlike fuel oil, the Corvus Oil is a more viscous product and does not migrate through the prills when transported over long distance in a warm environment. Very little of the oil appears on the outside of the bag container. If a small amount of oil did enter the water gel, it would have no effect on the product except for a small imbalance of fuel that might slightly increase the production of carbon monoxide which would be no worse than oil contamination from one bag of blasting agent to another.

3. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before March 12, 1984. Copies of the petition are available for inspection at that address.

Dated: February 3, 1984.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 84-3760 Filed 2-9-84; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-83-154-C]

Jewell Smokeless Coal Corporation; Petition for Modification of Application of Mandatory Safety Standard

Jewell Smokeless Coal Corporation, P.O. Box 70, Vansant, Virginia 24656 has filed a petition to modify the application of 30 CFR 77.214(a) (refuse piles; general) to its Harper's Branch Refuse Facility (I.D. No. 1211-VA5-00022-01A) located in Buchanan County, Virginia. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that refuse piles be located in areas which are a safe distance from all underground mine airshafts, preparation plants, tipples, or other surface installations, and that such piles not be located over abandoned openings or steamlines.

2. As a alternative method, petitioner proposes to construct a refuse embankment in an area containing eight abandoned mines in the Kennedy seam. No water seepage has been observed from any of these mine openings. Petitioner has obtained the mineral rights under lease to the Kennedy seam within the area. The company does not plan to reopen any of the abandoned mines for mining purposes. In addition, no plans exist for cutting into any of these mines from other areas in the future.

3. Petitioner proposes that each mine opening to be covered with refuse material will be backfilled as follows:

a. Any material covering the opening will be removed approximately 10 to 12 feet from the highwall and 10 to 12 feet to the left and right of the entry. The overburden material will be removed down to solid rock;

b. The material used for the backfill will consist of the most impervious, incombustible material reasonably available having enough fines to ensure an air tight seal. The material will be placed in lifts not to exceed two feet and will be compacted to a 90 percent of the standard proctor maximum dry density;

c. The material will be placed to a minimum of four feet above the coal seam. If a system of cracks is present above the entry which appears to be connected to the entry, the highwall will be backfilled to approximately four feet above the series of cracks.

4. Petitioner states that this plan for covering the abandoned mine entries will be incorporated into the mine's plan for the continued use of the refuse area.

5. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before March 12, 1984. Copies of the petition are available for inspection at that address.

Dated: January 30, 1984.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 84-3748 Filed 2-9-84; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-83-160-C]

KM&K Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

KM&K Coal Company, Box 40, Spring Glen, Pennsylvania 17978 has filed a petition to modify the application of 30 CFR 75.1400 (hoisting equipment; general) to its No. 14 Vein Slope (I.D. No. 36-07244) located in Schuylkill County, Pennsylvania. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that cages, platforms or other devices which are used to transport persons in shafts and slopes be equipped with safety catches or other approved devices that act quickly and effectively in an emergency.

2. Petitioner states that no such safety catch or device is available for steeply pitching and undulating slopes with numerous curves and knuckles present in the main haulage slopes of this anthracite mine.

3. Petitioner further believes that if a "makeshift" safety device were installed it would be activated on knuckles and curves, when no emergency existed, and cause a tumbling effect on the conveyance which would increase rather than decrease the hazard to the miners.

4. As an alternate method, petitioner proposes to operate the man cage or steel gunboat with secondary safety connections securely fastened around the gunboat and to the hoisting rope, which have a factor of safety in excess of the design factor as determined by the formula specified in the American National Standard for Wire Rope for Mines.

5. Petitioner states that the proposed alternate method will at all times provide the same degree of safety to the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before March 12, 1984. Copies of the petition are available for inspection at that address.

Dated: February 3, 1984.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 84-3762 Filed 2-9-84; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-83-155-C]

Kermit Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Kermit Coal Company, P.O. Box 198, Kermit, West Virginia 25674 has filed a petition to modify the application of 30 CFR 75.305 (weekly examinations for hazardous conditions) to its No. 1 Mine (I.D. No. 46-01602) located in Mingo County, West Virginia. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that at least one entry of each return aircourse be examined in its entirety on a weekly basis.

2. Petitioner states that massive roof falls in several return aircourses have rendered these areas impassable.

3. As an alternate method, petitioner proposes to establish and maintain four measuring stations at specified locations and to take measurements as follows:

a. Weekly, or as required, examinations for methane and air velocity will be made by a certified person at each station in lieu of traveling the affected returns;

b. A date board or record book will be placed at each measuring station to record the results of the examinations;

c. A diagram showing the direction of air flow in the affected areas will be posted at the measuring stations and at other necessary and strategic locations;

d. Dangerous quantities of methane will not be allowed to accumulate at anytime in the affected aircourses;

e. Each miner working in the affected area will be provided one-hour self rescue devices in accordance with petitioner's storage plan;

f. Telephone communication will be established at intake locations near each of the four measuring stations; and

g. All personnel will be instructed to call the surface if there is any noticeable change in air velocity or methane concentration at any of the measuring stations.

4. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Requests for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before March 12, 1984. Copies of the petition are available for inspection at that address.

Dated: February 3, 1984.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 84-3758 Filed 2-9-84; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-83-175-C]

Pyro Mining Co.; Petition for Modification of Application of Mandatory Safety Standard

Pyro Mining Company, P.O. Box 267, Sturgis, Kentucky 42459 has filed a petition to modify the application of 30 CFR 75.1103 (automatic fire warning devices) to its No. 9 Wheatcroft Mine (I.D. No. 15-13920) located in Webster County, Kentucky. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that devices be installed on all belts which will give a warning automatically when a fire occurs on or near such belt.

2. As an alternate method, petitioner proposes to use the Scada system, which incorporates carbon monoxide (CO) detectors (Transducers) in lieu of point-type heat sensors. The system will be used in conjunction with a booster-belt system, which allows for a continuous belt, 20,000 feet in length, eliminating the need for headers at previously required intervals of approximately 3,000 feet. This eliminates transfer points and reduces respirable dust. Booster drives will be installed at intervals not to exceed 4,500 feet, and a CO monitor will be located at the main drive, each booster drive, and at the tailpiece. The contaminant travel velocity in the entry will be maintained to at least 200 feet per minute.

3. In support of this proposed alternate method, petitioner states that the CO transducer operates in the 0-100 parts per million (ppm) range. The alarm level is set at 10 ppm. The alarm will be received at the central computer station on the surface, identifying the belt flight. The alarm can also be received at satellite stations underground. Each remote station will be housed in a Nema 12 enclosure. The CO monitor will be calibrated weekly for the first month and montly thereafter according to manufacturer's specifications.

4. Petitioner further states that the system has the capability of giving warning of a fire for four hours after the source of power has been removed. The CO monitor requires 24-hour warm-up time on the initial installment and further warm-up time is not required as long as the battery backup system remains operational. Should the CO detectors become inoperable, each belt flight will be continuously patrolled while persons are in the mine. In the event of a partial or total system malfunction, spot checks with an approved handheld CO instrument will be made on that portion of the affected beltway. The procedures to be followed in the event of alarm activation will be included in the mine's Fire and Evacuation Plan. In the event of a main fan outage, the power will be cut off in a timely manner according to the approved preestablished Fan Stoppage Plan. The area of the data station and

sensors will be examined prior to the restoration of power.

5. For these reasons, petitioner requests modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before March 12, 1984. Copies of the petition are available for inspection at that address.

Dated: February 3, 1984.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 84-3757 Filed 2-9-84; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-83-146-C]

Turris Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Turris Coal Company, P.O. Box 21, Elkhart, Illinois 62634 has filed a petition to modify the application of 30 CFR 75.503 (permissible electric face equipment; maintenance) to its Elkhart Mine (I.D. No. 11-02664) located in Logan County, Illinois, and its Vanderrick Mine (I.D. No. 12-01677) located in Vanderburgh County, Indiana. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the use of a locked padlock to secure screw caps in place on plugs of battery-powered machinery.

2. Petitioner states that there is an element of danger in having plugs locked together in the event of an emergency or short circuit on the affected equipment because the keys can be lost or misplaced.

3. As an alternative method, petitioner proposes that a harness snap device be used, in lieu of a padlock.

4. Petitioner states that the proposed alternate method will provide the same measure of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before March 12, 1984. Copies of the petition are available for inspection at that address.

Dated: February 3, 1984.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 84-3755 Filed 2-9-84; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-83-173-C]

Zapata Coal Corp.; Petition for Modification of Application of Mandatory Safety Standard

Zapata Coal Corporation, c/o Sharples Coal Corporation, P.O. Box D, Sharples, West Virginia 25183 has filed a petition to modify the application of 30 CFR 75.305 (weekly examinations for hazardous conditions) to its Buffalo Creek No. 4 Mine (I.D. No. 46-03749) located in Logan County, West Virginia. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that intake and return aircourses be examined in their entirety on a weekly basis.

2. Petitioner states that massive roof falls approximately 300 feet in by the intake drift have made it impossible to travel the intake airway in its entirety. These roof falls cover an area about 600 feet in length; rehabilitation of this airway would expose miners to hazardous conditions.

3. As an alternate method, petitioner proposes to establish evaluation points on each side of the fall area and examine these points once every 24 hours. Examinations will include air readings, methane tests, and tests for oxygen deficiency with an approved flame safety lamp. These tests will be made by a certified person and the results recorded in the mine's pre-shift examination book.

4. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before March 12, 1984. Copies of the petition are available for inspection at that address.

Dated: February 3, 1984.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 84-3756 Filed 2-9-84; 8:45 am]

BILLING CODE 4510-43-M

Occupational Safety and Health Administration

Advisory Committee on Construction Safety and Health; Meeting

Notice is hereby given that the Advisory Committee on Construction Safety and Health established under section 107(e)(1) of the Contract Work Hours and Safety Standards Act (40 U.S.C. 333) and section (7)(b) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 656) will meet on February 29, 1984 in the Elizabethan Room, the St. Francis Hotel, 335 Powell Street, San Francisco, California. The meeting is open to the public and will begin at 9:00 a.m.

The agenda for this meeting will include a discussion of fall protection, a discussion of OSHA's use of data on accidents, a discussion of voluntary protection programs, and a general discussion of construction safety and health matters.

Written data, views of comments may be submitted preferably with 20 copies, of the Division of Consumers Affairs. Any such submission received prior to the meeting will be provided to the members of the Committee and will be included in the record of the meeting.

Anyone wishing to make an oral presentation should notify the Division of Consumer Affairs before the meeting. The request should state the amount of time desired, the capacity in which the person will appear and a brief outline of the content of the presentation.

Oral presentations will be scheduled at the discretion of the Chairman depending on the extent to which time permits. Communications may be mailed to Kenneth Hunt, Committee Management Officer, Office of Information and Consumer Affairs, Occupational Safety and Health Administration, U.S. Department of Labor, 202-523-7177.

Materials provided to members of the Committee are available for inspection and copying at the above address.

Signed at Washington, D.C. this 6th day of February 1984.

Thorne G. Auchter,

Assistant Secretary.

[FR Doc. 84-3751 Filed 2-9-84; 8:45 am]

BILLING CODE 4510-26-M

Advisory Committee on Construction Safety and Health; Request for Nomination of Members

The Assistant Secretary of Labor for Occupational Safety and Health requests nominations for the Advisory Committee on Construction Safety and Health. The function of the Committee is to advise the Assistant Secretary on occupational safety and health in construction. Nominations will be accepted in all categories which include: Five Employee Representatives, five Employer Representatives, two State Representatives, two Public Representatives, and a Federal Representative. The term of office is two years.

Nominees must have specific experience and be actively engaged in work related to occupational safety or health in the construction industry. No member of the Committee (other than representatives of the employers and employees) shall have an economic interest in any proposed rule. The category of membership for which the candidate is qualified should be specified in the nomination letter which should come from an organization representative of that particular category. A résumé of the nominee's background, experience and qualifications with current address and telephone number should be included with the letter. In addition, the nomination letter shall state that the nominee is aware of the nomination, is willing to serve as a Committee member, and appears to have no conflict of interest that would preclude Committee membership.

Nominations should be submitted to Kenneth Hunt, OSHA Division of Consumer Affairs, Room N-3662, U.S. Department of Labor, Washington, D.C. 20210, no later than April 2, 1984.

Signed at Washington, D.C., this 6th day of February 1984.

Thorne G. Auchter,

Assistant Secretary.

[FR Doc. 84-3753 Filed 2-9-84; 8:45 am]

BILLING CODE 4510-26-M

National Advisory Committee on Occupational Safety and Health; Request for Nomination of Members

Nominations are requested for membership on the National Advisory Committee on Occupational Safety and Health. The Committee was established under section 7(a) of the Occupational Safety and Health Act of 1970 to advise the Secretary of Labor and the Secretary of Health and Human Services on matters relating to the administration of the Act.

The terms of 6 members of the 12 member committee will expire on June 30, 1984. Nominations will be accepted for the vacancies occurring in the following categories: Three public representatives, one management representative, one labor representative, and one safety representative.

Any interested person or organization may nominate one or more qualified persons for membership. Nominees should be identified by name, occupation or position, address, and telephone number. The category which the candidate would represent should be specified and a resume of the nominee's background, experience, and qualifications included. In addition, the nomination should state that the nominee is aware of the nomination and is willing to serve as a committee member.

Nominations should be submitted to Clarence Page, Division of Consumer Affairs, Occupational Safety and Health Administration, Room N-3662, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210, no later than April 2, 1984.

Signed at Washington, D.C., this 6th day of February 1984.

Thorne G. Auchter,

Assistant Secretary.

[FR Doc. 84-3752 Filed 2-9-84; 8:45 am]

BILLING CODE 4510-26-M

Pension and Welfare Benefit Programs

[Prohibited Transaction Exemption 84-4; Exemption Application No. D-3964 et al.]

Grant of Individual Exemptions; the Profit Sharing Plan for Employees of Hexter-Fair Title Company, Inc. et al.

AGENCY: Pension and Welfare Benefit Programs, Labor.

ACTION: Grant of Individual Exemptions.

SUMMARY: This document contains exemptions issued by the Department of Labor (the Department) from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1954 (the Code).

Notices were published in the Federal Register of the pendency before the Department of proposals to grant such exemptions. The notices set forth a summary of facts and representations contained in each application for exemption and referred interested persons to the respective applications for a complete statement of the facts and representations. The applications have been available for public inspection at the Department in Washington, D.C. The notices also invited interested persons to submit comments on the requested exemptions to the Department. In addition the notices stated that any interested person might submit a written request that a public hearing be held (where appropriate). The applicants have represented that they have complied with the requirements of the notification to interested persons. No public comments and no requests for a hearing, unless otherwide stated, were received by the Department.

The notices of pendency were issued and the exemptions are being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

Statutory Findings

In accordance with section 408(a) of the Act and/or section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following findings:

(a) The exemptions are administratively feasible;

(b) They are in the interests of the plans and their participants and beneficiaries; and

(c) They are protective of the rights of the participants and beneficiaries of the plans.

The Profit Sharing Plan for Employees of Hexter-Fair Title Company, Inc. (the Profit Sharing Plan) and the Hexter-Fair Title Company Pension Plan (the Pension Plan; collectively, the Plans) Located in Dallas, Texas

[Prohibited Transaction Exemption 84–4; Exemption Application Nos. D–3964 and D–3965]

Exemption

The restrictions of section 406(a), 406(b)(1) and 406(b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to:

(1) The past contribution of a certain parcel of Property (the Property) to the Profit Sharing Plan and to the Pension Plan by the Hexter-Fair Title Company, Inc. (the Employer), the sponsor of the Plans and the past contribution by the Employer to the Pension Plan of certain expenses related to the acquisition by the Pension Plan of certain leasehold interests (the Leasehold Interests, collectively, the Contribution) provided that (a) the value of the Property used in the Contribution was at least the fair market value of the Property on the date of the Contribution and (b) the amount used by the Employer for its federal tax deduction for the Contribution was not greater than the fair market value of the Property plus the Employer's expenses related to the acquisition by the Pension Plan of the Leasehold Interests on the date of Contribution; and

(2) The past sale by the Pension Plan to the Profit Sharing Plan of the Pension Plan's interest in the Property, provided the sales price was at least the fair market value of the Pension Plan's interest in the Property at the time of the sale; and (3) the proposed sale of the Property and the Leasehold Interests by the Profit Sharing Plan to the Employer, provided the sales price is at least the fair market value of the Property and Leasehold Interests at the time of the sale.

Effective Dates: The effective dates of thsi exemption are: (1) February 15, 1980 for the Contribution; (2) December 1, 1980 for the sale by the Pension Plan to the Profit Sharing Plan of the Pension Plan's interest in the Property; and (3) the date the grant of this exemption is published in the **Federal Register** for the proposed sale of the Property and the Leasehold Interests.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on December 19, 1983 at 48 FR 56118.

For Further Information Contact: Louis Campagna of the Department, telephone (202) 523–8971. (This is not a toll-free number.)

Pioneer Hi-Bred International, Inc., Savings Plan (the Plan) Located in Des Moines, Iowa

[Prohibited Transaction Exemption 845; Exemption Application No. D–4010]

Exemption

The restrictions of section 406(a), 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the making of past and prospective loans (the Loans) by Pioneer Hi-Bred International, Inc. to the Plan, provided the terms and conditions of the Loans are at least as favorable to the Plan as those obtainable in arm's length transactions with an unrelated party.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on July 22, 1983 at 48 FR 33566.

Effective Date: This exemption is effective as of October 7, 1982.

Temporary Nature of Exemption

This exemption is temporary in nature and will expire on July 1, 1991.

Notification of Participants, Comments and Hearing Requests

Despite two efforts (August 24, 1983 and September 16, 1983) by the applicant to provide notice of the proposed exemption to Plan participants, the Department determined that notice had not been given in a timely manner and that the content of the notice was inappropriate. On November 23, 1983, the applicant disseminated a revised notice in which participants were invited to send the Department written comments or requests for a public hearing before December 23, 1983. The Department received no written comments or hearing requests within the comment period.

For Further Information Contact: Ms. Jan D. Broady of the Department, telephone (202) 523–8971. (This is not a toll-free number.)

Lowe-H'Doubler-Giffin Keogh Plan (the Plan) Located in Springfield, Missouri

[Prohibited Transaction Exemption 84–6; Application No. D–4172]

Exemption

The sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the proposed cash purchase of a certain partnership interest (the Interest) from Dr. Peter H'Doubler (Dr. H'Doubler), a disqualified person with respect to the Plan, by Dr. H'Doubler's individually directed account in the Plan, provided that the purchase price does not exceed the fair market value of such Interest on the date of purchase.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on December 28, 1983 at 48 FR 57176.

For Further Information Contact: Ms. Katherine D. Lewis of the Department, telephone (202) 523–8972. (This is not a toll-free number.)

Petry Television, Inc. Profit Sharing Plan (the Plan) Located in New York, New York

[Prohibited Transaction Exemption 84–7; Exemption Application No. D–4189]

Exemption

The restrictions of section 406(a), 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the extension of credit by the Plan to Petry Television, Inc. (the Employer) in connection with the Employer's acquisition of certain common stock from the Plan, provided the terms and conditions of the transaction are as favorable to the Plan as those obtainable in an arm's length transaction with an unrelated party.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on December 19, 1983 at 48 FR 56120.

For Further Information Contact: Ms. Jan D. Broady of the Department, telephone (202) 523–8971. (This is not a toll-free number.)

Robino, Incorporated Pension Plan (the Plan) Located in Seattle, Washington

[Prohibited Transaction Exemption 84–8; Exemption Application No. D–4598]

Exemption

The sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply, for a five year period, to the proposed sale of certain mortgage loans (the Loans) to the Plan by Juanita Bay, Inc., a disqualified person with respect to the Plan, provided that the terms of each sale are no less favorable to the Plan than those obtainable in an arm's-length transaction with an unrelated party; and provided that the total value of all Loans sold to the Plan does not at any time constitute more than 25% of the total value of the Plan's assets.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on December 28, 1983 at 48 FR 57179.

Temporary Nature of the Exemption: This exemption will be temporary in nature, and will only apply to sales executed within 5 years from the date of this grant.

For Further Information Contact: Mr. David Stander of the Department, telephone (202) 523–8881. (This is not a toll-free number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and/or the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) These exemptions are supplemental to and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

(3) The availability of these exemptions is subject to the express condition that the material facts and representations contained in each application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, D.C., this 7th day of February 1984.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 84–3615 Filed 2–9–84; 8:45 am]

BILLING CODE 4510–29–M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

President's Committee on the Arts and Humanities; Meeting

There will be a meeting at 2:00 p.m. on February 22, 1984, at the Treasury Department, 15th and Pennsylvania Avenue, NW., Washington, D.C., to review the tax proposal developed by the President's Committee on the Arts and the Humanities with the Treasury Department. If you wish your name to appear on the access list, please call our Washington, D.C. office (202) 682–5409 or our New York office (212) 883–6764.

Dated: February 6, 1984.

John H. Clark,

Director, Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 84–3616 Filed 2–9–84; 8:45 am]

BILLING CODE 7537–01–M

President's Committee on the Arts and Humanities; Meeting

Plenary Meeting V of the President's Committee on the Arts and the Humanities will convene at 9:00 a.m. on Thursday, February 23, 1984 in the Council Room, Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, D.C. Reservations for this meeting, open to the public on a space available basis, may be made by sending a post card with your full name, address and telephone number (so that you may be notified in the event of a schedule change) to The President's Committee on the Arts and the Humanities, 1100 Pennsylvania Avenue, NW., Rm. 526, Washington, D.C. 20506. Or you may call 202/682–5409 or 212/883–6764. Individuals wishing to attend should request reservations not later than February 15.

This meeting is scheduled to review committee activities, and to report progress. The Committee is charged with considering ways in which to increase private sector support for the arts and the humanities, to consider appropriate Federal involvement in the arts and the humanities, and to make recommendations to the chairmen of the National Endowments for the Arts and for the Humanities, as well as to the President of the United States.

The agenda will largely reflect the Committee's recent work in the humanities. Reports will be made on New Alliances for Secondary Schools; Partnership of Presidents; National Clearinghouse for Shared Resources; the Regional Meetings Program, including plans for a Symposium on Public Benefits of the Arts and the Humanities; Humanities Recognition; Tax Proposals; National Medal of Arts; Resource Potential Pilot Study; Media and the Humanities; Presidential International Cultural Initiatives; and Community Foundations.

There will be a lunch break after which the meeting may resume at a time to be announced by the Chairman. The meeting will conclude not later than mid-afternoon.

Dated: February 2, 1984.

John H. Clark,

Director, Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 84–3617 Filed 2–9–84; 8:45 am]

BILLING CODE 7537–01–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–70–OLR, ASLBP No. 83–481–01 OLR]

General Electric Co. (GETR Vallecitos); Notice

February 6, 1984.

Please take notice that a Prehearing Conference in the above captioned proceeding will take place on Tuesday, March 6, 1984, 9:30 A.M. to 5:00 P.M., at the U.S. Court of Appeals, Courtroom 3, 7th and Mission Streets, San Francisco, California 94101.

At the Prehearing Conference the Board wishes to hear the response at Petitioner Jack Turk to the arguments raised by the General Electric Company and the NRC Staff concerning his contentions.

For the Atomic Safety and Licensing Board.

Bethesda, Maryland.

John H. Frye III,

Chairman, Administrative Judge.

[FR Doc. 84-3674 Filed 2-9-84; 8:45 am]

BILLING CODE 7590-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release Nos. 20623; SR-CBOE-84-1]

Chicago Board Options Exchange, Inc.; Filing and Order Granting Accelerated Approval of Proposed Rule Change

February 6, 1984.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on January 26, 1984, the Chicago Board Options Exchange, Incorporated ("CBOE"), LaSalle at Van Buren, Chicago, IL 60605, filed with the Securities and Exchange Commission the proposed rule change as described herein. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

The proposed rule change would clarify that CBOE's general rules pertaining to variation in the conduct of trading rotations are also applicable to trading rotations for index options. These general rules pertain to, among other matters, the sequence in which options series are opened and the initiation of a rotation at times other than the opening of trading. CBOE states that it intends by its proposal to emphasize the interrelation between index opening rotations and the general trading rotations rule (including the interpretations of that rule). CBOE thereby intends to clarify that it has the same flexibility in index option rotations as in others. CBOE believes its proposal conforms with the objectives of section 6(b)(5) of the Act.

Interested persons are invited to submit written data, views and arguments concerning the submission within 21 days from the date of publication in the **Federal Register**. Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 450 Fifth Street, Washington, DC 20549. Reference should be made to File No. SR-CBOE-84-1.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change which are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those which may be withheld form the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room. Copies of the filing and of any subsequent amendments also will be available at the principal office of the above-mentioned self-regulatory organization.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to national securities exchanges and, in particular, the requirements of Section 6 and the rules and regulations thereunder.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof in that the rule merely clarifies the relationship of existing CBOE rules to one another and generally reflects the manner in which they are presently administered.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the proposed rule change referenced above be, and hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84-3741 Filed 2-9-84; 8:45 am]

BILLING CODE 8010-01-M

[Release Nos. 20619; SR-CBOE-83-31]

Chicago Board Options Exchange, Inc.; Amended Filing and Order Granting Accelerated Approval of Proposed Rule Change

February 6, 1984.

The Chicago Board Options Exchange, Incorporated ("CBOE"), LaSalle at Van Buren, Chicago, IL., 60604, submitted on November 7 and November 29, 1983, copies of amendments to a proposed rule change pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act") and Rule 19b-4 thereunder, to provide for margin purposes a means of "covering" short call positions in broad-based stock index options. The rule change proposal was initially filed September 6, 1983, and notice thereof published in Securities Exchange Act Release No. 20188 (September 16, 1983), 48 FR 43469 (September 23, 1983).

Under the CBOE's amended proposal, no margin would be required for short positions in broad-based index call options, provided the customer has furnished an appropriate escrow receipt from a bank or trust company. Such an escrow receipt would (a) certify that for each call written the bank was holding securities of at least 10 different issuers, having a total market value equalling or exceeding, at the time the call was written, the current index value times the index multiplier; and (b) contain a commitment by the bank to pay the exercise settlement amount in the event of exercise. None of the 10 or more escrow securities by itself could represent more than 15 percent of the collateral. Each also would be required to be an equity security either traded on a national securities exchange and substantially meeting the listing requirements of the New York or American Stock Exchange (or actually traded on one of those two exchanges); or traded over-the-counter and included on the Federal Reserve Board's list of Over-the-Counter Margin Stocks.

The proposed standards do not require directly that the value of the securities deposited with the bank issuing the escrow receipt track changes in the index value with any specified degree of precision. This deviates somewhat from traditional concepts of cover, in which the instrument deposited as cover is required to be deliverable upon exercise of the options contract, thereby ensuring that the cover will always be adequate to satisfy the option writer's obligations under the options contract.

The Commission does not believe, however, that this should impede approval of the proposal. First, since the proposal requires that the deposited securities be equal to the current index value times the index multiplier, except in the most unusual circumstances this should assure that their value will remain far greater than the obligation of a call option writer to deliver upon exercise the difference between the current index value (times the index multiplier) and the exercise price of the option. This is particularly the case because the proposal relates solely to options on broad-based stock indices which, by their nature, are likely to be less volatile than indices relating to only a sector or small segment of the securities market. The proposal also requires that securities of 10 different issuers be deposited, with none of those securities representing more than 15 percent of the collateral. This should assure that even substantial decreases in the price of one or two of the deposited securities should not endanger the sufficiency of the collateral. In any event, since the

deposited securities must equal the underlying index value at the time the option is written, the proposal should ensure that escrow receipts are not used to obtain increased leverage or to otherwise evade exchange and Federal Reserve Board margin requirements.

Second, the bank pledged under the escrow receipt to pay the exercise settlement amount, like the member firm who is responsible for paying that amount to the Options Clearing Corporation, has a financial interest of its own in assuring that the securities deposited are adequate to secure that obligation. In the absence of experience to the contrary, it appears preferable to rely on the oversight of the pledging bank rather than to impose on the industry a rigid set of guidelines that might insure adequate cover but only at substantial expense and inconvenience to the industry. Practical experience with a system of index cover will provide indications of what, if any, further refinements are necessary to assure the adequacy of the securities deposited as collateral under the escrow receipt. In this regard, the Commission expects to work with the CBOE and any other exchange adopting index cover rules to monitor the functioning of the rule in the months ahead.

Finally, we note that the rule as presently proposed has been considered by the staff of the Federal Reserve Board which has stated that, in its view, an escrow agreement in the form provided for in the CBOE proposal could be used as cover in a cash account under Section 220.8(a)(4)(i) of Regulation T, 12 CFR 220.8(a)(4)(i).[1]

Interested persons are invited to submit written data, views and arguments concerning the submission within 21 days from the date of publication in the **Federal Register**. Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 450 Fifth Street, Washington, DC 20549. Reference should be made to File No. SR–CBOE–83–31.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change which are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. § 552, will be available for inspection and copying at the Commission's Public Reference Room. Copies of the filing and of any subsequent amendments also will be available at the principal office of the CBOE.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to national securities exchanges and, in particular, the requirements of Section 6 and the rules and regulations thereunder.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of amendment of the filing thereof, in that the public has had before it for more than four months the fundamental issue of covering index options by means of bank escrow receipts based on securities having a value matching that underlying the option contract. No member of the public submitted a comment on the initial rule proposal, and the Commission's concerns, largely of a technical nature, have been addressed by the amendments noticed herewith. Under these circumstances, additional delay in establishing a concept of cover for cash-settled index call options would not be justified.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the proposed rule change referenced above be, and hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84-3742 Filed 2-9-84; 8:45 am]

BILLING CODE 8010-01-M

[Release Nos. 23216; 70-6946]

Proposed Issuance and Sale of Notes to Banks and Commercial Paper to Dealers; Notes to Holding Co.; Capital Contributions to Subsidiaries; Exception From Competitive Bidding; the Southern Co., et al.

February 6, 1984.

In the matter of The Southern Co., 64 Perimeter Center East, Atlanta, Georgia 30346; Alabama Power Co., 600 North 18th Street, Birmingham, Alabama 35291; Georgia Power Co., 33 Piedmont Avenue, NE., Atlanta, Georgia 30308; Gulf Power Co., 75 North Pace Boulevard, Pensacola, Florida 32520; Mississippi Power Co., 2992 West Beach, Gulfport, Mississippi 39501; Southern Electric International, Inc., 3500 Piedmont Road, NE., Suite 500, Atlanta, Georgia 30305.

The Southern Company ("Southern"), a registered holding company, and five of its subsidiaries, Alabama Power Company ("Alabama"), Georgia Power Company ("Georgia"), Gulf Power Company ("Gulf"), Mississippi Power Company ("Mississippi"), and Southern Electric International, Inc. ("SEI"), have filed an application-declaration with this Commission pursuant to Sections 6(a), 6(b), 7, and 12(b) of the Public Utility Holding Company Act of 1935 ("Act") and Rules 45 and 50(a)(5) promulgated thereunder.

Southern, Alabama, Georgia, Gulf, and Mississippi propose to issue and sell, from time to time prior to April 1, 1985, short-term notes to banks and commercial paper to dealers up to the aggregate principal amounts at any one time outstanding of $100 million for Southern, $210 million for Alabama, $700 million for Georgia, $70 million for Gulf, and $101 million for Mississippi. The maximum short-term debt authorized for Alabama, Georgia, Gulf, and Mississippi will be reduced by the amount of net-cash proceeds that these companies receive from the sale of long-term debt and/or preferred stock from April 1, 1984 to March 31, 1985.

Southern has obtained commitments aggregating $100 million, consisting of $40 million from Barclays Bank International Limited and $20 million each from Credit Suisse, Swiss Bank Corporation, and Union Bank of Switzerland. A commitment fee of ¼ percent per annum on undrawn amounts is payable for each commitment. At Southern's option, borrowings will bear interest at an effective rate of (a) ½ percent per annum over the lender's floating prime rate or (b) a margin over the London Interbank Offered Rate ("LIBOR"). Swiss Bank Corporation also offers borrowings at ½ percent per annum over its prime rate on the date of the advance, fixed for 90 days. Borrowings under option (a) are prepayable by Southern at any time, without premium or penalty. In connection with option (b), advances from Credit Suisse and Union Bank of Switzerland are not prepayable and advances from Barclays Bank International Limited and Swiss Bank Corporation are prepayable only if amounts prepaid are accompanied by an amount equal to any loss or expense which either bank has sustained as a consequence of such prepayment. Except in the case of Swiss Bank Corporation, advances bearing interest at a rate related to the lender's floating prime rate may be for any term provided that they mature no later than the earlier of one year or the then current

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[1] *See* letter of January 27, 1984, from Laura Homer, Securities Credit Officer, Board of Governors of the Federal Reserve System, to Richard Ketchum, Associate Director, Division of Market Regulation.

expiration date for the commitment. Advances by Swiss Bank Corporation based on its floating prime rate are to mature within 180 days but in any event no later than the date of expiration of the commitment. Assuming 50 percent usage of the commitment of each bank, a prevailing prime interest rate of 11 percent, and a LIBOR of 9.75 percent, the effective cost of borrowings (including commitment fees) would be 11.75 percent from each bank under option (a) and, under option (b), 10.50 percent from Union Bank of Switzerland and 10.75 percent from the other banks.

Alabama has obtained separate commitments with ten banks located outside its territorial service area providing for revolving credits aggregating $200 million through April 30, 1987. Each borrowing by Alabama under a revolving credit will be evidenced by a "grid" promissory note, to be dated the date of the initial borrowing and the date of each borrowing thereafter at a time when a "grid" promissory note is not outstanding, and will mature not more than 270 days (but not later than the expiration of the lending bank's commitment) after the date of issue. The revolving credits have been separately negotiated with each of the several banks, and consequently the interest rates and fees payable by Alabama in respect of each commitment vary as is reflected in the several Agreements. Under each Agreement, Alabama is obligated to pay a commitment fee based upon the unused portion of the bank's commitment. The fee is determined by multiplying the unused portion of the band's commitment by a specified fraction or fractions of a percent (generally ⅜ percent). Assuming a prevailing 11 percent per annum prime rate, a prevailing 9.25 percent per annum certificate of deposit rate and 3 percent reserve requirements, and a LIBOR of 9.75 percent per annum and 3 percent reserve requirements, the effective cost, assuming full usage, of Base Borrowings, CD Borrowings, and Eurodollar Borrowings by Alabama would not exceed 11.125 percent, 10.286 percent, and 10.677 percent, respectively.

Georgia has entered into separate commitment agreements with ten banks located outside, and with one bank inside, its territorial service area under which such banks have agreed to lend to Georgia, through December 31, 1990, on a short-term, unsecured, revolving credit/term-loan basis, up to an aggregate of $1,565,000,000 in principal amount at any one time outstanding. Each short-term borrowing by Georgia under a revolving credit commitment will be evidenced by a "grid" promissory note, to be dated the date of the initial short-term borrowing and the date of each short-term borrowing thereafter at a time when a "grid" promissory note is not outstanding, and will mature not more than 270 days after the date of issue. The revolving credit commitments have been separately negotiated with each of the several banks, and consequently the pricing terms, interest rates, and fees payable by Georgia in respect of each bank's commitment vary as is reflected in the several Agreements. Under each Agreement Georgia is obligated to pay a commitment fee based upon the unused portion of the bank's commitment. The fee is determined by multiplying the unused portion of the bank's commitment by a specified fraction or fractions of a percent which vary with usage under four of the Agreements. Assuming a prevailing 11 percent per annum prime rate, a prevailing 9.25 percent per annum certificate of deposit rate and 3 percent reserve requirements, and a LIBOR of 9.75 percent per annum and 3 percent reserve requirements, the effective cost of the revolving credit commitments for Georgia, assuming full usage, would not exceed 11.201 percent, 10.737 percent, and 11.09 percent, respectively.

In addition to the specific bank borrowing arrangements as described above, Alabama, Georgia, Gulf, and Mississippi propose to borrow from other banks up to such amounts as will be indicated on the lists of such banks to be filed by amendment. These bank borrowings will be evidenced by notes to be dated as of the date of such borrowings and to mature in not more than nine months after the date of issue, or by "grid" notes evidencing all outstanding borrowings from each bank to be dated as of the date of the initial borrowing and to mature in not more than nine months after the date of issue. Borrowings from the listed banks will be prepayable in whole or in part, without penalty or premium, and will be at the lending bank's prevailing rate offered to corporate borrowers of similar quality or, (i) a margin over LIBOR, (ii) a margin over certificate of deposit rates, or (iii) the prime rate, plus the maintenance of compensating balances of up to 10 percent of undrawn amounts and up to 20 percent of amounts borrowed (or comparable fees in lieu of balances). The maximum effective cost of amounts so borrowed would be 13.75 percent, assuming a prevailing interest rate of 11 percent.

The proposed commercial paper will be in the form of promissory notes with varying maturities not to exceed 270 days. Actual maturities will be determined by market conditions, the effective interest costs, and the applicant's anticipated cash flow, including the proceeds of bank borrowings, at the time of issuance. The commercial paper notes will be issued in denominations of not less than $50,000 and not more than $5 million and will not by their terms be prepayable prior to maturity. The commercial paper will be sold directly to or through a dealer ("the dealer"). The discount rate (or the interest rate in the case of interest bearing notes) including any commissions will not be in excess of the discount rate per annum (or equivalent interest rate) prevailing at the date of issuance for prime commercial paper of comparable quality; provided, however, no commercial paper notes will be issued having a maturity of more than 90 days at an effective interest cost which exceeds the effective interest cost at which the issuer could borrow from banks in an amount at least equal to the principal amount of such commercial paper. The commercial paper of each company will be offered by the dealer to not more than 200 customers of the dealer identified and designated in a nonpublic list prepared in advance by the dealer.

SEI proposes to issue and sell unsecured notes to Southern from time to time prior to April 1, 1985, with maturities of no later than December 31, 1999, in the aggregate principal amount not to exceed $1 million at any one time outstanding for the purpose of meeting its working capital requirements. Such notes shall bear interest at a rate not to exceed 125 percent of the prime rate in effect on the date of issuance at a bank designated by Southern. Assuming a prime rate of 11 percent, the effective interest cost to SEI would not exceed 13¾ percent.

Southern also proposes to make additional equity investments in the form of capital contributions to Alabama, Georgia, Gulf, and Mississippi for the period April 1, 1984, through March 31, 1985, in amounts not to exceed the following: Alabama—$120 million; Georgia—$430 million; Gulf—$35 million; and Mississippi—$65 million.

It is stated that proceeds from short-term borrowings will be used by Alabama, Georgia, Gulf, and Mississippi for lawful corporate purposes, including the financing in part of their future construction programs.

The application-declaration and any amendments thereto are available for public inspection through the

Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by March 7, 1984, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the applicants-declarants at the addresses specified above. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the application-declaration, as filed or as it may be amended, may be granted and permitted to become effective.

For the Commission, by the Office of Public Utility Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84-3743 Filed 2-9-84; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF STATE

[Public Notice CM-8/711]

Shipping Coordinating Committee; National Committee for the Prevention of Marine Pollution; Meeting

The National Committee for the Prevention of Marine Pollution of the Shipping Coordinating Committee will conduct an open meeting at 0930 on March 6, 1984, in Room 3201, U.S. Coast Guard Headquarters, 2100 Second Street, S.W., Washington, D.C. Work Groups may be established at the meeting to convene prior to a subsequent meeting of the Committee, to be announced at a later date.

The purpose of the Committee meeting is to prepare position documents in preparation for an International Conference on Liability and Compensation for Damage in Connection with the Carriage of Certain Substances by Sea. The Conference will be held at the Headquarters of the International Maritime Organization, London, England during the period April 30–May 25, 1984. The Conference will consider:

A Draft Protocol to the International Convention on Civil Liability for Oil Pollution Damage, 1969 (CLC),

A Draft Protocol to the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage, 1971 (FUND), and,

Draft Articles for a Convention on Liability and Compensation in Connection with the Carriage of Noxious and Hazardous Substances by Sea (HNS).

In particular the Committee will discuss, for CLC and FUND, the following topics:

—Ships to be Covered by the Conventions
—Oils to be Covered by the Conventions
—Pre-spill Preventive Measures
—Definition of Pollution Damage
—Limitation of Liability; levels in general
—Indemnification of Shipowner
—Treaty Law Matters (transition from current Conventions to the revised Conventions)

for HNS:

—Liability: Shipowner only or Shipowner and Shipper
—Types of Cargoes to be Covered
—Definition of Shipowner and Shipper
—Limits of Liability of Shipowner and Shipper Supplemental Coverage
—Cargo Insurance

and for both CLC/FUND and HNS:

—Geographical Scope of the Conventions
—Limitation of Liability; Updating Limitation Amounts
—Limitation of Liability; Standard of Breaking
—Channeling, Recourse, and the Position of the Charterer
—Aids to Navigation Defense.

Members of the public may attend up to the seating capacity of the room.

For further information, including work group meetings, contact Captain Charles R. Corbett, U.S. Coast Guard Headquarters (G–WER), 2100 Second Street, S.W., Washington, D.C. 20593. Telephone: (202) 426–2010.

Dated: January 30, 1984.

Gordon S. Brown,

Chairman, Shipping Coordinating Committee.

[FR Doc. 84-3647 Filed 2-9-84; 8:45 am]

BILLING CODE 4710-07-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Radio Technical Commission for Aeronautics (RTCA), Special Committee 156—Potential Interference to Aircraft Electronic Equipment From Devices Carried Aboard; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; U.S.C. App. I) notice is hereby given of a meeting of RTCA Special Committee 156 on Potential Interference to Aircraft Electronic Equipment from Devices Carried Aboard to be held on February 28–29, 1984, in the RTCA Conference Room, One PcPherson Square, 1425 K Street, NW., Suite 500, Washington, D.C. commencing at 9:30 a.m.

The Agenda for this meeting is as follows: (1) Chairman's Introductory Remarks; (2) Approval of Minutes of the First Meeting Held on December 1–2, 1983; (3) Report of FAA's Aviation Safety Reporting System (ASRS) Data; (4) Report on Data Derived from Path Loss Tests Run by Airlines, Aircraft Manufacturers and FAA; (5) Discussion on Adequacy of RTCA Document DO–160 (Environmental Conditions and Test Procedures for Airborne Equipment) for Testing Carry-on Devices; (6) Report on Computing Devices Spurious Emissions Test Programs; (7) Report on the National Bureau of Standards Test Methodology; (8) Report on the Australian Department of Aviation Activities; (9) Assignment of Tasks; and (10) Other Business.

Attendance is open to the interested public but limited to space available. With the aproval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the RTCA Secretariat, One McPherson Square, 1425 K Street, NW., Suite 500, Washington, D.C. 20005; (202) 682–0266. Any member of the public may present a written statement to the committee at any time.

Issued in Washington, D.C. on January 27, 1984.

Karl F. Bierach,

Designated Officer.

[FR Doc. 84-3620 Filed 2-9-84; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

February 3, 1984.

On February 3, 1984, the Department of Treasury submitted the following public information collection requirement(s) to OMB (listed by submitting bureaus), for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96–511. Copies of these submissions may be obtained from the Treasury Department Clearance Officer, by calling (202) 535–6020. Comments regarding these information collections should be addressed to the OMB reviewer listed at the end of each bureau's listing and to the Treasury Department Clearance Officer, Room 7227, 1201 Constitution Avenue, N.W., Washington, D.C. 20220

Internal Revenue Service

OMB Number: 1545–0002
Form No.: CT–2
Type of Review: Extension
Title: Employee Representative's Quarterly Railroad Retirement Tax Return
OMB Reviewer: Norman Frumkin (202) 395–6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503.

Cathy Thomas,

Departmental Reports, Management Office.

[FR Doc. 84–3691 Filed 2–9–84; 8:45 am]

BILLING CODE 4810–25–M

VETERANS ADMINISTRATION

Information Collections Under OMB Review

AGENCY: Veterans Administration.

ACTION: Notice.

SUMMARY: The Veterans' Administration has submitted for review the following collections of information requirements and requests under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). These collections of information are proposed to be included in the Veterans' Administration Acquisition Regulations. For information collection requests (forms) the following information is listed: (1) The department or staff office issuing the form; (2) The title of the form; (3) The agency form number, if applicable; (4) How often the form must be filled out; (5) Who will be required or asked to report; (6) An estimate of the number of responses; (7) An estimate of the total number of hours needed to fill out the form; and (8) An indication of whether section 3504(h) of Public Law 96–511 applies. For information collection requirements (regulations) the following information is listed: (1) The regulation containing the collection of information requirement; (2) The subject of the information collection requirement; and (3) Who will be required or asked to report or record information.

ADDRESSES: Copies of the proposed information collections may be obtained from Patricia Viers, Agency Clearance Officer (004A2), Veterans' Administration, 810 Vermont Avenue, NW., Washington, D.C. 20420, (202) 389–2146. Comments and questions about the items on this list should be directed to the Veterans' Administration's OMB Desk Officer, Dick Eisinger, Office of Management and Budget, 726 Jackson Place, NW., Washington, D.C. 20503, (202) 395–6880.

DATES: Comments on the information collections should be directed to the OMB Desk Officer within 60 days of this notice.

By direction of the Administrator.

Dated: February 6, 1984.

Dominick Onorato,

Associate Deputy Administrator for Information Resources Management.

VAAR 809

(1) 48 CFR 809.16, 809.206, 809.406, 809.407, and 809.508
(2) Conditions for pre-award surveys; Acquiring qualified products; Debarment procedures; Suspension procedures; Organizational conflicts of interest
(3) Individuals or households; Businesses or other for-profit; Small businesses or organizations

VAAR 812

(1) 48 CFR 812.2
(2) Liquidated damages
(3) Individuals or households; Businesses or other for-profit

VAAR 813

(1) Office of Procurement and Supply
(2) Orders for Supplies and Services
(3) VA forms 90–2138 and 90–2139
(4) On occasion
(5) Individuals or households; Businesses or other for-profit; Non-profit institutions; Small businesses or organizations
(6) 2,607; 783 respondents
(7) 1,346; 764 hours
(8) Not applicable

* * * * *

(1) Office of Procurement and Supply
(2) Authorization and Invoice for Medical and Hospital Services
(3) VA Forms 10–1078 and 10–1079
(4) On occasion
(5) Individuals or households; Businesses or other for-profit; Small businesses or organizations
(6) 252,500 responses
(7) 10,100 hours
(8) Not applicable

* * * * *

(1) Office of Procurement and Supply
(2) Dental Record Authorization and Invoice for Outpatient Services
(3) VA Form 10–2570d
(4) Once—recurring
(5) Individuals or households; Small businesses or organizations
(6) 52,770 responses
(7) 17,590 hours
(8) Not applicable

* * * * *

(1) Office of Procurement and Supply
(2) Authority and Invoice for Travel by Ambulance or Other Hired Vehicle
(3) VA Form 10–2511
(4) On occasion
(5) Individuals or households; Businesses or other for-profit; Small businesses or organizations
(6) 122,500 responses
(7) 4,900 hours
(8) Not applicable

* * * * *

(1) Office of Procurement and Supply
(2) Authority and Invoice for Travel by Ambulance or Other Hired Vehicle
(3) VA Form 10–2421
(4) On occasion
(5) Individuals or households; Businesses or other for-profit; Small businesses or organizations
(6) 400,000 respondents
(7) 28,000 hours
(8) Not applicable

VAAR 815

(1) Office of Procurement and Supply
(2) Application for Furnishing Nursing Home Care to Beneficiaries of the Veterans Administration
(3) VA Form 10–1170
(4) On occasion
(5) Businesses or other for-profit; Non-profit institutions; Small businesses or organizations
(6) 1,600 responses
(7) 533 hours
(8) Not applicable

VAAR 828

(1) 48 CFR 828.306–70
(2) Evidence of Satisfactory Insurance Coverage
(3) Individuals or households; Businesses of Other for profit; Non-profit institutions; Small businesses or organizations

VAAR 846

(1) 48 CFR 846.408
(2) Inspection of Subsistence
(3) Individuals or households; Businesses or Other for-profit; Federal agencies or employees; Non-profit institutions; Small businesses or organizations

VAAR 871

(1) 48 CFR 871.102 (d) and (e)
(2) Authorization for Repairs to Properties
(3) State or local governments; Businesses or other for-profit; Non-profit institutions; Small businesses or organizations

* * * * *

(1) 48 CFR 871.103
(2) Repair Specifications
(3) State or local governments; Businesses or other for-profit; Non-profit institutions; Small businesses or organizations

* * * * *

(1) 48 CFR 871.106
(2) Lien Waivers
(3) State or local governments; Businesses or other for-profit; Non-profit institutions; Small businesses or organizations
* * * * *
(1) 48 CFR 871.209
(2) Records and Reports
(3) State or local governments; Businesses or other for-profit; Non-profit institutions; Small businesses or organizations
* * * * *
(1) Office of Procurement and Supply
(2) Compliance Inspection Report
(3) VA Form 26–1839
(4) On occasion
(5) Individuals or households
(6) 431,000 responses
(7) 107,750 hours
(8) Not applicable
* * * * *
(1) Office of Procurement & Supply
(2) Invitation, Bid, and/or Acceptance or Authorization
(3) VA Forms 26–6724 and 26–6724–1
(4) On occasion
(5) Businesses or other for-profit
(6) 312,000 responses
(7) 156,000 hours
(8) Not applicable
* * * * *
(1) Office of Procurement & Supply
(2) State Approving Agency (SAA) Reimbursement Contract and Schedules 1 and 2
(3) VA Forms 22–1982; 22–2982c; and 22–1982e
(4) Annually
(5) State or local governments
(6) 76 responses
(7) 76 hours
(8) Not applicable
* * * * *
(1) Office of Procurement & Supply
(2) Quarterly Report of State Approving Agency Activities
(3) VA Form 22–7398
(4) Quarterly
(5) State or local governments
(6) 76 responses
(7) 304 hours
(8) Not applicable
* * * * *
(1) Office of Procurement & Supply
(2) Contract for Services Relating to Vocational Counseling; Contract for Education and Training
(3) VA Forms 22–1903 and 22–1931
(4) Annually
(5) State or local governments
(6) For 22–1903—200 responses; for 22–1931—23 responses
(7) For 22–1903—100 hours; for 22–1931—69 hours
(8) Not applicable
* * * * *
(1) Office of Procurement & Supply
(2) Certification of Entrance Into Training or Trainee Status
(3) VA Form 22–1905
(4) On occasion
(5) Schools and Training establishments
(6) 11,250 responses
(7) 2,813 hours
(8) Not applicable

VAAR 836 and 852

(1) Office of Procurement & Supply
(2) Construction Progress Report
(3) VA Forms 08–6159
(4) On occasion
(5) Businesses or other for-profit
(6) 500 responses
(7) 125 hours
(8) Not applicable
* * * * *
(1) Office of Procurement & Supply
(2) Architect-Engineer Fee Proposal
(3) VA Forms 08–6298
(4) On occasion
(5) Businesses or other for-profit
(6) 200 responses
(7) 800 hours
(8) Not applicable
* * * * *
(1) 48 CFR 836.606–2; 852.236–72(b); 852.236–79; 852.236–81 through 236–85; and 852.236–88.
(2) Construction and Architect-Engineer Contracts
(3) Business or other for-profit; Small businesses or organizations

[FR Doc. 84–3671 Filed 2–9–84; 8:45 am]
BILLING CODE 8320–01–M

Sunshine Act Meetings

Federal Register
Vol. 49, No. 29
Friday, February 10, 1984

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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1

FARM CREDIT ADMINISTRATION

Federal Farm Credit Board; Special Meeting

DATES AND TIMES: The special meeting is scheduled to start at 9 a.m., Monday, February 26 and continue to 12 noon on Thursday, March. 1.

ADDRESS: Federal Farm Credit Board Special Meeting, the Cloisters, Sea Island, Georgia.

FOR FURTHER INFORMATION CONTACT: Kenneth J. Auberger, Secretary to the Federal Farm Credit Board, 490 L'Enfant Plaza, SW., Farm Credit Administration, Washington, DC 20578, (202–755–2174).

SUPPLEMENTARY INFORMATION: A special meeting of the Federal Farm Credit Board to discuss planning matters is scheduled to be held at Sea Island, Georgia, from February 26 to March 1, 1984.

Dated: February 13, 1984.

Donald E. Wilkinson,

Governor.

[FR Doc. 84-3804 Filed 2-8-84; 11:53 am]

BILLING CODE 6705-01-M

2

FEDERAL MARITIME COMMISSION

TIME AND DATE: 9 a.m.—February 15, 1984.

PLACE: Hearing Room One—1100 L Street, NW., Washington, D.C. 20573.

STATUS: Parts of the meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Portions open to the public:

1. Agreements Nos. 57–125, 57–126 and 57–128: Modifications of the Pacific Westbound Conference Agreement to authorize uniform practices with respect to unaffiliated container operations and change sundry voting procedures.

2. Agreements Nos. 10485, 10117–8 and 10261–13: Proposed new U.S. Atlantic Ports/Italy, France and Spain Freight Conference Agreement, and modifications of the U.S. North Atlantic Spain Rate Agreement and the U.S. South Atlantic Spanish, Portuguese & Mediterranean Rate Agreement to comport with the new agreement.

3. Docket No. 81–50: Per Container Rates—Tariff Filing Regulations Applicable to Carriers and Conferences in the Foreign Commerce of the United States—Notice seeking further comment.

Portion closed to the public:

1. Agreement No. 10066–4: Extension and revision of the U.S. East and West Coast Colombia Equal Access Agreement.

2. Docket No. 83–52: In the Matter of the Status of Matson Agencies, Inc. and Matson Freight Agencies, Inc.—Consideration of the record.

CONTACT PERSON FOR MORE INFORMATION: Francis C. Hurney, Secretary, (202) 523–5725.

Francis C. Hurney,

Secretary.

[FR Doc. 84-3795 Filed 2-8-84; 10:08 am]

BILLING CODE 6730-01-M

3

FEDERAL RESERVE SYSTEM (BOARD OF GOVERNORS)

TIME AND DATE: 10 a.m., Wednesday, February 15, 1984.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, NW., Washington, D.C. 20551.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Proposed Board policy statement on finanical institutions' practices regarding delayed availability of funds.

2. Proposed criteria for selecting high dollar group sort institutions. (Proposed earlier for public comment; Docket No. R–0464)

3. Proposed Board policy statement on delayed disbursement practices.

4. Any items carried forward from a previously announced meeting.

Note.—This meeting will be recorded for the benefit of those unable to attend. Cassettes will be available for listening in the Board's Freedom of Information Office, and copies may be ordered for $5 per cassette by calling (202) 452–3684 or by writing to: Freedom of Information Office, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204.

Dated: February 8, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-3821 Filed 2-8-84; 12:17 pm]

BILLING CODE 6210-01-M

4

FEDERAL RESERVE SYSTEM: (Board of Governors).

TIME AND DATE: Approximately 11 a.m., Wednesday, February 15, 1984, following a recess at the conclusion of the open meeting.

PLACE: 20th Street and Constitution Avenue, NW., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

2. Building expansion proposals for the Charlotte Branch of the Federal Reserve Bank of Richmond.

3. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204.

Dated: February 8, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-3822 Filed 2-8-84; 12:17 pm]

BILLING CODE 6210-01-M

5

NEIGHBORHOOD REINVESTMENT CORPORATION

TIME AND DATE: 3 p.m., Wednesday, February 15, 1984.

PLACE: Neighborhood Reinvestment Corporation, 1850 K Street, NW., Suite 400, Washington, D.C. 20006.

STATUS: Open Meeting.

CONTACT PERSON FOR MORE INFORMATION: Timothy S. McCarthy, Associate Director, Communications, 202–653–2705.

AGENDA:

I. Call to Order and Remarks of the Chairman
II. Approval of Minutes, November 23, 1983
III. Executive Director's Report
IV. NHSA Report
V. Treasurer's Report

VI. Audit Committee Report
VII. Budget Committee Report
VIII. Personnel Committee Report
Resolution: Technical Amendments of Neighborhood Reinvestment Corporation Group Pension Plan

No. 32, February 8, 1984.

Carol J. McCabe,

Secretary.

[FR Doc. 84-3846 Filed 2-8-84; 3:53 pm]

BILLING CODE 0000-00-M

6

SECURITIES AND EXCHANGE COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENTS: (49 FR 3293 January 26, 1984)

STATUS: Closed meeting.

PLACE: 450 Fifth Street, NW., Washington, D.C.

DATE PREVIOUSLY ANNOUNCED: Monday, January 23, 1984.

CHANGE IN THE MEETING: Deletion/addition.

The following item was not considered at a closed meeting scheduled for Thursday, Februay 2, 1984, following the 2:30 p.m. open meeting.

Regulatory matter bearing enforcement implications.

The following item was considered at a closed meeting scheduled for Thursday, February 2, 1984, following the 2:30 p.m. open meeting.

Legislative matter bearing enforcement implications.

Chairman Shad and Commissioners Treadway and Cox determined that Commission business required the above changes and that no earlier notice thereof was possible.

At times, changes in Commission priorities require altersations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Jerry Marlatt at (202) 272–2092.

George A. Fitzsimmons,

Secretary.

February 7, 1984.

[FR Doc. 84-3744 Filed 2-7-84; 4:32 p.m.]

BILLING CODE 8010-01-M

7

SECURITIES AND EXCHANGE COMMISSION

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94–409, that the Securities and Exchange Commission will hold the following meetings during the week of February 13, 1984, at 450 Fifth Street, NW., Washington, D.C.

A closed meeting will be held on Tuesday, February 14, 1984, 9:30 a.m. An open meeting will be held on Wednesday, February 15, 1984, at 9:30 a.m., in Room 1C30.

The Commissioners, Counsel to the Commissioners, the Secretary of the Commission, and recording secretaries will attend the closed meeting. Certain staff members who are responsible for the calendared matters may be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, the items to be considered as the closed meeting may be considered pursuant to one or more of the exemptions set forth in 5 U.S.C. 552b(c) (4), (8), (9)(A) and (10) and 17 CFR 200.402(a) (4), (8), (9)(i) and (10).

Chairman Shad and Commissioners Treadway and Cox voted to consider the items listed for the closed meeting in closed session.

The subject matter of the closed meeting scheduled for Tuesday, February 14, 1984, 9:30 a.m., will be:

Formal order of investigation.
Settlement of administrative proceeding of an enforcement nature.
Institution of administrative proceedings of an enforcement nature.
Institution of injunctive actions.

The subject matter of the open meeting scheduled for Wednesday, February 15, 1984, at 9:30 a.m., will be:

1. Consideration of whether to propose for public comment amendments to Rule 15c3–3 under Section 15(c)(3) of the Securities Exchange Act of 1934. The effect of the proposed amendments will be to require that greater deposits be made in the Reserve Bank Accounts of some broker-dealers. This will be accomplished by excluding the margin debit balances of certain persons who are related to principals of a broker-dealer or affiliated in a certain way with a broker-dealer from the Reserve Formula. It is further proposed to exclude from the debit items the amount by which a broker-dealer's margin accounts receivable with a single customer exceed ten percent of the aggregate of all such receivables with all customers of the broker-dealer. For further information, please contact Steven J. Gray at (202) 272–3113.

2. Consideration of whether to issue two releases related to the processing of disclosure filings of registered investment companies. The first release announces (i) that the Division will institute new procedures for the selective review of investment company registration statements and certain post-effective amendments to them, and (ii) that, except in certain cases, an investment company whose preliminary proxy statement or information statement has been on file for the required ten day period may mail such materials to shareholders. The second release proposed amendments to Rules 485 and 486 under the Securities Act of 1933 that would make automatically effective upon filing post-effective amendments filed solely to include unaudited financial statements within four to six months after the effective date of an investment company's Securities Act registration statement. For further information, please contact Larry L. Greene at (202) 272–7320.

3. Consideration of whether to propose for public comment an amendment to rule 204–2 under the Investment Company Act of 1940 to permit investment advisers to maintain records on microfilm without having to retain hard copies for two years. For further information, please contact Mary S. Podesta at (202) 272–2039.

4. Consideration of whether to issue a release requesting comments on a proposed industry guide and on proposed rules relating to disclosures about reserves and reserving practices of property casualty insurance underwriters. For further information, please contact Jeremiah Harrington at (202) 272–2156.

5. Consideration of whether to issue a release (1) proposing amendments to its requirements for interim financial information and management's discussion and analysis and (2) providing advance notice of possible rulemaking about other financial reporting matters. For further information, please contact Robert K. Herdman at (202) 272–2141.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Bruce Kohn at (202) 272–3195.

George A. Fitzsimmons,

Secretary.

February 7, 1984.

[FR Doc. 84-3745 Filed 2-7-84; 4:32 am]

BILLING CODE 8010-01-M

federal register

Friday
February 10, 1984

Part II

Small Business Administration

13 CFR Part 107

Accounting Standards and Financial Reporting Requirements for Small Business Investment Companies; Advance Notice of Proposed Rulemaking

SMALL BUSINESS ADMINISTRATION

13 CFR Part 107

Accounting Standards and Financial Reporting Requirements for Small Business Investment Companies

AGENCY: Small Business Administration.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: By this publication, SBA is giving advance notice of its intention to replace Appendices A, B and C of Part 107 of its regulations which deal with accounting standards and financial reporting requirements for Small Business Investment Companies. This is primarily to address the accounting requirements of Limited Partnership Small Business Investment Companies, an area on which they are currently silent.

DATES: Comments should be received on or before April 10, 1984.

ADDRESS: Written comments should be directed to Mr. Thomas C. Bresnan, Staff Accountant, Small Business Administration, Office of Finance and Investment, 1441 L Street, NW., Washington, D.C. 20416.

FOR FURTHER INFORMATION CONTACT: Mr. Thomas C. Bresnan, telephone (202) 653–6389.

SUPPLEMENTARY INFORMATION: By this publication, SBA is giving advance notice to the public of its intent to revise Appendices A, B and C to Part 107 of its regulations which deal with accounting standards and reporting requirements for Small Business Investment Companies (SBIC's).

The appendices to Part 107 of SBA regulations presently consist of:

—Appendix A—Audit Guide for Small Business Investment Companies
—Appendix B—Guide for the Preparation of the Annual Report
—Appendix C—System of Account Classification for Small Business Investment Companies

These appendices are being revised primarily to address the accounting requirements of Limited Partnership small Business Investment Companies, an area on which they are currently silent.

As a result of the Agency's effort to revise the appendices to include Limited Partnership (LP) guidelines; revisions, corrections, clarifications, and eliminations were made which affect all Small Business Investment Companies (SBIC's). In addition, the (SBIC) Annual Report, SBA Form 468, was reviewed and condensed substantially. Therefore, the Agency intends by this publication to provide the public with an opportunity to comment on the revised appendices before they are proposed for incorporation into Part 107.

The major areas of change contained in this revision are:

1. Accounting regulations for Limited Partnership SBIC's;
2. Annual Report, SBA Form 468, for Limited Partnership SBIC's;
3. Revised Annual Report, SBA Form 468, for Corporate SBIC's;
4. Elimination of Appendices A, B and C and issuance of Appendices I and II;
5. Revised recommended Accountant's Opinion; and
6. General edit of Appendices A, B and C to eliminate ambiguities and clarify specific points.

The nature of each of these major changes is:

1. Prior to this revision, there existed no accounting guidance for Limited Partnership SBIC's in regard to their particular problems. They were forced to attempt to modify corporate guidelines to fit partnership situations. This revision incorporates a full treatment of accounting matters relating to Limited Partnerships and their special needs. In particular, this revision establishes equity accounts for Limited Partnerships, explains in detail the preparation of financial statements, and provides discussion of Limited Partnership regulatory concerns. As these SBIC's are regulated by SBA, their equity accounts must be maintained in greater detail than is generally the case with unregulated partnerships.

2. Heretofore the only annual report forms (SBA Form 468) available for SBIC's were designed for corporate entities, and as such had little relation to the reporting requirements of partnerships. With this revision, a complete set of annual financial statements for partnerships has been designed. The new forms correspond to the GPO requirement that no forms exceed 8½ x 11 inches.

In addition, whereas corporate financial statements provide for capital stock, paid in surplus, retained earnings, and taxes, Limited Partnership financial statements provide only for partnership equities. Additionally, Limited Partnerships differentiate between general partner and limited partner equity interests. Finally, as Limited Partnership SBIC's are regulated investment companies, the financial statements provide for unrealized gain/losses and non-cash gains/losses. This revision accommodates all of these differences by providing annual report forms which take them into consideration.

3. A revised annual financial statement has been designed for corporations. This form also corresponds to the GPO directive that no form exceed 8½ inches. Previously, the annual financial statement consisted of two parts and included numerous supporting statements; the revised forms have been substantially shortened and combined into a single part. The number of pages included in SBA Form 468 has been reduced from 33 to 19. This has been accomplished by eliminating schedules of marginal importance, combining the statements, and generally overhauling the statements to capture all the important data in a concise straightforward manner.

The current SBA Form 468 consists of Parts I and II. Part I consists of Standard Financial Statements. Part II is a Management Report consisting of numerous schedules describing various aspects of the company's portfolio, funds maintained, and principal owners. A number of these required schedules were found to be burdensome to licensees and easily combined with others. This revision reduces the number of different schedules significantly, and simplifies the ones remaining.

4. The current accounting guidelines, Appendices A, B and C have evolved over the years with numerous changes, additions, and corrections being incorporated as each arose. Additionally, each of the appendices tended to overlap the others particularly in the sections which treated policy and procedures. In this overlap, ambiguities

if not contradictions, have arisen. For example, in the current appendices unrealized depreciation is discussed 11 times in relation to allowances for losses. In some cases, the two appear synonymous, in others the allowance is only one part of unrealized depreciation.

This revision has attempted to rectify these problems, eliminate the overlap, and to combine and condense the present three appendices into two guides. Appendices A and B have been combined into the new Appendix I and the number of total pages reduced from 138 to 98. Actually, as 26 additional pages have been added to described the new Partnership accounts and forms, the real reduction is quite significant. The current Appendix C has been reviewed, clarified, and expanded to include Partnership accounts and is proposed as Appendix II.

5. The sample Accountant's Opinion has been updated for changes that are recommended by the AICPA.

6. The current Appendices A, B, and C have been reviewed in their entirety for accuracy and clarity. Where corrections or improvements were indicated, they were made. It is hoped that this revision will be more understandable, concise, and useful to all Small Business Investment Companies and their accountants.

List of Subjects in 13 CFR Part 107

Investment companies, Loan programs—businesses, Reporting and recordkeeping requirements, Small businesses.

Accordingly, pursuant to section 308(c) of the Small Business Investment Act, 15 U.S.C. 687(c), SBA hereby proposes the following advance notice of proposed rules.

Dated: January 30, 1984.

Heriberto Herrera,

Acting Administrotor.

A Note of Caution to All SBIC's Legal Counsel, Accountants, and Tax Advisors

The appendices refer to Securities and Exchange Commission Rules and Regulations, American Institute of Certified Public Accountant's publications, and the Internal Revenue Code in various places. The references are current at this time but can be changed at some future time. It is the responsibility of the licensee and its advisors to be knowledeable of any change and its effect on the SBIC.

Distributions to stockholders or partners are permitted only to the extent that undistributed net realized earnings exist. Under certain circumstances this could create a hardship on stockholders in Subchapter S Licensees or partners in Limited Partnership Licensees.

PART 107—[AMENDED]

Appendices A—C [Removed]

Part 107 of Title 13 is amended by removing Appendces A, B, and C and adding new Appendices I and II to read as follows:

Appendix I—Amended Guide for SBIC's and Preparation of the Annual Report

I. Introduction

A. Purpose of the Guide

The Small Business Administration (SBA) Audit Guide has been written primarily to: (1) Inform the licensee and (2) assist the auditors of Small Business Investment Companies (SBICs) in performing their financial examination by focusing on matters that are unique to the SBIC program and the venture capital industry. It should be noted that this Guide is not intended to be a substitute for the accountant's judgment as to the work required to meet generally accepted auditing standards.

The report (SBA Form 468) and related schedules have been designed to provide standard reporting in such form that will insure that uniform and comparable data will be received by SBA from all licensees. The licensee is responsible for the preparation of the report. The independent public accountant is required to audit the licensees' records and express an opinion.

B. Definitions

(1) "Licensee" means any corporation or limited partnership that has been licensed by the SBA as a Small Business Investment Company.

(2) "Directors" means any director of a corporation or any person performing similar functions with respect to any licensee whether incorporated or unincorporated.

(3) "Executive Officer" means the president, vice president, secretary or treasurer of the licensee or any other person who performs similar policy making functions for the licensee whether incorporated or unincorporated.

(4) "Advisory Board" means a board, whether elected or appointed, which is distinct from the board of directors or board of trustees, or the licensee, and which is composed solely of persons who do not serve such licensee in any other capacity, whether or not the functions of such board are such as to render its members "directors" within the definition of that term, which board has advisory functions as to investments but has no power to determine that any security or other investment shall be purchased or sold by such licensee.

(5) See § 107.3 for other "definition of terms."

II. Selection and Qualification of the Auditor

A. Selection of the Auditor

The responsibility for selecting the independent public accountant is vested in the licensee's Board of Directors/General Partner(s). Any accountant qualifying as an independent public accountant, as explained in Paragraph C may be considered as having SBA approval to perform the annual audit (financial examination) upon selection by the Board of Directors/General Partner(s), and the filing with SBA by such accountant of an executed IPA Certification, CO Form 112 (XX–XX) certifying as to his qualification and independence, unless advised otherwise by SBA.

It is strongly recommended that the Board of Directors/General Partner(s) give thorough consideration each year to the matter of selecting the public accountant to perform that year's audit. The Board/General Partner(s) under this policy selects an accountant with whom it agrees as to the scope of the engagement and basis of compensation. Notification of the Board's selection will be furnished to the Staff Accountant, Investment Division, Small Business Administration, 1441 L. Street, N.W., Washington, D.C. 20416. Notification to SBA is not necessary when the same accountant or accountants are retained for successive years.

B. Qualification of Accountants

Any public accountant, certified or licensed by a regulatory authority of a State or other political subdivision of the United States, who is independent and who is duly authorized to practice as a public accountant, and is in good standing under the laws of the State or other comparable authority in which so authorized, may be considered qualified to render an opinion as an independent public accountant on behalf of a licensee whose office is located in such State or Authority.

C. Independence

Accountants approved by SBA as auditors of a licensee are to follow the code of professional ethics adopted by the American Institute of Certified Public Accountants (AICPA). In determining whether an accountant may in fact be not independent with respect to a particular licensee, SBA will give appropriate consideration to all relevant circumstances, including evidence bearing on relationships between the

accountant and such licensee or any affiliate thereof.

Accordingly, an accountant or a firm of which he is a partner or shareholder shall not express an opinion of financial statements of a licensee unless he and his firm are independent with respect to such licensee. Independence will be considered to be impaired if, for example:

1. During the period of his professional engagement, or at the time of expressing his opinion he or his firm,

a. Had or was committed to acquire any direct or indirect financial interest in the licensee;

b. Had any joint closely held business investment with the licensee or any officer, director or principal stockholder, or partner, general or limited, thereof which was material in relation to his or his firm's net worth; or

c. Had any loan to or from the licensee or any officer, director or principal stockholder thereof.

2. During the period covered by the financial statements, during the period of the professional engagement or at the time of expressing an opinion, he or his firm,

a. Was connected with the licensee as a promoter, underwriter or voting trustee, a director or officer or in any capacity equivalent to that of a member of management or of an employee;

b. Was a trustee of any trust or executor or administrator of any estate if such trust or estate had a direct or material indirect financial interest in the licensee; or was a trustee for any pension or profit-sharing trust of the licensee; or

c. The independent accountant should familiarize himself with Section 600 "Matters Relating to Independent Accountants" of the "Codification of Financial Reporting Policies" of the Securities and Exchange Commission (SEC) which the SBA follows in most matters relating to the independence of accountants.

IPA Certification

Staff Accountant
Investment Division
Small Business Administration
1441 L Street, N.W.
Washington, D.C. 20416

Gentlemen: I (we) have been selected by the Board of Directors of (Name of Licensed Small Business Investment Company) (License Number Address of Licensee's Principal Office) (License Number) to conduct an annual examination of the licensee's financial statements as of ———, 19—. In accordance with provisions of Paragraph II. B of Appendix I., (Check One):

☐ Independent* Certified Public Accountant (or firm of CPAs).

☐ Independent* Licensed Public Account (or firm of Licensed PAs).

I certify that this accountant (or firm of public accountants) is authorized to practice in, and is in good standing under the laws of, the state or other jurisdiction in which the principal office of the Licensee is located, and accordingly, qualifies to perform the annual audit of the above named Licensee.

(Date)———
(Signature of Individual Practitioner or Principal, if applicable)———
(Date)———
(Signature of Partner of Accounting Firm, if applicable) ———
Type name under which individual practitioner or accounting firm is doing business) —
(Business Address)———
(Zip Code)———

Independent within the meaning of this term as used by the Small Business Administration. SBA will not recognize any public accountant as independent who is not fact independent. For example, an accountant will be considered not independent with respect to any small business investment company with which he has, or had during the period covered by the audit (financial examination), any direct financial interest or any material indirect financial interest; or with which he is, or was during such period, connected as a promoter, underwriter, voting trustee, investment adviser, director, officer, or employee.

CO Form 122 (XX/XX) Previous Editions are Obsolete.

Accountants Opinion

To the Board of Directors and Shareholders of, or
To the General Partners and Limited Partners of
XYZ Investment Company,
A Small Business Investment Company licensed by the SBA.

We have examined the statement of (Consolidated or combined, if applicable) financial condition of XYZ Investment Company including the portfolio of investments as of (insert date for close of fiscal period), and the related statement of operations for the year then ended, the statement of changes in financial position, and the supplementary schedules and information required by SBA Form 468. Our examination was made in accordance with generally accepted auditing standards, and accordingly included such tests of the accounting records and such other auditing procedures as we considered necessary in the circumstances. Securities owned at (insert date), except securities purchased but not received, were confirmed to us by the custodian (or "counted" if such was the audit procedure). As to securities purchased but not received, we requested confirmation from the (brokers/sellers as applicable), and where replies were not received, we carried out other appropriate auditing procedures.

The company presents its financial statements in conformity with accounting practices prescribed by the Small Business Administration, which provide for specific allocations of certain types of income to specific capital accounts. As discussed more fully in note (identify the note or notes) to the financial statements, securities amounting to $——— (—% of the net assets) have been valued at fair value as determined by the (board of directors/general partners, as applicable). We have reviewed the procedures applied by the (directors/partners) in valuing such securities and have inspected the underlying documentation; while in the circumstances the procedures appear to be reasonable and the documentation appropriate, determination involves subjective judgment which is not susceptible to substantiation by auditing procedures.

In our opinion, subject to the possible effect on the financial statements of the valuation of securities determined by the (board of directors/general partners) as described in the preceding paragraph, the aforementioned financial statements present fairly the net assets of XYZ Investment Company at (insert date), and the results of its operations, change in financial position, and supplementary information for the year then ended, in conformity with generally accepted accounting principles, as modified by the Small Business Administration, applied on a consistent basis.

We consent to the use of this opinion in connection with the filing of the report of XYZ Investment Company with the Small Business Administration on SBA Form 468.

(Signed) Independent Auditor
Anytown, U.S.A.
(Insert Date)

Note.—The accountant will comment on any other exceptions in Paragraph 2 prior to the comments on valuation.

III. Scope of Audit

The independent public accountant's audit is to be an examination of the licensee's financial statements in accordance with generally accepted auditing standards as expressed by the American Institute of Certified Public Accountants. The auditor is to make an examination of the licensee's financial statements with the view of expressing an opinion as to whether the financial statements present fairly the financial position, changes in financial position, and results of operations in accordance with generally accepted accounting principles applied on a basis consistent with that of the preceding year.

Management is responsible for the preparation of the Annual Report, SBA Form 468. The statements and supporting schedules will be the basis for the auditor's opinion. It is expected that all audit adjustments will be recorded in the licensee's records before completion of the audit report so that financial statements accompaning the report will agree with the books as adjusted as of the statement date, giving consideration to reclassifications of account balances for report purposes. If the adjustments are not so recorded on the licensee's books, a statement should

be made by the independent accountant to this effect.

The independent public accountant is expected to satisfy himself as to the reasonableness of the basis used by the licensee's Board of Directors/General Parther(s) in determining the valuation of loans and investments. Accordingly, the auditor should comment in his report as to reasonableness of procedures used and adequacy of documentation.

IV. Accounting Policies and Practices

A. General

As a general rule, accounting policies followed by licensees are those expressed by the American Institute of CPA's as generally accepted accounting principles and practices. Certain of these principles and practices are prescribed in the AICPA's Audit Guide. The System of Accounts Classification (Appendix II) in item II identifies particular accounting policies and practices licensees are required to follow.

B. Reporting Entity

The auditor should bear in mind that the reporting entity being audited is the licensee. Those securities and assets that are held for investments are to be reported on the fair value basis.

A corporate licensee may hold an investment in a 301(d) licensee and/or have a wholly owned management consulting subsidiary. A limited partnership licensee may hold an investment in a 301(d) licensee and/or own 100 percent of outstanding stock of a management consulting company. Such securities would not be considered held for investment but are considered held for long-term operating purposes.

1. *Equity Method of Accounting for Investments in Common Stock*

"Equity" method of accounting for investments in common stock is not to be confused with the "fair value" method of reporting portfolio securities. Under the equity method, an investor initially records an investment in the stock at cost, and adjusts the carrying amount of the investment to recognize the investor's share of the earnings or losses of the investee after the date of acquisition. The amount of the adjustment is included in the determination of net income by the investor. Dividends received from an investee reduce the carrying amount of the investment. Accounting Principles Board Opinion No. 18 issued in March 1971, by the AICPA specifically does not apply to licensees whether or not registered under the Investment Company Act of 1940, as explained in Paragraph 2 of that Opinion.

The AICPA Audit Guide states that investments in other than portfolio securities which meet the criteria of APB Opinion No. 18 should be carried on the equity basis. As applied to licensees, this would only apply to investments in Section 301(d) licensees, investments in unincorporated entities and/or management consulting investments. In those cases where a 301(d) licensee is a subsidiary of another licensee, such subsidiary should be reported as an unconsolidated subsidiary by the corporate parent licensee.

2. *Policy on Consolidated Financial Statements*

Consolidated Financial Statements are to be filed with SBA only where the corporate licensee has a management consulting subsidiary. Combined Financial statements are to be filed with SBA only where the limited partnership licensee has an investment in a management company. Under SBA Regulations, management consulting companies are to be a wholly owned and are to be consolidated or combined with the licensee.

Under certain circumstances, a licensee may temporarily own more than a 50 percent equity position in a financed concern. Such investments are to be reported on the fair value basis and classified as loans and investments rather than being reported on a consolidated basis with the licensee.

V. Reporting Requirements—General

A. Annual Financial Report

The Small Business Administration, under authority granted by the Small Business Investment Act of 1958, as amended, (1958 Act) requires licensees to have their financial statements examined annually by independent public accountants approved by SBA. The annual audit shall be performed as of the close of the licensee's fiscal year.

Three copies of the accountant's report including the Financial Report prepared on forms constituting SBA Form 468 and supporting schedules, shall be submitted to SBA by the licensee as soon as practicable after completion and no later than the last day of the third month following the close of the period covered by the audit. Attached to the inside of the back cover of each copy of the audit report should be a copy of any transmittal letter, special reports, or similar communications furnished to the licensee by the auditor. If adjusting entries are furnished to the licensee with the report, the should be submitted to SBA.

B. Reporting Irregularities

The independent public accountant shall promptly inform a responsible official of the licensee and the Deputy Associate Administrator for Investment, Investment Division, Small Business Administration, 1441 L Street NW., Washington, D.C. 20416, concerning any apparent defalcation or other financial irregularities that may come to his attention in connection with his examination. Based on available information, he will indicate the nature and extent of such defalcations or other irregularities.

C. Regulated Investment Companies

Concerning licensees that are registered with the Securities and Exchange Commission, additional reports are required by SEC which are identified in Chapter 1 of the AICPA's Audit Guide. It should be noted that any report submitted by a licensee to the SEC shall also be submitted to the Investment Division, Small Business Administration, 1441 L Street NW., Washington, D.C. 20416.

D. Special Management Reports

Frequently, the independent public accountant will render special reports to the licensee's management. Examples are reports on evaluation of internal control or evaluation of specific portfolio concerns. A copy of such reports shall also be promptly submitted by the Licensee to the Investment Division, Small Business Administration, 1441 L Street NW., Washington, D.C. 20416. Licensee will also submit to SBA any reports prepared for the licensee by outside consultants on any matters pertaining to the operation of the SBIC or any of its portfolio investments. Partnership tax returns will not be considered special reports under this paragraph and need not be routinely furnished SBA.

Upon request, licensees will submit to SBA either, the complete SBA Form 468 or a part thereof. Such reports are considered interim in that they cover less than a full year of operations and the financial report is not audited by the licensee's independent accountant. Accordingly, such reports are in addition to, not in lieu of, the annual report.

E. Investment Objectives & Policies

The composition of a licensee's loans and investments varies from one licensee to another and reflects the licensee's policies and objectives of investing that are being followed in practice. Such objects may emphasize equity investments, loans or a balance

between loans and equity investments. The portfolio may also be widely diversified or specialized as to industry or geographical area. In addition, the licensee may choose to be "301(d) licensee" that is organized to be a profit or non-profit corporation with an investment policy limited to providing financing solely to small business concerns which will contribute to a well-balanced national economy by facilitating ownership in such concerns by persons whose participation in the free enterprise system is hampered because of social or economic disadvantages. Such licensees were formerly designated by the acronym "MESBIC."

The basic investment objectives adopted by management can be found in the licensee's proposal to operate, as amended.

F. Federal Income Tax Provisions Affecting Investment Accounts

Licensees which elect to qualify as Regulated Investment Companies under Subchapter M of the Internal Revenue Code must meet the various requirements set forth therein which are summarized in Chapter 5 of the AICPA's Audit Guide. Also Item VI. B. of this Guide summarizes the special income tax provisions that may apply to licensees.

G. Recordkeeping Requirements Relating to Investment Activity

No specific recordkeeping system for investment activity is required other than that provided in the SBA's System of Account Classification. However, the licensee is to develop systems and maintain records sufficient to properly account for transactions and valuation of individual loans and investments.

Section 107.1002 of the SBA Rules and Regulations specifies the records and documents which must be maintained and preserved by all licensees. In addition, licensees registered under the Investment Company Act of 1940 are required to maintain and preserve those records specified in such Act and the Rules and Regulations thereunder.

H. Custody of Securities

A licensee's management is expected to assume responsibility for the custody of securities. Accordingly, there is to be safekeeping for securities, usually a safe deposit box at a bank or other custodian with such safekeeping facilities, and dual control over withdrawal of securities from safekeeping is required (Section 107.1003 of the SBA Regulations.)

I. Valuation of Securities

The general practice in the investment company industry is to disclose, in one form or another, valuation of securities at quoted market values or, in the absence of quoted values, at fair values determined by the company's Board of Directors or General Partner(s) in good faith.

Ordinarily, little difficulty should be experienced in valuing securities traded on a recognized securities exchange since the prices of transactions are published daily. If a security was traded on the valuation date, the last quoted sales price generally is used. However, if there were no sales on the exchange on the valuation date but published closing bid and asked prices are available, the valuation should be within the range of these quoted prices. Where quotations appear questionable, consideration should be given to valuing the securities at fair value as determined in good faith by the Board of Directors or General Partner(s).

Quotations are available from various sources for most unlisted securities traded regularly in the over-the-counter market. Ordinarily, quotations for an over-the-counter security should be obtained from more than one broker/dealer unless available from an established market-maker for that security. Quotations for several days should be used and the valuation should be within the range of these quotations.

The Board of Directors or General Partner(s) when valuing securities must consider the effect of factors having a bearing on the value of such securities even when they are traded on a recognized exchange where market quotations are available. Examples of such factors are a thin market, large holdings by the licensee that would adversely affect the market price if traded, or securities that are restricted.

Regarding securities that are not publicly traded, it is incumbent upon the Board of Directors or General Partner(s) to satisfy themselves that all appropriate factors relevant to the value of securities for which market quotations are not readily available have been considered and to determine the method of arriving at the fair value of each security.

To the extent considered necessary, the Board of Directors or General Partner(s) may appoint persons to assist it in the determination of such value. However, the Board of Directors or General Partner(s) must review continuously the appropriateness of the method used in valuing each loan and investment in the licensee's portfolio.

It should be noted that the investments of licensees usually are venture-type investments that complicate the determination of value. The investee, in such cases, is usually a closely held, immature Small Business Concern whose stock is not publicly traded.

In addition, there may be weaknesses in the Concern's management. For these and other reasons, cost may be the most appropriate measure of value of venture-type securities until sufficient evidential matter is available to the licensee's Board of Directors or General Partner(s) to form a basis for valuing the securities at other than cost.

As stated in Accounting Series Release No. 118 of SEC (404.03 Codification of Financial Reporting Policies) no single standard for determining fair value in good faith can be laid down, since fair value depends upon the circumstances of each individual case. SBA has set forth guidelines in SBA Policy and Procedural Release No. 2006 to assist the directors of licensees in valuing their securities. The auditor should satisfy himself that the valuation guidelines issued by SBA, or other reasonable methods, are used in valuing securities.

Additional guidance for the valuation of securities is given in Chapter 3 of the AICPA Audit Guide and in Accounting Series Releases 113 (404.04 Codification of Financial Reporting Policies) and 118 issued by the SEC.

J. Audit Procedures

The auditing procedures relating to the investment accounts of investment companies require greater attention than those of a commercial enterprise because of the relative significance of such assets. In either case, the independent auditor should evaluate the internal accounting controls as a basis for determining the extent of his examination. The auditing procedures outlined in the AICPA's Audit Guide should be followed to the extent appropriate. Concerning valuation of securities: *THE LICENSEE'S OF DIRECTOR'S OR GENERAL PARTNER(S) HAS (HAVE) THE SOLE RESPONSIBILITY FOR VALUING SECURITIES IN GOOD FAITH.*

The auditor is not to be an appraiser in the sense that he is to determine the value of the licensee's securities. He is, however, expected to review the methods and evidential matter used by the Board of Directors or General Partner(s) in their determinations of fair value. He is further expected to comment in his report on the

reasonableness of such practices and adequacy of such information.

K. 3 Percent Cumulative Preferred Stock

As part of the leverage fund provided to a 301(d) licensee, SBA may purchase 3 percent cumulative preferred stock, which while considered to be part of equity, is not considered paid-in capital or paid-in surplus for leverage or regulatory purposes.

The rights of the preferred stockholder (SBA) are set forth in § 107.203 of the SBA Regulations.

L. Unrealized Gain (Loss) on Securities Held

Unrealized Gain (Loss) on Securities Held represent the estimated net gain (loss) after tax effect, if any, that the licensee would realize if the loans and investment were sold at the statement date, but as if in the normal course of business.

1. *Unrealized Appreciation on Securities Held*—This is the amount by which fair value of the licensee's loans and investment exceed cost.

2. *Unrealized Depreciation of Securities Held*—This is the amount by which fair value of the licensee's loans and investments is less than cost. Included in unrealized depreciation are items such as allowances for losses, temporary declines, and mortgage discounts.

3. *Estimated Income Taxes*

a. Corporate licenses—This is a provision for taxes on the net amount of unrealized appreciation or (depreciation) and the offset being a deferred credit or deferred charge.

b. Limited Partnership licensees—No provision for estimated income taxes is necessary since partnerships do not pay income taxes.

The auditor should recognize that Unrealized Gain (Loss) on Securities Held results from valuation of loans and Investments by the licensee's Board of Directors. Such valuation usually is a judgemental estimate which involves uncertainties that are difficult to quantify. Accordingly, the reliability of the unrealized gain (loss) on securities held will not be as great as realized gain (loss) on sale of securities because the latter is based on transactions that are objectively measurable.

M. Undistributed Realized Earnings

Undistributed Realized Earnings is the cumulative balance of periodic net investment income including realized gain (loss) on securities sold.

1. Corporate Licensees—less dividend distributions whether cash, stock or dividends in kind. Included are non-cash gains on securities sold, i.e. notes, securities or other assets received.

2. Limited Partnership Licensee—less distributions to partners, general or limited, whether cash or property in kind. Included are non-cash gains on securities sold, i.e. notes, securities or other assets received. Such non-cash gains will not be available for capitalization or dividends until such assest are converted to cash. Accordingly, undistributed realized earnings will be reflected in two capital accounts: (1) Non-Cash Gains-Income; and (2) Undistributed Net Realized Earnings.

3. Non-cash income from the following sources is to be reported on the equity method:

(a) Corporate Licensee from a
(i) Parent and/or
(ii) Subsidiary
(b) Partnership Licensee from
(i) Partner (general or limited) and/or
(ii) Wholly owned investment or management company which results in an unpaid receivable.

VI. Other Matters

The independent auditor shall satisfy himself that investment company accounts not specifically mentioned in this audit guide or the AICPA Audit Guide are maintained in accordance with generally accepted accounting principles and audited in accordance with generally accepted auditing standards for other commercial enterprises.

A. Compensating Balances

In those instances where idle funds are encumbered or are being used as "compensating balances," the nature and extent of such encumberance will be disclosed in a note to the financial statements.

If the compensating balance is a formal arrangement, the funds should be reclassified to either other current assets or other assets, whichever would be appropriate.

B. Taxes

Licensees receive special tax treatment in a number of areas. The effect is to allow certain exclusions or additional deductions without the limitations prescribed for other corporations.

A licensee operating under the 1958 Act is allowed a 100 percent dividends received deduction for dividends received by it from a taxable domestic corporation. To claim this 100 percent deduction the licensee must file with its return a statement that it was a Federal licensee under the 1958 Act at that time of the receipt of the dividends.

An ordinary loss, rather than a capital loss, can be taken on the sale or exchange of security investments in convertible debentures or stocks acquired pursuant to the conversion privileges of such debentures. Capital losses on other investments receive no special treatment. A licensee must submit with it tax return a statement that it is a Federal licensee under the 1958 Act setting forth the name and address of the small business concern with respect to whose securities the loss was sustained, the number of shares of stock or the number or denomination of bonds, the basis and selling price, and the respective dates of purchase and sale or the reason for their worthlessness and the approximate date thereof.

Special provisions are provided for reserve for losses on loans of licensees and they may obtain special treatment for net operating losses and may be excluded from the definition of a personal holding company. The independent auditor should assure himself that he is familiar with the most recent changes in the IR Code concerning the operating losses or other matters affecting the licensee.

A shareholder in a licensee may treat a loss on stock as an ordinary loss and in the case of a noncorporate shareholder such loss is considered a loss from a trade or business.

Finally, there is no excess accumulated earnings tax assessed to a licensee provided it utilizes such earnings and profits for additional loans and investments.

IRS has recently changed the rules on Subchapter S Corporations. Licensees should seek knowledgeable tax counsel prior to any decision.

C. Notes and Debentures Payable to or Guaranteed by SBA

A primary advantage of the SBIC program is the ability of licensees to acquire long-term leverage funds from SBA. Usually the terms and conditions set forth in § 107.203(b) of SBA Rules and Regulations are incorporated in the debenture as convenants to the agreement.

Section 107.203(b)(1)(iii) provides that the entire indebtedness of the licensee may be declared immediately due and payable for:

> * * * Failure of the licensee, as determined by SBA, to comply with any one or more of the provisions of the Act or Regulations promulgated thereunder, as they may be amended from time to time * * *

Demand in such cases will be made in a letter from SBA specifying the violations that have occurred and that

funds owed the SBA are due and payable in accordance with the acceleration provisions of the debentures. The violations which cause demand to be made are usually those which are significant and include such areas as conflicts of interest, control of small business concerns by the licensee, overline investments and any other such major acts which might be determined by SBA to be contrary to the Act and Regulations. It should be noted that in such cases demand is viewed as a means to protect the SBA's position as a creditor usually after other efforts have been unsuccessful.

In those instances where the licensee fails to maintain either the capital requirement or the investment ratio (See Section 303(b)(2) of the Act or §§ 107.203(b)(6) and 107.203(d) of the Regulations) SBA may, in its discretion, upon written notice consider part or all of the licensee's long-term debt to be due and payable. Written notice is not required, however, for the long-term debt to be considered due and payable when any of the four conditions set forth in § 107.203(b)(2) exist.

Should the auditor have difficulty in determining whether demand has been or is about to be made on such long-term indebtedness, he may consider requesting a positive confirmation from the Deputy Associate Administrator for Investment, Small Business Administration, 1441 L Street, N.W., Washington, D.C. 20416, as to whether the licensee is in violation of the Act or regulation as of the statement date and as a result whether demand is being made by SBA on the long-term debt.

D. Licensees Regulated Under the Investment Company Act of 1940

Licensees that are regulated by SEC under the Investment Company Act of 1940, shall also comply with the Fidelity Bond requirements set forth in Section 270.17g–1 of the SEC Rules and Regulations. Therefore, SBICs that are regulated by SEC under the 1940 Act are to comply with such requirements.

VII. Reporting Requirements—Specifics

A. General

The financial statements of Licensees are directed to the presentation of financial position, changes in financial position, results of operations and supporting schedules. Such statements and schedules constitute the Financial Report, SBA Form 468, and are required to be presented in the prescribed format.

The financial statements required for Licensees differ in certain respects from those suggested in the AICPA's Audit Guide. Such deviations are not at variance with generally accepted accounting principles and reporting practices. The opening paragraphs of Chapter 7 of the AICPA's Guide support this view:

"The financial statements illustrated in this chapter are for typical open-end management investment companies and may need to be modified to fit the requirements of other types of investment companies."

"In all instances, the management of investment companies and the auditor should be cognizant of the need for reporting in a manner which properly highlights significant information of shareholders and other interested parties. Content and format of reports required by regulatory authorities, e.g., the Securities and Exchange Commission and Small Business Administration, are, of course, governed by the requirements of the applicable form and related rules, regulations, and instructions."

The Financial Report (SBA Form 468) with supporting schedules, is designed to present the licensee's financial statements as audited by the independent public accountant. Accordingly, the statements are based on the transactions recorded in the accounts.

The Financial Report contains standard statements and schedules. Therefore, when a particular statement or schedule does not apply to the licensee's operations, it should be omitted. For example, if the licensee did not sell securities during the period, the Statement of Realized Gain (Loss) on Sale of Securities would be omitted. The Financial Report, therefore, should be "tailored" to fit the licensee's given situation.

Such tailoring, however, does not include deviating from accounting and reporting practices prescribed in the Audit Guide or System of Account Classification.

B. Financial Report Heading

Set forth in the appropriate spaces the information called for representing the identification and the principal office address of the licensee. As to the employer identification number, enter the number assigned to the licensee by the U.S. Treasury Department. If such number has not yet been assigned, an Application for Employer Identification Number, Form SS–4, shall be submitted to the U.S. Director of Internal Revenue for the area in which the licensee's principal office is located.

The preparer of this report should keep in mind that amounts are to be rounded to the nearest dollar.

The following is a detailed discussion as to how the statements are prepared.

Overview of Licensee's Operations

The "overview" is intended to be a summary of the licensee's operations for the period completed viewed from the standpoint of the licensee's management. It should highlight significant events affecting the licensee's operations that would assist the reader in understanding the data contained in the report.

It should be limited to information not otherwise made available to SBA and contain interpretive analysis of specific data contained elsewhere in the report.

The overview is intended to be a brief narrative summary of the licensee's operations during the year recently completed. It should summarize activities involving such things as applications for funding received from small business concerns, financings made, management assistance provided, etc.

In those instances where the licensee has assets acquired in liquidation, progress toward disposing of such assets should be summarized. The overview should include comment on matters relating to SBA Regulations and other matters of interest considered appropriate.

It is also contemplated that the overview will include success stories where they occur, have been accomplished, and can be measured.

Regarding the coming year, significant events expected to occur and that will affect the licensee's operations in the coming year should be highlighted.

C. Statement of Financial Position

This statement is designed to measure the licensee's financial position as of the statement date in a conventional balance sheet format. Because of their significance, loans and investments are presented before current or other assets. Likewise, long-term debt is shown before current or other liabilities.

1. *Assets*—are grouped according to Loans and Investments, Investment in 301(d) Licensee, Current Assets and Other Assets.

a. *Loans and Investments* as grouped into four categories:

(1) *Portfolio Securities*—are those securities of small business concerns obtained through providing financing.

(2) *Assets Acquired in Liquidation of Portfolio Securities*—are those securities or other assets the licensee has acquired by taking action to protect its investment. Such assets are grouped according to receivables from debtors, and other assets acquired.

(3) *Operating Concerns Acquired*—represents the total investment in

portfolio concerns where action was necessary to protect the licensee's investment. This will include only operating concerns over which the licensee has acquired control or has the power to control either individually or in concert with other licensees.

(4) *Other Securities*—are those securities the licensee holds that did not result from providing financing to small business concerns. Other securities will result when portfolio securities or assets acquired are sold and part of the net sales price is notes, or other securities. Also, dividends in kind from portfolio concerns would be classified as other securities.

Loans and investments are shown at cost and through adjustments for unrealized appreciation and unrealized depreciation arrive at their value.

b. *Investment in 301(d) Licensee*—is a unique investment in that the nature and purpose of the investee is similar to that of the investors. Also, the investor actively participates in the management of the investee. For those and other reasons, investments in 301(d) licensees are not classified as Loans and Investments but are shown as a separate asset group on the Statement of Financial Position. Such investments will be carried on the equity method of accounting.

c. *Current Assets*—are those assets that are cash, expected to be converted to cash or are expected to be expensed in the next operating business cycle; i.e., one year from the statement date. While current assets are not grouped as such for other investment companies, regulatory purposes require such a grouping for SBICs.

d. *Other Assets*—are those assets that are not otherwise explained above. Included are furniture and equipment, deferred charges, funds in escrow and other items.

e. *Memorandum Assets*—are worthless investments, each of which has been written down to $1.00 and a corresponding allowance for loss of $1.00 has been established. The independent accountant will comment in the audit report, by a footnote on the disposal of any security in this category.

2. *Liabilities*—are classified according to long-term debt, current liabilities and other liabilities.

a. *Long-Term Debt*—includes debt of the licensee net of current maturities. Such debt is grouped according to that which is payable to or guaranteed by SBA and that which is payable to others.

b. *Current Liabilities*—are those liabilities requiring the payment of cash during the next business cycle; i.e., 12 months from the statement date. Included are accounts payable, accrued interest and taxes payable, current maturities on long-term debt, dividends payable, distributions payable to partners and other current items.

Other Liabilities—are those liabilities not otherwise classified and include trust receipts, deferred credits and other items.

3. *Corporate Capital Accounts*—are grouped according to paid-in capital and surplus, 3 percent preferred stock sold to SBA, unrealized gain (loss) on securities held and undistributed realized earnings.

a. *Capital Stock and Paid-In-Surplus*—represents the licensee's capital which is the first component used to compute the licensee's regulatory capital for leverage and overline purposes.

b. *3% Preferred Stock Issued to SBA*—while such preferred stock by the nature of the instrument is equity, it is not considered paid-in capital and paid-in surplus; rather it is a part of the leverage funds obtained by a 301(d) licensee from SBA.

c. *Unrealized Gain (Loss) on Securities Held*—is the net unrealized appreciation on securities held after an allowance for taxes as of the statement date. This is the amount in column 2 line 13, on the Statement of Unrealized Gain (Loss) on Securities Held if a corporation or the amount of column 2 line 11 of a partnership.

d. *Undistributed Realized Earnings*—represents the cumulative balance of periodic net investment income and realized gain (loss) on securities sold, less dividend or distributions. Undistributed realized earnings is composed of:

(1) *Non-Cash Gains/Income*—which represent notes, securities or other assets received as part of the net sale price when securities are sold and, non-cash income from investments reported on the equity method of accounting.

(2) *Undistributed Net Earnings Realized*—which represents undistributed earnings realized net of: (a) Non-cash gains on sale of securities; (b) non-cash income from investments reported on the Equity Method of Accounting.

4. *Retained Earnings Computation*—in note form above the Statement of Undistributed Realized Earnings is designed to set forth "retained earnings" on the same basis and in the same manner as it was reviewed on the cost basis. Such Retained Earnings will be the basis for dividend declaration (whether cash or stock) or the basis for capitalizing earnings by corporate resolution.

"Retained Earnings" is Undistributed Net Realized Earnings reduced by allowances for losses that have been established on Loans and Investments. The allowance for loss should not be less than the net amount by which unrealized depreciation exceeds the unrealized appreciation.

Treasury Stock is a restriction on the amount of Retained Earnings available for distribution.

5. *Partnership Capital Accounts*—are grouped according to Partner's Permanent Capital Contribution (paid-in cash and capitalized retained earnings). Unrealized Gain (Loss) on securities held, non-cash on sale of securities and undistributed net-realized earnings.

a. *Partners Permanent Capital Contribution*—represents cash paid in to acquire a partnership interest plus any undistributed net realized earnings transferred to partner's permanent capital contribution which is the basis for leverage and other regulatory purposes.

b. *Unrealized Gain (Loss) on Securities Held*—is the net unrealized appreciation on securities held as of the statement date. This is the amount in column 2, line 11, on the Statement of Unrealized Gain (Loss) on Securities Held.

c. *Non-Cash Gains/Income*—which represent notes, securities or other assets received as part of the net sale price when securities are sold, and non-cash income from investments reported on the equity method of accounting.

d. *Undistributed Net Realized Earnings (Earned Capital)*—represents the cumulative balance of periodic net investment income and realized gain (loss) on securities sold less partnership distributions.

6. *Partners Earned Capital Computation*—in note form above the statement of undistributed realized earnings is designed to set forth "retained earnings" on the same basis and in the same manner as it was viewed on the cost basis. Such "Earned Capital" will be the basis for partnership distributions (whether cash or in kind) or the basis for capitalizing earnings by agreement of the partners in accordance with the partnership agreement.

"Retained Earnings" is Undistributed Net Realized Earnings reduced by allowances for losses that have been established on Loans and Investments

General Discussion of Partnership Capital Accounts Regulatory Problems

Regulations governing SBICs create very special and unique requirements for the accounting of Partners' Capital

Accounts. Normal partnership accounting requires only one capital account for each partner. Depending on the partnership agreement there may be additional accounts for partner's salaries interest on partners' capital invested, and/or partners' drawing accounts. At the end of the fiscal year all of the partner's other accounts are closed to the partner's capital account in addition to the partners' share of the results of operations for the year.

Some limited partnership agreements divide the partnership capital between: (1) Partnership Permanent Capital; and (2) Partnership Earned Capital.

SBICs, who have adopted the limited partnership form of organization, must, because of regulatory requirements, keep the partners' capital accounts divided into four subsections. Each subsection and the legal reason requiring the subsection will be discussed separately. The four subsections are: (1) Partner's Permanent Capital Contribution; (2) Parther's Unrealized Gain on Securities Held; (3) Partners Non-cash Gain/Income (restricted capital); and (4) Partners Undistributed Net Realized Earnings (Earned Capital). The sum of these four accounts is the equivalent of the partnership capital account of a non-SBIC partnership. The SBIC must also keep the general partners and limited partners shares of each of the four capital accounts separate which creates eight capital accounts as control accounts. The SBIC will, either by subsidiary or memorandum accounts, keep a record for each partner, general or limited.

Partners' Permanent Capital Contribution

The balances shown in these accounts are the amount of cash contributed by each partner to the partnership less any reductions to permanent capital. Any reductions of permanent capital in excess of two percent in any fiscal year must receive prior approval from SBA. These balances after the adjustments required by regulation then constitute "Regulatory Capital" for first, the amount of capital that will be leveraged by SBA and second, the amount of capital that determines the legal maximum amount of any investment in a small business concern without requiring SBA approval for an "Overline". Partners' Permanent Capital Contribution performs the same function for the partnership as "Capital Stock" and "Capital Surplus Contributed in Excess of Par Value" perform in a corporation.

Partners' Net Realized Gains and Partners Non-Cash Gains Income

A limited partnership which was not subject to the legal requirements of an SBIC would have a single account titled "Earned Capital". Distributions to either general or limited partners would be charged to this account. SBA rules and regulations, however, permit distributions to be made only from gains realized in cash or cash income from investments reported on the equity method of accounting. "Earned Capital" is therefore divided into two accounts;

1. Partners' Net Realized Gain, and
2. Partners' Non-cash Gains/Income.

Distributions may only be made to partners to the extent that Partners' Net Realized Gains has a credit balance.

Partners' Unrealized Gains on Securities Held

Investment companies report on the value basis rather than on the cost basis for their investments. This account has many of the characteristics of either appraisal surplus for a corporation or recognized goodwill on the admission of a new partner in a non-investment partnership. Normal practice, in a non-investment partnership, for the admission of a new partner by investment in the partnership or the withdrawal of a partner from the partnership requires agreement by all parties on the current market value of the assets to determine the proper price to be paid by a new partner for admission or to the partner who is withdrawing.

Example of a non-investment partnership where the earnings have been closed to the partners' capital accounts: A and Bs' capital accounts are $15,000 and $10,000. They share in the net asset and gains and losses 60% and 40%. C wishes to be admitted to the partnership with an interest in the net assets and gains and losses equal to A. C is willing to pay $18,000 for this interest. If A's 60% share of the "goodwill" (unrealized profits) is $3,000 then B's share is equal to $2,000, i.e., [(3,000 ÷ .60) × .40]. Recognition of the goodwill on the books of the partnership and the admission of C would require the following entries:

1. Dr. Goodwill		$5,000
	CR. A. Capital	$3,000
	CR. B. Capital	$2,000
2 Dr. Cash		$18,000
	CR. C. Capital	$18,000

Entries	Goodwill	Net other assets	Capital section		
			A	B	C
Prior to the Admission of C		$25,000	$15,000	$10,000	
Entry 1	$5,000		3,000	2,000	
Entry 2		18,000			$18,000
After the Admission of C	5,000	43,000	18,000	12,000	18,000

In an investment company the use of value accounting under the same conditions would be shown as follows:

Entries	Net	Unrealized appreciation	Capital section		
			A	B	C
Prior to the Admission of C Assets at Cost	$25,000				
Unrealized Appreciation	5,000				
Assets at Value	30,000	$5,000	$15,000	$10,000	
Admission of C	18,000				$18,000
After the Admission of	48,000	5,000	15,000	10,000	18,000

The unrealized appreciation, which in some ways corresponds to goodwill, is a permanent capital account in the capital section of an SBIC and the investments on the asset side are shown at value rather than cost. The admission of a new partner or the withdrawal of an existing partner may result in an adjustment to one or more investments which would require an adjustment to the asset and an offsetting adjustment to either Unrealized Gain (Loss) on Securities Held or Non-cash Gains/Income.

In the example of the difference between reporting on a cost basis, a value basis and a basis required by SBA Regulation it was assumed that the

general partners and limited partners split all gains, income and losses 20% and 80% respectively.

On the cost basis "Earned Capital" of $35,000 is split between general and limited partners $7,000 and $28,000. On the value basis a new account "Unrealized Appreciation and Securities Held" of $40,000 appears which is split between general and limited partners $8,000 and $32,000. Since SBA will not permit non-cash gains/income to be distributed the acount "Earned Capital" is replaced by two accounts labeled: (1) "Partners Non-cash Gains/Income"; and (2) "Partners Net Realized Gain." In the example the "Earned Capital: of $35,000 consisted of $15,000 of "Non-Cash Gains/Income" and $20,000 of "Net Realized Gain." The $15,000 of Non-cash Gain/Income is divided $3,000 and $12,000 to the general and limited partners and the $20,000 is pro-rated to the general and limited partners in the amounts of $4,000 and $16,000.

BALANCE SHEET OF THE LIMITED PARTNERSHIP AT THE END OF THE YEAR 1 AS DETERMINED BY THREE DIFFERENT BASIS OF ACCOUNTING

Balance sheet	Cost basis	Value basis	SBA regulatory basis
Cash	$11,000	$11,000	$11,000
Investments	40,000	80,000	80,000
Notes Receivable	15,000	15,000	15,000
Total Assets	66,000	106,000	106,000
Liabilities	5,000	5,000	5,000
Capital Section:			
General Partners' Permanent Capital	1,000	1,000	1,000
General Partners' Unrealized Gain on Securities Held		8,000	8,000
General Partners' Non-cash Gains/Income			3,000
General Partners' Net Realized Gain			4,000
General Partners' Earned Capital	7,000	7,000	
Total General Partners' Capital	8,000	16,000	16,000
Limited Partners' Permanent Capital	25,000	25,000	25,000
Limited Partners' Unrealized Gain on Securities Held		32,000	32,000
Limited Partners' Non-cash Gain/Income			12,000
Limited Partners' Net Realized Gain			16,000
Limited Partners' Earned Capital	28,000	28,000	
Total Limited Partners' Capital	53,000	85,000	85,000
Total Partners' Capital	61,000	101,000	101,000
Total Liabilities and Partners' Capital	66,000	106,000	106,000

Description by Line Item—The following is a description by line item as to how the amounts shown on this statement are developed.

Item 1, Loans—In column 1, show the balance of account 170 less the balance of account 173. In column 2, show the balance of account 172. In column 3, show the balance of account 171.

Item 2, Debt Securities—In column 1, show the aggregate of balances in accounts 180 and 184 less account 188. In column 2, show the balance of account 187. In column 3, show the balance of account 186.

Item 3, Equity Interests—In column 1, show the aggregate of balances in accounts 190, 191, 194 and 197. In column 2, show the aggregate of balances in account 193, 196, and 199. In column 3, show the aggregate of balances in account 192, 195, and 198.

Item 4, Total—Show the total of Items 1, 2, and 3 which represents the total of portfolio securities.

Item 5, Receivables from Debtors on Sale of Assets Acquired—Show in column 1 the balance of account 200 and in column 2 the balance of account 203.

Item 6, Assets Acquired—In column 1, show the balance in account 204. In column 2, show the balance in account 206 and in column 3, show the balance of account 205.

Item 7, Total—State the aggregate of Items 5 and 6 which represents the total of assets acquired in liquidation to portfolio securities.

Item 8, Operating Concerns Acquired—Show in column 1 the balance of account 210, in column 2 the balance of account 212 and in column 3 the balance of account 211.

Item 9, Notes and Other Securities Received—Show in column 1 the aggregate of balances in accounts 220 and 221. In column 2, show the balance in account 223 and in column 3 show the balance of account 222.

Item 10, Total Loans and Investments—State the aggregate of Items 4, 7, 8, and 9 which represents the total of loans and investments.

Item 11, Less Current Maturities—Show the aggregate of balances in accounts 150 through 154.

Item 12, Loans and Investments Net of Current Maturities—Show the amount stated in Item 10, column 4 less the amount shown in Item 11.

Item 13, Investment in 301(d) Licensee—When a licensee has an investment in a 301(d) licensee, the name and license number of the investee should be shown in the space provided, the balance shown in account 160 should be shown.

Item 14, Cash—Show the aggregate of accounts 100 through 120.

Item 15, Invested Idle Funds—Show the aggregate of accounts 130 through 138.

Item 16, Interest and Dividends Receivable—Show the aggregate of balances in accounts 143 and 145.

Item 17, Notes, Accounts Receivables, and Receivables from Parent—Show the aggregate of balances in accounts 140, 141 and 146.

Item 18, Less: Allowance for Losses—Show the aggregate of balances in accounts 142 and 144.

Item 19, Current Maturities of Portfolio Securities—Show the balance of account 150.

Item 20, Current Maturities of Operating Concerns Acquired—Show the balance of account 152.

Item 21, Current Maturities of Operating Concerns Acquired—Show the balance of account 153.

Item 22, Current Maturities of Other Securities—Show the balance of account 154.

Item 23, Other Current Assets—Show the balance of account 156.

Item 24, (a), Furniture & Equipment—Show the balance of account 240.

Item 24, (b), Less: Accumulated Depreciation—Show the balance of account 241.

Item 25, Other—Show the aggregate of balances of accounts 230, 231, 250, 251, 252, 265 through 269.

Item 26, Total Assets—Show the aggregate of Items 12, 13 and 14 through 25.

Memorandum Accounts (A and B):

A. Show an amount equal to $1 for each account written off but not physically disposed of.

B. Show an allowance for loss equal to "A."

Corporations

Item 27, Notes and Debentures Payable to or Guaranteed by SBA—Show the aggregate of balances in accounts 300, 301 and 310.

Item 28, Notes and Debentures Payable to Other—Show the aggregate of balances in accounts 311, 312, 313 and 320.

Item 29, Total—Show the aggregate of Items 27 and 28.

Item 30, Accounts Payable and Accounts Payable Due Parent—Show the balance of account 340 and 341.

Item 31, Accured Interest Payable—Show the balance of account 350.

Item 32, Accrued Taxes Payable—Show the aggregate of balances in accounts 351 and 354.

Item 33(a), Current Maturities of Line 27—Show the balance of account 330.

Item 33(b), Current Maturities of Line 28—Show the balance of account 331.

Item 34 for Corporations, Dividends Payable—Show the aggregate of balances in accounts 360 through 364.

Item 35, Other Current Liabilities—Show the balance of account 358.

Item 36, Total—Show the aggregate of Items 30 through 35.

Item 37, Trust Receipts—Show the aggregate of balances in accounts 370, 374, and 378.

Item 38, Deferred Credits—Show the balances of accounts 380 and 383.

Item 39, Other Liabilities—Show the balance of account 390.

Item 40, Total Liabilities—Show the aggreate of Items 29 and 36 through 39.

The following accounts are applicable only to corporate licensees and are to be reported on the Statement of Financial Position for corporations.

Item 41, Capital Stock—Show the aggregate of balances in accounts 400 through 414.

Item 42, Paid-in Surplus—Show balance of account 420.

Item 43, Paid-In Capital Stock and Surplus—Show the aggregate of items 41 and 42.

Item 44, 3% Preferred Stock Issued to SBA (301(d) Licensee's Only)—Show the balance of account 430.

Item 45, Unrealized Gain (Loss) on Securities Held—Show the aggregate of balances of account 440 less 445 and 448.

Item 46, Non-Cash Gain/Income—Show the balance of account 450 and 463.

Item 47, Undistributed Net Realized Earnings—Undistributed Net Realized Earnings is the amount of realized earnings minus the amount of non-cash gains and non-cash income from investments reported on the equity method of accounting. This will be the amount of account 451. Treasury Stock is a restriction on the amount of earnings available for distributions to stockholders. Capitalization of retained earnings by a credit to Capital Stock and/or Paid-in Surplus is a distribution to stockholders.

Item 47(a), Restricted-Equal to Cost of Treasury Stock—Show the aggregate of the balances in accounts 415 through 419.

Item 47(b), Free—This is the amount of undistributed net realized earnings available for distribution if there is a restriction due to the presence of Treasury Stock. The amount to be shown as Item 47(b) is the difference between Account Number 451 and the amount shown as Item 47(a). If Account Number 451 has a dubit balance do not report the cost of Treasury Stock as Item 47(a). If the licensee does not have Treasury Stock Item 47(b) and Item 47(c) will be identical. In such instance it will be necessary to complete both Item 47(b) and 47(c) since Item 47(b) is required for other computations on the Form 468.

Item 47(c), Subtotal—This is the sum of Items 47(a) and 47(b).

Item 48, Undistributed Realized Earnings—Show the aggregate of Items 46 and 47.

Item 49, Total—Show the aggregate of Items 43, 44, 45 and 48.

Item 50, Less Cost of Treasury Stock—Show the sum of the balances in Account Numbers 415 through 419.

Item 51, Total Capital—Subtract Item 50 from Item 49.

Item 52, Total Liabilities and Capital—Add Item 40 and Item 51.

D. *Statement of Undistributed Realized Earnings (Page 5 Corp.)*—This statement is designed to analyze the activity in undistributed realized earnings by non-cash gains/income and undistributed net earnings realized. The ending balances of this statement are the same as items 46 through 48 on the Statement of Financial Position.

Column 1: Non-Cash Gains activity can be determined by reviewing account 450 and 463.

Column 2: Undistributed Net Earnings activity can be determined by reviewing account 451.

1. *Beginning Balance*—In column 1, show the beginning balances of accounts 450 and 463 and in column 2, show the beginning balances of account 451. These amounts should agree with the ending balances shown on the statement for the prior period.

2. (a) *Net Investment Income*—State as Non-cash income undistributed net earnings a applicable that amount shown as item 33 on the Statement of Operations Realize.

(b) *Realized Gain (Loss) on Sale of Securities*—Show the balances in accounts 461 and 462.

(c) *Non-cash Gains on Distributions In Kind*—In column 1 report the amount of unrealized gains on any distributions in kind during the period covered by this report.

3. *Adjustments: Collections of Non-Cash Gains*—Will be a decrease in column 1 "Non-Cash Gains" and will be an increase in column 2 "Undistributed Net Earnings." There will be no effect on column 3, "Total."

4. *Total*—Aggregate of lines 1, 2, and 3.

5. *Deductions:*

(a) and (b)—Are to be paid out of undistributed net earnings only. Therefore, dividends will be entered in column 2.

(c) *Dividends in Kind*—Column ° show the amount of non-cash gain reported in column 1 item 2(c). In column 2 show the cost of the asset being distributed. The total shown in column 3 is the value as reported for the asset on the SBA Form 468 immediately prior to the distribution.

6. *Ending Balance*—is determined by subtracting 5(e) "Total Deductions" from item 4 which represents the beginning balance plus additions.

E. Statement of Operations Realized—Corporation

This statement is designed to measure separately Net Investment Income (Loss) and Realized Gain (Loss) on Sale of Securities. Such measurement is of realized operations only and is on the accrual basis of accounting.

1. *Net Investment Income*—is the result of measuring revenue and expense associated with investment and management assistance activities of a licensee other than realized gain (loss) on securities sold. Revenue is organized by source; i.e., from portfolio, from services provided, or from other sources.

Provision for taxes is the final measurement prior to determination of Net Investment Income.

2. *Realized Gain (Loss) on Sale of Securities*—is a function of operations that is measured separately from Net Investment Income. While the Statement of Realized Gain (Loss) on Sale of securities provides a detailed analysis of realized gain or losses, the Statement of Operations shows in the aggregate, net sales price of securities sold during the period, the cost of such securities sold and a provision for taxes on the resulting gain. The remainder becomes net realized gain (loss) on sale of securities.

Although an allowance for loss on securities may be established for valuation and in some cases tax purposes, such allowances when provided are not reflected as an expense in measuring investment income. Rather, they are measured in the Statement of Unrealized Gain (Loss) on Securities Held as a component of unrealized depreciation which is an offset against unrealized appreciation. For this reason, the entire loss is reported in this statement when realized and the allowance for loss on the security is reduced by the amount of allowance previously established.

3. *Description by Line Item*—The following is a description by line item as to how the amounts shown on the Statement of Operations Realized are developed.

a. *Investment Income*—the amounts shown in items 1 through 33 of this statement are derived primarily from the general ledger accounts as follows.

Item 1, Interest on Loans and Debt Securities—Show the aggregate of balances in accounts 512, 516 and 541.

Item 2, Dividend Income—Show the balance of account 540.

Item 3, Income from Investments Reported on The Equity Method of Accounting—Show the balance of Account 542.

Item 4, Management Services—Show the balance of account 532,

Item 5, Application and Other Fees—Show the aggregate of balances in accounts 500, 534 and 536.

Item 6, Interest on Invested Idle Funds—Show the balance of account 510.

Item 7, Income from Assets Acquired in Liquidation of Portfolio Securities—Show the balance of account 582 net of the balance of account 710. Also, show the balance of account 710 parenthetically.

Item 8, Other Income—Show the aggregate of balances in accounts 520 and 584.

Item 9, Gross Investment Income—Show the aggregate of items 1 through 8.

Item 10, Interest on Long-term Debt—Show the aggregate of balances in accounts 610 and 622.

Item 11, Commitment Fees—Show the balance of account 600.

Item 12, Other Financial Costs—Show the balance of account 642.

Item 13, Officer Salaries—Show the balance of account 663–1.

Item 14, Employee Salaries—Show the balance of account 663–2.

Item 15, Employee Benefits—Show the balance of account 670.

Item 16, Investment Advisory and Management Service—Show the balance of accounts 659 and 660.

Item 17, Director's and Stockholder's Meetings—Show the balance of account 657–1.

Item 18, Advertising and Promotion—Show the balance of account 650.

Item 19, Appraisal and Investigation—Show the balance of account 651.

Item 20, Communication—Show the balance of account 653.

Item 21, Legal Fees—Show the balance of account 661.

Item 22, Travel Expense—Show the balance of accunt 665.

Item 23, Cost of Space Occupied—Show the balance of account 654.

Item 24, Depreciation & Amortization Expense—Show the aggregate of balances in accounts 655 and 656.

Item 25, Audit and Examination Fees—Show the balance of account 652.

Item 26, Insurance Expense—Show the balance of account 658.

Item 27, Taxes Expense (Excluding Income Taxes)—Show the balance of account 664.

Item 28, Provision for Losses on Receivables—Show the balance of account 680.

Item 29, Miscellaneous Expenses—Show the aggregate of balances in accounts 672, 679, and 715.

Item 30, Total Expenses—Show the aggregate of items 10 through 29.

Item 31, Net Investment Income Before Provision for Income Taxes—Show the balance of amount of item 9 less item 30.

Item 32, Provision for Income Taxes—Show the balance of account 720.

Item 33, Net Investment Income (Loss)—Item 31 minus Item 32.

Item 34, Net Sales Price—Show net sales price.

Item 35, Cost of Securities Sold—Show cost.

Item 36, Net Prior to Income Tax Provision—Line 34 minus line 35.

Item 37, Provisions for Income Taxes—Show amount of Income Taxes, if any, applicable to Gains on sale of securities.

Item 38, Realized Gain (Loss) on Sale of Securities—Item 36 minus Item 37.

Analysis of Capital Stock, Paid-in Surplus and Computation of Regulatory Capital—

Line 1 Enter the amount shown on Form 468 as the balance at the end of the prior fiscal period.

Line 2(a) Capital Stock Issued for Cash—In column 1 enter the amount of par value or stated value of the stock issued. In column 2 enter the amount of cash received in excess of par or stated value. In column 3 enter the total of columns 1 and 2.

Line 2(b) Stock Dividends Issued for Capitalized Free Undistributed Net Realized Earnings—In column 1 enter the amount of par value or stated value of the stock issued. In column 2 enter the amount of fair market value of the stock in excess of the par or stated value of the stock. In column 3 enter the total of columns 1 and 2. This amount will be the amount charged against retained earnings.

Line 2(c) Capital Stock Issued for Services Rendered—In column 1 enter the amount of par or stated value of the stock issued. In column 2 enter the amount of fair market value of the services rendered in excess of the par or stated value of the stock. In column 3 enter the total of columns 1 and 2.

Line 2(d) Capital Stock Issued for Assets Other than Cash or Services—In column 1 enter the amount of par or stated value of the stock issued. In column 2 enter the amount of fair market value of the asset in excess of the par or stated value of the stock. In column 3 enter the total of columns 1 and 2.

Line 2(e) Gain on Sale of Treasury Stock—Enter the amount of gain on the sale of treasury stock in columns 2 and 3.

Line 2(f) Other Credits—Enter the amount of the credit in either column 1 or 2 or both and column 3.

Line 3 Total Additions—Enter the total of lines 2(a) through 2(f) of columns 1, 2, and 3.

Line 4 Subtotal—The total of line 1 and lines for columns 1, 2 and 3.

Line 5(a) Retirement of Capital Stock—In column 1 enter the amount of par or stated value of the stock being retired. In column 2 enter the amount appropriate to the particular circumstances. In column 3 enter the total of columns 1 and 2.

Line 5(b) Loss on Sale of Treasury Stock—Enter the amount of loss in columns 2 and 3 but not in excess of the balance of Paid-in Surplus.

Line 5(c) Distributions in Partial Liquidation—Enter the amount of the partial liquidation in either column 1 or 2 or both, appropriate to the facts and in column 3.

Line 5(d) Other Debits—Enter the amount of the debit in either column 1 or 2 or both and column 3.

Line 6 Total Deductions—Enter the total of lines 5(a) through 5(d) of columns 1, 2 and 3.

Line 7 Balance at the End of the Fiscal Period—Subtract line 6 from line 4 for columns 1, 2 and 3.

Line 8(a) Organization Expense—Enter the amount of organization expense whether or not amortized.

Line 8(b) Capital Stock Issued for Services—Enter the amount credited to both Capital Stock and Paid-in Surplus for services since date of organization.

Line 8(c) Capital Stock Issued for Assets Other than Cash or Services—Enter the amount credited to both Capital Stock and Paid-in Surplus for assets other than cash or services since date of organization. At such time as the asset is converted to cash the amount of cash received may be considered to have been for stock issued. An adjustment to Paid-in Surplus may be necessary when the asset is converted to cash.

Line 8(d) Other Non-monetary Items—Enter the amount of other non-monetary items credited to either Capital Stock or Paid-in Surplus or both since date of organization.

Line 8(e) Investment in 301(d) Licensee—Enter the amount of investment in 301(d) licensee.

Line 8(f) Treasury Stock at Cost—Enter the cost of Treasury Stock.

Line 8(g) Other—Enter any other necessary adjustments.

Line 9 Total Regulatory Adjustments—Enter the sum of lines 8(a) through 8(f).

Line 10 Regulatory Capital for Leverage Purposes—Subtract line 9 from line 7 and enter.

Line 11 Net unrealized gains as defined by § 107.301(b)—Go to Note 5 prepare the necessary information and enter the result here.

Line 12 Regulatory Capital for Overline Purposes—Add line 1 to line 10 and enter.

F. Statement of Change in Financial Position for Corporations

The Statement of Change in Financial Position is to be inclusive of all changes in financial position resulting from transactions. However, the statement does not include changes in unrealized gains (loss) on securities held which are based on subjective determinations by the Board of Directors and not based on transactions. The objectives of this statement are: (1) To summarize the extent to which the licensee has generated cash and invested idle funds; and (2) to complete the disclosure of changes in financial position during the period.

The following description by line item explains how the amounts on the Statement of Changes in Financial Position are developed.

Item 1, Beginning Cash and Invested Funds Position—The total of line item 14, Cash, and line item 15, Invested Idle Funds Assets, as reported on Form 468 at the end of the prior fiscal period.

Funds were Provided From:

Item 2, Net Investment Income (Loss)—Enter the amount shown on line 33 of the Statement of Operations Realized.

Item 3, Depreciation, Amortization, Provision for Loss on Receivables—Enter the total of amounts shown in line items 24 and 28 of the Statement of Operations Realized and the amount of account 672 included in Item 29 of the Statement of Operations Realized.

Item 4, Realized Gain (Loss) on Sale of Securities—Enter the amount shown on line 38 of the Statement of Operations Realized.

Item 5, Decrease in Portfolio Securities—Enter the amount of net change in Item 4, Cost column of the Statement of Financial Position if that amount is a decrease during the period.

Item 6, Decrease in Assets Acquired—Enter the amount of net change in Item 7, Cost column of the Statement of Financial Position if that amount is a decrease during the period.

Item 7, Decrease in Operating Concerns Acquired—Enter the amount of net change in Item 8, Cost column of the Statement of Financial Position if that amount is a decrease during the period.

Item 8, Decrease in Other Securities—Enter the amount of net change in Item 9, Cost column of the Statement of Financial Position if that amount is a decrease during the period.

Item 9, Decrease in Current Assets (Excluding Cash and Invested Idle Funds—Enter the amount of net change in Items 16 through 23 of the Statement of Financial Position if that amount is a decrease during the period.

Item 10, Decrease in Other Assets—Enter the amount of net change in Items 13, 24 and 25 of the Statement of Financial Position if that amount is a decrease during the period.

Item 11, Increase in Current Liabilities—Enter the amount of net change in Items 30 through 35 of the Statement if Financial Position of that amount is an increase during the period.

Item 12, Increase in Other Liabilities—Enter the amount of net change in Items 37, 38 and 39 of the Statement of Financial Position if that amount is an increase during the period.

Item 13(a), Due to or Guaranteed by SBA—Enter the amount of net change in Item 27 of the Statement of Financial Position if that amount is an increase during the period.

Item 13(b), Due Others—Enter the amount of net change in Item 28 of the Statement of Financial Position if that amount is an increase during the period.

Item 14, Sale of Licensee's Stock—Enter the amount of net change in Items 41 through 44 of the Statement of Financial Position if that amount is an increase during the period and the licensee is a corporation.

Item 15, Total Funds Provided—Enter the total of Items 2 through 14 of the Statement of Change in Financial Position.

Item 16, Total Funds Available—Enter the total of Items 1 and 16 of the Statement of Change in Financial Position.

Item 17, Increase in Portfolio Securities—Enter the amount of net change in Item 4 of the Cost column of the Statement of Financial Position if that amount is an increase during the period.

Item 18, Increase in Assets Acquired—Enter the amount of net change in Item 7, Cost column of the Statement of Fincanical Position if that amount is an increase during the period.

Item 19, Increase in Operating Concerns Acquired—Enter the amount of net change in Item 8, Cost column of the Statement of Finanical Position if that amount is an increase during the period.

Item 20, Increase in Other Securities—Enter the amount of net change in Item 9, Cost column of the Statement of Financial Position if that amount is an increase during the period.

Item 21, Increase in Current Assets (Excluding Cash and Invested Idle Funds)—Enter the amount of net change in Items 16 through 23, of the Statement of Financial Position if that amount is an increase during the period.

Item 22, Increase in Other Assets—Enter the amount of net change in Items 13, 24 and 25 of the Statement of Financial Position if that amount is an increase during the period.

Item 23, Decrease in Current Liabilities (Excluding Dividends)—Enter the amount of net change in Items 30 through 35 of the Statement of Financial Position if that amount is a decrease during the period.

Item 24, Decrease in Other Liabilities—Enter the net amount of change in Items 37, 38 and 39 of the Statement of Financial Position if that amount is a decrease during the period.

Item 25(a), Due or Guaranteed by SBA—Enter the net amount of change in Item 27 of the Statement of Financial Position if that amount is a decrease during the period.

Item 25(b), Due Others—Enter the net amount of change in Item 28 of the Statement of Financial Position if that amount is a decrease during the period.

Item 26, Payment of Dividends—Enter the amounts shown in accounts 360 through 364.

Item 27, Redemption of Stock—Enter the amount of net change in Items 41 through 44 of the Statement of Financial Position if that amount is a decrease during the period.

Item 28, Total Funds Used—Enter the sum of Items 17 through 27 of the Statement of Change in Financial Position.

Item 29, Ending Cash and Invested Idle Funds Position—Subtract Item 28 from Item 16. The balance will equal the sum of Items 14 plus 15 of the Statement of Financial Position.

G. Statement of Unrealized Gain (Loss) on Securities Held

This statement summarizes the results of the valuation process of securities held as of the statement date as compared to the previous statement date and discloses the net change in the

Unrealized Gain (Loss) on Securities Held.

The types of securities held are the primary groupings of loans and investments as set forth in items 1 through 10 of the Statement of Financial Position and are: (1) Portfolio Securities; (2) Assets Acquired in Liquidation of Portfolio Securities; (3) Operating concerns acquired; and (4) other securities.

In arriving at net unrealized gain (loss) on securities held, consideration must be given to unrealized appreciation (valuation above cost) and unrealized depreciation (valuation below cost) of such securities. After adjusting the net unrealized appreciation (depreciation) for the appropriate tax effect, the remaining amount will represent unrealized gain (loss) on securities held.

Items 1 through 11 are without the estimated tax effect.

Item 1—the amount shown in column 3 Item 4 of the Statement of Financial Position.

Item 2—the amount shown in column 3 Item 7 of the Statement of Financial Position.

Item 3—the amount shown in column 3 Item 8 of the Statement of Financial Position.

Item 4—the amount shown in column 3 Item 9 of the Statement of Financial Position.

Item 5—the amount shown in column 3 Item 10 of the Statement of Financial Position.

Item 6—the amount shown in column 2 Item 4 of the Statement of Financial Position.

Item 7—the amount shown in column 2 Item 7 of the Statement of Financial Position.

Item 8—the amount shown in column 2 Item 8 of the Statement of Financial Position.

Item 9—the amount shown in column 2 Item 9 of the Statement of Financial Position.

Item 10—the amount shown in column 2 Item 10 of the Statement of Financial Position.

Item 11—Item 5 minus Item 10.

Item 12 will be the estimated taxes that would be due.

Actual Loss Experience on Receivable, Loans, and Investments.

Furnish in this schedule by categories shown, the amount of loss experienced on loans and investments as well as receivables resulting from income realization. The loss experience will be the actual loss experience during the current period. The amounts shall be rounded to the nearest thousand.

This portion of statement is the basis for determining the loss experience of the industry.

Partnerships

Item 27, Notes and Debentures Payable to or Guaranteed by SBA—Show the aggregate of balances in accounts 300, 301 and 310.

Item 28, Notes and Debentures Payable to Other—Show the aggregate of balances in accounts 311, 312, 313 and 320.

Item 29, Total—Show the aggregate of Items 27 and 28.

Item 30, Accounts Payable—Show the balance of account 340.

Item 31, Accured Interest Payable—Show the balance of account 350.

Item 32, Accured Taxes Payable—Show the aggregate of balances in accounts 351 and 354.

Item 33(a), Current Maturities of Line 27—Show the balance of account 330.

Item 33(b), Current Maturities of Line 28—Show the balance of account 331.

Item 34 for Partnerships, Partnership Distributions Payable and Accounts Payable Due Partners—Show the aggregate of balances 365 through 369.

Item 35, Other Current Liabilities—Show the balance of account 358.

Item 36, Total—Show the aggregate of Items 30 through 35.

Item 37, Trust Receipts—Show the aggregate of balances in accounts 370, 374 and 378.

Item 38, Deferred Credits—Show the balances of accounts 380 and 383.

Item 39, Other Liabilities—Show the balance of account 390.

Item 40, Total Liabilities—Show the aggregate of Items 29 and 36 through 39.

The following accounts are applicable only to partnership licensees and are to be reported on the Statement of Financial Position for partnerships.

Item 41. Partner's Permanent Capital Contributions—Show the balances in accounts 470 through 476.

Item 42, Unrealized Gain (Loss) on Securities Held—Show the aggregate of balances of accounts 440 less 445.

Item 43, Non-Cash Gain/Income—Show the balance of account 450 and 468.

Item 44, Undistributed Net Realized Earnings—Show the balances in accounts 493 through 496.

Item 45, Total Partners Capital—Show the totals of Item 41 through 44.

Item 46, Total Liabilities and Capital—Show the total of Item 40 plus Item 45.

H. Statement of Undistributed Realized Earnings (Part.)

This statement is designed to analyze the activity in undistributed realized earnings by non-cash gains on sale of securities and undistributed net earnings realized. The ending balances of this statement are the same as items 43 and 44 on the Statement of Financial Position.

Column 1: Non-Cash Gains activity can be determined by reviewing account 450.

Column 2: Undistributed Net Earnings activity can be determined by reviewing account 451.

1. *Beginning Balance*—In column 1, show the beginning balances of accounts 450 and 468 in column 2, show the beginning balance of account 451. These accounts should agree with the ending balances shown on the statement for the prior period.

2. (a) *Net Investment Income*—State as undistributed net earnings that amount shown as item 31 on the Statement of Operations Realized.

(b) *Realized Gain (Loss) on Sale of Securities*—Show the balances in accounts 466 and 467.

(c) *Non-cash Gains on Distributions In Kind*—In column 1 report the amount of unrealized gains on any distributions in kind during the period covered by this report.

3. *Adjustments: Collections of Non-Cash Gains*—Will be a decrease in column 1 "Non-Cash Gains" and will be an increase in column 2 "Undistributed Net Earnings."

4. *Total*—Aggregate of lines 1, 2, and 3.

5. *Deductions:*

(a) *Distributions to Partners*—are to be paid out of undistributed earnings only. Therefore, distributions will be entered in column 2.

(b) *Dividends In Kind*—Column 1 show the amount of non-cash gain reported in column 1 Item 2(c). In column 2 show the cost of the asset being distributed. The total is the value as reported for the asset on the SBA Form 468 immediately prior to the distribution.

6. *Ending Balance*—is determined by subtracting 5(d) "Total Deductions" from item 4 which represents the beginning balance plus additions.

I. Statement of Operations Realized—Partnerships

This statement is designed to measure separately Net Investment Income and Realized Gain (Loss) on Sale of Securities. Such measurement is of realized operations only and is on the accrual basis of accounting.

1. *Net Investment Income*—is the result of measuring revenue and expense associated with investment and management assistance activities of a licensee other than realized gain (loss) on securities sold. Revenue is organized

by source; i.e., from portfolio, from services provided, or from other sources.

2. *Realized Gain (Loss) on Sale of Securities*—is a function of operations that is measured separately from Net Investment Income. While the Statement of Realized Gain (Loss) on Sale of Securities provides a detailed analysis of realized gain or losses, the Statement of Operations shows in the aggregate, net sales price of securities sold during the period, the cost of such securities sold, the remainder becomes net realized gain (loss) on sale of securities.

Although an allowance for loss on securities may be established for valuation and in some cases tax purposes, such allowances when provided are not reflected as an expense in measuring investment income. Rather, they are measured in the Statement of Unrealized Gain (Loss) on Securities Held as a component of unrealized depreciation which is an offset against unrealized appreciation. For this reason, the entire loss is reported in this statement when realized and the allowance for loss on the security is reduced by the amount of allowance previously established.

3. *Description by Line Item*—The following is a description by line item as to how the amounts shown on the Statement of Operations Realized are developed.

a. *Investment Income*—the amounts shown in items 1 through 35 of this statement are derived primarily from the general ledger accounts as follows.

Item 1, Interest on Loans and Debt Securities—Show the aggregate of balances in accounts 512, 516 and 541.

Item 2, Dividend Income—Show balance of account 540.

Item 3, Income from Investments Reported The Equity Method of Accounting—Show the balance of account 542.

Item 4, Management Services—Show the balance of account 532.

Item 5, Application and Other Fees—Show the aggregate of balances in accounts 500, 534 and 536.

Item 6, Interest on Invested Idle Funds—Show the balance of account 510.

Item 7, Income from Assets Acquired in Liquidation of Portfolio Securities—Show the balance of account 582 net of the balance of account 710. Also, show the balance of account 710 parenthetically.

Item 8, Other Income—Show the aggregate of balances in accounts 520 and 584.

Item 9, Gross Investment Income—Show the aggregate of Items 1 through 8.

Item 10, Interest on Long-term Debt—Show the aggregate of balances in accounts 610 and 622.

Item 11, Commitment Fees—Show the balance of account 600.

Item 12, Other Financial Costs—Show the balance of account 642.

Item 13, Partners Salaries—Show the balance of account 663–1.

Item 14, Employee Salaries—Show the balance of account 663–2.

Item 15, Employee Benefits—Show the balance of account 670.

Item 16, Investment Advisory and Management Services—Show the balance of account 659 and 660.

Item 17, General and Limited Partners' Meetings—Show the balance of account 657–2.

Item 18, Advertising and Promotion—Show the balance of account 650.

Item 19, Appraisal and Investigation—Show the balance of account 651.

Item 20, Communication—Show the balance of account 653.

Item 21, Legal Fees—Show the balance of account 661.

Item 22, Travel Expense—Show the balance of account 665.

Item 23, Cost of Space Occupied—Show the balance of account 654.

Item 24, Depreciation & Amortization Expense—Show the aggregate balances in accounts 655 and 656.

Item 25, Audit and Examination Fees—Show the balance of account 652.

Item 26, Insurance Expense—Show the balance of account 658.

Item 27, Taxes Expense (Excluding Income Taxes)—Show the balance of account 664.

Item 28, Provision for Losses on Receivables—Show the balance of account 680.

Item 29, Miscellaneous Expenses—Show the aggregate of balances in accounts 672, 679 and 715.

Item 30, Total Expenses—Show the aggregate of Items 10 through 29.

Item 31, Net Investment Income—Show the balance of amount of Item 9 less Item 10.

b. *Realized Gain (Loss) on Sale of Securities*—

Item 32, Net Sales Price—Show Net Sales Price.

Item 33, Cost of Securities Sold—Show cost.

Item 34, Net Realized Gain (Loss) on Sale of Securities—Line 32 minus 33.

Analysis of Partners' Permanent Capital Contributions and Computation of Regulatory Capital

Line 1 Enter the amount shown on Form 468 as the balance at the end of the prior fiscal period.

Line 2(a) Cash Contributions—Enter the amount of cash contributed to Permanent Capital during the year.

Line 2(b) Undistributed Net Realized Earnings Contributed to Permanent Capital—Enter the amount transferred from Undistributed Net Realized Earnings to Permanent Capital during the year.

Line 2(c) Permanent Capital Contributed for Services Rendered—Enter the amount of services rendered which was credited to permanent capital.

Line 2(d) Permanent Capital Contributed for Other than Cash or Services—Enter the amount credited to permanent capital and explain in detail by a footnote.

Line 3 Total Additions—Enter the total of lines 2(a) through 2(e).

Line 4 Subtotal—Enter the sum of lines 1 and 3.

Line 5(a) Complete Liquidation of Partner's Interest—Enter the amount of the interest of the partner whose capital is being liquidated.

Line 5(b) Partial Liquidation of Partner's Interest—Enter the amount of interest of the partner whose permanent capital is being partially liquidated.

Line 5(c) Partial Liquidation of All Partners' Interests—Enter the amount of interest of all partners that is being liquidated. In a footnote state whether SBA has approved of the partial liquidation and whether the liquidation is one of a series leading to a complete liquidation. This line should be used when there is a pro-rata liquidation of "all" partners' interests. All means "substantially all" in terms of dollar value of the partners' Permanent Capital by class.

Line 5(d) Other Debits—Enter the amount of the other debits.

Line 6 Total Deductions—Enter the total of lines 5(a) through 5(d).

Line 7 Balance at the End of Fiscal Year—Subtract line 6 from line 4.

Line 8(a) Organization Expense—Enter the amount of organization expense whether or not amortized.

Line 8(b) Permanent Capital Contributed for Services—Enter the amount credited to Permanent Capital for Services since date of organization.

Line 8(c) Permanent Capital Contributed for Other than Cash or Services—Enter the amount credited to Permanent Capital for assets other than cash or services since date organization. At such time as the asset is converted to cash, the amount of cash received maybe considered to be a cash contribution to Permanent Capital. An adjustment to Permanent Capital may

be necessary when the asset is converted to cash.

Line 8(d) Other Non-monetary Items—Enter the amount of other non-monetary items credited to Permanent Capital since date of organization.

Line 8(e) Investment in 301(d) Licensee—Enter the amount of investment in 301(d) licensee.

Line 8(f) Other—Enter the amount of other credits to Permanent Capital since date of organization.

Line 9 Total Regulatory Deductions—Enter the sum of lines 8(a) through 8(f).

Line 10 Regulatory Capital for Leverage Purposes—Subtract line 9 from line 7.

Line 11 Net Unrealized Gains as defined by Section 107.301(b)—Go to Note 3, prepare the necessary information and enter the result here.

Line 12 Regulatory Capital for Overline Purposes—Add line 11 to line 10 and enter.

J. Statement of Change in Financial Position for Partnership

The Statement of Change in Financial Position is to be inclusive of all changes in financial position resulting from transactions. However, the statement does not include changes in unrealized gains (loss) on securities held which are based on subjective determinations by the General Partner(s) and not based on transactions. The objectives of this statement are: (1) To summarize the extent to which the licensee has generated cash and invested idle funds; and (2) to complete the disclosure of changes in financial position during the period.

The following description by line item explains how the amounts on the Statement of Changes in Financial Position are developed.

Item 1, Beginning Cash and Invested Funds Position—The total of line item 14, Cash, and line item 15, Invested Idle Funds Assets, as reported on Form 468 at the end of the prior fiscal period.

Funds were Provided From:

Item 2, Net Investment Income (Loss)—Enter the amount shown on line 31 of the Statement of Operations Realized.

Item 3, Depreciation, Amortization, Provision for Loss on Receivables—Enter the total of amounts shown in line items 24 and 28 of the Statement of Operations Realized and the amount of account 672 included in Item 29 of the Statement of Operations Realized.

Item 4, Realized Gain (Loss) on Sale of Securities—Enter the amount shown on line 33 of the Statement of Operations Realized.

Item 5, Decrease in Portfolio Securities—Enter the amount of net change in Item 4, Cost column of the Statement of Financial Position if that amount is a decrease during the period.

Item 6, Decrease in Assets Acquired—Enter the amount of net change in Item 7, Cost column of the Statement of Financial Position if that amount is a decrease during the period.

Item 7, Decrease in Operating Concerns Acquired—Enter the amount of net change in Item 8, Cost column of the Statement of Financial Position if that amount is a decrease during the period.

Item 8, Decrease in Other Securities—Enter the amount of net change in Item 9, Cost column of the Statement of Financial Position if that amount is a decrease during the period.

Item 9, Decrease in Current Assets (Excluding Cash and Invested Idle Funds)—Enter the amount of net change in Items 16 through 23 of the Statement of Financial Position if that amount is a decrease during the period.

Item 10, Decrease in Other Assets—Enter the amount of net change in Items 13, 24 and 25 of the Statement of Financial Position if that amount is a decrease during the period.

Item 11, Increase in Current Liabilities—Enter the amount of net change in Items 30 through 35 of the Statement of Financial Position if that amount is an increase during the period.

Item 12, Increase in Other Liabilities—Enter the amount of net change in Items 37, 38 and 39 of the Statement of Financial Position if that amount is an increase during the period.

Item 13(a), Due to or Guaranteed by SBA—Enter the amount of net change in Item 27 of the Statement of Financial Position if that amount is an increase during the period.

Item 13(b), Due Others—Enter the amount of net change in Item 28 of the Statement of Financial Position if that amount is an increase during the period.

Item 14, Sale of Additional Partnership Interests—Enter the amount of net change in Item 41 of the Statement of Financial Position if that amount is an increase during the period and the licensee is a partnership.

Item 15, Total Funds Provided—Enter the total of Items 2 through 14 of the Statement of Change in Financial Position.

Item 16, Total Funds Available—Enter the total of Items 1 and 15 of the Statement of Change in Financial Position.

Item 17, Increase in Portfolio Securities—Enter the amount of net change in Item 4 of the Cost column of the Statement of Financial Position if that amount is an increase during the period.

Item 18, Increase in Assets Acquired—Enter the amount of net change in Item 7, Cost column of the Statement of Financial Position if that amount is an increase during the period.

Item 19, Increase in Operating Concerns Acquired—Enter the amount of net change in Item 8, Cost column of the Statement of Financial Position if that amount is an increase during the period.

Item 20, Increase in Other Securities—Enter the amount of net change in Item 9, Cost column of the Statement of Financial Position if that amount is an increase during the period.

Item 21, Increase in Current Assets (Excluding Cash and Invested Idle Funds)—Enter the amount of net change in Items 16 through 23, of the Statement of Financial Position if that amount is an increase during the period.

Item 22, Increase in Other Assets—Enter the amount of net change in Items 13, 24 and 25 of the Statement of Financial Position if that amount is an increase during the period.

Item 23, Decrease in Current Liabilities (Excluding Distributions to Partners)—Enter the amount of net change in Items 30 through 33 and Item 35 of the Statement of Financial Position if that amount is a decrease during the period.

Item 24, Decrease in Other Liabilities—Enter the net amount of change in Items 37, 38 and 39 of the Statement of Financial Position if that amount is a decrease during the period.

Item 25(a), Due or Guaranteed by SBA—Enter the net amount of change in Item 27 of the Statement of Financial Position if that amount is a decrease during the period.

Item 25(b), Due Others—Enter the net amount of change in Item 28 of the Statement of Financial Position if that amount is a decrease during the period.

Item 26, Distribution to Partners—Enter the amount shown in accounts 365 through 369 of the Statement of Financial Position if that amount is a decrease during the period.

Item 27, Redemption of a Partnership Interests—Enter the amount of Item 41 of the Statement of Financial Position if that amount is a decrease during the period.

Item 28, Total Funds Used—Enter the sum of Items 17 through 27 of the Statement of Change in Financial Position.

Item 29, Ending Cash and Invested Idle Funds Position—Subtract Item 28 from Item 16. The balance will equal the

sum of Items 14 plus 15 of the Statement of Financial Position.

K. Statement of Unrealized Gain (Loss) on Securities Held

This statement summarizes the results of the valuation process of securities held as of the statement date as compared to the previous statement date and discloses the net change in the Unrealized Gain (Loss) on securities Held.

The types of securities held are the primary groupings of loans and investments as set forth in items 1 through 10 of the Statement of Financial Position and are: (1) Portfolio Securities; (2) Assets Acquired in Liquidation of Portfolio Securities; (3) Operating concerns acquired and (4) other securities.

In arriving at net unrealized gain (loss) on securities held, consideration must be given to unrealized appreciation (valuation above cost) and unrealized depreciation (valuation below cost) of such securities. After adjusting the net unrealized appreciation (depreciation) for the appropriate tax effect, the remaining amount will represent unrealized gain (loss) on securities held.

Items 1 through 11 are without the estimated tax effect.

Item 1—the amount shown in column 3 Item 4 of the State of Financial Position.

Item 2—the amount shown in column 3 Item 7 of the State of Financial Position.

Item 3—the amount shown in column 3 Item 8 of the State of Financial Position.

Item 4—the amount shown in column 3 Item 9 of the State of Financial Position.

Item 5—the amount shown in column 3 Item 10 of the State of Financial Position.

Item 6—the amount shown in column 2 Item 4 of the State of Financial Position.

Item 7—the amount shown in column 2 Item 7 of the State of Financial Position.

Item 8—the amount shown in column 2 Item 8 of the State of Financial Position.

Item 9—the amount shown in column 2 Item 9 of the State of Financial Position.

Item 10—the amount shown in column 2 Item 10 of the State of Financial Position.

Item 11—Item 5 minus Item 10.

Corporations and Partnerships

L. Statement of Commitments and Guarantees

This statement provides a schedule of outstanding commitments of the licensee to provide funds to small business concern. It also shows by small business concern the amount of such concern's debt to a third party the licensee has guaranteed. Such amounts will be shown according to Portfolio Securities, Assets Acquired in Liquidation of Portfolio Securities, or operating concerns acquired.

The statement is completed as follows:

(a) Under Commitments of Funding, show the small business concerns to whom the funds are committed. The amounts shown as commitments are derived from memorandum account CL-15.

(b) Under Guarantees to Others, show the name of the small business concern. The amounts shown as guarantees are derived from memorandum account CL-16.

Schedule of Investments—Schedule 1.

The Schedule of Investments will be prepared to show each investment by the licensee in each small business concern. A description of each column follows:

Column 1. Show each investment giving the following details:

Loans:

Date of Loan
Amount of Original Loan
Interest Rate
Maturity Date
Repayment Terms
Collateral
If regular repayments are scheduled give details

Debt:

Date of Initial Investment
Amount of Investment
Interest Rate
Maturity Date
Repayment Terms
Equity Features (Include percent of ownership or potential ownership)

Stock:

Date of Initial Investment
Amount of Investment
Type of Investment—i.e., common, preferred, common with warrants/options
Percent of Ownership

Equity Interest of Unincorporated SBC:

Date of Initial Investment
Amount of Involvement
Percent of Ownership
How Share of Profit (Loss) Determined

Warrants, Options and Other Rights:

Date of Initial Investment or Acquisition Cost (if any)
Percent of Ownership Represented
Additional Cost to Exercise

Column 2:

Opposite each investment the appropriate letter should appear:

L—Loan
D—Debt
E—Equity

Column 3:

Opposite each investment the appropriate letter(s) should appear:

P—Public Traded
PR—Public Traded Restricted
N—Non-public
NR—Non-public—Restricted
V—Venture Capital
SD—Special Discretionary Portfolio

Column 4:

Opposite each investment the appropriate letter should appear:

DP—Delinquent as to Principal
DI—Delinquent as to Interest
DPI—Delinquent as to Principal and Interest

If the small business concern is delinquent in one or more of the licensee's investments an identification number should be assigned to the investment for identification on Schedule 2.

Details of delinquent investments should be shown on Schedule 2, Schedule of Delinquencies

Column 5:

Principal Balance at Beginning of Period. Show balance at cost at beginning official period.

Column 6:

Additions (Deductions) During Period: Show change during fiscal period
Details of changes, except for regularly scheduled repayments of loans or debt should be explained by footnote

Column 7:

Principal Balance at Close of Period: Show balance at close of period.

Column 8:

Market or Fair Value as Determined by Board of Directors/General Partners.

Column 9:

Unrealized Appreciation (Depreciation): Column 9 minus Column 8.

The total of all investments in any small business concern appearing in column, 5, 6, 7, 8, and 9 should be shown, a line drawn and the investments in the next SBC shown.

Schedule of Delinquencies—Schedule 2.

The schedule will give complete details of all investments reported as delinquent on Schedule 1, (Schedule of Investments. A separate line should be

used to report an investment delinquent as to principal and interest in column 5, 6 and 7.

Column 1. Give name of small business concern.

Column 2. Give balance of investment at beginning of fiscal period.

Column 3. Give balance of investment at end of fiscal period.

Column 4. Insert P for principal and/or I for interest if investment is delinquent as to both principal and interest use separate lines in colums 5, 6, and 7.

Column 5. Show the amount of delinquency at end of fiscal period.

Column 6. Show date of last payment.

Column 7. Show numbers of payments delinquent.

Column 8. If investment is collateralized describe collateral in sufficient detail for SBA to evaluate the fair market value of collateral.

Column 9. Show the fair market value of the collateral as determined by the Board of Director/General Manager.

Schedule of Changes in Operating Concerns Acquired—Schedule 3.

A schedule 3 should be prepared for each small business concern acquired in which changes occurred.

Participations and Joint Financings—Schedule 4.

Show in this schedule the financings in which the reporting licensee participated as well as financings made jointly by the reporting licensee and one or more other lenders or investors during the period or which were outstanding at any time during such period. Identify each item in column (1) name of the financed small business concern; indicate by appropriate letter in column (2) the type of financing (loan, debt security, stock, warrants, and options).

In column (3) show the original total amount contributed by all parties in the participation or joint financing. The name of such participating or joint financing entities (including the name of the reporting licensee) shall be shown in column (4) with appropriate indication as to which is the initiating (sponsoring) entity.

Show in columns (5), (6), and (7), as appropriate, the reporting licensee's outstanding principal balance, or other cost, of participation purchased, participation sold, or joint financing, as of the close of the period covered in the report. Enter in column (8) a description of collateral pertaining to each financing, together with information as to the percentage applicable to each party and as to any preferences agreed upon.

Cash and Invested Idle Funds—Schedule 5.

Cash will be reported on Schedule 5(a) and Invested Idle Funds will be reported on Schedule 5(b).

Cash—Schedule 5(a).

Show cash on hand and in general funds demand deposits; funds in imprest bank accounts. Demand deposits are balances subject to withdrawal without notice and shall be in commercial banks which are members of the Federal Deposit Insurance Corporation. Cash items in process of collection represent those cash items which have been placed with banks for collection. Petty cash shall represent the full amount of the petty cash imprest fund. The amount shown on line 11 should be the same amount reported on line 14 of the Statement of Financial Position.

Invested Idle Funds—Schedule 5(b).

Show in Schedule 5b(1) securities owned which have been issued or guaranteed by the U.S. Government, showing the name of the issuer and the title of each issue. Other required data, such as interest rate, call date, maturity date, and principal amount at par of bonds and notes, may be obtained by inspection of the securities or from records of securities pledged. The cost of the securities shall be shown in column (6) and the current market value thereof in column (7).

Show in Schedule 5b(2) funds invested in insured savings accounts and funds on time deposit evidenced by time certificates of deposit. Savings accounts shall be with institutions the accounts of which are insured by the Federal Savings and Loan Insurance Corporation. Time deposits shall include all time certificates of deposit held by the company in commercial banks which are members of the Federal Deposit Insurance Corporation.

The amount shown in Schedule 5(b)(2) line 19 represents invested idle funds and should be the same amount as shown on line 15 of the Statement of Financial Position.

The amounts contained in this schedule can be obtained from the accounts as follows:

In Schedule 5(a), item 1 is based on accounts 100 through 108, item 2 is based on accounts 110 through 112, item 3 is based on account 118, and item 4 is based on account 120.

Schedule 5(b)(1) is based on account 130.

In Schedule 5(b)(2), columns 1 and 4 are based on accounts 131 through 134, and column 2 and 5 are based on accounts 135 through 137.

In Column 3 enter the rate of interest.

Average Cash and Invested Idle Funds Balances on a Monthly Basis—Schedule 6.

This schedule is designed to measure cash or cash items available for investment and is a basis for measuring the licensee's level of activity.

A monthly average is to be computed which fairly represents cash and invested idle funds available during the month. The average amount of cash available can usually be obtained from the licensee's bank statements. The average of invested idle funds is to be a "simple" average based on the number of days in the month and giving consideration to the liquidation value of such short-term securities.

The schedule is to include the 12-month period prior to the statement date. Should there be cash or idle funds that are encumbered or restricted (compensating balances, pledged funds, etc.), such amounts will be eliminated.

The amounts contained in the schedule can be obtained from the accounts as follows:

Column 1, cash, is based on accounts 100 through 120.

Column 2, idle funds, is based on accounts 130 through 138.

Shareholders, Officers, and Directors of the Licensee—Schedule 7.

Furnish in this schedule the information as required by the form regarding equity securities issued by the licensee and regarding the licensee's officers, directors and manager.

In column (1) list:

(a) Each person or company directly or indirectly owning, controlling, or holding with power to vote, 5 percent or more of the outstanding voting securities of the company.

(b) Each person or company owning of record or being known to own beneficially more than 10 percent of any other class of equity securities of the company.

(c) Each officer, director, or manager of the licensee. (List and identify officers and directors, and manager regardless of whether or not they own any equity securities of the company.)

Show in column (2) whether each natural person listed in column (1) is an officer, director, manager of the licensee or specific combination of any of the three and the total remuneration for the period received by each from the licensee. Column (3) shall show the title of each class of stock owned by any person or company and column (4) shall indicate whether the securities of the specific class are owned both of record and beneficially, of record only, or beneficially only.

In columns (5), (6), and (7), respectively, show the number of shares of each class owned by each listed person or company, the total par or

stated value of such shares, and the percentage of the total number of shares of this class outstanding which is represented by the shares owned by the particular person or company.

Summarize the foregoing information by class of equity security at the bottom of the schedule.

General Partners, Limited Partners and Advisory Directors of the Licensee—Schedule 7.

Furnish in this schedule the information as required regarding the partnership interests of the licensee and licensees partners. The definitions of Director and Executive Officer should be reviewed to insure that the Schedule is complete.

In Column 1 list:

(a) Each person or company directly or indirectly owning or controlling a 5 percent or more partnership interest.

(b) Each officer, director or manager of the licensee whether or not they own any partnership interest.

Show in column 2 whether any person listed in column 1 is an officer, director, manager of the licensee or specific combination of any of the three and the total remuneration for the period received by each from the licensee.

Column 3 shall show the type of partnership interest (general or limited) of each listed person.

Column 4 shall indicate whether the partnership interest is owned both of record and beneficially, of record only or beneficially only.

Column 5 will show the percent of total partnership interest owned.

Column 6 will show the total dollars of Partner's capital contribution.

Column 7 will show the percent owned of the total general partnership interest or the percent of the total limited partnership interests.

Management Certification

The certification of the Annual Report, SBA Form 468, shall bear the signature of the chief financial officer of the licensee, or other officer authorized by the board of directors* to sign in the event the chief financial officer is unavailable. The Corporate Secretary* of the licensee shall attest by signature to the fact that the minutes of a meeting of the board of directors* show that the Annual Report, SBA Form 468, has been reviewed and approved by the board by directors*. The date on which each signature is affixed shall be shown. All signatures on all copies of the Annual Report, SBA Form 468, submitted to SBA shall be original signatures in ink.

*See Definitions in Introduction.

Appendix II—Chart of Accounts for SBICs

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I. Introduction

A. Statement of Policy

Small Business Investment Companies (SBICs) licensed by the Small Business Administration (SBA) including 301(d) licensees are to maintain their books of account in accordance with the system of account classification and accounting policies herein prescribed. Accounting principles and practices set forth herein are in accordance with generally accepted accounting principles for investment companies as set forth by the American Institute of Certified Public Accountants.

The system of account classification is adaptable to manual or machine accounting procedures employing the double-entry method of accounting, and is otherwise designed to meet the specific needs of companies licensed in accordance with the provisions of the Small Business Investment Act of 1958, as amended.

Nothing contained in this system of account classification can/or is intended to authorize or approve any operation or action by a licensee, or any other action, not authorized or approved by the Small Business Investment Act of 1958, as amended, or the Rules and Regulations promulgated thereunder.

This system of Account Classification was prepared by the SBA. Any inquiries or comments relating to the system should be directed to the Staff Accountant, Investment Division, Small Business Administration, 1441 L Street, N.W., Washington, D.C. 20416.

B. Purpose of the System

This system has been prescribed to insure that standard books of account are maintained by licensees and that uniform accounting policies are followed. By design, the system is basic and may be expanded by a licensee if necessary.

C. Maintenance and Retention of Records

The licensee's books and records shall be maintained at its principal place of business. Books and records shall include its books of account, and other records, and memoranda which support the entries in its books of account. These supporting records shall be maintained in such manner as to be able readily to furnish information on any item included in any account. The books and records referred to herein include not only accounting records in a limited technical sense, but other records, such as minute books, capital stock records, reports, correspondence, and memoranda which may be useful in developing the history of, or facts regarding, any transaction.

Memorandum Accounts are included in the chart of accounts to facilitate record keeping of nominal assets, contingent liabilities, commitments to provide future financing (directly or through participations) and guarantees.

Section 107.1002 of SBA Rules and Regulations specifies the time period licensee's records are to be maintained.

II. Accounting Policies and Practices

As a general rule, accounting policies followed by licensees are those promulgated by the American Institute of CPA's as generally accepted accounting principles. Certain of these principles and practices are prescribed in the AICPA's Audit Guide for Investment Companies.

The significant accounting policies licensees are to follow are summarized below. The summary is intended to highlight the more important accounting policies and practices rather than being an all inclusive statement.

A. Accrual Basis of Accounting

Books of account shall be maintained on an accrual basis and, at the end of

each month, transactions shall be posted to the General Ledger. Entering in the records and posting to the General Ledger of accruals applicable to each month is optional but all accruals are to be entered in the records and posted at the end of the fiscal year, and as of such other dates as mark the close of periods to be covered by interim or special financial reports required to be furnished to SBA.

B. Accounting and Reporting Loans & Investments on the Value Basis

Loans and investments will be recorded at cost. However, unrealized appreciation or depreciation of such securities will be recognized in the accounts and as such will result in fair accounting for loans and investments.

The practice of valuing loans and investments and reflecting in the accounts the resulting unrealized gain (loss) on such securities held has been expressed by the American Institute of CPA's as being a generally accepted accounting practice for investment companies. Accordingly, this practice has been adopted for SBICs.

The adoption of this practice causes unrealized appreciation on loans and investments to be recognized in the accounts. Unrealized depreciation, essentially allowance for losses, has always been recognized. An appropriate tax provision will be established for net unrealized appreciation or depreciation on securities held for all corporate SBICs. No provision for taxes is necessary for limited partnership SBICs.

C. Equity Method of Accounting

The carrying value of equity interests in unincorporated concerns will be determined by the equity method of accounting. However, for valuation purposes, the fair value basis of accounting will be used for the equity interest in unincorporated concerns.

The equity method of accounting will also apply to the investment in 301(d) licensees. Accordingly, an SBIC's investment account will be adjusted for its proportionate share of net income (loss) of such investee as well as dividends paid by the investee. The result will be an investment carried at the book value of such stock.

Income reported on the equity method of accounting will be reported as a non-cash item of income.

D. 1. Management Consulting Subsidiary for Corporate SBICs

According to Section 107.501(c) of SBA Regulations, consolidated financial statements are to be submitted to SBA when a licensee has a management consulting subsidiary, books of account are to be maintained for the subsidiary so as to properly account for its financial position and result of operations. Such accounts should also be compatible with this system of accounts.

Consolidated statements will include only the licensee and the management consulting subsidiary. Other subsidiaries are not to be reported on a consolidated basis.

2. Management Consulting Company Investment of Limited Partnership SBICs

Limited partnerships, legally and technically, do not have subsidiaries. A limited partnership SBIC may have an investment in a management consulting company. It is required that in such cases the limited partnership SBIC will own 100 percent of the stock of the management consluting compnay. The investment in the management consulting company will be accounted for on the records of the limited partnership by the equity method. A combined balance sheet and statement of operations for the limited partnership SBIC and the management consulting company will be filed with SBA in addition to the annual report on SBA Form 468 and supporting schedules required for the limited partnership SBIC.

E. Tax Allocation Policy

Tax allocation policies as set forth in Accounting Principals Board Opinion No. 11, *Accounting for Income Taxes,* effective December 31, 1967, will be followed by licensees in accounting for income taxes.

A difference between the amount of gain or loss recognized for tax purposes and that recognized for accounting purposes may constitute a timing difference to be accounted for according to APB Opinion No. 11.

Such differences will result in either deferred credits or deferred charges to future income taxes.

The licensee and its accountant should also follow the current amendments to APB 11 which include FASB 37, FASB Interpretation 29 and FASB Technical Bulletin 82–1.

F. Accounting for Dividend and Interest Income

1. *Dividend Income*—As a general rule, cash dividends on investment securities are recorded as of the record date. Occasionally, cash distributions represent a return of capital; under these circumstances the distributions should be credited to the investment account rather than to income.

Stock splits and dividends in stock of the same class as that owned, are not recorded as income since the Licensee's equity interest in the company declaring the dividend or split has not changed.

Dividends in kind are generally recorded as non-cash income at the fair value of the property received. When the recipient Licensee has the option to receive cash or stock, income should be recorded for the amount of cash that could have been received. When stock rights are received, a portion of the cost basis of the related investment may be allocated to the rights on a pro rata cost basis.

2. *Interest Income*—Interest Income will be accrued according to terms of interest bearing loans and investments. Interest will not be accrued if the ability of the small business concern to pay such accrued interest is doubtful. Indicators of uncollectible accrued interest arise when the SBC is in bankruptcy, or on the verge thereof, or otherwise considered to be insolvent. Other indicators are when principal and/or interest payments are in default more then 6 months or when the Board of Directors values the security below cost and considers collection to be doubtful.

Unearned premiums or discounts are an adjustment of interest income and are to be amortized over the stated life of the debt instrument on a ratable basis.

Interest on invested idle funds is usually accrued on a monthly basis.

G. Profit Sharing

As a general rule, profit sharing with the financed concern is an adjustment of the interest rate. An exception to this rule can arise when the licensee makes an investment in a unincorporated concern which takes the form of an equity interest rather than a loan, and the financed concern treats the profit sharing as a equity distribution rather than an expense.

H. Financing Discounts and Fees

Discounts on debt instruments resulting from financing made to small business concerns are considered an upward adjustment of the interest rate, and are to be amortized over the stated life of the instrument on a ratable basis. Accordingly, the discount is considered earned as it is amortized.

Fees, as a general rule, are considered earned at the time of financing since they are for services rendered in connection with the financing. To the extent fees are for services to be rendered in the future, such amount will be considered unearned until the

services are performed, at which time such fees will be considered earned.

I. Realization of Gain (Loss) on Sale of Securities

In accordance with the accrual basis of accounting, gain or loss on sale of securities or other assets of a licensee will be realized at the time of sale rather than at the time of collection. This practice assumes that the sale represents the final transaction, that the collectability of the gain is reasonably assured, and that the earning process in complete, i.e., the licensee is not obligated to perform significant activities after the sale in order to earn the gain. Accordingly, this practice of recognizing gain is in accordance with generally accepted accounting principles.

Any transaction with recourse upon the licensee or involving any understanding, agreement, option, privilege, or other rights to repurchase by and/or resell to the Licensee may not be considered as a final transaction.

Any gain on sale of securities which does not qualify as realized gain in accordance with the foregoing shall be deferred pending such realization.

When part of the net sales price is other than cash, gain will be realized at the time of sale unless the sale is not a final transaction or unless collection of the proceeds is not reasonably assured. However, such non-cash gains will be restricted in the sense that they will be unavailable for capitalization or distribution until converted to cash. When collected, application of cash will first be made to the recovery of the licensee's cost of securities sold and then to gain, i.e., the cost recovery method.

Losses are recognized at the point of sale and are shown as a reduction of undistributed net earnings realized. They have no effect on non-cash gains.

Cost of securities sold is usually the carrying value of such assets on the licensee's books. Occasionally, a licensee will acquire shares of an investee's stock (which shares are of the same class) at different times and prices. The average cost method of determining cost of such securities when sold is preferred. If a basis other than the average cost method is used, the difference (if material) in gain (loss) between that determined on the average cost method and that on the method actually used should be disclosed.

J. Unrealized Gain (Loss) on Securities Held

Unrealized gain (loss) on securities held results from the licensee's directors/general partner(s) valuation of Loans and Investments. Unrealized appreciation represents the valuation above cost and unrealized depreciation represents valuation below cost. After considering an appropriate provision for taxes, the net amount will be unrealized gain (loss) on securities held for corporate licensees. Limited partnership licensees will not have a provision for taxes.

The Statement of Operations measures the realized activities of a licensee that can be objectively measured. Unrealized gain (loss) on securities held is in many ways a subjective determination by a licensee: therefore, measurement in a separate statement would be most appropriate with the final results being reflected in the equity section of the Statement of Financial Position. Accordingly, unrealized gain (loss) on securities held will be measured separately in the equity accounts rather than being a measurement of earnings. Such accounting treatment is not at variance with Accounting Principles Board Opinion No. 9, *Reporting the Results of Operations*, issued by the AICPA and effective December 31, 1966, or with accounting practices set forth in the AICPA Audit Guide for Investment Companies as applied to SBICs.

K. Undistributed Realized Earnings

Undistributed realized earnings will encompass all realized earnings whether in cash or non-monetary receipts such as notes receivable, stock, etc. Earnings realized in other than cash will not be available for distribution or otherwise made available for capitalization until converted to cash. Gain or loss on securities held is unrealized and, therefore, not measured in undistributed earnings.

L. Accounting for Non-Monetary Transaction

Non-monetary transactions involve both reciprocal and non-reciprocal transfers of assets or liabilities not involving cash between the licensee and another entity or person, or between the licensee and its stockholders/partners. Accounting Principals Board Opinion No. 29, issued by the AICPA and effective October 1, 1973, should be followed by licensees to the extent applicable when accounting for non-monetary transactions.

M. Loan and Investment Transactions

Non-monetary exchanges with portfolio concerns or others whereby the licensee transfers certain securities or assets for other securities or assets will not be considered transactions where gain (loss) is realized whether such transactions are taxable or non-taxable exchanges. The accounting basis for assets received will be the same basis as assets transferred and unrealized gain (loss) on securities held will be the result of the valuation process.

N. Dividends and Spin-offs

Dividends in kind are nonreciprocal transfers of non-monetary assets to owners and should be accounted for at fair value. Fair value is defined as being not less than the value as reported on the most recent SBA Form 468 and the gain will be reported as a non-cash gain.

Assume the following facts:

Licensee has an investment, Cost $100 Value $500, and wishes to distribute the asset to the shareholders. If this item is isolated from the remainder of the records the balance sheet would appear as follows:

The appropriate asset account	$100
The appropriate appreciation account	400
Account 440-Stockholders Unrealized Appreciation on Loans and Investments	400
Account 451-Stockholders Undistributed Net Realized Earnings	100

At the time that a decision is made to distribute the asset, immediately prior to distribution the licensee will make the following journal entries:

1. Dr Account 440-Stockholders Unrealized Appreciation on Loans and Investments	$400
Cr Account 450-Stockholders Non-cash Gains on Sale of Securities	400

Explanation—The distribution of the asset is equivalent to a sale which results in a non-cash gain.

2. Dr The appropriate asset account	$400
Cr The appropriate appreciation account	400

Explanation: The appreciation of the asset has been now realized.

At the time of distribution the following entry would be made.

3. Dr Account 450-Stockholders' Non-cash Gains on Sales of Assets	$400
Dr Account 451-Stockholders Net Realized Earnings	100
Cr The appropriate asset account	500

O. Special Policies Applying to 301(d) Licensees

1. *Three percent non-voting Preferred Stock Purchased by SBA.*

Although considered leverage funds, preferred stock purchased by SBA of a 301(d) licensee is treated like other equity securities for *accounting purposes.* Dividends on such stock

receive the conventional treatment of dividends and are declared and paid out of "retained earnings". If arrerages of dividends exist on the preferred stock purchased by SBA, the balance sheet should indicate that a footnote should be read in conjunction with the preferred stock. The footnote should explain the amount of the arrerages and the number of arrerages. Dividends or other distributions may not be made if (a) Retained Earnings is a deficit or (b) there are any arrerages of dividends on preferred stock issued to SBA. A transfer from Retained Earnings to Paid-in Surplus is considered to be a distribution.

2. Capitalized Operating Expenses

Frequently, 301(d) licensees that have parent companies will be allowed to increase capital by transfers of allocated operating expenses incurred on the part of the licensee but paid for by the parent company. Another form of the same type of transaction exists when the parent company increases private capital of a subsidiary licensee by a cash transfer in which funds are designated to be used for budgeted operating expenses.

Such transfers will be deferred (account No. 383) expenses rather than assets on the basis that they have no future value.

P. Allowance for Losses on Loans and Investments

The value basis of accounting does not contemplate a general allowance for losses on loans and investments as does the cost basis. Rather, value accounting requires the licensee's Board of Directors/General Partner(s) to value each loan or investment as of the statement date. Where value is determined to be less than cost, unrealized depreciation will result. The Unrealized Depreciation, which is the SBIC's good faith valuation of certain investments below cost, is the amount that should be shown as an "Allowance for Losses on Loans and Investments" in the Computation of Earnings Available for Dividend Declaration or Capitalization. The total amount shown on Line Item 10, Column 2, of the Statement of Financial Position should, under normal conditions, be the amount of the "Allowance for Losses." Any material difference between the amount reported on Line 10, Column 2 of the Statement of Finanical Position and the amount reported as the Allowance for Losses on Loans and Investments in the Computation of Earnings Available for Dividend Declaration or Capitalization should be explained by a footnote(s). It should be noted, however, that the adoption of value accounting will have no effect on the licensee's reserve for losses for tax purposes (see I.R.C.).

As under the cost basis, differences in accounting income and taxable income will occur and will be measured as deferred credit or deferred charge to future income taxes. For example, a licensee may, under either accounting basis, establish an allowance for loss on stock, warrants or other types of equity investments. For tax purposes, however, such allowances may not be taken. In such cases, the difference between accounting for statement purposes and tax purposes is reflected as a deferred charge. Similarly, when a general allowance for loss is established on loans or debt securities, income for tax purposes will be greater than for statement purposes and the difference will be reflected as a deferred credit.

III. Chart of accounts

A. Account Numbering System

This system provides for two-digit number designations for major categories under which accounts are listed, and three-digit number designations for individual general ledger accounts. The first two digits of an individual account number refer to the major category under which the account is classified and the third digit identifies the specific account. Digits from zero through nine are used to identify specific accounts; the first deposit bank account established will be designated "100" and the second "101." It will be noted that some categories encompass individual accounts in sufficient number to require assignment of more than one two-digit number to identify the category. For example, "Cash on Hand and in Banks" has been assigned category numbers "10," "11," and "12."

B. Additional Accounts

Licensees may incorporate such additional accounts into their accounting system as are considered necessary.

Any account may be subdivided provided that such subaccounts do not impair the integrity of the accounts set forth in the prescribed system. Subaccounts shall refer by number and title to the accounts to which they apply. Use of a decimal system is required for extending the account numbers to identify such subaccounts.

C. Primary Classification of Accounts

The primary classification of accounts is as follows.

GENERAL LEDGER

Account number	Description
105-[illegible]	Asset and valuation accounts.
305-[illegible]	Liability accounts.
405-[illegible]	Capital accounts.
505-[illegible]	Income accounts.
605-695	Expense accounts.

Memorandum Records

NA-10—NA-14	Nominal assets.
CL-15—CL-17	Contingent liabilities.
OCS-1	Options on company's stock.
AL-1	Actual (realized) losses.
WI	Worthless investments-written off.
WIR	worthless investments-written off reserve.
PDA	Preferred dividend arrearages on preferred stock sold SBA.

D. Detail Chart of Accounts

The detail chart of accounts is organized according to the primary classification of accounts and identifies the account number and title of each account. The page where a description of the account can be found is indicated at the right of the account title.

Asset and Valuation Accounts

10-12—*Cash on Hand and in Banks*
- 100-108—Deposits in————bank.
- 110-112—Deposits in imprest account in————bank.
- 118—Cash items in process of collection.
- 120—Party cash fund.

13—*Invested Idle Funds*
- 130—U.S. Government obligations, direct and fully guaranteed.
- 131—Insured savings accounts.
- 135-137—Time certificates of deposit in————bank.
- 138—Other investments in insured institutions.

14—*Receivables*
- 140—Notes receivable.
- 141—Accounts receivable.
- 142—Allowance for uncollectible notes and accounts receivable.
- 143—Accrued interest receivable.
- 144—Allowances for uncollectible interest receivable.
- 145—Dividends receivable.
- 146—Receivables from parent.

15—*Current Maturities and Other Current Assets*
- 150—Current maturities on portfolio securities.
- 152—Current maturities on assets acquired in liquidation of portfolio securities.
- 153—Current maturities of operating concerns acquired.
- 154—Current maturities on other securities.
- 156—Other current assets.

16—*Investment in 301(d) Licensee*

160—Investment in 301(d) licensee.

17—*Loans to Small Business Concerns*
170 Loans.
171—Appreciation of loan values.
172—Depreciation of loan values.
173—Unearned discount, fees, and other charges on loans.

18—*Debt Securities of Small Business Concerns*
180—Debt securities, convertible, and with stock purchase warrants or options.
184—Debt securities divested of stock rights.
186—Appreciation of debt securities values.
187—Depreciation of debt securities values.
188—Unearned discount, fees, and other charges on debt securities.

19—*Equity Interests of SBCs*
190—Capital stock of SBCs, with stock purchase warrants or options, and/or convertible.
191—Capital stock of SBCs—other.
192—Appreciation of capital stock values.
193—Depreciation of capital stock values.
194—Equity interests of unincorporated concerns.
195—Appreciation of equity interests in unincorporated concerns.
196—Depreciation of equity interests in unincorporated concerns.
197—Warrants, options, and other stock rights acquired from SBCs.
198—Appreciation of warrants, options, and other stock rights acquired from SBCs.
199—Depreciation of warrants, options, and other stock rights acquired from SBCs.

20—*Assets Acquired in Liquidation of Portfolio Securities*
200—Receivables from debtors on sale of assets acquired in liquidation of portfolio securities.
203—Depreciation in values of receivables from debtors on sale of assets acquired in liquidation of portfolio securities.
204—Assets acquired in liquidation of portfolio securities.
205—Appreciation of assets acquired in liquidation of portfolio securities.
206—Depreciation of assets acquired in liquidation of portfolio securities.

21—*Operating Concerns Acquired*
210—Operating concerns acquired.
211—Appreciation of operating concerns acquired.
212—Depreciation of operating concerns acquired.

22—*Other Securities*
220—Notes and other securities received on sale of portfolio securities.
221—Other securities received.
222—Appreciation of other securities.
223—Depreciation of other securities.

3—*Prepaid Expenses and Deferred Charges*
230—Prepaid expenses.
231—Deferred charges.

24—*Furniture and Equipment*
240—Furniture and equipment.
241—Accumulated depreciation on furniture and equipment.

25—*Corporate Premises Owned*
250—Corporate premises owned.
251—Accumulated depreciation on corporate premises owned.
252—Leasehold improvements.

26—*Other Assets*
265—Amounts due from directors, officers, general partners, limited partners and employees.
266—Organization costs.
267—Funds in escrow.
269—Other assets.

Liability Accounts

30—*Notes and Other Obligations Payable to SBA for Funds Borrowed*
300—Notes payable to SBA.
301—Debentures payable issued to SBA.

31—*Notes and Other Obligations Payable to Other than SBA for Funds Borrowed*
310—Notes payable to other than SBA-guaranteed by SBA.
311—Notes payable to other than SBA-not guaranteed by SBA.
312—Mortgages payable for funds borrowed.
313—Mortgages payable on assets acquired in liquidation of portfolio securities.

32—*Notes Payable—Other*
320—Notes payable-other.

33—*Current Maturities of Long-Term Debt*
330—Current maturities of notes and debentures payable to or guaranteed by SBA.
331—Current maturities of notes and debentures payable to others not guaranteed by SBA.

34—*Accounts Payable*
340—Accounts payable.
341—Accounts payable due parent or partners.

35—*Accrued Expenses and other current Liabilities*
350—Accrued interest payable.
351—Accrued taxes.
354—Estimated income taxes accrued.
358—Other current liabilities.

36—*Dividends and Distributions Payable*
360—364—Dividends payable on (type and class) capital stock.
365—369—Distributions payable to general and limited partners.

37—*Trust Receipts*
370—Employee taxes withheld.
374—Unapplied receipts.
378—Miscellaneous trust receipts.

38—*Deferred Credits*
380—Deferred credit to future income taxes.
380—Deferred credit to future income taxes.
383—Other deferred credits.

39—*Other Liabilities*
390—Other liabilities.

Capital Accounts

40–41—*Capital Stock*
400–404— (type and class) capital stock authorized.
405–409— (type and class) unissued capital stock.
410–411— (type and class) capital stock subscribed.
413–414—Capital stock subscriptions receivable (type and class).
415–419—Treasury stock (type and class).

42—*Paid-in Surplus*
420—Paid-in surplus.

43—*3 Percent Preferred Stock [301(d) Licensees only]*
430—3 percent preferred stock, cumulative, non-voting issued to SBA.

44—*Stockholders' Unrealized Gain (Loss) on Securities Held*
440—STockholders' unrealized appreciation on loans and investments.
445—Stockholders' unrealized depreciation on loans and investments.
448—Stockholders' estimated taxes on net unrealized gain (loss) on securities held.

45—*Stockholders' Undistributed Realized Earnings*
450—Stockholders' non-cash gains on sale of securities.
451—Stockholders' undistributed net realized earnings.

46—*Stockholders' and Partners Profit and Loss Clearing*
460—Stockholders' profit and loss summary.
461—Stockholders' realized gain and loss summary in cash.
462—Stockholders' non-cash realized gain summary.
463—Stockholders' non-cash income from investments reported on the equity method of accounting.
465—Partners' profit and loss summary
466—Partners' realized gain and loss summary in cash.
467—Partners' non-cash realized gain summary.

468—Partners' non-cash income from investments reported on the equity method of accounting.

47—*Partners' Capital Contributions*
470—General Partners' Permanent Capital Contribution Summary.
471—Corporate General Partners' Permanent Capital Contribution.
472—Individual General Partners' Permanent Capital Contribution.
475—Limited Partners' Permanent Capital Contribution Summary.
476—Limited Partners' Permanent Capital Contribution.

48—*Partners' Unrealized Gain (Loss) on Securities Held*
481—Corporate General Partners' Unrealized Appreciation on loans and investments.
482—Individual General Partners' Unrealized Appreciation on loans and investments.
483—Corporate General Partners' Depreciation on loans and investments.
484—Individual General Partners' Depreciation on loans and investments.
485—Limited Partner' Unrealized Appreciation on loans and investments.
486—Limited Partners' Unrealized Depreciation on loans and investments.

49—*Partners' Undistributed Realized Earnings.*
491—Corporate General Partners' non-cash gains.
492—Individual General Partners' non-cash gains.
493—Corporate General Partners' undistributed net realized earnings.
494—Individual General Partners' undistributed net realized earnings.
495—Limited Partners' non-cash gains.
496—Limited Partners' Undistributed net realized earnings.

Income Accounts

50—*Commitment Income*

500—Commitment Income.

51–52—*Interest Income*
510—Interest on invested idle funds.
512—Interest on loans.
516—Interest on debt securities.
520—Interest income—other.

53—*Fee Income*
532—Management service fees.
534—Investigation and service fees charged other lenders.
536—Application and appraisal fees.

54—*Dividends and Other Earnings*
540—Dividends on capital stock of SBCs.
541—Sharings in income or revenue of SBCs.
542—Non-cash income from investments reported on the "Equity Method of Accounting".

57—*Gain on Securities and Other Assets*
570—Gain on U.S. Government securities.
571—Gain on loans.
572—Gain on debt securities.
574—Gain on capital stock of SBCs.
575—Gain on equity interests of unincorporated SBCs.
576—Gain on warrants, options, and other stock rights acquired from SBCs.
577—Gain on assets acquired in liquidation of portfolio securities.
578—Gain on operating concerns acquired.
579—Gain on other assets.

58—*Miscellaneous Income*
582—Income from assets acquired in liquidation of portfolio securities.
584—Other income.

Expense Accounts

60—*Commitment Expense*
600—Commitment expense.

61–62—*Interest Expense*
610—Interest on obligations payable to SBA.
622—Interest on obligations payable to other than SBA.

64—*Stock Record and Other Financial Expenses*
642—Stock record and other financial expenses.

65–67—*Operating Expenses*
650—Advertising and promotional costs.
651—Appraisal and investigation costs.
652—Auditing and examination costs.
653—Communications.
654—Cost of space occupied.
655—Depreciation of corporate premises owned, furniture, and equipment.
656—Amortization of leasehold improvements.
657—Directors' and stockholders' and partners' meetings costs.
658—Insurance.
659—Management services fees.
660—Investment adviser costs.
661—Legal services.
663—Salaries.
664—Taxes, excluding income taxes.
665—Travel.
670—Employee benefits expense.
672—Amortization of organization expense.
679—Miscellaneous operating expenses.

68—*Estimated Losses on Receivables*
680—Estimated losses on receivables.

70—*Loss on Securities and Other Assets*
700—Loss on U.S. Government securities.
701—Loss on loans.
702—Loss on debt securities.
704—Loss on capital stock of SBCs.
705—Loss on equity interests of unincorporated concerns.
706—Loss on warrants, options, and other stock rights acquired from SBCs.
707—Loss on assets acquired in liquidation of portfolio securities.
708—Loss on operating concerns acquired.
709—Loss on other assets.

71—*Miscellaneous Expenses*
710—Expenses on assets acquired in liquidation of portfolio securities.
715—Other expenses.

72—*Income Taxes*
720—Income taxes—net income.
722—Income taxes—net realized gain on investments.

Memorandum Records

Nominal Assets

NA–10—Stock purchase warrants or options on stock of SBCs.

Contingent Liabilities

CL–15—Commitments outstanding.
CL–16—Guarantees outstanding.
CL–17—Other contingent liabilities.

Options on Company's Stock

OCS–1—Options on company's stock.

Actual Loss Experience

AL–1—Actual (realized) losses.

Worthless Investments

WI–1—Worthless investments written off.
WIR–1—Worthless investments written off reserve.

Preferred Dividend Arrearage

PDA–1—Preferred dividend arrearages on preferred stock sold to SBA.

IV. Description of Accounts

Asset and Valuation Accounts

100–108—Deposits in ———— bank.

These accounts will represents funds on demand deposit in banks which are members of the Federal Deposit Insurance Corporation.

Debit:

(a) With amount of funds deposited.

Credit:

(a) With amount of funds withdrawn, and charges made by bank for such items as dishonored checks, transfer of funds by wire, collection, exchange, etc.

110–112—Deposits in imprest account in ———— bank.

These accounts will represent funds on demand deposit in imprest bank accounts to be drawn upon for the payment of operating expenses and to be reimbursed periodically through deposit therein of a check requiring dual signatures and drawn on the company's general funds bank account.

Debit:

(a) With amount of funds deposited.

Credit:

(a) With amounts of funds withdrawn.

118—*Cash items in process of collection.*

This account will represent the amount of cash items placed with banks for collection.

Debit:

(a) With amount of such items placed with banks for collection.

Credit:

(a) With amount of items collected.

(b) With amount of uncollected items returned or withdrawn.

120—*Petty cash fund.*

This account will represent the imprest petty cash fund maintained for the purpose of making small disbursements.

Debit:

(a) With amount placed in the fund when established.

(b) With amount of increase in the fund.

Credit:

(a) With amount of decrease in the fund.

Note.—The petty cash fund may be reimbursed and expenditures recorded as often as circumstances require, but must be reimbursed at the close of the company's fiscal year. Checks to replenish the fund will be drawn on a general fund bank account and include "petty cash" as a payee. Debits totaling the amount of this replenishment should be made concurrently to the appropriate accounts.

130—*United States Government obligations, direct and fully guaranteed.*

This account will represent the cost of temporary investments made from general cash funds in direct obligations of the United States Government and obligations guaranteed as to principal and interest by the United States Government. When United States Government Savings Bonds redeemable at par value on maturity are purchased at less than face value, the increase in redemption value may be periodically charged to this account with concurrent credit to account No. 510—Interest on invested idle funds.

Debit:

(a) With cost of such securities acquired.

(b) With increase in redemption value of United States Savings Bonds.

Credit:

(a) With redemption value of United States Savings Bonds redeemed.

(b) With cost of such securities sold or disposed of otherwise.

Note.—Increase in value over cost of United States Treasury Bills, which are issued at a discount and are noninterest bearing, will not be reflected in this account but will be debited to account No. 143—Accrued interest receivable, with concurrent credit to account No. 510—Interest on invested idle funds.

(See accounts Nos. 570 and 700.)

131—*Insured savings accounts.*

This account will include the balances in subaccounts Nos. 131.1, 131.2, etc.

131.1—Insured savings in ————.

This account will represent funds invested in an insured savings account (up to the amount of the insurance) in an institution the accounts of which are insured by the Federal Savings and Loan Insurance Corporation.

Debit:

(a) With amount of funds invested.

(b) With amount of interest earned on such invested funds.

Credit:

(a) With amount of funds withdrawn.

135–137—Time certificates of deposit in ———— bank.

These accounts will represent funds in Time Certificates of Deposit, maturing not later than one year after issuance, in banks which are members of the Federal Deposit Insurance Corporation.

Debit:

(a) With amount of funds deposited.

Credit:

(a) With amount of funds withdrawn.

138—*Other investments in insured institutions.*

This account will represent funds deposited or invested in insured institutions that can not be classified in any of the prior categories.

Debit:

(a) With the amount of funds deposited or invested.

Credit:

(a) With the amount of funds withdrawn.

140—*Notes receivable.*

This account will represent the unpaid balance of miscellaneous notes receivable, such as notes for management consulting services. Notes representing amounts due from debtors on sale of assets acquired in liquidation of portfolio securities will be reflected in account No. 200.

Debit:

(a) With amount of such miscellaneous notes received.

Credit:

(a) With amount collected on principal of such miscellaneous notes.

(b) With unpaid principal balance written off or disposed of otherwise.

Note.—Recording as income of amounts entered in this account should be discontinued with respect to any small business concern which is in bankruptcy, or on the verge thereof, or otherwise considered to be insolvent. The amounts in question should be credited as deferred income in account No. 383—other deferred credits, pending determination of the appropriate accounting. In less serious situations, when the debtor small business concern is in default more than 6 months to the licensee, or the fair value of its debt or equity instruments held by the company, as determined by the Board of Directors/General Partner(s), is less than cost, or recovery thereon is doubtful, an addition to the allowance for uncollectible notes and accounts receivable should be made in an amount equivalent to the receivable entered in this account, or, as an alternative, the receivable recorded as an asset should be concurrently credited as deferred income to account No. 383 as above indicated.

(See account No. 142.)

141—*Accounts receivable.*

This account will represent the amount due on open account for management consulting, appraisal, and miscellaneous services rendered; and miscellaneous current receivables.

The account also will include the amount of accured compensation receivable for services rendered to "participating" companies and the amount of accured commitment fees receivable for making funds available on a deferred basis to small business concerns and to "initiating" companies in connection with the latter's financing of small business concerns.

Accounts receivable representing receivables due from debtors on sale of assets acquired in liquidation of portfolio securities will be reflected in account No. 200.

Debit:

(a) With amount due the company.

Credit:

(a) With amount collected.

(b) With amount written off or disposed of otherwise.

Note.—Recording as income of amounts entered in this account should be discontinued with respect to any small business concern which is in bankruptcy, or on the verge thereof, or otherwise considered to be involved. The amounts in question should be credited as deferred income in account No. 383—Other deferred credits, pending determination of the appropriate accounting. In less serious situations, when the debtor small business concern is in default more than 6 months to the licensee, or the fair value of its debt or equity instruments

held by the company, as determined by the Board of Directors/General Partner(s), is less than cost, or recovery thereon is doubtful, an addition to the allowance for uncollectible notes and accounts receivable should be made in an amount equivalent to the receivable entered in this account, or, as an alternative, the receivable recorded as an asset should be concurrently credited as deferred income to account No. 383 as above indicated.

(See account No. 142.)

142—*Allowance for uncollectible notes and accounts receivable.*

This account will represent the valuation reserve provided for estimated losses on notes and accounts receivable and should be maintained in an amount not less than a conservative estimate of probable losses. The valuation reserve will be adjusted as occasion demands, so that this account will reflect the best available estimate of probable losses on notes and accounts receivable.

Debit:

(a) With amount of decreases in such reserve.

(b) With amount of notes and accounts receivable written off.

Credit:

(a) With amount of such reserve established.

(b) With amount of increases in such reserve.

(c) With amount of recoveries on notes and accounts receivable written off.

Note.—When a note receivable or an account receivable is recorded with respect to any debtor small business is in default more than 6 months to the licensee, or the fair value of whose debt or equity instruments held by the company as determined by the Board of Directors/General Partner(s), is less than cost, or recovery thereon is doubtful, an additon to the allowance for uncollectible notes and accounts receivable reflected in this account should be made in an amount equivalent to the recorded receivable, or, as an alternative, the amount of the receivable recorded as an asset should be concurrently credited as deferred income in account No. 383—Other deferred credits, pending determination of the appropriate accounting.

(See accounts Nos. 140, 141 and 680.)

143—*Accrued interest receivable.*

This account will represent the amount of interest accrued on portfolio loans to and debt securities of small business concerns, United States Government obligations, direct and fully guaranteed, notes receivable, sales contracts, and other interest-bearing amounts due from debtors, including funds placed in escrow pending the closing of financing and assets acquired in liquidation of portfolio securities as well as interest accrued on other securities.

Debit:

(a) With amount of interest accrued on all items covered by this account.

Credit:

(a) With amount of interest payments received.

(b) With amount of accrued interest transferred to assets acquired in liquidation of loans and debt securities.

(c) Upon disposition of interest-bearing obligations, with amount of accrued interest thereon included in this account.

(d) With amount of accrued interest written off on disposed of otherwise.

Note 1.—At the option of the company, interest payments received in cash from debtors prior to the interest maturity date may be credited to account No. 374—Unapplied receipts, until the maturity date.

Note 2.—Accrual of interest receivable should be discontinued with respect to any loan or debt security financing a small business concern which is in bankruptcy, or on the verge thereof, or otherwise considered to be insolvent. Any interest payments received from such a debtor should not be treated as interest income, but should be either credited as payments on principal of the debt or credited as deferred income in account No. 383—Other deferred credits, pending determination of the appropriate accounting. In less serious situations, when interest receivable is accrued under circumstances in which the financed small business concern is in default to the licensee; or the fair value of the loan or debt security as determined in good faith by the Board of Directors/General Partners is less than cost, or recovery thereon is doubtful, an addition to the allowance for uncollectible interest receivable should be made in an amount equivalent to the accrual of interest receivable, or, as an alternative, the interest income should be deferred in account No. 383 as above indicated.

(See account No. 144.)

144—*Allowance for uncollectible interest receivable.*

This account will represent the valuation reserve provided for estimated losses of accrued interest receivable, and should be maintained in an amount not less than a conservative estimate of probable losses. This valuation reserve will be adjusted as occasion demands, so that this account will reflect the best available estimate of probable losses of accrued interest receivable.

Debit:

(a) With amount of decreases in such reserve.

(b) With amount of accrued interest receivable written off.

Credit:

(a) With amount of such reserve established.

(b) With amount of increases in such reserve.

(c) With amount of recoveries of accrued interest receivable written off.

Note.—When interest receivable is accrued under circumstances in which the financed small business concern is in default over six months to the licensee, or the fair value of the loan or debt security as determined in good faith by the Board of Directors/General Partner(s) is less than cost, or recovery thereon is doubtful, an addition to the allowance for uncollectible interest receivable reflected in this account should be made in an amount equivalent to the accrual of interest receivable, or, as an alternative, the interest income should be deferred in account No. 383—Other deferred credits, pending determination of the appropriate accounting.

(See accounts Nos. 143 and 680.)

145—*Dividends receivable.*

This account will represent cash dividends that have been disclosed on capital stock of small business concerns but have not been distributed to stockholders.

Debit:

(a) With amount due the licensee of cash dividend declared.

Credit:

(a) With amount distributed to the licensee of the dividend declared.

(See account No. 540)

Note 1.—Stock splits or dividends in stock of the same class as that owned are not recorded as dividend receivable or income because licensee's equity interest in the company declaring the dividend or split has not changed.

Therefore, stock splits or dividends will be measured in the appropriate investment account.

(Account Nos. 190 or 191.)

Note 2.—Dividends in kind will be recorded as income at the fair market value of the securities received and will be recorded in account No. 221, Other securities received.

146—*Receivables from parent.*

This account will represent receivables due licensee from its parent. Receivables due from parent will generally be from one of two sources: (1) Expenses shared pro-rata with the parent paid by the licensee, but not yet reimbursed by the parent and/or (2) licensee has a tax loss from which the parent (and/or consolidated group) have received a tax benefit.

Debit:

(a) Parent's share of any expense shared with the licensee which was paid by the licensee.

(b) Licensee's share of any tax benerit derived by the parent from the filing of a consolidated tax return when the licensee has a taxable loss.

(c) Any other receivable due from parent arising from any other source.

Credit:

(a) Cash received from parent.

(b) Income taxes due from licensee paid by the parent.

Note.—The credit for income taxes due from licensee but paid by the parent can only arise in the case of a prior benefit being derived by the parent.

If the licensee has had a previous tax benefit by reason of a tax loss from some other member of the consolidated group the credit would be to account No. 341—Accounts payable due parent.

150—*Current maturities of portfolio securities.*

The account will represent the principal amount due the licensee on a cost basis of loans and debt securities of small business concerns that are reasonably expected to be collected in the normal course of business in the next 12 months of operations.

Debit:

(a) With amount due the licensee during the current year.

Credit:

(a) With amount of current maturities collected by the licensee.

(b) With amount not considered collectible on a current basis and restored to loan or debt security accounts.

(See accounts Nos. 170, 180, and 184.)

152—*Current maturities on assets acquired in liquidation of portfolio securities.*

This account will represent the current principal amounts due the licensee on a cost basis of amounts due from debtors on sale of assets acquired; or the current principal amounts of their debt instruments that are classified as assets acquired in liquidation of portfolio securities.

This account will represent only those amounts reasonably expected to be collected in the normal course of business in the next 12 months of operations.

Debit:

(a) With amount due the licensee during the current year.

Credit:

(a) With amount of current maturities collected by the licensee.

(b) With amount not considered collectible on a current basis and restored to the appropriate asset acquired in liquidation of portfolio securities account.

(See accounts Nos. 200, 204.)

153—*Current maturities on operating concerns acquired.*

This account will represent the principal amounts due the licensee on a cost basis of debt instruments classified as operating concerns acquired that are reasonably expected to be collected in the normal course of business in the next 12 months of operations.

Debit:

(a) With amount due the licensee during the current year.

Credit:

(a) With amount of current maturities collected by the licensee.

(b) With amount not considered collectible on a current basis and restored to other securities accounts.

(See account No. 210.)

154—*Current maturities on other securities.*

This account will represent the principal amounts due the licensee on a cost basis of debt instruments classified as "other securities" that are reasonably expected to be collected in the normal course of business in the next 12 months of operations.

Debit:

(a) With amount due the licensee during the current year.

Credit:

(a) With amount of current maturities collected by the licensee.

(b) With amount not considered collectible on a current basis and restored to other securities accounts.

(See accounts Nos. 220 and 221.)

156—*Other current assets.*

This account will represent current assets not otherwise classified of the licensee that are expected to be converted to cash or expensed in the normal course of business in the next twelve months.

Debit:

(a) With amount of such asset.

Credit:

(a) With amount collected.

(b) With the proportionate amount allocated to the period as an expense.

160—*Investment in 301(d) licensee.*

This account will represent the licensee's investment in capital stock of a special purpose SBIC. The account will be maintained on the equity method of accounting basis and will show licensee's investment after considering proportionate share of realized income (loss) of the 301(d) licensee's operations and dividends declared by the 301(d) licensee.

Debit:

(a) With cost of capital stock of such 301(d) licensee.

(b) With the licensee's proportionate share of the 301(d) licensees:

(1) Net investment income, and

(2) Net realized gain on the sale of securities.

Credit:

(a) With the licensee's proportionate share of:

(1) Net investment loss.

(2) Net realized loss on sale of securities.

(b) With the licensee's proportionate share of cash dividends or dividends in kind at fair value.

(c) With the value of equity basis of stock in 301(d) licensee when sold.

170—*Loans.*

This account will represent the unpaid principal balance of loans made to small business concerns pursuant to Section 305 of the Small Business Investment Act of 1958, as amended.

Debit:

(a) With face amount of direct loans.

(b) With portion retained by company of loans in which participations are sold to others.

(c) With amount of participations in loans of others.

(d) With unpaid principal of loans represented by renewal notes accepted or notes taken in substitution for those held.

(e) With reversal of prior credits when checks received representing repayments are dishonored, etc.

Credit:

(a) With amount collected on face amount of direct loans.

(b) With company's share of amount collected on principal of loans in which participations are sold to others.

(c) With amount by which participations in loans of others are reduced by repayments transmitted by the "initiating" company.

(d) With unpaid principal of loans represented by notes renewed or for which other notes have been substituted.

(e) With amount transferred to assets acquired in liquidation of portfolio securities.

(f) With unpaid principal of loans written off or disposed of otherwise.

Note 1.—A participation is defined as an undivided interest shared with one or more other lenders or investors in a note, debenture, certificate of stock, or other instrument evidencing a loan to, or equity financing of, a small business concern.

Note 2.—It is assumed that in all loan participation arrangements the "initiating" company will service the loans.

Note 3.—It is recommended that individual loan ledger cards or sheets be maintained for all loans. Such ledger cards or sheets should contain the detailed information needed for account No. 173—Unearned discount, fees, and other charges on loans.

(See accounts Nos. 171 and 172.)

171—*Appreciation of loan values.*

This account will represent the amount by which the licensee's Board of Directors/General Partner(s) has valued loans above cost.

Debit:

(a) With amount of such appreciation recognized.

(b) With amount of increases in such appreciation recognized.

Credit:

(a) With decrease in amount of such appreciation resulting from decline in fair value of loans.

(b) With amount of appreciation attributable to loans sold or otherwise disposed of.

(See account No. 440.)

Note.—See Note 1 to account 172.

172—*Depreciation of loan values.*

This account will represent the downward valustion of loans and should be maintained in an amount not less than a conservative estimate of probable losses. This valuation reserve will be adjusted as occasion demands.

Debit:

(a) With amount of decreases in such reserve.

(b) With amount of such loans written off.

Credit:

(a) With amount of such reserve established.

(b) With amount of increases in such reserve.

(c) With amount of recoveries on such loans written off.

(See account Nos. 170 and 445.)

Note.—Usually, this account will be subdivided into at least two accounts:

172.1 *Allowance for Losses*—which represents losses the licensee expects to realize on specific loans.

172.2 *Other Depreciation of Loan Values*—which represents the Board of Directors/General Partner(s) downward valuation of specific loans. However, if securities are hald to maturity, no loss would be expected. An example would be money mortgage discounts.

173—*Unearned discount, fees, and other charges on loans.*

This account will represent the amount of unearned discount, fees, and other charges included in the face amount of loans made to small business concerns pursuant to Section 305 of the Small Business Investment Act of such small business concerns.

Debit:

(a) With amount of unearned discount, fees, and other charges included in the face amount of loans, but withheld from disbursements to debtor small business concerns, which becomes earned through collection or passage of time.

(b) With amount earned of that portion of unearned discount, fees, and other charges included in the face amount of loans, but withheld from disbursements to debto small business concerns, which is retained by the company in connection with loans participated in by other lenders (the amount to be recorded becomes earned through collection or passage of time).

(c) With amount earned of that portion of unearned discount, fees, and other charges included in the face amount of loans, but withheld from disbursements to debtor small business concerns, which is assigned to the company in connection with its participations in loans of other lenders (the amount to be recorded becomes earned through collection or passage of time).

(d) With amount of unearned discount, fee, and other charges included in the face amount of loans, but withheld from disbursement to debtor small business concerns, which is rebated to borrowers upon early repayment of loans, or is closed into the asset account upon liquidation of loans at less than full amount.

Credit:

(a) With amount of unearned discount, fees, and other charges included in the face amount of loans but withheld from disbursements to debtor small business concerns.

(b) With portion retained by the company of total amount of unearned discount, fees, and other charges included in the face amount of loans, but withheld from disbursements to debtor small business concerns, in connection with loans participated in by other lenders.

(c) With portion assigned to the company of total amount of unearned discount, fees, and other charges included in the face amount of loans, but withheld from disbursements to debtor small business concerns, in connection with its participation in loans of other lenders.

Note 1.—A participation is defined as an undivided interest shared with one or more other lenders or investors in a note, debenture, certificate of stock, or other instrument evidencing a loan to, or equity financing of, a small business concern.

Note 2.—Unearned discount in this account will be transferred, as appropriate to account No. 512—Interest on loans, as it becomes earned, and unearned fees and other charges will be transferred to account No. 536—application and appraisal fees, under similar circumstances.

Note 3.—Any fees and other charges considered earned immediately upon closing of loans will be recorded in the income account at once without first being entered in this account.

Note 4.—Appropriate subsidiary records should be maintained for all unearned amounts included in this account to permit identification of such amounts with the particular loans to which they relate.

180—*Debt securities, with stock purchase warrants or options, and/or convertible.*

This account will represent the unpaid principal balance of small business concerns' debt securities, with attached stock purchase warrants or options, and/or convertible, acquired by the company pursuant to Section 304 of the Small Business Investment Act of 1958, as amended. If the stock purchase warrants, options, or other stock rights have a separate purchase cost, or if a separate cost has otherwise been determined for them, the warrants, options, or other stock rights will be reflected at such cost in account No. 197.

Debit:

(a) With face amounts of debt securities, with stock purchase warrants or options, and/or convertible, acquired.

(b) With portion retained by company of debt securities, with stock purchase warrants or options, and/or convertible, in which participations are sold to others.

(c) With amount of participations in purchases by others of debt securities, with stock purchase warrants or options, and/or convertible.

(d) With reversal of prior credits when checks received representing repayments are dishonored, etc.

Credit:

(a) With amount collected on face amount of debt securities, with stock purchase warrants or options, and/or convertible.

(b) With company's share of amount collected on principal of debt securities, with stock purchase warrants or options, and/or convertible, in which participations are sold to others.

(c) With amounts by which participations in purchases by others of debt securities, with stock purchase warrants or options, and/or convertible, are reduced by repayments transmitted by the "initiating" company.

(d) With unpaid principal of debt securities, with stock purchase warrants or options, and/or convertible, or portions thereof, converted into capital stock.

(e) With unpaid principal of debt securities, with stock purchase warrants or options, and/or convertible, which have been divested of stock rights through: (1) The expiration of the conversion privilege; (2) the exercise or the expiration of rights conveyed by nondetachable or detachable stock purchase warrants or options; or (3) the detachment of detachable stock purchase warrants or options.

(f) With unpaid principal of debt securities, with stock purchase warrants or options, and/or convertible, tranferred to assets acquired in liquidation of loans and debt securities.

(g) With unpaid principal of debt securities, with stock purchase warrants or options, and/or convertible, written off or disposed of otherwise.

Note 1.—A participation is defined as an undivided interest shared with one or more other lenders or investors in a note, debenture, certificate of stock, or other instrument evidencing a loan to, or equity financing of, a small business concern.

Note 2.—It is assumed that in all arrangements for participation in the purchase of debt securities, with stock purchase warrants or options, and/or convertible, the "initiating" company will service the financing.

Note 3.—It is recommended that individual ledger cards or sheets be maintained for all debt securities, convertible, and with stock purchase warrants or options. Such ledger cards or sheets should contain the detailed information needed for account No. 188—Unearned discount, fees, and other charges on debt securities, and for activities pertaining to participations purchased or sold.

(See accounts Nos. 184, 186, 187, 188, and memorandum record No. NA–10.)

184—*Debt securities divested of stock rights.*

This account will represent the unpaid principal balance of small business concerns' debt securities which have been divested of stock rights through: (1) The expiration of the conversion privilege of convertible debt securities; (2) the exercise or the expiration of rights conveyed by nondetachable or detachable stock purchase warrants or options of debt securities; or (3) the detachment of detachable stock purchase warrants or options, obtained in conection with the acquisition of debt securities pursuant to Section 304 of the Small Business Investment Act of 1958, as amended.

Debit:

(a) With unpaid principal of debt securities divested of stock rights through: (1) The expiration of the conversion privilege; (2) the exercise or the expiration of rights conveyed by nondetachable or detachable stock purchase warrants or options; or (3) the detachment of detachable stock purchase warrants or options.

(b) With company's retained portion of debt securities participated in by others which have been subsequently divested of stock rights.

(c) With amount of participations in purchases by others of debt securities which have been subsequently divested of stock rights.

(d) With reversal of prior credits when checks received representing repayments are dishonored, etc.

Credit:

(a) With amount collected on face amount of debt securities divested of stock rights.

(b) With company's share of amount collected on principal of debt securities participated in by others which have been subsequently divested of stock rights.

(c) With full amount by which participations in purchases by others of debt securities which have been subsequently divested of stock rights are reduced by repayments transmitted by the "initiating" company.

(d) With unpaid principal of debt securities divested of stock rights tranferred to assets acquired in liquidation of loans and debt securities.

(e) With unpaid principal of debt securities divested of stock rights written off or disposed of otherwise.

Note.—It is recommended that individual ledger cards or sheets be maintained for all debt securities which have been divested of stock rights. Such ledger cards or sheets should contain the detailed information needed for account No. 188—Unearned discount, fees, and other charges on debt securities.

(See accounts Nos. 186, 187, and 188.)

186—*Appreciation of debt securities of SBC's.*

This account will represent the amount by which the licensee's Board of Directors/general Partner(s) has valued debt securities with equity features above cost of such securities.

Debit:

(a) With amount of such appreciation recognized.

(b) With amount of increases in such appreciation recognized.

Credit:

(a) With decrease in amount of such appreciation resulting from decline in fair value of securities.

(b) With amount of appreciation attributable to securities sold or otherwise disposed of.

(See account No. 440.)

Note.—See Note 1 to account 187.

187—*Depreciation of debt securities values.*

This account will represent the downward valuation of debt securities, with stock purchase warrants or options, and/or convertible, and debt securities divested of stock rights and should be maintained in an amount not less than a conservative estimate of probable losses. This valuation reserve will be adjusted as occasion demands.

Debit:

(a) With amount of decreases in such reserve.

(b) With amount of reserve established in this account for debt securities which are written off, sold, or disposed of otherwise.

(c) With amount of writedown of such debt securities, not to exceed the amount of reserve established therefor in this account.

Credit:

(a) With amount of such reserve established.

(b) With amount of increases in such reserve.

Note 1.—When debt securities of small business concerns are sold by the company or disposed of otherwise, cash or other appropriate asset account will be debited for the amount received. Account 702 will be debited for the amount of the loss, and the appropriate investment account will be credited for the related cost value carried therein. If a gain over cost is realized, such gain will be credited to account No. 572. The amount of the reserve which has been established in this account for the debt security sold or disposed of otherwise will be reversed and offset against account No. 445.

Note 2.—Usually, this account will be subdivided into at least two accounts.

187.1 *Allowance for Losses*—which respresents losses the licensee expects to realize on specific debt securities.

187.2 *Other Depreciation of Debt Securities Values*—which represents the Board of Directors/General Partner(s) downward valuation of specific debt securities. However, if securities are held to maturity no loss would be expected. An example is money mortgage discount.

188—*Unearned discount, fees and other charges on debt securities.*

This account will represent the amount of unearned discount, fees, and other charges included in the face amount of small business concern's debt securities acquired pursuant to Section 304 of the Small Business Investment Act of 1958, as amended, and which is withheld from disbursements to such small business concerns.

Debit:

(a) With amount of unearned discount, fees, and other charges included in the face amount of debt securities, but withheld from disbursements to debtor small business concerns, which becomes earned through collection or passage of time.

(b) With amount earned of that portion of unearned discount, fees, and other charges included in the face amount of debt securities, but withheld from disbursements to debtor small business concerns, which is retained by the company in connection with purchases of debt securities participated in by other investors (the amount to be recorded becomes earned through collection or passage of time).

(c) With amount earned of that portion of unearned discount, fees, and

other charges included in the face amount of debt securities, but withheld from disbursements to debtor small business concerns which is assigned to the company in connection with its participations in purchases of debt securities by other investors (the amount to be recorded becomes earned through collection or passage of time).

(d) With amount of unearned discount, fees, and other charges included in the face amount of debt securities, but withheld from disbursements to debtor small business concerns, which is rebated to borrowers upon early repayment of debt securities, or is closed into the asset account upon liquidation of debt securities at less than full amount.

Credit:

(a) With amount of unearned discount (including that equivalent to the determined cost of warrants, options, and other stock rights, as explained in Note 2 of account No. 197), fees, and other charges included in the face amount of debt securities but withheld from disbursements to debtor small business concerns.

(b) With portion retained by the company of total amount of unearned discount, fees, and other charges included in the face amount of debt securities, but withheld from disbursement to debtor small business concerns, in connection with purchases of debt securities participated in by other investors.

(c) With portion assigned to the company of total amount of unearned discount, fees, and other charges included in the face amount of debt securities, but withheld from disbursement to debtor small business concerns, in connection with its participations in purchases of debt securities by other investors.

Note 1.—A participation is defined as an undivided interest shared with one or more lenders or investors in a note, debenture, certificate of stock, or other instrument evidencing a loan to, or equity financing of, a small business concern.

Note 2.—Unearned discount in this account will be transferred, as appropriate, to account No. 516—Interest on debt securities, as it becomes earned, and unearned fees and other charges will be transferred to account No. 536—Application and appraisal fees, under similar circumstances.

Note 3.—Any fees and other charges considered earned immediately upon closing of financing through purchase of debt securities will be recorded in the income account at once without first being entered in this account.

Note 4.—Appropriate subsidiary records should be maintained for all earned amounts included in this account to permit identification of such amounts with the particular debt securities to which they relate.

190—*Capital stock of SBCs, with stock purchase warrants or options, and/or convertible.*

This account will represent the value at cost of small business concerns' capital stock, with attached stock purchase warrants or options, and/or convertible, acquired by the company pursuant to Section 304 of the Small Business Investment Act of 1958, as amended. If the stock purchase warrants, options, or other stock rights have a separate purchase cost, or if a separate cost has otherwise been determined for them, the warrants, options, or other stock rights will be reflected at such cost in account No. 197.

Debit:

(a) With cost of such capital stock of SBCs, with stock purchase warrants or options, and/or convertible, acquired.

(b) With portion retained by company of the capital stock of SBCs, with stock purchase warrants or options, and/or convertible, in which participantions are sold to others.

(c) With amount of participations in acquisitions by others of capital stock of SBCs, with stock purchase warrants or options, and/or convertible.

Credit:

(a) With cost of such capital stock of SBCs, with stock purchase warrants or options, and/or convertible, which has been divested of stock purchase rights through: (1) The expiration of the conversion privilege; (2) the exercise or the expiration of rights conveyed by nondetachable or detachable stock purchase warrants or options; or (3) the detachment of detachable stock purchase warrants or options.

(b) With cost of such capital stock of SBCs, with stock purchase warrants or options, and/or convertible, converted to another class of capital stock.

(c) With cost of such capital stock of SBCs, with stock purchase warrants or options, and/or convertible, written off or disposed of otherwise.

Note 1.—A participation is defined as an undivided interest shared with one or more other lenders or investors in a note, debenture, certificate of stock, or other instrument evidencing a loan to, or equity financing of, a small business concern.

Note 2.—It is assumed that in all arrangements for participation in the acquisition of capital stock of SBCs, with stock purchase warrants or options, and/or convertible, the "initiating" company will service the financing.

Note 3.—It is recommended that individual ledger cards or sheets be maintained for all capital stock of SBCs, with stock purchase warrants or options, and/or convertible.

(See accounts Nos. 191, 193 and memorandum record No. NA–10.)

191—*Capital stock of SBCs—other.*

This account will represent the value at cost of small business concerns capital stock acquired by the company without conversion privileges or stock purchase warrants or options, or existing on the books as the result of: (1) The expiration of the conversion privilege of convertible capital stock of SBCs; (2) the exercise or the expiration of rights conveyed by nondetachable or detachable stock purchase warrants or options; or (3) the detachment of detachable stock purchase warrants or options, obtained in connection with the acquisition of capital stock of small business concerns pursuant to Section 304 of the Small Business Investment Act of 1958, as amended.

Debit:

(a) With cost of such capital stock of SBCs—other acquired through: (1) Purchase; (2) conversion of convertible debt securities or convertible capital stock of SBCs; or (3) exercise of rights conveyed by stock purchase warrants or options issued by small business concerns in connection with their debt securities or capital stock acquired by the company.

(b) With cost of such capital stock of SBCs—other resulting from: (1) The expiration of the conversion privilege of convertible capital stock of SBCs; (2) the expiration of rights conveyed by nondetachable or detachable stock purchase warrants or options; or (3) the detachment of detachable stock purchase warrants or options, obtained in connection with the acquisition of capital stock of small business concerns.

(c) With portion retained by company of the capital stock of SBCs—other in which participations are sold to others.

(d) With amount of participations in capital stock of SBCs—other acquired by or subsequently existing on the books of others without conversion privileges or stock purchase warrants or options.

Credit:

(a) With cost of such capital stock of SBC's—other written off or disposed of otherwise.

Note 1.—It is recommended that individual ledger cards or sheets be maintained for all capital stock of SBC's—other acquired or subsequently existing without conversion privileges or stock purchase warrants or opitons.

Note 2.—In acquisitions of capital stock through exercise of rights conveyed by stock purchase warrants or options issued by small business concerns in connection with their debt securities or capital stock previously acquired by the company, the amount of the

expenditure made by the company in the current acquisition of the capital stock will be considered the cost of the stock in those instances when the stock purchase rights surrendered have only a nominal value; otherwise, the cost of the stock will comprise the current expenditure plus the cost of the warrants or options surrendered.

Note 3.—In conversion of convertible debt securities of small business concerns into capital stock, or in conversions of convertible capital stock of SBCs into another class of capital stock, the value at cost of the particular convertible security should be considered the cost of the capital stock received in the conversion.

(See account Nos. 190, 193, and 197.)

192—*Appreciation of capital stock of SBCs.*

This account will represent the amount by which the licensee's Board of Directors/General Partner(s) has valued capial stock of SBCs above cost of such securities.

Debit:

(a) With amount of such appreciation recognized.

(b) With amount of increases in such appreciation recognized.

Credit:

(a) With decrease in amount of such appreciation resulting from decline in fair value of securities.

(b) With amount of appreciation attributable to securities sold or otherwise disposed of.

(See account No. 440.)

Note.—See Note 1 to account No. 193.

193—*Depreciation of capital stock values.*

This account will represent the downward valuation of: (1) Capital stock of SBCs, with stock purchase warrants or options, and/or convertible; and (2) capital stock of SBCs—other, and should be maintained in an amount not less than a conservative estimate of probable losses. This valuation reserve will be adjusted as occasion demands.

Debit:

(a) With amount of decreases in such reserve.

(b) With amount of reserve established in this account for capital stock which is written off, sold, or disposed of otherwise.

(c) With amount of writedown of such capital stock, not to exceed the amount of reserve established therefor in this account.

Credit:

(a) With amount of such reserve established.

(b) With amount of increase in such reserve.

Note 1.—When capital stock of SBCs is sold by the company or disposed of otherwise, cash or other appropriate asset account will be debited for the amount received. Account 704 will be debited for the amount of the loss and the appropriate investment account will be credited for the related cost value carried therein. If a gain over cost is realized, such gain will be credited to account No. 574. The amount of the reserve which has been established in the account for capital stock sold or disposed of otherwise will be reversed and offset against account No. 445.

Note 2.—Usually, this account will be subdivided into at least two accounts:

193.1 *Allowance for Losses*—represents losses the licensee expects to realize on specific capital stock investments.

193.2 *Other Depreciation of Stock Values*—represents the downward valuation of specific stock investments. However, the licensee's management expects the decline to be temporary and thereby suffer no loss on the investment. An example is a temporary market decline of public tradeable stocks that are unrestricted.

(See accounts Nos. 190, 192, and 445.)

194—*Equity interests of unincorporated concerns.*

This account will represent the licensee's investment in equity types securities of a limited partnership or other type of unincorporated concern. The account will be maintained on the equity method of accounting basis and will show the licensee's investment after considering its proportionate share of realized income (loss) of the unincorporated concern as well as distributions.

Debit:

(a) With cost of equity interest acquired.

(b) With the licensee's proportionate share of the concern's net income.

Credit:

(a) With the licensee's proportionate share of net loss.

(b) With the licensee's proportionate share of cash distributions.

(c) With the value on equity basis of the licensee's investment when sold or disposed of otherwise.

(See accounts Nos. 195 and 196.)

195—*Appreciation of equity interest of unincorporated concerns.*

This account will represent the amount by which the licensee's Board of Directors/General Partner(s) has valued equity interests of unincorporated concerns above the carrying value of such securities on the equity method of accounting.

Debit:

(a) With amount of such appreciation recognized.

(b) With amount of increases in such appreciation recognized.

Credit:

(a) With decrease in amount of such appreciation resulting from decline in fair value of securities.

(b) With amount of appreciation attributable to securities sold or otherwise disposed of.

Note.—See Note 1 to account 196.

(See account Nos. 194, and 440.)

196—*Depreciation of equity interests of unincorporated concerns.*

This account will represent the amount by which the licensee's Board of Directors/General Partner(s) has valued equity interests of unincorporated concerns below the carrying value of such securities on the equity method of accounting.

Debit:

(a) With decrease in amount of such depreciation resulting from increase in fair value of such equity interests.

(b) With amount of depreciation attributable to equity interests sold or otherwise disposed of.

Credit:

(a) With amount of such depreciation recognized.

(b) With amount of increase in such depreciation recognized.

Note 1.—When equity interests are sold by the company or disposed of otherwise, cash or other appropriate asset account will be debited for the amount received. Account 705 will be debited for the amount of the loss and the appropriate investment account will be credited for the related cost value carried therein. If a gain over cost is realized, such gain will be credited to account No. 575. The amount of the reserve which has been established in the account for equity interest sold or disposed of otherwise will be reversed and offset against account No. 445.

Note 2.—This account will usually be the same as allowance for loss on equity interests of unincorporated concerns. Otherwise, the account should be subdivided.

(See account Nos. 194, 195 and 445.)

197—*Warrants, options, and other stock rights acquired from SBCs.*

This account will represent the value at purchase price or at cost as otherwise determined of warrants, options, and other stock rights acquired by the company from small business concerns pursuant to Section 304 of the Small Business Investment Act of 1958, as amended. The account will include conversion rights for which a separate cost has been determined.

Detachable stock purchase warrants or options on stock of SBCs for which no consideration is given distinct from that surrendered for the debt securities or capital stock which they accompany, or for which no separate cost has been determined, will be reflected in memorandum record No. NA–10, if retained after the financing instruments which they accompanied have been disposed of.

Debit:

(a) With cost of such warrants, options, or other stock rights acquired.

(b) With portion retained by company of the warrants, options, or other stock rights in which participations are sold to others.

(c) With amount of participations in acquisitions by others of warrants, options, or other stock rights.

Credit:

(a) With cost of such warrants, options, or other stock rights surrendered in exercising the stock rights.

(b) With cost of such warrants, options, or other stock rights written off or disposed of otherwise.

(c) With cost of such warrants, options, or other stock rights for which the exercise period has expired.

Note 1.—It is recommended that individual ledger cards or sheets be maintained for all warrants, options, or other stock rights acquired from SBCs.

Note 2.—The cost of warrants, options, and other stock rights acquired from SBCs for a separate consideration will be charged to this account, with a credit to cash. If warrants, options, or other stock rights are acquired from SBCs without a separate consideration and a cost thereof is otherwise determined, such cost will be established in this account. (The determined cost of warrants, options, and other stock rights acquired with debt securities without a separate consideration therefor shall be arrived at giving full consideration to the grade of the debt security.) The payment for the debt security or capital stock certificate which accompanied the stock rights will be allocated between the obligation or stock and the stock rights. Cash will be credited for the determined cost of the stock rights. Cash also will be credited for the amount of the debt security or stock received less the amount withheld from disbursement in relation to the debt security or stock received, which is equivalent to the determined cost of the stock rights plus (in the case of a debt security) any other withholding from net funds advanced. In the purchase of a debt security the deduction equal to the determined cost of the stock rights, plus any other withholding from net funds advanced, will be treated as unearned discount on the debt security and credited to account No. 188—Unearned discount, fees, and other charges on debt securities. In the case of a purchase of capital stock, the deduction equal to the determined cost of the stock rights will serve to reduce the cost of the stock to be recorded in account No. 190—Capital stock of SBCs, with stock purchase warrants or options, and/or convertible.

(See accounts Nos. 199, 576 and 706.)

198—*Appreciation of warrants, options, and other stock rights acquired from SBCs.*

This account will represent the amount by which the licensee's Board of Directors General Partner(s) has valued warrants, options and other stock rights above cost of such securities.

Debit:

(a) With amount of such appreciation recognized.

(b) With amount of increases in such appreciation recognized.

Credit:

(a) With decrease in amount of such appreciation resulting from decline in fair value of securities.

(b) With amount of appreciation attributable to securities sold or otherwise disposed of.

(See account Nos. 197, 199 and 440.)

Note.—See Note 1 to account No. 199.

199—*Depreciation of warrants, options, and other stock rights acquired from SBCs.*

This account will represent the Board of Directors/General Partner(s) downward valuation of warrants, options and other stock rights acquired from SBCs, and should represent an amount not less than a conservative estimate of probable losses. This valuation reserve will be adjusted as occasion demands.

Debit:

(a) With amount of decreases in such reserve.

(b) With amount of reserve established in this account for warrants, options, and other stock rights acquired from SBCs which are written off, sold, or disposed of otherwise (contra credit will be made to account No. 445).

(c) With amount of writedown of such warrants, options, and other stock rights acquired from SBCs, not to exceed the amount of reserve established therefor in this account.

Credit:

(a) With amount of such reserve established.

(b) With amount of increases in such reserve.

Note 1.—When warrants, options, and other stock rights acquired from SBCs are sold by the company or disposed of otherwise, cash or other appropriate asset account will be debited for the amount received, account 706 will be debited for the amount of the loss and the appropriate investment account will be credited for the related cost value carried therein. If a gain over cost is realized, such gain will be credited to account 576. The amount of the reserve which has been established in the account for warrants, options, or other stock rights acquired, sold or disposed of otherwise will be reversed and offset against account 445.

Note 2.—This account will usually represent the allowance for losses on warrants, options, and other stock rights. Otherwise, this account should be subdivided.

(See accounts Nos. 197, 198, and 445.)

200—*Receivables due from debtors on sale of assets acquired in liquidation of portfolio securities.*

This account will represent the unpaid balance of accounts receivable, notes receivable, sales contracts, purchase money mortgages, and similar evidences of indebtedness to the company arising from the sale of assets acquired in liquidation of portfolio securities.

Debit:

(a) With amount of such receivables.

(b) With amount of participation in amounts due from debtors on sale of assets acquired in liquidation of portfolio securities of other lenders or investors.

Credit:

(a) With amount collected on principal of such receivables.

(b) With amount transferred to account No. 204—assets acquired in liquidation of portfolio securities. (Noncash assets other than receivables obtained on sale of assets acquired in liquidation of portfolio securities should be reflected at cost in account No. 204).

(c) With unpaid principal balance written off or disposed of otherwise.

Note.—It is recommended that subsidiary records be maintained in sufficient detail to disclose for report and tax purposes all transactions affecting amounts due from debtors on sale of assets acquired in liquidation of portfolio securities.

(See accounts Nos. 203, 204.)

203—*Depreciation in values of receivables from debtors on sale of acquired in liquidation of portfolio securities.*

This account will represent the downward valuation on amounts due from debtors and securities received on sale of assets acquired in liquidation of portfolio securities, and should be maintained in an amount not less than a conservative estimate of probable losses. This valuation reserve will be adjusted as occasion demands.

Debit:

(a) With amount of decreases in such reserve.

(b) With amount due from debtors on sale of assets acquired in liquidation of portfolios securities written off.

Credit:

(a) With amount of such reserve established.

(b) With amount of increases in such reserve.

(c) With amount of recoveries on such items written off.

Note.—Ocasionally, this account will be subdivided into at least two accounts:

203.1 *Allowance for Losses*—which represents losses the licensee expects to realize on specific receivables from debtors.

203.2 *Other Depreciation of Receivables from Debtors*—Represents the Board of Directors/General Partner(s) downward valuation of specific receivables from

debtors. However, if securities are held to maturity no loss would be expected. An example is money mortgage discount.

(See accounts Nos. 200 and 445.)

204—*Assets acquired in liquidation of portfolio securities.*

This account will represent the company's investment in assets acquired by foreclosure, or otherwise, in liquidation of portfolio securities. Judgments, sheriffs' certificates (including property acquired subject to redemption), etc., will be reflected in this account.

The investment in property at the date of acquisition by the company should be determined by the Board of Directors/General Partner(s) on the most suitable of the following basis: (1) Bid-in price of the property; (2) agreed consideration for the property; (3) fair appraised value of the property. Any remaining indebtedness will be written off unless the company expects further liquidation of the debt from other sources. Insofar as practicable, investment values will be determined for each individual asset, or unit, at the time such assets are recorded in this account, and when an asset is sold only an amount equal to the investment in such asset will be credited to this account.

The company's investment in mortgaged real property acquired in liquidation of portfolio securities should be recorded at gross value as determined by the Board of Directors/General Partner(s), reduced as necessary to bring the net recorded value to no more than the outstanding principal balance of the related portfolio securities involved. The amount of the existing mortgage or mortgages on such property acquired by the company will be reflected in account No. 313.

The company's investment in judgments should be recorded at the face amount of the judgment. When the company acquires the underlying security to the related portfolio securities outright or subject to redemption, the investment in the property should be determined in accordance with the basis set forth in the second paragraph.

Debit:

(a) With amount of the company's investment in the assets at the time of the acquisition.

(b) With amount of the company's investment in the assets at the date of judgment, sheriff's certificate, etc.

(c) With amount of participation in assets acquired by others in liquidation of portfolio securities.

Credit:

(a) With proceeds of partial sale of the assets.

(b) With amount of the company's investment at date of sale, or other disposition of the assets.

(c) With amount written off.

Note 1.—Collateral notes receivable acquired in the liquidation of portfolio securities will be reflected in this account; but notes receivable that are subsequently accepted in connection with the disposition of assets acquired in the liquidation of portfolio securities will be included in account No. 200—Receivables from debtors on sale of assets acquired in liquidation of portfolio securities.

Note 2.—It is recommended that subsidiary records be maintained in sufficient detail to disclose for report and tax purposes all transactions affecting assets acquired in liquidation of portfolio securities.

(See accounts Nos. 170, 180, and 200.)

205—*Appreciation of assets acquired in liquidation of portfolio securities.*

This account will represent the amount by which the licensee's Board of Directors/General Partner(s) has valued assets acquired above cost of such securities.

Debit:

(a) With amount of such appreciation recognized.

(b) With amount of increases in such appreciation recognized.

Credit:

(a) With decrease in amount of such appreciation resulting from decline in fair value of securities.

(b) With amount of appreciation attributable to securities sold or otherwise disposed of.

Note.—See Note 1 to account No. 206.

(See accounts Nos. 204, 206, and 440.)

206—*Depreciation of assets acquired in liquidation of portfolio securities.*

This account will represent the downward valuation of assets acquired in liquidation of portfolio securities, and should be maintained in an amount not less than a conservative estimate of probable losses. This valuation reserve will be adjusted as occasion demands.

Debit:

(a) With amount of decreases in such reserve.

(b) With amount of reserve established in this account for assets acquired in liquidation of portfolio securities which are written off, sold, or disposed of otherwise (contra credit will be made to account No. 445).

(c) With amount of writedown of such assets acquired in liquidation of portfolio securities, not to exceed the amount of reserve established therefor in this account.

Credit:

(a) With amount of such reserve established.

(b) With amount of increases in such reserve.

Note 1.—When assets acquired in liquidation of portfolio securities are sold by the company or disposed of otherwise, cash or other appropriate asset account will be debited for the amount received, account 707 will be debited for the amount of the loss and account No. 204 will be credited for the related cost value carried therein. If an gain over recorded investment in the assets acquired in liquidation is realized, such gain will be credited to account No. 577. The amount of the reserve which has been established in this account for other assets acquired in liquidation of portfolio securities will be reversed and offset against account 445 when such assets are sold or disposed of otherwise.

Note 2.—This account will usually represent the allowance for losses on other assets acquired in liquidation of portfolio securities. Otherwise, it should be subdivided.

(See accounts Nos. 204 and 445.)

210—*Operating concerns acquired.*

Occasionally, a licensee takes action to protect its investment in a portfolio concern and as a result acquires a controlling interest in an operating concern. In such cases, the licensee will reclassify the aggregate amount due from the portfolio concern to this account. If the concern has ceased operations and is being liquidated, the aggregate amount due from the portfolio concern will be classified as assets acquired in liquidation of portfolio securities (account No. 204) rather than this account.

Debit:

(a) With total amount of the licensee's investment in the operating concern at the time of the acquisition.

(b) With additional financing provided by the licensee.

Credit:

(a) With amount collected from such operating concern.

(b) With proportionate cost of interest sold or disposed of otherwise.

(c) With amounts written off.

Note.—It is recommended that individual ledger cards or sheets be maintained for individual loans and investments by operating concerns acquired.

(See accounts Nos. 211 and 212.)

211—*Appreciation of operating concerns acquired.*

This account will represent the amount by which the licensee's Board of Directors/General Partner(s) has valued securities of operating concerns acquired above cost of such securities.

Debit:

(a) With amount of such appreciation recognized.

(b) With amount of increases in such appreciation recognized.

Credit:

(a) With decrease in amount of such appreciation resulting from decline in fair value of securities.

(b) With amount of appreciation attributable to securities sold or otherwise disposed of.

(See accounts 210 212, and 440.)

Note.—See Note 1 to account No. 212.

212—*Depreciation of operating concerns acquired.*

This account will represent the amount by which the licensee's Board of Directors/General Partner(s) has valued securities of operating concerns acquired below cost of such securities.

Debit:

(a) With decreases in amount of such depreciation resulting from increases in fair value of such equity interests.

(b) With amount of depreciation attributable to equity interests sold or otherwise disposed of.

Credit:

(a) With amount of such depreciation recognized.

(b) With amount of increase in such depreciation recognized.

Note 1.—When investments in operating concerns are sold by the company or disposed of otherwise, cash or other appropriate asset account will be debited for the amount received. Account 708 will be debited for the amount of the loss and the appropriate investment account will be credited for the related cost value carried therein.

If a gain over cost is realized, such gain will be credited to account No. 578. The amount of the reserve which has been established in the account for the investment sold or disposed of otherwise will be reversed and offset against account No. 445.

Note 2.—Usually, this account will be subdivided into at least two accounts:

212.1 *Allowance for Losses*—which represents losses the licensee expects to realize on the specific operating concern acquired.

212.2 *Other Depreciation of Values*—represents the Board of Directors/General Partner(s) downward valuation of specific loans. However, if securities are held to maturity no loss would be expected. an example is money mortgage discount.

(See account Nos. 210, 211, and 445.)

220—*Notes and other securities received on sale of portfolio securities.*

This account will represent the securities taken by the licensee as part of the net sales price of portfolio securities sold.

Debit:

(a) With assigned cost of such securities when acquired.

Credit:

(a) With cost of such securities when sold.

(b) With cost of such securities when written off or disposed of otherwise.

Note 1.—It is recommended that individual ledger cards or sheets be maintained for securities received on sale of portfolio securities.

(See account 221, 222, and 223.)

221—*Other securities received.*

This account will represent securities received by the licensee for which no funds were provided and which would not otherwise be classified as loans and investments. An example of such securities would be a dividend in kind received by licensee from a portfolio concern.

Debit:

(a) With fair value of such securities when received.

Credit:

(b) With carrying value of such securities when sold, written off or disposed of otherwise.

(See accounts 220, 222, and 223.)

222—*Appreciation of other securities.*

Debit:

(a) With amount of such appreciation recognized.

(b) With amount of increases in such appreciation recognized.

(a) With decrease in amount of such appreciation resulting from decline in fair value of securities.

Credit:

(b) With amount of appreciation attributable to securities sold or otherwise disposed of.

Note.—See Note 1 to account No. 223.

(See accounts 220, 221, 223, and 440.)

223—*Depreciation of other securities.*

This account will represent the amount by which the licensee's Board of Directors/General Partner(s) has valued other securities below the carrying value of such securities.

Debit:

(a) With decreases in amount of such depreciation resulting from increasing in fair value of such securities.

(b) With amount of depreciation attributable to other securities sold or othewise disposed of.

Credit:

(a) With amount of such depreciation recognized.

(b) With amount of increase in such depreciation recognized.

Note 1.—When other securities are sold by the company or disposed of otherwise, cash or other appropriate asset account will be debited for the amount received. Account 709 will be debited for the amount of the loss and the appropriate investment account will be credited for the related cost value carried therein. If a gain over cost is realized, such gain will be credited to account No. 579. The amount of the reserve which has been established in the account for securities sold or disposed of otherwise will be reversed and offset against account No. 445.

Note 2.—Frequently, this account will be subdivided into a least two accounts:

223.1 *Allowance for Losses*—represents losses the licensee expects to realize on specific other securities.

223.2 *Other Depreciation of Values*—represents the Board of Directors/General Partner(s) downward valuation of specific securities. However, if securities are held to maturity, no loss would be expected. An example is money mortgage discount. Another example would be temporary market decline of marketable securities.

(See account Nos. 220, 221, 222, and 445.)

230—*Prepaid expenses.*

This account will represent the unexpired or unconsumed portion of expenses expressly applicable to future periods for which no specific accounts have been provided. Such expenses should be amortized over the appropriate period. An example of such prepaid expense is debt discount and expense that may result from obtaining leverage funds.

Debit:

(a) With amount of prepaid expenses.

Credit:

(a) With the proportional amount of such expenses applicable to the period.

Note.—Subsidiary records should be maintained to identify the items reflected in this account and to facilitate their amortization.

231—*Deferred charge.*

Timing differences will exist between accounting income and taxable income and thereby may cause a prepayment of taxes which is considered to be a deferred charge to future tax expense. The prepayment is based on accounting income and primarily will result from provision for loss on stock of SBCs. This account will represent such deferred charges recognized.

Debit:

(a) Such account for amounts when prepaid.

Credit:

(a) Such account for amounts that have been previously prepaid that are being applied during the period.

(See account No. 380.)

240—*Furniture and equipment.*

This account will represent the cost of furniture, fixtures, and equipment, including automobiles, owned by the company. The cost of freight, drayage, cartage, express, etc., in connection with the purchase of such items of furniture and equipment, will be included in this account.

Debit:

(a) With cost of such assets purchased.

Credit:

(b) With cost of such assets at the time of sale or other disposition.

Note.—An inventory record should be maintained for all such assets and each item should be tagged or numbered to facilitate ready identification.

(See account No. 241.)

241—*Accumulated depreciation of furniture and equipment.*

This account will represent the valuation reserve provided for depreciation of furniture, fixtures, and equipment, including automobiles, owned by the company. This account should be maintained in an amount not less than a conservative estimate of the expired service life of such assets while owned by the company.

Debit:

(a) With amount of depreciation accumulated, when such an asset is sold or disposed of otherwise.

Credit:

(a) With amount necessary to depreciate the cost of such assets over the estimated service life.

(See accounts Nos. 240 and 655.)

250—*Corporate premises owned.*

This account will represent the actual cost of acquisition of the land and building used as the company's office quarters. The account also will include the actual cost of any improvements, such as street, sidewalk and other benefits, applicable to the land, and any improvements applicable to the building.

Debit:

(a) With actual cost of acquisition of the land and building.

(b) With actual cost of any improvement to the land and/or building.

Credit:

(a) With the acquisition cost of the land and/or building, plus the cost of improvements made thereto, when the land and/or building is sold or disposed of otherwise.

(See account No. 251.)

251—*Accumulated depreciation of corporate premises owned.*

This account will represent the valuation reserve provided for depreciation of the building and other depreciable improvements of corporate premises owned and used as the company's office quarters. This account should be maintained in an amount not less than a conservative estimate of the expired service life of such building and improvements while owned by the company.

Debit:

(a) With amount of depreciation accumulated, when such an asset is sold or disposed of otherwise.

Credit:

(a) With the amount necessary to depreciate the cost of such assets over the estimated service life.

(See accounts Nos. 250 and 655.)

252—*Leasehold improvements.*

This account will represent the actual cost of improvements to leased property used as the company's office quarters. The amount of this account will be amortized through account No. 656 over the life of the lease or the life of the improvements, whichever is the shorter.

Debit:

(a) With actual cost of improvements to leasehold.

Credit:

(a) With the amount necessary to amortize the cost of leasehold improvements.

265—*Amounts due from directors, officers, general partners, limited partners and employees.*

The account will represent the unpaid balance of amounts advanced to directors, officers, general partners, limited partners and employees.

Debit:

(a) With amount of such advances made.

Credit:

(a) With amount collected on such advances.

(b) With amount transferred to appropriate expense classification upon proper authorization.

(c) With amount written off or disposed of otherwise.

(See account No. 709.)

266—*Organization costs.*

This account will represent the amount of legal fees, promotional expense, stock certificate cost, incorporation fees, taxes, and other related costs incurred in organizing the company.

Debit:

(a) With amount of such costs incurred.

Credit:

(a) With the amount necessary to amortize the organization costs.

(See account No. 672.)

267—*Funds in escrow.*

This account will represent the amount of funds placed in escrow pending the closing of financing for small business concerns.

Debit:

(a) With amount of funds placed in escrow.

Credit:

(a) With amount of funds withdrawn from escrow.

269—*Other assets.*

This account will represent the amount of assets of the company, at cost, not specifically provided for in other accounts, including recoverable amounts advanced for the protection and preservation of the company's investments (such as the payment of taxes on mortgaged property), but not including short-term loans or debt securities issued to protect the company's interests in previously issued long-term loans or equity securities.

Debit:

(a) With amount of the company's investment in such assets.

Credit:

(a) With amount of such assets sold or disposed of otherwise.

(See account No. 709.)

300—*Notes payable to SBA.*

This account will represent the long-term principal balance of notes payable. (1) For funds borrowed and received directly from the Small Business Administration; and (2) for funds borrowed from others through guaranteed loans which subsequently have been purchased by the Small Business Administration.

Debit:

(a) With amount of principal payments made on such notes.

(b) With amount of principal transferred to current maturities.

Credit:

(a) With amount of funds borrowed.

(b) With unpaid principal balance of guranteed loans purchased by SBA (contra debit will be made to account No. 310).

(See account No. 330.)

301—*Debentures payable issued to SBA.*

This account will represent the long-term principal balance of funds received by the company under its debentures payable issued to the Small Business Administration for funds borrowed.

Debit:

(a) With amount of principal payments made to SBA on such debentures.

(b) With amount of principal transferred to current maturities.

Credit:

(a) With amount of funds received from SBA under such debentures.

(See account No. 330.)

310—*Notes payable to other than SBA—guranteed by SBA.*

This account will represent the long-term principal balance of notes payable for funds borrowed from other than the Small Business Administration and guaranteed by the Small Business Administration.

Debit:

(a) With amount of principal payments made on such notes.

(b) With unpaid principal balance of guaranteed loans purchased by SBA (contra credit will be made to account No. 300).

(c) With amount of principal transferred to current maturities.

Credit:

(a) With amount of funds borrowed. (See account No. 330.)

311—*Notes payable to other than SBA—not guaranteed by SBA.*

This account will represent the loan-term principal balance of notes payable for funds borrowed from other than the Small Business Administration and not guaranteed by the Small Business Administration.

Debit:

(a) With amount of principal payments made on such notes.

(b) With amount of principal transferred to current maturities.

Credit:

(a) With amount of funds borrowed. (See account 331.)

312—*Mortgages payable for funds borrowed.*

This account will represent the long-term principal balance of mortgages payable for funds borrowed on corporate premises or other real estate owned by the company. Purchase money mortgages, conditional sales contracts, or similar documentary evidence of indebtedness given by the company in the acquisition of real property will be included in this account.

Debit:

(a) With amount of principal payments made on such indebtedness.

(b) With amount of principal transferred to current maturities.

Credit:

(a) With amount of funds borrowed. (See account 331.)

313—*Mortgages payable on assets acquired in liquidation of portfolio securities.*

This account will represent the unpaid principal balance of existing mortgages payable on assets acquired by the company in liquidation of portfolio securities.

Debit:

(a) With amount of principal payments made on such indebtedness.

Credit:

(a) With amount of such indebtedness. (See account No. 204.)

320—*Notes payable—other.*

This account will represent the unpaid principal balance of notes payable in evidence of amounts owned by the company other than for funds borrowed. Notes payable, conditional sales contracts, and liens for the acquisition of furniture, fixtures, equipment, and automobiles will be included in this account.

Debit:

(a) With amount of principal payments made on such notes.

Credit:

(a) With amount of unpaid principal of such notes executed.

330—*Current Maturities of notes and debentures payable to or guaranteed by SBA.*

This account will represent the principal amount due on a current basis (payable by the licensee in the next 12 months of operations) of long-term debt shown in accounts 300, 301 and 310.

Debit:

(a) With amounts paid by the licensee or disposed of otherwise.

Credit:

(a) With amounts that become due by the licensee on a current basis.

(See accounts Nos. 300, 301, and 310.)

331—*Current maturities of notes and debentures payable to others not guaranteed by SBA.*

This account will represent the principal amount due on a current basis (payable by the licensee in the next 12 months of operations) of long-term debt shown in accounts 311 through 313.

Debit:

(a) With amounts paid by the licensee or disposed of otherwise.

Credit:

(a) With amounts that become due by the licensee on a current basis.

(See account Nos. 311 through 313.)

340—*Accounts payable.*

This account will represent amounts payable on open account. The account also will include accrued compensation payable for services rendered to the company on its participations in financing transactions, and accrued commitment fees payable for having funds made available on a deferred basis by "participating" companies in connection with the financing of, or commitments to finance, small business concerns.

Debit:

(a) With amount of such indebtedness paid, or disposed of otherwise.

Credit:

(a) With amount of such indebtedness incurred.

Note 1.—A participation is defined as an undivided interest shared with one or more other lenders or investors in a note, debenture, certificate of stock, or other instrument evidencing a loan to, or equity financing of, a small business concern.

Note 2.—A deferred participation is defined as a commitment under a participation agreement whereby the "participating" company will make funds available on a deferred basis to the "initiating" company in connection with the latter's financing of, or commitment to finance, a small business concern, or in connection with an "initiating" small business investment company's acquisition of loans or equity securities from other such companies.

(See accounts Nos. 141, 600, and 715.)

341—*Accounts payable due parent and partners.*

This account will represent payables due parent from licensee. Payables due parent will generally be from one of two sources: (1) Expenses shared (pro-rata with the parent, paid by the parent but not yet reimbursed by the licensee and/or (2) parent (and/or consolidated group) has a tax loss from which the licensee has received a tax benefit.

Debit:

(a) Cash paid to parent and partners.

(b) Income taxes due from licensee but paid by the parent.

Note.—The above debit can only arise when the licensee has had the benefit of a prior tax loss from the filing of a consolidated return.

Credit:

(a) Licensee's share of any expense shared with parent and paid by parent.

(b) Licensee's share of any tax benefit resulting from the filing of a consolidated tax return with the parent if the licensee has taxable income but the consolidation has a loss.

(c) Any other payable due parent or partner arising from any other source.

350—*Accrued interest payable.*

This account will represent the amount of liability for interest accrued on the company's notes, mortgages and debentures payable. The account will also include accrued interest payable on other interest-bearing obligations of the company.

Debit:

(a) With amount of such interest paid or disposed of otherwise.

Credit:

(a) With amount of interest accrued on all interest-bearing obligations covered by this account.

351—*Accrued taxes.*

This account will represent the balance of accrued taxes of payroll, such as the company's portion of social security taxes, which have not been remitted to the appropriate collectors of such taxes.

Debit:

(a) With amount of such taxes paid.

Credit:

(a) With amount of such taxes accrued.

(See account No. 664.)

354—*Estimated income taxes accrued.*

This account will include the balances in subaccounts Nos. 354.1, 354.2, 354.3, etc.

354.1—*Estimated Federal income taxes accrued.*

This account will represent the balance of estimated Federal income taxes accrued which have not been

remitted to the Internal Revenue Service.

Debit:

(a) With amount of such taxes paid.

Credit:

(a) With amount of such taxes accrued.

(See subaccounts Nos. 720.1 and 722.1.)

354.2—*Estimated State income taxes accrued.*

This account will represent the balance of estimated State income taxes accrued which have not been remitted to the appropriate collector of such traxes.

Debit:

(a) With amount of such taxes paid.

Credit:

(a) With amount of such taxes accrued.

(See subaccounts Nos. 720.2 and 722.2.)

358—*Other current liabilities.*

This account will represent other current liability not provided for in other accounts.

Debit:

(a) With amount of such expenses paid or disposed of otherwise.

Credit:

(a) With amount of such expenses accrued.

Note.—Increases or decreases in the liability for accrued expenses, through accruals or adjustments, will be offset by increases or decreases, respectively, in the appropriate expenses accounts.

360–364—*Dividends payable on* (Type of class) *capital stock.*

These accounts will represent the company's liability for dividends declared by the company's Board of Directors on the respective types and classes of capital stock issued and outstanding. A separate account should be used to reflect the dividends payable for each type and class of capital stock outstanding.

Debit:

(a) With amount of such dividends paid.

Credit:

(a) With amount of such dividends declared payable by the company's Board of Directors.

365–369—*Partnership distributions payable to general partners/limited partners.*

Debit:

(a) With the amount of distributions paid.

Credit:

(a) With the amount of distributions accrued.

370—*Employee taxes withheld.*

This account will represent the amount of income and social security taxes withheld from employee's salaries which have not been remitted to the appropriate collectors of such taxes.

Debit:

(a) With amount of such taxes remitted.

Credit:

(a) With amount of such taxes withheld.

374—*Unapplied receipts.*

This account will represent the amount of funds received by the company which have not been applied to loans, debt securities, interest receivable, etc. This account will be used only in instances when the funds received cannot be applied promptly.

Debit:

(a) With amount of such funds applied or disposed of otherwise.

Credit:

(a) With amount of funds received which cannot be applied promptly.

378—*Miscellaneous trust receipts.*

This account will represent the liability of the company for funds withheld or received in trust, for which no specific account is provided, including earnest money deposits, and funds withheld from employees' salaries for the purpose of United States Savings Bonds, payment of group life insurance premiums, payment of pension fund contributions, etc. The account will also include amounts due other companies that are participants in financing where the licensee is the sponsor and is servicing the debt.

Debit:

(a) With amount of such funds disbursed or disposed of otherwise.

Credit:

(a) With amount of such funds withheld or received.

380—*Deferred credit to future taxes.*

Timing differences will exist between accounting income and taxable income and thereby cause a deferment of tax expense. Such deferred credits usually will result from provision for loss on loans and debt securities. This account will represent such deferred tax payments.

Debit:

(a) Such account with amount of taxes paid which had been previously deferred.

Credit:

(a) Such account with amount of tax payments when deferred.

(See account No. 231.)

383—*Other deferred credits.*

This account will represent the amount of deferred credits of the company not specifically provided for in other accounts.

The account will include any gain on sale of assets which does not qualify as realized gain.

Debit:

(a) With amount of such deferred credits transferred to income or gain, or disposed of otherwise.

Credit:

(a) With amount of such deferred credits established.

Note 1.—Accrual of interest receivable should be discontinued with respect to any loan or debt security financing a small business concern which is in bankruptcy, or on the verge thereof, or otherwise considered to be insolvent. Any interest payments received from such a debtor should not be treated as interest income, but should be either credited as payments on principal of the debt or credited as deferred income in this account, pending determination of the appropriate accounting. In less serious situations, when interest receivable is accrued under circumstances in which the financed small business concern is in default to licensee over 6 months, or the fair value of the loan or debt security as determined in good faith by the Board of Directors/General Partner(s) is less than cost, or recovery thereon is doubtful, an addition to the allowance for uncollectible interest receivable should be made in an amount equivalent to the accrual of interest receivable, or, as an alternative, the interest income should be deferred in this account as above indicated.

Note 2.—Deferred gain in this account will be transferred to appropriate gain accounts as it is realized.

390—*Other liabilities.*

This account will represent the amount of liabilities of the company not specifically provided for in other accounts.

Debit:

(a) With amount of such liabilities paid or disposed of otherwise.

Credit:

(a) With amount of such liabilities incurred.

Capital Accounts

400–404— (Type and class) capital stock authorized.

These accounts will represent the total par or stated value of the capital stock authorized, as provided for in the company's charter. A separate account should be provided for each type and class of capital stock authorized.

Debit:

(a) With amount of reductions of such capital stock authorized.

Credit:

(a) With original amount of such capital stock authorized.

(b) With additional amounts of such capital stock authorized.

(See accounts Nos. 405–409 and "Note" of accounts Nos. 415–419.)

405–409— (Type and class) unissued capital stock.

These accounts will represent the total par or stated value of unissued capital stock of the company. A separate account should be provided for each type and class of unissued capital stock.

Debit:

(a) With original amount of such unissued capital stock, as provided for in the company's charter.

(b) With additional amounts of such unissued capital stock authorized.

(c) With par or stated value of capital stock retired.

Credit:

(a) With amount of such capital stock issued (contra debit will be made to accounts Nos. 410–411).

(b) With amount of reductions of capital stock authorized.

(See accounts Nos. 400–404 and "Note" of accounts Nos. 415–419.)

410–411— (Type and class) capital stock subscribed.

These accounts will represent the total amount at the subscription price of the company's capital stock subscribed. A separate account should be provided for each type and class of capital stock subscribed. These accounts will reflect the company's responsibility to issue shares of its stock to subscribers who have made final payment of their capital stock subscriptions.

Debit:

(a) With amount at the subscription price of such subscribed capital stock issued (contra credits will be made to account Nos. 405–409 and, as appropriate, No. 420).

(b) With amount at the subscription price of such subscribed capital stock canceled or disposed of otherwise.

Credit:

(a) With amount at the subscription price of such capital stock subscribed.

(See accounts Nos. 413–414 and "Note" of accounts Nos. 415–419.)

413–414—Capital stock subscriptions receivable— (Type and class).

These accounts will represent the total unpaid balances of capital stock subscriptions receivable from subscribers of the company's authorized capital stock. A separate subscriptions receivable account should be provided for each type and class of capital stock subscribed.

Debit:

(a) With amount of such capital stock subscriptions received.

Credit

(a) With amount collected on such capital stock subscriptions.

(b) With amount of such capital stock subscriptions canceled or disposed of otherwise.

(See accounts Nos. 410–411 and "Note" of accounts Nos. 415–419.)

415–419—*Treasury stock* (Type and class).

These accounts will represent the total amount of the company's issued capital stock which has been reacquired through purchase or donation and has not been retired. A separate account should be provided for each type and class of such capital stock held by the company.

Debit:

(a) With cost of such capital stock acquired through purchase.

(b) With amount of fair market value or par value of such capital stock acquired through donation (control credit will be made to account No. 420).

Credit:

(a) With cost of such capital stock acquired though purchase, when sold or disposed of otherwise.

(b) With amount of fair market value or par value of such capital stock acquired through donation, when sold or disposed of otherwise.

Note.—Appropriate subsidiary records should be maintained as deemed necessary.

420—*Paid-in surplus.*

This account will represent the amount of surplus arising from (1) sales initially of the company's capital stock at a price in excess of par value (including amounts transferred from capital stock subscribed at a price above par, when shares are issued); (2) donations to the company of its issued capital stock carried as treasury stock at fair market value or par value; (3) retirements of capital stock purchased at less than the par value thereof; (4) sales of treasury stock in excess of its carrying value on the books of the company; (5) donations or gifts to the company of assets carried at not in excess of fair market value; and (6) other equity transactions with stockholders.

Debit:

(a) With amount of loss on treasury stock sold which was acquired through purchase, but not to exceed the total paid-in surplus. (Any amount of loss in excess of the total of such credits will be charged to account No. 451).

(b) With amount received by the company below fair market value, or par value, whichever applicable, for treasury stock sold which was acquired through donations.

(c) With amount paid by the company in excess of par value, but not to exceed the premium received initially, for shares of capital stock retired (any amount paid in excess of par plus initial premium received will be charged to account No. 451).

Credit:

(a) With amount paid in (including stock dividends from undistributed earnings), or transferred from capital stock subscribed, representing the excess after deduction of underwriters' fees and commissions) over par value of the company's capital stock, when shares are issued.

(b) With amount of fair value or par value of the company's capital stock acquired through donation.

(c) With amount of discount below par value of the company's capital stock acquired through purchases, when such stock is retired.

(d) With amount received by the company in excess of cost, or in excess of fair value or par value, whichever applicable, for treasury stock sold.

(e) With amount not to exceed fair market value of donations or gifts of assets to the company.

430—*3% Cumulative preferred stock (Issued to SBA).*

This account will be used by 301(d) licensees only and will represent the preferred stock sold to the Small Business Administration at its par value by the licensee. Such stock is not included in capital stock accounts Nos. 400 and 414 because such stock is not considered private capital for leverage or regulatory purposes.

Debit:

(a) Such account with the par value of preferred stock repurchased by the licensee.

Credit:

(a) Such account with the par value of preferred stock sold to SBA by the licensee.

440—*Stockholders' unrealized appreciation on loans and investments.*

This is a credit balance account and will represent the amount by which the licensee's Board of Directors/General Partner(s) has valued loans and investments above cost of such securities.

Debit:

(a) With decrease in amount of appreciation resulting from decline in fair value of securities held.

(b) With amount of appreciation attributable to securities sold or disposed of otherwise.

Credit:

(a) With amount of such appreciation recognized.

(b) With amount of increase in such appreciation recognized.

(See accounts Nos. 171, 188, 192, 195, 198, 205, 211, and 222)

Note.—In the case of distributions in kind to stockholders, this account will be debited with an amount not less than the amount of unrealized gain reported on the most recent 468 for the asset being distributed. The offsetting credit will be to account No. 450. Non-cash gains.

445—*Stockholders' unrealized depreciation on loans and investments.*

This is a debit balance account and will represent the amount by which the licensee's Board of Directors has valued loans and investments below cost of such securities.

Debit:

(a) With amount of "depreciation" of loans and investments recognized.

(b) With amount of increase in such depreciation recognized.

Credit:

(a) With decrease in the amount of depreciation resulting from increase in fair value of securities held.

(b) With amount of depreciation attributable to securities sold or disposed of otherwise.

(See accounts Nos. 172, 187, 193, 196, 199, 203, 206, 212, and 223.)

448—Stockholders' estimated taxes on net realized gain (loss) on securities held.

This is a debit account that will represent the provision for income taxes on net unrealized appreciation (amount by which the Board of Directors valuation of all securities exceeds cost). As the valuation of securities changes, the provisions for taxes will change.

Debit:

(a) With provisions for taxes established on net unrealized gain.

(b) With increases in provisions for taxes.

Credit:

(a) With established provision for taxes attributable to securities sold or disposed of otherwise.

(b) With decrease in provision established.

Note.—Should the net amount (unrealized appreciation less unrealized depreciation) be a negative figure (i.e., a net loss), the tax effect should be computed and reflected in the accounts.

(See account Nos. 231 and 380.)

450—*Stockholders' non-cash gains on sale of securities.*

This is a credit balance account and represents gains realized on sale of securities that have not been converted to cash. While considered to be undistributed earnings, amounts in this account will not be available for distribution or capitalized by corporate action. Therefore, such amounts are considered restricted undistributed earnings realized.

Debit:

(a) With amount of cash collected of such non-cash gains previously recognized.

(b) With amount of non-cash gains written off or disposed of otherwise.

(c) With the amount previously credited to this account from stockholders' unrealized appreciation on loans and investments.

Credit:

(a) With amounts of non-cash gain when the securities generating such gain are sold.

(b) With the amount of unrealized gain on the asset being distributed. This is the amount debited to account No. 440.

Note.—It is recommended that individual records be maintained for each non-cash gain realized.

(See accounts Nos. 462, 220, 579 and 709.)

451—Stockholders' undistributed net realized earnings.

This is a credit balance account and represents the cumulative balance of periodic net investment income including realized gain (loss) on securities sold, less dividend distributions whether cash, stock, or dividends in kind. Non-cash gain on sale of securities are included in account No. 450.

Debit:

(a) At the end of the fiscal year, with any debit balance in account No. 460 reflected in the profit and loss summary account, and/or the realized gain and loss summary account No. 461.

(b) With amount of dividends, other than stock dividends declared payable out of undistributed net realized earnings by the company's Board of Directors.

(c) With amount of stock dividends, at a per share value representing the higher of fair value existing at the time that the dividend is declared, which are declared by the company's Board of Directors and paid out of undistributed net realized earnings.

(d) With appropriate amount of loss on treasury stock sold which was acquired through purchase, representing the excess of such loss over the total of credits residing in paid-in surplus, account No. 420, relating to previous gains on treasury stock sold or retirement of capital stock at amounts less than the amounts previously paid in with respect thereto.

(e) With appropriate amount paid by the company in excess of par plus initial premium received on the type and class of shares of capital stock retired.

Credit:

(a) At end of the fiscal year, with the credit balances of the profit and loss summary account, No. 460 and the realized gain and loss summary account, No. 461.

(See account Nos. 450, 460, 461 and 462.)

460—Stockholders' profit and loss summary.

This account will be used as a clearing account through which all income and expense accounts on the books of the company will be closed.

Debit:

(a) At end of the fiscal year, with the debit balance of all expense and income accounts.

(b) At the end of the year with any credits arising from investments in management service subsidiaries or unincorporated businesses reported on the equity method of accounting.

(c) At the end of the fiscal year, with the credit balance of the account (transfer to undistributed net realized earnings—account No. 451).

Credit:

(a) At the end of the fiscal year, with the credit balances of all income and expense accounts.

(b) At the end of the year, by means of a journal entry, credit profit and loss summary with the amount of cash received from a management services subsidiary and/or unincorporated business which is not in excess of amounts previously charged to Profit and Loss summary that were credited to account No. 463—Stockholders' non-cash income from investments reported on the Equity Method of Accounting.

(c) At the end of the fiscal year, with the debit balance of the account (transfer to undistributed net realized earnings—account No. 451).

(See account No. 451.)

461—*Stockholders' realized gain and loss summary in cash.*

This account will be used as a clearing account through which all accounts for realized gains and losses on investments on the books of the company will be closed.

Debit:

(a) At the end of the fiscal year, with the balance of all accounts for losses on investments.

(b) At the end of the fiscal year, with the credit balance of the account (transfer to retained earnings).

Credit:

(a) At the end of the fiscal year, with the balance of all accounts for gains on investments.

(b) At the end of the fiscal year, with the debit balance of the account (transfer to retained earnings).

(See account No. 451.)

462—*Stockholders non-cash realized gain summary.*

This account will be used as a clearing account through which all accounts for non-cash realized gains on investment on the books of the company will be closed.

Debit:

(a) At the end of the fiscal year, with the credit balance of the account (transfer to non-cash gains on sale of securities)—account No. 450.

Credit:

(a) At the end of the fiscal year, with the amounts of non-cash gains on investments sold during the period and recognized in accounts 572 through 579.

(See account Nos. 450 and 461.)

463—*Stockholders non-cash income from investments reported on the Equity Method of Accounting.*

This account will be used as a clearing account for income from any investment being reported on the Equity Method of Accounting rather than on the Value Method of Accounting. Generally this will be from investments in management services subsidiaries and/or investments in unincorporated small businesses concerns. Licensee's losses will not be reported in this account.

Debit:

(a) At the end of the fiscal year by a journal entry debit with the amount of cash received from investments reported on the Equity Method of Accounting but not in excess of amounts previously credited to the account from account 460 on the same investment.

Credit:

(a) At the end of the fiscal year credit with the amount of the licensee's share of income from investments reported on the Equity Method of Accounting.

Note.—It is suggested that subsidiary records be kept of each investment being reported on the Equity Method of Accounting. Income from each investment is to be treated as a separate item.

Losses are not reported through this account but remain in account 460.

465—*Partners' profit and loss summary.*

This account will be used as a clearing account through which all income and expense accounts on the books of the company will be closed.

Debit:

(a) At the end of the fiscal year, with the debit balance of all expense and income accounts.

(b) At the end of the fiscal year with any credit arising from management services investments or unincorporated businesses reported on the Equity Method of Accounting.

(c) At the end of the fiscal year, with the credit balance (transfer to the appropriate partners' undistributed net realized earnings account, i.e., account 493—Corporate General Partners' undistributed net realized earnings, 494—Individual General Partners' undistributed net realized earnings and 496—Limited Partners' undistributed net realized earnings.)

Credit:

(a) At the end of the fiscal year, with the credit balance of all income and expense accounts.

(b) At the end of the fiscal year, by means of a journal entry, credit profit and loss summary with the amount of cash received from a management services investment and/or unincorporated business which is not in excess of amounts previously charged to Profit and Loss Summary that were credited to Account 486—Partners Non-cash Income from Investment Reported on the Equity Method of Accounting.

(c) At the end of the fiscal year, with the debit balance of the account (transfer to the appropriate partners' undistributed net realized earnings, i.e., 493, 494, and 496.

466—*Partners' realized gain and loss summary-in cash.*

This account will be used as a clearing account through which all accounts for realized gains and losses on investments on the books of the company will be closed.

Debit:

(a) At the end of the fiscal year, with the balances of all accounts for losses on investments.

(b) At the end of the fiscal year, with the credit balance of the account (transfer to the appropriate partners' undistributed net realized earnings, i.e., 493, 494, and 496).

Credit:

(a) At the end of the fiscal year, with the balances of all accounts for gains on investments.

(b) At the end of the fiscal year, with the debit balance of the account (transfer to the appropriate partner's undistributed net realized earnings, i.e., 493 494, and 496).

467—*Partners' non-cash realized gain summary.*

This account will be used as a closing account through which all accounts for realized gains and losses on investments on the books of the company will be closed.

Debit:

(a) At the end of the fiscal year, with the credit balance of the account (transfer to the appropriate partners' non-cash gains on sale of securities, i.e., 491—Corporate General Partners' non-cash gain on sale of securities, 492—Individual General Partners' non-cash gain on sale of securities, and 495—Limited Partners' non-cash gains on sale of securities.

Credit:

(a) At the end of the fiscal year, with the amounts of non-cash gains on investments sold during the period and recognized in accounts 572 through 579.

468—*Partners' non-cash income from investments reported on the Equity Method of Accounting.*

This account will be used as a clearing account for income from any investment being reported on the Equity Method of Accounting rather than on the Value Method of Accounting. Generally this will be from investments in management service investments and/or investments in unincorporated small business concerns. Licensee's losses will not reported in this account.

Debit:

(a) At the end of the fiscal year by a journal entry, debit with the amount of cash received from investments reported on the Equity Method of Accounting but not in excess of amounts previously credited to the account from account 465.

Credit:

(a) At the end of the fiscal year credit with the amount of the licensee's share of income from investments reported on the Equity Method of Accounting.

Note 1.—It is suggested that subsidiary records be kept of each investment being reported on the Equity Method of Accounting. Income from each investment is to be treated as a separate item.

Losses are not reported through this account but remain in account 465.

Note 2.—This account should be divided into 468.1 for general parteners and 468.2 for limited partners.

470—*General Partners' Permanent Capital Contribution Summary.*

This is a summary account reflecting the balances of all general partners capital contributions. The credit balance in this account repesents the amount of general partner's capital contributions that is a component in the computation of regulatory capital for leverage and overline purposes.

471—*Corporate General Partners' Permanent Capital Contribution.*

This account respects the amount of the corporate general partners' capital contribution available for computation of regulatory capital.

Debit:

(a) Debit with the amount of any withdrawal during the fiscal period of capital contributions available for leverage

Credit:

(a) Credit with the amount of additional cash contributed to the general partners' permanent capital contribution that is available for SBA leverage purposes.

(b) Credit with the amount transferred from account 493—Corporate General Partners' undistributed net realized earnings to increase the amount of

capital available for SBA leverage and overline purposes.

Note 1.—This account performs the same function for a partnership licensee as a capital stock account performs for a corporate licensee. It represents capital available for leverage purposes, subject to certain regulatory adjustments.

Note 2.—This account performs an additional function for the partnership licensee. The credit balance in this account may be used to determine the percent of interest a corporate general partners has in the following items: (a) general partners' unrealized appreciation (depreciation), (b) general partners non-cash income from investments reported on the Equity Method of Accounting, (c) general partners' non-cash gain on sale of securities and (d) general partners undistributed net realized earnings.

Note 3.—Usually there is no relationship between the amount of capital contributed by general partners' to the total partnership capital and the general partners share of profits, losses and gains on securities. The ratio of the general partners share of profits and gains is determined by the partnership agreement.

Assume the following facts:
1. General partners contribute $5,000.
2. Limited partners contribute $200,000.
3. Profits and gains are divided:
20 percent to general partners.
80 percent to limited partners.

If there was only one (1) general partner, the general partner would receive 100 percent of 20 percent of all income and gains. If there were two (2) general partners and each contributed $2,500 each would receive 50 percent of 20 percent of all income and gains, if there were two (2) general partners and one partner contributed $2,000 and the other partner contributed $3,000, one partner would receive 40 percent of the gains and the other partner would receive 60 percent of the gains. The above examples apply at the time the limited partnership is organized.

A different situation applies if a new partner is admitted at a later date. Assume that at some later time a new general partner is to be admitted and at that moment the general partner(s) have interests of $3,000 in general partners non-cash income from investments reported on the Equity method of Accounting, $6,000 in general partners unrealized appreciation, $9,000 in general partners non-cash gains and $12,000 in general partners' undistributed net realized gains. At that moment the total value of all the capital accounts of the general partners would be $5,000 + $3,000 + $6,000 + $9,000 = $23,000.

If there was only one (1) general partner when the new general partner was to be admitted and the two general partners were to share equally, the new general partner would have to contribute $23,000. The $23,000 contributed by the incoming partner would be credited as follows:

General partners' permanent capital contribution, $23,000.

472—*Individual General Partners' Permanent Capital Contribution.*

This account corresponds to account 471.

Debit:

(a) Debit with the amount of any withdrawals during the fiscal period of capital contributions available for leverage.

Credit:

(a) Credit with the amount of additional cash contributed to general partners' capital contribution that is available for computation of regulatory capital.

(b) Credit with the amount transferred from account 494—individual general partners undistributed net realized earnings to increase the amount of capital available for SBA leverage and overline purposes.

Note 1.—See notes 1, 2, and 3 to account 471.

Note 2.—It is suggested that subsidiary records be kept for each general partner.

475—*Limited Partners Capital Permanent Contribution Summary.*

This is a summary amount reflecting the balance of all limited Partners capital contributions. The credit balance in this account represents the amount of limited partners capital contributions that is available for computation of regulatory capital.

Note.—This account performs the same function for limited partners as account 470 performs for general partners.

476—*Limited partners Permanent Capital Contribution.*

This account performs the same function for limited partners that accounts 471 and 472 perform for general partners.

Debit:

(a) Debit with the amount of any withdrawals during the fiscal period of capital contributions available for computation of regulatory capital.

Credit:

(a) Credit with the amount of additional cash contributed to limited partners' permanent capital contribution that is available for computation of regulatory capital.

(b) Credit with the account transferred from account 496—Limited Partners Undistributed Net Realized Earnings to increase the amount of capital available for computation of regulatory capital.

Note 1.—The same rules apply to limited partners as apply to general partners. See Notes 1, 2, and 3 to account 471.

Note 2.—It is suggested that subsidiary records be kept for each limited partners.

481—*Corporate General Partners' Unrealized Appreciation on Loans and Investments.*

This is a credit balance account representing the corporate general partners' share of the amount by which the general partner(s) has valued loans and investments above the cost of such securities.

Debit:

(a) With the decrease in the amount of appreciation resulting from the decline in fair value of securities held.

(b) With the amount of appreciation attributable to securities sold or disposed of otherwise.

Credit:

(a) With the amount of such appreciation recognized.

(b) With the amount of increase in such appreciation recognized.

(See accounts Nos. 171, 186, 192, 195, 198, 205, 211, and 222.)

482—*Individual General Partner(s) Unrealized Appreciation on Loans and Investments.*

This is a credit balance account representing the individual general partners' share of the amount by which the general partner(s) has valued loans and investments above the cost of such investments.

Debit:

(a) With the decrease in the amount of appreciation resulting from the decline in fair value of securities held.

(b) With the amount of appreciation attributable to securities sold or disposed of otherwise.

Credit:

(a) With the amount of such appreciation recognized.

(b) With the amount of increase in such appreciation recognized.

(See accounts Nos. 171, 186, 192, 195, 198, 205, 211 and 222.)

483—*Corporate General Partners' Depreciation on Loans and Investments.*

This is a debit balance account and will represent the corporate general partners share of the amount by which the licensee's general partner(s) has valued loans and investments below the cost of such securities.

Debit:

(a) With the amount of "depreciation" of loans and investments recognized.

(b) With the amount of increase in such depreciation recognized.

Credit:

(a) With the decrease in the amount of depreciation resulting from the increase in fair value of securities held.

(b) With the amount of depreciation attributable to securities sold or disposed of otherwise.

(See accounts Nos. 172, 187, 193 196, 199, 203, 206, 212 and 222.)

484—*Individual General Partners' Depreciation on Loans and Investments.*

This is a debit balance account and will represent the indidvidual general partners' share of the amount by which the licensee's general partner(s) has valued loans and investments below the cost of such securities.

Debit:

(a) With the amount of "depreciation" of loans and investments recognized.

(b) With the amount of increase in such depreciation recognized.

Credit:

(a) With the decrease in the amount of depreciation resulting from the increase in fair value of securities held.

(b) With the amount of depreciation attributable to securities sold or disposed of otherwise.

(See amount Nos. 172, 187, 193, 196, 199, 203, 206, 212, and 222.)

485—*Limited Partners Unrealized Appreciation on Loans and Investments.*

This is a credit balance account and will represent the limited partners share of the amount by which the general partner(s) has valued loans and investments above the cost of such securities.

Debit:

(a) With the decrease in the amount of appreciation resulting from the decline in the fair value of securities held.

(b) With the amount appreciation attributable to securities sold or disposed of otherwise.

Credit:

(a) With the amount of such appreciation recognized.

(b) With the amount of increase in such appreciation recognized.

(See accounts Nos. 171, 186, 192, 195, 198, 205, 211 and 222.)

486—*Limited Partners Unrealized Depreciation on Loans and Investments.*

This is a debit balance account and will represent the limited partners share of the amount by which the general partner(s) has valued loans and investments below the cost of such securities.

Debit:

(a) With the amount of "depreciation" of loans and investments recognized.

(b) With the amount of increase in such depreciation recognized.

Credit:

(a) With the Decrease in the amount of depreciation resulting from the increase in fair value of securities held.

(b) With the amount of depreciation attributable to securities sold or disposed of otherwise.

(See accounts Nos. 172, 187, 193, 196, 199, 203, 206, 212 and 222.)

491—*Corporate General Partners Non-cash Gains on Sale of Securities.*

This is a credit balance account and represents the corporate general partners' share on gains realized on the sale of securities that have not been converted to cash. While considered to be undistributed earnings, the amounts in this account will not be available for distribution or capitalized by partnership action transferring amounts to Partners' Permanent Capital Contribution for SBA leverage. Therefore, such amounts are considered restricted undistributed earnings realized.

Debit:

(a) With the amount of cash collected from non-cash gains previously recognized.

(b) With the amount of non-cash gains written off or disposed of otherwise.

Credit:

(a) With the amounts of non-cash gain when the securities generating such gain are sold.

Note.—It is recommended that individual records be maintained for each non-cash gain realized.

(See accounts Nos. 467, 220, 579 and 709.)

492—*Individual General Partners Non-cash Gain on Sale of Securities.*

This is credit balance account that performs the same function for individual general partners as account 491 performs for corporate general partners.

Debit:

(a) With the amount of cash collected from non-cash gains previously recognized.

(b) With the amount of non-cash gains written off or disposed of otherwise.

Credit:

(a) With the amount of non-cash gain when the securities generating such gain are sold.

Note.—It is recommended that individual records be maintained for each non-cash gain realized.

(See accounts Nos. 467, 220, 579, and 709.)

493—*Corporate General Partners Undistributed Net Realized Earnings.*

This is a credit balance account and represents the corporate general partners share of the limited partnership's cumulative balance of periodic net investment income including realized gain (loss) on securities sold less partnership distributions whether cash, stock or in kind and less non-cash gain on sales of securities which are included in account 491.

Debit:

(a) At the end of the fiscal year, with the corporate general partners' share of any debit balance in accounts (a) 465—Partners' profit and loss summary and/or (b) the debit balance in account 466—Partners' realized gain and loss summary in cash.

(b) With the amount of distributions made to corporate general partners whether cash, stock and/or in kind.

(c) With the amount transferred to corporate general partners capital contribution account 471 for SBA leverage purposes.

Credit:

(a) At the end of the fiscal year with the corporate general partners share of any credit balance in (a) account 465—Partners' profit and loss summary and/or (b) the credit balance in Account 466—Partners' realized gain and loss summary in cash.

494—*Individual General Partners' Undistributed Net Realized Earnings.*

This is a credit balance account and represents the individual general partners' share of the limited partnerships' cumulative balance of periodic net investment income including realized gain (loss) on securities sold less partnership distributions whether cash, stock or in kind and less non-cash gain on sales of securities which are included in Account 492.

Debit:

(a) At the end of the fiscal year, with the individual general partners' share of any debit balance in accounts (a) 465—Partners' profit and loss summary and/or (b) the debit balance in 466—Partners' realized gain and loss summary in cash.

(b) With the amount of distributions made to individual general partners whether cash, stock and/or in kind.

(c) With the amount transferred to the individual general partners' capital contribution account 471 for SBA leverage purposes.

Credit:

(a) At the end of the fiscal year, with the individual general partners' share of any credit balance in (a) accounts 465—Partners' profit and loss summary and/or (b) the credit balance in account 466—Partners' realized gain and loss summary in cash.

495—*Limited Partners' Non-cash Gains On Sales of Securities.*

This is a credit balance account and represents the limited partners' share of gains realized on the sale of securities that have not been converted to cash. While considered to be undistributed earnings, the amount in this account will not be available for distribution or

capitalized by partnership action transferring amounts to partners capital contribution for SBA leverage. Therefore, such amounts are considered restricted undistributed earnings realized.

Debit:

(a) With the amount of cash collected from non-cash gains previously recognized.

(b) With the amount of non-cash gains written off or disposed of otherwise.

Credit:

(a) With the amounts of non-cash gains when the securities generating such gain are sold.

Note.—It is recommended that individual records be maintained for each non-cash gain realized.

(See accounts Nos. 467, 220, 579 and 709.)

496—*Limited Partners' Undistributed Net Realized Earnings.*

This is a credit balance account and represents the limited partners' share of the licensee's cumulative balance of periodic net investment income including realized gain (loss) on securities sold less partnership distributions whether cash, stock or in kind and less non-cash gain on sales of securities which are included in account 495.

Debit:

(a) At the end of the fiscal year, with the limited partners' share of any debit balance in (a) account 465—Partners' profit and loss summary and/or (b) the debit balance in Account 466—Partners' realized gain and loss summary in cash.

(b) With the amount of distributions made to limited partners whether cash, stock and/or in kind.

(c) With the amount transferred to limited Partners' capital contribution account 476 for SBA leverage purposes.

Credit:

(a) At the end of the fiscal year, with the limited partners' share of any credit balance in (a) account 465—Partners' profit and loss summary and/or (b) account 466—Partners' realized gain and loss summary in cash.

Income Accounts

500—*Commitment income.*

This account will represent the amount of income earned on commitments to small business concerns for loans and equity securities. This account, on the books of the "participating" company, will include the amount of commitment income on deferred participations.

Debit:

(a) At the end of the fiscal year, with the balance of account (transfer to profit and loss summary).

Credit:

(a) With amount of income earned on commitments and deferred participations.

Note 1.—A deferred participation is defined as a commitment under a participation agreement whereby the "participating" company will make funds available on a deferred basis to the "initiating" company in connection with the latter's financing of, or commitment to finance, a small business concern, or in connection with an "initiating" small business investment company's acquisition of loans or equity securities from other such companies.

Note 2.—Recording as income in this account of accrued commitment fees receivable should be discontinued with respect to any small business concern which is in bankruptcy, or on the verge thereof, or otherwise considered to be insolvent. The amounts in question should be credited as deferred income in account No. 383—Other deferred credits, pending determination of the appropriate accounting. In less serious situations, when the small business concern or the fair value of its debt or equity instrument held by the company, as determined by the Board of Directors, is less than cost, or recovery thereon is doubtful, an addition to the allowance for uncollectible notes and accounts receivable should be made in an amount equivalent to the accrued commitment fees taken into income in this account, or as an alternative, the commitment income should be deferred in account No. 383 as above indicated.

(See account Nos. 141 and 142.)

510—*Interest on invested idle funds.*

This account will represent the amount of interest earned on (1) time certificates of deposit in banks which are members of the Federal Deposit Insurance Corporation, (2) U.S. Government obligations, direct and fully guaranteed, owned by the company, and (3) funds of the company in insured savings accounts in institutions the accounts of which are insured by the Federal Savings and Loan Insurance Corporation.

Debit:

(a) At the end of the fiscal year, with the balance of account (transfer to profit and loss summary).

Credit:

(a) With amount of interest earned on invested idle funds.

(See account Nos. 130 through 137, 143 and 144.)

512—*Interest on loans.*

This account will represent the amount of interest earned on loans to small business concerns.

Debit:

(a) At the end of fiscal year, with the balance of account (transfer to profit and loss summary).

Credit:

(a) With amount of interest earned on loans outstanding to small business concerns.

Note.—Accrual of interest receivable should be discontinued with respect to any loan to a small business concern which is in bankruptcy, or on the verge thereof, or otherwise considered to be insolvent. Any interest payments received from such a debtor should not be credited to this account as interest income, but should be either credited as payments on principal of the debt or credit as deferred income in account No. 383—Other deferred credits, pending determination of the appropriate accounting. In less serious situations, when interest receivable is accrued under circumstances in which the financed small business concern is in default to the licensee, or the fair value of the loan as determined in good faith by the Board of Directors is less than cost or recovery thereon is doubtful, an addition to the allowance for uncollectible interest receivable should be made in an amount equivalent to the accrued interest receivable taken into income in this account, or, as an alternative, the interest income should be deferred in account No. 383 as above indicated.

(See accounts Nos. 143, 144, 170 and 173.)

516—*Interest on debt securities.*

This account will represent the amount of interest earned on debt securities of small business concerns owned by the company pursuant to Section 304 of the Small Business Investment Act of 1958, as amended.

Debit:

(a) At the end of the fiscal year with the balance of account (transfer to profi and loss summary).

Credit:

(a) With amount of interest earned on debt securities owned.

Note.—Accrual of interest receivable should be discontinued with respect to any debt security of a small business concern which is in bankruptcy, or on the verge thereof, or otherwise considered to be insolvent. Any interest payments received from such a debtor should not be credited to this account as interest income, but should be either credited as payments on principal of the debt or credited as deferred income in account No. 383—Other deferred credits, pending determination of the appropriate accounting. In less serious situations, when interest receivable is accrued under circumstances in which the financed small business concern is in default to the licensee, or the fair value of the debt security as determined in good faith by the Board of Directors is less than cost, or recovery thereon is doubtful, an addition to the allowance for uncollectible interest receivable should be made in an amount equivalent to the accrued interest receivable taken into income in this account, or, as an alternative, the interest income should be deferred in account No. 383 as above indicated.

(See accounts Nos. 143, 144, 180, 184 and 188.)

520—*Interest income—other.*

This account will represent the amount of interest earned on miscellaneous notes receivable, funds in escrow, and interest-bearing receivables not otherwise classified.

Debit:

(a) At the end of the fiscal year with the balance of account (transfer to profit and loss summary).

Credit:

(a) With amount of interest earned on such receivables.

(See accounts Nos. 140, 143 and 267.)

532—*Management service fees.*

This account will represent the amount of fees charged for management services rendered to small business concerns and other small business investment companies pursuant to section 107.601 of the Small Business Administration Rules and Regulations.

Debit:

(a) At the end of the fiscal year, with the balance of account (transfer to profit and loss summary).

Credit:

(a) With amount of such fees charged.

Note.—Recording as income in this account of accrued management service fees receivable should be discontinued with respect to any small business concern which is in bankruptcy, or on the verge thereof, or otherwise considered to be insolvent. The amounts in questions should be credited as deferred income in account No. 383—Other deferred credits, pending determination of the appropriate accounting. In less serious situations, when the fair value of the financed concern's debt or equity instruments held by the company, as determined by the Board of Directors, is less than cost, or recovery thereon is doubtful, an addition to the allowance for uncollectible notes and accounts receivable should be made in an amount equivalent to the accrued management consulting service fees taken into income in this account, or, as an alternative, the management consulting service income should be deferred in account No. 383 as above indicated.

(See accounts Nos. 140, 141 and 142.)

534—*Investigation and service fees charged other lenders.*

This account will represent the amount of fees charged for investigation and services rendered to banks or other lenders or investors, pursuant to seciton 308(a) of the Small Business Investment Act of 1958, as amended. The account will include compensation for financial services rendered in connection with participations sold.

Debit:

(a) At the end of the fiscal year, with the balance of account (transfer to profit and loss summary).

Credit:

(a) With amount of such fees charged.

(See accounts Nos. 140, 141 and 142.)

536—*Application and appraisal fees.*

This account will represent the amount of fees charged for application, appraisal, investigation, and related services rendered to small business concerns.

Debit:

(a) At the end of the fiscal year, with the balance of account (transfer to profit and loss summary).

Credit:

(a) With amount of such fees charged.

(See accounts Nos. 173 and 188 and "Note" of accounts Nos. 140, 141 and 532.)

540—*Dividends on capital stock of SBSs.*

This account will represent the amount of income from dividends on capital stock of small business concerns.

Debit:

(a) At the end of the fiscal year, with the balance of account (transfer to profit and loss summary).

Credit:

(a) With amount of income from such dividends.

(See amount No. 145.)

541—*Sharing in income or revenue of SBCs.*

This account will represent the amount of sharings or participations in the income or revenue of small business concerns which the company has financed by means of loans or debt securities.

Debit:

(a) At the end of the fiscal year, with the balance of account (transfer to profit and loss summary).

Credit:

(a) With amount of such sharings.

(See amount Nos. 140, 141 and 145.)

542—*Non-cash income from investments reported on equity method of accounting.*

This account is a summary account of all income and losses from investments required to be reported on the Equity Method of Accounting. The sources of entries will be primarily from any of the following sources.

1. Corporate licensees' management services subsidiary.

2. Limited partnerships' investment in a management services company.

3. Investments in unincorporated small business concerns.

It is important that separate records be kept of each source of investments reported on the Equity Method of Accounting since losses and gains are not reported in the same manner.

Debit:

(a) At the end of the fiscal year with the amount of all gains, which will be credited to account 463—Stockholder non-cash income from investments reported on the Equity Method of Accounting or to account 468—Partners' non-cash income from investments reported on the Equity Method of Accounting.

(b) With the amount of losses resulting from investments to be reported on the Equity Method of Accounting.

Credit:

(a) With the amount of income from investments to be reported on the Equity Method of Accounting.

(b) With the amount of losses from investments to be reported on the Equity Method of Accounting. If the licensee is a corporation the offsetting debit will be to account 460. If the licensee is a limited partnerhip the offsetting debit will be to account No. 465.

570—*Gain on U.S. Government securities.*

This account will represent the amount of gain on the sale or other disposition of U.S. Government obligations, direct and fully guaranteed, carried in account No. 130.

Debit:

(a) At the end of the fiscal year, with the balance of account (transfer to account 461 or 462).

Credit:

(a) With amount of gain on such securities sold or disposed of otherwise.

Note.—Increase in value over cost of United States Treasury bills, which are issued at a discount and are noninterest bearing, will not be reflected in this account but will be credited to account No. 510—Interest in invested idle funds, with concurrent debit to account No. 143—Accrued interest receivable.

571—*Gain on loans.*

This account will represent the amount of gain on the sale or other disposition of loans of small business concerns carried in account No. 170, and will include recoveries on loan losses previously charged to the loss account.

Debit:

(a) At the end of the fiscal year, with the balance of account (transfer to account 461 or 462).

Credit:

(a) With amount of gain on such loans sold or disposed of otherwise.

(b) With amount collected on portions of loans previously charged to the loss account.

(See accounts Nos. 383 and 701.)

572—*Gain on debt securities.*

This account will represent the amount of gain on the sale or other disposition of debt securities of small business concerns carried in accounts No. 180 and 184, and will include

recoveries on debt security losses previously charged to the loss account.

Debit:

(a) At the end of the fiscal year, with the balance of account (transfer to account 461 or 462).

Credit:

(a) With amount of gain on such debt securities sold or disposed of otherwise.

(b) With amount collected on portions of debt securities previously charged to the loss account.

(See accounts Nos. 383 and 702.)

574—*Gain on capital stock of SBCs.*

This account will represent the amount of gain on the sale or other disposition of capital stock of small business concerns carried in accounts Nos. 190 and 191, and will include recoveries on capital stock losses previously charged to the loss account.

Debit:

(a) At the end of the fiscal year, with the balance of account (transfer to account 461 or 462).

Credit:

(a) With amount of gain on such capital stock sold or disposed of otherwise.

(b) With amount realized on capital stock of SBCs previously charged to the loss account.

(See accounts Nos. 383 and 704.)

575—*Gain on equity interest of unincorporated concerns.*

This account will represent the amount of gain on the sale or other disposition of equity interests of unincorporated concerns carried in account 194 and will include recoveries of losses on equity interests of unincorporated concerns previously charged to the loss account.

Debit:

(a) At the end of the fiscal year, with the balance of account (transfer to account 461 or 462).

Credit:

(a) With amount of gain on such equity interests sold or disposed of otherwise.

(b) With amount realized on equity interests previously charged to the loss account.

576—*Gain on warrants, options, and other stock rights acquired from SBCs.*

This account will represent the amount of gain on the sale or other disposition of warrants, options, and other stock rights acquired from SBCs, and will include recoveries on stock rights losses previously charged to the loss account.

Debit:

(a) At the end of the fiscal year, with the balance of account (transfer to account 461 or 462).

Credit:

(a) With amount of gain on such warrants, options, and other stock rights acquired from SBCs sold or disposed of otherwise.

(b) With amount realized on warrants, options, and other stock rights previously charged to the loss account.

(See accounts Nos. 197, 383 and 706, and memorandom record No. NA–10.)

577—*Gain on assets acquired in liquidation of portfolio securities.*

This account will represent the amount of gain on the sale or other disposition of assets acquired in liquidation of portfolio securities of small business concerns carried in accounts Nos. 200, and 204, and will include recoveries on losses on assets acquired in liquidation previously charged to the loss account.

Debit:

(a) At the end of the fiscal year, with the balance of account (transfer to account 461 or 462).

Credit:

(a) With amount of gain on such assets acquired in liquidation of portfolio securities sold or disposed of otherwise.

(b) With amount realized on assets in liquidation of portfolio securities previously charged to the loss account.

(See accounts Nos. 383 and 707.)

578—*Gain on Operating Concerns Acquired.*

This account will represent the amount of gain on the sale or other disposition of investments in operating concerns acquired and will include recoveries on losses previously charged to the related loss account.

Debit:

(a) At the end of the fiscal year, with the balance of account (transfer to account 461 or 462).

Credit:

(a) With amount of gain on such assets sold or disposed of otherwise.

(b) With amount realized on assets previously charged to the loss account.

(See accounts Nos. 210, 221, 383, and 708.)

579—*Gain on other assets.*

This account will represent the amount of gain on the sale or other disposition of assets not specifically provided for in other accounts, and will include recoveries on losses on other assets previously charged to the loss account.

Debit:

(a) At the end of the fiscal year, with the balance of account (transfer to account 461 or 462).

Credit:

(a) With amount of gain on such assets sold or disposed of otherwise.

(b) With amount realized on other assets previously charged to the loss account.

(See accounts Nos. 220, 221, 383, and 709.)

582—*Income from assets acquired in liquidation of portfolio securities.*

This account will represent the amount of income earned on assets acquired in liquidation of portfolio securities, including the operation of properties, carried in accounts Nos. 200, 204.

Debit:

(a) At the end of the fiscal year, with the balance of account (transfer to profit and loss summary).

Credit:

(a) With amount of such income earned.

Note.—In instances when a liquidating agent is employed to supervise the disposition of the assets, appropriate subsidiary accounts should be maintained by the agent. Cash collected from the sale of assets by the liquidating agent should be remitted immediately to the company. The company should maintain a local depository bank account, in which all receipts of the agent are deposited when direct remittance to the company are not feasible. Deposit balances in this account should be subject to withdrawal by check only by the company and should be reflected on the company's records in the same manner as other bank accounts.

Any advances to a liquidating agent for expenses incident to the operation or the disposition of assets acquired in the liquidation of portfolio securities should be charged to account No. 230—Prepaid expenses.

584—*Other income.*

This account will represent the income earned not specifically provided for in other accounts.

Debit:

(a) At the end of the fiscal year, with the balance of account (transfer to profit and loss summary).

Credit:

(a) With amount of such income earned.

Expense Accounts

600—*Commitment expense.*

This account will represent the amount of commitment expense on commitments from lending institutions.

On the books of the "initiating" company, this account also will include the amount of commitment expense on deferred participations.

Debit:

(a) With amount of expense incurred on commitments and deferred participations.

Credit:

(a) At the end of the fiscal year, with the balance of account (transfer to profit and loss summary).

Note.—A deferred participation is defined as a commitment under a participation agreement whereby the "participating" company will make funds available on a deferred basis to the "initiating" company in connection with the latter's financing of, or commitment to finance, a small business concern, or in connection with an "initiating" small business investment company's acquisition of loans or equity securities from other such companies.

(See account No. 340.)

610—*Interest on obligations payable to SBA.*

This account will represent the amount of interest expense accrued on obligations payable to the Small Business Administration for funds borrowed.

Debit:

(a) With amount of such interest accrued.

Credit:

(a) At the end of the fiscal year, with the balance of account (transfer to profit and loss summary).

(See accounts Nos. 300, 301, and 350.)

622—*Interest on obligations payable to other than SBA.*

This account will represent the amount of interest expense accrued on obligations payable to other than the Small Business Administration for funds borrowed.

Debit:

(a) With amount of such interest accrued.

Credit:

(a) At the end of the fiscal year, with the balance of account (transfer to profit and loss summary).

(See accounts Nos. 310, 311, 312, 313, 320 and 350.)

642—*Stock record and other financial expenses.*

This account will represent the amount of charges to the company by transfer agent and the registrar for services rendered in connection with the issuance and transfer of company's capital stock, and will include other financial expenses not provided for elsewhere.

Debit:

(a) With amount of such interest incurred.

Credit:

(a) At the end of the fiscal year, with the balance of account (transfer to profit and loss summary).

(See account No. 340.)

650–679—*Operating Expenses.*

The accounts under this caption will represent the amounts of operating expenses incurred.

Debit appropiate account:

(a) With amount of operating expenses incurred.

Credit appropriate account:

(a) At the end of the fiscal year, with the balance of account (transfer to profit and loss summary).

650—*Advertising and promotional costs.*

This account will represent the cost of advertising and promoting the company's services, including the cost of entertaining prospective borrowers and clients.

651—*Appraisal and investigation costs.*

This account will represent the amount of charges made by outside firms and individuals for appraisal, investigation, and related services rendered to the company.

652—*Auditing and examination costs.*

This account will represent the amount of charges for auditing, examination, and bookkeeping services rendered by accountants not on the company's payroll, and charges for services rendered by SBA examiners.

653—*Communications.*

This account will represent telephone, telegraph, and postage expense.

654—*Cost of space occupied.*

This account will represent the cost of space occupied such as rent, alterations, light, heat, power, janitor service, maintenance and repair expense on buildings, furniture, and equipment (other than automobiles), etc.

655—*Depreciation of corporate premises owned, furniture, equipment and automobiles.*

This account will represent the amount of provision applicable to the fiscal year for depreciation of the buildings and other depreciable improvements of corporate premises owned and used as the company's office quarters. The account also will include the amount of provision applicable to the fiscal year for depreciation of furniture, equipment and automobiles owned by the company.

656—*Amortization of leasehold improvements.*

This account will represent the amortization of leasehold improvements.

657—*Director's, stockholders' or partners' meetings costs.*

This account will represent directors' fees and travel expense for attendance at directors' and stockholders' or partners meetings. The account also will include the cost of holding stockholders' or partners meetings, such as rental of the meeting hall and related expenses.

658—*Insurance.*

This account will represent fire, theft, employee group life insurance, and other insurance expense, including fidelity bond, premiums and insurance on automobiles. The portion, if any, of employee group life insurance premiums withheld from salaries or received from employees will be reflected in account No. 378. Insurance premiums to be amortized will be charged to account No. 230.

659—*Management services fees.*

This account will represent the amount of charges made by outside firms or individuals for management services provided to licensee pursuant to management agreement approved by SBA.

660—*Investment advisor costs.*

This account will represent the amount of charges made by outside firms and indivuduals for furnishing consultation and advice to the company with respect to the desirability of investing in, purchasing, or selling loans, debt securities, and capital stock of small business concerns and other property.

661—*Legal services.*

This account will represent the cost of legal services rendered to the company.

663—*Salaries.*

This account will include the balance in subaccounts Nos. 663.1 and 663.2.

633.1—*Salaries of officers or Partners.*

This account will represent the salary cost of all officers/partners of the company, including directors' salaries, if any, but not directors' fees for attendance at meetings.

633.2—*Salaries of employees.*

This account will represent the salary cost of all employees other than officers/partners, including salaries of any temporary or part-time employees engaged for specific assignments.

664—*Taxes, excluding income taxes.*

This account will represent the cost of all taxes, including those on corporate premises owned, motor vehicle, and personal property, social security taxes (company's portion), and other taxes charged to the company, exclusive of income taxes.

665—*Travel.*

This account will represent all travel expense, including transportation charges, automobile maintenance, operating expense, meals, lodging, telephone, telegraph, and other company cost incurred by officers and employees while in a travel status.

670—*Employee benefits expense.*

This account will represent the cost assumed by the company in contributing to funds providing for employee retirement benefits and other types of employee benefits, except group life insurance. The portion, if any, of the cost of employee benefits withheld from

salaries or received from employees will be reflected in account No. 378.

672—*Amortization of organization expense.*

This account will represent the amount of legal fees, promotional expense, stock certificate costs, incorporation fees, taxes, and other related costs incurred in organizing the company, which are charged to expense (this account) as incurred or are transferred to this account periodically through the amortization of organization costs established as an asset in account No. 266.

679—*Miscellaneous operating expenses.*

This account will represent the amount of operating expenses not specifically provided for in other accounts. There will be included expenses incurred in connection with dues, subscriptions, donations, and similar items; charges made to the company for custodial or safekeeping services in connection with its portfolio securities; and bank service charges, exchange on checks, protest fees, etc., and the cost of office supplies such as stationery, accounting forms, binders, pencils, etc.

680—*Estimated losses on receivables.*

This account will represent the amount of estimated losses applicable to the fiscal year on notes and accounts receivable, and interest receivable.

Debit:

(a) With amount of such estimated losses incurred.

Credit:

(a) At the end of the fiscal year, with the balance of account (transfer to profit and loss summary).

700—*Loss of U.S. Government securities.*

This account will represent the amount of loss on the sale or other disposition of United States Government obligations, direct and fully guaranteed, carried in account No. 130–135.

Debit:

(a) With amount of loss on such securities sold or disposed of otherwise.

Credit:

(a) At the end of the fiscal year, with the balance of account (transfer to account 460 or 462).

(See account No. 570.)

701—*Loss on loans.*

This account will represent the amount of loss on the sale or other disposition of loans of small business concerns carried in account No. 170.

Debit:

(a) With amount of loss on such loans written down or sold or disposed of otherwise.

Credit:

(a) At the end of the fiscal year, with the balance of account (transfer to realized gain and loss summary—account No. 461).

(See account No. 571.)

702—*Loss on debt securities.*

This account will represent the amount of loss on the sale or other disposition of debt securities of small business concerns carried in accounts Nos. 180 and 184.

Debit:

(a) With amount of loss on such debt securities written down or sold or disposed of otherwise.

Credit:

(a) At the end of the fiscal year, with the balance of account (transfer to realized gain and loss summary—account No. 461).

(See account No. 572.)

704—*Loss on capital stock of SBCs.*

This account will represent the amount of loss on the sale or other disposition of capital stock of small business concerns carried in accounts Nos. 190 and 191.

Debit:

(a) With amount of loss on such capital stock written down or sold or disposed of otherwise.

Credit:

(a) At the end of the fiscal year, with the balance of account (transfer to account No. 461).

(See account No. 574.)

705—*Loss on equity interest of unincorporated concern.*

This account will represent the amount of loss resulting from sale or other disposition of equity interests of unincorporated concerns carried in account No. 194.

Debit:

(a) With amount of loss on such equity interest sold, written off, or disposed of otherwise.

Credit:

(a) At the end of the fiscal year, with the balance of account (transfer to account No. 461).

(See account No. 575.)

706—*Loss on warrants, options, and other stock rights acquired from SBCs.*

This account will represent the amount of loss on the sale or other disposition of warrants, options, and other stock rights acquired from SBCs.

Debit:

(a) With amount of loss on such warrants, and other stock rights written down or sold or disposed of otherwise.

Credit:

(a) At the end of the fiscal year, with the balance of account (transfer to account No. 461).

(See accounts Nos. 197, 576, and memorandum record No. NA–10.)

707—*Loss on assets acquired in liquidation of portfolio securities.*

This account will represent the amount of loss on the sale or other disposition of assets acquired in liquidation of portfolio securities of small business concerns carried in account No. 200, 204.

Debit:

(a) With amount of loss on such assets written down or sold or disposed of otherwise.

Credit:

(a) At the end of the fiscal year, with the balance of account (transfer to account No. 461).

(See account No. 577.)

708—*Loss on Operating Concerns Acquired.*

This account will represent the amount of loss on the sale or other disposition of investments in operating concerns acquired.

Debit:

(a) With amount of loss on such assets or disposed of otherwise.

Credit:

(a) At the end of the fiscal year, with the balance of account (transfer to account No. 461).

(See account No. 578.)

709—*Loss on other assets.*

This account will represent the amount of loss on the sale or other disposition of assets not specifically provided for in other accounts.

Debit:

(a) With amount of loss on such assets or disposed of otherwise.

Credit:

(a) At the end of the fiscal year, with the balance of account (transfer to account No. 461).

(See account No. 579.)

710—*Expense on assets acquired in liquidation of portfolio securities.*

This account will represent the amount of expense incurred on assets acquired in liquidation of portfolio securities, including the operation and depreciation of properties, carried in account No. 204. The account also will include the amount of interest expense accrued on mortgages payable on assets acquired in liquidation of portfolio securities.

Debit:

(a) With amount of such expense incurred.

Credit:

(a) At the end of the fiscal year, with the balance of account (transfer to profit and loss summary—account No. 460).

Note.—Instances when a liquidating agent is employed to supervise the disposition of the assets, appropriate subsidiary accounts should be maintained by the agent.

Cash collected from the sale of assets by the liquidating agent should be remitted immediately to the company. The company should maintain a local depository bank account, in which all receipts of the agent are deposited when direct remittances to the company are not feasible. Deposit balances in this account should be subject to withdrawal by check only by the company and should be reflected on the company's records in the same manner as other bank accounts.

Any advances to a liquidating agent for expenses incident to the operation of or in the disposition of assets acquired in the liquidation of loans and debt securities should be charged to account No. 230—Prepaid expenses.

715—*Other expenses.*

This account will represent the amount of nonoperating expenses not specifically provided for in other accounts, including, on the books on the "participating" company, the amount of compensation expense for financial services received from "initiating" companies in connection with participations purchased.

Debit:

(a) With amount of such expenses incurred.

Credit:

(b) At the end of fiscal year, with the balance of account (transfer to profit and loss summary—account No. 460).

(See account No. 340.)

720—*Income taxes—net income.*

This account will include the balances in subaccounts Nos. 720.1, 720.2, 720.3, etc.

720.1—*Federal income taxes—net income.*

This account will represent the amount of Federal income taxes applicable to net income for the current fiscal year.

Debit:

(a) With amount of such taxes accrued.

Credit:

(a) At the end of the fiscal year, with the balance of account (transfer to profit and less summary—account No. 460).

720.2—*State income taxes—net income.*

This account will represent the amount of State income taxes applicable to net income for the current fiscal year.

Debit:

(a) With amount of such taxes accrued.

Credit:

(a) At the end of the fiscal year, with the balance of account (transfer to profit and loss summary—account No. 460).

(See subaccount Nos. 354.1 and 354.2)

722—*Income taxes—net realized gain on investments.*

This account will include the balance in subaccounts Nos. 722.1, 722.2, 722.3, etc.

722.1—*Federal income taxes—net realized gain on investments.*

This account will represent the amount of Federal income taxes applicable to net realized gain on investments for the current fiscal year.

Debit:

(a) With amount of such taxes accrued.

Credit:

(a) At the end of the fiscal year, with the balance of account (transfer to realized gain and loss summary account 461 or 462).

(See subaccount No. 354.1.)

722.2—*State income taxes—net realized gain on investments.*

This account will represent the amount of State income taxes applicable to net realized gain on investments for the current fiscal year.

Debit:

(a) With amount of such taxes accrued.

Credit:

(a) At the end of the fiscal year, with the balance of account (transfer to realized gain and loss summary account 461 or 462).

(See subaccount No. 354.2.)

Memorandum records

Nominal Assets

NA–10—*Stock purchase warrants or options on stock of SBCs.*

This record will show the company's ownership of detachable stock purchase warrants or options on stock of SBCs, retained after the accompanying financing instruments have been disposed of, for which no consideration was given distinct from that surrendered for such financing instruments and for which no separate cost has otherwise been determined.

Each such detachable stock purchase warrant or option certificate should be entered in this record, upon detachment, at a nominal value of one dollar ($1.00). Upon sale of such a detached stock purchase warrant or option, upon exercise or expiration of rights conveyed by such a detached stock purchase warrant or option or upon the determination of a cost to be recorded for such a detached stock purchase warrant or option, the entry establishing such certificate in the memorandum records is to be discharged through an equivalent credit.

Debit:

(a) With nominal value of such detachable stock purchase warrants or options upon their detachment from capital stock certificates or debt securities.

Credit:

(a) With nominal value of such detachable stock purchase warrants or options upon exercise or expiration of rights conveyed by such warrant or option certificates.

(b) With nominal value of such detachable stock purchase warrants or options sold or disposed of otherwise.

(c) With nominal value of such detachable stock purchase warrants or options for which a separate cost has been established.

(See accounts Nos. 180, 190, and 197)

Contingent Liabilities

CL–15—*Commitments outstanding.*

This record will show the amount of financing commitments made and outstanding to small business concerns, including commitments for loans and for the acquisition of small business concerns' capital stock and debt securities. This record also will show the amount of deferred participations. A deferred participation is defined as a commitment under a participation agreement whereby the "participating" company will make funds available on a deferred basis to the "initiating" company in connection with the latter's financing of, or commitment to finance, a small business concern, or in connection with an "initiating" small business investment company's acquisition of loans or equity securities from other such companies. When funds are advanced against commitments, appropriate entry will be made in this record.

CL–16—*Guarantees outstanding.*

This record will show the amount for which the company is contingently liable under guarantees issued to lending institutions in connection with obligations of portfolio concerns under notes, debentures, or other evidences of indebtedness, or short-term advances to such concerns.

CL–17—*Other contingent liabilities.*

This record will show the amount of miscellaneous contingent obligations not otherwise classified.

Options on Company's Stock

OCS–1—*Options on company's stock.*

This record will show details of outstanding options on the company's capital stock granted in lieu of salary or in payment for services actually rendered to the company. The following data will be included:

1. Identification of person or entity holding options.
2. Number of shares optioned.
3. Type and class of stock called for by options.
4. Dates of grant and of expiration of options.
5. Price or prices at which options exercisable, with dates they apply.

6. Fair market value, per share, of stock called for at date each option was granted.

7. Price of each option as percent of fair market value of optioned stock at date option was granted.

8. Provisions for termination of options in case of death or retirement of optionees, or other circumstances.

9. Details of authorization, shares reserved for, issuance, exercise, lapse, and forfeiture of options provided for under the company's stock option plan.

Actual Loss Experience

AL-1—*Actual (realized) losses.*

This record will show for each fiscal year, and also accumulatively, the amount of actual (realized) losses incurred through disposition, writedown, or write-off of loans and investments. Losses shall be stated in total for all loans and investments and also separately for loans; debt securities; capital stock of small business concerns; warrants, options, and other stock rights of small business concerns; assets acquired in liquidation of loans and debt securities; and amounts due from debtors on sale of assets acquired in liquidation of loans and debt securities. Losses realized shall be determined in relation to cost of the assets involved without regard to the existence or nonexistance of related allowances for losses.

WI—Worthless Investments Written Off.

WIR—Worthless Investments Written Off Reserve.

These two accounts provide an internal control for investments determined to be worthless. Each such investment will be writtendown to the sum of $1.00 and a reserve of the same amount established. When the evidentiary documents are physically disposed of, the WI and WIR will be reduced by 1 dollar and the auditor will footnote the actions taken.

PDA—Preferred Dividend Arranges on Preferred Stock Sold SBA.

A memorandum account will be established showing:

(a) the amount of each arrearage

(b) the total amount of arrearage

(c) the number of arrearages

(d) the date the arrearages began.

The auditor will disclose the above information by an appropriate footnote.

[FR Doc. 84-3225 Filed 2-9-84; 8:45 am]

BILLING CODE 8025-01-M

federal register

Friday
February 10, 1984

Part III

Department of Labor

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions; Notice

DEPARTMENT OF LABOR

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor specify, in accordance with applicable law and on the basis of information available to the Department of Labor from its study of local wage conditions and from other sources, the basic hourly wage rates and fringe benefit payments which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of the character and in the localities specified therein.

The determinations in these decisions of such prevailing rates and fringe benefits have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of subtitle A of title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's Orders 12–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in effective date as prescribed in that section, because the necessity to issue construction industry wage determination frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions are effective from their date of publication in the **Federal Register** without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision together with any modifications issued subsequent to its publication date shall be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR, Part 5. The wage rates contained therein shall be the minimum paid under such contract by contractors and subcontractors on the work.

Modifications and Supersedeas Decisions to General Wage Determination Decisions

Modifications and supersedeas decisions to general wage determination decisions are based upon information obtained concerning changes in prevailing hourly wage rates and fringe benefit payments since the decisions were issued.

The determinations of prevailing rates and fringe benefits made in the modifications and supersedeas decisions have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of subtitle A of title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's orders 13–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in foregoing general wage determination decisions, as hereby modified, and/or superseded shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged in contract work of the character and in the localities described therein.

Modifications and supersedeas decisions are effective from their date of publication in the **Federal Register** without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5.

Any person, organization, or governmental agency having an interest in the wages determined as prevailing is encouraged to submit wage rate information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Office of Government Contract Wage Standards, Division of Government Contract Wage Determinations, Washington, D.C. 20210. The cause for not utilizing the rulemaking procedures prescribed in 5 U.S.C. 553 has been set forth in the original General Determination Decision.

Modifications to General Wage Determination Decisions

The numbers of the decisions being modified and their dates of publication in the **Federal Register** are listed with each State.

Arizona: AZ83–5107	Mar. 18, 1983.
Delaware: DE82–3015	June 4, 1982.
Illinois:	
IL81–2004	Mar. 13, 1981.
IL83–2052	July 1, 1983.
IL83–2064	Aug. 12, 1983.
New York:	
NY83–3003	Mar. 25, 1983.
NY81–3062	Sept. 11, 1981.
NY81–3045	July 17, 1981.
Ohio:	
OH83–5122	Nov. 25, 1983.
OH83–5124	Dec. 2, 1983.
OH83–5125	Dec. 23, 1983.
OH83–5127	Do.
Oklahoma:	
OK83–4066	Sept. 16, 1983.
OK83–4067	Do.
Pennsylvania:	
PA81–3068	Sept. 25, 1981
PA81–3073	Oct. 2, 1981.
PA81–3076	Oct. 9, 1981.
PA81–3080	Oct. 23, 1981.
PA82–3011	Mar. 12, 1982.
PA82–3012	Mar. 5, 1982.
PA82–3016	May 14, 1982.
Washington: WA81–5100	Mar. 6, 1981.

Supersedeas Decisions to General Wage Determination Decisions

The numbers of the decisions being superseded and their dates of publication in the **Federal Register** are listed with each State. Supersedeas decision numbers are in parentheses following the numbers of the decisions being superseded.

Missouri and Kansas: MO83–4043 (MO84–4009).	June 3, 1983
Nevada: NV82–5114 (NV85–5002)	Aug. 6, 1982.
Pennsylvania:	
PA81–3069 (PA84–3001)	Sept. 25, 1981.
PA81–3072 (PA84–3002)	Oct. 2, 1981.
PA81–3077 (PA84–3003)	Oct. 9, 1981.

Signed at Washington, D.C., this 3rd day of February, 1984.

James L. Valin,

Assistant Administrator.

BILLING CODE 4510-27-M

MODIFICATIONS

DECISION NO. DE82-3015 MOD. #9 (47 FR 245 - June 4, 1982) New Castle, Kent & Sussex Cos. Delaware	Basic Hourly Rates	Fringe Benefits
Change:		
LABORERS:		
Building Construction		
New Castle County		
Class 1	$12.32	3.18
Class 2	12.57	3.18
Class 3	12.82	3.18
Class 4	13.32	3.18
Class 5	13.57	3.18
Kent & Sussex Cos.:		
Class 1	12.30	2.95
Class 2	12.55	2.95
Class 3	12.80	2.95
Class 4	12.90	2.95
Class 5	13.55	2.95
Heavy Construction		
New Castle County:		
General laborers, asphalt tamper, asphalt raker, concrete pitman, landscaper, planter, puddler, railroad trackman seeder and arboriate, and signalman	10.07	3.18
Pipelayers	10.22	3.18
Blasters, caissons, and cofferdams (open air below 8 feet where excavations for circular caissons and cofferdams are 8 feet or more below level of natural grade adjacent to start point) diamond point drills, from setters, gunite nozzle operators, and wagon frills	10.37	3.18
Kent & Sussex Counties:		
Common laborers, landscapers, planters, seeders, aborists, asphalt tampers, rakers, concrete pitman, puddlers, rubber magazine tenders, railroad trackmen, signal men	9.05	2.95
Pipelayers	9.20	2.95
Wagon drill, diamond point drill, gunite nozzlemen, form setters, blasters, caissons & coffer dams (open-air, below eight feet.)	9.35	2.95

DECISION NO. AZ83-5107 MOD. #6 (48 FR 11605 - March 18, 1983) Statewide, Arizona	Basic Hourly Rates	Fringe Benefits
Add:		
Plumbers:		
Pinal County	19.84	3.38

MODIFICATIONS

DECISION NO. IL83-2052 - Mod #5 (48 FR 30576 - July 1, 1983) Adams, Bond, Boone, Crown, Bureau, Calhoun, Carroll, Cass, Clinton, DeKalb, Fulton, Greene, Hancock, Henderson, Henry, Jersey, JoDaviess, Knox, LaSalle, Lee, Livingston, Logan, McDonough, McLean, Macoupin, Marshall Mason, Menard, Mercer, Monroe, Montgomery, Morgan, Ogle, Pike, Putnam, Randolph, Rock Island, Schuyler, Scott, Stark, Stephenson, Warren, Washington, Whiteside, Winnebago, and Woodford Counties, Illinois	Basic Hourly Rates	Fringe Benefits
OMIT:		
CARPENTERS; LATHERS; MILLWRIGHTS; PILEDRIVERMEN; and SOFT FLOOR LAYERS:		
Area 10:		
Carroll & JoDaviess Counties:		
Carpenters; Soft Floor Layers	$14.53	$1.85
Millwrights	18.35	1.85
Area 19:		
Stephenson County:		
Carpenters	14.68	1.70
Millwrights	18.72	2.40
ADD:		
CARPENTERS; LATHERS; MILLWRIGHTS; PILEDRIVERMEN; and SOFT FLOOR LAYERS:		
Area 7:		
Stephenson County:		
Carpenters; Soft Floor Layers	14.20	2.40
Millwrights; Piledrivermen	18.72	2.49
Area 18:		
Carroll & JoDaviess Counties:		
Carpenters; Piledrivermen; and Soft Floor Layers	14.20	2.40
Millwrights	18.72	2.40

DECISION NO. IL83-2064 - MOD. #1 (48 FR 36778 - Aug. 23, 1983) Macon County, Illinois	Basic Hourly Rates	Fringe Benefits
Change:		
SHEET METAL WORKERS:		
Residential	$10.10	$2.48

MODIFICATIONS

DECISION NO. IL81-2004 MOD. #3 (46 FR16818 - March 13, 1981) Illinois, Indiana, Kentucky, Missouri, Ohio & West Virginia	BASIC HOURLY RATES	FRINGE BENEFITS
Change:		
Area IV		
Within the geographical jurisdiction of the St. Paul District, Corps of Engineers Levermen, Engineer,	17.14	4.00
Mechanic and Boatman Oiler	15.30	4.00
Area V		
Within the geographical jurisdiction of the Rock Island District, Corps of Engineers Levermen, Engineer,	18.73	4.00
Mechanic, and Boatman Oiler	16.51	4.00
Area VI		
Within the geographical jurisdiction of the Chicago District, Corps of Engineets Levermen, Engineer,	20.35	4.00
Mechanic, and Boatman Oiler	16.88	4.00

MODIFICATIONS

DECISION NO. NY83-3003 - MOD. #6 (48 FR 12647 - March 25, 1983) ONONDAGA COUNTY, NEW YORK	Basic Hourly Rates	Fringe Benefits
CHANGE:		
BRICKLAYERS & STONE MASONS (Except Cicero & Dewitt Townships)	14.73	3.31
CEMENT MASONS (Cicero and Dewitt Townships):		
Building	14.30	3.20
Heavy & Highway	12.90	3.20
STEAMFITTERS	16.145	4.32+e
ADD:		
FOOTNOTE:		
e. Labor Day and Thanksgiviving Day, provided the employee has worked the week prior to the holiday.		
DECISION NO. NY81-3062 - MOD. #9 (46 FR 45530 - Sept. 11 1981) WESTCHESTER CO. NEW YORK		
CHANGE:		
PLUMBERS	17.89	5.41+f
ADD:		
FOOTNOTE:		
f. Additional Semurity Annuity Benefit: $7.00 per day for each day worked by each worker.		

MODIFICATIONS

DECISION NO. NY81-3045 - MOD. #6 (46 FR 37204 - July 17, 1981) NIAGARA CO., NEW YORK	Basic Hourly Rates	Fringe Benefits
CHANGE:		
ASBESTOS WORKERS	17.35	3.51
BOILERMAKERS	17.85	1.875
BRICKLAYERS		
North Tonawanda		
Bricklayers & Stone Masons	16.66	5.00
Terrazzo Workers & Tile Setters	16.28	5.00
Marble Setters	16.375	5.00
Remainder of County		
Bricklayers & Stone Masons	17.57	2.50
Marble Masons, Terrazzo Workers & Tile Setters	17.32	2.50
CARPENTERS		
North Tonawanda		
Carpenters, Millwrights, Piledrivermen & Soft Floor Layers	16.93	4.60
Remainder of County		
Carpenters, Soft Floor Layers, Millwrights & Piledrivermen	15.23	5.375
Heavy & Highway	10.615	5.38+a
CEMENT MASONS	15.61	4.60
Swinging Scaffold	15.86	4.60
ELEVATOR CONSTRUCTORS	18.65	2.69+b+c
ELEVATOR CONSTRUCTORS HELPERS	13.055	2.69+b+c
ELEVATOR CONSTRUCTORS HELPERS PROBATIONARY	9.325	
GLAZIER	15.48	4.71
IRONWORKERS		
Structural, Ornamental & Reinforcing	17.98	2.62
Sheeter	19.78	2.62
PAINTERS		
Remainder of County		
Brush	14.66	5.35
Spray, Steel, Steeple Jack, Swing Scaffold, Sandblasting	15.66	5.35
Bridge - crossing the Niagara River	16.655	5.35
ROOFERS		
Composition	16.86	2.71
Slate & Tile	17.01	2.71
SHEET METAL WORKERS	17.68	4.36+j
SPRINKLER FITTERS	15.54	5.21

MODIFICATIONS

MODIFICATIONS

MODIFICATIONS

DECISION NO. NY81-3045
(CONT'D)

LINE CONSTRUCTION:	Basic Hourly Rates	Fringe Benefits
Electrical Overhead & Underground Distribution Work & Signal Work for RR and for R.E.A. where no other trade is or has been involved:		
Journeyman Lineman & Technician	14.20	3.95+ 5%+a
Cable Splicer	18.92	3.95+ 5%+a
Groundman Digging Machine Operator, Groundman Dynamite Man	12.78	3.95+ 5%+a
Groundman Mobile Equipment Operator, Mechanic First Class, Ground Truck Driver	11.36	3.95+ 5%+a
Groundman Truck Driver (Tractor Trailer)	12.07	3.95+ 5%+a
Driver Mechanic, Groundman - Experienced	10.65	3.95+ 5%+a
All Overhead Transmission Line Work and Lighting for Athletic Fields		
Journeyman Lineman & Technician	16.32	3.95+ 5%+a
Groundman Digging Machine Operator, Groundman Dynamite Man	14.688	3.95+ 5%+a
Groundman Mobile Equipment Operator, Mechanic First Class Groundman Truck Driver	13.056	3.95+ 5%+a
Groundman Truck Driver (Tractor Trailer Unit)	13.872	3.95+ 5%+a
Driver Mechanic Groundman	12.24	3.95+ 5%+a
Sub-Station Switching Substructures (when not part of the line), Electrical, Telephone or CATV Commercial Work, Street Lighting & Signal Systems where other trades are or have been involved		
Journeyman Lineman & Technician	17.20	3.95+ 5%+a
Cable Splicer	18.92	3.95+ 5%+a
Groundman Digging Machine Operator, Groundman Dynamite Man	15.48	3.95+ 5%+a
Groundman Mobile Equipment Operator, Mechanic First Class, Groundman Truck Driver	13.76	3.95+ 5%+a
Groundman Truck Driver (Tractor Trailer Unit)	14.62	3.95+ 5%+a
Driver Mechanic, Groundman	12.90	3.95+ 5%+a
All Pipe-type Cable Installations Maintenance Jobs or Projects		
Journeyman Lineman	17.20	3.95+ 5%+a
Certified Lineman Welder	18.06	3.95+ 5%+a
Cable Splicer	18.92	3.95+ 5%+a
Groundman Equipment Operator	17.20	3.95+ 5%+a
Groundman Truck Driver (Tractor Trailer Unit)	14.62	3.95+ 5%+a
Groundman Truck Drivers	13.76	3.95+ 5%+a
Groundman	12.90	3.95+ 5%+a

FOOTNOTE:

a. Paid Holidays: New Year's Day, Washington's Birthday, Good Friday, Decoration Day, Independence Day, Labor Day, Thanksgiving Day, Christmas Day and Election Day for the President of the United States and Election Day for the Governor of New York State, provided the employee works the day before or the day after the holiday.

MODIFICATIONS

DECISION NUMBER OH83-5122 - MOD. #4
(48 FR 53254 - November 25, 1983)
Statewide, Ohio

	Basic Hourly Rates	Fringe Benefits
Change:		
Carpenters:		
Area 1:		
Carpenters	$15.58	$2.72
Piledrivermen	15.87	2.72
Area 9:		
Piledrivermen	13.54	30%
Ironworkers:		
Area 8	17.06	3.61
Plumbers; Steamfitters; & Pipefitters:		
Area 13	17.57	5.66

DECISION NUMBER OH83-5124 - MOD. #1
(48 FR 54422 - December 2, 1983)
Lucas County, Ohio

	Basic Hourly Rates	Fringe Benefits
Change:		
Boilermakers	20.425	3.23
Carpenters; Lathers; Millwrights; & Piledriverman	19.31	2.73
Cement Masons	18.23	2.86
Electricians:		
Residential up to & inclu. 3 story apartments	11.88	3.00+ 3.3%
All Other Work:		
Electricians	20.00	3.00+ 3.3%
Cable Splicers	23.00	3.00+ 3.3%
Ironworkers	19.46	3.44
Plumbers; Steamfitters; & Pipefitters	19.20	3.72
Sheet Metal Workers	17.805	3.905
Soft Floor Layers:		
Commercial	17.54	2.91
Residential	17.54	2.91
Terrazzo Workers & Tile Setters	16.90	2.36
Omit:		
Power Equipment Operators Wage Rates & Classifications		

DECISION NUMBER OH83-5124 (Cont'd)

	Basic Hourly Rates	Fringe Benefits
Add:		
Power Equipment Operators:		
Master Mechanic	$17.76	$3.32
Group 1	17.24	3.32
Group 2	17.08	3.32
Group 3	16.73	3.32
Group 4	15.92	3.32
Group 5	15.59	3.32
Group 6	13.38	3.32

MODIFICATIONS

DECISION NUMBER OH83-5124 (CONT'D)

POWER EQUIPMENT OPERATORS CLASSIFICATIONS

GROUP A: Boiler or Compressor Operator Mounted on Crane (Piggy-Back Operation); Boom Trucks; Cableways; Cherry Pickers; Combination Concrete Mixer and Tower; Concrete Pumps (except Trailer Pumps); *Cranes; Derricks; Draglines; Dredges (Dipper, Clam or Suction) 3 Man Crew; Elevating Grader or Euclid Loader; Floating Equipment; Gradalls; Helicopter Operator and Helicopter Winch Operator (When Hoisting Builders Materials); Hoes; Hoists (Two or More Drums); Lift Slab or Panel Jack Operator; Locomotives; Maintenance Engineer (Mechanic or Welder); Mixer Paving (Multiple Drum); Mobile Concrete Pumps (With Boom); Panelboard; Pile Driver; Power Shovels; Rotary Drills used on Caisson Work for Foundations and SubStructure Work; Side Boom; Slip Form Pavers; Straddle Carriers; Trench Machine (Over 24" Wide); & Tug Boat

GROUP B: Asphalt Paver; Bulldozer; C.M.I. Type Equipment; Endloaders; Kohlman Type Loaders (Dirt Loading); Lead Greaseman; Mucking Machines; Power Grader; Power Scoops; Power Scrapers; & Push Cat

GROUP C: A-Frames; Air Compressor (Pressurizing Shafts or Tunnels); Asphalt Rollers; Boiler (15 lbs. pressure & over); Fork Lifts (except Masonry); Hoisting Engines (One Drum); House Elevators (except those automatic call button controlled); Man Lift; Mud Jacks; Pressure Grouting; Pump Operators (Installing or Operating Well Points or other Type of Dewatering System); Pumps (4" and Over Discharge); Submersible Pumps (4" and Over Discharge); Trailer Concrete Pumps (without Booms); Trench Machines (24" and Under); & Utility Operators

GROUP D: Compressors; Concrete Mixers (Capacity more than one bag); Concrete Mixers (one bag capacity, side loader); Conveyors; Generators; Gunite Machines; Pavement Breaker (Hydraulic or Cable); Post Driver; Post Hole Diggers; Road Widening Trencher; & Rollers (except Asphalt Rollers)

GROUP E: Backfiller & Tampers; Bar and Joint Installing Machines; Batch Plant; Bullfloats; Burlap and Curing Machines; Clafplanes; Concrete Spreaders; Crushers; Deckhands; Drum Fireman (In Asphalt Plants); Farm-type Tractors (Pulling Attacn.); Finishing Machines; Form Trenchers; Hydro Seeders; Pressure Pumps (Over 4" discharge); Self-propelled Power Spreader; Self-propelled Sub-Grader; Tire Repairmen; Tractors (Pulling Sheep Foot Roller or Grader); Vibratory Compactor (With Integral Power)

GROUP F: Boilers (Less Than 15 lbs. pressure); Fork Lift (Masonry); Inboard & Outboard Motor Boat Launch; Light Plant Operator; Oiler; Power Driven Heaters (Oil Fired); Power Scrubbers; Power Sweepers; Pumps (Under 4" discharge); Submersible Pumps (Under 4" discharge); Tenders; & VAC/ALLS

*BOOM & JIB OVER 150 FEET, $.25 PREMIUM; BOOM & JIB OVER 250 FEET, $.50 PREMIUM

MODIFICATIONS

DECISION NUMBER OH83-5125 - MOD. #1
(48 FR 56898 - December 23, 1983)

Ashtabula, Cuyahoga, Lake, Lorain, Portage, Stark, & Summit Counties, Ohio	Basic Hourly Rates	Fringe Benefits
Change:		
Carpenters; Millwrights; Piledrivermen; & Soft Floor Layers:		
Area 3:		
Commercial Building:		
Carpenters	$17.40	$3.49
Residential Carpenters	13.09	2.24
Cement Masons:		
Area 2	19.20	3.14
Electricians:		
Area 7:		
Family Residences, not to exceed 4 units, whether or not under the same roof and not exceeding 2 stories, with the exception of a single family residence which may be more than 2 stories	13.04	2.85+ 3.3%
Ironworkers:		
Area 2:		
Sheeters	18.87	4.12
Area 3:		
Ornamental; Reinforcing; & Structural	17.06	3.61
Sheeters; Layout Man	18.06	3.61
Line Construction:		
Area 1:		
Cable Splicer Operator; Linemen; Pole Digging Equipment Operator	19.50	.85+ 10%%
Groundman	15.60	.85+ 10%%
Pipefitters; Plumbers:		
Residential:		
Area 1	11.35	1.23
Roofers:		
Area 2	17.24	3.11
Omit:		
Power Equipment Operators (Except Well & Pump Work) Wage Rates & Classifications		
Add:		
Power Equipment Operators (Except Well & Pump Work):		
Area 1:		
Master Mechanic	$19.02	$3.32
Group 1	18.52	3.32
Group 2	18.37	3.32
Group 3	18.02	3.32
Group 4	17.34	3.32
Group 5	16.92	3.32
Group 6	13.74	3.32
Area 2:		
Master Mechanic	17.76	3.32
Group 1	17.24	3.32
Group 2	17.08	3.32
Group 3	16.73	3.32
Group 4	15.92	3.32
Group 5	15.59	3.32
Group 6	13.38	3.32

MODIFICATIONS

DECISION NUMBER OH83-5125 (Cont'd)

POWER EQUIPMENT OPERATORS CLASSIFICATIONS FOR AREA 1:

GROUP A: A-Frames; Boiler or Compressor Operator Mounted on Crane (Piggy-Back Operation); Boom Trucks; Cableways; Cherry Pickers; Combination Concrete Mixer & Tower; Concrete Pumps; Cranes; Derricks; Draglines; Dredge (Dipper, Clam or Suction) 3 Man Crew; Elevating Grader or Euclid Loader; Floating Equipment; Gradalls; Helicopter Operator & Helicopter Winch Operator (When Hoisting Builders Materials); Hoes; Hoists (Two or More Drums); Lift Slab or Panel Jack Operator; Locomotives; Maintenance Engineer (Mechanic or Welder); Mixer Paving (Multiple Drum); Mobile Concrete Pumps (With Boom); Panelboard; Pile Driver; Power Shovels; Rotary Drills used on Caisson Work for Foundations and SubStructure Work; Side Boom; Slip Form Pavers; Straddle Carriers; Trench Machine (Over 24" Wide); & Tug Boats

GROUP B: Asphalt Paver; Bulldozer; C.M.I. Type Equipment; End Loaders; Kohlman Type Loaders (Dirt Loading); Lead Greaseman; Mucking Machines; Power Grader; Power Scoops; Power Scrapers; & Push Cats

GROUP C: Air Compressor (Pressurizing Shafts or Tunnels); Asphalt Rollers; Fork Lifts; Hoist (One Drum); House Elevators (except automatic call button controlled); Man Lift; Mud Jacks; Power Boilers (Over 15 lbs. Pressure); Pressure Grouting; Pump Operators (Installing Well Points or other type of Dewatering system; Pumps (4" and Over discharge); Submersible Pumps (4" and Over discharge); Trenchers (24" and under); & Utility Operators

GROUP D: Compressors; Conveyors; Generators; Gunite Machines; Mixers (Capacity more than one bag); Mixers (One Bag capacity, side loader); Pavement Breaker (Hydraulic or Cable); Post Driver; Post Hole Diggers; Road Widening Trencher; & Rollers

GROUP E: Backfiller & Tampers; Bar & Joint Installing Machines; Batch Plant; Bullfloats; Burlap and Curing Machines; Clefplanes; Concrete Spreading Machine; Crushers; Deck Hands; Drum Fireman (Asphalt); Farm-type Tractors (Pulling Attach.); Finishing Machines; Form Trenchers High Pressure Pumps (over ½" discharge); Hydro Seeders; Self-propelled Power Spreader; Self-propelled Sub-Grader; Tire Repairman; Tractors (Pulling Sheeps Foot Roller or Grader); Vibratory Compactor (With Integral Power)

GROUP F: Inboard & Outboard Motor Boat Launch; Light Plant Operator; Oiler; Power Driven Heaters (Oil Fired); Power Scrubbers; Power Sweepers; Boilers (Less than 15 lbs. Pressure); Pumps (Under 4" discharge); Submersible Pumps (Under 4" discharge); Tenders; & VAC/ALLS

MODIFICATIONS

DECISION NUMBER OH83-5125 (Cont'd)

POWER EQUIPMENT OPERATORS CLASSIFICATIONS FOR AREA 2:

GROUP A: Boiler or Compressor Operator Mounted on Crane (Piggy-Back Operation); Boom Trucks; Cableways; Cherry Pickers; Combination Concrete Mixer and Tower; Concrete Pumps (except Trailer Pumps); *Cranes; Derricks; Draglines; Dredges (Dipper, Clam or Suction) 3 Man Crew; Elevating Grader or Euclid Loader; Floating Equipment; Gradalls; Helicopter Operator and Helicopter Winch Operator (When Hoisting Builders Materials); Hoes; Hoists (Two or More Drums); Lift Slab or Panel Jack Operator; Locomotives; Maintenance Engineer (Mechanic or Welder); Mixer Paving (Multiple Drum); Mobile Concrete Pumps (With Boom); Panelboard; Pile Driver; Power Shovels; Rotary Drills used on Caisson Work for Foundations and SubStructure Work; Side Boom; Slip Form Pavers; Straddle Carriers; Trench Machine (Over 24" Wide); & Tug Boat

GROUP B: Asphalt Paver; Bulldozer; C.M.I. Type Equipment; Endloaders; Kohlman Type Loaders (Dirt Loading); Lead Greaseman; Mucking Machines; Power Grader; Power Scoops; Power Scrapers; & Push Cat

GROUP C: A-Frames; Air Compressor (Pressurizing Shafts or Tunnels); Asphalt Rollers; Boiler (15 lbs. pressure & over); Fork Lifts (except Masonry); Hoisting Engines (One Drum); House Elevators (except those automatic call button controlled); Man Lift; Mud Jacks; Pressure Grouting; Pump Operators (Installing or Operating Well Points or other Type of Dewatering System); Pumps (4" and Over Discharge); Submersible Pumps (4" and Over Discharge); Trailer Concrete Pumps (without Booms); Trench Machines (24" and Under); & Utility Operators

GROUP D: Compressors; Concrete Mixers (Capacity more than one bag); Concrete Mixers (one bag capacity, side loader); Conveyors; Generators; Gunite Machines; Pavement Breader (Hydraulic or Cable); Post Driver; Post Hole Diggers; Road Widening Trencher; & Rollers (except Asphalt Rollers)

GROUP E: Backfiller & Tampers; Bar and Joint Installing Machines; Batch Plant; Bullfloats; Burlap and Curing Machines; Clefplanes; Concrete Spreaders; Crushers; Deckhands; Drum Fireman (In Asphalt Plants); Farm-type Tractors (Pulling Attach.); Finishing Machines; Form Trenchers; Hydro Seeders; Pressure Pumps (Over ½" discharge); Self-propelled Power Spreader; Self-propelled Sub-Grader; Tire Repairman; Tractors (Pulling Sheep Foot Roller or Grader); Vibratory Compactor (With Integral Power)

GROUP F: Boilers (Less Than 15 lbs. pressure); Fork Lift (Masonry); Inboard & Outboard Motor Boat Launch; Light Plant Operator; Oiler; Power Driven Heaters (Oil Fired); Power Scrubbers; Power Sweepers; Pumps (Under 4" discharge); Submersible Pumps (Under 4" discharge); Tenders; & VAC/ALLS

*BOOM & JIB OVER 150 FEET, $.25 PREMIUM; BOOM & JIB OVER 250 FEET, $.50 PREMIUM

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MODIFICATIONS

DECISION NUMBER OH83-5127 - MOD. #2
(48 FR 56903 - December 23, 1983)
Adams, Allen,...Wood, & Wyandot Counties, Ohio

	Basic Hourly Rates	Fringe Benefits
Omit:		
Power Equipment Operators : Zones 1, 2, & 3 Wage Rates & Classifications		
Add:		
Power Equipment Operators:		
Zone 1:		
Master Mechanic	$17.76	$3.32
Group A	17.24	3.32
Group B	17.08	3.32
Group C	16.73	3.32
Group D	15.92	3.32
Group E	15.59	3.32
Group F	13.36	3.32
Zone 2:		
Master Mechanic	17.48	3.32
Group A	16.96	3.32
Group B	16.80	3.32
Group C	16.44	3.32
Group D	15.66	3.32
Group E	15.33	3.32
Group F	13.13	3.32
Add (Cont'd):		
Power Equipment Operators:		
Zone 3:		
Master Mechanic	$19.02	$3.32
Group A	17.52	3.32
Group B	17.37	3.32
Group C	17.02	3.32
~~Group D~~	~~16.24~~	~~3.32~~
Group E	15.92	3.32
Group F	13.74	3.32

CLASSIFICATIONS FOR ZONES 1 and 2:

GROUP A: Boiler or Compressor Operator Mounted on Crane (Piggy-Back Operation); Boom Trucks; Cableways; Cherry Pickers; Combination Concrete Mixer and Tower; Concrete Pumps (except Trailer Pumps); *Cranes; Derricks; Draglines; Dredges (Dipper, Clam or Suction) 3 Man Crew; Elevating Grader or Euclid Loader; Floating Equipment; Gradalls; Helicopter Operator and Helicopter Winch Operator (When Hoisting Builders Materials); Hoes; Hoists (Two or More Drums); Lift Slab or Panel Jack Operator; Locomotives; Maintenance Engineer (Mechanic or Welder); Mixer Paving (Multiple Drum); Mobile Concrete Pumps (With Boom); Panelboard; Pile Driver; Power Shovels; Rotary Drills used on Caisson Work for Foundations and SubStructure Work; Side Boom; Slip Form Pavers; Straddle Carriers; Trench Machine (Over 24" Wide); & Tug Boat

GROUP B: Asphalt Paver; Bulldozer; C.M.I. Type Equipment; Endloaders; Kohlman Type Loaders (Dirt Loading); Lead Greaseman; Mucking Machines; Power Grader; Power Scoops; Power Scrapers; & Push Cat

GROUP C: A-Frames; Air Compressor (Pressurizing Shafts or Tunnels); Asphalt Rollers; Boiler (15 lbs. pressure & over); Fork Lifts (except Masonry); Hoisting Engines (One Drum); House Elevators (except those automatic call button controlled); Man Lift; Mud Jacks; Pressure Grouting; Pump Operators (Installing or Operating Well Points or other Type of Dewatering System); Pumps (4" and Over Discharge); Submersible Pumps (4" and Over Discharge); Trailer Concrete Pumps (without Booms); Trench Machines (24" and Under); & Utility Operators

GROUP D: Compressors; Concrete Mixers (Capacity more than one bag); Concrete Mixers (one bag capacity, side loader); Conveyors; Generators; Gunite Machines; Pavement Breader (Hydraulic or Cable); Post Driver; Post Hole Diggers; Road Widening Trencher; & Rollers (except Asphalt Rollers)

MODIFICATIONS

DECISION NUMBER OH83-5127 (Cont'd)

POWER EQUIPMENT OPERATORS CLASSIFICATIONS FOR ZONES 1 and 2 (Cont'd):

GROUP E: Backfiller & Tampers; Bar and Joint Installing Machines; Batch Plant; Bullfloats; Burlap and Curing Machines; Clefplanes; Concrete Spreaders; Crushers; Deckhands; Drum Fireman (In Asphalt Plants); Farm-type Tractors (Pulling Attach.); Finishing Machines; Form Trenchers; Hydro Seeders; Pressure Pumps (Over 4" discharge); Self-propelled Power Spreader; Self-propelled Sub-Grader; Tire Repairman; Tractors (Pulling Sheep Foot Roller or Grader); Vibratory Compactor (With Integral Power)

GROUP F: Boilers (Less Than 15 lbs. pressure); Fork Lift (Masonry); Inboard & Outboard Motor Boat Launch; Light Plant Operator; Oiler; Power Driven Heaters (Oil Fired); Power Scrubbers; Power Sweepers; Pumps (Under 4" discharge); Submersible Pumps (Under 4" discharge); Tenders; & VAC/ALLS

*BOOM & JIB OVER 150 FEET, $.25 PREMIUM; BOOM & JIB OVER 250 FEET, $.50 PREMIUM

POWER EQUIPMENT OPERATORS CLASSIFICATIONS FOR ZONE 3:

GROUP A: A-Frames; Boiler or Compressor Operator Mounted on Crane (Piggy-Back Operation); Boom Trucks; Cableways; Cherry Pickers; Combination Concrete Mixer & Tower; Concrete Pumps; Cranes; Derricks; Draglines; Dredge (Dipper, Clam or Suction) 3 Man Crew; Elevating Grader or Euclid Loader; Floating Equipment; Gradalls; Helicopter Operator & Helicopter Winch Operator (When Hoisting Builders Materials); Hoes; Hoists (Two or More Drums); Lift Slab or Panel Jack Operator; Locomotives; Maintenance Engineer (Mechanic or Welder); Mixer Paving (Multiple Drum); Mobile Concrete Pumps (With Boom); Panelboard; Pile Driver; Power Shovels; Rotary Drills used on Caisson Work for Foundations and SubStructure Work; Side Boom; Slip Form Pavers; Straddle Carriers; Trench Machine (Over 24" Wide); & Tug Boats

GROUP B: Asphalt Paver; Bulldozer; C.M.I. Type Equipment; End Loaders; Kohlman Type Loaders (Dirt Loading); Lead Greaseman; Mucking Machines; Power Grader; Power Scoops; Power Scrapers; & Push Cats

GROUP C: Air Compressor (Pressurizing Shafts or Tunnels); Asphalt Rollers; Fork Lifts; Hoist (One Drum); House Elevators (except automatic call button controlled); Man Lift; Mud Jacks; Power Boilers (Over 15 lbs. Pressure); Pressure Grouting; Pump Operators (Installing Well Points or other type of Dewatering system; Pumps (4" and Over discharge); Submersible Pumps (4" and Over discharge); Trenchers (24" and under); & Utility Operators

GROUP D: Compressors; Conveyors; Generators; Gunite Machines; Mixers (Capacity more than one bag); Mixers (One Bag capacity, side loader); Pavement Breaker (Hydraulic or Cable); Post Driver; Post Hole Diggers; Road Widening Trencher; & Rollers

GROUP E: Backfiller & Tampers; Bar & Joint Installing Machines; Batch Plant; Bullfloats; Burlap and Curing Machines; Clafplanes; Concrete Spreading Machine; Crushers; Deck Hands; Drum Fireman (Asphalt); Farm-type Tractors (Pulling Attach.); Finishing Machines; Form Trenchers High Pressure Pumps (over 4" discharge); Hydro Seeders; Self-propelled Power Spreader; Self-propelled Sub-Grader; Tire Repairman; Tractors (Pulling Sheeps Foot Roller or Grader); Vibratory Compactor (With Integral Power)

GROUP F: Inboard & Outboard Motor Boat Launch; Light Plant Operator; Oiler; Power Driven Heaters (Oil Fired); Power Scrubbers; Power Sweepers; Boilers (Less than 15 lbs. Pressure); Pumps (Under 4" discharge); Submersible Pumps (Under 4" discharge); Tenders; & VAC/ALLS

MODIFICATIONS

DECISION #OK83-4068-MOD#5 (48 FR 41714-September 16, 1983)	Basic Hourly Rates	Fringe Benefits
Alfalfa,Beckham,Blaine, Caddo,Canadian,Carter, Cleveland,Comanche,Cotton,Custer,Dewey,Ellis, Garfield,Garvin,Grady, Grant,Greer,Harmon,Harper,Jackson,Jefferson, Johnston,Kay,Kingfisher, Kiowa,Lincoln,Logan, Love,McClain,Major, Marshall,Murray,Noble, Oklahoma,Payne,Pontotoc, Roger Mills,Pottawatomie, Seminole,Stephens,Tillman,Washita,Woods & Woodward Cos., Oklahoma		
CHANGE:		
Line Construction:		
Lineman	$16.24	3⅛%+ 1.00
Cable Splicers	17.54	3⅛%+ 1.00
Hole Digger & Heavy Equipment Operator (pole or cat equipment)	14.41	3⅛%+ 1.00
Jackhammerman	11.50	3⅛%+ 1.00
Line Truck (winch oper.)	12.69	3⅛%+ 1.00
Powderman	13.99	3⅛%+ 1.00
Groundman	10.31	3⅛%+ 1.00
Truck Driver (flatbed, ton & half & under)	10.96	.85
PLASTERERS	15.60	.85
BRICKLAYERS-STONEMASONS Area 5	14.50	1.40

DECISION #OK83-4067-MOD#6 (48 FR 41710-September 16, 1983)	Basic Hourly Rates	Fringe Benefits
Adair,Atoka,Bryan,Coal, Cherokee,Craig,Creek, Delaware,Haskell,Hughes, Leflore,Latimer,McIntosh,Mayes,Muskogee, Nowata,Okfuskee,Okmulgee,Osage,Ottawa,Pawnee, Pittsburg,Pushmataha, Rogers,Tulsa,Sequoyah, Wagoner & Washington Cos., Oklahoma		
CHANGE:		
Line Construction: (except Braden, Pomola & Spiro Townships in LeFlore County)		
Lineman	$16.24	3⅛%+ 1.00
Cable Splicers	17.54	3⅛%+ 1.00
Hole Digger & Heavy Equipment Operator (pole or cat equivalent)	14.41	3⅛%+ 1.00
Jackhammerman	11.50	3⅛%+ 1.00
Line Truck (winch oper.)	12.69	3⅛%+ 1.00
Powderman	13.99	3⅛%+ 1.00
Groundman	10.31	3⅛%+ 1.00
Truck Driver (flatbed, ton & half & under)	10.96	3⅛%+ 1.00
BRICKLAYERS-STONEMASONS Area 6	14.80	1.40

MODIFICATIONS

DECISION NO. PA81-3073 - MOD. #7 (46 FR 48853 - October 2, 1981) Northumberland County, Pennsylvania	Basic Hourly Rates	Fringe Benefits
CHANGE:		
ABESTOS WORKERS	16.33	2.31
ELECTRICIANS: Delware, Lewis & Trubut	13.06	3.57
LABORERS: North of Susquehanna River, Unskilled laborers scaffold builders, wrecking, window cleaners & demolition	9.20	1.40
Masons tenders, operators of jackhammers, paving breakers, vibrators & other pneumatic & mechanical tool coming under the jurisdiction of laborers, wagon drill operators, excavating for caisson, under pinning & pier holes (below 12'), non-metallic pipe layers plasterer tenders, mortar men mixed by hand handling & using cutting or burning torches in the wrecking of building	9.35	1.40
Plumbers	17.05	2.39
Steamfitters	17.05	2.39

DECISION NO. PA81-3076 - MOD. NO. 9 (46 FR 50263 - October 9 1981) SCHUYLKILL COUNTY PENNSYLVANIA	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Bricklayers & Stonemasons	13.09	2.66
Carpenters	14.50	2.25
Ironworkers	17.65	3.50
Laborers:		
Class 1	8.95	1.00
Class 2	9.15	1.00
Millwrights	16.57	2.25
Tile Setters	12.09	2.66

DECISION NO. PA81-3068 - MOD. #13 (46 FR 47403 - September 25, 1981) LEBANON COUNTY, PENNSYLVANIA	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Carpenters	14.50	2.25
Cement Masons West of Route 501	13.42	2.20
Line Construction: Lineman & Cable Splicer	14.74	.80+3 3/8%
Groundman	8.77	.80+3 3/8%
Winch truck operator	10.26	.80+3 3/8%
Millwrights	16.57	2.25
Plasterers: West of Route 501	11.90	2.21
Plumbers & Steamfitters West of Route 501	17.05	2.39
Roofers: Annivile, Cold Springs, East Hanover, North Anniville, North Cornwall, North Londonderry, South Anniville, South Londonderry, Union, West Cornwall Twp.: Compositions	12.61	2.10
Remainder of County: Composition, damp & Waterproofing	18.17	3.59
Sheet metal workers	15.23	4.39
Soft Floor Layers	11,94	2.25

MODIFICATIONS

DECISION NO. PA82-3011 - MOD. NO. 7
(47 FR 10963 - March 12, 1982)
BRADFORD, TIOGA & UNION COUNTIES, PENNSYLVANIA

CHANGE:

	Basic Hourly Rates	Fringe Benefits
Bricklayers & Stonemasons	12.25	2.575
Electricians:		
Tioga County in its entirety; Remainder of Union and Bradford Counties	13.06	3.57
Townships of E. Buffalo, Union & Lewisburg in Union County	15.75	1.05+ 3%
Bradford County, Town of Towanda, that portion of the County West of the Susquehanna River South of Towanda and West of U.S. Highway 309, North of Towanda	15.25	3.80+ 3%
LABORERS:		
Unskilled Laborers, Scaffold Builders, Wrecking, Window Cleaners & Demolition	9.20	1.40
Operators of Jackhammers, Paving Breakers, Vibrator & other pneumatic & mechanical tools coming under the jurisdiction of Laborers, Wagon Drill operators, Excavating for Caisson, under pinning & Pier Holes (below 12') no-metallic pipe layers, plasterers Tenders, Mortar Men (mixed by hand) handling & using cutting burning torches in the wrecking of buildings.		
Masons Tenders	9.35	1.40
Millwrights	16.57	2.25
Plumbers & Steamfitters: Tioga & Union counties and Eastern half of Bradford County	17.56	2.44
Soft Floor Layer	11.94	2.25

DECISION NO. PA81-3080
MOD. NO. 8
(47 FR 52078 - October 23, 1981)
Lehigh County, Pa.

CHANGE:

	Basic Hourly Rates	Fringe Benefits
Bricklayers	14.05	3.02
Cement Masons	15.48	1.90
Line Construction:		
Linemen & Cable Splicer	15.83	.80+3 3/8%
Groundmen	9.24	.80+3 3/8%
Winch truck op.	10.81	.80+3 3/8%
Marble Setters	13.45	3.40
Plasterers	15.36	1.91
Stonemasons	14.05	3.02
Terrazzo Workers	13.70	3.40
Tile Setters	13.45	3.40
Truck Drivers	10.80	e+f+g

FOOTNOTES:

e. Employer Contributes $127.03 per month to a Health and Welfare Fund.

f. Employer Contributes $108.34 per month to a pension fund.

MODIFICATIONS

DECISION NO. PA82-3012 - MOD. NO. 8
(47 FR 9681 - March 5, 1982)
COLUMBIA, MONTOUR & SNYDER COUNTIES, PENNSYLVANIA

CHANGE:

	Basic Hourly Rates	Fringe Benefits
LABORERS:		
Montour Couty: Unskilled laborers, scaffold builders, wrecking, window cleaners & demolition	9.20	1.40
Operators of Jackhammer paving breakers, vibrators & other pneumatic & mechanical tools coming under the jurisdiction of laborers, wagon drill operators, excavating fur caisson, under pinning & pier holes (below 12 12') nonmetallic pipe layers, plasterers tenders, mortar men (mixed by handling & using cutting or burning torches in the wrecking of buildings, mason tenders	9.25	1.40
Millwrights	16.57	2.25
Plumbers & Steamfitters	17.05	2.39
Roofers: Synder County	12.61	2.10
Soft Floor Layers	11.94	2.25

DECISION NO. PA82-3016
MOD. NO. 5
(47 FR 20990 - May 14, 1982)
Northampton County, Pa.

CHANGE:

	Basic Hourly Rates	Fringe Benefits
Bricklayers & Stonemasons	15.20	2.17
Carpenters	15.50	2.91
Electricians: Remainder of County	16.70	1.57+ 10%
Ironworkers	18.70	3.70
Line Construction: Linemen	17.08	.80+3 3/8%
Cable Splicer	17.08	.80+3 3/8%
Groundman	10.25	.80+3 3/8%
Winch truck operator	11.96	.80+3 3/8%
Millwrights	15.90	2.91
Plasterers	14.99	2.17
Painters (Bethlehem) Brush	14.55	3.43
Structural Steel	16.55	3.43
Spray	15.55	3.43
Roofers: Composition, damp & Waterproofing	18.17	2.73+c
Mechanic II - Handle and transport all materials tools, and equipment; clear-up debris	8.25	2.73+c
Sheet Metal Workers	15.23	4.39
Terrazzo Workers	14.10	2.17

DECISION NO. WA81-5100 - Mod #3
(46 FR 15636 - March 6, 1981)
King and Kitsap Counties, Washington

CHANGE:

	Basic Hourly Rates	Fringe Benefits
Carpenters	$11.00	$2.66

FOOTNOTE:

c. Election Day paid Holiday.

SUPERSEDEAS DECISION

STATE: Missouri & Kansas

COUNTIES: Cass,Clay,Jackson,Platte, Ray,Henry,Johnson & Lafayette Cos., Missouri; Johnson & Wyandotte Cos., Kansas

DECISION NO: MO84-4009
Supersedes Decision NO. MO83-4043 dated June 3, 1983 in 48 FR 25102.
DESCRIPTION OF WORK: Building Projects (excluding single family homes and apartments up to and including 4 stories) and heavy and highway construction in Johnson & Wyandotte Cos., Kansas only.
DATE: Date of Publication

	Basic Hourly Rates	Fringe Benefits
Asbestos Workers	17.29	4.26
Boilermakers	17.345	3.00
Bricklayers & Stonemasons	14.44	4.10
Carpenters:		
Zone 1 - Cass,Clay,Jackson, Lafayette,Platte & Ray Cos., Mo.; Johnson & Wyandotte Cos.,Kansas:		
Carpenters, Lathers, Millwrights & Pile-drivermen	15.05	2.07
Zone 2 - Henry County, Mo.:		
Carpenters & Lathers	13.55	2.07
Millwrights & Pile-drivermen	15.05	2.07
Zone 3 - Johnson Co.,Mo.:		
Carpenters & Lathers	14.075	2.07
Millwrights & Pile-drivermen	15.05	2.07
Cement Masons (Building Construction):		
Zone 1 - Cass,Clay, Jackson, Lafayette, Platte & Ray Cos.,Mo.; Johnson & Wyandotte Cos., Kansas:		
Cement Masons	15.875	2.075
Zone 2 - Henry & Johnson Cos.,Mo.	13.98	
Cement Masons (Heavy & Highway Construction):		
Johnson & Wyandotte Cos., Kansas	14.97	1.95
Electricians:		
Zone 1 - Western half of Clay & Jackson Cos., Mo. not including Blue Springs; Northern half of Platte Co., Mo.; Northwestern portion of Cass Co., Mo. not including Pleasant Hill: Electricians	16.18	10%+ 2.51
Zone 2 - Henry,Johnson & Lafayette Cos., Mo. & remainder of Clay, Jackson,Platte & Cass Cos.,Mo.:		
Electricians (contracts exceeding 2000 man hrs.	16.18	10%+ 2.51
Electricians (contracts not exceeding 2000 man hrs.	15.18	10%+ 2.51
Zone 3 - Ray Co.,Mo:		
Electricians (contracts exceeding 2000 man hrs	16.18	10%+ 2.51
Electricians (contracts not exceeding 2000 man hrs.	14.58	10%+ 2.51
Zone 4 - Johnson & Wyandotte Cos.,Kansas	16.18	10%+ 2.51
Elevator Constructors	16.53	2.465 +a
Elevator Constructors' Helpers	70%JR	2.465 +a
Elevator constructors' Helpers (Prob.)	50%JR	
Glaziers	14.72	2.66+ 15.48%
Ironworkers:		
Zone 1 - Cass,Clay,Jackson,Platte,Ray,Henry, Johnson & Lafayette Cos.,Mo.	16.25	4.25
Zone 2 - Johnson & Wyandotte Cos.,Kansas	16.125	4.25

DECISION MO84-4009

	Basic Hourly Rates	Fringe Benefits
Laborers:		
Building Construction:		
Zone 1 - Cass,Clay,Jackson,Lafayette,Platte & Ray Cos.,Mo.; Johnson & Wyandotte Cos.,Kansas:		
Group 1	12.30	1.85
Group 2	12.45	1.85
Group 3	12.60	1.85
Zone 3 - Henry & Johnson Cos.,Mo.:		
Group 1	9.575	2.55
Group 2	9.675	2.55
Group 3	9.90	2.55
Site preparation & grading,Heavy & Highway Construction:		
Zone 4 - Johnson & Wyandotte Cos.,Kansas:		
Group 1	12.02	3.30
Group 2	12.92	3.30
Line Construction:		
Zone 1 - Cass,Clay,Jackson,Platte & Ray Cos., Mo.; Wyandotte & remainder of Johnson Cos., Kansas:		
Linemen	17.90	8-hr +1.00
Lineman Operator	16.90	8-hr +1.00
Groundman	11.87	8-hr +1.00
Zone 2 - Western 3/4 of Johnson Co.,Kansas:		
Lineman	15.50	3-1/2% +.65
Cable Splicers	15.28	3-1/2% +.65
Groundman	9.56	3-1/2% +.65
Powderman	13.81	3-1/2% +.65
Line Truck & Equipment Operators	13.81	3-1/2% +.65
Zone 3 - Cass,Clay,Jackson,Platte,Ray,Henry, Johnson & Lafayette Cos., Mo.; Wyandotte Co. & Johnson Co.-that portion east of Monticello,Olathe & Spring Hill Townships Kansas:		
Line Construction (Telephone & Telegraph Work- including C.A.T.V. Work):		
Cable splicers;air pressure technicians; central office equipment man	15.96	3%+.45
Telephone lineman & installer repairman; C.A.T.V. terminator; equipment operator (1/4 yd. backhoe & larger & D-4 crawlers & larger:	10.39	3%+.45
Equipment operator (trenchers & all other equipment)	9.11	3%+.45
Groundman-winch driver	7.87	3%+.45
Groundman	6.36	3%+.45
Line Construction (Railroad & Cross Country Transmission Lines):		
Zone 4 - Wyandotte Co. & Johnson Co.-that portion east of Monticello Olathe & Spring Hill Townships:		
Lineman	15.58	3-1/2% +1.06
Lineman Operator	14.36	3-1/2% +1.06
Groundman, Powderman	10.79	3-1/2% +1.06
Groundman	10.09	3-1/2% +1.06
Pole Treating:		
Pole treating specialist	16.24	3-1/2% +1.06
Pole treating inspector	15.50	3-1/2% +1.06
Pole treating truck driver	10.79	3-1/2% +1.06
Pole treating groundman	10.09	3-1/2% +1.06
Marble & Tile Setters	16.55	10%
Marble & Tile Setters Finishers	14.48	

DECISION NO. MO84-4009

	Basic Hourly Rates	Fringe Benefits
Painters:		
Zone 1 - Cass,Clay, Henry,Jackson,Johnson (excluding Whiteman AFB),Lafayette,Platte & Ray Cos.,Mo.; Johnson & Wyandotte Cos.,Kansas:		
Brush & Tapers	16.49	1.55
Spray	17.49	1.55
Zone 2 - Johnson Co.,Mo. (Whitman AFB only):		
Brush	14.25	
Spray	15.25	
Plasterers:		
Zone 1 - Cass,Clay,Jackson,Lafayette,Platte & Ray Cos.,Mo.; Johnson & Wyandotte Cos.,Kansas	17.25	
Zone 2 - Henry & Johnson Cos.,Mo.	13.66	
Pipefitters	17.44	3.22
Plumbers	17.96	2.70
Power Equipment Operators:		
Building Construction:		
Group I	15.46	3.75
Group II	15.11	3.75
Group III:		
(a)	10.05	3.75
(b)	13.21	3.75
(c)	10.85	3.75
(d)	13.46	3.75
Group IV	15.71	3.75
Group V	15.36	3.75
Group VI	15.96	3.75
Group VII:		
(a)	15.21	3.75
(b)	14.96	3.75
(c)	12.96	3.75
Group VIII	16 46	3.75
Group IX	15.96	3.75
Site preparation & grading,Heavy & Highway Construction:		
Zone 1 - Johnson & Wyandotte Cos.,Kansas:		
Group I	14.10	3.92
Group II	13.85	3.92
Group III	13.15	3.92
Group IV:		
(a)	9.13	3.92
(b)	12.15	3.92
Group V	14.35	3.92

	Basic Hourly Rates	Fringe Benefits
Roofers:		
Roofers	15.88	2.71
Sheet Metal Workers	16.75	2.78
Soft Floor Layers	11.89	10+ 3.29
Sprinkler Fitters	19.28	3.21
Sprinkler Fitters (Henry, Johnson & Lafayette Cos., Mo.)	16.67	2.83
Terrazzo Workers:		
Terrazzo Workers	15.31	10%
Terrazzo Workers Finishers	13.58	
Terrazzo Base Machine	13.93	
Truck Drivers:		
Building Construction:		
Group I	14.335	2.75
Group II	14.385	2.75
Group III	14.46	2.75
Group IV	14.585	2.75
Group V	14.485	2.75
Group VI	14.685	2.75
Group VII	14.535	2.75
Group VIII	14.435	2.75
Truck Drivers:		
Site preparation & grading,Heavy & Highway Construction:		
Zone 1 - Johnson & Wyandotte Cos.,Kansas		
Group I	12.76	3.50
Group II	12.96	3.50
Group III	13.27	3.50
Group IV	13.42	3.50
Group V	12.54	3.50

FOOTNOTES: a - Employer contributes 8% of basic hourly rate for over 5 yrs. of service & 6% of basic hourly rate for 6 mos. to 5 yrs. service as Vacation Pay Credit. Also 7 paid holidays.

DECISION NO: MO84-4009

CLASSIFICATION DEFINITIONS

LABORERS - (Building Construction Zone 1):
Group 1 - General labor; wiremesh handlers or setters; carpenter tender; track men; signalmen; salamander tenders; window cleaners; floor cleaners; landscape man; sod layers; wrecker (for alterations or entire projects)
Group 2 - Plumber laborers (conduit pipe, sewer work, drain tile and duct lines, digging and power tool operators; pier hole diggers (over 10 ft.); vibrator, jackhammer, and chipping hammer operators; chain saw operators; concrete saw operators; brush feeders on pulverizers; reinforcing steel handlers; air tamp operators; ditch winch operators; swinging scaffolds cutting torch or burner men; georgia buggies (self-propelled) fork lift; hoseman; insulation man
Group 3 - Fork lift (masonry); brick tender; plasterer tender; stonemasons tender (includes all hod carriers classifications previously shown as mortar men and scaffolding) Barco, Jackson or similar tamp operators; asphalt rakers; powder men; mastic hot kettle men; sandblasting and gunnite nozzlemen; wagon and churn drill operators

LABORERS: (Zone 3):
Group 1 - Carpenter tenders, track men, wreckers (alteration or entire projects); reinforcing rod carriers; signal men; all other general laborers
Group 2 - Plumber laborers; stonemason tenders; air tool operators, sewer work, water lines, conduit pipe, drain tile and duct lines; batter board man or pipe & ditch work; pier hole men working below ground; vibrator man; jackhammer & chipping hammer operators; material batch hopper man; scaleman; spreader or screed man on asphalt machine; chain or concrete sawman; brush feeders or pulverizers; swinging scaffold; cement handlers (buck or sack); laser beam man
Group 3 - Plasterer tenders; hod carriers; brick tender; cutting torch & burner men; asphalt rakers; barco tampers; jackson or any similar tamps; power buggy operator; powderman; mastic kettlemen; sandblasting & gunnite nozzlemen; head pipe layer or sewer work; man working in tunnels; head form setters & stringline men; hot tar applicator

LABORERS: (Site Preparation)
Group 1 - Carpenter tenders;salamander tenders;dump man and ticket takers on stock piles;loading trucks under bins,hoppers and conveyors track men and all other general laborers,Air tool operators;cement handler (bulk or sack);chain or concrete saw;deckhands;dump man on earth fill;grade checkers cuts and fills; georgie buggies man; material batch hopper man; scale man; material mixer man (except on manholes, coffer dams, abutments and pier hole men working below ground); riprap pavers rock, block or brick; signalman; scaffolds over 10 ft. not self-supported from ground up; skipman on concrete paving; vibrator man; wire mesh setters on concrete paving; all work in connection with sewer, water, gas gasoline, oil, drainage pipe, conduit pipe, tile and duct lines and all other pipe lines; power tool operator; all work in connection with hydraulic or general dredging operations; puddlers (paving only); crusher feeder;men handling creosote ties or

CLASSIFICATION DEFINITIONS - (Cont'd)

LABORERS: (Site Preparation) (Cont'd):

creosote materials;men working with and handling epoxy material or materials (where special protection is required); head pipe layer on sewer work; topper of standing trees; batter board man on pipe and ditch work; feeder man on wood pulverizers; board and willow mat weavers and cable tiers on river work; all laborers working underground tunnels where compressed air is not used

Group 2 - Spreader or screed man on asphalt machine; asphalt raker; laser beam man; barco tamper; jackson or any similar tamp wagon driller; churn drills; air track drills and all other similar drills; form setters; cutting torch man; liners and stringline man on concrete paving, curbs, gutters and etc.; hot mastic kettleman; hot tar applicator; hand blade operator; manhole builders helpers and mortar men on brick or block manholes; sandblasting and gunnite nozzlemen; rubbing concrete; air tool operator in tunnels; Manhole builder (brick or block);dynamite and powder man

POWER EQUIPMENT OPERATORS

Group I - Asphalt paver and spreader; asphalt plant mixer operator; asphalt plant operator; back fillers; backhoe; barbergreene loader; blade-power; boats-power; boilers (2); boring machines; cableways; cherry pickers; chip spreader; concrete ready-mixed plant, portable (job site); concrete mixer paver; crane-overhead; crusher, rock; derricks and derricks cars (power operated); ditching machines; dozers; dredges - any type power; grade-all - similar type; hoist, endless chain-power operated with power travel; loaders; mechanic and welder; mucking machine; orange peels; pumps - material; push cats; scoops; self-propelled rotary drill; shovel, power; side boom; skimmer scoop; testhole machine; throttle man

GROUP II Boilers (1); Brooms - power operated; chip spreader (front man); clef plane operator; compressors (1) 125' or over; concrete saws, self-propelled; crab - power operated; curb finishing machine; firemen on rigs; flex plane; floating machine; form grader; greaser; hoist, endless chain - power operated; hopper - power operated; hydra hammer; lad-a-vator - similar type; rollers; siphons, jets, and jennies, sub-grader; tractors over 50 h.p.; compressors (2) 125' ft. or over not more than 20' apart; compressors-tandem; compressors sigle, truck mounted; elevator; finishing machine

Group III -
(a) Oilers
(b) Fork lift-masonry
(c) Oiler driver
(d) A-frame trucks; fork lift-all types (except masonry); mixers (w/side loaders); pumps (w/well points) dewatering systems, test or pressure pumps; tractors (except when hauling material)less than 50 h.p.

Group IV -
Clamshells, 80 ft. of boom or over (incl. jib); crane or rigs, 80 ft. of boom or over (incl.jib); draglines, 80 ft. of boom or over (incl. jib); pile drivers, 80 ft. of boom or over (incl. jib)

DECISION MO84-4009

CLASSIFICATION DEFINITIONS (Cont'd)

POWER EQUIPMENT OPERATORS: (Cont'd):

Group V
Hoists-each additional drum over 1 drum
Group VI
Crane or rigs, over 200 ft. of boom
Group VII
Ready Mixed Concrete Plants;
(a) Crane operator
(b) Loader operator & plant man
(c) Conveyor Operator
Group VIII
Master Mechanic
Group IX
Crane-tower or climbing

POWER EQUIPMENT OPERATORS: (Site Preparation)

Group I - Asphalt paver and spreader; asphalt plant console operator; auto grader; backhoe; blade operator, all types; boilers - 2; booster pump on dredge; boring machine (truck or crane mounted); bulldozer operator; clamshell operator; compressor maintenance operator - 2; concrete plant operator, central mix; concrete mixer paver; crane operator; derrick or derrick trucks; ditching machine; dragline operator; dredge engineman; dredge operator; drillcat with compressor mounted on cat; drilling or boring machine, rotary, self-propelled; high loader - fork lift; hoistline engine - 2 active drums; locomotive operator, standard gauge; mechanics and welders; maintenance operator; mucking machine; pile driver operator; pitman crane operator; pump - 2; push cat op.; quad-track; scoop operator - all types; scoops in tandem; self-propelled rotary drill (leroy or equal - not air trac); shovel operator; side discharge spreader; sideboom cats; skimmer scoop operator; slip - form paver (CMI, REX, or equal); throttle man; truck crane; welding machine maintenance operator - 2

Group II - A-frame truck, asphalt hot mix silo; asphalt plant fireman, drum or boiler; asphalt plant mixer operator; asphalt plant man; asphalt roller operator; back filler operator; chip spreader; concrete batch plant, dry-power operated; concrete mixer operator, skip loader; concrete pump operator; crusher operator; elevating grader; greaser; hoisting engine - 1 drum; latourneau rooter; multiple compactor; pavement breaker, self-propelled, of the hydrahammer or similar type; power shield; pug mill operator; stump cutting machine; towboat operator tractor operator over 50 h.p.

Group III - Boilers - 1; chip spreader (front man); churn drill operator; compressor maintenance operator - 1; concrete saws, self-propelled; conveyor operator; distributor operator; finishing machine operator; fireman, rig; float operator; form grader operator; pump; pump maintenance operator, other than dredge; roller operator, other than high type asphalt; screening and washing plant operator; self-propelled street broom or sweeper; siphons and jets; sub-grading machine operator; tank car heater operator - combination boiler and booster; tractor, 50 h.p. or less, without attachments; vibrating machine operator, not hand; welding machine maintenance operator -1

DECISION NO.: NV84-4009

CLASSIFICATIONS DEFINITIONS (Cont'd)

POWER EQUIPMENT OPERATORS: (Site Preparation - Contd):

Group IV
(a) Oilers
(b) Oiler driver, all types
Group V - Clamshells, 3 yds. capacity or over; crane or rigs, 80 ft. of boom or over (including jib); draglines, 3 yds. capacity or over; piledrivers, 80 ft. of boom or over (including jib); shovels & backhoes, 3 yds. capacity or over; men working in tunnels or shafts (not air shafts or coffer dams) of twenty-five (25) ft. or more in length or depth will be paid fifty cents (50¢) per hour above the regular classification.

TRUCK DRIVERS - (Building Construction):
Group I - Warehousemen and stock man
Group II - Flat beds; pick-ups; drum trucks, under 10 yds.
Group III - Dump trucks, 10 yds. and over; steel trucks; semi truck drivers
Group IV - Straddle trucks, wheel tractors (when used for towing); hydro lift trucks, hydraulically operated aerial lifts; heavy hauling, a-frame and winch fork trucks; heavy excavating (dumpster, euclid, etc.); double bottom units (20 tons capacity and over)
Group V - Distributor truck drivers and operators; oilers, greasers

Group VI - Mechanics; transit mix tractor trailer
Group VII - Transit mix, 5 yds. and over
Group VIII - Transit mix, under 5 yds.

TRUCK DRIVERS: (Site Preparation)
Group I - One team; station wagons; pickup trucks; material trucks, single axle; tank wagon drivers, single axle
Group II - Material trucks, tandem, two teams; semi-trailers; winch trucks - fork trucks; distributor drivers and operators; agitator and transit mix; tank wagon drivers tandem or semi; insley wagons; dump trucks, excavating, 5 cu. yds. and over; dumpsters; half-tracks; speedace; euclids and similar excavating equipment
Group III - A-frame, lowboy, and boom truck driver
Group IV - Mechanics and welders
Group V - Oilers and greasers

WELDERS: Receive rate prescribed for craft performing operation to which welding is incidental.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR 5.5(a)(1)(ii)).

SUPERSEDEAS DECISION

STATE: Nevada

COUNTIES: Nevada Test Site including Tonopah Test Range in Clark, Lincoln, and Nye Counties

DECISION NUMBER: NV84-5002
DATE: Date of Publication
Supersedes Decision NV82-5114 dated August 6, 1982, in 47 FR 34312
DESCRIPTION OF WORK: Building Projects (does not include single family homes and apartments up to and including 4 stories), Heavy and Highway Projects

	Basic Hourly Rates	Fringe Benefits
ASBESTOS WORKERS	$19.41	3.76
BOILERMAKERS	21.39	3.86
BRICKLAYERS	16.59	1.86
CARPENTERS:		
Carpenters; Saw Filer; Power actuated tools; Pneumatic Nailer	17.66	3.05
Floor Layers; Shingler	17.685	3.05
Millwrights	18.66	3.05
Piledrivers	17.86	3.05
Power Saw Operator	17.81	3.05
CEMENT MASONS	12.73	6.95
ELECTRICIANS:		
Electricians; Equipment Operators; Linemen	18.74	5.04 +3%
Cable Splicers	19.07	5.04 +3%
Groundman	14.992	5.04 +3%
ELEVATOR CONSTRUCTORS:		
Mechanics	22.74	3.00 +a
Mechanics' helpers	15.92	3.00+a
Probationary Helpers	11.37	
GLAZIERS	16.07	3.66
IRONWORKERS:		
Ornamental; Reinforming; Structural	18.26	5.93
MARBLE SETTERS	16.59	1.86
MASON TENDERS	13.14	5.79
PAINTERS:		
Brush; Roller	15.46	3.66
Paperhangers; Spray; Steel; Sandblasters; Swing Stage; Tapers	15.81	3.66
Buffing Steel; Sandblasters, Steel	16.07	3.66
PLUMBERS: Steamfitters	23.10	4.4R
ROOFERS	22.40	1.00
SHEET METAL WORKERS	17.85	6.02
TERRAZZO WORKERS:		
TILE SETTERS	16.59	1.86
LABORERS:		
Laborer	14.59	3.15
Tunnel Shaft & Stope Miner	15.48	4.14
Tunnel Hardrock Miner	15.54	4.14
Bullgang	15.29	4.14
POWER EQUIPMENT OPERATORS (Except Piledriving and Steel Erection):		
Group 1	15.08	6.31
Group 2	15.32	6.31
Group 3	15.56	6.31
Group 4	15.67	6.31
Group 5	15.86	6.31
Group 6	15.96	6.31
TRUCK DRIVERS:		
Group 1	15.46	3.11
Group 2	15.57	3.11
Group 3	15.62	3.11
Group 4	15.78	3.11
Group 5	15.96	3.11

DECISION NO. NV84-5002

WELDERS: Receive rate prescribed for craft performing operation to which welding is incidental

FOOTNOTE:
a. Employer contributes 8% basic hourly rate for over 5 years' service and 6% basic hourly rate for 6 months' to 5 years' service as Vacation Pay Credit. Seven Paid Holidays: A thru. G

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Friday after Thanksgiving; G-Christmas Day

POWER EQUIPMENT OPERATORS
(Except Piledriving and Steel Erection)

Group 1: Air Compressor, Pump or generator; Engineer Oiler and Signal Man; Heavy Duty Repairman's Tender; Rotary Drill Tender (Rotary and Core); Switchman or Brakeman

Group 2: Concrete Mixer, skip type; Conveyor and Beltman; Fireman; Generator, pump or compressor (2-5 units inclusive, over 5 units, $0.10 per hour for each additional unit up to 10 units, portable units); Generator, pump or compressor plant; Hydrostatic Pump; Motorman (Rotary and Core); Skiploader, wheeltype, Ford, Ferguson, Jeep or similar type, 3/4 yard or less (without drag-type attachments); Temporary Heating Plant; Truck Crane Oiler

Group 3: A-Frame or Winch Truck; Derrickman (Rotary and Core); Dinky Locomotive or Tunnel Motor; Elevator Hoist; Equipment Greaser; Ford, Ferguson or similar type (with drag-type attachments); Hydra-hammer or similar type equipment; Power Concrete Curing Machine; Power Concrete Saw; Power-driven Jumbo Form Setter; Ross Carrier; Self-propelled Tar Pipelining Machine; Stationary Pipe Wrapping and Cleaning Machine; Towblade Operator

Group 4: Asphalt Plant Fireman; Boring Machine; Boxman or Mixer Box (concrete or asphalt plant); Fishing Tool Engineer; Highline Cableway Signalman; Locomotive Engineer; Mud Plant Operator; Power Sweeper; Roller, Compacting Screed; Trenching Machine (up to 6 ft. depth capacity, manfacturer's rating)

Group 5: Asphalt or Concrete Spreading, Mechanical Tamping or Finishing Machine - Roller (all types and sizes), soil, cement, asphalt - finish; Asphalt Plant Engineer; Deck Engine; Grade Checker; Pavement Breaker; Pneumatic Heading Shield - tunnel; Road Oil Mixing Machine; Forklift, under five tons; Rubber-tired, heavy duty equipment (Oshkosh, DW, Euclid, LeTourneau, LaPlant-Choate, or similar type equipment with any type attachments); Skip-loader, wheeltype, over 3/4 yds., up to and including 1¼ yds.; Slip Form Pump (power-driven hydraulic lifting device for concrete forms); Tractor Operator - Drag-type Shovel, Bulldozer, Tamper, Scraper and Push Tractor

DECISION NO. NV84-5002

POWER EQUIPMENT OPERATORS (Cont'd)
(Except Piledriving and Steel Erection) (Cont'd)

Group 6: Combination Heavy-duty Repairman and Welder (additional $0.10 per hour premium, $0.05 per hour tool allowance); Concrete Mixer, paving; Concrete Mobile Mixer; Concrete Pump or Pumpcrete Gun; Crushing Plant Engineer; Driller (Rotary and Core); Elevating Grader; Forklift, over 5 tons; Grade-all; Heavy-duty Repairman ($0.05 per hour tool allowance); Heavy-duty Welder; Highline Cableway; Hoist (Chicago Boom and Mine); Kolman Belt Loader and similar type; Lift Slab Machine; Loader Operator - Athey, Euclid, Hancock, Sierra or similar type; Motor Patrol (any type or size); Multiple-engine earthmoving machinery; Pneumatic Concrete Placing Machine - Hackley-Presswell or similar type; Shovel, Backhoe, Dragline, Clamshell, Derrick, Derrick Barge, Crane Piledriver and Mucking Machine; Skip-loader, wheeltype, over 1¼ yds.; Surface Heater and Planer; Tractor Loader - Crawler type - all types and sizes; Tractor, with boom attachments; Traveling Pipe Wrapping, Cleaning and Bending Machine; Trenching Machine (over 6 ft. depth capacity, manufacturer's rating)

TRUCK DRIVERS

Group 1: Light Duty Driver

Group 2: Bootman; Truck Greaser

Group 3: Tireman

Group 4: Heavy Duty Driver; Forklift Driver

Group 5: Extra Heavy Duty Driver

Unlisted classifications needed for work not included with the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii)).

SUPERSEDEAS DECISION

STATE: Pennsylvania
DECISION NO.: PA84-3001
COUNTY: Berks
DATE: Date of Publication
Supersedeas Decision No. PA81-3069 dated September 25, 1981, in 46 FR 47401.
DESCRIPTION OF WORK: Building Erection and Foundation Excavation, (does not include single family homes or apartments up to and including 4 stories), Excluding Sewage and Water Treatment Plant Projects.

	Basic Hourly Rates	Fringe Benefits
Asbestos Workers	$17.51	2.04
Boilermakers	18.88	2.865
Bricklayers & Stonemasons	13.35	2.35
Carpenters	15.40	2.22
Cement Masons	10.79	1.65
Electricians:		
Herford, Longswamp & Washington, Twps., Portion of Maxatawney, Twp. east of Sacony Creek	15.35	1.84+3%
Marion, Tulpehocken & Bethel Twps.	15.21	1.67+3%
Remainder of County	15.59	1.89+3%
Elevator Constructors	15.475	2.69+b+c
Elevator Constructors' Helpers	10.83	2.69+b+c
Elevator Constructors' Helpers (Prob.)	7.74	
Glaziers	14.04	1.465
Ironworkers, structural, ornamental, bridge	17.65	3.50
Ironworkers, reinforcing	17.65	3.50
General Laborers	10.70	1.00
Operators of jackhammer, paving breaking and other pneumatic, electrical and mechanical tools coming under the jurisdiction of laborer, laying of all clay, terra cotta, ironstone, vitrifield concrete or nonmetallic pipe and the making of joints for same, wagon drill operators and concrete power buggies	10.93	1.00
Cofferdam, (below 10') tunnel free air muckers	10.98	1.00
Handling and using cutting or burning torches in the wrecking of buildings, plasterer tenders, scaffold builders and removal for plasterers	11.09	1.00
Mason tenders, scaffold builders, removal for mason and power buggies	11.13	1.00
Blasters	11.15	1.00
Lathers	15.40	2.22
Lead Burners	10.75	.66+a
Line Construction:		
Lineman	15.83	.80+3 3/8%
Groundman	9.50	.80+3 3/8%
Winch truck operator	11.08	.80+3 3/8%
Millwrights	15.92	2.22
Painters:		
Brush	12.15	2.25
Bridge, tower, stacks & tanks	13.60	2.25
Spray and steel	13.20	2.25
Piledrivermen	14.82	6.16+e
Plasterers	10.81	1.66
Plumbers	18.33	2.64
Roofers:		
Commercial Composition, damp & waterproofers	18.17	2.73+d
Roofers:		
Comericial (Mechanic II - Handle and transport all materials tools, and equipment; clean-up debris)	8.25	2.73+d
Sheet metal workers	15.23	4.39
Soft floors layers	15.40	2.22
Sprinkler Fitters	16.92	3.23
Steamfitters	18.16	3.81
Stone masons	15.40	2.22

DECISION NO. PA84-3001

Welders - receive rate prescribed for craft performing operation to which welding is incidental.

PAID HOLIDAYS (Where Applicable):
A-NEW Year's Day; B- Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:

a. 9 paid holidays, A through F and Washington's Birthday, Good Friday and Christmas Eve provided the employee has worked 45 full days for the employer during the 120 days prior to the holiday, and is available for work the days preceding and following the holidays.

b. Employer contributes 8% basic hourly rate for 5 years or more of service or 6% basic hourly rate for 6 months to 5 years of service as Vacation Pay Credit.

c. Six paid holidays: A through F, plus the Friday after Thanksgiving.

d. Paid Holidays: Election Day and Labor Day.

e. Paid Holidays: Washington's Birthday; Good Friday; Memorial Day; Labor Day Presidential Election Day; Veteran's Day and Thanksgiving Day.

"Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5(a)(1)(ii))."

DECISION NO. PA84-3001

SUPERSEDEAS DECISION

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DECISION NO. PA84-3001

POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP 1	$15.85	13.5%	10.3%	a	1.8%
GROUP 2	15.56	13.5%	10.3%	a	1.8%
GROUP 3	14.49	13.5%	10.3%	a	1.8%
GROUP 4	13.84	13.5%	10.3%	a	1.8%
GROUP 5	12.97	13.5%	10.3%	a	1.8%
GROUP 6	12.06	13.5%	10.3%	a	1.8%

CLASSIFICATIONS DEFINITIONS

GROUP 1: Machines doing hook work, any machine handling machinery, cable spinning machines, helocopters, machines similar to the above

GROUP 2 : All types of cranes, all types of backhoes, cableways, draglines, keystones, all types of shovels, derricks, trench shovels trenching machines, hoist wirh two towers, pavers 21E and over, all types overhead cranes, building hoists (double drum) gradalls, mucking machines in tunnel, all front end loaders 3-½ c.y. and over, tandem scrapers, pippin type bachoes, boat Captains, batch plant operators (concrete) drills, self-contained rotary drills, fork lifts, 20 ft. lift and over machine to the above

GROUP 3: Conveyors, building hoists (single drum) scrapers and tournapulls, spreaders, high or low pressure boilers, concrete pumps, well drillers, bulldozers and tractors, asphalt paint engineers, roller (high grade finishing), ditch witch type trencher, all loaders under 3-½ cu. yds., mechanic-welders, motor patrols, drill helper-self contained rotary drills, core drill operator, forklift trucks under 20 ft. lift, machines similar to the above

GROUP 4: Welding machines, well points, compressors, pumps, heaters, farm tractors, form line graders, fine grade machines, road finishingmachines concrete breaking machines, rollers, seaman pulverzing mixer, power broom, seeding spreader, tireman (for power equipment) machines similar to above

GROUP 5: - Fireman, grease truck

GROUP 6: Oilers and deck hands (personnel boats), core drill helper

FOOTNOTES:
a. Paid Holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day, provided the employee works the day before and after the holiday.

SUPERSEDEAS DECISION

STATE: Pennsylvania
DECISION NO.: PA84-3002
COUNTIES: Adams & York
DATE: Date of Publication
Supersedeas Decision No. PA81-1072 dated October 2 1981 in 46 FR 48851.
DESCRIPTION OF WORK: Building Erection and Foundation Excavation, (does not include single family homes or apartment up to and including 4 stories). Excluding Sewage and Water Treatment Plant Projects.

	Basic Hourly Rates	Fringe Benefits
Asbestos Workers	17.51	2.04
Boilermakers	18.88	2.865
Bricklayers & Stonemasons	13.00	1.20
Carpenters (York County)	13.39	1.88
Carpenters (Adams County)	14.50	2.25
Cement Masons (Adams Co.)	13.47	2.10
Cement Masons (York Co.)	13.00	1.20
Electricians:		
Franklin, Carrol, Monnghan, and Fairview Townships in York Co.	15.21	1.67+3%%
Remainder of York Co. and Adams Co. in its entirety	15.70	.76+3%
Elevator Constructors	15.56	3.00+a+b
Elevator Constructors Helpers	10.89	3.00+a+b
Elevator constructors Helpers (Prob.)	7.78	
Glaziers	13.51	1.66
Ironworkers	17.265	3.745
Lathers	14.50	2.25
Laborers:		
General Laborers	9.80	1.57
Operator of Jackhammer (etc.)	10.00	1.57
Wagon drill operator	10.10	1.57
Handling of all materials (etc.)	10.05	1.57
Laborers assisting tile (etc.)	9.85	1.57
Handling & using dynamite	10.13	1.57
Caisson work (top men)	10.05	1.57
Caisson work (bottom men)	10.25	1.57
Mixer man	10.20	1.57
Line Construction:		
Linemen, cable splicers	14.74	.80+3 3/8%
Winch truck operators	10.86	.80+3 3/8%
Groundman	8.77	.80+3 3/8%
Marble, tile & terrazzo workers	12.95	1.20
Millwrights (Admas Co.)	16.57	2.25
Millwrights (York Co.)	13.89	1.88
Painters:		
Brush	10.00	.60
Structural Steel	10.75	.60
Spray	10.85	.60
Piledrivermen	14.82	6.16+C
Plasterers (York Co.)	13.63	.93
Plasterers (Adams Co.)	11.90	2.21
Plumbers	17.05	2.39
Roofers:		
Composition	13.85	1.76
Sheet Metal Workers	15.23	4.39
Soft Floor Layers:		
Adams County	11.94	2.25
York County	13.39	2.10
Sprinkler Fitters	16.92	3.23
Steamfitters	17.05	2.39
Welder - Receive rate for craft		

PAID HOLLIDAYS (WHERE Applicable)
A-New Year's Day;
B-Memorial Day;
C-Independence Day
D-Labor Day;
E-Thanksgiving Day;
F-Christmas Day.

DECISION NO. PA84-3002

FOOTNOTES:

a. Employer contributes 8% basic hourly rate for 5 years or more of service or 6% basic hourly rate for 6 months to 5 years of service as Vacation Pay Credit.

b. Paid Holidays: A through F, plus the Firday ather Thanksgiving Day.

c. Paid Holidays: Washington's Birthday; Good Friday; Memorial Day; Presidential Election Day; Veterans Day; Thanksgiving Day.

"Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided inthe labor standards contract clauses (29 CFR, 5.5(a)(1)(ii)."

POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and or Appr. Tr.
GROUP 1	$15.85	13.5%	10.3%	a	1.8%
GROUP 2	15.56	13.5%	10.3%	a	1.8%
GROUP 3	14.49	13.5%	10.3%	a	1.8%
GROUP 4	13.84	13.5%	10.3%	a	1.8%
GROUP 5	12.97	13.5%	10.3%	a	1.8%
GROUP 6	12.06	13.5%	10.3%	a	1.8%

CLASSIFICATIONS DEFINITIONS

GROUP 1: Machines doing hook work, any machine handling machinery, cable spinning machines, helocopters, machines similar to the above

GROUP 2 : All types of cranes, all types of backhoes, cableways, draglines, keystones, all types of shovels, derricks, trench shovels, trenching machines, hoist with two towers, pavers 21E and over, all types overhead cranes, building hoists (double drum) gradalls, mucking machines in tunnel, all front end loaders 3-½ c.y. and over, tandem scrapers, pippin type bachoes, boat Captains, batch plant operators (concrete) drills, self-contained rotary drills, fork lifts, 20 ft. lift and over machine to the above

GROUP 3: Conveyors, building hoists (single drum) scrapers and tournapulls, spreaders, high or low pressure boilers, concrete pumps, well drillers, bulldozers and tractors, asphalt paint engineers, roller (high grade finishing), ditch witch type trencher, all loaders under 3-½ cu. yds., mechanic-welders, motor patrols, drill helper-self contained rotary drills, core drill operator, forklift trucks under 20 ft. lift, machines similar to the above

GROUP 4: Welding machines, well points, compressors, pumps, heaters, farm tractors, form line graders, fine grade machines, road finishingmachines concrete breaking machines, rollers, seaman pulverizing mixer, power broom, seeding spreader, tireman (for power equipment) machines similar to above

GROUP 5: - Fireman, grease truck

GROUP 6: Oilers and deck hands (personnel boats), core drill helper

FOOTNOTES:
a. Paid Holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day, provided the employee works the day before and after the holiday.

SUPERSEDEAS DECISION

STATE Pennsylvania
DECISION NO. PA84-3003
COUNTY: Lancaster
DATE: Date of Publication
Supersedes Decision No. PA81-3077 dated, October 9, 1981, in 46 FR 50265.
DESCRIPTION OF WORK: Building Erection and Foundation, (does not include single family homes or apartment up to and including 4 stories). Exculding Sewage and Water Treatment Plant Projects.

	Basic Hourly Rates	Fringe Benefits
Asbestos Workers	17.51	2.04
Bricklayers	9.06	
Bricklayers Tenders	6.47	
Carpenters	14.50	2.25
Cement Masons	13.54	.93
Elevator Constructors	15.56	3.00+a +b
Elevator Constructors Helpers	70%J.R.	3.00+a +b
Elevator Constructors Helpers (Prob)	50%J.R.	
Glaziers	14.04	1.47
Ironwarkers	17.265	3.745
Laborers	9.80	1.57
Lathers	9.42	
Millwrights	16.57	2.25
Painters	8.51	
Plasterers	9.97	.93
Plumbers & Pipefitters	11.50	
Roofers	9.72	1.62
Sheet Metal Workers	10.21	
Sprinkler Fitters	16.92	3.23
Soft Floors Layers	11.94	2.25
Tile Setters	12.95	1.20
Truck Drivers	9.07	
Power Equipment Operator: Cranes, loaders scrapers, fork lifts (20 feet & over)	15.56	25.6%
Bulldozers	15.56	25.6%
Pumps	13.84	25.6%
Backhoe	10.91	3.39
Air Compressors	11.14	
Pavers	8.85	
Rollers	10.16	
Electricians	10.78	2.86

DECISION NO. PA84-3003

WELDERS - Receive rate prescribed for craft performing operation to which welding is incidental.

PAID HOLIDAYS:

A-New Years's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Chirstmas Day.

FOOTNOTES:

a. Employers contributes 8% basic hourly rate for 5 years or more of service or 6% basic hourly rate for 6 months to 5 years of service as Vacation Pay Credit.

b. Six (6) paid holidays: A through F, Plus the Friday after Thanksgiving Day.

"Unlisted classifications needed for work not included within the scope of the classifications listed may bu added after award only as provided in the labor standards contract clauses (29 CFR, 5.5(a)(1)(ii))."

[FR Doc. 84-3404 Filed 2-9-84; 8:45 am]
BILLING CODE 4510-27-C

VOL
49
ISS
29
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federal register

Friday
February 10, 1984

Part IV

Department of the Interior

Bureau of Land Management

43 CFR Part 8560
Final Special Recreation Permit Policy

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Part 8560

Special Recreation Permit Policy

AGENCY: Bureau of Land Management, Interior.

ACTION: Final special recreation permit policy.

SUMMARY: This final Special Recreation Permit Policy describes how the Bureau of Land Management will administer permitted recreational use of public lands and related waters. It states the general policy that will be followed regarding Special Recreation Permits, how these permits will be issued, the basis for fees charged, the term of permits, how they may be renewed and transferred, bonding and insurance requirements, and methods necessary to gain compliance with terms and conditions of the permits.

This policy, as it relates to commercial recreational uses, closely parallels similar outfitter/guide policy proposed by the Forest Service.

This policy will serve as a basis for developing future, more specific guidance on Special Recreation Permits.

Comments received represented the full scope of affected publics and varied widely from full acceptance to full rejection. All comments having been carefully considered during the decision-making process, this final policy is thought to be in the best interest of the public.

EFFECTIVE DATE: February 10, 1984.

ADDRESS: Inquiries or suggestions should be sent to: Director (340), Bureau of Land Management, 1800 C Street, NW., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Bruce R. Brown, (202) 343–9353.

SUPPLEMENTARY INFORMATION: The proposed policy on special recreation permits was published in the **Federal Register** on April 8, 1983 (48 FR 15275). Comments were invited for a period of 83 days ending on June 30, 1983. During this period a total of 84 comments were received, with 19 coming from individual outfitters, 16 from outfitter associations, 8 from State and local governments, 39 from other individuals, and 2 from congressmen.

As stated in the proposed policy, the need for a Bureauwide policy was the result of identified deteriorating resources, user conflicts and increased concern for safety. This policy recognizes and allows for specialized, individual recreational use in areas determined to require special management procedures to protect the resources or control visitor use. It also provides for commercial and competitive recreational uses on the public lands and related waters. The permitting system also recognizes the public service performed by commercial recreation services in providing recreation opportunities and access to recreation areas for those users not equipped or desiring to do so themselves.

Some of the key features of the proposed policy include: (1) Consistency in meeting recreation management planning objectives; (2) the requirement for special recreation permits for commercial, competitive, and other recreational uses; (3) enhanced stability for the commercial recreation industry operating on the public lands; (4) a timely appeals process; (5) a statement of goals for allocating limited recreation opportunities; (6) an equitable fee structure that attempts to recover permitting costs and, in some cases, generates net revenues; (7) provisions for fee waivers for educational use which are consistent with Departmental regulation in 36 CFR 71; (8) evaluation of permittee performance at least once per year; and, (9) monitoring and enforcement policies to deter unauthorized use.

It is also important to note that the policy contains several references to desired coordination with State and local governments and organizations to obtain their input and ensure compliance with any laws or regulations that affect the implementation of the special recreation permit policy. There are adequate opportunities to enter into cooperative agreements with county, State or Federal agencies for joint management of Federal recreation properties and facilities.

Many of the comments on the proposed policy applied to the proposed rulemaking on special recreation permits which appeared in the **Federal Register** on May 6, 1983 (48 FR 20630). As these comments were considered in developing the final rulemaking, responses to them are contained in the preamble of the final rulemaking. Therefore, this preamble will only discuss comments not addressed in the final rulemaking. Also, specific sections of the policy for which there were no comments will not be discussed.

The major opposing comments on the policy in general came from outfitters/guides and individual private users. The outfitters overwhelmingly supported the policy with the exception of fees. They particularly favored the policy on issuance of permits, length of the permit, renewal of permits, and transfer of permit privileges. They said the policy will give them the business stability they need to assure continuity of high quality service to the user publics.

On the other hand, many private users, particularly river users, feel the policy strongly favors the commercial outfitters, and if implemented would ensure the outfitters an exclusive, monopolistic use of public lands. In areas where maximum allowable use has been reached they feel all users should compete equally for space and allow those who are successful to decide if they want to go on their own or with an outfitter. They did not want a split allocation between user groups.

In response to these opposing views, it is important to understand this policy is not intended to favor any one sector of the user publics. Those aspects of the policy dealing with commercial permittees are designed to provide some degree of business stability to the outfitting industry, so that the segment of the user public desiring the services of a professional outfitter will have an opportunity for a particular type of recreational experience. The concerns expressed by the individual private users are aimed directly at the issue of allocation of limited use. While this policy does not discuss specific allocation methodologies, it does discuss allocation goals. Allocation decisions are made at the local field office level via the planning process. Using the goals stated in this policy and more specific guidance to be developed in the future, alternative allocation formulas will be evaluated, and after considering public input, a prescribed allocation of available use will be adopted for those special areas requiring restricted use. This allocation will be contained in the adopted management plan for each special area and is subject to change when it becomes necessary to revise the management plan. Any assigned use in connection with a permit is a privilege and may be revoked at any time for noncompliance with the terms and conditions of the permit.

Some comments said that the policy draft contained too much discussion on commercial permits and not enough on competitive and individual permits. This final policy contains more discussion on competitive and individual permits, particularly in section B., Issuance of permits, and section D., Terms.

In commenting on the key features of the proposed policy, one comment stated that it would be better to say the policy "attempts" to recover permitting costs. This change is made in the final policy.

General Policy

One comment suggested adding the word "equitable" to the statement on basic objectives. This change was adopted in the final policy.

One comment suggested eliminating the paragraph on privilege because it implies rights. There are no rights connected with a permit, only privileges. The authorized officer retains the authority to revoke or modify a special recreation permit.

One comment said that the requirement of permits for all off-road vehicle (ORV) events is unreasonable stating that some ORV events are spontaneous. The primary reason for requiring ORV events to be permitted is to ensure that the activity will not cause undue resource degradation. When a permit application is submitted for an ORV event, an environmental assessment is conducted to determine if the proposed use is compatible with the site, and to develop any required stipulations for use. However, the policy does allow for spontaneous, nonpermitted use under certain conditions. The authorized officer has discretion to waive the permit and fee requirements for competitive events as described in section A.4. of the final policy.

On this subject of exemptions to ORV events, one commenter suggested replacing the criterion of "no cash prizes awarded" with "no prizes valued at greater than $50 are awarded." This change has not been made to the final policy. The determination of the dollar value of a single prize for purposes of an exemption would create burdensome requirements on both the Bureau and the event's sponsor.

One comment suggested adding the words "and there is no anticipated damage to resources or need of monitoring" to the exception criteria for competitive events discussed in section A.4. Since controlling use and reducing resource degradation are primary reasons for issuing permits, words to this effect have been added.

There were numerous comments on the allocation section. Some comments asked for more detailed discussion of allocation; some opposed any limits on access; some felt outfitters have been given virtually exclusive use of popular areas; some felt outfitters should be given a minimum of 50 percent of available use; a few thought all users should compete equally in a lottery for allowable use, and several suggested specific allocation methods. While all of these suggestions have merit, it is not appropriate to make decisions on allocation issues in this policy document for three reasons: (1) The various alternatives for allocating limited use opportunities have not been adequately researched and discussed with all affected publics and (2) detailed guidance on allocation, and the standards therefor, is more appropriately covered in a manual release, and (3) allocation criteria are in large part dictated by local conditions. The Bureau plans a thorough analysis of allocation issues, coordinated closely with interested user groups and other Federal and State agencies, before issuing more detailed guidance. Detailed comments and suggestions provided during the comment periods on this proposed policy will be considered at that time. As stated earlier in this preamble, the decision regarding allocation techniques and formulas will be contained in management plans for each special area requiring limited use. Therefore, discussion of allocation between user groups and rationing techniques has not been expanded in the final policy.

B. Issuance of Permits

Many comments favored the proposed policy on issuance of permits, stating that it will give outfitters the stability to maintain an economically viable operation and ensure quality service to the public. The key objective for the BLM is dependable, safe service to the public. While the Bureau does not have an obligation to guarantee financial success to a commercial permittee, economically healthy operators are in a much better position to provide safer, more enjoyable trips, which is clearly in the best interest of the public.

Many comments said that this policy unduly favored commercial outfitters and lacked adequate discussion on issuance of permits to other users. For the most part, the comments referred to the allocation issue which is responded to earlier in this preamble and will not be further discussed here. However, this policy section has been amended to cover the issuance of competitive and other use permits, adequately.

Two comments said that it was not clear whether or not a special recreation permit was valid in other Bureau Districts or in jurisdictions administered by other agencies. Generally permits are issued by individual Bureau offices and are valid only for a special area and time. However, in some cases a permit can authorize use in an area administered by more than one Bureau office or other agency. In these instances the use is managed by a cooperative agreement between the offices or agencies. An example would be where a river crosses administrative boundaries but is best managed as a single unit. Therefore, one joint permit may be issued.

One comment specifically asked what kind of competitive system will be used in issuing new permits. Many comments strongly opposed a bid/prospectus system. In this policy document no specific single system is recommended. However, as a point of clarification, the competitive system, if used, will be designed to determine who can best provide the type of service desired, in a manner that will have the highest probability of resulting in safe, enjoyable experiences. The amount of money a competitor is willing to offer will not be the basis for granting a permit.

Several comments said that the proposed policy on issuance of permits would preempt the ability of State agency licensing boards from deciding who gets commercial licenses to operate within their State. While the final decision on the award of Bureau permits must be retained by the authorized officer, no permits will be issued to commercial outfitters or guides without a valid State license in those States requiring such licenses.

One comment stated that new opportunities for commercial permits should not be reserved for existing marginally economical commercial permittees or those displaced from another area. These are only two of the possible alternatives identified in the proposed policy for awarding new commercial permits. They could also be awarded according to historical use, awarded by a competitive system or by a combination of methods. The primary objective is to select an operator who will provide the needed service in a manner that will best serve the public interest and protect the resource values. In certain specific situations an existing commercial permittee may be performing in a satisfactory manner, but because of limited allocation may only be operating on a marginally economical basis. If additional allocation would allow such an existing permittee to provide better services to the public, the authorized officer may give such a permittee priority in awarding a newly available commercial permit.

In the case of a commercial permittee who has been displaced from another area it has been decided such a permittee should not be given priority when new commercial permits are awarded in another area.

C. Fees

Most of the comments related to the discussion of fees and the fee schedule

contained in the proposed rulemaking on special recreation permits published in the **Federal Register** on May 6, 1983, (48 FR 2063). Some comments addressed the authority to establish fees, the possibility of using the consumer price index to guide annual fee increases, various specific fee rates, the amount of environmental degradation likely as a basis for setting fees, and the specific fee schedule each type of permittee is required to pay. As stated earlier, we responded to those comments in the preamble of the final rulemaking and will not discuss them in this final policy. However, as a general summary, the fee schedule shown below is thought to represent a fair and equitable charge which will allow the BLM to recover a greater portion of the costs of issuing and monitoring special recreation permits and in some instances will provide a return for the privilege of using Federal resources for commercial purposes.

The commercial fee schedule was carefully crafted after extensive consultation with a special committee from the outfitter and guide industry, and officials of the U.S. Forest Service, which has adopted the same schedule. The competitive fee schedule is designed to recover the increased costs of administering this type of special use permit and to cause some of the larger events to provide a similar return as from commercial permits. The permit fee proposed for other special uses was based on a projected Bureauwide average of the costs of issuing and administering the permits. However, based on recent field experience and after considering the comments on the proposed rulemaking, it has been determined that the fee for non-commercial, non-competitive permits should be reduced from $2 to $1.50 per use day. This is a reasonable proportion of the average fee charged commercial permittees and in most cases will be less than the commercial fee and still cover the cost of administering these permits.

The fee schedule, to be phased in over a three-year period beginning in 1984, is as follows:

(1) *Commercial use*—$100 for the term of the permit or the amount from the table below per participant, whichever is greater, is required. In determining the adjusted daily charge, the authorized officer will recognize that operators may, under certain circumstances, adjust their advertised customer rates, or that certain associated customer charges may be deducted from the daily amount charged participants. Deductions may be limited to long distance, off-site transportation and lodging expenses either before or after the associated permitted use, or fees paid to others for services off public lands. Documentation of the basis for adjusted customer rates may be required by the authorized officer.

Adjusted daily charge collected by permittee from each participant	Fee paid to the bureau per user day		
	1984	1985	1986
$8.00 or less	$.25	$.25	$.25
$8.01 to $20.00	.30	.35	.40
20.01 to $35.00	.45	.60	.80
35.01 to $50.00	.60	.95	1.30
50.01 to $75.00	.80	1.35	1.90
75.01 to $100.00	1.05	1.80	2.60
100.01 to $125.00	1.30	2.35	3.40
125.01 to $150.00	1.60	2.80	4.10
150.01 to $175.00	1.80	3.30	4.90
175.01 to $200.00	2.00	3.80	5.60
200.01 to $250.00	2.40	4.55	6.75
250.01 to $300.00	2.90	5.55	8.25
Over $300.00	(1)	(2)	(3)

[1] 1 percent of adjusted daily charge per participant.
[2] 2 percent of adjusted daily charge per participant.
[3] 3 percent of adjusted daily charge per participant.

(2) *Competitive use*—The fee for a competitive use permit is:

1984
$1.35 per user day or 3 percent of gross receipts, whichever is greater.
1985
$1.65 per user day or 3 percent of gross receipts, whichever is greater.
1986
$2.00 per user day or 3 percent of gross receipts, whichever is greater.

When use is both commercial and competitive, the competitive fee shall be charged. Gross receipts include total income which has been generated from the permitted activity before deducting costs such as insurance, prizes, other permit or license fees, etc. Gross receipts would also include total supplemental money collected through sponsor contributions, other donations, the sale of clothing, insignia, specialized equipment, or food and beverages when sold incidentally to the permitted activity.

(3) *Other uses*—For uses other than commercial or competitive, involving more than 50 vehicles including those of participants and spectators, or taking place in special areas for which permits are required, the fee is:

1984
$.50 per user day.
1985
$1.00 per user day.
1986
$1.50 per user day.

Allowances for proportional fees may be made, based on use of other lands along with public lands. Exceptions to the fees listed above may be granted only by written order from the Director.

D. Terms

1. *Permit length.* Some comments said a 5-year term for commercial permits is too long and others said it was too short. In the past, commercial permits have been issued on an annual basis. Processing these permits every year has been administratively costly. In order to reduce these costs, and to reflect a policy that commercial operators should be allowed an adequate opportunity to realize a return on their investments, a longer term was necessary. Therefore, we think a 5-year term is adequate. If it is determined that a permittee is performing unsatisfactorily, the permit may be revoked at any time during the term of the permit.

One comment suggested adding a statement regarding revocation of the permit. If, as a result of a performance evaluation or compliance check, a permittee's performance is found to be unsatisfactory, the authorized officer will modify or revoke the permit. Such a statement has been added to the final policy.

A comment suggested that a 5-year permit should only be valid if the permittee has paid annual fees and provided a copy of a valid insurance policy. Such a statement has been added.

Several comments stated that the development of performance standards by each individual authorized officer would result in inconsistencies between Bureau offices. The main purpose of this clause is to recognize and accommodate, to the extent possible, performance standards established by State agencies and outfitter and guide organizations. Guidance on development of general performance standards, focusing on common Bureauwide goals, will be issued at a later date. These goals will be compared to standards of State agencies and outfitter organizations in developing the performance review standards. We shall strive for standards that are consistent Statewide and that assure quality services.

2. *Renewal of Permits.* Some comments favored the renewal policy saying it provides incentive for operators to continually upgrade their services and helps maintain a stable business environment. Other comments thought it was a permanent giveaway of public land uses. The main reason for allowing commercial or, in some cases, competitive permits to be renewed is to attempt to provide the best service possible to the user publics. If a permittee has been performing in a satisfactory manner throughout the term of the permit he/she would probably be

able to continue that record for another term. A permittee with past experience in a particular area would be quite knowledgeable about the physical and environmental resources of the area and could pass that knowledge on to his/her clients. Experienced outfitters would also be more knowledgeable of the technical skills required to safely guide their clients. Therefore, the authorized officer should give priority to existing commercial and some competitive permittees when issuing a new permit.

One comment asked whether the renewal policy applies to a permit issued to a bona fide educational or scientific institution. If the permit is commercial, the same policy applies. If the permit is awarded from the noncommercial allocation, it is not renewable.

3. *Transfer of Commercial Permit Privileges.* Many comments favored the transfer policy saying it allows outfitters to realize the value of their business and provides an opportunity for new people to enter the industry. Those opposed said this practice will lead to speculation on federally owned resources and result in higher prices to the consumer. One comment said that it represents the buying and selling of public access rights by private businesses. Another comment said the Bureau should regulate the fees charged by commercial permittees. Except for two statements of clarification that the policy on transfer of permit privileges shall be consistent with management plan decisions, this section remains unchanged in the final policy.

The main reason for this transfer provision is to encourage and sustain the services of qualified outfitters and guides. This practice is not a wholesale buying and selling of public rights. Each transfer of permit privileges must follow the specific procedure outlined in the final policy. Sale of authorized use only is specifically prohibited. With this and other conditions of the transfer policy, the authorized officer retains complete authority on the disposition of permit privileges, including the development of terms and conditions contained in the new permit. There is no authority for the Bureau to regulate the fees charged by permittees. However, if adequate competition exists among commercial permittees, the open market should stabilize fees at a reasonable level.

One comment suggested qualifying two consecutive use seasons in section D.3b(4), by adding "as defined by the management plan." The comment said that the additional phrase was necessary because the length of a use season may vary by activity. For instance, there could be a spring, summer, and fall use season, a total of three use seasons in one calendar year for one type of activity, and only a summer season each year for another type of activity.

Therefore, the suggested phrase has been added. Also added for clarity, to the last sentence of section D.3.c, is the phrase "according to the management plan allocation system."

4. *Allowable Use.* One comment requested a definition of "assignment of permit privileges." This means a permittee may not assign or otherwise transfer user days that he/she has been authorized to use. Only bona fide employees of the permittee of record may guide trips allocated to him/her.

Two comments asked if one year of emergency non-use would be allowed without jeopardizing future use allocations. When an area's maximum allowable use has been allocated, it is important to ensure the allocation is fully utilized. The authorized officer must determine if non-use is excusable without penalty of future adjustments. An important factor that will be considered is whether expected non-use is reported in sufficient time to allow reassignment of the use. If reassignment cannot be made, the permittee assigned the use will be responsible for the fee due the Bureau.

5. *Suspension.* One comment asked to know the purpose of this section. In certain situations it may be necessary for the authorized officer to temporarily suspend assigned authorized use for a period of time. Examples of such instances include periods of high fire potential, flooding conditions or high water, situations of potential health hazards or instances of potential degradation of environmental resources. These situations are usually temporary and will therefore not normally extend the life of the permit. Fees due the Bureau will be waived during periods of suspension.

9. *Bonds.* One comment suggested that payment bonds and Irrevocable Letters of Credit be added to this provision. Existing regulations at 43 CFR 8372.5(c) discuss bonding requirements and address these suggestions of adding other types of bonds. Therefore, to avoid confusion, this section is amended to conform to the existing regulations at 43 CFR 8372.5(c).

10. *Insurance.* One comment objected to the requirement for insurance, stating that insurance is unnecessary because State law indemnifies the Government. The specific State law referred to (Idaho statute 36–1604) does not apply when fees are charged. Also, all States in which the Bureau issues special recreation permits have not passed similar legislation.

11. *Violation of Law.* Some comments were confused by this provision and specifically wanted to know what kind of convictions could result in permit cancellation. The existing regulations at 43 CFR 8372.5(f) are more definitive on this requirement and, therefore, this section of the policy is amended to conform to the regulation.

E. Appeals

One comment suggested citing the appeals regulations. This was done. The Department of the Interior's appeal regulations are contained in 43 CFR 4.400 and appeal regulations regarding special recreation permits are contained in 43 CFR 8372.6, as amended.

F. Monitoring for Compliance

One comment requested a description of specific monitoring techniques. Further guidance on monitoring for compliance will appear in future Bureau directives. It is not appropriate to include that level of detail in this policy document.

G. Enforcement

Some comments questioned the Bureau's capabilities to enforce permitting requirements and suggested the need for citation authority. Enforcement of this policy and regulations on special recreation permits is authorized by Section 303 of the Federal Land Policy and Management Act. Citation authority has been granted to the Bureau by the Secretary and may be delegated only to fully trained law enforcement personnel. In addition, the Bureau may enter into contracts with local officials having law enforcement authority to enforce compliance with special recreation permits within its jurisdiction. The need for, and options to provide additional citation capability, is currently being evaluated by the Bureau.

In response to comments on the proposed special recreation regulations pertaining to prohibited acts, a fifth act was added to the four listed. The same comment was received on the policy and therefore the same fifth prohibited act is added to Section G.a. It states: "(5) fail to show a copy of the special recreation permit to a Bureau of Land Management employee or a participant upon request."

One comment wanted to know if authorized users as well as unauthorized users are subject to civil suit. Yes they are. This provision has been amended accordingly.

One other comment, not addressing any specific section of the proposal

policy, requested clarification of the term "public lands" as used in the policy. For the purposes of this policy, "public lands" means any land or interest in land administered by the Bureau of Land Management, and waters related thereto. Where appropriate, the policy has been amended to reflect this meaning and this definition has been added to the "notes" section of the policy.

Dated: January 31, 1984.

Robert F. Burford,

Director.

Special Recreation Permit Policy

A. General Policy.

1. *Basic Objectives.* The basic objectives of the Bureau of Land Management's (BLM's) special recreation permitting system are to satisfy recreational demand within allowable use levels in an equitable, safe and enjoyable manner while minimizing adverse resource impacts and user conflicts.

2. *Consistency With Planning.* Special recreation permits are managed in a manner which is consistent with management objectives determined in resource management plans, recreation area management plans, or in their absence, through recreation management objectives resulting from analysis of resources and visitor use for each area (recreation opportunity spectrum classes).

3. *Privilege.* In issuing special recreation permits to recreational users of public lands, BLM consents to use of the land and/or related waters for the permitted purposes. This represents a privilege to use public lands and/or related waters which is subject to the terms and conditions of the permits.

4. *Permits Required.* Special recreation permits are issued for specific recreational uses of the public lands and related waters. They are issued as a means to control visitor use, to protect recreational resources, and as a mechanism to accommodate commercial recreational uses. Authorized by the Land and Water Conservation Fund Act, there are four types of uses for which these permits are required—commercial, competitive, off-road vehicle use involving 50 or more vehicles, and individual or group use in special areas. (See definitions in 43 CFR 8372.)

There are three exceptions to these permit requirements. Special recreation permits are not required when: (1) BLM sponsors, or co-sponsors uses, such as activities that take place as a result of cooperative or volunteer agreements; (2) the authorized officer *(1)* (See notes at the end of this policy.) determines that permits and fees are unnecessary where a use or event begins and ends on non-public lands or related waters, traverses less than 1 mile of public lands or one shoreline mile, *and* poses no threat of significant damage to public land or water resource values; and (3) the authorized officer waives the permit and fee requirements for competitive events that are not commercial when the events comply with off-road vehicle designations for the use area, no cash prizes are awarded, less than 50 vehicles are involved, there is no public advertising for the event, and there is no threat of significant damage to public land or water resource values, or need for monitoring.

5. *Allocation of Use.* As the use in a recreation area increases, one of the actions taken by the authorized officer is to determine the desired level of use or the carrying capacity *(2).* When necessary, carrying capacities are set in accordance with decisions in the management plan for each area or, in the absence of management plans, through recreation management objectives resulting from analysis of resources and visitor use for each area (recreation opportunity spectrum classes).

If the use level in the area exceeds the carrying capacity, measures must be taken to remedy the problem. Indirect visitor and resource management techniques such as controlling public land access, interpretive efforts to promote environmental awareness and protection, providing extra protection for fragile resources, encouraging voluntary scheduling of commercial trips, or other mitigating measures to resolve user conflicts are used before resorting to direct management methods such as allocating use among users.

When the need for more direct management methods is apparent, use opportunities are allotted between and rationed within competing types of uses. This allocation consists of imposing limits on users who participate in similar types of recreation activities. These limits may effect: (1) The overall number of individuals, (2) the number of groups or parties, (3) the number of individuals per group and/or the number of users by sector (e.g., commercial, competitive, or individual/group use).

The following are BLM's allocation goals:

a. Manageability—allocation methods must be workable, implementable, defensible to users, and within legal and budgetary constraints.

b. Flexibility—the method used must be responsive to the relative amount of use and to demand shifts.

c. Fairness and Equity—to the greatest extent possible, for all concerned.

d. Maximization of experiences and allowable use.

e. Minimization of resource impacts and user conflicts.

B. Issuance of Permits.

When the desired use is within the maximum allowable use level determined for the area and the applicant meets any minimum standards which are required to conform with management plan decisions or by State or local agencies, all special recreation permits are generally issued on a first-come-first-served basis. In States requiring commercial or competitive licenses, such licenses must be obtained in order to receive a special recreation permit. Where possible, a sufficient number of commercial permits are issued to encourage competition among permittees.

When an area's desired use level has been reached, no additional permits will be issued. New permits may become available when:

1. An area's desired use level (carrying capacity) is increased. Desired use levels could be expanded, for example, by increasing the number of allowable users within a use season or by lengthening the season.

2. A permit is revoked or not renewed because of non-compliance.

3. A permittee voluntarily relinquishes a permit.

4. New opportunities become available.

New commercial and competitive permits may be: (1) Awarded according to historical use, (2) limited to existing permit holders, (3) awarded by a competitive system, or (4) awarded by a combination of methods. For example, two or more current commercial permittees may be marginally economical and the additional allocation or capacity may help ensure better service to the public. In such cases, those competing for the permit may be limited to existing commercial permittees.

New permits for other uses may be: (1) Awarded on a first-come, first-served basis, (2) selected from a waiting list, or (3) awarded by a non-competitive system such as a lottery.

In areas where use exceeds the desired use levels, or when the management plan indicates decreases in the use level are necessary, the reductions are generally accomplished proportionally for all types of permit holders in each particular area or through voluntary reductions. Another method which may be used to reduce use is to award fewer permits. In this

method; subsequent commercial and competitive permits may be awarded according to historical use (*3*), limited to existing commercial permit holders; by a competitive system, or by a combination of methods.

C. Fees. Fees are charged for these permits to meet two objectives: primarily, to recover at least a portion of the cost of issuing and administering the permits; and, where possible, to provide a return for special use of public lands. Fee levels are set with these objectives in mind after study of the direct and indirect cost (*4*) to the government, the benefits to the recipient, the public policy or interest served, the comparable recreation fees charged by Federal and non-Federal public agencies and the private sector, the economic and administrative feasibility of fee collection, and other pertinent factors such as the value of the use privilege conferred. In most cases these levels provide for recovery of the costs of the permits and in some cases, notably commercial recreation uses, provide a return to the Government for the use of the land.

Permit fees shall be nonrefundable where the amount of intended use is determined in the application, except when notification of whole or partial cancellation is made in sufficient time to allow reallocation of use to others.

Permits may be required but fees are not charged for uses for educational or scientific purposes, regardless of whether the use is commercial, so long as the use is not primarily recreational. Applicants on this basis must, however, compete for use allocation in those areas where use is limited (e.g., for allocation purposes, those applicants who meet the definition of commercial compete for commercial permits while others compete for noncommercial permits). Applicants for waiver of fees on this basis may be required to provide documentation of their official recognition as educational or scientific institution by Federal, State or local government bodies.

D. Terms.

1. *Permit length.* Commercial permits are generally issued for five years. Other types of permits may be issued for a day, season of use, or any other time period considered appropriate by the authorized officer for the intended use. Criteria used to determine appropriate permit length include management objectives, the time necessary to amortize the permittee's investment, resource management planning timeframes, the environmental risks involved, public demand for the intended use, and the permittee's past performance. A multi-year permit will only be valid if the permittee has paid annual fees and provided a copy of a valid insurance policy.

At a minimum, an annual evaluation of each multi-year permit is completed to evaluate performance and compliance with terms and conditions of the permit, determine if use still complies with management plan objectives, and review of past year receipts to determine over or under payment.

For commercial special recreation permits, the authorized officer develops performance review standards in consultation with the permittee, State fish and game agencies, State outfitter licensing boards, councils, and other State and Federal land managing agencies. These performance standards are included in each permit. If, as a result of a performance evaluation or compliance check, a permittee is found to have performed unsatisfactorily, the authorized officer will modify or invalidate the permit.

2. *Renewal of Permits.* Only multi-year commercial and competitive permits may be renewed. At the end of the term of each permit a review of the permit similar to the annual review indicated above is conducted. If the permittee applies for another permit and it is determined that the permittee satisfactorily met the requirements of the previous permit and continued use is consistent with the management plan, the authorized officer should show preference to that permittee in issuing a new permit. Unsatisfactory performance may lead to denial of the permit applications.

3. *Transfer of Commercial Permit Privileges.* On occasion, existing permittees may wish to sell or otherwise terminate their business and desire the permit privileges be transferred to a new owner. This might occur either at the end of the existing permit period or prior to expiration of the existing permit. Procedure for this type of transfer is as follows:

a. When an existing permittee wishes to have the permit privileges transferred to a potential new owner of his/her business the permittee must so notify the authorized officer in writing.

b. The authorized officer will consider the following in determining whether to allow the transfer:

(1) The new applicant must agree to provide the type and size of operation specified in the management plan.

(2) The new applicant must be able to meet any standards required in conformance with management plan decisions or by State or local agencies (this includes standards of outfitter/guide licensing boards in States with licensing requirements).

(3) Adequate documentation must be provided to the authorized officer that a bona fide business transfer or sale is intended. The transfer or sale must include a substantial portion of the equipment and other tangible assets needed to conduct a business. Any attempted transfer or sale of authorized use *only* is not allowed.

(4) Generally, the previous permittee should have operated to an acceptable standard for at least two consecutive use seasons, as defined by the management plan, before requesting a transfer of the permit privileges.

c. If the new applicant has demonstrated the ability to meet the above conditions and has met State and local requirements (as applicable), the authorized officer should reissue the permit. The new permit may contain terms and conditions that vary from the previous permit, including the number of authorized user days and the length of the permit period according to the management plan allocation system.

4. *Allowable Use.* The amount and type of use allowed under each permit is set by the authorized officer in conformance with management objectives. Modifications of permit terms within the permit period, including user days or other changes, are allowed only with approval of the Authorized Officer and must be consistent with the management plan. Assignment of permit privileges is not allowed. Consistent non-use of user days by a permittee may be a determining factor in future use allocations and award of permits.

5. *Suspension.* The authorized officer may suspend a special recreation permit if necessary to protect public health, public safety, or the environment. Such suspensions have no effect on the expiration date of the permit.

6. *Area of land.* Special recreation permits are issued for only the minimum amount of land needed for the intended use. If, in the judgment of the authorized officer, additional land is needed, a permit may be amended to include the necessary land.

7. *Inspection of records and accounts.* The authorized officer, or any other duly authorized representative of the Bureau, may examine any of the permittee's records or other documents related to the permit for up to three years after expiration of the permit.

8. *Stipulations.* The authorized officer may require the permittee to comply with any reasonable stipulations or conditions necessary to protect the lands or resources involved and the public interest in general. The permittee's compliance with these stipulations may be monitored at

various intervals depending on the type of use involved, the resource values at risk, the permittee's past record of compliance, and other factors. Failure to comply with stipulations or conditions may result in permit cancellation, criminal sanctions, or civil suit.

9. *Bonds.* In addition to a payment bond, the authorized officer may require the posting of a cash or surety bond or other guarantee in such form and in such amount as the authorized officer determines to be sufficient to defray the costs of restoration and rehabilitation of the lands affected by the permitted use. Bonds and guarantees will be returned to the permittee upon satisfactory compliance with all permit stipulations, including restoration and rehabilitation requirements.

10. *Insurance.* Insurance is required of all commercial and competitive permittees to provide restitution for damage or injury to the public or to privately owned resources, and to protect the United States from suit resulting from actions taken or caused by the permittee or participants in a permitted use.

11. *Violation of law.* The conviction for a violation of any Federal or State law or regulation concerning the conservation or protection of natural resources, the environment, endangered species, or antiquities that is related to said special recreation permit may result in the cancellation of the permit.

E. *Appeals.* The decisions of the authorized officer regarding special recreation permits may be appealed to the Interior Board of Land Appeals in accordance with procedures in 43 CFR 4.400. However, such decisions remain in effect pending appeal, unless ruled otherwise by the Secretary of the Interior. Petitions for stay of decisions may be made to the Secretary. Also, any person who participated in the planning process and has an interest which is or may be adversely affected by the approval or amendment of a resource management plan may protest such approval or amendment. A protest may raise only those issues which were submitted for the record to the District Manager during the planning process. Protest procedures and requirements are found at 43 CFR Part 1600.

F. *Monitoring for Compliance.* Permits are monitored for compliance with terms and conditions. The amount of such monitoring is commensurate with the resource values at risk, the permittees' past record of compliance, and other factors. This monitoring includes checking to ensure that all permitting requirements have been met. In addition, the Bureau also relies on permittees to report unauthorize use. When noncompliance or unauthorized use is encountered the Bureau seeks voluntary compliance. If voluntary compliance efforts and other administrative remedies, such as cancellation of permits, are unsuccessful the Bureau must resort to enforcement.

G. *Enforcement.* When voluntary and administrative means of gaining compliance fail, enforcement of criminal and civil sanctions related to the permitting requirements is in the interest of long-term management of BLM's recreation resources.

a. Criminal penalties. Persons who commit prohibited acts are subject to criminal penalties under the Land and Water Conservation Fund Act (conviction can result in a fine of up to $100) and the Federal Land Policy and Management Act (conviction can result in a fine of up to $1000 and/or one year imprisonment). These prohibited acts include:

(1) Failure to obtain a permit or pay a fee required by the special recreation permit regulations;

(2) Violation of stipulations or conditions of a permit issued under authority of the regulations;

(3) Knowingly participating in an event or use subject to the permit requirements of the regulations where no such permit has been issued. This extends criminal sanctions to participants in unauthorized events and is likely to deter many participants from knowingly becoming involved in unauthorized events. Proof of intent to participate in the unauthorized event or use knowingly would be required for conviction;

(4) Failure to post a copy of any commercial or competitive permit in plain view where all participants have the opportunity to read it. This makes participants aware that the use is authorized and it also makes them aware of the conditions of the permit. Participants can report permit violations to BLM;

(5) Failure to show a copy of the special recreation permit to a Bureau of Land Management employee or a participant upon request.

b. Civil suit. Authorized as well as unauthorized users are subject to civil suit. The Bureau will seek penalties based on the amount of fees (lost revenue had a permit been issued), the cost of repair and/or rehabilitation of any damage caused by the use, and the value of irreparable resource damage. The Bureau can, under regulations in 43 CFR 9239.0-9(b), refuse to sell timber or materials, or to issue a lease or permit to unauthorized users who have been served with a demand for payment and the authorized officer has reason to believe payment will not be made.

Notes

(*1*) *Authorized Officer.* Any employee of the Bureau of Land Management who has been delegated the authority to perform the duties described herein. A document listing such delegation of authority may be reviewed in each BLM District Office.

(*2*) *Carrying Capacity.* Carrying capacity is the amount and type of recreational use an area can accommodate without altering either the environment or the user's experience beyond the degree of change deemed acceptable by the management objectives for the area. This can also be called the maximum allowable use level.

(*3*) *Historical Use.* This is generally defined as the average of the highest two use seasons in the preceding five-year period.

(*4*) *Direct Costs.* These are costs incurred, after an application for a special recreation permit has been received, to process the application, to issue the permit, and to ensure compliance with the terms of the permit. These include labor costs, travel and per diem, vehicle mileage, supplies needed for that particular permit, and other costs directly attributable to the permit. Services normally provided whether or not permits are issued, such as law enforcement, search and rescue, work done prior to the receipt of the application, and other normal operating costs are *not* included.

Indirect Costs. These are overhead costs affected by the permitting activities, expressed as a percentage of the total direct costs. The percentage for Fiscal Year 1984 is 17 percent. Field offices are notified in advance if a change in the percentage is necessary (the indirect cost rate is based on annual analysis of actual indirect costs for the previous year).

(*5*) *Public Lands.* For the purposes of this policy, "public lands" means any land or interest in land administered by the Bureau of Land Management, and waters related thereto.

[FR Doc. 84-3682 Filed 2-9-84; 8:45 am]
BILLING CODE 4310-84-M

federal register

Friday
February 10, 1984

Part V

Environmental Protection Agency

40 CFR Part 261

Hazardous Waste Management System; Identification and Listing of Hazardous Waste; Interim Final Rule and Proposed Rule

VOL 49 ISS 29 FE 10 1984 UMI

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 261

[SWH-FRL 2442-3(a)]

Hazardous Waste Management System; Identification and Listing of Hazardous Waste

AGENCY: Environmental Protection Agency.

ACTION: Interim final rule and request for comments.

SUMMARY: The Environmental Protection Agency (EPA) is today promulgating an interim final regulation under the Resource Conservation and Recovery Act (RCRA). This regulation lists as hazardous a group of wastes of a generic category generated during the manufacture of chlorinated aliphatic hydrocarbons by free radical catalyzed processes, having a carbon content ranging from one to five, with varying amounts and positions of chlorine substitution. EPA originally proposed this action in August, 1979. The effect of this interim final regulation is that all of these wastes will be subject to the hazardous waste management standards contained in 40 CFR Parts 262–266 and the permitting requirements of Parts 270, 271, and 124. This action, however, does not apply to wastes generated during the production of chlorinated aliphatic hydrocarbons that are already listed as hazardous.

DATES: Comment Date: EPA will accept public comment on this amendment until April 10, 1984.

Effective Date: August 10, 1984.

Notification Data: The Agency has decided not to require persons who generate, transport, treat, store, or dispose of these hazardous wastes to notify the Agency within 90 days of promulgation that they are managing these wastes. The Agency views the notification requirement to be unnecessary in this case since we believe that most, if not all, persons who manage these wastes have already notified EPA and received an EPA I.D. number.

ADDRESSES: Comments should be sent to Docket Clerk [Docket 261–83–2], Office of Solid Waste (WH–562), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460. Communications should identify the regulatory docket "Section 3001/Generic Chlorinated Aliphatic."

Public Docket: The public docket containing the Background Document and all other supporting documentation for this regulation is located in Room S–212, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460, and is available for viewing from 9:00 a.m. to 4:00 p.m. Monday thru Friday, excluding holidays.

FOR FURTHER INFORMATION CONTACT: RCRA Hotline, toll free at (800) 424–9346 or at (202) 382–3000. For technical information contact Dr. Cate Jenkins, Office of Solid Waste (WH–565B), Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460, (202) 382–4788.

SUPPLEMENTARY INFORMATION:

I. Background

As part of its regulations implementing Section 3001 of RCRA, EPA published a list of hazardous wastes which include hazardous wastes generated from non-specific sources. This list has been amended several times, and is published in § 261.31 of Title 40 of the Code of the Federal Regulations. In today's action, EPA is amending this section to add a particular generic category of residual wastes generated during the manufacture of chlorinated aliphatic hydrocarbons by free radical catalyzed processes having carbon chain lengths ranging from one to five ("C_1–C_5").[1] These wastes include distillation residues, heavy ends, tars, and reactor clean-out wastes. In addition, in another section of today's **Federal Register**, EPA is also proposing to list as hazardous light ends, spent filter and filter aids, and dessicant wastes from these same free radical catalyzed manufacturing processes. Neither the interim final nor proposed listing, however, include process wastewaters, wastewater treatment sludges, or spent catalysts.[2] These listings also do not include wastes from those processes listed individually in 40 CFR 261.32, as they are already listed. (Phrased another way, after promulgation of the interim final and the proposed listings, virtually all solid wastes from these processes that are not typically treated in plant wastewater treatment systems will be subject to RCRA control.)

On August 22, 1979, the Agency proposed, among other things, to list as hazardous, by generic description, a number of waste streams from the production of chlorinated aliphatic hydrocarbons (see 44 FR 49402). This proposal covers all of the wastes listed in today's interim final regulation (and some which are not, at this time, being promulgated as final rules).[3] In addition, the Agency is proposing to list several new waste streams from the production of these same chlorinated aliphatic hydrocarbons under a separate action described in another section of today's **Federal Register.**

The hazardous constituents in these wastes, both in the interim final and proposed listings, include a wide range of carcinogenic and other toxic chlorinated and non-chlorinated organic compounds. One or more of these toxicants typically are present in high concentrations in each waste (although each waste does not contain all of the individual toxic constituents of concern). These wastes consequently are of particular environmental concern. EPA has evaluated these wastes against the criteria for listing hazardous wastes (40 CFR 261.11(a)(3)), and has determined that they typically contain high concentrations of toxicants, the toxicants are mobile and persistent, the wastes are generated in large volumes and have been mismanaged in the past, and many of the toxicants in the wastes are regulated by other EPA regulations as well as under regulations of other governmental agencies. The Agency believes, therefore, that these wastes are capable of posing a substantial present or potential threat to human health or the environment when improperly treated, stored, transported, disposed of, or otherwise managed, and thus are hazardous wastes.

II. Summary of the Regulation

As stated, this interim final regulation lists as hazardous certain wastes generated during free radical catalyzed manufacturing processes of chlorinated

[1] The Agency has limited this listing to C_1–C_5 chlorinated aliphatic hydrocarbons for two reasons. First, C_6–C_{10} chlorinated aliphatic hydrocarbons are not produced in significant quantity in the U.S. by the generic chemical reaction processes addressed by these listings. Second, and more importantly, the higher molecular weight chlorinated paraffin manufacturing processes typically do not produce organic residuals.

[2] The Agency is not including wastewaters, wastewater treatment sludges, and spent catalysts as part of today's listing since the Agency has an insufficient amount of data to determine the hazardousness of these wastes on a generic basis. However, as our data base becomes more complete, we will re-evaluate these listings to determine whether they should also be included.

[3] The listings proposed on August 22, 1979 included wastes from the production of chlorinated aliphatic hydrocarbons, chlorinated cyclic aliphatic hydrocarbons, chlorinated aromatic hydrocarbons, and chlorinated polymers. (In addition to the waste streams covered by today's action, the original proposal included spent catalysts and "washer wastes" (contact process waters). For reasons explained later in this proposal, today's regulation does not apply to wastes from chlorinated aromatic or chlorinated polymer production. It does, however, apply to wastes from the production of cyclic chlorinated aliphatic hydrocarbons because they are a subset of the total set of chlorinated aliphatic hydrocarbons.

aliphatic hydrocarbons [4] having carbon chain lengths ranging from one to five. This listing does not apply to those wastes from chlorinated aliphatic hydrocarbon production already listed in § 261.32—namely EPA Hazardous Wastes K016, K018, K019, K020, K028, K029, K030, K095, and K096. These wastes were listed on May 19, 1980, and the listings are final for purposes of rulemaking and of judicial review.

The residual wastes covered by this interim final regulation include distillation residues, heavy ends, tars, and reactor clean-out wastes. The C_1–C_6 chlorinated aliphatic hydrocarbon generic product category includes those chemicals currently produced in the U.S. and also any new commercial products which would also be part of this category. The major commercial products for which the associated organic residual wastes are covered by this interim final regulation as well as the accompanying proposed regulation include the following:

Carbon tetrachloride
1-Chlorobutane (*n*-Butyl chloride)
Chloroethane (Ethyl chloride)
Chloroform (Trichloromethane)
2-Chloro-1,3-butadiene (Chloroprene)
Chloromethane (Methyl chloride)
2-Chloro-2-methylpropane (*t*-Butyl chloride)
3-Chloro-2-methylpropene (Methallyl chloride)
3-Chloropropene (Allyl chloride)
Dichlorobutadiene
Dichlorobutenes
1,4-Dichlorobutyne
1,2-Dichloroethane (Ethylene dichloride)
Dichloromethane (Methylene dichloride)
1,2-Dichloropropane
1,3-Dichloropropene
Hexachlorocyclopentadiene
Tetrachloroethylene (Perchloroethylene)
1,1,1-Trichloroethane
1,1,2-Trichloroethane
Trichloroethylene (1,1,2-Trichloroethene)
1,2,3-Trichloropropane
1,2,3-Trichloropropene
Vinyl chloride (Chloroethene)
Vinylidene chloride (1,1-Dichloroethene)

According to the U.S. International Trade Commission, over 21 billion pounds (9.5 million metric tons) of these commercial chemicals are produced annually by approximately 29 domestic companies. Available information in the Section 3007 RCRA Industry Studies data base indicates that approximately 166 million pounds (75,000 metric tons) per year of new wastes are covered by this action while 63 million pounds (29,000 metric tons) of new wastes would be covered by the accompanying proposed regulation. Approximately 3.3 billion pounds (1,509,000 metric tons) of wastes associated with these manufacturing processes are already regulated under § 261.32, as discussed above.

The wastes covered by these regulations are formed as residuals at several points in an integrated series of chemical reactors and associated purification units employed to produce a range of desired chlorinated aliphatic hydrocarbons. Our decision to list these wastes by means of a generic process, rather than by individual processes, is based on the similarity of chemical reactions and by-product formation within these C_1-C_6 free radical catalyzed chemical conversion processes. Although plants differ in process design, size, and specific products manufactured, a common factor is the utilization of one or more general chemical reaction types in a series of unit processes to generate higher degrees of chlorinated compounds.

Usually at least one of these chemical conversions in an integrated process is catalyzed by "free radicals", which generally require high reactor temperatures. These free radical catalyzed reactions are not totally specific in producing the desired chemical product; thus, reactor conditions can only be arranged to maximize the desired products. Therefore, for any given C_1-C_6 process, a range of by-products will be formed having both higher and lower carbon atoms and higher and lower amounts of chlorine substitution. It is possible to predict many of the different chemical species that will be formed in the course of these free radical catalyzed processes, and that will, in turn, be found in the listed wastes. The Agency's sampling program confirms these predictions. The listing Background Document and the sources cited therein describe in detail the process, reaction similarities, and chemical reaction theory justifying the Agency's generic approach.

The Agency also predicted and has confirmed with sampling data that processes employing only low temperature acid catalyzed reactor units do not generate the toxic wastes found from integrated free radical catalyzed processes. Consequently, the listing descriptions apply only to wastes generated by free radical catalyzed integrated processes. (Phrased another way, this listing does not include those wastes generated from processes that only use low temperature acid catalyzed reactor units.) This listing and accompanying proposed listing are intended to cover the described wastes from all sources within an integrated process utilizing free radical catalyzed conversions, whether or not the integrated process utilizes free radical catalyzed conversions solely or in conjunction with other types of chemically catalyzed conversions. This is because there is carry-over of toxic by-products as well as intrinsically toxic intermediates and products formed during the free radical catalyzed conversion process into all of the wastes from these processed.

The wastes, described in this listing as well as the accompanying proposal, typically will contain significant aggregate concentrations of one or more of the following contaminants of concern:

Chloromethane (Methyl cholride)**
Dichloromethane (Methylene chloride)**
Trichloromethane (Chloroform)*
Carbon tetrachloride*
Vinyl chloride (Chloroethene)*
1,1-Dichloroethane (Ethylidene dichloride)
1,2-Dichloroethane (Ethylene dichloride)*
trans-1,2-Dichloroethene
1,1-Dichloroethene (Vinylidene chloride)*
1,1,1-Trichloroethane**
1,1,2-Trichloroethane*
Trichloroethene (Trichloroethylene)*
1,1,1,2-Tetrachloroethane
1,1,2,2-Tetrachloroethane*
Tetrachloroethene (Perchloroethylene)*
Pentachloroethane
Hexachloroethane*
3-Chloropropene (Allyl chloride)
Epichlorohydrin (1-Chloro-2,3-epoxypropane)*
Dichloropropane
Dichloropropene**
2-Chloro-1,3-butadiene (Chloroprene)
Hexachloro-1,3-butadiene*
Hexachlorocyclopentadiene**
alpha-Hexachlorocyclohexane*
beta-Hexachlorocyclohexane*
gamma-Hexachlorocyclohexane*
delta-Hexachlorocyclohexane**
Benzene*
Chlorobenzene**
Dichlorobenzenes**
1,2,4-Trichlorobenzene
Tetrachlorobenzene**
Pentachlorobenzene**
Hexachlorobenzene*
Toluene**
Naphthalene

*Indicates compounds that have been determined by the U.S. EPA's Carcinogen Assessment Group (CAG) as having evidence of carcinogenicity. The weight of evidence for carcinogenicity varies. Some of the chemicals have human evidence (epidemiology data) while others have only animal evidence.

[4] "Chlorinated aliphatic hydrocarbons" refers to a class of organic compounds. "Hydrocarbons" are organic compounds (molecules) composed solely of the atoms hydrogen and carbon. "Aliphatic" designates that the chemical bonding between carbon atoms are single, double, or triple covalent bonds, (not aromatic bonds). (Cyclic aliphatic hydrocarbons are included in this class.) "Chlorinated" means that the hydrogen atoms in the "aliphatic hydrocarbon" have been chemically replaced with chlorine atoms, at different positions and also in multiple positions.

Depending on the amount and quality of the data, the evidence could be classified as limited or sufficient using criteria developed by the International Agency for Research on Cancer. The EPA has established Ambient Water Quality Criteria Levels based on their potentially carcinogenic effects.

**Indicates compounds for which Ambient Water Quality Criteria Levels have been determined by the Agency for chronic human health risks other than carcinogenicity.

The contaminants include chlorinated aliphatic hydrocarbons as well as aromatic compounds and chlorinated aromatic compounds that are currently identified in Appendix VIII of Part 261. In addition, 2-chloro-1,3-butadiene (chloroprene) and 3-chloro-propene (allyl chloride) are new toxicants which the Agency is adding to Appendix VIII of Part 261. The toxicology and environmental fate of these toxicants is presented in the Background Document and Health and Environmental Effects Profiles. By adding these two new constituents, the Agency also is increasing the number of hazardous constituents for which land disposal facilities must monitor groundwater under compliance monitoring programs (See § 264.99). Land disposal permittees also may be required to monitor for these constituents under groundwater detection monitoring programs [5] (see § 264.98).

As explained above, the Agency has inferred the presence of these contaminants from knowledge of reaction chemistry and process conditions. In conjunction with this theoretical predictive methodology, the Agency obtained representative samples of these wastes and confirmed the presence of these contaminants through chemical analysis.

As shown in the Background Document, the hazardous constituents generally are present in these wastes in significant concentrations, typically in concentrations many orders of magnitude above the levels related to human health concerns. For example, analysis of one manufactuer's vinyl chloride distillation residues (Table 1) shows the hazardous constituents at concentrations typically found in these wastes.[6]

TABLE 1—VINYL CHLORIDE DISTILLATION RESIDUE

Constituent	Percent
1,2-dichloroethane	[3] 36.0
1,1,1-trichloroethane	.4
1,1,2-trichloroethane	15.0
trichloroethylene	.2
1,1,2,2-tetrachloroethane	.2
dichlorobutenes [1]	1.8
dichlorobutane & butadiene [1]	.3
chlorobenzene	.7

[1] At the present time, the Agency does not have adequate information to classify these constituents as toxicants of concern.
[3] That is, 360,000 ppm.

The Agency has calculated that persons face a 1 per million increased risk of cancer or other adverse health effects as a result of lifetime ingestion of water and aquatic organisms (fish, etc.) living in such water when the water is contaminated at levels above the Ambient Water Quality Criteria Levels (AWQCL). As an indication of how high toxicant concentrations in these wastes are, the concentration of 1,2-dichloroethane alone in the vinyl chloride distillation waste approaches 400 million times the AWQCL. The other toxic constituents likewise are frequently present in concentration orders of magnitude greater than the AWQCL.

In all cases, the solubilities of the toxicants of concern are many orders of magnitude greater than the AWQCL. Thus, only a small fraction of the toxicants present in these wastes need migrate and reach environmental receptors to pose the potential for substantial harm if these wastes are landfilled improperly. Improper incineration is another exposure pathway of concern.

The chemical analyses obtained by the Agency and company supplied information in the Section 3007 RCRA Industry Studies data base demonstrate empirically similar high concentrations of toxicants in the wastes covered by this interim final and the accompanying proposed regulation.[7] Although there were many differences between these wastes, both qualitatively and quantitatively, in all cases, there were one or more of the toxicants of concern present at levels which could present a substantial environmental hazard if the wastes are mismanaged.

We note further that comparison of toxicity of individual waste constituents is likely to *understate* the toxicity of these wastes. This is because these wastes are complex mixtures of many hazardous constituents. Aggregate toxic effects, whether additive or synergistic, must be judged probable.

These wastes thus typically contain many known toxicants in concentrations well above those necessary to cause substantial harm. All of these toxicants are capable of migrating from the wastes via leaching action and of persisting in the environment in concentrations sufficient to cause substantial harm to environmental receptors. Many of these toxicants also are bioaccumulative, increasing the risk of *de facto* exposure to higher levels of toxicants, since receptors will accumulate these toxicants in increasing levels. We also note that these wastes are generated in large quantities, increasing the risk of exposure and substantial damage if mismanagement occurs.

Thus, these wastes are capable of causing substantial harm to humans if managed improperly. Examples of improper management which could realistically occur include disposal in unlined or inadequately lined land disposal facilities, which could lead to contamination of groundwater, surface water, and soil. Improper incineration could also lead to exposure to unburned toxicants in the wastes, and also could lead to exposure to products of incomplete combustion, including phosgene and hyrochloric acid. These predictions of substantial harm all have occurred in actual management of these wastes. The Agency has documented damage incidents involving mismanagement of these wastes which have resulted in surface and groundwater contamination, and contamination of soil and air as well. These incidents show the potential for these wastes to cause substantial harm, if mismanaged. In addition, the constituents of concern in the listed wastes have been shown in other damage incidents to have migratory potential and the ability to persist in harmful concentrations after migrating from waste matrices.

In summary, the Agency has determined that the wastes listed in this interim final regulation typically contain toxicants at concentrations that are of concern, that these toxicants are capable of migration and persistence in hazardous concentrations, and therefore that these wastes are capable of causing (indeed, repeatedly have caused) substantial harm if mismanaged.

III. Response to Comments

A number of commenters challenged both the Agency's legal authority to list wastes generically and the Agency's

[5] The Agency already has specified procedures for analyzing these toxicants in groundwater. See U.S. EPA. SW–846, Test Methods for Evaluating Solid Waste. Physical/Chemical Methods. U.S. Gov't. Printing Office Publication No. 055–002–81001–2.

[6] U.S. EPA. Disposal of Organochlorine Wastes by Incineration at Sea. EPA Publication No. 430/9–75–041 (1975).

[7] The results of these analyses have been claimed by the individual companies to be confidential business information, and therefore are not presented here. The Background Document and supporting information for this action provide aggregate toxicant concentration ranges for the C_1 through C_4 process wastes sampled.

technical basis in supporting these listings. The Agency has already answered comments regarding its authority to list wastes generically (see 45 FR 33114 (May 19, 1980)). However, confusion remains about the factors the agency will consider when listing wastes on a generic basis.

As this preamble and accompanying background document make clear, the Agency intends to base generic listings on the factors set out in 40 CFR 261.11(a)(3), the same factors considered for all hazardous waste listings. Thus, in determining that wastes within the generic class are typically and frequently hazardous (see 40 CFR 261.11(b)), the Agency will look to such factors as the nature of toxicity of the various toxic constituents, the concentration of toxic constituents in the wastes, mobility and persistence of these constituents, potential of these constituents to bioaccumulate, and whether the wastes have caused substantial harm when mismanaged. The wastes listed here and in the accompanying proposed listing are typically and frequently hazardous under these criteria. As shown above, they typically contain very high concentrations of a wide range of hazardous constituents—concentrations in some cases approaching a billion times the levels calculated by the Agency to increase the risk of cancer in humans from a lifetime ingestion of contaminated water and aquatic organisms. There also is a distinct possibility of synergistic toxicological effects from the various constituents. The constituents typically and frequently are mobile and persistent, and many are bioaccumulative. These wastes have been mismanaged frequently in the past and the mismanagement has resulted in substantial harm; in addition, they are generated in large quantities. All of these considerations strongly support the conclusion that these wastes are typically and frequently hazardous under section 1004(5) of the Act.

The generic listing descriptions, rather than a listing of wastes generated in the course of producing a particular C_1–C_6 product, also is a more accurate way of listing these wastes. As discussed above, this is because the reactions that lead to toxic by-product formation, and the conditions under which these reactions occur, are essentially alike for this entire group of wastes. In fact, a wide range of marketable chlorinated products can be made during one specific C_1 to C_6 process. A listing linked to only one product—for example, "wastes from the production of carbon tetrachloride"—understates greatly the amount of wastes generated in this generic C_1 production process, omitting wastes from the simultaneous production of methyl chloride, methylene chloride, and chloroform. The generic listing thus utilizes these underlying similarities as a critical factor in establishing its basis.

Most of the comments critical of the August 1979 proposal were general comments critical of the Agency's scientific methodology in predicting the inevitable chemical formation of toxic by-product constituents as a result of the high temperature/pressure free-radical generating conditions present in the chemical reactor. The Agency recognizes that there are process factors such as internal recycling, and differences in temperature, pressure, and reactor configuration which may cause variations in the wastes. We do maintain though, that a substantial amount of toxic constituents will predictably be removed from the product process by the waste streams described in the interim final (and proposed) hazardous waste listing(s). The preamble and background documents to this regulation demonstrate why these wastes, which are hazardous, are typically and frequently generated by these processes, taking into account many of the factors cited by the commenters, and thus responding to their comments.

We do agree, however, at least for the time being, with the commenters who questioned the Agency's proposal to list wastes from the production of chlorinated polymers in that our present information suggests that no substantial volume of organic wastes is generated from these processes; all potential "wastes" are carried along with the heavy viscous product stream and incorporated into the product.

Finally, we note that the 1979 proposal also included wastes from the production of chlorinated aromatic hydrocarbons. The Agency already has listed individually many of these wastes through its listing of wastes from the production of chlorobenzenes and benzyl chloride. The major process not yet covered is chlorinated toluene production. The Agency is now evaluating these wastes, and will then make a decision about whether to list them.

IV. Opportunity for Comment

Although we already have proposed to list the wastes covered by this interim final regulation, the Agency decided to allow further opportunity for comment. We solicited and obtained comment on additional data developed to support these listings (48 FR 22750, May 20, 1983). In light of our earlier proposal and the opportunity to comment on additional data, we do not believe it necessary to propose this action. The additional listing of light ends, spent filters and filter aids, and spent dessicant wastes from these same manufacturing processes was not part of the original proposal and is thus being proposed separately in another section of today's **Federal Register**.

V. Economic, Environmental and Regulatory Impacts

A. Regulatory Impact Analysis

Under Executive Order 12291, EPA must determine whether a regulation is "major" and therefore subject to the requirement of a Regulatory Impact Analysis. The total combined cost for disposal of the wastes as hazardous, assuming that all of these wastes would be managed for the first time as hazardous, and making conservative estimates as to costs, is approximately $38 million. It must be noted though, that information available from the Section 3007 RCRA Industry Studies data base indicates that over two thirds of these wastes is already being managed as hazardous waste at RCRA facilities. For these wastes, listing will not add appreciably to the current cost of disposal except for the minimal additional cost of recordkeeping. It will also have very little additional cost impact on the permitting of these facilities since they are already handling hazardous wastes. Based on this reasoning, the estimated impact of this rule will be well under the $100 million that constitutes a major regulation.

The addition of the two new toxicants of concern to Appendix VIII (2-chloro-1,3-butadiene and 3-chloropropene) will not result in any significant increased burden in groundwater monitoring requirement. The analytical techniques currently employed to test for the presence and concentration of other chlorinated organic toxicants on Appendix VIII (gas chromatography combined with mass spectroscopy) will simultaneously test for these new toxicants.

In addition, we do not expect that there will be adverse impacts on the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets. Therefore, since this rule is not a major regulation, a Regulatory Impact Analysis is not being conducted.

This amendment was submitted to the Office of Management and Budget (OMB) for review as required by

Executive Order 12291. Any comments from OMB to EPA, and any EPA responses to those comments, are available for public inspection in Room S-212 at EPA.

B. Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, whenever an agency is required to publish a general notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis which describes the impact of the rule on small entities (i.e., small businesses, small organizations, and small governmental jurisdictions). No regulatory flexibility analysis is required, however, if the head of the Agency certifies that the rule will not have a significant economic impact on a substantial number of small entities.

The hazardous wastes listed here are not generated by small entities (as defined by the Regulatory Flexibility Act), and the Agency does not believe that small entities will dispose of them in significant quantities. Accordingly, I hereby certify that this amendment is unlikely to have a significant economic impact on a substantial number of small entities. This regulation therefore does not require a regulatory flexibility analysis.

VI. List of Subjects in 40 CFR Part 261

Hazardous materials; Waste treatment and disposal, Recycling.

Dated: Febuary 6, 1984.

Alvin L. Alm,

Acting Administrator.

For the reasons set out in the preamble, Title 40 of the Code of Federal Regulations is amended as follows:

PART 261—IDENTIFICATION AND LISTING OF HAZARDOUS WASTE

1. The authority for Part 261 reads as follows:

Authority: Secs. 1006, 2002(a), 3001, and 3002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended (42 U.S.C. 6905, 6912(a), 6921, and 6922).

2. In § 261.31 add the following waste streams:

§ 261.31 Hazardous waste from non-specific sources.

Industry and EPA hazardous waste No.	Hazardous waste	Hazard code
• • • • •		
F024	Wastes, including but not limited to, distillation residues, heavy ends, tars, and reactor cleanout wastes from the production of chlorinated aliphatic hydrocarbons, having carbon content from one to five, utilizing free radical catalyzed processes. [This listing does not include light ends, spent filters and filter aids, spent desiccants, wastewater, wastewater treatment sludges, spent catalysts, and wastes listed in § 261.32.].	(T)

3. Add the following entry in numerical order to Appendix VII of Part 261:

Appendix VII—Basis for Listing Hazardous Wastes

EPA hazardous waste	Hazardous constituents for which listed
• • • • •	
F024	Chloromethane, dichloromethane, trichloromethane, carbon tetrachloride, chloroethylene, 1,1-dichloroethane, 1,2-dichloroethane, trans-1-2-dichloroethylene, 1,1-dichloroethylene, 1,1,1-trichloroethane, 1,1,2-trichloroethane, trichloroethylene, 1,1,1,2-tetrachloroethane, 1,1,2,2-tetrachloroethane, tetrachloroethylene, pentachloroethane, hexachloroethane, allyl chloride (3-chloropropene), dichloropropane, dichloropropene, 2-chloro-1,3-butadiene, hexachloro-1,3-butadiene, hexachlorocyclopentadiene, hexachlorocyclohexane, benzene, chlorbenzene, dichlorobenzenes, 1,2,4-trichlorobenzene, tetrachlorobenzene, pentachlorobenzene, hexachlorobenzene, toluene, naphthalene
• • • • •	

4. Add the following constituents in alphabetical order to Appendix VIII of Part 261.

* * * * *

3-Chloropropene (allyl chloride)
2-Chloro-1, 3-butadiene (chloroprene)

* * * * *

[FR Doc. 84-3686 Filed 2-9-84; 8:45 am]
BILLING CODE 6560-50-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 261

[SWH-FRL 2442-3(b)]

Hazardous Waste Management System; Identification and Listing of Hazardous Waste

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule and request for comments.

SUMMARY: The Environmental Protection Agency (EPA) is today proposing a regulation under the Resource Conservation and Recovery Act (RCRA) that will list as hazardous a group of wastes of a generic category generated during the manufacture of chlorinated aliphatic hydrocarbons utilizing free radical catalyzed processes, having a carbon content ranging from one to five, with varying amounts and positions of chlorine substitution. The effect of this proposed regulation will be that all of these wastes will be subject to the hazardous waste management standards contained in 40 CFR Parts 262–266 and the permitting requirements of Parts 270, 271, and 124.

DATE: EPA will accept public comment on this proposal until April 10, 1984.

ADDRESSES: Comments should be sent to the Docket Clerk [Docket 261–83–2], Office of Solid Waste (WH–562), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460. Communications should identify the regulatory docket "Section 3001/Generic Chlorinated Aliphatic."

Public Docket: The public docket containing the Background Document and all other supporting documentation for this regulation is located in Room S–212, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460, and is available for viewing from 9:00 a.m. to 4:00 p.m. Monday thru Friday, excluding holidays.

FOR FURTHER INFORMATION CONTACT: RCRA Hotline, toll free at (800) 424–9346 or at (202) 382–3000. For technical information contact Dr. Cate Jenkins, Office of Solid Waste (WH–565B), Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460, (202) 382–4788.

SUPPLEMENTARY INFORMATION:

I. Background

As part of its regulations implementing Section 3001 of RCRA, EPA published a list of hazardous wastes which include hazardous wastes generated from non-specific sources. This list has been amended several times, and is published in § 261.31 of Title 40 of the Code of the Federal Regulations. In this notice, EPA is proposing to amend this section to add a particular generic category of residual wastes generated during the manufacture of chlorinated aliphatic hydrocarbons by free radical catalyzed processes having carbon chain lengths ranging from one to five ("C_1–C_5"). These wastes are light ends, spent filters and filter aids, and dessicants from the manufacture of C_1–C_5 chlorinated aliphatic hydrocarbons.

In addition, in another section of today's **Federal Register**, EPA is promulgating, as an interim final rule, hazardous waste listings for distillation residues, heavy ends, tars, and reactor clean-out wastes from this same generic category of manufacturing processes. Neither this proposed nor the interim final listing, however, include process wastewaters, wastewater treatment sludges, or spent catalysts.

The hazardous constituents in the wastes in this proposed listing include the same wide range of carcinogenic and other toxic chlorinated and non-chlorinated organic compounds as in the wastes listed in the accompanying interim final rule. One or more of these toxicants typically are present in high concentrations in each waste (although each waste does not contain all of the individual toxic constituents of concern). These wastes consequently are of particular environmental concern. EPA has evaluated these wastes against the criteria for listing hazardous wastes (40 CFR 261.11(a)(3)), and has determined that they typically contain high concentrations of toxicants, the toxicants are mobile and persistent, the wastes are generated in large volumes and have been mismanaged in the past, and many of the toxicants in the wastes are regulated by other EPA regulations as well as under regulations of other governmental agencies. The Agency believes, therefore, that these wastes are capable of posing a substantial present or potential threat to human health or the environment when improperly treated, stored, transported, disposed of, or otherwise managed, and thus are hazardous wastes.

II. Summary of the Proposed Regulation

As stated, the proposed regulation would list as hazardous light ends, spent filters and filter aids, and spent dessicants generated during free radical catalyzed manufacturing processes of chlorinated aliphatic hydrocarbons having carbon chain lengths ranging from one to five. Available information in the Section 3007 RCRA Industry Studies data base indicates that approximately 63 million pounds (29,000 metric tons) per year of wastes would be covered by this proposed regulation.

Our proposal to list these wastes by means of generic process, rather than by individual processes, is based on the similarity of chemical reaction and by-product formation within the C_1–C_5 production processes, as described in the accompanying interim final listing and listing Background Document. The wastes covered by both this proposal and the interim final rule typically will contain significant aggregate concentration of one or more of the following contaminations of concern:

Carbon tetrachloride*
Vinyl chloride (Chloroethene)*
1,1–Dichloroethane (Ethylidene dichloride)
1,2–Dichloroethane (Ethylene dichloride)*
trans–1, 2–Dichlorpethene
1,1–Dichloroethene (Vinylidene chloride)*
1,1, 1–Trichloroethane **
1, 1, 2–Trichloroethane *
Trichloroethene (Trichloroethylene) *
1,1,1, 2–Tetrachloroethane
1,1,2, 2–Tetrachloroethane *
Tethrachloroethene (Perchloroethylene) *
Pentachloroethane
Hexachloroethane *
3–Chloropropene (Allyl chloride)
Epichlorohydrin (1–Chloro–2,3–epoxypropane) *
Dichloropropane
Dichloropropene **
2–Chloro–1,3–butadiene *
Hexachloro–1,3–butadiene *
Hexachlorocyclopentadiene **
alpha-Hexachlorocyclohexane *
beta-Hexachlorocyclohexane *
gamma-Hexachlorocyclohexane *
delta-Hexachlorocyclohexane **
Benzen *
Chlorobenzene **
Dichlorobenzenes **
1,2,4–Trichlorobenzene
Tetrachlorobenzene **
Pentachlorobenzene **
Hexachlorobenzene *
Toluene **
Naphthalene
Chloromethane (Methyl chloride) **
Dichloromethane (Methylene chloride) **
Trichloromethane (Chloroform) *

* Indicates compounds that have been determined by the U.S. EPA's Carcinogen Assessment Group (CAG) as having evidence of carcinogenicity. The weight of evidence for carcinogenicity varies. Some of the chemicals have human evidence (epidemiology data) while others have only animal evidence. Depending on the amount and quality of the data, the evidence could be classified as limited or sufficient using criteria developed by the International Agency for Research on Cancer. The EPA has established Ambient Water Quality Criteria Levels based on their potentially carcinogenic effects.

** Indicates compounds for which Ambient Water Quality Criteria Levels have been determined by the Agency for chronic human health risk other than carcinogenicity.

The contaminants include chlorinated aliphatic hydrocarbons as well as aromatic compounds and chlorinated aromatic compounds that are currently identified in Appendix VIII of Part 261. The potential of all of these contaminants to cause harm to human health and the environment is described in the accompanying interim final listing notice, the listing Background Document, and the Health and Environmental Effects Profiles.

The wastes covered by these regulations are formed as residuals at several points in an integrated series of reactors and associated purification units utilizing one or more free radical catalyzed chemical conversion steps to produce a range of desired chlorinated aliphatic hydrocarbons. This proposed listing covers wastes from all sources within an integrated process untilizing free radical catalyzed conversions, whether or not the integrated process utilizes free radical catalyzed conversions solely or in conjunction with other types of chemically catalyzed conversions.

The usual plant sources of the light ends derive from the hot, gaseous overhead streams from reactor vessels and/or associated purification and distillation equipment. The light ends component of these overheads is in fact liquids at standard temperature and pressure, but because of elevated temperature and admixture with gases (e.g., hydrogen, methane) they require some form of physical condensation to be isolated as liquids. For example, freon condensors coupled with water condensors are currently used by industry to recover light ends, products, unreacted feedstock, or wastes from the overheads. Incineration, flaring, or release to the atmosphere of light ends, without either partial or complete condensation to ambient temperature, is also practiced.

The Agency considers these light ends to be solid wastes within the meaning of section 1004(28) of RCRA. Although these wastes are generated as gases, they are liquids at standard temperature and pressure, and can feasibly be condensed to the liquid phase after generation.

The exclusion from RCRA of "gaseous materials" that are not contained (section 1004(28)), in the Agency's view, applies only to true gases, namely those which are not capable of being condensed and which remain gases at standard temperature and pressure (for example, the hydrogen and methane admixed with the light ends). The Agency, of course, is not requiring that these light ends be condensed; however, as a RCRA hazardous wastes, these light ends remain subject to the applicable regulations even if left in the gaseous state. Otherwise, one could evade regulation under RCRA simply by heating every waste to the gaseous state.[1]

The spent filters and filter aids, and spent dessicants are generated as residuals furing product intermediate and feedstock purification. These wastes are currently managed by landfilling, incineration, or regeneration and recycling.

As shown in the Background Document, the hazardous constituents generally are present in these waste in significant concentrations, typically in concentrations many orders or magnitude above the levels related to human health concerns. For example, an analysis of one manufacturer's chlorinated propane distillation light ends (Table 1) shows the hazardous constituents at concentrations typically found in these wastes.[2] Chemical analyses obtained by the Agency and company supplied information in the Section 3007 RCRA Industry Studies data base demonstrate similar high concentrations of toxicants in all these wastes.[3] Although there were many differences between these wastes, both qualitatively and quantitatively, in all cases, there were one or more of the toxicants of concern present at levels which could present a substantial environmental hazard if the wastes are mismanaged.

TABLE 1.—CHLORINATED PROPANE DISTILLATION LIGHT ENDS

Constituent	Percent
dichloromethane and isopropyl alcohol *	[1] 0.7
chloroform, acetonitrile and dichloropropene	4.0
ethyl chloride * and 2-chloropropanes/propenes	17.0
1,1-dichloroethane	4.0
1,2-dichloroethane	0.2
chloropropane *	22.0
chloropropene	18.0
chlorodihydroxypropanes *	0.2
dichloropropenes	12.0
dichloropropenes	14.4
dichloropropanols *	0.2
epichlorohydrin	0.4

[1] The Agency has previously listed distillation light ends from the production of phthalic anhydride from naphthalene and orthoxylene as hazardous wastes KO23 and KO93 (40 CFR 261.32), thus establishing a precedent for regulating a waste which originates from a gaseous overhead process stream. No comments were received questioning the Agency's authority to regulate these wastes.

[2] U.S. EPA. Disposal of Organochlorine Wastes by Incineration at Sea. EPA Publication No. 430/9-75-041 (1975).

[3] The results of these analyses have been claimed by the individual companies to be confidential business information, and therefore are not presented here. The Background Document and supporting information for this action provides aggregate toxicant concentration ranges for the C_1 through C_6 process wastes sampled.

TABLE 1.—CHLORINATED PROPANE DISTILLATION LIGHT ENDS—Continued

Constituent	Percent
benzene	0.7

* At the present time, the Agency does not have adequate information to classify these constituents as toxicants of concern.

[1] (i.e., 7,000 parts per million).

The Agency has calculated that persons face a 1 per million increase risk of cancer or other adverse health effects as a result of lifetime ingestion of water when the water is contaminated at levels above the Ambient Water Quality Criteria Levels (AWOCL). As an indication of how high toxicant concentrations in these wastes are, the benzene alone in the light ends waste approaches ten million times the AWOCL. The other toxic constituents likewise are frequently present in concentrations orders of magnitude greater than the AWOCL.

In all cases, the solubilities of the toxicants of concern are many orders of magnitude greater than the AWOCL. Thus, only a small fraction of the toxicants present in these wastes need migrate and reach environmental receptors to pose the potential for substantial harm if these wastes are landfilled improperly. Improper incineration is another exposure pathway of concern.

In summary, and as detailed in the listing Background Document, these wastes typically contain toxicants at concentrations that are of concern, these toxicants are capable of migration and persistence in hazardous concentration, and therefore these wastes are capable of causing substantial harm if mismanaged.

IV. Economic, Environmental and Regulatory Impacts

A. Regulatory Impact Analysis

Under Executive Order 12291, EPA must determine whether a regulation is "major" and therefore subject to the requirement of a Regulatory Impact Analysis. The effect of the present amendment is judged to be minor.

The total combined cost for disposal of the wastes as hazardous, assuming that all of these wastes would be managed for the first time as hazardous, and making conservative assumptions as to costs, is approximately $15 million per year. This figure also overstates costs because information available from the Section 3007 RCRA Industry Studies data base indicates that over one fourth of these wastes are *already* being managed as hazardous waste at RCRA facilities. For these wastes, listing

will not add appreciably to the current cost of disposal except for the minimal additional cost of record keeping. It will also have very little additional cost impact on the permitting of these facilities since they are already handling hazardous wastes. Based on this reasoning, the estimated impact of this rule will be well under the $100 million that constitutes a major regulation.

In addition, we do not expect that there will be adverse impacts on the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets. Therefore, since this proposed amendment is not a major regulation, a Regulatory Impact Analysis is not being conducted.

This proposed amendment was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291. Any comments from OMB to EPA, and any EPA responses to those comments, are available for public inspection in Room S–212 at EPA.

B. Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, whenever an agency is required to publish a general notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis which describes the impact of the rule on small entities (*i.e.*, small businesses, small organizations, and small governmental jurisdictions). No regulatory flexibility analysis is required, however, if the head of the Agency certifies that the rule will not have a significant economic impact on a substantial number of small entities.

The hazardous wastes listed here are not generated by small entities (as defined by the Regulatory Flexibility Act), and the Agency does not believe that small entities will dispose of them in significant quantities. Accordingly, I hereby certify that this amendment is unlikely to have a significant economic impact on a substantial number of small entities. This regulation therefore does not require a regulatory flexibility analysis.

VII. List of Subjects in 40 CFR Part 261

Hazardous materials, Waste treatment and disposal, Recycling.

Dated: February 6, 1984.

Alvin L. Alm,

Acting Administrator.

For the reasons set out in the preamble, Title 40 of the Code of Federal Regulations is proposed to be amended as follows:

PART 261—IDENTIFICATION AND LISTING OF HAZARDOUS WASTE

1. The authority for Part 261 reads as follows:

Authority: Secs. 1006, 2002(a), 3001, and 3002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended [42 U.S.C. 6905, 6912(a), 6921, and 6922].

2. In § 261.31 add the following waste streams:

§ 261.31 Hazardous waste from non-specific sources.

Industry and EPA hazardous waste No.	Hazardous waste	Hazard code
•	•	•
F025	Light ends, spent filters and filter aids, and spent desiccant wastes from the production of chlorinated aliphatic hydrocarbons, having carbon content from one to five, utilizing free radical catalyzed processes.	(T).

3. Add the following entry in numerical order to Appendix VII of Part 261:

APPENDIX VII—BASIS FOR LISTING HAZARDOUS WASTES

EPA hazardous waste No.	Hazardous constituents for which listed
•	•
F025	Chloromethane, dichloromethane, trichloromethane, carbon tetrachloride, chloroethylene, 1,1-dichloroethane, 1,2-dichloroethane, trans-1,2-dichloroethylene, 1,1-dichloroethylene, 1,1,1-trichloroethane, 1,1,2-trichloroethane, trichloroethylene, 1,1,1,2-tetrachloroethane, 1,1,2,2-tetrachloroethane, tetrachloroethylene, pentachloroethane, hexachloroethane, allyl chloride (3-chloropropene), dichloropropane, dichloropropene, 2-chloro-1,3-butadiene, hexachloro-1,3-butadiene, hexachlorocyclopentadiene, hexachlorocyclohexane, benzene, chlorobenzene, dichlorobenzenes, 1,2,4-trichlorobenzene, tetrachlorobenzene, pentachlorobenzene, hexachlorobenzene, toluene, naphthalene.
•	•

[FR Doc. 84–3987 Filed 2–9–84; 8:45 am]
BILLING CODE 6560–50–M

VOL
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federal register

Friday
February 10, 1984

Part VI

Department of Labor

Occupational Safety and Health Administration

29 CFR Part 1910

Revocation of Advisory and Repetitive Standards; Final Rule

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1910

[Docket No. S-600]

Revocation of Advisory and Repetitive Standards

AGENCY: Occupational Safety and Health Administration (OSHA), Department of Labor.

ACTION: Final rule.

SUMMARY: This final rule revokes 153 of the 194 provisions of the General Industry Standards (29 CFR Part 1910) which were proposed for revocation on May 28, 1982 (47 FR 23477). These provisions use the word "should," or other advisory language instead of the mandatory "shall." Also revoked are three sections whose requirements are repeated elsewhere in Part 1910, and one advisory paragraph which was improperly adopted by OSHA as a mandatory provision.

Forty-one provisions originally proposed for revocation are being retained. Public comment and evidence in the record indicates that some of these provisions provide valuable guidance to employers in addressing significant workplace hazards, while the others are tied to or are part of mandatory provisions and are critical to the application or understanding of those provisions.

In addition, OSHA is amending § 1910.6 to clarify that only mandatory provisions of standards incorporated by reference are adopted as OSHA standards.

The removal of these advisory and repetitive provisions from the standards will facilitate OSHA's enforcement responsibilities regarding these provisions, and will assist employers by improving the clarity of the standards.

EFFECTIVE DATE: This final rule becomes effective on February 10, 1984.

FOR FURTHER INFORMATION CONTACT: Mr. James Foster, U.S. Department of Labor, Occupational Safety and Health Administration, Room N3637, 200 Constitution Avenue NW., Washington, D.C. 20210, (202) 523–8151.

SUPPLEMENTARY INFORMATION:

I. Background

On May 28, 1982, OSHA published (47 FR 23477) a proposed revocation of nearly 200 provisions of the General Industry Standards (Part 1910). Notices of corrections to the proposal were published on June 8, 1982, (47 FR 24751) and June 15, 1982, (47 FR 25743). The purpose of the proposal was to correct problems that OSHA had encountered in enforcing some of the provisions in the initial package of Occupational Safety and Health Standards adopted under Section 6(a) of the Occupational Safety and Health Act of 1970 (the Act) (84 Stat. 1593, 29 U.S.C. 655).

Many of the standards adopted under Section 6(a) were national consensus standards originally developed by the American National Standards Institute (ANSI) and the National Fire Protection Association (NFPA). Some of these standards contained advisory provisions which were adopted verbatim by OSHA. The advisory provisions generally provided that an employer "should" undertake specified safety or health obligations. For example, the third sentence of 29 CFR 1910.107(e)(7) provides that agitators, if used, "should" preferably be driven by compressed air, water, or low pressure stream.

In other instances, ANSI standards which contained "should" provisions were changed by OSHA to "shall" when the regulations were promulgated under Section 6(a). The sole remaining standard of this type is 29 CFR 1910.28(a)(3), which provides that guardrails *shall* be installed on platforms more than 10 feet in height. This regulation's ANSI precursor merely advised that guardrails *should* be provided.

In still other instances, OSHA incorporated by reference certain ANSI or NFPA consensus standards which contained advisory provisions. It is clear that the problems associated with the "should" standards and other advisory provisions which are actually published in Part 1910, are also present wherever such advisory provisions are found in standards incorporated by reference.

In the past, OSHA maintained that all standards, regardless of whether the term "should" or "shall" is used, created mandatory compliance responsibilities. Employers have consistently challenged this position on the basis that Section 6(a) of the Act only gave OSHA the authority to adopt ANSI standards verbatim. In ANSI standards, use of the term "should" means that the provision is only advisory. Therefore, employers maintained that ANSI "should" standards could only be advisory when adopted by OSHA under Section 6(a).

Enforcement of "should" standards has been denied by the Occupational Safety and Health Review Commission, and by most of the appellate courts in which contested cases have been heard. For example, in *Marshall v. Pittsburgh-Des Moines Steel Company*, 584 F.2d 638, 643–44 (1978), the Third Circuit Court of Appeals determined that "should" standards were merely advisory because the consensus organization had reached "substantial agreement" that these provisions be viewed only as *recommendations*, and not as mandatory standards.

The courts have also ruled that failure to adopt an ANSI standard verbatim (in this case by changing a "should" to a "shall" in § 1910.28(a)(3)) renders the resulting OSHA Section 6(a) standard invalid and unenforceable [see *Usery* v. *Kennecott Copper Corporation*, 577 F. 2d 1113, 1117 (10th Cir. 1977)].

Although the "should" standards have not have enforceable in and of themselves, OSHA has also employed the "should" provisions to demonstrate the existence of "recognized hazards" under the general duty clause [Section 5(a)(1)] of the Act. However, the Review Commission has ruled that, as long as the "should" standard remains in effect, even though it is not enforceable, OSHA may not issue a general duty clause citation for the hazard addressed by that "should" standard (see *A. Prokosch & Sons Sheet Metal and Mid Hudson Automatic Sprinkler*, 1980 CCH OSHO ¶24,840). This decision was of great concern to the Agency, since some of the "should" and other advisory provisions cover hazards which may be serious or potentially serious under certain conditions. The fact that OSHA cannot enforce these provisions either directly or indirectly leaves gaps in coverage, resulting in decreased safety and health protection for the nation's employees. Where these provisions cover hazards which may cause death or serious physical harm to employees, the revocation of such provisions will enable OSHA to issue citations for these hazards under the general duty clause.

Many of the "should" provisions in the OSHA standards have little direct or immediate relationship to employee safety and health. The removal of these advisory provisions will serve to simplify and streamline the existing Part 1910.

The standards contained in §§ 1910.166–168 are not "shoulds" or other advisory provisions. Rather, they are repetitions of requirements concerning compressed gas cylinders and compressed gas equipment which are also found in § 1910.101 of Subpart H. Their removal will not lessen employee protection in any way. Elimination of these repetitive sections will, however, serve to shorten and streamline Part 1910.

At its meeting on December 18, 1981, the National Advisory Committee on Occupational Safety and Health

(NACOSH) recommended that OSHA not proceed with deletion of advisory provisions at this time. Instead, the committee recommended that OSHA wait until the Agency could simultaneously propose mandatory rules under Section 6(b) of the Act to take the place of the advisory provisions wherever necessary. OSHA agreed with NACOSH that rulemaking action might be warranted in the future to provide specific coverage for certain hazards which are currently addressed only by advisory provisions. The need for future promulgation of mandatory provisions is discussed more fully below.

Based on OSHA's review of the comments, the Agency has determined that some of the "should" provisions proposed for revocation in May 1982 are not totally advisory, in that they are an essential part of, or otherwise tied to, a mandatory provision. For example, the note to Table G–16 of § 1910.95, Occupational Noise Exposure, is necessary for the proper interpretation and use of the Table. There are other provisions which, though advisory on their face, are relied upon for valuable guidance in insuring a safe workplace when dealing with potentially serious hazards, while still others are used by other federal agencies, such as the Federal Communications Commission (FCC), in exercising its own statutory obligations. OSHA believes that revocation of these provisions would have deleterious effects and would not accomplish the purposes of the revocation as expressed in the proposal. A discussion of the provisions being revoked and of those being retained is found in the summary and explanation of the final rule.

In this preamble, OSHA identifies exhibits submitted to Docket S–600 with parentheses (Ex. 5). Comment numbers follow the exhibit in which they are contained (Ex. 5: 24). If more than one comment within an exhibit is cited, the comment numbers are separated by semicolons (Ex. 5: 24; 102).

II. Public Response to the Proposal

The comment period, originally scheduled to be closed on July 27, 1982, was later extended to September 10, 1982 (47 FR 34577). A total of 58 comments were received.

Twenty two (22) commenters (e.g., Ex. 2: 1; 2: 2; 2: 4; 2: 5; 2: 8) were generally supportive of the proposed revocation, and for the most part did not discuss any of the specific provisions. For example, Mr. James McKarns, (Ex. 2: 4) an industrial hygienist, stated "* * * I agree with the proposal to revoke the 194 advisory statements and standards enumerated."

Eighteen (18) commenters (e.g., Ex. 2: 6; 2: 7; 2: 9; 2: 11; and 2: 13) generally opposed the proposed revocations because they felt that even though the advisory provisions were not enforceable, a reduction in employee safety and health would result from their removal. For example, the Hoist Manufacturers Institute (Ex. 2: 13), in its comment stated, "* * * we believe the proposed revocation of advisory OSHA standards would be both unwise and in violation of OSHA's primary obligation to assure * * * safe and healthful working conditions." The National Society to Prevent Blindness stated, "While we recognize the legal difficulties presented to OSHA by the use of the word "should" in many standards adopted by the Agency, revoking them would have an effect exactly opposite as to the Agency's goal—reducing workplace injuries."

Twelve (12) of the 18 commenters (e.g., Ex. 2: 19; 2: 35; 2: 40; and 2: 50), in addition to objecting generally to the proposal, suggested that OSHA convert all the "shoulds" to "shalls" in accordance with the procedure recommended by NACOSH. For example, the Phillips Petroleum Company (Ex. 2: 19) stated, "If it is determined that advisory standards should be revoked, we believe that OSHA should follow the recommendation of the National advisory Committee on Occupational Safety and Health (NACOSH)."

The State of California (Ex. 2: 58) stated, "* * * although we do not have access to the details of the arguments presented at the NACOSH meeting in December 1981, we agree with the Committee's recommendation that OSHA not proceed to delete rules until replacement rules are in effect."

Three commenters (Ex. 2: 7; 2: 39; and 2: 52) addressed the issue of the proposed revocation of the three repetitive sections (§§ 1910.166–1910.168), while only two commenters (Ex. 2: 7; and 2: 20) addressed the issue of the proposed amendment to § 1910.6.

Only one request (Ex. 2: 6) for an informal public hearing was received, but was later withdrawn (Ex. 2: 59). Therefore, no public hearing was held on the proposal.

III. Summary and Explanation of the Final Rule

OSHA has determined that most of the proposed revocations will not reduce the safety and health of employees. However, where OSHA believes that revocation of a given provision might diminish employee protection, the provision in question is being retained in Part 1910. OSHA would like to point out, in addition, that 78 of the 194 provisions originally proposed for revocation are contained in standards already scheduled for revision by section 6(b) rulemaking in the future. These provisions include those contained in Subparts D and H, and in § 1910.66, § 1910.95, § 1910.97, and § 1910.134. It is expected that mandatory provisions will be proposed in these revisions where necessary to replace the advisory provisions currently contained in those sections.

After consideration of the evidence and public comment, OSHA has decided to revoke 153 of the 194 provisions originally proposed for revocation, and to amend § 1910.6 in the manner proposed. These 153 items, including the improperly promulgated "shall" in § 1910.28(a)(3), are being revoked (as discussed in the proposal, and again in the *Background* section of this document) because they have been determined to be unenforceable, and it is the OSHA's conclusion that their elimination will not adversely affect the safety and health of the employees covered by the OSHA standards. Revocation of the repetitive sections (§§ 1910.166–168) will simplify and streamline the existing OSHA General Industry Standards.

However, after reviewing the record, OSHA has determined that 41 of the provisions which were proposed for revocation should, in fact, be retained in OSHA standards. Each of these 41 provisions is being retained for one, or both, of two reasons: (1) The provision provides valuable guidance for employers and employees in achieving a safe and healthful workplace; or (2) Its retention is necessary for the application or understanding of an existing mandatory provision of the OSHA standards. A discussion of each of these areas follows.

A. The record reflects that some of the provisions originally proposed for revocation are valuable even though they are unenforceable, because they are relied upon in many situations for guidance in providing and maintaining a safe and healthful workplace. OSHA, in reviewing the record, has determined that the benefits to employee safety and health are sufficient to justify leaving these provisions in place until they can be replaced by mandatory provisions.

For example, the FCC (Ex. 2: 29) recognizes that § 1910.97 is only advisory, but recommends that the standard be retained until a replacement is promulgated because "*. *. *. the lack of any standard will leave a vacuum that may create serious problems for Federal and state agencies

with an interest in the use of RF energy."

The Atlantic Richfield Company (Ex. 2: 31) in expressing its concerns regarding proposed revocations of parts of the respiratory protection standard (§ 1910.134) stated, "This action may materially affect the level of protection afforded employees who must utilize respiratory protective devices." Atlantic Richfield went on to recommend that OSHA not revoke these provisions, but leave them until a section 6(b) rulemaking can be initiated to revise § 1910.134.

The Bakery, Confectionary and Tobacco Workers International Union (Ex. 2: 11), in opposing the proposed revocation of § 1910.263(i)(11) and § 1910.263(j)(1)(vii)(*c*), stated that ".* .* .* [the two provisions] have proved indispensable in ensuring safer working conditions in the baking industry."

The American Petroleum Institute (Ex. 2: 27), while generally sympathetic to OSHA's position on the "should" provisions, nevertheless believes

> * * * That certain of the advisory provisions in question provide useful guidance to employers in implementing employee protection programs and believes that deletion of such provisions may work to the detriment of near term employee welfare.

The United Steelworkers of America (Ex. 2: 24), in opposing the OSHA proposal, stated "I have listed below several examples of 'should' standards which you propose to delete that cover serious safety and health standards. This is only a partial list. There are many others that at least inform an employer that a serious hazard exists * * *." The provisions listed by the Steelworkers include two from § 1910.25, one from § 1910.134, three from § 1910.252 and one from § 1910.265.

It is evident that although there is not complete agreement on which provisions should be retained because of their valuable guidance, there is sufficient justification for retention of a significant number of these provisions. A list of provisions being retained for their guidance value appears later in this summary and explanation section.

B. Secondly, OSHA recognizes that some of the proposed revocations involve provisions which, although advisory on their face, are actually either tied to or part of mandatory provisions, and are critical for the application and understanding of these provisions.

For example, numerous objections to revoking the footnote to Table G–16, § 1910.95 (Occupational Noise Exposure), were received. Alice Suter (Ex. 2: 30), an industrial audiologist, commented that "To delete the footnote to Table G–16 would give employers the impression that these provisions are unnecessary to protect the hearing and health of their employees." The DuPont Company (Ex. 2: 32) stated in its comment that "To effectively carry out the intent of Table G–16, the footnote should be part of the Table." The Shell Oil Company (Ex. 2: 42) felt that the deletion of the footnote "* * * may substantially reduce employee protection from noise exposure. It would eliminate the combined effect of noise exposure periods and delete the peak impulsive or impact noise restriction of 140 db."

Another example of a provision tied to or part of a mandatory provision, and necessary for the application or understanding of the mandatory provision is § 1910.66(d)(8)(ii), which states that fastening devices for safety belts "should" be of the self-closing type. Safety belts are mandated in § 1910.66(d)(8)(i). Since adequate fastening devices are essential in the use of safety belts, the "should" provision is necessary for the application of the total safety belt provision.

Table I presents a complete listing of the provisions being retained because of their guidance value. Those provisions included in standards for which revisions are planned in the future are denoted by an asterisk.

Table I.—Provisions Which Provide Guidance

* 1. The phrase "and false floors, platforms, mats, or other dry standing places should be provided where practicable" in the second sentence of paragraph (a)(2) of § 1910.22.
* 2. The third sentence of paragraph (e)(5)(i) of § 1910.23.
* 3. Paragraph (c)(5) of § 1910.25.
* 4. Paragraph (d)(1)(xi) of § 1910.25.
* 5. Paragraph (d)(2)(ii) of § 1910.25
* 6. Paragraph (d)(2)(xv) of § 1910.25.
* 7. Paragraph (d)(2)(xvii) of § 1910.25.
* 8. The first sentence of paragraph (d)(2)(xix) of § 1910.25.
* 9. Paragraph (c)(2)(vi)(*d*) of § 1910.26.
* 10. Paragraph (c)(3)(vii) of § 1910.26.
* 11. Paragraph (d)(8)(ii) of § 1910.66.
12. Paragraph (c)(6)(iii)(*a*) of § 1910.94.
* 13. § 1910.97.
14. Paragraph (a)(2)(vii) of § 1910.133.
* 15. Paragraph (b)(10) of § 1910.134
* 16. The second and third sentences of paragraph (e)(1) of § 1910.134.
* 17. The second, third and fifth sentences of paragraph (f)(5)(i) of § 1910.134.
* 18. Paragraph (f)(5)(ii) of § 1910.134.
19. Paragraph (e)(2) of § 1910.145.
20. Paragraph (i)(3)(vi) of § 1910.181.
21. Paragraph (i)(4)(ii) of § 1910.181.
22. Paragraph (b)(4) of § 1910.213.
23. Paragraph (l)(2) of § 1910.213.
24. Paragraph (m)(1)(ii) of § 1910.219.
25. The second sentence of paragraph (b)(4)(viii) of § 1910.252.
26. The first sentence of paragraph (b)(4)(ix)(*a*) of § 1910.252.
27. The second sentence of paragraph (f)(11)(ii) of § 1910.252.
28. The third sentence of paragraph (l)(9)(i) of § 1910.261.
29. The phrases "and should not be operated at a speed greater than" and "which," in the first sentence of paragraph (y)(1)(iv) of § 1910.262.
30. Paragraph (c)(12)(i) of § 1910.265.
31. Paragraph (c)(20)(i) of § 1910.265.

Table II presents a complete listing of the provisions being retained because they are tied to, or part of, mandatory provisions. Those provisions included in standards for which revisions are planned in the future are denoted by an asterisk.

Table II.—Provisions Which Are Tied to, or Part of, Mandatory Provisions

*1. Paragraph (d)(8)(ii) of § 1910.66.
*2. The entire footnote at the end of Table G–16 of § 1910.95.
*3. The phrase "in addition, they should be separated from each other by not less than the distances shown for a 'Separation of Magazines,' except that the quantity of explosives contained in cap magazines shall govern in regard to the spacing of said cap magazines" in note 4 of Table H–21, § 1910.109.
*4. The third sentence (including the entire formula for determining maximum volume of LP Gas) and notes at the end of paragraph (b)(19)(v)(*a*) of § 1910.110.
*5. The second and third sentences of paragraph (e)(1) of § 1910.134.
*6. The second, third and fifth sentences of paragraph (f)(5)(i) of § 1910.134.
7. The third sentence of paragraph (p)(1) of § 1910.213.
8. The phrase "should not exceed 90° or one-fourth of the periphery" in the first sentence, and the phrase "This exposure" in the second sentence of paragraph (b)(3) of § 1910.215.
9. The second sentence of paragraph (a)(3)(iv) of § 1910.218.
10. The first and second sentences of paragraph (b)(2)(iv)(*d*) of § 1910.252.
11. The phrase "those on the unloading side should be partially cut through first, and then the binder wires cut on the opposite side. Wire cutters equipped with long extension handles shall be used." In the first and second sentences of paragraph (c)(4)(iii) of § 1910.261.
12. The third sentence of paragraph (1)(9)(i) of § 1910.261.
13. The second sentence of paragraph (i)(11) of § 1910.263.
14. The second and third sentences of paragraph (j)(1)(vii)(*c*) of § 1910.263.

The remaining 22 (unasterisked) of these retained provisions in Tables I and II are contained in standards for which early rulemaking is not currently contemplated. However, OSHA plans to incorporate proposed amendments of

these provisions into its review and revision of the various subparts of Part 1910 when it updates these subparts in the future.

In summary, OSHA has determined that the 41 provisions being retained are too important for the establishment and maintenance of a safe and healthful workplace to be removed without simultaneous replacement by a mandatory requirement. However, the problems with enforcement of these provisions remains as long as they are left in place. It is anticipated, therefore, that *all* of the topics addressed by these 41 provisions will be the subject of 6(b) rulemaking in the future to develop provisions which are mandatory and fully enforceable.

IV. Regulatory Assessment

The revocation of "should" and other advisory or repetitive provisions of the General Industry Safety and Health Standards is not a "major" action as defined by Executive Order Number 12291 (46 FR 13193, February 19, 1981) as it does not have an annual effect on the economy of $100 million or more; cause major increases in costs or prices; or have other significant adverse effects. Revocation of these provisions does not constitute a "major rule" primarily because few, if any, additional requirements are imposed on industry. Revocation relieves current regulatory burdens created by the uncertainty regarding the enforceability of these provisions.

For the same reason, it is certified that pursuant to the provisions of the Regulatory Flexibility Act (Pub. L. 96–354, 5 U.S.C. 601) these revocations do not have a significant economic impact on a substantial number of small entities.

V. List of Subjects in 29 CFR Part 1910

Explosives, Flammable materials, Gases, Hazardous materials, Health, Industrial trucks, Ladders and scaffolds, Machinery, Occupational safety and health, Protective equipment, Respiratory protection, Safety, Signs and symbols, Tools, Welding.

VI. Effective Date

Because this regulatory action involves deletion of unenforceable standards, OSHA has determined that there is good cause to make this final rule effective immediately, pursuant to 5 U.S.C. 553(d). Therefore the revocations listed herein are effective on February 10, 1984. The 24 States with their own OSHA approved occupational safety and health plans must adopt comparable standards within six months of this publication date. These are: Alaska, Arizona, California, Connecticut (for state and local government employees only), Hawaii, Indiana, Iowa, Kentucky, Maryland, Minnesota, Nevada, New Mexico, North Carolina, Oregon, Puerto Rico, South Carolina, Tennessee, Utah, Vermont, Virginia, Virgin Islands, Washington, and Wyoming.

VII. Authority

This document was prepared under the direction of Thorne G. Auchter, Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20210.

Accordingly, pursuant to sections 6(b) and 8(g) of the Occupational Safety and Health Act of 1970 (84 Stat. 1593, 1600; 29 U.S.C. 655, 657), Secretary of Labor's Order No. 9–83 (48 FR 35736) and 29 CFR Part 1911, 29 CFR Part 1910 is amended as set forth below.

Signed at Washington, D.C., this 7th day of February 1984.

Thorne G. Auchter,

Assistant Secretary of Labor.

PART 1910—OCCUPATIONAL SAFETY AND HEALTH STANDARDS

Part 1910 of Title 29 of the Code of Federal Regulations is amended as follows:

A. Paragraph (a) of §1910.6 is revised to read as follows:

§ 1910.6 Incorporation by reference.

(a) The standards of agencies of the U.S. Government, and organizations which are not agencies of the U.S. Government which are incorporated by reference in this Part, have the same force and effect as other standards in this Part. Only the mandatory provisions (i.e., provisions containing the word "shall" or other mandatory language) of standards incorporated by reference are adopted as standards under the Occupational Safety and Health Act.

* * * * *

§ 1910.24 [Amended]

B. The heading of paragraph (g) of § 1910.24 is revised to read "Stairway platforms."

C. 29 CFR Part 1910 is further amended as follows:

Subpart D—Walking-Working Surfaces

§ 1910.23 Guarding floor and wall openings and holes. [Amended]

1. The phrase, "and should preferably be hinged or otherwise mounted so as to be conveniently replaceable," in the second sentence of paragraph (a)(3)(ii) of § 1910.23 is removed.

2. The phrase, "which should be hinged in place," in the first sentence of paragraph (a)(5) of § 1910.23 is removed.

3. The phrase, "that should be hinged in place," in the first sentence of paragraph (a)(8)(ii) of § 1910.23 is removed.

4. The second sentence of paragraph (b)(1)(i) of § 1910.23 is removed.

§ 1910.24 Fixed industrial stairs. [Amended]

5. The first two sentences of paragraph (f) of § 1910.24 are removed.

6. The first two sentences of paragraph (g) of § 1910.24 are removed.

7. Paragraph (j) of §1910.24 is removed.

§ 1910.25 Portable wood ladders. [Amended]

8. Paragraph (d)(2)(vi) of § 1910.25 is removed.

9. Paragraph (d)(2)(vii) of § 1910.25 is removed.

10. The second sentence of paragraph (d)(2)(xiv) of § 1910.25 is removed.

11. Paragraph (d)(2)(xvi) of § 1910.25 is removed.

12. Paragraph (d)(2)(xviii) of § 1910.25 is removed.

§ 1910.26 Portable metal ladders. [Amended]

13. The second sentence of paragraph (c)(2)(iv) of § 1910.26 is removed.

14. Paragraph (c)(2)(v) of § 1910.26 is removed.

15. The first sentence of the introductory text of paragraph (c)(2)(vi) of § 1910.26 is removed.

16. Paragraph (c)(2)(vi)(*b*) of § 1910.26 is removed.

17. Paragraph (c)(2)(vi)(*c*) of § 1910.26 is removed.

18. The first sentence of paragraph (c)(3)(i) of § 1910.26 is removed.

19. The second and third sentences of paragraph (c)(3)(iii) of § 1910.26 are removed.

20. The second sentence of paragraph (c)(3)(iv) of § 1910.26 is removed.

§ 1910.28 Safety requirements for scaffolding. [Amended]

21. Paragraph (a)(3) of § 1910.28 is removed.

22. Paragraph (p)(1) of § 1910.28 is removed.

23. The words "they should be arranged so as to provide four ends which are to be securely fastened to an overhead support" in the third sentence of paragraph (u)(5) of § 1910.28 are removed and the remainder of the third sentence is combined with the fourth sentence.

§ 1910.30 Other working surfaces. [Amended]

24. The phrase, "and should be defined by marking," in the second sentence of paragraph (b)(2) of § 1910.30, is removed.

Subpart F—Powered Platforms, Manlifts and Vehicle-Mounted Work Platforms

§ 1910.66 Powered Platforms for exterior building maintenance. [Amended]

25. The first sentence of paragraph (c)(20)(viii) of § 1910.66 is removed.

Subpart G—Occupational Health and Environmental Control

§ 1910.94 Ventilation. [Amended]

26. The phrase, "periodically, thereafter, the air flow should be remeasured, and," in the fourth sentence of paragraph (d)(8)(iii) of § 1910.94 is removed.

Subpart H—Hazardous Materials

§ 1910.107 Spray finishing using flammable and combustible materials. [Amended]

27. The fourth, fifth and sixth sentences of paragraph (b)(5)(i) of § 1910.107 are removed.

28. Paragraph (c)(9)(ii) of § 1910.107 is removed.

29. The third sentence of paragraph (e)(7) of § 1910.107 is removed.

30. The second sentence of paragraph (i)(3) of § 1910.107 is removed.

§ 1910.108 Dip tanks containing flammable or combustible liquids. [Amended]

31. The second sentence of paragraph (c)(1) of § 1910.108 is removed.

32. The second, third and fourth sentences of paragraph (c)(2)(i) of § 1910.108 are removed.

33. The second sentence of paragraph (g)(3)(ii)(*a*) of § 1910.108 is removed.

34. The phrase, "and should be at least five feet from processing equipment," in the second sentence of paragraph (h)(3)(x) of § 1910.108 is removed.

§ 1910.110 Storage and handling of liquefied petroleum gases. [Amended]

35. The fourth sentence of paragraph (b)(10)(xii) of § 1910.110 is removed.

36. The note, "Fixed electrical equipment should preferably not be installed" in the fourth column, Table H–28 of § 1910.110, is removed.

37. The second sentence of paragraph (d)(7)(vi)(*b*) of § 1910.110 is removed.

38. The words, "pits and," in the heading and the first sentence of paragraph (d)(11) of § 1910.110 are removed.

39. The first sentence of paragraph (e)(5)(iv)(*e*) of § 1910.110 is removed.

40. The words "should preferably be stored in the open" and "they" in paragraph (f)(2)(v) of § 1910.110 are removed and the two sentences are combined into one.

41. Paragraph (h)(4)(iii)(*b*) of § 1910.110 is removed.

§ 1910.111 Storage and handling of anhydrous ammonia. [Amended]

42. Paragraph (b)(10)(i) of § 1910.111 is removed.

43. Paragraph (b)(15) of § 1910.111 is removed.

Subpart I—Personal Protective Equipment

§ 1910.134 Respiratory protection. [Amended]

44. Paragraph (b)(4) of § 1910.134 is removed.

45. The second sentence of paragraph (b)(5) of § 1910.134 is removed

46. The fourth, fifth, and sixth sentences of paragraph (e)(2) of § 1910.134 are removed.

47. The second and third sentences of paragraph (f)(3) of § 1910.134 are removed.

Subpart J—General Environmental Controls

§ 1910.144 Safety color code for marking physical hazards. [Amended]

48. The second sentence of paragraph (a)(3) of § 1910.144 is removed.

§ 1910.145 Specifications for accident prevention signs and tags. [Amended]

49. The first sentence of paragraph (c)(1)(i) of § 1910.145 is removed.

50. The phrase, "but should be used until a positive means can be employed to eliminate the hazard," in the second sentence of paragraph (f)(1)(i) of § 1910.145 is removed.

51. Paragraph (f)(4)(i) of § 1910.145 is removed.

52. Paragraph (f)(4)(ii) of § 1910.145 is removed.

53. Paragraph (f)(5)(i) of § 1910.145 is removed.

54. Paragraph (f)(5)(ii) of § 1910.145 is removed.

55. Paragraph (f)(6) of § 1910.145 is removed.

Subpart M—Compressed Gas and Compressed Air Equipment

§ 1910.166 Inspection of compressed gas cylinders. [Removed]

56. The heading and text of § 1910.166 is removed. The section number is reserved.

§ 1910.167 Safety relief devices for compressed gas cylinders. [Removed]

57. The heading and text of § 1910.167 is removed. The section number is reserved.

§ 1910.168 Safety relief devices for cargo and portable tanks storing compressed gases. [Removed]

58. The heading and text of § 1910.168 is removed. The section number is reserved.

§ 1910.169 Air receivers. [Amended]

59. The second and fourth sentences of paragraph (b)(1) of § 1910.169 are removed.

Subpart N—Materials Handling and Storage

§ 1910.178 Powered industrial trucks. [Amended]

60. Paragraph (g)(3) of § 1910.178 is removed.

61. The first sentence of paragraph (g)(9) of § 1910.178 is removed.

62. Paragraph (h)(1) of § 1910.178 is removed.

63. Paragraph (i)(2) of § 1910.178 is removed.

64. Paragraph (n)(7)(ii) of § 1910.178 is removed.

65. The first sentence of paragraph (o)(4) of § 1910.178 is removed.

§ 1910.179 Overhead and gantry cranes. [Amended]

66. The second sentence of paragraph (b)(2) of § 1910.179 is removed.

67. Paragraph (c)(1)(iii) of § 1910.179 is removed.

68. The first sentence of paragraph (c)(3) of § 1910.179 is removed.

69. The second sentence of paragraph (d)(1)(i) of § 1910.179 is removed.

70. The first and third sentences of paragraph (d)(1)(ii) of § 1910.179 are removed. The second sentence of that paragraph is revised to read as follows: "Where footwalks are located in no case shall less than 48 inches of headroom be provided."

71. Paragraph (d)(2)(iii) of § 1910.179 is removed.

72. The first sentence of paragraph (d)(2)(iv) of § 1910.179 is removed.

73. Paragraph (j)(3)(ix) of § 1910.179 is removed.

74. The second sentence of paragraph (j)(4)(iii) of § 1910.179 is removed.

75. The first two sentence of paragraph (k)(2) of § 1910.179 are removed.

76. Paragraph (l)(2)(i)(*f*) of § 1910.179 is removed.

§ 1910.180 Crawler locomotive and truck cranes. [Amended]

77. Paragraph (h)(3)(ii)(*d*) of § 1910.180 is removed.

§ 1910.181 Derricks. [Amended]

78. The second sentence of paragraph (b)(2) of § 1910.181 is removed.

79. All of paragraph (d)(3)(i)(*f*) except the word "Hooks" is removed.

80. The second sentence of paragraph (d)(4)(iii) of § 1910.181 is removed.

81. Paragraph (i)(3)(ii)(*d*) of § 1910.181 is removed.

Subpart O—Machinery and Machine Guarding

§ 1910.213 Woodworking machinery requirements. [Amended]

82. The fifth sentence of paragraph (c)(1) of § 1910.213 is removed.

83. The phrase, "and should be placed so that there is not more than ½-inch space between the spreader and the back of the saw when the largest saw is mounted in the machine" in the fourth sentence of paragraph (c)(2) of § 1910.213, is removed.

84. Paragraph (d)(2) of § 1910.213 is removed.

85. The fourth sentence of paragraph (h)(5) of § 1910.213 is removed.

86. The phrase, "and the top member of the guard should have at least a 2-inch clearance outside the saw and be lined with smooth material, preferably metal," in the ninth sentence of paragraph (i)(1) of § 1910.213, is removed.

87. The tenth sentence of paragraph (i)(1) of § 1910.213 is removed.

88. Paragraph (m)(2) of § 1910.213 is removed.

89. The phrase, "which should be hinged to the machines so that they can be thrown back for making adjustments," in paragraph (o)(2) of § 1910.213, is removed.

§ 1910.215 Abrasive wheel machinery. [Amended]

90. The phrase, "and should be greater where practicable," in the second sentence of paragraph (c)(8)(i) of § 1910.215 is removed.

91. The phrase, "and should be greater where practicable," in the second sentence of paragraph (c)(8)(ii) of § 1910.215, is removed.

92. The phrase, "and should be greater where practicable," in the second sentence of paragraph (c)(8)(iii) of § 1910.215, is removed.

93. The second and third sentences of paragraph (d)(5) of § 1910.215, is removed.

94. Paragraph (d)(7) of § 1910.215 is removed.

§ 1910.216 Mills and calendars in the rubber and plastics industries. [Amended]

95. The third sentence of paragraph (b)(1)(i) of § 1910.216 is removed.

96. Paragraph (b)(2) of § 1910.216 is removed.

97. The second and third sentences of paragraph (c)(2) of § 1910.216 are removed.

98. Paragraph (g) of § 1910.216 is removed.

§ 1910.218 Forging machines. [Amended]

99. The second, third and fourth sentences of paragraph (a)(3)(v) of § 1910.218 are removed.

100. The phrase, "and should not project more than 2 inches in front and 4 inches in back of ram or die," in paragraph (b)(1) of § 1910.218, is removed.

101. The phrase, "and should be conveniently located and distinctly marked for ease of identification" in paragraph (e)(1)(ii) of § 1910.218 is removed.

102. The second, third and fourth sentences of paragraph (h)(4) of § 1910.218 are removed.

103. The second and third sentences of paragraph (j)(2) of § 1910.218 are removed.

§ 1910.219 Mechanical power transmission apparatus. [Amended]

104. Paragraph (d)(2)(ii) of § 1910.219 is removed.

105. Paragraph (l)(1)(iii) of § 1910.219 is removed.

106. The second sentence of paragraph (l)(3) of § 1910.219 is removed.

107. The seventh sentence of paragraph (o)(5)(ii) of § 1910.219 is removed.

108. The second sentence of paragraph (o)(5)(iii) of § 1910.219 is removed.

109. Paragraph (p)(5)(ii) of § 1910.219 is removed.

110. Paragraph (p)(5)(iii) of § 1910.219 is removed.

111. Paragraph (p)(5)(iv) of § 1910.219 is removed.

112. Paragraph (p)(6)(iii) of § 1910.219 is removed.

113. The phrase, "and should use cans with long spouts to keep their hands out of danger," in the first sentence of paragraph (p)(7) of § 1910.219 is removed.

Subpart P—Hand and Portable Tools and Other Hand-Held Equipment

§ 1910.243 Guarding of portable powered tools. [Amended]

114. The phrase, "and hands should be kept clear of the open barrel end," in the second sentence of paragraph (d)(4)(iii) of § 1910.243, is removed.

115. The fourth sentence of paragraph (d)(4)(v) of § 1910.243 is removed.

§ 1910.244 Other portable tools and equipment. [Amended]

116. The second sentence of paragraph (a)(2)(v) of § 1910.244 is removed.

Subpart Q—Welding, Cutting, and Brazing

§ 1910.252 Welding, cutting, and brazing. [Amended]

117. The fourth sentence of paragraph (a)(2)(iii)(*a*) of § 1910.252 is removed.

118. Paragraph (a)(3)(v)(*e*) of § 1910.252 is removed.

119. The second sentence of paragraph (a)(4)(iii)(*e*) of § 1910.252 is removed.

120. The second sentence of paragraph (a)(6)(vii)(*f*) of § 1910.252 is removed.

121. The first sentence of paragraph (b)(2)(iii) of § 1910.252 is removed.

122. The second sentence of paragraph (b)(2)(iv)(*a*) of § 1910.252 is removed.

123. The phrase, "and appropriate periodic inspections should be conducted as to ascertain that no condition of electrolysis or shock, or fire hazard exists by virtue of such use," in paragraph (b)(3)(ii)(*d*) of § 1910.252 is removed.

124. The first sentence of paragraph (b)(4)(ix)(*c*) of § 1910.252 is removed.

125. The third and fourth sentences of paragraph (d)(2)(vii) of § 1910.252 are removed.

126. The second and third sentences of paragraph (d)(2)(xv) of § 1910.252 are removed.

127. The second and third sentences of paragraph (e)(2)(i)(*a*) of § 1910.252 are removed.

128. Paragraph (e)(2)(ii)(*f*) of § 1910.252 is removed.

129. Paragraph (f)(1)(ii) of § 1910.252 is removed.

130. The second sentence of paragraph (f)(13) of § 1910.252 is removed.

Subpart R—Special Industries

§ 1910.261 Pulp, paper, and paperboard mills. [Amended]

131. Paragraph (d)(4)(i) of § 1910.261 is removed.

132. The second sentence of paragraph (d)(4)(ii) of § 1910.261 is removed.

133. Paragraph (d)(4)(iv) of § 1910.261 is removed.

134. The second sentence of paragraph (e)(17) of § 1910.261 is removed.

135. The third sentence of paragraph (e)(18) of § 1910.261 is removed.

136. Paragraph (f)(6)(iii) of § 1910.261 is removed.

137. The phrase, "and buildings should be designed with explosion relief," in paragraph (g)(1)(iii) of § 1910.261, is removed.

138. The phrase, "and should be replaced when necessary," in the second sentence of paragraph (g)(12)(iii) of § 1910.261 is removed.

139. Paragraph (g)(14)(iv) of § 1910.261 is removed.

140. Paragraph (g)(19)(i) of § 1910.261 is removed.

141. Paragraph (g)(19)(ii) of § 1910.261 is removed.

142. The second sentence of paragraph (h)(1) of § 1910.261 is removed.

143. The second sentence of paragraph (h)(3)(v) of § 1910.261 is removed.

144. Paragraph (j)(4)(v) of § 1910.261 is removed.

145. Paragraph (k)(5) of § 1910.261 is removed.

146. The second and third sentences of paragraph (k)(18) of § 1910.261 are removed.

147. Paragraph (k)(19)(i) of § 1910.261 is removed.

148. Paragraph (k)(19)(ii) of § 1910.261 is removed.

149. The first sentence of paragraph (k)(22) of § 1910.261 is removed.

150. Paragraph (k)(26)(ii) of § 1910.261 is removed.

151. The first and third sentences of paragraph (k)(29) of § 1910.261 are removed.

152. The second sentence of paragraph (k)(30) of § 1910.261 is removed.

§ 1910.262 Textiles. [Amended]

153. The second sentence of paragraph (cc)(1) of § 1910.262 is removed.

(Secs. 6, 8, 84 Stat. 1593, 1600 (29 U.S.C. 655, 657), Secretary of Labor's Order No. 9–83 (48 FR 35736), 29 CFR Part 1911)

[FR Doc. 84–3771 Filed 2–9–84; 8:45 am]
BILLING CODE 4510–26–M

federal register

Friday
February 10, 1984

Part VII

Environmental Protection Agency

40 CFR Part 60

Standards of Performance for New Stationary Sources; Performance Specification 4 for Continuous Monitoring of Carbon Monoxide Emissions; Proposed Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 60

[AD-FRL 2497-6]

Standards of Performance for New Stationary Sources; Appendix B: Performance Specification 4 for Continuous Monitoring of Carbon Monoxide Emissions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule and notice of public hearing.

SUMMARY: The purpose of this action is to propose "Performance Specification 4—Specifications and Test Procedures for CO Continuous Emission Monitoring Systems in Stationary Sources," to be added to Appendix B of 40 CFR Part 60. The intended effect is to require all applicable sources in oil refineries as specified in Subpart J of 40 CFR Part 60 to install and operate continuous emission monitoring systems as prescribed in the specification within 1 year of the promulgation date.

DATES: *Comments.* Comments must be received on or before April 25, 1984.

Public Hearing. If anyone contacts EPA requesting to speak at a public hearing by March 5, 1984, a public hearing will be held on April 10, 1984 beginning at 10:00 a.m. Persons interested in attending the hearing should call Ms. Shelby Journigan at (919) 541–5578 to verify that a hearing will occur.

Request to Speak at Hearing. Persons wishing to present oral testimony must contact EPA by March 5, 1984.

ADDRESSES: *Comments.* Comments should be submitted (in duplicate if possible) to: Central Docket Section (LE–131), Attention Docket Number A–79–03, U.S. Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460.

Public Hearing. If anyone contacts EPA requesting a public hearing, it will be held at the ERC Auditorium, Corner of Hwy 54 & Alexander Drive, Research Triangle Park, N.C. Persons interested in attending the hearing should call Ms. Shelby Journigan at (919) 541–5578 to verify that a hearing will occur. Persons wishing to present oral testimony should notify Ms. Journigan, Standards Development Branch (MD–13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone number (919) 541–5578.

Docket. Docket No. A–79–03, containing materials relevant to this rulemaking, is available for public inspection and copying between 8:00 a.m. and 4:00 p.m., Monday through Friday, at EPA's Central Docket Section, West Tower Lobby, Gallery 1, Waterside Mall, 401 M Street, SW., Washington, D.C. 20460. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Mr. Roger T. Shigehara, Emission Measurement Branch, Emission Standards and Engineering Division (MD–19), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone number (919) 541–2237.

SUPPLEMENTARY INFORMATION: EPA promulgated standards of performance pursuant to Section 111 of the Clean Air Act, as amended, on March 8, 1974 (39 FR 9308) for new or modified petroleum refineries. To ensure proper operation and maintenance, provisions were included in the standards that require sources to install and operate carbon monoxide (CO) continuous emission monitoring systems (CEMS) on fluid catalytic cracking unit regenerators. However, affected facilities were not to become subject to these provisions until after the promulgation of performance specifications for CO CEMS.

On February 20, 1980, EPA issued an advance notice of proposed rulemaking (45 FR 11444) soliciting comments on a draft "Performance Specification 4—Specifications and Test Procedures for Carbon Monoxide Continuous Monitoring Systems in Stationary Sources." During 1979 and 1980, EPA conducted a laboratory and long-term field study of CO continuous monitoring systems and published their results in the document: Field Evaluation of Carbon Monoxide and Hydrogen Sulfide Continuous Emission Monitors at an Oil Refinery, EPA–600/4–82–054 (August 1982). This report is available through the National Technical Information Service, 5285 Port Royal Road, Springfield, Virginia 22161 (Order No. PB 82–227406).

Based on the comments received and results of the field study, specifications and test procedures are proposed for continuous CO monitoring instruments. The format of proposed Performance Specification 4 follows closely that of the most recent final revisions to Performance Specification 2 (48 FR 23608 dated May 25, 1983). Several references are made in Performance Specification 4 to specific sections of Performance Specification 2.

This proposed rulemaking does not impose emission measurement requirements beyond those specified in the current regulations, nor does it change the emission standard or make it more stringent. Rather, this proposed rulemaking will bring into effect the continuous monitoring requirements to which the affected facilities are already subject.

Miscellaneous

Under Executive Order 12291, EPA must judge whether a regulation is "major" and, therefore, subject to the requirement of a regulatory impact analysis. This regulation is not major because it will not have an annual effect on the economy of $100 million or more; it will not result in a major increase in costs or prices; and there will be no significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets.

An economic impact analysis performed for sulfur dioxide monitoring at the affected fluid catalytic cracking units at petroleum refineries has shown an insigificant impact on small businesses. The impact of carbon monoxide monitoring is expected to be the same. Therefore, pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that the attached rule will not have a significant economic impact on small entities. This proposed rule does not contain any information collection requirements subject to Office of Management and Budget review under the Paperwork Reduction Act of 1980 U.S.C. 3501 *et seq.*

This proposed rulemaking is issued under the authority of Sections 111, 114, and 301(a) of the Clean Air Act, as amended [42 U.S.C. 7411, 7414, and 7601(a)].

Dated: February 3, 1984.

William D. Ruckelshaus,

Administrator.

List of Subjects in 40 CFR Part 60

Air pollution control, Aluminum, Ammonium sulfate plants, Asphalt, Cement industry, Coal, Copper, Electric power plants, Glass and glass products, Grains, Intergovernmental relations, Iron, Lead, Metals, Metallic minerals, Motor vehicles, Nitric acid plants, Paper and paper products industry, Petroleum, Phosphate, Sewage disposal, Steel, Sulfuric acid plants, Waste treatment and disposal, Zinc. Can surface coating tires, Incorporation by Reference, Sulfuric acid plants, Industrial organic chemicals, Organic solvent cleaners, Fossil fuel-fired steam generators.

It is proposed that 40 CFR Part 60 be amended by adding Performance

Specification 4 to Appendix B as follows:

Appendix B—Performance Specifications

* * * * *

Performance Specification 4—Specifications and Test Procedures for Carbon Monoxide Continuous Emission Monitoring Systems in Stationary Sources

1. *Applicability and Principle.*

1.1 Applicability. This specification is to be used for evaluating the acceptability of carbon monoxide (CO) continuous emission monitoring systems (CEMS) at the time of or soon after installation and whenever specified in an applicable subpart of the regulations.

This specification is not designed to evaluate the installed CEMS performance over an extended period of time nor does it identify specific calibration techniques and other auxiliary procedures to assess CEMS performance. The source owner or operator, however, is responsible to calibrate, maintain, and operate the CEMS. To evaluate CEMS performance, the Administrator may require, under Section 114 of the Act, the source owner or operator to conduct CEMS performance evaluations at other times besides the initial test. See Section 60.13(c).

The definitions, installation specifications, test procedures, data reduction procedures for determining calibration drifts (CD) and relative accuracy (RA), and reporting of Performance Specification 2 (PS 2), Sections 2, 3, 5, 6, 8, and 9 apply to this specification.

1.2 Principle. Reference method (RM), CD, and RA tests are conducted to determine that the CEMS conforms to the specification.

2. *Performance and Equipment Specifications*

2.1 Instrument Zero and Span. This specification is the same as Section 4.1 of PS 2.

2.2 Calibration Drift. The CEMS calibration must not drift or deviate from the reference value of the calibration gas, gas cell, or optical filter by more than 5 percent of the established span value for 6 out of 7 test days (e.g., the established span value is 1000 ppm for Subpart J affected facilities).

2.3 Relative Accuracy. The RA of the CEMS shall be no greater than 10 percent of the mean value of the RM test data in terms of the units of the emission standard or 15 percent of the applicable standard, whichever is greater.

3. *Relative Accuracy Test Procedure*

3.1 Sampling Strategy for RM Tests, Correlation of RM and CEMS Data, Number of RM Tests, and Calculations. These are the same as PS 2, Sections 7.1, 7.2, 7.3, and 7.5, respectively.

3.2 Reference Methods. Unless otherwise specified in an applicable subpart of the regulation, Method 10 is the reference method for this PS. A test method that does not use a nondispersive infrared analyzer (NDIR) is being developed and evaluated to later serve as the reference method for those CEMS utilizing an NDIR. In the meantime, NDIR CEMS meeting the specifications of Method 10 are exempted from the RA tests, but not the calibration drift test.

4. *Bibliography*

4.1 Ferguson, B.B., R.E. Lester, and W. J. Mitchell. Field Evaluation of Carbon Monoxide and Hydrogen Sulfide Continuous Emission Monitors at an Oil Refinery. U.S. Environmental Protection Agency. Research Triangle Park, N.C. Publication No. EPA–600/4–82–054. August 1982. 100 p.

4.2 Repp, M. Evaluation of Continuous Monitors for Carbon Monoxide in Stationary Sources. U.S. Environmental Protection Agency. Research Triangle Park, N.C. Publication NO. EPA–600/2–77–063. March 1977. 155 p.

4.3 Smith, F., D. E. Wagoner, and R. P. Donovan. Guidelines for Development of a Quality Assurance Program: Volume VIII—Determination of CO Emissions from Stationary Sources by NDIR Spectrometry. U.S. Environmental Protection Agency. Research Triangle Park, N.C. Publication No. EPA–650/4–74–005–h. February 1975. 96 p.

Authority: Sections 111, 114, and 301(a) of the Clean Air Act, as amended [42 U.S.C. 7411, 7414, and 7601(a)].

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[FR Doc. 84–3684 Filed 2–9–84; 8:45 am]

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federal register

Friday
February 10, 1984

Part VIII

Department of Education

34 CFR Part 682

Guaranteed Student Loan Program; Notice of Proposed Rulemaking

DEPARTMENT OF EDUCATION

34 CFR Part 682

Guaranteed Student Loan Program

AGENCY: Department of Education.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Secretary of Education issues proposed regulations to govern the approval of the *Plan for Doing Business* submitted to the Department of Education by Authorities which issue tax-exempt obligations in order to secure funds to make, purchase, or provide financing for loans under the Guaranteed Student Loan and PLUS Programs. Specifically, these proposed regulations would establish general standards and procedures that Authorities must follow in submitting their Plans for Doing Business, as well as particular standards for implementing the requirement of section 438(d)(1)(G) of the Higher Education Act that no tax-exempt obligations be issued by Authorities in excess of reasonable needs for student loan credit after taking into account existing sources of credit.

DATES: Interested persons are invited to submit comments or suggestions regarding these proposed regulations on or before March 12, 1984.

ADDRESSES: Comments should be addressed to Mr. David Bayer, Guaranteed Student Loan Program, Office of Postsecondary Education, U.S. Department of Education, Room 4310, ROB–3, 400 Maryland Avenue, SW. Washington, D.C. 20202:

FOR FURTHER INFORMATION CONTACT: Mr. David Bayer, telephone (202) 245–2475.

SUPPLEMENTARY INFORMATION:

Background

In order to receive special allowance payments on loans acquired with tax-exempt financing, student loan Authorities must submit a Plan for Doing Business (Plan) and receive approval of the Secretary for that Plan. This requirement was imposed by Section 420(b) of the Education Amendments of 1980 (Pub. L. 96–374, October 3, 1980, 94 Stat. 1427). Section 7 of the Student Loan Consolidation and Technical Amendments Act of 1983 (Pub. L. 98–79, August 15, 1983) expanded the list of provisions required in the Plan to include new provisions to ensure that:

> The Authority will not issue obligations for amounts in excess of the reasonable needs for student loan credit within the area served by the Authority, after taking into account existing sources of student loan credit in that area.

This assurance is now found in section 438(d)(1)(G) of the Higher Education Act.

In issuing these proposed regulations the Secretary is following the intent of Congress that the Department "police the amounts of capital raised through tax exempt offerings to insure that excessive amounts beyond the reasonable needs of student credit are not being sold" (Cong. Rec. H6121, August 1, 1983). These proposed regulations would establish minimum standards and methods which provisions adopted by Authorities under their Plan for Doing Business must meet to determine the need for issuance of a tax-exempt obligation.

1. *General requirements for Plans for Doing Business*

These proposed regulations incorporate the basic policy of the Department that generally Authorities are to address in their own way the requirements in the statute for Plans, and that certain mimimum requirements be set by the Department only where they appear necessary in light of experience.

Under the proposed regulations, Authorities are to submit Plans to the Secretary for approval. The proposed regulations specify the information needed with the submission to permit the Secretary to evaluate adequately an Authority's policies regarding implementation of the Plan. All Authorities will be given a reasonable period of time to submit amended plans to implement final regulations. To the extent that existing State law prohibits an Authority from taking action to comply with one or more provisions of those final regulations, the effective date of that provision shall be deferred for such an Authority for a reasonable interval after the adjournment of the next regular session of the State legislature which convenes after the effective date of the final regulations.

a. *Authority defined.* The statute does not define the word "Authority", but does require any party raising funds to make, purchase, or finance GSLP loans by tax-exempt financing to comply with the requirements now found in section 438(d). These regulations clarify what is implicit in the statute: any such entity able to borrow for GSLP acquisitions by means of obligations the income from which is exempt from taxation under the Internal Revenue Code (IRC) is included within the term Authority and is subject to the requirements imposed on them in the Act. The Secretary, therefore, has included within the regulatory definition of Authority all such entities, including any multi-purpose agency of a State or local government if that instrumentality issues tax-exempt obligations for student loan purposes.

b. *Submission and review of Plans.* The statute gives the Secretary only 30 days to approve or disapprove submitted Plans. These regulations incorporate the policy that a Plan inadequately documented or incomplete in its scope as judged under these regulations is not a complete Plan, and its submission does not begin the 30 day period for approval or disapproval. That review period commences only upon the receipt of a Plan complete both in its scope and documentation. Secretarial approval of Plans submitted prior to August 15, 1983, the date of the most recent statutory change to Plan requirements, will continue in effect on loans already made or purchased, but until a modified Plan is approved, an Authority may not receive special allowance payments on loans acquired with the proceeds of any obligations issued after that date.

c. *Sanctions and remedial action.* These proposed regulations articulate in §§ 682.806 and 682.823 the range of remedial action available if the Secretary determines that an Authority is not in compliance with its Plan. Because each situation has its own unique circumstances, no attempt is made in these proposed regulations to tie each particular remedy to a particular act or omission. The Secretary will provide an Authority an opportunity to contest any adverse action by means of an informal hearing before a designated Department official.

2. Provisions in the Plan governing issuance of tax-exempt obligations

As noted in § 682.802, the Secretary will evaluate the adequacy of the provisions of a Plan under the requirements of Subpart H. At present, particular standards are proposed for only one statutory requirement: that limiting the issuance of tax-exempt obligations to instances in which available credit from other sources of credit in the service area of the Authority is insufficient to meet reasonable borrower need. The particular standards proposed here describe three aspects of the assessment of unmet need for student loan credit required by section 328(d)(1)(G) of the Act: the criteria or standards to be used by an Authority to estimate borrower need and credit resources available to meet that need [§§ 682.812 through 682.814], the steps to be included in any methods used to estimate that need and available resources [§ 682.815], and the procedures to be followed to

demonstrate to the Secretary that the proposed issue does not exceed the unmet need so determined [§ 682.822]. Considerations for refunding issues are similarly presented [§§ 682.820–821].

(a) *Standards for measuring unmet need.* Section 438(d)(1)(G) of the Act requires an Authority to make two assessments before it can justify the issuance of a new tax-exempt obligation: first, it must estimate the "reasonable needs for student loan credit within the area served by the Authority", and secondly, it must "take into account existing sources of student loan credit in that area." If the credit available from existing sources is less than the reasonable need for such credit, an "unmet need" exists, for which an Authority may justifiably issue a new tax-exempt obligation. The standards in these regulations propose a framework for the analysis required in the law.

The provisions proposed here are meant to ensure that these two required assessments are conducted in a realistic manner. In general, they require an Authority to "take into account" credit available from existing sources by contacting sources which can be expected to be credit resources for the period of time for which it asserts that a shortage of loans will exist. If an Authority is aware of a source outside its area which can provide credit for its lenders or borrowers, that source must be contacted and taken into account as a resource by the Authority. Furthermore, the need for additional financing for a loan-making Authority depends both on the lending policies of other lenders and the level of activity of secondary markets in its area, and conversely, the need for additional funds for a secondary market Authority depends on the amount of loans which lenders will make and hold. Both types of Authorities must, therefore, measure available credit in the same way, assessing credit available from all sources. The unencumbered assets of the Authority, or funds borrowed by the Authority itself, can also be resources which the Authority must realistically assess before issuing a new tax-exempt obligation.

(i) *Differences between arbitrage bond rules and assessments of unmet need for student loan credit.*

In proposing the standards found in these regulations for measuring unmet need, the Secretary considered and rejected several alternative approaches as inconsistent with the statutory language itself and with the congressional intent articulated in the pertinent legislative history.

The bill also requires that State direct lenders or State secondary markets who raise their capital through the sale of tax-exempt bonds must justify to the Secretary of Education in their plan of doing business that the amount of bonds issued are not in excess of the reasonable needs for student loan credit. I expect that the Secretary will begin to police the amounts of capital raised through tax-exempt bonds to insure that excessive amounts beyond the reasonable needs of student credit are not being sold. The Federal revenue foregone because of the tax-exempt status of these bonds increases the Federal deficit. This Federal cost should not be incurred beyond the level necessary to serve the legitimate educational credit needs of students.

Cong. Rec. H 6121, August 1, 1983 (Remarks of Representative Ford).

The principal alternative approach would essentially have the Secretary rely upon existing provisions of the Internal Revenue Code (IRC) and its implementing regulations limiting arbitrage with tax-exempt obligations to establish both the legal standard and the review and enforcement procedures under the new law. This alternative does not adequately address the new statutory requirement for several reasons. First, there is nothing in the language of the law or in the legislative history to suggest that Congress intended such a reliance on arbitrage rules, or that it considered obligations which exceeded "unmet need" under section 438(d)(1)(G) to necessarily violate limitations under the IRC. The language of the recent amendment foes not mirror or cite the language of section 103(c), the pertinent section of the IRC or its implementing regulations. Had Congress wished merely to insert in the Higher Education Act a widely-understood requirement already in existing tax law, it could readily have referred to those tax law provisions. It is more logical to infer that by using different language, and mandating, as will be discussed here, different determinations, Congress imposed a requirement different from those arbitrage limitations.

Because the amount of any tax-exempt issue is indirectly limited by the arbitrage bond provisions of the Internal Revenue Code and regulations, some comparison of those provisions and the requirements of this new law may be useful. The purposes of the two laws are not the same, and compliance with one cannot ensure compliance with the other. Not only is the language of the two laws different, the focus and required determinations differ as well.

Treasury Department regulations permit an issuer to disregard investment earnings on proceeds of an issue that might otherwise jeopardize the tax-exempt status of the issue, so long as the issuer endeavors to expend the proceeds with due diligence, and in fact does expend most of these proceeds within a three-year period. In other words, an Authority complies with arbitrage rules by timely spending the proceeds to make or purchase student loans, without regard to the availability of other credit, and its certifies, when it issues the obligations, that it reasonably expects to do so.

Section 438(d)(1)(G) of the Higher Education Act, on the other hand, requires an issuer to first assess the availability of credit from other sources before it issues a new obligation. To do so, it must evaluate other sources of student loan credit, not as competitors as under arbitrage considerations, but as credit-providers of first-resort. Only when, and to the extent that, those sources are insufficient to meet the reasonable needs of student loan credit, is the tax-exempt issue justified. The secretary recognizes that Authorities undertake certain analyses for purposes of compliance with arbitrage bond rules, and these proposed regulations, where possible, use definitions and procedures common to those analyses. These rules, unlike arbitrage rules, require an Authority to make a written, positive inquiry, not only of direct lenders active in the past in its area, but also of regional and national lenders and secondary markets known to be able to provide additional credit regarding their lending and purchasing plans for the period in question, and to demonstrate that credit is in fact not available from such sources to meet the full need in its area.

(b) *General considerations for issuance and use of tax-exempt borrowing.* (i) *Pre-issue approval of tax-exempt obligations.* Under these regulations, the Secretary proposes to monitor the issuance of tax-exempt obligations by reviewing the individual determination of need on which an Authority justifies the issuance of an obligation. If the Secretary finds that determination to be reasonable, he approves it and thereby assures the issuer that loans acquired with any issue justified by that determination will receive special allowance payments. The approval thus conferred on a determination of unmet need applies to any borrowings within a twelve-month period of the approval justified on the basis of that determination, whether the Authority chooses to borrow only once for that period, or several times, as might be more common under a line of credit agreement. The Secretary considers pre-issue review the most

realistic way to prevent unnecessary use of tax-exempt obligations while respecting needs of an Authority regarding such borrowings.

Prospective purchasers of a tax-exempt issue should be seriously concerned about the entitlement of loans to be acquired with that issue of special allowance payments. Pre-issue approval of the need for an obligation provides a convenient mechanism for furnishing prospective purchasers with formal governmental confirmation that this Department will definitely make such payments on those loans. Such an assurance would be expected to enhance the marketability of those issues. The alternative to pre-issue review, a post-issue audit, may tend to detract from that marketability, because it leaves that entitlement open to question. Because compliance with section 438(d)(1)(G) of the Act is a condition of entitlement to those payments, non-compliance with that section can disqualify those loans for further payments. If the Secretary were to relegate that determination of compliance to a post-issue audit, the consequences of a finding of non-compliance could jeopardize not only the financial expectations of the Authority, but those of purchasers of its issues, and in some cases, subsequent holders of those loans as well. Because of the variety of competing equities where such third-parties are involved, post-issue reviews would inevitably raise difficult enforcement questions. Moreover, any action taken by the Department, even if limited to an Authority itself, could taint the credibility of that Authority in the marketplace and make its future issues less attractive to the public.

Even if the Secretary took only prospective action in cases of noncompliance, a post-issue audit procedure would leave an Authority which did not adequately assess available credit resources an issued obligations partially in excess of the actual unmet need in a difficult position. If that over-issuance were determined in an audit conducted in the middle of the bond-use period, that Authority would have only partially performed on its loan agreements or loan purchase contracts. Loans to be made or purchased with the excess amount of proceeds could not qualify for special allowance payments. If the Authority were unable to carry those loans without that subsidy, it would be forced to renege on those commitments. Although those borrowers and lenders should be able to borrow from, or sell loans to, the underestimated credit resource to meet the remainder of their credit needs, the Authority, by reneging on its agreements with those parties, would damage both its finances and credibility.

Pre-issue approval eliminates these dfficulties by minimizing the likelihood of such adverse actions. It provides the Secretary an opportunity to assure himself that the Authority's assessment is realistic, while providing the Authority an opportunity to fully explain its determination and adjust its expectations before it fully commits itself. Moreover, this review process need not be considered a sterile, unproductive exercise; both this Department and the Authority are committed to the goal of full access to loan credit for the students in the area of the Authority, and any determination that need has been overestimated or resources underestimated should result in a more realistic focus for the Authority's loan acquisition program, as well as the recognition that needed resources are actually available. Both results can only benefit the borrowers whom both the Authority and this Department are committed to serve.

(ii) *Timing of issues of tax-exempt obligations.* An Authority issues obligations to raise funds for an unmet need expected to arise during a specific period of time. The particular period of time for which an Authority measures unmet need, and during which it proposes to spend the proceeds of the obligations, is described in these regulations as the bond-use period. Because assessments of unmet need are only predictions of future events and conditions, their credibility and reliability can be assumed to increase the closer they are made to the period they purport to describe. Therefore, the shorter the bond-use period, and the closer it is to the date of the prediction, the more reliably an Authority can make a determination of need for the period. On the other hand, an Authority which operates a secondary market program has need for a longer bond-use period to permit it to offer the extended planning and long-term purchase commitments which may well be necessary to successfully attract lenders to its services. Moreover, Authorities attempt, to the extent their resources permit, to issue their obligations when market conditions are most favorable.

The Secretary proposes to address these concerns in the regulations, first, by providing secondary market Authorities a two-year bond-use period, while restricting direct lender Authorities to a one-year period (§ 682.811(c)), and secondly, by extending his approval of the determination of unmet need for a proposed issue to any obligation issued over a twelve-month period from the date of that approval, so long as no obligation is issued more than three months before the beginning of its bond-use period (§ 682.811(b)). An Authority could therefore issue an obligation either before its projected bond-use period, or during it, selecting the most favorable marketing time consistent with its need for funds.

(iii) *Matching tax-exempt obligations outstanding to continuing need for credit.* The need to assess the relationship between unmet need for credit and the amount of the obligation issued to meet that need is not limited to the period when the issue is being proposed, but logically extends over the life of the obligation itself. To the extent possible, the amount of the outstanding tax-exempt obligations should continue to relate to the actual need for that borrowing as that need evolves over the term of the obligation. The concern demonstrated in the law over reducing the tax revenues foregone because of the issuance of unneeded tax-exempt obligations applies equally to reducing such losses over the life of these obligations. Although the cost to the government in the form of special allowance payments declines as the loans acquired with an issue mature and are repaid, the cost to the government in lost revenues from the tax-exempt obligations which finance those loans is unrelated to the repayment status of the loans, and continues over the life of the obligations. These regulations adopt several measures to implement this concern.

The first such measure used to match the amount of an outstanding tax exempt obligation to the amount of demonstrated need is the limitation on the use of proceeds not actually needed for loan acquisitions, or for normal administrative and debt service needs. Under § 682.811(d), those proceeds of an issue which are not expended during the period for which the Authority determined them to be needed must be used promptly at the close of that period to repay, in part, the outstanding obligations from which they were derived.

The second method of ensuring a periodic reevaluation of the continuing need for an outstanding amount of tax-exempt obligations is that of limiting the term of any such obligation to ten years. This limitation, in § 682.811(a), ensures that at least at that point, an Authority will assess whether the need continues to finance with tax-exempt funds the

portfolio acquired with the obligation, or whether other resources, including repayments received on loans in that portfolio, suffice to meet that need. These considerations are specifically required if the Authority proposes to refinance that portfolio by refunding that prior issue with the proceeds of a new tax-exempt issue.

A third method of relating the amount outstanding on the tax-exempt obligations to the continuing need for credit relates to the use of loan repayments. If an Authority proposes to refinance by means of a refunding issue a portfolio acquired with any prior issue, whether taxable or tax-exempt, § 682.820(a)(1) limits the amount of need it can show to the amount of the outstanding balance on those loans. Payments on those loans by debtors or by guarantors are considered to be available to the Authority to retire a portion of the outstanding obligation, and are an available credit resource for that refinancing need. Moreover, if an Authority chooses to retain repayments rather than using them to retire outstanding obligations, those repayments are considered under § 682.813(b)(2) to be an available credit resource in the hands of the Authority and must be taken into account for any determination of need for a new issue.

(c) *Estimating borrower need for student loan credit.* The first step in any determination of the need for a new tax-exempt obligation is an estimate of the reasonably expected need for student loan credit during the period for which the obligation is proposed to raise additional loan capital. The Secretary bases the method of calculating this need in § 682.812 on several judgments. First, this Department's experience in administering the student loan program demonstrates that the number of students who will actually seek to borrow funds to meet their expected educational costs differs significantly from the number of students who theoretically have educational expenses in excess of the amounts of financial aid and family contribution they would be expected to receive. This difference between the hypothetical need to borrow and the amount of actual borrowing is in part explainable by student preference to avoid consumer debt by using other financial resources. Students who qualify for a subsidized guaranteed student loan for part of their costs may well be able to meet that part of their educational costs from their own savings or earnings, and choose not to incur the cost of borrowing funds. Family resources may exceed the amount expected as the family contribution under this Department's rules, also eliminate any need for borrowing.

The difference between hypothetical and actual borrowing rates can also arise because expected costs, when calculated under commonly-used need measurement systems, may overstate the actual need of those borrowers who attend schools with low tuitions, and share housing or live at home. Such theoretically-eligible borrowers may in fact have no real financial pressure to borrow. This reduced need is not necessarily balanced by greater use of credit by students with high educational costs because individual borrowers are statutorily limited in the amount they can borrow, regardless of their higher need.

To arrive at a reasonable estimate of the actual need for loan credit during the bond-use period, as Authority must start with the expectation that the same proportion of its student population will, if funds are available, use loans to finance their costs during that period as in the most recent period for which its had reliable data. That proportion is described in these regulations as the utilization rate, the ratio of the unduplicated total of individuals who applied and qualified for guaranteed student loans during that period to the total postsecondary student population as measured in the Higher Education General Information Survey conducted by the National Center for Education Statistics. The latter survey does not necessarily include all those students who are eligible to receive loans under the GSLP; however, it does offer the Authority a specific and probably conservative base figure to use in this calculation. The number of qualified applicants will probably be about the same as the total number of borrowers, and can be determined from the various guarantee agencies serving the area.

In those instances in which an Authority believes that the number of actual borrowers is less than the number of qualified applicants, and that actual borrowing does not accurately reflect the need for loans, it may use a higher utilization rate if it demonstrates that had more loan capital been available, more students would have borrowed. To support this claim, it cannot rely on mere generalized observations about limits on access to higher education. While useful for some purposes, such generalities cannot furnish a reasonable basis for a claim that a specific amount borrower need has not been met, and will not be met, if past use is the standard for future need for loans. As a general rule, the Secretary proposes to sanction adoption of a utilization rate different than that demonstrated in the recent past only in those cases in which lack of loan credit can be reasonably blamed for a student's failure to attend or continue in attendance at a school at which the student was accepted for enrollment. Two sources should be able to provide such data to the Authority: financial aid offices at area schools and the participating lenders, both of which the Authority surveys as part of its assessment of need. Other data may also support the use of a higher utilization rate, but information from these two sources offers the most creditibility. Potential students who did not qualify for admission to an eligible school cannot be described as prevented from securing a loan because of a shortage of loan capital. Similarly, it is only speculation to claim that an individual who did not discuss his or her financial need with a lender or financial aid officer left school, or did not enroll at all, because of financial reasons. Furthermore, even if unmet financial need were the reason this latter group did not matriculate an Authority would have no basis for determining whether the need might have been met with other financial aid, or whether a GSLP loan was then needed and lacking resource to meet their education costs.

After determining the appropriate utilization rate, an Authority then determines the number of expected borrowers by applying this percentage to the expected postsecondary student population in its area during the bond-use period. The Secretary expects that estimates of the population, which can include classes of students eligible for student loans not counted in the HEGIS study, will be based on credible estimates from schools in the area surveyed by the Authority (§ 682.315(a)(1)). Such estimates may also be granted from State education agencies or other planning agencies.

Because most GSLP Plans are now made only if the borrower qualifies for an interest subsidy, the Secretary considers the elements of the GSLP need formula to present a reasonable formula for measuring the amount of credit needed by this pool of expected borrowers. Based on the Department's experience in administering the GSLP, the Secretary considers information on expected average educational costs, student aid, and family contributions to be available from the schools to be surveyed by the Authority. Authorities may rely upon the estimates provided by schools, subject to two limitations. First, the methodology adopted by an Authority to evaluate estimates

provided by schools must incorporate a corrective check to identify and appropriately modify estimates from sources which have proven to be significantly inaccurate in the past. Secondly, estimates of costs, financial aid, and family contributions must not exceed parameters set by the Secretary by formal notice.

(d) *Estimating available credit resources.* (i) *Credit available from direct lenders.* Any need for student loan credit is ultimately a need for consumer credit extended to individual borrowers. The regulatory analysis of available credit starts, therefore, with a determination under § 682.813(a) of the amount of credit to be provided by lenders directly to students or parents in the form of GSLP and PLUS Program loans. If lenders extending credit in the service area of an Authority can be expected to make the volume of loans which students are reasonably likely to seek, there is no loan shortage in that area, and no unmet need for student loan credit. Under § 682.814(b)(1), therefore, an Authority is to contact sources which have provided a substantial volume of student loans in the recent past, and a representative sample of other active lenders, to solicit from them projections of their lending plans for the bond use period. That projection must under, § 682.813(a), exclude the effect, if any, of expected sales to secondary markets. An Authority must also contact other substantial credit sources brought to its attention by the Department which might be able and willing to provide student loans in its area, and solicit this same information from them.

The inquiry made by an Authority does not call for a commitment from the lender, but merely an estimate, as of the date of its response, of its expected loan volume. In evaluating responses to these inquiries, the Secretary intends that an Authority accept lender representations regarding a specific volume of loans it intends to make, unless the Authority has a substantial ground for discounting that projection. Ordinarily, the only reasonable ground would be repeated failure by that lender to meet past projections of lending volume.

Lenders may not always be fully responsive to such inquiries, and in such instances, the Secretary believes that the actual lending performance of such lenders offers the most reliable and readily-obtained basis for predicting their future behavior. Under § 682.814(f)(1), an Authority is to consider such lenders as willing and able to extend about the same amount of loans as in the most recent year for which the Authority has data. However, if the loan volume in that area has changed over the past three years, it is reasonable to assume that any trend evident over these three years will continue through the bond-use period, and that a non-responding lender will mirror that trend. An Authority need not assume that a particular lender which provide no specific projection will increase its volume to the same degree as it may have in the past years. The regulation assumes that the net result of the actions of individual lenders which do not provide specific projections through the bond-use period is reasonably measured if the Authority imputs to them the general rate of change common to the area.

In the past, some Authorities have sought to demonstrate that a need for loan capital would exist in their areas in the future merely because lenders were unwilling to assure them that they would continue to lend at their current levels, perhaps in the belief that such a statement would be taken as a commitment to lend that amount. The Secretary does not consider generalized fears that lending would be reduced if market conditions were to change in unspecified ways in the future to be a reasonable basis for establishing a need for a specific amount of new loan capital. Such fears can always be sincerely advanced by those lenders, but offer no solid basis on which to make a reasonable estimate of the credit they will provide during a specific short period in the relatively near future. On the contrary, the Secretary believes that a lender which actually intends to curtail its lending is willing and able to describe that curtailment in its plans. An Authority cannot disregard that credit which will in all likelihood be provided by those lenders which have no present plans to curtail their lending; using the historical performance levels of such lenders, modified to reflect trends evident in the area, appears to be the most reasonable method of assessing the amount they are likely to lend.

(ii) *Credit available from the Authority.* The statute directs an Authority to assess the amount of credit available from existing sources, and the Authority itself can obviously be an existing source of credit. An Authority may have substantial amounts of loan acquisition funds available, and under § 682.813(b) those funds must also be counted as a resource for the bond-use period. Because the Authority in the first stage of the analysis measures only the net amount of loans which would be made by direct lenders and not those committed to be sold to the Authority, the Authority includes in this stage of the analysis the full amount of the unexpended proceeds of any prior issue less any required reserve fund. The Secretary recognizes that in some instances Authorities may also have liquid assets available in the bond-use period which no statute, regulation, or contractual provisions restricts it from using for loan purposes during that period. For new issues, those assets would not include the Authority's student loan portfolio, but would include accumulated investments, repayments held on loans acquired by the Authority, appropriated funds, grants and donations.

(iii) *Credit available from secondary markets other than the Authority.* Estimating credit available from other secondary markets in a responsible manner poses a number of problems, and therefore, § 682.813(c) divides that field into three categories of available credit. Based in part on past representations regarding use of sale proceeds by lenders, the regulation directs the Authority to consider funds provided to lenders as proceeds of loan sales to secondary markets as funds available in that same period for loans to individual borrowers. Therefore, for purposes of this analysis, the Authority is to disregard the year in which loans were made, and count only the period during which they will be sold.

The first and most easily-measured category of such credit consists of the amount of loans which secondary markets are already committed to purchase under contracts executed as of the date of the Authority conducts its survey. Credit may also be offered or expected to be made available from secondary markets which have not yet executed loan purchase contracts for specific amounts of loans. Credit from these sources, while theoretically available, may not actually reach the consumer because lenders may not wish to sell loans on the terms offered by that secondary market. These regulations, therefore, adopt a conservative approach to measuring the amount of loan credit that will be generated from purchases by such secondary markets, particularly where a secondary market offers to make substantially more purchases than it did in the recent past. For this, the second category of credit available from secondary markets, where the amount of credit announced differs from past amounts, the Secretary considers two conditions essential to a reasonable expectation that such amounts of credit theoretically available will actually result in those loan sales needed to place this capital in the hands

of lenders. First, the credit must be available at the same price as that generally charged for loan purchases, and secondly, the credit must be available under an offer which can be relied upon through the bond-use period.

Section 682.813(c)(2) embodies these conditions; under that section, credit is considered available from a secondary market at a market rate if the secondary market offers to purchase loans from lenders in that area at par or at a discount not exceeding one percent. Offers to purchase at a premium do not appear to be responsible or needed, and such premiums are to be disregarded in this comparison with generally-available purchase terms.

Before such credit can be realistically expected to reach the consumer, it must also be offered in such a manner that lenders can rely upon the offer and make their lending plans based on confidence that the offer will not be withdrawn. The Secretary considers this need for reliance realistically met if, as described in § 682.813(c)(2), a secondary market makes the offer to purchase publicly, communicates that offer to lenders in the service area, and publicly offers to execute with any lender which desires to do so a written contract to purchase its loans on the announced terms. Such an offer should provide lenders with a legally-enforceable means of safeguarding their reliance on the availability of that credit.

Third, it is reasonable to expect that a secondary market which has not made the offer described here will nevertheless acquire some amount of loans in the bond-use period if it did so in the past year. If lenders sold loans in the past to such a secondary market, some of these can be expected to continue to do so. The Secretary considers the recent history of loan purchases by such a credit source to be the most easily-measured predictor of the amount of such purchases to be expected during the bond-use period, with appropriate adjustments made to reflect increased or reduced activity by that particular source in the recent past.

A significant feature of the assessment of credit available from secondary market sources under these regulations is the requirement that an Authority consider the Student Loan Marketing Association (SLMA) as a resource for such secondary market credit available in any service area, without regard to limitations on its ability to purchase guaranteed loans in that area arising from local regulation. Such limitations can be direct, such as excluding loans sold to SLMA from coverage under a State guarantee program, or indirect, such as requiring an in-State loan servicing commitment as a condition for coverage under the guarantee program.

This treatment of SLMA under § 682.813(b) is quite different from the treatment of other out-of-State lenders implicit under § 682.813(a). States are obviously free to impose restrictions on the credit operations of both their own lenders and those incorporated outside their borders, and the Secretary recognizes that credit is not acutally available from a credit source which cannot operate in a State because of local regulation prohibiting extenions of credit by out-of-State lenders, or by similar restrictions indirectly imposed by excluding such lenders from the benefits of the State's loan guarantee program. In determining the amount of credit available from a direct lender which may be identified to the Authority by the Secretary under § 682.815(b)(3), the Secretary expects an Authority to consider only that credit available from lenders which are free to operate in that service area. SLMA, however, is the Congressionally-chartered secondary market, specifically empowered to conduct business in any State. It therefore occupies a status different from that of an out-of-State lender. It remains the prerogative of a State or guarantee agency to decide that it does not need the additional credit SLMA was established to provide, and to directly or indirectly bar access to this resource. However, it is completely inconsistent with such a choice for an Authority, which is either an instrumentality of the State which chooses not to use SLMA, or operates at the invitation of such a State, to claim that an unmet need exists there for additional loan credit which might have been obtained from SLMA. The Secretary, therefore, proposes to give due regard for the Congressional intent that SLMA be available as a resource in each State by requiring an Authority to treat SLMA, for purposes of this analysis of need only, as an available resource. This plainly requires such an Authority to secure a representation from SLMA of the amount of credit it would make available if there were no local limitations on its ability to acquire or hold loans in that State, and to include in the manner described in § 682.813(c), the amount that SLMA would be willing to offer in the total of credit available in that service area.

(iv) *Credit available from proceeds of taxable borrowings.* The Secretary has recently learned of increased interest among commercial lenders in extending credit directly to student loan Authorities by means of taxable obligations. Because Authorities would qualify for full special allowance payments on loans made or purchased with the proceeds of a taxable obligations, Authorities which can arrange to borrow by taxable obligations will receive increased revenues to meet the higher cost of those advances. The Department has received approval from the Internal Revenue Service for one method of arranging such transactions in order to render the obligations taxable, and several such taxable financing agreements have been reached using that approach. The regulations therefore require in § 682.813(d) that an Authority determine whether such credit is reasonably available as a resource to meet the need it identifies. The regulations recognize SLMA as the body Congressionally-chartered not only to act as a secondary market, but also to provide advances for the making or purchasing of student loans. Obviously an Authority may secure such a taxable advance from any credit source it chooses, and the Secretary encourages Authorities to explore alternative sources of such funds. In light of SLMA's national role, however, the Secretary considers it reasonable to consider such credit generally available on the terms offered by SLMA. In addition, the Authority is required, under § 682.815(c), to approach at least two other lenders to determine the specific terms on which they would extend such credit.

Whether such taxable credit is reasonably available also depends on the other costs of doing business incurred by the Authority. Under § 682.813(d) an Authority which asserts that it cannot meet both the costs of taxable credit and its reasonable operating and servicing costs is required to show that the latter costs are reasonable. The Secretary recognizes that the cost principles contained in Appendix C to 34 CFR Part 74 are not precisely applicable to analysis of the propriety of costs incurred by an Authority because such costs are not charged to a Federal grant or contract. However, those principles offer some guidance as to the reasonableness of including different categories of costs as legitimate expenses of the loan acquisition program of an Authority. These principles are not intended to be applied directly, however; no approval from a grantor agency is needed to incur costs such as automatic data processing expense, listed in Part II, Subpart C of Appendix C, and several of the excluded costs listed under Subpart D, such as interest expenses, bad debts and contingencies, are plainly reasonable

administrative expenses for an Authority, if not for a grantee.

(e) *Unmet need for tax exempt obligation; Special access credit programs.* Under normal circumstances, the unmet need for which an Authority may issue a new tax-exempt issue is simply the amount by which estimated need exceeds estimated resources. However, Authorities have asserted that in some cases particular types of borrowers will not receive loans because of restrictions imposed by lenders in the area on loans to such individuals. These restrictions may be direct, such as refusals to lend to freshmen, to proprietary school students, to borrowers who do not have a customer relationship with the lender, or to borrowers who do not reside in the area. Lenders might also choose to make loans only to those borrowers who qualify for larger amounts of credit, and may exclude smaller loans. Such restrictions may also be indirect: a lender willing to extend some credit to such classes of borrowers may refuse to make additional loans to those borrowers because it wishes to, but cannot, sell such loans to a secondary market. The Secretary therefore provides, in § 682.814(b), an opportunity for an Authority which proposes to target its lending or loan purchase activities to such categories of borrowers to show that a specific need exists for these groups.

To show that such a "Special access" need exists, an Authority must first perform the analysis of available credit resources required under § 682.813, and then demonstrate that credit estimated to be available will not generate loans for certain of the borrowers included in the estimated number of borrowers. To show this deficiency, it must demonstrate that prevalent lender limitations restrict the number of loans available for those groups, and that secondary markets contribute to the restriction on credit to those groups by limiting or excluding purchases of loans which might be made to those borrowers. Furthermore, the Authority must show that it cannot generate sufficient loans for these borrowers from its own available resources, including taxable borrowings. Lastly, an Authority which proposes to raise funds for these targeted groups must, under § 682.822(a)(2)(v), certify to the Secretary that the proceeds will in fact be spent on the targeted group, and must provide a specific plan of action describing the manner in which it proposes to use those proceeds for this purpose.

(f) *Refunding issues.* Much of the recurring need for borrowing by Authorities arises because of their need or desire to retire existing obligations, either because they can secure a more favorable interest rate, or because the obligations have matured. A refunding issue may also be used not merely to retire a prior issue, but also to raise new capital, or to continue to make available capital already raised and not yet spent on student loans. Because existing sources of student loan credit may suffice to meet each of these needs, an Authority must consider such resources, and determine whether these resources can meet these needs, when it proposes a tax-exempt refunding issue.

For purposes of this analysis, the proceeds of refunding issues are divided under § 682.820 into two parts: that portion corresponding to the amount outstanding on the loans acquired with the issue to be retired, and the remaining amount.

The portion of the refunding issue equal to the outstanding balances of the loans acquired with the prior obligation represents the face value of that loan portfolio. To determine whether a need exists for tax-exempt financing to refinance that portfolio, an Authority must "take into account" existing sources of credit available for that purpose. If an Authority can sell all or part of that portfolio without significant loss, then existing sources of credit suffice to meet its need to retire the corresponding portion of the prior issue. The Secretary considers an unmet need to exist for refinancing capital only if an Authority cannot sell these loans except at a discount greater than the one percent it is permitted, by statute, to charge its lenders.

If an Authority can sell a portion of its portfolio to secure funds to meet this refunding need, no unmet need exists for that portion of the proposed issue, and the issuance of a tax-exempt refunding obligation for that amount violates the requirements of the approved Plan of the Authority, and may constitute grounds for such remedial action under § 682.806 as may be warranted on the facts of the particular case.

The remainder of the proceeds of the refunding consists of either new capital or proceeds of the prior issue available but not yet spent on student loans. If an Authority proposes to make such loan acquisition funds available by means of a tax-exempt refunding issue, it must demonstrate that other sources of credit cannot meet the same need. Under §§ 682.820(a)(2)(ii) and 682.821(a), an Authority must assess need for this portion of the refunding issue in exactly the same manner as that required for new issues.

Finality of Administrative Decisions Under This Subpart H

Section 438 of the Higher Education Act describes the holder of an eligible loan as having a "contractual right against the United States during the life of such loan, to receive the special allowance according to the provisions of this section." 20 U.S.C. 1087–1(b)(3). By describing the relationship between the holder of the loan and the United States as contractual, this language may suggest that judicial review under some standard other than that provided under the Administrative Procedure Act was meant to apply to judicial review of decisions under this Subpart. The Secretary therefore includes in these regulations a finality clause as a term of this contract between the Authority and those taking from or acting on behalf of the Authority, and the United States. Inclusion of such a clause in a contract with the United States brings judicial review of decisions arising under that contract within the provisions of the Wunderlich Act, 41 U.S.C. 321–322, which provides for substantially the same standards of review as those found in section 706 of the Administrative Procedure Act. The Secretary believes that this addition to the regulations clarifies the standard that would ordinarily be expected to apply to his decisions, and precludes application of a *de novo* review standard.

Executive Order 12291

These regulations have been reviewed in accordance with Executive Order 12291. They are classified as non-major because they do not meet the criteria for major regulations established in the order.

Regulatory Flexibility Act

The Secretary certifies that these regulations will not have a significant economic impact on a substantial number of small entities. These regulations affect only State and private non-profit agencies and merely simplify and clarify provisions in the statute.

Invitation to Comment

Interested persons are invited to submit comments and recommendations regarding these regulations. Written comments and recommendations may be sent to the address given at the beginning of this document. All comments submitted on or before the 30th day after publication of this

document will be considered before the Secretary reissues final regulations.

All comments submitted in response to these regulations will be available for public inspection, during and after the comment period, in Room 4310, ROB–3, 400 Maryland Avenue, SW., Washington, D.C., between the hours of 8:30 a.m. and 4:00 p.m., Monday through Friday of each week except Federal holidays.

Paperwork Reduction Act

The information collection requirements in these proposed regulations will be submitted to the Office of Management and Budget for review under the Paperwork Reduction Act of 1980.

To assist the Department in complying with the specific requirements of Executive Order 12291 and the Paperwork Reduction Act of 1980 and their overall requirement of reducing regulatory burden, public comment is invited on whether there may be further opportunities to reduce any regulatory burdens found in these regulations.

Comments concerning information collection requirements only should be addressed to the Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3208, 17th and Pennsylvania Avenue, NW., Washington, D.C. 20503. Attention: Desk Officer for the U.S. Department of Education. All other comments regarding these proposed regulations should be sent to the Department of Education at the address given at the beginning of this preamble.

To assist the Department in complying with the specific requirements of Executive Order 12291 and the Paperwork Reduction Act of 1980 and their overall requirement of reducing regulatory burden, public comment is invited on whether there may be further opportunities to reduce any regulatory burdens found in these regulations.

Assessment of Educational Impact

These Secretary particularly requests comments on whether the regulations in this document require transmission of information that is being gathered by or is available from any other agency or authority of the United States.

List of Subjects in 34 CFR Part 682

Administrative practice and procedure, Colleges and universities, Loan programs—education, Student aid, Vocational education.

Citation of Legal Authority

A citation of statutory or other legal authority is placed in parentheses on the line following each substantive provision of these regulations.

(Catalog of Federal Domestic Assistance Number: Guaranteed Student Loan Program, and Plus Program, 84032)

Dated: February 8, 1984.

T. H. Bell,

Secretary of Education.

PART 682—[AMENDED]

The Secretary proposes to amend Part 682 of Title 34 of the Code of Federal Regulations as follows:

1. A new subpart H is added as follows:

Subpart H—Special Allowance Payments on Loans Made or Purchased With Proceeds of Tax-Exempt Obligations

Sec.

682.800 General.
682.801 Definitions applicable to Subpart H.
682.802 Provisions required in Plan.
682.803 Submission of Plan for approval—required documentation.
682.804 Amendments to Plan.
682.805 Approval of Plan.
682.806 Failure to comply with Plan.
682.807–682.809 [Reserved]
682.810 Standards for provisions of Plan for Doing Business—need for proposed tax-exempt obligation.
682.811 Term, timing, and advance repayment of tax-exempt obligations.
682.812 Estimating need for student loan credit.
682.813 Estimating resources available for student loan credit.
682.814 Unmet need.
682.815 Methodology for measuring unmet need—new issues.
682.816–682.819 [Reserved]
682.820 Unmet need—refunding issues.
682.821 Methods for measuring unmet need—refunding issues.
682.822 Procedures for approval of determination of need for tax-exempt obligation.
682.823 Sanctions for material misrepresentation regarding unmet need.

§ 682.800 General.

An Authority which issues tax-exempt obligations in order to make or acquire loans under the Guaranteed Student Loan or PLUS programs, or to advance funds to another entity for those purposes, shall submit a Plan for Doing Business (Plan) to the Secretary. In order for the Authority, or the recipient of those funds from the Authority, to receive special allowance payments on those loans, the Secretary must approve the Plan. This subpart lists the requirements which must be addressed in the Plan, the procedures for its submission, and the documentation required with the Plan. The Plan must also include provisions which meet the standards established in this subpart.

(20 U.S.C. 1082, 1087–1)

§ 682.801 Definitions applicable to subpart H.

The definitions contained in § 682.200 apply as well to this subpart. In addition, the following definitions apply to this subpart:

Authority means any entity, public or private non-profit, which may issue tax-exempt obligations in order to obtain funds to be used for the making or purchasing of GSL or PLUS loans. The term "Authority" includes any agency, including a State postsecondary institution, or any other instrumentality of a State or local governmental unit, regardless of the designation or primary purpose of that agency, which may issue tax-exempt obligations. The term also includes any party authorized to issue such obligations on behalf of a governmental agency, and any non-profit organization which issues qualified scholarship funding bonds under 26 U.S.C. 103(e).

Bond-use period of an issue means the period in which the proceeds of the obligation or obligations comprising the issue will be used to make or purchase student loans.

Issuing expense means the costs of issuing the obligation, including survey costs, advertising and printing costs, fees of financial advisors and counsel, initial fees of trustees, paying agents, certifying or authenticating agents, and similar expenses.

Loan or *student loan* means any loan made under the GSL or PLUS programs.

Obligation means any interest-bearing debt incurred by an Authority pursuant to its borrowing powers. As used in this subpart, this term means only an obligation issued to acquire funds for financing or refinancing the making or purchasing of student loans.

Proceeds means that term as used in 26 CFR 1.103–13(b)(2).

Qualified applicant for a loan means an individual who has applied for a loan and has been determined to qualify for a loan which is eligible for a special allowance payment by the school which completes the loan application.

Refunding issue means one described in 26 CFR 1.103–14(e)(2).

Service area means the geographic area in which the Authority may do business under the Plan.

Source of student loan credit means a party which may make or purchase student loans, or provide funds to be used for those purposes.

Spendable proceeds is used as defined in 26 CFR 1.103–14(b)(2)(iii).

Tax-exempt obligation means any obligation, the income from which is

exempt from taxation under the Internal Revenue Code of 1954.

Utilization rate means the ratio of qualified applicants for loans in the service area of the Authority to the total postsecondary study enrollment in that area as measured in the Higher Education General Information Survey (HEGIS) conducted by the National Center for Education Statistics (NCES).

(20 U.S.C. 1082, 1087–1)

§ 682.802 Provisions required in Plan.

(a) Each Plan submitted for the approval of the Secretary must contain provisions necessary to ensure that:

(1) If an Authority acts as a secondary market for student loans, it shall exclude no eligible lender in the service area from participation in this program, and shall permit all eligible lenders to participate in this program on the same terms and conditions;

(2) No director, officer, or staff member of the Authority who receives compensation from the Authority may own stock in, or receive compensation of any kind from, any agency or organization that would contract to service and collect the loans in which the Authority has a legal or equitable interest;

(3) The Authority shall not purchase student loans at a premium or discount amounting to more than one percent of the unpaid principal amount borrowed plus interest accrued to the date of acquisition;

(4) The Authority shall, within the limit of funds available and subject to the applicable State and Federal law, make loans to, or purchase loans made to, all eligible borrowers who are residents of, or who seek loans for a student to attend a school within, the service area of the Authority;

(5) The Authority has a plan under which the Authority shall pursue both the development of new lender participation in a continuing program of benefits to students and the maintenance of existing lender commitments to the program;

(6) The Authority shall secure an annual audit of its transactions by a certified public accounting firm which will include a review according to standards established by the Secretary of its compliance with the provisions of its Plan. Until such time as the Secretary has issued an audit guide for the conduct of such audit, the audit may be performed according to standards adopted by the Authority in its Plan; and

(7) The Authority will not issue tax-exempt obligations for amounts in excess of the unmet need determined according to this subpart for student loan credit.

(b) The Secretary approves the Plan if it is submitted in the manner described in § 682.803, includes provisions needed to implement the requirements in this section and meets the standards set forth in this subpart.

(20 U.S.C. 1082, 1087–1)

§ 682.803 Submission of Plan for approval—required documentation.

An Authority shall submit with, or include in, each Plan submitted for the approval of the Secretary the following:

(a) If the Authority is a secondary market, a description of the procedures used to inform eligible lenders of the program of the Authority, samples of announcements to lenders regarding the Program, and a listing of the types of lenders and numbers of each type so informed;

(b) A sample of the form signed by all directors, officers and staff of the Authority who receive compensation from the Authority certifying that these persons do not own stock in or receive compensation of any kind from any agency or organization that would contract to service and collect loans in which the Authority has a legal or equitable interest, and a list of the presons who have signed the form;

(c) A schedule of the amount of loan transfer fees paid or to be paid by the Authority to parties from whom it purchases loans;

(d) A copy of any Federal or State law which the Authority believes limits its ability to make a purchase loans made to any eligible borrowers who are residents of, or who obtained loans for a student to attend a school located within, its service area;

(e) A copy of the plan under which the Authority pursues both the development of new lender participation in a continuing program of benefits to students under both the GSL and PLUS programs and the maintenance of existing lender commitments to the program;

(f) A copy of the most recent independent audit of the Authority.

(g) A copy of any survey instrument or written inquiry form to be used to solicit from schools, lenders, and secondary markets information from which the Authority measures unmet need for student loan credit; and

(h) A certification that the Authority is in compliance with section 438(d)(2) of the Act (regarding patterns or practices resulting in denial of access to student loan credit for certain borrowers].

(20 U.S.C. 1082, 1087–1)

§ 682.804 Amendments to Plan.

(a) An Authority shall submit to the Secretary amendments to the Plan or such documentation as may be needed to reflect accurately the policy and practice of the Authority within 30 days of the date that—

(1) An Authority amends any provision of a Plan which had previously been approved by the Secretary; or

(2) Any documentation or representation submitted pursuant to § 682.803 has been revised or rendered inaccurate in any material aspect.

(b) An Authority shall promptly amend its Plan to comply with changes in applicable statutes and regulations.

(20 U.S.C. 1082, 1087–1)

§ 682.805 Approval of Plan.

(a) The Secretary approves or disapproves the Plan within 30 days after receipt of a complete Plan.

(b) If the information or documentation submitted in or with a Plan is not complete, the Secretary indicates why the Plan is incomplete and returns the Plan to the Authority for revisions or more information as appropriate.

(20 U.S.C. 1082, 1087–1)

§ 682.806 Failure to comply with Plan.

(a) If the Secretary finds that an Authority has failed to comply with any requirement of its Plan or with applicable Federal law or regulations, the Secretary takes actions necessary to protect the interests of the United States. These actions may include the following:

(1) Suspending or revoking approval of the Plan;

(2) Determining that loans made or purchased by the Authority after the date of suspension or revocation are ineligible for payments of special allowances; or

(3) Requiring reimbursement of special allowances paid on loans made or purchased by the Authority.

(b) The Secretary's decision to require repayment of funds by an Authority, to withhold payments of special allowance, or to suspend or revoke approval of a Plan does not become final until the Secretary provides the Authority with written notice of the intended action and an opportunity to be heard thereon. However, the Secretary may withhold payments or suspend approval of the Plan prior to giving notice and opportunity to be heard if the Secretary finds such emergency action necessary to prevent substantial harm to Federal interests.

(c) Once final, the Secretary's decision to require repayment of funds or to take other remedial action against an Authority under this section is

conclusive and binding on the Authority and subsequent holders of its loans.

(2 U.S.C. 1082, 1087–1)

Note.—A decision by the Secretary under this section is currently subject to judicial review under 5 U.S.C. 706 and 41 U.S.C. 321–322.)

§ 682.807–682.809 [Reserved]

§ 682.810 Standards for provisions of Plans for Doing Business—need for proposed tax-exempt obligation.

To implement the requirements of § 682.802(a)(7), an Authority shall adopt provisions to determine, according to the standards, methodology, and procedures prescribed in §§ 682.811 through 682.814 and §§ 682.820 through 682.822, that the amount of the spendable proceeds of any proposed tax-exempt obligation does not exceed the unmet need for student loan credit in its service area during the bond-use period of that issue. To make the determination, the Authority shall first estimate the need for student loan credit in its service area according to the standards described in §§ 682.811 and 682.812, or, in the case of a refunding issue, in §§ 682.820. The Authority shall then identify the credit resources available to meet that need, and estimate the amount of credit available from those resources, according to the standards described in §§ 682.813. That portion of the estimated need which exceeds the credit available from these resources is the unmet need, as described in §§ 682.14 and 682.820. The Authority shall include in its Plan provisions to measure these elements which meet the methodology requirements in §§ 682.815 and 682.821. For each particular tax-exempt obligation, the Authority shall demonstrate to the Secretary its compliance with these requirements in the manner described in § 682.822

(20 U.S.C. 1082, 1987–1)

§ 682.811 Term, timing, and advance repayment of tax-exempt obligations.

(a) *Term of obligation:* An Authority shall issue no tax-exempt obligation with a term in excess of ten years in order to obtain funds—

(1) To make or purchase student loans, or provide funds to another for the making or purchasing of student loans;

(2) To retire an obligation issued to obtain funds for these purposes; or

(3) To retire an obligation issued to retire a prior retirement issue.

(b) *Time of issuance:* An Authority shall issue no tax-exempt obligation—

(1) Earlier than three months before the bond-use period commences, or

(2) Later than one year after the Secretary approves the determination of need for the obligation under §682.822.

(c) *Bond-period:* (1) An Authority shall issue no tax-exempt obligation for which the bond-use period exceeds

(i) One year, if the proceeds are to be used to make loans, or

(ii) Two years, if the proceeds are to be used to purchase loans.

(2) An Authority shall use proceeds of a refunding issue promptly to retire the prior obligation.

(d) *Advance repayment with unexpended proceeds:*

At the close of the bond-use period of an issue, an Authority shall promptly repay obligations comprising that issue with all proceeds of that issue not expended in the bond-use period for the purposes in paragraph (a) of this section, except—

(1) Proceeds included in a reasonably required reserve or replacement fund, as described in 26 CFR 1.103–14(d); and

(2) Five percent of the original proceeds of the issue, as defined in 26 CFR 1.103–13(b)(2)(i).

§ 682.812 Estimating need for student loan credit.

An Authority shall estimate the reasonable need for student loans in its service area in the following manner:

(a) Establish the utilization rate for its service area for the bond-use period. This rate shall be—

(1) The utilization rate in the most recent twelve-month period for which data is available, or

(2) Such higher utilization rate as may be approved by the Secretary if an Authority demonstrates by credible evidence that a significant number of individuals were uanable to attend, or to continue in attendance at, shools at which they were accepted for enrollment, because of inability to secure a student loan.

(b) Multiply the postsecondary student population in its service area during the bond-use period by the utilization rate established under paragraph (a);

(c) Multiply the number derived in paragraph (b) by the estimated cost of attendance of these students during the bond-use period; and

(d) Subtract from the product derived in paragraph (c) the total estimated financial assistance and total estimated expected family contributions for these students during the bond-use period.

(20 U.S.C. 1082, 1087–1)

§ 682.813 Estimating resources available for student loan credit.

An Authority shall estimate the amount of credit available from the following resources for student loan credit in its service area during the bond-use period:

(a) *Credit available from direct lenders.* An Authority shall estimate the total amount of new credit expected to be made available in its service area to students by direct lenders without regard to expected purchases of loans by secondary markets. To do so, an Authority shall deduct from the total amount of loans expected to be made by such lenders (excluding any loans to be made by the Authority from proceeds of prior issues) the total amount of loans expected to be sold by those lenders to all secondary markets (including the Authority).

(b) *Credit available from an Authority.* An Authority shall include as an available resource the estimated amount, as of the beginning of the bond-use period, of—

(1) any unexpended proceeds of prior issues less amounts which are part of a reasonably required reserve or replacement fund, as described in 26 CFR 1.103–14(d),

(2) any repayments on loans held by the Authority, and

(3) any other liquid assets of the Authority to the extent that no statutory, regulatory, or contractual provision bars their use during the bond-use period for student loan credit.

(c) *Credit available from secondary markets other than the Authority.* An Authority shall estimate the total amount of credit expected to be made available in its service area from secondary market sources. In making this estimate, an Authority shall consider the Student Loan Marketing Association to be an available resource without regard to any limitations imposed on its operations by the State in which the Authority does business or by a guarantee agency which guarantees student loans in its service area. The Authority shall include in this estimate of available credit the following amounts:

(1) The amount of loans committed to be sold to secondary markets during the bond-use period pursuant to executed loan purchase contracts of any kind, other than those to be funded by proceeds of the proposed tax-exempt obligations;

(2) The amount of loans, excluding those counted under paragraph (c)(1) of this section, that a secondary market offers to purchase by means of a formal, binding public offer. For purposes of this paragraph, a secondary market makes a formal, binding public offer to purchase to the extent that the secondary market:

(i) Publicly offers to purchase loans either at the par value of the loans or at a discount rate not exceeding one percent;

(ii) Communicates this offer to lenders in the service area, and

(iii) Publicly offers to execute a formal contract for such a purchase at the request of any lender in the service area; and

(3) The amount of loans excluding those included in paragraph (c)(1) expected to be purchased by a secondary market which has not made the public offer described in paragraph (c)(2) of this section. The Authority estimates this amount by projecting an amount of purchases during the bond-use period equal to the amount of loans purchased by that secondary market from lenders in the service area of the Authority during the most recent twelve-month period immediately preceding the date of the proposed issue for which data is available, increased or decreased by the average rate of change in that amount over the preceding three years, and reduced by those amounts included in paragraph (c)(1). For purposes of this paragraph, the average rate of change is determined by—

(i) Subtracting the sum of loan amounts purchased in the second year preceding the most recent year for which data is available from the sum of loan amounts purchased in the most recent year for which data is available and dividing that difference by three;

(ii) Adding the sums of loan amounts purchased in the most recent year for which data is available and the two preceding years and dividing that total by three; and

(iii) Dividing the average amount of change derived in subdivision (A) by the average amount purchased derived in subdivision (B).

(d) *Credit available to the Authority by means of taxable obligations.*

(1) An Authority shall estimate the amount of any funds reasonably available to the Authority from the Student Loan Marketing Association or other sources by means of taxable obligations. Credit is reasonably available by means of taxable obligations from such sources if in light of reasonable servicing and administrative costs to be incurred by the Authority in implementing its program, the Authority can meet the terms on which such credit can generally be obtained.

(2) For purposes of this paragraph,

(i) The terms on which credit can generally be obtained are those terms on which amounts of credit similar to that available from the proposed tax-exempt obligation is available from the Student Loan Marketing Association, or if more favorable, from either of at least two lenders of the Authority's own choosing;

(ii) Servicing costs are deemed to be reasonable if

(A) they are incurred under a contract awarded through competitive bidding, or

(B) if not the result of a competitively-bid contract, they do not exceed the costs incurred under servicing contracts awarded through competitive bidding by Authorities operating similar programs; and

(iii) Administrative costs are reasonable to the extent that they do not exceed in kind or amount those incurred generally by similar Authorities and other non-profit organizations or State or local government instrumentalities receiving federal financial assistance. In considering whether such costs are reasonable, the Secretary is guided by the cost principles contained in Appendix C to 34 CFR Part 74 governing the charging of costs to Federal grants and contracts.

(20 U.S.C. 1082, 1087–1)

§ 682.814 Unmet need.

(a) Subject to paragraph (b), the amount of unmet need for student loan credit in the service area of the Authority is equal to that portion of the need for student loan credit estimated pursuant to § 682.812 which exceeds the amounts of available credit estimated under § 682.813.

(b) *Special access credit programs* (1) In addition to or in lieu of any unmet need determined under paragraph (a) of this section, an additional amount of unmet need exists if credit otherwise estimated to be available under § 682.813 will not be extended as loans to or for the benefit of particular classes of students because of prevalent lender limitations based on the school they attend, their place of residence, their academic year or course of study, or the amount they wish to borrow. The amount of such unmet need is that amount of loans estimated in accordance with § 682.812 which the Authority demonstrates will not be made because of those limitations.

(20 U.S.C. 1082, 1087–1)

§ 682.815 Methodology for measuring unmet need—new issues.

An Authority shall include the steps in this section in the methods used to estimate the reasonable need for student loan credit and the amount of resources available to meet that need.

(a) (1) *Survey of need for student loan credit.* To measure the reasonable need for student loan credit during the bond-use period, the Authority shall survey the schools and lenders in its service area to secure information regarding the expected number of qualified applicants for loans, their estimated costs of attendance, expected family contributions, and estimated financial assistance during the bond-use period.

(2) Using the results of that survey and the standards in this subpart, the Authority shall make an estimate of the reasonable need for student loan credit for the bond-use period. In making this estimate, the Authority shall make appropriate adjustments to reflect recent historical developments in this data, the past reliability of the various sources of this data, and the accuracy of previous estimates of this data by the Authority itself

(3) An Authority shall, as part of its estimate, identify and explain the following:

(i) Any difference greater than five percent per annum between the totals of each of those data elements in—

(A) The fiscal year immediately preceding the date of the issue; and

(B) The bond-use period.

(ii) Any difference greater than five percent per annum between the totals of those data elements—

(A) As projected for any prior issues; and

(B) As actually occurring during the bond-use period for those issues.

(b) *Survey of resources available.* To measure the amount of student loan credit expected to be available in its service area during the bond-use period, the Authority shall survey lenders and secondary markets reasonably expected to be willing to extend such credit in its service area. In this survey, the Authority shall solicit an estimate from the following lenders of the amount and terms of credit they expect to make available in its service area during the bond-use period:

(1)(i) All direct lenders in the highest quartile, by loan volume, in the service area during the most recent twelve-month period preceding the survey for which data is available, and

(ii) A representative sample of all other direct lenders;

(2)(i) The Student Loan Marketing Association, and

(ii) All other secondary market sources known to the Authority to be purchasing or willing to purchase loans in its service area; and

(3) Such other sources as the Secretary may identify to the Authority.

(c) To determine the availability of credit to the Authority on the basis of taxable obligations, an Authority shall determine the specific terms on which such credit is available from the Student Loan Marketing Association and from at

least two other parties known to the Authority to have extended, or to have expressed interest in extending, such credit to Authorities. If an Authority knows of no parties that have extended such credit to Authorities, the Authority shall solicit this information from at least two credit sources which routinely offer similar or greater amounts of credit to commercial borrowers.

(d) *Use of written inquiries.* The Authority shall use written inquiries to solicit information form each school, lender, and secondary market source included in any survey conducted under this section.

(e) *Record retention.* The Authority shall maintain records, available for inspection, for three years beyond the bond-use period of all written inquiries and of all responses and failures to respond to those inquiries.

(f) *Evaluation of lender responses.* (1) If a response by a direct lender to students to the survey inquiry of the Authority does not clearly state the lender's intentions, or if no response is received from such a lender, the Authority shall consider that lender as intending to make loans in the service area during the bond-use period on the same terms and in an annual volume equal to that amount of credit extended by that lender in the most recent twelve-month period preceding the survey for which data is available, increased or decreased according to the average rate of change in the total loan volume in that area over the three preceding years.

(2) If a response by a secondary market to the survey inquiry of the Authority does not include or reflect the making of the public offer to purchase described in § 682.813(c)(2), or if no response is received from such a party, the Authority shall estimate the amount of loans it is expected to purchase in its service area during the bond-use period in the manner described in § 682.813(c)(3).

(g) In measuring the need for student loan credit, the Authorities shall ensure that its estimates of costs of attendance, expected family contributions, and expected financial assistance available do not exceed guidelines which the Secretary may establish from time to time through a Notice published in the **Federal Register.**

(20 U.S.C. 1082, 1087–1)

§ 682.15—682.19 [Reserved]

§ 682.820 Unmet need—refunding issues.

(a) An Authority shall determine whether the proceeds of any proposed refunding issue exceed the unmet need for student loan credit in its service area. An Authority determines whether an unmet need exists for the proposed refunding issue by dividing the amount of the proposed issue into two portions, and assessing the availability of credit form the resources described in § 682.813 to meet the need for which each of these portions is to be used, in the following manner:

(1) An Authority shall demonstrate that an unmet need exists for that portion of the proceeds of a proposed refunding issue equal to the amount of the outstanding balances, including principal and interest of loans which are procedes of the issue to be refunded, only to the extent that the Authority cannot sell those loans at par or at a discount not exceeding one percent of their outstanding balance; and

(2) An Authority shall demonstrate that an unmet need exists for that portion of the proceeds of a proposed refunding issue in excees of the outstanding balances, including principal and interest, of loans which are proceeds of the issue to be refunded, only to the extent that the Authority could demonstrate that, under § 682.814, an unmet need exists for a new issue.

(b) For refunding issues, an Authority shall comply with the provisions of § 682.811 regarding term and timing of issue and use of proceeds.

(20 U.S.C. 1082, 1087–1)

§ 682.821 Methods for measuring unmet need—refunding issues.

(a) The Authority shall use the methods prescribed in § 682.815 to measure the unmet need for that portion of the proceeds of a refunding issue treated as a new issue under § 682.820(a)(2).

(b) An Authority shall use the methods prescribed in § 682.815(b)(2), (d), and (e) to measure unmet need for that portion of the proceeds of a refunding issue described in § 682.820(a)(1).

(20 U.S.C. 1082, 1087–1)

§ 682.822 Procedures for approval of determination of need for a tax-exempt obligation.

(a) An Authority shall, for any proposed issue of tax-exempt obligations—

(1) Compile and maintain a record of any survey, the responses to the survey, the sources of any other data on which it bases its estimates of the reasonable need for student loan credit and the amount of credit available from sources of student loan credit, and the assumptions used in making such estimates.

(2) Submit for approval by the Secretary, no later than 30 days before the proposed date of issue,

(i) A statement of the expected amount and terms of the issue;

(ii) A copy of any official statement regarding the issue, statements of sources and application of funds for the proposed issue and any prior issue (unless already submitted), and a copy of the most recent audit of the Authority's activities;

(iii) An explanation of the estimated need for student loan credit and resources available for student loan credit in that service area, determined according to the standards established in this subpart;

(iv) A detailed description of the data, and assumptions, on which its estimates of need and available resources; and

(v) If the Authority proposes to issue a tax-exempt obligation to meet an unmet need determined under § 682.814(b) (Special access credit programs),

(A) A certification that it will use the proceeds attributable to that unmet need only to make available loans for that class of borrowers determined to have limited access to student loan credit, and

(B) A specific plan of action to implement this certification.

(b) The Secretary approves the determination of the Authority that the proceeds of a proposed tax-exempt obligation do not exceed the unmet need for student loan credit for the bond-use period in that service area if the documentation submitted under paragraph (a) of this section demonstrates a reasonable estimate based on the standards and methods in this subpart of the need for student loan credit and of the amount of such credit available from other resources.

(c)(1) An eligible lender which holds loans made or purchased with the proceeds of a tax-exempt obligation for the sole benefit of an Authority because the Authority is ineligible as a lender under the GSL or PLUS programs or for any other reason, may not rely on a approval given under paragraph (b) of this section to establish its continued entitlement to special allowance payments.

(20 U.S.C. 1082, 1087–1)

(2) A holder of loans made or purchased with the proceeds of a tax-exempt obligation, other than the Authority itself or a lender described in paragraph (c)(1), may rely in good faith on the approval by the Secretary given under paragraph (b) of this section to establish the continued entitlement to special allowance payments by the Secretary for those loans which it acquires without notice of—

(i) Any action by the Secretary to disapprove an issue or a Plan of the Authority, or

(ii) Any material misrepresentation by the Authority to the Secretary regarding the issue from the proceeds of which the loans were made or purchased.

(20 U.S.C. 1082, 1087–1)

§ 682.823 Sanctions for material misrepresentation regarding unmet need.

(a) If the submission to the Secretary for approval required under § 682.822 contains a material misrepresentation, the Secretary may take any of the following actions:

(1) The actions described in § 682.806;

(2) Determining that any loans made or purchased by the Authority with the unexpended proceeds of the issue with respect to which the misrepresentation was made are ineligible for special allowance payments; or

(3) Requiring reimbursement from the Authority for special allowance payments made or to be made to holders of those loans other than the Authority, in addition to any reimbursements required under § 682.806(a)(3).

(b) The Secretary's decision to require repayment of funds by an Authority, to withhold payments of special allowance, or to take any of the actions in § 682.806 does not become final until the Secretary provides the Authority with written notice of the intended action and an opportunity to be heard thereon. However, the Secretary may withhold payments or suspend approval of the Plan prior to giving notice and opportunity to be heard if the Secretary finds such emergency action necessary to prevent substantial harm to Federal interests.

(c) Once final, the Secretary's decision to require repayment of funds or to take other remedial action against an Authority under this section is conclusive and binding on the Authority and subsequent holders of its loans.

(20 U.S.C. 1082, 1087–1)

(**Note.**—A decision by the Secretary under this section is currently subject to judicial review under 5 U.S.C. 706 and 41 U.S.C. 321–322.)

(20 U.S.C. 1082, 1087–1)

* * * * *

2. Paragraph (a) of § 682.302 is revised to read as follows:

§ 682.302 Special allowance payments to lenders.

(a)(1) The Secretary pays a special allowance to lenders on:

(i) GSLP loans disbursed prior to October 1, 1981; and

(ii) GSLP loans disbursed on or after October 1, 1981 that qualify for interest benefits.

(2) The special allowance is equal to a percentage determined under paragraph (c) of this section of the average unpaid balance, including capitalized interest, on those GSLP loans described in paragraph (a)(1) held by a lender during any three-month period ending on March 31, June 30, September 30, or December 31 of each year.

* * * * *

3. Paragraph (c) of § 682.302 is revised to read as follow:

* * * * *

(c)(1) The percentage rate for the special allowance for a loan for a three-month period is determined by—

(i) Determining the average of the bond equivalent rates of the 91-day Treasury bills auctioned during the three-month period;

(ii) Subtracting the applicable interest rate for that loan, as specified in the Act;

(iii) Adding 3.5 percent to the resulting percentage;

(iv) For a loan made prior to October 1, 1981, rounding the result upward to the nearest one-eighth of one percent; and

(v) Dividing the resulting percentage by four.

(2)(i) Subject to paragraph (c)(2)(ii) of this section, the percentage rate for the special allowance is one-half the rate determined under paragraph (c)(1) for a loan disbursed on or after October 1, 1980 and made or purchased with funds obtained by the holder from.

(A) Issuance of obligations, the income from which is exempt from taxation under the Internal Revenue Code,

(B) Funds obtained from collections or payments by a guarantor on a loan described in paragraph (c)(2)(i),

(C) Interest or special allowance payments on a loan described in paragraph (c(2)(i).

(ii) The special allowance rate used for loans described in paragraph (c)(2)(i) is not less than the following:

(A) 2.5 percent per year on a loan for which the applicable interest rate is seven percent;

(B) 1.5 percent per year on a loan for which the applicable interest rate is eight percent; or

(C) 0.5 percent per year on a loan for which the applicable interest rate is nine percent.

(20 U.S.C. 1082, 1087–1)

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[FR Doc. 84–3834 Filed 2–9–84; 8:45 am]
BILLING CODE 4000–01–M

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Friday, February 10, 1984

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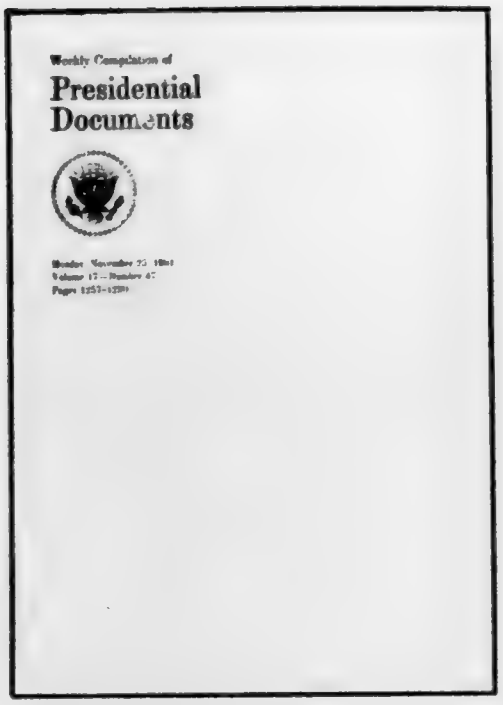

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2-13-84
Vol. 49 No. 30

federal register

Monday
February 13, 1984

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Rules and Regulations

Federal Register
Vol. 49, No. 30
Monday, February 13, 1984

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

7 CFR Part 424

[Amdt. No. 4]

Rice Crop Insurance Regulations

Correction

In FR Doc. 84–3016 beginning on page 4191 in the issue for Friday, February 3, 1984, make the following changes.

1. On page 4195, first column, amendatory items 4 and 5, which now amend § 416.7 and the Appendix to Part 416, should actually read as follows:

"4. Section 424.7 is further amended by removing the "Appendix A to § 424.7—Additional Terms and Conditions'." and

"5. Appendix A to Part 424 is revised to read as follows:"

BILLING CODE 1505-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 176

[Docket Nos. 78F–0398 and 79F–0129]

Indirect Food Additives: Paper and Paperboard Components; Acrylamide and N-(Hydroxymethyl) Acrylamide; Correction

AGENCY: Food and Drug Administration.

ACTION: Final rule; correction.

SUMMARY: The Food and Drug Administration (FDA) is correcting a document that amended the food additive regulations to provide for the safe use of acrylamide and *N*-(hydroxymethyl) acrylamide as components of paper and paperboard. This document corrects a typographical error.

EFFECTIVE DATE: February 13, 1984.

FOR FURTHER INFORMATION CONTACT: George Pauli, Bureau of Foods (HFF–334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–472–5690.

SUPPLEMENTARY INFORMATION: In FR Doc. 80–21290 appearing on page 48125 in the issue for Friday, July 18, 1980, the following correction is made: In the second column under § 176.170 *Components of paper and paperboard in contact with aqueous and fatty foods* in paragraph (b)(2) in the ninth line, "2-hydroxymethyl" is corrected to read "2-hydroxyethyl".

Dated: February 6, 1984.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 84–3798 Filed 2–10–84; 8:45 am]

BILLING CODE 4160-01-M

21 CFR Parts 522 and 556

Animal Drugs, Feeds, and Related Products; Ivermectin Injection

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a new animal drug application (NADA) filed by Merck Sharp & Dohme Research Laboratories providing for use of IVOMEC ™ (ivermectin) injection for cattle for treatment and control of certain nematode, lungworm, grub, lice, and mite infections. The regulations are also amended to establish the tolerance and safe concentrations for drug residues in edible cattle tissue.

EFFECTIVE DATE: February 13, 1984.

FOR FURTHER INFORMATION CONTACT: Adriano R. Gabuten, Bureau of Veterinary Medicine (HFV–135), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4913.

SUPPLEMENTARY INFORMATION: Merck Sharp & Dohme Research Laboratories, Division of Merck & Co., Inc., P.O. Box 2000, Rahway, NJ 07065, filed NADA 128–409 providing for subcutaneous use of IVOMEC ™ (ivermectin) injection for cattle for treatment and control of infections of certain gastrointestinal nematodes, lungworms, grubs, lice, and mites. The drug has been previously approved for intramuscular use in horses (21 CFR 522.1192). The agency has validated and approved, for regulatory purposes, an analytical method for 22,23-dihydro-avermectin B_1a, the marker substance for total residues of ivermectin in beef cattle.

The NADA is approved and the regulations are amended to reflect the approval and to establish a tolerance for 22,23-dihydro-avermectin B_1a and safe concentrations for total residues of ivermectin in edible cattle tissue. The tolerance is established for the marker residue concentration in the target tissue selected to monitor for total drug residues in the target animals. The safe concentration is the concentration of total residues considered safe in edible tissues. The basis for approval is discussed in the freedom of information summary.

In accordance with the freedom of information provisions of Part 20 (21 CFR Part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

The Bureau of Veterinary Medicine has carefully considered the potential environmental effects of this action and has concluded that the action will not have a significant impact on the human environment and that an environmental impact statement therefore will not be prepared. The Bureau's finding of no significant impact and the evidence supporting this finding, contained in an environmental impact analysis report (pursuant to 21 CFR 25.1(j)), may be seen in the Dockets Management Branch (address above).

List of Subjects

21 CFR Part 522

Animal drugs, Injectable.

21 CFR Part 556

Animal drugs, Foods, Residues.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under

authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83), Parts 522 and 556 are amended as follows:

PART 522—IMPLANTATION OR INJECTABLE DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

1. Part 522 is amended by revising § 522.1192, to read as follows:

§ 522.1192 Ivermectin injection.

(a) *Specifications*—(1) *Horses.* Each milliliter of sterile aqueous solution contains 20 milligrams of ivermectin (2 percent).

(2) *Cattle.* Each milliliter of sterile aqueous solution contains 10 milligrams of ivermectin (1 percent).

(b) *Sponsor.* See No. 000006 in § 510.600(c) of this chapter.

(c) *Related tolerances.* See § 556.344 of this chapter.

(d) *Conditions of use*—(1) *Horses*—(i) *Amount.* 20 milligrams per 100 kilograms (220 pounds) of body weight.

(ii) *Indications for use.* It is used in horses for the treatment and control of large strongyles (adult) (*Strongylus vulgaris, Strongylus edentatus, Triodontophorus* spp.), small strongyles (adult and fourth stage larvae) (*Cyathostomum* spp., *Cylicocyclus* spp., *Cylicostephanus* spp.), pinworms (adult and fourth-stage larvae) (*Oxyuris equi*), large roundworms (adult) (*Parascaris equorum*), hairworms (adult) (*Trichostrongylus axei*), large mouth stomach worms (adult) (*Habronema muscae*), neck threadworms (*microfilariae*) (*Onchocerca* spp.), and stomach bots (*Gastrophilus* spp.).

(iii) *Limitations.* For intramuscular use only. Do not use intravenously. Not for use in horses intended for food. Effects of this drug on pregnant mares have not been determined. Federal law restricts this drug to use by or on the order of a licensed veterinarian.

(2) *Cattle*—(i) *Amount.* 10 milligrams per 50 kilograms (110 pounds) body weight (200 micrograms per kilogram).

(ii) *Indications for use.* It is used in cattle for the treatment and control of gastrointestinal nematodes (adults and fourth-stage larvae) (*Haemonchus placei, Ostertagia ostertagi* (including inhibited larvae), *O. lyrata, Trichostrongylus axei, T. colubriformis, Cooperia oncophora, C. punctata, C. pectinata, Oesophagostomum radiatum, Nematodirus helvetianus* (adults only), *N. spathiger* (adults only)), lungworms (adults and fourth-stage larvae) (*Dictyocaulus viviparus*), grubs (first, second, and third instars) (*Hypoderma bovis, H. lineatum*), lice (*Linognathus vituli, Haematopinus eurysternus*), mites (*Psoroptes ovis* (syn. *P. communis* var. *bovis*), *Sarcoptes scabiei* var. *bovis*).

(iii) *Limitations.* For subcutaneous use only. Not for intramuscular use. Do not treat cattle within 35 days of slaughter. Because a withdrawal time in milk has not been established, do not use in female dairy cattle of breeding age. Federal law restricts this drug to use by or on the order of a licensed veterinarian.

PART 556—TOLERANCES FOR RESIDUES OF NEW ANIMAL DRUGS IN FOOD

2. Part 556 is amended by adding new § 556.344, to read as follows:

§ 556.344 Ivermectin.

The marker residue used to monitor the total residues of ivermectin in cattle is 22,23-dihydro-avermectin B_1a. The target tissue selected is liver. A tolerance is established for 22,23-dihydro-avermectin B_1a in cattle of 15 parts per billion in liver. A marker residue concentration of 15 parts per billion in liver corresponds to a concentration for total residues of ivermectin of 50 parts per billion in liver. The safe concentrations for total residues of ivermectin in uncooked edible tissues of cattle are 25 parts per billion in muscle, 50 parts per billion in liver, 75 parts per billion in kidney, and 100 parts per billion in fat.

Effective date. February 13, 1984.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)))

Dated: February 7, 1984.

Lester M. Crawford,

Director, Bureau of Veterinary Medicine.

[FR Doc. 84-3806 Filed 2-10-84; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1 and 31

[T.D. 7943]

Income Tax; Taxable Years Beginning After December 31, 1953 and Employment Taxes and Collection of Income Tax at Source; Postponement of Effective Date—Information From Recipients of Gambling Winnings

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final regulations.

SUMMARY: This document postpones the effective date of regulations relating to information from recipients of gambling winnings (T.D. 7919) published in the **Federal Register** on Wednesday, October 12, 1983 (48 FR 46296).

The effective date has been postponed to provide payors and payees additional time to comply with those regulations. The effect of this document is that no aggregation of gambling winnings from certain identical bets is required with respect to payments of those winnings made after November 14, 1983 and before January 1, 1984.

DATE: Those regulations are effective for payments of gambling winnings made after December 31, 1983, instead of for payments of winnings made after November 14, 1983.

FOR FURTHER INFORMATION CONTACT: Barry L. Wold of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224 (Attention: CC:LR:T) (202-566-3808).

SUPPLEMENTARY INFORMATION:

In General

On Wednesday, October 12, 1983, the **Federal Register** published amendments to the Income Tax Regulations (26 CFR Part 1) and the Employment Taxes and Collection of Income Tax at Source Regulations (26 CFR Part 31) under sections 3402(q) and 6011 of the Internal Revenue Code of 1954 (48 FR 46296). Those regulations provided that, effective for payment of gambling winnings made after November 14, 1983, gambling winnings from certain identical bets must be aggregated to determine whether those winnings are subject to 20 percent withholding. These regulations postpone the effective date of those regulations to payments of gambling winnings made after December 31, 1983. The Service had previously announced its intention to extend the effective date in a news release dated November 23, 1983 (IR-83-147).

Non-Applicability of Executive Order 12291

The Treasury Department has determined that this final regulation is not subject to review under Executive Order 12291 or the Treasury and OMB implementation of the Order dated April 29, 1983.

Regulatory Flexibility Act

Pursuant to 5 U.S.C. 605(b), the Secretary of the Treasury has certified that the requirements of the Regulatory Flexibility Act do not apply to this final regulation as it will not have a significant impact on a substantial number of small entities.

Drafting Information

The principal author of this regulation is Barry L. Wold of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulation on matters of both substance and style.

List of Subjects

26 CFR 1.6001–1—1.6109–2

Income taxes, Administration and procedure, Filing requirements.

26 CFR Part 31

Employment taxes, Income taxes Lotteries, Railroad retirement, Social security, Unemployment tax, Withholding.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR Parts 1 and 31 are amended by adding December 31, 1983, as the effective date in the date section of T.D. 7919 (48 FR 46296) in place of November 14, 1983; by removing the phrase "November 14, 1983" from the first sentence of § 31.3402(q)–1(c)(1)(ii) and inserting in lieu thereof the phrase "December 3, 1983"; by removing the phrase "December 1, 1983" from the first sentence of § 31.3402(q)–1(d) Example (3) and inserting in lieu thereof the phrase "January 1, 1984"; and by removing the phrase "November 14, 1983" from the first sentence of § 31.3402(q)–1(f)(1)(iv) and inserting in lieu thereof the phrase "December 31, 1983".

This Treasury decision is issued under the authority contained in section 6011 and 7805 of the Internal Revenue Code of 1954 (68A Stat. 732, 917; 26 U.S.C. 6011, 7805).

Roscoe L. Egger, Jr.,

Commissioner of Internal Revenue.

Approved: January 23, 1984.

John E. Chapoton,

Assistant Secretary of the Treasury.

[FR Doc. 84–3786 Filed 2–10–84; 8:45 am]

BILLING CODE 4830–01–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A–5–FRL 2525–4]

Approval and Promulgation of Implementation Plans; Michigan

AGENCY: U.S. Environmental Protection Agency (EPA).

ACTION: Final rulemaking.

SUMMARY: EPA announces final rulemaking on revisions to the Michigan State Implementation Plan (SIP) related to Volatile Organic Compound (VOC) emissions from surface coating lines at two automobile plants. These revisions approve Consent Order No. 4–1983 and No. 5–1983 for the General Motors (GM) Corporation, Oldsmobile Division in Ingham County and the GM Assembly Division in Washtenaw County. Consent Order No. 4–1983 provides a detailed compliance schedule for prime, primer-surfacer, topcoat, and final repair operations. Consent Order No. 5–1983 provides a detailed compliance schedule for topcoat and final repair operations. These Consent Orders contain VOC emission control measures which will achieve final compliance by December 31, 1987. EPA believes that approval of this SIP revision will not jeopardize attainment of the ozone National Ambient Air Quality Standards (NAAQS).

DATE: This action will be effective April 13, 1984 unless notice is received within 30 days that someone wishes to submit adverse or critical comments.

ADDRESSES: Copies of these SIP revisions and other materials relating to this rulemaking are available for inspection at the following addresses:

The Office of the Federal Register, 1100 L Street, NW., Room 8401, Washington, D.C. 20408.

Public Information Reference Unit, EPA Library, 401 M Street, SW., Washington, D.C. 20460.

U.S. Environmental Protection Agency, Air Programs Branch, Region V, 230 South Dearborn Street, Chicago, Illinois 60604.

Michigan Department of Natural Resources, Air Quality Division, State Secondary Government Complex, General Office Building, 7150 Harris Drive, Lansing, Michigan 48910

Written comments should be sent to: Gary Gulezian, Chief, Regulatory Analysis Section, Air and Radiation Branch (5AR–26), U.S. Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Toni Lesser, Regulatory Analysis Section, Air and Radiation Branch (5AR–26), U.S. Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604, (312) 886–6037.

SUPPLEMENTARY INFORMATION: On October 20, 1981, EPA published a Policy Statement (46 FR 51386) to reduce the regulatory burden on the automotive industry. The policy established criteria whereby States would defer certain compliance dates for surface coating operations at automotive and light truck assembly plants.

Michigan's Rule 336.1603 requires individual sources to submit compliance schedules containing specific increments of progress, for achieving compliance with VOC emission limits in Part 6 of the Michigan Air Pollution Control Commission's (MAPCC) Rules. On May 6, 1980 (45 FR 29790), EPA conditionally approved R336.1603. The condition required that the State submit the individual compliance schedules to EPA as revisions to the SIP, in order that the SIP conform to the requirements of 40 CFR 51.1(Q) and 51.15. Michigan's Rule 336.1610 contains interim and final VOC emission limits for various automobile plant coating operations.

On June 20, 1983, the Michigan Department of Natural Resources (MDNR) submitted consent orders for the GM Corporation's Oldsmobile Division (No. 4–1983), and GM Assembly Division (No. 5–1983) as revisions to the Michigan SIP. These Consent Orders provide detailed compliance schedules for surface coating operations which extend the final compliance deadline until December 31, 1987.

Michigan's Consent Order No. 4–1983 for the GM Oldsmobile Division provides the following schedule and emission limitations for prime operations; primer-surfacer operations; topcoat operations; and final repair operations:

Prime Operations: Until December 31, 1987, VOC emissions shall not exceed 27.5 pounds per gallon of applied coating solids. After December 31, 1987, VOC emissions shall not exceed 1.5 pounds per gallon of applied coating solids.

Primer Surfacer Operations: Until December 31, 1987, no emissions shall be permitted. After December 31, 1987, VOC emissions shall not exceed 14.9 pounds per gallon of applied coating solids.

Topcoat Operations: Until December 31, 1987, VOC emissions shall not exceed

48.1 pounds per gallon of applied coating solids and after December 31, 1987, VOC emissions shall not exceed 14.9 pounds per gallon of applied coating solids.

Final Repair Operations: Until December 31, 1987, VOC emissions shall not exceed 135 pounds per gallon of applied coating solids. After December 31, 1987, VOC emissions shall not exceed 34.3 pounds per gallon of applied coating solids.

EPA's October 20, 1981, policy regarding prime surfacing states that extensions of compliance deadlines to 1987 are appropriate in cases where such an extension would eliminate (and not merely postpone) substantial costs. This policy also states that U.S. EPA will approve State submitted compliance extensions to 1986 or 1987 for topcoating to allow for further development of coating technology. The same compliance extension should be granted for final repair coating as is granted for topcoating due to the need for consistency between the two types of coating material.

Michigan's June 20, 1983, SIP submittal for GM's Oldsmobile Division notes that the Oldsmobile Division has current plans and permits to eliminate the coating operations at the plant and allow the coating operations to be performed at a separate facility in Lansing, Michigan. Thus, this proposed extension meets the criterion of eliminating substantial compliance costs. The State also requested a compliance extension for topcoating, due to the planned shutdown. However, if GM changes plans and continues operating this plant, the compliance extension will allow GM to utilize further developments in coating technology.

In addition, Consent Order No. 4–1983 will not interfere with reasonable further progress (RFP) toward attainment. The GM Oldsmobile Division plant is located in the City of Lansing, County of Ingham. The area in which this plant is located is designated as an urban nonattainment area. However, monitoring data in Ingham County have shown no exceedances in the last 3 years. Consequently, a continuation of emissions at current levels is not expected to jeopardize attainment and maintenance of the air quality standards.

Michigan's Consent Order No. 5–1983 for the GM Assembly Division provides the following schedule and emission limitations for topcoat operations; and final repair operations:

Topcoat Operations: Until December 31, 1984, VOC emissions shall not exceed 48.1 pounds per gallon of applied coating solids. After December 31, 1984, and until December 31, 1987, VOC emissions shall not exceed 33.1 pounds per gallon of applied coating solids. After December 31, 1987, VOC emissions shall not exceed 14.9 pounds per gallon of applied coating solids.

Final Repair Operations: Until December 31, 1987, VOC emissions shall not exceed 135 pounds per gallon of applied coating solids. After December 31, 1987, VOC emissions shall not exceed 34.3 pounds per gallon of applied coating solids.

The State has requested these compliance extensions to allow the Assembly Division to convert to a new coating system. As noted above, the October 20, 1981, policy recommends approval of such requests for compliance extensions for topcoating, and the same compliance data extension should be granted for final repair coating.

The GM Assembly Division plant is located in the City of Ypsilanti, County of Washtenaw. Washtenaw County was part of the Detroit demonstration area for Michigan's 1979 Ozone SIP but was excluded from the 1982 Ozone SIP demonstration area which consists of Wayne, Oakland, and MaComb counties. Washtenaw County is classified as a rural nonattainment area and Michigan is requiring reasonable available control technology (RACT) controls in the County. Under these circumstances, the compliance extension requested by the State is not likely to jeopardize the expeditious attainment of the ozone air quality standard.

In a summary, EPA has reviewed Consent Orders No. 4–1983 and No. 5–1983 for the GM facilities described above (EPA Technical Support Document: October 26, 1983), and finds the December 31, 1987, compliance date extension to be consistent with the October 20, 1981, policy statement, regarding surface coating operations at automotive and light truck assembly plants which recommends approval of such compliance date extensions. Further, EPA believes the air quality data show that the extension until December 31, 1987, will not jeopardize the attainment and maintenance of the ozone NAAQS and believes that these extensions will result in more cost-effective compliance. EPA also believes these consent orders assure continued compliance with the requirements of Sections 110 and 172 of the Clean Air Act. For these reasons, EPA approves these consent orders as revisions to the Michigan VOC SIP.

Because EPA considers today's action noncontroversial and routine, we are approving it today without prior proposal. This action will become effective on (60 days from the date of this notice). However, if we receive notice by (30 days from the date of this notice) that someone wishes to submit critical comments, then EPA will publish: (1) A notice that withdraws this action, and (2) a notice that begins a new rulemaking by proposing the action and establishing a comment period.

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

Under 5 U.S.C. Section 605(b), I certify that SIP approvals do not have a significant economic impact on a substantial number of small entities.

Under Section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by 60 days from today. This action may not be challenged later in proceedings to enforce its requirements. (See Section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxides, Lead, Particulate matter, Carbon monoxide, Hydrocarbons, Incorporation by reference.

Note.—Incorporation by reference of the State Implementation Plan for State of Michigan was approved by the Director of the **Federal Register** on July 1, 1982.

This notice is issued under authority of Section 110 of the Clean Air Act, as amended (42 U.S.C. 7410).

Dated: February 3, 1984.

William D. Ruckelshaus,

Administrator.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Subpart X—Michigan

1. Section 52.1170 is amended by adding paragraphs (c) (73) and (74) as follows:

§ 52.1170 Identification of plan.

* * * * * *

(c) * * *

(73) On June 30, 1983, the State of Michigan submitted as a State Implementation Plan (SIP) revision. Consent Order No. 4–1983 between the General Motors Corporation's Oldsmobile Division and the Michigan Air Pollution Control Commission. The Consent Order establishes a Volatile

Organic Compound (VOC) emissions compliance schedule as required under Michigan's Rule 336.1603 and 336.1610, and extends the final compliance dates for prime, primer-surfacer, topcoat, and final repair operations until December 31, 1987.

(74) On June 30, 1983, the State of Michigan submitted as a State Implementation Plan (SIP) revision. Consent Order No. 5–1983, between the General Motors Corporation's Assembly Division and the Michigan Air Pollution Control Commission. The Consent Order established a Volatile Organic Compound (VOC) emission compliance schedule as required under Michigan's Rule 336.1603 and R336.1610, and provides interim compliance limits to be achieved by December 31, 1984, and extends the final compliance dates for topcoating and final repair coating operations until December 31, 1987.

[FR Doc. 84–3830 Filed 2–10–84; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Part 401

[CGD 83–064]

Great Lakes Pilotage Rates

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: This rule amends the Great Lakes Pilotage Regulations. These amendments increase the basic pilotage rates by five percent in the U.S. Great Lakes pilotage system. These changes are made in order to increase the revenue received by the pilot organizations so that they may meet their operating costs.

EFFECTIVE DATE: March 15, 1984.

FOR FURTHER INFORMATION CONTACT: Mr. John J. Hartke (G–MVP/13), Room 1316, Department of Transportation, Coast Guard Headquarters, 2100 Second Street, SW., Washington, D.C. 20593. (202) 426–2985.

SUPPLEMENTARY INFORMATION: The United States and Canada entered into a Memorandum of Arrangements regarding Great Lakes Pilotage (1977 being the most recent version) which incorporates, among other things, the provisions for the establishment and adjustment of joint or identical pilotage rates. The U.S. Coast Guard and the Canadian Great Lakes Pilotage Authority, Ltd. have agreed to a joint identical five percent rate increase to be implemented prior to the commencement of the 1984 navigation season on the Great Lakes. Under the "foreign affairs" exception of the Administrative Procedures Act (5 U.S.C. 553(a)(1)), a Notice of Proposed Rulemaking is not required. As this rate adjustment involves a foreign affairs function, only a Final Rule will be published setting forth the provisions of the agreed to five percent rate increase in Great Lakes Pilotage Rates.

U.S. pilots are private entrepreneurs, and as such, they must price their services so as to recover the costs of providing that service.

The Coast Guard has completed a review of revenues earned and expenses incurred by the three U.S. Great Lakes pilot organizations and has developed estimated revenue requirements. The sum of all operating costs, including administration, dispatching, pilot boats, pilot travel, pilot training, and target pilot compensation, form the total estimated revenue requirements. The guideline followed in the development of a pilot compensation figure is that the target compensation for U.S. pilots is to be comparable to the earnings of their licensed counterparts on U.S. Great Lakes vessels.

Traffic was also analyzed by reviewing traffic trends of prior years, and by obtaining the views of interested persons including the pilots and the users of pilotage services. The number of vessels, their size, and route patterns for 1984 are expected to be similar to those in 1983.

The estimated revenue requirements taken in conjunction with projected traffic produce the basic rates required to enable the U.S. pilotage system to be self-supporting. The results of our analysis indicate that a 5% increase in the basic pilotage rates is appropriate.

In an effort to deal with declining revenues, the pilot associations have taken steps wherever possible, including further reducing the number of pilots on their rolls.

Evaluation

Although Executive Order 12291 does not apply to this regulation under the foreign affairs exception, the Coast Guard has nevertheless reviewed this regulation and has determined it to be non-major. This regulation is considered to be nonsignificant and, although not required, a regulatory evaluation has been prepared under the Policies and Procedures for Simplification, Analysis, and Review of Regulations (DOT Order 2100.5 dtd 5–22–80). The DOT Order requires that each evaluation include an economic analysis which quantifies, to the extent practicable, the estimated cost of the regulations to the private sector, consumers, and Federal, State, and local governments, as well as the anticipated benefits and impacts of the regulations. The estimated cost of this rule is $332,075. This figure is the amount of additional revenue the U.S. pilots should receive under this regulation based on the projected 1984 traffic and is the increased amount that shippers would have to pay for pilotage services on the Great Lakes. The benefit of this rule is the value of avoiding or minimizing costly delays and disruptions in shipping attributable to the failure to retain qualified pilots and to attract new qualified pilots. The overall efficiency and safety of the pilotage system is enhanced by having an appropriate number of pilots available to provide the required services. The regulatory evaluation from which this information is taken has been included in the public docket and can be obtained from the Marine Safety Council (G–CMC/44) (CGD 83–064), U.S. Coast Guard, Washington, D.C. 20593.

The Regulatory Flexibility Act of 1980 (Pub. L. 96–354, 94 Stat. 1164) requires an initial regulatory flexibility analysis for regulations having a significant economic impact on a substantial number of small entities. The pilotage fees in question account for less than five percent of the total shipping cost and will not have a significant impact on the shipping industry. Pursuant to § 605(b) of the Act, it is certified that this regulation will not have a significant economic impact on a substantial number of small entities.

In the development of this rate adjustment, U.S. and Canadian shipping associations and pilots organizations were consulted.

Drafting Information

The principal persons involved in drafting this rule are: John J. Hartke, Project Manager, Office of Merchant Marine Safety, and Lieutenant Commander William B. Short, Project Attorney, Office of the Chief Counsel.

List of Subjects in 46 CFR Part 401

Administrative practice and procedure, Great Lakes, Navigation (water), Reporting and recordkeeping requirements, Seamen.

PART 401—[AMENDED]

In consideration of the foregoing, Part 401 of Title 46 of the Code of Federal Regulations is amended as follows:

1. Section 401.405 is revised to read as follows:

§ 401.405 Basic rates and charges on designated waters.

Except as provided under § 401.420, the following basic rates shall be payable for all services and assignments performed by U.S. Registered Pilots in the areas subscribed in § 401.300.

(a) District 1:

(1) For passage through the District or any part thereof, $8.78 for each statute mile, plus $117 for each lock transited, but with a minimum basic rate of $256 and a maximum basic rate for a through trip of $1125.

(2) For a movage in any harbor—$386.

(b) District 2:

(1) Southeast Shoal to Toledo or any point on Lake Erie west of Southeast Shoal—$599.

(2) Between points on Lake Erie west of Southeast Shoal—$354.

(3) Southeast Shoal to Port Huron Change Point or any point on the St. Clair River when pilots are not changed at Detroit Pilot Boat—$1,043.

(4) Southeast Shoal to Detroit/Windsor or any point on the Detroit River—$599.

(5) Southeast Shoal to Detroit Pilot Boat—$434.

(6) Toledo or any point on Lake Erie west of Southeast Shoal to Port Huron Change Point, when pilots are not changed at Detroit Pilot Boat—$1,209.

(7) Toledo or any point on Lake Erie west of Southeast Shoal to Detroit/Windsor or any point on the Detroit River—$778.

(8) Toledo or any point on Lake Erie west of Southeast Shoal to the Detroit Pilot Boat—$599.

(9) Detroit/Windsor to any point on the Detroit River and between points on the Detroit River—$354.

(10) Detroit/Windsor or any point on the Detroit River to Port Huron Change Point or any point on the St. Clair River—$785.

(11) Detroit Pilot Boat to any point on the St. Clair River—$785.

(12) Detroit Pilot Boat to Port Huron Change Point—$610.

(13) Between points on the St. Clair River—$354.

(14) Port Huron Change Point to any point on the St. Clair River—$434.

(c) District 3:

(1) Between the southerly limit of the District and the northerly limit of the District or the Algoma Steel Corporation Wharf at Sault Ste. Marie, Ontario—$1,024.

(2) Between the southerly limit of the District and Sault Ste. Marie, Ontario or any point in Sault Ste. Marie, Ontario other than the Algoma Steel Corporation Wharf—$859.

(3) Between the northerly limit of the District and Sault Ste. Marie, Ontario, including the Algoma Steel Corporation Wharf, or Sault Ste. Marie, Michigan—$386.

(4) For a movage in any harbor—$386.

2. Section 401.410 is amended by revising paragraphs (a) and (b) to read as follows:

§ 401.410 Basic rates and charges on undesignated waters.

(a) Except as provided under § 401.420 and subject to paragraph (c) of this section, the basic rates for each 6 hour period or part thereof that a U.S. pilot is on board in the undesignated waters shall be:

(1) In Lake Ontario—$207.

(2) In Lake Erie—$256.

(3) In Lakes Huron, Michigan and Superior—$207.

Each time a U.S. pilot performs the docking or undocking of a ship in undesignated waters there is an additional charge of $197.

(b) Between Buffalo and any point on the Niagara River below the Black Rock Lock—$503.

* * * * *

3. Section 401.420 is revised to read as follows:

§ 401.420 Cancellation, delay or interruption in rendition of services.

(a) Except as provided in this paragraph, whenever the passage of a ship is interrupted and the services of a U.S. pilot are retained during the period of the interruption or when a U.S. pilot is detained on board a ship after the end of an assignment for the convenience of the ship, the ship shall pay an additional charge calculated on a basis rate of $33 for each hour or part of an hour during which each interruption lasts with a maximum basic rate of $33 for each hour or part of an hour during which each interruption lasts with a maximum basic rate of $512 for each continuous 24 hour period during which the interruption continues. There is no charge for an interruption caused by ice, weather, or traffic, except during the period beginning the 1st of December and ending on the 8th of the following April. No charge shall be made for an interruption if the total interruption ends during the 6 hour period for which a charge has been made under § 401.410.

(b) When the departure or movage of a ship for which a U.S. pilot has been ordered is delayed for the convenience of the ship for more than one hour after the U.S. pilot reports for duty at the designated boarding point or after the time for which the pilot is ordered, whichever is later, the ship shall pay an additional charge calculated on a basic rate of $33 for each hour or part of an hour including the first hour of the delay, with a maximum basic rate of $512 for each continuous 24 hour period of the delay.

(c) When a U.S. pilot reports for duty as ordered and the order is cancelled, the ship shall pay:

(1) A cancellation charge calculated on a basic charge rate of $193;

(2) A charge for reasonable travel expenses if the cancellation occurs after the pilot has commenced travel; and

(3) If the cancellation is more than one hour after the pilot reports for duty at the designated boarding point or after the time for which the pilot is ordered, whichever is later, a charge calculated on a basic rate of $33 for each hour or part of an hour including the first hour, with a maximum basic rate of $512 for each 24 hour period.

4. Section 401.428 is revised to read as follows:

§ 401.428 Basic rates and charges for carrying a U.S. pilot beyond normal change point or for boarding at other then the normal boarding point.

If a U.S. pilot is carried beyond the normal change point or is unable to board at the normal boarding point the pilot shall be paid at the rate of $197 per day or part thereof, plus reasonable travel expenses to or from the pilot's base. These charges are not applicable if the ship utilizes the services of the pilot beyond the normal change point and the ship is billed for those services. The change points to which this section applies are designated in § 401.450.

(Sec. 5, 74 Stat. 260 (46 U.S.C. 9303); Sec. 6(a)(4), 80 Stat. 937, as amended; 49 CFR 1.46(d); 5 U.S.C. 553(a)(1))

Dated: February 6, 1984.

Clyde T. Lusk, Jr.,

Rear Admiral, U.S. Coast Guard, Chief, Office of Merchant Marine Safety.

[FR Doc. 84-3809 Filed 2-10-84; 8:45 am]

BILLING CODE 4910-14-M

Proposed Rules

Federal Register
Vol. 49, No. 30
Monday, February 13, 1984

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF COMMERCE

International Trade Administration

15 CFR Parts 373 and 376

[Docket No. 40110-04]

Amendments to the Distribution License Procedure

AGENCY: Office of Export Administration, International Trade Administration, Commerce.

ACTION: Proposed rule; extension of comment period.

SUMMARY: This document extends for 30 days the comment period for a proposed rule announced in the **Federal Register** (49 FR 2264–2267, January 19, 1984). The comment period on that proposed rule originally was scheduled to end on February 21, 1984; this document extends the comment period until March 22, 1984. This extension will afford exporters more time to address fully the issues raised in the proposed rule.

DATES: Comments due on or before March 22, 1984.

FOR FURTHER INFORMATION CONTACT: Vincent Greenwald, Office of Export Administration (Telephone: (202) 377–3856).

SUPPLEMENTARY INFORMATION: The public is invited to make specific comments on each proposed change announced in the January 19 Notice, "Amendments to the Distribution License Procedure." The guidelines for submitting comments and the mailing address are set forth in that Notice.

Dated: February 8, 1984.

Richard M. Seppa,

Acting Deputy Director, Office of Export Administration, International Trade Administration.

[FR Doc. 84-3893 Filed 2-10-84; 8:45 am]

BILLING CODE 3510-DT-M

FEDERAL TRADE COMMISSION

16 CFR Part 703

Trade Regulation Rule Concerning Informal Dispute Settlement Procedures

AGENCY: Federal Trade Commission.

ACTION: Invitation for public comment.

SUMMARY: The Federal Trade Commission invites written public comments on a request by the Better Business Bureau Mediation/Arbitratrion Program, the Chrysler Customer Satisfaction Board and the Automotive Consumer Action Program for a limited exemption from the Commission's Rule on Informal Dispute Settlement Procedures. The exemption would extend the Rule's 40-day time limit for arbitration decisions to 60 days. This extension would allow BBB, Chrysler and AutoCAP to use a mediation process as part of their dispute resolution programs. The Commission has tentatively dicided to grant the requested exemption with conditions.

DATES: Comments will be accepted through March 14, 1984.

ADDRESS: Written comments regarding the request for a limited exemption from the Commission's Rule on Informal Dispute Settlement Procedures should be addressed to the Secretary, Federal Trade Commission, 6th and Pennsylvania Avenue, NW., Washington, D.C. 20580. All comments should be labeled "Exemption Request-Rule on Informal Dispute Settlement Procedures."

FOR FURTHER INFORMATION CONTACT: Lemuel Dowdy, Federal Trade Commission, 6th Street and Pennsylvania Avenue, NW., Washington, D.C. 20580, (202) 523–3911.

SUPPLEMENTARY INFORMATION: The BBB currently operates a nation-wide mediation/arbitration program that handles warranty and post-warranty disputes between consumers and automobile manufacturers. The program provides dispute settlement services for the following automobile manufacturers: General Motors, Nissan U.S.A., Volkswagen, Porsche and Audi. As of October 1, 1983, these manufacturers have incorporated the BBB program into their written warranties. Under the provisions of the Magnuson-Moss Warranty Act, warrantors that incorporate a dispute settlement program into the warranty must comply with the standards for such programs set forth in the Commission's Rule on Informal Dispute Settlement Procedures (Rule 703).

Chrysler has operated the Chrysler Customer Satisfaction Board Program as a nation-wide dispute resolution program under Rule 703 since October 1982. AutoCAP is also a nation-wide dispute settlement program. It was originally established to resolve disputes between consumers and automobile dealers. However, the program was expanded in 1982 to resolve disputes between manufacturers and consumers. Currently, American Motors Corporation and most of the foreign automobile manufacturers participate in the AutoCAP program. Some of these manufacturers plan to incorporate notice of the AutoCAP program into their warranties in selected areas. Therefore, the AutoCAP programs in these areas must comply with Rule 703.

BBB requests an exemption from Rule 703 which would extend the Rule's 40-day time limit for arbitration to 60 days. This extension would allow BBB, Chrysler and AutoCAP to use a mediation process as a part of their dispute resolution programs.

BBB requests that the exemption be granted for a two-year period. This period, according to BBB, would allow it to gather sufficient data to either further support the exemption or to recommend rulemaking to modify the 40-day time limit required by Rule 703.

The exemption BBB has requested is similar to that granted in 1977 to the Home Owners Warranty Corporation (HOW), a nation-wide program established to resolve warranty disputes involving new homes. It is also similar to the exemption currently in effect for the Residential Warranty Corporation (RWC), a program similar to HOW, but on a much smaller scale. These exemptions were granted to allow HOW and RWC to operate a 20-day conciliation process before the 40-day decision-making period required by Rule 703. The HOW exemption provided that

homeowners initially could be required to enter a conciliation process, but could terminate conciliation and initiate arbitration at any time during the conciliation period without incurring a penalty. The RWC exemption allows a requirement that homeowners make themselves available for at least one conciliation meeting before initiating the 40-day arbitration process. The BBB petition is different from the HOW and RWC exemptions in that the BBB is not seeking to make participation in the mediation process a prerequisite to arbitration.

Invitation To Comment

The Commission has tentatively decided to grant a limited exemption from Rule 703 for the Better Business Bureau Mediation/Arbitration Program, the Chrysler Customer Satisfaction Board Program and the Automotive Consumer Action Program. The exemption would extend the Rule's time limit for arbitration decisions from 40 days to 60 days. This extension was requested to allow adequate time for a mediation process. The Commission has also tentatively decided to place the following conditions on the exemption:

1. Consumers are not required to participate in mediation. Consumers may terminate mediation before the process begins or at any time during the process and still obtain a decision from the mechanism.

2. Upon notification from the consumer that he or she elects to cease mediation and start the arbitration process, the mechanism shall render a decision within 40 days of such notification or within 60 days of the date the mechanism first received notification of the dispute, whichever is less.

3. The procedures required by conditions 1 and 2 shall be disclosed clearly and conspicuously to the consumer after the mechanism has received notice of the dispute and prior to beginning the mediation process.

Comments are sought on whether granting the exemption with the conditions set forth above is appropriate.

By direction of the Commission.

Elizabeth O. Williard,

Acting Secretary.

[FR Doc. 84-3808 Filed 2-10-84; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Ch. I

Public Hearing on Possible Customs Regulations Amendments Relating to Elimination of Sureties on Customs Bonds

AGENCY: Customs Service, Department of the Treasury.

ACTION: Notice of hearing.

SUMMARY: This notice announces that a public hearing will he held at Customs Headquarters in Washington, D.C. at 9:30 a.m. on April 10, 1984, to listen to oral presentations concerning the proposal to eliminate the Customs Regulations requirement of having a surety on a Customs bond in certain instances. This hearing will assist agency officials to determine what, if any, action should be taken to implement the proposal.

DATES: Persons requesting to participate in the hearing must furnish a copy of their presentation to the Commissioner of Customs, to be received no later than April 2, 1984. The Hearing will be held on April 10, 1984 at 9:30 a.m.

ADDRESSES: Presentation should be addressed to the Commissioner of Customs, Attention: Regulations Control Branch, U.S. Customs Service, Room 2426, 1301 Constitution Avenue, NW., Washington, D.C. 20229.

The hearing will be held at Customs Headquarters, 1301 Constitution Ave., NW., Washinton, D.C., in room 3428.

FOR FURTHER INFORMATION CONTACT: John E. Elkins, Regulations Control Branch, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229 (202-566-8237).

SUPPLEMENTARY INFORMATION:

Background

By notice published in the **Federal Register** on October 14, 1983 (48 FR 46805), Customs invited written comments on a proposal to amend the Customs Regulations (19 CFR Chapter 1) to eliminate the requirement of having surety on a Customs bond in certain instances. In addition to requesting comments on the merits of the proposal and the various alternative ways in which it could be implemented, the notice indicated that a public hearing would be held if commenters indicated an interest in one.

Numerous comments have been received in response to the notice. Several parties have requested that a public hearing be held to allow for oral presentations to be made on the issue and other parties have requested to attend a hearing if one is held.

Because of the widespread interest in the matter and the significant effect it would have on all aspects of the importing community, Customs has determined that a public hearing should be held. The hearing will be held on April 10, 1984, at 9:30 a.m. in room 3428 at Customs Headquarters at 1301 Constitution Avenue, NW., Washington, D.C. The purpose of the hearing will be to afford interested parties an opportunity to make oral presentations and to allow Customs and possibly Department officials to ask questions of the parties concerning the proposal. This hearing will assist agency officials to determine what, if any, action should be taken to implement the proposal.

As stated in the notice of October 14, 1983, only parties who commented on that notice will be authorized to participate in the hearing. To ensure that adequate accommodations can be made for all who wish to attend, and to enable Customs to prepare a hearing agenda, all parties who want to make oral presentations will be required to submit a copy of their presentation to Customs. The copy must be received by April 2, 1984. Participants will be given 15 minutes each within which to make their presentation. A question and answer period will follow each presentation or at the conclusion of all the presentations. Parties wishing to attend the meeting but not to make oral presentations are also required to submit written notification to Customs. This notification must be received by April 2, 1984. No written verbatim record of the hearing will be made.

Dated: February 7, 1984.

Robert P. Schaffer,

Assistant Commissioner, Commercial Operations.

[FR Doc. 84-3708 Filed 2-10-84; 8:45 am]

BILLING CODE 4820-02-M

Internal Revenue Service

26 CFR Parts 53, 54, 141, and 301

[EE-16-81]

Second Tier Excise Taxes

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed regulations relating to second tier excise taxes. Changes to the applicable tax law were made by Pub. L. No. 96-596. The regulations will affect private foundations, black lung benefit trusts, pension plans, and disqualified persons with respect to the foregoing.

who may become liable for second tier taxes within the meaning of section 4962(b) of the Internal Revenue Code of 1954.

DATES: Written comments and requests for a public hearing must be delivered or mailed by April 13, 1984. The amendments are proposed to be effective for second tier taxes assessed after December 24, 1980.

ADDRESS: Send comments and requests for a public hearing to: Commissioner of Internal Revenue, Attention: CC:LR:T:EE–16–81, Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: George B. Baker of the Employee Plans and Exempt Organizations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224, Attention: CC:LR:T:EE–16–81, 202–566–3422 (not a toll-free call).

SUPPLEMENTARY INFORMATION:

Background

This document contains proposed amendments to the Foundation and Similar Excise Taxes Regulations (26 CFR Part 53), to the Pension Excise Taxes Regulations (26 CFR Part 54), to the Temporary Excise Tax Regulations under the Employee Retirement Income Security Act of 1974, (26 CFR Part 141), and to the Procedure and Administration Regulations (26 CFR Part 301), under sections 4941, 4942, 4943, 4944, 4945, 4961, 4962, 4971, 4975, 6213, 6503, 6861, and 7422. These amendments are proposed to conform the regulations to section 2 of the Act of December 24, 1980 (Pub. L. No. 96–596, 94 Stat. 3469) and are to be issued under the authority of section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

Prior Law

The Internal Revenue Code imposes excise taxes in two tiers to insure compliance with certain provisions of the Code by private foundations, black lung benefit trusts, pension trusts, and disqualified persons with respect to the foregoing entities. A first tier excise tax is imposed automatically if the foundation, trust, or disqualified person engages in a prohibited act (such as self-dealing between a disqualified person and a private foundation), or fails to perform a required act (such as a private foundation's failure to distribute the amount described in section 4942). A much larger second tier excise tax is imposed for failing to correct the prohibited act or failure to act within a "correction period."

In *Adams v. Commissioner*, 72 T.C. 81 (1979), the Tax Court held that it lacked the authority to redetermine a deficiency of second tier tax with respect to an act of self dealing by a private foundation under Code section 4941(b). The court found that because the second tier tax was not "imposed" until after the court's decision was final, it did not have jurisdiction to redetermine a deficiency of that tax.

Amendments to Law

The Code was revised by section 2 of Pub. L. No. 96–596 to impose the second tier taxes at the end of a "taxable period," which begins with the event giving rise to the tax and ends on the earliest of (i) the date a notice of deficiency with respect to the first tier tax is mailed, or (ii) the date the first tier tax is assessed if no deficiency notice is mailed, or (iii) (in some cases) the date the taxable act is corrected.

Under new section 4961, if the taxpayer corrects the act (or failure to act) giving rise to the second tier tax within a "correction period," the tax is not to be assessed, and if assessed, it is to be abated, and if collected, it is to be credited or refunded as an overpayment. If the taxpayer files a petition with the Tax Court to redetermine the deficiency within the time limits of section 6213, the tax also is not to be assessed until the decision of the Tax Court becomes final (under Code section 7481). The correction period begins on the day the taxable event occurs and ends 90 days after the date of mailing of a notice of deficiency with respect to the second tier tax; extended by any period during which section 6213 bars assessment (determined without regard to section 4961) including the period (where applicable) until the decision of the Tax Court becomes final. The correction period may also be extended for any period the Service determines is reasonable and necessary to bring about correction.

If no petition is filed with the Tax Court, the tax will be assessed. If the taxpayer pays the first tier tax in full, files a claim for refund of the amount paid, and files a refund suit if the claim is denied, all within the specified time limits, collection of an assessed second tier tax is suspended during administrative and judicial refund procedures.

Under section 4961, the court that determines that the second tier tax was properly imposed has jurisdiction to conduct supplemental proceedings to determine whether the taxable act was corrected within the correction period.

Finally, the amount involved for second tier tax under section 4941, 4951, or 4975, is the highest fair market value during the taxable period (rather than the correction period).

These revisions to the Code are effective for first tier taxes as if included in the Code when the tax was first imposed. The revisions are effective only for second tier taxes assessed after December 24, 1980, but do not operate to permit the assessment of a second tier tax in a case to which, on December 24, 1980, the doctrine of res judicata applied.

Proposed Amendments

These amendments are proposed to conform the regulations to the changes to the Code made by section 2 of Pub. L. No. 96–596.

Comments and Requests for a Public Hearing

Before these proposed regulations are adopted, consideration will be given to any written comments that are submitted (preferably seven copies) to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying. If a public hearing is held, notice of the time and place will be published in the **Federal Register.**

The Internal Revenue Service invites comments on the proposal to delete from existing regulations the special rule for determining the end of the taxable period. *See, e.g.,* § 53.4941(e)–1(a)(3). The Service may consider retaining the existing rule (and including it in the regulations under section 4975) when final regulations are published.

Regulatory Flexibility Act

Although this document is a notice of proposed rulemaking which solicits public comment, the Internal Revenue Service has concluded that the regulations proposed herein are interpretative and that the notice and public procedure requirements of 5 U.S.C. 553 do not apply. Accordingly, these proposed regulations do not constitute regulations subject to the Regulatory Flexibility Act (5 U.S.C. chapter 6).

Non-Applicability of Executive Order 12291

The Treasury Department has determined that this regulation is not subject to review under Executive Order 12291 or the Treasury and OMB implementation of the Order dated April 29, 1983.

Paperwork Reduction Act

The collection of information requirements contained in this notice of

proposed rulemaking have been submitted to the Office of Management and Budget (OMB) for review under section 3504(h) of the Paperwork Reduction Act. Comments on these requirements should be sent to the Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer for Internal Revenue Service, New Executive Office Building, Washington, D.C. 20503. The Internal Revenue Service requests that persons submitting comments on these requirements to OMB also send copies of those comments to the Service.

Drafting Information

The principal author of these proposed regulations was George B. Baker of the Employee Plans and Exempt Organizations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulations, both on matters of substance and style.

List of Subjects

26 CFR Part 53

Excise taxes, Foundations, Investments, Trusts and trustees, Black lung benefit trusts.

26 CFR Part 54

Excise taxes, Pensions.

26 CFR Part 141

Excise taxes, Pensions, Employee Retirement Income Security Act of 1974.

26 CFR Part 301

Administrative practice and procedure, Bankruptcy, Courts, Crime, Employment taxes, Estate taxes, Excise Taxes, Gift taxes, Income taxes, Investigations, Law enforcement, Penalties, Pensions, Statistics, Taxes, Disclosure of information, Filing requirements.

Proposed Amendments to the Regulations

Amendments to 26 CFR Parts 53, 54, 141, and 301 are proposed as follows:

PART 53—FOUNDATION AND SIMILAR EXCISE TAXES

Paragraph 1. Section 53.4941(b)–1(a) is amended by striking out the words "correction period (as defined in § 53.4941(e)–1(d))." and inserting the words "taxable period (as defined in § 53.4941(e)–1(a))." in lieu thereof.

Par. 2. Section 53.4941(e)–1 is amended: first, by removing subparagraph (3) of paragraph (a); second, by redesignating subparagraph (4) of paragraph (a) as subparagraph (3) of paragraph (a) and by revising Example (3) of the redesignated subparagraph; third, by striking out, in subparagraph (3) of paragraph (b) and in Example (2) of paragraph (e)(2)(ii), the words "correction period" and inserting the words "taxable period" in lieu thereof; fourth, by revising subparagraph (1) of paragraph (a); fifth, by revising Example (4) of paragraph (b)(4); and sixth, by revising paragraph (d), to read as follows:

§ 53.4941 (e)–1 Definitions.

(a) *Taxable period*—(1) *In general.* For purposes of any act of self-dealing, the term "taxable period" means the period beginning with the date on which the act of self-dealing occurs and ending on the earliest of:

(i) The date of mailing of a notice of deficiency under section 6212 with respect to the tax imposed by section 4941(a)(1),

(ii) The date on which correction of the act of self-dealing is completed, or

(iii) The date on which the tax imposed by section 4941(a)(1) is assessed.

* * * * *

(3) *Examples.*

* * * * *

Example (3). On July 16, 1980 F, a manager of private foundation X acting on behalf of the foundation, knowing his act to be one of self-dealing, willfully and without reasonable cause engaged in an act of self-dealing by selling certain real estate to A, a disqualified person. On March 25, 1981, A files a waiver of the restrictions on assessment and collection of the tax imposed on the sale under section 4941(a)(1) and the tax is assessed on April 1, 1981. The taxable period with respect to the act of self-dealing for both A and F is July 16, 1980, through April 1, 1981.

(b) *Amount involved.*

(4) *Examples.*

* * * * *

Example (4). D, a disqualified person with respect to private foundation T, purchases 100 shares of stock from T for $5,000 on June 15, 1982. The fair market value of the 100 shares of stock on that date is $4,800. D sells the 100 shares of stock on December 20, 1983, for $6,000. On December 27, 1983, a notice of deficiency with respect to the taxes imposed under subsections (a) and (b) of section 4941 is mailed to D and the taxable period ends. D fails to correct during the taxable period. Between June 15, 1982, and the end of the taxable period, the stock was quoted on the New York Stock Exchange at a high of $67 per share. The amount involved with respect to the tax imposed under subsection (a) is $5,000, and the amount involved with respect to the tax imposed under subsection (b) for failure to correct is $6,700 (100 shares at $67 per share), the highest fair market value during the taxable period.

* * * * *

(d) *Cross reference.* For rules relating to taxable events that are corrected within the correction period, defined in section 4962(e), see section 4961(a), and the regulations thereunder.

* * * * *

Par. 3. Section 53.4942(a)–1 is amended: (1) by striking out, in subparagraph (2) of paragraph (a), the words "correction period" and "paragraph (c)(3)" and inserting the words "taxable period" and "paragraph (c)(1)" respectively in lieu thereof; (2) by removing Example (3) from subparagraph (4) of paragraph (c); and (3) by revising subparagraph (4) of paragraph (a) and subparagraphs (1) and (3) of paragraph (c) to read as follows:

§ 53.4942 (a)–1 Taxes for failure to distribute income.

(a) *Imposition of tax.*

* * * * *

(4) *Examples.* The provisions of this paragraph may be illustrated by the following examples:

Example (1). M, a private foundation which uses the calendar year as its taxable year, has at the end of 1981, $50,000 of undistributed income (as defined in paragraph (a) of § 53.4942(a)–(2) for 1981. As of January 1, 1983, $40,000 is still undistributed. On August 15, 1983, a notice of deficiency with respect to the excise taxes imposed by section 4942 (a) and (b) is mailed to *M* under section 6212(a) and the taxable period ends. Thus, under these facts, an initial excise tax of $6,000 (15 percent of $40,000) is imposed upon *M.* An additional excise tax of $40,000 (100 percent of $40,000) is imposed by section 4942(b). Under section 4961(a), however, if the undistributed income is reduced to zero during the correction period this latter tax will not be assessed, and if assessed, it will be abated, and if collected, it will be credited or refunded as an overpayment.

Example (2). Assúme the facts as stated in example (1), except that the notice of deficiency is mailed to *M* on Septermber 7, 1984, and as of January 1, 1984, only $10,000 of the $50,000 of undistributed income with respect to 1981 is undistributed. Therefore, initial excise taxes of $6,000 (15 percent of $40,000, *M*'s undistributed income from 1981, as of January 1, 1983) and $1,500 (15 percent of $10,000, *M*'s undistributed income from 1981 as of January 1, 1984) are imposed by section 4942(a). If the $10,000 remains undistributed as of September 7, 1984, the end of the taxable period, an additional excise tax of $10,000 (100 percent of $10,000, *M*'s undistributed income from 1981, as of September 7, 1984) is imposed by section 4942(b).

* * * * *

(c) *Certain periods.* For purposes of this section—

(1) *Taxable period.* The term "taxable period" means, with respect to the undistributed income of a private

foundation for any taxable year, the period beginning with the first day of the taxable year and ending on the earlier of:

(i) The date of mailing of a notice of deficiency under section 6212(a) with respect to the initial excise tax imposed under section 4942(a), or

(ii) The date on which the initial excise tax imposed under section 4842(a) is assessed.

For example, assume *M*, a private foundation which uses the calendar year as the taxable year, has $15,000 of undistributed income for 1981. A notice of deficiency is mailed to *M* under section 6212(a) on June 1, 1983. With respect to the undistributed income of *M* for 1981, the taxable period began on January 1, 1981, and ended on June 1, 1983.

* * * * *

(3) *Cross reference.* For rules relating to taxable events that are corrected within the correction period, defined in section 4962(e), see section 4961(a) and the regulations thereunder.

* * * * *

Par. 4. Section 53.4942 (a)–3 is amended by revising Example (2) in paragraph (d)(3) to read as follows:

§ 53.4942 (a)–3 Qualifying distributions defined.

* * * * *

(d) *Treatment of qualifying distributions.*

* * * * *

(3) *Examples.*

* * * * *

Example (2). *M*, a private foundation which uses the calendar year as the taxable year, has undistributed income of $300 for 1981, $200 for 1982, and $400 for 1983. On January 14, 1983, *M* makes its first qualifying distribution in 1983 when it sets aside (within the meaning of paragraph (b) of this section) $700 for construction of a hospital. On February 24, 1983 a notice of deficiency with respect to the excise taxes imposed by section 4942 (a) and (b) in regard to *M*'s undistributed income for 1981 is mailed to *M* under section 6212 (a). *M* notifies the Commissioner in writing on March 24, 1983, that it is making an election under subparagraph (2) of this paragraph to have its distribution of January 14th applied first against its undistributed income for 1982, next against its undistributed income for 1981, and last against its undistributed income for 1983. Thus, $200 of the $700 qualifying distribution is treated as made out of the undistributed income for 1982; $300, out of undistributed income for 1981; and $200 ($700 less the sum of $200 and $300), out of the undistributed income for 1983. Thus, an initial excise tax of $45 (15 percent of $300) is imposed under section 4942(a). Since *M* made the election described above, the $300 (treated as distributed out of undistributed income for 1981) corrects (within the meaning of section 4962(d)(2)) the taxable act because the undistributed income for 1981 is reduced to zero. Furthermore, correction is effected within the correction period (as defined in section 4962(e)(1) and § 53.4962–1(e)). Therefore, under the provisions of section 4961(a), the additional tax imposed by section 4942(b) will not be assessed.

* * * * *

Par. 5. Section 53.4943–2 is amended by revising paragraph (b) to read as follows:

§ 53.4943–2 Imposition of tax on excess business holdings of private foundations.

* * * * *

(b) *Additional tax.* In any case in which the initial tax is imposed under section 4943(a) with respect to the holdings of a private foundation in any business enterprise, if, at the close of the taxable period (as defined in section 4943(d)(2) and § 53.4943–9) with respect to such holdings the foundation still has excess business holdings in such enterprise, there is imposed a tax under section 4943(b) equal to 200 percent of the value of such excess holdings as of the last day of the taxable period.

Par. 6. Section 53.4943–9 is amended by revising subparagraphs (1) and (2) of paragraph (a), and by revising paragraph (b) to read as follows:

§ 53.4943–9 Business holdings; certain periods.

(a) *Taxable period*—(1) *In general.* For purposes of section 4943, the term "taxable period" means, with respect to any excess business holdings of a private foundation in a business enterprise, the period beginning with the first day on which there are such excess business holdings and ending on the earliest of:

(i) The date of mailing of a notice of deficiency under section 6212 with respect to the tax imposed on the holdings by section 4943(a);

(ii) The date on which the excess is eliminated; or

(iii) The date on which the tax imposed by section 4943(a) is assessed.

(2) *Example.* *M*, a private foundation, first has excess business holdings in *X*, a corporation, on February 5, 1972. A notice of deficiency is mailed under section 6212 to *M* on June 1, 1974. With respect to *M*'s excess business holdings in *X*, the taxable period begins on February 5, 1972, and ends on June 1, 1974.

* * * * *

(b) *Cross reference.* For rules relating to taxable events that are corrected within the correction period, defined in section 4962(e), see section 4961(a) and the regulations thereunder.

* * * * *

Par. 7. Section 53.4944–2 is amended by striking out the words "correction period" throughout the section and inserting the words "taxable period" in lieu thereof and by striking out, in paragraph (a), the words "4944(e)(3)" and inserting the words "4944(e)(1)" in lieu thereof.

Par. 8. Section 53.4944–5 is amended by revising paragraphs (a) and (d) to read as follows:

§ 53.4944–5 Definitions.

(a) *Taxable period.* For purposes of section 4944, the term "taxable period" means, with respect to any investment which jeopardizes the carrying out of a private foundation's exempt purposes, the period beginning with the date on which the amount is invested and ending on the earliest of:

(1) The date of mailing of a notice of deficiency under section 6212 with respect to the tax imposed on the making of the investment by section 4944(a)(1);

(2) The date on which the amount invested is removed from jeopardy; or

(3) The date on which the tax imposed by section 4944(a)(1) is assessed.

* * * * *

(d) *Cross reference.* For rules relating to taxable events that are corrected within the correction period, defined in section 4962(e), see section 4961(a) and the regulations thereunder.

Par. 9. Section 53–4945–1 is amended: (1) by striking out, in subparagraph (1) of paragraph (b), the words "correction period" and inserting the words "taxable period" in lieu thereof; and (2) by revising Example (2) in paragraph (c)(3) and by revising paragraph (e) to read as follows:

§ 53.4945–1 Taxes on taxable expenditures.

* * * * *

(c) *Special rules.* * * *

(3) *Examples.* * * *

Example (2). Assume the same facts as in example (1). Further assume that within the taxable period A makes a motion to correct the taxable expenditure at a meeting of the board of directors. The motion is defeated by a two-to-one vote, A voting for the motion and B and C voting against it. In these circumstances an additional tax is imposed on the private foundation in the amount of $100,000 (100 percent of $100,000). The additional tax imposed on B and C is $10,000 (50 percent of $100,000 subject to a maximum of $10,000). B and C are jointly and severally liable for the $10,000, and this sum may be collected by the Service from either of them.

* * * * *

(e) *Certain periods*—(1) *Taxable period.* For purposes of section 4945, the term "taxable period" means, with respect to any taxable expenditure, the period beginning with the date on which the taxable expenditure occurs and ending on the earlier of:

(i) The date of mailing of a notice of deficiency under section 6212 with respect to the tax imposed on taxable expenditures by section 4945(a)(1); or

(ii) The date on which the tax imposed by section 4945(a)(1) is assessed.

(2) *Cross reference.* For rules relating to taxable events that are corrected within the correction period, defined in section 4962(e), see section 4961(a) and the regulations thereunder.

Par. 10. Sections 53.6001–1 through 53.7101–1 (Subpart K) of Part 53 is redesignated subpart L, and a new subpart K consisting of §§ 53.4961–1 through 53.4962–1 is added to read as follows:

Subpart K—Second Tier Excise Taxes

§ 53.4961–1 Abatement of second tier taxes for correction within correction period.

If any taxable event is corrected during the correction period for the event, then any second tier tax imposed with respect to the event shall not be assessed. If the tax has been assessed, it shall be abated. If the tax has been collected, it shall be credited or refunded as an overpayment. For purposes of this section, the tax imposed includes interest, additions to the tax and additional amounts. For definitions of the terms "second tier tax," "taxable event," "correct," and "correction period," see § 53.4962–1.

§ 53.4961–2 Court proceedings to determine liability for second tier tax.

(a) *Introduction.* Under section 4961 (b) and (c), the period of limitations on collection may be suspended and assessment or collection of first or second tier tax may be prohibited during the pendency of administrative and judicial proceedings conducted to determine a taxpayer's liability for second tier tax. This section provides rules relating to the suspension of the limitations period and the prohibitions on assessment and collection. In addition, this section describes the administrative and judicial proceedings to which these rules apply.

(b) *Initial proceeding*—(1) *Defined.* For purposes of subpart K, an initial proceeding means a proceeding described in subparagraph (2) or (3).

(2) *Tax Court proceeding before assessment.* A proceeding is described in this subparagraph (2) if it is a proceeding with respect to the taxpayer's liability for second tier tax and is commenced in accordance with section 6213(a).

(3) *Refund proceeding commenced before correction period ends.* A proceeding is described in this subparagraph (3) if it is a proceeding commenced under section 7422, in accordance with the provisions of § 53.4962–1(e) (4) and (5) (relating to prerequisites to extension of the correction period during certain refund proceedings), and with respect to the taxpayer's liability for second tier tax.

(c) *Supplemental proceeding*—(1) *Jurisdiction.* If a determination in an initial proceeding that a taxpayer is liable for a second tier tax has become final, the court in which the initial proceeding was commenced shall have jurisdiction to conduct any necessary supplemental proceeding to determine whether the taxable event was corrected during the correction period.

(2) *Time for beginning proceeding.* The time for beginning a supplemental proceeding begins on the day after a determination in an initial proceeding becomes final and ends on the 90th day after the end of the correction period.

(d) *Restriction on assessment during Tax Court proceeding.* If a supplemental proceeding described in section 4961(b) and § 53.4961–2(c) is commenced in the Tax Court, the provisions of the second and third sentences of section 6213(a) and the first and third sentences of § 301.6213–1(a)(2) apply with respect to a deficiency in second tier tax until the decision of the Tax Court in the supplemental proceeding is final.

(e) *Suspension of period of collection for second tier tax*—(1) *Scope.* Except as provided in subparagraph (6), this paragraph (e) applies to the second tier tax assessed with respect to a taxable event if a claim described in subparagraph (2) is filed.

(2) *Claim for refund.* A claim for refund is described in this subparagraph (2) if, no later than 90 days after the day on which the second tier tax is assessed with respect to a taxable event, the taxpayer——

(i) Pays the full amount of first tier tax for the taxable period, and

(ii) Files a claim for refund of the amount paid.

(3) *Collection prohibited.* No levy or proceeding in court for the collection of the second tier tax shall be made, begun, or prosecuted until the end of the collection prohibition period described in subparagraph (5). Notwithstanding section 7421(a), the collection by levy or proceeding may be enjoined during the collection prohibition period by a proceeding in the proper court.

(4) *Suspension of running of period of limitations on collection.* With respect to a second tier tax to which this paragraph (e) applies, the running of the period of limitations provided in section 6502 (relating to collection of tax by levy or by a proceeding in court) shall be suspended for the collection prohibition period described in subparagraph (5).

(5) *Collection prohibition period.* The collection prohibition period begins on the day the second tier tax is assessed and ends on the latest of:

(i) The day a decision in a refund proceeding commenced before the 91st day after denial of the claim described in subparagraph (2) of this paragraph (including any supplemental proceeding under § 53.4961–2(c)) becomes final;

(ii) The 90th day after the claim referred to in subparagraph (2) is denied; or

(iii) The 90th day after the second tier tax is assessed.

(6) *Jeopardy collection.* If the Secretary makes a finding that the collection of the second tier tax is in jeopardy, nothing in this paragraph (e) shall prevent the immediate collection of such tax.

(f) *Finality*—(1) *Tax Court proceeding.* For purposes of this subpart K, section 7481 applies in determining when a decision in a Tax Court proceeding becomes final.

(2) *Refund proceeding.* For purposes of this subpart K, § 301.7422–1 applies in determining when a decision in a refund proceeding becomes final.

§ 53.4962–1 Definitions.

(a) *First tier tax.* For purposes of this subpart K, the term "first tier tax" means any tax imposed by subsection (a) of section 4941, 4942, 4943, 4944, 4945, 4951, 4952, 4971, or 4975. A first tier tax may also be referred to as an "initial tax" in parts 53 and 54.

(b) *Second tier tax.* For purposes of this subpart K, the term "second tier tax" means any tax imposed by subsection (b) of section 4941, 4942, 4943, 4944, 4945, 4951, 4952, 4971, or 4975. A second tier tax may also be referred to as an "additional tax" in parts 53 and 54.

(c) *Taxable event.* For purposes of this subpart K, the term "taxable event" means any act, or failure to act, giving rise to liability for tax under section 4941, 4942, 4943, 4944, 4945, 4951, 4952, 4971, or 4975.

(d) *Correct*—(1) *In general.* Except as provided in subparagraph (2), the term "correct" has the same meaning for purposes of this subpart K as in the section which imposes the second tier tax or the regulations thereunder.

(2) *Special rules.* The term "correct" means—

(i) For a second tier tax imposed by section 4942(b), reducing the amount of the undistributed income to zero,

(ii) For a second tier tax imposed by section 4943(b), reducing the amount of

the excess business holdings to zero, and

(iii) For a second tier tax imposed by section 4944(b), removing the investment from jeopardy.

(e) *Correction period*—(1) *In general.* The correction period with respect to any taxable event shall begin with the date on which the taxable event occurs and shall end 90 days after the date of mailing of a notice of deficiency under section 6212 with respect to the second tier tax imposed with respect to the taxable event.

(2) *Extensions of correction period.* The correction period referred to in subparagraph (1) of this paragraph shall be extended by any period in which a deficiency cannot be assessed under section 6213(a). In addition, the correction period referred to in subparagraph (1) of this paragraph (e) shall be extended in accordance with subparagraphs (3), (4), and (5) of this paragraph except that subparagraph (4) or (5) shall not operate to extend a correction period with respect to which a taxpayer has filed a petition with the United States Tax Court for redetermination of a deficiency within the time prescribed by section 6213(a).

(3) *Extensions by Commissioner.* The correction period referred to in subparagraph (1) of this paragraph may be extended by any period which the Commissioner determines is reasonable and necessary to bring about correction (including, for taxes imposed by section 4975, equitable relief sought by the Secretary of Labor) of the taxable event. The Commissioner ordinarily will not extend the correction period unless the following factors are present:

(i) The taxpayer on whom the second tier tax is imposed, the Secretary of Labor (for taxes imposed by section 4975), or an appropriate State officer (as defined in section 6104(c)(2)) is actively seeking in good faith to correct the taxable event;

(ii) Adequate corrective action cannot reasonably be expected to result during the unextended correction period;

(iii) For taxes imposed by section 4975, the Secretary of Labor requests the extension because subdivision (ii) applies; and

(iv) For taxes imposed by chapter 42 (other than imposed by section 4940), the taxable event appears to have been an isolated occurrence so that it appears unlikely that similar taxable events will occur in the future.

(4) *Extension for payment of first tier tax.* If, within the unextended correction period, the taxpayer pays the full amount of the first tier tax imposed with respect to the taxable event the Commissioner shall extend the correction period to the later of—

(i) Ninety days after the payment of the first tier tax, or

(ii) The last day of the correction period determined without regard to this paragraph.

(5) *Extensions for filing claim for refund or refund suit.* If prior to the expiration of the correction period (including extensions) a claim for refund is filed with respect to payment of the full amount of the first tier tax imposed with respect to the taxable event, the Commissioner shall extend the correction period during the pendency of the claim plus an additional 90 days. If within that time a suit or proceeding referred to in section 7422(g) with respect to the claim is filed, the Commissioner shall extend the correction period until the determination in the suit for refund (determined without regard to a supplemental proceeding under section 4961(b)) is final, determined under § 301.7422–2(a).

(6) *End of correction period if waiver accepted.* If the notice of deficiency referred to in paragraph (1) is not mailed because there is a waiver of the restrictions on assessment and collection of the deficiency or because the deficiency is paid, the correction period will end with the end of the collection prohibition period described in § 53.4961–2(e)(5).

(7) *Date on which taxable event occurs.* For purposes of subparagraph (1), the taxable event shall be treated as occurring—

(i) Under section 4942, on the first day of the taxable year for which there is undistributed income,

(ii) Under section 4943, on the first day on which there are excess business holdings,

(iii) Under section 4971, on the last day of the plan year in which there is an accumulated funding deficiency, and

(iv) In all other cases, the date on which the event occurred.

(f) *Effective date.* The provisions of this subpart K are effective with respect to second tier taxes assessed after December 24, 1980. The preceding sentence shall not be construed to permit the assessment of a tax in a case to which, on December 24, 1980, the doctrine of res judicata applied.

PART 54—PENSION EXCISE TAX REGULATIONS

Par. 11. Section 54.4971–1 is amended by adding paragraphs (c) and (e) to the proposed rule published at 47 FR 54093, December 1, 1982 as follows:

§ 54.4971–1 General rules relating to excise tax on failure to meet minimum funding standards.

* * * * *

(c) *Additional tax.* Section 4971(b) imposes an excise tax in any case in which an initial tax is imposed under section 4971(a) on an accumulated funding definiency and the accumulated funding deficiency is not corrected within the taxable period (as defined in section 4971(c)(3)). The additional tax is 100 percent of the accumulated funding deficiency to the extent not corrected.

* * * * *

(e) *Definition of taxable period.* For purposes of any accumulated funding deficiency, the term "taxable period" means the period beginning with the end of the plan year in which there is an accumulated funding deficiency and ending on the earlier of:

(1) The date of mailing of a notice of deficiency under section 6212 with respect to the tax imposed by section 4971(a), or

(2) The date on which the tax imposed by section 4971(a) is assessed.

Par. 12. Section 54.4975–1 is added as follows:

§ 54.4975–1 General rules relating to excise tax on prohibited transactions.

(a) *Scope.* This section provides general rules for the imposition of the excise taxes on prohibited transactions.

(b) *Initial tax.* Section 4975(a) imposes an initial tax on each prohibited transaction. The initial tax is 5 percent of the amount involved with respect to the prohibited transaction for each year (or part thereof) in the taxable period.

(c) *Additional tax.* Section 4975(b) imposes an excise tax in any case in which an initial tax is imposed under section 4975(a) on a prohibited transaction and the prohibited transaction is not corrected within the taxable period (as defined in paragraph (d) of this section). The additional tax is 100 percent of the amount involved with respect to the prohibited transaction.

(d) *Taxable period.* For purposes of any prohibited transaction, the term "taxable period" means the period beginning with the date on which the prohibited transaction occurs and ending on the earliest of:

(1) The date of mailing of a notice of deficiency under section 6212 with respect to the tax imposed by section 4975(a);

(2) The date on which correction of the prohibited transaction is completed; or

(3) The date on which the tax imposed by section 4975(a) is assessed.

PART 141—TEMPORARY EXCISE TAX REGULATIONS UNDER THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974

Par. 13. Section 141.4975–13 is amended: (1) by striking out the words "4975(f) (2), (4), (5) and (6)," and inserting the words "4975(f) (4) and (5)," in lieu thereof; and (2) by revising the title to read as follows:

§ 141.4975–13 Definition of "amount involved" and "correction".

* * * * *

PART 301—PROCEDURE AND ADMINISTRATION

Par. 14. Section 301.6212–1 is amended by adding the following two sentences at the end of paragraph (c):

§ 301.6212–1 Notice of deficiency.

* * * * *

(c) *Further deficiency letters restricted.* * * * Solely for purposes of applying the restriction of section 6212 (c), a notice of deficiency with respect to second tier tax under chapter 43 shall be deemed to be a notice of deficiency for the taxable year in which the taxable event occurs. See § 53.4962–1 (e) (7) (iii) or (iv) for the date on which the taxable event occurs.

Par. 15. Section 301.6213–1 is amended by revising the first sentence of paragraph (e) to read as follows:

§ 301.6213–1 Restrictions applicable to deficiencies; petition to Tax Court.

* * * * *

(e) *Suspension of filing period for certain chapter 42 and chapter 43 taxes.* The period prescribed by section 6213 (a) for filing a petition in the Tax Court with respect to the taxes imposed by section 4941, 4942, 4943, 4944, 4945, 4951, 4952, 4971, or 4975, shall be suspended for any other period which the Commissioner has allowed for making correction under § 53.4962–1(e)(3).

Par. 16. Paragraph (a) of § 301.6503 (a)–1 is revised by adding a new subparagraph (3) to read as follows:

§ 301.6503 (a)–1 Suspension of running of period of limitation; issuance of statutory notice of deficiency.

(a) *General rule.*

(3) For provisions relating to suspension of the running of the period of limitation with respect to collection of "second tier" excise taxes (as defined in section 4962) until final resolution of a refund proceeding described in sections 4961 and 7422 for the determination of the taxpayer's liability for the second tier taxes, see § 53.4961–2 (e) (4).

* * * * *

§ 301.6503(g)–1 [Amended]

Par. 17. Section 301.6503 (g)–1 is amended by striking out everything following the word "correction" and inserting "under section 4962(e)(1)(B)." in lieu thereof.

§ 301.6861–1 [Amended]

Par. 18. Paragraph (g) of § 301.6861–1 is amended by removing the last sentence.

Par. 19. Section 301.7422–1 is revised to read as follows:

§ 301.7422–1 Special rules for certain excise taxes imposed by chapter 42 or 43.

(a) *Finality of refund proceeding.* For purposes of sections 4941, 4942, 4943, 4944, 4945, 4951, 4952, 4961, 4962, 4971, and 4975, and the regulations thereunder, a decision in a suit for refund instituted under the provisions of this section shall be final—

(1) Upon the expiration of the time allowed for filing a notice of appeal from a decision of the United States Claims Court or of the United States District Court, if no timely notice of appeal is filed; or

(2) Upon the expiration of the time allowed for filing a petition for certiorari from a decision of the United States Claims Court, or from a decision of the United States District Court, which has been affirmed or the appeal dismissed by the United States Court of Appeals, if no timely petition for certiorari is filed; or

(3) If a petition for certiorari has been filed, thirty days from the denial of such petition; or

(4) Thirty days from the date of a decision of the United States Supreme Court if no timely petition for rehearing is filed; however, if a timely petition for rehearing from such a decision is filed, and is denied, thirty days from the denial thereof; or

(5) If a decision is entered upon a rehearing or if a decision is modified or reversed as the result of a decision of a higher court, upon the expiration, with respect to the decision on rehearing or the modified or reversed decision, of periods similar to those provided in subparagraphs (1) through (4).

(b) *Right to bring action.* With respect to any taxable event, payment of the full amount of first tier tax for the taxable period shall constitute sufficient payment in order to maintain an action under this section with respect to the second tier tax.

(c) *Limitation on suit for refund.* No suit may be maintained under this section for the credit or refund of any tax imposed under section 4941, 4942, 4943, 4944, 4945, 4951, 4952, 4971, or 4975 with respect to any taxable event unless—

(1) No other suit has been maintained for credit or refund of any tax imposed by such sections with respect to such taxable event; and

(2) No petition has been filed in the Tax Court with respect to a deficiency in any tax imposed by such sections with respect to such taxable event.

(d) *Final determination of issues.* For purposes of this section, any suit for the credit or refund of any tax imposed under section 4941, 4942, 4943, 4944, 4945, 4951, 4952, 4971, or 4975, together with a supplemental proceeding (if any) under section 4961(b), with respect to any taxable event, shall constitute a suit to determine all questions with respect to any other tax imposed with respect to such taxable event under such sections. Consequently, failure by the parties to the suit to bring before the Court any question described in the preceding sentence shall constitute a bar to the question.

(e) *Definitions.* For definitions of the terms "taxable event," "first tier tax," and "second tier tax," see § 53.4962–1.

Roscoe L. Egger, Jr.,

Commissioner of Internal Revenue.

[FR Doc. 84–3805 Filed 2–10–84; 8:45 am]

BILLING CODE 4830–01–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD7 84–01]

Drawbridge Operation Regulations; Atlantic Intracoastal Waterway, Florida

AGENCY: Coast Guard, DOT.

ACTION: Proposed rule.

SUMMARY: At the request of the Florida Department of Transportation, the Coast Guard is considering a change to the regulations governing the Merrill Barber Bridge, Atlantic Intracoastal Waterway, mile 951.9, State Road 60, at Vero Beach, Florida by permitting the number of openings to be limited during certain periods. This proposal is being made because periods of peak vehicular traffic have increased. This action should accommodate the needs of vehicular traffic and should still provide for the reasonable needs of navigation.

DATE: Comments must be received on or before March 29, 1984.

ADDRESS: Comments should be submitted to and are available for examination from 7:30 a.m. to 4:00 p.m., Monday through Friday, except

holidays, at the office of the Commander, Seventh Coast Guard District, 51 S.W. 1st Avenue, Room 816, Miami, Florida 33130. Comments may also be hand-delivered to this address.

FOR FURTHER INFORMATION CONTACT: Mr. James R. Kretschmer, Senior Bridge Administration Specialist, telephone (305) 350–4108.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this proposed rulemaking by submitting written views, comments, data, or arguments. Persons submitting comments should include their names and addresses, identify the bridge, and give reasons for concurrence with or any recommended change in the proposal. Persons desiring acknowledgment that their comments have been received should enclose a stamped, self-addressed postcard or envelope.

The Commander, Seventh Coast Guard District, will evaluate all communications received and determine a course of final action on this proposal. The proposed regulations may be changed in light of comments received.

Drafting Information

The drafters of this notice are Bridge Administration Specialist Mr. Walter Paskowsky, project officer, and Lieutenant Commander K. E. Gray, project attorney.

Discussion of Proposed Regulations

The existing regulations effective 11 June 1973 provide that from 7:45 a.m. to 9:00 a.m., 12:00 noon to 1:15 p.m., and 4:00 p.m. to 5:15 p.m., Monday through Friday, except national holidays, the draw need not open for passage of vessels. However, the draw shall open at 8:30 a.m., 12:30 p.m. and 4:30 p.m. if any vessels are waiting to pass. The proposed amendment to the regulation provides that between 1 December and 30 April from 7:00 a.m. until 6:00 p.m. Monday through Friday except national holidays the draw need open only on the hour, quarter-hour, half-hour, and three-quarter hour if any vessels are waiting to pass. The average hourly vehicular traffic 7 a.m. to 6 p.m. is 1478 vehicles, a 7 percent increase since 1972, which is approaching roadway capacity for this two-lane two-way bridge structure.

The draw opened 5815 times for the passage of vessels in 1982. The bridge logs reflect the seasonal migration of vessels to and from South Florida, with the highest number of openings in October-November and April-May. During a vehicular traffic count taken during March and April 1983, the bridge opened an average of 1.6 times per hour between 7 a.m. and 6 p.m. Marine traffic is primarily pleasure craft with about 15 percent of the openings for commercial vessels. Although the proposed regulation will be restrictive during the present unregulated periods 9 a.m. to 12 noon and 1:15 p.m. to 4 p.m., 1 December to 30 April, the regulated operation will eliminate multiple openings which affect the flow of vehicular traffic. Since the regulations continue to exempt, at all times, tugs with tows and the draw will open every 15 minutes for passage of all other vessels, it is expected that there will be only minimal economic impact; therefore, an economic evaulation has not been prepared.

Paragraph (C) of the regulations will be changed to include cruise vessels operated on a regular schedule and the opening signal for exempted vessels will be changed to five short blasts for exempted vessels to conform to the present inland rules.

Economic Assessment and Certification

These proposed regulations have been reviewed under the provisions of Executive Order 12291 and have been determined not to be a major rule. In addition, these proposed regulations are considered to be nonsignificant in accordance with guidelines in the Policies and Procedures for Simplification, Analysis, and Review of Regulations (DOT Order 2100.5 of 5–22–80). As explained above, an economic evaluation has not been conducted since its impact is expected to be minimal. In accordance with section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 605(b)), it is certified that these rules, if promulgated, would not have a significant economic impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 117

Bridges.

Proposed Regulations

In consideration of the foregoing, the Coast Guard proposes to amend Part 117 of Title 33, Code of Federal Regulations, by revising paragraphs (b) and (c) of § 117.438a to read as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

§ 117.438a Merrill Barber Bridge, State Road 60, AIWW mile 951.9, Vero Beach, Florida.

* * * * *

(b) From 1 May through 30 November from 7:45 a.m. to 9 a.m., 12 noon to 1:15 p.m. and 4 p.m. to 5:15 p.m., Monday through Friday, except national holidays, the draw need not open for the passage of vessels. However, the draw shall open at 8:30 a.m., 12:30 p.m. and 4:30 p.m. if any vessels are waiting to pass. From 1 December through 30 April from 7:00 a.m. to 6:00 p.m., Monday through Friday, except national holidays, the draw need open only on the hour, quarter-hour, half-hour, and three-quarter hour if any vessels are waiting to pass.

(c) The draw shall open at any time for the passage of public vessels of the United States, state or local government vessels used for public service, tugs with tows, cruise vessels operated on a regular schedule, and vessels in distress. The opening signal from these vessels is five blasts of a whistle or horn or by shouting.

* * * * *

(33 U.S.C. 499; 49 U.S.C. 1655(g)(2); 49 CFR 1.46(c)(5); 33 CFR 1.05–1(g)(3))

Dated: January 27, 1984.

A. V. Breed,

Captain, U.S. Coast Guard District Commander, Acting.

[FR Doc. 84-3810 Filed 2-10-84; 8:45 am]

BILLING CODE 4910-14-M

DEPARTMENT OF DEFENSE

Department of the Army Corps of Engineers

33 CFR Part 204

Pamlico Sound, North Carolina; Danger Zone

AGENCY: U.S. Army Corps of Engineers, DOD.

ACTION: Extension of time to file comments.

SUMMARY: On December 1, 1983, the Corps of Engineers published an invitation for public comment in the **Federal Register** (48 FR 54253) and the Wilmington District Engineer concurrently published a public notice. These notices invited written public comments on amendments to 33 CFR 204.55, which governs the use and navigation of danger zones in the waters of Pamlico Sound and Neuse River, North Carolina. The changes are necessary to reflect distances in nautical miles rather than statute miles; add laser training to the uses of an area to reflect changes in training needs; and change the boundaries of the range areas to add an extra margin of safety for the general public.

The closing date for comments was January 3, 1984. This notice extends the comment period to March 26, 1984. This comment period is extended to coincide with the extended comment period for the Wilmington District Public Notice,

which was requested by the Assistant Attorney General, State of North Carolina on December 9, 1983.

DATE: Comments must be filed no later than March 26, 1984.

ADDRESS: HQDA, DAEN-CWO-N, Washington, D.C. 20314.

FOR FURTHER INFORMATION CONTACT: Mr. Bob Johnson at (919) 343–4641 or Mr. Ralph Eppard at (202) 272–0199.

List of Subjects in 33 CFR Part 204

Marine safety, Waterways.

Dated: January 27, 1984.

Michael Volpe,

Colonel, Corps of Engineers, Executive Director of Civil Works.

[FR Doc. 84-3773 Filed 2-10-84; 8:45 am]

BILLING CODE 3710-92-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 62

[A-6-FRL 2525-3]

Approval and Promulgation of the Arkansas State Plan for a Designated Facility and Pollutant; Arkansas Plan for Controlling Total Reduced Sulfur Emissions From Kraft Pulp Mills

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed approval.

SUMMARY: This notice proposes approval of Arkansas' plan for controlling total reduced sulfur (TRS) emissions from existing kraft pulp mills which was submitted by the Governor on February 28, 1983. Arkansas' plan was submitted in response to the publication of emission control guidelines by the Administrator under Section 111(d) of the Clean Air Act, as amended. The plan and the clarification letter dated August 6, 1981, satisfies EPA's requirement for adoption and submittal of a plan to control TRS.

DATE: Interested persons are invited to submit comments on this proposed action on or before March 14, 1984.

ADDRESS: Written comments should be submitted to the address below:

Environmental Protection Agency, Region 6, Air and Waste Management Division, Air Branch, State Implementation Plan Section, 1201 Elm Street, Dallas, Texas 75270

Copies of the materials submitted by Arkansas may be examined during normal business hours at this address and the address listed below:

Arkansas Department of Pollution Control & Ecology, Air & Hazardous Materials Division, 8001 National Drive, Little Rock, Arkansas 72209

FOR FURTHER INFORMATION CONTACT: Kathryn M. Griffith at the EPA Region 6 address above or call (214) 767–9853.

SUPPLEMENTARY INFORMATION: On February 28, 1983, the Governor of Arkansas, after adequate notice and public hearing, submitted the State's plan for controlling total reduced sulfur emissions from existing kraft pulp mills. This plan was adopted by the Arkansas Commission on Pollution Control and Ecology on January 28, 1983. The State has adopted this plan to establish emission limitation for TRS from the pulp paper industry. The State has identified existing facilities and established emission limits for these facilities.

EPA reviewed this plan and developed an evaluation report,[1] which is based on the requirements of section 111(d) of the Clean Air Act of 1977, as amended, 40 CFR Part 60 Subpart B and an EPA guideline document titled "Kraft Pulping—Control of TRS Emissions from Existing Mills." This evaluation report is available for inspection by interested parties during normal business hours at the EPA Region 6 Office and the other addresses listed above.

As submitted, the plan did not adequately demonstrate that the State had the requisite authority to disclose emission data to the public upon the public's request. However, when EPA approved Arkansas' general implementation plan submitted pursuant to the provisions of Section 110(a) of the Clean Air Act, EPA provided rulemaking for making such data available under 40 CFR 62.852. This provision is appropriate for use in disclosing emission data from sources covered by this TRS plan.

The State adopted EPA Test Method 16 and allows alternate test methods to be used with the approval of the Director of the Arkansas Department of Pollution Control and Ecology. A letter of clarification dated August 6, 1981, states that the State will seek approval from the Regional Administrator before approving any alternative testing methods.

The State has approved standards for TRS emissions less stringent than the standards recommended in the EPA guideline for kraft pulping. The Administrator has determined that TRS, an odorous pollutant, may cause or contribute to the endangerment of public welfare but that adverse effects on public health have not been demonstrated. Regulations promulgated by EPA at 40 CFR 60.24(d) in accordance with Section 111(d)(1) of the Clean Air Act allow States to "balance the emission guidelines, compliance times, and other information provided in the applicable guideline document against other factors of public concern in establishing emission standards * * *." The recommended guideline limits and Arkansas limits for the various affected facilities are as follows:

EPA guideline	Arkansas
Recovery boilers:	
New design (5 ppm)	5 ppm.
Old design (20 ppm)	[1] 40 ppm.
Lime kiln (20 ppm)	40 ppm.
Multiple effect evaporators (5 ppm)	([2])
Digesters (5 ppm)	([2])

[1] The State would allow 200 ppm from the recovery boiler at Weyerhaeuser Company plant in Pine Bluff. The small plant built in the mid-1950's produces about 300 tons per day of unbleached bag paper. The company would have to replace their recovery boiler to meet a 40 ppm limit.
[2] Efficient incineration of all noncondensible gases.

The State justified the less stringent emission limits for "old design" recovery boilers on the basis that they will be phased out within 5–10 years and the cost of retrofitting. In a letter dated August 30, 1983, the State requested each company to "indicate the expected date of retirement of any recovery boiler subject to the regulations." Their answers were as follows:

Weyerhaeuser—"The current expected life of the entire mill is an additional 12 years. We do not see any circumstances that would necessitate retiring the boiler separate from other major mill components, i.e., the paper machine."

International Paper, Pine Bluff—"Our long range plans * * * includes the installation of a 900-ton recovery boiler to replace our two 390-ton 1958 vintage recovery boilers. The year for this retirement has not been established."

Arkansas Kraft Corporation—"The No. 2 recovery boiler at Arkansas Kraft is expected to have a further useful life of 10 to 20 years."

Nekoosa Papers, Inc.—"Since the No. 1 recovery boiler is only 15 years old, with adequate operating care and maintenance, this unit should have an additional 10 years of operating life before any major capital expenditures would be required. It would therefore not be economically feasible to replace the boiler at this time."

Georgia-Pacific Corporation—"Based on [EPA] guideline data, the life of recovery boilers is estimated at 25 years. This means that 7R Recovery Boiler should be repolaced in 1992—nine years from now. The unit is not operating now and will not be until the mill is further modernized and expanded

[1] EPA Review of Arkansas' 111(d) plan for the Control of Total Reduced Sulfur from Kraft Pulp Mills.

which will be at least two years and most likely five years from now or maybe never."

International Paper, Camden—"No specific plans are now forecasted for replacement of any of the three recovery boilers; in fact, No. 2 and No. 3 recoveries (1947 vintage) will have new electrostatic precipitators installed in early 1984 to ensure particulate compliance. These monies are committed (and partially spent) now."

The State also asked each company how the cost of meeting the EPA guideline limits compared with meeting the States' limits. The costs are summarized below:

	State limit (40 ppm)		EPA guideline (20 ppm)	
	Capital cost (dollars)	Annualized cost $/ADT [1]	Capital cost (dollars)	Annualized cost $/ADT [1]
Weyerhaeuser	[2] 0	[2] 0	29,000,000	87.00
International Paper, Pine Bluff	3,450,000	1.51	7,100,000	3.11
Arkansas Kraft Corp	2,650,000	1.83	4,542,000	3.15
Nekoosa Paper, Inc	0	0	0	1.00
Georgia Pacific Corp	2,920,000	1.70	5,300,000	3.08
International Paper, Camden	2,210,000	2.21	5,150,000	5.15

[1] Air dryed ton (ADT) of pulp.
[2] The State would allow 200 ppm from the recovery boiler at Weyerhaeuser Corp. because the company would have to replace their recovery boiler to meet a 40 ppm limit.

The State then asked how the additional costs of meeting the [EPA] guideline would affect the economic viability of each mill. Their answers were as follows:

Weyerhaeuser—A company representative testified at the public hearing in Little Rock, Arkansas, April 30, 1980, that "Adoption of the regulations as proposed [40 ppm] could almost certainly result in closure of the mill. The economic burden of such a large expenditure of nonproductive capital at this small plant would make it noncompetitive in today's market. The alternatives * * * appear to be expand the plant, curtail production, or shut it down. Expansion to approximately three times present size would probably be required to retire the new debt on an acceptable payout. However, the company does not foresee any near term opportunity to make such a major expansion."

International Paper, Pine Bluff—"The additional costs of meeting the guidelines would have no effect on the economic viability of the Pine Bluff Mill. However, any monies spent either for capital or operating costs must eventually be passed on to the customer or consumer."

Arkansas Kraft Corporation—"As a profit center, the Arkansas plant is struggling. In the recent economic downturn, if capital expenditures had been required for TRS control as a condition to operate, a mill shutdown would likely have occurred."

Nekoosa Paper, Inc.—"According to the boiler manufacturer, the unit should be able to meet 20 ppm limit if it is operated closer to the design load by 10 percent * * * equates to 50–55 tons per day of lost hardwood pulp production."

Georgia-Pacific Corporation—"The additional cost of meeting 20 ppm * * * will result in $2.18 cost per ton of air dry pulp. The last figure will require an increase in price of finished product in order to remain a profitable operation."

International Paper, Camden—"It is obvious that the additional cost of meeting the more stringent limit is significantly higher. These higher and continuing operating costs would have an impact on our ability to compete in the marketplace (this is especially true regarding nonfiberous products such as plastics). It is not possible, however, for us at this time to access accurately the long-term impact of these possible costs."

The Arkansas 111(d) plan for TRS will not be implemented until it is approved by EPA. The Arkansas plan is estimated to reduce total Statewide emissions of TRS by 90 percent. Meeting EPA's limits would give the State an additional 5 percent reduction in TRS but, in many cases, would double the cost to the companies.

EPA will accept comments over the next 30 days on its proposal to approve Arkansas' plan for controlling TRS emissions from existing kraft pulp mills.

Under 5 U.S.C. 605(b), I certify that SIP approvals do not have a significant economic impact on a substantial number of small entities.

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

This notice of proposed approval is issued under the authority of Section 111(d) of the Clean Air Act, as amended, 42 U.S.C. 7411(d).

List of Subjects in 40 CFR Part 62

Air pollution control, Fluoride, Sulfur, Administrative practice and procedure, Intergovernmental relations, Reporting requirements.

Dated: July 14, 1983.

Dick Whittington,

Regional Administrator.

[FR Doc. 84-3831 Filed 2-10-84; 8:45 am]
BILLING CODE 6560-50-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 15

Federal Emergency Management Agency Special Facility and Grounds

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Proposed rule.

SUMMARY: This proposed rule prescribes rules and regulations for persons entering onto the premises at the FEMA Special Facility near Berryville, Virginia. These regulations implement and supplement General Services Administration regulations concerning Conduct on Federal Property and are needed because of the special activities carried out at that installation (see 41 CFR Subpart 101–20.3).

DATE: Comment on this proposed rule is due on before April 13, 1984.

ADDRESS: Comments should be sent to the Rules Docket Clerk, Office of General Counsel, Federal Emergency Management Agency, Room 840, 500 C Street, SW., Washington, D.C. 20472.

FOR FURTHER INFORMATION CONTACT: George W. Watson at (202) 287–0376.

SUPPLEMENTARY INFORMATION: FEMA operates its Special Facility near Berryville, Virginia. Since programs of national security interest are being handled at the Special Facility, premises must be regulated in accordance with regulations prescribed by the General Services Administration, 41 CFR 101–20.3 (Conduct on Federal Property). The regulation prescribes rules for entry at the Facility, inspections of vehicles and personal effects of persons entering the Facility, disturbances, gambling, use of alcoholic beverages and narcotics, soliciting, vending, distribution of handbills and for vehicular and pedestrian traffic at the Facility. Penalties under 40 U.S.C. 318(c) are prescribed. This regulation is administrative and, as such, is categorically excluded from the requirements for environmental assessments contained in 44 CFR Part

10. This rule is not a major rule as defined in Section 1(b) of Executive Order 12291, nor will it have a significant economic impact on a substantial number of small entities. Hence, regulatory impact analyses are not necessary. There are no information collection requirements to be submitted to the Office of Management and Budget under section 3504(h) of the Paper Work Reduction Act.

List of Subjects in 44 CFR Part 15

Federal buildings and facilities.

Accordingly, Chapter I of Title 44, Code of Federal Regulations is proposed to be amended by adding the following Part 15:

PART 15—CONDUCT AT THE FEMA SPECIAL FACILITY

Sec.
15.1 Applicability.
15.2 Admission.
15.3 Inspection.
15.4 Preservation of property.
15.5 Conformity with signs and directions.
15.6 Disturbances.
15.7 Gambling.
15.8 Alcoholic beverages and narcotics.
15.9 Soliciting, vending and debt collection.
15.10 Distribution of handbills.
15.11 Photographs and other depictions.
15.12 Dogs and other animals.
15.13 Vehicular and pedestrian traffic.
15.14 Weapons and explosives.
15.15 Penalties and other laws.

Authority: FEMA Reorganization Plan No. 3 of 1978; E.O. 12127; E.O. 12148; delegation of authority from Administrator of General Services, dated July 18, 1979; Pub. L. 566, 80th Congress, approved June 1, 1948 (40 U.S.C. 318–318d); and the Federal Property and Administrative Services Act of 1949 (63 Stat. 377), as amended.

§ 15.1 Applicability.

These rules and regulations apply to all the property known as the "Special Facility," located on Mt. Weather on Virginia Route 601 near Berryville, Virginia, which is owned, operated or under the charge and control of the Federal Emergency Management Agency (FEMA) and to all persons entering, while on, or leaving the property.

15.2 Admission.

The Special Facility contains classified material and areas which must be protected in the interest of national security. The facility is designated a restricted area. Access to the Special Facility is closed to the general public and is limited to those persons having official business related to the missions and operations of the Special Facility. Persons and vehicles entering the Special Facility must be approved for admission by the Director, Federal Emergency Management Agency, or his/her designee, registered with the Special Facility Security force, and issued a Special Facility identification badge and vehicle parking decal or permit. No person shall enter or remain on the Special Facility premises unless he or she has received permission from the Director, FMEA or his/her designee and has complied with the above procedures.

§ 15.3 Inspection.

All vehicles, packages, handbags, briefcases, and other containers being brought into, while on, or being removed from the Special Facility are subject to inspection by security force personnel and other authorized personnel. A full search may accompany an arrest. Inspection is permitted to prevent the possession and use of items prohibited by these rules and regulations or by other applicable laws, to prevent theft of property and to prevent the wrongful obtaining of defense information under 18 U.S.C. 793. Individuals objecting to such inspections must make their objection known to the officer on duty at the entrance gate prior to entering the Special Facility. Individuals refusing to permit an inspection of their vehicle or possessions will not be authorized or allowed to enter the premises of the Special Facility.

§ 15.4 Preservation of property.

The improper disposal of rubbish at the Special Facility, the willful destruction of or damage to property, the theft of property, the creation of any hazard on the property to persons or things, the throwing of articles of any kind from or at a building, or the climbing upon a fence, or the climbing upon the roof of any part of a building is prohibited.

§ 15.5 Conformity with signs and directions.

Persons at the Special Facility shall at all times comply with official signs of a prohibitory, regulatory, or directory nature and with the directions of law enforcement and other authorized officials.

§ 15.6 Disturbances.

Any unwarranted loitering, disorderly conduct, or other conduct at the Special Facility which creates loud or unusual noise or a nuisance; which unreasonably obstructs the usual use of entrances, foyers, lobbies, corridors, offices, elevators, stairways, roadways or parking lots; which otherwise impedes or disrupts the performance of official duties by government employees; or which prevents persons from obtaining the administrative services provided at the Special Facility in a timely manner, is prohibited.

§ 15.7 Gambling.

Participating in games for money or other personal property, or the operating of gambling devices, the conduct of a lottery or pool, or the selling or purchasing of numbers tickets at the Special Facility is prohibited.

§ 15.8 Alcoholic beverage and narcotics.

Operating a motor vehicle at the Special Facility by a person under the influence of alcoholic beverages, narcotic drugs, hallucinogens, marijuana barbiturates or amphetamines is prohibited. Entering upon the or while on the property, under the influence of or using or possessing any narcotic drug, marijuana, hallucinogen, barbiturate or amphetamine is prohibited. This prohibition shall not apply in cases where the drug has been prescribed for a patient by as physician. Entering upon the property, or being on the property under the influence of alcoholic beverages is prohibited. Bringing alcoholic beverages, narcotic drugs, hallucinogens, marijuana, barbiturates or amphetamines onto the premises of the Special Facility is prohibited unless authorization has been granted by the Director, FEMA or his designee.

§ 15.9 Soliciting, vending, and debt collection.

Soliciting alms and contributions, commercial or political soliciting and vending of all kinds, displaying or distributing commercial advertising, or collecting private debts at the Special Facility is prohibited. This rule does not apply to (a) national or local drives for funds for welfare, health, or other purposes as authorized by the "Manual on Fund Raising Within the Federal Service" issued by the U.S. Office of Personnel Management and sponsored or approved by the occupant agencies (all such drives must have the prior approval of the Director, Federal Emergency Management Agency or his/her designee); (b) concessions or personal notices posted by employees on authorized bulletin boards; and (c) solicitation of labor organization membership or dues authorized by occupant agencies under the Civil Service Reform Act of 1978 (Pub. L. 95–454).

§ 15.10 Distribution of handbills.

The distribution of materials such as pamphlets, handbills and/or flyers, and the displaying of placards or posting of materials on bulletin boards or elsewhere at the Special Facility is

prohibited except as authorized in Sec. 15.9 above or when such distribution or displays are conducted as part of authorized government activities.

§ 15.11 Photographs and other depictions.

The taking of photographs and the making of notes, sketches, or diagrams of buildings, grounds, or other appurtenances of the Special Facility, or the possession of a camera is prohibited while at the Special Facility except when approved by the Director, Federal Emergency Management agency, or his/her designee.

§ 15.12 Dogs and other animals.

Dogs and other animals, except seeing-eye dogs, shall not be brought onto the Special Facility for other than official purposes.

§ 15.13 Vehicular and pedestrian traffic.

Drivers of all vehicles entering or while at the Special Facility shall drive in a careful and safe manner at all times and shall comply with the signals and directions of security force officers or other authorized individuals and all posted traffic signs; the blocking of entrances, driveways, walks, loading platforms, or fire hydrants on the property is prohibited; except in emergencies, parking on the property is not allowed without a permit. Parking without authority, parking in unauthorized locations or in locations reserved for other persons, or parking contrary to the direction of posted signs is prohibited. Vehicles parked in violation, where warning signs are posted, shall be subject to removal at the owners' risk and expense. This paragraph may be supplemented from time to time with the approval of the Director of Federal Emergency Management Agency, or his/her designee, by the issuance and posting of such specific traffic directives as may be required, and when so issued and posted such directives shall have the same force and effect as if made a part thereof. Proof that a motor vehicle was parked in violation of these regulations or directives may be taken as prima facie evidence that the registered owner was responsible for the violation.

§ 15.14 Weapons and explosives.

No person entering or while at the Special Facility shall carry or possess firearms, other dangerous or deadly weapons, explosives or items intended to be used or which could reasonably be used to fabricate an explosive or incendiary device, either openly or concealed, except for official purposes and upon the approval of the Director, Federal Emergency Management Agency, or his/her designee.

§ 15.15 Penalties and other laws.

Whoever shall be found guilty of violating any rule or regulation herein is subject to a fine of not more than $50 or imprisonment for not more than 30 days, or both. (See 40 U.S.C. 318c.) Nothing contained in these rules and regulations shall be construed to abrogate any other Federal laws or any State and local laws and regulations applicable to the Special Facility premises. These rules and regulations supplement those penal provisions of Title 18, United States Code, relating to Crimes and Criminal Procedure, which apply without regard to the place of the offense and those penal provisions which apply in areas under the special maritime and territorial jurisdiction of the United States, as defined in 18 U.S.C. 7. However, they supersede those provisions of State law which are made Federal criminal offenses by virtue of the Assimilated Crimes Act (18 U.S.C. 13) to the extent that they are in conflict with these regulations. State and local criminal laws are applicable as such only to the extent that authority in that regard has been reserved to the State by the State consent or cession statute or vested in the State by Federal statute.

Dated: February 2, 1984.

Louis O. Giuffrida,

Director.

[FR Doc. 84-3803 Filed 2-10-84; 8:45 am]

BILLING CODE 6716-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

45 CFR Part 5b

Privacy Act of 1974; Exempt Record System

AGENCY: Department of Health and Human Services.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Assistant Secretary for Personnel Administration, through the Office of Personnel Systems Integrity of the Department of Health and Human Services, by separate **Federal Register** notice is proposing alteration in the system of records entitled, "Management Information System Efficiency Report (MISER), HHS/OS/ASPER/OPSI", 09-90-0095. The Department intends to exempt portions of this system from certain provisions of the Privacy Act, 5 U.S.C. 552a. The proposed exemption is authorized by subsection (k)(2) of the Privacy Act, which applies to investigative materials compiled for law enforcement purposes. The Office of Personal Systems Integrity (OPSI) is authorized to gather information for personnel, legal, and regulatory enforcement purposes under Title 5 U.S.C., Chapter 12. In order to maintain the integrity of the OPSI process of merit system and prohibited personnel practice complaints investigations, and to ensure that the Office of Personnel Systems Integrity will be able to obtain access to complete and accurate information, the Department proposes to exempt from the notification, access, correction, and amendment provisions of the Privacy Act those portions of Management Information System Efficiency Report (MISER) which contain personal information that would identify either a confidential source or an individual other than the complainant or subject of an investigation.

DATE: Comments must be received by March 14, 1984.

ADDRESS: Comments should be addressed to Dr. Howard Harrison, Director, Office of Personnel Systems Integrity, Department of Health and Human Services, Room 2046, Switzer Building, 330 C Street SW., Washington, D.C. 20201.

FOR FURTHER INFORMATION CONTACT: Betty Colton, Director, Division of Personnel Systems Improvement, Department of Health and Human Services at the above address or call (202) 475-0027.

SUPPLEMENTARY INFORMATION: The Office of Personnel Systems Integrity is proposing alteration in portions of the system of records as currently constituted and described in a system notice published in the **Federal Register** (System Number 09-90-0095, 47 FR 45771). The purpose of this alteration in portions of the system is to permit to OPSI to maintain an additional subsystem of records for use by employees of HHS and other government agencies who process merit system and prohibited personnel practice complaints under 5 U.S.C., Chapter 12.

The altered system will contain personal information that would identify confidential source(s) or an individual other than the complainant or subject of an OPSI investigation. The releasing of information that has been supplied by individuals under the assurance of confidentiality could impede investigations, violate the rights of individuals other than the subject of an OPSI investigation, reveal the identities

of confidential sources, or otherwise impair the ability of the Office of Personnel Systems Integrity to conduct merit system and prohibited practice complaint investigations. For these reasons, the Department proposes to exempt portions of this system under subsection (k)(2) of the Privacy Act from the notification, access, correction, and amendment provisions of the Privacy Act.

The proposed exemption does not meet the standards set forth in the Executive Order 12291 for classification as a major rule, and no regulatory analysis statement is required.

The Secretary certifies that the proposed exemption will not have a significant impact on any substantial number of small entities as defined by the Regulatory Flexibility Act, Pub. L. 96–354.

List of Subjects in 45 CFR Part 5b

Privacy.

For the reasons set forth in this premable it is proposed that the Department's Privacy Act Regulations, Part 5b or 45 CFR Subtitle A, be amended as follows:

PART 5b—PRIVACY ACT REGULATIONS

1. By adding paragraph (b)(2)(ii)(F) to § 5b.11 as follows:

§ 5b.11 Exempt systems.

* * * * *

(b) * * *

(2) * * *

(ii) * * *

(F) The Management Information System Efficiency Report (MISER), HHS/OS/ASPER/OPSI.

* * * * *

Dated: October 20, 1983.

Margaret M. Heckler,

Secretary.

[FR Doc. 84–3852 Filed 2–10–84; 8:45 am]

BILLING CODE 4150–04–M

Notices

Federal Register
Vol. 49, No. 30
Monday, February 13, 1984

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

Advisory Committee on Instrument Standards for Cotton; Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following meeting.

Name: Advisory Committee on Instrument Standards for Cotton.

Date: March 29, 1984.

Place: Ramada Inn Southwest Airport, 1471 Brooks Road East, Memphis, Tennessee.

Time: 8:30 a.m.

Purpose: The agenda will include discussions of several technical issues remaining to be resolved. Among these are: (1) How to report color readings and (2) test limits and tolerances to be adopted. There will also be progress reports regarding research on instrument measurement of trash and the findings of a USDA survey on the effects of humidity and moisture on test results.

The meeting is open to the public. Public participation will be limited to written statements received prior to the meeting. Written statements should be addressed to Jesse F. Moore, Director, Cotton Division, Agricultural Marketing Service, U.S. Department of Agriculture, Annex Building, Room 302, Washington, D.C. 20250, (202) 447–3193.

Dated: February 7, 1984.

Eddie F. Kimbrell,

Deputy Administrator, Commodity Services.

[FR Doc. 84–3811 Filed 2–10–84; 8:45 am]
BILLING CODE 3410–02–M

Rural Electrification Administration

Hoosier Energy Rural Electric Cooperative, Inc.; Finding of No Significant Impact

AGENCY: Rural Electrification Administration, USDA.

ACTION: Finding of No Significant Impact.

SUMMARY: Notice is hereby given that the Rural Electrification Administration (REA), pursuant to the National Environmental Policy Act of 1969, the Council on Environmental Quality Regulations (40 CFR Part 1500), and REA Bulletin 20–21:320–21, Environmental Policies and Procedures, has made a Finding of No Significant Impact with respect to a request by Hoosier Energy Rural Electric Cooperative, Inc. (HE), of Bloomington, Indiana, for additional financing assistance for cost increases and capital additions and improvements for the Merom Generating Station in Sullivan County, Indiana.

FOR FURTHER INFORMATION CONTACT: REA's Finding of No Significant Impact and Environmental Assessment and HE's Borrower's Environmental Report (BER) may be reviewed or obtained in the Office of the Director, Northeast Area—Electric, Room 0241, South Agriculture Building, Rural Electrification Administration, Washington, D.C. 20250, telephone (202) 382–1420, or at the office of Hoosier Energy Rural Electric Cooperative, Inc. (Virgil E. Peterson, Executive Vice President and General Manager), P.O. Box 908, Bloomington, Indiana 47402, telephone (812) 876–2021.

SUPPLEMENTARY INFORMATION: The Merom Generating Station consists of two-490 megawatt, coal-fired steam-electric generating units and associated support facilities. Higher owner's costs than were anticipated at the time of the previous financing assistance, higher interest during construction and a need for capital additions and improvements for increased plant reliability and efficiency have resulted in a request for additional financing assistance.

Alternatives examined included no action and additional financing for the project. After consideration of these alternatives, REA has determined that the proposed project is an environmentally acceptable way for HE to meet its members' needs, even though no conclusion on financing assistance has been made.

Based upon information contained in the BER, and in REA's Final Environmental Impact Statement for the Merom Generating Station, dated September 1977, REA has prepared an Environmental Assessment and determined that the proposed capital improvements will have no affect on threatened and endangered species, cultural resources, wetlands, floodplains, or important farmlands. In accordance with REA Bulletin 20–21:320–21, HE advertised and requested comments on the environmental aspects of the capital improvements in newspapers with general circulation in Sullivan and Monroe Counties, Indiana. No comments were received.

If approved, the additional financing assistance, besides financing cost increases and capital additions and improvements at the Merom Generating Station, would be for transmission facilities unrelated to the Merom Generating Station, but included as a part of the request for additional financing assistance for administrative efficiency and convenience. A BER has been submitted to REA for these projects. Additional information on cultural resources, threatened and endangered species, wetlands, floodplains, and important farmlands was also submitted. REA has independently reviewed this information and has determined that these projects are categorically excluded from further environmental requirements in accordance with Section IV–C of Bulletin 20–21.

REA has concluded that if it approves additional financing assistance, it will not represent a major Federal action significantly affecting the quality of the human environment. A supplemental environmental impact statement is, therefore, not necessary.

(This program is listed in the Catalog of Federal Domestic Assistance as 10.850-Rural Electrification Loans and Loan Guarantees)

Dated: February 7, 1984.

Harold V. Hunter,

Administrator.

[FR Doc. 84–3860 Filed 2–10–84; 8:45 am]
BILLING CODE 3410–15–M

Nushagak Electric Cooperative, Inc.; Finding of No Significant Impact

AGENCY: Rural Electrification Administration (REA), USDA.

ACTION: Notice of Finding of No Significant Impact.

SUMMARY: Notice is hereby given that REA, pursuant to the National Environmental Policy Act of 1969, the Council on Environmental Quality Regulations (40 CFR Part 1500), and REA Bulletin 20–21:320–21, Environmental

Policies and Procedures, has made a Finding of No Significant Impact (FONSI) with respect to proposed financing assistance to Nushagak Electric Cooperative, Inc. (NEC), of Dillingham, Alaska. The proposed financing assistance is necessary for the installation of a new 2.2 MW diesel electric generator and for construction of related facilities.

FOR FURTHER INFORMATION CONTACT: REA's FONSI and Environmental Assessment (EA) may be reviewed at or obtained from the office of the Director, Western Area—Electric, Room 0207, South Agriculture Building, Washington, D.C. 20250, telephone: (202) 382–8848, or the office of NEC (Mr. David F. Bouker, Manager) Box 197, Dillingham, Alaska 99576, telephone: (907) 842–5251, during regular business hours.

SUPPLEMENTARY INFORMATION: REA has reviewed the Borrower's Environmental Report (BER) submitted by NEC and has determined that it represents an accurate assessment of the environmental impact of the proposed project. The proposed project consists of constructing a new diesel electric generator at the present powerhouse at Dillingham, Alaska.

The BER and EA adequately consider potential impacts of the proposed project to resources including cultural resources, threatened or endangered species or prime farmland, air quality, water quality, floodplains, or wetlands.

A number of alternatives were considered, including no action, installing the new diesel electric generator at a new site, use of alternative forms of energy, energy management and conservation, and purchase of power. After reviewing these alternatives, REA determined that the proposed project is an acceptable alternative since it meets NEC's needs with a minimum adverse environmental impact.

Based upon the BER and other related data, REA prepared an EA and FONSI concerning the proposed construction. REA has independently evaluated the proposed project and has concluded that approval of financing assistance for the project would not constitute a major Federal action significantly affecting the quality of the human environment.

In accordance with REA Bulletin 20–21:320–21, dated January 21, 1980, NEC advertised the availability of its BER in the local newspaper. Comments were solicited and the public was given 30 days to reply. No comments were received.

(This program is listed in the Catalog of Federal Domestic Assistance as 10.850—Rural Electrification Loans and Loan Guarantees)

Dated: February 7, 1984.

Harold V. Hunter,

Administrator.

[FR Doc. 84–3859 Filed 2–10–84; 8:45 am]

BILLING CODE 3410–15–M

DEPARTMENT OF COMMERCE

President's Commission on Industrial Competitiveness; Meeting

AGENCY: Office of Economic Affairs, Commerce.

ACTION: Notice of meeting.

SUMMARY: This notice announces the forthcoming meeting of the Committee on Capital Resources, a subcommittee of the President's Commission on Industrial Competitiveness (Commission). The Commission was established by Executive Order 12428 on June 28, 1983 and its charter was approved on August 23, 1983. The Commission shall review means of increasing the long-term competitiveness of United States industries at home and abroad, with particular emphasis on high technology, and provide appropriate advice to the President through the Cabinet Council on Commerce and Trade and the Department of Commerce.

Time and place: The Committee on Capital Resources (a subcommittee of the Commission) will meet on February 23, 1984 from 8:00 a.m. to 5:00 p.m. at the Vista International Hotel, 1400 M Street NW., Washington, D.C. 20005 in the Sherwood Room.

Public participation: The meeting will be open to public attendance. a limited number of seats will be available for the public on a first-come, first-served basis.

FOR FURTHER INFORMATION CONTACT: J. Paul Royston, President's Commission on Industrial Competitiveness, 736 Jackson Place NW., Washington, DC 20503, telephone: 202–395–4527 on substantive issues or Marilyn McLennan, Chief, Information Management Division, 202–377–4217, on issues regarding administration of the Commission.

SUPPLEMENTARY INFORMATION: The purpose of the meeting is to discuss the cost of capital in the United States (a panel discussion)..

Dated: February 8, 1984.

Egils Milbergs,

Executive Director, President's Commission on Industrial Competitiveness.

[FR Doc. 84–3845 Filed 2–10–84; 8:45 am]

BILLING CODE 3510–18–M

International Trade Administration

Applications for Duty-Free Entry of Scientific Instruments

Pursuant to Section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89–651; 80 Stat. 897; 15 CFR Part 301), we invite comments on the question of whether instruments of equivalent scientific value, for the purposes for which the instruments shown below are intended to be used, are being manufactured in the United States.

Comments must comply with § 301.5(a) (3) and (4) of the regulations and be filed within 20 days with the Statutory Import Programs Staff, U.S. Department of Commerce, Washington, D.C. 20230. Applications may be examined between 8:30 a.m. and 5:00 p.m. in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C.

Docket No.: 84–033. Applicant: University of Arizona, Department of Chemistry, Tucson, AZ 85721. Instrument: UHV Surface Spectrometer. Manufacturer: VG Scientific Ltd., United Kingdom. Intended use: Ongoing research projects which include: (1) Studies of electrode surfaces which find application in photoelectrochemical cells and high energy density batteries, and studies of small molecule and molecular fragment interactions with metal species that are involved in certain catalytic biological processes; and (2) study of "real world" materials such as particulate atmospheric pollutants and ferromanganese sea nodules, clay surfaces and other soil bodies, microelectronic, semiconductor materials, etc. Application received by Commissioner of Customs: December 7, 1983.

Docket No.: 84–024. Applicant: V.A. Medical Center (90), 1601 Perdido Street, New Orleans, LA 70146. Instrument: Electron Microscope, EM 410LS. Manufacturer: Nederlandse (Philips) Bedrijven, The Netherlands. Intended use: Studies of human and animal tissues and cells for diagnostic or research purposes. Education—The product of the instrument (diagnosis and photographs) will be used in all disciplines of medicine. Instrument will also be used for training of residents. Application received by Commissioner of Customs: December 7, 1983.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Stautory Import Programs Staff.

[FR Doc. 84–3815 Fild 2–10–84; 8:45 am]

BILLING CODE 3510–DS–M

SRI International; Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897; 15 CFR 301). Related records can be viewed between 8:30 a.m. and 5:00 p.m. in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C.

Docket No.: 83–329. Applicant: SRI International, Menlo Park, CA 94205. Instrument: Kelvin Probe and Electronics. Manufacturer: Delta-Phi-Electronik, West Germany. Intended use: See notice at 48 FR 51676.

Comments: None received.

Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States.

Reasons: The foreign instrument is capable of measuring the surface work function with an accuracy of 0.1 millivolts. National Bureau of Standards advises in its memorandum dated January 17, 1984 that: (1) The capability of the foreign instrument described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

We know of no other instrument or apparatus of equivalent scientific value to the foreign instrument which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory import Programs Staff.

[FR Doc. 84–3814 Filed 2–10–84; 8:45 am]

BILLING CODE 3510–DS–M

Electronic Instrumentation Technical Advisory Committee; Closed Meeting

Summary: The Electronic Instrumentation Technical Advisory Committee was initially established on October 23, 1973, and rechartered on January 5, 1984, in accordance with the Export Administration Act of 1979 and the Federal Advisory Committee Act.

Time and Place: February 23, 1984, at 9:30 a.m., Herbert C. Hoover Building, Room 3407, 14th Street & Constitution Ave., NW., Washington, DC. The meeting will continue to its conclusion on February 24, in Room B841, Herbert C. Hoover Building.

Agenda: The Committee will meet only in Executive Session to discuss matters properly classified under Executive Order 12356, dealing with the U.S. and COCOM Control program and strategic criteria related thereto.

Supplementary Information: A Notice of Determination to close meetings of the Committee to the public on the basis of 5 U.S.C. 552b(c)(1) was approved on February 6, 1984, in accordance with the Federal Advisory Committee Act. A copy of the Notice is available for public inspection and copying in the Central Reference and Records Inspection Facility, Room 6628, U.S. Department of Commerce, Telephone: 202–377–4217.

This meeting is being called on short notice because of the need to initiate Committee consideration of specific critical technical data, abstracted from the MCTL, for inclusion in the Export Administration Regulations.

For Further Information Contact: Mrs. Margaret A. Cornejo, telephone: (202) 377–2583.

Dated: February 7, 1984.

Milton M. Baltas,

Director of Technical Programs, Office of Export Administration.

[FR Doc. 84–3813 Filed 2–10–84; 8:45 am]

BILLING CODE 3510–DT–M

Export Trade Certificate of Review; TWP Co.

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of Issuance of Export Trade Certificate of Review

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SUMMARY: The Department of Commerce has issued an export trade certificate of review to TWP Co., Inc. (TWP). This notice summarizes the conduct for which certification has been granted.

ADDRESS: The Department requests public comments on this certificate. Interested parties should submit their written comments, original and five (5) copies, to: Office of Export Trading Company Affairs, International Trade Administration, Department of Commerce, Room 5618, Washington, D.C. 20230.

Comments should refer to the certificate as "Export Trade Certificate of Review, application number 83–00030."

FOR FURTHER INFORMATION CONTACT: Charles S. Warner, Director, Office of Export Trading Company Affairs, International Trade Administration, 202/377–5131, or Eleanor Roberts Lewis, Assistant General Counsel for Export Trading Companies, Office of General Counsel, 202/377–0937. These are not toll-free numbers.

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 ("the Act") (Pub. L. No. 97–290) authorizes the Secretary of Commerce to issue export trade certificates of review. The regulations implementing the Act are found at 48 FR 10595–604 (March 11, 1983) (to be codified at 15 CFR Part 325). A certificate of review protects its holder and the members identified in it from private treble damage actions and government criminal and civil suits under federal and state antitrust laws for the export conduct specified in the certificate and carried out during its effective period in compliance with its terms and conditions.

Standards for Certification

Proposed export trade, export trade activities, and methods of operation may be certified if the applicant establishes that such conduct will:

1. Result in neither a substantial lessening of competition or restraint of trade within the United States nor a substantial restraint of the export trade of any competitor of the applicant;

2. Not unreasonably enhance, stabilize, or depress prices within the United States of the goods, wares, merchandise, or services of the class exported by the applicant;

3. Not constitute unfair methods of competition against competitors engaged in the export of goods, wares, merchandise, or services of the class exported by the applicant; and

4. Not include any act that may reasonably be expected to result in the sale for consumption or resale within the Untied States of the goods, wares, merchandise, or services exported by the applicant.

The Secretary will issue a certificate if he determines, and the Attorney General concurs, that the proposed conduct meets these four standards. For a further discussion and analysis of the conduct eligible for certification and of the four certification standards, see "Guidelines for the Issuance of Export Trade Certificates of Review," 48 FR 15937–40 (April 13, 1983).

Description of Certified Conduct

The Office of Export Trading Company Affairs received an application for an export trade certificate of review from TWP on November 14, 1983. The application was deemed submitted on November 18, 1983. A summary of the application was published in the **Federal Register** on November 30, 1983 (48 FR 54068). Based on analysis of the information contained in the application and other information in their possession, the Department of Commerce has determined, and the Department of Justice concurs, that the following export trade, export trade activities, and methods of operation specified by USEX meet the four standards of the Act:

Export Trade

Products

Rice, corn, flour, soybean oil, refined granulated sugar, foodstuffs, pharmaceuticals (analgesics, antibiotics, dermatologicals, diagnostics, ophthalmologicals, tranquilizers, vitamins), newsprint and stationery, automobile tires, aircraft spare parts, floor and ceiling tiles and computer software and hardware.

Export Markets

The Export Markets include all parts of the world (particularly Africa) except the United States (the fifty states of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands).

Export Trade Activities and Methods of Operation

To engage in the Export Trade in the Export Markets, TWP may:

(a) Enter into any number of nonexclusive agreements with individual buyers in the Export Markets, or with individual Suppliers to act as a Sales Representative or Broker.

(b) Enter into agreements with individual Suppliers wherein:

(1) TWP agrees to serve as the exclusive Sales Representative and, in addition, may agree not to represent any competitors of such Supplier unless authorized by the Supplier; or

(2) The Supplier agrees not to sell, directly or indirectly through any other intermediary, into the Export Markets in which TWP exclusively represents the Supplier; or

(3) Both (1) and (2) above.

(c) Enter into exclusive agreements with persons in the Export Markets (including distributors and sales or marketing agents), wherein TWP agrees to pay competitive commissions or other compensation, and wherein (1) TWP agrees to deal in Products in the Export Markets only through that person, or (2) that person agrees not to represent TWP's competitors in the Export Markets or not to buy from TWP's competitors, or both (1) and (2).

(d) Establish prices and quantities of Products to be sold in the Export Markets, for TWP's own account or on behalf of an individual Supplier.

(e) Enter into exclusive or nonexclusive agreements with an individual buyer in the Export Markets to act as a Purchasing Agent with respect to a particular transaction.

(f) Upon receiving a request from a buyer in the Export Markets for the price of a particular Product, TWP may ask one or more U.S. Suppliers individually to supply a price quotation to TWP for that Product, add its own mark-up to the U.S. Supplier's price, and transmit a price quotation to the buyer. Upon placement of an order by a Buyer, TWP may purchase Products and ship to the Buyer.

(g) As TWP becomes aware of invitations to bid or other sales opportunities in the Export Market, TWP may contact individual U.S. Suppliers of the various or similar Products specified in the invitation to bid or purchase specifications, invite the Suppliers to supply independent quotations to TWP for the Products, and enter into independent, individual agreements with Suppliers whereby TWP will submit a response to the bid invitation or request for quotation.

The Office of Exporting Trading Company Affairs is issuing this notice pursuant to 15 CFR 325.5(c), which requires the Department of Commerce to publish a summary of a certificate in the **Federal Register**. Under Section 305(a) of the Act and 15 CFR 325.10(a), any person aggrieved by the Secretary's determination may, within 30 days of the date of this notice, bring an action in any appropriate district court of the United States to set aside the determination on the ground that the determination is erroneous.

A copy of each certificate will be kept in the International Trade Administration's Freedom of Information Records Inspection Facility, Room 4001–B, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, D.C. 20230. The certificates may be inspected and copied in accordance with regulations published in 15 CFR Part. 4. Information inspection and copying of records at this facility may be obtained from Patricia L. Mann, the International Trade Administration Freedom of Information Officer, at the above address or by calling (202) 377–3031.

Dated: February 8, 1984.

Irving P. Margulies,

Acting General Counsel.

[FR Doc. 84–3882 Filed 2–10–84; 8:45 am]

BILLING CODE 3510–DR–M

National Technical Information Service

Government-Owned Inventions; Availability for Licensing

The inventions listed below are owned by agencies of the U.S. Government and are available for licensing in the U.S. in accordance with 35 U.S.C. 207 to achieve expeditious commercialization of results of federally funded research and development. Foreign patents are filed on selected inventions to extend market coverage for U.S. companies and may also be available for licensing.

Technical and licensing information on specific inventions may be obtained by writing to: Office of Government Inventions and Patents, U.S. Department of Commerce, P.O. Box 1423, Springfield, Virginia 22151.

Please cite the number and title of inventions of interest.

Douglas J. Campion,

Patent Licensing, Office of Government Inventions and Patents, National Technical Information Service, U.S. Department of Commerce.

Administration of Veterans Affairs

SN 6–288,197 (4,422,515)
Motorized Wheel Chair

Department of Agriculture

SN 6–248,371 (4,417,839)
Automatic Hatchery Tray Dumper

SN 6–251,667 (4,421,682)
Heating of Proteinaceous Liquids

SN 6–352,426 (4,420,369)
Process for the Decolorization of Pulp Mill Bleach Plant Effluent

SN 6–356,864 (4,419,120)
Control of Prickly Sida, Velvetleaf, and Spurred Anoda with Fungal Pathogens

SN 6–356,865 (4,424,059)
Process and Compositions for Preserving Fresh Hides and Skins

SN 6–380,375 (4,418,647)
Artificial Host Egg for Rearing Trichogramma

SN 6–385,172 (4,421,775)
Method for Removing the Outer Waxy Cutin-Containing Layer from Papaya

SN 6–426,439 (4,418,064)

Chemotherapeutically Active Maytansinoids: Treflorine, Trenudine, and N-Methyltrenudone
SN 6–519,783
Wood Beam
SN 6–546,220
Moncolonal Antibodies to Porcine Immunoglobulins
SN 6–555,749
Multi-Phase Agricultural Herbicide Granule Method

Department of Health & Human Services

SN 6–209,305 (4,421,986)
Nuclear Pulse Discriminator
SN 6–221,565 (4,419,446)
Recombinant DNA Process Utilizing A Papilloma Virus DNA as a Vector
SN 6–329,869 (4,421,913)
Separation of Triphenylphosphine Oxide from Methotrexate Ester and Purification of Said Ester
SN 6–563,369
Hepatitis B Core Antigen Vaccine
SN 6–564,515
A Short Total Synthesis of Morphinan Compounds Which Uses Cyclization of A cycloalkylcarbonyl Compound Selected from Cyclopropylcarbonyl and Cyclobutylcarbonyl
SN 6–817,016 (4,419,089)
Blood Cell Separator

Department of the Air Force

SN 6–256,362 (4,409,661)
Aimpoint Selection Processor
SN 6–270,051 (4,411,715)
Method of Enhancing Rotor Bore Cyclic Life
SN 6–286,819 (4,409,899)
Acoustic Amplitude-Doppler Target Ranging System
SN 6–286,820 (4,408,533)
Acoustic Amplitude-Threshold Target Ranging System
SN 6–293,780 (4,410,293)
Mechanical Preload Nut Assembly
SN 6–339,260 (4,408,833)
Hot Pressed and Diffusion Bonded Laser Mirror Heat Exchanger
SN 6–343,031 (4,409,587)
Altimeter Code Converter
SN 6–343,034 (4,411,022)
Integrated Circuit Mixer Apparatus
SN 6–356,574 (4,409,423)
Hole Matrix Vertical Junction Solar Cell
SN 6–357,444 (4,408,481)
Pore Pressure Probe Assembly and Two-Stage Emplacement Thereof
SN 6–361,020 (4,408,464)
Dewar Cooling Chamber For Semiconductor Platelets
SN 6–393,170 (4,410,376)
Bonding Agent for Polyurethanes
SN 6–463,190 (4,411,717)
Solid Rocket Propellants Comprising Guignet's Green Pigment

Department of the Army

SN 6–533,611
Millimeter Wave Dielectric Resonator and Method of Making
SN 6–544,764
Evanescent Resonator Frequency Multiplier
SN 6–550,853
Code Generator for Multilevel Interleaved Multiplexed Noise Codes
SN 6–551,431
Multilevel Mate Pair Code Compressor for Codes Expanded by the Process of Butting
SN 6–555,774
Code Compressor for Multilevel Interleaved Multiplexed Noise Codes
SN 6–556,661
Pseudo-Random Convolutional Interleaving
SN 6–557,014
Dual Space Fed Parallel Plate Lens Antenna Beamforming System
SN 6–558,000
Wide Field of View Remote Laser Position Sensor
SN 6–559,546
Method of Making Miniature High Frequency SC—Cut Quartz Crystal Resonators
SN 6–564,619
Detonation Products Catcher
SN 6–565,806
Multichannel Time Division Multiplexed Trunk Transmission Link
SN 6–566,622
Optical Communications Systems
SN 6–566,767
Time Division Multiple Access Communications System

Department of the Interior

SN 6–435,535 (4,423,011)
Selective Recovery of Base Metals and Precious Metals from Ores

[FR Doc. 84–3837 Filed 2–10–84; 8:45 am]

BILLING CODE 3510–04–M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Announcing Additional New Categories of Rubber and Plastic Wearing Apparel in Chief Weight of Cotton, Wool or Man-Made Fiber and Soliciting Public Comment

February 8, 1984.

On December 30, 1983 (48 FR 57584) the Committee for the Implementation of Textile Agreements announced that effective January 1, 1984 new categories were being created to provide for coverage of rubber or plastic coats and jackets containing 50 percent or more by weight of cotton or man-made fibers in T.S.U.S.A. numbers 772.3015, 772.3020, 772.3025 and 772.3030. These new categories are 355 (men's and boys' coats and Jackets or rubber or plastics containing cotton), 356 (women's, girls' and infants' coats and jackets of rubber or plastics containing cotton), 655 (men's and boys' coats and jackets of rubber or plastics containing man-made fiber) and 656 (women's, girls' and infants' coats and jackets or rubber or plastic containing man-made fiber). The new categories are exempted from quota and visa requirements until September 1, 1984.

The purpose of this notice is to announce the creation of three additional categories for other rubber or plastic apparel products in T.S.U.S.A. 722.30. The additional categories are: costs and jackets of rubber or plastic containing 17 percent or more by weight of wool in T.S.U.S.A. number 722.3032 (Textile Category 455), other apparel of rubber or plastic containing 50 percent or more by weight of cotton in T.S.U.S.A. number 772.3035 (Textile Category 371) and other apparel of rubber or plastic containing 50 percent or more by weight or man-made fibers or 17 percent or more by weight of wool in T.S.U.S.A. number 772.3040 (Textile Category 671). Textile Categories 455, 371 and 671 will be exempted from quota and visa requirements until September 1, 1984.

I the letter published below, the Chairman of the Committee for the Implementation of Textile Agreements dircts the Commissioner of Customs to exempt products classified in Categories 445, 371 and 671 from quota levels and visa requirements until September 1, 1984.

Any party wishing to comment or provide data or information regarding these products, or to comment on domestic production or availability of these products, is invited to send such comments or information in ten copies to Mr. Walter C. Lenahan, Chairman, the Committee for the Implementation of Textile Agreements, International Trade Administration, U.S. Department of Commerce, Room 3001, Washington, D.C. 20230. Comments should be submitted promptly. Comments or information submitted in response to this notice will be available for public inspection in the Office of Textiles and Apparel, Room 3001, U.S. Department of Commerce, 14th and Constitution Avenues, NW., Washington, D.C. 20230. Further comment may be invited regarding particular comments or information received from the public which the Committee for the Implementation of Textile Agreements

considers appropriate for further consideration.

The solicitation of comments regarding any aspect of the agreement or the implementation thereof is not a waiver in any respect of the exemption contained in 5 U.S.C. 553(a)(1) relating to matters which constitute "a foreign affairs function of the United States."

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

February 8, 1984.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, D.C.

Dear Mr. Commissioner: To facilitate implementation of the U.S. textile import restraint program, it would be appreciated if, effective on January 1, 1984 and until September 1, 1984, you exempt from the quota levels and export visa requirements coats and jackets of rubber or plastic, containing 17 percent or more by weight of wool (T.S.U.S.A. number 772.3032, Textile Category 455), other apparel products of rubber or plastic containing 50 percent or more by weight of cotton (T.S.U.S.A. number 772.3035, Textile Category 371) and other apparel products of rubber or plastic containing 50 percent or more by weight or man-made fiber or 17 percent or more by weight of wool (T.S.U.S.A. number 772.3040, Textile Category 671) from all countries, regardless of the date of export.

This letter will be published in the **Federal Register.**

Sincerely,

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 84-3935 Filed 2-10-84; 8:45 am]

BILLING CODE 3510-DR-M

Import Restraint Levels for Certain Cotton, Wool and Man-Made Fiber Textile Products From the Republic of Korea, Effective on January 1, 1984; Correction

February 8, 1984.

On December 16, 1983 a notice was published in the **Federal Register** (48 FR 55894) which established import restraint levels for certain cotton, wool and man-made fiber textiles and textile products, produced or manufactured in the Republic of Korea and exported during 1984. Footnote 5 in the letter to the Commissioner of Customs, which followed that notice, omitted T.S.U.S.A. number 348.0565. The footnote should have read as follows:

[5] In Category 669, only TSUSA numbers 348.0065, 348.0075, 348.0565, and 348.0575.

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 84-3934 Filed 2-10-84; 8:45 am]

BILLING CODE 3510-DR-M

Request for Public Comment on Bilateral Textile Consultations With the Government of India To Review Trade in Categories 334 (Men's and Boys' Cotton Coats), 445 and 446 (Wool Sweaters)

February 8, 1984.

On January 28, 1984, the Government of the United States requested consultations with the Government of India with respect to Categories 334, 445, and 446. This request was made on the basis of Paragraph 16 of the Agreement between the Governments of the United States and India relating to trade in Cotton, Wool and Man-Made Fiber Textiles and Textile Products of December 21, 1982. Paragraph 16 provides for consultations when the orderly development of trade between the two countries may be impeded by imports due to market disruption, or the threat thereof.

The purpose of this notice is to advise the public that if no solution is agreed upon in consultations between the two governments, CITA, pursuant to paragraph 16 of the Agreement, may establish the following prorated specific limits for the entry and withdrawal from warehouse for consumption of cotton and wool textile products in Categories 334, 445 and 446, produced or manufactured in India and exported to the United States during the period beginning on January 28, 1984 and extending through December 31, 1984:

Category	Prorated 12-mo. levels [1]
334	26,366 dozen.
445	10,173 dozen.
446	18,747 dozen.

[1] January 28, 1984–December 31, 1984.

The Government of the United States has decided, pending a mutually satisfactory solution, to control imports in these categories during the 90-day consultation period which began on January 28, 1984 and extends through April 26, 1984 at the following levels:

Category	90-day levels
334	6,303 dozen.
445	3,627 dozen.
446	5,563 dozen.

[1] January 28, 1984–April 26, 1984.

The United States remains committed to finding a solution concerning these categories. Should such a solution be reached in consultations with the Government of India, further notice will be published in the **Federal Register.**

In the event the levels established for Cateories 334, 445 and 446 during the ninety-day period are exceeded, such excess amounts, if they are allowed to enter at the end of the restraint period, shall be charged to the prorated twelve-month levels described above.

Summary market statements for each of these categories follow this notice.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924) and December 14, 1983 (48 FR 55607), and December 30, 1983 (48 FR 57584).

Effective Date: February 14, 1984.

Any party wishing to comment or provide data or information regarding the treatment of Categories 334, 445 and 446 under the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement with the Government of India, or on any other aspect thereof, or to comment on domestic production or availability of textile products included in these categories, is invited to submit such comments or information in ten copies to Walter C. Lenahan, Chairman, Committee for the Implementation of Textile Agreements, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230. Since the exact timing of the consultations is not yet certain, comments should be submitted promptly. Comments or information submitted in response to this notice will be available for public inspection in the Office of Textiles and Apparel, Room 3100, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230, and may be obtained upon written request.

Further comment may be invited regarding particular comments or information received from the public which the Committee for the Implementation of Textile Agreements considers appropriate for further consideration.

The solicitation of comments regarding any aspect of the agreement or the implementation thereof is not a waiver in any respect of the exemption contained in 5 U.S.C. 553(a)(1) relating to matters which constitute "a foreign affairs functions of the United States."

Supplementary Information: On December 16, 1983 a letter was published in the **Federal Register** (48 FR

55891) to the Commissioner of Customs from the Chairman of the Committee for the Implementation of Textile Agreements which established levels of restraint for certain categories of cotton, wool and man-made fiber textiles and textile products, produced or manufactured in India and exported during the twelve-month period which began on January 1, 1984. In the letter published below, pursuant to the terms of the bilateral agreement, the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs, pending agreement on a different solution, to prohibit entry for consumption or withdrawal from warehouse for consumption of cotton and wool textile products in Categories 334, 445 and 446, exported during the indicated ninety-day period, in excess of the designated levels of restraint.

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

India—Market Statement

Category 334—Men's and Boys' Cotton Coats, Other

January 1984.

U.S. imports of Category 334 from India were 26,666 dozen during the January–November 1983 period, up 121.4 percent from the 12,042 dozen imported a year earlier. This eleven-month 1983 level far exceeds the 1981 calendar year imports of 5,847 dozen and is more than twice the 1982 level. This is a sharp and substantial increase of imports in a sector already adversely affected by imports.

Domestic production of Category 334 declined from 903,000 dozen in 1981 to 809,000 dozen in 1982. Imports also declined, dropping from 1,016,000 dozen in 1981 to 925,000 dozen in 1982. However, imports for the first eleven months of 1983 were 1,057,000 dozen which was higher than any previous calendar year. The January–November imports were up 23.2 percent from a year earlier. The imports of Category 334 exceeded domestic production by 12.5 percent in 1981 and 14.3 percent 1982. The excess in 1983 probably ranged from 30 to 40 percent.

Category 445/446—Wool Sweaters

U.S. imports of Category 445/446 from India were 33,029 dozen during January–November 1983, up 384.6 percent from the 6,816 dozen imported a year earlier Thirty-two percent of India's January–November imports were in Categroy 445, men's and boys' wool sweaters; and 68 percent were in Category 446, women's, girls', and infants' wool sweaters. This sharp and substantial increase of imports in in a sector already damaged by imports. These imports from India are imported at duty-paid values below the U.S. producer prices for comparable sweaters.

The ratio of imports to domestic production increased from 150.8 percent in 1981 to 157.4 percent in 1982. The 1983 ratio, based on the substantial increase in 1983 imports, will be higher.

February 8, 1984.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, D.C.

Dear Mr. Commissioner: This directive amends, but does not cancel, the directive of December 13, 1983 from the Chairman of the Committee for the Implementation of Textile Agreements which directed you to prohibit entry of certain cotton, wool, and man-made fiber textiles and textile products, produced or manufactured in India and exported during 1984.

Effective on February 14, 1984, paragraph one of the directive of December 13, 1983 is hereby amended to include the following limits for cotton and wool textile products in Categories 334, 445, and 446, produced or manufactured in India and exported during the ninety-day period which began on January 28, 1984 and extends through April 26, 1984:

Category	90-day level of restraint [1]
334	8,303 dozen.
445	3,627 dozen.
446	6,683 dozen.

[1] The levels have not been adjusted to reflect any imports exported after January 27, 1984.

Textile products in Categories 334, 445 and 446 which have been exported to the United States before January 28, 1984 shall not be subject to this directive.

Textile products in Categories 334, 445 and 446 which have been released from the custody of the U.S. Customs Service under the provisions of 19 U.S.C. 1448(b) or 1484(a)(1)(A) prior to the effective date of this directive shall not be denied entry under this directive.

The action taken with respect to the Government of India and with respect to imports of cotton and wool textile products from India have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, these directions to the Commissioner of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 533. This letter will be published in the **Federal Register**.

Sincerely,

Walter C. Lenahan,
Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 84-3936 Filed 2-9-84; 1:10 pm]
BILLING CODE 3510-DR-M

CONGRESSIONAL PANEL ON SOCIAL SECURITY ORGANIZATION

Congressional Panel on Social Security Organization; Meeting

AGENCY: Congressional Panel on Social Security Organization.

ACTION: Notice of meeting.

SUMMARY: Notice is hereby given of public meetings of the Congressional Panel on Social Security Organization (hereafter referred to as the "Panel") to which experts on government management, operations, and organization have been invited to meet with the Panel and to provide information and advise. The Panel was established under the authority of the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate in accordance with section 338 of Pub. L. 98–21, April 20, 1983. The Panel's mandate directs it to study the issues of establishing an independent social security agency and to make recommendations on how best to set up such an agency.

DATES/ADDRESSES: The meetings will be held as follows:

Date	Time	Place
Feb. 17	9:00a.m.–5:00 p.m.	Senate Finance Committee, Room 215, Dirksen Senate Office Building.
Feb. 23	3:00a.m.–5:00 p.m.	From Feb. 23 to Mar. 29 the meetings will be held in the Ways and Means Committee, Room 1129 of the Longworth House Office Building.
Feb. 24	9:00a.m.–5:00 p.m.	Do.
Mar. 16	9:00a.m.–5:00 p.m.	Do.
Mar. 29	2:00a.m.–5:00 p.m.	Do.

FOR FURTHER INFORMATION CONTACT: P. Royal Shipp, Executive Director, Congressional Panel on Social Security Organization, 200 Independence Avenue SW., Washington, D.C. 20201; telephone 202/472–3104.

SUPPLEMENTARY INFORMATION: The meeting is open to the public. Attendance will be limited to the space available.

Members of the Panel include the Honorable Elmer Staats, Chairman, and Dr. Martha Derthick and the Honorable Arthur E. Hess. They are charged with the task of conducting an implementation study for an independent social security agency. The Panel is inviting a variety of expert witnesses to appear at a series of public meetings to assist them in their efforts.

Records will be kept of the above meetings and will be available for review upon request made to the Administrative Officer, Congressional Panel on Social Security Administration, 200 Independence Avenue, SW.,

Washington D.C. 20201; telephone 202/472–3104.

P. Royal Shipp,

Executive Director.

[FR Doc. 84–3836 Filed 2–10–84; 8:45 am]

BILLING CODE 1465–01–M

DEPARTMENT OF DEFENSE

Defense Communications Agency

Scientific Advisory Group; Closed Meeting

The DCA Scientific Advisory Group will hold closed meetings on 12 and 13 March 1984 at the Defense Communications Agency, Director's Management Information Center, at Headquarters, Defense Communications Agency, 8th Street and South Courthouse Road, Arlington, Va.

The subject of the meeting will be WWMCCS Information Systems, DSN, Future DCS Applied Technology and issues affecting DCA's organization, roles and missions.

Any person desiring information about the Advisory Group may telephone (Area Code 202–692–2888) or write Deputy Director, Planning and Systems Integration, Headquarters, Defense Communications Agency, 8th Street and South Courthouse Road, Arlington, Va. 22204.

These meetings are closed because the material to be discussed is classified requiring protection in the interest of National Defense. (5 U.S.C. 552b(c)(1)).

David R. Israel,

Deputy Director, Planning and Systems Integration.

[FR Doc. 84–3796 Filed 2–10–84; 8:45 am]

BILLING CODE 3810–85–M

Department of the Air Force

USAF Scientific Advisory Board; Meeting

February 6, 1984.

The USAF Scientific Advisory Board Tactical and Strategic Cross-Matrix Panels will meet at Hickam AFB, HI on April 16–19, 1984.

The purpose of the meeting will be to receive briefings on PACAF missions, weapons, threats, and manpower requirements. The meetings will convene at 8:00 a.m. to 5:00 p.m. each day.

The meeting concerns matters listed in section 552b(c) of Title 5, United States Code, specifically subparagraph (1) thereof, and accordingly, will be closed to the public.

For further information, contact the Scientific Advisory Board Secretariat at 202–697–8845.

Winnibel F. Holmes,

Air Force Federal Register Liaison Officer.

[FR Doc. 84–3842 Filed 2–10–84; 8:45 am]

BILLING CODE 3910–01–M

DEPARTMENT OF EDUCATION

National Board of the Fund for the Improvement of Postsecondary Education; Meeting

AGENCY: National Board of the Fund for the Improvement of Postsecondary Education; Meeting.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the proposed agenda of a forthcoming meeting of the National Board of the Fund for the Improvement of Postsecondary Education. This notice also describes the functions of the Board. Notice of this meeting is required under the Federal Advisory Committee Act (Pub. L. 92–643, Section 10(a)(2).

DATE: March 8, 1984 at 5:30 p.m. through March 9, 1984 at 9:30 p.m.

ADDRESS: Quality Inn/Embassy Suites, 2000 N Street NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Sven Groennings, Director, Fund for the Improvement of Postsecondary Education, 7th & D Streets SW., Washington, D.C. 20202 (202–245–8091).

SUPPLEMENTARY INFORMATION: The National Board of the Fund for the Improvement of Postsecondary Education is established under Section 1003 of the Higher Education Amendments of 1980, Title X (20 U.S.C. 1135a–1). The National Board of the Fund is established to "advise the Secretary and the Director of the Fund for the Improvement of Postsecondary Education on priorities for the improvement of postsecondary education . . . and on the selection of projects under consideration for support by the Fund in its competitions."

The meeting of the National Board will be open to the public. The proposed agenda include:

—A discussion on the portfolio of preliminary proposals received under the Comprehensive Program;
—Preparation for the final stage of the Comprehensive Program;
—A discussion on the two smaller grant competitions: Mina Shaughnessy Scholars Program and Final Year Dissemination.

Records shall be kept of all Board proceedings, and shall be available for public inspection at the Fund for the Improvement of Postsecondary Education, 7th and D Streets SW., Room 3100, Washington, D.C. 20202 from the hours of 8:00 a.m. to 4:30 p.m. weekdays, except Federal Holidays.

Dated: February 3, 1984

Edward M. Elmendorf,

Assistant Secretary for Postsecondary Education.

[FR Doc. 84–3850 Filed 2–10–84; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

Proposed Remedial Order; General Atlantic Petroleum, Inc. and Gerald S. Klotz

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of Proposed Remedial Order to General Atlantic Petroleum, Inc. and Gerald S. Klotz.

SUMMARY: Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby gives Notice of a Proposed Remedial Order which was issued to General Atlantic Petroleum, Inc. (General Atlantic) and Gerald S. Klotz, 727 Bunkerhill, Houston, Texas 77024. This Proposed Remedial Order alleges that General Atlantic and Gerald S. Klotz charged prices in excess of their actual purchases prices in violation of §§ 212.86, 210.62(c) and 205.202 during the period March through December 1980 in the amount of $1,195,259.66. The Proposed Remedial Order also alleges violations in the pricing of crude oil of § 212.183 during the period March through December 1980 in the amount of $296,141.37.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from: U.S. Department of Energy, Economic Regulatory Administration, ATTN: Sandra K. Webb, Director, One Allen Center, Suite 610, 500 Dallas Street, Houston, Texas 77002.

Within fifteen (15) days of publication of this Notice any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, U.S. Department of Energy, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585, in Accordance with 10 CFR 205.193.

Issued in Houston, Texas, on the 26th day of January 1984.

Sandra K. Webb,

Director, Houston Office, Economic Regulatory Administration.

[FR Doc. 84-3775 Filed 2-10-84; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket No. CP84-205-000]

ANR Pipeline Company; Request Under Blanket Authorization

February 6, 1984.

Take notice that on January 23, 1984, ANR Pipeline Company (ANR), 500 Renaissance Center, Detroit, Michigan 48243, filed in Docket No. CP84-205-000 a request, as supplemented January 26, 1984, pursuant to § 157.209 of the Regulations under the Natural Gas Act (18 CFR 157.209) that ANR proposes to transport natural gas for ARMCO INC. (ARMCO) under the authorization issued in Docket No. CP82-480-000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

ANR proposes to transport up to 42,000 dt equivalent of natural gas per day on an interruptible basis on behalf of ARMCO for an initial term ending not later than June 30, 1985. ANR states that ARMCO has entered into a gas purchase contract with ANR Production Company (Production Company) for the purchase of up to 15,330,000 dt equivalent of natural gas per year. ANR further states it would receive the natural gas at either the interconnections of the pipeline systems of ANR and Production Company in Roger Mills County, Oklahoma, or Production Company would cause Producers Gas Company (Producers) to tender the gas to ANR for ARMCO's account at the existing interconnection of the pipeline systems of ANR and Producers in Caddo County, Oklahoma. ANR would then transport and deliver equivalent volumes to Texas Gas Transmission Company (Texas Gas) for ARMCO's account at the existing interconnection of the pipeline systems of ANR and Texas Gas in Webster County, Kentucky. ANR indicates that Texas Gas would provide additional transportation services for ARMCO for ultimate use at ARMCO's Middletown, Ohio, plant.

ANR proposes to charge ARMCO a transportation rate of 44.3 cents per dt for gas received from Production Company or Producers in Oklahoma and transported and delivered to Texas Gas for ARMCO's account. ANR states such rate is based upon existing rate schedules of FERC Gas Tariff, Revised Volume No. 2 (X-76). ANR further states the proposed rate of 44.3 cents per dt is derived on the basis of a transportation haul of 975.1 miles times 2.88 cents per Mcf per 100 miles for a transportation cost of 28.1 cents plus fuel of 16.2 cents.

ANR indicates that the gas would be used at ARMCO's steel plant at Middletown, Ohio, primarily for boiler and furnace use. ANR also indicates that no intermediary participated in the transaction between Production Company and ARMCO.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-3780 Filed 2-10-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-232-000]

Arizona Public Service Company; Filing

February 8, 1984.

The filing Company submits the following:

Take notice that on January 30, 1984, Arizona Public Service Company (Arizona) tendered for filing as an initial rate schedule an Agreement for Economy Energy Interchange between the City of Pasadena (Pasadena) and Arizona dated January 10, 1984.

Arizona requests that the Agreement become effective 60 days from the date of filing.

A copy of this filing has been served upon Pasadena and the Arizona Corporation Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before February 24, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-3781 Filed 2-10-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-234-000]

Arizona Public Service Company; Filing

February 8, 1984.

The filing Company submits the following:

Take notice that on January 30, 1984, Arizona Public Service Company (Arizona) tendered for filing Amendment No. 4, executed December 8, 1983, to the Interruptible Transmission Service Agreement between Department of Water and Power of the City of Los Angeles (Los Angeles) and Arizona. Arizona states that this Amendment proposes to update the rates to be charged for interruptible transmission service.

Arizona requests an effective date of November 1, 1983, and therefore requests waiver of the Commission's notice requirements.

Copies of this filing were served upon Los Angeles and the Arizona Corporation Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before February 24, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file

with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-3782 Filed 2-10-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-228-000]

Carolina Power & Light Company; Filing

February 8, 1984.

The filing Company submits the following:

Take notice that on January 30, 1984, Carolina Power & Light Company (CP&L) tendered for filing amendments to the Exhibits and Section shown below of the Power Coordination Agreement (PCA) between the Company and the North Carolina Eastern Municipal Power Agency (NCEMPA).

Exhibit PCA–I–6
Exhibit PCA–I–61
Exhibit PCA–I–23B
Exhibits PCA–I–35A and PCA–I–35B
Exhibit PCA–X–1
Exhibit PCA–XIII–1
Section 4.2(A)

CP&L states that the amendments to all Exhibits, except PCA–XIII–1, are minor changes to correct typographical errors that occurred during preparation of the PCA. The amendment to PCA–XIII–1 allows additional time for the NCEMPA to respond to estimates in metered data. The amendment to Section 4.2(A) is necessary in order to reflect changes made in the delivery of capacity and energy from Southeastern Power Administration.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before February 23, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-3783 Filed 2-10-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-230-000]

Connecticut Light and Power Company; Filing

February 8, 1984.

The filing Company submits the following:

Take notice that on January 30, 1984, Connecticut Light and Power Company (CL&P) tendered for filing as an initial rate schedule an agreement (the Agreement) between CL&P, Western Massachusetts Electric Company (WMECO, and together with CL&P, the NU Companies) and New England Power Company (NEPCO). The Agreement, dated as of September 16, 1983, provides for the sale by the NU Companies of system energy from their systems ("system energy") or for the NU Companies to sell system energy in exchange for an entitlement in capacity from NEPCO's system that may be available on a daily or weekly basis (a transaction). CL&P states that the timing of transactions cannot be accurately estimated but that the NU Companies would offer to sell such system energy to NEPCO only when it was economical to do so. NEPCO would only accept such offer if it was economical to do so.

CL&P states that NEPCO will pay an energy reservation charge to the NU Companies for each transaction in an amount equal to the megawatthours of system energy reserved for NEPCO by the NU Companies during a transaction multiplied by an energy reservation charge rate negotiated prior to each transaction. NEPCO will pay any energy charge for each transaction in an amount equal to the megawatthours delivered by the NU Companies during such transaction times an energy charge rate. The energy charge rate is the weighted average forecasted energy charge rate for the generating unit(s) which the NU Companies determine to be available to provide such energy at the time of a transaction.

CL&P requests an effective date of September 16, 1983, and therefore requests waiver of the Commission's notice requirements.

Copies of this filing have been mailed to WMECO and NEPCO.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before February 24, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-3785 Filed 2-10-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-229-000]

Connecticut Light and Power Company; Filing

February 8, 1984.

The filing Company submits the following:

Take notice that on January 30, 1984, Connecticut Light and Power (CL&P) tendered for filing a proposed rate schedule with respect to a Transmission Agreement dated September 12, 1983 between: (1) CL&P and Western Massachusetts Electric Company (WMECO and together with CL&P, the NU Companies); and (2) New England Power Company (NEPCO).

CL&P states that the Transmission Agreement provides for transmission services to NEPCO for the wheeling of their purchases from United Illuminating (UI) of an entitlement in UI system power during the period from September 12, 1983 to October 31, 1984.

The transmission charge rate is a weekly rate equal to one-fifty-second of the estimated annual average cost of transmission service on the electric transmission system of the NU Companies determined in accordance with Appendix A and Exhibits I, II and III thereto, of the Transmission Agreement. The weekly transmission charge is determined by the product of: (i) The transmission charge rate ($/kW–233k); and (ii) the number of kilowatts NEPCO is entitled to receive during such week. The weekly transmission charge is reduced by up to 50% to give due recognition for payments made by NEPCO to UI for providing transmission service, with regard to NEPCO's purchase from UI.

CL&P requests an effective date of September 12, 1984, and therefore requests waiver of the Commission's notice requirements.

Copies of this filing were served upon WMECO and NEPCO (Westboro, Massachusetts).

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825

North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before February 17, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-3786 Filed 2-10-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-231-000]

Connecticut Light and Power Company; Filing

February 8, 1984.

The filing Company submits the following:

Take notice that on January 30, 1984, Connecticut Light and Power Company (CL&P) tendered for filing a proposed rate schedule pertaining to a Northfield Mountain Purchase Agreement between the Connecticut Light and Power Company, Western Massachusetts Electric Company (WMECO, and together with CL&P, the NU Companies) and the Massachusetts Municipal Wholesale Electric Company (MMWEC) dated as of June 13, 1983.

CL&P states that the Purchase Agreement provides for a sale to MMWEC, on a weekly basis, of a percentage of capacity and related pondage from the NU Companies' Northfield Mountain Pumped Storage Hydro Electric Project (Project) together with related transmission service commencing June 13, 1983 and terminating upon four weeks written notice by any of the parties.

CL&P states that the capacity charge rate for the Project is a rate determined on a cost-of-service basis for the entire Project. The weekly transmission charge is equal to one-fifty-second of the average annual cost of transmission service on the transmission systems of the NU Companies and their affiliated companies determined in accordance with Schedule B to the Purchase Agreement, multiplied by the number of kilowatts of winter capability which MMWEC is entitled to receive during each week. The station service charge is equal to the average cost of oil-fired generation on the system of the NU Companies for the prior month, multiplied by MMWEC's share of the Project's station service energy requirement.

CL&P further states that except for the weekly nature of transactions, services to be provided under the Purchase Agreement are the same as services provided by the NU Companies relating to a sale of capacity from the Project to the Braintree Electric Department pursuant to a rate schedule dated as of May, 1982. (Rate Schedule FERC Nos. CL&P 272 and WMECO 206).

CL&P requests an effective date of July 5, 1983, and therefore requests waiver of the Commission's notice requirements.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capital Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before February 24, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-3787 Filed 2-10-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. CP76-37-007 and CP77-408-012]

El Paso Natural Gas Co.; Petition To Amend

February 8, 1984.

Take notice that on January 5, 1984, El Paso Natural Gas Company (Petitioner), Post Office Box 1492, El Paso, Texas 79978, filed in Docket Nos. CP76-37-007 and CP77-408-012 a petition pursuant to Section 7(c) of the Natural Gas Act to amend the orders issued December 3, 1975,[1] as amended, and August 29, 1977,[1] as amended, in Docket Nos. CP76-37 and CP77-408, respectively, so as to authorize Petitioner to transport for Southwest Gas Corporation (Southwest) certain quantities of gas pursuant to the certificated arrangements in Docket No. CP76-37 in lieu of the certificated arrangements in Docket No. CP77-408, all as more fully set forth in the petition to amend on file with the Commission and open to public inspection.

Petitioner's Rate Schedule T-4, it is stated, provides for Southwest to pay a demand charge equal to the product of 95 percent of the contract quantity times the current rate, regardless of whether any volumes are transported. Petitioner asserts that Southwest has advised Petitioner that Southwest does not anticipate having available for transportation the entire contract quantity. The proposed arrangement, it is stated, would allow Southwest to make full use of the contract quantity on which the demand charge is levied.

It is explained that under the provisions of a letter agreement dated August 17, 1982, Petitioner would receive for transportation and delivery under its Rate Schedule T-4 (Docket No. CP76-37) certain quantities of natural gas purchased by Southwest in the San Juan Basin production area. These quantities of natural gas are presently being transported and delivered under Petitioner's Rate Schedule T-8 (Docket No. CP77-408), it is submitted.

Petitioner states that no new or additional facilities would be required and no new receipt and/or delivery points would be required in order to effectuate the instant proposal.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before February 29, 1984, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-3788 Filed 2-10-84; 8:45 am]

BILLING CODE 6717-01-M

[1] This proceeding was commenced before the FPC. By joint regulation of October 1, 1977 (10 CFR 1000.1), it was transferred to the Commission.

[Docket No. ID-2092-000]

Frank S. Forsythe; Application

February 8, 1984.

The filing individual submits the following:

Take notice that on January 27, 1984, Frank S. Forsythe filed an application pursuant to Section 305(b) of the Federal Power Act to hold the following positions:

President and Director
Cliffs Electric Service Company
Director
Upper Peninsula Generating Company

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with the Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before February 22, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-3788 Filed 2-10-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-235-000]

Iowa Southern Utilities Co.; Filing

February 8, 1984.

The filing Company submits the following:

Take notice that on February 1, 1984, Iowa Southern Utilities Company (Iowa Southern) tendered for filing proposed changes in its FERC Electric Service Tariff Volume No. 1, Sheet No. 11. The proposed changes would increase revenues from jurisdictional sales and service by $378,330 based on the 12-month period ending December 31, 1982.

Iowa Southern's request for an electric rate increase is based on increased operating costs due to inflation and loss of revenue associated with the expiration of a contract with Iowa Electric Light and Power Company for the sale of 100 megawatts of generating capacity.

Iowa Southern requests an effective date of May 1, 1984, and therefore requests waiver of the Commission's notice requirements.

Copies of this filing were served upon Albia Light and Railway Company and the Cities of Seymour, Afton, Orient, Danville, New London and the Iowa State Commerce Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before February 24, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-3791 Filed 2-10-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ID-2086-000]

Henry T. Segerstrom; Application

February 8, 1984.

The filing individual submits the following:

Take notice that on January 3, 1984, Henry T. Segerstrom filed an application pursuant to Section 305(b) of the Federal Power Act to hold the following positions:

Director
Southern California Edison Company
Director
SAFECO Corporation

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with the Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before February 22, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-3790 Filed 2-10-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-233-000]

Union Electric Co.; Filing

February 8, 1984.

The filing Company submits the following:

Take notice that on January 27, 1984, Union Electric Company (Union) tendered for filing Notices of Succession in Ownership pursuant to section 35.7 of the Commission's regulations.

Union states that on December 19, 1983 the Commission entered an order authorizing and approving the mergers of Missouri Utilities Company (MU), Missouri Power & Light Company (MPL) and Missouri Edison Company (ME) with and into Union. The mergers were effective December 30, 1983.

Union further states that in addition to those rate schedules included in the Notices of Succession, that schedules were cancelled for service from Union to the three former subsidiaries. Those schedules are as follows:

UE FERC Rate Schedules 97, 99, 103, 104 and 105
MPL FERC Rate Schedules 26, 47 and 55
ME FERC Rate Schedules 3 and 4

According to Union MU FERC Rate Schedule 1 is to be cancelled but it should be noted that this will be part of UE FERC Rate Schedule 70, and UE FERC Rate Schedule 49 should also be cancelled.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before February 24, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-3779 Filed 2-10-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF84-154-000]

Central Plants, Inc.; Application for Commission Certification of Qualifying Status of a Small Power Production Facility

February 8, 1984.

On January 30, 1984, Central Plants, Inc., (Applicant), of 6055 East Washington Boulevard, Suite 830, City of Commerce, California 90040, submitted for filing an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The facility will be located near the City of Stockton, California. The primary energy source will be biomass in the form of landfill gas, generated from the anaerobic digestion by methanogenic bacteria of refuse and other solid wastes deposited in a sanitary landfill. No use of natural gas, oil or coal is planned for use in this facility. The power production capacity will be approximately 800 kilowatts.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-3784 Filed 2-10-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF84-159-000]

Owens-Illinois, Inc.; Coleman Falls Dam; Application for Commission Certification of Qualifying Status of a Small Power Production Facility

February 8, 1984.

On January 30, 1984, Owens-Illinois, Inc., (Applicant) of One Seagate, Toledo, Ohio 43666, submitted for filing an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The 2 megawatt hydroelectric facility (P. 5456) is located on the James River in Bedford County, Virginia.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

A separate application is required for a hydroelectric project license, preliminary permit or exemption from licensing. Comments on such applications are requested by separate public notice. Qualifying status serves only to establish eligibility for benefits provided by PURPA, as implemented by the Commission's regulations, 18 CFR Part 292. It does not relieve a facility of any other requirements of local, State or Federal law, including those regarding siting, construction, operation, licensing and pollution abatement.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-3782 Filed 2-10-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF84-160-000]

Owens-Illinois, Inc.; Big Island Dam; Application for Commission Certification of Qualifying Status of a Small Power Production Facility

February 8, 1984.

On January 30, 1984, Owens-Illinois, Inc., (Applicant) of One Seagate, Toledo, Ohio 43666, submitted for filing an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The 0.512 megawatt hydroelectric facility (P. 2902) is located on the James River in Amherst and Bedford Counties, Virginia.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

A separate application is required for a hydroelectric project license, preliminary permit or exemption from licensing. Comments on such applications are requested by separate public notice. Qualifying status serves only to establish eligibility for benefits provided by PURPA, as implemented by the Commission's regulations, 18 CFR Part 292. It does not relieve a facility of any other requirements local, State or Federal law, including those regarding siting, construction, operation, licensing and pollution abatement.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-3793 Filed 2-10-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF84-153-000]

Owner-Illinois, Inc.; Holcomb Rock; Application for Commission Certification of Qualifying Status of a Small Power Production Facility

February 8, 1984.

On Janaury 30, 1984, Owens-Illinois, Inc., (Applicant) of One Seagate, Toledo, Ohio 43666, submitted for filing an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The 1.875 megawatt hydroelectric facility (P. 2901) is located on the James River in Amherst and Bedford Counties, Va.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C.

20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

A separate application is required for a hydroelectric project license, preliminary permit or exemption from licensing. Comments on such applications are requested by separate public notice. Qualifying status serves only to establish eligibility for benefits provided by PURPA, as implemented by the Commission's regulations, 18 CFR Part 292. It does not relieve a facility of any other requirements of local, State or Federal law, including those regarding siting, construction, operation, licensing and pollution abatement.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-3794 Filed 2-10-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF84-152-000]

Ultrapower Inc.; Application for Commission Certification of Qualifying Status of a Small Power Production Facility

February 8, 1984.

On January 27, 1984, Ultrapower Incorporated (Applicant), of 16845 Von Karman Avenue, Irvine California 92714, submitted for filing an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The facility will be located in Monterey County, California. The primary energy source will be waste in the form of petroleum coke. The facility will use distillate fuel for start-up purposes and some heavy crude oil which will be approximately 15 percent of the total energy input of the facility during any calendar year. In no event will the use in the aggregate of oil, natural gas, and coal exceed 25 percent. The power production capacity will be 30 megawatts with a possible adjustment in accordance with final design plans.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-3778 Filed 2-10-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP84-219-000]

Colorado Interstate Gas Co.; Request Under Blanket Authorization

February 8, 1984.

Take notice that on January 31, 1984, Colorado Interstate Gas Company (CIG), P.O. Box 1087, Colorado Springs, Colorado 80944, filed in Docket No. CP84-219-000 a request pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) that CIG proposes to transport natural gas on behalf of The Gates Rubber Company (Gates) for use as boiler fuel and for commercial space heating under authorization issued in Docket No. CP83-21-000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

CIG proposes to transport for 2 years up to 6,500 Mcf of natural gas per day for Gates. It is indicated that Montana-Dakota Utilities Co. (MDU) has released gas being purchased from Western Gas Processors, Ltd. (Western), and that Gates has purchased this released gas from Western. This gas, it is stated, would be delivered to CIG by MDU at existing delivery points in Park and Fremont Counties, Wyoming, and would be redelivered to Public Service Company of Colorado (PSC) in Adams County, Colorado, for Gates' account. It is further indicated that PSC is the distribution company serving Gates in Denver, Colorado.

For this transportation CIG states it would charge Gates its Rate Schedule AIC-1 charge of 36.08 cents per Mcf plus an added incentive charge of 5 cents per MMBTu plus charges for fuel and unaccounted-for gas.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and, pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-3884 Filed 2-10-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP84-195-000]

Columbia Gas Transmission Corp.; Application

February 8, 1984.

Take notice that on January 13, 1984, Columbia Gas Transmission Corporation (Columbia), 1700 MacCorkle Avenue, S.E., Charleston, West Virginia 25314, filed in Docket No. CP84-195-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing decreased contract demands under revised service agreements with Baltimore Gas and Electric Company (BG&E) and Washington Gas Light Company, Shenandoah Gas Company, and Frederick Gas Company, Inc. (collectively referred to as WGL), existing wholesale customers of Columbia, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Columbia proposes to enter into revised service agreements with BG&E, effectuating a decrease in its winter contract quantity under Rate Schedule WS of 2,459,100 dt equivalent of natural gas from 9,250,900 dt to 6,791,800 dt in Zone 2, effective November 1, 1983, and with WGL, effectuating a decrease in its

winter contract quantity under Rate Schedule WS of 610,000 dt equivalent of natural gas, from 14,000,000 dt to 13,390,000 dt in Zone 2, effective November 1, 1983.

It is stated that the requested service level changes would not affect BG&E's total daily entitlement (TDE), but would decrease the number of days it would be able to receive its maximum daily quantity under Rate Schedule WS. It is further stated that the requested service level changes would not affect WGL's TDE, but would decrease the number of days it would be able to receive its maximum daily quantity under Rate Schedule WS from 52.3 days to 50 days.

It is indicated that the customers' requests for service changes were made pursuant to the provisions of Columbia's FERC Gas Tariff, Original Volume No. 1.

Any person desiring to be heard or to make any protest with reference to said application should on or before February 29, 1984, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Columbia to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-3865 Filed 2-10-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP83-64-000]

Columbia Gas Transmission Corp.; Application To Withdraw Tariff Filing

February 8, 1984.

Take notice that on July 15, 1983, Columbia Gas Transmission Corporation (Columbia) tendered for filing an application to withdraw its tariff filing in Docket No. RP83-64-000. Columbia cites the significant degree of customer opposition to the subject matter of the tariff filing and the likelihood of expensive litigation as the reasons for its request for withdrawal.

The tariff filing in question concerns the manner in which Columbia's customers are to make payments to it. Columbia states that the withdrawal of the filing is to be without prejudice to its right to submit a similar filing at a future date.

Columbia certifies that each person designated on the official service list in this proceeding has been served with a copy of its filing.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before February 24, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-3866 Filed 2-10-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP84-204-000]

National Fuel Gas Supply Corp.; Request Under Blanket Authorization

February 8, 1984.

Take notice that on January 18, 1984, National Fuel Gas Supply Corporation (Supply), 10 Lafayette Square, Buffalo, New York 14203, filed in Docket No. CP84-204-000 a request pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) that Supply proposes to transport natural gas for an eligible end-user under the authorization issued in Docket No. CP83-4-000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Supply proposes to transport up to 1,290 Mcf of gas per day and 470,850 Mcf of gas per year, for the account of Airco Carbon, Division of BOC, Inc. (Airco), to National Fuel Gas Distribution Corporation (Distribution) which, in turn, would deliver the gas to Airco at Airco's facilities in Niagara Falls, New York, pursuant to the terms of the gas transportation agreement dated August 10, 1983, as amended (transportation agreement). Supply states that the current transportation rate is 34.14 cents per Mcf, which includes an added incentive charge of 5.0 cents per Mcf, plus 2 percent retainage for shrinkage which is in accordance with its transportation Rate Schedule T-2. In addition, the current transportation rate charged by Distribution is currently 88.0 cents per Mcf plus the surcharge to reflect the tax rates applicable within the municipality where Airco is taking service plus 2.5 percent of the gas for loss allowance in accordance with Distribution's New York Tariff (P.S.C. No. 7-Gas), it is asserted.

Supply states that the gas to be purchased by Airco involves gas supplies previously under contract to and released by Supply. Airco would use the gas transported by Supply in boilers, infrared heaters, water heaters, space heating furnaces, incinerators, dryers and miscellaneous process use, which are qualified end-uses pursuant to § 157.209(e)(2) of the Regulations, it is asserted. Supply states that no new facilities are necessary to effectuate the proposed transportation. It is stated that the proposed transportation would commence on March 1, 1984, and terminate at 11:59 p.m. on June 30, 1985, or upon termination of the contract which term is for 3 months, effective August 10, 1983, and month to month thereafter, whichever occur first.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the

time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-3807 Filed 2-10-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP84-203-000]

National Fuel Gas Supply Corp.; Request Under Blanket Authorization

February 8, 1984.

Take notice that on January 18, 1984, National Fuel Gas Supply Corporation (Supply), 10 Lafayette Square, Buffalo, New York 14203, filed in Docket No. CP84-203-000 a request pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) that Supply proposes to transport natural gas for an eligible end-user under the authorization issued in Docket No. CP83-4-000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request which is file with the Commission and open to public inspection.

Supply proposes to transport up to 1,000 Mcf of gas per day and 365,000 Mcf of gas per year, for the account of Al Tech Specialty Steel Corporation (Al Tech), to National Fuel Gas Distribution Corporation (Distribution) which, in turn, would deliver the gas to Al Tech at Al Tech's facilities in Dunkirk, New York, pursuant to the terms of the gas transportation agreement dated July 11, 1983, as amended (transportation agreement). Supply states that the current transportation rate is 34.14 cents per Mcf, which includes an added incentive charge of 5.0 cents per Mcf, plus 2 percent retainage for shrinkage which is in accordance with its transportation Rate Schedule T-2. In addition, the current transportation rate charged by Distribution is currently 88.0 cents per Mcf plus the surcharge to reflect the tax rates applicable within the municipality where Al Tech is taking service plus 2.5 percent of the gas for loss allowance in accordance with Distribution's New York Tariff (P.S.C. No. 7-Gas), it is asserted.

Supply states that the gas to be purchased by Al Tech involves gas supplies previously under contract to and released by Supply. Al Tech would use the gas transported by Supply in boilers and forge furnaces, which are qualified end-uses pursuant to § 157.209(e)(2) of the Regulations, it is asserted. Supply states that no new facilities are necessary to effectuate the proposed transportation. It is stated that the proposed transportation would commence on March 1, 1984, and terminate at 11:59 p.m. on June 30, 1985, or upon termination of the contract which term is for 3 months, effective July 11, 1983, and month to month thereafter, whichever occurs first.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-3808 Filed 2-10-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP84-202-000]

National Fuel Gas Supply Corp. Request Under Blanket Authorization

February 8, 1984.

Take notice that on January 18, 1984, National Fuel Gas Supply Corporation (Supply), 10 Lafayette Square, Buffalo, New York 14203, filed in Docket No. CP84-202-000 a request pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) that Supply proposes to transport natural gas for an eligible end-user under the authorization issued in Docket No. CP83-4-000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Supply proposes to transport up to 1,325 Mcf of gas per day and 483,625 Mcf of gas per year, for the account of Arcata Graphics (Arcata), to National Fuel Gas Distribution Corporation (Distribution) which, in turn, would deliver the gas to Arcata at Arcata's facilities in Depew, New York, pursuant to the terms of the gas transportation agreement dated November 1, 1983 (transportation agreement). Supply states that the current transportation rate is 34.14 cents per Mcf, which includes an added incentive charge of 5.0 cents per Mcf, plus 2 percent retainage for shrinkage which is in accordance with its transportation Rate Schedule T-2. In addition, the current transportation rate charged by Distribution is currently 88.0 cents per Mcf plus the surcharge to reflect the tax rates applicable within the municipality where Arcata is taking service plus 2.5 percent of the gas for loss allowance in accordance with Distribution's New York Tariff (P.S.C. No. 7-Gas), it is asserted.

Supply states that the gas to be purchased by Arcata involves gas supplies previously under contract to and released by Supply. Arcata would use the gas transported by Supply in boilers and forge furnaces, which are qualified end-uses pursuant to § 157.209(e)(2) of the Regulations, it is asserted. Supply states that no new facilities are necessary to effectuate the proposed transportation. It is stated that the proposed transportation would commence on February 29, 1984, and terminate at 11:59 p.m. on June 30, 1985, or upon termination of the contract which term is for 3 months, effective November 1, 1983, and month to month thereafter, whichever occurs first.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-3809 Filed 2-10-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP84-215-000]

Northern Natural Gas Co., Division of InterNorth, Inc.; Request Under Blanket Authorization

February 8, 1984.

Take notice that on January 27, 1983, Northern Natural Gas Company, Division of InterNorth, Inc. (Northern), 2223 Dodge Street, Omaha, Nebraska 68102, filed in Docket No. CP84-215-000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) that Northern proposes to transport natural gas on behalf of Northern Gas Products Company (NGP) under the authorization issued in Docket No. CP82-401-000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to the public inspection.

Northern states the proposed transportation service would be performed pursuant to a transportation agreement dated November 23, 1983, as amended. The transportation agreement, it is said, provides for the transportation of 7,000 Mcf of natural gas per day, on behalf of NGP, from Beaver County, Oklahoma, and/or Ochiltree County, Texas, to Ellsworth County, Kansas.

Northern proposes to provide this transportation service for term not to extend beyond June 30, 1985. Northern states further that it would charge NGP a transportation rate of 9.84 cents plus 5.0 cents added incentive charge per Mcf of gas delivered to NGP.

Northern submits that the subject gas would be purchased by NGP from H&L Operating Company and would be used in the operation of NGP's processing plants near Bushton, Kansas.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-3870 Filed 2-10-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA84-1-7-002]

Southern Natural Gas Co.; Request for a Waiver

February 7, 1984.

Take notice that on January 18, 1984, Southern Natural Gas Company (Southern) tendered for filing a request to waiver the provisions of Section 17.4(5) of its FERC Gas Tariff and § 282.506 of the Regulations, 18 CFR 282.506.

The requested waiver is to allow for the passthrough of refunds received in the month of December, 1983, or, in the alternative, to allow for an extension of time in which to disburse refunds.

Southern states that the refunds in question relate to gas received during a period of nearly seventeen years and involve more than 100 resale customers. Compliance with Section 17.4(5) and 18 CFR 282.506 would necessitate substantial administrative costs that a waiver would avoid.

Moreover, Southern states that, to the extent such a waiver would affect the existing refund mechanism, specifically, an incremental pricing surcharge going to non-exempt industrial boiler fuel users, sch effect would be de minimis.

If the waiver is not allowed, Southern requests a waiver of the time limitation imposed by Section 17.4(5). This time limitation requires disbursements of refunds to be completed within thirty days of receipt; Southern requests a forty-five day period which is to begin on the date of the Commission's ruling on their motion.

The purpose of this extension is to allow for sufficient time in which to verify and calculate the refunds. Southern is willing to pay interest on all cash payments, to the extent that the waiver delays disbursement.

Southern certifies that all of its jurisdictional customers and all interested state commissions have been served with a copy of their motion.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before February 15, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-3871 Filed 2-10-84; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[A-4-FRL 2525-2]

PSD Permit for Amax Phosphate, Inc. Fort Lonesome, Florida

AGENCY: Environmental Protection Agency.

ACTION: Notice.

SUMMARY: Notice is hereby given that a Prevention of Significant Deterioration (PSD) permit issued December 9, 1983, became effective on January 16, 1984. This permit was issued for the increase of operational hours and the use of alternate fuels by Amax Phosphate, Inc., at their facility in Fort Lonesome, Florida.

DATES: This action is effective as of January 16, 1984, the effective date of the PSD permit. Construction must begin within 18 months of this date or the permit will become invalid.

ADDRESSES: Copies of the PSD permit, permit application, preliminary and final determinations are available for public inspection upon request at the following locations:

U.S. Environmental Protection Agency, Region IV, Air Management Branch, Air and Waste Management Division, 345 Courtland Street, NE., Atlanta, Georgia 30365

Bureau of Air Quality Management, Florida Department of Environmental Regulation, Twin Towers Office Building, 2600 Blair Stone Road, Tallahassee, Florida 32301

FOR FURTHER INFORMATION CONTACT: Michael Brandon of the EPA-Region IV, Air Management Branch at the Atlanta address given above, or telephone (404) 881-7654 (FTS 257-7654).

SUPPLEMENTARY INFORMATION: On January 28, 1983, Amax Phosphate, Inc., submitted an application for a PSD

permit to increase the hours of operation and use alternate fuels at their facility in Fort Lonesome, Florida. The Preliminary Determination was issued by the Florida Department of Environmental Regulation (DER) on August 11, 1983, and the public comment period commenced on September 16, 1983. No adverse comments were received regarding the issuance of the Final Determination for the PSD permit. The Final Determination was issued by the Florida DER on October 12, 1983. The Federal PSD permit was issued on December 9, 1983, and became effective as of January 16, 1984.

The effective date of the permit constitutes final Agency action under 40 CFR 124.19(f)(1) and Section 307 of the Clean Air Act for purposes of judicial review. Under Section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by (60 days from today). This action may not be challenged later in proceedings to enforce its requirements (see § 307(b)(2)). If construction does not commence within 18 months or more, or if construction is not complete within reasonable time, the permit shall become invalid.

(Sec. 160–169 of the Clean Air Act (42 U.S.C. 7470–7479))

Dated: January 31, 1984.

Howard Zeller,

Acting Regional Administrator.

[FR Doc. 84–3832 Filed 2–10–84; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

[Docket: FEMA–REP–9CA–1, FEMA–REP–9CA–2, FEMA–REP–9CA–3, FEMA–REP–9CA–4]

State of California Nuclear Power Plant Emergency Response Plan

AGENCY: Federal Emergency Management Agency.

ACTION: Withdrawal of notice of receipt of plan.

SUMMARY: A notice of receipt of the State of California radiological emergency plan was published in **Federal Register** Volume 49, No. 14, Page 2528, dated January 20, 1984. This notice was placed in the **Federal Register** in error and is hereby withdrawn.

Robert L. Vickers,

Regional Director.

[FR Doc. 84–3807 Filed 2–10–84; 8:45 am]

BILLING CODE 6718–01–M

FEDERAL MARITIME COMMISSION

Agreements Filed

The Federal Maritime Commission hereby gives notice that the following agreements have been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and may request a copy of each agreement and the supporting statement at the Washington, D.C. Office of the Federal Maritime Commission, 1100 L Street, NW., Room 10325. Interested parties may submit protests or comments on each agreement to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after the date of the **Federal Register** in which this notice appears. The requirements for comments and protests are found in § 522.7 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Any person filing a comment or protest with the Commission shall, at the same time, deliver a copy of that document to the person filing the agreement at the address shown below.

Agreement No.: T–4163.

Title: Global Terminal & Container Services, Inc. and Dart-ML Ltd., Container, Terminal, Stevedore and LCL Service Agreement.

Parties: Global Terminal & Container Services, Inc. (Global) and Dart-ML Ltd., (Dart).

Synopsis: Agreement No. T–4163 provides for Global to provide stevedoring, container and LCL handling, and other terminal services for Dart at its facility in Jersey City, New Jersey for Dart's Northern European Service to New York, New York. The Agreement will run until May 31, 1992.

Filing Party: E. F. Brimo, Treasurer, Global Terminal & Container Service, Inc., Post Office Box 273, Jersey City, New Jersey 07303.

Agreement No.: 14–50.

Title: Trans Pacific Freight Conference of Hong Kong.

Parties:

Japan Line, Ltd.
Nippon Yusen Kaisha.
Showa Line Ltd.
Yamashita-Shinnihon Steamship Co., Ltd.

Synopsis: Agreement No. 14–50 would permit the Agreement members to adopt original independent action proposals at any time upon five days' notice so long as the effective date of the adopting member's action is not earlier than the effective date of the original independent action proposal.

Filing Party: Charles F. Warren, Esquire, Warren & Associates, P.C., 1100 Connecticut Avenue, NW., Washington, D.C. 20036.

Agreement No.: 5600–46.

Title: Philippines North America Conference.

Parties:

American President Lines, Ltd.
Barber Blue Sea Line J/S
Galleon Shipping Corporation
Hapag Lloyd A/G
Lykes Bros. Steamship Co., Inc.
Moller-Maersk Line, A. P.
Sea-Land Service, Inc.

Synopsis: Agreement No. 5600–46 would allow Conference members to release confidential Conference documents to appropriate governmental agencies (where such release is pursuant to an order of the agency or one of its administrative law judges), and would allow Conference members to disclose their positions on matters before the Conference to shippers and consignees in the trade subject to certain limitations designated therein.

Filing Party: Charles F. Warren, Esquire, Warren & Associates, P.C., 1100 Connecticut Avenue, NW., Washington, D.C. 20036.

Agreement No.: 5700–33.

Title: New York Freight Bureau.

Parties:

Japan Line, Ltd.
Mitsui O.S.K. Lines, Ltd.
Nippon Yusen Kaisha.
Yamashita-Shinnihon Steamship Co., Ltd.

Synopsis: Agreement No. 5700–33 would permit the Agreement members to adopt original independent action proposals at any time upon five days' notice so long as the effective date of the adopting member's action is not earlier than the effective date of the original independent action proposal.

Filing Party: Charles F. Warren, Esquire, Warren & Associates, P.C., 1100 Connecticut Avenue, NW., Washington, D.C. 20036.

Dated: February 8, 1984.

By Order of the Federal Maritime Commission.

Francis C. Hurney,

Secretary.

[FR Doc. 84–3848 Filed 2–10–84; 8:45 am]

BILLING CODE 6730–01–M

Filing and Approval of Agreement

The Federal Maritime Commission hereby gives notice that on January 23,

1984, the following agreement was filed with the Commission pursuant to section 15 of the Shipping Act, 1916, as amended by section 4 of the Maritime Labor Agreements Act of 1980, Pub. L. 96–325, 94 Stat. 1021, and was deemed approved that date, to the extent it constitutes an assessment agreement as described in the fifth paragraph of section 15, Shipping Act, 1916.

Ageement No: LM–83–1.

Title: NYSA/ILA—1983/1986 Master Contract Extension.

Synopsis: Agreement No. LM–83–1 modifies the 1983–1986 Master Contract between NYSA and ILA. The purpose of the modification is to extend the Agreement from January 15, 1984 to January 31, 1984.

Filing Party: Lambos, Flynn, Nyland & Giardino, 29-Broadway, New York, New York 10006.

Dated: February 8, 1984.

By Order of the Federal Maritime Commission.

Francis C. Hurney,

Secretary.

[FR Doc. 84–3849 Filed 2–10–84; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

Alden Bancshares Company, et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (49 FR 794) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated for that application. Once the application has been accepted for processing, it will also be available for inspection at the office of the Board of Governors. With respect to each application, interested persons may express their views in writing to the Reserve Bank indicated for that application or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than March 7, 1984.

A. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Alden Bancshares Company,* Alden, Iowa; to become a bank holding company by acquiring 94.3 percent of the voting shares of Alden State Bank, Alden, Iowa.

2. *First Galena Bancshares, Inc.,* Galena, Ill.; to become a bank holding company by acquiring 91.69 percent of the voting shares of The First National Bank of Galena, Galena, Illinois.

B. **Federal Reserve Bank of St. Louis** (Delmer P. Weisz, Vice President) 411 Locust Street, St. Louis, Missouri.63166:

1. *First Commercial Corporation,* Little Rock, Arkansas; to acquire 100 percent of the voting shares or assets of the successor by merger to Morrilton Security Bank, Morrilton, Arkansas.

2. *Greenville Bancshares, Inc.,* Greenville, Missouri.; to become a bank holding company by acquiring 96.9 percent of the voting shares of State Bank of Greenville, Greenville, Missouri.

Board of Governors of the Federal Reserve System, February 7, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84–3818 Filed 2–10–84; 8:45 am]

BILLING CODE 6210–01–M

Citicorp, et al; Engaging de Novo in Permissible Nonbanking Activities

The bank holding companies listed in this notice have filed a notice under § 225.23(a)(1) of the Board's Regulation Y (49 FR 794) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8) and section 225.21(a) of Regulation Y (49 FR 794) to commence or engage *de novo,* either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated for that application. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. With respect to each notice, interested persons may express their views in writing on the question whether consummation of the propsoal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated for the application or the offices of the Board of Governors not later than March 5, 1984.

A. **Federal Reserve Bank of New York** (A. Marshall Puckett, Vice President) 33 Liberty Street, New York, New York 10045:

1. *Citicorp,* New York, New York; to engage *de novo* through its subsidiary, Citicorp Credit Services, Inc., in the making to consumers of loans and other extensions of credit, for its own account and for the account of others; the sale at retail of money orders having a face value of not more than $1,000; and the sale of travelers checks. Comments on this application must be received not later than March 1, 1984.

B. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *United Banks of Colorado, Inc.,* Denver, Colorado; to engage *de novo* nationwide through its subsidiary, United Financial Centers, Inc., Denver, Colorado, in making or acquiring for its own account, loans or other extensions of credit such as would be made or acquired by a finance company; servicing loans and offering credit related life and credit related health and accident insurance; such activities will include, but not be limited to making consumer installment loans, purchasing installment sales finance contracts, making loans and other extensions of credit to businesses, and making loans and other extensions of credit secured by real property. This application will expand the geographic scope of the service area to include the states of Colorado and Nebraska.

Board of Governors of the Federal Reserve System, February 7, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-3820 Filed 2-10-84; 8:45 am]

BILLING CODE 6210-01-M

Old Stone Corp., et al.; Engaging de Novo in Permissible Nonbanking Activities

The organization listed in this notice has filed a notice under § 225.23(a)(1) of the Board's Regulation Y (49 FR 794) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (49 FR 794) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. With respect to the notice, interested persons may express their veiws in writing on the queston whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated for the application or the offices of the Board of Governors not later than February 29, 1984.

A. **Federal Reserve Bank of Boston** (Richard E. Randall, Vice President) 600 Atlantic Avenue, Boston, Massachusetts 02106:

1. *Old Stone Corporation*, Providence, Rhode Island; to engage *de novo* through its subsidiary, Old Stone Mortgage Corporation, Seattle, Washington, in the arranging of financing of commercial income property for third parties.

B. **Federal Reserve Bank of Philadelphia** (Thomas K. Desch, Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105:

1. *Bank of Delaware Corporation*, Wilmington, Delaware; to engage through its subsidiary, Del-Vest, Inc., Wilmington, Delaware, in acting as an investment advisor to individuals, corporations, charitable entities, retirement plans, foundations, and others.

C. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Harris Bankcorp, Inc.*, Chicago, Illinois; to engage *de novo* through its subsidiary, Harris Futures Corporation, Chicago, Illinois, in the activities of a futures commission merchant.

D. **Federal Reserve Bank of Dallas** (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Ranco Bancshares, Inc.*, Spur, Texas; to engage directly in the making and acquiring of commercial and installment loans including the extension of direct loans to consumers and the purchase and sale of loan participations.

Board of Governors of the Federal Reserve System, February 7, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-3816 Filed 2-10-84; 8:45 am]

BILLING CODE 6210-01-M

Pan American Banks Inc. et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (49 FR 794) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated for that application. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. With respect to each application, interested persons may express their views in writing to the Reserve Bank indicated for that application or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than March 2, 1984.

A. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. *Pan American Banks Inc.*, Miami, Florida; to acquire 99 percent of the voting shares or assets of Central Bank of Delray Beach, Delray Beach, Florida.

2. *S.B.T. Bancshares, Inc.*, Arab, Alabama; to become a bank holding company by acquiring 100 percent of the voting shares of Security Bank & Trust Company, Arab, Alabama.

B. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *First of America Bancorporation*, Kalamazoo, Michigan; to acquire 100 percent of the voting shares of Citizens State Bank of Rudyard, Rudyard, Michigan.

C. **Federal Reserve Bank of Dallas** (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Summit Bancshares, Inc.*, Fort Worth, Texas; to acquire 100 percent of the voting shares of Camp Bowie National Bank, Fort Worth, Texas.

Board of Governors of the Federal Reserve System, February 7, 1984.

James McAfee,

Secretary of the Board.

[FR Doc. 84-3817 Filed 2-10-84; 8:45 am]

BILLING CODE 6210-01-M

Teche Bancshares, Inc., Formation of Bank Holding Companies

The company listed in this notice has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring voting shares or assets of a bank. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated. With respect to the application, interested persons may express their views in writing to the address indicated. Any comment on the application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and a summarizing the evidence that would be presented at a hearing.

A. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. *Teche Bancshares, Inc.*, St. Martinville, Louisiana; to become a bank holding company by acquiring 100 percent of the voting shares of Teche Bank & Trust Co., St. Martinville, Louisiana. Comments on this application must be received not later than March 1, 1984.

Board of Governors of the Federal Reserve System, February 7, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-3819 Filed 2-10-84; 8:45 am]

BILLING CODE 6210-01-M

COMMISSION OF FINE ARTS

The Commission of Fine Arts; Meeting

The Commission of Fine Arts will next meet in open session on Tuesday, March 13, 1984 at 10:00 a.m. in the Commission's office at 708 Jackson Place, NW., Washington, D.C. 20006 to discuss various projects affecting the appearance of Washington including buildings, memorials, parks, etc., also matters of design refered by other agencies of the government. Access for handicapped persons will be through the main entrance to the New Executive Office Building on 17th Street between Pennsylvania Avenue and H Street, NW.

Inquiries regarding the agenda and requests to submit written or oral statements should be addressed to Mr. Charles Atherton, Secretary, Commission of Fine Arts, at the above address or call 566-1066.

Dated in Washington, D.C. February 7, 1984.

Charles H. Atherton,

Secretary.

[FR Doc. 84-3843 Filed 2-10-84; 8:45 am]

BILLING CODE 6330-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Social Security Administration

Refugee Resettlement Program; Proposed Formula for Allocations to States of FY 1984 Funds for Social Services for Refugees and Cuban/Haitian Entrants

AGENCY: Office of Refugee Resettlement (ORR), SSA, HHS.

ACTION: Notice of proposed formula for allocations to States of FY 1984 funds for refugee and entrant social services.

SUMMARY: This notice proposes the formula for allocation to States of FY 1984 funds for social services under the Refugee Resettlement Program (RRP). The formula will yield the allowable allocation of FY 1984 refugee and Cuban/Haitian entrant social service funds for each State participating in the RRP.

DATE: Comments on the allocation method provided for in this notice will be considered if received by March 14, 1984.

ADDRESS: Address written comments, in duplicate, to: David Howel, Office of Refugee Resettlement, Room 1332, Switzer Building, 330 C Street SW., Washinton, D.C. 20201.

FOR FURTHER INFORMATION CONTACT: David Howell, (202) 245-1923.

SUPPLEMENTARY INFORMATION:

I. Amounts Proposed for Allocation

The Office of Refugee Resettlement (ORR) expects to have available $44,400,000 in refugee/entrant social service funds and $81,500,000 in refugee/entrant targeted assistance funds. This determination has been made based upon an interpretation of the Second Continuing Resolution for FY 1984 (Pub. L. 98-151) as requiring that social service funding be recalculated using assumptions of refugee arrivals lower than those which were anticipated when the FY 1984 budget request was developed, and also as providing that targeted assistance funding be at the same level as in FY 1983.

Of this total of $125,900,000, the Director of ORR proposes to make available to States $60,036,162 in refugee/entrant social service funds and refugee/entrant targeted assistance funds during FY 1984 for purposes of providing social services to refugees and entrants. Separate announcements will be made for the remaining funds not included in this Notice.

All allocation figures include both refugees and entrants, since both populations are to be served through funds addressed in this Notice.

Of the $60,036,162 above, the Director proposes to allocate funds directly to States in the following manner:

- $40,000,000 (90% of the available social service funds) would be allocated on the basis of each State's proportion of the national population of refugees and entrants who had been in the U.S. less than 3 years as of October 1, 1983.
- $430,731 of the available targeted assistance funds would be targeted to States which have particular needs associated with small refugee/entrant populations in order to provide a floor ofr $75,000 for States with fewer than 500 refugees/entrants or $100,000 for States with more than 500.
- $16,581,336 of the available targeted assistance funds would be targeted to ensure that no State's FY 1984 allocation would be less than 90% of the combined amount received under its FY 1983 formula allocations for refugee social services and entrant social services. (Excluded from this base are the amounts awarded to States in FY 1983 for critical unmet needs, since those funds were intended to provide one-time funding on behalf of refugees who had not been adequately accounted for in previous social service allocations.)
- $3,024,095 of the available targeted assistance funds would be allocated to each State on the basis of its proportion of the 3-year refugee/entrant population (including a $5,000 floor) in order to provide targeted service funds as an incentive for States to fund refugee/entrant mutual assistance associations (MAA's). A written assurance that these funds would be used for MAA's would be required in order for a State to receive these funds. Separate guidance for States would be provided regarding this assurance after a final notice is published.

ORR believes that the use of targeted assistance funds in a combined allocation with social service funds is an essential and appropriate response to the special programmatic needs of States in FY 1984. In addition to the formula amount, funds for services would be targeted in order to provide a minimal level of funding necessary to carry out a social service program in States with small refugee populations. Also, supplementary funds would be targeted, under this proposal, to provide States with 90% of their FY 1983 formula allocations in order to avoid serious disruptions or terminations of services which would affect refugees currently receiving services or expected to need services during the year. Finally, ORR

believes that the continued and/or increased utilization of refugee mutual assistance associations in the provision of social services promotes appropriate use of services as well as the effectiveness of the overall service system. Therefore, additional funds which would be targeted specifically to these organizations have been included in the proposal as an optional award to States which would use them for this purpose.

Of the $4,400,000 in remaining social service funds, the Director anticipates making $2,200,000 (5%) available to States, if necessary, to provide funding in addition to the proposed formula resulting from any adjustment made in population estimates (see Section III, below) beyond the estimates specified in section IV. In addition, approximately $2,200,000 (5%) are currently expected to be used on a discretionary basis to carry out individual projects intended to contribute to the effectiveness and efficiency of the refugee resettlement program in service delivery and self-support.

Possible individual projects could test approaches to particular problems or be designed to develop model programs in refugee service delivery and self-support, including: Delivery of social services to special refugee populations; development of job opportunities; vocational-English training; and participation of community agencies, refugee organizations, business leadership, and volunteers in increasing refugee self-sufficiency. An announcement of the availability of funding and grant application procedures for such projects will be published in the **Federal Register** at such time as determinations are made by the Director concerning the appropriate disposition of remaining refugee/entrant social service resources.

II. Proposed Formula

Under this proposal, $60,036,162 of the funds available for FY 1984 for social services and targeted assistance would be allocated to States in accordance with the formula specified below. A State's allowable allocation would be calculated as follows:

1. The total amount of funds determined by the Director to be available for this purpose; divide by—

2. The total number of refugees and entrants who arrived in the United States not more than three years prior to the beginning of the fiscal year for which the funds are appropriated, as shown by the ORR Refugee Data System; the resultant per capita amount will be multiplied by—

3. The number of refugees and entrants in item 2, above, in the State as of October 1, 1983, adjusted for estimated secondary migration.

4. The calculation above will yield the formula allocation for each State. As necessary, targeted adjustments would be made to provide a floor, and to provide 90% of a State's FY 1983 formula allocation in order to prevent service disruption.

5. MAA incentive award supplements would be subsequently made, contingent upon letters of assurance from States.

The proposed formula is similar to that used by ORR for social service allocations in FY 1983, and incorporates improvements which were adopted in last year's formula. States generally supported the concept of the FY 1983 formula, which was also based on 3-year population estimates, and supported FY 1983 proposals that (a) minimum amounts be provided to States with small refugee populations and (b) the population base include refugees of all nationalities. No commenters recommended in FY 1983 that a State's total refugee population, rather than the 3-year population, be used in the formula.

We believe this position to be programmatically sound, since data on refugee dependency on cash assistance show the highest rates to occur during a refugee's first 3 years in the United States and thus validly reflect the need for services directed toward achieving employment and self-sufficiency.

As indicated in section I, the proposed FY 1984 formula incorporates minimum amounts for States with small refugee populations and contains an adjustment to provide that no State will receive less than 90 percent of its FY 1983 formula-based amount. This FY 1983 base amount is the sum of the refugee social service formula allocation and the Cuban/Haitian Entrant social service formula allocation. The FY 1984 formula also continues to take into account refugees of all nationalities in the population estimates.

ORR has reviewed available data regarding the need for social services, and has considered relevant information derived from previous experience in the formula allocation of social service, funds, comments received on the FY 1983 formula, and subsequent consultations with States. From this review, ORR has concluded that the proposed formula will result in allocations being made available to States on an equitable basis. Under this proposal, each State would receive funds in proportion to its population of refugees generally having the greatest need for services and would be assured of the continuation of vital services. While the proposed formula is based on the 3-year refugee population, social service programs are not limited to refugees who have been in the U.S. only three years. States may provide services without regard to an individual refugee's or entrant's length of residence. (A State must, however, have an approved State plan for the Cuban/Haitian Entrant Program in order to use funds on behalf of entrants as well as refugees.)

III. Basis of Refugee and Entrant Population Estimates

The population estimates for the proposed allocation of funds in FY 1984 are based on the ORR Refugee Data System, adjusted as of October 1, 1983, for estimated secondary migration. The data base now includes refugees of all nationalities as well as Cuban and Haitian entrants resettled after 9/30/80.

For fiscal year 1984, ORR's formula allocations to the States for support services for refugees are to be based on the numbers of refugees who arrived, and entrants who arrived or were resettled during the preceding three fiscal years: 1981, 1982, and 1983. Therefore, estimates have been developed of the numbers of refugees and entrants with arrival or resettlement dates between September 1, 1980 and August 30, 1983 who are thought to be living in each State as of September 1, 1983. The population estimates for the fiscal year 1984 allocations cover refugees of all nationalities and Cuban/Haitian entrants.

Estimates have been developed separately for refugees and entrants and then combined into a total estimated 3-year refugee/entrant population for each State. In doing so, ORR excluded from the population totals nationwide 11,412 refugees who were resettled subject to a full Federal match of $1,000 under ORR's matching-grant program with national voluntary refugee resettlement agencies. The social service funds available to serve non-matching grant refugees are limited and, ORR believes, should be directed to the areas where those refugees live.

Table 1 below, shows the estimated three-year populations, as of October 1, 1983, of all refugees (col. 1), excluding those matching-grant refugees discussed above; entrants resettled between September 1, 1980 and August 30, 1983 (col 2); the total of these figures (col. 3); the formula amounts which the population estimates yield (col. 4); and the proposed allocations (col. 5) after allowing for the minimum amounts and the adjustment so that no State is below

90% of its FY 1983 formula-base amount, as discussed in section II, above.

A detailed explanation of the development of data used in this formula allocation can be obtained by writing to the address indicated in section V of this notice:

IV. Proposed Allocations

The following allocations are proposed for refugee social services in FY 1984:

TABLE 1.—ESTIMATED THREE-YEAR REFUGEE/ENTRANT POPULATIONS OF STATES PARTICIPATING IN THE REFUGEE PROGRAM AND SOCIAL SERVICE FORMULA AMOUNTS AND PROPOSED ALLOCATIONS FOR FY 1984 [1]

	(1)	(2)	(3)	(4)	(5)	(6)
	Refugees	Entrants	Total	Formula amount	Proposed allocation	MAA incentive allocation
Alabama	1,228	33	1,261	$154,596	$181,480	$11,594
Arizona	2,161	133	2,294	281,201	313,432	21,090
Arkansas	1,022	169	1,191	145,972	177,185	10,948
California	103,401	1,334	104,735	12,839,155	15,046,261	962,937
Colorado	5,066	96	5,161	632,726	687,751	47,454
Connecticut	3,990	97	4,087	501,009	551,861	37,576
Delaware	77	2	79	9,693	75,000	5,000
Dist. of Columbia	1,959	135	2,094	256,721	256,721	19,254
Florida	7,384	12,896	20,479	2,486,001	3,740,865	186,450
Georgia	5,171	82	5,252	643,861	643,861	48,290
Hawaii	2,195	1	2,196	269,210	467,066	20,190
Idaho	641	0	641	78,564	101,621	5,892
Illinois	12,693	416	13,110	1,607,059	2,164,550	120,529
Indiana	1,495	81	1,576	193,158	277,729	14,487
Iowa	2,910	11	2,922	358,158	613,896	26,892
Kansas	4,313	38	4,351	533,407	616,839	40,006
Kentucky	917	43	960	117,730	181,529	8,630
Louisiana	4,575	162	4,737	580,700	785,814	43,553
Maine	871	36	907	111,218	111,218	8,341
Maryland	3,819	58	3,877	475,230	590,415	35,642
Massachusetts	9,500	262	9,763	1,196,772	1,196,772	89,758
Michigan	5,585	166	5,752	705,062	860,535	52,880
Minnesota	7,829	106	7,936	972,837	2,077,621	72,963
Mississippi	804	5	810	99,245	122,823	7,443
Missouri	2,995	313	3,307	405,443	405,443	30,408
Montana	191	3	194	23,796	90,000	5,000
Nebraska	1,028	12	1,041	127,574	164,129	9,568
Nevada	999	109	1,108	135,768	159,112	10,183
New Hampshire	401	8	409	50,131	75,000	5,000
New Jersey	3,928	775	4,703	576,554	1,116,700	43,242
New Mexico	1,093	43	1,136	139,279	253,352	10,446
New York	16,620	1,908	18,527	2,271,116	3,231,757	170,234
North Carolina	2,404	16	2,420	296,705	380,728	22,253
North Dakota	632	15	646	79,295	100,000	5,955
Ohio	4,114	114	4,228	518,357	666,484	38,877
Oklahoma	3,525	121	3,649	447,277	524,091	33,548
Oregon	8,343	17	8,360	779,664	1,358,879	58,475
Pennsylvania	9,499	269	9,7688	1,197,425	1,672,481	89,807
Rhode Island	4,135	56	4,190	513,693	535,530	38,527
South Carolina	1,136	11	1,147	140,607	158,933	10,545
South Dakota	434	4	439	53,756	90,000	5,000
Tennessee	2,446	214	2,661	326,147	372,971	24,481
Texas	22,979	574	23,552	2,899,459	3,520,049	217,459
Utah	3,600	20	3,620	443,708	564,571	33,378
Vermont	240	0	240	29,467	75,000	5,000
Virginia	10,667	143	10,810	1,325,116	1,357,807	99,384
Washington	12,385	117	12,502	1,532,635	2,137,247	114,948
West Virginia	194	13	206	25,297	75,000	5,000
Wisconsin	3,126	76	3,201	392,430	678,748	29,432
Wyoming	95	13	108	13,193	75,000	5,000
Guam	55	0	55	6,742	75,000	5,000
Total	304,888	21,445	326,298	40,000,000	57,012,067	3,024,095

[1] These calculations may appear incorrect due to rounding. They were performed with a computer program that added and multiplied unrounded figures, which are displayed here rounded to the nearest person or dollar.

V. State Evidence on Refugee Population

If a State wishes ORR to reconsider its population estimate, it should submit written evidence through its ORR Regional Director. Requests will be evaluated according to a strict standard. The following is the type of evidence which would be considered appropriate:

- Documentation and discussion should be confined to the population entering during fiscal years 1981, 1982, 1983, and should clearly identify what refugee groups are being discussed.
- Evidence should include a description of the information collection system(s) used by the State, including data sources, time period covered, timeliness, and validation procedures.
- Special studies and reports can be considered only if they are submitted for review.
- An example of acceptable evidence would be a list of refugees identified by name, alien number, and case size, if appropriate.

Any State evidence on population estimates should be submitted separately from comments on the proposed allocation formula no later than 30 days from date of publication of this notice and should be addressed to: Dr. Linda W. Gordon, Office of Refugee Resettlement, Room 1332, Switzer Building, 330 C Street SW., Washington, D.C. 20201, Telephone: (202) 245–1967.

Paperwork Reduction Act

This notice does not create any reporting or recordkeeping requirements requiring OMB clearance.

(Catalog of Federal Domestic Assistance No. 13.814 Refugee Assistance State Administered Programs and No. 13.817

Entrant Assistance Cuban and Haitian Entrants)

Dated: February 2, 1984.

Phillip N. Hawkes,

Director, Office of Refugee Resettlement.

[FR Doc. 84-3859 Filed 2-10-84; 8:45 am]

BILLING CODE 4190-11-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AA-6709-A]

Alaska Native Claims Selection; Ounalashka Corp.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice is hereby given that a decision to issue conveyance under the provisions of Sec. 14 of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1611) (1976)) (ANCSA), will be issued to Ounalashka Corporation, for approximately 11 acres. The lands involved are within T. 72 S., R. 117 W., Seward Meridian, Alaska.

The decision to issue conveyance will be published once a week, for four (4) consecutive weeks, in *The Anchorage Times* upon issuance of the decision.

For information on how to obtain copies, contact the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513.

Any party claiming a property interest in lands affected by this decision, an agency of the Federal government, or regional corporation may appeal the decision to the Interior Board of Land Appeals, Office of Hearings and Appeals, in accordance with the regulations in 43 CFR Part 4, Subpart E, as revised.

If an appeal is taken, the notice of appeal must be filed with the Bureau of Land Management, Alaska State Office, Division of Conveyance Management (960), 701 C Street, Box 13, Anchorage, Alaska 99513. Do not send the appeal directly to the Interior Board of Land Appeals. The appeal and copies of pertinent case files will be sent to the Board from this office. A copy of the appeal must be served upon the Regional Solicitor, 701 C Street, Box 34, Anchorage, Alaska 99513.

The time limits for filing an appeal are:

1. Parties receiving service of the decision by personal service or certified mail, return receipt requested, shall have thirty days from the receipt of the decision to file an appeal.

2. Unknown parties, parties unable to be located after reasonable efforts have been expended to locate, parties who failed or refused to sign their return receipt, and parties who received a copy of the decision by regular mail which is not certified, return receipt requested, shall have until March 14, 1984 to file an appeal.

Any party known or unknown who is adversely affected by the decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Bureau of Land Management, Alaska State Office, Division of Conveyance Management.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeals. Further information on the manner of and requirements for filing an appeal may be obtained from the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513.

If an appeal is taken, the parties to be served with a copy of the notice of appeal are:

National Marine Fisheries Service, P.O. Box 1668, Juneau, Alaska 99802

Ounalashka Corporation, P.O. Box 149, Unalaska, Alaska 99685

The Aleut Corporation, 2550 Denali Street, Suite 900, Anchorage, Alaska 99503

Helen Burleson,

Section Chief, Branch of ANCSA Adjudication.

[FR Doc. 84-3812 Filed 2-10-84; 8:45 am]

BILLING CODE 4310-JA-M

[U-16391]

Termination of Proposed Withdrawal and Reservation of Lands; Utah

1. Notice of a proposed withdrawal application by the Department of the Army was published as **Federal Register** Document 71-14613 on page 19446 on October 6, 1971. The application affected the following lands:

Salt Lake Meridian, Utah

T. 21 S., R. 16 E.,
Sec. 23, SW¼, W½SE¼, SE¼SE¼;
Sec. 25, W½, SE¼;
Sec. 26, all;
Sec. 27, lot 5, SE¼SE¼;
Sec. 34, lots 5, 6, NE¼NE¼;
Sec. 35, N½, N½S½, S½SE¼.

Aggregating 2139.50 acres.

This application has been canceled. Pursuant to the regulations contained in 43 CFR 2310.1-4, the segregative effect will be terminated and the lands shall be open as follows:

2. At 10:00 a.m. on March 8, 1984, the lands will be open to operation of public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All valid applications received at or prior to 10:00 a.m. on March 8, 1984, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

3. At 10:00 a.m. on March 8, 1984, the public lands will be opened to location under the United States mining laws. Appropriation of lands under the general mining laws prior to the date and time of restoration is unauthorized. Any such attempted appropriation, including attempted adverse possession under 30 U.S.C. 38, shall vest no rights against the United States. Acts required to establish a location and to initiate a right of possession are governed by State law where not in conflict with Federal law. The Bureau of Land Management will not intervene in disputes between rival locators over possessory rights since Congress has provided for such determinations in local courts.

4. At 10:00 a.m. on March 8, 1984 the lands will also be open to offers and applications under the mineral leasing laws.

Inquiries concerning the lands should be addressed to the Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, 136 East South Temple, Salt Lake City, Utah 84111.

Dated: February 6, 1984.

Orval L. Hadley,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 84-3801 Filed 2-10-84; 8:45 am]

BILLING CODE 4310-DQ-M

[A 9052]

Arizona; Conveyance of Public Land: Correction

February 3, 1984.

In FR Doc. 84-316, appearing on page 940, on Friday, January 6, 1984, make the following corrections:

In T. 12 N., R. 19 W., the legal description is revised to read:
Sec. 3, SW¼;
Sec. 11, N½.

Mario L. Lopez,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 84-3839 Filed 2-10-84; 8:45 am]

BILLING CODE 4310-32-M

[OR-34957, OR-36019, OR-36020]

Oregon: Modification of Realty Action Competitive/Modified Competitive Sale in Lake County, Oregon

The Notice of Realty Action, published in the **Federal Register**

Document No. 83-33354, Volume 48, No. 242, pages 55780 and 55781, Thursday, December 15, 1983, is hereby modified to withdraw Parcel No. 1, OR-34957 and Parcel No. 7, OR-36020 from public sale.

The sale method of the withdrawn parcels is under reconsideration. The parcels will be formally re-offered for sale at a future date.

For additional information regarding this modification, contact the Lakeview District Office, P.O. Box 151, Lakeview, Oregon 97630, (503) 947-2177.

Dated: February 2, 1984.

Jerry Asher,

District Manager.

[FR Doc. 84-3841 Filed 2-10-84; 8:45 am]

BILLING CODE 4310-33-M

Fish and Wildlife Service

Official Insignia Change

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of Official Insignia Change.

SUMMARY: The U.S. Fish and Wildlife Service official insignia designation published in the **Federal Register** on September 5, 1978 (43 FR 39444), is hereby cancelled. This notice changes the official insignia of the U.S. Fish and Wildlife Service. The Service insignia was changed in 1978; however, publication of this change was overlooked at the time. This action accomplishes the official designation of the insignia now in use by the Service.

EFFECTIVE DATE: February 13, 1984.

FOR FURTHER INFORMATION CONTACT: Jim Gillett, Chief, Division of Refuge Management, U.S. Fish and Wildlife Service, Washington, D.C. 20240, (202) 343-4311.

SUPPLEMENTARY INFORMATION: The insignia depicted below is prescribed as the official insignia of the U.S. Fish and Wildlife Service, Department of the Interior.

In making this prescription, notice is given that whoever manufactures, sells, or possesses this insignia, or any colorable imitation *thereof,* or photographs, prints or in *any* other manner makes or executes any engraving, photograph or print, or impression in the likeness of this insignia, or any colorable imitation

thereof, without authorization from the United States Department of the Interior is subject to the penalty provisions of section 701 of Title 18 of the United States Code.

Dated: February 6, 1984.

Rolf Wallenstrom,

Acting Director, Fish and Wildlife Service.

[FR Doc. 84-3863 Filed 2-10-84; 8:45 am]

BILLING CODE 4310-07-M

Office of Surface Mining Reclamation and Enforcement

Decisions and Availability of Technical and Environmental Assessments and Findings of No Significant Impact for Three Federal Lands Coal Mining Permits in West Virginia

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Notice of decisions and availability of technical and environmental assessments and findings of no significant impact.

SUMMARY: The Office of Surface Mining (OSM) has approved, with conditions, three 5-year permits for Enviro Energy, Inc., to operate underground mines Nos. 3, 4, and 5 and ancillary facilities within the Monongahela National Forest. The mines are located in the Huttonsville District, Randolph County, West Virginia. The permits for the three mines include a total of 123.49 acres for mine openings, access roads and haul roads, a loading facility, and drainage-control structures. Decisions to approve the permits with conditions are based on technical and environmental assessments (TEA's), findings of no significant impact (FONSI's), and approval of plans of operation by the U.S. Forest Service. Persons with an interest that is or may be adversely affected by the issuance of the Federal permits may request a hearing on the final decisions.

DATE: March 15, 1984.

ADDRESSES: Request for hearing should be submitted to: Hearings Division, Office of Hearings and Appeals, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, VA 22203.

TEA's, FONSI's, and permit application packages are available for review at:

Office of Surface Mining, Eastern Technical Center, Ten Parkway Center, Pittsburgh, PA 15220
and
U.S. Department of Agriculture, Forest Service, Monongahela National Forest, P.O. Box 1548, Elkins, WV 26241.

FOR FURTHER INFORMATION CONTACT: Charles Wolf (phone: 412-937-2896) at the Eastern Technical Center. (See "Addresses.")

SUPPLEMENTARY INFORMATION: The TEA's provide analyses of the effects of approving three 5-year permits to allow Enviro Energy, Inc., to operate underground mines and ancillary facilities on U.S. Forest Service land within the Monongahela National Forest. The mines are located in the Huttonsville District, Randolph County, West Virginia.

Any person with an interest that is or may be adversely affected by the issuance of the Federal permits may request a hearing on the final decisions in accordance with section 514(c) of the Surface Mining Control and Reclamation Act (SMCRA). This hearing will be governed by the provisions of 5 U.S.C. Section 554. Requests for a hearing to review the OSM decisions should be submitted to the Office of Hearings and Appeals. (See "Dates" and "Addresses.")

Pursuant to 40 CFR sections 1501.4 (b), (c) and (e) and 1506.6, notice is hereby given that OSM has completed environmental assessments and findings of no significant impact for the permit applications for the Enviro Energy, Inc., Mines Nos. 3, 4, and 5 and ancillary facilities, Randolph County, West

Virginia. OSM's analyses indicate that no significant environmental impacts will result from these actions.

OSM's decisions to approve the Federal permits with conditions is in accordance with sections 510 and 523 of SMCRA. The decisions and the TEA's have concurrence by the U.S. Forest Service which has approved plans of operation.

The TEA's, FONSI's, and permit application packages are available for review at the OSM Eastern Technical Center and the U.S. Forest Service office in Elkins, West Virginia. (See "Addresses.")

Dated: February 8, 1984.

J. R. Harris,

Director.

[FR Doc. 84-3844 Filed 2-10-84; 8:45 am]

BILLING CODE 4310-05-M

INTERSTATE COMMERCE COMMISSION

[Docket No. AB-43 (Sub-104)]

Rail Carriers; Illinois Central Gulf Railroad Co.; Abandonment in Warren and Claiborne Counties, MS; Findings

The Commission has issued a certificate authorizing the Illinois Central Gulf Railroad Company to abandon its 21.15-mile rail line between milepost 229.85 near Vicksburg (LeTourneau) and milepost 251.00 at Port Gibson in Warren and Claiborne Counties, MS. The abandonment certificate will become effective 30 days after this publication unless the Commission also finds that: (1) A financially responsible person has offered financial assistance (through subsidy or purchase) to enable the rail service to be continued; and (2) it is likely that the assistance would fully compensate the railroad.

Any financial assistance offer must be filed with the Commission and the applicant no later than 10 days from publication of this Notice. The following notation shall be typed in bold face on the lower left-hand corner of the envelope containing the offer: "Rail Section, AB-OFA." Any offer previously made must be remade within this 10-day period.

Information and procedures regarding financial assistance for continued rail service are contained in 49 U.S.C. 10905 and 49 CFR 1152.27.

James H. Bayne,

Acting Secretary.

[FR Doc. 84-3891 Filed 2-10-84; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 30392]

Rail Carriers; LTV Corp.; Control Exemption—River Terminal Railway Co.; Exemption

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Interstate Commerce Commission exempts from prior approval under 49 U.S.C. 11343 the acquisition of control by LTV Corporation of River Terminal Railway Company, subject to conditions for protection of employees.

DATES: This exemption shall be effective on February 13, 1984. Petitions to reopen must be filed by March 5, 1984.

ADDRESSES: Send pleadings referring to Finance Docket No. 30392 (Sub-No. 1) to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423

(2) Petitioner's representative: Harry J. Jordon, 1090 Vermont, Avenue NW, #200, Washington, DC 20005.

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer (202) 275-7245.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision write to T.S. InfoSystems, Inc., Room 2227, Interstate Commerce Commission, Washington, DC 20423, or call 289-4357 (DC Metropolitan area) or toll free (800) 424-5403.

Decided: February 6, 1984.

By the Commission, Chairman, Taylor, Vice Chairman Andre, Commissioners Sterrett and Gradison.

James H. Bayne,

Acting Secretary.

[FR Doc. 84-3890 Filed 2-10-84; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 30396]

Railcarriers; Union Pacific Railroad Co.; Purchase (Portion) Exemption—Missouri Pacific Railroad Co.; Exemption

On January 19, 1984, Missouri Pacific Railroad Company (MP) and Union Pacific Railroad Company (UP) filed a notice of exemption pursuant to 49 CFR 1180.2(d)(3) of the proposed acquisition by UP from MP of that portion of MP's Crete Subdivision extending from milepost 467.9 near Hickman to milepost 486.8 at Crete, in Lancaster and Saline Counties, NE. The transaction involves conveyance of main track, side tracks, right of way, and other land between the right of way west of Hickman and the end of the line at Crete.

The proposed acquisition is a transaction within a corporate family that will not result in adverse changes in service levels, significant operational changes, or a changes in service levels, significant operational changes, or a change in the competitive balance with carriers outside the corporate family. It is the type of transaction which falls within the class exemption set forth at 49 CFR 1180.2(d)(3).

As condition to use of the exemption, any employee affected by the acquisition of the line by UP shall be protected pursuant to *New York Dock Ry.—Control-Brooklyn Eastern Dist.*, 360 I.C.C. 60 (1979).

Decided: February 3, 1984.

By the Commission, Richard Lewis, Acting Director, Office of Proceedings.

James H. Bayne,

Acting Secretary.

[FR Doc. 84-3892 Filed 2-10-84; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Antitrust Division

United States v. Niagara Frontier Tariff Bureau, Inc., et al.; Proposed Final Judgment and Competitive Impact Statement

Notice is hereby given pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. 16 (b) through (h), that a Proposed Final Judgment, Stipulation and Competitive Impact Statement (CIS) have been filed with the United States District Court for the Western District of New York in *United States of America v. Niagara Frontier Tariff Bureau, Inc., et al.*, Civil Action No. 83-1313C. The Complaint in this case charges a violation of section 1 of the Sherman Act, 15 U.S.C. 1, and names as defendants the Niagara Frontier Tariff Bureau Inc. (NFTB), a motor carrier rate bureau, and five motor carrier corporations that are NFTB members: Bondy Cartage Limited; Dominion-Consolidated Truck Lines Limited; ICL International Carriers, Ltd.; Inter-City Truck Lines (Canada), Inc.; and TNT Canada Inc. The defendants are parties to the NFTB's collective ratemaking agreement which was approved by the Interstate Commerce Commission (ICC) and which authorizes them to set rates collectively with immunity from the antitrust laws provided that they adhere to the terms of the agreement and ICC regulations. The Complaint alleges that from at least as early as 1966 and

continuing to at least 1981, the defendants and co-conspirators conspired to fix, raise and maintain prices and inhibit or eliminate competition for the transportation of freight by motor carrier between the United States and Ontario, Canada, without complying with the terms of the NFTB's collective ratemaking agreement and by otherwise engaging in conduct that either was not or could not be approved by the ICC. In furtherance of their unlawful conduct, the defendants were alleged to have (1) set rates and agreed on methods to inhibit competition through their participation in an unauthorized committee; (2) set rates without complying with the notice and record-keeping requirements of the NFTB agreement and ICC regulations; and (3) interfered with the rights of other motor carriers to make rates independent of the NFTB agreed-upon rates.

The proposed Final Judgment would require the defendants to conduct their collective ratemaking activities in strict compliance with the NFTB agreement and ICC and statutory procedures. Further, the Judgment would prohibit the defendants from entering agreements to limit competition, other than authorized agreements to approve or disapprove a particular rate proposal.

The proposed Final Judgment would also limit the collective ratemaking activities of the defendant motor carriers and the NFTB to ensure that they do not interfere with a motor carrier's statutorily-guaranteed right to price independently. In this regard, the Judgment would (1) prohibit the motor carrier defendants from discussing with any other carrier or the NFTB any independent rate prior to the rate's publication; (2) prohibit the defendants from discussing an independent rate for 90 days after the issued date, except that it would permit discussions after the issued date concerning lowering the corresponding NFTB rate to an amount not lower than the independent rate; any such discussion could take place only in an authorized rate committee or subcommittee meeting; (3) prohibit the NFTB for 90 days after the issued date of an independent rate from processing rate proposals that could cause collective undercutting of the independent rate; and (4) require the defendant motor carriers to certify that their rate proposals for collective action were not aimed at forcing any other carrier to raise its rates. Greater detail is provided in the proposed Final Judgment and CIS, copies of which appear below.

Public comment is invited within the statutory 60-day comment period. Such comments, and responses thereto, will be published in the **Federal Register** and filed with the Court. Comments should be directed to Elliott M. Seiden, Chief, Transportation Section, Antitrust Division, Department of Justice, Washington, D.C. 20530 (telephone: (202) 724–6349).

Joseph H. Widmar,

Director of Operations, Antitrust Division.

United States District Court for the Western District of New York

United States of America, plaintiff, v. Niagara Frontier Tariff Bureau, Inc., defendants; Civil Action No. 83–1313C; Judge Curtin.

Filed: January 19, 1984.

Stipulation

It is stipulated by and between the undersigned parties, by their respective attorneys, that:

1. The parties consent that a Final Judgment in the form hereto attached may be filed and entered by the Court, upon the motion of any party or upon the Court's own motion, at any time after compliance with the requirements of the Antitrust Procedures and Penalties Act (15 U.S.C. 16), and without further notice to any party or other proceedings, provided that plaintiff has not withdrawn its consent, which it may do at any time before the entry of the proposed Final Judgment by serving notice thereof on defendants and by filing that notice with the Court.

2. In the event plaintiff withdraws its consent or if the proposed Final Judgment is not entered pursuant to this Stipulation, this Stipulation shall be of no effect whatever and the making of this Stipulation shall be without prejudice to any party in this or any other proceeding.

Dated: January 18, 1984.

For the Plaintiff:

J. Paul McGrath,

Assistant Attorney General.

Mark P. Leddy,

Elliott M. Seiden,

James R. Weiss.

Barbara B. Anthony,

Donna N. Kooperstein,

Priscilla R. Budeiri,

Attorneys, U.S. Department of Justice.

For the Defendants:

Bryce Rea, Jr.,

Niagara Frontier Tariff Bureau, Inc.

John W. Bryant,

Bondy Cartage Limited.

Donald F. Flexner,

Dominion-Consolidated Truck Lines Limited.

Charles L. Freed,

ICL International Carriers, Ltd.

Lester M. Bridgeman,

Inter-City Truck Lines, (Canada), Inc.

Peter Standish,

TNT Canada, Inc.

David G. Brock,

700 Liberty Bank Building, Buffalo, NY 14202.

United States District Court for the Western District of New York

United States of America, plaintiff, v. *Niagara Frontier Tariff Bureau, Inc., et al.,* defendants; Civil Action No. 83–1313C; Judge Curtin.

Filed: January 19, 1984.

Final Judgment

Plaintiff, United States of America, having filed its Complaint herein on November 18, 1983, and plaintiff and defendants, by their respective attorneys, having consented to the entry of this Final Judgment, prior to the taking of any testimony, without trial or adjudication of any issue of fact or law herein and without admission by either party with respect to any issue:

Now therefore, prior to the taking of any testimony, before adjudication of any issue of fact or law herein and upon consent of the parties hereto, it is hereby,

Ordered, adjudged, and decreed as follows:

I

This Court has jurisdiction of the subject matter of this action and of each of the parties consenting hereto. The Complaint states a claim upon which relief may be granted against each defendant under Section 1 of the Sherman Act (15 U.S.C. 1).

II

As used in this Final Judgment the term:

(A) "Announcing or announces" shall mean: (1) The issued date of an independent rate that has been filed at the ICC pursuant to 49 U.S.C. 10762(a)(1); or (2) the date of an NFTB docket bulletin that publicizes that a motor carrier intends to establish or is establishing a rate by independent action.

(B) "Commence" shall mean: to make contact with any person without first having been specifically requested by that person to make that contact.

(C) "Communications" shall mean: all forms of oral and written contact between two or more persons.

(D) "Cross-border traffic" shall mean: the transportation of freight to or from the United States from or to the Province of Ontario, Canada by any motor carrier required to file rates at the Interstate Commerce Commission pursuant to 49 U.S.C. 10762(a)(1).

(E) "Discussions" shall mean: all forms of oral contact between two or more persons.

(F) "ICC" shall mean: The Interstate Commerce Commission.

(G) "Independent action" shall mean: Any action taken by a common carrier member of a rate bureau (1) to establish a rate to be published in the appropriate rate bureau

tariff, or to cancel a rate for that carrier's account or (2) to instruct the rate bureau that an existing rate (whether established by independent action or collective action) that is proposed to be changed or cancelled be retained for that carrier's account and published in the appropriate bureau tariff or (3) to have published for its account in the appropriate rate bureau tariff a rate established by the independent action of another carrier. This definition applies regardless of the manner in which the carrier joins in the rate, as long as the rate published for the joining carrier's account is the same as the rate established by the other carrier under independent action.

(H) "Independent rate" shall mean: a rate that has been established by an NFTB member motor carrier by independent action and published in an NFTB tariff publication or a rate that has been established by any motor carrier and published in its own tariff publication.

(I) "Issued date" shall mean: the month, day, and year which appear on the first page of a tariff publication next to the word "issued."

(J) "Motor carrier" shall mean: any person authorized, pursuant to 49 U.S.C. 10922(b)(1), to provide transportation subject to the jurisdiction of the ICC as a motor common carrier of property.

(K) "NFTB" shall mean: the Niagara Frontier Tariff Bureau, Inc.

(L) "Person" shall mean: any individual, firm, partnership, association, corporation, or any other business or legal entity.

(M) "Planned independent rate" shall mean: an independent rate that has not been announced.

(N) "Predetermined" shall mean: to plan beforehand to treat a particular matter in a certain way.

(O) "Processing" shall mean: publication by the NFTB of a rate proposal for collective action or of an independent rate with advance notice.

(P) "Rate agreement" shall mean: The agreement, bylaws, and any amendments thereto, either (1) approved by the ICC pursuant to 49 U.S.C. 10706(b) or (2) submitted to the ICC for approval under 49 U.S.C. 10706(b) and pursuant to which a rate bureau has been authorized to operate pending approval by the ICC.

(Q) "Rates or rate matters" shall mean: Specific rates or rate levels or divisions of rates; allowances or charges; rules or classifications affecting or relating to rates; the formulation, development, establishment, implementation, application, or maintenance of specific rates or rate levels, or types or kinds of rates or procedures or policies pertaining thereto.

(R) "Rage committee or subcommittee" shall mean: Any group of persons that includes at least two or more motor carriers that discuss "rate matters."

III

The provisions of this Final Judgment shall apply to the defendants and to each of their respective subsidiaries, successors, assigns, officers, directors, employees, and agents and to all other persons in active concert or participation with any of them who receive actual notice of this Final Judgment by personal service or otherwise.

IV

Each motor carrier defendant, at least 60 days prior to the transfer, sale of disposition of all, or substantially all, of the assets used by it as a motor carrier, shall provide notice in writing to the Assistant Attorney General in charge of the Antitrust Division concerning the planned transfer, sale or disposition. The notice shall identify the person(s) acquiring such assets, the terms, and the expected consummation date of the transaction.

V

Prior to announcing an independent rate, each motor carrier defendant is enjoined and restrained from communicating with any other motor carrier or the NFTB that it is considering, contemplating or planning to establish an independent rate; if any defendant learns about any motor carrier's planned independent rate, said defendant is enjoined and restrained from communicating with any motor carrier or the NFTB about the planned independent rate of which it has become aware, except that the defendants may engage in the communications authorized by section XI(A) of this decree. Each motor carrier defendant is further enjoined and restrained from suggesting to or inviting any other motor carrier to file a rate by independent action.

VI

For a period of five years from the date of entry of this Final Judgment:

(A) Whenever any motor carrier announces an independent rate on cross-border traffic that is a reduction below the corresponding, collectively established NFTB rate.

(1) Each defendant, for a period of 90 days following the issued date of the independent rate, is enjoined and restrained from discussing the independent rate with any other motor carrier, except that discussions concerning lowering by collective action the corresponding NFTB rate to an amount not lower than the independent rate may take place within an authorized rate committee or subcommittee meeting after the issued date of the independent rate, and the defendants may engage in the communications authorized by section XI(A) of this Final Judgment, and

(2) Defendant NFTB, for a period of 90 days following the issued date of such independent rate, is enjoined and restrained from processing a motor carrier's rate proposal for collective action, or advance docketing for independent action, reductions of the corresponding NFTB rate(s) to an amount that is known or should be known by defendant NFTB to be below the lower of the specific amount that was established (a) by such independent rate or (b) any other corresponding independent rate; if defendant NFTB receives a rate proposal or an independent action for advance docketing which contains reductions in rates prohibited by this section VI(A)(2), defendant NFTB may communicate with the proponent of the rate proposal or the independent action for the purpose of informing said proponent that its rate reduction is prohibited by this section of this Final Judgment.

(B) Whenever any motor carrier defendant dockets a rate reduction on any NFTB rate for collective action, a responsible official for said defendant must prepare and file with the NFTB a sworn affidavit in the form attached certifying that:

(1) Said defendant has not communicated with any motor carrier outside of authorized rate bureau meetings concerning said rate; and

(2) The proposed rate reduction has not been conceived, designed, proposed or docketed for the purpose of inducing any motor carrier to raise any independently established rate.

(C) Defendant NFTB is enjoined and restrained from processing any proposals for collective rate reductions from any of the motor carrier defendants that are not accompanied by the sworn affidavit described in section VI(B). Defendant NFTB must maintain said affidavits for a period of five years and said affidavits must be made available to the Department of Justice upon written request of the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice.

(D) Each motor carrier defendant is enjoined and restrained from suggesting to or inviting any other person to file a proposal for collective action which it knows could not be processed by defendant NFTB pursuant to section VI(A)(2) of this Final Judgment if filed by a motor carrier; each defendant motor carrier is further enjoined from suggesting to or inviting a non-defendant motor carrier to submit to the NFTB a rate proposal for collective action for the purpose of inducing any other motor carrier to raise any independently established rate.

VII

Each defendant is enjoined and restrained from harassing, discouraging, coercing, or threatening in any way any motor carrier to withdraw, forbear from filing, or modify in any way said carrier's planned or actual independent rates.

VIII

Each defendant motor carrier is enjoined and restrained from combining or conspiring with any other motor carrier to develop, adopt or maintain, and further, defendant NFTB is enjoined from developing, adopting, or maintaining:

(A) Any predetermined policy, plan or program to respond in any specified way to rates established independently by a member or by a non-member motor carrier; and

(B) Any predetermined policy, plan or program to reconsider automatically a general rate increase when a member flags any portion of a general rate increase.

IX

Each defendant motor carrier is enjoined and restrained from combining or conspiring with any other motor carrier to:

(A) Refrain from exercising the right to take independent action, except that when an authorized ratemaking body of a rate bureau with a rate agreement votes to approve or disapprove a particular rate proposal, the collective decision on the proposal shall not be deemed to constitute a combination or

conspiracy within the meaning of subsection (A) of this section IX;

(B) Refrain from soliciting any motor carrier's customer(s);

(C) Change or refrain from changing any rates on the condition that (1) a shipper promises not to negotiate with any other motor carrier(s) for lower rates, or (2) a shipper promises not to purchase transportation services at lower rates or from particular motor carrier(s);

(D) Refrain from offering any kind of class or category of transportation service, except that when an authorized ratemaking body of a rate bureau with a rate agreement votes to approve or disapprove a particular rate proposal, the collective decision on the proposal shall not be deemed to constitute a combination or conspiracy, within the meaning of subsection (D) of this section IX;

(E) Refrain from establishing certain types of rates, except that when an authorized ratemaking body of a rate bureau with a rate agreement votes to approve or disapprove a particular rate proposal, the collective decision on the proposal shall not be deemed to constitute a combination or conspiracy, within the meaning of subsection (E) of this section IX;

(F) Prevent an NFTB member motor carrier from filing a proposal for a reduced rate on traffic that that member motor carrier has not carried, except that when the authorized ratemaking body of a rate bureau with a rate agreement votes to approve or disapprove a particular rate proposal, the collective decision on the proposal shall not be deemed to constitute a combination or conspiracy within the meaning of subsection (F) of this section IX.

X

Defendant NFTB is enjoined and restrained from:

(A) Negotiating or allowing any of its rate committees or subcommittees to negotiate, for a particular level of NFTB rates on the condition that (1) a shipper promise not to negotiate with any motor carriers for lower rates, or (2) a shipper promises not to purchase transportation services at lower rates or from particular motor carriers;

(B) Preventing or allowing any of its rates committees or subcommittees to prevent, an NFTB member carrier from filing a proposal for a reduced rate on traffic that that member motor carrier has not carried, except that when any authorized NFTB rate committee or subcommittee votes to approve or disapprove a particular proposal, the collective decision on the proposal shall not be deemed to constitute preventing the filing of a proposal within the meaning of subsection (B) of this section X;

(C) Refraining or allowing any of its rate committees or subcommittees to refrain from establishing certain types of rates, except that when any authorized NFTB rate committee or subcommittee votes to approve or disapprove a particular rate proposal, the collective decision on the proposal shall not be deemed to constitute a decision to refrain from establishing certain types of rates within the meaning of subsection (C) of this section X; and

(D) Permitting or allowing any employee of NFTB, in any way, to interfere with, control or direct any action taken or to be taken by any NFTB rate committee or subcommittee.

XI

Defendant NFTB is enjoined and restrained from allowing its staff to:

(A) Commence any communication with a member carrier that has directed the NFTB to publish an independent action for the member carrier's account with respect to that independent action, except that the NFTB staff may commence communications with such a member for the purpose of clarifying technical matters to facilitate publication of the independent action, provided, however, that defendant NFTB must maintain a log of each such communication which shall include the date, time, the names of the persons involved in such communication, the length of time of the communication, and the matters discussed, including the specific technical matter or inquiry that constituted the purpose of the communication;

(B) Take a position that any rate be docketed as a proposal, initiate tariff proposals, docket tariff proposals, or take a position on or determine whether to adopt, reject, or otherwise dispose of tariff proposals, except that the NFTB staff may process members' rate proposals, and, upon request, may perform the analysis and offer the advice that will enable the proponent of a rate change to docket the proposal, and upon request, may gather and present to the rate committees or subcommittees that will consider proposals and to other interested carriers and shippers factual information relating thereto, provided, however, that such presentations shall not include any expressions of opinion or make any recommendations;

(C) Initiate or develop any collective response by or among NFTB members to rate proposals or independent rates, except that the NFTB staff may process members' rate proposals, and upon request, may perform the analysis and offer the advice that will enable the proponent of a rate change to docket the proposal, and upon request, may gather and present to the rate committees or subcommittees that will consider proposals and to other interested carriers and shippers factual information relating thereto, provided, however, that such presentations shall not include any expressions of opinion or make any recommendations; and

(D) Handle or publish independent actions in any way other than that which is explicitly described in the NFTB rate agreement.

XII

Each motor carrier defendant is enjoined and restrained from engaging in any communications relating to rate matters with any motor carrier, and defendant NFTB is enjoined and restrained from engaging in any discussions relating to rate matters with two or more motor carriers, unless such communications and discussions take place within an authorized ratemaking body of a rate bureau with a rate agreement. In the NFTB such discussions and communications must take place within a rate committee or subcommittee that is explicitly authorized to consider rate matters; if, however, the NFTB's general rate committee is authorized to create subcommittees pursuant to the NFTB rate agreement that has been filed with the ICC, the defendants may discuss rate matters in such subcommittees in conformity with this section, provided that said subcommittees are created by resolution adopted by the NFTB general rate committee, which explicitly describes such subcommittee and the nature of the rate matters they consider.

XIII

For a period of 5 years from the date of entry of this decree, defendant NFTB must tape record every meeting of any NFTB rate committee or subcommittee that is authorized to consider rate matters in conformity with section XII of this Final Judgment, and said tapes must be maintained for a period of 5 years. Defendant NFTB must make the tapes available to the Department of Justice upon written request of the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice.

XIV

No provision of this decree prohibits communications or agreements between a defendant and any other motor carrier or carriers, including another defendant, for the sole purpose of achieving interline operations or interline rates.

XV

The mere announcing or establishing of an independant rate with no advance notice shall not be deemed to constitute conduct prohibited by sections V, VI or VII of this Final Judgment.

XVI

No provision of this decree shall prohibit the NFTB staff, upon request of any NFTB rate committee or subcommittee member of members, from gathering and presenting to the general rate committee or subcommittee factual information to enable the development of proposals for the simplification of tariffs, the removal of obsolete items from tariffs, general increases or decreases in rates, broad changes in tariff structures or rates, or changes in rules or regulations of substantially general application provided, however, that any such presentations shall not include any expressions of opinion or make any recommendations.

XVII

This Final Judgment applies only to rates or rate matters for the transportation of freight that originates or terminates in the United States, whether by single line or joint line movement.

Each defendant is ordered and directed:

(A) To mail or otherwise furnish within sixty (60) days after the entry of this Final Judgment a copy thereof to each of (1) its officers and directors, (2) its agents and employees with supervisory or management responsibility, or with responsibility over rates or rate matters, and (3) the officers and directors of its parent and subsidiary corporations and within seventy (70) days from the aforesaid date of entry to file with the Clerk of this Court and the plaintiff an

affidavit setting forth the fact and manner of compliance with this section XVIII(A);

(B) To establish a reasonable program for dissemination of, education as to, and compliance with this Final Judgment, involving each corporate officer, director, employee and agent having responsibilities in connection with or authority over the establishment of rates or rate matters, advising them of their obligations under this Final Judgment. This program shall include, but is not necessarily limited to the inclusion, in an appropriate company manual or internal memorandum, a copy of this Final Judgment in whole or in part or an explanation thereof, and a statement of corporate compliance policy thereunder; and

(C) To furnish to plaintiff within one hundred and twenty (120) days of the entry of this Final Judgment, and thereafter upon request by plaintiff, on or about the anniversary date of this Final Judgment for a period of five (5) consecutive years from the date of its entry, an account of all steps said defendant has taken during the preceding year to discharge its obligations under subsections (A) and (B) of this section XVIII and to include with said account copies of all written directives issued during the prior year with respect to compliance with the terms of this Final Judgment.

XIX

(A) For the purpose of determining or securing compliance with this Final Judgment:

(1) Upon receipt of a written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division, each defendant shall, on reasonable notice and subject to any legally recognized privilege:

(a) Permit duly authorized representatives of the Department of the Justice access, during the office hours of such defendant, to inspect and copy all United States-located books, ledgers, accounts, correspondence, memoranda, records and documents in the possession or in the control of the defendant relating to any of the matters covered by this Final Judgment;

(b) Provide within sixty (60) days to the Department of Justice in Washington, D.C., copies of any books, ledgers, accounts, correspondence, memoranda, and other documents or records in the possession or under the control of such defendant relating to any subjects covered by this Final Judgment;

(c) Submit written reports, under oath if requested, wtih respect to its compliance with this Final Judgment as may, from time to time, be requested; and

(d) Permit any duly authorized representative of the Department of Justice, subject to the reasonable convenience of each defendant and without restraint or interference from it, to interview officers, employees and agents of such defendant, who may have counsel present, regarding any subject covered by this Final Judgment. Such request and notice may be made by delivery to the person appointed pursuant to section XX of this Final Judgment to receive service of process on behalf of each defendant.

(e) Nothing in this section XIX(A) shall require any defendant to take any action in Canada which is prohibited by the government of Canada or any provincial government pursuant to provisions of Canadian or provincial law, provided that said defendant has exercised good faith efforts to obtain permission of the appropriate person or governmental authority and such permission has not been secured.

(B) No information or document obtained by the means provided in this section XIX shall be divulged by any representative of the Department of Justice to any person other than a duly authorized representative of the Executive Branch of the United States, except in the course of legal proceedings to which the United States is a party, or for the purpose of securing compliance with this Final Judgment, or as otherwise required by law, provided however, any representative of the Department of Justice may divulge to the Office of Compliance and Consumer Assistance of the ICC the existence of any practice which is discovered by the means described in this section XIX and which is believed to violate any of the provisions of the Interstate Commerce Act.

(C) If at the time information or documents are furnished by a defendant to plaintiff, such defendant represents and identifies in writing the material in any such information or documents to which a claim of protection may be asserted under Rule 26(c)(7) of the Federal Rules of Civil Procedure, and said defendant marks each pertinent page of such material, "Subject to claim of protection under Rule 26(c)(7) of the Federal Rules of Civil Procedure," then 10 days notice shall be given by plaintiff to such defendant prior to divulging such material in any legal proceeding (other than a grand jury proceeding) to which that defendant is not a party.

XX

Each defendant shall appoint a person located in the United States as its agent for service of process in any proceeding for the purpose of the construction, implementation, modification, enforcement of compliance, or punishment of any violation of this Final Judgment. Each defendant shall maintain such agent for the life of this Final Judgment and, within ten (10) days from the date of entry of this Final Judgment, file with this Court and serve on plaintiff a statement identifying such agent. In the event of a need to appoint a successor agent, defendant shall immediately file with this Court and serve on plaintiff a statement identifying the successor agent.

XXI

Jurisdiction is retained by this Court for the purpose of enabling any of the parties to this Final Judgment to apply to this Court at any time for such further orders and direction as may be necessary or appropriate for the construction or carrying out of this Final Judgment, for the modification of any of the provisions hereof, for the enforcement of compliance herewith, and for the punishment of any violation hereof.

XXII

This Final Judgment shall exprie ten (10) years from the date of entry or, with respect to any particular provision, on any earlier date specified.

XXIII

This Court finds that the entry of this Final Judgment is in the public interest.

Dated this —— day of ——— 198—.

United States District Judge.

United States District Court for the Western District of New York

United States of America, Plantiff, v. *Niagara Frontier Tariff Bureau, Inc.,* et al., Defendants; Civil Action No. 83–1313; Judge Curtin.

Affidavit

I ———, (title), certify that, to the best of my knowledge, no officer, director, employee, or agent of my company has engaged in any communications with any other motor carrier outside of an authorized rate bureau meeting concerning the rate which is the subject of this proposal for collective consideration; and this rate reduction was not conceived or designed, and it is not being proposed or docketed, for the purpose of inducing any motor carrier to raise any independently established rate.

Notary ———

Date:

United States District Court for the Western District of New York

United States of America, Plantiff, v. *Niagara Frontier Tariff Bureau, Inc.;* et al., Defendents; Civil Action No. 83–1313 c; Judge Curtin.

Filed: January 19, 1983.

Competitive Impact Statement

Pursuant to Section 2(b) of the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b)–(h), the United States files this competitive Impact Statement relating to the proposed Final Judgment submitted for entry in this civil antitrust proceeding.

I.—Nature and Purpose of the Proceeding

On November 18, 1983, the United States filed a civil antitrust Complaint in the United States District Court for the Western District of New York under section 4 of the Sherman Act (15 U.S.C. 4) to enjoin defendants Niagara Frontier Tariff Bureau, Inc., Bondy Cartage Limited, Dominion-Consolidated Truck Lines Limited, ICL International Carriers, Ltd., Inter-City Truck Lines (Canada) Inc., and TNT Canada, Inc.; from continuing or renewing violations of section 1 of the Sherman Act (15 U.S.C. 1). Previously, on June 10, 1983, the United States had filed substantially the same complaint against the same defendants in the United States District Court for the District of Columbia. On November 18, 1983, the United States filed a notice of voluntary dismissal of the complaint pursuant to Rule 41(a)(1)(i) of the Federal Rules of Civil Procedure. The United States refiled the instant Complaint that same day with this Court. As the government advised the District of Columbia Court, the United States dismissed and refiled the case in this district because defendants,

who had filed a motion contesting jurisdiction and venue in the District of Columbia, had stated that they would not contest jurisdiction and venue in the Western District of New York.

The defendant Niagara Frontier Tariff Bureau (NFTB) is a motor carrier rate bureau, which has a collective ratemaking agreement approved by the Interstate Commerce Commission (ICC). The other defendants are motor carriers that are members of the NFTB. The ICC-approved agreement authorizes NFTB members to set rates collectively with immunity from the antitrust laws provided they adhere to the terms of the agreement, the Interstate Commerce Act and ICC regulations.

The Complaint alleges that beginning at least as early as 1966 and continuing at least into 1981, the defendants and co-conspirators engaged in a combination and conspiracy to restrain interstate and foreign commerce. The substantial terms of the alleged combination and conspiracy were to fix, raise and maintain prices and to inhibit or eliminate competition for the transportation of freight by motor carrier between the United States and the Province of Ontario, Canada, without complying with the terms of the NFTB agreement and by otherwise engaging in conduct that either was not or could not be approved by the ICC.

The instant case was filed to achieve the following purposes: (1) To terminate the unlawful combination and conspiracy and to prevent its recurrence; (2) to prevent the perpetuation of its effects; (3) to identify and proscribe specific anticompetitive conduct that exceeds the scope of antitrust immunity provided to the defendants by the Interstate Commerce Act, 49 U.S.C. 10706(b)(2); and (4) to identify and proscribe certain practices that although not illegal themselves were used by defendants to effectuate the alleged conspiracy. Consistent with these objectives, the Complaint seeks a judgment by the Court that the defendants' conduct did not comply with the terms of the NFTB's collective ratemaking agreement, that such conduct was not immune from the operation of the antitrust laws, and that such conduct constituted a combination and conspiracy in unreasonable restraint of trade in violation of Section 1 of the Sherman Act. Additionally, the Complaint seeks an order enjoining the defendants from continuing, maintaining or renewing such activities in the future or from engaging in any conduct having a similar purpose or effect. Finally, the Complaint requests that the defendant NFTB be ordered to establish and follow rules and procedures designed to ensure that the conspiracy charged is not continued, maintained or renewed, including rules and procedures designed to ensure that the NFTB does not interfere with the right of NFTB member and non-member carriers to make rates independent of the NFTB collectively agreed-upon rates.

II.—Description of Practices Giving Rise to the Alleged Violation

The following describes the practices or events giving rise to the violation alleged in the Complaint. Included are brief description of the trade and commerce that was the subject of defendants' conspiracy, the defendants, and the defendants' alleged unlawful conduct.

A. Trade and Commerce

The trade and commerce alleged in the Complaint as the subject of defendants' conspiracy is the transportation of freight by motor carrier between the United States and the Province of Ontario, Canada. The Complaint alleges that the international traffic revenues of NFTB carriers with requisite authority to transport freight across the United States/Canadian border were at least $330.3 million in 1980 and that the defendant motor carriers and their co-conspirators accounted for most of the cross-border traffic among NFTB motor carriers.

This transportation market is shaped by licensing and other regulatory controls on both sides of the border which limit, but do not eliminate, competition. To transport freight across the U.S./Ontario border, a motor carrier must have operating authority from the ICC, in almost all cases, and must also have extra-provincial authority from the Ontario Highway Transport Board (OHTB), the Ontario governmental agency that regulates motor carrier transportation to, or from, Ontario, Canada. In addition to regulating operating authority, both the ICC and the OHTB regulate some other, but not all, aspects of motor carrier transportation. The ICC requires motor carriers transporting freight pursuant to operating authority to file, in Washington, D.C., tariffs that contain all rates for transportation, to make the tariffs available for public inspection, and to implement changes in rates only after thirty days notice to the ICC and the public, unless the ICC specifically grants permission for a shorter notice period. Although the ICC is empowered in certain circumstances to determine and prescribe just and reasonable rates for motor carriers, it does not dictate motor carriers' rates in the first instance. The OHTB also requires motor carriers to file tariffs, to adhere to the rates in the tariffs and to implement changes only after 30 days notice. The OHTB, however, does not prescribe rates.

Carriers holding ICC operating authority may form, by agreement, organizations known as rate bureaus, such as the NFTB, for the purpose of setting rates collectively. If the carriers' agreement is submitted to and approved by the ICC, the participating carriers enjoy limited immunity from the antitrust laws to fix rates collectively (49 U.S.C. 5b, currently codified at 49 U.S.C. 10706(b)(2)). The ICC requires carriers to set forth in their agreement the structure and functions of committees and the procedures by which rates are to be set. Additionally, each agreement must, by statute, reserve to each member the unfettered right to establish rates independently of the collectively fixed rates (49 U.S.C. 5b(6), currently codified at 49 U.S.C. 10706(b)(2)(E)(ii)).

The immunity granted by the ICC extends to actions taken in conformity with the approved ratemaking agreement. It does not extend to any actions that interfere with any carrier's statutory right to price independently or to any collective ratemaking conduct not authorized by the ratemaking agreement.

B. Defendants

The complaint names six defendants, the NFTB and five member motor carriers: Bondy Cartage Limited (Bondy), Dominion-Consolidated Truck Lines Limited (Dominion-Consolidated), ICL International Carriers, Ltd. (ICL), Inter-City Truck Lines (Canada), Inc. (Inter-City) and TNT Canada, Inc. (TNT).

The NFTB is a non-profit, no share incorporated motor carrier rate bureau organized and existing under the laws of the state of New York with offices in Williamsville, New York. The NFTB has authority from the ICC to engage in collective ratemaking in accordance with the terms and conditions of its ICC-approved agreement. The NFTB has immunity from the operation of the antitrust laws for the ratemaking activities described in its agreement.

The five motor carrier defendants are corporations headquartered in Canada. Each holds authority from the Ontario government to transport freight between Ontario and the United States and each has common carrier authority from the ICC. Each engages in the transportation of freight between the United States and Canada and each is a member of the NFTB.

Bondy is incorporated under the laws of the Province of Ontario, Canada and has its headquarters in Windsor, Ontario. Dominion-Consolidated, incorporated under the laws of the Province of Ontario, Canada, has its headquarters in Toronto, Ontario; it is a wholly-owned subsidiary of Dominion Consolidated Holdings Limited, also an Ontario corporation. ICL is incorporated under the laws of the Province of Ontario, Canada and is headquartered in Windsor, Ontario; it is a subsidary of Industrial Cartage Co., Inc., a Michigan corporation, which, in turn, is wholly-owned by Piggy Back Services, Inc., a Michigan corporation headquartered in Detroit, Michigan. Inter-City, incorporated under the laws of the Province of Ontario, Canada, is headquartered in Toronto, Ontario; it is a wholly-owned subsidiary of N.M. Davis Corporation Limited, an Ontario corporation. TNT is a corporation organized and existing under the federal laws of Canada with headquarters in Mississauga, Ontario; TNT is a subsidiary of All Trans Canada, Inc., an Ontario corporation which is owned by Thomas Nationwide Transport, Ltd. of Sydney, Australia.

C. The Terms of the Alleged Conspiracy

The Complaint alleges that the defendants and other co-conspirators who were not named as defendants combined and conspired to restrain interstate and foreign commerce beginning at least as early as 1966 until at least into 1981 in violation of Section 1 of the Sherman Act. The substantial terms of the alleged conspiracy were to fix, raise and maintain prices and to inhibit or eliminate competition for the transportation

of freight by motor carrier between the United States and Ontario, Canada. The Complaint alleges that the defendants and co-conspirators did not comply with the terms of the NFTB rate agreement and also engaged in conduct that either was not or could not be approved by the ICC.

As alleged in the Complaint, the defendants and co-conspirators, in furtherance of the conspiracy, engaged in the following conduct:

(1) They participated in the NFTB's Principals Committee, a group that was made up of the senior management officials of the NFTB carriers that operated between the United States and Ontario, Canada. Through the Principals Committee, the defendants and a number of co-cospirators jointly set rates and related policies and also agreed upon methods to inhibit competition. The defendants thus entered an array of agreements, established a variety of procedures and took particular actions to eliminate competitive threats from both within and without the NFTB. The Principals Committee was not in the NFTB agreement and thus was not authorized or approved by the ICC to fix rates.

(2) They set and controlled NFTB rate levels without complying with the procedural requirements of the NFTB agreement and ICC regulations. The NFTB is required under its own agreement and ICC regulations to take certain steps when it engages in collective ratemaking conduct. Those steps include public notice to all its members and interested shippers, public hearings on rate matters, and record keeping of ratemaking meetings. The defendants engaged in ratemaking conduct without complying with these procedures.

(3) They held Principals Committee meetings and other types of meetings where they planned threats, coercion and retaliation against an NFTB member carrier for establishing rates that were independent of the collectively fixed rates of the NFTB.

(4) They interfered with, restrained and restricted the statutory right of other carriers to price independently through pressure, coercion, threatening and taking retaliatory rate cuts, internal NFTB practices, and other means.

(5) They filed tariffs that were the product of their conspiratorial conduct with the ICC in Washington, D.C.

The Complaint alleges that the conspiracy had the following effects: (1) Rates for trucking services between the United States and Ontario, Canada, have been fixed, raised or maintained at artificial and non-competitive levels; (2) competition between and among the defendant motor carriers and other trucking firms in the United States-Ontario trade has been restrained; and (3) competition generally in the trucking industry between the United States and Ontario has been suppressed.

III.—Explanation of the Proposed Judgment

The United States and the defendants have stipulated that the Court may enter the proposed Final Judgment after compliance with the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b)–(h). The proposed Final Judgment provides that the entry of the Final Judgment does not constitute any evidence against or an admission by any party with respect to any issue of fact or law. Under the provisions of Section 2(e) of the Antitrust Procedures and Penalties Act, the proposed Final Judgment may not be entered until the Court determines that entry is in the public interest.

A. Prohibited Conduct

Overview

In 1948, Congress authorized motor carriers to form rate bureaus for the purpose of setting rates collectively. When Congress conferred this privilege on motor carriers, it recognized that the resultant rate bureau cartels could amass significant economic power to the detriment of the public and might engage in coercive or retaliatory rate conduct to protect that power. To forestall these possibilities, Congress included in the statutory scheme certain competitive checks for the protection of the public. One principal check is the guarantee that each member of a rate bureau has the absolute right to take independent action, that is, to set rates independent of the rate bureau's collectively set rates. 49 U.S.C. 5b(6), currently codified at 49 U.S.C. 10706(b)(2)(B)(ii); S. Rep. No. 44, 80th Cong., 1st Sess. 15 (1947). Although rate bureaus can set rates collectively, they cannot require adherence to their rates by members. Similarly, rate bureaus cannot force non-members to charge the same rates as bureau carriers. This right to price independently—unfettered by harassment or coercion—is a critical check on the economic power of rate bureau cartels; it is an important way that the shipping public can negotiate with a carrier to obtain rates lower than the collectively set level.

In addition to the right of independent action, Congress authorized the ICC to supervise the practices and procedures of rate bureaus. Congress required that motor carrier members of a rate bureau submit their ratemaking agreement to the ICC for its approval. Upon approval, the members of the rate bureau enjoy immunity from the antitrust laws to set rates collectively in accordance with the terms of their agreement and any additional terms and conditions imposed by the ICC under its continuing authority. 49 U.S.C. 5b(2), currently codified at 49 U.S.C. 10706(b)(2); *United States v. Bessemer and Lake Erie Railroad Co.*, 717 F.2d 593 (D.C. Cir. 1983).

Pursuant to its mandate, the ICC has over the years adopted a variety of rules governing rate bureau conduct. Among these are rules requiring that records be maintained of bureau meetings where rates are discussed and that public notice be given before decisions on rates are made. These rules are intended to ensure that the ICC can exercise its supervisory authority over rate bureaus and that the shipping public is aware of, and has input into ratemaking decisions. In addition to adopting procedural rules, the ICC throughout the years consistently has reinforced the right of rate bureau members to take independent action, forbidding rate bureau members and employees from discouraging independent pricing in any way.

The congressional scheme of collective rate setting thus places limits on the motor carriers' privilege to fix prices—limits that were designed to safeguard the public from monopolistic pricing. This case was brought because the defendants allegedly exceeded those limits and strengthened the economic power of their rate bureau in unauthorized ways. In substance and effect, the Complaint alleges that the defendants operated as if there were no congressionally-required competitive checks on their collective ratemaking power. Instead, the defendants allegedly treated independent action as an interference with collective ratemaking and sought, through a variety of means to deter independent rate filing and to discipline those who did file such rates. In addition, the defendants allegedly sought to evade public and regulatory scrutiny of their ratemaking conduct by not complying with notice and record keeping requirements.

Among the alleged means used by defendants to deter independent rates was the threat of collective rate cuts below independent rates, and, in some cases, the actual implementation of such cuts. In this regard, two types of rate cuts can be used to deter independent rates: (1) Collective rate cutting below the independent rate on the same commodity; and (2) collective rate cutting on a commodity not affected by the independent action. While collective rate cutting might appear to be always beneficial to the shipping public, that is not the case when the threat of rate cuts and the actual rate cuts themselves are used to discourage would-be independent actors and to discipline those who go forward with rate reductions. The end result of such activity is fewer independent actions and higher rates overall.

The proposed Final Judgment seeks to proscribe this important means of deterring independent ratemaking. At the same time, the proposed Judgement recognizes that in authorizing collective ratemaking, Congress has determined that there is an appropriate role for collective rate cutting. It thus bars strategic rate cutting, that is, collective rate cutting designed to deter independent ratemaking, while permitting collective rate cuts that are not strategic in nature, that is, reductions that are normal commercial responses to market forces within the rate bureau context. (*See* section VI (A) and (B), *infra.*)

The proposed Final Judgment also seeks to bar other means by which the rate bureau could deter independent ratemaking. It prohibits threats and other forms of coercion (*See* section VII, *infra*), and it enjoins rate bureau policies designed to undermine members' incentives to file reduced rates. (*See* section VIII, *infra.*) In addition, the proposed Judgment prohibits conduct that has the effect of eliminating the need for independent action, such as agreements among carriers not to solicit each other's traffic on the basis of price. (*See* section IX(B), *infra.*)

In regard to the other checks on collective ratemaking, the proposed Final Judgment seeks to ensure that the defendants' collective ratemaking activities take place in strict compliance with statutory and ICC procedures governing such conduct. It

accomplishes this goal in a number of ways, including requiring defendants to identify publicly all of their ratemaking committees (*See* section XII, *infra*); to tape record meetings of such committees (*See* section XIII, *infra*); and to prohibit all collective ratemaking discussion and agreements except in such committees (*See* section XII, *infra*). In sum, as described section by section below, the proposed Final Judgment parallels the objectives for filing the instant case and seeks to define clearly the limits of the defendants' rate bureau activities and to ensure that the defendants strictly adhere to those limits.

Section V

Section V of the proposed Judgment prohibits each motor carrier defendant from communicating with other carriers or the NFTB about either its own or any other carrier's planned independent rates before such rates are announced or made known to the public. This section also prohibits defendant NFTB from communicating with any motor carrier about its planned independent rate; the NFTB staff may, however, communicate with a member motor carrier that has submitted an independent action to the NFTB for the purpose of clarifying technical matters to facilitate publication of the independent action. The section further enjoins each motor carrier defendant from suggesting to or inviting any other motor carrier to file an independent rate.

Section V is intended to (1) Prevent any defendant from filing or arranging for the filing of an independent rate that is the product of collective decision-making, and (2) eliminate the possibility of any defendant trying to persuade any carrier to change its planned independent pricing decisions. Section V is not intended, however, to prohibit a defendant motor carrier from communicating with the NFTB for the purpose of obtaining factual information or technical advice that will enable the defendant motor carrier to decide whether to file an independent rate as long as the defendant carrier does not divulge its intention to establish an independent rate. Similarly, this section does not bar defendant NFTB from providing such factual or technical information to any requesting member carrier as long as defendant NFTB does not discuss the planned independent rate itself; after an independent rate has actually been submitted by a carrier, the NFTB staff may, if necessary, contact the carrier to obtain clarification of technical matters as provided by Section XI(A) of the Final Judgment.

The terms "announces" and "independent rate" are defined in Section II of the Final Judgment.

Section VI

Section VI seeks to prevent the defendants from planning or establishing strategic, collective rate reductions to discourage competitors' independent pricing decisions. This goal is accomplished by enjoining the defendants from discussing independent rates, taking collective rate cuts below independent rates and establishing any collective reduction that is designed to interfere with or discourage independent rates. While some of the conduct enjoined by Section VI is not necessarily by itself violative of the antitrust laws, it must nevertheless be prohibited, since it was allegedly among the primary means used by the defendants to eliminate and inhibit competition. Failure to enjoin these activities might facilitate perpetuation of the effects of the alleged illegal conspiracy.

Under section VI(A)(1), after any motor carrier makes public an independent rate on cross-border traffic that is below a corresponding, collectively set NFTB rate, each defendant is prohibited for a 90-day period following the issued date of the independent rate, from discussing the independent rate with any motor carrier, except that the defendants may discuss in an authorized rate bureau committee meeting establishing rates that match the independent rate. Thus, for a 90-day period the defendants may not discuss the independent rate except in terms of matching it, and that discussion may occur only at an authorized rate committee (or subcommittee) meeting the proceedings of which must be tape recorded. (*See* sections XII and XIII, *infra*.) Since subsection (A)(1) applies to the NFTB as well as the motor carrier defendants, the NFTB as a rate bureau is enjoined from engaging in the prohibited discussions. The NFTB staff, however, may contact a member that has submitted an independent rate for the purpose of clarifying technical matters to enable the NFTB to publish the rate.

Thus, subsection (A)(1) is intended to prevent opportunities for planning and coordinating collective rate reductions either on the same or on different commodities that could discourage or interfere with a carrier's independent pricing decisions. Subsection (A)(1) accomplishes this objective because it prohibits, for 90 days after an independent rate is announced, all collective discussions about the independent rate except for discussions to collectively match it. Discussions about matching are permitted because a carrier reducing its rates should reasonably expect its competitors in a rate bureau will do the same to protect their own market shares. Thus, the collective matching by competitors can be anticipated and planned for by the independent pricing carrier.

On the other hand, collective reductions below an independent rate are not reductions that a carrier pricing independently could reasonably anticipate since, in general, such reductions are not necessary to protect market share. Rather, collective rate cutting in these circumstances could well be used to discourage and interfere with independent pricing decisions of competitors. Faced with collective undercutting, the carrier that initially reduced rates independently would have to decide whether to reduce its rates further, perhaps to a non-compensatory level, or to negotiate with the bureau in order to get the bureau to raise its rates. In such circumstances, the independent carrier may have to promise to go along with future, collectively set rates. Thus, strategic, collective rate reductions can be used to discourage independent pricing and to interfere with carriers that are trying to establish and maintain independent rates that are lower than the collectively set level. For these reasons, subsection (A)(1) prohibits discussions where such plans or strategies to retaliate against an independent rate could be devised.

For 90 days after the issuance of an independent rate, section VI(A)(2) prohibits the NFTB from processing motor carriers' collective rate proposals or advance notice independent actions that would reduce NFTB rates below either the specific independent rate or any other corresponding, independent rate, whichever is lower. Under subsubsection (A)(2), the NFTB may contact a motor carrier that has submitted such a proposal or an advance notice independent action for the purpose of informing the carrier that the rate submitted to the NFTB is prohibited by the Final Judgment. Section VI(A)(2)'s ban on processing applies to proposals submitted by non-defendant member carriers, as well as by defendants. The section however, does not prohibit the defendants or other NFTB member carriers from collectively establishing rates that match those of an independent actor. Further, it does not prohibit an individual carrier from adopting any rate it chooses by a no notice independent action, that is an independent action in which other member carriers are not given an opportunity by the rate bureau to have the same rate published for their account with the same effective date.

Ninety days after the announcement of an independent rate, sections VI(A)(1) and (2) will no longer bar the defendants from discussing or taking collective reductions below the lower of either the specific independent rate of any other corresponding, independent rate. We believe a 90-day period is adequate to insure that the collective power of the rate bureau is not used against an independent actor. Even after the 90-day period, however, section VII of the proposed Final Judgment, *infra*, will continue to prohibit the defendants from targeting independent rates for strategic, collective ratemaking that would discourage or interfere with independent ratemaking by another motor carrier.

Subsection (B) requires that whenever a motor carrier defendant submits a rate to the NFTB for collective action, the carrier must certify that: (1) It has not communicated with other carriers outside of authorized rate bureau meetings concerning the rate; (2) the proposed rate reduction has not been conceived or docketed to induce any carrier to raise any independent rate. Subsection (C) prohibits defendant NFTB from processing any proposal for a collective rate reduction from any of the motor carrier defendants that is not accompanied by the required certification. Subsection (D) prohibits each motor carrier defendant from suggesting to or inviting any person, including a shipper, to file a rate reduction proposal for collective action that the defendant knows could not be processed by defendant NFTB under section VI(A)(2). Subsection (D) also prohibits each motor carrier defendant from suggesting to or inviting a non-defendant motor carrier to submit a rate proposal to NFTB for the

purpose of inducing any other carrier to raise its independent rates.

Subsections (B), (C), and (D) are intended to eliminate remaining opportunities for the planning or setting of rate reductions to discourage independent pricing decisions. Subsection (B) requires that the motor carrier defendants affirm that their collective ratemaking behavior is non-strategic, i.e., that it is not designed to induce any other carrier to raise an independent rate. As explained *supra*, the proposed Final Judgment seeks to bar two types of strategic, collective rate cutting in response to an independent rate: (1) Collective reductions below the same independent rate, and (2) collective reductions on other commodities or in other geographic areas. The first type of strategic collective cuts, i.e., undercutting on the same rate, is expressly barred by subsection (A)(2). It is not possible, however, to have a similar express bar against "off commodity" rate cutting because it is extraordinarily difficult, absent evidence other than the rates themselves, to distinguish "off commodity" collective rate cuts taken for nonstrategic, commercial reasons from those taken in retaliation for an independent rate. The certification requirement of subsection (B) is intended to address the issue of "off-commodity" rate cuts. It means that a defendant motor carrier will be unable without lying under oath to submit to the NFTB a strategic rate cut for collective action. [No attempt is made to address "strategic" rate cuts by individual firms since, as discussed *supra*, anticompetitive pricing in the motor carrier industry by single firms is neither empirically observable nor theoretically forseeable.] Both subsections (B) and (C) place on the defendants themselves the burden of policing their own conduct to prevent strategic, collective ratecutting behavior.

Subsection (D) proscribes conduct that if not otherwise prohibited might permit the defendant carriers to accomplish indirectly, through non-defendants, that which they are prohibited from doing directly. The first part of subsection (D) is intended to prevent the defendant carriers from suggesting to other persons, particularly shippers, that such persons file proposals that the NFTB could not process if filed by a motor carrier. Since subsection (A)(2) does not prevent the NFTB from processing shippers' proposals that would establish rates below those of the lowest independent action, subsection (D) is intended to insure that any such shipper proposals are in fact generated by shippers and are not a means of avoiding the prohibitions in subsection (A)(2). The second part of subsection (D) is aimed at preventing the motor carrier defendants from suggesting to or inviting non-defendant carriers to submit proposals for strategic, collective rate reductions that the defendant carriers themselves cannot submit under the certification requirement of section VI(B)(2).

The prohibitions and requirements of section VI cover a five-year period. The terms "issued date" and "cross-border traffic" are defined in section II of the Final Judgment.

Section VII

Section VII enjoins each defendants from interfering with any carrier's planned or actual independent rates. Specifically, it prohibits the defendants from harassing, discouraging, coercing, or threatening any motor carrier to withdraw, forbear from filing or modify in any way its planned or actual independent rates. This section mirrors existing statutory and case law which prohibits interference and coercion with respect to independent ratemaking within the context of immunized ratemaking agreements. This section is intended to preclude all types of harassment, discouragement and coercion, including oral and written threats, retaliatory rate conduct and the destruction of property.

Section VIII

Section VIII is intended to eliminate alleged past practices among the defendants that discouraged independent ratemaking and to bar prospectively the formulation of the same or different practices concerning independent rates and general rate increases that would discourage independent ratemaking.

Section VIII(A) prohibits the defendants from developing, adopting, or maintaining any predetermined policy to respond in any specified way to independently established rates. The reason for the prohibition is that the mere knowledge by a carrier of such a policy may be sufficient to dissuade it from engaging in independent rate conduct. Section VIII(B) enjoins the defendants from reconsidering automatically general rate increases whenever an NFTB carrier flags out of any portion of a general rate increase. A policy to withdraw a general rate increase automatically upon a flag-out reduces a carrier's incentive to flag out of any portion of the general rate increase in the first place and thus discourages independent ratemaking.

Section VIII bars the motor carrier defendants from joining with other carriers in establishing the prohibited policies but does not prohibit them from establishing such policies unilaterally. The NFTB as a rate bureau, however, is enjoined from engaging in the prohibited conduct.

Section IX

Section IX is intended to prohibit certain collaborative conduct among the defendant motor carriers that exceeds the scope of an ICC-approved ratemaking agreement and discourages independent actions.

Subsection (A) enjoins the defendant motor carriers from joining other carriers in an agreement not to take independent action. This provision makes clear, however, that authorized rate bureau decisions to approve or disapprove rate proposals do not constitute an agreement not to take independent action. Subsection (B) prohibits the carrier defendants from combining with other carriers to agree not to solicit the customers of any carrier. In subsection (C), the defendant carriers are barred from agreeing to provide shippers with certain rates in exchange for a shipper's promise not to negotiate with any other carriers or not to purchase transportation services at lower rates or from particular carriers. Subsection (C) does not bar the defendant carriers from unilaterally entering such arrangements with shippers; it simply bars agreements between two or more carriers and a shipper.

Subsection (D) prohibits the defendant carriers from agreeing not to offer any particular kind, type, class or category of transportation service. For example, subsection (D) would enjoin the defendants from agreeing to refrain from offering freight forwarder or consolidation services to shippers.

Subsection (E) bars the carrier defendants from agreeing not to establish certain kinds of rates. For example, subsection (E) would prohibit the defendants from agreeing not to establish freight-all-kinds rates.

Subsection (F) prohibits the carrier defendants from agreeing to prevent an NFTB member carrier from filing a rate proposal on traffic that the member has not already carried. This subsection is intended to reach all manner of conduct that could prevent a member from filing the rate proposal, including the physical destruction of rate proposals and oral or written communications to dissuade such filing.

Subsections (D), (E), and (F) make clear, however, that authorized rate bureau decisions that disapprove or approve rate proposals do not constitute the type of agreement prohibited by the subsections.

Section X

Section X enjoins the NFTB from engaging in or allowing its rate committees or staff to engage in particular types of conduct, most of which is outside of the scope of the NFTB's approved rate agreement.

Subsection (A) enjoins the NFTB from negotiating, or allowing any of its rate committees to negotiate, with a shipper for a particular level of NFTB rates on the condition that the shipper promise (1) not to negotiate with motor carriers for lower rates or (2) not to purchase transportation services at lower rates or from certain motor carriers. This subsection mirrors section IX(C), *supra*, and is intended to bar the NFTB from negotiating or entering into such an arrangement with shipper(s).

Subsection (B) prohibits the NFTB from preventing, or allowing any of it rate committees to prevent, an NFTB member carrier from submitting a rate proposal on traffic that the member has not carried. This subsection mirrors section IX(F), *supra*, and would prohibit the NFTB from allowing its general rate committee members to agree not to file proposals on traffic unless such members had been carrying the traffic for a certain period of time.

Subsection (C) in section X mirrors section IX(E), *supra*, and enjoins the NFTB and its rate committees from refusing to establish certain types of rates. This subsection would prohibit, for example, an authorized NFTB rate committee or subcommittee from agreeing not to establish freight-all-kinds rates, commodity column rates, or discount tariffs.

Subsections (B) and (C) make clear that when an authorized NFTB rate committee or subcommittee votes to approve or disapprove a particular proposal, the collective decision on the proposal does not constitute the prohibited conduct.

Subsection (D) enjoins the NFTB from permitting or allowing any of its employees to interfere with, control or direct any action taken or to be taken by any NFTB rate committee or subcommittee. The purpose of subsection (D) is to ensure that control or direction of the ratemaking activities of the NFTB member carriers rests with the carriers, not the NFTB staff.

Section XI

Section XI imposes certain restrictions on the NFTB's staff with respect to communications about and the handling of independent actions and the role of the staff in the initiation, development and disposition of NFTB rate proposals. The purpose of section XI is to limit the opportunities for the NFTB staff to involve itself in or influence the ratemaking process.

Subsection (A) enjoins the NFTB from allowing its staff to commence communications with an NFTB member that has submitted an independent action. This provision is intended to prevent NFTB employees from recommending that a member withdraw or change in any way its independent action or resubmit the independent action as a rate proposal. Subsection (A) permits the NFTB staff, however, to commence communication with such a member for the purpose of clarifying technical matters to facilitate publication of the independent action by the NFTB. This exception applies to situations where the NFTB staff is unable to publish the independent action because of substantive omissions or irreconcilable inconsistencies contained in the member carrier's instructions to the NFTB. As a further safeguard, this provision requires the NFTB staff to maintain a detailed log of each such communication.

Subsection (B) enjoins the NFTB from permitting its staff to take a position on whether a particular rate should be docketed or to initiate, docket or take a position on docketed proposals. This subsection is intended to remove the NFTB staff from any substantive involvement in the ratemaking process. The provision, however, permits the NFTB staff to provide NFTB members with its technical expertise. The NFTB staff may process members' rate proposals, and, upon request, may analyze and give advice to members to enable the members to docket their rate proposals. The NFTB staff may also, upon request of NFTB members, collect and present to rate committees and other interested parties, factual information related to rate proposals, although NFTB staff presentations may not include expressions of opinion or recommendations.

Subsection (C) enjoins the NFTB from allowing its staff to initiate or develop a collective response among NFTB members to any carrier's rates. This provision is intended to reach conduct such as the NFTB staff initiating a survey among members concerning how the NFTB can respond to a carrier's independent rates. It is the intent of this subsection that the carriers, not NFTB employees, initiate or develop responses to rates. Subsection (C) permits the NFTB staff to provide members with their technical expertise to the same extent and with the same restrictions as are contained in section XI(B).

Subsection (D) prohibits the NFTB from allowing its staff to handle or publish independent actions in any way other than the way that is explicitly described in the NFTB rate agreement. This provision is intended to eliminate any discretion by NFTB staff with respect to the way independent actions are handled or published. For example, if the NFTB agreement provides that carriers wishing to join an independent action must affirmatively indicate their intentions by flagging into the independent action, the NFTB staff may not use a procedure whereby all carriers are automatically included in an independent action and those carriers wishing to be excluded are required to indicate their intentions by flagging-out of the independent action.

Section XII

Section XII is intended to limit communications and discussions of rate matters to official rate bureau committees. This provision is intended to reach all rate matters about which the defendant carriers may communicate. In that regard, each of the defendant motor carriers is enjoined from communicating about non-NFTB rate matters with other carriers unless such communications take place in an authorized ratemaking body of an ICC-approved rate bureau. Defendant NFTB is similarly enjoined whenever it engages in discussions about rate matters with two or more carriers.

When the defendants communicate about rates in the NFTB, they must do so within (1) an NFTB rate committee that is explicitly authorized to consider rate matters in the NFTB agreement, or (2) an NFTB subcommittee created by an NFTB general rate committee resolution that explicitly describes the subcommittee and the nature of the rate matters it considers.

The terms "communications," "discussions," and "rate matters" are defined in section II of the proposed Final Judgment.

Section XIII

Section XIII requires that for a five year period, the NFTB tape record every meeting of any NFTB rate committee or subcommittee that is authorized to consider rates or rate matters in conformity with section XII. This provision imposes a recording requirement that is broader than existing ICC regulations on record keeping of rate committee meetings. As set forth in the Complaint, the lack of accurate record keeping at NFTB meetings during the period covered by the Complaint was one of the means used by defendants to further the alleged illegal conspiracy. Thus, this provision is intended to insure that the most accurate record possible be made of NFTB rate committee or subcommittee meetings. Defendant NFTB is required to maintain the tapes for a period of five years and must make them available to the Justice Department upon written request.

B. Permissible Business Transactions

Section XIV

Section XIV of the proposed Final Judgment makes clear that the Judgment would not prohibit communications or agreements between a defendant and another carrier for the sole purpose of achieving interline operations or interline rates. Interline operations involve an exchange of equipment and/or freight between two or more connecting carriers. It is a means by which carriers can serve points for which they do not possess the requisite operating authority from the respective regulatory agencies or for which they do not ordinarily offer direct service themselves. The relationship is thus end-to-end or vertical in nature and does not involve parallel or horizontal competition.

Section XV

Section XV makes clear that the mere announcing or establishing of an independent rate with no advance notice does not constitute a communication, discussion, or other conduct prohibited by sections V, VI, or VII of the Judgment. As we explained, *supra*, the Final Judgment places no impediments on such pricing.

Section XVI

Section XVI makes clear that the proposed Final Judgment would not prohibit the NFTB staff from carrying on the legitimate business of the NFTB. This section provides that upon request of any rate committee or subcommittee member, it is permissible for the NFTB staff to collect and present factual information to the general rate committee or subcommittee that will enable the committee to develop proposals for (1) the simplification of tariffs, (2) the removal of obsolete tariff items, (3) general rate increases or decreases, (4) broad changes in tariff structure, or (5) changes in general rules or regulations. Under this section, however, the NFTB staff is barred from expressing opinions or making recommendations in any of its presentations to the general rate committee or subcommittee.

Section XVII

Section XVII makes clear that the proposed Final Judgment applies only to rates or rate matters for the transportation of freight that originates or terminates in the United States. This section means that the proposed Final Judgment would not apply, for example, to rates or rate matters for the transportation of freight that originates and terminates wholly within Canada.

C. Affirmative Obligations

Sections IV, XVIII, and XIX(A) and XX of the proposed Final Judgment impose a number of affirmative obligations upon the defendants. Section IV requires that each motor carrier defendant give at least 60 days notice to the Antitrust Division of any plans to sell or transfer its assets as a motor carrier. The purpose of this section is to ensure that the plaintiff will have notice of any such planned transaction so that the government can take appropriate action to protect its interests in securing compliance with this Judgment.

Section IV is different from provisions routinely included in other final judgments concerning the sale or disposition of a defendant's assets. Usually, a defendant is

enjoined from selling or disposing of assets unless the buyer agrees as a condition of the transaction to be bound by the final judgment. In the instant case, most of the defendants' assets are located in Canada, thereby presenting unique issues of jurisdiction and comity. For this reason, section IV imposes a notice requirement so that the government can take whatever action would be appropriate at the time to protect its interest.

Section XVIII(A) requires each defendant within 60 days of the date of the Final Judgment to furnish a copy of the Judgment to each of its (1) officers and directors, (2) agents and employees who are supervisors or managers or who have responsibility over rates or rate matters, and (3) the officers and directors of its parent and subsidiary corporations. Within 70 days of the date this Final Judgment is entered, each defendant must certify to the Clerk of the Court that it has complied with Section XVIII(A).

Section XVIII(B) requires the defendants to initiate a compliance program for their respective employees.

Section XVIII(C) requires each of the defendants to furnish the government periodically with an account of all steps taken by each defendant to fulfill its obligations under sections XVIII (A) and (B). The first accounting must be made within 120 days from the entry date of the Judgment. Thereafter, the accountings must be made annually for a period of 5 years.

Section XIX(A)(1)(a) places an obligation on each defendant to cooperate with the plaintiff's efforts to monitor compliance with the proposed Judgment. The defendants must permit duly authorized representatives of the Department of Justice access to inspect and copy documents in the United States-located offices and terminals of each defendant. Further, upon 60 days notice, under section XIX(A)(1)(b) the defendants must provide to the Department of Justice copies of documents in their possession or under their control that relate to the subjects covered by this proposed Judgment. This requirement is not restricted to United States-located documents.

Under section XIX(A)(1)(c), each defendant must provide written reports, under oath, if requested, with respect to compliance matters. Section XIX(A)(1)(d) requires that each defendant permit the Department of Justice to interview its officers, employees, and agents regarding subjects covered by the Judgment.

Section XIX(A)(1)(e) makes clear that nothing in sections XIX(A)(1)(a)–(d) requires any defendant to violate Canadian federal or provincial law. This section imposes a requirement on each defendant that it try in good faith to obtain permission to engage in the conduct that it believes is prohibited by foreign law.

Section XX

Under section XX, each defendant must appoint an agent (and successor agents if needed) for service of process in any proceeding related to this Final Judgment.

D. Obligations of the United States

Section XXI(B)

Under section XIX(B), the Department of Justice is barred from divulging information obtained under section XIX(A) to anyone except a duly authorized representative of the Executive Branch of the United States government. Such disclosure is not barred, however, in any legal proceeding to which the United States is a party or for the purpose of securing compliance with the Final Judgment or as otherwise provided by law. Under this section, the Department of Justice may also disclose practices that it believes violate the Interstate Commerce Act to the Office of Compliance and Consumer Assistance of the ICC.

Section XIX(C)

Under section XIX(C) each defendant may assert a claim of protection under Rule 26(c)(7) of the Federal Rules of Civil Procedure when such defendant provides to the Justice Department information or documents required under the compliance provisions of the Final Judgment. If any defendant asserts such a claim, the plaintiff will provide the defendant with 10 days notice prior to disclosing such material.

B. Scope of the Proposed Judgment

Duration of the Judgment—Section XXII

Except as otherwise provided, the proposed Final Judgment will remain in effect for a period of ten (10) years from the date of entry. Time prohibitions for less than the 10 year period are provided for in two general types of situations: (1) where prohibitions are imposed on conduct not in and of itself unlawful, for example, discussions of and collective reductions below independent rates in section VI; or (2) where affirmative obligations are imposed on defendants which treat them differently than others in the industry, for example, the tape recording requirement in section XIII. The specific provisions that have time limitations are the following: sections VI, XIII, and XVIII(C).

Persons Bound by the Judgment—Section III

Section III of the proposed Final Judgment provides that its terms shall apply to the defendants and to each of their respective subsidiaries, successors, assigns, officers, directors, employees, and agents, and to all other persons in active concert or participation with any of them who receive actual notice of this Final Judgment by personal service or otherwise.

Effect of the Proposed Judgment on Competition

The proposed Judgment is intended to prevent the defendants from continuing their unlawful conspiracy or resuming their unlawful conduct. The Judgment is intended to ensure that defendants will comply with the provisions of the antitrust laws. The proposed Judgment also seeks to ensure through its negative prohibitions that not only will the alleged conspiracy be terminated and opportunities for its resumption be eliminated, but also that competition will be restored to the motor carrier industry between the United States and Ontario. The affirmative obligations are designed to ensure that each defendant's employees are aware of their obligations under the decree in order to avoid a repetition of the behavior that allegedly occured.

The Department of Justice believes that the proposed Final Judgment contains adequate provisions to prevent further violations by the defendants of the type upon which the Complaint is based. The Department believes that disposition of the lawsuit without further litigation is appropriate because the proposed Judgment provides all the relief that the United States sought in its Complaint, and the additional expense of litigation would not result in additional public benefit.

IV.—Remedies Available to Potential Private Litigants

Section 4 of the Clayton Act (15 U.S.C. 15) provides that any person who has been injured in his or her business or property as a result of conduct prohibited by the antitrust laws may bring suit in federal court to recover three times the damages such person has suffered, as well as costs and reasonable attorneys' fees. Entry of the proposed Final Judgment in this proceeding will neither impair nor assist the bringing of any such private antitrust action. Under the provisions of Section 5(a) of the Clayton Act, 15 U.S.C. 16(a), this Final Judgment has no *prima facie* effect in any subsequent private lawsuit that may be brought against these defendants.

V.—Procedures Available for Modification of the Proposed Consent Judgment

As provided by the Antitrust Procedures and Penalties Act, any person who wishes to comment upon the proposed Final Judgment may submit written comments to Elliott M. Seiden, Chief, Transportation Section, Antitrust Division, Department of Justice, Washington, D.C. 20530, within the 60-day period provided by the Act. These comments and the responses to them will be filed with the Court and published in the **Federal Register**. All comments will be given due consideration by the Department of Justice, which remains free to withdraw its consent to the proposed Judgment at any time prior to entry of the Judgment if it should determine that some modification is necessary.

After the proposed Judgment has been entered, this Court will retain jurisdiction for the purpose of enabling any of the parties to apply to the Court for such further orders and directions as may be necessary to interpret, apply, modify, or enforce the judgment, or to seek punishment for any violation of its terms.

VI.—Alternatives to the Proposed Consent Judgment

In negotiating this decree, the United States originally sought to apply section VI(A)(2) to both the carrier defendants and the NFTB. That is, the United States sought to enjoin each of the major carrier defendants from submitting to the NFTB rate proposals for collective action or advance notice independent action that were reductions below an independent rate.

The provision enjoining the defendant carriers from submitting the aforementioned rate cuts to the NFTB was deleted during

negotiations. The defendants claimed that the NFTB was in a better position than each of the carrier defendants to investigate and adopt procedures to assure that the collective undercutting prohibited by the decree did not occur. Further, the defendants claimed that the application of section VI(A)(2) to each carrier defendant could discourage the defendant carriers from making *any* proposals for collective reductions. Ultimately, the Department determined that the strategic, collective undercutting that it sought to enjoin could be accomplished by the bar against the NFTB's processing of the prohibited rate cuts.

Further, the Department determined that other sections of the proposed Final Judgment also protect the public from strategic undercutting by the defendant carriers. For example, sections V and VI(A)(1) prohibit collective discussions about planned or actual independent rates and section VI(B) requires each defendant motor carrier to swear that any rate reductions for collective action are not strategic in nature. Thus, the Department determined that the public was adequately protected from strategic collective undercutting by the carrier defendants.

VII.—Determine Materials

There are no materials or documents which the Government regards as determinative in formulating this proposed Judgment. Therefore, none are being filed with this Competitive Impact Statement pursuant to Section B of the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b).

Respectfully submitted,

Barbara B. Anthony,
Donna N. Kooperstein,
Priscilla R. Budeiri,
Attorneys, U.S. Department of Justice, P.O. Box 481, Washington, D.C. 20530, (202) 724–6523.

Dated: January 18, 1984.

[FR Doc. 84–3858 Filed 2–10–84; 8:45 am]
BILLING CODE 4410–01–M

United States v. Tribune Company and Sentinel Star Company; Proposed Consent Judgment and Competitive Impact Statement

Notice is hereby given pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b)–(h), that a proposed consent decree and competitive impact statement have been filed with the United States District Court for the Middle District of Florida, Orlando Division, in the case of *United States v. Tribune Company and Sentinel Star Company*, Civil Action No. 82–260–ORL–CIV–R.

The complaint in this case alleged that the acquisition by the Tribune Company and its wholly-owned subsidiary, the Sentinel Star Company, of the Kissimmee Gazette, the St. Cloud News, This Week in Osceola County, the Osceola Shopper, and the St. Cloud Shopper from Richard L. Luzadder and Peggy S. Luzadder substantially lessened competition in the markets for local advertising directed at Osceola County, Florida, and local print advertising directed at Osceola County, in violation of section 7 of the Clayton Act, 15 U.S.C. 18. The Sentinel Star Company, now known as the Sentinel Communications Company, publishes the Orlando Sentinel, a daily newspaper of general circulation in Orlando, Florida.

The proposed judgment would require the defendants to sell the former Luzadder publications within twelve months. It would also enjoin them for ten years from acquiring print media carrying local advertising in the Orlando area.

Public comment on the proposed judgment is invited for a period of 60 days from the date of this notice. Comments should be directed to Alan L. Marx, Chief, General Litigation Section, Antitrust Division, United States Department of Justice, Washington, D.C. 20530. All comments will be filed with the Court and published in the **Federal Register.**

Joseph H. Widmar,

Director of Operations, Antitrust Division.

United States District Court for the Middle District of Florida, Orlando Division

United States of America, Plaintiff, v. *Tribune Company and Sentinel Star Company*, Defendants: Civil No. 82–260–ORL–CIV–R.

Filed: January 20, 1984.

Stipulation

It is stipulated by and between the undersigned parties, by their respective attorneys, that:

(1) The parties consent that final judgment in the form attached hereto may be filed and entered by the Court upon the motion of any party or upon the Court's own motion at any time after compliance with the requirement of the Antitrust Procedures and Penalties Act, 15 U.S.C. 16, and without further notice to any party or other proceedings, provided that plaintiff has not withdrawn its consent, which it may do at any time before the entry of the proposed final judgment by serving notice thereof on defendants and by filing that notice with the Court.

(2) In the event plaintiff withdraws its consent, or if the proposed final judgment is not entered pursuant to this stipulation, this stipulation shall be of no effect whatever, and the making of this stipulation shall be without prejudice to any party in this or any other proceeding.

For the plaintiff: J. Paul McGrath, *Assistant Attorney General;* Mark Leddy, Alan L. Marx, *Attorneys, U.S. Department of Justice.* Steven C. Douse, Margaret H. Fitzsimmons, *Attorneys, U.S. Department of Justice, Antitrust Division, Washington, D.C. 20530, (202) 724–6329.*

For the defendents: Don H. Reuben, William G. Schopf, Jr., Rene A. Torrado, Jr., Daniel A. Edelman, Reuben & Proctor, 19 South La Salle Street, Chicago, Illinois 60603, (312) 558–5500. *Attorneys for Tribune Company and Sentinel Star Company*, William G. Mateer, Mateer, Harbert, Bechtel & Phalin, P.A., 100 East Robinson Street, Orlando, Florida 32802, (305) 425–9044.

United States District Court for the Middle District of Florida, Orlando Division

United States of America, Plaintiff v. *Tribune Company and Sentinel Star Company*, Defendants: Civil No. 82–260–ORL–CIV–R.

Filed: January 20, 1984.

Final Judgment

Plaintiff, United States of America, having filed its complaint herein on May 26, 1982, and plaintiff and defendants, by their respective attorneys, having consented to the entry of this final judgment without trial or adjudication of any issue of fact or law herein:

Now, Therefore, before the taking of any testimony, upon consent of the parties hereto, and without this final judgment constituting evidence against or an admission by any party with respect to any issue of fact or law herein, it is hereby Ordered, Adjudged, and Decreed:

I

This Court has jurisdiction of the subject matter of this action and of the parties hereto. The complaint states a claim upon which relief may be granted against the defendants under section 7 of the Clayton Act, as amended, 15 U.S.C. 18.

II

As used in this final judgment:

A. "Person" means any natural person or any corporation, partnership, company, sole proprietorship, association, institute, joint venture, firm, or other legal or business entity.

B. "Osceola publications" means the Osceola Shopper (both the Kissimmee and St. Cloud editions), This Week in Osceola County, the Kissimmee Gazette, and the St. Cloud News.

C. "Local advertising" means both retail advertising placed by a merchant or business offering to sell a product or service to the public through one or more retail stores or offices in or near the area to which the advertising is directed, and classified advertising, such as that for employment, sale of real estate, sale of automobiles, purchase or sale of other services or merchandise, and personal messages, that commonly appears in the classified advertising section of a newspaper.

III

The provisions of this final judgment shall apply to the defendants, Tribune Company and Sentinel Communications Company (formerly Sentinel Star Company); to each of their directors, officers, employees, agents, subsidiaries, divisions, branches, affiliates, successors, and assigns; and to all other

persons in active concert or participation with any of them who shall have received actual notice of this final judgment by personal service or otherwise.

IV

Defendants shall require, as a condition of the sale or disposition of the Orlando Sentinel or any successor publication, or of all or substantially all the assets used to publish the Orlando Sentinel or any successor publication, that the acquiring party agree to be bound by the provisions of this final judgment, and that such agreement be filed with the Court.

V

A. Defendants shall divest their entire interest in the Osceola publications within twelve months of the date of entry of this final judgment. This obligation shall be satisfied if, within the twelve-month period, defendants enter into a binding contract for sale or trade of the Osceola publications that is contingent only upon compliance with the terms of this final judgment and that specifies a prompt and reasonable closing date, and if the sale or trade is completed pursuant to the contract. Divestiture shall be absolute and unconditional and shall be made to a purchaser or purchasers not owned or controlled by defendants. Both the purchaser and the terms and conditions of sale or trade must be approved by plaintiff or, failing such approval, by the Court. Defendants may satisfy the requirements of this paragraph by divesting less than all of the Osceola publications only if such partial divestiture is specifically approved by plaintiff as constituting substantial compliance with the terms of this final judgment.

B. Upon a showing by defendants that they have vigorously and persistently sought to sell the Osceola publications, that despite their best efforts no reasonable offer has been made, and that appointment of a trustee pursuant to section VI would serve no valid purpose, plaintiff or, if plaintiff does not consent, the Court may extend the period during which defendants must divest the Osceola publications by up to six months.

C. Until the divestiture is completed, defendants shall continue to operate the Osceola publications as going concerns and shall use their best efforts to maintain each publication as a competitive entity.

VI

A. If defendants have not divested all of the Osceola publications within the period specified in section V, the Court shall, upon application of plaintiff, appoint a trustee to effect the divestiture. The trustee shall have full power and authority to sell the Osceola publications for any reasonable price and on any reasonable terms and conditions then obtainable, subject to the provisions of section VIII of this final judgment, and shall have such other powers as the Court deems appropriate. Defendants shall use their best efforts to assist the trustee in accomplishing a sale.

B. Following an application to the Court by plaintiff seeking appointment of a trustee, plaintiff and defendant shall promptly seek a mutually acceptable candidate for trustee. Should the parties agree on a candidate, the candidate's name will be submitted to the Court. Should the parties fail to agree on a candidate within fifteen days of the date the application is filed, each party shall propose two candidates for trustee no later than thirty days after the date the application is filed with the Court. The Court shall appoint a trustee from the names submitted.

C. The trustee shall serve at the expense of defendants on such terms and conditions as the Court may prescribe, and shall account for all monies derived from the sale of the Osceola publications and all expenses incurred in the sale. The trustee's compensation shall be structured so as to provide an incentive for the trustee to sell the publications as soon as possible. After approval by the Court of the trustee's accounting, including fees for its services, all remaining monies shall be paid to defendants and the trust shall then be terminated.

VII

Defendants shall maintain a record of their efforts to divest the Osceola publications, including identification of any person or persons to whom the Osceola publications have been offered or who has expressed an interest in acquiring the publications, the terms and conditions of each offer to purchase or sell, and all correspondence between defendants and prospective purchasers. Plaintiff shall have the right to inspect this information upon request and shall receive a copy of this record every sixty days until divestiture is accomplished.

VIII

At least fifteen days prior to the closing date of any proposed divestiture pursuant to this final judgment, or two days after execution of a contract for sale or trade of the Osceola publications, whichever is earlier, defendants or the trustee, whichever is then responsible for effecting the divestiture, shall notify the plaintiff of the proposed divestiture. If a trustee is responsible, it shall simultaneously notify defendants. The notice shall set forth the details of the proposed transaction and list the name, address, and telephone number of each person not previously reported who offered or expressed an interest in acquiring the Osceola publications, together with full details of the offer or expression of interest. Within seven days of receipt by plaintiff of such notice, plaintiff may request additional information concerning the proposed divestiture. Defendants or the trustee, whichever is then responsible for effecting the divestiture, shall furnish the additional information within seven days of receipt of the request. Within fifteen days after receipt of the notice, or within seven days after receipt of the additional information, whichever is later, plaintiff shall notify defendants and the trustee, if there is one, if it objects to the proposed divestiture. If the plaintiff does not object, the sale may be consummated. If plaintiff objects, the proposed sale may not be consummated unless approved by the Court after a hearing. If there is a trustee, the Court shall provide defendants with the opportunity for a hearing on the proposed divestiture should defendants object within fifteen days after the trustee has notified defendants of the proposed sale. If defendants object, the proposed sale may not be consummated unless approved by the Court after a hearing. In the event a hearing is required, the Court shall allow the parties a reasonable period to conduct any necessary discovery.

Defendants are enjoined from acquiring the stock or assets of any person engaged in publishing, distributing, or selling local advertising in print media in any portion of the primary market area of the Orlando Sentinel, or of any successor publication, as defined by the Audit Bureau of Circulation at the time of the acquisition.

X

For the purpose of determining or securing compliance with this final judgment, and subject to any legally recognized privilege:

A. Duly authorized representatives of the Department of Justice upon written request of the Attorney General or of the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to defendants, shall be permitted:

1. Access during office hours of defendants to inspect and copy all books, ledgers, accounts, correspondence, memoranda, and other records and documents in the possession or under the control of defendants, who may have counsel present, relating to any matters contained in this final judgement; and

2. Subject to the reasonable convenience of defendants and without restraint or interference from them, to interview officers, employees, and agents of defendants, who may have counsel present, regarding any such matters.

B. Upon the written request of the Attorney General or of the Assistant Attorney General in charge of the Antitrust Division, defendants shall submit such written reports, under oath if requested, with respect to any of the matters contained in this final judgment as may be requested.

C. No information or documents obtained by the means provided in this section shall be divulged by any representative of the Department of Justice to any person other than a duly authorized representative of the executive branch of the United States government, except in the course or legal proceedings to which the United States is a party or for the purpose of securing compliance with this final judgment or as otherwise required by law.

D. If at the time information or documents are furnished to plaintiff, defendants represent and identify in writing the material in any such information or documents to which a claim of protection may be asserted under Rule 26(c)(7) of the Federal Rules of Civil Procedure, and defendants mark each pertinent page of such material, "Subject to claim of protection under Rule 26(c)(7) of the Federal Rules of Civil Procedure," then ten days notice shall be given by plaintiff to defendants prior to divulging such material in any legal proceeding to which neither of the defendants is a party, other than a grand jury proceeding.

XI

Jurisdiction is retained by this Court for the purpose of enabling any of the parties to this final judgment to apply to this Court at any time for such further orders and directions as may be necessary or appropriate for the construction, implementation, or modification of any of the provisions of this final judgment, for the enforcement of compliance herewith, and for the punishment of violations hereof.

XII

This final judgment will expire ten years from its date of entry.

XIII

Entry of this final judgment is in the public interest.

United States District Court for the Middle District of Florida, Orlando Division

United States of America, Plaintiff, v. *Tribune Company and Sentinel Star Company*, Defendants; Civil No. 82–260–ORL–CIV–R.

Filed: January 20, 1984.

Competitive Impact Statement

This competitive impact statement, relating to the proposed consent judgment submitted for entry in this civil antitrust proceeding, is filed by the United States pursuant to section 2(b) of the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b).

I. The Nature and Purpose of the Proceeding

On May 26, 1982, the United States filed this civil antitrust action against the Tribune Company and the Sentinel Star Company challenging defendants' acquisition of two shoppers and three weekly newspapers in Osceola County, Florida. The Tribune Company is a privately-held media conglomerate engaged in newspaper publishing, radio and television broadcasting, and production of newsprint and forest products. The Sentinel Communications Company, formerly the Sentinel Star Company, is a wholly-owned subsidiary of the Tribune Company. It publishes the Orlando Sentinel, formerly the Sentinel Star, a daily and Sunday newspaper distributed primarily in the Orlando metropolitan area, including Osceola County.

The complaint alleged that the probable effect of the Sentinel Star Company's acquisition of the five Osceola County publications would be substantially to lessen competition in the markets for local advertising directed at Osceola County and local print advertising directed at Osceola County. The complaint sought divestiture of the unlawfully-acquired stock and assets and an injunction against further acquisitions of competing local advertising media within the Sentinel Star's primary market area. Following discovery and the Court's denial of defendants' motion to dismiss for lack of subject matter jurisdiction, which contended that the acquired publications were not engaged in activities substantially affecting interstate commerce, the parties reached an agreement settling the case.

II. The Nature of the Alleged Violation

The Orlando Sentinel is the largest newspaper in central Florida in both circulation and advertising revenues. In 1980 it had an average daily circulation in its primary market area of 198,497 on Sundays and 168,257 on weekdays. The Sentinel Star's primary market area at the time of the acquisition consisted of Lake, Orange, Osceola, Seminole, and southwest Volusia Counties.

The Orlando Sentinel publishes zoned editions, in the form of "little sentinels," containing local news, features, and other information of special interest to its readers within each zone. The Sentinel sells advertising space in its zoned sections to retailers and others who desire to reach only the paper's readers in a particular zone or zones.

Osceola County is a retail trading area and residential community south of Orlando. It is a predominantly rural area with approximately 50,000 residents, the majority of whom live in and around the cities of Kissimmee and St. Cloud. These cities are separated from Orlando and other population centers by miles of sparsely populated ranch and farm land.

The Orlando Sentinel publishes a little sentinel for Osceola County. At the time of the complaint the Osceola little sentinel was included in all copies of the Sentinel Star distributed in Osceola County every day except Saturday and Monday. In 1980 the Sentinel Star had an average daily circulation in Osceola County of 9,835 and an average Sunday circulation of 12,199.

The five Osceola County publications—the Kissimmee Gazette, the St. Cloud News, This Week in Osceola County, the Osceola Shopper, and the St. Cloud Shopper—were acquired by the Sentinel Star Company in 1980 from Richard L. Luzadder and Peggy S. Luzadder.

The Kissimmee Gazette and the St. Cloud News are paid-circulation weekly newspapers published and distributed within Osceola County. In 1980 they had a combined weekly circulation of approximately 3,400 copies. This Week in Osceola County is a free-circulation weekly newspaper published and distributed within Osceola County. Its average weekly circulation was 15,200 in 1980. The Osceola Shopper, a shopping guide containing only advertising, is distributed free to all households in Osceola County on a weekly basis. Its average circulation in 1980 was approximately 22,000. The St. Cloud Shopper, at the time of the acquisition, was distributed free weekly to all households in the St. Cloud area of Osceola County. Its 1980 average weekly circulation was approximately 7,000. It has since become a zoned edition of the Osceola Shopper.

All five of the former Luzadder publications sell advertising to local retailers and others who desire to reach an Osceola County audience. Prior to the sale of these publications to the Sentinel Star Company, they were the only substantial competitors of the Sentinel Star in the sale of local print advertising directed at Osceola County.

On October 15, 1980, the Tribune Company, through its wholly-owned subsidiary, the Sentinel Star Company, acquired the Luzadder publications for $4,139,289. The effect of the acquisition was to increase the level of concentration in markets that were already highly concentrated. The complaint alleged that in 1979 the Sentinel Star received nearly two-thirds of the total amount spent for local print advertising directed at Osceola County residents, and the Luzadder publications accounted for substantially all of the remainder. Even including all other forms of local advertising directed at Osceola County, the complaint alleged that the Sentinel Star and the Luzadder publications accounted for well over half of the market, with the Sentinel Star having a market share of approximately 40 percent and the Luzadder publications approximately 20 percent.

The probable effect of an increase of this magnitude in the level of concentration in the markets for local advertising and local print advertising aimed at residents of Osceola County was a substantial lessening of competition in violation of section 7 of the Clayton Act, 15 U.S.C. 18.

III. The Proposal for a Consent Judgment and its Anticipated Effect on Competition

A. Explanation of the Proposed Final Judgment

The proposed consent decree by which the parties would settle this case requires defendants to divest their entire interest in the former Luzadder pubications within twelve months, with a possible six-month extension. Divestiture must be unconditional, to a purchaser or purchasers not owned or controlled by defendants. Both the purchaser and the terms of sale must be approved by plaintiff or, failing such approval, by the Court. Defendants must maintain a record of their efforts to sell the publications, including identification of persons to whom the publications have been offered or who have expressed an interest in acquiring the publications and the terms of each offer to sell or purchase. Defendants may divest less than all of the former Luzadder publications only if such partial divestiture is specifically approved by plaintiff as constituting substantial compliance with the terms of the judgment.

If defendants have not divested all of the publications within the specified period, the proposed final judgment establishes a procedure for the appointment of a trustee to effect the divestiture. The trustee would be authorized to sell the publications for any reasonable price and on any reasonable terms then available.

The decree provides that plaintiff and, if a trustee is responsible for the divestiture, defendants will receive advance notice and an opportunity to object to any proposed divestiture. If one of the parties objects, the proposed sale may not be consummated unless approved by the Court after a hearing.

Defendants also are enjoined by the decree from acquiring the stock or assets of any person engaged in publishing, distributing, or selling local advertising in print media in any portion of the Orlando Sentinel's primary market area. This provision expires ten years from the date of entry of the decree.

B. Competitive Effect of the Proposed Final Judgment

The proposed final judgment gives the government substantially all the relief sought in the complaint. It would undo the merger and restore competition to the market.[1] The only difference between the relief provided by the decree and that requested in the complaint is that the injunction against further acquisitions is limited to print media rather than extending to all media carrying local advertising. The government believes this concession was reasonable in light of the relief obtained.

Although Osceola County is a relatively small market, the relief obtained here is important both in restoring a competitive marketplace for local advertisers and consumers affected by this acquisition and for the effect it may have in inhibiting similar acquisitions in other markets. Today there are relatively few areas with directly competing metropolitan daily newspapers. Much of the competition faced by daily newspapers comes from weeklies and shoppers. As competition between daily newspapers decreases, and the competition provided by other publications such as weekly newspapers and shoppers increases in importance, the need to protect against a substantial lessening of competition through acquisitions by daily newspapers of their weekly and shopper competitors also becomes more important.

IV. Remedies Available to Private Parties

Entry of the proposed consent judgment will have no effect on the rights of persons who may have been injured by the alleged violation. Private plaintiffs may sue for money damages or any other legal or equitable remedy. However, this judgment may not be used as prima facie evidence in private litigation pursuant to section 5(a) of the Clayton Act, 15 U.S.C. 16(a).

V. Procedures Available for Modification of the Proposed Consent Judgment

For a period of 60 days following the filing of the proposed consent judgment and its publication in the **Federal Register**, interested persons may submit written comments concerning the proposed judgment to Alan L. Marx, Chief, General Litigation Section, Antitrust Division, United States Department of Justice, Washington, D.C. 20530. These comments and the government's response will be filed with the Court and published in the **Federal Register**. The government will carefully consider all comments to determine if there is any reason for withdrawing its consent to the proposed judgment, which it may do at any time before the decree is entered by the Court. The Court will retain jurisdiction over the judgment following its entry so as to permit any of the parties to apply for orders modifying or enforcing the decree.

VI. Alternatives Actually Considered

Because the decree grants substantially all the relief requested in the complaint, no alternative to the proposed decree was considered by the government.

VII. Determinative Documents and Materials

There are no materials or documents that the United States considered determinative in formulating this proposed final judgment. Accordingly, none are being filed with this competitive impact statement.

Respectfully submitted,

Steven C. Douse,

Margaret H. Fitzsimmons,

Miriam J. Cutler,

Attorneys, United States Department of Justice, Antitrust Division, Washington, D.C. 20530, (202) 724–6329.

[FR Doc. 84–3857 Filed 2–10–84; 8:45 am]

BILLING CODE 4410–01–M

[1] Another shopping guide directed at Osceola County residents began publishing after this case was filed, but its entry into the market did not offset the anticompetitive impact of the acquisition.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 84–14]

Agency Report Forms Under OMB Review

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of Agency Report Forms Under OMB Review.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35), agencies are required to submit proposed information collection requests to OMB for review and approval, and to publish a notice in the **Federal Register** notifying the public that the agency has made the submission. The NASA Procurement Regulation has been previously cleared by OMB (2700–0041), but that regulation will be replaced, in part, by the NASA Federal Acquisition Regulation (FAR) Supplement on April 1, 1984.

Copies of the proposed forms, the request for clearance (S.F. 83), supporting statement, instructions, transmittal letters, and other documents submitted to OMB for review, may be obtained from the Agency Clearance Officer. Comments on the items listed should be submitted to the Agency Clearance Officer and the OMB Reviewer.

DATE: Comments must be received in writing by February 23, 1984. If you anticipate commenting on a form but find that time to prepare will prevent you from submitting comments promptly, you should advise the OMB Reviewer and the Agency Clearance Officer of your intent as early as possible.

ADDRESS: Carl Steinmetz, NASA Agency Clearance Officer, Code NIM, NASA Headquarters, Washington, DC 20546; Kenneth Allen, Office of Information and Regulatory Affairs, OMB Room 3208, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Carl Steinmetz, NASA Agency Clearance Officer, (202) 453–2921.

Reports

Title: NASA FAR Supplement
Type of Request: Revision of a currently approved collection
Frequency of Report: As Required
Type of Respondent: Individuals, Small and Large Businesses, State and Local Governments and Non-Profit Institutions
Annual Responses: 398,452
Annual Reporting Hours: 2,390,712
Number Recordkeeping Hours: 28,060
Total Annual Burden: 2,418,772

Abstract-Needs/Users: The contract forms and recordkeeping requirements used in collecting information from the public provide management data to NASA, allow contract monitoring and meet other Executive and Legislative Branch Information levies.

Dated: February 7, 1984.

L. W. Vogel,

Director, Logistics Management and Information Programs Division.

[FR Doc. 84–3770 Filed 2–10–84; 8:45 am]

BILLING CODE 7510–01–M

NATIONAL COMMUNICATIONS SYSTEM

Industry Executive Subcommittee of the National Security Telecommunications Advisory Committee

A closed meeting of the Industry Executive Subcommittee of the National Security Telecommunications Advisory Committee (NSTAC) will be held beginning at 9 a.m. on Wednesday, February 29, 1984. The meeting will be held in the Westgate Building of the MITRE Corporation, 1820 Dolley Madison Boulevard, McLean, Virginia. The agenda is as follows:

a. Opening Remarks
b. Briefing on National Coordinating Mechanism Report
c. Briefing on Commercial Satellite Survivability Addendum Report
d. Status Report on Automated Information Processing Issue
e. Status Report on Total Systems Survivability Issue
f. Status of International Diplomatic Telecommunications Issue
g. Formulation of Recommendations to be presented at 3rd NSTAC Meeting

Any person desiring information about the meeting may telephone (202–

692–9274) or write the Manager, National Communications System, Washington, DC 20305.

James F. Mullen,

Lieutenant Colonel, USA NCS Joint Secretariat.

[FR Doc. 84–3799 Filed 2–10–84; 8:45 am]

BILLING CODE 3610–05–M

NATIONAL LABOR RELATIONS BOARD

Appointments of Individuals to Serve as Members of Performance Review Boards

5 U.S.C. 4314(c)(4) requires that the appointments of individuals to serve as members of performance review boards be published in the **Federal Register**. Therefore, in compliance with this requirement, notice is hereby given that the individuals whose names and position titles appear below have been appointed to serve as members of performance review boards in the National Labor Relations Board for the rating year beginning January 1, 1983 and ending December 31, 1983.

Name and Title

Jack B. Albanese—Chief Counsel to the Chairman
Robert E. Allen—Associate General Counsel, Enforcement Litigation
Joseph A. Latham—Chief Counsel to Board Member
Harold J. Datz—Associate General Counsel, Advice
Joseph E. DeSio—Associate General Counsel, Operations Management
John E. Higgins, Jr.—Deputy General Counsel
Harry M. Leet—Chief Counsel to Board Member
Paul E. Long—Deputy Director of Administration
Eugene D. Orza—Chief Counsel to Board Member
Hugh L. Reilly—Solicitor
Peter B. Robb—Chief Counsel to Board Member
Eugene L. Rosenfeld—Deputy Associate General Counsel, Operations Management
Ernest Russell—Director of Administration
Berton B. Subrin—Director, Office of Representation Appeals
John C. Truesdale—Executive Secretary
Robert F. Volger—Deputy Executive Secretary
Melvin J. Welles—Chief Administrative Law Judge

Dated: Washington, D.C., February 7, 1984.

By Direction of the Board.

John C. Truesdale,

Executive Secretary, National Labor Relations Board.

[FR Doc. 84–3797 Filed 2–10–84; 8:45 am]

BILLING CODE 7545–01–M

NUCLEAR REGULATORY COMMISSION

Operator's Licenses; Information Collection Requirements Submitted to OMB for Review

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of the Office of Management and Budget review of information collection.

SUMMARY: The Nuclear Regulatory Commission has recently submitted to the Office of Management and Budget (OMB) for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

1 Type of submission, revision, or extension: Extension.

2. The title of the information collection: 10 CFR Part 55, Operator's Licenses.

3. The form number if applicable: NA.

4. How often the collection is required: On occasion and biennially.

5. Who will be required or asked to report: Individuals requiring a license to operate the controls at a nuclear facility.

6. An estimate of the number of responses: 2,911.

7. An estimate of the total number of hours needed to complete the requirement or request: 496.

8. Section 3504(h), Pub. L. 96–511 does not apply.

9. *Abstract:* 10 CFR 55 requests detailed information of an applicant applying for requalification as a reactor operator. 10 CFR 55.41 requires that the licensee notify the U.S. Nuclear Regulatory Commission after its occurrance of any disability which occurs after the submission of his medical form.

ADDRESSES: Copies of the submittal will be made available for inspection or copying for a fee at the NRC Public Document Room, 1717 H Street, NW., Washington, D.C. 20555.

FOR FURTHER INFORMATION CONTACT: Comments and questions should be directed to the OMB, reviewer, Jefferson B. Hill, (202) 395–7340.

NRC Clearance Officer, R. Stephen Scott, (301) 492–8585. Dated at Bethesda, Maryland, this 8th day of February 1984.

For the Nuclear Regulatory Commission.

Patricia G. Norry,

Director, Office of Administration.

[FR Doc. 84–3889 Filed 2–10–84; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–483A]

Union Electric Co., Finding of No Significant Antitrust Changes and Time for Filing Requests for Reevaluation

The Director of Nuclear Reactor Regulation has made an initial finding in accordance with Section 105c(2) of the Atomic Energy Act of 1954, as amended, that no significant (antitrust) changes in the licensee's activities or proposed activities have occurred subsequent to the previous construction permit review of Unit 1 of the Callaway Nuclear Plant by the Attorney General and the Commission. The finding is as follows:

Section 105c(2) of the Atomic Energy Act of 1954, as amended, provides for an antitrust review of an application for an operating license if the Commission determines that significant changes in the licensee's activities or proposed activities have occurred subsequent to the previous construction permit review. The Commission has delegated the authority to make the "significant change" determination to the Director, Office of Nuclear Reactor Regulation. Based upon an examination of the events since issuance of the Callaway 1 construction permit to the Union Electric Company, the staffs of the Antitrust and Economic Analysis Section of the Site Analysis Branch, Office of Nuclear Reactor Regulation and the Antitrust Section of the Office of the Executive Legal Director, hereafter referred to as "staff", have jointly concluded, after consultation with the Department of Justice, that the changes that have occurred since the antitrust construction permit review are not of the nature to require a second antitrust review at the operating license stage of the application.

In reaching this conclusion, the staff considered the structure of the electric utility industry in the State of Missouri, the events relevant to the Callaway construction permit review and the events that have occurred subsequent to the construction permit review.

The conclusion of the staff's analysis is as follows:

Many changes with competitive implications have occurred in the applicant's service area since the initial antitrust review at the construction permit stage: (1) The applicant, at the suggestion of the Department of Justice, revised many of its wholesale power contracts with the effect of freeing up competitive options for wholesale customers; (2) Anticipated growth in demand for electricity did not materialize and the high cost of money along with escalating construction costs all provided the impetus for cancellation of Unit 2 of the Callaway Nuclear Plant; (3)

State legislation provided the means for smaller municipal power systems to band together to form joint action agencies, thereby enhancing their bargaining positions in negotiating bulk power supply agreements throughout the State of Missouri; (4) Antitrust litigation involving the applicant was initiated; and (5) The applicant consummated an acquisition and initiated a merger involving its three electric subsidiaries during the interim period since the initial antitrust review at the construction permit (CP) stage.

The competitive ramifications of each of these changes have been addressed *supra* and in only one instance, that involving negotiations between Union Electric and its smaller wholesale power customers regarding "wheeling", did staff have misgivings about the effect upon competition as a result of applicant's changed activities. After review of the available data and contact with industry members in the field, staff believes that present negotiations between the affected parties will result in the applicant offering meaningful transmission arrangements to various wholesale customers throughout the applicant's service area. Moreover, staff is aware of the continuing District Court proceeding, involving the applicant and the City of Kirkwood, Missouri, that will address parallel issues being discussed in negotiations by the applicant and its wholesale power customers. Staff believes the District Court proceeding and existing substantive negotiations between Union Electric and its smaller wholesale power customers will resolve outstanding issues, i.e., principally "wheeling", that have arisen since the initial CP antitrust review. Although staff will continue to monitor these developments as they evolve, staff is recommending that no affirmative significant change determination be made pursuant to the application for an operating license for Unit 1 of the Callaway Nuclear Plant.

Based on the staff's analysis, it is my finding that a formal operating license antitrust review of the Callaway Nuclear Plant, Unit 1 is not required.

Signed on January 24, 1984 by Harold R. Denton, Director of Nuclear Reactor Regulation.

Any person whose interest may be affected by this finding may file with full particulars a request for reevaluation with the Director of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555 for a period of 30 days after the date of the **Federal Register** notice. Requests for a reevaluation of the no significant change determination will be accepted after the date when the Director's finding becomes final but before the issuance of the OL only if the requests contain new information, such as information about facts or events of antitrust significance that have occurred since that date, or information that could not reasonably have been submitted prior to that date.

For the Nuclear Regulatory Commission.

Wm. H. Regan, Jr.,

Chief Site Analysis Branch, Office of Nuclear Reactor Regulation.

[FR Doc. 84-3878 Filed 2-10-84; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards, Subcommittee on Structural Engineering; Changes in Meeting

The following items noted below have been changed regarding the ACRS Subcommittee meeting on Structural Engineering scheduled for February 16 and 17, 1984:

Wednesday, February 15, 1984—1:00 p.m.–4:30 p.m. at the Los Alamos National Laboratory, Reactor Safety Conference Room TA–52, Los Alamos, NM.

Thursday, February 16, 1984—1:00 p.m.–6:00 p.m. at the Marriott Hotel, 2101 Louisiana Blvd., Albuquerque, NM.

Friday, February 17, 1984—Cancelled.

The Subcommittee will review the containment integrity and Seismic Category I Components research programs. Other related matters may also be discussed.

All other items regarding this meeting remain the same as announced in the **Federal Register** published Thursday, February 2, 1984 (49 FR 4168).

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant Designated Federal Employee, Mr. Elpidio Igne (telephone 202/634–1414) between 8:15 a.m. and 5:00 p.m., EST.

Dated: February 8, 1984.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 84-3877 Filed 2-10-84; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

[Docket No. 301–45]

The Motion Picture Export Association of America: Initiation of an Investigation Under Section 301

On December 19, 1983, The Motion Picture Export Association of America filed a petition under Section 301 of the Trade Act of 1974, as amended (19 U.S.C. 2411, *et seq.*) alleging that Taiwan authorities have reduced the number of film distribution licenses granted to members that distribute films in Taiwan to a level that makes it uneconomical to remain in business there. The petitioner alleges that the action is unjustifiable and unreasonable and burdens U.S. commerce.

On January 30, 1984, pursuant to 19 U.S.C. 2412(a), the United States Trade Representative decided to initiate an investigation on the basis of this petition.

Interested parties are invited to submit written comments regarding the issues raised by the petition. The comments should be filed in accordance with the regulations in 15 CFR 2006.8 and are due no later than March 2, 1984. Comments should be submitted to Chairman, Section 301 Committee, Office of the United States Trade Representative, Room 223, 600 17th Street, NW., Washington, D.C. 20506. Copies of the petition are available at the address above.

Jeanne S. Archibald,

Chairman, Section 301 Committee.

[FR Doc. 84-3838 Filed 2-10-84; 8:45 am]

BILLING CODE 3190-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 23217; 70–6947]

Northeast Utilities, et al.; Proposed Issuance and Sale of Common Stock and Capital Contributions to Subsidiaries

Northeast Utilities ("Northeast"), a registered holding company, and The Connecticut Light and Power Company ("CL&P") Selden Street, Berlin, Connecticut 06037, and Western Massachusetts Electric Company ("WMECO") 174 Brush Hill Avenue, West Springfield, Massachusetts 01089, electric utility subsidiaries of Northeast, have filed a declaration with this Commission pursuant to Sections 6(a), 7, and 12(b) of the Public Utility Holding Company Act of 1935 ("Act") and rules 45 and 50 promulgated thereunder.

Northeast proposes to issue and sell, at any time or from time to time through March 31, 1985, up to an additional 4,500,000 of its authorized common shares, $5 par value ("Additional Common Stock"). Northeast intends to offer up to 4,500,000 shares of the Additional Common Stock ("Delayed Offering Stock") through the delayed offering process, and up to 2,500,000 shares of the Additional Common Stock ("Continuous Offering Stock") through the use of a continuous offering

program. In no event would the total aggregate number of shares of both the Delayed Offering Stock and the Continuous Offering Stock exceed the 4,500,000 shares of Additional Common Stock. If Northeast elects to offer any of the Additional Common Stock through the continuous offering program, it may seek an exception from the competitive bidding requirements of Rule 50 for certain activities related to a continuous offering program. The Delayed Offering Stock will be offered according to the guidelines set forth in the Commission's Statement of Policy concerning the application of Rule 50 (HCAR No. 22623 (September 2, 1982)).

If Northeast decides to implement a continuous offering shelf registration program, it will enter into a Sales Agency Agreement ("Agency Agreement") with an investment banking firm (the "Agent"), under which the Agent will act as Northeast's exclusive agent for the purpose of offering and selling the Continuous Offering Stock by means of (i) ordinary broker's regular way transactions in the auction market on the floor of the New York Stock Exchange, or any regional exchange on which Northeast's common stock may be listed or admitted to trading; (ii) block transactions (which may involve crosses) on such exchanges or in the over-the-counter market, in which the Agent may act as a principal for its own account; (iii) "fixed-price offerings" off the floors of such exchanges, or "special offerings" and "exchange distributions" in accordance with the rules of such exchanges; or (iv) a combination of any such methods. Sales will be made at market prices prevailing at the time of sale in the case of transactions on exchanges and at prices negotiated by the Agent and related to prevailing market prices in the case of transactions off the floor of the exchanges. The terms of any offering pursuant to (iii) above would be subject to the prior approval of Northeast. Northeast will comply with the requirements of Rule 50, as modified by HCAR No. 22623 in connection with sales pursuant to the methods outlined in (i) and (ii) above, and either will so comply or by amendment will request an exception from such requirements in connection with sales pursuant to (iii) above.

It is also proposed that Northeast, from time to time, but in any event not later than March 31, 1985, make capital contributions of up to $70 million to CL&P and up to $30 million to WMECO.

The declaration and any amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by March 7, 1984, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the declarants at the addresses specified above. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the declaration, as filed or as it may be amended, may be permitted to become effective.

For the Commission, by the Office of Public Utility Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84-3878 Filed 2-10-84; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-20624; File No. SR-BSE-83-10]

Self-Regulatory Organizations; Proposed Change by Boston Stock Exchange, Inc., Relating to the Amendment of the Disciplinary Rule

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on August 15, 1983 the Boston Stock Exchange, Inc. filed with the Securities and Exchange Commission the proposed change as described in Item I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement on the Terms of Substance of the Proposed Rule Change

Attached as Exhibit A are the proposed amendments to Chapter XXX of the Rules.

II. Self-Regulatory Organizations Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements governing the purpose of and basis for the proposed rule change and discussed any comments it received. The text of these statements may be examined at the places specified in Item IV. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspect of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(a) The proposed amendment incorporates certain procedures to be followed by the Hearing Committee in conducting hearings in disciplinary proceedings brought by the Exchange against a member or member-organization. The procedures also specifically contain the rights and privileges of respondents in the hearing process.

(b) The basis under the Act for the proposed procedures is Section 6(b)(1) since it relates to the organization of the Exchange, its designated Committees, and its capacity to be able to carry out the purposes of the Securities Exchange Act of 1934, as amended.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe the proposed amendment imposes any burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

No comments were solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the

submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted within 21 days after the date of this publication.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: February 6, 1984.

George A. Fitzsimmons,

Secretary.

Additions italicized [Deletions bracketed]

Exhibit A

Chapter XXX—Rules of Board of Governors

Disciplining of Members-Denial of Membership

The following are the procedures to be followed in connection with the disciplining of members and persons associated with members, the denial of membership to any person seeking membership in the Exhange, the barring of any person from becoming associated with a member of the Exchange, and the prohibition or limitation by the Exchange of any person with respect to access to services offered by the Exchange or a member thereof.

Section 1. Notification. The notices required by Section 6(d) of the Securities Exchange Act of 1934 as amended (the "1934" Act) and Sec. 9 hereof shall be given by certified or registered receipt requested, addressed to the member or person to receive such notice at such member's or person's address as appearing on the records of the Exchange. Such notice under said Section 6(d)(2) and shall (a) contain the specific charges against, or specific grounds for denial, bar, prohibition or limitation ("denial") of, such member or person, (b) in case of disciplinary charges, set forth the date, time and place at which the member may be heard with respect to such charges, (c) set forth the board, committee or individual ("Panel") before which the member may be heard with respect to such charge or denial, and (d) advise such member or person of his right to file an answer to Sec. 2 of this rule or request a hearing regarding any such denial.

Sec 2. *Charges. (a) Notice of specific disciplinary charges as required by 1(a) above shall be in the form of a written statement ("charge memorandum") and shall be signed by an authorized officer of the Exchange. The charge memorandum shall set forth the specific facts upon which the charges are based, the specific provisions of the Exchange Constitution and Rules alleged to have been violated and the persons or organization alleged to have committee each of the violations ("respondents").* (b) Answer or Request for Hearing. A member or person against whom charges have been made or who has been the subject of a denial shall have twenty-five (25) days from the date of receipt of the notice referred to in Sec. 1 hereof to file an answer to said charge or request a hearing concerning such denial with the Secretary of the Exchange. Any such answer or request shall be in writing, signed by or on behalf of the member or other person involved. *The answer to a charge memorandum* shall admit or deny *each of* the specific allegations set forth in [any charge] the charge memorandum and contain, in reasonable detail, any affirmative defense or explanatory material which [said member or person] *the respondent* wishes to set forth. Any allegation in [charge] *the charge memorandum* not specifically denied in the answer [shall] may for all purposes, be deemed admitted and failure to file an answer within the specified time or such other extended time period as may be approved by the Hearing Officer may be deemed an admission of any facts and charges asserted in the charge memorandum.

(c)[3] Forwarding of charges. The Sectretary of the Exchange shall forward copies of the charges and any answer received in the case of disciplinary proceedings and the specific grounds in the case of any other proceedings, to the member or members of the Panel which is to hear the matter.

Sec. 3. *Hearing Panels. Hearings with respect to a charge memorandum shall be held before a Hearing Panel consisting of at least three persons: A Hearing Officer who shall be the Chairman of the Panel and at least two members of the Hearing Committee.*

The Chairman of the Board shall, from time to time, subject to the approval of the Board of Governors, appoint members of the Hearing Committee as the Chairman may deem necessary. Subject to the approval of the Board of Governors, the Chairman of the Board shall appoint a Chairman of the Hearing Committee who shall also serve as the Chief Hearing Officer.

Prior to a hearing, the Chief Hearing Officer shall select at least two prospective panelists to serve on the Hearing Panel. Such prospective Panelists may not have any direct or indirect interest in the outcome of the matter to be heard or any knowledge, opinions or relationship which would make their services on the Panel inappropriate. In the event that the Chief Hearing Officer is disqualified from serving on a Panel he should appoint a member of the Hearing Committee to serve as Hearing Officer for the hearing. Parties to the hearing (the respondent and an authorized officer of the Exchange) shall be sent a list of prospective Panelists and the name of the Hearing Officer. Following such notification, the parties may, within ten days, file with the Hearing Officer one obligation for cause as to any or all of ther prospective Panelists, or as to the Hearing Officer. The parties are prohibited from contacting , directly or indirectly, the prospective members of the Hearing Panel. The Chief Hearing Officer, or the Hearing Officer appointed by him, shall rule on all such objections and shall determine which of the remaining prospective Panelists shall serve on the Hearing Panel. In the event that the Chief Hearing Officer, or the Hearing Officer appointed by him, is thus disqualified, the Chief Hearing Officer shall appoint another member of the Hearing Committee to serve as the Hearing Officer.

A final notice of the Hearing, listing the date, time and location of the Hearing and the names of the members of the Panel shall then be sent to the respondent by the Exchange in the same manner as notice of charges was provided under section 1. above.

Sec. 4. Hearings. Hearings shall be conducted in accordance with the following procedures:

(a) Time and Place for Hearings. No hearing shall be held on any matter prior to five (5) days following (a) the last date upon which an answer may be filed in case of disciplinary matters or (b) the date upon which a person requests a hearing in other matters. The time and place for any such hearing shall be set by the *Executive Vice-President* of the Exchange except in cases of hearings before the Board of Governors, in which case the time and place shall be set by the Chairman of the Board.

[(b) Panels. The panel before which any matter shall be heard shall be determined according to the Constitution and Rules of the Exchange.]

[(c) Presiding Officer. The presiding officer at any hearing shall be chosen by the Panel before whom the hearing is held. The presiding officer shall determine on the record for such hearing all questions of the admission or exclusion of evidence or other precedural matters including the regulation or restriction of testimony and questioning in the interest of good order and just and efficient production of testimony.]

(b) Either party, prior to the hearing, may apply to the Chief Hearing Officer to resolve procedural matters relating to the case. After the hearing has begun such application should be made to the Hearing Officer assigned to the Hearing. Such applications must be made through the Hearing Committee with notice to all parties. Ex parte communications with any Panelist or Hearing Officer are forbidden. The Chief Hearing Officer or a Hearing Officer designated by him shall, upon request, permit a respondent or the Exchange to inspect and copy documents or records in possession of either party which are material to the defense or are intended for use as evidence at the hearing. This does not authorize the discovery or inspection of reports, memoranda or other internal Exchange documents prepared by the Exchange in connection with the proceedings. Similarly, the respondent may be required by the Hearing Officer to permit access by the Exchange to documents or records in his possession or control. A Hearing Officer may require a pre-hearing conference on any case. Any appeal of procedural

determinations of the Hearing Officer may only be made after a Panel has issued its final decision on the charges.

The Exchange and any member or person shall be entitled to be represented by counsel at any hearing held hereunder. The Hearing Board may assist in attempting to obtain at the Hearing the presence of witnesses from the member firm community whose testimony is relevant and necessary.

(c) Conduct of Hearing. The Hearing Officer shall determine all questions concerning the admissibility of evidence and shall otherwise regulate the conduct of the Hearing. Formal rules of evidence shall not apply. The charges shall be presented by a representative of the Exchange who, along with respondent may present evidence and produce witnesses who shall testify under oath shall be subject to cross examination and questioning by the Hearing Panel. The Hearing Panel may, on its own motion, request the production of documentary evidence and witnesses. A transcript of the hearing shall be made and shall become a part of the record and one copy shall be made avaiable to each party.

(d) In lieu of the procedures set forth in paragraph (c) above, a Hearing Panel, at a Hearing called for that purpose, shall also conduct disciplinary hearings on the basis of a written Stipulation of Consent entered into between the respondent and any authorized officer of the Exchange. Any such Stipulation and Consent shall contain a stipulation with respect to the facts, or the basis for findings of fact by the Hearing Panel: a consent to findings of fact by the Hearing Panel, including a finding that a specified offense had been committed; and a consent to the imposition of a specified penalty. Neither of the parties will be permitted to offer any agrument which is inconsistent with the stipulated facts or to ask for the imposition of any penalty other than that agreed upon in the stipulation.

In any such Hearing, if the Hearing Panel determines that the respondent has committed an offense, it may impose the penalty agreed to in such Stipulation and Consent or any penalty which is less severe than the stipulated penalty, as it deems appropriate. In addition, a Hearing Panel may reject such stipulation and Consent.

Such rejection shall not preclude the parties to the proceeding from entering into a modified Stipulation and Consent which shall be presented to a Hearing Panel in accordance with the provisions of this section nor shall such rejection preclude the Exchange from bringing or presenting the same or different charges to a Hearing Panel in accordance with the provisions of paragraph (c) above.

[(d) Presentation of Testimony. In any proceeding in which the Exchange has presented charges against a member or person the Exchange shall, unless such charges are not denied, present its evidence at the request of any person, that person shall present such evidence as such person may have to show why such denial should not be imposed. In both cases, the other party shall have the opportunity to present rebuttal evidence and, after all evidence has been heard, the presiding officer may, in such officer's descretion, allow the presentation of oral arguments and written briefs concerning the matter. Each party shall be permitted to cross-examine the witness of the other.]

[(e) Transcripts. A verbatim transcript shall be kept of all hearings held pursuant hereto and, in the case of disciplinary proceedings, the cost thereof in whole or in part may be assessed to the member or person charged as part of the decision of the Panel.]

[(f) (*e*) Counsel. The Exchange and any member or person shall be entitled to be represented by counsel at any hearing held hereunder.

[5. Decision. After a hearing held pursuant to para. 4 hereof, the Panel shall, by majority vote, or by such other vote as may be specified for any action in these Rules or in the Constitution, determine (a) in the case of disciplinary matters, whether or not to impose a disciplinary sanction and if so the sanction to be imposed or, in cases where the Panel recommends a sanction which it is not empowered to impose, the panel shall refer the charges, answer, transcript and any other documents pertaining to the matter to such Panel as is empowered to impose the recommended sanction for hearing pursuant to these rules and (b), in the case of any denial, whether or not such denial shall be upheld or modified. In both cases, the Panel shall accompany such determination with the appropriate statement required pursuant to Section 6 (d) (1) or (2) of the 1934 Act. All such determinations and statements, together with the transcript of the hearing shall be filed with the Secretary of the Exchange and copy sent by the Secretary to the member or person affected.]

Sec. *5. Decision. After a hearing held pursuant to Sec. 4 hereof, the Panel shall:*

(a) In the case of disciplinary hearings, not resulting from a Stipulation and Consent, determine by majority vote of all members of the Panel whether the respondent is guilty or not guilty with respect to each specific charge. If the Panel determines that the respondent is guilty with respect to one or more charges, the Panel shall reconverse with the parties, announce their decision and state whether it was by majority or unanimous vote. The parties shall then be given an opportunity to present to the Panel their recommendation as to the appropriate penalty including arguments in support of such penalty and mitigating or aggravating circumstances. The Panel shall then, by majority vote of all members of the Panel, determine the penalty to be imposed.

(b) In the case of a disciplinary hearing to consider a Stipulation and Consent, determine by majority vote whether to accept the Stipulation and Consent, reduce the penalty or reject it.

(c) In the case of denial hearings, pursuant to the denial of membership to any person seeking membership in the Exchange, the barring of any person from becoming associated with a member of the Exchange, and the prohibition or limitation by the Exchange of any person with respect to access to services offered by the Exchange or a member thereof, determine by majority vote of all members of the Panel whether or not such denial should be upheld or modified.

In all cases the Panel shall accompany such determination with the appropriate statement required pursuant to Section 6(d) (1) or (2) of the 1934 Act.

In the case of disciplinary hearings the Hearing Panel shall issue a written decision including a statement of findings and conclusions, with the reasons therefore, upon all material issues, presented in the record, and whether each violation alleged in the charge memorandum has occurred.

Statements and written decisions of the Panel shall be promptly served to the parties to the Hearing in accordance with section 1. contained therein.

Sec. 6. Request for Review. Except for decisions made by the Board of Governors, which shall become final when made, any determination made pursuant to Sec. 5. shall become final within twenty (20) days after its filing with the Secretary of the Exchange unless a request for review thereof by the Board of Governors is filed with the Secretary prior to the end of such period. Such requests may be filed either by or on behalf of the Board or committee originally bringing the disciplinary charges or making the decision of denial or the member or person subject of such charges or denial. Upon such request the Secretary shall make the record of the proceedings available to the Board of Governors.

Sec. 7. Review. Upon review the Board of Governors may, by majority vote, sustain any such determination including any sanction imposed or reverse, modify, limit or increase such determination or return the matter to the Panel for further findings. The decision of the Board shall be final and conclusive.

Sec. 8. Summary Proceedings. Summary action to be taken by the Exchange under Section 6(d)(3) of the 1934 Act may be administered by the Executive Committee of the Board of Governors.

Sec. 9. Notice of Decisions. The Secretary of the Exchange shall file notice of any final decision hereunder or under Sec. 6 hereof with the Securities and Exchange Commission.

[FR Doc. 84-3872 Filed 2-10-84; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-20618; File No. SR-CSE-84-1]

Self-Regulatory Organizations; Proposed Rule Change by the Cincinnati Stock Exchange Relating to Market Maker Net Capital

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on January 11, 1984, The Cincinnati Stock Exchange (the "Exchange") filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit

comments on the proposed rule change from interested persons.

I. The Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Effective January 11, 1984, the Board of Trustees of The Cincinnati Stock Exchange revised paragraphs (a)(2) and (a)(3) of Rule 11.9 (National Securities Trading System) to read as follows (new language italicized—deleted language in brackets):

Rule 11.9. National Securities Trading System

(a) When used in Rule 11.9, unless the context otherwise requires—

(2) The term "Contributing Dealer" means a Proprietary Member who (i) maintains a minimum net capital of at least [$250,000 computed pursuant to the provisions of Commission Rule 15c3–1] *the greater of $50,000 or the amount required under Rule 15c3–1 of the Securities and Exchange Commission, as amended;* (ii) is registered with the Exchange with respect to one or more Designated Issues; and (iii) provides to all Users through the System, during Exchange trading hours, regular bids and offers for round lots of Designated Issues for which he is registered.

(3) The term "Designated Dealer" means a Proprietary Member who maintains a minimum net capital of at least [$500,000 computed pursuant to the provisions of Commission Rule 15c3–1] *the greater of $50,000 or the amount required under Rule 15c3–1 of the Securities and Exchange Commission, as amended,* and who has been approved by the Securities Committee to perform market making functions by entering bids and offers for Designated Issues into the System.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The Board of Trustees determined that the Proposed Changes will broaden and deepen the market offered to investors by permitting more members to become Contributing Dealers and Designated Dealers. The Exchange's present net capital requirements for its market makers are significantly higher than those of other regional exchanges and have operated as a burden on competition and as a disincentive to membership by market makers. The Proposed Change will bring the Exchange, primarily a small order system, to comparable minimum net capital levels with the other regional exchanges without compromising investor protection (*See Philadelphia Stock Exchange Guide,* Rule 706; *Midwest Stock Exchange Guide,* Article XI, Rule 3(b); *Boston Stock Exchange Guide,* Chapter XXII, Sec. 2(b); *Pacific Stock Exchange Guide,* Rule V, Sec. 2(a).)

The Exchange has experienced no problem with surveillance or operation related to its market maker net capital requirements and believes that no problems will arise as a result of the adoption of the proposed rule change. Upon consultation with the Exchange's Dealers, the Board of Trustees believes that the Proposed Change will enhance competition within the Exchange's multiple dealer system.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes that the Proposed Change will enhance competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has neither solicited nor received comments on the Proposed Change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 5th Street, NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted within 21 days after the date of this publication.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: February 3, 1984.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84–3873 Filed 2–10–84; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 20626; SR–PSE–83–22]

Self-Regulatory Organizations; Pacific Stock Exchange, Inc.; Order Approving Proposed Rule Change

The Pacific Stock Exchange, Inc. ("PSE") 301 Pine Street, San Francisco CA 94104, submitted on December 6, 1983, copies of a proposed rule change pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act") and Rule 19b–4 thereunder, to amend Article III ("Election, Meetings, Term of Office, Proxies") of the PSE's Constitution in the following two ways: (1) Section 1(a) of Article III would be amended to change the date of the PSE's annual meeting from the third Thursday in January to the fourth Thursday in January in order to eliminate a conflict between the present meeting date and the expiration of an options cycle, which the PSE states has made it difficult for some of its members to attend the annual meetings; (2) Section 1(c), 4(d), 4(e), 5(a), and 6 of Article III would be amended to authorize the PSE's Board of Governors to appoint dates of record for determining whether members are in good standing and authorized to be present and vote at the annual meetings and other meetings.[1]

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by

[1] The PSE has notified the Commission that these proposed changes to the PSE's Constitution were ratified by the PSE membership by the required two/thirds affirmative vote at a duly noticed meeting of the membership on January 19, 1984

the issuance of a Commission Release (Securities Exchange Act Release No. 20477, December 13, 1983) and by publication in the **Federal Register** (48 FR 56295, December 20, 1983). No comments were received with respect to the proposed rule filing.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange and, in particular, the requirements of Section 6, and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84-3875 Filed 2-10-84; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

Reporting and Recordkeeping Requirement Under OMB Review

ACTION: Notice of Reporting Requirements Submitted for OMB Review.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C Chapter 35), agencies are required to submit proposed reporting and recordkeeping requirement to OMB for review and approval, and to publish notice in the **Federal Register** that the agency has made such a submission.

DATE: Comments must be received on or before March 23, 1984. If you anticipate commenting on a submission but find that time to prepare will prevent you from submitting comments promptly, you should advise the OMB reviewer and the Agency Clearance Officer of your intent as early as possible.

Copies: Copies of the proposed forms, the requests for clearance (S.F. 83), supporting statements, instructions, and other documents submitted to OMB for review may be obtained from the Agency Clearance Officer. Comments on the item listed should be submitted to the Agency Clearance Officer and the OMB Reviewer.

FOR FURTHER INFORMATION CONTACT:

Agency Clearance Officer: Elizabeth M. Zaic, Small Business Administration, 1441 L Street, NW., Room 200, Washington, D.C. 20416, Telephone: (202) 653-8538

OMB Reviewer: J. Timothy Sprehe, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 3235, New Executive Office Building, Washington, D.C. 20503, Telephone: (202) 395-4814.

Forms Submitted for Review

Title: Compliance Review Report
Form No. SBA 747
Frequency: Once during the life of the loan
Description of Respondents: Employees and officials of the recipient's business
Annual Responses: 1,000
Annual Burden Hours: 2,000
Type of Request: Reinstatement

Title: Application for Certification as a Certified Development Company
Form No. SBA 1246
Frequency: One for each application for certification
Description of Respondents: Applicant wishing to become certified
Annual Reponses: 178
Annual Burden Hours: 1,424
Type of Request: Extension.

Dated: February 8, 1984.

Elizabeth M. Zaic,

Chief, Paperwork Management Branch, Small Business Administration.

[FR Doc. 84-3879 Filed 2-10-84; 8:45 am]

BILLING CODE 8025-01-M

Action Subject to Intergovernmental Review

AGENCY: Small Business Administration.

ACTION: Notice of action subject to intergovernmental review under Executive Order 12372.

SUMMARY: This notice provides for public awareness of SBA's intention to refund one of our 28 Small Business Development Centers (SBDC's) for fiscal year 1985. It also provides a description of the SBDC program by setting forth a condensed version of the program announcement which has been furnished to the SBDC to be refunded. This publication is being made to provide the State single point of contact, designated pursuant to Executive Order 12372, and other interested State and local entities, the opportunity to comment on the proposed refunding in accord with the Executive Order and SBA's regulations found at 13 CFR Part 135.

DATE: Comments will be received for a period of 120 days from the date of publication of this notice.

ADDRESS: Comments should be addressed to Mrs. Johnnie L. Albertson, Deputy Associated Administrator for SBDC Programs, U.S. Small Business Administration, 1441 L Street NW., Washington, D.C. 20416.

FOR FURTHER INFORMATION CONTACT: Same as above.

SUPPLEMENTARY INFORMATION: SBA is bound by the provisions of Executive Order 12372, "Intergovernmental Review of Federal Programs." SBA has promulgated regulations spelling out its obligations under that Executive Order. See 13 CFR Part 135, effective September 30, 1983.

In accord with these regulations, specifically § 135.4, SBA is publishing this notice to provide public awareness of the pending application of presently existent Small Business Development Centers (SBDC's) for refunding. Also, published herewith is an annotated program announcement describing the SBDC program in detail.

This notice is being published eight months in advance of the date of refunding of this existent SBDC. Relevant information identifying this SBDC and providing its mailing address is provided below. In addition to this publication, a copy of this notice is being simultaneously furnished to the affected State single point of contact which has been established under the Executive Order.

The State single point of contact and other interested State and local entities are expected to advise the relevant SBDC of their comments regarding the proposed refunding in writing as soon as possible. Copies of such written comments should also be furnished to Mrs. Johnnie L. Albertson, Deputy Associate Administrator for SBDC Programs, U.S. Small Business Administration, 1441 L Street, NW., Washington, D.C. 20416. Comments will be accepted by the relevant SBDC and SBA for a period of four months (120 days) from the date of publication of this notice. The relevant SBDC will make every effort to accommodate these comments during the 120 day period. If the comments cannot be accommodated by the relevant SBDC, SBA will, prior to refunding the SBDC, either attain accommodation of any comments or furnish an explanation of why accommodation cannot be attained to the commentor prior to refunding the SBDC.

Description of the SBDC Program

The Small Business Development Center Program is a major management assistance delivery program of the U.S. Small Business Administration. SBDC's are authorized under section 21 of the Small Business Act (15 U.S.C. 648).

SBDC's operate pursuant to the provisions of section 21, a Notice of Award (Cooperative Agreement) issued by SBA, and a Program Announcement. The Program represents a partnership between SBA and the State-endorsed organization receiving Federal assistance for its operation. SBDC's operate on the basis of a State plan which provides small business assistance throughout the State. As a condition to any financial award made to an applicant, an additional amount equal to the amount of assistance provided by SBA must be provided to the SBDC from sources other than the Federal Government.

Purpose and Scope

The SBDC Program has been designed to meet the specialized and complex management and technical assistance needs of the small business community. SBDC's focus on providing indepth quality assistance to small businesses in all areas which promote growth, expansion, innovation, increased productivity and management improvement. SBDC's act in an advocacy role to promote local small business interests. SBDC's concentrate on developing the unique resources of the university system, the private sector, and State and local governments to provide services to the small business community which are not available elsewhere. SBDC's coordinate with other SBA programs of management assistance and utilize the expertise of these affiliated resources to expand services and avoid duplication of effort.

Program Objectives

The overall objective of the SBDC Program is to leverage Federal dollars and resources with those of the State academic community and private sector to:

(a) Strengthen the small business community;

(b) Contribute to the economic growth of the communities served;

(c) Make assistance available to more small businesses than is now possible with present Federal resources; and

(d) Create a broader based delivery system to the small business community.

SBDC Program Organization

SBDC's are organized to provide maximum services to the local small business community. The lead SBDC receives financial assistance from the SBA to operate a statewide SBDC Program. In states where more than one organization receives SBA financial assistance to operate an SBDC, each lead SBDC is responsible for Program operations throughout a specific regional area to be served by the SBDC. The lead SBDC is responsible for establishing a network of SBDC subcenters to offer service coverage to the small business community. The SBDC network is managed and directed by a single full-time Director. SBDC's must ensure that at least 80 percent of Federal funds provided are used to provide services to small businesses. To the extent possible, SBDC's provide services by enlisting volunteer and other low cost resources on a statewide basis.

SBDC Services

The specific types of services to be offered are developed in coordination with the SBA district office which has jurisdiction over a given SBDC. SBDC's emphasize the provision of indepth, high-quality assistance to small business owners or prospective small business owners in complex areas that require specialized expertise. These areas may include, but are not limited to: management, marketing, financing, accounting, strategic planning, regulation and taxation, capital formation, procurement assistance, human resource management, production, operations, economic and business data analysis, engineering, technology transfer, innovation and research, new product development, product analaysis, plant layout and design, agribusiness, computer application, business law information, and referral (any legal services beyond basic legal information and referral require the endorsement of the State Bar Association), exporting, office automation, site selection, or any other areas of assistance required to promote small business growth, expansion, and productivity within the State.

The degree to which SBDC resources are directed towards specific areas of assistance is determined by local community needs, SBA priorities and SBDC Program objectives and agreed upon by the SBA district office and the SBDC.

The SBDC must offer quality training to improve the skills and knowledge of existing and prospective small business owners. As a general guideline, SBDC's should emphasize the provision of training in specialized areas other than basic small business management subjects. SBDC's should also emphasize training designed to reach particular audiences such as members of SBA priority and special emphasis groups.

SBDC Program Requirements

The SBDC is responsible to the SBA for ensuring that all programmatic and financial requirements imposed upon them by statute or agreement are met. The SBDC must assure that quality assistance and training in management and technical areas is provided to the State small business community through the State SBDC network. As a condition of this agreement, the SBDC must perform but not be limited to the following activities.

(a) The SBDC ensures that services are provided as close as possible to small business population centers. This is accomplished through the establishment of SBDC subcenters.

(b) The SBDC ensures that lists of local and regional private consultants are maintained at the lead SBDC and each SBDC subcenter. The SBDC utilizes and provides compensation to qualified small business vendors such as private management consultants, private consulting engineers, and private testing laboratories.

(c) The SBDC is responsible for the development and expansion of resources within the State, particularly the development of new resources to assist small business that are not presently associated with the SBA district office.

(d) The SBDC ensures that working relationships and open communications exist within the financial and investment communities, and with legal associations, private consultants, as well as small business groups and associations to help address the needs of the small business community.

(e) The SBDC ensures that assistance is provided to SBA special emphasis groups throughout the SBDC network. This assistance shall be provided to veterans, women, exporters, the handicapped, and minorities as well as any other groups designated a priority by SBA. Services provided to special emphasis groups shall be performed as part of the Cooperative Agreement.

Advance Understandings

(a) Lead SBDC's shall operate on a 40-hour week basis, or during normal State business hours, with National holidays or State holidays as applicable excluded.

(b) SBDC subcenters shall be operated on a full-time basis. The lead SBDC shall ensure that staffing is adequate to meet the needs of the small business community.

(c) All counseling assistance offered through the Small Business Development Center network shall be provided at no cost to the client.

Dated: February 1, 1984.

James C. Sanders,

Administrator.

Address of SBDC Subject to this Notice

Dr. Charles H. Davis, (316) 689–3367, SBDC Director, Wichita State University, College of Business Administration, 1845 Fairmont, Wichita, KN 67208.

[FR Doc. 84–3888 Filed 2–10–84; 8:45 am]

BILLING CODE 8025–01–M

[License No. 06/06–0274]

Equity Capital Corp.; Issuance of a License To Operate as a Small Business Investment Company

On November 22, 1983, a notice was published in the **Federal Register** (48 FR 52796), stating that Equity Capital Corporation located at 231 Washington Avenue, Suite 2, Santa Fe, New Mexico 87501, had filed an application with the Small Business Administration pursuant to 13 CFR 107.102(1984), for a license to operate as a small business investment company under the provisions of Section 301(c) of the Small Business Investment Act of 1958, as amended.

The period for comment expired on December 7, 1983, and no significant comments were received.

Notice is hereby given that considering the application and other information, SBA has issued License No. 06/06–0274 to Equity Capital Corporation.

Dated: February 2, 1984.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 84–3884 Filed 2–10–84; 8:45 am]

BILLING CODE 8025–01–M

[License Application No. 4/4–0229

Equity Lenders International, Inc.; Application for a License To Operate as a Small Business Investment Company

Notice is hereby given that an application has been filed with the Small Business Administration pursuant to § 107.102 of the Regulations governing small business investment companies (13 CFR 107.102 (1983)), under the name of Equity Lenders International, Inc., 220 Sycamore Street, Gainesville, Georgia 30501, for a license to operate as a small business investment company (SBIC) under the provisions of the Small Business Investment Act of 1958, as amended (the Act) (15 U.S.C. 661 et seq.), and the Rules and Regulations promulgated thereunder.

The proposed officers, directors and shareholders of the Applicant are as follows:

Robert C. Bowden, Route 7, Green Apple Road, Gainesville, Georgia 30506—President, Director, 46 percent shareholder.

Shirley S. Bowden, Route 7, Green Apple Road, Gainesville, Georgia 30506—Secretary, Director, 44 percent shareholder.

Raymond F. Shuder, 2224 Riverside Drive, Gainesville, Georgia 30501—Vice President, Director, 10 percent shareholder.

Alexander Grant & Company, Atlanta, Georgia—Investment Advisor.

The Applicant will begin operations with $1,005,000 of private capital derived from the sale of 50,250 shares of its common stock, the only class of stock authorized.

The Applicant will conduct its operations principally in northern Georgia.

Matters involved in SBA's consideration of the application include the general business reputation and character of the proposed officers, directors, and shareholders, and the probability of successful operation of the Applicant in accordance with the Act and Regulations.

Notice is further given that any person may, not later than (fifteen days from the date of publication of this notice), submit to SBA, in writing, comments on the proposed licensing of this company. Any such communications should be addressed to the Deputy Associate Administrator for Investment, Small Business Administration, 1441 L Street, NW., Washington, D.C. 20416.

A copy of this notice shall be published by the Applicant in a newspaper of general circulation in Gainesville, Georgia.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: February 7, 1984.

Robert G. Lineberry

Deputy Associate Administrator for Investment.

[FR Doc. 84–3885 Filed 2–10–84; 8:45 am]

BILLING CODE 8025–01–M

[Delegation of Authority No. 12; Rev. 2, Amdt. 3]

Authority Delegation; Associate Administrator for Finance and Investment

Associate Administrator for Finance and Investment Delegation of Authority No. 12 (47 FR 14995) as amended (48 FR 9979, 48 FR 28599) is hereby amended to incorporate authority delegated by memo from the Administrator to the Associate Administrator for Finance and Investment dated March 31, 1982; to certify development companies for participation in the 503 program. Since the authority has been in effect since the date of the above memorandum this delegation is retroactive to include any actions taken during that period. The amended paragraph reads as follows:

I

A. Financial Assistance Activities

8. To take all necessary actions to certify, suspend or revoke the certification of, development companies for participation in the 503 Certified Development Company Program.

* * * * *

Effective Date: March 31, 1982.

Dated: February 6, 1984.

James C. Sanders,

Administrator.

[FR Doc. 84–3887 Filed 2–10–84; 8:45 am]

BILLING CODE 8025–01–M

[Delegation of Authority No. 12–A; Rev. 3, Amdt.1]

Authority Delegation; Deputy Associate Administrator for Financial Assistance

Delegation of Authority No. 12–A (48 FR 14461) is hereby amended to delegate authority to the Deputy Associate Administrator for Financial Assistance to certify development companies for participation in the 503 Development Company Program, and to reflect the reorganization of the Financial Assistance Division. Delegation of Authority No. 12–A is amended to read as follows:

I

A. Deputy Associate Administrator for Financial Assistance

1. Financial Assistance Program.

* * * * *

h. To take all necessary actions to certify, suspend or revoke the certification of, development companies for participation in the 503 Certified Development Company Program.

* * * * *

B. Director, Office of Business Loans

* * * * *

4. To take all necessary actions in connection with determinations of eligibility for lending institutions to participate in SBA lending and financial

assistance programs, under the Small Business Act and Section 503 of the SBI Act, including the suspension or revocation of such eligibility provided, however, final determination of eligibility, suspension or revocation of such eligibility will be retained by the Deputy Associate Administrator for Financial Assistance.

5. To take all necessary actions in connection with the regulation of lending institutions participating in SBA lending and financial assistance programs, in accordance with the Small Business Act, as amended and Title V of the Small Business Investment Act, as amended, and the Regulations thereunder as amended from time to time.

6. To take all necessary actions in connection with the promotion and development of the Agency's financial assistance activities as they relate to participating lending institutions.

* * * * *

F. Director, Office of Economic Development

1. To approve or decline development company (Sections 501, 502, 503) loan applications, including reconsiderations thereof, and to execute authorizations and modifications pertaining to such loans.

2. To cancel, reinstate, modify and amend authorizations for fully, undisbursed loans. To take all necessary actions in connection with the sale of the SBA guaranteed Certified Development Company debentures from time to time to the Federal Financing Bank or any other duly qualified purchaser as determined by SBA.

* * * * *

Effective Date: February 13, 1984.

Dated: February 7, 1984.

Edwin T. Holloway,

Associate Administrator for Finance and Investment.

[FR Doc. 84-3886 Filed 2-10-84; 8:45 am]

BILLING CODE 8025-01-M

[Declarstion of Disaster Loan Area No. 3032]

North Dakota; Declaration of Physical Disaster Loan Area; Pursuant to Pub. L. 98-166

Pursuant to the Secretary of Agriculture's Designation, Farmers Home Administration (FmHA) has authorized the acceptance of emergency loan applications in the following area:

State of North Dakota

Authorized by FmHA		Incident and date
Number	Date	
S117	1/06/84	Damages and losses to crops caused by winds, drought and high temperatures beginning on April 1, 1983; and continuing through August 31, 1983: and hailstorms occurring April 1, 1983 through June 30, 1983: July 17-19 and August 24, 1983.

Counties

Divide, Dunn, Emmons, Golden Valley, Hettinger, McLean, Pembina, Sheridan, Sioux, Slope, and Wells.

As a result of this designation, I have determined the above counties in the State of North Dakota constitute a disaster loan area for agricultural enterprises which are ineligible for disaster assistance from the FmHA because of alien status; corporations, partnerships and cooperatives not being primarily engaged in farming, farm owners who do not operate their farms, etc., and for Economic Injury Disaster loans for non-farm small business concerns.

The interest rates for eligible applicants under this designation are as follows:

	Percent
Agricultural enterprises with credit available elsewhere	10.5
Agricultural enterprises without credit available elsewhere	8.0
Non-farm small businesses (economic injury)	8.0

Loan applications for Physical Disaster Loans from eligible agricultural enterprises may be filed for a period not to exceed thirty days from the date of the letter of referral from FmHA, provided that the application for EM assistance from FmHA or the formal writen request for a letter of referral by FmHA was filed within the time limits set forth in the FmHA designation. Loan applications for Economic Injury for non-farm small businesses may be filed until the close of business on July 6, 1984. The number assigned to this disaster is 3032 for Physical damage to eligible agricultural enterprises and for Economic Injury 612701. Eligible enterprises may file applications for loans for physical damage or economic injury at: U.S. Small Business Administration, Area 4 Disaster Office, 77 Cadillac Drive, Suite 158, Sacramento, California 95825, (800) 468-1710 and in California (800) 468-1713 or other locally announced locations.

(Catalog of Federal Domestic Assistance Programs Nos. 59002 and 59008)

Dated: February 7, 1984.

Bernard Kulik,

Deputy Associate Administrator for Disaster Assistance.

[FR Doc. 84-3882 Filed 2-10-84; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area No. 3033]

Wisconsin; Declaration of Physical Disaster Loan Area, Pursuant to Pub. L. 98-166

Pursuant to the Secretary of Agriculture's Designation, Farmers Home Administration (FmHA) has authorized the acceptance of emergency loan applications in the following area:

State of Wisconsin

FmHA		Incident and date
Number	Date	
S114	12/15/83	Drought and high temperatures beginning June 1, 1983, and continuing through October 1, 1983. *Lossses also due to high winds and hail occurring on August 10, 1983.

Counties

Green, Iowa, Racine, Rock, and Waukesha. *Lafayette.

S114	1/17/84	Drought and high temperatures beginning June 1, 1983 and continuing through October 1, 1983.

Counties

Dane and Grant.

As a result of this designation, I have determined the above counties in the State of Wisconsin constitute a disaster loan area for agricultural enterprises which are ineligible for disaster assistance from the FmHA because of alien status; corporations, partnerships and cooperatives not being primarily engaged in farming, farm owners who do not operate their farms, etc., and for Economic Injury Disaster loans for non-farm small business concerns.

The interest rates for eligible applicants under this designation are as follows:

	Percent
Agricultural enterprises with credit available elsewhere	10.5
Agricultural enterprises without credit available elsewhere	8.0
Non-farm small businesses (economic injury)	8.0

Loan applications for Physical Disaster Loans from eligible agricultural enterprises may be filed for a period not to exceed thirty days from the date for the letter of referral from FmHA, provided that the application for EM assistance from FmHA or the formal written request for a letter of referral by FmHA was filed within the time limits

set forth in the FmHA designation. Loan applications for Economic Injury for non-farm small businesses may be filed until the close of business on June 15, 1984 in the counties of Green, Iowa, Racine, Rock, Waukesha, and Lafayette and on July 17, 1984 in the counties of Dane and Grant. The number assigned to this disaster is 3033 for Physical damage to eligible agricultural enterprises and for Economic Injury 612801. Eligible enterprises may file applications for loans for physical damage or economic injury at: U.S. Small Business Administration, Area 2 Disaster Office, 75 Spring Street SW., Suite 822, Atlanta, Georgia 30303, (800) 554–3455 and in Georgia (800) 241–5625 or other locally announced locations.

(Catalog of Federal Domestic Assistance Programs Nos. 59002 and 59008)

Dated: February 7, 1984.

Bernard Kulik,

Deputy Associate Administrator for Disaster Assistance.

[FR Doc. 84–3883 Filed 2–10–84; 8:45 am]

BILLING CODE 8025–01–M

Alabama; Region IV; Advisory Council Public Meeting

The Small Business Administration, Region IV Advisory Council located in the geographical area of Birmingham, Alabama, will hold a public meeting 10:00 a.m.–12:00 Noon, on Wednesday, March 7, 1984, in the Alabama House of Representatives, Alabama State Capitol, Montgomery, Alabama 36130, to discuss such matters as may be presented by members, staff of the Small Business Administration, or others present.

For further information, write or call James C. Barksdale, District Director, U.S. Small Business Administration, 908 South 20th Street, Room 202, Birmingham, Alabama, 35226, (205) 254–1341.

Dated: February 6, 1984.

Jean M. Nowak,

Director, Office of Advisory Councils.

[FR Doc. 84–3881 Filed 2–10–84; 8:45 am]

BILLING CODE 8025–01–M

New Hampshire; Region I; Advisory Council Public Meeting

The Small Business Administration, Region I Advisory Council located in the geographical area of Concord, New Hampshire, will hold a public meeting 10:00 A.M., on Wednesday, March 7, 1984, in the Federal Building, 55 Pleasant Street, Concord, New Hampshire, Room 304, to discuss such matters as may be presented by members, staff of the Small Business Administration, or others present.

For further information, write or call William Phillips, District Director, U.S. Small Business Administration, 55 Pleasant Street, Concord, New Hampshire 03301, (603) 224–4041.

Dated: February 8, 1984.

Jean M. Nowak,

Director, Office of Advisory Councils.

[FR Doc. 84–3880 Filed 2–10–84; 8:45 am]

BILLING CODE 8025–01–M

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[FRA Waiver Petition Docket Number HS–84–1]

Petition for Exemption From the Hours of Service Act; Amador Central Railroad Co.

In accordance with 49 CFR §§ 211.41 and 211.9, notice is hereby given that the Amador Central Railroad Company has petitioned the Federal Railroad Administration (FRA) for an exemption from the Hours of Service Act (83 Stat. 464, Pub. L. 91–169, 45 U.S.C. 64 a(e)). The petition requests that the Amador Central Railroad Company be granted authority to permit certain employees to remain on duty for in excess of twelve hours.

The Hours of Service Act currently makes it unlawful for a railroad to require or permit specified employees to remain on duty for a period in excess of twelve hours. However, the Hours of Service Act contains a provision that permits a railroad, which employs no more than fifteen employees who are subject to the statute, to seek an exemption from the twelve hour limitation.

The Amador Central Railroad seeks this exemption so that it can permit certain empolyees to remain on duty not more than sixteen hours in any twenty-four hour period. The petitioner indicates that granting the exemption is in the public interest and will not adversely affect safety. Additionally, the petitioner asserts that it empolys no more than fifteen employees and has demonstrated good cause for granting this exemption.

Interested persons are invited to participate in these proceedings by submitting written views and comments. FRA has not scheduled an opportunity for oral comment since the facts do not appear to warrant it. Communications concerning the proceedings should identify this docket number and must be submitted in triplicate to the Docket Clerk, Office of the Chief Counsel, Federal Railroad Administration, Nassif Building, 400 Seventh Street, SW., Washington, D.C. 20590.

Communications received before March 23, 1984, will be considered by FRA before final action is taken. Comments received after that will be considered as far as practicable. All comments received will be available for examination both before and after the closing date for comments, during regular business hours in Room 7330, Nassif Building, 400 Seventh Street, SW., Washington, D.C. 20590.

(Sec. 5 of the Hours of Service Act of 1969 (45 U.S.C. 64(a), 1.49(d))

Issued in Washington, D.C. on January 26, 1984.

J. W. Walsh,

Associate Administrator for Safety.

[FR Doc. 84–3853 Filed 2–10–84; 8:45 am]

BILLING CODE 4910–06–M

[BS–Ap–No. 2228]

Consolidated Rail Corp.; Petition for Discontinuance of Traffic Controls

The Consolidated Rail Corporation has petitioned the Federal Railroad Administration (FRA) seeking approval of the proposed discontinuance of the traffic control and the automatic block signal systems between Union City and Kenneth, Indiana, on its Columbus to Chicago Main Line, a distance of about 100 miles, and the discontinuance of the traffic control system between Van and Clymers, Indiana, on its Frankfort Secondary Track, a distance of about 5 miles. This proceeding is identified as FRA Block Signal Application No. 2228.

After examining the carrier's proposal and the available facts, the FRA has determined that a public hearing is necessary before a final decision is made on this proposal.

Accordingly, a public hearing is hereby set for 10:00 a.m. on April 5, 1984, in Room 402 of the U.S. Post Office and Court House at 46 East Ohio Street, Indianapolis, Indiana.

The hearing will be an informal one, and will be conducted in accordance with Rule 25 of the FRA Rules of Practice (49 CFR 211.25), by a representative designated by the FRA.

The hearing will be a nonadversary proceeding and, therefore, there will be no cross-examination of persons presenting statements. The FRA representative will make an opening statement outlining the scope of the hearing. After all initial statements have been completed, those persons who wish to make brief rebuttal statements

will be given the opportunity to do so in the same order in which they made their initial statements. Additional procedures, if necessary for the conduct of the hearing will be announced at the hearing.

Issued in Washington, D.C. on February 8, 1984.

Philip Olekszyk,

Deputy Associate Administrator for Safety.

[FR Doc. 84-3854 Filed 2-10-84; 8:45 am]

BILLING CODE 4910-06-M

Maritime Administration

[Docket S-750]

American President Lines, Ltd.; Application to Amend Contract MA/MSB-417 to Provide Service at the Gulf of Aden, Red Sea, and Ports in Somalia on the Indian Ocean

Notice is hereby given that American President Lines, Ltd., has requested amendment of its Line B Extension service as set forth in its Operating-Differential Subsidy Agreement, Contract MA/MSB-417 so as to permit its subsidized vessels operating on Line B Extension to provide service at the Gulf of Aden, Red Sea, and ports in Somalia on the Indian Ocean.

American President Lines currently provides service on Line B Extension between Washington-Oregon and the Far East and South Asia with six full containerships in line haul service operating in conjunction with three full containerships in feeder service, and with four breakbulk C5 vessels providing direct service between Washington-Oregon and the Far East and South Asia, which may serve as far westward as the Persian Gulf and Oman. Breakbulk vessels operating on Line B Extension service may call at California on up to 20 sailings per year. Minimum sailing requirements on Line B Extension are six sailings per year; maximum sailings permitted are 80 sailings per year.

Any person, firm, or corporation having any interest in such application and desiring to offer views and comments thereon for consideration by the Maritime Subsidy Board should submit them in writing, in triplicate, to the Secretary, Maritime Subsidy Board, Washington, D.C. 20590 by close of business on February 24, 1984.

The Maritime Subsidy Board will consider these views and comments and take such action with respect thereto as may be deemed appropriate.

(Catalog of Federal Domestic Assistance Program No. 20.804 Operating-Differential Subsidies (ODS))

Dated: February 8, 1984.

By Order of the Maritime Subsidy Board.

Georgia P. Stamas,

Secretary.

[FR Doc. 84-3833 Filed 2-10-84; 8:45 am]

BILLING CODE 4910-81-M

Sunshine Act Meetings

Federal Register
Vol. 49, No. 30
Monday, February 13, 1984

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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1

AFRICAN DEVELOPMENT FOUNDATION

TIME AND DATE: 1:00 p.m., February 17, 1984.

PLACE: African Development Foundation, 1724 Massachusetts Avenue, NW., Washington, D.C.

SUBJECT: General Business.

STATUS: Open.

PERSON TO CONTACT: Douglas Robbins, ADF Liaison Office, (703) 235–1882.

Dated: February 7, 1984.

Douglas Robertson,

Acting General Counsel of the African Development Foundation.

[FR Doc. 84-3900 Filed 2-9-84; 3:18 pm]

BILLING CODE 6116-01-M

2

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 3:20 p.m. on Wednesday, February 8, 1984, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session, by telephone conference call, to: (1) Receive bids for the purchase of certain assets of and the assumption of the liability to pay deposits made in Heritage Bank of Bureau County, Depue, Illinois, which was closed by the Commissioner of Banks and Trust Companies for the State of Illinois on Wednesday, February 8, 184; (2) accept the bid for the transaction submitted by The Colonial Trust and Savings Bank of Bureau County, Depue, Illinois, a newly-chartered State nonmember bank subsidiary of Colonial Bancorporation, Inc., Peru, Illinois; (3) approve the applications of The Colonial Trust and Savings Bank of Bureau County, Depue, Illinois, for Federal deposit insurance, for consent to purchase the assets of and to assume the liability to pay deposits made in Heritage Bank of Bureau County, Depue, Illinois, and for consent to establish the one existing branch and one approved but unopened branch of Heritage Bank of Bureau County as branches of The Colonial Trust and Savings Bank of Bureau County; and (4) provide such financial assistance, pursuant to section 13(c)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1823(c)(2)), as was necessary to facilitate the purchase and assumption transaction.

In calling the meeting, the Board determined, on motion of Director Irvine H. Sprague (Appointive), seconded by Mr. Doyle L. Arnold, acting in the place and stead of Director C. T. Conover (Comptroller of the Currency), that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting pursuant to subsections (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

Dated: February 9, 1984.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 84-3982 Filed 2-9-84; 3:40 pm]

BILLING CODE 6714-01-M

3

NUCLEAR REGULATORY COMMISSION

DATE: Tuesday, February 14, 1984.

PLACE: Commissioners' Conference Room, 1717 H Street, NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE DISCUSSED:

Tuesday, February 14

10:00 a.m.
Discussion of Staff Recommendations on DOE Siting Guidelines (Public Meeting)
2:00 p.m.
Briefing on BWR Pipe Cracks—Status of Plants (Public Meeting)

ADDITIONAL INFORMATION: Briefing by Executive Branch scheduled for February 7, *cncelled.*

TO VERIFY THE STATUS OF MEETINGS CALL: (Recording)—(202) 634–1498.

CONTACT PERSON FOR MORE INFORMATION: Walter Magee, (202) 634–1410.

Walter Magee,

Office of the Secretary.

[FR Doc. 84-3897 Filed 2-9-84; 9:37 am]

BILLING CODE 7590-01-M

4

NUCLEAR REGULATORY COMMISSION

DATE: Week of February 13, 1984.

PLACE: Commissioners' Conference Room, 1717 H Street, NW., Washington, D.C.

STATUS: Open and Closed.

MATTERS TO BE DISCUSSED:

Tuesday, February 14

10:00 a.m.
Discussion of Staff Recommendations on DOE Siting Guidelines (Public Meeting) (As Announced)
2:00 p.m.
Briefing on BWR Pipe Cracks—Status of Plants (Public Meeting) (As Announced)

Wednesday, February 15

2:00 p.m.
Discussion of Pending Investigation (Closed—Ex. 5, 7 and 10)

Thursday, February 16

2:00 p.m.
Discussion of Advance Notice of Rulemaking on Backfitting (Public Meeting)

ADDITIONAL INFORMATION: Discussion of Management-Organization and Internal Personnel Matters scheduled for February 9, *cncelled.*

TO VERIFY THE STATUS OF MEETINGS CALL: (Recording)—(202) 634–1498.

CONTACT PERSON FOR MORE INFORMATION: Walter Magee, (202) 634–1410.

Walter Magee,

Office of the Secretary.

[FR Doc. 84-3956 Filed 2-9-84; 3:18 pm]

BILLING CODE 7590-01-M

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federal register

Monday
February 13, 1984

Part II

Department of Housing and Urban Development

Office of the Assistant Secretary for Community Planning and Development

Urban Development Action Grants; Revised Minimum Standards for Small Cities; Notice

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Community Planning and Development

[Docket No. N-84-1341; FR-1945]

Urban Development Action Grants; Revised Minimum Standards for Small Cities

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: In accordance with 24 CFR 570.452(b)(1), the Department is providing Notice of the most current minimum standards of physical and economic distress for small cities for the Urban Development Action Grant program.

This Notice revises the Notice published March 1, 1983 (48 FR 8758). The changes to eligibility in this Notice principally result from a regulation change to the minimum distress standards published January 25, 1984 (49 FR 3074). The change provides an additional minimum standard of distress based on long term high unemployment as used by the Department of Labor to identify Labor Surplus Areas. The changes also result from the use of updated 1980 age of housing data and poverty data as well as from revised eligibility thresholds.

This Notice contains five lists: One list (see Part II of this Notice) identifies those cities which qualify as distressed communities based upon the new minimum standards; a second list (see Part III of this Notice) identifies those cities which did not qualify when the March 1, 1983 list was published but which do qualify now; a third list (see Part IV of this Notice) identifies those cities which were classified as distressed on the March 1, 1983 list, but which no longer qualify under the new minimum standards; a fourth list (see Part V of this Notice) identifies those cities which were classified as distressed on June 8, 1982 list but no longer qualified when March 1, 1983 list was published; finally, a fifth list (See Part VI of this Notice) identifies those towns and townships which qualify as distressed communities based upon the new minimum standards.

EFFECTIVE DATE: March 7, 1984.

FOR FUTHER INFORMATION CONTACT: Frank Ridenour, Office of Urban Development Action Grants, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410, Telephone: 202–755–6784. For information on minimum distress standards or the data used to determine whether a community qualifies as distressed contact: Robert Brever, Telephone: 202/755–6042.

SUPPLEMENTARY INFORMATION: A Notice published by the Department on March 1, 1983 provided the mimimim standards of physical and economic distress which were applicable up to the effective date of this Notice for small cities which met the standards published at that time.

Part I of this Notice now specifies the new minimum standards of physical and economic distress. Parts II through VI contain the lists enumerated in the Summary section of this Notice. Part II of this Notice contains a revised list of all the small cities which meet the new standards. Part III of this Notice lists those small which, based upon the new minimum standards, appear on the list in Part II but did not qualify when the March 1, 1983 list was published. Part IV is a list of those cities which were classified as distressed on the March 1, 1983 list but which no longer qualify under the minimum standards. These cities listed in Part IV have a period of time, as specified in Part IV, during which they may submit Action Grant applications. Part V is a list of cities that were continued on as being eligible by the 1983 amendments to the Housing and Community Development Act of 1974 after they were identified in the March 1, 1983 list as losing their qualification as of August 31, 1983. None of these cities are listed in Part III of this Notice as having regained eligibility. The final submission date for these small cities will be August 31, 1984. Part VI is a revised list of eligible towns and townships.

A regulation change published January 25, 1984 added a seventh minimum standard of economic distress (six of which are used for small cities). A small city meets the standard if it is within an area that meets the unemployment criterion required for designation as a Labor Surplus Area (LSA). Since the number of criteria required for distress designation remained the same, this regulation change did not result in the loss of distress designation for any small city.

In general, LSAs are high unemployment cities with a population greater than 50,000, counties and county balances which are designated by the Department of Labor for the purpose of targeting Federal procurements. an area receives the LSA designation if it surpases a threshold. This threshold is calculated by utilizing the national average unemployment rate. An area receives the LSA designation if it exceeds 120 percent of the national average unemployment rate over the last two years. The range of the threshold cannot exceed 10 percent or go below 6 percent. The specified unemployment rate for the 1981–1982 period is ten percent.

A list of eligible labor surplus areas was published in the **Federal Register** on September 29, 1983 (48 FR 44676).

The minimum standard for age of housing is revised based on the 1980 Census. Previously, 1970 housing counts were used (adjusted for boundary changes through 1980). The minimum distress thresholds for population lag/decline, job lag/decline and per capita income growth have changed slightly to reflect small corrections and additions to the data.

Also, the standards were changed as a result of two other factors: First, there was a revision to the method for calculating the percentage of poverty. The new method uses the same percent as reported by the Bureau of the census. The previous method gave a different result since the denominator was the latest population estimate or count, and was not adjusted to exclude certain people such as those living in group quarters. Second, the data and thresholds are rounded to one decimal place instead of two. Thus, the data corresponds to the number of decimal places used by the Bureau of the Census and Labor Statistics.

This Notice is published pursuant to 24 CFR § 570.452(b)(1).

Part I

A small city must pass three minimum standards of physical and economic distress for the categories appropriate to their size, except that if the percentage of poverty is less than half the minimum standard, the city must pass four standards. The most current minimum standards of physical and economic distress are:

A. *Age of Housing.* At least 21.0 percent of the applicant's year-round housing units must have been constructed prior to 1940, based on 1980 U.S. Census data, in order to meet this minimum standard;

B. *Per Capita Income Change.* The net increase in per capita income for the period of 1969–1979 must have been $4036 or less, based on U.S. Census data, in order to meet this minimum standard;

C. *Population Growth Lag/Decline.* For the period 1970–1980 the percentage rate of population growth (based on corporate boundaries in 1970 and as of the 1980 Census) must have been 1.7

percent or less, based on U.S. Census data, in order to meet the minimum standards;

D. *Job Lag/Decline.* The rate of growth in retail and manufacturing employment for the period 1972–1977 must have increased by 6.9 prcent or less, based on U.S. Census data, in order to meet this minimum standard. If neither data source is available this standard will not be considered;

E. *Poverty.* The percentage of persons within the applicant's jurisdication at or below the poverty level must be 12.4 percent or more, based on 1980 U.S. Census data, in order to meet this minimum standard.

F. *Labor Surplus Area.* The small city must either be entirely within or partially within an area which meets the criteria for designation as a Labor Surplus Area as of October 1983. These areas include cities with populations of 50,000 or more, counties or county balances with an unemployment rate of ten percent for calendar years 1981–1982.

II. The following small cities meet the current minimum standards of physical and economic distress appropriate to their class.

Alabama

Abberille
Addison
Akron
Albertivlle
Alexander City
Aliceville
All Good
Altoona
Andalusia
Anderson
Ardmore
Ariton
Arley
Ashford
Ashland
Ashville
Athens
Atmore
Attalla
Auburn
Autaugaville
Baileyton
Banks
Bay Minette
Bayou La Batre
Bear Creek
Beatrice
Beaverton
Benton
Billingsley
Black
Blountsville
Blue Mountain
Blue Springs
Boaz
Boligee
Bon Air
Brantley
Brent
Brewton
Bridgeport
Brighton
Brilliant
Brundidge
Calera
Camden
Camp Hill
Carbon Hill
Cardiff
Carolina
Carrollton
Carrville
Castleberry
Cedar Bluff
Centre
Centreville
Chatom
Chickasaw
Childersburg
Citronelle
Clanton
Clayhatchee
Clayton
Cleveland
Clio
Coffee Springs
Coffeeville
Collinsville
Colony
Columbia
Columbiana
Coodsada
Cordova
Cottonwood
County Line
County Line
Courtland
Crossville
Cuba
Dadeville
Daleville
Daphne
Daviston
Dayton
Demopolis
Detroit
Dora
Double Springs
Douglas
Dozier
Dutton
East Brewton
Eclectic
Edwardsville
Elba
Elberta
Eldridge
Elkmont
Enterprise
Epes
Ethelsville
Eufaula
Eundla
Eutaw
Evergreen
Excel
Fairfield
Fairview
Falkville
Faunsdale
Five points
Flomaton
Florala
Forkland
Fort Deposit
Fort Payne
Franklin
Frisco City
Fruithurst
Fulton
Fyffe
Gainesville
Gantt
Gantts Quarry
Garden City
Gaylesville
Geiger
Geneva
Georgiana
Geraldine
Gilbertown
Glen Allen
Glenwood
Goldville
Good Hope
Goodwater
Gordo
Gordon
Goshen
Graysville
Greensboro
Greenville
Grove Hill
Guin
Guntersville
Gurley
Guwin
Hackleburg
Haleburg
Haleyville
Hamilton
Hammondville
Hanceville
Harpersville
Hartford
Hartselle
Hayden
Hayneville
Headland
Heath
Heflin
Hillsboro
Hobson City
Hodges
Holly Pond
Hollywood
Hurtsboro
Jackson's Gap
Jacksonville
Jasper
Jemison
Kansas
Kennedy
Killen
Kinston
Lafayette
Lakeview
Lanett
Langston
Leighton
Lester
Level Plains
Lexington
Libertyville
Lincoln
Linden
Lineville
Lipscomb
Lisman
Livingston
Loachapoka
Lockhart
Louisville
Lowndesboro
Loxely
Luverne
Lynn
McKenzie
McMullen
Madrid
Mapleville
Margaret
Marion
Maytown
Memphis
Mentone
Midland City
Midway
Millport
Millry
Montevallo
Mooresville
Moores
Moulton
Moundville
Mountainboro
Mount Vernon
Mulga
Myrtlewood
Napier Field
Nauvoo
Nectar
Needham
Newbern
New Brockton
New Site
Newton
Newville
North Courtland
North Johns
Northport
Notasulga
Oak Grove
Oak Hill
Oakman
Odenville
Ohatchee
Oneonta
Onycha
Opp
Orrville
Ozark
Paint Rock
Parrish
Pell City
Pennington
Petrey
Phil Campbell
Pickensville
Piedmont
Pinckard
Pine Apple
Pine Hill
Pisgan
Pollard
Powells Crossroads
Prichard
Providence
Ragland
Rainsville
Red Bay
Red Level
Reform
Repton
Ridgeville
River Falls
Riverside
Roanoke
Rockford
Rogersville
Roosevelt City
Ross
Russellville
Rutledge
Samson
Sanford
Sardis City
Section
Selma
Sheffield
Silas
Sipsey
Slocomb
Snead
Somerville
South Vinemont
Springville
Steele
Stevenson
Sulligent
Summerdale
Sweetwater
Sylacauga
Sylvania
Talladega
Talladega Springs
Tallassee
Tarrant City
Thomaston
Thomasville
Thorsby
Town Creek
Toxey
Trafford
Triana
Troy
Tuscumbia
Tuskegee
Union
Union Grove
Union Springs
Uniontown
Valley Head
Vernon
Vina
Vincent
Vredenburgh
Wadley
Waldo
Walnut Grove
Wateloo
Waverly
Wedowee
West Blocton
West Point
Wetumpka
Whitehall
Whites Chapel
Wilton
Woodland
Woodville
York

Alaska

Akhiok
Akiak
Akolmiut
Akutan
Alakanuk
Allakaket
Anaktuvuk Pass
Aniak
Anvik
Atmautluak
Brevig Mission
Buckland
Chefornak
Chevak
Chuathbaluk
Clark's Point
Deering
Diomede
Eagle
Eek
Ekwok
Elim
Emmonak
Fortuna Ledge
Fort Yukon
Gambell
Golovin
Goodnews Bay
Grayling
Holy Cross
Hooper Bay
Hughes
Huslia
Kaltag
Kiana
Kivalina
Kobuk
Kotlik
Koyuk
Koyukuk
Kwethluk
Lower Kalskag
Mekoryuk
Mountain Village
Napakiak
Napaskiak
Nenana
New Stuyahok
Newtok
Nightmute
Nikolai
Nondalton
Noorvik
Nulato
Old Harbor
Pilot Station
Platinum
Port Alexander
Port Lions
Quinhagak
Ruby
Russian Mission
St Mary's
St Michael
Savoonga
Scammon Bay
Selawik
Shageluk
Shaktoolik
Sheldon Point
Shishmaref
Shungnak
Stebbins
Tanana
Teller
Tenakee Springs
Togiak
Toksook Bay
Tuluksak
Tununak
Unalakleet
Upper Kalskag
Wales
White Mountain

Arizona

Apache Junction
Avondale
Benson
Bisbee
Casa Grande
Clarkdale
Clifton
Coolidge
Douglas
Duncan
El Mirage
Eloy
Florence
Globe
Guadalupe
Hayden
Holbrook
Jerome
Mammoth
Miami
Nogales
Patagonia
Payson
Pima
Safford
St Johns
San Luis
Show Low
Somerton
South Tucson
Superior
Surprise
Thatcher
Tombstone
Wellton
Wilcox
Williams
Winkelman
Winslow

Arkansas

Adona
Alicia
Allport
Alma
Almyra
Alpena
Altheimer
Altus
Amagon
Amity
Antoine
Arkadelphia
Arkansas City
Ash Flat
Atkins
Aubrey
Augusta
Avoca
Bald Knob
Banks
Barling
Bassett
Batesville
Bauxite
Bearden
Beaver
Beebe
Bedeville
Belleville
Ben Lomond
Berryville
Bigelow
Big Flat
Biggers
Black Oak
Black Rock
Black Springs
Blevins
Blue Eye
Blue Mountain
Bluff
Blytheville
Bodcaw
Bonanza
Booneville
Bradford
Bradley
Branch
Brinkley
Buckner
Burdette
Caldwell
Cale
Calico Rock
Calion
Camden
Campbells Station
Caraway
Carlisle
Carthage
Casa
Caulksville
Cave Springs
Charleston
Chester
Chidester
Clarendon
Clarksville
Clinton
Coal Hill
College City
Colt
Concord
Corning
Cotter
Cotton Plant
Cove
Coy
Crawfordsville
Cushman
Daisy
Damascus
Datto
Delaplaine
Delight
Dell
Denning
De Queen
Dermott
Des Arc
De Valls Bluff
De Witt
Diaz
Dierks
Dover
Dumas
Dyer
Dyess
Earle
Edmonson
Elaine
El Dorado
Elkins
Emerson
England
Enola
Eudora
Eureka Springs
Evening Shade
Everton
Fisher
Fordyce
Foreman
Forrest City
Franklin
Biscoe Town
Fulton
Garfield
Garland
Garner
Gateway
Gentry
Gilbert
Gillett
Gilmore
Glenwood
Gosnell
Gould
Grady
Grannis
Gravette
Green Forest
Greenway
Greenwood
Greers Ferry
Griffithville
Grubbs
Guion
Gum Springs
Gurdon
Guy
Hackett
Hamburg
Hardy
Harrell
Harrisburg
Hartford
Hatfield
Havana
Haynes
Hazen
Hector
Helena
Hermitage
Higden
Higginson
Holly Grove
Horatio
Hot Springs
Houston
Hoxie
Hughes
Humnoke
Humphrey
Hunter
Huntington
Imboden
Jacksonport
Jasper
Johnson
Joiner
Judsonia
Junction City
Keiser
Kensett
Keo
Kibler
Kingsland
Knobel
Lafe
Lake View
Lake Village
Lamar
Leachville
Leola
Lepanto
Leslie
Letona
Lewisville
Lincoln
Lockesburg
Lonsdale
Louann
Luxora
Lynn
McCrory
McDougal
McGehee
McNeil
McRae
Madison
Magazine
Magness
Magnolia
Malvern
Mammoth Springs
Manila
Mansfield
Marianna
Marie
Marked Tree
Marmaduke
Marshall
Marvell
Maynard
Mena
Menifee
Midland
Minturn
Mitchellville
Monette
Monticello
Montrose
Moro
Morrilton
Morrison Bluff
Mountainburg
Mountain Pine
Mountainview
Mount Ida
Mount Vernon
Mulberry
Murfreesboro
Nashville
Newark
Newport
Nimmons
Norfolk
Norman
Norphlet
Oak Grove
Oak Grove Heights
Oden
Ogden
Oil Trough
O'Kean
Okolona
Ola
Omaha
Osceola
Oxford
Ozan
Ozark
Palestine
Pangburn
Paragould
Paris
Parkdale
Parkin
Patmos
Patterson
Peach Orchard
Perla
Perry
Perryville
Piggott
Plainview
Plumerville
Pocahontas
Pollard
Portia
Portland
Pottsville
Powhatan
Prairie Grove
Prattsville
Prescott
Pyatt
Quitman
Ratcliff
Ravenden
Ravenden Springs
Reader
Rector
Reed
Reyno
Rison
Rockport
Roe
Rondo
Rose Bud
Rosston
Rudy
Russell
St Charles
St Francis
St Paul
Salem
Scranton
Searcy
Sherrill
Shirley
Sidney
Smackover
Smithville
South Lead Hill
Sparkman
Stamps
Star City
Stephens
Strawberry
Strong
Subiaco
Success
Sulphur Springs
Summitt
Sunset
Swifton
Thornton
Tillar
Tollette
Trumann
Tuckerman
Tupelo
Turrell
Tyronza
Ulm
Valley Springs
Van Buren
Vandervoort
Victoria
Vilonia
Viola
Wabbaseka
Waldenburg
Waldo
Waldron
Walnut Ridge
Warren
Washington
Watson
Western Grove
West Helena
West Point
Wheatley
Wickes
Widener
Wiederkehr
Williford
Willisville
Wilmar
Wilmot
Wilson
Winchester
Winslow
Winthrop
Wooster
Yellville
Zinc

California

Adelanto
Amador
Anderson
Angels
Arcata
Arvin
Avenal
Banning
Barstow
Bell
Bell Gardens
Biggs
Blue Lake
Blythe
Brawley
Calexico
Calipatria
Clearlake
Coachella
Coalinga
Colfax
Colusa
Commerce
Corcoran
Corning
Crescent City
Cudahy
Delano
Dinuba
Dorris
Dos Palos
Dunsmuir
Etna
Eureka
Exeter
Farmersville
Ferndale
Firebaugh
Fort Bragg
Fort Jones
Fowler
Gonzales
Grass Valley
Greenfield
Gridley
Hanford
Hollister
Hughson
Huntington Park
Huron
Indio
Industry
Ione
Irwindale
Isleton
King City
Lake Elsinore
La Puente
Lawndale
Lincoln
Lindsay
Live Oak
Livingston
Los Banos
Loyalton
Lynwood
McFarland
Madera
Maricopa
Marina
Marysville
Mendota
Merced
Monrovia
Montague
National City
Needles
Nevada City
Orange Cove
Orland
Oroville
Pacific Grove
Paramount
Parlier
Patterson
Perris
Placerville
Plymouth
Point Arena
Portola
Red Bluff
Reedley
Rio Dell
Rio Vista
Riverbank
Sand City
San Gabriel
Sanger

San Jacinto
San Joaquin
San Pablo
Santa Paula
Selma
Soledad
Sonora
Susanville
Sutter Creek
Tehama
Tracy
Tulelake
Wasco
Waterford
Watsonville
Weed
Westmoreland
Wheatland
Williams
Willits
Willows
Winters
Woodlake

Colorado

Aguilar
Alamosa
Alma
Antonito
Arriba
Ault
Blanca
Boone
Branson
Brookside
Brush
Buena Vista
Calhan
Campo
Canon City
Cedaredge
Center
Central City
Cheyenne Wells
Coal Creek
Cokedale
Collbran
Commerce City
Crestone
Cripple Creek
Crowley
Del Norte
Delta
Dinosaur
Dolores
Eckley
Elizabeth
Flagler
Florence
Fort Lupton
Fowler
Frederick
Fruita
Garden City
Granada
Grover
Gunnison
Hartman
Haswell
Holly
Holyoke
Hooper
Hugo
Ignacio
Iliff
Julesburg
Keenesburg
Kim
Kiowa
Kit Carson
La Jara
La Junta
Lamar
Las Animas
La Veta
Limon
Manassa
Mancos
Manzanola
Moffat
Monte Vista
Naturita
Nunn
Oak Creek
Olathe
Olney Springs
Ophir
Orchard City
Ordway
Otis
Ouray
Ovid
Pagosa Springs
Palisade
Paoli
Peetz
Pierce
Pritchett
Ramah
Raymer
Rico
Ridgway
Rockvale
Rocky Ford
Romeo
Rosedale
Rye
Saguache
Salida
Sanford
San Luis
Sawpit
Sedgwick
Seibert
Sheridan Lake
Silver Cliff
Silver Plume
Silverton
Simla
Springfield
Starkville
Sugar City
Superior
Telluride
Trinidad
Two Buttes
Victor
Vilas
Walsenburg
Walsh
Ward
Westcliffe
Wiggins
Wiley
Williamsburg
Yampa
Yuma

Connecticut

Ansonia
Bantam
Colchester
Danielson
Jewett City
Naugatuck
Putnam
Stafford Springs
Torrington
Willimantic

Bethel
Bladen
Bowers
Bridgeville
Cheswold
Clayton
Delaware City
Delmar
Ellendale
Farmington
Frankford
Frederica
Georgetown
Greenwood

Delaware

Harrington
Laurel
Leipsic
Lewes
Little Creek
Magnolia
Milford
Milton
Odessa
Seaford
Smyrna
Townsend
Woodside
Wyoming

Florida

Alachua
Alford
Altha
Apalachicola
Arcadia
Archer
Avon Park
Bartow
Bay Lake
Bell
Blountstown
Bonifay
Bowling Green
Branford
Bronson
Brooksville
Bunnell
Bushnell
Callahan
Campbellton
Carrabelle
Caryville
Cedar Grove
Cedar Key
Center Hill
South Flomaton
Chattahoochee
Chiefland
Chipley
Cinco Bayou
Coleman
Cottondale
Crescent City
Crestview
Cross City
Davenport
De Funiak Springs
De Land
Dundee
Eatonville
Esto
Everglades
Fanning Spring
Fellsmere
Florida City
Fort Meade
Fort White
Frostproof
Graceville
Greensboro
Greenville
Gretna
Groveland
Haines City
Hastings
Havana
Hawthorne
High Springs
Homestead
Horseshoe Beach
Indian Creek
Interlachen
Jasper
Jennings
Key West
Labelle
La Crosse
Lady Lake
Lake City
Lake Hamilton
Lake Helen
Lake Wales
Laurel Hill
Lawtey
Lee
Leesburg
Live Oak
Madison
Malone
Marianna
Mascotte
Mayo
Micanopy
Minneola
Monticello
Moore Haven
Mount Dora
Mulberry
Noma
Oak Hill
Oakland
Okeechobee
Opalocka
Otter Creek
Palatka
Paxton
Perry
Pierson
Polk City
Ponce de Leon
Port St Joe
Quincy
Reddick
St Augustine
St Leo
St Marks
Sopchoppy
South Bay
South Miami
Springfield
Starke
Sweetwater
Tavares
Umatilla
Vernon
Waldo
Wauchula
Wasau
Webster
Welaka
Westville
Wewahitchka
White Springs
Wildwood
Worthington Springs
Zolfo Springs

Georgia

Abbeville
Adairsville
Adrian
Ailey
Alamo
Alapaha
Aldora
Allenhurst
Allentown
Alma
Ambrose
Americus
Andersonville
Arabi
Aragon
Arcade
Argyle
Arlington
Ashburn
Attapulgus
Auburn
Avera
Barnesville
Bartow
Barwick
Baxley
Between
Bibb City
Bishop
Blackshear
Blakely
Blue Ridge
Bluffton
Boston
Bostwick
Bowdon
Bowersville
Bowman
Braselton
Brinson
Bronwood
Brooklet
Brooks
Broxton
Brunswick
Buchanan
Buckhead
Buena Vista
Butler
Byromville
Byron
Cadwell
Cairo
Camak
Camilla
Canon
Canton
Carl
Carlton
Carnesville
Cartersville
Cave Spring
Cecil
Cedartown
Chatsworth
Chauncey
Chester
Claxton
Clermont
Climax
Cobbtown
Cochran
Cohutta
Colbert
Coleman
Collins
Colquitt
Comer
Concord
Coolidge
Cordele
Covington
Crawford
Crawfordville
Cusseta
Cuthbert
Daisy
Dallas
Damascus
Danielsville
Danville
Darien
Davisboro
Dawson
Dawsonville
Dearing
Decatur
Denton
De Soto
Dexter
Doerun
Du Pont
East Ellijay
Eastman
East Point
Eatonton
Edge Hill
Edison
Elberton
Ellaville
Ellenton
Ellijay
Emerson
Enigma
Ephesus
Etna
Euharlee
Fairmount
Fitzgerald
Flemington
Flovilla
Flowery Branch
Folkston
Forsyth
Fort Gaines
Fort Valley
Franklin
Garden City
Gay
Geneva
Georgetown
Gibson
Gillsville
Girard
Glennville
Glenwood
Gordon
Grantville
Greensboro
Greenville
Griffin
Guyton
Hahira
Hampton
Harlem
Harrison
Hartwell
Hawkinsville
Helena
Higgston
Hilltonia
Hoboken
Hogansville
Homer
Homerville
Ideal
Industrial City
Iron City
Irwinton
Jackson
Jacksonville
Jeffersonville
Jenkinsburg
Jersey
Junction City
Kingston
Kite
La Grange
Lakeland
Lake Park
Lavonia

Leary
Leesburg
Lenox
Leslie
Lexington
Lilly
Lincolnton
Linwood
Lithonia
Locust Grove
Lone Oak
Louisville
Lovejoy
Ludowici
Lula
Lumber City
Lumpkin
Luthersville
Lyerly
Lyons
McCaysville
McDonough
McIntyre
McRae
Madison
Manassas
Manchester
Mansfield
Marshallville
Maxeys
Meansville
Meigs
Menlo
Metter
Midville
Millen
Milner
Mineral Bluff
Michell
Molena
Monroe
Montezuma
Monticello
Montrose
Morganton
Morven
Moultrie
Mount Airy
Mount Vernon
Nahunta
Naylor
Nelson
Newborn
Newington
Newnan
Newton
Nicholls
Norman Park
Norwood
Ochlocknee
Ocilla
Odum
Oglethrope
Oliver
Omaha
Omega
Parrott
Patterson
Pavo
Payne
Pearson
Pelham
Pembroke
Pinehurst
Pineview
Pitts
Plains
Portal
Porterdale
Poulan
Preston
Pulaski
Quitman
Ranger
Rayle
Rebecca
Remerton
Rentz
Rest Haven
Reynolds
Rine
Riceboro
Richland
Riddleville
Riverside
Roberta
Rochelle
Rockmart
Rocky Ford
Rome
Rossville
Royston
Rutledge
Sale City
Sandersville
Sardis
Sasser
Scotland
Screven
Senoia
Shady Dale
Sharon
Shellman
Shiloh
Siloam
Smithville
Social Circle
Sparks
Sparta
Stapleton
Stillmore
Summertown
Summerville
Sumner
Sunny Side
Surrency
Sycamore
Sylvania
Sylvester
Talbotton
Talking Rock
Tallapoosa
Terrytown
Taylorsville
Tennille
The Rock
Thomaston
Thomasville
Thomson
Tiger
Tignall
Toomsboro
Trion
Ty Ty
Unadilla
Union Point
Uvalda
Varnell
Vienna
Villa Rica
Wadley
Waleska
Walthourville
Warm Springs
Warrenton
Warwick
Washington
Waverly Hall
Waycross
Waynesboro
Weston
West Point
Whigham
White
White Plains
Whitesburg
Willacoochee
Williamson
Winder
Woodbine
Woodbury
Woodland
Woodville
Wrens
Wrightsville
Yatesville
Young Harris

Idaho

Aberdeen
Acequia
Albion
Arco
Ashton
Athol
Bancroft
Bellevue
Bonners Ferry
Buhl
Cascade
Castleford
Challis
Clark Fork
Clayton
Clifton
Coeur D'Alene
Cottonwood
Council
Craigmont
Crouch
Dalton Gardens
Dayton
Donnelly
Downey
Driggs
Dubois
East Hope
Elk River
Emmett
Ferdinand
Fernan Lake
Glenns Ferry
Gooding
Grand View
Grangeville
Hagerman
Harrison
Hauser Lake
Hayden
Hollister
Hope
Huetter
Idaho City
Jerome
Kamiah
Kellogg
Kendrick
Kooskia
Kootenai
Lapwai
Lava Hot Springs
Leadore
McCall
McCammon
Mackay
Malta
Melba
Menan
Midvale
Minidoka
Moscow
Moyie Springs
Mud Lake
Mullan
Nampa
Newdale
New Meadows
New Plymouth
Nezperce
Notus
Oakley
Oldtown
Orofindo
Oxford
Parma
Payette
Ponderay
Priest River
Rathdrum
Reubens
Rexburg
Rigby
Riggins
Ririe
Roberts
Rockland
Rupert
St Anthony
St Marie's
Salmon
Sandpoint
Shoshone
Smelterville
Spirit Lake
Stites
Tensed
Teton
Tetonia
Victor
Wallace
Wardner
Weippe
Weiser
Wendell
Weston
White Bird
Wilder
Worley

Illinois

Abingdon
Adeline
Alhambra
Allerton
Alma
Alorton
Alsey
Altona
Alto Pass
Alvin
Apple River
Arlington
Armington
Aroma Park
Ashley
Astoria
Augusta
Ava
Avon
Baldwin
Banner
Bannockburn
Bardolph
Barry
Bartelso
Bath
Baylis
Bay View Gardens
Beaverville
Beckemeyer
Beecher City
Belgium
Belknap
Belle Prairie City
Belle Rive
Belleflower
Belvidere
Benlo
Bently
Benton
Berlin
Bingham
Birds
Bishop Hill
Blandinsville
Blue Island
Bluffs
Bluford
Bonnie
Bowen
Bridgeport
Broadwell
Brocton
Brooklyn
Brookport
Broughton
Browing
Brownstown
Brussels
Buckner
Buda
Bulpitt
Buncombe
Bunker Hill
Bureau Junction
Burnt Pairie
Bush
Butler
Byron
Cabery
Cahokia
Cairo
Calhoun
Cambria
Camden
Camp Point
Capron
Carbondale
Carlinville
Carlyle
Carriers Mills
Carrollton
Carterville
Casey
Caseyville
Cave-In-Rock
Central City
Centralia
Centreville
Chandlerville
Charleston
Chesterfield
Chrisman
Christopher
Cisne
Claremont
Clay City
Clayton
Coalton
Coatsburg
Cobden
Colchester
Collinsville
Colp
Columbus
Cowden
Creal Springs
Creston
Cuba
Cutler
Cypress
Dahlgren
Dana
Danforth
Danville
Davis Junction
Deer Grove
De Kalb
Depue
Detroit
Dix
Dongola
Donnellson
Dorchester
Dover
Dowell
Du Bois
Dupo
Du Quoin
Durand
Eagarville
Earlville
East Alton
East Carondelet
East Chicago Heights
East Gillespie
East Moline
Easton
Eddyville
Edgewood
Edwardsville
Eldorado
Eldred
Elizabethtown
Elkville
Ellis Grove
Elsah
Energy
Enfield
Equality
Exeter
Fairfield
Fairmont City
Fairmount
Fairview
Farina
Farmer City
Farmington
Fayetteville
Fidelity
Fieldon
Fillmore
Fithian
Flat Rock
Flora
Florence
Forest City
Forreston
Freeburg
Freeman Spur
Freeport
Galatia
Galesburg
Garrett
Georgetown
Germantown
Gillespie
Girard
Gladstone
Godley
Golconda
Golden
Goreville
Gorham
Grafton
Grand Tower
Grandview
Grantfork
Greenfield
Greenup
Greenville
Griggsville
Hainesville
Hamburg
Hamletsburg
Hanaford
Hanover
Hardin
Harrisburg
Hartford
Harvel
Harvey
Havana
Henning
Herrick
Herrin
Hettick
Hidalgo
Hillsboro
Hillview
Hodgkins
Homer

Hoopeston
Hopedale
Hull
Hume
Hurst
Hutsonville
Ina
Indianola
Iola
Iroquois
Irving
Iuka
Ivesdale
Jeffersonville
Jeiseyville
Jerseyville
Jewett
Johnston City
Jonesboro
Joppa
Joy
Junction
Junction City
Kampsville
Kane
Kangley
Kansas
Karnak
Keenes
Keensburg
Keithsburg
Keel
Kewanee
Keyesport
Kilbourne
Kinderhook
Kinmundy
Kinsman
Kirkwook
La Harpe
La Prairie
La Salle
Lawrenceville
Leaf River
Lebanon
Leland
Lenzburg
Lewistown
Liberty
Lisbon
Litchfield
Littleton
Liverpool
Livingston
Loami
Loda
London Mills
Longview
Loraine
Louisville
Lovington
Ludlow
Macedonia
McLeansboro
Macomb
Madison
Maeystown
Magnolia
Manchester
Manito
Mapleton
Maquon
Marietta
Marissa
Mark
Marshall
Martinsville
Mascoutah
Matherville
Maunie
Maywood
Media
Mendon
Metcalf
Metropolis
Middletown
Milford
Mill Shoals
Milton
Modesto
Momence
Monmouth
Montrose
Mound City
Mound
Mound Station
Mount Carroll
Mount Clare
Mount Erie
Mount Morris
Mount Olive
Mount Sterling
Mount Vernon
Muddy
Mulberry Grove
Muncie
Murphysboro
Nason
National City
Nauvoo
Nebo
Neoga
New Athens
New Boston
New Burnside
New Canton
New Douglas
New Grand Chain
New Haven
New Minden
New Salem
Noble
Norris
Norris City
North City
North Henderson
North Pekin
Oakland
Oakwood
Oblong
Odin
Oglesby
Ohio
Ohlman
Old Ripley
Old Shawneetown
Olmstead
Olney
Omaha
Onarga
Oquawka
Oregon
Orient
Ottawa
Otterville
Palmer
Palmyra
Pana
Papineau
Paris
Patoka
Pearl
Pembroke
Phillipstown
Phoenix
Pittsburg
Plainville
Pleasant Hill
Plymouth
Pocahontas
Poplar Grove
Potomac
Prairie City
Pulaski
Quincy
Radom
Råleigh
Ramsey
Rankin
Reddick
Redmon
Richview
Ridge Farm
Ridgway
Ridott
Rio
Ripley
Robbins
Robinson
Rockbridge
Rockdale
Rockwood
Roodhouse
Rose Hill
Roseville
Rosiclare
Rossville
Roxana
Royal Lakes
Royalton
Rushville
Russellville
Rutland
Sadorus
Sailor Springs
St Anne
St Augustine
St David
St Elmo
St Johns
Salem
Sandoval
Sauget
Savanna
Sawyerville
Scales Mound
Sciota
Scottville
Seaton
Secor
Shawneetown
Sheffield
Sheldon
Sherrard
Shipman
Shumway
Sidell
Sigel
Silvis
Simpson
Sims
Smithboro
Smithfield
Sorento
South Beloit
South Pekin
Spillertown
Springerton
Standard City
Staunton
Sterling
Stewardson
Stonefort
Stoy
Strawn
Streator
Summerfield
Summit
Sumner
Table Grove
Tamaroa
Tamms
Tampico
Taylor Springs
Tennessee
Thawville
Thebes
Thompsonville
Tilton
Tiskilwa
Tonica
Topeka
Tower Hill
Ullin
Union Hill
Ursa
Valley City
Vandalia
Venice
Vermilion
Vermont
Vernon
Versailles
Victoria
Vienna
Virden
Virginia
Waggoner
Walnut
Wamac
Washington Park
Wataga
Watson
Wayne City
Waynesville
Weldon
Wenonah
West Brooklyn
West City
Westfield
West Frankfort
West Point
Westville
Wheeler
Whiteash
White City
White Hall
Williamson
Willisville
Willow Hill
Wilmington
Wilmington
Wilsonville
Winchester
Witt
Woodhull
Woodlawn
Wood River
Worden
Wyanet
Wyoming
Xenia
Zeigler

Indiana

Advance
Alamo
Albany
Albion
Alexandria
Alfordsville
Alton
Altona
Ambia
Amboy
Andrews
Angola
Argos
Ashley
Aurora
Austin
Avilla
Bainbridge
Bedford
Bethany
Bicknell
Bloomfield
Blountsville
Boston
Bourbon
Brazil
Brook
Brooklyn
Brooksburg
Brookville
Brownstown
Bruceville
Bryant
Bunker Hill
Burnettsville
Butler
Cadiz
Cambridge City
Campbellsburg
Cannelburg
Cannelton
Carbon
Carefree
Carlisle
Carthage
Cayuga
Cedar Grove
Cedar Lake
Center Point
Centerville
Chalmers
Charlestown
Chrisney
Churubusco
Clarks Hill
Clay City
Claypool
Clayton
Clinton
Connersville
Converse
Corunna
Corydon
Crandall
Crawfordsville
Cromwell
Crothersville
Culver
Dale
Dana
Decatur
Decker
Denver
Dillsboro
Dublin
Dugger
Dunkirk
Dunreith
Dupont
Earl Park
East Germantown
Eaton
Economy
Edinburg
Edwardsport
Elizabethtown
Elnora
Elwood
English
Fairmount
Fairview Park
Farmersburg
Farmland
Fountain City
Fowler
Fowlerton
Francisco
Frankfort
Franklin
Fredericksburg
French Lick
Fulton
Garrett
Gas City
Gaston
Geneva
Georgetown
Glenwood
Goodland
Gosport
Grandview
Greencastle
Greensboro
Greensburg
Greensfork
Griffin
Hagerstown
Hamilton
Hamlet
Hanover
Hardinsburg
Harmony
Hartford City
Hartsville
Hillsboro
Holton
Hope
Hudson
Huntington
Hymera
Ingalls
Jasonville
Jeffersonville
Jonesboro
Jonesville
Judson
Kempton
Kendallville
Kennard
Kewanna
Kingman
Kingsbury
Kirklin
Knightstown
Knightsville
Knox
Laconia
La Crosse
La Fontaine
Lagro
La Paz
La Porte
Laurel
Lawrenceburg
Leavenworth
Lewisville
Liberty
Ligonier
Linton
Little York
Livonia
Logansport
Loogootee
Losantville
Lynn
Lyons
Macy
Madison
Marengo
Marion
Markle
Markleville
Marshall
Martinsville
Matthews
Mauckport
Mecca
Medaryville
Medora
Mellott
Merom
Michigan City
Michigantown
Middletown
Milan
Milford
Milford
Milltown
Milton
Mitchell
Modoc
Monon
Monroe City
Montezuma
Montgomery
Montpelier
Mooreland
Moores Hill
Mooresville
Morgantown
Morocco
Mount Auburn

Mount Carmel
Mount Etna
Mount Summit
Mulberry
Napoleon
New Amsterdam
Newberry
New Castle
New Market
New Middletown
New Pekin
Newpoint
Newport
New Providence
Newtown
North Grove
North Judson
North Liberty
North Vernon
Oakland City
Oaktown
Odon
Oldenburg
Oolitic
Orestes
Orland
Orleans
Osgood
Palmyra
Paoli
Paragon
Parker City
Patriot
Pendleton
Pennville
Perrysville
Peru
Pierceton
Pine Village
Plainville
Plymouth
Porter
Portland
Ravenswood
Redkey
Reynolds
Richmond
Ridgeville
Rising Sun
Roachdale
Roann
Rochester
Rockport
Rockville
Rome City
Rosedale
Roseland
Rossville
Royal Center
Rushville
St Joe
Salamonia
Salem
Saltillo
Saratoga
Scottsburg
Sellersburg
Selma
Seymour
Sharpsville
Shelburn
Shelbyville
Shirley
Shoals
Sidney
Silver Lake
South Whitley
Spencer
Spiceland
Spring Grove
Springport
Stinesville
Straughn
Sullivan
Sulphur Springs
Summitville
Sunman
Switz City
Tell City
Tennyson
Thorntown
Tipton
Pines
Troy
Union City
Universal
Upland
Van Buren
Veedersburg
Vernon
Versailles
Vevay
Vincennes
Wabash
Walkerton
Wallace
Walton
Washington
Waterloo
Waveland
West Baden
West College Corner
West Harrison
West Lebanon
West Terre Haute
Wheatfield
Wheatland
Whitestown
Whitewater
Whiting
Williamsport
Winamac
Winchester
Windfall City
Wingate
Winona Lake
Winslow
Wolcott
Worthington

Iowa

Afton
Agency
Ainsworth
Akron
Albia
Albion
Alexander
Allerton
Alvord
Andover
Andrew
Anthon
Aredale
Arion
Arispe
Arlington
Armstrong
Ashton
Athelstan
Auburn
Aurora
Ayrshire
Bagley
Baldwin
Barnes City
Batavia
Bayard
Beaconsfield
Bedford
Belle Plaine
Bellevue
Bevington
Blakesburg
Blockton
Bloomfield
Bonaparte
Boxholm
Bradgate
Brandon
Bridgewater
Brighton
Burlington
Callender
Cantril
Carbon
Carpenter
Carson
Casey
Castalia
Castana
Center Junction
Centerville
Central City
Charles City
Charlotte
Charter Oak
Chatsworth
Chelsea
Cincinnati
Clare
Clarinda
Clayton
Clearfield
Clemons
Clermont
Clinton
Clutier
Coburg
Coggon
Coin
Colesburg
Colfax
Collins
Columbus City
Colwell
Conway
Corning
Correctionville
Corydon
Cotter
Crawfordsville
Cromwell
Cumberland
Curlew
Cylinder
Dallas
Danbury
Davis City
Dawson
Decatur City
Deep River
Delaware
Delhi
Deloit
Delta
Derby
Diagonal
Dickens
Dolliver
Dougherty
Dows
Drakesville
Dumont
Dundee
Dunlap
Eagle Grove
Earling
Earlville
Early
East Peru
Elberon
Eldon
Ellston
Ely
Estherville
Exira
Exline
Farnhamville
Fayette
Fenton
Floris
Fonda
Fontanelle
Fort Dodge
Fort Madison
Fraser
Fredericksburg
Fredonia
Galt
Garden Grove
Garrison
Gillett Grove
Gilmore City
Graettinger
Graf
Grafton
Grand Junction
Grand River
Grandview
Grant
Gravity
Gray
Greeley
Green Island
Greenville
Griswold
Guthrie Center
Hamilton
Hanlontown
Hardy
Harpers Ferry
Harvey
Hastings
Havelock
Hawkeye
Hayesville
Hedrick
Hillsboro
Holstein
Hopkinton
Hornick
Humeston
Hurstville
Imogene
Ionia
Ireton
Jackson Junction
Jolley
Kamrar
Kellerton
Kensett
Kent
Keokuk
Keota
Kinross
Kirkville
Kiron
Knierim
Lacona
Lamoni
Lamont
La Motte
Lanesboro
Lansing
Lawler
Leon
Le Roy
Letts
Lime Springs
Linden
Lineville
Linn Grove
Liscomb
Littleport
Litte Rock
Little Sioux
Livermore
Logan
Lohrville
Lorimor
Lost Nation
Lovilia
Lucas
Lu Verne
Luzerne
Lytton
McClelland
Macedonia
McGregor
McIntire
Macksburg
Madrid
Magnolia
Manchester
Mapleton
Maquoketa
Marathon
Marble Rock
Marcus
Marne
Marquette
Martinsburg
Marysville
Mason
Masonville
Massena
Maxwell
Maysville
Melcher
Melrose
Middletown
Miles
Millerton
Milton
Missouri Valley
Mondamin
Monmouth
Montrose
Moravia
Morley
Moulton
Mount Auburn
Mount Ayr
Mount Sterling
Murray
Mystic
Nashua
Neola
New Albin
New Liberty
New Market
New Vienna
New Virginia
Nichols
Nora Springs
Northboro
North Washington
Norway
Numa
Oakland
Oakville
Oelwein
Ollie
Onawa
Onslow
Orient
Oskaloosa
Ossian
Oto
Ottumwa
Oxford Junction
Oyens
Pacific Junction
Panora
Paton
Persia
Peterson
Pierson
Plain View
Pleasanton
Plover
Plymouth
Pocahontas
Pomeroy
Popejoy
Portsmouth
Postville
Preston
Primghar
Promise City
Protivin
Pulaski
Randolph
Rathbun
Redding
Renwick
Rhodes
Richland
Ricketts
Rinard
Ringsted
Riverside
Riverton
Rock Falls
Rodney
Rome
Rose Hill
Rudd
Russell
Sabula
St Anthony
St Donatus
St Lucas
St Olaf
St Paul
Scarville
Schleswig
Scranton
Searsbord
Seymour
Shannon City
Sharpsburg
Shelby
Shellsburg
Sibley
Sigourney
Sioux Rapids
Smithland
South English
Spillville
Spragueville
Springbrook
Stacyville
Steamboat Rock
Stratford
Strawberry Point
Swaledale
Tabor
Tama
Templeton
Tennant
Thayer
Thompson
Thor
Thornburg
Thurman
Tingley
Toronto
Udell
Unionville
Urbana
Ute
Vail
Valeria
Van Wert
Villisca
Vining
Vinton
Volga
Wadena
Walker
Wall Lake
Washta
Waterville
Waucoma
Webster
Weldon
Wellsburg
Welton
Westphalia
What Cheer
Wheatland
Whittemore
Whitten
Willey
Williams

Williamson
Winterset
Wiota
Woodburn
Yale
Yetter
Zwingle

Kansas

Abbyville
Abilene
Agenda
Albert
Alden
Alexander
Almena
Altoona
Anthony
Arcadia
Arlington
Arma
Atchison
Athol
Attica
Axtell
Balwin City
Barnard
Barnes
Bartlett
Bassett
Baxter Springs
Bazine
Belpre
Benedict
Bern
Bison
Blue Mound
Blue Rapids
Bluff City
Bronson
Brownell
Buffalo
Burns
Bushong
Caldwell
Caney
Cassoday
Cawker City
Cedar
Cedar Vale
Centralia
Chapman
Chautauqua
Cherokee
Cherryvale
Chetopa
Circleville
Clay Center
Clifton
Climax
Clyde
Coffeyville
Collyer
Colony
Columbus
Concordia
Collidge
Copeland
Corning
Council Grove
Courtland
Coyville
Cuba
Damar
Delphos
Denison
Denton
Dighton
Dorrance
Downs
Dresden
Dunlap
Durham
Dwight
Earlton
Edna
Elgin
Elk City
Elk Falls
Elsmore
Elwood
Englewood
Ensign
Enterprise
Erie
Eureka
Fairview
Fall River
Florence
Fontana
Ford
Formoso
Fort Scott
Fredonia
Fulton
Galena
Gaylord
Geneseo
Geuda Springs
Glade
Glasco
Goff
Gove City
Green
Greenleaf
Grenola
Haddam
Hamilton
Hamlin
Hanover
Hardtner
Hartford
Haviland
Hazelton
Herington
Highland
Hillsboro
Holyrood
Horace
Horton
Howard
Humboldt
Hunter
Huron
Jamestown
Jennings
Jewell
Junction City
Kanorado
Kincaid
Kingman
Kiowo
Kirwin
Labette
La Harpe
Lane
Langdon
Latham
Lebanon
Lenora
Leona
Leonardville
Leoti
Le Roy
Liebenthal
Lincoln Center
Lincolnville
Linn
Logan
Lone Elm
Lost Springs
Louisville
Lucas
Luray
McCracken
McCune
McDonald
McLouth
Mahaska
Mankato
Mapleton
Marquette
Meade
Menlo
Milan
Miltonvale
Minneapolis
Minneola
Moline
Morganville
Morland
Morrill
Morrowville
Moscow
Mound City
Mound Valley
Mulberry
Mullinville
Munden
Muscotah
Narka
Natoma
Neosho Falls
Netawaka
New Cambria
Niotaze
Norcatur
Norton
Nortonville
Oak Hill
Oakley
Offerle
Olivet
Olmitz
Olsburg
Onaga
Oneida
Oswego
Ottawa
Palmer
Paradise
Park
Parker
Parkerville
Parsons
Partridge
Pawnee Rock
Paxico
Peabody
Penalosa
Peru
Phillipsburg
Pittsburg
Plainville
Pleasanton
Plevna
Portis
Powhattan
Prarie View
Prescott
Preston
Protection
Quenemo
Ramona
Randall
Rantoul
Redfield
Republic
Reserve
Rexford
Richfield
Richmond
Russell Springs
St Francis
St John
Savonburg
Scammon
Scandia
Schoenchen
Scranton
Selden
Severance
Severy
Sharon Springs
Smith Center
Soldier
Solomon
Spearville
Stafford
Sterling
Strong City
Summerfield
Sun City
Susank
Sylvan Grove
Sylvia
Tampa
Tescott
Thayer
Toronto
Treece
Troy
Turon
Tyro
Utica
Vining
Virgil
Wakefield
Waldo
Waldron
Wallace
Walnut
Washington
Waverly
Weir
West Mineral
Wetmore
Wheaton
White City
White Cloud
Whiting
Willard
Williamsburg
Wilson
Winchester
Windom
Winona
Woodston
Yates Center
Zurich

Kentucky

Adairville
Albany
Allen
Arlington
Auburn
Augusta
Barbourville
Bardstown
Bardwell
Barlow
Beattyville
Bedford
Bellevue
Benham
Benton
Berry
Blaine
Bloodfield
Bonnieville
Booneville
Bowling Green
Bradfordsville
Bremen
Brodhead
Bromley
Brooksville
Brownsville
Burgin
Butler
Cadiz
Calhoun
California
Camargo
Campbellsburg
Campton
Caneyville
Carlisle
Carrollton
Carrsville
Catlettsburg
Cave City
Central
Clarkson
Clay
Clay City
Clinton
Cloverport
Columbia
Columbus
Concord
Corbin
Corinth
Corydon
Crab Orchard
Crofton
Cumberland
Cynthiana
Danville
Dawson Springs
Dayton
Dixon
Dover
Drakesboro
Dry Ridge
Earlington
Eddyville
Edmonton
Ekron
Elkhorn City
Elkton
Eminence
Eubank
Evarts
Ewing
Fairfield
Falmouth
Ferguson
Fleming-Neon
Flemingsburg
Fordsville
Foster
Fountain Run
Franklin
Fredonia
Frenchburg
Fulton
Georgetown
Germantown
Ghent
Glasgow
Glencoe
Grand Rivers
Gratz
Grayson
Greensburg
Greenup
Guthrie
Hardin
Hardinsburg
Harlan
Harrodsburg
Hartford
Hawesville
Hazard
Hazel
Hickman
Hindman
Hiseville
Hodgenville
Horse Cave
Hunter's Hollow
Hustonville
Hyden
Inez
Irvine
Irvington
Island
Jackson
Jamestown
Jeffersonville
Jenkins
Junction City
Kevil
La Center
La Fayette
Lancaster
Latonia Lakes
Lebanon
Lebanon Junction
Leitchfield
Lewisburg
Liberty
Livermore
Livingston
Lockport
London
Loretto
Louisa
Loyall
Ludlow
Lynch
Lynnview
McHenry
McKee
Manchester
Marion
Martin
Mayfield
Maysville
Melbourne
Middlesborough
Middletown City
Midway
Millersburg
Milton
Minor Lane Heights
Monterey
Monticello
Morehead
Morgantown
Mortons Gap
Mount Olivet
Mount Sterling
Mount Vernon
Muldraugh
Munfordville
Murray
Nebo
New Castle
New Haven
Newport
Oakland
Olive Hill
Owenton
Owingsville
Paducah
Paintsville
Paris
Park City
Parkway Village
Pembroke
Perryville
Pikeville
Pineville
Pleasureville
Prestonburg
Prestonville
Princeton
Providence
Raceland
Ravenna
Richmond
Rochester
Rockport
Russell Springs
Russellville
Sacramento
Sadieville
St Charles
Salem
Salt Lick
Salyersville

Sanders
Sandy Hook
Sardis
Science Hill
Scottsville
Sharpsburg
Shelbyville
Shepherdsville
Silver Grove
Smithfield
Smithland
Smiths Grove
Somerset
Sonora
South Carrolton
South Shore
Sparta
Springfield
Stamping Ground
Stanford
Stanton
Strathmoor Manor
Taylorsville
Tollesboro
Tompkinsville
Trenton
Upton
Vanceburg
Vicco
Visalia
Wallins Creek
Warsaw
Washington
Water Valley
Wayland
West Buechel
West Liberty
West Point
Wheatcroft
Wheelwright
Whipps Milgate
White Plains
Whitesburg
Wickliffe
Williamsburg
Willisburg
Wilmore
Winchester
Worthville
Wurtland

Louisiana

Abbeville
Abita Springs
Albany
Amite City
Anacoco
Angie
Arcadia
Arnaudville
Ashland
Basile
Baskin
Bastrop
Belcher
Bernice
Bienville
Bogalusa
Bonita
Boyce
Bryceland
Bunkie
Calvin
Campti
Castor
Chataignier
Chathman
Cheneyville
Choudrant
Church Point
Clarence
Clarks
Clayton
Clinton
Colfax
Collinston
Columbia
Converse
Cottonport
Cotton Valley
Coushatta
Crowley
Cullen
Delcambre
Delhi
Delta
De Quincy
De Ridder
Dixie Inn
Dodson
Donaldsonville
Doyline
Dry Prong
East Hodge
Elizabeth
Elton
Epps
Erath
Eros
Evergreen
Farmerville
Fenton
Ferriday
Fisher
Florien
Folsom
Fordoche
Forest
Forest Hill
Franklin
Franklinton
French Settlement
Georgetown
Gibsland
Gilbert
Cilliam
Glenmora
Golden Meadow
Goldonna
Grambling
Grand Cane
Grand Coteau
Grade Isle
Grayson
Greensburg
Gretna
Grosse Tete
Gueydan
Hall Summit
Hammond
Harrisonburg
Haughton
Haynesville
Heflin
Henderson
Hodge
Homer
Hornbeck
Hosston
Independence
Jackson
Jamestown
Jeanerette
Jennings
Jonesboro
Jonesville
Junction City
Kaplan
Keatchie
Kentwood
Kilbourne
Kinder
Krotz Springs
Lake Arthur
Lake Providence
Lecompte
Leesville
Leonville
Lillie
Lisbon
Livingston
Logansport
Longstreet
Lucky
Lutcher
McNary
Madisonville
Mamou
Mangham
Mansfield
Mansura
Many
Maringouin
Marion
Marksville
Maurice
Melville
Mer Rouge
Merryville
Minden
Montgomery
Montpelier
Moreauville
Morganza
Morse
Mound
Mount Lebanon
Napoleonville
Natchez
Natchitoches
Newellton
New Roads
North Hodge
Oakdale
Oak Grove
Oak Ridge
Oberlin
Oil City
Opelousas
Palmetto
Parks
Pine Prairie
Pioneer
Plain Dealing
Plaquemine
Plaucheville
Pleasant Hill
Pollock
Ponchatoula
Port Barre
Powhatan
Provencal
Rayne
Rayville
Reeves
Richmond
Richwood
Ridgecrest
Ringgold
Rodeline
Rodessa
Rosedale
Roseland
St. Francisville
St. Joseph
Saline
Sarepta
Shongaloo
Sibley
Sicily Island
Sikes
Simmesport
Simpson
Sorrento
South Mansfield
Spearsville
Springfield
Springhill
Stanley
Sun
Sunset
Tallulah
Tangipahoa
Tickfaw
Turkey Creek
Urania
Varnado
Vidalia
Ville Platte
Vivian
Walker
Washington
Waterproof
Welsh
West Monroe
White Castel
Wilson
Winnfield
Winnsboro
Wisner
Woodworth
Youngsville
Zwolle

Maine

Augusta
Belfast
Biddeford
Brewer
Calais
Caribou
Eastport
Gardiner
Hallowell
Old Town
Presque Isle
Rockland
South Portland
Waterville

Maryland

Aberdeen
Barclay
Barton
Berlin
Betterton
Brentwood
Brookeville
Brookview
Cambridge
Capitol Heights
Cecilton
Centreville
Charlestown
Chesapeake City
Chestertown
Church Creek
Church Hill
Colmar Manor
Crisfield
Deer Park
Delmar
Denton
East New Market
Edmonston
Eldorado
Elkton
Emmitsburg
Fairmount Heights
Federalsburg
Friendsville
Frostburg
Fruitland
Galena
Galestown
Goldsboro
Grantsville
Greensboro
Hancock
Havre de Grace
Herbron
Henderson
Hillsboro
Hurlock
Kitzmillerville
Loch Lynn Heights
Lonaconing
Luke
Mardela Springs
Marydel
Midland
Millington
Mountain Lake Park
Mount Rainier
New Windsor
North Beach
North Brentwood
North East
Oakland
Perryville
Pittsville
Pocomoke City
Port Deposit
Princess Anne
Queen Anne
Ridgely
Riverdale
Rock Hall
St Michaels
Salisbury
Secretary
Sharpsburg
Sharptown
Smithsburg
Snow Hill
Sudlersville
Templeville
Union Bridge
Vienna
Westernport
Willards
Williamsport

Massachusetts

Beverly
Chelsea
Everett
Gardner
North Adams
Revere
Taunton

Michigan

Addison
Adrian
Ahmeek
Akron
Alanson
Albion
Algonac
Allegan
Allen
Alma
Almont
Alpena
Alpha
Applegate
Ashley
Athens
Bad Axe
Baldwin
Bancroft
Bangor
Baraga
Barryton
Bear Lake
Beaverton
Belding
Bellaire
Bellevue
Benzonia
Berrien Springs
Bessemer
Beulah
Big Rapids
Bloomingdale
Boyne City
Boyne Falls
Breckenridge
Breedsville
Britton
Bronson
Brown City
Buchanan
Buckley
Burlington
Burr Oak
Byron
Cadillac
Calumet
Camden
Capac
Carleton
Carney
Caro
Carson City
Carsonville
Caseville
Casnovia
Caspian
Cassopolis
Cedar Springs
Cement City
Central Lake
Centreville
Charlevoix
Charlotte
Cheboygan
Clare
Clarksville
Clayton
Clifford
Clio
Coldwater
Coleman
Coloma
Colon
Columbiaville
Concord
Constantine
Copemish
Copper City
Corunna
Croswell
Crystal Falls
Custer
Daggett
Dansville
Decatur
Deckerville
Deerfield
de Tour Village
Dowagiac
Dryden
Durand
Eagle
East Jordan
East Lake
East Tawas
Eaton Rapids
Eau Claire
Ecorse
Edmore
Edwardsburg
Elberta
Elkton
Ells Worth
Emmett
Empire
Escanaba
Essexville
Estral Beach
Evart

Farwell
Fennville
Fenton
Ferndale
Fife Lake
Forestville
Fountain
Fowler
Fowlerville
Frankfort
Freeport
Fremont
Gaastra
Gagetown
Gaines
Galesburg
Galien
Garden
Gaylord
Gladstone
Gladwin
Gobles
Grant
Grayling
Greenville
Hamtramck
Hancock
Hanover
Harbor Beach
Harbor Springs
Harrietta
Harrison
Harrisville
Hart
Hartford
Hastings
Hazel Park
Hersey
Hesperia
Highland Park
Hillman
Hillsdale
Homer
Honor
Hopkins
Houghton
Howard City
Hubbardston
Hudson
Imlay City
Inkster
Ionia
Iron Mountain
Iron River
Ironwood
Ishpeming
Ithaca
Jonesville
Kalkaska
Keego Harbor
Kinde
Kingsford
Kingsley
Laingsburg
Lake Linden
Lake Odessa
Lakeview
Lakewood Club
Lanse
Lapeer
Laurium
Lawrence
Lawton
Lennon
Le Roy
Lexington
Lincoln
Linden
Litchfield
Ludington
Luna Pier
Luther
Lyons
McBain
McBride

Mackinac Island
Mackinaw City
Mancelona
Manistee
Manistique
Manton
Maple Rapids
Marcellus
Marine City
Marion
Marlette
Marquette
Marshall
Martin
Maybee
Mecosta
Melvin
Memphis
Mendon
Menominee
Merrill
Mesick
Metamora
Middleville
Millersburg
Milington
Minden City
Monroe
Montague
Montgomery
Morenci
Morley
Morrice
Mount Clemens
Mount Morris
Mount Pleasant
Muir
Mulliken
Munising
Nashville
Newaygo
Newberry
New Buffalo
New Era
New Haven
Niles
North Adams
North Branch
Northport
Norway
Oakley
Oak Park
Olivet
Omer
Onaway
Onekama
Onsted
Ontonagon
Ortonville
Otisville
Otsego
Otter Lake
Ovid
Owendale
Owosso
Parma
Paw Paw
Peck
Pellston
Perrinton
Perry
Petersburg
Petoskey
Pewamo
Pierson
Pigeon
Pinckney
Pinconning
Port Austin
Port Hope
Portland
Port Sanilac
Posen
Potterville
Powers

Prescott
Quincy
Ravenna
Reading
Reed City
River Rouge
Rogers City
Romeo
Roscommon
Rosebush
Rose City
Rothbury
St Charles
St Clair
St Ignace
St Joseph
St Louis
Sandusky
Saranac
Sault Sainte Marie
Scottville
Sebewaing
Shelby
Sheridan
Sherwood
South Haven
South Range
Springport
Stambaugh
Standish
Stanton
Stanwood
Stephenson
Sterling
Sunfield
Suttons Bay
Tawas City
Tekonsha
Thompsonville
Three Oaks
Three Rivers
Traverse
Turner
Tustin
Twining
Ubly
Union City
Unionville
Vandalia
Vanderbilt
Vassar
Vermontville
Vernon
Wakefield
Waldron
Walkerville
Watervliet
Wayland
West Branch
Westphalia
White Cloud
Whitehall
White Pigeon
Whittemore
Wolverine
Woodland
Wyandotte
Yale
Ypsilanti

Minnesota

Ada
Adrian
Aitkin
Akeley
Albany
Alberta
Aldrich
Alexandria
Alpha
Altura
Alvarado
Amboy
Argyle
Arlington
Askov
Audubon
Avoca
Backus
Badger
Bagley
Barnum
Barrett
Barry
Battle Lake
Baudette
Beardsley
Bejou
Belgrade
Bellchester
Bellingham
Beltrami
Bemidji
Benn
Bertha
Bethel
Bigelow
Big Falls
Bigfork
Bingham Lake
Biwabik
Blackduck
Blomkest
Bluffton
Bock
Bovey
Bowlus
Boyd
Boy River

Braham
Brainerd
Breckenridge
Brewster
Brook Park
Brooks
Brookston
Brooten
Browerville
Brownsdale
Browns Valley
Bruno
Buckman
Buffalo Lake
Callaway
Calumet
Canby
Canton
Carlton
Cass Lake
Cedar Mills
Chandler
Chisholm
Clarissa
Clearbrook
Clear Lake
Clements
Clitherall
Clontarf
Cloquet
Coates
Cobden
Comfrey
Conger
Cook
Correll
Cosmos
Cromwell
Crosby
Currie
Cyrus
Dalton
Danvers
Deer Creek
Deer River
Deerwood
De Graff
Delavan

Delhi
Denham
Dennison
Dent
Detroit Lakes
Donaldson
Dumont
Dundee
Dunnell
Eagle Bend
Echo
Eden Valley
Edgerton
Effie
Elbow Lake
Elmdale
Elmore
Ely
Emily
Emmons
Erhard
Erskine
Evan
Evansville
Fairfax
Faribault
Farwell
Federal Dam
Felton
Fergus Falls
Fertile
Fifty Lakes
Finlayson
Flensburg
Floodwood
Florence
Foreston
Fort Ripley
Fosston
Frazee
Freeport
Frost
Garvin
Gary
Genola
Georgetown
Ghent
Gilman
Glenwood
Glyndon
Gonvick
Goodridge
Grand Marais
Granite Falls
Grasston
Greenbush
Green Isle
Grey Eagle
Gully
Hackensack
Hadley
Hallock
Halma
Hammond
Hampton
Hanska
Harding
Hardwick
Harmony
Hatfield
Hawley
Hazel Run
Henderson
Hendricks
Henning
Henriette
Herman
Heron Lake
Hewitt
Hill City
Hillman
Hilltop
Hinckley
Hitterdal
Hoffman

Hokah
Holland
Holloway
Holt
Houston
Humboldt
Ihlen
International Falls
Iron Junction
Ironton
Jackson
Jasper
Jeffers
Jenkins
Johnson
Karlstad
Kelliher
Kellogg
Kennedy
Kenneth
Kensington
Kent
Kenyon
Kerrick
Kettle River
Kilkenny
Kimball
Kingston
Lake Benton
Lake Brownson
Lake Park
Lake Wilson
Lamberton
Lancaster
Lanesboro
La Porte
La Salle
Lastrup
Lengby
Leonard
Lewisville
Lismore
Little Falls
Littlefork
Long Beach
Longville
Lonsdale
Louisburg
Lowry
Lucan
Luverne
Mabel
McGrath
McGregor
McIntosh
McKinley
Madison
Madison Lake
Magnolia
Mahnomen
Manhattan Beach
Mankato
Maplewood
Marble
Marietta
Maynard
Meadowlands
Meire Grove
Menahga
Mendota
Mentor
Middle River
Milan
Millerville
Millville
Miltona
Minnesota City
Mizpah
Moose Lake
Mora
Morgan
Morris
Motley
Murdock
Nashua

Nashwauk
Nastau
Nelson
Nevis
New Auburn
Newfolden
New Germany
New Munich
New Trier
New York Mills
Nimrod
Norcross
Northfield
Northome
Odessa
Ogema
Ogilvie
Oklee
Onamia
Orr
Ortonville
Oslo
Ottertail
Palisade
Parkers Prairie
Park Rapids
Pelican Rapids
Pemberton
Pequot Lakes
Perham
Perley
Peterson
Pierz
Pillager
Pine City
Pipestone
Plummer
Porter
Quamba
Randall
Randolph
Ranier
Red Lake Falls
Regal
Remer
Revere
Richmond
Richville
Ronneby
Roscoe
Roseau
Rose Creek
Royalyton
Rushford Village
Ruthton
Rutledge
Sacred Heart
St Anthony
St Hilaire
St Leo
St Martin
St Rosa
St Vincent
Sandstone
Sauk Centre
Seaforth
Sebeka
Sedan
Shafer
Shelly
Shevlin
Slayton
Sobieski
Solway
Springfield
Spring Grove
Spring Hill
Spring Valley
Squaw Lake
Staples
Starbuck
Steen
Stephen
Stewart
Strandquist
Strathcona
Sturgeon Lake
Sunburg
Swanville
Taconite
Tamarack
Taopi
Taunton
Tenstrike
Thief River Falls
Thomson
Tower
Tracy
Trail
Trimont
Trommald
Turtle River
Twin Lakes
Twin Valley
Two Harbors
Tyler
Ulen
Underwood
Upsala
Vergas
Verndale
Vernon Center
Vesta
Villard
Vining
Virginia
Wabasha
Wabasso
Wadena
Waldorf
Walker
Walnut Grove
Walters
Waltham
Wanda
Warba
Warren
Warroad
Watkins
Waubun
Waverly
Wells
Westbrook
Westport
West Union
Whalan
Wheaton
Williams
Willow River
Wilmont
Winger
Winona
Winthrop
Wolf Lake
Wright
Wykoff
Zemple

Mississippi

Aberdeen
Ackerman
Alligator
Amory
Anguilla
Arcola
Artesia
Ashland
Bassfield
Batesville
Bay St Louis
Bay Springs
Beaumont
Beauregard
Belzoni
Benoit
Bentonia
Beulah
Big Creek
Blue Mountain
Blue Springs
Bolton
Boyle
Braxton
Brookhaven
Brooksville
Bruce
Bude
Burnsville
Byhalia
Calhoun City
Canton
Carrollton
Cary
Centreville
Charleston
Chunky
Clarksdale
Cleveland
Coffeeville
Coldwater
Collins
Columbia
Columbus
Como
Corinth
Courtland
Crawford
Crenshaw
Crosby
Crowder
Crouger
Crystal Springs
Decatur
De Kalb
Derma
D'Lo
Doddsville
Drew
Duck Hill
Dumas
Duncan
Durant
Ecru
Eden
Edwards
Ellisville
Ethel
Eupora
Falcon
Falkner
Fayette
Flora
Forest
French Camp
Friars Point
Gattman
Georgetown
Glendora
Gloster
Golden
Goodman
Greenville
Greenwood
Grenada
Gunnison
Guntown
Hattiesburg
Hazlehurst
Heidelberg
Hickory
Hickory Flat
Hollandale
Holly Springs
Houston
Indianola
Inverness
Isola
Itta Bena
Iuka
Jonestown
Kilmichael
Kosciusko
Kossuth
Lake Center
Lambert
Laurel
Leakesville
Leland
Lena
Lexington
Louin
Louise
Louisville
Lucedale
Lula
Lumberton
Lyon
Maben
McComb
McCool
McLain
Macon
Magnolia
Marks
Mathiston
Mayersville
Memphis
Meridian
Merigold
Metcalfe
Mize
Montrose
Moorhead
Morgan City
Mound Bayou
Mount Olive
Myrtle
Natchez
New Albany
New Augusta
New Houlka
Newport
Newton
North Carrollton
Noxapater
Oakland
Okolona
Osyka
Pace
Paden
Pass Christian
Philadelphia
Picayune
Pickens
Pittsboro
Plantersville
Polkville
Pontotoc
Pope
Poplarville
Port Gibson
Potts Camp
Prentiss
Puckett
Quitman
Raleigh
Renova
Richton
Rienzi
Rolling Fork
Rosedale
Roxie
Ruleville
Sallis
Satartia
Schlater
Scooba
Seminary
Senatobia
Shannon
Shaw
Shelby
Sherman
Shubuta
Shuqualak
Siddon
Silver City
Silver Creek
Slate Spring
Sledge
Starkville
State Line
Stonewall
Sturgis
Summit
Sumner
Sunflower
Taylorsville
Tchula
Terry
Thaxton
Tishomingo
Toccopola
Tunica
Tutwiler
Tylertown
Union
Utica
Vaiden
Vardaman
Vicksburg
Walnut
Walnut Grove
Water Valley
Waynesboro
Webb
Weir
Wesson
West
West Point
Wiggins
Winona
Winstonville
Woodland
Woodville
Yazoo City

Missouri

Adrian
Albany
Aldrich
Alexandria
Allendale
Altamont
Alton
Amazonia
Amity
Amoret
Amsterdam
Anderson
Annada
Annapolis
Anniston
Appleton City
Arbyrd
Arcadia
Arcola
Argyle
Armstrong
Arrow Rock
Asbury
Ash Grove
Atlanta
Augusta
Aurora
Ava
Aville
Bakersfield
Baldwin Park
Baring
Barnard
Barnett
Bates City
Bell City
Belle
Bellflower
Benton
Benton City
Berger
Bernie
Bethany
Beverly Hills
Bevier
Bigelow
Billings
Brich Tree
Birmingham
Bismarck
Blackwater
Bland
Blodgett
Bloomfield
Blue Eye
Blythedale
Bogard
Bolckow
Bolivar
Bonne Terre
Boonville
Bowling Green
Bragg City
Brandsville
Braymer
Breckenridge
Brimson
Bronaugh
Brookfield
Brookline
Browning
Brownington
Brumley
Brunswick
Bucklin
Buffalo
Bunceton
Bunker
Burgess
Burlington Junction
Butler
Cabool
Cainsville
Caledonia
Calhoun
California
Callao
Camden
Campbell
Canalou
Canton
Cardwell
Carrollton
Carterville
Carthage
Caruthersville
Carytown
Cassville
Catron
Cedar
Centertown
Centerview
Centerville
Centralia
Chaffee
Chamois
Charlack
Charleston
Chilhowee
Chillicothe
Clarence
Clark
Clarksburg
Clarkton
Clever
Climax Springs
Clinton
Clyde
Cobalt City
Coffey
Cole Camp
Collins
Commerce
Conway
Cooter
Corder

Corning
Cosby
Craig
Crane
Creighton
Crocker
Cross Timbers
Crystal City
Cuba
Curryville
Dalton
Darlington
Deepwater
Delta
Dennis Acres
Denver
Des Arc
Desloge
De Soto
De Witt
Dexter
Diamond
Diehlstadt
Diggins
Dixon
Doniphan
Downing
Dudley
Eagleville
East Lynne
East Prairie
Edina
Eldon
El Dorado Springs
Ellsinore
Elmer
Elmo
Elsberry
Elvins
Eminence
Eolia
Essex
Esther
Ethel
Eugene
Everton
Ewing
Excelsior Springs
Exeter
Fairfax
Fair Grove
Fair Play
Fairview
Fairview Acres
Farber
Farmington
Fayette
Festus
Fillmore
Fisk
Flat River
Fleming
Flemington
Flordell Hills
Foley
Fordland
Foristell
Foster
Frankford
Franklin
Fredericktown
Freeburg
Freistatt
Fulton
Gainesville
Galena
Gallatin
Galt
Garden City
Gasconade
Gentry
Gerald
Gerster
Gideon
Gilliam
Gilman City
Glasgow
Glenallen
Glenwood
Golden City
Goodman
Graham
Granby
Grandin
Grand Pass
Granger
Grant City
Greencastle
Green City
Greenfield
Green Ridge
Greentop
Greenville
Guilford
Hale
Halfway
Hamilton
Hannibal
Hardin
Harris
Hartsburg
Hartville
Hayti
Hayti Heights
Hayward
Hawood City
Henrietta
Hermann
Higbee
Hillsdale
Hoberg
Holcomb
Holden
Holland
Holiday
Holt
Homestown
Hopkins
Hornersville
Houston
Houstonia
Howardville
Humansville
Hume
Humphreys
Hunnewell
Huntsville
Hurdland
Hurley
Iberia
Ionia
Irondale
Iron Gates
Ironton
Jacksonville
Jameson
Jamesport
Jamestown
Jerico Springs
Jonesburg
Junction City
Kahoka
Kelso
Kennett
Keytesville
King City
Kingston
Kinloch
Kirksville
Knox City
Koshkonong
La Belle
Laddonia
La Grange
Lakeside
Lakeview
Lamar
Lambert
La Monte
Lanagan
Lancaster
La Plata
Laredo
La Russell
Latour
Leadington
Leadwood
Leasburg
Lebanon
Leeton
Leslie
Lewistown
Lexington
Liberal
Licking
Lilbourn
Linn
Linn Creek
Linneus
Lithium
Livonia
Lock Spring
Lockwood
Longtown
Louisiana
Lowry City
Lucerne
Ludlow
Lupus
Luray
Lutesville
McFall
Macks Creek
Macon
Madison
Malden
Malta Bend
Mansfield
Maplewood
Marble Hill
Marionville
Marquand
Marshfield
Marston
Marthasville
Martinsburg
Maryville
Matthews
Maysville
Mayview
Meadville
Memphis
Mercer
Meta
Metz
Mexico
Miami
Middletown
Midway
Milan
Millard
Miller
Mill Spring
Mindenmines
Miner
Mineral Point
Moberly
Montgomery City
Montrose
Morehouse
Morley
Morrison
Mosby
Moscow Mills
Mound City
Moundville
Mountain Grove
Mountain View
Mount Leonard
Mount Moriah
Mount Vernon
Naylor
Neck City
Neelyville
Nelson
Neosho
Nevada
Newark
Newburg
New Cambria
New Florence
New Hampton
New Haven
New Madrid
New Melle
Newtonia
Newtown
Niangua
Noel
Norborne
Normandy
North Lilbourn
Northmoor
North Wardell
Norwood
Novinger
Oakland Park
Oak Ridge
Olean
Oran
Oronogo
Osborn
Osceola
Osgood
Owensville
Pagedale
Paris
Parma
Parnell
Pascola
Pattonsburg
Paynesville
Penermon
Perry
Perryville
Phillipsburg
Pickering
Piedmont
Pierce City
Pilot Knob
Pine Lawn
Pineville
Pocahontas
Pollock
Popular Bluff
Portageville
Potosi
Powersville
Prairie Home
Prathersville
Preston
Princeton
Purcell
Purdin
Purdy
Puxico
Queen City
Quitman
Qulin
East Kansas City
Raymondville
Rayville
Rea
Reeds
Reeds Spring
Revere
Richards
Rich Hill
Richland
Ridgeway
Risco
Ritchey
Rivermines
Riverview
Rocheport
Rockville
Rogersville
Rolla
Roscoe
Rosendale
Rush Hill
Russellville
Rutledge
St Clair
St Elizabeth
St James
St John
St Mary's
Salem
Sarcoxie
Schell City
Scott City
Sedalia
Sedgewickville
Seligman
Senath
Seneca
Seymour
Shelbina
Shelbyville
Sheldon
Sheridan
Sikeston
Silex
Skidmore
Slater
South Gifford
South Gorin
South Greenfield
South Lineville
South West City
Sparta
Spickardsville
Spring Valley
Stanberry
Stark City
Steele
Steelville
Stella
Stewartsville
Stockton
Stotesbury
Stotts City
Stoutland
Stoutsville
Stover
Strasburg
Sullivan
Summersville
Sumner
Sweet Springs
Syracuse
Tallapoosa
Taneyville
Tarkio
Thayer
Theodosia
Trenton
Triplett
Truesdail
Tuscumbia
Union
Union Star
Unionville
Unity Village
University City
Urbana
Valley Park
Van Buren
Vandalia
Vanduser
Velda Village
Verona
Versailles
Vienna
Vinita Park
Vista
Waco
Wakenda
Walker
Walnut
Walnut Grove
Wardell
Warrensburg
Warrenton
Warsaw
Washburn
Watson
Waverly
Wayland
Waynesville
Weaubleau
Webb City
Wellston
Wellsville
West Line
Westphalia
West Plains
Wheatland
Wheaton
Whiteside
Williamsville
Willow Springs
Wilson City
Winfield
Winona
Winston
Worth
Worthington
Wyaconda
Wyatt
Zalma

Montana

Alberton
Anaconda-Deer Lodge
Big Sandy
Boulder
Bozeman
Bridger
Broadus
Broadview
Brockton
Browning
Butte-Silver Bow
Cascade
Chinook
Choteau
Circle
Clyde Park
Columbus
Darby
Deer Lodge
Denton
Dillon
Drummond
Dutton
Ekalaka
Eureka
Flaxville
Fromberg
Geraldine
Grass Range
Hamilton
Hardin
Harlem
Harlowton
Hingham
Hobson
Hot Springs
Ismay
Joliet
Jordan
Kalispell
Kevin
Lewistown
Libby
Lima
Lodge Grass
Melstone
Missoula
Neihart
Outlook
Philipsburg
Plains
Plevna
Polson
Poplar

Red Lodge
Rexford
Ronan
Roundup
Rycgate
Saco
St Ignatius
Scobey
Shelby
Sheridan
Stevensville
Sunburst
Terry
Thompson Falls
Three Forks
Troy
Twin Bridges
Walkerville
Westby
Whitehall
White Sulphur Sprgs
Wibaux
Winifred
Winnett
Wolf Point

Nebraska

Abie
Adams
Ainsworth
Albion
Alexandria
Alma
Alvo
Ansley
Arapahoe
Arcadia
Arnold
Arthur
Ashton
Atlanta
Auburn
Ayr
Bancroft
Barada
Barneston
Bayard
Beaver City
Beaver Crossing
Belden
Belgrade
Belvidere
Benkelman
Bennington
Berwyn
Bladen
Bloomington
Blue Hill
Blue Springs
Boys Town
Brady
Brewster
Bristow
Broadwater
Brock
Brownville
Brunswick
Burchard
Burr
Burwell
Bushnell
Butte
Callaway
Campbell
Carleton
Cedar Rapids
Chadron
Chambers
Chappell
Clarks
Clarkson
Clay Center
Clearwater
Cody
Coleridge
Comstock
Concord
Cowles
Crawford
Creighton
Crookston
Culbertson
Curtis
Dannebrog
Dawson
Decatur
Deweese
Diller
Dixon
Du Bois
Dunbar
Dunning
Dwight
Eddyville
Edgar
Elgin
Elk Creek
Ericson
Ewing
Fairbury
Falls City
Farnam
Farwell
Firth
Fordyce
Foster
Gandy
Garland
Genoa
Gilead
Gordon
Grafton
Grant
Greeley Center
Gresham
Guide Rock
Hadar
Haigler
Hardy
Harrison
Harvard
Hastings
Hay Springs
Heartwell
Hendley
Herman
Hershey
Holbrook
Holstein
Howells
Hubbard
Hubbell
Humboldt
Humphrey
Huntley
Hyannis
Imperial
Indianola
Inman
Ithaca
Jackson
Johnson
Johnstown
Julian
Kimball
Laurel
Lawrence
Lebanon
Leigh
Lewellen
Liberty
Linwood
Litchfield
Long Pine
Lorton
Louisville
Loup City
Lushton
Lyman
Lynch
Mclean
Madrid
Malmo
Manley
Martinsburg
Maskell
Mason City
Maxwell
Memphis
Merriman
Milford
Miller
Minatare
Mullen
Murdock
Naponee
Nebraska City
Nehawka
Nelson
Nemaha
Nenzel
Newcastle
Newman Grove
Newport
Norman
North Loup
Oak
Oakdale
Oakland
Oconto
Odell
Ohiowa
Ong
Orleans
Osmond
Oxford
Page
Palisade
Palmer
Palmyra
Pawnee City
Peru
Pilger
Plainview
Plattsmouth
Polk
Potter
Prague
Primrose
Prosser
Ragan
Randolph
Ravenna
Red Cloud
Republican City
Reynolds
Richland
Riverton
Rosalie
Royal
Rulo
Rushville
St Edward
St Paul
Salem
Santee
Sargent
Scotia
Scotts Bluff
Scribner
Seneca
Shelby
Sholes
Silver Creek
Snyder
South Bend
Spalding
Springfield
Staplehurst
Stapleton
Steinauer
Sterling
Stockham
Stockville
Strang
Stratton
Stuart
Superior
Surprise
Table Rock
Tarnov
Tecumseh
Tekamah
Terrytown
Thayer
Thurston
Tilden
Ulysses
Upland
Verdel
Verdigre
Wakefield
Wallace
Walthill
Waterbury
Wauneta
Wausa
Wayne
Western
Weston
Whitney
Wilsonville
Winnebago
Winnetoon
Winside
Wisner
Wisner
Wolbach
Wynot

Nevada

Caliente
Carlin
Ely
Fallon
Yerington

New Hampshire

Berlin
Laconia

New Jersey

Audubon
Bellmawr
Beverly
Bradley Beach
Brooklawn
Burlington
Cape May Point
Chesilhurst
Clementon
Collingswood
Dover
East Newark
East Rutherford
Egg Harbor City
Elmer
Englishtown
Fairview
Fieldsboro
Freehold
Garfield
Gibbsboro
Glassboro
Gloucester City
Hackensack
Haledon
Harrison
Hi-Nella
Island Heights
Keansburg
Kearny
Keyport
Lambertville
Laurel Springs
Lawnside
Linden
Magnolia
Merchantville
Mount Ephraim
National Park
North Wildwood
Orange
Paulsboro
Pemberton
Penns Grove
Phillipsburg
Pitman
Plainfield
Pleasantville
Prospect Park
Runnemede
Salem
Seaside Heights
Shiloh
Somerdale
South Amboy
South Toms River
Stratford
Swedesboro
Tuckerton
Union Beach
Victory Gardens
West Cape May
West New York
Westville
West Wildwood
Wildwood
Woodbine
Woodbury
Woodlynne

New Mexico

Artesia
Aztec
Bayard
Belen
Bernalillo
Bloomfield
Capitan
Carlsbad
Carrizozo
Causey
Central
Chama
Cimarron
Clayton
Columbus
Corona
Deming
Des Moines
Dexter
Elida
Encino
Espanola
Estancia
Floyd
Folsom
Fort Sumner
Gallup
Grady
Grenville
Hagerman
House
Hurley
Jemez Springs
Lake Arthur
Las Vegas
Lordsburg
Los Lunas
Loving
Magdalena
Maxwell
Melrose
Mesilla
Milan
Mosquero
Mountainair
Pecos
Portales
Questa
Raton
Reserve
Roy
San Jon
Santa Rosa
San Ysidro
Silver City
Socorro
Springer
Taos
Tatum
Tijeras
Tucumcari
Tularosa
Vaughn
Virden
Wagon Mound
Willard

New York

Adams
Addison
Afton
Akron
Albion
Alden
Alexander
Alexandria Bay
Alfred
Allegany
Almond
Altmar
Amsterdam
Andover
Angelica
Angola
Antwerp
Argyle
Athens
Attica
Auburn
Aurora
Avoca
Avon
Bainbridge
Ballston Spa
Barker
Batavia
Bath
Beacon
Belmont
Blasdell
Bloomingburgh
Bloomingdale
Bolivar
Boonville
Brewster
Bridgewater
Broadalbin
Brockport
Brownville
Brushton
Burdett
Burke
Camden
Camillus
Canajoharie
Canandaigua
Canaseraga
Canastota

Candor
Canisteo
Canton
Cape Vincent
Carthage
Cassadaga
Castile
Castleton-on-Hudson
Castorland
Cato
Catskill
Cattaraugus
Cayuga
Cazenovia
Celoron
Champlain
Chateaugay
Chatham
Chaumont
Cherry Creek
Clayton
Clayville
Cleveland
Clifton Springs
Clyde
Cobleskill
Cohocton
Cohoes
Cold Brook
Constableville
Copenhagen
Corfu
Corinth
Cortland
Coxsackie
Croghan
Cuba
Dannemora
Dansville
Deferiet
Delanson
Delevan
Delhi
Depew
Deposit
De Ruyter
Dexter
Dolgeville
Dresden
Dryden
Dundee
Dunkirk
Earlville
East Aurora
East Randolph
East Syracuse
Edwards
Elba
Ellenville
Ellicottville
Ellisburg
Elmira Heights
Endicott
Esperance
Evans Mills
Fabius
Fair Haven
Falconer
Farnham
Fillmore
Fleischmanns
Fonda
Fort Ann
Fort Edward
Fort Johnson
Fort Plain
Frankfort
Franklin
Franklinville
Fredonia
Freeport
Freeville
Fulton
Fultonville
Galway
Geneseo
Geneva
Glen Park
Gloversville
Gouverneur
Gowanda
Granville
Greene
Green Island
Greenport
Greenwich
Hagaman
Hamilton
Hammond
Hammondsport
Hancock
Hannibal
Harriman
Harrisville
Haverstraw
Hempstead
Herkimer
Hermon
Herrings
Heuvelton
Highland Falls
Hobart
Holland Patent
Holley
Homer
Hoosick Falls
Hornell
Horseheads
Hudson
Hudson Falls
Hunter
Ilion
Interlaken
Island Park
Ithaca
Jamestown
Jeffersonville
Johnson City
Johnstown
Jordan
Keeseville
Kingston
Kiryas Joel
Lackawanna
Lacona
Lake George
Lake Placid
Lancaster
Laurens
Le Roy
Liberty
Limestone
Lisle
Little Falls
Little Valley
Livonia
Lockport
Lodi
Long Beach
Lowville
Lyons
Lyons Falls
Mcgraw
Malone
Mannsville
Marathon
Marcellus
Margaretville
Massena
Mayfield
Mechanicville
Medina
Meridian
Middleburgh
Middleport
Middleville
Milford
Millerton
Millport
Mohawk
Monticello
Montour Falls
Mooers
Moravia
Morris
Morristown
Morrisville
Mount Morris
Munnsville
Naples
Nassau
Nelliston
Newark
New Berlin
New Paltz
Newport
New Square
New York Mills
Nichols
North Collins
North Tonawanda
Northville
Norwich
Norwood
Nunda
Oakfield
Odessa
Ogdensburg
Olean
Oneida
Oneonta
Oriskany
Oriskany Falls
Oswego
Ovid
Owego
Oxford
Parish
Patchogue
Peekskill
Penn Yan
Perry
Perrysburg
Philadelphia
Philmont
Phoenix
Pike
Pine Hill
Plattsburgh
Poland
Port Byron
Port Chester
Port Henry
Port Jervis
Port Leyden
Portville
Potsdam
Pulaski
Randolph
Red Creek
Red Hook
Rensselaer
Rensselaer Falls
Richfield Springs
Richmondville
Richville
Riverside
Round Lake
Rouses Point
Rushville
Sackets Harbor
St Johnsville
Salamanca
Salem
Saranac lake
Saugerties
Savona
Schenevus
Schoharie
Schuylerville
Seneca Falls
Sharon Sprngs
Sherburne
Sherman
Sidney
Silver Creek
Silver Springs
Sloan
Smyrna
Sodus
South Dayton
South Glens Falls
Speculator
Spencer
Springville
Stamford
Sylvan Beach
Tannersville
Theresa
Ticonderoga
Tivoli
Tonawanda
Trumansburg
Tupper Lake
Turin
Union Springs
Unionville
Valley Falls
Van Etten
Victory
Waddington
Walden
Walton
Wampsville
Wappingers Falls
Warsaw
Waterford
Waterloo
Watertown
Waterville
Watervliet
Watkins Glen
Waverly
Wayland
Weedsport
Wellsburg
Wellsville
West Carthage
Westfield
Westport
West Winfield
Whitehall
Whitesboro
Wilson
Wolcott
Woodhull
Woodridge
Yorkville

North Carolina

Ahoski
Alamance
Alexander Mills
Alliance
Andrews
Angier
Ansonville
Arapahoe
Askewville
Atkinson
Aulander
Aurora
Autryville
Ayden
Bailey
Bakersville
Banner Elk
Bath
Battleboro
Beaufort
Beech Mountain
Belhaven
Belmont
Belwood
Benson
Bessemer City
Bethel
Beulaville
Biscoe
Black Creek
Bladenboro
Bolivia
Bolton
Boone
Bostic
Brevard
Bridgeton
Brookford
Brunswick
Bryson City
Bunn
Burgaw
Burnsville
Calabash
Calypso
Cameron
Carrboro
Casar
Castalia
Centerville
Cerro Gordo
Chadbourn
Chocowinity
Clarkton
Clayton
Cleveland
Clinton
Clyde
Coats
Cofield
Colerain
Columbia
Como
Conetoe
Conway
Cove City
Cramerton
Creswell
Dallas
Davidson
Denton
Dillsboro
Dobson
Dortches
Dover
Dublin
Dunn
Earl
East Arcadia
East Laurinburg
East Spencer
Eden
Edenton
Elizabeth City
Elizabethtown
Elkin
Elk Park
Ellenboro
Ellerbe
Elm City
Enfield
Erwin
Eureka
Everetts
Fair Bluff
Fairmont
Faison
Falcon
Falkland
Farmville
Forest City
Fountain
Four Oaks
Franklinton
Fremont
Fuquay-Varina
Garland
Garysburg
Gaston
Gibson
Glen Alpine
Goldsboro
Granite Falls
Greenevers
Grimesland
Grover
Halifax
Hamilton
Hamlet
Harmony
Harrells
Hassell
Haw River
Hayesville
Hazelwood
Henderson
Hendersonville
Hertford
Hildebran
Hillsborough
Hobgood
Hoffman
Holly Ridge
Holly Springs
Hot Springs
Jackson
Jamesville
Jefferson
Jonesville
Kelford
Kenansville
Kenly
Kings Mountain
Kinston
Kittrell
Lansing
Lasker
Lattimore
Laurinburg
Lawndale
Leggett
Lenoir
Lewiston
Lexington
Liberty
Lilesville
Lillington
Lincolnton
Linden
Littleton
Louisburg
Love Valley
Lowell
Lumber Bridge
Lumberton
Mcadenville
Macclesfield
McDonald
McFarlan
Macon
Madison
Magnolia
Marion
Marshall
Marshville
Maxton
Mayodan
Maysville
Mebane
Micro
Middleburg
Middlesex
Milton
Mocksville
Monroe
Mooresboro
Mooresville
Morehead City
Morganton
Morven
Mount Airy
Mount Gilead
Mount Holly
Mount Olive
Murfreesboro
Murphy
Nashville
Navasse

New Bern
Newland
New London
Newton
Norlina
Norman
North Wilkesboro
Norwood
Oak City
Old Fort
Orrum
Oxford
Parkton
Parmele
Peachland
Pembroke
Pilot Mountain
Pine Level
Pinetops
Pineville
Pink Hill
Pittsboro
Plymouth
Polkton
Polkville
Pollocksville
Powellsville
Princeton
Princeville
Proctorville
Randleman
Ranlo
Raynham
Red Oak
Red Springs
Reidsville
Rennert
Rhodhiss
Richlands
Rich Square
Roanoke Rapids
Robbins
Robbinsville
Robersonville
Rockingham
Rocky Mount
Ronda
Roper
Roseboro
Rose Hill
Rosman
Rowland
Roxboro
Roxobel
Ruth
Rutherfordton
St Pauls
Saluda
Sanford
Saratoga
Scotland Neck
Seaboard
Seven Springs
Severn
Shallotte
Sharpsburg
Shelby
Siler City
Simpson
Sims
Smithfield
Snow Hill
Southport
Speed
Spindale
Spring Hope
Spring Lake
Spruce Pine
Staley
Stanfield
Stantonsburg
Star
Statesville
Stedman
Stoneville
Stonewall
Sunset Beach
Sylva
Tabor City
Tarboro
Tar Heil
Taylorsville
Teachey
Thomasville
Trenton
Troy
Tryon
Turkey
Valdese
Vanceboro
Vandemere
Vass
Waco
Wade
Wadesboro
Wagram
Wake Forest
Wallace
Walnut Cove
Walstonburg
Warrenton
Warsaw
Washington
Waynesville
Weldon
West Jefferson
Whitakers
Whiteville
Williamston
Wilson
Windsor
Winfall
Winton
Woodland
Youngsville
Zebulon

North Dakota

Abercrombie
Adams
Alamo
Alexander
Alice
Almont
Ambrose
Amenia
Amidon
Anamoose
Aneta
Arnegard
Ashley
Barton
Bathgate
Beach
Berlin
Bowbells
Bowdon
Braddock
Drayton
Dunseith
Edgeley
Edinburg
Edmore
Elgin
Ellendale
Elliott
Esmond
Fairdale
Fessenden
Flasher
Flaxton
Forbes
Fordville
Forest River
Fort Ransom
Fortuna
Fort Yates
Fredonia
Gardena
Golva
Goodrich
Grafton
Granville
Great Bend
Grenora
Hague
Hamburg
Hankinson
Hannah
Hansboro
Harvey
Hatton
Havana
Hazelton
Hebron
Hoople
Hope
Hurdsfield
Inkster
Jud
Karlsruhe
Kathryn
Kenmare
Kensal
Kief
Kramer
Kulm
Lakota
Landa
Lawton
Leal
Lehr
Leith
Leonard
Lidgerwood
Lignite
Linton
Loma
McClusky
McVille
Makoti
Mantador
Manvel
Marmarth
Martin
Max
Maxbass
Mayville
Medina
Milton
Minto
Manango
Montpelier
Mott
Napoleon
Neche
Newburg
New England
New Leipzig
New Town
Nome
Noonan
Oberon
Park River
Parshall
Pekin
Petersburg
Pettibone
Pingree
Pisek
Plaza
Portal
Powers Lake
Reeder
Regan
Robinson
Rolette
Rolla
Ryder
St. John
Sanborn
Sarles
Selfridge
Sheldon
Sheyenne
Solen
Souris
Starkweather
Strasburg
Streeter
Sykeston
Tappen
Taylor City
Tolley
Towner
Turtle Lake
Tuttle
Upham
Valley City
Velva
Verona
Walhalla
White Earth
Willow City
Wilton
Wimbledon
Wing
Wishek
York
Zeeland
Brinsmade
Butte
Buxton
Calio
Cando
Carson
Cathay
Clifford
Cogswell
Columbus
Cooperstown
Courtenay
Crosby
Crystal
Dawson
Deering
Dickey City
Donnybrook
Douglas
Drake

Ohio

Ada
Adamsville
Addyston
Adelphi
Adena
Albany
Alexandria
Alger
Alliance
Alvordton
Amanda
Amelia
Amesville
Amsterdam
Andover
Anna
Ansonia
Antioch
Antwerp
Apple Creek
Arcadia
Arcanum
Arlington Heights
Ashland
Ashtabula
Athalia
Athens
Attica
Bainbridge
Bairdstown
Barnesville
Barnhill
Batavia
Batesville
Bayview
Beach City
Beallsville
Beaver
Beaverdam
Bellaire
Belle Center
Bellefontaine
Belle Valley
Bellville
Belmont
Belmore
Belpre
Bergholz
Bethel
Bethesda
Bettsville
Beverly
Blakeslee
Bloomdale
Blommingburg
Bloomingdale
Bloomville
Bowerston
Bowersville
Bradford
Bradner
Brady Lake
Bremen
Brewster
Brice
Bridgeport
Brilliant
Brookville
Broughton
Buchtel
Buckeye
Buckland
Bucyrus
Burgoon
Butler
Byesville
Cadiz
Cairo
Caldwell
Caledonia
Cambridge
Camden
Campbell
Cardington
Carey
Carrollton
Casstown
Castine
Catawba
Cecil
Cedarville
Celina
Centerburg
Centerville
Chatfield
Chauncey
Cherry Fork
Chesapeake
Cheshire
Chesterhill
Chesterville
Chillicothe
Chilo
Christiansburg
Circleville
Clarington
Clarksburg
Clarksville
Clay Center
Clifton
Clinton
Cloverdale
Clyde
Coal Grove
Coalton
College Corner
Columbus Greve
Commercial Point
Conesville
Congress
Conneaut
Continental
Coolville
Corning
Corwin
Coshocton
Covington
Craig Beach
Crestline
Crooksville
Crown City
Cumberland
Custar
Danville
Darbyville
Deersville
De Graff
Dellroy
Delphos
Dennison
Deshler
Dexter City
Dillonvale
Donnelsville
Dover
Dresden
Dunkirk
Dupont
East Cleveland
East Liverpool
East Palestine
Eaton
Edgerton
Edison
Edon
Elgin
Elmwood Place
Empire
Fairborn
Fairport Harbor
Fairview
Fayette
Fayetteville
Felicity
Fletcher
Flushing
Forest
Fort Recovery
Fostoria
Franklin
Frazeysburg
Fredericksburg
Fredericktown
Freeport
Fremont
Fulton
Fultonham
Galion
Gallipolis
Gann
Geneva
Geneva-on-the-Lake
Georgetown
Gettysburg
Gibsonburg
Girard
Glenford
Glenmont
Glouster
Gordon
Grand Rapids
Granville
Gratiot
Gratis
Graysville
Green Camp
Greenfield
Greenville
Greenwich
Grover Hill
Hamden
Hamersville
Hanging Rock
Hanoverton

Harbor View
Harpster
Harrisburg
Harrisville
Harrod
Hartford
Hartville
Harveysburg
Haviland
Hebron
Hemlock
Hicksville
Higginsport
Highland
Hillsboro
Hiram
Holgate
Holland
Hollansburg
Holloway
Hopedale
Hoytville
Hubbard
Huntsville
Irondale
Itonton
Ithaca
Jackson
Jacksonburg
Jackson Center
Jamestown
Jefferson
Jeffersonville
Jerry City
Jewett
Junction City
Kelleys Island
Kenton
Kettlersville
Kimbolton
Kingston
Kipton
Kirby
Kirkersville
Lafayette
Lagrange
Lakemore
Lakeview
La Rue
Latty
Laura
Laurelville
Lawrenceville
Leesburg
Leetonia
Leipsic
Lewisburg
Lewisville
Lewisville
Liberty Center
Limaville
Lincoln Heights
Linndale
Lisbon
Lockbourne
Lockington
Lockland
Logan
Louisville
Lowell
Lowellville
Lower Salem
Lucas
Ludlow Falls
Lynchburg
Lyons
McArthur
McClure
McConnelsville
McGuffey
Macksburg
Magnetic Springs
Maineville
Malinta
Malta
Malvern
Manchester
Mantua
Marengo
Marion
Marseilles
Martinsburg
Martins Ferry
Martinsville
Marysville
Matamora
Machanicsburg
Melrose
Mendon
Middle Point
Middleport
Midland
Midvale
Mifflin
Milford Center
Milledgeville
Millersburg
Milton Center
Miltonsburg
Mineral City
Minerva
Monroeville
Montezuma
Montpelier
Morral
Morristown
Morrow
Moscow
Mount Cory
Mount Gilead
Mount Orab
Mount Pleasant
Mount Vernon
Mount Victory
Mowrystown
Murray City
Nashville
Navarre
Nellie
Nelsonville
Nevada
Neville
New Alexandria
New Athens
New Bavaria
New Bloomington
New Boston
Newcomerstown
New Concord
New Holland
New Lexington
New London
New Miami
New Paris
New Richmond
New Riegel
New Straitsville
Newton Falls
Newtownsville
Newtown
New Washington
New Waterford
North Baltimore
North Fairfield
North Hampton
North Robinson
North Star
Norwich
Norwood
Oak Hill
Oakwood
Oberlin
Ohio City
Old Washington
Orangeville
Orient
Orrville
Orwell
Ostrander
Ottoville
Otway
Owensville
Oxford
Painesville
Palestine
Paulding
Peebles
Pemberville
Perrysville
Philo
Piketon
Pioneer
Piqua
Pitsburg
Plain City
Pleasant City
Pleasant Hill
Pleasant Plain
Plymouth
Polk
Pomeroy
Portage
Port Clinton
Port Jefferson
Portsmouth
Port Washington
Port William
Potsdam
Powhatan Point
Proctorville
Put-in-Bay
Quaker City
Quincy
Racine
Rarden
Ravenna
Rayland
Rendville
Republic
Richmond
Richwood
Ridgeway
Rio Grande
Ripley
Rising Sun
Rittman
Rochester
Rock Creek
Rocky Ridge
Rogers
Rome
Roseville
Rossburg
Roswell
Rushsylvania
Russells Point
Russellville
Rutland
Sabina
St Bernard
St Louisville
St Martin
St Mary's
St Paris
Salem
Salesville
Salineville
Sandusky
Sarahsville
Sardinia
Savannah
Scio
Scott
Seaman
Sebring
Senecaville
Shawnee
Shawnee Hills
Shelby
Sherrodsville
Shiloh
Shreve
Sidney
Siverton
Sinking Spring
Smithfield
Somerset
Somerville
South Charleston
South Lebanon
South Salem
South Solon
South Vienna
South Webster
South Zanesville
Sparta
Spencerville
Spring Valley
Stafford
Stockport
Stone Creek
Stoutsville
Strasburg
Stratton
Struthers
Sugarcreek
Summerfield
Sycamore
Syracuse
Tarlton
Tiffin
Tiltonsville
Tiro
Toronto
Tremont City
Trimble
Troy
Tuscarawas
Uhrichsville
Union City
Unionville Center
Uniopolis
Upper Sandusky
Urbana
Urbancrest
Utica
Valley Hi
Vanlue
Van Wert
Venedocia
Verona
Versailles
Vinton
Wakeman
Wapakoneta
Warsaw
Washington
Wauseon
Waverly
Wayne
Waynesburg
Waynesfield
Waynesville
Wellington
Wellston
Wellsville
West Alexandria
West Elkton
West Farmington
West Lafayette
West Leipsic
West Manchester
West Mansfield
West Millgrove
Weston
West Rushville
West Union
Wharton
Wilkesville
Willard
Williamsburg
Williamsport
Willshire
Wilmot
Winchester
Windham
Woodlawn
Woodsfield
Wren
Yellow Springs
Yorkville
Zaleski
Zanesfield
Zanesville

Oklahoma

Achille
Ada
Adair
Afton
Agra
Albion
Alderson
Allen
Altus
Anadarko
Antlers
Apache
Arkoma
Asher
Ashland
Atoka
Avant
Avard
Barnsdall
Bearden
Beggs
Bennington
Big Cabin
Billings
Binger
Blackwell
Blair
Boise City
Bokchito
Bokoshe
Boley
Boswell
Bowlegs
Boynton
Bradley
Braggs
Braman
Bridgeport
Bristow
Bromide
Brooksville
Bryant
Burbank
Burlington
Butler
Byars
Byron
Caddo
Calvin
Camargo
Cameron
Canadian
Caney
Canton
Capron
Carmen
Carnegie
Carney
Carrier
Carter
Castle
Cement
Centrahoma
Chandler
Checotah
Chelsea
Cheyenne
Clayton
Cleveland
Coalgate
Collinsville
Comanche
Commerce
Cornish
Council Hill
Coweta
Cowlington
Coyle
Cromwell
Crowder
Custer City
Cyril
Dacoma
Davenport
Davidson
Davis
Deer Creek
Delaware
Depew
Devol
Dewar
Dewey
Dill City
Dougherty
Drumright
Durant
Dustin
Eakly
Earlsboro
East Duke
Eldorado
Elk City
Elmer
Elmore City
Erick
Eufaula
Fairfax
Fairland
Fanshawe
Faxon
Fletcher
Fort Cobb
Fort Gibson
Fort Supply
Fort Towson
Fuss
Foyil
Francis
Frederick
Garber
Gate
Geary
Gene Autry
Gerty
Glencoe
Goodwell
Gore
Gotebo
Gould
Gracemont
Grandfield
Granite
Grayson
Guthrie
Haileyville
Hallett
Hammon
Hanna
Harris
Hartshorne
Haskell
Hastings
Haworth
Headrick
Heavener
Helena
Hendrix
Henryetta
Hitchita
Hobart
Hoffman
Holdenville
Hollis
Hollister
Hominy
Howe
Hugo
Hulbert
Hydro
Idabel
Indiahoma
Indianola
Jay
Jennings
Kaw
Kemp

Kendrick
Kenefic
Keota
Ketchum
Kinta
Kiowa
Knowles
Konawa
Krebs
Lamar
Lamont
Langley
Langston
Le Flore
Lehigh
Lenapah
Leon
Lexington
Lima
Lindsay
Loco
Lone Wolf
Longdale
Lookeba
Luther
McAlester
McBride
McCurtain
Madill
Manchester
Mangum
Manitou
Mannsville
Maramec
Marble City
Marietta
Marland
Marlow
Marshall
Martha
Maud
May
Maysville
Medicine Park
Meridian
Miami
Milburn
Mill Creek
Moffett
Morris
Mountain Park
Mountain View
Mulhall
Mushall
Muskogee
Nash
Nicoma Park
Norge
North Miami
Nowata
Oakland
Oaks
Oakwood
Oilton
Okeene
Okemah
Okmulgee
Oktaha
Olustee
Osage
Paden
Panama
Paoli
Pauls Valley
Pawhuska
Pawnee
Peoria
Perry
Phillips
Picher
Pittsburg
Pond Creek
Porter
Porum
Poteau
Prague
Purcell
Putnam
Quapaw
Quay
Quinlan
Quinton
Ralston
Ramona
Randlett
Rattan
Redbird
Red Oak
Red Rock
Rentiesville
Ringling
Ripley
Roff
Rosedale
Rush Springs
Ryan
St. Louis
Salina
Sapulpa
Sasakwa
Savanna
Sayre
Seiling
Seminole
Sentinel
Shamrock
Sharon
Shidler
Skedee
Skiatook
Slick
Smith Village
Smithville
Snyder
Soper
Spavinaw
Sperry
Spiro
Stidham
Stigler
Stilwell
Stonewall
Strang
Stringtown
Stroud
Stuart
Sulphur
Taft
Talihina
Tamaha
Tatums
Temple
Terlton
Terral
Texhoma
Texola
Tipton
Tishomingo
Tryon
Tullahassee
Tupelo
Valley Brook
Vera
Vian
Vinita
Wagoner
Wainwright
Wakita
Walters
Wanette
Wann
Wapanucka
Warwick
Washington
Watts
Waurika
Wayne
Waynoka
Webb City
Webbers Falls
Welch
Weleetka
Wellston
Westville
Wewoka
Wetumka
Whitefield
Wilburton
Willow
Wilson
Wister
Woodville
Wright City
Wyandotte
Wynnewood
Yale
Yeager

Oregon

Adams
Amity
Ashland
Astoria
Athena
Baker
Banks
Bay City
Bonanza
Brownsville
Butte Falls
Cannon Beach
Canyonville
Carlton
Cave Junction
Chiloquin
City of the Dalles
Coburg
Condon
Coos Bay
Coquille
Cottage Grove
Cove
Creswell
Dallas
Dayton
Dayville
Drain
Echo
Elgin
Elkton
Enterprise
Falls City
Forence
Fossil
Garibaldi
Gaston
Gearhart
Gervais
Glendale
Gold Hill
Grants Pass
Grass Valley
Haines
Halfway
Halsey
Hammond
Hood River
Huntington
Idanha
Imbler
Joseph
Junction City
Klamath Falls
La Grande
Lebanon
Lincoln City
Long Creek
Lowell
Malin
Maupin
Merrill
Mill City
Milton Freewater
Mitchell
Monmouth
Monroe
Monument
Mosier
Mount Angel
Mt Vernon
Myrtle Point
North Powder
Nyssa
Oakland
Paisley
Port Orford
Powers
Prairie City
Prescott
Rainier
Redmond
Richland
Riddle
Rockaway
Rogue River
St Helens
Scio
Scotts Mills
Seaside
Seneca
Shady Cove
Shaniko
Sheridan
Sisters
Sodaville
Spray
Stanfield
Sutherlin
Sweet Home
Talent
Tangent
Tillamook
Union
Unity
Vale
Vernonia
Wallowa
Warrenton
Wasco
Weston
Wheeler
Winston
Yachats
Yamhill
Yoncalla

Pennsylvania

Adamsburg
Addison
Albion
Alexandria
Aliquippa
Ambridge
Apollo
Applewold
Archbald
Arnold
Arona
Ashland
Ashley
Ashville
Athens
Atwood
Auburn
Austin
Avis
Avoca
Avondale
Avonmore
Baden
Bangor
Barkeyville
Barnesboro
Beallsville
Bear Lake
Beaver Falls
Beaver Meadows
Bedford
Bellefonte
Belle Vernon
Bellevue
Bellwood
Benson
Bentleyville
Benton
Berlin
Bernville
Berrysburg
Berwick
Bessemer
Big Run
Birmingham
Blain
Blairsville
Blakely
Blawnox
Blooming Valley
Bloomsburg
Blossburg
Boswell
Bowmanstown
Brackenridge
Braddock
Bradford
Briar Creek
Bridgeport
Bridgewater
Bristol
Broad Top City
Brockway
Brookville
Brownsville
Burgettstown
Burnham
Burnside
Butler
California
Callensburg
Callery
Cambridge Springs
Canonsburg
Canton
Carbondale
Carmichaels
Carnegie
Carrolltown
Cassandra
Casselman
Cassville
Catasauqua
Catawissa
Centerville
Centreville
Central City
Centralia
Centre Hall
Chalfant
Chambersburg
Charleroi
Cherry Valley
Chester Hill
Chest Springs
Clairton
Clarendon
Clarion
Clarks Summit
Clarksville
Claysville
Clearfield
Clifton Heights
Clintonville
Clymer
Coal Center
Coaldale
Coaldale
Coalmont
Coalport
Coatesvile
Cochranton
Collingdale
Columbia
Colwyn
Confluence
Conneaut Lake
Conneautville
Connellsville
Conshohocken
Coraopolis
Corry
Corsica
Coudersport
Courtdale
Crafton
Cranesville
Creekside
Cresson
Cressona
Cross Roads
Curwensville
Dale
Dallastown
Danville
Darby
Darlington
Dawson
Dayton
Deemston
Delaware Water Gap
Delmont
Delta
Derry
Dickson City
Donegal
Donora
Driftwood
Du Bois
Duboistown
Dudley
Dunbar
Duncansville
Dunmore
Dupont
Duquesne
Duryea
Dushore
East Bangor
East Brady
East Conemaugh
East Lansdowne
East McKeesport
East Pittsburgh
East Rochester
East Side
East Stroudsburg
Eastvale
East Vandergrift
Eau Claire
Edinboro
Edwardsville
Ehrenville
Elco
Elderton
Eldred
Elgin
Elizabeth
Elizabethville
Elkland
Ellport
Ellwood City
Emlenton
Emporium
Enon Valley
Ernest
Etna
Everett
Everson
Exeter
Export
Factoryville
Fairchance
Falls Creek
Fallston
Farrell

Fayette City
Ferndale
Flemington
Ford City
Ford Cliff
Forest City
Forksville
Forty Fort
Fountain Hill
Franklin
Franklintown
Fredonia
Freeburg
Freedom
Freeland
Freemansburg
Freeport
Galeton
Gallitzin
Garrett
Georgetown
Gettysburg
Gilberton
Girard
Girardville
Glasgow
Glassport
Glen Campbell
Glendon
Glenfield
Glen Hope
Glen Rock
Gordon
Grampian
Great Bend
Greensboro
Greensburg
Greenville
Grove City
Halifax
Hallstead
Hamburg
Hartleton
Harveys Lake
Hastings
Hawley
Hawthorne
Haysville
Heidelberg
Herndon
Hollidaysburg
Homestead
Honesdale
Hookstown
Hooversville
Hop Bottom
Hopewell
Houston
Houtzdale
Hughesville
Huntingdon
Hyde Park
Hydetown
Hyndman
Indiana
Ingram
Irvona
Jackson Center
Jamestown
Jeannette
Jeddo
Jefferson
Jermyn
Jersey Shore
Jessup
Jim Thorpe
Johnsonburg
Jonestown
Juniata Terrace
Kane
Kingston
Kistler
Kittanning
Knox
Knoxville
Koppel
Kulpmont
Kutztown
Lake City
Landingville
Landisburg
Lanesboro
Lansford
Larksville
Lawrenceville
Leechburg
Leetsdale
Lehighton
Le Raysville
Lewisberry
Lewisburg
Lewis Run
Lewistown
Liberty
Ligonier
Linesville
Littlestown
Liverpool
Lock Haven
Loganton
Lorain
Loretto
Lumber City
Luzerne
Lykens
Lyons
McAdoo
McClure
McConnellsburg
McDonald
McEwensville
McKean
McKees Rocks
McSherrystown
McVeytown
Mahaffey
Mahanoy City
Manchester
Manns Choice
Manor
Manorville
Mansfield
Mapleton
Marcus Hook
Marianna
Marion Center
Marion Heights
Marklesburg
Markleysburg
Mars
Martinsburg
Masontown
Matamoras
Mayfield
Meadville
Mechanicsville
Mercer
Mercersburg
Meshoppen
Meyersdale
Middleburg
Middleport
Midland
Mifflin
Mifflinburg
Mifflintown
Milford
Millbourne
Mill Creek
Millersburg
Millersville
Mill Hall
Millheim
Millvale
Milton
Minersville
Modena
Monessen
Monongahela
Monroe
Montgomery
Montrose
Morrisville
Morton
Mount Carbon
Mount Carmel
Mount Jewett
Mount Oliver
Mount Pleasant
Mount Pocono
Mount Union
Muncy
Munhall
Myerstown
Nanticoke
Nanty Glo
Nescopeck
Nesquehoning
New Albany
New Alexandria
New Berlin
New Brighton
Newburg
New Castle
New Centerville
New Columbus
Newell
New Florence
New Galilee
New Hope
New Kensington
New Lebanon
New Milford
New Paris
New Phila
Newport
New Ringgold
Newry
Newton Hamilton
Newville
Nicholson
North Apollo
North Braddock
North Catasauqua
North Charleroi
North East
North Irwin
Northumberland
North York
Norwood
Nuangola
Oakland
Oakmont
Ohiopyle
Oil City
Oklahoma
Old Forge
Olyphant
Orangeville
Orbisonia
Orrstown
Osceola Mills
Oswayo
Oxford
Paint
Palmerton
Palo Alto
Parker
Parkersburg
Parryville
Patterson Heights
Patton
Pen Argyl
Penn
Petersburg
Petrolia
Philipsburg
Phoenixville
Pine Grove
Pitcairn
Pittston
Platea
Pleasantville
Pleasantville
Plumville
Plymouth
Point Marion
Polk
Portage
Port Allegany
Port Carbon
Port Clinton
Portersville
Portland
Port Matilda
Port Royal
Port Vue
Pottstown
Pottsville
Pringle
Prospect Park
Punxsutawney
Railroad
Rainsburg
Ramey
Rankin
Red Lion
Renovo
Reynoldsville
Rices Landing
Ridgway
Rimersburg
Ringtown
Roaring Spring
Rochester
Rockhill Furnace
Rockwood
Rome
Roseville
Rouseville
Royalton
Saegertown
St Clair
St Clairsville
St Petersburg
Salisbury
Salladasburg
Saltillo
Saltsburg
Sandy Lake
Sankertown
Saxton
Sayre
Scalp Level
Schellsburg
Schuylkill Haven
Scottdale
Seward
Sewickley
Shade Gap
Shamokin
Shanksville
Sharon Hill
Sharpsburg
Sharpsville
Sheakleyville
Shenandoah
Shickshinny
Shinglehouse
Shippensburg
Shippenville
Shippingport
Shirleyburg
Silverdale
Slattington
Sligo
Slippery Rock
Smethport
Smithfield
Smithton
Snow Shoe
South Bethlehem
South Coatsville
South Connellsville
South Fork
South Greensburg
South New Castle
South Philipsburg
South Renovo
South Waverly
Southwest Greensburg
South Williamsport
Spangler
Spartansburg
Springboro
Starrucca
Stillwater
Stockdale
Stoneboro
Stoystown
Strattanville
Strausstown
Stroudsburg
Sugarcreek
Sugar Grove
Sugar Notch
Summerville
Summit Hill
Sunbury
Susquehanna Depot
Suterville
Swissvale
Swoyersville
Sykesville
Sylvania
Tamaqua
Tarentum
Taylor
Thompson
Thompsontown
Three Springs
Throop
Tididute
Timblin
Tioga
Tionesta
Titusville
Towanda
Tower City
Tremont
Troy
Trumbauersville
Tunkhannock
Turbotville
Turtle Creek
Tyrone
Ulysses
Union City
Union Dale
Uniontown
Unionville
Upland
Ursina
Valencia
Vanderbilt
Vandergrift
Vandling
Verona
Vintondale
Volant
Wall
Wallaceton
Walnutport
Wampum
Warren
Warrior Run
Washington
Waterford
Watsontown
Wattsburg
Waynesboro
Waynesburg
Weissport
Wellerburg
Wellsboro
Wellsville
Wesleyville
West Alexander
West Brownsville
West Chester
West Easton
West Elizabeth
West Fairview
Westfield
West Grove
West Hazelton
West Homestead
West Leechburg
West Mayfield
West Middlesex
West Newton
Westover
West Pittston
West Reading
West Wyoming
West York
White Haven
Wilkinsburg
Williamsburg
Wilmerding
Wilmore
Wilson
Windber
Wind Gap
Windsor
Winterstown
Woodbury
Worthington
Worthville
Wyalusing
Wyoming
Yeadon
York Haven
Youngstown
Youngsville
Youngwood
Zelienople

Rhode Island

Central Falls
Newport

South Carolina

Abbeville
Allendale
Andrews
Atlantic Beach
Bamberg
Barnwell
Batesburg
Belton
Bennettsville
Bethune
Bishopville
Blacksburg
Blackville
Blenheim
Bluffton
Blythewood
Bowman
Branchville
Brunson
Burnettown
Calhoun Falls
Camden
Cameron
Campobello
Carlisle
Central
Central Pacolet
Chappells
Cheraw
Chesnee
Chester
Chesterfield
City View
Clinton
Clio
Clover

Cope
Cottageville
Coward
Cowpens
Cross Hill
Darlington
Denmark
Dillon
Donalds
Due West
Duncan
Edgefield
Ehrhardt
Elko
Elloree
Estill
Eutawville
Fairfax
Fort Lawn
Fort Mill
Furman
Gaffney
Georgetown
Gifford
Gilbert
Govan
Gray Court
Great Falls
Greeleyville
Greenwood
Greer
Hampton
Hardeeville
Harleyville
Hartsville
Heath Springs
Hickory Grove
Hilda
Hodges
Holly Hill
Hollywood
Inman
Iva
Jamestown
Jefferson
Johnsonville
Johnston
Jonesville
Kershaw
Kingstree
Kline
Lake City
Lake View
Lamar
Lancaster
Lane
Latta
Laurens
Leesville
Liberty
Livingston
Lockhart
Lodge
Loris
Lowndesville
Lowrys
Luray
Lyman
Lynchburg
McBee
McColl
McConnells
McCormick
Manning
Marion
Mayesville
Megget
Monetta
Mount Carmel
Mount Croghan
Mullins
Neeses
Newberry
Nichols
Ninety Six
North
Norway
Olanta
Olar
Orangeburg
Pacolet Mills
Pageland
Pamplico
Parksville
Patrick
Paxville
Peak
Pendleton
Perry
Pickens
Pinewood
Plum Branch
Pomaria
Ravenel
Reevesville
Richburg
Ridgeland
Ridge Spring
Ridgeville
Rowesville
Ruby
St George
St Matthews
St Stephen
Salem
Salley
Saluda
Scranton
Sellers
Seneca
Snelling
Society Hill
Springfield
Starr
Summerton
Sumter
Swansea
Sycamore
Tatum
Timmonsville
Trenton
Troy
Turbeville
Ulmer
Union
Vance
Varnville
Wagener
Walhalla
Walterboro
Ward
Ware Shoals
Waterloo
Westminster
West Union
Whitmire
Williams
Williamston
Williston
Windsor
Winnsboro
Woodford
Woodruff
Woodside
Yemassee
York

South Dakota

Aberdeen
Agar
Akaska
Alexandria
Alpena
Altamont
Andover
Armour
Artas
Artesian
Ashton
Astoria
Avon
Baltic
Bancroft
Batesland
Belle Fourche
Belvidere
Blunt
Bonesteel
Bowdle
Bradley
Brandt
Brentford
Bridgewater
Bristol
Britton
Broadland
Brookings
Bryant
Buffalo
Buffalo Gap
Burke
Camp Crook
Canistota
Canova
Carthage
Castlewood
Centerville
Chamberlain
Claire City
Claremont
Clark
Clear Lake
Colome
Colton
Columbia
Conde
Corona
Custer
Dallas
Dante
Davis
Deadwood
Delmont
De Smet
Dolton
Draper
Dupree
Eagle Butte
Eden
Egan
Elkton
Emery
Erwin
Ethan
Eureka
Fairburn
Fairfax
Faith
Faulkton
Frankfort
Frederick
Garden City
Gary
Geddes
Gettysburg
Glenham
Goodwin
Gregory
Grenville
Hayti
Hazel
Hermosa
Herreid
Herrick
Hetland
Highmore
Hill City
Hitchcock
Hosmer
Hot Springs
Hoven
Howard
Hurley
Huron
Interior
Ipswich
Iroquois
Isabel
Java
Jefferson
Kimball
Kranzburg
Lake Andes
Lake City
Lake Norden
Lake Preston
Lane
Langford
Lemmon
Leola
Lesterville
Letcher
Long Lake
McIntosh
McLaughlin
Madison
Marion
Martin
Marvin
Mellette
Menno
Midland
Miller
Mission
Mission Hill
Mitchell
Mobridge
Montrose
Morristown
Mount Vernon
Murdo
Naples
New Effington
Newell
New Underwood
New Witten
Nunda
Oacoma
Oldham
Olivet
Orient
Ortley
Parker
Parkston
Peever
Pierpont
Platte
Pollock
Presho
Pringle
Pukwana
Quinn
Ravinia
Reliance
Revillo
Rockham
Roscoe
St Francis
St Lawrence
Scotland
Selby
Seneca
Sherman
Sisseton
South Shore
Spearfish
Spencer
Springfield
Stickney
Stockholm
Summit
Tabor
Timber Lake
Tolstoy
Toronto
Trent
Tripp
Turton
Twin Brooks
Tyndall
Utica
Veblen
Vermillion
Viborg
Vienna
Virgil
Volin
Wagner
Wakonda
Wall
Wallace
Ward
Wasta
Waubay
Wentworth
Wessington
Wessington Springs
Westport
White
White Lake
White River
Whitewood
Willow Lake
Wilmot
Winfred
Winner
Wolsey
Wood
Woonsocket
Worthing
Yale
Yankton

Tennessee

Adams
Adamsville
Alamo
Alcoa
Alexandria
Algood
Allardt
Altamont
Arlington
Athens
Atoka
Auburntown
Baileyton
Baxter
Beersheba Springs
Bell Buckle
Bells
Benton
Bethel Springs
Big Sandy
Bluff City
Bolivar
Bradford
Brighton
Brownsville
Bruceton
Bulls Gap
Burlison
Byrdstown
Calhoun
Carthage
Caryville
Celina
Centertown
Centerville
Chapel Hill
Charleston
Charlotte
Cleveland
Clifton
Coalmont
Collinwood
Cookeville
Copperhill
Cornersville
Cottage Grove
Covington
Cowan
Crab Orchard
Crossville
Cumberland City
Cumberland Gap
Dayton
Decatur
Decaturville
Decherd
Denmark
Dickson
Dover
Dowelltown
Doyle
Dresden
Ducktown
Dunlap
Dyer
Dyersburg
Elizabethton
Elkton
Englewood
Enville
Erin
Erwin
Estill Springs
Ethridge
Etowah
Fayetteville
Finger
Friendship
Friendsville
Gainesboro
Gallaway
Garland
Gates
Gibson
Gilt Edge
Gleason
Grand Junction
Graysville
Greenback
Greeneville
Greenfield
Gruetli-Laager
Halls
Harriman
Hartsville
Henderson
Henning
Henry
Hickory Valley
Hohenwald
Hollow Rock
Hornbeak
Hornsby
Humboldt
Huntingdon
Huntland
Huntsville
Iron City
Jacksboro
Jamestown
Jasper
Jefferson City
Jellico
Jonesboro
Kenton
Kimball
Lafayette
La Follette
La Grange
Lake City
Lawrenceburg
Lebanon
Lenoir City
Lewisburg
Lexington
Liberty
Linden
Livingston
Loudon
Luttrell
Lynnville
McEwen

McKenzie
McLemoresville
McMinnville
Madisonville
Martin
Mason
Maury City
Maynardville
Medina
Middleton
Milan
Milledgeville
Millington
Minor Hill
Mitchellville
Monteagle
Monterey
Morrison
Morristown
Moscow
Mosheim
Mountain City
Mount Pleasant
Newbern
New Hope
New Market
Newport
New Tazewell
Niota
Oakdale
Oakland
Obion
Oneida
Orlinda
Orme
Palmer
Paris
Parkers' Cross Roads
Parrottsville
Parsons
Petersburg
Philadelphia
Pikeville
Pleasant Hill
Powells Crossroads
Pulaski
Puryear
Ramer
Red Boiling Springs
Richard City
Ridgely
Ripley
Rives
Rockwood
Rogersville
Rossville
Rutherford
Rutledge
St Joseph
Saltillo
Samburg
Sardis
Saulsbury
Savannah
Scotts Hills
Selmer
Sharon
Shelbyville
Silerton
Slayden
Smithville
Sneedville
Somerville
South Fulton
South Pittsburg
Sparta
Spencer
Spring City
Springfield
Spring Hill
Stanton
Stantonville
Surgoinsville
Sweetwater
Tazewell
Tellico Plains
Tiptonville
Toone
Tracy City
Trenton
Trezevant
Trimble
Troy
Union
Vanleer
Viola
Vonore
Wartburg
Wartrace
Watauga
Watertown
Waverly
Waynesboro
White Bluff
White Pine
Whiteville
Whitwell
Williston
Winchester
Woodbury
Woodland Mills
Yorkville

Texas

Abbott
Ackerly
Adrian
Alamo
Alba
Alpine
Alto
Alton
Amherst
Annona
Anthony
Aquilla
Arp
Asherton
Aspermont
Atlanta
Aubrey
Austwell
Avery
Avinger
Bailey
Baird
Ballinger
Balmorhea
Bandera
Bangs
Bardwell
Bartlett
Bastrop
Bayview
Beasley
Beckville
Beeville
Bellevue
Bellmead
Bells
Benavides
Benjamin
Bertram
Big Sandy
Big Wells
Blanco
Blanket
Bloomburg
Blooming Grove
Blue Ridge
Blum
Boerne
Bogata
Bonham
Brackettville
Brady Beckenridge
Bremond
Brenham
Broaddus
Brookshire
Browndell
Brownwood
Bryson
Buckholts
Buffalo Gap
Burton
Byers
Bynum
Caddo Mills
Caldwell
Calvert
Cameron
Campbell
Camp Wood
Carbon
Carmine
Carrizo Springs
Castroville
Celeste
Celina
Center
Channing
Charlotte
Chester
Childress
Chillicothe
Chireno
Christine
Cisco
Clarendon
Clarksville
Clint
Cockrell Hill
Coleman
Collinsville
Colmesneil
Colorado City
Comanche
Combes
Commerce
Como
Cool
Coolidge
Cooper
Corsicana
Cotulla
Covington
Cransfills Gap
Crawford
Crockett
Crosbyton
Cross Plains
Crowell
Crystal City
Cuero
Cumby
Cushing
Daingerfield
Dalhart
Dawson
Decatur
De Kalb
De Leon
Del Rio
Deport
Detroit
Devers
Dickens
Dilley
Dodd City
Dodson
Domino
Donna
Douglasville
Driscoll
Dublin
Eagle Pass
Earth
Easton
Ector
Edcouch
Eden
Edmonson
Edna
Electra
Elgin
Elmendorf
Elsa
Emhouse
Encinal
Ennis
Estelline
Eustace
Evant
Falfurrias
Falls City
Farmersville
Fate
Fayeteville
Ferris
Flatonia
Florence
Floresville
Floydada
Forsan
Franklin
Frankston
Fredericksburg
Frost
Gainesville
Garrett
Garrison
Gatesville
Goldsmith
Goldthwaite
Goliad
Gonzales
Goodlow
Goodrich
Goree
Gorman
Graford
Grand Saline
Grandview
Granger
Grapeland
Greenville
Gregory
Grey Forest
Groesbeck
Groom
Groveton
Gustine
Hallettsville
Hamilton
Hamlin
Happy
Haskell
Hearne
Hedley
Hemphill
Hico
Hidalgo
Hillsboro
Holland
Hondo
Honey Grove
Hubbard
Hughes Springs
Hutto
Iredell
Italy
Itasca
Jacksonville
Jayton
Jefferson
Joaquin
Junction
Karnes City
Kaufman
Kemp
Kendleton
Kennard
Kerens
Kingsville
Kirvin
Knox City
Kosse
Kress
La Coste
Ladonia
La Feria
La Grange
La Grulla
La Joya
Lakeview
Lampasas
La Villa
La Ward
Leakey
Leary
Leona
Leonard
Lexington
Linden
Lipan
Lland
Lockhart
Lockney
Lometa
Lone Oak
Loraine
Lorena
Los Fresnos
Lott
Lueders
Luling
Lyford
Mabank
McCamey
McGregor
McKinney
McLean
Malakoff
Malone
Manor
Marfa
Marion
Marlin
Marquez
Mart
Mason
Matador
Mathis
Maud
Maypearl
Meadow
Megargel
Melvin
Memphis
Menard
Mercedes
Meridian
Merkel
Mertens
Mertzon
Mexia
Milano
Miles
Milford
Mineral Wells
Mingus
Monahans
Montgomery
Moody
Moore Station
Moran
Morgan
Morton
Moulton
Mount Calm
Mount Enterprise
Mullin
Munday
Naples
Natalie
Navasota
Nesbitt
Newcastle
New Summerfield
Neylandville
Nixon
Nocona
Nordheim
Normangee
North Cleveland
Novice
Oakhurst
Oakwood
O'Donnell
Olton
Omaha
Ore City
Paducah
Paint Rock
Palacios
Palmview
Palm Valley
Paris
Pearsall
Pecan Gap
Pecos
Penelope
Petersburg
Pilot Point
Pineland
Port Isabel
Poteet
Powell
Premont
Presidio
Primera
Progreso Lakes
Putnam
Quanah
Queen City
Quitaque
Ralls
Rancho Viejo
Ranger
Raymondville
Refugio
Richland
Richland Springs
Rio Hondo
Rising Star
Roaring Springs
Robstown
Roby
Rochester
Rockport
Rocksprings
Rocky Mound
Rogers
Roma
Ropesville
Rosebud
Rose City
Rotan
Round Top
Roxton
Royse City
Rule
Runge
Rusk
Sabinal
St Jo
San Augustine
San Diego
San Juan
San Marcos
San Perlita
San Saba
Santa Anna
Santa Rosa
Schulenburg
Scottsville
Seven Oaks
Seymour
Shamrock
Shepherd
Shiner
Silverton
Sinton
Slaton
Smiley
Smithville
Somerset

Somerville
Southmayd
Spofford
Springlake
Spur
Stamford
Sterling City
Stockdale
Strawn
Streetman
Sudan
Sweetwater
Taft
Tahoka
Talco
Taylor
Teague
Tehuacana
Tenaha
Terrell
Texline
Thorndale
Thornton
Thrall
Throckmorton
Timpson
Tira
Toco
Tolar
Toyah
Trenton
Trinidad
Trinity
Troup
Tulia
Turkey
Uvalde
Valentine
Valley Mills
Van Alstyne
Van Horn
Vernon
Vinton
Waelder
Wallis
Waxahachie
Weatherford
Weimar
Wellington
Weslaco
Westbrook
Westminster
West Mountain
Whitewright
Whitney
Wills Point
Windom
Winnsboro
Winters
Wolfe City
Woodsboro
Woodson
Wortham
Yantis
Yoakum
Yorktown
Zavalla

Utah

Alton
Antimony
Ballard
Beaver
Bicknell
Boulder
Centerfield
Charleston
Circleville
Clawson
Cleveland
Cornish
Deweyville
Elsinore
Enterprise
Ephriam
Escalante
Eureka
Fairview
Fayette
Fillmore
Fountain Green
Genola
Glenwood
Green River
Gunnison
Hatch
Heber
Hildale
Holden
Hurricane
Junction
Kanarraville
Kanosh
Kingston
Koosharem
Laketon
Leeds
Levan
Logan
Lynndyl
Manti
Mayfield
Meadow
Midway
Milford
Mona
Moroni
Mount Pleasant
Myton
Nephi
Newton
Ophir
Panguitch
Pardwan
Portage
Santaquin
Scipo
Scofield
Snowville
South Salt Lake
Spring City
Sterling
Stockton
Toquerville
Torrey
Trenton
Vernon
Virgin
Wales
Wallsburg
Yost

Vermont

Albany
Alburg
Barre
Barton
Bellows Falls
Bradford
Bristol
Cabot
Cambridge
Derby Center
Derby Line
Enosburg Falls
Hardwick
Jacksonville
Jeffersonville
Johnson
Ludlow
Lyndonville
Marshfield
Milton
Montpelier
Morrisville
Newbury
Newport
Northfield
North Troy
North Westminster
Orleans
Perkinsville
Pittsford
Plainfield
Poultney
Proctorsville
Richford
Richmond
Rutland
St. Albans
Stowe
Swanton
Vergennes
Waterbury
Wells River
West Burke
Westminster
Winooski

Virginia

Abingdon
Accomac
Alberta
Appalachia
Appomattox
Bedford
Blacksburg
Blackstone
Boone Mill
Boydton
Boykins
Branchville
Brodnax
Brookneal
Buchanan
Burkeville
Cape Charles
Capron
Charlotte Court House
Chase City
Chatham
Cheriton
Chilhowie
Chincoteague
Claremont
Clarksville
Cleveland
Clifton Forge
Clinchport
Clintwood
Clover
Coeburn
Colonial Beach
Columbia
Covington
Craigsville
Crewe
Damascus
Dendron
Dillwyn
Drakes Branch
Dungannon
Edinburg
Emporia
Exmore
Farmville
Franklin
Fries
Front Royal
Galax
Gate City
Glade Spring
Glasgow
Glen Lyn
Gordonsville
Goshen
Gretna
Grundy
Halifax
Hallwood
Harrisonburg
Haysi
Honaker
Independence
Iron Gate
Ivor
Jarratt
Jonesville
Keller
Kenbridge
Keysville
La Crosse
Lawrenceville
Lexington
Luray
McKenney
Marion
Martinsville
Melfa
Middleburg
Middletown
Mineral
Monterey
Mount Crawford
Mount Jackson
Narrows
Nassawadox
New Castle

Newsoms
Nickelville
Norton
Onancock
Onley
Orange
Painter
Pamplin City
Parksley
Pearisburg
Pembroke
Pennington Gap
Phenix
Pocahontas
Port Royal
Pulaski
Quantico
Radford
Richlands
Round Hill
Rural Retreat
St Charles
St Paul
Saltville
Sasis
Scottsburg
Scottsville
Shenandoah
South Hill
Stanardsville
Stanley
Stephens City
Stony Creek
Strasburg
Tangier
Tazewell
The Plains
Toms Brook
Troutdale
Troutville
Victoria
Virgilina
Wachapreague
Wakefield
Waverly
Whitestone
Woodstock
Wytheville

Washington

Aberdeen
Airway Heights
Arlington
Asotin
Battle Ground
Bingen
Black Diamond
Brewster
Bridgeport
Buckley
Bucoda
Camas
Carnation
Cashmere
Castle Rock
Cathlamet
Centralia
Chehalis
Chelan
Cheney
Chewelah
Clarkston
Cle Elum
Colville
Conconully
Concrete
Connell
Cosmopolis
Coulee City
Cusick
Darrington
Dayton
Deer Park
Duvall
East Wenatchee
Eatonville
Ellensburg
Elma
Entiat
Everson
Farmington
George
Gold Bar
Goldendale
Grand Coulee
Grandview
Granger
Granite Falls
Hamilton
Harrah
Hartline
Hoquiam
Ilwaco
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Kahlotus
Kelso
Kettle Falls
Kittitas
Krupp
La Conner
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Long Beach
Lyman
Mabton
Malden
Mansfield
Marcus
Marysville
Mattawa
Mesa
Metaline
Metaline Falls
Millwood
Monroe
Montesano
Morton
Moses Lake
Mossyrock
Moxee City
Naches
Nespelem
Newport
Nooksack
North Bonneville
Northport
Oakville
Okanogan
Omak
Oroville
Orting
Othello
Pateros
Port Angeles
Port Orchard
Port Townsend
Prescott
Pullman
Puyallup
Quincy
Rainier
Raymond
Republic
Ridgefield
Ritzville
Riverside
Rockford
Rock Island
Roslyn
Roy
Royal City
Sedro Woolley
Sequim
Shelton
Skykomish
Snohomish
Soap Lake
South Bend
south Prairie
Spague
Springdale
Stanwood
Starbuck
Sultan
Sumas
Sumner
Sunnyside
Tenino
Tieton
Toledo
Tonasket
Toppenish
Twisp
Union Gap
Uniontown
Vader
Walla Walla
Wapato
Warden
Washougal
Washtucna
Westport
Wilkeson
Wilson Creek
Winlock
Winthrop
Woodland
Yacolt
Yelm
Zillah

West Virginia

Addison
Albright
Alderson
Anawalt
Anmoore
Ansted
Athens
Auburn
Bancroft
Barboursville
Barrackville
Bayard
Beckley
Beech Bottom
Belington
Benwood
Bethany
Beverly
Blacksville
Bluefield
Bradshaw
Bramwell
Bruceton Mills
Buckhannon
Buffalo
Burnsville
Camden-on-Gauley
Cameron
Capon Bridge
Cass
Cedar Grove
Ceredo
Chapmanville
Charles Town
Chester
Clarksburg
Clay
Clendenin
Cowen
Danville
Davis
Davy
Delbarton
Dunbar
Durbin
Elizabeth
Elk Garden
Elkins
Fairmont
Fairview
Falling Springs
Farmington
Fayetteville
Flatwoods
Flemington
Follansbee
Fort Gay
Franklin
Friendly
Gary
Gassaway
Gauley Bridge
Gilbert
Glenville
Grafton
Grantsville
Grant Town
Granville
Hambleton
Hamlin
Handley
Harman
Harrisville
Hartford City
Hedgesville
Henderson
Hendricks
Hillsboro
Hinton
Hundred
Iaeger
Junior
Kenova
Kermit
Keyser
Keystone
Kimball
Layopolis
Lester
Lewisburg
Littleton
Logan
Lost Creek
Lumberport
McMechen
Man
Mannington
Marlinton
Merlinton
Marmet
Martinsburg
Mason
Masontown
Matewan
Matoaka
Meadow Bridge
Middlebourne
Mill Creek
Milton
Monongah
Montgomery
Moorefield
Morgantown
Moundsville
Mount Hope
Mullens
Newburg
New Cumberland
Northfork
Nutter Fort
Oakvale
Oceana
Osage
Paden City
Parsons
Paw Paw
Pax
Pennsbord
Petersburg
Peterstown
Philippi
Piedmont
Pine Grove
Pineville
Point Pleasant
Princeton
Pullman
Rainelle
Ranson
Reedsville
Reedy
Rhodell
Richwood
Ridgeley
Rivesville
Romney
Ronceverte
Rowlesburg
Rupert
St. Marys
Salem
Shepherdstown
Shinnston
Sistersville
Smithers
Smithfield
Sophia
South Charleston
Spencer
Star City
Stonewood
Summersville
Sutton
Terra Alta
Thomas
Thurmond
Triadelphia
Tunnelton
Union
Valley Grove
Vienna War
Wardensville
Wayne
Welch
Wellsburg
West Hamlin
West Liberty
West Milford
Weston
Westover
West Union
White Sulphur Springs
Whitesville
Williamson
Winfield
Womelsdorff
Worthington

Wisconsin

Abbotsford
Algoma
Alma Center
Almond
Amherst Junction
Aniwa
Antigo
Arcadia
Ashland
Athens
Augusta
Avoca
Bagley
Barneveld
Bayfield
Bear Creek
Beaver Dam
Big Falls
Birchwood
Black River Falls
Blair
Blanchardville
Bloomington
Blue River
Bowler
Boyceville
Brokaw
Bruce
Butternut
Cable
Cambria
Campbellsport
Camp Douglas
Casco
Cashton
Catawba
Cazenovia
Centuria
Chippewa Falls
Clayton
Clinton
Clintonville
Cochrane
Colby
Coloma
Conrath
Cornell
Couderay
Crandon
Curtiss
Dallas
Darlington
De Soto
Downing
Durand
Eagle River
Eastman
Elderon
Eleva
Elroy
Endeavor
Ettrick
Exeland
Fairchild
Fall River
Fenwood
Fond Du La
Footville
Frederic
Galesville
Gays Mills
Gillett
Gilman
Glenbeulah
Glenwood City
Granton
Gratiot
Greenwood
Hancock
Hatley
Hawkins
Hayward
Hixton
Hurley
Hustler
Independence
Ingram
Ironton
Jefferson
Kellnersville
Kennan
Kewaunee
Kingston
Lac La Belle
Ladysmith
La Farge
Lake Delton
La Valle
Lena
Lime Ridge
Linden
Loganville
Lohrville
Lowell
Loyal
Lublin
Luck
Lyndon Station
Maiden Rock
Manitowoc

Maribel
Marinette
Markesan
Marquette
Mason
Mattoon
Maustoa
Mellen
Melrose
Menomonie
Merrill
Merrillan
Merrimac
Millardore
Milltown
Mineral Point
Minong
Montello
Montreal
Mosinee
Mount Calvary
Mount Hope
Necedah
Neillsville
Nelson
Nelsonville
Neshkoro
New Auburn
New Lisbon
Nichols
North Freedom
Oconto
Oconto Falls
Ogdensburg
Ontario
Osseo
Owen
Oxford
Park Falls
Phillips
Pittsville
Platteville
Poplar
Portage
Potter
Pound
Poynette
Prairie Farm
Prentice
Princeton
Radisson
Readstown
Redgranite
Reedsburg
Rewey
Rhinelander
Rib Lake
Richland Center
Rio
Ripon
River Falls
Rockland
Rock Springs
Rosholt
St Naziaz
Schofield
Sheldon
Shell Lake
Siren
Soldiers Grove
Solon Springs
South Wayne
Spencer
Spooner
Stanley
Steuben
Stevens Point
Stoddard
Stratford
Strum
Suring
Taylor
Throp
Tigerton
Tony
Trempealeau
Turtle Lake
Two Rivers
Unity
Viroqua
Walworth
Warrens
Washburn
Wausaukee
Wautoma
Webster
West Baraboo
Westfield
Weyerhaeuser
Wheeler
Whitehall
White Lake
Whitewater
Wild Rose
Wilton
Winter
Wisconsin Dells
Withee
Wonewoc
Wyocena

Wyoming

Afton
Albin
Baggs
Big Piney
Clearmont
East Thermopolis
Encampment
Fort Laramie
Frannie
Hulett
La Grange
Laramie
Meeteetse
Riverside
Rock River
Thayne
Yoder

III. The following list contains the names of those small cities which meet the current minimum standards of physical and economic distress but which did not meet the standards as of the March 1, 1983 Notice.

Alabama

Albertville
Alexander City
Aliceville
All Good
Arley
Athens
Atmore
Bear Creek
Beaverton
Blontsville
Boaz
Brewton
Carolina
Chatom
Citronelle
Clayhatchee
Coffee Springs
Columbiana
County Line
Crossville
Daviston
Double Springs
East Brewton
Elberta
Enterprise
Eunola
Eutaw
Falkville
Gaylesville
Geiger
Geneva
Geraldine
Gilbertown
Grove Hill
Guin
Guntersville
Hackleburg
Hamilton
Hanceville
Harpersville
Hartselle
Hayden
Heath
Hollywood
Jackson
Jacksonville
Jemison
Kansas
Killen
Lester
Lexington
Lincoln
Lineville
Loachapoka
Loxely
Lynn
Montevallo
Moulton
Myrtlewood
Nectar
New Brockton
New Site
Newton
Northport
Notasulga
Oak Grove
Ohatchee
Oneonta
Onycha
Pell City
Petrey
Pisgah
Powells Crossroads
Ragland
Rainsville
Riverside
Rogersville
Russellville
Sardis City
Snead
Springville
Steele
Sweetwater
Sylacauga
Sylvania
Thomasville
Thorsby
Vernon
Waldo
West Point
Whitehall
Woodland

Alaska

Aniak
Hopper Bay
Kiana
Kotlik
Mountain Village
Napaskiak
Nenana
Platinum
Ruby
St Mary's
Shungnak

Arizona

Apache Junction
Benson
Casa Grande
Clifton
Collidge
Hayden
Holbrook
Nammoth
Payson
Safford
Show Low
Wilcox
Winkelman

Arkansas

Avoca
Banks
Barling
Beebe
Berryville
Black Springs
Caldwell
Campbells Station
Caulksville
Colt
Corning
Diaz
Dover
Dyess
Fisher
Gosnell
Griffithville
Grubbs
Guy
Higden
Hoxie
Kensett
Kibler
Kingsland
Lafe
Louann
Manila
Mount Ida
Murfreesboro
Newport
O'Kean
Oxford
Ozark
Pangburn
Patmos
Perry
Perryville
Plumberville
Pocahontas
Prattsville
Rockport
Salem
Searcy
Star City
Strawberry
Subiaco
Trumann
Tuckerman
Tyronza
Valley Springs
Walnut Ridge
Wiederkehr
Willisville
Wilmar
Wooster

California

Anderson
Angels
Arcata
Avenal
Banning
Barstow
Biggs
Blythe
Brawley
Clearlake
Coachella
Coalinga
Colfax
Colusa
Corcoran
Crescent City
Delano
Dos Palos
Dunsmuir
Ferndale
Firebaugh
Greenfield
Hanford
Houghson
Indio
Lincoln
Livingston
Los Banos
Loyalton
McFarland
Madera
Marysville
Merced
Monrovia
Montague
Orange Cove
Pacific Grove
Patterson
Perris
Placerville
Plymouth
Portola
Reedley
Rio Dell
Rio vista
Riverbank
San Gabriel
Sanger
San Jacinto
Soledad
Sutter Creek
Tracy
Wasco
Waterford
Westmoreland
Willows
Winters

Colorado

Brush
Buena Vista
Canon City
Collbran
Crestone
Dinosaur
Fruita
Ophir
Palisade
Ridgway
Rye
Salida
Sheridan Lake
Silver Plume
Vilas

Delaware

Smyrna

Florida

Bartow
Brooksville
Callahan
Cedar Grove
De Funiak Springs
Dundee
Everglades
Frostproof
Haines City
Indian Creek
Labelle
Lady Lake
Leesburg
Minneola
Moore Haven
Mount Dora
Okeechobee
Opalocka
South Miami
Sweetwater
Tavares
Umatilla

Georgia

Baconton
Blackshear
Brooklet
Buchannan
Camak
Edge Hill
Emerson
Fairmount
Iron City
Jenkinsburg
Louisville
McRae
Mineral Bluff
Mount Airy
Shady Dale
Sparks
Weston
West Point
White
Whitesburg
Young Harris

Idaho

Arco
Athol
Cascade
Coeur D'Alene
Council
Craigmont
Crouch
Dalton Gardens
Donnelly
Ferdinand
Fernan Lake
Harrison
Hayden
Hope
Huetter
Idaho City
Kamiah
McCall
Movie Springs
New Meadows
Riggins
St Marie's
Victor

Illinois

Abingdon
Adeline
Alhambra
Altona
Alvin
Arlington
Banner
Bannockburn
Bartelso
Bath
Beckemeyer
Belle Prairie City
Belvidere
Bluford
Bonnie
Bunker Hill
Butler
Byron
Cahokia
Cambria
Capron
Carlyle
Carterville
Casey
Centralia
Chesterfield
Chrisman
Coatsburg
Collinsville
Creston
Cuba
Dahlgren
Dana
Danforth
Davis Junction
Deer Grove
Depue
Dix
Dowel
Du Quoin
Earlville
East Moline
Easton
Edwardsville
Elsah
Energy
Fairview
Farina
Farmer City
Farmington
Fithian
Forreston
Freeburg
Galesburg
Germantown
Gillespie
Girard
Gladstone
Godley
Grantfork
Greenup
Greenville
Hainesville
Hartford
Henning
Herrin
Hettick
Hillsboro
Hutsonville
Ina
Jerseyville
Jewett
Jonesboro
Kangley
Kansas
Kell
Keyesport
Kirkwood
Lebanon
Leland
Lewiston
Liberty
Liverpool
Livingston
Louisville
Manito
Maquon
Marissa
Mark
Marshall
Martinsville
Matherville
Media
Modesto
Momence
Mount Carroll
Mount Morris
Mount Olive
Mount Vernon
Neoga
North Pekin
Oakwood
Odin
Oglesby
Ohio
Old Ripley
Olney
Oregon
Ottawa
Otterville
Patoka
Phillipstown
Poplar Grove
Radom
Raleigh
Reddick
Ridge Farm
Rio
Robinson
Rockdale
Rushville
Rutland
St. Anne
St. Augustine
Salem
Sawyerville
Shawneetown
Sheffield
Sherrard
Shipman
Sigel
Silvis
Smithfield
Staunton
Sterling
Streator
Sumner
Tamaroa
Tamms
Tampico
Taylor Springs
Tiskilwa
Tonica
Topeka
Union Hill
Ursa
Vandalia
Virden
Walnut
Wataga
Watson
Wayne City
Waynesville
Weldon
Westfield
White City
Wilmington
Woodhull
Wood River
Wyanet

Indiana

Albany
Albion
Andrews
Angola
Argos
Ashley
Avilla
Bourbon
Brownstown
Bunker Hill
Burnettsville
Butler
Carefree
Cedar Grove
Cedar Lake
Center Point
Chalmers
Churubusco
Clay City
Converse
Crothersville
Dale
Decatur
Denver
Dillsboro
Dunreith
Eaton
Elizabethtown
Fairview Park
Farmersburg
Farmland
Frankfort
Fulton
Gas City
Gaston
Geneva
Georgetown
Goodland
Greensfork
Hagerstown
Hamilton
Hamlet
Hanover
Hartsville
Hope
Hymera
Ingalls
Kempton
Kendallville
Kewanna
Kingman
Kingsbury
Kirklin
La Crosse
La Fontaine
La Paz
La Porte
Lewisville
Ligonier
Livonia
Loogootee
Macy
Markle
Marshall
Matthews
Mauckport
Middletown
Milan
Mitchell
Montezuma
Mount Etna
Mount Summit
Mulberry
Odon
Oolitic
Orestes
Orleans
Parker City
Perrysville
Pines
Pine Village
Porter
Reynolds
Rising Sun
Roann
Rochester
Rome City
Roosville
St. Joe
Salem
Scottsburg
Sellersburg
Selma
Seymour
Sharpsville
South Whitley
Spring Grove
Sullivan
Sulphur Sprngs
Sunman
Tell City
Upland
Van Buren
Veedersburg
Walton
Waterloo
Whiting
Williamsport
Winamac
Winchester
Windfall City
Wolcott

Iowa

Agency
Albia
Andover
Andrew
Armstrong
Bayard
Bellevue
Bevington
Bloomfield
Clinton
Coburg
Fort Madison
Fredericksburg
Fredonia
Graf
Hedrick
Holstein
Hurstville
Ionia
Kinross
Lamoni
Lost Nation
Luzerne
Middletown
Miles
Montrose
Mount Auburn
Nashua
New Vienna
Nora Springs
Oyens
Pacific Junction
Plain View
Preston
Rudd
St Donatus
St Paul
Scarville
Shelby
Shellsburg
Sioux Rapids
South English
Sprague ville
Templeton
Urbana
Valeria
Vinton
Yale

Kansas

Albert
Baldwin City
Bushong
Cedar Vale
Dorrance
Hartford
Haviland
Linn
Minneapolis
Morganville
Moscow
Nortonville
Olivet
Parkerville
Peabody
Protection
St John
Toronto
Vining
Waldron
Washington
Winchester
Yates Center

Kentucky

Allen
Benton
Bremen
Dry Ridge
Eddyville
Edmonton
Fredonia
Glasgow
Grand Rivers
Greensburg
Greenup
Hardin
Hindman
Hunter's Hollow
Hyden
Jackson
Jenkins
Kevil
Leitchfield
Liberty
Lynch
Lynnview
Middletown City
Minor Lane Heights
Morgantown
Park City
Parkway Village
Prestonburg
Raceland
Rochester
Russell Springs
Shepherdsville
Smithfield
Stanton
Strathmoor Manor
Washington
West Buechel
Whipps Milgate
Wilmore
Wurtland

Louisiana

Albany
Anacoco
Ashland
Bryceland
Cotton Valley
Delcambre
De Ridder
Dixie Inn
Doyline
Dry Prong
Fenton
Fordoche
Franklin
French Settlement
Goldonna
Grambling
Grand Cane
Greensburg
Hammond
Haughton
Jackson
Jennings
Kilbourne
Lutcher
McNary
Many
Marion
Minden
Morganza
Mount Lebanon
Natchitoches
Pine Prairie
Plaucheville
Port Barre
Ridgecrest
Sarepta
Shongaloo
Sibley
Simpson
Stanley
Vidalia
Walker
Welsh
West Monroe

Maryland

Barclay
Centreville
Church Hill
Edmonston
Eldorado
Frostburg
Galena
Galestown
Goldsboro
Hebron
Hillsboro
Hurlock
Luke
Millington
Mountain Lake Park
New Windsor
Pittsville
Riverdale
Sharpsburg
Sharptown
Smithsburg
Westernport
Willards
Williamsport

Massachusetts

Taunton

Michigan

Adrian
Algonac
Allegan
Almont
Ashley
Bad Axe
Bear Lake
Belding
Bellaire

Boyne City
Boyne Falls
Breckenridge
Britton
Brown City
Buchanan
Byron
Capac
Carleton
Carson City
Caseville
Centreville
Charlevoix
Clare
Coldwater
Colon
Columbiaville
Corunna
Croswell
Deerfield
Dryden
Durand
East Jordan
East Tawas
Eaton Rapids
Edwardsburg
Ellsworth
Estral Beach
Farwell
Fennville
Fenton
Forestville
Fountain
Fowlerville
Freeport
Gaines
Greenville
Hersey
Homer
Hopkins
Imlay City
Ishpeming
Ithaca
Jonesville
Keego Harbor
Kingsley
Lawrence
Lawton
Lennon
Le Roy
Lincoln
Linden
Litchfield
Luna Pier
Maple Rapids
Marlette
Marquette
Maybee
Memphis
Metamora
Middleville
Millersburg
Millington
Minden City
Montague
Montgomery
Mulliken
New Buffalo
New Era
North Branch
Northport
Oak Park
Omer
Onekama
Onsted
Ortonville
Otter Lake
Ovid
Parma
Paw Paw
Peck
Pellston
Perry
Petersburg
Pigeon
Pinckney
Portland
Port Sanilac
Potterville
Quincy
Reading
Rogers City
Romeo
Roscommon
Rothbury
St Charles
St Clair
St Joseph
Sandusky
Scottville
Sheridan
Standish
Stephenson
Sunfield
Tawas City
Three Oaks
Traverse
Tustin
Vermontville
Vernon
Waldron
Westphalia
White Pigeon
Wyandotte
Yale

Minnesota

Alvarado
Audubon
Barrett
Barry
Battle Lake
Bigfork
Biwabik
Bowlus
Brookston
Calumet
Chisholm
Cook
Detroit Lakes
Ely
Fort Ripley
Frazee
Genola
Gonvick
Grasston
Greenbush
Hackensack
Hawley
Henriette
Iron Junction
Jenkins
Johnson
Karlstad
Kerrick
Lake Park
Marble
Mora
Nashwauk
Nevis
Northfield
Plummer
Regal
Rutledge
St Leo
Spring Valley
Squaw Lake
Stephen
Strathcona
Sturgeon Lake
Taconite
Thief River Falls
Thomson
Turtle River
Twin Valley
Two Harbors
Tyler

Virginia
Warba
Warren

Mississippi

Batesville
Beauregard
Calhoun City
Cleveland
Corinth
Derma
French Camp
Hattiesburg
Leakesville
Louisville
Lucedale

Missouri

Annada
Augusta
Bloomfield
Bonne Terre
Brookfield
Brumley
Centralia
Corder
Crystal City
Cuba
Dexter
Dudley
East Lynne
Farber
Farmington
Foristell
Greenville
Hermann
Jamestown
Junction City
Kelso
Lakeside

Montana

Boulder
Columbus
Drummond
Kalispell

Nebraska

Barada
Boys Town
Clarkson
Gandy
Leigh
Maxwell
Milford

Nevada

Ely

New Hampshire

Loconia

New Jersey

Bellmawr
Cape May Point
Gibbsboro
Harrison
Hi-Nella
Laurel Springs
Magnolia
Merchantville

New Mexico

Aztec
Bayard
Bloomfield
Capitan
Carlsbad
Chama
Deming
Warroad
Wright
Zemple
Pass Christian
Philadelphia
Pontotoc
Renova
Satartia
Senatobia
Silver Creek
Slate Spring
Thaxton
Wesson
Wiggins
Lakeview
La Plata
Latour
Macon
Marthasville
Matthews
Miner
New Haven
Perryville
Prathersville
Scott city
Sedgewickville
Sikeston
Tuscumbia
Vandalia
Vanduser
Vienna
Warrenton
Wayland
Winston
Wyatt
Sheridan
Thompson Falls
Walkerville
Potter
Sholes
South Bend
Stockham
Wallace
Wisner
North Wildwood
Runnemede
Shiloh
Somerdale
Stratford
Tuckerton
Victory Gardens
Woodbine
Espanola
Gallup
Los Lunas
Loving
Milan
Questa
Tijeras

New York

Akron
Alden
Alfred
Allegany
Aurora
Blasdell
Bloomingdale
Canton
Cato
Cayuga
Cazenovia
Cobleskill
Constableville
Copenhagen
Corfu
Dannemora
Delevan
Delhi
Depew
East Aurora
East Randolph
Elba
Evans Mills
Fair Haven
Fredonia
Harrisville
Horseheads
Lancaster
Middleport
Montour Falls
Morrisville
Odessa
Sidney
Tonawanda
Turin
Union Springs
Weedsport

North Carolina

Angier
Ansonville
Askewville
Autryville
Banner Elk
Battleboro
Beech Mountain
Biscoe
Black Creek
Boone
Bostic
Brevard
Centerville
Chocowinity
Clyde
Coats
Davidson
Dobson
Dublin
Earl
Elkin
Everetts
Falcon
Forest City
Fuquay-Varina
Grover
Harmony
Hildebran
Jefferson
Kenansville
Lillington
Lumber Bridge
Lumberton
Marshville
Mocksville
Newland
Pine Level
Pinetops
Polkville
Robbinsville
Rose Hill
Sanford
Seaboard
Shallotte
Sharpsburg
Siler City
Sims
Snow Hill
Southport
Stanfield
Stedman
Stonewall
Sunset Beach
Sylva
Tar Heel
Waco
Walstonburg
Waynesville
Whiteville
Woodland

North Dakota

Leal
Loma
Park River
Reeder
Rolette

Ohio

Adamsville
Alvordton
Andover
Anna
Ansonia
Antioch
Antwerp
Ashland
Attica
Bayview
Beaverdam
Bellville
Belmont
Belpre
Bethesda
Bettsville
Beverly
Bloomville
Browerston
Bremen
Brewster
Brice
Buckland
Bucyrus
Byesville
Cairo
Carey
Carrollton
Cedarville
Celina
Centerburg
Cheshire
Chesterhill
Chillicothe
Clarington
Clay Center
College Corner
Coshocton
Covington
Craig Beach
De Graff
Dellroy
Donnelsville
Dover
Dresden
Dupont
East Palestine
Eaton

Edison
Edon
Fayette
Flushing
Forest
Fort Recovery
Frazeysburg
Fredericktown
Geneva
Geneva-on-the-Lake
Gettysburg
Gibsonburg
Girard
Glenmont
Gordon
Granville
Gratis
Green Camp
Greenville
Hanoverton
Hartville
Hebron
Hicksville
Hiram
Hopedale
Hubbard
Huntsville
Ithaca
Jackson Center
Jefferson
Jerry City
Jewett
Junction City
Kenton
Kettlersville
Kingston
Kirkersville
Lafayette
Lagrange
Laura
Lawrenceville
Leesburg
Leipsic
Liberty Center
Limaville
Lockington
Logan
Louisville
McArthur
Maineville
Malvern
Martinsburg
Martins Ferry
Marysville
Mechanicsburg
Mendon
Middle Point
Midvale
Milford Center
Mineral City
Monroeville
Montpelier
Moscow
Mount Orab
Navarre
Nellie
Nevada
New Bavaria
Newtonsville
New Washington
New Waterford
North Hampton
North Robinson
North Star
Ohio City
Orrville
Orwell
Ottoville
Owensville
Oxford
Paulding
Pemberville
Perrysville
pioneer
Pitsburg
Pleasant Hill
Polk
Port Clinton
Port Jefferson
Port Washington
Powhatan Point
Ravenna
Rayland
Richmond
Richwood
Ridgeway
Rio Grande
Rising Sun
Rochester
Rocky Ridge
Rossburg
Rushsylvania
St Martin
St Mary's
Sebring
Shawnee Hills
Sidney
Silverton
Sinking Spring
South Vienna
South Webster
South Zanesville
Sparta
Stone Creek
Strasburg
Stratton
Sugarcreek
Tiltonsville
Toronto
Troy
Tuscarawas
Unionville Center
Upper Sandusky
Utica
Van Wert
Venedocia
Wakeman
Wapakoneta
Wauseon
Waverly
Waynesfield
Waynesville
Wellington
West Lafayette
West Manchester
Weston
Wharton
Willard
Windham
Woodlawn
Wren
Yellow Springs
Yorkville
Zaleski

Oklahoma

Adair
Arkoma
Avard
Bradley
Canton
Capron
Crowder
Elk City
Fort Supply
Maysville
Okeene
Purcell
Putnam
Skiatook
Sperry
Woodville

Oregon

Adams
Ashland
Astoria
Athena
Baker
Bay City
Brownsville
Butte Falls
Cannon Beach
Canyonville
Cave Junction
City of the Dalles
Coos Bay
Dayton
Elkton
Enterprise
Florence
Gaston
Gearhart
Grants Pass
Hood River
Idanha
Imbler
Junction City
Lincoln City
Lowell
Merrill
Mill City
Monmouth
Mosier
Prairie City
Rainier
Riddle
Rogue River
Seaside
Seneca
Shady Cove
Sheridan
Spray
Stanfield
Sutherlin
Sweet Home
Talent
Tangent
Unity
Warrenton
Weston
Winston
Yachats
Yamhill

Pennsylvania

Adamsburg
Applewold
Archbald
Auburn
Baden
Barnesboro
Beaver Meadows
Bedford
Bellevue
Benson
Berlin
Bessemer
Birmingham
Blairsville
Blakely
Blawnox
Blooming Valley
Bowmanstown
Bridgewater
Broad Top City
Brockway
Brookville
Burgettstown
Burnside
Butler
Callery
Cambridge Springs
Canonsburg
Carmichaels
Carnegie
Catasauqua
Centreville
Central City
Centre Hall
Chalfant
Chambersburg
Charleroi
Cherry Valley
Clarks Summit
Claysville
Clintonville
Conneaut Lake
Coraopolis
Corsica
Crafton
Creekside
Cross Roads
Dallastown
Darlington
Deemston
Delaware Water Gap
Delmont
Derry
Driftwood
Du Bois
Duboistown
Dunmore
Dupont
Duryea
East Bangor
East Rochester
East Side
East Stroudsburg
Elgin
Elizabeth
Ellport
Ernest
Exeter
Export
Fallston
Fayette City
Ferndale
Ford Cliff
Fountain Hill
Franklin
Freemansburg
Freeport
Georgetown
Girard
Glassport
Glendon
Glen Hope
Glen Rock
Gordon
Grampain
Greensburg
Greenville
Grove City
Haysville
Hookstown
Houston
Houtzdale
Hughesville
Hyde Park
Jackson Center
Jeddo
Jessup
Jonestown
Juniata Terrace
Lake City Knox
Landingville
Larksville
Leechburg
Leetsdale
Lewis Run
Loganton
Lumber City
Mcewensville
Mckean
Manchester
Manor
Manorville
Marion Center
Marion Heights
Mars
Martinsburg
Mechanicsville
Mifflin
Mifflinburg
Mifflintown
Millersville
Monessen
Morton
Mount Carbon
Mount Pleasant
Mount Pocono
Munhall
Nesquehoning
New Centerville
New Columbus
New Galilee
Newry
North Apollo
North Catasauqua
North Charleroi
North East
North York
Nuangola
Oakmont
Oil City
Oklahoma
Orangeville
Orrstown
Palmerton
Patterson Heights
Pen Argyl
Petrolia
Pine Grove
Pitcairn
Pleasantville
Polk
Port Carbon
Port Clinton
Portersville
Port Vue
Pringle
Rainsburg
Ramey
Red Lion
Rices Landing
Rimersburg
Roaring Spring
Rochester
Salladasburg
Sandy Lake
Sankertown
Scottdale
Sewickley
Shanksville
Sharpsville
Sheakleyville
Sligo
Slippery Rock
Smithton
South Bethlehem
South Greensburg
South Philipsburg
Southwest Greensburg
South Williamsport
Stockdale
Stoneboro
Sugarcreek
Sugar Grove
Sugar Notch
Summit Hill
Suterville
Taylor
Thompsontown
Tionesta
Troy
Turbotville
Turtle Creek
Ursina
Vandling
Verona
Walnutport
Waterford
Waynesboro
Wesleyville
West Alexander
West Leechburg
West Mayfield
West Newton
West Wyoming
White Haven
Wilson
Wind Gap
Winterstown
Woodbury
Youngsville
Youngwood
Zelienople

South Carolina

Andrews
Barnwell
Blythewood
Clinton
Gray Court
Hampton
Hardeeville
Hickory Grove
Hilda
Jefferson
Johnsonville
Laurens
Nichols
Ninety Six
Parksville
Pendleton
Reevesville
Richburg
Ruby
Salem
Scranton
Seneca
Turbeville
Waterloo
Williamston
Williston

South Dakota

Altamont
Lake City
Mitchell
Naples

Tennessee

Algood
Arlington
Ateka
Bradford
Bruceton
Bulls Gap
Burlison
Byrdstown
Carthage
Celina
Chapel Hill
Charlotte
Collinwood
Cookeville
Decatur
Decaturville
Dover
Dunlap
Estill Springs
Garland
Greeneville
Gruetli-Laager
Halls
Hohenwald
Humboldt
Huntingdon

Jasper
Kimball
Lafayette
Lawrenceburg
Lexington
Linden
Mcewen
Mclemoresville
Median
Milan
Milledgeville
Millington
Mongeagle
Monterey
New Hope
Obion
Oneida

Texas

Aquilla
Aspermont
Atlanta
Avinger
Blanco
Bogata
Broaddus
Como
Cushing
Daingerfield
Devers
Elgin
Eustace
Farmersville
Forsan
Grey Forest
Haskell
Hughes Springs
Lampasas
Mcgregor

Utah

Charleston
Enterprise
Fairview
Fountain Green
Green River
Heber
Junction
Laketown

Vermont

Derby Line

Virginia

Blacksburg
Clinton
Coeburn
Crewe
Franklin
Front Royal
Glasgow
Grundy
Independence
Jarratt
Jonesville
Keysville
Marion
Middletown
Narrows

Washington

Aberdeen
Airway Heights
Arlington
Battle Ground
Brewster
Bridgeport
Buckley
Bucoda
Camas
Cashmere
Castle Rock
Chehalis
Cheney
Orme
Parsons
Rogersville
St Joseph
Savannah
Selmer
Shelbyville
Trezevant
Troy
Vanleer
Watertown
Waverly
Waynesboro
White Pine
Winchester
Woodbury
Woodland Mills

Malaoff
Maypearl
Omaha
Ore City
Palacios
Palm Valley
Queen City
Rancho Viejo
Rose City
Rusk
Slaton
Somerset
Sterling City
Sweetwater
Taft
Tahoka
Trinidad
Weatherford
Weimar
Whitney

Mayfield
Midway
Mona
Nephi
Panguitch
Snowville
Wallsburg

Vergennes

Onley
Pearisburg
Pembroke
Port Royal
Radford
Rural Retreat
St Paul
South Hill
Stephens City
Tazewell
Troutdale
Victoria
Whitestone
Wytheville

Chewelah
Connell
Cosmopolis
East Wenatchee
Eatonville
Elma
Entiat
Grandview
Granite Falls
Harrah
Hoquiam
Kahlotus
Krupp
La Conner
Lind
Marcus
Marysville
Mesa
Metaline Falls
Millwood
Monroe
montesand
Nooksack
Okanogan
Omak
Orting
Othello
Pateros
Port Angeles
Port Orchard
Port Townsend

West Virginia

Athens
Bancroft
Barboursville
Barrackville
Beckley
Bethany
Bruceton Mills
Dunbar
Franklin
Gary
Grant Town
Hamlin
Harman
Hillsboro
Lewisburg
Marmet
Mason
Middlebourne
Montgomery

Wisconsin

Abbotsford
Athens
Birchwood
Black River Falls
Blair
Brokaw
Bruce
Cambria
Casco
Clinton
Cochrane
Colby
Coloma
Eleva
Endeavor
Exeland
Fall River
Fenwood
Footville
Galesville
Gillett
Greenwood
Hancock
Hawkins
Hixton
Independence
Jefferson
Kellnersville
Lac La Belle
Lake Delton
Lena
Lime Ridge
Loganville
Lowell
Loyal

Wyoming

Afton
Baggs
Encampment
Pullman
Puyallup
Quincy
Ritzville
Royal City
Sequim
Snohomish
South Bend
Stanwood
Sunnyside
Twisp
Union Gap
Walla Walla
Warden
Washougal
Westport
Woodland

Northfork
Oceana
Pineville
Point Pleasant
Rupert
St Marys
Shepherdstown
Shinnston
Smithers
South Charleston
Stonewood
Summersville
Triadelphia
Valley Grove
Vienna
Wellsburg
West Milford
White Sulfur Springs
Winfield

Maribel
Markesan
Montreal
Mosinee
Mont Calvary
New Lisbon
North Freedom
Osseo
Park Falls
Poplar
Potter
Poynette
Princeton
Redgranite
Reedsburg
Rib Lake
St Naziaz
Sheldon
Shell Lake
Solon Springs
Spencer
Stoddard
Stratford
Suring
Thorp
Trempealeau
Two Rivers
Unity
Washburn
West Baraboo
Westfield
Wild Rose
Wisconsin Dells
Wyocena

Meeteetse
Ydder

IV. The following list contains the names of those small cities which met the minimum standards of physical and economic distress as of the March 1, 1983 Notice but which do not meet the current minimum standards. The final date for submission of an application by the cities listed below is August 31, 1984.

Alabama

Belk
Brookside
Kinsey
Phenix City
Ranburne
Sumiton
Webb

Alaska

Angoon
Haines
St. Paul
Yakutat

Arizona

Cottonwood
Gila Bend

Arkansas

Bentonville
Bergman
Bono
Brookland
Cash
Cave City
Cherry Valley
Crossett
Danville
Dardanelle
Decatur
Elm Springs
Emmet
Fifty Six
Fouke
Fountain Hill
Harrison
Heber Springs
Hope
Huntsville
Huttig
Jerome
Lake City
London
Lonoke
Sulphur Rock
Ward
Wilton
Wynne

California

Maywood
San Fernando

Colorado

Bennett
Burlington
Evans
Fraser
Hotchkiss
Johnstown
Milliken
Mountain View
Pitkin

Delaware

Middletown

Florida

Hampton
Inverness
Lake Butler
Sanford
Sebring
Trenton
Williston

Georgia

Avalon
Berlin
Blairsville
Buford
Calhoun
Carrollton
Centralhatchee
Clayton
Donalsonville
Doraville
Gumbranch City
Hagan
Hamilton
Homeland
Ila
La Fayette
Loganville
Martin
Milledgeville
North High Shoals
Oak Park
Reidsville
Resaca
Ringgold
Vidalia
Walnut Grove
Woolsey

Idaho

Blackfoot
Bliss
Bloomington
Burley
Caldwell
Eden
Marsing
Middleton
Onaway
Preston
Stanley

Illinois

Argenta
Assumption
Batchtown
Bone Gap
Greenview
Makanda
Niantic
Valmeyer

Indiana

Darlington

Iowa

Bancroft
Bronson
Iowa Falls
Lebertyville
Panama
Pisgah
Ruthven
Stockton
Walnut

Kansas

Beattie
Burr Oak
Cambridge
Cottonwood Falls
Ellis
Emmett
Hepler
Herndon
Holcomb
Johnson City
Manhattan
Raymond
Rolla
Rush Center
Sabetha
Seward
Stark
Tipton
Zenda

Kentucky

Burkesville
Nicholasville
Walton

Louisiana

Carencro
Dubach
Estherwood
Iota

Maryland

Eagle Harbor

Minnesota

Clinton
Good Thunder
Grygla
Wilton

Mississippi

Abbeville
Caledonia
Enterprise
Flowood
Hatley
Jumpertown
Lake
Meadville
Pachuta
Ripley
Sumrall
Tremont

Missouri

Bourbon
Brashear
Cape Girardeau
Chula
Duenweg
Hawk Point
Hermitage
Hollister
Kingsville
Knob Noster
Missouri City
Otterville
Pilot Grove
Wooldridge

Montana

Belt
Richey
West Yellowstone

Nebraska

Amherst
Brainard
Niobrara
Raymond
Rockville
Union

New Jersey

Pine Hill
Sussex

New Mexico

Cuba
Hatch
Logan
Truth or Consequences

New York

Arkport
Forestville
Palmyra
Richburg
Windsor

North Carolina

Drexel
La Grange
Maggie Valley
Selma
Stovall
Winterville

North Dakota

Balta
Binford
Dazey
Dodge City
Fullerton
Mooreton
Ray
Regent
Ross
Tolna

Ohio

Newburgh Heights
Rushville
South Bloomfield
Xenia

Oklahoma

Aline
Arapaho
Blackburn
Broken Bow
Cache
Cleo
Colbert
Colcord
Cole
Cooperton
Covington
Dibble
Disney
Gans
Garvin
Greenfield
Healdton
Jones
Locust Grove
New Alluwe
Newkirk
Ochelata
Okay
Ravia
Roosevelt
Sparks
Thackerville
Tushka
Valliant
Verden
Watonga

Oregon

Independence
Jefferson
Ontario
Phoenix
Siletz

Pennsylvania

Green Lane
Highspire
West Conshohocken

South Carolina

Bonneau
Eastover
Fountain Inn
Landrum
Summit

South Dakota

Lebanon
Ramona
Sturgis
Warner

Tennessee

Gordonsville
Jackson
Maryville

Texas

Booker
Chandler
Corrigan
Bean
Devine
Eagle Lake
Edgewood
Elkhart
Emory
Fairfield
Ganado
Giddings
Hale Center
Hallsburg
Hallsville
Jourdanton
Kenedy
Kirbyville
Kyle
Livingston
Mount Vernon
Nazareth
New Deal
New Waverly
Oglesby
Orange Grove
Point
Post
Post Oak Bend City
Reklaw
Roscoe
Hoss
San Felipe
Sanger
San Patricio
Silsbee
Smyer
Tatum
Texhoma
Tioga
Tuscola
Venus
Waller
Wells
Willis
Wilson
Winona

Utah

Cedar City
Garden City
Minersville
Monroe
Oak City
St. George
Santa Clara
Springville

Virginia

Bloxom
Christiansburg
Hillsboro
Hillsville

Washington

Ferndale

West Virginia

Bath

Wyoming

Lovell

V. The following list contains the names of those small cities which met the minimum standards of physical and economic distress as of the June 8, 1982 Notice but which do not meet the current minimum standards. The final date for submission of an application by the cities listed below is August 31, 1984.

Alabama

Adamsville
Avon
Berry
Branchville
Cowarts
Eva
Crimes
Leesburg
Malvern
Monroeville
Owens Cross Roads
Shilo
Valley City
Wilmer

Alaska

Akiachak
Aleknagik
Ambler
Hoonah
Hydaburg
Kake
Klowock
Nome
Ouzinkie
Pelican
Port Heiden
Wainwright

Arizona

Fredonia
Prescott
Tolleson

Arkansas

Alexander
Austin
Belefonte
Bethel Heights
Centerton
Central City
Flippin
Greenland
Hartman
Hickory Ridge
Highfill
Lakeview
Little Flock
Lowell
McCaskill
Mineral Springs
Pleasants Plains
Sedgwick
Siloam Springs
Stuttgart
Tinsman
Tontitown
Weiner
Weldon West Fork
Whelen Springs

California

Artesia
Calistoga
Gradena
Healdsburg
Newman

Colorado

Akron
Black Hawk
Crawford
Greed
Crook
De Beque
Deer Trail
Durango
Eads
Eagle
Eaton
Erie
Fairplay
Fleming
Fort Morgan
Genoa
Grand Junction
Haxtun
Hillrose
Jamestown

Leadville
Lyons
Manitou Springs
Merino
Montrose
New Castle
Norwood

Connecticut

Derby

Delaware

Dagsboro
Felton
Newport

Florida

Belle Glade
Dade City
Dunnellon
Grand Ridge
Green Ridge Spring
Greenwood
Jay
McIntosh
Newberry
Ocean Breeze Park
Oviedo

Georgia

Adel
Alston
Arnoldsville
Bellville
Bethlehem
Blythe
Bogart
Chickamauga
Cleveland
Commerce
Corinth
Culloden
Demorest
Dillard
Douglas
Dublin
Funston
Gainesville
Good Hope
Gray
Hapeville
Haralson
Hiawassee
Hoschton
Jakin
Jefferson
Jesup

Arimo
Basalt
Cambridge
Culdesac
Dietrich
Filer
Franklin
Georgetown
Hamer
Hazelton
Juliaetta
Kimberly

Addieville
Albion
Allenville
Altamont
Amboy
Anchor
Anna
Arenzville
Arthur
Ashmore

Nucla
Paonia
Prospect Heights
Severance
Stratton
Vons
Wray

Stonington

Ocean View
Selbyville
Viola

Pahokee
Palm Shores
Penney Farms
Pomona Park
Raiford
Shalimar
Sneads
St. Cloud
St. Lucie
Weeki Wachee Springs

Maysville
Milan
Moreland
Morgan
Mount Zion
Mountain City
Nicholson
Nunez
Orchard Hill
Pendergrass
Pine Mountain
Ray City
Roopville
Sharpsburg
Soperton
Statesboro
Swainsboro
Tallulah Falls
Thunderbolt
Trenton
Tunnel Hill
Turin
Twin City
Valdosta
Van Wert
Watkinsville
Zebulon

Idaho

Malad City
Murtaugh
Paris
Parker
Paul
Peck
Richfield
St. Charles
State Line
Swan Valley
Winchester

Illinois

Athens
Atkinson
Basco
Beardstown
Bellmont
Biggsville
Bradford
Browns
Bryant
Buckley

Campbell Hill
Canton
Cantrall
Carthage
Chaplin
Chebanse
Cherry
Cissna Park
Coal City
Compton
Coulterville
Crainville
Cullom
Dallas City
De Land
De Witt
Divernon
Dixon
Donovan
Dunfermline
East Cape Girardeau
East Dubuque
Elizabeth
Elk Hart City
Ellisville
Ellsworth
Elvaston
Emden
Erie
Evansville
Farmersville
Ferris
Findlay
Flanagan
Foosland
Franklin Grove
Fults
Galena
Gays
Golden Gate
Good Hope
Granite City
Grayville
Hammond
Hindsboro
Hollowayville
Illiopolis
Industry
Ipava
Jacksonville
Johnsonville
Kaskaskia
Kempton
Kenney
Kincaid
La Fayette
Lakemoor
Lanark
Lima
Lincoln
Little York
Lockport
Lomax
Lostant
Lyndon
Malta
Martinton
Mason City
Mattoon
McCook
Medora
Mill Creek
Milledgeville

Indiana

Akron
Attica
Battle Ground
Bloomingdale
Boonville
Boswell
Burns Harbor
Dayton
Elberfeld
Elizabeth

Moorisonville
Mount Auburn
Mount Pulaski
Naplate
Naples
Neponset
New Baden
New Bedford
New Berlin
Newman
Newton
Nilwood
Nokomis
Nora
Oakford
Odell
Ogden
Old Mill Creek
Palestine
Parkersburg
Paxton
Pearl City
Pecatonica
Perry
Peru
Petersburg
Pierron
Pinckneyville
Pingree Grove
Pittsfield
Pontoosuc
Prairie du Rocher
Raritan
Raymond
Richmond
Rock Falls
Seunemin
Schram City
Sesser
Shelbyville
Sheridan
Sparland
Spring Bay
St. Francisville
St. Jacob
St. Peter
Ste Marie
Stockton
Stonington
Strasburg
Sublette
Symerton
Taylorville
Thomson
Tilden
Toledo
Tovey
Urbain
Valier
Venedy
Vergennes
Villa
Walnut Hill
Walshville
Waltonville
Washburn
Waterman
Waverly
Wellington
Windsor
Winslow
Woodland
Yale

Fort Branch
Fremont
Hazleton
Jamestown
Lakeville
Lanesville
Larwill
Leesburg
Mackey
Menton

Millhousen
Monterey
Mout Ayr
Mount Vernon
New Harmony
North Salem
North Webster
Owensville
Oxford
Patoka
Petersburg
Poneto
Poseyville

Ackworth
Adair
Algona
Alta
Alta Vista
Alton
Anita
Aplington
Archer
Arnolds Park
Arthur
Aspinwall
Audubon
Avoca
Bassett
Battle Creek
Beacon
Beaman
Beaver
Bennett
Benton
Bertram
Birmingham
Blairsburg
Blanchard
Bouton
Braddyville
Brayton
Breda
Bristow
Buffalo
Bussey
Calmar
Calumet
Cascade
Charlton
Cherokee
Chester
Churdan
Clarion
Clarksville
Clio
Coon Rapids
Coppock
Coulter
Cresco
Creston
Cushing
Dana
Dedham
Defiance
Delmar
Dexter
Doon
Dow City
Dunkerton
Eddyville
Edgewood
Eldora
Elgin
Elk Horn
Elkader
Elkport
Emerson
Essex
Fairfield
Farley
Farmersburg
Farmington
Fertile

Princeton
Russellville
Sandborn
Shamrock Lakes
Somerville
Spurgeon
St. Paul
Staunton
Stilesville
Trafalgar
Utica
Vera Cruz
Westport

Iowa

Floyd
Fort Dodge
Fremont
Garber
Garnaville
Garwin
Gibson
Glidden
Goose Lake
Gowrie
Grand Mound
Granville
Greenfield
Guernsey
Guttenberg
Hamburg
Hancock
Hansell
Harcourt
Harper
Hartley
Hartwick
Hawarden
Hazleton
Henderson
Hepburn
Holland
Holy Cross
Hospers
Hubbard
Humboldt
Irwin
Jamaica
Jewell Junction
Kanawha
Keosauqua
Keswick
Kimballton
Kingsley
Kirkman
Ladora
Lake City
Lake View
Lakota
Larrabee
Latimer
Laurens
Ledyard
Lehigh
Leighton
Lenox
Lester
Lewis
Lidderdale
Lockridge
Lowden
Luana
Luther
Lynnville
Malcom
Mallard
Maloy
Malvern
Manilla
Manly
Manning
Manson
Marengo
Matlock
Maynard

Melvin
Meriden
Merrill
Meservey
Milford
Millesburg
Millville
Minburn
Minden
Mingo
Mitchell
Moneta
Monticello
Montour
Moorhead
Moorland
New Hampton
New Hartford
Newell
Newton
Nodaway
North Buena Vista
North English
Odebolt
Ogden
Olds
Olin
Oneida
Orchard
Osage
Osceola
Osterdock
Ottosen
Owasa
Oxford
Packwood
Palmer
Parkersburg
Patterson
Paullina
Plan
Pleasantville
Prescott
Ouasqueton
Radcliffe
Rake
Ralston
Randalia
Randall
Red Oak
Redfield
Remsen
Riceville
Rickardsville
Ridgeway
Rippey
Rock Valley
Rockwell
Rockwell City
Rodman
Roland
Rolfe
Rossie
Rowan
Royal Rutland
Sac
Salix
Sanborn
Sandyville
Schaller
Shambaugh
Sheffield
Shenandoah
Sherrill
Silver City
Soldier
Spring Hill
St. Charles
St. Marys
Stanley
Stanton
Stockport
Stuart
Sully
Summer
Superior
Swea City
Terril
Thornton
Titonka
Toledo
Truesdale
Truro
Turin
Union
University Park
Van Horne
Varina
Wallingford
Wapello
Webb
Webster City
West Band
Westgate
Westside
Winfield
Woodbine
Woolstock
Worthington
Wyoming
Yorktown
Zearing

Kansas

Admire
Agra
Alma
Ata Vista
Altamont
Alton
Arkansas City
Ashland
Atlanta
Belle Plaine
Belleville
Belvue
Benton
Beverly
Bird City
Bogue
Bunker Hill
Burden
Burdett
Burlingame
Burlington
Burrton
Bushton
Canton
Chanute
Chase
Cimarron
Claflin
Clayton
Coats
Coldwater
Conway Springs
Cullison
Cunningham
Danville
Deerfield
Delia
Dexter
Douglass
Edmond
Effingham
El Dorado
Ellsworth
Esbon
Eskridge
Fowler
Frankfort
Frontenac
Galatia
Garden Plain
Garfield
Garnett
Gas
Gem
Girard
Glen Elder
Goessel
Grainfield
Greeley
Greensburg
Grinnell
Gypsum
Hanston
Harris
Harveyville
Havana
Havensville
Hiawatha
Hollenberg
Holton
Hope
Hunnewell
Hutchinson
Independence
Iola
Jetmore
Kanopolis
Kensington
La Cygne
Lancaster
Lebo
Lecompton
Leon
Liberty
Linsborg
Linwood
Little River
Long Island
Longton
Madison
Manter
Marion
Matfield Green
Mayetta
McFarland
Moran
Mount Hope
Nashville
Neodesha
Neosho Rapids
Ness City
New Albany
Ogden
Oketo
Osage
Osawatomie
Oskaloosa
Overbrook
Oxford
Palco
Pomona
Potwin
Pretty Prairie
Quinter
Ransom
Reading
Riley
Rozel
Satanta
Sedan
Seneca
Simpson
Smolan
Speed
St. George
St. Marys
St. Paul
Stockton
Syracuse
Timken
Tribune
Uniontown
Vermillion
Victoria
Viola
Wakeeney
Waterville
Webber
Westphalia
Willis
Wilmore
Winfield
Woodbine

Kentucky

Allensville
Burnside
Caseyville
Centertown
Dycusburg
Fairview
Hanson
Hollyvilla
Kenton Vale
Mackville
Mentor
Morganfield
Powderly
Sebree
Slaughterville
Strathmoor Village
Sturgis
Uniontown
Waverly
Whitesville
Williamstown
Wingo

Louisiana

Addis
Athens
Alanta
Benton
Breaux Bridge
Brusly Landing
Cankton
Covington
Downsville
Duson
Eunice
Hessmer
Ida
Killian
Mermentau
Mooringsport
Noble
Norwood
Port Allen
St. Martinville
Vinton

Maine

Bath
Ellisworth
Saco

Maryland

Accident
Burkittsville
Chesapeake Beach
Clear Spring
Glen Echo
Keedysville
Myersville
New Market
Oxford
Preston
Seat Pleasant
Woodsboro

Massachusetts

Melrose
Newburyport
Peabody

Michigan

Augusta
Brooklyn
Chatham
Chesaning
Free Soil
Grand Haven
Kaleva
Kent City
Kingston
Lake Angelus
Lake Ann
Lake City
Mayville
Negaunee
Pentwater
Richland
South Rockwood
Zeeland

Minnesota

Adams
Albert Lea
Alden
Appleton
Ashby
Atwater
Austin
Balaton
Barnesville
Beaver Bay
Beaver Creek
Benson
Bird Island
Blooming Prairie
Brownsville
Brownton
Buhl
Burtrum
Butterfield
Caledonia
Cambell
Chokio
Clarkfield
Clearwater
Cokato
Comstock
Dakota
Darwin
Dassel
Dawson
Dexter
Dilworth
Donnelly
Doran
Dover
Dovray
East Gull Lake
Easton
Eitzen
Elba
Elgin
Elizabeth
Ellsworth
Elysian
Fountain
Foxhome
Franklin
Freeborn
Garrison
Geneva
Gibbon
Glenville
Graceville
Granada
Greenwald
Halstad
Hancock
Hartland
Hendrum
Holdingford
Iona
Isle
Ivanhoe
Kasota
Kiester
Kinbrae
Kinney
Lafayette
Lake Henry
Lake Shore
Le Sueur
Leonidas
Lester Prairie
Lindstrom
Long Prairie
Lyle
Madelia
Manchester
Mantorville
Mazeppa
Medicine Lake
Melrose
Miesville
Milaca
Milroy
Montgomery
Monticello
Morristown
Morton
Myrtle
New Market
Nielsville
North Redwood
Ormsby
Panesville
Pease
Pennock
Pine Island
Preston
Princeton
Renville
Rock Creek
Roosevelt
Round Lake
Rush City
Rushmore
Russell
Silver Lake
Sleepy Eye
South Haven
South International Falls
St. Charles
St. Joseph
Storden
Taylors Falls
Tintah
Trosky
Urbank
Utica
Viking
Wahkon
Welcome
Wendell
Wilder
Willernie
Winnebago
Winton
Wolverton
Wood Lake
Woodstock

Mississippi

Booneville
Learned
Liberty
Morton
Newhebron
Oxford
Sebastopol
Sylarena
Tillatoba
Walthall

Missouri

Advance
Alma
Arbela
Aullville
Auxvasse
Baker
Bertrand
Bethel
Blackburn
Blairstown
Bloomsdale
Bosworth
Brooklyn Heights
Cairo
Cameron
Center
Clarkdale
Clearmont
Clifton Hill
Concordia
Cottleville
Cowgill
De Kalb
Dearborn
Deerfield
Drexel
Edgar Springs
Ellington
Elmira
Flinthill
Ford City
Forest City
Freeman
Gibbs
Gunn City
Hallsville
Halltown
Hartwell
Harwood
Herculaneum
High Hill
Iatan
Jasper
Kidder
Kimmswick
Laclede
Lamar Heights
Leonard
Levasy
Lincoln
Mackenzie
Maitland
Marceline
Marshall
Mendon
Merwin
Milo
Mokane
Monett
Monore City
Monticello
Morresville
Morrisville
Napoleon
New Franklin
New London
Northwye
Novelty
Oregon
Orrick
Parksdale
Parkville
Passaic
Phelps City
Pleasant Hill
Pleasant Hope
Polo
Portage Des Sioux
Renick
Rhineland
Richmond
Rock Port
Rosebud
Rothville
Rushville
Salisbury
Savannah
St. Cloud
Ste Genevieve
Sturgeon
Sunrise Beach
Taos
Tarsney Lakes
Theodosia Hills
Tina
Tindall
Tipton
Tracy
Troy
Turney
Urich
Weatherby
Wellington
Wentworth
Westboro
Weston
Wheeling
Whitewater
Windsor
Wittenberg

Montana

Big Tumbler
Conrad
Culbertson
Cut Bank
Dodson
Fairfield
Fairview
Fort Benton
Froid
Glasgow
Livingston
Malta
Moore
Nashua
Opheim
Valier
Virginia City

Nebraska

Allen
Anselmo
Atkinson
Avoca
Axtell
Bartley
Bassett
Battle Creek
Bee
Beemer
Bellwood
Bennet
Bloomfield
Bridgeport
Broken Bow
Bruning
Bruno
Byron
Cairo
Cambridge
Carroll
Center
Chapman
Chester
Clatonia
Colon
Cook
Cordova
Cotesfield
Creston
Crofton
Dalton
Danbury
Davenport
David City
Daykin
De Witt
Deshler
Dodge
Douglas
Duncan
Edison
Elba
Elm Creek
Elmwood
Elyria
Emerson
Endicott
Exeter
Fairfield
Fairmont
Fort Calhoun
Franklin
Friend
Fullerton
Gibbon
Giltner
Gothenburg
Gross
Gurley
Hamlet
Hampton
Hartington
Hayes Center
Henry
Hemingford
Hoskins
Inglewood
Jansen
Kearney
Kenesaw
Kennard
Kilgore
Lindsay
Lodgepole
Loomis
Lyons
Magnet
Marquette
Maywood
McGrew
Meadow Grove
Merna
Milligan
Mitchell
Monore
Moorefield
Morse Bluff
Murray
Naper
Neligh
Nora
North Bend
Obert
Orchard
Ord
Oshkosh
O'Neill
Petersburg
Pickrell
Pierce
Pleasant Dale
Pleasanton
Roca
Rogers
Ruskin
Saronville
Shelton
Shickley
Shubert
Sidney
Smithfield
Spencer
Springview
St. Helena
Stamford
Stanton
Steele City
Stella
Stomsburg
Sutherland
Sutton
Swanton
Talmage
Tamora
Taylor
Trenton
Trumbull
Uehling
Utica
Valparaiso
Verdon
Virginia
Wahoo
Weeping Water
Wellfleet
West Point
Wilber
Wilcox
Winslow
Wood Lake
Wymore

Nevada

Gabbs
Lovelock

New Jersey

Alpha
Branchville
Carteret
Clayton
Corbin City
Farmingdale
Princeton
Red Bank
Rockleigh
Roosevelt
South Belmar
South River

New Mexico

Dora
Hope
Moriarty
Texico
Williamsburg

New York

Bemus Point
Brocton
Caledonia
Cambridge
Clinton
Cooperstown
Corning
Dering Harbor
East Bloomfield
Elmsford
Farmingdale
Gilbertsville
Grand View-On-Hudson
Hillburn
Kenmore
Liverpool
Lynbrook
Madison
Mayville
Mexico
Millbrook
Mount Kisco
Nelsonville
Newark Valley
Nyack
Oneida Castle
Otego
Phelps
Port Dickinson
Prospect
Sag Harbor
Sandy Creek
Schaghticoke
Scotia
Sherrill
Sinclairville
Sloatsburg
Solvay
South Corning
Tuckahoe
Unadilla
Westhampton Beach

North Carolina

Albemarle
Bayboro
Beargrass
Canton
Carthage
Catawba
Cherryville
Columbus
Creedmoor
Crossnore
East Bend
Franklin
Goldston
Granite Quarry
Grifton
Harrellsville
Highland
Hookerton
Huntersville
Indian Beach
Lake Lure
Mesic
Mount Pleasant
Newton Grove
Oakboro
Oriental
Pantego
Pinebluff
Ramseur
Rolesville
Seagrove
Southern Pines
Stanley
Stem
Swansboro
Waxhaw
Webster
Wilkesboro
Yadkinville

North Dakota

Alsen
Anther
Ardoch
Ayr
Balfour
Bantry
Belfield City
Benedict
Berwick
Bisbee
Brocket
Bucyrus
Calvin
Canton City
Carrington
Cayuga
Christine
Cleveland
Coleharbor
Conway
Davenport
Devils Lake
Dunn Center City
Dwight
Egeland
Enderlin
Epping
Fairmount
Fingal
Gackle
Galesburg
Gardner
Glen Ullin
Golden Valley City
Halliday City
Hamilton
Hannaford
Hove Mobile Park
Jamestown
Killdeer City
Knox
La Moure
Lankin
Lansford
Larson
Lisbon
Litchville
Luverne
Maddock
Mapleton
Marion
Mercer
Merricourt
Milnor
Minnewaukan
Mountain
Mylo
Nekoma
New Rockford
New Salem
Niagara
Northwood
Osnabrock
Page
Palermo
Pillsbury
Rhame
Richardson City
Rocklake
Rugby
Sawyer
Sentinel Butte
Sharon
Sherwood
South Heart City
Stanley
Tower City
Valley Township
Ventura
Walcott
Wales
Warwick
Wildrose
Wolford
Woodworth
Wyndmere
Zap City

Ohio

Aberdeen
Aquilla
Arlington
Baltic
Bellevue
Benton Ridge
Blanchester
Bolivar
Burkettsville
Butlerville
Carroll
Castalia
Chippewa-on-the-Lake
Clayton
Convoy
Cygnet
Deer Park
East Sparta
Fairfax
Fort Jennings
Galena
Gilboa
Gnadenhutten
Grand River
Jacksonville
Jenera
Jeromesville
Jerusalem
Johnstown
Killbuck
Lancaster
Leesville
Lindsey
Lithopolis
London
Lore City
Marblehead
Metamora
Miller City
Millersport
Mount Blanchard
Mutual
New Albany
New Knoxville
New Rome
New Vienna
New Weston
Ney
North Bend
Octa
Parral
Patterson
Pleasantville
Prospect
Rawson
Spencer
Summitville
Thurston
Washingtonville
Wilmington

Oklahoma

Addington
Alex
Alva
Ames
Amorita
Ardmore
Arnett
Bernice
Bessie
Blanchard
Bluejacket
Bray
Buffalo
Calumet
Canute
Cherokee
Chickasha
Claremore
Colony
Crescent
Cushing
Dickson
Dover
El Reno
Fallis
Foraker
Gage
Goltry
Hickory
Hinton
Hichcock
Hunter
Kiefer
Leedey
Loveland
Loyal
Medford
Millerton
Mounds
Mutual
Nardin
Okarche
Orlando
Perkins
Renfrow
Reydon
Ringwood
Rocky
Roland
Shady Grove
Shady Point
Silo Town
South Coffeyville
Sterling
Stratford
Strong City
Tecumseh
Thomas
Tonkawa
Tribbey
Vici
Warner
West Siloam Springs
Westport
Wynona

Oregon

Adrian
Atelope
Barlow
Donald
Hubbard
Ione
Lostine
Manzanita
Silverton
Summerville
Sumpter
Waterloo
Willamian

Pennsylvania

Adamstown
Avalon
Beavertown
Bendersville
Biglerville
Braddock Hills
Brisbin
Bruin
Burlington
Cherry Tree
Cokeburg
Collegeville
Connoquenessing
Conway
Dallas
Dormont
Dravosburg
Duncannon
Dunley
Eagles Mere
East Berlin
Eddystone
Evans City
Fairview
Foxburg
Franklin City
Glenolden
Goldsboro
Gratz
Hallam
Homor City
Homewood
Hunker
Jacksonville
Jefferson
Karns City
Kenhorst
Laporte
Lincoln
Little Meadows
Marietta
McEwensville
McKean
Midway
Mount Penn
New Baltimore
New Eagle
New Washington
Newburg
North Belle Vernon
Pennsburg
Perkasie
Roscoe
Royersford
Seven Valleys
Smicksburg
Snydertown
Springdale
St. Marys
Steelton
Summerhill
Townville
Trafford
Trainer
Tunnelhill
Utica
Versailles
Waymarat
West Sunbury
Wheatland
Whitaker
Williamstown
Wrightsville
Yorkana

South Carolina

Beaufort
Chapin
Conway
Cordova
Easley
Hemingway
Honea Path
Pacolet
Prosperity
Ridgeway
Santee
Scotia
Smyrna
Stuckey
West Columbia

South Dakota

Arlington
Aurora
Beresford
Big Stone City
Bison
Bruce
Bushnell
Cavour
Central City
Chancellor
Colman
Corsica
Cottonwood
Cresbard
Dell Repids
Dimock
Doland
Elk Point
Estelline
Fairview
Farmer
Flandreau
Florence
Gayville
Hartford
Hecla
Henry
Hudson
Humboldt
Irene
Kadoka
Kennebec
La Bolt
Lead
Lennox
Lily
Loyalton
Milbank
Monroe
Mound City
Northville
Onaka
Onida
Ree Heights
Rosholt
Roswell
Salem
Sinai
Stratford
Tulare
Vilas
Volga
White Rock

Tennessee

Blaine
Braden
Cedar Hill
Franklin
Gadsden
Lakeland
Lynchburg
Medon
Michie
Normandy
Oliver Springs
Piperton
Pittman Center
Rockford
Sevierville
Soddy-Daisy
South Carthage
Townsend

Texas

Alice
Alvarado
Alvord
Ames
Anahuac
Anton
Athens
Barry
Barstow
Bayside
Blackwell
Bonney
Bowie
Boyd
Bronson
Bronte
Brownsboro
Buda
Centerville
Chico
China
Cibolo
Clarksville City
Cleveland
Coahoma
Coffee City
Coldspring
Crandall
Dell City Dorchester
Eastland
Edom
Eldorado
Follett
Fisco
Gallatirn
Gray
George West
Gholson
Gilmer
Godley
Golinda
Gordon
Grandfalls
Grayburg
Gunter
Hart
Haslet
Henrietta
Huntington
Jasper
Jewett
Johnson City
Joshua
Krum
Lake Worth
Lamesa
Latexo
Lavon
Lawn
Lincoln Park
Lorenzo
Lovelady
Lowery Crossing
Marietta
Millsap
Mustang
Nome
O'Brien
Odem
Onalaska
Pattison
Pittsburg
Plesanton
Plum Grove
Point Blank
Ponder
Poth
Pottsboro
Poynor
Quinlan
Quintana
Rice
Riesel
Rio Vista
Riverside
Sadler
Sansom Park Village
Savoy
Seagraves
Sealy
Stratford
Surfside Beach
Three Rivers
Tom Bean
Trent
Walnut Springs
Weinert
West
Wharton
Winfield
Woodville

Utah

Altamont
Amalga
Bear River City
Cannonville
Clarkston
Delta
Garland
Helper
Henefer
Henrieville
Hinckley
Honeyville
Joseph
Kamas
Leamington
Lewiston
Lindon
Lyn
Manila
Marysvale
Millville
Orderville
Paragonah
Perry
Plymouth
Redmond
Richfield
Springdale

Vermont

Hyde Park
Newfane
Readsboro
Saxtons River

Virginia

Belle Haven
Berryville
Big Stone Gap
Boyce
Eastville
Elkton
Fincastle
Floyd
Madison
New Market
Occoquan
Purcellville
Rick Creek
South Boston
Staunton
Stuart
Surry
Warrenton
Washington

Washington

Almira
Carbonado
Endicott
La Crosse
Lamont
Langley
Leavenworth
Oakesdale
Pe Ell
Pomeroy
Rosalia
Ruston
Snoqualmie
St. John
Waitsburg
Waterville
Wilbur

West Virginia

Belle
Bolivar
Chesapeake
Eleanor
Ellenboro
Harpers Ferry
Jane Lew
Leon
Montrose
Nitro
Oak Hill
Quinwood
West Logan

Wisconsin

Adams
Alma
Arena
Argyle
Arpin
Auburndale
Barron
Benton
Birnamwood
Black Earth
Bloomer
Boscobel
Boyd
Brandon
Buffalo
Cadott
Cassville
Cecil
Chaseburg
Chetek
Chilton
Clear Lake
Clyman
Cobb
Coleman
Colfax
Dane
Dorchester
Doylestown
Dresser
Eden
Egg Harbor
Eland
Elk Mound
Elmwood
Fairwater
Fennimore
Ferryville
Fontana-on-Geneva Lake
Forestville
Fountain City
Friendship
Friesland
Genoa
Glen Flora
Highland
Hillsboro
Hustisford
Iola
Johnson Creek
Juneau
Kaukauna
Kekoskee
Kendall
Knapp
Lake Nebagamon
Lone Rock
Lynxville
Mazomanie
Menasha
Mondovia
Montfort
Mount Sterling
Muscoda
Niagara
Norwalk
Oconomowoc Lake
Oliver
Pepin
Peshtigo
Pigeon Falls
Plainfield
Plum City
Port Washington
Prairie Du Chien
Pulaski
Rice Lake
Rockdale
Rudolph
Scandinavia
Shiocton
Shullsburg
Sister Bay
Spring Valley
Stetsonville
Stockbridge
Sullivan
Superio
Union Center
Vesper
Viola
Waldo
Waupaca
Wauzeka
Weyauwega
Williams Bay
Woodville
Wrightstown
Wyeville
Yuba

Wyoming

Byron
Cokeville
Cowley
Dixon
Granger
Kaycee
La Barge
Midwest
Sundance

VI. The following list contains the names of towns and townships which meet the minimum standards for physical and economic distress and which are in States where towns and townships may have powers comparable to the powers of municipalities. Each town and township is not listed with places in Section II because their eligiblity as cities has not been determined under the criterion of 24 CFR 570.3(e), which requires that they (1) have powers and performs functions comparable to municipalities, (2) are closely settled and (3) have corporation agreements with all incorporated places within their boundaries. Requests for waivers of the closely settled requirement from towns and townships which meet all other requirements may be waived by the Secretary on a case by case basis. The asterisk shown in front of the name of some towns or townships indicates that those towns or townships contain an incorporated place within their boundaries.

Connecticut

* Killingly Town, Windham County
* Putnam Town, Windham County
Sterling Town, Windham County
Thompson Town, Windham County
Voluntown Town, New London County
Winchester Town, Litchfield County
* Windham Town, Windham County

Maine

Abbot Town, Piscataquis County
Addison Town, Washington County
Albion Town, Kennebec County
Alexander Town, Washington County
Allagash Town, Aroostook County
Alna Town, Lincoln County
Amherst Town, Hancock County
Amity Town, Aroostook County
Andover Town, Oxford County
Anson Town, Somerset County
Appleton Town, Knox County
Ashland Town, Aroostook County
Athens Town, Somerset County
Aurora Town, Hancock County
Avon Town, Franklin County
Baileyville Town, Washington County
Baldwin Town, Cumberland County
Bancroft Town, Aroostook County
Beals Town, Washington County
Beddington Town, Washington County
Belmont Town, Waldo County
Benedicta Town, Aroostook County
Bethel Town, Oxford County
Bingham Town, Somerset County
Blaine Town, Aroostook County
Blanchard Plantation, Piscataquis County
Blue Hill Town, Hancock County
Boothbay Harbor Town, Lincoln County
Boothbay Town, Lincoln County
Bradford Town, Penobscot County
Bremen Town, Lincoln County
Bridgewater Town, Aroostook County
Brighton Plantation, Somerset County
Bristol Town, Lincoln County
Brooklin Town, Hancock County
Brooksville Town, Hancock County
Brooks Town, Waldo County
Brownfield Town, Oxford County
Brownville Town, Piscataquis County
Buckfield Town, Oxford County
Bucksport Town, Hancock County
Burlington Town, Penobscot County
Burnham Town, Waldo County
Byron Town, Oxford County
Cambridge Town, Somerset County
Canaan Town, Somerset County
Canton Town, Oxford County
Caratunk Plantation, Somerset County
Carmel Town, Penobscot County
Carroll Plantation, Penobscot County
Carthage Town, Franklin County
Cary Plantation, Aroostook County
Castle Hill Town, Aroostook County
Caswell Plantation, Aroostook County
Chapman Town, Aroostook County
Charleston Town, Penobscot County
Charlotte Town, Washington County
Chelsea Town, Kennebec County
Cherryfield Town, Washington County
Chesterville Town, Franklin County
Chester Town, Penobscot County
Clinton Town, Kennebec County
Codyville Plantation, Washington County
Columbia Falls Town, Washington County
Columbia Town, Washington County
Cooper Town, Washington County
Corinna Town, Penobscot County
Corinth Town, Penobscot County
Cornish Town, York County
Cornville Town, Somerset County
Crawford Town, Washington County
Crystal Town, Aroostook County
Cutler Town, Washington County
Cyr Plantation, Aroostook County
Dallas Plantation, Franklin County
Damariscotta Town, Lincoln County
Danforth Town, Washington County
Deblois Town, Washington County
Deer Isle Town, Hancock County
Dennysville Town, Washington County
Detroit Town, Somerset County
Dexter Town, Penobscot County
Dixfield Town, Oxford County
Dixmont Town, Penobscot County
Dover Foxcroft Town, Piscataquis County
Dresden Town, Lincoln County
Drew Plantation, Penobscot County
Durham Town, Androscoggin County
Dyer Brook Town, Aroostook County
Eagle Lake Town, Aroostook County
Easton Town, Aroostook County
East Machias Town, Washington County
Edgecomb Town, Lincoln County
Edinburg Town, Penobscot County
Emeden Town, Somerset County
Etna Town, Penobscot County
Eustis Town, Franklin County
Exeter Town, Penobscot County
E Plantation, Aroostook County
Fairfield Town, Somerset County
Farmington Town, Franklin County
Fort Fairfield Town, Aroostook County
Fort Kent Town, Aroostook County
Frankfort Town, Waldo County
Franklin Town, Hancock County
Freedom Town, Waldo County
Frenchville Town, Aroostook County
Fryburg Town, Oxford County
Garfield Plantation, Aroostook County
Garland Town, Penobscot County
Georgetown Town, Sagadahoc County
Gilead Town, Oxford County
Gouldsboro Town, Hancock County
Grand Isle Town, Aroostook County

Grand Lake Stream Planta, Washington County
Greenfield Town, Penobscot County
Greenville Town, Piscataquis County
Greenwood Town, Oxford County
Hamlin Town, Aroostook County
Hammond Plantation, Aroostook County
Hancock Town, Hancock County
Hanover Town, Oxford County
Harmony Town, Somerset County
Harrington Town, Washington County
Harrison Town, Cumberland County
Hartford Town, Oxford County
Hartland Town, Somerset County
Haynesville Town, Aroostook County
Hebron Town, Oxford County
Hersey Town, Aroostook County
Highland Plantation, Somerset County
Hiram Town, Oxford County
Hodgdon Town, Aroostook County
Hollis Town, York County
Hope Town, Knox County
Houlton Town, Aroostook County
Howland Town, Penobscot County
Industry Town, Franklin County
Island Falls Town, Aroostook County
Islesboro Town, Waldo County
Isle Au Haut Town, Knox County
Jackman Town, Somerset County
Jackson Town, Waldo County
Jefferson Town, Lincoln County
Jonesboro Town, Washington County
Jonesport Town, Washington County
Kenduskeag Town, Penobscot County
Kingfield Town, Franklin County
Knox Town, Waldo County
LaGrange Town, Penobscot County
Lebanon Town, York County
Leeds Town, Androscoggin County
Lee Town, Penobscot County
Levant Town, Penobscot County
Liberty Town, Waldo County
Limestone Town, Aroostook County
Limington Town, York County
Lincolnville Town, Waldo County
Lincoln Plantation, Oxford County
Lincoln Town, Penobscot County
Linnues Town, Aroostook County
Littleton Town, Aroostook County
Long Island Plantation, Hancock County
Lubec Town, Washington County
Ludlow Town, Aroostook County
Machiasport Town, Washington County
Machias Town, Washington County
Macwahoc Plantation, Aroostook County
Madawaska Town, Aroostook County
Madison Town, Somerset County
Madrid Town, Franklin County
Mapleton Town, Aroostook County
Mariaville Town, Hancock County
Marshfield Town, Washington County
Mars Hill Town, Aroostook County
Masardis Town, Aroostook County
Mattawamkeag Town, Penobscot County
Meddybemps Town, Washington County
Medford Town, Piscataquis County
Mercer Town, Somerset County
Merrill Town, Aroostook County
Mexico Town, Oxford County
Milbridge Town, Washington County
Monhegan Plantation, Lincoln County
Monroe Town, Waldo County
Monson Town, Piscataquis County
Monticello Town, Aroostook County
Montville Town, Waldo County
Moose River Town, Somerset County
Moro Plantation, Aroostook County
Morrill Town, Waldo County
Moscow Town, Somerset County
Mount Chase Plantation, Penobscot County
Mount Vernon Town, Kennebec County
Naples Town, Cumberland County
Nashville Plantation, Aroostook County
Newcastle Town, Lincolin County
Newfield Town, York County
Newport Town, Penobscot County
New Canada Plantation, Aroostook County
New Gloucester Town, Cumberland County
New Limerick Town, Aroostook County
New Portland Town, Somerset County
New Sweden Town, Aroostook County
New Vineyard Town, Franklin County
Nobleborough Town, Lincoln County
Norridgewock Town, Somerset County
Northfield Town, Washington County
Northport Town, Waldo County
Norway Town, Oxford County
Oakfield Town, Aroostook County
Oakland Town, Kennebec County
Old Orchard Beach Town, York County
Orland Town, Hancock County
Orono Town, Penobscot County
Osborn Plantation, Hancock County
Otisfield Town, Oxford County
Otis Town, Hancock County
Owls Head Town, Knox County
Oxbow Plantation, Aroostook County
Oxford Town, Oxford County
Palermo Town, Waldo County
Palmyra Town, Somerset County
Paris Town, Oxford County
Parkman Town, Piscataquis County
Parsonsfield Town, York County
Patten Town, Penobscot County
Pembroke Town, Washington County
Penobscot Town, Hancock County
Perham Town, Aroostook County
Perry Town, Washington County
Peru Town, Oxford County
Phillips Town, Franklin County
Phippsburg Town, Sagadahoc County
Pittsfield Town, Somerset County
Pittston Town, Kennebec County
Plantation No. 14, Washington County
Plantation No. 21, Washington County
Pleasant Ridge Plantation, Somerset County
Plymouth Town, Penobscot County
Portage Lake Town, Aroostook County
Porter Town, Oxford County
Prentiss Plantation, Penobscot County
Princeton Town, Washington County
Prospect Town, Waldo County
Rangeley Town, Franklin County
Reed Plantation, Aroostook County
Richmond Town, Sagadahoc County
Ripley Town, Somerset County
Robbinston Town, Washington County
Rome Town, Kennebec County
Roque Bluffs Town, Washington County
Rumford Town, Oxford County
Sabattus Town, Androscoggin County
Sandy River Plantation, Franklin County
Sanford Town, York County
Sangerville Town, Piscataquis County
Searsmont Town, Waldo County
Searsport Town, Waldo County
Sebec Town, Piscataquis County
Sedgwick Town, Hancock County
Sherman Town, Aroostook County
Skowhegan Town, Somerset County
Smithfield Town, Somerset County
Smyrna Town, Aroostook County
Solon Town, Somerset County
Somerville Town, Lincoln County
Southport Town, Lincoln County
South Bristol Town, Lincoln County
Springfield Town, Penobscot County
Stacyville Town, Penobscot County
Starks Town, Somerset County
Stetson Town, Penobscot County
Steuben Town, Washington County
Stockholm Town, Aroostook County
Stockton Springs Town, Waldo County
Stoneham Town, Oxford County
Stonington Town, Hancock County
Strong Town, Franklin County
St. Agatha Town, Aroostook County
St. Albans Town, Somerset County
St. Francis Town, Aroostook County
St. John Plantation, Aroostook County
Sullivan Town, Hancock County
Sumner Town, Oxford County
Surry Town, Hancock County
Swans Island Town, Hancock County
Swanville Town, Waldo County
Talmadge Town, Washington County
Temple Town, Franklin County
The Forks Plantation, Somerset County
Thorndike Town, Waldo County
Topsfield Town, Washington County
Tremont Town, Hancock County
Troy Town, Waldo County
Turner Town, Androscoggin County
Union Town, Knox County
Unity Town, Waldo County
Upton Town, Oxford County
Vanceboro Town, Washington County
Van Buren Town, Aroostook County
Vienna Town, Kennebec County
Vinalhaven Town, Knox County
Wade Town, Aroostook County
Waldoboro Town, Lincoln County
Waldo Town, Waldo County
Wallagrass Plantation, Aroostook County
Waltham Town, Hancock County
Warren Town, Knox County
Washburn Town, Aroostook County
Washington Town, Knox County
Waterford Town, Oxford County
Webster Plantation, Penobscot County
Weld Town, Franklin County
Wellington Town, Piscataquis County
Wesley Town, Washington County
Westfield Town, Aroostook County
Westmanland Plantation, Aroostook County
Weston Town, Aroostook County
Westport Town, Lincoln County
West Forks Plantation, Somerset County
West Paris Town, Oxford County
Whitefield Town, Lincoln County
Whiting Town, Washington County
Whitneyville Town, Washington County
Willmantic Town, Piscataquis County
Windsor Town, Kennebec County
Winn Town, Penobscot County
Winterport Town, Waldo County
Winterville Plantation, Aroostook County
Winter Harbor Town, Hancock County
Wiscasset Town, Lincoln County
Woodland Town, Aroostook County
Woodstock Town, Oxford County

Massachusetts

Adams Town, Berkshire County
Amherst Town, Hampshire County
Athol Town, Worcester County
Ayer Town, Middlesex County

Blackstone Town, Worcester County
Brookfield Town, Worcester County
Buckland Town, Franklin County
Charlemont Town, Franklin County
Clinton Town, Worcester County
Cummington Town, Hampshire County
Fairhaven Town, Bristol County
Gay Head Town, Dukes County
Goshen Town, Hampshire County
Great Barrington Town, Berkshire County
Hancock Town, Berkshire County
Hardwick Town, Worcester County
Harwich Town, Barnstable County
Heath Town, Franklin County
Hopedale Town, Worcester County
Hull Town, Plymouth County
Huntington Town, Hampshire County
Middlefield Town, Hampshire County
Millbury Town, Worcester County
Millville Town, Worcester County
Monroe Town, Franklin County
Montague Town, Franklin County
New Braintree Town, Worcester County
Northfield Town, Franklin County
Oak Bluffs Town, Dukes County
Orange Town, Franklin County
Oxford Town, Worcester County
Phillipston Town, Worcester County
Plainfield Town, Hampshire County
Plymouth Town, Plymouth County
Provincetown Town, Barnstable County
Rockland Town, Plymouth County
Rowe Town, Franklin County
Royalston Town, Worcester County
Salisbury Town, Essex County
Sandisfield Town, Berkshire County
Savoy Town, Berkshire County
Southbridge Town, Worcester County
Sunderland Town, Franklin County
Truro Town, Barnstable County
Uxbridge Town, Worcester County
Wareham Town, Plymouth County
Ware Town, Hampshire County
Warwick Town, Franklin County
Webster Town, Worcester County
Wellfleet Town, Barnstable County
Wendell Town, Franklin County
Westport Town, Bristol County
West Springfield Town, Hampden County
Williamsburg Town, Hampshire County

Michigan

Adams Township, Arenac County
* Adams Township, Hillsdale County
* Adams Township, Houghton County
* Aetna Township, Mecosta County
Aetna Township, Missaukee County
* Akron Township, Tuscola County
Albee Township, Saginaw County
Albert Township, Montmorency County
Albion Township, Calhoun County
Algansee Township, Branch County
* Allen Township, Hillsdale County
Allis Township, Presque Isle County
* Allouez Township, Keweenaw County
Aloha Township, Cheboygan County
Amber Township, Mason County
Amboy Township, Hillsdale County
Antioch Township, Wexford County
Antrim Township, Shiawassee County
* Antwerp Township, Van Buren County
Arcada Township, Gratiot County
Arcadia Township, Lapeer County
Arcadia Township, Manistee County
Arenac Township, Arenac County
Argyle Township, Sanilac County
Arlington Township, Van Buren County
Arthur Township, Clare County
Arvon Township, Baraga County
Ashland Township, Newaygo County
* Athens Township, Calhoun County
Austin Township, Mecosta County
Austin Township, Sanilac County
Au Gres Township, Arenac County
Au Sable Township, Roscommon County
Au Train Township, Alger County
Avery Township, Montmorency County
Backus Township, Roscommon County
Bainbridge Township, Berrien County
Baldwin Township, Delta County
Bangor Township, Van Buren County
* Banks Township, Antrim County
* Baraga Township, Baraga County
Bark River Township, Delta County
Barton Township, Newaygo County
Bates Township, Iron County
Bay De Noc Township, Delta County
Bay Mills Township, Chippewa County
Beaverton Township, Gladwin County
Beaver Creek Township, Crawford County
Beaver Township, Newaygo County
Belknap Township, Presque Isle County
* Bellevue Township, Eaton County
Belvidere Township, Montcalm County
Benona Township, Oceana County
Bentley Township, Gladwin County
Benton Township, Berrien County
* Benzonia Township, Benzie County
Bergland Township, Ontonagon County
Berlin Township, St. Clair County
* Berrien Township, Berrien County
Bertrand Township, Berrien County
Bessemer Township, Gogebic County
Bethany Township, Gratiot County
Bethel Township, Branch County
Big Creek Township, Oscoda County
Big Prairie Township, Newaygo County
Big Rapids Township, Mecosta County
* Bingham Township, Huron County
Bismarck Township, Presque Isle County
Blaine Township, Benzie County
Bliss Township, Emmet County
Bloomer Township, Montcalm County
Bloomfield Township, Huron County
Bloomfield Township, Missaukee County
* Bloomingdale Township, Van Buren County
Blue Lake Township, Kalkaska County
Blue Lake Township, Muskegon County
Bohemia Township, Ontonagon County
Bois Blanc Township, Mackinac County
* Boon Township, Wexford County
* Boston Township, Ionia County
Bourrett Township, Gladwin County
* Boyne Valley Township, Charlevoix County
* Brady Township, Saginaw County
Brampton Township, Delta County
Branch Township, Mason County
* Brant Township, Saginaw County
Breen Township, Dickinson County
Brevort Township, Mackinac County
* Bridgehampton Township, Sanilac County
Bridgeton Township, Newaygo County
Briley Township, Montmorency County
Brockway Township, St. Clair County
Bronson Township, Branch County
* Brookfield Township, Huron County
Brown Township, Manistee County
Bruce Township, Chippewa County
Buchanan Township, Berrien County
Buckeye Township, Gladwin County
Buel Township, Sanilac County
Buena Vista Township, Saginaw County
* Burdell Township, Osceola County
Burleigh Township, Iosco County
* Burlington Township, Calhoun County
* Burlington Township, Lapeer County
Burnside Township, Lapeer County
* Burr Oak Township, St. Joseph County
Burt Township, Alger County
Burt Township, Cheboygan County
* Bushnell Township, Montcalm County
Butler Township, Branch County
Butman Township, Gladwin County
Butterfield Township, Missaukee County
Caldwell Township, Missaukee County
Caledonia Township, Alcona County
Caledonia Township, Shiawassee County
California Township, Branch County
* Calumet Township, Houghton County
Calvin Township, Cass County
Cambria Township, Hillsdale County
* Camden Township, Hillsdale County
* Campbell Township, Ionia County
Carp Lake Township, Emmet County
Casco Township, Allegan County
* Caseville Township, Huron County
* Case Township, Presque Isle County
* Casnovia Township, Muskegon County
* Castleton Township, Barry County
* Cato Township, Montcalm County
Cedarville Township, Menominee County
Cedar Creek Township, Wexford County
Centerville Township, Leelanau County
Center Township, Emmet County
* Central Lake Township, Antrim County
Champion Township, Marquette County
Chandler Township, Huron County
Chapin Township, Saginaw County
Charlton Township, Otsego County
Chase Township, Lake County
Chassell Township, Houghton County
Cherry Valley Township, Lake County
Cheshire Township, Allegan County
Chester Township, Eaton County
Chestonia Township, Antrim County
Chikaming Township, Berrien County
Chippewa Township, Chippewa County
Chippewa Township, Mecosta County
Churchill Township, Ogemaw County
Clam Union Township, Missaukee County
Clarence Township, Calhoun County
Clarendon Township, Calhoun County
Clark Township, Mackinac County
Clayton Township, Arenac County
Clearwater Township, Kalkaska County
Clement Township, Gladwin County
*Cleon Township, Manistee County
Cleveland Township, Leelanau County
Clinton Township, Oscoda County
Clyde Township, Allegan County
Coldwater Township, Isabella County
*Colfax Township, Benzie County
Colfax Township, Oceana County
Colfax Township, Wexford County
Coloma Township, Berrien County
*Colon Township, St. Joseph County
*Columbia Township, Tuscola County
*Columbia Township, Van Buren County
Columbus Township, Luce County
Comins Township, Oscoda County
*Concord Township, Jackson County
*Constantine Township, St. Joseph County
Cornell Township, Delta County
*Corwith Township, Otsego County
Covert Township, Van Buren County
Covington Township, Baraga County
Cross Village Township, Emmet County

Crystal Falls Township, Iron County
Crystal Township, Montcalm County
Crystal Township, Oceana County
Cumming Township, Ogemaw County
Curtis Township, Alcona County
Custer Township, Antrim County
*Custer Township, Mason County
Custer Township, Sanilac County
Dafter Township, Chippewa County
*Daggett Township, Menominee County
*Dallas Township, Clinton County
Dayton Township, Newaygo County
Dayton Township, Tuscola County
*Day Township, Montcalm County
*Decatur Township, Van Buren County
*Deep River Township, Arenac County
*Deerfield Township, Lenawee County
*Deerfield Township, Mecosta County
*Delaware Township, Sanilac County
Denver Township, Isabella County
*Denver Township, Newaygo County
*De Tour Township, Chippewa County
Dickson Township, Manistee County
Douglass Township, Montclam County
Dover Township, Lake County
*Dover Township, Lenawee County
Doyle Township, Schoolcraft County
Drummond Township, Chippewa County
Duncan Township, Houghton County
*Duplain Township, Clinton County
*Dwight Township, Huron County
Easton Township, Ionia County
Echo Township, Antrim County
Eckford Township, Calhoun County
Eden Township, Lake County
Eden Township, Mason County
Edwards Township, Ogemaw County
*Elba Township, Gratiot County
Elbridge Township, Oceana County
Elk Township, Lake County
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Ellis Township, Cheboygan County
*Ellsworth Township, Lake County
Elmer Township, Oscoda County
Elmer Township, Sanilac County
*Elmwood Township, Tuscola County
Elm River Township, Houghton County
Emerson Township, Gratiot County
*Emmett Township, St. Clair County
*Empire Township, Leelanau County
Ensign Township, Delta County
Ensley Township, Newaygo County
Enterprise Township, Missaukee County
Erwin Township, Gogebic County
Eureka Township, Montcalm County
Evart Township, Osceola County
Eveline Township, Charlevoix County
Everett Township, Newaygo County
*Evergreen Township, Montclam County
Evergreen Township, Sanilac County
Ewing Township, Marquette County
Fairbanks Township, Delta County
Fairfield Township, Lenawee County
Fairfield Township, Shiawassee County
*Fairgrove Township, Tuscola County
Fairhaven Township, Huron County
*Fairplain Township, Montcalm County
Faithorn Township, Menominee County
Fawn River Township, St. Joseph County
Felch Township, Dickinson County
Ferris Township, Montcalm County
Ferry Township, Oceana County
*Fife Lake Township, Grand Traverse County
Florence Township, St. Joseph County
Flowerfield Township, St. Joseph County
Flynn Township, Sanilac County
Forester Township, Sanilac County
Forest Township, Cheboygan County
*Fork Township, Mecosta County
Franklin Township, Clare County
Franklin Township, Houghton County
Freeman Township, Clare County
*Free Soil Township, Mason County
Fremont Township, Isabella County
Fremont Township, Sanilac County
*Fremont Township, Tuscola County
Friendship Township, Emmet County
Frost Township, Clare County
*Galien Township, Berrien County
Ganges Township, Allegan County
*Garden Township, Delta County
Garfield Township, Clare County
Garfield Township, Kalkaska County
Garfield Township, Mackinac County
Garfield Township, Newaygo County
Geneva Township, Midland County
Geneva Township, Van Buren County
Germfask Township, Schoolcraft County
Gibson Township, Bay County
Gilead Township, Branch County
Gilford Township, Tuscola County
*Gilmore Township, Benzie County
Gilmore Township, Isabella County
Gladwin Township, Gladwin County
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Goodar Township, Ogemaw County
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Gore Township, Huron County
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Grant Township, Grand Traverse County
Grant Township, Huron County
Grant Township, Iosco County
Grant Township, Keweenaw County
Grant Township, Mason County
Grant Township, Mecosta County
Grant Township, Newaygo County
*Grant Township, Oceana County
Grant Township, St. Clair County
Greenbush Township, Alcona County
Greendale Township, Midland County
Greenland Township, Ontonagon County
Greenleaf Township, Sanilac County
Greenwood Township, Clare County
Greenwood Township, Oceana County
Greenwood Township, St. Clair County
Greenwood Township, Wexford County
Green Township, Alpena County
Grim Township, Gladwin County
Grout Township, Gladwin County
*Gustin Township, Alcona County
Hagar Township, Berrien County
Haight Township, Ontonagon County
Hamilton Township, Clare County
Hamilton Township, Gratiot County
Hamilton Township, Van Buren County
Hancock Township, Houghton County
*Handy Township, Livingston County
*Hanover Township, Wexford County
Harrisville Township, Alcona County
Harris Township, Menominee County
Hartford Township, Van Buren County
Hartwick Township, Osceola County
Hart Township, Oceana County
Hastings Township, Barry County
*Hawes Township, Alcona County
Hayes Township, Clare County
Haynes Township, Alcona County
Hay Township, Gladwin County
Heath Township, Allegan County
Hebron Township, Cheboygan County
Hematite Township, Iron County
Henderson Township, Wexford County
Hendricks Township, Mackinac County
Henrietta Township, Jackson County
*Hersey Township, Osceola County
Highland Township, Osceola County
*Hillman Township, Montmorency County
Hill Township, Ogemaw County
Hinton Township, Mecosta County
Holland Township, Missaukee County
Holmes Township, Menominee County
Holton Township, Muskegon County
*Homer Township, Calhoun County
*Homestead Township, Benzie County
*Home Township, Montcalm County
Home Township, Newaygo County
Hope Township, Barry County
Hope Township, Midland County
*Hopkins Township, Allegan County
Horton Township, Ogemaw County
Houghton Township, Keweenaw County
Hudson Township, Charlevoix County
*Hudson Township, Lenawee County
Hudson Township, Mackinac County
Hulbert Township, Chippewa County
Humboldt Township, Marquette County
Huron Township, Huron County
*Indianfields Township, Tuscola County
Inland Township, Benzie County
Interior Township, Ontonagon County
Inwood Township, Schoolcraft County
* Ionia Township, Ionia County
Ira Township, St. Clair County
Ironwood Township, Gogebic County
* Iron River Township, Iron County
* Irving Township, Barry County
Jasper Township, Midland County
Jefferson Township, Cass County
Jefferson Township, Hillsdale County
* Jonesfield Township, Saginaw County
Jordan Township, Antrim County
Joyfield Township, Benzie County
Juniata Township, Tuscola County
Kalamo Township, Eaton County
Kasson Township, Leelanau County
* Kearney Township, Antrim County
Keeler Township, Van Buren County
Keene Township, Ionia County
Kenockee Township, St. Clair County
Kimball Township, St. Clair County
* Kingston Township, Tuscola County
Kinross Township, Chippewa County
Klacking Township, Ogemaw County
Koehler Township, Cheboygan County
* Koylton Township, Tuscola County
Krakow Township, Presque Isle County
Lafayette Township, Saginaw County
Laird Township, Houghton County
Lakefield Township, Luce County
Lakefield Township, Saginaw County
Lake Township, Menominee County
Lake Township, Roscommon County
Lamotte Township, Sanilac County
* Lanse Township, Baraga County
* Lawrence Township, Van Buren County
* La Grange Township, Cass County
* Leavitt Township, Oceana County
* Lebanon Township, Clinton County
* Leelanau Township, Leelanau County
Lee Township, Allegan County
Lee Township, Calhoun County
Lee Township, Midland County
* Lenox Township, Macomb County
Leonidas Township, St. Joseph County
Leoni Township, Jackson County

* Lexington Township, Sanilac County
* Le Roy Township, Osceola County
Liberty Township, Wexford County
Lilley Township, Newaygo County
Limestone Township, Alger County
Lincoln Township, Arenac County
Lincoln Township, Clare County
* Lincoln Township, Huron County
Lincoln Township, Isabella County
Lincoln Township, Newaygo County
Litchfield Township, Hillsdale County
* Littlefield Township, Emmet County
Logan Township, Mason County
Logan Township, Ogemaw County
London Township, Monroe County
Long Rapids Township, Alpena County
Loud Township, Montmorency County
Lovells Township, Crawford County
* Lyons Township, Ionia County
Lyon Township, Roscommon County
* Mackinaw Township, Cheyboygan County
Macon Township, Lenawee County
Madison Township, Lenawee County
* Mancelona Township, Antrim County
* Manistee Township, Manistee County
Manistique Township, Schoolcraft County
Manlius Township, Allegan County
Mansfield Township, Iron County
Maple Forest Township, Crawford County
* Maple Grove Township, Barry County
* Maple Grove Township, Manistee County
* Maple Ridge Township, Delta County
* Maple River Township, Emmet County
Maple Valley Township, Montcalm County
Maple Valley Township, Sanilac County
* Marathon Township, Lapeer County
* Marcellus Township, Cass County
Marengo Township, Calhoun County
Marenisco Township, Gogebic County
Marilla Township, Manistee County
* Marion Township, Osceola County
Marion Township, Saginaw County
* Marion Township, Sanilac County
Markey Township, Roscommon County
* Marlette Township, Sanilac County
Marquette Township, Mackinac County
Martiny Township, Mecosta County
* Martin Township, Allegan County
Masonville Township, Delta County
* Mason Township, Arenac County
Mason Township, Cass County
* Mastodon Township, Iron County
Matchwood Township, Ontonagon County
Mathias Township, Alger County
Matteson Township, Branch County
Mayfield Township, Grand Traverse County
* McKinley Township, Emmet County
*McMillan Township, Luce County
McMillan Township, Ontonagon County
*Meade Township, Huron County
*Mecosta Township, Mecosta County
Medina Township, Lenawee County
Mellen Township, Menominee County
Melrose Township, Charlevoix County
*Mendon Township, St. Joseph County
Mentor Township, Cheboygan County
Mentor Township, Oscoda County
Merrill Township, Newaygo County
Merritt Township, Bay County
Metz Township, Presque Isle County
Meyer Township, Menominee County
Michigamme Township, Marquette County
Middle Branch Township, Osceola County
Mikado Township, Alcona County
Millbrook Township, Mecosta County
Millen Township, Alcona County
Mills Township, Midland County
Mills Township, Ogemaw County
*Minden Township, Sanilac County
Mitchell Township, Alcona County
Moffatt Township, Arenac County
Moltke Township, Presque Isle County
Monroe Township, Newaygo County
Montcalm Township, Montcalm County
Monterey Township, Allegan County
Montmorency Township, Montmorency County
Moore Township, Sanilac County
Moorland Township, Muskegon County
Moscow Township, Hillsdale County
Mottville Township, St. Joseph County
Mount Forest Township, Bay County
Mount Morris Township, Genesee County
Mueller Township, Schoolcraft County
Mullet Township, Cheboygan County
Munising Township, Alger County
Munro Township, Cheboygan County
*Mussey Township, St. Clair County
*Nadeau Township, Menominee County
Nahma Township, Delta County
Nester Township, Roscommon County
Newark Township, Gratiot County
Newberg Township, Cass County
*Newfield Township, Oceana County
*Newkirk Township, Lake County
Newton Township, Mackinac County
New Haven Township, Gratiot County
New Haven Township, Shiawassee County
Niles Township, Berrien County
Noble Township, Branch County
Norman Township, Manistee County
North Allis Township, Presque Isle County
*North Plains Township, Ionia County
North Shade Township, Gratiot County
North Star Township, Gratiot County
Norwich Township, Missaukee County
Norwich Township, Newaygo County
Norwook Township, Charlevoix County
Nottawa Township, Isabella County
*Nottawa Township, St. Joseph County
Novesta Township, Tuscola County
*Nunda Township, Cheboygan County
Ocqueoc Township, Presque Isle County
*Odessa Township, Ionia County
Ogden Township, Lenawee County
Ogemaw Township, Ogemaw County
*Oliver Township, Huron County
*Ontonagon Township, Ontonagon County
Orangeville Township, Barry County
Orange Township, Iona County
Orange Township, Kalkaska County
Orient Township, Osceola County
Orleans Township, Ionia County
*Oronoko Township, Berrien County
Osceola Township, Houghton County
Osceola Township, Osceola County
Oscoda Township, Iosco County
Ossineke Township, Alpena County
Otisco Township, Ionia County
Otto Township, Oceana County
*Ovid Township, Clinton County
*Paradise Township, Grand Traverse County
Paris Township, Huron County
Park Township, St. Joseph County
*Parma Township, Jackson County
*Paw Paw Township, Van Buren County
*Penn Township, Cass County
Pentland Township, Luce County
Pickford Township, Chippewa County
*Pierson Township, Montcalm County
Pine Grove Township, Van Buren County
Pine River Township, Gratiot County
Pine Township, Montcalm County
Pinora Township, Lake County
Pioneer Township, Missaukee County
*Pipestone Township, Berrien County
Pittsford Township, Hillsdale County
Plainfield Township, Iosco County
Platte Township, Benzie County
Pleasanton Township, Manistee County
*Pleasant Plains Township, Leelanau County
*Pleasant Plains Twp., Lake County
Pokagon Township, Cass County
Portage Township, Houghton County
Portage Township, Mackinac County
Porter Township, Cass County
Porter Township, Midland County
*Port Austin Township, Huron County
Port Huron Township, St. Clair County
*Posen Township, Presque Isle County
Powell Township, Marquette County
Prairieville Township, Barry County
Pulaski Township, Jackson County
Pulawski Township, Presque Isle County
*Quincy Township, Branch County
Quincy Township, Houghton County
Ransom Township, Hillsdale County
*Ravenna Township, Muskegon County
Reading Township, Hillsdale County
Readmond Township, Emmet County
Redding Township, Clare County
Reeder Township, Missaukee County
Reno Township, Iosco County
Republic Township, Marquette County
*Reynolds Township, Montcalm County
Richland Township, Missaukee County
Richland Township, Montcalm County
*Richland Township, Ogemaw County
Richmond Township, Marquette County
Richmond Township, Osceola County
Rich Township, Lapeer County
*Ridgeway Township, Lenawee County
Riga Township, Lenawee County
Riverside Township, Missaukee County
Riverton Township, Mason County
Rockland Township, Ontonagon County
*Rock River Township, Alger County
Rolland Township, Isabella County
*Rollin Township, Lenawee County
Rome Township, Lenawee County
Ronald Township, Ionia County
Roscommon Township, Roscommon County
Rose Lake Township, Osceola County
Rose Township, Ogemaw County
Royal Oak Township, Oakland County
*Rubicon Township, Huron County
Rudyard Township, Chippewa County
Rush Township, Shiawassee County
Rust Township, Montmorency County
Sage Township, Gladwin County
Sagola Township, Dickinson County
Sand Beach Township, Huron County
*Sanilac Township, Sanilac County
Sauble Township, Lake County
*Schoolcraft Township, Houghton County
Scipio Township, Hillsdale County
*Sebewaing Township, Huron County
Sebewa Township, Ionia County
Selma Township, Wexford County
Seneca Township, Lenawee County
Seney Township, Schoolcraft County
Seville Township, Gratiot County
*Shelby Township, Oceana County
Sheridan Township, Calhoun County
Sheridan Township, Clare County
Sheridan Township, Huron County
Sheridan Township, Mason County

Sheridan Township, Mecosta County
Sheridan Township, Newaygo County
Sherman Township, Gladwin County
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Sherman Township, Isabella County
Sherman Township, Keweenaw County
*Sherman Township, Mason County
Sherman Township, Osceola County
*Sherwood Township, Branch County
*Sidney Township, Montcalm County
Sigel Township, Huron County
Silver Creek Township, Cass County
Skandia Township, Marquette County
*Slagle Township, Wexford County
Sodus Township, Berrien County
Solon Township, Leelanau County
South Arm Township, Charlevoix County
Sough Branch Township, Crawford County
South Haven Township, Van Buren County
*Spalding Township, Menominee County
Spaulding Township, Saginaw County
*Speaker Township, Sanilac County
Springdale Township, Manistee County
Springfield Township, Kalkaska County
*Springport Township, Jackson County
*Springville Township, Wexford County
Spurr Township, Baraga County
Stambaugh Township, Iron County
Standish Township, Arenac County
Stannard Township, Ontonagon County
Stanton Township, Houghton County
Star Township, Antrim County
Stephenson Township, Menominee County
Stronach Township, Manistee County
*St. Charles Township, Saginaw County
St. James Township, Charlevoix County
Sugar Island Township, Chippewa County
Summerfield Township, Monroe County
Summit Township, Mason County
Sumner Township, Gratiot County
Superior Township, Chippewa County
Sweetwater Township, Lake County
Sylvan Township, Osceola County
Tawas Township, Iosco County
*Tekonsha Township, Calhoun County
Thompson Township, Schoolcraft County
*Three Oaks Township, Berrien County
Tompkins Township, Jackson County
Torch Lake Township, Houghton County
Trout Lake Township, Chippewa County
Trowbridge Township, Allegan County
Troy Township, Newaygo County
Turin Township, Marquette County
*Turner Township, Arenac County
Tuscarora Township, Cheboygan County
*Tyrone Township, Kent County
Unadilla Township, Livingston County
*Union Township, Branch County
Valley Township, Allegan County
*Vermontville Township, Eaton County
Verona Township, Huron County
Victory Township, Mason County
Vienna Township, Montmorency County
Volinia Township, Cass County
Wakefield Township, Gogebic County
Wales Township, St. Clair County
Walker Township, Cheboygan County
Walton Township, Eaton County
Warner Township, Antrim County
Washington Township, Gratiot County
*Washington Township, Sanilac County
Waterloo Township, Jackson County
Watersmeet Township, Gogebic County
Watertown Township, Sanilac County
Watertown Township, Tuscola County
Watervliet Township, Berrien County
Watson Township, Allegan County
Waucedah Township, Dickinson County
Waverly Township, Cheboygan County
Wayne Township, Cass County
Weare Township, Oceana County
*Webber Township, Lake County
Weesaw Township, Berrien County
*Weldon Township, Benzie County
Wellington Township, Alpena County
Wells Township, Delta County
Wells Township, Marquette County
Wells Township, Tuscola County
West Branch Township, Dickinson County
West Branch Township, Ogemaw County
Wexford Township, Wexford County
Wheatland Township, Hillsdale County
Wheatland Township, Mecosta County
Wheatland Township, Sanilac County
*Wheeler Township, Gratiot County
Whitefish Township, Chippewa County
*White Pigeon Township, St. Joseph County
Whitney Township, Arenac County
Wilcox Township, Newaygo County
*Wilmot Township, Cheboygan County
Wilson Township, Alpena County
Wilson Township, Charlevoix County
Winfield Township, Montcalm County
*Winsor Township, Huron County
Winterfield Township, Clare County
Wise Township, Isabella County
Wisner Township, Tuscola County
Woodbridge Township, Hillsdale County
*Woodstock Township, Lenawee County
Worth Township, Senilac County
Wright Township, Ottawa County
Yates Township, Lake County

New Hampshire

Albany Town, Carroll County
Alexandria Town, Grafton County
Alstead Town, Cheshire County
Ashland Town, Grafton County
Bartlett Town, Carroll County
Bath Town, Grafton County
Benton Town, Grafton County
Bradford Town, Merrimack County
Campton Town, Grafton County
Canaan Town, Grafton County
Center Conway Town, Carroll County
Center Harbor Town, Belknap County
Chatham Town, Carroll County
Columbia Town, Coos County
Dalton Town, Coos County
Deering Town, Hillsborough County
Dorchester Town, Grafton County
Dublin Town, Cheshire County
Dummer Town, Coos County
Durham Town, Strafford County
Eaton Town, Carroll County
Effingham Town, Carroll County
Farmington Town, Strafford County
Franconia Town, Grafton County
Grafton Town, Grafton County
Greenfield Town, Hillsborough County
Groton Town, Grafton County
Henniker Town, Merrimack County
Hill Town, Merrimack County
Lancaster Town, Coos County
Landaff Town, Grafton County
Lempster Town, Sullivan County
Lincoln Town, Grafton County
Lisbon Town, Grafton County
Littleton Town, Grafton County
Lyman Town, Grafton County
Middleton Town, Strafford County
Nelson Town, Cheshire County
Newbury Town, Merrimack County
New Hampton Town, Belknap County
Northumberland Town, Coos County
Piermont Town, Grafton County
Pittsburg Town, Coos County
Plymouth Town, Grafton County
Springfield Town, Sullivan County
Stark Town, Coos County
Stewartstown Town, Coos County
Stratford Town, Coos County
Troy Town, Cheshire County
Unity Town, Sullivan County
Wakefield Town, Carroll County
Warner Town, Merrimack County
Warren Town, Grafton County
Wentworth Town, Grafton County
Whitefield Town, Coos County
Winchester Town, Cheshire County
Woodstock Town, Grafton County

New Jersey

Belleville Township, Essex County
Berlin Township, Camden County
Commercial Township, Cumberland County
Deerfield Township, Cumberland County
Dennis Township, Cape May County
Downe Township, Cumberland County
Fairfield Township, Cumberland County
Greenwich Township, Cumberland County
Hillside Township, Union County
Lawrence Township, Cumberland County
Lower Alloways Creek Township, Salem County
Mannington Township, Salem County
Maurice River Township, Cumberland County
Middle Township, Cape May County
Montclair Township, Essex County
Mount Holly Township, Burlington County
Mullica Township, Atlantic County
Neptune Township, Monmouth County
New Hanover Township, Burlington County
North Bergen Township, Hudson County
Oldmans Township, Salem County
Oxford Township, Warren County
Pennsauken Township, Camden County
Pittsgrove Township, Salem County
Pohatcong Township, Warren County
Riverside Township, Burlington County
Shrewsbury Township, Monmouth County
Stow Creek Township, Cumberland County
Upper Deerfield Township, Cumberland County
Washington Township, Burlington County
Weehawken Township, Hudson County
Woolwich Township, Gloucester County

New York

*Adams Town, Jefferson County
*Addison Town, Steuben County
Alabama Town, Genesee County
*Albion Town, Orleans County
*Albion Town, Oswego County
*Alexander Town, Genesee County
*Alexandria Town, Jefferson County
*Alfred Town, Allegany County
*Allegany Town, Cattaraugus County
Allen Town, Allegany County
Alma Town, Allegany County
*Altamont Town, Franklin County
Altona Town, Clinton County
*Amsterdam Town, Montgomery County
Ancram Town, Columbia County
*Andes Town, Delaware County
*Andover Town, Allegany County
*Angelica Town, Allegany County

Annsville Town, Oneida County
*Antwerp Town, Jefferson County
*Arcadia Town, Wayne County
*Argyle Town, Washington County
Arietta Town, Hamilton County
Ashford Town, Cattaraugus County
*Ashland Town, Chemung County
Ashland Town, Greene County
*Athens Town, Greene County
*Attica Town, Wyoming County
*Augusta Town, Oneida County
*Au Sable, Clinton County
Ava Town, Oneida County
*Avon Town, Livingston County
*Bainbridge Town, Chenango County
Baldwin Town, Chemung County
Bangor Town, Franklin County
Barre Town, Orleans County
Barrington Town, Yates County
*Barton Town, Tioga County
Batavia Town, Genesee County
*Bath Town, Steuben County
Beekmantown Town, Clinton County
Belfast Town, Allegany County
Bellmont Town, Franklin County
Benson Town, Hamilton County
*Benton Town, Yates County
*Bergen Town, Genesee County
Berlin Town, Rensselaer County
Bethany Town, Genesee County
Bethel Town, Sullivan County
Birdsall Town, Allegany County
Black Brook Town, Clinton County
Bleecker Town, Fulton County
Blenhein Town, Schoharie County
*Bolivar Town, Allegany County
Bolton Town, Warren County
Bombay Town, Franklin County
*Boonville Town, Oneida County
Bovina Town, Delaware County
Boylston Town, Oswego County
Bradford Town, Steuben County
Brandon Town, Franklin County
*Brant Town, Erie County
Brasher Town, St. Lawrence County
*Bridgewater Town, Oneida County
Brighton Town, Franklin County
*Broadalbin Town, Fulton County
Brookfield Town, Madison County
*Brownville Town, Jefferson County
*Brutus Town, Cayuga County
*Burke Town, Franklin County
Burlington Town, Otsego County
*Burns Town, Allegany County
Cairo Town, Greene County
*Cambridge Town, Washington County
*Camden Town, Oneida County
Cameron Town, Steuben County
*Canajoharie Town, Montgomery County
*Candor Town, Tioga County
Caneadea Town, Allegany County
*Canisted Town, Steuben County
*Canton Town, St. Lawrence County
*Cape Vincent Town, Jefferson County
Carlton Town, Orleans County
Caroga Town, Fulton County
Caroline Town, Tompkins County
*Carrollton Town, Cattaraugus County
*Castile Town, Wyoming County
*Catharine Town, Schuyler County
Catlin Town, Chemung County
*Cato Town, Cayuga County
*Catskill Town, Greene County
Cayuta Town, Schuyler County
Centerville Town, Allegany County
*Champion Town, Jefferson County
*Champlain Town, Clinton County
*Chateaugay Town, Franklin County
*Chautauqua Town, Chautauqua County
Chazy Town, Clinton County
Chemung Town, Chemung County
*Cherry CreeK Town, Chautauqua County
*Cherry Valley Town, Otsego County
*Chesterfield Town, Essex County
Chester Town, Warren County
Cincinnatus Town, Cortland County
Clare Town, St. Lawrence County
*Clayton Town, Jefferson County
Clifton Town, St. Lawrence County
Clinton Town, Clinton County
Clymer Town, Chautauqua County
*Cobleskill Town, Schoharie County
Colchester Town, Delaware County
Cold Spring Township, Cattaraugus County
*Collins Town, Erie County
Colton Town, St. Lawrence County
Columbia Town, Herkimer County
Columbus Town, Chenango County
*Concord Town, Erie County
Conesville Town, Schoharie County
*Conewango Town, Cattaraugus County
Conquest Town, Cayuga County
Constable Town, Franklin County
Copake Town, Columbia County
*Corinty Town, Saratoga County
*Coxsackie Town, Greene County
*Croghan Town, Lewis County
Crown Point Town, Essex County
Cuyler Town, Cortland County
*Dannemora Town, Clinton County
Dansville Town, Steuben County
Danube Town, Herkimer County
Darien Town, Genesee County
*Dayton Town, Cattaraugus County
Day Town, Saratoga County
Decatur Town, Otsego County
Deerpark Town, Orange County
Delaware Town, Sullivan County
*Delhi Town, Delaware County
*Denmark Town, Lewis County
Denning Town, Ulster County
*De Kalb Town, St. Lawrence County
De Peyster Town, St. Lawrence County
*De Ruyter Town, Madison County
*Diana Town, Lewis County
Dickinson Town, Franklin County
*Dix Town, Schuyler County
Dresden Town, Washington County
Dunkirk Town, Chautauqua County
Durham Town, Greene County
Eagle Town, Wyoming County
*Easton Town, Washington County
East Otto Town, Cattaraugus County
*Eaton Town, Madison County
Eden Town, Erie County
Edinburg Town, Saratoga County
Edmeston Town, Otsego County
*Edwards Town, St. Lawrence County
*Elba Town, Genesee County
Elizabethtown Town, Essex County
Ellenburg Town, Clinton County
* Ellicottville Town, Cattaraugus County
Ellington Town, Chautauqua County
*Ellisburg Town, Jefferson County
Enfield Town, Tompkins County
Ephratah Town, Fulton County
Erin Town, Chemung County
Esopus Town, Ulster County
Essex Town, Essex County
*Evans Town, Erie County
Exeter Town, Otsego County
*Fairfield Town, Herkimer County
*Fallsburg Town, Sullivan County
Farmersville Town, Cattaraugus County
Fenner Town, Madison County
Fine Town, St. Lawrence County
Florence Town, Oneida County
Fort Covington Town, Franklin County
*Fort Edward Town, Washington County
Fowler Town, St. Lawrence County
*Frankfort Town, Herkimer County
Franklinville Town, Cattaraugus County
*Franklin Town, Delaware County
Franklin Town, Franklin County
Freedom Town, Cattaraugus County
Freetown Town, Cortland County
Fremont Town, Steuben County
Fremont Town, Sullivan County
French Creek Town, Chautauqua County
Friendship Town, Allegany County
Fulton Town, Schoharie County
*Gainesville Town, Wyoming County
*Galen Town, Wayne County
Genesee Falls Town, Wyoming County
Genesee Town, Allegany County
*Geneseo Town, Livingston County
Genda Town, Cayuga County
Georgetown Town, Madison County
*German Flatts Town, Herkimer County
German Town, Chenango County
Gilboa Town, Schoharie County
*Gouverneur Town, St. Lawrence County
Granger Town, Allegany County
*Granville Town, Washington County
Great Valley Town, Cattaraugus County
Greenfield Town, Saratoga County
Greenville Town, Greene County
*Greenwich Town, Washington County
Greenwood Town, Steuben County
*Green Island Town, Albany County
Greig Town, Lewis County
Groveland Town, Livingston County
Grove Town, Allegany County
Guilford Town, Chenango County
Hadley Town, Saratoga County
Hague Town, Warren County
Halcott Town, Greene County
Hamden Town, Delaware County
*Hamilton Town, Madison County
*Hammond Town, St. Lawrence County
*Hancock Town, Delaware County
*Hannibal Town, Oswego County
*Hanover Town, Chautauqua County
Hardenbergh Town, Ulster County
Harford Town, Cortland County
*Harmony Town, Chautauqua County
*Harpersfield Town, Delaware County
*Harrietstown Town, Franklin County
Harrisburg Town, Lewis County
Hartford Town, Washington County
*Hartland Town, Niagara County
Hartsville Town, Steuben County
Hartwick Town, Otsego County
Hebron Town, Washington County
*Hector Town, Schuyler County
Henderson Town, Jefferson County
*Herkimer Town, Herkimer County
*Hermon Town, St. Lawrence County
Highland Town, Sullivan County
Hillsdale Town, Columbia County
Hinsdale Town, Cattaraugus County
Holland Town, Erie County
*Hoosick Town, Rensselaer County
Hope Town, Hamilton County
Hopkinton Town, St. Lawrence County
Horicon Town, Warren County
Hornby Town, Steuben County

*Horseheads Town, Chemung County
*Hounsfield Town, Jefferson County
Howard Town, Steuben County
*Hume Town, Allegany County
Humphrey Town, Cattaraugus County
*Hunter Town, Greene County
Independence Town, Allegany County
Indian Lake Town, Hamilton County
Inlet Town, Hamilton County
*Ira Town, Cayuga County
Ischua Town, Cattaraugus County
Italy Town, Yates County
Jasper Town, Steuben County
Jay Town, Essex County
Jefferson Town, Schoharie County
*Jerusalem Town, Yates County
Jewett Town, Greene County
Johnsburg Town, Warren County
Junius Town, Seneca County
*Kingsbury Town, Washington County
Kortright Town, Delaware County
*Lake George Town, Warren County
Lake Luzerne Town, Warren County
*Lake Pleasant Town, Hamilton County
*Lancaster Town, Erie County
Lawrence Town, St. Lawrence County
Lebanon Town, Madison County
*Ledyard Town, Cayuga County
*Lenox Town, Madison County
Leon Town, Cattaraugus County
Lewis Town, Essex County
Lewis Town, Lewis County
Lexington Town, Greene County
*Leyden Town, Lewis County
*Le Ray Town, Jefferson County
*Le Roy Town, Genesee County
*Liberty Town, Sullivan County
Lincklaen Town, Chenango County
Lisbon Town, St. Lawrence County
*Lisle Town, Broome County
Little Falls Town, Herkimer County
*Little Valley Town, Cattaraugus County
Locke Town, Cayuga County
*Lodi Town, Seneca County
Long Lake Town, Hamilton County
Lorraine Town, Jefferson County
*Lowville Town, Lewis County
*Lyme Town, Jefferson County
Lydon Town, Cattaraugus County
*Lyonsdale Town, Lewis County
*Lyons Town, Wayne County
Machias Town, Cattaraugus County
Macomb Town, St. Lawrence County
*Madison Town, Madison County
Madrid Town, St. Lawrence County
*Malone Town, Franklin County
*Mamakating Town, Sullivan County
*Manheim Town, Herkimer County
Mansfield Town, Cattaraugus County
*Marathon Town, Cortland County
Martinsburg Town, Lewis County
*Maryland Town, Otsego County
Masonville Town, Delaware County
*Massena Town, St. Lawrence County
*Mayfield Town, Fulton County
McDonough Town, Chenango County
*Mentz Town, Cayuga County
Meredith Town, Delaware County
*Mexico Town, Oswego County
*Middletown Town, Delaware County
Milan Town, Dutchess County
*Milo Town, Yates County
*Minden Town, Montgomery County
Minerva Town, Essex County
*Mohawk Town, Montgomery County
*Moira Town, Franklin County
Montague Town, Lewis County
Montezuma Town, Cayuga County
*Montour Town, Schuyler County
*Mooers Town, Clinton County
*Moravia Town, Cayuga County
Morehead Town, Hamilton County
*Moriah Town, Essex County
*Morristown Town, St. Lawrence County
*Mount Morris Town, Livingston County
*Murray Town, Orleans County
Napoli Town, Cattaraugus County
Newcomb Town, Essex County
Newfane Town, Niagara County
*Newstead Town, Erie County
*New Albion Town, Cattaraugus County
*New Berlin Town, Chenango County
*New Brehem Town, Lewis County
New Lisbon Town, Otsego County
*New Paltz Town, Ulster County
Niles Town, Cayuga County
*Norfolk Town, St. Lawrence County
*Northampton Town, Fulton County
*North Collins Town, Erie County
*North Dansville Town, Livingston County
*North Elba Town, Essex County
North Harmony Town, Chautauqua County
North Hudson Town, Essex County
Norway Town, Herkimer County
*Oakfield Town, Genesee County
Ohio Town, Herkimer County
Olean Town, Cattaraugus County
*Oppenheim Town, Fulton County
Orange Town, Schuyler County
Orleans Town, Jefferson County
Orwell Town, Oswego County
Osceola Town, Lewis County
*Oswegatchie Town, St. Lawrence County
Otselic Town, Chenango County
Otto Town, Cattaraugus County
*Ovid Town, Seneca County
Owasco Town, Cayuga County
*Pamelia Town, Jefferson County
Parishville Town, St. Lawrence County
*Paris Town, Oneida County
Pavilion Town, Genesee County
*Pembroke Town, Genesee County
*Perrysburg Town, Cattaraugus County
*Perry Town, Wyoming County
*Persia Town, Cattaraugus County
Peru Town, Clinton County
Pharsalia Town, Chenango County
*Philadelphia Town, Jefferson County
Piercefield Town, St. Lawrence County
Pierrepont Town, St. Lawrence County
*Pike Town, Wyoming County
Pinckney Town, Lewis County
Pitcairn Town, St. Lawrence County
Pitcher Town, Chenango County
Pittsfield Town, Otsego County
Plainfield Town, Otsego County
Plymouth Town, Chenango County
*Portville Town, Cattaraugus County
*Potsdam Town, St. Lawrence County
*Potter Town, Yates County
Prattsburg Town, Steuben County
Prattsville Town, Greene County
Preston Town, Chenango County
Providence Town, Saratoga County
Pulteney Town, Steuben County
Putnam Town, Washington County
*Randolph Town, Cattaraugus County
Rathbone Town, Steuben County
*Reading Town, Schuyler County
Redfield Town, Oswego County
Red House Town, Cattaraugus County
Rensselaerville Town, Albany County
*Richfield Town, Otsego County
Richford Town, Tioga County
*Richland Town, Oswego County
*Richmondville Town, Schoharie County
*Ridgeway Town, Orleans County
Rochester Town, Ulster County
Rockland Town, Sullivan County
Rodman Town, Jefferson County
Roseboom Town, Otsego County
Rose Town, Wayne County
Rossie Town, St. Lawrence County
Roxbury Town, Delaware County
*Royalton Town, Niagara County
Rushford Town, Allegany County
Russell Town, St. Lawrence County
*Russia Town, Herkimer County
*Rutland Town, Jefferson County
Salamanca Town, Cattaraugus County
*Salem Town, Washington County
Salisbury Town, Herkimer County
*Sandy Creek Town, Oswego County
*Sangerfield Town, Oneida County
*Saranac Town, Clinton County
Sardinia Town, Erie County
Savannah Town, Wayne County
*Schodack Town, Rensselaer County
*Schoharie Town, Schoharie County
Schroon Town, Essex County
Schuyler Falls Town, Clinton County
Scipio Town, Cayuga County
Sempronius Town, Cayuga County
*Seneca Falls Town, Seneca County
Seneca Town, Ontario County
Sennett Town, Cayuga County
Seward Town, Schoharie County
*Shandaken Town, Ulster County
*Sharon Town, Schoharie County
Shawangunk Town, Ulster County
*Shelby Town, Orleans County
*Sherburne Town, Chenango County
*Sherman Town, Chautauqua County
*Sidney Town, Delaware County
Smithfield, Town, Madison County
*Smyrna Town, Chenango County
*Sodus Town, Wayne County
Solon Town, Cortland County
*Somerset Town, Niagara County
Southport Town, Chemung County
South Valley Town, Cattaraugus County
Springfield Town, Otsego County
*Springport Town, Cayuga County
*Stamford Town, Delaware County
Stark Town, Herkimer County
Stephentown Town, Rensselaer County
*Sterling Town, Cayuga County
Steuben Town, Oneida County
*Stockbridge Town, Madison County
Stockholm Town, St. Lawrence County
*Stockton Town, Chautauqua County
Stony Creek Town, Warren County
Stratford Town, Fulton County
*St. Armand Town, Essex County
St. Johnsville Town, Montgomery County
Summerhill Town, Cayuga County
Summit Town, Schoharie County
* Sweden Town, Monroe County
Taghkanic Town, Columbia County
Taylor Town, Courtland County
* Theresa Town, Jefferson County
* Thompson Town, Sullivan County
Thurman Town, Warren County
* Ticonderoga Town, Essex County
* Trenton Town, Oneida County
Troupsburg Town, Steuben County
Truxton Town, Cortland County

* Turin Town, Lewis County
Tuscarora Town, Steuben County
Tyrone Town, Schuyler County
* Van Etten Town, Chemung County
Venice Town, Cayuga County
Victory Town, Cayuga County
* Vienna Town, Oneida County
Virgil Town, Cortland County
* Waddington Town, St. Lawrence County
* Walton Town, Delaware County
Warrensburg Town, Warren County
Warren Town, Herkimer County
* Waterloo Town, Seneca County
Watertown Town, Jefferson County
Watson Town, Lewis County
Waverly Town, Franklin County
* Wawarsing Town, Ulster County
Wayne Town, Steuben County
* Wellsville Town, Allegany County
Wells Town, Hamilton County
Western Town, Oneida County
* Westfield Town, Chautauqua County
Westford Town, Otsego County
* Westport Town, Essex County
Westville Town, Franklin County
West Almond Town, Allegany County
West Sparta Town, Livingston County
* West Turin Town, Lewis County
West Union Town, Steuben County
Wetherfield Town, Wyoming County
Wheeler Town, Steuben County
* Whitehall Town, Washington County
Willet Town, Cortland County
Williamstown Town, Oswego County
Willing Town, Allegany County
Willsboro Town, Essex County
Wilmington Town, Essex County
* Wilna Town, Jefferson County
* Wilson Town, Niagara County
Windham Town, Greene County
* Wirt Town, Allegany County
* Wolcott Town, Wayne County
* Woodhull Town, Steuben County
Worcester Town, Otsego County
Worth Town, Jefferson County
* Yates Town, Orleans County
* Yorkshire Town, Cattaraugus County
York Town, Livingston County

Pennsylvania

Abbott Township, Potter County
Adams Township, Cambria County
Addison Township, Somerset County
Albany Township, Bradford County
Aleppo Township, Greene County
Allegany Township, Potter County
Allegheny Township, Butler County
Allegheny Township, Cambria County
Allegheny Township, Somerset County
Allegheny Township, Venango County
Allison Township, Clinton County
Amity Township, Erie County
Annin Township, McKean County
Annville Township, Lebanon County
Anthony Township, Lycoming County
Apolacon Township, Susquehanna County
Ararat Township, Susquehanna County
Armagh Township, Mifflin County
Armenia Township, Bradford County
Armstrong Township, Lycoming County
Asylum Township, Bradford County
Athens Township, Bradford County
Athens Township, Crawford County
Auburn Township, Susquehanna County
Ayr Township, Fulton County
Banks Township, Carbon County
Banks Township, Indiana County
Barnett Township, Forest County
Barnett Township, Jefferson County
Barree Township, Huntingdon County
Barry Township, Schuylkill County
Barr Township, Cambria County
Bart Township, Lancaster County
Bastress Township, Lycoming County
Beale Township, Juniata County
Beaver Township, Clarion County
Beaver Township, Columbia County
Beaver Township, Crawford County
Beaver Township, Jefferson County
Beccaria Township, Clearfield County
Bedford Township, Bedford County
Beech Creek Township, Clinton County
Belfast Township, Fulton County
Bell Township, Clearfield County
Bell Township, Jefferson County
Bell Township, Westmoreland County
Benezette Township, Elk County
Benton Township, Columbia County
Benton Township, Lackawanna County
Berlin Township, Wayne County
Bethel Township, Armstrong County
Bethel Township, Fulton County
Bethel Township, Lebanon County
Bigler Township, Clearfield County
Bingham Township, Potter County
Blacklick Township, Cambria County
Black Creek Township, Luzerne County
Black Lick Township, Indiana County
Black Township, Somerset County
Blaine Township, Washington County
Blair Township, Blair County
Bloomfield Township, Bedford County
Bloomfield Township, Crawford County
Bloom Township, Clearfield County
Bloss Township, Tioga County
Blythe Township, Schuylkill County
Boggs Township, Armstrong County
Boggs Township, Centre County
Boggs Township, Clearfield County
Bradford Township, Clearfield County
Bradford Township, McKean County
Bradys Bend Township, Armstrong County
Brady Township, Butler County
Brady Township, Clearfield County
Brady Township, Huntingdon County
Branch Township, Schuylkill County
Bratton Township, Mifflin County
Brecknock Township, Lancaster County
Broad Top Township, Bedford County
Brokenstraw Township, Warren County
Brookfield Township, Tioga County
Brooklyn Township, Susquehanna County
Brothersvalley Township, Somerset County
Brown Township, Lycoming County
Brown Township, Mifflin County
Brush Creek Township, Fulton County
Brush Valley Township, Indiana County
Buckingham Township, Wayne County
Buck Township, Luzerne County
Buffalo Township, Union County
Buffington Township, Indiana County
Bullskin Township, Fayette County
Burlington Township, Bradford County
Burnside Township, Centre County
Burnside Township, Clearfield County
Burrell Township, Armstrong County
Burrell Township, Indiana County
Butler Township, Luzerne County
Butler Township, Schuylkill County
Cambria Township, Cambria County
Cambridge Township, Crawford County
Canaan Township, Wayne County
Canoe Township, Indiana County
Canton Township, Bradford County
Canton Township, Washington County
Carbondale Township, Lackawanna County
Carbon Township, Huntingdon County
Casade Township, Lycoming County
Cass Township, Huntingdon County
Cass Township, Schuylkill County
Castanea Township, Clinton County
Catawissa Township, Columbia County
Catharine Township, Blair County
Center Township, Greene County
Center Township, Indiana County
Center Township, Snyder County
Ceres Township, McKean County
Chanceford Township, York County
Chapman Township, Clinton County
Chapman Township, Snyder County
Charleston Township, Tioga County
Chatham Township, Tioga County
Cherryhill Township, Indiana County
Cherry Grove Township, Warren County
Cherry Township, Sullivan County
Chest Township, Cambria County
Chest Township, Clearfield County
Clara Township, Potter County
Clay Township, Butler County
Clay Township, Huntingdon County
Clearfield Township, Butler County
Clearfield Township, Cambria County
Cleveland Township, Columbia County
Clinton Township, Lycoming County
Clinton Township, Wyoming County
Clover Township, Jefferson County
Clymer Township, Tioga County
Coal Township, Northumberland County
Cogan House Township, Lycoming County
Colebrook Township, Clinton County
Colerain Township, Lancaster County
Colley Township, Sullivan County
Columbia Township, Bradford County
Concord Township, Butler County
Concord Township, Erie County
Conemaugh Township, Cambria County
Conemaugh Township, Indiana County
Conemaugh Township, Somerset County
Conewago Township, York County
Conewango Township, Warren County
Conneaut Township, Crawford County
Conneaut Township, Erie County
Conyngham Township, Columbia County
Conyngham Township, Luzerne County
Coolbaugh Township, Monroe County
Coolspring Township, Mercer County
Cooper Township, Clearfield County
Corydon Township, McKean County
Covington Township, Clearfield County
Covington Township, Lackawanna County
Covington Township, Tioga County
Cowanshannock Township, Armstrong County
Cresson Township, Cambria County
Cromwell Township, Huntingdon County
Croyle Township, Cambria County
Cumberland Township, Greene County
Cumberland Valley Township, Bedford County
Cummings Township, Lycoming County
Curtin Township, Centre County
Cussewago Township, Crawford County
Damascus Township, Wayne County
Darlington Township, Beaver County
Davidson Township, Sullivan County
Dean Township, Cambria County
Decatur Township, Mifflin County

Deerfield Township, Tioga County
Deerfield Township, Warren County
Deer Creek Township, Mercer County
Delaware Township, Juniata County
Delaware Township, Northumberland County
Delmar Township, Tioga County
Derry Township, Mifflin County
Derry Township, Montour County
Derry Township, Westmoreland County
Dimock Township, Susquehanna County
Donegal Township, Butler County
Donegal Township, Washington County
Donegal Township, Westmoreland County
Dorrance Township, Luzerne County
Dreher Township, Wayne County
Dublin Township, Fulton County
Dublin Township, Huntingdon County
Dunbar Township, Fayette County
Duncan Township, Tioga County
Dunkard Township, Greene County
Dunnstable Township, Clinton County
Dyberry Township, Wayne County
Earl Township, Lancaster County
East Bethlehem Township, Washington County
East Cameron Township, Northumberland County
East Carroll Township, Cambria County
East Chillisquaque Twp., Northumberland County
East Deer Township, Allegheny County
East Fairfield Township, Crawford County
East Fallowfield Twp., Crawford County
East Finley Township, Washington County
East Franklin Township, Armstrong County
East Huntingdon Township, Westmoreland County
East Mahoning Township, Indiana County
East Manchester Township, York County
East Mead Township, Crawford County
East Norwegian Township, Schuylkill County
East Nottingham Township, Chester County
East Penn Township, Carbon County
East Providence Township, Bedford County
East St Clair Township, Bedford County
East Taylor Township, Cambria County
East Union Township, Schuylkill County
East Vincent Township, Chester County
East Wheatfield Township, Indiana County
Eden Township, Lancaster County
Elder Township, Cambria County
Eldred Township, Jefferson County
Eldred Township, McKean County
Eldred Township, Monroe County
Eldred Township, Schuylkill County
Eldred Township, Warren County
Elkland Township, Sullivan County
Elkland Township, Tioga County
Elk Creek Township, Erie County
Elk Lick Township, Somerset County
Elk Township, Tioga County
Exeter Township, Wyoming County
Fairfield Township, Crawford County
Fairfield Township, Westmoreland County
Fairhope Township, Somerset County
Fairmont Township, Luzerne County
Fairview Township, Butler County
Fairview Township, Mercer County
Fallowfield Township, Washington County
Falls Township, Wyoming County
Fannett Township, Franklin County
Farmington Township, Clarion County
Farmington Township, Tioga County
Farmington Township, Warren County
Fawn Township, York County
Fayette Township, Juniata County
Fell Township, Lackawanna County
Findley Township, Mercer County
Fishing Creek Twp., Columbia County
Forks Township, Sullivan County
Foster Township, Luzerne County
Foster Township, Schuylkill County
Fox Township, Sullivan County
Frailey Township, Schuylkill County
Franklin Township, Bradford County
Franklin Township, Carbon County
Franklin Township, Columbia County
Franklin Township, Fayette County
Franklin Township, Greene County
Franklin Township, Huntingdon County
Franklin Township, Luzerne County
Franklin Township, Lycoming County
Franklin Township, Susquehanna County
Freedom Township, Adams County
Freedom Township, Blair County
Freehold Township, Warren County
Freeport Township, Greene County
French Creek Township, Mercer County
Gaines Township, Tioga County
Gallagher Township, Clinton County
Gallitzin Township, Cambria County
Genesee Township, Potter County
Georges Township, Fayette County
German Township, Fayette County
Gibson Township, Cameron County
Gibson Township, Susquehanna County
Gilmore Township, Greene County
Gilpin Township, Armstrong County
Girard Township, Clearfield County
Girard Township, Erie County
Glade Township, Warren County
Goshen Township, Clearfield County
Graham Township, Clearfield County
Grant Township, Indiana County
Granville Township, Bradford County
Granville Township, Mifflin County
Gray Township, Greene County
Greene Township, Clinton County
Greene Township, Greene County
Greene Township, Mercer County
Greenfield Township, Blair County
Greenfield Township, Erie County
Greenville Township, Somerset County
Greenwood Township, Clearfield County
Greenwood Township, Columbia County
Greenwood Township, Crawford County
Greenwood Township, Juniata County
Green Township, Forest County
Green Township, Indiana County
Gregg Township, Centre County
Gregg Township, Union County
Grove Township, Cameron County
Gulich Township, Clearfield County
Haines Township, Centre County
Halfmoon Township, Centre County
Hamilton Township, McKean County
Hamilton Township, Monroe County
Hamilton Township, Tioga County
Hamlin Township, McKean County
Hanover Township, Luzerne County
Harford Township, Susquehanna County
Harmony Township, Forest County
Harmony Township, Susquehanna County
Harrison Township, Allegheny County
Harrison Township, Bedford County
Harrison Township, Potter County
Hartley Township, Union County
Hayfield Township, Crawford County
Hazle Township, Luzerne County
Hebron Township, Potter County
Hector Township, Potter County
Hegins Township, Schuylkill County
Hemlock Township, Columbia County
Henderson Township, Huntingdon County
Henderson Township, Jefferson County
Henry Clay Township, Fayette County
Herrick Township, Bradford County
Hickory Township, Forrest County
Highland Township, Chester County
Highland Township, Clarion County
Highland Township, Elk County
Hillsgrove Township, Sullivan County
Hollenback Township, Luzerne County
Homer Township, Potter County
Hopewell Township, Bedford County
Hopewell Township, Cumberland County
Hopewell Township, Huntingdon County
Hopewell Township, Wshington County
Hopewell Township, York County
Horton Township, Elk County
Hovey Township, Armstrong County
Howard Township, Centre County
Howe Township, Forest County
Hubley Township, Schuylkill County
Hunlock Township, Luzerne County
Huntington Township, Luzerne County
Huston Township, Blair County
Huston Township, Centre County
Irwin Township, Venango County
Jackson Township, Butler County
Jackson Township, Cambria County
Jackson Township, Columbia County
Jackson Township, Greene County
Jackson Township, Huntingdon County
Jackson Township, Lebanon County
Jackson Township, Lycoming County
Jackson Township, Northumberland County
Jackson Township, Perry County
Jackson Township, Snyder County
Jackson Township, Susquehanna County
Jackson Township, Tioga County
Jackson Township, Venango County
Jay Township, Elk County
Jefferson Township, Greene County
Jefferson Township, Lackawanna County
Jenkins Township, Luzerne County
Jenks Township, Forest County
Jordan Township, Clearfield County
Jordan Township, Lycoming County
Jordan Township, Northumberland County
Juniata Township, Bedford County
Juniata Township, Blair County
Juniata Township, Huntingdon County
Karthaus Township, Clearfield County
Keating Township, McKean County
Keating Township, Potter County
Kelly Township, Union County
Kimmel Township, Bedford County
Kingsley Township, Forest County
Kingston Township, Luzerne County
King Township, Bedford County
Kline Township, Schuylkill County
Knox Township, Clearfield County
Knox Township, Jefferson County
Lackawannock Township, Mercer County
Lack Township, Juniata County
Lake Township, Luzerne County
Lake Township, Mercer County
Lamar Township, Clinton County
Laporte Township, Sullivan County
Larimer Township, Somerset County
Lathrop Township, Susquehanna County
Lawrence Township, Clearfield County
Lawrence Township, Tioga County
La Plume Township, Lackawanna County
Leacock Township, Lancaster County
Lebanon Township, Wayne County

Lehigh Township, Carbon County
Lehigh Township, Lackawanna County
Lehman Township, Luzerne County
Leidy Township, Clinton County
Lemon Township, Wyoming County
Lenox Township, Susquehanna County
Leroy Township, Bradford County
Lewis Township, Lycoming County
Lewis Township, Northumberland County
Lewis Township, Union County
Le Boeuf Township, Erie County
Liberty Township, Adams County
Liberty Township, Bedford County
Liberty Township, Centre County
Liberty Township, McKean County
Liberty Township, Susquehanna County
Liberty Township, Tioga County
Licking Creek Township, Fulton County
Licking Township, Clarion County
Limerick Township, Montgomery County
Limestone Township, Union County
Lincoln Township, Bedford County
Lincoln Township, Huntingdon County
Lincoln Township, Somerset County
Litchfield Township, Bradford County
Little Beaver Township, Lawrence County
Little Britain Township, Lancaster County
Little Mahanoy Township, Northumberland County
Locust Township, Columbia County
Logan Township, Blair County
Logan Township, Clinton County
Logan Township, Huntingdon County
Londonderry Township, Bedford County
Lower Augusta Township, Northumberland County
Lower Chanceford Township, York County
Lower Chichester Township, Delaware County
Lower Mahanoy Township, Northumberland County
Lower Mount Bethel Township, Northampton County
Lower Oxford Township, Chester County
Lower Towamensing Township, Carbon County
Lower Turkeyfoot Township, Somerset County
Lower Tyrone Township, Fayette County
Lower Windsor Township, York County
Lower Yoder Township, Cambria County
Loyalhanna Township, Westmoreland County
Loyalsock Township, Lycoming County
Lumber Township, Cameron County
Lurgan Township, Franklin County
Luzerne Township, Fayette County
Madison Township, Armstrong County
Madison Township, Clarion County
Madison Township, Columbia County
Madison Township, Lackawanna County
Mahanoy Township, Schuylkill County
Mahoning Township, Lawrence County
Manchester Township, Wayne County
Mann Township, Bedford County
Manor Township, Armstrong County
Marion Township, Butler County
Marion Township, Centre County
McCalmont Township, Jefferson County
McHenry Township, Lycoming County
McIntyre Township, Lycoming County
McKean Township, Erie County
McNett Township, Lycoming County
Mead Township, Warren County
Mehoopany Township, Wyoming County
Menallen Township, Fayette County
Menno Township, Mifflin County
Meshoppen Township, Wyoming County
Metal Township, Franklin County
Middlebury Township, Tioga County
Middlecreek Township, Somerset County
Middletown Township, Susquehanna County
Mifflin Township, Columbia County
Mifflin Township, Lycoming County
Miles Township, Centre County
Milford Township, Juniata County
Milford Township, Sumerset County
Millcreek Township, Clarion County
Millcreek Township, Lebanon County
Miller Township, Huntingdon County
Millstone Township, Elk County
Mill Creek Township, Lycoming County
Mill Creek Township, Mercer County
Mineral Township, Venango County
Monongahela Township, Greene County
Monroe Township, Bedford County
Monroe Township, Bradford County
Monroe Township, Juniata County
Monroe Township, Wyoming County
Montgomery Township, Franklin County
Montgomery Township, Indiana County
Montour Township, Columbia County
Moreland Township, Lycoming County
Morgan Township, Greene County
Morris Township, Clearfield County
Morris Township, Greene County
Morris Township, Huntingdon County
Morris Township, Tioga County
Morris Township, Washington County
Mount Carmel Township, Northumberland County
Mount Pleasant Township, Columbia County
Mount Pleasant Township, Wayne County
Mount Pleasant Township, Westmoreland County
Muncy Township, Lycoming County
Munster Township, Cambria County
Napier Township, Bedford County
Nelson Township, Tioga County
Nescopeck Township, Luzerne County
Neville Township, Allegheny County
Newport Township, Luzerne County
New Castle Township, Schuylkill County
Nicholson Township, Fayette County
Nicholson Township, Wyoming County
Nippenose Township, Lycoming County
Northampton Township, Sumerset County
Northeast Madison Township, Perry County
Northmoreland Township, Wyoming County
North Buffalo Township, Armstrong County
North Lebanon Township, Lebanon County
North Mahoning Township, Indiana County
North Shenango Township, Crawford County
North Towanda Township, Bradford County
North Union Township, Fayette County
North Union Township, Schuylkill County
North Woodbury Township, Blair County
Norwegian Township, Schuylkill County
Norwich Township, McKean County
Noxen Township, Wyoming County
Noyes Township, Clinton County
Oakland Township, Butler County
Oakland Township, Susquehanna County
Oil Creek Township, Venango County
Oil Creek Township, Crawford County
Oliver Township, Jefferson County
Oliver Township, Mufflin County
Oregon Township, Wayne County
Orwell Township, Bradford County
Osceola Township, Tioga County
Oswayo Township, Potter County
Otto Township, McKean County
Overfield Township, Wyoming County
Overton Township, Bradford County
Paint Township, Somerset County
Paradise Township, Lancaster County
Parker Township, Butler County
Parks Township, Armstrong County
Patterson Township, Beaver County
Peach Bottom Township, York County
Penn Township, Centre County
Penn Township, Huntingdon County
Penn Township, Lycoming County
Penn Township, Snyder County
Perry Township, Armstrong County
Perry Township, Clarion County
Perry Township, Fayette County
Perry Township, Greene County
Perry Township, Jefferson County
Perry Township, Mercer County
Perry Township, Snyder County
Peters Township, Franklin County
Piatt Township, Lycoming County
Pike Township, Bradford County
Pike Township, Clearfield County
Pike Township, Potter County
Piney Township, Clarion County
Pine Creek Township, Jefferson County
Pine Grove Township, Warren County
Pine Grove Township, Schuylkill County
Pine Township, Armstrong County
Pine Township, Columbia County
Pine Township, Crawford County
Pine Township, Indiana County
Pine Township, Lycoming County
Pittsfield Township, Warren County
Pittston Township, Luzerne County
Plainfield Township, Northampton County
Plains Township, Luzerne County
Plain Grove Township, Lawrence County
Pleasant Valley Township, Potter County
Plumcreek Township, Armstrong County
Plunketts Creek Township, Lycoming County
Plymouth Township, Luzerne County
Point Township, Northumberland County
Polk Township, Jefferson County
Portage Township, Potter County
Porter Township, Clarion County
Porter Township, Clinton County
Porter Township, Hunningdon County
Porter Township, Jefferson County
Porter Township, Lycoming County
Porter Township, Schuylkill County
Potter Township, Centre County
Preston Township, Wayne County
Pulaski Township, Beaver County
Putnam Township, Tioga County
Quemahoning Township, Somerset County
Quincy Township, Franklin County
Ralpho Township, Northumberland County
Randolph Township, Crawford County
Ransom Township, Lackawanna County
Rayburn Township, Armstrong County
Rayne Township, Indiana County
Reade Township, Cambria County
Redbank Township, Armstrong County
Redbank Township, Clarion County
Redstone Township, Fayette County
Reilly Township, Schuylkill County
Rice Township, Luzerne County
Richhill Township, Greene County
Richland Township, Clarion County
Richmond Township, Tioga County
Ridgebury Township, Bradford County
Ridgway Township, Elk County
Roaring Creek Township, Columbia County
Robinson Township, Washington County

Rockdale Township, Crawford County
Rockefeller Township, Northumberland County
Rome Township, Bradford County
Rome Township, Crawford County
Ross Township, Luzerne County
Ross Township, Monroe County
Roulette Township, Potter County
Rush Township, Centre County
Rush Township, Northumberland County
Rush Township, Susquehanna County
Rutland Township, Tioga County
Sadsbury Township, Lancaster County
Salem Township, Clarion County
Salem Township, Luzerne County
Salem Township, Mercer County
Salisbury Township, Lancaster County
Saltlick Township, Fayette County
Sandy Creek Township, Mercer County
Sandy Lake Township, Mercer County
Saville Township, Perry County
Schuylkill Township, Schuylkill County
Scott Township, Lackawanna County
Scott Township, Wayne County
Scrubgrass Township, Venango County
Sergeant Township, McKean County
Shade Township, Somerset County
Shamokin Township, Northumberland County
Sharon Township, Potter County
Sheffield Township, Warren County
Shenango Township, Lawrence County
Sheshequin Township, Bradford County
Shippensberg Township, Cumberland County
Shippen Township, Cameron County
Shippen Township, Tioga County
Shipley Township, Huntingdon County
Shrewsbury Township, Lycoming County
Shrewsbury Township, Sullivan County
Slippery Rock Township, Butler County
Slocum Township, Luzerne County
Smithfield Township, Bradford County
Smithfield Township, Huntingdon County
Smith Township, Washington County
Snake Spring Township, Bedford County
Snow Shoe Township, Centre County
Snyder Township, Blair County
Somerset Township, Somerset County
Southampton Township, Bedford County
Southampton Township, Somerset County
Southwest Township, Warren County
South Bend Township, Armstrong County
South Creek Township, Bradford County
South Huntingdon Township, Westmoreland County
South Lebanon Township, Lebanon County
South Mahoning Township, Indiana County
South Pymatung Township, Mercer County
South Shenango Township, Crawford County
South Versailles Township, Allegheny County
South Woodbury Township, Bedford County
Sparta Township, Crawford County
Springfield Township, Bradford County
Springfield Township, Erie County
Springfield Township, Fayette County
Springfield Township, Huntingdon County
Springfield Township, Mercer County
Springhill Township, Fayette County
Springhill Township, Greene County
Springville Township, Susquehanna County
Spring Creek Township, Elk County
Spring Creek Township, Warren County
Spring Township, Centre County
Spring Township, Crawford County
Spring Township, Snyder County
Spruce Creek Township, Huntingdon County
Spruce Hill Township, Juniata County
Standing Stone Township, Bradford County
Sterling Township, Wayne County
Steuben Township, Crawford County
Stevens Township, Bradford County
Stewardson Township, Potter County
Stewart Township, Fayette County
Stonycreek Township, Somerset County
Stowe Township, Allegheny County
St. Clair Township, Westmoreland County
St. Thomas Township, Franklin County
Sugarloaf Township, Columbia County
Sugar Grove Township, Warren County
Sullivan Township, Tioga County
Summerhill Township, Cambria County
Summerhill Township, Crawford County
Summit Township, Potter County
Summit Township, Somerset County
Susquehanna Township, Cambria County
Susquehanna Township, Juniata County
Sweden Township, Potter County
Sylvania Township, Potter County
Taylor Township, Blair County
Taylor Township, Centre County
Taylor Township, Fulton County
Tell Township, Huntingdon County
Terry Township, Bradford County
Thompson Township, Fulton County
Thompson Township, Susquehanna County
Tinicum Township, Delaware County
Tioga Township, Tioga County
Tionesta Township, Forest County
Toby Township, Clarion County
Todd Township, Fulton County
Tod Township, Huntingdon County
Towanda Township, Bradford County
Tremont Township, Schuylkill County
Troy Township, Bradford County
Troy Township, Crawford County
Turbett Township, Juniata County
Tuscarora Township, Bradford County
Tuscarora Township, Juniata County
Tyrone Township, Blair County
Ulster Township, Bradford County
Ulysses Township, Potter County
Union Township, Bedford County
Union Township, Clearfield County
Union Township, Crawford County
Union Township, Erie County
Union Township, Fulton County
Union Township, Huntingdon County
Union Township, Lebanon County
Union Township, Luzerne County
Union Township, Mifflin County
Union Township, Schuylkill County
Union Township, Snyder County
Union Township, Tioga County
Union Township, Union County
Upper Mahanoy Township, Northumberland County
Upper Mahantonga Township, Schuylkill County
Mifflin Township, Northampton County
Uppper Mount Bethel Township, Northampton County
Upper Nazareth Township, Northampton County
Upper Turkeyfoot Township, Somerset County
Upper Tyrone Township, Fayette County
Valley Township, Armstrong County
Vanpart Township, Beaver County
Venango Township, Butler County
Vernon Township, Crawford County
Victory Township, Venango County
Walker Township, Centre County
Walker Township, Juniata County
Walker Township, Schuylkill County
Warren Township, Bradford County
Warren Township, Franklin County
Warrior's Mark Township, Huntingdon County
Warsaw Township, Jefferson County
Washington Township, Armstrong County
Washington Township, Cambria County
Washington Township, Clarion County
Washington Township, Fayette County
Washington Township, Greene County
Washington Township, Indiana County
Washington Township, Jefferson County
Washington Township, Lawrence County
Washington Township, Snyder County
Washington Township, Wyoming County
Waterford Township, Erie County
Wayne Township, Armstrong County
Wayne Township, Clinton County
Wayne Township, Crawford County
Wayne Township, Erie County
Wayne Township, Greene County
Wayne Township, Lawrence County
Wayne Township, Mifflin County
Wayne Township, Schuylkill County
Wells Township, Bradford County
Wells Township, Fulton County
Westfield Township, Tioga County
West Abington Township, Lackawanna County
West Beaver Township, Snyder County
West Bethlehem Township, Washington County
West Branch Township, Potter County
West Buffalo Township, Union County
West Burlington Township, Bradford County
West Cameron Township, Northumberland County
West Carroll Township, Cambria County
West Chillisquaque Township, Northumberland County
West Fallowfield Township, Crawford County
West Finley Township, Washington County
West Franklin Township, Armstrong County
West Keating Township, Clinton County
West Lebanon Township, Lebanon County
West Mahanoy Township, Schuylkill County
West Mahoning Township, Indiana County
West Penn Township, Schuylkill County
West Providence Township, Bedford County
West Salem Township, Mercer County
West Shenango Township, Crawford County
West St. Clair Township, Bedford County
West Taylor Township, Cambria County
West Township, Huntington County
West Wheatfield Township, Indiana County
Wetmore Township, McKean County
Wharton Township, Fayette County
Wharton Township, Potter County
Whitley Township, Greene County
White Township, Cambria County
Wilkes-Barre Township, Luzerne County
Wilmington Township, Lawrence County
Wilmington Township, Mercer County
Wilmot Township, Bradford County
Windham Township, Bradford County
Windham Township, Wyoming County
Winfield Township, Butler County
Winslow Township, Jefferson County
Wolf Creek Township, Mercer County
Woodbury Township, Bedford County
Woodbury Township, Blair County

Woodcock Township, Crawford County
Woodward Township, Lycoming County
Wood Township, Huntingdon County
Worth Township, Centre County
Worth Township, Mercer County
Wyalusing Township, Bradford County
Wysox Township, Bradford County
Young Township, Indiana County
Young Township, Jefferson County
Zerbe Township, Northumberland County

Rhode Island

Bristol Town, Bristol County
New Shoreham Town, Washington County
Warren Town, Bristol County
West Warwick Town, Kent County

Vermont

Addison Town, Addison County
*Albany Town, Orleans County
*Alburg Town, Grand Isle County
Athens Town, Windham County
Bakersfield Town, Franklin County
Barnet Town, Caledonia County
*Barton Town, Orleans County
Belvidere Town, Lamoille County
Benson Town, Rutland County
Berkshire Town, Franklin County
Bethel Town, Windsor County
Bloomfield Town, Essex County
Braintree Town, Orange County
Brattleboro Town, Windham County
Bridport Town, Addison County
Brighton Town, Essex County
*Bristol Town, Addison County
Brownington Town, Orleans County
*Cabot Town, Washington County
*Cambridge Town, Lamoille County
Canaan Town, Essex County
Castleton Town, Rutland County
Charleston Town, Orleans County
Chelsea Town, Orange County
Corinth Town, Orange County
Coventry Town, Orleans County
Craftsbury Town, Orleans County
Danby Town, Rutland County
Danville Town, Caledonia County
*Derby Town, Orleans County
Dover Town, Windham County
Duxbury Town, Washington County
East Haven Town, Essex County
Eden Town, Lamoille County
Elmore Town, Lamoille County
*Enosburg Town, Franklin County
Fairfield Town, Franklin County
Fairlee Town, Orange County
Fair Haven Town, Rutland County
Franklin Town, Franklin County
Glover Town, Orleans County
Granby Town, Essex County
Greensboro Town, Orleans County
Groton Town, Caledonia County
Guildhall Town, Essex County
Halifax Town, Windham County
*Hardwick Town, Caledonia County
Highgate Town, Franklin County
Holland Town, Orleans County
Hubbardton Town, Rutland County
*Hyde Park Town, Lamoille County
Irasburg Town, Orleans County
Ira Town, Rutland County
Jamaica Town, Windham County
Jay Town, Orleans County
*Johnson Town, Lamoille County
Leicester Town, Addison County
Lincoln Town, Addison County
Lowell Town, Orleans County
*Ludlow Town, Windsor County
Lunenburg Town, Essex County
*Lyndon Town, Caledonia County
Maidstone Town, Essex County
Marlboro Town, Windham County
*Marshfield Town, Washington County
Montgomery Town, Franklin County
Moretown Town, Washington County
Morgan Town, Orleans County
*Morristown Town, Lamoille County
Newark Town, Caledonia County
Newport Town, Orleans County
Norton Town, Essex County
Orange Town, Orange County
Orwell Town, Addision County
Pawlet Town, Rutland County
Peacham Town, Caledonia County
*Plainfield Town, Washington County
Plymouth Town, Windsor County
*Poultney Town, Rutland County
Reading Town, Windsor County
*Richford Town, Franklin County
Ripton Town, Addison County
Rochester Town, Windsor County
*Rockingham Town, Windham County
Roxbury Town, Washington County
Royalton Town, Windsor County
Ryegate Town, Caledonia County
Sandgate Town, Bennington County
Searsburg Town, Bennington County
Sharon Town, Windsor County
Sheffield Town, Caledonia County
Sheldon Town, Franklin County
Springfield Town, Windsor County
Stannard Town, Caledonia County
Starksboro Town, Addison County
*Stowe Town, Lamoille County
Strafford Town, Orange County
St. Johnsbury Town, Caledonia County
Sudbury Town, Rutland County
Sutton Town, Caledonia County
*Swanton Town, Franklin County
Topsham Town, Orange County
Townshend Town, Windham County
*Troy Town, Orleans County
Tunbridge Town, Orange County
Vershire Town, Orange County
Victory Town, Essex County
Walden Town, Caledonia County
Waltham Town, Addison County
Wardsboro Town, Windham County
Washington Town, Orange County
*Waterbury Town, Washington County
Waterville Town, Lamoille County
Wells Town, Rutland County
Westfield Town, Orleans County
*Westminster Town, Windham County
Westmore Town, Orleans County
West Fairlee Town, Orange County
West Haven Town, Rutland County
West Rutland Town, Rutland County
Weybridge Town, Addison County
Wheelock Town, Caledonia County
*Whitingham Town, Windham County
Williamstown Town, Orange County
Windsor Town, Windsor County
Wolcott Town, Lamoille County
Woodbury Town, Washington County
Woodford Town, Bennington County
Worcester Town, Washington County

Puerto Rico

Adjuntas Municipio
Aguada Municipio
Aguas Buenas Municipio
Aibonito Municipio
Añasco Municipio
Arroyo Municipio
Barceloneta Municipio
Barranquitas Municipio
Cabo, Rojo Municipio
Camuy Municipio
Canóvanas Municipio
Cataño Municipio
Cayey Municipio
Ceiba Municipio
Ciales Municipio
Cidra Municipio
Coamo Municipio
Comerío Municipio
Corozal Municipio
Culebra Municipio
Dorado Municipio
Florida Municipio
Guanica Municipio
Guayama Municipio
Guayanilla Municipio
Gurabo Municipio
Hatillo Municipio
Hormigueros Municipio
Humacao Municipio
Isabela Municipio
Jayuya Municipio
Juana Diaz Municipio
Juncos Municipio
Lajas Municipio
Lares Municipio
Las Marías Municipio
Las Piedras Municipio
Loíza Municipio
Luquillo Municipio
Manatí Municipio
Maricao Municipio
Maunabo Municipio
Moca Municipio
Morovis Municipio
Naguabo Municipio
Naranjito Municipio
Orocovis Municipio
Patillas Municipio
Peñuelas Municipio
Quebradillas Municipio
Rincón Municipio
Rio Grande Municipio
Sabana Grande Municipio
Salinas Municipio
Santa Isabel Municipio
San Germán Municipio
San Lorenzo Municipio
San Sebastián Municipio
Toa Alta Municipio
Utuado Municipio
Vega Alta Municipio
Vega Baja Municipio
Vieques Municipio
Villalba Municipio
Yabucoa Municipio
Yauco Municipio

Dated: February 3, 1984.

Stephen J. Bollinger,

Assistant Secretary for Community Planning and Development.

[FR Doc. 84-3522 Filed 2-10-84; 8:45 am]

BILLING CODE 4210-29-M

federal register

Monday
February 13, 1984

Part III

Department of the Interior

Office of the Secretary

48 CFR Ch. 14
Acquisition Regulations; Proposed Rule

DEPARTMENT OF THE INTERIOR

Office of the Secretary

48 CFR Ch. 14

Department of the Interior Acquisition Regulation (DIAR)

AGENCY: Office of the Secretary, Interior.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice invites comments on the Department of the Interior Acquisition Regulation (DIAR) which implements and supplements the Federal Acquisition Regulation (FAR). The DIAR will replace the current Interior Procurement Regulations (41 CFR Part 14) on April 1, 1984.

DATE: Comments must be received on or before March 14, 1984.

ADDRESS: Division of Acquisition and Grants, Office of Acquisition and Property Management, Department of the Interior, 18th and C Streets, NW., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: William Opdyke, Chief, Branch of Policy and Regulations, Division of acquisition and Grants, Office of Acquisition and Property Management, telephone (202) 343–3433.

SUPPLEMENTARY INFORMATION:

Explanation

The proposed acquisition regulations under this rulemaking action contain only those Department-wide policies, procedures, and contract clauses, and solicitation provisions which directly govern the contracting process or control the relationship between the Department's bureaus and offices and contractors or prospective contractors. Internal guidance involving designations, delegations of authority, administrative procedures, and reporting requirements necessary to implement the FAR within the Department is not contained in this action since such guidance is not required to be published in the **Federal Register** pursuant to FAR 1.301(b).

Primary Author

The primary author of this rule is William Opdyke, Office of Acquisition and Property Management, telephone (202) 343–3433.

Executive Order 12291 and Regulatory Flexibility Act

The Director, Office of Management and Budget has exempted agency procurement regulations from the requirements of Executive Order 12291 by memorandum dated December 15, 1983. The Department has certified that this document will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility act (5 U.S.C. 601 *et seq.*)

Paperwork Reduction Act

The information collection requirements contained in 48 CFR 1452.204–72, 1452.210–70, and 1452.225–70 will be submitted to the Office of Management and Budget for approval as required by 44 U.S.C. 3501 *et seq.* The collection of this information will not be required until it has been approved by the Office of Management and Budget. Comments on the information collection requirements should be submitted to Nancy Baldwin, Desk Officer, Office of Management and Budget, Office of Information and Regulatory Affairs, 725 Jackson Place, Room 3001, Washington, D.C. 20503, as well as to the Departmental address listed above.

List of Subject in 48 CFR Chapter 14

Government procurement, Indian business and finance, Insurance.

For the reasons set out in the preamble, Chapter 14 of Title 48 of the Code of Federal Regulations is proposed as set forth below pursuant to the authority of the Secretary of the Interior contained in Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c), and 5 U.S.C. 301.

Dated: February 2, 1984.

Richard R. Hite,

Deputy Assistant Secretary of the Interior.

It is proposed to add Chapter 14 to Title 48 of the Code of Federal Regulations to read as follows:

CHAPTER 14—DEPARTMENT OF THE INTERIOR ACQUISITION REGULATION

SUBCHAPTER A—GENERAL

Part 1401—Department of the Interior acquisition regulation system
Part 1403—Improper business practices and personal conflicts of interest
Part 1404—Administrative matters

SUBCHAPTER B—ACQUISITION PLANNING

Part 1407—Acquisition planning
Part 1409—Contractor qualifications
Part 1410—Specifications, standards and other purchase descriptions

SUBCHAPTER C—CONTRACTING METHODS AND CONTRACT TYPES

Part 1413—Small purchases and other simplified purchase procedures
Part 1414—Formal advertising
Part 1415—Contracting by negotiations

SUBCHAPTER D—SOCIOECONOMIC PROGRAMS

Part 1419—Small business and small disadvantaged business concerns
Part 1420—Labor surplus area concerns
Part 1424—Protection of privacy and freedom of information
Part 1425—Foreign acquisition

SUBCHAPTER E—GENERAL CONTRACTING REQUIREMENTS

Part 1428—Bonds and insurance
Part 1432—Contract financing
Part 1433—Disputes and appeals

SUBCHAPTER F—SPECIAL CATEGORIES OF CONTRACTING

Part 1436—Construction and architect—engineering contracts
Part 1437—Service contracting

SUBCHAPTER G—CONTRACT MANAGEMENT

Part 1442—Contract administration

SUBCHAPTER H—CLAUSES AND FORMS

Part 1452—Solicitation provisions and contract clauses
Part 1453—Forms

SUBCHAPTER A—GENERAL

PART 1401—DEPARTMENT OF THE INTERIOR ACQUISITION REGULATION SYSTEM

Subpart 1401.3—Agency Acquisition Regulations

Sec.
1401.301 Policy.
1401.302 Limitations.
1401.303 Codification and public participation.
1401.304 Agency control and compliance procedures.

Subpart 1401.6—Contracting Authority and Responsibilities

1401.601 General.
1401.602 Contracting officers.
1401.602–1 Authority.
1401.603 Selection, appointment and termination of appointment.
1401.603–1 General.
1401.670 Appointment and termination of appointment of contracting officers' representatives.
1401.670–1 General.
1401.670–2 Appointment.
1401.670–3 Limitations.
1401.670–4 Termination.

Authority: Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c), and 5 U.S.C. 301.

Subpart 1401.3—Agency Acquisition Regulations

§ 1401.301 Policy.

(a) Subject to the authorities in (c) below, the Department issues acquisition regulations which implement or supplement the FAR under the Department of the Interior Acquisition Regulations (DIAR) System. The regulations, as part of the FAR system, are issued in accordance with the policy in FAR 1.301(a).

(b) Subject to the authorities in (c) below, the Department also issues internal guidance and instructions under the DIAR System in accordance with the policy in FAR 1.301(b).

(c) Regulations and internal guidance under the DIAR System are issued pursuant to the authority of the

Secretary of the Interior under 5 U.S.C. 301 and 40 U.S.C. 486(c). This authority has been delegated to the Assistant Secretary—Policy, Budget and Administration under Part 209, Chapter 4.1A of the Departmental Manual (209 DM 4.1A).

§ 1401.302 Limitations.

DIAR System regulations and internal guidance conform to the limitations in FAR 1.301 and consist of:

(a) Published and codified Department-wide regulations which implement or supplement FAR policies and procedures and directly govern the contracting relationship between the department's bureaus and offices and existing or potential contractors;

(b) Published and codified bureau-wide regulations which supplement FAR policies and procedures and govern the relationship between a bureau and existing or potential contractors to satisfy specific and unique needs of the particular bureau;

(c) Unpublished Department-wide internal guidance related to administrative implementation of FAR policies and procedures which does not directly affect existing or potential contractors; and

(d) Unpublished bureau-wide internal guidance which is necessary for administrative implementation of FAR or DIAR System requirements at organizational levels.

§ 1401.303 Codification and public participation.

(a) Implementing and supplementing regulations issued under the DIAR System are codified under Chapter 14 in Title 48, Code of Federal Regulations and conform to the requirements in FAR 1.303.

(b) Department-wide regulations (see 1401.302(a)) are assigned Parts 1401 through 1479 under 48 CFR.

(c) Bureau-wide regulations (see 1401.302(b)) are assigned Parts 1480–1499 under 48 CFR as follows:

1480–1481 Bureau of Indian Affairs
1482 Office of the Secretary
1483 Bureau of Reclamation
1484 Bureau of Land Management
1485 Bureau of Mines
1486 Geological Survey
1487 Office of Surface Mining
1488 Minerals Management Service
1489 National Park Service
1490 Fish and Wildlife Service
1491–1499 [Reserved]

(d) Public participation in the promulgation of the acquisition regulations which are published in the **Federal Register** shall follow the Department's rulemaking procedures prescribed in Part 318, Chapter 6 of the Departmental Manual (318 DM 6) and the procedures in FAR Subpart 1.5.

(e) Copies of Department-wide and bureau-wide acquisition regulations and Department-wide internal guidance may be obtained from the Office of Acquisition and Property Management, Office of the Secretary, U.S. Department of the Interior, Washington, D.C. 20240.

§ 1401.304 Agency control and compliance procedures.

(a) The DIAR system is under the direct oversight and control of the Director, Office of Acquisition and Property Management, who is responsible for review and issuance of all Department-wide and bureau-wide acquisition regulations published in the **Federal Register** to assure compliance with FAR Part 1. Review procedures are contained in Part 401 of the Departmental Manual (401 DM).

(b) The Director, Office of Acquisition and Property Management is also responsible for review and issuance of unpublished, Department-wide internal guidance under the DIAR System.

(c) Heads of contracting activities are responsible for establishment and implementation of formal procedures for oversight and control of all unpublished bureau-wide internal guidance issued to implement FAR or DIAR requirements. These procedures shall be reviewed and approved by the Director, Office of Acquisition and Property Management and shall include:

(1) Provisions for centralized issuance of all guidance and instructions using a directives system;

(2) Methods for periodic review and updating of all issuances;

(3) Distribution processes which assure timely receipt by all affected contracting offices; and

(4) Provisions for maintaining compliance with FAR 1.304.

(d) The Director, Office of Acquisition and Property Management is responsible for evaluating coverage under the DIAR System to determine applicability to other agencies and for recommending coverage to the FAR Secretariat for inclusion in the FAR.

(e) Recommendations for revision of existing FAR coverage or new FAR coverage shall be submitted by the head of the contracting activity to the Director, Office of Acquisition and Property Management for further action.

Subpart 1401.6—Contracting Authority and Responsibilities

§ 1401.601 General.

(a) The authority and responsibility vested in the Secretary to contract for authorized supplies and services is delegated to Assistant Secretaries.

(b) The contracting authority and responsibility delegated to Assistant Secretaries may be redelegated to heads of bureaus and offices under their supervision in accordance with Part 200, Chapter 3 of the Departmental Manual (200 DM 3). Such redelegations are published in bureau chapters of the Part 200 series of the Departmental Manual.

(c) Bureau heads and assistant or associate heads thereof (known as heads of contracting activities as defined in 1402.1) may redelegate contracting authority only as prescribed in 1401.603.

§ 1401.602 Contracting officers.

§ 1401.602–1 Authority.

Information on the limits of contracting officers' authority shall be maintained by the head of the contracting activity as required in FAR 1.602–1. The Office of Acquisition and Property Management shall also maintain this information.

§ 1401.603 Selection, appointment and termination of appointment.

§ 1401.603–1 General.

Heads of contracting activities (see Subpart 1402.1) are authorized to select and appoint contracting officers and terminate their appointment as prescribed in the Department's "Contracting Officers' Warrant System Manual." Copies of the manual may be obtained upon request from the Office of Acquisition and Property Management, Office of the Secretary, U.S. Department of the Interior, Washington, D.C. 20240.

§ 1401.670 Appointment and termination of appointment of contracting officers' representatives.

§ 1401.670–1 General.

A contracting officer may select and appoint an individual to act as an authorized representative in the administration of a contract based on the technical, professional and administrative qualifications of the individual.

§ 1401.670–2 Appointment.

(a) Contracting officers' representatives shall be appointed in writing by the contracting officer. The appointment shall state the scope and limitations of authority (see 1401.670–3) and identify the contract(s) which the representative will administer.

(b) Changes in the scope or limitations of authority shall be made by written amendments to the existing appointment or by issuance of a new appointment.

(c) A copy of the appointment shall be promptly forwarded to the contractor after issuance by the contracting officer.

§ 1401.670–3 Limitations.

Each appointment of a contracting officers' representative made by the contracting officer shall clearly state that the representative is not authorized under any circumstances to:

(a) Award, agree to, or execute any contract, contract modification, or notice of intent;

(b) Obligate, in any way, the payment of money by the Government;

(c) Make a final decision on any contract matter which is subject to the clause at FAR 52.233–1, Disputes; or

(d) Terminate, for any cause, the contractor's right to proceed.

§ 1401.670–4 Termination.

Termination of a contracting officer's representative appointment shall be made in writing by the contracting officer and shall state the date such termination is effective. A copy of the termination shall be promptly forwarded to the contractor after issuance by the contracting officer.

PART 1403—IMPROPER BUSINESS PRACTICES AND PERSONAL CONFLICTS OF INTEREST

Subpart 1403.1—Safeguards

Sec.
1403.101 Standards of conduct.
1403.101–3 Agency regulations.

Subpart 1403.2—Contractor Gratuities to Government Personnel

1403.203 Reporting suspected violations of the Gratuities clause.
1403.203–70 Procedures.

Authority: Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c), and 5 U.S.C. 301.

Subpart 1403.1—Safeguards

§ 1403.101 Standards of conduct.

§ 1403.101–3 Agency regulations.

Department of the Interior regulations governing the conduct and responsibilities of regular and special employees are contained in 43 CFR Part 20. Authorized exceptions to FAR 3.101–2 are contained in 43 CFR 20.735–7 and 20.735–8.

Subpart 1403.2—Contractor Gratuities to Government Personnel

§ 1403.203 Reporting suspected violations of the Gratuities clause.

§ 1403.203–70 Procedures.

(a) *Action Official.* The Director, Office of Acquisition and Property Management, is the Departmental official authorized to take action pursuant to FAR 3.204(c) against a contractor if it is determined that a violation of the clause at FAR 52.203–3, Gratuities, has occurred. This authority may not be delegated.

(b) *Referral.* Whenever a suspected violation of the clause at FAR 52.203–3, Gratuities, becomes known to a Department employee, the matter shall be reported to the cognizant contracting officer. The report shall be in writing and shall clearly state the circumstances surrounding the incident or incidents where it is alleged that the contractor offered or gave a gratuity to a Department employee and intended by the gratuity to obtain a contract or favorable treatment under a contract. The date(s), location(s) and name(s) of all parties involved in the incident shall be included in the report. The report shall also include a recommended course of action in accordance with FAR 3.204(c) and shall be submitted through the head of the contracting activity to the Director, Office of Acquisition and Property Management for disposition.

(c) *Notice to contractor.* After review of the report and consultation with the Office of the Solicitor and Office of the Inspector General, as appropriate, the Director, Office of Acquisition and Property Management shall determine further action to be taken. If required, the contractor shall be provided with a formal notice which summarizes the events involving the suspected violation and affords the contractor the opportunity to take the action(s) listed under FAR 3.204(b). The notice shall contain a time limit for reply and shall be sent by certified mail return receipt requested.

(d) *Decision.* Based on the contractor's response to the notice, the results of any further discussion with the contractor, its counsel or witnesses, the review of additional documentary evidence, and other pertinent information, the Director, Office of Acquisition and Property Management shall make a final and binding decision on the action to be taken in accordance with FAR 3.204(c) and shall provide the contractor with a formal notice of such action.

PART 1404—ADMINISTRATIVE MATTERS

Subpart 1404.4—Safeguarding Classified Information Within Industry

Sec.
1404.402 General.

Subpart 1404.7—Contractor Records Retention

1404.701 Purpose.
1404.702 Applicability.

Subpart 1404.8—Contract Files

Sec.
1404.804 Closeout of contract files.
1404.804–70 Release of claims.

Subpart 1404.70—Indian Preference

1404.7000 Scope of subpart.
1404.7001 Definitions.
1404.7002 Statutory requirements.
1404.7003 Applicability and contract clause.
1404.7004 Compliance enforcement.
1404.7005 Tribal preference requirements.

Authority: Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c) and 5 U.S.C. 301.

Subpart 1404.4—Safeguarding Classified Information Within Industry

§ 1404.402 General.

(a) The Department of the Interior has entered into an agreement with the Department of Defense (DOD) to be covered by the Defense Industrial Security Program (DISP). The agreement is contained in Appendix 1, Part 443, Chapter 1 of the Department Manual (443 DM 1).

(b) Classified acquisitions or contracts (see FAR 4.401) shall be subject to the instructions contained in the DOD publications listed in FAR 4.402(b).

Subpart 1404.7—Contractor Records Retention

§ 1404.701 Purpose.

This subpart contains additional record retention requirements of the Department of the Interior.

§ 1404.702 Applicability.

In addition to the clauses listed under FAR 4.702(a), FAR Subpart 4.7 shall apply to records generated under contracts containing the clause at § 1452.215–70, Examination of Records by the Department of the Interior.

Subpart 1404.8—Contract Files

§ 1404.804 Closeout of contract files.

§ 1404.804–70 Release of claims.

(a) The contracting officer shall insert the clause at § 1452.204–70, Release of Claims, in all construction contracts which exceed $25,000 and in all cost-reimbursement contracts which exceed $25,000. A release of claims clause may be inserted in other types of contracts when the contracting officer determines that the release is necessary to protect the interests of the Government.

(b) Form DI–137, Release of Claims (see 1453.204–70), shall be used for obtaining a release of claims.

Subpart 1404.70—Indian Preference

§ 1404.7000 Scope of subpart.

This subpart prescribes policies and procedures for implementation of

section 7(b) of the Indian Self-Determination and Education Assistance Act (Pub. L. 93–638, 88 Stat. 2205, 25 U.S.C. 450e(b)).

§ 1404.7001 Definitions.

For purposes of this subpart the following definitions shall apply:

"Indian" means a person who is a member of an Indian Tribe. If the contractor has reason to doubt that a person seeking employment preference is an Indian, the contractor shall grant the preference but shall require the individual within thirty (30) days to provide evidence from the Tribe concerned that the person is a member of the Tribe.

"Indian organization" means the governing body of any Indian Tribe or entity established or recognized by such governing body in accordance with the Indian Financing Act of 1974 (88 Stat. 77; 25 U.S.C. 1451).

"Indian-owned economic enterprise" means any Indian-owned commercial, industrial, or business activity established or organized for the purpose of profit provided that such Indian ownership shall constitute not less than 51 percent of the enterprise.

"Indian reservation" includes Indian reservations, public domain Indian allotments, former Indian reservations in Oklahoma, and land held by incorporated Native groups, regional corporations, and village corporations under the provisions of the Alaska Native Claims Settlement Act (85 Stat. 688; 43 U.S.C. 1601 et seq.).

"Indian Tribe" means an Indian Tribe, band, nation, or other recognized group or community, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (85 Stat. 688; 43 U.S.C. 1601), which recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

"On or near Indian reservation" means on a reservation or the distance within that area surrounding an Indian reservation(s) that a person seeking employment could reasonably be expected to commute to and from in the course of a work day.

§ 1404.7002 Statutory requirements.

Section 7(b) of the Indian Self-Determination and Education Assistance Act requires that any contract or subcontract entered into pursuant to that Act, the Act of April 16, 1934 (48 Stat. 596; 25 U.S.C. 452), as amended, (the Johnson-O'Malley Act), or any other Act authorizing contracts with Indian organizations or for the benefit of Indians shall require that, to the greatest extent feasible: (a) Preferences and opportunities for training and employment in connection with the administration of such contracts shall be given to Indians, and (b) preference in the award of subcontracts in connection with the administration of such contracts shall be given to Indian organizations and to Indian-owned economic enterprises as defined in section 3 of the Indian Financing Act of 1974 (Sec. 3, Pub. L. 93–262; 88 Stat. 77; 25 U.S.C. 1452).

§ 1404.7003 Applicability and contract clause.

(a) The contracting officer shall insert the clause at 1452.204–71, Indian Preference—Department of the Interior, in solicitations issued and contracts awarded by: (1) The Bureau of Indian Affairs, except solicitations issued and contracts awarded pursuant to Title I and to Indian Tribes and Indian Organizations under Title II of Pub. L. 93–638 (25 U.S.C. 450 et seq., and 25 U.S.C. et seq., respectively), (2) a contracting activity other than the Bureau of Indian Affairs when the contract is entered into pursuant to an act specifically authorizing contracts with Indian organizations, and (3) a contracting activity other than the Bureau of Indian Affairs where the work to be performed is specifically for the benefit of Indians and is in addition to any incidental benefits which might otherwise accrue to the general public.

(b) The contracting officer shall insert the clause at § 1452.204–72, Indian Preference Program—Department of the Interior, in all solicitations issued and contracts awarded by a contracting activity which may exceed $50,000, which contain the clause required by paragraph (a) above and where it is determined by the contracting officer, prior to solicitation, that the work under the contract will be performed in whole or in part on or near an Indian reservation(s). The Indian Preference Program clause may also be included in solicitations issued and contracts awarded by a contracting activity which may not exceed $50,000, but which contain the clause required by paragraph (a) above and which, in the opinion of the contracting officer, offer substantial opportunities for Indian employment, training or subcontracting.

§ 1404.7004 Compliance enforcement.

(a) The contracting officer is responsible for conducting periodic reviews of the contractor to ensure compliance with the requirements of the clauses prescribed in 1404.7003. There reviews may be conducted with the assistance of the Indian Tribe(s) concerned.

(b) Complaints of noncompliance with the requirements of the clauses prescribed under § 1404.7003 which are received in writing by the contracting activity shall be promptly investigated by the contracting officer and a written disposition of the complaint shall be prepared.

§ 1404.7005 Tribal preference requirements.

(a) Where the work under a contract is to be performed on an Indian reservation, the contracting officer may supplement the clause at § 1452.204–72, Indian Preference Program—Department of the Interior, by adding specific Indian preference requirements of the Tribe on whose reservation the work is to be performed. The supplemental requirements shall be jointly developed for the contract by the contracting officer and the Tribe. Supplemental preference requirements must represent a further implementation of the requirements of section 7(b) of Pub. L. 93–638 and must be approved by the Office of the Solicitor for legal sufficiency before being added to a solicitation and resultant contract. Any supplemental preference requirements to be added to the clause at § 1452.204–72 shall be included in the solicitation and clearly identified in order to ensure uniform understanding of the additional requirements by all prospective bidders or offerors.

(b) Nothing in these regulations shall be interpreted to preclude Tribes from independently developing and enforcing their own tribal preference requirements. Such independently developed tribal preference requirements shall not, except as provided in (a) above, become a requirement in contracts covered under this subpart 1404.70 and must not hinder the Government's right to award contracts and to administer their provisions.

SUBCHAPTER B—ACQUISITION PLANNING

PART 1407—ACQUISITION PLANNING

Subpart 1407.3—Contractor Versus Government Performance

Sec.

1407.302 General.

1407.307 Appeals.

Authority: Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c) and 5 U.S.C. 301.

Subpart 1407.3—Contractor Versus Government Performance

§ 1407.302 General.

The Department has implemented the requirements of OMB Circular A–76 and FAR Subpart 7.3 in Part 403 of the Departmental Manual (403 DM).

§ 1407.307 Appeals.

The Department's appeals procedures requied by OMB Circular A–76 and FAR 7.307 are codified in 43 CFR Part 4, Subpart M.

PART 1409—CONTRACTOR QUALIFICATIONS

Subpart 1409.4—Debarment, Suspension and Ineligibility

Sec.
1409.400 Scope of subpart.
1409.404 Consolidated list of debarred, suspended and ineligible contractors.
1409.405 Effect of listing.
1409.405–1 Continuation of current contracts.
1409.406 Debarment.
1409.406–1 General.
1409.406–3 Procedures.
1409.407 Suspension.
1409.407–1 General.
1409.407–3 Procedures.

Authority: Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c), and 5 U.S.C. 301.

Subpart 1409.4—Debarment, Suspension and Ineligibility

§ 1409.400 Scope of subpart.

As required by FAR 9.402(c), this subpart prescribes Departmental policies and procedures governing the debarment and suspension of contractors, the listing of the debarred and suspended contractors, and dissemination of this listing.

§ 1409.404 Consolidated list of debarred, suspended and ineligible contractors.

(a) The Division of Acquisition and Grants, Office of Acquisition and Property Management, is responsible for accomplishing the actions required in FAR 9.404(c).

(b) Monthly issues of the consolidated list shall be disseminated by the heads of contracting activities to all contracting offices after receipt from GSA.

(c) Weekly supplements to monthly lists shall be furnished to each bureau headquarters office by the Division of Acquisition and Grants, Office of Acquisition and Property Management. Each bureau shall maintain list supplements at a central location and issue instructions requiring contracting officers to contact this location in order to obtain current information and ensure effective use of the list as required by FAR 9.405.

§ 1409.405 Effect of listing.

The Director, Office of Acquisition and Property Management, is authorized to make the determinations listed in FAR 9.405(a). Requests for such determinations shall be submitted by the head of the contracting activity to the Director, Office of Acquisition and Property Management.

§ 1409.405–1 Continuation of current contracts.

The Director, Office of Acquisition and Property Management, is authorized to take the actions listed in FAR 9.405–1.

§ 1409.406 Debarment.

§ 1409.406–1 General.

(a) The Director, Office of Acquisition and Property Management, is the debarring official for the Department and is authorized to debar a contractor for any of the causes in FAR 9.406–2, using the procedures in 1409.406–3.

(b) The Director, Office of Acquisition and Property Management, is authorized to make the statement regarding debarment by another agency debarring official under the conditions in FAR 9.406–1(c).

§ 1409.406–3 Procedures.

(a) *Investigation and referral.* Whenever a cause for debarment, as listed in FAR 9.406–2, becomes known to a Department employee, the matter shall be referred to the head of the contracting activity involved. The head of the contracting activity shall consult with the Office of the Solicitor and the Office of Inspector General, as appropriate, and submit a formal recommendation which documents the cause for debarment to the Director, Office of Acquisition and Property Management.

(b) *Notice of proposal to debar.* Based upon review of the recommendation to debar and consultation with the Office of the Solicitor and Office of Inspector General, as appropriate, the Director, Office of Acquisition and Property Management shall initiate proposed debarment by taking the actions listed in FAR 9.406–3(c) and advising the contractor of the Department's rules under this Subpart 1409.4.

(c) *Factfinding proceedings.* For actions listed under FAR 9.406–3(b)(2), the Director, Office of Acquisition and Property Management shall afford the contractor the opportunity to appear at a hearing as required by FAR 9.406–3(b)(2)(i). The hearing shall be conducted by the Director, Office of Acquisition and Property Management, or designee, and shall be held at a location convenient to the parties concerned as determined by the Director and on a date and time stated. Subject to the provisions of 43 CFR Part 1, the contractor and any specifically named affiliates, may be represented by counsel or any duly authorized representative. Witnesses may be called by either party. The proceedings shall be conducted expeditiously and in such a manner that each part will have a full opportunity to present all information considered pertinent to the proposed debarment. A transcript of the proceedings shall be made available to the contractor under the conditions in FAR 9.406–3(b)(2)(ii).

(d) *Decision and notice.* The Director, Office of Acquisition and property Management shall make a decision on imposing debarment in accordance with the procedures in FAR 9.406–3(d) and the conditions in FAR 9.406–4 and 9.406–5. Notice of the decision shall be provided to the contractor and any affiliates involved in accordance with the procedures in FAR 9.406–3(e).

§ 1409.407 Suspension.

§ 1409.407–1 General.

(a) The Director, Office of Acquisition and Property Management is the suspension official for the Department and is authorized to suspend a contractor for any of the causes in FAR 9.407–2, using the procedures in § 1409.407–3.

(b) The Director, Office of Acquisition and Property Management is authorized to make the statement regarding suspension by another agency suspending official under the conditions in FAR 9.407–1(d).

§ 1409.407–3 Procedures.

(a) *Investigation and referral.* Whenever a cause for suspension, as listed in FAR 9.407–2, becomes known to a Department employee, the matter shall be referred to the head of the contracting activity involved. The head of the contracting activity shall consult with the Office of the Solicitor and the Office of Inspector General, as appropriate, and submit a formal recommendation which documents the cause for suspension to the Director, Office of Acquisition and Property Management.

(b) *Notice suspension.* Based upon review of the recommendation to suspend and consultation with the Office of the Solicitor and the Office of Inspector General, as appropriate, the Director, Office of Acquisition and Property Management shall initiate suspension by taking the actions listed in FAR 9.407–3(c) and advising the contractor of the Department's rules under this Subpart 1409.4.

(c) *Factfinding proceedings.* For actions listed under FAR 9.407–3(b)(2), the Director, Office of Acquisition and Property Management shall afford the contractor the opportunity to appear at a hearing as required by FAR 9.407–3(b)(2)(i). The hearing shall be conducted under the conditions in § 1409.406–3(c).

(d) *Suspension decision.* The Director, Office of Acquisition and Property Management shall make a final decision on suspension as prescribed in FAR 9.407–3(d). Notice of the decision shall be provided to the contractor and any affiliates involved in accordance with the procedures in FAR 9.407–3(d)(4).

PART 1410—SPECIFICATIONS, STANDARDS AND OTHER PURCHASE DESCRIPTIONS

Sec.
1410.004 Selecting specifications or descriptions for use.
1410.004–70 Brand name products or equal.

Authority: Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c), and 5 U.S.C. 301.

§ 1410.004 Selecting specifications or descriptions for use.

(a) In accordance with FAR 10.004(b)(2), purchase descriptions shall not specify a product, or specific feature of a product, peculiar to a manufacturer unless it is determined in writing by the office initiating the purchase request that the product, or specific product feature, is essential to the Government's requirements and other similar products will not meet their requirements. This determination shall be in writing and shall accompany the purchase requisition.

(b) A "brand name or equal" purchase description shall be used only under the conditions listed in FAR 10.004(b)(3) and in accordance with the policies and procedures in § 1410.004–70.

(c) Bureaus and offices shall be responsible for requiring adequate packing, packaging, and marking requirements when acquiring supplies in accordance with FAR 10.004(e).

§ 1410.004–70 Brand name products or equal.

(a) *Limitations on use.* The identification of a requirement in a purchase description by use of one or more brand name products followed by the words "or equal" shall be used only under the conditions listed in FAR 10.004(b)(3). A "brand name product" means a current commercial product of a manufacturer described by its brand name, make, model number, catalog designation or other description by which it is regularly offered for sale to the public in the commerical market place.

(b) *Invitation requirements.* (1) "Brand name or equal" purchase descriptions in invitations shall identify salient characteristics of the product (see subparagraph (b)(2) of this 1410.004–70) and contain the following information to describe the specific item:

(i) Identification of the item by generic descriptions;

(ii) Make, model number, catalog designation (or other description), and identification of commerical catalog where it is listed; and

(iii) Name of manufacturer, producer, or distributor of the item and complete address.

(2) In accordance with the policy in FAR 10.002, whenever a "brand name or equal" purchase description is used, offerors shall be given the opportunity to offer products equal to the brand name if those products (including modifications thereto) satisfy the minimum needs of the Government. Therefore, all salient characteristics of the brand name or equal product which are determined by the office initiating the purchase request to be essential to the Government's minimum needs shall be separately identified under the heading of "salient characteristics" and included in the purchase description contained in the solicitation so the offeror understands the information to be submitted with its bid when offering an "equal" product for evaluation. In addition, the following statement shall be included at the end of each "brand name or equal" description in a solicitation for an offeror to identify its "equal" product:

"Offerors proposing to furnish an "equal" product, in accordance with the "Brand Name or Equal" provision of this solicitation, shall insert the following description for the product.

Bidding on:
Manufacturer's Name: _____
Address: _____
Product Name (if any): _____
Product make, model, or catalog description: _____

Offerors shall also be responsible for submitting all additional information on the above product necessary for the Government to determine whether the product offered meets the salient characteristics of the "brand name" as listed in the solicitation."

(3) In addition, the provision at 1452.210–70, Brand Name or Equal-Department of the Interior, shall be inserted by the contracting officer in solicitations where a "brand name or equal" purchase description is used.

SUBCHAPTER C—CONTRACTING METHODS AND CONTRACT

PART 1413—SMALL PURCHASES AND OTHER SIMPLIFIED PURCHASE PROCEDURES

Subpart 1413.1—General

Sec.
1413.103 Policy.

Subpart 1413.4—Imprest Fund

1413.404 Conditions for use.

Authority: Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c), and 5 U.S.C. 301.

Subpart 1413.1—General

§ 1413.103 Policy

Small purchases and other simplified purchase methods shall be conducted in accordance with FAR Part 13 and the Department's "Sources of Supply and Small Purchase Handbook" or equivalent bureau procedures approved by the Director, Office of Acquisition and Property Management. Copies of the Handbook may be obtained upon written request from the Office of Acquisition and Property Management, Office of the Secretary, U.S. Department of the Interior, Washington, D.C. 20240.

Subpart 1413.4—Imprest Fund

§ 1413.404 Conditions for use.

The Department of the Treasury has approved for the Department dollar limits other than those in FAR 13.404(a) for small purchase transactions using imprest funds. Imprest funds may be used for small purchases when the transaction does not exceed $300 under normal conditions or $500 under emergency conditions.

PART 1414—FORMAL ADVERTISING

Subpart 1414.4—Opening of Bids and Award of Contract

Sec.
141.406 Mistakes in bid.
1414.406–3 Other mistakes disclosed before award.
1414.407 Award.
1414.407–8 Protests against award.

Authority: Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c), and 5 U.S.C. 301.

Subpart 1414.4—Opening of Bids and Award of Contract

§ 1414.406 Mistakes in bids.

§ 1414.406–3 Other mistakes disclosed before award.

(a) The Director, Office of Acquisition and Property Management is authorized to make the administrative determinations under FAR 14.406–3, except as set forth in (b) below.

(b) If a bidder requests permission to withdraw a bid rather than correct it, and: (1) The evidence is clear and convincing as to the mistake, or (2) the evidence reasonably supports the existence of a mistake but is not clear and convincing, the head of the contracting office is authorized to make a written determination permitting the bidder to withdraw the bid after review in accordance with bureau procedures and concurrence by the appropriate Office of the Solicitor. (See FAR 14.406–3 (c) and (e).) Copies of all determinations made pursuant to this authority must be promptly transmitted to the Director, Office of Acquisition and Property Management. If the evidence of the intended bid is clear and convincing, even though the bidder has not requested permission to correct the bid, the case shall be processed in accordance with (d) below.

(c) As required by FAR 14.406–3(f), each proposed administrative determination shall have the concurrence of the Office of the Solicitor prior to submission to the Director, Office of Acquisition and Property Management.

(d) Suspected or alleged mistakes in bids shall be processed in accordance with the requirements of FAR 14.406–3(g). Except as prescribed in (b) above, the contracting officer shall submit a report together with the supporting data described in FAR 14.406–3(g)(3) through the head of the contracting activity to the Director, Office of Acquisition and Property Management. Incomplete reports may result in a delay in obtaining a determination.

(e) The Director, Officer of Acquisition of Property Management is responsible for maintaining records of administrative determinations as required in FAR 14.406–3(h).

§ 1414.407 Award.

§ 1414.406–8 Protests against award.

(a) *Responsibility.* The Office of the Solicitor shall be responsible for handling bid protests lodged with the General Accounting Office (GAO). All communications relative to protests at the GAO shall be coordinated with the Assistant Solicitor for Procurement and Patents.

(b) *Determination to make award.*

(1) If a written protest before award has been lodged with the contracting activity only, the appropriate procedures of FAR 14.407–8 (a) and (b) shall be followed. Prior to making an award of a contract under the circumstances in FAR 14.407–8(b)(4), the contracting officer shall obtain the advice of the Assistant Solicitor for Procurement and Patents.

(2) If a protest before award has been lodged directly with the GAO and the contracting officer determines in writing that it is necessary to make an award under the circumstances in FAR 14.407–8(b)(4), such determination must be submitted by the head of the contracting activity concerned to the Director, Office of Acquisition and Property Management for approval before award of the contract. The Director, Office of Acquisition and Property Management shall be responsible for coordination with GAO as required in FAR 14.407–8(b)(3).

(c) *Notice of protest.* Upon being advised by the GAO of the receipt of a protest before or after award, the Office of the Solicitor shall inform the appropriate contracting activity which shall immediately notify the contracting officer. As required by FAR 14.407–8(a)(3), the contracting officer shall then promptly notify all interested persons, including bidders (or the contractor if the protest is after award) involved in or affected by the protest, that a protest has been lodged with the GAO and the basis for the protest. A written record of such telephonic notices shall be placed in the contract file. After receiving a copy of the protest from GAO and its request for an administrative report, the Office of the Solicitor will promptly furnish the same to the contracting activity involved which shall, in turn, promptly transmit copies to the contracting officer and request a written report. The contracting officer shall promptly transmit by letter a copy of the protest to all interested persons previously notified and include a statement requiring furnishing of views and information directly to the GAO. Copies of such cover letters shall be sent concurrently to the Assistant Solicitor for Procurement and Patents. Cover letters shall contain the advice contained in FAR 14.407–8(a)(3), including instructions that any comments submitted to GAO should also be submitted to the contracting officer and the Assistant Solicitor for Procurement and Patents.

(d) *Submission of report.*

(1) All personnel shall handle protests on a priority basis. Within 25 working days after receipt by the Office of the Solicitor of the GAO's request for an administrative report, such report or a statement setting forth the reasons for delay and the expected date of submission shall be submitted to the GAO. The contracting activity shall have no more than 15 working days from receipt of the request for an administrative report from the Office of the Solicitor to deliver such report to the Assistant Solicitor for Procurement and Patents.

(2) The administrative report responsive to the protest shall be appropriately titled and dated; shall cite the GAO file number; shall include the documents and statements required by FAR 14.407–8(a)(2), and shall be signed by the contracting officer or representative. Reports shall be prepared with the assistance of the local attorney-advisor of the Office of the Solicitor. If appropriate, the report shall contain a statement regarding any urgency for the acquisition and the extent to which a delay in award may result in significant performance difficulties or additional expense to the Government. If award is not urgent, a statement shall be included giving an estimate of the length of time an award may be delayed without significant expense or difficulty in performance. The contracting activity shall submit an original and for four complete copies of the contracting officer's report to the Assistant Solicitor for Procurement and Patents, plus one complete copy for each interested person. Contracting officers shall assure that no trade secrets or commercial or financial information which is privileged or confidential is disclosed to unauthorized parties. Transmittal letters forwarding the report to the GAO and to interested persons shall be prepared by the Office of the Solicitor. All reports to GAO shall be reviewed and surnamed by the Chief, Division of Acquisition and Grants, Office of Acquisition and Property Management, prior to submittal to GAO within three working days of receipt from the Office of the Solicitor.

PART 1415—CONTRACTING BY NEGOTIATION

Subpart 1415.1—General Requirements for Negotiation

Sec.

1415.106 Contract clauses.
1415.106–1 Examination of records by the Department of the Interior clause.

Subpart 1415.4—Solicitation and Receipt of Proposals and Quotations

1415.413 Disclosure and use of information before award.
1415.413–70 Department of the Interior procedures.

Subpart 1415.5—Unsolicited Proposals

1415.508 Agency Procedures.

Subpart 1415.6—Source Selection

1415.607 Disclosure of mistakes before award.

Subpart 1415.8—Price Negotiation

1415.803 General.
1415.804 Cost or pricing data.

Sec.

1415.804–3 Exceptions from or waiver of submission of certified cost or pricing data.

Subpart 1415.9—Profit

1415.902 Policy.
1415.905 Profit analysis factors.
1415.905–1 Common factors.
1415.905–70 Calculation of profit objective.

Authority: Sec. 205(c), 63 Stat. 390, 40 U.S.C. 486(c) and 5 U.S.C. 301.

Subpart 1415.1—General Requirements for Negotiation

§ 1415.106 Contract clauses.

§ 1415.106–70 Examination of records by the Department of the Interior clause.

The contracting officer shall insert the clause at § 1452.215–70, Examination of Records by the Department of the Interior, in all contracts requiring the clause at FAR 52.215–1, Examination of Records by the Comptroller General, as prescribed in FAR 15.106–1(b).

Subpart 1415.4—Solicitation and Receipt of Proposals and Quotations

§ 1415.413 Disclosure and use of information before award.

§ 1415.413–70 Department of the Interior procedures.

(a) *General.* This section establishes alternate requirements and procedures, which shall be used instead of those prescribed in FAR 15.413, for the use and disclosure of trade secret information and confidential commercial and financial information contained in solicited proposals.

(b) *Definitions.* For the purposes of this section and the Freedom of Information Act (5 U.S.C. 552), the following terms shall have the meanings set forth below:

(1) "Trade Secret" means an unpatented, secret, commercially valuable plan, appliance, formula, or process, which is used for the making, preparing, compounding, treating or processing of articles or materials which are trade commodities.

(2)(i) "Confidential commercial or financial information" means any business information (other than trade secrets) which is exempt from the mandatory disclosure requirement of the Freedom of Information Act (5 U.S.C. 552).

(ii) Exemptions from mandatory disclosure which may be applicable to business information contained in proposals includes exemption (4), which covers "commercial and financial information obtained from a person and privileged or confidential," and exemption (9), which covers "geological and geophysical information, including maps, concerning wells."

(c) *Marking of solicited proposals.* A solicited proposal may contain trade secrets or confidential commercial or financial information which the offeror, or its subcontractors, prefers not to be disclosed to the public or used by the Government for any purpose other than evaluation of the proposal. To notify the Government of trade secrets and confidential commercial or financial information contained in a proposal, offerors shall mark the cover page of the proposal and each affected page of the proposal with the legends specified in the solicitation provision at § 1452.215–71, Use and Disclosure of Proposal Information—Department of the Interior. Contracting officers and other government personnel evaluating a proposal shall not refuse to consider the proposal because it contains information identified as trade secret information or confidential commercial or financial information.

(d) *Use of information.* (1) Information in a proposal identified by an offeror as trade secret information or confidential commercial and financial information shall be used by the Government only for the purpose of evaluating the proposal, except that: (i) If a contract is awarded to the offeror as a result of or in connection with submission of the proposal, the Government shall have the right to use the information as provided in the contract, and (ii) if the same information is obtained from another source without restriction it may be used without restriction.

(2)(i) If a request under the Freedom of Information Act seeks access to information in a proposal identified as trade secret information or confidential commercial and financial information, full consideration will be given to offerors's view that the information constitutes trade secrets or confidential commercial or financial information.

(ii) The offeror will also be promptly notified of the request and given an opportunity to provide additional evidence and argument in support of its position, unless administratively unfeasible to do so. If it is determined that information claimed by the offeror to be trade secret information or confidential commercial or financial information is not exempt from disclosure under the Freedom of Information Act, the offeror will be notified of this determination prior to disclosure of the information.

(e) *Failure to mark.* The Government assumes no liability for the disclosure or use of information contained in a proposal if not marked in accordance with paragraph (c) of this section. If a request under the Freedom of Information Act is made for information in a proposal not marked in accordance with paragraph (c) of this section, the offeror concerned shall be notified promptly of the request and given an opportunity to provide its position to the Government. However, failure of an offeror to mark information contained in a proposal as trade secret information or confidential commercial and financial information will be treated by the Government as evidence that the information is not exempt from disclosure under the Freedom of Information Act, absent a showing that the failure to mark was due to unusual or extenuating circumstances, such as a showing that the offeror had intended to mark, but that markings were omitted from the offeror's proposal due to clerical error.

(f) *Solicitation provision.* The provision at § 1452.215–71, Use and Disclosure of Proposal Information—Department of the Interior shall be inserted in all requests for proposals and requests for quotations.

(g) *Government handling notice.* The following Government notice shall be placed by the contracting officer on the cover page of each solicited proposal upon receipt in order to ensure proper handling. This is a Government notice for internal handling purposes and does not affect any obligations or rights the Government may have with regard to the use or disclosure of information contained in the proposal or quotation:

GOVERNMENT NOTICE FOR HANDLING PROPOSALS

This proposal shall be used and disclosed for evaluation purposes only, and a copy of this Government notice shall be applied to any reproduction or abstract thereof. Any restrictive legends used by the offeror to makr trade secrets or confidential commercial or financial information in accordance with solicitation provision, "Use and Disclosure of Proposal Information—Department of the Interior," shall also be strictly complied with.

Subpart 1415.5—Unsolicited Proposals

§ 1415.506 Agency procedures.

Procedures for the disposition of unsolicited proposals as required by FAR 15.506 are contained in the Department's "Handbook for Submission of Unsolicited Proposals." Copies of the handbook may be obtained upon request from the Office of Acquisition and Property Management, Department of the Interior, Washington, D.C. 20240.

Subpart 1415.6—Source Selection

§ 1415.607 Disclosure of mistakes before award.

The head of the contracting office is authorized to make the determination permitting proposal correction in accordance with the conditions in FAR 15.607(c)(3) after approval of the determination by the Office of the Solicitor has been obtained.

Subpart 1415.8—Price Negotiation

§ 1415.803 General.

(a) Where the contractor insists on a price or demands a profit or fee that the contracting officer considers unreasonable, and the contracting officer has taken all authorized actions to resolve the matter (see FAR 15.803), the contract action shall be referred to the head of the contracting activity or designee at a level higher than the contracting officer, for final resolution.

(b) Resolution under (a) above shall be documented, signed by the head of the contracting activity or designee, and included in the contract file.

§ 1415.804 Cost or pricing data.

§ 1415.804–3 Exemptions from or waiver of submission of certified cost or pricing data.

(a) The head of the contracting office is authorized to approve the contracting officer's finding supporting the unreasonableness of the lowest price (see FAR 15.804–3(b)(2)(iii)).

(b) The Director, Office of Acquisition and Property Management is authorized to waive the requirement for submission of certified cost or pricing data. (See FAR 15.804–3(i).)

(c) Requests for waiver under (b) above shall be submitted in writing by the head of the contracting activity and shall contain a statement as to the reasons the waiver is necessary and the efforts made to obtain the data from the contractor or prospective contractor.

Subpart 1415.9—Profit

§ 1415.902 Policy.

(a) It is the Department's policy to use a structured approach for determining the profit or fee prenegotiation objective in acquisition actions that require cost analysis based on the profit analysis factors in FAR 15.905, as implemented and supplemented in § 1415.905.

(b) The following types of acquisitions are exempt from the requirements of the structured approach in § 1415.905, but the contracting officer shall comply with FAR 15.905–1 when analyzing profit for these contracts or actions:

(1) All actions which do not require cost analysis;

(2) Architect-engineer contracts;

(3) Construction contracts;

(4) Contracts primarily requiring delivery of material supplied by subcontractors;

(5) Termination settlements; and

(6) Cost-plus-award-fee contracts.

(c) In developing a profit or fee objective, the contracting officer shall comply with the requirements in FAR 15.903.

(d) When profit analysis is required, any amount proposed by the prospective contractor for the cost of money for facilities capital allowable under FAR 31.205–10 shall be deducted from the prenegotiation cost base objective before calculating the profit objective (see 1415.905–1(a)(5) and 1415.905–70(b)(1)).

(e) The head of the contracting activity is responsible for establishing procedures to ensure compliance with this subpart.

§ 1415.905 Profit-analysis factors.

(a) The Department uses the factors listed in FAR 15.905–1 in its structured approach. 1415.905–1 contains additional guidance on evaluating each factor and subfactor for purposes of determining a weighted profit or fee for the factor or subfactor.

(b) The Department has added another subfactor to those prescribed for contractor effort in FAR 15.905–1(a). This subfactor, "other costs," is described under § 1415.905–1(a)(5).

(c) Procedures for calculating profit or fee prenegotiation objectives are prescribed in § 415.905–70.

(d) Form DI–1920, Structured Approach for Profit/Fee Objective—Department of the Interior (1453.215–71), shall be used to facilitate the calculation of the profit or fee objective.

§ 1415.905–1 Common factors.

The following guidance supplements the policy prescribed for profit-analysis factors in FAR 15.905–1. Weight ranges are prescribed for each factor or subfactor, as appropriate, for use in evaluating and calculating the specific weighted profit or fee objective (see 1415.905–70).

(a) *Contractor effort.* This factor measures the prospective contractor's contribution to the overall effort to meet contract performance requirements in an efficient and cost-effective manner. considerations include the resources necessary for the prospective contractor to accomplish the conversion of labor and materials into the required contract items, the difficulty or complexity of the work to be performed, and the degree to which the contract requires a new approach or technique to be utilized for successful performance. This factor requires an analysis of the cost content of subfactors in FAR 15.905–(a) as supplemented below, and includes an additional subfactor covering other costs. These subfactors may be modified, as necessary, to maintain consistency with cost categories used by prospective contractors. Any amount proposed for cost of money for facilities capital and allowable under FAR 31.205–10 shall be deducted from the cost base objective used for calculating the profit objective as prescribed in 1415.905–70.

(1) *Material acquisition (1 to 4%).* In evaluating the prospective contractor's managerial and technical effort under this subfactor, consideration shall also include: (i) How the purchasing and subcontracting programs will contribute to the performance of the contract, and (ii) the extent of competition to be achieved in the award of subcontracts.

(2) *Conversion of direct labor (4 to 12%).* In evaluating the contribution of direct labor, considerations include: (i) The amount of scientific or unusual or scarce engineering expertise needed in comparison to journeyman labor or supporting personnel, (ii) the diversity (or lack thereof) of scientific and engineering disciplines required for contract performance and the corresponding need for engineering supervision and coordination, (iii) the quality of professional or engineering type skills required for service contract labor in comparison to semi-professional or other type skills to be employed, and (iv) the variety and complexity of manufacturing and other types of related skills and experience required and the prospective contractor's resources for meeting these requirements.

(3) *Conversion-related indirect costs (3 to 8%).* Elements of overhead and other indirect items of expense of the prospective contractor shall be individually analyzed to determine the extent to which they directly contribute to the conversion of labor and materials into the contract items.

(4) *General management (4 to 8%).* In evaluating the prospective contractor's other indirect costs and G&A expense, consideration shall include the degree to which management problems may occur during contract performance and the management expertise which may be required to resolve them.

(5) *Other costs (1 to 3%).* This subfactor, which is not included under FAR 15.905–1, measures the contribution of all other direct costs including travel,

direct support, and hiring of consultants to contract performance. Any amount proposed for facilities capital cost of money and allowable under FAR 31.205–10 shall be subtracted from the cost objective established for this subfactor and shall not be considered in the cost base used for calculating the profit objective (see 1415.905–70(b)(1)).

(b) *Contract cost risk (0 to 7%).* This factor is measured by evaluating the cost risk in terms of the degree of cost responsibility the prospective contractor assumes, the reliability of the cost estimates in relation to type of work under the contract, and the complexity of the work to be performed. Consideration shall also be given the degree to which the prospective contractor's subcontracting program may transfer real cost risk to subcontractors.

(1) *Cost reimbursement contracts (0 to 3%).* Generally, a cost-plus-fixed-fee contract would not justify compensation for risk in excess of 0%, unless the contract contains cost risk features such as overhead ceilings where ½ to 1% may be justified. Cost-plus-incentive fee contracts may justify weightings of 1 to 3% depending on target cost reliability, the share ratio of the fee, and whether cost incentives or multiple incentives are involved.

(2) *Fixed-price contracts (3 to 7%).* The range of weightings for fixed-price contracts is wide to accommodate the many types of fixed-price arrangements and the varying cost risks associated with these arrangements. Generally, a firm fixed-price contract for complex work involving a critical performance schedule would justify a weighting near the top of the range.

(c) *Federal socioeconomic programs (−.5 to +.5%).* This factor measures the extent of the prospective contractor's successful participation and proposed positive actions in support of Federal socioeconomic programs, including women-owned business programs. The prospective contractor's policies and procedures which display unusual initiative in support of socioeconomic programs and have achieved successful results shall be given a positive weighting. A failure or unwillingness on the part of the prospective conractor to support these programs shall be considered inadequate performance and shall result in a corresonding weighting.

(d) *Capital investments (−2 to +2%).* In evaluating investments, consideration shall include an analysis of the cost impact the facilities to be provided by the prospective contractor will have on total contract costs. If the prospective contractor furnishes its own facilities which significantly lowers the contract cost, a positive profit weighting is justified. Government financing or furnishing of required facilities, however, shall result in a negative weighting. Consideration shall also include the frequency of payment by the Government and the impact the contract is anticipated to have on the prospective contractor's cash flow. Generally, a negative weighting shall be given for payments more frequent than monthly. For payments less frequent than monthly, a positive weighting is justified.

(e) *Cost control and other past accomplishments (−1 to +1%).* This factor measures present and previous demonstration of efficient and economic contract performance for related work by the prospective contractor. Consideration shall include quality of work, ability to meet performance and delivery schedules, productivity improvements, efficiency in cost control and reduction, accuracy and reliability of cost estimates, and compliance with contract terms and conditions. Consistent excellent performance by the prospective contractor in the areas above, in comparison with other contractors in similar circumstances, shall justify a positive weighting. Unsuccessful or poor performance shall result in a corresponding rating.

(f) *Independent development.* No weight ranges are set forth for this factor since its significance in contributing to contract performance depends on the degree the development efforts, if any, are relevant to the contract end items. Other considerations include initiative of the prospective contractor in determining the need and application of the development, the extent of the prospective contractor's cost risks in the development, and the extent of direct or indirect development cost recovery from Government sources.

§ 1415.905–70 Calculation of profit objective.

(a) Development of a profit or fee objective shall not begin until the contracting officer has;

(1) Made a thorough review of the work to be performed under the acquisition action;

(2) Collected and analyzed all available information on the prospective contractor; and

(3) Analyzed the prospective contractor's cost proposal and compared the cost elements of the proposal with the elements of the Government's cost estimate for the contract work (see FAR 15.803(b)).

(b) The contracting officer shall calculate a dollar profit amount for each of the factors and subfactors in FAR 15.905–1 and 1415.905–1 by using a percentage within the designated weight range for each factor as prescribed in § 1415.905–1. Form DI–1920, Structured Approach for Profit/Fee Objective—Department of the Interior (see 1453.215–71), shall be used to facilitate calculation of the objective in accordance with the following steps:

(1) Using the prenegotiative objective established as required in FAR 15.807, determine the Government's cost objective for each of the subfactors listed in FAR 15.905–1(a) and 1415.905–1(a). An additional subfactor, "other costs," shall be used to consider all other direct costs (see 1415.905–1(a)(5)). Subtract from the "other cost" objective any amount proposed for the cost of money for facilities capital and allowable under FAR 31.205–10, as this amount is not to be included in the cost base for calculation of the profit objective.

(2) Using the weight ranges in § 1415.905–1(a), determine a specific percentage for each subfactor and multiply this percentage by the cost objective determined for the subfactor under (1) above to calculate a weighted profit amount for each subfactor.

(3) Total the individual cost objectives for each of the subfactors in (1) above to calculate the Government's total prenegotiation objective.

(4) Using the weight ranges in § 1415.905–1(b)-(f), determine a specific percentage for each of the factors in FAR 15.905–1(b)-(f).

(5) Multiply the percentage determined for each of the factors in (4) above by the Government's total prenegotiation objective calculated in (3) above to obtain a weighted profit amount for each factor.

(6) Total the individual weighted profit amounts calculated in (2) and (5) above to obtain the total profit or fee prenegotiation objective amount.

SUBCHAPTER D—SOCIOECONOMIC PROGRAMS

PART 1419—SMALL BUSINESS AND SMALL DISADVANTAGED BUSINESS CONCERNS

Subpart 1419.2—Policies

Sec.

1419.201 General policy.

Subpart 1419.5—Set-asides for Small Business

1419.503 Setting aside a class of acquisitions.

1419.503–70 Class set-aside for construction acquisitions.

1419.505 Rejection of set-aside recommendations.

Subpart 1419.7—Subcontracting With Small Business and Small Disadvantaged Business Concerns

Sec.

1419.705 Responsibilities of the contracting officer under the subcontracting assistance program.

1419.705–70 Requesting a subcontracting plan.

Subpart 1419.8—Contracting With the Small Business Administration (the 8(a) program)

1419.810 Contract administration.

1419.810–70 Evaluation of 8(a) contractor performance.

Subpart 1419.9—Contracting Opportunities for Women-owned Business

1419.901 Policy.

Authority: Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c), and 5 U.S.C. 301.

Subpart 1419.2—Policies

§ 1419.201 General policy.

(a) In accordance with Part 111, Chapter 8 of the Departmental Manual (111 DM 8), the Office of Small and Disadvantaged Business Utilization (OSDBU) is responsible for performing all functions and duties prescribed in FAR 19.201(c) and for:

(1) Developing and maintaining policies, procedures, regulations, and guidelines for the effective administration of the Department's small business and small disadvantaged business programs; and

(2) Providing functional direction and policy guidance to personnel in the implementation of the programs under paragraph (a)(1) above.

(b) In addition to the requirements of FAR 19.201(b), heads of contracting activities or their designees shall be responsible for:

(1) Establishment of annual goals in accordance with Subpart 1419.7; and

(2) Appointment of a full-time Business Utilization and Development Specialist (BUDS), as prescribed in FAR 19.201(d), for each contracting office where:

(i) Annual contract obligations regularly exceed $20 million or represent a substantial part of the bureau's total contracting program; and

(ii) The number, type, and size of contract transactions provide sufficient opportunities for small business and small disadvantaged business participation.

(3) Appointment of a part-time BUDS for each contracting office where the nature of the contracting program requires such action to ensure accomplishment of annual program goals.

(c) Business Utilization and Development Specialists appointed as prescribed in (b) above shall be responsible for:

(1) Assisting contracting officers in carrying out the policies as set forth in FAR Part 19 and Part 1419.

(2) Establishing an effective outreach program, which shall include but not be limited to:

(i) Locating new and emerging small business and small disadvantaged business concerns which have actual or potential capabilities to fulfill Interior's acquisition requirements, assuring that such firms are included on bidders mailing lists or source lists;

(ii) Advising and counseling small business and small disadvantaged business concerns on ways to increase their participation in contract and subcontract opportunities by: Explaining bid and proposal submission requirements; serving as the focal point to ensure that small business and small disadvantaged business concerns have access to appropriate acquisition, management, technical and other program and project personnel; and directing small business and small disadvantaged business concerns to the Small Business Administration or the Minority Business Development Agency (Department of Commerce) for assistance when appropriate;

(iii) Participating in the activities of local small business and disadvantaged business associations, Minority Business Opportunity Committees, and Indian tribal councils to apprise them of the contracting activity's needs and to increase small business and disadvantaged business contracting opportunities; and

(iv) Performing outreach efforts through interaction with Federal, state and local entities and other pertinent associations and groups; participating in business and economic development conferences, and providing training opportunities in support of business and economic development programs.

(3) Assisting in the acquisition process by:

(i) Assuring that the contracting office(s) or activity is kept abreast of new or revised small business and small disadvantaged business concern regulations, policies, procedures and other related information;

(ii) Assisting in the advance acquisition planning process (see Subpart 1407.1);

(iii) Reviewing each acquisition requirement over $25,000 as well as small purchases;

(iv) Participating in proposal evaluation activities (when appropriate or when requested by the contracting officer);

(v) When appropriate, attending debriefings to unsuccessful small business and small disadvantaged business concerns; and

(vi) Assuring that a fair proportion of eligible small business and small disadvantaged business concerns are included on solicitation mailing lists and source lists.

(4) Maintaining all records and files necessary to demonstrate maximum support for the program; assuring compilation of current, accurate, and complete data, preparing all reports pertaining to small business and small disadvantaged business activities.

Subpart 1419.5—Set-asides for Small Business

§ 1419.503 Setting aside a class of acquisitions.

§ 1419.503–70 Class Set-aside for construction acquisitions.

(a) To assure that a fair portion of the Department's contracts are placed with small business concerns, all acquisitions for construction (as defined in FAR 36.102) estimated to cost $1 million or less shall be set aside on a class basis for exclusive participation by small business concerns except where small purchase procedures are used to accomplish the acquisition or when the acquisition involves emergency repair work. If the construction site is located in a labor surplus area, the acquisition shall be set aside for the exclusive participation of small businesses located in labor surplus areas (see FAR 19.504(a)). Any modification of this policy by the contracting officer shall be conducted in accordance with FAR 19.506.

(b) All acquisitions for construction estimated to cost in excess of $1 million shall be set aside on a case-by-case basis for exclusive participation of small business concerns or small business concerns located in labor surplus areas under the conditions in FAR 19.502–2 and 20.201–1.

§ 1419.505 Rejection of set-aside recommendations.

(a) As prescribed in FAR 19.505, the Assistant Secretary—Policy, Budget and Administration is authorized to reply to the Administrator of SBA on any SBA appeal of a contracting officer's set-aside recommendation.

(b) A written justification in support of the contracting officer's decision to reject the set-aside recommendation shall be approved by the head of the contracting activity (or designee). It shall then be forwarded for sequential

review through the Director, Office of Small and Disadvantaged Business Utilization and the Director, Office of Acquisition and Property Management, for action by the Assistant Secretary—Policy, Budget and Administration.

Subpart 1419.7—Subcontracting with Small Business and Small Disadvantaged Business Concerns

§ 1419.705 Responsibilities of the contracting officer under the subcontracting assistance program.

§ 1419.705–70 Requesting a subcontracting plan.

When a subcontracting plan is requested, the contracting officer shall:

(a) Send the offeror or bidder a request for the plan and include a copy of a sample subcontracting plan outline (see 1453.219–71).

(b) Specify a time limit for submission of the plan.

Subpart 1419.8—Contracting with the Small Business Administration (the 8(a) program)

§ 1419.810 Contract administration.

§ 1419.810–70 Evaluation of 8(a) contractor performance.

(a) It is the policy of the Department to require evaluation of SBA 8(a) contractor performance by the contracting activity using form DI–1919, Performance Evaluation (8(a)). (See 1453.219–72.)

(b) The report shall be prepared at the time of final acceptance of the work or after contract termination. Ordinarily, the evaluating official who prepares the report should be the person responsible for monitoring contract performance. The authorized representative of the contracting officer shall provide timely evaluation of the SBA 8(a) contractor's performance.

(c) If the evaluating official concludes that the contractor's overall performance was poor or unsatisfactory, the contractor shall be advised in writing that a report of this performance is being proposed and the basis for the evaluation. If the contractor submits any comments, the evaluating official shall include them in the report, resolve any alleged factual discrepancies, and make appropriate changes in the report.

(d) Each performance report shall be filed in accordance with bureau procedures and a copy of the report shall be promptly forwarded to the Office of Small and Disdvantaged Business Utilization.

Subpart 1419.9—Contracting Opportunities for Women-owned Business

§ 1419.901 Policy.

(a) The Office of Small and Disadvantaged Business Utilization is responsible for carrying out the Department's women-owned business enterprise program in accordance with Part 111, Chapter 8 of the Departmental Manual (111 DM 8).

(b) Annual goals for contract awards to women-owned businesses shall be established as prescribed in 1419.202–70.

(c) Small women-owned businesses shall be considered for subcontracting opportunities under FAR 19.702 and subcontract awards shall be reported as prescribed in FAR 19.704.

PART 1420—LABOR SURPLUS AREA CONCERNS

Subpart 1420.1—General

Sec.
1420.102 General policy.

Subpart 1420.2—Set-asides

1420.201 Set-asides for labor surplus area concerns.
1420.201–70 Set-asides for construction acquisitions.

Authority: Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c), and 5 U.S.C. 301.

Subpart 1420.1—General

§ 1420.102 General policy.

As prescribed under Part 111, Chapter 8 of the Departmental Manual (III DM 8), the Office of Small and Disadvantaged Business Utilization is responsible for carrying out the Department's labor surplus area program in accordance with the policies in FAR Part 20.

Subpart 1420.2—Set-asides

§ 1420.201 Set-asides for labor surplus area concerns.

§ 1420.201–70 Set-asides for construction acquisitions.

(a) As prescribed in § 1419.503–70, all acquisitions for construction, alteration, or repair of buildings, structures, or other real property which are estimated to cost $1 million or less shall be set aside on a class basis for combined small business, labor surplus area concerns when the construction site is located in a labor surplus area.

(b) Construction acquisitions estimated to exceed $1 million in cost may be set aside for labor surplus area concerns by the contracting officer under the conditions prescribed in FAR 20.201–1.

PART 1424—PROTECTION OF PRIVACY AND FREEDOM OF INFORMATION

Subpart 1424.1—Protection of Individual Privacy

Sec.
1424.102 General.
1424.103 Procedures.
1424.104 Contract clauses.

Subpart 1424.2—Freedom of Information Act

1424.202 Policy.

Authority: Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c), and 5 U.S.C. 301.

Subpart 1424.1—Protection of Individual Privacy

§ 1424.102 General.

Procedures for implementing the Privacy Act of 1974 and Departmental regulations under 43 CFR Part 2, Subpart D, are contained in Part 317 of the Departmental Manual (317 DM).

§ 1424.103 Procedures.

When required by FAR 24.103(b)(2), the contracting officer shall provide the contractor with a copy of the Department's Privacy Act regulations codified in 43 CFR Part 2, Subpart D.

§ 1424.104 Contract clauses.

The clause at FAR 52.224–1, Privacy Act Notification, as prescribed in FAR 24.104(a), shall be supplemented in accordance with § 1452.224–1.

Subpart 1424.2—Freedom of Information Act

§ 1424.202 Policy.

(a) The Department's implementation of the Freedom of Information Act is codified in regulations under 43 CFR 2.11 through 2.20.

(b) It is the policy of the Department to alert prospective contractors which place restrictions on the disclosure and use of proposal data that certain data may be subject to disclosure under a Freedom of Information Act request. (See 1415.413 and 1452.215–71.)

PART 1425—FOREIGN ACQUISITION

Subpart 1425.2—Buy American Act—Construction Materials

Sec.
1425.202 Policy.
1425.203 Evaluating offers.
1425.204 Violations.
1425.205 Solicitation provision.

Authority: Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c), and 5 U.S.C. 301.

Subpart 1425.2—Buy American Act—Construction Materials

1425.202 Policy.

(a) The Assistant Secretary—Policy, Budget and Administration shall make the determinations prescribed in FAR 25.202(a)(2) and FAR 25.203(a).

(b) The Director, Office of Acquisition and Property Management shall make the determination prescribed in FAR 25.202(a)(3) in accordance with the procedures in § 1425.108.

(c) Determinations under (a) above shall be prepared by the contracting officer and submitted by the head of the contracting activity to the Director, Office of Acquisition and Property Management for further action.

(d) Determinations approved under FAR 25.202(a)(2) shall require listing of excepted material in the contract as prescribed in FAR 25.202(c).

§ 1425.203 Evaluating offers.

(a) Unless the Assistant Secretary—Policy, Budget and Administration determines otherwise, when the cost of a comparable domestic construction material exceeds by more than 6 percent the cost of a foreign construction material proposed in an offer, use of the domestic construction material would unreasonably increase the cost of the contract and use of the foreign construction material is authorized and acceptable. This evaluation shall be made for each foreign construction material proposed in an offer and not specifically excepted by the solicitation. The cost of construction material shall be computed to include all delivery costs to the construction site, and the cost of foreign construction material shall also include any applicable duty (whether or not a duty-free entry certificate may be issued).

(b) The provision at § 1425.225–70, Buy American Act Notice—Department of the Interior, requires offerors proposing to use foreign construction materials to provide adequate information for Government evaluation under (a) above, and permits alternate offers for comparable domestic construction materials at stated prices. When a foreign construction material is not authorized under (a) above, evaluation of the offer shall be made on the basis of the stated price for comparable domestic construction material. If the offer does not state a price for comparable domestic construction material, and use of the foreign construction material is not authorized under (a) above, the offer shall be rejected.

(c) The acceptable offer that remains low after adding (for evaluating purposes only) 6 percent of the cost of all foreign construction materials authorized for use under (a) above shall be considered the successful offer. The contract awarded under these circumstances shall contain a list of the authorized foreign construction materials as required by FAR 25.202(c) and the clause at FAR 52.225–5, Buy American Act—Construction Materials.

(d) Determinations for authorization to use evaluation methods other than those prescribed in this section shall be prepared by the contracting officer and submitted by the head of the contracting activity to the Director, Office of Acquisition and Property Management for further action. The determination shall specify particular domestic construction materials which are expected to unreasonably increase the cost or are impracticable, and the percentage differential to be used in evaluating such materials. If the determination is approved, the Director, Office of Acquisition and Property Management shall authorize appropriate revisions to the provision at 1452.225–70.

§ 1425.204 Violations.

Failure of the contractor to comply with the clause at FAR 52.225–5, Buy American Act—Construction Materials, shall be documented in a report by the contracting officer and submitted to the head of the contracting activity for initiation of debarment action in accordance with Subpart 1409.4.

§ 1425.205 Solicitation provision.

In addition to the requirements of FAR 25.205, the contracting officer shall insert the provision at § 1452.225–70, Buy American Act Notice—Department of the Interior, in solicitations for construction inside the United States. For determinations made under FAR 25.202(a)(2) that use of a domestic construction material would be impracticable (see § 1452.202), the material shall be listed under paragraph (a) of the provision at § 1452.225–70.

SUBCHAPTER E—GENERAL CONTRACTING REQUIREMENTS

PART 1428—BONDS AND INSURANCE

Subpart 1428.1—Bonds

Sec.

1428.101 Bid guarantees.
1428.101–70 Annual bid bonds.
1428.104 Annual performance bonds.

Subpart 1428.3—Insurance

1428.301 Policy.
1428.306 Insurance under fixed-price contracts.
1428.306–70 Insurance for aircraft service contracts.
1428.311 Solicitation provision and contract clause on air liability insurance under cost-reimbursement contracts.
1428.311–2 Contract clause.

Authority: Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c), and 5 U.S.C. 301.

Subpart 1428.1—Bonds

§ 1428.101 Bid guarantees.

§ 1428.101-70 Annual bid bonds.

(a) Bidders shall submit annual bid bonds to the Office of Acquisition and Property Management, Office of the Secretary, U.S. Department of the Interior, Washington, D.C. 20240.

(b) The Office of Acquisition and Property Management will maintain and disseminate all information regarding annual bid bonds.

§ 1428.104 Annual performance bonds.

Annual performance bonds shall be submitted to the location prescribed in § 1428.101–70.

Subpart 1428.3—Insurance

§ 1428.301 Policy.

It is the policy of the Department of the Interior to insure its own risks only when such action is in the best interest of the Government. Circumstances where contractors are required to carry insurance are listed under FAR 28.301 and FAR 28.306. In these circumstances, the clause at § 1452.338–70, Indemnification—Department of the Interior, shall be inserted in the contract.

§ 1428.306 Insurance under fixed-price contracts.

§ 1428.306–70 Insurance for aircraft services contracts.

(a) *Policy.* In accordance with FAR 28.306(a), it is the policy of the Department of the Interior to establish minimum insurance requirements for certain types of aircraft services contracts in order to protect the Government and its contractors.

(b) *Applicability.* The clauses prescribed by paragraph (c) of this section are applicable to all fixed-price contracts involving use of aircraft with either contractor-furnished or Government-furnished pilot except for one-time charters when Government exposure is minimal and time limitations are present.

(c) *Clauses.* The following clauses shall be used as prescribed:

(1) The contracting officer shall insert the clause at § 1452.228–71, Risk and Indemnities—Department of the Interior, in all fixed price contracts for operation of aircraft with contractor-furnished pilot.

(2) The contracting officer shall insert the clause to § 1452.228–72, Liability for Loss or Damage—Department of the Interior, in all fixed-price contracts involving the use of aircraft with Government-furnished pilot where the Government does not have a property interest in the aircraft.

(3) The contracting officer shall insert the clause at § 1452.288–73, Liability for Loss or Damage—Department of the Interior, (Property Interest), in all fixed-price controls involving the use of aircraft with Government-furnished pilot where the Government has a property interest in the aircraft (e.g., lease with purchase option).

§ 1428.311 Solicitation provision and contract clause of liability insurance under cost-reimbursement contracts.

§ 1428.311–2 Contract clause.

The clause a FAR 52.228–7, Insurance—Liability to Third Persons, as prescribed in FAR 28.311–2, shall be modified for use in accordance with the instructions in § 1452.228–7.

PART 1432—CONTRACT FINANCING

Subpart 1432.3—Loan Guarantees for Defense Production

Sec.
1432.304 Procedures.
1432.304–2 Certificate of eligibility.

Subpart 1432.4—Advance Payments

1432.402 General.
1432.404 Exclusions.

Subpart 1432.8—Assignment of Claims

1432.805 Procedure.

Authority: Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c), and 5 U.S.C. 301.

Subpart 1432–3—Loan Guarantees for Defense Production

§ 1432.304 Procedures.

§ 1432.304–2 Certificate of eligibility.

(a) The Assistant Secretary—Policy, Budget and Administration shall authorize guaranteed loan applications and transmit them to the Federal Reserve Bank as prescribed in FAR 32.304–2(h).

(b) Applications for loan guarantees (see FAR 32.304–1) and the contracting officer's certificate of eligibility (see FAR 32.304–2) shall be submitted by the head of the contracting activity to the Director, Office of Acquisition and Property Management for further action under (a) above.

Subpart 1432.4—Advance Payments

§ 1432.402 General.

(a) Except for contracts excluded under (b) below and under 1432.404, the Chief, Division of Acquisition and Grants, Office of Acquisition and Property Management, is authorized to approve findings and determinations and contract terms for advance payments as prescribed in FAR Subpart 32.4.

(b) The Assistant Secretary for Indian Affairs is authorized to approve findings and determinations and contract terms for advance payments as prescribed in FAR Subpart 32.4 for:

(1) Contracts with States or similar public bodies for foster home care of Indian children for periods not in excess of 90 days;

(2) Contracts with state universities or similar public bodies for surveys of physical resources and the development of studies of social and economic factors affecting Indian tribes without specific security for periods not in excess of 90 days; or

(3) Contracts with Indian tribal contractors which are totally Indian-owned and controlled nonprofit businesses and which qualify for contracts with the Bureau of Indian Affairs. The amount of the advance payments authorized shall not exceed $250,000.

(c) The contracting officer shall review and analyze the contractor's application for advance payments to determine if it meets the information requirements of FAR 32.408. Applications which do not contain the required information shall not be processed until it is obtained from the contractor.

(d) The contracting officer shall submit a recommendation for approval or disapproval of the contractor's request through the head of the bureau finance office (see FAR 32.402(e)(2)) to the head of the contracting activity for transmittal to the Chief, Division of Acquisition and Grants under (a) above. Recommendations which do not contain the information required by FAR 32.409–1 or FAR 32.409–2 will not be processed by the Division of Acquisition and Grants.

(e) The Assistant Secretary for Indian Affairs is required to make a detailed report to the Assistant Secretary—Policy, Budget and Administration on all advance payments authorized under (b)(1) and (b)(2) above at the close of each fiscal year.

§ 1432.404 Exclusions.

Advance payments may be used under the Bureau of Indian Affairs service contracts (including services which may extend beyond the current fiscal year) made pursuant to the Act of June 4, 1936 (25 U.S.C. 452), the Act of August 3, 1956 (25 U.S.C. 309), and statutes terminating Government supervision over certain Indian tribes, without regard to FAR 32.402(e), when the current Department Appropriations Act authorizes and requires advance payments in these circumstances.

Subpart 1432.8—Assignment of Claims

§ 1432.805 Procedure.

Department of the Interior form DI–83, Notice of Assignment, and form DI–84, Instrument of Assignment, shall be used by an assignee when complying with the requirements in FAR 32.803(e). (See 1453.232–70.)

PART 1433—DISPUTES AND APPEALS

Sec.
1433.003 Applicability.
1433.003–70 Interior Board of Contract Appeals.
1433.011 Contracting officer's decision.
1433.012 Contracting officer's duties upon appeal.
1433.014 Contract clause.

Authority: Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c), and 5 U.S.C. 301.

§ 1433.003 Applicability.

(a) The Assistant Secretary—Policy, Budget and Administration shall make the determination prescribed under FAR 33.003(b).

(b) Determinations under (a) above shall be submitted by the head of the contracting activity to the Director, Office of Acquisition and Property Management for further action.

§ 1433.003–70 Interior Board of Contract Appeals.

(a) The Interior Board of Contract Appeals, IBCA, is authorized by the Secretary to consider and determine appeals from decisions of a contracting officer arising under a contract or relating to a contract made by the Department or any other executive agency when such agency or the Administrator of the Office of Federal Procurement Policy has duly designated the IBCA to decide the appeal.

(b) The address of the IBCA is 4015 Wilson Boulevard, Arlington, Virginia 22203.

(c) The IBCA rules of procedure are in 43 CFR Part 4, Subpart C.

§ 1433.011 Contracting officer's decision.

The written decision required by FAR 33.011(a)(4) shall include, in the paragraph listed under FAR 33.011(a)(4)(v), specific reference to the Interior Board of Contract Appeals (IBCA), 4015 Wilson Boulevard, Arlington, Virginia, 22203 and its procedures under 43 CFR Part 4. The IBCA optional small claims (expedited)

procedures and accelerated procedures under 43 CFR 4.113 shall also be referenced as required by FAR.

§ 1433.012 Contracting officer's duties upon appeal.

(a) When a notice of appeal has been received, the contracting officer shall endorse on the appeal the date of mailing (or the date of receipt if the notice was not mailed) and forward it to the IBCA by certified mail within 5 days of receipt. The Office of the Solicitor shall also be notified of the appeal by the contracting officer. (See 43 CFR 4.103.)

(b) The contracting officer shall prepare and transmit the data, documentation, and information required by 43 CFR 4.104 in the form of an appeal file to the IBCA, appropriate office of the Solicitor, and appellant or appellant's counsel within 30 days after receipt of a notice of appeal or advice that an appeal has been docketed by the IBCA.

§ 1433.014 Contract clause.

The Disputes clause contained in FAR 52.233–1 shall be used with its Alternate I in all solicitations and contracts of the Department.

SUBCHAPTER F—SPECIAL CATEGORIES OF CONTRACTING

PART 1436—CONSTRUCTION AND ARCHITECT-ENGINEERING CONTRACTS

Subpart 1436.2—Special Aspects of Contracting for Construction

Sec.
1436.209 Construction contracts with architect-engineer firms.

Subpart 1436.5—Contract Clauses

1436.570 Prohibition against use of lead-based paint.

Subpart 1436.6—Architect-Engineer Services

1436.602 Selection of firms for architect-engineer contracts.
1436.602–1 Selection criteria.
1436.602–4 Selection authority.
1436.602–5 Short selection processes for contracts not to exceed $10,000.
1436.603 Collecting data on and appraising firm's qualifications.

Authority: Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c), and 5 U.S.C. 301.

Subpart 1436.2—Special Aspects of Contracting for Construction

§ 1436.209 Construction contracts with architect-engineer firms.

(a) As required by FAR 36.209, no contract for construction of a project shall be awarded to the firm that designed the project or its subsidiaries or affiliates without the written approval of the Director, Office of Acquisition and Property Management.

(b) Requests for approval under (a) above shall be made by the head of the contracting activity, through the appropriate Office of the Solicitor, to the Director, Office of Acquisition and Property Management. The request shall include the reason(s) why award to the design firm is required; an analysis of the facts involving potential or actual organizational conflicts of interest including benefits and detriments to the Government and the prospective contractor; and the measures which are to be taken to avoid, neutralize, or mitigate conflicts of interest.

Subpart 1436.5—Contract Clauses.

§ 1436.570 Prohibition against use of lead-based paint.

(a) *Policy.* The Lead-Based Paint Poisoning Prevention Act, (42 U.S.C. 4831), as amended by the National Consumer Health Information and Health Promotion Act of 1976 (Sec. 204, Pub. L. 94–317 (42 U.S.C. 4831)), prohibits the use of lead-based paint in Federal or federally-assisted construction or rehabilitation of residential structures. Implementing regulations of the Secretary of Housing and Urban Development under 24 CFR Part 35 requires agencies to include appropriate provisions in contracts or subcontracts for construction or rehabilitation of residential structures.

(b) *Definitions.* As used in this section, "residential structure" means any house, apartment, or structure intended for human habitation including any institutional structure where persons reside such as an orphanage, boarding school dormitory, day care center, or extended care facility.

(c) *Procedures.* The contracting officer shall insert the clause at § 1452.236–70, Prohibition Against Use of Lead-Based Paint, in solicitations and contracts when construction of residential structures or rehabilitation (including dismantling, demolition, or removal) of residential structures is contemplated.

Subpart 1436.6—Architect-Engineer Services

§ 1436.602 Selection of firms for architect-engineer contracts.

§ 1436.602–1 Selection criteria.

(a) In addition to the selection criteria under FAR 36.602–1(a), the following additional criteria shall be used in the evaluation of each potential contractor when applicable to a particular acquisition:

(1) Computer assisted design capability and capacity (where such design is required.)

(2) Adequacy of facilities for performance of the work including those necessary to provide specialized services that may be required.

(3) Volume and nature of present workload as it relates to the ability to perform the work required.

(4) Experience and qualifications of proposed key personnel including specialized technical skills, project coordination and management skills, and experience in working together as a team.

(5) Availability of additional contractor personnel or consultants to support expansion or acceleration of the project.

(6) Other specific criterion as may be required.

(b) Heads of contracting activities are authorized to approve the use of design competition under the conditions in FAR 36.602–1(b).

§ 1436.602–4 Selection authority.

The head of the contracting activity is authorized to serve as the designated selection authority in accordance with FAR 36.602–4.

§ 1436.602–5 Short selection processes for contracts not to exceed $10,000.

The selection process prescribed in FAR 36.602–5(a) shall be used for architect-engineer contracts not expected to exceed $10,000.

1436.603 Collecting data on and appraising firms' qualifications.

(a) Heads of contracting activities which require architect-engineer services shall establish procedures to comply with the requirements of FAR 36.603.

(b) Copies of procedures established under (a) above shall be submitted to the Director, Office of Acquisition and Property Management for review and approval. The procedrues shall include a list of names, addresses, and phone numbers of offices or boards assigned to maintain architect-engineer qualification data files. The list shall be updated annually and submitted to the Director, Office of Acquisition and Property Management no later than 30 days after the beginning of each fiscal year.

PART 1437—SERVICE CONTRACTING

Subpart 1437.70—Appraisal Services (Real Property)

Sec.
1437.7000 Scope of subpart.
1437.7001 Policy.

Sec.
1437.7002 Contractor qualification requirements.
1437.7003 Appraisal standards.

Authority: Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c), and 5 U.S.C. 301.

Subpart 1437.70—Appraisal Services (Real Property)

§ 1437.7000 Scope of subpart.

This subpart prescribes policies and procedures for acquiring real property appraisal services by contract.

§ 1437.7001 Policy.

Real property appraisal services shall be acquired by negotiation under the authority in FAR 15.204. The procedures for acquiring architect-engineer services, as prescribed in FAR Subpart 36.6, shall not be used to acquire real property appraisal services.

§ 1437.7002 Contractor qualification requirements.

(a) If it is anticipated that a real property appraisal to be acquired by contract may be subject to future court action, the contractor shall be a qualified appraiser as listed in the file maintained by the Land and Natural Resources Division, U.S. Department of Justice. This requirement shall be treated as a special standard of responsibility (see FAR 9.104–2).

(b) The contracting officer shall include the requirements of (a) above in all solicitations for real property appraisal services which may be subject to future court action.

§ 1437.7003 Appraisal standards.

(a) All real property appraisals made under a contract shall conform to the requirements of the Interagency Land Acquisition Conference publication "Uniform Appraisal Standards for Federal Land Acquisitions" published by the Government Printing Office.

(b) The standards in (a) above shall be made a part of all solicitations and resulting contracts for real property appraisal services.

SUBCHAPTER G—CONTRACT MANAGEMENT

PART1442—CONTRACT ADMINISTRATION

Subpart 1442.12—Novation and Change-of-Name Agreements

Sec.
1442.1204 Agreement to recognize a successor in interest (novation agreement).

Authority: Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c), and 5 U.S.C 301.

Subpart 1442.12—Novation and Change-of-Name Agreements

§ 1442.1204 Agreements to recognize a successor in interest (novation agreement).

For protection of Government rights in accrual of inventions, patents and data, the novation agreement format prescribed in FAR 42.1204(e) shall be supplemented by adding the following item (10) under section (b) of the agreement:

(10) The transferor agrees that any rights in inventions, patents, and data which accrue to the Government or to third party beneficiaries under the contracts between the tranferor and the Government shall not be diminished as a result of the transfer instruments or this agreement.

SUBCHAPTER H—CLAUSES AND FORMS

PART 1452—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

Sec.
1452.000 Scope of part.

Subpart 1452.2—Texts of Provisions and Clauses

1452.200 Scope of subpart.
1452.204–70 Release of claims.
1452.204–71 Indian preference.
1452.204–72 Indian preference program.
1452.210–70 Brand name or equal.
1452.215–70 Examination of records by the Department of the Interior.
1452.215–71 Use and disclosure of proposal information.
1452.224–1 Privacy Act notification.
1452.225–70 Buy American Act notice.
1452.228–7 Insurance—liability to third persons.
1452.228–70 Indemnification.
1452.228–71 Risk and indemnities.
1452.228–72 Liability for loss or damage.
1452.228–73 Liability for loss or damage (property interest).
1452.236–70 Prohibition against use of lead-based paint.
1452.237–70 Information collection.

Authority: Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c), and 5 U.S.C. 301.

§ 1452.000 Scope of part.

This part prescribes Department of the Interior provisions and clauses for use in acquisition.

Subpart 1452.2—Texts of Provisions and Clauses

§ 1452.200 Scope of subpart.

This subpart sets forth the texts of all DIAR provisions and clauses. Conistent with the numbering scheme prescribed in FAR 52.101 and the approach used in FAR Subpart 52.2, this subpart is arranged by subject matter, in the same order as, and keyed to, the parts of the DIAR in which provisions and clause requirements are addressed.

§ 1452.204–70 Release of Claims.

As prescribed in 1404.804–70, insert the following clause in all construction contracts which exceed $25,000 and in all cost-reimbursement contracts which exceed $25,000.

RELEASE OF CLAIMS—DEPARTMENT OF THE INTERIOR (APR. 1984)

After completion of work and prior to final payment, the contractor shall furnish to the contracting officer a release of claims (DI–137) against the United States relating to this contract, other than claims excepted from the operation of the release.

[End of Clause]

§ 1452.204–71 Indian Preference.

As prescribed in 1404.7003(a), insert the following clause in solicitations issued and contracts awarded: (a) By the Bureau of Indian Affairs except those pursuant to Title I and to Indian Tribes and Indian Organizations under Title II of Pub. L. 93–638 (25 U.S.C. 450 et seq. and 25 U.S.C 455 et seq., respectively); (b) a contracting activity other than the Bureau of Indian Affairs when the contract is entered into pursuant to an act specifically authorizing contracts with Indian organizations; and (c) a contracting activity other than the Bureau of Indian Affairs when the work to be performed is specifically for the benefit of Indians and is in addition to any incidental benefits which might otherwise accrue to the general public.

INDIAN PREFERENCE—DEPARTMENT OF THE INTERIOR (APR. 1984)

(a) The Contractor agrees to give preferences to Indians who can perform the work required regardless of age (subject to existing laws and regulations), sex, religion, or tribal affiliation for training and employment opportunities under this contract and, to the extent feasible consistent with the efficient performance of this contract, training and employment preferences and opportunities shall be provided to Indians regardless of age (subject to existing laws and regulations), sex, religion, or tribal affiliation who are not fully qualified to perform under this contract. The Contractor also agrees to give preference to Indian organizations and Indian-owned economic enterprises in the awarding of any subcontracts consistent with the efficient performance of this contract. The Contractor shall maintain such records as are necessary to indicate compliance with this paragraph.

(b) In connection with the Indian employment preference requirements of this clause, the Contractor shall also provide opportunities for training incident to such employment. Such training shall include on-the-job, classroom, or apprenticeship training which is designed to increase the vocational effectiveness of an Indian employee.

(c) If the Contractor is unable to fill its training and employment needs after giving full consideration to Indians as required by

this clause, those needs may be satisfied by selection of persons other than Indians in accordance with the clause of this contract entitled "Equal Opportunity."

(d) If no Indian organizations or Indian-owned economic enterprises are available for awarding of subcontracts in connection with the work performed under this contract, the contractor agrees to comply with the provisions of this contract involving utilization of small business concerns, small business concerns owned and controlled by socially and economically disadvantaged individuals, or labor surplus are concerns.

(e) As used in this clause:

(1) "Indian" means a person who is a member of an Indian Tribe. If the Contractor has reason to doubt that a person seeking employment preference is an Indian, the Contractor shall grant the preference but shall require the individual within thirty (30) days to provide evidence from the Tribe concerned that the person is a member of that Tribe.

(2) "Indian Tribe" means an Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (85 Stat. 668; 43 U.S.C. 1601) which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

(3) "Indian organization" means the governing body of any Indian Tribe or entity established or recognized by such governing body in accordance with the Indian Financing Act of 1974 (88 Stat. 77; 25 U.S.C. 1451); and

(4) "Indian-owned economic enterprise" means any Indian-owned commercial, industrial, or business activity established or organized for the purpose of profit provided that such Indian ownership shall constitute not less than 51 percent of the enterprise.

(f) The Contractor agrees to include the provisions of the clause including this paragraph (f) in each subcontract awarded under this contract.

(g) In the event of noncompliance with this clause, the Contractor's right to proceed may be terminated in whole or in part by the Contracting Officer and the work completed in a manner determined by the Contracting Officer to be in the best interests of the Government.

[End of clause]

§ 1452.204–72 Indian Preference Program.

As prescribed in 1404.7003(b), insert the following clause in all solicitations and contracts, awarded by the contracting activity which may exceed $50,000, and which contain the clause at 1452.204–71, and where it is determined by the Contracting Officer, prior to solicitation, that the work under the contract will be performed in whole or in part on or near an Indian reservation(s). The clause may also be included in solicitations issued and contracts awarded by a contracting activity which may not exceed $50,000 but which contain the clause at § 1452.204–71 and which, in the opinion of the contracting officer, offer substantial opportunities for Indian employment, training, and subcontracting.

INDIAN PREFERENCE PROGRAM—DEPARTMENT OF THE INTERIOR (APR. 1984)

(a) In addition to the requirements of the clause of this contract entitled "Indian Preference—Department of the Interior," the Contractor agrees to establish and conduct an Indian preference program which will expand the opportunities for Indian organizations and Indian-owned economic enterprises to receive a preference in the awarding of subcontracts and which will expand opportunities for Indians to receive preference for training and employment in connection with the work to be performed under this contract. In this connection, the contractor shall:

(1) Designate a liaison officer who will: (i) Maintain liaison with the Government and Tribe(s) on Indian preference matters; (ii) supervise compliance with the provisions of this clause; and (iii) administer the Contractor's Indian preference program.

(2) Advise its recruitment sources in writing and include a statement in all advertisements for employment that Indian applicants will be given preference in employment and training incident to such employment.

(3) Not less than twenty (20) calendar days prior to commencement of work under this contract, post a written notice in the Tribal office of any reservations on which or near where the work under this contract is to be performed, which sets forth the Contractor's employment needs and related training opportunities. The notice shall include the approximate number and types of employees needed, the approximate dates of employment; the experience or special skills required for employment, if any; training opportunities available; and all other pertinent information necessary to advise prospective employees of any other employment requirements. The Contractor shall also request the Tribe(s) on or near whose reservation(s) the work is to be performed to provide assistance to the Contractor in filling its employment needs and training opportunities. The Contracting Officer will advise the Contractor of the name, location, and phone number of the Tribal officials to contact in regard to the posting of notices and requests for Tribal assistance.

(4) Establish and conduct a subcontracting program which gives preference to Indian organizations and Indian-owned economic enterprises as subcontractors and suppliers under this contract. Consistent with the efficient performance of this contract, the Contractor shall give public notice of existing subcontracting opportunities by soliciting bids or proposals only from Indian organizations or Indian-owned economic enterprises. The Contractor shall request assistance and information on Indian firms qualified as suppliers or subcontractors from the Tribe(s) on or near whose reservation(s) the work under the contract is to be performed. The Contracting Officer will advise the Contractor of the name, location, and phone number of the Tribal officials to be contacted in regard to the request for assistance and information. Public notices and solicitations for existing subcontracting opportunities shall provide an equitable opportunity for Indian firms to submit bids or proposals by including: (i) A clear description of the supplies or services required including quantities, specifications, and delivery schedules which facilitiate the participation of Indian firms; (ii) a statement indicating the preference will given to Indian organizations and Indian-owned economic enterprises in accordance with Section 7(b) of Pub. L. 93–638; (88 Stat. 2205; 25 U.S.C. 450e(b)); (iii) definitions for the terms "Indian organization" and "Indian-owned economic enterprise" as prescribed under the "Indian Preference—Department of the Interior" clause of this contract; (iv) a representation to be completed by the bidder or offeror that it is an Indian organization or Indian-owned economic enterprise; and (v) a closing date for receipt of bids or proposals which provides sufficient time for preparation and submission of a bid or proposal. If after soliciting bids from Indian organizations and Indian-owned economic enterprises, no responsive bid is received, the Contractor shall comply with the requirements of paragraph (d) of the "Indian Preference—Department of the Interior" clause of this contract. If one or more responsive bids are received, award shall be made to the low responsible bidder if the bid price is determined to be reasonable. If the low responsive bid is determined to be unreasonable as to price, the Contractor shall attempt to negotiate a resonable price and award a subcontract. If a reasonable price cannot be agreed upon, the Contractor shall comply with the requirements of paragraph (d) of the "Indian Preference—Department of the Interior" clause of the contract.

(5) Maintain written records under this contract which indicate: (1) The names and addresses of all Indians seeking employment for each employment position available under this contract; (ii) the number of types of positions filled by: (A) Indians, and (B) non-Indians, and the name, address and position of each Indian employed under this contract; (iii) for those positions where there are both Indian and non-Indian applicants, and a non-Indian is selected for employment, the reason(s) why the Indian applicant was not selected; (iv) actions taken to give preference to Indian organizations and Indian-owned economic enterprises for subcontracting opportunities which exist under this contract; (v) reasons why preference was not given to Indian firms as subcontractors or suppliers for each requirement where is was determined by the Contractor that such preference would not be consistent with the efficient performance of the contract; and (vi) the names and addresses of all Indian organizations and Indian-owned economic enterprises: (A) Contacted, and (B) receiving subcontract awards under this contract.

(6) The Contractor shall submit to the Contracting Officer for approval a semiannual report which summarizes the

Contractor's Indian preference program and indicates (i) the number and types of available positions filled and dollar amounts of all subcontracts awarded to (a) Indian organizations and Indian-owned economic enterprises and (b) all other firms.

(7) Records maintained pursuant to this clause will be kept available for review by the Government until expiration of one (1) year after final payment under this contract, or for such longer period as may be required by any other clause of this contract or by applicable law or regulation.

(b) For purpose of this clause, the following definitions of terms shall apply:

(1) The terms "Indian," "Indian Tribe," "Indian Organization," and "Indian-owned economic enterprise" are defined in the clause of this contract entitled "Indian Preference."

(2) "Indian reservation" includes Indian reservation, public domain Indian allotments, former Indian reservations in Oklahoma, and land held by incorporated Native groups, regional corporations, and village corporations under the provisions of the Alaska Native Claims Settlement Act (85 Stat. 688; 43 U.S.C. 1601 et seq.).

(3) "On or near an Indian Reservation" means on a reservation or reservations or within that area surrounding an Indian reservation(s) where a person seeking employment could reasonably be expected to commute to and from in the course of a work day.

(c) Nothing in the requirements of this clause shall be interpreted to preclude Indian Tribes from independently developing and enforcing their own Indian preference requirements. Such requirements must not hinder the Government's right to award contracts and to administer their provisions.

(d) The Contractor agrees to include the provisions of this clause including this paragraph (d) in each subcontract awarded under this contract to notify the Contracting Officer of such subcontracts.

(e) In the event of noncompliance with this clause, the Contractor's right to proceed may be terminated in whole or in part by the Contracting Officer and the work completed in a manner determined by the Contracting Office to be in the best interest of the Government.

[End of clause]

§ 1452.210–70 Brand Name or Equal.

As prescribed in 1410.004–70(c), insert the following provision in solicitations which contain a "brand name or equal" purchase description:

BRAND NAME OR EQUAL—DEPARTMENT OF THE INTERIOR (APR. 1984)

(As used in this clause, the term "brand name" includes identification of products by make and model.)

(a) If items called for by this solicitation have been identified in the schedule by a "brand name or equal" description, such identification is intended to be descriptive, but not restrictive, and is to indicate the quality and characteristics of products that will be satisfactory. Bids offering "equal" products (including products of the brand name manufacturer other than the one described by brand name) will be considered for award if such products are clearly identified in the bids or proposals and are determined by the Government to meet fully the salient characteristics requirements listed in the solicitation.

(b) Unless the bidder clearly indicates in its bid that it is offering an "equal" product, its bid shall be considered as offering a brand name product referenced in the solicitation.

(c)(1) If the bidder proposes to furnish an "equal" product, the brand name, if any, of the product to be furnished shall be inserted in the space provided in the solicitation, or such product shall be otherwise clearly identified in the bid. The evaluation of bids and the determination as to equality of the product offered shall be the responsibility of the Government and will be based on information furnished by the bidder or identified in its bid as well as other information reasonably available to the contracting activity. CAUTION TO BIDDERS: The contracting activity is not responsible for locating or securing any information which is not identified in the bid and reasonably available to the contracting activity. Accordingly, to assure that sufficient information is available, the bidder must furnish as a part of its bid all descriptive material (such as cuts, illustrations, drawings, or other information) necessary for the contracting activity to: (i) Determine whether the product offered meets the salient characteristics requirement of the solicitation; and (ii) establish exactly what the bidder proposes to furnish and what the Government would be binding itself to purchase by making an award. The information furnished may include specific reference to information previously furnished or to information otherwise available to the contracting activity.

(2) If the bidder proposes to modify a product so as to make it conform to the requirements of the solicitation, it shall: (i) Include in his bid a clear description of such proposed modifications; and (ii) clearly mark any descriptive material to show the proposed modifications.

(3) Modifications proposed after bid opening to make a product conform to a brand name product referenced in the solicitation will not be considered.

§ 1452.215–70 Examination of records by the Department of the Interior.

As prescribed in 1415.106.1, insert the following clause in all contracts containing the clause at FAR 52.215–1, Examination of Records by the Comptroller General (see FAR 15.106–1(b)):

EXAMINATION OF RECORDS BY THE DEPARTMENT OF THE INTERIOR (APR. 1984)

For purposes of the Examination of Records by the Comptroller General (APR 1984) clause of this contract (FAR 52.214–1), the Secretary of the Interior, the Inspector General, and their duly authorized representative(s) from the Department of the Interior shall have the same access and examination rights as the Comptroller General of the United States.

[End of clause]

§ 1452.215–71 Use and disclosure of proposal information.

As prescribed in 1415.413–70, insert the following provision in requests for proposals and requests for quotations instead of the provision at FAR 52.215–12:

USE AND DISCLOSURE OF PROPOSAL INFORMATION—DEPARTMENT OF THE INTERIOR (APR. 1984)

(a) *Definitions.* For the purposes of this provision and the Freedom of Information Act (5 U.S.C. 552), the following terms shall have the meaning set forth below:

(1) "Trade Secret" means an unpatented, secret, commercially valuable plan, appliance, formula, or process, which is used for making, preparing, compounding, treating or processing articles or materials which are trade commodities.

(2) "Confidential commercial or financial information" means any business information (other than trade secrets) which is exempt from the mandatory disclosure requirement of the Freedom of Information Act, 5 U.S.C. 552. Exemptions from mandatory disclosure which may be applicable to business information contained in proposals include exemption (4), which covers "commercial and financial information obtained from a person and privileged or confidential," and exemption (9), which covers "geological and geophysical information, including maps, concerning wells."

(b) If the offeror, or its subcontractor(s), believes that the proposal contains trade secrets or confidential commercial or financial information exempt from disclosure under the Freedom of Information Act, (5 U.S.C. 552), the cover page of each copy of the proposal shall be marked with the following legend:

"The information specifically identified on pages —— of this proposal constitutes trade secrets or confidential commercial and financial information which the offeror believes to be exempt from disclosure under the Freedom of Information Act. The offeror requests that this information not be disclosed to the public, except as may be required by law. The offeror also requests that this information not be used in whole or part by the Government for any purpose other than to evaluate the proposal, except that if a contract is awarded to the offeror as a result of or in connection with the submission of the proposal, the Government shall have the right of use the information to the extent provided in the contract."

(c) The offeror shall also specifically identify trade secret information and confidential commercial and financial information on the pages of the proposal on which it appears and shall mark each such page with the following legend:

"This page contains trade secrets or confidential commercial and financial information which the offeror believes to be exempt from disclosure under the Freedom of Information Act and which is subject to the legend contained on the cover page of this proposal."

(d) Information in a proposal identified by an offeror as trade secret information or confidential commercial and financial information shall be used by the Government only for the purpose of evaluating the proposal, except that: (i) If a contract is awarded to the offeror as a result of or in connection with submission of the proposal, the Government shall have the right to use the information as provided in the contract; and (ii) if the same information is obtained from another source without restriction it may be used without restriction.

(e) If a request under the Freedom of Information Act seeks access to information in a proposal identified as trade secret information or confidential commercial and financial information, full consideration will be given to the offeror's view that the information constitutes trade secrets or confidential commerical or financial information. The offeror will also be promptly notified of the request and given an opportunity to provide additional evidence and argument in support of its position, unless administratively unfeasible to do. If it is determined that information claimed by the offeror to be trade secret information or confidential commerical or financial information is not exempt from disclosure under the Freedom of Information Act, the offeror will be notified of this determination prior to disclosure of the information.

(f) The Government assumes no liability for the disclosure or use of information contained in a proposal if not marked in accordance with paragraphs (b) and (c) of this provision. If a request under the Freedom of Information Act is made for information in a proposal not marked in accordance with paragraphs (b) and (c) of this provision, the offeror concerned shall be promptly notified of the request and given an opportunity to provide its position to the Government. However, failure of an offeror to mark information contained in a proposal as trade secret information or confidential commerical or financial information will be treated by the Government as evidence that the information is not exempt from disclosure under the Freedom of Information Act, absent a showing that the failure to mark was due to unusual or extenuating circumstances, such as a showing that the offeror had intended to mark, but that markings were omitted from the offeror's proposal due to clerical error.

[End of provision]

§ 1452.224–1 Privacy Act Notification.

(a) As prescribed in § 1424.104, the clause at FAR 52.224–1, Privacy Act Notification, shall be modifed before insertion into solicitations and contract by.

(1) Changing the title of the clause to read "PRIVACY ACT NOTIFICATION (APR. 1984) (DEVIATION)"; and

(2) Adding the following sentence to the end of the clause:

"Applicable Department of the Interior regulations are set forth in 43 CFR 2, Subpart D, and may be obtained by submitting a written request to the Privacy Act Officer, Officer of the Assistant Secretary—Policy, Budget and Administration, Department of the Interior, Washington, D.C. 20240."

(b) As prescribed in FAR 52.103(a) and 52.107(f), the clause at FAR 52.252–6, Authorized Deviation in Clauses, shall be inserted into solicitations and contracts containing the clause in (a) above.

§ 1452.225–70 Buy American Act Notice.

As prescribed in § 1425.205, insert the following provision in solicitations for construction inside the United States:

BUY AMERICAN ACT NOTICE—DEPARTMENT OF THE INTERIOR (APR. 1984)

(a) The Buy American Act (41 U.S.C. 10) generally requires that only domestic construction material be used in the performance of this contract (see the clause titled "Buy American Act—Construction Materials"). This requirement does not apply to the following construction materials:

[List excepted material or indicate "none".]

(b) Offers based on the use of other foreign construction material may be acceptable for award if the Government determines that—

(1) Comparable domestic construction material in sufficient and reasonably available quantities, of a satisfactory quality, is unavailable; or

(2) Use of comparable domestic construction material is impracticable or would unreasonably increase the cost.

(c) Any offer based on the use of one or more other foreign construction materials shall include data, in the format listed in paragraph (e) below, clearly demonstrating that the cost of each foreign construction material, plus 6 percent, is less than the cost of each comparable domestic construction material. The cost of construction material shall be computed to include all delivery costs to the construction material and shall also include any applicable duty (whether or not a duty-free entry certificate may be issued).

(d) For evaluation purposes, the Government shall add to the offer 6 percent of the cost of foreign material which qualifies for acceptance under paragraph (c) above.

(e) For foreign construction material which does not qualify for acceptance under paragraph (c) above, the Government shall evaluate the offer on the basis of the stated price for comparable domestic construction material. *Therefore, if the offer does not state a price for a comparable domestic construction material, and the foreign construction material does not qualify for acceptance under paragraph (c) above, the offer shall be rejected as nonresponsive.*

(f) For evaluation purposes under paragraph (c) above, the following information shall be included in the offer for the use of one or more foreign construction materials:

FOREIGN AND DOMESTIC CONSTRUCTION MATERIALS COST COMPARISON

Construction material description	Unit	Quantity	Cost including all delivery costs to construction site [1] (dollars)
Item 1:			
Foreign construction material			
Comparable domestic construction material			
Item 2:			
Foreign construction material			
Comparable domestic construction material			

[1] Also include applicable duty for foreign material.

[End of provision]

§ 1452.228–7 Insurance—Liability to third persons.

(a) As prescribed in § 1428.311–2, the clause at FAR 52.228–7, Insurance—Liability to Third Persons, shall be modified before insertion into solicitations and contracts by:

(1) Changing the title of the clause to read "INSURANCE—LIABILITY TO THIRD PERSONS (APR 1984) (DEVIATIONS)"; and

(2) Changing the first sentence in subparagraph (c)(2) of the clause to read "For certain liabilities (and expenses incidental to such liabilities) to third persons not compensated by insurance or otherwise but subject to the 'Limitation of Cost' or 'Limitation of Funds' clause of this contract."

(b) As prescribed in FAR 52.103(a) and 52.107(f), the clause at FAR 52.252–6, Authorized Deviations in Clauses, shall be inserted into solicitations and contracts containing the clause in (a) above.

§ 1452.228–70 Indemnification.

As prescribed in 1428.301, insert the following clause in all contracts where circumstances warrant the carrying of insurance by the contractor (see FAR 28.301 and 28.306):

INDEMNIFICATION—DEPARTMENT OF THE INTERIOR (APR. 1984)

(a) The Contractor shall indemnify the hold the Government harmless for any and all losses, damages, or liability on account of personal injury, death, or property damange, or claims for personal injury, death, or property damage of any nature whatsoever and by whomsoever made, arising out of the activities of the Contractor, its employees, subcontractors, or agents under the contract. For the purpose of fulfilling its obligations under this paragraph, the Contractor shall procure and maintain during the term of this contract and any extension thereof liability insurance in form satisfactory to the Contracting Officer by an insurance company which is acceptable to the Contracting Officer. The name insured parties under the

policy shall be the Contractor and the United States of America. The amounts of the insurance shall be not less than as follows:

$———— each person.*
$———— each occurrence.*
$———— property damage.*

(b) Each policy or certificate evidencing the insurance shall contain an endorsement which provides that the insurance company will notify the Contracting Officer 30 days prior to the effective date of any cancellation or termination of the policy or certificate or any modification of the policy or certificate which adversely affects the interest of the Government in such insurance. The notice shall be sent by registered mail and shall identify this contract, the name and address of the contracting office, the policy and the insured.

(c) Prior to the commencement of work hereunder the Contractor shall furnish the Contracting Officer with acceptable evidence showing that the insurance coverage described in this clause has been obtained.

*These amounts to be set by the Contracting Officer.

[End of clause]

§ 1452.228–71 Risk and indemnities.

As prescribed in § 1428.306–70(c)(1), insert the following clause in all fixed-price contracts for operating of aircraft with contractor-furnished pilot:

RISK AND INDEMNITIES—DEPARTMENT OF THE INTERIOR (APR. 1984)

The Contractor hereby agrees to indemnify and hold harmless the Government, its officers and employees from and against all claims, demands, damages, liabilities, losses, suits and judgments (including all costs and expenses incident thereto) which may be suffered by, accrue against, be charged to or recoverable from the Government, its officers and employees by reason of injury to or death of any person other than officers, agents, or employees of the Government or by reason of damage to property of others of whatsoever kind (other than the property of the Government, its officers, agents or employees) arising out of the operation of the aircraft. In the event the Contractor holds or obtains insurance in support of this covenant, a Certificate of Insurance shall be delivered to the Contracting Officer.

[End of clause]

§ 1452.228–72 Liability for loss or damage.

As prescribed in § 1428.306–70(c)(2), insert the following clause in all fixed-price contracts involving the use of aircraft with Government-furnished pilot where the Government does not have a property interest in the aircraft:

LIABILITY FOR LOSS ON DAMAGE—DEPARTMENT OF THE INTERIOR (APR. 1984)

(a) The Contractor shall indemnify and hold the Government harmless from any and all loss or damage to the aircraft furnished under this contract except as provided in paragraph (d) below. For the purpose of fulfilling its obligation under this clause, the Contractor shall procure and maintain during the term of this contract, and any extension thereof, hull insurance acceptable to the Contracting Officer. The Contractor's insurance coverage shall apply to pilots furnished by the Government who operate the aircraft. The contractor may request a list of Government pilots by name and qualification who are potential pilots.

(b) Prior to the commencement of work hereunder, the Contractor shall furnish to the Contracting Officer a copy of the insurance policy or policies or a certificate of insurance issued by the underwriter(s) showing that the coverage required by this clause has been obtained.

(c) Each policy or certificate evidencing the insurance shall contain an endorsement which provides that the insurance company will notify the Contracting Officer 30 days prior to the effective date of any cancellation or termination of any policy or certificate or any modification of a policy or certificate which adversely affects the interests of the Government in such insurance. The notice shall be sent by registered mail and shall identify this contract, the name and address of the contracting office, the policy, and the insured.

(d) If the aircraft is damaged or destroyed while in the custody and control of the Government, the Government will reimburse the Contractor for the deductible stipulated in the insurance coverage (if any) as follows:

(1) In-Motion Accidents—Up to 5% of the current insured value of the aircraft stated in the policy, or $10,000.00, whichever is less.

(2) Not In-Motion Accidents—Up to $250.00 per accident. Such reimbursement shall not be made, however, for loss or damage to the aircraft resulting from: (1) Normal wear and tear, (2) negligence or fault in maintenance of the aircraft by the Contractor, or (3) a defect in construction of the aircraft or a component thereof.

(e) If damage to the aircraft is established to be the fault of the Government, rental payments to the Contractor during the repair period will be made as set forth elsewhere in this contract. The Government may, at its option, make necessary repairs or return the aircraft to the Contractor for repair. In the event the aircraft is lost, destroyed, or damaged so extensively as to be beyond repair, no rental payment will be made to the Contractor thereafter.

(f) Any failure to agree as to the responsibility of the Government or the Contractor under this clause shall, after a final finding and determination by the Contracting Officer, be considered a dispute within the meaning of the "Disputes" clause of this contract.

[End of clause]

§ 1452.228–73 Liability for loss or damage (property interest).

As prescribed in § 1428.306–70(c)(3), insert the following clause in all fixed-price contracts involving the use of aircraft with Government-furnished pilot where the Government has a property interest in the aircraft (e.g., lease with purchase option):

LIABILITY FOR LOSS OR DAMAGE—DEPARTMENT OF THE INTERIOR (APR. 1980)

(a) The Government assumes all risk and liability for damage to or loss of the aircraft for the term of this contract, while the aircraft is in the Government's possession, except for: (1) Normal wear and tear to the aircraft, or (2) loss which occurs as a result of negligence or fault in maintenance of the aircraft by the contractor, or (3) loss resulting from a latent defect in the construction of the aircraft or a component thereof.

(b) In the event of damage to the aircraft, the Government may, at its option, make the necessary repairs with its own facilities, or by contract, or pay the Contractor the reasonable cost of repair of the aircraft. If damage to tne aircraft is established to be the fault of the Government, rental payments to the Contractor during the repair period will be made as set forth elsewhere in this contract.

(c) In the event the aircraft is lost, destroyed, or damaged so extensively as to be beyond repair, no rental payment will be made to the Contractor thereafter, but the Government will pay to the Contractor a sum equal to the fair market value of the aircraft just prior to such loss, destruction, or extensive damage, less the salvage value of the aircraft.

(d) The Contractor certifies that the contract price does not include any cost attributable to insurance or to any reserve fund it has established to protect its interests in or use of the aircraft, regardless of whether or not the insurance coverage applies for the period during which the Government has possession of the aircraft. If, in the event of loss or damage to the aircraft, the Contractor receives compensation for such loss or damage, in any form, from any source, the amount of such compensation shall be credited to the Government in determining the amount of the Government's liability under this clause; except that this shall not apply to proceeds of insurance received solely as an advance of insurance pending determination of Government liability, or for an increment of value of the aircraft beyond the value for which the Government is responsible.

(e) In the event of loss or damage, the Government shall be subrogated to all rights of recovery by the Conractor against third parties for such loss or damage and such rights shall be immediately assigned to the Government. Except as the Contracting Officer may permit in writing, the Contractor shall neither release nor discharge any third party from liability for such loss or damage nor otherwise compromise or adversely affect the Government's surogation or other rights hereunder. The Contractor shall cooperate with the government in any suit or action undertaken by the Government against any such third party.

(f) Any failure to agree as to the responsibility of the Government or the Contractor under this clause shall, after a final finding and determination by the Contracting Officer, be considered a dispute within the meaning of the "Disputes" clause of this contract.

[End of clause]

§ 1452.236–70 Prohibition against use of lead-based paint.

As prescribed in 1436.570, insert the following clause in solicitations and contracts when construction of residential structures or rehabilitation (including dismantling, demolition, or removal) of residential structures is contemplated:

PROHIBITION AGAINST USE OF LEAD-BASED PAINT—DEPARTMENT OF THE INTERIOR (APR. 1984)

No lead-based paint containing more than .5 or 1 percent lead by weight (calculated as lead metal) in the total nonvolatile content of paint, or the equivalent measure of lead in the dried film of paint already applied, or both, or with respect to paint manufactured after June 23, 1977, no lead-based paint containing more than .06 or 1 percent lead by weight (calculated as lead metal) in the total nonvolatile content of the paint, or the equivalent measure of lead in the dried film of paint already applied, or both, shall be used in the construction or rehabilitation of residential structures under this contract or any resulting subcontracts.

[End of clause]

§ 1542.237–70 Information collection.

As prescribed in § 1437.713, insert the following clause in solicitations and contracts where collection of information upon identical items from ten or more public respondents is required or may be required:

INFORMATION COLLECTION—DEPARTMENT OF THE INTERIOR (APR. 1984)

If performance of this contract requires the contractor to collect information upon identical items from ten or more public respondents, no action shall be taken or funds expended in the solicitation or collection of such information until the contractor has received from the Contracting Officer written notification that approval has been obtained from the Office of Management and Budget (OMB) pursuant to the Paperwork Reduction Act of 1980. The Contractor agrees to provide all information requested by the Contracting Officer which is necessary to obtain approval from OMB.

[End of Clause]

PART 1453—FORMS

Sec.

1453.000 Scope of part.

Subpart 1453.2—Prescription of forms

1453.200 Department of the Interior forms.
1453.204 Administrative matters.
1453.204–70 Release of claims (DI–137).
1453.215 Contracting by negotiation.
1453.215–71 Structured approach for profit/fee objective (DI–1920).
1453.219 Small business and small disadvantaged business concerns.
1453.219–71 Sample subcontracting plan outline.
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1453.232 Contract financing.
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Subpart 1453.3—Illustrations of Forms

1453.300 Scope of subpart.
1453.303 Agency forms.
1453.303–70 Sample subcontracting plan outline format.

Authority: Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c), and 5 U.S.C. 301.

§ 1453.000 Scope of part.

This part (a) prescribes Department of the Interior (DI) forms for use in acquisition, (b) illustrates these forms, and (c) contains procedures for exceptions to forms prescribed in FAR Part 53 or this Part 1453.

Subpart 1453.2—Prescription of Forms

§ 1453.200 Department of the Interior forms.

This subpart prescribes Department of the Interior (DI) forms for use in acquisition. Consistent with the approach used in FAR Subpart 53.2, this subpart is arranged by subject matter, in the same order as, and keyed to, the parts of the DIAR in which the form usage requirements are addressed.

§ 1453.204 Administration matters.

§ 1453.204–70 Release of claims (DI–137).

DI–137, Release of claims, is prescribed for use in obtaining a contractor release of claims as specified in § 1404.804–70.

§ 1453.215 Contracting by negotiation.

§ 1453.215–71 Structured approach for profit/fee objective (DI–1920).

Form DI–1920, Structured Approach for Profit/Fee Objective—Department of the Interior is prescribed for use in calculating the profit or fee prenegotiation objective as required in § 1415.905.

§ 1453.219 Small business and small disadvantaged business concerns.

§ 1453.219–71 Sample subcontracting plan outline.

The Sample Subcontracting Plan Outline format is prescribed for use in requesting subcontracting plans as specified in § 1419.705–70.

§ 1453.219–72 Performance evaluation (8(a)) (DI–1919).

DI–1919, Performance Evaluation (8(a)), is prescribed for use in evaluating the performance of SBA 8(a) contractors as specified in 1419.810–70.

§ 1453.232 Contract financing.

§ 1453.232–70 Assignment of claims (DI's 83, 84).

The following forms are prescribed for use in connection with making a written notice of assignment as specified in FAR Subpart 32.8 and Subpart 1432.8:

(a) DI–83 (1/72), Notice of Assignment. (See 1432.805.)

(b) DI–84 (1/72), Instrument of Assignment. (See 1432.805.)

Subpart 1453.3—Illustrations of Forms

§ 1453.300 Scope of subpart.

This subpart contains illustrations of Department of the Interior (DI) forms used in acquisition as prescribed by the DIAR.

§ 1453.303 Agency forms.

This section illustrates Department of the Interior (DI) forms specified by the DIAR for use in acquisition. The forms are illustrated in numerical order.

BILLING CODE 4310–10–M

Form DI–83
(January 1972)

UNITED STATES
DEPARTMENT OF THE INTERIOR

NOTICE OF ASSIGNMENT

SEE INSTRUCTIONS ON REVERSE BEFORE COMPLETING FORM

TO: *(check one)*

☐ Contracting Officer, or

☐ Surety_____
(Name)

Re Contract Number_____ Dated_____

With_____ of_____
(Contractor) (City) (State) (Zip Code)

For_____
(Project Identification)

PLEASE TAKE NOTICE that moneys due or to become due under the contract described above have been assigned to the undersigned pursuant to the provisions of the Assignment of Claims Act of 1940, as amended, 54 Stat. 1029; 65 Stat. 41 (31 U.S.C. 203, 41 U.S.C. 15). A true copy of the instrument of assignment executed by the contractor on *(date)* , is attached to the original hereof.

Payments due or to become due under such contract shall be made to the undersigned assignee.

Please complete and return all copies of this Notice as indicated on the reverse hereof.

_____ By_____
(Name of Assignee) (Name and Title of Officer of Assignee)

_____ _____
(Street Address) (Signature)

_____ _____
(City) (State) (Zip Code) (Date)

Receipt is hereby acknowledged of the above Notice and a copy of the instrument of assignment. These were received at ☐ a.m. ☐ p.m., on *(date)*

FOR USE OF CONTRACTING OFFICER	FOR USE OF SURETY
	(Surety Name)
(Name of Contracting Officer)	By_____ (Name and Title of Signing Officer)
(Signature)	(Signature of Surety Officer)

INSTRUCTIONS

Under the Assignment of Claims Act of 1940, as amended (31 U.S.C. 203, 41 U.S.C. 15), moneys due or to become due from the United States under a contract providing for payments aggregating $1,000 or more may be assigned to a bank, trust company, Federal lending agency, or other recognized financing institution in the absence of a contract provision forbidding assignment. Unless otherwise permitted by the contract: (1) an assignment must cover all further amounts payable under the contract; (2) shall not be subject to further assignment; and (3) shall not be made to more than one party, except that assignment may be made to one party acting as agent or trustee for two or more parties participating in the financing. The assignee is required to provide a notice of assignment to the Contracting Officer; to the surety, if there is one; and to the disbursing officer, if any, designated in the contract to make payments.

In order to avoid possible invalidity of an assignment, and to provide a notice of assignment to all parties concerned, the following instructions should be followed carefully:

1. *Assignee:*

(a) Send an original and two copies of this *Notice of Assignment* (DI–83), together with one true copy* of an instrument of assignment**, *to the Contracting Officer.*

(b) Send by certified mail, return receipt requested, another original and three copies of this Notice of Assignment, together with one true copy* of the instrument of assignment, *to the surety*—if bond(s) were provided by a surety under the contract. *(See Instruction 4 below for additional required action by assignee.)*

2. *Contracting Officer:*

(a) Acknowledge receipt of this Notice of Assignment on the original and all copies.

(b) Forward one acknowledged copy of this Notice of Assignment plus the true copy of the instrument of assignment *to the appropriate finance officer.*

(c) Return one acknowledged copy of this Notice of Assignment *to the assignee.*

(d) Retain the original Notice of Assignment.

3. *Surety:*

(a) Acknowledge receipt of this Notice of Assignment on the original and all copies.

(b) Return three acknowledged copies of this Notice of Assignment *to the assignee.*

(c) Retain the original Notice of Assignment and the true copy of the instrument of assignment.

4. *Assignee:*

(a) Retain one copy of this Notice of Assignment acknowledged by the surety.

(b) Forward two copies of this Notice of Assignment acknowledged by the surety, *to the Contracting Officer.* If the surety has refused to acknowledge receipt of this Notice of Assignment, the assignee *must* prepare an affidavit to that effect, attach the postal return receipt which covered the mailing of this Notice of Assignment to the surety, and forward them *to the Contracting Officer.*

5. *Contracting Officer:*

(a) Retain either the affidavit and postal receipt from the assignee or one of the copies of this Notice of Assignment acknowledged by the surety.

(b) Forward a copy of the affidavit, or the copy of this Notice of Assignment acknowledged by the surety *to the appropriate finance officer.*

* *A true copy of an instrument of assignment may be a*

(a) complete machine copy of the original;

(b) complete duplicate copy of the original; or

(c) certified copy of the original, typewritten or otherwise, if it is accurate and complete in all respects and is accompanied by a certificate, executed by a Notary Public or other officer legally authorized to administer oaths, to the effect that it is a true copy.

** *DI–84 completed, may be used as the instrument of assignment.*

Form DI-84
(January 1972)

UNITED STATES
DEPARTMENT OF THE INTERIOR

INSTRUMENT OF ASSIGNMENT

KNOW ALL MEN THAT pursuant to the provisions of the Assignment of Claims Act of 1940 as amended (31 U.S.C. 203, 41 U.S.C. 15), for value received, the undersigned Assignor (Contractor) does hereby assign irrevocably unto
of ,
as Assignee, all right, title, and interest in all moneys now due or to become due from, and not already paid by the United States of America under Contract No. , dated , for
, previously entered into by and between the United States of America and the Assignor. The Assignor states that no previous assignment has been made, and no additional assignment will be made under the said contract; and authorizes payment of moneys now due or to become due to be made by checks drawn to the order of the said Assignee.

IN WITNESS WHEREOF, The undersigned Assignor has caused this assignment to be executed this day of , 19

(Assignor) By (Signature)

(Street Number or R.F.D.) (Name)

(City) (State) (Zip Code) (Title)

ACKNOWLEDGMENT
(Complete only if Assignor is an individual or partnership)

State of)
ss:
County of)

I, , a Notary Public in and for the County of
State of , do hereby certify that on this day of , 19 , personally appeared before me the above signator , to me personally known, who, being by me duly sworn, duly acknowledged the execution of the above assignment to be his voluntary act and deed.

[NOTARIAL SEAL]

My commission expires

(Signature of Notary Public)

AUTHORITY TO MAKE ASSIGNMENT
(Complete only if Assignor is a corporation)

I, certify that I am of the corporation named as Assignor herein; that who executed this assignment on behalf of the said corporation was then of the said corporation, acting for and on its behalf by authority of its governing body.

[SEAL]

(Date) (Signature)

DI-117
(November 1971)

UNITED STATES
DEPARTMENT OF THE INTERIOR

Contract Number

Date

RELEASE OF CLAIMS

WHEREAS, by the terms of the above contract for , entered into by the United States of America, hereinafter also referred to as the United States, and the contractor , it is provided that after completion of all work, and prior to final payment, the contractor will furnish the United States with a release of all claims;

NOW, THEREFORE, in consideration of the above premises and the payment by the United States to the contractor of the amount now due under the contract, to wit, the sum of dollars ( ), the contractor hereby remises, releases, and forever discharges the United States, its officers, agents, and employees, of and from all manner of debts, dues, liabilities, obligations, accounts, claims, and demands whatsoever, in law and in equity, under or by virtue of the said contract except:

IN WITNESS WHEREOF, the contractor has executed this release this day of , 19

(Contractor) By (Signature)

(Check one)
☐ Corporation ☐ Joint Venture
☐ Partnership ☐ Individual

(Name)

(Street Number or R.F.D.) (Title)

(City) (State) (Zip Code)

COMPLETE ONLY IF CONTRACTOR IS A CORPORATION

I, , CERTIFY That I am the of the corporation named as contractor herein, that who signed this release on behalf of the corporation was then of said corporation; and that said release was duly signed for and on behalf of said corporation by authority of its governing body.

SEAL

(Signature)

Department of the Interior

STRUCTURED APPROACH FOR PROFIT/FEE OBJECTIVE

Department of the Interior

EVALUATION REPORT ON 8(a) CONTRACTOR PERFORMANCE

1. Purchasing Office and Address: _____

2. Name of Contractor and Address: _____

3. Contract Number: _____ 4. Date of Award: _____ 5. Cost: _____

6. Number of Modifications: ____
Reasons for Modifications (Explain) _____

7. Contractor's Overall Performance: Excellent ___ Good___ Fair ___ Poor __

8. Quality of Product Or Service Provided: Excellent __ Good __ Fair__ Poor__

9. Compliance With Essential Contract Terms And Specifications: Yes __ No __
If no, explain. _____

10. Was Required Delivery Schedule Met? Yes ___ No ___ If no, explain.

11. Was Contract Performed Within Negotiated Price? Yes ___ No ___ (Explain)

12. Lessons Learned/Additional Comments: _____

13. Signature/Date: _____ Contracting Officer _____ Contracting Officer's Technical Representative

DI-1919 (10/83)

STRUCTURED APPROACH FOR PROFIT/FEE OBJECTIVE
DEPARTMENT OF THE INTERIOR

CONTRACTOR	RFP/CONTRACT NO.	MOD. NO.

FACTOR/SUBFACTOR	WEIGHT RANGE	Column A(%) WEIGHT ASSIGNED		Column B($) PRENEGOTIATION COST OBJECTIVE		Column C($) PROFIT/FEE OBJECTIVE (COLUMN A X COLUMN B)
CONTRACTOR EFFORT						
Material Acquisition	1% to 4%		X		=	
Conversion of Direct Labor	4% to 12%		X		=	
Conversion-Related Indirect Costs	3% to 8%		X		=	
General Management	4% to 8%		X		=	
Other Cost (Subtract Facilities Capital Cost of Money)			X		=	
1 Total Contractor Effort (Add Columns)				$		$
OTHER FACTORS	WEIGHT RANGE	WEIGHT ASSIGNED		TOTAL COST OBJECTIVE (FROM LINE 1, COLUMN B)		PROFIT/FEE OBJECTIVE (COLUMN A X COLUMN B)
2 Contract Cost Risk	0% to 7%		X		=	
3 Federal Socioeconomic Programs	+ - .5%		X		=	
4 Capital Investments	+ - 2%		X		=	
5 Cost Control and Other Past Accomplishments	+ - 1%		X		=	
6 Independent Development			X		=	
TOTAL PROFIT/FEE OBJECTIVE (ADD LINES 1-6, COLUMN C)						$

DIAR (48 CFR) 1453.215-70 APRIL 84 DI-1920

BILLING CODE 4310-10-C

§ 1453.303–70 Sample subcontracting plan outline format.

Small Business and Small Disadvantaged Business Subcontracting Plan Outline Format

Date:
Contractor:
Address:
Solicitation or Contract Number:
Item/Service:

The following, together with any attachments, is hereby submitted as a Subcontracting Plan to satisfy the applicable requirements of Pub. L. 95–507.

1. (a) The following percentage goals (expressed in terms of a percentage of total planned subcontracting dollars) will be applicable to any contract awarded as a result of this solicitation:

(i) Small Business Concerns: ——% of total planned subcontracting dollars under this contract will go to subcontractors who are small business concerns.

(ii) Small Disadvantaged Business Concerns: ——% of total planned subcontracting dollars this contract will go to subcontractors who are small business concerns owned and controlled by socially and economically disadvantaged individuals.

(b) The following dollar values correspond to the percentage goals shown in (a) above:

(i) Total dollars planned to be subcontracted to small business: $——.

(ii) Total dollars planned to be subcontracted to small disadvantaged business: $——.

(c) The total estimated dollar value of all planned subcontracting (to all types of business) under this contract is $——.

(d) The following principal products and/or services will be subcontracted under this contract, and the distribution among small and small disadvantaged business is as follows:

(Products/services planned to be subcontracted to Small Business Concerns are identified by * and to Small Disadvantaged by **)

(e) The following method was used in developing subcontract goals (e.g., what source lists were used and what organizations were or will be contacted to obtain SB and SDB sources)

Indirect and overhead costs (check one): have been —— have not been —— included in the goals specified in 1(a) and 1(b).

If "have been" is checked, explain the method used in determining the proportionate share of indirect and overhead costs to be incurred with small business and small disadvantaged business subcontractors.

2. The following individual will administer the subcontracting program:

Name:
Address:
Telephone:
Title:

This individual's specific duties, as they relate to the firm's subcontracting program, are as follows: General overall responsibility for review, monitoring and execution of the plan including but not limited to:

(a) Obtaining small and small disadvantaged business sources from all applicable agencies such as SBA and MBDA.

(b) Assuring inclusion of SB and SDB firms in all solicitations where appropriate.

(c) Attending or arranging for attendance at Business Opportunity Workshops, Minority Business Enterprise Seminars, Trade Fairs.

(d) Conducting or arranging for conduct of motivational training for purchasing personnel pursuant to the intent of Pub. L. 95–507.

(e) Monitoring attainment of proposed goals.

(f) Reviewing solicitations to remove statements, clauses, etc., which may tend to prohibit SB and SDB participation.

(g) Additions to (or deletions from) to the duties specified above are as follows:

3. The following efforts will be taken to assure that small and small disadvantaged concerns will have an equitable opportunity to compete for subcontracts:

(a) Outreach efforts will be made as follows:

(i) Contacts with minority and small business trade associations. Name at least three (3).

(ii) Contracts with business development organizations. Name at least two (2).

(iii) Attendance at small and minority business procurement conferences and trade fairs. Provide examples.

(b) The following internal efforts will guide and encourage buyers:

(i) Workshops, seminars, and training programs will be conducted.

(ii) Activities will be monitored to evaluate compliance with this subcontracting plan.

(c) Small and disadvantaged business source lists, guides, and other data identifying small and disadvantaged business vendors will be maintained and utilized by buyer in soliciting subcontracts.

(d) Additions to (or deletions from) the above listed efforts are as follows:

4. The bidder (offeror) agrees that the clause entitled Utilization of Small Business Concerns and Small Business Concerns Owned and Controlled by Socially and Economically Disadvantaged Individulals will be included in all subcontracts which offer further subcontracting opportunities, and all subcontractors except Small Business Concerns who receive subcontracts in excess of $500,000 or in the case of a contract for the construction of any public facility, $1,000,000, will be required to adopt and comply with a subcontracting plan similar to this one. Such plans will be reviewed by comparing them with the provisions of Pub. L. 95–507, and assuring that all minimum requirements of an acceptable subcontracting plan shall be determined on a case-by-case basis depending on the supplies/services involved, the availability of potential small and disadvantaged subcontractors, and prior experience. Once approved and implemented, plans will be monitored through the submission of periodic reports, and/or, as time and availability of funds permit, periodic visits of subcontractors facilities or review applicable records and subcontracting program progress.

5. The bidder (offeror) agrees to submit such periodic reports and cooperate in any studies surveys as may be required by the contracting agency or the Small Business Administration in order to determine the extent of compliance by the bidder with the subcontracting plan.

6. The bidder (offeror) agrees to maintain at least the following types of records to document compliance with this subcontracting plan:

(a) Small and disadvantaged business source lists, guides and other data identifying SB and SDB vendors.

(b) Organizations contracted for small and disadvantaged business sources.

(c) On a contract-by-contract basis, records on all subcontract solicitations over $100,000, indicating on each solicitation: (1) Whether small business was solicited, and if not, why not; (2) whether small disadvantaged business was solicited, and if not, why not; (3) reasons for the failure of solicited small business or small disadvantaged business to receive the subcontract award.

(d) Records to support other outreach efforts: Contracts with Minority and Small Business Trade Associations, etc. Attendance at small and minority business procurement conferences and trade fairs.

(e) Records to support internal activities to guide and encourage buyers: workshops, seminars, training programs, etc. Monitoring activities to evaluate compliance.

(f) On a contract-by-contract basis, records to support award data submitted to the Government to include name and address of subcontractor.

(g) Records to be maintained in addition to the above are as follows:

Signed:
Typed Name:
Title:
Date:

[FR Doc. 84–3406 Filed 2–10–84; 8:45 am]
BILLING CODE 4310–10–M

federal register

Monday
February 13, 1984

Part IV

Commodity Futures Trading Commission

17 CFR Part 1 et al.

Regulation of Certain Leverage Transactions; Interim Final Rule

COMMODITY FUTURES TRADING COMMISSION

17 CFR Parts 1, 3, 4, 31, 145, 147 and 190

Regulation of Certain Leverage Transactions

AGENCY: Commodity Futures Trading Commission.

ACTION: Interim final rules.

SUMMARY: The Commodity Futures Trading Commission ("Commission") has adopted interim final rules which establish a comprehensive regulatory scheme designed to govern the offer and sale to the public of leverage transactions [1] for the purchase of silver bullion, gold bullion, bulk silver coins, bulk gold coins, copper, platinum, Deutsche marks, Japanese yen, Swiss francs and British pounds. The adoption of these rules will not affect the temporary moratoria which the Commission has previously imposed on the entry of new firms into the leverage transaction business, 17 CFR 31.1, 31.2.

In conjunction with the issuance of these rules, the Commission, in **Federal Register** notices which will be separately published, will propose and seek public comment upon a fee to be charged for each application for registration of a leverage commodity filed with the Commission and a fee to be charged for audits of leverage transaction merchants.

EFFECTIVE DATE: These interim rules shall become effective on April 13, 1984. Sections 31.5(c) and 31.5(d), however, shall become effective February 13, 1984.

FOR FURTHER INFORMATION CONTACT: David R. Merrill, Assistant General Counsel, Office of the General Counsel, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581, telephone (202) 254–9880; Lawrence B. Patent, Special Counsel, Division of Trading and Markets, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581, telephone (202) 254–8955; or Paul M. Architzel, Chief Counsel, Division of Economics and Education, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581, telephone (202) 254–6990.

SUPPLEMENTARY INFORMATION:

I. Introduction

In section 234 of the Futures Trading Act of 1982, Pub. L. No. 97–444, 96 Stat. 2322 (1983), Congress amended Section 19(c) of the Commodity Exchange Act ("Act"), 7 U.S.C. 23(c), to require the Commission to regulate leverage contracts in gold or silver bullion or bulk coins or in any other commodities other than those that were specifically enumerated in Section 2(a)(1) of the Act prior to the amendments to the Act in 1974. Leverage transactions in these enumerated commodities are prohibited by Section 19(a) of the Act, 7 U.S.C. 19(a).

Accordingly, the Commission on June 1, 1983, determined to propose and solicit public comments upon comprehensive regulations governing the offer and sale of leverage contracts involving certain commodities which were being marketed in accordance with the temporary moratoria. These regulations, among other things, included provisions concerning the definition of the term leverage contract, designation of leverage contracts to be offered and sold, the registration of firms and salespersons engaged in marketing leverage transactions, minimum financial requirements for leverage firms, requirements concerning the repurchase of leverage transactions, disclosure and segregation of customers' funds requirements, financial reports, recordkeeping and reporting requirements, and prohibitions concerning unlawful representations and guarantees against loss. On June 23, 1983, the Commission published in the **Federal Register** a notice of availability of these proposed regulations which gave interested persons sixty days within which to submit written comments (48 FR 28668).

In response to these proposals, approximately sixty written comments were received by the Commission. The commentors included firms claiming to be engaged in a leverage business, contract markets, futures commission merchants, individuals, academicians, a metals broker, law firms, an industry trade association, a securities exchange, the National Futures Association ("NFA"), the North American Securities Administrators Association, and the United States Department of Justice. The Commission has carefully reviewed each of these comments and, based upon that review and its careful reconsideration of its proposal, is now adopting rules which it believes are not only responsive to the concerns of the commentors but are also fully consistent with the Commission's regulatory responsibilities under the Commodity Exchange Act.

As noted above, the rules adopted herein, while final, are deemed by the Commission to be of an interim nature primarily for two reasons. First, the Commission intends to continue in effect for a time after these rules become effective its regulatory moratoria on the entry of new firms into the regulated leverage business in order to evaluate the efficacy of these rules and, therefore, to facilitate a determination of when and under what terms and conditions to lift the moratoria in the future. Second and as more fully discussed below, although the Commission is not aware of any evidence that short sales of leverage contracts were engaged in during any relevant time period, the Commission, in response to several comments on this issue, will in the immediate future be soliciting additional, specific public comments concerning whether such short sales are contemplated under the Act, and if so, what additional customer protections or other amendments to these regulations would be necessary if such transactions were to be permitted.

Through its definition in these interim final rules of a leverage contract, the Commission is exercising its exclusive regulatory jurisdiction over transactions that fall within the scope of Section 19 of the Act. In adopting that definition, the Commission has exercised its authority to specify the standardized contracts that Congress expected to be regulated under Section 19 of the Act. H. Rep. No. 964, 97th Cong. 2d Sess. 51 (1982). As a result, any transaction involving a leverage contract as defined in Rule 31.4(w) for the delivery of a commodity registered under Rule 31.6 is subject to the comprehensive regulation governing the offer and sale of such contracts in Part 31, including the existing moratoria; any leverage contract, as so defined, for the delivery of a commodity enumerated in 19(a) of the Act is subject to the Congressional prohibition contained in that Section; and any leverage contract, as so defined, for the delivery of any other commodity remains subject to the Commission's existing regulatory moratorium set forth in Rule 31.2. In contrast, those transactions that do not meet the Commission's definition of a leverage contract are not within the Commission's regulatory jurisdiction

[1] As used herein, "leverage transaction" or "leverage contract" generally refers to a standardized contract for the delivery of a commodity that is commonly known to the trade as a margin account, margin contract, leverage account or leverage contract and includes any contract, account, arrangement, scheme, or device that serves the same function or functions as, or is marketed or managed in substantially the same manner as, such a standardized contract. *See* Section 19(a) of the Commodity Exchange Act, as amended ("Act"), 7 U.S.C. 23(a) (1982). The Commission has adopted more specific definitions of the terms "leverage transaction" and "leverage contract" in these rules as more fully discussed hereinafter.

under Section 19 of the Act and are not subject to Commission registration and regulation pursuant to Part 31. This "bright line" distinction between transactions subject to exclusive Commission jurisdiction under Section 19 and those not subject to Commission regulation thereunder is one of the salutary effects of the comprehensive definition adopted by the Commission. Those transactions not subject to exclusive Commission jurisdiction under Section 19 are open to regulation and enforcement by the states. *See* Section 12(e)(2)(C) of the Act. The Commission staff has undertaken communications with the states which will continue in an effort to coordinate full regulatory coverage in the area of these transactions.

The rules which the Commission is now adopting reflect the Commission's evaluation of the comments it has received and the Commission's further evaluation of its regulatory objectives in this rulemaking proceeding. The Commission has carefully weighed the concerns expressed by the commentors and, where possible, has modified its rule proposals to eliminate unnecessary regulatory burdens and any impediments to competition consistent with its regulatory responsibilities under the Act.

II. Definition of Leverage Contract

Proposed § 31.4 contained definitions of certain terms used throughout the proposed rules. Revisions made to these definitions from what had been proposed are explained below, as necessary, in the context of the summaries of the substantive regulatory provisions to which they relate.

Proposed § 31.4(w) defined the term "leverage contract" to mean a standardized contract for the long-term (ten years or longer) purchase by a customer of a commodity which provides for: (1) The initial and maintenance payments of a percentage of the spot-price value of the commodity, (2) periodic payment of a carrying charge or a fee on the unpaid balance, (3) delivery of a commodity in an amount and form which can be readily resold in normal commercial or retail channels, (4) delivery of the underlying commodity after satisfaction of the balance due on the contract by the customer, (5) repurchase of the contract by the person or firm who sold the contract to the customer upon demand by the customer, and (6) determination of the contract purchase and repurchase price by the person or firm who sold the contract and who acts as a principal in every contract.

The Commission solicited and received a number of comments on this proposed definition which the Commission has now carefully considered in reviewing this provision. While several commentors supported the Commission's proposed definition, the majority of commentors who addressed the definition felt that it should be amended in a number of respects. As a result, the Commission has made several changes to the proposed definition.

The provision in the proposed definition of leverage contract calling for the periodic payment of a carrying charge or fee on the unpaid balance was criticized by several commentors. It was suggested that this was not an essential characteristic of a leverage contract. It was also noted that leverage firms commonly have permitted their customers to fix in advance and prepay all or a portion of these carrying charges and that this practice should be permitted to continue. One commentor noted that it currently does not require the periodic payment of these charges and fees but rather allows them to accrue in its leverage customer's account until the leverage transaction to which they relate is completed. In response to these comments, the Commission has amended the definition of leverage contract to permit either the periodic payment by the leverage customer or the accrual by the LTM of a carrying charge or fee on the unpaid balance of the price of the contract.[2] Section 31.4(w)(3). The Commission continues to believe, however, that the periodic billing of leverage customers for these leverage fees or carrying charges, which purportedly represent charges for interest, storage and insurance, has long been a common characteristic of leverage contracts.

The provision in the proposed definition requiring repurchase of leverage contracts by the LTM upon demand by the customer was also objected to by several commentors. It was argued that such a requirement was especially unworkable in a volatile market, and that the requirement traditionally has not been an element of a leverage contract as known to the trade. As more fully set forth below in a discussion of proposed § 31.10, the Commission has eliminated this portion of its proposal from the final rules.

Proposed § 31.4(w)(vi) included the provision that an LTM was a principal in every leverage transaction. This provision has now been separately set forth in § 31.4(w)(1).

Several commentors objected to defining leverage contracts as only long-term transactions of 10 years or more in duration. In particular, the view was expressed that this was inconsistent with the customary practices of the leverage industry and with the legislative history underlying the Commission's authority over leverage contracts. The Commission, however, continues to believe that, as the legislative history and other evidence indicates, leverage contracts as commonly known to the trade have traditionally been long-term contracts of at least this duration. This view is supported by congressional testimony which emphasized the long-term nature of leverage contracts presented by persons themselves claiming to be involved in a leverage business. *See, e.g., Hearings on H.R. 13113 Before the Senate Committee on Agriculture and Forestry*, 93rd Cong., 2d Sess. 749, 751 (1974) (statement of M. Martin Rom, Chairman of the Board, International Precious Metals Corp.); *Hearings on H.R. 10285 Before the Subcommittee on Agricultural Research and General Legislation of the Senate Committee on Agriculture, Nutrition and Forestry*, 95th Cong., 2d Sess. 625 (1978) (Statement of International Precious Metals Corp.). As a result, the Commission has not changed the proposed definition of leverage contract in this regard.

Several commentors expressed concern regarding the limitation of the proposed definition of leverage contract to the purchase of commodities by customers from LTMs and, therefore, the implicit exclusion from the proposed definition of the sale of commodities by leverage customers to LTMs, which were referred to by the commentators as "short sales." These commentors generally suggested that excluding such short sales from the definition would contradict a long-standing industry practice of making such short sales to customers and Congress' understanding of these instruments as leverage contracts.

The Commission, however, is unaware of evidence that such "short sales" of leverage contracts were in fact engaged in during any relevant time period. Indeed, the same testimony before Congress as cited above in discussing the duration of leverage contracts stressed that these contracts were intended as long-term purchases of commodities. Moveover, it would appear that long-term short sales, from an economic point of view, may be inconsistent with a stated purpose of

[2] The Commission contemplates that such periodic payments or accrual will be monthly or quarterly.

leverage contracts as a hedge against inflation.

Notwithstanding these factors, and in light of the general comments received concerning the existence of "short" leverage contracts, the Commission has determined to leave this issue open at the present time and to seek further, specific public comment thereon before determining whether Section 19 contemplates short sales by customers and, if so, how these rules might be amended to encompass the marketing of short sales of leverage contracts to the public. Accordingly, the Commission in the immediate future will publish in the **Federal Register** a notice of proposed rulemaking in which it will seek specific comments concerning the nature and characteristics of such instruments, how these instruments can be considered to be within the scope of Section 19 of the Act, the history of the entry into such instruments by the public, and how, if the Commission determines to include such instruments within its definition, the regulatory scheme created by these rules could be modified to accommodate the regulation of the marketing of such instruments consistent with the public interest and the anti-fraud, anti-manipulation and financial solvency standards of Section 19.

III. Definition of Leverage Commodity

The Commission has modified its proposed definition of "type of leverage commodity or contract" as proposed in § 31.4(g) to a definition of "leverage commodity." A leverage commodity is defined as a commodity which is the subject of a leverage contract and whose value is reflected in a widely-accepted and broadly-disseminated commercial or retail cash price series. This requirement is intended to enable leverage customers to determine the value of the leverage commodity independently of the leverage transaction merchant. Thus, the specification of an accurate, easily-available cash price series should assist leverage customers in calculating the resale value of leverage commodities. Where necessary, premiums to or discounts from this price series may be specified. *See* Commission rule § 31.4(g). Commission Rule § 31.4(g) also sets forth the distinguishing characteristics of a leverage commodity.

Several commentors opposed the requirement of a cash price series and suggested that appropriate cash price series do not exist for all commodities which are currently the subjects of leverage contracts. The Commission believes, however, that leverage customers and prospective leverage customers should be able to ascertain the current economic value of the leverage commodity in order to evaluate the worth of a leverage contract. Because the majority of leverage customers will most likely be members of the public, not experts in the markets for the commodities which are the subjects of leverage contracts, such customers would have no means of ascertaining the true economic value of the contract in the absence of an appropriate cash price series. The Commission believes that where this type of information is not available to the typical leverage customer, the commodity is not an appropriate subject of a leverage contract.

The Commission expects that the value of most leverage commodities registered with it will be reflected in a price series published in the national press, with discounts from (or premiums to) that price. For example, a leverage commodity might be a kilo of gold with a prevailing 3 percent discount from the London afternoon price fix reflective of its value in retail cash market channels. The value of a pack of twenty Kruggerrands might, on the other hand, be reflected in a 1 percent premium over the London afternoon price fix of gold bullion.

Several commentors questioned the proposed definition of type of commodity and contract, noting that several contracts of varying durations may be offered on the same commodity. The Commission has considered these comments and clarified its proposed rule. As modified, Commission Rule § 31.4(g) also now incorporates the distinguishing characteristics of a leverage commodity which were included previously in § 31.6(a) of the proposed rules. Each leverage commodity is specified by its delivery unit and, for the purposes of this part of the Commission's rules, each leverage commodity is separately distinguished. For example, 2,000 ounces of silver is a different leverage commodity from 1,000 ounces of silver and, as discussed below, would require separate registration.[3]

Each leverage commodity based on gold and silver bullion or platinum is distinguished by each of the following characteristics: (1) The nominal size of the delivery pack and range of tolerable weights, *e.g.*, 1,000 troy ounces of silver plus or minus 10 percent; (2) the composition of the delivery pack and tolerances as to its components, *e.g.*, thirty-two one ounce bars of gold or one one-kilo bar of gold; (3) the nominal bar weights and range of tolerable weights, *e.g.*, a 1,000 ounce bar of silver no more than 1100 nor less than 950 troy ounces; (4) the minimum guaranteed quality measured in terms of purity or fineness or by ASTM or other specified standards; (5) a list of deliverable refiners with their recognized brands or markings and a list of acceptable countries of origin; (6) the required packaging of bars or wrapping of individual bars, if any; (7) the method of commodity pricing, *e.g.*, fineness times actual gross delivered weight in ounces times per ounce price; (8) location(s) of delivery facility(ies) and type of facility(ies), such as warehouse, vault or other depository; and (9) the transportation and registration arrangements provided for customers taking delivery and associated costs, such as for bonding or vault outcharges.

For gold and silver bulk coins, by which is meant gold coins in packs of multiple coins and silver coins in canvas or similar bags, each leverage commodity is distinguished by each of the following characteristics: (1) The delivery unit, characterized by country of origin, name of coin, and, as appropriate, number of nominal value of coins; (2) composition of the delivery pack and tolerances, *e.g.*, mixed U.S. dimes and quarters, with up to 75% of total weight accounted for by either coin; (3) the specifications concerning individual coins, including fineness, nominal coin weight and range of tolerable weights, and coin minting dates, if applicable; (4) the method of packaging, such as sealed transparent tube or bag; (5) the method of commodity pricing, *e.g.*, fineness times actual gross delivered weight in ounces times per ounce price; (6) delivery alternatives, such as by receipt or invoice or by physical delivery, including location(s) and type of delivery facility(ies) such as warehouse, vault or other depository; and (7) the transportation and registration arrangements provided for customers taking delivery and associated costs, such as for bonding or vault outcharges.[4]

For the types of copper set forth in § 31.4(b)(2), each leverage comodity is distinguished by: (1) The nominal size of the delivery pack and range of tolerable weights, *e.g.*, 10,000 pounds of copper cathode, plus or minus 2 percent; (2) the composition of the delivery pack and tolerances as components, *e.g.*, ingots

[3] As discussed in greater detail below, separate leverage contracts need not be registered with the Commission; only different leverage commodities will be separately registered.

[4] Several commentors opposed the Commission's indication of minimum lot sizes for coins in the proposed rules. The Commission has deleted any reference to minimum lots in its § 31.4(g)(1).

and/or ingot bars; (3) the nominal weights and range of tolerable weights, if applicable, for deliverable cathodes, ingots, ingot bars, billets, wire bars, cakes and slabs; (4) the minimum guaranteed quality measured by ASTM or other specified standards; (5) a list of deliverable refiners and processors, with their recognized brands or markings, and a list of acceptable countries of origin; (6) the required packaging of cathodes, ingots, ingot bars, billets, wire bars, cakes or slabs or wrapping of individual cathodes, ingots, ingot bars, billets, wire bars, cakes or slabs, if any; (7) the method of commodity pricing, *e.g.*, actual gross delivery weight in pounds times per pound copper price plus or minus a differential for variations in form or quality; (8) delivery alternatives, such as by receipt or invoice or by physical delivery, including location(s) and type of delivery facility(ies); and (9) the transportation and registration arrangements provided for customers taking delivery and associated costs.

Several firms claiming to be in the business of offering leverage contracts stated that various foreign currencies had been offered as the subject of leverage contracts before February 2, 1979, the date the Commission's moratorium on firms engaged in the business of offering or selling leverage contracts involving commodities other than gold and silver bullion and bulk coins became effective. Accordingly, the Commission has modified its definition of leverage commodity to allow the possibility of leverage contracts involving Deutsche marks, British pounds, Swiss francs and Japanese yen. For the foreign currencies listed in § 31.4(g)(3), the distinguishing characteristics include the amount and country of origin and the manner of delivery.

It should be noted that the distinguishing characteristics for each of these metals and foreign currencies are intended to be read as a whole; if any one characteristic changes then the commodity will be a different leverage commodity.

IV. Continuation of the Moratoria

In conjunction with proposing these rules, the Commission made known its intention to continue in effect for a time its regulatory moratoria rules on the entry of new firms into a leverage business, 17 CFR 31.1 and 31.2.[5] A number of commentors objected to the continuation of the moratoria primarily on the ground that those rules are anticompetitive and that the investing public could better be served by open competition under the Commission's regulatory scheme. It was also suggested that the Commission could enhance competition without totally eliminating the moratoria by modifying the present moratoria so that subsidiaries or affiliates of currently-registered FCMs could become eligible to market leverage contracts pursuant to the Commission's regulatory scheme.

The Commission has carefully considered each of these comments and also has reviewed its own position concerning the moratoria. While the Commission does not deny that some anticompetitive effect may result from the continuation of the moratoria for a time, the Commission has nevertheless concluded that the benefits which will accrue to the public from a temporary continuation of the moratoria after these rules are implemented will outweigh any adverse effect upon competition which might result from the moratoria. In this regard, the Commission believes that, by continuing the moratoria for a time after these rules have been implemented, it will be provided an opportunity to gain valuable knowledge from temporarily regulating a limited number of leverage firms engaged in marketing leverage contracts involving a limited number of commodities. Such experience will better enable the Commission to determine whether modifications of these interim rules are warranted and whether trading in certain additional commodities pursuant to leverage contracts and/or by an expanded number of firms would be consistent with the public interest and the Congressional requirement that the Commission's rules be designed to ensure effectively the financial solvency of such transactions and prevent manipulation or fraud. In this way, the Commission expects to be able to determine most effectively when, and under what terms and conditions, to lift all or selected portions of the regulatory moratoria.

This approach to the lifting of the moratoria is also consistent with Congress' recognition during the Commission's 1982 legislative reauthorization process that increasing demands on the Commission's limited resources justify caution by the Commission in removing the moratoria. Specifically, the conference committee considering the bill that subsequently was enacted as the Futures Trading Act of 1982 noted:

> The conferees recognize the increasing demands upon the Commission's resources and accordingly do not object to the current regulatory moratoria maintaining the status quo in the industry until such time as a comprehensive regulatory system is in place and the Commission is capable of regulating an expanded leverage industry. The moratoria are not ratified and extended in the bill itself, however, since they are inherently anticompetitive and thus contrary to the fundamental objectives of economic competition and the free marketplace. The conferees intend for the Commission to terminate these moratoria as quickly as the Commission determines it is prudent to do so.

H.R. Rep. No. 964, 97th Cong., 2d Sess. 51–52 (1982).[6]

In conjunction with the issue of continuing the moratoria, the Commission sought comments concerning membership in a self-regulatory organization registered by the Commission under Section 17 of the Act, 7 U.S.C. 21, of all persons engaged in a leverage business and registered under these rules. With one exception, commentors addressing this issue, including NFA, were generally supportive of this concept. The Commission continues to believe that the existence and registration under the Act of such a self-regulatory organization would be generally beneficial, and could be a significant factor in expediting the removal of the moratoria. The Commission, therefore, encourages those engaged in leverage businesses to work toward this goal.

V. Unlawful Conduct

Proposed § 31.5 would have required LTMs both to be registered with the Commission as leverage transaction merchants and to be designated to trade specific types of leverage commodities and contracts. The commentors generally agreed that it should be unlawful conduct for unregistered LTMs to be engaged in business and the Commission is basically adopting this requirement as proposed. As more fully discussed below, however, the Commission has replaced the term "designation" of leverage commodities with the term "registration." Therefore, § 31.5(a)(1) generally makes it unlawful for any person to offer and sell a leverage contract unless the leverage commodity which is the subject of the leverage contract has been registered

[5] Section 31.1 generally imposes a moratorium on the entry of new firms into the business of offering or selling leverage contracts involving gold or silver bullion or bulk coins which were not in that business on June 1, 1978. Section 31.2 imposes a similar moratorium on the entry of new firms into the business of offering or selling leverage contracts involving commodities other than gold or silver which were not in that business on February 2, 1979.

[6] *See also* S. Rep. No. 384, 97th Cong., 2d Sess. 52 (1982); H.R. Rep. No. 565, Part 1, 97th Cong., 2d Sess. 108–109 (1982).

with the Commission in accordance with § 31.6.

VI. Registration

As proposed, the Commission's regulations governing the registration of firms and individuals engaged in leverage transactions would have been contained in Part 31 as §§ 31.7 and 31.8, respectively. The procedures proposed by the Commission for the registration of such persons were patterned after those applicable to futures commission merchants ("FCMs") and their associated persons ("APs"). Firms which offered and sold leverage contracts would have been required thereby to register as leverage transaction merchants ("LTMs") and their sales personnel and supervisors would have been required to register as leverage representatives ("LRs"). As in the case of FCMs and their APs, LTMs and LRs would have been exempt from registration as commodity trading advisors ("CTAs") if the advisory services which they offered were limited to leverage transactions and were solely incidental to their respective businesses as an LTM or as a leverage representative.

Under the Commission's proposal, a leverage representative would need to have been sponsored by a leverage transaction merchant in order to be granted registration. Also, a leverage representative could not have been simultaneously associated with more than one leverage transaction merchant as a leverage representative, nor with an FCM or an introducing broker as an associated person.

The Commission has carefully considered the comments received on its proposal and has reconsidered the appropriate regulatory framework for participants in the leverage business in light of those comments. Although the commentors generally supported the Commission's concept of registration for LTMs and leverage representatives as set forth in §§ 31.7 and 31.8 of the proposed rules, a number of the commentors offered specific recommendations. Wherever possible the Commission has attempted to integrate those recommendations into the final rules.

Before discussing the specific changes to the Commission's proposal which are being adopted herein, the Commission wishes to note that it has determined that it is appropriate to incorporate the registration provisions with respect to leverage transaction merchants and their principals, supervisors and salespersons into the Commission's existing registration framework as fully as practicable. Accordingly, the Commission has determined to relocate the registration requirements contained in proposed §§ 31.7 and 31.8 within Part 3 of the Commission's current regulations and to consolidate them to the extent possible with the existing registration provisions.[7] The Commission believes that this approach promotes ease of reference and helps to ensure the internal consistency of the registration program for all Commission registrants. Thus, proposed § 31.7, requiring the registration of leverage transaction merchants, has been adopted essentially as proposed, but has been redesignated as new § 3.17.[8]

In this connection, and in accordance with the suggestion of one commentor, the Commission also has determined to register those individuals who solicit or accept customers' orders from leverage customers, or who supervise any person or persons so engaged, as associated persons of the sponsoring leverage transaction merchant in lieu of adopting its proposed new category of registrant, the leverage representative.[9] Registering sales personnel and supervisors of each category of registrant as associated persons of such category also serves to simplify the Commission's administrative systems for tracking such persons' registration histories. The definition of the term "associated person" has been revised accordingly to reflect this change. See § 1.3(aa)(5).[10]

A. Associated Persons

By incorporating those provisions providing for the registration of the APs of LTMs in new § 3.18, the Commission will generally assure that identical procedures are employed in those cases where an individual is applying for registration for the first time, whether the AP will be associated with an FCM or introducing broker (§ 3.12(c)) with a CTA or CPO (§ 3.16(c)) or with an LTM (§ 3.18(c)).[11] Similarly, and in response to the concerns expressed by the commentors, the standards and procedures for the expedited reregistration of an AP which terminates its association with a sponsoring FCM, introducing broker, CTA, commodity pool operator ("CPO") or LTM will be identical for all categories of AP registration. Sections 3.12(d), 3.16(d), and 3.18(d).

Further, in order to minimize any adverse impact of these rules on those firms and individuals qualified to engage in a leverage business in accordance with the Commission's temporary moratoria, the Commission has adopted new § 31.5(d). Section 31.5(d) sets forth the compliance requirements for AP applicants who are associated with a sponsoring LTM or an affiliated FCM in accordance with §§ 31.1 and 31.2 on the publication date of this **Federal Register** release. In order to comply with the requirements of § 31.5(d), LTMs must

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[7] 17 CFR Part 3.

[8] As proposed, § 31.7(c) would have established procedures to provide for the addition of principals subsequent to the filing of the Form 7–R by an LTM. This provision was based upon similar provisions for FCMs, CTAs, CPOs, and introducing brokers as set forth in §§ 3.10(c), 3.13(c), 3.14(c) and 3.15(c), respectively. In order to streamline the registration regulations, the Commission has determined to add a new § 3.34, which consolidates all the above-cited provisions, including proposed §31.7(c), which provide for the addition of principals in one rule. Thus, the Commission has removed paragraph (c) from §§ 3.10, 3.13, 3.14 and 3.15.

[9] As proposed, and as is the case for FCMs and introducing brokers, leverage transaction merchants and associated persons of LTMs will be exempt from registration as CTAs if the advisory services which they offer are limited to leverage transactions and are solely incidental to their businesses as leverge transaction merchants. The Commission notes that the definition of a "commodity trading advisor" set forth in section 2(a)(1)(A) of the Act was amended in 1982 to include specifically "any person who * * * engages in the business of advising others * * * as to the nature of or the advisability of trading in * * * any leverage transaction authorized under section 19 * * *." Pub. L. No. 97–444, § 201(2). The Commission does not interpret § 2(a)(1)(A) to require leverage transaction merchants and their employees to register as CTAs if the Commission permits another form of registration which obviates that necessity. The purpose of this amendment was to ensure that persons who give advice regarding leverage transactions are registered with the Commission notwithstanding that persons who give advice regarding cash commodities are not required to register. Section 19 of the Act vests in the Commission plenary authority to require leverage transaction merchants and their employees to register in capacities other than the capacities of CTAs and APs of CTAs. The registration process and the standards for review of such applications are essentially the same in either case. *See also* Commission Rule 4.14(a)(3) (17 CFR 4.14(a) (3) (1983)) which provides an exemption from registration as a CTA to anyone registered as an associated person if the person's commodity trading advice is issued solely in connection with its employment as an associated person.

[10] In this regard, the Commission notes that it stated in its proposal that the Commission considered leverage representatives to be the equivalent of associated persons for purposes of the "statutory disqualification" provisions set forth in section 8a of the Act. This has now been made express in the rule itself. Therefore, as was intended in the Commission's proposal, under these final rules the Commission may refuse to register, register conditionally, suspend, place restrictions upon or revoke the registration of leverage transaction merchants and the associated persons of leverage transaction merchants pursuant to section 8a of the Act and any regulations adopted thereunder. In this connection, the Commission has recently proposed regulations to implement, among other things, the new system of statutory disqualifications. *See* 48 FR 50554 (November 2,1983).

[11] The Commission notes, however, that there is one minor difference in the registration procedures for the APs of LTMs as contrasted with those of other categories of AP registrant. Applicants for registration as an AP of an LTM must submit the "sponsor's certification" concurrently with the Form 8–R and fingerprint card. *See* § 3.18(c)(2) discussed *infra*.

file with the Commission the certification set forth in § 31.5(d) (1)–(4) within 30 days of the effective date of that section which is the publication date of this **Federal Register** release. Under the provisions of § 31.5(d), the sponsoring LTM would then have an additional 30-day period to submit the Form 8–R and fingerprint card for each such individual. In this regard, § 31.5(d) would supersede the requirement contained in § 3.18(c)(2) that the sponsoring LTM submit the "sponsor's certification" at the same time as the Form 8–R and fingerprint card. See further discussion of § 31.5(d) *infra*.

B. Initial Registration

A critical element of the Commission's registration system for APs is the requirement that such individuals be sponsored by the firms which will employ them. APs of LTMs will be subject to this same requirement. Thus, the sponsoring LTM must make certain certifications regarding the applicant.

Specifically, the sponsoring LTM must certify on the Form 8–R being filed as an application for AP registration that the applicant is currently associated with the sponsor (or will be so associated within thirty days of the date the applicant is registered).[12] Section 3.18(c)(1)(i). More importantly, § 3.18(c)(1)(ii) requires the sponsor to make whatever inquiries are necessary to certify that it has investigated and verified the applicant's education and employment history for the preceding five years and that such history is accurately presented in the Form 8–R. Section 3.18(c)(1)(iii) further requires the sponsor to certify that all of the publicly available information supplied by the applicant on the Form 8–R is accurate and complete to the best of its knowledge, information and belief.[13] As the Commission has earlier indicated, these "screening" requirements "do no more than make uniform what should be the ordinary and customary practice" for every responsible registrant employer.[14]

The regulations do not prescribe the procedures which must be employed by the sponsor prior to making the required certifications. The Commission contemplates, however, that sponsoring LTMs will use methods comparable to those employed by the financial community for sensitive positions and may contract with investigative agencies to perform some or all of the screening functions. This is the same standard applicable to all other sponsoring registrants, *i.e.*, FCMs, introducing brokers, CPOs and CTAs. In this regard, the Commission wishes to remind LTMs that it remains the sponsor's responsibility to assure itself of the accuracy of the representations that are made to the Commission.

The Commission is making one change in the application procedure for the APs of LTMs which differs from the Commission's current requirements for other categories of AP registrant. Specifically, the Commission has incorporated a provision into § 3.18 to require that the sponsoring LTM submit the certification required with respect to an applicant for registration as an associated person at the same time as the Form 8–R and fingerprint card are filed. Section 3.18(c)(2). The Commission believes that requiring applicants for registration as APs of LTMs to submit a fully complete registration application will enhance the Commission's ability to process such applications in a timely fashion and avoid unnecessary delays.[15] Moreover, as the Commission has previously indicated, this requirement reflects the intent of Congress in enacting section 4k(5) of the Act that registrants make a reasonable inquiry into the background of an individual before permitting that individual to become associated with it as an associated person.[16]

C. Multiple Associations

Proposed § 31.8(f) would have prohibited a leverage representative from being simultaneously registered as a leverage transaction merchant. In addition, proposed § 31.8(e) would have prohibited a leverage representative from being simultaneously associated as an associated person of an FCM or introducing broker or as a leverage representative of another LTM.

A substantial number of the commentors addressed the Commission's proposal to prohibit certain dual and multiple associations and registrations. Although one commentor expressed support for the Commission's proposal, the majority of these commentors specifically opposed that portion of the Commission's proposal which would prohibit an individual from being simultaneously associated with both a leverage transaction merchant and an FCM or introducing broker. For example, one commentor pointed out that it offers or sells dealer options to the public through its wholly-owned subsidiary which is registered with the Commission as an FCM. Many of its "leverage representatives" are registered as APs of that FCM for the express purpose of enabling them to sell dealer options to the public, which the Commission requires be sold through an FCM. Moreover, the commentor noted that in the event FCMs seek to enter the leverage industry after the lifting of the Commission's temporary moratoria, this rule would be an impediment to their participation.

The Commission has carefully considered each of these comments in light of its experience with the existing restrictions on the APs of FCMs, introducing brokers, CTAs and CPOs and has continued prohibitions on such associations in the final rules in a manner which is intended to ensure that responsibility for the conduct and sales activities of an AP of a leverage transaction merchant is clearly delineated although making clear that the Commission may entertain requests for exemption therefrom. Specifically, the Commission has determined to prohibit an AP of an LTM from being simultaneously associated as an AP of an FCM or an introducing broker or with more than one LTM. Sections 3.12(f)(2) and 3.18(f)(1) (i), (ii) and (iii). In addition, an AP of an LTM may not be simultaneously associated with a CTA or CPO. Section 3.18(f)(1) (iv) and (v). Finally, no person may be registered as an AP of a leverage transaction merchant and also registered as a floor broker. Section 3.18(f)(2).

The Commission notes that § 3.12(f), *inter alia*, currently prohibits an AP from being associated with more than one FCM.[17] When it initially adopted this restriction, the Commission explained that "the obvious difficulties of supervision in such a situation and * * * the inherent possibilities for conflicts of interest that might arise if an AP were to have more than one sponsor" outweighed any possible adverse effects upon competition which

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[12] If after the filing of a Form 8–R, the applicant either fails to become associated with the sponsor or if that relationship is terminated, the sponsor must promptly report that fact to the Commission. Section 3.31(c)(1).

[13] *See* 48 FR 35248, 35254 n.35 (August 3, 1983) for a further discussion of this requirement by the Commission.

[14] 45 FR 18358, 18357 (March 20, 1980); 45 FR 80485, 80488 (December 5, 1980); 48 FR 14933, 14937 (April 6, 1983); and 48 FR 35248, 35254 (August 3, 1983).

[15] For the same reasons, the Commission recently proposed to amend §§ 3.12(c)(2) and 3.16(c)(2), the provisions governing the registration of APs of FCMs and introducing brokers, and CPOs and CTAs, respectively, to require that the sponsor's certification be submitted at the same time as the Form 8–R and fingerprint card. 48 FR 50554, 50561 (November 2, 1983). The Commission has not made any further determination with respect to these proposed amendments.

[16] 48 FR 50554, 50560 (November 2, 1983).

[17] 17 CFR 3.12(f)(1) (1983) *as amended by* 48 FR 35248, 35293 (August 3, 1983).

might result from such a prohibition.[18] The Commission has the same concerns with respect to supervisory responsibility for the activities of the APs of LTMs. In particular, the Commission notes that this is a new regulatory program and that there are significant differences between the manner in which futures contracts and leverage contracts are offered to the public and consequently the Commission's regulatory requirements also differ significantly. For example, the summary Disclosure Document which must be furnished to a prospective leverage customer is more detailed and comprehensive than the risk disclosure statement required to be provided to a prospective futures or options customer. In addition to delineating clear supervisory responsibility, the Commission's regulatory requirements also are intended to prevent futures customers from being transferred to leverage accounts without being given the proper disclosure.

The Commission is aware that the prohibitions contained in §§ 3.12(f) and 3.18(f) may pose certain difficulties for those LTMs which also have affiliated FCMs. The Commission wishes to remind such persons that in accordance with §§ 3.12(g) and 3.18(g), any person adversely affected by the operation of those rules may petition the Commission for an exemption. In this connection, the Commission notes that the Division of Trading and Markets has previously granted exemptions from the prohibitions of § 3.12(f) where, among other circumstances, an AP wished to be associated with two affiliated FCMs and the FCMs agreed to certain conditions, including the assumption of joint and several liability for the supervision of all activities of such AP in connection with each sponsor's business as an FCM. Requests for exemptions will be considered on a case-by-case basis.

The Commission is aware that § 3.12(f) will require affiliated LTMs and FCMs which do not receive an exemption to maintain separate sales personnel and supervisors. In this connection, the Commission understands that during the initial transition period after the effective date of these rules, affected firms may find it necessary to restructure their sales personnel in accord with § 3.12(f). The Commission has taken steps to minimize any disruption which this prohibition may cause to ongoing businesses. Specifically, the Commission has amended §31.5 to permit any individual who is currently registered as an associated person of an FCM and simultaneously associated with an affiliated LTM, effectively to "transfer" his registration to the affiliated LTM. In accordance with § 31.5(d), the sponsoring LTM should include such individual in the certification required thereunder. The LTM would be required to submit, within 60 days after the effective date of that section (which is the publication date on this **Federal Register** release), a Form 8–R on behalf of such individual. Section 31.5(d)(2), however, provides that a fingerprint card need not be filed on behalf of any such individual if that individual is currently registered as an AP of an FCM which is affiliated with the sponsoring LTM. Thus, APs of an FCM which seek to become registered as APs of an affiliated LTM would not have to submit a new fingerprint card in connection with such registration.

VII. Compliance Period for Existing LTMs and APs of LTMs

Sections 31.5 (c) and (d) of the Commission's regulations set forth the registration requirements and procedures for existing LTMs and APs of LTMs respectively, to enable those persons to continue in business after the effective date of these regulations. Section 31.5(c) requires that any person who is lawfully engaged in business as an LTM in accordance with the provisions of §§ 31.1 and 31.2 on the publication date of § 31.5 in the **Federal Register** must file with the Commission, within 60 days after the effective date of § 31.5(c), the following information: (1) An application to register a leverage commodity in accordance with the provisions of § 31.6; (2) an application for registration as an LTM in accordance with § 3.17; and (3) the documentation required by § 31.5(e). Section 31.5(e) specifies the documentation necessary to establish that an applicant is in compliance with the temporary moratoria on leverage transactions and requires that such documentation be submitted at the same time as the application for registration as an LTM. See discussion of § 3.15(e) *infra*. Compliance with § 31.5(c) will enable the applicant for registration as an LTM which has also complied with the procedures set forth in § 31.5(d) to continue in business pending a final registration determination by the Commission.

Section 31.5(d) provides that any person who is lawfully engaged in business as an LTM in accordance with §§ 31.1 and 31.2 on the date of publication of this section in the **Federal Register** must, within 30 days after the effective date of § 31.5(d), file with the Commission the certification specified therein with respect to any associated persons associated with the LTM or, as may be appropriate, an affiliated FCM on the publication date of this section in the **Federal Register**. Such certification must be signed and dated by an appropriate person. The sponsoring LTM is required to certify that the individual who will be associated with the LTM as an AP was associated with the LTM or an affiliated FCM on the date of publication of this section in the **Federal Register**. The sponsor must also certify that none of those individuals have answered "Yes" to any of the questions in the Disciplinary History portion of the Form 8–R or is subject to a "statutory disqualification" as set forth in section 8a(2) of the Act. Within sixty days after the effective date of § 31.5(d), the AP and the sponsor must complete and the sponsor must file with the Commission a Form 8–R (including the "Sponsor's Certification"), the registration fee and a fingerprint card. As noted above, however, a fingerprint card need not be filed on behalf of any such individual if that individual is currently registered as an AP of an FCM which is affiliated with the sponsoring LTM. Section 31.5(d)(2).

In order to assist the Commission in the transfer of the registration of such APs from an affiliated FCM to the LTM, the Commission requests that, at the time that the filings pursuant to § 31.5(d) are made, the LTM provide the Commission with a "transfer list" which includes the names of all AP registrants which seek to have their registrations transferred from the affiliated FCM and the name of such FCM. An AP who is no longer sponsored by an affiliated FCM and whose registration is "transferred" to an LTM will thereafter be registered as an AP of that LTM as long as he remains associated with the LTM and the LTM will be fully responsible for the conduct of that AP as if the AP had been initially registered under the "sponsorship" of the LTM.

VIII. Demonstration of Compliance With the Temporary Moratoria on the Offer and Sale of Leverage Contracts

As indicated above, the Commission has determined to continue in effect for a time its regulatory moratoria on the entry of new firms into the business of offering and selling leverage contracts. The Commission is therefore adopting § 31.5(e) which establishes the criteria and procedures by which an applicant for registration as an LTM can demonstrate to the Commission that it is

[18] 45 FR 80485, 80489 (December 5, 1980) (footnote omitted). *See also* 48 FR 35248, 35255 (August 3, 1983).

in compliance with the temporary moratoria set forth in §§ 31.1 and 31.2. Section 31.5(e) requires an LTM to submit to the Commission four separate types of documentation with respect to each leverage contract and commodity for which the applicant is seeking registration.

First, an LTM must submit a certified copy of the organizational documents required to be filed in the state, territory or possession of the United States in accordance with which laws the applicant was formed and a certificate of good standing therefor as of a date not more than 30 days prior to the date of submission. If the applicant is a partnership or sole proprietorship and no organizational filing is required under state law, the applicant must submit an opinion of counsel to that effect and must also provide the Commission with other evidence sufficient to demonstrate both the date of its formation and the continuation of the leverage business of such partnership or sole proprietorship. Section 31.5(e)(2)(i).

Second, the applicant must provide a customer list as of June 1, 1978 or February 2, 1979, as may be appropriate, for each leverage contract and commodity the applicant claims to have offered. Section 31.5(e)(2)(ii). In this connection, the Commission wishes to note that such customer lists, including all names, addresses and other personal information contained therein, generally will be considered to be nonpublic records under Part 145 of the Commission's regulations (17 CFR Part 145) and, subject to applicable law, will not be published or made available to any other person. *See* Section 8 of the Act and 17 CFR 145.5 (c), (d) and (f). Applicants should also be aware that they may file a petition for confidentiality in accordance with the provisions of Commission Rule 145.9 (17 CFR 145.9) with respect to such information or any other information submitted to the Commission.

Third, for each type of leverage contract or leverage commodity for which registration is sought the applicant must provide a copy of each different contract based on such proposed leverage commodity entered into or offered on or prior to June 1, 1978 or February 2, 1979, as may be appropriate. The contract must be accompained by an affidavit from the customer whose signature appears on the contract attesting to the date of the leverage transaction or a statement as to why such an affidavit is unobtainable. Section 31.5(e)(2)(iii).

Finally, the applicant is required to submit an affidavit of an appropriate person on behalf of the applicant stating the following: (a) That the applicant is in compliance with the temporary moratoria; (b) the nature of the applicant's business, including the percentage of that business it claims was leverage business with respect to each leverage commodity and leverage contract it claims to have offered as of June 1, 1978 or February 2, 1979, as may be appropriate; (c) the annual income generated from leverage transactions for each year since the applicant claims to have commenced a leverage business with respect to each leverage contract and leverage commodity offered by such applicant; (d) that upon request the applicant will make its books and records or financial ledgers for the 2-year period commencing one-year preceding the date set forth in either §§ 31.1 or 31.2, as may be appropriate, available for inspection at the regional office of the Commission nearest the principal place of business of the applicant; and (e) that all of the information provided to the Commission under § 31.5(e) is true and accurate. Section 31.5(e)(2)(iv).

IX. Registration of Leverage Commodities

As adopted, § 31.6 provides that the Commission will only register individual leverage commodities as defined in § 31.4(g). Section 31.4(g) sets forth the distinguishing characteristics of eligible leverage commodities. Because the Commission in not lifting its moratoria at this time, § 31.4(g) only specified characteristics for those commodities which were the subjects of leverage contracts before the effective date of the Commission's moratoria.

The Commission has decided to employ in the rules as adopted the term registration in response to several comments which noted the potential for confusion in the proposal's use of the term "designation"—a term of art heretofore restricted in the Commission's regulations applicable to contract markets. These commentors suggested that by applying a term so closely associated with the regulation of futures contracts to the regulation of leverage contracts, prospective leverage customers might erroneously ascribe some of the attributes of futures markets—including exchange self-regulation and open outcry trading to leverage contracts. Moreover, the Commission believes that use of the term "designation" should be restricted to contracts which meet certain uniform regulatory criteria, such as those contained in the Commission's Guideline No. 1, 17 CFR Part 5, Appendix A.

The registration of leverage commodities is a cornerstone of the Commission's approach to ensuring the integrity of the leverage contract and hence a key feature of customer protection. Registration helps to assure that leverage customers can realize the economic value of their contracts if they take delivery on them. As long as delivery on the leverage contracts is a viable alternative, discipline may be enforced on leverage transaction merchants' bid (repurchase) prices for leverage customers; an objective of the registration of leverage commodities is to assure that the transactions costs of taking delivery on the leverage commodity are not prohibitively high. In such cases, if the leverage transaction merchants' bid-ask spreads were to widen considerably, leverage customers should be able to realize any gains (or stop further losses) by taking delivery of the commodity. Furthermore, absent the safeguards embodied in the Commission's registration of leverage commodities, leverage contracts could potentially provide for delivery of commodities whose economic value could not be realized by leverage customers taking delivery which, in the Commission's view, could constitute fraud.

In the June 1, 1983 notice of proposed rulemaking, the Commission implicitly provided several requirements for registration including, *inter alia*, the requirement that the leverage commodity must be "readily salable in normal commercial or retail channels by leverage customers taking delivery on a leverage contract." Nonetheless, several commentors expressed confusion about the standards which will guide the Commission in registering leverage commodities. Accordingly, the Commission has clarified its proposed rules by setting forth explicitly in § 31.6(a) five conditions which must be met for a commodity to be registered with the Commission. These conditions must be met initially for registration and on a continuing basis thereafter.

In addition to fulfilling the definitional requirements set forth in § 31.4(g), to be registered as a leverage commodity with the Commission a commodity must be readily salable in normal commercial or retail channels by leverage customers electing to take delivery on the leverage contracts, and the terms and conditions of the leverage contracts offered on the commodity must be consistent with the Act and the Commission's regulations. Moreover, although the Commission is not at this time proposing to apply an economic purpose test as a registration criterion for leverage contracts on

individual leverage commodities, the sale or offer of sale of leverage contracts on the proposed leverage commodity must not be contrary to the public interest.

As discussed above, all leverage commodities must be separately registered with the Commission by the leverage transaction merchant seeking to sell leverage contracts on those leverage commodities; that is, an LTM proposing to sell leverage contracts where the deliverable units are 1,000 ounces and 2,000 ounces of silver must apply separately to register each leverage commodity. Concurrent applications for registration are permitted and may cross-reference one another. Moreover, as noted previously, more than one leverage contract can be sold pursuant to each such registration. Furthermore, the registration of a leverage commodity is specific to the leverage transaction merchant to whom registration is granted; that is, the registration of, for example, 1,000 ounces of silver as a leverage commodity by one leverage transaction merchant does not extend to any other leverage transaction merchant either automatically or by reference.

X. Application for Registration of Leverage Commodities

The Commission has not substantively modified its proposals regarding the procedures for registration of leverage commodities, although the final rules are, as noted, re-arranged and re-named from the earlier proposal. In accordance with § 31.6(b), an application for registration of a leverage commodity must, among other things: (1) Describe thoroughly the distinguishing characteristics of the leverage commodity and the cash, forward and futures markets for the commodity, (2) specify the commercial or retail cash price series as described above and justify its use with respect to the particular leverage commodity, (3) evaluate completely how the distinguishing characteristics of the commodity to be registered affect its salability in normal cash market channels; in other words, evaluate how easily the delivery unit may be resold by leverage customers taking delivery, and (4) describe the inspection and commodity certification procedures typically required of the commodity to be registered.

As noted earlier, the Commission will, however, require a leverage transaction merchant to provide copies of the leverage contract(s) which will be offered on each leverage commodity, and the Commission will not register a commodity if the terms and conditions of such leverage contracts are not consistent with the Act and the Commission's regulations thereunder, or are otherwise contrary to the public interest. In examining the leverage contract terms and conditions, however, the Commission is not determining their individual merit aside from their consistency with the Act and the Commission's regulations. Accordingly, only a limited inference concerning the over-all merits of leverage contracts can be drawn from the fact of Commission registration of the leverage commodity.

The requirements regarding materials to be submitted in support of an application for registration of a leverage commodity are designed to ensure that the Commission is provided with the necessary information to determine whether a commodity meets the several standards for registration enumerated in § 31.6(a). These application requirements are similar in nature to those required for the designation of contract markets in futures. *Compare,* Commission guideline No. 1, 17 CFR Part 5, Appendix A. The Commission notes that the leverage transaction merchant bears the burden of providing adequate documentation of its compliance with the Commission's requirements for leverage commodity registration.

Upon application for registration of a leverage commodity the Commission staff will review the materials submitted by the leverage transaction merchant in accordance with § 31.6(b) and will recommend to the Commission either that the leverage commodity be registered or that registration be denied.[19] Applications for leverage commodity registration may be remitted by the Commission or by its designee, the Director of the Division of Economics and Education, if the application is incomplete. The Commission anticipates that if service fees are charged for registration of leverage commodities resubmission of a modified application which previously has been remitted will not require the payment of an additional fee.

While several commentors stated their concern that registration of leverage commodities by the Commission might be time-consuming and advocated relatively short time limits for Commission consideration of an individual registration, the Commission does not find this to be appropriate. The Commission does not have experience in registering leverage commodities nor does the industry have experience in complying with the application requirements for applying for registration. Accordingly, it is not possible to estimate accurately the time which may be required to process such applications. The Commission will process all applications for registration of leverage commodities in as timely a manner as is feasible, but it does anticipate possible delays in light of its limited resources, the large number of registration applications which may be submitted, and the industry's inexperience with Commission review procedures. Moreover, in light of the fact that eligible leverage transaction merchants may continue to engage in offering for sale and selling such contracts during this period, the possible hardships engendered by potential delays will be minimized.

Sections 31.6 (c) and (d) now specify the procedures to be followed by a leverage transaction merchant proposing to change the specifications of a leverage commodity registered with the Commission and sets forth the Commission's authority to disapprove, alter or amend such changes. A leverage transaction merchant must submit proposed changes to the commodity specifications or to the terms and conditions of the leverage contracts offered on a registered leverage commodity. Any such proposed changes must be accompanied by a detailed explanation of how the proposed changes to the commodity specifications or to the terms and conditions of the leverage contracts offered on a registered leverage commodity would affect the leverage commodity's continued ability to meet the standards set forth in § 31.6(a). The Commission would have forty-five days from receipt of the proposed change in which to notify the leverage transaction merchant of its intention to disapprove.

The Commission reserves the right to alter or amend the commodity specifications of the registered leverage commodity and the terms and conditions of the leverage contracts offered on registered leverage commodities. The authority parallels the Commission's authority with regard to futures contracts. It is anticipated that the exercise of such authority will be restricted to unforeseeable developments in the markets for leverage commodities, such as an act of a foreign government which might

[19] Although the procedures for the denial, revocation and suspension of leverage commodity registration incorporate those procedures contained in Sections 6 and 6(a) of the Act, the Commission has not incorporated into these regulations the one-year limit on the period for review of applications for contract market designation. Accordingly, this time limit does not extend to the registration of leverage commodities.

adversely affect holders of leverage contracts on that commodity.[20]

XI. Disclosure

The Commission's proposed regulations governing disclosure requirements were set forth in proposed § 31.11. As proposed, the Disclosure Document would contain, among other things, a section which lists and describes the principal specifications of the commodity deliverable on a leverage contract, the various fees charged for a leverage contract and the margin requirements, including: Initial, carrying and termination charges, and initial, minimum and maintenance margin requirements. Furthermore, as proposed, the Disclosure Document would indicate the cash price series which can be used to evaluate the price offered by the leverage transaction merchant and where such price information can be readily obtained.

In addition, the Disclosure Document would be required to contain an illustrative transaction that includes the calculation of a break-even price, which will indicate the change in price necessary, in absolute and in percentage terms, before a leverage customer can realize a profit on the leverage contract offered by that LTM.

The Commission also proposed to require that the leverage Disclosure Document include certain information which is currently required to be included in a commodity trading advisor's Disclosure Document. Such information relates to the business background of the firm and its principals, past performance information, and material criminal, civil or administrative litigation involving the firm and its principals.

As is the case for a commodity trading advisor, a leverage transaction merchant would be required to submit its Disclosure Document to the Commission 21 days prior to the date it intends to provide the document to a prospective leverage customer. The Commission would then review the document in a manner similar to the review it makes of a commodity trading advisor's Disclosure Document.

The majority of the commentors who addressed the proposed disclosure requirements supported the general concept of disclosure requirements for LTMs. Many of those commentors, however, recommended alternatives or expressed opposition to specific features of the Commission's proposal. The main areas upon which the commentors focused their comments are discussed below.

A. Business and Related Disclosures

Several commentors raised objections to those portions of the Commission's proposal which would require LTMs to make disclosures similar to those required of CTAs, such as information as to the location of an LTM's records, its business background as well as that of its principals, performance information, whether its principals will purchase leverage contracts for their own account, material litigation with respect to the LTM, its principals or "leverage representatives" and similar information. The Disclosure Document is intended to provide protection for leverage customers—particulary those who are unsophisticated in financial matters—by ensuring that they are informed about material facts concerning leverage transactions and the firms with which they deal before committing their funds. A knowledge of the background and experience of the LTM and its individual principals is essential to a meaningful evaluation of the investment opportunity offered by those persons and the financial integrity of the principals to the leverage transaction, particularly where there is no clearing organization to stand behind the contract. Therefore, the Commission has determined to adopt those disclosure requirements pertaining to the business background of the LTM and its principals, information as to the location of the LTM's records, and whether the principals of the LTM intend to trade leverage contracts for their own account. Section 31.11(a) (4) and (5).

With respect to the proposed requirement to disclose any material administrative, civil and criminal actions within the five years preceding the date of the document, two of the commentors supported the requirement provided that it apply only to proceedings against the LTM and its principals in connection with the LTM's business. The Commission believes that there is merit to narrowing the scope of this requirement, but not to the extent suggested. Section 31.11(a)(6), therefore, has been amended to provide for the disclosure of any material administrative or civil action involving activity or conduct, or related to any statute, set forth in Section 8a (2) and (3) of the Act, or any material criminal action within the five years preceding the date of the document against the LTM and any principal of the LTM. Thus, the Commission has eliminated from the final rules that portion of its proposal which would have required such disclosure with respect to the APs of an LTM. This change conforms this portion of the Commission's disclosure requirements for LTMs to those for CPOs and CTAs. The Commission notes that in this regard, Section 8a (2) and (3) of the Act set forth a system of "statutory disqualifications" which enumerate the most important bases for finding applicants or registrants unfit for registration and provide the Commission with the authority, in appropriate cases, to deny, condition, restrict or suspend the registration of a registrant. In addition, Section 4k(5) of the Act requires a registrant to notify the Commission if any person registered or who has applied for registration as an AP of the applicant is subject to a "Statutory disqualification" as set forth in Section 8a(2) of the Act.[21] the Commission believes that these statutory requiremens will adequately ensure the continued fitness of all AP registrants and that it is therefore unnecessary to include such information in the Disclosure Document. The Commission believes that these changes will provide more meaningful and relevant disclosure to prospective leverage customers.

Proposed § 31.11(a)(5) would have required that LTMs disclose the net gain or loss for all customers on leverage contracts offset or liquidated for the preceding year and the preceding three years. Those persons who commented on this portion of the Commission's proposal expressed the view that compliance with this requirement would be extremely difficult because no such records are currently retained by LTMs. One commentor, however, strongly supported proposed § 31.11(a)(5), although the commentor noted the difficulty which certain LTMs may have in reconstructing such information with respect to a period prior to the effective date of the regulations. This commentor therefore suggested that the requirement be modified to relieve LTMs of the duty to disclose such information for the period prior to the effective date of the rule.

The Commission has reconsidered this portion of the proposal and has determined not to adopt proposed § 31.11(a)(5) at this time. Although the Commission believes that it clearly has

[20] For example, a decision by a foreign government to refuse to recognize fully its previously issued currency as legal tender, to restrict trading in such currency, or to fix an exchange rate might be occasions for Commission action regarding the specification of leverage commodities which are based on that foreign currency.

[21] The Commission recently has proposed rules to implement these provisions of the Act. 48 FR 50554 (November 2, 1983).

the authority to impose such a disclosure requirement, the Commission is also aware of the difficulty certain LTMs may have in compiling such information for the period prior to the effective date of the rules. In addition, the Commission notes that the break-even price which is required to be contained in the LTM's Disclosure Document may provide more meaningful information to the leverage customer than the disclosure of past performance. This is because any past performance compilation would be based, in part, upon the trading decisions of individual leverage customers which may be independent of the particular recommendations of either the LTM or its APs. In the case of CPOs and CTAs, on the other hand, past performance relates solely to the track record of the individual registrant. Nevertheless, the Commission wishes to emphasize that it has not previously regulated leverage transactions, and therefore intends to monitor closely the appropriateness of the disclosure requirements adopted and to make further adjustments including requiring performance disclosure as necessary.

Finally, the Commission has added a new paragraph to the bold-faced statement which is required to be contained in each Disclosure Document. Section 31.11(a)(1). The Commission believes that the addition of this new paragraph will further enhance the usefulness of the Disclosure Document to the prospective customer by explaining a number of important facts. First, the Disclosure Document provides a concise explanation of the circumstances necessary for a leverage customer to realize value from the contract. In this connection, the Disclosure Document explains that in order to realize value from the contract it will be necessary for one of two things to occur: The LTM which sold the leverage contract, and which has the obligation to do so, must agree to repurchase the contract or the leverage customer must pay the LTM the full purchase price for the leverage contract, take delivery of the leverage commodity, and then resell the leverage commodity, possibly at a lower price than the price paid to purchase it from the LTM. The Disclosure Document also makes clear that there is no secondary market for leverage contracts and that the only alternative available to a leverage customer who elects not to take delivery is to resell the contract to the LTM from which it was purchased. Finally, the document informs prospective customers that the LTM is under no obligation to offer to repurchase a leverage contract at all times, although the LTM must offer to repurchase any previously sold leverage contract at any time during which it is offering to sell any leverage contracts on the same leverage commodity.[22] In this regard, the Disclosure Document also makes clear that the LTM has complete discretion in setting the price and any charges related thereto at which it will repurchase a leverage contract. As discussed in detail below, however, the ability of the leverage customer to take delivery and resell the commodity in the retail market may keep the LTM's bid-ask spread from becoming too wide.[23]

B. Filing of Initial and Revised Disclosure Documents; Other Matters

Proposed § 31.11(b) would have provided that if an LTM's Disclosure Document becomes inaccurate it must be amended within twenty-one days and would prohibit its use until corrected. Paragraph (e) of proposed § 31.11 would have required that the revised Disclosure Document be submitted to the Commission at least twenty-one days prior to its use. It was contended by certain commentors that read together these two filing requirements would effectively preclude an LTM from engaging in any transactions for at least twenty-one days after any material changes are made in the Disclosure Document.

The Commission has considered these comments carefully and is adopting rules which the Commission believes provide for the correction of deficiencies and inaccuracies in the Disclosure Document without unnecessarily interrupting the business of an LTM.

As adopted by the Commission, § 31.11(b)(1) provides that if the LTM knows or should know that the Disclosure Document is materially inaccurate or incomplete in any respect, it must correct that defect and distribute the correction to all existing leverage customers within 30 calendar days of the date upon which the LTM first knows or has reason to know of the defect. Similarly, the LTM must correct the document used to solicit each prospective leverage customer prior to opening an account for such person. The LTM may furnish the correction by way of an amended statement, a sticker on the statement or other similar means thereby obviating the need to reprint a new document. Moreover, the Commission notes that granting an LTM 30 calendar days to distribute the correction will enable LTMs to include any such correction with the mailing of the monthly account statement (See § 31.15(b)). Section 31.11(b)(2) prohibits an LTM from using the document until such correction is made.

Section 31.11(c) requires that the LTM must date each Disclosure Document and each amendment thereof as of the date it is first used. Section 31.11(d) requires that all information contained in the Disclosure Document must be current as of the date of the document.

Section 31.11(e) sets forth the requirements for the filing of an LTM's initial and revised Disclosure Documents with the Commission. Section 31.11(e)(1) provides that, subject to § 31.6(c), the LTM must file with the Commission three copies of the Document for each leverage contract that it offers or intends to offer not less than twenty-one days prior to the date the LTM first intends to deliver the Document to a prospective leverage customer.

Section 31.11(e)(2) provides that, subject to §§ 31.6(c) and 31.11(h), the LTM must file with the Commission three copies of all subsequent amendments to the Disclosure Document within 30 days of the date upon which the LTM first knows or has reason to know of the defect requiring the amendment. Section 31.11(h) requires that an LTM must transmit a notification to each leverage customer within 24 hours of making any change not otherwise permitted under the contract terms set forth in § 31.11(a)(2) by first class mail or other equivalent means of communication. Section 31.11(h) also requires an LTM to transmit a notification to each leverage customer of any change in the interest rates charged by the LTM within 24 hours of each such change. Thus, unless leverage customers were advised in the Disclosure Document that a particular term or condition of the leverage contract was subject to change, leverage customers will receive immediate notice of such change and have an opportunity to decide whether to close out the transaction.

Section 31.11(i) provides that a person soliciting or accepting an order for a leverage contract is not required to deliver a Disclosure Document to a

[22] Section 31.10 sets forth the LTM's obligations regarding repurchase. The proposal would have required a guaranteed buy-back at all times. This has been changed in the final rules to require the LTM to offer to repurchase any previously-sold leverage contract at any time during which it is offering to sell any leverage contracts on the same leverage commodity. *See* discussion of § 31.10, *infra*.

[23] In addition to the changes made elsewhere in the required bold-faced statement on the first page of the Disclosure Document, the Commission has revised the specified wording to reflect the changes it has made to the provision regarding a leverage customer's right to rescind a leverage contract. *See* § 31.11(b) and the discussion thereof, *infra*.

leverage customer if such document has been previously provided. The leverage customer, however, has the right to request a copy of the LTM's Disclosure Document at any time and, in addition, the LTM is required to furnish a new Disclosure Document to its leverage customers if the previously delivered document has become outdated or materially inaccurate.

As proposed, the Commission will require pursuant to § 31.11(a)(2) that the leverage transaction merchant describe in the Disclosure Document each leverage commodity covered by the Disclosure Document. The description must set forth the distinguishing characteristics of each leverage commodity which are listed in the definition of a leverage commodity. See § 31.4(g). Additionally, as proposed, the terms and conditions of each leverage contract covered by the disclosure statement, including the duration of the contracts, the charges prevailing at the time the disclosure statement is prepared, and descriptions of the bid and ask prices must be set forth in the Disclosure Document.

The Commission is also adopting, as proposed, § 31.11(a)(3) which requires the inclusion in the Disclosure Document of an illustrative example of a leverage transaction with the calculation of a break-even price, set forth in a format specified by the Commission. Several commentors stated that this requirement was essentially unnecessary, especially in light of the other disclosures required to be made to prospective leverage customers.[24] The Commission, however, believes that the illustrative example will aid prospective leverage customers both in better understanding the nature of their prospective investments and in determining whether such an investment is appropriate for them by setting forth clearly what charges and fees are associated with a leverage contract.

One commentor, a firm claiming to be engaged in the business of selling leverage contracts, recommended that the Commission require a leverage transaction merchant to disclose to a prospective leverage customer all fees before effecting a transaction. Accordingly, the Commission is adopting its § 31.11(j), as proposed.

XII. Confirmation Statement

As proposed, the Commission is requiring that leverage transaction merchants send a statement confirming the transaction to each leverage customer within twenty-four hours of entry into the contract. The confirmation statement must be in a form specified by the Commission and must include information to yield a break-even price, with a calculation thereof.[25] The confirmation statement must inform leverage customers, in wording specified by the Commission, of their right to rescind their first leverage transaction.

XIII. Rescission

The Commission's proposal to provide to all leverage customers the unqualified right to rescind their leverage contracts within three days of the receipt of the confirmation statement elicited extensive critical comment. Several commentors stated their concern that, in light of the high probability of significant short-term price movements typically experienced by the commodities which were proposed to be subjects of leverage contracts, an unqualified three-day right to rescind leverage contracts would provide customers costless short-term options on the price of the commodity. Some commentors, including several firms claiming to be in the business of selling leverage contracts, asserted that the Commission's proposal, if adopted, would act to discourage leverage transaction merchants from covering their obligations to customers promptly upon opening new leverage positions. One commentor stated that any concerns about informing leverage customers or prospective leverage customers of the nature of the risks they are incurring by purchasing a leverage contract are addressed adequately by the disclosures to prospective leverage customers required in § 31.11 of the regulations.

Nevertheless, in light of its past experiences with instruments traded outside of the self-regulatory environment of the exchanges, the Commission remains concerned that leverage customers be adequately protected from high pressure sales tactics. The Commission believes that prospective leverage customers who are unfamiliar with leverage contracts should be provided with a three-day period in which to rescind their first purchases of a leverage contract so that they are afforded a limited opportunity to reflect dispassionately on their actual purchases.[26] The leverage customer's right to rescind his or her first purchase of a leverage contract is intended by the Commission to safeguard prospective customers from becoming committed to an investment scheme that, until receipt of the first confirmation statement which includes the actual breakeven calculation, is not fully understood, or which upon further reflection after receipt of the confirmation, appears to be inappropriate to the individual's circumstances. As adopted, this right of rescission is available only for a customer's first purchase from each particular LTM and is unavailable to those customers who have engaged in a prior leverage transaction with that particular LTM because, having previously received a Confirmation Statement, such leverage customers are assumed to have a sufficient understanding of the transactions they are undertaking.[27]

The Commission is persuaded, however, that even an unlimited right to rescission which is applicable only to first-time leverage customers might have had the unintended effect of creating a free option on leverage commodity price changes. Moreover, the unlimited right

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[24] At least one commentor stated that the required provision of a break-even price should be replaced with required disclosure of current fees and charges. The Commission's specified format for the illustrative example makes clear that the charges and ask price of a leverage contract must be current when the Disclosure Document is prepared. The format of the break-even calculation uses these to indicate how much the commodity's price must rise before the purchase will begin to be profitable. The break-even calculation included as part of the confirmation statement, however, is required to disclose the fees and charges which the leverage customer is actually paying at that time. The format specified by the Commission for the break-even calculation in the Disclosure Document accompanies this notice as an attachment.

[25] The proposed regulations have been revised to require explicitly that the leverage transaction merchant calculate the break-even price. Minor amendments have been made to the Commission's specified form of the illustrative example of the transaction in the Disclosure Document in order to make the break-even prices clearer to leverage customers and prospective leverage customers. The Commission notes that the one-year term used in illustrating the carrying charges applicable to a leverage contract was chosen because it is readily comparable to other investment yields. The specified form of the Confirmation Statement accompanies this notice as an attachment.

[26] The rescission period of three business days is counted from the day on which the customer receives the confirmation statement to the close of business on the third day. For example, the prospective first-time leverage customer who receives a confirmation statement on Monday may rescind, at any time until the close of business Wednesday, all of the contracts purchased on the first day the customer purchased a contract.

In this regard the Commission notes that in the event of an interruption in the operations of a particular LTM so that the LTM is not able to receive telephone or telegram rescissions, the rescission period should be extended so that each customer has had three full business days in which to rescind.

[27] For purposes of identifying a leverage customer's right to rescind, the Commission considers all leverage contracts purchased by a leverage customer on the same day as the purchase of the first contract to be included in the first purchase and therefore subject to rescission. However, the customer may not use the right of rescission to attempt to fine-tune a position; if rescission is elected, all contracts which are eligible for rescission must be rescinded.

to rescind inadvertently might have exposed those leverage customers to greater risk by discouraging leverage transaction merchants from fully and promptly covering their obligations. The Commission, therefore, is adopting in § 31.23 a qualified right of rescission which protects the first-time customer from fees and commissions but which does not protect such leverage customers against losses caused by the actual market decline of prices.

Actual losses are calculated by subtracting the ask price of the leverage commodity at the time of the customer's rescission from the ask price at which the leverage commodity was purchased and which appears on this confirmation. The leverage transaction merchant, however, may not assess the prospective leverage customer any account-related charges, such as initiation, termination or carrying charges on rescinded contracts. The leverage transaction merchant must refund all monies received, except for the amount of the price decline, within 24 hours of notice of rescission.

Pursuant to § 31.23, as adopted, the leverage customer may rescind such contracts by telegram or by telephone. If the rescission is effected by telephone, the customer must immediately affirm the rescission with the leverage transaction merchant by telegram, certified letter or an at least equivalent means designed to create a written record in the customer's possession to evidence his act of rescission.[28] Communications regarding rescission between the customer and AP shall be deemed as notification to the LTM.

The Commission believes that the rescission provision, as adopted, will serve to protect unsophisticated investors from high-pressure sales tactics while not exposing LTMs to undue financial risks arising from market circumstances beyond the leverage transaction merchant's control.

XIV. Recordkeeping and Reporting to Customers

The provisions for recordkeeping and reporting to customers, which were contained in proposed §§ 31.14 and 31.15, parallel those for FCMs contained in §§ 1.31–1.37 of the Commission's regulations, with appropriate modifications in terminology.

The Commission notes that the commentors which addressed proposed § 31.14 generally supported the concept of recordkeeping requirements for LTMs. Certain commentors, however, did offer specific suggestions regarding certain aspects of the recordkeeping requirements. For example, one commentor suggested that § 31.14(b) should be revised to provide that an LTM must maintain only those required records which relate to its business as an LTM. The Commission's proposal would have required an LTM to maintain such records for all transactions entered into by it, including leverage contracts, cash commodity purchases, commodity futures and commodity options.

The Commission generally has determined to adopt § 31.14(b)(1) as proposed. The Commission, however, has specifically included loan agreements among the records required to be maintained by an LTM pursuant to § 31.14(b)(1). The Commission believes that all the information required to be maintained under § 31.14(b) is relevant to a person's business as an LTM and that that section only makes mandatory what the Commission believes to be good business practice. In this connection and in response to the concerns of another commentor, the Commission has deferred the effective date of these rules for a sufficient period of time as stated in this **Federal Register** release to enable an LTM to rework its current reports and systems to comply with the Commission's requirements.

Proposed § 31.14(c)(1) would have required an LTM to prepare and keep a financial ledger which would show separately for each leverage customer's account all charges against and credits to such account, including all credits and charges resulting from gains and losses on closed leverage contracts, and all funds deposited, withdrawn or transferred from the customer's account. The Commission has slightly modified this provision in order to clarify the information required to be maintained by the LTM. Under § 31.14(c)(1), as adopted, the financial ledger must show at a minimum for each leverage customer's account, all credits for purchases and repurchases by the leverage transaction merchant of leverage contracts (including the corresponding transaction identification number) and all funds transferred, deposited, or withdrawn from the leverage customer's account.

Proposed § 31.14(c)(2) would have required each LTM to maintain a record of transactions which would show separately for each leverage customer's account certain specified information. Although the Commission has determined to adopt a requirement that LTMs maintain such a record, the Commission has modified the language in § 31.14(c)(2) in order to provide a more meaningful and useful record. As adopted, § 31.14(c)(2) requires each LTM to maintain a record of transactions which will show separately for each customer's account in chronological sequence all leverage contracts entered into with such customer. The record must also show for each transaction the date of the transaction, the commodity involved, a transaction identification number, the maturity date, the number of contracts, whether the transaction represents an initial purchase, a closing transaction or a delivery and, if a closing transaction, the total gain or loss realized.

Proposed § 31.14(c)(3) would have required each LTM to maintain a daily record or journal showing separately for each customer by type of leverage commodity and contract "the total charges (initial, carrying and termination, as appropriate) for each transaction involving a leverage contract, and the amount of leverage customer funds deposited to margin the leverage contract." In this regard, one commentor expressed opposition to any requirement that an LTM show the carrying charges imposed on a customer's account on a daily basis.

The Commission has reconsidered the necessity of that portion of the proposed rule and has determined to delete the above-cited language from the final rule. The Commission believes that this step will alleviate any unnecessary recordkeeping burden on LTMs without diminishing customer protection, particularly in view of the fact that such information is already required to be maintained in the LTM's financial ledger (§ 31.14(c)(1)) and transaction record (§ 31.14(c)(2)) and is communicated to the customer in the break-even calculation. Section 31.14(c)(3) also has been amended to require that the daily record of journal must show separately for each leverage commodity, complete details of all leverage transactions executed on that day, including the person for whom such transaction was made, the leverage contract involved, the number of leverage contracts, the transaction identification number, whether the transaction was an initial purchase, liquidating transaction or delivery, and the total value of the initial purchase or liquidating transaction.

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[28] The Commission notes that rescission is effected by the telephone communication alone. The subsequent written affirmation of the rescission is intended by the Commission solely as a protection to the customer by providing the customer with written evidence of the rescission. Thus, the time of rescission is calculated from the time of the telephone communication, and the LTM may not ignore a telephone rescission in the event the follow-up written affirmation does not reach the LTM.

The Commission has also made a minor change to § 31.14(c)(6) to require that where reproductions on microfilm for records required by § 31.14(c) (1) and (2) are substituted for hard copy, the person required to keep such records must be ready at all times to provide, and immediately provide at such time and place as required by the Commission, at the expense of such person, reproduced copies which show the records as specified in § 31.14(c) (1) and (2). The Commission, any designated self-regulatory organization and the Department of Justice are authorized to request such records pursuant to § 31.14(c)(6). The Commission notes that this requirement is similar to the general recordkeeping requirement for FCMs and introducing brokers set forth in § 1.31. 17 CFR 1.31.

The Commission also has made certain changes to § 31.14(d) which the Commission believes will simplify compliance and eliminate any unnecessary recordkeeping requirements. As adopted, § 31.14(d) requires each LTM to prepare, as of the close of business each day, a listing of all open leverage contracts carried for leverage customers. Such listing shall be by leverage commodity and contract and shall include certain specified information set forth in § 31.14(d) (1)–(6). In this connection, the requirement to maintain certain of the information set forth in proposed § 31.14(d) (6) through (8) has been omitted from the final rule as such information is already required to be maintained pursuant to § 31.14(c)(1).

The Commission has adopted § 31.15, which relates to the purchase and sale statement and the monthly statement which must be furnished by an LTM to each leverage customer, in essentially the form proposed, with certain minor, technical word changes. The Commission has also added to proposed § 31.15(b) a requirement that an LTM's monthly statement to a leverage customer contain the following bold-faced legend in at least ten-point type: IF YOU BELIEVE YOUR MONTHLY STATEMENT IS INACCURATE YOU SHOULD PROMPTLY CONTACT (name of LTM) AT (telephone number). Each LTM must list on each monthly statement furnished to a leverage customer the name and telephone number of the LTM so that leverage customer can contact the LTM about anything in the monthly statement which the leverage customer believes to be incorrect or which the leverage customer does not understand. The Commission believes that this provision only makes mandatory what the Commission believes to be good business practice. The Commission further believes that this provision will enable leverage customers and LTMs to rectify quickly any minor misunderstandings or errors.

XV. Financial Requirements for Leverage Transaction Merchants

A. Principal Revisions to Proposed Rules

The Commission's proposed financial requirements for LTMs were of four types: (1) Minimum adjusted net capital and related reporting requirements (including a new financial reporting form, Form 2–FR); (2) financial early warning requirements; (3) restrictions on permissible cover for leverage contracts; and (4) segregation of leverage customer funds. The Commission proposed a minimum adjusted net capital requirement for LTMs of $4,000,000 plus 10 percent of the market value of the physical commodities subject to uncovered leverage contracts entered into by the LTM. The early warning level of adjusted net capital for LTMs was proposed to be 150 percent of the minimum amount, as is the case for FCMs, which would have required an LTM to maintain at least $6,000,000 of adjusted net capital to remain above the early warning level and to avoid the concomitant monthly reporting requirements.

The proposed rules did not require an LTM to cover any of its obligations on leverage contracts. The proposed rules, however, did describe permitted cover. As such they would have permitted as cover only unencumbered inventory and futures contracts involving the same commodity subject to the leverage contract. No more than 50 percent of an LTM's total obligation on leverage contracts could be covered by futures contracts. The Commission further proposed that an LTM be required at all times to segregate 25 percent of the market value of commodities underlying outstanding leverage contracts entered into by that LTM. That proposal would have required an LTM either to obtain a 25 percent down payment from its customer, or to put its own funds into segregation to meet the 25 percent requirement. The Commission further proposed that an LTM cease doing business as an LTM if it became undersegregated.

The Commission has carefully considered the comments upon the financial requirements for LTMs and has also undertaken its own review of its proposals. As a result, and for the reasons more fully articulated herein, the Commission has determined to make the following revisions to the proposed financial requirements for LTMs:

1. The minimum adjusted net capital requirement for LTMs will be $2,500,000, plus 20 percent of the market value of the physical commodities subject to uncovered leverage contracts, instead of $4,000,000, plus 10 percent of such market value;
2. The financial early warning level of adjusted net capital for LTMs will be be 120 percent, instead of 150 percent, of the minimum amount; the combination of this change and the change referred to in item #1 above reduces the minimum dollar amount of the financial early warning requirement in half, from $6,000,000 to $3,000,000;
3. Instead of merely restricting forms of cover, the cover requirement has been restated in a positive way. An LTM will now be required to cover 90 percent of its obligations on leverage contracts. Twenty-five percent of these obligations must be covered by physical commodities. In addition to what was originally proposed to be permitted as cover, in-the-money exchange-traded commodity options and encumbered warehouse receipts may be used, provided that, with respect to warehouse receipts, the balance of the principal and accrued interest on any loan against such receipts does not exceed 70 percent of the current market value of the underlying commodity. In addition, ownership of, or futures contracts on, gold or silver bullion will be permitted as cover in the case of a leverage contract involving bulk gold coins or bulk silver coins, respectively, and vice versa; and
4. The proposed 25 percent segregation requirement has not been adopted, nor has the proposal that an LTM cease doing business as an LTM if it becomes undersegregated. An LTM will have to cease doing business as an LTM, however, if its cover of leverage contracts falls below 90 percent of its obligations under such contracts or if the mix of cover is improper. Moreover, an LTM must notify the Commission if it becomes undersegregated.[29]

The Commission wishes to emphasize that the Commission will monitor closely the appropriateness of these financial, cover and segregation requirements for LTMs and make adjustments as necessary.

B. Minimum Adjusted Net Capital Requirement

The minimum adjusted net capital requirement for LTMs is $2,500,000 plus

[29] A number of commentors suggested that the proposed 25 percent segregation rule was a disguised margin requirement and that the Commission had no statutory authority to set minimum margins on leverage contracts. Although the Commission has chosen not to adopt a minimum segregation requirement at this time, the Commission disagrees with this assertion. Under section 19 of the Act, the Commission has plenary authority to regulate leverage transactions, including the authority to adopt regulations "designed to ensure the financial solvency" of such transactions. Such authority, therefore, includes the authority to set minimum down payments for leverage contracts.

20 percent of the market value of the physical commodities subject to uncovered leverage contracts, rather than the proposed $4,000,000 plus 10 percent of such market value. The market value of the physical commodities subject to uncovered leverage contracts must be computed by using the widely accepted and disseminated commercial or retail cash price series submitted with the LTM's application for registration or each particular leverage commodity in accordance with § 31.6 or such other commercial or retail cash price series approved by the Commission. Section 31.9(a).

One commentor specifically endorsed the Commission's proposed minimum financial requirement for LTMs, and two commodity exchanges which commented on the proposal stated that the requirement should be higher. The majority of commentors who addressed the proposed minimum financial requirement for LTMs, however, expressed opposition to the proposal. These commentors suggested several alternatives as a minimum financial requirement, most of which favored a lower minimum dollar amount of required adjusted net capital than the proposed $4,000,000 with a greater emphasis on the amount of an LTM's obligations under leverage contracts.[30] Also; several commentors suggested that an LTM be required to cover all or almost all of such obligations.

In adopting minimum financial requirements for LTMs, the Commission has endeavored to strike a balance between the comments received favoring more limited capital requirements and its congressional mandate to attempt to ensure the financial solvency of leverage transactions, which are transactions between principals. The minimum dollar amount of required net capital has effectively been reduced by half, the required amount of cover has been increased substantially from zero to 90 percent, and the amount of adjusted net capital which must be maintained in addition to the minimum dollar amount because of uncovered leverage contracts has been increased from 10 percent to 20 percent of the market value of the physical commodities subject to such contracts to conform it to other existing requirements.[31]

Although the Commission is lowering the required minimum dollar amount of adjusted net capital for LTMs from its previous proposal and adding a cover requirement which reflects the LTM's performance exposure, the Commission remains convinced that the financial requirements for an LTM must be substantially higher than those for an FCM.[32] The leverage market is essentially a principals' market, and the purchaser of a leverage contract is solely dependent on the LTM for performance on the contract. Because leverage contracts are not traded on boards of trade designated as contract markets by the Commission, there is no clearing organization to take the other side of every trade, no FCM guarantee of variation margin to the clearing organization and no clearing organization guaranty fund and assessment power; nor is there any established secondary market for leverage contracts.

Because the LTM takes the other side of every leverage contract entered into by a leverage customer and because the LTM is the sole guarantor of performance on the leverage contract, an LTM may properly be viewed as comparable to the clearing organization of a contract market. Each contract market clearing organization maintains a guaranty fund which is intended to protect the clearing organization from being unable to meet its obligations in the event that a clearing member defaults on its obligations to the clearing organization. These funds, to which each clearing member contributes generally, total in the aggregate well in excess of $2,500,000.[33] Certain contract market clearing organizations also have the power to assess their clearing members for funds in addition to their general guaranty fund contribution. The typical clearing organization rule permits an assessment of up to $10,000,000 per member per 10-day cycle if the guaranty fund is insufficient to satisfy the obligations of a defaulting member. In addition to the required deposits which clearing members of contract markets must make to the clearing organizations, such firms also have capital requirements in excess of Commission and contract market minimums for non-clearing FCMs.[34] In view of the foregoing, the Commission believes that a $2,500,000 minimum adjusted net capital requirement for an LTM is appropriate.

Moreover, at the present time, there is no self-regulatory organization registered with the Commission that has responsibility for supervising leverage transactions or the financial condition of LTMs. The Commission emphasizes that if an LTM were to join the existing registered futures association, the National Futures Association, or any other such association which may be established, the LTM's minimum financial requirement or its minimum cover requirement would not necessarily be lowered. The Commission further notes, however, that §§ 31.9(a)(2) and 31.8(d) provide that an LTM which is a member of a designated self-regulatory organization ("DSRO") can comply with the Commission's minimum financial and cover requirements, respectively, if it complies with the DSRO's requirements in those areas and the DSRO's requirements have been approved by the Commission. The Commission has included references to a DSRO in §§ 31.7 (financial early warning system) and 31.13 (financial reporting) to provide for the possibility of an LTM becoming a member of a DSRO.

C. Financial Early Warning System

The financial early warning level of adjusted net capital will be 120 percent

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[30] Two commentors proposed that LTMs be subject to a net worth rather than a net capital requirement. Net worth is a measure of the shareholders' interest in an entity without regard to the liquidity of the entity's assets. Net capital, on the other hand, is a measure of the financial liquidity of the entity's assets' *i.e.*, the ability of the entity to convert assets to cash in order to meet currently maturing obligations. Because the Commission's concern is that an LTM be able to meet its currently maturing obligations, the Commission has concluded that a net capital requirement is most appropriate for LTMs.

[31] The 20 percent requirement has been adopted as it is consistent with the safety factor charge which an FCM must apply to its net capital when valuing uncovered inventory. A number of commentors suggested this essentially conforming change.

[32] Congress has also recognized this. Indeed, in proposing the amendments to section 19 of the Act directing the Commission to promulgate regulations governing leverage transactions, which amendments were adopted by Congress essentially as proposed, Congressman Glickman stated: "I think the CFTC has to set regulatory standards and high net capital requirements to keep bad operators out of business." Excerpt from Unofficial Transcript of Mark-Up Session, Subcommitee on Conservation, Credit and Rural Development, House Committee on Agriculture, at 59, April 1, 1982, with the permission of Congressman Dan Glickman.

[33] The guaranty funds of seven of the ten contract market clearing organizations exceed $2,500,000, and those guaranty funds range from approximately $4,300,000 to in excess of $80,000,000. The three guaranty funds which are less than $2,500,000 are the guaranty funds for three of the four smallest contract markets in terms of volume of contracts traded. In all, the guaranty funds for the contract markets amount to more than $170,000,000.

[34] The Commission also notes that it will not have as much information about the financial condition of LTMs as contract market clearing organizations have about their clearing members. Such information is primarily developed from the pay and collect data that is generated by the clearing organizations on a daily basis as a result of price changes in open positions. The review of pay and collect information provides a good indication of potential problems in a firm, which can arise at those firms which are required to make large or repeated payments to the clearing organization due to adverse market movements.

of the minimum amount required, rather than the 150 percent level proposed. A separate rule, § 31.7, sets forth the early warning system for LTMs, which is patterned after, and incorporates by reference certain provisions of, the early warning system for FCMs which is contained in § 1.12. Section 31.7 also requires an LTM to give notice to the Commission if the LTM becomes undersegregated. (In the Commission's proposal, the early warning system for LTMs was contained in paragraph (a)(14) of § 31.9.)

The Commission also wishes to point out that it has revised § 1.12(f) so that when a clearing organization or a futures commission merchant determines that, because of the LTM's failure to meet a call for margin or to make other required deposits, any position which it is carrying for an LTM must be liquidated immediately or transferred immediately, or that the trading of any account of an LTM shall be for purposes of liquidation only, the clearing organization or futures commission merchant must give telegraphic notice of such a determination to the principal office of the Commission in Washington, D.C. within 24 hours. This is consistent with the treatment of positions and accounts of FCMs under § 1.12(f). Under the Commission's proposed regulations for certain leverage transactions the LTM itself would have been responsible for giving the telegraphic notice referred to in this paragraph. The latter proposal is not being adopted.

D. Cover of Leverage Contracts

As noted above, several commentors suggested that an LTM be required to cover all or almost all of its obligations under leverage contracts. The Commission is requiring an LTM to cover 90 percent of its total obligations on leverage contracts. Moreover it is further requiring that a minimum of 25 percent of an LTM's total obligations on leverage contracts be covered by physical commodities.

Certain commentors further suggested that, in addition to the types of cover which would have been permitted under the Commission's proposed rules, *i.e.*, unencumbered inventory and futures contracts involving the same commodity as the leverage contracts, an LTM also should be permitted to use as cover commercial forward contracts, "like-kind" commodities, encumbered inventory and Commission-regulated commodity options. The Commission has determined to permit the limited use of encumbered warehouse receipts which are also collateral for loans provided that the balance of any principal and accured interest does not exceed 70 percent of the current market value of the commodities underlying the receipts. In addition, ownership of, or a futures contract on, gold bullion may be considered as cover in the case of a leverage contract involving bulk gold coins, and vice versa (silver bullion and bulk silver coins would be treated in the same manner). Further, exchange-traded commodity options which are "in the money" (that is, the value of the actual commodity or futures contract which is the subject of such an option is more than the value of the underlying commodity based on the strike price of the option) also may be used as cover for leverage contracts involving identical commodities. Otherwise, the types of permissible cover would be the same as those proposed.

As noted, the Commission has determined to permit the use of encumbered warehouse receipts as cover under certain conditions. The Commission notes that a requirement that all warehouse receipts used as cover be unencumbered would result in few, if any, LTMs having the financial ability to cover more than 25 percent of their contract obligations by physical inventory, the minimum allowed under these regulations. As discussed below, the Commission believes that physical inventory represents ideal cover for leverage contracts and, therefore, has concluded that the use of such cover should be encouraged. By permitting the use of encumbered warehouse receipts to the extent described above, LTMs will have the opportunity to cover a greater percentage of their contract obligations with physical inventory. Of course, permitting the use of encumbered warehouse receipts as cover in consistent with the use of futures contracts which are purchased on margin. If the value of the receipts goes up there is no added exposure; if it goes down the value of the customer's interest in the leverage contract also diminishes. If the customer elects delivery, the customer must pay the balance due, so the LTM should not be unduly exposed by virtue of this change in what is deemed to be permissible cover, which is primarily intended to assure performance in any event.

LTMs which use such warehouse receipts as collateral for loans must maintain strict records of the details of such loans in accordance with the provisions of § 31.8(d). These records are subject to audit by the Commission. Also, as discussed more fully below, segregated funds may not be used to purchase encumbered warehouse receipts. Only unencumbered warehouse receipts are proper investments of segregated funds. Cover provides customer protection with respect to ongoing performance, segregation provides protection in liquidation. Any security interest in segregated funds would destroy their character as segregated funds.

The commentors who argued for permitting commercial forward contracts to be used as cover for leverage contracts stated that this should be allowed, provided that standards were imposed which would give reasonable assurance that the party obligated to deliver on the forward contract would fulfill its obligation. The Commission does not believe that general standards can be imposed which are sufficient to provide such assurance or that either the Commission or any self-regulatory organization would have sufficient time and audit staff to review adequately compliance with such standards by any party which is not subject to the Commission's regulatory authority.

With respect to the suggestions that cover also include the use of "like-kind" commodities, most of those suggestions referred to the use of gold bullion to cover a leverage contract in bulk gold coins, or vice versa. There were also certain commentors who suggested that any commodity which tends to track the price movements of the commodity subject to the leverage contract be permitted as cover. The Commission believes that since the metallic content of bulk gold coins and bulk silver coins is virtually identical to that of gold bullion and silver bullion, respectively, the fluctuations in value of the bullion will be substantially related to the fluctuations in value of the bulk coins. Therefore, bullion may be used as cover for leverage contracts on bulk coins, and vice versa. Section 31.8(a)(2)(ii). The Commission does not believe, however, that any showing has been made that the necessary price relationships exist so as to permit any of the other commodities which may be subject to leverage contracts (copper, platinum, Japanese yen, Deutsche mark, Swiss franc and British pound) to be covered by anything other than ownership of, or futures contracts on, the same commodity.

Certain commentors also objected to the 50 percent limit on the use of futures contracts as cover contained in the proposed rules and stated that an LTM should be able to use any acceptable form of cover in any proportion it sees fit. The Commission does not believe that the cover provisions should be liberalized to that extent. However, in

light of the comments received and the fact that the regulations the Commission is adopting will require an LTM to cover 90 percent of its obligations, the Commission has determined to require that 25 percent of an LTM's obligations be covered by physical commodities. The Commission believes that the 25 percent physical cover requirement is a necessary regulatory requirement to ensure the economic viability of leverage contracts, and that some degree of flexibility for an LTM with respect to covering the remainder of its obligations to customers is appropriate. Thus, the remaining 65 percent of obligations which must be covered may be covered by futures contracts or certain exchange-traded commodity options. Also, the 10 percent of obligations which may be left uncovered (with the LTM increasing its minimum capital requirement by an amount equal to 20 percent of the market value of the physical commodities subject to such uncovered leverage contracts) may instead be covered by any form of permissible cover. Therefore, a total of 75 percent of an LTM's obligations on leverage contracts could be covered by futures contracts or exchange-traded commodity options.

The Commission has established a floor on the amount of cover that must consist of physical commodities because of several concerns. The Commission believes it has developed regulations pursuant to which the delivery on a leverage contract will be an economically viable alternative for customers, since in order to be registered the leverage contract must permit the delivery of a commodity in an amount and form which can be readily resold in normal commercial or retail channels. Hence, in light of this potential for delivery, the "ideal" cover for an LTM would include a significant portion in physical commodities.[35]

Further, futures contracts may not be appropriate cover for leverage contracts in all market situations. For example, a rapidly rising or turbulent market, which may provide a leverage customer with special motivation to attempt to resell his leverage contract to the LTM from whom it was purchased or to request delivery of the commodity from the LTM, may result in limit moves in the futures markets. The ensuing financial demands on an LTM covered only with futures contracts could thus come at a time when the LTM was facing heavy terminations of customer positions. This may provide an incentive for an LTM to widen its bid-ask spread and not afford its leverage customers the ability to realize the full rise in price of the cash commodity if such a price rise is not fully reflected in the price of futures contracts used as cover. Accordingly, the requirement that a minimum amount of cover consist of physical commodities is intended to encourage LTMs to cover some significant portion of their open commitments with the physical commodity and, as a result, better to ensure the financial solvency of leverage transactions and the financial integrity of LTMs in extraordinary markets. The Commission is establishing the cover requirement because this more nearly comports with how the known universe of LTMs currently assures performance. The requirement of cover in the actual is also directed at preventing the mere repackaging of futures as off-exchange contracts, to providing the actual commodity readily upon demand to leverage customers and to retaining the installment purchase character of leverage contracts.

Certain commentors also raised questions as to permissible locations where inventory could be held and counted as cover. The Commission has therefore clarified the cover regulation, and conformed it with the provision regarding use of leverage customer funds to purchase cover, to make it clear that inventory used as cover must be held in approved contract market depositories or in commercial banks located in the United States. An LTM may not maintain inventory on its own premises and have that inventory considered as cover. The Commission is aware of several firms which have operated on an off-exchange basis in the cash market and which have claimed that their obligations to their customers were covered, only to discover when the "moment of truth" arrived and delivery was demanded by customers, that the purported cover did not exist. Since an LTM's cover of obligations to leverage customers is essential to ensure the financial solvency of leverage transactions, which are between principals, and because the ability of auditors to determine if cover requirements are being met is equally essential, physical cover must be maintained in approved contract market depositories or commercial banks in the United States.

The Commission has adopted a separate rule, § 31.8, regarding cover of leverage contracts, which had been included in the proposed rules in § 31.9(a)(11).[36] Section 31.8 also provides that if a firm is not in compliance with the 90 percent cover requirement, or with the requirement that 25 percent of an LTM's obligations to customers be covered with physicals, it must cease doing business as an LTM. A schedule of coverage requirements and cover provided is included in Form 2–FR, the financial reporting form for LTMs. Further, an LTM must make a daily record of its cover requirements and the amount of actual coverage provided, similar to its daily segregation record.

E. Segregation of Leverage Customer Funds

The Commission proposed to require that an LTM at all times segregate 25 percent of the market value of commodities subject to open leverage contracts entered into by the LTM. Certain commentors objected to that requirement, for a variety of reasons. The Commission generally agrees with the commentor (a firm which stated that it has engaged in a leverage business) which stated that there was no need for an LTM to offer financing in excess of 75 percent of a leverage contract's value. That commentor further stated that margin for a leverage contract should be higher than for a futures contract and also noted that a leverage customer's down payment reduces the unpaid amount of the leverage contract's value upon which carrying charges are calculated. Nonetheless, although the final rule provides that all customer funds received by LTMs must be segregated, the Commission has determined not to adopt the 25 percent segregation proposal.[37]

The Commission has also relaxed the segregation requirements from those that were proposed in two other ways.

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[35] The potential for delivery should also result in the LTM maintaining a bid-ask spread which is not too wide. There should be no incentive for a wide bid-ask spread if the leverage customer can take delivery and make a profit in the retail market.

[36] The provisions of proposed § 31.9(a)(11) which are not contained in § 31.8 are now included in § 31.9(a)(12) and will apply only to the question of whether certain assets which are not being used to cover leverage contracts are to be considered covered themselves for purposes of determining the appropriate safety factor charge for such assets when an LTM computes its adjusted net capital.

[37] At the same time, the Commission recognizes that the cover requirements will create a natural incentive for an LTM to obtain a significant percentage of the market value of the commodities subject to leverage contracts from its leverage customers. For instance, if an LTM has open contracts with leverage customers worth $10,000,000, and the LTM maintains the minimum amount of physical cover required by means of unencumbered warehouse receipts and covers the remainder of its obligations with futures at a 2 percent futures margin level, the LTM's cover could cost as much as $2,650,000 (which is 26.5 percent of $10,000,000) to maintain. However, if the LTM were to use encumbered warehouse receipts to the extent permitted under the rules contained herein, its cost of cover could be only $900,000, or 9 percent of $10,000,000.

First, an LTM will be able to invest customer funds in municipal securities, as can an FCM. Second, an LTM will not be required to cease doing business as an LTM if it becomes undersegregated, although it will be required to notify the Commission to that effect.

It is also notable that although the Commission has revised the permitted cover to include warehouse receipts which are collateral for loans, the Commission has not altered the requirement that only unencumbered warehouse receipts are proper investments of segregated funds. This is because in a bankruptcy or other liquidation proceeding, segregation is the principal protection of customer funds. The creation of competing security interests in such funds could diminish significantly the recovery of customer funds and thereby diminish the protections accorded by segregation. Such a result could ultimately undermine the concept of segregation itself.

An LTM which uses leverage customer funds to margin futures contracts or to purchase commodity options used as cover for the LTM's obligations on leverage contracts must use a commodity account containing futures or option contracts which do not represent cover. Such LTM must also obtain and retain in its files for the period provided in § 1.31 of this chapter an acknowledgment from the FCM wherein the leverage customer funds have been deposited that: (1) The FCM has been informed that the commodity account is being treated by the LTM as belonging to leverage customers and is being held in accordance with the provisions of § 31.12, (2) the customers on whose behalf the account is maintained by the LTM shall not be liable for any margin calls or other required deposits related to such account, and (3) upon liquidation of the open contracts in the account, subject to Part 190 of the Commission's regulations, the FCM's claim in the balance will be subordinate to that of leverage customers. The FCM has no claim except for the margin or the premium related to futures or option contracts in such an account, and therefore the FCM cannot make a claim against that account to satisfy any debts owed to it by the LTM related to an account which contains contracts which do not represent cover of obligations to leverage customers.

The Commission further wishes to note that the purpose of the segregation and the cover roles is to protect the interest of the leverage customer. The Commission will closely monitor the use by LTMs of leverage customer funds to margin futures contracts or to purchase commodity options used as cover for leverage contracts. The Commission also will consider whether further leverage customer protections are needed, such as a requirement that futures or options used as cover be held in separate accounts by commodity (*i.e.*, whether copper futures or options used as cover would have to be held in an account separate from gold futures or options used as cover) with no right of offset between them so that problems which occur in the market for a particular commodity will not affect the cover of a different commodity.

F. Other Financial Requirements

During the Commission's review of the comments on the financial requirements for LTMs and its own review of those proposals, the Commission has discovered several ways in which it believes the financial rules applicable to LTMs can be clarified and simplified, and accommodate certain comments received. A discussion of these matters follows.

Price Series—When the Commission issued the proposed leverage rules, § 31.9(a)(1) was reserved for a provision relating to the price series to be used by an LTM to compute the market value of the physical commodities subject to each uncovered leverage contract entered into by the LTM for purposes of determining the LTM's minimum adjusted net capital requirement. Twenty percent of such market value must be added to an LTM's minimum dollar requirement of $2,500,000. For example, if such market value were $500,000, the LTM's adjusted net capital requirement would be $2,600,000 ($2,500,000+(.20×$500,000)).

The Commission has adopted § 31.9(a)(1), which basically requires each LTM to compute the market value of physical commodities subject to uncovered leverage contracts by using the widely accepted and disseminated commercial or retail cash price series submitted with the LTM's application for registration of a particular leverage commodity in accordance with § 31.6, and cannot include any mark-ups or discounts of the LTM. For example, an LTM may have uncovered leverage contracts involving gold bullion, and the price series submitted by the LTM in accordance with § 31.6 might indicate a price for gold bullion of $400 per ounce. The LTM may at the time be offering to enter into a new gold bullion leverage contract at a price of $410 per ounce, and offering $390 per ounce to repurchase an existing gold bullion leverage contract, a $20 bid-ask spread. When computing its minimum adjusted net capital requirement, the LTM would have to add to $2,500,000 the number of ounces of gold bullion subject to leverage contracts which are uncovered multiplied by $400. The Commission believes that an LTM must use a consistent reference point to the cash or spot market which is widely disseminated on a timely basis and verifiable independent of the LTM to establish the market value of commodities subject to leverage contracts should such a valuation be necessary to determine the LTM's minimum net capital requirement.[38]

Customer/Noncustomer/Proprietary Account Distinction—The Commission has determined not to make a distinction between customers and "non-customers", as the latter term is used for purposes of Commission Rule 1.17, with respect to leverage contracts and the financial rules applicable to LTMs. Thus, the definitions contained in proposed § 31.9(a)(4) (ii) and (iv) have not been adopted, and the general definition of leverage customer contained in § 31.4(d) will apply throughout Part 31. That definition states that a leverage customer means any person who, directly or indirectly, enters into, purchases, or otherwise acquires for value any interest in a leverage contract from an LTM.[39] Thus, any person who purchases a leverage contract from an LTM, even if the purchaser is an associated person of the LTM, is to be treated the same way for purposes of an LTM's computation of its adjusted net capital. For example, the differential grace period which an FCM has with respect to undermargined customer and noncustomer accounts before it may take a charge against net capital (three days versus two days) does not apply to an LTM, for which the three day grace period will apply as to all accounts. *Compare* Commission Rule 1.17(c)(5) (viii) and (ix) with Rule 31.9(a)(10).

The Commission has adopted, in § 31.9(a)(5)(ii), a definition of proprietary account for purposes of § 31.9 which is

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[38] Of course, this discussion is only relevant to an LTM which leaves obligations to leverage customers uncovered. Since the Commission's cover rule would permit only 10 percent of such obligations to be uncovered, and since an LTM could cover that portion of its obligations with futures contracts, exchange-traded commodity options or physical inventory rather than having to increase its adjusted net capital by 20 percent of the market value of the commodities subject to uncovered leverage contracts, LTMs may have a natural incentive to cover all of their obligations to customers.

[39] This definition is similar to the definition of an option customer in the context of dealer options. *See* Commission Rule § 32.1(b)(3).

similar to the definition of proprietary account contained in § 1.17(b)(3), so that an LTM will be subject to the same safety factor charges as an FCM with respect to the firm's own trading, or the trading of general partners, when computing adjusted net capital. There is, however, no general proprietary account definition with respect to leverage contracts as there is for futures contracts and exchange-traded options (*see* Commission Rule 1.3(y)). Therefore, an LTM must segregate all funds received from its associated persons or principals for the purpose of purchasing leverage contracts, as it must segregate those funds received from any other customer (§ 31.12), and the LTM must cover 90 percent of its obligations on leverage contracts purchased by associated persons of the LTM (§ 31.8). An LTM must generally treat every customer in an equivalent manner, and the Commission will monitor LTMs to determine if associated persons or principals who purchase leverage contracts are given more favorable terms than other customers, and if that is the case, whether additional regulations or enforcement actions are necessary. In any event, under Part 190, the Commission's bankruptcy rules, claims of insiders such as principals or associated persons would be subordinate to customer claims.

Safety Factor Charges—The Commission has clarified certain provisions relating to safety factor charges ("haircuts") which an LTM must take against its net capital when computing its adjusted net capital. Section 31.9(a) (9) and (10). The Commission does not intend that the haircuts which would otherwise apply to inventory be taken by an LTM when the inventory in question represents cover for leverage contracts. The inventory haircuts are set forth in Commission Rule 1.17(c)(5)(ii) (B) and (C), but when the Commission proposed the leverage regulations, the reference to Rule 1.17(c)(5)(ii)(C) was not set forth in proposed § 31.9(a)(9). As a result, the rule could have been read to require haircuts to be taken by an LTM for certain inventory being used as cover for leverage contracts. This inadvertent omission has been corrected.

The Commission similarly does not intend that the haircuts applicable to an LTM's futures or exchange-traded commodity option trading be taken if such trading represents cover for leverage contracts. The regulations as proposed did not provide that exchange-traded commodity options could be considered as cover for leverage contracts, so there was no reference in proposed § 31.9(a)(9) to the haircut, for a firm's exchange-traded commodity option trading. That haircut, which is set forth in Commission Rule 1.17(c)(5)(xii), is now specifically referred to in § 31.9(a)(9).

The Commission has also clarified the provision relating to the haircut to be taken for an undermargined leverage customer account. Section 31.9(a)(10). When the Commission proposed § 31.9(a)(9), it stated that, except as noted otherwise, the haircuts set forth in Commission Rule 1.17(c)(5) for FCMs would also apply to LTMs, and this would include the undermargined account haircuts contained in Rule 1.17(c)(5) (viii) and (ix). The Commission determined to clarify that the haircut in Rule 1.17(c)(5)(viii) for undermargined commodity futures and commodity option customer accounts will apply to undermargined leverage customer accounts (that is, there will be a three-day grace period before the charge must be taken if a margin call is issued). Appropriate changes in terminology have been made to make this result clear.[40] Further, since there is no distinction between customer and noncustomer accounts with respect to leverage contracts, as discussed above, and since there will be no omnibus leverage accounts, the haircut in Rule 1.17(c)(5)(ix) is irrelevant to LTMs for purposes of computing adjusted net capital.

Computation of Adjusted Net Capital—In order for an LTM to compute its actual adjusted net capital requirement, the LTM will have to follow the provision set forth in § 31.9, and particularly, paragraphs (a)(6) through (a)(8), and paragraph (a)(11). Those paragraphs incorporate most of the provisions of Commission Rule 1.17 and relate to such items as current assets, liabilities, the debt-equity requirement withdrawal of equity capital and subordination agreements.[41] A more complete description of the application of § 1.17 may be found in the Commission's release announcing the proposed rules for introducing brokers. 48 FR 14933, 14943–47 (April 6, 1983).

Financial Reporting—The Commission has adopted a new financial reporting form for LTMs, the Form 2–FR.[42] The form as adopted is identical in most respects to the form as proposed, but certain changes have been necessitated due to the rule changes discussed above. The minimum adjusted net capital requirement and the early warning level of adjusted net capital which appear on the form have been altered to reflect the rules as adopted. Since the Commission has adopted specific levels of cover to be maintained, a schedule of coverage requirements and coverage provided is included. References to noncustomer accounts have been deleted, since that concept will not apply to leverage contracts. The segregation schedule as adopted is more like the schedule for FCMs contained in Form 1–FR than was the proposed segregation schedule for LTMs, since the proposed 25% segregation rule for LTMs was not adopted and the segregation requirements for an LTM will be similar to those of an FCM (although an LTM has greater flexibility in the use of segregated funds than does an FCM).

When the Commission issued the proposed leverage rules, it stated that it intended also to make appropriate, technical amendments to its rules concerning Commission records and information, 17 CFR Part 145, and its rules pertaining to open Commission meetings, 17 CFR Part 147. The Commission has added § 145.5(d)(1)(i)(F) and § 147.3(b)(4)(i)(A)(*6*) to its regulations under the Freedom of Information Act and Government in the Sunshine Act, respectively. Those new paragraphs provide for nonpublic treatment of Form 2–FR to the extent presently provided for the Form 1–FR. If an LTM follows the separate binding procedure set forth in § 31.13(m), the Commission will generally treat as nonpublic the following provisions of Form 2–FR: The Statement of Income (Loss), the Statement of Changes in Financial Position, the Statement of Changes in Ownership Equity, the Statement of Changes in Liabilities Subordinated to the Claims of General Creditors Pursuant to a Satisfactory Subordination Agreement and the accountant's report on material inadequacies filed under § 1.16(c)(5) of this chapter. Accordingly, the generally public portions of Form 2–FR are the Statement of Financial Condition, Statement of the Computation of the Minimum Capital Requirements, Schedule of Coverage Requirements and Coverage Provided,

[40] An LTM's obligations with respect to margin calls is set forth in § 31.16.

[41] For those LTMs which wish to use subordinated debt as part of their financial structure, many commodity and security exchanges have form agreements which may be useful as a model for an LTM, with appropriate changes in references to rules and capital levels.

[42] Anyone interested in obtaining a copy of Form 2–FR may contact Mr. Patent at the address or telephone number listed in this release.

and the Schedule of Segregation Requirements and Funds in Segregation. LTMs are also reminded of their obligation to furnish, upon request, the generally public portions of its most recent quarterly unaudited or annual audited Form 2–FR to all leverage customers with open leverage contracts and to prospective leverage customers who are being solicited to enter leverage contracts with the LTM. Section 31.11(1).

Section 31.13(e) states generally that financial reports required to be filed by LTMs will be considered filed when received by the regional office of the Commission with jurisdiction over the state wherein the principal place of business of the LTM is located, in accordance with Commission Rule § 140.2. The Commission has added a proviso to that paragraph which states that firms under the jurisdiction of the Western Regional Office must file their financial reports with the Southwestern Regional Office. Accordingly, an LTM located in California must file its Form 2–FR with the Commission's Kansas City office, not the Los Angeles office. This is consistent with the treatment of FCMs and is necessary because the Commission has no audit and financial review personnel stationed in the Los Angeles office.

Definition Of Leverage Customer Funds—For purposes of simplification and conformity, the Commission has determined to adopt a definition of "leverage customer funds." Section 1.3(pp). By adopting and using this phrase throughout § 31.12, the rule relating to segregation of leverage customer funds, the Commission need not continually repeat the phrase "money, securities or property" in § 31.12. Also, the use of this term and its definition parallels the treatment of customer funds with respect to futures and exchange-traded options in Commission Rule §§ 1.3(gg) and 1.20 through 1.30. The definition of leverage customer funds means all money, securities and property received by a leverage transaction merchant from, for, or on behalf of leverage customers to margin, guarantee or secure leverage contracts (or the extension of credit in lieu thereof), and all money accruing to such customers as the result of such contracts. Profit or loss accruing to a leverage customer is the difference between the leverage transaction merchant's current bid price for the leverage contract and the ask price of the leverage contract when entered into.[43]

Delegation of Authority—The Commission has delegated the authority to perform all functions reserved to the Commission under § 31.13 to the Director of the Division of Trading and Markets or his designee. Section 31.13(n)(1). This delegation will allow the Director or his designee to approve or disapprove financial rules of a designated self-regulatory organization for member LTMs (§ 31.13(b)(2)), requests for change in fiscal year (§ 31.13(j)), and requests for extensions of time to file financial reports (§ 31.13 (k) and (l)). The Director of the Division of Trading and Markets may submit to the Commission for its consideration any matter delegated to him pursuant to § 31.13(n)(1). The delegation contained in § 31.13(n)(1) is similar to the Commission's delegation with respect to the financial rules applicable to FCMs and introducing brokers. Commission Rule § 140.91.

Effective Date of Minimum Financial and Related Reporting Requirements—The Commission recognizes that those firms which can demonstrate compliance with the temporary moratoria set forth in Commission Rule §§ 31.1 or 31.2 may need some additional time beyond the general 60-day effective date to achieve and demonstrate compliance with the minimum financial requirements. Accordingly, the Commission has determined to permit any firm which can demonstrate it is properly in business under the temporary moratoria set forth in Commission Rule §§ 31.1 or 31.2 to have until April 30, 1984 (which is more than 100 days from the date of adoption of these rules) to achieve compliance with the minimum financial requirements set forth in § 31.9.[44] Demonstration of such compliance would then have to be made by submitting a Form 2–FR certified by an independent public accountant as of April 30, 1984 no later than 45 days thereafter, which is June 14, 1984 (150 days from the date of adoption of these rules). A firm also has the option of submitting an unaudited Form 2–FR by June 14, 1984 as of a date not more than 45 days prior thereto, if it is accompanied by a Form 2–FR certified by an independent public accountant as of a date not more than one year prior thereto (such as December 31, 1983), and if both reports demonstrate compliance with § 31.9. Section 31.13(a). In this connection, the Commission wishes to note that the cover and segregation requirements, §§ 31.8 and 31.12, respectively, will become effective on the general effective date of this release.

XVI. Monthly Reporting Requirement

Section 31.16 establishes the form and content of reporting requirements for leverage transaction merchants. This rule is similar to the proposed rule of June 1, 1983. The Commission has modified the rule to include the required reporting of the number of rescissions during the month. Under this rule, leverage transaction merchants who sell leverage contracts are required to submit monthly reports to the Commission. These reports are to be prepared and submitted on two new CFTC forms which will be available from the Commission's headquarters office in Washington, D.C. Examples of these forms accompany this notice. In addition, the Commission has amended Rules 145.5 and 147.3 to recognize the confidential nature of the information reported on Form 188.

Several commentors objected to, variously, required reports of deliveries, commercial usage and the by-commodity breakdown of information by leverage commodities. The Commission however needs such information to monitor developments in the industry and the practices of individual leverage firms. Despite a comment to the contrary, the Commission does not believe that compiling such information will be a costly burden to leverage transaction merchants because the required information should be available readily for the firm's own purposes.

XVII. Notice of and Reasonable Opportunity To Meet Margin Calls

The Commission also sought comments regarding the best means of ensuring that leverage customers be given both adequate notice of margin deficiencies and a reasonable opportunity to meet margin calls before a leverage transaction merchant can exercise its rights under a leverage contract to liquidate a leverage customer's leverage contract position.[45]

The commentors generally opposed any proposal that would circumscribe a leverage transaction merchant's actions regarding margin calls. One commentor suggested that the Commission should not mandate the timing and method of margin calls, but rather mandate what remedy should be available to a

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[43] An LTM operating with a bid-ask spread will normally be offering to repurchase a leverage contract at a lower price than it is offering to enter into a new leverage contract, that is, the bid price will be lower than the ask price. Therefore, a leverage customer entering into a leverage contract with such an LTM will accrue a loss on the leverage contract immediately upon entry into the contract.

[44] The financial early warning system for LTMs, which is set forth in § 31.7, will become effective at the same time.

[45] 48 FR 28668, 28671 (June 23, 1983).

leverage customer against a leverage transaction merchant who fails to give adequate notice of a margin deficiency or a reasonable time to meet a margin call. Several commentors noted that appropriate margin calls and forced liquidations are essential to the financial well-being of the leverage transaction merchant and that forced liquidations protect undermargined customers from additional losses and adequately margined customers from the threat to the leverage transaction merchant's survival posed by undermargined and deficit accounts. The commentors also pointed out that no similar provision is imposed upon registered futures commission merchants or provided futures customers. The commentors pointed out the time involved in transmitting margin calls to a large number of customers and the difficulty in contacting leverage customers by telephone and mail. One commentor, who believes that customer vigilance is the best means to achieve the goals of this proposal, proposed alternatively that the Commission require a good faith effort by the leverage transaction merchant to contact a leverage customer, with records kept of attempts to contact a leverage customer and possibly a telegram to be sent where attempts at telephone contact are unsuccessful, but that a leverage transaction merchant should not be required to wait more than 24 hours before liquidating a leverage customer's position.

The Commission has carefully considered all of the comments received on this subject. Nevertheless, the Commission remains concerned that a leverage customer be given notice of a margin deficiency and a reasonable opportunity to meet a margin call. This concern is heightened by the leverage transaction merchant unilaterally setting the price of the leverage contract that will trigger the margin call, by the leverage transaction merchant's bid and ask prices not being widely disseminated, and by the termination charges payable to the leverage transaction merchant by the leverage customer upon liquidation of a leverage contract.

Accordingly, the Commission has determined to adopt § 31.18. Section 31.18(a) provides that no leverage transaction merchant shall liquidate a leverage contract because of a margin deficiency without effecting personal contact with the leverage customer. However, as one commentor suggested, a leverage transaction merchant may send a telegram to the leverage customer if the leverage transaction merchant is unable to effect personal contact.

Section § 31.18(b) requires the leverage transaction merchant to allow a leverage customer a reasonable time after contact is effected in which to respond to a margin call and establishes 24 hours, excluding weekend and holidays, as a reasonable time. However, in the event the equity in a leverage customer's leverage account equity falls below 50% of the aggregate minimum margin with respect to all leverage contracts in the leverage customer's account, the leverage transaction merchant may liquidate sufficient contracts to restore minimum margin without prior notice, provided that the leverage customer must be notified of such liquidation within 24 hours thereof and permitted to re-establish any contracts so liquidated for a period of five business days at the then prevailing bid price without any commissions, fees, or other markups or charges whatsoever.[46]

The Commission believes that this provision will allow the leverage customer the opportunity to meet a margin call while providing adequate safeguards to protect the leverage transaction merchant from incurring undue losses resulting from deficit accounts. The Commission is not establishing 24 hours as the minimum time a leverage customer must be allowed to respond to a margin call; however, a leverage transaction merchant will have the burden of establishing the reasonableness of any period less than 24 hours. At the same time, the provision allows the leverage transaction merchant in certain situations to liquidate a leverage customer's leverage contracts, thereby protecting both the leverage transaction merchant and the leverage customer.

Finally, § 31.18(c) requires the leverage transaction merchant to keep a record of all margin calls, including all contact with leverage customers and attempts to contact leverage customers, in accordance with the provisions of § 31.14 of the Commission's regulations. One commentor suggested that a leverage transaction merchant keep records of attempts to contract leverage customers regarding margin calls.

XVIII. Timestamping and Daily Price Records

The Commission specifically requested comments concerning whether a leverage transaction merchant should be required to timestamp or otherwise record the time of execution (to the nearest minute) of all customer orders involving leverage transactions, and be required to maintain a daily record of the bid prices and ask prices of the leverage contracts marketed by the leverage dealer and the times those prices were in effect.[47]

The commentors who addressed themselves to this issue generally supported this timestamping and recordkeeping proposal. Several commentors found these requirements an aid to customer protection. One of those commentors stated that these requirements should neither present any technological or structural problems for leverage transaction merchants nor have an adverse impact upon their ability to conduct their business. Another commentor, claiming to be in the leverage business and representing that it currently timestamps or otherwise records the time of each leverage transaction and maintains daily a continuous record of its bid and ask prices, did not object to the imposition of such recordkeeping requirements, although it does not believe them particularly necessary.

The Commission has determined that this timestamping and recordkeeping proposal will provide an important measure of customer protection and will aid in the construction of an audit trail. Accordingly, the Commission has determined to adopt § 31.17, which parallels in part § 1.35 of the Commission's regulations

XIX. Petitions for Exemption

As noted in the Commission's proposal, Congress considered implementation of these rules to be a significant addition to the existing regulatory structure under the Act. In this respect, the Commission will continue to monitor the effect of these rules and will consider such revisions to the system being adopted herein as may be appropriate. In the meantime, however, the Commission is aware that in certain instances these rules may require an existing LTM to alter or amend its current business practices. Therefore, in order to provide a mechanism to alleviate any unduly adverse or unforseen impact of these rules, the Commission has adopted § 31.24 which provides a general exemption procedure applicable to these rules.

Under § 31.24, any person adversely affected by any requirement of Part 31 may file a petition with the Secretary of

[46] The Disclosure Document must specify what is minimum margin and also must specify the order in which contracts will be liquidated if unilateral liquidation becomes permissible.

[47] 48 FR 28671 (June 23, 1983).

the Commission setting forth the reasons why that person believes he should be exempt from a requirement. The Commission may, in its discretion, grant such an exemption if that person demonstrates to the Commission's satisfaction that: (1) Under the exemption, that person's business will be conducted in a manner that may reasonably be expected to ensure the financial solvency of the contracts to be offered and sold and to prevent manipulation and fraud, (2) the manner in which the business will be conducted will present no substantial risk to the public, and (3) the exemption is not otherwise contrary to the public interest or to the purposes of the provision from which exemption is sought. The Commission will grant or deny the petition on the basis of the papers filed. In addition, the petition may be granted subject to such terms and conditions as the Commission may find appropriate. It should be noted that the burden of establishing that the exemption is in the public interest rests with the petitioner. Section 31.24.

An example of when an LTM may determine to petition for an exemption concerns the cash price series to be used in connection with the calculation of an LTM's minimum adjusted net capital requirement. As stated above, the Commission has adopted § 31.9(a)(1), which basically requires each LTM to compute the market value of physical commodities subject to uncovered leverage contracts by using the widely accepted and disseminated commercial or retail cash price series submitted with the LTM's application for registration of a particular leverage commodity in accordance with § 31.6, and cannot include any mark-ups or discounts of the LTM. If an LTM believes that it would be more appropriate to compute such market value by using a widely accepted and disseminated commercial or retail cash price series other than the one submitted under § 31.6, the LTM could petition the Commission under § 31.24. The Commission notes, however, that it would be unlikely to approve a cash price series which is more advantageous to the LTM than the price series submitted under § 31.6.

XX. Additional Provisions

A. Requirement Concerning Repurchase of Leverage Contracts

In addition to the provision in the proposed definition of leverage contract discussed above, the Commission proposed in Section 31.10 specifically to require an LTM, at all times, to offer to repurchase leverage contracts sold to its customers. In this regard, the Commission specifically requested comments on appropriate guidelines or quantitative measures to be used by LTMs in establishing price quotations to satisfy this repurchase requirement. The Commission also sought comments suggesting other alternative measures designed to assure that LTMs fulfill their obligations under leverage contracts to their customers, such as a specific cover requirement.

While one commentor supported the repurchase requirement, a number of commentors were generally critical of the provision as being impractical and contrary to industry practice. In addition the commentors, while suggesting some alternatives (including cover requirements) to the rule, were generally unable to suggest specific guidelines or other measures to be incorporated in the rule concerning the establishment of prices at which repurchases would be made.

In light of these comments and upon review of the proposal, the Commission has determined to delete the repurchase requirement as proposed and adopt, as an alternative, a less stringent requirement that an LTM may not offer to enter into or enter into leverage contracts in a commodity at any time that the LTM is not offering to repurchase from any of its customers leverage contracts involving that commodity. The Commission believes that this provision, like the original proposal, will provide some degree of assurance that LTMs will fulfill their obligations to their customers.

B. Anti-fraud Rule

The Commission sought comment concerning whether it should amend its anti-fraud rule applicable to leverage transactions, § 31.03, to incorporate specifically the language of the anti-fraud proscriptions of Section 4*o* of the Act. Upon further review and in light of the comments received, the Commission has determined that the proscriptions now contained in § 31.03 are fully as broad as those set forth in Section 4*o* of the Act and that any amendment to the rule is therefore unnecessary. The Commission is, however, redesignating § 31.03 as § 31.3.

C. Review of Promotional Materials

The Commission expressed interest in receiving comments concerning what role it should assume in reviewing promotional materials employed in the offer and sale of leverage transactions. Several commentors supported Commission review of promotional materials while others felt it would constitute an unconstitutional restraint of commercial speech and would be generally burdensome to both LTMs and the Commission.

The Commission has concluded that prior review of promotional materials is unnecessary at this time. As one commentor suggested, the Commission believes at this time that subsequent review of such materials in the course of a compliance audit or other Commission investigation may be adequate. It should be noted that promotional materials, as defined in § 31.4(c), are generally required by § 31.14 to be kept by LTM's and made available for inspection, and that it is expected that the Commission or any appropriate self-regulatory organization will conduct sales practice audits for this and other matters from time to time on a surprise basis.

D. Miscellaneous Provisions

Proposed § 31.17, now § 31.19, which has been adopted with the addition of a new paragraph (b), generally makes unlawful certain specified representations by persons engaged in the offer and sale of leverage contracts. Proposed § 31.18, now § 31.20, concerning prohibitions of guarantees against loss, and proposed § 31.19, now § 31.21, concerning leverage transactions entered into prior to the effective date of these regulations, have been adopted essentially as proposed.

Pursuant to proposed § 31.20, which has been adopted as § 31.22, a futures commission merchant will generally be prohibited from engaging in leverage contracts. Several commentors questioned the necessity for this proscription, one of whom suggested that this would prohibit a firm from marketing both leverage and futures contracts, and that this result would be harmful to competition. Such a result may readily be avoided, however, were such a company, as an FCM, to incorporate or otherwise create a separate affiliated business entity or subsidiary to engage in the leverage business as an LTM. In any event, as noted above in the discussion of the prohibitions of certain multiple associations by APs of LTMs, the Commission notes that this is a new regulatory program and there are significant differences between the manner in which futures contracts and leverage contracts are offered to the public which has resulted in differing regulatory requirements being imposed by the Commission. As also noted above, inasmuch as this is the first time the Commission has adopted a regulatory scheme applicable to leverage contracts, the Commission believes that it is necessary to proceed slowly to permit a cautious development

of these regulations without posing unreasonable risks to the public. Accordingly, the Commission believes at this time that the benefits accruing to the public from such a cautious approach outweigh any possible adverse effects upon competition or otherwise which might result from the operation of § 31.22.

The Commission has also adopted two minor technical and conforming amendments to Part 190 of its regulations which contains rules governing the liquidation of certain commodity firms, including LTMs. First, the Commission has added paragraph (nn) to § 190.01 which states that a "leverage contract" shall have the same meaning as that set forth in § 31.4(w). Second, the Commission has amended paragraph (g) of § 190.01 to provide that the term "commodity contract" shall have the same meaning, subject to § 190.01 (nn), as that set forth in Section 761(6) of the Bankruptcy Code.

At its meeting on January 16, 1984, the Commission voted, for purposes of consistency, to conform the language in the regulations to refer to the purchase of commodities pursuant to a leverage contract. The Commission continues to believe that consistency in the terminology employed in the regulations is important. However, upon further reflection, the Commission has determined that the regulations should uniformly reflect the purchase of leverage contracts by leverage customers. The Commission believes that this is consistent with its definition of a leverage contract in § 31.4(w) as a contract for the long-term (ten years or longer) purchase by a leverage customer of a leverage commodity and with the fundamental nature of a leverage transaction.

XXI. Related Matters

A. Regulatory Flexibility Act

When the Commission proposed these rules for certain leverage transactions, the Chairman, on behalf of the Commission, certified pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, that the adoption of the rules as proposed would not appear to affect a substantial number of small firms. The Commission based this determination upon information available to it which indicated that only a very small number of persons or firms were engaged in leverage businesses involving gold and silver bullion or bulk coin, copper or platinum in accordance with the Commission's moratoria rules. While comments were specifically solicited from small firms which might be adversely affected by the rules, nothing presented to the Commission in the comments received has caused the Commission to change this determination. As a result, and even with the expanded application of these rules also to encompass leverage transactions involving certain foreign currencies, the Commission continues to believe that these rules will not have a significant economic impact on a substantial number of small entities.

B. Paperwork Reduction Act

The Commission has submitted pertinent portions of these rules to the Office of Management and Budget in accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35).

C. Section 15 Considerations

Several persons who commented on the Commission's June 1, 1983 proposed rules maintained that rules were anticompetitive in various respects. In particular, it was suggested that the financial requirements for LTMs, including the related segregation and cover provisions, would constitute a barrier to smaller firms wishing to enter the leverage business; the prohibition upon FCMs and their employees from selling leverage contracts could be harmful to competition that might develop between FCMs and LTMs; and the continuation of the moratoria even for a short period would exclude potential competitors from entering the leverage business. In proposing and adopting these interim rules, however, the Commission has taken into account its responsibilities under Section 15 of the Act, 7 U.S.C. 19 (1982) and has determined that these rules, in the form now adopted, meet the requirements of that Section.

Section 15 does not require the Commission to subordinate the policies and purposes of the Commodity Exchange Act to those of the antitrust laws. Rather, Section 15 requires only that the Commission take into consideration the public interest to be protected by the antitrust laws and endeavor to take the least anticompetitive means of achieving the objectives, policies and purposes of the Act. Moreover, Section 15 does not require the Commission to adopt the least anticompetitive course of action where the objectives, policies and purposes of the Commodity Exchange Act would be better served in some other way.[48]

While the Commission is mindful that the financial rules (which have been substantially modified from what was proposed) as well as the separation of the businesses of FCMs and LTMs (which also has been modified) and the continuation of the moratoria may impose some limitations upon the ability of certain persons to enter into or continue in the leverage business and thus may result in some lessening of competition, the Commission in its judgment finds that these interim rules are necessary to effectuate an essential purpose and policy of the Act. In this regard, the Commission is required by the Act to provide essential customer protections which would attempt to ensure the financial solvency of leverage transactions and would attempt to prevent manipulation or fraud in connection with the offer and sale of such transactions. *See* Section 19(b) of the Act. As a result, these interim rules have been designed to provide such customer protections as are deemed essential. While these rules may have some anticompetitive effects, the Commission, in weighing its responsibilities under the Act, has nonetheless determined that the objectives, policies and purposes of the Act can be met, in its judgment, only by the adoption of interim rules such as these.

D. Effective Date

Section 4(c) of the Administrative Procedure Act (5 U.S.C. 553(d)) specifies generally that rules promulgated by an agency may not be made effective less than 30 days after publication except "for good cause." The Commission finds that good cause exist to make §§ 31.5(c) and 31.5(d) contained herein effective upon the date of publication because the adoption of those rules is necessary to allow persons who were not formerly registered with the Commission to now apply for registration. Moreover, persons subject to §§ 31.5(c) and 31.5(d) will not be prejudiced by immediate effectiveness of those rules since the rules grant such persons a sufficient period of time to enable compliance. In addition, compliance with those rules will enable such persons to continue to engage in business pending a final registration determination by the Commission.

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[48] *See, e.g., British American Commodity Options Corp. v. Bagley*, Comm. Fut. L. Rep. (CCH) ¶20,245 at 21,334 (S.D.N.Y. December 21, 1976), *aff'd in part and rev'd in part on other grounds*, 552 F.2d 482 (2d Cir.), *cert. denied*, 434 U.S. 938 (1977); *Rosenthal v. Bagley*, 450 F. Supp. 1120, 1124–1125 (N.D. Ill. 1978); *Commodity Futures Trading Commission v. American Board of Trade, Inc.*, 473 F. Supp. 1177, 1182 (S.D.N.Y. 1979).

E. List of Subjects

17 CFR Part 1

Definitions, Minimum financial requirements.

17 CFR Part 3

Registration requirements, Leverage transaction merchants, Associated persons of leverage transaction merchants, Authority delegations.

17 CFR Part 4

Commodity trading Advisors, Exemption from registration.

17 CFR Part 31

Definitions, Registration of leverage commodities, Registration of leverage transaction merchants and leverage representatives, Minimum financial requirements, Repurchase of leverage contracts, Disclosure and segregation requirements, Financial reports, Recordkeeping and reporting requirements, Unlawful representations, Prohibition of guarantees against loss, Prohibited trading, Fraud, Petitions for exemption.

17 CFR Part 145

Records, Freedom of Information Act.

17 CFR Part 147

Records, Government in the Sunshine Act.

17 CFR Part 190

Definitions.

In consideration of the foregoing, and pursuant to the authority contained in the Sections 8a(5) and 19 of the Commodity Exchange Act, as amended, 7 U.S.C. 12a(5) and 23 (1982), and in 5 U.S.C. 552 and 552b, the Commission hereby amends Chapter I of Title 17 of the Code of Federal Regulations as follows:

PART 1—GENERAL REGULATIONS UNDER THE COMMODITY EXCHANGE ACT

1. Section 1.3 is amended by revising paragraphs (aa) (introductory text), (aa)(4) and (ff) and by adding paragraphs (aa)(5), (oo), (pp) and (qq) to read as follows:

§ 1.3 Definitions.

* * * * *

(aa) *Associated person.* This term means any natural person who is associated in any of the following capacities with:

* * * * *

(4) A commodity trading advisor as a partner, officer, employee, consultant, or agent (or any natural person occupying a similar status or performing similar functions), in any capacity which involves: (i) The solicitation of a client's or prospective client's discretionary account, or (ii) the supervision of any person or persons so engaged; and

(5) A leverage transaction merchant as a partner, officer, employee, consultant, or agent (or any natural person occupying a similar status or performing similar functions), in any capacity which involves: (i) The solicitation or acceptance of leverage customers' orders (other than in a clerical capacity) for leverage transactions as defined in § 31.4(x) of this chapter, or (ii) the supervision of any person or persons so engaged.

* * * * *

(ff) *Designated self-regulatory organization.* This term means a self-regulatory organization of which a futures commission merchant, an introducing broker or a leverage transaction merchant is a member, or if a futures commission merchant or an introducing broker is a member of more than one self-regulatory organization and such futures commission merchant or introducing broker is the subject of an approved plan under § 1.52, then a self-regulatory organization delegated the responsibility by such a plan for monitoring and auditing such futures commission merchant or introducing broker for compliance with the minimum financial and related reporting requirements of the self-regulatory organizations of which the futures commission merchant or introducing broker is a member, and for receiving the financial reports necessitated by such minimum financial and related reporting requirements from such futures commission merchant or introducing broker.

* * * * *

(oo) "Leverage transaction merchant" means and includes any individual, association, partnership, corporation, trust or other person that is engaged in the business of offering to enter into, entering into or confirming the execution of leverage contracts, or soliciting or accepting orders for leverage contracts, and who accepts leverage customer funds (or extends credit in lieu thereof) in connection therewith.

(pp) "Leverage customer funds" means all money, securities and property received, directly or indirectly by a leverage transaction merchant from, for, or on behalf of leverage customers to margin, guarantee or secure leverage contracts and all money, securities and property accruing to such customers as the result of such contracts, or the customers' leverage equity. Profit or loss accruing to a leverage customer is the difference between the leverage transaction merchant's current bid price for the leverage contract and the ask price of the leverage contract when entered into.

(qq) "Leverage contract" shall have the same meaning as that set forth in § 31.4(w) of this chapter.

2. Section 1.12 is amended by revising paragraph (f) to read as follows:

§ 1.12 Maintenance of minimum financial requirements by futures commission merchants, introducing brokers and leverage transaction merchants.

* * * * *

(f)(1) Whenever a clearing organization determines that any position it carries for one of its clearing members which is registered as a futures commission merchant or as a leverage transaction merchant must be liquidated immediately, transferred immediately or that the trading of any account of such futures commission merchant or such leverage transaction merchant shall be only for the purposes of liquidation, because that clearing member has failed to meet a call for margin or to make other required deposits, the clearing organization must give telegraphic notice of such a determination to the principal office of the Commission at Washington, D.C. within 24 hours.

(2) Whenever a registered futures commission merchant determines that any position it carries for another registered futures commission merchant or for a registered leverage transaction merchant must be liquidated immediately, transferred immediately or that the trading of any account of such futures commission merchant or leverage transaction merchant shall be only for purposes of liquidation, because the other futures commission merchant or the leverage transaction merchant has failed to meet a call for margin or to make other required deposits, the carrying futures commission merchant must give telegraphic notice of such a determination to the principal office of the Commission at Washington, D.C., within 24 hours.

* * * * *

PART 3—REGISTRATION

3. Section 3.1 is amended by revising paragraphs (b) and (c) to read as follows:

§ 3.1 Definitions.

* * * * *

(b) *Current.* As used in §§ 3.10–3.17, a current Form 8–R or Form 94 is any such Form which was filed by or on behalf of a registrant or principal on or before July

1, 1982, if, subsequent to the filing of that Form, the registrant or principal has been continuously registered or continuously affiliated with a registrant as a principal.

(c) *Sponsor.* Sponsor means the futures commission merchant, introducing broker, commodity trading advisor, commodity pool operator, or leverage transaction merchant which makes the certification required by §§ 3.12, 3.16, or 3.18 for the registration of an associated person of such sponsor.

4. Section 3.2 is amended by revising paragraph (d) to read as follows:

§ 3.2 Registration processing by the National Futures Association; notification and duration of registration.

* * * * *

(d) The registration of each futures commission merchant, leverage transaction merchant and floor broker shall expire on the thirty-first day of March following the date on which registration was granted.

5. Section 3.3 is amended by revising paragraph (a)(3), by redesignating paragraph (a)(5) as paragraph (a)(6), by adding a new paragraph (a)(5), and by revising paragraph (a)(6) as redesignated to read as follows:

§ 3.3 Registration fees; form of remittance.

(a) * * *

(3) *Associated persons.* Each Form 8–R submitted in connection with the registration of an associated person of a futures commission merchant, commodity trading advisor, commodity pool operator or leverage transaction merchant must be accompanied by a fee of $35.

* * * * *

(5) *Leverage transaction merchants.* Each application for registration, or for renewal thereof, as a leverage transaction merchant must be accompanied by a fee of $275.

(6) *Branch offices.* A fee of $6 must be provided for each branch office of a registrant operating within the United States, as specified in any Form 7–R or any Schedule thereto or in any Form 3–R filed with the Commission to report the addition of a branch office. The fee specified by this paragraph (a)(6) must accompany each Form 7–R filed as an application for initial registration or for renewal of registration and each Form 3–R filed to report the addition of a branch office.

* * * * *

6. Section 3.4 is revised to read as follows:

§ 3.4 Registration in one capacity not included in registration in any other capacity.

Except as may be otherwise provided in the Act or in any rule, regulation, or order of the Commission, each futures commission merchant, floor broker, associated person, commodity trading advisor, commodity pool operator, introducing broker, and leverage transaction merchant must register as such under the Act. Registration in one capacity under the Act shall not include registration in any other capacity: *Provided further,* That except as may be provided in any rule, regulation or order of the Commission, registration as an associated person in one capacity shall not automatically include registration as an associated person in any other capacity.

7. Section 3.10 is amended by removing paragraph (c), by redesignating paragraph (d) as paragraph (c), and by revising paragraph (a)(2) to read as follows:

§ 3.10 Registration of futures commission merchants.

(a) * * *

(2) Each Form 7–R filed in accordance with the requirements of paragraph (a)(1) of this section must be accompanied by a Form 8–R, completed in accordance with the instructions thereto and executed by each natural person who is a principal of the applicant, and must be accompanied by the fingerprints of that principal on a fingerprint card provided by the Commission for that purpose. The provisions of this paragraph (a)(2) do not apply to any principal who: (i) Has a current Form 8–R or Form 94 on file with the Commission; or (ii) has submitted or caused to be submitted a Form 8–R and a fingerprint card in accordance with the requirements of this part.

* * * * *

8. Section 3.11 is amended by revising paragraph (b) to read as follows:

§ 3.11 Registration of floor brokers.

* * * * *

(b) *Initial registration.* Application for initial registration as a floor broker must be on form 8–R, completed and filed with the Commission in accordance with the instructions thereto. Each applicant for initial registration as a floor broker must file his fingerprints with the Form 8–R on a fingerprint card provided by the Commission for that purpose except that a fingerprint card need not be filed by any applicant who: (1) Has a current Form 8–R or Form 94 on file with the Commission; or (2) has filed a fingerprint card in accordance with the requirements of this part.

* * * * *

9. Section 3.12 is amended by revising paragraph (f)(2) to read as follows:

§ 3.12 Registration of associated persons of futures commission merchants and introducing brokers.

* * * * *

(f) *Certain dual and multiple associations prohibited.* No person may be simultaneously associated as an associated person with—

(1) * * *

(2)(i) A futures commission merchant and an introducing broker, (ii) a futures commission merchant and a leverage transaction merchant, or (iii) an introducing broker a leverage transaction merchant;

* * * * *

10. Section 3.13 is amended by removing paragraph (c) and by revising paragraph (a)(2) to read as follows:

§ 3.13 Registration of commodity trading advisors.

(a) * * *

(2) Each Form 7–R filed in accordance with the requirements of paragraph (a)(1) of this section must be accompanied by a Form 8–R, completed in accordance with the instructions thereto and executed by each natural person who is a principal of the applicant, and must be accompanied by the fingerprints of that principal on a fingerprint card provided by the Commission for that purpose. The provisions of this paragraph (a)(2) do not apply to any principal who: (i) Has a current Form 8–R or Form 94 on file with the Commission; or (ii) has submitted or cause to be submitted a Form 8–R and a fingerprint card in accordance with the requirements of this part.

* * * * *

11. Section 3.14 is amended by removing paragraph (c) and by revising paragraph (a)(2) to read as follows:

§ 3.14 Registration of commodity pool operators.

(a) * * *

(2) Each Form 7–R filed in accordance with the requirements of paragraph (a)(1) of this section must be accompanied by a Form 8–R, completed in accordance with the instructions thereto and executed by each natural person who is a principal of the applicant, and must be accompanied by the fingerprints of that principal on a fingerprint card provided by the Commission for that purpose. The provisions of this paragraph (a)(2) do not apply to any principal who: (i) Has a

current Form 8–R or Form 94 on file with the Commission; or (ii) has submitted or caused to be submitted a Form 8–R and a fingerprint card in accordance with the requirements of this part.

* * * * *

12. Section 3.15 is amended by removing paragraph (c) and by revising paragraph (a)(2) to read as follows:

§ 3.15 Registration of introducing brokers.

(a) * * *

(2) Each Form 7–R filed in accordance with the requirements of paragraph (a)(1) of this section must be accompanied by a Form 8–R, completed in accordance with the instructions thereto and executed by each natural person who is a principal of the applicant, and must be accompanied by the fingerprints of that principal on a fingerprint card provided by the National Futures Association for that purpose. The provisions of this paragraph (a)(2) do not apply to any principal who: (i) Has a current Form 8–R or Form 94 on file with the Commission; or (ii) has submitted or caused to be submitted a Form 8–R and a fingerprint card in accordance with the requirements of this part.

* * * * *

13. Section 3.16 is amended by revising paragraph (e)(1) to read as follows:

§ 3.16 Registration of associated persons of commodity trading advisors and commodity pool operators.

* * * * *

(e) *Reporting of dual and multiple association.* (1) No person may be simultaneously associated with:

(i) A commodity trading advisor and with a futures commission merchant or an introducing broker in violation of § 3.12(f);

(ii) A commodity pool operator and a futures commission merchant or an introducing broker in violation of § 3.12(f);

(iii) A sponsoring commodity trading advisor or commodity pool operator and any other sponsor other than in accordance with the provisions of paragraph (e)(2) of this section;

(iv) A commodity trading advisor and a leverage transaction merchant; or

(v) A commodity pool operator and a leverage transaction merchant.

Provided, however, That the provisions of paragraphs (e)(1) (i)–(iii) of this section shall not apply to any person who is exempt from registration as an associated person of a commodity trading advisor or as an associated person of a commodity pool operator pursuant to the provisions of paragraphs (a)(2) through (a)(6) of this section if that person is not otherwise required to register as an associated person of a commodity trading advisor or as an associated person of a commodity pool operator.

* * * * *

14. Section 3.17 is added to 17 CFR Part 3 to read as follows:

§ 3.17 Registration of leverage transaction merchants.

(a) *Initial registration.* (1) Application for initial registration as a leverage transaction merchant must be on Form 7–R, completed and filed with the Commission in accordance with the instructions thereto and the provisions of § 31.13 of this chapter.

(2) Each Form 7–R filed in accordance with the requirements of paragraph (a)(1) of this section must be accompanied by a Form 8–R, completed in accordance with the instructions thereto and executed by each natural person who is a principal of the applicant, and must be accompanied by the fingerprints of that principal on a fingerprint card provided by the Commission for that purpose. The provisions of this paragraph (a)(2) do not apply to any principal who: (i) Has a current Form 8–R or Form 94 on file with the Commission; or (ii) has submitted or caused to be submitted a Form 8–R and a fingerprint card in accordance with the requirements of this part.

(b) *Renewal of registration.* Application for renewal of registration as a leverage transaction merchant must be on Form 7–R, completed and filed with the Commission in accordance with the instructions thereto.

15. Section 3.18 is added to 17 CFR Part 3 to read as follows:

§ 3.18 Registration of associated persons of leverage transaction merchants.

(a) *Registration required.* It shall be unlawful for any person to be associated with a leverage transaction merchant as an associated person unless that person shall have registered under the Act as an associated person of that sponsoring leverage transaction merchant in accordance with the procedures in paragraph (c) or (d) of this section.

(b) *Duration of registration.* A person registered in accordance with paragraph (c) or (d) of this section and whose registration has neither been suspended nor revoked will continue to be so registered until the cessation of the association of the registrant with, or the revocation, suspension, lapse, or withdrawal of the registration of, the associated person's sponsor.

(c) *Application for registration.* Except as otherwise provided in paragraphs (d) and (f) of this section, application for registration as an associated person of a leverage transaction merchant must be on Form 8–R, completed and filed in accordance with the instructions thereto.

(1) No person will be registered as an associated person in accordance with this paragraph (c) unless an officer, if the sponsor is a corporation, a general partner, if a partnership, or the sole proprietor, if a sole proprietorship, of such sponsor has signed and dated a certification in writing, stating that:

(i) It is the intention of the sponsor to hire or otherwise employ the applicant as an associated person and that it will do so within thirty days after the receipt of the notification provided in accordance with paragraph (c)(4) of this section and that the applicant will not be permitted to engage in any activity requiring registration as an associated person until the applicant is registered as such in accordance with this section;

(ii) The sponsor has verified the information supplied by the applicant in response to the questions on Form 8–R which relate to the applicant's education and employment history during the preceding five years;

(iii) To the best of the sponsor's knowledge, information, and belief, all of the publicly available information supplied by the applicant on Form 8–R is accurate and complete: *Provided,* That it is unlawful for the sponsor to make the certification required by this paragraph (c)(1)(iii) if the sponsor knew or should have known that any of that information is not accurate and complete; and

(iv) The sponsor has taken, and will take, such measures as are necessary to prevent the unwarranted dissemination of any of the information contained in that Form 8–R, or in the records and documents obtained in support of the certifications required by this section.

(2) The certification required by paragraph (c)(1) of this section must be submitted concurrently with the Form 8–R.

(3) Each Form 8–R filed in accordance with the requirements of paragraph (c) of this section must be accompanied by the fingerprints of the applicant on a fingerprint card provided for that purpose by the Commission.

(4) When the Commission determines that an applicant for registration as an associated person is not unfit for such registration, it will provide notification in writing to the sponsor which has made the certifications required by paragraph (c)(1) of this section that the applicant's registration as an associated person is granted contingent upon the sponsor hiring or otherwise employing the applicant as such within thirty days.

(d) *Special registration procedures for certain persons.* (1) Except as provided in paragraph (f) of this section, any person whose registration as an associated person in another capacity is still in effect, whose registration as an associated person in the same capacity or in another capacity has terminated within the preceding sixty days, and who becomes associated with a sponsoring leverage transaction merchant which makes the certification provided by paragraph (d)(1)(i) of this section will be registered as, and in the capacity of, an associated person of such sponsor upon the mailing by that sponsor to the Commission of written certifications stating:

(i) That such person has been hired or is otherwise employed by that sponsor;

(ii) That such person's registration as an associated person in any capacity is not suspended or revoked;

(iii) That such person is eligible to be registered in accordance with this paragraph (d);

(iv) Whether there is a pending proceeding under Sections 6(b) or 8a of the Act of § 3.20 or former § 1.10e, to deny, suspend, revoke, condition or restrict such person's registration in any capacity or if within the preceding twelve months the Commission has permitted the withdrawal of an application for registration in any capacity after instituting the procedures provided in § 3.20 and, if so, that the sponsor has been given a copy of the complaint or letter issued by the Commission in connection therewith; and

(v) That the sponsor has received a copy of the complaint or letter issued by the Commission if the applicant for registration has certified, in accordance with paragraph (d)(1)(iv) of this section, that there is a proceeding pending against him as described in that paragraph or that the Commission has permitted the withdrawal of an application for registration as described in that paragraph.

(2) The certifications permitted by paragraphs (d)(1)(i) and (d)(1)(v) of this section must be signed and dated by an officer, if the sponsor is a corporation, a general partner, if a partnership or the sole proprietor, if a sole proprietorship. The certifications permitted by paragraphs (d)(1) (ii)–(iv) of this section must be signed and dated by the Applicant for registration as an associated person.

(3) Within sixty days of mailing the certifications permitted by paragraph (d)(1) of this section, the associated person and the sponsor must complete and the sponsor must file with the Commission a Form 8–R in accordance with the instructions thereto. The Form 8–R must contain the certifications required by paragraphs (c)(1)(ii) through (c)(1)(iv) of this section and must be accompanied by the fingerprint card provided by the Commission for that purpose.

(e) *Retention of records.* The sponsor must retain in accordance with § 1.31 of this chapter such records as are necessary to support the certifications required by this section.

(f) *Certain dual and multiple associations prohibited.* (1) No person may be simultaneously associated as an associated person with—

(i) More than one leverage transaction merchant;

(ii) A leverage transaction merchant and a futures commission merchant;

(iii) A leverage transaction merchant and an introducing broker;

(iv) A leverage transaction merchant and a commodity trading advisor; or

(v) A leverage transaction merchant and a commodity pool operator.

(2) No person may be registered as an associated person of a leverage transaction merchant and registered as a floor broker.

(g) *Petitions for exemption.* (1) Any person adversely affected by the operation of this § 3.18 may file a petition with the Secretary of the Commission, which petition must set forth with particularity the reasons why that person believes that an applicant should be exempted from the requirements of this section and why such an exemption would not be contrary to the public interest and the purposes of the provision from which exemption is sought. The petition will be granted or denied by the Commission on the basis of the papers filed. The Commission may grant such a petition if it finds that the exemption is not contrary to the public interest and the purposes of the provision from which exemption is sought. The petition may be granted subject to such terms and conditions as the Commission may find appropriate.

(2)(i) Until such time as the Commission orders otherwise, the Commission hereby delegates to the Director of the Division of Trading and Markets or the Director's designee the authority to grant or deny petitions filed pursuant to this paragraph (g).

(ii) The Director of the Division of Trading and Markets may submit to the Commission for its consideration any matter which has been delegated to the Director pursuant to paragraph (g)(2)(i) of this section.

16. Section 3.20 is amended by revising paragraphs (a)(1)(ii), (a)(1)(iii), (a)(1)(v), (b)(2), (d)(1), (d)(2), and (e), to read as follows:

§ 3.20 Delegation of authority to deny registration.

(a) * * *

(1) * * *

(ii) Within ten years preceding the filing of the application has been convicted of a misdemeanor which: (A) Involves any transaction or advice concerning any commodity, contract for future delivery of a commodity, commodity option, leverage transaction, or security; (B) arises out of the conduct of the business of a futures commission merchant, associated person, floor broker, commodity trading advisor, commodity pool operator, leverage transaction merchant, securities broker, securities dealer, municipal securities dealer, transfer agent, clearing agency, securities information processor, investment adviser, investment company, or employee or affiliated person of any of the foregoing; or (C) involves embezzlement, defalcation, fraudulent conversion, misappropriation of funds, securities or other property, forgery, counterfeiting, false pretenses, gambling, or similar crimes reflecting upon the ability of the applicant, if registered, faithfully to discharge the fiduciary duties imposed by the Act; or

(iii) At the time of the application, is permanently or temporarily enjoined by order, judgment or decree of any court of competent jurisdiction, or is prohibited by agreement or settlement with the Commission or the Securities and Exchange Commission, or any State agency or governmental body: (A) From acting as a commodity trading advisor, commodity pool operator, futures commission merchant, floor broker, leverage transaction merchant, securities broker or dealer, municipal securities dealer, transfer agent, clearing agency, securities information processor, investment adviser, investment company, or as an associated or affiliated person or employee of any of the foregoing; or (B) from engaging in or continuing any conduct or practice in connection with any such activity or involving any transaction or advice concerning commodities, contracts for future delivery of commodities, commodity options, leverage transactions, or securities; or

* * * * *

(v) Is subject to an outstanding order of the Commission denying trading privileges on any contract market to such person, or suspending or revoking the registration of such person as a commodity trading advisor, commodity

pool operator, futures commission merchant, floor broker, leverage transaction merchant, or associated person, or suspending or expelling such person from membership on any contract market or futures association registered under the Act, or refusing such person registration in any capacity;

* * * * *

(b) * * *

(2) The allegations set forth in the notice, if true, constitute a basis upon which the applicant may be found unfit for registration pursuant to Section 8a or, if the applicant is applying for registration as a leverage transaction merchant or associated person thereof, Section 19 of the Commodity Exchange Act, and upon which the applicant's registration may be denied;

* * * * *

(d) * * *

(1) In the case of an applicant for an initial registration, pursuant to authority hereby delegated by the Commission, the Executive Director may determine the applicant's fitness for registration and may issue an order, pursuant to Section 8a or, if the applicant is applying for registration as a leverage transaction merchant or associated person thereof, Section 19 of the Commodity Exchange Act, granting or refusing registration to the applicant based upon the application, the notice with proof of service, and an appropriate showing that a hearing has not been requested.

(2) In the case of an applicant for renewal of a registration previously granted, the Executive Director may transmit to the Chief Administrative Law Judge a true copy of the application, the notice with proof of service, and an appropriate showing that a hearing has not been requested, and, based thereon, the Chief Administrative Law Judge, pursuant to authority hereby delegated by the Commission, may determine the applicant's fitness for registration and may issue an order, pursuant to Section 8a or, if the applicant is applying for registration as a leverage transaction merchant or associated person thereof, Section 19 of the Commodity Exchange Act, granting or refusing registration to the applicant.

(e) Notwithstanding any other provision contained in this section, the Executive Director is hereby delegated authority pursuant to Section 8a or, if the applicant is applying for registration as a leverage transaction merchant or associated person thereof, Section 19 of the Commodity Exchange Act, to enter an order refusing to register any person if the prior registration of such person has been suspended (and the period of such suspension shall not have expired) or has been revoked.

* * * * * *

17. Section 3.21 is amended by revising paragraphs (a) and (b)(3) to read as follows:

§ 3.21 Exemption from fingerprinting requirement in certain cases.

(a) Any person who is required by this part to submit a fingerprint card may file, or cause to be filed, in lieu of such card: (1) A legible, accurate and complete photocopy of a fingerprint card which has been submitted to the Federal Bureau of Investigation for identification and appropriate processing and of each report, record, and notation made available by the Federal Bureau of Investigation with respect to that fingerprint card if such identification and processing has been completed satisfactorily by the Federal Bureau of Investigation not more than ninety days prior to the filing with the Commission of the National Futures Association of the photocopy; or (2) a statement that such person's application for initial registration in any capacity was granted within the preceding ninety days; *Provided,* That the provisions of paragraph (a)(2) shall not be applicable to any person who, by Commission rule, regulation, or order, was not required to file a fingerprint card in connection with such application for initial registration.

(b) * * *

(3) *With respect to the fingerprints of a principal:* An officer, if the futures commission merchant, commodity trading advisor, commodity pool operator, introducing broker, or leverage transaction merchant with which the principal will be affiliated is a corporation, a general partner, if a partnership, or the sole proprietor, if a sole proprietorship.

18. Section 3.30 is revised to read as follows:

§ 3.30 Current address for purpose of delivery of communications from the Commission.

The address of each registrant, applicant for registration and principal, as submitted on the application for registration (Form 7–R or Form 8–R) or as submitted on the biographical supplement (Form 8–R) shall be deemed to be the address for delivery to the registrant, applicant or principal of any communications from the Commission, including any summons, complaint, reparation claim, order, subpoena, special call, request for information, notice, and other written documents or corresponsence, unless the registrant, applicant or principal specifies another address for this purpose: *Provided,* That the Commission may address any correspondence relating to a biographical supplement submitted for or on behalf of a principal to the futures commission merchant, commodity trading advisor, commodity pool operator, introducing broker, or leverage transaction merchant with which the principal is affiliated and may address any correspondence relating to the registration of an associated person to the futures commission merchant, commodity trading advisor, commodity pool operator, introducing broker, or leverage transaction merchant with which the associated person or the applicant for registration is or will be associated as an associated person. Each registrant, while registered, and each principal, while affiliated with a registrant, must keep current the address on the application for registration, biographical supplement, or other address filed with the Commission or with the National Futures Association for the purpose of receiving communications from the Commission. An order of default or other appropriate relief may be entered in any proceeding, including a reparation proceeding commenced while the registrant is registered or within two years thereafter, for failure to file a required response to any communication sent to the latest such address filed with the Commission or with the National Futures Association.

19. Section 3.31 is amended by revising paragaraphs (a), (b), (c)(1), and (c)(2)(i) to read as follows:

§ 3.31 Deficiencies, inaccuracies, and changes, to be reported.

(a) Each applicant or registrant as a futures commission merchant, commodity trading advisor, commodity pool operator, introducing broker, or leverage transaction merchant must, in accordance with the instructions thereto, promptly correct any deficiency or inaccuracy in Form 7–R or Schedules A, B or C of Form 7–R which no longer renders accurate and current the information contained therein. Each such correction must be made on Form 3–R and must be prepared and filed in accordance with the instructions thereto.

(b) Each applicant or registrant as a floor broker or associated person and each principal of a futures commission merchant, commodity trading advisor, commodity pool operator, introducing broker, or leverage transaction merchant must, in accordance with the instructions thereto, promptly correct any deficiency or inaccuracy in the Form 8–R or supplemental statement

thereto which no longer renders accurate and current the information contained in the Form 8–R or supplemental statement. Each such correction must be made on Form 3–R and must be prepared and filed in accordance with the instructions thereto.

(c)(1) After the filing of a Form 8–R, a Certificate of Special Registration (Form 8–S), or a Form 3–R by or on behalf of any person for the purpose of permitting that person to be an associated person of a futures commission merchant, commodity trading advisor, commodity pool operator, introducing broker, or leverage transaction merchant, that futures commission merchant commodity trading advisor, commodity pool operator, introducing broker, or leverage transaction merchant must, within twenty days after the occurrence of either of the following, file a notice thereof with the Commission or in the case of an introducing broker, with the National Futures Association, indicating: (i) The failure of that person to become associated with the futures commission merchant, commodity trading advisor, commodity pool operator, introducing broker, or leverage transaction merchant, and the reasons therefor; or (ii) the termination of the association of the associated person with the futures commission merchant, commodity trading advisor, commodity pool operator, introducing broker, or leverage transaction merchant, and the reasons therefor.

(2)(i) Each person registered as, or applying for registration as, a futures commission merchant, commodity trading advisor, commodity pool operator, or leverage transaction merchant must, within twenty days after the termination of the affiliation of a principal with the registrant or applicant, file a notice thereof with the Commission.

* * * * *

20. Section 3.32 is amended by revising paragraph (a) to read as follows:

§ 3.32 Changes requiring new registration.

A new registration is required in the event of a change:

(a) In the name of the registrant if the registrant is a futures commission merchant, commodity trading advisor, commodity pool operator, introducing broker, or leverage transaction merchant.

* * * * *

21. Section 3.33 is amended by redesignating paragraph (b)(7)(v) as paragraph (b)(7)(vi), by redesignating paragraph (vi) as paragraph (vii), by adding a new paragraph (b)(7)(v), and by revising paragraphs (b)(7)(vi) and (c) to read as follows:

§ 3.33 Withdrawal from registration.

* * * * *

(b) * * *

(7) * * * * *

(v) In the case of a leverage transaction merchant: (A) Either that all leverage customer agreements, if any, and all leverage contracts have been terminated, and that all leverage customer cash balances, securities or other property, if any, have been returned, or (B) alternatively, that pursuant to Commission approval, the leverage contract obligations of the leverage transaction merchant have been assumed by another leverage transaction merchant and all leverage customer cash balances, securities or other property, if any, have been transferred to such leverage transaction merchant on behalf of leverage customers or returned, and that there are no obligations to leverage customers outstanding;

(vi) The nature and extent of any pending customer, option customer, leverage customer, or commodity pool participant claims against the registrant, and, to the best of the registrant's knowledge and belief, the nature and extent of any anticipated or threatened customer, option customer, leverage customer, or commodity pool participant claims against the registrant; and

* * * * *

(c)(1) Where a futures commission merchant or an introducing broker which is not operating pursuant to a guarantee agreement is requestintg withdrawal from registration in that capacity and the basis for withdrawal under paragraph (a)(1) of this section is that it has ceased engaging in activities requiring registration, the request for withdrawal must be accompanied by a form 1–FR which contains the information specified in § 1.10(d)(1) of this chapter as of a date not more than 30 days prior to the date of the withdrawal request: *Provided, however,* That if such registrant is also registered with the Securities and Exchange Commission as a securities broker or dealer, it may file a copy of its Financial and Operational Combined Uniform Single Report under the Securities Exchange Act of 1934, Part II or Part IIA (in accordance with § 1.10(h) of this chapter), in lieu of form 1–FR: *And, provided further,* That if such introducing broker is also a country elevator, it may file a copy of a financial report prepared by a grain commission firm (in accordance with § 1.10(i) of this Chapter), in lieu of form 1–FR. Any financial report submitted pursuant to this paragraph (c)(1) must contain the information specified in § 1.10(d)(1) of this chapter as of a date not more than 30 days prior to the date of the withdrawal request.

(2) Where a leverage transaction merchant is requesting withdrawal from registration in that capacity and the basis for withdrawal under paragraph (a)(1) of this section is that it has ceased engaging in activities requiring registration, the request for withdrawal must be accompanied by a form 2–FR which contains the information specified in § 31.13(f) of this chapter as of a date not more than 30 days prior to the date of the withdrawal request.

* * * * *

22. Section 3.34 is added to 17 CFR Part 3 to read as follows:

§ 3.34 Addition of principals.

Within twenty days after any natural person becomes a principal of an applicant or registrant subsequent to the filing of a Form 7–R in accordance with the requirements set forth in §§ 3.10 (a) or (b), 3.13 (a) or (b), 3.14 (a) or (b), 3.15 (a) or (b), or 3.17 (a) or (b) of this chapter, the applicant or registrant must file a Form 8–R with the Commission. The Form 8–R must be completed by such principal in accordance with the instructions thereto and must be accompanied by the fingerprints of that principal on a fingerprint card provided by the Commission, or the National Futures Association if the applicant or registrant is an introducing broker, for that purpose. This filing need not be made for any such principal who: (1) Has a current Form 8–R or Form 94 on file with the Commission; or (2) has otherwise submitted or caused to be submitted a Form 8–R and a fingerprint card in accordance with the requirements of this part: *Provided,* That the applicant or registrant must notify the Commission, or the National Futures Association if the applicant or registrant is an introducing broker, within twenty days of the name of such added principal on Form 3–R.

PART 4—COMMODITY POOL OPERATORS AND COMMODITY TRADING ADVISORS

23. Section 4.14 is amended by adding paragraph (a)(7) to read as follows:

§ 4.14 Exemption from registration as a commodity trading advisor.

(a) * * *

(7) It is registered under the Act as a leverage transaction merchant and the

person's trading advice is solely in connection with its business as a leverage transaction merchant.

PART 31—LEVERAGE TRANSACTIONS

24. Part 31 is amended by redesignating § 31.03 as § 31.3 and by adding §§ 31.4–31.24 to read as follows:

Sec.

31.4 Definitions.
31.5 Unlawful conduct.
31.6 Registration of leverage commodities.
31.7 Maintenance of minimum financial, cover and segregation requirements by leverage transaction merchants.
31.8 Cover of leverage contracts.
31.9 Minimum financial requirements.
31.10 Repurchase of leverage contracts by leverage transaction merchants.
31.11 Disclosure.
31.12 Segregation.
31.13 Financial reports of leverage transaction merchants.
31.14 Recordkeeping.
31.15 Reporting to leverage customers.
31.16 Monthly reporting requirements.
31.17 Records of leverage transactions.
31.18 Margin calls.
31.19 Unlawful representations.
31.20 Prohibition of guarantees against loss.
31.21 Leverage contracts entered into prior to effective date of these regulations; subsequent transactions.
31.22 Prohibited trading in leverage contracts.
31.23 Limited right to rescind first leverage contract.
31.24 Petitions for exemption.

Authority: Sec. 103(a), Pub. L. 93–463, 88 Stat. 1392 (7 U.S.C. 12a(5) (1982)); sec. 19, Pub. L. 95–405, 96 Stat. 876–877 *as amended by* sec. 234, Pub. L. 97–444, 96 Stat. 2322 (1983) (7 U.S.C. 23 (1982)).

§ 31.4 Definitions.

For the purposes of this part:

(a) [Reserved];

(b) [Reserved];

(c) "Promotional material" includes: (1) Any text of a standard oral presentation, or any communication for publication in any newspaper, magazine or similar medium or for broadcast over television, radio, or other electronic medium which is disseminated or directed to a leverage customer or prospective leverage customer; (2) any standardized form of report, letter, circular, memorandum, or publication which is disseminated or directed to a leverage customer or prospective leverage customer; or (3) any other written literature or advice disseminated or directed to a leverage customer or prospective leverage customer for the purpose of soliciting the entry into a leverage contract;

(d) "Leverage customer" means any person who, directly or indirectly, enters into, purchases, or otherwise acquires for value any interest in a leverage contract from a leverage transaction merchant;

(e) [Reserved];

(f) "Commercial leverage account" means an account of a commercial enterprise, such as a producer, processor, dealer or end user of a leverage commodity which is the subject of a leverage contract, or the products or by-products thereof;

(g) "Leverage commodity" means a commodity which is the subject of a leverage contract offered for sale or sold by a particular leverage transaction merchant, the value of which is reflected in a widely accepted and disseminated commercial or retail cash price series for cash market transactions, which price series reasonably reflects the price for the leverage commodity which the customer can expect to receive in normal commercial or retail market channels, including, if applicable, specified premiums or discounts; each leverage commodity is defined by reference to the following distinguishing characteristics:

(1) For gold and silver bullion and gold and silver bulk coins:

(i) The nominal size, composition and tolerable ranges of the delivery pack or the actual size, composition and tolerable range of the component of the delivery pack;

(ii) Minimum guaranteed quality, deliverable countries of origin, deliverable markings or imprints, and deliverable refiners or mints;

(iii) The method of pricing; and

(iv) The delivery specifications or alternatives including type and location of delivery facilities, packaging, transportation, registration and associated costs.

(2) For platinum, electrolytic copper cathodes, electrolytic copper in wire bars, cakes, slabs, billets, ingots or ingot bars, for lake copper in the same forms, for fire-refined copper in the same forms, and for fire-refined high conductivity copper in ingots or ingot bars, the same distinguishing characteristics as set forth in § 31.4(g)(1) apply.

(3) For Deutsche marks, Japanese yen, Swiss francs, and British pounds:

(i) The amount and country of origin;

(ii) The delivery specifications or alternatives including:

(A) The manner of delivery and delivery point if hand-to-hand currency;

(B) The manner of delivery, delivery point, bank and branch on which drawn, and type of draft if bank draft; or

(C) The required payment instructions if a deposit to a leverage customer's foreign demand account.

(h) "Ask price of a leverage contract" means the price at which a leverage transaction merchant sells or is willing to sell a leverage contract to a leverage customer;

(i) "Bid price of a leverage contract" means the price at which a leverage transaction merchant repurchases or is willing to repurchase a leverage contract from a leverage customer;

(j) "Bid-ask spread of a leverage contract" means the difference between a leverage transaction merchant's ask price and bid price;

(k) "Initial charges for a leverage contract" includes all fees and commissions payable to a leverage transaction merchant which are incurred when a leverage contract is initially entered into by a leverage customer;

(l) "Carrying charges for a leverage contract" includes all service and interest charges paid periodically by a leverage customer to a leverage transaction merchant, or accrued by a leverage transaction merchant, while a leverage contract remains open;

(m) "Termination charges for a leverage contract" includes all fees and commissions payable to a leverage transaction merchant which are associated with the liquidation, repurchase or settlement by delivery on a leverage contract;

(n) "Liquidation of a leverage contract" means the unilateral termination of a leverage contract by a leverage transaction merchant due to a leverage customer's failure to meet one or more margin calls or to make other required deposits on a timely basis or as otherwise permitted under § 31.18;

(o) "Repurchase of a leverage contract" means the voluntary termination of a leverage contract by mutual agreement between the leverage customer and the leverage transaction merchant, which agreement is effected by entering into a transaction which is the opposite of the initial transaction;

(p) "Delivery on a leverage contract" means the taking of delivery by a leverage customer of the commodity subject to a leverage contract;

(q) "Initial leverage margin" means the amount of funds, excluding initial charges, which a leverage customer is required to deposit with a leverage transaction merchant when entering into a leverage contract;

(r) "Minimum or maintenance leverage margin" means the minimum amount of funds which a leverage transaction merchant requires a leverage customer to maintain on deposit for each open leverage contract in the leverage customer's account and the level to which the funds in a

leverage customer's account must be restored after a margin call to the leverage customer has been effected by the leverage transaction merchant;

(s) [Reserved];

(t) "Leverage account equity" means the amount equal to the value of all open leverage contracts in the leverage customer's account, based on the leverage transaction merchant's current bid prices for such contracts, less the amount owed to the leverage transaction merchant by the leverage customer pursuant to such contracts;

(u) [Reserved];

(v) [Reserved];

(w) "Leverage contract" means a contract, standardized as to terms and conditions, for the long-term (ten years or longer) purchase by a leverage customer of a leverage commodity which provides for:

(1) Participation by the leverage transaction merchant as a principal in each leverage transaction;

(2) Initial and maintenance margin payments by the leverage customer;

(3) Periodic payment by the leverage customer or accrual by the leverage transaction merchant of a carrying charge or fee on the unpaid balance;

(4) Delivery of a commodity in an amount and form which can be readily resold in normal commercial or retail channels;

(5) Delivery of the leverage commodity after satisfaction of the balance due on the contract by the leverage customer; and

(6) Determination of the contract purchase and repurchase prices by the leverage transaction merchant; and

(x) "Leverage transaction" means the sale of any leverage contract, the repurchase of any leverage contract, the delivery of the leverage commodity, or the liquidation of any such leverage contract by the leverage transaction merchant.

§ 31.5 Unlawful conduct.

(a) On and after the effective date of this section, it shall be unlawful for any person:

(1) To offer to enter into, enter into or confirm the execution of a leverage contract to or with a leverage customer, or to solicit or accept a leverage customer's order for a leverage contract, or to accept any leverage customer funds from a leverage customer to enter into or maintain a leverage contract, unless the leverage commodity which is the subject of the leverage contract has been registered with the Commission in accordance with § 31.6;

(2) Except as provided in paragraph (a)(3) of this section, to offer to enter into, enter into or confirm the execution of a leverage contract to or with a leverage customer, or to solicit or accept a leverage customer's order for a leverage contract, or to accept any leverage customer funds from a leverage customer to enter into or maintain a leverage contract, unless that person is registered with the Commission in accordance with § 3.17 of this chapter and that registration has not expired, been suspended (and the period of suspension has not expired) or been revoked; or

(3) Except as provided in paragraph (a)(2) of this section, if such person is a natural person, to offer to enter into, enter into or confirm the execution of a leverage contract to or with a leverage customer, or to solicit or accept a leverage customer's order (other than in a clerical capacity) for a leverage contract, or to supervise any person or persons so engaged, unless that person is registered with the Commission in accordance with § 3.18 of this chapter and that registration has not expired, been suspended (and the period of suspension has not expired) or been revoked.

(b) On and after the effective date of this section, it shall be unlawful for any leverage transaction merchant to permit any natural person to become or remain associated with it as a partner, officer or employee (or in any similar status or position involving similar functions) in any capacity which involves the offering to enter into, the entry into, or the confirmation of the execution of a leverage contract with a leverage customer, or the solicitation or acceptance of a leverage customer's order (other than in a clerical capacity) for a leverage contract, or the supervision of any person or persons so engaged, if the leverage transaction merchant knew or should have known that the person was not registered with the Commission in accordance with § 3.18 of this chapter or that the person's registration had expired, been suspended (and the period of suspension had not expired) or been revoked.

(c) *Compliance period for existing leverage transaction merchants.* Notwithstanding the provisions of paragraph (a) of this section, any person who is lawfully engaged in business as a leverage transaction merchant in accordance with the provisions of §§ 31.1 and 31.2 on the date of the publication of this section in the **Federal Register** and who, within sixty (60) days after such effective date: (i) Files an application to register a leverage commodity in accordance with the provisions of § 31.6; (ii) files an application for registration as a leverage transaction merchant in accordance with the provisions of § 3.17 of this chapter; and (iii) files concurrently with its application for registration as a leverage transaction merchant the documentation required by paragraph (e) of this section, may continue to engage in business as a leverage transaction merchant pending a final determination by the Commission. Such person must also comply with the requirements of paragraph (d) of this section.

(d) *Compliance period for associated persons of leverage transaction merchants.* Notwithstanding the provisions of paragraph (a) of this section, any person who is lawfully engaged in business as a leverage transaction merchant in accordance with §§ 31.1 and 31.2 on the date of publication of this section in the **Federal Register** must, within thirty (30) days after such effective date, file with the Commission a certification signed and dated by an officer, if the sponsor is a corporation, a general partner, if a partnership, or the sole proprietor, if a sole proprietorship, of such sponsor, stating:

(1) The name of each individual who will be associated with the leverage transaction merchant as an associated person and a statement to the effect that each such individual was associated with the leverage transaction merchant or an affiliated futures commission merchant on the date of publication of this section in the **Federal Register**;

(2) That the leverage transaction merchant has submitted or will cause to be submitted within sixty (60) days after the effective date of this section, a Form 8–R and a fingerprint card for each individual listed in accordance with paragraph (d)(1) of this section: *Provided,* That a fingerprint card need not be filed on behalf of any such individual if that individual is currently registered as an associated person of a futures commission merchant affiliated with the leverage transaction merchant;

(3) That none of those individuals has answered "Yes" to any of the questions in the Disciplinary History portion of the Form 8–R; and

(4) That none of those individuals is subject to a statutory disqualification, as set forth in Section 8a(2) of the Act.

The certification described in this section shall be filed with the Commission at 2033 K Street, NW., Washington, D.C. 20581, Attention: Director, Division of Trading and Markets.

(e) *Demonstration of compliance with the temporary moratoria on leverage transactions.*

(1) Each applicant for registration with the Commission as a leverage transaction merchant shall submit to the Commission, in accordance with paragraph (e)(3) of this section, the documentation specified in paragraph (e)(2) of this section in order to demonstrate either:

(i) That on June 1, 1978 such applicant was engaged in the business of offering to enter into, entering into or confirming the execution of, any leverage transaction in the United States for the delivery of silver bullion, gold bullion, bulk silver coins or bulk gold coins; or

(ii) That on February 2, 1979 such applicant was engaged in the business of offering to enter into, entering into or confirming the execution of, any leverage transaction in the United States for the delivery of platinum, copper, Deutsche marks, Japanese yen, Swiss francs, or British pounds.

(2) The following documentation must be submitted with respect to each leverage contract and commodity for which the applicant is seeking approval:

(i) A certified copy of the organizational documents required to be filed in the state, territory or possession of the United States in accordance with which laws the applicant was formed and a certificate of good standing therefor as of a date not more than 30 days prior to the date of the submission or, in the case of a partnership or sole proprietorship for which no organizational filing is required under state law, an opinion of counsel to such effect, and other evidence sufficient to demonstrate the date of formation and continuation of the leverage business of such partnership or sole proprietorship;

(ii) The customer list of the applicant as of the date specified in §§ 31.1 or 31.2, as may be appropriate, for each leverage contract and leverage commodity the applicant claims to have offered;

(iii) A copy of at least one contract entered into or offered to be entered into with a leverage customer on or prior to the dates specified in §§ 31.1 or 31.2, as may be appropriate, for each leverage commodity for which registration is sought, which contract must be accompanied by an affidavit from the customer whose signature appears thereon attesting to the date of the leverage transaction or a statement as to why such affidavit is unobtainable; and

(iv) An affidavit of an appropriate person on behalf of the applicant, which shall be the chairman or chief executive officer or similar person in the case of a corporation, a general partner in the case of a partnership, or the sole proprietor in the case of a sole proprietorship, stating:

(A) That the applicant is in compliance with the temporary moratoria set forth in §§ 31.1 or 31.2 of the Commission's regulations;

(B) The nature of the applicant's business, including the percentage of its business it claims was leverage business with respect to each leverage contract and leverage commodity it claims to have offered as of June 1, 1978 or February 2, 1979, as may be appropriate;

(C) The annual income generated from leverage transactions for each year since the applicant claims to have commenced a leverage business with respect to each leverage contract and leverage commodity offered by such applicant;

(D) That upon request the applicant will make its books and records or financial ledgers for the 2-year period commencing one year preceding the date set forth in §§ 31.1 or 31.2, as may be appropriate, availabe to inspection by representatives of the Commission at the regional office of the Commission nearest the principal place of business of the applicant; and

(E) That all of the information provided to the Commission under this section is true and accurate.

(3) For purposes of this paragraph (e), three copies of the information required to be filed with the Commission shall be filed with the Secretary of the Commission at 2033 K Street, NW., Washington, D.C. 20581. Attention: Director of the Division of Trading and Markets.

(f) *Denial, suspension, or revocation of registration of a leverage commodity.* The failure or refusal of any leverage transaction merchant to comply with any of the provisions of the Act or any of the Commission's rules, regulations, or orders thereunder shall be cause for refusing to register a leverage commodity, for suspending registration of a leverage commodity for a period not to exceed six months, and for revoking registration of such leverage commodity with respect to that leverage transaction merchant. Any such denial, suspension, or revocation proceedings shall be conducted in accordance with the procedures set forth in Sections 6 and 6(a) of the Act.

(g) *Denial, suspension, or revocation of registration of leverage transaction merchants or persons associated therewith.* The Commission may refuse to register or may register conditionally any person seeking registration under §§ 3.17 or 3.18 of this chapter, and may suspend, place restrictions upon, or revoke the registration of any person under these sections, if it is found that the applicant or registrant is unfit to become or to remain registered because of the existence of any of the bases upon which the Commission is authorized to refuse, condition, suspend, restrict, or revoke registration under Section 6(b) or 8a of the Act, or, in the case of a leverage transaction merchant, for failure to meet the minimum financial requirements under § 31.9 or to make the other required demonstrations for registration; *Provided,* That pending final determination of an applicant's fitness for registration, registration shall not be granted.

§ 31.6 Registration of leverage commodities.

(a) *Registration of leverage commodities.* Each leverage commodity upon which a leverage contract is offered for sale or sold by a particular leverage transaction merchant must be separately registered with the Commission. Registration will be granted only when the following conditions are, and continue to be, met:

(1) The person requesting registration of a leverage commodity is a registered leverage transaction merchant or is permitted to continue in business pending registration in accordance with § 31.5(c);

(2) The commodity to be registered is a leverage commodity as defined in § 31.4(g);

(3) There exists a widely accepted and broadly disseminated commercial or retail cash price series for the commodity;

(4) The commodity is readily salable in normal commercial or retail channels by leverage customers taking delivery on a leverage contract; and

(5) The terms and conditions of the leverage contracts based on the leverage commodity are consistent with the Act and the regulations thereunder, and are not contrary to the public interest.

(b) *Application for registration.* Applications to register leverage commodities should be filed with the Commission at its Washington, D.C., headquarters. Attn: Secretariat. Three copies of each such submission should be filed. The Commission may return any application which does not comply with the form and content requirements of this section. Each applicant must:

(1) Provide evidence that the person applying for registration of the leverage commodity is registered, or is permitted to continue in business pending registration in accordance with § 31.5(c), or has applied to the Commission for registration as a leverage transaction merchant;

(2) Provide an explanation of the distinguishing characteristics of the leverage commodity for which

registration is sought, including a complete description of the cash market for the leverage commodity, and for the cash, forward, and futures markets for the generic commodity;

(3) Specify a commercial or retail cash price series including prevailing premiums or discounts governing cash market transactions in the quantities specified by the leverage contract and justify the use of such price series with respect to the particular leverage commodity for which registration is sought;

(4) Provide evidence and a complete evaluation of how the distinguishing characteristics of the leverage commodity would be expected to affect the commodity's salability, at an economic price, in normal cash market channels for leverage customers electing to take delivery;

(5) Include a description of the commodity inspection and/or certification procedures typically required for commercial or retail sales of the specified commodity. Such description must be accompanied by information regarding the availability of any normally required certification or inspection service at the delivery points; and

(6) Include copies of all leverage contracts which are to be offered by the leverage transaction merchant on the leverage commodity.

(c) *Continuing registration of leverage commodities.* A registered leverage transaction merchant must submit to the Commission for its review, at least forty-five (45) days before their effective date, any proposed changes in the specifications of the leverage commodity and the terms and conditions of the leverage contract from those submitted as part of the registration application unless such contract specifically provides that such terms and conditions are subject to change. Three copies of each such submission must be furnished to the Commission at its Washington, D.C., headquarters. Attn: Secretariat. The Commission may return any submission which does not comply with the form and content requirements of this section. Each such submission must, in the following order:

(1) Explain how any such changes might affect the ability of leverage customers to realize the leverage commodity's economic value and how such amendments might affect the salability of the leverage commodity by leverage customers taking delivery on a leverage contract;

(2) Explain the effect of such changes upon the continued appropriateness of the commercial or retail cash price series submitted pursuant to paragraph (b)(3) of this section or, as an alternative, submit a new price series and a justification of its use; and

(3) Indicate whether, if such changes are applied to existing leverage commodities, there will be a change in the economic value of such commodities and, if so, quantify the extent of such changes.

(d) *Authority to disapprove amendments.* The Commission may disapprove, alter, or amend changes to the distinguishing characteristics of the registered leverage commodity, or to the terms and conditions of the leverage contracts offered thereon, after appropriate notice and opportunity for hearing, when the Commission determines that such a change is in violation of any of the provisions of the Act or any of the regulations thereunder, or that it is necessary or appropriate to ensure the financial solvency of leverage transactions or prevent manipulation or fraud. Upon notification by the Commission of its determination to disapprove, alter or amend such changes, the proposed changes will not become effective pending a final determination by the Commission to disapprove, alter, or amend such changes.

(e) *Authority to alter or amend specifications of the registered leverage commodity or the terms and conditions of leverage contract.* The Commission may alter or amend specific distinguishing characteristics of the registered leverage commodity or the terms and conditions of leverage contracts after appropriate notice and opportunity for hearing when the Commission determines that, in light of intervening events, such alterations or amendments would be necessary or appropriate to ensure the financial solvency of leverage transactions or prevent manipulation or fraud.

(f)(1) The Commission hereby delegates to the Director of the Division of Economics and Education until such time as the Commission orders otherwise, all functions reserved to the Commission in paragraphs (b) and (c) of this section.

(2) The Director of the Division of Economics and Education may submit any matter which has been delegated to the Director under paragraph (f)(1) of this section to the Commission for its consideration.

§ 31.7 Maintenance of minimum financial, cover and segregation requirements by leverage transaction merchants.

(a) Each person registered as a leverage transaction merchant or who files an application for registration as a leverage transaction merchant, who knows or should have known that its adjusted net capital at any time is less than the minimum required by § 31.9, or that its cover at any time is less than the minimum required by § 31.8, or that the amount of leverage customer funds in segregation is less than is required by § 31.12 or by the capital, cover or segregation rules of any designated self-regulatory organization to which such person is subject, if any, must:

(1) Give telegraphic notice as set forth in § 1.12(g) of this chapter that such applicant's or registrant's adjusted net capital is less than is required by § 31.9, or its cover is less than is required by § 31.8, or the amount of leverage customer funds in segregation is less than is required by § 31.12 or by such other capital, cover or segregation rule, identifying the applicable capital, cover or segregation rule. This notice must be given within 24 hours after such applicant or registrant knows or should have known that its adjusted net capital or its cover or the amount of leverage customer funds in segregation is less than is required by any of the aforesaid rules to which such applicant or registrant is subject; and

(2) Within 24 hours after giving such notice file a statement of financial condition, a statement of the computation of the minimum capital requirements pursuant to § 31.9 (computed in accordance with the applicable capital rule), a schedule of coverage requirements and coverage provided, and a schedule of segregation requirements and funds on deposit in segregation, all as of the date such applicant's or registrant's adjusted net capital or its cover or the amount of leverage customer funds in segregation became less than the minimum required.

(b) Each person registered as a leverage transaction merchant, or who files an application for registration as a leverage transaction merchant, who knows or should have known that its adjusted net capital at any time is less than 120 percent of the amount required by § 31.9 must file written notice to that effect as set forth in § 1.12(g) of this chapter within five business days of such event. Such applicant or registrant must also file a Form 2–FR or such other financial statement designated by the Commission and/or the designated self-regulatory organization, if any, as of the close of business for the month during which such event takes place and as of the close of business for each month thereafter until three successive months have elapsed during which the applicant's or registrant's adjusted net capital is at all times equal to or in

excess of the minimums set forth in this paragraph (b). Each financial report required by this paragraph (b) must be filed within 30 calendar days after the end of the month for which such report is being made.

(c) The requirements of §§ 1.112(c), 1.12(d), 1.12(e) and 1.12(g) of this chapter shall apply to registered leverage transaction merchants and to persons who have applied for registration as leverage transaction merchants, as if in those paragraphs the term "leverage transaction merchant" were substituted for the term "futures commission merchant."

§ 31.8 Cover of leverage contracts.

(a)(1) Each leverage transaction merchant must at all times maintain cover of at least 90 percent of the amount of physical commodities subject to open leverage contracts entered into with leverage customers, and at least 25 percent of the amount of physical commodities subject to open leverage contracts entered into with leverage customers must be covered by the types of permissible cover set forth in paragraphs (a)(2) (i) and (ii) of this section.

(2) Permissible cover for a leverage contract is limited to:

(i) Warehouse receipts for the leverage commodity subject to the leverage contract held in commercial banks located in the United States or in approved contract market depositories: *Provided,* That the balance of the principal and accrued interest on any loan against such warehouse receipts does not exceed 70 percent of the current market value of the commodity represented by each receipt.

(ii) Warehouse receipts for gold bullion in the case of leverage contracts for bulk gold coins, bulk gold coins in the case of leverage contracts for gold bullion, silver bullion in the case of leverage contracts on bulk silver coins and bulk silver coins in the case of leverage contracts on silver bullion, which are held in commercial banks located in the United States or in approved contract market depositories; *Provided,* That the balance of the principal and accrued interest on any loans against such warehouse receipts does not exceed 70 percent of the current market value of the commodity for which it represents cover.

(iii) (A) Purchases for future delivery on or subject to the rules of a contract market of the same generic commodity subject to the leverage contract, or of the same alternative commodities provided for in paragraph (a)(2)(ii) of this section; or (B) purchases of call commodity options for the same generic commodity subject to the leverage contract, or of the same alternative commodities provided for in paragraph (a)(2)(ii) of this section, on or subject to the rules of a contract market in accordance with the provisions of Part 33 of this chapter: *Provided,* That the market value of the actual commodity or futures contract which is the subject of such option is more than the value of the underlying commodity based on the strike price of the option.

(b) Such leverage transaction merchant must be in compliance with paragraph (a) of this section at all times and must be able to demonstrate such compliance to the satisfaction of the Commission and/or the designated self-regulatory organization. A leverage transaction merchant who is not in compliance with paragraph (a) of this section or is unable to demonstrate such compliance must immediately cease engaging in the business of offering to enter into, entering into, or confirming the execution of, any leverage contract until such time as the leverage transaction merchant is able to demonstrate such compliance. Nothing in this paragraph (b) shall be construed as preventing the Commission from taking action against a leverage transaction merchant for non-compliance with any of the provisions of this section.

(c) The amount of cover which is actually maintained by a leverage transaction merchant, and the amount of cover which must be maintained by a leverage transaction merchant in order to comply with the requirements of this section, shall be computed as of the close of each business day by the leverage transaction merchant. A written record of this computation shall be made and kept, together with all supporting data, in accordance with the provisions of § 1.31 of this chapter. This daily computation shall be made by noon on the next business day and shall be computed in a format identical to the Schedule of Coverage Requirements and Coverage Provided contained in Form 2-FR. In computing the amount of cover actually maintained, the leverage transaction merchant shall include only those warehouse receipts which are unencumbered or against which the balance of the principal and accrued interest on cash loans for which such receipts serve as collateral does not exceed 70 percent of the current market value of the commodities underlying such receipts.

(d) A leverage transaction merchant who uses as collateral for cash loans warehouse receipts held as cover for leverage contracts shall maintain a separate record for such loans which contains the following information:

(1) The date on which the loan was made;

(2) The name of the commercial bank or futures commission merchant making such loan;

(3) The purpose for which the loan was made;

(4) The amount of the loan;

(5) The interest rate on the loan;

(6) The loan's maturity date;

(7) The date of any partial or complete liquidation of the loan; and

(8) A description of the warehouse receipt collateralizing such loan including the receipt number, the issuer's name, and the total quantity of the commodity covered by the warehouse receipt. Such loans shall be evidenced in a written agreement executed by the leverage transaction merchant and the lender. The leverage transaction merchant shall retain such agreement and any related notes in accordance with the requirements of § 31.14 of this part.

(e) The requirements of paragraphs (a) through (d) of this section shall not be applicable if the leverage transaction merchant is a member of a designated self-regulatory organization and conforms to minimum cover standards and related reporting requirements set by such designated self-regulatory organization in its bylaws, rules, regulations or resolutions approved by the Commission pursuant to Section 19 of the Act and these regulations.

§ 31.9 Minimum financial requirements.

(a) Each leverage transaction merchant must at all times maintain adjusted net capital equal to or in excess of $2,500,000 plus 20 percent of the market value of the amount of physical commodities subject to leverage contracts entered into by the leverage transaction merchant which are uncovered.

(1) For purposes of determining compliance with the provisions of paragraph (a) of this section, each leverage transaction merchant must compute the market value of the physical commodities subject to leverage contracts which it has entered into by using the widely accepted and broadly disseminated commercial or retail cash price series submitted with the leverage transaction merchant's application for registration of the leverage commodity in accordance with § 31.6, and cannot include any mark-ups or discounts of the leverage transaction merchant.

(2) The requirements of paragraph (a) of this section shall not be applicable if

the applicant or registrant is a member of a designated self-regulatory organization and conforms to minimum financial standards and related reporting requirements set by such designated self-regulatory organization in its bylaws, rules, regulations or resolutions approved by the Commission pursuant to Section 19 of the Act and these regulations.

(3) No person applying for registration as a leverage transaction merchant shall be so registered unless such person affirmatively demonstrates to the satisfaction of the Commission that it complies with the financial requirements of this section. Each leverage transaction merchant must be in compliance with this section at all times and must be able to demonstrate such compliance to the satisfaction of the Commission and/or the designated self-regulatory organization.

(4) A leverage transaction merchant who is not in compliance with this section or is unable to demonstrate such compliance as required by paragraph (a)(3) of this section must immediately cease engaging in the business of offering to enter into, entering into, or confirming the execution of, any leverage contract until such time as the leverage transaction merchant is able to demonstrate such compliance. Nothing is this paragraph shall be construed as preventing the Commission from taking action against a leverage transaction merchant for non-compliance with any of the provisions of this section. Any leverage transaction merchant required immediately to cease doing business under this paragraph shall remain liable on all leverage contracts previously entered into until all rights of and obligations owing to the customers thereunder have been fulfilled.

(b) For the purposes of this section:

(1) Where the applicant or registrant has an asset or liability which is defined in Securities Exchange Act rule 15c3–1 (§ 240.15c3–1 of this title), the inclusion or exclusion of all or part of such asset or liability for the computation of adjusted net capital shall be in accordance with § 240.15c3–1 of this title, unless specifically stated otherwise in this § 31.9;

(2) The term "Proprietary account" means a commodity futures, option or leverage account carried on the books of the applicant or registrant for the applicant or registrant itself, or for general partners of the applicant or registrant;

(3) The term "Business day" means any day other than a Saturday, Sunday or legal holiday;

(4) The term "net capital" has the same meaning as in § 1.17 of this chapter: *Provided, however,* That the term "leverage transaction merchant" shall be substituted for the term "futures commission merchant" in § 1.17 of this chapter. In determining net capital, the provisions set forth in § 1.17(c)(1) of this chapter shall apply;

(5) The term "current assets" has the same meaning as in § 1.17(c)(2) of this chapter: *Provided,* That the provisions of § 1.17(c)(2)(i) of this chapter shall apply to leverage contract accounts as well as commodity futures and option accounts;

(6) The provisions set forth in § 1.17(c)(3) of this chapter shall apply;

(7) The term "liabilities" has the same meaning as in § 1.17(c)(4) of this chapter;

(8) In computing adjusted net capital, the safety factors set forth in § 1.17(c)(5) of this chapter shall apply: *Provided, however,* That the safety factors set forth in § 1.17(c)(5)(ii) (B) and (C) of this chapter shall not apply to inventory, to the extent such inventory represents cover for leverage contracts entered into by a leverage transaction merchant; *And, provided further,* That the safety factors set forth in § 1.17(c)(5) (x) and (xii) of this chapter shall not apply to any futures contracts or commodity options traded on contract markets held in proprietary accounts which represent cover for leverage contracts entered into by a leverage transaction merchant;

(9) The safety factors set forth in § 1.17(c)(5)(viii) for undermargined commodity futures and commodity option customer accounts shall apply in a like manner to undermargined leverage customer accounts, and the term "leverage transaction merchant" shall be substituted for the terms "applicable boards of trade" or "clearing organization"; and

(10) The provisions set forth in § 1.17 (d), (e), (f), (h) and (j) of this chapter shall apply.

(c) No person shall be registered as a leverage transaction merchant unless, commencing on the date the person applies for such registration, the person prepares, and keeps current, ledgers or other similar records which show or summarize, with appropriate references to supporting documents, each transaction affecting his asset, liability, income, expense and capital accounts, and in which (except as otherwise permitted in writing by the Commission) all his asset, liability and capital accounts are classified into either the account classification subdivisions specified on Form 2–FR or categories that are in accord with generally accepted accounting principles. Each person so registered shall prepare and keep current such records.

(d) Each registered leverage transaction merchant, and each person who has applied for registration as a leverage transaction merchant, must make and keep as a record in accordance with § 31.13 formal computations of its adjusted net capital and of its minimum financial requirements pursuant to this section as of the close of business each month. Such computations must be completed and made available for inspection by any representative of the Commission, the designated self-regulatory organization, if any, or the United States Department of Justice within 30 days after the date for which the computations are made, commencing the first month-end after the date the application for registration is filed.

§ 31.10 Repurchase of leverage contracts by leverage transaction merchants.

No leverage transaction merchant shall offer to enter into or enter into a leverage contract involving a leverage commodity with any leverage customer at any time when such leverage transaction merchant is not offering to repurchase from any of its leverage customers any leverage contract involving the same leverage commodity previously entered into by the leverage transaction merchant with a leverage customer.

§ 31.11 Disclosure.

(a) Except as provided in paragraph (i) of this section, prior to the opening of a leverage customer account, a leverage transaction merchant soliciting an order for any leverage contract shall furnish to the prospective leverage customer a dated Disclosure Document and receive from such prospective leverage customer a signed and dated copy of the risk disclosure statement contained in such document which acknowledges that the customer received and understood the Disclosure Document. The Disclosure Document shall contain then current information with respect to the leverage contract being offered by the person soliciting the order therefor, and shall contain:

(1) The following bold-faced risk disclosure statement in at least ten-point type on the first page of the Disclosure Document:

BECAUSE OF THE UNPREDICTABLE NATURE OF THE PRICES OF PRECIOUS AND OTHER METALS AND FOREIGN CURRENCIES, THE PURCHASE OF LEVERAGE CONTRACTS INVOLVES A HIGH DEGREE OF RISK AND IS NOT SUITABLE FOR MANY MEMBERS OF THE PUBLIC. THE LEVERAGE CUSTOMER SHOULD BE AWARE THAT THE VALUE OF THE LEVERAGE CONTRACT MUST

EXCEED THE BREAK-EVEN PRICE BEFORE IT IS POSSIBLE TO REALIZE A PROFIT ON THE CONTRACT. AN ILLUSTRATIVE BREAK-EVEN CALCULATION IS ATTACHED TO THIS DOCUMENT. YOU ARE ENTITLED TO RECEIVE A CALCULATION OF THE BREAK-EVEN PRICE FOR YOUR PARTICULAR TRANSACTION WITH YOUR CONFIRMATION.

YOU SHOULD ALSO UNDERSTAND THAT THE CHARGES FOR SIMILAR LEVERAGE CONTRACTS MAY VARY AMONG LEVERAGE FIRMS, AND THAT SUCH FIRMS HAVE COMPLETE DISCRETION IN SETTING THEIR CHARGES AND THE PRICE OF THE LEVERAGE CONTRACTS THEY OFFER. PRIOR TO ENTERING INTO ANY LEVERAGE CONTRACT A PROSPECTIVE LEVERAGE CUSTOMER SHOULD COMPARE THE CHARGES AND PRICES OF SUCH FIRMS WITH EACH OTHER AND WITH THE COMMISSIONS FOR AND PRICES OF FUTURES CONTRACTS TRADED ON DESIGNATED EXCHANGES.

YOU SHOULD ALSO BE AWARE THAT YOU ARE SUBJECT TO MARGIN CALLS. THE LEVERAGE FIRM RESERVES THE RIGHT TO LIQUIDATE YOUR POSITION IF YOU DO NOT RESPOND TO A MARGIN CALL WITHIN THE TIME SPECIFIED IN YOUR LEVERAGE AGREEMENT. IN ANY EVENT, IF THE EQUITY IN YOUR CONTRACT AT ANY TIME FALLS BELOW 50% OF THE MINIMUM MARGIN, YOUR CONTRACT MAY BE LIQUIDATED WITHOUT PRIOR NOTICE. YOU MUST, HOWEVER, BE NOTIFIED OF LIQUIDATION WITHIN NO MORE THAN 24 HOURS THEREAFTER AND PERMITTED TO RE-ESTABLISH YOUR CONTRACT FOR A PERIOD OF 5 BUSINESS DAYS AT THE THEN PREVAILING BID PRICE WITHOUT COMMISSIONS, FEES OR OTHER MARK-UPS OR CHARGES UNDER RULES SET BY THE COMMODITY FUTURES TRADING COMMISSION, AS MORE COMPLETELY DESCRIBED IN THIS DISCLOSURE DOCUMENT. IN CASE OF LIQUIDATION, ALL OF YOUR FUNDS MAY BE USED TO SETTLE THE DEFICIT IN THE ACCOUNT, AND YOU MAY BE LIABLE FOR ADDITIONAL FUNDS TO SETTLE THE FULL LOSSES IN THE ACCOUNT.

IF YOU ARE A FIRST-TIME LEVERAGE CUSTOMER, YOU MAY RESCIND YOUR FIRST LEVERAGE CONTRACT PURCHASE SUBJECT ONLY TO ACTUAL PRICE LOSSES BUT OTHERWISE WITHOUT PENALTY FOR THREE BUSINESS DAYS FOLLOWING AND INCLUDING THE DAY OF RECEIPT OF THE CONFIRMATION.

YOU SHOULD BE AWARE THAT IN ORDER TO REALIZE ANY VALUE FROM THE CONTRACT, THE LEVERAGE TRANSACTION MERCHANT WHICH SOLD YOU THE LEVERAGE CONTRACT MUST REPURCHASE IT, OR YOU MUST PAY THE LEVERAGE TRANSACTION MERCHANT THE FULL PURCHASE PRICE FOR THE LEVERAGE CONTRACT, TAKE DELIVERY OF THE LEVERAGE COMMODITY, AND THEN RESELL THE LEVERAGE COMMODITY, POSSIBLY AT A LOWER PRICE THAN THE PRICE PAID TO PURCHASE THE LEVERAGE COMMODITY FROM THE LEVERAGE TRANSACTION MERCHANT. THERE IS NO MARKET FOR THE LEVERAGE CONTRACT ITSELF OTHER THAN TO RESELL IT TO THE LEVERAGE TRANSACTION MERCHANT FROM WHICH IT WAS PURCHASED. A LEVERAGE TRANSACTION MERCHANT IS UNDER NO OBLIGATION TO OFFER TO REPURCHASE A LEVERAGE CONTRACT AT ALL TIMES, ALTHOUGH THE LEVERAGE TRANSACTION MERCHANT MUST OFFER TO REPURCHASE ANY PREVIOUSLY-SOLD LEVERAGE CONTRACT AT ANY TIME DURING WHICH IT IS OFFERING TO SELL ANY LEVERAGE CONTRACTS ON THE SAME LEVERAGE COMMODITY. AS NOTED ABOVE, HOWEVER, A LEVERAGE TRANSACTION MERCHANT HAS COMPLETE DISCRETION IN SETTING THE PRICE AND ANY CHARGES RELATED THERETO.

THE COMMODITY FUTURES TRADING COMMISSION HAS NOT PASSED UPON THE MERIT OF THESE LEVERAGE CONTRACTS AS AN INVESTMENT VEHICLE NOR UPON THE ACCURACY OR ADEQUACY OF THIS DISCLOSURE DOCUMENT. ANY REPRESENTATION TO THE CONTRARY IS A VIOLATION OF THE COMMODITY EXCHANGE ACT AND THE REGULATIONS THEREUNDER.

(2) Immediately following the statement required by paragraph (a)(1) of this section, a section, captioned "Provisions of Leverage Contract" in at least ten point type, containing the terms and conditions of the leverage contract being offered. This information must be provided in the order specified in paragraphs (a)(2) (i) through (xi) of this section, with a clear demarcation or separation between each item according to the paragraph of the section to which it corresponds, and include:

(i) The duration or expiration date of the leverage contract;

(ii) The distinguishing characteristics of the contract and of the leverage commodity, including in particular, those characteristics of the leverage commodity enumerated in § 31.4(g)(1)(i)–(iii), (2) and (3) (i) and (ii);

(iii) A description of the following charges for each leverage contract:

(A) Initial charges;

(B) Carrying charges;

(C) Termination charges;

(iv) A description of the bid and ask prices of each leverage contract;

(v) An explanation of the margins applicable to each leverage contract, including, as required, initial leverage margins, minimum leverage margins and maintenance margins;

(vi) A description of the leverage customer's responsibilities with respect to margin calls, including the timing of such calls and, if applicable, the circumstances under which, time after which, and the order in which the leverage transaction merchant may, consistent with § 31.18 of this part liquidate a customer's position in the leverage contract;

(vii) A description of the manner in which a leverage customer may seek to have a leverage contract repurchased by the leverage transaction merchant, including an explanation of the procedure to be followed by the leverage transaction merchant to effect such repurchase and the manner in which the repurchase price is determined;

(viii) A statement to the effect that other persons may be unwilling to buy the leverage commodity that is deliverable on the leverage contract or, in the case of metal or coins, may be unwilling to buy such metal or coins without first requiring an inspection or assay, at the expense of the leverage customer;

(ix) A clear explanation of any *force majeure* clauses pertaining to each leverage contract;

(x) A description of any material risks not included in the statements required by paragraph (a)(1) of this section; and

(xi) An identification of the commercial or retail cash price series filed in accordance with § 31.6, along with clearly specified premiums and discounts, if applicable, which the leverage customer can use to evaluate an offered or purchased leverage contract and a widely available source from which such price quotes may be obtained on a timely basis.

(3) An illustrative example of a leverage transaction which includes a calculation of the break-even price in the format specified by the Commission.

(4)(i) The name, address of the main business office, main business telephone number and form of organization of the leverage transaction merchant. If the address of the main business office is a post office box number, the leverage transaction merchant must state where its books and records will be kept;

(ii) The name of each principal of the leverage transaction merchant;

(iii) The business background, for the five years preceding the date of the statement, of:

(A) The leverage transaction merchant; and

(B) Each principal of the leverage transaction merchant.

The leverage transaction merchant must include in the description of the business background of each such person the name and main business of that person's employers, business associations or business ventures and the nature of the person's duties performed for the employers or in

connection with the associations or ventures.

(5)(i) A Statement whether any principal of the leverage transaction merchant has purchased or intends to purchase leverage contracts for his own account and if so, whether leverage customers will be permitted to inspect the records of that person's trades; and

(ii) If principals of the leverage transaction merchant will not purchase or do not intend to purchase leverage contracts for their own account, the leverage transaction merchant must so state with respect to each principal.

(6)(i) Any material administrative or civil action involving any activity or conduct, or related to any statute, set forth in Sections 8a(2) or 8a(3) of the Act, or any material criminal action brought within the five years preceding the date of the document against the leverage transaction merchant or any principal of the leverage transaction merchant; and

(ii) If there has been no such action against any of the foregoing persons, the leverage transaction merchant must make a statement to that effect with respect to each such person.

(b)(1) If the leverage transaction merchant knows or should know that the Disclosure Document is materially inaccurate or incomplete in any respect, it must correct that defect and must distribute the correction to:

(i) All existing leverage customers within 30 calendar days after the date upon which the leverage transaction merchant first knows or has reason to know of the defect; and

(ii) Each prospective leverage customer prior to opening an account for such person.

The leverage transaction merchant may furnish the correction by means of an amended document, a sticker on the document, a notice in a monthly statement or by other similar means.

(2) The leverage transaction merchant may not use the document until such correction is made.

(c) The leverage transaction merchant must date each document and amendment thereto as of the date it is first used.

(d) Subject to the provisions of paragraph (b) of this section, all information contained in the document must be current as of the date of the document.

(e)(1) Subject to § 31.6(c), the leverage transaction merchant must file with the Commission three copies of the document for each leverage contract that it offers or that it intends to offer not less than 21 calendar days prior to the date the leverage transaction merchant first intends to furnish the document to a prospective leverage customer. The leverage transaction merchant must specify with the filing the date it first intends to deliver the document to a prospective leverage customer;

(2) Subject to § 31.6(c) and paragraph (h) of this section, the leverage transaction merchant must file with the Commission there copies of all subsequent amendments to the documents for each leverage contract that it offers or that it intends to offer within 30 calendar days after the date upon which the leverage transaction merchant first knows or has reason to know of the defect requiring the amendment.

(f) This section does not relieve a leverage transaction merchant from any obligation under the Act or the regulations thereunder, including the obligation to disclose all material information to existing or prospective leverage customers even if the information is not specifically required by this section.

(g) If any contract term set forth in accordance with paragraph (a)(2) of this section provides that such term is subject to change, the leverage transaction merchant must ensure that this fact, the conditions under which the change may take place, and the foreseeable consequences of the change are clearly stated in the Disclosure Document, in describing that contract term.

(h) A leverage transaction merchant must transmit a notification to each leverage customer within 24 hours of making any change not otherwise permitted under the contract terms set forth in accordance with paragraph (a)(2) of this section: *Provided, however,* that notification of any change in the interest rates charged by the leverage transaction merchant must also be transmitted to each leverage customer within twenty-four hours of each change. Such notification must be transmitted by first class mail or other, at least equivalent, means of communication.

(i) A person soliciting or accepting an order for a leverage contract is not required to deliver a Disclosure Document leverage to a leverage customer, as required by paragraph (a) of this section, if a disclosure document meeting all of the requirements of this section previously has been delivered by the person to the leverage customer: *Provided, however,* That such a Disclosure Document must be delivered:

(1) Upon the request of a leverage customer, or

(2) If the previously delivered Disclosure Document has become outdated or has become inaccurate in any material respect.

(j) Prior to the entry into a leverage contract, the person soliciting the order therefor shall inform the leverage customer or the prospective leverage customer, to the extent these amounts are known or can reasonably be approximated, of all charges for the initiation, carrying and termination of a leverage contract and the leverage transaction merchant's bid-ask spread on the leverage contract as set forth in paragraph (a)(2)(iii) and (a)(2)(iv), respectively, of this section and the margins applicable to such contracts as set forth in paragraph (a)(2)(v) and (a)(2)(vi) of this section.

(k)(1) Within 24 hours after the entry into a leverage contract, each leverage transaction merchant shall furnish to each first-time leverage customer, by first-class mail or other, at least equivalent, means of communication, a written confirmation statement in a format specified by the Commission containing: (1) The following bold-faced statement in at least ten point type:

IF YOU ARE A FIRST-TIME LEVERAGE CUSTOMER, YOU MAY RESCIND YOUR FIRST LEVERAGE CONTRACT PURCHASE, SUBJECT ONLY TO ACTUAL PRICE LOSSES BUT OTHERWISE WITHOUT PENALTY FOR THREE BUSINESS DAYS FOLLOWING AND INCLUDING RECEIPT OF THIS CONFIRMATION. ACTUAL LOSSES ARE CALCULATED BY SUBTRACTING THE ASK PRICE OF THE LEVERAGE CONTRACT AT THE TIME OF THE CUSTOMER'S RESCISSION FROM THE ASK PRICE AT WHICH THE LEVERAGE CONTRACT WAS PURCHASED AND WHICH APPEARS ON THIS CONFIRMATION. TO RESCIND THIS CONTRACT SEND A TELEGRAM TO (NAME AND ADDRESS OF LTM) OR YOU MAY TELEPHONE (NAME OF LTM) AT (TELEPHONE NUMBER). IF YOU RESCIND BY TELEPHONE, YOU MUST ALSO SEND IMMEDIATE WRITTEN AFFIRMATION BY TELEGRAM, CERTIFIED LETTER OR BY AT LEAST EQUIVALENT MEANS TO THE ADDRESS PROVIDED ABOVE.

(2) The following information:

(i) The date the leverage contract was entered into;

(ii) The transaction identification number;

(iii) The name of the leverage commodity;

(iv) The expiration date of the leverage contract;

(v) The price at which the leverage commodity was purchased;

(vi) The number of contracts covered by the confirmation statement;

(vii) The total cost of the leverage contracts covered in the confirmation statement, which equals the leverage

transaction merchant's ask price in dollars per contract multiplied by the number of contracts;

(viii) The initial charges, in dollars per contract, incurred by the leverage customer at the time the contract is entered into;

(ix) The carrying charges, in dollars per contract, cumulated for one year, based on the charges prevailing at the time the contract is entered into;

(x) The termination charges, in dollars per contract, incurred if the leverage contract is repurchased or liquidated by the leverage transaction merchant or settled by delivery, based on the charges prevailing at the time the contract is entered into;

(xi) The bid-ask spread prevailing at the close of business on the day the contract is entered into;

(xii) Based upon all of the foregoing, a calculation of the break-even price of the leverage contract and percentage price change to break even.

(xiii) The initial leverage margin, in dollars per contract, based on the rates or levels prevailing at the time the contract is entered into;

(xiv) The minimum leverage margin, in dollars per contract, based on the rates or levels prevailing at the time the contract is entered into;

(xv) The maintenance leverage margin, in dollars per contract, based on the rates or levels prevailing at the time the contract is entered into;

(xvi) The commercial or retail cash price series filed in accordance with § 31.6 available to the leverage customer to evaluate the leverage contract (including any applicable premiums or discounts), and where quotes of this series can be obtained on a timely basis, and

(1) Each leverage transaction merchant shall furnish, upon request, by first-class mail or other generally accepted means of communication, to all leverage customers with open leverage contracts and to prospective leverage customers who are being solicited to enter leverage contracts with it, a true copy of portions of the quarterly unaudited or annual audited financial statement most recently filed with the Commission pursuant to § 31.13, except that the portions of those statements which will generally be accorded non-public treatment by the Commission need not be so furnished.

§ 31.12 Segregation.

(a) Any person that accepts leverage customer funds from a leverage customer to enter into or maintain a leverage contract shall treat and deal with such leverage customer funds as belonging to that leverage customer. Such leverage customer funds: (1) Shall be separately accounted for and segregated as belonging to the leverage customer, (2) shall be kept in the United States, (3) shall not be commingled with the funds of any other person, and (4) shall not be used to secure or extend the credit of any leverage customer or person other than the one for whom the leverage customer funds are held: *Provided, however,* That the leverage customer funds treated as belonging to a leverage customer may for convenience be commingled with other leverage customer funds and deposited in the same account or accounts with a futures commission merchant or with a bank or trust company located in the United States under conditions set forth in paragraph (b) of this section. Any leverage customer funds when so deposited with a futures commission merchant, bank or trust company, shall be deposited under an account name which clearly indicates that the account contains leverage customer funds that are segregated as required by this section. Each person so depositing any leverage customer funds shall obtain and retain in its files for the period provided in § 1.31 of this chapter an acknowledgment from the futures commission merchant, bank or trust company wherein the leverage customer funds have been deposited that the futures commission merchant, bank or trust company has been informed that the leverage customer funds deposited with it are being treated by the depositing person as belonging to leverage customers and are being held in accordance with the provisions of this section. The futures commission merchant, bank or trust company shall allow inspection of such segregated accounts, including all documents pertaining thereto, at any reasonable time by any representative of the Commission or designated self-regulatory organization, if any. Notwithstanding the foregoing, a leverage transaction merchant may exclude from its segregation requirements commissions and other charges lawfully accruing in connection with leverage contracts provided such charges have actually been made to leverage customers' accounts and are shown on the customers' statements.

(b) No leverage customer funds deposited in accordance with paragraph (a) of this section shall be held, disposed of, used or treated as belonging to the depositing person or any person other than the leverage customers from whom the leverage customer funds were received: *Provided, however,* That leverage customer funds may be used to purchase obligations of the United States, general obligations of any state or of any political subdivision thereof, obligations fully guaranteed as to principal and interest by the United States, or unencumbered warehouse receipts for inventory held in approved contract market depositories or in commercial banks located in the United States which represent cover for leverage contracts purchased by such leverage customers, or may be deposited in a commodity account with a futures commission merchant to margin futures contracts or to purchase commodity options traded on or subject to the rules of a contract market which are permissible cover as described in § 31.8(a)(2) for leverage contracts purchased by such leverage customers. Any use of leverage customer funds as described in this paragraph (b) shall be made through an account or accounts used for the deposit of leverage customer funds, and proceeds from any sale, liquidation or other disposition of obligations or warehouse receipts obtained by such use shall be redeposited in these accounts. Each person that uses leverage customer funds to purchase obligations or warehouse receipts of the type described in this paragraph (b) shall separately account for and segregate the obligations or warehouse receipts as belonging to leverage customers. The obligations or warehouse receipts shall be deposited with a futures commission merchant, bank or trust company in the United States and shall be deposited under an account name which clearly indicates that it contains obligations or warehouse receipts treated as belonging to leverage customers, segregated as required by this section. Each person so depositing any obligations or warehouse receipts shall obtain and retain in its files for the period provided in § 1.31 of this chapter an acknowledgment from the futures commission merchant, bank or trust company wherein the obligations or warehouse receipts have been deposited that the futures commission merchant, bank or trust company has been informed that the obligations or warehouse receipts are being treated by the depositing person as belonging to leverage customers and are being held in accordance with the provisions of this section. The futures commission merchant, bank or trust company shall allow inspection of such obligations or warehouse receipts at any reasonable time by any representative of the Commission or designated self-regulatory organization, if any. Each person that uses leverage customer funds to margin futures contracts or to purchase commodity options traded on

or subject to the rules of a contract market which represent permissible cover for leverage contracts purchased by such leverage customers shall use a commodity account separate from any other commodity account containing futures contracts which do not represent cover. The leverage customer funds deposited in a commodity account with a futures commission merchant to margin futures contracts or to purchase commodity options traded on or subject to the rules of a contract market which represent permissible cover for leverage contracts purchased by such leverage customers shall be deposited under an account name which clearly indicates that it contains obligations treated as belonging to leverage customers, segregated as required by this section. Each person so depositing any leverage customer funds shall obtain and retain in its files for the period provided in § 1.31 of this chapter an acknowledgment from the futures commission merchant wherein the leverage customer funds have been deposited that: (1) The futures commission merchant has been informed that the commodity account is being treated by the depositing person as belonging to the leverage customers and is being held in accordance with the provisions of this section, (2) the customers on whose behalf the account is maintained by the leverage transaction merchant shall not be liable for any margin calls or other required deposits related to such account, and (3) upon liquidation of the open contracts in the account the futures commission merchant's claim in the account balance will be subordinate to that of leverage customers.

(c) Each person that uses leverage customer funds to purchase obligations or unencumbered warehouse receipts as permitted by paragraph (b) of this section shall keep a written record which includes the following:

(1) The date on which the purchase was made;

(2) The name of the person through which the purchase was made;

(3) The amount of funds so used;

(4) A description of such obligations or warehouse receipts, including the receipt number and the issuer's name;

(5) The identity of the futures commission merchant, bank or trust company wherein the obligations or warehouse receipts are segregated;

(6) The date on which the obligation, warehouse receipt, or portion thereof, is liquidated or otherwise disposed of;

(7) The amount of money, if any, received upon such liquidation or disposition; and

(8) The name of the person to or through which the obligation or warehouse receipt was disposed.

(d) Persons that use leverage customer funds to purchase obligations or unencumbered warehouse receipts described in paragraph (b) of this section shall include such obligations or unencumbered warehouse receipts in segregated accounts at values which do not exceed the lesser of current market value or a value calculated on the basis of a commercial or retail cash price series used to compute the market value of the physical commodities subject to leverage contracts in accordance with § 31.9(a)(1).

(e) The provisions of paragraphs (a) and (b) of this section shall not operate to prevent any person that uses leverage customer funds to purchase government obligations as described therein from receiving and retaining as its own any increment or interest resulting from such government obligations.

(f) The amount of leverage customer funds which are and which must be in a segregated account in order to comply with the requirements of this section shall be computed as of the close of each business day by each person required to segregate such leverage customer funds. A written record of this computation shall be made and kept, together with all supporting data, in accordance with the provsions of § 1.31 of this chapter. This daily computation shall be made by noon on the next business day and shall be identical in format to the Schedule of Segregation Requirements and Funds in Segregation contained in Form 2–FR.

(g) Each leverage transaction merchant shall maintain, as provided in § 1.31, a record of all securities and property received from leverage customers in lieu of money to purchase, guarantee or secure the entry into a leverage contract. Such record shall show separately for each leverage customer a description of the securities or property received; the name and address of such leverage customer; the dates when the securities or property were received; the identity of the depositories or other places where such securities or property are segregated; the dates of deposits and withdrawals from such depositories; and the date of return of such securities or property to such leverage customer, or other disposition thereof, together with the facts and circumstances of such other disposition.

§ 31.13 Financial reports of leverage transaction merchants.

(a) Each leverage transaction merchant who files an application for registration with the Commission under § 3.17 of this chapter shall submit concurrently with the filing of such application either:

(1) A Form 2–FR certified by an independent public accountant as of a date not more than 45 days prior to the date on which such report is filed; or

(2) A Form 2–FR as of a date not more than 45 days prior to the date on which such report is filed and an Form 2–FR certified by an independent public accountant as of a date not more than 1 year prior to the date on which such report is filed. Each such person must include with such financial report a statement describing the source of his current assets and representing that his capital has been contributed for the purpose of operating his business and will continue to be used for such purpose.

(b)(1) Each leverage transaction merchant must file, in accordance with the requirements of paragraph (e) of this section, a Form 2–FR for each fiscal quarter of each fiscal year. The Form 2–FR filed as of the close of the leverage transaction merchant's fiscal year must be certified by an independent public accountant. Each Form 2–FR must be filed no later than 45 days after the date for which the report is made: *Provided, however,* That any Form 2–FR which must be certified by an independent public accountant must be filed no later than 90 days after the close of the leverage transaction merchant's fiscal year.

(2) The provisions of paragraph (b)(1) of this section may be met by any person registered as a leverage transaction merchant who is a member of a designated self-regulatory organization and conforms to minimum financial standards and related reporting requirements set by such designated self-regulatory organization in its bylaws, rules, regulations, or resolutions and approved after the effective date of these regulations by the Commission pursuant to Section 19 of the Act and these regulations; *Provided, however,* That each such registrant shall promptly file with the Commission a true and exact copy of each financial report which it files with such designated self-regulatory organization.

(c) Each Form 2–FR which must be certified by an independent public accountant in accordance with the provisions of paragraphs (a)(1), (a)(2) and (b)(1) of this section, must be certified in accordance with § 1.16 of this chapter, and must be accompanied by the accountant's report on material inadequacies in accordance with the provisions of § 1.16(c)(5) of this chapter. In all other respects, the independent

public accountant shall act in accordance with the provisions of § 1.16 (except paragraph (f)): *Provided, however,* That the term "Form 2–FR" shall be substituted for "Form 1–FR" in § 1.16(c)(5), the term "31.9" shall be substituted for the term "§ 1.17," the term "leverage transaction merchant" shall be substituted for the term "futures commission merchant," and "the segregation requirements of § 31.12" shall be substituted for the "segregation requirements of Section 4d(2) of the Act and these regulations."

(d) Upon receiving written notice from any representative of the Commission or any self-regulatory organization of which it is a member, a leverage transaction merchant shall, on a monthly basis or at such other times as specified, furnish the Commission and the self-regulatory organization, if any, with a Form 2–FR or such other financial information as requested by the representative of the Commission or the self-regulatory organization. Each such Form 2–FR or such other information must be furnished within the time specified in the written notice.

(e) The reports provided for in this section will be considered filed when received by the regional office of the Commission with jurisdiction over the state wherein the principal place of business of the leverage transaction merchant is located, in accordance with § 140.2 of this chapter, and by the designated self-regulatory organization, if any: *Provided, however,* That firms under the jurisdiction of the Commission's Western Regional Office shall file their reports with the Southwestern Regional Office.

(f) Each Form 2–FR filed pursuant to this section which is not required to be certified by an independent public accountant must be completed in accordance with the instructions to the form and contain:

(1) A statement of financial condition as of the date for which the report is made;

(2) A statement of changes in ownership equity for the period between the date of the most recent statement of financial condition filed with the Commission and the date for which the report is made;

(3) A statement of the computation of the minimum capital requirements pursuant to § 31.9, a schedule of coverage requirements and coverage provided, and a schedule of segregation requirements and funds on deposit in segregation, as of the date for which the report is made; and

(4) In addition to the information expressly required, such further information as may be necessary to make the required statements and schedules not misleading.

(g) Each Form 2–FR filed pursuant to this § 31.13 which is required to be certified by an independent public accountant must be completed in accordance with the instructions to the form and contain:

(1) A statement of financial condition as of the date for which the report is made;

(2) Statements of: income (loss); changes in financial position; changes in ownership equity; and changes in liabilities subordinated to claims of general creditors, for the period between the date of the most recent statement of financial condition filed with the Commission and the date for which the report is made: *Provided, however,* That for an applicant filing pursuant to paragraph (a) of this section, the period must be the year ending as of the date of the statement of financial condition;

(3) A statement of the computation of the minimum capital requirements pursuant to § 31.9, a schedule of coverage requirements and coverage provided, and a schedule of segregation requirements and funds on deposit in segregation, as of the date for which the report is made;

(4) Appropriate footnote disclosures; and

(5) In addition to the information expressly required, such further information as may be necessary to make the required statements and schedules not misleading.

(h) The statements required by paragraphs (g) (1) and (2) of this section may be presented in accordance with generally accepted accounting principles in the certified reports filed as of the close of the registrant's fiscal year pursuant to paragraph (b) of this section, or accompanying the application for registration pursuant to paragraph (a) of this section, rather than in the format specifically prescribed by these regulations: *Provided, however,* That the statement of financial condition is presented in a format as consistent as possible with the Form 2–FR and a reconciliation is provided reconciling such statement of financial condition to the statement of the computation of the minimum capital requirements pursuant to § 31.9. Such reconciliation must be certified by an independent public accountant in accordance with § 1.16 of this chapter.

(i) Attached to each Form 2–FR filed pursuant to this section must be an oath or affirmation that to the best knowledge and belief of the individual making such oath or affirmation the information contained in the Form 2–FR is true and correct. If the leverage transaction merchant is a sole proprietorship, then the oath or affirmation must be made by the proprietor; if a partnership, by a general partner; or, if a corporation, by the chief executive officer or chief financial officer.

(j) Any leverage transaction merchant wishing to establish a fiscal year other than the calendar year may do so by notifying the Commission of its election of such fiscal year in writing, concurrently with the filing of Form 2–FR pursuant to paragraph (a) of this section or within 90 days of the effective date of this section, but in no event may such fiscal year end more than one year from the date of the Form 2–FR filed pursuant to paragraph (a) of this section or more than one year from the effective date of this regulation. A leverage transaction merchant which does not so notify the Commission will be deemed to have elected the calendar year as its fiscal year. A leverage transaction merchant must continue to use its elected fiscal year, calendar or otherwise, unless a change in such fiscal year is approved upon written application to the principal office of the Commission in Washington, D.C.

(k) In the event any leverage transaction merchant finds that it cannot file its report for any period within the time specified in paragraphs (b) or (d) of this section without substantial undue hardship, it may file with the principal office of the Commission in Washington, D.C., to the attention of the Chief Accountant, Division of Trading and Markets, an application for an extension of time to a specified date which may not be more than 90 days after the date as of which the financial report was to have been filed. The application must state the reasons for the requested extension and must contain an agreement to file the report on or before the specified date. The application must be received by the Commission before the time specified in paragraphs (b) or (d) of this section for filing the report. Within 10 calendar days after receipt of the application for an extension of time, the Commission shall: (1) Notify the leverage transaction merchant of the grant or denial of the requested extension; or (2) indicate that additional time is required to analyze the request, in which case the amount of time needed will be specified.

(l)(1) In the event a leverage transaction merchant finds that it cannot file its certified financial report and schedules for any year within the time specified in paragraph (b) of this section without substantial undue hardship, it may file with the principal

office of the Commission in Washington, D.C., to the attention of the Chief Accountant, Division of Trading and Markets, an application for an extension of time to a specified date not more than 90 days after the dates as of which the certified financial report and schedules were to have been filed. The application must be submitted by the leverage transaction merchant and must: (i) State the reasons for the requested extension; (ii) indicate that the inability to make a timely filing is due to circumstances beyond the control of the leverage transaction merchant, if such is the case, and describe briefly the nature of such circumstances; (iii) be accompanied by the latest available formal computation of its adjusted net capital and minimum financial requirements computed in accordance with § 31.9; (iv) be accompanied by the latest available computation of required segregation and by a computation of the amount of leverage customer funds segregated pursuant to § 31.12 as of the date of the latest available computation; (v) be accompanied by the latest available computation of required cover and by a computation of cover provided pursuant to § 31.8 as of the date of the latest available computation; (vi) contain an agreement to file the report on or before the date specified by the leverage transaction merchant in the application; (vii) be received by the principal office of the Commission in Washington, D.C., prior to the date on which the report is due; and (viii) be accompanied by a letter from the independent public accountant answering the following questions:

(A) What specifically are the reasons for the extension request?

(B) On the basis of that part of your audit to date, do you have any indication that may cause you to consider commenting on any material inadequacies in the accounting system, internal accounting controls or procedures for safeguarding customer or firm assets?

(C) Do you have any indication from the part of your audit completed to date that would lead you to believe that the firm was or is not meeting the minimum capital requirements specified in § 31.9 or the cover or segregation requirements of these regulations, or has any significant financial or recordkeeping problems?

(2) Within 10 calendar days after receipt of an application for extension of time, the Commission shall: (i) Notify the leverage transaction merchant of the grant or denial of the requested extension; or (ii) indicate that additional time is required to analyze the request, in which case the amount of time needed will be specified.

(3) On the written request of a leverage transaction merchant, or on its own motion, the Commission may grant an extension of time or an exemption from any of the certified financial reporting requirements of this section either unconditionally or on specified terms and conditions.

(m) All of the Forms 2–FR filed pursuant to this section will be public: *Provided, however,* That if the statement of financial condition, the computation of the minimum capital requirements pursuant to § 31.9, the schedule of coverage requirements and cover provided, and the schedule of segregation requirements and funds on deposit in segregation are bound separately from the other financial statements (including the statement of income (loss)), footnote disclosures and schedules of Form 2–FR, trade secrets and certain other commercial or financial information on such other statements and schedules, then such other statements and schedules will be treated as nonpublic for purposes of the Freedom of Information Act and the Government in the Sunshine Act and Parts 145 and 147 of this chapter. All information on such other statements, footnote disclosures and schedules will, however, be available for official use by any official or employee of the United States or any State, and by any other person to whom the Commission believes disclosure of such information is in the public interest. The independent public accountant's opinion filed pursuant to this section will be deemed to be public information.

(n)(1) Until such time as the Commission orders, otherwise, the Commission hereby delegates to the Director of the Division of Trading and Markets or his designee the authority to perform all functions reserved to the Commission in this section.

The Director of the Division of Trading and Markets may submit to the Commission for its consideration any matter which has been delegated to him pursuant to paragraph (n)(1) of this section.

§ 31.14 Recordkeeping.

(a) All books, records and other documents required to be kept by this part shall be kept in accordance with the provisions of § 1.31 of this chapter. In addition, information concerning leverage transactions shall be made available upon request of the Executive Director, the Director of the Division of Trading and Markets, the Director of the Division of Economics and Education or the Director of the Division of Enforcement, or other designees, at a time and place and in such form and manner as may be specified in the call.

(b) Each leverage transaction merchant shall:

(1) Keep full, complete, and systematic records, together with all pertinent data and memoranda, of all transactions relating to leverage contracts, commodity futures, commodity options and cash commodities and furnish true and correct information and reports as to the contents or the meaning thereof when and as requested by any authorized representative of the Commission, designated self-regulatory organization, if any, or the United States Department of Justice. Included among such records shall be: all leverage contract orders; signature cards; journals; ledgers; canceled checks; bank statements; loan agreements; invoices; copies of confirmations; copies of statements of purchase, repurchase, liquidation and delivery; copies of month-end statements; monthly trial balances, and a monthly listing as described in paragraph (d) of this section; reports, letters and copies of disclosure statements signed by leverage customers as described in § 31.11; promotional material, circulars, memoranda, publications, writings, and all other literature or written advice distributed to leverage customers or prospective leverage customers; and all other records, data and memoranda which have been prepared in the course of the business of the leverage transaction merchant concerning leverage contracts, commodity futures, commodity options, and cash commodities;

(2) Keep a record in permanent form which shall show for each leverage customer's account carried by such leverage transaction merchant: (i) The true name and address of the person for whom such account is carried; (ii) the principal occupation and/or type of business of the person for whom such account is carried; (iii) the name and address of any other person who assumes or purports to assume any financial responsibility for or operational control of such account; and (iv) the names of the persons who have solicited and are responsible for each leverage customer's account.

(c) Each leverage transaction merchant shall, as a minimum requirement, prepare regularly and promptly, and keep systematically and in permanent form, the following:

(1) A financial ledger which will show separately for each leverage customer's account all charges against and credits to such leverage customer's account,

including but not limited to all charges and credits for purchases and sales of leverage contracts (including the corresponding transaction identification numbers) and all funds transferred, deposited into, or withdrawn from the leverage customer's account.

(2) A record of transactions which will show separately for each leverage customer's account in chronological sequence all leverage contracts entered into with such customer. This record will show for each transaction: the date of the transaction; the commodity involved; a transaction identification number; the maturity date; the number of contracts; whether the transaction represents an initial purchase, a closing transaction, or a delivery; and, if a closing transaction, the total amount realized.

(3) A daily record or journal which will show separately by leverage commodity complete details of all leverage transactions executed on that day, including the person for whom such transaction was made, the leverage commodity and contract involved, the number of leverage contracts, the transaction identification number for each leverage contract, whether the transaction was an initial purchase, repurchase, liquidating transaction or delivery, the total value of the initial purchase or liquidating transaction.

(4) The acknowledgment specified in § 31.11(a).

(5) A record of all notification under § 31.11(h).

(6) Where reproductions on microfilm of the records required by this paragraph (c) are substituted for hard copy in accordance with the provisions of paragraph (a) of this section, the requirement of paragraphs (c)(1) and (c)(2) of this section will be considered met if the person required to keep such records is ready at all times to provide, and immediately provides at such time and place as required by the Commission and at the expense of such person, reproduced copies which show the records as specified in paragraphs (c)(1) and (c)(2) of this section, on request by any representative of the Commission, designated self-regulatory organization or the United States Department of Justice.

(d) Each leverage transaction merchant shall prepare, as of the close of the last business day of each calendar month, a listing of all open leverage contracts carried for leverage customers. Such listing shall be by leverage commodity and contract and shall include the following details with respect to each leverage contract:

(1) The customer account identification number;

(2) The name of the leverage commodity and contract;

(3) The date of execution and the maturity date;

(4) The transaction identification number;

(5) The value of the leverage contract when initiated; and

(6) The unrealized profit or loss on each open leverage contract marked to the market on the basis of the leverage transaction merchant's bid price.

§ 31.15 Reporting to leverage customers.

Each leverage transaction merchant shall furnish in writing directly to each leverage customer:

(a) Promptly upon the repurchase, liquidation or delivery of a leverage contract, a statement showing the financial result of the transactions involved, including the gain or loss on the leverage contract as well as the commission and other charges;

(b) As of the close of the last business day of each calendar month or as of any regular monthly date selected a statement which clearly shows:

(1) All leverage contracts which were terminated for or by the leverage customer during the monthly reporting period by leverage commodity and contract, the number of contracts involved, the transaction identification number for each leverage contract, whether the terminating transaction involved repurchase, liquidation, or delivery, the date the contract was initially entered into, the value of the contract when initiated, the date the contract was terminated, the value of the contract when terminated, and the realized profit or loss on the contract;

(2) The open leverage contract positions carried for the leverage customer by leverage commodity and contract, the dates on which such contracts were executed and their maturity dates, the number of contracts, the total value of the contracts when initiated, and the unrealized profit or loss on each such contract marked to the market on the basis of the leverage transaction merchant's bid price;

(3) The net ledger balance carried in the leverage customer's account as of the monthly closing date and a complete accounting of any leverage customer funds held for the leverage customer;

(4) A detailed accounting of all financial charges and credits to the previous ledger balance during the monthly reporting period, including all leverage customer funds received from or disbursed to the leverage customer, and all commissions and fees incidental to the contract which have been charged and received, as well as all realized profits and losses; and

(5) Any securities or other property which the leverage customer has deposited with the leverage transaction merchant that represent leverage customer funds.

The monthly statement must also contain the following bold-faced legend in at least ten-point type: IF YOU BELIEVE YOUR MONTHLY STATEMENT IS INACCURATE YOU SHOULD PROMPTLY CONTACT (name of LTM) AT (telephone number).

(c) With respect to any leverage account controlled by any person other than the leverage customer for whom the account is carried, except such leverage customer's spouse, parent or child, a copy of the statements required by paragraphs (a) and (b) of this section shall be sent to the controller of the account as well as to the leverage customer for whom such account is carried.

§ 31.16 Monthly reporting requirements.

Each leverage transaction merchant shall file written monthly reports with the Commission's headquarters office in Washington, D.C., by the tenth business day of the month following the month covered by the reports. Reports shall be prepared on CFTC Forms 188 and 189 and shall show the following information separately for each leverage commodity and contract:

(a) The total number of leverage contracts that are open as of the close of business on the last business day of the month for:

(1) All customer accounts, and

(2) Separately for commercial leverage accounts.

(b) The total number of leverage contracts purchased by leverage customers during the month for:

(1) All customers, and

(2) Separately for commercial leverage accounts.

(c) The total number of leverage contracts which were repurchased by the leverage transaction merchant during the month.

(d) The total number of leverage contracts which were liquidated by the leverage transaction merchant during the month (i.e., as a result of overdue or unanswered margin calls).

(e) The total number of leverage contracts on which deliveries were taken during the month.

(f) The total number of leverage contracts which were rescinded during the month.

(g) The leverage transaction merchant's last bid price offered and last ask price offered as of the close of business on each business day.

§ 31.17 Records of leverage transactions.

(a) Each leverage transaction merchant receiving a leverage customer's order shall immediately upon receipt thereof prepare a written record of such order, including the account identification and order number, and shall record thereon, by time-stamp or other timing device, the date and time, to the nearest minute, such order is received.

(b) Each leverage transaction merchant executing the order of a leverage customer shall record on a written record of such order, including the account identification and order number, by time-stamp or other timing device, the date and time, to the nearest minute, such order is executed.

(c) For the purposes of this section, the term "order" shall include, but not be limited to, any order for the purchase, repurchase, rescission, settlement by delivery, or liquidation of a leverage contract.

(d) Each leverage transaction merchant shall establish and maintain a record of the bid and ask prices of each leverage contract on each leverage commodity that the leverage transaction merchant offers to sell or sells. The record shall include the times these prices were in effect to the nearest ten seconds.

§ 31.18 Margin calls.

(a) No leverage transaction merchant shall liquidate a leverage contract because of a margin deficiency without effecting personal contact with the leverage customer. If a leverage transaction merchant is unable to effect personal contact with a leverage customer, a telegram sent to the leverage customer at the address furnished by the customer to the leverage transaction merchant shall be sufficient contact.

(b) A leverage transaction merchant shall allow a leverage customer a reasonable time after contact is effected in which to respond to a margin call. Twenty-four hours, excluding Saturdays, Sundays, and holidays, will be a resaonable time: *Provided, however,* That in the event the leverage customer's leverage account equity falls below 50% of aggregate minimum margin with respect to the leverage contracts therein, the leverage transaction merchant may liquidate sufficient contracts to restore minimum margin without prior notice: *Provided, further,* That the leverage customer must be notified of such liquidation within no more than 24 hours thereafter and must be permitted to re-establish his contract for a period of 5 business days at the then prevailing bid prices without commissions, fees or other mark-ups or charges.

(c) A record of all margin calls, including all contacts with leverage customers and attempts to contact leverage customers with respect to such calls, shall be kept by the leverage transaction merchant in accordance with the provisions of § 31.14.

§ 31.19 Unlawful representations.

It shall be unlawful for any person:

(a) Required to be registered with the Commission in accordance with §§ 3.17 and 3.18 of this chapter expressly or impliedly to represent that the Commission, by registering that person or by registering the leverage commodity which underlies contracts offered for sale or sold by that person, or otherwise, has directly or indirectly approved that person, the person's method of operation, or any leverage commodity or leverage contract solicited or accepted by that person;

(b) To represent in writing that it is registered with the Commission or that it is offering any leverage commodity registered with the Commission without also stating in writing in connection with that representation that the Commission, by registering that person or the leverage commodity which underlies contracts offered or sold by that person, has not directly or indirectly approved the person, the person's method of operation, or any leverage commodity or contract solicited or accepted by that person; or

(c) In or in connection with an offer to enter into, the entry into, the confirmation of the execution of, or the maintenance of any leverage contract, expressly or impliedly to represent that compliance with the provisions of the Act and these regulations constitutes a guarantee of the fulfillment of the leverage contract.

§ 31.20 Prohibition of guarantees against loss.

(a) No leverage transaction merchant shall in any way represent that it will, with respect to any leverage contract in any account carried by the leverage transaction merchant for or on behalf of any person:

(1) Guarantee such person against loss;

(2) Limit the loss of such person; or

(3) Not call for or attempt to collect initial, minimum or maintenance leverage margin established for customers.

(b) No person shall in any way represent that a leverage transaction merchant will engage in any of the acts or practices described in paragraphs (a)(1), (a)(2) or (a)(3) of this section.

(c) This section shall not be construed to prevent a leverage transaction merchant from assuming or sharing in the losses resulting from an error or mishandling of an order.

(d) This section shall not affect any guarantee entered into prior to the effective date of this section, but this section shall apply to any extension, modification or renewal thereof entered into after such date.

§ 31.21 Leverage contracts entered into prior to effective date of these regulations; subsequent transactions.

Nothing contained in these regulations shall be construed to affect any lawful activities that occurred prior to the effective date of these regulations. All leverage contracts offered or entered into on or after the effective date of these regulations shall be subject to the terms and conditions of these regulations.

§ 31.22 Prohibited trading in leverage contracts.

No futures commission merchant shall offer to enter into, enter into, confirm the execution of, or solicit or accept orders for any leverage contract: *Provided, however,* That the foregoing shall not apply to any person who was lawfully engaged in a leverage business and who was registered with the Commission as a futures commission merchant prior to the effective date of this section, and who has filed an application for registration in accordance with the provisions of § 3.17 of this chapter pending a final determination by the Commission on such application.

§ 31.23 Limited right to rescind first leverage contract.

(a) A leverage customer who is entering a leverage contract or contracts for the first time with a particular leverage transaction merchant may rescind such contract or contracts during a period of not less than three business days from and including the day on which the leverage customer receives the confirmation statement pursuant to the following provisions:

(1) Such customer may be assessed actual price losses accruing to the customer's position from the time at which the customer entered into a leverage contract to the time that the leverage contract was rescinded. Such losses do not extend to any other charges or fees, such as account initiation, carrying, margin or account termination;

(2) Losses accruing to the position may be calculated only by subtracting the ask price of the leverage contract offered by the leverage transaction

merchant at the time when the leverage contract was rescinded from the ask price at which the leverage contract was purchased and which appears on the confirmation statement.

(3) Such customer may rescind the contract by telegram sent to the leverage transaction merchant at the address provided on the confirmation statement, or by telephone to a telephone number provided by the leverage transaction merchant on the confirmation statement with immediate written affirmation of rescission by telegram, certified letter or at least equivalent means.

(b) A leverage transaction merchant must make complete refund of all monies received except for actual price losses as calculated in paragraph (a)(2) of this section, to the leverage customer who has rescinded a contract pursuant to paragraph (a) of this section within 24 hours of notification of rescission.

§ 31.24 Petitions for exemption.

Any person adversely affected by any requirement of this part may file a petition with the Secretary of the Commission, which petition must set forth with particularity the reasons why that person believes that he should be exempt from such requirement. The Commission may, in its discretion, grant such an exemption if that person demonstrates to the Commission's satisfaction that (a) under the exemption, that person's business will be conducted in a manner that may reasonably be expected to insure the financial solvency of the contracts to be offered and sold and to prevent manipulation and fraud, (b) the manner in which the business will be conducted will present no substantial risk to the public and (c) the exemption is not otherwise contrary to the public interest or to the purposes of the provision from which exemption is sought. The petition will be granted or denied on the basis of the papers filed. The petition may be be granted subject to such terms and conditions as the Commission may find appropriate.

PART 145—COMMISSION RECORDS AND INFORMATION

25. Section 145.5 is amended by adding paragraph (d)(1)(i)(F), by revising paragraphs (d)(1)(vi) and (d)(1)(vii), and by adding paragraph (d)(1)(viii) to read as follows:

§ 145.5 Nonpublic matters.

* * * * *

(d) * * *
(1) * * *
(i) * * *

(F) The following portions, and footnote disclosures thereof, of the Form 2–FR, provided the procedure set forth in § 31.13(m) of this chapter is followed: The Statement of Income (Loss), the Statement of Changes in Financial Position, the Statement of Changes in Ownership Equity, the Statement of Changes in Liabilities Subordinated to the Claims of General Creditors Pursuant to a Satisfactory Subordination Agreement and the accountant's report on material inadquacies filed under § 1.16(c)(5) of this chapter;

* * * * *

(iv) Reports required to be filed pursuant to Parts 15–21 of this chapter;

(vii) Reports concerning option positions of large traders required to be filed pursuant to Part 16 of this chapter; and

(viii) Form 188;

* * * * *

PART 147—OPEN COMMISSION MEETINGS

26. Section 147.3 is amended by adding paragraph (b)(4)(i)(A)(*6*) by revising paragraphs (b)(4)(i)(F) and (b)(4)(i)(G), and by adding paragraph (b)(4)(i)(H) to read as follows:

§ 147.3 General requirement of open meetings; grounds upon which meetings may be closed.

* * * * *

(b) * * *
(4) * * *
(i) * * *
(A) * * *

(*6*) The following portions, and footnote disclosures thereof, of the Form 2–FR provided the procedure set forth in § 31.13 of this chapter is followed: The Statement of Income (Loss), the Statement of Changes in Financial Position, the Statement of Changes in Ownership Equity the Statement of Changes in Liabilities Subordinated to the Claims of General Creditors Pursuant to Satisfactory Subordination Agreement and the accountant's report on material inadequacies filed under § 1.16(c)(5) of this chapter;

* * * * *

(F) Reports required to be filed pursuant to Parts 15–21 of this chapter;

(G) Reports concerning option positions of large traders required to be filed pursuant to Part 16 of this chapter; and

(H) Form 188.

* * * * *

PART 190—BANKRUPTCY

27. Section 190.01 is amended by revising paragraph (g) and adding paragraph (nn) to read as follows:

§ 190.01 Definitions.

* * * * *

(g) "Commodity contract" shall have the same meaning, subject to paragraph (nn) of this section, as that set forth in Section 761(4) of the Bankruptcy Code.

* * * * *

(nn) "Leverage contract" shall have the same meaning as that set forth in § 31.4(w) of this chapter.

Issued in Washington, D.C. on February 7, 1984, by the Commission.

Jane K. Stuckey,

Secretary of the Commission.

BILLING CODE 6351-01-M

Date: _____

Disclosure Statement
Illustrative Transaction

Commodity _____ Contract Expiration: _____

Leverage Transaction Merchant's Ask Price Per Contract _____

Break-Even Calculation for a Leverage Contract Left Open for One year a/

	If Contract is Repurchased	If Contract is Liquidated	If Delivery is Taken
Initial Charges	_____	_____	_____
Carrying Charges	_____	_____	_____
Termination Charges	_____	_____	_____
Bid-Ask Spread	_____	_____	_____
Total Charges and Spread:	_____	_____	_____
Price to Break-Even	_____ b/	_____ b/	_____ d/
Percentage Price Change to Break-Even	_____ c/	_____ c/	_____ e/

Price Series to Evaluate the Leverage Contract _____
Source of the Price Series _____

---

a/ Based on current fee schedules, which are subject to change.
b/ Equals total charges and spread plus bid price of the contract.
c/ Equals total charges and spread divided by the ask price per contract.
d/ Equals total initial, carrying and termination charges plus the ask price per contract; does not include any expense which will be incurred privately by the customer reselling the commodity, such as freight, insurance, assay, inspection or discounts typical in the retail market.
e/ Equals initial, carrying and termination charges divided by the ask price per contract.

CONFIRMATION STATEMENT

IF YOU ARE A FIRST-TIME LEVERAGE CUSTOMER YOU MAY RESCIND YOUR FIRST LEVERAGE CONTRACT PURCHASE, SUBJECT ONLY TO ACTUAL PRICE LOSSES BUT OTHERWISE WITHOUT PENALTY FOR THREE BUSINESS DAYS FOLLOWING AND INCLUDING RECEIPT OF THIS CONFIRMATION. ACTUAL LOSSES ARE CALCULATED BY SUBTRACTING THE ASK PRICE OF THE LEVERAGE COMMODITY AT THE TIME OF THE CUSOMER'S RESCISSION FROM THE ASK PRICE AT WHICH THE LEVERAGE COMMODITY WAS PURCHASED AND WHICH APPEARS ON THIS CONFIRMATION. TO RESCIND THIS CONTRACT SEND A TELEGRAM TO (name and address of LTM) OR YOU MAY TELEPHONE (name of LTM) AT (telephone number). IF YOU RESCIND BY TELEPHONE, YOU MUST ALSO SEND IMMEDIATE AFFIRMATION BY TELEGRAM, CERTIFIED LETTER OR AT LEAST EQUIVALENT MEANS TO THE ADDRESS PROVIDED ABOVE.

1. DATE	2. COMMODITY	3. TRANSACTION I.D. NUMBER

4. CONTRACT EXP. DATE	5. LEVERAGE MERCHANT'S ASK PRICE PER CONTRACT		NUMBER OF CONTRACTS		TOTAL VALUE
	(_____)	X	(_____)	=	(_____)

I. **BREAK-EVEN CALCULATION FOR A LEVERAGE CONTRACT LEFT OPEN FOR ONE YEAR a/**

	IF CONTRACT IS REPURCHASED	IF CONTRACT IS LIQUIDATED	IF DELIVERY IS TAKEN
Initial Charges			
Carrying Charges			
Termination Charges			
Bid-Ask Spread			
Price to Break-Even			
Price to Break-Even	**b/**	**b/**	**d/**
Percentage Price Change to Break-Even	**c/**	**c/**	**e/**

II. **MARGIN REQUIREMENTS (Dollars per Contract)**

INITIAL MARGIN:	MINIMUM MARGIN:	MAINTENANCE MARGIN:

PRICE SERIES TO EVALUATE THE LEVERAGE CONTRACT:	SOURCE OF THE PRICE SERIES:

a/ Based on current fee schedules, which are subject to change.
b/ Equals total charges and spread plus bid price of the contract.
c/ Equals total charges and spread divided by the ask price per contract.
d/ Equals total initial, carrying and termination charges plus the ask price per contract; does not include any expenses, which will be incurred privately by the customer reselling the commodity, such as freight, insurance, assay, inspection, or discounts typical in the retail market.
e/ Equals initial, carrying and termination charges divided by the ask price per contract.

BILLING CODE 6351-01-C

Instructions for Preparing and Filing CFTC Form 188 on Leverage Contracts

Leverage Transaction Merchant

(See Part 31 of the Regulations under the Commodity Exchange Act.)

Report Date—The last business day of each calendar month.

Who Should Report—Each person registered as a leverage transaction merchant which has entered into a leverage transaction with a customer during the month preceding the report date ("reporting month") or has open leverage contracts with customers as of the close of business on the report date.

When to Report—The report shall be submitted to the Commission not later than the tenth business day following the report date.

Where to Report—The report shall be submitted to the Commodity Futures Trading Commission, Washington, D.C., office, at 2033 K Street, NW., Washington, D.C. 20581, Att'n: Division of Economics and Education.

What to Report—Report all customer transactions and open contracts separately, by each leverage contract traded on a registered leverage commodity as follows:[1]

1. The number of open contracts as of the close of business on the report date held by:

a. All customers.

b. Commercial enterprises (i.e., producers, processors, commercial users or merchants which, as part of their business, handle the commodity which is the subject of the leverage contract or the products or by-products thereof).

2. The total number of leverage contracts purchased by leverage customers during the month for:

a. All customers.

b. Commercial enterprises.

3. The total number of leverage contracts which were repurchased by leverage transaction merchants during the month.

4. The total number of leverage contracts which were liquidated by the leverage transaction merchant during the month (i.e., as a result of overdue or unanswered margin calls).

5. The total number of leverage contracts on which deliveries were taken during the month.

6. The total number of leverage contracts which were rescinded during the month.

[1] In accordance with the Commission's regulations regarding the registration of leverage commodities, different leverage commodities, specify different delivery units, i.e., 100 oz. gold bullion and one kilo gold bullion are different leverage commodities as are different grades of the same commodity.

Instructions for Preparing and Filing CFTC Form 189 on Leverage Contracts

Leverage Transaction Merchant

(See Part 31 of the Regulations under the Commodity Exchange Act.)

Report Date—The last business day of each calendar month.

Who Should Report—Each person registered as a leverage transaction merchant which has entered into a leverage contract with a customer during the month preceding the report date ("reporting month") or has open leverage contracts with customers as of the close of business on the report date.

When to Report—The report shall be submitted to the Commission not later than the tenth business day following the report date.

Where to Report—The report shall be submitted to the Commodity Futures Trading Commission, Washington, D.C. office, 2033 K Street, N.W., Washington, D.C. 20581, Attn: Division of Economics and Education.

What to Report—Report by each leverage contract traded on each registered leverage commodity the last bid price offered and the last ask price offered as of the close of business of each business day.[2]

CFTC FORM 2–FR

(OMB No. 3038–0029)

General Instructions

This form contains the financial statements and schedules which are required to be filed by each leverage transaction merchant, or applicant therefor, in accordance with the Commission's regulations. These instructions, and any other instructions issued from time to time, must be used in preparing this form and constitute a part of this form.

The heading of each page includes a space for the firm's employer identification number. Use the employer identification number ("EIN") assigned by the Internal Revenue Service.

The references in this form to Sections 1.12, 1.16, 1.17, 1.31, 31.4, 31.7, 31.8, 31.9, 31.11, 31.12, 31.13 and 145.9 are to the Commission's regulations contained in 17 CFR Chapter I. The reference to Section 240.15c3–1 is to the Securities and Exchange Commission's regulations contained in 17 CFR Chapter II.

Before completing this form, the applicant or registrant should be familiar with the following sections of the Commission's regulations:

(1) 1.12—Maintenance of minimum financial requirements by futures commission merchants and introducing brokers.

(2) 1.16—Qualifications and reports of accountants (if this report is required to be certified by an independent public accountant).

(3) 1.17—Minimum financial requirements for futures commission merchants and introducing brokers.

(4) 1.31—Books and records; keeping and inspection.

(5) 31.4—Definitions [relating to leverage transactions].

(6) 31.7—Maintenance of minimum financial requirements by leverage transaction merchants.

(7) 31.8—Cover of leverage contracts.

(8) 31.9—Minimum financial requirements [for leverage transaction merchants].

(9) 31.11—Disclosure [by leverage transaction merchants].

(10) 31.12—Segregation [by leverage transaction merchants].

(11) 31.13—Financial reports of leverage transaction merchants.

(12) 145.9—Petition for confidential treatment of certain information submitted to the Commission.

The terms "current assets," "liabilities," "net capital," and "adjusted net capital" are all defined terms which may be found in Section 31.9 of the Commission's regulations. Those definitions largely incorporate by reference the definitions of those terms contained in Section 1.17 of the Commission's regulations, and leverage transaction merchants should be familiar with that section.

Unaudited Report

Each unaudited report filed pursuant to Section 31.13(f) must be completed in accordance with the instructions to the form and include the following:

(a) A Statement of Financial Condition;

(b) A Statement of the Computation of the Minimum Capital Requirements;

(c) A Schedule of Leverage Contracts and Coverage Provided;

(d) A Statement of Changes in Ownership Equity;

(e) A Schedule of Segregation Requirements and Funds on Deposit in Segregation; and

(f) Any additional information that may be necessary to make the required statements not misleading.

Audited Report

Each report certified by an independent public accountant must be completed in accordance with the

[2] In accordance with the Commission's regulations regarding the registration of leverage commmodities, different leverage commodities, specify different delivery units, i.e., 100 oz. gold bullion and one kilo gold bullion are different leverage commodities as are different grades of the same commodity.

instructions to the form and contain the statements set forth above as well as the following statements all completed in accordance with Sections 1.16 and 31.13 of the regulations:

(a) A Statement of Income (Loss);

(b) A Statement of Changes in Financial Position;

(c) A Statement of Changes in Liabilities Subordinated to the Claims of General Creditors Pursuant to a Satisfactory Subordinaton Agreement;

(d) Accountant's report covering the Form 2–FR and all supporting schedules included as part of the report;

(e) Accountant's supplemental report on material inadequacies; and

(f) Appropriate footnote disclosures.

Each item on page 1 of the report form must be answered completely and the attestation must be signed and dated. This form must be based on the applicant's or registrant's accounting records. All records which support amounts shown in this report must be retained in accordance with Section 1.31 of the Commission's regulations.

The report must be prepared in conformity with generally accepted accounting principles (except where otherwise indicated by the regulations) applied on a basis consistent with that of the preceding report and must include all informative disclosures which are necessary to make the required statements and schedules not misleading. The report must be prepared on the accrual basis of accounting. If no response is made to an item or subdivision thereof, it will be assumed that the applicant or registrant has nothing to report.

Freedom of Information Act

This form generally is considered by the Commission to be a public record, copies of which may be obtained upon written request to the Commission's Office of Public Information in Washington, D.C. If a registrant or applicant follows the procedures set forth in Section 31.13(m) of the regulations for separate binding of certain portions of this form, only such separately bound portions will be made available to the public. The separately bound public portion of the form must include: (1) The Statement of Financial Condition; (2) the Statement of the Computation of the Minimum Capital Requirements; (3) the Schedule of Leverage Contracts and Coverage Provided; (4) the Schedule of Segregation Requirements and Funds on Deposit in Segregation; and (5) the independent public accountant's opinion, if the report is audited. Leverage transaction merchants are also reminded that Section 31.11(m) requires them to furnish, upon request, to all leverage customers whose leverage contracts have not matured or are otherwise still open, and to prospective customers who are being solicited to enter leverage contracts with it, a true copy of the quarterly unaudited or annual audited financial statement most recently filed with the Commission pursuant to Section 31.13, except that the portions of those statements which will generally be accorded non-public treatment by the Commission need not be so furnished.

Under the provisions of the Freedom of Information Act (5 U.S.C. § 552), the Commission may disclose to third parties portions of the "non-public" information in the report under the following circumstances: (1) In connection with matters in litigation; (2) in connection with Commission investigations; (3) where the information is furnished to regulatory, self-regulatory and law enforcement agencies to assist them in meeting responsibilities assigned to them by law; (4) where disclosure is required under the Freedom of Information Act; and (5) in other circumstances in which withholding of such information appears unwarranted.

If the applicant or registrant files a petition for confidential treatment of this information, Section 145.9 of the Commission's regulations affords the appllicant or registrant with the right to notice and a right to appeal any Commission staff decision to disclose this information pursuant to a request for information under the Freedom of Information Act. In addition, if the applicant or registrant believes that the placing of any other information submitted on or with this form in the Commission's public files would constitute an unwarranted invasion of the applicant's or registrant's personal privacy or would reveal sensitive business information, the registrant or applicant may petition the Commission to treat such other information as nonpublic pursuant to § 145.9 in response to requests under the Freedom of Information Act.

BILLING CODE 6351–01–M

OMB No. 3038-0029

COMMODITY FUTURES TRADING COMMISSION
LEVERAGE TRANSACTION MERCHANT'S
REPORT ON LEVERAGE CONTRACTS
FORM CFTC 188
Customer Accounts

Leverage Transaction Merchant's Name:

Report Date:

NOTICE: Failure to file a report required by the Commodity Exchange Act and the regulations thereunder, or the filing of a false or fraudulent report may be a basis for administrative action under 7 U.S.C. Sec. 9, and may be punishable by fine or imprisonment, or both, under 7 U.S.C. Sec. 13, or 18 U.S.C. Sec. 1001.

		Commodity:	Commodity:	Commodity:
1. NUMBER OF LEVERAGE CONTRACTS OPEN AT END OF MONTH	contract- contract- contract-			
2. NUMBER OF LEVERAGE CONTRACTS IN COMMERCIAL ACCOUNTS OPEN AT END OF MONTH	contract- contract- contract-			
3. NUMBER OF LEVERAGE CONTRACTS ENTERED INTO DURING MONTH	contract- contract- contract-			
4. NUMBER OF LEVERAGE CONTRACTS ENTERED INTO DURING MONTH BY COMMERCIAL ACCOUNTS	contract- contract- contract-			
5. NUMBER OF REPURCHASES DURING THE MONTH	contract- contract- contract-			
6. NUMBER OF LIQUIDATIONS DURING THE MONTH	contract- contract- contract-			
7. NUMBER OF DELIVERIES TAKEN DURING THE MONTH	contract- contract- contract-			
8. NUMBER OF CONTRACTS RESCINDED DURING THE MONTH	contract- contract- contract-			

COMMODITY FUTURES TRADING COMMISSION
LEVERAGE TRANSACTION MERCHANT'S BID
AND ASK PRICES AT CLOSE OF TRADING
FORM CFTC 189

Leverage Transaction Merchant's Name:

Report Date:

NOTICE: Failure to file a report required by the Commodity Exchange Act and the regulations thereunder, or the filing of a false or fraudulent report may be a basis for administrative action under 7 U.S.C. Sec. 9, and may be punishable by fine or imprisonment, or both, under 7 U.S.C. Sec 13, or 18 U.S.C. Sec. 1001.

Day of the Month	Type of Commodity:		Type of Commodity:		Type of Commodity:		Type of Commodity:		Type of Commodity:		Type of Commodity:	
	Bid	Ask	Bid	Ask	Bid	Ask	Bid	Ask	Bid	Ask	Bid	Ask
1												
2												
3												
4												
5												
6												
7												
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29												
30												
31												

Note: Denote a weekend or holiday on which no transactions took place by "C."

OMB No. 3038-0029

FORM 2-FR

Name of Registrant or Applicant	Firm Employer ID No.
Address of Principal Place of Business	Name of Person to Contact Concerning This Report
(City) (State) (Zip Code)	Telephone No. of Contact ( )

1. Report for the period beginning _____ and ending _____

2. Name of Designated Self-Regulatory Organization Supervising Registrant _____

3. If an audited report, identify independent public accountant expressing an opinion thereon:

NAME _____

ADDRESS _____
(Number and Street)

_____
(City) (State) (Zip Code)

The leverage transaction merchant, or applicant for registration therefor, submitting this Form and its attachments and the person whose signature appears below represent that, to the best of their knowledge, all information contained therein is true, correct and complete. It is understood that all required items, statements and schedules are integral parts of this Form and that the submission of any amendment represents that all unamended items, statements and schedules remain true, correct and complete as previously submitted. It is further understood that any intentional misstatements or omissions of facts constitute Federal Criminal Violations (see 18 U.S.C. 1001).

Signed this _____ day of _____ 19 ___.

Manual signature _____

Type or Print Name _____

☐ Sole Proprietor ☐ Chief Financial Officer

☐ General Partner ☐ Chief Executive Officer

Firm: / Firm Employer ID No.

FORM 2-FR

STATEMENT OF FINANCIAL CONDITION

AS OF ___/___/___

Assets

	Current	Non-Current	Total
1. Cash:			
A. Cash	$		$
B. Cash segregated for the benefit of leverage customers.			
C. Other restricted cash. . . .		$	
2. Receivables from and deposits with clearing organizations:			
A. Securities transactions. . .			
B. Firm commodity transactions			
3. Receivables from other futures commission merchants and brokers:			
A. Firm commodity transactions.			
B. Securities transactions (attach details).			
C. Allowance for doubtful accounts	( )		( )
D. Security deposit			
4. Receivables from leverage customers:			
A. Debit and deficit accounts			
B. Allowance for doubtful accounts	( )	( )	( )
5. Receivables from proprietary leverage accounts:			
A. Debit and deficit accounts of general partners.			
B. Allowance for doubtful accounts	( )	( )	( )

6. Other receivables and advances:
   - A. Merchandising . . . . .
   - B. Taxes receivable . . . . .
   - C. Insurance claims . . . . .
   - D. Dividends and interest . . .
   - E. Notes receivable . . . . .
   - F. Advances on cash commodities . . . . .
   - G. Receivables from employees and leverage representatives
   - H. Other (itemize here or on a separate page) . . . . .
   - I. Allowance for doubtful accounts . . . . . ( )

7. Securities purchased under agreement to resell . . . . .

8. Inventories of securities-readily marketable, at market value:
   - A. Firm owned . . . . .
   - B. Customer owned in segregation. . . . .
   - C. Investment of segregated funds. . . . .

9. Inventories of cash commodities, raw materials, work in progress and finished goods
   - A. Covered . . . . .
   - B. Not covered . . . . .
   - C. Segregated -- cover for leverage contracts . . . .

10. Securities owned not readily marketable at estimated fair value . . . . .

11. Partners' individual securities accounts at market value . . . .

12. Secured demand notes (market value of collateral $_____ ☐ --safety factor charges applicable to such collateral $_____ ☐) . . . . .

13. Guarantee deposits with and stock in clearing organizations (at cost) . . . . .

14. Exchange memberships (market value $_____) at cost . .

15.	Investments in and receivables from affiliates and subsidiaries	☐	☐	☐
16.	Plant, property, equipment and capitalized leases (at cost net of accumulated depreciation and amortization of $_____)	☐	☐	☐
17.	Other assets:			
	A. Prepaid expenses and deferred charges		☐	☐
	B. Miscellaneous (itemize here or on a separate page)	☐	☐	☐
18.	Total Assets.	☐	☐	☐

Firm: / Firm Employer ID No. /

FORM 2-FR

STATEMENT OF FINANCIAL CONDITION

AS OF ___/___/_____

Liabilities & Ownership Equity

Liabilities

19.	Loans payable:	
	A. Secured by warehouse receipts.	$
	B. Secured by other property . .	
	C. Unsecured	
20.	Securities sold under repurchase agreement	
21.	Payable to clearing organizations:	
	A. Securities accounts.	
	B. Firm commodity accounts. . .	
22.	Payable to other futures commission merchants or brokers:	
	A. Payables relating to securities transactions (attach details)	
	B. Payables relating to firm commodity transactions . . .	
23.	Payable to leverage customers . .	
24.	Payable to proprietary accounts:	
	A. Securities accounts	
	B. Commodity and leverage accounts of general partners.	
25.	Securities sold not yet purchased at market value--including arbitrage	
26.	Accounts payable, accrued liabilities and expenses:	
	A. Drafts payable	
	B. Accounts payable	
	C. Income taxes payable	
	D. Deferred income taxes . . .	
	E. Accrued expenses and other liabilities	

F. Salaries, wages and commissions payable . . . . . .
G. Advances against commodities
H. Notes, mortgages and other payables due within twelve months of the date of this statement (see item 27) . .
I. Other (itemize here or on a separate page) . . . . . .

27. Notes, mortgages and other payables not due within twelve months of the date of this statement:
A. Unsecured . . . . . .
B. Secured . . . . . .

28. Liabilities subordinated to claims of general creditors:
A. Subject to a satisfactory subordination agreement . .
B. Not subject to a satisfactory subordination agreement . .

29. Total liabilities . . . . . .

Ownership Equity

30. Sole proprietorship . . . . . .

31. Partnership:
A. Partnership contributed and retained capital . . . .
B. Additional capital per partnership agreement (equities in partners' trading accounts, etc.)

32. Corporation:
A. Preferred stock . . . . . .
B. Common stock . . . . . .
C. Additional paid in capital .
D. Retained earnings . . . . .
E. Sub-total . . . . . .
F. Less capital stock in treasury ( )

33. Total ownership equity . . . . .

34. Total liabilities and ownership equity $

Firm: / Firm Employer ID No.

FORM 2-FR

STATEMENT OF THE COMPUTATION OF THE MINIMUM CAPITAL REQUIREMENTS

AS OF ___/___/___

Net Capital

1. Current assets - Item 18*			$
2. Adjustments to current assets:			
A. Segregated assets (to the extent liabilities are deducted in 4(B) below)** . .	$		
B. (Increase)-decrease to clearing organization stock to reflect margin value . .			
C. Total deductions		( )	
D. Net current assets			$
3. Total liabilities - Item 29* . .			
4. Deduct:			
A. Liabilities subject to satisfactory subordination agreements - Item 28A* . . .			
B. Equities in leverage customers' accounts**			
C. Certain deferred income tax liability (see regulation 1.17(c)(4)(iv)) . . .			
D. Certain current income tax liability (see regulation 1.17(c)(4)(v)) . . .			
E. Long term debt pursuant to regulation 1.17(c)(4)(vi). .			
F. Total deductions		( )	
G. Adjusted liabilities			
5. Net capital			$

Charges to Net Capital

6. Excess of advances paid on cash commodity contracts over 95% of the market value of commodities covered by such contracts	$

* References are to item numbers on the Statement of Financial Condition.
** Item #2A must equal Item #4B.

7. Five percent (5%) of the market value of inventories covered by open futures contracts or commodity options. (See Note below). ☐

8. Twenty percent (20%) of the market value of uncovered inventories. (See Note below) . . . . . ☐

9. Ten percent (10%) of the market value of commodities involved in fixed price commitments and forward contracts which are covered by open futures contracts or commodity options . . . . . ☐

10. Twenty percent (20%) of the market value of commodities involved in fixed price commitments and forward contracts which are not covered by open futures contracts or commodity options . . . . . ☐

11. Charges as specified in §240.15c3-1(c)(2)(vi) and (vii) (or, for securities brokers or dealers only, §240.15c3-1(f)) against securities:

	Assets Market Value	Charge
A. Securities owned:		
(a) Bankers' acceptances, certificates of deposit and commercial paper . .	$ ☐	☐
(b) U.S. and Canadian government obligations . .	☐	☐
(c) State and Municipal government obligations .	☐	☐
(d) Corporate obligations .	☐	☐
(e) Stocks and warrants . .	☐	☐
(f) Arbitrage	☐	☐
(g) Other securities	☐	☐
(h) Total (a) - (g)	$ ☐	
B. Investment of segregated funds		☐
C. Total A+B		☐

NOTE: There is no charge applicable to inventories registered as deliverable on a contract market and which are covered by futures contracts; nor is any charge applicable against inventories representing cover for leverage contracts.

12.	Charges on securities options as specified in §240.15c3-1, Appendix A		☐
13.	Charges against open contractual commitments as specified in §240.15c3-1(c)(2)(viii)		☐
14.	Undermargined leverage customer accounts -- amount in each account required to meet maintenance margin requirements less the amount of current margin calls in that account	☐	
15.	Uncovered open futures (unless such futures represent cover for leverage contracts entered into by the leverage transaction merchant, in which case there is no charge) and commodity option contracts in proprietary accounts -- percentage of margin requirements applicable to such contracts.	☐	
	Less: equity in proprietary accounts included in liabilities (p.5, line 24B)	( ) ☐	☐
16.	A. Ten percent (10%) of the market value of commodities which are the subject of commodity options not traded on a contract market carried long by the applicant or registrant which has value and such value increased adjusted net capital (this charge is limited to the value attributed to such options) . . .		☐
	B. Commodity options which are traded on contract markets and carried long in proprietary accounts. Charge is the same as would be applied if applicant or registrant was the grantor of the options (this charge is limited to the value attributed to such options)		☐
17.	Five percent (5%) of all unsecured receivables from unregistered futures commission merchants or securities brokers or dealers . .		☐
18.	Secured demand note deficiency .		☐

19. For securities brokers or dealers all other deductions specified in §240.15c3-1 . . . . . ☐

Net Capital Computation

20. Total charges . . . . . (☐)

21. Adjusted net capital . . . . . $ ☐

22. Net capital required:
  A. Market value of the physical commodities underlying each uncovered leverage contract entered into by the leverage transaction merchant* . . . ☐
  B. 20% of A . . . . . ☐
  C. Enter $2,500,000 plus B ☐

23. Excess net capital (Item 21 less Item 22C) . . . . . $ ☐

24. Enter 120% of line 22C. This is your early warning capital level. If this amount is greater than the amount on line 21, you must immediately notify your DSRO and the Commission and begin filing monthly financial reports pursuant to regulation §31.7(b). $ ☐

*Indicate below the cash price series used, by commodity, to compute the value in Item 22A

Firm: / Firm Employer ID No. /

FORM 2-FR

SCHEDULE OF COVERAGE REQUIREMENTS AND COVERAGE PROVIDED

PHYSICAL COMMODITY SUBJECT TO A LEVERAGE CONTRACT	Platinum	Gold Bullion	Bulk Gold Coins	Silver Bullion	Bulk Silver Coins
1. Quantity of physical commodities subject to leverage contracts carried in leverage customers' accounts (oz., lbs., etc.)					
2. Coverage required — Enter 90% of line 1					
3. Coverage provided:					
A. Futures and options:					
i. Quantity of physical commodities subject to futures contracts . . .					
ii. Quantity of physical commodities subject to exchange-traded options.					
B. Quantity of inventory* (this must equal at least 25% of line 1 -- if it does not, see regulation §31.8(b))					
C. Other (describe on a separate sheet)					
D. Total (sum of A, B, and C)					
4. Excess (insufficiency) of coverage (3D minus 2). If there is an insufficiency, see regulation §31.8(b) . . .					

* The inventory appearing on this line, if encumbered, may not be encumbered in excess of 70 percent of its market value. See regulation §31.8(a)(2)(i) and (ii).

Firm: / Firm Employer ID No. /

FORM 2-FR

SCHEDULE OF COVERAGE REQUIREMENTS AND COVERAGE PROVIDED

PHYSICAL COMMODITY SUBJECT TO A LEVERAGE CONTRACT	Copper	British Pound	Deutsche Mark	Japanese Yen	Swiss Franc
1. Quantity of physical commodities subject to leverage contracts carried in leverage customers' accounts (oz., lbs., etc.)					
2. Coverage required -- Enter 90% of line 1					
3. Coverage provided:					
A. Futures and options:					
i. Quantity of physical commodities subject to futures contracts . . .					
ii. Quantity of physical commodities subject to exchange-traded options.					
B. Quantity of inventory* (this must equal at least 25% of line 1 -- if it does not, see regulation §31.8(b))					
C. Other (describe on a separate sheet)					
D. Total (sum of A, B, and C)					
4. Excess (insufficiency) of coverage (3D minus 2). If there is an insufficiency, see regulation §31.8(b) . . .					

* The inventory appearing on this line, if encumbered, may not be encumbered in excess of 70 percent of its market value. See regulation §31.8(a)(2)(i) and (ii).

Firm: / Firm Employer ID No.

FORM 2-FR

STATEMENT OF INCOME (LOSS)

FOR THE PERIOD FROM _____ THROUGH _____

Revenues

1.	Merchandising activities:	
	A. Net sales	$
	B. Cost of goods sold	( )
	C. Gross income from sales . .	$
2.	Leverage commissions.	
3.	Leverage maintenance fees	
4.	Firm trading accounts:	
	A. Realized commodity futures and options	
	B. Unrealized commodity futures and options	
	C. Realized security and security options	
	D. Unrealized security and security options	
5.	Interest and dividends:	
	A. Interest earned on investments of leverage customers' segregated funds	
	B. Interest earned on leverage customer debit balances. . .	
	C. Other interest and dividends	
6.	Other income (itemize here or on a separate page)	
7.	Total revenue	$

Expenses

8.	Commissions	
9.	Employee compensation and benefits (exclusive of commissions) . . .	
10.	Occupancy and equipment rental .	
11.	Advertising and promotional activities	

12.	Communications	
13.	Bad debt expense:	
	A. Leverage accounts.	
	B. Merchandising	
	C. Other	
14.	Trade Errors:	
	A. Customer Accounts	
	B. Other	
15.	Interest	
16.	Warehousing expense	
17.	Other expenses (itemize here or on a separate page)	
18.	Total expenses	$
19.	Income (loss) before income taxes and items below	
20.	Income tax expense	
21.	Minority interest in income of consolidated subsidiaries	
22.	Equity in earnings of unconsolidated subsidiaries less applicable tax	
23.	Income (loss) before extraordinary items	
24.	Extraordinary gains (loss), less applicable tax	
25.	Cumulative effect of changes in accounting principles, less applicable tax	
26.	Net income (loss)	$

STATEMENT OF CHANGES IN FINANCIAL POSITION

The statement may be in any format which is relevant, but must be in accordance with generally accepted accounting principles.

Firm: / Firm Employer ID No.

FORM 2-FR

STATEMENT OF CHANGES IN OWNERSHIP EQUITY

FOR THE PERIOD FROM _____ THROUGH _____

1.	Total ownership equity as previously reported	$ ☐
2.	Net income (loss) for period	☐
3.	Other additions to capital (explain below)	☐
4.	Dividends	( ) ☐
5.	Other deductions from capital (including partner and proprietary withdrawals) (explain below)	( ) ☐
6.	Balance — to agree with Item 33 on the current Statement of Financial Condition	$ ☐

Date	Explanation	Addition (Deduction) Amount
		$

SUPPLEMENTAL QUESTION

Do the amounts reported as ownership equity or liabilities subordinated to the claims of general creditors include any amounts expected to be withdrawn or maturing within the next six months? YES ☐ NO ☐.

If yes, furnish a statement giving full particulars.

Firm: / Firm Employer ID No.

FORM 2-FR

STATEMENT OF CHANGES IN LIABILITIES

SUBORDINATED TO THE CLAIMS OF GENERAL CREDITORS

PURSUANT TO A SATISFACTORY SUBORDINATION AGREEMENT

FOR THE PERIOD FROM _____ THROUGH _____

1. Total subordinated borrowings as previously reported . . . . . $_____
2. Increases (explain below) . . . . . _____
3. Decreases (explain below) . . . . . (_____)
4. Balance -- to agree with Item 28A or the current Statement of Financial Condition . . $_____

Date	Explanation	Increase (Decrease) Amount
		$

Firm: / Firm Employer ID No.

FORM 2-FR

SCHEDULE OF SEGREGATION REQUIREMENTS AND FUNDS

IN SEGREGATION AS OF ___/___/_____

LEVERAGE CUSTOMER FUNDS

SEGREGATION REQUIREMENTS

1.	Net ledger balance:	
	A. Cash	$
	B. Securities (at market) . . .	
2.	Net unrealized profit (loss) in leverage customers' open leverage contracts.	
3.	Net equity (deficit) (total of 1 and 2)	
4.	Add accounts liquidating to a deficit and accounts with debit balances with no open contracts . .	
5.	Amount required to be segregated (total of 3 and 4).	

FUNDS IN SEGREGATION

		BANKS	FCMs	
6.	Funds on deposit in segregated leverage customer accounts:			
	A. Cash			
	B. Gain (loss) on open futures contracts . . .			
	C. Securities:			
	i. Investments			
	ii. Held for particular customers			
	D. Unencumbered inventory .			
	E. Amount of funds in segregation (total of A, B, C, and D).			
7.	Excess (insufficiency) of funds in segregation (5 minus 6.E)			

AUTHORITY: Sections 8a, 17 and 19 of the Commodity Exchange Act (7 U.S.C. 12a, 21 and 23).

[FR Doc. 84-3727 Filed 2-10-84; 8:45 am]
BILLING CODE 6351-01-C

federal register

Monday
February 13, 1984

Part V

Department of Energy

Federal Energy Regulatory Commission

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act; Notice

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Vol. 1060]

Determination by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: February 7, 1984.

The following notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" before the section code. Estimated annual production (PROD) is in million cubic feet (MMCF).

The applications for determination are available for inspection except to the extent such material is confidential under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol St., Washington, D.C. Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 275.204, file a protest with the Commission within fifteen days after publication of notice in the **Federal Register.**

Source data from the Form 121 for this and all previous notices is available on magnetic tape from the National Technical Information Service (NTIS). For information, contact Stuart Weisman (NTIS) at (703) 487–4808, 5285 Port Royal Rd, Springfield, Va 22161.

Categories within each NGPA section are indicated by the following codes:

Section 102–1: New OCS lease
102–2: New well (2.5 Mile rule)
102–3: New well (1000 Ft rule)
102–4: New onshore reservoir
102–5: New reservoir on old OCS lease
Section 107–DP: 15,000 feet or deeper
107–GB: Geopressured brine
107–CS: Coal Seams
107–DV: Devonian Shale
107–PE: Production enhancement
107–TF: New tight formation
107–RT: Recompletion tight formation
Section 108: Stripper well
108–SA: Seasonally affected
108–ER: Enhanced recovery
108–PB: Pressure buildup

Kenneth F. Plumb,

Secretary.

NOTICE OF DETERMINATIONS
ISSUED FEBRUARY 7, 1984

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
KENTUCKY DEPARTMENT OF MINES & MINERALS									
-KENTUCKY WEST VIRGINIA GAS CO				RECEIVED:	01/09/84	JA: KY			
8415638	506490	1619500000		108		A J ABSHIRE #6483	KENTUCKY EAST	3.7	
8415639	506491	1619500000		108		A J ABSHIRE #6507	KENTUCKY EAST	6.6	
8415653	506572	1619500000		108		A W STRATTON #5775	KENTUCKY EAST	11.7	
8415705	506767	1611500000		107-DV		ALBERT G WELLS - #5548	KENTUCKY EAST	7.3	
8415704	506766	1611500000		107-DV		ALBERT G WELLS #5532	KENTUCKY EAST	12.8	
8415673	506605	1619500000		108		ALEXANDER RATLIFF #7236	KENTUCKY EAST	4.3	
8415681	506627	1611900000		108		ARIO CORP #1695	KENTUCKY EAST	6.1	
8415719	506907	1611900000		103		ARIO CORP #1696	KENTUCKY EAST	1108.0	KENTUCKY WEST VIR
8415636	506660	1611900000		108		ARIO CORP #1701	KENTUCKY EAST	8.0	
8415609	506461	1611900000		108		B F KING -#582	KENTUCKY EAST	4.0	
8415645	506564	1613300000		108		BENJAMIN HALL #6869	KENTUCKY EAST	10.6	
8415659	506582	1619500000		108		BETHLEHAM MINES CORP - #1503	KENTUCKY EAST	2.9	
8415660	506533	1619500000		108		BETHLEHAM MINES CORP - #1504	KENTUCKY EAST	7.4	
8415683	506657	1619500000		108		BETHLEHEM MINES CORP #1505	KENTUCKY EAST	13.8	
8415655	506574	1611900000		108		BOON HOWARD #6399	KENTUCKY EAST	4.6	
8415635	506487	1615900000		108		C W PREECE #5245	KENTUCKY EAST	8.0	
8415664	506589	1615900000		108		C W PREECE #5357	KENTUCKY EAST	10.3	
8415643	506562	1615900000		108		C W PREECE #5556D	KENTUCKY EAST	9.9	
8415716	506890	1607100000		107-DV		CARROLL & GOULD #1 # 5102	KENTUCKY EAST	7.3	
8415730	506762	1611900000		107-DV		CHESTER COMBS #1076	KENTUCKY EAST	8.8	
8415606	506458	1607100000		108		CHRIS GOBLE - #524	KENTUCKY EAST	9.5	
8415615	506467	1607100000		108		CHRIS GOBLE -#673	KENTUCKY EAST	17.3	
8415619	506471	1607100000		108		CHRIS GOBLE #689	KENTUCKY EAST	5.8	
8415671	506596	1611500000		107-DV		CRATE RICE #1493 C	KENTUCKY EAST	4.3	
8415695	506757	1607100000		107-DV		D D MARTIN #1 #440	KENTUCKY EAST	10.9	
8415674	506606	1619500000		108		DAVID SMITH #6416D	KENTUCKY EAST	5.6	
8415640	506492	1619500000		108		E M MILLER #6603	KENTUCKY EAST	17.8	
8415629	506481	1619500000		108		E L PINSON #1068	KENTUCKY EAST	9.5	
8415679	506611	1612700000		108		ECK CARTER #1557	KENTUCKY EAST	5.5	
8415677	506609	1613300000		108		ELKHORN COAL CO INC #1565	KENTUCKY EAST	2.7	
8415663	506588	1615900000		108		ESTHER YOUNG #6808	KENTUCKY EAST	15.8	
8415678	506610	1613300000		108		F C LUSK #1589	KENTUCKY EAST	9.2	
8415668	506593	1607100000		108		F M RICE #622	KENTUCKY EAST	19.6	
8415625	506477	1619500000		108		FERRELL ELKINS #907	KENTUCKY EAST	5.9	
8415626	506478	1619500000		108		FERRELL ELKINS #923	KENTUCKY EAST	6.2	
8415642	506561	1613100000		108		FORDSON COAL CO #1622	KENTUCKY EAST	3.8	
8415717	506891	1619300000		107-DV		FORDSON COAL CO #1627	KENTUCKY EAST	15.0	
8415657	506576	1619500000		108		GEORGE W MAY #6647	KENTUCKY EAST	20.3	
8415687	506661	1611900000		108		GOODLOE BROS CO #1708	KENTUCKY EAST	3.0	
8415685	506659	1611900000		108		GOODLOE BROTHERS CO #1660	KENTUCKY EAST	5.6	
8415600	506452	1607100000		108		H JARRELL #1-#385	KENTUCKY EAST	4.8	
8415670	506595	1607100000		108		H L MOORE #149	KENTUCKY EAST	1.3	
8415605	506457	1607100000		108		HAMILTON COAL & LAND CO #508	KENTUCKY EAST	4.3	
8415604	506456	1607100000		108		HAMILTON COAL & LAND CO-#498D	KENTUCKY EAST	17.0	
8415701	506763	1613300000		107-DV		HANK HALL - #6470D	KENTUCKY EAST	3.6	

BILLING CODE 6717-01-M

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8415669	506594	1607100000		108		HELEN MARTIN - #236	KENTUCKY EAST	20.4	
8415706	506768	1611500000		107-DV		HENRY C WELLS HRS #5642	KENTUCKY EAST	5.5	
8415627	506479	1607100000		108		HIRAM SLOAN #982	KENTUCKY EAST	2.4	
8415711	506773	1613300000		107-DV		IRA HALL - #6526	KENTUCKY EAST	4.0	
8415680	506626	1613100000		108		ISAAC S YATES - FARMER HENDRIX #16*	KENTUCKY EAST	3.1	
8415651	506570	1619500000		108		J A TAYLOR #660D	KENTUCKY EAST	9.4	
8415654	506573	1611900000		108		J B PIGMAN #5989	KENTUCKY EAST	12.6	
8415646	506565	1619500000		108		J C KERR #6297	KENTUCKY EAST	11.2	
8415620	506472	1619500000		108		J C MULLINS #720	KENTUCKY EAST	14.3	
8415622	506474	1619500000		108		J C MULLINS #748	KENTUCKY EAST	7.4	
8415710	506772	1611900000		107-DV		J F RICHIE - #6478	KENTUCKY EAST	12.8	
8415636	506488	1615900000		108		J G CARLISLE #5265	KENTUCKY EAST	5.7	
8415637	506489	1615900000		108		J G CARLISLE #5296	KENTUCKY EAST	6.2	
8415703	506765	1611500000		107-DV		J M COLLINS #5505	KENTUCKY EAST	10.9	
8415613	506465	1619500000		108		J M TAYLOR -#659	KENTUCKY EAST	19.2	
8415616	506468	1619500000		108		J M TAYLOR -#674	KENTUCKY EAST	19.3	
8415611	506463	1619500000		108		J M TAYLOR #621	KENTUCKY EAST	5.6	
8415621	506473	1619500000		108		J M TAYLOR #733	KENTUCKY EAST	11.1	
8415623	506475	1619500000		108		J M TAYLOR #748	KENTUCKY EAST	5.7	
8415666	506591	1619500000		108		J M TAYLOR #991	KENTUCKY EAST	19.5	
8415676	506608	1613300000		108		J R LUSK #1603	KENTUCKY EAST	5.2	
8415618	506470	1619500000		108		J S CLINE #677	KENTUCKY EAST	6.8	
8415652	506571	1607100000		108		J W WEBB #1277	KENTUCKY EAST	0.3	
8415644	506563	1619500000		108		JAMES GIBSON #6157D	KENTUCKY EAST	3.0	
8415708	506770	1613300000		107-DV		JAS B TAYLOR - #6151	KENTUCKY EAST	19.7	
8415697	506759	1611900000		107-DV		JASON & SARAH RICHIE #1 #489	KENTUCKY EAST	2.9	
8415599	506451	1607100000		108		JASPER FITZPATRICK 379D	KENTUCKY EAST	4.4	
8415607	506459	1607100000		108		JENNIE & JAMES CALDWELL -#573	KENTUCKY EAST	9.4	
8415688	506662	1619500000		108		JERRY FRANCISCO - #7259	KENTUCKY EAST	17.6	
8415713	506875	1611500000		107-DV		JESSE PRESTON - #5587	KENTUCKY EAST	8.0	
8415693	506741	1619300000		107-DV		JOE DAVIDSON #7010	KENTUCKY EAST	12.3	
8415672	506604	1619500000		108		JOHN EP RATLIFF #7238	KENTUCKY EAST	11.6	
8415608	506460	1607100000		108		JOHN H & BENJAMIN SELLARDS #574	KENTUCKY EAST	10.4	
8415696	506758	1607100000		107-DV		JOHN P MAYO #1 #443	KENTUCKY EAST	12.0	
8415712	506774	1613300000		107-DV		JOSEPH HALL - #6547	KENTUCKY EAST	16.4	
8415698	506760	1611900000		107-DV		JOSEPH HALL - #871	KENTUCKY EAST	6.6	
8415630	506482	1619300000		108		KENTUCKY RIVER COAL CORP #1169	KENTUCKY EAST	3.0	
8415631	506483	1619300000		108		KENTUCKY RIVER COAL CORP #1170	KENTUCKY EAST	7.9	
8415632	506484	1619300000		108		KENTUCKY RIVER COAL CORP #1191	KENTUCKY EAST	6.4	
8415690	506707	1613100000		107-DV		KYCOGA LAND CO #1604	KENTUCKY EAST	26.1	
8415684	506658	1613100000		108		KYCOGA LAND CO #1607	KENTUCKY EAST	4.0	
8415691	506708	1613100000		107-DV		KYCOGA LAND CO #1632	KENTUCKY EAST	12.3	
8415649	506568	1607100000		108		L D TRAUTMAN #348	KENTUCKY EAST	7.2	
8415633	506485	1619500000		108		LEONARD KING #1219	KENTUCKY EAST	14.1	
8415603	506455	1607100000		108		M F MARTIN #497	KENTUCKY EAST	10.2	
8415658	506577	1611900000		108		MANFORD SMITH #6482	KENTUCKY EAST	11.9	
8415715	506889	1613300000		107-DV		MINERAL FUEL CO #7158	KENTUCKY EAST	4.4	
8415610	506462	1619500000		108		N J BOYD -#613	KENTUCKY EAST	2.1	
8415612	506464	1607100000		108		NELSON BOYD -#623	KENTUCKY EAST	11.8	
8415614	506463	1607100000		108		NOAH AKERS -#668	KENTUCKY EAST	19.8	
8415694	506756	1607100000		107-DV		P L SAULSBURY #2 #229	KENTUCKY EAST	2.2	
8415689	506706	1619300000		103		PAUL PETREY #1654	KENTUCKY EAST	36.4	
8415661	506584	1619500000		108		PLEASANT BARTLEY - #7196	KENTUCKY EAST	6.9	
8415692	506740	1619300000		107-DV		R M MCINTIRE #6865	KENTUCKY EAST	8.8	
8415602	506454	1607100000		108		RHODA JOHNSON #1-#449	KENTUCKY EAST	6.6	
8415662	506585	1619500000		108		RICHARD POTTER - #7232	KENTUCKY EAST	2.7	
8415628	506480	1619500000		108		ROBERT WILLIAMS #1023	KENTUCKY EAST	9.7	
8415624	506476	1619500000		108		ROBT DAMRON #770D	KENTUCKY EAST	12.7	
8415682	506628	1619500000		108		ROBT H MARTIN #6590C	KENTUCKY EAST	4.7	
8415617	506469	1611900000		108		SHERWOOD OSBORNE-#676	KENTUCKY EAST	4.8	
8415702	506764	1619300000		107-DV		SIZEMORE MINING CORP #1482	KENTUCKY EAST	5.5	
8415641	506560	1612700000		108		STELLA S MOORE #1187	KENTUCKY EAST	6.1	
8415634	506486	1615900000		108		T J HARDIN JR #1237	KENTUCKY EAST	7.8	
8415707	506769	1611900000		107-DV		TANDY KING - #6089	KENTUCKY EAST	19.3	
8415667	506592	1619500000		108		THOS DESKINS #652	KENTUCKY EAST	17.0	
8415665	506590	1615900000		108		W B PREECE #5321D	KENTUCKY EAST	14.4	
8415699	506761	1611900000		107-DV		W D HALL - #874D	KENTUCKY EAST	3.6	
8415601	506453	1607100000		108		W J GOBLE #2-#425	KENTUCKY EAST	5.3	
8415650	506569	1607100000		108		W J HUNTER #540	KENTUCKY EAST	18.4	
8415647	506566	1619500000		108		WILLIAM CHILDERS #7233	KENTUCKY EAST	12.6	
8415709	506771	1619500000		107-DV		WILLIAM JOHNSON - #6226	KENTUCKY EAST	2.9	
8415656	506575	1619500000		108		WILLIAM JOHNSON #6452	KENTUCKY EAST	14.0	
8415718	506899	1619300000		108		WILLIAM O ZIEBOLD #1332	KENTUCKY EAST	8.0	
8415648	506567	1619300000		108		WM FIELDS #6948	KENTUCKY EAST	11.2	
8415714	506876	1611900000		107-DV		WM KELLY #5598	KENTUCKY EAST	6.4	
8415675	506607	1619500000		108		WM M SLONE #5463D	KENTUCKY EAST	8.5	
8415598	506450	1607100000		108		WM WICKER #3-#373	KENTUCKY EAST	5.2	

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** DEPARTMENT OF THE INTERIOR, BUREAU OF LAND MANAGEMENT, CASPER,WY

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-ANADARKO PRODUCTION COMPANY		RECEIVED:	01/10/84	JA: WY 5	
8415596 W3-3	4900922088	102-2	POWELL FEDERAL A-1	POWELL	224.0 MOUNTAIN FUEL SUP
-BELCO PETROLEUM CORPORATION		RECEIVED:	01/10/84	JA: WY 5	
8415581 W17-3	4903520705	103	BPMV 14-08	BIG PINEY MESAVERDE U	0.0 NORTHWEST PIPELIN
-CELERON OIL & GAS CO		RECEIVED:	01/10/84	JA: WY 5	
8415580 W40-3	4903520637	103	CASTLE CREEK 21-28	CASTLE CREEK FEDERAL	547.5 NORTHWEST PIPELIN
-COLUMBINE EXPLORATION CORP		RECEIVED:	01/10/84	JA: WY 5	
8415583 W38-3	4903722136	103	CREST FEDERAL #24-1	SIX MILE SPRING	138.5 MOUNTAIN FUEL SUP
-DIAMOND CHEMICALS CO		RECEIVED:	01/10/84	JA: WY 5	
8415591 W-41-3	4900922197	102-2	CAMPBELL FEDERAL #32-5	SCOTT	0.0 MCCULLOCH GAS PR
8415590 W42-3	4900922196	102-2	CAMPBELL FEDERAL #34-5	SCOTT	0.0 MCCULLOCH GAS PR
-EXETER EXPLORATION COMPANY		RECEIVED:	01/10/84	JA: WY 5	
8415593 W34-3	4900921959	102-2	SCOTT FEDERAL #5-33	SCOTT	35.0 CHINOOK CONSTRUC
8415592 W35-3	4900921971	102-2	SCOTT FEDERAL #7-32	SCOTT	29.0 CHINOOK CONSTRUC
-FOREST OIL CORPORATION		RECEIVED:	01/10/84	JA: WY 5	
8415582 W18-3	4904170074	102-2	HENRY UNIT #9	HENRY UNIT	1500.0 MOUNTAIN FUEL SUP
-KERR-MCGEE CORPORATION		RECEIVED:	01/10/84	JA: WY 5	
8415589 W46-3	4900526630	103	FEDERAL #1-19	LINDSEY-MUDDY	0.0 MGPC INC
-NATURAL GAS CORPORATION OF CALIF		RECEIVED:	01/10/84	JA: WY 5	
8415584 W30-3	4902320304	107-RT	FONTENELLE 32-19	FONTENELLE	254.0 PACIFIC GAS TRANS
-PHILLIPS PETROLEUM COMPANY		RECEIVED:	01/10/84	JA: WY 5	
8415595 W25-3	4900922179	103	DUGOUT CREEK FEDERAL B #7	WILDCAT	9.8 PANHANDLE EASTER
8415594 W26-3	4900922141	102-2	W GIBSON DRAW FED A #1	SCHOOL CREEK	13.5 PANHANDLE EASTERN
-SAMSON RESOURCES COMPANY		RECEIVED:	01/10/84	JA: WY 5	

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8415585	W2-3	4904120483		107-TF		BRUFF FEDERAL #1-14	VERNE	18.3	NORTHWEST PIPELIN
8415586	W1-3	4904120483		103		BRUFF FEDERAL #1-14	VERNE	18.3	NORTHWEST PIPELIN
-SOUTHLAND ROYALTY CO				RECEIVED:	01/10/84	JA: WY 5			
8415597	W789-2	4900922193		103		MANNING FEDERAL #1-33	PHILLIPS CREEK	91.0	MOUNTAIN FUEL SUP
-TENNECO OIL COMPANY				RECEIVED:	01/10/84	JA: WY 5			
8415579	W14-3	4904120554		103		GRACE USA 1-6	WILDCAT	100.0	NORTHWEST PIPELIN
-TEXACO INC				RECEIVED:	01/10/84	JA: WY 5			
8415587	W794-2	4903722122		103		TABLE ROCK UNIT #56	TABLE ROCK	55.1	COLORADO INTERSTA
8415588	W795-2	4903722150		103		TABLE ROCK UNIT #58	TABLE ROCK	53.5	COLORADO INTERSTA
-WEXPRO COMPANY				RECEIVED:	01/10/84	JA: WY 5			
8415578	W10-3	4903722132		103		CHURCH BUTTES UNIT #37	CHURCH BUTTES - DAKOT	250.0	MOUNTAIN FUEL SUP

[FR Doc. 84-3777 Filed 2-10-84; 8:45 am]

BILLING CODE 6717-01-C

federal register

Monday
February 13, 1984

Part VI

Department of Agriculture

Office of the Secretary

7 CFR Part 3200
Competitive Research Grants Program; Administrative Provisions; Final Rule

DEPARTMENT OF AGRICULTURE

Office of the Secretary

7 CFR Part 3200

Competitive Research Grants Program; Administrative Provisions

AGENCY: Office of Grants and Program Systems, Office of the Secretary, USDA.

ACTION: Final rule.

SUMMARY: This document establishes rules relating to the administration of the Competitive Research Grants Program conducted under the authority of section 2(b) of the Act of August 4, 1965, as amended (7 U.S.C. 450i(b)). The issuance of these rules establishes the procedures to be followed annually in the solicitation of competitive research grant proposals, the evaluation of such proposals, and the award of competitive research grants.

EFFECTIVE DATE: October 1, 1984.

FOR FURTHER INFORMATION CONTACT: Douglas E. Tabor, Acting Chief, Grants Administrative Management, Office of Grants and Program Systems, U.S. Department of Agriculture, Room 014, West Auditor's Building, 15th and Independence Avenue, SW., Washington, D.C. 20251. (Telephone: (202) 475–5050.)

SUPPLEMENTARY INFORMATION:

Paperwork Reduction

Under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35, section 3504(h)), the collection of information requirements contained in this rule have been approved under OMB Document No. 0524–0010.

Classification

This rule has been reviewed under Executive Order 12291 and it has been determined that it is not a major rule because it does not involve a substantial or major impact on the nation's economy or on large numbers of individuals or businesses. There will be no major increase in cost or prices for consumers, individual industries, Federal, state, of local governmental agencies, or geographical regions. It will not have a significant economic impact on competitive employment, investment, productivity, innovation, or on the ability of U.S. enterprises to compete with foreign-based enterprises in domestic or export markets. In addition, it will not have a significant impact on a substantial number of small entities as defined in the Regulatory Flexibility Act, Pub. L. 96–534 (5 U.S.C. 601).

Regulatory Analysis

Not required for this rulemaking.

Environmental Impact Statement

This regulation does not significantly affect the environment. Therefore, an environmental impact statement is not required under the National Environmental Policy Act of 1969.

Catalog of Federal Domestic Assistance

10.206, Grants for Agricultural Research, Competitive Research Grants.

Introduction

Under the authority of Section 2(b) of the Act of August 4, 1965, as amended, the Secretary of Agriculture is authorized to make competitive grants for research to further the programs of the Department of Agriculture. Section 2(b) charges the Secretary with the responsibility to seek the widest participation of qualified scientists in the Federal Government, all colleges and universities, state agricultural experiment stations, and the private sector in seeking research proposals and in performing peer review evaluations of such proposals. In the past, a Notice was published in the **Federal Register** annually announcing the availability of funds for competitive research grants and soliciting proposals. In addition, the Notice set forth the procedures and criteria for the evaluation of the proposals and the procedures and conditions relating to award and administration of the grants. This rule establishes and codifies such procedures, criteria, and conditions to be employed annually. It standardizes the rules applicable to the administration of the Competitive Research Grants Program and eliminates the need to republish them annually.

On July 7, 1983, the Department published a Notice in the **Federal Register** (48 FR 31348) proposing the establishment of these regulations and inviting comments from interested individuals and organizations. Comments on that proposal were requested by August 15, 1983.

During the comment period, the Department received 12 responses containing 14 different comments regarding the proposed rule. Seven letters from state universities, three memoranda from the Department, and two responses from organizations associated with the nation's state agricultural experiment station system were received and reviewed. All comments suggested either revisions, additions, minor corrections, or clarifications. None opposed the proposed rulemaking action. Copies of the comments may be examined in the Department's Office of Grants and Program Systems, Room 111, West Auditor's Building, 15th and Independence Avenue, SW., Washington, D.C. 20251.

Discussion of Comments

On respondent stated that listing specific high-priority research areas under § 3200.1(a) (1) through (6) could be misleading to prospective applicants and suggested that the listing be deleted.

The Department agrees with this position; areas of research emphasis may change in future years and flexibility is needed to allow occasional redefinition of research directions. Therefore, the listing of high-priority research areas which appeared under § 3200.1(a) in the Proposed Rule dated July 7, 1983, has been deleted. In addition, the last sentence under § 3200.1(a) has been removed.

The majority of responses centered around the Department's expansion of language under § 3200.1(a)(5) relating to high-priority research in the area of human nutrition. Commentors indicated that the added phrase "* * * related to agricultural *products and processes*" represents a narrowing of program scope which is contrary to Congressional intent as expressed in the statutory language. Most commentors suggested deleting the additional phraseology so that the wording aligns with that contained in the statute. The Department agrees with this position and gives assurance that the scope and intent of this program area have not changed. Because this subsection was deleted along with the other areas of high-priority research, as indicated above, however, the actual correction does not appear in this Final Rule.

One commentor was concerned that *Biological Stress in Plants* was not identified in the Proposed Rule as a specific high-priority program area. This respondent felt that, while the thrust of other program areas may permit a good deal of research related to *Biological Stress in Plants* to be performed without a specially designated category in this area, many research topics (e.g., entomology, fungal and bacterial pathogens, nematodes, weeds, and large crop predators) do not fit. Therefore, this commentor suggested that *Biological Stress in Plants* be included as an area of high-priority research. Although *Biological Stress in Plants* was not specifically identified as an area of thrust, there is no intention to lessen emphasis on this program. Biological stress as a research topic area will

continue to appear in the annual competitive research grants solicitation.

One commentor suggested that the competitive research grants program be administered in such a manner that proposals which seek to verify the marketability of crops and other products under the program will also qualify for consideration.

This respondent was particularly concerned about the emphasis placed on developing new crops without a corresponding emphasis on the ability of processors to handle these new crops with currently available facilities and equipment. The Department disagrees. A major aim of the overall program is to support research aimed at development of fundamental new knowledge of ultimate benefit to agriculture; therefore, the current philosophy of the program and the way in which it is administered must remain unchanged. The question raised concerning the ability of processors to handle any new crops developed in the future is being addressed by scientists currently located in or being supported by the agricultural experiment station system, as well as by units within USDA. Because the competitive research grants program is not charged with this responsibility in the enabling legislation or elsewhere, the program cannot be broadened to include these areas of concern.

One commentor suggested that a new subsection be inserted between subsections (2) and (3) under § 3200.4(a) announcing the requirement that renewal applications contain a restatement of objectives from the prior research project grant, a summary of progress or accomplishments in support of those objectives, and a listing of publications resulting from the previous award.

The Department agrees with this suggestion and emphasizes that these are not new requirements. Because previous annual solicitations have been silent on the issue, however, these items have often been omitted from renewal applications. Oversights such as this have caused considerable difficulties for peer reviewers when they attempt to evaluate the performance record of the proposed research team, determine the likelihood of project success, etc. Thus, the Department has formally incorporated these requirements into this Final Rule. Rather than adding the suggested phraseology to § 3200.4(a), we felt that it would be more appropriate to include it under § 3200.6(c)(2) entitled *Renewal grant*. Therefore, the second sentence of this subsection has been modified to read as follows: "When a renewal application is submitted, it should include a restatement of objectives from the prior research project grant, a summary of all progress to date in support of those objectives, and a listing of publications resulting from work performed under the previous award."

One commentor suggested that § 3200.4(d)(3)(ii) entitled *Rationale and significance* be strengthened and clarified so that applicants will be able to more meaningfully demonstrate the precise relationship between the objectives stated in their research proposals and the aims of the program area under which they are applying as outlined in the annual solicitation.

The Department believes that the current statement in this section is adequate and therefore has left it unchanged.

One commentor questioned whether or not the Department actually has a mechanism for deferring support of a project due to a lack of funds (see § 3200.5(b)(2)). It was this respondent's understanding that, according to current procedures, applicants whose projects cannot be supported because of limited total program funds must reapply and recompete for funding in a subsequent fiscal year. There are two basic circumstances under which project support is usually deferred under this program. First, in rare cases, support may be deferred pending further scientific evaluation should the peer review group decide that it does not have the expertise to adequately review and recommend approval or disapproval of a particular project. Departmental officials then seek the necessary expert advice to provide such evaluations so that a concrete decision can be reached. Second, projects are sometimes approved by the responsible peer review group and Departmental officials based upon their scientific merit. However, when scores for all projects in a particular program area are ranked, some proposals fall below the lower limit of fundable applications. The highest-ranking of these projects may be considered for support later in the same fiscal year in the event that funds become available, e.g., if an organization with an approved, fundable project receives support from another source and withdraws its application. On the other hand, applicants whose projects cannot be supported because of limited program funds generally must reapply and recompete for funding in a following year. Often, because of useful critiques from *ad hoc* and panel reviews, reapplications are strengthened, rank higher, and are funded.

One respondent suggested that the Department expand § 3200.6(c)(4) to include a statement indicating that requests for supplemental grants must be made during the grant review process. The rationale behind this suggestion was that funds are not available for this purpose at other times during the year. We believe that it would be overly restrictive as well as impractical to have grantees confine the timing of requests for supplemental grants to certain narrowly defined periods during the fiscal year. Research cannot be planned in such a fashion that financial needs always become known to scientists at prespecified intervals. While most funding decisions themselves may of necessity continue to be made during the grant review process, requests from from grantees need not coincide with that process. Therefore, we have left § 3200.6(c)(4) unchanged.

One respondent urged that a statement be included under § 3200.3(a) regarding the ineligibility of foreign organizations to receive research project grants under this program.

The Department prefers not to incorporate statements of this nature. Any reference to the ineligibility of foreign organizations may stifle the free exchange of scientific information between U.S. and foreign scientists and could prevent U.S. scientists from establishing cooperative research projects with foreign scientists, many of whom are leaders in their fields. Therefore, § 3200.3(a) remains unchanged in this Final Rule.

One respondent thought that the requirement for an 80-character title in § 3200.4(d)(1) is sufficient for Departmental purposes and suggested that the requirement for a 100-character research description be removed. The Department agrees with this suggestion. The requirement for a 100-character research description has been deleted.

One commentor pointed out that research plans which include the involvement of human subjects at risk do not require approval by the proposing organization's Institutional Review Board prior to a funding commitment by the Department. Therefore, this respondent suggested that the subsection dealing with human subjects at risk (§ 3200.4(d)(7)(ii)) be corrected.

We agree and have modified that subsection accordingly.

Two commentors stated that 10 copies of additions to project descriptions as specified in § 3200.4(d)(10) of the proposed rule are inadequate. So that sufficient copies are available to provide each peer reviewer with a set instead of limiting distribution to primary

reviewers, both suggested that the number be increased to 20.

Because the number of copies actually requested from proposers may change in future years, the Department feels that there is a need to remain flexible. Therefore, reference to a specific number of copies has been deleted and a portion of § 3200.4(d)(10) reworded accordingly.

One commentor pointed out an ambiguity in wording. The Proposed Rule stated (§ 3200.4(a)(1)) that the Department's annual solicitation will specify which program areas will be supported each year, yet the definition of "project" (§ 3200.2(f)) seemed to limit research activities to those areas identified under § 3200.1.

Although the specific areas of research under § 3200.1 have been deleted from this Final Rule, the Department agrees that the definition of "project" needs to be modified to bring it into line with § 3200.4. Therefore, § 3200.2(f) has been changed to read as follows:

"(f) 'Project' means the particular activity within the scope of one or more of the research areas identified in the annual solicitation of proposals, which is supported by a grant award under this part."

Two commentors called the Department's attention to typographical errors or omissions.

In response to these comments, we have corrected the word "granted" in § 3200.2(e), line three, to read "grantee" and have added the title number to the "Uniform Federal Assistance Regulations" citation appearing in § 3200.8 to read "7 CFR Part 3015."

List of Subjects in 7 CFR Part 3200

Grant programs—agriculture, Grant administration.

The Department therefore amends Title 7, Subtitle B of the Code of Federal Regulations, by adding Chapter XXXII consisting of Part 3200 as follows:

CHAPTER XXXII—SCIENCE AND EDUCATION

PART 3200—COMPETITIVE RESEARCH GRANTS PROGRAM

Subpart A—General

Sec.
3200.1 Applicability of regulations.
3200.2 Definitions.
3200.3 Eligibility requirements.
3200.4 How to apply for a grant.
3200.5 Evaluation and disposition of applications.
3200.6 Grant awards.
3200.7 Use of funds; changes.
3200.8 Other Federal statutes and regulations that apply.
3200.9 Other conditions.

Subpart B—Scientific Peer Review of Research Grant Applications

3200.10 Establishment and operation of peer review groups.
3200.11 Composition of peer review groups.
3200.12 Conflicts of interest.
3200.13 Availability of information.
3200.14 Proposal review.
3200.15 Evaluation factors.

Authority: Section 2(h) of the Act of August 4, 1965, as amended (7 U.S.C. 450i(h)).

Subpart A—General

§ 3200.1 Applicability of regulations.

(a) The regulations of this part apply to competitive research grants awarded under the provisions of Section 2(b) of the Act of August 4, 1965, as amended (7 U.S.C. 450i(b)), for the support of research to further the programs of the Department of Agriculture. Taking into consideration any determinations made by the Joint Council on Food and Agricultural Sciences and the National Agricultural Research and Extension Users Advisory Board, the Secretary of Agriculture, or his or her designee, shall determine and announce, through publication of a Notice in the **Federal Register** each year, high-priority research areas for which proposals will be solicited to the extent that funds are available.

(b) The regulations of this part do not apply to research grants awarded by the Department of Agriculture under any other authority.

§ 3200.2 Definitions.

As used in this part:

(a) "Secretary" means the Secretary of Agriculture and any other officer or employee of the Department of Agriculture to whom the authority involved may be delegated.

(b) "Department" means the Department of Agriculture.

(c) "Principal investigator" means a single individual designated by the grantee in the grant application and approved by the Secretary who is responsible for the scientific and technical direction of the project.

(d) "Grantee" means the institution, organization, agency, or individual designated in the grant award document as the responsible legal entity to whom a grant is awarded under this part.

(e) "Research project grant" means the award by the Secretary of funds to a grantee to assist in meeting the costs of conducting for the benefit of the public an identified project which is intended and designed to establish, discover, elucidate, or confirm information or the underlying mechanisms relating to a research area as set forth generally in § 3200.1 of this part.

(f) "Project" means the particular activity within the scope of one or more of the research areas identified in the annual solicitation of proposals, which is supported by a grant award under this part.

(g) "Project period" means the total length of time that is approved by the Secretary for conducting the research project as outlined in an approved grant application.

(h) "Budget period" means the interval of time (usually 12 months) into which the project period is divided for budgetary and reporting purposes.

(i) "Awarding official" means the Secretary and any other officer or employee of the Department to whom the authority to issue or modify grant instruments has been delegated.

(j) "Peer review group" means an assembled group of experts or consultants qualified by training and experience in particular scientific or technical fields to give expert advice, in accordance with the provisions of this part, on the scientific and technical merit of grant applications in those fields.

(k) "*Ad hoc* reviewers" means experts or consultants qualified by training and experience in particular scientific or technical fields to render special expert advice, whose written evaluations of grant applications are designed to complement the expertise of the peer review group, in accordance with the provisions of this part, on the scientific or technical merit of grant applications in those fields.

(l) "Research" means any systematic study directed toward new or fuller knowledge and understanding of the subject studied.

(m) "Methodology" means the project approach to be followed and the resources needed in carrying out the project.

§ 3200.3 Eligibility requirements.

(a) Except where otherwise prohibited by law, any state agricultural experiment station, college, university, other research institution or organization, Federal agency, private organization, corporation or individual shall be eligible for a grant award, provided the applicant qualifies as a responsible grantee under the criteria set forth in paragraph (b) of this section.

(b) To qualify as responsible, an applicant must meet the following standards as they relate to a particular project:

(1) Have adequate financial resources for performance, the necessary experience, organizational and technical qualifications, and facilities, or a firm

commitment, arrangement, or ability to obtain such (including proposed subagreements);

(2) Be able to comply with the proposed or required completion schedule for the project;

(3) Have a satisfactory record of integrity, judgment, and performance, including in particular, any prior performance under grants and contracts from the Federal Government;

(4) Have an adequate financial management system and audit procedure which provides efficient and effective accountability and control of all property, funds, and assets; and

(5) Be otherwise qualified and eligible to receive a grant award under applicable laws and regulations.

(c) Any applicant who is determined to be not responsible will be notified in writing of such findings and the basis therefor.

§ 3200.4 How to apply for a grant.

(a) A request for proposals will be prepared and announced in the **Federal Register** as early as practicable each fiscal year. It will contain information sufficient to enable all eligible applicants to prepare competitive research grant proposals and will be as complete as possible with respect to:

(1) Descriptions of specific research areas which the Department proposes to support during the fiscal year involved, including anticipated funds to be awarded:

(2) Deadline dates for having proposal packages postmarked;

(3) Name and address where proposals should be mailed;

(4) Number of copies to be submitted;

(5) Forms required to be used when submitting proposals; and

(6) Special requirements.

(b) *"Research Grant Application Kit."* A "Research Grant Application Kit" will be made available to any potential grant applicant who requests a copy. This kit outlines applicable competitive research topic areas supported and provides required forms, certifications, instructions, and general regulatory provisions applicable to the submission, award, and administration of grant instruments.

(c) *Signatures.* (1) All research proposals submitted by private organizations or corporations, state agricultural experiment stations, colleges and universities, Federal agencies, and other research institutions must be signed by the proposing principal investigator(s) and endorsed by the authorized organizational representative who possesses the necessary authority to commit the institution's time and other relevant resources.

(2) Any research proposals submitted by individuals who lack organizational affiliation need only be signed by the proposing principal investigator.

(d) *Format for research proposals.*— (1) *Title of project.* The title of the project must be brief (80-character maximum), yet represent the major thrust of the research. This title will be used by the Department to provide information to the Congress and other interested parties; therefore, highly technical words or phraseology should be avoided.

(2) *Project summary.* The project summary (one-page maximum) is *not* intended for the general reader; consequently, it should be couched in language which will have meaning to others in disciplines relating to the food and agricultural sciences. It should be specific and focus on:

(i) Overall project goal(s) with supporting objectives;

(ii) Relevance or significance of project to national needs; and

(iii) Experimental methodologies or approaches.

(3) *Project description.* The project description (15-page maximum) must contain the following components:

(i) *Introduction.* Long-term goal(s) and supporting objectives of the proposed research should be stated and described in detail. The most significant previous work in the field under consideration, including the work of key project personnel on the current application, should be reviewed. The current status of research in this field of science should also be described. All work cited, including that of key personnel, shall be footnoted or otherwise referenced.

(ii) *Rationale and significance.* Rationale behind the proposed research must be presented concisely, and specific objectives must be listed for the total period of requested support. How the objectives specifically relate to the applicable research area identified in the relevant **Federal Register** Notice and to potential long-range improvement in food production or human nutrition should be clearly shown. Any novel ideas or contributions which the proposed project offers should also be discussed under this section.

(iii) *Experimental plan.* The hypotheses or questions to be asked and the methodology to be applied to the proposed research project should be explicitly stated. The methodology should include but not necessarily be limited to:

(A) Description of proposed investigations and/or experiments *in the sequence in which it is planned to carry them out;*

(B) Techniques to be employed, including their feasibility;

(C) Kinds of results expected;

(D) Means by which data will be analyzed or interpreted;

(E) Pitfalls which might be encountered;

(F) Limitations to proposed procedures; and

(G) Tentative schedule for conducting major steps of investigations and/or experiments.

(iv) *Facilities and equipment.* All facilities, including laboratories, which are *available for use or assignment to the proposed research project during the requested period of support,* should be described. Any materials, procedures, situations, or activities, whether or not directly related to a particular phase of the proposed research, and which may be hazardous to personnel, must be fully explained, along with an outline of precautions to be exercised. All items of major instrumentation *available for use or assignment to the proposed research project during the requested period of support* should be listed. In addition, items of nonexpendable equipment needed to conduct and bring the proposed project to a successful conclusion should be listed.

(v) *Collaborative arrangements.* If the proposed project requires collaboration with other research scientists, corporations, organizations, agencies, or entities, such collaboration must be fully explained and justified. Evidence should be provided to assure peer reviewers that the collaborators involved agree with the arrangements. It should be specifically indicated whether or not such collaborative arrangements have the potential for any conflict(s) of interest. Proposals which indicate collaborative involvement must state which proposer is to receive any resulting grant award, since only one submitting individual, corporation, organization, institution, agency, or other entity can be the recipient of a research project grant under one proposal.

(4) *References to project description.* All references cited should conform to an accepted journal format.

(5) *Vitae and publication list(s) of key project personnel.* Vitae of the proposing principal investigator(s), senior associate(s), and other professional personnel should be provided to assist reviewers in evaluating the competence and experience of the project staff. This section of the proposal should include curricula vitae for *all* key persons who will work on the proposed research

project, whether or not Federal funds are sought for their support. A chronological list of the most representative publications during the past five years shall be provided for each professional project member for whom a curriculum vitae appears under this section. Authors should be listed in the same order as their names appear on each paper cited, along with the title and complete reference as these usually appear in journals.

(6) *Budget.* A detailed budget is required for *each year* of requested support. In addition, a summary budget is required detailing the requested support for the overall project period. A copy of the form which must be used for this purpose, along with instructions for completion, is included in the "Research Grant Application Kit" identified under § 3200.4(b) of this part and may be reproduced as needed by proposers. Funds may be requested under any of the categories listed, provided that the item or service for which support is requested is allowable under applicable Federal cost principles and can be identified as necessary for successful conduct of the proposed research project. All research project grants awarded under this part shall be issued without regard to matching funds or cost sharing by recipients of such grants.

(7) *Research involving special considerations.* A number of situations encountered in the conduct of research require special information and supporting documentation before funding can be approved for the project. If such situations are anticipated, the proposal must so indicate. It is expected that a significant number of competitive research grant proposals will involve the following:

(i) *Recombinant DNA molecules.* All key personnel identified in a proposal and all endorsing officials of a proposed performing organization are required to comply with guidelines established by the National Institutes of Health entitled, "Guidelines for Research Involving Recombinant DNA Molecules," as revised.

(ii) *Human subjects at risk.* Responsibility for safeguarding the rights and welfare of human subjects used in any research project supported with grant funds provided by the Department rests with the performing organization. Guidance is contained in Pub. L. 93–348, as implemented by the Department of Health and Human Services' policies under 45 CFR Part 46. In the event that a project involving human subjects at risk is recommended for award, the proposer will be required to submit a statement certifying that the research plan has been reviewed and approved by the Institutional Review Board at the proposing organization or institution. Individual proposers or small business firms should contact local universities or other organizations which have established such reviewing mechanisms so that this service may be performed for them. The "Research Grant Application Kit," identified above in § 3200.4(b), contains a form which is suitable for such certification.

(8) *Current and pending support.* All proposals must list any other *current* public or private research support, in addition to the proposed project, to which key personnel listed in the proposal under consideration have committed portions of their time, whether or not salary support of the person(s) involved is included in the budgets of the various projects. This section must also contain analogous information for all projects underway and for pending research proposals which are currently being considered by, or which will be submitted in the near future to, other possible sponsors, including other Departmental programs or agencies. Concurrent submission of identical or similar projects to other possible sponsors will not prejudice its review or evaluation by the Secretary or experts or consultants engaged by the Secretary for this purpose.

(9) *Organizational information.* Specific management information relating to a proposing individual or organization shall be submitted on a *one-time basis prior to the award of a competitive research grant* identified under this part. Copies of forms recommended for use in fulfilling the requirements contained in this paragraph are available upon request from the agency specified in this part.

(10) *Additions to project descriptions.* Each project description is expected by the Secretary, members of peer review groups, and the relevant program staff to be complete in itself. However, in those instances in which the inclusion of additional information is necessary, the number of copies submitted should match the number of copies of the application requested in the annual request for proposals, as indicated in § 3200.4(a)(4). Each set of such material must be identified with the title of the research project as it appears on the cover page of the proposal and the name(s) of the principal investigator(s). Examples of additional material may include photographs which do not reproduce well, reprints, and other pertinent materials which are deemed to be unsuitable for inclusion in the proposal.

§ 3200.5 Evaluation and disposition of applications.

(a) *Evaluation.* All proposals received from eligible applicants and postmarked in accordance with deadlines established in the applicable request for proposals shall be evaluated by the Secretary through such officers, employees, and others as the Secretary determines are uniquely qualified in the areas of research represented by particular projects. To assist in equitably and objectively evaluating proposals and to obtain the best possible balance of viewpoints, the Secretary shall solicit the advice of peer scientists and others who are recognized specialists in the research areas covered by the applications received and whose general roles are defined in § 3200.2(j) and § 3200.2(k). Specific evaluations shall be based upon the factors established in Subpart B, § 3200.15, of this part. The overriding purpose of such evaluations is to provide information upon which the Secretary can make informed judgments in selecting proposals for ultimate support. Incomplete, unclear, or poorly organized applications will work to the detriment of proposers during the peer evaluation process. To ensure a comprehensive evaluation, all applications should be written with the care and thoroughness accorded papers for publication.

(b) *Disposition.* On the basis of the Secretary's evaluation of an application in accordance with paragraph (a) of this section, the Secretary will (1) approve support using currently available funds, (2) defer support due to lack of funds or a need for further evaluations, or (3) disapprove support for the proposed project in whole or in part. With respect to approved projects, the Secretary will determine the project period (subject to extension as provided in § 3200.7(c)) during which the project may be supported. Any deferral or disapproval of an application will not preclude its reconsideration or a reapplication during subsequent fiscal years.

§ 3200.6 Grant awards.

(a) *General.* Within the limit of funds available for such purpose, the awarding official shall make research project grants to those responsible, eligible applicants whose proposals are judged most meritorious in the announced program areas under the evaluation criteria and procedures set forth in this part. The date specified by the Secretary as the beginning of the project period shall be no later than September 30 of the Federal fiscal year in which the project is approved for support and funds are appropriated for such purpose,

unless otherwise permitted by law. All funds granted under this part shall be expended solely for the purpose for which the funds are granted in accordance with the approved application and budget, the regulations of this part, the terms and conditions of the award, the applicable Federal cost principles, and the Department's Uniform Federal Assistance Regulations (7 CFR Part 3015).

(b) *Grant award document and notice of grant award*—(1) *Grant award document.* The grant award document shall include at a minimum the following:

(i) Legal name and address of performing individual, corporation, organization, or agency to whom the Secretary has awarded a competitive research project grant under the terms of this part;

(ii) Title of project;

(iii) Name(s) and address(es) of principal investigator(s) chosen to direct and control approved activities;

(iv) Identifying grant number assigned by the Department;

(v) Project period, which specifies how long the Department intends to support the effort without requiring recompetition for funds;

(vi) Total amount of Federal financial assistance approved by the Secretary during the project period;

(vii) Legal authority(ies) under which the grant is awarded to accomplish the purpose of the law;

(viii) Approved budget plan for categorizing allocable project funds to accomplish the stated purpose of the grant award; and

(ix) Other information or provisions deemed necessary by the Department to carry out its granting activities or to accomplish the purpose of a particular research project grant.

(2) *Notice of Grant award.* The notice of grant award, in the form of a letter, will be prepared and will provide pertinent instructions or information to the grantee which are not included in the grant award document.

(c) *Categories of grant instruments.* The major categories of grant instruments shall be as follows:

(1) *Standard grant.* This is a grant instrument by which the Department agrees to support a specified level of research effort for a predetermined project period without the announced intention of providing additional support at a future date. This type of research project grant is approved on the basis of peer review and recommendation and is funded for the entire project period at the time of award.

(2) *Renewal grant.* This is a document by which the Department agrees to provide additional funding under a standard grant as specified in paragraph (c)(1) of this section for a project period beyond that approved in an original or amended award, provided that the cumulative period does not exceed the statutory limitation. When a renewal application is submitted, it should include a restatement of objectives from the prior research project grant, a summary of all progress to date in support of those objectives, and a listing of publications resulting from work performed under the previous award. Such a renewal shall be based upon a new application, *de novo* peer review and staff evaluation, new recommendation and approval, and a new award instrument.

(3) *Continuation grant.* This is a grant instrument by which the Department agrees to support a specified level of effort for a predetermined period of time with a statement of intention to provide additional support at a future date provided that performance has been satisfactory, appropriations are available for this purpose, and continued support would be in the best interests of the Federal Government and the public. It involves a long-term research project that is considered by peer reviewers and Departmental officers to have an unusually high degree of scientific merit, the results of which are expected to have a significant impact on the food and agricultural sciences, and it supports the efforts of experienced scientists with records of outstanding research accomplishments. This kind of document will normally be awarded for an initial one-year period and any subsequent continuation grants will also be awarded in one-year increments.

The award of a continuation research project grant to fund an initial or succeeding budget period does not constitute an obligation to fund any subsequent budget period.

A grantee must submit a separate application for continued support for each subsequent year. Requests for such continued support must be submitted in duplicate at least three months prior to the expiration date of the budget period currently being funded. Such requests must include: an interim progress report detailing all work performed to date; a "Grant Application"; a proposed budget for the ensuing period, including an estimate of funds anticipated to remain unobligated at the end of the current budget period; and current information regarding other extramural support for senior personnel.

Decisions regarding continued support and the actual funding level of such support in future years will usually be made administratively after consideration of such factors as the grantee's progress and management practices and within the context of available funds. Since initial peer reviews were based upon the full term and scope of the original competitive grant application, additional evaluations of this type are not generally required prior to successive years' support. However, in unusual cases (e.g., when the nature of the project or key personnel change or when the amount of future support requested substantially exceeds the grant application originally reviewed and approved), additional reviews may be required prior to approving continued funding.

(4) *Supplemental grant.* This is an instrument by which the Department agrees to provide small amounts of additional funding under a standard grant as specified in paragraph (c)(1) of this section and involves a short-term (usually six months or less) extension of the project period beyond that approved in an original or amended award. A supplement is awarded only if required to assure adequate completion of the original scope of work and if there is sufficient justification of need to warrant such action. A request of this nature does not normally require additional peer review.

(d) *Obligation of Federal Government.* Neither the approval of any application nor the award of any research project grant shall legally commit or obligate the United States in any way to make any renewal, supplemental, continuation, or other award with respect to any approved application or portion of an approved application.

§ 3200.7 Use of funds; changes.

(a) *Delegation of fiscal responsibility.* The grantee may not in whole or in part delegate or transfer to another person, institution, or organization the responsibility for use or expenditure of grant funds.

(b) *Changes in project plans.*

(1) The permissible changes by the grantee, principal investigator(s), or other key project personnel in the approved research project grant shall be limited to changes in methodology, techniques, or other aspects of the project to expedite achievement of the project's approved goals. If the grantee and the principal investigator(s) are uncertain as to whether a change complies with this provision, the question must be referred to the Secretary for a final determination.

(2) Changes in approved goals, or objectives, shall be requested by the grantee and approved in writing by the

Department *prior to effecting such changes.* In no event shall requests for such changes be approved which are outside the scope of the original approved project.

(3) Changes in approved project leadership or the replacement or reassignment of other key project personnel shall be requested by the grantee and approved in writing by the Department *prior to effecting such changes.*

(4) Transfers of actual performance of the substantive programmatic work in whole or in part and provisions for payment of funds, whether or not Federal funds are involved, shall be requested by the grantee and approved in writing by the Department *prior to effecting such transfers.*

(c) *Changes in project period.* The project period determined pursuant to § 3200.5(b) may be extended by the Secretary without additional financial support, for such additional period(s) as the Secretary determines may be necessary to complete, or fulfill the purposes of, an approved project. Such extension, when combined with the originally approved or amended project period, shall not exceed five (5) years (the limitations established by statute) and shall be further conditioned upon prior request by the grantee and approval in writing by the Department.

(d) *Changes in approved budget.* Changes in an approved budget shall be requested by the grantee and approved in writing by the Department prior to instituting such changes if the revision will:

(1) involve transfers of amounts budgeted for indirect costs to absorb increases in direct costs;

(2) involve transfers of amounts budgeted for direct costs to accommodate changes in indirect cost rates negotiated during a budget period and not approved when a standard, renewal, continuation, or supplemental grant was awarded;

(3) involve transfers of amounts previously budgeted for training allowances;

(4) result in a need or claim for the award of additional funds; or

(5) involve transfers or expenditures of amounts requiring prior approval as set forth in the applicable Federal cost principles, Departmental regulations, or in the standard, continuation, renewal, or supplemental award.

§ 3200.8 Other Federal statutes and regulations that apply.

Several other Federal regulations or statutes apply to research project grants considered for review or awarded under this part. These include but are not limited to:

7 CFR 1.1—USDA implementation of Freedom of Information Act

7 CFR Part 15, Subpart A—USDA implementation of Title VI of the Civil Rights Act of 1964

7 CFR Part 3015—USDA Uniform Federal Assistance Regulations, as amended, implementing OMB directives (i.e., Circular Nos. A–102, A–110, A–87, A–21, and A–122) and incorporating provisions of 31 U.S.C. 6301–6308 (formerly, the Federal Grant and Cooperative Agreement Act of 1977, Pub. L. 95–224), as well as general policy requirements applicable to recipients of Departmental financial assistance

29 U.S.C. 794, Section 504—Rehabilitation Act of 1973, and 7 CFR Part 15b (USDA effectuation of statute), prohibiting discrimination based upon physical or mental handicap in Federally assisted programs

35 U.S.C. 200 *et seq.*—Bayh-Dole Act, controlling allocation of rights to inventions made by employees of small business firms and domestic nonprofit organizations, including universities, in Federally assisted programs (implementing regulations are contained in OMB Circular No. A–124).

§ 3200.9 Other conditions.

The Secretary may, with respect to any research project grant or to any class of awards, impose additional conditions prior to or at the time of any award when, in the Secretary's judgment, such conditions are necessary to assure or protect advancement of the approved project, the interests of the public, or the conservation of grant funds.

Subpart B—Scientific Peer Review of Research Grant Applications

§ 3200.10 Establishment and operation of peer review groups.

(a) To the extent applicable, the Federal Advisory Committee Act (5 U.S.C. App. I) and Departmental implementing regulations (7 CFR Part 25) will govern the establishment and operation of peer review groups.

(b) Subject to § 3200.5 and paragraph (a) of this section, the Secretary will adopt procedures for the conduct of peer reviews and the formulation of recommendations under § 3200.14.

§ 3200.11 Composition of peer review groups.

Peer review group members will be selected based upon their training and experience in relevant scientific or technical fields taking into account the following factors:

(a) the level of formal scientific or technical education by the individual;

(b) the extent to which the individual has engaged in relevant research, the capacities in which the individual has done so (i.e., principal investigator, assistant), and the quality of such research;

(c) professional recognition as reflected by awards and other honors received from scientific and professional organizations outside of the Department;

(d) the need of the group to include within its membership experts from various areas of specialization within relevant scientific or technical fields;

(e) the need of the group to include within its membership experts from a variety of organizational types (e.g., universities, industry, private consultant(s)) and geographical locations; and

(f) the need of the group to maintain a balanced membership, e.g., minority and female representation and equitable age distribution.

§ 3200.12 Conflicts of interest.

(a) Members of peer review groups covered by this part are subject to relevant provisions contained in Title 18 of the United States Code relating to criminal activity, Departmental regulations governing employee responsibilities and conduct (7 CFR Part 0) and Executive Order 11222, as amended.

(b) No member of a peer review group may participate in any review under this part of a specific grant application for which the member has had or is expected to have any other responsibility or involvement (whether preaward or postaward) as an officer or employee of the United States.

(c) Where permissible under the authorities cited in paragraph (a) of this section, the Secretary may waive the requirements in paragraph (b) of this section if he or she determines that there is no other practical means for securing appropriate expert advice on a particular grant application.

§ 3200.13 Availability of information.

Information regarding the peer review process will be made available to the extent permitted under the Freedom of Information Act (5 U.S.C. 552), the Privacy Act (5 U.S.C. 552a), and implementing Departmental regulations (7 CFR Part 1).

§ 3200.14 Proposal review.

(a) All research grant applications will be acknowledged. Prior to technical examination, a preliminary review will be made for responsiveness to the request for proposals (e.g., relationship of application to funding program).

(b) All applications will be carefully reviewed by the Secretary, qualified officers or employees of the Department, the respective peer review group, and *ad hoc* reviewers, as required. Written comments will be solicited from *ad hoc* reviewers, and individual written comments and in-depth discussions will be provided by peer review group members prior to recommending applications for funding. Applications will be ranked and support levels recommended within the limitation of total available funding for each particular program as announced in the request for proposals.

(c) No awarding official will make a research project grant based upon an application covered by this part unless the application has been reviewed by a peer review group and/or *ad hoc* reviewers in accordance with the provisions of this part and said reviewers have made recommendations concerning the scientific merit of such application.

(d) Except to the extent otherwise provided by law, such recommendations are advisory only and are not binding on the awarding official or on program personnel.

§ 3200.15 Evaluation factors.

In carrying out its review under § 3200.14, the peer review group will take into account the following factors:

(a) Scientific merit of the proposal.

(1) Conceptual adequacy of hypothesis;

(2) Suitability and feasibility of methodology; and

(3) Appropriateness of techniques.

(b) Objectives and approach.

(1) Scientific soundness or information value;

(2) Novelty, uniqueness, and orginality; and

(3) Adequacy of the description of the undertaking.

(c) Human and physical resources.

(1) Qualifications of principal investigator(s), and all other key project personnel, such as training, demonstrated awareness of previous and alternative approaches to the problem identified in the proposal, and performance record and/or potentia' for future accomplishments;

(2) Time allocated for systematic attainment of objectives;

(3) Institutional experience and competence in subject area;

(4) Adequacy of available or obtainable support personnel, facilities, and instrumentation; and

(5) Likely efficiency of resource utilization.

(d) Impact of anticipated results.

(1) Relevance of research itself to practical needs; and

(2) Scientific contribution of research in leading to important discoveries or significant breakthroughs in announced program area.

(e) Probability of success of project.

(f) Projected economic feasibility for near-term application.

Done at Washington, D.C., this 3rd day of February 1984.

Orville G. Bentley,

Assistant Secretary for Science and Education.

[FR Doc. 84-3605 Filed 2-10-84; 8:45 am]

BILLING CODE 3410-MT-M

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UMI

federal register

Monday
February 13, 1984

Part VII

Environmental Protection Agency

40 CFR Ch. I

Air Pollution Control; Regulation of Polycyclic Organic Matter Under the Clean Air Act; Proposed Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Ch. I

[AD-FRL-2494-6]

Air Pollution Control; Regulation of Polycyclic Organic Matter Under the Clean Air Act

AGENCY: Environmental Protection Agency.

ACTION: Proposed decision and opportunity for public hearing.

SUMMARY: This notice proposes for public comment the Environmental Protection Agency's (EPA) decision not to regulate polycyclic organic matter (POM) as a specified air pollutant under the Clean Air Act. This proposed decision responds to section 122 of the Clean Air Act, as amended in 1977, which requires EPA to determine if POM should be specifically regulated under the Act to protect public health. A public hearing will be held, if requested, to provide interested persons the opportunity for oral presentation of data, views and arguments concerning this proposed decision.

DATES: *Comments.* Comments must be received on or before March 29, 1984.

Public Hearing. A public hearing, if requested by February 27, 1984, will be held about 30 days after proposal beginning at 10:00 a.m. The exact date and location of any such hearing will be available by contacting Ms. Nancy Riley, Strategies and Air Standards Division (MD–12), U.S. Environmental Protection Agency, Research Triangle Park, NC 27711, phone number (919) 541–5519.

ADDRESSES: *Comments.* Send comments (in duplicate if possible) to the Central Docket Section (A–130), U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460, Attention: Docket No. A–83–32.

Public Hearing. The public hearing, if requested, will be held at Research Triangle Park, North Carolina. Persons wishing to present oral testimony should notify Ms. Nancy Riley at the address listed above.

FOR FURTHER INFORMATION CONTACT: Kent Berry, Strategies and Air Standards Division, (MD–12), Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, N.C. 27711, telephone (919) 541–5504 or FTS 629–5504.

SUPPLEMENTARY INFORMATION:

Background

Section 122 of the Clean Air Act, as amended in 1977, requires EPA to review all relevant information on polycyclic organic matter (POM) to determine whether emissions of POM into the ambient air "will cause, or contribute to, air pollution which may reasonably be anticipated to endanger public health." If the Administrator concludes that POM does cause or contribute to such air pollution, he must simultaneously with such determination include POM on the list of pollutants to be covered by national ambient air quality standards (NAQS), list it as a hazardous pollutant under section 112, or list significant POM source categories to be covered by new source performance standards (NSPS) (or by taking a combination of these actions). As required by section 122, the decision on the need to regulate POM is to be issued after notice and opportunity for public hearing.

POM is a generic term which covers a large number of chemical substances containing two or more ring structures. These include compounds made up of only carbon and hydrogen (polycyclic aromatic hydrocarbons, or PAH), compunds with a ring nitrogen (aza and imino arenes), oxygenated species, and nitrated and chlorinated POM (including dioxins and pesticides such as aldrin and DDT).

Due to their high molecular weight, POM compounds are generally emitted as particulate matter from various stationary and mobile sources and are usually collected as particulate matter in the ambient air. POM emissions are rarely composed of just a single POM compound, but are released as part of a complex mixture of variety of POM compounds. Frequently, POM emissions are also accompanied by a variety of other substances such as trace metals which may also be of environmental concern.

POM emissions to the atmosphere are generally produced by combustion porcesses, especially where combustion is incomplete. Each POM source category is likely to emit a different and unique mixture of POM compounds. There is considerable variability in the type and amount of emissions among sources within the same source category. Major POM source categories include coke production, residential use of wood and coal in fireplaces and stoves, mobile sources such as automibilies, trucks, and aircraft, forest fires, and commercial and industrial incineration.

In response to section 122 of the Act requiring a regulatory decision on POM, EPA initiated: (1) An assessment of the health effects of POM; and (2) a population exposure study for POM using benzo(a)pyrene (BaP) as an indicator. BaP was used because it is one of the most studied POM compounds in terms of health effects, emissions and ambient measurements and is one of the more common POM compounds found in source and ambient samples. Based on these documents EPA's Carcinogen Assessment Group prepared a third document on the population risks due to POM exposures (1), also using BaP as the indicator. These three documents were released for review by the public and the Science Advisory Board (SAB), an advisory group of nationally prominent scientists from outside EPA, and were the subject of a public SAB subcommittee meeting on August 3 and 4, 1978. The SAB subcommittee issued a draft report on the three documents making a variety of recommendations for change and concluding in general that the documents were insufficient for decisionmaking without significant change. Based on comments by the subcommittee and the public, the health document and the population exposure document were revised. (2,3) Because of the uncertainty in the underlying data, no further work was done on the population risk report. The revised health and exposure documents were not reviewed again by the SAB.

On July 19, 1982 the State of New York filed a citizen suit under section 304 of the Clean Air Act to compel EPA to make the determination on POM required by section 122. On May 31, 1983 the U.S. District Court for the Southern District of New York ruled that EPA must issue the decision on POM by May 31, 1984. *State of New York v. Ruckelshaus,* No. 82–CIV–4695. EPA has based this proposal on available information, including the EPA 1979 POM health assessment document and a recently-released report by the National Research Council, National Academy of Sciences, entitled "Polycyclic Aromatic Hydrocarbons: Evaluation of Sources and Effects." (4) EPA particularly solicits the submission of information published since the POM health document was prepared in 1979 or information that was not reviewed by the recent NRC/NAS report, that would have a significant bearing on the Administrator's decision. Of particular interest would be information that: (1) Identifies the contribution of the POM component in complex environmental mixtures to the biological activity of the mixture; and (2) allows the calculation of carciogenic potency or risk of the

POM component of environmental mixtures.

Health Effects of POM

This discussion about the health effects of POM deals specifically with the non-halogenated combustion and pyrolysis POM products of organic matter. The major human health effect of concern about exposure to this class of airborne POM is that of cancer. It is well-established that extracts of particular air pollutants which contain POM are carcinogenic when painted on the skin of rodents or injected into newborn mice. Several POM compounds are among the most potent animal carcinogens known to exist. A variety of POM and POM mixtures are mutagenic in various tests. However, not all POMs have demonstrated carcinogenic and/or mutagenic activity, and many POMs have not been tested. While epidemiology studies have not directly linked any single POM compound to human cancer, a number of such studies have established that mixtures containing compounds of POM are associated with an excess incidence of cancer in humans. Populations exposed to POM-containing mixtures which have shown excess lung cancer include cigarette smokers, roofing tar workers, coal-gas workers, and coke oven workers. Animal studies suggest that POM represents a substantial part, but not all, of the carcinogenic potential of the mixtures to which these populations are exposed.

A number of the carcinogenic POM compounds have been measured in the ambient air and thus could be expected to present some degree of risk. However, a number of problems are involved in quantifying this risk. The potency of different POM mixtures varies substantially. Also, levels of individual POMs are not highly predictive of the carcinogenic potency of the mixtures which contain them. The carcinogenic impact of any given source should be evaluated in terms of the mixture as a whole rather than by its POM content, but very few POM-containing mixtures have been thus characterized.

Attempts have been made to estimate cancer risks associated with exposure to POM-containing mixtures. For example, this was done for coke oven emissions by using the potency derived from the incidence of cancer in exposed workers, a surrogate to estimate worker exposure to the emissions, and a mathematical model to estimated ambient emissions exposure. The potency of diesel exhaust has been estimated by comparison with coke oven emissions in biological test systems to provide a basis for quantitative risk estimation. A similar approach might also be useful for other POM-containing mixtures. However, the lack of information about the potency of most POM-containing mixtures together with the difficulties involved in characterizing the POM content and estimating the extent of exposure for each POM source, make the quantification of the total cancer burden due to ambient levels of POM uncertain at this time.

Sources and Emissions

National estimates of POM emissions are characterized by great uncertainty. The reasons for this include: (1) There is little uniformity as to what is analyzed for (e.g., total POM, PAH, BaP) or in the measurement methods used; (2) there are great problems obtaining representative samples from such difficult to sample and highly variable sources as wood stoves, other small combustion operations, and forest, agricultural and other open burning; and (3) other difficulties involving the collection, extraction and detection of POM. Consequently, different studies may present very different pictures as to which sources are the most significant emitters of POM.

One study(5) estimated national POM emissions in 1980 to be nearly 18,000 tons. The most important source categories in terms of the percent of this national total were as follows: mobile source (40%), residential wood stoves (44%), wildfires (5%), fireplaces (3.1%), commercial and industrial incineration (2.7%), and coke oven emissions (2.2%). Within the mobile source category 29 percent is from noncatalyst passenger cars, 15 percent is from gasoline engine trucks, 12 percent from diesel trucks, and the remainder from other mobile sources (ships, planes, railroads, etc.). The non-motor vehicle mobile source emissions tend to be of less concern to public health because most of the emissions result in little public exposure (railroads, ships, farm machinery) or because their emissions are dispersed above the boundary layer (aircraft).

By the year 2000, motor vehicle emissions, as indicated by BaP, are estimated to decrease by 11 percent (4). This reflects the benefit of catalyst-equipped spark-ignition passenger cars over their noncatalyst counterparts, which is partially offset by the incursion of diesel vehicles and increased vehicle miles traveled (VMT), particularly diesel truck mileage. In the year 2000, without further particulate emission controls, diesel vehicles will account for 40 percent of the mileage, 50 percent of the fuel consumption, and 80 percent of the total motor-vehicle BaP emissions, according to this estimate. Because heavy duty diesel truck VMT are expected to increase much more rapidly than other vehicles and are traveled predominantly in rural areas (80%), it is estimated that about 40 percent of the BaP from motor vehicles will be released in urban areas in the year 2000, compared with 63 percent in 1979. Thus, the BaP emissions from motor vehicles nationwide will decrease slightly and there will be a shift of emissions which will result in significant decreases in public exposure.

The reductions in mobile source emissions will be the indirect result of several Federal programs affecting these sources. The control programs directed at reducing emissions of hydrocarbons and carbon monoxide from new light, medium, and heavy duty gasoline engine vehicles under Title II of the Clean Air Act will result in reduced POM emissions from this sector of the vehicle fleet as older vehicles are retired. The use of oxidation catalysts to comply with the Title II requirements is particularly effective in reducing POM emissions (as indicated by BaP). Progressively more stringent limitations on particulate emissions from light and heavy duty diesels will also limit the increase in POM emissions resulting from substantially increased diesel VMT. Substantial Agency research has been directed at determining the health effects, particularly with respect to carcinogenicity, of diesel particulate. While there is some indication that diesel emissions may be carcinogenic, the diesel control program to date has been based primarily on regulating particulate emissions which contribute to violations of the national ambient air quality standards for particulate matter and to other adverse welfare effects related to particulate matter (e.g., visibility reduction and soiling). The Agency is continuing its assessment of the health effects of diesel particulate and will modify the basis and/or the stringency of its current control program as necessary.

POM emissions for most stationary source categories will also decrease. Stringent particulate matter NSPS (which will also reduce POM emissions) have been established for new or modified sources such as utility boilers, electric arc and basic oxygen steel-making furnaces, ferroalloy plants, asphalt concrete plants, kraft pulp mill recovery furnaces, refinery catalytic cracking units, and large incineration units. NSPS are under development which would indirectly reduce POM emissions from sources such as industrial boilers and process heaters.

As existing sources are replaced or modified, POM emissions for most of these source categories can be expected to go down. State Implementation Plan (SIP) requirements for new source review and for existing sources in particulate matter non-attainment areas can also be expected to indirectly reduce POM emissions from many source categories in the future.

There are trends in several of the POM categories which may run counter to the general downward trend for POM emissions. The most important of these involves industrial combustion of wood and residential combustion of wood and coal in fireplaces and stoves. There is some indication that the rapid increase during the 1970's in both industrial and residential wood combustion has leveled off, but some continued slow growth is anticipated. There has been little State regulation of these source categories in the past, especially for residential heating, but control activities are beginning to increase.

Another trend that could potentially affect emissions of POM involves switching from the use of gas and oil to coal. With the exception of the increased use of residential stoves, fuel switching is expected to occur primarily in large combustors such as utility boilers and large industrial furnaces. Since POM emissions from burning coal in these relatively efficient units are very low, switching to coal would have a negligible effect on POM emissions, both nationally and locally.

Air Quality Concentrations and Trends

As mentioned above, POM in the ambient air is usually adsorbed on to fine particles in the air and collected as particulate matter on filters. There are significant difficulties involving: (1) The collection of very small POM-containing particles and of volatile POM; (2) evaporate and oxidate losses during and after collection; (3) extraction from the collection media; and (4) detection, all of which make measurements of total POM in ambient and source samples extremely difficult and uncertain. However, there are several relatively simple, inexpensive techniques for reliably measuring some individual POM compounds. As the number of compounds to be measured increases, the cost and time of analysis increase substantially. For these reasons, the ambient monitoring data for POM are usually from short-term studies (i.e., less than a year of data) and are not uniform in terms of the compounds measured, the analytical techniques used, and time periods covered. There is no national monitoring network for POM. Thus, the available data do not give a good overall picture of the ambient situation for POM.

Nationwide trends data are available, however, for the period 1966–1977 for BaP, with some limited BaP data available after 1977. While it is generally acknowledged that BaP is not an accurate surrogate for total POM, the BaP data provide a rough approximation of the trend in POM air quality over the same years at the sites monitored. The annual average concentrations for 26 urban sites in the National Air Surveillance Network (NASN) were 4.0 and 0.7 ng/m^3 for the 1966–1969 and 1974–1977 periods, respectively. Three remote rural sites recorded averages for these same periods of 0.27 ng/m^3 and 0.08 ng/m^3. Of the 26 urban sites, 18 were characterized as being impacted to some degree by coke oven emissions, and the averages for these sites were usually more than double the urban non-coke sites. The averages for 1977, the last year with complete data, continued to reflect these differences: urban (total) −0.35 ng/m^3; urban (coke) −0.41 ng/m^3; urban (non-coke) −0.23 ng/m^3; remote rural −0.08 ng/m^3. Although incomplete data are available after 1977, no abrupt changes from the immediately preceding years are apparent. The above data indicate that BaP concentrations have decreased by almost 90 percent from 1966 to 1977, and major reductions in other POM compounds for the same period would also seem likely.

The BaP data show substantial seasonal variability, especially in the earlier years, with winter averages often 2 or more times the summer average. This reflects the increased BaP emissions due to space heating and generally poorer winter dispersion conditions.

The clear downward trend in BaP concentrations for the 1966–1977 period for all types of sites can be attributed to a variety of control programs generally directed at reducing emissions of pollutants subject to national ambient air quality standards. These programs include:

1. The decrease (about 50 percent between 1970 and 1977) in coal consumed for space heating, particularly in the older downtown sections of the cities where the NASN sites were located;

2. Restrictions on open burning and residential, commercial, and industrial incineration;

3. Control of coke oven and perhaps other industrial sources; and

4. Increased use of catalyst-controlled automobiles.

Since the ambient data from NASN show no apparent upward trend in BaP that might reflect the increased POM emissions from wood-burning stoves and fireplaces, and increases have apparently been more than offset by reductions from other POM sources. However, the NASN data are generally recorded in the downtown area of medium to large cities, which might not be impacted by woodburning activities that are more likely to occur in suburban areas and small cities.

Need for Regulation of POM Under the Clean Air Act

The decision whether to regulate POM under the Act has centered on cancer as the primary health effect of concern. As explained above, there is significant uncertainty as to the human cancer risk due to POM in the ambient air. Because of this uncertainty, the Administrator cannot conclude at this time that POM compounds pose a significant risk at ambient concentration levels. As a result, the Administrator proposes not to regulate POM as a class of compounds under the Clean Air Act. In the Administrator's judgment a more practical means of regulating POM emissions which may contribute to adverse health effects is to list under section 112 the emissions of such source categories or to regulate individual source types under other Clean Air Act authority (e.g., section 111 or Title II). This will allow EPA to evaluate the total potential health risk of non-POM compounds as well as POM compounds emitted from these source categories.

In this regard, Federal regulatory programs are either underway or under consideration for coke oven emissions under section 112 and for diesel particulate emissions under Title II. Indirect control of POM emissions is being achieved through a variety of State Implementation Plan and NSPS regulations and light duty (gasoline engine) vehicle emission standards.

With respect to several of the pesticides that are POM, the Agency has acted under the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) to significantly curtail the uses of aldrin, dieldrin and DDT. The Agency will soon be requesting additional inhalation toxicity data from manufacturers for other uses of certain POM pesticides, like aldrin, to determine whether this route of exposure presents a health hazard. With respect to dioxin compounds which are considered POM, an Agency task force is developing a comprehensive strategy to: (1) Study the extent of dioxin contamination and the associated risks to humans and the

environment; (2) implement necessary clean-up actions at contaminated sites; and (3) further evaluate regulatory alternatives to prevent future contamination as well as disposal alternatives to alleviate current problems. The activities on POM pesticides and dioxins are good example of a more targeted approach for dealing with subcategories of POM that may be of concern, as opposed to trying to assess, and perhaps regulate, the entire category of POM.

EPA intends to continue gathering data on various POM sources to determine the magnitude of their emissions, the public health risks due to the various complex mixtures emitted, and applicable control techniques. For example, over the last several years the Agency has had a substantial program to characterize the emissions from wood burning stoves and fireplaces and to develop ways of minimizing these emissions through stove design and/or operating changes. This has been a difficult task considering the large variety of stove designs, fuels burned, and operating practices. Additional work to characterize the health effects of these sources is anticipated. As noted above, substantial research on the health effects of diesel emissions has been conducted and assessment in this area is continuing. Significant research on the health effects of synthetic fuel production and use has also been conducted over the last several years. While synfuels are currently an insignificant source of POM emissions, this category could become significant in the future depending on future energy scenarios in this country. Results of these studies will be made available to the public as they are completed, and EPA will initiate additional listings or other regulatory activity under the Act or other Federal legislation if needed to protect the public health.

Under Executive Order 12291, EPA must judge whether this action is "major" and therefore subject to the requirement of a Regulatory Impact Analysis. This action is not major because it imposes no additonal regulatory requirements on States or sources. This proposal was submitted to the Office of Management and Budget for review. Any comments from OMB and any EPA responses are available in the docket. Pursuant to 5 U.S.C. 605(6), I hereby certify that this action will not have a significant economic impact on a substantial number of small entities because it imposes no new requirements. This action does not contain any information collection requirements subject to OMB review under the Paperwork Reduction Act of 1980.

(42 U.S.C. 7411 and 7412)

Dated: February 3, 1984.

William D. Ruckelshaus,

Administrator.

References

1. U.S. Environmental Protection Agency, "Carcinogen Assessment Group's Preliminary Report on POM Exposures," External Review Draft, July 1978.

2. U.S. Environmental Protection Agency, "Health Assessment Document for Polycyclic Organic Matter" (Preprint), December 1979.

3. Energy and Environmental Analysis, Inc., "Preliminary Assessment of the Sources, Control, and Popululation Exposure to Airborne Polycyclic Organic Matter (POM) as Indicated by Benzo(a)pyrene (BAP)," November 10, 1978.

4. National Research Council, "Polycyclic Aromatic Hydrocarbons: Evaluation of Sources and Effects," 1983.

5. Kelley, M. E., "Sources and Emissions of Polycyclic Organic Matter (POM)," Radian Corp., October 27, 1983.

[FR Doc. 84-3693 Filed 2-10-84; 8:45 am]

BILLING CODE 6560-50-M

VOL
49
ISS
30
FE
13
1984
UMI

federal register

Monday
February 13, 1984

Part VIII

Department of the Treasury

Comptroller of the Currency

Federal Reserve System

Federal Deposit Insurance Corporation

12 CFR Parts 20, 211, and 351

Regulations on Reporting and Disclosure of International Assets and on Allocated Transfer Risk Reserve; Proposed Regulations on Accounting for International Loan Fees

DEPARTMENT OF THE TREASURY

Comptroller of the Currency

FEDERAL RESERVE SYSTEM

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Parts 20, 211, and 351

Reporting and Disclosure of International Assets

AGENCY: Comptroller of the Currency, Board of Governors of the Federal Reserve System, and the Federal Deposit Insurance Corporation.

ACTION: Joint Notice of final rules.

SUMMARY: To implement section 907 of the International Lending Supervision Act of 1983, the rules require banking institutions to submit, at least quarterly, a report on the amounts and composition of their international assets. The report also would include information to be made available to the public concerning material foreign country exposure. The format, contents and reporting and filing dates of the reports would be prescribed jointly by the Federal banking agencies (Comptroller of the Currency, Board of Governors of the Federal Reserve System and the Federal Deposit Insurance Corporation).

DATE: Effective February 13, 1984.

FOR FURTHER INFORMATION CONTACT: *Comptroller of the Currency:* Harold Schuler, Director, International Relations and Financial Evaluation (202/447–1747); Leon S. Tarrant, Manager, ICERC Secretariat (202/447–1747); or Dorthy Sable, Senior Attorney (202/447–1880). *Federal Reserve System:* Nancy P. Jacklin, Assistant General Counsel (202/452–3428); Kathleen O'Day, Senior Counsel, Legal Division (202/452–3786); or Michael G. Martinson, Projects Manager, International Activities, Division of Banking Supervision and Regulation (202/452–3621). *Federal Deposit Insurance Corporation:* Edward T. Lutz, Assistant Director, Division of Bank Supervision (202/389–4512) or Peter M. Kravitz, Senior Attorney, Legal Division (202/389–4171).

SUPPLEMENTARY INFORMATION: Since 1977, banking institutions have been reporting their foreign country exposure (international assets subject to transfer risk categorized by country) on a semiannual basis. Section 907 of the International Lending Supervision Act of 1983 (Title IX, Pub. L. 98–181, 97 Stat. 1153) ("the Act") requires the Federal banking agencies to promulgate regulations requiring banking institutions with foreign country exposure to submit, no fewer than four times each calendar year, information regarding such exposure. Under section 907(b) of the Act, the agencies' regulations must also require that information concerning banking institutions' material foreign country exposure in relation to assets and to capital be made available to the public. The agencies are required to promulgate regulations necessary to implement this section of the Act on or before March 29, 1984.

The regulations set forth the framework for implementation of the reporting and disclosure requirements of section 907 of the Act. Each banking institution will submit to its primary Federal banking supervisor, at least quarterly, information on the amounts and composition of its international assets. Each institution also must submit information on concentrations in its international assets that are material in relation to total assets and to capital; this information will be made available to the public on request. The format, content, and reporting and filing dates of the reports will be jointly determined by the Federal banking agencies. For this purpose, the agencies have initiated modifications in the current Country Exposure Report (Form FFIEC 009).

By notice published in the **Federal Register** on December 23, 1983, 48 FR 56848, the Federal Financial Institutions Examination Council (FFIEC) requested comments on two proposed changes to the Country Exposure Report. One of these changes would add a new two-part summary to the form. Part A of the summary would provide certain information on exposures to any country that exceed 1% of the reporting institution's assets. Part B would provide less detailed information on such exposures that exceed 0.75%, but do not exceed 1%, of the reporting institution's assets. This summary information would be disclosed to the public on request. The comment period closed on January 23, 1984 and it is intended that necessary procedures for adopting changes in the Report will be completed in order to affect reporting for the first quarter of 1984.

Regulatory Flexibility Act

Pursuant to section 605(b) of the Regulatory Flexibility Act (Pub. L. 96–354, 5 U.S.C. 601 *et seq.*) the agencies certify that the regulations will not have a significant economic impact on a substantial number of small entities since small banking institutions generally do not have material foreign country exposure and would not be affected by these regulations. The Act requires a banking institution to disclose information on material foreign country exposure. Banking institutions with minimal holdings on international assets thus are generally exempt from the disclosure mandated by the Act and these regulations and will not be required to file reports.

Executive Order 12291

The Comptroller of the Currency has determined that this regulation does not constitute a "major rule" and therefore does not require a regulatory impact analysis.

List of Subjects in 12 CFR Parts 20, 211 and 351

Banks, banking, Federal Reserve System, Foreign banking, Investments, Reporting and record keeping requirements, Export trading companies, Allocated transfer risk reserve, National banks, International operations, Reserves on certain international assets, Reporting and disclosure of international assets, State nonmember banks.

Notice and Comment; Effective Date

The provisions of 5 U.S.C. 553 relating to notice and public participation are not followed in connection with the adoption of these regulations because the agencies find for good cause that notice and public participation are unnecessary. These regulations are merely enabling provisions mandated by statute that do not differ from the statutory requirements in any material respect. An immediate effective date is necessary in order for banking institutions to have sufficient advance notice to prepare the reports required by the Act for the first quarter of 1984.

Authority and Issuance

Accordingly, pursuant to their respective authorities, the agencies have amended Title 12 of the Code of Federal Regulations, Parts 20, 211 and 351, as follows:

COMPTROLLER OF THE CURRENCY

[Docket No. 84–4]

PART 20—[AMENDED]

Title 12 CFR Part 20 is amended as follows:

1. The authority citation for 12 CFR Part 20 is as follows:

Authority: 12 U.S.C. 1 *et seq.* unless otherwise noted.

2. Part 20 is amended by adding a new § 20.10 to read as follows:

§ 20.10 Reporting and disclosure of international assets.

(a) *Requirements.* (1) Pursuant to section 907(a) of the International Lending Supervision Act of 1983 (Title IX, Pub. L. 98–181, 97 Stat. 1153) ("the Act") a banking institution shall submit to the Comptroller of the Currency, at least quarterly, information regarding the amounts and composition of its holdings of international assets.

(2) Pursuant to section 907(b) of the Act, a banking institution shall submit to the Comptroller of the Currency information regarding concentrations in its holdings of international assets that are material in relation to total assets and to capital of the institution, such information to be made publicly available by the Comptroller of the Currency on request.

(b) *Procedures.* The format, content and reporting and filing dates of the reports required under paragraph (a) of this section shall be determined jointly by the Federal banking agencies. The requirements to be prescribed by the agencies may include changes to existing reporting forms (such as the Country Exposure Report, form FFIEC No. 009) or such other requirements as the agencies deem appropriate. The agencies also may determine to exempt from the requirements of paragraph (a) of this section banking institutions that, in the agencies' judgment, have *de minimis* holdings of international assets.

(c) *Reservation of Authority.* Nothing contained in this rule shall preclude the Comptroller of the currency from requiring from a banking institution such additional or more frequent information on the institution's holdings of international assets as the office may consider necessary.

Dated: February 8, 1984.

C. T. Conover,

Comptroller of the Currency.

FEDERAL RESERVE SYSTEM

[Regulation K; Docket No. R–0508]

PART 211—[AMENDED]

Pursuant to the Board's authority under sections 9, 25 and 25(a) of the Federal Reserve Act (12 U.S.C. 221 *et seq.*, 601–604a, and 611 *et seq.*), section 5 of the Bank Holding Company Act (12 U.S.C. 1844) and section 907 of the International Lending Supervision Act of 1983 (Pub. L. 98–181, Title IX, 97 Stat. 1153), the board has amended 12 CFR Part 211, Subpart D by adding a new § 211.44 to read as follows:

§ 211.44 Reporting and disclosure of international assets.

(a) *Requirements.* (1) Pursuant to section 907(a) of the International Lending Supervision Act of 1983 (Title IX, Pub. L. 98–181, 97 Stat. 1153) (ILSA), a banking institution shall submit to the Board, at least quarterly, information regarding the amounts and composition of its holdings of international assets.

(2) Pursuant to section 907(b) of ILSA, a banking institution shall submit to the Board information regarding concentrations in its holdings of international assets that are material in relation to total assets and to capital of the institution, such information to be made publicly available by the Board on request.

(b) *Procedures.* The format, content and reporting and filing dates of the reports required under paragraph (a) of this section shall be determined jointly by the Federal banking agencies. The requirements to be prescribed by the agencies may include changes to existing reporting forms (such as the Country exposure Report, form FFIEC No. 009) or such other requirements as the agencies deem appropriate. The agencies also may determine to exempt from the requirements of paragraph (a) of this section banking institutions that, in the agencies' judgment, have *de minimis* holdings of international assets.

(c) *Reservation of Authority.* Nothing contained in this rule shall preclude the Board from requiring from a banking institution such additional or more frequent information on the institution's holding of international assets as the Board may consider necessary.

Dated: February 8, 1984.

William W. Wiles,

Secretary, Board of Governors of the Federal Reserve System.

FEDERAL DEPOSIT INSURANCE CORPORATION

PART 351—[AMENDED]

1. The authority citation for 12 CFR Part 351 is as follows:

Authority: Title IX, Pub. L. 98–181, 97 Stat. 1153.

2. Part 351 is amended by adding new §§ 351.2 and 351.3 to read as follows:

§ 351.2 [Reserved]

§ 351.3 Reporting and disclosure of international assets.

(a) *Requirements.* (1) Pursuant to section 907(a) of the International Lending Supervision Act of 1983 (Title IX, Pub. L. 98–181, 97 Stat. 1153) (ILSA), a banking institution shall submit to the FDIC, at least quarterly, information regarding the amounts and composition of its holdings of international assets.

(2) Pursuant to section 907(b) of ILSA, a banking institution shall submit to the FDIC information regarding concentrations in its holdings of international assets that are material in relation to total assets and to capital of the institution, such information to be made publicly available by the FDIC on request.

(b) *Procedures.* The format, content and reporting and filing dates of the reports required under paragraph (a) of this section shall be determined jointly by the Federal banking agencies. The requirements to be prescribed by the Federal banking agencies may include changes to existing forms (such as revisions to the Country Exposure Report, Form FFIEC No. 009) or such other requirements as the Federal banking agencies deem appropriate. The Federal banking agencies also may determine to exempt from the requirements of paragraph (a) of this section banking institutions that, in the Federal banking agencies' judgment, have *de minimis* holdings of international assets.

(c) *Reservation of Authority.* Nothing contained in this rule shall preclude the FDIC from requiring from a banking institution such additional or more frequent information on the institution's holdings of international assets as the agency may consider necessary.

By Order of the Board of Directors.

Dated: February 6, 1984.

Alan J. Kaplan,

Deputy Executive Secretary, Federal Deposit Insurance Corporation.

[FR Doc. 84–3961 Filed 2–0–84; 2:39 pm]

BILLING CODE 4810-33-M

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12 CFR Parts 20, 211 and 351

Allocated Transfer Risk Reserve

AGENCIES: Comptroller of the Currency, Board of Governors of the Federal Reserve System and Federal Deposit Insurance Corporation.

ACTION: Joint notice of final rules and request for additional comments.

SUMMARY: These regulations require banking institutions to establish special reserves against the risks presented in certain international assets when the

Federal banking agencies (Board of Governors of the Federal Reserve System ("Board"), Comptroller of the Currency and Federal Deposit Insurance Corporation) determine that such reserves are necessary. In particular, they are intended to require banking institutions to recognize uniformly the transfer risk and diminished value of international assets which have not been serviced over a protracted period of time. These regulations implement one aspect of the joint program of the Federal banking agencies to strengthen the supervisory and regulatory framework relating to foreign lending by U.S. banking institutions, incorporated in section 905(a) of the International Lending Supervision Act of 1983.

It is important that this provision of law be implemented expeditiously for banking regulatory and supervisory purposes. Accordingly, the regulations will be effective upon publication.

Further regulations implementing other provisions of the International Lending Supervision Act of 1983 will be issued separately.

EFFECTIVE DATE: February 13, 1984.

ADDRESS: *Comptroller of the Currency:* Comments, which should refer to Docket No. 84–3, should be sent to Communications Division, 3rd Floor, Office of the Comptroller of the Currency, 490 East L'Enfant Plaza, SW., Washington, D.C. 20219. Attention: Lynette Carter. Comments will be available for public inspection and copying. *Federal Reserve System:* All comments, which should refer to Docket No. R–0498, should be mailed to William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, or delivered to the C Street entrance, 20th and Constitution Avenue NW., Washington, D.C., between the hours of 8:45 a.m. and 5:15 p.m. weekdays. All comments received will be available for inspection in room B–1122 between 8:45 a.m. and 5:15 p.m. weekdays. *Federal Deposit Insurance Corporation:* Comments should be sent to Hoyle L. Robinson, Executive Secretary, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, D.C. 20429. Comments may be hand delivered to room 6108 between the hours of 8:30 a.m. and 5:00 p.m. weekdays.

FOR FURTHER INFORMATION CONTACT: *Comptroller of the Currency:* Harold Schuler, Director, International Relations and Financial Evaluation (202/447–1747); William Ryback, Director, International Banking Activity (202/447–0413); or Dorothy Sable, Senior Attorney (202/447–1880). *Board:* Nancy P. Jacklin, Assistant General Counsel (202/452–3428); Kathleen O'Day, Senior Counsel, Legal Division (202/452–3786); or Michael G. Martinson, Projects Manager, International Activities, Division of Banking Supervision and Regulation (202/452–3621). *FDIC:* Edward T. Lutz, Assistant Director, Division of Bank Supervision (202/389–4512) or Peter M. Kravitz, Senior Attorney, Legal Division (202/389–4171).

SUPPLEMENTARY INFORMATION: In December, 1983, the agencies published for comment regulations to implement section 905(a) of the International Lending Supervision Act of 1983 (Title IX, Pub. L. 98–181, 97 Stat. 1153) ("the Act"), which requires banking institutions to maintain a special transfer risk reserve against certain foreign loans or other international assets.

The agencies received comments as follows: The Board received a total of 39 comments (17 comments from U.S. banks and bank holding companies; 5 from trade or professional associations; 8 from foreign banks; 8 from Federal Reserve banks; and one from the New York State Banking Department); the Comptroller of the Currency received 17 comments, principally from national banks; and the Federal Deposit Insurance Corporation received 6 comments.

In the explanatory materials accompanying the proposed regulation, the agencies specifically requested comments on: (1) The percentage norms for the special reserves; (2) the factors to be used in determining the amount of reserves; (3) the appropriate treatment of new loans where comparable outstanding loans are subject to reserves required by this regulation; and (4) the extent and manner in which to apply the reserves and other provisions of the Act to U.S. branches and agencies and commercial lending company subsidiaries of foreign banks. Those submitting comments addressed themselves to these and other issues. In light of the comments received, the agencies have made revisions to clarify and improve the proposed regulations.

Following are the major topics raised in the comments and the agencies' responses thereto:

(1) Assets to be covered by the Allocated Transfer Risk Reserve (ATRR)

The proposed regulations required banking institutions to establish an ATRR for "specified international assets," and defined "international assets" to mean those assets included in Country Exposure Report forms (FFIEC No. 009). Numerous commenters suggested clarification of the definition of international assets or exemption for certain categories of assets or for specific assets.

The agencies intend that an ATRR will be required only for international assets subject to transfer risk. International assets subject to transfer risk associated with the country of residence of the obligor normally do not include, for example, (1) assets guaranteed by a resident of a foreign country different from that of the direct obligor; (2) certain collateralized assets; (3) commitments; and (4) assets of a foreign office of the banking institution payable in local currency for which the foreign office has equivalent local currency liabilities. (The foregoing examples are described in more detail in the Instructions to Country Exposure Report forms.)

The banking agencies also will consider whether the performance characteristics of certain categories of assets are such that no ATRR is warranted against those assets (*e.g.*, assets on which debt service has been maintained with little or no interruption.)

In this connection, in line with the suggestions of several commenters on the treatment of new loans, an ATRR normally would not be required initially for net new lending when the additional loans are made in countries implementing economic adjustment programs, such as programs approved by the International Monetary Fund, designed to correct the countries' economic difficulties in an orderly manner. Such new lending under appropriate circumstances may strengthen the functioning of the adjustment process, help to improve the quality of outstanding credit, and thus be consistent with the objectives of the program of improved supervision of international lending. Whether an ATRR subsequently is required for those new loans would be determined by the agencies on the basis of performance and continued inapplicability generally of the criteria for establishment of an ATRR.

(2) Applicability to nonbank and foreign subsidiaries

The proposed regulations would apply to a banking institution and its subsidiaries, and "subsidiary" was defined to mean an organization of which a banking institution has control or holds 25 percent or more of the voting shares. Two issues raised by the

comments were (1) whether the provision should apply to minority-owned nonbank subsidiaries; and (2) whether it should apply to foreign bank subsidiaries of banking institutions.

On the issue of whether minority-owned subsidiaries should be covered, several of the commenters reasoned that a banking institution with a 25 percent interest in an entity may not be able to compel that entity to comply with the regulation and should not be held responsible for the entity's accounting methods. Several commenters proposed that the regulations cover only those nonbank subsidiaries that are consolidated with the parent banking institution under Generally Accepted Accounting Principles (GAAP). Objections also were raised to applying the regulations to foreign subsidiaries.

In light of these comments, the agencies determined that each "banking institution" is subject to the regulations on a consolidated basis. "Banking institution" is defined in the regulations as a domestic bank, Edge or Agreement corporation engaged in banking, and bank holding company. Other than the foregoing banking institutions, subsidiaries need not separately comply with these regulations. The effect of this rule for foreign bank subsidiaries is that specific reserves against, or write-downs of, international assets, taken from current earnings of the foreign bank, will be incorporated in the parent banking institution's consolidated financial statement.

For banks, consolidation should be in accordance with the procedures and tests of significance set forth in the instructions for preparation of *Consolidated Reports of Condition and Income* (currently, FFIEC Nos. 031, 032, 033, 034). For bank holding companies, the consolidation shall be in accordance with the principles set forth in the "Instructions to the Bank Holding Company Financial Supplement to Report F.R. Y–6" (Form F.R. Y–9). Edge and Agreement Corporations should file in accordance with the "Instructions for the Preparation of Report of Condition for Edge and Agreement Corporations" (Form F.R. 2886b).

In applying the foregoing rules to bank holding companies under section 910(a)(2) of the act, the Board has deemed such action appropriate to promote uniform application of section 905(a) of the Act and to prevent evasions thereof.

(3) Criteria for Requiring an ATRR

In determining whether an ATRR is warranted for particular international assets, the agencies are directed by statute to apply the following factors: (1) Whether the quality of a banking institution's assets has been impaired by a protracted inability of public or private obligors to pay *or* (2) whether no definite prospects exist for the orderly restoration of debt service. Some commenters urged more specific criteria; others were concerned that the criteria were not flexible enough. Most of the commenters, however, generally agreed that the statutory criteria are reasonable. The agencies consider the statutory criteria to be appropriate because they provide guidance as to when an ATRR is required, while allowing the agencies to take into account a sufficient range of factors in making their determinations.

(4) Percentage Norms

Under the proposed regulations, the initial year's provision for the ATRR would be ten percent of the principal amount of the specified international assets, or a greater or lesser percentage as determined by the banking agencies. In subsequent years, the agencies would review the assets concerned and determine whether additional reserves are required. The proposal provided for a reserve based on such review in the subsequent periods of 15 percent, or a higher or lower percentage as determined necessary by the banking agencies. In the preamble to the proposed regulation, the agencies specifically asked for comment on these percentages.

Some commenters thought the percentages were too low, and some considered them too high. Several were opposed to the establishment of any percentage norms, primarily on the ground that the appropriate percentages should be determined by the agencies in each case and that agency flexibility in making this determination should be preserved. However, a substantial number of comments supported the proposed percentages as reasonable.

The agencies believe that the norms contained in the regulations provide reasonable guidance to banking institutions of the likely ATRR requirements, yet the regulations give the agencies discretion to modify these percentages on a case-by-case basis as factors warrant.

(5) Treatment of ATRR Accounting

The provision in the proposed regulations eliciting most comment was the section allowing banking institutions to write down an asset in the same amount as required for the ATRR, instead of setting up the ATRR, but requiring the banking institution, in that case, to replenish the Allowance for Possible Loan Losses (APLL) out of current earnings by the amount written down. Commenters suggested that if a banking institution chooses to write down an asset instead of establishing an ATRR, the APLL should be replenished only to the extent necessary to restore it to a level adequate to reflect the remaining risks in the loan portfolio.

The commenters pointed out several problems they see with the replenishment provision as it was proposed: it could put banks that already have charged earnings at a disadvantage vis-a-vis those banks that have made no comparable provisions; it could thus discourage conservative practices; and, as a result of inconsistency with GAAP, it could distort financial statements and cause them to be qualified by accountants.

In light of these comments, the agencies have determined that, consistent with prudent banking practices and GAAP, replenishment of the APLL will be required to the extent necessary to restore it to a level which adequately provides for the estimated losses inherent in the loan portfolio. The agencies wish to emphasize, however, that it remains the responsibility of bank management and external auditors to recognize, and management to provide adequately for, any significant deterioration in the value of assets and this responsibility is in no way lessened as a result of the agencies' adoption of this recommendation.

Several commenters also sought further clarification of the alternative accounting treatment under which an ATRR would not be required if comparable amounts of the assets had been written down. Some comments stated that the regulations should clarify the treatment of interest payments which have been applied to the loan balance. They suggested that the regulations specify that such reductions of principal should be considered write-downs for purposes of the regulations. Another issue was the treatment of write-downs of assets in prior reporting periods. The final regulations clarify that write-downs in prior periods, as well as reductions in principal as described above, which are tantamount to write-downs, are acceptable alternatives to establishment of an ATRR.

Another issue raised in connection with the alternative accounting treatment was whether a write-down of an asset for commercial risk will be treated the same as a write-down for transfer risk reasons. The final regulations have been clarified to state that an ATRR applies to the principal amount of each specified international

asset in the percentage required. Accordingly, a write-down of any such asset for commercial risk can be included in the amount of a write-down which satisfies a required ATRR for that particular asset but not for specified assets in the aggregate.

One commenter suggested that the regulations be clarified to indicate that a banking institution may transfer to the ATRR any amount specifically allocated in the APLL for the assets subject to the ATRR. The agencies consider this approach an acceptable method of implementing the ATRR requirement, particularly since a banking institution could in any event write down an asset by a charge to its APLL rather than a charge to current earnings in the period the write-down is taken. However, in either instance, the APLL must be replenished to the extent necessary to restore it to a level that adequately provides for the estimated losses inherent in the loan portfolio.

Finally, clarification was sought, and the agencies have so provided in the final regulations, that a banking institution may reduce an established ATRR not only if the banking agencies determine it may be reduced, but also where the institution decides to write down the assets involved.

(6) Timing of ATRR implementation

Several commenters requested that notifications of ATRR requirements be made on a timely basis relative to banking institutions' reporting and filing dates for their financial statements. The banking agencies intend to make every effort, in providing notice of ATRR requirements, to accommodate these concerns, recognizing the importance, however, of prompt implementation of section 905(a) of the Act and initial establishment of the ATRR.

(7) Consultation with banking institutions

Several commenters stressed the importance of regular consultation with the affected banking institutions by the agencies before establishing the ATRR. One commenter suggested that concerns about a particular country should be discussed in the course of the normal bank examination process to evaluate all factors concerning the obligors' ability to pay. Discussions of foreign country exposure and transfer risk are a part of the ongoing examination process and efforts will be made by the agencies to strengthen consultations in this context.

(8) Applicability of the Act to U.S. branches and agencies of foreign banks

Comment was requested on whether and the extent to which foreign banks should be subject to this and other provisions of the Act. The period for comment on these general issues remains open to permit foreign banks adequate time to respond, and the final regulations do not apply to U.S. branches, agencies or commercial lending company subsidiaries of foreign banking organizations.

(9) Other comments

Questions were raised concerning the confidentiality of the agencies' determinations of the international assets specified as subject to the ATRR and the applicable reserve percentages. As is customary, such notifications are conveyed as confidential examination information to each affected U.S. banking institution by its primary federal banking supervisor.

Several commenters stated that the regulation should not govern disclosures under the federal securities laws. In this connection, the federal banking agencies understand that the staff of the Securities and Exchange Commission will provide guidance to registrants concerning appropriate disclosure of ATRR requirements in filings with the SEC.

Regulatory Flexibility Act

Pursuant to section 605(b) of the Regulatory Flexibility Act (Pub. L. 96-354, 5 U.S.C. 601 *et seq.*), the agencies certify that the proposed regulation will not have a significant economic impact on a substantial number of small entities since small banking institutions generally do not have significant holdings of international assets and would not be affected by these regulations.

Executive Order 12291

The Comptroller of the Currency has determined that this regulation does not constitute a "major rule" and therefore does not require a regulatory impact analysis.

List of Subjects in 12 CFR Parts 20, 211 and 351

Banks, banking, Federal Reserve System, Foreign banking, Investments, Reporting and recordkeeping requirements, Export trading companies, Allocated transfer risk reserve, National banks, International operations, Reserves on certain international assets, Reporting and disclosure of international assets, State nonmember banks.

Effective Date

The provision of 5 U.S.C. 553 requiring a 30-day delay in the effective date of a regulation is not followed in connection with the adoption of these regulations for bank supervisory and regulatory reasons and because the agencies find for good cause that an immediate effective date is necessary in order for banking institutions to have sufficient advance notice of the reserves to be required under these regulations to accomplish their financial planning for the first quarter of 1984.

Authority and Issuance

Accordingly, pursuant to their respective authorities, the agencies have determined to amend Title 12 of the Code of Federal Regulations, Parts 20, 211 and 351, as follows:

COMPTROLLER OF THE CURRENCY

[Docket No. 84-3]

PART 20—[AMENDED]

The Comptroller of the Currency has amended 12 CFR Part 20 as follows:

1. 12 CFR Part 20 is amended by revising the Table of Contents to read as follows:

Subpart A—International and Foreign Exchange Activities

Sec.
20.1 Authority and policy.
20.2 Definitions and terms.
20.3 Prior notification of international activities.
20.4 Reporting of international activities.
20.5 Reporting of foreign exchange activities.

Subpart B—International Lending Supervision

20.6 Authority.
20.7 Definitions.
20.8 Allocated transfer risk reserve.

2. The authority citation for 12 CFR Part 20 is revised to read as follows:

Authority: 12 U.S.C. 1 *et seq.* unless otherwise noted.

3. Part 20 is amended by revising § 20.1(a) and revising the introductory text of § 20.2 to read as follows:

§ 20.1 Authority and policy.

(a) *Authority.* This subpart is issued under the authority of the national banking laws, 12 U.S.C. 1 *et seq.* and 93a.

* * * * *

§ 20.2 Definitions and terms.

For the purpose of this subpart:

* * * * *

4. Part 20 is amended by adding a new Subpart B to read as follows:

Subpart B—International Lending Supervision

§ 20.6 Authority.

This subpart is issued under the authority of 12 U.S.C. 1 *et seq.*, 93a, 161, and 1818; and the International Lending Supervision Act of 1983 (Pub. L. 98–181, Title IX, 97 Stat. 1153).

§ 20.7 Definitions.

For the purposes of this subpart:

(a) "Banking institution" means a national banking association or a District of Columbia bank.

(b) "Federal banking agencies" means the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, and the Federal Deposit Insurance Corporation.

(c) "International assets" means those assets required to be included in banking institutions' "Country Exposure Report" forms (FFIEC No. 009).

(d) "Transfer risk" means the possibility that an asset cannot be serviced in the currency of payment because of a lack of, or restraints on the availability of, needed foreign exchange in the country of the obligor.

§ 20.8 Allocated transfer risk reserve.

(a) *Establishment of Allocated Transfer Risk Reserve.* A banking institution shall establish an allocated transfer risk reserve (ATRR) for specified international assets when required by the Comptroller in accordance with this section.

(b) *Procedures and Standards.*—(1) *Joint agency determination.* At least annually, the Federal banking agencies shall determine jointly, based on the standards set forth in subparagraph (b)(2) of this section, the following:

(i) Which international assets subject to transfer risk warrant establishment of an ATRR;

(ii) The amount of the ATRR for the specified assets; and

(iii) Whether an ATRR established for specified assets may be reduced.

(2) *Standards for requiring ATRR*—(i) *Evaluation of assets.* The Federal banking agencies shall apply the following criteria in determining whether an ATRR is required for particular international assets:

(A) Whether the quality of a banking institution's assets has been impaired by a protracted inability of public or private obligors in a foreign country to make payments on their external indebtedness as indicated by such factors, among others, as whether:

(*1*) Such obligors have failed to make full interest payments on external indebtedness;

(*2*) Such obligors have failed to comply with the terms of any restructured indebtedness; or

(*3*) A foreign country has failed to comply with any International Monetary Fund or other suitable adjustment program; or

(B) Whether no definite prospects exist for the orderly restoration of debt service.

(ii) *Determination of amount of ATRR.* (A) In determining the amount of the ATRR, the Federal banking agencies shall consider:

(*1*) The length of time the quality of the asset has been impaired;

(*2*) Recent actions taken to restore debt service capability;

(*3*) Prospects for restored asset quality; and

(*4*) Such other factors as the Federal banking agencies may consider relevant to the quality of the asset.

(B) The initial year's provision for the ATRR shall be ten percent of the principal amount of each specified international asset, or such greater or lesser percentage determined by the Federal banking agencies. Additional provision, if any, for the ATRR in subsequent years shall be fifteen percent of the principal amount of each specified international asset, or such greater or lesser percentage determined by the Federal banking agencies.

(3) *Notification.* Based on the joint agency determinations under paragraph (b)(1) of this section, the Comptroller shall notify each banking institution holding assets subject to an ATRR:

(i) Of the amount of the ATRR to be established by the institution for specified international assets; and

(ii) That an ATRR to be established for specified assets may be reduced.

(c) *Accounting treatment of ATRR.*—(1) *Charge to current income.* A banking institution shall establish an ATRR by a charge to current income and the amounts so charged shall not be included in the banking institution's capital or surplus.

(2) *Separate accounting.* A banking institution shall account for an ATRR separately from the Allowance for Possible Loan Losses, and shall deduct the ATRR from "gross loans and leases" to arrive at "net loans and leases." The ATRR must be established for each asset subject to the ATRR in the percentage amount specified.

(3) *Consolidation.* A banking institution shall establish an ATRR, as required, on a consolidated basis. Consolidation should be in accordance with the procedures and tests of significance set forth in the instructions for preparation of *Consolidated Reports of Condition and Income* (FFIEC Nos. 031, 032, 033 and 034). For bank holding companies, the consolidation shall be in accordance with the principles set forth in the "Instructions to the Bank Holding Company Financial Supplement to Report F.R. Y–6" (Form F.R. Y–9). Edge and Agreement corporations engaged in banking shall report in accordance with instructions for preparation of the Report of Condition for Edge and Agreement Corporations (Form F.R. 2886b).

(4) *Alternative accounting treatment.* A banking institution need not establish an ATRR if it writes down in the period in which the ATRR is required, or has written down in prior periods, the value of the specified international assets in the requisite amount for each such asset. For purposes of this paragraph, international assets may be written down by a charge to the Allowance for Possible Loan Losses or a reduction in the principal amount of the asset by application of interest payments or other collections on the asset. However, the Allowance for Possible Loan Losses must be replenished in such amount necessary to restore it to a level which adequately provides for the estimated losses inherent in the banking institution's loan portfolio.

(5) *Reduction of ATRR.* A banking institution may reduce an ATRR when notified by the Comptroller or, at any time, by writing down such amount of the international asset for which the ATRR was established.

Dated: February 8, 1984.

C. T. Conover,

Comptroller of the Currency.

FEDERAL RESERVE SYSTEM

[Regulation K; Docket No. R–0498]

PART 211—[AMENDED]

1. The table of contents of 12 CFR Part 211 is amended by adding entries for Subpart D and revising the authority citation to read as follows:

* * * * *

Subpart D—International Lending Supervision

Sec.

211.41 Authority, purpose and scope.
211.42 Definitions.
211.43 Allocated Transfer Risk Reserve.

Authority: Federal Reserve Act (12 U.S.C. 211 *et seq.*); Bank Holding Company Act of 1956, as amended (12 U.S.C. 1841 *et seq.*); the International Banking Act of 1978 (Pub. L. 95–369; 92 Stat. 607; 12 U.S.C. 3101 *et seq.*); the Bank Export Services Act (Title II, Pub. L. 97–290, 96 Stat. 1235); and the International Lending Supervision Act (Title IX, Pub. L. 98–181, 97 Stat. 1153).

2. 12 CFR Part 211 is amended by adding a new Subpart D, reading as follows:

Subpart D—International Lending Supervision

§ 211.41 Authority, purpose, and scope.

(a) *Authority:* This subpart is issued by the Board of Governors of the Federal Reserve System ("Board") under the authority of the International Lending Supervision Act of 1983 (Pub. L. 98–181, Title IX, 97 Stat. 1153) ("International Lending Supervision Act"); the Federal Reserve Act (12 U.S.C. 221 *et seq.*) ("FRA"), and the Bank Holding Company Act of 1956, as amended (12 U.S.C. 1841 *et seq.*) ("BHC Act").

(b) *Purpose and scope.* This subpart is issued in furtherance of the purposes of the International Lending Supervision Act. It applies to State banks that are members of the Federal Reserve System ("State member banks"); corporations organized under section 25(a) of the FRA (12 U.S.C. 611–631) ("Edge Corporations"); corporations operating subject to an agreement with the Board under section 25 of the FRA (12 U.S.C. 601–604a) ("Agreement Corporations"); and bank holding companies (as defined in section 2 of the BHC Act (12 U.S.C. 1841(a)) but not including a bank holding company that is a foreign banking organization as defined in § 211.23(a)(2) of this regulation.

§ 211.42 Definitions.

For the purposes of this subpart:

(a) "Banking institution" means a State member bank; bank holding company; Edge Corporation and Agreement Corporation engaged in banking. "Banking institution" does not include a "foreign banking organization" as defined in § 211.23(a)(2).

(b) "Federal banking agencies" means the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, and the Federal Deposit Insurance Corporation.

(c) "International assets" means those assets required to be included in banking institutions' "Country Exposure Report" forms (FFIEC No. 009).

(d) "Transfer risk" means the possibility that an asset cannot be serviced in the currency of payment because of a lack of, or restraints on the availability of, needed foreign exchange in the country of the obligor.

§ 211.43 Allocated transfer risk reserve.

(a) *Establishment of Allocated Transfer Risk Reserve.* A banking institution shall establish an allocated transfer risk reserve (ATRR) for specified international assets when required by the Board in accordance with this section.

(b) *Procedures and Standards.*—(1) *Joint agency determination.* At least annually, the Federal banking agencies shall determine jointly, based on the standards set forth in paragraph (b)(2) of this section, the following:

(i) Which international assets subject to transfer risk warrant establishment of an ATRR;

(ii) The amount of the ATRR for the specified assets; and

(iii) Whether an ATRR established for specified assets may be reduced.

(2) *Standards for requiring ATRR.*—(i) *Evaluation of assets.* The Federal banking agencies shall apply the following criteria in determining whether an ATRR is required for particular international assets:

(A) Whether the quality of a banking institution's assets has been impaired by a protracted inability of public or private obligors in a foreign country to make payments on their external indebtedness as indicated by such factors, among others, as whether:

(*1*) Such obligors have failed to make full interest payments on external indebtedness;

(*2*) Such obligors have failed to comply with the terms of any restructured indebtedness; or

(*3*) A foreign country has failed to comply with any International Monetary Fund or other suitable adjustment program; or

(B) Whether no definite prospects exist for the orderly restoration of debt service.

(ii) *Determination of amount of ATRR.* (A) In determining the amount of the ATRR, the Federal banking agencies shall consider:

(*1*) The length of time the quality of the asset has been impaired;

(*2*) Recent actions taken to restore debt service capability;

(*3*) Prospects for restored asset quality; and

(*4*) Such other factors as the Federal banking agencies may consider relevant to the quality of the asset.

(B) The initial year's provision for the ATRR shall be ten percent of the principal amount of each specified international asset, or such greater or lesser percentage determined by the Federal banking agencies. Additional provision, if any, for the ATRR in subsequent years shall be fifteen percent of the principal amount of each specified international asset, or such greater or lesser percentage determined by the Federal banking agencies.

(3) *Board notification.* Based on the joint agency determinations under paragraph (b)(1) of this section, the Board shall notify each banking institution holding assets subject to an ATRR:

(i) Of the amount of the ATRR to be established by the institution for specified international assets; and

(ii) That an ATRR established for specified assets may be reduced.

(c) *Accounting treatment of ATRR.*—(1) *Charge to current income.* A banking institution shall establish an ATRR by a charge to current income and the amounts so charged shall not be included in the banking institution's capital or surplus.

(2) *Separate accounting.* A banking institution shall account for an ATRR separately from the Allowance for Possible Loan Losses, and shall deduct the ATRR from "gross loans and leases" to arrive at "net loans and leases." The ATRR must be established for each asset subject to the ATRR in the percentage amount specified.

(3) *Consolidation.* A banking institution shall establish an ATRR, as required, on a consolidated basis. For banks, consolidation should be in accordance with the procedures and tests of significance set forth in the instructions for preparation of *Consolidated Reports of Condition and Income* (FFIEC Nos. 031, 032, 033 and 034). For bank holding companies, the consolidation shall be in accordance with the principles set forth in the "Instructions to the Bank Holding Company Financial Supplement to Report F.R. Y–6" (Form F.R. Y–9). Edge and Agreement corporations engaged in banking shall report in accordance with instructions for preparation of the Report of Condition for Edge and Agreement Corporations (Form F.R. 2886b).

(4) *Alternative accounting treatment.* A banking institution need not establish an ATRR if it writes down in the period in which the ATRR is required, or has written down in prior periods, the value of the specified international assets in the requisite amount for each such asset. For purposes of this paragraph, international assets may be written down by a charge to the Allowance for Possible Loan Losses or a reduction in the principal amount of the asset by application of interest payments or other collections on the asset. However, the Allowance for Possible Loan Losses must be replenished in such amount necessary to restore it to a level which adequately provides for the estimated losses inherent in the banking institutions's loan portfolio.

(5) *Reduction of ATRR.* A banking institution may reduce an ATRR when

notified by the Board or, at any time, by writing down such amount of the international asset for which the ATRR was established.

Board of Governors of the Federal Reserve System, February 8, 1984.

William W. Wiles,

Secretary of the Board.

FEDERAL DEPOSIT INSURANCE CORPORATION

In consideration of the foregoing, the FDIC hereby adopts a new Part 351 to its rules and regulations (12 CFR Part 351).

PART 351—INTERNATIONAL OPERATIONS

Authority: Title IX, Pub. L. 98–181, 97 Stat. 1153.

§ 351.1 Allocated transfer risk reserve.

(a) *Definitions.* For the purposes of this subpart:

(1) "Banking institution" means an insured state nonmember bank.

(2) "Federal banking agencies" means the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, and the Federal Deposit Insurance Corporation.

(3) "International assets" means those assets required to be included in banking institutions' "Country Exposure Report" forms (FFIEC No. 009).

(4) "Transfer risk" means the possibility that an asset cannot be serviced in the currency of payment because of a lack of, or restraints on the availability of, needed foreign exchange in the country of the obligor.

(b) *Allocated Transfer Risk Reserve—*(1) *Establishment of Allocated Transfer Risk Reserve.* A banking institution shall establish an allocated transfer risk reserve (ATRR) for specified international assets when required by the FDIC in accordance with this section.

(2) *Procedures and Standards.*—(i) *Joint agency determination.* At least annually, the Federal banking agencies shall determine jointly, based on the standards set forth in paragraph (b)(2)(ii) of this section, the following:

(A) Which international assets subject to transfer risk warrant establishment of an ATRR;

(B) The amount of the ATRR for the specified assets; and

(C) Whether an ATRR established for specified assets may be reduced.

(ii) *Standards for requiring ATRR.*—(A) *Evaluation of assets.* The Federal banking agencies shall apply the following criteria in determining whether an ATRR is required for particular international assets:

(*1*) Whether the quality of a banking institution's assets has been impaired by a protracted inability of public or private obligors in a foreign country to make payments on their external indebtedness as indicated by such factors, among others, as whether:

(*i*) Such obligors have failed to make full interest payments on external indebtedness;

(*ii*) Such obligors have failed to comply with the terms of any restructured indebtedness; or

(*iii*) A foreign country has failed to comply with any International Monetary Fund or other suitable adjustment program; or

(*2*) Whether no definite prospects exist for the orderly restoration of debt service.

(B) *Determination of amount of ATRR.* *(1)* In determining the amount of the ATRR, the Federal banking agencies shall consider:

(*i*) the length of time the quality of the asset has been impaired;

(*ii*) recent actions taken to restore debt service capability;

(*iii*) prospects for restored asset quality; and

(*iv*) such other factors as the Federal banking agencies may consider relevant to the quality of the asset.

(*2*) The initial year's provision for the ATRR shall be ten percent of the principal amount of each specified international asset, or such greater or lesser percentage determined by the Federal banking agencies. Additional provision, if any, for the ATRR in subsequent years shall be fifteen percent of the principal amount of each specified international asset, or such greater or lesser percentage determinined by the Federal banking agencies.

(iii) *FDIC notification.* Based on the joint agency determinations under paragraph (b)(2)(i) of this section, the FDIC shall notify each banking institution holding assets subject to an ATRR:

(A) Of the amount of the ATRR to be established by the institution for specified international assets; and

(B) That an ATRR established for specified assets may be reduced.

(3) *Accounting treatment of ATRR.*—(i) *Charge to current income.* A banking institution shall establish an ATRR by a charge to current income and the amounts so charged shall not be included in the banking institution's capital or surplus.

(ii) *Separate accounting.* A banking institution shall account for an ATRR separately from the Allowance for Possible Loan Losses, and shall deduct the ATRR from "gross loans and leases" to arrive at "net loans and leases." The ATRR must be established for each asset subject to the ATRR in the pertcentage amount specified.

(iii) *Consolidation.* A banking institution shall establish an ATRR, as required, on a consolidated basis. For banks, consolidation should be in accordance with the procedures and tests of significance set forth in the instructions for preparation of *Consolidated Reports of Condition and Income* (FFIEC Nos. 031, 032, 033 and 034).

(iv) *Alternative accounting treatment.* A banking institution need not establish an ATRR if it writes down in the period in which the ATRR is required, or has written down in prior periods, the value of the specified international assets in the requisite amount for each such asset. For purposes of this paragraph, international assets may be written down by a charge to the allowance for Possible Loan Losses or a reduction in the principal amount of the asset by application of interest payments or other collections on the asset. However, the Allowance for Possible Loan Losses must be replenished in such amount necessary to restore it to a level which adequately provides for the estimated losses inherent in the banking institution's loan portfolio.

(v) *Reduction of ATRR.* A banking institution may reduce an ATRR when notified by the FDIC or, at any time, by writing down such amount of the international asset for which the ATRR was established.

By Order of the Board of Directors.

February 6, 1984.

Federal Deposit Insurance Corporation.

Alan J. Kaplan,

Deputy Executive Secretary.

[FR Doc. 84–3982 Filed 2–9–84; 2:40 pm]

BILLING CODE 6210–01–M

DEPARTMENT OF THE TREASURY

Comptroller of the Currency

FEDERAL RESERVE SYSTEM

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Parts 20, 211, and 351

Accounting for International Loan Fees

AGENCIES: Comptroller of the Currency (Treasury), Board of Governors of the Federal Reserve System, and Federal Deposit Insurance Corporation.

ACTION: Joint notice of proposed rulemaking.

SUMMARY: This proposal would establish uniform requirements for the accounting for fees associated with restructuring of international lending arrangements and nonrefundable fees charged by banking institutions in connection with other international loans. This proposal would implement one aspect of the joint program of the Federal banking agencies to strengthen the supervisory and regulatory framework relating to foreign lending by U.S. banking institutions, incorporated in section 906 of the International Lending Supervision Act of 1983. Regulations implementing this provision of law are required to be issued by the agencies no later than March 29, 1984.

DATE: Wirtten comments must be submitted to the Comptroller of the Currency on or before March 5, 1984 and to Federal Reserve Board and the Federal Deposit Insurance Corporation on or before March 9, 1984.

ADDRESS: *Comptroller of the Currency:* Comments should be directed to Docket No. 84–5; Communications Division, 3rd Floor, Office of the Comptroller of the Currency, 490 East L'Enfant Plaza, SW., Washington, D.C. 20219, Attention: Lynette Carter. Comments will be available for public inspection and copying.

Federal Reserve System: All comments, which should refer to Docket No. R–0509, should be mailed to William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, or delivered to C Street entrance, 20th and Constitution Ave., NW., Washington, D.C. between the hours of 8:45 a.m. and 5:15 p.m. weekdays. All comments received will be available for inspection in Room B–1122 between 8:45 a.m. and 5:15 p.m. weekdays.

Federal Deposit Insurance Corporation: Comments should be directed to: Hoyle L. Robinson, Executive Secretary, Federal Deposit Insurance Corporation, 550 17th NW., Washington, D.C. 20429. Comments may be hand delivered to Room 6108 between the hours of 8:30 a.m. and 5:00 p.m. weekdays.

FOR FURTHER INFORMATION CONTACT: *Comptroller of the Currency:* Zane D. Blackburn, Director, Bank Accounting or Eugene Green, Senior Accountant, Bank Accounting (202/447–0471); Harold Schuler, Director, International Relations & Financial Evaluation (202/447–1747); Dorothy Sable, Senior Attorney (202/447–1880).

Federal Reserve System: Michael G. Martinson, Projects Manager, International Activities, Division of Banking Supervision and Regulation, (202/452–3621); or Stanley C. Weidman, Senior Accountant-Analyst, Division of Banking Supervision and Regulation (202/452–3502); or Nancy P. Jacklin, Assistant General Counsel (202/452–3428); Kathleen O'Day, Senior Counsel, Legal Division (202/452–3786).

Federal Deposit Insurance Corporation: Paul L. Sachtleben, Planning and Program Development Branch, Division of Bank Supervision (202/389–4761) or Peter M. Kravitz, Senior Attorney, Legal Division (202/389–4171).

SUPPLEMENTARY INFORMATION:

Purpose

The banking agencies are jointly proposing for public comment regulations which would specify the accounting for international loan fees in order to achieve uniformity among banking institutions in accounting for such fees and to assure that the appropriate portion of such fees is accrued in income over the effective life of the relevant loan. The proposed rules implement section 906 of the International Lending Supervision Act of 1983 (Title IX, Pub. L. 98–181, 97 Stat. 1153) ("Act"), directing the Federal banking agencies to promulgate regulations on the accounting for various fees received by banking institutions when restructuring and making international loans.

Background

In connection with international loan agreements, including agreements to restructure prior loans, banking institutions often receive various nonrefundable fees in addition to interest charges. These fees are identified by a variety of terms, and are intended for a variety of purposes: For example, a flat fee added specifically to increase the yield of the loan; a fee designed to cover costs associated with syndicating a loan (*e.g.*, for structuring and negotiating a loan package, underwriting a syndicated loan, advising the borrower); a fee to cover the costs of committing funds on the prescribed terms for a fixed period of time; or a fee for serving as agent in administering a syndicated loan. In addition, the loan agreement frequently provides that the managing bank(s) is (are) to be reimbursed for all out-of-pocket expenses incidental to the arrangement of a credit facility. Similar provision is made for the agent bank for loan collection or enforcement costs.

As discussed further below, the existing accounting literature provides only very general guidance on the accounting for such fees. As a result, there are differences in the manner in which banks have accounted for various fees associated with international loans. For example, some banks have deferred fees and amortized them to income over the life of the loan while others have recognized in income an amount equal to direct costs incurred and deferred the remainder. Still others have recognized such fees as current income when the loan is made.

General guidance as to the accounting recognition of loan fees is provided in the recent revision of the American Institute of Certified Public Accountants (AICPA) Industry Audit Guide, *Audits of Banks* ("Bank Audit Guide") (1983) at pages 52–55. As to commitment fees, the Bank Audit Guide in part states:

> Banks have recorded income from commitment fees in a variety of ways including recognition:
> (a) in full when received.
> (b) when the commitment period has expired or the loan has been drawn down.
> (c) ratably over the commitment period.
> (d) ratably over the combined commitment and loan period.
> The accounting for recognition of income from commitment fees should be based on the nature and substance of the transactions. However, a bank's method of accounting should ensure that any income that represents an adjustment to the interest yield is deferred until the loan is drawn down and then amortized over the expected life of the loan in relation to the outstanding balance.
> Fees representing compensation for a binding commitment or for rendering a service in issuing the commitment should be deferred and amortized over the commitment period using the straight-line method.

The Guide does not directly address questions of fees for international loans, but discusses "origination fees" as follows:

> Banks also receive fees for originating loans in-house. The normal origination fee (generally referred to as points) is essentially

a reimbursement for the expenses of the underwriting process, that is, processing the loan application, reviewing legal title to the collateral, obtaining appraisals, and other procedures. Origination fees, to the extent they are a reimbursement for such costs, should be recognized as income at the time of loan closing. Loan origination fees that are not reimbursements of such costs should be amortized to income over the expected loan period by application of the interest method.

Because existing generally accepted accounting principles (GAAP) do not provide explicit requirements for fees received in connection with a loan, the AICPA formed a task force to prepare an issues paper addressing the accounting for such fees. The issues paper was presented to and considered by the AICPA's Accounting Standards Executive Committee ("AcSEC"), which voted on the task force recommendations and forwarded this information on September 21, 1983 to the Financial Accounting Standards Board (FASB) for consideration. The FASB, which establishes GAAP, has not yet acted on these recommendations.

In the event either the FASB issues a final pronouncement or standard or the AICPA issues a Statement of Position on the subject, the banking agencies will reexamine their regulations to assess the need for modification.

The Federal banking agencies and the Congress have considered the lack of consistency among banking institutions in accounting for fees associated with international loans and determined that more explicit and uniform guidance is desirable. In particular, accounting practices should not result in artificial incentives for banking institutions to make international loans premised on the immediate recognition of all fee income. As a result of Congressional consideration of these matters, the Federal banking agencies are directed under section 906 of the Act to issue regulations to establish the accounting treatment of such fees and assure that an appropriate portion is accrued as income over the effective life of each such loan. Section 906(a) of the Act also prohibits certain fees in connection with international loan restructurings unless such fees are recognized as a yield adjustment over the effective life of the loan.

The effective life of the loan is generally meant to be the term of the loan. This may, however, differ from the stated loan period, where, for example, a short-term loan is expected to be rolled-over at maturity. The Federal banking agencies intend, through the examination process, to oversee good faith compliance with the Act and these regulations.

The proposed regulations are designed to carry out the objectives of section 906 and provide more specific and uniform accounting guidance relating to international loan fees.

Proposal

The Federal Financial Institutions Examination Council (FFIEC) recently has adopted revisions to banking institution Reports of Condition and Income (Call Reports) which include specific reporting requirements applicable to loan fees. The accounting rules contained in the proposed regulations are generally consistent with the existing requirements set forth in the Call Report Instructions (FFIEC Nos. 031, 032, 033 and 034). However, these instructions do not specifically address the appropriate accounting treatment for fees received in connection with international loans or loan restructurings. This proposal, therefore, specifies the required accounting treatment with respect to such fees.

In addition to the Call Report Instructions, the agencies considered the existing diversified practice of accounting for these fees; current accounting literature on the subject; and the recent recommendations of AcSEC and the AICPA task force referred to earlier.

The agencies also considered whether the accounting treatment for fees should vary depending on whether or not the fees are associated with a restructuring rather than any other international loan. It was decided that the rules should be identical for both loan situations. First, the fees are similar in substance and therefore, should be treated in the same fashion. Secondly, distinguishing between a restructuring, particularly one involving a "new money" component, and other international loans, including routine refinancings, would involve an undue regulatory burden on both banking institutions and the agencies. Accordingly, the proposed rules would apply to all international loans uniformly.

The proposed regulations apply to "banking institutions" which are defined to include banks, bank holding companies, and Edge and Agreement Corporations engaged in banking. The regulations apply to these institutions on a consolidated basis. In applying the rules to bank holding companies under section 910(a)(2) of the Act, the Board has deemed such action appropriate to promote uniform application of section 906 of the Act and to prevent evasions thereof.

The banking agencies, in issuing regulations implementing section 905(a) of the Act, have requested comment generally on whether and the extent to which any provision of the Act should apply to the U.S. branches, agencies and commerical lending company subsidiaries of foreign banks.

The significant provisions of the proposed regulations are:

1. No banking institution shall charge any fee in connection with the restructuring of an existing international obligation of the borrower unless all fees exceeding the banking institution's administrative cost of the restructuring are deferred and recognized over the term of the loan as an interest yield adjustment. In determining what costs should be regarded as administrative costs, reference should be made to the discussion below of administrative costs.

2. The accounting treatment of administrative costs associated with originating and processing international loans and loan fees related to the activity of generating such loans is as follows:

a. Fees on international loans that represent yield adjustments shall be recognized over the expected loan period using the interest method as an adjustment of the yield on the loan. However, to the extent these fees represent a reimbursement of the banking institution's identifiable administrative costs associated with the loan processing, a portion of the fee equal to these costs shall be recognized as income currently.

b. Administrative costs are defined as those costs which are specifically identified with processing and consummating a loan (excluding general and non-associated overhead-type costs). These costs include, but are not necessarily limited to: Legal fees; costs of preparing and processing loan documents; an allocable portion of salaries and related benefits of employees engaged in the international lending function; and directly allocable occupancy and other similar administrative costs.

3. For managing banking institutions in international syndicated loans, the proposed regulations establish a presumption that a portion of a managing banking institution's fees (other than commitment or agency fees for which accounting rules are otherwise set forth in the regulations) shall be considered an adjustment to yield. The interest yield portion is specified as equal to the proportion of fees in relation to loan principal received by the largest loan participant that is not a manager in the syndication. The remainder of the managing banking institution's fee shall be presumed to be

a loan syndication fee. This remaining portion may be recognized as revenue when received only to the extent it equals administrative costs directly identifiable with syndication processing, with the excess deferred and amortized over the term of the loan.

a. The portion of the syndication fee representing an adjustment of yield shall be accounted for as described in 2(a) above.

b. Administrative costs include those costs which are specifically identified with negotiating and consummating such lending arrangements (excluding general and non-associated overhead-type costs). These costs include, but are not necessarily limited to: legal fees; costs of preparing and processing loan documents; an allocable portion of salaries and related benefits of employees engaged in the international loan syndication function; and directly allocable occupancy and other similar administrative costs.

4. Consistent with the requirements of the Bank Audit Guide, the proposal takes the view that a loan commitment is a separate transaction that provides distinct services to customers for which the lending institution is entitled to compensation, and that a commitment fee may have two components: One relating to commitments and one related to lending money. In order to achieve uniformity in accounting practice and because the components generally cannot be separately identified, the banking institution should account for the commitment fee by recognizing the fee as revenue over the combined commitment and loan period.

Reimbursement of any direct processing costs will be recognized as income at closing. Then the straight line method, based on the combined life of the commitment and loan period, shall be applied to the remaining fee to recognize income during the commitment period. When the loan is disbursed, the interest method shall be applied to the balance of the fee to recognize income over the life of the loan. If the loan is not funded, unamortized commitment fees will be recognized as income at the end of the commitment period.

5. The proposed regulations provide that agency fees—normally as annual fee paid to an Agent Bank by the borrower to reimburse the bank for the performance of its administrative duties and out-of-pocket expenses (*e.g.*, telex, telephone, postage, printing and travel) incurred in the performance of such duties—shall be recorded as income at the time of loan closing or as the service is performed, if later.

The proposed rules differ in two respects from the accounting recommended in the AICPA issues paper submitted to the FASB for consideration.

First, the proposed rules would require that loan processing/origination costs be expensed as incurred with fees equal to the banking institution's directly identifiable administrative costs recognized in income in the same period. Both the AICPA Task Force and AcSEC believe that such costs should be capitalized and amortized over the loan period; however, the Task Force concluded (although AcSEC disagreed) that expensing all such administrative costs offset by an equal amount of revenue was an acceptable alternative.

The method proposed of immediately expensing all loan processing costs offset by an equal amount of revenue is a long established practice in the banking industry. Additionally, recognition of a portion of the fees gives the same income result as deferring administrative costs and amortizing them over the life of the loan, and thus would appear to be equally consistent with the objectives of section 906 of the Act.

The AICPA issues paper did not specify accounting treatment of syndication and similar fees. However, the presumption is that such fees should be deferred and recognized over the life of the loan. The proposed regulations are similar except for treatment of the associated syndication costs. The proposal treats syndication costs consistently with loan processing costs. In each case, the income result is the same as deferring both the costs and fee revenue and amortizing them over the life of the loan.

Secondly, AcSEC believes that a loan commitment is an integral part of lending money and therefore loan commitment fees should be deferred and recognized over the expected loan priod as a yield adjustment. However, the proposed rules would allow commitment fees to be recognized over the combined commitment and loan period. This proposal parallels the accounting prescribed in the Call Report Instruction and does not differ significantly from the requirements in the Bank Audit Guide. The AICPA Task Force endorses such treatment of commitment fees.

Comments are requested on the proposal and specifically on the following issues:

(1) Should the rules differentiate between fees related to restructured loans and other international loans, and if so, how should restructured loans be defined?

(2) Should all or certain costs be capitalized rather than expensed as incurred?

(3) Should commitment fees always be deferred and recognized over the combined commitment and expected loan period as adjustments to yield?

(4) How should banking institutions account for the costs of, and fee income attributable to, their merchant banking activities?

(5) Is any aspect of the proposed rules inconsistent with the accounting treatment for domestic loans?

Regulatory Flexibility Act

Pursuant to section 605(b) of the Regulatory Flexibility Act (Pub. L. 96–354, 5 U.S.C. 601 *et seq.*) the agencies have certified that the proposed regulations, if adopted, will not have a significant economic impact on a substantial number of small entities since small banks generally do not engage extensively in international lending and would not be affected by these regulations.

Executive Order 12291

The Comptroller of the Currency has determined that the proposed regulation does not constitute a "major rule" and therefore does not require a regulatory impact analysis.

List of Subjects in 12 CFR Parts 20, 211 and 351

Accounting for international loan fees, Banks, banking, Federal Reserve System, Foreign banking, investments, Reporting and recordkeeping requirements, Export trading companies, Allocated transfer risk reserve, National banks, International operations, Reserves on certain international assets, Reporting and disclosure of international assets, State nonmember banks.

Authority and Issuance

Pursuant to their respective authorities, the agencies propose to amend Title 12 of the Code of Federal Regulations, Parts 20, 211 and 351, as follows:

COMPTROLLER OF THE CURRENCY

[Docket No. 84–5]

PART 20—[AMENDED]

The Comptroller of the Currency proposes to amend 12 CFR Part 20 as follows:

1. The authority citation for 12 CFR PArt 20 reads as follows:

Authority: 12 U.S.C. 1 *et seq.* unless otherwise noted.

2. Part 20 is amended by redesignating paragraph (d) of § 20.7 as paragraph (f) and by adding new paragraphs (d) and (e) to read as follows:

§ 20.7 Definitions.

* * * * *

(d) "International loan" means a loan as defined in the instructions to the "Report of Condition and Income" for the respective banking institution (FFIEC Nos. 031, 032, 033 and 034) and made to a foreign government, or to an individual, a corporation, or other entity not a citizen of, resident in, or organized or incorporated in the United States.

(e) "International syndicated loan" means a loan characterized by the formation of a group of "managing" banking institutions, assumption by them of underwriting commitments, and in the usual case, participation in the loan by other banking institutions.

(f) "Transfer risk" * * *

3. Part 20 is amended by adding a new § 20.9 to read as follows:

§ 20.9 Accounting for fees on international loans.

(a) *Restrictions on certain fees for restructured international loans.* No banking institution shall charge any fee in connection with the restructuring of an existing obligation of the borrower unless all fees exceeding the banking institution's administrative costs of the restructuring are deferred and recognized over the term of the loan as an interest yield adjustment. Administrative costs are described in paragraph (b)(3)(ii) of this section.

(b) *Accounting treatment of international loan administrative costs and corresponding fees*—(1) *Amortizing fees.* Except as otherwise provided by this section, fees received on international loans shall be deferred and amortized over the term of the loan. The interest method should be used during the loan period to recognize the deferred fee revenue in relation to the outstanding loan balance.

(2) *Loan commitment fees.* Loan commitment fees shall be deferred and amortized over the term of the combined commitment and loan period. The straight-line method of amortization should be used during the commitment period to recognize fee revenue. The interest method should be used during the loan period to recognize the remaining fee revenue in relation to the outstanding balance. When any loan amounts are not funded during the commitment period, a portion of the fee income deferred may be recognized as income at the end of the commitment period.

(3) *Administrative costs and corresponding fees.* (i) Administrative costs for international loans shall be expensed as incurred. A portion of the fee income equal to the banking institution's administrative costs shall be recognized as income in the same period such costs are expensed.

(ii) The administrative costs of originating or restructuring an international loan include those costs which are specifically identified with processing and consummating the loan. These costs include, but are not necessarily limited to: legal fees; costs of preparing and processing loan documents; an allocable portion of salaries and related benefits of employees engaged in the international lending function; and an allocable portion of occupancy and other similar administrative costs.

(4) *Fees received by and administrative costs of managing banking institutions in an international syndicated loan.* (i) Fees received on international syndicated loans representing an adjustment of the yield on the loan shall be recognized over the loan period using the interest method. A portion of the syndication fee shall be recognized as revenue when received to the extent it equals administrative costs of the managing banking institution with the excess deferred and amortized over the term of the loan.

(ii) If the interest yield portion of a fee received on an international syndicated loan by a managing banking institution is unstated or differs materially from the pro rata portion of loan and commitment fees paid other participants in the syndication, an amount necessary for an interest yield adjustment shall be provided. This amount shall at least be equivalent (on a pro rata basis) to that received by the largest loan participant in the syndication that is not a managing banking institution.

(iii) The administrative costs of a managing banking institution in an international syndicated loan shall be expensed as incurred. Such costs are those which are specifically identified with negotiating and consummating such lending arrangements. These costs include, but are not necessarily limited to: Legal fees; costs of preparing and processing loan documents; an allocable portion of salaries and related benefits of employees engaged in the syndication function; and an allocable portion of occupancy and other similar administrative costs.

(5) *Accounting treatment of Agency fees.* Fees paid to an agent banking institution for administrative services in an international syndicated loan shall be recognized at the time of the loan closing or as the service is performed, if later.

Dated: February 8, 1984.

C. T. Conover,

Comptroller of the Currency.

FEDERAL RESERVE SYSTEM

[Regulation K; Docket No. R-0509]

PART 211—[AMENDED]

Pursuant to the Board's authority under sections 9, 25 and 25(a) of the Federal Reserve Act (12 U.S.C. 221 *et seq.*, 601–604a, and 611 *et seq.*), section 5 of the Bank Holding Company Act (12 U.S.C. 1844) and section 906 of the International Lending Supervision Act of 1983 (Pub. L. 98–181, Title IX, 97 Stat. 1153), the Board proposes to amend 12 CFR Part 211, Subpart D, as follows:

1. Section 211.42 is amended by redesignating paragraph (d) as paragraph (f) and by adding new paragraphs (d) and (e), to read as follows:

211.42 Definitions.

* * * * *

(d) "International loan" means a loan as defined in the instructions to the "Report of Condition and Income" for the respective banking institution (FFIEC Nos. 031, 032, 033 and 034) and made to a foreign government, or to an individual, a corporation, or other entity not a citizen of, resident in, or organized or incorporated in the United States.

(e) "International syndicated loan" means a loan characterized by the formation of a group of "managing" banking institutions, assumption by them of underwriting commitments, and in the usual case, participation in the loan by other banking institutions.

* * * * *

2. By adding a new § 211.45, to read as follows:

§ 211.45 Accounting for fees on international loans.

(a) *Restrictions on certain fees for restructured international loans.* No banking institution shall charge any fee in connection with the restructuring of an existing obligation of the borrower unless all fees exceeding the banking institution's administrative costs of the restructuring are deferred and recognized over the term of the loan as an interest yield adjustment. Administrative costs are described in paragraph (b)(3)(ii) of this section.

(b) *Accounting treatment of international loan administrative costs and corresponding fees*—(1) *Amortizing fees.* Except as otherwise provided by this section, fees received on

international loans shall be deferred and amortized over the term of the loan. The interest method should be used during the loan period to recognize the deferred fee revenue in relation to the outstanding loan balance.

(2) *Loan commitment fees.* Loan commitment fees shall be deferred and amortized over the term of the combined commitment and loan period. The straight-line method of amortization should be used during the commitment period to recognize fee revenue. The interest method should be used during the loan period to recognize the remaining fee revenue in relation to the outstanding balance. When any loan amounts are not funded during the commitment period, a portion of the fee income deferred may be recognized as income at the end of the commitment period.

(3) *Administrative costs and corresponding fees.* (i) Administrative costs for international loans shall be expensed as incurred. A portion of the fee income equal to the banking institution's administrative costs shall be recognized as income in the same period such costs are expensed.

(ii) The administrative costs of originating or restructuring an international loan include those costs which are specifically identified with processing and consummating the loan. These costs include, but are not necessarily limited to: legal fees; costs of preparing and processing loan documents; an allocable portion of salaries and related benefits of employees engaged in the international lending function; and an allocable portion of occupancy and other similar administrative costs.

(4) *Fees received by and administrative costs of managing banking institutions in an international syndicated loan.* (i) Fees received on international syndicated loans representing an adjustment of the yield on the loan shall be recognized over the loan period using the interest method. A portion of the syndication fee shall be recognized as revenue when received to the extent it equals administrative costs of the managing banking institution with the excess deferred and amortized over the term of the loan.

(ii) If the interest yield portion of a fee received on an international syndicated loan by a managing banking institution is unstated or differs materially from the pro rata portion of loan and commitment fees paid other participants in the syndication, an amount necessary for an interest yield adjustment shall be provided. This amount shall at least be equivalent (on a pro rata basis) to that received by the largest loan participant in the syndication that is not a managing banking institution.

(iii) The administrative costs of a managing banking institution in an international syndicated loan shall be expensed as incurred. Such costs are those which are specifically identified with negotiating and consummating such lending arrangements. These costs include, but are not necessarily limited to: Legal fees; costs of preparing and processing loan documents; an allocable portion of salaries and related benefits of employees engaged in the syndication function; and an allocable portion of occupancy and other similar administrative costs.

(5) *Accounting treatment of Agency fees.* Fees paid to an agent banking institution for administrative services in an international syndicated loan shall be recognized at the time of the loan closing or as the service is performed, if later.

Dated: February 8, 1984.

William W. Wiles,

Secretary, Board of Governors of the Federal Reserve System.

FEDERAL DEPOSIT INSURANCE CORPORATION

PART 351—[AMENDED]

1. The authority citation for 12 CFR Part 351 is as follows:

Authority: Title IX, Pub. L. 98–181, 97 Stat. 1153.

2. The FDIC proposes to amend Part 351 by adding a new § 351.2 to read as follows:

§ 351.2 Accounting for international loans fees.

(a) *Definitions.* (1) "International loan" means a loan as defined in the instructions to the "Report of Condition and Income" for the respective banking institution (FFIEC Nos. 031, 032, 033 and 034) and made to a foreign government, or to an individual, a corporation, or other entity not a citizen of, resident in, or organized or incorporated in the United States.

(2) "International syndicated loan" means a loan characterized by the formation of a group of "managing" banking institutions, assumption by them of underwriting commitments, and in the usual case, participation in the loan by other banking institutions.

(b) *Restrictions on certain fees for restructured international loans.* No banking institution shall charge any fee in connection with the restructuring of an existing obligation of the borrower unless all fees exceeding the banking institution's administrative costs of the restructuring are deferred and recognized over the term of the loan as an interest yield adjustment. Administrative costs are described in paragraph (c)(3)(ii) of this section.

(c) *Accounting treatment of international loan administrative costs and corresponding fees.*—(1) *Amortizing fees.* Except as otherwise provided by this section, fees received on international loans shall be deferred and amortized over the term of the loan. The interest method should be used during the loan period to recognize the deferred fee revenue in relation to the outstanding loan balance.

(2) *Loan commitment fees.* Loan commitment fees shall be deferred and amortized over the term of the combined commitment and loan period. The straight-line method of amortization should be used during the commitment period to recognize fee revenue. The interest method should be used during the loan period to recognize the remaining fee revenue in relation to the outstanding balance. When any loan amounts are not funded during the commitment period, a portion of the fee income deferred may be recognized as income at the end of the commitment period.

(3) *Administrative costs and corresponding fees.* (i) Administrative costs for international loans shall be expensed as incurred. A portion of the fee income equal to the banking institution's administrative costs shall be recognized as income in the same period such costs are expensed.

(ii) The administrative costs of originating or restructuring an international loan include those costs which are specifically identified with processing and consummating the loan. These costs include, but are not necessarily limited to: legal fees; costs of preparing and processing loan documents; an allocable portion of salaries and related benefits of employees engaged in the international lending function; and an allocable portion of occupancy and other similar administrative costs.

(4) *Fees received by and administrative costs of managing banking institutions in an international syndicated loan.* (i) Fees received on international syndicated loans representing an adjustment of the yield on the loan shall be recognized over the loan period using the interest method. A portion of the syndication fee shall be recognized as revenue when received to the extent it equals administrative costs of the managing banking institution with the excess deferred and amortized over the term of the loan.

(ii) If the interest yield portion of a fee received on an internationl syndicated loan by a managing banking institution is unstated or differs materially from the pro rata portion of loan and commitment fees paid other participants in the syndication, an amount necessary for an interest yield adjustment shall be provided. This amount shall at least be equivalent (on a pro rata basis) to that received by the largest loan participant in the syndication that is not a managing banking institution.

(iii) The administrative costs of a managing banking institution in an international syndicated loan shall be expensed as incurred. Such costs are those which are specifically identified with negotiating and consummating such lending arrangements. These costs include, but are not necessarily limited to: Legal fees; costs of preparing and processing loan documents; an allocable portion of salaries and related benefits of employees engaged in the syndication function; and an allocable portion of occupancy and other similar administrative costs.

(5) *Accounting Treatment of Agency fees.* Fees paid to an agent banking institution for administrative services in an international syndicated loan shall be recognized at the time of the loan closing or as the service is performed, if later.

Dated: February 6, 1984.

By Order of the Board of Directors.

Alan J. Kaplan,

Deputy Executive Secretary, Federal Deposit Insurance Corporation.

[FR Doc. 84-3963 Filed 2-9-84; 2:40 pm]

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[1] No amendments to these volumes were promulgated during the period Apr. 1, 1982 to March 31, 1983. The CFR volumes issued as of Apr. 1, 1982 should be retained.

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[3] Refer to September 19, 1983, FEDERAL REGISTER, Book II (Federal Acquisition Regulation).

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Tuesday, February 14, 1984

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The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Parts 301, 315, and 316

Noncompetitive Appointment of Certain Former Overseas Employees; Correction

AGENCY: Office of Personnel Management.

ACTION: Final rule; correction.

SUMMARY: The Office of Personnel Management is issuing corrections to final regulations published on November 23, 1983 (48 FR 52867), concerning the noncompetitive appointment of certain former overseas employees. OPM inadvertently used incorrect section numbers in its amendments to 5 CFR Part 301 (Overseas Employment) and omitted a section reference in its amendments to Part 316 (Temporary and Term Employment).

EFFECTIVE DATE: December 23, 1983.

FOR FURTHER INFORMATION CONTACT: Ed McHugh, (202) 632–6817.

U.S. Office of Personnel Management.

Donald J. Devine,

Director.

Accordingly, Title 5 of the Code of Federal Regulations is amended as follows:

PART 301—OVERSEAS EMPLOYMENT

§§ 301.201, 301.202 and 301.203 [Redesignated as §§ 301.301, 301.302 and 301.303]

1. Sections 301.201, 301.202, and 301.203 are redesignated as §§ 301.301, 301.302, and 301.303 respectively.

PART 316—TEMPORARY AND TERM EMPLOYMENT

2. Sections 316.302(c)(3) and 316.402(b)(2) are revised to read as follows:

§ 316.302 Selection of term employees.

* * * * *

(c) * * *

(3) A person eligible for career or career-conditional appointment under §§ 315.601, 315.605, 315.606, 315.608, or 315.609 of this chapter;

* * * * *

§ 316.402 Authorities for temporary appointments.

* * * * *

(b) * * *

(2) A person eligible for career or career conditional appointment under §§ 315.601, 315.605, 315.606, 315.607, 315.608, or 315.609 of this chapter.

* * * * *

(E.O. 12362, 47 FR 21231)

[FR Doc. 84–3933 Filed 2–13–84; 8:45 am]
BILLING CODE 6325–01–M

5 CFR Parts 731 and 754

Personnel Suitability and Suitability Disqualification Actions

Correction

In FR Doc. 84–1120 beginning on page 1869 in the issue of Monday, January 16, 1984, make the following correction.

On page 1870, second column, the first word in § 731.302 (b), "Therefore" should have read "Thereafter".

BILLING CODE 1505–01–M

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 42

United States Standards for Condition of Food Containers

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule would amend two labeling, marking, or coding defects of the United States Standards for Condition of Food Containers by rewording one of the defects into more simplified, meaningful language and reclassifying another defect from a minor to a major category.

EFFECTIVE DATE: February 14, 1984.

FOR FURTHER INFORMATION CONTACT: Roger L. Luttrell, Chairman, Condition of Container Committee, MRD, AMS, USDA, South Building, Washington, D.C. 20250, telephone (202) 475–4951.

SUPPLEMENTARY INFORMATION:

Executive Order 12291

A determination has been made that this final rule is not a major rule under Executive Order 12291. It will not result in an annual effect on the economy of $100 million or more; a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or significant effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Effect of Small Entities

William T. Manley, Deputy Administrator, Agricultural Marketing Service, has determined that this final action will not have significant economic impact on a substantial number of small entities, as defined by the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

Both changes to these defects do not introduce additional defects but modify existing ones. The first defect is simply a grammatical change. The second defect is a recategorization as to the severity of the defect. While the second defect is classified as major, occurrences are traditionally infrequent. For the above reasons, this final rule is not expected to cause a hardship for small entities.

Background

The United States Standards for Condition of Food Containers provide sampling procedures and acceptance criteria for the inspection of lots and portions of production of filled food containers. These standards are concerned only with external defects such as dents in cans or torn areas in fiberboard containers.

Within the defects in § 42.113 Defects of label, marking, or code; Table VIII., the Department of Defense requested the revisions in order to obtain more definitive and appropriate container requirements for military food purchases, with potential application for civilian agencies.

Current language of one defect worded "Torn or scratched, obliterating

any markings on the label (military purchases)" was requested to read "Text illegible or incomplete (military purchases)". The reasons for this change include clarity and so that any illegibility or incompleteness of product identification labeling, marking, or coding would be classified as a major defect in military procurements.

Another defect, "Incorrect" presently categorized as a minor defect was requested to be reclassified as a major defect for both military and civilian agencies. The reason for this change is that application of an incorrect label, marking, or code would not permit correct product identification. This defect should be considered as a major defect.

From these changes, both military and civilian agencies will receive greater assurance that the contents of food containers are meaningfully described by the respective labels, markings, or codes.

The amendments were published in the **Federal Register** as a proposed rule on November 10, 1983, (48 FR 51635). Interested persons were given until December 12, 1983, to file comments. No comments were received.

Lists of Subjects in 7 CFR Part 42

Foods, Packaging, Containers.

PART 42—STANDARDS FOR CONDITION OF FOOD CONTAINERS

In consideration of the foregoing, 7 CFR 42.113 *Defects of label, marking, or code; Table VIII* is amended as follows:

(1) Major defect number 103 is revised to read "Text illegible or incomplete (military purchases)".

(2) Minor defect number 204 ("Incorrect") is reclassified as major defect number 104 ("Incorrect").

(3) Minor defect number 205 ("In wrong location") is renumbered as minor defect number 204 ("In wrong location").

Table VIII in 7 CFR 42.113 will, thus, read as follows:

§ 42.113 Defects of label, marking, or code; Table VIII.

TABLE VIII.—LABEL, MARKING, OR CODE

Defects	Categories	
	Major	Minor
Not specified method	101	
Missing (when required)	102	
Loose or improperly applied		201
Torn or mutilated		202
Text illegible or incomplete (military purchases)	103	
Text illegible or incomplete		203
Incorrect	104	
In wrong location		204

(Sec. 203, 205, 60 Stat. 1087, 1090, as amended; 7 U.S.C. 1622, 1624)

Done at Washington, D.C., on: February 7, 1984.

Eddie F. Kimbrell,

Deputy Administrator, Commodity Services.

[FR Doc. 84-3851 Filed 2-13-84; 8:45 am]

BILLING CODE 3410-02-M

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7 CFR Part 907

[Navel Orange Reg. 593; Navel Orange Reg. 592, Amdt. 1; and Navel Orange Reg. 591, Amdt. 1]

Navel Oranges Grown in Arizona and Designated Part of California; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: Regulation 593 establishes the quantity of fresh California-Arizona navel oranges that may be shipped to market during the period February 17–23, 1984. Regulation 592, Amendment 1, increases the quantity of such oranges that may be shipped during the period February 10–16, 1984, and Regulation 591, Amendment 1, increases the quantity of such oranges that may be shipped during the period February 3–9, 1984. Such action is needed to provide for the orderly marketing of fresh navel oranges for the period specified due to the marketing situation confronting the orange industry.

DATES: Regulation 593 becomes effective February 17, 1984, and the amendments are effective for the periods February 10–16, 1984, and February 3–9, 1984.

FOR FURTHER INFORMATION CONTACT: William J. Doyle, 202–447–5975.

SUPPLEMENTARY INFORMATION: *Findings.* This rule has been reviewed under USDA procedures and Executive Order 12291 and has been designated a "non-major" rule. William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this action will not have a significant economic impact on a substantial number of small entities.

This regulation and amendments are issued under the marketing agreement, as amended, and Order No. 907, as amended (7 CFR Part 907), regulating the handling of navel oranges grown in Arizona and designated part of California. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The action is based upon the recommendation and information submitted by the Navel Orange Administrative Committee and upon other available information. It is hereby found that these actions will tend to effectuate the declared policy of the Act.

These actions are consistent with the marketing policy for 1983–84. The marketing policy was recommended by the committee following discussion at a public meeting on September 27, 1983. The committee met again publicly on February 7, 1984 at Lindsay, California, to consider the current and prospective conditions of supply and demand and recommended a quantity of navel oranges deemed advisable to be handled during the specified week. The committee reports the demand for navel oranges is good.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation and amendment are based and the effective date necessary to effectuate the declared policy of the Act. Interested persons were given an opportunity to submit information on views on the regulation at an open meeting, and the amendment relieves restrictions on the handling of navel oranges. It is necessary to effectuate the declared purposes of the Act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

List of Subjects in 7 CFR Part 907

Marketing agreements and orders, California, Arizona, Oranges (Navel).

PART 907—[AMENDED]

1. Section 907.893 is added as follows:

§ 907.893 Navel Orange Regulation 593.

The quantities of navel oranges grown in California and Arizona which may be handled during the period February 17, 1984, through February 23, 1984, are established as follows:

(a) District 1: 1,650,000 cartons;
(b) District 2: Unlimited cartons;
(c) District 3: Unlimited cartons;
(d) District 4: Unlimited cartons.

2. Section 907.892 Navel Orange Regulation 592 paragraphs (a) through (d) are hereby revised to read:

§ 907.892 Navel Orange Regulation 592.

(a) District 1: 1,650,000 cartons;
(b) District 2: Unlimited cartons;
(c) District 3: Unlimited cartons;
(d) District 4: Unlimited cartons.

3. Section 907.891 Navel Orange Regulation 591 (49 FR 3640) paragraphs (a) through (d) are hereby revised to read:

§ 907.891 Navel Orange Regulation 591.

(a) District 1: 1,750,000 cartons;
(b) District 2: Unlimited cartons;
(c) District 3: Unlimited cartons;
(d) District 4: Unlimited cartons.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: February 9, 1984.

Russell L. Hawes,

Acting Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 84-3944 Filed 2-13-84; 8:45 am]

BILLING CODE 3410-02-M

FEDERAL RESERVE SYSTEM

12 CFR Parts 262 and 265

[Docket No. R-0507]

Rules of Procedure; Applications; Timeliness of Comments; Informal Meetings

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Amendment of Statement of Policy and final rule.

SUMMARY: The Board has amended its policy statement concerning the procedures used to process protested applications to provide more flexibility in conducting public meetings. The statement also clarifies the Board's policy with respect to sponsoring private meetings between the applicant and the protestant and specifically designates Community Affairs Officers at the Reserve Banks as the Federal Reserve representatives available to answer questions concerning Federal Reserve procedures for protested applications. In addition, the General Counsel has been delegated authority, in consultation with the directors of the other interested divisions of the Board and the Reserve Bank (or their designees), to convene a public meeting and to designate the presiding officer in any such proceeding. The Board is also amending its Rules of Procedure to clarify that comments on an application must be received on or before the last date specified in the notice.

EFFECTIVE DATE: January 31, 1984. This Statement will apply to applications for which notice is published on or after January 31, 1984.

FOR FURTHER INFORMATION CONTACT: Bronwen Chaiffetz, Senior Counsel (202/452–3564) or Susan Weinburg, Attorney (202/452–3707), Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

SUPPLEMENTARY INFORMATION: In December 1980, the Board adopted a Policy Statement to provide members of the public with guidance on the procedures to be used in filing protests and requesting public meetings or hearings, on applications filed with the Board. Based on its experience, the Board believes the Policy Statement has served a useful purpose, and that the changes being adopted today will further facilitate the processing of protested applications.

In the amended statement, the Board has clarified its policy concerning private meetings between the applicant and the protestant in connection with protested applications; specified that the Community Affairs Officer at the appropriate Reserve Bank will be available to answer questions by members of the public concerning the filing of a protest; delegated to its General Counsel the authority to convene public meetings and to designate the Presiding Officer in such proceedings and has amended its procedures for conducting public meetings to provide more flexibility.

Regulatory Flexibility Act Analysis

Pursuant to section 605(b) of the Regulatory Flexibility Act (Pub. L. 96–354, 5 U.S.C. 601 *et seq.*), the Board certifies that the amendments will not have a significant impact on a substantial number of small entities, since they pertain to the Board's procedures.

Regulatory Impact Analysis

Pursuant to section 3(a)(1) of Executive Order 12991 of February 17, 1981, it has been determined that the proposed amendments do not constitute a major rule within the meaning of section (1)(b) of the Executive Order. The proposed amendments have no effect on the operations of the depository institutions subject to them. As such, the amendments will not have an annual effect on the economy of $100 million or more, will not effect costs or prices for consumers, individual industries, government agencies or geographic regions, and will not have adverse effects on competition, employment, investment productivity or on the ability of United States enterprises to compete with foreign-based enterprises in domestic or export markets.

List of Subjects

12 CFR Part 262

Administrative practice and procedure, Federal Reserve System.

12 CFR Part 265

Authority delegations (Government Agencies), Banks, banking, Federal Reserve System.

The Board has issued these amendments pursuant to its statutory authority under sections 3(a), 4(c)(8) and 5(b) of the Bank Holding Company Act of 1956 as amended (12 U.S.C. 1842(a), 1843(c)(8) and 1844(b)), section 18(c) of the Federal Deposit Insurance Act (12 U.S.C. 1828(c)), and sections 9 and 11(i) of the Federal Reserve Act (12 U.S.C. 321 and 248(i)).

The Board is not soliciting public comment with regard to these amendments under authority of 5 U.S.C. 553(b), which authorizes waiver of public comment in case of interpretative statements and rules of procedure. The interpretation is issued as a policy statement and not as a part of the regulation and is, therefore, considered interpretative. The amendments to the Rules Regarding Delegation of Authority and to the Rules of Procedure are procedural in nature and do not constitute substantive rules subject to the requirements of 5 U.S.C. 553 and 604. The Board's expanded rulemaking procedures have not been followed because the amendments are technical in nature. The amendments are effective January 31, 1984 pursuant to 5 U.S.C. 553(d)(2).

PART 262—[AMENDED]

1. Therefore, § 262.25 is revised to read as follows:

§ 262.25 Policy statement regarding notice of applications; timeliness of comments; informal meetings.

(a) *Notice of Applications.* A bank or company applying to the Board for a deposit-taking facility must first publish notice of its application in local newspapers. This requirement, found in § 262.3(b)(1) of the Board's Rules of Procedure covers applications under the Bank Holding Company Act and Bank Merger Act, as well as applications for membership in the Federal Reserve System and for new branches of State member banks. Notices of these applications are published in newspapers of general circulation in the communities where the applicant intends to do business as well as in the community where the applicant's head office is located. These notices are important in calling the public's

attention to an applicant's plans and giving the public a chance to comment on these plans. To improve the effectiveness of the notices, the Board has supplemented its notice procedures as follows.

(1) The Board has adopted standard forms of notice for use by applicants that will specify the exact date on which the comment period on the application ends, which may not be less than thirty calendar days from the date of publication of the first notice. The newspaper forms also provide the name and telephone number of the Community Affairs Officer of the appropriate Reserve Bank as the person to call to obtain more information about submitting comments on an application. In general, the Community Affairs Officer will be available to answer questions of a general nature concerning the submission of comments and the processing of applications.

(2) The Board also publishes notice of bank holding company applications for bank acquisitions (but not for bank mergers or branches) in the **Federal Register** after the application is received and the Community Affairs Officer can provide the exact date on which this comment period ends. (The **Federal Register** comment period will generally end after the date specified in the newspaper notice.)

(3) In addition to the formal newspaper and **Federal Register** notices discussed above, each Reserve Bank publishes a weekly list of applications submitted to the Reserve Bank for which newspaper notices have been published. Any person or organization may arrange to have the list mailed to them regularly, or may request particular lists, by contacting the Reserve Bank's Community Affairs Officer. Each Reserve Bank's list includes only applications submitted to that particular Reserve Bank, and persons or groups should request lists from each Reserve Bank having jurisdiction over applications in which they may be interested. Since the lists are prepared as a courtesy by the Reserve Bank, and are not intended to replace any formal notice required by statute or regulation, the Reserve Banks and the Board do not assume responsibility for errors or omissions. In addition, the weekly lists prepared by Reserve Banks include certain applications by bank holding companies for nonbank acquisitions filed with the Reserve Bank.

(4) With respect to applications by bank holding companies to engage *de novo* in nonbank activities or make acquisitions of nonbank firms, the Board publishes notice of most of these applications in the **Federal Register** when the applications are filed. Notice of certain small acquisitions may be published in a newspaper of general circulation in the area(s) to be served. While applications for nonbanking activities are not covered by the provisions of the Community Reinvestment Act or the notice provisions of § 262.3 of the Board's Rules of Procedure, the provisions of this Statement apply to such applications.

(b) *Timeliness of Comments.*

(1) All comments must be actually received by the Board or the Reserve Bank on or before the last date of the comment period specified in the notice. Where more than one notice is published with respect to an application, comments must be received on or before the last date of the latest comment period. The Board's Rules allow it to disregard comments received after the comment period expires. In particular, § 262.3(e) of the Board's Rules of Procedure states that the Board will not consider comments on an application that are not received on or before the expiration of the comment period. Thus, a commenter who fails to comment on an application within the specified comment period (or any extension) may be precluded from participating in the consideration of the application.

(2) In cases where a commenter for good cause is unable to send its comment within the specified comment period, § 265.2(a)(10) of the Board's Rules Regarding Delegation of Authority (12 CFR 265.2(a)(10)) allows the Secretary of the Board to grant requests for an extension of the period. Under this provision, upon receipt of a request received on or before the expiration of the comment period, the Secretary may grant a brief extension upon clear demonstration of hardship or other meritorious reason for seeking additional time.

(c) *Private Meetings.* When a timely protest to approval of an application is received, the Reserve Bank may arrange a meeting between the applicant and the protestant to clarify and narrow the issues, and to provide a forum for the resolution of differences between the protestant and the applicant. If the Reserve Bank decides that a private meeting would be appropriate, the Reserve Bank will arrange a private meeting soon after the receipt of a protest and the applicant's response, if any, to the protest. In scheduling the meeting, the Reserve Bank will consider convenience to the parties with respect to the time and place of the meeting. A decision to hold a private meeting will not preclude the Reserve Bank or the Board from holding a public meeting or other proceeding if it is deemed appropriate.

(d) *Public Meetings.* The Board's General Counsel (in consultation with the Reserve Bank and the directors of other interested divisions of the Board) may order that a public meeting or other proceeding be held if requested by the applicant or a protestant who files a timely protest, or if such a proceeding appears appropriate. In most instances, the determination to order a public meeting will be made after a private meeting has been held; however, where appropriate a public meeting may be convened immediately after receipt of the protest and the applicant's response, if any. Additional information may be requested prior to making a determination to convene a public meeting. In these cases, a determination will be made within ten days from the date all relevant information is received. The public meeting will be scheduled as soon as possible, but in no event, later than 30 days after the decision to hold the proceeding is made. The purpose of the public meeting will be to elicit information, to clarify factual issues related to the application and to provide an opportunity for interested individuals to provide testimony. The Board has adopted the following guidelines to be used for convening public meetings, although specific provisions may be altered by the General Counsel if circumstances warrant.

(1) *Requesting a Public Meeting.* A meeting may be requested by a person or an organization objecting to the application during the comment period, and by the applicant during the period within which it must respond to comments. Such a request must be timely and in writing.

(i) A protest does not have to be filed in a legal brief or other format in order for a public meeting to be granted. The Community Affairs Officer at the Reserve Bank will be available to assist any member of the public regarding the types of information generally included in protests; the format generally used by protestants; and any other specific questions about the procedures of the Federal Reserve System regarding protested applications.

(ii) In general, a protest should identify the protestant, state the basis for objection to approval of the application, and provide available written evidence to support the objection. Objections to approval of an application must relate to the factors that the Board is authorized to consider in acting on an application. Generally, these factors relate to the financial and managerial resources of the companies

and banks involved, the effects of the proposal on competition, and the convenience and needs of the communities to be served by the companies and banks involved. If a public meeting is requested, the protest should indicate that there are members of the public who wish to speak on the issues in a public forum.

(iii) The protest will be transmitted by the Reserve Bank to the applicant, and the applicant will generally be allowed eight business days to respond in writing to the protest.

(2) *Arranging the Public Meeting.* Public meetings will be arranged and presided over by a representative of the Federal Reserve System ("Presiding Officer"). In determining the time and place for the public meeting, such factors as convenience to the parties, the number of people expected to attend the meeting, access to public transportation and possible after-hour security problems will be taken into account.

(3) *Conducting the Public Meeting.* Prior to the meeting, all necessary steps will be taken to ensure that the meeting is conducted appropriately, including scheduling of witnesses, submission of written materials and other arrangements. In conducting the public meeting the Presiding Officer will have the authority and discretion to ensure that the meeting proceeds in a fair and orderly manner. Generally, the public meeting will consist of opening and closing remarks by the Presiding Officer, a presentation by the protestant and a presentation by the applicant. An official transcript will be made of the proceedings and entered into the record. The conclusion of the public meeting normally marks the close of the public portion of the record on the application.

(4) *Notification of Board decision on the application.* After a decision is made on the application, and the applicant is notified of the decision, staff will notify the protestant by telephone. This notification will be confirmed promptly in writing. As set forth in § 262.3(k) of the Board's Rules of Procedure (12 CFR 262.3(k)) or § 265.3 of the Board's Rules Regarding Delegation of Authority (12 CFR 265.3), a party to the application may request reconsideration of the Board's order, or review of the Reserve Bank's decision.

PART 265—[AMENDED]

2. Pursuant to its authority under section 11(k) of the Federal Reserve Act (12 U.S.C. 248(k)) and section 5(b) of the Bank Holding Company Act (12 U.S.C. 1844(b)) the Board of Governors is amending 12 CFR Part 265 (Rules Regarding Delegation of Authority) effective January 31, 1984 by revising (b)(10) of § 265.2 to read as follows:

§ 265.2 Specific functions delegated to Board employees and to Federal Reserve Banks.

* * * * *

(b) * * *

(10) Pursuant to the provisions of section 265.25 of this chapter (Rules of Procedure) after consultation with the directors of other interested Divisions of the Board and the appropriate Reserve Bank, to order, under such terms and conditions as the General Counsel deems appropriate, that a public meeting or other proceeding be held in connection with any application or notice filed with the Board and to designate the presiding officer in any such proceeding.

* * * * *

3. Pursuant to its authority under sections 3(a), 4(c)(8) and 5(b) of the Bank Holding Company Act, 12 U.S.C. 1842(a), 1843(c)(8) and 1844(b); and section 18(c) of the Federal Deposit Insurance Act (12 U.S.C. 1828(c)) and sections 9 and 11(i) of the Federal Reserve Act (12 U.S.C. 321 and 248(i)), the Board is amending 12 CFR Part 262 (Rules of Procedure) effective January 31, 1984.

PART 262—RULES OF PROCEDURE

In Part 262, § 262.3 is amended by revising the first five sentences in paragraph (e) as follows:

§ 262.3 Applications.

* * * * *

(e) * * * The Board is only required to consider a comment or a request for a hearing with respect to an application or notice if it is in writing and received by the Secretary of the Board or the appropriate Federal Reserve Bank on or before the latest date prescribed in any notice with respect to the application or notice, or where no such date is prescribed, on or before the 30th day after the date notice is first published. Similarly, the Board will consider comments on an application from the Attorney General or a banking supervisory authority to which notification of receipt of an application has been given, only if such comment is received by the Secretary of the Board within 30 days of the date of the letter giving such notification. Any comment on an application or notice that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing. In every case where a timely comment or request for hearing is received as provided herein, a copy of such comment or request shall be forwarded promptly to the applicant for its response. The Board will consider the applicant's response only if it is in writing and sent to the Secretary of the Board on or before eight business days after the date of the letter by which it is forwarded to the applicant. * * *

By order of the Board of Governors, effective January 31, 1984.

William W. Wiles,

Secretary of the Board.

[FR Doc. 84-3085 Filed 2-13-84; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 24

[T.D. 84-42]

Customs Regulations Amendment Relating to Acceptance of Uncertified Checks From Customhouse Brokers

AGENCY: U.S. Customs Service, Treasury.

ACTION: Final rule.

SUMMARY: The Customs Regulations provide that an uncertified check drawn by an interested party shall be accepted by Customs for the payment of duty provided certain conditions are met. An uncertified check, drawn by a customhouse broker (broker) licensed in a district where an entry for merchandise is filed on behalf of an importer, shall be accepted by Customs for the deposit of estimated duties. This document amends the regulations to provide that a broker, not licensed in the district where an entry is filed, also is an interested party for the purpose of acceptance of such broker's own uncertified check for the deposit of estimated duties for the entry transactions on behalf of an importer, provided the broker has on file a power of attorney which is unconditioned geographically for the performance of ministerial acts. Customs may look to the principal (importer) or to the surety should the check be dishonored. The purpose of this amendment is to relieve brokers of the unnecessary burden of requiring them to submit certified checks.

EFFECTIVE DATE: March 15, 1984.

FOR FURTHER INFORMATION CONTACT: Jerry Laderberg, Entry, Licensing and Restricted Merchandise Branch, U.S. Customs Service, 1301 Constitution

Avenue, NW., Washington, D.C. 20229, (202–566–5765).

SUPPLEMENTARY INFORMATION:

Background

Section 141.1(b), Customs Regulations (19 CFR 141.1(b)), provides, in part, that the liability for duties, both regular and additional, attaching on importation constitutes a personal debt due from the importer to the United States. An "importer," as defined in § 101.1(k), Customs Regulations (19 CFR 101.1(k)), means the person primarily liable for the payment of any duties or an authorized agent acting on his behalf.

Section 111.1(b), Customs Regulations (19 CFR 111.1(b)), defines customhouse broker to mean a person who is licensed under Part 111 to transact Customs business on behalf of others.

Pursuant to § 111.2, Customs Regulations (19 CFR 111.2), a broker must obtain a separate license to transact the business of a broker, for each Customs district in which he desires to conduct business.

Section 24.1(a)(3), Customs Regulations (19 CFR 24.1(a)(3)), which relates to the collection of Customs duties, taxes, and other charges provides that an uncertified check drawn by an interested party on a national or state bank or trust company of the United States, shall be accepted by Customs if the check is acceptable for deposit by a Federal Reserve bank, branch Federal Reserve bank, or other designated depository. Further, an uncertified check can be accepted only if there is on file with the district director an entry bond or other bond to secure the payment of the duties, taxes, or other charges, or if a bond has not been filed, the organization or individual drawing and tendering the uncertified check has been approved by the district director to make payment in this manner. Section 24.1(a)(3) also provides that in determining whether an uncertified check shall be accepted in the absence of a bond, the district director shall use available credit data obtainable without cost to the Government, such as that furnished by banks, local business firms, better business bureaus, or local credit exchanges, sufficient to satisfy him of the credit standing or reliability of the drawer of the check.

Under this regulation, an uncertified check, drawn by a broker licensed in a district where an entry for merchandise is filed on behalf of an importer, shall be accepted by Customs for deposit of estimated duties. However, a question has been raised as to whether a broker, tendering an uncertified check to Customs for deposit of estimated duties for entries filed by another broker on behalf of an importer in a district in which the tendering broker is not licensed, is an authorized agent of the importer and therefore, an interested party for the purpose of the acceptance of the payment by Customs.

In a ruling dated March 11, 1982, Customs held that a broker not licensed in a district where an entry is filed is an authorized agent of the importer for the purpose of acceptance of the broker's uncertified check for the deposit of estimated duties for entry transactions made by another broker on behalf of the importer if the unlicensed broker holds a power of attorney from the importer which is unconditioned geographically for the performance of ministerial acts.

Traditionally, most powers of attorney are limited geographically to particular districts, districts in which the importer is importing merchandise. In order to allow a broker to tender an uncertified check in districts in which he is not qualified, an unlimited power of attorney from the client-importer is necessary.

This ruling relieves a broker of an unnecessary burden in that the broker, not licensed in a district in which his client may file an entry, would no longer always be required to obtain a certified check for the payment of duties.

Customs believes it is necessary to incorporate the holding of this ruling into section 24.1 to assure uniformity of application by district directors and better inform brokers and broker associations of this practice.

In this regard, on May 16, 1983, Customs published a document in the **Federal Register** (48 FR 21965) proposing to amend § 24.1(a)(3) to provide that a broker, not licensed in the district where an entry is filed, is an interested party for the purpose of acceptance of such broker's own uncertified check for the deposit of estimated duties for entry transactions provided the broker has on file the necessary power of attorney which is unconditioned geographically for the performance of ministerial acts. Customs may look to the principal (importer) or to the surety should the check be dishonored.

Commenters had until July 15, 1983, to submit comments. After considering the comments received in response to the proposal and further review of the matter, Customs has determined to adopt the final rule, as proposed.

Discussion of Comments

One commenter supports the proposal because it will ease the handling of shipments for all parties involved in the importation of merchandise.

Another commenter suggests that there is no need to implement the proposal now in light of Customs proposal relating to the revised bond structure. Customs does not believe we should wait for the bond proposal to be implemented, but should proceed with the uncertified check proposal now.

A third commenter notes that Customs would have difficulty in verifying if a broker were licensed in another district or had a power of attorney for the importer. Customs recognizes this but believes the party tendering the uncertified check should be required to verify to a Customs field office that he is qualified.

One commenter believes that adoption of the proposal would authorize a broker to transact Customs business in a district without a license. Customs considered this point but rejected this argument in its ruling of March 11, 1982.

This commenter also suggests that the district director should have the authority to require certified checks (rather than uncertified checks) to be filed when deemed necessary, such as when uncertified checks deposited by a broker have been returned unpaid.

Customs believes this comment has merit. The regulations provide that an uncertified check shall be accepted if there is on file with the district director a bond to secure payment of the duty or if a bond has not been filed, the organization or individual drawing and tendering the uncertified check has been approved by the district director to make payment in such matter. However, the mandatory nature of Customs acceptance of uncertified checks is beyond the scope of this document. Customs will consider this aspect in a separate document.

One commenter supports the proposal but is opposed to the idea that the broker must have an unlimited power of attorney from a client to have uncertified checks accepted in a district in which he is not licensed.

Customs disagrees. As noted above, most powers of attorney are limited geographically to particular districts. To allow a broker to tender an uncertified check in districts in which he is not qualified, an unlimited power of attorney from the client-importer is necessary.

Executive Order 12291

This document does not meet the criteria for a "major rule" as specified in section 1(b) of E.O. 12291. Accordingly, no regulatory impact analysis has been prepared.

Regulatory Flexibility Act

Pursuant to the provisions of section 605(b) of the Regulatory Flexibility Act (Pub. L. 96–354, 5 U.S.C. 601 *et seq.*), it is hereby certified that the regulations set forth in this document will not have a significant economic impact on a substantial number of small entities. Accordingly, it is not subject to the regulatory analysis or other requirements of 5 U.S.C. 604.

Drafting Information

The principal author of this document was Charles D. Ressin, Regulations Control Branch, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

List of Subjects in 19 CFR Part 24

Customs duties and inspection, Imports, Accounting.

Amendments to the Regulations

Section 24.1(a)(3), Customs Regulations (19 CFR 24.1(a)(3)), is amended as set forth below.

Approved: January 24, 1984.

Alfred R. De Angelus,
Acting Commissioner of Customs.

John M. Walker, Jr.,
Assistant Secretary of the Treasury.

PART 24—CUSTOMS FINANCIAL AND ACCOUNTING PROCEDURE

Section 24.1(a)(3), Customs Regulations (19 CFR 24.1(a)(3)), is amended by adding a new sentence at the end of the paragraph to read as follows:

§ 24.1 Collection of Customs duties, taxes, and other charges.

(a) * * *

(3) * * * For purposes of this paragraph, a customhouse broker, not licensed in the district where an entry is filed, is an interested party for the purpose of Customs acceptance of such broker's own check, provided the broker has on file the necessary power of attorney which is unconditioned geographically for the performance of ministerial acts. Customs may look to the principal (importer) or to the surety should the check be dishonored.

* * * * *

(R.S. 251, as amended (19 U.S.C. 66), sec. 1, 19 Stat. 247 249 (19 U.S.C. 197); sec. 1, 36 Stat. 965 (19 U.S.C. 198), sec. 624, 46 Stat. 759 (19 U.S.C. 1624), sec. 641, 46 Stat. 759, as amended (19 U.S.C. 1641), sec. 648, 46 Stat. 762 (19 U.S.C. 1648))

[FR Doc. 84-3987 Filed 2-13-84; 8:45 am]
BILLING CODE 4820-02-M

19 CFR Part 24

[T.D. 84-41]

Interim Customs Regulations Amendment Regarding Collection of Medicare Compensation Costs

AGENCY: U.S. Customs Service, Treasury.

ACTION: Interim regulations.

SUMMARY: This document amends the Customs Regulations on an interim basis to allow Customs to include in charges assessed to parties-in-interest for reimbursable services provided by Customs officers, Medicare compensation costs equal to 1.3 percent of the assessed amount. The inclusion of these costs in assessed charges will result in at least partial recovery of Customs' cost of matching employees' statutorily mandated contribution for Medicare coverage. The estimated recovery of Medicare costs by Customs is approximately $500,000 annually.

EFFECTIVE DATE: April 16, 1984.

Comments: This regulation is being published on an interim basis, April 16, 1984. However, written comments received before April 16, 1984 will be considered in determining whether any changes to the regulation are required before a permanent rule is published.

FOR FURTHER INFORMATION CONTACT: James Kenny, Headquarters Accounting Division, (202–566–2021), U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229.

SUPPLEMENTARY INFORMATION:

Background

Various statutes provide Customs with the administrative authority to charge fees to recover the costs of a particular service rendered. For example, 19 U.S.C. 58a provides that the Secretary of the Treasury may charge such fees as may be necessary to recover the costs of providing certain vessel services. The fees are to be consistent with the User Charge Statute (31 U.S.C. 9701). Section 4.98(a), Customs Regulations (19 CFR 4.98(a)), sets forth the specific services and bases for calculating each flat fee. Similarly, Customs charges and bills parties-in-interest for reimbursement in connection with services rendered by Customs officers or employees during regular hours (see section 24.17, Customs Regulations (19 CFR 24.17)), or on Customs overtime assignments under 19 U.S.C. 267 or 1451 (see § 24.16, Customs Regulations (19 CFR 24.16)). The bills cover full compensation and/or travel and subsistence of the Customs officer performing the service.

The User Charge Statute provides that each service or thing of value provided by an agency to a person is to be self-sustaining to the extent possible. The head of an agency may prescribe regulations establishing the charge for a service or thing of value provided by the agency. Regulations so prescribed are subject to policies prescribed by the President and shall be as uniform as practicable. Each charge shall be fair and based on the costs to the Government, the value of the service or thing to the recipient, public policy or interest served, and other relevant facts. The statute does not affect a law prohibiting the determination and collection of charges and the disposition of those charges, and prescribing bases for determining charges, but a charge may be redetermined under the statute consistent with the prescribed bases.

Congress, by passage of the Tax Equity and Fiscal Responsibility Act of 1982 (Pub. L. 97–248, Sept. 3, 1982, 96 Stat. 324), extended Medicare coverage to federal employees not otherwise subject to Social Security withholding taxes. As a result of the legislation, 1.3 percent of a federal employee's wages are withheld for Social Security and that amount is matched by the Government. Both regular and overtime wages are subject to the withholding tax. Customs is currently making the matching payments for the 1.3 percent Medicare compensation program for salaries paid Customs employees for reimbursable services they provide for parties-in-interest. It is estimated that the Customs share of these payments amounts to approximately $500,000 annually.

Although the Tax Equity and Fiscal Responsibility Act does not provide specific language providing for reimbursement of the 1.3 percent amount by parties-in-interest, Customs is of the opinion that authority to collect such monies is provided by title 31, United States Code, section 9701 (User Charge Statute), and title 19, United States Code, sections 267 and 1451 (Customs overtime provisions). Further, passing such charges on to those who actually benefit from the services provided would be in keeping with the Administration's policy in this regard.

Comments

Before adopting the regulation as a permanent rule, consideration will be given to any written comments timely submitted to the Commissioner of Customs. Comments submitted will be available for public inspection in accordance with section 103.11(b), Customs Regulations (19 CFR 103.11(b)), on normal business days between the

hours of 9:00 a.m. to 4:30 p.m. at the Regulations Control Branch, Customs Service Headquarters, Room 2426, 1301 Constitution Avenue, NW., Washington, D.C. 20229.

Inapplicability of Notice Provision

Because of the on-going loss of revenue caused by the current inability to collect these monies from parties-in-interest, it has been determined that, pursuant to 5 U.S.C. 553(b)(3)(B), notice and public procedure are inapplicable and unnecessary.

E.O. 12291 and Regulatory Flexibility Act

Inasmuch as Customs does not believe that the amendment meets the criteria for a "major rule" within the meaning of section 1(b) of E.O. 12291, a regulatory impact analysis has not been prepared.

Pursuant to the provisions of section 5 of the Regulatory Flexibility Act (Pub. L. 96-354, 5 U.S.C. 601 *et seq.*), it is hereby certified that the regulation will not have a significant economic impact on a substantial number of small entities within the meaning of the Act. Accordingly, the amendment is not subject to the regulatory analysis or other requirements of 5 U.S.C. 603 and 604.

Drafting Information

The principal author of this document was Larry L. Burton, Regulations Control Branch, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

List of Subjects in 19 CFR Part 24

Accounting, Claims, Customs duties and inspection, Imports, Taxes, Wages.

Amendment to the Regulations

PART 24—[AMENDED]

Section 24.17, Customs Regulations (19 CFR 24.17), is amended by adding a new paragraph (f), as set forth below:

§ 24.17 Other services of officers; reimbursable.

* * * * *

(f) *Medicare Compensation Costs.* In addition to other expenses and compensation chargeable to parties-in-interest as set forth in this section, such persons shall also be required to reimburse Customs in the amount of 1.3 percent of the reimbursable compensation expenses incurred. Such payment will reimburse Customs for its share of Medicare costs.

(Pub. L. 97-248, Sept. 3, 1982, 96 Stat. 324; 31 U.S.C.) 9701 (19 U.S.C. 267 and 1451))

Robert P. Schaffer,

Acting Commissioner of Customs.

Approved: January 24, 1984.

John M. Walker, Jr.,

Assistant Secretary of the Treasury.

[FR Doc. 84-3986 Filed 2-13-84; 8:45 am]

BILLING CODE 4820-02-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 101, 102, 114, 122, 170, 180, 184, and 186

[Docket No. 83N-0334]

Incorporation by Reference; Updating of Text

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the regulatory text pertaining to materials incorporated by reference in those parts of Title 21 of the Code of Federal Regulations concerned with food and its labeling. This action is being taken to meet the requirements for incorporation by reference set forth in Title 1 of the Code of Federal Regulations (1 CFR Part 51).

DATES: Effective February 14, 1984. Comments by March 15, 1984.

ADDRESS: Written comments to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Michael E. Kashtock, Bureau of Foods (HFF-334), Food and Drug Administration, 200 C Street SW., Washington, DC 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: Title 1 of the Code of Federal Regulations (1 CFR Part 51) requires the filing and updating of material that has been incorporated by reference in the Code of Federal Regulations. The purpose of this requirement is to ensure the public availability and accuracy of material that has been incorporated from other sources.

Accordingly, FDA has reviewed the regulations concerned with food and its labeling (21 CFR Parts 100-199) that include materials incorporated by reference. The agency has concluded that it is necessary to amend a number of these regulations to bring them into compliance with the requirements prescribed in 1 CFR Part 51.

Many of the incorporated materials consist of methods or specifications that were published in compendia such as the Food Chemicals Codex or the Official Methods of Analysis of the Association of Official Analytical Chemists. In many cases, although this material has not been modified in the compendium, the volume of the compendium cited when a regulation was established has been superseded by a subsequent volume. In addition, many of the individual methods have been superseded by updated versions of the methods, which, though updated, do not represent a substantial change in the method. Because the agency believes that in such cases the most recently published method or compendia should be cited in the incorporating regulatory text, it is thus providing this information and making some minor editorial changes in the affected regulations.

In accordance with 5 U.S.C. 553 (b) and (d) and 21 CFR 10.40, FDA has determined that there is good cause not to follow the usual requirements of prior notice and comment and delayed effective date. The reason for this determination is that the changes in the materials that are being incorporated by reference are not substantive. The agency, nevertheless, is providing a 30-day period during which it will accept comments on the changes it is adopting in this final rule. If FDA decides on the basis of comments received that the changes should be modified or revoked, it will provide further notice in the **Federal Register.**

The agency has determined pursuant to 21 CFR 25.24(b)(22) (proposed December 11, 1979; 44 FR 71742) that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

FDA has considered the effect that this final rule would have on small entities, including small businesses, consistent with the objectives of the Regulatory Flexibility Act. The agency has determined that the effect of this proposal will be to improve the availability of the materials incorporated, while not significantly affecting their content or other factors affecting their use. Therefore, FDA certifies that no significant economic impact on a substantial number of small entities will derive from this action.

In accordance with Executive Order 12291, FDA has determined that this final rule will not be a major rule as defined by the Order.

List of subjects

21 CFR Part 101

Food labeling, Misbranding, Nutrition labeling, Warning statements.

21 CFR Part 102

Common or usual name, Food labeling.

21 CFR Part 114

Acidified foods, Good manufacturing practices.

21 CFR Part 122

Fish, Good manufacturing practices, Smoked fish.

21 CFR Part 170

Food additives.

21 CFR Part 180

Food additives, Interim listed food additives.

21 CFR Part 184

Direct food ingredients, Food ingredients, Generally recognized as safe (GRAS) food ingredients.

21 CFR Part 186

Food ingredients, Generally recognized as safe (GRAS) food ingredients, Indirect food ingredients.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 701(a), 52 Stat. 1055 (21 U.S.C. 371(a))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), Title 21 of the Code of Federal Regulations is amended as follows:.

PART 101—FOOD LABELING

1. Part 101 is amended:

a. In § 101.9 by revising the second and third sentences in paragraph (c)(4), to read as follows:

§ 101.9 Nutrition labeling of food.

* * * * *

(c) * * *

(4) * * * Protein content may be calculated on the basis of the factor of 6.25 times the nitrogen content of the food as determined by the appropriate method of analysis of the "Official Methods of Analysis of the Association of Official Analytical Chemists," 13th Ed. (1980), which is incorporated by reference, except when the official procedure for a specific food requires another factor. Copies may be obtained from the Association of Official Analytical Chemists, P.O. Box 540, Benjamin Franklin Station, Washington, D.C. 20044, or may be examined at the Office of the Federal Register, 1100 L St. NW., Washington, D.C. 20408.

* * * * *

b. In § 101.25 by revising the fifth and sixth sentences in paragraph (e)(3), to read as follows:

§ 101.25 Labeling of foods in relation to fat and fatty acid and cholesterol content.

* * * * *

(e) * * *

(3) * * * The determination of *cis, cis*-methylene-interrupted polyunsaturated fatty acids will be by the method prescribed in the "Official Methods of Analysis of the Association of Official Analytical Chemists," 13th Ed. (1980), §§ 28.071–28.074, which is incorporated by reference. Copies may be obtained from the Association of Official Analytical Chemists, P.O. Box 540, Benjamin Franklin Station, Washington, D.C. 20044.

* * * * *

PART 102—COMMON OR USUAL NAME FOR NONSTANDARDIZED FOODS

2. Part 102 is amended in § 102.23 by revising paragraph (c) (1), (2), (3), (4), (6), (7), (8), and (9), to read as follows:

§ 102.23 Peanut spreads.

* * * * *

(c) * * *

(1) Protein quantity: "Official Methods of Analysis of the Association of Official Analytical Chemists" (AOAC), 13th Ed. (1980), using the method described in section 27.007, which is incorporated by reference. Copies may be obtained from the Association of Official Analytical Chemists, P.O. Box 540, Benjamin Franklin Station, Washington, DC 20044, or may be examined at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408.

(2) Biological quality of protein: AOAC, 13th Ed. (1980), using the method described in sections 43.212–43.216, which is incorporated by reference. The availability of this incorporation by reference is given in paragraph (c)(1) of this section.

(3) Niacin: AOAC, 13th Ed. (1980), using the method described in sections 43.044–43.046, which is incorporated by reference. The availability of this incorporation by reference is given in paragraph (c)(1) of this section.

(4) Vitamin B_6: AOAC, 13th Ed. (1980), using the method described in sections 43.188–43.193, which is incorporated by reference. The availability of this incorporation by reference is given in paragraph (c)(1) of this section.

* * * * *

(6) Iron: AOAC, 13th Ed. (1980), using the method described in sections 43.217–43.219, which is incorporated by reference. The availability of this incorporation by reference is given in paragraph (c)(1) of this section.

(7) Zinc: AOAC, 13th Ed. (1980), using the method described in sections 25.150–25.153, which is incorporated by reference. The availability of this incorporation by reference is given in paragraph (c)(1) of this section.

(8) Copper: AOAC, 13th Ed. (1980), using the method described in sections 25.038–25.043, which is incorporated by reference. The availability of this incorporation by reference is given in paragraph (c)(1) of this section.

(9) Magnesium: AOAC, 13th Ed. (1980), using the method described in sections 2.109–2.113, which is incorporated by reference. The availability of this incorporation by reference is given in paragraph (c)(1) of this section.

PART 114—ACIDIFIED FOODS

3. Part 114 is amended in § 114.90 by revising the first and second sentences in paragraph (a)(4)(ii), by revising the fifth sentence in paragraph (a)(4)(iv), by revising the fourth sentence in paragraph (a)(4)(v), and by revising paragraph (c), to read as follows:

§ 114.90 Methodology.

(a) * * *

(4) * * *

(ii) Standardize the instrument and electrodes with commercially prepared standard 4.0 pH buffer or with freshly prepared 0.05 molar potassium acid phthalate buffer solution prepared as outlined in "Official Methods of Analysis of the Association of Official Analytical Chemists" (AOAC), 13th Ed. (1980), section 50.007(c), under "Buffer Solutions for Calibration of pH Equipment—Official Final Action," which is incorporated by reference. Copies may be obtained from the Association of Official Analytical Chemists, P.O. Box 540, Benjamin Franklin Station, Washington, DC 20044, or may be examined at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408.

* * * * *

(iv) * * * To check the operation of the pH meter, check the pH reading using another standard buffer such as one having a pH of 7.0, or check it with freshly prepared 0.025 molar phosphate solution prepared as outlined in the AOAC, 13th Ed. (1980), section 50.007(e), which is incorporated by reference * * *.

(v) * * * Electrodes should be rinsed with water, then blotted and immersed in a pH 9.18 borax buffer prepared as

outlined in the AOAC, 13th Ed. (1980), section 50.007(f), which is incorporated by reference.

* * * * *

(c) *Titratable acidity.* Acceptable methods for determining titratable acidity are described in the AOAC, 13th Ed. (1980), section 22.060, under "Titratable Acidity—Official Final Action," for "Indicator Method," and section 22.061 for "Glass Electrode Method—Official Final Action," which is incorporated by reference. The availability of this incorporation by reference is given in paragraph (a)(4)(ii) of this section. The procedure for preparing and standardizing the sodium hydroxide solution is described in the AOAC, 13th Ed. (1980), sections 50.032–50.035, under "Sodium Hydroxide—Official Final Action" by the "Standard Potassium Hydroxide Phthalate Method," which is also incorporated by reference and available as set forth in paragraph (a)(4)(ii) of this section.

PART 122—SMOKED AND SMOKE-FLAVORED FISH

4. Part 122 is amended in § 122.3 by revising paragraph (d), to read as follows:

§ 122.3 Definitions

* * * * *

(d) "Water phase salt" means the percent salt (sodium chloride) in the finished product as determined by the method described in "Official Methods of Analysis of the Association of Official Analytical Chemists" (AOAC), 13th Ed. (1980), sections 18.034 and 18.035, under "Volumetric Method—Official Final Action," which is incorporated by reference, multiplied by 100 and divided by the percent salt (sodium chloride) plus the percent moisture in the finished product as determined by the method described in the AOAC, 13th Ed. (1980), section 18.023, under "Total Solids for all Marine Products, Except Raw Oysters—Official Final Action." Copies of the material incorporated by reference may be obtained from the Association of Official Analytical Chemists, P.O. Box 540, Benjamin Franklin Station, Washington, DC 20044, or may be examined at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408.

* * * * *

PART 170—FOOD ADDITIVES

5. Part 170 is amended in § 170.30 by revising paragraph (h)(1), to read as follows:

§ 170.30 Eligibility for classification as generally recognized as safe (GRAS).

* * * * *

(h) * * *

(1) It complies with any applicable food grade specifications of the Food Chemicals Codex, 2d Ed. (1972), or, if specifically indicated in the GRAS affirmation regulation, the Food Chemicals Codex, 3d Ed. (1981), which are incorporated by reference, except that any substance used as a component of articles that contact food and affirmed as GRAS in § 186.1 of this chapter shall comply with the specifications therein, or in the absence of such specifications, shall be of a purity suitable for its intended use. Copies may be obtained from the National Academy Press, 2101 Constitution Ave. NW., Washington, DC 20418, or may be examined at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408.

* * * * *

PART 180—FOOD ADDITIVES PERMITTED IN FOOD ON AN INTERIM BASIS OR IN CONTACT WITH FOOD PENDING ADDITIONAL STUDY

6. Part 180 is amended as follows:

a. In § 180.25 by revising paragraph (b), to read as follows:

§ 180.25 Mannitol.

* * * * *

(b) The ingredient meets the specifications of the "Food Chemicals Codex," 3d Ed. (1981), pp. 188–190, which is incorporated by reference. Copies may be obtained from the National Academy Press, 2101 Constitution Ave. NW., Washington, DC 20418, or may be examined at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408.

* * * * *

b. In § 180.30 by revising paragraph (a), to read as follows:

§ 180.30 Brominated vegetable oil.

* * * * *

(a) The additive complies with specifications prescribed in the "Food Chemicals Codex," 3d Ed. (1981), pp. 40–41, which is incorporated by reference, except that free fatty acids (as oleic) shall not exceed 2.5 percent and iodine value shall not exceed 16. Copies of the material incorporated by reference may be obtained from the National Academy Press, 2101 Constitution Ave. NW., Washington, DC 20418, or may be examined at the Office of the Federal Register, 1100 L St NW., Washington, DC 20418.

* * * * *

c. In § 180.37 by revising paragraph (b), to read as follows:

§ 180.37 Saccharin, ammonium saccharin, calcium saccharin, and sodium saccharin.

* * * * *

(b) The food additives meet the specifications of the "Food Chemicals Codex," 3d Ed. (1981), pp. 22, 62, 266–267, 297–299, which is incorporated by reference. Copies may be obtained from the National Academy Press, 2101 Constitution Ave. NW., Washington, DC 20418, or may be examined at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408.

* * * * *

PART 184—DIRECT FOOD SUBSTANCES AFFIRMED AS GENERALLY RECOGNIZED AS SAFE

7. Part 184 is amended as follows:

a. In § 184.1007 by revising paragraph (b) (1), (6), and (7) to read as follows:

§ 184.1007 Aconitic acid.

* * * * *

(b) * * *

(1) *Assay.* Not less than 98.0 percent of $C_3H_3(COOH)_3$, using the "Food Chemicals Codex," 3d Ed. (1981), pp. 86–87, test for citric acid, which is incorporated by reference, and a molecular weight of 174.11. Copies of the material incorporated by reference may be obtained from the National Academy Press, 2101 Constitution Ave. NW., Washington, DC 20418, or may be examined at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408.

* * * * *

(6) *Readily carbonizable substances.* Passes "Food Chemicals Codex," 3d Ed. (1981), pp. 86–87, test for citric acid, which is incorporated by reference. The availability of this incorporation by reference is given in paragraph (b)(1) of this section.

(7) *Residue on ignition.* Not more than 0.1 percent as determined by "Food Chemicals Codex," 3d Ed. (1981), pp. 86–87, test for citric acid, which is incorporated by reference. The availability of this incorporation by reference is given in paragraph (b)(1) of this section.

* * * * *

b. In § 184.1021 by revising paragraph (b), to read as follows:

§ 184.1021 Benzoic acid.

* * * * *

(b) The ingredient meets the specifications of the "Food Chemicals Codex," 3d Ed. (1981), p. 35, which is incorporated by reference. Copies may

be obtained from the National Academy Press, 2101 Constitution Ave. NW., Washington, D.C. 20418, or may be examined at the Office of the Federal Register, 1100 L St. NW., Washington, D.C. 20408.

* * * * *

c. In § 184.1025 by revising paragraph (b), to read as follows:

§ 184.1025 Caprylic acid.

* * * * *

(b) The ingredient meets the specifications of the "Food Chemicals Codex," 3d Ed. (1981), p. 207, which is incorporated by reference. Copies may be obtained from the National Academy Press, 2101 Constitution Ave. NW., Washington, D.C. 20418, or may be examined at the Office of the Federal Register, 1100 L St. NW., Washington, D.C. 20408.

* * * * *

d. In § 184.1069 by revising paragraph (b), to read as follows:

§ 184.1069 Malic acid.

* * * * *

(b) The ingredient meets the specifications of the "Food Chemicals Codex," 3d Ed. (1981), pp. 183-184, which is incorporated by reference. Copies may be obtained from the National Academy Press, 2101 Constitution Ave. NW., Washington, D.C. 20418, or may be examined at the Office of the Federal Register, 1100 L St. NW., Washington, D.C. 20408.

* * * * *

e. In § 184.1091 by revising paragraph (b), to read as follows:

§ 184.1091 Succinic acid.

* * * * *

(b) The ingredient meets the specifications of the "Food Chemicals Codex," 3d Ed. (1981), pp. 314–315, which is incorporated by reference. Copies may be obtained from the National Academy Press, 2101 Constitution Ave. NW., Washington, D.C. 20418, or may be examined at the Office of the Federal Register, 1100 L St. NW., Washington, D.C. 20408.

* * * * *

f. In § 184.1095 by revising paragraph (b), to read as follows:

§ 184.1095 Sulfuric acid.

* * * * *

(b) The ingredient meets the specifications of the "Food Chemicals Codex," 3d Ed. (1981), pp. 317–318, which is incorporated by reference. Copies may be obtained from the National Academy Press, 2101 Constitution Ave. NW., Washington, DC 20418, or may be examined at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408.

* * * * *

g. In § 184.1115 by revising paragraph (b), to read as follows:

§ 184.1115 Agar-agar.

* * * * *

(b) The ingredient meets the specifications of the "Food Chemicals Codex," 3d Ed. (1981), p. 11, which is incorporated by reference. Copies may be obtained from the National Academy Press, 2101 Constitution Ave. NW., Washington, DC 20418, or may be examined at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408.

* * * * *

h. In § 184.1143 by revising paragraph (b), to read as follows:

§ 184.1143 Ammonium sulfate.

* * * * *

(b) The ingredient meets the specifications of the "Food Chemicals Codex," 3d Ed. (1981), pp. 22–23, which is incorporated by reference. Copies may be obtained from the National Academy Press, 2101 Constitution Ave. NW., Washington, DC 20418, or may be examined at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408.

* * * * *

i. In § 184.1206 by revising paragraph (b), to read as follows:

§ 184.1206 Calcium iodate.

* * * * *

(b) The ingredient meets the specifications of the "Food Chemicals Codex," 3d Ed. (1981), p. 53, which is incorporated by reference. Copies may be obtained from the National Academy Press, 2101 Constitution Ave. NW., Washington, DC 20418, or may be examined at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408.

* * * * *

j. In § 184.1230 by revising paragraph (b), to read as follows:

§ 184.1230 Calcium sulfate.

* * * * *

(b) The ingredient meets the specifications of the "Food Chemicals Codex," 3d Ed. (1981), p. 66, which is incorporated by reference. Copies may be obtained from the National Academy Press, 2101 Constitution Ave. NW., Washington, DC 20418, or may be examined at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408.

* * * * *

k. In § 184.1257 by revising the first and second sentences in the introductory text of paragraph (b) and by revising paragraph (b)(1), to read as follows:

§ 184.1257 Clove and its derivatives.

* * * * *

(b) Clove bud oil, clove leaf oil, clove stem oil, and eugenol meet the specifications of the "Food Chemicals Codex," (FCC), 3d Ed. (1981), pp. 87–89, which is incorporated by reference. Copies may be obtained from the National Academy Press, 2101 Constitution Ave. NW., Washington, DC 20418, or may be examined at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408.

* * * * *

(1) The assay for phenols, as eugenol, by the FCC test, 3d Ed. (pp. 87–88), or the volatile oils content by the FCC test, 3d Ed. (pp. 87–88) should conform to the representation of the vendor;

* * * * *

l. In § 184.1259 by revising paragraph (b)(3) and by revising the first and second sentences in paragraph (b)(6), to read as follows:

§ 184.1259 Cocoa butter substitute from palm oil.

* * * * *

(b) * * *

(3) Heavy metals (as lead), 10 parts per million maximum ("Food Chemicals Codex," 3d Ed. (1981), pp. 512–513, which is incorporated by reference, copies may be obtained from the National Academy Press, 2101 Constitution Ave. NW., Washington, DC 20418, or may be examined at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408).

* * * * *

(6) Residual catalyst ("Official Methods of Analysis of the Association of Official Analytical Chemists," 13th Ed. (1980), sections 25.049–25.055, which is incorporated by reference), residual fluorine; limit of detection 0.2 part per million F; multiply fluoride result by 2.63 to convert to residual catalyst. Copies of the material incorporated by reference may be obtained from the Association of Official Analytical Chemists, P.O. Box 540, Benjamin Franklin Station, Washington, DC 20044, or may be examined at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408.

* * * * *

m. In § 184.1271 by revising paragraph (b), to read as follows:

§ 184.1271 L-Cysteine.

* * * * *

(b) The ingredient meets the appropriate part of the specification set forth in the "Food Chemicals Codex," 3d Ed. (1981), pp. 92–93, which is incorporated by reference. Copies may be obtained from the National Academy Press, 2101 Constitution Ave. NW., Washington, DC 20418, or may be examined at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408.

* * * * *

n. In § 184.1272 by revising paragraph (b), to read as follows:

§ 184.1272 L-Cysteine monohydrochloride.

* * * * *

(b) The ingredient meets the specifications of the "Food Chemicals Codex," 3d Ed. (1981), pp. 92–93, which is incorporated by reference. Copies may be obtained from the National Academy Press, 2101 Constitution Ave. NW., Washington, DC 20418, or may be examined at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408.

* * * * *

o. In § 184.1282 by revising paragraph (b), to read as follows:

§ 184.1282 Dill and its derivatives.

* * * * *

(b) Dill oils meet the description and specifications of the "Food Chemicals Codex," 3d Ed. (1981), pp. 100–102, which is incorporated by reference. Copies may be obtained from the National Academy Press, 2101 Constitution Ave. NW., Washington, DC 20418, or may be examined at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408.

* * * * *

p. In § 184.1293 by revising paragraph (b), to read as follows:

§ 184.1293 Ethyl alcohol.

* * * * *

(b) The ingredient meets the specifications of the "Food Chemicals Codex," 3d Ed. (1981), pp. 112–113, which is incorporated by reference. Copies may be obtained from the National Academy Press, 2101 Constitution Ave. NW., Washington, DC 20418, or may be examined at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408.

* * * * *

q. In § 184.1295 by revising paragraph (b), to read as follows:

§ 184.1295 Ethyl formate.

* * * * *

(b) The ingredient meets the specifications of the "Food Chemicals Codex," 3d Ed. (1981), p. 376, which is incorporated by reference. Copies may be obtained from the National Academy Press, 2101 Constitution Ave. NW., Washington, DC 20418, or may be examined at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408.

* * * * *

r. In § 184.1317 by revising paragraph (b), to read as follows:

§ 184.1317 Garlic and its derivatives.

* * * * *

(b) Garlic oil meets the specifications of the "Food Chemicals Codex," 3d Ed. (1981), p. 132, which is incorporated by reference. Copies may be obtained from the National Academy Press, 2101 Constitution Ave. NW., Washington, DC 20418, or may be examined at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408.

* * * * *

s. In § 184.1330 by revising paragraph (b), to read as follows:

§ 184.1330 Acacia (gum arabic).

* * * * *

(b) The ingredient meets the specifications of the "Food Chemicals Codex," 3d Ed. (1981), p. 7, which is incorporated by reference. Copies may be obtained from the National Academy Press, 2101 Constitution Ave. NW., Washington, DC 20418, or may be examined at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408.

* * * * *

t. In § 184.1333 by revising the first sentence in paragraph (b)(4), to read as follows:

§ 184.1333 Gum ghatti.

* * * * *

(b) * * *

(4) *Identification test.* Add 0.2 ml of diluted lead acetate as outlined in "Official Methods of Analysis of the Association of Official Analytical Chemists," 13th Ed. (1980), section 31.178(b), p. 529, under "Dilute Basic Lead Acetate Standard Solution," which is incorporated by reference (copies are available from the Association of Official Analytical Chemists, P.O. Box 540, Benjamin Franklin Station, Washington, DC 20044, or may be examined at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408), to 5 ml of a cold 1-in-100 aqueous solution of the gum.

* * * * *

u. In § 184.1339 by revising paragraph (b), to read as follows:

§ 184.1339 Guar gum.

* * * * *

(b) The ingredient meets the specifications of the "Food Chemicals Codex," 3d Ed. (1981), p. 141, which is incorporated by reference. Copies may be obtained from the National Academy Press, 2101 Constitution Ave. NW., Washington, DC 20418, or may be examined at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408.

* * * * *

v. In § 184.1343 by revising paragraph (b), to read as follows:

§ 184.1343 Locust (carob) bean gum.

* * * * *

(b) The ingredient meets the specifications of the "Food Chemicals Codex," 3d Ed. (1981), pp. 174–175, which is incorporated by reference. Copies may be obtained from the National Academy Press, 2101 Constitution Ave. NW., Washington, DC 20418, or may be examined at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408.

* * * * *

w. In § 184.1349 by revising paragraph (b), to read as follows:

§ 184.1349 Karaya gum (sterculia gum).

* * * * *

(b) The ingredient meets the specifications of the "Food Chemicals Codex," 3d Ed. (1981), p. 157, which is incorporated by reference. Copies may be obtained from the National Academy Press, 2101 Constitution Ave. NW., Washington, DC 20418, or may be examined at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408.

* * * * *

x. In § 184.1351 by revising paragraph (b), to read as follows:

§ 184.1351 Gum tragacanth.

* * * * *

(b) The ingredient meets the specifications of the "Food Chemicals Codex," 3d Ed. (1981), p. 337, which is incorporated by reference. Copies may be obtained from the National Academy Press, 2101 Constitution Ave. NW., Washington, DC 20418, or may be examined at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408.

* * * * *

y. In § 184.1490 by revising paragraph (b), to read as follows:

§ 184.1490 Methylparaben.

* * * * *

(b) The ingredient meets the specifications of the "Food Chemicals Codex," 3d Ed. (1981), p. 199, which is incorporated by reference. Copies may be obtained from the National Academy Press, 2101 Constitution Ave. NW.,

Washington, DC 20418, or may be examined at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408.

* * * * *

z. In § 184.1555 by revising paragraph (b)(2), to read as follows:

§ 184.1555 Rapeseed oil.

* * * * *

(b) * * *

(2) The ingredient meets the specifications of the "Food Chemicals Codex," 3d Ed. (1981), p. 201, relating to mono- and diglycerides, which is incorporated by reference. Copies may be obtained from the National Academy Press, 2101 Constitution Ave. NW., Washington, DC 20418, or may be examined at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408. An additional specification requires the iodine number to be 4 or less.

* * * * *

aa. In § 184.1634 by revising paragraph (b), to read as follows:

§ 184.1634 Potassium iodide.

* * * * *

(b) The ingredient meets the specifications of the "Food Chemicals Codex," 3d Ed. (1981), pp. 246–247, which is incorporated by reference. Copies may be obtained from the National Academy Press, 2101 Constitution Ave. NW., Washington, DC 20418, or may be examined at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408.

* * * * *

bb. In § 184.1635 by revising paragraph (b), to read as follows:

§ 184.1635 Potassium iodate.

* * * * *

(b) The ingredient meets the specifications of the "Food Chemicals Codex," 3d Ed. (1981), pp. 245–246, which is incorporated by reference. Copies may be obtained from the National Academy Press, 2101 Constitution Ave. NW., Washington, DC 20418, or may be examined at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408.

* * * * *

cc. In § 184.1643 by revising paragraph (b), to read as follows:

§ 184.1643 Potassium sulfate.

* * * * *

(b) The ingredient meets the specifications of the "Food Chemicals Codex," 3d Ed. (1981), p. 252, which is incorporated by reference. Copies may be obtained from the National Academy Press, 2101 Constitution Ave. NW., Washington, DC 20418, or may be examined at the Office of the Fderal Register, 1100 L St. NW., Washington, DC 20408.

* * * * *

dd. In § 184.1660 by revising paragraph (b), to read as follows:

§ 184.1660 Propyl gallate.

* * * * *

(b) The ingredient meets the specifications of the "Food Chemicals Codex," 3d Ed. (1981), pp. 257–258, which is incorporated by reference. Copies may be obtained from the National Academy Press, 2101 Constitution Ave. NW., Washington, DC 20418, or may be examined at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408.

* * * * *

ee. In § 184.1670 by revising paragraph (b), to read as follows:

§ 184.1670 Propylparaben.

* * * * *

(b) The ingredient meets the specifications of the "Food Chemicals Codex," 3d Ed. (1981), p. 258, which is incorporated by reference. Copies may be obtained from the National Academy Press, 2101 Constitution Ave. NW., Washington, DC 20418, or may be examined at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408.

* * * * *

ff. In § 184.1699 by revising paragraph (b), to read as follows:

§ 184.1699 Oil of rue.

* * * * *

(b) Oil of rue meets the specifications of the "Food Chemicals Codex," 3d Ed. (1981), p. 266, which is incorporated by reference. Copies may be obtained from the National Academy Press, 2101 Constitution Ave. NW., Washington, DC 20418, or may be examined at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408.

gg. In § 184.1733 by revising paragraph (b), to read as follows:

§ 184.1733 Sodium benzoate.

* * * * *

(b) The ingredient meets the specifications of the "Food Chemicals Codex," 3d Ed. (1981), p. 278, which is incorporated by reference. Copies may be obtained from the National Academy Press, 2101 Constitution Ave. NW., Washington, DC 20418, or may be examined at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408.

* * * * *

hh. In § 184.1807 by revising paragraph (b), to read as follows:

§ 184.1807 Sodium thiosulfate.

* * * * *

(b) The ingredient meets the specifications of the "Food Chemicals Codex," 3d Ed. (1981), p. 304, which is incorporated by reference. Copies may be obtained from the National Academy Press, 2101 Constitution Ave. NW., Washington, DC 20418, or may be examined at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408.

* * * * *

ii. In § 184.1835 by revising paragraph (b), to read as follows:

§ 184.1835 Sorbitol.

* * * * *

(b) The ingredient meets the specifications of the "Food Chemicals Codex," 3d Ed. (1981), p. 308, which is incorporated by reference. Copies may be obtained from the National Academy Press, 2101 Constitution Ave. NW., Washington, DC 20418, or may be examined at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408.

* * * * *

jj. In § 184.1973 by revising paragraph (b), to read as follows:

§ 184.1973 Beeswax (yellow and white).

* * * * *

(b) The ingredient meets the specifications of the "Food Chemicals Codex," 3d Ed. (1981), pp. 34–35, which is incorporated by reference. Copies may be obtained from the National Academy Press, 2101 Constitution Ave. NW., Washington, DC 20418, or may be examined at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408.

* * * * *

PART 186—INDIRECT FOOD SUBSTANCES AFFIRMED AS GENERALLY RECOGNIZED AS SAFE

8. Part 186 is amended as follows:

a. In § 186.1025 by revising paragraph (b), to read as follows:

§ 186.1025 Caprylic acid.

* * * * *

(b) The ingredient meets the specifications of the "Food Chemicals Codex," 3d Ed. (1981), p. 207, which is incorporated by reference. Copies may be obtained from the National Academy Press, 2101 Constitution Ave. NW., Washington, DC 20418, or may be examined at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408.

* * * * *

b. In § 186.1551 by revising the first sentence in paragraph (b), to read as follows:

§ 186.1551 Hydrogenated fish oil.

* * * * *

(b) Hydrogenation of fish oils results in a final product with a melting point greater than 32° C as determined by Section Cc 1–25, Official and Tentative Methods of the American Oil Chemists' Society method (reapproved 1973) or equivalent.

* * * * *

Interested persons may, on or before March 15, 1984, submit to the Dockets Management Branch (address above) written comments regarding this final rule. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Effective date. This regulation is effective February 14, 1984.

(Sec. 701(a), 52 Stat. 1055 (21 U.S.C. 371(a)))

Dated: January 23, 1984.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 84-3916 Filed 2-13-84; 8:45 am]

BILLING CODE 4160-01-M

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21 CFR Part 520

Oral Dosage Form New Animal Drugs Not Subject to Certification; Cythioate Oral Liquid and Tablets

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of two new animal drug applications (NADA's) filed by Bayvet Division of Miles Laboratories, Inc., providing for use of cythioate oral liquid and tablets for oral treatment of dogs for control of fleas, and to codify existing approvals for identical products held by American Cyanamid.

EFFECTIVE DATE: February 14, 1984.

FOR FURTHER INFORMATION CONTACT: Bob G. Griffith, Bureau of Veterinary Medicine (HFV–112), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–3430.

SUPPLEMENTARY INFORMATION: Bayvet Division of Miles Laboratories, Inc., P.O. Box 390, Shawnee Mission, KS 66201, filed NADA 132–336 for Proban (cythioate) Oral Liquid and NADA 132–337 for Proban (cythioate) Tablets. The drug is for oral use in dogs for control of fleas. The products are identical to those approved in NADA's 33–606 and 33–342, sponsored by American Cyanamid Co. Although Bayvet is and has been an approved alternate manufacturer and distributor under American Cyanamid's NADA's, Bayvet is now sponsoring its own NADA's for the products. American Cyanamid Co. has authorized use of the data and information in its NADA's to support approval of Bayvet's NADA's. The NADA's are approved and the regulations are amended accordingly.

Approval of these NADA's is based on the initial approvals of Cyanamid's NADA's on June 3, 1968. It does not change the approved use of the drug and will not increase use of the drug. Although these approvals are not of supplemental NADA's, they are equivalent to Category I supplemental NADA approvals, which do not require reevaluation of the safety and effectiveness data and information in the parent application (42 FR 63467; December 23, 1977). For the purpose of action on this application, FDA did not rereview data in the Cyanamid NADA's, and these approvals do not imply reaffirmation of those data to support the safe and effective use of either the Cyanamid or Bayvet products.

Cyanamid's approved NADA's, and Bayvet's NADA's that are now being approved, provide for the use of Proban only on the prescription or other order of a licensed veterinarian. In 1976, American Cyanamid filed a supplement to NADA 33–606 to obtain FDA approval for over-the-counter (OTC) marketing of Proban, directly to consumers. FDA's Bureau of Veterinary Medicine (the Bureau) concluded that the supplemental application should be denied because, in part, American Cyanamid had failed to establish that Proban would be safe for OTC use and that adequate directions could be written for lay use (41 FR 51078, 51084; November 19, 1976). The Bureau also reviewed information supporting the original 1968 approval of Proban as a prescription drug, and concluded that the data failed to demonstrate that Proban is effective for its intended use (45 FR 40236, 40237; June 13, 1980). Under section 512(d) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360b(d)), Cyanamid requested and was granted a hearing on the Bureau's decision not to approve the supplemental NADA (45 FR 42036; June 13, 1980). In his initial decision of June 16, 1981, the Administrative Law Judge found that Cyanamid had failed to meet the statutory requirements for approval of the supplemental NADA on the basis of both safety and effectiveness. The Commissioner of Food and Drugs has not yet issued a final agency decision.

The standards for demonstrating that a product is effective for its intended uses are the same regardless of whether the product is for prescription or OTC use. In addition, evidence contained in the hearing record may indicate that the safety data in the original Proban NADA's do not satisfy the requirements of section 512(d)(1) (A), (B), and (D) of the act. Thus, if the ultimate decision on Cyanamid's supplemental NADA for OTC use of Proban results in a conclusion that Proban has not been demonstrated to be safe and/or effective for the control of fleas in dogs, the Bureau may consider action to withdraw approval for NADA's 33–342 and 33–606. Withdrawal of those NADA's would necessarily affect Bayvet's approvals, as Bayvet's approvals depend on data in Cyanamid's NADA's.

Approvals for American Cyanamid's NADA 33–606 for cythioate oral liquid and NADA 33–342 for cythioate tablets are not codified in the Code of Federal Regulations. This document also codifies Cyanamid's original approvals.

The Bureau of Veterinary Medicine has determined pursuant to 21 CFR 25.24(d)(1)(i) (proposed December 11, 1979; 44 FR 71742) that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects in 21 CFR Part 520

Animal drugs, Oral use.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83), Part 520 is amended as follows:

PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

1. By adding new § 520.530, to read as follows:

§ 520.530 Cythioate oral liquid.

(a) *Specifications.* Each milliliter contains 15 milligrams of cythioate.

(b) *Sponsor.* See Nos. 000859 and 010042 in § 510.600 of this chapter.

(c) *Special considerations.* Cythioate is a cholinesterase inhibitor. Do not use this product in animals simultaneously

with or within a few days before or after treatment with or exposure to cholinesterase-inhibiting drugs, insecticides, pesticides, or chemicals.

(d) *Conditions of use.*—(1) *Amount.* 15 milligrams cythioate per 10 pounds of body weight every third day or twice a week.

(2) *Indications for use.* Dogs, for control of fleas.

(3) *Limitations.* For oral use in dogs only. Do not use in greyhounds or in animals that are pregnant, sick, under stress, or recovering from surgery. Federal law restricts this drug to use by or on the order of a licensed veterinarian.

2. By adding new § 520.531, to read as follows:

§ 520.531 Cythioate tablets.

(a) *Specifications.* Each tablet contains 30 milligrams of cythioate.

(b) *Sponsor.* See Nos. 000859 and 010042 in § 510.600 of this chapter.

(c) *Special considerations.* Cythioate is a cholinesterase inhibitor. Do not use this product in animals simultaneously with or within a few days before or after treatment with or exposure to cholinesterase-inhibiting drugs, insecticides, pesticides, or chemicals.

(d) *Conditions of use.*—(1) *Amount.* 30 milligrams cythioate per 20 pounds of body weight every third day or twice a week.

(2) *Indications for use.* Dogs, for control of fleas.

(3) *Limitations.* For oral use in dogs only. Do not use in greyhounds or in animals that are pregnant, sick, under stress, or recovering from surgery. Federal law restricts this drug to use by or on the order of a licensed veterinarian.

Effective date. February 14, 1984.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)))

Dated: February 8, 1984.

Gerald B. Guest,

Acting Director, Bureau of Veterinary Medicine.

[FR Doc. 84-3915 Filed 2-13-84; 8:45 am]

BILLING CODE 4160-01-M

VETERANS ADMINISTRATION

38 CFR Part 17

Medical Treatment During Rehabilitation

AGENCY: Veterans Administration.

ACTION: Final regulation amendments.

SUMMARY: The Veterans Administration is amending a series of its Medical regulations (38 CFR Part 17) to incorporate amendments made by public law which expanded the scope and circumstances under which eligible veterans may be provided medical and dental services. Pub. L. 96-466, Veterans' Rehabilitation and Education Amendments of 1980, amended 38 U.S.C. chapter 31 expanding the scope and circumstances under which services are available to veterans under that chapter, including the periods during which eligible veterans may be provided medical and dental services. Previously, these services were available only to those veterans under chapter 31 who were approved for vocational training or education. Consistent with the public law, medical and dental examination and treatment may now be provided to accomplish the purposes of the initial evaluation, as well as to facilitate the achievement of rehabilitation goals, including needed treatment during the period while assistance is provided in seeking employment.

EFFECTIVE DATE: January 31, 1984.

FOR FURTHER INFORMATION CONTACT: Joseph Fleckenstein, Department of Medicine and Surgery (136F), Veterans Administration, 810 Vermont Avenue, NW, Washington, DC 20420, (202) 389-3785.

SUPPLEMENTARY INFORMATION: On pages 38007 to 38009 of the **Federal Register** of August 22, 1983, the proposed new regulation and amended regulations were published for title 38, Code of Federal Regulations. Interested persons were given 30 days to submit comments, suggestions or recommendations. No comments were received. An editorial change has been made to § 17.37 by deleting the words "or medical services," since this specific regulation concerns hospital care. Medical services are covered elsewhere. A change was also made to § 17.60(c) to correct the statement dealing with transportation expenses so as not to inappropriately restrict payment to veterans eligible to receive medical treatment services, per se. The final regulations are adopted as set forth below.

The Administrator has determined that these amendments to VA regulations are considered nonmajor under the criteria of Executive Order 12291, Federal Regulation. They will not have an annual effect on the economy of $100 million or more; nor result in major increases in costs for consumers, individual industries, Federal, State or local government agencies, or geographic regions, nor have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of the United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The Administrator certifies that these amendments will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (RFA), 5 U.S.C. 601-612. Pursuant to 5 U.S.C. 605(b), these amendments are exempt from the initial and final regulatory flexibility analyses requirements of sections 603 and 604. The reason for this certification is that the amendments will directly regulate only the entitlement of individual veterans and their beneficiaries.

The Catalog of Federal Domestic Assistance Numbers are 64.009 and 64.011.

List of Subjects in 38 CFR Part 17

Alcoholism, Claims, Dental health, Drug abuse, Foreign relations, Government contracts, Grants programs—health, Health care, Health facilities, Health professions, Medical devices, Medical research, Mental health programs, Nursing homes, Philippines, Veterans.

Dated: January 31, 1984.

By direction of the Administrator.

Everett Alvarez, Jr.,

Deputy Administrator.

PART 17—[AMENDED]

38 CFR Part 17, MEDICAL, is amended as follows:

1. In § 17.36, paragraph (b) is revised to read as follows:

§ 17.36 Hospital care and medical services in foreign countries other than the Philippines.

* * * * *

(b) Hospital care or medical services for a veteran who is participating in a rehabilitation program under 38 U.S.C. chapter 31 and who is medically determined to be in need of hospital care or medical services for any of the reasons enumerated in § 17.48(g). (38 U.S.C. 624)

2. Section 17.37 is revised to read as follows:

§ 17.37 Hospital care in the Philippines in facilities other than Veterans Memorial Medical Center.

Hospital care may be authorized in the Republic of the Philippines in facilities other than the Veterans Memorial Medical Center for any United States veteran who is eligible for hospital care under § 17.47 (a) or (b), or a veteran who is participating in a rehabilitation program under 38 U.S.C. chapter 31 and who is medically

determined to be in need of hospital care for any of the reasons enumerated in § 17.48(g). (38 U.S.C. 624)

3. In § 17.45, paragraph (a) is revised to read as follows:

§ 17.45 Persons entitled to hospital observation and physical examination.

(a) Claimants or beneficiaries of the VA for purposes of disability compensation, pension, participation in a rehabilitation program under 38 U.S.C. chapter 31, and Government insurance. (38 U.S.C. 611(a))

* * * * *

4. Section 17.48 is amended by adding a new paragraph (g) to read as follows:

§ 17.48 Considerations applicable in determining eligibility for hospital, nursing home or domiciliary care.

* * * * *

(g) "Participating in a rehabilitation program under 38 U.S.C. chapter 31" refers to any veteran

(1) Who is eligible for and entitled to participate in a rehabilitation program under chapter 31.

(i) Who is in an extended evaluation period for the purpose of determining feasibility, or

(ii) For whom a rehabilitation objective has been selected, or

(iii) Who is pursuing a rehabilitation program, or

(iv) Who is pursuing a program of independent living, or

(v) Who is being provided employment assistance under 38 U.S.C. chapter 31, and

(2) Who is medically determined to be in need of hospital care or medical services (including dental) for any of the following reasons:

(i) Make possible his or her entrance into a rehabilitation program; or

(ii) Achieve the goals of the veteran's vocational rehabilitation program; or

(iii) Prevent interruption of a rehabilitation program; or

(iv) Hasten the return to a rehabilitation program of a veteran in interrupted or leave status; or

(v) Hasten the return to a rehabilitation program of a veteran placed in discontinued status because of illness, injury or a dental condition; or

(vi) Secure and adjust to employment during the period of employment assistance; or

(vii) To enable the veteran to achieve maximum independence in daily living. (38 U.S.C. 1504(a)(9); Pub. L. 96-466, sec. 101(a))

5. In § 17.49, paragraph (a)(3)(i)(C) is revised to read as follows:

§ 17.49 VA policy on priorities for hospital, nursing home and domiciliary care.

(a) * * *

(3) * * *

(i) * * *

(C) A veteran who is participating in a rehabilitation program under 38 U.S.C. chapter 31 and is medically determined to be in need of hospital care for any of the reasons enumerated in § 17.48(g). (38 U.S.C. 610)

* * * * *

6. In § 17.50(b), paragraph (c) is revised to read as follows:

§ 17.50b Use of public or private hospitals for veterans.

* * * * *

(c) *For veterans participating in a rehabilitation program under 38 U.S.C. chapter 31.* The veteran is participating in a rehabilitation program under 38 U.S.C. chapter 31 and is medically determined to be in need of hospital care or medical services for any of the reasons enumerated in § 17.48(g). (38 U.S.C. 601(4)(C))

* * * * *

7. In § 17.60, paragraph (c) is revised, and paragraph (f) is amended by removing the words "the attending" and inserting the words "a staff". Revised paragraph (c) reads as follows:

§ 17.60 Outpatient medical services for eligible persons.

* * * * *

(c) *For veterans participating in a rehabilitation program under 38 U.S.C. chapter 31.* A veteran who is participating in a rehabilitation program under 38 U.S.C. chapter 31 is entitled to such medical services as are medically determined necessary for any of the reasons enumerated in § 17.48(g). A veteran participating in a rehabilitation program under 38 U.S.C. chapter 31 may also be furnished in a clinic operated by the VA any examination or immunization necessary to qualify him or her for admission to a training or other rehabilitation facility, except the Department of Medicine and Surgery may not authorize incidental transportation. (38 U.S.C. 612)

* * * * *

§ 17.76 [Amended]

8. Section 17.76 is amended by removing the word "He" at the beginning of the 5th sentence and inserting "The patient"; by removing the words "hospital or" in the 7th sentence and inserting the word "medical"; and by deleting the word "his" in the last sentence.

§ 17.77 [Amended]

9. Section 17.77 is amended by removing the words "he" and "him" and inserting in those places the words "the patient."

§ 17.78 [Amended]

10. Section 17.78 is amended by removing the word "station" in paragraph (a) and inserting the words "medical center"; by adding the words "or her" after "his" in paragraph (a)(1); and by removing the word "his" in paragraph (a)(2).

11. In § 17.80, paragraph (a)(4) is revised to read as follows:

§ 17.80 Payment or reimbursement of the expenses of hospital care and other medical services not previously authorized.

* * * * *

(a) * * *

(4) For any illness, injury or dental condition in the case of a veteran who is participating in a rehabilitation program under 38 U.S.C. chapter 31 and who is medically determined to be in need of hospital care or medical services for any of the reasons enumerated in § 17.48(g). (38 U.S.C. 628); and

12. In § 17.81, the introductory portion preceding paragraph (a) is revised to read as follows:

§ 17.81 Payment or reimbursement of the expenses of repairs to prosthetic appliances and similar devices furnished without prior authorization.

The expenses of repairs to prosthetic appliances, or similar appliances, therapeutic or rehabilitative aids or devices, furnished without prior authorization, but incurred in the care of a service-connected disability (or, in the case of a veteran who is participating in a rehabilitation program under 38 U.S.C. chapter 31 and who is determined to be in need of the repairs for any of the reasons enumerated in § 17.48(g)) may be paid or reimbursed on the basis of a timely filed claim, if: (38 U.S.C. 628)

* * * * *

13. In § 17.100, paragraph (g)(2) is revised to read as follows:

§ 17.100 Transportation of claimants and beneficiaries.

* * * * *

(g) * * *

(2) Outpatient treatment for service-connected conditions, including adjunct treatment thereof; for veterans under § 17.60 (h) and (i); and for nonservice-connected disabilities of veterans who are participating in a rehabilitation program under 38 U.S.C. chapter 31 and who are medically determined to be in need of medical services for any of the reasons enumerated in § 17.48(g), subject to exceptions defined in paragraph (h) of this section. (38 U.S.C. 111(b))

* * * * *

14. In § 17.120, paragraph (f) is revised to read as follows:

§ 17.120 Authorization of dental examinations.

* * * * *

(f) Veterans who are participating in a rehabilitation program under 38 U.S.C. chapter 31 are entitled to such dental services as are professionally determined necessary for any of the reasons enumerated in § 17.48(g). (38 U.S.C. 612(b); ch. 31)

* * * * *

15. In § 17.123, paragraph (i) is revised to read as follows:

§ 17.123 Authorization of outpatient dental treatment.

* * * * *

(i) *Class V.* A veteran who is participating in a rehabilitation program under 38 U.S.C. chapter 31 may be authorized such dental services as are professionally determined necessary for any of the reasons enumerated in § 17.48(g). (38 U.S.C. 612(b); chapter 31)

* * * * *

[FR Doc. 84-3974 Filed 2-13-84; 8:45 am]
BILLING CODE 8320-01-M

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38 CFR Part 17

VA/DOD Contingency Plan

AGENCY: Veterans Administration.

ACTION: Final regulation.

SUMMARY: The VA is setting forth a final regulation to implement VA/DOD Health Care Resources Sharing and Emergency Operations Act (Pub. L. 97-174), enacted into law on May 4, 1982. Section 4 of this law establishes the VA health-care system as the primary backup to the Department of Defense in time of war or national emergency. This final regulation took effect on August 11, 1983, because of the importance of instructing staff to plan for the provision of proper medical treatment to active duty personnel of the United States Armed Forces in time of war or national emergency. Although the regulations were for immediate use, they were subject to change based on comments received during the comment period.

DATE: The regulation was effective August 11, 1983.

FOR FURTHER INFORMATION CONTACT: Anthony Ilardi, Acting, Emergency Preparedness Planning Officer (10B/EMS), Department of Medicine and Surgery, Veterans Administration, 810 Vermont Avenue, NW., Washington, D.C. 20420 (202-389-2322).

SUPPLEMENTARY INFORMATION: This regulation implements Section 4 of Pub. L. 97-174.

Interim final regulations were published on August 26, 1983 at pages 38821 and 38822 of the **Federal Register**. Interested persons were given 30 days to comment, however, no comments were received. The Veterans Administration hereby adopts this regulation as final.

Pub. L. 97-174 is explicit and this regulation is not discretionary since it is limited to implementing the letter and the clear legislative intent of the law. In addition, this regulation comes within the good cause exception to the general VA policy of obtaining prior public comment on proposed regulatory development and a prior proposed notice is unnecessary. Also, the Regulatory Flexibility Act (Pub. L. 96-354) is not applicable since it applies only to regulations for which a general notice of proposed rulemaking is published.

The Veterans Administration has determined that this regulation is not a "major rule" as defined by E.O. 12291, Federal Regulation. It will not have an effect on the economy of $100 million and will not result in any major increases in costs or prices for anyone; nor will they have significant adverse effects on competition, employment, investment, productivity, innovation or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. This regulation is for the purpose of implementing a law intended to establish the VA as the principal backup to the health-care resources of the Department of Defense in time of war or national emergency. Consequently, this regulation is issued "with respect to a military * * * function of the United States," and comes within an exception to the definition of regulations covered by E.O. 12291, (Section 1(a)(2)). Even if a portion of this regulation is considered to deal with a nonmilitary function, it will clearly not have any sizeable economic impact in itself. This regulation pertains to contingency planning and under peacetime conditions there is no effect on any segment of the economy. In the event of war or national emergency, the effect on the economy is potentially significant, dependent on the level of the emergency. Nonservice-connected veterans could be displaced from or denied admission to VA health facilities. The number of these veterans would depend on the level of the emergency. To ease the burden on these veterans, the VA is authorized to place nonservice-connected veterans in community health facilities at VA expense. Under the law, the extent to which the VA could place these veterans depends on the availability of funds and the authorization of the President. However, all of these potential economic effects would result from the war or national emergency and from Pub. L. 97-174, not from implementing this regulation. Therefore, even if this regulation is considered subject to E.O. 12291, it does not qualify as a "major rule."

The Catalog of Federal Domestic Assistance Number are 64.009 (Veterans Hospitalization); 64.010 (Veterans Nursing Home Care); 64.011 (Veterans Outpatient Care); and, 64.018 (Sharing Specialized Medical Resources).

List of Subjects in 38 CFR Part 17

Health care, Health facilities, Nursing home care, Veterans.

These final regulations are adopted under the authority granted the Administrator by sections 210(c) and 620(a) of Title 38, United States Code.

Dated: January 31, 1984.

By direction of the Administrator.

Everett Alvarez, Jr.,
Deputy Administrator.

PART 17—[AMENDED]

38 CFR Part 17, MEDICAL, is amended by adding a new § 17.190 to read as follows:

§ 17.190 Contingency backup to the Department of Defense.

(a) *Priority care to active duty personnel.* The Administrator, during and/or immediately following a period of war or national emergency declared by the Congress or the President that involves the use of United States Armed Forces in armed conflict, is authorized to furnish hospital care, nursing home care, and medical services to members of the Armed Forces on active duty. The Administrator may give higher priority in the furnishing of such care and services in VA facilities to members of the Armed Forces on active duty than to any other group of persons eligible for such care and services with the exception of veterans with service-connected disabilities. (38 U.S.C. 5011A, Pub. L. 97-174)

(b) *Contract authority.* During a period in which the Administrator is authorized to furnish care and services to members of the Armed Forces under paragraph (a) of this section, the Administrator, to the extent authorized by the President and subject to the availability of appropriations or reimbursements, may authorize VA facilities to enter into contracts with private facilities for the provision during such period of hospital care and medical services for certain veterans. These veterans include only those who are receiving hospital care under 38 U.S.C.

610 or, in emergencies, for those who are eligible for treatment under that section, or who are receiving care under 38 U.S.C. 612 (f) and (g). This authorization pertains only to circumstances in which VA facilities are not capable of furnishing or continuing to furnish the care or services required because of the furnishing of care and services to members of the Armed Forces. (38 U.S.C. 5011A, Pub. L. 97-174)

[FR Doc. 84-3875 Filed 2-13-84; 8:45 am]

BILLING CODE [illegible]

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-5-FRL 2525-5]

Approval and Promulgation of Implementation Plans; Indiana

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rulemaking.

SUMMARY: On January 21, 1981, Indiana submitted its revised malfunction regulation, 325 IAC 1.1-5, to EPA as a revision to the Indiana State Implementation Plan (SIP). EPA proposed to approve it on December 3, 1982 (47 FR 54476). Comments were received from various Indiana companies and the State. Based on EPA's analysis of the regulation and the comments received, EPA today is approving 325 IAC 1.1-5.

EFFECTIVE DATE: This final rulemaking becomes effective on March 15, 1984.

ADDRESSES: Copies of this revision to the Indiana SIP are available for inspection at: The Office of the Federal Register, 1100 L Street, N.W., Room 8401, Washington, D.C. 20408.

Copies of the SIP revision, public comments on the notice of proposed rulemaking and other materials relating to this rulemaking are available for inspection at the following addresses: (It is recommended that you telephone Robert B. Miller at (312) 886-6031 before visiting the Region V Office.)

Environmental Protection Agency, Region V, Air and Radiation Branch, 230 South Dearborn Street, Chicago, Illinois 60604

Environmental Protection Agency, Public Information Reference Unit, 401 M Street, S.W., Washington, D.C. 20460

Indiana Air Pollution Control Division, Indiana State Board of Health, 1330 West Michigan Street, Indianapolis, Indiana 46206

FOR FURTHER INFORMATION CONTACT: Robert B. Miller, Air and Radiation Branch (5AR-26), Environmental Protection Agency, Region V, Chicago, Illinois 60604, (312) 886-6031.

SUPPLEMENTARY INFORMATION: On January 21, 1981, Indiana submitted its revised malfunction regulation, 325 IAC 1.1-5, to EPA.[1] On July 2, 1982, Indiana clarified its intent concerning 325 IAC 1.1-5, as discussed below.

Revised 325 IAC 1.1-5 applies to sources which have the potential to emit the following amounts of pollutants before controls: Total suspended particulate (TSP)—25 pounds/hour or more; sulfur dioxide (SO_2) and volatile organic compound (VOC)—100 pounds/hour or more; and all other pollutants—2,000 pounds/hour or more.

The regulation requires a source:

(1) To develop a preventive maintenance plan and to prepare and maintain a malfunction emission reduction program,

(2) To correct a malfunction as expeditiously as practicable and to minimize the impact of the excess emissions,

(3) To keep records of all malfunctions which cause the source's emission limits to be violated, and

(4) To notify Indiana immediately of such malfunctions which last for more than one hour.

The regulation also prescribes actions which the State can take to address malfunction situations. Except for certain reporting requirements, the regulation does not address excesses due to start-ups and shutdowns. Start-ups and shutdowns are not malfunctions as defined in the definition section of Indiana's regulations, 325 IAC 1.1-1. However, malfunctions occurring during start-ups and shutdowns would fall within the scope of 325 IAC 1.1-5.

EPA reviewed 325 IAC 1.1-5 and requested that Indiana clarify two points. Indiana responded in a July 2, 1982 letter as follows:

(1) Sections 2 and 4 require information to be submitted to the State if a malfunction occurs. EPA asked the State whether it is considered to be a violation of the regulation if a source provides incomplete or inaccurate information. Indiana responded that incomplete or erroneous malfunction reports would be treated as violations of the regulation.

(2) Sections 4(a)(3) and 5(a) refer to sources where malfunctions occur more than 5% of the normal operational time[2] for any one control device or combustion or process equipment. EPA asked the State whether these provisions automatically exempt sources which malfunction less than 5% of the time or are only a guideline to be used in conjunction with the other criteria listed in Section 4(a) in determining a violation. The State responded that the 5% figure is only a guideline to be used in determining appropriate action.

Based on EPA's excess emissions policy and the clarifications supplied by the State, EPA proposed to approve revised 325 IAC 1.1-5 on December 3, 1982 (47 FR 54476).[3] EPA noted in this proposal that, if it ultimately approved 325 IAC 1.1-5, it would treat any incomplete or erroneous information provided by a source as a violation of this regulation. Additionally, it would use the 5% criterion as a guideline only, in conjunction with the other criteria given in the regulation. Any malfunction which causes the applicable emission limits to be exceeded would be treated as a violation of the SIP, but the four criteria would be used in determining an appropriate enforcement response. Finally, EPA would not be bound by any exemption granted by the State.

Comments were received from Indiana industrial sources and the State. All agreed that EPA should approve the regulation, but the industrial commenters questioned some of the points made in the proposal. Below is a summary of the comments and EPA's responses:

Comment: Several of the commenters stated that EPA was unilaterally modifying 325 IAC 1.1-5 when it stated that it would not be bound by any exemption granted by the State. They

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[1] Indiana submitted its original malfunction regulation, APC 11, to EPA on June 26, 1979. EPA proposed to disapprove it on March 27, 1980 (45 FR 20432) because of specific enumerated deficiencies. In response to this notice, Indiana committed to revise its malfunction regulation on June 25, 1980 and did resubmit one on January 21, 1981.

[2] In the December 3, 1982 (47 FR 54476) notice of proposed rulemaking, EPA combined the two different provisions of 325 IAC 1.1-5(a) to imply that a 12-month time frame would be used to determine the "normal operational time of the facility." In actuality, compliance with Indiana's malfunction regulations is determined on a quarterly basis. The 12-month time frame in 325 IAC 1.1-5 is used to determine whether curtailment of operations of a facility is an appropriate remedy to a malfunction problem.

[3] Several documents describing EPA's excess emissions policy were cited in the December 3, 1982 proposal. EPA's policy has been described in a more recent EPA memorandum. ("Policy on Excess Emissions During Start-up, Shutdown, Maintenance, and Malfunction," from Kathleen M. Bennett, Assistant Administrator for Air, Noise, and Radiation, to Regional Administrators I-X, dated February 15, 1983.) The action taken today is entirely consistent with the February 15, 1983 memorandum as well as the documents cited in the proposal.

further asserted that this "modification" is inconsistent with the Clean Air Act in that EPA is limited to only approving or disapproving a State regulation. Any other EPA action requires Federal promulgation.

Response: EPA's approach is entirely consistent with the Act. In stating that it would not be bound by any exemption granted by Indiana, EPA intended to make clear that its approval of the criteria and procedures for the exercise of enforcement discretion with respect to malfunctions did not constitute approval in advance of the outcome of any application of these criteria and procedures by the State. Because Indiana's regulation contains no specific exemptions but only the criteria and procedures to be used in determining whether to exercise enforcement discretion, EPA's action is in no way an attempt to modify the regulation.

Comment: Several commenters stated that the Clean Air Act gives primacy to the states. They noted that it is EPA's policy to defer to the states and concluded that EPA should not take independent action against a source where the State has granted an exemption.

Response: The Clean Air Act does give the states the primary responsibility for the control of air pollution, and EPA often defers to states in determining an appropriate response in implementing the Act.

However, in order to assure that violations of SIPs do not jeopardize the attainment and maintenance of the ambient standards, the Act provides not only for State enforcement action, but also federal enforcement authority under Sections 113 and 120. In approving state regulations containing criteria and procedures for determining whether to take enforcement action, EPA does not, and cannot, relinquish its enforcement authority under the Act. Of course, in determining whether to take an enforcement action, EPA will use the same enforcement criteria it is approving for the State.

This approach is not inconsistent with any of the cases cited by various commenters. In fact, in one case, *Bethlehem Steel* v. *EPA*, 638 F.2d 994 (7th Cir. 1980), the court recognized that EPA would not be bound by a state waiver issued under the provisions of a federally approved Delayed Compliance Order (DCO).

Comment: One commenter mentioned that EPA's statement in the Notice of Proposed Rulemaking that EPA "may take an independent action against a source regardless of any action taken by the State" overstated EPA's authority.

Response: Implicit in EPA's statement was that EPA can take an independent action against a source so long as such action is consistent with Section 113 and any other applicable provision of the Clean Air Act.

Comment: One commenter stated that EPA's proposed action on the Indiana regulation did not comport with its proposed action on the Montana malfunction regulation (December 14, 1982, 47 FR 55965).

Response: EPA's proposed action on the Montana regulation was consistent with its proposed action on the Indiana regulation. Although the commenter did not state how the two proposals differed, he may be referring to the fact the EPA did not explicitly state in the Montana proposal as it did in the Indiana proposal that EPA reserves the right to take independent action from the State on malfunctions. However, as discussed in a previous comment, whether stated or not, this right is inherent in the dual enforcement scheme established by the Act and is always available to the EPA.

Comment: Several commenters note that EPA's new source performance standards (NSPS) under Section 111 of the Act excuse certain violations of emission limitations during periods of start-up, shut-down, and malfunction. They state that EPA should not require more stringent performance from existing sources than from new sources, and, therefore, conclude that EPA should not require existing sources to comply with the SIP during periods of start-up, shut-down, and malfunction.

Response: It should first be noted that Indiana is not required by the Clean Air Act to promulgate any regulations which would allow exemptions from SIP requirements during malfunction or start-up and shut-down. As a matter of policy, EPA will approve narrowly circumscribed malfunction and start-up and shut-down regulations. However, EPA has no authority to disapprove a State malfunction or start-up and shut-down regulations on the grounds that it is too stringent.

In addition, EPA believes it is reasonable to require narrower malfunction and start-up and shut-down regulations for SIP noncompliance than for NSPS noncompliance. The new source performance standards under § 111—unlike the ambient standards promulgated under § 110—are technology based. Attainment of the ambient air quality standards is not a relevant consideration in establishing the NSPS standards; i.e., emissions limits under NSPS are the same, whether the new source is going into a pristine area or into an area which just attains the NAAQS. Therefore, violation of the NSPS standards *per se* does not necessarily interfere with attainment or maintenance of the national ambient air quality standards.[4] In contrast, the Clean Air Act requires that SIP emission limitations assure the attainment and maintenance of NAAQS. Because noncompliance with a SIP emission limit may interfere with such attainment or maintenance, it follows that the use of enforcement discretion with respect to such noncompliance should be narrowly circumscribed.

Comment. One commenter held that a case-by-case consideration of each routine start-up and shut-down, in addition to each malfunction, would result in a great deal of effort and paperwork and is, therefore, neither practical nor equitable.

Response: Indiana, through adopting the reporting requirements of 325 IAC 1.1–5–2, requires a record to be kept of all malfunctions, as well as excess emissions during periods of start-up and shut-down, at any facility where the applicable emission limits are violated. Although complying with this requirement admittedly could take certain resources, this type of operating record is often maintained by sources for their own purposes anyway. The type of record required should facilitate case-by-case review and is a practical method to minimize the effort needed to determine if impermissible emissions have taken place. The requirement is equitable because it applies to all sources in Indiana. In any event, the Clean Air Act provides no grounds for disapproval on the basis cited by the commenter.

Comment: One commenter stated that if EPA treats excess emissions during start-ups and shut-downs as violations, sources which are unable to comply with the applicable emission limitations because of equipment limitations would be unfairly penalized.

Response: The Clean Air Act does not require start-up and shut-down exemptions with respect to SIP limits. Therefore, the absence of a provision for such exemptions in the State malfunction regulation is not grounds for disapproving the malfunction regulation. It should be noted that under EPA's enforcement policy, if the source adequately demonstrates that excess emissions during periods of start-up and shut-down could not have been prevented through careful planning and

[4] Of course, noncompliance with NSPS may interfere with attainment or maintenance of the NAAQS if the NSPS emission limit or requirement is adopted for a specific source as a SIP limit in order to assure such attainment or maintenance.

design and that bypassing of control equipment was unavoidable to prevent loss of life, personal injury, or severe property damage, then exceedances of emission limits during periods of start-up and shutdown need not be treated as violations. (See Memorandum on "Policy on Excess Emission During Start-up, Shutdown, Maintenance, and Malfunction," from Kathleen M. Bennett, Assistant Administrator for Air, Noise and Radiation to Regional Administrators I–X, dated February 15, 1983.) Therefore, EPA's enforcement policy does not unfairly penalize sources during start-up and shutdown periods.

Comment: Several commenters note that EPA's excess emissions policy has not gone through formal rulemaking procedures, i.e., proposal followed by final rulemaking action. One commenter additionally concluded that EPA cannot rulemake based on this policy.

Response: The Clean Air Act provides the basis for all EPA actions concerning the SIPs. EPA periodically issues reasoned policy memoranda which clarify sections of the Act and provide guidance to the States as to the meaning of these sections. Because these are merely clarifications of the Act, rulemaking procedures are not required. In any event, EPA is not disapproving Indiana's malfunction regulation, but rather is approving it. The consistency of this regulation with EPA's policy provides no grounds for disapproval.

Comment: One commenter noted EPA's statement in the proposal that, "Any malfunction which causes the applicable emission limits to be exceeded will be treated as a violation of the SIP." The commenter thought this statement to be inherently inconsistent with Indiana's ability to exempt sources from its normal regulatory emission limits by means of an exemption within the source's operating permit conditions. The commenter concludes that this is an example of EPA unilaterally modifying Indiana's regulations without going through promulgation procedures.

Response: In actuality, EPA's statement is not inconsistent with the State's ability to provide an exemption to a source through its operating permit mechanism. EPA stated in its proposal that it cannot approve any regulatory provision which automatically exempts sources from complying with their applicable emission limits. This does not necessarily mean that a source-specific exemption, as opposed to a generic regulatory provision, cannot be approved.

Indiana's operating permit regulation, 325 IAC Article 2, requires discretionary actions by the Indiana Air Pollution Control Board to be submitted to EPA as revisions to the SIP. See 325 IAC 2–1–12. If the State put such an exemption within an operating permit, this would constitute a Board discretionary action and would be submitted as a revision to the SIP. EPA can and will approve all such source-specific actions as long as the requirements of section 110 are met, including a demonstration that the NAAQS would be maintained with such an exemption. Once this exemption is a part of the SIP, the identified occurrence would not be a violation of the SIP and would be allowable. Therefore, EPA has not unilaterally modified Indiana's regulations by its statement.

Comment: One commenter noted that EPA stated in its December 3, 1982 proposal that it had asked the State whether Sections 4(a)(3) and 5(a) automatically exempt sources which malfunction less than 5% of the time or is this number only a guideline to be used in conjunction with the other criteria listed in Section 4(a) in determining a violation. The State responded that the 5% figure is only a guideline to used in determining appropriate action.

The commenter further noted that EPA concluded that it was proposing to approve the four criteria exemption within Indiana's regulation because the criteria listed, including the 5% guideline, do not operate to automatically exempt a source, but instead require discretionary judgment on the part of the enforcing party to determine if enforcement action is appropriate. The commenter stated that the State in its July 2, 1982 letter only mentioned Section 4(a)(3) (the 5% figure) and did not address Sections 4(a) (1), (2), and (4). The commenter implied with this comment that the State may only consider Section 4(a)(3) to be a guideline, with the other elements listed in Sections 4(a) (1), (2), and (4) considered to be absolute standards.

Response: EPA in its letter asked the State to confirm that the 5% criterion is only a guideline to be used in conjunction with the other reporting requirements in Section 4(a) (1), (2), and (4) in determining a violation. Although these Sections were not explicitly mentioned in the State's July 2, 1982 letter, the State concluded that letter by stating: "Therefore, we believe our interpretation of the rule is consistent with that expressed in your letter." From this, EPA concludes that the State concurred with the question asked and does agree that all four criteria must be considered in determining an appropriate enforcement response. Additionally, although Section 4(a)(3) could arguably be considered an absolute standard, Sections 4(a) (1), (2), and (4) all require a judgment call by the enforcing party and, therefore, cannot automatically exempt a source. They, too, then meet the requirements of EPA's excess emissions policy.

In conclusion, after careful review of Indiana's malfunction regulation and the comments received in response to EPA's December 3, 1982 proposal, EPA is approving 325 IAC 1.1–5 as a revision to the SIP. As was noted in the December 3, 1982 proposal, EPA will treat any incomplete or erroneous information provided by a source as a violation of this regulation. Additionally, it will use the 5% criterion as a guideline only, in conjunction with the other criteria given in the regulation. As was also noted in the proposal, EPA's action does not constitute advance approval of any exemptions which might be issued under Indiana's malfunction regulation. Thus, EPA may take independent enforcement action to the extent allowed by Section 113 and any other applicable provisions of the Act, notwithstanding the issuance of an exemption by the State. In determining whether enforcement action is warranted, in the case of malfunctions, EPA will use the enforcement criteria contained in the Indiana regulation.

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by (60 days from today). This action may not be challenged later in proceedings to enforce its requirements. (See sec. 307(b)(2).)

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons, Intergovernmental relations, Incorporation by Reference.

Note.—Incorporation by reference of the State Implementation Plan for the State of Indiana was approved by the Director of the Federal Register on July 1, 1982.

This notice is issued under authority of section 110 of the Clean Air Act, as amended.

Dated: February 3, 1984.

William D. Ruckelshaus,

Administrator.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLAN

Indiana

Title 40 of the Code of Federal Regulations, Chapter I, Part 52 is amended as follows:

1. Section 52.770 is amended by adding paragraph (c)(46) as follows:

§ 52.770 Identification of plan.

* * * * *

(c) * * *

(46) On January 21, 1981, Indiana submitted its revised malfunction regulation, 325 IAC 1.1–5, to EPA. Indiana clarified its intent concerning 325 IAC 1.1–5 on July 2, 1982.

* * * * *

[FR Doc. 84–3829 Filed 2–13–84; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Parts 61 and 75

Changes in Assignments of Officials in FEMA Regulations

Correction

In FR Doc. 84–3353 beginning on page 4750 in the issue of Wednesday, February 8, 1984, make the following corrections:

1. On page 4751, first column, in the fourth line of paragraph 5. amending § 61.1, "Administrative" should have read "Administrator".

2. On page 4751, third column, paragraph 21. should have read:

"21. 44 CFR Part 75 is amended by removing the words "Associate Director" and adding "Administrator" in place thereof in the following sections: §§ 75.1, 75.10, 75.11(a) (2 times) and 75.13(c)."

BILLING CODE 1505–01–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 83–386; RM–4363]

TV Broadcast Station in Austin, Texas; Proposed Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Action taken herein assigns UHF television Channel 54 to Austin, Texas, as that community's sixth television broadcast service, in response to a request from the Allandale Baptist Church of Austin.

EFFECTIVE DATE: April 9, 1984.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Nancy V. Joyner, Mass Media Bureau, (202) 634–6530.

List of Subjects in 47 CFR Part 73

Television broadcasting.

Report and Order; Proceeding Terminated

In the matter of amendment of § 73.606(b), Table of Assignments, TV broadcast stations (Austin, Tex.); MM Docket No. 83–386, RM–4363.

Adopted: January 27, 1984.

Released: February 2, 1984.

By the Chief, Policy and Rules Division.

1. The Commission herein considers the *Notice of Proposed Rule Making*, 48 FR 18846, published April 26, 1983, issued in response to a request filed by the Allandale Baptist Church of Austin ("petitioner"), proposing the assignment of UHF television Channel 54 to Austin, Texas, as that community's sixth television allocation. Petitioner filed supporting comments in which it reiterated its intention to apply for the channel, if assigned. No oppositions to the proposal were received.

2. Austin (population 345,496),[1] the seat of Travis County (population 419,335), and the capital of Texas, is located approximately 240 kilometers (150 miles) northwest of Houston. Currently, it is served by commercial Stations KTBC–TV (Channel 7); KVUE–TV (Channel 24), KTVV(TV) (Channel 36), and KBVO–TV (Channel 42). Additionally, it is served by noncommercial educational Station KLRU(TV) (Channel *18).

3. As indicated in the *Notice*, UHF television Channel 54 can be assigned to Austin in conformity with the applicable mileage separation requirements of §§ 73.610 and 73.698 of the Commission's Rules.

4. In view of the above, and having found no policy objection to the proposal, we believe the public interest would be served by assigning UHF television Channel 54 to Austin, Texas, since it could provide a sixth television broadcast service to the community.

5. Since Austin is located within 320 kilometers (199 miles) of the common U.S.-Mexican border, concurrence of the Mexican government was obtained.

6. Accordingly, pursuant to the authority contained in sections 4(i), 5(c)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is ordered, that effective April 9, 1984, the Television Table of Assignments, § 73.606(b) of the Commission's Rules, is amended with respect to the community listed below, as follows:

City	Channel No.
Austin, Texas	7+, *18+, 24, 36, 42–, and 54.

7. It is further ordered, That this proceeding is terminated.

8. For further information concerning the above, contact Nancy V. Joyner, Mass Media Bureau, (202) 634–6530.

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 84–3690 Filed 2–13–84; 8:45 am]

BILLING CODE 6712–01–M

[1] Population figures were taken from the 1980 U.S. Census.

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 574

[Docket No. 70–12; Notice 25]

Tire Identification and Recordkeeping

Correction

In FR Doc. 84–3421 beginning on page 4755 in the issue of Wednesday, February 8, 1984, make the following correction.

On page 4760, third column, second line of § 574.7(a)(2)(iv), "16 inches" should have read "6 inches".

BILLING CODE 1505–01–M

Proposed Rules

Federal Register
Vol. 49, No. 31
Tuesday, February 14, 1984

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Part 103

Powers and Duties of Service Officers; Availability of Service Records

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Proposed rule.

SUMMARY: The proposed rule would require the district director to cancel a public charge bond posted on behalf of an immigrant following review after the fifth anniversary of an immigrant's admission to the United States, unless the immigrant became a public charge within five years of admission for permanent residence. This change would reduce the liability of an obligor from the current indefinite period to a period of five years, which coincides with the limit of liability of an immigrant to deportation as a result of becoming institutionalized at public expense.

DATE: Comments must be received on or before March 15, 1984.

ADDRESS: Please submit written comments in duplicate to the Director of Policy Directives and Instructions, Immigration and Naturalization Service, Room 2011, 425 I Street NW., Washington, D.C. 20536.

FOR FURTHER INFORMATION CONTACT:

For General Information: Loretta J. Shogren, Director, Policy Directives and Instructions, Immigration and Naturalization Service, 425 I Street NW., Washington, D.C. 20536, Telephone: (202) 633–3048.

For Specific Information: Bert C. Rizzo, Immigration Examiner, Immigration and Naturalization Service, 425 I Street NW., Washington, D.C. 20536, Telephone: (202) 633–3946.

SUPPLEMENTARY INFORMATION: Public charge bonds are required of certain immigrants to the United States in order to assure the government that the immigrant will not become a public charge which would render the immigrant excludable under section 212(a)(15) of the Immigration and Nationality Act, 8 U.S.C. 1182(a)(15). An immigrant is excludable if found likely to become a public charge prior to entry into the United States. An immigrant becomes deportable under section 241(a)(3) of the Act, 8 U.S.C. 1251(a)(3), if institutionalized at public expense within five years after entry as a result of a disease or mental defect in existence prior to the immigrant's entry.

The current regulation at 8 CFR 103.6(c)(1) provides for cancellation of the bond if review shows that the alien has not become a public charge or the alien immigrant has died, departed permanently from the United States or become naturalized, or if the Service is satisfied that the alien will not become a public charge. The Service believes that the public will be adequately protected by limiting the duration of liability of public charge bonds to a five-year period, which parallels the deportation liability. This shortened period also appears to be reasonable jeopardy to impose upon the obligor. If an arriving immigrant is self-sustaining for a five-year period, it is not probable that the alien will become a public charge after the five years. Also, it is unlikely that the reason for becoming a public charge will be based upon factors in existence prior to admission as an immigrant. The proposed regulation therefore provides that a public charge bond be cancelled if a Service district director finds that the immigrant did not become a public charge within the five years following admission. This regulation would make it clear that the district director must review each public charge bond as quickly as possible following the fifth anniversary and cancel the bond if Form I–356, Request for Cancellation of Public Charge Bond, has been filed and the evidence indicates that the immigrant did not become a public charge prior to the fifth anniversary of the immigrant's admission to the United States.

In accordance with 5 U.S.C. 605(b), the Commissioner of Immigration and Naturalization certifies that this rule, if promulgated, will not have a significant economic impact on a substantial number of small entities because only a few hundred public charge bonds are posted yearly.

This order would not be a major rule within the definition of section 1(b) of E.O. 12291.

List of Subjects in 8 CFR Part 103

Administrative practice and procedure, Archives and record, Authority delegations (government agencies), Bonding, Forms, Surety bonds.

PART 103—POWERS AND DUTIES OF SERVICE OFFICERS; AVAILABILITY OF SERVICE RECORDS

Accordingly, it is proposed to amend Chapter I of Title 8 of the Code of Federal Regulations as follows:

In § 103.6, paragraph (c)(1) would be revised as follows:

§ 103.6 Surety bonds.

* * * * *

(c) *Cancellation*—(1) *Public charge bonds.* A public charge bond posted for an immigrant shall be cancelled when the alien dies, departs permanently from the United States, or is naturalized, provided the immigrant did not become a public charge prior to death, departure, or naturalization.

The district director may cancel a public charge bond at any time if he finds that the immigrant is not likely to become a public charge. A bond may also be cancelled in order to allow substitution of another bond. A public charge bond shall be cancelled by the district director upon review following the fifth anniversary of the admission of the immigrant, provided that the alien has filed Form I–356, Request for Cancellation of Public Charge Bond, and the district director finds that the immigrant did not become a public charge prior to the fifth anniversary. If Form I–356 is not filed, the bond shall remain in effect until the form is filed and the district director reviews the evidence supporting the form and renders a decision to breach or cancel the bond.

* * * * *

(Sec. 103 of the Immigration and Nationality Act, as amended; 8 U.S.C. 1103)

Dated: January 23, 1984.

Andrew J. Carmichael, Jr.,

Associate Commissioner, Examinations, Immigration and Naturalization Service.

[FR Doc. 84–3903 Filed 2–13–84; 8:45 am]
BILLING CODE 4410–10–M

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 338

Fair Housing

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Deposit Insurance Corporation ("FDIC") is proposing to amend § 338.4 of its regulations to eliminate the current requirement that insured State nonmember banks collect and record in a log-sheet certain data concerning home loan inquiries while retaining the requirement that information on all such applications be recorded and retained for 25 months. This proposal is being made because log-sheet entries about inquiries have not been effective in identifying those banks needing special attention in the fair housing lending monitoring program. The proposed revision will bring about cost savings for both banks and regulatory authorities and possible improvements in the quality of compliance examinations through the more efficient use of examiner time.

In addition to the foregoing proposal, the FDIC is requesting comments on a possible reduction in the number of banks required to maintain log-sheets by raising from $10 million in total assets the size under which banks are exempt from maintaining log-sheets or by changing the exemption threshold to another measure more closely associated with home loan application activity.

DATE: Comments must be submitted on or before April 16, 1984.

ADDRESS: Send comments to Hoyle L. Robinson, Executive Secretary, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, D.C. 20429. Comments may be hand delivered to Room 6108 between the hours of 8:30 a.m. and 5:00 p.m.

FOR FURTHER INFORMATION CONTACT: Rex J. Morthland, Director, Office of Consumer Programs, Division of Bank Supervision (202/389–4353), Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, D.C. 20429.

SUPPLEMENTARY INFORMATION:

Background

Insured State nonmember banks which have an office in a primary metropolitan statistical area ("PMSA"), metropolitan statistical area ("MSA"), or a consolidated metropolitan statistical area ("CMSA") that is not comprised of designated primary metropolitan statistical areas [1] and which had total assets exceeding $10 million on December 31 of the preceding calendar year are required to keep a log-sheet in accordance with the provisions of § 338.4(a)(2)(iv) of the FDIC's regulations. Specific information is recorded by each bank office for all home loan inquiries and applications received. A sample form of the log-sheet is included in Appendix A of § 338.4.

Part 338 was adopted in 1978 to provide a basis for a more effective FDIC fair housing lending enforcement program under the Fair Housing Act (42 U.S.C. 3601 *et seq.*) and Regulation B (12 CFR Part 202), the implementing regulation under the Equal Credit Opportunity Act of 1974 (15 U.S.C. 1691 *et seq.*). The Home Mortgage Disclosure Act of 1975 (12 U.S.C. 2801 *et seq.*) ("HMDA") and FDIC's Part 345 (12 CFR Part 345), the implementing regulation for the Community Reinvestment Act of 1977 (12 U.S.C. 2901 *et seq.*), are also consumer protection laws relating to home loans.

Proposal

FDIC is reviewing Part 338 as a part of a systematic review of all its regulations. FDIC intends to publish a comprehensive set of recommended amendments when the review of Part 338 is completed. Meanwhile, it proposes to eliminate the requirement that data concerning home loan inquiries be recorded in the log-sheets while retaining the requirement that information on all such applications, oral and written, both approved and rejected, be recorded and retained for 25 months.

Reasons for Proposal

At the time Part 338 was written, inquiry-related information was seen as a necessary monitoring component to the execution of an effective fair housing lending program. This type of information was intended for use by compliance examiners as a tool for discovering possible efforts by banks to prescreen through discouragement potential home loan applicants on a prohibited basis.

By proposing to discontinue the collection of inquiry-related information, the FDIC is not discounting the possibility that prescreening may exist. However, the use of inquiry-related data has not been effective as a means for detecting such practices.

The proposal to omit inquiry-related information from log-sheets is based upon the following reasons:

1. The inquiry-related data recorded on log-sheets frequently are incomplete and therefore unreliable. One reason for this may be the reluctance of inquirers to provide all or parts of the personal information requested by the bank in compliance with Part 338. Entries onto the logs by bank staff members only incidentally responsible are less satisfactory than those of the relatively few staff members whose principal responsibilities may be the receipt and processing of home loan application and who are more familiar with the requirements of Part 338.

The result is log-sheets with omissions and apparent or actual errors (not necessarily deliberate errors but those resulting from required guesswork). Consequently, follow-up investigation as to reasons why an inquirer may not have made an application cannot be concluded since recorded entries are not always traceable.

2. The complete omission of recorded inquiry-related information is unverfiable. Possibly due to the brief and spontaneous nature of responses sometimes expected by bank customers to an oral question about home loans, it is not always feasible to record in whole or in part the required information. Therefore, the requirement in Part 338 for this information from inquirers is believed to be neither realistic nor fully enforceable.

3. Alternative sources exist for investigating indications of possible prescreening. These include demographic data contained in the aggregation tables of HMDA reports filed by banks with assets exceeding $10 million and with offices in MSAs and PMSAs prepared for the Federal Financial Institutions Examination Council; outside interviews conducted as a part of the Community Reinvestment Act portion of compliance examination; and complaints filed with the FDIC.

4. It has been the experience of compliance examiners that the time spent examining, commenting upon, and writing up violations for technical inconsistencies on log-sheets for inquiry-related data, could be better utilized in other aspects of compliance examination activity.

5. The Office of Management and Budget, pursuant to its authority under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), is requiring the FDIC to reduce by nearly 34,000 the number of burden hours placed on banks by the

[1] The foregoing terms will replace the phrase "standard metropolitan statistical area" wherever it appears in the current version of Part 338 in order to reflect new terminology being used by the United States Office of Management and Budget.

collection of information requirement contained in Part 338. For the reasons outlined in paragraphs 1 through 4 above, the FDIC's Board of Directors believes that compliance with the OMB-required reduction in burden hours be deleting inquiry-related information from the log-sheet will not harm FDIC's ability to carry out its fair housing lending enforcement program. At the same time, the collection of information requirements imposed on banks by Part 338 will have been reduced while the burden hour reduction set forth by OMB will have been met.

Consumers, regulatory authorities, and banks may benefit from improvements in the quality of compliance examinations made possible by allocating to other compliance examination activities the time previously used in examining the inquiry entries and in writing up violations resulting from incompleteness of or inaccuracies in them. Regulatory authorities and especially banks may realize cost savings in terms of increased efficiency through reductions in this recordkeeping requirement.

The proposed amendments also contain four technical changes. First, the listing of data required on home loan applicants in paragraph (a)(1)(i) of § 338.4 is reordered to improve its clarity and expanded to include the category "Date of application," while the listing in paragraph (a)(2)(i) is expanded and reordered to reflect log-sheet categories more accurately. Second, footnote 2 of § 338.4 is relocated from paragraph (a)(2) to paragraph (a)(2)(ii) where it is more appropriate. Third, the Equal Housing Lending Poster in § 338.3 will reflect a change in terminology renaming the FDIC's Office of Consumer Affairs and Civil Rights the Office of Consumer Programs. Finally, the authority citation for Part 338 will be revised to correct an erroneous citation.

Solicitation of Comments on Exemption Threshold

A primary purpose of log-sheets is to assist examiners in formulating a sampling plan to select individual loan applications for detailed, comparative treatment and statistical analysis in the larger banks having so many applications that analysis of all applications is impractical. Sampling generally is not needed in smaller banks. They normally have a small enough number of home loan applications for examiners to analyze all of the rejected applications and many of the approved ones. Furthermore, conclusions based on a sample drawn from a universe with a small number of cases are not statistically persuasive. Consequently, FDIC is considering reducing the number of banks required to maintain log-sheets. This could be done by either (1) raising the threshold of the banks exempted from maintaining log-sheets from $10 million in total assets to $25 million (or some other figure); or (2) by changing the exemption threshold to another measure more closely associated with home loan application activity (e.g., exempting banks receiving less than a total of 100 home loan applications annually). No specific amendments are being proposed now on this subject because several aspects of it remain to be evaluated. However, respondents are invited to comment also on this issue at the same time comments are being submitted in response to the notice of proposed rulemaking relating to the omission of inquiries from log-sheets.

Suggested Issues for Comment

I. Comments regarding the proposal to delete inquiry-related information from the log-sheet.

A. Form the standpoint of both neighborhood/consumer groups and banks, comments would be helpful regarding perceived possible effects on bank compliance with fair housing lending laws of omitting inquiry-related data from the log-sheets.

B. From the standpoint of banks, comments on the following would be helpful.

1. What problems, if any, have banks had in recording on log-sheets complete, accurate information concerning inquires?

2. How many hours of staff time are estimated to be required in a year to maintain log-sheet information on inquiries? What are the estimated dollar costs? Please explain the way in which these estimates were made.

II. Comments regarding changing the criteria for determining the exemption threshold.[2] From the standpoint of neighborhood/consumer groups and banks, comments are sought in particular on which of the following criteria is most desirable to use for determining which banks must maintain log-sheets.

A. *Asset size.* If this is used, should the level be raised from $10 to $25 million or some other total?

B. *Volume of home loan applications originated.* If this is used, should the level be 25, 50, or 100 or some other number of home loan applications originated in the prior year?

C. *Size of home loan mortgage portfolio.* If this is used, indicate the minimum level to be reached in the portfolio at the end of the prior year before a log-sheet must be maintained.

D. *A combination of the above.* For example, log-sheets could be required to be maintained only in banks:

(1) With $25 million in assets and which had a minimum of 50 home loan originations;

(2) With a specified minimum level in the home loan mortgage portfolio and with a minimum number of loan originations or applications; or

(3) Another option.

The changes discussed in this notice are a part of FDIC's continuing effort to achieve an effective and efficient fair housing lending enforcement program. Periodic evaluation to asess the reliability and adequacy of existing procedures are directed toward attainment of this goal.

Regulatory Flexibility Act

Pursuant to section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Board of Directors of the FDIC hereby certifies that the proposed amendments, if adopted, will not have a significant economic impact on a substantial number of small entities. The proposed amendments would ease the existing collection of information requirements. The effect of the amendments is expected to be beneficial rather than adverse, and small entities are generally expected to share the benefits of the amendments equally with larger institutions.

Paperwork Reduction Act

The collection of information requirements contained in the proposed rule have been submitted to the Office of Management and Budget for review under section 3504(h) of the Paperwork Reduction Act (44 U.S.C. 3504(h)). Written comments may be sent to the Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for the FDIC, Washington, D.C. 20503.

List of Subjects in 12 CFR Part 338

Advertising, Bank, banking, Fair Housing, Mortgages, Reporting and recordkeeping requirements, Signs and symbols, State nonmember banks.

In consideration of the foregoing, the FDIC hereby proposes to amend Part 338 as follows:

[2] An insured State nonmember bank is exempt from keeping a log-sheet if it is not located in an MSA, PSA, or CMSA not comprised of designated PMSAs, regardless of any other threshold it exceeds.

PART 338—FAIR HOUSING

1. The authority citation for Part 338 is revised to read as follows:

Authority: Sec. 2, Pub. L. 86–671, 74 Stat. 547 (12 U.S.C. 1817); sec. 8, Pub. L. 797, 64 Stat. 879, as amended by sec. 202, 204, Pub. L. 89–695, 80 Stat. 1046, 1054, and sec. 110, Pub. L. 93–495, 88 Stat. 1506 (12 U.S.C. 1818); sec. 9, Pub. L. 797, 64 Stat. 881, as amended by sec. 205, Pub. L. 89–695, 80 Stat. 1055 (12 U.S.C. 1819); sec. 203, Pub. L. 89–695, 80 Stat. 1053 (12 U.S.C. 1820(b)); sec. 805, Pub. L. 90–284, 82 Stat. 83, 84, as amended by sec. 808, Pub. L. 93–383, 88 Stat. 729 (42 U.S.C. 3605, 3608); sec. 501, Pub. L. 93–495, 88 Stat. 1521, as amended by sec. 2, Pub. L. 94–239, 90 Stat. 251 (15 U.S.C. 1691, et seq.); 40 FR 49306, 12 CFR Part 202; 37 FR 3429, 24 CFR Part 110.

§ 381.1 [Amended]

2. Section 338.1 is amended by removing paragraphs (g) and (h).

§ 381.3 [Amended]

3. In paragraph (b) of § 338.3, the term "The Office of Consumer Affairs and Civil Rights" found in the Equal Housing Lender Poster is changed to read "The Office of Consumer Programs."

4. In § 338.4, paragraphs (a)(1), (a)(2)(i), the heading for (a)(2)(ii), (a)(2)(iii) (A) and (B), (a)(2)(iv), (b) and (c) are revised to read as follows:

§ 338.4 Recordkeeping requirements.

(a) *Records to be retained.*[2] (1) A bank which has no office located in a primary metropolitan statistical area ("PMSA"), a metropolitan statistical area ("MSA"), or a consolidated metropolitan statistical area ("CMSA") that is not comprised of designed PMSAs, as defined by the Office of Management and Budget, or which has total assets as of December 31 of the preceding calendar year of $10 million or less is not required to keep a log-sheet described in paragraph (a)(2)(iv) of this section but shall request and retain the following information:

(i) *Data on home loan applicants.* (A) Date of application.

(B) Case identification.

(*1*) Name.

(*2*) Address.

(*3*) Location (street address, city, State, and zip code) of property being purchased, constructed, improved, repaired, or maintained.

(C) Sex.

(D) Race/national origin, using the categories American Indian or Alaskan Native; Asian or Pacific Islander; Black; Hispanic; White; or other (specify).

(E) Age.

(F) Marital status, using the categories married, unmarried, and separated.

(ii) *Collection of data:* No bank shall engage in any activity which discourages an applicant from providing the information in paragraph (a)(1)(i) of this section. Each bank shall attempt to collect such information during the initial contact with the applicant. If the applicant refuses to furnish all or part of this information, the bank shall note the fact or have the applicant note the fact on the form used for recording the information. If the information regarding race and sex is not voluntarily furnished, the bank shall, on the basis of visual observations or surnames, separately note the information on the form or an attached document.

(2) A bank which has an office in a PMSA, MSA, or CMSA that is not comprised of designated PMSAs, and which had total assets exceeding $10 million as of December 31 of the preceding calendar year shall request and retain on a log-sheet described in paragraph (a)(2)(iv) of this section the following information:

(i) *Data on home loan applicants.* (A) Date of application.

(B) Case identification:

(*1*) Name.

(*2*) Address.

(*3*) Location (street address, city, State, and zip code) of property being purchased, constructed, improved, repaired, or maintained.

(C) Sex.

(D) Race/national origin, using the categories American Indian or Alaskan Native; Asian or Pacific Islander, Black; Hispanic; White; or other (specify).

(E) Age.

(F) Marital status, using the categories married, unmarried, and separated.

(G) Loan type, using the following categories: purchase of existing dwelling; refinancing of existing home loan; construction loan only; construction-permanent; home improvement, repair or maintenance; or other (specify).

(H) Case disposition (e.g., accepted, rejected).

(ii) *Additional data on applications for home loans.*[3]

* * * * * *

(iii) * * *

(A) Each bank shall attempt to collect that information in paragraph (a)(2)(i) of this section during the initial contact with the applicant. If the applicant refuses to furnish all or part of this information, the bank shall note the fact or have the applicant note the fact on the form used for recording the information. If the information regarding race and sex is not voluntarily furnished, the bank shall on the basis of visual observation or surnames, separately note the information on the form or an attached document.

(B) No bank shall engage in any activity which discourages an applicant from providing the information in paragraphs (a)(2)(i) and (a)(2)(ii) of this section. If the bank is unable to obtain any part of the information requested of the applicant under paragraph (a)(2)(ii) of this section, it shall note the reason in the application file. Also, if the bank rejects an application before it has had the opportunity to collect all of the information under paragraph (a)(2)(ii) of this section, it shall note the reason for the rejection in the application file and need not obtain the remaining information.

(iv) *Log-sheet.* In addition to the other recordkeeping requirements specified in this paragraph (a)(2) of this section, each bank covered by the provision shall keep a log-sheet on its home loan applications by bank office. The log-sheet shall contain the information reflected on the sample form in Appendix A. The bank shall be able to trace each entry on the log-sheet to the relevant application file, using the name of the inquirer or applicant or unique case number assigned by the bank.

(b) *Disclosure to applicant.* The bank shall advise an applicant that:

(1) The information regarding race/national origin, marital status, age, and sex in paragraphs (a)(1) and (a)(2) of this section is being requested to enable the Federal Deposit Insurance Corporation to monitor compliance with the Fair Housing and Equal Credit Opportunity Acts which prohibit creditors from discriminating against applicants on these bases;

(2) The Federal Deposit Insurance Corporation encourages the applicant to provide the information requested; and

(3) If the applicant refuses to provide the information concerning race/national origin or sex, the bank is required, where possible, to note the information on the basis of visual observations or surnames.

(c) *Record retention.* Each bank shall retain the records required by this section for 25 months after the bank

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[2] These records are to be retained for the purpose of monitoring compliance and may not be used for the purpose of extending or denying credit or fixing terms where prohibited by law.

[3] Except for census tract information in paragraph (a)(2)(ii)(B)(*5*), all information is listed on the Residential Loan Application Form contained in Appendix B of Regulation B of the Board of Governors of the Federal Reserve System (12 CFR Part 202, Appendix B). The information may be recorded on the Regulation B model Residential Loan Application Form or one or more existing form or forms used by the bank.

notifies an applicant of action taken on an application. This requirement applies to records of home loans which are originated by the bank and subsequently sold. The Federal Deposit Insurance Corporation may by written notice extend the retention period.

* * * * *

5. Section 338.5 is revised to read as follows:

§ 338.5 Mortgage lending of a controlled entity.

Any bank which refers any applicants to a controlled entity and which purchases any home loans originated by the controlled entity, as a condition to transacting any business with the controlled entity, shall require the controlled entity to enter into a written agreement with the bank. The written agreement shall provide that the controlled entity (a) shall comply with the requirements of §§ 338.2, 338.3, and 338.4, (b) shall open its books and records to examination by the Federal Deposit Insurance Corporation, and (c) shall comply with all instructions and orders issued by the Federal Deposit Insurance Corporation with respect to its home loan practices.

6. The sample form in Appendix A to Part 338 is revised to appear as follows:

Appendix A

Bank Name	FAIR HOUSING LENDING HOME LOAN APPLICATION LOG SHEET	Branch or Office
FDIC Number		Other Designation

Use the codes listed below in the appropriate columns. Indicate by an asterisk (*) if the information recorded is the bank officer's observation rather than borrower's statement.

RACE CODES: I American Indian or Alaskan Native; A Asian or Pacific Islander; B Black; H Hispanic; W White; O Other

MARITAL STATUS CODE: M Married; U Unmarried; S Separated

LOAN TYPE CODES: P Purchase of existing dwelling; R Refinancing of existing home loan; I Construction loan only; C Construction permanent; H Home improvement, repair or maintenance; O Other

CASE DISPOSITION CODES: A Accepted; R Rejected; O Other Action; D Other Adverse Action as defined in FRB Regulation B, Sec. 202.2

	Date of Application	CASE IDENTIFICATION a) Name b) Present Address c) Address of Property for Which Applied	BORROWER Sex (F or M)	Race	Age	Marital Status	CO-BORROWER Sex (F or M)	Race	Age	Marital Status	Loan Type	Case Disposition	Examiner Use Only
1		a) b) c)											
2		a) b) c)											
3		a) b) c)											
4		a) b) c)											
5		a) b) c)											
6		a) b) c)											
7		a) b) c)											
8		a) b) c)											

FDIC 8500-70

Dated: February 6, 1984.

By Order of the Board of Directors.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 84-3802 Filed 2-13-84; 8:45 am]

BILLING CODE 6714-01-M

FEDERAL TRADE COMMISSION

16 CFR Part 13

[Docket 9168]

PharmTech Research, Inc.; Proposed Consent Agreement With Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent agreement, accepted subject to final Commission approval, would require a San Francisco, Calif. manufacturer of nutritional supplements, among other things, to cease representing that findings of a 1982 National Academy of Sciences report entitled *Diet, Nutrition and Cancer* support the claim that Daily Green, a dehydrated vegetable tablet, reduces the incidence of any type of cancer. The order would require the company to substantiate representations concerning benefits to health with

reliable and competent scientific evidence, and to maintain accurate records which either support or contradict such claims. Further, the company would be prohibited from misrepresenting the purpose, content or conclusion of any scientific test, research article or scientific opinion.

DATES: Comments must be received on or before April 16, 1984.

ADDRESS: Comments should be directed to: FTC/S, Office of the Secretary, Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT: FTC/PA, Andrew B. Sacks, Washington, D.C. 20580, (202) 724–1524.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and § 3.25(f) of the Commission's Rules of Practices (16 CFR 3.25(f)), notice is hereby given that the following consent agreement containing a consent order to cease and desist and an explanation thereof, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with § 4.9(b)(14) of the Commission's Rules of Practice (16 CFR 4.9(b)(14)).

List of Subject in 16 CFR Part 13

Nutritional supplements, Trade practices.

[Docket No. 9168]

PharmTech Research, Inc.; Agreement Containing Consent Order to Cease and Desist

The agreement herein, by and between PharmTech Research, Inc., a corporation, by its duly authorized officer, hereafter sometimes referred to as respondent, and its attorney, and counsel for the Federal Trade Commission, is entered into in accordance with the Commission's Rule governing consent order procedures. In accordance therewith the parties hereby agree that:

1. Respondent PharmTech Research, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the state of California, with its office and principal place of business located at 1750 Montgomery Street, in the City of San Francisco, State of California.

2. Respondent has been served with a copy of the complaint issued by the Federal Trade Commission charging it with violation of Section 5 and Section 12 of the Federal Trade Commission Act and has filed answers to said complaint denying said charges.

3. Respondent admits all the jurisdictional facts set forth in the Commission's complaint in this proceeding.

4. Respondent waives:

(a) Any further procedural steps;

(b) The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law; and

(c) All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement.

5. This agreement shall not become a part of the public record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission, it, together with related materials pursuant to Rule 3.25(f), will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released. The Commission thereafter may either withdraw its acceptance of this agreement and so notify the respondent, in which event it will take such action as it may consider appropriate, or issue and serve its decision, in disposition of the proceeding.

6. This agreement is for settlement purposes only and does not constitute an admission by respondent that the law has been violated as alleged in the said copy of the complaint issued by the Commission.

7. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of § 3.25(f) of the Commission's Rules, the Commission may without further notice to respondent: (1) Issue its decision containing the following order to cease and desist in disposition of the proceeding; and (2) make information public in respect thereto. When so entered, the order to cease and desist shall have the same force and effect and may be altered, modified or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Delivery by the U.S. Postal Service of the decision containing the agreed-to order to respondent's address as stated in this agreement shall constitute service. Respondent waives any right it might have to any other manner of service. The complaint may be used in construing the terms of the order, and no agreement, understanding, representation, or interpretation not contained in the order or in the agreement may be used to vary or to contradict the terms of the order.

8. Respondent has read the complaint and the order contemplated hereby. It understands that once the order has been issued, it will be required to file one or more compliance reports showing it has fully complied with the order. Respondent further understands that it may be liable for civil penalties in the amount provided by law for each violation of the order after it becomes final.

Order

I

It is ordered that respondent PharmTech Research, Inc., a corporation, its successors and assigns, and its officers, agents, representatives, and employees, directly or through any corporation, subsidiary, division or other device, in connection with the manufacture, advertising, offering for sale, sale, or distribution of Daily Greens, or any other product containing dehydrated vegetables, in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from representing, directly or by implication, contrary to fact, that findings of the National Academy of Sciences, or findings contained in the 1982 Report entitled *Diet, Nutrition, and Cancer*, support the claim that use of the product is associated with a reduction in incidence of any type of cancer.

II

It is further ordered that respondent, its successors and assigns, and its officers, agents, representatives and employees, directly or through any corporation, subsidiary, division or other device, in connection with the manufacture, advertising, offering for sale, sale, or distribution of any product for personal or household use, in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from misrepresenting in any manner, directly or by implication, the purpose, content, sample, reliability, results or conclusions of any scientific test, research article, or any other scientific opinion or data.

III

It is further ordered that respondent, its successors and assigns, and its officers, agents, representatives and employees, directly or through any corporation, subsidiary, division, or other device, in connection with the advertising, packaging, offering for sale, sale, or distribution of any product for

personal or household use, in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from making any representation, directly or by implication, concerning any benefit to health to be derived from using any such product unless, at the time of such representation, respondent possesses and relies upon reliable and competent scientific evidence that substantiates such representation. "Reliable and competent" shall mean for purposes of this Order those tests, analyses, research, studies, or other evidence conducted and evaluated in an objective manner by persons qualified to do so, using procedures generally accepted in the profession or science to yield accurate and reliable results.

IV

It is further ordered that respondent or its successors or assigns maintain accurate records:

1. Of all materials that were relied upon by respondent in disseminating any representation covered by this order.

2. Of all test reports, studies, surveys, or demonstrations in its possession or control or of which it has knowledge that contradict any representation made by respondent that is covered by this order.

Such records shall be retained by respondent or its successors or assigns for three years from the date that the representations to which they pertain are last disseminated. It is further ordered that any such records shall be retained by respondent or its successors or assigns and that respondent or its successors or assigns shall make such documents available to the Commission for inspection and copying upon request.

V

It is further ordered that respondent notify the Commission at least thirty (30) days prior to any proposed change in respondent such as dissolution, assignment, or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in the corporation which may affect compliance obligations arising out of the order.

VI

It is further ordered that respondent shall forthwith distribute a copy of this order to each of its operating divisions, and to all present and prospective distributors of products manufactured or marketed by respondent.

VII

It is further ordered that respondent shall, within sixty (60) days after service of this order, file with the Commission a report, in writing, setting forth in detail the manner and form in which it has complied with this order.

Analysis of Proposed Consent Order To Aid Public Comment

The Federal Trade Commission has accepted an agreement to a proposed consent order from PharmTech Research, Inc. (PharmTech). The Commission issued a Part III complaint against PharmTech on July 28, 1983.

The proposed consent order has been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

The Commission's complaint in this matter charged PharmTech with disseminating advertisements containing false, misleading and unsubstantiated representations regarding "Daily Greens" tablets. The complaint challenged three claims; first, that a report of the National Academy of Sciences (NAS) supports the claims that use of Daily Greens is associated with a reduction in the incidence of certain cancers. According to the complaint, this claim is false because the Report made no such finding.

The complaint also alleged that PharmTech falsely represented that an unidentified National Research Council Report provided support for the claim that "Daily Greens" helps build "important biological defenses." The complaint alleged this claim is false, because neither the cancer Report nor any other Council or NAS Report supports such a claim.

The complaint further alleged that PharmTech lacked a reasonable basis for claiming that use of "Daily Greens" is associated with a reduction in the incidence of certain cancers.

The consent order contains several provisions prohibiting future misrepresentations and unsubstantiated claims by PharmTech. Part I of the order prohibits PharmTech from falsely representing that either the NAS report or any findings of the NAS support the claim that use of the product is associated with a reduction in the incidence of any type of cancer. This provision is intended to prohibit in the future the specific misrepresentations alleged in the complaint.

Part II of the order prohibits PharmTech in the future from misrepresenting the purpose, content, sample, reliability, results or conclusions of any scientific test, research article or any other scientific opinion or data with regard to any products sold for personal or household use.

Part III of the order requires PharmTech to have a reasonable basis for all future representations concerning any benefit to health to be derived from using any product sold for personal or household use. "Reasonable basis" is defined as reliable and competent scientific evidence that substantiates the representation. Such evidence consists of those tests, analyses, research, studies, or other evidence conducted and evaluated in an objective manner by persons qualified to do so, using procedures generally accepted in the profession or science to yield accurate and reliable results.

Parts IV–VII of the order require PharmTech to notify the Commission of any proposed changes in its corporate structure, to distribute copies of the order to its operating divisions and distributors, and to file a compliance report.

The purpose of this analysis is to facilitate public comment on the proposed order, and is not intended to constitute an official interpretation of the agreement and proposed order or to modify in any way their terms.

Emily H. Rock,

Secretary.

[FR Doc. 84-3985 Filed 2-13-84; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

27 CFR Part 178

[Notice No. 502]

Retention of Firearms Transaction Records

AGENCY: Bureau of Alcohol, Tobacco and Firearms, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Bureau of Alcohol, Tobacco and Firearms (ATF) is proposing to issue regulations to allow some records of transactions that occurred prior to December 16, 1968 to be disposed of immediately and some records older than twenty years may be disposed of beginning on or after December 16, 1988. Licensees are now required to keep records pertaining to

firearms transactions indefinitely. The proposed regulations would liberalize that requirement, and provide that licensed dealers and licensed collectors would not be required to retain records for longer than 20 years and licensed manufacturers and licensed importers to retain disposition records for no longer than 20 years.

DATE: Comments must be received on or before April 16, 1984.

ADDRESS: Send comments to: Chief, Firearms and Explosives Operations Branch, Bureau of Alcohol, Tobacco and Firearms, P.O. Box 189, Washington, D.C. 20044 (Notice No. 502).

FOR FURTHER INFORMATION CONTACT: J. Barry Fields, Firearms and Explosives Operations Branch, 202–566–7591.

SUPPLEMENTARY INFORMATION:

Background

Since enactment of the Gun Control Act of 1968, the regulations have required that records of firearms transactions be permanently maintained by all licensees. Where a firearm business is discontinued and not succeeded by a new licensee, the permanent records must be delivered to ATF, unless State law or local ordinance requires otherwise. The record retention requirement has been based on two principal foundations. The maintenance of records on a permanent basis enables the Government to establish the movement of firearms in interstate or foreign commerce, which is frequently critical in the prosecution of criminal cases, and allows the Government to trace the ownership of firearms used in criminal activity, a function particularly important in support of State and local law enforcement.

Proposed Regulations

This notice proposes amendments to the regulations that will change the length of time that records of firearms transactions will be required to be retained by licensees. All licensees are now required to maintain records of firearms transactions on a permanent basis.

ATF proposes that the requirement for the retention of permanent records for licensed dealers and licensed collectors be changed to a retention period of not more than 20 years beginning on December 16, 1968, the effective date of the Gun Control Act of 1968. Licensed manufacturers and licensed importers may dispose of their disposition records after retaining such records for 20 years beginning December 16, 1968. However, importers and manufacturers would be required to retain on a permanent basis their records of importation, manufacture and other acquisition of firearms.

Records of firearms transactions that occurred prior to December 16, 1968, with the exception of records of importation, manufacture or other acquisitions by manufacturers and importers, will no longer be required to be retained by this proposal.

The experience gained over the past 15 years in administering the Gun Control Act of 1968 indicates that the requirement to maintain permanent records of all firearms transactions may not be justifiable because of the cost and administrative burden to both the firearms industry and the Government.

Approximately 225,000 Federal firearms licensees have been faced with ever-increasing storage costs in order to maintain on a permanent basis the large volume of these records. In addition, ATF is experiencing increasing costs of storing and maintaining voluminous records of out-of-business licensees.

A study conducted by ATF established that relatively few requests for traces of guns involved transactions older than 20 years. Accordingly, a 20-year record retention period would not have a significant impact on ATF's capability to trace crime-related firearms.

Requiring licensed manufacturers and licensed importers to permanently maintain the records of the manufacture, importation, or other acquisition of firearms will enable the Government to continue to be able to prove the requisite interstate or foreign commerce element in the prosecution of felons and other prohibited categories of persons charged with unlawful shipment, transportation, receipt or possession of firearms. In addition, these records are of invaluable assistance in identifying firearms for purposes of their proper classification, e.g., determination of the status of firearms as curios and relics and as weapons under the National Firearms Act (26 U.S.C. Chapter 53).

Public Participation—Written Comments

ATF requests comments concerning this proposal to change the retention period for firearms transaction records of licensees from all interested persons. ATF is especially interested in comments on whether the retention period should be more or less than 20 years.

Comments received before the closing date will be carefully considered. Comments received after the closing date and too late for consideration will be treated as possible suggestions for future ATF action. ATF will not recognize any material or comments as confidential. Comments may be disclosed to the public. Any material which the commenter considers to be confidential or inappropriate for disclosure to the public should not be included in the comment. The name of the person submitting the comment is not exempted from disclosure.

Any interested person who desires an opportunity to comment orally at a public hearing on these proposed regulations should submit his or her request in writing to the Director within the 60-day comment period. The Director, however, reserves the right to determine in light of all circumstances, whether a public hearing will be held.

Drafting Information

The principal author of this notice of proposed rulemaking is J. Barry Fields, Firearms and Explosives Operations Branch, Bureau of Alochol, Tobacco and Firearms.

List of Subjects in 27 CFR Part 178

Administrative practice and procedure, Arms and munitions, Authority delegations, Customs delegations, Customs duties and inspection, Exports, Imports, Military personnel, Penalties, Reporting and recordkeeping requirements, Research, Seizures and forfeitures, and Transportation.

Executive Order 12291

It has been determined that this proposed rule is not classified as a "major rule" within the meaning of Executive Order 12291 of February 17, 1981 (46 FR 13193), because it will not have an annual effect on the economy of $100 million or more; it will not result in a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographical regions; and it will not have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of the United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act relating to an initial and final regulatory flexibility analysis (5 U.S.C. 603, 604) are not applicable to this proposal because the proposed rule, if promulgated as a final rule, will not have a significant economic impact on a substantial number of small entities. The proposal will allow licensees to destroy certain records that are now required to be retained on a permanent basis. The proposal will not impose, or otherwise

cause, any increase in the reporting, recordkeeping, or other compliance burdens on a substantial number of small entities.

Accordingly, it is hereby certified under the provisions of section 3 of the Regulatory Flexibility Act (5 U.S.C. 605(b)) that the notice of proposed rulemaking, if promulgated as a final rule, will not have a significant economic impact nor compliance burden on a substantial number of small entities.

Paperwork Reduction Act

The collection of information requirements contained in this proposal have been submitted to the Office of Management and Budget pursuant to section 3504(h) of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Comments on these requirements should be directed to ATF at the address specified herein and to the Office of Information and Regulatory Affairs, OMB, Washington, D.C. 20503, Attn: Desk Officer for the Bureau of Alcohol, Tobacco and Firearms.

Authority

Accordingly, under the authority in 18 U.S.C. 926 (82 Stat. 1226), the Director proposes the amendment of 27 CFR Part 178 as follows:

PART 178—COMMERCE IN FIREARMS AND AMMUNITION

Paragraph 1. The table of sections in 27 CFR Part 178, Subpart H, is amended to add a new § 178.128 to read as follows:

Subpart H—Records

Sec.

* * * * *

178.128 Record retention.

* * * * *

Par. 2. Section 178.121(a) is revised to change the retention period for records to read as follows:

§ 178.121 General.

(a) The records pertaining to firearms transactions prescribed by this part shall be retained on the licensed premises in the manner prescribed by this subpart and for the length of the time prescribed by Sec. 178.128. The records pertaining to ammunition prescribed by this part shall be retained on the licensed premises in the manner prescribed by § 178.125.

* * * * *

Par. 3. Section 178.124(b) is revised to change the retention period for firearms transaction records to read as follows:

§ 178.124 Firearms transaction record.

* * * * *

(b) Licensees shall retain in alphabetical (by name of purchaser), chronological (by date of disposition), or numerical (by transaction serial number) order, and as a part of the required records, each Form 4473 obtained in the course of transferring custody of the firearms.

* * * * *

Par. 4. The first sentence of § 178.125(e) is revised to change the retention period for firearms receipt and disposition records to read as follows:

§ 178.125 Record of receipt and disposition.

* * * * *

(e) *Firearms receipt and disposition.* Each licensed dealer and each licensed collector shall enter into a record each receipt and disposition of firearms or firearms curios or relics.* * *

* * * * *

Par. 5. Subpart H is amended by adding a new § 178.128 to read as follows:

§ 178.128 Record retention.

(a) *Records prior to Act.* Licensed importers and licensed manufacturers may dispose of records of sale or other disposition of firearms prior to December 16, 1968. Licensed dealers and licensed collectors may dispose of all records of firearms transactions that occurred prior to December 16, 1968.

(b) *Firearms transaction record.* Licensees shall retain each Form 4473 for a period not less than 20 years after the date of the transaction.

(c) *Records of importation and manufacture.* Licensed importers and licensed manufacturers shall maintain permanent records of the importation, manufacture or other acquisition of firearms. Licensed importers' and licensed manufacturers' records of the sale or other disposition of firearms after December 15, 1968, shall be retained through December 15, 1988, after which records of transactions over 20 years of age may be discarded.

(d) *Records of dealers and collectors under the Act.* The records prepared by licensed dealers and licensed collectors under the Act of the sale or other disposition of firearms and the corresponding record of receipt of such firearms shall be retained through December 15, 1988, after which records of transactions over 20 years of age may be discarded.

Signed: November 3, 1983.

Stephen E. Higgins,

Director.

Approved: December 14, 1983.

John M. Walker, Jr.,

Assistant Secretary, Enforcement and Operations.

[FR Doc. 84-3927 Filed 2-13-84; 8:45 am]

BILLING CODE 4810-31-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 84-72; RM-4644]

FM Broadcast Station in Houston, Alaska; Proposed Change Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: Action taken herein proposes to assign Channel 237A to Houston, Alaska, in response to a petition filed by the Evangelistic Alaskan Missionary Fellowship. The assignment could provide the community with its first local broadcast service.

DATES: Comments must be filed on or before March 29, 1984, and reply comments must be filed on or before April 13, 1984.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Mass Media Bureau, (202) 634-6530.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Proposed Rule Making

In the matter of amendment of § 73.202(b), table of assignments, FM broadcast stations. (Houston, Alaska); MM Docket No. 84-72, RM-4644.

Adopted: January 27, 1984.
Released: February 6, 1984.

By the Chief, Policy and Rules Division.

1. A petition for rule making was filed by the Evangelistic Alaskan Missionary Fellowship ("petitioner"), seeking the assignment of FM Channel 237A to Houston, Alaska, as its first FM assignment. Petitioner failed to state that it would apply for the channel, if it is assigned, and is requested to do so in its comments.

2. In view of the fact that the proposed assignment could provide a first FM broadcast service to Houston, Alaska, the Commission proposes to amend the FM Table of Assignments, Sec. 73.202(b)

of the Commission's Rules, with respect to the following community:

City	Channel No.	
	Present	Proposed
Houston, Alaska		237A

3. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein. Note: A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

4. Interested parties may file comments or or before March 29, 1984, and reply comments on or before April 13, 1984, and are advised to read the Appendix for the proper procedures. A copy of such comments should be served on the petitioner, or its consultant, as follows: Cecil S. Bidlock, Engineering Consultant, Evangelistic Alaskan Missionary Fellowship, 8200 Showville Rd., Cleveland, Ohio 44141.

5. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules. See, *Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's Rules,* 46 FR 11549, published Feb. 9, 1981.

6. For further information concerning this proceeding, contact Mark N. Lipp, Mass Media Bureau, (202) 634–6530. However, members of the public should note that from the time a *Notice of Proposed Rule Making* is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s), who filed the comment to which the reply is directed, constitutes an *ex parte* presentation and shall not be considered in the proceeding.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(c)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice,* they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 84–3894 Filed 2–13–84; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 73

[MM Docket No. 84–74; RM–4669]

FM Broadcast Station in Blue Hill, Maine; Proposed Change Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes to assign and reserve FM Channel *258 at Blue Hill, Maine, as that community's first noncommercial educational FM service, in response to a petition filed by the Word Corporation.

DATES: Comments must be filed on or before March 29, 1984, and reply comments on or before April 13, 1984.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 634–6530.

List of Subjects in 47 CFR Part 73 affected

Radio broadcasting.

Proposed Rulemaking

In the matter of amendment of § 73.202(b), table of assignments, FM broadcast stations (Blue Hill, Maine), (MM Docket No. 84–74 RM–4669).

Adopted: January 27, 1984.
Released: February 6, 1984.

By the Chief, Policy and Rules Division.

1. A petition for rule making has been filed by the Word Corporation ("petitioner"), proposing the assignment of Class B FM Channel *258 [1] to Blue Hill, Maine, and reservation of that channel for noncommercial educational use. The petitioner submitted information in support of the petition and expressed an interest in applying for the channel, if assigned.

2. The channel can be assigned in conformity with the minimum distance separation requirements of § 73.207 of the Commission's Rules, provided there is a site restriction of 0.8 miles south of Blue Hill to prevent short spacing to Channel 257A in Lincoln, Maine.

3. Generally commercial channels are not reserved for noncommercial educational use. However petitioner indicates that there are no noncommercial educational channels available to Blue Hill which meet both the spacing requirements and the proposals set forth in Docket No. 20735. Thus, the assignment and reservation of a commercial channel is the only way to establish a noncommercial educational station to serve the Blue Hill area. The Commission has in similar situations reserved a commercial frequency for noncommercial educational use. See, *e.g., Comobabi, Arizona*, 47 FR 32717 published July 29, 1982, and *Burlington and Newport, Vermont*, 45 R.R. 2d 786 (1979).

4. In view of the above, we are proposing the assignment and the reservation of Channel *258 to Blue Hill, Maine, for noncommercial educational use. Since Blue Hill is located within 400 kilometers (250 miles) of the common U.S.-Canadian border, the Commission must obtain Canadian concurrence in the proposal.

5. In view of the fact that the proposed assignment could provide a first noncommercial educational FM service to Blue Hill, Maine, the Commission believes it appropriate to propose amending the FM Table of Assignments, § 73.202(b) of the Rules, with respect to the following community:

City	Channel No.	
	Present	Proposed
Blue Hill, Maine		*258

6. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

[1] Petitioner originally requested Class B Channel *278. On November 2, 1983, petitioner filed an amendment to his petition requesting Class B Channel *258 in place of Channel *278.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

7. Interested parties may file comments on or before March 29, 1984, and reply comments on or before April 13, 1984, and are advised to read the Appendix for the proper procedures. Additionally, a copy of such comments should be served on the petitioners, or their counsel or consultant, as follows: Stuart B. Mitchell and Associates, 803 West Broad Street, Suite 240, Falls Church, Virginia 22046, (Attorney to the petitioner).

8. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules. See, *Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 FR 11549, published February 9, 1981.

9. For further information concerning this proceeding, contact Kathleen Scheuerle, Mass Media Bureau, (202) 634–6530. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making, other than comments officially filed at the Commission, or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes an *ex parte* presentation and shall not be considered in the proceeding.

Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303.

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), (5(c)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's Rules.)

(b) With repsect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to the effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the

Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be funished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commision's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 84-3896 Filed 2-13-84; 8:45 am]
BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 84-73; RM-4640]

FM Broadcast Station in Mio, Michigan; Proposed Change Made in Table of Assignments

AGENCY: Federal Communications Commission..

ACTION: Proposed rule.

SUMMARY: This action proposes to assign FM Channel 280A to Mio, Michigan, as its first FM assignment, in response to a petition filed by Midwest Radio Consultants, Inc.

DATES: Comments must be filed on or before March 29, 1984, and reply comments on or before April 13, 1984.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 634-6530.

List of Subjects in 47 CFR Part 73 affected

Radio broadcasting.

Proposed Rule Making

In the matter of amendment of § 73.202(b), table of assignments, FM broadcast stations. (Mio, Michigan), (MM Docket No. 84-73 RM-4640).

Adopted: January 27, 1984.
Released: February 6, 1984.

By the Chief, Policy and Rules Division.

1. A petition for rule making has been filed by Midwest Radio Consultants, Inc. ("petitioner"), proposing the assignment of FM Channel 280A to Mio, Michigan, as that community's first FM service. Petitioner expressed an interest in applying for the channel, it assigned.

2. The channel can be assigned in conformity with the minimum distance separation requirements of § 73.207 of the Commission's Rules. However, the assignment is contigent upon Station WKJC (Channel 280A), Tawas City, Michigan, switching to Channel 257A as previously ordered in BC Docket 81-854, which is currently under review by the Commission.

3. Canadian concurrence must be obtained since the proposed assignment is within 320 kilometers (200 miles) of the common U.S.-Canadian border.

4. In view of the fact that the proposal could provide a first FM service to Mio, Michigan, the Commission believes it appropriate to propose amending the FM Table of Assignments, 73.202(b) of the Rules, with respect to the following community:

City	Channel No.	
	Present	Proposed
Mio, Michigan		280A

5. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

6. Interested parties may file comments on or before March 29, 1984, and reply comments on or before April 13, 1984, and are advised to read the Appendix for the proper procedures. Additionally, a copy of such comments should be served on the petitioners, or their counsel or consultant, as follows: D.C. Schaberg, on behalf of Midwest Radio Consultants, Inc., Post Office Box 11101, Lansing, Michigan 48901-1101.

7. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the Table of Assignments, § 73.202(b) of the Commission's Rules. See, *Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 F. R. 11549, published February 9, 1981.

8. For further information concerning this proceeding, contact Kathleen Scheuerle, Mass Media Bureau, (202) 634-6530. However, members of the public should note that from the time a *Notice of Proposed Rule Making* is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making, other than comments officially filed at the Commission, or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is deirected, constitutes an *ex parte* presentation and shall not be considered in the proceeding.

Secs. 4, 303, 48 stat., as amended, 1066, 1082; 47 U.S.C. 154, 303).

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

Appendix

1. Pursuant to authority found in Section 4(i), 5(c)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings, Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a

different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 84-3885 Filed 2-13-84; 8:45 am]
BILLING CODE 6712-01-M

47 CFR Part 83

[PR Docket No. 84-29; RM-4559; FCC 84-22]

Update of Commission's Rules Governing Requirements for Radiotelegraph Auto Alarm Receivers, Automatic-Alarm-Signal Keying Devices and Ship Radar Installations in the Maritime Mobile Service

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This Notice, as it applies to the radiotelegraph auto alarm receiver, responds to a petition for rulemaking filed by SAIT Incorporated. The petitioner requested that the Commission's rules be amended to bring the requirements of radiotelegraph auto alarm receivers into conformance with those of other maritime nations to preclude dual equipment inventories and production lines. In response to the petition, the Commission is proposing new standards for radiotelegraph auto alarm receivers while permitting equipment currently in service to be used for an indefinite period. This item also proposes changes to requirements applicable to radio-telegraph automatic-alarm-signal keying devices and specifications for ship radar installations. The intended effect of this proposed action is to establish equipment standards which will promote efficient use of the spectrum with no adverse impact upon safety considerations, to establish equipment requirements consistent with modern technology and to provide for more standardized ship radar specifications. The Commission also proposes to delete the laboratory test procedures to permit manufacturers more freedom in testing their equipment. The FCC laboratory will issue a bulletin detailing the test procedures used by the FCC to evaluate auto alarm receivers and automatic-alarm-signal keying devices.

DATES: Comments must be received on or before March 26, 1984 and reply comments must be received on or before April 10, 1984.

ADDRESS: Send comments to: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Robert E. Mickley, Private Radio Bureau, (202) 632-7175.

List of Subjects in 47 CFR Part 83

Communication equipment, Marine safety, Radio, Ship stations, Telegraph, Vessels.

Proposed Rule Making

In the matter of requirements for radiotelegraph auto alarm receivers, radiotelegraph automatic-alarm-signal keying devices and ship radar installations in the Maritime Mobile Service, PR Docket No. 84-29; RM-4559.

Adopted: January 19, 1984.
Released: February 3, 1984.

By the Commission.

1. In this Notice we propose to amend Part 83 of our rules with regard to the requirements for radiotelegraph auto alarm receivers, radiotelegraph automatic-alarm-signal keying devices and ship radar installations in the Maritime Mobile Service.

Auto Alarm Receiver

2. Cargo ships subject to the radiotelegraph provisions of Title III, Part II of the Communications Act of 1934, as amended, which carry only one radio officer, are required by the Act to be fitted with radiotelegraph auto alarm receivers. Such auto alarm receivers are required to be capable of receiving radiotelegraph signals transmitted on 500 kHz, the international distress and calling frequency, and to be in operation when the radio officer is not on watch.

3. The Commission's rules mandate that a radiotelegraph auto alarm receiver respond without adjustment and with the same sensitivity to signals on the frequencies from 492 kHz to 508 kHz inclusive. This provision has been in existence for many years and is based upon the Safety of Life at Sea (SOLAS) Convention Regulations. The SOLAS regulations are flexible in that they provide for uniform sensitivity over a band extending not less than 4 kHz and not more than 8 kHz on each side of the frequency 500 kHz. As indicated, the Commission's rules specify the maximum bandwidth allowable.

The World Administrative Radio Conference (WARC), Geneva, 1979, adopted a 10 kHz guardband from 495 kHz to 505 kHz for the frequency 500 kHz. [1] The rationale for this action was that technical progress has led to the production of more stable and reliable equipment and that the radio frequency spectrum should be used in the most efficient way possible. While the date of entry into force for the new guardband arrangements has not been established, plans are being made to establish such a date, not earlier than January 1, 1990, at the next competent WARC scheduled for 1987. [2]

4. SAIT, Incorporated has filed a petition requesting that Part 83 of the rules be amended to bring the requirements for radiotelegraph auto alarm receivers into conformance with the 10 kHz (495 to 505 kHz) guardband arrangement adopted by the WARC, Geneva, 1979. The petitioner recommended that the pass-band of the receiver be reduced from 16 kHz to 8 kHz and that new and compatible minimum attenuation requirements be established. The petitioner also suggested that provision be made in the rules to permit the phasing out of auto alarm receivers covered by type approval grants made prior to the effective date of the proposed amendment.

5. In justification of the petition, SAIT, Inc., pointed out that:

a. The proposal would be consistent with SOLAS Regulations,

b. The recommended narrower pass-band would make the receiver less susceptible to unwanted sideband

[1] See Recommendation 200 of the World Administrative Radio Conference, Geneva, 1979.

[2] See Resolution COM 4/5 of the World Administrative Radio Conference for Mobile Services, Geneva, 1983.

signals/noise and more responsive to alarm signals, and that

c. Standardized auto alarm receiver requirements would eliminate the cost of a double inventory and a double production line which is now required to meet the requirements of both United States and foreign flag vessels.

6. This rulemaking proceeding proposes a United States national standard for radiotelegraph auto alarm receivers and a transition plan which will provide for the use of new equipment while taking into account an adequate amortization period for equipment currently in service. The intended effect is to establish equipment standards which will promote efficient use of the spectrum with no adverse impact upon safety considerations. With respect to new auto alarm installations, a cutoff date which would preclude installation of currently type approved auto alarms has not been proposed. We consider that a manufacturer's inventory of older equipment coupled with a stock depletion rate would be essential data upon which to establish a reasonable cut-off date if one is to be established. Comments and data regarding this aspect of auto alarm regulation are specifically invited.

7. This proceeding also proposes to amend the rules applicable to the auto alarm receiver by removing the requirement for manufacturer's tests and the FCC laboratory test procedures. The design specifications previously found in the manufacturers' tests and the FCC laboratory test procedures have been incorporated into the auto alarm technical requirements. The FCC laboratory test procedures will be issued by the Commission in the form of an Office of Science and Technology (OST) Bulletin.

8. In order to accommodate the new rule provisions discussed above, it will be necessary to amend the rules to reflect §§ 83.453, 83.554, 83.555, 83.556 and 83.557, as shown in the Appendix.

Automatic-Alarm-Signal Keyer

9. The automatic-alarm-signal keyer is required to be fitted on board vessels subject to Title III, Part II of the Communications Act of 1934, as amended. The function of the automatic-alarm-signal keyer is to generate the radiotelegraph alarm signal and to provide a means to key this alarm signal into the 500 kHz main or reserve transmitter.

10. The output of the automatic-alarm-signal keyer contains a relay, the contacts of which must be capable of carrying the current/voltage used in the keying circuits of shipboard transmitters. Section 83.555 of the Commission rules provides that such equipment shall be tested for a direct current carrying capacity of two amperes through a noninductive resistance of 115 ohms.

11. The keying circuits of automatic-alarm-signal keyers used on nearly all newly installed shipboard main and reserve transmitters are designed to operate at 12 and/or 24 volts of direct current with a carrying capacity of less than 0.5 amperes (500 milliamperes). Therefore, it appears that the two ampere, 115 ohm test required by the Commission's rules is outdated and should be amended. We are proposing revised technical requirements with respect to the current/voltage capacity of the output relay of automatic-alarm-signal keyers while retaining provisions in the rules for those cases involving more demanding shipboard transmitters. Specifically, the standard contained in § 83.555(c)(5)(i) of the rules would be amended to require the transmitter keying circuit of the device to have a direct current carrying capacity of 2.0 amperes through a noninductive resistance of 115 ohms, or 0.75 amperes through a noninductive resistance of 32 ohms, whichever is appropriate. This standard would ensure that the keying circuit of type approved automatic-alarm-signal keyers would be sufficient to key all type approved shipboard transmitters. This revision would be contained in a renumbered § 83.562, as shown in the Appendix.

12. This rulemaking proceeding proposes to amend the rules applicable to the automatic-alarm-signal keyer by removing the requirement for manufacturers' tests and the FCC laboratory test procedures. The design specifications previously found in the manufacturers' test and the FCC laboratory test procedures have been incorporated into the automatic-alarm-signal keyer technical requirements. The FCC laboratory test procedures will be issued by the Commission in the form of an Office of Science and Technology (OST) Bulletin.

13. In order to accommodate the new rule provisions discussed above, it will be necessary to amend the rules to reflect §§ 83.451, 83.561, 83.562 and 83.564, as shown in the Appendix.

Ship Radar

14. Ship radar specifications are incorporated in the rules by reference to the Radio Technical Commission for Marine Services (RTCM) Final Report of Special Committee No. 65-Ship Radar. Change 1 to Volume II of the RTCM Final Report amended the RTCM performance specifications for general purpose navigational radar sets for ocenangoing ships of 1600 tons gross tonnage and upwards for new radar installations. The net result of the change is that the RCTM radar specifications now meet or exceed the International Maritime Organization's (IMO) performance standards for radar equipment as contained in IMO Resolution A.477 (XII) adopted November 19, 1981. Proposed amendments to §§ 83.405 and 83.465, as shown in the Appendix, consolidate special provisions applicable to ship radar stations and incorporate RTCM Change 1 into the radar performance specifications.

Comments

15. For purposes of this non-restricted notice and comment rulemaking proceeding, members of the public are advised that *ex parte* contacts are permitted from the time the Commission adopts a notice of proposed rulemaking until the time a public notice is issued stating that a substantive disposition of the matter is to be considered at a forthcoming meeting or until a final order disposing of the matter is adopted by the Commission, Whichever is earlier. In general, an *ex parte* presentation is any written or oral communication (other than formal written comments/pleadings and formal oral arguments) between a person outside the Commission and a Commissioner or a member of the commission's staff which addresses the merits of the proceeding. Any person who submits a written *ex parte* presentation must serve a copy of that presentation on the Commission's Secretary for inclusion in the public file. Any person who makes an oral *ex parte* presentation addressing matters not fully covered in any previously-filed written comments for the proceeding must prepare a written summary of that presentation; on the day of oral presentation, that written summary must be served on the Commission's Secretary for inclusion in the public file, with a copy to the Commission official receiving the oral presentation. Each *ex parte* presentation described above must state on its face that the Secretary has been served, and must also state by docket number the proceeding to which it relates. See generally, § 1.1231 of the Commission's rules, 47 CFR 1.1231.

16. The proposed amendments to the rules, as set forth in the Appendix, are issued under authority contained in section 4(i) and 303 (a), (b), (c), and (r) of the Communications Act of 1934, as amended.

17. Under the applicable procedures set forth in § 1.415 of the Commission's rules, interested persons may file comments on or before March 26, 1984 and reply comments on or before April 10, 1984. All relevant and timely comments and reply comments will be considered by the Commission before final action is taken in this proceeding. In reaching its decision, the Commission may take into consideration information and ideas not contained in the comments, provided such information or a writing indicating the nature and source of such information is placed in the public file, and provided that the fact of the Commission's reliance on such information is noted in the Report and order.

18. In accordance with the provisions of § 1.419 of the Rules and Regulations, 47 CFR 1.419, formal participants shall file an original and 5 copies of their comments and other materials. Participants wishing each Commissioner to have a personal copy of their comments should file an original and 11 copies. Members of the general public who wish to express their interest by participating informally may do so by submitting one copy. All comments are given the same consideration, regardless of the number of copies submitted. All documents will be available for public inspection during regular business hours in the Commission's Public Reference Room at its headquarters in Washington, D.C.

19. This item proposes rules amendments which will modify the technical and laboratory testing standards applicable to automatic alarm receivers/keying devices and the specifications for radar to be used upon large oceangoing vessels compelled by law to be fitted with radiotelegraph and radar equipment meeting specified standards. Since no equipment currently in service will be excluded from use as a result of the proposed amendments, and since there are no small entities which manufacture this type of equipment, we certify, pursuant to Section 605 of the Regulatory Fexibility Act of 1980 (Pub. L. 96–354), that the proposed rules will not, if promulgated, have a significant economic impact on a substantial number of small entities.

20. For further questions on matters covered in this document, contact Robert E. Mickley, (202) 632–7175.

21. It is ordered, That a copy of this Notice of Proposed Rule Making shall be sent to the Chief Counsel for Advocacy of the Small Business Administration.

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix

Part 83 of Chapter I of Title 47 of the Code of Federal Regulations is proposed to be amended as follows:

PART 83—STATIONS ON SHIPBOARD IN THE MARITIME SERVICE

§ 83.141 [Amended]

1. In § 83.141, the reference to "§ 83.557(b)(4) (i), (ii), (v) and (vi)" in paragraph (c) is revised to read "§ 83.568(b)(4) (i), (ii), (v) and (vi)".

2. Section 83.405 is amended by revising paragraphs (b)(1) and (b)(3)(vi), as shown below, and by removing the hyphen between "ship" and "radar" in paragraph (c).

§ 83.405 Special provisions applicable to ship radar stations.

* * * * *

(b) * * *

(1) The station licensee of each ship radar station shall provide and require to be kept at the station a permanent installation and maintenance record. Entries in this record shall be made by or under the personal direction of the responsible installation, service, or maintenance operator concerned in each particular instance, and the station licensee shall have joint responsibility with the responsible operator for the accurate making of the required entries.

* * * * *

(3) * * *

(vi) An entry shall be made without undue delay in the ship radar station log whenever:

(A) the radar becomes inoperative or its output becomes in any way suspect;

(B) a radar is cleared (including the means by which the clearance was accomplished); or

(C) any maintenance is carried out.

* * * * *

3. Section 83.443 is amended by revising paragraphs (a) and (c) to read as follows:

§ 83.443 Radio installations.

(a) The main radiotelegraph installation includes a main transmitter, a main receiver, a main power supply, and a main antenna system.

* * * * *

(c) The radiotelephone installation includes a radiotelephone transmitter, a radiotelephone receiver, a radiotelephone distress frequency watch receiver and an appropriate antenna system.

§ 83.444 [Amended]

4. Section 83.444 is amended by removing paragraph (h).

§ 83.445 [Amended]

5. Section 83.445 is amended by removing the Footnote 1 symbol following the section heading and by removing Footnote 1 associated therewith.

§ 83.451 [Amended]

6. In § 83.451, the reference "§ 83.555" is revised to read "§ 83.561".

7. Section 83.453 is amended by revising paragraph (b) to read as follows:

§ 83.453 Radiotelegraph auto alarm.

* * * * *

(b) The following radiotelegraph auto alarms are acceptable for use pursuant to § 83.205:

(1) A radiotelegraph auto alarm that was type approved by the Commission, prior to (effective date of Report and Order associated with this rulemaking item).

(2) A radiotelegraph auto alarm that was type approved by the Commission subsequent to (effective date of Report and Order associated with this rulemaking item), pursuant to § 83.554, to be compatible with a 10 kHz guardband.

* * * * *

§§ 83.463a and 83.464 [Amended]

8. Section 83.464 is removed and § 83.463a is redesignated § 83.464.

9. Section 83.465 is revised to read as follows:

§ 83.465 Radar installation requirements and specifications.

(a) All radar installations provided to meet the requirements of the Safety Convention shall comply with the following requirements in addition to all other applicable requirements of Part 83:

(1) The main display position of the radar station shall be located in the wheelhouse and the radar shall be capable of being switched on and off and operated from that position.

(2) A reflection plotter shall be available and facilities for plotting provided as necessary.

(b) All compulsorily installed ship radar stations shall, in addition to meeting all other relevant provisions of this chapter, comply with the applicable radar specifications issued by the Radio Technical Commission for Marine Services under date of July 18, 1978, as given in the Final Report of Special Committee No. 65–Ship Radar, as amended by Change 1 to Volume II. These requirements took effect on April

27, 1981, and were not retroactive. These specifications may be obtained from the commercial duplication firm awarded a contract by the Commission to make copies of Commission records and offer them for sale to the public. The name and address of the current Contractor is contained in Section. 0.465 of the Commission rules. The applicable specifications hereby incorporated by reference in this subpart are as follows:

(1) For radar equipment installed after May 25, 1980, the applicable document is entitled "Performance Specification for a General Purpose Navigational Radar Set for Oceangoing Ships of 1600 Tons Gross Tonnage and Upwards, For New Radar Installations." This specification including its Appendix A—Design and Testing Specifications—may be found in Part I of Volume II of the SC–65 Final Report.

(2) For equipment installed before May 25, 1980, the applicable document is entitled "Performance Specification for a General Purpose Navigational Radar Set For Oceangoing Ship of 1600 Tons Gross Tonnage and Upwards For Ships Already Fitted." This specification may be found in Part II of Volume II of the SC–65 Final Report.

(3) Recommendations for tools, test instruments, spares and technical manuals may be found in Appendices I, II, III and IV of Part IV of Volume III of the SC–65 Final Report.

(4) Specifications for reliability testing may be found in Part V of Volume III of the SC–65 Final Report under the title "Equipment Reliability Specification for Design and Production of Radar, Collision Avoidance, and Marine Radar Interrogator-Transponder Equipment".

§ 83.467 [Amended]

10. In § 83.467, the reference "§ 8.466" is corrected to read "§ 83.466".

§ 83.469 [Amended]

11. In § 83.469, the reference to "§§ 83.556 and 83.558" in paragraph (b) is revised to read "§§ 83.567 and 83.569" respectively.

§ 83.472 [Amended]

12. In § 83.472, the reference to "§§ 83.556 and 83.557" in paragraph (a) is revised to read "§§ 83.567 and 83.568", and the reference to "§ 83.557" in paragraph (c) is revised to read "§§ 83.568".

§ 83.488 [Amended]

13. In § 83.488, the reference to "§ 83.559" is revised to read "§ 83.570".

14. Section 83.554 is revised to read as follows:

§ 83.554 Requirements for radiotelegraph auto alarm.

(a) To be type approved by the Commission pursuant to Section 3(x) of the Communications Act, radiotelegraph auto alarms must comply with the requirements contained in §§ 83.555 through 83.557 of the Commission's rules.

(b) No change may be made in any auto alarm under the type approval authorization issued by the Commission, except as specifically authorized by the Commission. An application with pertinent detailed information must be submitted to the Commission for consideration and action before making any changes in an auto alarm.

15. Section 83.555 is revised to read as follows:

§ 83.555 Basic technical requirements for radiotelegraph for auto alarm.

(a) The auto alarm shall be capable of being operated by four consecutive dashes when the dashes vary in length from 6.0 to 3.5 seconds, and the intervening spaces vary in length between 1.5 seconds and 10 milliseconds.[1] It shall not respond to dashes longer than 6.31 seconds or shorter than 3.33 seconds, nor to spaces longer than 1.58 seconds or shorter than 5 milliseconds except as folllows:

(1) Auto alarms of the non-digital type employing resistance-capacitance timing covered by type approval granted before October 1, 1969, and placed in service on or before January 1, 1975, need only satisfy the following limits: the auto alarm shall not respond to dashes longer than 7.40 seconds or shorter than 2.80 seconds, nor to spaces longer than 1.80 seconds or shorter than 5 milliseconds.

(2) Auto alarms of the digital type employing a stable clock as the basic timing device covered by type approval granted before May 1, 1968, and placed in service on or before December 1, 1975, may accept dashes whose lower limit extends down to 3.0 seconds.[1]

(b) In the absence of any interference, without manual adjustment during operation, the auto alarm must be capable of positive and reliable operation with a minimum available signal of 100 microvolts RMS applied to an artificial antenna consisting of a 20 microhenry inductance, a 500 picofarad capacitor, and a 5 ohm resistor connected in series. It must be capable under these conditions of operations on signals of the following classes of emission:

(1) A1;

(2) A2 (carrier modulated at any modulation percentage from 30 through 100 percent at any modulation frequency from 300 through 1350 hertz);

(3) A2H (carrier keyed and emitted at any power level from 3 through 6 decibels below peak envelope power. modulated at any modulation frequency from 300 through 1350 hertz).

(c) The overload capacity must enable the auto alarm to operate with signal levels up to 1 volt under normal operating conditions.

(d) The auto alarm must respond to the alarm signal through noncontinuous interference caused by atmospherics and powerful signals other than the alarm signal. In the presence of atmospherics or interfering signals, the auto alarm must automatically adjust itself within a reasonable time to the condition in which it can most readily distinguish the alarm signal.

(e) The auto alarm receiver must be capable of operating when the received alarm signals have a frequency of 500 kilohertz with sensitivity as set forth in paragraph (b) of this section and must respond, without adjustment, with practically uniform sensitivity to signals over a band extending no less than 4 kHz on each side of the 500 kHz radiotelegraph frequency and with a minimum attenuation of:

6 db at 495.0 kHz and 505.0 kHz
40 db at 487.0 kHz and 513.0 kHz
80 db at 475.0 kHz and 525.0 kHz

(f) The auto alarm warning device must not be activated by atmospherics or by any signal from the antenna circuit other than the alarm signal.

(g) When the auto alarm is activated by a valid alarm signal, it must cause a continuous audible warning to be given in the principal radiotelegraph operating room, in the radio operator's cabin and on the bridge. Insofar as may be practicable, the audible alarm must also be given in the event of any failure of the auto alarm system, as a whole, which results in the auto alarm becoming inoperative.

(h) For the purpose of regularly testing the auto alarm without connection to the antenna, the apparatus must include a generator pretuned to the 500 kHz distress frequency and a keying device by means of which an alarm signal of minimum strength as indicated in paragraph (b) of this section is produced solely for actuating the particular auto alarm and is not radiated beyond the immediate area of the vessel.

§§ 83.556, 83.557, 83.558, and 83.559 [Redesignated]

16. Sections 83.556, 83.557, 83.558 and 83.559 are redesignated §§ 83.567, 83.568,

[1] The acceptability of an auto alarm during field inspection under the limits specified in this exception will be determined in the absence of any interference.

83.569 and 83.570, respectively. In the newly designated § 83.567, the reference to "§ 83.557 and 83.558" in the introductory text is revised to read "§§ 83.568 and 83.569".

17. A new § 83.556 is added to read as follows:

§ 83.556 Requirements for radiotelegraph auto alarm.

(a) The auto alarm shall consist of:

(1) A radio receiver capable of receiving emissions of classes A1, A2 and A2H over the entire frequency range 496 through 504 kHz.

(i) The receiver must reject signals +106 dB/uv at ±150 kHz from the center frequency and +88 dB/uv at ±40 kHz from the center frequency.

(ii) The receiver must respond to signals from 100 microvolts to 1 volt on the center frequency. There must be less than 6 db variation in sensitivity from 496 kHz through 504 kHz.

(2) A device capable of selecting the alarm signal specified under paragraph (a) and (b) of § 83.555.

(3) An audible alarm (minimum of 3 units, to meet the three location installation requirements of § 83.555(g)).

(4) A testing device to determine locally that the auto alarm system is operative.

(b) The auto alarm may be constructed in one or more units, but must be independent of the ship's regular radio receiving apparatus.

(c) A telephone jack must be provided to permit reception by a telephone receiver.

(d) Tuning and timing controls must not be accessible to the exterior of the device and must permit adjustment only by special tools designed solely for this purpose.

(e) Once set into operation the audible alarms must continue to function until switched off in the principal radiotelegraph operating room.

(f) A nonlocking or momentary-throw switch must be provided to permit temporary disconnection of the audible alarm on the bridge and in the operator's quarters when the auto alarm system is being tested.

(g) Failure of the auto alarm power supply must activate the aural warning device.

(h) The auto alarm system must operate within the sensitivity specifications throughout the temperature range 0–50 degrees Celsius at relative humidities as high as 95%.

(i) Condensers, transformers, or other units must not contain compounds which will flow at temperatures below 85 degrees Celsius, which will crack at temperatures above 0° Celsius, which are hygroscopic or which contain any corrosive substance.

(j) Provisions must be made to protect the auto alarm system from excessive currents, power supply reversals and voltage variations which could cause damage to any component.

(k) The auto alarm must be capable of operating when subjected to vibrations having a frequency between 20 and 30 Hertz and an amplitude of 0.03 inch in a direction at an angle of 30 to 40 degrees with the base of the auto alarm.

18. A new § 83.557 is added to read as follows:

§ 83.557 Requirements for testing and approval of radiotelegraph auto alarm.

Before an auto alarm receiver is approved by the Commission a working unit of such auto alarm receiver must be submitted for testing. Such tests will be conducted by the Commission and other cooperating United States Government agencies as may be appropriate.

19. A new § 83.561 is added to read as follows:

§ 83.561 Requirements for automatic-alarm-signal keying device.

(a) To be approved by the Commission for use as specified in §§ 83.451 and 83.452, each type of automatic-alarm-signal keying device must comply with the requirements contained in §§ 83.562 and 83.564.

(b) No change may be made in any automatic-alarm-keying device under the type approval authorization issued by the Commission, except as specifically authorized by the Commission. An application with pertinent detailed information must be submitted to the Commission for consideration and action before making any change in an automatic-alarm-keying device.

20. A new § 83.562 is added to read as follows:

§ 83.562 Technical requirements for automatic-alarm-signal keying device.

(a) The automatic-alarm-signal keying device may consist of one or more units.

(b) The device must be designed to activate the keying circuits of any transmitter approved by the Commission for use as a main or reserve transmitter in compliance with section 355 of the Communications Act of 1934, as amended.

(c) Timing-adjustment controls must not be accessible from the exterior of the device and must be designed and housed so as to prevent adjustment by unauthorized persons.

(d) The keying mechanism must be able to repeatedly transmit the alarm signal. For this purpose the dashes transmitted must have a duration of 3.8 to 4.2 seconds, and spaces between each of the twelve dashes constituting a series must have a duration of 0.8 to 1.2 seconds. Spaces between each series of twelve dashes must have a duration of 0.8 second to one minute. This operation must be sustainable with power supply voltage variations of ±15%.

(e) A signal control, protected to avoid accidental manipulation, must be provided for placing the device into full operation within a maximum period of 30 seconds. Once in operation, the device must be capable of continuous operation without attention for at least one hour.

(f) The automatic-alarm-signal keying device must be capable of operation from the ship's reserve source of electrical energy.

(g) Instructions concerning the proper adjustment of the device and the correct indication of any instrument incorporated to reveal improper operation must be inscribed in a durable manner on a plate mounted on the device in a position to be easily read by the operator.

(h) Means must be provided to insure that when the "on-off" control of the device is placed in the "off" position, the keying circuit to the radio transmitter(s) is automatically opened.

(i) The keying circuit must be capable of switching 0.75 amperes DC through a non-inductive resistance of 32 ohms. If the automatic alarm-signal-keying device is also intended to be usable in conjunction with transmitters requiring a keying circuit capability of 2 amperes DC through 115 ohms non-inductive resistance, the keying circuit of the device shall comply with this latter requirement.

(j) The automatic-alarm-signal keying device must operate within specifications throughout the temperature range 0–50 degrees Celsius at relative humidities as high as 95%.

(k) Provisions must be made to protect the automatic alarm-signal-keying device from excessive currents, power supply reversals and voltage variations which could cause damage to any component.

(l) The automatic alarm-signal-keying device must be capable of operating when subjected to vibrations having a frequency between 20 and 30 Hertz and an amplitude of 0.03 inch in a direction at an angle of 30 to 40 degrees with the base of the automatic alarm-signal-keying device.

21. A new § 83.564 is added to read as follows:

§ 83.564 Requirements for testing and approval of automatic-alarm-signal keying device.

An automatic alarm-signal-keying device shall be type approved by the Commission. Application for type approval may be made by following the procedure set forth in Subpart J of Part 2 of the Commission's rules. The type approval procedure requires, among other things, that a working unit of the type for which approval is desired must be submitted to the Commission for testing. Such tests will be conducted by the Commission and other cooperating United States Government agencies as may be appropriate.

[FR Doc. 84-3907 Filed 2-13-84; 8:45 am]
BILLING CODE 6712-01-M

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47 CFR Part 90

[PR Docket No. 84-30; RM-4444; FCC 84-23]

Reserve Frequencies for Emergency Electrical Alarm Protection

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission has adopted a Notice of Proposed Rule Making which proposes to amend Part 90 to permit central station electrical protection companies to have the first right to use the interstitial frequencies between the 5 frequency pairs reserved for their exclusive use, and to use antenna heights in excess of the current 20 foot limitation. This will enable these entities to continue to provide security alarm services to commercial customers and the public.

DATES: Comments are due by March 16, 1984, and replies by April 2, 1984.

ADDRESS: Federal Communications Commission, 1919 M Street, NW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Keith A. Plourd, Rules Branch, Land Mobile & Microwave Division, Private Radio Bureau (202) 634-2443.

List of Subjects in 47 CFR Part 90

Business radio service, Radio.

Proposed Rule Making

In the Matter of amendment of Part 90 of the Commission's rules and regulations to reserve frequencies for emergency electrical alarm protection; PR Docket No. 84-30, RM-4444.

Adopted: January 19, 1984.
Released: February 6, 1984.

By the Commission.

1. On April 18, 1983, the Central Station Electrical Protection Association (CSEPA) submitted a petition requesting the Commission to set aside frequencies in the 450-470 MHz, 928-929 MHz and 952-960 MHz bands exclusively for the transmission of electrical alarm signals.[1] CSEPA is the national association of operators of central alarm stations which are listed or approved by various insurance risk rating agencies, including Underwriters' Laboratories, Inc. and Factory Mutual.

2. In the 450-470 MHz band, CSEPA asks the Commission to set aside three pairs of 12.5 kHz offset frequencies for use nationwide and three pairs for use within urbanized areas of 200,000 or more population.[2] CSEPA seeks authority to operate on these frequencies with antenna heights exceeding 20 feet above ground, but not more than 20 feet above man-made structures. At 900 MHz, in spectrum allocated for utility distribution systems and other multiple address systems, CSEPA requests that seven paired and four single frequencies be reserved exclusively for electrical alarm signalling use. It also requests a relaxation of frequency stability requirements at 952-960 MHz to keep remote units economically viable.

Background

3. In characterizing the needs of the electrical alarm protection industry for additional spectrum, CSEPA cites inflation and reduction of manpower in the nation's public safety enforcement agencies as causing a growing reliance on the private sector for security services. CSEPA also indicates that the Law Enforcement Assistance Administration (LEAA) of the United States Department of Justice has recognized the ability of the electrical alarm industry to "greatly improve the potential for reducing unauthorized entries * * * ."[3] CSEPA claims that these observations, coupled with the insurance industry's endorsement of electrical alarms through reduced premiums and the numerous statistics on the inceasing occurrences of unauthorized entry and other crimes, establish the need for effective, low cost electrical alarm protection systems.

3. Part of CSEPA's goal is "to secure maximum utilization of available modes for transmitting alarm signals." CSEPA indicates that this goal is becoming increasingly more difficult to attain because direct current (DC) telephone lines, upon which many alarm systems rely, are being removed from service. In addition, CSEPA claims that the cost of available telephone circuits is rising, making electrical protection services more costly and out of reach of many who need them.

Comments

4. Comments were filed by the National Association of Business and Educational Radio (NABER), the Special Industrial Radio Service Association (SIRSA), and the Central Committee on Telecommunications of the American Petroleum Institute (API). CSEPA and the National Burglar and Fire Alarm Association (NBFAA) filed reply comments.

5. NABER, SIRSA and API strongly object to the petition, particularly to its 900 MHz provisions. They claim that CSEPA's request exceeds Public Safety Radio Service accommodations at 900 MHz; would severely limit access by the other radio services; and would promote the inefficiencies of the block allocation system of spectrum management. API notes that the 900 MHz proposal runs counter to the sharing philosophy of spectrum management because it seeks an exclusive allocation. NABER contends CSEPA has not made an adequate showing of the current use of central station protection frequencies to justify any such allocation.[4] The commentors also ask waht accommodations would be made to satisfy the needs of the licensees, now operating on offset frequencies in the 450-470 MHz band, who would be displaced by CSEPA's exclusive use of those frequencies. At the very least, according to API, these licensees should be permitted to continue operations on these frequencies.

6. NBFAA, in its reply comments, fully supported the CSEPA petition. It argues the commentors under-value "the high public interest objectives that would be advanced by grant of the radio

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[1] CSEPA requests the Commission to set aside the following frequencies (MHz) which currently are available for use by eligibles in the Business Radio Service, including CSEPA members: 460.8875, 460.9125, 460.9375, 460.9625, 460.9875, 461.0125, 465.8875, 465.9125, 465.9375, 465.9625, 465.9875 and 466.0125 MHz. These frequencies have a two watt power limitation and their use is on a secondary, non-interference basis to operations on channels 12.5 kHz removed. CSEPA also requests seven paired and four single frequencies (a total of 18) from the Private Operational-Fixed Microwave Service bands 928-929 and 952-960 MHz which are allocated for multiple address radio systems.

[2] These frequencies, located interstitially between primary channels, are allocated for secondary, low power use. *Report and Order*, PR Docket No. 80-605, 46 FR 45953 (September 16, 1981).

[3] CSEPA cites an August 1976 LEAA paper entitled, "Survey and System Concepts for a Low Cost Burglary Alarm System for Residences and Small Business," prepared by the Aerospace Corporation for the National Institute of Law Enforcement and Criminal Justice.

[4] See § 90.75(c) (27) and (28) of the Commission's Rules and Regulations, 47 CFR 90.75(c) (27) and (28).

frequency operating privileges requested by CSEPA."

7. CSEPA, in its reply comments, stated that these activities would be appropriate in the proposed 900 MHz allocation because this spectrum has been allocated for such multiple address systems. It pointed to recent actions by the Commission in allocating geographic and service-specific rules in various radio services, including Special Industrial, in refuting the commentors' stance on block allocation practices.[5] CSEPA claimed that its needs are more justified than many others, particularly in view of the Commission's consideration of large allocations for what CSEPA calls "convenience radio services" at 900 MHz frequencies.[6] CSEPA reaffirmed its concern for the current and future availability of radio channels for electrical alarm use and stated that now is the appropriate time to reserve offset frequencies in the 450–470 MHz band because of their availability. CSEPA stated that to grandfather current users of those frequencies would not unduly inpede its goals.

Discussion and Proposal

8. On July 26, 1961, the Commission allocated four frequencies and four frequency pairs at 900 MHz to central station protection eligibles.[7] In 1975, when Part 94 was codified, the Commission re-allocated these frequencies generally to all Private Land Mobile Radio Services eligibles because the central station protection industry had made little or no use of the channels in the intervening 14 year period.[8] In the re-allocation the Commission concluded that the spectrum made available at 900 MHz on a non-exclusive basis would be sufficient to accommodate the requirements of CSEPA's members.[9] We are still unable, at this time, to justify a reallocation of the 900 MHz channels to CSEPA and to the exclusion of others when the use of this spectrum by others is also clearly in the public interest, but we ask for further information which might lead us to a clearer determination of whether an exclusive allocation at 900 MHz would be appropriate. Our desire to prevent spectrum from lying fallow resulted in our decisions governing interservice frequency sharing, and granting CSEPA's exclusive request in this band would contravene the philosophy of those decisions.[10] However, we have made exceptions in the past for public safety related uses and we ask for comments on the merits of an exclusive allocation for CSEPA at 900 MHz. We stress that CSEPA's members remain eligible for operations in the 928–92 9/952–960 MHz band. The technical limitations of these bands do not conflict with the needs stated in CSEPA's Petition and central station protection equipment is available and type accepted to operate in this band.[11] We see no impediment to the growth of the electrical alarm industry as a consequence of this action.

9. With regard to the 450–470 MHz band, we believe some relief for CSEPA can be obtained without detriment to other licensees in the band. To this end we propose to amend the rules to permit CSEPA to coordinate the eight offset frequencies which are located between the 5 frequency pairs now allocated to CSEPA on a primary basis. This approach is a logical extension of the decision which established the 12.5 kHz offset frequencies in the 450–470 MHz band.[12] Because other services could be affected adversely, however, we do not propose to reserve the offset channel pairs immediately adjacent to this block of 5 frequency pairs. This is also consistent with the 12.5 kHz offset frequency decision.

10. In proposing this action, we continue to voice our concern that spectrum allocated to a specific service or use not be allowed to lie fallow for protracted periods of time. Therefore, we propose to subject CSEPA's use of these offset frequencies to the interservice frequency sharing provisions of our rules.[13] Further, we anticipate grandfathering existing licensees on these offsets, which would preclude harm to any currently licensed operations. In situations in which CSEPA members did not use this spectrum, others would be permitted to do so in the public interest.

11. We do not propose to establish primary status for these offset frequencies because we believe the low-power, secondary status protects the higher power uses on the primary frequencies and permits system options not available on the primary frequencies. Moreover, as a result of the secondary status, we find it possible to propose permitting licensees on these 8 offset frequencies to exceed the 20 foot above ground antenna height limit. We would allow, as CSEPA requested, antennas up to 20 feet above man-made supporting structures, excluding antenna structures.[14] Interference from systems with elevated antennas on these offsets would affect only systems which would also be coordinated by CSEPA. Therefore, since all the affected channels would be coordinated by CSEPA, we see no significant interference problems in permitting this variance to the 20 foot rule.

12. In summary, the Commission proposes to reserve eight frequencies located 12.5 kHz between the 5 primary channel pairs in the 450–470 MHz band which are currently allocated for central station protection operation. The 8 frequencies (four channel pairs) would be coordinated by CSEPA, would be subject to secondary use, and would further be subject to interservice frequency sharing requirements set out in § 90.176 of the Rules, 47 CFR 90.176. Licensees would be permitted to use antennas with heights less than 20 feet above man-made supporting structures, excluding antenna structures. Current licensees as of the effective date of adoption of these proposed rules would be grandfathered indefinitely.

Regulatory Flexibility Act Initial Analysis

13. The Commission certifies that Section 603 and 604 of the Regulatory Flexibility Act of 1980 (Pub. L. 96–354) do not apply to this rule making proceeding because the rules will not, if promulgated, have a significant economic impact on a substantial number of small entities. The Commission affirms that current licensees will not be required to incur any obligations, financial or otherwise, and will be permitted to renew their authorizations indefinitely. The rules, if ultimately adopted, would further the public interest, convenience and necessity by promoting radio systems which can be used to deter crime. No additional reporting requirements would be imposed.

Ordering Clauses

14. Accordingly, notice is hereby given of rule making to amend Part 90 of the Commission's Rules and Regulations, in

[5] CSEPA refers to the Commission's *Report and Order*, PR Docket No. 79–167, FCC 80–194, released April 24, 1980.

[6] See *Notice of Proposed Rule Making*, General Docket No. 83–26, 48 FR 12228, March 23, 1983.

[7] *Report and Order*, Docket No. 13953, 42 FCC 1122 (July 26, 1961).

[8] *Report and Order*, Docket No. 19869, 52 FCC 2d 894 (May 6, 1975).

[9] *Memorandum Opinion and Order*, Docket No. 19869, 56 FCC 2d 646 (Nov. 14, 1975).

[10] *Report and Order*, PR Docket No. 80–605, 46 FR 45953 (September 16, 1981).

[11] Transmitters operated at remote sites as part of a central station electrical alarm system are permitted a tolerance of 0.002%. See 47 CFR 94.67(a), footnote 1.

[12] *Report and Order*, PR Docket No. 80–605, 46 FR 45953 (September 16, 1981).

[13] See 47 CFR 90.176.

[14] Our experience in licensing offset frequencies in New York suggests that tall buildings do pose certain communications problems at ground level. See 47 CFR 90.267.

accordance with the proposal set forth in the attached appendix. CSEPA's Petition is granted to the extent proposed herein and denied in all other respects.

15. The proposed amendment to the Rules is issued pursuant to authority contained in section 4(i), 303(f), 303(g) and 303(r) of the Communications Act, as amended.

16. It is further ordered that the Secretary shall cause a copy of this Notice of Proposed Rule Making to be served upon the Chief Counsel for Advocacy of the Small Business Administration. The Secretary shall also cause a copy to be published in the **Federal Register.**

17. We encourage all interested parties to respond to this Notice of Proposed Rule Making since such information as they may provide often forms the basis for further Commission action. For purposes of this non-restricted notice and comment rule making proceeding, members of the public are advised that ex-parte contacts are permitted from the time the Commission adopts a notice of proposed rule making until the time a public notice is issued stating a substantive disposition of the matter is to be considered at a forthcoming meeting or until a final order disposing of the matter is adopted by the Commission, whichever is earlier. In general, an ex-parte presentation is any written or oral communication (other than formal written comments/pleadings or formal oral arguments) between a person outside the Commission and a Commissioner or a member of the Commission's staff which addresses the merits of the proceeding. Any person who submits a written ex-parte presentation must serve a copy of that presentation on the Commission's Secretary for inclusion in the public file. Any person who makes an oral ex-parte presentation addressing matters not fully covered in any previously filed written comments for the proceeding, must prepare a written summary of that presentation. On the day of that oral presentation, a written summary must be served on the Commission's Secretary for inclusion in the public file, with a copy to the Commission official receiving the oral presentation. Each ex-parte presentation described above must state on its face that the Secretary has been served, and must also state by docket number the proceeding to which it relates. See generally, § 1.1231 of the Commission's Rules, 47 CFR 1.1231.

18. Pursuant to applicable procedures set out in § 1.415 of the Rules and Regulations, 47 CFR 1.415, interested persons may file comments on or before March 16, 1984 and reply comments on or before April 2, 1984. All relevant and timely comments will be considered by the Commission before final action is taken in this proceeding. In reaching its decision, the Commission may take into consideration information and ideas not contained in the comments, provided that such information or a writing indicating the nature and source of such information is placed in the public files and provided that the fact of the Commission's reliance on such information is noted in the Report and Order.

19. In accordance with the provisions of § 1.419 of the Rules and Regulations, 47 CFR 1.419, formal participants shall file an original and five copies of their comments and other materials. Participants wishing each Commissioner to have a personal copy of their comments should file an original and 11 copies. Members of the general public who wish to express their interest by participating informally may do so by submitting one copy. All comments are given the same consideration, regardless of the number of copies submitted. All documents will be available for public inspection during regular business hours in the Commission's Public Reference Room at its headquarters in Washington, D.C.

20. For further information on this proceeding, contact Keith Plourd, Private Radio Bureau, Washington, D.C. 20554, (202) 634–2443.

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix

PART 90—[AMENDED]

The Federal Communications Commission proposes to amend 47 CFR Part 90 as follows:

1. Revise § 90.267(a)(6)(ii) to read as follows:

§ 90.267 Assignment and use of 12.5 kHz frequency offsets.

(a) * * *

(6) * * *

(ii) Sea-based stations and stations which operate on frequencies exclusively allocated for central station protection operations may utilize antennas mounted not more than 7m. (20 ft.) above the man-made supporting structure, excluding antenna structures.

2. Amend the table in § 90.267(b) entitled "Offset Channels Available in Services Indicated" by adding the entry for 460.8875 and revising the entries for 460.9125–461.0125 and 465.8875–466.0125 to read as follows:

§ 90.267 Assignment and use of 12.5 kHz frequency offsets.

* * * * *

(b) Frequencies available for assignment under this section are as follows:

OFFSET CHANNELS AVAILABLE IN SERVICES INDICATED

460.8875	IB., Central Station Protection.
460.9125	IB., Central Station Protection.
460.9375	IB., Central Station Protection.
460.9625	IB., Central Station Protection.
460.9875	IB., Central Station Protection.
461.0125	IB., Central Station Protection.
465.8875	IB., Central Station Protection.
465.9125	IB., Central Station Protection.
465.9375	IB., Central Station Protection.
465.9625	IB., Central Station Protection.
465.9875	IB., Central Station Protection.
466.0125	IB., Central Station Protection.

[FR Doc. 84–3906 Filed 2–13–84; 8:45 am]

BILLING CODE 6712–01–M

Notices

Federal Register
Vol. 49, No. 31
Tuesday, February 14, 1984

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

CIVIL RIGHTS COMMISSION

California Advisory Committee; Agenda and Notice of Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the California Advisory Committee to the Commission will convene at 10:00 a.m. and will end at 3:00 p.m., on March 3, 1984, at the Sainte Claire Hilton Hotel, 302 South Market Street, San Jose, California 95112. The purpose of this meeting is to discuss the status of current projects and plan future program activities.

Persons desiring additional information, or planning a presentation to the Committee, should contact the Chairperson, Maurice B. Mitchell, at (303) 444–3541 or the Western Regional Office at (213) 688–3437.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C. February 9, 1984.

John I. Binkley,
Advisory Committee Management Officer.

[FR Doc. 84-4021 Filed 2-13-84; 8:45 am]
BILLING CODE 6335-01-M

Illinois Advisory Committee; Agenda and Notice of Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Illinois Advisory Committee to the Commission will convene at 1:00 p.m. and will end at 3:00 p.m., on March 2, 1984, at the Sangamon State University, PAC-Room 3–F, Springfield, Illinois 62708. The purpose of this meeting is to discuss the status of projects on industrial revenue bonds and contract compliance, as well as future Committee activities.

Persons desiring additional information, or planning a presentation to the Committee, should contact the Chairperson, Thomas J. Pugh, at (309) 671–7475 or the Midwestern Regional Office at (312) 353–7479.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C. February 9, 1984.

John I. Binkley,
Advisory Committee Management Officer.

[FR Doc. 84-4020 Filed 2-13-84; 8:45 am]
BILLING CODE 6335-01-M

DEPARTMENT OF COMMERCE

Office of the Secretary

Agency Form Under Review by the Office of Management and Budget (OMB)

DOC has submitted to OMB for clearance the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: Bureau of the Census.
Title: June 1984 Fertility Survey.
Form numbers: Agency—CPS–1, OMB–N/A
Type of request: New Collection.
Burden: 31,000 respondents; 517 reporting hours.
Needs and uses: This survey is to be conducted as a supplement in conjunction with the June 1984 Current Population Survey (CPS). The data on childbearing will be utilized to update estimates of current birth rates and to examine trends in family development, as well as to project population growth in future years. These data improve the Government's projections of the population that are necessary for adequate housing, recreation, educational facilities, and other human necessities.

Affected public: Individuals or Households.
Frequency: Annually.
Respondent's obligation: Voluntary.
OMB desk officer: Timothy Sprehe, 395–4814.

Copies of the above information collection proposal can be obtained by calling or writing DOC Clearance Officer, Edward Michals (202) 377–4217, Department of Commerce, Room 6622, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

Written comments and recommendations for the proposed information collection should be sent to the respective OMB Desk Officer, Room 3235, New Executive Office Building, Washington, D.C. 20503.

Dated: February 7, 1984.

Edward Michals,
Department Clearance Officer.

[FR Doc. 84-4010 Filed 2-13-84; 8:45 am]
BILLING CODE 3510-CW-M

Foreign-Trade Zones Board

[Order No. 241]

Resolution and Order Approving the Application of the New Hampshire State Port Authority for a Special-Purpose Subzone in Colebrook, New Hampshire, Within the Norton Customs Port of Entry

Proceedings of the Foreign-Trade Zones Board, Washington, D.C.

Resolution and Order

Pursuant to the authority granted in the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board has adopted the following Resolution and Order:

The Board, having considered the matter, hereby orders:

After consideration of the application of the New Hampshire State Port Authority, grantee of Foreign-Trade Zone 81, filed May 5, 1983, requesting special-purpose subzone status for the apparel plant of Manchester Manufacturing, Inc., in Colebrook, New Hampshire, within the Norton Customs port of entry, the Board, finding that the requirements of the Foreign-Trade Zones Act, as amended, and the Board's regulations are satisfied, and that the proposal would be in the public interest if activity on mechandise to be imported is limited to the types of non-manufacturing operations discussed in the application, approves the application subject to the conditions that no activity shall be conducted under zone procedures that would change Customs classifications or country of origin on merchandise destined for the domestic market.

The Secretary of Commerce, as Chairman and Executive Officer of the Board, is herby authorized to issue a grant of authority and appropriate Board Order.

Grant of Authority; to Establish a Foreign-Trade Subzone in Colebrook, New Hampshire, Within the Norton Customs Port of Entry

Whereas, by an Act of Congress approved June 18, 1934, an Act "To provide for the establishment, operation, and maintenance of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce,and for other purposes", as amended (19 U.S.C. 81a–81u) (the Act), the Foreign-Trade Zones Board (the Board) is authorized and empowered to grant to corporations the privilege of establishing, operating, and maintaining foreign-trade zones in or adjacent to ports of entry under the jurisdiction of the United States.

Whereas, the Board's regulations (15 CFR 400.304) provide for the establishment of special-purpose subzones when existing zone facilities cannot serve the specific use involved, and where a significant public benefit will result;

Whereas, the New Hampshire State Port Authority, grantee of Foreign-Trade Zone No. 81 in Portsmouth, has made application (filed May 5, 1983, FTZ Docket No. 14–83, 48 FR 21609) in due and proper form to the Board requesting a special-purpose subzone at the apparel processing and storage facility of Manchester Manufacturing, Inc. in Colebrook, New Hampshire, within the Norton Customs port of entry;

Whereas, notice of said application has been given and published, and full opportunity has been afforded all interested parties to be heard; and,

Whereas, the Board has found that the requirements of the Act and the Board's regulations would be satisfied and that the proposal would be in the public interest if approval is given subject to the conditions stated in the resolution accompanying this action;

Now, therefore, in accordance with the application filed May 5, 1983, the Board hereby authorizes the establishment of a subzone at Manchester Manufacturing's facility in Colebrook, New Hampshire, designated on the records of the Board as Foreign-Trade Subzone No. 81B at the location mentioned above and more particularly described on the maps and drawings accompanying the application, said grant of authority being subject to the provisions and restrictions of the Act and the Regulations, and also to the following express conditions and limitations:

Activities conducted under zone procedures shall be limited to the non-manufacturing processes described in the application.

Activation of the subzone shall be commenced within a reasonable time from the date of issuance of the grant, and prior thereto, any necessary permits shall be obtained from Federal, State, and municipal authorities.

Officers and employees of the United States shall have free and unrestricted access to and throughout the foreign-trade subzone in the performance of their official duties.

The grant shall not be construed to relieve responsible parties from liability for injury or damage to the person or property of others occasioned by the construction, operation, or maintenance of said subzone, and in no event shall the United States be liable therefor.

The grant is further subject to settlement locally by the District Director of Customs and District Army Engineer with the Grantee regarding compliance with their respective requirements for the protection of the revenue of the United States and the installation of suitable facilities.

In witness whereof, the Foreign-Trade Zones Board has caused its name to be signed and its seal to be affixed hereto by its Chairman and Executive Officer or his delegate at Washington, D.C. this *1st* day of *February* 1984 pursuant to Order of the Board.

Foreign-Trade Zones Board.

William T. Archey,

Acting Assistant Secretary of Commerce for Trade Administration Chairman, Committee of Alternates.

Attest:

John DaPonter,

Executive Secretary.

[FR Doc. 84–3946 Filed 2–13–84; 8:45 am]

BILLING CODE 3510-DS-M

International Trade Administration

Portland Cement, Other Than White, Nonstaining Portland Cement, From the Dominican Republic; Preliminary Results of Administrative Review of Antidumping Finding

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of Preliminary Results of Administrative Review of Antidumping Finding.

SUMMARY: The Department of Commerce has conducted an administrative review of the antidumping finding on portland cement, other than white, nonstaining portland cement, from the Dominican Republic. The review covers the one known exporter of this merchandise to the United States and the period June 1, 1982 through May 31, 1983.

As a result of the review, because that firm failed to respond to our questionnaire, the Department has preliminarily determined to assess dumping duties on that firm's sales during the period using the best information available. Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: February 14, 1984.

FOR FURTHER INFORMATION CONTACT: Edward F. Haley or John R. Kugelman, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230, telephone: (202) 377–3601

SUPPLEMENTARY INFORMATION:

Background

On August 5, 1983, the Department of Commerce ("the Department") published in the **Federal Register** (48 FR 35685–35686) the final results of its last administrative review of the antidumping finding on portland cement, other than white, nonstaining portland cement, from the Dominican Republic (28 FR 4507–4508, May 4, 1963) and announced its intent to begin immediately the next administrative review. As required by section 751 of the Tariff Act of 1930 ("the Tariff Act"), the Department has now conducted that administrative review.

Scope of the Review

Imports covered by the review are shipments of portland cement, other than white, nonstaining portland cement, currently classifiable under items 511.1420 and 511.1440 of the Tariff Schedules of the United States Annotated.

The review covers the one known exporter of portland cement, other than white, nonstaining portland cement, from the Dominican Republic to the United States, Fabrica Dominicana de Cemento, C. por A., and the period June 1, 1982 through May 31, 1983. Fabrica Dominicana de Cemento failed to respond to our questionnaire. For that non-responsive firm the Department used the best information available to determine the assessment and estimated antidumping duties cash deposit rates. The best information available is the most recent rate for that firm.

Preliminary Results of the Review

As a result of our review, we preliminarily determine that a margin of 10.33 percent exists for the period June 1, 1982 through May 31, 1983.

Interested parties may submit written comments on these preliminary results within 30 days of the date of publication of this notice and may request disclosure and/or a hearing within 10 days of the date of publication. Any hearing, if requested, will be held 45 days after the date of publication or the first workday thereafter. The Department will publish the final results of the administrative review including the results of its analysis of any such comments or hearing.

The Department shall determine, and the U.S. Customs Service shall assess, dumping duties on all appropriate entries. The Department will issue appraisement instructions directly to the Customs Service.

Further, as provided for by §353.48(b) of the Commerce Regulations, a cash deposit of estimated antidumping duties of 10.33 percent shall be required on all shipments of portland cement, other than white, nonstaining portland cement, from the Dominican Republic entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and section 353.53 of the Commerce Regulations (19 CFR 353.53).

Dated: February 8, 1984.

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 84-4014 Filed 2-13-84; 8:45 am]

BILLING CODE 3510-DS-M

[A-588-028]

Roller Chain, Other Than Bicycle, From Japan; Final Results of Administrative Review of Antidumping Finding; Correction

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of correction to notice of final results of administrative review of antidumping finding.

SUMMARY: On November 14, 1983, the Department of Commerce published the final results of its administrative review of the antidumping finding on roller chain, other than bicycle, from Japan (48 FR 51801–51808).

Due to an error in composition, that notice made two contradictory statements regarding the scope of the finding. Under "Scope of the Review" we stated that roller chain model number 25 and 35 are within the scope of the finding. In the Department's position to Comment one, we stated that model number 25 bushed chain is not within scope of the finding.

The second reference is incorrect. Both model number 25 and 35 are within the scope of the finding. Other bushed chain models are not within the scope of the finding.

EFFECTIVE DATE: February 14, 1984.

FOR FURTHER INFORMATION CONTACT: Linnea Bucher or Robert Marenick, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230, telephone: (202) 377–5255.

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

February 3, 1984.

[FR Doc. 84-3942 Filed 2-13-84; 8:45 am]

BILLING CODE 3510-DS-M

[A-433-064]

Railway Track Maintenance Equipment From Austria; Preliminary Results of Administrative Review of Antidumping Finding

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of preliminary results of administrative review of antidumping finding.

SUMMARY: The Department of Commerce has conducted an administrative review of the antidumping finding on railway track maintenance equipment from Austria. The review covers the one known exporter of this merchandise to the United States, Plasser and Theurer GmbH, and the period February 1, 1982 through January 31, 1983. There were no known shipments of this merchandise to the United States during the period, and there are no known unliquidated entries.

As a result of the review, the Department has preliminarily determined not to require a cash deposit of estimated antidumping duties on future entries. Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: February 14, 1984.

FOR FURTHER INFORMATION CONTACT: Edward F. Haley or John R. Kugelman, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230, telephone: (202) 377–3601.

SUPPLEMENTARY INFORMATION:

Background

On June 10, 1983, the Department of Commerce ("the Department") published in the **Federal Register** (48 FR 26852) the final results of its last administrative review of the antidumping finding on railway track maintenance equipment from Austria (43 FR 6937, February 17, 1978) and announced its intent to begin immediately the next administrative review. As required by section 751 of the Tariff Act of 1930 ("the Tariff Act"), the Department has now conducted that administrative review.

Scope of the Review

Imports covered by the review are shipments of ballast regulators and tamping machines, two specific types of railway track maintenance equipment. Any other types of machinery used in the maintenance of railway track are excluded from the finding. Railway track maintenance equipment is currently classifiable under item 690.2000 of the Tariff Schedules of the United States Annotated.

The review covers the one known exporter of Austrian railway track maintenance equipment to the United States, Plasser and Theurer GmbH, and the period February 1, 1982 through January 31, 1983. There were no known shipments of this merchandise to the United States during the period, and there are no known unliquidated entries.

Preliminary Results of the Review

As a result of our review, we preliminarily determine that we will not require a cash deposit of estimated antidumping duties, as provided for in § 353.48(b) of the Commerce Regulations, on any shipments of Austrian railway track maintenance equipment entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this administrative review.

Interested parties may submit written comments on these preliminary results within 30 days of the date of publication of this notice and may request disclosure and/or a hearing within 10 days of the date of publication. Any hearing, if requested, will be held 45 days after the date of publication or the first workday thereafter.

The Department will publish the final results of the administrative review including the results of its analysis of any such comments or hearing.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1))

and § 353.53 of the Commerce Regulations (19 CFR 353.53).

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

February 3, 1984

[FR Doc. 84-3848 Filed 2-13-84; 8:45 am]

BILLING CODE 3510-DS-M

Importers and Retailers' Textile Advisory Committee; Closed Meeting

SUMMARY: The Importers and Retailers' Textile Advisory Committee was established on August 13, 1963 and rechartered on February 23, 1983, in accordance with the Federal Advisory Committee Act.

Time and Place

February 29, 1984, at 10:30 a.m., Herbert C. Hoover Building, Room 3708, 14th Street and Constitution Avenue, N.W., Washington, D.C. The meeting will continue to its conclusion on February 29, 1984 in Room 3708, Herbert C. Hoover Building.

Agenda

The Committee will meet only in Executive Session to discuss matters properly classified under Executive Order 12356 dealing with implementation of the U.S. textile import restraint program.

Summary Information

A Notice of Determination to close this meeting of the Committee to the public on the basis of 5 U.S.C. 552b(c)(1) was approved on February 10, 1984, in accordance with the Federal Advisory Committee Act. A copy of the Notice is available for public inspection and copying in the Central; Reference and Records Inspection Facility, Room 6628, U.S. Department of Commerce, Telephone: 202/377-4212.

FOR FURTHER INFORMATION CONTACT: Helen L. LeGrande, telephone (202) 377-3737.

Dated: February 10, 1984.

Walter C. Lenahan,

Deputy Assistant Secretary for Textile and Apparel.

[FR Doc. 84-4149 Filed 2-13-84; 8:45 am]

BILLING CODE 3510-25-M

Management-Labor Textile Advisory Committee; Closed Meeting

SUMMARY: The Management-Labor Textile Advisory Committee was established on October 18, 1961 and rechartered on February 23, 1983, in accordance with the Federal Advisory Committee Act.

Time and Place

February 28, 1984, at 1:00 p.m., Herbert C. Hoover Building, Room 6802, 14th Street and Constitution Avenue, N.W., Washington, D.C. The meeting will continue to its conclusion on February 28, 1984 in Room 6802, Herbert C. Hoover Building.

Agenda

The Committee will meet only in Executive Session to discuss matters properly classified under Executive Order 12356 dealing with implementation of the U.S. textile import restraint program.

Summary Information

A Notice of Determination to close this meeting of the Committee to the public on the basis of 5 U.S.C. 552(b)(1) was approved on February 10, 1984, in accordance with the Federal Advisory Committee Act. A copy of the Notice is available for public inspection and copying in the Central; Reference and Records Inspection Facility, Room 6628, U.S. Department of Commerce, Telephone: 202/377-4212.

FOR FURTHER INFORMATION CONTACT: Helen L. LeGrande, telephone (202) 377-3737.

Dated: February 10, 1984.

Walter C. Lenahan,

Deputy Assistant Secretary for Textile and Apparel.

[FR Doc. 84-4148 Filed 2-13-84; 8:45 am]

BILLING CODE 3510-25-M

National Oceanic and Atmospheric Administration

Issuance of Permit; Dr. Daniel P. Costa

On December 14, 1983, Notice was published in the **Federal Register** (48 FR 55604) that an application had been filed with the National Marine Fisheries Service by Dr. Daniel P. Costa, Center for Coastal Marine Studies, University of California, Santa Cruz, California 95064, to take up to 25 California sea lions (*Zalophus californianus*) for scientific research.

Notice is hereby given that on February 3, 1984, and as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), the National Marine Fisheries Service issued a Scientic Research Permit to Dr. Costa for the above taking subject to certain conditions set forth therein.

The Permit is available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, NW., Washington, D.C.;

and

Regional Director, Southwest Region, National Marine Fisheries Service, 300 South Ferry Street, Terminal Island, California 90731.

Dated: February 7, 1984.

Carmen J. Blondin,

Deputy Assistant Administrator for Fisheries Resource Management, National Marine Fisheries Service.

[FR Doc. 84-4015 Filed 2-13-84; 8:45 am]

BILLING CODE 3510-22-M

Issuance of a Letter of Exemption

An amendment made in 1981 to the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361 *et seq.*) (MMPA) directs the Secretary of Commerce during any period of five consecutive years to allow the incidental but not intentional taking of small numbers of non-depleted species or stocks of marine mammals by citizens of the United States while engaged in commercial fishing operations. This exemption to the permit requirements of Section 104 of the MMPA can be granted only if after notice and opportunity for public comment, the Secretary: (1) Finds that the total of such taking will have a negligible impact on such species or stocks and (2) provides guidelines pertaining to the establishment of a cooperative system among the fishermen involved in the operation to monitor and report any such taking.

On December 13, 1983 (48 FR 55493-55496), the National Marine Fisheries Service (NMFS) published final guidelines pertaining to the requirements for applying for the exemption and the reporting of any incidental takes. These guidelines became effective on January 12, 1984. On December 13, 1983 (48 FR 55496), the NMFS also published a notice of receipt of an application for a small take-commercial fishing exemption that was received from Mr. Lawrence P. Greenlaw, Jr.

During the thirty day comment period, one comment was received. Greenpeace U.S.A. recommended the following conditions be attached to the granting of a Letter of Exemption: (1) The authorization be limited to one year, (2) an analysis of cumulative impacts be conducted by the applicant, and (3) an intensive mortality reduction campaign be undertaken.

The Letter of Exemption has been issued for a five year period as allowed by Section 101(a)(4) of the MMPA.

However, an annual review of the Exemption has been incorporated as a condition to a continuation of the exemption over the five year period. This has been done to assure that the reporting system is installed and that the mortality remains small so that the determination can continue to be made that the taking is having a negligible impact on the species. A requirement that an analysis of the cumulative impacts caused by other fisheries and human activities be conducted by that applicant is probably beyond the ability of the applicant, a fisherman, to supply. However, whenever new biological data or information on harbor porpoise, harbor seals, or any other impacted marine mammal is obtained by scientists or others and is subsequently published or made available to the NMFS, this information is incorporated into the Status of Stocks Report, an annual report required of the NMFS by the MMPA. It is then available for use during any annual review of the fishery.

Before a mortality reduction program can be undertaken, studies must be conducted on interactions between marine mammals and bottom anchored gillnets. These studies are currently being conducted by Dr. James Gilbert under both this Letter of Exemption and a scientific research permit issued under the MMPA. In addition, research in the North Pacific Ocean on acoustic harassment devices for seals, and on making monofilament gillnets acoustically visible to porpoises may prove relevant on the East Coast. However, we must wait for the completion of testing on the West Coast and for baseline data on the East Coast to be completed before imposing a mortality reduction program in this fishery.

The NMFS, in reviewing the application, has determined that the request is consistent with the guidelines and that the level of taking will have a negligible impact on the harbor porpoise and harbor seal populations of the Gulf of Maine. Therefore, notice is given that pursuant to Section 101(a)(4) of the MMPA, a Letter of Exemption was issued on February 7, 1984, to Mr. Lawrence P. Greenlaw, Jr., representing the New England groundfish gillnetters to incidentally take 180 harbor porpoise (*Phocoena phocoena*) and 50 harbor seals (*Phoca vitulina*) annually during commercial fishing operations in the Gulf of Maine.

This Letter of Exemption is valid until December 31, 1988, subject to annual review by the Assistant Administrator for Fisheries. Under this exemption, the Division of Wildlife, College of Forestry Resources, in cooperation with the Marine Advisory Board, Office of Sea Grant (both of the University of Maine, at Orono), will serve as receiver for reports from fishermen of their marine mammal takes. Dr. James R. Gilbert, Division of Wildlife, will have overall responsibility for collecting and collating the information and the Marine Advisory Board will serve as an informational contact to fishermen to inform them of the program.

The Letter of Exemption is available for review in the Office of the Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, NW., Washington, D.C. and in the Office of the Regional Director, Northeast Region, National Marine Fisheries Service, 14 Elm Street, Gloucester, Massachusetts.

Dated: February 8, 1984.

Carmen J. Blondin,

Deputy Assistant Administrator for Fisheries Resource Management, National Marine Fisheries Service.

[FR Doc. 84-4017 Filed 2-13-84; 8:45 am]

BILLING CODE 3510-22-M

Marine Fisheries Advisory Committee; Public Meeting With Partially Closed Session

AGENCY: National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Commerce.

ACTION: Announces a change to a previously announced meeting.

Federal Register Citation of Previous Announcement: 49 FR 4963, February 9, 1984.

Previously Announced Time and Date of Meeting: Convene February 22, 1984, at 9:00 a.m. and adjourn at approximately 4:00 p.m. on February 23, 1984.

Changes in Meeting: The meeting will convene February 22, 1984, at 9:00 a.m. and adjourn at approximately 12:00 noon on February 23, 1984. The closed session of the meeting will commence at 10:45 a.m. on February 23, 1984, and adjourn at 12:00 noon.

Agenda

Open session—February 22, 1984 (9:00 a.m.–11:30 a.m.) Interjurisdictional Fisheries Management panel presentation.

Open session—February 22, 1984 (1:00 p.m.–5:15 p.m.) Discussion of interjurisdictional fisheries management issues; Year of the Ocean; and Subcommittee reports.

Open session—February 23, 1984 (8:30 a.m.–10:45 a.m.) Mitigation banking.

Closed session—February 23, 1984 (10:45 a.m.–12:00 noon) Consider and discuss the living marine resources proposals of the NOAA FY 1986 budget.

FOR FURTHER INFORMATION CONTACT: Ann Smith, Executive Secretary, Marine Fisheries Advisory Committee, National Marine Fisheries Service, NOAA, Washington, D.C. 20235; Telephone (202) 634–9563.

Dated: February 9, 1984.

William G. Gordon,

Assistant Administrator for Fisheries.

[FR Doc. 84-4019 Filed 2-13-84; 8:45 am]

BILLING CODE 3510-22-M

[Modification No. 1 to Permit No. 254]

Marine Mammal Permit; David K. Mattila

Notice is hereby given that pursuant to the provisions of § 216.33 of the Regulations Governing the Taking and Importing of Marine Mammals and § 222.26 of the regulations governing endangered species permits, Scientific Research Permit No. 254, issued to David K. Mattila, Provincetown Center for Coastal Studies, Cetacean Research Program, 59 Commercial Street, Box 826, Provincetown, Massachusetts 02657, on January 30, 1979 (44 FR 6975), is modified to extend the period of authorized taking for two years.

Accordingly, Secton B–8 is deleted and replaced by:

8. This permit is valid with respect to the taking authorized herein until December 31, 1985.

This modification became effective on January 1, 1984.

The Permit as modified and documentation pertaining to the modification are available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street NW., Washington, D.C.;

Regional Director, National Marine Fisheries Service, Southeast Region, 9450 Koger Boulevard, Duval Building, St. Petersburg, Florida 33702; and

Regional Director, National Marine Fisheries Service, Northeast Region, Federal Building, 14 Elm Street, Gloucester, Massachusetts 01930.

Dated: February 7, 1984.

Carmen J. Blondin,

Deputy Assistant Administrator for Fisheries Resource Management, National Marine Fisheries Service.

[FR Doc. 84-4016 Filed 2-13-84; 8:45 am]

BILLING CODE 3510-22-M

Receipt of Application for Permit; Dr. Robert W. Hastings

Notice is hereby given that an Applicant has applied in due form for a Permit to take endangered species as authorized by the Endangered Species Act of 1973 (16 U.S.C. 1531–1543), the National Marine Fisheries Service regulations governing endangered fish and wildlife permits (50 CFR Parts 217–222).

1. Applicant:

a. Name: Dr. Robert W. Hastings (P331).

b. Address: Department of Biology, Rutgers, The State University of New Jersey, Camden, New Jersey 08102.

2. Type of Permit: Scientific Purposes.

3. Names and Numbers of Animals: Shortnose sturgeon (*Acipenser brevirostrum*), 500–1000/yr.

4. Type of Take: Capture by fishing devices and by hand, sonic tagging and captive maintenance and release for spawning and growth studies.

5. Location of Activity: Lower Delaware River.

6. Period of Activity: 5 years.

Written data or views, or requests for a public hearing on this application should be submitted to the Assistant Administrator for Fisheries, National Marines Fisheries Service, U.S. Department of Commerce, Washington, D.C. 20235, within 30 days of the publication of this notice. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries.

All statements and opinions contained in this application are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

Documents submitted in connection with the above application are available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street NW., Washington, D.C.; and

Regional Director, Northeast Region, National Marine Fisheries Service, 14 Elm Street, Federal Bldg., Gloucester, MA 01930.

Dated: February 7, 1984.

Carmen J. Blondin,

Deputy Assistant Administrator for Fisheries Resource Management, National Marine Fisheries Service.

[FR Doc. 84-4018 Filed 2-13-84; 8:45 am]

BILLING CODE 3510-22-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Request for Public Comment on Bilateral Textile Consultations With the Government of Pakistan To Review Trade in Category 334 (Men's and Boys' Cotton Coats)

February 9, 1984.

On January 29, 1984 the Government of the United States requested consultations with the Government of Pakistan with respect to Category 334. This request was made on the basis of the agreement between the Governments of the United States and Pakistan relating to trade in Cotton textiles and Cotton textile products of March 9 and 11, 1982. The agreement provides for consultations when the orderly development of trade between the two countries may be impeded by imports due to market disruption, or the threat thereof.

The purpose of this notice is to advise the public that if no solution is agreed upon in consultations between the two governments, CITA, pursuant to the Agreement, may establish a prorated specific limit of 29,170 dozen for the entry and withdrawal from warehouse for consumption of cotton textile products in Category 334, produced or manufactured in Pakistan and exported to the United States during the period which began on Janaury 29, 1984 and extends through December 31, 1984.

The Government of the United States has decided, pending a mutually satisfactory solution, to control imports in this category during the 90-day consulation period which began on January 29 and extends through April 28, 1984 at a limit of 9,240 dozen.

In the event the limit established for Category 334 during the ninety-day period is exceeded, such excess amount, if allowed to enter, may be charged to the limit established during the period which began on January 29 and extends through December 31, 1984.

The United States remains committed to finding a solution concerning this category. Should such a solution be reached in consultations with the Government of Pakistan, further notice will be published in the **Federal Register.**

A summary market statement for this category follows this notice.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924) and December 14, 1983 (48 FR 55607), and December 30, 1983 (48 FR 57584).

Anyone wishing to comment or provide data or information regarding the treatment of Category 334 under the Bilateral Cotton Textile Agreement with the Government of Pakistan, or on any other aspect thereof, or to comment on domestic production or availability of textile products included in this category, is invited to submit such comments or information in ten copies to Mr. Walter C. Lenahan, Chairman, Commitee for the Implementation of Textile Agreements, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230. Because the exact timing of the consultations is not yet certain, comments should be submitted promptly. Comments or information submitted in response to this notice will be available for public inspection in the Office of Textiles and Apparel, Room 3100, U.S. Department of Commerce, 14th and Constitution Avenue NW., Washington, D.C., and may be obtained upon written request.

Further comment may be invited regarding particular comments or information received from the public which the Committee for the Implementation of Textile Agreements considers appropriate for further consideration.

The solicitation of comments regarding any aspect of the agreement or the implementation thereof is not a waiver in any respect of the exemption contained in 5 U.S.C. 553(a)(1) relating to matters which constitute "a foreign affairs function of the United States."

SUPPLEMENTARY INFORMATION: On December 16, 1983 a letter was published in the **Federal Register** (48 FR 55892) to the Commissioner of Customs from the Chairman of the Committee for the Implementation of Textile Agreements which established levels of restraint for certain categories of cotton textiles and cotton textile products, produced or manufactured in Pakistan and exported during the twelve-month period which began on January 1, 1984. In the letter published below, pursuant to the bilateral agreement, the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs, pending agreement on a different solution, to prohibit entry for cosumption or withdrawal from warehouse for consumption, of cotton textile products in Category 334, produced or manufactured in Pakistan and exported during the indicated ninety-day period, in excess of 9,240 dozen.

Effective date: February 15, 1984.

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

Pakistan—Market Statement

Category 334—Men's and Boys' Cotton Coats, Other

January 1984.

U.S. imports of Category 334 from Pakistan were 25,492 dozen during the January–November 1983 period, up 64.4 percent from the 15,507 dozen imported a year earlier. This eleven-month 1983 level far exceeds the 1981 imports of 1,618 dozen. This is a sharp and substantial increase of imports in a sector already adversely affected by imports.

Domestic production of Category 334 declined from 903,000 dozen in 1981 to 809,000 dozen in 1982. Imports also declined, dropping from 1,016,000 dozen in 1981 to 925,000 dozen in 1982. However, imports for the first eleven months of 1983 were 1,057,000 dozen which was higher than any previous calendar year. The January–November imports were up 23.2 percent from a year earlier. The imports of Category 334 exceeded domestic production by 12.5 percent in 1981 and 14.3 percent in 1982. The excess in 1983 probably ranged from 30 to 40 percent.

February 9, 1984.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, D.C.

Dear Mr. Commissioner: This directive amends, but does not cancel, the directive of December 13, 1983 from the Chairman of the Committee for the Implementation of Textile Agreements which directed you to prohibit entry of certain cotton textile products, produced or manufactured in Pakistan and exported during 1984.

Effective on February 15, 1984, paragraph one of the directive of December 13, 1983 is hereby amended to include a limit of 9,240 dozen [1] for cotton textile products in Category 334, exported during the period which began on January 29 and extends through April 28, 1984.

Textile products in Category 334 which have been released from the custody of the U.S. Customs Service under the provisions of 19 U.S.C. 1448(b) or 1484(a)(1)(A) prior to the effective date of this directive shall not be denied entry under this directive.

The action taken with respect to the Government of Pakistan and with respect to imports of cotton textile products from Pakistan has been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, these directions to the Commissioner of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the **Federal Register**.

[1] The level has not been adjusted to account for any imports exported after January 28, 1984.

Sincerely,

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 84-4011 Filed 2-13-84; 8:45 am]

BILLING CODE 3510-DR-M

Request for Public Comment on Bilateral Textile Consultations With the Government of the Republic of Indonesia To Review Trade in Category 319 (Cotton Duck)

February 9, 1984.

On January 31, 1984, the Government of the United States requested consultations with the Government of the Republic of Indonesia with respect to Category 319. This request was made on the basis of the agreement, as amended, between the Governments of the United States and the Republic of Indonesia relating to trade in Cotton, Wool and Man-Made Fiber Textiles and Textile Products of October 13 and November 9, 1982. The agreement provides for consultations when the orderly development of trade between the two countries may be impeded by imports due to market disruption, or the threat thereof.

The purpose of this notice is to advise the public that if no solution is agreed upon in consultations between the two governments, CITA, pursuant to the agreement, as amended, may establish a prorated specific limit of 1,704,163 square yards for the entry and withdrawal from warehouse for consumption of cotton textile products in Category 319, produced or manufactured in Indonesia and exported to the United States during the period which began on January 31, 1984 and extends through the end of the agreement year, June 30, 1984. The limit may be adjusted to include prorated swing and carryforward.

The Government of the United States has decided, pending agreement on a mutually satisfactory solution to involve import controls on this category during the 90-day consultation period (January 31–April 29, 1984) at a level of 1,194,828 square yards. In the event the limit established for the ninety-day period is exceeded, such excess amount, if allowed to enter, may be charged to the level established during the period which began on January 31 and extends through June 30, 1984.

A summary market statement for this category follows this notice.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924) and December 14, 1983 (49 FR 55607), and December 30, 1983 (48 FR 57584).

Anyone wishing to comment or provide data or information regarding the treatment of Category 319 under the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement with the Government of the Republic of Indonesia, or on any other aspect thereof, or to comment on domestic production or availability of textile products included in this category, is invited to submit such comments or information in ten copies to Mr. Walter C. Lenahan, Chairman, Committee for the Implementation of Textile Agreements, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230. Because the exact timing of the consultations is not yet certain, comments should be submitted promptly. Comments or information submitted in response to this notice will be available for public inspection in the Office of Textiles and Apparel, Room 3100, U.S. Department of Commerce, 14th and Constitution Avenue NW., Washington, D.C., and may be obtained upon written request.

Further comment may be invited regarding particular comments or information received from the public which the Committee for the Implementation of Textile Agreements considers appropriate for further consideration.

The solicitation of comments regarding any aspect of the agreement or the implementation thereof is not a waiver in any respect of the exemption contained in 5 U.S.C. 553(a)(1) relating to matters which constitute "a foreign affairs function of the United States."

Effective Date: February 15, 1984.

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

Indonesia—Market Statement

Category 319—Cotton Duck

January 1984.

U.S. imports of Category 319 from Indonesia amounted to 3.3 million square yards during the year ending November 1983, up 63.5 percent from the 2.0 million square yards imported a year earlier. Indonesia was the seventh largest supplier of Category 319, accounting for 4.5 percent of the total year ending November 1983 imports. U.S. imports from Hong Kong, the largest supplier, were subject to an agreed limit resulting from a consultation call in 1983. Imports from three suppliers, Pakistan, Brazil, and Thailand, are subject to specific limits. Other major suppliers are controlled by agreed levels or designated consultation levels or have been called for consultations.

Domestic production of Category 319 declined from 95.1 million square yards in 1981 to 93.6 million in 1982.

Imports declined from 92 million square yards in 1981 to 66 million in 1982. Imports for the first eleven months of 1983 were up to 68 million square yards from 62 million during the same period in 1982. Imports were equal to 72.2 percent of production in 1982 and were probably higher in 1983.

February 9, 1984.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, D.C.

Dear Mr. Commissioner: Under the terms of Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), and the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977 and December 22, 1981; pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of October 13 and November 9, 1982, as amended and extended, between the Governments of the United States and Republic of Indonesia; and in accordance with the provisions in Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on February 15, 1984, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton textile products in Category 319 produced or manufactured in Indonesia, and exported during the ninety-day period which began on January 31, 1984 and extends through April 29, 1984, in excess of 1,194,826 square yards.[1]

Textile products in Category 319 which have been exported to the United States prior to January 31, 1984 shall not be subject to this directive.

Textile products in Category 319 which have been released from the custody of the U.S. Customs Service under the provisions of 19 U.S.C. 1448(b) or 1484(a)(1)(A) prior to the effective date of this directive shall not be denied entry under this directive.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924) and December 14, 1983 (48 FR 55607), and December 30, 1983 (48 FR 57584).

In carrying out the above directions, the Commissioner of Customs should construe entry into the United states for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The action taken with respect to the Government of the Republic of Indonesia and with respect to imports of cotton textile products from Indonesia has been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, these directions to the Commissioner of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 533. This letter will be published in the **Federal Register**.

Sincerely,

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 84-4012 Filed 2-13-84; 8:45 am]

BILLING CODE 3510-DR-M

[1] The level of restraint has not been adjusted to reflect any imports exported after January 30, 1984.

Soliciting Public Comment on Bilateral Textile Consultations With the Government of the Republic of Indonesia To Include a Review of Trade in Category 315 (Cotton Printcloth)

February 9, 1984.

The Chairman of the Committee for the Implementation of Textile Agreements (CITA), under the authority contained in E.O. 11651 of March 3, 1972, as amended, has issued the letter published below to the Commissioner of Customs to be effective on February 15, 1984. For further information contact Diana Bass, International Trade Specialist (202) 377-4121.

Background

On December 6, 1983 a notice was published in the **Federal Register** (48 FR 54678) requesting public comment on bilateral textile consultations with the Government of the Republic of Indonesia concerning cotton printcloth in Category 315 under Article 3 of the Arrangement Regarding International Trade in Textiles. Since that time the Governments of the United States and the Republic of Indonesia have exchanged diplomatic notes amending their Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of October 13 and November 9, 1982 to include a formal consultation provision within the terms of the agreement. The new consultation provision establishes a 90-day period for consultations, dating from the date of the original request.

The purpose of this notice is to announce that, under the terms of the amended bilateral agreement, the consultation period with respect to Category 315 is now the 90-day period which began on November 30, 1983 and extends through February 27, 1984. During this period, Indonesia is obligated to limit its exports to the United States of textile products in Category 315 to 3,277,763 square yards. If no mutually satisfactory solution is reached during consultations, the United States may establish a prorated specific limit of 6,563,019 square yards for the period which began on November 30, 1983 and extends through the end of the agreement year, June 30, 1984. The new limit may be adjusted to include prorated swing and carryforward. The United States Government has decided, pending a mutually satisfactory solution, to control imports of cotton textile products in Category 315 for the ninety-day period at the level described above.

In the event the limit established for Category 315 during the ninety-day period is exceeded, such excess amount, if allowed to enter, may be charged to the level established for the specific limit during the period which began on November 30, 1983 and extends through June 30, 1984.

The United States remains committed to finding a solution concerning this category. Should such a solution be reached in consultations with the Government of the Republic of Indonesia, further notice will be published in the **Federal Register**.

A summary market disruption statement concerning this category follows this notice.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924) and December 14, 1983 (48 FR 55607), and December 30, 1983 (48 FR 57584).

Anyone wishing to comment or provide data or information regarding the treatment of Category 315 under the agreement with Indonesia, or on any other aspect thereof, or to comment on domestic production or availability of textile products included in the category, is invited to submit such comments or information in ten copies to Mr. Walter C. Lenahan, Chairman, Committee for the Implementation of Textile Agreements, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230. Because the exact timing of the consultations is not yet certain, comments should be submitted promptly. Comments or information submitted in response of this notice will be available for public inspection in the Office of Textiles and Apparel, Room 3100, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, D.C., and may be obtained upon written request.

Further comment may be invited regarding particular comments or information received from the public which the Committee for the Implemenation of Textile Agreements considers appropriate for further consideration.

The solicitation of comments regarding any aspect of the agreement or the implementation thereof is not a waiver in any respect of the exemption

contained in 5 U.S.C. 553(a)(1) relating to matters which constitute "a foreign affairs function of the United States."

SUPPLEMENTARY INFORMATION: On June 30, 1983 a letter was published in the **Federal Register** (48 FR 30181) to the Commissioner of Customs from the Chairman of the Committee for the Implementation of Textile Agreements which established levels of restraint for certain categories of cotton textile products, produced or manufactured in Indonesia and exported during the twelve-month period which began on July 1, 1983. In the letter published below, pursuant to the bilateral agreement, as amended, the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs, pending agreement on a different solution, to prohibit entry for consumption and withdrawal from warehouse for consumption, of cotton textile products in Category 315, produced or manufactured in Indonesia and exported during the indicated ninety-day period, in excess of 3,277,763 square yards.

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

Indonesia—Market Statement

Category 315—Cotton Printcloth

November 1983.

U.S. imports of Category 315 from Indonesia were 12,627,000 square yards during the year ending September 1983 and for the January-September 1983 period, more than nine times the year ending September 1982 level of 1,398,000 and more than 18 times the January-September 1982 level of 696,000 square yards. During the January-September 1983 period Indonesia's import share increased from 0.6 percent to 5.8 percent. Indonesia jumped from the eleventh to the fifth largest supplier of Category 315 imports. This is a sharp and substantial increase of imports in a sector already adversely affected by imports. These imports from Indonesia are imported at duty-paid values below the U.S. producer prices of comparable fabrics. The import to domestic production ratio reached 57.0 percent during the first half of 1983 and is expected to reeach 57.7 percent for the year.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, D.C.

Dear Mr. Commissioner: Under the terms of Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), and the Arrangement Regarding International Trade in Textiles done at Geneva on Decemberr 20, 1973, as extended on December 15, 1977 and December 22, 1981; pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of October 13 and November 9, 1982, as amended, between the Governments of the United States and the Republic of Indonesia; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on February 15, 1984, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton textile products in Category 315, produced or manufactured in Indonesia, and exported during the ninety-day period which began on November 30, 1983 and extends through February 27, 1984, in excess of 3,277,763 square yards.[1]

Textile products in Category 315 which have been exported to the United States prior to November 30, 1983 shall not be subject to this directive.

Textile products in Category 315 which have been released from the custody of the U.S. Customs Service under the provisions of 19 U.S.C. 1448(b) or 1484(a)(1)(A) prior to the effective date of this directive shall not be denied entry under this directive.

A description of the textile categories in terms of T.S.U.S.A. number was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924) and December 14, 1983 (48 FR 55607), and December 30, 1983 (48 FR 57584).

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The action taken with respect to the Government of the Republic of Indonesia and with respect to imports of cotton textile products from Indonesia has been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, these directions to the Commissioner of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 533. This letter will be published in the **Federal Register**.

Sincerely,

Walter C. Lenahan,

Chairman, Committee for the Implementation of Texile Agreements.

[FR Doc. 84-4013 Filed 2-13-84; 8:45 am]

BILLING CODE 3510-DR-M

Request for Public Comment on Bilateral Textile Consultations With the Government of the Arab Republic of Egypt To Review Trade in Category 313 (Cotton Sheeting)

February 9, 1984.

On January 31, 1984, the Government of the United States requested consultations with the Government of the Arab Republic of Egypt with respect to cotton sheeting in Category 313. This request was made on the basis of the Bilateral Cotton Textile Agreement of December 7 and December 28, 1977, as extended, between the Governments of the United States and the Arab Republic of Egypt, which provides for consultations when the orderly development of trade between the two countries may be impeded by imports due to market disruption, or the threat thereof.

The purpose of this notice is to advise the public that, if no solution is agreed upon in consultations between the two governments within 60 days of the receipt of this request, the Committee for the Implementation of Textile Agreements, pursuant to the terms of the agreement, may establish a limit of 9,755,663 square yards for the entry and withdrawal from warehouse for consumption of cotton textile products in Category 313, produced or manufactured in Egypt and exported during 1984.

A summary market statement follows this notice.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924) and December 14, 1983 (48 FR 55607), and December 30, 1983 (48 FR 57584).

The Government of the United States reserves the right under the bilateral agreement to invoke import controls on this category during the 60-day consultation period.

Anyone wishing to comment or provide data or information regarding the treatment of Category 313 under the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement with the Government of the Arab Republic of Egypt, or on any other aspect thereof, or to comment on domestic production or availability of textile products included in the Category 313, is invited to submit such comments or information in ten copies to Mr. Walter C. Lenahan, Chairman, Committee for the implementation of Textile Agreements, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230. Since the exact timing of the consultations is not yet certain, comments should be submitted promptly. Comments or information submitted in response to this notice will be available for public inspection in the Office of Textiles and Apparel, Room 3100, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C., and may be obtained upon written request.

[1] The level of restraint has not been adjusted to reflect any imports exported after November 29, 1983.

Further comment may be invited regarding particular comments or information received from the public which the Committee for the Implementation of Textile Agreements considers appropriate for further consideration.

The solicitation of comments regarding any aspect of the agreement or the implementation thereof is not a waiver in any respect of the exemption contained in 5 U.S.C. 553(a)(1) relating to matters which constitue "a foreign affairs function of the United States."

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

Egypt—Market Statement

Category 313—Cotton Sheeting

January 1984.

U.S. imports of Category 313 from Egypt during the year ending November 1983 were 10.9 million square yards, up 23.0 percent from the 8.8 million imported a year earlier. Imports for the first eleven months of 1983 were up 39.7 percent to 10.4 million square yards from 7.4 million imported during the same period in 1982.

These imports from Egypt are entered at duty-paid landed values which are below the U.S. producer prices for comparable fabrics. These and other factors lead the United States Government to conclude that imports from Egypt create a real threat of market disruption in the United States.

The domestic industry producing cotton sheeting has been adversely affected by imports. Production in 1982 was down 12.5 percent from 1981. Imports were equal to 88.1 percent of domestic production in 1982.

[FR Doc. 84-3937 Filed 2-9-84; 8:45 am]
BILLING CODE 3510-DR-M

Soliciting Public Comment on Bilateral Textile Consultations With the Dominican Republic on Women's, Girls' and Infants' Wool Sweaters in Category 446

February 9, 1984.

On January 31, 1984, the United States Government, under Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), requested the Government of the Dominican Republic to enter into consultations concerning exports to the United States of women's, girls' and infants' wool sweaters in Category 446, produced or manufactured in the Dominican Republic.

The purpose of this notice is to advise that, if no solution is agreed upon in consultations with the Government of the Dominican Republic, the Committee for the Implementation of Textile Agreements may later establish a limit of 19,550 dozen for the entry and withdrawal from warehouse for consumption of wool textile products in Category 446, produced or manufactured in the Dominican Republic and exported to the United States during the twelve-month period which began on January 31, 1984 and extends through January 30, 1985.

A summary market statement follows this notice.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924) and December 14, 1983 (48 FR 55607), and December 30, 1983 (48 FR 57584).

Anyone wishing to comment or provide data or information regarding the treatment of Category 446 is invited to submit such comments or information in ten copies to Mr. Walter C. Lenahan, Chairman, Committee for the Implementation of Textile Agreements, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230. Because the exact timing of the consultations is not yet certain, comments should be submitted promptly. Comments or information submitted in response to this notice will be available for public inspection in the Office of Textiles and Apparel, Room 3100, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C., and may be obtained upon written request.

Further comment may be invited regarding particular comments or information received from the public which the Committee for the Implementation of Textile Agreements considers appropriate for further consideration.

The solicitation of comments regarding any aspect of the agreement or the implementation thereof is not a waiver in any respect of the exemption contained in 5 U.S.C. 553(a)(1) relating to matters which constitute "a foreign affairs function of the United States."

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

Dominican Republic—Market Statement

Category 446—Women's Girls' and Infants' Wool Sweaters

U.S. imports of Category 446 from the Dominican Republic were 25,572 dozen during January–November 1983, up 176.6 percent from the 9,245 dozen imported a year earlier. This sharp and substantial increase of imports is in a market sector already adversely affected by imports. These imports from the Dominican Republic are imported at duty-paid values below the U.S. producer prices for comparable sweaters.

U.S. imports of Category 446 were equal to two and one-half times the domestic production in 1982. Imports for the first eleven months of 1983 were up 23.8 percent from 1982 to a level of 1,836,470 dozen. This eleven month total exceeded the full-year 1982 imports by 17.6 percent.

Domestic production of Category 446 has been severely affected by imports for a number of years. Domestic production has been below imports for a decade. The ratio of imports to domestic production was 250.7 in 1982 and will be higher in 1983 due to the substantial increase in imports.

[FR Doc. 84-3938 Filed 2-9-84; 1:00 pm]
BILLING CODE 3510-DR-M

Soliciting Public Comment on Bilateral Textile Consultations With Haiti on Category 350 (Cotton Dressing Gowns)

February 9, 1984.

On January 30, 1984, the United states Government, under Article 3 of the Arrangement Regarding International Trade in Textiles, requested the Government of Haiti to enter into consultations concerning exports to the United States of cotton dressing gowns in category 350, produced or manufactured in Haiti.

The purpose of this notice is to advise that, if no solution is agreed upon with the Government of Haiti during the sixty-day consultation period which began on January 30, 1984, the Committee for the Implementation of Textile Agreements may later establish a limit for the entry and withdrawal from warehouse for consumption of cotton textile products in Category 350, produced or manufactured in Haiti and exported to the United States during the twelve-month period which began on January 30, 1984 and extends through January 29, 1985 at a level of 18,754 dozen.

A summary market statement follows this notice.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924) and December 14, 1983 (48 FR 55607), and December 30, 1983 (48 FR 57584).

Anyone wishing to comment or provide data or information regarding the treatment of Category 350, is invited to submit such comments or information in ten copies to Mr. Walter C. Lenahan, Ch airman, Committee for the Implementation of Textile Agreements, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230. Because the exact timing of the consultations is not yet certain, comments should be submitted promptly. Comments or information

submitted in response to this notice will be available for public inspection in the Office of Textiles and Apparel, Room 3100, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C., and may be obtained upon written request.

Further comment may be invited regarding particular comments or information received from the public which the Committee for the Implementation of Textile Agreements considers appropriate for further consideration.

The solicitation of comments regarding any aspect of the agreement or the implementation thereof is not a waiver in any respect of the exemption contained in 5 U.S.C. 553(a)(1) relating to matters which constitute "a foreign affairs function of the United States."

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

Haiti—Market Statement

January 1984.

Category 350—Cotton dressing Gowns

U.S. imports of Category 350 from Haiti totaled 18,613 dozen during the year ending November 1983, up 38.4 percent from the same period a year earlier and 75.7 percent above the 1981 imports. Haiti is the fifth largest supplier of Category 350. The four larger suppliers are subject to specific limits, designated consultation levels, or agreed limits on Category 350.

Domestic production of Category 350 declined from 616,000 dozen in 1981 to 518,000 in 1982. Imports increased from 250,000 dozen in 1981 to 360,000 in 1982 and to 415,000 during the first eleven months of 1983. The 1981 ratio of imports to production was 40.6 percent, and the 1982 ratio was 69.5. The sharp 1983 import increase, 27 percent, indicates a 1983 ratio between 85 and 95 percent.

[FR Doc. 84-3941 Filed 2-9-84; 1:03 pm]

BILLING CODE 3510-DR-M

Soliciting Public Comment on Bilateral Textile Consultations with Peru on Category 319 (Cotton Duck Fabric)

February 9, 1984.

On January 31, 1984, the United States Government, under Article 3 of the Arrangement Regarding International Trade in Textlies, requested the Government of Peru to enter into consultations concerning exports to the United States of cotton duck fabric in Category 319, produced or manufactured in Peru.

The purpose of this notice is to advise that, if no solution is agreed upon with the Government of Peru during the sixty-day consultation period, which began on January 31, 1984, the Committee for the Implementation of Textile Agreements may later establish a limit for the entry and withdrawal from warehouse for consumption of cotton textile products in Category 319, produced or manufactured in Peru and exported to the United States during the twelve-month period which began on January 31, 1984, and extends through January 30, 1985, at a level of 15,076,495 square yards.

A summary market statement follows this notice.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924) and December 14, 1983 (48 FR 55607), and December 30, 1983 (48 FR 57584).

Anyone wishing to comment or provide data or information regarding the treatment of Category 319, is invited to submit such comments or information in ten copies to Mr. Walter C. Lenahan, Chairman, Committee for the implementation of Textile Agreements. International Trade Administration, U.S Department of Commerce, Washington, D.C. 20230. Because the exact timing of the consultations is not yet certain, comments should be submitted promptly. Comments or information submitted in response to this notice will be available for public inspection in the Office of Textiles and Apparel, room 3100, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C., and may be obtained upon written request.

Further comment may be invited regarding particular comments or information received from the public which the Committee for the Implementation of Textile Agreements considers appropriate for further consideration.

The solicitation of comments regarding any aspect of the agreement or the implementation thereof is not a waiver in any respect of the exemption contained in 5 U.S.C. 553(a)(1) relating to matters which constitute "a foreign affairs function of the United States."

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

Peru—Market Statement

January 1984.

Category 319—Cotton Duck

U.S. imports of Category 319 from Peru amounted to 15.6 million square yards during the year ending November 1983, up 43.5 percent from the 10.9 million square yards imported a year earlier. Peru was the second largest supplier of Category 319, accounting for 21.3 percent of the total year ending November 1983 imports. U.S. imports from Hong Kong, the largest supplier, were subject to an agreed limit resulting from a consultation call in 1983. Imports from three suppliers, Pakistan, Brazil, and Thailand, are subject to specific limits. Other major suppliers are controlled by agreed levels or designated consultation levels.

Domestic production of Category 319 declined from 95.1 million square yards in 1981 to 93.6 million in 1982.

Imports of Category 319 have disrupted the domestic market for a number of years. Imports were equal to 72.2 percent of production in 1982.

[FR Doc. 84-3940 Filed 2-9-84; 1:03 am]

BILLING CODE 3510-DR-M

Soliciting Public Comment on Bilateral Textile Consultations With Uruguay on Categories 410 (Woolen and Worsted Fabric) and 435 (Wool Coats)

February 9, 1984.

On January 31, 1984, the United States Government, under Article 3 of the Arrangement Regarding International Trade in Textiles, requested the Government of Uruguay to enter into consultations concerning exports to the United States of woolen and worsted fabric in Category 410 and wool coats in Category 435, produced or manufactured in Uruguay.

The purpose of this notice is to advise that, if no solution is agreed upon with the Government of Uruguay in consultations during the sixty-day period which began on January 31, 1984, the Committee for the Implementation of Textile Agreements may later establish a limit for the entry and withdrawal from warehouse for consumption of wool textile products in Categories 410 and 435, produced or manufactured in Uruguay and exported to the United States during the twelve-month period which began on February 1, 1984 and extends through January 31, 1985 at a level of 1,117,011 square yards for Category 410 and 30,934 dozen for Category 435.

A summary market statement follows this notice.

Anyone wising to comment or provide data or information regarding the treatment of Categories 410 and 435 is invited to submit such comments or information in ten copies to Mr. Walter C. Lenahan, Chairman, Committee for the implementation of Textile Agreements, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230. Because the exact timing of the consultations is not yet certain, comments should be submitted promptly. Comments or information submitted in response to this notice will

be available for public inspection in the Office of Textiles and Apparel, Room 3100, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C., and may be obtained upon written request.

Further comment may be invited regarding particular comments or information received from the public which the Committee for the Implementation of Textile Agreements considers appropriate for further consideration.

The solicitation of comments regarding any aspect of the agreement or the implementation thereof is not a waiver in any respect of the exemption contained in 5 U.S.C. 553(a)(1) relating to matters which constitute "a foreign affairs function of the United States."

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

Uruguay—Market Statement

Category 410—Wool Broadwoven Fabrics

U.S. imports of Category 410 from Uruguay were 1.2 million square yards during the year ending November 1983. This was 265 percent higher than a year earlier. This is a sharp and substantial increase of imports in a sector already severely affected by imports. These imports from Uruguay are imported at duty-paid values below the U.S. producer prices for comparable fabrics. These and other factors lead the United States Government to conclude that imports from Uruguay are disrupting the domestic market for such fabrics and constitute a threat for further market disruption in the United States, as provided for in Article 3 of the Arrangement Regarding International Trade in Textiles. The rapid escalation of low priced imports from Uruguay, if continued, provides a real threat for continued and more substantial market disruption.

Production of wool broadwoven fabrics declined from 160.3 million square yards in 1981 to 115.5 million in 1982. The industry continued in a depressed state in 1983.

Imports increased from 20.9 million square yards in 1981 to 24.3 million in 1982. Imports for the first eleven months of 1983 were up 17.2 percent at 27.4 million square yards.

Imports as a percentage of production increased from 13.1 percent in 1981 to 21.0 percent in 1982. The ratio of imports to domestic production increased to 22.3 percent during the first half of 1983. Due to the substantial increase in imports during the last half of 1983, the ratio is expected tor each 26 percent in 1983.

Category 435—Wool Coats

U.S. imports of Category 435 from Uruguay amounted to 29,873 dozens during January-October 1983, up 14 percent from a year earlier. Uruguay was the third largest supplier of Category 435. These imports were entered at duty-paid values below the U.S. producer prices for similar and comparable garments.

Domestic production of Category 435 declined from 1,116,000 dozens in 1981 to 1,095,000 dozens in 1982. Imports from all sources also declined in 1982 but sharply expanded in 1983. Imports for 1981 were 191,000 dozen; for 1982, 186,000 dozens; and, for January-October 1983, 246,000 dozens. The ratio of imports to domestic production was 17.0 percent in 1982 and is expected, due to the sharp increase in imports, to range from 25 to 30 percent in 1983.

[FR Doc. 84-3939 Filed 2-9-84; 1:03 pm]
BILLING CODE 3510-DR-M

DEPARTMENT OF DEFENSE

Department of the Navy

Determination to Relocate and Construct a New Entrance Gate in the Base Coastal Floodplain, U.S. Naval Air Station, South Weymouth, Massachusetts

I. Background

The Naval Reserve Force is proposing to relocate and construct a new main entrance gate at Naval Air Station (NAS) South Weymouth, Massachusetts. The local community has long expressed concern and displeasure over heavy vehicular traffic that now transects an adjacent residential neighborhood and which has been involved in the death of one child and injuries to others in recent years. The Navy accordingly has concluded traffic studies to ascertain alternative gate arrangements and has selected a preferred alternative. The proposed site is located within a 100-year floodplain zone.

A Preliminary Environmental Assessment was prepared for the proposed project. The assessment concluded that the preferred location for the new entrance at the northwest corner of the installation off State Route 18 and parallel to the existing Calnan Road satisfied both the Navy's and the community's needs and that construction/operation will not pose a "significant effect on the quality of the human environment."

II. Alternatives Evaluated in the Preliminary Environmental Assessment

A. No action

B. Alternative site locations

III. Statement of Conformity to State and Local Floodplain Protection Standards

It has been determined that the proposed action is consistent with the State of Massachusetts Coastal Zone Management Plan to the maximum extent practicable.

IV. Reasons Action is Proposed To Be Located in Floodplain

A. Safety.

The major advantage to be realized from construction of a new main gate will be to remove the hazard to the civilian community that now exists. The site chosen also preserves security for the Station, minimizes travel through the clear zone (aircraft travel), and eliminates the need for a traffic signal that would be required at other locations.

B. Cost

The cost of constructing the preferred alternative is not considered to be in excess of the other alternatives considered.

C. General

Consideration of economic, environmental and operational factors led to selection of one of eight sites on the Main Base. The preferred site is below the 500-year flood elevation, but above the 100-year flood elevation. This action is therefore subject to the provisions and requirements of Executive Order 11988, the stated objective of which is to reduce the risk of flood loss and to minimize the impact floods on human safety, health, and welfare.

V. Determination

Based on the Preliminary Environmental Assessment and for the reasons cited above, it has been determined that location of the proposed replacement main gate in the Base Coastal Floodplain is the only practicable alternative to the Navy.

Dated: February 8, 1984.

William F. Roos, Jr.,

Lieutenant, JAGC, U.S. Naval Reserve Federal Register Liaison Officer.

[FR Doc. 84-3823 Filed 2-13-84; 8:45 am]
BILLING CODE 3810-AE-M

DELAWARE RIVER BASIN COMMISSION

Commission Meeting and Public Hearing

Notice is hereby given that the Delaware River Basin Commission will hold a public hearing on Wednesday, February 22, 1984, beginning at 1:30 p.m. in the 24th Floor Conference Room of 1250 Broadway, at 32nd Street and Broadway, New York City, New York. The hearing will be a part of the Commission's regular business meeting, which is open to the public.

An informal pre-meeting conference among the Commissioners and staff will be open for public observation at about 11:00 a.m. at the same location.

The subjects of the hearing will be as follows:

Applications for Approval of the Following Projects Pursuant to Article 10.3, Article 11, and/or Section 3.8 of the Compact:

1. *North Wales Water Authority (D–77–90 CP).* An application for renewal of a ground water withdrawal from Well No. 23 of the North Wales Water Authority. The well is located near the intersection of Morris Road and Broad Street in Upper Gwynedd Township, Montgomery County, Pennsylvania. Commission approval was limited to five years and will expire unless renewed. The applicant has requested approval to continue operation of Well No. 23 in accordance with existing approval limitations.

2. *Borough of Hatfield (D–78–84 CP).* An application for renewal of a ground water withdrawal from Well No. 8 of the Borough of Hatfield. The well is located near Fairgrounds Road and Cowpath Road in Hatfield Township, Montgomery County, Pennsylvania. Commission approval was limited to five years and will expire unless renewed. The applicant has requested approval to continue operation of Well No. 8 in acordance with existing approval limitations.

3. *North Wales Water Authority (D–78–94 CP).* An application for renewal of a ground water withdrawal from Well No. 25 of the North Wales Water Authority. The well is located near the intersection of Route 309 and McKean Road in Lower Gwynedd Township, Montgomery County, Pennsylvania. Commission approval to withdraw 7.5 million gallons during any 30-day period was limited to five years and will expire unless renewed. As part of the renewal application, the applicant has requested approval to increase withdrawal from Well No. 25 to 10.8 million gallons during any 30-day period.

4. *Public Service Electric and Gas Company (D–79–66).* A well water supply project to provide an additional source of water for the existing well system at the applicant's Salem Nuclear Generating Station, Lower Alloways Creek Township, Salem County, New Jersey. Withdrawals from the new source, Well No. 6, combined with withdrawals from the existing facilities, will not exceed the existing limitation of 28.7 million gallons per 30-day period as an average during any calendar year. This hearing continues that of January 25, 1984.

5. *Township of Bordentown (D–83–43 CP).* A sewage treatment project to serve portions of Bordentown Township in Burlington County, New Jersey. The existing Laurel Run Treatment Plant will be expanded and upgraded to remove 97 percent BOD and suspended solids from an average waste flow of 0.40 million gallons per day. Treated effluent will continue to discharge to Laurel Run, a tributary to Blacks Creek, at River Mile 128.22–2.0–0.65

The hearing on Dockets Nos. D–77–90 CP D–78–84 CP, and D–78–94 CP will be continued at the Commission's next business meeting and hearing. A minimum of ten days Public Notice of the date and location of the next DRBC meeting and hearing will be provided.

Documents relating to each of these projects may be examined at the Commission's offices. Preliminary dockets are available on Dockets D–79–66 and D–84–43 CP in single copies upon request. Please contact David B. Everett. Persons wishing to testify at this hearing are requested to register with the Secretary prior to the hearing.

Susan M. Weisman,

Secretary.

February 7, 1984

[FR Doc. 84–3020 Filed 2–13–84; 8:45 am]

BILLING CODE 6360–01–M

DEPARTMENT OF EDUCATION

National Advisory Council on Women's Educational Programs; Meeting

AGENCY: National Advisory Council on Women's Educational Programs.

ACTION: Amendment notice.

SUMMARY: This notice is to amend the announcement of a partially closed meeting of the National Advisory Council on Women's Educational Programs published January 30, 1984, (49 FR 3684). The Executive Committee will hold an additional closed meeting February 14, from 9:30 a.m. until business is completed. The agenda of the closed sessions beginning at 8:30 p.m. on February 14, and at 11:00 a.m. on February 16, has been revised.

FOR FURTHER INFORMATION CONTACT: Sharon Petersen, Special Assistant to the Executive Director, National Advisory Council on Women's Educational Programs, 425 13th Street, NW., Suite 416, Washington, D.C., 20004, (202) 376–1038.

SUPPLEMENTARY INFORMATION: The Executive Committee will meet in closed session Tuesday, February 14, 1984, beginning at 9:30 a.m. until business is completed to interview candidates for the position of Executive Director of the National Advisory Council on Women's Educational Programs. The Executive Committee will meet in closed session Tuesday, February 14, beginning at 8:30 p.m. and the full Council will meet in closed session Thursday, February 16, beginning at 11:00 a.m. until business is completed. The agenda of both closed sessions is to consider candidates for and to select an Executive Director for the National Advisory Council on Women's Educational Programs. These interviews and discussions will touch upon matters of a personal nature disclosure of which would constitute a clearly unwarranted invasion of personal privacy if conducted in open session. Such matters are protected by exemption (6) of Section 552b(c) of Title 5 U.S.C.

The open meetings of the Council and it's Committees remain unchanged.

A summary of the activities of the closed session and related matters which would be informative to the public consistent with the policy of Section 552b(c) of Title 5 U.S.C. will be available to the public within 14 days of the meeting at the Council's office, 425 13th Street, NW., Suite 416, Washington, D.C. 20004

Signed at Washington, D.C. on February 9, 1984.

Rosemary Thomson,

Executive Director.

[FR Doc. 84–4009 Filed 2–13–84; 8:45 am]

BILLING CODE 4000–01–M

Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Notice of proposed information collection requests.

SUMMARY: The Deputy Under Secretary for Management invites comments on the proposed information collection requests as required by the Paperwork Reduction Act.

DATES: Interested persons are invited to submit comments on or before March 15, 1984.

ADDRESSEES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Desk Officer, Department of Education, Office of Management and Budget, 726 Jackson Place, NW., Room 3208 New Executive Office Building, Washington, D.C. 20503. Requests for copies of the proposed information collection requests should be addressed to Margaret Webster, Department of Education, 400 Maryland Avenue SW., Room 4074, Switzer Building, Washington, D.C. 20202.

FOR FURTHER INFORMATION CONTACT: Margaret B. Webster (202) 426–7304.

SUPPLEMENTARY INFORMATION: Section 3517 of the Paperwork Reduction Act (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. The requirement for public consultation may be amended or waived by OMB to the extent that the public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform the statutory obligations.

The Deputy Under Secretary for Management publishes this notice containing proposed information requests prior to the submission of these requests to the Office of Management and Budget. Public comment is invited from the OMB at the address specified above. Copies of the requests may be obtained from Margaret Webster at the address specified above.

Dated: February 9, 1984.

Charles L. Heatherly,

Deputy Under Secretary for Management.

Office of Educational Research and Improvement

New

Financial Status and Performance Report for Library Services and Construction Act (LSCA), Title II (Public Library Construction) Under Authorization of the Emergency Jobs Bill (Pub. L. 98–8)
ED 915–1
On Occasion; Annually
State or Local Governments
Reporting Burden—Responses: 52
Burden Hours: 520

Abstract: Expenditures of State or local funds are checked for matching requirements to determine if a grant has been expended under compliance timelines, and to review program and fiscal requirements under the Library Services and Construction Act, Title II and Pub. L. 98–8.

[FR Doc. 84–3983 Filed 2–13–84; 8:45 am]
BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Office of Conservation and Renewable Energy

National Energy Extension Service Advisory Board; Open Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Public Law 92–463, 86 Stat. 770), notice is hereby given of the following advisory committee meeting:

Name: National Energy Extension Service Advisory Board.

Date and Time: Monday, February 27, 1984—8:30 a.m.—5:00 p.m.

Place: Hyatt Regency Hotel, Crystal City, Washington A and B Room, 2799 Jefferson Davis Highway, Arlington, Virginia 22202.

Date and Time: Tuesday, February 28, 1984—9:00 a.m.—12:30 p.m.

Place: U.S. Department of Energy, Forrestal Building, Room 6A–081, 1000 Independence Avenue, S.W., Washington, D.C. 20585.

Contact: William H. H. King, U.S. Department of Energy, Forrestal Building, Room 6A–081, 1000 Independence Avenue, S.W., Washington, D.C. 20585, Telephone: 202–252–8290.

Purpose of the Board: The Board was established to carry on a continuing review of the National Energy Extension Service and the plans and activities of each State in implementing Energy Extension Service programs.

Tentative agenda:

Monday, February 27, 1984
Presentation on EES Administrative Costs
EES State Overviews
Review and Finalize Fifth Annual Report Prepared by Subcommittee
Public Comment (19 minute rule)

Tuesday, February 28, 1984
Review of EES/SECP Meeting, Dallas, Texas
Update on Oil Overcharge Monies
NEESAB Future Efforts
Public Comment (10 minute rule)

Public Participation: The meeting is open to the public. The Chairperson of the Committee is empowered to conduct the meeting in a fashion that will, in his/her judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Committee will be permitted to do so either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact William H. H. King at 202–252–8290. Requests must be received at least 5 days prior to the meeting and reasonable provision will be made to include the presentation on the agenda.

Transcripts: Available for public review and copying at the Public Reading Room, Room 1E190, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C., between 8:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, D.C. on February 8, 1984.

Howard H. Raiken,

Deputy Advisor Committee Management Officer

[FR Doc. 84–3947 Filed 2–13–84; 8:45 am]
BILLING CODE 6450–01–M

Economic Regulatory Administration

[Docket No. ERA-FC–84–003]

Powerplant and Industrial Fuel Use Act of 1978: Electric Utility Conservation Plans

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of receipt of proposed amendment to approved electric utility conservation plans.

SUMMARY: On January 27, 1984, the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) received a proposed amendment to three electric utility conservation plans previously approved by DOE pursuant to Section 808 of the Powerplant and Industrial Fuel Use Act of 1978, 42 U.S.C. 8301 *et seq.*, as amended (FUA or the Act).

Pursuant to 10 CFR 508.4(b) and 508.6(b) DOE hereby gives Notice of Receipt of a Proposed Amendment to Approved Conservation Plans from Texas Utilities Electric Company, Dallas, Texas. The publication of this notice commences a thirty (30) day public comment period during which interested persons are invited to submit written comments concerning the content of the proposed amendment to three approved conservation plans.

The public file for Texas Utilities Electric Company containing the proposed amendment of the conservation plans and any other pertinent documents is available at the Department of Energy, Freedom of Information Reading Room, 1000 Independence Avenue, SW., Room 1E–190, Washington, D.C. 20585, telephone (202) 252–6020. ERA will approve or non-approve the proposed amendment of the plan within 120 days of the receipt of the proposed amendment. Approval or non-approval of an amendment to a conservation plan will be based on the entire record of the proceeding, including any comments received during the public comment period provided herein. Notice of Approval on Non-approval of the proposed amendment to the conservation plans will be published in the **Federal Register.**

DATE: Written comments on the proposed amendment described in the SUPPLEMENTARY INFORMATION section of this notice are due on or before March 15, 1984.

ADDRESS: Five copies of written comments shall be submitted to: Case Control Unit, Coal and Electricity Division, Forrestal Building, Room GA–033, 1000 Independence Avenue, SW.,

Washington, D.C. 20585. The name of the subject utility and identifying case number should be printed on the outside of the envelope and on the documents contained therein.

FOR FURTHER INFORMATION CONTACT:

Edward J. Peters, Jr., Office of Fules Programs, Economic Regulatory Administration, Forrestal Building, Room GA–073G, 1000 Independence Avenue, SW., Washington, D.C. 20585, (202) 252–8162.

Marya Rowan, Office of the General Counsel, Forrestal Building, Room 6A–141, 1000 Independence Avenue, SW., Washington, D.C. 20585, (202) 252–6739.

SUPPLEMENTARY INFORMATION: Section 1023 of the Omnibus Budget Reconciliation Act of 1981, Pub. L. 97–35 (OBRA) amended the Powerplant and Industrial Fule Use Act of 1978, 42 U.S.C. 8301 *et seq.* (FUA or the Act) by adding a new section 808, Entitled "Electric Utility Conservation Plan."

Section 808 requires utilities which own or operate any existing electric powerplant which used natural gas as a primary energy source between August 14, 1980, and August 13, 1981, and which also plan to use natural gas in any electric powerplant, to develop and submit to DOE for approval a conservation plan to conserve electric energy. The plan must set forth the means to achieve the conservation of electric energy at a level equal to 10 percent of the electric energy output of the utility sold within its own system which was attributable to natural gas during the four calendar quarters ending on June 30, 1981. The plan must be fully implemented during the five-year period following DOE approval.

DOE approved a conservation plan for Dallas Power & Light Company (DP&L), FC Case No. 50736–9999–99–49, (47 FR 41163, September 17, 1982); for Texas Electric Service Company (TESCO), FC Case No. 52901–9999–99–49, (47 FR 54319, December 2, 1982); and for Texas Power & Light Company (TP&L), FC Case No. 52902–9999–99–49, (47 FR 56387, December 16, 1982). In 1982, these companies were subsidiaries of Texas Utilities Company (TU). In 1983, subsequent to DOE's approval actions, DP&L, TESCO and TP&L were merged into Texas Utilities Electric Company, another subsidiary of TU.

Texas Utilities Electric Company, as the successor to the three subsidiaries, seeks to amend each of the previously-approved conservation plans by consolidating the approved programs and conservation goals of each plan into one consolidated plan. Texas Utilities Electric Company would administer the consolidated plan, if approved by DOE, and would file the annual report of progress of each remaining year of the five-year plan.

Issued in Washington, D.C. on February 8, 1984.

Robert L. Davies,

Director, Coal & Electricity Division, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 84–3950 Filed 2–13–84; 8:45 am]

BILLING CODE 6450–01–M

Federal Energy Regulatory Commission

Cleveland Electric Illuminating Co.; Filing

[Docket No. ER84–237–000]

February 9, 1984.

The filing Company submits the following:

Take notice that on February 1, 1984, Cleveland Electric Illuminating Company (CEI) tendered for filing an executed Service Agreement and Exhibits A and B thereto, providing for transmission by CEI of approximately 50 MW of power from the 345 kv interconnection point on CEI's Juniper-Canton Line with the Ohio Power Company to the City of Cleveland, Ohio (City) in accordance with the terms and conditions of CEI's FERC Transmission Service Tariff.

CEI requests an effective date of January 11, 1984, and therefore requests waiver of the Commission's notice requirements.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before February 27, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84–3994 Filed 2–13–84; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER84–238–000]

Cleveland Electric Illuminating Co.; Filing

February 9, 1984.

The filing Company submits the following:

Take notice that on February 1, 1984, Cleveland Electric Illuminating Company (CEI) tendered for filing an executed Service Agreement and Exhibits A and B thereto, providing for transmission by CEI of approximately 50 MW of power from the 345 kv interconnection point on CEI's Juniper—Canton Line with the Ohio Power Company to the City of Cleveland, Ohio (City) in accordance with the terms and conditions of CEI's FERC Transmission Service Tariff.

CEI requests an effective date of December 28, 1984, and therefore requests waiver of the Commission's notice requirements.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before February 27, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84–3995 Filed 2–13–84; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER84–239–000]

Cleveland Electric Illuminating Co.; Filing

February 9, 1984.

The filing Company submits the following:

Take notice that on February 1, 1984, Cleveland Electric Illuminating Company (CEI) tendered for filing an executed Service Agreement and Exhibits A and B thereto, providing for transmission by CEI of approximately 60 MW of power from the 345 Kv interconnection point on CEI's Juniper-Canton Line with the Ohio Power Company to the City of Cleveland, Ohio (City) in accordance with the terms and

conditions of CEI's FERC Transmission Service Tariff.

CEI has requested an effective date of January 18, 1984, and therefore requests waiver of the Commission's notice requirements.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before February 27, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-3996 Filed 2-13-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-240-000]

Cleveland Electric Illuminating Co.; Filing

February 9, 1984.

The filing Company submits the following:

Take notice that on February 1, 1984, Cleveland Electric Illuminating Company (CEI) tendered for filing an executed Service Agreement and Exhibits A and B thereto, providing for transmission by CEI of approximately 50 MW of power from the 345 Kv interconnection point on CEI's Juniper-Canton Line with the Ohio Power Company to the City of Cleveland, Ohio (City) in accordance with the terms and conditions of CEI's FERC Transmission Service Tariff.

CEI has requested an effective date of January 4, 1984, and therefore requests waiver of the Commission's notice requirements.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before February 27, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-3997 Filed 2-13-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER-84-243-000]

Consumers Power Co.; Filing

February 10, 1984.

The filing Company submits the following:

Take notice that on February 2, 1984, Consumers Power Company (Consumers) tendered for filing a Transmission Agreement with the County of Antrim, Michigan. The filed agreement provides for Consumers to provide firm transmission service from Consumer's Elk Rapids Substation to the Grand Traverse Interconnection Point for the account of the City of Traverse City. The electric capacity and energy to be transmitted is the output of Antrim County's hydroelectric plant on the Elk River.

Copies of this filing were served upon the parties and the Michigan Public Service Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before February 27, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-3998 Filed 2-13-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-236-000]

El Paso Electric Co.; Filing

February 10, 1984.

The filing Company submits the following:

Take notice that on February 1, 1984, El Paso Electric Company (El Paso) tendered for filing changes to rate schedules under which it provides wholesale service to Rio Grande Electric Cooperative to Dell City, Texas (FERC No. 18) and Van Horn, Texas (FERC No. 19) and the Texas-New Mexico Power Company at Alamagordo (FERC No. 17) and Lordsburg (FERC No. 35). The filing provides for a first-step increase of $944,400, or 8.86%, and a second-step increase of $991,801, or an additional 0.45%, on the basis of the 12 months ending June 30, 1983 used as the test period. The claimed return on equity is increased from 15% in the first step to 16% in the second.

El Paso states that the proposed rates reflect inclusion of construction work in progress (CWIP) in rate base up to the six percent limit on CWIP-related increases provided in § 35.26(d)(1)(i) of the Commission's regulations. The amount of CWIP included in rate base other than coal conversion and pollution control CWIP, is $45.9 million for the first step and is reduced to $42.2 million for the second step. The amount included represents about 6% of the Company's current investment of $73,151,848 in the Palo Verde nuclear project, in which the Company has a 15.8% ownership interest.

El Paso further states that the proposed rates also reflect increases in cost of service above the 1980 adjusted Period I level reflected in the present rates. The filing is supported based on Period I costs for the 12 months ended June 30, 1983 as adjusted for a wage and salary increase in December 1983 and for a 345 KV transmission line between the Company's system and that of Southwestern Public Service Company (SPS) which will be placed in service by March 31, 1984.

El Paso requests effective dates of April 1 and 2, 1984, respectively, for the first and second steps of the increase.

Copies of the filing have been served on the affected customers and the New Mexico Public Service Commission and the Public Utility Commission of Texas.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before February 27, 1984. Protests will be considered by the Commission in determinating the appropiate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to

intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-3999 Filed 2-13-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-245-000]

El Paso Electric Co.; Filing

February 10, 1984.

The filing Company submits the following:

Take notice that on February 3, 1984, El Paso Electric Company (EPE) submitted for filing two amendments to the power sales agreement dated September 22, 1982 between itself and the Imperial Irrigation District (IID). Amendment Number One requires EPE to use its best efforts to provide a transmission path to deliver energy from itself to IID over the facilities of the Salt River Project Agricultural Improvement and Power District. Amendment Number Two provides that IID's representative, in accordance with specified procedures, may specify varying weekly levels of contract demand associated with the interruptible capacity provided by EPE. Amendment Number Two also provides that the monthly demand charge specified in Exhibit A of the agreement shall be prorated on a daily basis. EPE has requested that the two amendments of the agreement be accepted for filing and made effective as of February 1, 1984 and requests waiver of notice requirements to accomplish such effective date.

EPE further states that copies of its filing have been served upon the Public Utility Commission of Texas, the New Mexico Public Service Commission and IID.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before February 29, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspecton.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-4000 Filed 2-13-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-248-000]

Empire District Electric Co.; Filing

February 9, 1984.

The filing Company submits the following:

Take notice that on February 6, 1984, Empire District Electric Company (Empire) tendered for filing a proposed Service Schedule H, Peaking Power Service, as a supplement to an Electric Interchange Agreement between Empire and Kansas City Power and Light Compnay (KCP&L).

Empire states that the proposed Service Schedule H provides for the sale of 46.8 Mw of peaking capacity and related energy from Empire to KCP&L for the period beginning January 1, 1984. The capacity charge is cost plus $0.46 per Kw per month. Related energy will be furnished at cost plus 10% with an allowance for incurred losses. The schedule further provides that KCP&L will purchase no more than 56,160 Mwh during any contact year, 28,080 Mwh during any four consecutive months, 9,360 Kwh in any one month. No less than 2,808 Mwh may be purchased in any one month. This filing should clarify terms of the original schedule.

Empire requests an effective date of January 1, 1984, and therefore requests waiver of the Commission's notice requirements.

Copies of this filing were served upon the Missouri Public Service Commission, the Kansas Corporation Commission, and the Kansas City Power and Light Company.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before February 27, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspecton.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-4001 Filed 2-13-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ES84-29-000]

Iowa Public Service Co.; Application

February 10, 1984.

Take notice that on January 27, 1984, Iowa Public Service Company filed an application pursuant to Section 204 of the Federal Power Act seeking authority to issue up to $60 million of short-term unsecured promissory notes to commercial banks and commercial paper dealers. All proposed notes are to be issued on or before March 31, 1985, and will bear final maturity dates no later than March 31, 1986.

Any person desiring to be heard or to make any protest with reference to said application should file a motion to intervene or protest on or before February 27, 1984, with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 or 385.214). The application is on file with the Commission and available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-4002 Filed 2-13-84; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6577-001]

Kansas Electric Power Cooperative, Inc.; Surrender of Preliminary Permit

February 9, 1984.

Take notice that Kansas Electric Power Cooperative, Inc., Permittee for the proposed Glen Elder Hydro Project No. 6577, has requested that its preliminary permit be terminated. The permit was issued on December 17, 1982, and would have expired May 31, 1984. The project would have been located on the Solomon River in Mitchell County, Kansas.

The Permittee filed its request on December 19, 1983, and the surrender of the preliminary permit for Project No. 6577 is deemed accepted 30 days from the date of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-4003 Filed 2-13-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP84-201-000]

National Fuel Gas Supply Corp.; Request Under Blanket Authorization

February 9, 1984.

Take notice that on January 18, 1984, National Fuel Gas Supply Corporation (Supply), 10 Lafayette Square, Buffalo, New York 14203, filed in Docket No. CP84-201-000 a request pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) that Supply proposes to transport natural gas for an eligible end-user under the authorization issued in Docket No. CP83-4-000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Supply proposes to transport up to 185 Mcf of gas per day and 67,525 Mcf of gas per year, for the account of Jackson China, Inc. (Jackson), to National Fuel Gas Distribution Corporation (Distribution) which, in turn, would deliver the gas to Jackson at Jackson's facilities in Falls Creek, Pennsylvania, pursuant to the terms of the gas transportation agreement dated November 15, 1983 (transportation agreement). Supply states that the current transportation rate is 34.15 cents per Mcf, which includes an added incentive charge of 5.0 cents per Mcf, plus 2 percent retainage for shrinkage which is in accordance with its transportation Rate Schedule T-2.

Supply states that the gas to be purchased by Jackson involves gas supplies previously under contract to and released by Supply. Jackson would use the gas transported by Supply in boilers and kilns which are qualified end-uses pursuant to § 157.209(e)(2) of the Regulations, it is asserted. Supply states that no new facilities are necessary to effectuate the proposed transportation. It is stated that the proposed transportation woul commence on March 14, 1984, and terminate at 11:59 p.m. on June 30, 1985, or upon termination of the contract which term is for 3 months, effective November 15, 1983, and month to month thereafter, whichever occurs first.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-4004 Filed 2-13-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-247-000]

Northern States Power Co.; Filing

February 10, 1984.

The filing Company submits the following:

Take notice that on February 6, 1984, Northern States Power Company (NSP), tendered for filing the Municipal Transmission Service Agreement between NSP and the City of Granite Falls.

The Municipal Transmission Service Agreement replaces the Firm Power Resale Agreement, FERC Rate Schedule No. 355, between NSP and the City of Granite Falls which was cancelled by NSP pursuant to notice on April 30, 1983. The Municipal Transmission Service Agreement essentially provides for the wheeling of power and energy to Granite Falls from the Western Area Power Administration and alternate suppliers. The rates and charges provided for this service are on file with the Commission for similar agreements with other cities, i.e., City of St. James, FERC Rate Schedule No. 412.

NSP requests an effective date of February 20, 1984, and therefore requests waiver of the Commission's notice requirements.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before February 27, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public insection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-4005 Filed 2-13-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-246-000]

San Diego Gas & Electric Co.; Filing

February 10, 1984.

The filing Company submits the following:

Take notice that on February 3, 1984, San Diego Gas & Electric Company (SDG&E) tendered for filing as an initial rate schedule an Interchange Agreement and Service Schedule A covering Economy Energy Interchange between SDG&E and City of Farmington, New Mexico (Farmington), dated January 6, 1984.

SDG&E requests an effective date of January 6, 1984, and therefore requests waiver of the Commission's notice requirements.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before February 27, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-4006 Filed 2-13-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF84-135-000]

Union Camp Corp.; Application for Commission Certification of Qualifying Status of a Cogeneration Facility

February 10, 1984.

On January 17, 1984, Union Camp Corporation, (Applicant), 1600 Valley Road, Wayne, New Jersey, 07470, submitted for filing an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's regulations. No determination has been

made that the submittal constitutes a complete filing.

The facility is a topping cycle cogeneration facility located at Franklin, Virginia. The primary energy source of the facility is biomass. Coal and No. 6 fuel oil supplement the primary energy source. Steam from the facility will be used in the Applicant's paper production processes. The total power production capacity of the facility is 98 megawatts. Applicant contends that 56.5 megawatts of the capacity is "new".

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-4007 Filed 2-13-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-242-000]

Western Massachusetts Electric Co.; Filing

February 9, 1984.

The filing Company submits the following:

Take notice that on February 1, 1984, Western Massachusetts Electric Company (WMECO) tendered for filing a proposed Purchase Agreement with respect to various gas turbine units (Purchase Agreement) dated December 1, 1983 between WMECO, and the Connecticut Light and Power Company (CL&P, collectively the NU Companies) and the City of Chicopee Municipal Lighting Plant (Chicopee).

WMECO states that the Purchase Agreement provides for a sale to Chicopee of specified percentages of capacity and associated energy from five gas turbine generating units during the period from December 1, 1983 to November 30, 1984, together with related transmission service.

WMECO states that the capacity charge for the proposed service was determined on a cost of service basis at the time that the sale was made and was determined in accordance with Appendix C and Exhibits thereto of the Purchase Agreement. The transmission charge rate is the annual average cost of transmission service on the Northeast Utilities (NU) system at the time that the sale was made, and was determined in accordance with Appendix E and Exhibits thereto of the Purchase Agreement. The monthly transmission charge is determined by the product of (i) the transmission charge rate divided by twelve ($/KW-product), and (ii) the number of kilowatts of winter capability which Chicopee is entitled to receive during each month. The variable maintenance charge is derived from historical costs and the additional maintenance charge is twice the variable maintenance charge, based on manufacturer's recommendations.

WMECO requests an effective date of December 1, 1983, and therefore requests waiver of the Commission's notice requirements.

Copies of this filing have been served upon Chicopee.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before February 27, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-4006 Filed 2-13-84; 8:45 am]

BILLING CODE 6717-01-M

Office of Fossil Energy

Advisory Committee on Federal Assistance for Alternative Fuels Demonstration Facilities; Open Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770), notice is hereby given of the following advisory committee meeting:

Name: Advisory Committee on Federal Assistance for Alternative Fuel Demonstration Facilities.

Date and time: Ffiday, February 24, 1984—9:00 a.m. to 12:00 p.m.

Place: Key Bridge Marriott Hotel, 1401 Lee Highway, Arlington, VA 22209, (703) 524-6400.

Contact: Patricia Dickinson, Office of Oil, Gas, Shale and Coal Liquids, U.S. Department of Energy, Germantown, Maryland 20545, Room D-119, Mail Stop D-107, Telephone: (301) 353-2700.

Purpose: To provide advice, information, and recommendations to the Secretary of Energy on matters relating to the development of alternative fuels.

Tentative Agenda

- Welcome.
- Great Plains Coal Gasification Project (GPCGP) Status Review Presentation.
- Panel Discussion:

—Synthetic Fuels Corporation's (SFC) Solicitation Process
—SFC Applicants' Responses
—Problem Areas
—Proposed Suggestions

- Advisory Committee Deliberations on Advisory Committee Report.
- Closing Remarks.
- Public Commentary and Discussion (10 minute rule).

Public Participation

The meeting is open to the public. Written statements may be filed with the Committee either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact Mr. Keith N. Frye at the address or telephone number listed above. Requests must be received 5 days prior to the meeting and reasonable provisions will be made to include the presentation on the agenda. The Chairperson of the Committee is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Less than 15 days notice is being given for the meeting due to the immediate need to finalize the Committee's report on Pioneer Synthetic Fuels Facilities for immediate advice and recommendations concerning the content of the report which will be used by the Secretary of Energy to make prudent decisions and provide sound policy guidance in this area for the Nation.

Transcripts

Available for public review and copying at the Freedom of Information Public Reading Room, 1E-190, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. between 8:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, D.C. on February 9, 1984.

Howard H. Raiken,

Deputy Advisory Committee Management Officer.

[FR Doc. 84-4070 Filed 2-13-84; 8:45 am]

BILLING CODE 6450-01-M

Office of Hearings and Appeals

Implementation of Special Refund Procedures

AGENCY: Office of Hearings and Appeals, Energy.

ACTION: Notice of Implementation of Special Refund Procedures and Solicitation of Comments.

SUMMARY: The Office of Hearings and Appeals of the Department of Energy solicits comments concerning the appropriate procedures to be followed in refunding a total of $380,347 (plus accrued interest) in consent order funds to members of the public. The funds are being held in escrow pursuant to a consent order involving Dalco Petroleum, Inc., a reseller located in Tulsa, Oklahoma.

DATE AND ADDRESS: Comments must be filed within 30 days of publication of this notice in the **Federal Register** and should be addressed to the Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue, SW., Washington, D.C. 20585. All comments should conspicuously display a reference to Case Number HEF-0060.

FOR FURTHER INFORMATION CONTACT: Richard W. Dugan, Associate Director, Office of Hearings and Appeals, 1000 Independence Avenue, SW., Washington, D.C. 20585, (202) 252-2860.

SUPPLEMENTARY INFORMATION: In accordance with § 205.282(b) of the procedural regulations of the Department of Energy, 10 CFR 205.282(b), notice is hereby given of the issuance of the Proposed Decision and Order set forth below. The Proposed Decision related to a consent order entered into by Dalco Petroleum, Inc. which settled possible pricing violations in the firm's sales of propane during the period November 1, 1973 through March 31, 1974.

The Proposed Decision sets forth the procedures and standards that the DOE has tentatively formulated to distribute funds remitted by Dalco and being held in escrow. The DOE has tentatively decided that the funds should be distributed in two stages in the manner utilized with respect to other consent order funds.

Applications for Refund should not be filed at this time. Appropriate public notice will be given when the submission of claims is authorized.

Any member of the public may submit written comments regarding the proposed refund procedures. Commenting parties are requested to submit two copies of their comments. Comments should be submitted within 30 days of publication of this notice in the **Federal Register**, and should be sent to the address set forth at the beginning of this notice. All comments received in these proceedings will be available for public inspection between the hours of 1:00 to 5:00 p.m., Monday through Friday, except federal holidays, in the Public Docket Room of the Office of Hearings and Appeals, located in Room 1E-234, 1000 Independence Avenue, SW., Washington, D.C. 20585.

Dated: February 3, 1984.

George B. Breznay,

Director, Office of Hearings and Appeals.

Proposed Decision and Order of the Department of Energy

Special Refund Procedures

Name of Petitioner: Dalco Petroleum, Inc.

Date of Filing: October 13, 1983.

Case Number: HEF-0060.

Under the procedural regulations of the Department of Energy, the Economic Regulatory Administration (ERA) of the DOE may petition the Office of Hearings and Appeals (OHA) to formulate and implement special refund procedures in order to remedy the effect of alleged violations of the DOE price and allocation regulations. *See* 10 CFR Part 205, Subpart V. The ERA filed such a petition on October 13, 1983, requesting that OHA establish special refund procedures for the distribution of monies received pursuant to a consent order entered into by the DOE and Dalco Petroleum, Inc. (Dalco).

Dalco is a "reseller" of propane as that term was defined in 10 CFR 212.31. Dalco's propane sales were therefore subject to the Mandatory Petroleum Price Regulations, and specifically the provisions of 10 CFR Part 212, Subpart F. A DOE audit of Dalco's business records uncovered probable violations of the price regulations with respect to Dalco's sales of propane during the five month period from November 1, 1973 through March 31, 1974 (the audit period). In a Proposed Remedial Order issued to Dalco on February 19, 1981, the DOE reached the tentative conclusion that during the audit period, Dalco had overcharged its propane customers by $592,476.84. In order to settle all claims and disputes between Dalco and the DOE regarding Dalco's compliance with DOE price regulations in sales of propane during the audit period, Dalco and the DOE entered into a consent order on September 30, 1981, in which Dalco agreed to pay $380,347 to the DOE. According to the ERA's October 13 Petition, Dalco has failed to follow the agreed payment schedule, however, and has only paid $317,587 to the DOE to date.(*1*) This sum is currently being held in an interest bearing escrow account pending distribution by the DOE.

The DOE procedural regulations set forth general guidelines under which OHA may formulate and implement a plan for distribution of funds received as the result of an enforcement proceeding. The Subpart V process is intended for use in situations where the DOE is unable to readily identify persons who may have been injured by alleged or adjudicated violations. For a detailed discussion of Subpart V and the authority of OHA to fashion procedures to distribute refunds obtained as part of settlement agreements, *see Office of Enforcement*, 9 DOE ¶ 82,553 (1983).

After reviewing the record developed in this proceeding, we have determined that the implementation of a Subpart V proceeding in this instance is appropriate. While the material available to us at this time indicates that the ERA has identified seven firms which purchased propane directly from Dalco during the audit period, the ERA cannot readily determine the extent to which these firms or their customers may have been injured by Dalco's pricing practices. (*2*) *See Office of Enforcement*, 9 DOE ¶ 82,508 at 85,047 (1981). Insofar as possible, the Dalco consent order fund should be distributed to Dalco customers who were adversely affected by any overcharges that may have occurred in Dalco's sales of propane during the audit period.

We propose to establish a claims procedure in which the seven identified first purchasers, and any other parties which purchased Dalco propane during the audit period, may apply for refunds. All parties which believe they are entitled to a portion of the Dalco settlement fund must submit documentation in support of their claims. As in other special refund proceedings, reseller applicants (wholesalers and retailers) will generally be required to demonstrate injury due to Dalco's pricing practices in addition to submitting documentation of their claimed purchase volumes, in order to be eligible for a refund. Injury in Subpart V proceedings has generally been construed to mean that alleged overcharges were absorbed by the claimant rather than passed along to the claimant's customers. While there are a

variety of means by which a claimant could make this showing, a reseller should generally demonstrate that market forces prevented it from increasing its sales prices to reflect any or part of the alleged overcharges. Also, a reseller advancing a refund claim must show that it maintained a "bank" of unrecouped increased product costs through the remaining period of price controls which is sufficient to demonstrate that it did not subsequently pass along the alleged overcharges. For a detailed discussion of this matter, *see Office of Enforcement*, 9 DOE ¶ 82,508 (1981); *Office of Enforcement*, 9 DOE ¶ 82,521 (1982). Customers of resellers who were first purchasers of Dalco propane may also file claims. The eligibility of downstream purchasers of Dalco's propane to receive refunds will of course depend upon the extent to which the first purchasers absorbed or passed along the alleged Dalco overcharges. Because of the sequential nature of cost pass-through in such a situation, it seems clear that the claims of first purchasers must be evaluated before the claims of downstream purchasers can be considered. Comments on this aspect of the proceeding are solicited. Meritorious refund claims advanced by downstream purchasers who are resellers must satisfy the same standards as claims filed by first purchaser/resellers.

We also propose to exempt resellers who submit relatively small refund claims from the demonstration of injury requirement. In many prior cases, we have used a threshold purchase level of 50,000 gallons per month, below which reseller claimants need not demonstrate injury in order to qualify for a refund. *See, e.g., Office of Enforcement*, 8 DOE ¶ 82,597 (1981). We propose to establish the purchase threshold at this level for this proceeding. In addition, we also propose to grant refunds to end-user claimants (firms which consumed the Dalco propane) based solely upon their submission of verification of purchases. *See Standard Oil Co. (Indiana)/Union Camp Corp.*, 11 DOE ¶ 85,007 (1983); *Standard Oil Co. (Indiana)/Elgin, Joliet and Eastern Railway*, 11 DOE ¶ 85,015 (1983).

One of the firms identified by the ERA as a first purchaser of Dalco propane during the audit period, Farmland Industries, Inc., is an agricultural cooperative. In prior Subpart V Decisions, we have determined that agricultural cooperatives may qualify for a refund without demonstrating injury, regardless of the size of their purchase volume claim. *See, e.g., OKC Corp./Chemical Express Carriers, Inc.*, 11 DOE ¶ 85,051 (1983). We propose to follow this practice in this proceeding also. We generally assume that since agricultural cooperatives serve as purchasing agents for their owner-members, any overcharges incurred by the cooperative eventually results in injury to its owner-members. Agricultural cooperatives may therefore receive refunds subject only to their submission of purchase volume verification and their agreement to distribute any refund to their owner-members.(3)

We also propose to establish a rebuttable presumption that any "spot" purchaser of propane from Dalco during the audit period was able to pass through to its customers any overcharges it incurred. *See Office of Special Counsel*, 10 DOE ¶ 85,048 at 88,200 (1982). This determination is based upon our belief that firms which purchased Dalco's propane on a "surplus" or "spot market" basis generally had considerable discretion as to where and when to make such purchases and would therefore not have entered into such transactions unless they were confident that they could pass through the full cost of the Dalco product to their customers. To overcome this presumption regarding spot purchasers, a very persuasive justification for making the spot purchase will be required. Also, a convincing demonstration of injury will be required of all spot purchasers applying for a refund, regardless of the purchase volume involved.

We propose at this time to use a volumetric method of calculating refunds. Under this methodology, we will divide the Dalco settlement fund by the estimated total volume of propane sold by Dalco during the audit period in order to obtain a per gallon refund figure which we will apply to the purchase volume data supplied by each successful claimant. This volumetric approach permits each successful claimant to receive a pro rata share of the total available fund.(4)

The entire Dalco settlement fund may not be distributed to successful claimants in the first stage of this proceeding. At this time we are unable to determine whether procedures for a "second stage" will be necessary, or which procedures to propose. We invite comments on alternate methods to distribute residual funds once first stage claims are evaluated.

Refund applications for this proceeding should not be filed until issuance of a final Decision and Order in this matter. Detailed filing instructions will be provided in the final Decision and Order. However, comments and suggestions regarding our proposed procedures for disposition of the Dalco settlement fund are solicited at this time, and will be accepted for consideration for a 30 day period subsequent to the publication of this Proposed Decision in the **Federal Register**. In addition to that publication, a copy of this Proposed Decision will be sent to the seven identified first purchasers and the National LP Gas Association.

It Is Therefore Ordered That: The $380,347 refund amount supplied by Dalco Petroleum, Inc. pursuant to the Consent Order entered into with the Department of Energy on September 30, 1981, will be distributed in accordance with the foregoing determination.

Footnotes

1. Our present inclination is to go forward with the proceeding despite Dalco's delinquency in payment. Although it would be preferable from an administrative standpoint for the entire amount due the DOE to be in escrow before we begin to evaluate refund claims, most of the money is now held by the DOE and refund claims can certainly be processed and paid from this amount. Accordingly, we belive that we should issue this Proposed Decision and solicit comments on the proposed refund mechanism without further delay. Comments are also encouraged to address the question whether to suspend this proceeding pending the payment by Dalco of the remaining amount due.

2. The identified first purchasers of Dalco's propane during the audit period are: Kurth-Skelgas, North Central Public Service, Farmland Industries, Inc., American Oil Co. (Amoco), Redigas of Watertown, Inc., Superior Bottle Gas Co., and Pyramid Distribution Co. (Two of these firms, Kurth-Skelgas and North Central Public Service, filed refund claims with the ERA in March of 1981).

3. Farmland and any other cooperatives will also be required to notify their member-owners that any refund is expressly conditioned upon redistribution of the refund by the local cooperatives to their members. *See Standard Oil Co. (Indiana)/Agway, Inc.* 11 DOE ¶ 85,166 (1983).

4. The volumetric method, which attributes injury on a uniform basis to each gallon of product sold, recognizes that the computation of specific overcharges in individual transactions would be impossible to establish and contrary to the purpose of the consent order, which is to resolve the DOE enforcement action against Dalco by means of a negotiated settlement. Since the volumetric method places all refund claimants on an equal footing and is relatively easy to administer, previous special refund Decisions have concluded that it is equitable, efficient, and the best available method of distributing refund

monies. *Office of Special Counsel*, 10 DOE ¶ 85,048 at 88,198–99 (1982).

[FR Doc. 84-3851 Filed 2-13-84; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPPE-FRL-2526-2]

Agency Information Collection Activities Under OMB Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 3507(a)(2)(B) of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.) requires the Agency to publish in the **Federal Register** a notice of proposed information collection requests that have been forwarded to the Office of Management and Budget (OMB) for review. The information collection requests listed are available to the public for review and comment.

FOR FURTHER INFORMATION CONTACT: David Bowers; Office of Standards and Regulations; Information Management Section (PM-223); U.S. Environmental Protection Agency; 401 M Street SW.; Washington, D.C. 20460; telephone (202) 382-2742 or FTS 382-2742.

SUPPLEMENTARY INFORMATION:

Water Programs

• Title: National Water Quality Inventory Report to Congress (EPA #0375).

Abstract: States report to EPA biennially on their water quality conditions and programs. The Agency transmits these reports to Congress along with EPA's analysis of them. The reports are used to evaluate the states' progress in implementing the Clean Water Act.

Respondents: State water agencies.

Toxics Programs

• Title: Data Call-In/Registration Standards (EPA #0922).

Abstract: EPA requires manufacturers to provide test data prior to registering/re-registering certain pesticides. The Agency uses this data to help determine if these chemicals cause unreasonable adverse effects on humans and/or the environment. This is a renewal of a previously cleared collection.

Respondents: Pesticide manufacturers.

Agency PRA Clearance Requests Completed by OMB

EPA #1037, Oral and Written Purchase Orders, was cleared on January 24 (OMB #2030-0007).

Comments on all parts of this notice should be sent to:

David Bowers (PM-223), U.S. Environmental Protection Agency, Office of Standards and Regulations, 401 M Street SW., Washington, D.C. 20460

and

Wayne Leiss, Carlos Tellez or Rick Otis, Office of Management and Budget, Office of Information and Regulatory Affairs, New Executive Office Building (Room 3228), 726 Jackson Place NW., Washington, D.C. 20503.

Dated: February 6, 1984.

Daniel J. Fiorino,

Acting Director, Regulation and Information Management Division.

[FR Doc. 84-3823 Filed 2-13-84; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

[MM Docket No. 84-46; File No. BP-820811AM et al.]

Annandale Pan American Broadcasting Corp. et al.; Hearings

In re applications of Annandale Pan American Broadcasting Corporation, Annandale, Virginia; Req: 840 kHz, 2.5 kW, D; MM Docket No. 84-46, File No. BP-820811AM;

Asian American Communications, Inc., Annandale, Virginia; Req: 840 kHz, 2.5 kW, D; MM Docket No. 84-47, File No. BP-830121AA;

EZ Communications, Burke, Virginia; Req: 840 kHz, 2.5 kW, D; MM Docket No. 84-48, File No. BP-830121AB;

Archilla-Marcocci Spanish Radio Company, Annandale, Virginia; Req: 840 kHz, 2.5 kW, D; MM Docket No. 84-49, File No. BP-830121AD;

Martha Hahn and Philip Y. Hahn, Purcellville, Virginia; Req: 840 kHz, 250 W, DA-D; MM Docket No. 84-50, File No. BP-830121AF;

Vernon H. Baker d/b/a Rural Radio Service, Earlysville, Virginia; Req: 840 kHz, 10 kW, DA-D; MM Docket No. 84-51, File No. BP-830121AG;

Edward A. Baker d/b/a Bayshore Communications, Denton, Maryland; Req: 840 kHz, 1 kW, DA-D; MM Docket No. 84-52, File No. BP-830121AI; For construction permit.

Hearing Designation Order

Adopted: January 23, 1984.
Released: February 6, 1984.

By the Chief, Mass Media Bureau.

1. The Commission, by the Chief, Mass Media Bureau, acting pursuant to delegated authority, has under consideration: (a) The above-captioned mutually exclusive applications for new AM broadcast stations; (b) informal objections to the proposals of Annandale Pan American Broadcasting Corporation, Asian American Communications, Inc., and Archilla-Marcocci Spanish Radio Company filed by the Public Broadcasting Service; and (c) relevant pleadings.

2. The Public Broadcasting Service (PBS) asserts [1] that the proposals of Annandale Pan American Broadcasting Corporation (Annandale), Asian American Communications, Inc. (Asian), and Archilla-Marcocci Spanish Radio Company (Spanish Radio) will place high strength electromagnetic fields over PBS's earth station in the Domestic Satellite Service, which according to PBS, is the main origination point of its public television program distribution system. PBS asserts that the proposals have a potential to disrupt the service of over two hundred television stations and to interfere with the operation of its satellite system repair depot located nearby. PBS requests that specific conditions be placed on these applications to require the applicants to cooperate with PBS throughout all testing of its equipment to insure that any problems are solved prior to initiation of regular broadcast operation. None of the applicants opposed PBS's request for conditions. We will therefore grant PBS's request and place an appropriate condition on the construction permit should any of the above applications be granted.

3. Section 73.3580 of the Commission's Rules requires broadcast applicants to publish a local notice of the filing of their applications; we have no evidence that Annandale Pan American Broadcasting Corporation has complied with the rule. Annandale must therefore comply with the rule and file the required certification with the Administrative Law Judge, within thirty days of the release of this Order.

4. The date until which Annandale could file amendments to its application as a matter of right (B cut-off date) was July 19, 1983. On August 8 and October 24, 1983, Annandale filed minor amendments to its application. The amendments contain ownership and other information required by § 1.65 of the Commission's Rules. The amendments are unopposed and will prejudice no other applicant nor confer any comparative advantage to Annandale. We will therefore accept the amendments.

5. The proposals of Martha Hahn and Philip Y. Hahn (Hahn), Vernon H. Baker d/b/a Rural Radio Service (Rural Radio) and Edward A. Baker d/b/a Bayshore

[1] Public Broadcasting Service filed separate but substantially identical informal objections against each of these three applicants.

Communications (Bayshore) constitute major environmental actions as defined by § 1.1305 of the Commission's Rules, and these applicants are required to submit the environmental impact information described in § 1.1311. The environmental narrative statements submitted by these applicants, however, did not contain all of the required information.[2] Consequently, we can not determine whether grant of the applications will have a significant effect on the quality of the human environment. Accordingly, Hahn, Rural Radio, and Bayshore will each be required to file within 30 days of the release of this Order amended environmental narrative statements with the presiding Administrative Law Judge. In addition, a copy shall be filed with the Chief, Audio Services Division, who will then proceed regarding this matter in accordance with the provisions of § 1.1313(b). Section 1.1317 of the Rules is waived to the extent that the comparative phase of the case will be allowed to begin before the environmental phase is completed. See *Golden State Broadcasting Corp.*, 71 F.C.C. 2d 229 (1979), *recon denied sub nom. Old Pueblo Broadcasting Corp.*, 83 F.C.C. 2d 337 (1980).

6. The Commission has not yet received Federal Aviation Administration clearance for the antenna towers proposed by Archilla-Marcocci Spanish Radio Company, Vernon H. Baker d/b/a Rural Radio Service, and Edward A. Baker d/b/a Bayshore Communications. Accordingly, an appropriate issue will be specified.

7. Section V–A, paragraph 8 of the application form (FCC Form 301) requires applicants to file a sufficient number of photographs to permit identification of all structures in the vicinity of the antenna site. The applications filed by Annandale, Asian, Spanish Radio and Hahn do not contain the required antenna site photographs; these applicants must, therefore, file the required photographs with the Administrative Law Judge within 30 days of the release of this Order.

8. The Commission, in *City of New York Municipal Broadcasting System (WNYC)*, 91 F.C.C. 2d 635 (1982), *reconsideration denied*, FCC 83–232, released May 19, 1983, denied an application to improve the facilities of station WNYC. The applicant has appealed the Commission's action to the United States Court of Appeals for the District of Columbia Circuit. *City of New York Municipal Broadcasting System (WNYC), et al., v. Federal Communications Commission*, Case No. 83–1663. In the event that the WNYC appeal is successful and its application to improve station WNYC is ultimately granted, the proposal of Bayshore Communications must be amended to protect the proposed improved facilities of station WYNC. An appropriate condition will be specified.

9. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. However, since the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding. Although most of the applications are for different communities, they would serve substantial areas in common. Therefore, in addition to an issue to determine pursuant to Section 307(b) of the Communications Act of 1934, as amended, which of the proposals would best provide a fair, efficient and equitable distribution of radio service, a contingent comparative issue will be specified.

10. Accordingly, it is ordered, That pursuant to section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, to be held before an Administrative Law Judge at a time and place to be specified in a subsequent Order, upon the following issues:

1. If a final environmental impact statement is issued with respect to the proposals of Martha Hahn and Philip Y. Hahn, Vernon H. Baker d/b/a Rural Radio Service or Edward A. Baker d/b/a Bayshore Communications, which concludes that the proposed facilities are likely to have an adverse effect on the quality of the environment, to determine:

(a) Whether the proposal is consistent with the National Environmental Policy Act, as implemented by Sections 1.1301–1319 of the Commission's Rules; and

(b) Whether, in light of the evidence adduced pursuant to (a) above, the applicant is qualified to construct and operate as proposed.

2. To determine whether there is a reasonable possibility that a hazard to air navigation would occur as a result of the heights and locations of the antenna towers proposed by Archilla-Marcocci Spanish Radio Company, Vernon H. Baker d/b/a Rural Radio Service, and Edward A. Baker d/b/a Bayshore Communications.

3. To determine the areas and populations which would receive primary service from each proposal, and the availability of other primary aural services to such areas and populations.

4. To determine, in light of Section 307(b) of the Communications Act of 1934, as amended, which of the proposals would best provide a fair, efficient, and equitable distribution of radio service.

5. To determine in the event it is concluded that a choice among applicants should not be based solely on considerations relating to Section 307(b), which of the proposals would, on a comparative basis, best serve the public interest.

6. To determine in light of the evidence adduced pursuant to the foregoing issues, which of the applications, if any, should be granted.

11. It is further ordered, That the Federal Aviation Administration is made a party to these proceedings.

12. It is further ordered, That the informal objection filed by the Public Broadcasting Service is granted.

13. It is further ordered, That in the event the application of Annandale Pan American Broadcasting Corporation, Asian American Communications, Inc., or Archilla-Marcocci Spanish Radio Company is granted, the construction permit shall contain the following condition:

Permittee shall have responsibility for eliminating harmful interference wich it may cause to the operations of Public Broadcasting Service earth station WD35 and/or to its nearby satellite system repair depot as the result of permittee's operation from its proposed transmitter site.

14. It is further ordered, That Annandale Pan American Broadcasting Corporation comply with the local notice requirements of § 73.3580 of the Commission's Rules, if it has not done so, and certify as to compliance with the presiding Administrative Law Judge within thirty (30) days of the release of this Order.

15. It is further ordered, That the amendments filed by Annandale Pan American Broadcasting Corporation on August 8 and October 24, 1983, ARE ACCEPTED.

16. It is further ordered, That Annandale Pan American Broadcasting Corporation, Asian American Communications, Inc., Achilla-Morcocci Spanish Radio Company and Martha Hahn and Philip Y. Hahn file the required antenna site photographs with the Administrative Law Judge within thirty (30) days of the release of this Order.

[2] The environmental statements submitted by these three applicants did not contain information concerning access roads, power lines, zoning classification and whether the proposals have been a source of controversy in their local communities as required by § 1.1311(a) (2), (3) and (4) of the Rules.

17. It is further ordered, That in the event the application of the City of New York Municipal Broadcasting System for the improvement of station WYNC is ultimately granted, Edward A. Baker d/b/a Bayshore Communications must file an amendment to its proposal to protect the improved service area of station WYNC.

18. It is further ordered, That § 1.1317 of the Commission's Rules is waived to the extent indicated herein. Within 30 days of the release of this Order, Martha Hahn and Philip Y. Hahn, Vernon H Baker d/b/a Rural Radio Service, and Edward A. Baker d/b/a Bayshore Communications shall submit the environmental impact information as set out in Paragraph five (5), above, and required by § 1.1211 of the Rules, to the presiding Administrative Law Judge, with a copy to the Chief, Audio Services Division.

19. It is further ordered, That to avail themselves of the opportunity to be heard and pursuant to § 1.221(c) of the Commission's Rules, the applicants shall, within 20 days of the mailing of this Order, in person or by attorney, file with the Commission, in triplicate, written appearances stating an intention to appear on the dates fixed for the hearing and present evidence on the issues specified in this Order.

20. It is further ordered, That pursuant to Section 311(a)(2) of the Communications Act of 1934 as amended, and § 73.3594 of the Commission's Rules, the applicants shall give notice of the hearing as prescribed by the Rules, and shall advise the Commission of the publication of the notices as required by § 73.3594(g) of the Rules.

Federal Communications Commission.

W. Jan Gay,

Assistant Chief, Audio Services Division, Mass Media Bureau.

[FR Doc. 84-3913 Filed 2-13-84; 8:45 am]

BILLING CODE 6712-01-M

[MM Docket No. 84-56; File No. BP-820304 AM et al.]

Fina Broadcast House Corp., et al.; Hearing Designation Order

In re applications of Fina Broadcast House Corporation, El Paso, Texas, Req: 750 kHz, 5 kW, 10 kW-LS, DA-2, MM Docket No. 84-56 File No. BP-820304 AM; Radio Jalapeno, Inc. El Paso, Texas, Req: 750 kHz, 5 kW, 10 kW-LS, DA-2, MM Docket No. 84-57 File No. BP-821130 AH; El Paso Radio Corp., Inc. El Paso, Texas, Req: 750 kHz, 5 kW, 10 kW-LS, DA-2, MM Docket No. 84-58 File No. BP-821130AI; and El Paso County Broadcasting Co., Inc., Clint, Texas, Req: 750 kHz, 1 kW, 25 kW-LS, DA-2, MM Docket No. 84-59, File No. BP-821130AQ; for Construction Permit.

Adopted: January 24, 1984.
Released: February 7, 1984.
By the Chief, Mass Media Bureau.

1. The Commission by the Chief, Mass Media Bureau, acting pursuant to delegated authority has under consideration the mutually exclusive applications of Fina Broadcast House Corporation (Fina), El Paso Radio Corp., Inc. (El Paso Radio), Radio Jalapeno, Inc., (Jalapeno) and El Paso County Broadcasting Co. Inc., (El Paso County).[1]

2. *Local notice certification issue.* Applicants for new broadcast stations are required to give local notice of the filing of their applications in accordance with § 73.3580 of the Commission's Rules. They must then file proof of such notice or certify that they will comply with the public notice requirements. We have no evidence, however, that Fina has done either. If the applicant has not already done so, it will be required to give public notice and to file a statement that it has complied with the local public notice requirements with the presiding Administrative Law Judge within 30 days or an appropriate issue will be specified by the Judge.

3. *The Fina-Jalapeno waiver requests.* Both Fina and Jalapeno propose 5 kilowatts nighttime power. Because § 73.21(a)(2)(ii)(C) limits new Class II-B stations on the clear channels to a 1 kW nighttime power, applicants request waivers of the rule. However, the Commission has adopted a strict standard for waiver requests of this type. These requests will be granted only upon a showing that the higher power proposed is necessary to provide principal city service and will not impede our allocation objectives. With respect to the Fina proposal, the applicant has complied with neither part of this test. With respect to Jalapeno, the applicant has not establish need for 5 kW power [2] but has supported its claim that higher power will not preclude other possible co-channel unlimited time Class II assignments. Therefore, appropriate issues will be specified against Fina and Jalapeno.

4. *The nature of El Paso County's proposal.* El Paso County, the applicant for a new station at Clint, Texas, is also the licensee of AM station KAMA, El Paso. While the applicant characterizes its proposal here as a new one, it would appear from the information before us that the application in fact constitutes a major change in the facilities of station KAMA. Should this be the case, and should the El Paso County proposal be granted, the applicant would have no interest in KAMA to assign, as it plans, and the frequency now occupied by KAMA would revert to the public domain. See *Southern Keswick, Inc., et al.*, 34 FCC 2d 624 (1972). An issue will be specified to explore this matter further.

5. *Business district coverage issue.* El Paso Radio has requested a waiver of the business district coverage requirement of § 73.24(j) of the Commission's Rules. Because the applicant has achieved substantial compliance with this provision, a waiver is not necessary.

6. *Environmental narrative statements.* Since the proposals constitute major environmental actions as defined by § 1.1305(a) of the Commission's Rules, the applicants are required to submit the environmental impact information described in § 1.1311 of our Rules. El Paso Radio's application refers to an environmental narrative statement that was not found within the file; El Paso County's environmental impact statement fails to include any information concerning the zoning classification of the sites (if any), and fails to state whether construction of the facilities has been a source of local controversy in the community.

7. Consequently, El Paso Radio will be required to file its missing environmental statement and El Paso County will be required to file its amended environmental narrative statement. Such submission shall be filed within 30 days of the release of this Order with the presiding Administrative Law Judge. In addition, copies must be filed with the Chief, Audio Services Division, who will then proceed regarding this matter in accordance with the provisions of § 1.1313(b). Accordingly, § 1.1317 of the Rules is waived to the extent that the comparative phase of the case will be allowed to begin before the environmental phase is completed. See *Golden State Broadcasting Corp.*, 71 FCC 2d 229 (1979), *recon. denied, sub. nom. Old Pueblo Broadcasting Corp.*, 83 FCC 2d 337 (1980).

8. Except as indicated by the issues specified below, all applicants are qualified to construct and operate as

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[1] On July 19, 1983, Cox Communications, Inc., Licensee of AM station WSB, Atlanta, Georgia filed a petition to deny the grant of El Paso Radio's application. The petition alleged that the applicant's engineering proposal would create the "likelihood of objectionable interference to WSB." However, after a review and discovery of "errors" in its engineering analysis, Cox submitted a motion to withdraw the petition. That motion is granted.

[2] It would appear from Jalapeno's engineering exhibit that a nighttime power of 2.5 kW would achieve substantial compliance with our coverage requirements.

proposed.[3] However, since the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding. Although some of the applications are for different communities, they would serve substantial areas in common. Therefore, in addition to determining pursuant to Section 307(b) of the Communications Act of 1934, as amended, which of the proposals would best provide a fair, efficient, and equitable distribution of radio service, a contingent comparative issue will be specified.

9. Accordingly, it is ordered, That pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding to be held before an Administrative Law Judge at a time and place to be specified in a subsequent Order, upon the following issues:

2. To determine, whether the application of El Paso County Broadcasting Co., Inc. constitutes an entirely new proposal or a request for modification of the existing facilities of its station KAMA, El Paso, Texas.

3. To determine, with respect to the proposals of Fina Broadcast House Corporation and Radio Jalapeno, Inc., whether circumstances exist which warrant waiver of § 73.21(a)(2)(ii)(C) of the Commission's Rules.

4. If a final environmental impact statement is issued with respect to El Paso Radio Corp. Inc., or El Paso County Broadcasting Co., Inc., which concludes that the proposed facilities are likely to have an adverse effect on the quality of the environment, to determine:

(a) Whether the proposals are consistent with the National Environmental Policy Act, as impiemented by Section 1.1301–1319 of the Commission's Rules, and

(b) Whether, in light of the evidence adduced pursuant to (a) above, the applicants are qualified to construct and operate as proposed.

5. To determine the areas and populations that would receive primary service from each proposal and the availability of other primary aural services to such areas and populations.

6. To determine, in light of Section 307(b) of the Communications Act of 1934, as amended, which of the proposals would best provide a fair, efficient, and equitable distribution of radio service.

7. To determine, in the event it is concluded that a choice among the applicants should not be based solely on considerations relating to Section 307(b), which of the proposals would, on a comparative basis, best serve the public interest.

8. To determine, in light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

10. It is further ordered, That § 1.1317 of the Commission's Rules is waived to the extent indicated herein. Within 30 days of the release of this Order, El Paso Broadcasting Co., Inc. shall submit the amended environmental narrative and El Paso Radio Corp., Inc. its original environmental narrative, required by § 1.1311 of the Rules, to the presiding Administrative Law Judge, with a copy to the Chief, Audio Services Division.

11. It is further ordered, That Fina Broadcast House Corporation shall comply with the local notice provision of § 73.3580 of the Commission's Rules, as discussed in paragraph 2, *supra*.

12. It is further ordered, That the motion to withdraw petition to deny filed by Cox Communications, Inc., is granted, and the petition is dismissed.

13. It is further ordered, That to avail themselves of the opportunity to be heard, the applicants herein shall, pursuant to § 1.221(c) of the Commission's Rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission in triplicate a written appearance stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this Order.

14. It is further ordered, That the applicants herein shall, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594 of the Commission's Rules, give notice of the hearing within the time and in the manner prescribed in such Rule, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the Rules.

Federal Communications Commission.

W. Jan Gay,

Assistant Chief, Audio Services Division, Mass Media Bureau.

Appendix

18. The Commission has not yet received Federal Aviation Administration clearance for the antenna tower proposed by the below listed applicant. Accordingly, it is further ordered, That the following issue is specified:

1. To determine whether there is a reasonable possibility that a hazard to air navigation would occur as a result of the tower heights and location proposed by El Paso Radio Corp., Inc.

19. It is further ordered, That the Federal Aviation Adminstration is made a party to the proceeding.

[FR Doc. 84–3911 Filed 2–13–84; 8:45 am]
BILLING CODE 6712–01–M

[MM Docket No. 84–69, File No. BPCT–830818KE, et al.]

Retherford Publications, Inc., et al.; Hearing Designation Order

In re Applications of Retherford Publications, Inc., Hagerstown, Maryland, MM Docket No. 84–69, File No. BPCT–830818KE; Western Pennsylvania, Christian Broadcasting Company, Hagerstown, Maryland, MM Docket No. 84–70, File No. BPTC–830902KN; and Good Companion Broadcasting Co., Hagerstown, Maryland, MM Docket No. 84–71, File No. BPCT–831109KE; for construction permit.

Adopted: January 27, 1984.

Released: February 6, 1984.

By the Chief, Mass Media Bureau.

1. The Commission, by the Chief, Mass Media Bureau, acting pursuant to delegated authority, has before it the above-captioned mutually exclusive applications of Retherford Publications, Inc. (Retherford), Western Pennsylvania Christian Broadcasting Company (WPCB) and Good Companion Broadcasting Co. (Good Companion), for a new commercial television station to operate on Channel 68, Hagerstown, Maryland.

2. The Commission is not in receipt of the Federal Aviation Administration's determination for Retherford and WPCB. Consequently, no determination has been made that the tower height and location proposed by each would not constitute a hazard to air navigation. Accordingly, an appropriate issue will be specified.

3. Section V–C, Item 10, FCC Form 301, requires that an applicant submit the area and population within its predicted Grade B contour. Retherford has not specified the population within its Grade B contour. Consequently, we are unable to detemine whether there would be a significant difference in the size of the area and population that each applicant proposes to serve. Retherford will be required to submit an amendment showing the required information, within 20 days after this Order is released, to the presiding Administrative Law Judge. If it is determined that there is a significant difference between the areas and

[3] Operation with the facilities specified herein is subject to modification, suspension or termination without right to hearing, if found by the Commission to be necessary in order to conform to the Final Acts of the ITU Administrative Conference on Medium Frequency Broadcasting in Region 2, Rio de Janeiro 1981, and to bilateral and other multilateral agreements between the United States and other countries.

populations, the presiding Administrative Law Judge will consider it under the standard comparative issue.

4. All of the applicants propose to operate from sites located within 250 miles of the Canadian border with maximum visual effective radiated power (ERP) of more than 1000 kilowatts. The proposals pose no interference threat to United States television stations; however, they contravene an agreement between the United States and Canada which limits the maximum visual ERP of United States television stations located within 250 miles of Canada to 1000 kilowatts. *Agreement Effectuated by Exchange of Notes* T.I.A.S. 2594 (1952). Accordingly, in the event of a grant of any of the applications, the construction permit shall be appropriately conditioned.

5. On August 12, 1983, the Commission released a *Notice of Proposed Rulemaking* in Docket No. 83–829, proposing to allocate channel 60 to Martinsburg, West Virginia. If the proposal is adopted, Retherford's proposed site would be 16 miles from the reference point of the channel 60 allocation whereas a minimum separation of 20 miles would be required. Retherford's site would, therefore, be 4 miles short-spaced and Retherford would be required to find a site which meets all spacing requirements. Accordingly, in the event of a grant of Retherford's application, it will be made subject to an appropriate condition.

6. Section II, item 5(a) FCC Form 301, requires corporate applicants to complete all columns (a through d) giving the information requested as to all officers, directors or members of the governing board. Retherford did not complete column (c). Accordingly, Retherford will be required to submit an amendment with the appropriate information, to the presiding Administrative Law Judge, within 20 days after this Order is released.

7. Section 73.636(a)(1) states that no license for a television broadcast station shall be granted to any party if such party directly or indirectly controls one or more FM broadcast stations and the grant of such license will result in the Grade A contour of the proposed television station encompassing the entire community of license of the FM broadcast station. Benjamin F. Thomas, Treasurer, Director and 25 percent owner of Good Companion is the 100 percent owner of Station WKSL(FM), Greencastle, Pennsylvania. The Grade A contour of the proposed television station encompasses the entire community of Greencastle. However, Mr. Thomas has represented to the Commission that if Good Companion is the successful applicant, he would divest himself of all interest in the FM station prior to the commencement of operation of Channel 66, Hagerstown, Maryland. Accordingly, any grant of a construction permit to GCB will be conditioned upon Mr. Thomas' divestiture of all interest in, and connection with, Station WKSL(FM), Greencastle, Pennsylvania.

8. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. Since the applications are mutually exclusive, the Commission is unable to make the statutory finding that their grant will serve the public interest, convenience, and necessity. Therefore, the applications must be designated for hearing in a consolidated proceeding on the issues specified below.

9. Accordingly, it is ordered, That pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, to be held before an Administrative Law Judge at a time and place to be specified in subsequent Order, upon the following issues:

1. To determine, with respect to Retherford Publications, Inc. and Western Pennsylvania Christian Broadcasting Company, whether there is a reasonable possibility that the tower height and location proposed by each would constitute a hazard to air navigation.

2. To determine which of the proposals would, on a comparative basis, best serve the public interest.

3. To determine, in light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

10. It is further ordered, That, the Federal Aviation Administration is made a party respondent to this proceeding with respect to issue 1.

11. It is further ordered, That, in the event of a grant of Retherford Publications, Inc.'s application, the construction permit will be conditioned as follows: Grant of this application is subject to the outcome of the Rulemaking proceeding in Docket No. 83–829.

12. It is further ordered, That Retherford Publications, Inc. shall, within 20 days after this Order is released, submit an amendment specifying the population within its predicated Grade B contour and its response to Section II, item 5(a), column (c), FCC Form 301, to the presiding Administrative Law Judge.

13. It is further ordered, That, in the event of a grant of any of the applications, the construction permit shall be conditioned as follows: Subject to the condition that operation with effective radiated visual power in excess of 1000 kW is subject to the consent of Canada.

14. It is further ordered, That in the event of a grant of Good Companion Broadcasting Co.'s application, it will be conditioned as follows: Prior to the commencement of operation of the television station authorized herein, permittee shall certify to the Commission that Benjamin F. Thomas has divested himself of all interest in, and connection with, Station WKSL(FM), Greencastle, Pennsylvania.

15. It is further ordered, That to avail themselves of the opportunity to be heard, the applicants and the party respondent herein shall, pursuant to § 1.221(c) of the Commission's Rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission, in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this Order.

16. It is further ordered, That the applicants herein shall, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594 of the Commission's Rules, give notice of the hearing within the time and in the manner prescribed in such Rule, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the Rules.

Federal Communications Commission.

Roy J. Stewart,

Chief, Video Services Division, Mass Media Bureau.

[FR Doc. 84–3910 Filed 2–13–84; 8:45 am]

BILLING CODE 6712–01–M

[MM Docket No. 84–101, File No. BPCT–809217KI, et al.]

Utah Television Associates, Limited Partnership, et al.; Memorandum Opinion and Order

In re application of Utah Television Associates, Limited Partnership, Salt Lake City, Utah, MM Docket No. 84–101, File No. BPCT–801217KI; Intermountain Broadcasting, Inc., Salt Lake City, Utah, MM Docket No. 84–102, File No. BPCT–810310KE; Salt Lake City Family Television, Inc. Salt Lake City, Utah, MM Docket No. 84–103, File No. BPCT–810511KK; Joseph C. Lee, George L. Gonzales, *et. al.*, General Partners, d/b/a Mountain West Television Company, Salt Lake City, Utah, MM Docket No. 84–104, File No. BPCT–810511KL; West Valley City Television Associates, Limited Partnership, West Valley

City, Utah, MM Docket No. 84–105, File No. BPCT–810511KM; and Salt Lake City Utah T.V., Inc. Salt Lake City, Utah, MM Docket No. 84–106, File No. BPCT–810511KP; for a television construction permit.

Adopted: January 31, 1984.
Released: February 10, 1984.

By the Chief, Mass Media Bureau.

1. The Commission, by the Chief, Mass Media Bureau, acting pursuant to delegated authority, has before it for consideration: (a) The above-captioned mutually exclusive applications of Utah Television Associates, Limited Partnership (UTA), Intermountain Broadcasting, Inc. (Intermountain), Salt Lake City Family Television, Inc. (Family), Joseph C. Lee, George L. Gonzales, *et. al.*, General Partners, d/b/a Mountain West Television Company (Mountain West), West Valley City Television Associates, Limited Partnership (West Valley TV),[1] and Salt Lake City Utah T.V., Inc. (Salt Lake TV) for a new commercial television station to operate on Channel 13 in Salt Lake City, Utah; (b) a petition to hold in abeyance the processing of applications for the channel, filed by Springfield Television of Utah, Inc. (Springfield TV), licensee of television station KSTU, Channel 20 in Salt Lake City; (c) a petition to dismiss the application of UTA, filed by Salt Lake TV; (d) comments in support of Salt Lake TV's petition, filed by Rocky Mountain Broadcasting Company, Inc., then a competing applicant for the channel;[2] (e) a petition for special relief filed by UTA; (f) West Valley TV's request for waivers of §§ 73.3518 and 73.3520 of the Commission's Rules; (g) a motion to return West Valley TV's application, filed by Mountain West; (h) a motion to dismiss West Valley TV's application filed by UTA; (i) petitions for leave to amend filed by UTA, Intermountain, Family, West Valley TV, and Salt Lake TV; and (j) related pleadings.

2. One applicant specifies West Valley City as its community of license, while the others specify Salt Lake City. Consequently, it will be necessary to determine, pursuant to Section 307(b) of the Communications Act of 1934, as amended, whether a new station in West Valley City or Salt Lake City would best provide a fair, efficient, and equitable distribution of radio service. If the Section 307(b) issue is not determinative (the applicants would serve substantial areas in common), all the applicants can be considered under the comparative issue.

3. On September 9, 1980, the Commission, *inter alia*, allocated Channel 13 to Salt Lake City. *Television Table of Assignments to Add New VHF Stations in the Top 100 Markets*, Docket No. 20418, 81 F.C.C. 2d 233 (1980), *affirmed sub nom., Springfield Television of Utah, Inc. v. F.C.C.*, 710 F.2d 620 (10th. Cir. 1983) (hereinafter referred to as *VHF Drop-In Proceeding*). Springfield TV's petition, which was filed during the pendency of the *VHF Drop-In Proceeding* in court, seeks a delay in the processing of the Channel 13 applications until the matter is judicially resolved. On April 13, 1983, however, Springfield TV's petition for review was denied by the United States Court of Appeals for the Tenth Circuit. Accordingly, its petition to hold processing in abeyance will be dismissed as moot.

4. In allocating Channel 13 to Salt Lake City, we said that we would require any permittee on the channel to attenuate its signal in the direction of allocations to which it is short-spaced (i.e., provide "equivalent protection" to them). *VHF Drop-In Proceeding, supra*, 81 F.C.C. 2d at 256. The affected allocations are the reference points for co-channel television stations in Twin Falls, Idaho, and McGill, Nevada, and co-channel station KWWY(TV), Rock Springs, Wyoming. UTA purports to demonstrate that it will provide "equivalent protection" to them; however, staff analysis of its proposed operation reveals that between the azimuths of 336–343 degrees True in the direction of Twin Falls and between the Azimuths of 212–223 degrees True in the direction of McGill, UTA's proposed effective radiated power exceeds the maximum values required to afford the reference points "equivalent protection." UTA will, therefore, will be required to amend its application to further reduce radiation in the direction of Twin Falls and McGill in order to provide "equivalent protection" calculated in accordance with the method specified in the *VHF Drop-In Proceeding, supra*. A grant of UTA's application will also be appropriately conditioned.

5. The applications of Intermountain, Family, Mountain West, West Valley TV, and Salt Lake TV indicate that they will provide "equivalent protection" to the Twin Falls and McGill reference points and to Station KWWY(TV) in Rock Springs. Accordingly, a grant of any one of these applications will be appropriately conditioned.

6. Section 73.685(e) of the Commission's Rules states that a VHF station will not be permitted to employ a directional attenna having a ratio of maximum to minimum radiation in the horizontal plan in excess of 10 dB. Four applicants propose directional antennas with a maximum to minimum ratio in excess of 10 dB—West Valley TV (22.5 dB), Intermountain (14.9 dB), Salt Lake TV (14.4 dB), and Mountain West (10.5 dB)—and Intermountain and West Valley TV have requested waiver of the Rule. Accordingly, issues will be specified to determine if circumstances exist to warrant waiver of Section 73.685 of the Rules and, if so, whether grant of a waiver would be consistent with the public interest.

7. Intermountain, Family, West Valley TV, and Salt Lake TV have each filed several petitions for leave to amend their applications. With the exception of petitions filed by West Valley TV on December 18, 1981, UTA on November 10, 1983, and Family on November 10, 1982, they are unopposed. We have reviewed the unopposed petitions and the amendments submitted by the parties and conclude that, in each case, good cause exists for accepting the amendments; however, it is not our intention to allow any comparative advantage to the parties as a result of our action. Accordingly, the unopposed petitions for leave to amend filed by Intermountain, Family, West Valley TV, and Salt Lake City will be granted, and their amendments filed after August 6, 1981, will be accepted for filing. For a more complete discussion of the opposed petitions for leave to amend, see paragraphs 10, 16, and 22, *infra*.

Utah Television Associates, Limited Partnership

8. In its original application, UTA reported its composition as follows:

Name	Position	Ownership (percent)
G. Andrew Lawrence	General Partner	10
Utah Television Enterprises Corporation (UTEC).	General Partner	20
Richard S. McKnight	Limited Partner	35
Arnold Orleans	Limited Partner	35

With the exception of Orleans' assignment of an 8.75% limited partnership interest in the applicant to JU Investment Associates, Ltd., these equity interests have remained unchanged throughout the pendency of UTA's application. The composition of UTEC, however, has change. Originally, it was comprised as follows:

[1] Pursuant to § 73.607(b) of the Commission's Rules in effect at the time of filing, West Valley TV proposes West Valley City, Utah, as its principal community.

[2] The application of Rocky Mountain Broadcasting Company, Inc. (Rocky Mountain) was voluntarily dismissed on February 25, 1983.

Name	Position	Ownership (percent)
G. Andrew Lawrence	Treasurer * Director	33.17
Richard S. McKnight	President & Director	33.17
Arnold Orleans	Secretary & Director	33.17
Larry D. Benes		0.5

On August 6, 1981, the "B" cut-off date, however, UTA amended its application to reflect a different corporate ownership structure for UTEC:

Name	Position	Ownership (percent)
G. Andrew Lawrence	Pres., Treas., & Dir	6.7
Dennis Valenzuela	Vice Pres., Sec., & Dir.	80
Richard S. McKnight	Director	6.6
Arnold Orleans	Director	6.6
Larry D. Benes		0.1

On August 27, 1981, recognizing that its August 6 amendment would be considered a major change [3] pursuant to a Commission action released that day in *Anax Broadcasting, Inc.*, 87 F.C.C. 2d 483 (1981),[4] UTA filed a petition for special relief in order to reduce Valenzuela's ownership interest in UTEC from 80% to 49%. On November 10, 1983, UTA filed a petition for leave to amend its application to reflect the new corporate structure for UTEC, as follows:

Name	Ownership (percent)
G. Andrew Lawrence	17
Richard S. McKnight	17
Arnold Orleans	17
Dennis Valenzuela	49

9. On August 14, 1981, Salt Lake TV [5] filed a petition to dismiss UTA's application,[6] arguing that, despite Lawrence's and UTEC's minority equitable interests in the applicant, they, nevertheless, equally share 100% of the voting ownership. As a consequence, Salt Lake TV contends that the transfer of control of UTEC reflected in UTA's August 6 amendment created a major change in UTA as well, and that dismissal of the application is therefore warranted. Salt Lake TV further opposes UTA's November 10, 1983, petition for leave to amend, arguing that UTA's characterization of it as "ministerial" is misleading since it was designed to avoid dismissal of its application. Mountain West also opposes the petition for leave to amend, arguing that the amendment represents a second transfer of control, this time away from Valenzuela and that UTA should not be allowed to gain a comparative advantage from an ownership structure established after the "B" cut-off date.

10. Section 1.1227(b) of the Rules provides that an applicant may not submit a major amendment to its application after the "A" cut-off date and still have its application consolidated for hearing with other competing applications already on file. In enforcing that rule, we have permitted applicants filing major amendments to withdraw them or to be dismissed. Before we presented UTA with that option, however, it filed its petition for special relief which, essentially, reports a diminution of Valenzuela's interest in UTEC. Consequently, its petition for special relief seeks nothing more than that which we would have permitted in normal course. It will, therefore, be granted, and Salt Lake TV's petition to dismiss will be denied. Moreover, we do not find UTA's November 10, 1983 petition for leave to amend to be misleading since all it does is identify ownership interests of individuals previously reported. Consequently, UTA's petition for leave to amend will also be granted.

11. UTA's August 6 amendment was filed in sufficient time to afford UTA a minority preference for Valenzuela's participation in it. The fact that his ownership interest in UTEC was subsequently reduced from 80% to 49% does not diminish the preference already attained. Its amendment of October 29, which added JU Investment Associates, Ltd. as a limited partner, however, will be accepted for § 1.65 purposes only.

12. UTA estimates that $1,190,622 will be required to construct its proposed station and to operate it for three months, itemized as follows:

Equipment * (downpayment)	$412,750
(three months)	114,538
Land and building rent (five months)	28,334
Legal, engineering, installation, and other miscellaneous costs	154,000
Operating costs (three months)	481,000
Total	$1,190,622

*Although, under its terms, the RCA letter extending deferred credit to UTA for the purchase of equipment expired on December 15, 1981, it is reasonable to assume that the applicant would still be able to obtain the same or similar credit arrangements from RCA or another equipment supplier, should it receive a grant in this proceeding. *Contemporary Television Broadcasting, Inc.*, Mimeo No. 05812 (released Jan 18, 1981).

To meet this requirement, UTA intends to rely on $25,000 in existing capital and a $2 million line of credit from the American Security Bank of Washington, D. C. The bank, however states only that it is in the process of establishing a line of credit for use during 1981 and that, beyond that date, it will consider any further financing that might be necessary. Such language does not represent reasonable assurance of the availability of funds. Consequently, we can determine the availability of only $25,000 to UTA, and an appropriate issue will be specified.

13. Applicants for new broadcast stations are required to give local notice of the filing of their applications, in accordance with § 73.3580 of the Rules. They must certify that they have or will comply with the public notice requirement; however, we have no evidence that UTA has done so. If it has not already done so, UTA will be required to publish local notice of the filing of its application and/or to file a certification of that fact with the presiding Administrative Law Judge within 20 days of the release of this Order.

Intermountain Broadcasting, Inc.

14. All of the principals of Intermountain are officers, directors and stockholders of General Broadcasting, Inc., licensee of Station KFAM (AM), North Salt Lake City, Utah. Section 73.636(a)(1) of the Commission's multiple ownership rules proscribes the common ownership, operation, or control of an AM and television station where the television's predicted Grade A contour, as here, encompasses the entire community of license of the AM station. The principals of Intermountain state that they will terminate their interests in the AM station if required as a condition of the grant of its application. Accordingly, in the event of a grant of Intermountain's application, the construction permit will be conditioned to require the principals of Intermountain to terminate their interests in KFAM(AM).

[3] Generally, a transfer of 50% or more of the ownership of an applicant is considered to be a major change requiring the assignment of a new file number. 47 CFR 73.3572(b). The assignment of a new file number after the "cut-off" date, however, is tantamount to dismissal.

[4] In *Anax*, the Commission reversed an Administrative Law Judge's order dismissing the application of a limited partnership for a new commercial television station to operate on Channel 49 in Buffalo, New York. The Commission found that an amendment increasing a general partner's interest from 28% to 99% by transferring to him the 71% equitable ownership interest previously allocated to limited partners was not a major change, since, regardless of his percentage of equitable ownership, the general partner would still have total operating control. Here more than 50% of the *general* partnership interest would have been transferred, thereby, resulting in a major change.

[5] Subsequently, Rocky Mountain filed comments in support of Salt Lake TV's petition; however, as noted in footnote 2, *supra*, Rocky Mountain's application has since been dismissed.

Salt Lake City Family Television, Inc.

15. On November 10, 1982, Family filed a petition for leave to amend its application, *inter alia*, in order to report the withdrawal of Erma Freeman and Jack Dalton, each a one per cent stockholder in the applicant. In addition, Freeman and Dalton served as Secretary and Treasurer, respectively, of Family. Their stock ownership in the applicant has been redistributed to Rebecca Bain, who now has a 49% ownership in Family. Both Salt Lake TV and Mountain West object to this amendment because it would improve the comparative position of Family after the time for amendment as of right passed on August 6, 1981. They contend that the amendment removes two non-integrated principals and increases the amount of stock held be Bain, the station manager. In addition, Mountain West argues that since Freeman has other broadcast interests and since dalton may soon acquire some, their elimination will also serve to improve Family's comparative qualifications with respect to the diversification of broadcast ownership.

16. Section 1.65 of the rules requires applicants to maintain the substantial accuracy and completeness of their applications; however, applicants may not improve their comparative status after the cut-off date. Although Family properly reported Freeman's and Dalton's withdrawals, the applicant cannot rely on any comparative advantage that it may have incidentally received. Nevertheless, it need not be charged with any broadcast interests acquired by either Freeman or Dalton after November 10, 1982. Consequently, Family's petition for leave to amend will be granted for Section 1.65 purposes only.

Joseph C. Lee, George L. Gonzales, et al., General Partners, d/d/a Mountain West Television Company

17. Section 73.636(a)(1) of the Commission's Rules provides that no license for a television broadcast station shall be granted to any party if such party directly or indirectly owns, operates or control one or more FM and/or AM broadcast stations and the grant of such license will result in the Grade A contour of the proposed television station encompassing the entire community of license of the AM or FM station. Joseph Lee, the 44% owner of Mountain West is also News Director of KCPX, Inc., licensee of KCPX(AM) and KCPX-FM in Salt Lake City. However, Mr. Lee has indicated that he will terminate his current employment to assume full-time responsibilities as station manager of the proposed station upon grant of a construction permit to Mountain West. Accordingly, any grant of a construction permit to Mountain West will be appropriately conditioned.

18. In its amendment of August 6, 1981, Mountain West contends that, in light of the Commission's decision to no longer require detailed financial information for television applicants, it is unnecessary for it to submit additional documentation as to its financial qualifications. Accordingly, it certifies that it has reasonable assurance of the availability of the necessary funds to construct its proposed station and to operate it for three months. The Commission, however, subsequently held that those applications, like Mountain West, who initially utilized the 1977 version of the application form, may not now certify and must fully established their financial qualifications. *South Florida Broadcasting Co., Inc., 53 R.R. 2d 1683 (1983).*

19. Mountain West proposes to lease its equipment at a cost of $38,033 per month but has not provided a copy of a rental agreement with an equipment supplier. Accordingly, the applicant will be required to demonstrate the availability of sufficient net liquid assets to purchase its equipment. Mountain West estimates that $1,709,288 will be required to construct its proposed station and to operate it for three months, itemized as follows:

Equipment	$1,471,421
Tower and studio rent (five months)	16,667
Legal, engineering, installation, and other miscellaneous costs	55,000
Operating costs (three months)	156,200
Total	$1,709,288

To meet this requirement, Mountain West intends to rely on a $600,000 line of credit from an unnamed bank and $50,000 in partnership contributions. In the absence of a band letter setting out the specific terms of the line of credit, the applicant cannot rely on the $600,000. Further, we cannot determine whether any of the partners have the net liquid assets to meet their pledge contributions, since they have not submitted their balance sheets. Consequently, we cannot determine the availability of any funds to Mountain West, and an appropriate financial issue will be specified.

20. Section 73.1125 of the Rules requires an applicant to locate its main studio within the community of license. Mountain West, however, seeks to locate its main studio in West Valley City. Accordingly, an appropriate issue will be specified.

West Valley City Television Associates Limited Partnership

21. At the time West Valley TV filed its application for Channel 13, several of its principals had interests in Salt Lake Broadcasters, Inc. (SLB), an applicant for Channel 14 in Salt Lake City. Consequently, West Valley TV sought a waiver of §§ 73.3518 and 73.3520 of the Rules, which prohibit the filing of inconsistent, conflicting, or multiple applications. Mountain West, filing a motion to return, and UTA, filing a motion to dismiss, both urged the Commission to deny the waiver request and return/dismiss West Valley TV's application. On November 9, 1981, however, SLB's application was dismissed as the result of a settlement agreement with American Television of Utah, Inc., seemingly mooting the arguments of Mountain West and UTA.

Nevertheless, UTA opposes West Valley TV's December 18, 1981, petition for leave to amend its application to reflect the dismissal of SLB's application. UTA contends that the fact that at one point the same parties were prosecuting two different applications for Salt Lake City television station is sufficient to trigger the Rules. UTA further argues that West Valley TV failed to report the dismissal of SLB's application within 30 days, as required by § 1.65 of the Rules.

22. Sections 73.3518 and 73.3520 were established so that the Commission's processes would not become clogged with applications, the processing of which would result in a waste of Commission resources. Because SLB's application was never processed, there is no such duplication present here, and in any case, we would have afforded West Valley TV and opportunity to elect which application it proposed to prosecute were it not for the fact that SLB's application has already been dismissed. As to UTA's § 1.65 argument, while it is true that West Valley TV failed to update its application timely to reflect the dismissal of SLB's application, it did amend its application on August 6, 1981, to state that SLB had requested dismissal on July 6, 1981. Since the lateness of West Valley TV's amendment has not prejudiced any party, we believe that its August 6 amendment sufficed for reporting the dismissal. Accordingly, the motions of Mountain West and UTA will be denied West Valley TV's request for waiver of §§73.3518 and 73.3520 will be dismissed as moot, and it December 18, 1981,

petition for leave to amend will be granted.

23. Since we have not received a determination from the Federal Aviation Administration that West Valley TV's proposed tower height and location would not constitute a hazard to air navigation, an appropriate issue will be specified.

Conclusion and order

24. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. Since these applications are mutually exclusive, the Commission is unable to make the statutory finding that their grant will serve the public interest, convenience and necessity. Therefore, the applications must be designated for hearing in a consolidated proceeding on the issues specified below.

25. Accordingly, it is ordered, That, pursuant to section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, before an Administrative Law Judge at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine, with respect to Utah Television Associates, Limited Partnership:

(a) Whether the applicant has $1,190,622 available for its construction and three month operation costs;

(b) Whether, in light of the evidence adduced pursuant to (a) above, the applicant is financially qualified to construct and operate as proposed.

2. To determine, with respect to Intermountain Broadcasting, Inc., whether circumstances exist to warrant a waiver of § 73.685 of the Commission's Rules.

3. To determine, with respect to Joseph C. Lee, George L. Gonzales, *et. al.*, General Partners, d/b/a Mountain West Television Company.

(a) Whether the applicant has $1,709,288 available for its construction and three month operating costs;

(b) Whether, in light of the evidence adduced pursuant to (c) above, the applicant is financially qualified to construct and operate as proposed;

(c) Whether the applicant has demonstrated good cause for locating its main studio outside its community of license;

(d) Whether circumstances exist to warrant a waiver of § 73.685 of the Commission's Rules.

4. To determine, with respect to West Valley City Television Associates, Limited Partnership:

(a) Whether there is a reasonable possibility that the tower height and location proposed would constitute a hazard to air navigation;

(b) Whether circumstances exist to warrant a waiver of § 73.685 of the Commission's Rules.

5. To determine, with respect to Salt Lake City Utah T.V., Inc., whether circumstances exist to warrant a waiver of §73.685 of the Commission's Rules.

6. To determine, in light of Section 307(b) of the Communications Act of 1934, as amended, which of the proposals would best provide a fair, efficient, and equitable distribution of television service.

7. In the event it is concluded from issue 6, above, that a choice among applicants should not be based solely on considerations relating to Section 307(b), to determine which of the proposals would, on a comparative basis, best serve the public interest.

8. To determine, in light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

26. It it further ordered, That, within 20 days of the release of this Order, UTA shall amend its application to demonstrate that it will provide "equivalent protection," calculated in accordance with the method specified in the *VHF Drop-In Proceeding, supra,* to reference points in Twin Falls, Idaho, and McGill, Nevada.

27. It is further ordered, That, in the event of a grant of Family's or West Valley TV's application, the construction permit shall contain the following conditions:

1. The maximum visual effective radiated power at azimuth 319 degrees true toward Twin Falls, Idaho, shall not exceed 16.2 dBk (41.7 kW).

2. The maximum visual effective radiated power at azimuth 239 degrees true toward McGill, Nevada, shall not exceed 10.8 dBk (12 kW).

3. The maximum visual effective radiated power at azimuth 66 degrees true toward KWWY(TV), Rock Springs, Wyoming, shall not exceed 13.8 dBk (24 kW).

28. It is further ordered, That in the event of a grant of UTA's or Mountain West's application, the construction permit shall contain the following conditions:

1. The maximum visual effective radiated power at azimuth 239 degrees true toward Twin Falls, Idaho, shall not exceed 16.1 dBk (40.kW).

2. The maximum visual effective radiated power at azimuth 319 degrees true toward McGill, Nevada, shall not exceed 10.8 dBk (12 kW).

3. The maximum visual effective radiated power at azimuth 66 degrees true toward KWWY(TV), Rock Springs, Wyoming, shall not exceed 13.8 dBk (24 kW).

29. It is further ordered, That, in the event of a grant of Salt Lake TV's application, the construction permit shall contain the following conditions:

1. The maximum visual effective radiated power at azimuth 319 degrees true toward Twin Falls, Idaho, shall not exceed 16 dBk (39.8 kW).

2. The maximum visual effective radiated power at azimuth 239 degrees true toward McGill, Nevada, shall not exceed 10.6 dBk (11.5 kW).

3. The maximum visual effective radiated power at azimuth 66 degrees true toward KWWY(TV), Rock Springs, Wyoming, shall not exceed 13.7 dBk (23.4 kW).

30. It is further ordered, That in the event of a grant of Intermountain's application, the construction permit shall contain the following conditons:

1. The maximum visual effective radiated power at azimuth 319 degrees true toward Twin Falls, Idaho, shall not exceed 15.1 dBk (32.4 kW).

2. The maximum visual effective radiated power at azimuth 238 degrees true toward McGill, Nevada, shall not exceed 11.3 dBk (13.5 kW).

3. The maximum visual effective radiated power at azimuth 67 degrees true toward KWWY(TV), Rock Springs. Wyoming, shall not exceed 13.5 dBk (22.4 kW).

4. Prior to the commencement of operation of the television station authorized herein, Intermountain shall certify to the Commission that its principals have severed all interest in and connection with KFAM(AM).

31. It is further ordered, That, in the event of a grant of any application in this proceedings, the application for license shall include the following:

1. Horizontal plans radiation pattern obtained from measurements performed by the manufacturer for the transmitting antenna prior to its installation.

2. Vertical radiation patterns obtained from measurements by the manufacturer for the transmitting antenna prior to its installation for at least azimuths toward locations at Twin Falls, Idaho, McGill Nevada, and KWWY(TV), Rock Springs. Wyoming.

3. An affidavit by a qualified and licensed surveyor stating that the transmitting antenna azimuthal orientation is proper to achieve the radiation limitations prescribed in paragraphs above, toward the locations to Twin Falls, Idaho, McGill, Nevada.

and KWWY(TV), Rock Springs, Wyoming.

32. It is further ordered, That the petitions for leave to amend filed by UTA, Intermountain, Family, West Valley TV, and Salt Lake TV ARE GRANTED for § 1.65 purposes only.

33. It is further ordered, That the motion to return West Valley TV's application, filed by Mountain West, and the motion to dismiss filed by UTA are denied, and UTA's request for waiver to §§ 73.3518 and § 73.3520 is dismissed as moot.

34. It is further ordered, That, UTA's petition for special relief is granted for § 1.65 purposes only.

35. It is further ordered, That Salt Lake TV's petition to dismiss the application of UTA is denied.

36. It is further ordered, That, within 20 days of the release of this Order, UTA shall publish local notice of the filing of its application in accordance with § 73.3580 of the Rules and file a certification of that fact with the presiding Administrative Law Judge.

37. It is further ordered, That the petition to hold the processing of the applications in abeyance, filed by Springfield TV, is dismissed as moot.

38. It is further ordered, That the Federal Aviation Administration is made a party respondent with respect to Issue 4(a).

39. It is further ordered, That in the event of a grant of Mountain West's application, it will be conditioned as follows: Prior to the commencement of operation of the television station authorized herein, permittee shall certify to the Commission that Joseph Lee has terminated all connections with or interests in KCPX(AM) and KCPX-FM, Salt, Lake City, Utah.

40. It is further ordered, That, to avail themselves of the opportunity to be heard, the applicants and the party respondent herein shall, pursuant to § 1.221.(c) of the Commission's Rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission, in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this Order.

41. It is further ordered, That the applicants herein shall, pursuant to § 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594 of the Commission's Rules, give notice of the hearing within the time and in the manner prescribed in such Rule, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the Rules.

Federal Communications Commission.

Roy J. Stewart,

Chief, Video Services Division, Mass Media Bureau.

[FR Doc. 84-3912 Filed 2-13-84; 8:45 am]
BILLING CODE 6712-01-M

[Report No. 1445]

Petitions for Reconsideration and Clarification of Actions in Rule Making Proceedings

February 6, 1984.

The following listings of petitions for reconsideration and clarification filed in Commission rulemaking proceedings is published pursuant to CFR 1.429(e). Oppositions to such petitions for reconsideration and clarification must be filed within 15 days after publication of this Public Notice in the **Federal Register**. Replies to an opposition must be filed within 10 days after the date for filing oppositions has expired.

Subject: MTS and WATS Market Structure. (CC Docket No. 78-72, Phase I)

Filed by: Arthur H. Simms, Attorney for The Western Union Telegraph Company on 1-24-84.

Subject: Procedures for Implementing the Detariffing of Customer Premises Equipment and Enhanced Services (Second Computer Inquiry) (CC Docket No. 81-893)

Filed by:

B. H. Walling, Jr. & T. L. Trantina, Attorneys for AT&T Information Systems Inc., on 12-28-83.

Robert M. Gillespie, Associate General Counsel & Sherry H. Bridewell, Attorney for Virginia State Corporation Commission on 1-13-84.

David E. Blabey, Attorney for the New York State Department of Public Service on 1-27-84.

J. Randolph MacPherson, Regulatory Counsel, Carl Wayne Smith, Assistant Regulatory Counsel for The Secretary of Defense and Charles V. Curcio, Assistant General Counsel & Sumner Katz, Attorney for The Administrator of General Services and on behalf of The Federal Executive Agencies on 1-27-84.

Herbert E. Marks & Laurel R. Bergold, Attorneys for Independent Data Communications Manufacturers Association, Inc., on 1-27-84.

Janice E. Kerr, J. Calvin Simpson & Gretchen Dumas, Attorneys for the People of the State of California and the Public Utilities Commission of the State of California on 1-27-84.

Paul J. Sinderbrand on 1-27-84.

Mary Jo Manning, Attorney for ROLM Corporation on 1-27-84.

James S. Golden & Amy S. Gross, Attorneys for The Bell Telephone Company of Pennsylvania, The Chesapeake and Potomac Telephone Companies, Diamond State Telephone Company, Illinois Bell Telephone Company, Indiana Bell Telephone Company, Michigan Bell Telephone Company, Nevada Bell, New England Telephone and Telegraph Company, New Jersey Bell Telephone Company, New York Telephone Company, The Ohio Bell Telephone Company, Pacific Northwest Bell Telephone Company, Pacific Bell, South Central Bell Telephone Company, Southern Bell Telephone and Telegraph Company, Southwestern Bell Telephone Company & Wisconsin Bell on 1-27-84.

J. A. DeBois, T. L. Trantina & M. J. Wasser, Attorneys for AT&T Information Systems Inc., on 1-30-84.

Subject: Hours of Operation of Daytime-Only AM Broadcast Stations. (BC Docket No. 82-538) [1]

Filed by: Gregg P. Skall, Dana G. Boyd & Jack Whitley, Attorneys for Daytime Broadcasters Association on 1-20-84. (Supplemental Comments on its Petition for Reconsideration)

Subject: Revision of Section 73.3550 of the Commission's Rules with Respect to the Assignment of New and Modified Call Letters to AM, FM and TV Broadcast Stations. (MM Docket No. 83-373)

Filed by:

Erwin G. Krasnow & Barry D. Umansky, Attorneys for National Association of Broadcasters on 1-27-84.

Thomas Schattenfield, David Tillotson & Susan A. Marshall, Attorneys for National Radio Broadcasters Association on 1-30-84.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 84-3909 Filed 2-13-84; 8:45 am]
BILLING CODE 6712-01-M

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[1] This is a supplement to a petition for reconsideration that had been filed. Full opportunity was provided to respond to the original petition. However, 15 days after publication in the **Federal Register** will be provided to file responses to the supplement.

Telecommunications Industry Advisory Group, Separations and Costing Subcommittee; Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), notice is hereby given of a meeting of the Telecommunications Industry Advisory Group (TIAG) Separations and Costing Subcommittee scheduled for Tuesday—Wednesday, February 28–29, 1984. The meeting will begin at 10:00 a.m., and will be held at the offices of MCI (2nd Floor), One Western Union International Plaza, New York, New York. The meeting will be open to the public. The agenda is as follows:

I. Review of Minutes of Previous Meeting.
II. General Administrative Matters.
III. Consideration of Expense Accounts for Part 67.
IV. Consideration of Revenue Accounts for Part 67.
V. Consideration of Expense Accounts for Part 69.
VI. Further Consideration of Items III, IV, and V above.
VII. Other Business.
VIII. Presentation of Oral Statements.

With prior approval of Subcommittee Chairman Eric Leighton, oral statements, while not favored or encouraged, may be allowed if time permits and if the Chairman determines that an oral presentation is conducive to the effective attainment of subcommittee objectives. Anyone not a member of the Subcommittee and wishing to make an oral presentation should contact Mr. Leighton (518/462–2030) at least five days prior to the meeting date.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 84–3908 Filed 2–13–84; 8:45 am]

BILLING CODE 6712–01–M

New FM Stations; Applications for Consolidated Hearing; Denton FM Radio Ltd., et al.

1. the Commission has before it the following mutually exclusive applications for a new FM station:

Applicant and city/State	File No.	MM Docket No.
A. Denton FM Radio, Ltd., Denton, Tx.	BHP–820630AM	84–92
B. Lori Ann Brotman and Sherwin Byron Brotman, Denton, Tx.	BHP–820901AO	84–93
C. J. Robby McClure d.b.a. Denton Media Co., Denton, Tx.	BHP–820917AG	84–94
D. Gail C. Payne et al d.b.a. Payne Radio Properties, A Ltd. partnership, Denton, Tx.	BHP–820928AE	84–95
E. Word of Faith World Outreach Center, Justin, Tx.	BHP–820929AL	84–96
F. Denton Communications, Inc., Denton, Tx.	BHP–820929BD	84–97

2. Pursuant to Section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon issues whose headings are set forth below. The text of each of these issues has been standardized and is set forth in its entirety in a sample standardized Hearing Designation Order (HDO) which can be found at 48 FR 22428, May 18, 1983. The issue headings shown below correspond to issue headings contained in the reference sample HDO. The letter shown before each applicant's name, above, is used below to signify whether the issue in question applies to that particular applicant.

Issue Heading and Applicant(s)

1. (See Appendix), A,B,C,D
2. (See Appendix), D
3. (See Appendix), D
4. Air Hazard, B,C,D,E
5. 307(b), A,B,C,D,E,F
6. Contingent Comparative, A,B,C,D,E,F
7. Ultimate, A,B,C,D,E,F

3. If there is any non-standardized issue(s) in this proceeding, the full text of the issue and the applicant(s) to which it applies are set forth in an Appendix to this Notice. A copy of the complete HDO in this proceeding may be obtained, by written or telephone request, from the Mass Media Bureau's Contact Representative, Room 242, 1919 M Street, N.W., Washington, D.C. 20554. Telephone (202) 632–6334.

W. Jan Gay,

Assistant Chief, Audio Services Division, Mass Media Bureau.

Appendix

1. If a final environmental impact statement is issued with respect to A (Ltd), B (Brotman), C (Media) and/or D (Payne) which concludes that the proposed facilities are likely to have an adverse effect on the quality of the environment,

(a) to determine whether the proposal is consistent with the National Environmental Policy Act, as implemented by § 1.1301–1319 of the Commission's Rules; and

(b) whether, in light of the evidence adduced pursuant to (a) above, the applicant is qualified to construct and operate as proposed.

2. To determine the facts and circumstances in the proceeding before the National Labor Relations Board involving FM station KTEX, Tulsa, Oklahoma and the effect, if any, such matters have on D (Payne)'s basic qualifications to become a Commission licensee.

3. To determine if D (Payne) failed to meet its responsibilities pursuant to Section 1.65 of the Commission's Rules for the continuing accuracy and completeness of information furnished in its pending application.

[FR Doc. 84–3903 Filed 2–13–84; 8:45 am]

BILLING CODE 6712–01–M

New FM Stations; Applications for Consolidated Hearing; the First One Broadcast Group et al.

1. The Commission has before it the following mutually exclusive applications for a new FM station:

Applicant and city/State	File No.	MM Docket No.
A. John C. Culpepper, Jr., et al d.b.a., The First One Broadcast Group, Helena, MT.	BPH–811105AB	84–88
B. Eric John Myhre, Helena, MT.	BPH–811202AG	84–90
C. Old West Broadcasting, Inc., East Helena, MT.	BPH–820624BS	84–91

2. Pursuant to Section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon issues whose headings are set forth below. The text of each of these issues has been standardized and is set forth in its entirety in a sample standardized Hearing Designation Order (HDO) which can be found at 48 F.R. 22428, May 18, 1983. The issue headings shown below correspond to issue headings contained in the referenced sample HDO. The letter shown before each applicant's name, above, is used below to signify whether the issue in question applies to that particular applicant.

Issue Heading and Applicant(s)

1. (See Appendix), A
2. 307(b), A,B,C
3. Contingent Comparative, A,B,C
4. Ultimate, A,B,C

3. If there is any non-standardized issue(s) in this proceeding, the full text of the issue and the applicant(s) to which it applies are set forth in an Appendix to this Notice. A copy of the complete HDO in this proceeding may be obtained, by written or telephone request, from the Mass Media Bureau's Contact Representative, Room 242, 1919

M Street, N.W., Washington, D.C. 20554. Telephone (202) 632–6334.

W. Jan Gay,

Assistant Chief, Audio Services Division, Mass Media Bureau.

Appendix

Additional Issue Paragraph

1. To determine if the July 19, 1982 amendment filed by A (First One) proposes a major change in its original proposal pursuant to § 73.3573(a)(1) of the Commission's Rules.

[FR Doc. 84–3904 Filed 2–13–84; 8:45 am]

BILLING CODE 6712–01–M

New FM Stations; Applications for Consolidated Hearing; Freeport Broadcasting Co. et al.

1. The Commission has before it the following mutually exclusive applications for a new FM station:

Applicant and city/State	File No.	MM Docket No.
A. Freeport Broadcasting Co., Freeport, TX.	BPH–830215AP (previously BPH–811013AB).	84–50
B. Willis Jay Harpole, Freeport, TX.	BPH–820908BC	84–51
C. Satellite Syndicated, Freeport, TX.	BPH–820525BQ	84–52

2. Pursuant to Section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon issues whose headings are set forth below. The text of each of these issues has been standardized and is set forth in its entirety in a sample standardized Hearing Designation Order (HDO) which can be found at 48 FR 22428, May 18, 1983. The issue headings shown below correspond to issue headings contained in the referenced sample HDO. The letter shown before each applicant's name, above, is used below to signify whether the issue in question applies to that particular applicant.

Issue Heading and Applicant(s)

1. Air Hazard, A,B
2. Comparative, A,B,C,
3. Ultimate, A,B,C

3. If there is any non-standardized issue(s) in this proceeding, the full text of the issue and the applicant(s) to which it applies are set forth in an Appendix to this Notice. A copy of the complete HDO in this proceeding may be obtained, by written or telephone request, from the Mass Media Bureau's Contact Representative, Room 242, 1919 M Street, NW., Washington, D.C. 20554. Telephone (202) 632–6334.

W. Jan Gay,

Assistant Chief, Audio Services Division, Mass Media Bureau.

[FR Doc. 84–3905 Filed 2–13–84; 8:45 am]

BILLING CODE 6712–01–M

New FM Stations; Applications for Consolidated Hearing; Professional Radio Inc., et al.

1. The Commission has before it the following mutually exclusive applications for a new FM station:

Applicant and city/State	File No.	MM Docket No.
A. Professional Radio, Inc., Newberry, SC.	BPH–820729AK	84–63
B. Miller Broadcasting Co., Inc., Newberry, SC.	BPH–820921AO	84–64
C. J. Stephen McClure d.b.a. Newberry Media Co., Newberry, SC.	BPH–821004AT	84–65
D. G. Roscoe Bedenbaugh et al., d.b.a. Service Radio Co., Newberry, SC.	BPH–830215AC	84–66

2. Pursuant to Section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon issues whose headings are set forth below. The text of each of these issues has been standardized and is set forth in its entirety in a sample standardized Hearing Designation Order (HDO) which can be found at 48 FR 22428, May 18, 1983. The issue headings shown below correspond to issue headings contained in the referenced sample HDO. The letter shown before each applicant's name, above, is used below to signify whether the issue in question applies to that particular applicant.

Issue Heading and Applicant(s)

1. (See Appendix), C
2. City Coverage, B, C, D
3. Air Hazard, C
4. Comparative, A, B, C, D
5. Ultimate, A, B, C, D

3. If there is any non-standardized issue(s) in this proceeding, the full text of the issue and the applicant(s) to which it applies are set forth in an Appendix to this Notice. A copy of the complete HDO in this proceeding may be obtained, by written or telephone request, from the Mass Media Bureau's Contact Representative, Room 242, 1919 M Street, NW., Washington, D.C. 20554. Telephone (202) 632–6334.

W. Jan Gay,

Assistant Chief, Audio Services Division, Mass Media Bureau.

Appendix

Issue(s)

1. If a final environmental impact statement is issued with respect to C (Newberry) which concludes that the proposed facilities are likely to have an adverse effect on the quality of the environment.

(a) To determine whether the proposal is consistent with the National Environmental Policy Act, as implemented by §§ 1.1301–1309 of the Commission's Rules; and

(b) Whether, in light of the evidence adduced pursuant to (a) above, the applicant is qualified to construct and operate as proposed.

[FR Doc. 84–3901 Filed 2–13–84; 8:45 am]

BILLING CODE 6712–01–M

New FM Stations; Applications for Consolidated Hearing; Talleyrand Broadcasting

1. The Commission has before it the following mutually exclusive applications for a new FM station:

Applicant and city/State	File No.	MM Docket No.
A. Walter D. Barker and Kay F. Barker d.b.a. Talleyrand Broadcasting, Bellefonte, PA.	BPH–821012AI	84–98
B. Nittany Communications, Inc., Bellefonte, PA.	BPH–821216AF	84–99
C. Bald Eagle Media, Inc., Bellefonte, PA.	BPH–830214AF	84–100

2. Pursuant to Section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon issues whose headings are set forth below. The text of each of these issues has been standardized and is set forth in its entirety in a sample standardized Hearing Designation Order (HDO) which can be found at 48 FR 22428, May 18, 1983. The issue headings shown below correspond to issue headings contained in the referenced sample HDO. The letter shown before each applicant's name, above, is used below to signify whether the issue in question applies to that particular applicant.

Issue Heading and Applicant(s)

1. Air Hazard, A,B,C
2. Comparative, A,B,C
3. Ultimate, A,B,C

3. If there is any non-standardized issue(s) in this proceeding, the full text of the issue and the applicant(s) to which it applies are set forth in an Appendix to this Notice. A copy of the complete HDO in this proceeding may be obtained, by written or telephone request, from the Mass Media Bureau's Contact Representative, Room 242, 1919 M Street, NW., Washington, D.C. 20554. Telephone (202) 632–6334.

W. Jan Gay,

Assistant Chief, Audio Services Division, Mass Media Bureau.

[FR Doc. 84–3982 Filed 2–13–84; 8:45 am]

BILLING CODE 6712–01–M

[MM Docket No. 84–20, File No. BPCT–811006KJ, et al.]

Harley G. Hunter, et al.; Hearing Designation Order

In the matter of applications of Harley G. Hunter d/b/a Pueblo Family Television, Pueblo, Colorado (MM Docket No. 84–20, File No. BPCT–811006KJ), tvUSA/PUEBLO, LTD., Pueblo, Colorado (MM Docket No. 84–21, File No. BPCT–811124KE), and FEM Broadcasting, Inc., Pueblo, Colorado (MM Docket No. 84–22, File No. BPCT–811124KG) for construction permit.

Adopted: January 10, 1984.
Released: February 3, 1984.

By the Chief, Mass Media Bureau.

1. The Commission, by the Chief, Mass Media Bureau, acting pursuant to delegated authority, has before it: (1) The above-captioned mutually exclusive applications of Harley G. Hunter d/b/a Pueblo Family Television (Pueblo Family), tvUSA/Pueblo Ltd. (tvUSA), and FEM Broadcasting, Inc. (FEM),[1] for authority to construct a new television station on Channel 32, Pueblo, Colorado; (2) a petition to deny the application of Pueblo Family, filed by Quality Media Corporation (QMC), formerly an applicant for a new television station on Channel 21, Colorado Springs, Colorado; (3) a petition to deny the applications of FEM Broadcasting and tvUSA, filed by Sangre Cristo Communications, Inc. (KOAA), licensee of Station KOAA–TV, Channel 5, Pueblo, Colorado, and television translator Station K30AA, Channel 30, Colorado Springs, Colorado; (4) oppositions filed by the applicants; (5) replies filed by the petitioners; and (6) various related pleadings.[2]

2. KOAA claims standing as a party in interest on the ground that grant of any of the above-captioned applications for a new television station on Channel 32, Pueblo, Colorado, would require discontinuance or modification of its translator station on Channel 30, Colorado Springs, Colorado, because of the protection against interference which must be accorded to television stations by television translators. This claim of standing is opposed by tvUSA. It is well-established that where a claim is made that a translator's operation must be modified or terminated because of electrical interference between the translator and a television station, it is a sufficient ground for standing. *International Broadcasting Co.*, 3 FCC 2d 449, 450 (1966). *See also, FCC v. National Broadcasting Company (KOA)*, 319 U.S. 239 (1943). In any event, it appears that KOAA's television station would compete with the proposed new television station for audience and advertising revenues, and this is another ground for KOAA's stand. *See, FCC v. Sanders Bros. Radio Station*, 309 U.S. 470 (1940).

3. We find that QMC does not have standing as a party in interest pursuant to Section 309(d)(1) of the Communications Act of 1934, as amended. At the time that QMC filed its petition, QMC was one of two mutually exclusive applicants for a new commercial television station on Channel 21, Colorado Springs. Thereafter, QMC's application was dismissed on its own motion and a competing application was granted. *Memorandum Opinion and Order, BC Docket No. 81–848*, FCC 82M–1510, released May 12, 1982. Nevertheless, we will treat QMC's pleading as an informal objection, pursuant to § 73.3587 of the Commission's Rules.

4. As a final procedural matter, tvUSA has filed a motion to strike Pueblo Family's amendment of January 28, 1982, which was the cut-off date for filing amendments as of right in this proceeding. In its motion, tvUSA alleges that the amendment is defective because it is not signed by any of the applicant's partners as required by § 73.3513(a)(2) of the Commission's Rules. As a result, tvUSA believes that the applicant should not be entitled to any comparative advantage arising from the amendment's proposal of emergency generating equipment for the transmitter and main studio. In order to place personal responsibility for the contents of applications and amendments, the Commission has required applicants to sign their submissions. *B. J. Hart*, 20 R.R. 301 (1960). Where, however, such submissions are unsigned, we have permitted applicants to file ameliorative amendments after the cut-off date to certify their contents. *Communications Gaithersburg, Inc.*, 60 F.C.C. 2d 537 (1976). By promptly notifying the Commission of its unexecuted amendment, the applicant put all parties on notice of its contents while recognizing that a signed copy of it would have to be submitted. The executed copy of the amendment was filed February 16, 1982. tvUSAs' motion to strike will be denied and Pueblo Family's amendment accepted for all purposes.

De Facto Reallocation of Channel 32

5. In their petitions, KOAA and QMC contend that the above captioned applications should be denied or designated for hearing because use of their proposed transmitter sites on Cheyenne Mountain would accomplish a *de facto* reallocation of Channel 32 from the smaller community of Pueblo (pop. 101,686) to the larger community of Colorado Springs, Colorado (pop. 214,914), without a rule making proceeding. The petitioners base their request upon an analysis of the nine factors set forth in *Communications Investment Corp. v. FCC*, 641 F. 2d 954 (D.C. Cir. 1981) (hereinafter referred to as *CIC*). In opposition, the applicants recognize that Cheyenne Mountain is much closer to Colorado Springs than to Pueblo, but they argue that Cheyenne Mountain is the optimum site for a Pueblo television station due to the height of the mountain and line of sight to Pueblo; that their stations will provide the requisite city grade coverage to Pueblo; and that their main studios will be located in Pueblo.

6. We conclude that no issue is warranted. After the pleading cycle ended in this proceeding, the Commission completed a rule making proceeding in which it determined that the public interest would be better served by abolishing the *de facto* reallocation policy, as well as the related suburban community and *Berwick* policies. *Suburban Community Policy, BC Docket No. 82–320*, FCC 83–31, 53 RR 2d 681 (1983). The Commission based its decision upon a finding that these policies had not furthered the purposes of Section 307(b) of the Communications Act, which requires the Commission "to provide a fair, efficient, and equitable distribution of radio

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[1] Each of the applicants has filed at least one amendment after the "B" cut-off date, each of which was accompanied by a request for leave to amend. Since each amendment was required to be filed by § 1.65 of the Commission's Rules, all are accepted for § 1.65 purposes only and no comparative advantage will accrue thereby.

[2] KOAA filed a supplementary exhibit to its petition to deny on March 15, 1982, accompanied by a request for its acceptance. This request was jointly opposed by FEM Broadcasting and tvUSA on the ground that the pleading cycle was already completed. In the absence of a showing of good cause for this late filing, the exhibit will not be considered.

service." The Commission also found that these policies have been used by stations in larger communities to preclude additional competition by stations in nearby smaller communities. As a result, the Commission concluded that it will presume that applicants will serve their proposed communities of license if they are in compliance with the Commission's other licensing rules, such as the provision of the requisite signal to the community of license, location of the main studio in the proposed community of license, and a programming proposal that will serve the needs of the community of license. *Suburban Community Policy, supra*, 53 RR 2d at 696–697.

7. We have examined the above-captioned applications in light of the Commission's action in BC Docket No. 82–320 and have determined that the applicants are in compliance with the Commission's licensing rules. Specifically, our staff engineering analysis confirms that the applicants will provide the requisite city grade signal of 80 dBu to Pueblo and that their main studios will be located within the city limits of Pueblo. Furthermore, the applicants have proposed programming to meet the needs of the residents of Pueblo, and no allegations have been made by the petitioners that the proposed programs cannot reasonably be expected to serve these needs. Under there circumstances, the requested issue will be denied. *See, e.g., Ben Lomond Broadcasting Co.*, FCC 83–99, released March 4, 1983, which is the remand of the *CIC* case.

Availability of Transmitter Site

8. KOAA next contends that the applications of FEM Broadcasting and tvUSA should be designated for hearing on a transmitter site availability issue. In support of this request, KOAA points out the FEM Broadcasting and tvUSA each proposes to mount its antenna on the tower of each of two FM stations which are situated in an antenna farm on Cheyenne Mountain; that under similar lease provisions, these stations cannot sublease space on their towers without the permission of the Cheyenne Propagation Company (CPC), the owner of the antenna farm; and that one of CPC's owners indicated to KOAA that such consent might be withheld because use of the site may produce blanketing interference. In opposition, tvUSA states that it obtained the consent of station KILO(FM), Colorado Springs, Colorado, to side-mount its antenna on the KILO(FM) tower, but was unaware of any restriction on subleasing without CPC's approval. In any event, tvUSA subsequently amended its application to specify a new site on Cheyenne Mountain where it will erect its own tower, and tvUSA has submitted a letter from CPC's counsel granting permission to lease this site. Under these circumstances, we find that tvUSA has provided reasonable assurance as to the availability of its transmitter site. Furthermore, with respect to the proposals by FEM Broadcasting and Pueblo Family Television to share space on the towers of two FM stations, KOAA has not shown that the permission of CPC, if required, would not be forthcoming. Consequently, the requested issue will be denied.[3]

9. The Commission is not in receipt of the Federal Aviation Administration's determination for the antenna structure proposed by tvUSA and FEM. Consequently, no determination has been made that the tower height and location proposed by each would not constitute a hazard to air navigation. Acccordingly, an appropriate issue will be specified.

tvUSA/PUEBLO, Ltd. (tvUSA)

10. The applicant has not answered Section II, Question 6, FCC Form 301, regarding whether the parties involved are U.S. citizens. The applicant will be required to clarify this situation by appropriate amendment.

11. tvUSA estimates that $1,641,825 will be required to construct its proposed station and to operate it for three months, itemized as follows:

Equipment by deferred credit:[4]	
(downpayment)	$666,000
(three months)	174,825
Studio and Transmitter Site (five months)	6,000
Building	75,000
Legal, Engineering, installation and other miscellaneous costs	335,000
Operating costs (three months)	385,000
Total	$1,641,825

[4] Although under its terms, the RCA letters extending deferred credit for the purchase of equipment expired January 26, 1982 for tvUSA, November 11, 1981 for FEM, it is reasonable to assume that the applicants would still be able to obtain the same or similar credit arrangement from RCA or another equipment supplier should one of them receive a grant in this proceeding. *Contemporary Television Broadcasting, Inc.*, Mimeo No. 05812 (released Jan. 16, 1981).

To meet this requirement, tvUSA relies upon $1,450,000 in capital contributions and loans from Herbert N. Somekh, Marcia Hanna, and Lee Hanna. Somekh is to provide $1,000,000 which he proposes to obtain as an "earmarked" loan from Parklane Hosiery Company, Inc. and Hosiery Manufacturing Corp. of Morganton (Parklane); Marcia Hanna to provide $250,000 which she proposes to obtain as a loan from Syd E. Byrd; and Lee Hanna is to provide $200,000 which is to be obtained from Hannah Blumberg. As KOAA points out, no showing has been made that Perklane, Byrd and Blumberg have sufficient net liquid assets to enable them to meet their respective commitments. Consequently, it cannot be determined that the funds will be available to Somekh and the Hannas to enable them to meet their obligations to the applicant. Even if these funds were available, however, there would still be a shortfall of $191,825 and tvUSA has not shown that any funds are available from other sources. Accordingly, an issue will be specified to determine whether tvUSA is financially qualified.

FEM Broadcasting, Inc.

12. FEM indicates in Section V–C, Item 7, FCC Form 301, that it will use mechanical beam tilt. Section 73.685(e)(2) of the Commission's Rules requires that information be submitted to verify the nature of the proposed mechanical beam tilt. FEM has not done so. Accordingly, applicant will be required to submit an appropriate engineering amendment within 20 days after this Order is released.

13. FEM estimates that $1,634,207 will be required to construct its proposed station and to operate for three months, itemized as follows:

Equipment by deferred credit:	
(downpayment)	$523,532
(three months)	141,354
Studio and Transmitter Site (five months)	13,500
Building	200,000
Legal, Engineering, installation and other miscellaneous costs	352,163
Operating costs (three months)	403,658
Total	1,634,207

To meet this requirement, FEM intends to rely on $7,600 in existing capital, $15,500 from the stock subscription of Helen Garcia, $5,500 from the stock subscription of Phyllis Garcia and a loan of $1,800,000 from Brown and Company Financial Services.

14. KOAA argues that FEM has not demonstrated "reasonable assurance" of the availability of funds to construct and operate the station. In this regard, KOAA contends that the commitment letter from Brown and Company states only that it "would give every favorable consideration" to a loan application from FEM. This language, KOAA argues, falls short of the "reasonable assurance" standard. The letter further provides that any loan "would be subject to the approval by our investment committee.

[3] KOAA also questions the suitability of the proposed transmitter sites of FEM Broadcasting and tvUSA. KOAA claims that, if CPC were to restrict the power that these applicants could use, they would probably not be able to place the requisite city grade signal over Pueblo. However, a review of these applications clearly discloses that city grade coverage will be provided to Pueblo, Colorado. KOAA provides nothing beyond speculation that CPC would require operation at a power less than that now specified by FEM and Pueblo Family.

the execution of a mutually satisfactory loan agreement, supported by personal guarantees and secured by acceptable collateral"; however, KOAA asserts that no such personal guarantees have been supplied. KOAA further argues that the balance sheets provided by Helen and Phyllis Garcia do not demonstrate net liquid assets sufficient to meet their stock subscriptions.

15. With respect to the commitment letter from Brown and Company, "favorable consideration" must be construed to mean what it says, and the institution while permissibly reluctant to make a firm commitment, has, nevertheless, indicated that it is favorably disposed toward making the loan. See, *Multi-State Communications, Inc. v Federal Communications Commission* 192 US App DC 1, 590 F 2d. 1117 *cert. denied* 99 S Ct 1501 (1978). The requirements for approval by the investment committee and for execution of a satisfactory loan agreement are customary provisions and do not detract from the validity of the letter. FEM's principals, however, have not indicated a willingness to provide personal guarantees, or to supply acceptable collateral. Consequently, it cannot be concluded that the loan will be available. Further, neither Helen nor Phyllis Gracia has demonstrated the availability of any net liquid assets to meet their subscriptions. Because the applicant has demonstrated the availability of only $7,600, an appropriate financial issue will be specified.

16. An applicant seeking authority to construct a commercial television station is required to afford equal employment opportunity to all qualified persons. See § 73.2080 of the Commission's Rules and Section VI, FCC Form 301. Pursuant to this requirement, an applicant who proposes to employ five or more full-time station employees must establish a program of practices to assure equal employment opportunities. Although Pueblo Family intends to employ at least five full-time employees, it has failed to submit a complete equal employment opportunity proposal. Pueblo Family failed to submit examples of recruitment sources in response to element IV of the guidelines to the model EEO program required by FCC Form 301. Therefore, we cannot conclude that Pueblo Family has complied with § 73.2080 and that its EEO program adequately meets the guidelines delineated in that rule. Accordingly, Pueblo Family will be required to submit its complete EEO proposal to the presiding Administrative Law Judge within 20 days after this Order is released.

17. Applicants for new broadcast stations are required by §73.3580(f) of the Commission's Rules to give local notice of the filing of their applications. They must then file with the Commission the statement described in § 73.3580(h) of the Rules. We have no evidence that Pueblo Family has published the required local notice. To remedy this deficiency, Pueblo Family will be required to file a certification of compliance with the presiding Administrative Law Judge within 20 days after this Order is released.

18. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. Since the applications are mutually exclusive, the Commission is unable to make the statutory finding that their grant will serve the public interest, convenience, and necessity. Therefore, the applications must be designated for hearing in a consolidated proceeding on the issues specified below.

19. Accordingly, it is ordered, That pursuant to section 309(e) of the Communications Act of 1934, as amended, the above-captioned applications are designated for hearing in a consolidated proceeding to be held before an Administrative Law Judge at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine with respect to tvUSA/Pueblo, Ltd. and FEM Broadcasting, Inc. whether there is a reasonable possibility that the tower height and location proposed by each would constitute a hazard to air navigation.

2. To determine, with respect to tvUSA/Pueblo, Ltd.:

(a) Whether the applicant has $1,641,825 available for its construction and three month operating costs and:

(b) Whether, in light of the evidence adduced pursuant to (a) above, the applicant is financially qualified.

3. To determine with respect to FEM Broadcasting, Inc.:

(a) Whether the applicant has $1,634,207 available for its construction and three month operating costs and;

(b) Whether, in light of the evidence adduced pursuant to (a) above, the applicant is financially, qualified.

4. To determine which of the proposals would, on a comparative basis, best serve the public interest.

5. To determine, in light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

20. It is further ordered, That the petition to deny filed by Quality Media Corporation is dismissed, and, when considered as an informal objection filed pursuant to § 73.3587 of the Commission's Rules, is denied.

21. It is further ordered, That the petition to deny filed by Sangre Cristo Communications is granted to the extent indicated herein and otherwise is denied.

22. It is further ordered, That the motion to strike filed by tvUSA/Pueble, Ltd. is denied.

23. It is fruther ordered, That the Federal Aviation Administration is made a party respondent to this proceeding with respect to Issue 1.

24. It is further ordered, That Sangre Cristo Communications (KOAA) is made a part respondent.

25. It is further ordered, That FEM shall submit, pursuant to § 73.685(e)(2) of the Commission's Rules, an appropriate engineering amendment to verify the nature of the proposed mechanical beam tilt to the presiding Administrative Law Judge within 20 days after this Order is released.

26. It is further ordered, That Pueblo Family Television shall submit a complete EEO proposal to the presiding Administrative Law Judge within 20 days after this Order is released.

27. It is further ordered, That, Pueblo Family shall file certification with the presiding Administrative Law Judge within 20 days after this Order is released that it has or will comply with Section 73.3580 of the Commission's Rules.

28. It is further ordered, That tvUSA shall submit an amendment to clarify its citizenship to the presiding Administrative Law Judge within 20 days after this Order is released.

29. It is further ordered, That, to avail themselves of the opportunity to be heard, the applicants and the parties respondent herein shall, pursuant to § 1.221(c) of the Commission's Rules, in person or by attorney within 20 days of the mailing of this Order, file with the Commission, in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this Order.

30. It is further ordered, That the applicants herein shall, pursuant to section 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594 of the Commission's Rules give notice of the hearing within the time and in the manner prescribed in such Rule, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the Rules.

Federal Communications Commission.

Roy J. Stewart,

Chief, Video Services Division, Mass Media Bureau.

[FR Doc. 84-3900 Filed 2-13-84; 8:45 am]

BILLING CODE 6712-01-M

[MM Docket Nos. 84-67 and 84-68; File Nos. BPCT-830902KM BPCT-831107KE]

Western Pennsylvania Christian Broadcasting Co. and Altoona Television 47, LTD.; Hearing Designation Order

In the matter of applications of Western Pennsylvania Christian Broadcasting Co., Altoona, Pennsylvania (MM Docket No. 84-67, File No. BPCT-830902KM) and Altoona Television 47, Ltd., Altoona, Pennsylvania (MM Docket No. 84-68, File No. BPCT-831107KE).

For construction permit.

Adopted: January 26, 1984.

Released: February 3, 1984.

By the Chief, Mass Media Bureau.

1. The Commission, by the Chief, Mass Media Bureau, acting pursuant to delegated authority, has before it the above-captioned mutually exclusive applications for a new commercial television station to operate on Channel 47, Altoona, Pennsylvania.

2. The Commission is not in receipt of the Federal Aviation Administration's determination for either applicant. Consequently, no determination has been made that the tower height and location proposed by each applicant would not constitute a hazard to air navigation. Accordingly, an appropriate issue will be specified.

3. Section V-C, Item 10, FCC Form 301 requires that an applicant submit the area and population within its predicted Grade B contour. Altoona Television 47, Ltd. has not specified the population within its Grade B contour. Consequently, we are unable to determine whether there would be a significant difference in the size of the area and population that each applicant proposes to serve. Altoona Television 47, Ltd. will be required to submit an amendment showing the required information, within 20 days after this Order is released, to the presiding Administrative Law Judge. If it is determined that there is a significant difference between the areas and populations, the presiding Administrative Law Judge will consider it under the standard comparative issue.

4. Section 73.685(f) of the Commission's Rules requires an applicant proposing to use a directional antenna to include a tabulation of relative field pattern, oriented so that 0° corresponds to True North and tabulated at least every 10° plus any minima or maxima. *The Future Role of Low Power Television Broadcasting*, 53 RR 2d 1267 (1983). Western Pennsylvania Christian Broadcasting Company has not supplied this data. Accordingly, the applicant will be required to submit an amendment with the appropriate information, to the presiding Administrative Law Judge and a copy to the TV Branch, Mass Media Bureau, within 20 days after this Order is released.

5. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. Since the applications are mutually exclusive, the Commission is unable to make the statutory finding that their grant will serve the public interest, convenience, and necessity. Therefore, the applications must be designated for hearing in a consolidated proceeding on the issues specified below.

6. Accordingly, it is ordered, That pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, to be held before an Administrative Law Judge at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine whether there is a reasonable possibility that the tower height and location proposed by each applicant would constitute a hazard to air navigation.

2. To determine which of the proposals would, on a comparative basis, better serve the public interest.

3. To determine, in light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

7. It is further ordered, That the Federal Aviation Administration is made a party respondent to this proceeding with respect to issue 1.

8. It is further ordered, That Western Pennsylvania Christian Broadcasting Company shall submit an amendment providing the information required by § 73.685(f) of the Commission's Rules, to the presiding Administrative Law Judge and a copy to the TV Branch, Mass Media Bureau, within 20 days after the release date of this Order.

9. It is further ordered, That Altoona Television 47, Ltd., within 20 days after this Order is released, shall submit an amendment giving the population within its predicted Grade B contour, to the presiding Administrative Law Judge.

10. It is further ordered, That, to avail themselves of the opportunity to be heard, the applicants and party respondent herein shall, pursuant to § 1.221(c) of the Commission's Rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this Order.

11. It is further ordered, That the applicants herein shall, pursuant to section 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594 of the Commission's Rules, give notice of the hearing within the time and in the manner prescribed in such Rule, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the Rules.

Federal Communications Commission.

Roy J. Steward,

Chief, Video Services Division, Mass Media Bureau.

[FR Doc. 84-3900 Filed 2-13-84; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL HOME LOAN BANK BOARD

[No. AC-340]

First Federal Savings and Loan Association of New Orleans, New Orleans, Louisiana; Final Action; Approval of Conversion Application

Dated: February 7, 1984.

Notice is hereby given that on January 18, 1984, the Office of General Counsel of the Federal Home Loan Bank Board, acting pursuant to the authority delegated to the General Counsel or his designee, approved the application of First Federal Savings and Loan Association of New Orleans, New Orleans, Louisiana, for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of said Corporation, 1700 G Street, N.W., Washington, D.C. 20552 and at the Office of the Supervisory Agent of said Corporation at the Federal Home Loan Bank of Dallas, Post Office Box 619026, Dallas/Fort Worth, Texas 75261-9026.

By the Federal Home Loan Bank Board.

John F. Ghizzoni,

Assistant Secretary.

[FR Doc. 84-3901 Filed 2-13-84; 8:45 am]

BILLING CODE 6720-01-M

[No. AC-342]

Great Southern Federal Savings Bank, Savannah, Georgia; Final Action Approval of Conversion Application

Dated: February 7, 1984.

Notice is hereby given that on January 26, 1984, the Office of General Counsel of the Federal Home Loan Bank Board, acting pursuant to the authority delegated to the General Counsel or his designee, apffice of the Supervisory Agent of said Corporation at the Federal Home Loan Bank of Atlanta, P.O. Box 56527, Peachtree Center Station, Atlanta, Georgia 30343.

By the Federal Home Loan Bank Board.

John F. Ghizzoni,

Assistant Secretary.

[FR Doc. 84-3989 Filed 2-13-84; 8:45 am]

BILLING CODE 6720-01-M

[No. AC-341]

Security Savings and Loan Association, Jackson, Michigan; Final Action Approval of Conversion Application

Dated: February 7, 1984.

Notice is hereby given that on January 25, 1984, the Office of General Counsel of the Federal Home Loan Bank Board, acting pursuant to the authority delegated to the General Counsel or his designee, approved the application of Security Savings and Loan Association, Jackson, Michigan, for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of the Board, 1700 G Street, N.W., Washington, D.C. 20552, and at the Office of the Supervisory Agent of the Federal Home Loan Bank of Indianapolis, Post Office Box 60, Indianapolis, Indiana, 46206.

By the Federal Home Loan Bank Board.

John F. Ghizzoni,

Assistant Secretary.

[FR Doc. 84-3990 Filed 2-13-84; 8:45 am]

BILLING CODE 6720-01-M

[No. AC-343]

Western Federal Savings and Loan Association, Marina Del Rey, California; Final Action Approval of Amendment to Conversion Application

Dated: February 7, 1984.

Notice is hereby given that on January 24, 1984, the Office of General Counsel of the Federal Home Loan Bank Board, acting pursuant to the authority delegated to the General Counsel or his designee, approved Amendment No. 6 to the application of Western Federal Savings and Loan Association, Marina del Rey, California, for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of said Corporation, 1700 G Street, N.W., Washington, D.C. 20552 and at the Office of the Supervisory Agent of said Corporation at the Federal Home Loan Bank of San Francisco, Post Office Box 7948, San Francisco, California, 94120.

By the Federal Home Loan Bank Board.

John F. Ghizzoni,

Assistant Secretary.

[FR Doc. 84-3992 Filed 2-13-84; 8:45 am]

BILLING CODE 6720-01-M

FEDERAL MARITIME COMMISSION

Independent Ocean Freight Forwarder License; Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as independent ocean freight forwarders pursuant to section 44(a) of the Shipping Act, 1916 (75 stat. 522 and 46 U.S.C. 841(c)).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to communicate with the Director, Bureau of Tariffs, Federal Maritime Commission, Washington, D.C. 20573.

A & A Ltd., 98 Front Street, New Bedford, MA 02740, Officers: Charles V. Renaut, President/Treasurer, Jeffrey A. Renaut, Vice President, Steven P. Renaut, Vice President

Mory-Vandegrift, Inc., 71 Broadway, Suite 1305, New York, NY 10006, Officers: Louis P. Amoriello, Sr., President, John J. Buckley, Jr., Assistant Vice President

Daysi Perez, 6904 N.W. 51st Street, Miami, FL 33166

Ventura, Inc., 36-50 31st Street, Long Island City, NY 11106, Officers: Marino Quadrino, President, Robert Santamaria, Executive Vice President, Anthony Ermillo, Vice President/Finance

Thomas M. Majestic d.b.a. Akron-Canton International Corporation, Akron-Canton Airport, North Canton, OH 44720

Thomas Hudson Enterprises, Inc., 10050 Talley Lane, Houston, TX 77041, Officers: Thomas O. Hudson, President/Treasurer, Thomas L. Hudson, Vice President/Secretary

By the Federal Maritime Commission.

Dated: February 9, 1984.

Francis C. Hurney,

Secretary.

[FR Doc. 84-3981 Filed 2-13-84; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Agency Forms Under Review

February 9, 1984.

Background

When executive departments and independent agencies propose public use forms, reporting, or recordkeeping requirements, the Office of Management and Budget (OMB) reviews and acts on those requirements under the Paperwork Reduction Act (44 U.S.C. Chapter 35). Departments and agencies use a number of techniques to consult with the public on significant reporting requirements before seeking OMB approval. OMB in carrying out its responsibilities under the act also considers comments on the forms and recordkeeping requirements that will affect the public. Reporting or recordkeeping requirements that appear to raise no significant issues are approved promptly. OMB's usual practice is not to take any action on proposed reporting requirements until at least ten working days after notice in the **Federal Register**, but occasionally the public interest requires more rapid action.

List of Forms Under Review

Immediately following the submission of a request by the Federal Reserve for OMB approval of a reporting or recordkeeping requirement, a description of the report is published in the **Federal Register**. This information contains the name and telephone number of the Federal Reserve Board clearance officer (from whom a copy of the form and supporting documents is available). The entries are grouped by type of submission—i.e., new forms, revisions, extensions (burden change), extensions (no change), and reinstatements.

Copies of the proposed forms and supporting documents may be obtained from the Federal Reserve Board clearance officer whose name, address, and telephone number appear below. The agency clearance officer will send you a copy of the proposed form, the request for clearance (SF 83), supporting statement, instructions, transmittal letters, and other documents that are submitted to OMB for review.

FOR FURTHER INFORMATION CONTACT:
Federal Reserve Board Clearance Officer—Cynthia Glassman—Division of Research and Statistics, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 (202–452–3829).
OMB Reviewer—Judy McIntosh—Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3208, Washington, D.C. 20503 (202–395–6880).

Request for Revision to an Existing Report

1. Report title: Reports of Condition and Income.
Agency form number: FFIEC 031–034.
Frequency: Quarterly.
Reporters: State member banks.
Small businesses are affected.

General description of report: Respondent's obligation to reply is mandatory (12 U.S.C. 324); a pledge of confidentiality is partially promised. Datailed schedules of assets, liabilities, and capital accounts in the form of a condition report, and summary statement; detailed schedule of operating income and expense, sources and disposition of income, and changes in the equity capital in the form of an income statement; and a variety of supporting schedules. (Addition of several items on the Allocated Transfer Risk Reserve required by the International Lending Supervision Act of 1983.)

2. Report title: Report of Condition for Edge Corporations.
Agency form number: FR 2886b.
Frequency: Quarterly.
Reporters: All banking Edge and Agreement Corporations.
Small businesses are not affected.

General description of report: Respondent's obligation to reply is mandatory (12 U.S.C. 602 and 625); a pledge of confidentiality is partially promised.

This report collects financial information about international banking and financing corporations. These corporations are supervised by the Federal Reserve System, and most of them accept deposits that are part of the domestic money supply. This report is used both for supervisory and monetary policy purposes. (Addition of several items on Allocated Transfer Risk Reserve required by the International Lending Supervision Act of 1983.)

Board of Governors of the Federal Reserve System, February 9, 1984.

James McAfee,
Associate Secretary of the Board.

[FR Doc. 84–3829 Filed 2–13–84; 8:45 am]
BILLING CODE 6210–01–M

GENERAL SERVICES ADMINISTRATION

Planned Consolidation of Two GSA Self-Service Stores in St. Louis, MO, GSA Region 6

1. *Purpose.* This notice announces plans for consolidating two self-service stores in St. Louis, MO.

2. *Background.*

a. GSA is committed to providing effective and economical supply support to Government agencies. To provide this kind of support under the current budgetary limitations, it is essential that GSA make sure that the maximum benefit is obtained from every dollar spent for supply support. Accordingly, supply support functions that are cost effective should be continued or expanded, as appropriate, and those that are not cost effective should be discontinued. An assessment of supply support functions indicates that two self-service stores in St. Louis, MO, are not cost effective. Federal agencies have used the self-service store at 405 S. Tucker on a limited basis for the past 18 months. Since the majority of the Federal agencies use the self-service store at 4300 Goodfellow, in St. Louis, MO, it is more cost effective to consolidate the two stores at 4300 Goodfellow.

b. Once the stores are consolidated, user activities in St. Louis should satisfy their requirements by using the consolidated self-service store. If this is not possible, they should use other means, such as requisitioning items through the GSA stock program, obtaining items through Federal Supply Schedules, or pruchasing items through the Kansas City, MO, Customer Supply Center. [The regulations on priorities for use of supply sources are contained in FPMR 101–20.107.]

3. *Location of GSA self-service store planned for closure and location of consolidated GSA self-service store:* The location of the GSA self-service store planned for closure in St. Louis, MO, is 405 South Tucker Blvd., Federal Building, Room 128, St. Louis, Mo. The location for the consolidated GSA self-service store is 4300 Goodfellow Blvd., Federal Center, Building 105D, St. Louis, MO.

4. *Agency comments.* Comments concerning the effect or impact of the consolidation of the self-service stores, identified in paragraph 3, may be submitted to the Assistant Regional Administrator, Federal Supply and Services. [Mailing address: General Services Administration (6F), 1500 East Bannister Road, Kansas City, MO 64131] by February 29, 1984.

5. *Notification of store consolidation.* Once the dates and other information regarding the consolidation are finalized, agencies will be notified in a GSA Bulletin. Consolidation will occur early in the third quarter of FY 1984.

Bond R. Faulwell,
Acting Regional Administrator.

[FR Doc. 84–3821 Filed 2–13–84; 8:45 am]
BILLING CODE 6820–24–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control

National Institute for Occupational Safety and Health; Cooperative Agreement Demonstration Program To Conduct Workplace Health Hazard Evaluations; Availability of Funds for Fiscal Year 1984

The National Institute for Occupational Safety and Health (NIOSH), Center for Disease Control (CDC), announces that competitive applications are being invited for cooperative agreement demonstrations on the feasibility of having State health departments conduct workplace health hazard evaluations (HHE) required by the Occupational Safety and Health Act of 1970 and the Federal Mine Safety and Health Act of 1977. The cooperative agreements will be awarded and administered by NIOSH under the research and demonstration grant authority of section 20(a)(1) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 669(a)(1)). Program regulations applicable to these grants are in Part 87, "National Institute for Occupational Safety and Health Research and Demonstration Grants," of title 42, Code of Federal Regulations. Applications are not subject to review as governed by Executive Order 12372, Intergovernmental Review of Federal Programs.

Purpose and Objectives

This cooperative agreement program is intended to demonstrate having State health departments conduct health hazard (and technical assistance) evaluations in accordance with the Occupational Safety and Health Act, therefore, the program is limited only to

State health departments. In making these awards, NIOSH will work with State health departments with differing degrees of experience in conducting occupational health investigations and with differing degrees of current ability (personnel, etc.) to conduct such evaluations.

By conducting these HHEs, cooperative agreement recipients will benefit by being able to develop data for further research into previously unknown toxic mechanisms of action and toxic effects and to develop control strategies; also, recipients' personnel will have the opportunity to develop occupational health skills. The duration of each of these cooperative agreements will be for up to three years. They will be renewable each year, subject to satisfactory performance and the availability of funds. The selected recipient will be assigned HHE requests by NIOSH and will conduct the HHE investigations in cooperation with NIOSH.

Provisions of the Cooperative Agreement

The recipient is responsible for developing a satisfactory plan for performing HHEs in cooperation with NIOSH. The recipient and NIOSH are responsible for the following activities:

A. The recipient will:

1. Design, develop, and implement a plan to increase the awareness of the HHE program among employer, employee representatives, and other governmental agencies in their State. This effort will be limited to informing these groups about the HHE program and that the State health department will be conducting these evaluations.

2. Conduct on-site HHEs in a timely manner after assignment or approval by NIOSH and in accordance with the provisions in Part 85, "Requests for Health Hazard Evaluations," of Title 42, Code of Federal Regulations. These evaluations will consist of one or more of the following:

a. Review, plan, and conduct an initial visit to the workplace subject to the HHE. The initial visit will consist of a walk-through survey to identify potentially toxic substances present in the workplace and the extent of exposure to the workers. This initial visit should be made within 30 days after the request is made to NIOSH; however, in some instances a longer period may be agreed to.

b. Prepare an internal report of the initial visit stating, in the professional judgment of the recipient, whether potentially toxic effects exist to warrant a full-scale investigation. This report will be submitted in a format specified by NIOSH.

c. Prepare interim reports to be sent to the employer and the employees stating what was done, what was found, and what is planned. The reports will be submitted to NIOSH for review and release.

d. Develop a protocol for conducting a full-scale investigation and submit to NIOSH for approval.

e. Upon NIOSH approval of the protocol, conduct the full-scale investigation which may consist of:

(1) Medical examinations, including physical examinations and interpretations of clinical, biochemical, and other tests;

(2) Additional air and bulk samples, ventilation measurements, evaluations of work practices, and process evaluations;

(3) Review of existing plan and private medical records; or

(4) Other steps necessary to determine which substances are present, at what concentration, and whether they have toxic effects at those concentrations.

Data collection must comply with institutional human subject clearance requirements, including obtaining informed consent from study subjects. All medical personnel must be licensed to practice medicine in the jurisdiction proposed to be covered by the recipients. Also, proposed data collections must be reviewed for compliance with the Paperwork Reduction Act by a designated NIOSH clearance official. The data collected will be safeguarded against unauthorized use. Analysis of medical and environmental samples will be made only in a laboratory with a procedure to assure accuracy and precision. The potential laboratories for such analysis will be listed in the application for cooperative agreement. A worker will be notified (by the recipient) of his/her individual results from any medical examinations and tests, along with recommendations for follow-up.

3. Submit to NIOSH a draft final report of the initial visit or full-scale investigation in a format specified by NIOSH including:

a. The identification of potentially toxic substances or agents;

b. The concentration of those substances; and

c. The judgment of the recipient, and basis for such judgment, as to whether substances present have toxic effects at the concentration used or found.

All information obtained during the HHE will become official Government property and will be transmitted to NIOSH to become part of the official Government file. All information obtained during the investigations will be made available by NIOSH to the recipients insofar as the information is available to the public. NIOSH will publish the final HHE report. The recipient shall not disclose trade secret information to anyone except NIOSH.

4. Provide reports, as required, and participate in joint annual reviews of the program with NIOSH, as requested.

B. NIOSH will:

1. Review and approve the plan to increase awareness of the HHE program.

2. Receive and screen HHE requests, assess the validity of the request, assign the request to the appropriate organization, and notify the requester of the assignment.

3. Participate and collaborate in the initial site visit if there are problems involving right of entry or for other appropriate reasons.

4. Review and publish the initial report prepared by the recipient to be sent to the employee representative and employer.

5. Review and approve the protocol for a follow-up visit prior to initiation of the full-scale investigation.

6. Collaborate in the development of environmental sampling and analytical methods where NIOSH has a unique capability or where no current methods exist.

7. Conduct a follow-up visit to the workplace if necessary due to problems with access to medical records, to problems securing access to workplaces, or when NIOSH participation is necessary.

8. Analyze environmental and biological samples for special situations in which NIOSH has unique capabilities.

9. Review, publish, and distribute the final report.

10. Conduct a joint review of program activities annually with recipients.

Eligibility Requirements

Eligible applicants are limited to State health departments. NIOSH, CDC, will award HHE Cooperative Agreements to State health departments with the following characteristics:

A. State health departments with considerable experience in conducting occupational health evaluations (similar to NIOSH HHEs) and with existing industrial hygiene and medical staff capable of doing these evaluations.

B. State health departments currently with a limited occupational health program, but who wish to expand this program to conduct HHEs. These departments may currently have staff

capable of conducting HHEs but would need to expand this staff to be able to carry out the work under this cooperative agreement.

C. State health departments with little or no occupational health program who have only limited staff available for conducting HHEs. These departments would need considerable initial assistance from NIOSH to develop an occupational HHE program.

Availability of Funds

In Fiscal Year 1984, up to $200,000 will be available for one to three cooperative agreements to conduct this demonstration.

Methods and Criteria for Review

Applications will be reviewed by a CDC ad hoc review group. Scientific and technical merit will be evaluated in accordance with the previously stated "Eligibility Requirements" and the following criteria:

—Relevance of the proposal to the purpose and objectives of this cooperative agreement program;
—Technical merit of the proposed approach to the problem;
—Training, experience, and research competence of the proposed project director and staff;
—Adequacy of the methodology or experimental design and approach;
—Suitability of the facilities;
—Appropriateness of the requested budget relative to the work proposed;
—Capability of the applicant to carry out the tasks involved in the HHE program;
—Soundness and innovation of the proposed approach to the range of activities presented in the HHE program contained in this announcement;
—Capability of applicant's administative structure to foster successful scientific and administrative management and to use this cooperative agreement to complement and to increase other occupational health capabilities of the State;
—Suitability of any proposed contractors;
—Adequacy of the proposed time frame to meet and complete NIOSH requested HHEs;
—Diversity of types of industries and potential HHE requesters in the geographic areas proposed to be served; and
—Absence of real or potential conflicts of interest.

Applicants need not have an extensive occupational health program currently conducting occupational health evaluations. One of the purposes of this program is to help develop such programs.

NIOSH will provide, insofar as possible, consultation to all who desire it concerning the preparation of an application or any other matter relevant to this program. The inability to provide such consultation cannot, however, justify extension of the deadline for receipt of applications or any other special consideration.

Submission of Applications

The original and two copies of the application must be submitted on or before 4:30 p.m. (e.s.t.), March 12, 1984, to Mr. Leo A. Sanders at the address given under "For Further Information Contact." Applicants may meet the deadline by either delivering or mailing the application on or before that date, provided the following conditions are met:

1. *Mailed applications.* Applications mailed through the U.S. Postal Service will be considered as meeting the deadline if they are either:

a. Received on or before the deadline date by Mr. Sanders, or

b. Sent by first class mail, postmarked on or before the deadline date, and received by Mr. Sanders in time for submission to the ad hoc review group. (Applicants should request and obtain a legible Postal Service postmark or use U.S. Postal Service express mail, certified mail, or registered mail, and obtain a legible dated mailing receipt from the U.S. Postal Service. Private metered postmarks will not be acceptable as proof of timely mailing.)

2. *Applications submitted by other means.* Applications submitted by any means except mailing first class through the U.S. Postal Service will be considered as meeting the deadline only if they are physically received at the CDC Atlanta address under "**FOR FURTHER INFORMATION CONTACT**" before close of business on or before the deadline date (4:30 p.m. e.s.t., March 12, 1984).

3. *Late applications.* Applications which do not meet the criteria in either paragraph 1. or 2. above will be considered late, will not be considered, and will be returned to the applicant.

For Further Information Contact

For application procedures and forms: Leo A. Sanders, Chief, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control, Atlanta, Georgia 30333, Telephone: (404) 262–6575 or FTS 236–6575.

For technical information and assistance: James M. Melius, M.D., or Jerome Flesch, Division of Surveillance, Hazard Evaluations and Field Studies, NIOSH, CDC, 4676 Columbia Parkway, Cincinnati Ohio 45226, Telephone: (513) 684–4382 or FTS 684–4382.

(This program is described in the Catalog of Federal Domestic Assistance Program No. 13.262, Occupational Safety and Health Research Grants.)

Dated: February 3, 1984.

J. Donald Millar,

Director, National Institute for Occupational Safety and Health.

[FR Doc. 84–3976 Filed 2–13–84; 8:45 am]

BILLING CODE 4160–19–M

Office of Human Development Services

Statement of Organization, Functions, and Delegations of Authority

This notice amends Part D of the statement of Organization, Functions, and Delegations of Authority of the Department of Health and Human Services, Office of Human Development Services (OHDS) (45 FR 64253). It is intended to (1) revise the statement for the Immediate Office of the Assistant Secretary for Human Development Services (ASHDS) with the addition of a new Office of Regional Operations, (2) consolidate the functions of the Regional Offices of the Office of Human Development Services by abolishing the regional Office of Program Coordination and Review (regional program office statements remain as published at 45 FR 64267, 46 FR 63386 and 48 FR 49698), (3) replace the Office of Program Coordination and Review with a new Office of Policy and Legislation (OPL) having responsibility for policy, legislation, and special program activities, (4) rename the Office of Policy Development to the Office of Program Development (OPD) with the addition of program systems, evaluation, and statistical analysis responsibilities, (5) revise the Office of Management Services (OMS) with the addition of formula grant management functions, (6) reorganize the Administration for Children, Youth, and Families (ACYF) into three program bureaus and one unified staff office, and (7) make minor modifications to the Administration on Aging (AoA) (47 FR 54552) to move responsibility for short range plans and internal staff development to the Division of Management and Budget, to move the statistical analysis function from the Division of Program Analysis to the Division of Technical Information and Dissemination, and to remove the separate public liaison function. The

following changes are to be made to implement the above:

1. Part D, Chapter DA, "The Office of the Assistant Secretary for Human Development Services", as published in the **Federal Register** on September 29, 1980 (45 FR 64256), is to be deleted in its entirety and replaced by the following:

DA.00 Mission. The Office of the Assistant Secretary for Human Development Services (HDS) advises the Secretary and Under Secretary on and provides leadership and direction to human services programs for such groups as the elderly, children, youth, families, Native Americans, persons living in rural areas, handicapped persons, and public assistance recipients. Recommends to the Secretary actions and strategies which improve coordination of human services programs among HHS programs, other Federal agencies, State and local government, and private sector organizations. Directs, coordinates, manages and provides leadership in planning and developing HDS programs; supervises use of research and impact evaluation funds; and promotes the development of simplified and coherent human services delivery systems. Provides support and coordination for key advisory bodies. Controls equal employment opportunity and civil rights policies and programs for HDS. Directs public affairs, regional operations, and correspondence and assignments tracking activities.

DA.10 Organization. The Office of the Assistant Secretary for Human Development Services is headed by the Assistant Secretary for Human Development Services (ASHDS), who reports directly to the Secretary, and consists of:

Immediate Office of the Assistant Secretary for Human Development Services
Office of Public Affairs
Office of Regional Operations
Executive Secretariat
Office of Equal Opportunity and Civil Rights
President's Committee on Mental Retardation
Federal Council on Aging

DA.20 Functions. A. The Immediate Office of the Assistant Secretary for Human Development Services provides executive direction, leadership and guidance to all HDS headquarters and regional components. ASHDS jointly administers the WIN program with the Assistant Secretary for Employment and Training, DOL. Together, they form the WIN National Coordinating Committee (NCC) to effectively administer WIN nationally. The NCC establishes and clarifies policies, uniform reporting procedures and other requirements for the joint HHS and DoL program. Serves as the Director of Equal Employment Opportunity for HDS. The Deputy Assistant Secretary (DASHDS) acts as the Assistant Secretary in the absence of the ASHDS.

B. Office of Public Affairs assists the ASHDS, Program Commissioners, and Staff Office Directors in the formulation and development of policy having public information and education implications. Provides advice on strategies and approaches to be used to improve public understanding of and access to HDS programs and policies. Represents the ASHDS and Program Commissioners in discussions of major policy issues relating to public affairs. Directs the preparation of speeches, statements, and other information materials. Develops and implements a comprehensive public affairs plan for HDS. Reviews and evaluates the effectiveness of public information and education programs in HDS and recommends improvements in scope, operational approach, and policy direction of such programs. Provides technical leadership and services on public information, printing, mailing and education to HDS staff and programs in both central and regional offices. Recommends approaches for meeting internal and external communications needs of the HDS. Acts as focal point for clearance of all publications and audio-visual projects whether produced in house or by contract or grant.

Plans, organizes and administers the HDS public information program consistent with policy direction established by the Assistant Secretary for Public Affairs and serves as liaison with that office. Coordinates HDS public affairs activities with other parts of the Department of Health and Human Services, Federal agencies, States and local organizations, and other interested parties with related functions. Works to ensure sound and effective relations with the public served or affected by the activities of HDS and to encourage participation in HDS programs through effective public information programs. For the development and execution of public communications of concern to HDS, serves as the HDS liaison to the press, radio, TV, professional journals, the White House, the Office of the Secretary/HHS, OASPA, and other government and non-government agencies.

Directs the audio-visual and publication management and distribution system for HDS. Reviews and approves requests for proposals for contracts and grants which involve publications, audio-visual materials, and/or public information and education activities. Provides centralized marketing, printing, distribution, management and graphics design services to HDS. Serves as the Freedom of Information Office for HDS.

C. Office of Regional Operations serves as HDS national focal point for regional liaison and central office coordination on region-related matters; develops and manages processes for liaison between HDS regional offices and the Assistant Secretary and program and staff offices in headquarters; supervises and supports the Regional Administrators in administering regional office activities and establishing and implementing cross-cutting program initiatives.

Monitors regional involvement in operational planning initiatives and maintains liaison with central office/regional office activities to assure fulfillment of HDS and HHS goals and objectives; collects and analyzes information on program status and administrative issues from the regional and central office staff for submission to the ASHDS; advises ASHDS of problems that prevent the regional offices from carrying out the mission of HDS and the Department.

Develops and implements systems and procedures for communicating with the regional offices and monitoring and evaluating regional office operations; collects and analyzes information and justifications prepared by the regions for personnel, salaries and expenses, and general management decisions; establishes coordinative arrangements and procedures to assure that the RAs can oversee operations, fulfill reporting burdens, and have access to needed information; develops performance appraisal standards for the RAs and collects and provides information to ASHDS and the ORO Director on RAs' performance.

Develops and maintains HDS master calendar of field events and compiles briefing material for site visits by the ASHDS, the ORO Director, and other HDS and HHS officials; schedules and participates in regional management conferences.

D. Executive Secretariat ensures that issues requiring the attention of the ASHDS, DASHDS, or HDS Executive Staff are developed on a timely and coordinated basis. Facilitates decisions on matters requiring immediate action including White House and Secretarial assignments. Serves as HDS liaison to HHS Executive Secretariat. Receives, assesses, and controls incoming correspondence and assignments and

delegates them to the appropriate HDS unit(s) for response and action. Provides assistance and advice to HDS staff on the development of responses to correspondence and on the content and style of special assignments. Tracks development of periodic reports and facilitates Departmental clearance. Exercises quality control for all major written products for the ASHDS and DASHDS signature.

E. Office of Equal Opportunity and Civil Rights provides direction and leadership on equal employment opportunity and civil rights policies and programs for the HDS; plans, develops and evaluates programs and procedures designed to eliminate discrimination in employment, training, incentive awards, promotion, and career opportunities. Assures non-discriminatory implementation and operation of Federally supported HDS programs and projects; assures the prompt and fair adjudication of discrimination complaints and provides staff support to the ASHDS in processing and preparing final decisions on EEO complaints. In cooperation with HDS program and staff offices develops, implements and monitors the HDS affirmative action plan. Develops and implements evaluations designed to assess overall EEO program progress. Maintains liaison with various non-Federal organizations and State and local governments concerned with equal opportunity and civil rights; represents minorities, handicapped individuals and women by identifying particular problems and recommending solutions related to their employment, career development, and upward mobility.

Implements the Disadvantaged Enterprise program as mandated under section 8(a) program through conferences, seminars and presentations. Develops, in conjunction with HHS Office for Civil Rights (OCR), a civil rights operating plan that delineates civil rights management responsibilities and monitoring activities to assure civil rights compliance by all recipients of HDS funds. Develops civil rights procedures for implementing Departmental civil rights policies in HDS program reviews and audits to assure that benefits and services are delivered equitably to eligible minorities, women, and handicapped persons. Serves as HDS liaison with the HHS Office for Civil Rights, the HHS EEO Office, the HHS Office of Small and Disadvantaged Business Utilization, and the Assistant Secretary for Personnel on related responsibilities.

F. The President's Committee on Mental Retardation Staff provides general staff support for a Presidential-level advisory body, the President's Committee on Mental Retardation. Coordinates all meetings and hearing arrangements. Provides such advice and assistance in areas of mental retardation as the President or Secretary may request. Prepares and issues an annual report to the President concerning mental retardation and such additional reports or recommendations as the President may require or as PCMR may deem appropriate. Evaluates the national effort to combat mental retardation. Works with other Federal, State, and local government and private sector organizations to achieve Presidential goals in mental retardation. Develops and disseminates information to raise public awareness of mental retardation, to reduce its incidence, and to ameliorate its effects.

G. Federal Council on Aging Staff provides general staff support for a Presidential-level advisory body, the Federal Council on Aging. Provides all meeting and hearing arrangements. Prepares an annual report for Congress and such other reports as are authorized by the Federal Advisory Committee Act. Conducts or supervises the production of studies, research, or analysis of various matters affecting the elderly as background for Council deliberations and recommendations.

2. Part D, Chapter DD, Sections DD.00, DD.10, and DD.20 A,B,&C of "The Regional Offices of the Office of Human Development Services", as published in the **Federal Register** on September 29, 1980 (45 FR 64287), are to be deleted and replaced by the following:

DD.00 Mission. The Regional Offices of the Office of Human Development Services constitute an intermediate operational level in the administration of programs for older Americans, children, youth, families, the developmentally disabled, and Native Americans between the central office and State and local governments and other organizations. Award grants and contracts directly or recommend approval/disapproval to the appropriate central office organization to carry out the HDS mission. Assist State and local governments and other organizations in the administration of HDS programs; and monitor such administration to assure adherence to fiscal and program objectives and applicable policies, regulations, and procedures.

Coordinate HDS program activities with other components of HHS and with other Federal programs so maximum benefit can be derived from the programs for the recipients of services. Make recommendations to HDS central office on fiscal matters, on program priorities, and on policy or procedural changes based on operating experience gained from the vantage point close to the actual delivery of services. Provide consultation and technical information on HDS matters to State and local units of government, State and local agencies, provider agencies, national organizations, educational institutions, and public interest groups in the region. Provide assistance to help States improve effectiveness and efficiency of program operations and meet program requirements. Promote comprehensive social and human services planning and services delivery in the region. Represent the Assistant Secretary for Human Development Services (ASHDS), as appropriate and as assigned, on activities related to the HDS mission.

DD.10 Organization. The Regional Offices of the Office of Human Development Services are each headed by a Regional Administrator (RA), who reports to the Director, Office of Regional Operations, and consist of:

Office of the Regional Administrator
Office of Fiscal Operations
Office on Aging
Office for Children, Youth, and Families
Office on Developmental Disabilities
Office for Native Americans (Region X only)

DD.20 Functions A. Office of the Regional Administrator, as the representative of the ASHDS in the Regions, provides executive leadership to the HDS regional office by interpreting and implementing ASHDS policy. In accordance with delegations, regulations, and policies established by the Central Office, oversees the administration of the Social Services Block Grant (SSBG) and programs of the Administration for Children, Youth, and Families, the Administration on Developmental Disabilities, and, in Region X, the Administration for Native Americans. Provides Departmental oversight and administrative and other support to the Administration on Aging; integrates AoA activities into other regional operations. Serves as a member of the Work Incentive Program (WIN) Regional Coordination Committee, with the Regional Administrator of the Employment and Training Administration, Department of Labor, and reviews and approves State WIN plans consistent with directives of the National Coordination Committee.

Serves as the focal point for interaction with the other HHS regional units, HDS central office, and State

Agencies. In concert with the Regional Director and HDS program units, represents the ASHDS in establishing working relationships and coordinating with other Federal agencies, State and local governments and public and private interest groups. Tracks State legislation related to HDS program interests.

Coordinates with private organizations, the volunteer community and other public entities to identify and prioritize community needs and mobilize private sector and volunteer resources; stimulates new and expanded projects between the public/private sectors and volunteer groups. Serves as the focal point in HDS for such concerns as volunteer development, consumer affairs and other special emphases programs.

Provides leadership to HDS units in the development and implementation of long range plans and the regional joint operating plan. In cooperation with the regional program units, develops and implements cross-cutting initiatives; assesses their effectiveness; and reports to the ASHDS through the Director, Office of Regional Operations, on implementation. Manages the regional Management Review System in support of the HDS Operational Planning System and other cross-cutting and program specific initiatives. Coordinates special projects with the HHS Regional Director and other appropriate organizations.

In coordination with regional and headquarters staff, develops a strategy for regional program reviews and leads/participates in cross-cutting program reviews of financial management and program operations in States and grantee organizations with the regional program staff. As requested, provides assistance to States in program administration, management systems, training needs and policy implementation. Identifies exemplary management techniques and provides leadership in the transfer of technology between States.

Provides program supervision and applies policy and other requirements to the regional administration of the elderly as background for Council deliberations and recommendations.

2. Part D, Chapter DD, Sections DD.00, DD.10, and DD.20 A of "The Regional Offices of the Office of Human Development Services", as published in the **Federal Register** on September 29, 1980 (45 FR 64267), are to be deleted and replaced by the following:

DD.00 Mission. The Regional Offices of the Office of Human Development Services constitute an intermediate operational level in the administration of programs for older Americans, children, youth, families, the developmentally disabled, and Native Americans between the central office and State and local governments and other organizations. Award grants and contracts directly or recommend approval/disapproval to the appropriate central office organization to carry out the HDS mission. Assist State and local governments and other organizations in the administration of HDS programs; and monitor such administration to assure adherence to fiscal and program objectives and applicable policies, regulations, and procedures.

Coordinate HDS program activities with other components of HHS and with other Federal programs so maximum benefit can be derived from the programs for the recipients of services. Make recommendations to HDS central office on fiscal matters, on program priorities, and on policy or procedural changes based on operating experience gained from management. Facilities managerial training and staff development. Directs and supervises planning for and implementation of regional HDS Equal Employment Opportunity, Affirmative Action, and Civil Rights programs.

In coordination with headquarters Division of Data Processing and program units, develops regional program information data system for use by the State and regional office program units; assesses need for new WP/DP applications; and implements and monitors procedures for automation of priority applications.

In certain regions, some of the above functions will be carried out by a discrete management unit in the RA's office.

B. Office of Fiscal Operations provides financial management services for all HDS discretionary, formula, and block grant programs under the direct supervision of the RA. Participates in joint planning, development, and operations for program and cross-cutting fiscal activities and performs financial management services. Carries out HDS national and regional fiscal initiatives under the regional Management Review System.

In coordination with regional program components, reviews estimates and budget projections for all HDS formula grant programs for the RA, including WIN–SAU grants and financial expenditure reports, which are jointly reviewed by the Department of Labor as part of the WIN RCC. Reviews State cost allocation plans in coordination with the Regional Administrative Support Center (RASC). Coordinates with regional program components to develop strategies for joint monitoring of grantee compliance with fiscal and financial management requirements. Recommends resolution of audit exceptions. Maintains liaison with the RASC, regional HHS Audit staff, and other appropriate public and private groups.

Conducts financial reviews in coordination with regional program components. Makes recommendations to the RA, program offices, and other appropriate HDS officials to approve, defer, or disallow claims for Federal financial participation by grantees under all HDS formula grant programs and approves or disallows costs under HDS discretionary grant programs. Initiates alerts of impending formula grant disallowance from regional office for forwarding to the Under Secretary's office. Prepares HDS support materials for disallowed claims being reconsidered by the Departmental Grants Appeals Board.

Plans, directs, monitors and provides assistance on financial management activities for all HDS regional grants. Provides guidance to grantees, State and local agencies, and others on interpretating financial management policies and regulations; determining allowability of expenditures; planning and implementing reviews; conducting studies; and providing assistance to State and local agencies on management reporting and contracting. Conducts studies and provides guidance on reporting systems, purchase of services practices, business and economic development activities, and the adoption of improved management and administrative methods and practices. Assures compliance of financial management activities with the HHS Grants Administration Manual, laws, regulations, policies, and procedures.

3. Part D. Chapter DE, "The Office of Program Coordination and Review", as published in the **Federal Register** on September 29, 1980 (45 FR 64259), is to be deleted in its entirety and replaced by the following:

DE.00 Mission. The Office of Policy and Legislation (OPL) serves as the principal policy arm to the Assistant Secretary for Human Development Services (ASHDS). As such has lead responsibility for policy, legislation and special programs. Proposes and manages private sector and other policy initiatives on behalf of ASHDS. Recommends and advises the ASHDS on all matters of policy in HDS. Ensures consistency with overall Administration, Departmental, and HDS policies for all HDS programs, including discretionary activities. Identifies, analyzes and recommends solutions to policy issues

affecting HDS programs. Reviews and clears all policy relevant material. Develops and implements policies to administer the Social Services Block Grant. Serves as the principal manager for Congressional and legislative activities affecting HDS. Manages all activities necessary to carry out HDS responsibilities for emergency preparedness programs.

DE.10 Organization. The Office of Policy and Legislation is headed by a Director, who reports directly to the ASHDS, and consists of:

Office of the Director
Division of Policy
Legislative Support Staff
Emergency Preparedness Staff
Office of Private Sector Initiatives

DE.20 Functions. A. Office of the Director provides direction and executive leadership to OPL in the administration of its responsibilities. Is the principal advisor to the ASHDS on all policy-related matters in HDS. Serves as the focal point for legislative activities affecting HDS, development and coodination of program policies, policy analysis and control, private sector initiatives and emergency preparedness planning. Reviews the policy implications of all discretionary grant priority statements, grant announcements, preapplications and applications, and makes recommendations on funding decisions.

B. Division of Policy serves as the focal point for developing HDS policy and for reviewing and ensuring consistency of policies among program administrations and staff offices; implements HDS policy responsibilities for management. Facilitates managerial training and staff development. Directs and supervises planning for and implementation of regional HDS Equal Employment Opportunity, Affirmative Action, and Civil Rights programs.

In coordination with headquarters Division of Data Processing and program units, develops regional program information data system for use by the States and regional office program units; assesses need for new WP/DP applications and implements and monitors procedures for automation of priority applications.

In certain regions, some of the above functions will be carried out by a discrete management unit in the RA's office.

1. Office of Fiscal Operations provides financial management services for all HDS discretionary, formula, and block grant programs under the direct supervision of the RA. Participates in joint planning, development, and operations for program and cross-cutting fiscal activities and performs financial management services. Carries out HDS national and regional fiscal initiatives under the regional Management Review System.

In coordination with regional program components, reviews estimates and budget projections for all HDS formula grant programs for the RA, including WIN–SAU grants and financial expenditure reports, which are jointly reviewed by the Department of Labor as part of the WIN RCC. Reviews regional offices, and HDS constituencies on policy and procedures for issuing HDS policy materials.

Represents HDS in the Department in matters relating to the implementation of all HHS block grant programs. Identifies policy/regulation issues for regulatory/legislative proposals and participates with other OPL staff in the analysis and development of legislative proposals pertaining to SSBG. Writes regulations pertaining to the SSBG and other cross-cutting areas. Responds to policy related complaints and requests for waivers under the SSBG. Analyzes and disseminates findings concerning SSBG pre-expenditure and other reports; proposes SSBG initiatives; and serves as contact point for all inquiries regarding SSBG.

Identifies, analyzes, writes issue papers; and recommends solutions to cross-cutting policy issues affecting HDS programs; responds to a variety of policy related requests for information on HHS programs; reviews and recommends action on all HDS inter-agency agreements; is responsible for HDS' environmental review activities; and coordinates the implementation of HDS Privacy Act requirements.

C. Legislative Support Staff serves as the principal manager of Congressional liaison and legislative development activities in HDS; counsels and advises ASHDS and Program Commissioners on various aspects of Congressional relations and legislative policy, and provides technical assistance and support to HDS program and staff offices; represents HDS in Departmental legislative development activities; manages legislative planning cycle for HDS, including the development of HDS legislative options; manages the preparation of testimony and backup material on HDS programs, policies, and legislative proposals for presentation before the Congress; monitors hearings and other Congressional activities which affect HDS, and initiates legislative policy development in response. Manages requests for information generated in Congressional hearings.

Serves as HDS liaison with the Office of the Assistant Secretary for Legislation and coordinates Congressional relations activities with that Office; coordinates development of information and technical assistance provided to Congressional committees, members of Congress and their staffs; and clears all materials going to the Congress for consistency with HDS legislative policy; coordinates development of HDS policy on legislative issues in response to requests from the Department, including bill reports and other legislative position papers sent to HDS for response; assists in responding to constituent group concerns about legislation which affects HDS programs; assists in implementation of legislative initiatives and identifies policy issues for ASHDS and program resolution. Provides briefing materials and other staff support for ASHDS meetings with Congressional members and staff.

D. Emergency Preparedness Staff in cooperation with related Federal Departments, manages and directs activities relating to the internal planning, coordination and implementation of the Emergency Preparedness program. Serves as the focal point to the ASHDS for staff work to the Principal Working Group on Social Services, a component of the Emergency Mobilization Preparedness Board, and manages the ongoing responsibilities of that Principal Working Group. In coordination with related Departments, raises issues and develops and recommends plans of action that provide the President options for meeting Federal requirements during natural disasters and other national emergencies. Develops policies and procedures for use in responding to the emergency welfare needs of persons that are currently considered dependent and those that are temporarily dependent due to the emergency. In cooperation with HDS program offices, designs and coordinates the Emergency Preparedness response to Executive Order 11490 for National Emergencies through HHS Emergency Coordinators Offices. Develops plans for approval and manages emergency teams required to support the Department's response procedures.

E. Office of Private Sector Initiatives as representative of the OPL Director and the ASHDS, serves as the principal HDS resource for information and expertise on the private sector initiative within HDS. Increases the participation of private sector organizations and individual volunteers or volunteer agencies in meeting human service

needs within their communities by working to strengthen communication and successful partnerships between private sector leaders to identify and prioritize community needs. Stimulates new and expanded private sector and volunteer resources and projects by publicizing and promoting models and examples of successful public/private partnerships.

Provides technical assistance, training, guidance, and leadership in the administration and management of the private sector initiative. In cooperation with HDS central and regional office units, develops strategies and plans to mobilize private sector staff and resources to support human service programs which encourage and foster individual self-reliance and economic independence.

When HDS target populations and programs are affected, maintains liaison and participates with the Office of the Secretary, other Federal agencies, State and community agencies, service providers, private sector organizations, and volunteers in the implementation of public/private sector initiative activities.

Reviews HDS discretionary fund applications for private sector implications. Recommends candidates for employee volunteer awards and recommends profit, non-profit, individual, and group awards for community private sector projects within the HDS program areas.

Represents within HDS such concerns as volunteer development, consumer affairs, and other areas of special emphasis related to the private sector initiative; provides leadership and direction to HDS regional offices in the implementation of State and local activities designed to address these concerns; responds to inquiries on the goals, objectives, and activities of the HDS private sector initiative; prepares or provides input to reports or reporting requirements.

4. Part D, Chapter DU, "The Office of Policy Development", as published in the **Federal Register** on September 29, 1980 (45 FR 64264), is to be deleted in its entirety and replaced by the following:

DU. Mission. The Office of Program Development (OPD) is a staff office for the ASHDS, responsible for managing the planning, research, evaluation, program systems, statistical analysis and reporting activities within HDS. Plans, develops and monitors strategies promoting HDS program and management directions; manages agency-wide planning systems for determining organizational goals and objectives and for setting priorities.

Recommends HDS programmatic activities and formulates crosscutting HDS initiatives; establishes and implements a management review and decision-making system for monitoring progress on priority activities; and establishes strategies for HDS planning system needs; coordinates HDS plans with other Federal agencies; analyzes information produced by State agencies and other sources and provides information to assist program offices in better planning.

Oversees the planning and management of all HDS program discretionary resources; manages all phases of the Coordinate Discretionary Program (for research, demonstration, evaluation, training and technical assistance funds); advises the ASHDS on research and demonstration issues; coordinates the development of priority areas for funding; reviews all unsolicited proposals; oversees the awards process; disseminates project results; develops and monitors compliance with the annual HDS procurement plan; reviews all 8–15 consultant services contracts for procurement policy compliance; coordinates international interests with HDS programs.

Provides broad HDS statistical, economic, operations research and system analyses; promotes grantee management systems improvements; develops discretionary funds program priorities for management systems improvements; assists State and local providers to improve their human services management information and evaluation systems, forecasting models, data bases, statistical activities, and approves State and local systems efforts using Federal funds. In coordination with program units, plans, develops, and submits the HDS Information Collection Budget (ICB) to the Department and OMB and controls the ICB passback and burden.

D. Emergency Preparedness Staff in cooperation with related Federal Departments, manages and directs activities relating to the internal planning, coordination and implementation of the Emergency Preparedness program. Serves as the focal point to the ASHDS for staff work to the Principal Working Group on Social Services, a component of the Emergency Mobilization Preparedness Board, and manages the ongoing responsibilities of that Principal Working Group. In coordination with related Departments, raises issues and develops and recommends plans of action that provide the President options for meeting Federal requirements during natural disasters and other national emergencies. Develops policies and procedures for use in responding to the emergency welfare needs of persons that are currently considered dependent and those that are temporarily dependent due to the emergency. In cooperation with HDS program offices, designs and coordinates the Emergency Preparedness response to Executive Order 11490 for National Emergencies through HHS Emergency Coordinators Offices. Develops plans for approval and manages emergency teams required to support the Department's response procedures.

E. Office of Private Sector Initiatives as representative of the OPL Director and the ASHDS, serves as the principal HDS resource for information and expertise on the private sector initiative within HDS. Increases the participation of programmatic issues of special concern to the ASHDS; identifies and proposes new or revised planning options or priorities; identifies and proposes new or revised long-term objectives and crosscutting initiatives for HDS; develops alternative strategies for achieving these objectives; represents HDS in identifying, developing, or recommending program development and/or planning strategies for inter and intra Departmental initiatives. As requested, represents HDS in negotiations with the department or other Federal agencies regarding these issues.

Develops, recommends and implements an HDS-wide comprehensive and coordinated planning system for use by HDS, including strategic and operational planning for HDS program and management activities and accommodating key milestones related to programmatic, budgetary, and legislative planning, discretionary funding and other operational planning requirements; develops draft annual planning guidance for the ASHDS.

Provides guidance and technical assistance to HDS in developing operational plans, particularly in developing measurable objectives and indicators reflecting program and organizational performance.

Develops, recommends and implements a management review system for the purpose of assessing organizational progress in implementing priorities and encouraging appropriate action by managers at all levels; provides analysis of individual organizations and HDS-wide progress; identifies problems and issues for action by the ASHDS and Senior Staff; suggests alternatives for resolving issues where progress is unsatisfactory and provides the ASHDS with

recommendations to facilitate decision-making.

Identifies and recommends strategies aimed at promoting improved practices in State and local government planning and priority setting systems; initiates transfer of exemplary State/local planning strategies, system and models; interacts with national planning organizations and other relevant bodies to promote the development of innovative and effective planning systems and creative use of resources; manages discretionary funds projects with significant planning implications, analyzes results and disseminates findings within HDS and to outside planning networks; coordinates activities among HDS programs and other Federal agencies to promote and strengthen cooperative planning for the improved use of Federal human services resources in priority areas of interest to HDS; represents HDS interest and negotiates with planning staff and program managers of other Federal agencies on behalf of HDS and its agenda.

C. Division of Research and Demonstration manages the HDS Coordinated Discretionary Program and provides guidance and oversight to other HDS programs in the conduct of categorical discretionary programs; provides advice to the ASHDS, Program Administrations and grantees on R&D issues and methodologies; identifies major human services issues which may require R&D intervention. In cooperation with program offices, develops the R&D and discretionary funds planning guidance to be used by those offices in developing their discretionary plans; reviews and recommends approval of R&D and discretionary plans prepared by the Program Administrations; prepares the annual HDS discretionary funds plan; with OMS and OPL, reviews and clears all HDS discretionary program announcements for compliance with the discretionary funds plan; develops for publication in the **Federal Register**, the annual program announcement for the HDS Coordinated Discretionary Program; reviews, approves and tracks all contracts requiring 8–15 clearance; reviews and recommends action on all unsolicited proposals received within HDS; manages the process for receipt, review, and selection of applications for funding under the HDS Coordinated Discretionary Program; insures the compliance of all grant awards with the Discretionary Plan; tracks overall progress of projects funded under the HDS Coordinated Discretionary Program.

Provides Government Project Officers for R&D projects of special interest to the ASHDS; insures that products of R&D projects are disseminated to human service providers.

Develops management systems to improve the efficiency and quality of HDS Discretionary programs. Directs the HDS International Affairs Programs to: transfer knowledge through research and demonstration; promote the exchange of experts (U.S. and International); and coordinate HHS involvement in international organizations and meetings. Insures that all international activities supported by HDS address the ASHDS' goals and objectives.

D. Division of Program Analysis and Evaluation provides national leadership and expertise for the human services field through the development, formulation and application of advanced analytical techniques to complex statistical and programmatic data bases incorporating analysis of these data against national HDS policies and related U.S. economic variables; directs and manages the HDS national program systems and evaluation activities. Formulates national decision analyses, applying quantitative and evaluative methods to a wide range of policy success indicators, including socio-demographic characteristics, social service allocations, client population targeting and program cost-effectiveness; conducts research to discover the economic impact of HDS programs on localities and to study HDS policy in relation to economic trends.

Develops and manages major economic studies which generate statistical socio-economic population data for all HDS programs and interprets the results of these studies in terms of economic theory; creates an integrated data base management system; provides national statistical expertise in the analyses of crosscutting HDS programs, furnishes technical support to HDS staff, regions and States, and advises HDS personnel on the economic implications of their particular programs; considers both the economic well-being of HDS services recipients and the related aspects of the development of the U.S. economy; evaluates HDS programs and provides input for budget recommendations; conducts research on the relationship of HDS programs and socio-economic dependency within the context of national economic policy in those program areas.

Develops broad HDS program systems strategy/policy; manages national systems conferences/workshops and evaluation guidelines; reviews and manages the State and local program systems development requests for Federal Financial Participation and coordinates efforts with OS, HCFA, SSA, PHS, and program bureaus; manages award process for selected areas including systems and evaluation grants and consults on grants managed by others.

Chairs the HDS Statistical Coordination Group and participates in inter-and intra-agency statistical conferences and committees involving national and State levels as well as the Federal agencies of OMB and Census Bureau; directs and manages the HDS Statistical Budget process including justifications and coordination of all requirements for HDS programs.

Serves as the primary HDS control point with the Department and OMB for all matters pertaining to OMB reports clearance functions and Pub. L. 96–511, the Paperwork Reduction Act; maintains national leadership with outside groups for human services statistical reporting matters and economic analyses; insures HDS representation at Departmental/Agency meetings including ASPE and ASMB regarding statistical, microsimulation, evaluation and information systems matters. 5. Part D, Chapter DB, "The Office of Management Services", as published in the **Federal Register** on September 29, 1980 (45 FR 64264), is to be deleted in its entirety and replaced by the following:

DB.00 Mission. The Office of Management Services (OMS) advises the Assistant Secretary for Human Development Services in the areas of internal administration and management of HDS and of Federal financial participation with State and local grantees. Under guidance from and with the approval of the ASHDS and in collaboration with the HDS program administrations, provides leadership and direction to administrative and management activities throughout HDS, including: budget, finance, personnel, grants and contracts, procurement, material and facilities management, management systems, data processing, and similar administrative supporting services. In response to ASHDS priorities and instructions, develops HDS policies and procedures for effective and efficient administration and management of financial and personnel resources and directs all centralized administrative and management services. Conducts management analysis and systems development activities for HDS. Provides technical assistance and guidance to Central and Regional Office

units in the development, implementation and maintenance of administrative systems.

DB.10 Organization. The Office of Management Services is headed by a Director, who reports directly to the Assistant Secretary for Human Development Services, and consists of:

Office of the Director
Management Systems Analysis Staff
Division of Budget
Division of Grants and Contracts Management
Division of Personnel
Division of Administrative Services
Division of Data Processing

DB.20. Functions. A. Office of the Director directs and coordinates all elements of the Office of Management Services; provides guidance and services to all programs and components of HDS, in accordance with HHS and other federal policy, in the areas of grants and contracts, budget, finance, personnel, management systems, data processing, and administrative services. Initiates new and revised operational plans for OMS activities and ensures program International Affairs Programs to: transfer knowledge through research and demonstration; promote the exchange of experts (U.S. and International); and coordinate HHS involvement in international organizations and meetings. Insures that all international activities supported by HDS address the ASHDS' goals and objectives.

D. Division of Program Analysis and Evaluation provides national leadership and expertise for the human services field through the development, formulation and application of advanced analytical techniques to complex statistical and programmatic data bases incorporating analysis of these data against national HDS policies and related U.S. economic variables; directs and manages the HDS national program systems and evaluation activities. Formulates national decision analyses, applying quantitative and evaluative methods to a wide range of policy success indicators, including socio-demographic characteristics, social service allocations, client population targeting and program cost-effectiveness; conducts research to discover the economic impact of HDS programs on localities and to study HDS policy in relation to economic trends.

Develops and manages major economic studies which generate statistical socio-economic population data for all HDS programs and interprets the results of these studies in terms of economic theory; creates an integrated data base management system, provides national statistical expertise input, performs assessments of information, word processing, paper work processing, reporting and other systems needs in HDS components. Conducts planning, scheduling, and review of OMS management improvement projects.

B. Division of Budget in coordination and consultation with other staff offices and program units, consolidates, formulates, and presents budget estimates and forecasts of resources relating to the direction and coordination of the financial resources of HDS; executes apportionment documents; participates in planning, directing, and coordinating financial and budgetary programs of HDS. Provides guidance to HDS staff units and program administrations in preparing budgets, justifications, and other budgetary materials. Coordinates with HDS offices on individual budgets for preparation of a single budget document for presentation to the ASHDS, Departmental management, OMB, and the Congress. Assists in planning for and presenting the budget before OMB and the Congress; requests, receives, and consolidates materials from HDS programs for testimony at hearings before these bodies in coordination with the Legislative Support Staff/OPL. Reviews the budget as approved by Congress, obtains input from program administrations and recommends for ASHDS approval a financial plan for its execution; makes allotments to HDS offices within the guidelines of the approved financial plan. Develops and maintains an overall budgetary controls to ensure observance of established ceilings on both funds and personnel; maintains commitment records against allowances, and certifies funds availability for HDS Staff Offices and certain Program Administrations as requested. Prepares requests for apportionment of appropriated funds. Maintains control of allotted funds against current obligations, including separate plans for each of the Regional Offices. Prepares spending plans and status-of-funds reports for the ASHDS. Provides analysis and coordinates accounting reports for HDS. In response to ASHDS priorities and instructions, and with appropriate input from HDS program units, develops financial operating procedures and manuals, including assuring implementation within HDS (headquarters and regions) of Departmental and Federal fiscal policies and procedures. Participates in program development and implementation plans where there are budgetary implications; serves as the HDS liaison with HHS and OMB on all budgetary matters.

C. Division of Grants and Contracts Management provides centralized management and administration of discretionary grants, formula grants, block grants, and contracts for HDS headquarters staff units and program administrations. Assures that all grants and contracts awarded conform with applicable statutes, regulations, and policies. Maintains liaison and coordination with appropriate HDS and HHS organizations to assure consistency between HDS discretionary, formula and block grants and contract award activities, and the Department various payment systems for grants and contracts.

For discretionary grants, serves as the principal office within HDS for assuring that the business aspects of grants administration are carried out and monitors grantee performance in these areas. Provides support for and processes all discretionary grant award documents, negotiates grant budgets, and makes all contract awards for HDS Central Office units. Reviews discretionary grants and contracts and, after input from HDS programs, coordinates HDS financial management matters as necessary with appropriate HHS and HDS units.

For the Social Services Block Grant (SSBG/Title XX of the Social Security Act) and for the WIN program, prepares grant awards, and background and supplemental information, special reports, and State tables for use at Departmental, OMB and Congressional presentations. Prepares documentation for Title XX/SSBG allotment limitations to States.

Maintains financial control over and makes adjustments to previously issued formula grant awards to States for Social Services and Personnel Training and Retraining under Title XX of the Social Security Act, WIN, and for Social Services under Titles I, IV, X, XIV, and XVI (AABD) of the Social Security Act for Puerto Rico, the Virgin Islands, Guam, and the Commonwealth of the Northern Marianas Islands. Controls the Title XX deferral actions process as it impacts on previously issued grant awards and regulatory time limits.

In coordination with the HDS program administrations and staff offices, reviews and assesses HDS formula grant award procedures; directs and/or coordinates management initiatives to improve formula grant programs in financial areas; develops proposals for improving the efficiency in awarding grants and coordination financial

operations among HDS programs; and establishes priorities and develops procedures for financial monitoring and review activities at the regional level for all HDS discretionary and formula grant programs.

After consultation with program administrations and with the approval of the ASHDS and, where appropriate, the AOA Commissioner, develops HDS regulations, instructions, and procedures for the administration of all discretionary grants, formula grants, block grants and contracts, including those issued in HDS Regional Offices. Provides training and technical assistance to staff of HDS program administrations and staff offices regarding grants and contracts, and provides overall guidance, monitoring, and assistance to Regional Offices in all areas of business and fiscal management of grants.

Reviews all proposed HDS regulations and policy issuances pertaining to fiscal, POS and procurement matters which are derived from Departmental, OMB or government-wide issuances to assure consistency within the HDS program.

Serves as HDS liaison with GAO, HHS Audit Agency, and the Department's Office of Grants and Procurement on grant and contractual matters. Assists at discretionary and formula grant hearings held by the Departmental Grant Appeals Board in response to claims by grantees. Manages the Departmental disallowance altering system for the HDS and HHS units and provides assistance and guidance relative to the reconsideration process. Implements procedures and activities related to HDS contracts hearings held by the Defense Contract Appeals Board in response to requests by contractors for reconsideration of disallowed HDS contract claims.

D. Division of Personnel administers the centralized personnel management and administration program for HDS. Provides advice to HDS officials on matters relating to the development and execution of personnel policies and programs. Subject to the approval of the ASHDS, and with input from HDS program units, as appropriate, develops personnel management objectives, policies, standards and procedures for personnel operations. Responsible for the development of an HDS-wide personnel policy framework. Within delegated authorities, is responsible for such areas as placement and staffing, position classification, employee relations, labor relations, employee development and training and position and pay management. Coordinates and provides advice and assistance to HDS Central and Regional Office elements on position classification, recruitment, and placement. In collaboration with Regional HHS personnel offices, provides assistance to the HDS Regional Offices through the development and classification of standard position descriptions, the administration of certain incentive awards and through the administration of certain training activities. Participates in personnel matters relating to labor-management relations and coordinates career development activities. Serves as the contact in HDS on personnel matters with the Office of Personnel Management, ASPER, and OMB. Conducts special studies on personnel matters at the request of the Director/OMS.

E. Division of Administrative Services provides administrative services and technical staff support to meet the operational needs of offices that comprise HDS. May provide services directly or through HDS program administration and staff office administrative personnel. In collaboration with HDS program administrations, designs, implements, monitors and reports on systems relating to forms management, records maintenance and disposition, and files management. In collaboration with HDS program administrations develops, implements and evaluates the HDS space management and planning program and provides advice and assistance to responsible individuals in program offices. Provides travel advice and assistance to HDS offices. Provides direct special mail and messenger services and coordinates HHS mail service to HDS. Projects and monitors HDS postal costs working with the OMS Division of Budget, HHS, and the U.S. Postal Service. Provides and controls use of franked envelopes by HDS staff, contractors, and grantees. Develops, in coordination with program units and staff offices, broad HDS telecommunications plans and places orders for voice and data communication services. Provides training and technical assistance to HDS program administrations and staff office personnel responsible for such requests. Provides liaison with HHS, GSA, and private communications firms on all telecommunications matters. Provides liaison and guidance with HHS, General Services Administration, Labor Department, other Federal agencies, and outside vendors on building security, occupational health and safety programs, labor services, equipment repair services, loan of audio-visual equipment, and conference room control; and, as necessary, maintains contracts for provision of above services. Maintain supply, equipment, and materiel inventories for excess items in storage and for items allocated to HDS program administrations and staff offices. Controls and reviews all purchase requests against Departmental and Federal requirements. Acts as liaison with OS procurement office on small purchases and with the Department's Office of Grants and Procurement on materiel management matters. Provides technical assistance and training to program administration and HDS staff office administrative personnel on materiel management. Conducts personnel property surveys. In response to ASHDS priorities and instructions and with input from program administrations, develops, issues and maintains HDS internal manuals and directives on administrative management delegations, policies and procedures and develops and monitors all budgetary projections for Standard Level User's Charge funds, telecommunications costs, and other administrative expenditures. Control central HDS funding for equipment, furniture, laboring services, and certain other object class categories. Assists the HDS Regional Offices in the development of budget projections and cost estimates for space and property utilization and telecommunications services. Provides technical assistance to the HDS Regional Offices on records management, safety, and mail.

F. Division of Data Processing provides policy direction, planning, and technical support services to HDS Central and Regional Office units in the area of automatic data processing, word processing, and office automation matters. Represents HDS on Departmental task forces and review boards concerned with ADP matters. Acts as primary contact with other Departmental computer centers.

Provides requirements analyses, feasibility studies, systems design, programming, documentation, user's manuals, training and ongoing operational and administrative support for all HDS hardware and software.

Is responsible for the acquisition of equipment, development of software, and procedures for implementation and management of the HDS Automated Office System (AOS). Operates and maintains the HDS computer facility through direct support and contractual services. Provides AOS operational support and technical assistance to central office users and satellite centers in each regional office.

Formulates standards and determines requirements for procurement of all

Central and Regional Office ADP hardware and software. Gives HDS-level approval for central and regional office requests for ADP equipment and services. Investigates, recommends and negotiates contractual ADP sharing services through intergovernment, interdepartment and interagency agreements. Consults, initiates, and negotiates similar services with private ADP vendors.

Recommends strategies, provides for, and maintains systems integration in the HDS central data base system. Designs and institutes procedures for the protection, security and integrity of the HDS data base.

6. Part D, Chapter DC, "The Administration for Children, Youth, and Families", as published in the Federal Register on January 27, 1981 (46 FR 8744), is to be deleted in its entirety and replaced by the following:

DC.00 Mission. The Administration for Children, Youth and Families (ACYF) advises the Secretary/HHS through the Assistant Secretary/HDS on matters relating to children, youth and families. Is the principal advisor at the Federal level concerning and serves as the focal point in the Department to support and encourage the sound development of children, youth, and families by planning, developing and implementing a broad range of activities.

Administers State grant programs under title IV–B, IV–E and title IV–A Foster Care the Social Security Act. Manages the Adoption Opportunities program. Administers discretionary grant programs providing Head Start services and Runaway Youth facilities. Administers the Child Abuse Prevention and Treatment Act. Supports and encourages services which prevent or remedy the effects of abuse and/or neglect of children and youth. Manages the National Clearinghouse on Child Abuse and Neglect. Administers the Child Abuse and Neglect State grant programs.

In concert with other units of HDS, develops and implements research, demonstration and evaluation strategies for discretionary funding of activities designed to improve and enrich the lives of children and youth and to strengthen families. Administers Child Welfare Services Training and Child Welfare Services Research and demonstration programs authorized by title IV–B of the Social Security Act. Administers the Runaway and Homeless Youth Act authorized by Title III of the Juvenile Justice and Delinquency Prevention Act. Manages initiatives to involve the private and voluntary sectors in the areas of children, youth, and families.

DC.10 Organization. The Administration for Children, Youth and Families is headed by a Commissioner who reports directly to the Assistant Secretary for Human Development Services (ASHDS) and consists of:

Office of the Commissioner
Office of Planning and Management
  Planning, Research, and Evaluation Division
  Management Support Division
Head Start Bureau
  Program Operations Division
  Program Support Division
Children's Bureau
  Program Operations Division
  Program Support Division
  National Center for Child Abuse and Neglect
Family and Youth Services Bureau
  Program Operations Division
  Program Support Division

DC.20 Functions. A. The Immediate Office of the Commissioner serves as the principal advisor to the Assistant Secretary/HDS, the Secretary/HHS, and other elements of the Department in the areas of children, youth, and families. Provides executive direction and management strategy to Administration for Children, Youth, and Families' component units. The Deputy Commissioner acts as Commissioner in the absence of the Commissioner.

B. Office of Planning and Management recommends policy direction and serves as the central control for operational and long range planning; for planning and management of ACYF research, demonstration, and evaluation activities; for the development, operation, and analysis of data from management information systems; for formulating and managing the execution of the program and salary and expenses budgets; and for provision of administrative and personnel services. Provides leadership and coordination for the activities of two subordinate divisions.

1. Planning, Research, and Evaluation Division manages the processes for long range and operational planning, discretionary funds planning and implementation, legislative and regulatory analyses, HDS and HHS management conferences on ACYF, and data systems management.

Serves as the Focal point for the formulation and management of ACYF operational planning objectives, initiatives and indicators, including regional input as appropriate. Reviews, negotiates, and provides policy interpretation on development of plans and ACYF component submissions. Oversees individual units' performance on initiatives; recommends changes to facilitate timely completion.

In coordination with HDS, establishes schedules and material requirements for ACYF headquarters management conferences, prepares materials for HDS and OS management conferences, and assures follow-up tasks are accomplished. Directs the preparation of briefing material for ACYF and HDS senior staff for testimony, speeches, and regional office visits.

Reviews all legislative proposals, specifications, bill reports and position papers affecting ACYF activities. Reviews and makes recommendations to the Commissioner on all regulations, policy and guidance issues for which the Commissioner is responsible.

Controls the ACYF discretionary funds planning process and formulation of the discretionary funds plans covering research, demonstration, evaluation, training and technical assistance, and other discretionary activities managed by ACYF. Assures that all ACYF program units contribute to and recommends proposed changes to the discretionary plan in areas including funding schedules, minority and small business set-asides, and development of material for HDS joint announcements. Develops final priority areas and project lists for approval by the Commissioner. Oversees the schedule for completion of grant announcements and requests for contracts, develops and maintains annual contract procurement plans, and assures that all funded projects are managed according to ACYF, HDS, and Departmental policies and procedures.

Assists ACYF components in developing research and demonstration priorities and projects, crafting research and evaluation methodologies, and assuring that ACYF projects are properly managed. Recommends projects to be included in the discretionary funds plan.

Develops the specifications for and manages all ACYF evaluation projects. Manages ACYF crosscutting research and demonstration projects rising from HDS joint funding activities and other sources not assigned to one of the Bureaus. Analyzes project results; recommends policy and program changes and innovative developmental projects as a result of information gained from projects and analyses; and develops dissemination and utilization strategies in coordination with other ACYF program units.

2. Management Support Division provides or coordinates all headquarters' management support services including personnel, contracts and grants, budget formulation and

execution, financial management, executive secretariat, and administrative services.

In conjunction with HDS/Office of Management Services, is responsible for budget formulation and execution and financial management. Manages the annual ACYF budget formulation and presentation process for program funds and salary and expense resources; coordinates development of necessary budget documents, exhibits, and support materials. For ACYF programs in the regions and in headquarters, recommends allowances; develops apportionment materials; maintains commitment registers; and reconciles monthly accounting reports from the DHHS accounting system. Develops the annual plan for obligation of grant and contract funds; monitors funding units for compliance with those plans. Manages the central office salaries and expenses budget. Develops policy for and is responsible for the grants management activities including analyzing State estimates and making awards for three formula grant programs authorized by the Social Security Act, Child Welfare Services, IV–B, Adoption Assistance IV–E, and Foster Care IV–A and IV–E. Develops procedures for the regional office to use in acting on State requests for funds. Receives analyses and makes recommendation on deferral and disallowance actions; manages technical and procedural activities incident to the resolution of audit questions, deferrals, disallowances and appeals to the DHHS Grants Appeal Board. Assists regional offices and the Head Start Bureau in the appeals and hearings process related to suspension or termination of Head Start grants.

Provides Executive Secretariat services to ACYF; receives, assigns and tracks all controlled mail; and assures timely and accurate responses. Services as the primary ACYF liaison with HDS offices in administrative areas of personnel, payroll, training, word/data processing systems, and equal opportunity and civil rights. Manages the Merit Pay and Employee Performance Management System process in ACYF headquarters; serves as an advisor to the Commissioner in this area for ACYF regional employees.

Develops and manages management information systems and other data analysis systems handling data which report on or affect ACYF programs; analyzes data from these systems and other sources; and provides assistance and services on data systems to ACYF units. Serves as the ACYF/OMB Clearance Officer.

C. Head Start Bureau serves as the principal advisor to the Commissioner on Head Start, child development, and child care issues. Develops legislative and budgetary proposals; develops areas for research, demonstration and developmental activities; presents operational planning objectives and initiatives relating to Head Start to the Office of the Commissioner and oversees the progress of approved activities. Provides leadership and coordination for the activities of the Head Start program in headquarters and the regional offices. Represents Head Start in inter-agency activities with other Federal and non-Federal organizations. Directs the management of the joint Head Start—Appalachian Regional Commission programs.

1. Program Operations Division develops and coordinates program and administrative management regulations and policy for the Head Start program; provides guidance to the regional offices in carrying out these policies and monitors regional offices' implementation.

Manages the Indian and Migrant Head Start program. Reviews applications and makes awards for programs serving Native American children and children of migratory workers. Monitors and assesses the programs and assures provision of training and technical assistance to all Head Start programs funded for Indians and migrants. Assures consideration of needs of Native American and migrant workers' children. Represents Head Start in negotiations over Head Start-Appalachian Regional Commission joint programs' content, policy, and management.

Manages discretionary projects assigned to the Bureau which are designed to investigate and improve the operation and management of the Head Start program. Coordinates planning for training and technical assistance activities in Head Start; develops the annual T&TA plan.

2. Program Support Division provides technical expertise in the component areas of Head Start—education, health (medical, dental, mental and nutrition), social services, parent involvement, services to handicapped children, and career development for Head Start program staff and in related child development/child care areas. Establishes program performance standards and other regulations and policy in these areas; recommends methods for monitoring and enforcing them. Develops manuals, guidance, and other policy materials aimed at improving the review provided to Head Start children by the centers.

Develops areas for research and demonstration activities to improve the quality and levels of services provided to Head Start children and to examine the other related child care/child development issues. Manages discretionary projects assigned to the Bureau which are related to the Head Start component and other related areas. Develops training and technical assistance strategies to improve Head Start programs' performance in specific component areas for inclusion in the annual T&TA plans.

D. Children's Bureau advises the Commissioner in child welfare, foster care, and adoption matters. Recommends legislative and budgetary proposals, operational planning system objectives and initiatives, and projects and issue areas for evaluation, research and demonstration activities. Represents ACYF in initiating and implementing inter-agency activities and projects affecting children. Provides leadership and coordination for the programs, activities, and subordinate units of the Bureau in headquarters and regional offices.

1. Program Operations Division generates policies and procedures for developing State child welfare program plans authorized under titles IV–A Foster Care, IV–B, and IV–E of the Social Security Act including child welfare services, foster care and adoption assistance; develops and interprets regulations, guidelines, and instructions. Coordinates child welfare services with other Federal agencies and non-Federal groups.

Monitors regional office administration of State grant programs and provides technical direction; reviews State plans for compliance with legislative and regulatory requirements, makes recommendations for approval or disapproval of State plans initially recommended for disapproval by regional offices; develops policy and procedures for on-site reviews of State compliance with regulatory and legislative requirements; leads or participates in these reviews.

2. Program Support Division manages the Title IV–B Child Welfare Training Program and the Adoption Opportunities Program. Provides technical expertise in specific, substantive program areas for developing programmatic policies, standards, model laws, regulations and guidelines for child welfare services. Provides expert advice and assistance to a broad array of public and private agencies in these areas. Develops areas for research, demonstration, and evaluation activities to investigate the current status of child welfare practices and to improve the quality and levels of

service provided to children. Manages discretionary projects assigned to the Bureau which are related to child welfare services and related areas. Reviews current practices and problems; recommends action to meet special needs of children at risk; and promotes successful models.

Develops and implements training and technical assistance plans. Analyzes regional Children's Bureau training and technical assistance reports and provides technical guidance to the regional offices. Develops model cirricula and other materials for training persons engaged in child welfare programs.

3. National Center on Child Abuse and Neglect develops policies and plans on programs relating to the prevention, identification, and treatment of child abuse and neglect. Proposes budgetary and legislative initiatives. Develops regulations, guidelines and instructions to assist State grant programs on child abuse and neglect. Develops and implements, through grants and contracts, approved research and demonstration programs and plans to prevent, identify and treat child abuse and neglect. Plans and implements training and technical assistance activities by directly managing grants and contracts and by monitoring such regional office activities. Manages the Child Abuse and Neglect State Grant Program.

Develops, maintains, and updates the information clearinghouse on child abuse and neglect research programs and other related activities. Through surveys and other information collection activities, provides information on research programs directed at preventing, identifying and treating child abuse and neglect. Complies, analyzes, and disseminates publications and other materials on child abuse and neglect. Provides assistance to government agencies, public and private service organizations, and the general public concerning information on child abuse and neglect. Studies the trends of incidence of child abuse and neglect and assists in the development of central registries and forms for reporting child abuse and neglect. Provides staff support to the Advisory Board on Child Abuse and Neglect in developing and updating Federal standards, preparing special reports, coordinating Federally funded programs, and other activities of the Board.

E. Family and Youth Services Bureau recommends to the Commissioner policy direction and programs to address youth and family issues. Assesses policies, legislation, research and demonstration, and programs which affect youth and families; recommends budgetary and legislative proposals and areas of research and demonstration discretionary activity for funding; coordinates efforts with Departmental and other Federal agencies; and develops program initiatives to address the needs of youth and families. Represents HHS on the Coordinating Council on Juvenile Justice and Delinquency Prevention and on the Committees of the National Institute for Corrections. Manages the family initiatives in ACYF and coordinates these initiatives with other HDS offices and administrations. Provides leadership and coordination to the operating divisions.

1. Program Operations Division develops and strengthens coordinated networks of State and local agencies or centers designed to meet the needs of runaway or homeless youth and their families. Develops and implements policy, guidelines and regulations concerning the funding and management of projects serving runaway and homeless youth funded under the Runnaway and Homeless Youth Act. Oversees regional managment of the receipt, review, and award of applications for grants. Monitors regional management of center grants and provision of technical assistance to funded projects. Funds and monitors the national communications system.

Provides assistance to professional and provider organizations and State and local governments in planning, developing, implementing, and evaluating programs affecting the family.

2. Program Support Division identifies the conceptual and policy framework to address issues facing families and adolescents. Examines programs for responsiveness to the needs of families and youth. Develops methodologies and systems for review of family-related legislation and regulations of other programs. Obtains information, recommendations and potential strategies to meet the needs of families and youth from various sources.

Develops areas for research, demonstration, and evaluation activities in family and youth matters; identifies problems and defines critical issues for investigation. Recommends plans and programs to increase public awareness and education about activities affecting families and youth that are run by or are in conjunction with other Departmental efforts, and assists in providing information to the intended audiences. Coordinates the collection and dissemination of information about families and youth in conjunction with HHS offices and other agencies.

Manages discretionary projects assigned to the Family and Youth Services Bureau which increase understanding of family and youth problems and methods of alleviating them. 7. Part D. Chapter DG, "The Administration on Aging", as published in the **Federal Register** on December 3, 1982 (47 FR 54552), is to be amended by making the following changes:

a. Section DG.10 Organization. The Administration on Aging- delete the phrase "Public Liaison Staff [DG–1]".

b. Section DG.20 Functions., A.1. Public Liaison Staff-delete the phrase "A.1. *Public Liaison Staff* (DG–1)" and capitalize the subsequent "serves", which continues the functions of the Office of the Commissioner.

c. Section DG.20 Functions., B. "Office of Planning, Evaluation and Dissemination" is to be deleted and replaced in its entirety with:

B. *Office of Planning, Evaluation and Dissemination* (DGP) analyzes, synthesizes and interprets all issues related to AoA program policy; prepares and interprets AoA long range, and discretionary plans; develops and interprets AoA goals and objectives; performs statistical analyses related to the aging; plans and manages the AoA evaluation program, considering appropriate subject matter input from other AoA units; performs systems analysis on aging related problems; manages a program for the collection, analysis, and dissemination of information related to the aging.

d. Section DG.20 Functions., B.1. "Division of Program Analysis" is to be deleted and replaced in its entirety by:

B.1. *Division of Program Analysis* (DGP1) conducts policy studies on a wide range of basis program issues affecting AoA programs and the general needs of the aging; reviews legislation, and research, evaluation and demonstration findings for planning and program implications; works with groups in the field of aging that have an evaluation capacity to obtain special needs analyses; prepares detailed position papers which include policy objectives, analyses of existing data, and possible strategies for achieving objectives as a preface to the development and recommendation of priorities to the Commissioner; develops and issues AoA goals and objectives; prepares the AoA long range plan and the discretionary funding plan with appropriate subject-matter input from other AoA units; provides interpretation and guidance for implementation of the long range plan to all AoA units; and reviews all AoA policy documents for consistency with the long range plan.

Coordinates with the Office of Program Development (AoA), staff offices of the Office of Human Development Services and Departmental staff offices on long range planning issues and development. Coordinates preparation of annual AoA reports to the President and Congress.

Administers evaluation of AoA program and other related national programs affecting older people as authorized by Title II, Section 202(a)(14) and Section 206(a), of the OAA. Develops AoA plans and priorities for evaluation of programs in consultation with appropriate units. Manages contracting for mandated evaluation projects and performs intramural evaluation studies. Prepares reports of the results of program and impact evalautions conducted by and for AoA, with technical input from other AoA divisions.

e. Section DG.20 Functions., B.2. "Division of Technical Information and Dissemination" is to have the following paragraph inserted at its conclusion:

Advises the central and regional offices of AoA, State and Area Agencies on Aging, and other agencies and organizations on their statistical data needs, uses of data, and methods of collecting the data; maintains a knowledge of data generated by a wide range of agencies and organizations; provides chairperson and secretariat services to the Task Force on Statistices; in support of planning and program requirements, performs rountine and special analyses of data for AoA offices, other Federal and non-Federal organizations, and the general public.

f. Section DG.20 Functions., C. "Office of Management and Policy Control" is to be deleted and replaced in its entirety by:

C. *Office of Management and Policy Control* (DGQ) is responsible for policy control and coordination, regulations development and coordination, analysis and development of legislation, preparation of required reports, budget development, preparation of justifications for the annual budget request, provision of guidance to other AoA units concerning their technical input to policy and regulations development; preparing the annual, AoA short-range plan; coordinating the annual operational planning including detailed work plans; Merit Pay performance plans, employee performance plans; management of the Merit Pay and Employee Management Performance Systems, and execution of a variety of administrative management tasks including the AoA personnel and executive secretariat functions; plans and manages the internal staff development activity. Coordinates with appropriate staff offices of the Office of Human Development Services (HDS) in carrying out these functions. Provides liaison with HDS on Equal Employment Opportunity matters. Responds to inquiries from the public in the form of letters and telephone inquiries.

g. Section DG.20 Functions., C.2. "Division of Management and Budget" is to have its first paragraph deleted and replaced by:

C.2. *Division of Management and Budget* (DGQ2) prepares and interprets the AoA short range plan; translates the long and short range plans into procedural guidance for AoA units concering performance appraisal planning, work planning and budget preparation. By means of this system which incorporates the Secretary's Operational Management System, coordinates the development of strategies for action and subsidiary plans as well as processes for monitoring and reporting on progress toward achieving stated objectives. Coordinates with the Office of Human Development Services' and Departmental staff offices on the development of the short range plan. Plans and manages the internal AoA staff development activity. Works with the HDS Office of Policy Development in the formulation, review and reporting of operational objectives.

h. Section DG.20 Functions., E.2. "Division of Educational and Training" is to have deleted that part of the statement which reads ", including the AoA internal staff development activity" and "Plans and manages the internal AoA staff development activity."

Dated: February 1, 1984.

Margaret M. Heckler,

Secretary.

[FR Doc. 84-3945 Filed 2-13-84; 8:45 am]

BILLING CODE 4110-92-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Camping Restriction Order Established; Redding Resource Area, Ukiah District, California

AGENCY: Bureau of Land Management, Interior.

ACTION: Establishment of Camping Restriction Order for Public Lands Located Within the Trinity River Recreation Management Area, Redding Resource Area, Ukiah District, California

SUMMARY: Persons are restricted from camping at any time on certain BLM-administered public lands located within the Trinity River Recreation Management Area. This restriction applies to the following areas:

Cemetery Hole

T. 33 N., R. 8 W.,
Sec. 18, S½,SW¼, M.D.M.,
Sec. 19 NW¼, M.D.M.

Rush Creek

T. 33 N., R. 9 W.,
Sec. 13, S½NE¼NE¼, M.D.M.

Bucktail Hole

T. 33 N., R. 9 W.,
Sec. 23, NE¼, M.D.M.

Limekiln Gulch

T. 33 N., R. 9 W.,
Sec. 28, E½,NW¼,NE¼, M.D.M.

Steelbridge Hole

T. 33 N., R. 9 W.,
Sec. 32, SW¼,NW¼, M.D.M.

Dabbs Hole

T. 32 N., R. 9 W.,
Sec. 4, SW¼, M.D.M.

Sheridan Creek

T. 33 N., R. 10 W.,
Sec. 19, M.D.M.

Oregon Gulch

T. 33 N., R. 11 W.,
Sec. 12 SE¼, M.D.M.
Sec. 13NE¼, M.D.M.

T. 33N., R. 10 W.,
Sec. 18, M.D.M.

Camping is defined as overnight occupancy of the public lands. Possession or use of tents, vehicles, or other shelter is not required to meet the definition of camping under this order.

ADDRESS: Comments and suggestions should be sent to: Robert J. Bainbridge, Redding Area Manager, Redding Resource Area Office, 355 Hemsted Drive, Redding, California 96002.

SUPPLEMENTARY INFORMATION: This camping restriction is being established as part of the implementation of the Trinity River Recreation Area Management Plan. The plan requires that selected public lands outside of designated campgrounds be closed to camping in order to mitigate public health hazards and reduce user conflicts which have resulted from unregulated camping along the Trinity River.

Authority for this restriction order is contained in CFR Title 43, Chapter II, Part 8364, Subpart 8364.1. Any person who fails to comply with a restriction order may be subject to a fine not to exceed $1,000 and/or imprisonment not to exceed 12 months. Penalties are

contained in CFR Title 43, Chapter II, Part 8360, Subpart 8360.0–7.

Robert J. Bainbridge,

Redding Area Manager.

[FR Doc. 84–3919 Filed 2–13–84; 8:45 am]

BILLING CODE 4310–40–M

Disclaimer of Interest of Lands; Idaho

February 6, 1984.

Notice is hereby given that pursuant to the Act of October 21, 1976 (90 Stat. 2770; 43 U.S.C. 1745), a document of disclaimer of interest in the following-described lands will be issued.

Boise Meridian, Idaho

T. 7 N., R. 40 E.,
Sec. 1, those lands lying between the original meander lines fronting lots 9 and 10 as shown on the plats of survey approved February 21, 1880, and February 27, 1922, by the Surveyer General of Idaho Territory and the actual shoreline of the left bank of the Snake River, and lot 22 as shown on the supplemental plat of survey approved January 17, 1984, by the Bureau of Land Management.

These lands were omitted from the original survey and determined to be public lands by the filing and approval of a survey plat dated June 14, 1976. Civil suit was then filed by 25 claimants of the land. The U.S. District Court, in 1983, ruled in favor of the plaintiffs in the suit, awarding them quiet and peaceful possession of the property involved. Those claimants of the land who were not a part of the civil suit then filed applications for disclaimer of interest. In furtherance of the intent of the District Court's decision, the Bureau of Land Management will issue a disclaimer of interest in the above-described lands.

This action will disclaim all interest of the United States in the above-described lands which are within the boundaries of the City of St. Anthony, Idaho.

Any person wishing to submit a protest or comments on the above disclaimer should do so in writing before the expiration of 90 days from the date of publication of this notice. If no protest(s) is received, the disclaimer will be effective on the date set our below.

EFFECTIVE DATE: Disclaimer of title and release of all interest of the United States shall issue on May 15, 1984.

ADDRESS: Information concerning these lands and the proposed disclaimer may be obtained from the Idaho Falls District Office, Bureau of Land Management, 940 Lincoln Road, Idaho Falls, Idaho 83401. Protest should be filed with: State Director (943), Bureau of Land Management, 3380 Americana Terrace, Boise, Idaho 83706.

Louis B. Bellesi,

Deputy State Director for Operations.

[FR Doc. 84–3914 Filed 2–13–84; 8:45 am]

BILLING CODE 4310–84–M

Intent To Hold Public Scoping Meetings and To Prepare an Environmental Impact Statement (EIS) for Coal Preference Right Lease Applications (PRLAs); Kane and Garfield Counties, Utah

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Correction of notice.

SUMMARY: On January 24, 1984, there was published in the **Federal Register** (Vol. 49, No. 16, Page 2963) a notice of intent to hold public scoping meetings and to prepare an environmental impact statement (EIS) for coal preference right lease applications (PRLAs) located in Kane and Garfield Counties, Utah. This is an amendment to Paragraph 2 under Supplementary Information (all other information will remain the same):

Preliminary concerns identified to date include: Mineral development within Wilderness Study Areas, mineral development within an area determined by the Secretary of the Interior to be unsuitable for surface mining, establishment of a coal transportation system through Glen Canyon National Recreation Area, and the U.S. Forest Service's determination that the majority of their PRLA acreage is unsuitable for surface mining.

FOR FURTHER INFORMATION CONTACT: Dave Everett, Cedar City District, Bureau of Land Management, P.O. Box 724, Cedar City, Utah 84720 or phone (801) 586–2401.

Dated: February 8, 1984.

Dean Stepanek,

Associate State Director.

[FR Doc. 84–3948 Filed 2–13–84; 8:45 am]

BILLING CODE 4310–DQ–M

[N–34272; 4–20951ILM]

Nevada; Conveyance

February 6, 1984

Notice is hereby given that, pursuant to the Act of October 21, 1976 (90 Stat. 2756; 43 U.S.C. 1716), 7C Ranch, Inc, Austin, Nevada has acquired by exchange, public lands in Lander County described as:

Mount Diablo Meridian, Nevada

T. 16 N., R. 38 E.,
Sec. 24, SW¼NW¼.
T. 16 N., R. 39 E.,
Sec. 17, SW¼NW¼, W½SW¼;
Sec. 18, SE¼NE¼, E½SE¼, SW¼SE¼;
Sec. 19, Lot 3, NE¼NE¼, S½NE¼, NE¼ SW¼, NW¼SE¼, W½NE¼SE¼, W½ E½NE¼SE¼;
Sec. 20, W½NW¼.

The purpose of this notice is to inform the public and interested State and local governmental officials of the issuance of a conveyance document to 7C Ranch, Inc.

Wm. J. Malencik,

Deputy State Director, Operations.

[FR Doc. 84–3977 Filed 2–13–84; 8:45 am]

BILLING CODE 4310–HC–M

Bureau of Reclamation

Nevada; Realty Action, Competitive Sale of Public Land

The following described land has been identified for disposal under Section 203 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2750, 43 U.S.C. 1713), at no less than the appraised fair market value. The Bureau of Reclamation (Reclamation) will accept bids on the following lands, and will reject any bid for less than the appraised value:

T. 22 S., R. 63 E., Mount Diablo Meridian, Nevada

Parcel No. LC–84–1–1, Serial No. N–39132, SW¼SW¼ Section 22 (40 acres)
Parcel No. LC–84–1–2, Serial No. N–39133, SE¼SW¼ Section 22 (40 acres)
Parcel No. LC–84–1–3, Serial No. N–39134, SW¼SE¼ Section 22 (40 acres)
Parcel No. LC–84–1–4, Serial No. N–39135, SE¼SE¼ Section 22 (40 acres)

The parcels will be offered for sale through the competitive bidding process. The sale will be held at the Henderson Convention Center, 200 South Water Street, Henderson, Nevada, on May 1, 1984, at 10 a.m. Reclamation may accept or reject any and all offers, or withdraw any land or interest in land from sale if, in the opinion of the authorized officer, consummation of the sale would not be fully consistent with the Federal Land Policy and Management Act or other applicable laws.

Detailed bidding information and instructions, and a Land Sales Information Brochure are available from the Bureau of Reclamation, Lower Colorado Regional Office, P.O. Box 427 (1404 Colorado Street), Boulder City, Nevada 89005, telephone number (702) 293–8521.

Any parcels which are not sold on May 1, 1984, will be reoffered for sale at 10 a.m., May 15, 1984, at Reclamation's Lower Colorado Regional Office.

The parcels are situated in the southeast portion of the Las Vegas Valley, within the incorporated city of Henderson, county of Clark, State of Nevada, and have potential for urban-suburban development. The sale is consistent with the Bureau of Land Management land-use planning in the area and has been discussed with the city of Henderson Planning Department, the city of Henderson Public Works Department, the Clark County Comprehensive Planning Department, and the Clark County Building and Zoning Department and it was determined that the public interest would best be served by offering these lands for sale.

The planning documents, environmental assessment, and record of public discussions are available for review at Reclamation's Lower Colorado Regional Office.

Patents issued for the parcels sold will be subject to a right-of-way for ditches and canals constructed by the authority of the United States in accordance with the Act of August 30, 1890 (26 Stat. 391, 43 U.S.C. 945) and reservations for public road and utility easements identified by the city of Henderson and the county of Clark. This land sale will be for the surface estates only; the mineral estates will be reserved to the United States. The purchaser will have the option of making an application with the Bureau of Land Management for conveyance of the mineral estates under Section 209(b) of Pub. L. 94-579.

For a period of 45 days from the date of this notice, interested parties may submit comments to the Regional Director, Lower Colorado Region, Bureau of Reclamation, P.O. Box 427, Boulder City, Nevada, 89005. Any adverse comments will be evaluated by the Regional Director who may vacate or modify this Realty Action and issue a final determination. In the absence of any action by the Regional Director, this Realty Action will become the final determination of the Department of the Interior.

Dated: February 6, 1984.

N. W. Plummer,

Regional Director.

[FR Doc. 84-3486 Filed 2-13-84; 8:45 am]

BILLING CODE 4310-09-M

National Park Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before February 3, 1984. Pursuant to § 60.13 of 36 CFR Part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, U.S. Department of the Interior, Washington, DC 20243. Written comments should be submitted by February 29, 1984.

Carol D. Shull,

Chief of Registration, National Register.

ARIZONA

Cochise County

Douglas, *El Paso and Southwestern Railroad YMCA*, 1000 Pan American Ave.

Navajo County

Winslow vicinity, *Chevelon Ruin*, SE of Winslow

Winslow vicinity, *Homolovi III*, N of Winslow

CONNECTICUT

Fairfield County

Ridgebury, *Ridgebury Congregational Church*, Ridgebury Rd. and George Washington Hwy.

Hartford County

Hartford, *Frog Hollow Historic District (Boundary Increase)*, Bounded by Park Terr., Hillside Ave., Hamilton, and Summit Sts.

Litchfield County

New Milford, *Housatonic Railroad Station*, Railroad St.

New Haven County

New Haven, *Lincoln Theatre*, 1 Lincoln St.

FLORIDA

Broward County

Pompano Beach, *Sample Estate*, 3161 N. Dixie Hwy.

Dade County

Kampong

GEORGIA

Cobb County

Marietta, *Braswell-Carnes House*, 2430 Burnt Hickory Rd., NW

Fulton County

Atlanta, *Sciple, Charles E., House*, 1112 Peachtree St.

Meriwether County

Greenville, *Render Family Homestead*, GA 18

Walton County

Jersey, *Bank of Jersey*, Main St.

ILLINOIS

Cook County

Evanston, *Andridge Apartments (Surburban Apartment Buildings in Evanston TR)*, 1627–1645 Ridge Ave., 1124–1136 Church St.

Evanston, *Building at 1101–1113 Maple Avenue (Surburban Apartment Buildings in Evanston TR)*, 1101–1113 Maple Ave.

Evanston, *Building at 1209–1217 Maple Avenue (Surburban Apartment Buildings in Evanston TR)*, 1209–1217 Maple Ave.

Evanston, *Building at 1301–1303 Judson Avenue (Surburban Apartment Buildings in Evanston TR)*, 1301–1303 Judson Ave.

Evanston, *Building at 1305–1307 Judson Avenue (Surburban Apartment Buildings in Evanston TR)*, 1305–1307 Judson Ave.

Evanston, *Building at 1316 Maple Avenue (Surburban Apartment Buildings in Evanston TR)*, 1316 Maple Ave.

Evanston, *Building at 1401–1407 Elwood Avenue (Surburban Apartment Buildings in Evanston TR)*, 1401–1407 Elmwood Ave.

Evanston, *Building at 1505–1509 Oak Avenue (Surburban Apartment Buildings in Evanston TR)*, 1505–1509 Oak Ave.

Evanston, *Building at 1929–1931 Sherman Avenue (Surburban Apartment Buildings in Evanston TR)*, 1929–1931 Sherman Ave.

Evanston, *Building at 2517 Central Street (Surburban Apartment Buildings in Evanston TR)*, 2517 Central St.

Evanston, *Building at 2519 Central Street (Surburban Apartment Buildings in Evanston TR)*, 2519 Central St.

Evanston, *Building at 2523 Central Street (Surburban Apartment Buildings in Evanston TR)*, 2523 Central St.

Evanston, *Building at 417–419 Lee Street (Surburban Apartment Buildings in Evanston TR)*, 417–419 Lee St.

Evanston, *Building at 548–606 Michigan Avenue (Surburban Apartment Buildings in Evanston TR)*, 548–606 Michigan Ave.

Evanston, *Building at 813–815 Forest Avenue (Surburban Apartment Buildings in Evanston TR)*, 813–815 Forest Ave.

Evanston, *Building at 923–925 Michigan Avenue (Surburban Apartment Buildings in Evanston TR)*, 923–925 Michigan Ave.

Evanston, *Building at 900 Michigan, 200 Lee (Surburban Apartment Buildings in Evanston TR)*, 900 Michigan Ave., 200 Lee St.

Evanston, *Building at 815–817 Brummel and 819–821 Brummel (Surburban Apartment Buildings in Evanston TR)*, 815–817, and 819–821 Brummel.

Evanston, *Castle Tower Apartments (Surburban Apartment Buildings in Evanston TR)*, 2212–2226 Sherman Ave.

Evanston, *Colonnade Court (Surburban Apartment Buildings in Evanston TR)*, 501–507 Main St., 904–908 Hinman Ave.

Evanston, *Evanston Towers (Surburban Apartment Buildings in Evanston TR)*, 554–602 Sheridan Sq.

Evanston, *Forest, The, and Annex (Surburban Apartment Buildings in Evanston TR)*, 901–905 Forest Ave.

Evanston, *Fountain Plaza Apartments (Surburban Apartment Buildings in Evanston TR)*, 830–856 Hinman Ave.

Evanston, *Greenwood, The (Surburban Apartment Buildings in Evanston TR)*, 425 Greenwood St.

Evanston, *Hillcrest Apartment (Surburban Apartment Buildings in Evanston TR)*, 1509–1515 Hinman Ave.

Evanston, *Hinman Apartments (Surburban Apartment Buildings in Evanston TR)*, 1629–1631 Hinman Ave.
Evanston, *Judson, The (Surburban Apartment Buildings in Evanston TR)*, 1243–1249 Judson Ave.
Evanston, *Lake Shore Apartments (Surburban Apartment Buildings in Evanston TR)*, 470–498 Sheridan Rd.
Evanston, *Maple Court Apartments (Surburban Apartment Buildings in Evanston TR)*, 1115–1133 Maple Ave.
Evanston, *Melwood Apartments (Surburban Apartment Buildings in Evanston TR)*, 1201–1213 Michigan Ave., 205–207 Hamilton.
Evanston, *Michigan-Lee Apartments (Surburban Apartment Buildings in Evanston TR)*, 940–950 Michigan Ave.
Evanston, *Oak Ridge Apartments (Surburban Apartment Buildings in Evanston TR)*, 1615–1625 Ridge Ave.
Evanston, *Oakton Gables (Surburban Apartment Buildings in Evanston TR)*, 900–910 Oakton, 439–445 Ridge
Evanston, *Ridge Boulevard Apartments (Surburban Apartment Buildings in Evanston TR)*, 843–849 Ridge Ave., 1014–1020 Main St.
Evanston, *Ridge Grove (Surburban Apartment Buildings in Evanston TR)*, 1112 Grove St.
Evanston, *Ridge Manor (Surburban Apartment Buildings in Evanston TR)*, 1603–1611 Ridge Ave., 1125 Davis St.
Evanston, *Rockwood Apartments (Surburban Apartment Buildings in Evanston TR)*, 718–734 Noyes St.
Evanston, *Sheridan Square Apartments (Surburban Apartment Buildings in Evanston TR)*, 620–636 Sheridan Sq.
Evanston, *Stoneleigh Manor (Surburban Apartment Buildings in Evanston TR)*, 904–906 Michigan Ave., 227–229 Main St.
Evanston, *Tudor Manor (Surburban Apartment Buildings in Evanston TR)*, 524 Sheridan Sq.
Evanston, *Westminster (Surburban Apartment Buildings in Evanston TR)*, 632–640 Hinman Ave.

INDIANA

Benton County

Oxford, *Presbyterian Church Building*, NW of Benton and Justus Sts.

Dearborn County

Aurora, *George Street Bridge (County Bridge No. 159)*, George, Main, and importing Sts.
Lawrenceburg, *Downtown Lawrenceburg Historic District*, Roughly bounded by ConRail tracks, Charlotte, Tate, Williams, and Elm Sts.

Delaware County

Muncie, *Boyce Block*, 216–224 E. Main St.
Muncie, *Rose, F. D., Building*, 121 E. Charles St.

Floyd County

Galena Vicinity, *Jersey Park Farm*, Off Cunningham Series and Borden Rds.

Hamilton County

Noblesville, *Harrell, Dr. Samuel, House*, 399 N. 10th St.

Kosciusko County

Warsaw, *Warsaw Cut Glass Company*, 505 S. Detroit St.

Lake County

Dyer, *Meyer, Joseph Ernest, House*, 1370 Joliet St.
Gary, *Knights of Columbus Building*, 333 W. 5th Ave.
Hobart, *Pennsylvania Railroad Station*, 1001 Lilliam St.

Marion County

Indianapolis, *Fletcher, Calvin L., House*, 1031 N. Pennsylvania St.
Indianapolis, *Indianapolis News Building*, 30 W. Washington St.
Indianapolis, *Pearson Terrace*, 928–940 N. Alabama St.
Indianapolis, *Taylor Carpet Company Building*, 26 W. Washington St.

Miami County

Peru vicinity, *Godfroy, Francis, Cemetery, IN 124*
Peru, *Cole, James Omar, House*, 27 E. 3rd St.

Putnam County

Greencastle, *Courthouse Square Historic District*, Roughly bonded by College Ave., Walnut, Market, and Franklin Sts.
Putnamville, *Putnamville Presbyterian Church (Putnamville Methodist Church)*, IN 243

Rush County

Carthage vicinity, *Walnut Ridge Friends Meeting House*, W of Carthage

Tipton County

Tipton, *Tipton County Court House*, Public Sq.

Warren County

Williamsport, *Kent House and Hitchens House*, 500 Main and 303 Lincoln Sts.

Wells County

Bulffton vicinity, *Bethel Methodist Episcopal Church*, SE of Bluffton

KENTUCKY

Bracken County

Augusta, *Augusta Historic District (Augusta MRA)*, Roughly bounded by Riverside Dr., 5th, Frankfort and Williams Sts.
Augusta, *Brothers-O'Neil House (Augusta MRA)*, 308 Seminary St.
Augusta, *Griffith's, Evan, Grocery (Augusta MRA)*, 415 Railroad Ave.
Augusta, *McKibben, Alfonso, House (Augusta MRA)*, 202–Fourth St.
Augusta, *Minor, J.R., House (Augusta MRA)*, 204 Second St.
Augusta, *Weldon, James, House (Augusta MRA)*, 417 Railroad St.
Augusta, *Well-Keith House (Augusta MRA)*, 411–413 Third St.

Jefferson County

Louisville, *Brandeis House*, 310 E. Broadway

Kenton County

Covington, *Patton, Robert, House (John G. Carlisle House)*, 1533 Garrard St.

Mason County

Maysville, *Armstrong Row*, 207–227 W. 2nd St.

McCraken County

Paducah, *Anderson-Smith House*, Lone Oak Rd.

Scott County

Georgetown vicinity, *Edge Hill Farm*, 1661 Payne's Depot Pike
Georgetown *First African Baptist Church and Parsonage*, 209–211 W. Jefferson St.

MISSISSIPPI

Copiah County

Hazlehurst, *Covington, Robert L., House*, 240 S. Extension St.

Jones County

Laurel, *Pinehurst Hotel*, 318 5th Ave.

Lee County

Saltillo, *Burrow, Barlow, House*, 157 N. 2nd St.

NEBRASKA

Douglas County

Omaha, *Malcolm X House Site*, 3448 Pinckey St.

NORTH CAROLINA

Gates County

Gatesville vicinity, *Roberts-Carter House*, off N C 37

Guilford County

Greensboro, *Revolution Cotton Mills*, Roughly bounded by Southern R R, N. Buffalo Creek, Yanceyville and 9th Sts.

Jackson County

Dillsboro, *Mount Beulah Hotel (Jarrett Springs Hotel)*, U S 23 and 44

Mecklenburg County

Charlotte, *Carey, Philip, Building*, 301 E. 7th St.
Charlotte, *Charlotte Supply Company Building*, 500 S. Mint St.
Charlotte, *Merchants and Farmers National Bank Building*, 123 E. Trade St.
Huntersville vicinity, *St. Mark's Episcopal Church*, S R 2004

Person County

Roxboro, *Roxboro Commercial Historic District*, Roughly bounded by Courthouse Sq., Court, Abbitt, Reams, Depot, North and South Main Sts.

Sampson County

Newton Grove vicinity, *Williams, Isaac, House*, N C 55

Stanley County

Hardaway Site (31 St 4),

Wake County

Cary vicinity, *Jones, Nancy, House*, N C 54

Wayne County

Goldsboro, *Lee, Harry Fitzhugh, House*, 310 W. Walnut St.

OHIO

Champaign County

Urbana, *Urbana Monument Square Historic District*, Roughly bounded by Market, Walnut, Church, and Locust Sts.

Darke County

Greenville, *Greenville South Broadway Commercial District*, Roughly S. Broadway from Main to Washington and Martin Sts.

Geauga County

Novelty, *Tambling, Lucius T., House*, 14025 Chillicothe Rd.

Lucas County

Maumee, *Maumee Uptown Historic District*, Conant, Wayne and Dudley Sts.

Wayne County

Wooster, *Walnut Street School*, 237 S. Walnut St.

Wood County

Wayne, *Graham, William, House*, 7056 Jerry City Rd.

PENNSYLVANIA

Allegheny County

Pittsburgh, *Houses at 2501–2531 Charles Street*, 2501–2531 Charles St.
Pittsburgh, *Houses at 838–862 Brightridge Street*, 838–862 Brightridge St.

Greene County

Waynesburg Borough, *Waynesburg Historic District*, Roughly bounded by Second Alley, Cherry Ave., East and Bowlby Sts.

TENNESSEE

Knox County

Knoxville, *McCammon, Samuel, House (James White's House Site)*, 1715 Riverside Dr.

TEXAS

Tarrant County

Fort Worth, *Bryce, William J., House (Fairview)*, 4900 Bryce Ave.

VIRGINIA

Fredericksburg (Independent City) *Presbyterian Church*, S W of Princess Anne and George Sts.

WISCONSIN

Bayfield County

Washburn, *Washburn Public Library*, Washington Ave. and W. 3rd St.

Dane County

Madison, *Fire Station No. 4*, 1329 W. Dayton St.

Ozaukee County

Port Washington, *Hoffman House Hotel*, 200 W. Grand Ave.

Rock County

Janesville, *Randall, Brewster, House*, 1412 Ruger Ave.

Waukesha County

Delafield, *Bishopstead*, 153 W. Oakwood Dr.

Winnebago County

Oshkosh, *Guenther, Richard, House*, 1200 Washington Ave.

[FR Doc. 84-3988 Filed 2-13-84; 8:45 am]

BILLING CODE 4310-70-M

New River Gorge National River, West Virginia; Land Protection Plan

AGENCY: National Park Service, Interior.

ACTION: Public Review, Meetings and Comment Period for Draft Land Protection Plan; New River Gorge National River, West Virginia.

SUMMARY: The New River Gorge National River, a unit of the National Park System located in the State of West Virginia, has completed the draft Land Protection Plan in response to the Department of Interior's policy for the Federal portion of the Land and Water Conservation Fund (47 FR 19784, May 7, 1982). Copies of the plan are being mailed to landowners of record within the proposed boundary of the park, as well as agencies, organizations and individuals who are on the park's general mailing list. The public is invited to participate in the review process of this draft document.

DATE: The 60-day public comment period will begin on February 10, 1984 and will be completed on April 9, 1984. During this period of time, six public meetings and three open house sessions will be held with park and regional staff in attendance to respond to any questions or comments the public wishes to make regarding the Land Protection Plan.

ADDRESS: The public may present comments in writing to park headquarters. Correspondence should be addressed to Superintendent, New River Gorge National River, Drawer V, 137½ Main Street, Oak Hill, West Virginia 25901. Copies of the plan may also be obtained by the public by visiting or writing to this office.

FOR FURTHER INFORMATION CONTACT: Superintendent Jim Carrico at the park headquarters address or call (304) 465–0508.

SUPPLEMENTARY INFORMATION: National Park Service staff will be available at the public meetings and open house sessions to answer questions concerning the plan. Detailed segment maps will be available to indicate property line relationships to the proposed boundary.

The schedule of meetings and open house sessions follow:

Date, Location and Time

February 27: Raleigh County Court House, Commissioners Meeting Room, Beckley, West Virginia—7:00 p.m.
February 28: Memorial Building, Hinton, West Virginia—7:00 p.m.
February 29: NPS Visitor Contact Station, Route 3 By-Pass, Hinton, West Virginia—9:00 a.m. to 4:30 p.m.
March 1: Fayetteville High School, Fayetteville, West Virginia—7:00 p.m.
March 3: NPS Visitor Contact Station, Route 3 By-Pass, Hinton, West Virginia—9:00 a.m. to 4:30 p.m.
March 5: Thurmond Union Church, Thurmond, West Virginia—7:00 p.m.
March 6: Old Quinnimont School, Route 41, Prince, West Virginia—7:00 p.m.
March 8: Volunteer Fire Department, Sandstone, West Virginia—7:00 p.m.
March 9: NPS Visitor Contact Station, Route 3 By-Pass, Hinton, West Virginia—9:00 a.m. to 4:30 p.m.

In addition to the above schedule, citizens may obtain answers to any questions and view segment maps during the public comment period at the park headquarters, 137½ Main Street, Oak Hill, West Virginia, 8:00 a.m. to 4:30 p.m., Monday through Friday.

James W. Coleman, Jr.,

Regional Director, Mid-Atlantic Region, National Park Service.

[FR Doc. 84-4117 Filed 2-13-84; 8:45 am]

BILLING CODE 4310-70-M

Minerals Management Service

Development Operations Coordination Document; Gulf Oil Exploration & Production Co.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the Receipt of a Proposed Development Operations Coordination Document (DOCD).

SUMMARY: Notice is hereby given that Gulf Oil Exploration and Production Company has submitted a DOCD describing the activities it proposes to conduct on Lease OCS–G 3543, Block 24, Vermilion Area, offshore Louisiana. Proposed plans for the above area provide for the development and production of hydrocarbons with support activities to be conducted from an onshore base located at Patterson, Louisiana.

DATE: The subject DOCD was deemed submitted on February 3, 1984.

ADDRESSES: A copy of the subject DOCD is available for public review at the Office of the Regional Manager, Gulf of Mexico Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana (Office Hours: 9 a.m. to 3:30 p.m., Monday through Friday).

FOR FURTHER INFORMATION CONTACT: Mr. Warren Williamson, Minerals

Management Service, Gulf of Mexico Region; Rules and Production; Plans, Platform and Pipeline Section, Exploration/Development Plans Unit; Phone (504) 838–0817.

SUPPLEMENTARY INFORMATION:

The purpose of this Notice is to inform the public, pursuant to Sec. 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the POD/P and that it is available for public review.

Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in DOCDs available to affected states, executives of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in revised Section 250.34 of Title 30 of the CFR.

Dated: February 3, 1984.

John L. Rankin,

Regional Manager, Gulf of Mexico Region.

[FR Doc. 84-3918 Filed 2-13-84; 8:45 am]

BILLING CODE 4310-MR-M

Oil and Gas and Sulphur Operations in the Outer Continental Shelf; Shell Offshore Inc.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the Receipt of a Proposed Development and Production Plan.

SUMMARY: This Notice announces that Shell Offshore Inc., Unit Operator of the South Pass Block 65, G_{-3}–G_3 Sand, Reservoir A Federal Unit Agreement No. 14–08–0001–12333, submitted on January 31, 1984, a proposed supplemental plan of development/production describing the activities it proposes to conduct on the South Pass Block 65, G_{-3}–G_3 Sand, Reservoir A Federal Unit.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the plan and that it is available for public review at the offices of the Regional Manager, Gulf of Mexico Region, Minerals Management Service, 3301 N. Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: Minerals Management Service, Records Management Section, Room 143, open weekdays 9:00 a.m. to 3:30 p.m., 3301 N. Causeway Blvd., Metairie, Louisiana 70002, phone (504) 838–0519.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in development and production plans available to affected States, executives of affected local governments, and other interested parties became effective on December 13, 1979 (44 FR 53685). Those practices and procedures are set out in a revised § 250.34 of Title 30 of the Code of Federal Regulations.

Dated: February 6, 1984.

John L. Rankin,

Regional Manager, Gulf of Mexico Region.

[FR Doc. 84-3917 Filed 2-13-84; 8:45 am]

BILLING CODE 4310-MR-M

Information Collection Submitted for Review

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the information collection requirement and supporting documentation may be obtained by contacting John Mirabella at (703) 860–7916. Comments and suggestions on the collection of information should be made directly to the Office of Information and Regulatory Affairs, Attention: Desk Officer for the Department of the Interior, Office of Management and Budget, Washington, D.C. 20503; with copies to David A. Schuenke; Chief, Branch of Rules, Orders, and Standards; Offshore Rules and Operations Division; Mail Stop 646; Room 6A110; Minerals Management Service; U.S. Department of the Interior; 12203 Sunrise Valley Drive; Reston, Virginia 22091.

Title: Monthly Report of Operations.

Bureau Form Number: MMS–152.

Frequency: Monthly.

Description of Respondents: Federal Oil and Gas Lessees on the Outer Continental Shelf.

Annual Responses: 18,000.

Annual Burden Hours: 270,000.

Dated: January 25, 1984.

John B. Rigg,

Associate Director for Offshore Minerals Management.

[FR Doc. 84-3953 Filed 2-13-84; 8:45 am]

BILLING CODE 4310-MR-M

Oil and Gas and Sulphur Operations in the Outer Continental Shelf; Shell Offshore Inc.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the Receipt of a Proposed Development and Production Plan.

SUMMARY: This Notice announces that Shell Offshore Inc., Unit Operator of the South Pass Block 65, G_{-3}–G_3 Sand, Reservoir A Federal Unit Agreement No. 14–08–0001–12332, submitted on January 31, 1984, a proposed supplemental plan of development/production describing the activities it proposes to conduct on the South Pass Block 65, G_{-3}–G_3 Sand, Reservoir A Federal Unit.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Mangement Service is considering approval of the plan and that it is available for public review at the offices of the Regional Manager, Gulf of Mexico Region, Minerals Management Service, 3301 N. Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: Minerals Management Service, Records Management Section, Room 143, open weekdays 9:00 a.m. to 3:30 p.m., 3301 N. Causeway Blvd., Metairie, Louisiana 70002, phone (504) 838–0519.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in development and production plans available to affected States, executives of affected local governments, and other interested parties became effective on December 13, 1979 (44 FR 53685). Those practices and procedures are set out in revised § 250.34 of Title 30 of the Code of Federal Regulations.

Dated: February 6, 1984.

John L. Rankin,

Regional Manager, Gulf of Mexico Region.

[FR Doc. 84-3952 Filed 2-13-84; 8:45 am]

BILLING CODE 4310-MR-M

Office of Surface Mining Reclamation and Enforcement

Petition To Designate Certain Lands in Adams County, Colorado, Unsuitable for Surface Coal Mining Operations; Availability of Final Evaluation Document, Decision, and Statement of Reasons

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Notice of availability of the final petition evaluation document, the decision, and the statement of reasons for the decision.

SUMMARY: The Office of Surface Mining (OSM) has prepared a final evaluation of the petition to designate certain lands adjacent to the Front Range Airport in Adams County, Colorado unsuitable for all or certain types of surface coal mining operations. The Secretary for Lands and Minerals Management has decided to designate the land unsuitable for mining.

Copies of the final evaluation document, the decision, and the statement of reasons for the decision are being made available today. OSM has arranged delivery of these three items to known interested parties.

Additional information on this petition may be found in **Federal Register** notices of February 24, 1983 (Receipt of a Complete Petition for Designation of Lands as Unsuitable for Surface Coal Mining Operations: Colorado, 48 FR 7820–7821) and November 9, 1983 (Availability of Draft Petition Evaluation Document and Notice of Public Hearing for the Board of County Commissioners, Adams County, Colorado/Front Range Airport Authority's Petition to Designate certain lands in Adams County, Colorado, unsuitable for surface coal mining operations, 48 FR 51551).

DATES: The final evaluation document, the decision, and the statement of reasons for the decision are being made avaiable on February 14, 1984.

ADDRESS: Copies of the final document, the decision, and the statement of reasons are available at the OMS Western Technical Center, 2nd Floor, Brooks Towers, 1020 15th Street, Denver, Colorado 80202.

FOR FURTHER INFORMATION CONTACT: Charles Albrecht, (telephone: 303–837–5656) at the Western Technical Center, office listed under "**ADDRESSES**".

SUPPLEMENTARY INFORMATION: The final document summarizes available information on the petition area. The document also contains discussions of the potential coal resources in the area, the demand for coal resources, and the impacts of any designation on the environment, the economy, and the supply of coal, as well as the impacts of alternatives available to the decisionmakers. The Bureau of Land Management has rated the coal recovery in the petition area as poor.

The petition area is part of the safety zone for the Front Range Airport. Adams County adopted a master plan and land use controls to develop the airport site in June 1982. The Assistant Secretary for Land and Minerals Management has determined that surface mining operations would be incompatible with land use plans and programs of Adams County.

A public hearing was held on December 5, 1983, at the OSM office in Denver, Colorado. Responses to hearing testimony and written comments on the draft document have been prepared and are published in the final document.

Dated: February 8, 1984.

J. R. Harris,

Director.

[FR Doc. 84-4000 Filed 2-13-84; 8:45 am]

BILLING CODE 4310-05-M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

Board for International Food and Agricultural Development; Meeting

Pursuant to the provisions of the Federal Advisory Committee Act, notice is hereby given of the sixty-first meeting of the Board for International Food and Agricultural Development (BIFAD) on March 8, 1984.

The purpose of the meeting is to hear a presentation on the Small Ruminant Collaborative Research Support Program (CRSP) by David Robinson, Program Director, University of California at Davis; a discussion of the report of the National Bipartisan Commission on Central America by Ambassador Harry W. Shlaudeman, Executive Director of the Commission, Peter Askin, Director of the AID Office of Central American Affairs and Richard Archi of that office; and to consider a report by the Joint Committee on Agricultural Research and Development (JCARD) to include the Program of Work for 1984.

The meeting will begin at 9:00 a.m. and adjourn at 12:30 p.m. and will be held in Room 1107, New State Department Building, 22nd and C Streets, NW., Washington, D.C. The meeting is open to the public. Any interested person may attend, may file written statements with the Board before or after the meeting, or may present oral statements in accordance with procedures established by the Board, and to the extent the time available for the meeting permits. An escort from the "C" Street Information Desk (Diplomatic Entance) will conduct you to the meeting.

Mr. Leard Yaeger, Deputy Assistant Administrator for Science and Technology, Agency for International Development, is designated as A.I.D. Advisory Committee Representative at this meeting. It is suggested that those desiring further information write to him in care of the Agency for International Development, Washington, D.C. 20523, or telephone him at (202) 632–4871.

Dated: February 8, 1984.

Leonard Yaeger,

A.I.D. Advisory Committee Representative, Board for International Food and Agricultural Development.

[FR Doc. 84-4022 Filed 2-13-84; 8:45 am]

BILLING CODE 4116-01-M

President's Task Force on International Private Enterprise; Meeting

Pursuant to the Federal Advisory Committee Act, notice is hereby given of a meeting sponsored by the President's Task Force on International Private Enterprise which will be held March 5–6, 1984 at the U.S. State Department, Room 1107.

This will be the sixth meeting of the Task Force.

The meeting will be open to the public. The agenda includes an update on Task Force activities and a discussion of key issues. Both days will be devoted to a review of Task Force findings and proposed recommendations. Any interested person may attend, request to appear before, or file statements with the Task Force in accordance with procedures established by the Task Force. Written statements should be filed prior to the meeting and should be available in twenty-five copies.

There will be an AID representative at the meeting. It is suggested that those desiring to attend or in need of further information contact Birge Watkins, Assistant Director, on (202) 944–3350 or by mail c/o The President's Task Force on International Private Enterprise, Agency for International Development, Washington, D.C. 20523.

Dated: February 6, 1984.

Elise R. W. du Pont,

Assistant Administrator, Bureau for Private Enterprise.

[FR Doc. 84-3999 Filed 2-13-84; 8:45 am]

BILLING CODE 4116-01-M

INTERSTATE COMMERCE COMMISSION

[Docket No. AB-6 (Sub-164)B]

Burlington Northern Railroad Company; Abandonment and Discontinuance of Trackage Rights Over Chicago and North Western Railway Company in Whiteside, Lee, and La Salle Counties, IL; Findings

The Commission has found that the public convenience and necessity permit the Burlington Northern Railroad Company to abandon its 46.88 mile rail line between BN milepost 6.67 near Earlville and BN milepost 48.21 at Sterling and to discontinue service over .61 miles of railroad of the Chicago and North Western Railway Company between Earlville and BN milepost 6.67 in Whiteside, Lee, and La Salle Counties, IL.

A certificate will be issued authorizing this abandonment and discontinuance unless within 15 days after this publication the Commission also finds that: (1) A financially responsible person has offered assistance (through subsidy or purchase) to enable the rail service to be continued; and (2) it is likely that the assistance would fully compensate the railroad.

Any financial assistance offer must be filed with the Commission and the applicant no later than 10 days from publication of this Notice. The following notation shall be typed in bold face on the lower left-hand corner of the envelope containing the offer: "Rail Section, AB–OFA." An offer previously made must be remade within this 10-day period.

Information and procedures regarding financial assistance for continued rail service are contained in 49 U.S.C. 10905 and 49 CFR 1152.27.

James H. Bayne,

Acting Secretary.

[FR Doc. 84-3032 Filed 2-13-84; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-55 (Sub-95)]

Seaboard System Railroad, Inc.; Abandonment; in Florence County, SC; Findings

The Commission has issued a certificate authorizing Seaboard System Railroad, Inc., to abandon its 17.32-mile rail line between milepost SJ-336.79 near Florence, SC and milepost SJ-354.11 near Pamplico, SC, in Florence County, SC. The abandonment certificate will become effective 30 days after this publication unless the Commission also finds that: (1) A financially responsible person has offered financial assistance (through subsidy or purchase) to enable the rail service to be continued; and (2) it is likely that the assistance would fully compensate the railroad.

Any financial assistance offer must be filed with the Commission and served concurrently on the applicant no later than 10 days from publication of this Notice. The following notation shall be typed in bold face on the lower left-hand corner of the envelope containing the offer: "Rail Section, AB–OFA". Any offer previously made must be remade within this 10-day period.

Information and procedures regarding financial assistance for continued rail service are contained in 49 U.S.C. 10905 and 49 CFR 1152.27.

James H. Bayne,

Acting Secretary.

[FR Doc. 84-3031 Filed 2-13-84; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF LABOR

Office of the Secretary

Agency Forms Under Review by the Office of Management and Budget (OMB)

Background

The Department of Labor, in carrying out its responsibility under the Paperwork Reduction Act (44 U.S.C. Chapter 35), considers comments on the proposed forms and recordkeeping requirements that will affect the public.

List of Forms Under Review

On each Tuesday and/or Friday, as necessary, the Department of Labor will publish a list of the Agency forms under review by the Office of Management and Budget (OMB) since the last list was published. The list will have all entries grouped into new collections, revisions, extensions, or reinstatements. The Departmental Clearance Officer will, upon request, be able to advise members of the public of the nature of any particular revision they are interested in.

Each entry will contain the following information:

The Agency of the Department issuing this form.

The title of the form.

The OMB and Agency form numbers, if applicable.

How often the form must be filled out.

Who will be required to or asked to report.

Whether small businesses or organizations are affected.

An estimate of the number of responses.

An estimate of the total number of hours needed to fill out the form.

The number of forms in the request for approval.

An abstract describing the need for and uses of the information collection.

Comments and Questions

Copies of the proposed forms and supporting documents may be obtained by calling the Departmental Clearance Officer, Paul E. Larson, Telephone 202-523-6331. Comments and questions about the items on this list should be directed to Mr. Larson, Office of Information Management, U.S. Department of Labor, 200 Constitution Avenue, NW., Room S-5526, Washington, D.C. 20210. Comments should also be sent to the OMB reviewer, Arnold Strasser, Telephone 202-395-6880, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 3208, NEOB, Washington, D.C. 20503.

Any member of the public wants to comment on a form which has been submitted to OMB should advise Mr. Larson of this intent at the earliest possible date.

New

Employment and Training Administration

Youth Employment Competency System Survey

One-time

State or local governments

647 responses; 214 hours; 2 forms

Section 106(a) of the Job Training Partnership Act requires the Secretary to develop performance standards. The Secretary shall designate factors for evaluating the performance of youth programs, including attainment of competencies recognized by Private Industry Councils. To explore the feasibility of including youth employment competencies as a part of the overall standards, ETA must survey the status of youth employment competency system implementation in the States and substate service delivery areas.

Office of Pension and Welfare Benefit Programs

Prohibited Transaction Class Exemption 77-10

Recordkeeping

Businesses or other for-profit; non-profit institutions; small businesses or organizations

1 hour

This class exemption complements class exemption 76-1. It permits participating employees or unions or another plan to lease office space or to

obtain administrative services or goods from a multiple employer or multiemployer plan.

Prohibited Class Exemption 76–1
Recordkeeping
Businesses and other for-profit; non-profit institutions; small businesses or organizations
2,555 recordkeepers; 639 hours

The class exemption permits parties in interest, under specified conditions, (A) to make delinquent employer contributions, (B) to receive construction loans, and (C) to obtain office space, administrative services, and goods from plans.

Prohibited Transaction Exemption 78–19
Recordkeeping
Businesses or other for-profit; small businesses or organizations
1 hour

This exemption allows parties in interest of an employee benefit plan that invests in an insured pooled separate account to engage in transactions with the separate account if the plan's participation in the separate account does not exceed specified limits. Six year recordkeeping is required.

Prohibited Transaction Exemption 80–51
Recordkeeping
Businesses or other for-profit; small businesses or organizations
1 hour

Six year record retention is required to verify that the conditions of the class exemption have been met. The exemption permits a bank collective investment fund to engage in certain transactions with parties in interest to a plan, which would otherwise be prohibited by ERISA.

Prohibited Transaction Class Exemption 75–1
Recordkeeping
Businesses or other for-profit; small businesses or organization
1 hour

The class exemption from ERISA's prohibited transactions permits banks, registered broker-dealers and reporting dealers in Government securities who are parties in interest to engage in certain kinds of securities transactions with plans.

Extension

Occupational Safety and Health Administration
Respirator Program Records
1219–0048; MSHA–40 4R
On occasion
2,800 respondents; 5,600 hours
Businesses and other for-profit; small businesses or organizations

Requires an operator to establish a respirator program which consists of written standard operating procedures governing the selection, use and care of respirators. Programs are intended to provide guidance that will assist respirator users in safeguarding health and life through proper selection and use of respirators.

Reinstatement

Mine Safety and Health Administration
Temporary Labor Camps
1219–0029; OSHA 165
On occasion
Farms; businesses or other for profit
1379 responses; 138 hours; 0 forms

This information is required to safeguard the health of temporary labor camp residents. The information is used to reduce the incident of communicable disease among temporary labor camp residents.

Signed at Washington, D.C. this 9th day of February 1984.

Paul E. Larson,

Departmental Clearance Officer.

[FR Doc. 84-3986 Filed 2-13-84; 8:45 am]
BILLING CODE 4510-29-M

Secretary of Labor's Committee on Veterans' Employment; Meeting

The Secretary's Committee on Veterans' Employment was established under section 308, Title III, Pub. L. 97–306, "Veterans Compensation, Education and Employment Amendments of 1982," to bring to the attention of the Secretary problems and issues relating to veterans' employment. Notice is hereby given that the Secretary of Labor's Committee on Veterans' Employment will meet on Tuesday, March 6, 1984 at 10:00 a.m. in the Secretary's Conference Room, S2508–FPB.

Items to be discussed are:

- Status of OVRR Program.
- Emergency Veterans' Job Training Act of 1983.
- Title IV C Funding (JTPA).
- Subcommittee on Communications Progress Report.

The public in invited to attend.

Signed this 9th day of February 1984 in Washington, D.C.

William C. Plowden, Jr.

Assistant Secretary for Veterans' Employment and Training.

[FR Doc. 84-3987 Filed 2-13-84; 8:45 am]
BILLING CODE 4510-79-M

Employment and Training Administration

Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for adjustment assistance issued during the period January 30, 1984-February 3, 1984.

In order for an affirmative determination to be made and a certification of eligibility to apply for adjustment assistance to be issued, each of the group eligibility requirements of Section 222 of the Act must be met.

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated,(2) That sales or prduction, or both, of the firm or subdivision have decreased absolutely, and

(3) That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determinations

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA–W–14,809; General Electric Co., Carboloy Department, Warrensville Heights, OH
TA–W–14,711; Don's Outerwear, Inc., Elizabeth, NJ
TA–W–14,759; A.P. DeSano & Sons, Phoenixville, PA

In the following cases the investigation revealed that criterion (3) has not been met. Increased imports did not contribute importantly to workers separations at the firm.

TA–W–14,891; Mystery Mountain Coal Co., Inc., Ragland, WV
TA–W–14,832; U.S. Steel Mining Co., Inc., Gary District, Engineering Department, Gary, WV
TA–W–14,944; Elgin, Joliet & Eastern Railway Co., Joliet Office, Joliet, IL
TA–W–15,000; D & L Coal, Inc., Ragland, WV
TA–W–15,001; Energy Coal Income Partnership 1981–2, Ragland, WV
TA–W–15,002; Enoxy Coal, Inc., Ragland, WV

TA–W–15,007; Superior Pocahontas Coal Co., Ragland, WV

The investigation revealed that criterion (3) has not been met for the reasons specified.

TA–W–14,935; Excalibar Coal Co. Madison, WV

Aggregate U.S. imports of metallurgical coal are negligible.

TA–W–14,948; Lee Ann Coal Co., Madison, WV

Aggregate U.S. imports of metallurgical coal are negligible.

TA–W–14,883; Terex Corp., Brooklyn, OH

Aggregate U.S. imports of haulers and scrapers have been and are negligible.

Affirmative Determinations

TA–W–14,882; Terex Corp., Hudson, OH

A certification was issued covering all workers separated on or after October 1, 1982.

TA–W–14,709; Wean United, Inc., Youngstown, OH

A certification was issued covering all workers separated on or after November 30, 1982.

TA–W–15,103; Wean United, Inc., Warren, OH

A certification was issued covering all workers separated on or after November 30, 1982.

TA–W–15,104; Wean United, Inc., Vandergrift, PA

A certification was issued covering all workers separated on or after November 30, 1982.

TA–W–14,966; Newburgh and South Shore Railway Co., Cleveland, OH

A certification was issued covering all workers separated on or after August 25, 1982.

TA–W–14,770; Amax Chemical Corp., Carlsbad, NM

A certification was issued covering all workers separated on or after June 15, 1982.

TA–W–14,892; U.S. Steel Corp., American Bridge Div., Engineering and Design Dept., Pittsburgh, PA

A certification was issued covering all workers separated on or after July 19, 1982.

TA–W–14,874; Armira Co., Sheboygan, WI

A certification was issued covering all workers separated on or after July 22, 1982 and before January 31, 1984.

TA–W–14,875; Armira Co., Muscatine, IA

A certification was issued covering all workers separated on or after July 22, 1982 and before September 30, 1983.

I hereby certify that the aforementioned determinations were issued during the period January 30, 1984–February 3, 1984. Copies of these determinations are available for inspection in Room 9120, U.S. Department of Labor, 601 D Street, NW., Washington, D.C. 20213 during normal business hours or will be mailed to persons who write to the above address.

Dated: February 7, 1984.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 84–3985 Filed 2–13–84; 8:45 am]

BILLING CODE 4510–30–M

Pension and Welfare Benefit Programs

Advisory Council on Employee Welfare and Pension Benefit Plans; Meeting

Pursuant to Section 512 of the Employee Retirement Income Security Act of 1974 (ERISA) 29 U.S.C. 1142, a meeting of the Advisory Council on Employee Welfare and Pension Benefit Plans will be held on Thursday, March 15, 1984, in Regency Ballroom A, Hyatt Regency Washington, 400 New Jersey Avenue NW., Washington, D.C.

The purpose of the meeting is to present a forum on the Impact of ERISA and Related Legislation on the Development of Private Retirement Plans.

The meeting will consist of a morning session beginning at 9:30, at which several Members of Congress will address the Advisory Council, followed in the afternoon, at 1:30, when statements will be presented by representatives of employee organizations, employers, plan participants and practitioners, who have been invited to take part in the program.

Individuals or organizations wishing to submit written statements pertaining to the topic of the forum should send 20 copies to Edward F. Lysczek, Executive Secretary, ERISA Advisory Council, U.S. Department of Labor, Room S–4522, Third and Constitution Avenue NW., Washington, D.C. 20216. Telephone (202) 523–8753.

Papers on the Impact of ERISA and Related Legislation on the Development of Private Retirement Plans will be accepted and included in the record of the meeting if received on or before March 5, 1984.

Signed at Washington, D.C. this 8th day of February 1984.

Robert A. G. Monks,

Administrator, Office of Pension and Welfare Benefit Programs.

[FR Doc. 84–3984 Filed 2–13–84; 8:45 am]

BILLING CODE 4510–29–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 84–15]

Intent To Grant an Exclusive Patent License; Engineering Corp. of Racine, Wisconsin, et al.

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of intent to grant an exculsive patent license.

SUMMARY: NASA hereby gives notice of intent to grant to Medical Engineering Corporation of Racine, Wisconsin and Parker Hannifin Corporation of Irvine, California, a limited, jointly exclusive, royalty-bearing, revocable license to practice the invention described in U.S. Patent No. 4,408,597 for a "Prosthetic Occulsive Device For An Internal Passageway" which was issued October 11, 1983, to the Administrator of the National Aeronautics and Space Administration on behalf of the United States of America. The proposed exclusive license will be for a limited number of years and will contain appropriate terms and conditions to be negotiated in accordance with the NASA Patent Licensing Regulations, 14 CFR 1245.2 NASA will negotiate the final terms and conditions and grant the exclusive license unless, within 60 days of the date of this Notice, the Director of Patent Licensing receives written objections to the grant, together with supporting documentations. The Director of Patent Licensing will review all written responses to the Notice and then recommend to the Assistant General Counsel for Patent Matters whether to grant the exclusive license.

DATE: Comments to this notice must be received by April 16, 1984.

ADDRESS: National Aeronautics and Space Administration, Code GP, Washington, D.C. 20546.

FOR FURTHER INFORMATION CONTACT: Mr. John G. Mannix, (202) 453–2430.

Dated: February 7, 1984.

John E. O'Brien,

Deputy General Counsel.

[FR Doc. 84–3924 Filed 2–13–84; 8:45 am]

BILLING CODE 7510–01–M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Museum Advisory Panel; Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Museum Advisory Panel (Training/Professional Development) to the National Council on the Arts will be held on March 2, 1984, from 9:30 a.m.–5:30 p.m. in room 714, of the Nancy Hanks Center, 1100 Pennsylvania Avenue NW., Washington, DC 20506.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the Federal Register of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c) (4), (6) and 9(b) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call (202) 682–5433.

Dated: February 7, 1984.

John H. Clark,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 84-3069 Filed 2-13-84; 8:45 am]

BILLING CODE 7537-01-M

Theater Advisory Panel; Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Theater Advisory Panel (Overview) to the National Council on the Arts will be held on March 2, 1984, from 9:00 a.m.–5:00 p.m. in room 730 of the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW, Washington, DC 20506.

A portion of this meeting will be open to the public on March 2 from 9:00 a.m.–3:30 p.m. to discuss Policy and Guidelines.

The remaining sessions of this meeting on March 2 from 3:30 p.m.–5:00 p.m. are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the Federal Register of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c)(4), (6) and 9(b) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call (202) 682–5433.

Dated: February 7, 1984.

John H. Clark,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 84-3068 Filed 2-13-84; 8:45 am]

BILLING CODE 7537-01-M

Theater Advisory Panel; Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Theater Advisory Panel (Artistic Associates/Director Fellows/US-Japan Fellowships) to the National Council on the Arts will be held on March 1, 1984, from 9:00 a.m.–5:30 p.m. in Room 730 of the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW, Washington, DC 20506.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the Federal Register of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c)(4), (6) and 9(b) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call (202) 682–5433.

Dated: February 8, 1984.

John H. Clark,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 84-3070 Filed 2-13-84; 8:45 am]

BILLING CODE 7537-01-M

Visual Arts Advisory Panel; Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Visual Arts Advisory Panel (Forums/Publications) to the National Council on the Arts will be held on March 8, 1984, from 9:00 a.m.–7:30 p.m. in Room 730 of the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW, Washington, DC 20506.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the Federal Register of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c)(4), (6) and 9(b) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call (202) 682–5433.

Dated: February 8, 1984.

John H. Clark,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 84-3071 Filed 2-13-84; 8:45 am]

BILLING CODE 7537-01-M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards, Subcommittee on Class-9 Accidents; Meeting Postponed

The ACRS Subcommittee on Class-9 Accidents scheduled for February 24, 1984, Room 1046, at 1717 H Street, NW, Washington, DC has been *postponed to March 30, 1984.*

All other items regarding this meeting remain the same as announced in the Federal Register published Tuesday, February 7, 1984 (49 FR 4570).

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant Designated Federal Employee, Mr. Alan B. Wang (telephone 202/634–3267) between 8:15 a.m. and 5:00 p.m., EST.

Dated: February 8, 1984.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 84-3972 Filed 2-13-84; 8:45 am]

BILLING CODE 7590-01-M

Applications for Licenses To Export Nuclear Facilities for Materials

Pursuant to 10 CFR 110.70(b) "Public notice of receipt of an application" please take notice that the Nuclear Regulatory Commission has received the following applications for export Licenses. Copies of the applications are on file in the Nuclear Regulatory Commission's Public Document Room located at 1717 H Street, N.W., Washington, D.C.

A request for a hearing or petition for leave to intervene may be filed within 30 days after publication of this notice in the **Federal Register**. Any request for hearing or petition for leave to intervene shall be served by the requester or petitioner upon the applicant, the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, the Secretary, U.S. Nuclear Regulatory Commission, and the Executive Secretary, U.S. Department of State, Washington, D.C. 20520.

In its review of applications for licenses to export production or utilization facilities, special nuclear materials or source material, noticed herein, the Commission does not evaluate the health, safety or environmental effects in the recipient nation of the facility or material to be exported. The table below lists all new major applications.

Dated this 6th day of February 1984 at Bethesda, Maryland.

For the Nuclear Regulatory Commission.

James V. Zimmerman,

Assistant Director, Export/Import and International Safeguards, Office of International Programs.

NRC EXPORT APPLICATIONS

Name of applicant, date of applicant, date received, and application No.	Material type	Material in kilograms		End-use	Country of destination
		Total element	Total isotope		
Edlow International Co., Jan. 18, 1984, Jan. 23, 1984, XSNM02106.	3.45 percent enriched uranium.	13,518	467	Reload fuel for Mihama, Unit III	Japan.
Mitsubishi International, Corp., Jan. 23, 1984, Jan. 26, 1984, XSNM02109.	do	11,519	398	Reload fuel for Genkai, Unit I	Do.
Mitsubishi International, Corp., Jan. 16, 1984, Jan. 26, 1984, XSB02110.	do	32,858	1,134	Reload fuel for Genkai, Unit II	Do.
Edlow, International, Co. Jan. 27, 1984, Jan. 30, 1984, XSNM02111.	do	26,553	906	Reload fuel for Ohi, Unit II	Do.
Westinghouse Electric Corp., Jan. 26, 1984, Jan. 31, 1984, XSNM01472 (Amend. 01).	4.15 percent enriched uranium.	[1]69,048	2,995	Amend to increase quantity for two additional reloads for Kori, Unit II.	Korea.
Edlow, International Co., Jan. 27, 1984, Jan. 30, 1984, XSNM02112.	3.45 percent enriched uranium.	19,618	677	Reload fuel for Takahama, Unit II	Japan.
Transnuclear, Inc. Jan 31, 1984, Feb. 2, 1984, XSNM02113 (Amend. 03).	4.04 percent enriched uranium.	[1]37,788,846	[1]1,526,561	Two additional reloads of fuel for Philippsburg Unit I	West Germany.
Marubeni America Corp., Feb. 1, 1984, Feb. 2, 1984, XSNM02113.	3.95 percent enriched uranium.	10,066	302	Reload fuel for Fukushima II, Unit II	Japan.
Marubeni America Corp., Feb. 1, 1984, Feb. 2, 1984, XSNM02114.	do	24,355	717	Reload fuel for Fukushima II, Unit II	Do.
Transnuclear, Inc. Feb. 2, 1984, Feb. 2, 1984 XSNM01912 (Amend. 02).	3.80 percent enriched uranium.	[1]11,041	[1]420,608	Reload for Ringhals II	Sweden.

[1]Additional.

[FR Doc. 84-3956 Filed 2-13-84; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-322-OL-3]

Long Island Lighting Co.; (Shoreham Nuclear Power Station, Unit 1); Emergency Planning Proceeding; Hearing

February 8, 1984.

Please take notice that the hearing in this proceeding will reconvene at 10:00 a.m. on Thursday, February 23, 1984 in Room 3B46, Court of Claims, State of New York, State Office Building, Veterans Memorial Highway, Hauppauge, New York. The hearing will continue at that location through Friday, February 24, 1984.

Bethesda, Maryland

For Atomic Safety and Licensing Board.

Frederick J. Shon,

Administrative Judge.

[FR Doc. 84-3956 Filed 2-13-84; 8:45 am]

BILLING CODE 7590-01-M

Draft Regulatory Guide; Issuance, Availability

The Nuclear Regulatory Commission has issued for public comment a draft of a new guide planned for its Regulatory Guide Series together with a draft of the associated value/impact statement. This series has been developed to describe and make available to the public methods acceptable to the NRC staff of implementing specific parts of the Commission's regulations and, in some cases, to delineate techniques used by the staff in evaluating specific problems or postulated accidents and to provide guidance to applicants concerning certain of the information needed by the staff in its review of applications for permits and licenses.

The draft guide, temporarily identified by its task number, OP 212-4 (which should be mentioned in all correspondence concerning this draft guide), is entitled "Radiation Protection Training for Personnel Employed in Medical Facilities" and is intended for Division 8, "Occupational Health." It is being developed to describe a radiation safety training program acceptable to the NRC staff for individuals who work with or in the vicinity of byproduct material for human use.

This draft guide and the associated value/impact statement are being issued to involve the public in the early stages of the development of a regulatory position in this area. They have not received complete staff review and do not represent an official NRC staff position.

Public comments are being solicited on both drafts, the guide (including any implementation schedule) and the draft value/impact statement. Comments on the draft value/impact statement should

be accompanied by supporting data. Comments on both drafts should be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 2055, Attention: Docketing and Service Branch, by April 9, 1984.

Although a time limit is given for comments on these drafts, comments and suggestions in connection with (1) items for inclusion in guides currently being developed or (2) improvements in all published guides are encouraged at any time.

Regulatory guides are available for inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. Requests for single copies of draft guides (which may be reproduced) or for placement on an automatic distribution list for single copies of future draft guides in specific divisions should be made in writing to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Technical Information and Document Control. Telephone requests cannot be accommodated. Regulatory guides are not copyrighted, and Commission approval is not required to reproduce them.

(5 U.S.C. 552(A))

Dated at Rockville, Maryland this 7th day of February 1984.

For the Nuclear Regulatory Commission.

Karl R. Goller, Director,

Division of Facility Operations, Office of Nuclear Regulatory Research.

[FR Doc. 84-3957 Filed 2-13-84 8:45 am]

BILLING CODE 7590-01-M

PACIFIC NORTHWEST ELECTRIC POWER AND CONSERVATION PLANNING COUNCIL

Options Evaluation Task Force; Regular Meeting Notice

AGENCY: Options Evaluation Task Force of the Pacific Northwest Electric Power and Conservation Planning Council (Northwest Power Planning Council).

ACTION: Notice of meeting to be held pursuant to the Federal Advisory Committee Act, 5 U.S.C. Appendix I, 1-4. Activities will include:

- Background and role of task force
- Decision framework: existing and proposed analytical tools
- Possible decision rules
- Public comment

Status: Open.

SUMMARY: The Northwest Power Planning Council hereby announces a forthcoming meeting of its Options Evaluation Task Force..

DATE: Friday, February 24, 1984. 10:00 a.m..

ADDRESS: The meeting will be held at the Council Hearing Room at 700 S.W. Taylor, Suite 200, in Portland, Oregon.

FOR FURTHER INFORMATION CONTACT: Wally Gibson, Chairman at (503) 222-5161.

Edward Sheets,

Executive Director.

[FR Doc. 84-3949 Filed 2-13-84; 8:45 am]

BILLING CODE 0000-00-M

PENSION BENEFIT GUARANTY CORPORATION

Pendency of Request for Exemption From Bond/Escrow Requirement Relating to Sale of Assets by an Employer That Contributes to a Multiemployer Plan; Charmer Industries, Inc.

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Notice of pendency of request.

SUMMARY: This notice advises interested persons that the Pension Benefit Guaranty Corporation has received a request from Charmer Industries Inc. for an exemption from the bond/escrow requirement of section 4204(a)(1)(B) of the Employee Retirement Income Security Act of 1974, as amended. Section 4204(a)(1) provides that the sale of assets by an employer that contributes to a multiemployer pension plan will not constitute a complete or partial withdrawal from the plan if certain conditions are met. One of these conditions is that the purchaser post a bond or deposit money in escrow for five plan years, beginning after the sale. PBGC is authorized to grant exemptions from this requirement. Prior to granting an exemption, PBGC is required to give interested persons an opportunity to comment on the exemption request. The effect of this notice is to advise interested persons of this exemption request and to solicit their views on it.

DATE: Comments must be submitted on or before March 30, 1984.

ADDRESSES: All written comments (at least three copies) should be addressed to: Director, Corporate Planning and Program Development Department (611), Pension Benefit Guaranty Corporation, 2020 K Street, NW., Washington, D.C. 20006. The request for exemption and the comments received will be available for public inspection at the PBGC Public Affairs Office, Suite 7100, at the above address, between the hours of 9:00 a.m. and 4:00 p.m.

FOR FURTHER INFORMATION CONTACT: Deborah Murphy, Attorney, Corporate Planning and Program Development Department (611), Pension Benefit Guaranty Corporation, 2020 K Street, NW., Washington, D.C. 20006; (202) 254-4862 (not a toll-free number).

Background

Section 4204(a)(1) of the Employee Retirement Income Security Act of 1974, as amended ("ERISA"), 29 U.S.C. 1384, provides that a bona fide arm's-length sale of assets of contributing employer to an unrelated party will not be considered a withdrawal if three conditions are met. These conditions, enumerated in section 4204(a)(1)(A)-(C), are that—

(A) The purchaser has an obligation to contribute to the plan for substantially the same number of contribution base units for which the seller was obligated to contribute;

(B) The purchaser obtains a bond or places an amount in escrow, for a period of five plan years after the sale, in an amount equal to the greater of the seller's average required annual contribution to the plan for the three plan years preceding the year in which the sale occurred or the seller's required annual contribution for the plan year preceding the year in which the sale occurred; and

(C) The contract of sale provides that if the purchaser withdraws from the plan within the first five years beginning after the sale and fails to pay any of its liability to the plan, the seller shall be secondarily liable for the liability it (the seller) would have had but for section 4204.

The bond or escrow described above will be paid to the plan if the purchaser withdraws from the plan or fails to make any required contribution to the plan within the first five plan years beginning after the sale.

Section 4204(c) of ERISA authorizes the Pension Benefit Guaranty Corporation ("PBGC") to grant individual or class variances or exemptions from the purchaser's bond/escrow requirement of section 4204 (a)(1)(B) and the contract-provision requirement of section 4204 (a)(1)(C). The legislative history of section 4204 indicates a Congressional intent that the sales rules be administered in a manner that assures protection of the plan with the least practicable intrusion into normal business transactions. The granting of an exemption or variance from the requirements of section 4204(a)(1) (B) or (C) does not constitute a finding by PBGC that the transaction

satifies the other requirements of section 4204(a)(1).

Under § 2643.3(a) of PBGC's regulation on procedures for variances for sales of assets, 29 CFR 2643.3(a) (1982), PBGC shall approve a request for a variance or exemption if it determines that approval of the request is warranted, in that it—

(1) Would more effectively or equitably carry out the purposes of Title IV of ERISA; and

(2) Would not significantly increase the risk of financial loss to the plan.

Section 4204(c) of ERISA and § 2643.3(b) of the regulation require the PBGC to publish a notice of the pendency of a request for a variance or exemption in the **Federal Register**, and to provide interested parties with an opportunity to comment on the proposed variance or exemption.

The Request

PBGC has received a request from Charmer Industries Inc. ("Charmer") to waive the bond/escrow requirement of section 4204(a)(1)(B) of ERISA. In the request, the applicant represents, among other things, the following:

(1) On December 31, 1981, Charmer bought certain assets of standard Wine & Liquor Co., Inc. ("Standard").

(2) Charmer has assumed Standard's obligation, pursuant to collective barganing agreements with four unions, to contribute to four pension plans, viz.:

Union	Plan
Wine, Liquor and Distillery Workers Union Local One.	Wine, Liquor and Distillery Workers Union Local One Pension fund ("Local One Fund")
Liquor Salesmen's Union Local 2.	Retirement Plan of the Liquor Salesmen's Union Local 2 Pension Fund ("Local 2 Fund")
Wholesale Wine Salesmen's Union Local 18.	Wholesale Wine Salesmen's Union Pension Fund ("Local 18 Fund")
Drivers and Chauffeurs Local Union No. 816, IBT.	Local 816 Labor and Management Pension and Welfare Fund ("Local 816 Fund").

(3) The amount of Charmer's bond/escrow required under section 4204(a)(1)(B) is $296,050.28, and the estimated amount of the withdrawal liability that Standard would otherwise incur as a result of the sale if section 4204 did not apply to the sale is $1,603,799, broken down as follows:

Fund	Bond	Withdrawal liability
Local One Fund	56,600.00	70,048
Local 2 Fund	121,758.00	755,362
Local 18 Fund	16,174.00	47,887
Local 816 Fund	99,512.28	721,502

Charmer has furnished the four required bonds. Charmer contributed to the plans before its purchase of Standard's assets, but has not submitted estimates of its pre-transaction withdrawal liability.

(4) Charmer and its subsidiary had net tangible assets for its fiscal year ended March 31, 1981, of $12,247,392, and for its fiscal year ended March 31, 1983, of $17,406,780. Charmer and its subsidiary had an average net income for its fiscal years ended March 31, 1979–1981, of $1,359,859, and for its fiscal years ended March 31, 1981–1983, of $2,558,246. (Charmer also submitted financial statements as part of its request, but has asserted that they are exempt from disclosure under the Freedom of Information Act, 5 U.S.C 522(b)(4). The foregoing figures were supplied separately from the financial statements.)

(5) Charmer has sent a copy of this request (excluding the financial statements) to the four pension plans and the collective bargaining representatives of Standard's former employees by certified mail, return receipt requested.

Comments

All interested persons are invited to submit written comments on the pending exemption to the above address, by March 30, 1984. All comments will be made a part of the record. Comments received, as will as the application for exemption, will be available for public inspection at the address set forth above.

Issued at Washington, D. C., on this 3rd day of February 1984.

Charles C. Tharp,

Executive Director Pension Benefit Guaranty Corporation.

[FR Doc. 84-3930 Filed 2-13-84; 8:45 am]

BILLING CODE 7708-01-M

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area # 2116]

California; Declaration of Disaster Loan Area

Bradford Island, Contra Costa County in the State of California constitutes a disaster area because of damage caused by heavy rains, winds, high tides and flooding on December 3, 1983. Applications for loans for physical damage may be filed until the close of business on April 9, 1984, and for economic injury intil the close of business on November 8, 1984, at the address listed below: U.S. Small Business Administration, 660 J Street, Suite 215, Sacramento, California 95814 or other locally announced locations. Interest rates for this disaster are:

Homeowners with credit available elsewhere—12.500%
Homeowners without credit available elsewhere—6.250%
Businesses with credit available elsewhere—11.000%
Businesses without credit available elsewhere—8.000%
Businesses (EIDL) without credit available elsewhere—8.000%
Other(non profit organizations including charitable and religious organizations)—10.500%

The number assigned to this disaster is 211606 for physical damage and for economic injury the number is 614300.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: February 8, 1984.

James C. Sanders,

Administrator.

[FR Doc. 84-4023 Filed 2-13-84; 8:45 am]

BILLING CODE 8025-01-M

Presidential Advisory Committee on Small and Minority Business Ownership; Public Meeting

The Presidential Advisory Committee on Small and Minority Business Ownership, located in Washington, D.C., will hold a public meeting at 8:30 a.m. until 5:00 p.m., Monday, February 27, 1984, at the University of Houston, Conrad Hilton Hotel College of Hotel and Restaurant Management, 4800 Calhoun Street, Scorpius Room #275, Houston, Texas 77004, to discuss such business as may be presented by the Committee members. The meeting will be open to the interested public, however, space is limited.

Persons wishing to present written statements should notify Mr. Milton Wilson, Jr., Office of Capital Ownership Development, Small Business Administration, Room 602, 1441 L Street, NW., Washington, D.C. 20416 in writing or by telephone (202) 653–6526, no later than February 23, 1984.

Dated: February 9, 1984.

Jean M. Nowak,

Director, Office of Advisory Councils.

[FR Doc. 84-4024 Filed 2-13-84; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF STATE

Office of the Secretary

[Public Notice 896]

Board of Appellate Review; Publication of Decisions of the Board

Effective January 11, 1984, selected decisions of the Board of Appellate Review, on appeals from administrative

determinations by the Department of State of loss of nationality and denial of passport facilities, will be published as a matter of public record.

The Board, which derives its authority from 22 CFR Part 7, provides an administrative remedy in the form of a quasi-judicial hearing or review to one who has been the subject of an adverse determination of nationality or restrictive action with respect to a passport.

Inquiries about obtaining copies of the Board's decisions may be directed to the Public Information Service, Bureau of Public Affairs, Room 4827A, Department of State, Washington, D.C. 20520. Telephone (202) 632–6575.

Dated: February 2, 1984.

Alan G. James,

Chairman, Board of Appellate Review.

[FR Doc. 84–3864 Filed 2–13–84; 8:45 am]

BILLING CODE 4710–06–M

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. S–751]

Equity Carriers I, Inc., et al.; Application for Section 805(a) Permission for Affiliated Companies To Operate Two Tanker Vessels in Domestic Intercoastal and Coastwise Trade

Equity Carriers I, Inc., charters and operates the dry bulk cargo vessel *Pride of Texas;* Asco-Falcon II Shipping Company owns and operates the dry bulk cargo vessel *Star of Texas;* and Equity Carriers III, Inc., charters and operates the dry bulk carrier vessel *Spirit of Texas.* These three vessels are engaged in service in the foreign trades and are covered by Applicants' ODS Contract MA/MSB–439, as amended, and are presently operating in the U.S. preference grain trades pursuant to section 614 of the Merchant Marine Act, 1936, as amended (Act), under which the ODS contract has been suspended, and no operating subsidy is now being awarded or paid with respect to such vessels.

Two unsubsidized 37,000 DWT product carriers, USNS *Columbia* (formerly *Falcon Lady*), and USNS *Susquehanna* (formerly *Falcon Countess*), both owned by Falcon Tankers, Inc. (Falcon), will later this year be released from Military Sealift Command charters, and after upgrading, are intended to be operated by Seahawk Management, Inc. (Seahawk), in the domestic coastwise and intercoastal trades. Falcon and Seahawk may be deemed affiliates of the Applicants by virtue of having certain common shareholders.

By letter of January 31, 1984, Applicants requested written permission under section 805(a) of the Act for their affiliate Seahawk to operate the two tankers in the domestic intercoastal or coastwise trades. Applicants, as parties to an Operating-Differential Subsidy Agreement, would require such written permission under section 805(a) when operating vessels with subsidy under the ODSA. The Applicants aver that they and their affiliates will remain separate companies, and there will be no intermingling of the respective companies' subsidized and unsubsidized operations, nor will any subsidy funds be made available directly or indirectly to the affiliates.

By letter of September 26, 1984, Applicants requested written permission under section 805(a) of the Act for Seahawk to operate two other 37,000 DWT product carriers (USNS *Neches* and USNS *Hudson)* (both vessels virtually identical to the two covered by the instant application) in the domestic intercoastal or coastwise trade. That Application was described in the **Federal Register** issue of October 3, 1983 (48 FR 45182) Docket S–744. The Docket is currently before an Administrative Law Judge awaiting a hearing. Written permission pursuant to section 805(a) of the Act was granted to permit the operation of the USNS *Neches* and USNS *Hudson* in the domestic trade until such time as any of the vessels for which ODSA MA/MSB–439 was suspended pursuant to section 614 of the Act return to subsidized service.

Since the facts concerning both requests for section 805(a) written permission are substantially the same, Applicants wish to include the USNA *Columbia* and USNS *Susquehanna* in any section 805(a) hearing concerning the USNS *Neches* and USNS *Hudson.*

Any person, firm, or corporation having any interest in such application (within the meaning of section 805(a) of the Act) and desiring to submit comments concerning the application must file written comments in triplicate with the Secretary, Maritime Administration, Room 7300, Nassif Building, 400 Seventh Street, SW., Washington, D.C. 20590, by close of business on February 24, 1984, together with petition for leave to intervene. The petition shall state clearly and concisely the grounds of interest, and the alleged facts relied on for relief.

In the event petitions regarding the relevant section 805(a) issues are received from parties with standing to be heard, a hearing will be held, the purpose of which will be to receive evidence under section 805(a) relative to whether the proposed operations (a) could result in unfair competition to any person, firm, or corporation operating exclusively in the coastwise or intercoastal service, or (b) would be prejudicial to the objects and policy of the Act relative to domestic trade operations.

If no petitions for leave to intervene are received within the specified time or if it is determined that petitions filed do not demonstrate sufficient interest to warrant a hearing, the Maritime Administration will take such action as may be deemed appropriate.

(Catalog of Federal Domestic Assistant Program NO. 20.804 Operating-Differential Subsidies (ODS))

By Order of the Maritime Administrator.

Dated: February 9, 1984.

Georgia P. Stamas,

Secretary.

[FR Doc. 84–3925 Filed 2–13–84; 8:45 am]

BILLING CODE 4910–81–M

DEPARTMENT OF THE TREASURY

Office of the Secretary

[Supplement to Department Circular Public Debt Series No. 2–84]

Treasury Notes; Series M–1987

February 8, 1984.

The Secretary announced on February 7, 1984, that the interest rate on the notes designated Series M–1987, described in Department Circular—Public Debt Series—No. 2–84 dated February 2, 1984, will be 10–7/8 percent. Interest on the notes will be payable at the rate of 10–7/8 percent per annum.

Carole Jones Dineen,

Fiscal Assistant Secretary.

[FR Doc. 84–3926 Filed 2–13–84; 8:45 am]

BILLING CODE 4810–40–M

VETERANS ADMINISTRATION

Advisory Committee on Health-Related Effects of Herbicides; Meeting

The Veterans Administration gives notice under the provisions of Pub. L. 92–463 that a meeting of the Advisory Committee on Health-Related Effects of Herbicides will be held in Room 119 of the Veterans Administration Central Office, 810 Vermont Avenue, NW., Washington, D.C. on March 6, 1984, at 8:30 a.m. The purpose of the meeting will be to assemble and analyze information concerning toxicological issues which the Veterans Administration needs to

formulate appropriate medical policy and procedures in the interest of veterans who may have encountered herbicidal chemicals used during the Vietnam Conflict.

The meeting will be open to the seating capacity of the room. Members of the public may direct questions, in writing only, to the Chairman, Barclay M. Shepard, M.D., and submit prepared statements for review by the Committee. Such members of the public may be asked to clarify submitted material prior to consideration by the Committee.

Transcripts of the proceedings and rosters of the Committee members may be obtained from Mr. Donald Rosenblum, Agent Orange Projects Office (10A7), Room 848, Department of Medicine and Surgery, Veterans Administration Central Office, Washington, D.C. 20420 (Telephone: (202) 389–5411).

Dated: February 1, 1984.

By direction of the Administrator

Rosa Maria Fontanez,

Committee Management Officer.

[FR Doc. 84–3973 Filed 2–13–84; 8:45 am]

BILLING CODE 8320–01–M

Sunshine Act Meetings

Federal Register
Vol. 49, No. 31
Tuesday, February 14, 1984

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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1

CONSUMER PRODUCT SAFETY COMMISSION

Commission Meeting

TIME AND DATE: 10 a.m., Thursday, February 16, 1984.

LOCATION: Third Floor Hearing Room, 1111 18th Street NW., Washington, D.C.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. *Status Report: Voluntary Standards for Crib Hardware and Expandable Enclosures.*
The staff will brief the Commission on the status of the voluntary standards effort on crib hardware and expandabler enclosures.

Closed to the public:

2. *Enforcement Matter OS# 4540.*
The Commission will consider issues related to enforcement matter OS# 4540.
3. *Enforcement Matter OS# 5868.*
The staff will brief the Commission on issues related to enforcement matter OS# 5868.

For a recorded message containing the latest agenda information: call 301–492–5709.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Butts, Office of the Secretary, 5401 Westbard Avenue, Bethesda, MD 20207, 301–492–6800.

Dated: February 9, 1984.

Sadye E. Dunn,
Secretary.

[FR Doc. 84-4025 Filed 2-10-84; 8:51 am]
BILLING CODE 6355-01-M

2

CONSUMER PRODUCT SAFETY COMMISSION

Commission Meeting

TIME AND DATE: 10 a.m., Wednesday, February 15, 1984.

LOCATION: Third Floor Hearing Room, 1111 18th Street NW., Washington, D.C.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. *Export Policy CPSA & FHSA*
The staff will brief the Commission on issues related to the export policy under the Consumer Product Safety Act and the Federal Hazardous Substances Act.
2. *Sleepwear Enforcement Policy*
The staff will brief the Commission on the issuance of final enforcement policy statements concerning the flammability standards for children's sleepwear. The policy statements set forth factors the Commission will consider when deciding whether particular fabrics or garments are subject to the children's sleepwear standard.
3. *PPPA Exemption Request, PP 83–1*
The staff will brief the Commission on a petition from Ayerst Laboratories to exempt certain conjugated estrogens and progestins from special packaging requirements under the PPPA.

For a recorded message containing the latest agenda information: call 301–492–5709.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Butts, Office of the Secretary, 5401 Westbard Avenue, Bethesda, MD 20207, 301–492–6800.

Dated: February 9, 1984.

Sadye E. Dunn,
Secretary.

[FR Doc. 84-4026 Filed 2-10-84; 8:51 am]
BILLING CODE 6355-01-M

3

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

TIME AND DATE: 10 a.m., Wednesday, February 8, 1984.

PLACE: Room 600, 1730 K Street NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED: In addition to the previously announced item, the Commission also acted on the following:

2. U.S. Steel Corporation, Docket Nos. LAKE 81–116–M, LAKE 81–77–RM. (Issues included whether the judge erred in concluding that the operator violated 30 CFR 55.12–14, a safety standard dealing with the movement of power cables.)

It was determined by a unanimous vote of Commissioners that Commission business required that a meeting be held on this item and that no earlier announcement of the addition was possible. (5 U.S.C. 552b(e)(1))

CONTACT PERSON FOR MORE INFORMATION: Jean Ellen, (202) 653–5632.

Jean H. Ellen,
Agenda Clerk.

[FR Doc. 84-4099 Filed 2-10-84; 3:12 pm]
BILLING CODE 6820-12-M

4

FOREIGN CLAIMS SETTLEMENT COMMISSION

[Meeting Notice No. 11–83]

Announcement in Regard to Commission Meetings and Hearings

The Foreign Claims Settlement Commission, pursuant to its regulations (45 CFR Part 504), and the Government in the Sunshine Act (5 U.S.C. 552b), hereby gives notice in regard to the scheduling of open meetings and oral hearings for the transaction of Commission business and other matters specified, as follows:

Date and Time: Tuesday, February 21, 1984, 10:30 a.m.

Subject Matter: Consideration of Proposed Decisions in the Second Czechoslovakian Claims Program and Final Decisions on Hearings on the Record.

Subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

All meetings are held at the Foreign Claims Settlement Commission, 1111 20th Street NW., Washington, D.C. Requests for information, or advance notices of intention to observe a meeting, may be directed to: Administrative Officer, Foreign Claims Settlement Commission, 1111 20th Street NW., Room 409, Washington, D.C. 20579. Telephone: (202) 653–6155.

Dated at Washington, D.C., on February 8, 1984.

Judith H. Lock,
Administrative Officer.

[FR Doc. 84-4073 Filed 2-10-84; 2:00 am]
BILLING CODE 4410-01-M

5

NATIONAL COUNCIL ON EDUCATIONAL RESEARCH

TIME AND DATE: 9–11:15 a.m., February 17, 1984.

PLACE: Conference Room 823, National Institute of Education, 1200 19th Street, Washington, D.C.

STATUS: Open hearing.

MATTERS TO BE CONSIDERED: The Lab and Center Committee will hold an open hearing. At this open hearing they will invite all interested parties to comment on the National Council on Educational Research's Lab and Center policy statement or invite such other comments as deemed appropriate regarding the National Institute of Education's planned recompetition for the Lab and Centers.

CONTACT PERSON FOR MORE INFORMATION: Patricia Hines, 2000 L St. NW., Washington, D.C. 202–254–7490.

Dated: February 8, 1984.

James Hinish,
Executive Director of the National Council on Educational Research.

[FR Doc. 84–3928 Filed 2–10–84; 8:51 am]
BILLING CODE 4000–01–M

6

NATIONAL TRANSPORTATION SAFETY BOARD

[NM–84–6]

TIME AND DATE: 9 a.m., Tuesday, February 21, 1984.

PLACE: NTSB Board Room, Eighth Floor, 800 Independence Avenue S.W., Washington, D.C. 20594.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. *Safety Study*—Statistical Review of Alcohol-Involved Aviation Accidents.
2. *Aircraft Accident Report*—McCauley Aviation Mitsubishi MU–2B, N72B, 5 Nautical Miles South of Jeffersonville, Georgia, March 24, 1983.
3. *NTSB Responses* to Industry Recommendations Emanating from the Aviation Accident Investigation Symposium, Springfield, Virginia, April 26, 1983.
4. *Proposed Safety Objective Plan*—Rail Rapid Transit Safety.

CONTACT PERSON FOR MORE INFORMATION: Sharon Flemming (202) 382–6525.

H. Ray Smith, Jr.,
Federal Register Liaison Officer.
February 10, 1984.

[FR Doc. 84–4106 Filed 2–10–84; 3:29 pm]
BILLING CODE 4910–58–M

7

PACIFIC NORTHWEST ELECTRIC POWER AND CONSERVATION PLANNING COUNCIL

(Northwest Power Planning Council)

TIME AND DATE: February 22, 1984, 1 p.m.; February 23, 1984, 9 a.m.

PLACE: University of Montana, University Center Ballroom, Missoula, Montana.

STATUS: Open. A portion of this meeting will be closed to the public to discuss pending litigation and other legal matters.

MATTERS TO BE CONSIDERED:

Staff Presentation on Bonneville Power Administrations FY 1985 Budget Submittal
Presentation on Bonneville Power Administration's Proposed Change in Methodology for Calculating the Average System Cost for Utilities Participating in the Regional Exchange Program
Council Discussion on Northwest-Southwest Intertie Access Policy
Public Comment on Proposed Amendments to the Council's Study of Large Thermal Plant Planning and Construction Schedules (Action 23.1)
Decision on Goals Study of the Columbia River Basin Fish and Wildlife Program
Presentation of Issue Papers on Amendment of the Columbia River Basin Fish and Wildlife Program
Council Business
Public Comment

CONTACT PERSON FOR MORE INFORMATION: Ms. Bess Wong, (503) 222–5161.

Edward Sheets,
Executive Director.

[FR Doc. 84–4058 Filed 2–10–84; 12:10 pm]
BILLING CODE 0000–00–M

VOL
49
ISS
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federal register

Tuesday
February 14, 1984

Part II

Department of Health and Human Services

Food and Drug Administration

21 CFR Part 179

Irradiation in the Production, Processing, and Handling of Food; Proposed Rule

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 179

[Docket No. 81N-0004]

Irradiation in the Production, Processing, and Handling of Food

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is proposing regulations for using ionizing radiation for treating food. This proposal follows an advance notice of proposed rulemaking (ANPR). The proposed regulations would permit food to be irradiated to inhibit the growth and maturation of fresh fruits and fresh vegetables, to disinfest food of insects at doses not to exceed 100 kilorads (krad), and to disinfect spices of microbes at doses not to exceed 3 megarads (Mrad). In addtion, the proposed regulations would require that records be kept for 1 year past the expected shelf life of the product and that these records be available for FDA inspection.

DATES: Comments by April 16, 1984.

ADDRESS: Written comments and material to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Clyde A. Takeguchi, Bureau of Foods (HFF-334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: FDA issued in the **Federal Register** of March 27, 1981 (46 FR 18992) an advance notice of proposed rulemaking (ANPR) announcing the availability of the Bureau of Foods' Irradiated Food Committee (BFIFC) Report (Ref. 1), outlining a course of action for assuring the safety of irradiated foods, and requesting comments from the public. The agency is now proposing regulations that will permit the use of food irradiation at doses not exceeding 1 kiloGray (kGy) (100 kilorad (krad))[1] for inhibiting the growth and maturation of fresh fruits and vegetables, and for insect disinfestation of food. Irradiation will also be allowed for microbial disinfection of spices at doses not to exceed 30 kGy (3 megarad (Mrad)). Additionally, in the **Federal Register** of July 5, 1983 (48 FR 30613), FDA issued a final rule amending 21 CFR 179.22(b) to provide for the safe use of a source of gamma radiation at doses up to 1 Mrad (10 kGy) to reduce or control microbial contamination in specific spices and vegetable seasonings. This action was in response to a food additive petition filed by Radiation Technology, Inc. The regulations announced in this proposed rule, once promulgated, would replace the current sections dealing with the irradiation of food, 21 CFR 179.22 and 179.24, with new 21 CFR 179.25 and 179.26.

[1] The System Internationale (SI) unit for expressing the amount of absorbed radiation dose is the Gray (joules/kilogram, abbreviate Gy). The older term is rad. The equivalent value in rads (100 rad=1 GY) will be enclosed in parentheses. The prefixes kilo (k) and mega (M) represent a thousandfold and a millionfold respectively. Thus, kilorad means a thousand rads and a megarad means a million rads.

Background

Conventional food-processing uses a variety of chemical and physical means to preserve foods, including food additives, fumigants, and plant-growth regulators. Temperature regulation, such as sterilization, pasteurization, and refrigeration, is also used. More recently scientists have found that ionizing radiation, a high energy form that can cause chemical reactions in the absorbing substance, may also be used for the same purpose. Food irradiation may either supplement, or be a substitute for, conventional food-preservation methods.

Since the March 27, 1981 publication of the ANPR, there has been heightened interest in the irradiation process. Food companies consider food irradiation a promising method to help control two problems that affect food—insect infestation and microbial contamination. For example, during the 1981 Mediterranean fruit fly (Medfly) infestation in California and Florida, industry and government officials expressed interest in food irradiation. Some of these officials believed that irradiation offered a safe method of treating food, allowing food to be shipped to other areas without the risk of spreading the Medfly infestation, with minimal effect on the harvesting process and on the marketability of produce.

Ionizing radiation causes chemical changes in an absorbing material, such as food, and produces new chemical substances called radiolytic products. All other things being equal, the quantity of radiolytic products is proportional to the amount of radiation absorded. Under the laws of radiation chemistry, these radiolytic products will be similar in foods of similar composition when irradiated under similar conditions. These similarities can serve as a basis for assessing the amount and types of radiolytic products in food. However, the unique nature of individual foods requires that specific processing conditions be developed for each technical effect to be achieved for each food. Although the broad relationships between desired technical effects and radiation dose have been studied for many years, the dose that will achieve a particular effect in a specific food without damaging the food is not yet known in all cases; further research will be necessary to establish those doses.

Many different technical effects can be accomplished by irradiating food (Ref. 2). Irradiation can extend a product's shelf life by inhibiting the growth and ripening of fresh produce, and by reducing the number of microorganisms that spoil food. Complete sterilization of food by irradiation results in a shelf-stable product similar to canned food. Pathogenic organisms, parasites, and insects found in food can be controlled by irradiation. Additionally, irradiation can change certain physical properties, such as decreasing the rehydration time of dehydrated vegetables, increasing the yield of fruit juice, and tenderizing meat.

As mentioned above, irradiation causes chemical changes in food. Not all of these changes are desirable. For example, irradiation of fresh produce can affect metabolic processes in food, making it less resistant to spoilage by various fungal diseases. Even small changes in food that pose no safety concerns can affect its flavor or texture in a way that may be unacceptable to some consumers. Thus, it is simply not possible to describe at this time the unintended effects of irradiation that could affect the value or marketability of a particular food (Ref. 3).

Research in irradiated food technology has been conducted for over three decades on matters such as marketability, and will undoubtedly continue. The agency believes, however, that these research issues should be addressed by the food industry and the marketplace, for they raise concerns separate from those that relate to the regulatory status of irradiated foods.

In 1958, Congress amended the Federal Food, Drug, and Cosmetic Act (the act) to prohibit the use of a new food additive until the sponsor establishes its safety and FDA issues a regulation specifying conditions of safe use. A source of radiation was specifically defined as a food additive in section 201(s) of the act (21 U.S.C. 321(s)). The Senate report on the Food Additives Amendment of 1958 made clear that "[s]ources of radiation (including radioactive isotopes, particle accelerators and X-ray machines) intended for use in processing food are

included in the term 'food additives' as defined in this legislation." S. Rep No. 2422, 85th Cong., 2d Sess. 63 (1958).

Under section 402(a)(7) of the act, a food is adulterated "if it has been intentionally subjected to radiation unless the use of the radiation was in conformity with a [food additive] regulation or exemption" (21 U.S.C. 342(a)(7)). To issue a food additive regulation for a source of radiation, the agency must be assured with reasonable certainty that no harm will result from the proposed irradiation of food.

In evaluating the safety of irradiated foods, a scientist can assess either the toxicity of the food itself, or that of the radiolytic products formed by the irradiation. Historically, food additive petitions submitted to FDA for the approval of irradiation for food processing uses relied on the former method, where the irradiated food was fed to laboratory animals. Because of the limitations of this method, scientists conducted a battery of animal feeding studies in an attempt to acquire sufficient core data about the safety of a variety of irradiated foods to permit a scientist to deduce the safety of additional irradiated foods without traditional feeding studies for each food. This approach yielded enough data to permit the agency in the 1960's to approve petitions for certain specified uses of ionizing radiation for: inspecting food, controlling insect infestation in wheat and wheat flour, and inhibiting sprouting in white potatoes (21 CFR 179.21, 179.22, and 179.24). Other petitions were submitted, but they could not be accepted because of poor experimental design and many unresolved questions.

It has now become clear that assessing the toxicity of each irradiated food is impractical and unworkable and that scientists should focus on the safety of the radiolytic products to evaluate the safety of irradiated food. Traditional animal feeding studies incorporate exaggerated amounts of test substances in the animal diet to provide a safety factor when applying the results to humans. Feeding animals enough test food to obtain a 100-fold safety factor is almost impossible because many foods constitute a substantial percentage of the human diet, and exaggerating the doses fed to laboratory test animals can severely disturb the nutritional balance of their diets.

Conversely, scientists have become more knowledgeable about the chemistry of irradiated foods, including the quantity, identity, and toxicity of the radiolytic products formed by chemical changes caused by the absorbed radiation.

In 1979 the Bureau of Foods established the BFIFC to review the existing policy for evaluating the safety of irradiated foods and to establish toxicologic testing requirements appropriate for assessing the safety of irradiated foods. Although the committee recognized that no single approach provides sufficient data to estimate the percentage of food consumption that might consist of irradiated food, it estimated that not more than 10 percent of the total diet may consist of irradiated food in the near future (Ref. 1). The BFIFC's report, submitted in July 1980, recognized that the extent of toxicological testing of irradiated food should be dependent on the level of human exposure to the food, and on amount and toxicity of new chemical constitutents in the food (unique radiolytic products (URP's)) generated by the irradiation process (Ref. 1).

Reviewing the available literature, the BFIFC determined what kinds of and how many radiolytic products were formed in food by irradiation. Next the BFIFC attempted to determine whether any of the radiolytic products differed from chemical compounds that are normally found in food. Calculations based on radiation chemistry indicate that irradiation in doses of 1 kGy (100 krad) or less yields a concentration of total radiolytic products in food so low that it is nearly impossible to detect using current techniques. According to the report, at doses of 1 kGy (100 krad) or lesa, the concentration of URP's will be on the order of 3 parts per million. Because more than 10 different URP's are likely to be formed, the concentration of any 1 URP will be less than 1 part per million. The report also pointed out that its estimates probably overstate the total number of URP's (Ref. 1).

Citing the low level of total URP's, the report concluded that food irradiated at doses not exceeding 1 kGy (100 krad) is safe for human consumption. This conclusion wa based on the small concentration of individual URP's produced by irradiating any type of food. Thus, the Committee's finding of safety applied even to a diet where a substantial proportion of the food was irradiated at 1 kGy (100 krad).

The Committee made a separate recommendation concerning foods that comprise only a small fraction of the human diet. A food such as a spice that comprises no more than 0.01 percent of the diet and is irradiated at doses up to 50 kGy (5 Mrad) will contribute fewer radiolytic products to the daily diet than a food representing a significant fraction of the diet and irradiated at 1 kGy (100 krad). Consequently, the report concluded that foods comprising no more than 0.01 percent of the daily diet and irradiated at 50 kGy (5 Mrad) or less could be safely irradiated without any specific toxicological testing (Ref. 1).

The BFIFC specified that its recommendation dealt only with single foods that are irradiated once. Any other use of irradiation, such as irradiating a processed food with a previously irradiated ingredient, must be evaluated separately (Ref. 1).

After reviewing the BFIFC report, FDA issued an ANPR. In that document (46 FR 18922; March 24, 1981) FDA gave notice that it was considering the following actions:

1. Proposal of a regulation on the Commissioner's initiative under section 409 and other provisions of the act permitting irradiation of any food at a dose not exceeding 100 krad. FDA is initially considering monitoring food irradiation at such a dose by a registration process. Alternatively, * * * requiring a limited petition that demonstrates the intended technical effect of the process but without the additional safety data that would ordinarily be required to support a food additive petition.

2. Publication of guidelines for the preparation of petitions seeking FDA approval for food irradiation at a dose exceeding 100 krad.

3. Adoption of a policy that a food class comprising only a minor portion of the daily diet and irradiated at a dose of 5 Mrad or less may be considered safe for human consumption based upon minimal biological testing.

FDA also explained in the ANPR that it would consider the report of the Joint FAO/IAEA/WHO Expert Committee on Wholesomeness of Irradiated Food (JECFI) in its evaluation. This international committee, sponsored by the Food and Agriculture Organization, International Atomic Energy Agency, and the World Health Organization, first met in 1976 to review and assess all data on the wholesomeness of irradiated foods and to identify specific uses of food irradiation where there were sufficient data to conclude that the process could be used safely. The JECFI's proceedings will influence any Codex Alimentarius standards that are developed for irradiated foods and sent to member States for approval.

The ANPR invited the public to comment on all aspects of the agency's proposed food irradiation policy, including: (1) the BFIFC report, (2) the safety of irradiated food, (3) the need for specific current good manufacturing practice (CGMP) regulations, (4) the

need for labeling irradiated foods, and the (5) environmental and (6) economic impact of the proposed regulations. Interested persons were given 90 days (until June 25, 1981) to comment on the proposal. The comment period for the ANPR was extended to July 27, 1981, in response to two requests for an extension (46 FR 35120).

Comments and Responses

By December 1981, the agency had received 74 submissions in response to the ANPR. (Since then, the agency has received additional similar comments from consumers.) Of these, 28 were from consumers (including one consumer organization); 12 were from academic or independent scientists; 11 were from companies outside of the food industry; 13 were from members of the food industry (including 6 trade organizations); 6 were from State or Federal government agencies; and 4 were from foreign scientists or international organizations. Comments ranged from a one sentence response opposing food irradiation, to detailed discussions of all aspects of the food irradiation policy.

Safety Induction of Radioactivity in Food

1. Many comments opposed the use of ionizing radiation on food because it would expose humans to radiation.

The agency disagrees with these comments. As the ANPR explained, "the question of induction of new radioactive species was resolved in the early 1960's; the accumulated evidence shows that the use of ionizing radiation of appropriate source energy levels does not induce any detectable radioactivity in foods when measured by methods that can easily detect the presence of radioisotopes that occur naturally in foods" (46 FR 18992). Food that is not made radioactive cannot expose consumers to radiation. It is true that, under certain circumstances, ionizing radiation emitted from an extremely high energy source can induce radioactivity in the nuclei of atoms absorbing the radiation. However, the quantum of ionizing radiation permitted in the proposed regulation will not induce in foods any radioactivity that can be detected, even by methods that detect the presence of radioactive isotopes that occur naturally in all foods. FDA believes that the sources of radiation that would be allowed under this proposal will not produce radioactivity in any food (Ref. 5).

Production of New Chemical Species (Radiolytic Products)

2. Some comments expressed concern that ionizing radiation would produce radiolytic products in food, and that these products might be toxic.

Ionizing radiation, like other forms of energy used to process food, causes chemical changes in food. The chemical reaction does not involve the atomic nuclei of the food and therefore does not cause any radioactivity, but the reaction may produce molecules that are chemically distinct from those found normally in food. The identity of radiolytic products and the mechanism of their formation have been actively studied in recent years (Ref. 6). The resultant advances in identification and quantification of the trace amounts of radiolytic species have significantly clarified the safety issues of food irradiation.

Scientists have not delineated the composition of all processed and unprocessed foods, nor have they determined the exact composition of irradiated foods at the parts per million level, but this missing information will not affect FDA's conclusions on the safety of food irradiation at the doses and for the uses that would be permitted by this proposal.

It is now known that the amount of radiolytic products depends on several variables; one of the most important factors is the energy absorbed by the food. The BFIFC report concoluded that irradiation of food at 1 kGy (100 krad) would produce approximately 30 parts per million of radiolytic products. However, not all of these radiolytic products are unique. In experiments, approximately 90 percent of the radiolytic products that were identified were known natural components of food (Ref. 7). The remaining 10 percent of radiolytic products were found to be chemically similar to known natural food components. Because the natural components of foods are not well characterized at the parts per million level, some radiolytic products assumed to be unique may well be natural components of foods. Yet, even if these 10 percent of the radiolytic products are unique, they would be present in food irradiated at 1 kGy (100 krad) only at the level of 3 parts per million, one-tenth of the concentration of 30 parts per million for all radiolytic products. Moreover, each individual radiolytic product would be present at a much lower concentration. Finally, the 3 parts per million figure assumes that food will be irradiated at 1 kGy (100 Krad). Actually, the average radiation dose absorbed by food will be less than the maximum permitted dose.

Based on these factors, the BFIFC report coincluded that foods irradiated at doses not exceeding 1 kGy (100 Krad) could be considered wholesome and safe.

FDA does not believe that a substance that is a natural component of food is necesarily nontoxic. FDA does believe, however, that the conclusions of the BFIFC report are valid because, at doses below 1 kGy (100 Krad), the difference between an irradiated food and a comparable nonirradiated food is so small as to make the foods indistinguishable with respect to safety. This conclusion that radiolytic products formed in foods irradiated at doese below 1 kGy (100 Krad) do not pose a safety problem was not challenged by any comments.

Irradiation of Spices

3. In the ANPR, FDA proposed a general maximum level of 1 kGy (100 Krad) for the irradiation of foods. In the case of a minor food class, such as a spice, FDA proposed that 50 kGy (5 Mrad) would be safe.

The basis for this different treatment of spices is that the quantity of radiolytic products produced by irradiation is directly related to the amount of water contained in a food. Most of the radiolytic products formed in food result from reactions of the hydroxide radical with other food compnents. Water is the primary source of hydroxide radicals in food. Thus, the less water in food, the fewer radiolytic products from irradiation. Because of this, spices, which contain little or no water, are well suited to irradiation processing; irradiation of spices would yield a far smaller quantity of radiolytic products than would irradiation of a comparable quantity of moist food.

Furthermore, the amount of spices consumed in a diet is small, for spices are primarily used as seasoning agents. This combination of relative stability and low total consumption means that irradiated spices will contribute only a trivial number of URP's to a person's diet. Thus, even if a spice is irradiated at the maximum practical dose, testing for the toxicity of URP's is not necessary. This conclusion also applies to dried onion and garlic seasonings.

As noted above, the agency initially proposed that 50 kGy (5 Mrad) of irradiation would be permitted for spices. However, under the act, FDA must set a limitation on the levels of use of additive substances so that the maximum levels are no higher than reasonably required to accomplish the

intended technical effect (21 U.S.C. 348(c)(4)(A)). Published reports indicate that doses of 15 to 25 kGy (1.5 to 2.5 Mrad) sterilize spices. Several researchers have found that even lower doses can achieve sterilization, the intended technical effect (Ref. 12).

Consideration for organoleptic qualities of spices may result in an acceptable average dose of about 20 kGy. However, the dose variation that a given bag, barrel, or pallet of spice receives depends not only upon its container size, but also on the physical configuration of the irradiation facility and the radiation source. For example, in a typical use application one portion of the container may receive three times as much radiation as the portion receiving the smallest dose. If the average dose were 20 kGy, the dose received by a given part of the barrel of spice could be a minimum of 10 kGy for spices in one part of the barrel to a maximum of 30 kGy for spices in another part of the barrel. FDA's concern is for the maximum dose and the agency cannot be sure that the 25 kGy reported is a true maximum. At present, there is insufficient experience with spice irradiation at these doses to provide a rigorous basis for setting the maximum dose in a precise manner. Thus, FDA is now proposing to set an upper limit of 30 kGy (3 Mrad) to provide a slight additional margin. The agency invites comments on this proposed limitation, as well as on the list of spices that it considers appropriate for irradiation.

Destruction of Sensitive Nutrients

4. Some comments expressed concern that nutrients might be destroyed by irradiating food.

Processing food always causes chemical modifications that will affect some natural food constituents. For this reason, the agency shares the comment's concern and will consider that factor in evaluating the safety of irradiation at levels that may diminish the nutrient content of food.

Destruction of nutrients, however, is not a concern in this rulemaking. The available data demonstrate that food irradiated up to 1 kGy (100 krad) will have the same nutritional value as comparable food that has not been irradiated (Ref. 8). Although FDA is proposing to permit irradiation of species at doses up to 30 kGy (3 Mrad) for microbial decontamination, spices are not important sources of nutrients in the diet.

Selective Destruction of Microorganisms

5. Several comments questioned whether irradiation of a food at doses below those required for sterilization might alter the composition of vegetative microorganisms and thus might change the pattern of microbial spoilage. In particular, one comment expressed concern that *C. botulinum* spores could survive relatively high doses of irradiation that would destroy the competing microorganisms that normally serve as indicators of spoilage and possible contamination. Under such conditions, the comment argued, botulinum toxin could develop before the consumer is alerted by the typical spoilage indicators.

Sharing this concern, the agency agrees that food irradiation should not be premitted under conditions where *C. botulinum* growth and toxin production could occur without product spoilage being observed (See Ref. 9). That problem, however, need not be addressed in this proposal. Doses below 1 kGy (100 krad) are too low to kill all spoilage bacteria, so consumers will be aware of spoilage. Nor does the higher dose for dried spices present a problem, because those foods do not provide a growth medium for botulinum spores.

6. One comment urged FDA to proceed cautionsly regarding spice irradiation, because of concern about an FDA study demonstrating an increase in aflatoxin production of mold strains of *A. flavis* and *A. parasiticus* in irradiated aqueous spore suspensions.

Studies conducted by the agency on these molds did show that irradiation to 5 kGy (500 krad) of mold spores of *A. flavis* in suspension may increase mycotoxin production (Ref. 10). This is at odds with the findings of independent investigators, whose studies of *A. flavis* showed no increase, or showed a decrease, in toxin production (Ref. 11). Further, in the FDA study, mold spores were irradiated in aqueous suspension, then inoculated into grain. Under the conditions premitted by this regulation, the grain with any mold that happened to be present would be irradiated after harvest. Thus, the study does not replicate actual use conditions, and FDA does not believe that its results compel a modification of this proposal.

Uses Above 1 kGy (100 krad)

7. The agency stated in the ANPR that it was considering proposing a regulation that would permit the irradiation of food at doses not exceeding 1 kGy (100 krad). Thirty-two comments requested that the allowable dose level for foods other than spices be increased. Many of these comments cited the recommendation of the JECFI (Ref. 4), discussed above.

FDA is aware that at an October 27–November 3, 1980 meeting, JECFI recommended to the Codex Alimentarius (Codex) Commission that foods irradiated at doses up to 10 kGy (1 Mrad) be considered safe without further testing. The Codex Commission, an international organization established to implement the Joint FAO/WHO Food Standards Program, has reviewed the JECFI recommendation. The Codex Commission will recommend that member nations, including the United States, adopt the standard under the food laws of each member nation.

The agency is currently reviewing a number of studies to determine whether foods that are irradiated at doses above 1 kGy (100 krad) can be considered safe without additional toxicological studies for each food substance. FDA is considering the JECFI recommendations in the course of that review. The agency has determined that this separate review should not delay approval of those uses of food irradiation that it now considers safe. Therefore, FDA is deferring the question of higher dose irradiation until completing that review. FDA is limiting this proposed regulation to the uses and doses of irradiation for which the agency is confident no further toxicological studies or other research are necessary to establish safety. If the data demonstrate that higher doses of irradiation are also safe, FDA will then issue a second proposal. As discussed elsewhere in this proposal, FDA is also approving the irradiation of species at 30 kGy (3 Mrad) because the irradiation of dry foods like spices produces very small amounts of URP's and because spices constitute a trivial amount of an individual's diet.

Minor Food Class

8. The BFIFC report recommended that a "food class" comprising 0.01 percent or less of the daily diet be considered safe for irradiation at doses up to 50 kGy (5 Mrad). Some comments pointed out that no food class comprises less than 0.01 percent of the diet. Other comments misinterpreted this recommendation as suggesting a proportional relationship between a safe dose (up to 5 Mrad) and a dietary fraction for all food classes. The agency is clarifying this recommendation.

The BFIFC used the term "food classes" to apply to the major radiolytic products formed by irradiation. Although spices are often considered collectively as a food class, the BFIFC did not use the term "food class" to refer

to all spices. Rather, the BFIFC used the term "food class" to refer to each individual spice. Recognizing this confusion, the agency is not using the term "food class" in the proposed regulation, but is instead listing the specific substances which it believes may safely be irradiated by 30 kGy (3 Mrad).

Conclusion

9. In summary, the agency believes that the safety of food irradiation below 1 kGy (100 krad) has been established, and that the concerns expressed by the comments do not alter this conclusion because: (1) irradiation will not make the food radioactive, and thus cannot expose the consumer to radiation; (2) the chemical differences between irradiated foods processed at these doses and nonirradiated foods are too small to affect the safety of the foods; (3) food irradiated up to 1 kGy (100 krad) will have the same nutritional value as similar foods that have not been irradiated; and (4) the balance between microbial spoilage organisms and pathogenic organisms is not adversely affected by doses below 1 kGy (100 krad). Thus, the agency is proposing regulations for this use. In addition, the agency believes that irradiation of spicies is safe at higher doses (30 kGy) and should be permitted. The agency also considers irradiation of dried onion and garlic seasonings to be safe for the same reasons as those explained above for spices.

Labeling

The ANPR requested comment on whether irradiated foods need special labeling, other than that required for all foods under 21 CFR Part 101, and what labeling, if any, would be most appropriate. Existing regulations for the use of irradiation in food processing require that retail packages of irradiated foods bear the statement "treated with ionizing (or 'gamma', or 'electron') radiation" (21 CFR 179.22(c) and 179.24(d)).

10. Many commentors, questioning the safety of irradiated foods, urged FDA to require special labeling on them. Some of these comments reflected substantial confusion and misinformation about food irradiation. For example, many consumer comments argued that labeling of irradiated food was necessary to permit consumers to avoid exposure to radiation. Industry comments, on the other hand, contended that no "warning" or other special labeling was necessary because irradiation of foods at the levels proposed in the ANPR is safe.

The agency now believes that there is no need for a special label on irradiated foods because this proposal would limit the conditions of use of irradiation to those that have already been shown to be safe. Furthermore, as discussed above (comment 1), there is general agreement among knowledgeable scientists that irradiation under the conditions permitted by this proposal cannot result in radioactive food.

In reaching its conclusion, FDA has carefully considered the recommendations of a report entitled "Marketing and Consumer Acceptance of Irradiated Foods" which was issued by the International Atomic Energy Agency (IAEA) in July 1983. This document was presented to the Joint FAO/IAEA Consolidated Meeting on Marketing, Market Testing and Consumer Acceptance of Irradiated Foods held in Vienna in September 1982. The report cites the scientific evidence on the safety of irradiated food and recommends that a labeling statement should not be required.

11. Several comments stated that although food irradiation is regulated under the food additive provisions of the act, irradiation is actually a process and should be regulated as such rather than as ordinary food additives that are used as ingredients in food.

The agency agrees that with respect to ingredient labeling, food irradiation need not be regulated the same as food additives that are used as ingredients in food, and therefore need not be identified on the label as an "ingredient."

12. These comments further contended that because food irradiation is a process, irradiated foods need not be labeled to identify the process.

There is no statutory provision that exempts processes from being declared on a food label. A declaration of the type of processing used is required on some foods; e.g., pasteurized milk and homogenized milk. The issue is whether the label of a food would mislead consumers if processing information were not set forth on the label. Material information may not be omitted simply because it concerns the type of processing to which a food is subjected if the effect is to mislead. The agency has concluded that information about radiation processing is not material in this sense and therefore need not be provided on the label of retail foods.

13. A number of industry comments contended that a special label declaration about irradiation is unwarranted because irradiation does not change the food.

The agency cannot agree totally with these comments. There is information that indicates that irradiation causes some alteration of the characteristics of some foods in ways that could be important to consumers. Any changes in food caused by the irradiation allowed under the proposed regulations are not of concern for safety reasons, but there might be changes in organoleptic properties (taste, color, smell, texture) that could make the processed food more or less desirable to individual consumers.

The available information about changes in foods that could be irradiated under this proposed regulation is limited, and FDA is not persuaded that special labeling is necessary. Moreover, processors will have a strong incentive to insure that changes in organoleptic properties are kept to an absolute minimum because the consumer, upon purchase, could easily determine inferior quality and would shun the product in the future.

In developing this proposal, FDA considered the entire labeling issue in some detail, both as to whether special labeling should be required, and if so, what kind of labeling would be appropriate. The FDA will continue to review new information in this area and requests further comments on the appropriateness and usefulness of specific labeling approaches as well as on the general labeling issue.

FDA is interested in receiving comments discussing: (1) whether FDA should require any type of label statement on food that has been treated by irradiation; (2) if so, whether the statement should be required only on every food that has been irradiated (first generation food) or also on finished food with respect to each irradiated ingredient (second generation food); (3) if a label statement is required, whether its phrasing should be the same as that in existing regulations ("treated with ionizing radiation") or whether some other phrasing would be more appropriate (e.g., "processed with ionizing energy"); and (4) whether consumers would be more misled by the presence of some type of label statement or by the absence of such a statement. As the latter question suggests, the issue of whether to require labeling on irradiated food is a difficult one because, as is discussed above, irradiation may alter foods in ways that would be important to individual consumers. On the other hand, any required label statement may be confusing to individual consumers who lack the background information needed to understand the brief information

provided (e.g., "treated with ionizing radiation," "processed with ionizing energy," or other statements that might be devised could raise unfounded concerns that the food was radioactive or otherwise hazardous). Because of these countervailing considerations, FDA has not proposed any labeling requirements but is inviting comments on the issue.

14. Some comments expressed concerns that consumers might mistakenly confuse "irradiation" of foods with "radioactivity" and that any kind of labeling that used the term "irradiation" or "irradiated" might deter consumers from buying a safe and wholesome food product. In that event, a few comments argued, the development of the irradiation industry might be hampered.

FDA agrees with the view that some consumers might erroneously associate the food irradiation process and the words "ionizing radiation" with the idea of radioactivity as pointed out in the study entitled "Marketing and Consumer Acceptance of Irradiated Foods" (see comment 10). Therefore, as the study points out, any label statement containing the word "radiation" may be confusing to consumer because it could convey an erroneous impression. At the level established in this proposal, irradiation does not present a safety or health risk.

Current Good Manufacturing Practice (CGMP)

16. In the ANPR the agency asked for comments on whether specific CGMP regulations, other than the existing umbrella CGMP regulations which apply to all foods that enter interstate commerce, are necessary for irradiated foods (21 CFR Part 110). The "umbrella" CGMP regulations set out criteria for determining whether the facilities, methods, practices, and controls used in the manufacturing, processing, packaging, or holding of food conform to current good manufacturing practice to ensure that the food is safe and prepared and held under sanitary conditions.

Two comments stated that 21 CFR Part 110 is adequate to ensure compliance with current good manufacturing practice, so that specific CGMP regulations for irradiated foods are unnecessary.

The agency disagrees with this assessment. Although all food processors, including those that irradiate food, must comply with the "umbrella" CGMP regulations contained in Part 110 that require establishment of certain standard procedures, such as segregating the incoming products from outgoing processed products, the agency believes that food irradiation poses a number of novel processing problems. Accordingly, FDA is including in the proposed general regulations governing irradiated foods certain specific CGMP requirements to which any firm that treats food with ionizing radiation would be required to conform. The proposed regulation would require that the processor have a scheduled process established by a qualified person with expert knowledge of radiation processing. The scheduled process would specify a dose range that will ensure that the absorbed dose will, under actual conditions, achieve its intended technical effect on the product being irradiated. The agency also believes that the labeling statement that would be required on nonretail containers and on the invoice or bill of lading that is used for shipment or delivery of bulk foods will ensure appropriate compliance with current good manufacturing practice because the label will alert food processors or packers receiving foods in bulk containers that the food has been irradiated, and that it should not be reirradiated. The agency proposes that the labeling of such food and the accompanying invoices or bills of lading bear the statement "treated with ionizing radiation—do not irradiate again." This statement would alert recipients of the containers that the food had already been processed by radiation and should not be irradiated again.

Section 409(c)(1)(A) of the act directs the Secretary to prescribe all the conditions under which an additive may be safely used, including "any labeling * * * requirements * * * to assure the safety of such use" (21 U.S.C. 348(c)(1)(A)). The agency believes that this additional labeling is necessary on nonretail packages to prevent food from being irradiated a second time. A second irradiation could exceed the maximum permitted cumulative does, and food properly stored after irradiation should not need further irradiation. The agency invites comments and suggestions for altermative labeling. Any suggested labeling must ensure that food processors can comply with dose limitations and that they receive adequate notice that the food has already been irradiated.

17. Some comments suggested that radiation processors should be monitored to ensure that the processors are treating food to the proper level of radiation energy. The agency initially considered monitoring food irradiation processors either through a registration process, or by requiring processors to submit a petition that contains data demonstrating the intended technical effect under specific conditions of use.

FDA is now satisfied that neither a registration nor a petition process is necessary. The available evidence demonstrates that the radiation doses permitted under the proposed regulations are both safe and effective. Under these circumstances FDA cannot agree that monitoring through a registration or a petition process would be an appropriate use of agency resources. However, the agency will inspect the pertinent records maintained by the processors on the irradiated foods.

18. Some comments said that radiation processing records should be open for FDA inspection.

FDA agrees with the comment, and believes that such a provision is the only practical way to ensure that processors comply with the regulations being proposed. Under the act a petition to establish the safety of a food additive must include methods for determining the amount of the additive in foods (section 409(b)(2)(D) of the act (21 U.S.C. 348(b)(2)(D))). A food additive petition for which tolerance limits have been established will not be approved unless methods for determining compliance with those limits are submitted. Ordinarily, a food additive is a chemical, and the analytical method submitted with the petition will describe a procedure that will enable the agency to determine the concentration of the chemical. However, no practicable methods exist for determining the dose of irradiation to which a food has been exposed. For this reason, FDA believes that it needs access to records to ascertain compliance with the irradiation regulations. Based on sections 409, 703, and 704 of the act (21 U.S.C. 348, 373, and 374), these record inspection requirements provide an adequate alternative to the traditional analytical methods, which are not available for determining doses of irradiation. Thus, if a food manufacturer chooses to engage in radiation processing of food, FDA will consider that processor to have waived any objections to the agency's inspections of pertinent records limited to irradiated foods only. These records will include the food treated, the lot number, the scheduled process, information relating to compliance with the scheduled process, distribution of the irradiated food product, and date of irradiation.

FDA does not believe that this recordkeeping requirement will impose any additional burden on manufacturers

or processors, for these records are kept in the ordinary course of business. In addition, the agency is aware of the Occupational Safety and Health Administration's (OSHA) requirements for worker safety from ionizing radiation sources (29 CFR 1910.96). Furthermore, radiation plants using a radioactive source must conform to the Nuclear Regulatory Commission's (NRC) regulations concerning worker safety, including personnel dose monitoring devices, radiation protection programs, personnel qualifications and training, and licensing of byproduct material irradiators (10 CFR Parts 20 and 30). Finally, manufacturers of machine sources of radiation must already comply with the reporting requirements of FDA's National Center for Devices and Radiological Health (21 CFR Part 1002). The agency is proposing that such records that are currently kept by food manufacturers and radiation processors be maintained and available for FDA inspection for the expected shelf life of the irradiated food product plus 1 year and invites comments on this proposed requirement.

19. A few comments suggested that FDA require minimum levels of training for food processing employees with respect to radiation health physics, dosimetry, worker safety, and proper recordkeeping as these areas relate to radiation processing.

These suggestions are similar to the recommendations recently issued by the Codex Commission, "Recommended International General Standards for Irradiated Foods" and a "Recommended International Code of Practice for the Operation of Radiation Facilities for the Treatment of Foods". (CAS/RC 106–1979, CAC/RCP 19–1979, Reference 4(c).) These documents include sections on radiation plants, dosimetry, producer handling, and recordkeeping.

The agency considers the Codex Standards and the Code of Practice to be useful guides for food irradiation processors, but is not including them in this regulation.

The agency is proposing to limit the source energy to 5 Mev for an X-ray generator and to 10 Mev for an electron generator. A current regulation limits the source energy for an electron accelerator to 5 Mev (21 CFR 179.24(a)). The 10 Mev limit would allow the use of electron beams with greater penetrating power but would keep the source energy low enough to prevent any induction of radioactivity. The agency believes that a limit of 10 Mev for an electron accelerator would provide greater flexibility to processors and a safe product to consumers. Both of these limits—5 Mev for X-rays and 10 Mev for electron accelerators—are consistent with JECFI recommendations.

Standardized Foods

20. The agency would like to make it clear that these proposed regulations would also apply to ingredients used in standardized foods. Irradiated foods could be used in a food for which a standard of identity has been established under section 401 of the act, providing that the standard of identity does not preclude such use, and that the labeling, invoices, or bills of lading of the food comply with any relevant requirement in this proposal.

Conclusion and Proposed Action

These proposed regulations are designed to ensure (1) that foods that are irradiated are safe, (2) that foods are irradiated only at the dose reasonably required, and under the conditions that would accomplish the intended technical effect, and (3) that current good manufacturing practice will be followed. These proposed regulations would govern the use of food irradiation below 1 kGy (100 krad) for inhibiting the growth and maturation of fresh fruits and vegetables, and for disinfesting all food of insects. Doses below 1 kGy (100 krad) have been shown to effectively inhibit or delay the growth of fresh produce, and to control insects in infested food. The agency will consider other uses below 1 kGy (100 krad) if a comment or petition presents evidence that a specific technical effect can be accomplished below 100 krad and that an appropriate food additive regulation can be promulgated and can be enforced through records inspection.

The agency is also proposing to permit the irradiation of dry spices at levels up to 30 kGy (3 Mrad) to control microbial contamination. As indicated earlier, the unique nature of individual spices and their relatively low consumption leads the agency to conclude that this higher dose poses no safety risk. The agency has no data indicating that doses over 30 kGy (3 Mrad) would be needed to eliminate microbial contamination, and invites comments on that point.

The agency believes that all food irradiation processors should be required to develop a scheduled irradiation process for each food, emphasizing processing atmosphere, temperature, and the dose range of a particular radiation source. Such a schedule will ensure consistency of the irradiation process and the food that is so treated. The agency is also proposing that food irradiation processors be required to retain those records and data on the irradiation process that will substantiate compliance with the CGMP provision of this proposal and that the food irradiation processors make those records available for inspection up to 1 year beyond the expected shelf life of the product. In addition, the agency emphasizes that food irradiation processors are required to comply with the "umbrella" CGMP.

No retail labeling requirement is being proposed because any changes in food are of no safety concern at the proposed doses and because the agency is not persuaded that special labeling is necessary. The agency requests further comments on the labeling issue. Adoption of the proposed regulation would delete the existing labeling requirement for retail packages of irradiated food in the current regulations (sections 179.22 and 179.24).

Adoption of the proposed regulations would make the existing regulations for reduction or control of microbial contamination in specific spices and vegetable seasonings, sprout inhibition and insect disinfestation (§§ 179.22 and 179.24) redundant. Thus, this proposal would delete these regulations. The proposal would also allow a source energy of 5 million electron volts (5 Mev) for an x-ray machine and a source energy of 10 Mev for an electron accelerator, instead of 5 Mev as in the current regulation (§ 179.24).

The agency is not yet prepared to propose regulations establishing safe conditions of use for the irradiation of food other than spices at doses above 1 kGy (100 krad). Nor are there enough data to permit the use of irradiation under conditions where spoilage microorganisms may be destroyed but where spore-forming organisms, such as *C. botulinum*, can grow and produce toxins. Further action with respect to this use of irradiation awaits completion of the review of available mutagenicity and animal feeding studies and the development of an appropriate regulatory policy where *C. botulinum* may be a problem.

Request for Comments

FDA invites public comment on all aspects of the agency's proposed regulation.

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The following sources referred to in this document are listed below. Documents with an asterisk (*) have been placed on display in the Dockets Management Branch (HFA–305), address above, and may be seen from 9 a.m. to 4 p.m., Monday through Friday. All of these references are available as published articles and books.

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12. *Gottschalk, H. M., "A Review on Spices," *Food Irradiation Information*, 7:7, April 1977.

Impact Analyses

The ANPR requested comments on all aspects of food irradiation, including environmental data. The agency received nine submissions on the environmental impact of food irradiation. Four comments stated that they were not aware of any effect on the environment, or that there may be only a negligence effect. Four comments said that the irradiation of food would have a positive impact because it would provide an alternative process to more harmful conventional food sanitation processes, such as fumigation. Irradiation would control and reduce a number of food-borne diseases, and would reduce the amount of food spoilage and decrease the amount of food discarded. Some comments suggested that food irradiation might have a positive impact by saving energy. Other comments indicated that regulations are needed to protect workers and others from exposure due to unshielded radiation or to radioactive leaks.

The agency notes that OSHA regulates worker safety from all ionizing radiation sources. Facilities using a radionuclide must be licensed under the regulations of the NRC or an agreement State (a State that licenses and inspects its own facilities). The NRC has jurisdiction over the safe production, storage, use, transport, and disposal of radioactive material. The Department of Transportation (DOT) also has carrier requirements for the transport of hazardous materials. Facilities using machine-generated sources of radiation are under FDA's jurisdiction and the agency issues performance standards under the authority of the Radiation Control for Health and Safety Act of 1968 to ensure worker safety. As discussed earlier in this document, the consumer will not be exposed to additional radiation by the application of these sources for food irradiation. Thus, the agency believes that existing safeguards in the OSHA, NRC, DOT, and FDA regulations are adequate to ensure that there will be no adverse environmental impact.

The BFIFC report discussed the probable amount of radiolytic products formed during processing. Most of these products are normally found in food and are of no environmental concern. To the extent that irradiation replaces fumigation by toxic chemicals (ethylene oxide, ethylene dibromide, and their byproducts (ethylene chlorohydrin, ethylene bromohydrin)), it would reduce the amount of toxic residues entering the environment from fumigation. Additionally, no evidence exists that exposure to radiation will result in mutant pathogens.

The agency has considered the potential environmental impact of the proposed action and the environmental assessment discussing the issues above, and has concluded that the proposed action will not have a significant impact on the human environment and that an environmental impact statement is not required. The agency's finding of no significant impact and environmental assessment may be seen in the Dockets Management Branch (address above).

between 9 a.m. and 4 p.m., Monday through Friday.

Comments regarding economic impact state that issuance of these regulations would benefit the consumer and all sectors of the food industry including small businesses. The consumer may also benefit from the availability of a greater variety of food items at reduced cost because of a reduction in food spoilage and a resultant increase in productivity.

This proposed action is governed by the rulemaking procedures for food additives (section 409 of the act (21 U.S.C. 348)). These procedures involve a hearing and are thus exempt from Executive Order 12291, but the agency has prepared a threshold assessment to analyze the possible economic effects of this proposal. This assessment demonstrates that the rule is not a major rule as defined by the Order. Furthermore, the economic impact of these regulations would be to increase opportunity for competition. These regulations impose no additional requirements, but permit new activities. FDA, in accordance with the Regulatory Flexibility Act, has considered the effect that this proposal would have on small entities, including small businesses, and certifies in accordance with section 605(b) of the Regulatory Flexibility Act that no significant economic impact on a substantial number of small entities will result from this action, because there is no food irradiation business, either large or small, to feel the impact of this regulation. In addition, the regulation is permissive in nature, but not in ways that erect barriers to small entities that large entities can easily surmount. A copy of the threshold assessment supporting these determinations is on file with the Dockets Management Branch (address above).

Section 179.25(d) (21 CFR 179.25(d)) of this proposed rule contains a collection of information requirement. FDA has submitted a copy of this proposed rule to the Office of Management and Budget (OMB) for its review of this collection of information requirement under section 3504(h) of the Paperwork Reduction Act of 1980 as interpreted by OMB in 5 CFR Part 1320 (See 48 FR 1366; March 31, 1983). Other organizations and individuals desiring to submit coments on the collection of information requirements should direct them th FDA's Dockets Management Branch (address above) and to the Office of Information and Regulatory Affairs, OMB, Rm. 3208, New Executive Office Bldg., Washington, DC 20503, Attn: Richard Eisinger.

List of Subjects in 21 CFR Part 179

Food additives, Food packaging, Irradiation of foods.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 402, 403, 409, 703, and 704, 52 Stat. 1046–1048 as amended, 1057, 67 Stat. 477 as amended, 72 Stat. 1784–1788 as amended 21 U.S.C. 321, 342, 343, 348, 373, 374)) and under 21 CFR 5.11, it is proposed that Part 179 be amended as follows:

PART 179—IRRADIATION IN THE PRODUCTION, PROCESSING, AND HANDLING OF FOOD

§§ 179.22 and 179.24 [Removed]

1. By removing § 179.22 *Gamma radiation for the treatment of food* and § 179.24 *Low-dose electron beam radiation for the treatment of food.*

2. By adding new § 179.25, to read as follows:

§ 179.25 General provisions for food irradiation.

For the purpose of § 179.26, current good manufacturing practice shall be defined to include the following restrictions.

(a) Any firm that treats food with ionizing radiation shall comply with the requirements of Part 110 of this chapter and other applicable regulations.

(b) Food treated with ionizing radiation shall receive the minimal radiation dose reasonably required to accomplish its intended technical effect and not more than the maximum dose specified by the applicable regulation for that use.

(c) Radiation treatment of food shall conform to a scheduled process. A scheduled process for food irradiation is a written procedure that ensures that the radiation dose range selected by the food irradiation processor is adequate under commercial processing conditions (including atmosphere and temperature) for the radiation to achieve its intended effect on a specific product and in a specific facility. A food irradiation processor shall use for each food a scheduled process established by qualified persons having expert knowledge in radiation processing requirements of food and specific for that food irradiation processor's radiation treatment facility.

(d) A food irradiation processor shall maintain records as specified in this section for a period of time that exceeds the shelf life of the irradiated food product by 1 year and shall make these records available for inspection by authorized employees of the Food and Drug Administration. Such records shall include the food treated, lot identification, scheduled process, compliance with the scheduled process, ionizing energy source, source calibration, dosimetry, dose distribution, and the date of irradiation.

3. By adding new § 179.26, to read as follows:

§ 179.26 Ionizing radiation for the treatment of food.

Ionizing radiation for treatment of foods may be safely used under the following conditions:

(a) *Energy sources.* Ionizing radiation is limited to:

(1) Gamma rays from sealed units of the radionuclides cobalt-60 or cesium-137.

(2) Electrons generated from machine sources at energy levels not to exceed 10 million electron volts.

(3) X-rays generated from machine sources operated at energy levels not to exceed 5 million electron volts.

(b) Limitations.

Use	Limitations
For growth and maturation inhibition of fresh fruits and vegetables.	Not to exceed 1 kGy (100 krad).
For insect disinfestation of food	Do.
For microbial disinfection of the following dried spices and dried vegetable seasonings:	
Allspice; anise; basil; bay leaves; caraway seed; cardamon; celery seed; chervil; cinnamon; cloves; coriander; cumin seed; dill seed; fennel seed; fenugreek; garlic; ginger; horseradish; mace; marjoram; mustard seed; mustard flour; onion; nutmeg; oregano; paprika; parsley, pepper, black; pepper, white; pepper, red; rosemary; saffron; sage; savory; star aniseed; tarragon; thyme; turmeric.	Not to exceed 30 kGy (3 Mrad)

(c) *Labeling.* For a food, any portion of which is irradiated in conformace with paragraph (b) of this section, and which is shipped to a foood manufacturer or processor for further processing, labeling, or packing, the label and labeling and invoices or bills of lading shall bear the statement, "Treated with ionizing radiation—do not irradiate again."

Interested persons may, on or before April 16, 1984, submit to the Dockets Management Branch (address above) written comments regarding this proposal. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be indentified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: February 10, 1984.

Mark Novitch,

Acting Commissioner of Food and Drugs.

Margaret M. Heckler,

Secretary of Health and Human Services.

[FR Doc. 84-4150 Filed 2-13-84; 8:32 am]

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Rules and Regulations

Federal Register
Vol. 49, No. 32
Wednesday, February 15, 1984

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 81

[Docket No. 84-014]

Lethal Avian Influenza

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule.

SUMMARY: This document amends the "Lethal Avian Influenza" interim rule by expanding the quarantined area in Pennsylvania. In particular, this document adds to the quarantined area in Pennsylvania portions of Berks, Dauphin, Lebanon, and Schuylkill Counties (with this change all of Lebanon County is included within the quarantined area). The effect of this action is to regulate the interstate movement of live poultry and certain other items from the area added to the quarantined area. This action is necessary to help prevent the interstate spread of lethal avian influenza, a highly contagious and pathogenic viral disease of poultry.

DATES: Effective date is February 10, 1984. Written comments must be received on or before April 16, 1984.

ADDRESS: Written comments should be submitted to Thomas O. Gessel, Director, Regulatory Coordination Staff, APHIS, USDA, Room 728, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782. Written comments received may be inspected at Room 728 of the Federal Building, 8 a.m. to 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Dr. William W. Buisch, Chief, National Emergency Field Operations Staff, VS, APHIS, USDA, Room 747, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301-436-8073.

SUPPLEMENTARY INFORMATION:

Emergency Action

Dr. John K. Atwell, Deputy Administrator of the Animal and Plant Health Inspection Service for Veterinary Services, has determined that an emergency situation exists which warrants publication of this interim rule without prior opportunity for public comment. In order to help prevent the spread of lethal avian influenza, immediate action is warranted to regulate the movement of live poultry and certain other items.

Further, pursuant to the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that prior notice and other public procedures with respect to this interim rule are impracticable and contrary to the public interest; and good cause is found for making this interim rule effective upon signature. Comments are solicited for 60 days after publication of this document. A final document discussing comments received and any amendments required will be published in the **Federal Register.**

Background

The "Lethal Avian Influenza" interim rule in 9 CFR Part 81, among other things, contains a quarantine and regulations for the purpose of regulating the interstate movement of live poultry and certain other items from quarantined areas in Maryland, New Jersey, Pennsylvania, and Virginia because of lethal avian influenza. The interim rule is set forth in 9 CFR Part 81 (48 FR 51422-51423, 51798, 52420-52427, 52885-52887, 53586, 53678-53679, 53679-53681, 53997, 54574-54575, 55402-55405, 55722; 57474-57475, 49 FR 368-369, 2742-2744, 3494, 3839-3845). This document expands the quarantined area in Pennsylvania.

Lethal Avian Influenza

Lethal avian influenza is defined as a disease of poultry caused by any form of H5 influenza virus that is determined by the Deputy Administrator to have spread from the 1983 outbreak in poultry in Pennsylvania. Clinical evidence of the disease includes decreased feed and water consumption, depression, unusual movements or positions, increased mortality, hemorrhage beneath the skin on the lower legs and feet, severe decrease in egg production, post mortem lesions, and history of the disease occurrence in the flock.

Expansion of Quarantined Area in Pennsylvania

Prior to the effective date of this document, the quarantined area in Pennsylvania included all of Adams, Lancaster and York Counties, and portions of Berks, Chester, Cumberland, Dauphin, Franklin, Lebanon, and York Counties.

It has been determined, based on clinical evidence that lethal avian influenza has spread within Pennsylvania to an area in Lebanon County outside of the previously quarantined area.

The Department has determined that it is necessary that a quarantined area have easily understood boundary lines, include the premises where lethal avian influenza is found, and include at least a five mile buffer zone in every direction from premises where the disease is found. Also, if the boundary line under the above criteria would be contiguous to areas containing high concentrations of poultry, it has been determined that it is necessary that the quarantined area include the contiguous areas containing high concentrations of poultry. Further, if the boundary line under the above criteria would encompass and be contiguous to large areas in which there is no poultry production, it has been determined that the quarantined area should be adjusted to exclude any such areas.

Under the circumstances and criteria explained above, it is necessary in order to prevent the spread of lethal avian influenza to expand the quarantined area in Pennsylvania to quarantine portions of Berks, Dauphin, Lebanon, and Schuylkill Counties (with this change all of Lebanon County is included within the quarantined area). Accordingly, the quarantined area in Pennsylvania is redescribed as follows:

The following area in Adams, Berks, Chester, Cumberland, Dauphin, Franklin, Lancaster, Lebanon, Schuylkill, and York Counties of Pennsylvania is designated as a quarantined area: That portion of Pennsylvania beginning at the intersection of Interstate Highway 81 with the Pennsylvania-Maryland State Line; then northeasterly along Interstate Highway 81 to its intersection with the Susquehanna River;

then northeasterly along the Susquehanna River to its intersection with PA Highway 325; then northeasterly along PA Highway 325 to its intersection with U.S. Highway 209; then northeasterly along U.S. Highway 209 to its intersection with PA Highway 61; then southeasterly along PA Highway 61 to its intersection with Interstate Highway 78; then northeasterly along Interstate Highway 78 to its intersection with the Berks-Lehigh County Line; then southeasterly along the Berks-Lehigh County Line to its intersection with the Berks-Montgomery County Line; then southwesterly along the Berks-Montgomery County Line to its intersection with U.S. Highway 422; then southeasterly along U.S. Highway 422 to its intersection with PA Highway 100; then southerly along PA Highway 100 to its intersection with the Pennsylvania-Delaware State Line; then southwesterly along the Pennsylvania-Delaware State Line to its intersection with the Pennsylvania-Maryland State Line; then westerly along the Pennsylvania-Maryland State Line to its intersection with Interstate Highway 81.

Effect of Designation as a Quarantined Area

With certain exceptions, the interim rule provides that the following articles designated as prohibited articles are prohibited from being moved interstate from a quarantined area:

(1) Live poultry,

(2) Manure from poultry, and

(3) Litter that has been used by poultry.

The interim rule also provides that the following articles designated as restricted articles are allowed to be moved interstate from a quarantined area only in accordance with certain conditions:

(1) Poultry carcasses or parts thereof,

(2) Eggs from poultry, and

(3) Coops, containers, troughs or other accessories that have been used in the handling of poultry or poultry eggs.

Executive Order and Regulatory Flexibility Act

The emergency nature of this action makes it impracticable for the Agency to follow the procedures of Executive Order 12291 and Secretary's Memorandum 1512–1 with respect to this interim rule. In order to help prevent the spread of lethal avian influenza, immediate action is warranted to regulate the movement of live poultry and certain other items.

This emergency situation also makes compliance with section 603 and timely compliance with section 604 of the Regulatory Flexibility Act impracticable. Since this action may have a significant economic impact on a substantial number of small entities, the Final Regulatory Impact Analysis, if required, will address the issues required in section 604 of the Regulatory Flexibility Act.

List of Subjects in 9 CFR Part 81

Animal diseases, Poultry and poultry products, Transportation.

PART 81—LETHAL AVIAN INFLUENZA

Under the circumstances referred to above, paragraph (c) of 9 CFR 81.4 is revised to read as follows:

§ 81.4 Quarantined areas.

* * * * *

(c) The following area in Adams, Berks, Chester, Cumberland, Dauphin, Franklin, Lancaster, Lebanon, Schuylkill, and York Counties of Pennsylvania is designated as a quarantined area: That portion of Pennsylvania beginning at the intersection of Interstate Highway 81 with the Pennsylvania-Maryland State Line; then northeasterly along Interstate Highway 81 to its intersection with the Susquehanna River; then northeasterly along the Susquehanna River to its intersection with PA Highway 325; then northeasterly along PA Highway 325 to its intersection with U.S. Highway 209; then northeasterly along U.S. Highway 209 to its intersection with PA Highway 61; then southeasterly along PA Highway 61 to its intersection with Interstate Highway 78; then northeasterly along Interstate Highway 78 to its intersection with the Berks-Lehigh County Line; then southeasterly along the Berks-Lehigh County Line to its intersection with the Berks-Montgomery County Line; then southwesterly along the Berks-Montgomery County Line to its intersection with U.S. Highway 422; then southeasterly along U.S. Highway 422 to its intersection with PA Highway 100; then southerly along PA Highway 100 to its intersection with the Pennsylvania-Delaware State Line; then southwesterly along the Pennsylvania-Delaware State Line to its intersection with the Pennsylvania-Maryland State Line; then westerly along the Pennsylvania-Maryland State Line to its intersection with Interstate Highway 81.

* * * * *

Authority: Sec. 2, 23 Stat. 31, as amended; secs. 4–6, 23 Stat. 31–33, as amended; secs. 1–3, 32 Stat. 791, 792, as amended; secs. 1–4, 33 Stat. 1264, 1265, as amended; 41 Stat. 699; sec. 2, 65 Stat. 693; secs. 2–3, 5–6, and 11, 76 Stat. 129–132; 76 Stat. 663, 7 U.S.C. 450, 21 U.S.C. 111–113, 114a–1, 115–117, 119–126, 130, 134a, 134b, 134d, 134e, 134f; 7 CFR 2.17, 2.51, and 371.2(d).

Done at Washington, D.C., this 10th day of February 1984.

J. K. Atwell,

Deputy Administrator, Veterinary Services.

[FR Doc. 84–4196 Filed 2–14–84; 8:45 am]

BILLING CODE 3410-34-M

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9 CFR Part 92

[Docket 84–007]

Importation of Certain Animals; Harry S Truman Animal Import Center

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice of deadline for receipt of applications for special authorization, date, time and place of drawing, and schedule of fees for importation of cattle through the Harry S Truman Animal Import Center.

SUMMARY: This document establishes a specific date for receipt of applications for special authorization to be drawn on a lottery basis for the allotment of quarantine space for the next two groups of cattle to be imported through the Harry S Truman Animal Import Center (HSTAIC), and establishes the date, time and place of the drawing. It also lists the geographic areas from which cattle will be considered for importation and the schedules of fees for importation of such cattle. This action is being taken to notify potential applicants of the lottery and fee schedule in accordance with the regulations.

DATES: Deadline for receipt of applications: March 10, 1984. Date and time of drawing: March 15, 1984 at 9 a.m.

Place of Drawing: Room 643A, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782.

ADDRESSES: Application forms may be obtained upon request from and completed applications should be sent to Import-Export Animals and Products Staff, VS, USDA, 6505 Belcrest Road, Room 840, Hyattsville, MD 20782.

FOR FURTHER INFORMATION CONTACT: Dr. Melvin Crane, VS, APHIS, USDA, Room 846, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301–436–8530.

SUPPLEMENTARY INFORMATION: Procedures are established in § 92.41 of Title 9, Code of Federal Regulations (9 CFR 92.41), concerning the allocation of space at the HSTAIC. These procedures include holding a drawing to determine from submitted applications which interested persons will have a right to attempt to qualify animals to enter the United States through the HSTAIC. The

HSTAIC is intended to process animals from countries in which exotic diseases exist and which are not otherwise eligible for importation into the United States.

The regulations require that at least 30 days prior notice be provided in the **Federal Register** of the date, time, and place of the drawing; the geographic areas from which animals will be considered for importation; and the fee schedule for the proposed importation (9 CFR 92.41(a)(1)). The Department has determined that it would be too complicated and would pose unnecessary disease risks to allow cattle from Europe and South America to be combined in one importation. Therefore, cattle from Europe and South America shall be imported in separate importations. For reasons explained in a companion document captioned "Harry S Truman Animal Import Center" and published in the final rule section of this issue of the **Federal Register**, any cattle that will qualify for importation from South America are scheduled to enter the HSTAIC on August 15, 1984, and any cattle that will qualify for importation from Europe are scheduled to enter the HSTAIC on December 15, 1984. The drawing for cattle from South America is scheduled for March 15, 1984, at 9 a.m. in Room 643A, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782. The drawing for cattle from Europe will begin immediately after the drawing for cattle from South America is completed.

Each applicant for importation shall complete an application for importing cattle through the HSTAIC which shall be received by Veterinary Services at least 5 days prior to the date of the drawing. Application forms may be obtained upon request from and completed applications must be sent to and received by Import-Export Animals and Products Staff, VS, APHIS, USDA, 6505 Belcrest Road, Room 840, Hyattsville, MD 20782.

Each application for South America or Europe shall be accompanied by a certified check, money order, or letter of credit payable to the United States Department of Agriculture, Animal and Plant Health Inspection Service, in the amount of one thousand dollars ($1,000), for each animal for which special authorization is requested on the application. If a letter of credit is utilized, the effective date on the letter of credit accompanying an application for the importation of cattle from South America must run to December 1, 1984, and the effective date on the letter of credit accompanying an application for the importation of cattle from Europe must run to April 1, 1985. (The $1,000 deposit per animal does not apply to applications for exclusive use, pursuant to 9 CFR 92.41(b)(1)).

In the event the applicant does not receive special authorization for cattle for which the applicant has applied, the amount deposited with the application for each animal not so authorized will be refunded. If the applicant receives special authorization, the deposited amount shall be applied against the total cost of importation of each animal. However, the $1,000 per head deposit is nonrefundable for each animal granted special authorization.

All applicants or their designated legal agents or representatives shall be required to appear in person at the drawing. Each designated legal agent or representative shall have a notarized statement of authority signed by the applicant. In accordance with these procedures, it should be emphasized that no person will be allowed to participate in the lottery as a designated legal agent or representative without a notarized statement of authority signed by the applicant. On the day of the drawing, the applicants selected or their legal agents or representatives shall be required to execute a cooperative agreement and pay the required fee in accordance with the provisions of the cooperative agreement.

It the total number of cattle for which special authorizations are requested is not at least 50, there shall not be a lottery or importation pursuant to 9 CFR 92.41(a) and the deposits shall be refunded to the applicants.

Special authorization for the exclusive use of the HSTAIC shall be issued in accordance with 9 CFR 92.41(b) when the HSTAIC is not scheduled for use for an importation of cattle pursuant to 9 CFR 92.41(a).

The fee schedules presented below are graduated depending on the number of cattle for which authorization is granted to qualify the cattle for entrance into the USDA approved embarkation facility and depending upon the number of cattle which go through the quarantine period at the USDA approved embarkation facility and the HSTAIC. To calculate the total deposit required for importation, the cost per head for qualifying or attempting to qualify cattle on the premises of origin must be added to the cost per head for 50 cattle to be quarantined in the USDA-approved embarkation facility and the HSTAIC. The fees are as follows:

COST OF QUALIFYING OR ATTEMPTING TO QUALIFY CATTLE—EUROPE—ON PREMISES OF ORIGIN

[In country]

Number of cattle	Total fixed cost	Fixed cost per head	Variable cost per head	Total cost per head
50 to 55	$99,596	$1,992	$269	$2,261
56 to 60	103,269	1,844	268	2,112
61 to 65	106,936	1,753	268	2,021
66 to 70	110,609	1,676	268	1,944
71 to 75	114,279	1,610	268	1,878
76 to 80	117,949	1,552	268	1,820
81 to 85	121,620	1,501	268	1,769
86 to 90	125,290	1,457	268	1,725
91 to 95	128,960	1,417	268	1,685
96 to 100	132,631	1,382	268	1,650
101 to 105	136,301	1,356	268	1,618
106 to 110	139,979	1,321	268	1,589
111 to 115	143,656	1,294	268	1,562
116 to 120	147,334	1,270	268	1,538
121 to 125	151,011	1,248	268	1,516
126 to 130	154,688	1,228	268	1,496
131 to 135	158,367	1,209	268	1,477
136 to 140	162,044	1,192	268	1,460
141 to 145	165,722	1,175	268	1,443
146 to 150	169,399	1,160	268	1,428
151 to 155	173,077	1,146	268	1,414
156 to 160	176,751	1,133	268	1,401
161 to 165	180,425	1,121	268	1,389
166 to 170	184,098	1,109	268	1,377
171 to 175	187,772	1,098	268	1,366
176 to 180	191,446	1,088	268	1,356
181 to 185	195,120	1,078	268	1,346
186 to 190	198,794	1,069	268	1,337
191 to 195	202,468	1,060	268	1,328
196 to 200	206,142	1,052	268	1,320
201 to 205	209,815	1,044	268	1,312
206 to 210	210,567	1,022	268	1,290
211 to 215	211,319	1,002	268	1,270
216 to 220	212,070	982	268	1,250
221 to 225	212,822	963	268	1,231
226 to 230	213,574	945	268	1,213

COST OF QUARANTINING CATTLE—EUROPE AND HSTAIC

[In Quarantine]

Number of cattle	Total fixed cost	Fixed cost per head	Variable cost per head	Total cost per head
50 to 55	$286,923	$5,738	$896	$6,634
56 to 60	299,336	5,345	896	6,241
61 to 65	311,753	5,111	896	6,007
66 to 70	324,168	4,912	896	5,808
71 to 75	336,583	4,741	896	5,637
76 to 80	348,998	4,592	896	5,488
81 to 85	361,413	4,462	896	5,358
86 to 90	373,828	4,347	896	5,243
91 to 95	386,243	4,244	896	5,140
96 to 100	398,658	4,153	896	5,049
101 to 105	411,073	4,070	896	4,966
106 to 110	421,750	3,979	896	4,875
111 to 115	432,426	3,896	896	4,792
116 to 120	443,105	3,820	896	4,716
121 to 125	453,783	3,750	896	4,646
126 to 130	464,460	3,686	896	4,582
131 to 135	475,138	3,627	896	4,523
136 to 140	485,815	3,572	896	4,468
141 to 145	496,493	3,521	896	4,417
146 to 150	507,170	3,474	896	4,370
151 to 155	517,848	3,429	896	4,325
156 to 160	527,723	3,383	896	4,279
161 to 165	537,597	3,339	896	4,235
166 to 170	547,472	3,298	896	4,194
171 to 175	557,347	3,259	896	4,155
176 to 180	567,221	3,223	896	4,119
181 to 185	577,096	3,188	896	4,084
186 to 190	586,971	3,156	896	4,052
191 to 195	596,846	3,126	896	4,021
196 to 200	606,720	3,096	896	3,992
201 to 205	616,595	3,068	896	3,964
206 to 210	626,796	3,043	896	3,939
211 to 215	637,052	3,019	896	3,915
216 to 220	647,205	2,996	896	3,892
221 to 225	657,409	2,975	896	3,871
226 to 230	667,612	2,954	896	3,850

COST OF QUALIFYING OR ATTEMPTING TO QUALIFY CATTLE—SOUTH AMERICA—ON PREMISES OF ORIGIN

[In country]

Number of cattle	Total fixed cost	Fixed cost per head	Variable cost per head	Total cost per head
50 to 55	$86,998	$1,780	$348	$2,128
56 to 60	92,800	1,657	348	2,005
61 to 65	96,612	1,584	348	1,932
66 to 70	100,474	1,522	348	1,870
71 to 75	104,296	1,468	348	1,816
76 to 80	108,049	1,422	348	1,770
81 to 85	111,861	1,381	348	1,729
86 to 90	115,673	1,345	348	1,693
91 to 95	119,485	1,313	348	1,661
96 to 100	123,297	1,284	348	1,632
101 to 105	127,109	1,259	348	1,607
106 to 110	130,921	1,235	348	1,583
111 to 115	134,734	1,214	348	1,562
116 to 120	138,546	1,194	348	1,542
121 to 125	142,358	1,177	348	1,525
126 to 130	146,171	1,160	348	1,508
131 to 135	149,983	1,145	348	1,493
136 to 140	153,795	1,131	348	1,479
141 to 145	157,608	1,118	348	1,466
146 to 150	161,420	1,106	348	1,454
151 to 155	165,232	1,094	348	1,442
156 to 160	169,044	1,084	348	1,432
161 to 165	172,856	1,074	348	1,422
166 to 170	176,669	1,064	348	1,412
171 to 175	180,481	1,055	348	1,403
176 to 180	184,293	1,047	348	1,395
181 to 185	188,105	1,039	348	1,387
186 to 190	191,918	1,032	348	1,380
191 to 195	195,730	1,025	348	1,373
196 to 200	199,542	1,018	348	1,366
201 to 205	203,354	1,012	348	1,360
206 to 210	204,106	991	348	1,339
211 to 215	204,858	971	348	1,319
216 to 220	205,609	952	348	1,300
221 to 225	206,361	934	348	1,282
226 to 230	207,113	916	348	1,264

COST OF QUARANTINING CATTLE—SOUTH AMERICA AND HSTAIC

[In quarantine]

Number of cattle	Total fixed cost	Fixed cost per head	Variable cost per head	Total cost per head
50 to 55	$288,144	$5,763	$1,106	$6,869
56 to 60	300,687	5,370	1,106	6,476
61 to 65	313,230	5,135	1,106	6,241
66 to 70	325,803	4,936	1,106	6,042
71 to 75	338,376	4,766	1,106	5,872
76 to 80	350,949	4,617	1,106	5,723
81 to 85	363,462	4,487	1,106	5,593
86 to 90	376,015	4,372	1,106	5,478
91 to 95	388,588	4,270	1,106	5,376
96 to 100	401,121	4,178	1,106	5,284
101 to 105	413,674	4,096	1,106	5,202
106 to 110	424,490	4,005	1,106	5,111
111 to 115	435,306	3,922	1,106	5,028
116 to 120	446,122	3,846	1,106	4,952
121 to 125	456,938	3,776	1,106	4,882
126 to 130	467,754	3,712	1,106	4,818
131 to 135	478,569	3,653	1,106	4,759
136 to 140	489,385	3,598	1,106	4,704
141 to 145	500,201	3,548	1,106	4,654
146 to 150	511,017	3,500	1,106	4,606
151 to 155	521,833	3,456	1,106	4,562
156 to 160	531,890	3,409	1,106	4,515
161 to 165	541,896	3,366	1,106	4,472
166 to 170	551,833	3,324	1,106	4,430
171 to 175	561,869	3,286	1,106	4,392
176 to 180	571,916	3,250	1,106	4,356
181 to 185	581,933	3,215	1,106	4,321
186 to 190	591,949	3,183	1,106	4,289
191 to 195	601,966	3,152	1,106	4,258
196 to 200	611,982	3,122	1,106	4,228

COST OF QUARANTINING CATTLE—SOUTH AMERICA AND HSTAIC—Continued

[In quarantine]

Number of cattle	Total fixed cost	Fixed cost per head	Variable cost per head	Total cost per head
201 to 205	$621,999	3,095	1,106	4,201
206 to 210	631,121	3,064	1,106	4,170
211 to 215	640,244	3,034	1,106	4,140
216 to 220	649,367	3,006	1,106	4,112
221 to 225	658,489	2,980	1,106	4,086
226 to 230	667,612	2,954	1,106	4,060

Done at Washington, D.C. this 13th day of February 1984.

K. R. Hook,

Deputy Administrator, Veterinary Services.

[FR Doc. 84-4194 Filed 2-14-84; 8:45 am]

BILLING CODE 3410-34-M

9 CFR Part 92

[Docket No. 84-008]

Importation of Cattle; Harry S Truman Animal Import Center

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule.

SUMMARY: This document amends the regulations concerning requirements for the importation of cattle through the Harry S Truman Animal Import Center (HSTAIC). The regulations are amended to reflect that the HSTAIC facility can accommodate only 230 cattle rather than 400 cattle in any one importation. The regulations are also amended to shorten the required notification period from 60 days to 30 days for the drawing to determine who would be authorized to import cattle. This is necessary to accurately reflect the capacity of the HSTAIC facility for the importation of cattle and to allow sufficient time for preparation for the importation of cattle from South America and Europe at the scheduled times.

EFFECTIVE DATE: February 15, 1984. Written comments must be received on or before April 16, 1984.

ADDRESSES: Written comments should be submitted to Thomas O. Gessel, Director, Regulatory Coordination Staff, APHIS, USDA, Room 728, Federal Building, Hyattsville, MD 20782. Written comments may be inspected at Room 728 of the Federal Building between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Dr. M. R. Crane, VS, APHIS, USDA, Room 846, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301-436-8170.

SUPPLEMENTARY INFORMATION:

Background

The regulations in 9 CFR 92.41 (referred to below as the regulations) contain special provisions governing the importation into the United States of cattle through the Harry S Truman Animal Import Center (referred to below as HSTAIC). This facility, located at Fleming Key, Florida, is designed to handle importations of animals from countries in which exotic diseases exist and which are not otherwise eligible for importation into the United States.

At times announced by Veterinary Services, cattle are allowed to be imported through the HSTAIC. Because of the extended period of time required to process such cattle, the regulations require special authorization before any cattle may enter the facility for quarantine. Also, the regulations provide for a group of cattle to be imported at the same time. The regulations further provide for the selection of cattle for the group based on applications and a drawing conducted in accordance with specified procedures.

Capacity of HSTAIC

Prior to the effective date of this document, the drawing provisions were based on a maximum of 400 cattle in each importation. At the time of construction of the HSTAIC it was anticipated that the facility could accommodate 400 cattle in each importation, but experience with several importations indicates that the facility can accommodate only 230 cattle in any one importation. One reason for this relates to incineration capacity at the facility for disposal of used bedding, manure, and other wastes. Based on experience, it has been determined that the incinerators would be used continuously at full capacity in order to accommodate 230 cattle. Therefore, it is necessary to amend the regulations to reflect that the facility can only accommodate 230 cattle in any one importation.

Drawing Notice

Also, prior to the effective date of this document, the regulations provided that:

At least 60 days prior to any drawing notice will be given in the **Federal Register** of the date, time and place of the drawing for interested persons to submit an application.

This document changes the minimum notification period from 60 days to 30 days.

A notification period is necessary to inform persons of the scheduled importations and to provide sufficient time for applicants to submit applications, to arrange for payment of fees, and to arrange for attendance at the drawing. Notice given at least 30 days prior to a drawing will provide sufficient time in which to complete these activities.

The next importation of cattle from South America through the HSTAIC is scheduled to begin on or about August 15, 1984, and the next importation of cattle from Europe is scheduled to begin on or about December 15, 1984. It is necessary to change the notification time period from 60 days to 30 days and to publish the notice immediately in order to allow sufficient time for preparation for the importations.

The Department has determined that it would be too complicated and would pose unnecessary disease risks to allow cattle from Europe and South America to be combined in one importation. Therefore, cattle from Europe and South America shall be imported in separate importations. Cattle in Europe are usually born during January through April. Some European countries require that cattle be vaccinated for foot-and-mouth disease at eleven months of age. Since cattle which have been vaccinated for foot-and-mouth disease cannot enter the HSTAIC, European cattle must be qualified for entry into the USDA-approved embarkation facility before the cattle reach eleven months of age.

Also, in order to effectively use the HSTAIC, it is necessary to schedule the importation from South America prior to the importation from Europe. Also, it is anticipated that the pre-embarkation facility for Europe will not be available after December 15. In order to have 30 days for pre-embarkation quarantine, the latest date that cattle can enter the USDA-approved embarkation quarantine facility in Europe is November 15. Accordingly, it is necessary that such cattle be scheduled for entry into the HSTAIC on or about December 15. In order to allow the necessary 30 days to prepare the HSTAIC for receiving and quarantining cattle from Europe, the cattle from South America must be released from quarantine no later than November 15. The ordinary quarantine period at the HSTAIC is 90 days. In order for cattle from South America to enter the HSTAIC by August 15, they must enter the USDA-approved embarkation quarantine facility for South America no later than July 15. It is anticipated, based on experience, that it will take approximately two months to complete on-the-farm testing and approximately two months prior to that for the selection of animals. Therefore, it is necessary that the drawing be held by March 15, 1984.

Emergency Action and Effective Date

Dr. Saul T. Wilson, Director, National Program Planning Staffs, VS, APHIS, USDA, has determined that an emergency situation exists that warrants publication without prior opportunity for a public comment period. Under the circumstances explained above, it is necessary that the rule be made effective immediately in order to allow sufficient time for preparation for the importations of cattle into the HSTAIC from South America and Europe at the scheduled times. Further, pursuant to the administrative procedure provisions in 5 U.S.C. 533, it is found upon good cause that prior notice and other public procedure with respect to this interim rule are impracticable, unnecessary, and contrary to the public interest, and good cause is found for making this interim rule effective less than 30 days after publication in the **Federal Register**. Comments have been solicited for 60 days after publication of this document. A document discussing comments received and any amendments required will be published in the **Federal Register**.

Executive Order 12291 and Regulatory Flexibility Act

This final rule is issued in conformance with Executive Order 12291 and Secretary's Memorandum 1512–1 and has been determined to be not a major rule. The Department has determined that this action will not have an annual effect on the economy of $100 million or more; will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and will not have any significant adverse effects on competition, employment, investment, productivity, innovation or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The number of cattle imported through the HSTAIC is insignificant compared with the total number of cattle imported into the United States each year. Further, the number of small entities importing cattle through the HSTAIC is insignificant compared with the number of small entities importing cattle into the United States. Therefore, Bert W. Hawkins, Administrator of the Animal and Plant Health Inspection Service, has determined that this action will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 9 CFR Part 92

Animal diseases, Canada, Imports, Livestock and livestock products, Mexico, Poultry and poultry products, Meat and meat products, Quarantine, Transportation, Wildlife.

PART 92—IMPORTATION OF CERTAIN ANIMALS AND POULTRY AND CERTAIN ANIMAL AND POULTRY PRODUCTS; INSPECTION AND OTHER REQUIREMENTS FOR CERTAIN MEANS OF CONVEYANCE AND SHIPPING CONTAINERS THEREON

Accordingly, 9 CFR 92.41 is amended as follows:

§ 92.41 [Amended]

1. In paragraph (a)(1) the number "60" is changed to "30".

2. In paragraph (a)(2) the number "400" is changed to "230" each of the five times it appears.

3. In paragraph (a)(5) the number "60" is changed to "30" and number "400" changed to "230".

4. In the introductory material for paragraph (b), the number "400" is changed to "230".

5. In paragraph (b)(2) the number "400" is changed to "230" both times it appears.

Authority: Sec. 2, 32, Stat. 792, as amended; sec. 1, 84, Stat. 202; (21 U.S.C. 111 and 135); 7 CFR 2.17, 2.51, and 371.2(d).

Done at Washington, D.C., this 13th day of February, 1984.

K. R. Hooker,

Deputy Administrator, Veterinary Services.

[FR Doc. 84-4196 Filed 2-14-84; 8:45 am]

BILLING CODE 3410-34-M

Food Safety and Inspection Service

9 CFR Part 327

[Docket No. 83-042I]

Imported Product; Withdrawal of Certain Countries From the List of Those Eligible for Importation of Meat Products

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Interim rule with request for comments.

SUMMARY: This document withdraws the countries of Dominican Republic, El Salvador, Haiti, Mexico, Nicaragua, and Panama from the list of countries eligible for importation of products of

cattle, sheep, swine, goats, and equines into the United States under the Federal Meat Inspection Act (FMIA). The FMIA requires that in order for a country to be eligible to export meat products to the United States, the meat inspection system of the country must assure compliance with requirements that are "at least equal to" the requirements of the FMIA and regulations as applied to official establishments in the United States. Failure of Dominican Republic, El Salvador, Haiti, Mexico, Nicaragua, and Panama to implement satisfactory residue testing and/or species verification programs has demonstrated that they no longer meet the provisions of the FMIA with regard to their ability to detect residues and species substitution in meat products destined for importation into the United States.

DATES: Interim rule effective February 15, 1984; comments must be received on or before April 16, 1984.

ADDRESS: Written comments to: Regulations Office, Attn: Annie Johnson, FSIS Hearing Clerk, Room 2637, South Agriculture Building, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, D.C. 20250. (See also "Comments" under Supplementary Information.)

FOR FURTHER INFORMATION CONTACT: Dr. Grace Clark, Director, Foreign Programs Division, International Programs, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, D.C. 20250 (202) 447–7610.

SUPPLEMENTARY INFORMATION:

Executive Order 12291 and Effect on Small Entities

The Administrator of the Food Safety and Inspection Service has determined that immediate implementation of this rule, on an interim basis, is necessary in order to protect the consuming public, from meat products imported from countries with deficient inspection programs.

Analysis of the procedures set forth in this rule under Executive Order 12291 and the Regulatory Flexibility Act (RFA) is not practicable at this time due to the urgency of publishing this interim rule. Pursuant to the provisions for emergency rules in section 8 of the Executive Order and section 608 of the RFA (5 U.S.C. 608), the Administrator has determined that there is an immediate need to preclude the entry into U.S. commerce of products produced under conditions found to be not at least equal to those in the United States. This interim rule will be followed by a final regulation to be published only after consideration of relevant impacts and comments received.

Comments

Interested persons are invited to submit comments concerning this action. Written comments must be sent in duplicate to the Regulations Office and should bear reference to the docket number located in the heading of this document. All comments submitted pursuant to this action will be made available for public inspection in the Regulations Office between 9:00 a.m. and 4:00 p.m., Monday through Friday.

Background

Pursuant to the Federal Meat Inspection Act (FMIA) (21 U.S.C. 601 *et seq.*), the Secretary of Agriculture is responsible for administering the programs which are designed to ensure that meat products distributed to consumers are wholesome, not adulterated, and properly marked, labeled, and packaged. The Secretary has delegated to the Administrator of the Food Safety and Inspection Service (FSIS) the authority to issue regulations and implement appropriate procedures to ensure compliance with the requirements of the FMIA. The regulations addressing imported meat products are in 9 CFR Part 327. In these regulations, the Administrator has established procedures by which foreign countries desiring to import meat or meat food products into the United States may become eligible to do so.

The Administrator has authority to withdraw the eligibility of a foreign country to import meat products into the United States under § 327.2(a)(4) (9 CFR 327.2(a)(4))

> * * * Whenever it shall be determined by the Administrator that the system of meat inspection maintained by such foreign countries does not assure compliance with requirements at least equal to all the inspection, building construction standards, and other requirements of the Act and the regulations in this subchapter as applied to official establishments in the United States; * * *

The Agriculture and Food Act of 1981 (Farm Bill) amended the FMIA to clarify that imported meat and meat food products must meet the same inspection, sanitation, quality, species verification, and residue standards applied to domestically prepared product. It directed the Secretary to enforce the Farm Bill through random inspections of imported product at port of entry for residues and species verification and requires exporting countries to conduct random sampling and testing of internal organs and fat of carcasses for residues at point of slaughter in accordance with methods approved by the Secretary. Proposed and final regulations implementing the Farm Bill requirements were published in the **Federal Register** on July 8, 1982 (47 FR 29685), and February 10, 1983 (48 FR 6091), respectively. All countries eligible to export product to the United States were notified of these regulation changes in July 1982 and May 1983.

Residue testing information is collected from exporting countries on an annual basis by the Department. Using this and additional information collected during regular reviews of the meat inspection systems of exporting countries, notice was given in July 1983 as to specific deficiencies in residue and species verification programs in each exporting country, informing them that all corrections must be made by January 1, 1984. A review of laboratory facilities, equipment, and methodology was made during December 1983 to determine the compliance of exporting countries with the residue and species verification requirements.

In order for a country's inspection system to be considered "at least equal to" that of the United States, that country must provide for testing of appropriate tissues (fat, kidney, muscle and/or liver) fo. chlorinated hydrocarbons, organophosphates, trace metals, antibiotics, and hormones, if applicable, using a method approved by the Secretary. In addition, countries must conduct an approved species verification program. The following countries have been judged by FSIS to be deficient in one or more of the above requirements as indicated:

Dominican Republic

1. No testing for trace metals was being conducted.
2. No testing for PCB was being conducted.
3. Inadequate recovery checks or use of other controls to assure quality laboratory performance.

El Salvador

1. No testing for PCB and hormones at contract laboratory.
2. Kidney, as well as liver and muscle, must be tested for trace metals; sampling for trace metal testing must be implemented.
3. Inadequate recovery check and other check sample programs necessary to assure quality laboratory procedures at contract laboratory.

Haiti

1. No samples from Haiti were being submitted to a laboratory for testing for organophosphates, PCB, heavy metals, hormones, antibiotics, and species.

2. Inadequate recovery checks and use of other controls in laboratory in Dominican Republic, to which samples were sent, to assure quality laboratory performance.

Mexico

1. No testing was being performed on chlorinated hydrocarbons, organophosphates, PCB, trace metals, hormones, antibiotics, and species.
2. When testing is initiated, it must use correct methods and test correct tissues.
3. Laboratory must include proper recovery checks and inter- and intra-laboratory controls to assure quality laboratory performance.

Nicaragua

1. No testing was in place for organophosphates, PCB, heavy metals, hormones, antibiotics, and species.
2. When testing is initiated, laboratory must also perform necessary recovery checks and other inter- and intra-laboratory controls necessary to assure quality laboratory performance.

Panama

1. No sampling or testing for organophosphates, PCB, hormones, and species.
2. Testing for heavy metals must be on muscle, liver and kidney, not fat.
3. Testing for antibiotics must use kidney, as well as muscle.
4. Inadequate recovery checks and inter- and intra-laboratory controls to assure quality laboratory performance.

Therefore, pursuant to § 327.2 of the regulations (9 CFR 327.2), the Administrator is withdrawing Dominican Republic, El Salvador, Haiti, Mexico, Nicaragua, and Panama from the list of countries eligible for importation of products of cattle, sheep, swine, goats and equine into the United States.

The Department issued a press release on December 27, 1983, listing several other countries which would be delisted by this regulation. However, subsequent to the press release, those countries made imporvements and provided evidence adequate to determine their "equal to" status. The Department is confident several others being delisted by this regulation will soon be able to provide similar substantiating evidence and consequently will be relisted.

When the Administrator of FSIS is satisfied that the meat and/or poultry inspection officials of such countries have corrected the deficiencies in their residue testing and/or species verification program(s) and that the system meets all of the provisions of the FMIA and the regulations promulgated thereunder, such countries may again be added to the list of countries eligible for importation of cattle, sheep, swine, goats, and equine into the United States.

List of Subjects in 9 CFR Part 327

Imported products, Meat inspection.

PART 327—[AMENDED]

1. The authority citation for Part 327 is as follows:

Authority: 34 Stat. 1260, 79 Stat. 903, as amended, 81 Stat. 584, 84 Stat. 91, 438; 21 U.S.C. 71 *et seq.*, 601 *est seq.*, 33 U.S.C. 1254(b).

§ 327.2 [Amended]

2. Section 327.2(b) of the Federal meat inspection regulations (9 CFR 327.2(b)) is amended by removing the following countries from the list of countries eligible for importation of products of cattle, sheep, swine, and goats into the United States:

Dominican Republic	Mexico
El Salvador	Nicaragua
Haiti	Panama

3. Section 327.2(c) of the Federal meat inspection regulations (9 CFR 327.2 (c)) is amended by removing Mexico from the list of countries eligible for importation of product of equines into the United States.

Done at Washington, D.C., on: February 10, 1984.

Donald L. Houston,

Administrator, Food Safety and Inspection Service.

[FR Doc. 84-4171 Filed 2-14-84; 8:45 am]

BILLING CODE 3410-DM-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 84-CE-2-AD; Amdt. 39-4811]

Airworthiness Directives; BF Goodrich Company 17.5×5.75-8, 12PR, 210MPH, P/N 038-627, and 18×5.5, 10PR, 210MPH, P/N 033-631 Aircraft Tires

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD), AD 83-26-03, applicable to certain BF Goodrich Company 17.5×5.75-8, 12PR, 210MPH, P/N 038-627, and 18×5.5, 10PR, 210MPH, P/N 033-631, Aircraft Tires and codifies the corresponding emergency AD letter dated December 23, 1983, into the **Federal Register.** This AD requires that these tires be removed from service prior to next takeoff. The subject tires are used on, but not limited to, all Gates Learjet airplanes and the Fairchild Swearingen Metroliner (Model SA226-TC) airplanes. These tires were built with an incorrect undertread material,which may cause tread loss and subsequent tire failure. Accordingly, the tires cannot be repaired and removal from service will preclude failure and possible aircraft damage or an accident.

EFFECTIVE DATE: February 21, 1984, to all persons except those to whom it has already been made effective by priority letter from the FAA dated December 23, 1983.

Compliance: As prescribed in the body of the AD.

ADDRESSES: Information applicable to this AD may be obtained from S. G. Mays, Manager, Aircraft Tire Development, BF Goodrich Tire Company, Akron, Ohio 44318, telephone (216) 374-3945. A copy of the information is also contained in the Rules Docket, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Mr. Steven Rosenfeld, Airframe Branch, Chicago Aircraft Certification Office, ACE-120C, Federal Aviation Administration, 2300 E. Devon Avenue, Des Plaines, Illinois 60018, telephone (312) 694-7030.

SUPPLEMENTARY INFORMATION: The BF Goodrich Company has determined and informed the FAA that on 17.5×5.75-18,12PR, 210MPH, P/N 038-627, S/N 3224A-XXXXX, and 18×5.5, 10PR, 210MPH, P/N 033-631, S/N 3215A-XXXXX through 3217A-XXXXX tires, inner liner material may have been inadvertently used as undertread material when fabricating these tires. The inner liner material in this location may cause tread separation and tire failure which could result in secondary airplane damage or an accident. These tires are unrepairable and unsuitable for aircraft usage. The manufacturer has successfully recalled and destroyed some of the tires involved and recommends that all of the identified tires be removed from airplanes or spares stock and destroyed.

The FAA determined that this is an unsafe condition that may exist on airplanes using these tires, thereby necessitating the AD. It was also determined that an emergency condition existed, that immediate corresponding action was required and that notice and public procedure thereon was impractical and contrary to the public interest. Accordingly, the FAA notified all known registered owners of the

airplanes affected by this AD by priority mail letter dated December 23, 1983. The AD became effective immediately as to these individuals upon receipt of that letter and is identified as AD 83-26-03. Since the unsafe condition described therein may still exist on other airplanes using these tires, the AD is being published in the Federal Register as an amendment to Part 39 of the Federal Aviation Regulations (14 CFR Part 39) to make it effective to all persons who did not receive the letter notification.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

PART 39—[AMENDED]

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new AD:

BF Goodrich: Applies to the following aircraft tires:

1. 17.5×5.75–8, 12PR, 210MPH, P/N 038–627, S/N 3224A–XXXXX, and

2. 18×5.5, 10PR, 210MPH, P/N 033–631, S/N 3215A–XXXXX through 3217A–XXXXX.

These tires are eligible for, but not limited to use on, all Gates Learjet models and Fairchild Swearingen Model SA226–TC airplanes

Compliance: Required prior to next takeoff, unless already accomplished.

To avoid tread loss and possible subsequent tire failure, accomplish the following:

Remove the applicable part number and serial number BF Goodrich tires from the aircraft and either destroy them or return them to BF Goodrich for destruction. Cutting the tire carcass is an approved means of destruction.

Note.—The serial numbers of the tires are interpreted as follows:

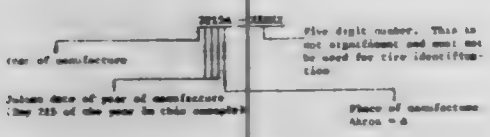

This amendment becomes effective on February 21, 1984, to all persons except those to whom it has already been made effective by priority letter from the FAA dated December 23, 1983, and is identified as AD 83-26-03.

(Secs. 313(a), 601 and 603 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1345(a), 1421 and 1423); 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); Sec. 11.89 of the Federal Aviation Regulations (14 CFR 11.89)).

Note.—The FAA has determined that this regulation is an emergency regulation that is not major under Section 8 of Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation is not required). A copy of it, when filed may be obtained by contacting the Rules Docket at the location under the caption "ADDRESSES."

Issued in Kansas City, Missouri, on February 2, 1984.

John E. Shaw,

Acting Director, Central Region.

[FR Doc. 84-4040 Filed 2-14-84; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket Number 82-ACE-11]

Designation of Transition Area, St. Francis, Kansas

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The nature of this Federal action is to designate a 700-foot transition area at St. Francis, Kansas, to provide controlled airspace for aircraft executing a new instrument approach procedure to the Cheyenne County Municipal Airport, St. Francis, Kansas, utilizing the St. Francis Nondirectional Radio Beacon (NDB) as a navigational aid. The intended effect of this action is to ensure segregation of aircraft using the new approach procedure under Instrument Flight Rules (IFR) and other aircraft operating under Visual Flight Rules (VFR). This action will change the airport status from VFR to IFR.

EFFECTIVE DATE: May 10, 1984.

FOR FURTHER INFORMATION CONTACT: Dale L. Carnine, Airspace Specialist, Operations, Procedures, and Airspace Branch, Air Traffic Division, ACE-532, FAA, Central Region, 601 East 12th Street, Kansas City, Missouri 64106, Telephone (816) 374-3408.

SUPPLEMENTARY INFORMATION: To enhance airport usage, a new instrument approach procedure is being developed for the Cheyenne County Municipal Airport, St. Francis, Kansas, utilizing the St. Francis NDB as a navigational aid. The establishment of an instrument approach procedure, based on this approach aid, entails designation of a transition area at St. Francis, Kansas at or above 700 feet above the ground (AGL) within which aircraft are provided air traffic control service. Transition areas are designed to contain IFR operations in controlled airspace during portions of the terminal operation and while transiting between the terminal and enroute environment. The intended effect of this action is to ensure segregation of aircraft using the new approach procedure under Instrument Flight Rules (IFR) and other aircraft operating under Visual Flight Rules (VFR). This action will change the airport status from VFR to IFR.

Discussion of Comments

On Pages 54505 and 54506 of the Federal Register, dated December 5, 1983, the FAA published a Notice of Proposed Rulemaking which would amend Section 71.181 of Part 71 of the Federal Aviation Regulations, so as to designate a transition area at St. Francis, Kansas. Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No objections were received as a result of the Notice of Proposed Rulemaking.

List of Subjects in 14 CFR Part 71

Aviation safety, Transition areas.

PART 71—[AMENDED]

Accordingly, pursuant to the authority delegated to me, § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, effective 0901 GMT May 10, 1984, by designating the following transition area:

St. Francis, Kansas

That airspace extending upward from 700 feet above the surface within a 5.5-mile radius of the Cheyenne Municipal Airport, St. Francis, Kansas (Latitude 39°45'39"N, Longitude 101°47'47"W), and within 3 miles each side of the 143° bearing from the St. Francis NDB (Latitude 39°43'37"N, Longitude 101°45'58"W) extending from the 5.5-mile radius area to 8.5 miles southeast of the NDB facility.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); and Sec. 11.69 of the Federal Aviation Regulations (14 CFR 11.69))

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air

traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Kansas City, Missouri, on February 1, 1984.

John E. Shaw,

Acting Director, Central Region.

[FR Doc. 84-4045 Filed 2-14-84; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 73

[Airspace Docket No. 83-AGL-20]

Special Use Airspace; Alteration of Restricted Area R-4305, Lake Superior, MN

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment changes the using agency for Restricted Area R-4305, Lake Superior, MN. This action supports a Strategic Air Command program for centralized scheduling of restricted area usage.

EFFECTIVE DATE: February 15, 1984.

FOR FURTHER INFORMATION CONTACT: Neil Saunders, Airspace and Air Traffic Rules Branch (AAT-230), Airspace-Rules and Aeronautical Information Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426-8783.

SUPPLEMENTARY INFORMATION: The purpose of this amendment to § 73.43 of the Federal Aviation Regulations (14 CFR Part 73) is to change the using agency for Restricted Area R-4305. This amendment is editorial in nature, and a minor matter on which the public would have no particular desire to comment; therefore, notice and public procedure thereon are unnecessary. Section 73.43 was republished in AC 70-3A dated January 3, 1983.

List of Subjects in 14 CFR Part 73

Restricted areas, Aviation safety.

Adoption of the Amendment

PART 73—[AMENDED]

Accordingly, pursuant to the authority delegated to me, § 73.43 of Part 73 of the Federal Aviation Regulations (14 CFR Part 73) is amended, effective 0901 GMT, Februrary 15, 1984, as follows:

R-4305 Lake Superior, MN [Amended]

By deleting the words "Commander, Eighth Air Force, Barksdale AFB, LA/DOOBS. (Autovon 781-3917/3857)." and substituting the works "Headquarters, Strategic Air Command, Offutt AFB, NE."

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); (49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983)); and 14 CFR 11.69.)

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Washington, D.C., on February 8, 1984.

John W. Baier,

Acting Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 84-4041 Filed 2-14-84; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Parts 71, 73, and 75

Advisory Circulars; Availability of Handbook

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of availability of handbook.

SUMMARY: In 1982 and in 1983, the FAA published its annual Compilation of Regulations in Advisory Circulars (AC) 70-3 and 70-3A respectively which replaced the practices of publishing it in the **Federal Register**. This year the advisory circular concept is being replaced with Order 7400.6, a two part handbook. Part 1 consists of current airspace designations in Parts 71, 73, and 75 and is published for the benefit of the public, since airspace designations are not carried in the Code of Federal Regulations or the Federal Aviation Regulations. Part 2, to be issued at a later date, will consist of the compilation of nonrulemaking Special Use Airspace actions which have been and will continue to be routinely published in the National Flight Data Digest.

DATE: Order 7400.6 contains all airspace descriptions that are in effect as of December 31, 1983.

ADDRESS: We will have a limited supply of this handbook and request that anyone interested in receiving a copy contact: Brenda Blakey or Mary Ann Webb, Flight Information and Obstructions Branch, AAT-210, Airspace-Rules and Aeronautical Information Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591

FOR FURTHER INFORMATION CONTACT: Brenda Blakey or Mary Ann Webb, (202) 426-8792.

List of Subjects in 14 CFR Parts 71, 73 and 75

Aviation safety.

Issued in Washington, D.C., on February 8, 1984.

John W. Baier,

Acting Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 84-4042 Filed 2-14-84; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 82-ACE-20]

Designation of Federal Airways, Area Low Point Routes, Controlled Airspace and Reporting Points; Designation of Transition Area—Oberlin, Kansas

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The nature of this Federal action is to designate a 700-foot transition area at Oberlin, Kansas, to provide controlled airspace for aircraft executing a new instrument approach procedure to the Oberlin, Kansas, Municipal Airport utilizing the Oberlin Nondirectional Radio Beacon (NDB) as a navigational aid. The intended effect of this action is to ensure segregation of aircraft using the new approach procedure under Instrument Flight Rules (IFR) and other aircraft operating under Visual Flight Rules (VFR). This action will change the airport status from VFR to IFR.

EFFECTIVE DATE: May 10, 1984.

FOR FURTHER INFORMATION CONTACT: Dale L. Carnine, Airspace Specialist, Operations, Procedures, and Airspace Branch, Air Traffic Division, ACE-532, FAA, Central Region, 601 East 12th Street, Kansas City, Missouri 64106. Telephone (816) 374-3408.

SUPPLEMENTARY INFORMATION: To enhance airport usage, a new instrument approach procedure is being developed for the Oberlin, Kansas, Municipal Airport utilizing the Oberlin NDB as a navigational aid. The establishment of an instrument approach procedure, based on this approach aid, entails

designation of a transition area at Oberlin, Kansas, at or above 700 feet above the ground (AGL) within which aircraft are provided air traffic control service. Transition areas are designed to contain IFR operations in controlled airspace during portions of the terminal operation and while transiting between the terminal and enroute environment. The intended effect of this action is to ensure segregation of aircraft using the new approach procedure under Instrument Flight Rules (IFR) and other aircraft operating under Visual Flight Rules (VFR). This action will change the airport status from VFR to IFR.

Discussion of comments

On Pages 54646 and 54647 of the **Federal Register**, dated December 6, 1983, the FAA published a Notice of Proposed Rulemaking which would amend § 71.181 of Part 71 of the Federal Aviation Regulations, so as to designate a transition area at Oberlin, Kansas. Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No objections were received as a result of the Notice of Proposed Rulemaking.

List of Subjects in 14 CFR Part 71

Aviation safety, Transition areas.

Accordingly, pursuant to the authority delegated to me, § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, effective 0901 G.m.t. May 10, 1984, by designating the following transition area:

Oberlin, Kansas

That airspace extending upward from 700 feet above the surface within a 5.5-mile radius of the Oberlin Municipal Airport (Latitude 39°50'00"N, Longitude 100°32'19"W) and within 3 miles each side of the 194° bearing from the Oberlin NDB (Latitude 39°49'46"N, Longitude 100°32'00"W) extending from the 5.5-mile radius area to 8.5 miles southwest of the NDB facility.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); 49 U.S.C. 106(g) (Revised, Pub. L. 97–449, January 12, 1983); and Sec. 11.69 of the Federal Aviation Regulations (14 CFR 11.69)

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Kansas City, Missouri, on February 1, 1984.

John E. Shaw,

Acting Director, Central Region.

[FR Doc. 84-4046 Filed 2-14-84; 8:45 am]

BILLING CODE 4910-13-M

CIVIL AERONAUTICS BOARD

14 CFR Part 320

[Procedural Reg.; Amdt. 2; Docket 41723; PR-263]

Procedures for Awarding Japanese Charter Authorizations

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: The CAB is amending its rules governing the allocation of charter flights to Japan. These rules previously penalized non-use of any authorization, and excessive transfers of "grandfather" authorizations by taking back a number of authorized flights in future years. The amendment allows carriers to return unneeded authorizations early in each allocation year, without penalty, for Board redistribution. Redistribution will occur on a first-come-first-served basis. The amendment is designed to encourage the maximum use of these limited charter authorizations. This rule is adopted on the Board's initiative, after reviewing the first year's operation of the rule.

DATES: Adopted January 27, 1984. Effective: February 15, 1984.

FOR FURTHER INFORMATION CONTACT: George Wellington, Bureau of International Aviation, (202) 673–5878; or Joanne Petrie, Office of the General Counsel, (202) 673–5442; Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428.

SUPPLEMENTARY INFORMATION: In PDR–86, 48 FR 48832, October 21, 1983, the Board proposed to amend certain provisions of 14 CFR Part 320, *Procedures for Awarding Japanese Charter Authorizations*, to allow carriers to return, at their option, unneeded authorizations without penalty early in the allocation year for which they are valid. The returned authorizations would, under the proposal, be made available to eligible carriers on a first-come-first-served basis. This proposal was made on the Board's own initiative, under the review procedures set forth in § 320.4.

Background

Part 320 implements an interim aviation agreement with Japan that provides for a limited number of charter flights between the two countries. This agreement was first set forth in the June 4, 1982, Record of Consultations and was made effective by the September 7, 1982, Memorandum of Understanding. The rule allocates among U.S. carriers 300 one-way charter flights per year for 3 years beginning October 1982. By Order 82–10–46, the Board allocated these authorizations among qualified air carriers. Carriers with a history of operations in the market received 192 "grandfather" authorizations, and the remaining 108 were distributed among carriers that chose to participate in the Board-run lottery.

To ensure that the authorizations were used efficiently and not wasted, Part 320 allowed carriers to transfer their authorizations. The rule, however, imposed a penalty on excessive transfers of grandfather authorizations and required carriers that transferred more than 10 percent of their grandfather authorizations in any year to forfeit one flight in each future year for each flight transferred above the 10 percent threshold. The rule placed an even stricter penalty on carriers that did not use one or more of their authorizations: forfeiture of two flights in each future year for every flight not used.

When the Board adopted Part 320, it anticipated that there would be considerable demand for Japan charters. Historically, there were a significant number of charter operations by U.S. carriers in the U.S.–Japan market. In addition, a number of U.S. carriers expressed great interest during negotiations with Japan and in response to the proposed rule. The transfer and penalty provisions of the rule were included to encourage recipients to make use of these limited authorizations. In addition, it was designed to prevent excessive profits by carriers that obtained authorizations only for their resale value.

During the first allocation year, there was an unexpectedly low demand for Japan charters. In response to those economic conditions and a petition by Flying Tigers, the Board amended the transfer and penalty provisions of Part 320 by PR–260, 48 FR 31352, July 1, 1983, to permit holders of Japan charter authorizations to return any portion of their first-year allocation, without penalty, for redistribution on a first-come-first-served basis. Nine of the eleven carriers holding authorizations

returned all of their outstanding authorizations for 1982. Of the authorizations retained and those redistributed, a number were not used and, in Order 83–11–1, the Board penalized Flying Tigers, Northwest, and Continental for their non-use of authorizations. The rule is currently under judicial review in the U.S. Court of Appeals for the D.C. Circuit (*Airlift International v. CAB*, D.C. Cir. No. 82–2392, filed Nov. 22, 1982).

In PDR–86, the Board proposed a number of changes to Part 320 in light of the first year's experience with the rule. By PR–251B, 48 FR 45236, October 4, 1983, the Board suspended Part 320's provision for a secondary lottery to reallocate forfeited authorizations for the second allocation year, which began October 1, 1983, pending final action on the rulemaking at issue here.

The Proposal

PDR–86 proposed to retain the original grandfather and lottery allocations because they appeared to be equitable and were consistent with the U.S. Delegation's undertakings on the U.S.-Japan talks. However, because of low current and projected demand for Japan charters, the Board proposed a 30-day "window" at the start of each allocation year during which carriers could, without penalty, return any unwanted authorizations to the Board for redistribution. Carriers would be allowed to transfer their authorizations privately, but there would continue to be a two-for-one penalty for any authorization a carrier allowed to expire unused.

The Board proposed to redistribute returned authorizations (and authorizations forfeited through previous-year penalties) on a first-come, first-served basis to any eligible carrier interested in using them. PDR–86 proposed that (1) eligible carriers could file no more than one request for authorizations per month, for up to 30 authorizations per request; (2) any requests received before the start of an allocation year would be counted as a request filed the first month of that year; (3) requests filed on the first eligible day of the 1983–84 allocation year would be assumed to have been filed simultaneously, and, if more first-day requests were filed than there were available authorizations, the Board would determine their order of receipt by random selection; (4) whenever requests exceeded available authorizations, they would be placed on a stand-by list; and (5) any carrier previously penalized for non-use of authorizations could not request additional authorizations until April 1 of the allocation year, except that this provision would not apply to penalties assessed during the first allocation year. Finally, the Board proposed to reserve the right to assess additional penalties if a carrier was found to have unreasonably requested and received authorizations without using them, or to have transferred authorizations to another carrier that had no intention of using them.

A concurring statement to the notice of proposes rulemaking was filed by Members Smith and McConnell. They stated that "the demand for Japan charters has shown the grandfathering and lottery provisions to be both unnecessary and inappropriate. From this fact, the initial allocation should also be based on need and allocated on a first-come-first-served basis". Member Schaffer concurred in part and dissented in part. She noted her concern that a 1-month turn-in period might be too short for cargo charter operators who have to be able to sell their services on short notice. She concluded that a 3- or 4-month turn-back period would be more appropriate.

The Board tentatively found that these revised procedures would provide an effective incentive for carriers to use the authorizations they had been given, while at the same time not unduly penalizing them for non-use because of the unexpectedly low demand. The Board stated its view that the proposed 30-day turnback period was necessary so that authorizations would be returned early enough in the allocation year to allow interested carriers sufficient lead-time to plan their charter programs. Finally, the Board tentatively found that a first-come-first-served reallocation system would be better than a secondary lottery in meeting the needs of the market and avoiding arbitrariness.

Comments

Comments were filed by Airlift International, Flying Tigers (FTL), Northeastern International Airways, RCA, Transamerica, United, and the Department of Transportation (DOT). Reply comments were filed by Airlift International, Continental, the Air Freight Association (AFA), and the Animal Air Transportation Association (AATA).

All the commenters agreed that changes to the transfer and penalty provisions of the original Part 320 were needed. FTL, Transamerica, RCA, AFA, and AATA stated, however, that the system proposed in PDR–86 failed to recognize and provide for the inherent difference between cargo and passenger charters and could result, in times of high demand, in passenger charter operations being given undue preference over cargo charters. Many of these commenters suggested alternative systems, which will be discussed below.

FTL argued that the proposal failed to limit penalties to carriers that, in good faith, retained authorizations to meet unpredictable, urgent needs for cargo lift. FTL stated that cautious carriers that turn back their authorizations to avoid penalty would not be able to respond to such needs for service. FTL proposed two alternative systems to reduce the unnecessary harshness of the current penalty provisions and to enable more effective operation of cargo charters. Under FTL's preferred system, the penalty provisions of Part 320 would be abolished. Instead, the Board could impose "sanctions" where (1) a carrier did not use authorizations *and* (2) the non-use actually prevented another carrier from operating a Japan charter. Under FTL's alternate system, carriers would make a non-binding designation of their authorizations as passengers or cargo at the start of the allocation year. For cargo-designated authorizations, carriers would review their operations quarterly and, within 5 working days after the end of each quarter, could return unneeded authorizations without penalty. If at the end of the year any retained authorizations expired unused, penaltties might be levied. FTL took no position on procedures to be used for passenger charters under the second system.

FTL also opposed any general first-come-first-served arrangement on the grounds that passenger operations could take all available authorizations and prevent the operation of cargo charters. It argued that cargo charters are more important than passenger charters because the latter are by their nature supplemental lift, while cargo charters respond to urgent shipper needs that cannot otherwise be met.

Transamerica urged the Board to reconsider its tentative decision to retain the regulatory allocation system set forth in Part 320, rather than go to a first-come-first-served system. In support of its view, it stated that the proposal for a turnback period at the beginning of each allocation year would deter the planning and operation of passenger charters because the charters must be organized and marketed 6 months to a year in advance, and are subject to cancellation close to the departure date if there are not enough bookings. According to the commenter, this would cause a problem because the decision about whether or not to cancel would likely not coincide with the

turnback period at the beginning of the allocation year. Therefore, it concluded that it was unfair to subject a carrier to penalty if a charter operator was unable to sell a program organized in good faith.

Transamerica further argued that it is also impossible for cargo charter operators to accurately predict demand. It noted that cargo charters are arranged rapidly to fill needs that cannot be adequately met by cheaper and more time-consuming land or sea transport. It argued that the problem of accurate forecasting is so severe that even the Board's system of allowing only one request per month to be filed for returned authorizations was unworkable for cargo charters, where several requests might be needed throughout a particular month.

Like FTL, Transamerica proposed two alternative systems. Its preferred system would eliminate all existing allocations and replace them with a first-come, first-served arrangement. It proposed that, if necessary, carriers with firm contracts for Japan charters receive up to 30 authorizations per month, with more available by waiver. Any authorizations could be returned to the Board without penalty within 30 days of a flight cancellation. Under the Transamerica system, enforcement remedies, rather than flight penalties, would be used for non-timely returns.

Transamerica's alternate system would be used if the Board decided to retain the grandfather and lottery authorizations. At the start of each allocation year, carriers would designate all authorizations they wanted to retain as either passenger or cargo. Authorizations designated for passenger operations could be held for 120 days without penalty. Carriers with cargo-designated flights could return one-twelfth of these authorizations per month without penalty. If a carrier preferred, it could set aside unused authorizations for future use within the allocation year at the risk of a penalty if it did not use them. At the end of the allocation year, the last month's set-aside would not be subject to penalty if unused. Transamerica suggested that the Board require earlier returns of unused authorizations if there was a shortage.

Continental argued for elimination of the grandfather and lottery allocations and replacement with a first-come-first-served arrangement. It suggested that the Board require charter contracts to exist before giving out authorizations, with no penalty for prompt return of unusable authorizations. In the alternative, Continental argued that the Board should allow carriers to request any number of authorizations, without firm contracts, with the Board using enforcement measures, rather than penalties, if abuse should occur.

United also supported elimination of the present grandfather and lottery allocations on the grounds that they distort the market by limiting prospective charterers to certain pre-selected carriers. United stated that the allocation system hinders new entry, and that the Board has already fulfilled any obligation the U.S. Delegation may have made to incumbent U.S. carriers at the Japan talks. United preferred a pure first-come-first-served system. If demand increased, it suggested that the Board hold annual lotteries with no future year preference for lottery winners.

Airlift stated its continued opposition to any rule revision that continues what it characterizes as illegal lottery allocations. As noted above, Airlift is challenging the validity of the initial allocation in the U.S. Court of Appeals for the D.C. Circuit.

The Department of Transportation supported adoption of all the changes as proposed by the Board. It argued that a one-month turn-back period of both grandfather and lottery allocations would facilitate redistribution of authorizations in time to allow other carriers to use them. In addition, it noted that it has supported, and continues to support, relaxation of the penalty provision to encourage maximum use of the available flights if the anticipated demand does not materialize. It noted that retaining the original secondary lottery/penalty system might deter carriers from entering the market for fear that they might incur penalties, reducing their ability to operate U.S.-Japan charters in future years when economic conditions have improved.

In addition, the Department supported the first-come-first-served system for a number of reasons. First, it found the system to be an effective, non-arbitrary method of distribution that is most appropriate for the current low demand market. Second, it would give carriers the freedom to operate as though there were no charter flight limits, rather than compelling carriers to speculate about future economic conditions and then saddling them with legal responsibility for the use or disposition of their allocation. Finally, it stated that by retaining the two-for-one penalty system for authorizations unused at the end of the year, the amendment induces carriers to return during the first month any authorizations they do not intend to use.

The Final Rule

The Board is adopting all but one of the changes proposed in the notice of proposed rulemaking. It is persuaded that carriers, especially those carrying cargo, may need more than one opportunity per month to request authorizations since requests for lift often come at the last minute. The Board is therefore modifying the proposal so that carriers may file as many monthly requests as they want, although the total number of authorizations requested may still not exceed 30 per month.

The Board has decided not to take away any of the authorizations already given out by the grandfather provisions or by the initial lottery. It reaffirms its findings that the initial allocation was justified by the conditions at the time it was adopted; that it would be unfair to take away this privilege without due process and a strong showing of injury; and that the initial allocation was equitable and consistent with the U.S. delegation's understandings with the incumbent U.S. carriers. The Board finds that retaining the initial allocation is the fairest and most sensible solution because it balances the expectations of carriers that have made plans based on their holdings against the needs of carriers that want to obtain some, or more, authorizations. From the information available at the moment, the Board expects that demand for these charter authorizations will continue to be less than the supply in the 21 months remaining under the Memorandum of Understanding.

The available facts do not support United's argument that the present allocations distort the market by limiting prospective charters to certain pre-selected carriers. From the comments, the Board assumes that many allocations will be turned in. If that is correct, any qualified carrier may request, and probably will obtain, authorizations. In addition, interested carriers can obtain authorizations by transfer.

The first-come-first-served allocation method should answer FTL's concern that cargo carriers need to retain authorizations to meet unpredictable, urgent needs for cargo lift. The rule has been amended so that carriers can request authorizations as needed, although there is a limit of 30 authorizations per month. The Board's staff will expedite handling of those requests. If demand improves to the point that a carrier genuinely needs more than the monthly limit, the Board will consider an exemption request.

The Board does not find any of the alternative systems to be satisfactory. FTL's suggestions do not recognize the basic need that gave rise to the proposal: to loosen the allocation system and make the charter authorizations more freely available to all qualified carriers, in light of the relatively low level of demand. Under FTL's preferred system, it would be very hard to prove in many, if not all cases, that "non-use *actually* prevented another carrier from using that flight authorization." The diminished likelihood of penalty would substantially reduce carriers' incentive to return, use, or transfer to other, interested carriers the authorizations they hold.

If the current holders were allowed to return their authorizations to the Board throughout the whole year, carriers would reasonably hold on to them until the last possible moment on the chance they would be able to use them. This might result in many wasted authorizations because, from a realistic point of view, few carriers would go to the trouble of seeking out cargo contracts or trying to organize passenger charters unless they were certain of obtaining the necessary authorizations. Under FTL's alternate system, cargo carriers would be able to preempt use of authorizations for passenger traffic. Since passenger charters require a long lead-time, many authorizations released in the quarterly turn-ins probably could not be used.

The Board finds impractical Transamerica's suggestion that carriers should not be penalized for a passenger charter that was organized "in good faith" but cancelled because of lack of demand. While in the abstract there may be some merit to the point, any system that required an inquiry into whether a charter was organized "in good faith" would be unworkably complex and vague. Avoiding such costly complexities is the main reason for forcing the "have" carriers to turn in the allocations that probably will be excess early, so that there will be a workable first-come-first-served pool.

Several commenters suggested that the Board use enforcement remedies rather than economic penalties for non-use of the authorizations. The Board finds that the penalty system contained in this final rule will be more effective and evenhanded. The two-for-one penalty is an effective deterrent. By its nature, it must be applied evenhandedly. Because it is easy to administer, it frees up allocations that can be used by other interested carriers. Enforcement actions are generally targeted at only the most flagrant violators. They are inherently time-consuming, both for the government and the parties involved.

Miscellaneous

Continental, Flying Tigers, and Northwest have petitioned for review of Order 83–11–1, which penalized them for non-use of some of their 1982–83 allocations. These petitions, which raise issues outside the scope of this rulemaking, will be considered in a separate order.

The Board will continue to monitor the operation and effectiveness of this rule. If problems develop, the Board will not hesitate to make further appropriate changes.

Effective Dates

Because of the pending lawsuit by Airlift International concerning the allocation of Japan charter authorizations, the Board will request the U.S. Court of Appeals to permit this rule to become effective pending the Court's review of the Japan Charter allocation rule. After receipt of that permission, the Board finds good cause to make this rule effective upon publication in the **Federal Register**. By PR–251B, 48 FR 45236, October 4, 1983, the Board suspended the provisions for a secondary lottery to reallocate forfeited authorizations for the year beginning October 1, 1983, pending final action in this rulemaking. The rule should be effective as soon as possible so that carriers that obtain the authorizations will have time to use them. If the final rule is delayed, the authorizations will be less valuable to the new recipients and the authorizations might be unnecessarily wasted.

Members Smith and McConnell, Concurring

As we indicated in a statement attached to the NPRM, we think this rule is a step in the right direction, but we continue to believe that the Board should eliminate the grandfather and lottery allocations and institute a simple first-come, first-served procedure for distributing these Japan charters.

McKinnon, Chairman, and Schaffer, Member, Concurring in Part and Dissenting in Part

In granting only a one-month, penalty free "turn-back" period, the Board has failed to draw an effective balance between the differing needs of cargo and passenger charter operators.

The Board has recognized the necessity for sufficient lead time in the marketing of passenger charters by insisting that unneeded charter authorizations be returned by the initial recipient in sufficient time to allow their use by other airlines.

However, the Board's requirement that those authorizations be returned within 30 days fails to take into account the need of cargo charter operators to be able to sell charters on short notice.

This is obviously a situation where the needs of all potential charter operations cannot be fully accommodated.

However, we believe that a three or four month "turn-back" period would strike a more reasonable and equitable balance between the needs of different kinds of charter services, all of whom must draw their authorizations from the same negotiated quota.

Regulatory Flexibility Act

In accordance with 5 U.S.C. 605(b), as added by the Regulatory Flexibility Act, Pub. L. 95–354, the Board certifies that these amendments will not have a significant economic impact on a substantial number of small entities. The limitation on charters to Japan is the result of the underlying Memorandum of Understanding with that country. Since qualified direct carriers must possess large aircraft, they would be definition not be small businesses. Some charters are sold by tour operators and agents that are small businesses. The effect of these amendments would, however, only affect the way in which direct air carriers dispose of unneeded Japan charter authorizations. The Board finds that they would not have a significant effect on the availability or cost of these charters to the small businesses that market them. If anything, the effect will be to make charter lift capability more readily available.

Lists of Subjects in 14 CFR Part 320

Charter flights, Reporting and recordkeeping requirements, Treaties.

PART 320—[AMENDED]

Accordingly, the Civil Aeronautics Board amends 14 CFR Part 320, *Procedures for Awarding Japanese Charter Authorizations*, as follows:

1. The authority for Part 320 is:

Authority: Secs. 204, 401, 407, 1102, Pub. L. 85–726, as amended, 72 Stat. 743, 754, 766, 797; 49 U.S.C. 1324, 1371, 1377, 1502.

2. In § 320.3(a), the defined phrase "charter flight authorization" is changed to "authorization" and revised to read as follows:

§ 320.3 Definitions and terminology.

(a) "Authorization" means the authority to perform one of the 300 annual one-way charter flights between the United States and Japan authorized in the Memorandum of Understanding described in § 320.1.

* * * * *

3. Section 320.4(b)(2) is revised to read:

§ 320.4 Charter authorizations.

* * * * *

(b) * * *

(2) A charter flight authorization obtained by request under § 320.15 shall be for one allocation year;

* * * * *

4. Section 320.12 is revised by revising the introductory language of paragraph (a) so that it reads:

§ 320.12 Initial lottery.

(a) An air carrier is eligible to participate in the lottery and any subsequent reallocations, whether or not it is eligible for a grandfather allotment under § 320.11, if it—* * *

* * * * *

5. In § 320.14(b), the words "or secondary" are removed, and in § 320.14(c), the closing phrase, "and the carrier may not participate in any following secondary lotteries" is removed. As revised, paragraphs (b) and (c) read as follows:

§ 320.14 Transfer of charter authorizations.

* * * * *

(b) There shall be no penalty for the transfer of a charter authorization obtained in an initial lottery.

(c) An air carrier may transfer up to 10 percent of its grandfather authorizations for a given year without penalty. The base number shall not include any grandfather authorizations declined under § 320.11(c). A carrier's charter flight authorization for the remaining allocation years shall be reduced on a one-to-one basis for each flight beyond the 10 percent figure that it transfers.

* * * * *

6. In § 320.15, paragraph (b) is revised, and new paragraphs (c) and (d) are added, so that it reads:

§ 320.15 Unused charter authorizations.

* * * * *

(b) Notwithstanding paragraph (a) of this section, any carrier may without penalty return any of its allocated authorizations to the Board, during the following periods:

(1) For the year beginning October 1, 1983, until March 16, 1984.

(2) For any subsequent year covered by this rule, until October 31, of that year.

(c) Returns shall be made by written notice to the Board's Regulatory Affairs Division, Bureau of International Aviation, Washington, D.C. 20428, and shall be considered made as of the date the notice is received by the Regulatory Affairs Division. The notice shall identify the air carrier and the number of authorizations returned, and shall be labeled "Return of Japan Charter Authorizations."

(d) The Board reserves the right, on its own motion, to assess a forfeiture of authorizatons on a carrier, and/or bar the carrier's requests for authorizations for a specified period, if it finds that the carrier has unreasonably requested and received authorizations without using them, or has transferred authorizations to another carrier that had no intention of operating under them.

7. Section 320.16 is revised to read:

§ 320.16 Reallocation of authorizations.

(a) Any authorizations forfeited under § 320.14 or §320.15, or returned to the Board under § 320.15(b), shall be reallocated according to the procedures of this section.

(b) The Board will maintain an up-to-date list of authorizations, outstanding authorizations returned, and the number currently available on request. This information is available from the Board's Regulatory Affairs Division, Bureau of International Aviation, (telephone 202–673–5878).

(c) A eligible carrier, as defined in § 320.12(a), may request authorizations from the Regulatory Affairs Division. Each authorization shall be for one allocation year. The request shall be in writing, and labeled, "Request for Japan Charter Authorizations."

(d) Except as provided in this paragraph and paragraph (e) of this section, a request for authorizations may be made at any time. A particular carrier may make more than one request during any calendar month, but the total number of authorizations requested during any month shall be not more than 30. Requests made before October 1 for the allocation year beginning on that date, or a year after that date, shall be included in that carrier's "October request(s)," and when the number of flights requested is equal to 30, that carrier may not make another such request until November 1.

(e) A carrier that has been assessed a penalty under § 320.14 or 320.15 with respect to a given allocation year (beginning on or after October 1, 1983) shall not make a request for authorizations for a subsequent year until April 1 of the subsequent year.

(f) The Board will accept requests for authorizations continuously during business hours, beginning at 9:00 a.m. on the first business day of the Board following the last day of the turn-back period specified in § 320.15 (b)(1) and (b)(2). Requests will be filled from the pool of returned authorizations in the order they are received by the Regulatory Affairs Division. If the requests at any time exceed the number of returned authorizations, a stand-by list will be established. However, all requests received on the above opening date will be considered as having been received simultaneously, and if they exceed the number of returned authorizations, their order will be established by random selection under procedures agreed to by the requestors or set forth in a Board order.

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 84–4127 Filed 2–14–84; 8:45 am]

BILLING CODE 6320–01–M

FEDERAL TRADE COMMISSION

16 CFR Part 13

[Docket No. C–3130]

Macy's New York, Inc.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Consent Order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order requires a major New York City department store, among other things, to comply with the billing error resolution procedures of the Fair Credit Billing Act (FCBA) and its implementing Regulation Z. This requires the company to acknowledge a customer's written billing error notice within 30 days; resolve the dispute or mail an explanation as to why a statement is believed correct within 2 billing cycles; and maintain for at least 2 years, records evidencing compliance with the Act's billing error resolution procedures. The order prohibits the company from attempting to collect any amount of a bill in dispute, including any finance charge computed on such amount; failing to include on its periodic statements a notice advising customers that disputed amounts need not be paid pending resolution of the dispute; failing to forfeit the right to collect the amount in dispute, up to $50, should it fail to comply with the FCBA's billing error resolution procedures; and failing to timely credit payments to customers' accounts. Additionally, respondent must institute a comprehensive educational program for officers and employees who either establish the company's credit billing procedures or who respond to and resolve notifications of billing

errors; conduct refresher courses annually for five years; and secure from such personnel, a signed statement acknowledging that he/she has read the order, the FCBA and its implementing Regulation Z, and the educational materials which explain the FCBA and its requirements. Further, the company must timely establish a $225,000 redress fund to be apportioned equally among those customers who: (1) Held an open-end credit account with the store during the period January 1, 1977 through December 31, 1978; and (2) who sent the store a written inquiry concerning a billing error at the address designated by it for receipt of billing error notifications.

DATE: Complaint and Order issued January 31, 1984.*

FOR FURTHER INFORMATION CONTACT: Shirley F. Sarna, 8R, New York Regional Office, Federal Trade Commission, 2243–EB Federal Bldg., 26 Federal Plaza, New York, NY 10278. (212) 264–1207.

SUPPLEMENTARY INFORMATION: On Thrusday, September 29, 1983, there was published in the **Federal Register**, 48 FR 44574, a proposed consent agreement with analysis in the Matter of Macy's New York, Inc., a corporation, for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of order.

No comments having been received, the Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered its order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

The prohibited trade practices and/or corrective actions, as codified under 16 CFR Part 13, are as follows: Subpart—Corrective Actions, and/or Requirements: § 13.533 Corrective actions and/or requirements; 13.533–20 Disclosures; 13.533–25 Displays, in-house; 13.533–37 Formal regulatory and/or statutory requirements; 13.533–45 Maintain records; 13.533–50 Maintain means of communication; 13.533–57 Restitution. Subpart—Failing To Comply with Affirmative Statutory Requirements: § 13.1048 Failing to comply with affirmative statutory requirements. Subpart—Neglecting, Unfairly or Deceptively, To Make Material Disclosure: § 13.1852 Formal regulatory and statutory requirements; 13.1852–75 Truth In Lending Act; § 13.1895 Scientific or other relevant facts; § 13.1905 Terms and conditions; 13.1905–60 Truth In Lending Act.

List of Subjects in 16 CFR Part 13

Consumer credit, Department stores, Trade practices.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; 82 Stat. 146, 147; 15 U.S.C. 45, 1601, *et. seq.*)

Emily H. Rock,

Secretary.

[FR Doc. 84–4039 Filed 2–14–84; 8:45 am]

BILLING CODE 6750–01–M

*Copies of the Complaint and the Decision and Order filed with the original document.

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Part 1700

Requirements for Child-Resistant Packaging; Diphenhydramine Hydrochloride

AGENCY: Consumer Product Safety Commission.

ACTION: Final rule.

SUMMARY: The Commission is requiring, under the Poison Prevention Packaging Act of 1970, child-resistant packaging for any preparation that contains more than 75 mg diphenhydramine hydrochloride in a single package and that is in a dosage form intended for oral administration. The Commission has found that this special packaging is required to protect children under five years of age from serious personal injury and serious illness resulting from ingesting such substance.

DATE: The requirement becomes effective on August 13, 1984, and applies to products packaged after that date.

FOR FURTHER INFORMATION CONTACT: Charles M. Jacobson, Division of Regulatory Management, Directorate for Compliance and Administrative Litigation, Consumer Product Safety Commission, Washington, D.C. 20207 (301) 492–6400.

SUPPLEMENTARY INFORMATION:

A. Background

The Poison Prevention Packaging Act of 1970 (the "PPPA"), 15 U.S.C. 1471–1476, authorizes the Commission to establish standards for the "special packaging"; of any household substance if (1) the degree or nature of the hazard to children in the availability of such substance, by reason of its packaging, is such that special packaging is required to protect children from serious personal injury or serious illness resulting from handling, using, or ingesting such substance and (2) the special packaging is technically feasible, practicable, and appropriate for such substance. Special packaging, also referred to as "child-resistant packaging," is defined as packaging that is (1) designed or constructed to be significantly difficult for children under five years of age to open or obtain a toxic or harmful amount of the substance contained therein within a reasonable time and (2) not difficult for normal adults to use properly. (It does not mean, however, packaging which all such children cannot open, or obtain a toxic or harmful amount from, within a reasonable time.) Under the PPPA, effectiveness standards have been established for special packaging (16 CFR 1700.15), as has a procedure for evaluating the effectiveness (§ 1700.20). Regulations have been issued requiring special packaging for a number of household products (§ 1700.14).

One category of products that is required to be in child-resistant packaging is any drug for human use that is in a dosage form intended for oral administration and that is required by federal law to be dispensed only by or upon an oral or written prescription of a practitioner licensed by law to administer such drug (16 CFR 1700.14(a)(10)). The Food and Drug Administration (FDA) determines whether a prescription shall be required for the dispensing of a particular drug. This determination involves factors including the potential toxicity of a drug. While the Commission similarly considers this toxicity factor in its special packaging determination, it also considers as a major factor the availability of a drug's package to young children.

When the FDA releases an oral drug from the prescription category, the drug is not longer required to be in child-resistant packaging by reason of being an oral prescription drug subject to § 1700.14(a)(10). Therefore, when the FDA takes such action, the Commission considers whether child-resistant packaging is nevertheless needed to protect children from serious personal injury or serious illness resulting from handling, using, or ingesting such substance.

The FDA recently released certain antihistamine drugs from the requirement that they be dispensed only by prescription, thereby allowing those drugs to be sold for over-the-counter (OTC) uses.[21][1] One of these

[1] The numbers in brackets refer to the reference documents listed at the end of this notice.

antihistamines is diphenhydramine hydrochloride, also referred to as diphenhydramine, which has been known to cause death and serious illness in children as the result of accidental overdose. Currently, the FDA has given final approval for the use of diphenhydramine in OTC antitussive (cough) preparations.[32] In addition, FDA's OTC Advisory Panel has recommended that the FDA release diphenhydramine for use in OTC sleep-aids.[33] In Appril 1982 the FDA announced an enforcement policy to permit the interin OTC marketing of such sleep-aids, pending a final agency determination on the Panel's recommendation.[33] The future use of diphenhydramine in other OTC products is thought to be likely. These uses include preparations for the relief of symtoms of rhinitis, common colds, and hay fever.

B. Proposed Rule

Following the FDA actions, the Commission proposed a rule, in July 1983, to require special packaging for any preparation that contains more than 75 mg diphendydramine hydrochloride in a single package and in a dosage form intended for oral administration. 48 FR 31664 (July 11, 1983)[30] The only public comment on the proposal was submitted by the Drug Enforcement Administration (DEA), an office within the U.S. Department of Justice.[29] DEA expressed strong support for the proposed special packaging, and additionally discussed its concerns about abuse, illicit trafficking, and subsequent public health risks presented by diphenhydramine hydrochloride. (Supporting data accompanied the DEA discussion.)

FDA did not submit any written comments on the proposal. However, in telephone conversations, the FDA staff has suggested to the Commission staff that special packaging be required only for preparations containing 100 mg or more of diphenhydramine hydrochloride. The Commission has considered this suggestion, but believes that the proposed 75 mg requirement provides a necessary margin of safety that would be lacking with a level of 100 mg. Data from the medical literature show that serious toxic effects have occurred in young children following ingestion of 100–150 mg diphenhydramine hydrochloride.[7, 22] Further, the Commission believes that virtually all marketed diphenhydramine products would be covered regardless of whether the level is 75 or 100 mg. (*See also* section E below.)

Therefore, the Commission has decided to issue the proposed rule in final form without any changes. For the convenience of readers, the Commission will essentially repeat in the remainder of this preamble the explanatory discussion that accompanied the proposed rule in July 1983.

C. Toxic Effects of Diphenhydramine

The most commonly observed adverse effects associated with therapeutic use of antihistamines include drowsiness, dry mouth, and gastrointestinal complaints such as nausea, vomiting, and diarrhea. For adults, the most common signs of toxicity from overdosage of antihistamines appear to be the result of central nervous system depressive effects.[4, 6] If sufficiently high doses are taken, symptoms of drowsiness, dizziness, and loss of coordination can be followed by cardio-respiratory depression and death.

By contrast, children appear to be more sensitive to the central nervous system stimulatory effects of antihistamines. The primary symptoms of overdosage in children are hallucinations, delirium, tremors, high fever, and convulsions.[4, 6] Terminally, a depressive phase ensues, leading to coma, cardio-respiratory collapse, and death. The major life-threatening consequences of overdosage in children have been effectively controlled in cases where the patient was able to obtain the proper treatment in a medical facility; however, rapid access to a medical facility is necessary. Normal first aid procedures may prove ineffective, since diphenhydramine can produce a strong antiemetic effect.[4]

D. Ingestion and Injury Data

Both the medical literature and the available ingestion data indicate a relatively low incidence of serious injury associated with accidental ingestion of OTC antihistamines by children under age five; however, some prescription antihistamines have caused serious injury and even death to young children. It is possible that the inherently lower toxicity of some of the OTC antihistamines, as well as their reduced dosage levels, accounts for the low incidence of injuries involving OTC antihistamines. Of the antihistamines that were previously prescription drugs but are now approved for certain OTC uses, diphenhydramine has caused a number of childhood injuries and deaths.

The Commission's staff reviewed medical literature for the years from 1950 to 1980 and noted 22 reports of serious symptoms caused by antihistamine overdose in children under five years of age; six of these cases resulted in death. Eighteen of the 22 cases appear to be due to accidental ingestion. Diphenhydramine was involved in 16 of the 22 reported cases and in four of the six fatalities.[1, 2, 3, 5, 7, 8, 9, 10] In one reported case[7], a 13-month-old child suffered major motor seizures, serious cardiac arrhythmia, and cardio-respiratory depression following ingestion of 100–150 mg of diphenhydramine hydrochloride.

Data from the FDA's National Clearinghouse for Poison Control Centers for the years 1977 through 1980 show that a total of 632 accidental ingestions of diphenhydramine were reported during this four-year period.[14] Of these cases, 89 reported some symptomatology (i.e., lethargy, nausea, vomiting, etc.). A total of 20 children were hospitalized. Eight of the hospitalized children reported symptoms.

The Commission's death certificate file shows that seven deaths were reported for children under five years of age involving antihistamine preparations during the period of 1973 through 1980.[14, 23] Five of these deaths involved products containing diphenhydramine hydrochloride.

E. Need for Special Packaging

It is clear from both the literature and human experience data discussed above that diphenhydramine has accounted for a disproportionate share of antihistamine-induced injuries and poisonings among children. In the absence of a requirement that products containing diphenhydramine must be in special packaging, it can be expected that the number of incidents involving this drug will increase following the release of the drug to the over-the-counter market, since the product will no longer have to be in child-resistant packaging as an oral prescription drug. Furthermore, it can be expected that the use of the product will increase since it will be available to more persons in an OTC product than as one that may be dispensed only by prescription.

The OTC antitussive diphenhydramine product currently on the market is packaged in a four-ounce bottle containing 12.5 mg of diphenhydramine per teaspoon, or approximately 75 mg per ounce.[23] This product is currently marketed in child-resistant packaging.

The Commission is aware of four firms that are currently marketing OTC sleep-aids containing diphenhydramine.[28] At the time that these manufacturers were first contacted by the Commission's staff, three of these manufacturers' products were being marketed in non-child-

resistant packaging, but one of these manufacturers already had plans to convert to child-resistant packaging within a short period of time. That manufacturer has now done so, and the other two manufacturers have reported preparations for conversion to child-resistant packaging, in anticipation of the Commission's regulation. For now, however, two products are marketed in non-child-resistant packages. These products contain up to 800 mg diphenhydramine hydrochloride per package. Diphenhydramine preparations are thus available in amounts that present a risk of serious injury or serious illness to children from ingesting such substances.

As noted above, the literature shows that serious toxic effects can be produced with doses as low as 100 mg of diphenhydramine. On the other hand, a dose of 75 mg could be within the prescribed dosage range for a child. Therefore, the Commission believes that the special packaging requirement for diphenhydramine should apply to packages containing more than 75 mg of the drug.

More detailed discussions of the toxicity of diphenhydramine and the extent that preparations containing it are available to young children are included in the Commission staff briefing packages dated August 24, 1982 and June 3, 1983.[15, 23] These materials also discuss the toxicity of other antihistamine preparations.

F. Technical Feasibility, Practicability, and Appropriateness

In issuing a standard for special packaging under the PPPA, the Commission is required by section 3(a)(2) of the PPPA, 15 U.S.C. 1472(a)(2), to find that the special packaging is "technically feasible, practicable, and appropriate * * *."

1. *Technical feasibility.* Diphenhydramine preparations are marketed in tablet and liquid form, and there are numerous package designs that meet the requirements of 16 CFR 1700.15(b) that are suitable for use with each form of this product.[12]

2. *Practicability.* Because many existing designs suitable for use with the diphenhydramine preparations that are the subject of the proposed regulation are currently being used in the packaging of other drugs and dietary supplements, it is clear that special packaging for this product is practicable in that it is adaptable to modern mass production and assembly line techniques. The Commission anticipates no major supply or procurement problems for the packagers of diphenhydramine-containing products or the manufacturers of child-resistant closure and capping equipment.[12] In addition, there should be no serious problems experienced by manufacturers of the products in incorporating the child-resistant packaging features into their existing packaging lines.[12]

3. *Appropriateness.* As shown by the use of many existing suitable designs with other drug products, special packaging is appropriate since it is available in forms that are not detrimental to the integrity of the substance and that do not interfere with its storage or use.[12]

Accordingly, the Commission finds that special packaging for diphenhydramine-containing preparations is technically feasible, practicable, and appropriate.

G. Effective Date

The PPPA provides that, except for good cause, no regulation shall take effect sooner than 180 days or later than one year from the date such regulation is issued. The Commission proposed that the effective date of the standard be six months following its issuance in final form. Since that proposal, the Commission has received no additional information, from public comments or otherwise, on an appropriate effective date. Based on all available information, the Commission believes that six months (approximately 180 days) will provide an adequate period of time for manufacturers to obtain suitable child-resistant packaging and incorporate its use into their packaging lines. Therefore, the special packaging requirement will become effective in 180 days and will apply to all covered diphenhydramine preparations packaged after that date.

H. Environmental Considerations

Rules requiring poison prevention packaging of products normally have little or no potential for affecting the human environment, and, therefore, neither an environmental assessment nor an environmental impact statement is required. *See* 16 CFR 1021.5(c)(3). From the facts presently available, the Commission concludes that this special packaging rule will have no significant effects on the environment.

I. Regulatory Flexibility Act Certification

Using the criteria of the Regulatory Flexibility Act, 5 U.S.C. 601(3), the Commission staff concluded, when the rule was proposed, that neither of the firms that will be required to institute changes to its packaging is a small business. Further, there were no indications that any small business doing business with the directly affected firms would be subject to any significant effects as a result of the proposed standard. Therefore, the Commission certified that the proposed rule would not have a significant economic impact on a substantial number of small entities.[30]

The Commission received no comments on that certification and believes that it is still valid, based on all information now available.

J. Scope of Rule

The Commission proposed special packaging for diphenhydramine hydrochloride because all marketed products were found to contain the hydrochloride form of diphenhydramine. However, FDA permitted for over-the-counter use in sleep aids both diphenhydramine hydrochloride and monocitrate. The reason for this appears to be that the monocitrate form of the drug was included in some of the data supplied by the industry to FDA in support of the requested transfer to OTC status.

Future products might be marketed, over the counter, containing the monocitrate or other forms of diphenhydramine as antitussives, sleep aids, or other products. Based on the similarity in toxicity for all forms of the drug, the Commission believes that it would be better for its special packaging rule to cover diphenhydramine base in all forms and applications. Therefore, the Commission has decided to issue a final rule for the diphenhydramine hydrochloride form, as proposed, and simultaneously propose to broaden this rule or cover the base. Such a proposal, published in the *Proposed Rule* section of today's **Federal Register**, accomplishes this purpose.

K. Conclusion

Therefore, having considered the available human experience data and the medical literature, the Commission concludes that the requirement for special packaging set forth below should be issued. [1] In making this determination, the Commission has considered—

(1) The reasonableness of the rule;

(2) Available scientific, medical, and engineering data concerning special packaging and concerning childhood accidental ingestions, illness, and injury caused by household substances;

(3) The manufacturing practices of industries affected by the PPPA; and

(4) The nature and use of the diphenhydramine preparations covered by the rule.

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[1] The rule was approved by a 4-0 vote of the Commission.

PART 1700—[AMENDED]

List of Subjects in 16 CFR Part 1700

Consumer protection, Drugs, Infants and children, Packaging and containers, Poison prevention, Toxic substances.

Accordingly, pursuant to provisions of the Poison Prevention Packaging Act of 1970 (Pub. L. 91–601, secs. 2(4), 3, 5, 84 Stat. 1670–72; 15 U.S.C. 1471(4), 1472, 1474) and under the authority vested in the Commission by the Consumer Product Safety Act (Pub. L. 92–573, sec. 30(a), 86 Stat. 1231; 15 U.S.C. 2079(a)), the Commission adds a new paragraph (a)(17) to 16 CFR 1700.14, reading as follows (although unchanged, the introductory text of paragraph (a) is included below for context):

§ 1700.14 Substances requiring special packaging.

(a) *Substances.* The Commission has determined that the degree or nature of the hazard to children in the availability of the following substances, by reason of their packaging, is such that special packaging is required to protect children from serious personal injury or serious illness resulting from handling, using, or ingesting such substances, and that the special packaging herein required is technically feasible, practicable, and appropriate for these substances:

* * * * *

(17) *Diphenhydramine hydrochloride.* Preparations for human use in a dosage form intended for oral administration and containing more than 75 mg diphenhydramine hydrochloride in a single package shall be packaged in accordance with the provisions of § 1700.15 (a), (b), and (c), if packaged after August 13, 1984.

Authority: Pub. L. 91–601, secs. 2(4), 3, 5, 84 Stat. 1670–72; 15 U.S.C. 1471(4), 1472, 1474; Pub. L. 92–573, sec. 30(a), 86 Stat. 1231; 15 U.S.C. 2079(a).

Dated: February 9, 1984.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

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11. Transmittal memo, with attached impact analysis of DPH regulation, from Elliott Foutes, dated March 30, 1983.
12. Memo on technical feasibility, practicability, and appropriateness of DPH regulation, from Charles Wilbur, dated October 27, 1982.
13. Memo on update on diphenhydramine ingestions, from Dorothy Drago, dated April 1, 1983.
14. Memo on summary of data discussed in previous memos (dated 2/24/82 and 7/30/82) on diphenhydramine, from Fred Marozzi, dated December 8, 1982.
15. Transmittal memo with attached briefing paper on proposed diphenhydramine regulation, from Virginia White, dated June 3, 1983.
16. Memo on proposed diphenhydramine regulation (Restricted), from Harleigh Ewell, dated June 6, 1983.
17. Vote sheets on proposed diphenhydramine regulation, dated June 6, 1983.
18. Memo on use of diphenhydramine in OTC nighttime sleep aids (Restricted), from Elliott Foutes, dated July 14, 1982.
19. Memo on diphenhydramine hydrochloride (Restricted), from Evelyn Spiro, dated March 8, 1982.
20. Memo on recommended level for regulation of diphenhydramine, with attached chart, from Fred Marozzi, dated July 30, 1982.
21. Final rule on Marketing Status of Ingredients recommended for over-the-counter use. 47 FR 17736, April 23, 1982.
22. Memo on recommendation with respect to development of a PPPA regulation covering OTC antihistamine preparations (Restricted), from Denise Orzech, dated February 24, 1982.
23. Transmittal memo on recommendations for special packaging requirements under PPPA for OTC antihistamines, with attached briefing package, from Virginia White, dated August 24, 1982.
24. Memo on draft **Federal Register** notice proposing CRC requirements for diphenhydramine, from Harleigh Ewell, dated April 1, 1983.
25. Memo on draft proposed PPPA requirement for diphenhydramine (effective date) (Restricted), from Harleigh Ewell, dated June 23, 1983.
26. Ballot vote sheets on reconsideration of the effective date in proposal to require special packaging for diphenhydramine preparations (Restricted), from Harleigh Ewell, dated June 23, 1983.
27. Memo on diphenhydramine regulation update, from Denise Orzech, dated August 16, 1983.
28. Memo on OTC products containing DPH, from Elliott Foutes, dated Dec. 1, 1983.
29. Public comment from Drug Enforcement Administration, dated Aug. 26, 1983.
30. Proposed requirements for Child-Resistant Packaging; Diphenhydramine Hydrochloride, **Federal Register** document, dated July 11, 1983.
31. Transmittal memo with attached briefing paper on final rule for special packaging of preparations containing diphenhydramine, from Virginia White, dated January 1984.
32. Letter from M.J. Finkel, FDA to Warner-Lambert Co.; NDA6–514OTC, vol. 04TTFMO04TTFM; Documents Management Branch, FDA, 5600 Fishers Lane, Rockville, MD 20857.
33. **Federal Register** notice; Diphenhydramine: Marketing status as a nighttime sleep-aid drug product for over-the-counter human uses. 47 FR 17740, April 23, 1982.

[FR Doc. 84–4061 Filed 2–14–84; 8:45 am]

BILLING CODE 4355–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Social Security Administration

20 CFR Part 416

Health Care Financing Administration

42 CFR Part 435

Supplemental Security Income for the Aged, Blind, and Disabled; Income, Resources and Exclusions Deeming of Income and Resources: Medicaid Program; Financial Requirements for Categorically Needy

AGENCIES: Social Security Administration, Health Care Financing Administration, HHS.

ACTION: Final rules.

SUMMARY: The Social Security Administration (SSA) is adopting as final, interim regulations on deeming of income and resources, which was published on Friday, June 4, 1982. These rules address the problem of certain individuals who require costly medical care and who under the usual Supplemental Security Income (SSI) deeming rules are ineligible for SSI and Medicaid as long as they live with their families. These rules also address the problems of individuals who remain institutionalized because returning home for less costly medical treatment would result in loss of SSI and Medicaid eligibility. The rules provide that the Secretary, in appropriate circumstances, will not apply the usual SSI rules for

deeming the income and resources of certain family members to a noninstitutionalized individual. This is a temporary policy that will deal with this concern while States, if they choose, develop appropriate programs of home and community-based services under their Medicaid programs.

EFFECTIVE DATE: The changes in and additions to the regulations are effective February 15, 1984.

FOR FURTHER INFORMATION CONTACT:
For SSI provisions: Fred Miranda, Legal Assistant, Office of Regulations, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235. Telephone (301) 594–7341.

For Medicaid provisions: Marinos Svolos, Director, Division of Medicaid Eligibility Policy, Health Care Financing Administration, 6325 Security Boulevard, Baltimore MD 21207. Telephone (301) 594–9050.

For information regarding the submission of a State agency's application for waiver of the usual SSI deeming rules: Executive Secretary, Department of Health and Human Services, attention Dan Converse, Room 635 G–1 Humphrey Building, 200 Independence Avenue, SW., Washington, D.C., 20201, Telephone (202) 245–7187.

SUPPLEMENTARY INFORMATION: We are amending our rules to provide that when the situation warrants, the Secretary will not apply the usual SSI rules for deeming the income and resources of certain family members to a noninstitutionalized individual. We are also making a conforming change to the Medicaid regulations to provide that determinations of the Board apply in any State that uses SSI deeming rules. We published interim rules with a request for comments on June 4, 1982 (47 FR 24274). Comments received since publication are discussed in this preamble. In addition, on April 29, 1983, we published a notice extending the effective period of the interm rules and the tenure of the intradepartmental board through December 31, 1983 (48 FR 19364). These final rules extend the tenure of the board through December 31, 1984.

Title XVI of the Social Security Act (the Act) establishes a program of SSI for aged, blind, and disabled individuals. Under SSI, qualified needy individuals are entitled to cash payments. Under section 1902(a)(10)(A) of the Act, beneficiaries of SSI payments are in turn eligible for Medicaid in most States. (In 14 States, however, Medicaid eligibility for the aged, blind, and disabled is determined not by receipt of SSI payments, but rather, under section 1902(f) of the Act, by use of eligibility criteria that may be as restrictive as the criteria used under the States' 1972 Medicaid programs.)

An individual is eligible for SSI payments only if his or her income and resources are below established limits. The method for determining the amount of an individual's income and resources is outlined in detail in sections 1611–1614 of the Act and in the Department's regulations (20 CFR Part 416, Subparts K and L). An aspect of this income and resources determination is the statutory provision requiring, under certain circumstances, that the income and resources of certain persons in the individual's family be considered in determining whether the individual is eligible to receive SSI payments. These provisions concerning the "deeming" of income and resources appear in section 1614(f) of the Act.

Under section 1614(f)(1), the income and resources of an individual are deemed to include the income and resources of the individual's ineligible spouse if the spouse is living in the same household. Similarly, section 1614(f)(2) provides that the income and resources of a child under age 18 are deemed to include the income and resources of the child's parents, if they are living in the same household. In either case, income and resources of these family members are not to be considered "to the extent determined by the Secretary to be inequitable under the circumstances."

In most States there is a direct connection between SSI eligibility and Medicaid eligibility. SSI deeming rules, therefore, affect eligibility for Medicaid in those States. Application of the usual SSI deeming rules, in some circumstances, results in a family's decision to place an individual in an institution or if already institutionalized to keep him or her there to maintain Medicaid eligibility. Consequently, in such cases, there are higher program costs to State and Federal governments and the best interests of the individual may not be met. Similar situations exist where Medicaid eligibility is based on an individual's receipt of federally administered State supplementary payments described in section 1616 of the Act, since SSI deeming rules are also used in those programs.

Institutionalization is fostered by the provision in section 1614(f) of the Act, which applies the deeming rules only to individuals living in the same household as their parents or spouse. Under the usual SSI deeming rules as of the first full month of institutionalization, an institutionalized individual is considered not to be living in the same household as the individual's parents or spouse, and as a result, their income is not deemed to the individual. The institutionalized individual may therefore be eligible for SSI payments (and hence in most States for Medicaid), even in cases where application of the usual deeming rules would make the individual ineligible if living at home. To obtain or retain SSI and Medicaid eligibility, some individuals become or remain institutionalized even though their medical needs could be met at a lower cost if they were living at home. There are a number of currently institutionalized patients who could be satisfactorily treated at home at less cost to the Government but who remain institutionalized to avoid losing Medicaid eligibility because of the application of the usual SSI deeming rules.

In these final regulations we are continuing the two approaches to resolving this problem that were adopted in our interim rule. The short term approach involves exercising the Secretary's discretion in certain cases by not applying the usual SSI deeming rules. The other, longer-term approach allows the States to take advantage of the flexibility under section 1915(c) of the Act to cover services for individuals who could be treated at less cost if not institutionalized. In addition, we are noting another possible long term approach provided by the Congress in section 1902(e) of the Act (section 134 of Pub. L. 97–248). Under this approach States have an option wherein a child 18 years of age or younger, who qualifies as a disabled individual under section 1614(a) of the Social Security Act (and meets certain additional requirements), may be deemed to be an individual to whom an SSI payment or a State supplementary payment, respectively, is being paid under title XVI.

Long-Term Solution

The issue of inappropriate institutionalization of patients is not restricted to cases where SSI eligibility rules discourage patients from living at home but involves many other circumstances. In section 2176 of the Omnibus Budget Reconciliation Act of 1981 (Pub. L. 97–35) Congress addressed this problem. A new section 1915(c) was added to the Social Security Act authorizing the States, under a Secretarial waiver, to offer a wide array of home and community-based services that an individual may need to avoid institutionalization. The purpose of this legislation was to bring about cost savings and other benefits of deinstitutionalization. Interim final regulations implementing this new

authority were issued in the **Federal Register** of October 1, 1981 (46 FR 48532).

Under section 1915(c)(1), a State Medicaid plan may provide approved home and community-based services to individuals who would otherwise require the level of care provided in a skilled nursing facility or intermediate care facility, the cost of which could be reimbursed under the State Medicaid plan. This provision allows a State to provide home and community-based services under its Medicaid plan to individuals who, in the absence of such services, would require institutional care and would be eligible for Medicaid if institutionalized. Accordingly, under a section 1915(c) waiver, States may furnish approved home and community-based services to individuals living at home. States can use this new authority to prevent unnecessary institutionalization by providing medical services at home and in the community.

Utilization of this waiver authority has been encouraged by the Department. In October 1982, then-Secretary Richard S. Schweiker, wrote the Governors and urged that the States request waivers so that home and community based services under Medicaid would be provided to individuals who would be institutionalized otherwise. The States could thereby obtain the authority to fund alternatives to institutional care and potentially achieve cost savings to their Medicaid programs. Again, in April 1983, Secretary Margaret M. Heckler reminded the Governors of the availability of waivers and urged them to promptly pursue the waiver options so that their States could have their programs in place before the term of the Federal board expired. To assist the States in applying for waivers, the Department sent to State Medicaid Agencies in December 1982 a simplified model waiver request form.

In response to our efforts, 46 States had, as of October 31, 1983, submitted 100 waiver requests to provide home and community-based services. As of that date, 58 of the waivers (submitted by 40 States) had been approved. Of those totals 10 had been submitted via model waiver request, and 6 of those have been approved. These figures indicate commendable progress toward caring for those suited for home and community-based care in that setting. However, not all of the waivers cited above include the target group encompassed by the case-by-case waiver requests and not all of the waivers cited above provide services on a Statewide basis. Taking these factors into account, 15 States have approved State plan amendments or home and community-based services waivers which enable them to discontinue reliance on the case-by-case alternative. Further, a number of States are either considering initial or additional waiver requests or are in the early phases of implementation of approved waivers. Accordingly, it is imperative that the case-by-case approach of the board continue until States have had adequate opportunity to establish and implement their waiver programs. Continuing the board's case-by-case approach during this interim period will insure that the alternative of home care is not denied due solely to administrative or other complexities. We do not expect this need to persist beyond an interim period.

The Congress addressed this problem again, but in a different way, in section 134 of the Tax Equity and Fiscal Responsibility Act of 1982 (Pub. L. 97-248), enacted on September 3, 1982. A new paragraph 1902(e)(3), with an effective date of October 1, 1982, was added to the Social Security Act and provides that for purposes of title XIX, States have an option under which a child 18 years of age or younger who qualifies as a disabled individual under section 1614(a) of the Social Security Act may be deemed for purposes of Medicaid to be an individual to whom an SSI payment or a State supplementary payment is being paid under title XVI. This provision applies if the State includes coverage of this group under its Medicaid plan and it determines that:

(a) The child requires the level of care provided in a hospital, skilled nursing facility, or intermediate care facility;

(b) It is appropriate to provide the care for the child outside of such an institution;

(c) The estimated cost of care at home is no more expensive than the estimated cost of such institutional care; and

(d) The child, if in a medical institution, would be eligible for SSI or a State supplementary payment.

Thus, under this provision, the child could be eligible for Medicaid in most States under section 1902(a)(10)(A) of the Act. As of September 26, 1983, six States and the Northern Mariana Islands had used this option.

Interim Solution

Since it was expected to take time for States to develop and implement either of the long term solutions described above, we adopted an interim approach. Under this interim approach, the Secretary has established a board within the Department that determines, in appropriate cases, whether or not the usual SSI deeming rules should be applied. The facts of each case are individually examined to determine whether, under section 1614(f) of the Act, it would be inequitable under the circumstances to consider family income and resources in determining an individual's eligibility for SSI payments.

The board applies two basic principles in every case. First, a determination not to apply the usual SSI deeming rules must prospectively result in savings to the Medicaid program. This requirement is met, for example, by showing that a currently institutionalized Medicaid patient who would otherwise remain in the institution could be treated less expensively at home and that Medicaid expenses would therefore be less.

Second, in each case it must be shown to the satisfaction of the board that the quality of medical care will be comparable to that which would be provided if the individual were institutionalized. This requirement may be of concern particularly in States whose Medicaid programs do not offer extensive medical services for patients living at home. Ordinarily the board is satisfied by appropriate assurances of the attending physician or institution, subject to requests by the board for further information necessary for such assurance.

Through September 26, 1983, the board had processed to approval 38 of the 94 applications which it had received. Although the total savings in each of these cases is impossible to predict, substantial savings are likely to accrue. For example in at least two instances the estimated first month's savings, as estimated by the States, totalled about $12,000. In several other instances the estimated monthly savings to the Medicaid program exceeded $1,000, and overall amounted to several thousand dollars a month.

In addition to these two basic requirements, the rules governing the board's deliberations have provided that the board can impose additional requirements or standards in particular cases, depending on the facts presented. This provision is continued in this final rule. We are continuing the case-by-case approach, rather than establishing standard rules for uniform application, because the situations that we have encountered and that we expect to encounter are too diverse to be treated under a standard set of rules. Also, because of our limited experience we are still uncertain about the range of circumstances that may exist, and about

the need for further restrictions to prevent abuse.

All applications for a board determination concerning application of the usual SSI deeming rules for Medicaid eligibility purposes must be made on behalf of the individual by a State Medicaid agency. We believe that involving the State Medicaid agency ensures that we are acting on the best available information about the circumstances of the particular patient, the savings that will result, and the medical services that would be available to the patient at home. A State agency's application should set forth sufficient informaiton about the case to show that the basic criteria are met and that it would otherwise be inequitable under the circumstances to apply the usual SSI deeming rules. Additional information may be requested by the board before acting on the application. Information on where to submit applications for the board's review has been provided directly to State Medicaid agencies.

When the board determines not to apply the usual SSI deeming rules, it does so in a manner that maintains SSI eligibility but does not result in unnecessary SSI program expenditures. Thus, the board typically applies the deeming rules to the extent necessary to result in a minimal SSI or Federally administered optional State supplementary payment. This is because a minimal payment is sufficient to establish or maintain Medicaid eligibility, which is the purpose of the board's action. All determinations by the board are subject to revision based on new information or changed circumstances. The board considers only whether it would be inequitable to apply the usual SSI deeming rules. All other aspects of determining SSI eligibility are handled by the Social Security Administration under existing policies and procedures.

The board also accepts applications from States that do not link Medicaid eligibility to the receipt of SSI payments but instead determine Medicaid eligibility under section 1902(f) of the Act. If such a State uses all, or relevant parts of, SSI's usual deeming rules, the State can also take advantage of the board's authority not to apply those rules. Board determinations are based on the same criteria and procedures as for other States which determine Medicaid eligibility based on SSI criteria.

As noted previously, the policy of determining, on an individual basis, whether the usual SSI deeming rules should not apply under certain circumstances is being utilized on a temporary basis only, pending development by the States of appropriate programs under the new statutory authority allowing waivers for home and community-based services. The regulations provide that the board will continue to make case-by-case determinations only through December 31, 1984. As previously indicated, the board's tenure was first extended from April 30, 1983 to December 31, 1983, when we published a Notice in the **Federal Register** at 48 FR 19364 extending the effective period of the interim rules and the tenure of the intradepartmental board; these final regulations extend the date through December 31, 1984. The original period of time plus the extension of time (beginning with the effective date of the interim rules) should be sufficient for the States to develop appropriate programs of home and community-based services. Determinations made by the board through December 31, 1984, continue in effect after that date. However, it is anticipated that approvals by the board can be terminated for individuals residing in States that have adopted programs of home and community-based services or (for those under age eighteen) that cover them under a State plan provision permitted under section 1902(e)(3).

We do not believe that case-by-case consideration of the SSI deeming rules is an appropriate long-term solution. We believe that given adequate time to do so, the States are in a better position to develop the appropriate approaches to avoiding institutionalization, which may require a variety of methods tailored to particular circumstances

Comments

Comments Received Following Publication of the Interim Rules on June 4, 1982 (47 FR 24274).

A. General

Twelve letters were received in response to our request for comments. All commented on one or more provisions of the regulations. We have combined those comments that deal with the same issue. Comments received dealt with both the interim rules and with the provisions of section 1915(c) of the Social Security Act, referred to as the authority for the long-term solution in the preamble of the interim rule.

The commenters were representatives of four State agencies, two regional planning agencies, two legal service agencies, three public advocacy agencies, and one member of the general public. In general, the comments supported our effort to deal with the problem wherein certain individuals are admitted to institutions or remain institutionalized because remaining at home or returning home for less costly medical treatment would result in loss of Medicaid. However, there were several commenters who expressed concern that the rules presented are neither a long-term solution in themselves, nor do they provide for any realistic long-term solution because some States do not have either the kind of facilities or funding needed to implement the provisions of section 1915(c) of the Act. There were also some negative comments that the methodology for the short-term solution of securing SSI deeming waivers is cumbersome, unclear, and does not provide for appeal rights.

Comment: The one comment in opposition to the policy set out in these regulations was motivated by a concern that the regulations might allow certain financially able parents and spouses to shirk their responsibilities while taxing the ability of governmental programs to meet the increasing financial demands being placed on them, particularly since funds available for governmental programs are becoming more restricted.

Response: A requirement of § 416.1161a(b) of the regulations states that, in order to provide Medicaid eligibility to a noninstitutionalized individual who would otherwise be ineligible, it must be established, prospectively, that such circumstances would result in savings to the Medicaid program. As a result of these regulations, it can be expected that program savings (primarily in the Medicaid area) will accrue.

Further, we expect that States will continue to act in a responsible manner in evaluating cases for submission for Board review. We have seen no evidence to indicate that States might submit cases where parental income and resources are clearly adequate to exceed demonstrated needs. In any event, the Board has reserved the right to apply special criteria on a case by case basis. This will allow the Board to act to prevent abuse.

Comment: Several comments were made that the regulation should provide for appeal rights when the Medicaid agency did not file for a waiver on an individual's behalf, or that appeal rights should be available in the event that the board denied a State request for waiver.

Response: The regulations establishing the circumstances under which the Secretary will not apply the ordinary SSI deeming rules are part of the body of SSI regulations (20 CFR Part 416) and therefore the determinations are subject to the normal SSI rules for

administrative review. Determinations with regard to an individual's eligibility for or amount of SSI benefits are initial determinations and are thus appealable by the individual (§ 416.1402). Decisions by the board as to whether or not the special SSI deeming rules apply in a particular case go directly to the issue of eligibility for SSI, and the amount that the board decides is deemable goes to the amount of SSI benefits payable. Additionally, these regulations do not preclude any existing appeal rights for individuals in their dealings with the Medicaid agencies that have the authority to apply to the board.

Comment: Two commenters observed that the regulations failed to consider non-economic factors. One observed that the regulations should take into account the advantages of home care over high quality institutional care—the quality of life at home is better than it is in an institution.

Response: It would be extemely difficult to evaluate accurately the intangible variables as proposed. The purpose of the short term solution, however, is to provide Medicaid coverage for a noninstitutionalized individual at home in recognition both of possible savings in the Medicaid program and the desirability of care in the family rather than in an institution.

Comment: Two commenters stated they felt that having a national board make the determinations was more cumbersome and time consuming; determinations should be made by State boards subject to final approval by the Department of Health and Human Services.

Response: A national board best meets the requirements for an equitable and efficient administration of this interim program. A single, national board ensures a greater degree of consistency in application of criteria and determinations than would result from independent evaluations and decisions by boards at the State level during the interim period. Exceptions to the usual SSI deeming rules are intended to be granted under only exceptional circumstances, and review by a national board better reinforces that concept. A centralized board under the auspices of the Department also better ensures that the full capabilities of the Department's multi-faceted resources, including the Health Care Financing Administration, the Social Security Administration, and the Public Health Service, will be brought to bear, as appropriate, on each of these cases. We do not see how a system of State-level boards will be any less cumbersome during an interim period than the current national board structure. Our experience, though somewhat limited, indicates that these regulations will apply to a small number of cases; only 94 applications for waiver of the usual SSI deeming rules were made by September 26, 1983.

Comment: Several comments were concerned with the lack of standards provided for by the regulations. Two commenters felt there are no standards, others spoke to the lack of standards in specific areas, such as that there is no clear direction concerning what is to be submitted to support an application for waiver.

Response: Section 416.1161a, and in particular paragraph (b) of the section, specifies the required standards. These standards allow us to take into consideration all the factors that should come to bear on whether the usual SSI deeming rules should be waived and thus meet the purposes of these regulations.

Comment: Two commenters felt that the regulations should specify how much income should be deemed.

Response: The regulations are designed to assure that the payment of SSI benefits would be sufficient to maintain Medicaid eligibility, which is the true purpose of the board's waiver determination, without spending unnecessary amounts of SSI funds. Regulations determining specific amounts of income to be deemed would not be helpful in meeting that objective. More specific regulations concerning the deeming of income might result in unnecessary SSI expenditures or failure to achieve or maintain Medicaid eligibility.

Comment: Several commenters observed that the possibility of unstated requirements on a case-by-case basis permits subjective decisions and weakens the regulations. They proposed that the case-by-case provision in the regulations be eliminated.

Response: Our experience to date, though limited to 94 applications in the first 15 months, has reinforced our belief that the range of circumstances that exist, in the cases that the board considers, are too variable and numerous for the board to formulate standards which can be applied uniformly and consistently. Also, we have not had enough experience to develop specific additional restrictions to prevent abuse. Therefore, we find it necessary to retain, in these final rules, the case-by-case approach wherein the board may impose additional requirements or standards in particular cases depending on the facts presented. We also believe that the composition of the board, and the intensive review of applications provide a substantial safeguard against subjectivity and any possible resulting inequity.

Comment: One commenter observed that is unlawful for the Department to dispense with notice and comment under the Administrative Procedure Act.

Response: It is the Department's policy ordinarily to use notice and comment procedures in the development of rules relating to benefits even though such action is not required by the Administrative Procedure Act (APA). Occasionally, it is necessary or appropriate to issue rules without the benefit of a prior public comment procedure. One such situation arises, as in this case, when delay in issuing effective rules would prevent the implementation of a beneficial program. In the circumstances of this case, the benefits of prompt program implementation outweighed the advantages of notice and comment, and thus the use of those procedures would have been contrary to the public interest. The APA authorizes agencies to omit notice and comment procedures in such a situation, and thus the Department's issuance of interim regulations in this instance was proper.

Comment: Several commenters said that the regulations should provide that parties other than or in addition to State Medicaid agencies be permitted to apply for use of the special deeming rules.

Response: We believe that the Medicaid agency is the most logical and responsible party to make the application for waiver of the SSI deeming rules since the main focus of this regulation is to provide Medicaid eligibility for people receiving services at home. Also, the Medicaid agency is the appropriate party because it is the maintenance or achievement of Medicaid eligibility that is involved and that agency can most easily provide us with the best possible information about the circumstances of a particular patient, the savings that will result to the Medicaid program, and the medical services that will be available to the patient at home. We believe that permitting individuals or other interested parties to apply directly to the board would generate substantially larger workloads with few, if any, additional waivers being granted. Individuals directly affected or other interested parties can bring particular cases to the attention of the appropriate State Medicaid agency.

A list of the Medicaid agencies (by State) which may be contacted in these cases to find out if the State uses SSI deeming rules and other relevant criteria and if appropriate, to request that the State file an application for waiver of

the usual SSI deeming rules is provided below:

Alabama

Commissioner of Medicaid, Alabama Medicaid Agency, 2500 Fairlane Drive, Montgomery, AL 36130, (205) 277–2710

Alaska

Commissioner, Department of Health and Social Services, Pouch HO–1, Juneau, AK 99811, (907) 465–3030

Arizona

Director, Department of Human Services, 1740 W Adams Street, Phoenix, AZ 85007, (602) 255–1024

Arkansas

Director, Department of Health Services, Donaghey Building, 13th Floor, Seventh and Main Streets, Little Rock, AR 72201, (501) 371–1001

California

Director, Department of Health Services, 714 P Street, Room 1253, Sacremento, CA 95814, (916) 445–1248

Colorado

Executive Director, Department of Social Services, 1575 Sherman Street, Room 623, Denver, CO 80203, (303) 866–3041

Connecticut

Commissioner, Department of Income Maintenance, 110 Bartholomew Avenue, Hartford, CT 06115, (203) 566–2006

Delaware

Secretary, Department of Health and Social Services, Delaware State Hospital, New Castle, DE 19720, (302) 421–6705

District of Columbia

Director, Department of Human Services, 801 North Capitol Street, NE, Room 700, Washington, D.C. 20002, (202) 727–0310

Florida

Secretary, Department of Health and Rehabilitative Services, 1323 Winewood Boulevard, Tallahassee, FL 32301, (904) 488–7721

Georgia

Commissioner, Georgia Department of Medical Assistance, Twin Towers Office Building, Room 1220–C, West Tower, 2 Martin Luther King Drive, Atlanta, GA 30334, (404) 656–4479

Hawaii

Director, Department of Social Services and Housing, P.O. Box 339, Honolulu, HI 96809, (808) 548–6280

Idaho

Director, Department of Health and Welfare, Statehouse, Boise, ID 83720, (208) 334–4079

Illinois

Director, Illinois Department of Public Aid, 316 South Second Street, Springfield, IL 62762, (217) 782–6716

Indiana

Administrator, Indiana Department of Public Welfare, State Office Building, 100 North Senate Avenue, Room 701, Indianapolis, IN 46204, (317) 232–4705

Iowa

Commissioner, Department of Human Services, Hoover State Office Building, 5th Floor, Des Moines, IA 50319, (515) 281–5452

Kansas

Secretary, Department of Social and Rehabilitative Services, State Office. Building, 6th Floor, Topeka, KS 66612, (913) 296–3271

Kentucky

Commissioner, Department of Social Insurance, DHR Building, 275 East Main Street, Frankfort, KY 40621, (502) 564–3703

Louisiana

Secretary, Department of Health and Human Resources, P.O. Box 3776, Baton Rouge, LA 70821, (504) 342–6711

Maine

Commissioner, Department of Human Services, Statehouse, Region II, Augusta, ME 04333, (207) 289–2736.

Maryland

Secretary, Department of Health and Mental Hygiene, 201 West Preston Street, Baltimore, MD 21201, (301) 383–2600

Massachusetts

Deputy Commissioner, Department of Public Welfare, 600 Washington Street, Boston, MA 02111, (617) 727–6190

Michigan

Director Michigan Department of Social Services, Commerce Center Building, P.O. Box 30037, Lansing, MI 48909, (517) 373–2000

Minnesota

Commissioner, Minnesota Department of Public Welfare, Centennial Office Building, 658 Cedar Street, St. Paul, MN 55155, (612) 296–2701

Mississippi

Director, Mississippi Medicaid Commission, 4785 I–55 North, P.O. Box 16786, Jackson, MS 39236, (601) 981–4507

Missouri

Director, Department of Social Services, Broadway State Office Building, Jefferson City, MO 65102, (314) 751–4815

Montana

Director, Department of Social and Rehabilitative Services, P.O. Box 4210, Helena, MT 59604, (406) 449–5622

Nebraska

Acting Director, Department of Social Services, 301 Centennial Mall South, 5th Floor, Lincoln, NE 68509, (402) 471–3121

Nevada

Director, Department of Human Resources, Kinkead Building—Capitol Complex, 505 East King Street, Carson City, NV 89710, (702) 885–4730

New Hampshire

Director, Division of Welfare, Division of Health and Welfare, Hazen Drive, Concord, NH 03301, (603) 271–4321

New Jersey

Commissioner, Department of Human Services, Capital Place One, 222 South Warren Street, Trenton, NJ 08625, (609) 292–3717

New Mexico

Secretary, Department of Human Services, P.O. Box 2348, Santa Fe, NM 87503, (505) 827–4072

New York

Commissioner, State Department of Social Services, Ten Eyck Office Building, 40 North Pearl Street, Albany, NY 12243, (518) 474–9475

North Carolina

Secretary, Department of Human Resources, 325 N. Salisbury Street, Raleigh, NC 27611, (919) 733–4534

North Dakota

Executive Director, Department of Human Service, State Capitol Building, Bismarck, ND 58505, (701) 224–2310

Mariana Islands

Director, Department of Public Health and Environment Services, Commonwealth of the Northern Mariana Islands 96950 6110 or 6112

Ohio

Director, Ohio Department of Public Welfare, 30 East Broad Street, 32nd Floor, Columbus, OH 43215, (614) 466–6282

Oklahoma

Director, Department of Human Service, P.O. Box 25352, Oklahoma City, OK 73125, (405) 521–3646

Oregon

Director, Department o. Human Services, 318 Public Services Building, Salem, OR 97310, (503) 378–3034

Pennsylvania

Secretary, State Department of Public Welfare, 333 Health and Welfare Building, Harrisburg, PA 17120, (717) 787–2600

Rhode Island

Director, Department of Social and Rehabilitative Services, Aime J. Forand Building, 600 New London Avenue, Cranston, RI 02920, (401) 464–2121

South Carolina

Commissioner, State Department of Social Services, P.O. Box 1520, Columbia, SC 29202–8988, (803) 758–3244

South Dakota

Secretary, Department of Social Services, Kneip Building, Pierre, SD 57501, (605) 773–3165

Tennessee

Commissioner, Department of Public Health, 344 Cordell Hull Building, Nashville, TN 37219, (615) 741–3111

Texas

Commissioner, Department of Human Service, Banister Lane Building, P.O. Box 2960, Austin, TX 78669, (512) 441–3355

Utah

Executive Director, Utah Department of Health, P.O. Box 2500, Salt Lake City, UT 84110, (801) 533–6111

Vermont

Commissioner, Department of Social Services, 103 South Main Street, Waterbury, VT 05676, (802) 241–2853

Virginia

Commissioner, State Department of Health, 109 Governor Street, Richmond, VA 23219, (804) 786–3561

Washington

Director, Division of Medical Assistance, Department of Social and Health Services, Mail Stop LK–11, Olympia, WA 98504, (206) 753–1777

West Virginia

Assistant Commissioner of Medical Services, West Virginia Department of Welfare, 1900 Washington Street, East, Room B–717, Charleston, WV 25305, (304) 348–8990

Wisconsin

Secretary, Wisconsin Department of Health and Social Services, One West Wilson Street, Room 663, P.O. Box 7850, Madison, WI 53707, (608) 266–3681

Wyoming

Director, Department of Health and Social Services, 317 Hathaway Building, Cheyenne, WY 82002, (307) 777–7657

Comment: It was suggested by two commenters that the regulations be modified so as to apply to persons before they were institutionalized so that they could avoid being institutionalized and still receive Medicaid and home health services.

Response: We do not believe that such a modification is needed. While the primary concern was to address the problem of institutionalized individuals, the regulations are applicable to both insitutionalized individuals and persons who seek to avoid institutionalization but wish to obtain SSI and thus Medicaid eligibility.

B. Conforming Medicaid Regulations

Comment: Two commenters suggested that the regulations should apply to the 14 States where Medicaid eligibility for the aged, blind and disabled is determined under section 1902(f) of the Act, by reference to the eligibility criteria for those categories of individuals who were eligible under a State's plan effective in 1972.

Response: As a result of these comments, we are revising 42 CFR 435.734 to clarify that the temporary SSI deeming provisions would also apply to those 1902(f) States that use the same criteria (either in total or in relevant part) as SSI in the consideration of financial responsibility of spouses and parents. We did not intend to deny anyone in a 1902(f) State access to these provisions if that State uses all of, or the relevant parts of, SSI rules on financial responsibility of spouses and parents.

The Medicaid regulations now define, at 42 CFR 435.734, the financial responsibility of spouses and parents in States which have chosen to use criteria more restrictive than those employed under the SSI program in making determinations of who is eligible for Medicaid. This change modifies that section to permit the Secretary to make these individual case exemptions in those States. Such exemptions will be considered in these more restrictive States only if the State has chosen to apply criteria which are the same (either in total or in relevant part) as those applied under the SSI program for consideration of financial responsibility of spouses and parents and if the individual applying for an exemption meets all other criteria for Medicaid eligibility employed by the State.

Regulatory Procedures

Executive Order 12291

The Secretary has determined that the regulations do not meet the criteria for a "major rule," as defined by section 1(b) of Executive Order 12291. That is, these regulations will not—

—Have an annual effect on the economy of $100 million or more;

—Result in a major increase in costs or prices for consumers, any industries, any government agencies or any geographic regions; or

—Have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises in domestic or import markets.

These rules simply reduce the cost of governmental expense for medical care. Because of the relatively small number of cases at issue, the savings are expected to be substantially less than the $100 million threshold.

Paperwork Reduction Act of 1980

These regulations impose no additional reporting and recordkeeping requirements requiring clearance by the Office of Management and Budget.

Regulatory Flexibility Act

Section 604 of Pub. L. 96–354 (the Regulatory Flexibility Act) requires that each Federal agency prepare, and make available for public comment, a regulatory flexibility analysis on certain regulations. The regulatory flexibility analysis is intended to explain what effect regulatory actions by agencies would have on small businesses and other small entities.

These rules, by promoting home medical services, will have some impact on individuals as well as providers of institutional and home based care. However, this impact will be quite minimal, as evidenced by the fact that from June 1982 (when the interim rules were issued) through September 26, 1983, only 94 cases were received. Accordingly, the Secretary certifies, under section 605(b) of the Regulatory Flexibility Act, that the regulations will not have significant economic impact on a substantial number of small entities, and a regulatory flexibility analysis is therefore not required.

(Catalog of Federal Domestic Assistance Program No. 13.807, Supplemental Security Income Program)

List of Subjects

20 CFR Part 416

Administrative practice and procedure, Aged, Blind, Disability benefits, Public assistance programs, Supplemental security income (SSI).

42 CFR Part 435

Aid to families with dependent children, Aliens, Categorically needy, Contracts (Agreements—State Plan), Eligibility, Grant-in-Aid Program—health, Health facilities, Medicaid, Medically needy, Reporting requirements, Spend-down, Supplemental security income (SSI).

Dated: December 8, 1983.

Martha A. McSteen,

Acting Commissioner of Social Security.

Dated: December 8, 1983.

Carolyne K. Davis,

Administrator, Health Care Financing Administration.

Approved: December 19, 1983.

Margaret M. Heckler,

Secretary of Health and Human Services.

20 CFR Part 416 is amended as set forth below:

PART 416—SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND, AND DISABLED

Part 416 of Title 20 of the Code of Federal Regulations is amended as follows:

Subpart K—Income

1. The authority citation for Subpart K of Part 416 reads as follows:

Authority: Secs. 1102, 1611, 1612, 1613, 1614, and 1631 of the Social Security Act as amended; Sec. 211 of Pub. L. 93–66; 49 Stat. 647 as amended, 86 Stat. 1466, 86 Stat. 1468; 86 Stat. 1470, 86 Stat. 1471, 86 Stat. 1457, 87 Stat. 154; 42 U.S.C. 1302, 1382, 1382a, 1382b, 1382c, and 1383.

2. Section 416.1161a is revised to read as follows:

§ 416.1161a Income for deeming purposes where Medicaid eligibility is affected.

(a) *General.* In many States, an individual who is eligible for SSI or a Federally administered State optional supplementary payment is in turn eligible for Medicaid. Also, several other States use SSI deeming rules in determining eligibility for Medicaid. In all of these States, in extraordinary cases, the Department will not apply the usual rules on deeming of income where those rules would result in an individual's being ineligible for SSI (or a Federally administered State optional supplementary payment) and Medicaid. Any determination made under this section may at any time be revised based on new information or changed circumstances.

(b) *When special deeming rules apply:* (1) The Department will consider not applying the usual deeming rules only upon application by a State Medicaid agency (requirement approved under OMB No. 0960304) and on condition that the agency must show:

(i) Deeming would result in lack of Medicaid eligibility for the individual.

(ii) Medicaid eligibility would, prospectively, result in savings to the Medicaid program; and

(iii) The quality of medical care necessary for the individual would be maintained under the arrangements contemplated.

(2) The Department may also in particular cases require that additional facts be demonstrated, or that other criteria or standards be met, before it determines not to apply the usual deeming rules.

(c) *Amount of income to be deemed.* If the usual rules of deeming do not apply, the Department will determine an amount, if any, to be deemed.

(d) *Temporary effect of special deeming rules.* This provision is temporary and will be continued only through December 31, 1984. Determinations made under this section will nevertheless remain in effect unless they are revised based on changed circumstances (including establishment in the State of a Medicaid program of home and community-based services or eligibility under a State plan provision) or new information.

Subpart L—Resources and Exclusions

3. The authority citation for Subpart L of Part 416 reads as follows:

Authority: Secs. 1102, 1601, 1602, 1611, 1612, 1613, 1614(f), and 1631(d), of the Social Security Act, as amended, 49 Stat. 647 as amended, 86 Stat. 1465, 1466, 1468, 1470, and 1473; 42 U.S.C. 1302, 1381, 1381a, 1382, 1382a, 1382b, 1382c(f), and 1383(d), unless otherwise noted.

4. Section 416.1204a is revised to read as follows:

§ 416.1204a Deeming of resources where Medicaid eligibility is affected.

Section 416.1161a of this part describes certain circumstances affecting Medicaid eligibility in which the Department will not deem family income to an individual. The Department will follow the same standards, procedures, and limitations set forth in that section with respect to deeming of resources.

42 CFR Part 435 the Code of Federal Regulations is amended as follows:

PART 435—ELIGIBILITY IN THE STATES, DISTRICT OF COLUMBIA AND THE NORTHERN MARIANA ISLANDS

Subpart H—Financial Requirements for the Categorically Needy

Financial Eligibility for the Aged, Blind, and Disabled in States Using More Restrictive Requirements

1. The authority citation for Part 435 reads as follows:

Authority: Sec. 1102 of the Social Security Act, (42 U.S.C. 1302), unless otherwise noted.

2. Section 435.734 is amended by revising paragraph (b) to read as follows:

§ 435.734 Financial responsibility of spouses and parents.

* * * * *

(b) The agency may consider deemed income and resources of spouses and parents as unavailable to an individual when:

(1) The spouse, or parents (or spouse of a parent) are living in the same household as the individual; and

(2) The Secretary determines under authority in section 1614(f) of the Act, 20 CFR 416.1161a, 20 CFR 426.1204a and notifies the agency that deeming of income and resources under the usual SSI deeming rules is inequitable.

[FR Doc. 84-3855 Filed 2-14-84; 8:45 am]
BILLING CODE 4190-11-M

Food and Drug Administration

21 CFR Parts 172, 173, 175, 176, 177, and 178

[Recodification Docket No. 15; Docket No. 76N-0501]

Food Additives; Reorganization and Republication; Correction

AGENCY: Food and Drug Administration.

ACTION: Final rule; correction.

SUMMARY: The Food and Drug Administration (FDA) is correcting a document that reorganized and republished Subchapter B of its regulations. This document corrects various editorial errors.

EFFECTIVE DATE: February 15, 1984.

FOR FURTHER INFORMATION CONTACT: George Pauli, Bureau of Foods (HFF–334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–472–5690.

SUPPLEMENTARY INFORMATION: In FR Doc. 77–7048 appearing at page 14302 in the issue for Tuesday, March 15, 1977, the following corrections are made:

1. On page 14495, under § 172.210 *Coatings on fresh citrus fruit,* in paragraph (b)(3), the limitation for "Polyvinylpyrrolidone" is corrected to read "As an adjuvant."

12. On page 14503, under § 172.515 *Synthetic flavoring substances and adjuvants,* in paragraph (b), in the first column, the item reading "Hexyl isovaleratel" is corrected to read "Hexyl isovalerate"; and in the third column, the item "Methyl β-ionone; 5,(2,6,6-trimethyl-3-cyclohexen-1-y1)-4-penten-3-one" is corrected to read "Methyl β-ionone; 5-(2,6,6-trimethyl-1-cyclohexen-1-yl)-4-penten-3-one".

3. On page 14505, under § 172.515 *Synthetic flavoring substances and adjuvants,* in paragraph (c), "α-decalactone and α-dodecalactone" is corrected to read "*delta*-Decalactone and *delta*-dodecalactone".

4. On page 14507, under § 172.615 *Chewing gum base,* in paragraph (a), in the table under "ANTIOXIDANTS", the limitation "Not to exceed antioxidant content of 0.1% when used alone or in any combination" is inserted for

Butylated hydroxyanisole and propyl gallate in the table.

5. On page 14531, under § 173.310 *Boiler water additives,* in paragraph (c), remove "Do." and add the limitation "Minimum mol. wt. 1,000" to the item "Polyoxypropylene glycol".

6. On page 14534, third column, the part heading reading "PART 175—INDIRECT FOOD ADDITIVES: ADHESIVE COATINGS AND COMPONENTS" is corrected to read "PART 175—INDIRECT FOOD ADDITIVES: ADHESIVES AND COMPONENTS OF COATINGS".

7. On page 14535 second column, under § 175.105 *Adhesives,* the substance "4-[2-[2-(2-alkoxy C_{12}–C_{18}) ethoxy) ethoxyl] ethyl] disodium sulfosuccinate" is corrected to read "4-[2-[2-(2-Alkoxy (C_{12}–C_{18}) ethoxy) ethoxy]ethyl] disodium sulfosuccinate".

8. On page 14537, under § 175.105 *Adhesives,* the limitation "For use as preservative only" is removed from the substance "Ethyl hydroxyethylcellulose" and is added to the substance "Ethyl-*p*-hydroxybenzoate"; and "Gyloxal" is corrected to read "Glyoxal".

9. On page 14545, under § 175.300 *Resinous and polymeric coatings,* in paragraph (b)(3)(vii) (*a*), the listing for "Diphenolic acid" is removed; and in paragraph (b)(3)(vii)(*b*), the listing "4,4-Bis(4'-hydroxyphenyl)-pentanoic acid" is added.

10. One page 14547, under § 175.300 *Resinous and polymeric coatings,* in paragraph (b)(3)(xxix), in the first entry, the word "metharylate" is corrected to read "methacrylate".

11. On page 14555, under § 176.170 *Components of paper and paperboard in contact with aqueous and fatty foods,* in the table in paragraph (a)(5), the item "acrylamide-β-methacrylyloxy ethyltrimethylammonium methyl sulfate * * *" is corrected to read "Acrylamide-β-methacrylyloxyethyltrimethyl-ammonium methyl sulfate * * *".

12. On page 14557, under § 176.170 *Components of paper and paperboard in contact with aqueous and fatty foods,* in the table in paragraph (a)(5), the item "Glyceryl mono-12-hydroxy-stearate" is corrected to read "Glyceryl mono-12-hydroxystearate".

13. On page 14559, under § 176.170 *Components of paper and paperboard in contact with aqueous and fatty foods,* in the table in paragraph (a)(5), the item "Poly[oxyethylene(dimethyliminio) ethylene(dimethyliminio)ethylene dichloride) * * *" is corrected in the last sentence by removing the period after the word "viscosity" and inserting a colon.

14. On page 14564, under § 176.170 *Components of paper and paperboard in contact with aqueous and fatty foods,* in table 2, Condition of use D., Type of food VI–A, in the Heptane column, "do" is removed.

15. On page 14571, under § 176.300 *Slimicides,* in the table in paragraph (c), the item "3,3,4,4-Tetrachlorotetra hydrothiophene 1,1-dioxide" is corrected to read "3,3,4,4-Tetrachlorotetrahydrothiophene-1,1-dioxide".

16. On page 14581, under § 177.1210 *Closures with sealing gaskets for food containers,* in Table 1 in paragraph (b)(5), the item "Vinyl chloride-vinyl copolymer" is corrected to read "Vinyl chloride-vinyl stearate copolymer".

17. On page 14582, under § 177.1240 *1,4-Cyclohexylene dimethylene terephthalate and 1,4-cyclohexylene dimethylene isophthalate copolymer,* in paragraph (a), the word "cyclohexanedimethanol-1.4" is corrected to read "1,4-cyclohexane-dimethanol".

18. On page 14602, under § 177.2280 *4,4'-Isopropylidenediphenol-epichlorohydrin thermosetting epoxy resins,* in the table in paragraph (b), the item, "1,2-Epoxy-3-phenoxy-propane * * *" is corrected to read "1,2-Epoxy-3-phenoxypropane * * *".

19. On page 14604, second column, under § 177.2470 *Polyoxymethylene copolymer,* in paragraph (b)(1), the fourth line reading "ceed 1.0 percent of polymer by" is removed.

20. On page 14608, under § 177.2800 *Textiles and textile fibers,* in the table in paragraph (d)(5), in the "Limitations" column for the item "4-Ethyl-4-hexadecyl morpholinium ethyl sulfate", the words "paragraph (c)(5)(i)" are corrected to read "paragraph (d)(5)(i)"; and in the same table, the item "Polyethylene terephthalate * * *" is removed from paragraph (d)(5)(ii) and inserted alphabetically under paragraph (d)(5)(i) and corrected to read "Polyethylene terephthalate complying in composition with the provisions of § 177.1630(e)(4)(ii) * * *".

21. On page 14614, under § 178.2010 *Antioxidants and/or stabilizers for polymers,* in the table in paragraph (b), the limitation "For use only:" is removed from the item "Thiodipropionic acid" and is added to the item "1,3,5-Trimethyl-2,4,6-tris(3,5-di-*tert*-butyl-4-hydroxybenzyl)benzene".

22. On page 14617, under § 178.3400 *Emulsifiers and/or surface active agents,* in the table in paragraph (c), the entry "*n*-Alkylsulfonate (alkyl group is in the range C_{10}–C_{18} with not less than 50 pct C_{14}–C_{16})" is corrected to read "*n*-Alkylsulfonate (alkyl group is in the range C_{10}–C_{18} with not less than 50 pct C_{14}–C_{16})".

23. On page 14626, under § 178.3740 *Plasticizers in polymeric substances,* in the table in paragraph (b), the limitation "For use only:" is removed from the item "Di(2-ethylhexyl) adipate" and is added to the item "Diisononyl adipate".

Dated: February 9, 1984.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 84–4031 Filed 2–14–84; 8:45 am]

BILLING CODE 4160–01–M

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21 CFR Part 529

Certain Other Dosage Form New Animal Drugs Not Subject to Certification; Change of Sponsor

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect a change of sponsor for tricaine methanesulfonate from Ayerst Laboratories to Fort Dodge Laboratories.

EFFECTIVE DATE: February 15, 1984.

FOR FURTHER INFORMATION CONTACT: Willard Orr, Bureau of Veterinary Medicine (HFV–238), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–6243.

SUPPLEMENTARY INFORMATION: Fort Dodge Laboratories, Fort Dodge, IA 50501, has informed FDA of a change in sponsor for new animal drug application (NADA) 42–427 from Ayerst Laboratories, Division of American Home Products Corp., 685 Third Ave., New York, NY 10017. The NADA covers use of tricaine methanesulfonate for temporary immobilization of certain aquatic coldblooded animals.

This is an administrative change that does not in any other way affect the apporoval of the firm's NADA. The agency is amending the regulations to reflect the change.

List of Subjects in 21 CFR Part 529

Animal drugs—miscellaneous use.

PART 529—CERTAIN OTHER DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

§ 529.2503 [Amended]

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83), Part 529 is amended in § 529.2503 *Tricaine*

methanesulfonate in paragraph (b) by changing "No. 00046" to read "No. 000866."

Effective date: February 15, 1984.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)))

Dated: February 8, 1984.

William B. Bixler,

Acting Associate Director for Surveilance and Compliance.

[FR Doc. 84-4032 Filed 2-14-84; 8:45 am]

BILLING CODE 4160-01-M

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21 CFR Part 558

New Animal Drugs for Use in Animal Feeds; Tylosin

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a supplemental new animal drug application (NADA) filed for International Nutrition, Inc., providing for the manufacture of a 40-gram-per-pound tylosin premix. The premix is used to make complete feeds for swine, beef cattle, and chickens.

EFFECTIVE DATE: February 15, 1984.

FOR FURTHER INFORMATION CONTACT: Benjamin A. Puyot, Bureau of Veterinary Medicine (HFV-130), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4913.

SUPPLEMENTARY INFORMATION: International Nutrition, Inc., 6664 L St., Omaha, NE 68117, is the sponsor of a supplement to NADA 95-551 submitted on its behalf by Elanco Products Co. This supplement provides for the manufacture of a 40-gram-per-pound premix subsequently used to make complete feeds for swine, beef cattle, and chickens for use as in 21 CFR 558.625(f)(1) (i) through (vi). The supplement is approved and the regulations are amended to reflect the approval.

The firm presently holds approval for the manufacture of a 20-gram-per-pound premix for identical uses. The basis for the approval of the 40-gram-per-pound premix is the same as for the approval of the 20-gram-per-pound premix. The supplement to NADA 95-551 providing for the 20-gram-per-pound premix was approved by a final rule published in the **Federal Register** of January 4, 1984 (49 FR 374). The freedom of information summary made available at that time under the provisions of Part 20 (21 CFR Part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), which consisted of a summary of safety and effectiveness data and information to support approval of the 20-gram-per-pound premix, applies also to this application and may be seen in the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

The Bureau of Veterinary Medicine has determined pursuant to 21 CFR 25.24(d)(1)(i) (proposed December 11, 1979; 44 FR 71742) that this action is of the type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental statement is required.

List of Subjects in 21 CFR Part 558

Animal drugs, Animal feeds.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83), Part 558 is amended in § 558.625 by revising paragraph (b)(3), to read as follows:

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

§ 558.625 Tylosin.

* * * * *

(b) * * *

(3) To 043733: 4 grams per pound, paragraph (f)(1)(vi)(*a*) of this section; 10 grams per pound, paragraph (f)(1) (i), (iii), (iv), and (vi) of this section; 20 to 40 grams per pound, paragraph (f)(1) (i) through (vi) of this section.

* * * * *

Effective date: February 15, 1984.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)))

Dated: February 7, 1984.

Richard A. Carnevale,

Acting Associate Director for Scientific Evaluation.

[FR Doc. 84-4030 Filed 2-14-84; 8:45 am]

BILLING CODE 4160-01-M

ENVIRONMENTAL PROTECTION AGENCY

21 CFR Part 561

[FAP 2H5351/R640; PH-FRL 2525-1]

Tolerances for Pesticides in Animal Feeds Administered by the Environmental Protection Agency; Carbofuran

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes a feed additive regulation to permit the combined residues of the insecticide carbofuran and its metabolites in or on the animal feed commodities sunflower seed hulls, meal, and soapstock. This regulation to establish the maximum permissible level for residues of the insecticide in or on the commodities was requested in a petition by FMC Corp.

EFFECTIVE DATE: Effective on February 15, 1984.

ADDRESS: Written objections may be submitted to the: Hearing Clerk (A-110), Environmental Protection Agency, Rm. 3708, 401 M St., SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: By mail: Jay Ellenberger, Product Manager (PM) 21, Registration Division (TS-767C), Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460. Office location and telephone number: Rm. 202, CM2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703-557-2386).

SUPPLEMENTARY INFORMATION: EPA issued a notice published in the **Federal Register** of June 30, 1982 (47 FR 28451), which announced that FMC Corp., 2000 Market St., Philadelphia, PA 19103, had submitted feed additive petition 2H5351 to the Agency proposing to amend 21 CFR 561.67 by establishing a regulation permitting the combined residues of the insecticide carbofuran (2,3-dihydro-2,2-dimethyl-7-benzofuranyl-*N*-methylcarbamate), its carbamate metabolite 2,3-dihydro-2,2-dimethyl-3-hydroxy-7-benzofuranyl-*N*-methylcarbamate, and the phenolic metabolites 2,3-dihydro-2,2-dimethyl-7-benzofuranol, 2,3-dihydro-2,2-dimethyl-3-oxo-7-benzofuranol, and 2,3-dihydro-2,2-dimethyl-3,7-benzofurandiol in or on the animal feed commodities sunflower seed hulls and meal at 1.2 parts per million (ppm), of which not more than 0.5 ppm is carbamates. The petition was subsequently amended by increasing the tolerances to 1.4 ppm, of which not more than 0.6 ppm is carbamates and proposing a tolerance for sunflower seed soapstock at 3.0 ppm, of which not more than 0.5 ppm is carbamates (reflecting residues of 1.25 ppm phenolic metabolites and potential residues of 0.25 ppm carbamates in alkaline soapstock).

There were no comments received in response to the notice of filing.

The data submitted in the petition and other relevant material have been evaluated and discussed in a related document [PP 2F2683/R639], establishing a tolerance for the combined residues of carbofuran and the metabolites in or on

the raw agricultural commodity sunflower seeds which appears elsewhere in this issue of the Federal Register.

The pesticide is considered useful for the purpose for which the regulation is sought. It is concluded that the pesticide may be safely used in the prescribed manner when such use is in accordance with the label and labeling registered pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended, (86 Stat. 973, 89 Stat. 751, U.S.C. 135(a) *et seq.*) and is established as set forth below.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96–534, 94 Stat. 1164, 5 U.S.C. 601–612), the Administrator has determined that regulations establishing new food or feed additive levels, or conditions for safe use of additives, or raising such food or feed additive levels do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the Federal Register of May 4, 1981 (46 FR 24945).

(Sec. 409(c)(1), 72 Stat. 1786 (21 U.S.C. 346(c)(1)))

List of Subjects in 21 CFR Part 561

Feed additives, Pesticides and pests.

Dated: January 31, 1984.

Edwin L. Johnson,

Director, Office of Pesticide Programs.

PART 561—[AMENDED]

Therefore, 21 CFR 561.67 is revised to read as follows:

§ 561.67 Carbofuran.

Tolerances are established for the combined residues of the insecticide carbofuran (2,3-dihydro-2,2-dimethyl-7-benzofuranyl-*N*-methylcarbamate), its carbamate metabolite 2,3-dihydro-2,2-dimethyl-3-hydroxy-7-benzofuranyl-*N*-methylcarbamate, and the phenolic metabolites 2,3-dihydro-2,2-dimethyl-7-benzofuranol, 2,3-dihydro-2,2-dimethyl-3-oxo-7-benzofuranol, and 2,3-dihydro-2,2-dimethyl-3,7-benzofurandiol in or on the following animal feed commodities:

Feeds	Parts per million
Grape pomace, dried (of which not more than 1.5 ppm are carbamates)	2.0
Peanut soapstock, fatty acids (of which not more than 3.0 ppm are carbamates, reflecting residues of 8.0 ppm phenolic metabolite and 1.0 ppm alkaline soapstock)	24.0
Raisin waste (of which not more than 3.0 ppm are carbamates)	8.0
Soybean soapstock, fatty acids (of which not more than 1.0 ppm is carbamates, reflecting residues of 2.0 ppm phenolic metabolites and 0.33 ppm carbamates in alkaline soapstock)	8.0
Sunflower seed hulls (of which not more than 0.6 ppm is carbamates)	1.4
Sunflower seed meal (of which not more than 0.6 ppm is carbamates)	1.4
Sunflower seed soapstock (of which not more than 0.5 ppm is carbamates, reflecting residues of 1.25 ppm phenolic metabolites and potential residues of 0.25 ppm carbamates in alkaline soapstock)	3.0

[FR Doc. 84-3827 Filed 2-14-84; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

29 CFR Part 2700

Amendment of Commission Procedural Rule

AGENCY: Federal Mine Safety and Health Review Commission.

ACTION: Amendment of Commission procedural rule; adoption of interim rule with request for comments.

SUMMARY: The Federal Mine Safety and Health Review Commission (Commission) is amending an existing procedural rule by adopting an interim rule to specify how the Secretary of Labor shall propose a civil penalty in discrimination cases arising under the Federal Mine Safety and Health Act of 1977, 30 U.S.C. 801 *et seq.* (the Mine Act). The amendment is intended to require the Secretary to inform the Commission, and the party of parties against whom a penalty may be assessed as a result of a complaint of discrimination, of the amount of the proposed penalty and the basis therefor. The Commission will accept comments.

DATES: The interim rule takes effect February 15, 1984. The Commission will accept public comments, however, received on or before May 15, 1984.

ADDRESS: Comments should be submitted to Catherine Sands, Executive Director, Federal Mine Safety and Health Review Commission, 1730 K Street, NW., Washington, D.C. 20006.

FOR FURTHER INFORMATION CONTACT: L. Joseph Ferrara, Deputy General Counsel, Office of the General Counsel, at (202) 653–5610.

SUPPLEMENTARY INFORMATION: The Commission is an independent adjudicatory agency that provides trial and appellate review of cases arising under the Mine Act. Section 105(c) of the Mine Act, 30 U.S.C. 815(c), prohibits discharge or discrimination against miners or interference with their protected statutory rights because of the exercise of protected rights under the Mine Act. Section 105(c)(2), 30 U.S.C. 815(c)(2), provides that if, after an investigation, the Secretary of Labor determines that section 105(c) has been violated, the Secretary shall immediately file a complaint with the Commission alleging discharge, discrimination, or interference, with service upon the alleged violator and the miner. The complaint shall also propose an order granting appropriate remedial relief. The complaint is tried before a Commission administrative law judge with administrative appellate review by the Commission.

Section 105(c)(3), 30 U.S.C. 815(c)(3), also provides that violations of section 105(c) are subject to the provisions of section 110(a) of the Mine Act, 30 U.S.C. 820(a), which requries the assessment of a civil penalty for violations of the Mine Act. Under the Mine Act, the Secretary proposes the penalty he wishes assessed for a violation and the Commission assesses a penalty of an appropriate amount. 30 U.S.C. 815 (a) and (d), and 820(a) and (i).

The Commission's previous Procedural Rule 42 did not state how the Secretary of Labor should propose a civil penalty to be assessed by the Commission in a discrimination case. In *Secretary on behalf of Bailey* v. *Arkansas-Carbona Company*, 5 FMSHRC 2042 (December 1983), the Commission held that the Secretary shall propose a civil penalty in his complaint of discrimination. Accordingly, the Commission has amended its rule concerning complaints of discrimination to state that the Secretary shall propose a civil penalty in his complaint and that he shall support the proposal with information on the statutory criteria for assessing a penalty contained in Section 110(i) of the Mine Act, 30 U.S.C. 820(i).

In addition, the Commission is considering the possibility of further revising Procedural Rule 42. The Secretary of Labor, after investigating a miner's complaint, may determine that the Mine Act was not violated and decline to file a discrimination complaint with the Commission on the miner's behalf. In such situations, the miner is permitted under section 105(c)(3) of the Act, 30 U.S.C. 815(c)(3), to file his own discrimination complaint directly with the Commission. If the Commission's administrative law judge subsequently decides that a violation of section 105(c) occurred, a civil penalty for the violation must be assessed.

A case presenting the issue of how the penalty shall be assessed in this latter

context has not arisen before the Commission. Because the Commission has not yet received the benefit of adversarial discussion of this question, the Commission is not, at the present time, revising Procedural Rule 42 to deal with the subject of how penalties shall be assessed in cases where the Secretary has declined to prosecute and the miner has successfully proceeded on his own behalf before the Commission. The matter needs to be resolved however, and the Commission is also inviting public comment on this subject as well.

Commission Procedural Rule 42, as amended, is a procedural rather than a substantive rule, and public comment and notice of proposed rulemaking are not required under 5 U.S.C. 553 prior to adoption. However, because Procedural Rule 42 is adopted on an interim basis only, public comment is invited in order to assist the Commission regarding the adoption of a permanent rule. Public comment is also invited on the subject of further revision of Procedural Rule 42 to address the assessment of a penalty in situations where the miner has successfully prosecuted a discrimination complaint on his own behalf before the Commission pursuant to section 105(c)(3) of the Act, 30 U.S.C. 815(c)(3). Therefore, the Commission invites and will accept public comments received on or before May 15, 1984. If the public comments indicate an interest in oral argument on Procedural Rule 42, the Commission will consider scheduling such argument.

List of Subjects in 29 CFR Part 2700

Administrative practice and procedure, Mine safety and health, Penalties.

PART 2700—[AMENDED]

Accordingly, Commission Procedural Rule 42, 29 CFR 2700.42, is amended on an interim basis, by redesignating the existing text as paragraph (a) and by adding a new paragraph (b), to read as follows:

§ 2700.42 Contents of complaint.

(a) A complaint of discharge, discrimination or interference shall include a short and plain statement of the facts, setting forth the alleged discharge, discrimination or interference, and a statement of the relief requested.

(b) A complaint of discharge, discrimination or interference filed by the Secretary shall also propose a civil penalty of a specific amount for the alleged violation of section 105(c) of the Act. The penalty proposal shall be supported by a short and plain statement of the reasons supporting the proposed penalty, based on the criteria for penalty assessments set forth in section 110(i) of the Act.

(30 U.S.C. 815 and 820)

Dated: February 8, 1984.

Rosemary M. Collyer,

Chairman, Federal Mine Safety and Health Review Commission.

[FR Doc. 84-3984 Filed 2-14-84; 8:45 am]

BILLING CODE 6725-01-M

VETERANS ADMINISTRATION

38 CFR Part 17

Grants to States for Construction of State Home Facilities

Correction

In FR Doc. 84-2445, beginning on page 3646, in the issue of Monday, January 30, 1984, on page 3647, in the second column, the authority should read "(38 U.S.C. 5034(l); 38 U.S.C. 5035(b)(4))".

BILLING CODE 1505-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[PP 2F2683/R639; PH-FRL 2525-6]

Tolerances and Exemptions From Tolerances for Pesticide Chemicals in or on Raw Agricultural Commodities; Carbofuran

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes a tolerance for the combined residues of the insecticide carbofuran and its metabolites in or on the raw agricultural commodity sunflower seeds. This regulation to establish a maximum permissible level for the combined residues of carbofuran in or on sunflower seeds was requested in a petition by FMC Corporation.

EFFECTIVE DATE: Effective on February 15, 1984.

ADDRESS: Written objections may be submitted to the: Hearing Clerk (A-110), Environmental Protection Agency, Rm. 3708, 401 M St., SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: By mail: Jay Ellenberger, Product Manager (PM) 12, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460. Office location and telephone number: Rm. 202, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703-557-2386).

SUPPLEMENTARY INFORMATION: EPA issued a notice published in the **Federal Register** of June 30, 1982 (47 FR 28451), which announced that FMC Corp., 2000 Market St., Philadelphia, PA 19103, submitted pesticide petition 2F2683 to EPA proposing that 40 CFR 180.254 be amended by establishing a tolerance for the combined residues of the insecticide carbofuran (2,3-dihydro-2,2-dimethyl-7-benzofuranyl-*N*-methylcarbamate), its carbamate metabolite 2,3-dihydro-2,2-dimethyl-3-hydroxy-7-benzofuranyl-*N*-methylcarbamate, and the phenolic metabolites 2,3-dihydro-2,2-dimethyl-7-benzofuranol, 2,3-dihydro-2,2-dimethyl-3-oxo-7-benzofuranol, and 2,3-dihydro-2,2-dimethyl-3,7-benzofurandiol in or on the raw agricultural commodity sunflower seeds at 0.8 part per million (ppm), of which not more than 0.4 ppm is carbamates. The petition was subsequently amended by increasing the tolerance to 1.0 ppm, of which no more than 0.5 ppm is carbamates.

There were no comments received in response to the notice of filing.

The data submitted in the petition and other relevant material have been evaluated. The data considered include a 2-year chronic feeding/oncogenicity study in the rat and the mouse which had no-observed-effect levels (NOELs) of 3.0 milligrams (mg)/kilogram (kg) for cholinesterase-inhibition, systematic NOELs of 3.0 and 18.75 mg/kg, respectively and were negative for oncogenic effects at the levels tested (10, 20 and 100 ppm and 20, 125 and 500 ppm, respectively); a 1-year dog feeding study with a NOEL of 0.05 ppm; a 3-generation rat reproduction study with a NOEL of 1.0 mg/kg; two rat teratology studies which were negative at up to 1.2 and 8.0 mg/kg of body weight (bw)/day and had a NOEL for fetotoxicity of 1.0 and 1.2 mg/kg bw/day; a rabbit teratology study which was negative for terata and fetotoxicity at 2.0 mg/kg bw/day; and mutagenicity testing which showed carbofuran not to be mutagenic. Based on the 2-year chronic rat feeding/oncogenicity study with a NOEL of 20 ppm for systematic effects and cholinesterase inhibition and using a 200-fold safety factor, the acceptable daily intake (ADI) for man is 0.005 mg/kg bw/day.

The metabolism of carbofuran is adequately understood, and an adequate analytical method, gas chromatography using a nitrogen specific microcoulometric detector, is available for enforcement purposes. No actions are currently pending against the

continued registration of carbofuran. The existing meat and milk tolerances are adequate to cover any residues resulting from the proposed use.

A related document [FAP 2H5351/R640], establishing a regulation permitting residues of carbofuran and the metabolites in the animal feed commodities sunflower seed hulls, meal and soapstock, appears elsewhere in this issue of the Federal Register.

The pesticide is considered useful for the purpose for which the tolerance is sought. Based on the information cited above, the Agency has determined that the establishment of the tolerance for residues of the pesticide in or on the commodity will protect the public health. Therefore, the tolerance is established as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication of this document in the Federal Register, file written objects with the Hearing Clerk, at the address given above. Such objections should specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-534, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerance or raising tolerances levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the Federal Register of may 4, 1981 (46 FR 24950).

(Sec. 408(d)(2), 68 Stat. 512 (21 U.S.C. 346(d)(2)))

List of Subjects in 40 CFR Part 180

Administrative practice and procedures, Raw agricultural commodities, Pesticides and pests.

Dated: January 31, 1984.

Edwin L. Johnson,

Director, Office of Pesticide Programs.

PART 180—[AMENDED]

Therefore, 40 CFR 180.254 is amended by adding and alphabetically inserting, the raw agricultural commodity sunflower seeds to read as follows:

§ 180.254 Carbofuran; tolerances for residues.

* * * * *

Commodities	Parts per million
* * * * *	
Sunflower seeds (of which not more than 0.5 ppm is carbamates)	1.0
* * * * *	

[FR Doc. 84-3828 Filed 2-14-84; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 180

[PP 3F2871/R641; PH-FRL 2527-6]

Tolerances and Exemptions From Tolerances for Pesticide Chemicals in or on Raw Agricultural Commodities; Diatomaceous Earth

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes an exemption from the requirement of a tolerance for residues of the insecticide diatomaceous earth when used in accordance with good agricultural practice in pesticide formulations applied to growing crops, to raw agricultural commodities after harvest, and to animals. This regulation was requested by Boma Industries, Inc.

EFFECTIVE DATE: Effective on February 15, 1984.

ADDRESS: Written objections may be submitted to the: Hearing Clerk (A-110), Environmental Protection Agency, Rm. 3708, 401 M St., SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: By mail: George T. LaRocca, Product Manager (PM) 15, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460. Office location and telephone number: Rm. 204, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703-557-2400).

SUPPLEMENTARY INFORMATION: EPA issued a notice published in the Federal Register of September 29, 1983 (48 FR 44634), that Boma Industries, Inc., 600 Railway St., Williamsport, PA 17701, had filed a pesticide petition with EPA proposing that 40 CFR Part 180 be amended by establishing an exemption from the requirement of a tolerance for residues of diatomaceous earth when used in accordance with good agricultural practice in pesticide formulations applied to growing crops, to raw agricultural commodities after harvest, and to animals.

No comments or requests for referral to an advisory committee were received in response to this notice of filing.

The data reported in the petition and other relevant material have been evaluated. Although no residue chemistry data were submitted, the nature of the residue is understood and would consist primarily of silicon dioxide and naturally occurring inorganic impurities. It is expected that the residue levels will be comparable to commonly used inert ingredients of similar particle size and that most residues present on raw agricultural commodities would be removed by commercial or home preparation procedures, i.e., washing. The proposed use is not likely to result in secondary residues in meat, milk, poultry, or eggs.

In further support of this proposal, diatomaceous earth has been exempted, as an active ingredient, from the requirement of a tolerance for use against insects in stored grains pursuant to 40 CFR 180.1017. It has also been cleared under § 180.1001 (c) and (e), wherein residues of adjuvant materials are exempted from the requirement of a tolerance when used in accordance with good agricultural practice as an inert (or occasionally active) ingredient in pesticide formulations applied to growing crops or raw agricultural commodities after harvest, and to animals.

Other relevant clearances include 21 CFR 182.90 (substances migrating to food from paper and paperboard used to package foodstuffs), 21 CFR 573.340 (inert anticaking agent in animal feeds), 21 CFR 172.480 (anticaking agent in food), 21 CFR 193.135 (insecticide for spot and crack and crevice applications in food-processing and food storage areas), and 21 CFR 561.145 (insecticide for spot and crack and crevice application in feed-processing and feed storage areas.

The metabolism of the pesticide is adequately understood, and an adequate analytical method for silica (AOAC, 12th Ed., Method 3.005 (1975), with microscopic identification of diatoms) is available for enforcement purposes.

No actions are pending against continued registration of the pesticide, nor are any other relevant considerations involved in establishing the regulation.

The pesticide is considered useful for the purpose for which the tolerance exemption is sought, and it is concluded that the tolerance exemption will protect the public health. Therefore, the

tolerance exemption is established as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication of this document in the **Federal Register**, file written objections with the Hearing Clerk, at the address given above. Such objections should specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96–534, 94 Stat. 1164, 5 U.S.C. 601–612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

(Sec. 408(d)(2), 68 Stat. 512 (21 U.S.C. 346a(d)(2)))

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests.

Dated: February 6, 1984.

James M. Conlon,

Acting Director, Office of Pesticide Programs.

PART 180—[AMENDED]

Therefore, 40 CFR 180.1017 is revised to read as follows:

§ 180.1017 Diatomaceous earth; exemption from the requirement of a tolerance.

Diatomaceous earth is exempted from the requirement of a tolerance for residues when used in accordance with good agricultural practice in pesticide formulations applied to growing crops, to raw agricultural commodities after harvest, and to animals.

[FR Doc. 84-4029 Filed 2-14-84; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 180

[PP 3F2840/R647; PH-FRL 2527-3]

Tolerances and Exemptions From Tolerances for Pesticide Chemicals in or on Raw Agricultural Commodities; Iprodione

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes a tolerance for the combined residues of the fungicide iprodione, its isomer and its metabolite in or on the raw agricultural commodity head lettuce. This regulation to establish a maximum permissible level for the combined residues of the fungicide, its isomer and its metabolite in or on this raw agricultural commodity was requested, pursuant to a petition, by Rhone-Poulenc, Inc.

EFFECTIVE DATE: Effective on February 15, 1984.

ADDRESS: Written objections may be submitted to the: Hearing Clerk (A–110), Environmental Protection Agency, Rm. 3708, 401 M St., SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT:

By mail: Henry M. Jacoby, Product Manager (PM) 21, Registration Division (TS–767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

Office location and telephone number: Rm. 227, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703–557–1900).

SUPPLEMENTARY INFORMATION: EPA issued a notice published in the **Federal Register** of April 6, 1983 (48 FR 15002), which announced that Rhone-Poulenc, Inc., P.O. Box 125, Monmouth Junction, NJ 08852 had submitted pesticide petition 3F2840 to the Agency proposing that 40 CFR Part 180 be amended by establishing a tolerance for the residues of the fungicide iprodione [3-(3,5-dichlorophenyl)-*N*-(1-methylethyl)-2,4-dioxo-1-imidazolidinecarboxamide], its isomer [3-(1-methylethyl)-*N*-(3,5-dichlorophenyl)-2,4-dioxo-1-imidazolidinecarboxamide] and its metabolite [3-(3,5-dichlorophenyl)-2,4-dioxo-l-imidazolidinecarboxamide] resulting from foliar application in or on lettuce at 7.0 parts per million (ppm). On November 23, 1983 (48 FR 52975), EPA issued a **Federal Register** notice which announced that Rhone-Poulenc, Inc. had amended the petition by redesignating the commodity from "lettuce" to "lettuce (head)" and increasing the tolerance level to 15.0 ppm.

There were no comments received in response to the above notices of filing. The data submitted in this petition and other relevant material have been evaluated. The scientific data considered in support of this tolerance included a 2-year rat feeding study at dose levels of 125, 250 and 1,000 ppm iprodione in the diet with a no-observed-effect-level (NOEL) or 1,000 ppm (50 mg/kg body weight/day) and no oncogenic effects observed at these dose levels under the conditions of the study; an 18-month mouse oncogenic study at dose levels of 28.5, 71.4, and 178.6 mg/kg body weight iprodione in the diet with no oncogenic effects at the dose levels under the conditions of study; a 3-generation rat reproduction study with a NOEL of 500 ppm (25 mg/kg body weight/day); a rabbit teratology study with no teratogenic effects shown at all doses (400 mg/kg bodyweight was the highest dose tested); and a mutagenicity study in the mouse with no evidence of mutagenicity or adverse effect on fertility at 214.3 and 857.1 mg/kg bodyweight.

Data currently lacking include a teratology study in a second species and mutagenicity studies including at least the following: (1) DNA repair; (2) gene mutation, mammalian, preferably in vitro; and (3) chromosomal aberration, preferably in vitro.

The acceptable daily intake (ADI), based on the 3-generation rat reproduction study (NOEL of 25 mg/kg), and using a 100-fold safety factor, is calculated to be 0.2500 mg/kg of body weight per day. The maximum permissible intake (MPI) for a 60 kg human is calculated to be 15.0 mg/day.

Published tolerances and unpublished tolerances which have been toxicologically approved contribute 1.0708 mg/day to the TMRC and use 7.14 percent of the ADI. The current action on lettuce will contribute 0.15697 mg/day to the TMRC (based on a 1.5 kg daily diet for a 60-kg person) and will result in a 14.66 percent increase in the TMRC and a 1.05 percent increase in the ADI. There are no regulatory actions pending against the registration of iprodione and there are no other considerations involved in establishing this tolerance. The metabolism of iprodione, its isomer and its metabolite is adequately understood, and an analytical method, gas chromatography

using an electron capture detector, is available for enforcement purposes. Since no feed items are associated with lettuce, there will be no secondary residues expected in eggs, meat, milk or poultry.

The pesticide is considered useful to the purpose for which the tolerance is sought and it is concluded that the establishment of the tolerance will protect the public health. Based on the information cited, the tolerance is established as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication of this notice in the **Federal Register**, file written objections with the Hearing Clerk at the address given above. Such objections should specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-534, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances, or raising tolerance levels, or establishing exemptions from tolerance requirements do not have a significant impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1982 (46 FR 24950).

(Sec. 408(d)(2), 68 Stat. 512 (21 U.S.C. 346a (d)(2)))

List of Subjects in 50 CFR Part 180

Administrative practice and procedures, Raw agricultural commodities, Pesticides and pests.

Dated: February 4, 1984.

Edwin L. Johnson,

Director, Office of Pesticide Programs.

PART 180—[AMENDED]

Therefore, 40 CFR 180.399 is amended by adding and alphabetically inserting the commodity lettuce (head) to read as follows:

§ 180.399 Iprodione; tolerances for residues.

(a) * * *

Commodities	Parts per million
* * * * *	
Lettuce (head)	15.0
* * * * *	

[FR Doc. 84-4027 Filed 2-14-84; 8:45 am]

BILLING CODE 6560-50-M

GENERAL SERVICES ADMINISTRATION

41 CFR Part 5-2

[APD 2800.2 Chge 37]

Procurement by Formal Advertising

AGENCY: Office of Acquisition Policy, General Services Administration.

ACTION: Final rule.

SUMMARY: This document eliminates the subcontracting listing requirement contained in the General Services Administration Procurement Regulation (GSPR), Chapter 5, and adds a requirement concerning the Consolidated List of Debarred, Suspended, and Ineligible Contractors. This is the final regulation based on the notice of proposed rulemaking previously published in the **Federal Register** (48 FR 49305 on October 25, 1983.

EFFECTIVE DATE: February 2, 1984.

FOR FURTHER INFORMATION CONTACT: Ida Ustad, Office of GSA Acquisition Policy and Regulations, Office of Acquisition Policy, (202) 523-4754.

SUPPLEMENTARY INFORMATION: 1. *Background.* On October 25, 1983, a proposal was published in the **Federal Register** (48 FR 49305) to eliminate the subcontractor listing requirement contained in the General Services Administration Procurement Regulation (GSPR), Chapter 5, and to add a requirement concerning the Consolidated List of Debarred, Suspended, and Ineligible Contractors. The purpose of the proposed change was to simplify procurement procedures, reduce paperwork burdens associated with procurement, establish uniformity with other Federal agencies, and to eliminate potential delays and financial losses experienced as a result of the listing requirement. The change would also ensure that subcontracts would not be entered into with parties on the consolidated list.

Interested persons were afforded the opportunity to submit comments on the proposed change. At the request of interested parties, meeting were held to discuss their views concerning the proposal.

Numerous responses were received from individual contractors, subcontractors, and specialty contractors, as well as their local and national associations and representatives. Comments received, both in support of and opposed to the elimination of the listing requirement, mirror those received during a previous proposal to eliminate the requirement in 1977. Similar comments were also received by the Commission on Government Procurement in 1972.

After review of those comments received in opposition to the proposed change, we have found no evidence that the elimination of the subcontractor listing requirement would cause (1) the prime contractors to bid shop, (2) those few subcontractors now covered by the listing requirement to provide inferior work or to submit inflated bids, or (3) the prime contractor to reap a windfall at the expense of the subcontractor or the Government. A similar conclusion was reached by the Commission on Government Procurement in 1972. We, therefore, conclude that a final rule to eliminate the listing requirement will be in the Government's interest, will help reduce the administrative cost associated with GSA construction contracts, and will eliminate a paperwork burden on the private sector.

2. *Statutory and regulatory requirements.* This change will rescind the policy and provide for uniformity with other Federal construction agencies while prohibiting the contractor from awarding subcontracts to firms or individuals that appear on the Consolidated List of Debarred, Suspended, and Ineligibile Contractors.

Impact

The Director, Office of Management and Budget (OMB), by memorandum dated October 4, 1982, exempted agency procurement regulations from Executive Order 12291. The General Services Administration (GSA) certifies that this document will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.). The certification is based on the small number of contracts requiring the listing requirement. For example, out of the 361 construction contracts awarded by the agency during fiscal year 1982, only 3 construction contracts exceeded $1 million and contained the subcontractor listing clause. The rule does not contain information collection requirements which require approval by OMB under 44 U.S.C. 3501 et seq. This rule provides uniformity with other Federal agencies and reduces the administrative impact

on bidders as set forth in OFPP Policy Letter 83–2.

List of Subjects in 41 CFR Part 5–2

Government procurement and Procurement by formal advertising.

PART 5–2—PROCUREMENT BY FORMAL ADVERTISING

1. The authority citation for 41 CFR Part 5–2 reads as follows:

Authority: Sec. 205(c), 63 Stat. 390; (40 U.S.C. 486(c)).

2. The Table of Contents of Part 5–2 is amended by revising the following entries:

Sec.
5–2.202–51 Subcontractor eligibility.
5–2.202–52 [Reserved]
5–2.404–51 [Reserved]

3. Section 5–2.202–51 is revised to read as follows:

§ 5–2.202–51 Subcontractor Eligibility.

The following clause shall be included in the special conditions of all solicitations for building construction, alteration and repair contracts:

Subcontractor Eligibility

(a) In connection with the performance of work under this contract, the Contractor shall not subcontract with any subcontractor who, at the time of subcontract award, is listed on the current Consolidated List of Debarred, Suspended, and Ineligible Contractors, unless otherwise authorized by the Government in accordance with Subpart 1–1.6 of the Federal Procurement Regulations.

(b) Prior to award of the prime contract, the Consolidated List of Debarred, Suspended, and Ineligible Contractors will be available for inspection at the Business Service Center in the GSA regional office. After contract award, the contractor may obtain a copy of the current list from the Contracting Officer.

(c) In the event of the Contractor's noncompliance with the foregoing requirements, the Government may terminate this contract for default or take other appropriate action, including, but not limited to, requiring the Contractor to terminate any such subcontract and substitute an eligible subcontractor in lieu thereof, at no increase in the contract price or time for performance.

(d) The term "subcontractor," as used in this clause, shall mean the individual or firm with whom the Contractor proposes to enter into a subcontract for manufacturing, fabricating, installing, or otherwise performing work under this contract.

(e) The Contractor shall include the provisions of paragraphs (a), (b), (d), and (e) of this clause in every subcontract hereunder.

(End of Clause)

§ 5–2.202–52 [Reserved]

4. Section 5–2.202–52 is removed and reserved.

§ 5–2.404–51 [Reserved]

5. Section 5–2.404–51 is removed and reserved.

Dated: February 2, 1984.

Allan W. Beres,

Assistant Administrator for Acquisition Policy.

[FR Doc. 84–4005 Filed 2–14–84; 8:45 am]

BILLING CODE 6820–61–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Public Land Order 6517

[A 12870, A 12875]

Arizona; Partial Revocation of Reclamation Withdrawals

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order will partially revoke Secretarial Orders of April 19, 1920, and March 3, 1933, which withdrew approximately 490,454 acres of public land for reclamation purposes in connection with the Hualapai Project (formerly Bridge Canyon Project) on the Colorado River in the Grand Canyon in northwestern Arizona. The lands lie within the Grand Canyon National Park, the Lake Mead National Recreation Area, and the Hualapai Indian Reservation.

EFFECTIVE DATE: February 15, 1984.

FOR FURTHER INFORMATION CONTACT: Mario L. Lopez (602) 261–4774.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. Secretarial Orders of April 19, 1920, and March 3, 1933, withdrawing public lands pursuant to section 3 of the Act of June 17, 1902 (32 Stat. 388), are hereby revoked as to those lands described in paragraphs 2 and 3.

2. Gila and Salt River Meridian, Arizona

T. 32 N., R. 8 W.,
Secs. 4 to 9, inclusive;
Secs. 16 and 17, all lying north of Hualapai Indian Reservation;
Sec. 18;
Sec. 19, all lying north of Hualapai Indian Reservation.
T. 33 N., R. 8 W.,
Sec. 19;
Sec. 20, all lying west of the Grand Canyon National Park boundary;
Sec. 29, all lying west of the Grand Canyon National Park boundary;
Secs. 30 and 33, inclusive.
T. 31 N., R. 9 W.,
Secs. 1 and 2, all lying north of Hualapai Indian Reservation;
Secs. 3 to 6, inclusive;
Secs. 7 to 11, inclusive, all lying north of Hualapai Indian Reservation.
T. 32 N., R. 9 W.,
Secs. 1 to 23, inclusive;
Secs. 24 and 25, all lying west of Hualapai Indian Reservation;
Secs. 26 to 35, inclusive;
Sec. 36, all lying west of Hualapai Indian Reservation.
T. 33 N., R. 9 W.,
Secs. 19 to 36, inclusive;
T. 27 N., R. 10 W.,
Sec. 6, all lying north of Hualapai Indian Reservation.
T. 27½ N., R. 10 W.,
Secs. 31 and 32, all lying west of Hualapai Indian Reservation.
T. 28 N., R. 10 W.,
Sec. 2, all lying west of Hualapai Indian Reservation;
Secs. 3 to 10, inclusive;
Sec. 11, all lying west of Hualapai Indian Reservation;
Secs. 14 and 15, all lying west of Hualapai Indian Reservation;
Secs. 16 to 21, inclusive;
Sec. 22, all lying west of Hualapai Indian Reservation;
Sec. 27, all lying west of Hualapai Indian Reservation;
Secs. 28 to 31, inclusive;
Sec. 32, all lying west of Hualapai Indian Reservation.
T. 29 N., R. 10 W.,
Sec. 2, all lying west of Hualapai Indian Reservation;
Secs. 3 to 10, inclusive;
Sec. 11, all lying west of Hualapai Indian Reservation;
Sec. 14, all lying west of Hualapai Indian Reservation;
Secs. 15 to 23, inclusive;
Secs. 24 and 25, all lying west of Hualapai Indian Reservation;
Secs. 26 to 35, inclusive;
Sec. 36, all lying west of Hualapai Indian Reservation.
T. 30 N., R. 10 W.,
Sec. 3, all lying west of Hualapai Indian Reservation;
Secs. 4 to 9, inclusive;
Sec. 10, all lying west of Hualapai Indian Reservation;
Secs. 14 and 15, all lying west of Hualapai Indian Reservation;
Secs. 16 to 21, inclusive;
Secs. 22 to 25, inclusive, all lying west of Hualapai Indian Reservation;
Secs. 26 to 34, inclusive;
Sec. 35 and 36, all lying west of Hualapai Indian Reservation.
T. 31 N., R. 10 W.,
Secs. 1 to 11, inclusive;
Sec. 12, all lying north of Hualapai Indian Reservation;
Sec. 14, all lying west of Hualapai Indian Reservation;
Secs. 15 to 22, inclusive;
Sec. 23, all lying west of Hualapai Indian Reservation;
Secs. 26 and 27, all lying west of Hualapai Indian Reservation;

Secs. 28 to 33, inclusive;
Sec. 34, all lying west of Hualapai Indian Reservation.
T. 32 N., R. 10 W.,
Secs. 1 to 36, inclusive;
T. 33 N., R. 10 W.,
Secs. 19 to 36, inclusive;
T. 27 N., R. 11 W.,
Secs. 1 to 4, inclusive, all lying north of Hualapai Indian Reservation.
T. 27½ N., R. 11 W.,
Secs. 31, 32, and 33, all lying north of Hualapai Indian Reservation;
Secs. 34 to 36, inclusive;
T. 28 N., R. 11 W.,
Secs. 1 to 36, inclusive;
T. 29 N., R. 11 W.,
Secs. 1 to 36, inclusive;
T. 30 N., R. 11 W.,
Secs. 1 to 36, inclusive;
T. 31 N., R. 11 W.,
Secs. 1 to 36, inclusive;
T. 32 N., R. 11 W.,
Secs. 25 to 36, inclusive;
T. 28 N., R. 12 W.,
Secs. 1 to 4, inclusive;
Secs. 5 and 6, all lying north of Hualapai Indian Reservation;
Secs. 8 and 9, all lying north of Hualapai Indian Reservation;
Secs. 10 to 15, inclusive;
Sec. 16, all lying east of Hualapai Indian Reservation;
Secs. 21 and 22, all lying north of Hualapai Indian Reservation;
Secs. 23 to 25, inclusive;
Secs. 26 and 27, all lying east of Hualapai Indian Reservation;
Secs. 35 and 36, all lying north of Hualapai Indian Reservation;
T. 29 N., R. 12 W.,
Secs. 1 to 36, inclusive;
T. 30 N., R. 12 W.,
Secs. 1 to 36, inclusive;
T. 31 N., R. 12 W.,
Secs. 29 to 36, inclusive;
T. 28 N., R. 13 W.,
Sec. 1, all lying west of Hualapai Indian Reservation;
Sec. 2;
Secs. 3, all lying east of Hualapai Indian Reservation;
Secs. 10 and 11, all lying east of Hualapai Indian Reservation;
Sec. 12, all lying west of Hualapai Indian Reservation;
Secs. 13 and 14, all lying north of Hualapai Indian Reservation.
T. 29 N., R. 13 W.,
Secs. 1 to 5, inclusive;
Secs. 6 and 7, all lying east of Hualapai Indian Reservation;
Secs. 8 to 17, inclusive;
Secs. 18, 19, and 20, all lying east of Hualapai Indian Reservation;
Secs. 21 to 28, inclusive;
Secs. 27, 28, and 29, all lying east of Hualapai Indian Reservation;
Sec. 34, all lying east of Hualapai Indian Reservation;
Secs. 35 and 36.
T. 30 N., R. 13 W.,
Secs. 1 to 30, inclusive;
Sec. 31, all lying north of Hualapai Indian Reservation;
Secs. 32 to 36, inclusive;
T. 31 N., R. 13 W.,
Secs. 19 to 21, inclusive;
Secs. 28 to 33, inclusive;

The areas described in Paragraph 2 aggregate approximately 358,052 acres in Mohave and Coconino Counties, Arizona. The lands lie within the exterior boundaries of the Grand Canyon National Park and Lake Mead National Recreation Area and will, therefore, remain withdrawn from appropriation under the public land laws, including the mining laws.

3. Gila and Salt River Meridian, Arizona

T. 31 N., R. 8 W.,
Secs. 4 to 9, inclusive;
Secs. 16 to 18, inclusive;
T. 32 N., R. 8 W.,
Secs. 16, 17, and 19, all lying south of Colorado River;
Secs. 20 and 21;
Secs. 28 to 33, inclusive;
T. 29 N., R. 9 W.,
Secs. 4 to 9, inclusive;
Secs. 16, 17, and 18;
T. 30 N., R. 9 W.,
Secs. 4 to 9, inclusive;
Secs. 16 to 21, inclusive;
Secs. 28 to 33, inclusive;
T. 31 N., R. 9 W.,
Secs. 1 and 2 all lying south of Colorado River;
Secs. 7 to 11 inclusive, all lying south of Colorado River;
Secs. 12 to 36, inclusive;
T. 32 N., R. 9 W.,
Secs. 24, 25, and 36 all lying east of Colorado River;
T. 27 N., R. 10 W.,
Secs. 1 to 5, inclusive;
Sec. 6, all lying south of Colorado River;
Secs. 7 to 19, inclusive;
T. 27½ N., R. 10 W.,
Sec. 32, all lying east of Colorado River;
Secs. 33 to 36, inclusive;
T. 28 N., R. 10 W.,
Sec. 1;
Secs. 2 and 11, all lying east of Colorado River;
Secs. 12 and 13;
Secs. 14 and 15 all lying east of Colorado River;
Sec. 22, all lying east of Colorado River;
Secs. 23 to 26, inclusive;
Sec. 27, all lying east of Colorado River;
Sec. 32, all lying east of Colorado River;
Secs. 33 to 36, inclusive;
T. 29 N., R. 10 W.,
Sec. 1;
Sec. 2, all lying east of Colorado River;
Sec. 11, all lying east of Colorado River;
Secs. 12 and 13;
Sec. 14, all lying east of Colorado River;
Secs. 24 and 25 all lying east of Colorado River;
Sec. 36, all lying east of Colorado River;
T. 30 N., R. 10 W.,
Secs. 1 and 2;
Sec. 3, all lying east of Colorado River;
Sec. 10, all lying east of Colorado River;
Secs. 11, 12, and 13;
Secs. 14 and 15, all lying east of Colorado River;
Secs. 22 to 25, all lying east of Colorado River;
Secs. 35 and 36, all lying east of Colorado River.
T. 31 N., R. 10 W.,
Sec. 12, all lying south of Colorado River;
Sec. 13;
Sec. 14, all lying east of Colorado River;
Sec. 23, all lying east of Colorado River;
Secs. 24 and 25;
Secs. 26 and 27, all lying east of Colorado River;
Sec. 34, all lying east of Colorado River;
Secs. 35 and 36;
T. 27 N., R. 11 W.,
Secs. 1 to 4, inclusive, all lying south of Colorado River;
Secs. 5 to 18, inclusive;
T. 27½ N., R. 11 W.,
Secs. 31, 32, and 33, all lying south of Colorado River.
T. 27 N., R. 12 E.,
Secs. 1 to 18, inclusive;
T. 28 N., R. 12 W.,
Secs. 5 and 6, all lying south of Colorado River;
Sec. 7;
Secs. 8 and 9, all lying south of Colorado River;
Secs. 16, all lying west of Colorado River;
Secs. 17 to 20, inclusive;
Secs. 21 and 22, all lying south of Colorado River;
Secs. 26 and 27, all lying west of Colorado River;
Secs. 28 to 34, inclusive;
Secs. 35 and 36, all lying south of Colorado River.
T. 28 N., R. 13 W.,
Sec. 1, all lying east of Colorado River;
Sec. 3, all lying west of Colorado River;
Secs. 4, 5, 8, and 9, all lying within 2 miles of Colorado River;
Secs. 10 and 11, all lying west of Colorado River;
Sec. 12, all lying east of Colorado River;
Secs. 13 and 14, all lying south of Colorado River;
Secs. 15, 16, 22, 23, and 24, all lying within 2 miles of Colorado River.
T. 29 N., R. 13 W.,
Secs. 6 and 7, all lying west of Colorado River;
Secs. 18, 19, and 20, all lying west of Colorado River;
Secs. 27, 28, and 29, all lying west of Colorado River;
Secs. 30 to 33, inclusive;
Sec. 34, all lying west of Colorado River.
T. 30 N., R. 13 W.,
Sec. 31, all lying south of Colorado River.

The lands described above in Paragraph 3 aggregate approximately 132,402 acres in Mohave and Coconino Counties, Arizona, within the Hualapai Indian Reservation and are not subject to appropriation under the public land and mineral laws.

Inquiries concerning the lands should be addressed to the State Director, Bureau of Land Management, Arizona State Office, 2400 Valley Bank Center, Phoenix, Arizona 85073.

Dated: February 9, 1984.

William Clark,

Secretary of the Interior.

[FR Doc. 84-4134 Filed 2-14-84; 8:45 am]

BILLING CODE 4310-32-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 83-753; RM-4454]

FM Broadcast Station in Tusayan, Arizona; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Action taken herein assigns FM Channel 221A To Tusayan, Arizona, as a first FM assignment in response to a petition filed by Tusayan Broadcasting Company.

DATE: Effective: April 16, 1984.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: D. David Weston, Mass Media Bureau, (202) 634-6530.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Report and Order (Proceeding Terminated

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations (Tusayan, Arizona) MM Docket No. 83-753; RM-4454.

Adopted: February 3, 1984.
Released: February 7, 1984.

By the Chief, Policy and Rules Division:

1. The Commission has before it for consideration the *Notice of Proposed Rule Making*, 48 FR 36168, published August 9, 1983, proposing the assignment of Channel 221A to Tusayan, Arizona, as that community's first FM broadcast channel. The *Notice* was adopted in response to a petition filed by Tuasyan Broadcasting Company ("petitioner"). Supporting comments were filed by petitioner reaffirming its intention to apply for the channel, if assigned. No comments in opposition to the proposal were received.

2. The Commission believes that the public interest would be served by the assignment of FM Channel 221A to Tusayan, Arizona, in order to provide a first FM service to the community. The assignment can be made in compliance with the minimum distance separation requirements of § 73.207 of the Commission's Rules.

3. Accordingly, pursuant to the authority contained in Sections 4(i), 5(c)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and § 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is ordered, That effective April 16, 1984, the FM Table of Assignments, Section 73.202(b) of the Commission's Rules, is amended for the following city:

City	Channel No.
Tusayan, Arizona	221A

4. It is further ordered, That this proceeding is terminated.

5. For further information concerning this proceeding, contact D. David Weston, Mass Media Bureau, (202) 634-6530.

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 84-4066 Filed 2-14-84; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 83-834; RM-4440; RM-4502; RM-4532; RM-4574]

FM Broadcast Stations in Guadalupe, San Luis Obispo, Santa Margarita and Grover City, California; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Action taken herein assigns: (1) Channel 288A to Guadalupe, California, as its first FM assignment, in response to a petition filed by Dellar-Davis Broadcasting Company; and (2) Channel 292A to Santa Margarita, California, as its first FM assignment, in response to a petition filed by Eric R. Hilding. A mutually exclusive petition to assign Class B Channel 289 to San Luis Obispo, California, is denied.

DATE: Effective April 17, 1984.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: D. David Weston, Mass Media Bureau (202) 634-6530.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Report and Order (Proceeding Terminated)

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations (Guadalupe, San Luis Obispo, Santa Margarita [1] and Grover City,[1] California) MM Docket No. 83-834; RM-4440, RM-4502, RM-4532, RM-4574.

Adopted: January 31, 1984.
Released: February 9, 1984.

By the Chief, Policy and Rules Division.

1. The Commission has before it for consideration the *Notice of Proposed Rule Making*, 48 FR 37258, published August 17, 1983, proposing: (1) the assignment of Channel 261A to Guadalupe, California, in response to a petition filed by Dellar-Davis Broadcasting Company ("Dellar-Davis"); and (2) the assignment of Class B Channel 289 to San Luis Obispo, California, in response to a petition filed by William V. Johnson.[2] In response to the *Notice*, Eric R. Hilding ("Hilding") filed two counterproposals [3] proposing (1) the assignment of Channel 292A to Santa Margarita, California, and (2) proposing different channel assignments at Guadalupe, San Luis Obispo, and Santa Margarita and a substitution of channels and modification of an existing permit at Grover City, California.[4] Dellar-Davis filed comments rejecting the proposed Channel 261A assignment at Guadalupe and optionally proposing an exchange of channels between Guadalupe and Grover City, California. Comments were also filed by William V. Johnson ("Johnson"), Marvin G. Schwartz ("Schwartz") and R & L Broadcasters ("R & L"). Opposition comments were filed by Cabrillo Communications Inc. ("Cabrillo"), permittee of Class B Channel 251, San Luis Obispo, alleging economic injury, if either of the *Notice* proposals were granted. Reply comments were filed by Hilding and R & L. The various proposals and counterproposals are considered together herein because the spacing requirements of § 73.207 of the Rules preclude new channel assignments in all three communities. All petitioners proposing assignments in their respective communities have stated an intention to apply for the channels, if assigned.

2. The Commission will, therefore, consider the various proposals and

[1] These communities have been added to the caption.

[2] Dellar-Davis initially petitioned to assign Channel 288A to Guadalupe but the proposal was mutually exclusive with Johnson's proposal to assign Class B Channel 289 to San Luis Obispo, California. Channel 261A was optionally proposed to resolve the conflict.

[3] *Notice* of the counterproposals were given on August 19, 1983, Report No. 1421.

[4] R & L Broadcasters is the permittee of Channel 296A at Grover City, California (BPH-810607AD, granted by *Order*, F.C.C. 83M-2304, released July 15, 1983). R & L Broadcasters currently has on file an application to modify the construction permit to specify a new transmitter site (BMPH-830909AE).

options presented on a comparative basis to determine which meet our assignment priorities [5] and can be made consistent with the mandate of § 307(b) of the Communications Act of 1934, as amended, to provide a fair, efficient and equitable distribution of radio services among the various communities.

3. Guadalupe a community of 3,629,[6] is located in Santa Barbara County (population 298,694), approximately 22 miles south of San Luis Obispo, California. It is presently without local aural broadcast service. Dellar-Davis originally petitioned to allocate Channel 288A to Guadalupe as a first FM assignment but the proposal was mutually exclusive with a proposal to allocate Class B Channel 289 to San Luis Obispo.[7] A Commission study indicated that Channel 261A could be assigned to Guadalupe in compliance with the minimum distance separation requirements and proposed to assign that channel to Guadalupe to resolve the conflict and enable both communities to receive an FM allocation. However, in response to the *Notice*, Dellar-Davis rejected the Guadalupe proposal because of potential transmitter siting problems and optionally proposed an exchange of channels between Guadalupe (Channel 261A) and the existing permittee on Channel 296A at Grover City, California. R & L, the permittee, interposed no objection to the proposed substitution provided it would be reimbursed for the channel substitution. Cabrillo, permittee of Class B Channel 251, San Luis Obispo, has objected to any allocation at Guadalupe alleging economic injury if another FM assignment is made in the area.

4. San Luis Obispo, a community of 34,252, is the seat of San Luis Obispo County (population 155,435). It is presently served by 6 aural broadcast services, three of which are commercial FM broadcast services. Johnson has proposed the assignment of Class B Channel 289 to San Luis Obispo as the fourth commercial FM allocation and has submitted population and economic data in support of its request. Cabrillo, permittee of Class B Channel 251, San Luis Obispo, has opposed the proposed assignment on economic grounds alleging that the "addition of another radio allocation will clearly lead to financial failure to Cabrillo's nascent FM facility and/or other facilities." In addition, Hilding has filed a counterproposal seeking the assignment of Channel 292A to Santa Margarita which, in addition to other substitutions, proposes to substitute Class B Channel 297 for Channel 289 at San Luis Obispo.

5. Santa Margarita (not listed in the 1980 U.S. Census) is located in San Luis Obispo County (population 155,435) approximately 8 miles northeast of San Luis Obispo, California. It is presently without local aural broadcast service. Although this request is being considered as a counterproposal, Hilding initially submitted the proposal prior to the issuance of the *Notice*. Hilding's counterproposal seeks to substitute Class B Channel 297 for Channel 289 at San Luis Obispo and to modify the existing permit at Grover City, California [8] from Channel 296A to Channel 261A. These substitutions would permit the assignment of Channel 288A to Guadalupe and Channel 292A at Santa Margarita, California. Comments in support of the proposed assignment of Channel 292A to Santa Margarita, were filed by schwartz expressing his interest and intention to submit an application for the channel, if assigned. R & L filed comments stating that they would interpose no objection to the substitution provided "R & L will be reimbursed for its expenses to further modify its construction permit from Channel 296A to Channel 261A." Reply comments filed by Hilding objected to the reimbursement sought by R & L. R & L filed reply comments requesting that the proposed substitution at Grover City be expedited since no party to the proceeding had objected to its operation on Channel 261A.

Discussion

6. Initially, the Commission will not adopt the proposal to assign Channel 261A to Guadalupe. Dellar-Davis has rejected the proposal due to transmitter siting problems. No other party to this proceeding has expressed an interest in the Channel 261A assignment of Guadalupe and the Commission will not make an assignment absent an expression of interest. See, *e.g.*, *Jefferson City, Missouri*, 56 F.C.C. 2d 40 (1975). With respect to Hilding's second counterproposal, a Commission staff study indicates that Class B Channel 297 cannot be assigned to San Luis Obispo because the mileage separation requirements of § 73.207 would require the transmitter site to be located approximately 5 miles into the Pacific Ocean. Therefore, we cannot arrange an assignment plan that provides new channels to all three communities. Rather, under any of the options, only two communities can be granted new channels. We shall make our choice on the basis of our assignment priorities as adopted in the *Revision of FM Policies and Procedures, supra*, as set forth below:

(1) First full-time aural service.
(2) Second full-time aural service.
(3) First local service.
(4) Other public interest matters.

As noted at paragraph 4, San Luis Obispo is currently served by six aural broadcast services, three of which are FM broadcast services. On the other hand, Guadalupe and Santa Margarita are without a first full-time local aural service. Thus, priority three provides a clear choice—the assignment of Channel 288A to Guadalupe, as a first local service; and the assignment of Channel 292A to Santa Margarita, as a first local service. Further, we do not believe that Johnson, the petitioner for the San Luis Obispo allocation, has demonstrated an overriding need for a fourth FM allocation and a seventh aural broadcast service to that community. This determination is consistent with the mandate of § 307(b) of the Communications Act of 1934, as amended, to provide a fair, efficient and equitable distribution of radio services among the various communities.[9] Therefore, in view of the fact that there are no other Class B channel assignments available for San Luis Obispo, we will deny the request for a Class B assignment to that community.

7. In this decision, the Commission has taken into consideration that the assignment of Channel 288A to Guadalupe will require Translator Station K288CF (Channel 288A), Santa Maria, California, to operate on another frequency (Channel 261A is said to be available). Dellar-Davis stated in its original petition that it would be willing to reimburse the translator station for the costs of converting to a different channel. The Commission, however, takes no position on the reimbursement offer since we do not require reimbursement for changing the channels of translator stations. See § 74.702 of the Commission's Rules.

8. In view of our actions denying the request for a Class B assignment at San Luis Obispo and our decision to assign Class A stations at Guadalupe and Santa Margarita, the request for a

[5] *Revision of FM Assignment Policies and Procedures*, 90 F.C.C. 2d 88 (1982).

[6] All population figures are taken from the 1980 U.S. Census.

[7] The mileage separation requirements of § 73.207 require a 65 mile separation, whereas Guadalupe and San Luis Obispo are separated by a distance of approximately 22 miles.

[8] See footnote 4.

[9] See also *Wiggins and Lumberton, North Carolina*, 50 R.R.2d 32 (1981); *South Pittsburg, Tennessee and Stevenson, Alabama*, 35 R.R. 2d 605 (1975); *recons. den.* 37 37 R.R. 2d 121 (1976); *Anamosa and Iowa City, Iowa*, 46 F.C.C. 2d 520, 524 (1974); *Third Report, Memorandum Opinion and Order in Docket 14185*, 40 F.C.C. 747 (1963).

channel modification and proposal to exchange channels at Grover City, California, is not necessary. With respect to the opposition filed by Cabrillo alleging economic injury from additional FM allocations in the San Luis Obispo area, the Commission has previously held that questions for economic impact are of germane to the allocation process but should be considered in the context of the application. See *Clinton, Louisiana,* 45 R.R. 2d 1587 (1979) and *Quincy, Florida,* 43 R.R. 2d 639 (1978).

9. Accordingly, pursuant to the authority contained in sections 4(i), 5(c)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules it is ordered, That effective April 17, 1984, the FM Table of Assignments (§ 73.202(b) of the Rules) is amended with respect to the communities listed below:

City	Channel No.
Guadalupe, California	288A
Santa Margarita, California	292A

10. It is further ordered, That the Petition for Rule Making, filed by William V. Johnson, proposing the assignment of Class B Channel 289 to San Luis Obispo, California, is denied.

11. It is further ordered, That this proceeding is terminated

12. For further information concerning the above, contact D. David Weston, Mass Media Bureau, (202) 634–6530.

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 84-4087 Filed 2-14-84; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 83-601; RM-4430; RM-4443]

TV Broadcast Stations in Fond du Lac and Sheboygan, Wisconsin; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Action taken herein substitutes UHF television Channel 66 for UHF television Channel 34 at Fond du Lac, Wisconsin, in response to a petition filed by Racine Telecasting Company. An alternate proposal to exchange channels between Fond du Lac and Sheboygan, Wisconsin, is denied.

DATE: Effective: April 17, 1984.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: D. David Weston, Mass Media Bureau, (202) 634–6530.

List of Subjects in 47 CFR Part 73

Television broadcasting.

Report and Order (Proceeding Terminated)

In the matter of amendment of § 73.606(b), Table of Assignments, TV Broadcast Stations (Fond du Lac and Sheboygan, Wisconsin) MM Docket No. 83-601; RM-4430, RM-4443.

Adopted: December 16, 1983.
Released: February 9, 1984.

By the Chief, Policy and Rules Division.

1. Before the Commission for consideration is the *Notice of Proposed Rule Making,* 48 FR 29924, published June 29, 1983, issued in response to petitions filed by Racine Telecasting Company ("Racine T/C"), permittee of UHF television Channel 49, Racine, Wisconsin; and Skycom, Inc. ("Skycom"), prospective applicant for a UHF television allocation at Fond du Lac, Wisconsin. Both petitioners propose the deletion of the current Fond du Lac assignment (Channel 34) to resolve severe transmitter siting constraints between their respective proposals. Skycom intends to apply for a new TV station at Fond du Lac while Racine T/C has applied to relocate the transmitter site for Channel 49, Racine, Wisconsin. The *Notice* solicited comments on the following options: (I)—Skycom's proposal to exchange Channel 34 at Fond du Lac and Channel 28 at Sheboygan, Wisconsin;[1] and (II)—Racine T/C's proposal to substitute Channel 66 for Channel 34 at Fond du Lac. Skycom filed comments supported Option I and opposing Option II. Racine T/C filed comments supporting Option II, opposing Option I and advancing a third option which proposes substituting Channel 66 for Channel 28 at Sheboygan. Comments opposing Option I were also filed by Sheboygan County Broadcasting Co., Inc. ("SCBC"), applicant for UHF television Channel 28, Sheboygan, Wisconsin. Reply comments were filed by all petitioners. Additional reply comments were filed by Skycom and by SCBC [2] after the August 15, 1983, deadline.

Option I

2. Skycom has proposed the exchange of Channel 34, Fond du Lac, and Channel 28, Sheboygan, requiring the deletion and substitution of channels in each community. Skycom asserts that its efforts to find a suitable transmitter site for Channel 34 and to prepare an application for operation on that channel have been frustrated by the severe transmitter site constraints imposed by Racine T/C's current authorization (BPCT-810527KE) to operate on Channel 49. Skycom states that the exchange of channels would permit it to resolve its siting problems and to bring a first local television service to Fond du Lac "while providing substantial relief to the concerns which generated" Racine T/C's petition. Skycom asserts that it has considered operation on "various other channels at issue" and has "no present intention" to apply for a station on Channel 66 if Option II is adopted. It concludes that unless Option I is adopted, Fond du Lac will be without a first local television service. In opposition, Racine T/C states that while Skycom's proposal to exchange channels "would alleviate the site restrictions due to the present assignment of Channel 34 at Fond du Lac, it would create a new site restriction problem for Channel 49 at Racine due to the assignment of Channel 34 to Sheboygan." Racine T/C submitted an engineering statement which supports its contention. As an alternative to accommodate Skycom's interest, Racine proposes the substitution of Channel 66 [3] at Sheboygan. Since the alternative was advanced in comments it will be treated as a counterproposal. SCBC, licensee of Stations WHBL(AM) and WWJR(FM), Sheboygan, strenuously opposes Option I or any proposal which seeks deletion of Channel 28 at Sheboygan. SCBC asserts that as a "long time broadcaster" it has had a continuing

[1] Channel 34, Fon du Lac, and Channel 28, Sheboygan, Wisconsin, were unoccupied and unapplied for on May 7, 1983, when Skycom submitted its rule making proposal. Subsequently three applications were filed for Channel 28, Sheboygan.

[2] Skycom filed a Motion for Leave and additional reply comments on August 29, 1983, alleging it failed to receive a copy of SCBC's initial comments and that it had insufficient time to prepare a reply. Although Skycom was not diligent in submitting reply comments, they will be considered as a matter of expediency since it will aid the Commission in the resolution of this proceeding where an analysis of various options is to be made. However, SCBC's additional pleadings of September 7, 1983, and October 13, 1983, and Skycom's reply thereto of October 17, 1983, are untimely filed without sufficient reason and will not be considered.

[3] As the *Notice* indicates, Racine T/C's original proposal is to substitute Channel 66 for Channel 34 at Fond du Lac and is considered herein as Option II.

interest in establishing an area television station and was in the "process of preparing an application for authority to construct a new television station on Channel 28, Sheboygan." SCBC also states that if Channel 34 were reassigned to Sheboygan it would experience severe siting constraints *vis-a-vis* Channel 49 at Racine, Wisconsin. SCBC has also submitted an engineering statement to support its contention. SCBC concludes that the adoption of Option I "would stifle current and active efforts to institute local television broadcast service at Sheboygan" and would "result in potential adverse impact upon an existing UHF permittee's efforts to locate a satisfactory site for its proposed operation." In reply, Skycom does not contest Racine T/C's or SCBC's arguments of new siting constraints at Sheboygan if Channel 34 is reassigned to that community. Rather, Skycom supports the counterproposal advanced by Racine T/C to substitute Channel 68 at Sheboygan.

3. It is apparent that until the publication of the *Notice*, Racine T/C was unaware of Skycom's interest or its proposal to operate on Channel 28 at Fond du Lac. As an alternative to Skycom's proposal which it opposes, Racine T/C advanced a new proposal which seeks to accommodate both Skycom's and Racine T/C's desire for relief from the siting constraints between Channel 34 at Fond du Lac and Channel 49, Racine, Wisconsin. The alternative that Racine T/C proposes is the substitution of Channel 28 for Channel 34 at Fond du Lac and the substitution of Channel 68 for Channel 28 at Sheboygan. Skycom fully supports this alternative since it "would permit Racine Telecasting a greater range of sites within which to improve its facilities, while at the same time affording Skycom considerable latitude in locating a site from which it can activate a first local television service to the Fond du Lac area." SCBC, however, is strongly opposed to this alternative asserting that Racine's suggestion and Skycom's support of the "alternative proposal is premised upon the absence of any present interest in establishing a local television service at Sheboygan." SCBC states that it "anticipates filing" an application for a new UHF television station on Channel 28 at Sheboygan in "the very near future" and argues that in view of its expressed interest in that channel, the deletion and reassignment of Channel 28 would contravene established Commission policy as well as have an "adverse impact" on its efforts to bring local television service to Sheboygan. Citing *La Salle, Michigan* [4] and *Eugene, Oregon* [5], SCBC points out that "where a present interest in a currently assigned channel is expressed, the Commission will not reassign that channel to accommodate the preference of a petitioner." In response, Skycom argues that in spite of SCBC's "avowed intentions" it "has not filed an application" and "is not in the same equitable position to complain of deletion of 'its' channel as would be a genuine applicant." Skycom concludes that even if SCBC were "to file an application, the fact that it owns co-located radio stations would result in its outright disqualification for violation of the one-to-a-market rule were any competing independent party to file" an application for Channel 28 in Sheboygan.

Option II

4. Racine T/C, permittee of UHF Television Channel 49, Racine, Wisconsin, has proposed to substitute Channel 68 for Channel 34 at Fond du Lac, Wisconsin, to resolve severe transmitter siting problems to the proposed relocation of its "transmitting antenna north of Racine, in the area where most, if not all, of the other television stations in the market have located their antennas." Racine T/C points out that its proposal is not a novel one and the Commission has substituted channels under similar circumstances, citing *Florence, Kentucky*, 46 R.R. 2d 353 (1979) and *Modesto and Manteca, California*, 25 R.R. 2d 1684 (1972). SCBC supports Racine T/C's proposal asserting that "[a]doption of Option II, assigning Channel 68 to Fond du Lac, would permit the establishment of local television service at Fond du Lac without jeopardizing the efforts of other interested parties to implement their objectives." Skycom opposes Option II arguing that it "has no present intention" to apply for or construct a station on Channel 68 at Fond du Lac. Skycom argues that deletion of Channel 34 "would be highly inappropriate" in view of its efforts "to activate" a Channel at Fond du Lac and concludes that Option II will "effectively preclude" a first service to Fond du Lac in view of its stated intention not to operate on Channel 68.

Discussion

5. Skycom and Racine T/C, the petitioners initiating this proceeding, have both proposed the substitution of Channel 34 at Fond du Lac to resolve severe transmitter siting problems for their respective proposals (1) for a new TV station at Fond du Lac; and (2) to locate a transmitter site for Channel 49, Racine. Our primary concern in this proceeding is to eliminate the existing siting constraints between Fond du Lac (Channel 34) and Racine (Channel 49) to permit early implementation of service to one or both of the communities. As noted at paragraph 2, *supra*, Option I is an inadequate solution because the exchange of channels between Fond du Lac and Sheboygan merely moves the Channel 34 siting problem to Sheboygan. The solution, therefore, is between Option II and a counterproposal (Option III) advanced in comments to use Channel 68 at Sheboygan rather than Fond du Lac. Both options, however, are strenously opposed by respective applicants in each community. Initially, Option II would be favored since it requires only the channel substitution at Fond du Lac whereas Option III requires an additional channel substitution at Sheboygan where three applicants [6] have filed for operation on the existing channel assignment. While Channel 68 could be used in either community, the decisive factor is whether it would be in the public interest to remove a channel from a community where there has been an expression of interest in its retention. The Commission has previously held in similar situations that it will not remove a recently assigned channel absent a compelling reason for assigning the channel elsewhere. See *La Salle and Pontiac, Michigan*, 53 R.R. 2d 392 (1983); and *Martin and Salyersville, Kentucky*, 50 R.R. 2d 502 (1981). The burden therefore falls upon either Skycom or Racine T/C to demonstrate a compelling reason to reassign Channel 28 from Sheboygan to Fond du Lac. A review of the comments indicates that neither has compared community needs to demonstrate that the Channel 28 allocation would be utilized more effectively at Fond du Lac. Absent such a showing, the Commission does not reassign a channel for which there is an interest in its retention. See *Martin and Salyersville, Kentucky, supra*. With respect to Skycom's preference to substitute Channel 28 for Channel 34 to the exclusion of "various other channels at issue" in this proceeding, the Commission does not recognize differences between lower and higher UHF channels [7] and as a general rule

[4] 53 R.R. 2d 392 (1983).
[5] 15 R.R. 2d 1571 (1969).

[6] The Commission has received three applications for Channel 28, Sheboygan: Home Television, Incorporated (BPCT–831018KN), Sheboygan County Broadcasting Co., Inc. (BPCT–831011KH); and Retherford Publications, Inc. (BPCT–830618KI).

[7] See *Houston, Texas*, 50 R.R. 2d 1420 (1982); *Cleveland and Lorain, Ohio*, 9 R.R. 2d 1057 (1967).

does not assign channels solely because an interested party desires a lower placement on the UHF band. See *New Smyrna Beach, Florida*, 50 R.R. 2d 1714 (1982). With respect to Skycom's allegation regarding the possible disqualification of SCBC as a potential applicant in view of the one-to-a-market restrictions of the Commission's multiple ownership rule (Section 73.636), the Commission has previously held that an applicant's qualifications are not germane to an allocation proceeding but should be considered in the context of the application process. See *Caldwell, Ohio*, 46 R.R. 2d 1453 (1980); and *Billings, Montana*, 51 R.R. 2d 259 (1982). We will therefore retain Channel 28 at Sheboygan and substitute Channel 68 for Channel 34 at Fond du Lac in order to permit the earlier implementation of service to Racine and Sheboygan where parties stand ready to operate. The same is not true at Fond du Lac where no application has been tendered.

6. Accordingly, pursuant to authority contained in Sections 4(i), 5(c)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is ordered, That effective April 17, 1984, the Television Table of Assignments, Section 73.606(b) of the Rules, is amended with respect to the community listed below:

City	Channel No.
Fond du Lac, Wisconsin	68

7. It is further ordered, That the *Petition for Rule Making* filed by Skycom, Inc. to exchange the assignments of Channel 34 in Fond du Lac and Channel 28 in Sheboygan, Wisconsin, is denied.

8. It is further ordered, That this proceeding is terminated.

9. For further information concerning the above, contact D. David Weston, Mass Media Bureau (202) 634–6530.

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 84-4000 Filed 2-14-84; 8:45 am]

BILLING CODE 6712-01-M

Proposed Rules

Federal Register
Vol. 49, No. 32
Wednesday, February 15, 1984

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1207

Irish Potatoes Grown in the 48 Contiguous States of the United States; Decision on Proposed Amendment of Potato Research and Promotion Plan and Referendum Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This decision proposes an amendment to the Potato Research and Promotion Plan regulating potatoes grown in the 48 contiguous States of the United States, and provides for a referendum on the amendment among affected producers. The proposed amendment would authorize an increase in the rate of assessment and the addition of a public member to the National Potato Promotion Board, hereinafter called the "Board." These provisions are designed to allow the Board to maintain research and promotion activities at effective levels, and to improve the program's administration.

DATE: Referendum Period March 1 through April 4, 1984.

FOR FURTHER INFORMATION CONTACT: Charles W. Porter, Chief, Vegetable Branch, Fruit and Vegetable Division, AMS, USDA, Washington, D.C. 20250, (202) 447-2615.

SUPPLEMENTARY INFORMATION: Prior documents in this proceeding: Notice of Hearing—Issued October 20, 1983, and published October 24, 1983 (48 FR 49026). Notice of Recommended Decision—Issued December 22, 1983, and published December 30, 1983 (48 FR 57499).

This formal rulemaking action is governed by the provisions of sections 556 and 557 of Title 5 of the United States Code and therefore is not subject to the requirements of Executive Order 12291.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA) William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this action will not have a significant economic impact on a substantial number of small entities.

On August 26, 1982, an amendment to the Potato Research and Promotion Act was approved (Pub. L. 97-244, 7 U.S.C. 2611-2627) which provides authority to change the maximum assessment rate and to add a public member on the Board. On November 29, 1983, the Act was amended again (Pub. L. 98-335) to reaffirm the validity of the existing Potato Research and Promotion Plan and to specify that the provisions relating to public representation in the Act are exempt from the requirement that producers must approve the provisions in referendum.

Pursuant to the Act, as amended, and the Rules of Practice and Procedure Governing Proceedings to Formulate and Amend an Order (7 CFR Part 1200), a public hearing was held in Denver, Colorado, on November 8, 1983. The hearing was for the purpose of receiving evidence on the need for an amendment to the Potato Research and Promotion Plan. The plan provides for a nationally coordinated research and promotion program financed by an assessment on potatoes handled for food and seed. Notice of the hearing was published in the October 24, 1983, issue of the **Federal Register** (48 FR 49026). The notice set forth a proposed amendment submitted by the Board on behalf of potato producers in the 48 contiguous States of the United States.

On the basis of the evidence introduced at the hearing and placed in the record, on December 22, 1983, the Deputy Administrator filed a recommended decision on a proposed amendment with the Hearing Clerk. The recommended decision was published in the December 30, 1983, issue of the **Federal Register** (48 FR 57499), and allowed 14 days (or until January 13, 1984) for the filing of exceptions and comments to it. None was received.

The material issues, findings and conclusions and the general findings of the recommended decision are hereby approved and adopted by reference and made a part of this decision.

Annexed and made a part of this decision is the proposed amendment to the Potato Research and Promotion Plan, which has been decided upon as the detailed and appropriate means of effectuating the foregoing conclusions.

Referendum order. It is hereby directed that a referendum be conducted among the potato producers who were engaged in the production of five or more acres of potatoes to be harvested during the representative period. The period January 1983 through December 1983 is hereby determined to be the representative period for the purpose of the referendum. The referendum is to determine whether the producers favor the issuance of the annexed amendment to the Potato Research and Promotion Plan.

James B. Wendland and Jurt J. Kimmel are hereby designated referendum agents of the Secretary of Agriculture to conduct the referendum. The agents may also appoint subagents to assist them.

The referendum procedure shall be in accordance with the procedure for the conduct of referenda (7 CFR Part 1207).

It is hereby ordered, that this decision, referendum order and the annexed amendment to the Potato Research and Promotion Plan be published in the **Federal Register.**

Signed at Washington, D.C., on February 9, 1984.

D. W. McMillan,

Assistant Secretary, Marketing and Inspection Services.

List of Subjects in 7 CFR Part 1207

Administrative practice and procedure, Advertising, Agricultural Research, Potatoes.

It is proposed to amend 7 CFR Part 1207 as follows:

PART 1207—POTATO RESEARCH AND PROMOTION PLAN

1. Section 1207.320 is amended by revising paragraphs (a), (b), and adding (e) to read:

§ 1207.320 Establishment and membership.

(a) There is hereby established a National Potato Promotion Board, hereinafter called the "Board," composed of producers and the public as selected by the Secretary. The public representative to the Board shall be nominated by Board members in such manner as recommended by the Board and approved by the Secretary.

Producer members shall be selected from nominations submitted by producers in the various States or groups of States pursuant to § 1207.322.

(b) Producer membership on the Board shall be determined on the basis of the potato production set forth in the latest Crop Production Annual Summary Report issued by the Crop Reporting Board, U.S. Department of Agriculture. The public member shall have no direct financial interest in the commercial production or marketing of potatoes except as a consumer and shall not be a director, officer or employee of any firm so engaged. The basis for determining the membership of future boards shall be determined by the Secretary upon recommendation of the Board.

* * * * *

(e) In the event that producer Board members fail to nominate a public representative the Secretary may appoint such a member.

1207.322 [Amended]

2. Section 1207.322 is amended as follows:

(1) Revise paragraph (a) to read as follows:

(a) A meeting or meetings of producers shall be held in each State or producing section to nominate producer members for the Board.

* * * * *

(2) Amend paragraphs (b) and (c) by inserting "producer" before "members" and "nominees."

(3) Add a new paragraph (d) to read as follows:

* * * * *

(d) The public member shall be nominated by the producer members of the Board. The Board shall prescribe such additional qualifications, administrative rules and procedures for selection and voting for each candidate as it deems necessary and the Secretary approves.

3. In § 1207.328, paragraph (a) is amended by adding "to nominate the public member;" after "of Board members;".

4. In § 1207.342, paragraph (a) is revised to read:

§ 1207.342 Assessments.

(a) The funds to cover the Board's expenses shall be acquired by the levying of assessments upon handlers as designated in regulations issued by the Board. Such assessments shall be levied at a rate fixed by the Secretary which shall not exceed one-half of one per centum of the immediate past ten calendar year United States average price received for potatoes by growers as reported by the Department of Agriculture and not more than one such assessment may be collected on any potatoes.

* * * * *

(Pub. L. 97-244, Pub. L. 98-335, 7 U.S.C. 2611-2627)

[FR Doc. 84-4121 Filed 2-14-84; 8:45 am]

BILLING CODE 3410-02-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 84-ACE-01]

Transition Area—Norton, Kansas; Proposed Designation

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to designate a 700-foot transition area at Norton, Kansas, to provide controlled airspace for aircraft executing a new instrument approach procedure to the Norton, Kansas, Municipal Airport utilizing the Norton Nondirectional Radio Beacon (NDB) as a navigational aid. This proposed action will change the airport status from VFR to IFR.

DATES: Comments must be received on or before March 19, 1984.

ADDRESSES: Send comments on the proposal to: Federal Aviation Administration, Manager, Operations, Procedures and Airspace Branch, Air Traffic Division, ACE-530, 601 East 12th Street, Kansas City, Missouri 64106. Telephone (816) 374-3408.

The official docket may be examined at the Office of the Regional Counsel, Central Region, Federal Aviation Administration, Room 1558, 601 East 12th Street, Kansas City, Missouri.

An informal docket may be examined at the Office of the Manager, Operations, Procedures and Airspace Branch, Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Dale L. Carnine, Airspace Specialist, Operations, Procedures and Airspace Branch, Air Traffic Division, ACE-532, FAA Central Region, 601 East 12th Street, Kansas City, Missouri 64106. Telephone (816) 374-3408.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number, and be submitted in duplicate to the Operations, Procedures and Airspace Branch, Air Traffic Division, Federal Aviation Administration, 601 East 12th Street, Kansas City, Missouri 64106. All communications received on or before the closing date for comments will be considered before action is taken on the proposed amendment. The proposal contained in this Notice may be changed in light of the comments received. All comments received will be available both before and after the closing date for comments in the Rules Docket for examination by interested persons.

Availability of NPRM

Any person may obtain a copy of this NPRM by submitting a request to the Federal Aviation Administration, Operations, Procedures and Airspace Branch, 601 East 12th Street, Kansas City, Missouri 64106 or by calling (816) 374-3408.

Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for further NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedure.

The Proposal

The FAA is considering an amendment to Subpart G, § 71.181, of the Federal Aviation Regulations (14 CFR 71.181) by designating a 700-foot transition area at Norton, Kansas. To enhance airport usage, a new instrument approach procedure is being developed for the Norton, Kansas, Municipal Airport utilizing the Norton NDB as a navigational aid. This navigational aid will provide new navigational guidance for aircraft utilizing the airport. The establishment of a new instrument approach procedure, based on this navigational aid, entails designation of a transition area at Norton, Kansas, at and above 700 feet above ground level (AGL) within which aircraft are provided air traffic control service. Transition areas are designed to contain IFR operations in controlled airspace during portions of the terminal operation and while transiting between the terminal and enroute environment. The intended effect of this action is to ensure segregation of aircraft using the approach procedure under Instrument Flight Rules (IFR) and other aircraft operating under Visual Flight Rules (VFR). This action will change the airport status from VFR to IFR.

List of Subjects in 14 CFR Part 71

Aviation safety, Transition area.

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71), by designating the following transition area:

Norton, Kansas

That airspace extending upward from 700 feet above the surface within a 5.5-mile radius of the Norton Municipal Airport (latitude 39°50'48"N, longitude 99°53'45"W) and within 4.5 miles each side of the 348° bearing from the Norton nondirectional beacon (NDB) (latitude 39°51'18"N, Longitude 99°53'23"W) extending from the 5.5-mile radius to 8 miles north of the airport and within 4.5 miles each side of the 186° bearing from the Norton NDB extending from the 5.5-mile radius to 8 miles south of the airport.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); 49 U.S.C. 106(g) (Revised, Public Law 97-449, January 12, 1983); and Sec. 11.65 of the Federal Aviation Regulations (14 CFR 11.65)

Note.—The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Kansas City, Missouri, on February 1, 1984.

John E. Shaw,

Acting Director, Central Region.

[FR Doc. 84-4044 Filed 2-14-84; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 84-ASW-5]

Proposed Alteration of Transition Area: Dallas, Texas

AGENCY: Federal Aviation Administation (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Aviation Administration proposes to alter the transition area at Dallas, TX. The intended effect of the proposed action is to provide additional controlled airspace for aircraft executing a new standard instrument approach procedure (SIAP) to the Cleburne Municipal Airport. This action is necessary since there is a proposed RNAV Runway 33 SIAP to the Cleburne Municipal Airport.

DATES: Comments must be received on March 16, 1984.

ADDRESSES: Send comments on the proposal in triplicate to: Manager, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administation, P.O. Box 1689, Fort Worth, TX 76101.

The official docket may be examined in the Rules Docket, Weekdays, except Federal holidays, between 8 a.m. and 4:30 p.m. The FAA Rules Docket is located in the Office of the Regional Counsel, Southwest Region, Federal Aviation Administation, 4400 Blue Mound Road, Fort Worth, TX

FOR FURTHER INFORMATION CONTACT: Kenneth L. Stephenson, Airspace and Procedures Branch, ASW-535, Air Traffic Division, Southwest Region, Federal Aviation Administation, P.O. Box 1689, Fort Worth, TX 76101; telephone: (817) 877-2630.

SUPPLEMENTARY INFORMATION:

History

Federal Aviation Regulation Part 71, Subpart G 71.181 as republished in Advisory Circular AC 70-3A dated January 3, 1983, contains the description of transition areas designated to provide controlled airspace for the benefit of aircraft conducting instrument flight rules (IFR) activity. Alteration of the transition area at Dallas, TX, will necessitate an amendment to this subpart. This amendment will be required at Dallas, TX, since there is a proposed change in IFR procedures to the Cleburne Municipal Airport.

Comments Invited

Interested persons are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposals. (Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposals.) Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 74-ASW-5." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filled in the docket.

Availability on NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Manager, Airspace and Procedures Brand, Air Traffic Division, Southwest Region, Federal Aviation Administation, P.O. Box 1689, Fort Worth, TX 76101, or by calling (817) 877-2630. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should contact the office listed above.

List of Subjects in 14 CFR Part 71

Control zones, Transition areas, Aviation safety.

The Proposed Amendment

PART 71—[AMENDED]

Accordingly, pursuant to the authority delegated to me, the FAA proposes to amend § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) by adding:

Dallas, TX [Amended]

; and with a 6.5-mile radius of the Cleburne Municipal Airport (latitude 32°21'16"N., longitude 97°28'02"W.).

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a)); Sec. 6(c), 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); and 14 CFR 11.61(c).)

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities

under the criteria of the Regulatory Flexibility Act.

Issued in Fort Worth, TX, on February 3, 1984.

F. E. Whitfield,

Acting Director, Southwest Region.

[FR Doc. 84-4043 Filed 2-14-84; 8:45 am]

BILLING CODE 4910-13-M

FEDERAL TRADE COMMISSION

16 CFR Part 13

[File No. 831 0014]

Pilkington Brothers P.L.C.; Proposed Consent Agreement With Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed Consent Agreement.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent agreement, accepted subject to final Commission approval, would require a British corporation, among other things, to divest, within 5 years, its shares in Ford Glass Limited (FGL) to either Ford Motor Company or another Commission-approved buyer. The company would be required to remove any director, alternate director or representative also serving on the board of FGL or Vitro Plan S.A., its Canadian and Mexican joint venture partners engaged in the manufacture of float glass. Although the order would permit the company to discuss the technical aspects of float glass production with its partners, discussions concerning competitive issues such as production rates, costs and marketing would be prohibited. Additionally, the company would be required to waive most of its rights under the Pilkington-Ford Motor Co. Unanimous Shareholder Agreement; vote its Vitro Plan shares in favor of any proposal to increase the Mexican company's production of float glass; and refrain from invoking a provision of a 1965 agreement barring Mexican investors from producing float glass independently of the joint venture. Further, the company would be prohibited from acquiring any concern engaged in the production of float glass in North America without prior Commission approval, for a period of ten years.

DATE: Comments must be received on or before April 16, 1984.

ADDRESS: Comments should be directed to: FTC/S, Office of the Secretary, Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT: FTC/CS-2, Robert W. Doyle, Jr., Washington, D.C. 20580. (202) 254-8577.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and § 2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the following consent agreement containing a consent order to cease and desist, and an explanation thereof, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with § 4.9(b)(14) of the Commission's Rules of Practice (16 CFR 4.9(b)(14)).

List of Subjects in 16 CFR Part 13

Glass products, Trade practices.

Before Federal Trade Commission

Agreement Containing Consent Order

In the Matter of Pilkington Brothers P.L.C., a corporation.

The Federal Trade Commission having initiated an investigation of the acquisition of shares in Libbey-Owens-Ford Company ("LOF") by Pilkington Brothers P.L.C. ("Pilkington"), and Pilkington having been furnished with a copy of a draft complaint which the Bureau of Competition has presented to the Commission for its consideration and which, if issued by the Commission, would charge Pilkington with violations of the Clayton Act and the Federal Trade Commission Act; and it now appearing that Pilkington is willing to enter into an agreement containing an order to divest certain assets and to cease and desist from certain acts:

It is hereby agreed by and between Pilkington, by its duly authorized officers and attorneys, and counsel for the Commission that:

1. Pilkington is a corporation organized under the laws of England with its headquarters at Prescot Road, St. Helens, Merseyside, England, WA10 3TT.

2. Pilkington has been served with a copy of the draft of complaint attached hereto as appendix A charging it with violations of Section 7 of the Clayton Act, as amended (15 U.S.C. 18), and Section 5 of the Federal Trade Commission Act, as amended (15 U.S.C. 45).

3. Pilkington admits all the jurisdictional facts set forth in the draft of complaint attached hereto as appendix A.

4. Pilkington waives:

(a) Any further procedural steps;

(b) The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law;

(c) All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement; and

(d) Any claim under the Equal Access to Justice Act.

5. This agreement shall not become part of the public record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission, it, together with the draft of complaint contemplated thereby, attached hereto as appendix A, will be placed on the public record for a period of 60 days and information in respect thereto may be publicly released. The Commission thereafter may either withdraw its acceptance of this agreement and so notify Pilkington, in which event it will take such action as it may consider appropriate, or issue and serve its complaint (in such form as the circumstances may require) and decision, in disposition of the proceeding.

6. This agreement is for settlement purposes only and does not constitute an admission by Pilkington that the law has been or would be violated as alleged in the draft of complaint attached hereto as appendix A. In the event that the Commission rejects this agreement or, having accepted this agreement thereafter withdraws its acceptance, this agreement and all of its provisions will become null and void.

7. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of § 2.34 of the Commission's Rules, the Commission may, without further notice to Pilkington, (1) issue its complaint corresponding in form and substance with the draft of complaint attached hereto and its decision containing the following order to divest and cease and desist in disposition of the proceeding, and (2) make information public with respect thereto. When so entered, the order to divest and to cease and desist shall have the same force and effect and may be altered, modified or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Delivery by the U.S. Postal Service of the complaint and decision containing the agreed-to order to Pilkington or to its counsel, Miles W.

Kirkpatrick, Esquire, of Morgan, Lewis & Bockius, shall constitute service. Pilkington waives any right it may have to any other manner of service. The complaint may be used in construing the terms of the order, and no agreement, understanding, representation, or interpretation not contained in the order or the agreement may be used to vary or contradict the terms of the order.

8. Pilkington has read the draft of complaint and order contemplated hereby. Pilkington understands that once the order has been issued, it will be required to file one or more compliance reports showing that it has fully complied with the order. Pilkington further understands that it may be liable for civil penalties in the amount provided by law for each violation of the order after it becomes final.

Order

I

For the purposes of this order, the following definitions shall apply:

1. "Pilkington" means Pilkington Brothers P.L.C., a corporation organized, existing and doing business under the laws of England, with its principal offices at Prescot Road, St. Helens, Merseyside, England, WA10 3TT, its officers, employees, agents, representatives, parents, divisions, subsidiaries, successors, assigns, and the officers, employees or agents of Pilkington's parents, divisions, subsidiaries, successors, and assigns.

2. "FGL" means Ford Glass Limited, a corporation organized, existing and doing business under the laws of Canada, with its principal offices at 101 Richmond Street West, Toronto, M541V9, Ontario, Canada, its officers, employees, agents, parents, divisions, subsidiaries, affiliates, successors, assigns, and the officers, employees or agents of FGL's parents, divisions, subsidiaries, affiliates, successors and assigns.

3. "Vitro Plan" means Vitro Plan S.A., a corporation organized, existing and doing business under the laws of Mexico, with its principal offices in Monterrey, Nuevo Leon, Mexico, its officers, employees, agents, parents, divisions, subsidiaries, affiliates, successors, assigns, and the officers, employees or agents of Vitro Plan's parents, divisions, subsidiaries, affiliates, successors and assigns.

4. "LOF" means Libbey-Owens-Ford Company, a corporation organized, existing and doing business under the laws of Ohio, with its principal offices at 811 Madison Avenue, Toledo, Ohio 43695, its officers, employees, agents, parents, divisions, subsidiaries, affiliates, successors, assigns, and the officers, employees or agents of LOF's parents, divisions, subsidiaries, affiliates, successors and assigns.

5. "Flat glass" is a generic term for all glass produced in flat form and later cut or shaped into various products.

6. "Float glass", in either clear or tinted form, is unprocessed flat glass manufactured by floating molten glass over a bed of molten material or materials.

II

It is ordered that Pilkington, within five (5) years from the date of service of this order, shall divest its shares in FGL to one or more acquirers which shall be subject to the prior approval of the Federal Trade Commission, provided, however, that the divestiture of the shares to Ford Motor Company, or a subsidiary thereof, shall not require the prior approval of the Federal Trade Commission.

III

It is further ordered that Pilkington, within thirty (30) days from the date of service of this order, shall remove its directors, alternate directors, or any other representatives from the Boards of Directors of FGL and Vitro Plan and shall not thereafter have representatives of any kind on the Boards of FGL or Vitro Plan without the prior approval of the Federal Trade Commission.

IV

It is further ordered that Pilkington shall waive all rights under the Unanimous Shareholders Agreement between Pilkington and Ford Motor Company, dated July 29, 1981, except rights provided by Paragraph 5 of said Agreement, provided, however, (1) that such waiver shall not affect the rights provided by said Unanimous Shareholders Agreement to any acquirer or acquirers of Pilkington's shares in FGL, and (2) that if FGL seeks to make any major change, except as may be required by applicable law, in the pension or retirement plans of FGL, including the principal methods of funding those plans, Pilkington may oppose any such change.

V

It is further ordered that if the Series "A" shares of Vitro Plan are voted in favor of (1) any proposal to increase Vitro Plan's production capacity, production operating rates, or sales of float glass in the United States, Canada or Mexico, or (2) any proposal necessary to implement a proposed increased in Vitro Plan's production capacity, production operating rates, or sales of float glass in the United States, Canada or Mexico then Pilkington shall vote its Series "B" shares in favor of such proposal(s).

VI

It is further ordered that Pilkington, at all ordinary and extraordinary general shareholders' meetings of Vitro Plan and FGL, shall exclude itself from all discussions or communications regarding any issues of a competitive nature, including but not limited to, issues relating to float glass capacity expansions or restrictions, production operating rates, production costs or any other costs, pricing, sales, marketing, market projections or forecasts, and further that Pilkington, including a proprietary examiner as defined in Article 42 of the Estatutos Sociales of Vitro Plan, S.A., dated March 2, 1981, shall be prohibited from discussing, communicating or expressing its opinion, in any way, with any other shareholders, directors, or officials of Vitro Plan or FGL regarding these issues at any other time, either prior to or subsequent to the aforesaid meetings, provided, however, that nothing in this paragraph shall prohibit discussions or communications between Pilkington and Vitro Plan or FGL regarding technical support relating to Vitro Plan's or FGL's production of flat glass (including float glass) or flat glass products, provided further that nothing in this paragraph shall prohibit discussions or communications between Pilkington and Ford Motor Company on matters not related to FGL.

VII

It is further ordered that Pilkington shall, for a period of ten (10) years after the effective date of this order:

1. Maintain complete files and records of all correspondence and other communications, whether in the United States or elsewhere, between Pilkington and Vitro Plan and between Pilkington and FGL, other than in providing technical support to Vitro Plan's or FGL's production of flat glass (including float glass) or flat glass products.

2. Maintain logs of all meetings and nonwritten communications, other than in providing technical support to Vitro Plan's or FGL's production of flat glass (including float glass) or flat glass products, whether in the United States or elsewhere, between Pilkington and Vitro Plan and between Pilkington and FGL, including in such logs the names and corporate positions of all participants, the dates and locations of the meetings or other communications and a summary or description of the

matters discussed in each such meeting or other communications.

3. Retain and make available to the Federal Trade Commission on request the complete files, records and logs required by subparagraphs 1 and 2.

4. Submit annually to the Federal Trade Commission a detailed sworn statement setting forth the manner and form in which Pilkington has complied with Paragraphs VI and VII of this order.

Provided, however, that nothing in this Pargraph VII shall require Pilkington to maintain files, records or logs of any communications with Ford Motor Company on matters not related to FGL or to report the same to the Federal Trade Commission.

VIII

It is further ordered that Pilkington shall not vote its shares in Vitro Plan to amend or in any way alter the Estatutos Sociales of Vitro Plan, S.A., dated March 2, 1981, without the prior approval of the Federal Trade Commission.

IX

It is further ordered that Pilkington shall not invoke the provisions of Article VIII of the Agreement between Pilkington and Fomento de Industria y Comercio S.A., dated March 29, 1965, so as to prevent Vitro S.A. from engaging in the manufacture of float glass in Mexico through companies other than Vitro Plan.

X

It is further ordered that for a period commencing on the date of service of this order and continuing for ten (10) years from and after the date of service of this order, Pilkington shall cease and desist from acquiring, without prior approval of the Federal Trade Commission, directly or indirectly, through subsidiaries or otherwise, any interest in, or the whole or any part of the stock, or share capital of any company engaged in the production of float glass in the United States, Canada or Mexico, or assets used in the production of float glass of any company which is now or has previously been engaged in the production of float glass in the United States, Canada, or Mexico, provided, however, that such prior approval of the Federal Trade Commission is not required for (1) further acquisition of stock of LOF, or (2) further acquisition of the capital stock of Vitro Plan, provided, however, such further acquisition does not increase Pilkington's holdings in Vitro Plan above 35%.

XI

It is further ordered that Pilkington shall, within sixty (60) days from the date of service of this order, and annually thereafter until the tenth anniversary thereof, submit in writing to the Federal Trade Commission a report setting forth in detail the manner and form in which it intends to comply, is complying and has complied with the terms of this order, and such additional information relating thereto as may from time to time reasonably be required.

XII

It is further ordered that Pilkington shall, within sixty (60) days from the date of service of this order, and every one hundred and twenty (120) days thereafter until it has fully complied with Paragraph II of this order, submit in writting to the Federal Trade Commission a report setting forth in detail the manner and form in which it intends to comply, is complying and has complied with the terms of Paragraph II of this order and such additional information relating thereto as may from time to time reasonably be required.

XIII

It is further ordered that Pilkington shall notify the Federal Trade Commission at least thirty (30) days prior to any proposed change in itself, such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries, or any other change in corporation, which may affect compliance obligations arising out of this order.

Analysis of Proposed Consent Order to Aid Public Comment

The Federal Trade Commission has provisionally accepted an agreement to a proposed consent order with Pilkington Brothers P.L.C. (Pilkington).

In January, 1984, the Commission considered the issuance of a complaint against Pilkington which alleges that Pilkington's acquisition of 30 percent of the outstanding stock of Libbey-Owens-Ford Company (LOF), violated Section 7 of the Clayton Act and Section 5 of the Federal Trade Commission Act. The acquisition took place on December 31, 1982. Specifically, the complaint alleges that the acquisition substantially lessened competition in the market for the manufacture and sale of float glass in North America, which includes the United States, Canada and Mexico. Float glass, in either clear or tinted form, is unprocessed flat glass manufactured by floating molten glass over a bed of molten material. Prior to the acquisition, both Pilkington and LOF were major competitors in the production and sale of float glass.

The thrust of the proposed order is to remove connections between Pilkington and competing float glass producers in Canada and Mexico. In Canada, Pilkington is connected to Ford Motor Company (Ford) through their Canadian joint venture, Ford Glass Limited (FGL), in which Pilkington has a 49 percent interest and Ford a 51 percent interest; and in Mexico, Pilkington is a joint venture partner with certain Mexican investors through a Mexican joint venture company, Vitro Plan, in which Pilkington has a 35 percent interest. With regard to FGL, Pilkington has agreed to remove its representatives from the FGL Board within 30 days, waive its rights under the Unanimous Shareholders Agreement between Pilkington and Ford, refrain from discussions of all competitive issues with representatives of FGL during shareholder meetings, as well as all other times, and divest its interest in FGL within five years. Since Pilkington's exercise of its shareholders rights under the Unanimous Shareholders Agreement could otherwise significantly affect FGL's competitiveness, as well as capacity expansions and other output decisions and thereby adversely affect competition, the foregoing limitations are necessary. The five year period for divestiture is long but justifiable because of the difficulties inherent in selling a minority interest in a company in which the only other owner holds the majority interest.

With regard to Vitro Plan, Pilkington's Mexican operation, the proposed order allows Pilkington to maintain its 35 percent interest indefinitely, as an investor, but limits communications on competitive issues beteen PB and the Mexican investors. The proposed order enables PB to protect its investment in the joint venture by allowing communications only on technology issues, in order to assure that the requisite technology is provided to and utilized by Vitro Plan. In order to limit Pilkington's role to that of a technology provider and passive investor, the proposed order prohibits PB from (1) having any representatives on the Vitro Plan board of directors, (2) blocking any expansion favored by the Mexican investors, (3) participating in any discussions of competitive issues with the Mexican investors, (4) voting for any amendments in its agreements with the investors without Commission approval, or (5) preventing the Mexican investors from engaging in float glass production in Mexico through companies other than

Vitro Plan. The proposed order contains provisions designed to ensure compliance with these proscriptions.

Finally, the proposed order contains the requirement that for ten years Pilkington must obtain Commission approval before making any acquisition of a North American float glass producer.

The proposed consent order has been placed on the public record for sixty (60) days in order that interested persons may comment on it. Comments received during this period will become part of the public record, unless persons commenting request that their letters be accorded confidential treatment. After sixty (60) days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

Paragraph I of the proposed order defines the terms used in the consent order. It defines the companies and their affiliated companies affected by the order and defines the products involved in the order.

Paragraph II orders the divestiture within five years of Pilkington's shares in FGL to an acquirer approved by the Commission. Ford, however, may acquire the shares without Commission approval. Since Ford is clearly the likeliest purchaser and since Ford already owns 51 percent of FGL, approval of Ford as a purchaser is justified.

Paragraph III orders the removal of any Pilkington director, alternate director, or representative from the FGL and Vitro Plan boards of directors and prohibits any board representation without Commission approval. Board representation with regard to Vitro Plan is incompatible with the limitation of Pilkington's role to that of passive investor.

Paragraph IV orders Pilkington to waive its rights under the Pilkington-Ford Unanimous Shareholders Agreement, except rights under Paragraph 5 (the right to transfer its stock interest among its various subsidiaries for tax purposes) and the right to oppose changes in the FGL pension plan. Certain pension plan changes may affect Pilkington's liabilities with respect to certain former Pilkington employees. However, the ability to affect FGL's pension plan will not give Pilkington the ability to affect FGL's pricing or output decisions. Moreover, the order states that any purchaser of Pilkington's interest may exercise PB's rights under the Unanimous Shareholders Agreement.

Paragraph V orders PB to vote its Vitro Plan shares in favor of any proposal made by the Mexican investors which are necessary to increase Vitro Plan's capacity, output, or sales in North America. This provision is necessary because certain proposals, such as proposals to issue stock or acquire major assets, may require the affirmative vote of Pilkington's 35 percent interest to be adopted.

Paragraph VI prohibits Pilkington form discussing or communicating about competitive issues with Vitro Plan and FGL shareholders and officials. The issues specifically identified as competitive include float glass capacity, production rates, costs, pricing, sales, marketing, and market projections or forecasts. Pilkington is specifically permitted to communicate with Vitro Plan or Ford regarding technical support and with Ford regarding non-FGL matters.

Paragraph VII contains compliance provisions that will remain in effect for ten years after the effective date of the order. They require Pilkington to maintain and make available to the Commission complete files, records, and logs concerning all communications, other than those concerning technical support, regarding Vitro Plan or FGL glass production. Pilkington must also submit an annual plan for complying with Paragraphs Vi and VII. Finally, the paragraph states that its provisions do not apply to communications with Ford that are unrelated to FGL.

Paragraph VIII provides that Pilkington will not vote to amend the agreement creating Vitro Plan without Commission approval. This provision is necessary to prevent Pilkington and the Mexican investors from evading the effect of the order by changing the terms of their agreement.

Paragraph IX orders Pilkington not to invoke the provisions of an agreement with the Mexican investors which would prevent them from producing float glass independently from Pilkington. This paragraph eliminates a significant limitation on the Mexican investors that had previously tied them to Pilkington.

Paragraph X contains the usual ten years requirement that the Commission approve in advance any PB acquisitions of float glass producers in North America. The requirement does not apply to further acquisitions of shares of LOF or Vitro Plan, provided that Pilkington's share in Vitro Plan is limited to 35 percent. The LOF exception is justified if the Commission concludes that the order cures any competitive problems that might arise.

Paragraph XI is a standard provision requiring eleven annual reports on how Pilkington intends to comply with the order.

Paragraph XII requires Pilkington, on a quarterly basis, to report to the Commission on its efforts to divest its FGL interest. Frequent reports are appropriate for the divestiture provisions of the order, given that Pilkington has five years to divest.

Paragraph XIII is a standard compliance provision requiring prior notice to the Commission of any changes in PB's structure that may affect its obligations under the order.

The purpose of this analysis is to facilitate public comment on the proposed order and it is not intended to constitute an official interpretation of the agreement and proposed order or to modify in any way their terms.

Emily H. Rock,

Secretary.

[FR Doc. 84-4036 Filed 2-14-84; 8:45 am]

BILLING CODE 6750-01-M

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Part 1700

Proposed Amendment to Child-Resistant Packaging Requirements; Diphenhydramine Base

AGENCY: Consumer Product Safety Commission.

ACTION: Proposed amendment.

SUMMARY: Elsewhere in today's Federal Register the Commission has issued a final regulation, under the Poison Prevention Packaging Act of 1970, to require child-resistant packaging for any preparation that contains more than 75 mg diphenhydramine hydrochloride in a single package and that is in a dosage form intended for oral administration. However, the Commission is simultaneously proposing to amend that regulation to broaden its scope. The amendment proposed below would require child-resistant packaging for preparations containing more than 66 mg diphenhydramine base in any form or application.

DATES: Written comments should be submitted on or before April 16, 1984. The amendment is proposed to become effective 180 days after it is published in final form.

ADDRESSES: Written comments, preferably in five copies, should be submitted to the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207. All material which the Commission has that is relevant to this proceeding, including

any comments that may be received on this proposal, may be seen in, or copies obtained from, the Office of the Secretary, Consumer Product Safety Commission, 8th Floor, 1111 18th Street, NW., Washington, D.C. 20207.

FOR FURTHER INFORMATION CONTACT:
Fred J. Marozzi, Ph.D., Division of Safety Packaging and Scientific Coordination, Directorate for Health Sciences, Consumer Product Safety Commission, Washington, D.C. 20207; (301) 492–6477.

SUPPLEMENTARY INFORMATION:

A. Background

The Poison Prevention Packaging Act of 1970 (the "PPPA"), 15 U.S.C. 1471–1476, authorizes the Commission to establish standards for the "special packaging" of any household substance if (1) the degree or nature of the hazard to children in the availability of such substance, by reason of its packaging, is such that special packaging is required to protect children from serious personal injury or serious illness resulting from handling, using, or ingesting such substance and (2) the special packaging is technically feasible, practicable, and appropriate for such substance. Special packaging, also referred to as "child-resistant packaging," is defined as packaging that is (1) designed or constructed to be significantly difficult for children under five years of age to open or obtain a toxic or harmful amount of the substance contained therein within a reasonable time and (2) not difficult for normal adults to use properly. (It does not mean, however, packaging which all such children cannot open, or obtain a toxic or harmful amount from, within a reasonable time.) Under the PPPA, effectiveness standards have been established for special packaging (16 CFR 1700.15), as has a procedure for evaluating the effectiveness (§ 1700.20). Regulations have been issued requiring special packaging for a number of household products (§ 1700.14).

One category of products that is required to be in child-resistant packaging is any drug for human use that is in a dosage form intended for oral administration and that is required by federal law to be dispensed only by or upon an oral or written prescription of a practitioner licensed by law to administer such drug (16 CFR 1700.14(a)(10)). The Food and Drug Administration (FDA) determines whether a prescription shall be required for the dispensing of a particular drug. This determination involves factors including the potential toxicity of a drug. While the Commission similarly considers this toxicity factor in its special packaging determinaton, it also considers as a major factor the availability of a drug's package to young children.

When the FDA releases an oral drug from the perscription category, the drug is no longer required to be in child-resistant packaging by reason of being an oral prescription drug subject to § 1700.14(a)(10). Therefore, when the FDA takes such action, the Commission considers whether child-resistant packaging is nevertheless needed to protect childern from serious personal injury or serious illness resulting from handling, using, or ingesting such substance.

The FDA recently released certain antihistamine drugs from the requirement that they be dispensed only by prescription, thereby allowing those drugs to be sold for over-the-counter (OTC) uses.[21] [1] One of these antihistamines is diphenhydramine hydrochloride, also referred to as diphenhydramine, which has been known to cause death and serious illness in childern as the result of accidental overdose. Currently, the FDA has given final approval for the use of diphenhydramine in OTC antitussive (cough) preparation.[32] In addition, FDA's OTC Advisory Panel has recommended that the FDA release diphenhydramine for use in OTC sleep-aids.[33] In April 1982 the FDA announced an enforcement policy to permit the interim OTC marketing of such sleep-aids, pending a final agency determination on the Panel's recommendation.[33] The future use of diphenhydramine in other OTC products is thought to be likely. These uses include preparations for the relief of symptoms of rhinitis, common colds, and hay fever.

Following the FDA actions, the Commission proposed a rule, in July 1983, to require special packaging for any preparation that contains more than 75 mg diphenhydramine hydrochloride in a single package and in a dosage form intended for oral administration. 48 FR 31664 (July 11, 1983)[30] Elsewhere in today's **Federal Register**, the Commission published this special packaging rule in final form.

B. Toxic Effects of Diphenhydramine

The most commonly observed adverse effects associated with therapeutic use of antihistamines include drowsiness, dry mouth, and gastrointestinal complaints such as nausea, vomiting, and diarrhea. For adults, the most common signs of toxicity from overdosage of antihistamines appear to be the result of central nervous system depressive effects.[4, 6] If sufficiently high doses are taken, symptoms of drowsiness, dizziness, and loss of coordination can be followed by carido-respiratory depression and death.

By contrast, children appear to be more sensitive to the central nervous system stimulatory effects of antihistamines. The primary symptoms of overdosage in children are hallucinations, delirium, tremors, high fever, and convulsions.[4, 6] Terminally, a depressive phase ensues, leading to coma, cardio-respiratory collapse, and death. The major life-threatening consequences of overdosage in children have been effectively controlled in cases where the patient was able to obtain the proper treatment in a medical facility; however, rapid access to a medical facility is necessary. Normal first aid procedures may prove ineffective, since diphenhydramine can produce a strong antiemetic effect.[4]

C. Ingestion and Injury Data

Both the medical literature and the available ingestion data indicate a relatively low incidence of serious injury associated with accidental ingestion of OTC antihistamines by children under age five; however, some prescription antihistamines have caused serious injury and even death to young children. It is possible that the inherently lower toxicity of some of the OTC antihistamines, as well as their reduced dosage levels, accounts for the low incidence of injuries involving OTC antihistamines. Of the antihistamines that were previously prescription drugs but are now approved for certain OTC uses, diphenhydramine has caused a number of childhood injuries and deaths.

The Commission's staff reviewed medical literature for the year from 1950 to 1980 and noted 22 reports of serious symptoms caused by antihistamine overdose in children under five years of age; six of these cases resulted in death. Eighteen of the 22 cases appear to be due to accidental ingestion. Diphenhydramine was involved in 16 of the 22 reported cases and in four of the six fatalities.[1, 2, 3, 5, 7, 8, 9, 10] In one reported case[7], a 13-month-old child suffered major motor seizures, serious cardiac arrhythmia, and cardio-respiratory depression following ingestion of 100–150 mg of diphenhydramine hydrochloride.

Data from the FDA's National Clearinghouse for Poison Control Centers for the years 1977 through 1980 show that a total of 632 accidental ingestions of diphenhydramine were

[1] The numbers in brackets refer to the reference documents listed at the end of this notice.

reported during this four-year period.[14] Of these cases, 89 reported some symptomatology (i.e., lethargy, nausea, vomiting, etc.). A total of 20 children were hospitalized. Eight of the hospitalized children reported sumptoms.

The Commission's death certificate file shows that seven deaths were reported for children under five years of age involving antihistamine preparations during the period of 1973 through 1980.[14, 23] Five of these deaths involved products containing diphenhydramine hydrochloride.

D. Need for Special Packaging

Preparations containing diphenhydramine in all applications and forms could result in injuries and poisonings among children, if they are not in special packaging.[27] The FDA is already permitting monocitrate for over-the-counter use in sleep aids. Other forms of diphenhydramine may well be similarly permitted for OTC use in the future, as antitussives, sleep aids, or other products.

The regulation issued in final form elsewhere in today's **Federal Register** applies only to diphenhydramine hydrochloride. Therefore, the Commission believes that that regulation should be broadened to cover diphenhydramine base in all forms and applications. The Commission has determined that the equivalent of 75 mg diphenhydramine hydrochloride is 66 mg diphenhydramine base because 75 mg diphenhydramine hydrochloride consists of 66 mg diphenhydramine base and 9 mg hydrochloride.[26, 27] Based on the toxicity data that supports the diphenhydramine hydrochloride regulation, the proposed amendment applies to all covered preparations containing that amount or more.

E. Technical Feasibility, Practicability, and Appropriateness

In issuing a standard for special packaging under the PPPA, the Commission is required by section 3(a)(2) of the PPPA, 15 U.S.C. 1472(a)(2), to find that the special packaging is "technically feasible, practicable, and appropriate * * *."

1. *Technical feasibility.* Whether diphenhydramine preparations are marketed in tablet or liquid form, there are numerous package designs that meet the requirements of 16 CFR 1700.15(b) and that would be suitable for use with them.[12]

2. *Practicability.* Because many existing designs that could be used to market diphenhydramine preparations are currently being used with other drugs and dietary supplements, it is clear that special packaging for these products is practicable in that it is adaptable to modern mass production and assembly line techniques. The Commission would anticipate no major supply or procurement problems for packagers of diphenhydramine-containing products or the manufacturers of child-resistant closure and capping equipment.[12] In addition, the Commission would expect no serious problems experienced by manufacturers of the products in incorporating the child-resistant packaging features into their existing packaging lines.[12]

3. *Appropriateness.* As shown by the use of many existing suitable designs with other drug products, special packaging is appropriate since it is available in forms that are not detrimental to the integrity of the substance and that do not interfere with its storage or use.[12]

Accordingly, the Commission preliminarily finds that special packaging for diphenhydramine-containing preparations is technically feasible, practicable, and appropriate.

F. Effective Date

The PPPA provides that, except for good cause, no regulation shall take effect sooner than 180 days or later than one year from the date such regulation is issued. The Commission believes that it would be appropriate to apply this same range to the amendment proposed below.

The Commission believes that an effective date of 180 days following final issuance would provide any manufacturers of diphenhydramine preparations with sufficient lead time to comply with the special packaging requirements. Therefore, the Commission proposes that 180 days be the lead time of the amendment. However, if any public comments provide arguments or data to support a shorter or longer period of lead time, the Commission will take them into consideration before setting the effective date of any final amendment.

G. Environmental Considerations

Rules requiring poison prevention packaging of products normally have little or no potential for affecting the human environment, and, therefore, neither an environmental assessment nor an environmental impact statement is required. *See* 16 CFR 1021.5(c)(3). From the facts presently available, the Commission concludes that this proposed amendment, if issued, will have no significant effects on the environment.

H. Regulatory Flexibility Act Certification

Using the criteria of the Regulatory Flexibility Act, 5 U.S.C. 601(3), the Commission staff has concluded that no firm that might be required to institute changes to its packaging under the proposed amendment and no firm doing business with any directly affected firms would be subject to any significant effects as a result of the proposed amendment. Therefore, the Commission certifies that the amendment proposed below will not, if issued, have a significant economic impact on a substantial number of small entities.

I. Conclusion

Therefore, having considered the available human experience data and the medical literature, the Commission concludes that the requirement for special packaging set forth below should be proposed.[2] In making this determination, the Commission has considered—

(1) The reasonableness of the proposed amendment;

(2) Available scientific, medical, and engineering data concerning special packaging and concerning childhood accidental ingestions, illness, and injury caused by household substances;

(3) The manufacturing practices of industries affected by the PPPA; and

(4) The nature and use of the diphenhydramine preparations covered by the proposed amendment.

List of subjects in 16 CFR Part 1700

Consumer protection, Drugs, Infants and children, Packaging and containers, Poison prevention, Toxic substances.

PART 1700—[AMENDED]

Accordingly, pursuant to provisions of the Poison Prevention Packaging Act of 1970 (Pub. L. 91–601, secs. 2(4), 3, 5, 84 Stat. 1670–72 15 U.S.C. 1471(4), 1472, 1474) and under the authority vested in the Commission by the Consumer Product Safety Act (Pub. L. 92–573, sec. 30(a), 86 Stat. 1231; 15 U.S.C. 2079(a)), the Commission proposes to revise paragraph (a)(17) to 16 CFR 1700.14, to read as follows (although unchanged, the introductory text of paragraph (a) is included below for context):

§ 1700.14 Substances requiring special packaging.

(a) *Substances.* The Commission has determined that the degree or nature of the hazard to children in the availability of the following substances, by reason

[2] The proposal was approved by a 4–0 vote of Commission.

of their packaging, is such that special packaging is required to protect children from serious personal injury or serious illness resulting from handling, using, or ingesting such substances, and that the special packaging herein required is technically feasible, practicable, and appropriate for these substances:

* * * * *

(17) *Diphenhydramine.* Preparations for human use in a dosage form intended for oral administration and containing more than 66 mg diphenhydramine base in a single package shall be packaged in accordance with the provisions of § 1700.15 (a), (b), and (c), if packaged after (effective date of final amendment would be inserted here).

Authority: Pub. L. 91–601, secs. 2(4), 3, 5, 84 Stat. 1670–72; 15 U.S.C. 1471(4), 1472, 1474; Pub. L. 92–573, sec. 30(a), 86 Stat. 1231; 15 U.S.C. 2079(a).

Dated: February 9, 1984.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

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12. Memo on technical feasibility, practicability, and appropriateness of DPH regulation, from Charles Wilbur, dated October 27, 1982.
13. Memo on update on diphenhydramine ingestions, from Dorothy Drago, dated April 1 1983.
14. Memo on summary of data discussed in previous memos (dated 2/24/82 and 7/30/82) on diphenhydramine, from Fred Marozzi, dated December 8, 1982.
15. Transmittal memo with attached briefing paper on proposed diphenhydramine regulation, from Virginia White, dated June 3, 1983.
16. Memo on proposed diphenhydramine regulation (Restricted), from Harleigh Ewell, dated June 6, 1983.
17. Vote sheets on proposed diphenhydramine regulation, dated June 6, 1983.
18. Memo on use of diphenhydramine in OTC nighttime sleep aids (Restricted), from Elliot Foutes, dated July 14, 1982.
19. Memo on diphenhydramine hydrochloride (Restricted), from Evelyn Spiro, dated March 8, 1982.
20. Memo on recommended level for regulation of diphenhydramine, with attached chart, from Fred Marozzi, dated July 30, 1982.
21. Final rule on Marketing Status of Ingredients recommended for over-the-counter use. 47 FR 17738, April 23, 1982.
22. Memo on recommendation with respect to development of a PPPA regulation covering OTC antihistamine preparations (Restricted), from Denise Orzech, dated February 24, 1982.
23. Transmittal memo on recommendations for special packaging requirements under PPPA for OTC antihistamines, with attached briefing package, from Virginia White, dated August 24, 1982.
24. Memo on draft **Federal Register** notice proposing CFC requirements for diphenhydramine, from Harleigh Ewell, dated April 1, 1983.
25. Memo on draft proposed PPPA requirement for diphenhydramine (effective date) (Restricted), from Harleigh Ewell, dated June 23, 1983.
26. Ballot vote sheets on reconsideration of the effective date in proposal to require special packaging for diphenhydramine preparations (Restricted), from Harleigh Ewell, dated June 23, 1983.
27. Memo on diphenhydramine regulation update, from Denis Orzech, dated August 16, 1983.
28. Memo on OTC products containing DPH, from Elliot Foutes, dated Dec. 1, 1983.
29. Public comment from Drug Enforcement Administration, dated Aug. 26, 1983.
30. Proposed requirements for Child-Resistant Packaging; Diphenhydramine Hydrochloride, **Federal Register** document, dated July 11, 1983.
31. Transmittal memo with attached briefing paper on final rule for special packaging of preparations containing diphenhydramine, fom Virginia White, dated January 1984.
32. Letter from M.J. Finkel, FDA to Warner-Lambert Co.; NDA6–514OTC, vol. 04TTFMOO4TTFM; Documents Management Branch, FDA, 5600 Fishers Land, Rockville, MD 20857.
33. **Federal Register** notice; Diphenhydramine: Marketing status as a nighttime sleep-aid drug product for over-the-counter human uses. 47 FR 17740, April 23, 1982.

[FR Doc. 84-4002 Filed 2-14-84; 8:45 am]

BILLING CODE 4355-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 271

[Docket No. RM79–76–223; Arkansas–1]

High-Cost Gas Produced From Tight Formations; Arkansas

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Energy Regulatory Commission is authorized by section 107(c)(5) of the Natural Gas Policy Act of 1978, 15 U.S.C. 3301–3432 (Supp V. 1981), to designate certain types of natural gas as high-cost gas where the Commission determines that the gas is produced under conditions which present extraordinary risks or costs. Under section 107(c)(5), the Commission issued a final regulation designating natural gas produced from tight formations as high-cost gas which may receive an incentive price (18 CFR 271.703 (1983)). This rule established procedures for jurisdictional agencies to submit to the Commission recommendations of areas for designation as tight formations. This Notice of Proposed Rulemaking by the Director of the Office of Pipeline and Producer Regulation contains the recommendation of the Arkansas Oil and Gas Commission that the Arbuckle Formation be designated as a tight formation under § 271.703(d).

DATE: Comments on the proposed rule are due on March 26, 1984.

Public hearing: No public hearing is scheduled in this docket as yet. Written requests for a public hearing are due on February 27, 1984.

ADDRESS: Comments and requests for hearing must be filed with the Office of the Secretary, 825 North Capitol Street NE., Washington, D.C. 20426.

FOR FURTHER INFORMATION CONTACT: Leslie Lawner, (202) 357–8511, or Walter W. Lawson, (202) 357–8556.

SUPPLEMENTARY INFORMATION:

Issued February 10, 1984.

I. Background

On December 9, 1983, the Arkansas Oil and Gas Commission (Arkansas) submitted to the Commission a recommendation, in accordance with

§ 271.703 of the Commission's regulations (18 CFR 271.703 (1983)), that the Arbuckle Formation in White County, Arkansas, be designated as a tight formation. This Notice of Proposed Rulemaking is issued under § 271.703(c)(4) to determine whether Arkansas' recommendation that the Arbuckle Formation be designated a tight formation should be adopted. Arkansas' recommendation and supporting data are on file with the Commission and are available for public inspection.

II. Decription of Recommendation

Arkansas recommends that the Arbuckle Formation, found in White County, in Sections 1, 2, 11, 12, 13 and 14 of Township 8 North, Range 8 West and Sections 6, 7 and 18 of Township 8 North, Range 7 West, be designated as a tight formation. The recommended area is located in the eastern portion of Arkansas.

The Arbuckle Formation is a dark gray to black shaley silty finely crystalline to finely granular massive dolomite containing thin layers of chert near the middle in numerous thin gray-black dolomitic shale layers. The chert is mostly white of milky subtanslucent to dense and contains oolites, pyrite cubes, and dolomite rhombs in different layers. Gross thickness of the formation in the recommended area varies from approximately 1,000 feet to 1,500 feet and the average depth to the top of the formation is 6,400 feet.

III. Discussion of Recommendation

Arkansas claims in its submission that:

(1) The average *in situ* gas permeability throughout the pay section of the proposed area is not expected to exceed 0.1 millidarcy;

(2) The stabilized production rate, against atmospheric pressure, of wells completed for production from the recommended formation, without stimulation, is not expected to exceed the maximum allowable production rate set out in § 271.703(c)(2)(i)(B); and

(3) No well drilled into the recommended formation is expected to produce more than five (5) barrels of oil per day.

Arkansas further asserts that existing state and federal regulations assure that development of the formation will not adversely affect any fresh water aquifers.

Accordingly, pursuant to the authority delegated to the Director of the Office of Pipeline and Producer Regulation by Commission Order No. 97, [Reg. Preambles 1977–1981] FERC Stats. and Regs. ¶ 30,180 (1980), the Director gives notice of the proposal submitted by Arkansas that the Arbuckle Formation as described and delineated in Arkansas' recommendation as filed with the Commission, be designated as a tight formation under § 271.703.

IV. Public Comment Procedures

Interested persons may comment on this proposed rulemaking submitting written data, views or arguments to the Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, on or before March 26, 1984. Each person submitting a comment should indicate that the comment is being submitted in Docket NO. RM79–76–223 (Arkansas–1), and should give reasons including supporting data for any recommendation. Comments should include the name, title, mailing address, and telephone number of one person to whom communications concerning the proposal may be addressed. An original and 14 conformed copies should be filed with the Secretary of the Commission. Written comments will be available for public inspection at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street NE., Washington, D.C., during business hours.

Any persons wishing to present testimony, views, data or otherwise participate at a public hearing should notify the Commission in writing that they want to make an oral presentation and so request a public hearing. The person shall specify the amount of time requested at the hearing, and should file the request with the Secretary of the Commission no later than February 27, 1984.

List of Subjects in 18 CFR Part 271

Natural gas, Incentive price, Tight formations.

Accordingly, the regulations in Part 271, Subchapter H, Chapter I, Title 18, Code of Federal Regulations, will be amended as set forth below, in the event the Commission adopts Arkansas' recommendation.

Kenneth A. Williams,

Office of Pipeline and Producer Regulation.

PART 271—[AMENDED]

1. The authority citation for Part 271 reads as follows:

Authority: Department of Energy Organization Act, 42 U.S.C. 7101 *et seq.;* Natural Gas Policy Act of 1978, 15 U.S.C. 3301–3432; Administrative Procedure Act, 5 U.S.C. 553.

2. Section 271.703 is amended by adding paragraph (d)(198) to read as follows:

§ 271.703 Tight formations.

* * * * *

(d) *Designated tight formations.*

* * * * *

(198) *Arbuckel Formation in Arkansas.* RM79–76 (Arkansas—1)

(i) *Delineation of formation.* The Arbuckle Formation is found in White County, Arkansas. The designated area includes Sections 1, 2, 11, 12, 13, and 14 of Township 8 North, Range 8 West and Sections 6, 7, and 18 of Township 8 North, Range 7 West.

(ii) *Depth.* The vertical limits of the Arbuckle Formation are defined by the Everton Formation above and the Cambrian sequence below. The depth to the top of the formation averages, 6,400 feet and the gross thickness varies from approximately 1,000 feet to 1,500 feet.

[FR Doc. 84–4108 Filed 2–14–84; 8:45 am]

BILLING CODE 6717–01–M

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18 CFR Part 271

[Docket No. RM79–76–217; Virginia–3]

High-Cost Gas Produced From Tight Formations; Virginia

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Energy Regulatory Commission is authorized by section 107(c)(5) of the Natural Gas Policy Act of 1978, 15 U.S.C. 3301–3432 (Supp V. 1981), to designate certain types of natural gas as high-cost gas where the Commission determines that the gas is produced under conditions which present extraordinary risks or costs. Under section 107(c)(5), the Commission issued a final regulation designating natural gas produced from tight formations as high-cost gas which may receive an incentive price (18 CFR 271.703 (1983)). This rule established procedures for jurisdictional agencies to submit to the Commission recommendations of areas for designation as tight formations. This notice of proposed rulemaking by the Director of the Office of Pipeline and Producer Regulation contains the recommendation of the Commonwealth of Virginia, Department of Labor and Industry, Division of Mines and Quarries, that the "Ravencliff" sand, "Maxon" sands, and "Injun-Weir" sands by designated as a tight formation under § 271.703(d).

DATE: Comments on the proposed rule are due on March 26, 1984.

Public Hearing: No public hearing is scheduled in this docket as yet. Written

requests for a public hearing are due on February 27, 1984.

ADDRESS: Comments and requests for hearing must be filed with the Office of the Secretary, 825 North Capital Street, NE., Washington, D.C. 20426.

FOR FURTHER INFORMATION CONTACT: Leslie Lawner, (202) 357–8511, or Walter Lawson, (202) 357–8556.

SUPPLEMENTARY INFORMATION: Issued February 10, 1984.

Background

On Septemeber 28, 1983, the Commonwealth of Virginia, Department of Labor and Industry, Division of Mines and Quarries (Virginia), submitted to the Commission a recommendation, in accordance with § 271.703 of the Commission's regulations (18 CFR 271.703 (1983)), that the "Ravencliff" sand of the Hilton Formation, the "Maxon" sands of the Hinton and Bluefield Formations, and the "Injun-Weir" sands of the Maccrady Shale and Price Formation, respectively, located in the Plateau Region of southwestern Virginia, be designated as a tight formation. This Notice of Proposed Rulemaking is issued under § 271.703(c)(4) to determine whether Virginia's recommendation that the "Ravencliff" sand, "Maxon" sands and the "Injun-Weir" sands be designated as a tight formation should be adopted. Virginia's recommendation and supporting data are on file with the Commission and are available for public inspection.

II. Description of Recommendation

Virginia recommends that the "Ravencliff" sand of the Hinton Formation, the "Maxon" sands of the Hinton and Bluefield Formations, and the "Injun-Weir" sands of the Maccrady Shale and Price Formation respectively, be designated as a tight formation. This area is located in the Plateau Region of southwestern Virginia, an area of approximately 1,603 square miles, encompassing all of Dickenson and Buchanan Counties and portions of Lee, Scott, Wise Russel and Tazewell Counties. The recommendation excludes certain areas in the "Ravencliff" sand and the "Maxon" sands in Buchanan County. (A more detailed description of the recommended area and the excluded areas is contained in the recommendation on file with the Commission.)

The "Ravencliff", a white to light gray sandstone, is part of the Mauch Chunk Group of the Mississippian System. The "Ravencliff" sand occurs within the Hinton Formation above the "Maxon" sands. The average depth to the top of the "Ravencliff" sand ranges from 2,290 feets in the eastern portion of the recommended area to 2,660 feets in the western portion.

The "Maxon" sands refer to three sandstone bodies within the Mauch Chunk Group of the Mississippian System. The upper "Maxon" correlates with the Middle Red Member to the Hinton Formation and the middle "Maxon" correlates with the Stony Gap Member of the same formation. These sandstones are buff to a white and commonly are interbedded with shale. The lower "Maxon", a buff to a light gray sandstone which grades into shale, is interbedded with argillaceous limestone and correlates with the sandstone members of the Bluelfield Formation. The "Maxon" sands overlie a shale section which forms the base of the Bluefield Formation, and underlie a shale section of the Hinton Formation which separates the "Maxon" sands form the "Ravencliff" sand. The average depth to the top of the "Maxon" ranges from 2,610 feet in the eastern portion of the recommended area to 2,930 feet in the western portion.

The "Injun-Weir" sands are a part of the Pocono Group of the Mississippian System. The "Injun-Weir" sands are fine grained, silty in part, and deposited in a sequence with dark gray to brownish black shales. The "Injun-Weir" sands overlie the Big Stone Gap Member of the Chattanooga Shale and underlie the Greenbrier Limestone. The average depth to the top of the "Injun-Weir" interval ranges from 3,855 feet in the eastern portion of the recommended area to 4,040 feet in the western portion.

III. Discussion of Recommendation

Virginia claims in its submission that evidence gathered and presented in support of this recommendation demonstrates that:

(1) The average *in situ* gas permeability throughout the pay section of the proposed area is not expected to exceed 0.1 millidarcy;

(2) The stabilized production rate, against atmospheric pressure, of wells completed for production from the recommended formation, without stimulation, is not expected to exceed the maximum allowable production rate set out in § 271.703(c)(2)(i)(B); and

(3) No well drilled into the recommended formation is expected to produce more than five (5) barrels of oil per day.

Virginia further asserts that existing state law and established casing procedures assure protection of all fresh water zones.

Accordingly, under to the authority delegated to the Director of the Office of Pipeline and Producer Regulation by Commission Order No. 97, [Reg. Preambles 1977–1981] FERC Stats. and Regs. § 30,180 (1980), the Director gives notice of the proposal submitted by Virginia that the "Ravencliff", "Maxon", and "Injun-Weir" sands, as described and delineated in Virginia's recommendation filed with the Commission, be designated as a tight formation under § 271.703.

IV. Public Comment Procedures

Interested persons may comment on this proposed rulemaking by submitting written data, views or arguments to the Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before March 26, 1984. Each person submitting a comment should indicate that the comment is being submitted in Docket No. RM79–76–217 (Virginia-3), and should give reasons including supporting data for any recommendations. Comments should include the name, title, mailing address, and telephone number of one person to whom communications concerning the proposal may be addressed. An original and 14 conformed copies should be filed with the Secretary of the Commission. Written comments will be available for public inspection at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street NE., Washington, D.C., during business hours.

Any persons wishing to present testimony, views, data, or otherwise participate at a public hearing should notify the Commission in writing that they wish to make an oral presentation and so request a public hearing. The person shall specify the amount of time requested at the hearing, and should file the request with the Secretary of the Commission no later than February 27, 1984.

List of Subjects in 18 CFR Part 271

Natural gas, Incentive price, Tight formations.

Accordingly, the regulations in Part 271, Subchapter H, Chapter I, Title 18, Code of Federal Regulations, will be amended as set forth below, in the event the Commission adopts Virginia's recommendation.

Kenneth A. Williams,

Director, Office of Pipeline and Producer Regulation.

PART 271—[AMENDED]

1. The authority citation for Part 271 reads as follows:

Authority: Department of Energy Organization Act, 42 U.S.C. 7101 *et seq.*; Natural Gas Policy Act of 1078, 15 U..C. 3301–3432; Administrative Procedure Act, 5 U.S.C. 553.

2. Section 271.703 is amended by revising paragraph (d)(199) to read as follows:

§ 271.703 Tight formations.

* * * * *

(d) *Designated tight formations.*

* * * * *

(199) *The "Ravencliff" sand and "Maxon" sands of the Mauch Chunk Group and the "Injun-Weir" sands of the Pocono Group in Virginia.* RM79–76 (Virginia-3)

(i) *Delineation of formation.* The "Ravencliff" sand, the "Maxon" sands, and the "Injun-Weir" sands underlie all of Dickenson and Buchanan Counties and portions of Lee, Scott, Wise, Russell and Tazewell Counties.

(ii) *Depth.* The average depth to the top of the "Ravencliff" sand ranges from 2,290 feet in the eastern portion to 2,660 feet in the western portion of the recommended area. The average depth to the top of the "Maxon" sands, ranges from 2,610 feet in the eastern portion to 2,930 feet in the western portion of the recommended area. The average depth to the top of the "Injun-Weir" sands ranges from 3,855 feet in the eastern portion to 4,040 feet in the western portion of the recommended area.

[FR Doc. 84-4109 Filed 2-14-84; 8:45 am]
BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP-300085; PH-FRL 2526-3]

Ethoxylated and Propoxylated Isodecyl Alcohol; Proposed Exemption From the Requirement of a Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This document proposes to expand the exemption from the requirement of a tolerance for isodecyl alcohol, ethoxylated and propoxylated, when used as a surfactant in pesticide formulations. This proposed regulation was requested by Sandoz Colors and Chemicals.

DATE: Written comments must be received on or before March 16, 1984.

ADDRESS: By mail, submit comments to: Program Management and Support Division (TS–767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

In person, deliver comments to: Registration Support and Emergency Response Branch, Registration Division (TS–767C), Environmental Protection Agency, Rm. 724A, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202.

FOR FURTHER INFORMATION CONTACT:

By mail: N. Bhushan Mandava, Registration Support and Emergency Response Branch, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

Office location and telephone number: Registration Support and Emergency Response Branch, Rm. 716, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703–557–7700).

SUPPLEMENTARY INFORMATION: At the request of Sandoz Colors and Chemicals, the Administrator proposes amending 40 CFR 180.1001(c) by expanding the existing exemption for *alpha*-Alkyl(C_6–C_{14})*omega*-hydroxypoly (oxypropylene) block copolymer with polyoxyethylene; polyoxypropylene content is 1–3 moles; polyoxyethylene content is 7–9 moles; average molecular weight approximately 635, as a surfactant in pesticide formulations by expanding the polyoxyethylene content from 7–9 moles to 4–12 moles. A separate entry in 40 CFR 180.1001(c) is not necessary in order to reflect this change.

Inert ingredients are all ingredients which are not active ingredients as defined in 40 CFR 162.3(c), and include, but are not limited to, the following types of ingredients (except when they have a pesticidal efficacy of their own): solvents such as water; baits such as sugar, starches, and meat scraps; dust carriers such as talc and clay; fillers; wetting and spreading agents; propellants in aerosol dispensers; and emulsifiers. The term "inert" is not intended to imply nontoxicity; the ingredient may or not be chemically active.

Preambles to proposed rulemaking documents of this nature include the common or chemical name of the substance under consideration, the name and address of the firm making the request for the exemption, and toxicological and other scientific bases used in arriving at a conclusion of safety in support of the exemption.

Name of inert ingredient: Isodecyl alcohol, ethoxylated and propoxylated.

Name and address of requestor: Sandoz Colors and Chemicals, Fair Lawn, NJ 07410.

Bases for approval:

1. The subject surfactant is a representative of a group of surfactants cleared in 40 CFR 180.1001(c) under the general heading *alpha*-Alkyl (C_6–C_{14})*omega*-hydroxypoly(oxypropylene) block copolymer with polyoxyethylene; polyoxpropylene content is 1–3 moles; polyoxyethylene content is 7–9 moles; average molecular weight approximately 635. The present clearance can be amended to reflect this small increase in the moles of polyoxyethylene.

2. The Agency does not consider this modest increase in the polyoxyethylene content to be of toxicological significance. Accordingly, the present entry in 40 CFR 180.1001(c) should be amended to reflect a change in polyoxyethylene content from 7–9 moles to 4–12 moles.

Based on the above information, and review of its use, it has been found that, when used in accordance with good agricultural practices, this ingredient is useful and does not pose a hazard to humans or the environment. It is concluded, therefore, that the proposed amendment to 40 CFR Part 180 will protect the public health, and it is proposed that the regulation be established as set forth below.

Any person who has registered or submitted an application for registration of a pesticide, under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended, which contains this inert ingredient, may request within 30 days after publication of this notice in the **Federal Register** that this rulemaking proposal be referred to an Advisory Committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on the proposed regulation. Comments must bear a notation indicating both the subject and the petition and document control number, "[OPP–300085]." All written comments filed in response to this notice of proposed rulemaking will be available for public inspection in the Registration Support and Emergency Response Branch at the address given above from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96–534, 94 Stat. 1164, 5 U.S.C. 601–612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance

requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

(Sec. 408(e), 68 Stat. 514 (21 U.S.C. 346a(e)))

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests.

Dated: February 6, 1984.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

Part 180—[AMENDED]

Therefore, it is proposed that 40 CFR 180.1001(c) be amended by revising the listing for *alpha*-Alkyl (C_8–C_{14}) *omega*-hydroxypoly (oxypropylene) block copolymer, as follows:

§ 180.1001 Exemptions from the requirement of a tolerance.

* * * * *

(c) * * *

Inert ingredients	Limits	Uses
* * * * *		
Alpha-Alkyl (C_8–C_{14})-omega-hydroxypoly (oxypropylene) block copolymer with polyoxyethylene; polyoxy-propylene content is 1–3 moles; polyoxyethylene content is 4–12 moles; average molecular weight is approximately 635.		Surfactants, related adjuvants of surfactants.
* * * * *		

* * * * *

[FR Doc. 84–3979 Filed 2–14–84; 8:45 am]

BILLING CODE 6560–50–M

40 CFR Part 600

[AMS–FRL–2527–4]

Fuel Economy Test Procedures; Proposed Procedures for Adjustment to Test Results To Compensate for Changes in the 1975 Test Procedure; Extension of Comment Period

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule; extension of comment period.

SUMMARY: On December 21, 1983, EPA published a notice of proposed rulemaking (48 FR 56526), regarding adjustments to corporate average rule economy test results applicable to passenger automobiles. General Motors has requested that the comment period for this rule be extended for 60 days to allow additional time to develop an appropriate response. The comment period for this rule was scheduled to end on February 20, 1984. This notice hereby extends the comment period until April 20, 1984.

DATE: Comments on the proposed rule must be received by April 20, 1984.

FOR FURTHER INFORMATION CONTACT: Gregory J. Dana, Office of Mobile Sources (ANR–455), Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460 (202) 382–7647.

Dated: February 9, 1984.

John C. Topping, Jr.,

Acting Assistant Administrator for Air and Radiation.

[FR Doc. 84–3978 Filed 2–14–84; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 84–107; RM–4609]

FM Broadcast Station in Greenwood, Arkansas; Proposed Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: Action taken herein proposes to assign FM Channel 285A to Greenwood, Arkansas, as that community's second FM service, in response to a petition filed by New Life Broadcasting.

DATES: Comments must be filed on or before March 26, 1984, and reply comments on or before April 10, 1984.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Nancy V. Joyner, Mass Media Bureau, (202) 634–6530.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Notice of Proposed Rule Making

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations (Greenwood, Arkansas) MM Docket No. 84–107, RM–4609.

Adopted: January 31, 1984
Released: February 8, 1984.

By the Chief, Policy and Rules Division.

1. A petition for rule making was filed by New Life Broadcasting ("petitioner"), proposing the assignment of FM Channel 285A to Barling, Arkansas, as its first local aural service. Petitioner stated that it would apply for the channel, if assigned.

2. In a technical showing, petitioner's consulting engineer indicated that Channel 285A could be assigned to Barling consistent with the mileage separation requirements, provided a site restriction was imposed. It proposed to locate the station's transmitter at a site approximately 7.0 miles southeast of Barling, utilizing an existing tower currently occupied by Station KAJJ(FM) (Channel 292A), Greenwood, Arkansas. Petitioner also noted that its proposal would affect an existing FM translator operating on Channel 285A in the region.

3. However, petitioner's technical showing indicated that there was apparently no site close to Barling that can be made available due to the presence of military land south of the city, and a co-channel allocation to Station KCIZ(FM), Springdale, Arkansas, to the north. Petitioner noted that even if a site closer to Barling might theoretically be available, the construction of an new tower would be necessary. Petitioner indicated no willingness to undertake such construction.

4. Petitioner's technical showing claims that if Channel 285A is permitted to operate from the Greenwood site, utilizing proposed facilities of 1.3 kW at 433 feet HAAT, there may be some difficulty in covering the entire city of Barling with a 70 dBu signal. Although terrain factors are favorable, the distance from the site to the city limits and outermost edge of Barling is 9 miles. Petitioner suggests that while coverage should exceed 75% of the entire community, measurements of the signal in this area could be adequately documented based on the output of Station KAJJ. However, petitioner suggests, if site availability is a hindrance to its proposal, Channel 285A could be assigned instead to either Greenwood, Arkansas, as a second FM service, or to Fort Chaffee, Arkansas, as a first FM service, either of which it will apply for.

5. A staff engineering study indicates that the proposed assignment would be short-spaced on the co-channel to Station KCIZ (FM), Springdale, Arkansas. That station also has an application pending to relocate its transmitter approximately 1 mile closer to Barling. A site restriction 3.4 miles southwest of Barling would be necessary to meet the minimum distance separation requirements of § 73.207 of the Commission's Rules. However, petitioner indicates that the feasibility of a transmitter site closer than seven

miles to Barling is questionable, and therefore, it proposes to utilize the transmitter site of Greenwood Station KAJJ (FM) to accommodate its proposal. However, in order to meet the city-grade coverage requirements of § 73.315 of the Commission's Rules, petitioner would need to demonstrate that 70 dBu coverage could be provided to the entire community of Barling.

6. Since, by its own admission, petitioner does not, at this time, have an adequate transmitter site to serve Barling with a 70 dBu signal, we shall propose its alternative request to assign Channel 285A to Greenwood, Arkansas, as that community's second FM service, and for which the petitioner has indicated its willingness to apply. The channel can be assigned to Greenwood in compliance with the minimum distance separation requirements. Nevertheless, should petitioner agree to locate closer to Barling, in order to assure city-grade coverage thereto, we would accept a counterproposal for that community.

7. As petitioner correctly noted, although translator Station K285AY, Havana, Arkansas, is licensed to operate on Channel 285A, that type of facility operates on a secondary basis and is not protected against interference from a regular broadcast station. See Section 74.1203(a) of the Commission's Rules. Therefore, the translator would be required to specify another frequency if Channel 285A is assigned to Greenwood, Arkansas, as proposed.

8. In view of the foregoing, the Commission proposes to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules, as follows:

City	Channel No.	
	Present	Proposed
Greenwood, Ark.	292A	285A, 292A

9. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein. NOTE: A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

10. Interested parties may file comments on or before March 26, 1984, and reply comments on or before April 10, 1984, and are advised to read the Appendix for the proper procedures. Additionally, a copy of such comments should be served on the petitioners, or their counsel or consultant, as follows: Gary Brown, New Life Broadcasting, P.O. Box 790, Greenwood, Arkansas 72936 (petitioner).

11. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the Table of Assignments, § 73.202(b) of the Commission's Rules. See, *Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend Sections 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 Fed. Reg. 11549, published February 9, 1981.

12. For further information concerning this proceeding, contact Nancy V. Joyner, Mass Media Bureau (202) 634–6530. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contracts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making, other than comments officially filed at the Commission, or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes an *ex parte* presentation and shall not be considered in the proceeding.

(Secs. 4, 303, 48 stat., as amended, 1066, 1082; 47 U.S.C. 154, 303).

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(c)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of Section 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this processing will be available for examination by interested parties during regular business hours in the Commission's Public Reference

Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 84-4088 Filed 2-14-84; 8:45 am]
BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 84-108; RM-4639]

FM Broadcast Stations in Sault Ste. Marie, Michigan; Proposed Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: Action taken herein proposes to assign Channel 252A to Sault Ste. Marie, Michigan, in response to a petition filed by David C. Schaberg. The assignment could provide the community with its third local broadcast service.

DATES: Comments must be filed on or before March 26, 1984, and reply comments must be filed on or before April 10, 1984.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Mass Media Bureau; (202) 634-6530.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Notice of Proposed Rule Making

In the matter of Amendment of § 73.202(b) Table of Assignments FM Broadcast Stations (Sault Ste. Marie, Michigan) MM Docket No. 84-108, RM-4639.

Adopted: January 31, 1984.
Released: February 8, 1984.

By the Chief, Policy and Rules Division.

1. A petition for rule making was filed by David C. Schaberg ("petitioner"), proposing the assignment of FM Channel 252A, to Sault Ste. Marie, Michigan, as that community's third local FM broadcast service. Petitioner failed to state he would apply for the channel, if assigned, and is requested to do so in comments. The channel can be assigned in compliance with the minimum distance separation requirements.

2. Since the assignment of FM Channel 252A is within 320 kilometers (200 miles) of the U.S.-Canadian border, Canadian concurrence must be obtained.

3. In view of the fact that the proposed assignment could provide a third local FM broadcast service to Sault Ste. Marie, Michigan, the Commission believes it is appropriate to propose amending the FM Table of Assignments (§ 73.202(b) of the Commission's Rules) with respect to the following community:

City	Channel No.	
	Present	Proposed
Sault Ste. Marie, Mich.	258, 267	252A, 258, and 267.

4. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein. NOTE: A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

5. Interested parties may file comments on or before March 26, 1984, and reply comments on or before April 10, 1984, and are advised to read the Appendix for the proper procedures. A copy of such comments should be served on the petitioner as follows: David C. Schaberg, Post Office Box 11101, Lansing, Michigan 48901-1101.

6. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules. See, *Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 FR 11549, published February 9, 1981.

7. For further information concerning this proceeding, contact Mark N. Lipp, Mass Media Bureau (202) 634-6530. However, members of the public should note that from the time a *Notice of Proposed Rule Making* is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s), who filed the comment to which the reply is directed, constitutes an *ex parte* presentation and shall not be considered in the proceeding.

Federal Communications Commission.

(Secs. 4, 303, 48 stat., as amended, 1066, 1082; 47 U.S.C. 154, 303.)

Roderick K. Porter,
Chief, Policy and Rules Division, Mass Media Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(c)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showing Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedure will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions

by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 84-4089 Filed 2-14-84; 8:45 am]
BILLING CODE 6712-01-M

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 355

[Docket No. 84-307]

Endangered Species Regulations Concerning Terrestrial Plants

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Reopening of comment period for proposed rule.

SUMMARY: This document reopens the comment period for the proposal to establish regulations pertaining to the importation, exportation or reexportation of terrestrial plants under the Endangered Species Act of 1973, as amended, and the Convention on International Trade in Endangered Species of Wild Fauna and Flora.

The comment period is being extended in response to petitions received by the Department.

DATES: Comments on the proposed regulation must be received on or before April 2, 1984.

ADDRESSES: Written comments should be submitted to Thomas O. Gessel, Director, Regulatory Coordination Staff, APHIS, USDA, Room 728, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782.

FOR FURTHER INFORMATION CONTACT: Frank Cooper, Staff Officer, Regulatory Services Staff, Plant Protection and Quarantine, APHIS, USDA, Room 637 Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782; 301-436-8248.

SUPPLEMENTARY INFORMATION: On December 6, 1983, the United States Department of Agriculture (referred to below as "Department") published in the **Federal Register** (48 FR 54627-54638) proposed regulations intended to implement the Department's responsibilities under the Endangered Species Act of 1973, as amended (16 U.S.C. *et seq.*; referred to below as "Act") and the Convention on International Trade in Endangered Species of Wild Fauna and Flora (MIAS 8249, 27 U.S.T. 108F; referred to below as "Convention"). Under the Act, the Department is responsible for enforcing provisions of the Act and the Convention pertaining to the importation, exportation and reexportation of terrestrial plants.

The proposed regulations published on December 6, 1983, consisted of four subparts. These subparts are captioned as follows: (1) Purpose and Definitions; (2) Permission to Engage in Business; (3) Inspection and Related Provisions; and (4) Procedures Relating to Forfeiture. This proposal would, if adopted, affect hundreds of importers and exporters of terrestrial plants and would impose important new requirements on such persons.

A 60 day period was provided for receiving comments on the proposal. This comment period expired on February 6, 1984. Additionally, the Department held two public hearings on the proposal—one in Miami, Florida on January 10, 1984, and one in Los Angeles, California on January 12, 1984. The Department has been petitioned, however, by several nursery growers to extend the comment period. They asserted that notice of the hearings and the rulemaking proposal did not get out to interested parties with enough time for them to review and offer substantive comment on the proposal before February 6, 1984.

The Department is concerned about the time involved in extending the comment period since it is interested in having regulations implementing the Department's responsibilities under the Act become effective as soon as possible. However, the Department also wants to receive meaningful comment and has encouraged active participation by the public in this rulemaking process in order to develop a final rule which will be workable and effective in accomplishing the purposes of the Act. Therefore, after weighing these considerations, it has been determined that the comment period should be reopened for 45 days. Accordingly, any additional written comments must be received on or before April 2, 1984.

Done at Washington, D.C., this 14th day of February 1984.

William F. Helms,

Acting Deputy Administrator, Plant Protection and Quarantine, Animal and Plant Health Inspection Service.

[FR Doc. 84-4343 Filed 2-14-84; 10:55 am]
BILLING CODE 3410-34-M

Notices

Federal Register
Vol. 49, No. 32
Wednesday, February 15, 1984

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Office of the Secretary

Forms Under Review by Office of Management and Budget

The Department of Agriculture has submitted to OMB for review the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35) since the last list was published. This list is grouped into new proposals, revisions, extensions, or reinstatements. Each entry contains the following information:

(1) Agency proposing the information collection; (2) Title of the information collection; (3) Form number(s), if applicable: (4) How often the information is requested; (5) Who will be required to asked to report; (6) An estimate of the number of responses; (7) An estimate of the total number of hours needed to provide the information; (8) An indication of whether section 3504(h) of Pub. L. 96–511 applies; (9) Name and telephone number of the agency contact person.

Questions about the items in the listing should be directed to the agency person named at the end of each entry. Copies of the proposed forms and supporting documents may be obtained from: Department Clearance Officer, USDA, OIRM, Room 108–W Admin. Bldg., Washington, D.C. 20250, (202) 447–4414.

Comments on any of the items listed should be submitted directly to: Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503, ATTN: Desk Officer for USDA.

If you anticipate commenting on a submission but find that preparation time will prevent you from doing so promptly, you should advise the OMB Desk Officer of your intent as early as possible. Therodore Peterson (608) 262–0249

Revised

• Rural Electrification Administration
Financial Requirement and Expenditure Statement—Electric
REA 595
On Occasion
Small Businesses: 2,700 responses; 29,700 hours; not applicable under 3504(h)
Charles Weaver (302) 382–1900

• Food and Nutrition Service
Report of the Summer Food Service Programs and Agreement Between Sponsor and USDA Summer Food Service Program and Part 225
FNS–418 and FNS–80
Monthly
State or Local Governments: 7,817 responses; 51,241 hours; not applicable under 3504(h)
Alan Rich (703)756–3100

• Agricultural Marketing Service
Cotton Sampling Inspection Report
CN–59
On Occasion
Small Businesses: 5,020 responses; 234 hours; not applicable under 3504(h)
Loyd Frazier (202)447–2147

• Animal and Plant Health Inspection Service
Brucellosis Program (9 CFR 51+78) Cooperative Agreement
VS 1–47, 1–68, 4–1, 4–1D, 4–4, 4–6, 6–35, 4–33D, 4–35
On Occasion, Monthly, Annually
State and Local Government, Farms: 10,144 responses; 3,667 hours; not applicable under 3504(h)
Dr. W. Ray (301) 438–8713

New

• Rural Electirfication Administration
REA Bulletin 50.24 (DT–19) REA Specification for Quality Central and Inspection of Timber Products
Annually
Small Businesses: 21,000 responses; 38,749 hours; not applicable under 3504(h)
Archie Cain (202) 382–9082

Dated: February 10, 1984.

Susan B. Hess,

Acting Department Clearance Officer.

[FR Doc. 84–4120 Filed 2–14–84; 8:45 am]
BILLING CODE 3410–01–M

Forest Service

Outfitting and Guiding Permit Policy

AGENCY: Forest Service, USDA.

ACTION: Notice of final policy.

SUMMARY: The Forest Service hereby gives notices of adoption of revised policy and direction to guide Forest Officers in issuing and administering special use permits for outfitting and guiding activities on National Forest System lands and waters.

EFFECTIVE DATE: The policy is effective February 15, 1984.

FOR FURTHER INFORMATION CONTACT: Robert A. Wier, Recreation Management Staff, Forest Service, USDA, P.O. Box 2417 Washington, DC 20013 (202) 447–2311.

SUPPLEMENTARY INFORMATION: A notice of proposed policy on issuing and administering outfitters and guide policies was published April 8, 1983, in the Federal Register at 48 FR 15296. Comment were invited for the period ending June 7, 1983. During this period, 373 response letters were received.

Nine respondents felt the policy should be adopted exactly as proposed while seven recommended complete rejection of the proposal. The remaining 357 respondents offered specific suggestions on some section or topic they felt should be changed or modified.

Some respondents, apparently misunderstanding the language, contended that this policy would unfairly set limits on future growth. In fact, the proposal set minimum amounts to be reserved for future use, but established no maximums. Carrying capacity and allocation decisions would be established through planning decisions, not through the permitting policy.

In order to clear up the misunderstanding relating to use levels, the text has been extensively revised and reorganized without modifying the intent. The two categories of use (priority and temporary) are specifically defined and revised policies and procedures and more specifically established.

Upon reconsideration, we agree that a longer historic use period should be used as the basis for establishing amunts of priority use. Therefore, the final policy uses the average of the highest 2 of the past 5 years permitted

actual use instead of the average of the past 3 years.

The proposal to base use assignments on the amount of historically *permitted* use instead of *actual* use was considered and rejected. To reserve amounts beyond what permittees have been able to use in the past would result in unnecessarily limiting the availability of resources which could be used by other outfitters or users. If an operator has a need for additional use and if there is a level of use available to assign in the area, the operator can be assigned an additional amount of use on a temporary basis. Upon termination of the permit and application for reissuance, the amount of previously authorized temporary use can be converted to priority use. This temporary use conversion arrangement will accommodate the growth needs of expanding businesses.

Conversely, should an outfitter be unable to fully use the priority amounts assigned for 2 or more years, the Forest Service will reduce the amount of assigned priority use and reallocate these amounts to outfitters better able to market and deliver the service.

To the extent possible, and based on the relative merit of the comments, the policy has been revised to respond to the comments and suggestions received. In addition, the text has been changed and reorganized to improve clarity and emphasis, and to conform to Forest Service directive system policy where necessary.

The policy closely parallels direction being provided by the Director, Buream of Land Management, USDI for the issuance and administration of Special Recreation Permits as they apply to outfitting and guiding activities conducted on lands and waters under the jurisdiction of that agency.

The principle issues identified by respondents are summarized below along with the agency's reasons for dealing with those issues in the manner provided in the final policy.

Assignment of use levels—Under the proposed policy, an amount of use would be assigned to operators who currently have permits based on the average actual annual use authorized under permit during the previous 3 year period. Subject to future planning decisions, this amount of use would constitute a Forest Service commitment to give priority consideration to that operator in allowing that level of use in the future. The proposal further provided that additional temporary use could be authorized over and above the use levels previously permitted.

Over 100 of the respondents addressed the use level issue. Several supported the concept of basing use levels upon approved management plans. Almost 90 outfitter respondents recommended that use levels be assigned based on previously *permitted* levels instead of *actual* use levels. Most of the same respondents feel that use assignments should be based on a longer term than the proposed previous 3 year period.

The final policy has been changed to allow authorized officers to waive an outfitter's obligation to exercise the assigned amount of priority use, if the holder applies for such a waiver enough in advance the use can be temporarily assigned to others. Also, the final policy provides that the authorized officer may temporarily withhold priority use if necessary to protect public health, safety, or the resources. Both the waiver and withholding procedures will assure that outfitters are not penalized for their inability to operate due to natural phenomena such as floods and adverse weather; nor for unexpected poor business conditions beyond their control.

Renewal/Reissue/"Transfer" of permits—Thirty-five respondents expressed dissatisfaction with the proposed policy to perennially renew permits for existing operators who have performed satisfactorily in the past. These same respondents oppose the provisions which direct reissuance of permits to purchasers of outfitting and guiding businesses. Conversely, 81 outiftters, 3 outfitter associations, and 6 outfitter clients expressed support for the renewal/reissuance policy.

We continue to feel the proposed "transfer" and renewal/reissuance policy is appropriate and necessary in order to provide stability to the outfitting industry and to motivate skilled professional operators to invest time and resources in providing quality service to National Forest users seeking and needing outfitting and guiding service. Therefore, while some of the text was revised and reorganized to improve clarity on this subject, the reissuance/renewal/ "transfer" concept of the proposed policy has been retained.

We would stress, however, that permits are not technically transferable or assignable. When permits are terminated for any reason or expire by their own terms, new permits are issued to include such new terms and conditions as may be necessary to protect the public interest. Permits do not guarantee perpetual use of public land and resources. Outfitting and guiding special use permits, as well as all other types of special use permits, are subject to change based on current or future planning decisions and are subject to amendment or termination as may be necessary to protect the public interest.

Operating Plan Uniformity—Five outfitter and two association respondents suggested that the policy be expanded to include national direction for preparing operating plans, thereby assuring uniformity for all outfitters. In considering this proposal, we concluded that there is too wide a variation in the nature and scope of outfitting and guiding operations to establish a common nationwide outline or standard for such plans. The format and contents of an operating plan can best be decided by field officers in consultation with each holder of a special use permit. Some Regional Foresters may wish to supplement the national policy by establishing operating plan standards for various outfitting/guiding type activities common to their Regions.

Permit Duaration—The proposal provided for issuance of permits for periods of up to five years instead of on an annual basis as was normal in the past. Seventy outfitter respondents agree with the proposal to grant permits for longer periods pointing out that this increased tenure will serve to provide better business stability to the outfitter. Similarly, those respondents, who were otherwise critical of many features of the proposed policy, recognized the security needs of the outfitter and supported the 5-year permit term. One respondent recommended a 10-year term, after which permits would be awarded through use of a prospectus and bid procedure.

Some minor changes were made in the text, but the 5-year permit duration for permittees qualifying for priority use has been retained in the final policy.

Illegal outfitters—The proposed policy specified permittees would have responsibilities in enforcement of permitting and licensing laws and regulations. About 20 respondents commented on the problem of clandestine operators. Seven outfitters and one association contend that enforcement is a Forest Service and State licensing authority responsibility. These respondents suggest that all users, not just outfitters and guides, should assist the Forest Service and State authorities in reporting unauthorized outfitting activities.

Upon reconsideration, we have deleted the language which specified that outfitters share the responsibility of dealing with the problem. Nonetheless, we hope that holders of permits will recognize that it is to their advantage to continue to assist in enforcement efforts.

Fees—The proposed policy provided for the use of a schedule of rates and for payment of a fee for exclusive site occupancy. This topic elicited considerable interest and concern. Almost all respondents commented on one aspect of the fee system or another with a wide divergence of opinions being expressed. The thrust of comments from outfitters was that the proposal would result in unreasonably high fees as compared with amounts paid in the past. The proposed system for calculating the fee was seen as being overly complex and requiring an unwarranted amount of extra bookkeeping for outfitters and the Forest Service. Over 150 respondents suggested that the fee system be based on a flat percentage of the outfitter's gross income. Sixty (60) percent of those commenting to that effect suggested one percent, 10 percent suggested 3 percent, and 3 percent suggested 5 percent of gross income.

Almost 20 respondents urged that the present $0.25 service day fee be continued until economic studies can be undertaken. Several outfitters suggested a lower fee for partial day use than for full day use.

Many outfitters want the fee system to recognize the valuable volunteer work they do in maintaining trails and disposing of trash.

Quite a number of respondents suggested the $0.25 daily rate be adjusted by the Consumer Price or other index. Many respondents commented on the refund policy and proposed that refunds be granted for "unused use". Several suggested that permittees pay a percentage of the amount due at the beginning of the season, with the remainder being due at the end of the season based on actual use.

About 40 respondents were opposed to an additional fee for exclusive occupancy.

Many outfitters feel the revenue they receive for services provided off the public lands should not be included in the fee calculation. Others feel that fees should be discounted and based on a percentage of the outfitters' and their clients' total time spent on their own land or on lands leased from other than the Federal Government.

A number of outfitters argue that it is unfair to charge a fee to them who, in turn, must pass on the cost to their customer, when no fee is required of the public not using the services of an outfitter.

The revised policy responds to some of these recommendations while retaining most of the basic elements included in the published proposal.

The language relating to periodic payments was abbreviated and referenced to policy direction contained elsewhere in the Forest Service Manual. This change does not change the intent.

The paragraph dealing with discounts offered by outfitters to certain of their clients has been deleted. To the extent that operators offer discounts, fees payable to the Government under the calculation methodolgy will automatically be less for that amount of use planned to be sold at a reduced rate.

The language dealing with charges by outfitters for off-Forest costs in providing long distance transportation or lodging has been revised. Advertised daily rates may be adjusted downward if the outfitter pays others for those major customer services. All other advertised client charges will be included in the fee computation under the final policy.

On the other hand, the final policy includes added direction for the Forest Service discounting fees based on the percentage of time their customers occupy the National Forests while under the tutelage of the outfitter.

The minimum service day fee was reduced from $100 to $50 to improve equity for small operators.

The schedule of rates which provides for fee payments based on planned and advertised outfitter/guide rates is being retained. This schedule provides for payments approximating 3 percent of the expected gross revenue of the permit holder.

We considered using a fee system based on *actual* instead of *planned and authorized* annual use but concluded that the permitting process serves to reserve lands and resources to the exclusion of the rest of the public and those reserved rights have value to the permittee for which a fee should be paid. At the same, time, we have modified the provisions to allow refunds where the permittee releases authorized use far enough in advance to allow that use to be made available to others.

In regard to the fairness of charging a fee to outfitters when no fee is charged to other users of the National Forests, the authority to collect fees from individual recreationists is limited by Federal statute as well as by practical collection considerations. The Forest Service does charge a fee to individuals where facilities or special recreation services are being provided.

We find no merit in postponing the implementation of the new fee system until a study is done. The fee schedule reflects a conservative estimation of the fair market value of the privileges being authorized under the permit. If future studies, new information, or market data become available which show the fee schedule or system to be faulty, appropriate policy revisions can be made at that time.

We disagree with those respondents who are opposed to paying a fee for exclusive site occupancy. An outfitter who receives authorization to use a specific site enjoys a valuable privilege not available to others and an additional fee is warranted. We would note here that the term "exclusive" was changed to "reservation" since permits normally do not authorize exclusive occupancy, and the public may use the site to the extent they do not interfere with the use authorized under the permit.

Institutional and semi-public outfitters—The proposed policy defines and provides special direction for institutional and semi-public outfitters and guides. Ten responents were concerned about who would fit into the semi-public category. We revised various sections of the material in order to clarify the intent.

Several non-profit institutional respondents are opposed to higher fees for similar reasons expressed by profit motivated outfitters. However, they also feel that since they qualify for exemption under various State, local and federal tax laws and regulations, they should similarly be exempt from payment of fees for the use of publicly owned lands and resources. They point out that they provide socially beneficial programs at reduced rates or free of charge and that this should entitle them to special consideration. They stress that if they have to pay a higher proportion of their available financial resources as fees to the Government, then it will be necessary to reduce their programs with attendant loss of social benefits.

One outfitter recommended that operating authority be denied to non-profit institutional applicants contending that because of their tax exemption advantage, they unfairly compete with businesses dependent on profits in order to stay in operation. Because of the social benefits provided and to the extent there is available capacity and allocation, institutions should be allowed to conduct outfitting activities on behalf of their clientele, so no change in that regard has been made in the final policy.

In revising the institutional permit section, we have extensively modified the section on fee reduction. To the extent an institutional outfitter provides service to socially disadvantaged clients at no cost or a substantially reduced charge, then fees to the Government

under the schedule of rates would be free or proportionately low. On the other hand, if clients pay for the full value of the service provided by the outfitter, then full fees should be paid for the privilege.

Special direction has been included to disregard certain tuition payments unrelated to the value of the outfitting/guiding service provided to the client. Similarly, certain donations made to the institutional outfitter will not be considered in calculating the service day client charge.

That section in the proposed policy dealing with varying percentage discounts based on programs and recipients was deleted from the final policy.

Alaska Outfitters—The proposed policy includes no special direction for outfitting and guiding permits in Alaska. Alaska respondents pointed out that the national policy does not recognize special legislation applicable only to Alaska, namely the Alaska National Interest Lands Conservation Act (ANILCA). To the extent that there may be conflicts between this policy and ANILCA, the Regional Forester will issue supplemental policy direction applicable to Alaska. However, we expect little or no contradiction between this policy and provisions of ANILCA.

Having considered these comments, the Forest Service hereby adopts the following policy to be issued as an Interim Directive to Chapter 2720 of the Forest Service manual.

Title 2700—Land Uses Management
Chapter 2720—Special Uses

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2721.53—Oufitter and Guide Services

This section governs administration of outfitting and guiding activities where little or no development or permanent improvement on the land is required. Normally, such use occurs in general forest environment areas toward the more primitive end of the recreation opportunity spectrum, but it may occur elsewhere within the national Forest System. Examples of outfitting/guiding include packing, hunting, float trips, canoe or horse liveries, ski touring, helicopter skiing, jeep tours and fishing.

2721.53a—Management Objectives.

Issue and administer special use permits for outfitter and guide activities to:

1. Meet general public recreation service needs as identified through forest land and resource management planning.

2. Encourage skilled and experienced individuals, organizations, and companies to conduct outfitting and guiding activities in a manner that assures national Forest visitors receive quality services.

2721.53b—When Permits Are Required

1. Individuals or organizations wishing to conduct outfitting and guiding activities on National Forest System lands must obtain a permit except when waived for incidental use under item 6 of FSM 2721.53f. Placement of temporary structures or permanent improvements with limited value may be authorized under outfitter/guide permits. Examples would include corrals, tent frames, shelters, and the like.

2. Permits are required whether the duration of the trip is a few hours or an extensive number of days, provided however, the permit requirement may be waived for periodic incidental use. (FSM 2721.53f, item 6)

3. Those outfitters based off National Forest System land who rent equipment or livestock to the public for use on National Forest land must obtain a permit if they, their employees, or agents occupy or use National Forest System land or waters in connection with their rental program. For example, a permit is required if a boat livery operator provides service, including delivery or pickup of boats at National Forest sites. No permit is necessary if the operator's customers transport the boats to and from the National Forest locations.

4. Even though a developed site on which improvements are located may serve as the base of operations for an outfitter/guide business, issue permits authorizing the construction or placement of substantial permanent improvements on the land under a use category other than outfitting/guiding such as resort (FSM 2721.33); rental service (FSM 2721.54); or store, shop, office (FSM 2721.57).

5. Do not authorize under special use permits sponsored, organized, and supervised trips approved by the Forest Service in advance to cooperatively perform work of benefit to the United States in administration and protection of the National Forests. For these activities, use cooperative, volunteer, or other agreements as described in FSM 1580 and 1830.

2721.53c—Definitions

1. *Guiding*. Includes the provision of assistance such as supervision, protection, education, training, transportation, interpretation, and guiding services. It includes such personal services as leading, teaching, cooking, packing, or otherwise assisting recreationists in their pursuit of a natural resource based outdoor recreation experience.

2. *Outfitting*. Includes the provision of equipment, supplies, livestock, and materials. It includes such outfitting services as rental of boats, skis, horses, tents, and other equipment or gear.

3. *Service Day*. A service day is a day or part of a day for each individual accompanied or provided services, including transportation services, by a packer, outfitter, guide, leader or instructor. Beginning and ending days of a trip or service period shall be considered as full days. Where supply or drop service alone is performed, the full or fractional days involved multiplied by the number of clients in the party equals service days. Any period of time when clients, individually or in groups, are on the National Forest and under the direction, care, or tutelage of a guide/outfitter shall be counted as part of the total service days for fee calculation or management purposes.

4. *Priority use*. A Forest Service commitment to the holder of a special use permit to give priority consideration to allow a given amount of available future use. It is a reserved amount and is assigned to the holder by the Forest Service based on the holder's past use and on carrying capacity and allocation decisions made through forest planning.

5. *Temporary use*. An amount of use assigned under the permit for one season or less. A temporary use assignment does not commit the Forest Service to authorizing that amount of use in the future.

6. *Transportation livestock use*. An amount of pack and saddle animal use authorized in connection with an outfitter/guide permit. Such use will be expressed in animal unit months (AUM's) of livestock occupancy on the permit and specify the class of animal (horses, burros). Also, see FSM 2233.11.

2721.53—Assignment and Management of Priority Use

1. *Eligible Applicants.* Applicants eligible to receive assignments of priority use are those:

a. Whose services are marketed and available to all members of the public on a recurrent basis during the season of demand, and

b. Who have performed acceptably for the previous 2-year period under special use permit.

Organizations or individuals whose purpose is to provide service to a select or restricted clientele are not eligible to receive priority use assignments.

2. *Basis for Determining Amount of Priority Use.* In assigning priority use, authorized officers shall:

a. Base the initial amount of assigned use on the average of the highest 2 years of annual actual use which was authorized under permit during the previous 5 years.

b. Establish the amount of use in terms of number of service days, the nature of the permitted service or activity, and the resource area (wilderness, wild river, management unit, and so forth) within which the service or activity is to be authorized.

3. *Adjustment of Amount of Assigned Use.* When an amount of priority use has been assigned, a permit holder shall annually use and pay for the assigned amount, except as follows:

a. An authorized officer may withold authorization for the holder to use all or part of an assigned amount for reasons of resource protection or public health and safety.

b. When requested by a permit holder, an authorized officer may waive a holder's obligation to exercise all or part of the priority use amount when such request is made sufficiently in advance of the use to allow the officer to reassign the waived use to other holders or users. Authorized officers must document the basis for withholding or waiving priority use.

4. *Failure to use Assigned Amounts.* Except as provided above, if a holder of a priority use assignment fails to utilize 85 percent or more of the assigned amount in any 2 of 3 consecutive years, the authorized officer shall reduce the holder's amount of assigned use to equal the average actual use under the permit for that 3 year period. When such a reduction is made, the authorized officer may assign the amount of the reduction to others through the procedures established in FSM 2721.53f.

5. *Performance Evaluation.* The authorized office shall annually evaluate the holder's performance (FSM 2721.53h).

2721.53e—Assignment and Management of Temporary Use

1. *Eligible applicants.* All qualified applicants including institutional and semipublic entities and those with assigned priority use are eligible to receive temporary assignments.

2. *Conversion to Priorty Use.* Subject to applicable forest plans and if the holder is otherwise eligible, temporary use permitted for at least 3 years may be converted to priority use. The amount of temporary use which may be converted and assigned as priority use will be based on the previous 3 year average temporary permitted amount which was actually used. Conversion is at the discretion of the authorized officer.

3. *Performance Evaluation.* Performance evaluations (FSM 2721.53h) are not required for temporary use permits.

2721.53f—Applications and Award of Permits

1. Use Form FS 2700–3, Special Use Application, to describe the services to be performed, the number of service days, lands to be occupied, modes of transportation, season of use, scheduling, and so forth. Application procedures established at 36 CFR 251.54 are fully applicable to outfitter/guide applications. Also, see FSM 2712.

2. *Reissuance of Permits with Change of Ownership.* a. If a change of ownership is expected, the holder must arrange for the prospective new owner to meet with the authorized officer to discuss the past operation and future use prior to concluding the sale or applying for a new permit.

b. Normally the Forest Service will reissue permits to qualified purchasers of currently permitted businesses with assigned priority use. The relinquishment/application submitted by the buyer and seller must be accompanied by an executed and recorded contract to purchase, probated will, bill of sale, or other equivalent document showing a bona fide conveyance of a substantial proportion of the private land, equipment, or other assets previously used in the business. Buyers of a minority portion of the assets used in a business do not qualify for a permit.

c. Purchasers of currently permitted businesses with assigned temporary use receive no special consideration for available permits.

3. *New Permits.* a. New or additional opportunities for outfitting/guiding services may occur, as a result of the following situations:

(1) Increased allocation, capacity or public need identified through forest planning,

(2) Termination or non-reissuance due to abandonment,

(3) Revocation or application denial of an existing permit,

(4) Reduction of priority use resulting from failure of a holder or holders to use their permitted priority use,

(5) Competitive interest in an area, unit, or activity where no previous authorized use exists,

(6) Interest or an identified planning need arising in an area, unit, or activity where no previous authorized outfitter/guide use occurred, and where competitive interest is lacking at this time.

b. Normally invite applications from all interested parties for situations fitting (1) through (4). However, in some situations, authorized officer may invite applications only from selected currently permitted priority use holders. For example, two or more currently priority use holders may be marginally economical, and the added allocation or capacity would help ensure better service to the public. In such cases, the invitees could be limited to such marginal holders, rather than to all current priority use holders or others.

In determing the best qualified applicants to receive permits, consider past experience in the general area, financial ability, and past performance record. In issuing the permit, classify the use as priority use if the selected applicant has a 2-year record of acceptable performance. For a selected applicant with no previous record, classify the use as temporary and convert to priority use after 2-years of acceptable performance under the permit.

c. For situation (5), invite applications from all parties with a known interest. If the selected applicant has at least a 2-year record of acceptable performance, classify the authorized use as priority use. If the selected applicant has less than a 2-year record of acceptable performance, classify the authorized use as temporary use that may be convertible to priority use after the 2-year evaluation period.

d. For situation (6), document the determination of no competitive interest (i.e., newspaper article scoping document, EA), than issue a permit to the first qualified applicant. In issuing the permit, classify authorized use as temporary until the holder has performed acceptably for 2-years at which time the use may be classified as priority.

4. *Reductions in amount of Priority Use.* In some situations, the completion or revision of forest plans may direct a level of outfitting/guiding use below present priority use levels. In such case, the authorized officer has three options available after consultation with outfitters, State and local agencies, and other interested parties:

(a) Reduce service days based on voluntary reductions.

(b) Reduce service days proportionately for all priority use holders.

(c) Invite applications for purpose of selecting the most qualified applicant(s) to provide reduced levels of service. Limit invitees to priority use holders.

(5) *Reduction in Number of Priority Use Holders.* A forest plan may conclude that there are too many outfitters/guides. Such a situation might arise when large numbers of outfitters/guides are operating in an area or unit without a majority of them providing a sufficient, desired level of service to be efficient or profitable. In this event, invite applications from all current priority use permit holders to select the best qualified.

6. *Permit Waiver for Incidental Use.* The special use permit requirement may be waived when the proposed outfitter/guide use is limited in nature and scope. Upon receipt and after review of a special use permit application involving proposed annual use of 50 or less service days, the authorized officer may waive the permit requirement when it is determined the proposed use is expected to have little or no effect on public liability, health, safety, the environment, or other authorized National Forest uses and activities. Include the waiver and reasons in a letter to the applicant and retain a copy in the file with the application.

2721.53g—Permit Preparation and Conditions of Use

1. FSM 2780 includes approved clauses for consideration.

2. Issue priority use permits for 5-years or less and to the extent possible, to coincide with review and revision dates of the forest plan. Temporary use permits may be issued for periods not to exceed one year.

3. The authorized officer shall:

a. Issue permits for temporary or priority use under the authority of the Act of June 4, 1897, only on Form FS 2700–4, special use permit.

b. Require an operating plan as a provision of permits,

c. Consider a waiver or discount of special use permit fees only to the extent provided in FSM 2721.53i.

d. Issue outfitter/guide permits to individuals or entities making direct use of National Forest System land. Do not issue permits to organizations that merely promote trips and handle reservations.

e. Specify in all permits the modes of transportation to be used.

f. In the permit, enter the total number of service days in each service day fee category. Show amount and class (priority, temporary) of use.

4. For qualified applicants who have no, or a limited, record of past performance, issue temporary use permits annually for 2 consecutive years to provide a performance evaluation period, after which the use may become a priority use. Examples of such an applicant would be a successor in interest to an existing business or an applicant selected through an "invitation for application", where neither has a 2-year record of acceptable performance.

5. Indicate in the permit the amount of transportation livestock use authorized in connection with the outfitting/guiding activity and specify whether said livestock may graze. Do not issue a separate transportation livestock use permit. After the season, permittees must record and report the amount of transportation livestock grazing use which actually occurred under the outfitting/guiding permit. Forests shall report such grazing use in the annual grazing statistical report (FS 2200–J), however, occupancy by animals which were not authorized to graze will not be included in the report.

Animals authorized under other livestock use permits (FSM 2230) are sometimes utilized in outfitting and guiding activities. When this occurs, separate records for use are made under each. Included each type of use in FS Report 2200–J. Where pack and saddle stock are grazed outside the scope of the outfitter-guide permit, policies in FSM 2230 govern use.

6. To the extent possible, a permit or operating plan should show planned use of specific campsites. In those cases where an itinerary and campsite use are not specified, camp use may be shown as undesignated and is not considered reserved.

7. Holders must annually provide the authorized officer with reasonably accurate information through an actual use report within 30 days of the close of the operating season.

2721.53h.—Permit Administration

1. Permit holders may not assign all or part of the authorized use to others (subletting). If a holder is unable or unwilling to provide the permitted services, terminate the authorization and if appropriate, assign the amount of use to others in accordance with procedures in 2721.53f.

2. *Performance Evaluation.* Permit holders with assigned priority use are subject to annual performance evaluations.

a. Performance reviews shall recognize three different levels: Acceptable, Probationary, and Unacceptable.

b. Forest Supervisors shall develop performance review standards for inclusion in each special use permit and/or operating plan in consultation with District Rangers, permit holders, outfitter/guide associations, State Fish and Game agencies, State outfitter/guide licensing agencies, advisory councils and other State and Federal land managing agencies. An important consideration in the evaluations is the degree of compliance with conditions of the permit and operating plan. Complete the review and rating annually at the end of the operating season and advise the permit holder of the findings.

c. To the extent allowed by law and regulation, ratings are confidential between the Forest Service and the holder.

d. Unacceptable performance will result in suspension, termination, or revocation of the permit as appropriate to the circumstances.

e. A holder given a probationary preformance rating will qualify for a permit period not to exceed 1 year and permits with remaining periods of more than 1 year will be so amended. If a holder continues to operate at the probationary level the authorized office shall terminate the permit and/or deny future permit applications.

3. During the course of the season of use, authorized officers shall periodically monitor permitted operation to verify compliance with the provisions of the permits.

4. Illegal or "Pirate" outfitters are those who operate on National Forest lands without a permit and/or a State license where one is required. This type of operator is a particular problem in activities such as backpacking, whitewater use, and hunting. Forest Supervisors and District Rangers shall work with State and local authorities, outfitters, and outfitter/guide organizations to resolve the problem. Forest Service employer shall investigate and administer pirate outfitter cases following law enforcement procedures in FSM 5300.

2721.53i—Fees

For the purpose of establishing fees for outfitter/guide permits, the following shall apply:

1. Determine fees in accordance with one or more of the categories listed below that best represents the type of operation:

a. For outfitter/guide activities and services authorized in connection with a commercial public service site, such as a resort, determine fees for the total authorized use under the Graduated Rate Fee System (GRFS). Where applicable, such holders paying fees under GRFS additionally will pay for site reservation and transportation livestock grazing use.

b. Those who are authorized to provide outfitter/guide services as a distinct activity, and not as an activity of a Forest Service authorized commercial public service business, shall pay the following fees, as determined appropriate to the use:

(1) A fee for the permit privileges and use of National Forest System lands based upon the service days authorized and the amounts outfitters charge their clients.

(2) An annual fee for the reserved use of National Forest System sites.

(3) A fee for transportation livestock grazing use authorized in connection with such use.

c. Regional Foresters may establish higher fees than provided under paragraphs 2, 3, and 4 below whenever justified.

d. Service day as well as reservation and transportation livestock grazing use fees are due and payable in advance. See FSM 2715.22 for direction on partial or periodic payments.

2. *Service Day Fees.* a. Calculate the service day fee using the following schedule:

Outfitter's adjusted service-day client charge	Service day fee due FS
$1 to $8.00	$0.25
$8.01 to $20.00	.40
$20.01 to $35.00	.80
$35.01 to $50.00	1.30
$50.01 to $75.00	1.90
$75.01 to $100.00	2.60
$100.01 to $125.00	3.40
$125.01 to $150.00	4.10
$150.01 to $175.00	4.90
$175.01 to $200.00	5.60
$200.01 to $250.00	6.75
$250.01 to $300.00	8.25
$300.01 to $400.00	10.00
Over $400	(1)

[1] Three percent of the adjusted service day client charge.

b. Applicants shall furnish documents reflecting their planned customer rate schedules for the use season. Documents shall include advertising material, brochures, or a signed letter to the authorized officer reflecting customer rates. Retain this material with the permit file.

c. Average service-day client charges may be adjusted downward if an advertised daily rate includes payments by the holder to others for long distance transportation or lodging services. All other customer charges for services provided and reflected in the advertised daily rate are included in the adjusted service day client charge. The applicant must provide documents to support transportation or lodging adjustments.

d. Many outfitters/guides conduct part of their activities and provide customer services on non-National Forest lands and waters. Base reductions from the calculated service day fee amounts on the percentage of time their customers occupy National Forest System lands and waters while under the holder's care, supervision, or tutelage.

Percent of total time on national forest lands and waters (percent)	Fee reduction (percent)
0 to 5	80
5 to 60	40
60 to 100	None.

A holder shall provide trip, duration, itinerary, or such other information as may be specified by the authorized officer to support requests for fee reductions based on use of National Forest System lands.

e. The minimum annual fee for service day use is $50.

f. If during the season of operation, a holder proposes to conduct activities in addition to that initially authorized, the holder must prepare in advance an amended application. Upon approval, collect in advance any additional service day fees due.

g. Except when priority use has been withheld or the obligation waived as proved under FSM 2721.53d, item 3, calculate fees for priority service day use based on the full assigned amount authorized in the permit.

h. Calculate fees for temporary service day use based on the amount planned and authorized for the trip or season.

i. When requested subsequent to the permit issuance, but in advance of the planned and approved use, the authorized officer may refund temporary use service day fees when the reduced level of use will be of benefit to the resource or the general public. Do not make refund when the reduced level is of benefit only to the holder.

3. *Site Reservation Fee.* a. In addition to the service day fee, outfitter/guide permits shall require advance payment of fees for the occupancy of National Forest System sites reserved for use by the permit holder during the permitted period of occupancy. Examples may include, but are not limited to, base and drop camps, caches, corrals and loading facilities, boat launches, and helispots. A minimum annual rental fee of $100 is established for each site.

b. Do not prorate site reservation fees for use periods of less than 1-year. Site reservation fees are not subject to waiver, reduction, or discount.

c. Do not authorize refunds or credits of site reservation fees paid.

4. *Transportation Livestock Grazing Use Fee.* When permitted animals are authorized to graze, holders must pay a fee for such planned transportation livestock grazing use. Holders do not pay a fee when the animals travel on the National Forest but are not authorized to graze. The amount of the fee will be based on the rates prescribed in FSM 2236, which will vary from year to year. Do not make refunds for planned and authorized, but unused transportation livestock grazing use.

5. Calculate the total fee determined for an outfitter/guide permit on a fee determination statement (FSM 2715) and bill the fee a a single amount, to be deposited to recreation use (FSM 6530).

2721.53j—Permits for Institutional and Semi-public Outfitting and Guiding

Permits to institutional and semi-public outfitting and guiding applicants are issued on an opportunity basis rather than as a means of implementing planning decisions and objectives. Schedules and services may fluctuate from season to season or year to year as may fit the programs of the applicant.

Applicants include a variety of membership or limited constituency institutions such as religious, conservation, youth, fraternal, service club, and social groups; educational institutions such as schools, colleges and universities; and similar common interest organizations and associations. This category also includes applicants who operate commercial on a limited intermittent or irregular basis in providing service to select customer clientele rather than the public at-large. Administer institutional and semi-public outfitting and guiding activities as follows:

1. Issue temporary use permits when the use can be accommodated without causing unacceptable conflict or resource impacts and is in the public interest. The permitted activities must be consistent and compatible with applicable laws, regulations, and forest plans.

2. Authorize outfitting and guiding activities conducted by institutional or semi public groups or individuals by a

permit regardless of whether a fee, charge, or other consideration is collected from the participants in excess of the actual cost or expenses incurred by the holder. However, the fee including the minimum (FSM 2721.53i), may be waived for tax exempt groups or agencies when the holder or their employees makes no profit, receives no reimbursement or salary, rental for use of animals or equipment, nor supports other programs from amounts received from participants of the permitted activity.

3. Applicants must demonstrate financial and technical ability to fulfill the terms of the permit.

4. Temporary use permit may be issued for either (a) one trip or (b) a duration of 1 year or less when the use involves several trips.

5. Do not assign priority use to institutional or semi-public holders.

6. Full season temporary use permits issued for continuing intermittent use require an operating plan. A plan may also be necessary for single trip permits.

7. Documented performance reviews are not required.

8. Fees will be established based on the schedule and direction in FSM 2721.53i.

9. In establishing the adjusted service day client charge for "nonprofit" organizations and institutions, do not consider donations or grants made voluntarily by customers to support the programs or activities of the holder in the fee calculation. However, if the holder requires the "customer" or client to make a donation or grant as a condition of receiving the service, include the amount of the donation or grant in the calculation.

10. In establishing the adjusting service day client charge for educational institutions, the following will apply:

a. Exclude tuition and related payments made to the school which are unrelated to the value of the services provided to the client (student) by the school, if the program being provided under the permit is recognized for credit toward graduation or a degree in a recognized school system.

b. If the program provided under the permit is not recognized for credit toward graduation or a degree, include all payments related to the permitted service in the fee calculation.

Dated: February 10, 1984.

R. M. Housley,

Deputy Chief.

[FR Doc. 84-4119 Filed 2-14-84; 8:45 am]

BILLING CODE 3410-11-M

Continental Divide National Scenic Trail Advisory Council; Meeting

The Continental Divide National Scenic Trail Advisory Council will meet at 10:00 a.m. on March 22, 1984, and continue until 2:00 p.m. on March 24, 1984. The meeting will be held at the Sheraton Inn Lakewood, 360 Union Blvd. in Lakewood, Colorado. The purpose of the meeting is to discuss matters relating to the Continental Divide National Scenic Trail. Agenda items are review of the Continental Divide National Scenic Trail program status, review of the Comprehensive Plan, discussion of State/Federal/private landowner coordination needs, role of volunteers, and user information and education.

The meeting will be open to the public. For additional information, contact the Forest Service by telephone (303–234–4082) or by mail (USDA, Forest Service, Rocky Mountain Region, P.O. Box 25127, Lakewood, CO 80225).

James F. Torrence,

Continental Divide National Scenic Trail Advisory Council Chairman.

[FR Doc. 84-4057 Filed 2-14-84; 8:45 am]

BILLING CODE 3410-11-M

Packers and Stockyards Administration

Posted Stockyard

Pursuant to the authority delegated under the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 *et seq.*), it was assertained that the livestock market market named below is a stockyard within the definition of that term contained in section 302 of the Act, as amended (7 U.S.C. 202), and notice was given to the owner and to the public by posting notices at the stockyards as required by said section 302, on respective date specified below.

Facility No., name, and location of stockyard	Date of posting
CO–151 Western Slope Livestock Auction, Montrose, Colorado.	Jan. 26, 1984

Done at Washington, D.C., this 8th day of February 1984.

Jack W. Brinckmeyer,

Chief, Financial Protection Branch, Livestock Marketing Division.

[FR Doc. 84-4059 Filed 2-14-84; 8:45 am]

BILLING CODE 3420-02-M

ARMS CONTROL AND DISARMAMENT AGENCY

Visting Scholars Program

Section 3 of Public Law 98–202 (97 Stat. 1381) added a new Section 28 to the Arms Control and Disarmament Act (22 U.S.C. 2561 et seq.) which provides that "A program for visiting scholars in the field of arms control and disarmament shall be established by the Director [of the U.S. Arms Control and Disarmament Agency(ACDA)] in order to obtain the services of scholars from the faculties of recognized institutions of higher learning."

The new law states that "The purpose of the progam will be to give specialists in the physical sciences and other disciplines relevant to the Agency's activities an opportunity for active participation in the arms control and disarmament activities of the Agency and to gain for the AGency the perspective and expertise such persons can offer. Each fellow in the program shall be appointed for a term of one year, except that such term may be extended for a 1–year period. Fellows shall be chosen by a board consisting of the Director, who shall be the chairperson, and all former Directors of the AGency."

ACDA will implement this program as soon as possible by competitively selecting visting scholars for the 1984–85 school year to perform specific activities at ACDA for which their services have been identified as being needed. It is intended that the initial one-year appointments will begin at a mutually agreeable time during the period from mid-May to mid-September 1984, and will be for the positions in ACDA's four bureaus described in the Appendix to this announcement. Note that the emphasis is ont he expertise and service which the visiting scholars can provide rather than on general interest in arms control and the pursuit of the scholars' own research.

It is planned that the visiting scholars will be appointed and compensated in accordance with the Intergovernmental Personnel Act. In addition to pay based on their regular salary rates, the visiting scholars may receive other benefits such as travel and relocation costs.

Visiting scholars must be citizens or nationals of the United Xtates and on the faculty of a recognized institution of higher learning. Prior to appointment they willk be subject to a full-field background security and loyalty investigation for a top secret secruity clearance including acces to Restricted Data, as required by Section 45 of the

Arms Control and Disarmament Act. Visiting scholars also will be subject to applicable Fedral conflict of interest laws and st andards of conduct.

Selections will be m ade without regard to race, color, religion, sex, national origin, age, or physical handicap which does not interfere with performance of duties, and all qualified persons are encouraged to apply. Applications should be in the form of a letter indicating the position(s) in which the applicant is interested and the perspective and expertise which the applicant offers. The letter should be accompanied by a completed Federal Standard Form 171, Personal Qualifications Statement, and any other materials such as letters of reference and samples of published articles which the applicant believes should be considered in the selection process.

Applications, and any requests for additonal information, should be sent to: Visiting Scholars Program, U.S. Arms Control and Disarmament Agency, Washington, D.C. 20451. The application deadline for appointments for the 1984–85 school year is March 14, 1984, subject to extension at ACDA's option. Announcement of selection, subject ot security clearance prodedures, is expected around April 1, 1984.

Dated: February 9, 1984.

William J. Montgomery,

Administrative Director.

APPENDIX

A. Visiting Scholar Assignments to the Bureau of Multilateral Affairs of ACDA

1. Description of the Bureau of Multilateral Affairs

The Bureau of Multilateral Affairs (MA) has primary responsibility within ACDA for arms control issues dealt with in multilateral fora. The Conference on Disarmament (CD), the Mutual and Balanced Force Reduction (MBFR) negotiations, the Conference on Disarmament in Europe (CDE), and the United Nations General Assembly (UNGA) are the most important examples. MA provides both technical backstopping and diplomatic support to these substantive activities as well as to other negotiations which seek to ban radiological weapons, to study negative security assurances, to limit military expenditures, to research nuclear weapon free zones, and to eliminate chemical and biological weapons.

2. Nature of Assignment

MA has identified several questions or areas of concern which it believes could benefit from the semi-independent study a visiting scholar could provide. MA deals with a range of subjects which are frequently of a high technical or scientific content (e.g., biological weapons, chemical weapons, nuclear testing) but which are often negotiated, studied, or discussed in essentially political environments (e.g. the UNGA, the CD). ACDA is looking for suggestions, based on a scholar's close involvement with the actual process for a year, of how to improve the performance of the United States. Most important from MA's point of view, the analyses should be prescriptive, not merely descriptive. Two areas of study have been identified:

(a) *The Origins of the U.S. MBFR Position on a Common Manpower Ceiling: An Oral History.* At a time when the MBFR negotiations are more than a decade old, and the United States, while continuing to negotiate in Vienna, is helping launch the CDE, a retrospective would be useful. The purpose of this historical analysis would be to benefit, prospectively, from past experiences. The scholar would work primarily with MBFR documents available in ACDA before turning to recording and analyzing the recollections of former U.S. Government officials involved with the early stages of MBFR. This project would best be undertaken by a historian or social scientist who has had some experience with oral history techniques. Previous experience with, or study of, arms control or national security issues would be preferable.

(b) *A Cross-Cultural Analysis for U.S. Negotiators.* References are often made to the fact that diplomats who are products of a very different culture and society from that of their U.S . counterparts at the negotiating table, bring different values and mindsets to their work, considerations which have a direct bearing on the conduct of negotiations. The U.S. is engaged in a number of multilateral negotiations which include participants from the broad spectrum of the third and non-aligned world. Historical and sociological considerations may be evident in the record of negotiations in the UN and the CD. The project would require an expert in political science, diplomacy and the behavioral sciences.

3. Candidate Qualifications

As indicated above, the candidate(s) should possess academic credentials (or the equivalent thereof) in history, the political and social sciences or in the physical sciences. Candidates should provide evidence of accomplishment in the areas of national security policy, weapons systems analysis, defense and/or arms control strategies, and U.S. foreign policy interests. Evidence of such accomplishments should be demonstrated by either publications or practical achievements.

B. Visiting Scholar Assignments to the Bureau of Nuclear and Weapons Control of ACDA

1. Description of the Bureau of Nuclear and Weapons Control

The Bureau of Nuclear and Weapons Control (NWC) has responsibility for nuclear non-proliferation issues and participates in the development of nuclear policy, the review of nuclear exports, support of the international safeguards system, and promotion of the non-proliferation regime including the Nuclear Non-Proliferation Treaty and the Treaty of Tlatelolco. NWC also assesses the arms control implications of proposed arms transfers and technology transfers, and prepares Arms Control Impact Statements on U.S programs and guides them through the interagency review process. In addition, NWC is responsible for ACDA's economic analysis work and coordinates publication of *World Military Expenditures and Arms Transfers.*

2. Nature of the Assignment

A visiting scholar assigned to NWC would work on nuclear non-proliferation issues, with emphasis on nuclear safeguards and the nuclear fuel cycle. Because of the complex technical issues involved, NWC seeks an individual with a strong background in physical science and/or engineering who has experience in working with mulilateral institutions such as the International Atomic Energy Agency (IAEA).

The visiting scholar's responsibilities would include preparing studies, analyzing safeguards approaches for various fuel cycle activities, coordination with other interested agencies such as the Departments of State and Energy and the Nuclear Regulatory Commission, and working with experts from other countries and the IAEA. In carrying out assigned duties, the individual would need a high degree of judgment and would be required, on occasion, to function effectively with minimum direct supervision in an international environment.

3. Candidate Qualifications

Specific useful background for a candidate would include: knowledge of nuclear physics, understanding of the nuclear fuel cycle, ability to conduct technical analysis, facility in written and oral communications, knowledge of

the IAEA safeguards system, and experience in dealing with international organizations.

C. Visiting Scholar Assignments to the Bureau of Strategic Programs of ACDA

1. Description of the Bureau of Strategic Programs

The Bureau of Strategic Programs (SP) has responsibility for ACDA's participation in strategic and theater arms control negotiations. These include the Strategic Arms Reduction Talks (START); the Intermediate-Range Nuclear Force negotiations (INF); meetings of the Standing Consultative Commission (SCC); preparation for the periodic Anti-Ballistic Missile (ABM) Treaty review; space arms control negotiations; and diverse other matters including ACDA participation in U.S. decisions regarding research and development on ballistic missile defenses. SP has two divisions: Strategic Affairs and Theater Affairs.

2. Nature of the Assignment

A visiting scholar assigned to SP would assist in policy formation in one or more of the areas cited above. Because of the high technical content in these areas, SP seeks a physical scientist with a broad theoretical or applied background.

The visiting scholar's responsibilities would include drafting position papers, background studies, and policy analyses, both for use within ACDA and for coordination with other agencies such as the Central Intelligence Agency, the Office of the Secretary of Defense, the Joint Chiefs of Staff, and the Department of State, in Interagency Groups. In some cases, the individual would represent ACDA on interagency working groups. The visiting scholar would be called upon to exercise a relatively high degree of individual judgment in developing policy recommendations. There may be an opportunity to volunteer to serve on the staff of U.S. delegations to arms control negotiations. The most likely area of concentration for the visiting scholar would be START policy, but this could vary according to the scholar's background and the needs of ACDA/SP.

3. Candidate Qualifications

Specific useful background for a candidate would include: knowledge of basic physics, facility in concise writing, general communication skills, and proven ability to innovate. Background in areas of SP responsibility would be of value but is not a requirement.

D. Visiting Scholar assignments to the Bureau of Verification and Intelligence of ACDA

1. Description of the Bureau of Verification and Intelligence

The Bureau of Verification and Intelligence (VI) has responsibility for ACDA's work in verification, compliance, intelligence, operations analysis, and computer support. VI provides the support in these subject areas for the Strategic Arms Reduction Talks (START); the Intermediate-Range Nuclear Force negotiations (INF); the Standing Consultative Commission (SCC); the Anti-Ballistic Missile (ABM), SALT I, and SALT II Treaties; the Limited Test Ban Treaty (LTBT) and Threshold Test Ban Treaty (TTBT); and the agreements on chemical and biological weapons.

2. Nature of the Assignment

A visiting scholar assigned to VI would assist in the development of verification requirements for arms control agreements being negotiated; in the review of compliance with agreements in effect; in operations analysis or relevant arms control issues; and/or in the analysis of Soviet views. Because of the complex technical and analytical content in these areas, VI seeks a physical scientist, operations analyst, or expert in Soviet strategy and doctrine with a broad background.

The visiting scholar's responsibilities would include performing studies, drafting policy papers, and/or performing analyses both for use within ACDA and for coordination with other agencies such as the National Security Council, the Central Intelligence Agency, the Office of the Secretary of Defense, the Joint Chiefs of Staff, and the Department of State, in Interagency Groups. In some cases, the individual would represent ACDA on interagency working groups. The visiting scholar would be called upon to exercise a relatively high degree of individual judgment.

3. Candidate Qualifications

Specific useful background for a candidate would include: knowledge of basic physics, operations research, or Soviet strategic studies, facility in concise writing, general communication skills, and proven ability to innovate. Background in the areas of VI responsibility would be of value but is not a requirement.

[FR Doc. 84-4033 Filed 2-14-84; 8:45 am]
BILLING CODE 6820-33-M

CIVIL AERONAUTICS BOARD

[84-2-29]

Application of Florida West Airlines, Inc., for Certificate Authority

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Order to Show Cause (84-2-29).

SUMMARY: The Board is proposing to find Florida West Airlines, Inc. fit, willing, and able and to issue it a certificate of public convenience and necessity under section 401 of the Federal Aviation Act authorizing it to provide interstate and overseas scheduled air transportation of persons, property, and mail.

DATES: All interested persons wishing to respond to the Board's tentative fitness determination and proposed certificate award shall file, and serve upon all persons listed below no later than February 29, 1984, a statement of their response, together with a summary of testimony, statistical data, and other material expected to be relied upon to support any objections raised.

ADDRESS: Responses should be filed in Docket 41748, and addressed to the Docket Section, Civil Aeronautics Board, Washington, D.C. 20428, and should be served upon the parties listed in Attachment B to the order.

FOR FURTHER INFORMATION CONTACT: John F. Brennan, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428, (202) 673-5340.

SUPPLEMENTARY INFORMATION: The complete text of Order 84-2-29 is available from our Distribution Section, Room 100, 1825 Connecticut Avenue, NW., Washington, D.C. 20428. Persons outside the metropolitan area may send a postcard request for Order 84-2-29 to that address.

By the Civil Aeronautics Board: February 9, 1984.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 84-4133 Filed 2-14-84; 8:45 am]
BILLING CODE 6320-01-M

[Order 84-2-30; Docket 41805]

Application of Tower Air, Inc., for Certificate Authority Under Subpart Q

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Order to Show Cause, Order 84-2-30, Docket 41805.

SUMMARY: The Board is directing all interested persons to show cause why it should not issue an order granting

Tower Air a certificate of public convenience and necessity to engage in scheduled interstate and overseas air transportation.

DATES: Persons wishing to file objections should do so in Docket 41805 by February 29, 1984.

ADDRESS: Objections and answers to objections should be filed in Docket 41805, and addressed to the Docket Section, Civil Aeronautics Board, Washington, D.C. 20428.

FOR FURTHER INFORMATION CONTACT: Steven B. Farbman, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428, (202) 673–5340.

SUPPLEMENTARY INFORMATION: The complete text of Order 84–2–30 is available from our Distribution Section, Room 100, 1825 Connecticut Avenue, NW., Washington, D.C. 20428. Persons outside the metropolitan area may send a postcard request for Order 84–2–30 to that address.

By the Civil Aeronautics Board: February 9, 1984.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 84–4132 Filed 2–14–84; 8:45 am]

BILLING CODE 6320–01–M

[Order 84–2–31]

Fitness Determination of San Juan Airlines, Inc.

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Commuter Air Carrier Fitness Determination—Order 84–2–31, Order to Show Cause.

SUMMARY: The Board is proposing to find that San Juan Airlines, Inc. is fit, willing and able to provide commuter air carrier service under section 419(c)(2) of the Federal Aviation Act, as amended, and that the aircraft used in this service conform to applicable safety standards. The complete text of this order is available, as noted below.

DATES: Responses: All interested persons wishing to respond to the Board's tentative fitness determination shall serve their responses on all persons listed below no later than March 1, 1984, together with a summary of the testimony, statistical data, and other material relied upon to support the allegations.

ADDRESSES: Responses or additional data should be filed with the Special Authorities Division, Room 915, Civil Aeronautics Board, Washington, D.C. 20428, and with all persons listed in Attachment A to the order.

FOR FURTHER INFORMATION CONTACT: Carolyn Kramp, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428, (202) 673–5090.

SUPPLEMENTARY INFORMATION: The complete text of Order 84–2–31 is available from the Distribution Section, Room 100, 1825 Connecticut Avenue, NW., Washington, D.C. 20428. Persons outside the metropolitan area may send a postcard request for Order 84–2–31 to that address.

By the Civil Aeronautics Board: February 9, 1984.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 84–4131 Filed 2–14–84; 8:45 am]

BILLING CODE 6320–01–M

[Order 84–2–35; Docket 41987]

Las Vegas-Alberta Service Case; Investigation

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Order Instituting Investigation: Order 84–2–35, Docket 41987.

SUMMARY: The Board is instituting the *Las Vegas-Alberta Service Case* to select primary and back-up carriers to provide scheduled service between Las Vegas, Nevada and Calgary and Edmonton, Alberta, Canada. (Route F.4 of the U.S.-Canada Air Transport Services Agreement). The Proceeding will also consider whether Republic Airlines' certificate authority for this route should be deleted under section 401(g) of the Act. The complete text of Order 84–2–35 is available as noted below.

DATES: Applications, motions to consolidate applications conforming to the scope of this proceeding, petitions from interested persons, and petitions for reconsideration shall be filed by February 29, 1984.

ADDRESSES: All pleadings should be filed in the Docket Section, Civil Aeronautics Board, Washington, D.C. 20428 in Docket 41987, Las Vegas-Alberta Service Case.

FOR FURTHER INFORMATION CONTACT: Ronald A. Brown of International Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428, (202) 673–5203.

SUPPLEMENTARY INFORMATION: The complete text of Order 84–2–35 is available from our Distribution Section, Room 100, 1825 Connecticut Avenue, NW., Washington, D.C. 20428. Persons outside the metropolitan area may send a postcard request for Order 84–2–35 to the Distribution Section, Civil Aeronautics Board, Washington, D.C. 20428.

By the Civil Aeronautics Board: February 9, 1984.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 84–4130 Filed 2–14–84; 8:45 am]

BILLING CODE 6320–01–M

[Order 84–2–36; Docket 41988]

Texas-Alberta-Alaska Service Case; Investigation

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Order Instituting Investigation: Order 84–2–36, Docket 41988.

SUMMARY: The Board is instituting the *Texas-Alberta-Alaska Service Case* to select primary and back-up carriers to provide scheduled service between the coterminal points Houston and Dallas/Ft. Worth, Texas, the intermediate points Calgary and Edmonton, Alberta, Canada, and the coterminal points Anchorage and Fairbanks, Alaska. (Route D.1 of the U.S.-Canada Air Transport Services Agreement). The proceeding will also consider whether Western Air Lines' certificate authority for this routes should be deleted under section 401(g) of the Act. The complete text of Order 84–2–36 is available as noted below.

DATE: Applications, motions to consolidate, applications conforming to the scope of this proceeding, petitions from interested persons, and petitions for reconsideration shall be filed by March 1, 1984.

ADDRESS: All pleadings should be filed in the Docket Section, Civil Aeronautics Board, Washington, D.C. 20428 in Docket 41988, *Texas-Alberta-Alaska Service Case.*

FOR FURTHER INFORMATION CONTACT: William J. Wagner, Bureau of International Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428, (202) 673–5514.

SUPPLEMENTARY INFORMATION: The complete text of Order 84–2–36 is available from our Distribution Section, Room 100, 1825 Connecticut Avenue, NW., Washington, D.C. 20428. Persons outside the metropolitan area may send a postcard request for Order 84–2–36 to the Distribution Section, Civil Aeronautics Board, Washington, D.C. 20428.

By the Civil Aeronautics Board: Feburary 9, 1984.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 84-4129 Filed 2-14-84; 8:45 am]

BILLING CODE 6320-01-M

[Order 84-2-37; Docket 41989]

United States-Dublin Route Proceeding; Investigation

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Order Instituting Investigation: Order 84-2-37, Docket 41989.

SUMMARY: The Board is instituting the *United States-Dublin Route Proceeding* to select primary and back-up carriers to provide scheduled service between United States and Dublin, Ireland, via Shannon. The proceeding will also consider whether Pan American World Airways' certificate authority for these routes should be deleted under section 401(g) of the Act. The complete text of Order 84-2-37 is available as noted below.

DATES: Applications, motions to consolidate applications conforming to the scope of this proceeding, petitions from interested persons, and petitions for reconsideration shall be filed by March 7, 1984.

ADDRESSES: All pleadings should be filed in the Docket Section, Civil Aeronautics Board, Washington, D.C. 20428 in Docket 41989, *United States-Dublin Route Proceeding.*

FOR FURTHER INFORMATION CONTACT: Nicholas R. Lowry, Bureau of International Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428, (202) 673-5203.

SUPPLEMENTARY INFORMATION: The Complete text of Order 84-2-37 is available from our Distribution Section, Room 100, 1825 Connecticut Avenue, NW., Washington, D.C. 20428. Persons outside the metropolitan area may send a postcard request for Order 84-2-37 to the Distribution Section, Civil Aeronautics Board, Washington, D.C. 20428.

By the Civil Aeronautics Board: February 9, 1984.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 84-4128 Filed 2-14-84; 8:45 am]

BILLING CODE 6320-01-M

DEPARTMENT OF COMMERCE

International Trade Administration

[Case No. 653]

Paul C. Carlson et al; Order Temporarily Denying Export Privileges

In the matter of: Paul C. Carlson, c/o C-O Manufacturing Company, Inc; 646 Summer Street, Brockton, Massachusetts 02403; Brian A. Moller-Butcher a/k/a Brian A. Butcher, 23 Merrywood Park, Golf Drive Camberley, Surrey, England; C-O Manufacturing Company, Inc., 646 Summer Street, Brockton, Massachusetts 02403; M.E.S. Equipment, Inc., with locations at both 646 Summer Street, Brockton, Massachusetts 02403 and 147-27 175 Street, Jamaica, New York 11434.

The Department of Commerce (the Department), pursuant to the provisions of § 388.19 of the Export Administration Regulations (15 CFR Parts 368-399 (1983)) (the Regulations), has petitioned the Hearing Commissioner for an order temporarily denying all export privileges to Paul C. Carlson of Brockton, Massachusetts; Brian A. Moller-Butcher, also know as Brian A. Butcher, of Surrey, England; C-O Manufacturing Company, Inc. of Brockton, Massachusetts, and M.E.S. Equipment, Inc. of Brockton, Massachusetts and Jamaica, New York (hereinafter collectively referred to as respondents).

The Department states that on February 18, 1982, a Federal grand jury returned a 30-count indictment against Brian A. Moller-Butcher, a British citizen, and his U.S. company, M.E.S. Equipment, Inc., and Paul C. Carlson and his company, C-O Manufacturing, Inc. The indictment charged Moller-Butcher, Carlson and their companies with numerous counts of exporting and reexporting United States-origin equipment without validated licenses or reexport authorizations and with making false writings regarding those exports and reexports. Paul C. Carlson and his company, C-O Manufacturing, Inc., pled guilty to several counts of the indictment. Moller-Butcher did not appear for trial and is currently a fugitive with an outstanding warrant issued for his arrest. The Government, in the interest of prosecutorial and judicial economy, won a dismissal, without prejudice, of its case against M.E.S. Equipment, Inc. until both Moller-Butcher and his company can be tried simultaneously.

The Department further states that it believes that the respondents may attempt to engage in transactions involving U.S.-origin commodities and technical data contrary to the Regulations unless appropriate action is taken to preclude such attempts.

Based on the showing made by the Department, I find that an order temporarily denying all export privileges to Moller-Butcher, Carlson, M.E.S. Equipment, Inc., C-O Manufacturing Company, Inc. and to parties related to them is required in the public interest to facilitate enforcement of the Export Administration Act of 1979, an amended (50 U.S.C. app. 2401-2420 (Supp. V 1981)), and the Regulations.

Anyone who is now or may in the future be dealing with the above-named respondents or any related party in transactions that in any way involve U.S.-origin commodities or technical data is specifically alerted to the provisions set forth in Paragraph IV below.

Accordingly, it is hereby

Ordered

I. All outstanding validated export licenses in which any respondent or any related party appears or participates, in any manner or capacity, are hereby revoked and shall be returned forthwith to the Office of Export Administration for cancellation.

II. The respondents, their successors or assignees, officers, partners, representatives, agents, and employees hereby are denied all privileges of participating, directly or indirectly, in any manner or capacity, in any transaction involving commodities or technical data exported from the United States in whole or in part, or to be exported, or that are otherwise subject to the Regulations. Without limitation of the generality of the foregoing, participation prohibited in any such transaction, either in the United States or abroad, shall include participation, directly or indirectly, in any manner or capacity: (a) As a party or as a representative of a party to a validated export license application, (b) in the preparation or filing of any export license application or reexport authorization, or of any document to be submitted therewith, (c) in the obtaining or using of any validated or general export license or other export control document, (d) in the carrying on of negotiations with respect to, or in the receiving, ordering, buying, selling, delivering, storing, using, or disposing of, in whole or in part, any commodities or technical data exported from the United States, or to be exported, and (e) in the financing, forwarding, transporting, or other servicing of such commodities or technical data.

III. Such denial of export privileges shall extend not only to the respondents, but also to their agents and employees and to any successors. After notice and

opportunity for comment, such denial may also be made applicable to any person, firm, corporation, or business organization with which respondents are now or hereafter may be related by affiliation, ownership, control, position of responsibility, or other connection in the conduct of export trade or related services. Those parties now known to be affiliated with the least one of the respondents, and which are accordingly subject to the provisions of this order, are:

Contel Equipment, 5 Bear Court, Danshill East Industrial Estate, Basingstoke Hampshire, England
M.E.S. Equipment, Inc., First Floor, The Parade, Frimley, Camberley, Surrey, England
Scan-Furn, Merrywood House, 23 Merrywood Park, Golf Drive, Camberley, Surrey, England

IV. No person, firm, corporation, partnership or other business organization, whether in the United States or elsewhere, without prior disclosure to and specific authorization from the Office of Export Administration, shall, with respect to U.S.-origin commodities and technical data, do any of the following acts, directly or indirectly, or carry on negotiations with respect thereto, in any manner or capacity, on behalf of or in any association with any respondent or any related party, or whereby any respondent or any related party may obtain any benefit therefrom or have any interest in or participation therein, directly or indirectly: (a) Apply for, obtain, transfer, or use any license, Shipper's Export Declaration, bill of lading, or other export control document relating to any export, reexport, transshipment, or diversion of any commodity or technical data exported in whole or in part, or to be exported by, to, or for any respondent or any related party denied export privileges; or (b) order, buy, receive, use, sell, deliver, store, dispose of, forward, transport, finance, or otherwise service or participate in any export, reexport, transshipment, or diversion of any commodity or technical data exported or to be exported from the United States.

V. In accordance with the provisions of § 388.19(b) of the Regulations, any respondent or any related party may move at any time to vacate or modify this temporary denial order by filing with the Hearing Commissioner, International Trade Administration, U.S. Department of Commerce, Room 6716, 14th and Constitution Avenue, NW., Washington, D.C. 20230, an appropriate motion for relief and may also request an oral hearing thereon, which, if requested, shall be held before the Hearing Commissioner at the earliest convenient date.

VI. This order is effective immediately. It remains in effect until the final disposition of any administrative proceedings that may be initiated against the respondents based on the investigation which led to the indictment. A copy of this order and Parts 387 and 388 of the Regulations shall be served upon each of the respondents and the above-named related parties.

Dated: February 8, 1984.

Thomas W. Hoya,

Hearing Commissioner.

[FR Doc. 84-4081 Filed 2-14-84; 8:45 am]

BILLING CODE 3510-25-M

Auburn University; Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897; 15 CFR Part 301). Related records can be viewed between 8:30 a.m. and 5:00 p.m. in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C.

Docket No.: 83-362. Applicant: Auburn University, Auburn, AL 36849. Instrument: Electron Energy Loss Spectrometer, Model ELS-22. Manufacturer: Leybold-Heraeus GmbH & Company, West Germany. Intended use: See notice at 48 FR 56421.

Comments: None received.

Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States.

Reasons: The foreign instrument is capable of; (1) Determining low electron loss; and (2) measuring the nature and orientation of adsorbed species. The National Bureau of Standards advises in its memorandum dated January 12, 1984 that: (1) The capability of the foreign instrument described above is pertinent to the applicant's intended purpose; and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

We know of no other instrument or apparatus of equivalent scientific value to the foreign instrument which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 84-4082 Filed 2-14-84; 8:45 am]

BILLING CODE 3510-DS-M

Harvard University; Decision on Application for Duty-free Entry of Scientific Instrument

This decision is made pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897; 15 CFR Part 301). Related records can be viewed between 8:30 AM and 5:00 PM in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C.

Docket No.: 83-121. Applicant: Harvard University, Cambridge, MA 02138. Instrument: Instrument for the study of Spin Polarized Atomic Hydrogen. Manufacturer: Natuurkundig Laboratorium, The Netherlands. Intended use: See notice at 48 FR 47040.

Comments: None received.

Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States.

Reasons: The foreign instrument is capable of stabilizing atomic hydrogen. The National Bureau of Standards advises in its memorandum dated December 12, 1983 that: (1) The capability of the foreign instrument described above is pertinent to the applicant's intended purpose; and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

We know of no other instrument or apparatus of equivalent scientific value to the foreign instrument which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 84-4084 Filed 2-14-84; 8:45 am]

BILLING CODE 3510-DS-M

Pomona College; Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to Section 6(c) of the Educational,

Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897; 15 CFR Part 301). Related records can be viewed between 8:30 a.m. and 5:00 p.m. in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C.

Docket No.: 83–341. Applicant: Pomona College, Claremont, CA 91711. Instrument: One (1) Hand Held Ratioing Radiometer System. Manufacturer: Barringer Research, Canada. Intended use: See notice at 48 FR 52619.

Comments: None received.

Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States.

Reasons: The foreign instrument provides the capability of in situ infrared reflectance ratioing with a spectral range of 0.4 to 2.5 micrometers. The National Bureau of Standards advises in its memorandum dated January 26, 1984 that (1) The capability of the foreign instrument described above is pertinent to the applicant's intended purpose; and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

We know of no other instrument or apparatus of equivalent scientific value to the foreign instrument which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 84–4083 Filed 2–14–84; 8:45 am]

BILLING CODE 3510–DS–M

University of Texas, et al.; Consolidated Decision on Applications for Duty-Free Entry of Electron Microscopes

This is a decision consolidated pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897; 15 CFR Part 301). Related records can be viewed between 8:30 a.m. and 5:00 p.m. in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C.

Docket NO.: 83–354. Applicant: The University of Texas Health Science Center at Houston, Houston, TX 77030. Instrument: Electron Microscope with Eucentric Side Entry Goniometer Stage, JEM–100 CX. Manufacturer: JEOL Ltd., Japan. Intended use: See notice at 48 FR 56094. Instrument ordered: August 26, 1983.

Docket No.: 84–1. Applicant: Baptist Medical Center, Jacksonville, FL 32207. Instrument: Electron Microscope, EM 109. Manufacturer: Carl Zeiss, West Germany. Intended use: See notice at 48 FR 51676. Instrument ordered: September 13, 1983.

Docket No.: 84–3. Applicant: State University of New York at Stony Brook, Stony Brook, NY 11794. Instrument: Electron Microscope, Model JEM 1200EX. Manufacturer: Joel Ltd., Japan. Intended use: See notice at 48 FR 56421. Instrument ordered: September 20, 1983.

Docket No.: 84–4. Applicant: University of Miami, Miami, Fl 33101. Instrument: Electron Microscope, JEM 100CX. Manufacturer: JEOL Ltd., Japan. Intended use: See notice at 48 FR 56421. Instrument ordered: August 17, 1983.

Docket No.: 84–5. Applicant: NIH/ National Institutes of Dental Research, Bethesda, MD 20205. Instrument: Electron Microscope, JEM 100CX/SEG. Manufacturer: JEOL Ltd., Japan. Intended use: See notice at FR 56421. Instrument ordered: June 21, 1983.

Docket No.: 84–6. Applicant: VA Medical Center, Seattle, WA 98108. Instrument: Electron Microscope, Model JEM–100S with Accessories. Manufacturer: JEOL Ltd., Japan. Intended use: See notice at 48 FR 57581. Instrument ordered: September 16, 1983.

Docket No.: 84–11. Applicant: Spelman College, Atlanta, GA 30914. Instrument: Electron Microscope, Model JEM 100CX and Accessories. Manufacturer: JEOL Ltd., Japan. Intended use: See notice at 48 FR 57581. Instrument ordered: July, 29, 1983.

Docket No.: 84–14. Applicant: University of Vermont, Burlington, VT 05405. Instrument: Electron Microscope, Model EM 10CA with Accessories. Manufacturer: Carl Zeiss, West Germany. Intended use: See notice at 48 FR 57582. Instrument ordered: October 4, 1983.

Docket No.: 84–20. Applicant: U.S. Environmental Protection Agency, Duluth, MN 55804. Instrument: Electron Microscope, Model JEM–1200EX with Accessories. Manufacturer: JEOL Ltd., Japan. Intended use: See notice at 49 FR 922. Instrument ordered: August 23, 1983.

Docket No.: 84–21. Applicant: University of Illinois at Urbana-Champaign, Urbana, IL 61801. Instrument: Electron Microscope Model EM 430 with Accessories. Manufacturer: N.V. Philips Gloeilampenfabrieken, The Netherlands. Intended use: See notice at 49 FR 922. Instrument ordered: June 16, 1983.

Docket No.: 84–23. Applicant: Emory University School of Medicine, Atlanta, GA 30322. Instrument: Electron Microscope Model JEM 100CX with Accessories. Manufacturer: JEOL Ltd., Japan. Intended use: See notice at 49 FR 922. Instrument ordered: August 25, 1983.

Comments: None received.

Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as these instruments are intended to be used, was being manufactured in the United States at the time the instruments were ordered.

Reasons: Each foreign instrument is a conventional transmission electron microscope (CTEM) and is intended for research or scientific educational uses requiring a CTEM. We know of no CTEM, or of any other instrument suited to these purposed, which was being manufactured in the United States either at the time of order of each instrument or at the time of receipt of application by the U.S. Customs Service.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 84–4088 Filed 2–14–84; 8:45 am]

BILLING CODE 3510–DS–M

National Bureau of Standards

Guideline Documents Implementing Federal Standards Policy

AGENCY: National Bureau of Standards, Commerce.

ACTION: Notice of Guideline Documents Implementing Federal Standards Policy.

SUMMARY: The purpose of this notice is to announce the approval by the Secretary of Commerce of three guideline documents that have been developed by the Interagency Committee on Standards Policy. These documents implement various aspects of the Federal Standards Policy as set out in Office of Management and Budget (OMB) Circular A–119, dated October 26, 1982.

The Interagency Committee on Standards Policy (ICSP) was established by the Secretary of Commerce under Section 8.a.(2) of OMB Circular A–119. The three guidance documents developed by the ICSP are set out in their entirety at the conclusion of this notice.

The first document establishes "Guidelines for Participation by U.S. Government Agencies, Employees or

Representatives in International Standards-Related Activities." Section 1 of this document applies to participation in international organizations in which the U.S. Government is the official U.S. member body. Section 2 of this document applies to participation in international organizations in which the U.S. Government is not the official U.S. member body.

The second document establishes "Guidelines for Federal Agency Use of Private Sector Third-Party Certification Programs." The third document provides "Guidelines for Federal Agency Use of Self Certification by Producer or Supplier." These latter two documents are generally applicable to agency procurement and regulatory programs that require statements of conformance to specific standards or specifications.

Comments and questions concerning these guidelines should be directed to Dr. Stanley I. Warshaw, Director, Office of Product Standards Policy, National Bureau of Standards, Washington, D.C. 20234, (301–921–3751). Dr. Warshaw is the Chairman of the Interagency Committee on Standards Policy.

Dated: February 9, 1984.

Ernest Ambler,

Director, National Bureau of Standards.

Guidelines for Participation by U.S. Government Agencies, Employees, or Representatives in International Standards-Related Activities

Introduction

The important role that standards-related activities have played throughout the whole fabric of national and international economic activities has received increased recognition in recent years. Standards have consolidated and extended the application of technology, helped to conserve scarce resources, improved industrial efficiency, enhanced the general welfare of the public, promoted commerce, and generally improved communication and understanding among the drafters and users of standards. In particular, governments have been giving more attention to the part played by standards as technical barriers to trade. If improperly conducted, international standards activities can suppress free and fair competition, impede innovation and technical progress, exclude safer and less expensive products, or otherwise adversely affect domestic and international commerce.

The role and functions of U.S. Government agencies, employees, and representatives in international standards-related activities have not been clearly defined. Consequently, the interpretation of that role has varied among Federal agencies, the private sector, and foreign countries. Other factors have also prompted the need to establish uniform Federal guidelines in the international standards area, notablyD

1. The increasing tendency of governments to regulate or procure by "reference to standards";

2. The growing impact of national standards upon domestic and international commerce;

3. Current international activity aimed at preventing barriers to trade that arise from differing national mandatory and voluntary standards, including heightened interest in the development of international standards and their subsequent national adoption; and

4. An expressed desire by several U.S. Government agencies for such guidelines.

A recent U.S. development covering the subject of standardization gives further impetus for the development of guidelines covering Federal participation in international standardization activities:

• Trade Agreements Act of 1979, Title IV—Technical Barriers to Trade (Standards), effective January 1, 1980. Section 413 of that Act deals specifically with representation of U.S. interests before international standards organizations. Regarding private international organizations, this section recognizes the role of U.S. private sector members of such organizations and grants the Secretaries of Commerce and Agriculture authority, under certain circumstances, to provide for adequate U.S. representation in those private international standards organizations through the U.S. member bodies. Regarding representation of U.S. interests by Federal agencies, Section 413(c) encourages cooperation among Federal agencies regarding the development of uniform positions, and encourages such Federal agencies to seek information from and to cooperate with domestic U.S. interests. Paragraph 2.3 of the international Standards Agreement itself calls upon parties (e.g., the U.S. Government) to "play a full part within the limits of their resources in the preparation by appropriate international standardizing bodies of international standards for products for which they have either adopted, or expect to adopt, technical regulations or standards."

The recent and rapid expansion of international cooperation in trade and defense emphasizes the need for effective government involvement in the development of acceptable international standards (including test methods and certification) and requires that the limited U.S. Government resources contributing to such standards be expended effectively through efficient Government representation in and coordination with international standards organizations. These guidelines provide direction for strengthening such efficiency and effectiveness. Accordingly, the aim of this document is to provide guidance to U.S. Government agencies, employees, and representatives who participate in:

(a) International organizations in which the U.S. Government is the official U.S. member body (commonly called intergovernmental organizations), e.g., International Organization of Legal Metrology (OIML).

(b) International organizations in which the U.S. Government is not the official U.S. member body and where the United States is represented by a domestic private sector organization that is recognized by a private international organization as the U.S. member body, e.g., International Organization for Standardization (ISO) and International Electrotechnical Commission (IEC), where the U.S. member body is the American National Standards Institute (ANSI).

Although the two types of organizations are treated separately in these guidelines, such guidelines are uniform by being applicable to both types to the maximum extent possible.

These guidelines cover not only Federal participation in international *conferences and meetings*, but also participation in the *development of U.S. positions* in preparation for these conferences and meetings.

The application of these guidelines will vary from time to time and from committee to committee according to the end-use of a standard. Much will depend on whether the international standard under development is to be considered for reference in regulations and, if so, whether compliance with its provisions is likely to be mandatory, and whether there are relevant existing or proposed national or international requirements. These and similar considerations will influence the role of the U.S. Government representatives participating in standards-developing groups. This document is intended to help such representatives discharge their responsibilities while promoting the development of reasonable and effective international standards.

It should be noted that individual U.S. Government departments may, in order to cover special interests, issue supplementary instructions to their representatives. Where possible, these instructions should be compatible with the principles contained in these guidelines. Attached to these guidelines is a list of Federal agency contact points on international standardization.

Glossary

Accredited—Official authorization to serve as a member of a delegation to an international standards-related activity.

Delegation—Representatives of a nation or member-body empowered to act at an international standards-related meeting.

Delegate—An accredited member of a delegation.

Head of Delegation—The person responsible for guiding the delegation at the international meeting and presenting the U.S. position.

Representative—An individual designated by a Federal agency as its official participant in international standards-related activities and/or development of U.S. positions thereon.

Principal Representative—The Federal representative designated to act as the primary U.S. Government spokesperson and coordinator when two or more Federal agencies participate in an international standards-related activity. The principal representative may function also as head of the delegation.

International Standards or Standards-Related Activities or Organizations—Includes standards, testing, and certification.

Lead Agency—A Federal agency which assumes responsibility for effective U.S. Federal representation in the International standards-related matter concerned.

Technical Offices

Department of Commerce

Technical Office for Implementation of Title IV of Trade Agreements Act/1979: Office of Product Standards Policy, National Bureau of Standards, U.S. Department of Commerce, Washington, D.C. 20234.

Department of Agriculture

Technical Office, Trade Relations Division, International Trade Policy, Foreign Agricultural Service, U.S. Department of Agriculture, South Agriculture Building, Washington, D.C. 20250.

Section I—Guidelines for Participation by U.S. Government Agencies, Employees, or Representatives in International Standard-Related Organizations in Which the U.S. Government is the Official U.S. Member Body

Subsection A. Delegation Accredited by U.S. Department of State

1. *Scope.* Subsection A applies only to international conferences, which are defined as meetings of three or more governments whose representatives are formally accredited by their governments to the sponsoring international organizations or host government. When this is the case, the U.S. delegation represents the U.S. Government as a whole. Such meetings may result in a formal commitment(s) by the U.S. Government of a policy nature. Subsection A does *not* apply to bilateral discussions or meetings of subsidiary international bodies which are intended to produce only recommendations to a higher authority of the organization concerned, and whose subject-matter is predominantly technical (in contrast to policy). The final arbiter as to whether or not a particular meeting meets the definition of an international conference (i.e., whether it falls under Subsection A or Subsection B) rests with the Office of International Conferences, U.S. Department of State.

2. *Lead Agency.* The U.S. Federal agency having primary responsibility or authority for the subject matter of the meeting normally is designated by the Department of State as lead agency. In cases where such primacy is not clear or is in dispute, the Department of State determines the lead agency. The lead agency should assume responsibility for U.S. preparations to the conference, assure that nominations for the delegation reach the Office of International Conferences in a timely fashion, and take responsibility for the effective representation of U.S. interests in the matter concerned.

3. *Nomination and Accreditation of Delegation.* The delegation should be proposed to the Office of International Conferences (OIC), U.S. Department of State by the lead agency or by an Interagency committee headed by the lead agency. The Office (OIC) recognizes that particularly in standards matters and effective representation therein, experience and continuity of participation are important considerations in the composition of delegations. Each person proposed for delegation membership including the U.S. representative (head of delegation), alternate, government advisors, and private sector advisors, as appropriate, will be justified on the basis of his or her essentiality to the work of the delegation. Because the delegation will represent the United States Government as a whole and will be instructed on U.S. positions on all major points, each interested agency need not have a representative on the delegation. OIC exercises delegated Presidential authority in accrediting U.S. delegations. Final decisions on the size and make-up of delegations including the resolution of any interagency differences thereon will be made by OIC.

4. *Development of U.S. Positions.* It is the responsibility of the lead agency to insure that a position paper is drafted on each relevant agenda item and that these papers are properly coordinated and cleared. In the discretion of the lead agency, U.S. positions may also be drafted on points which do not appear on the official agenda.

5. *Coordination Outside of Government.* The lead agency should seek the advice of person and organizations outside the U.S. Government whose interests may be materially affected by the subject-matter of the conference, especially U.S. trade interests. Such advice should be solicited in writing or through meetings prior to the development of the U.S. position.

6. *Intra-government Coordination.* It is the responsibility of the lead agency to insure that all interested government departments and agencies have the opportunity to review proposed U.S. positions and to resolve any differences which may occur prior to the international conference. It is the responsibility of the head of the delegation to insure that all members of the delegation are fully acquainted with the U.S. position and that they maintain necessary conformity therewith regardless of differences which may have existed previously.

7. *Report of Delegation.* The head of the delegation is responsible for preparing and submitting to OIC a final report on the meeting in accordance with instructions from OIC. That report should be made available by the head of the delegation to all members of the delegation and, if unclassified, to any interested party. Wherever possible, reports should be unclassified. Where security classification is necessary, only that portion of the report which merits classification should be so classified and indicated as such (see Executive Order 12356). When international trade is involved, the head of the delegation should transmit a copy of the report promptly to appropriate agencies and organizations, including the Departmen

of Commerce's Technical Office for implementation of Title IV of the Trade Agreements Act of 1979 on matters relating to non-agriculture products, and to the Department of Agriculture's Technical Office for implementation of Title IV on matters concerning agricultural products. Recommended contents of the report are:

a. Results of meeting in terms of U.S. objectives, including issues which were discussed but which did not appear on the agenda, if any;

b. Matters for further U.S. action or consideration, especially significant problem areas which may affect U.S. trade;

c. Information on future meeting(s), if available; and

d. Implications, if any, for U.S. export prospects and for competition in domestic markets.

Subsection B. Delegations Not Accredited by U.S. Department of State

1. *Scope.* These guidelines apply to all participation by U.S. delegations in standards-related meetings of international organizations in which the U.S. Government is the official U.S. member body, *except* those in which the U.S. Department of State accredits the U.S. delegation, in which case Subsection A shall apply.

2. *Lead Agency.* The Federal agency having primary responsibility for U.S. participation in the international organization under whose auspices the meeting is to be held is responsible for assuring adequate U.S. participation at the meeting. In the case of planned meetings (e.g., topical conferences, symposia) which are not under the auspices of a single international organization, the U.S. Government agencies having interests in the subject matter should cooperate in deciding which will act as lead agency. The lead agency should inform the relevant "Technical Office" of the Department of Commerce or Agriculture, as appropriate, of standards meetings whose outcome may affect U.S. trade.

3. *Meeting Preparations.* The lead agency is responsible for coordinating the many details involved in preparing for U.S. participation in international standards-related meetings. It is incumbent on the lead agency to take all reasonable steps to: assure adequate funding of the U.S. delegation; obtain necessary clearances (travel or otherwise); and, instruct the delegation in its responsibilities and duties.

3.1 *Formation of Delegation.* The lead agency is normally responsible for formation of the delegation and for the specific assignments of work to the delegation. In carrying out these responsibilities the following points should be taken into consideration:

3.1.1 *Size of Delegation.* The lead agency should use sufficiently selective criteria to ensure that the size of the delegation is justifiable in terms of the importance of the meeting to U.S. national interests.

3.1.2 *Balanced Representation.* The composition of the delegation requires careful consideration and planning. In selecting the delegation, the lead agency should take into consideration: The nature and purpose of the meeting; the possible impact of the meeting's results; the use of qualified women and minorities; and, the interests of all parties that may be substantially affected within the United States. In those cases where the meeting may result in technical requirements or standards which may measurably affect trade, or which may be adopted as law or regulation within the United States, it is particularly important to seek representation on the delegation from the affected community (e.g., industry, other Federal agencies, State and local governments, labor, universities, consuming public). The lead agency may find that, while there is interest in participation in the delegation by such groups, they may lack the necessary funds to do so (particularly to pay for international travel). In such cases a balanced U.S. viewpoint can often still be achieved by having all interested parties participate in preparatory meetings held to review, comment on, and agree on positions to be taken by the delegation during the international meeting.

3.1.3 *Head of Delegation.* In making its selection the lead agency should appoint as head of delegation an able negotiator who is: Experienced in the subject matter of the meeting; familiar with the policies and procedures of the international organization sponsoring the meeting; and, capable of maintaining harmony within the delegation.

3.1.4 *Accreditation of Delegation.* Once the composition of the U.S. delegation has been decided, the lead agency is responsible for satisfying any requirements imposed by the relevant international organization as regards accrediting or advanced notice of delegations. Generally, sponsors of international intergovernmental meetings request advance notification of participation. Every effort should be made by the lead agency to respect such requests in a timely fashion. Often, a simple letter of appointment to each delegate serves many useful purposes even when not required. For example, a letter of appointment is often useful in justifying participation in a standards meeting to higher management.

3.1.5 *Continuity of Delegation.* In recognizing that the effectiveness of a delegation is enhanced by the long-term continuity of participation by particular delegates, the lead agency should endeavor to provide and maintain that continuity.

3.2 *Preparation of Position Papers.* While it is advantageous to prepare position papers in advance of the meeting, there are many instances when advanced preparation of position papers is not practical because of the technical nature of the meeting, insufficient information as to the exact agenda to be discussed, or insufficient time. Consideration should be given to the nature, purpose, and status of the meeting in determining the need for position papers. For example, there are many meetings of a technical nature where delegates participate as experts under the rules of the organization and are free to take positions without committing their governments to a particular course of action. Delegates to such meetings should be prepared to take positions which have been coordinated with appropriate U.S. interests, although it may not have been possible to prepare position papers concerning the points involved. Further, technical discussions, particularly in the early stages of standards development, are free-wheeling and delegations should have the latitude to freely debate technical issues. In the standardization process, there are normally a number of iterations of a draft standard as it moves through the system. Position papers may, therefore, be more appropriate in guiding the delegation in later stages of standards development when delegations are expected to vote on adoption of the standard. It is sometimes also useful to prepare position papers for items not on the official meeting agenda but which are deemed likely to arise or otherwise be relevant to U.S. interests. In any case, the lead agency and the head of delegation should determine whether position papers are appropriate. When they are, the following guidelines should be followed.

3.2.1 *Unresolved Issues.* The head of delegation, with assistance as appropriate from the lead agency, should be responsible for the preparation of position papers. If agreement on a U.S. position on all major issues cannot be reached, the head of delegation should elevate any unresolved issue to the lead agency for resolution, in consultation with affected

interests (other agencies, private sector, etc.) where possible and practical.

3.2.2 *Clearance of Position Papers.* The head of delegation in cooperation with the lead agency should determine on a case-by-case basis what clearances of position papers, if any, are appropriate. With lead agency assistance, the head of delegation should also be responsible for obtaining such clearances.

3.3 *Coordination With Affected Interests.* Ensuring that affected U.S. interests have been taken into account in the preparation for the international meeting is perhaps the most difficult and yet most important responsibility of the lead agency and head of delegation. For obvious reasons of time and resources, there must be limits to the effort of coordinating positions. Accordingly, the lead agency and head of delegation should decide what actions need to be taken. If the meeting involves the development of technical standards which may become that basis for the conduct of international trade or of law or regulation in this country or in other countries, U.S. interests which may be materially affected by these standards should be notified of the meeting and provided with relevant information and the opportunity to comment on proposed positions. This may be accomplished in any feasible manner, including the solicitation of written comments or a meeting. The lead agency and head of delegation should be particularly aware of international standards activities which may overlap or duplicate ongoing activities either in other international organizations (intergovernmental or voluntary) in which the U.S. is a member, or within U.S. standards bodies, and should wherever possible take steps to reduce the possibility of duplication of effort.

3.4 *Prevention of Trade Barriers.* Government agencies and employees should be mindful that a standard may, if improperly written, create an unnecessary barrier to trade. Likewise, they should also be aware that some standards may be written in such a way as to impede innovation and technological progress and should strive to provide standards that promote innovative processes and technological advances when they are in the public interest. In general, standards based on performance criteria are less likely to pose competitive concerns than design, material, or construction criteria. Accordingly, preference should be given to performance criterion whenever they reasonably may be used in lieu of design, material, or construction criterion.

3.4.1 While a standard may include a product incorporating a device or process which is patented, it is undesirable for a standard to be written in such a way as to require the use of the patented device or process in order to be in conformance with the standard. Normally this problem can be avoided by writing standards based on performance criteria rather than design, materials, or construction criteria. There may be occasions, however, where there is a great need for a particular standard to be written to specify a patented item. Most standards organizations have patent policies which require that if an item which is patented is included in a standard, the owner of a patent must declare that the patent is available for unrestricted licensing under reasonable terms and conditions. Government participants should familiarize themselves with the patent policies of the organizations in which they are participating, and discuss them with their agency counsel should there be any questions.

3.5. *Technical Quality of Standards.* It is particularly important that a standard under development is technically sound, within the operating scope of the organization and meets defined needs of the member nations. This may require that the Government representative consult with other Government experts or with persons in other organizations who are not directly involved with the standard under consideration. Where a standard does not meet a particular set of needs or is not technically sound in the view of the Government participant, he/she should work with the committee to make the necessary corrections. If unsuccessful, the participant should oppose the adoption of the standard and report such action to agency management.

4. *Meeting Participation.* To be effective at international standards-related meetings, a U.S. delegation has to be prepared not only for the substance of the meeting, but also for possible side issues and actions that can have a significant impact on the success of the delegation. Instructions to a delegation include information on how to cope with unforeseen matters or with extraneous political issues that might arise during the meeting, and should stress the importance of team work and the need for the delegation to be constantly aware that their actions, in and outside of the meeting, should reflect credit upon the United States.

4.1 *Responsibilities of the Delegation.* Delegates shall at all times maintain the highest standards of personal and professional conduct.

4.1.1 *Head of Delegation.* The head of delegation is responsible for guiding the delegation and for presenting the U.S. position, taking into account the guidelines contained in 4.1.3.

4.1.2. *Delegation Members.* Members should assist the head of delegation wherever possible to ensure the success of U.S. participation in the meeting and should accept such responsibilities as are assigned, taking into account the guidelines contained in 4.1.3.

4.1.3 *Participation Guidelines.* Delegates to standards meetings represent the public interest of the United States. Serving the public interest requires a consideration of the viewpoints and objectives of all affected parties and the choice of alternatives which promise to yield the greatest economic and societal benefits to the United States. Participation should be guided by the following points.

4.1.3.1 *Unforeseen Matters.* At the discretion of the head of delegation, unforeseen matters which arise during the meeting should be addressed by the delegation. If the delegation cannot agree on a position on-the-spot, the head of delegation should either seek time to obtain instructions from the lead agency, or abstain from expressing a U.S. point of view.

4.1.3.2 *Unauthorized Personnel.* Only persons named as members of the delegation should participate in the work of the delegation. There may be instances when qualified American citizens are at the site of the meeting, and the head of delegation may wish to consult them on technical matters. Such consultation is permissible, but the persons may not be accredited or speak as members of the U.S. delegation without expressed prior authority from the lead agency.

4.1.3.3 *Press/Media Relations.* The head of delegation is responsible for any press, media, or public statements of the delegation. Except as specifically instructed to the contrary, the head of delegation is under no obligation to make any public statements regarding the meeting or on actions or positions taken by the delegation during the meeting. Public statements to the press/media should be made only after careful deliberation, keeping the general interests of the United States in mind. Where possible, the head of delegation may wish to consult with Embassy, Consulate, or appropriate Mission officials before making public statements.

4.1.3.4 *Meetings in the United States.* Arrangements for hosting an international meeting in the United States are likely to require a very long

lead time and may involve considerable expense. The head of delegation should neither invite a meeting of any kind to the United States nor imply that the United States would be willing to host a specific meeting without prior approval as appropriate.

4.1.3.5 *Extraneous Political Issues.* It is the policy of the United States Government that at standards-related meetings or at conferences of a technical, professional, scientific, or other specialized nature, it is inappropriate to inject extraneous political subjects. Accordingly, the U.S. delegation may not initiate political discussions and should oppose on a point of order the injection of political matters into the meeting by other delegations.

4.1.3.6 *Commitments of U.S. Participation in International Activities.* At the meeting, careful consideration should be given to any possible commitments that may entail significant expenditures of U.S. resources. This applies in particular to: participation of U.S. persons on committees, working groups, etc., other than for the duration of the meeting; undertaking Secretariat duties or committee chairmanshjps; and, hosting of meetings in the United States. The U.S. delegation should make tentative commitments only when necessary. In such cases, care should be taken to ensure that the commitments being made are clearly understood as tentative pending official confirmation.

4.1.3.7 *Expression of Personal Opinion.* Delegates should refrain from publicly or privately expressing opinions on U.S. policies or programs not germane to the meeting. When personal opinions, germane to the meeting are expressed, they should be clearly identified as personal and unofficial.

4.1.3.8 *Presentation of U.S. Positions.* As stated in 4.1.1, the head of delegation is responsible for presenting the U.S. position during the meeting. During the meeting, members of the U.S. delegation should not speak on behalf of the delegation without the approval of the head of delegation.

4.2 *Voting Guidelines.* During certain international standards meetings, entire standards are approved by ballot and the U.S. delegation will be expected to vote on adoption of a standard(s). The procedures of international standards bodies generally require approval of draft international standards at a number of successive levels (e.g., at the subcommittee, committee, and final or plenary level) before final adoption. The following guidelines for establishing U.S. positions on approval of draft standards are intended as a step towards a unified Federal Government approach to the development and use of international standards.

4.2.1 *Voting "Yes" to Approve Draft Standards.* Subject to the guidelines concerning trade barriers in section 3.4, consider voting "Yes" to approve an entire draft standard under any one of the following circumstances:

(a) If there is a U.S. national standard (a standard generally accepted within the U.S.), or a relevant regulation, or Federal agency policy which can be considered to be equivalent to the international document under consideration.

(b) If any conflict between the international document and U.S. practice (standard, regulation or policy) is such that the U.S. practice could be modified to conform without losing equivalence. In such cases the affirmative vote should be accompanied by a statement that, "the U.S. affirmative vote recognized the following minor technical additions, or changes, which may be included in the national standard, regulation or policy."

(c) If no relevant U.S. standard, regulation or policy exists and the international document is technically acceptable and could be used to develop national standards.

4.2.2 *Voting "No" to Disapprove Draft Standards.* Consider voting "No" to not approve an entire draft standard under any one of the following circumstances:

(a) If the international document is considered to be not equivalent to or in clear conflict with a U.S. national standard, regulation of Federal agency policy.

(b) The international document is not technically acceptable.

(c) If a U.S. standard, regulation or policy exists which differs from the international document only because the national practice (standard, regulation or policy) includes additional or more stringent requirements. In such a case, the U.S. Vote should be accompanied by comments pointing out that additional requirements must be met to satisfy the national practice.

(d) The international document unnecessarily creates a barrier to domestic or international trade, or impedes innovation or technological progress.

Reasons must be given for a negative vote. The U.S. vote must, therefore, be accompanied by reasons for the negative vote, such as exceptions and/or additions that will be required to conform with our safety practices or regulations.

4.2.3 *Voting to "Abstain" on Draft Standards.* Consider "Abstanining" on an entire draft standard under any one of the following circumstances:

(a) If the international document is considered to be of little interest to the U.S.

(b) If no U.S. standard, regulation or Federal agency policy exists and there is no intent to develop such.

(c) If no consensus position can be established on the international document.

4.2.4 *Exceptions.* Exceptions to the above stated voting guidelines should be carefully considered and based on a consensus.

5. *Post Meeting Responsibilities.* The delegation should prepare a written report to provide basic information with which to evaluate the results of the meeting and to plan for future meetings.

5.1 *Report of the Delegation.* The head of delegation should be responsible for preparing a report on the meeting within thirty (30) days of the close of meeting. As a minimum, the report should provide the following information:

(a) Title of the meeting, site, and inclusive dates.

(b) Meeting agenda as finally adopted.

(c) List of participants.

(d) Summary of the work of the meeting including titles of draft standards discussed, major issues presented (technical, procedural, or administrative), actions approved, and major positions taken by the delegation.

(3) Conclusions of the delegation as regards the work and accomplishments of the meeting from the point of view of U.S. interests (e.g., U.S. positions versus decisions of the meeting as a whole).

(f) Recommendations of the delegation as regards the nature and scope of U.S. participation in future meetings and follow-up actions needed to ameliorate significant problems, particularly those concerning the possible negative impact of any standards requirements on existing or future U.S. trade.

5.2 *Distribution of Report.* As a minimum the the report should be distributed to the lead agency and to each delegate. When problems of a trade nature have been identified or when the delegation has voted *not* to approve an entire draft standard based on the voting guidelines in section 4.2, the report should be sent to the appropriate Technical Office within the Department of Commerce or Department of Agriculture. Circulation of the report should also be made to any U.S. interests that were consulted in the development of positions and, particularly, to U.S. voluntary standards bodies involved in activities related to the subjects covered in the meeting.

Section II—Guidelines for Participation by U.S. Government Agencies, Employees, or Representatives in International Standards-Related Organizations in which the U.S. Government is not the Official U.S. Member-Body

1. *Scope.* These guidelines apply to participation by U.S. Government agencies, employees, or representatives in international standards activities in which the U.S. Government is not the official U.S. member-body, such as in the International Organization for Standardization (ISO) and the International Electrotechnical Commission (IEC). The guidelines supplement OMB Circular No. A–119, "Federal Participation in the Development and Use of Voluntary Standards," which establishes policy to be followed by executive branch agencies in working with voluntary standards organizations.

2. *Authorization.* In accordance with OMB Circular A–119, agencies and their employees are encouraged to participate in the activities of international standards bodies and standards-developing groups when such participation is in the public interest and is compatible with agencies' missions, authorities, priorities, and budget limitations.

3. *Role.* U.S. Government agencies and their employees should assist the U.S. member-body in ensuring effective participation and representation of U.S. interests in international standards bodies and standards-developing groups. Such assistance generally falls into one or more of the following types of international standards-related activities.

3.1. *Secretariat of an International Standards Activity.* A U.S. Government agency may be designated by the U.S. member-body to function as secretariat of an international standards committee, subcommittee, working group or task force.

3.2. *Administrator/Participant in an Advisory Group.* A U.S. Government agency may be requested by the U.S. member-body to function as administrator of an advisory group responsible for coordinating U.S. participation in an international standards activity. Such an advisory group is normally constituted to bring together all interested parties (public and private) in an international standards activity for the purpose of guiding U.S. participation in that activity. Similarly, agencies or their employees may be asked by the U.S. member-body, or designated advisory group administrator, to participate as a member or officer of the advisory group.

3.3. *Delegate to an International Standards Meeting.* U.S. Government employees may be invited by the U.S. member-body, or designated advisory group administrator, to participate as a member or head of delegation assembled to represent the member-body during an international standards committee meeting.

4. *Participation Principles.* Participation in international standards activities shall be at all times consistent with the highest standards of personal and professional ethics.

4.1. *Decision to Participate.* Effective participation in international standards activities outlined in sections 3.1 to 3.3 requires much more effort than merely attending meetings. Before accepting responsibility as secretariat or advisory group administrator of an international standards activity, agencies should thoroughly explore the resource implications and match to mission of such activity and make sure that the work can be undertaken and completed in an effective and timely manner. Likewise, agency employees serving as participants in international standards activities should devote adequate time and effort in preparing for meetings and other related activities to assure the development of meaningful and technically sound standards. The participant should inform his/her supervisor of the estimated time to be devoted to these activities and reach an understanding as to the extent and cost of participation, governed by individual workload and other official commitments.

4.2. *Adherence to Policies and Procedures of Member Body.* In all of the activities listed in 3.1 to 3.3, agencies and their employees are responsible for adhering to the guidelines and working procedures of both the parent international standards body and the respective U.S. member-body through which their participation is channeled.

4.3. *Representing the Public Interest.* Agencies and employees involved in international standards activities should represent the public interest of the United States in the broadest sense. The public interest inolves the interest of those parties who are substantially affected by the standards under consideration and includes manufacturers and producers, industrial users, distributors and retailers, government agencies, individual consumers, and the public at large. In serving the public interest, one promotes the general or national welfare rather than the self-interest of private individuals or organizations.

4.4. *Consideration of Balanced Representation.* Agencies responsible for administering international standards committee secretariats or advisory groups which develop U.S. input to international standards committees should seek a balance of viewpoints. In those cases where an international standard may measurably affect trade, or which may be proposed for adoption as law or regulation within the United States, it is particularly important to seek representation from the affected community (e.g., industry, other agencies, State and local governments, labor, universities, consuming public). Similarly, agency employees who participate on U.S. advisory groups, or as members of U.S. delegations preparing positions on proposed international standards, should offer to assist the responsible parties in assuring that balanced representation has been considered and sought.

4.5. *Coordination of Government Viewpoint.* There are occasions when Government participants from different agencies are members of the same standards advisory group or serve together as member of a U.S. delegation to an international standards meeting. Generally, their presence is recognition of professional expertise and competence in a particular subject area and/or recognition of differing roles played by their agencies in the subject area. Such participants may even represent different disciplines (chemist versus economist). In such instances it is entirely possible for views to be expressed which are different and which reflect the differing roles of the agencies involved. When this occurs, the participants should try to resolve substantive differences, particularly if they have a bearing on existing law or regulation. If the differences are serious and cannot be resolved by the involved participants, they should be brought to the attention of higher management within the involved agencies.

4.6. *Prevention of Trade Barriers.* The Government participant should be mindful that a standard may, if improperly written, create an unnecessary barrier to trade. Likewise, the participant should also be aware that some standards may be written in such a way as to impede innovation and technological progress and should strive to provide standards that do not unnecessarily hinder innovative processes and technological advances when they are in the public interest. In general, standards based on performance criteria are less likely to pose competitive concerns than design.

material, or construction criteria. Accordingly, preference should be given to performace criterion whenever they reasonably may be used in lieu of design, material, or construction criterion.

4.7. *Technical Quality of Standards.* It is particularly important that a standard under development is technically sound, within the operating scope of the organization and meets defined needs of the member nations. This may require that the Government representatives consult with other Government experts or with persons in other organizations who are not directly involved with the standard under consideration. Where a standard does not meet a particular set of needs or is not technically sound in the view of the Government participants, he/she should work with the committee to make the necessary corrections. If unsuccessful, the participant should oppose the adoption of the standard and report such action to agency management.

4.8. *Voting, When Authorized.* In accordance with OMB Circular A–119, Government participants may vote at each stage of standards development unless specifically prohibited from doing so by the head of the agency or that official's designee. The procedures of international standards bodies generally require approval of draft international standards at a number of successive levels (e.g., at the subcommittee, committee, and final or plenary level) before final adoption. The following voting guidelines relate to agency participation in technical advisory groups to international standards committees or in U.S. delegations to international standards committee meetings. The guidelines recognize the policy that U.S. positions relative to international standards activities are developed through a consensus of the participants.

4.8.1 *Voting "Yes" to Approve Draft Standards.* Subject to the guidelines concerning trade barrier in section 4.6, consider voting "Yes" to approve an entire draft standard under any one of the following circumstances:

(a) If there is a U.S. national standard (a standard generally accepted within the U.S.), or a relevant regulation, or Federal agency policy which can be considered to be equivalent to the international document under consideration.

(b) If any conflict between the international document and U.S. practice (standard, regulation or policy) is such that the U.S. practice could be modified to conform without losing equivalence. In such cases the affirmative vote should be accompanied by a statement that, "the U.S. affirmative vote recognizes the following minor technical additions, or changes, which may be included in the national standard, regulation or policy.

(c) If no relevant standard, regulation or policy exists and the international document is technically acceptable and could be used to develop national standards.

4.8.2 *Voting "No" to Disapprove Draft Standards.* Consider voting "No" to not approve an entire draft standard under any one of the following circumstances:

(a) If the international document is considered to be not equivalent to or in clear conflict with a U.A. national standard, regulation or Federal agency policy.

(b) The international document is not technically acceptable.

(c) If a U.S. standard, regulation or policy exists which differs from the international document only because the national practice (standard, regulation or policy) includes additional or more stringent requirements. In such a case, the U.S. vote should be accompanied by comments pointing out that additional requirements must be met to satisfy the national practice.

(d) The international document unnecessarily creates a barrier to domestic or international trade, or impedes innovation or technological progress.

Reasons must be given for a negative vote. The U.S. vote must, therefore, be accompanied by reasons for the negative vote, such as exceptions and/or additions that will be required to conform with our safety practices or regulations.

4.8.3 *Voting to "Abstain" on Draft Standards.* Consider "Abstaining" on an entire draft standard under any one of the following circumstances:

(a) If the international document is considered to be of little interest to the U.S.

(b) If no U.S. standard, regulation or Federal agency policy exists and there is no intent to develop such.

(c) If no consensus position can be established on the international document.

4.8.4 *Exceptions.* Exceptions to the above stated voting guidelines should be carefully considered and based on a consensus.

4.8.5 *Registering a Dissenting Viewpoint.* Government participants may be confronted with the situation where they consider a proposed U.S. vote as being in conflict with the public interest, the interests of the Federal Government, and/or their own professional judgment. Should such a conflict exist, participants should attempt to resolve them within the framework of the advisory group or delegation on which they serve. If unsuccessful, participants should make their position clear in writing to the U.S. member-body for the particular standards organization in question and inform their agency of the perceived conflict.

4.9. *Patents.* While a standard may include a product incorporating a device or process which is patented, it is undesirable for a standard to be written in such a way as to require the use of the patented device or process in order to be in conformance with the standard. Normally this problem can be avoided by writing standards based on performance criteria rather than design material, or construction criteria. There may be occasions, however, where there is a great need for a particular standard to be written to specify a patented item. Most standards organizations have patent policies which require that if an item which is patented is included in a standard, the owner of a patent must declare that the patent is available for unrestricted licensing under reasonable terms and conditions. Government participants should familiarize themselves with the patent policies of the organizations in which they are participating, and discuss them with their agency counsel should there be any questions.

5. *Reports.* Government participants who serve as members of U.S. delegations to international standards meetings should prepare a written report on their participation within thirty (30) days after the close of the meeting. Distribution of the report depends upon agency procedures covering such matters. As a minimum, the report should cover important actions and decisions taken during the meeting. Where problems are encountered, particularly as regards a U.S. vote on a standard, participants should consider sending a copy of their report to the appropriate Technical Office identified on page 3.

Guidelines for Federal Agency Use of Private Sector Third-Party Certification Programs

O. Introduction

When purchasers receive a product or service, they may seek assurance that it conforms to a specified standard or specification. The process by which such assurance is provided is referred to as certification. These procedures are intended to provide guidelines for Federal agency acceptance and use of private sector third-party certification.

Agencies should be aware of the competitive implications inherent in relying upon third parties and should be sure that programs used do not raise anti-trust concerns or otherwise adversely affect trade. The development of these procedures is based on ANSI Z34.1–1982, "for certification—third-party certification program" and ISO/IEC Guide 28, "General rules for a model third-party certification system for products."[1]

1. Purpose

1.1 This document sets forth procedures for third party certification under which a producer or supplier is authorized by a third party to use the program mark of conformity (certification mark) or a certificate of conformity to indicate that a product or service is in conformity with specific standards or specifications.

1.2 It is intended that these procedures be used when claiming conformance to Federal Government guidelines for third-party certification.

1.3 When conformance to these procedures is claimed, it shall pertain to all provisions of these procedures unless exceptions or alternatives are specifically authorized by the accepting authority.

2. Standard

2.1 This certification program shall be based on the entire contents of a standard unless full disclosure of limitations is made.[2]

2.2 This document is directed towards conformity with publicly available standards and technical specifications with a broad level of recognized acceptance, selected from among the following:

(a) American National Standards.

(b) A standard or specification of a qualified technical society, trade association, agency, society or other organization of national or international scope and recognition.

(c) A Federal, State, or local government standard or specification.

3. Definitions

3.1 *Certification:* the procedure by which written assurance is given that a product or service conforms to a standard or technical specification.

3.2 *Third-Party Certification:* a form of certification in which the producer's or suppliers's claim of conformity is validated, as part of a third-party program, by a technically competent body other than one controlled by the producer, supplier, or buyer.

3.3 *Producer or Supplier:* The manufacturer, distributor, or other party providing the product or service who is responsible for assuring conformance to all requirements of the standard or specification.

3.4 *Third-Party Certification Program:* an organized system under which similar products or services of any numbers of producers or suppliers may be certified as conforming to specified standards on a uniform and equitable basis, which is operated by or uses a validating laboratory that is independent of the producer or supplier, and which authorizes the use of controlled certification marks as evidence of conformity.

3.5 *Certification Mark:* the sign or symbol, owned and controlled by the certification body, which is used exclusively by the third-party certification program to identify products or services as being certified and is registered as a certification mark with the U.S. Patent Office under the Trade Mark Act of 1946.

3.6 *Certification Body:* an impartial body possessing the necessary competence and reliability to sponsor and operate a certification program.

3.7 *Third-Party Testing/Inspection Body:* an organization possessing the necessary technical competence which is other than one operated or controlled by and is independent of, the manufacturer, supplier or buyer of the certified product in that it has no organizational, financial or commercial involvement with the supplier (manufacturer or vendor) as to pose a potential conflict of interest situation.

3.8 Other terms as noted in ISO Guide 2:1980; "General terms and their definitions concerning standardization and certification," published by the International Organization for Standardization, and its addendum 1:1981.

4. Certification Body

4.1 The certification body whose name is identified with the program shall be from among the following organizations:

(a) A trade association.

(b) A professional or technical society.

(c) An organization of producers or service-rendering entities.

(d) A consumer-oriented organization.

(e) A third-party testing/inspection organization.

4.2 The certification body shall meet the general requirements of ISO/IEC Guide 40 for the acceptance of certification bodies. The body shall be responsible for and qualified to sponsor and operate a program to ensure uniform compliance with the provisions contained herein for the use of a mark of conformity.

4.3 The procedures under which the body operates shall be administered in a non-discriminatory manner. The body shall make participation in the certification program available to any applicant, and shall not require membership status for participation.

4.4 It shall be the responsibility of the certification body to:

(a) Organize and make available full operating details and procedures. Application procedure shall be included with provision for identifying standards applicable, products covered, and their place of origin. Procedures shall also be specified for determination of conformity and issuance of authorization to use the mark of conformity, conditions identified for the appropriateness of its subsequent extension, and terms detailed for its suspension and subsequent restoration.

(b) Designate the standards that shall serve as the basis of the certification program and to notify participants of the effective date of scheduled modifications thereto.

(c) Provide a system of validation (See 7. below) to determine that products or services bearing the mark of conformity (certification mark) conform to the applicable standard or specification and other requirements of the program. The certification body may conduct its own validation activities or oversee these activities carried out on its behalf by other bodies.

(d) Effect the provisions of due process, providing an appeals mechanism for resolving disputes regarding the program.

(e) Maintain adequate communication with all participating parties to assure relevancy, acceptability, and continuity of the program.

(f) Make available general information on procedures and operations and a program directory which includes a list of participants, the products and/or services authorized to bear the mark of conformity, a description of the mark of conformity, the identification of the referenced standard or specification, and the identification of the certification body and any other parties to the

[1] Documents referred to here and subsequently of the American National Standards Institute (ANSI), the International Organization for Standardization (ISO) and the International Electrotechnical Commission (IEC) are available for purchase from ANSI at 1430 Broadway, New York, New York 10018. The documents are available for reference at the National Center for Standards and Certification Information of the National Bureau of Standards located in Gaithersburg, Maryland.

[2] Guidance for the determination of the suitability of a standard for certification purposes is given in ISO/IEC Guide 7, "Requirements for standards suitable for product certification."

program in a form that discloses their relationship to the producer or supplier.

(g) Maintain the confidentiality of proprietary information, access to which results from contacts with participating producers or suppliers.

(h) Provide for the operation of the program on a continuing basis. The certification body may itself administer the program's activities or may oversee their administration carried out on its behalf by another body meeting all the requirements for acceptance as a certification body.

(i) Safeguard proper use of the mark of conformity. Procedures shall be established and used to detect incorrect citations of authorization or misleading use of the mark of conformity and, when warranted, corrective action taken. The basis for cancellation of authorization and procedures for its withdrawal shall be established for participating producers or suppliers. There shall be incorporated a means to provide timely notification to the user community of cancellations and unauthorized use.

(j) Implement a uniform, legally binding agreement (contract) between the certification body and the program participants to provide for proper use and control of the mark of conformity and other key operational elements of the certification program.

5. Quality Assurance

5.1 The producer shall establish, maintain, and use a system which will assure compliance with the requirements of the referenced standard(s) or specification(s). The system shall include the methods, procedures, controls, records, and maintenance of the system to provide continuing assurance of compliance with the referenced standard(s) or specification(s). The extent of this system will be dependent on the characteristics of the product(s) or service(s) and the requirements of the standard(s) or specification(s).

5.2 The producer shall conduct or contract for all necessary inspection and testing. Sampling and the frequency of sampling shall be according to accepted quality control practice. Testing shall be performed by a competent laboratory, properly equipped and having trained personnel.

5.3 The producer shall inform the certification body of any intended modification in the product, manufacturing process, or quality assurance system which may affect conformance to standards or specifications covered by the applicable authorization.

5.4 Where the assurance of conformity is provided by a supplier who is not the producer, the supplier shall account for these actions by the producer.

5.5 The system shall be documented by the producer or supplier to permit review and evaluation by the certification body. The documentation shall include a record of all complaints received relative to claims of conformity as well as their resolution.

6. Methods of Indicating Conformity

6.1 The program mark of conformity (certification mark) or, when permitted, a certificate of conformity issued under the authority of the certification body, shall be used to indicate to the recipient of the product or service that it has been found to conform with all requirements for third-party certification.

6.2 The mark of conformity (certification mark), when practicable, shall be in the form of a non-transferable label or mark on the product; otherwise on the package or container. Certificates of conformity, as in the case of services and other permissible situations, shall be included with other appropriate documents. The information appearing with the mark or on the certificate of conformity shall identify:

(a) The producer or supplier of the product or service.

(b) The product or service: name, type or model number and supplementary information providing product traceability.

(c) The applicable standard(s) or specification(s).

(d) The certification body (and the validating organization if different) in a form which discloses any organizational relationship to the producer or supplier. Where the name of an association or organization describes the relationship between the association or organization and the program participants, such name fulfills this requirement.

(e) In the case of certificates of conformity, the following additions:

(1) Lot, batch or other identifying source of the product or service covered by the certificate.

(2) Date of issues of the certificate.

(3) Signature and title of the authorized officer or other evidence of company authorization.

6.3 Use of and conformance with these procedures shall in no way authorize, imply or require the use of any mark or certificate of conformity except as authorized by the certification body.

6.4 The certification mark authorized and used shall be owned and controlled by the certification body and shall be registered as a certification mark under the Trade Mark Act of 1964.

6.5 As permitted by the certification body, the certification mark may be used in advertising, publicity, or public promotions.

6.6 The use of marks or certificates of conformity and other public declarations shall be unambiguous and provide no basis for misinterpretation:

(a) It shall be clear what products are covered.

(b) It shall be clear what characteristics are covered by the certification or declaration.

(c) It shall be clearly distinguished from any other claims, marking, or labeling not related to the authorized use of the mark or certificate of conformity.

7. Validation

7.1 The certification program shall provide for a system of both initial and continuing validation to determine that products or services conform with the standard or specification and other program requirements. The certification body shall prescribe detailed requirements for the system and be responsible for its operation by performing required inspection, surveillance, and testing itself or overseeing these activities carried out on its behalf by other bodies.

7.2 Those conducting the specified activities shall meet the general requirements of ISO/IEC Guides 38 and 39 for the acceptance of testing bodies and inspection bodies. The testing/inspection body shall be an independent organization with no organizational, managerial or financial affiliation with producers, suppliers, or buyers of the products or services covered by the certification program.

7.3 The process of validation shall consist of the following actions on the part of those responsible for its conduct:

(a) Determination that the producer or vendor has the necessary facilities, test equipment, and control procedures to ascertain whether the product or service complies with the program requirements and as applicable, review and verify the quality assurance program. Such action will include review of the system and essential program records and, as applicable, witnessing inspections and tests required by the system.

(b) Initial determination by uniform procedures that representative samples of products or services comply before such products or services are authorized to bear the mark of conformity or to be covered by a certificate of conformity under the follow-up provisions of the certification program.

(c) Conducting inspections and tests that are periodic, systematic and at a

frequency necessary to determine that the manufacturer's program is functioning properly; also when necessary conducting unannounced inspection and testing of the product(s) or service(s), including monitoring of the quality assurance program of the producer or vendor, when appliable, including more frequent or otherwise reinforced inspections where a need for additional follow-up is indicated.

(d) Inspecting and auditing the quality assurance program of the producer or vendor where such program is utilized as part of the validation system, indicating the nature of the validation inspection and auditing of such areas as:

—Method of selection of samples, including lot size
—Method and frequency of testing, inspection or both
—Record-keeping system
—Classification of defects
—Number of failures allowed: acceptance criteria
—Segregation and identification of accepted or rejected claims

7.4 The information required to perform these actions shall be specifically set forth so that consistent rulings will result. Likewise, where testing is required, information covering the testing protocol requirements and other criteria shall be specifically set forth and available in advance to participants in the program.

Guidelines for Federal Agency Use of Self-Certification by Producer or Supplier

0. Introduction

When purchasers receive a product or service, they may seek assurance that it conforms to a specified standard or specification. The process by which such assurance is provided is referred to as certification. The procedures are intended to provide guidelines for Federal agency acceptance and use of self-certification by producer or supplier. The development of these procedures is based on ANSI Z34.2–1980, "for self-certification by producer or supplier" and ISO Guide 22 (E), "Information on manufacturer's declaration of conformity with standards or other technical specifications."

1. Purpose

1.1 This document sets forth procedures to be used when a producer or supplier, on his or her own authority, declares to a purchaser that a product or service is in conformity with specific standards or specifications, without being under the procedures of a third-party certification system.

1.2 It is intended that these procedures be used when claiming conformance to Federal Government guidelines where self-certification is permitted regarding product specification and purchase, warranty, and advertising claims.

2. Standard

2.1 The declaration shall be based on the entire contents of a standard unless full disclosure of limitations is made in the declaration of conformity.

2.2 This document is directed towards conformity with standards and technical specifications from among the following:

(a) American National Standards.

(b) A standard or specification of a qualified technical society, trade association, agency, society or other organization of national or international scope and recognition.

(c) A Federal, State, or local government standard or specification.

(d) A standard or specification of buyer, producer, or supplier.

(e) Any standard which may be found mutually satisfactory to the contracting parties.

3. Definitions

3.1 *Certification:* The procedure by which written assurance is given that a product or service conforms to a standard or technical specification.

3.2 *Self-certification:* A form of certification by the producer or supplier, or his or her own authority, that a product or service is in compliance with a designated standard(s) or specification(s), without being under the procedures of a third-party certification system.

3.3 *Producer or supplier:* The manufacturer, distributor, or other party providing the product or service who is responsible for assuring conformance to all requirements of the standard or specification.

3.4 Other terms as noted in ISO Guide 2:1980; "General terms and their definitions concerning standardization and certification," published by the International Organization for Standardization and its Addendum 1:1981.

4. Quality Assurance

4.1 The producer shall establish, maintain, and use a system which will assure compliance with the requirements of the referenced standard(s) or specification(s). The system shall include the methods, procedures, controls, records, and maintenance of the system to provide verification of compliance with the referenced standard(s) or specification(s). The extent of this system will be dependent on the characteristics of the product(s) or service(s) and the requirements of the standard(s) or specifications.

4.2 The producer shall conduct or contract for all necessary inspection and testing. Sampling and the frequency of sampling shall be according to accepted quality control practice. Testing shall be performed by competent laboratory personnel using proper equipment.

4.3 Where the assurance of conformity is provided by a supplier who is not the producer, the supplier shall account for these actions by the producer.

4.4 The system shall be documented by the producer or supplier to permit review and evaluation. The documentation shall include a record of all complaints received relative to claims of conformity as well as their resolution.

5. Declaration of Conformity

5.1 The producer's or supplier's declaration of conformity may be presented by a declaration in a statement, catalogue invoice, delivery note, label, certificate of test, etc.

5.2 Formal presentation of the declaration of conformity shall identify:

(a) The producer or supplier making the declaration.

(b) The product or service: name, type, and supplementary information providing product traceability.

(c) The applicable standard(s) or specification(s).

(d) The availability of supporting test data.

(e) Adherence to he procedures described in this document.

(f) Date of issue of the declaration.

(g) Signature and title of authorized officer or other evidence of company authorization.

5.3 The declaration of conformity shall not be ambiguous or in any way provide basis for misinterpretation:

(a) It shall in no way suggest or lead to the belief that it has been endorsed or otherwise approved by the standards body or by any other party.

(b) It shall be clear what characteristics are covered by the declaration.

(c) It shall be clearly distinguished from any product marking or labeling not related to the indication of conformity.

(d) It shall in no way include any reference to or be associated with the marks of standards bodies or third-party certification programs.

6. Disputes and Appeals

6.1 Disputes concerning adherence to the requirements of the referenced standard(s) or specification(s) shall be handled fairly and equitably. Any disagreements may be referred to a referee acceptable to the producer(s) or supplier(s) and the purchaser.

6.2 The producer or supplier shall have available specific records on sample selection, test data, testing competence, and procedural mechanisms to demonstrate conformance to the standard. A statistical statement as to degree of compliance shall be included where feasible.

6.3 The referee shall consider the adequacy of the quality assurance procedures, sampling, and testing competency using documentation (see 6.2) and other evidence (see 5.) as may be available, with the option to perform additional product testing. Costs of dispute resolution shall be borne by certifier if certification is faulty or by disputant if contention is not upheld. Additional claims shall be subject to legal recourse.

[FR Doc. 84-4064 Filed 2-15-84; 8:45 am]
BILLING CODE 3510-13-M

National Voluntary Laboratory Accreditation Program

AGENCY: National Bureau of Standards, Commerce.

ACTION: Announcement of laboratory accreditation actions for January 1984.

SUMMARY: The laboratories named below have been newly accredited under the National Voluntary Laboratory Accreditation Program (NVLAP). Also listed are the test methods for which those laboratories have been accredited.

Thermal Insulation Materials LAP

Knauf Fiber Glass Research Laboratories, Attn: Kerry VanArsdel, 240 Elizabeth Street, Shelbyville, IN 46176, phone: (317) 398–4434.

Accreditation Renewal Date: April 1, 1985.

NVLAP code	Designation	Short title
01/D02	ASTM C167	Thickness and density; Blanket and batt.
01/D08	ASTM C302	Density; Preformed pipe insulation.
01/D09	ASTM C303	Density; Preformed block insulation.
01/D11	ASTM C356	Linear shrinkage; Soaking heat; Preformed high temperature insulation.
01/D12	ASTM C411	Hot-surface performance; High temperature insulation.
01/D13	ASTM C519	Density; Loose-fill (fibrous).
01/S01	ASTM C165	Compressive properties; Thermal insulation (proc. A).
01/T01	ASTM C177	Thermal transmission properties; Low-temperature guarded hot plate.
01/T05	ASTM C335	Thermal conductivity; Pipe insulation.
01/T06	ASTM C518	Thermal transmission properties; Heat flow meter.
01/T09	ASTM C653	Thermal resistance (Rec. Practice); Blanket (mineral fiber).
01/T10	ASTM C687	Thermal resistance (Rec. Practice); Loose-fill (fibrous).

Carpet LAP

Custom Coating, Inc., Attn: James E. Whitfield, 1101 Riverbend Road, Dalton, GA 30720, phone: (404) 277–3778.

Accreditation Renewal Date: April 1, 1985.

NVLAP code	Designation	Short title
03/F03	DoC FF1-70	Methenamine Pill Test.

Hollytex Carpet Mills, Attn: Chet Link, 505 N.E. Seventh Street, Anadarko, OK 73005, phone: (405) 247–6641.

Accreditation Renewal Date: April 1, 1985.

NVLAP code	Designation	Short title
03/C02	AATCC 8	Colorfastness to Crocking.
03/S01	ASTM D1335	Tuft Bind of Floor coverings.
	[1] 191-5100	Textile Test Method—Breaking Strength.
	[1] 191-5950	Textile Test Method—Delamination.
03/F03	DoC FF1-70	Methenamine Pill Test.

[1] Federal Test Method Standards.

Garco Testing Laboratories, Salt Lake City, Utah renewed its accreditation under the Freshly Mixed Field Concrete LAP. Its accreditation is effective until January 1, 1985.

FOR FURTHER INFORMATION CONTACT: Mr. John W. Locke, Manager, Laboratory Accreditation, TECH B141, National Bureau of Standards, Washington, D.C. 20234, (301) 921–3431.

Dated: February 9, 1984.

Ernest Ambler,

Director, National Bureau of Standards.

[FR Doc. 84-4063 Filed 2-14-84; 8:45 am]
BILLING CODE 3510-13-M

International Trade Administration

Export Trade Certificate of Review

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of application.

SUMMARY: The Office of Export Trading Company Affairs, International Trade Administration, Department of Commerce has received an application for an Export Trade Certificate of Review. This notice summarizes the conduct for which certification is sought and invites interested parties to submit information relevant to the determination of whether a certificate should be issued.

DATES: Comments on this application must be submitted on or before March 6, 1984.

ADDRESS: Interested parties should submit their written comments, original and five (5) copies, to: Office of Export Trading Company Affairs, International Trade Administration, Department of Commerce, Room 5618, Washington, D.C. 20230.

Comments should refer to this application as "Export Trade Certificate of Review, application number 84–00007."

FOR FURTHER INFORMATION CONTACT: Charles S. Warner, Director, Office of Export Trading Company Affairs, International Trade Administration, 202/377–5131, or Eleanor Roberts Lewis, Assistant General Counsel for Export Trading Companies, Office of General Counsel, 202/377–0937. These are not toll-free numbers.

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 (Pub. L. 97–290) authorizes the Secretary of Commerce to issue Export Trade Certificates of Review. The regulations implementing Title III are found at 48 FR 10596–10604 (Mar. 11, 1983) (to be codified at 15 CFR Part 325). A certificate of review protects its holder and the members identified in it from private treble damage actions and from civil and criminal liability under Federal and state antitrust laws for the export trade, export trade activities and methods of operation specified in the certificate and carried out during its effective period in compliance with its terms and conditions.

Standards for Certification

Proposed export trade, export trade activities, and methods of operation may be certified if the applicant establishes that such conduct will:

1. Result in neither a substantial lessening of competition or restraint of trade within the United States nor a substantial restraint of the export trade of any competitor of the applicant,

2. Not unreasonably enhance, stabilize, or depress prices within the

United States of the goods, wares, merchandise, or services of the class exported by the applicant,

3. Not constitute unfair methods of competition against competitors engaged in the export of goods, wares, merchandise, or services of the class exported by the applicant, and

4. Not include any act that may reasonably be expected to result in the sale for consumption or resale within the United States of the goods, wares, merchandise, or services exported by the applicant.

The Secretary will issue a certificate if he determines, and the Attorney General concurs, that the proposed conduct meet these four standards. For a further discussion and analysis of the conduct eligible for certification and of the four certification standards, see "Guidelines for the Issuance of Export Trade Certificates of Review," 48 FR 15937–10 (April 13, 1983).

Request for Public Comments

The Office of Export Trading Company Affairs (OETCA) is issuing this notice in compliance with section 302(b)(1) of the Act which requires the Secretary to publish a notice of the application in the **Federal Register** identifying the persons submitting the application and summarizing the conduct proposed for certification. The OETCA and the applicant have agreed that this notice fairly represents the conduct proposed for certification. Through this notice, OETCA seeks written comments from interested persons who have information relevant to the Secretary's determination to grant or deny the application below. Information submitted by any person in connection with the application(s) is exempt from disclosure under the Freedom of Information Act (5 U.S.C. 552).

The OETCA will consider the information received in determining whether the proposed conduct is "export trade," "export trade activities," or a "method of operation" as defined in the Act, regulations and guidelines and whether it meets the four certification standards. Based upon the public comments and other information gathered during the analysis period, the Secretary may deny the application or issue the certificate with any terms or conditions necessary to assure compliance with the four standards.

The OECTA has received the following application for an Export Trade Certificate of Review:

Applicant: Export Trading Company, 1900 East Golf Road, M100, Schaumburg, Illinois 60195, telephone: (312) 263–2397; (312) 490–0110.

Application #84–00007.

Date Received: January 26, 1984.

Date Deemed Submitted: February 1, 1984.

Members In Addition to Applicant:

Patrick H. Smyth; Chicago, IL
John R. Rehayem; Rolling Meadows, IL
James K. Scherzinger; Addison, IL
Jack O. Murch; Hoffman Estates, IL
Yoshio Gotoh; Elk Grove Village, IL

Controlling Entity: None.

Summary of Application: The Export Trading Company has submitted an application seeking certification for the following export-related activities:

A. *Export Markets:* The export markets will be worldwide, with primary emphasis on the Middle East, Sub-Saharan Africa, North Africa, Latin America, the Caribbean, Asia, and "underdeveloped" countries worldwide.

B. *Export Trade:* The Applicant and its members intend to export non-perishable foodstuffs; equipment, parts, supplies and services, including training on the maintenance and use of equipment and/or after-sales servicing of equipment, relative to health care, education, communication, transportation, agriculture, hardware and software, and pharmaceutical production and packaging. The Applicant and its members intend to facilitate Export Trade by providing the following export trade services to U.S. manufacturers and suppliers: consulting, international market research, transportation, freight forwarding from point or origin to destination abroad and international documentation of international traffic.

C. *Export Trade Activities and Methods of Operation:* The Applicant and its members seek to establish U.S. Export Trade by: (1) Entering into non-exclusive agreements with U.S. manufacturers and suppliers to act as a broker and/or an export sales representative and, on occasion, as a purchaser of U.S. goods and services for ultimate exportation; (2) entering into exclusive agreements with agents, brokers, representatives and distributors in the Export Markets; these agreements may contain sales territorial and price maintenance restrictions; (3) acting on its own, as a broker, to bring together, for compensation, U.S. manufacturers and suppliers of goods and services in Export Trade with foreign agents, brokers, representatives, distributors and end-users; and (4) entering into exclusive export sales or agency agreements with U.S. manufacturers and suppliers.

The OETCA is issuing this notice in compliance with section 302(b)(1) of the Act which requires the Secretary to publish a notice of the application in the **Federal Register** identifying the persons submitting the application and summarizing the conduct proposed for certification. Interested parties have twenty (20) days from the publication of this notice in which to submit written information relevant to the determination of whether a certificate should be issued. Information submitted by any person in connection with this application will be exempt from disclosure under the Freedom of Information Act (5 U.S.C. 552).

Dated: February 10, 1984.

Irving P. Margulies,

Acting General Counsel.

[FR Doc. 84–4006 Filed 2–14–84; 8:45 am]
BILLING CODE 3510–DR–M

National Oceanic and Atmospheric Administration

Receipt of Permit Applications

This document publishes for public review a summary of applications received by the Secretary of State requesting permits for foreign vessels to fish in the fishery conservation zone under the Magnuson Fishery Conservation and Management Act (Magnuson Act, 16 U.S.C. 1801 *et seq.*).

Send comments on applications to: Fees, Permits, and Regulations Division (F/M12), National Marine Fisheries Service, Department of Commerce, Washington, D.C. 20235; or, send comments to the Fishery Management Council(s) which review the application(s), as specified below:

Douglas G. Marshall, Executive Director, New England Fishery Management Council, Suntaug Office Park, 5 Broadway (Route 1), Saugus, MA 01906, 617–231–0422;

John C. Bryson, Executive Director, Mid-Atlantic Fishery Management Council, Federal Building Room 2115, 300 South New Street, Dover, DE 19901, 302–674–2331;

David H.G. Gould, Executive Director, South Atlantic Fishery Management Council, Southpark Building, Suite 306, 1 SouthPark Circle, Charleston, SC 29407, 803–571–4366;

Omar Munoz-Roure, Executive Director, Caribbean Fishery Management Council, Banco De Ponce Building, Suite 1108, Hato Rey, PR 00918,

Wayne E. Swingle, Executive Director, Gulf of Mexico Fishery Management Council, Lincoln Center, Suite 881, 5401 West Kennedy Blvd., Tampa, FL 33609, 813–228–2815;

Joseph C. Greenley, Executive Director, Pacific Fishery Management Council,

526 S.W. Mill Street, Portland, OR 97201, 503–221–6352;
Jim H. Branson, Executive Director, North Pacific Fishery Management Council, 605 W. Fourth Avenue, Anchorage, AK 99510, 907–271–4064; or
Kitty M. Simonds, Executive Director, Western Pacific Fishery Management Council, 1164 Bishop Street, Room 1608, Honolulu, Hawaii 98613, 808–523–1368.

For further information contact: Shirley Whitted or John D. Kelly (Fees, Permits, and regulations Division), 202–634–7432.

The Magnuson Act also requires the Secretary of State to publish a notice of receipt of all applications for such permits summarizing the contents of the applications in the **Federal Register**. The National Marine Fisheries Service, under the authority granted in a memorandum of understanding with the Department of State effective November 29, 1983, issues the notice on behalf of the Secretary of State.

Individual vessel applications for fishing in 1984 have been received between February 7, 1984, and February 9, 1984, from the Government(s), shown below.

Dated: February 9, 1984.

Roland Finch,

Director, Office of Fisheries Management, National Marine Fisheries Service.

Fishery codes and designation of regional councils which review applications for individual fisheries are as follows:

Code	Fishery	Regional council
ABS	Atlantic Billfishes and Sharks	New England, Mid-Atlantic, South Atlantic, Gulf of Mexico, Caribbean
BSA	Bering Sea and Aleutian Islands Groundfish	North Pacific
GOA	Gulf of Alaska	North Pacific
NWA	Northwest Atlantic Ocean	New England, Mid-Atlantic, South Atlantic, Gulf of Mexico, Caribbean
SMT	Seamount Groundfish (Pacific Ocean)	Western Pacific
SNA	Snails (Bering Sea	North Pacific
WOC	Pacific Groundfish (Washington, Oregon, and California)	Pacific
PBS	Pacific Billfishes and Sharks	Western Pacific

Activity codes which specify categories of fishing operations applied for are as follows:

Activity code	Fishing operations
1	Catching, processing, and other support
2	Processing and other support, only
3	Other support only
4	"Joint venture" in support of U.S. vessels

Nation, vessel name, and vessel type	Application No.	Fishery	Activity
Government of the Federal Republic of Germany:			
Friedrich Busse, large stern trawler	GE–84–0010	GOA	1(4)
Government of Italy:			
Airone, medium stern trawler	IT–84–0006	NWA	1(4)
Antonietta Madre, medium stern trawler	IT–84–0013	NWA	1(4)
Carlo di Fazio, medium stern trawler	IT–84–0015	NWA	1(4)
De Giosa Giuseppe, medium stern trawler	IT–84–0016	NWA	1(4)
De Giosa L., medium stern trawler	IT–84–0023	NWA	1(4)
De Giosa T., medium stern trawler	IT–84–0004	NWA	1(4)
Gabriella C., medium stern trawler	IT–84–0010	NWA	1(4)
Giovanni C., medium stern trawler	IT–84–0022	NWA	1(4)
Maria C., medium stern trawler	IT–84–0021	NWA	1(4)
Maria Michela, medium stern trawler	IT–84–0024	NWA	1(4)
Tontini Pesca, large stern trawler	IT–84–0003	NWA	1(4)
Tontini Pesca Terzo, medium stern trawler	IT–84–0002	NWA	1(4)
Government of Japan:			
Zao Maru, large stern trawler	JA–84–0361	NWA	1(4)
Government of Portugal:			
Sao Rafael, large stern trawler	PO–84–0002	NWA	2(4)
Vimieiro, medium stern trawler	PO–84–0013	NWA	2(4)
Government of the U.S.S.R.:			
Vasiliy Vinevitin	UR–84–0014	BSA, GOA	2(4)
Government of Japan:			
Enyoh Maru, cargo transport vessel	JA–84–0066	BSA, GOA, NWA, SMT, SNA	3
Fujishio Maru, cargo transport vessel	JA–84–0594	BSA, GOA, SMT, SNA	3
Ishikari Maru, cargo transport vessel	JA–84–0595	BSA, GOA	3
Taisei Maru No. 3, cargo transport vessel	JA–84–0065	BSA, GOA, NWA, SMT, SNA	3
Yoho Maru, cargo transport vessel	JA–84–1018	BSA, GOA, NWA, SNA	3
Government of the Republic of Korea:			
Ocean Violet, cargo transport vessel	KS–84–0096	BSA, GOA	3

Federal Republic of Germany

Joint Venture (amendment)—The Government of the Federal Republic of Germany amended its joint venture application between Nordstern A.G., Bremerhaven-F, West Germany and Jeff Hendricks and Associates, Anacortes, WA 98221, a joint venture in the Bering Sea and Aleutian Islands (BSA) fishery. The amended joint venture application will not only be for activities in the BSA fishery, but will also be for activities with the above named West German company and Alyeska Ocean, Inc., 816 Fourth Street, Anacortes, WA 98221, Tele: (206) 293–4677. This joint venture is amimed at harvesting 3,000 mt of Pollock in the Gulf of Alaska fishery. The joint venture will take place between February 23, 1984 and March 31, 1984.

Italy

Joint Venture—The Government of Italy has applied for fishing permits to engage in joint venture activities with the American partner, International Seafood Trading Corporation Inc., (ISTC), 985 Ocean Drive, Cape May, NJ 08204, Tele: (206) 884–3000, and UNIONPESCA the Italian fishing vessel owners' company. The application requests the harvest of 3,000 mt of *Illex* squid and 2,500 mt of *Loligo* squid in the Northwest Atlantic Ocean fishery between April 1, 1984 and March 31, 1985.

Japan

Joint Venture—The Government of Japan has applied for a fishing permit to engage in joint venture activities with the American partner, Lund's Fisheries, Inc., 977 Ocean Drive, Cape May, NJ 08204, Tele: (609) 729–9050 and Japan Fisheries Association, a Japanese fishing company. The joint venture is aimed at harvesting 1,700 mt of *Illex* squid and 1,000 mt of *Loligo* squid in the Northwest Atlantic Ocean fishery between April 1, 1984 and March 31, 1985.

Portugal

Joint Venture—The Government of Portuagal has applied for fishing permits to engage in joint venture activites. The International Trading and Shipping Agency, Inc., 19 Rector Street, N.Y. 10006, Tele: (212) 425–5686, will represent the Portugese side of the joint venture and Scan Ocean, Inc., 42 Rodgers Street, Gloucester, MA 01930, Tele: (617) 283–1004 will be the American partner. This joint venture will take place between April 1, 1984 and March 31, 1985.

[FR Doc. 84-4091 Filed 2-10-84; 3:03 pm]
BILLING CODE 3510-22-M

Caribbean Fishery Management Council; Statement of Organization, Practices and Procedures

Pursuant to Section 302((f)(6) of the Magnuson Fishery Conservation and Management Act (Pub. L. 94–265, as amended), each Regional Fishery Management Council is responsible for carrying out its functions under the Act, in accordance with such uniform standards as are prescribed by the Secretary of Commerce. Further, each Council must publish and make available to the public a statement of its organization, practices and procedures (SOPPs).

The Caribbean Fishery Management Council's SOPPs, published originally on October 13, 1977 (42 FR, No. 198), have been revised and are published below, as an abbreviated version. Further details concerning the Council's SOPPs will be made available to the public upon written request to the Council.

Dated: February 9, 1984.

William G. Gordon,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

Caribbean Fishery Management Council Statement of Organization, Practices and Procedures

I. Name of Council

Caribbean Fishery Management Council

II. Location of Offices

The Office of the Caribbean Fishery Management Council is located in the Banco de Ponce Building, Suite 1108, Hato Rey, Puerto Rico 00918. Mailing address is P.O. Box 1001, Hato Rey, Puerto Rico 00919.

III. Authority

A. Legal

Legal authority for the Council is found in the Magnuson Fishery Conservation and Management Act (MFCMA), Pub. L. 94–265 as amended, hereinafter referred as the Act. The Caribbean Fishery Management Council shall consist of the Commonwealth of Puerto Rico and the Territory of the United States Virgin Islands, and shall have authority over the fisheries in the Caribbean Sea and Atlantic Ocean seaward of these states.

B. Fiscal

The Caribbean Fishery Management Council fiscal year, in concert with the Federal Government, shall begin on October 1 each year.

IV. Purpose

The purposes of the Caribbean Fishery Management Council are those specified in the Act.

V. Council Composition

The Caribbean Council has 7 voting members and three non-voting members.

Voting Members

Four (4) voting members are appointed by the Secretary of Commerce pursuant to Section 302, subsections (b)(1)(C), (b)(2) and (b)(3) (at least one of whom shall be appointed from each such State). The three (3) remaining voting members shall be: (a) The principal State Official (or designee) with marine fishery management responsibilities and expertise in each of the two constituent states as appointed by the Governor of the State; (b) The Regional Director of the National Marine Fisheries Service for the Southeast Region (or designee).

Non-Voting Members

The three (3) non-voting members of the Council shall be those established in Section 302, subsections (c)(1) (A), (B) and (D), of the Act, which include: the Southeast Regional Director of the U.S. Fish and Wildlife Service (or designee); the Commander of the Seventh Coast Guard District (or designee); and a representative of the U.S. Department of State (or designee).

VI. Officers and Terms of Office

The Council elects annually a Chairperson and Vice Chairperson who serve for a one year term ending in August, unless sooner replaced, or until their successors have been duly elected. Either the Chairperson or Vice Chairperson may succeed themselves at the will of the Council. Elections will be held at the first Council meeting after new members take office on or after August 11.

VII. Council Standing Subcommittees

The Council has established certain working committees in order to accomplish its business. These committees are: Administrative Subcommittee, Educational and Information Subcommittee, and Grievance Subcommittee. Details of composition and functions are available from Council.

VIII–IX. Meetings and Hearings

Meetings and hearings of the Council and its subgroups, including Scientific and Statistical Committee and Advisory Panel, are held in accordance with the Act.

X. Advisory Committees

The Council has established, pursuant to authority contained in the Act, a Scientific and Statistical Committee and Advisory Panel. These groups are for the purpose of assisting the Council in carrying out its functions. Details of the composition and functions of these groups are available from Council.

XI. Management Plan Development

The Council will utilize the guidelines procedures, as established by the Secretary for development of fishery management plans in accordance with the provisions of the MFCMA and other applicable laws and established policy.

The Council, after evaluating available technical resources in Council staff, NMFS, the states, universities and in private research firms will select the most cost effective and efficient method of plan development, which may inlclude the following options, either single, or in combination:

1. Use an interdisciplinary plan development team consisting of state, federal and non-government specialists;
2. Use of a contractor who will assemble an interdisciplinary team of specialists to develop the plan; or
3. Use of Council technical staff.

XII. *Administrative Practices and Procedures*

A. Staff

This section deals with the procedures of staff administration. The following subject matters are addressed.

1. Staff Composition.
2. Staff Functions.
3. Employment Practices.
4. Employee Benefits.
5. Standard of Conduct.
6. Personnel Files.
7. Security Investigations.
8. Line Authority.
9. Employee Benefits.

10. Disciplinary Actions, Suspension and Dismissal.

Details are available from Council.

B. Conflict of Interest

Appointed public Council members and administrative employment are subject to Federal laws and regulations concerning bribery and conflicts of interest.

C. Travel Policy

Travel performed in support of Council activities is in accordance with NOAA Travel Regulations.

D. Standard for Compensation to Council Members

Council members will be compensated at the daily rate as specified in the Act.

Details are available from Council.

E. Financial Management, Budget, Procurement, and Property Management Procedures

Council administrative operations are governed by Office of Management and Budget Circular A–110 (Grants and Agreements with Institutions of Higher Education, Hospitals, and other Non-Profit Organizations). That directive prescribes standards for financial management systems, procurements, property management, financial reporting, cash depositories, and grant close-out procedures. The Caribbean Fishery Management Council is required to comply strictly with the provisions of the Circular and/or with any other appropriately established standards or directives.

The Council has developed major operational policies concerning its administrative practices and procedures which are too lengthy to publish here. However, interested persons may write directly to the Executive Director of the Council for specific information concerning this section.

[FR Doc. 84–4102 Filed 2–14–84; 8:45 am]
BILLING CODE 3510–22–M

Pacific Fishery Management Council; Statement of Organization, Practices and Procedures

Pursuant to Section 302(f)(6), of the Magnuson Fishery Conservation and Management Act (Pub. L. 94–265, as amended), each Regional Fishery Management Council is responsible for carrying out its functions under the Act, in accordance with such uniform standards as are prescribed by the Secretary of Commerce. Further, each Council must publish and make available to the public a statement of its organization, practices and procedures (SOPPs).

The Pacific Fishery Management Council's SOPPs were published originally on May 4, 1977 (42 FR 22672), and were revised on December 28, 1981 (46 FR No. 246, pages 62679–62684). The Council has completed, as a result of the recently-implemented Magnuson Act amendments, a second revision to its SOPPs published below, of which details will be made available to the public upon written request to the Council.

Dated: February 9, 1984.

William G. Gordon,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

Pacific Fishery Management Council

Statement of Operating Practices and Procedures (SOPP's)

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Legal Authority

The Pacific Fishery Management Council, created by section 302(a)(6) of the Magnuson Fishery Conservation and Management Act, hereby publishes a revised Statement of Operating Practices and Procedures (SOPP), as required by section 302(f)(6) of the Act. This revised SOPP for carrying out the Council's functions under the Act, was adopted by the Council during its public meeting held on January 11, 1984 in Portland, Oregon. Copies may be obtained by writing the Executive Director, Pacific Fishery Management Council, 526 S.W. Mill Street, Portland, OR 97201.

Purpose

The Council shall:

A. Prepare and submit to the Secretary of Commerce a fishery management plan with respect to each fishery in need of management within its geographical area of authority and, from time to time, such amendments to each such plan as are necessary;

B. Prepared comments on any application for foreign fishing transmitted to it by the Secretary of State, and any fishery management plan or amendment transmitted to it by the Secretary of Commerce;

C. Conduct public hearings, at appropriate times and in appropriate locations in the geographic area concerned, so as to allow all interested persons an opportunity to be heard in the development of fishery management plans and amendments to such plans, and with respect to the administration and implementation of the provisions of the Act:

D. Submit to the Secretary of Commerce:

1. A report on financial status and a report on cash transactions, within 30 days after the completion of each

quarter, beginning February 1 of each fiscal year.

2. Semi-Annual Performance Progress Reports, outlining the progress on fishery management plan development during the preceding six months, before April 30 and October 31 each year.

3. Any other relevant report which may be requested by the Secretary of Commerce.

E. Review on a continuing basis, and revise as appropriate, the assessments and specifications made with respect to the optimum yield, domestic annual processing, joint venture processing, domestic annual harvesting and the total allowable level of foreign fishing for each fishery under a PMP or FMP within its geographic area of authority.

F. Participate in the activities of the Salmon and Steelhead Advisory Commission as mandated by Public Law 96–561 of December 22, 1980 (Title I—Conservation and Enhancement of Salmon and Steelhead Resources).

G. Conduct any other activities which are necessary and appropriate to the foregoing functions.

Council Composition

The Pacific Fishery Management Council shall consist of representatives of the States of California, Oregon, Washington, and Idaho, and shall have management authority over the fisheries in the Pacific Ocean seaward of such coastal states. The Pacific Council shall have 13 voting members, including 8 appointed by the Secretary, at least one of whom shall be appointed from each state.

Voting Members

The voting members of the Council shall be:

A. The state officials with principal fishery management responsibility in the States of Wahsington, Oregon, Idaho, and California, or the designee of such officials:

B. The Regional Director of the Northwest Region of the National Marine Fisheries Service (NMFS), or his designee, and

C. Eight appointed members from the states of Idaho, Washington, Oregon and California (at least one of whom shall be appointed from each state).

Non-Voting Members

The non-voting members of the Council shall be:

A. The Regional Director of the U.S. Fish and Wildlife Service, Northwest Region, or his designee;

B. The Commander, Pacific Area of the U. S. Coast Guard, or his designee;

C. The Executive Director of the Pacific Marine Fisheries Commission, or his designee;

D. A representative of the U.S. Department of State, or his designee;

E. A representative of the State of Alaska, or his designee.

Officers and Terms of Office

The Council officers shall be a Chairman and a Vice-Chairman, with a term of office of one year each.

Staff

Composition. The Staff of the Council shall comprise of Executive Director, Administrative Officer, Staff Officers, Executive Secretary, and such other staff as are necessary to carry out Council activities.

Function. The staff is responsible for administration and execution of Council operations. Function include participation in fishery management plan development; preparation of Council reports, statements, and correspondence; financial management, budget preparation, and procurement; record keeping; meeting logistics; and other administrative acitivities.

Employment Practices. The Council is an equal opportunity employer in full compliance with federal requirements for non-discrimination. Council staff postions are filled solely on the basis of merit, fitness, competence, and qualifications.

1. *Classification.* The duties of full-time and other-than-full-time personnel shall be contained in position descriptions to be submitted to NOAA. As a mimimum, position descriptions will cover the specific technical and supervisory duties of the position, any special skills (e.g., word processor operator), and specific education and experience requirements. The Council will then be provided a salary range (usually equivalent to a GS grade) appropriate to the position and a determination of the applicability of the Fair Labor Standards Act. Each employee will be provided with a copy of his or her position description. Any significant change in the scope of duties will necessitate the reclassification of the position.

2. *Recruitment.* All personnel vacancies should be filled on a competitive basis, unless unusual circumstances clearly dictate otherwise. For this purpose, the Council may avail itself of the vacancy advertising system operated by NOAA or any other recuritment tool, including newspapers and local employment agencies.

3. *Leave.* Employees of the Council shall be granted paid leave for holidays, vacations or exignencies, sickness, and civic duties (jury, military reserve obligations) a determined by the Counci. Accrued annual leave shall not exceed 26 days per year, accrued sick leave shall not exceed 13 days per year and paid holidays shall not exceed 10 days per year.

4. *Fringe Benefits.* The Council shall provide its employees the opportunity to participate in group health insurance, life insurance, and a retirement plan, and shall pay for a proportion of such plans. The total benefits, exclusive of social security, shall not exceed 20% of salary.

Standards of Conduct

The Council and its staff shall maintain high standards of ethical conduct. These standards include the following principles:

A. No employee of hte Council shall use his or her official authority or act in the name of the Council for the purpose of influencing or affecting the result of an election to or a nomination for any national, state, county, or municipal elective office.

B. No employee of the Council shall be deprived of employment, position, work, compensation, or benefit provided for or made possible by the Act on account of any political activity or lack of such activity in support of or in opposition to any candidate or any political party in any national, state, county, or municipal election or on account of his or her political affiliation.

C. No Council member or employee shall pay, or offer, or promise, or solicit, or receive from any person, firm, or coroporation, either as a political contribution or a personal emolument any money, or anything of value in consideration of either support, or the use of influence, ro the promise of support, or influence in obtaining a Council decision or for any person, any appointive office, place or employment under the Council.

D. No employee of the Council or member of the Council, Scientific and Statistical Committee, and Plan Development or Management Teams shall have a direct or indirect financial interest that conflicts with the fair and impartial conduct of his or her Council duties.

E. No Council member or employee of the Council shall use or allow the use of, for other than official purposes, information obtained through or in connection with his or her Council employment which has not been made available to the general public.

F. No Council member or employee of the Council shall use Council property on other than offical business. Such

property shall be protected and preserved farom improper or deleterious operation or use.

Standing Committees of Council Members

The Pacific Council has established three standing committees of Council members. The name and functions of the standing committees are outlined below:

Budget Committee. The Budget Committee, comprised of five members, shall be appointed by the Council Chairman and shall meet at least once a year to review the Council's budget proposal. Other meetings of the Budget Committee will be scheduled at the request of the Council Chairman or the majority of voting Council members and may be to discuss such subjects as personnel matters, programmatic contracts, etc. The terms of Committee members shall expire on October 1 of each year. Members of the Committee may be reappointed by the Council Chairman.

Foreign Fishing Committee. The Foreign Fishing Committee, comprised of five members, shall be appointed by the Council Chairman and shall meet as required to review foreign fishing permit applications. Meetings of the Foreign Fishing Committee will be scheduled at the request of the Council Chairman or the majority of voting Council members and may be to discuss sich ancillary subjects as conditions for joint venture or foreign fishing permits, criteria for recommending rejection of such applications, etc. The terms of Committee members shall expire on October 1 of each year. Members of the Committee may be reappointed by the Council Chairman.

Inter-Council Salmon Coordinating Committee. The Inter-Council Salmon Coordinating Committee has been established to coordinate salmon management measures in the North Pacific and Pacific Council areas of jurisdiction. There shall be three representatives from each Council on the committee. The Committee shall meet as required at the request of either Council Chairman. The terms of Pacific Council representatives on the Inter-Council Salmon Coordinating Committee shall expire on October 1 of each year. Members of the Committee may be reappointed by the Council Chairman.

Meetings

Frequency. The Council shall meet as often as is necessary to discharge its duties, but shall meet at least once in each quarter of the fiscal year.

Duration. Council meetings shall vary in duration according to workload.

Location. Council meetings shall occur throughout the area of jurisdiction of the Council. Criteria for selection of meeting locations shall include ease of transportation for both Council members and the public and the cost of holding such meetings. The Council shall endeaver to meet in the area in which person reside who might be immediately affected by actions taken by the Council at that particular meeting.

Agenda or Order of Business. Notice of Council meetings with agenda will be published in the Federal Register at least 20 days prior to the meeting. The Council will also issue press releases to announce time, location and agenda for each meeting.

Minutes. Each Council meeting shall be recorded. Summary minutes shall be prepared for all open portions of Council meetings and will be made available to the public. In addition to the summary minutes, the Council shall widely distribute a newsletter summarizing Council action taken during each Council meeting.

General Rules of Procedure. The Council shall meet at the call of the Chairman or upon request of a majority of the voting members. Meetings shall be conducted according to *Robert's Rules of Order* and in a manner to permit the greatest possible participation by all members of the Council and the public. Decisions by consensus are permitted except where the issue is Council approval or amendment of a Fishery Management Plan (including proposed regulations), and comments on management plans prepared by the Secretary. In these cases, a vote is required. A roll call vote may be taken when requested by a member or by the Chairman. Absent Council members/designees may not vote by telephone.

A. A majority of the voting members of the Council shall constitute a quorum for Council meetings, but one or more such members designated by the Council Chairman may hold hearings.

B. When there is a vote, the majority of the voting members present and voting shall rule. The use of proxy is not permitted.

C. The Council shall conduct all meetings and hearings within its geographic area of authority, except when interregional resources are concerned.

D. Voting members of the Council who dissent on any issue to be submitted to the Secretary are permitted to submit a statement of their reasons for dissent to the Secretary.

Emergency Meetings. Upon receiving a request for an emergency meeting from any Council member, or upon his own instigation, the Council Chairman shall instruct the staff to conduct a telephone poll of available voting Council members. If a quorum agrees, the Chairman shall call such a meeting. (It is the policy of the Council to avoid emergency meetings in order to insure public participation in its deliberations.)

Authority of the Chair. The Chairman, or in his absence the Vice-Chairman, shall convene and preside over Council meetings. The Chairman may designate Council members to serve on such committees of Council members as are established. The Chairman may also designate Council members to officiate at public hearings. The Chairman will retain voting rights.

Hearings

The Council shall hold public hearing in order to provide the opportunity for all interested persons to be heard with respect to the development of fishery management plans or plan amendments, and with respect to the administration and implementation of the Act. The Council may use its judgment regarding when and where such hearings should be held, provided they are held in the particular geographic area concerned.

Conduct. When it is determined that a hearing is appropriate, the Chairman of the Council will designate at least one voting member of the Council to officiate. Conduct of the hearing, beyond the stipulation that all persons be afforded an opportunity to present their views and be given a chance for expression, is within the discretion of the hearing offical under whatever instructions the Council may wish to provide.

Notice. Notice of each hearing will be published in the **Federal Register** at least 20 days prior to the hearing. Advance notice also should be given in the local media where the heaing is to take place. Publicity should be sufficient to assure that all interested parties are aware of the opportunity to make their views known.

Record. An accurate record of the participants and their views, obtained by use of a tape recording, typewritten transcript, or detailed minutes, shall be available to the Council and maintained as part of the Council's administrative record.

Scientific and Statistical Committee

The Pacific Council shall have a Scientific and Statistical Committee composed of scientists of national reputation from state and federal agencies, academic institutions, and other sources. Members shall represent a wide range of disciplines required for

preparation and review of management plans. The Committee shall meet at the call on the Council Chairman, a majority of the voting members on the Council, or the Executive Director. The Committee shall:

A. Identify scientific resources required for the development of management plans and amendments and recommend resources for Plan Development and Management Teams.

B. Provide the multidisciplinary review of management plans or amendments and advise the Council on their scientific content.

C. Assist the Council in the evaluation of such statistical, biological, economic, social, and other scientific information as is relevant to the Council's activities, and recommend methods and means for the development and collection of such information.

D. Recommend to the Council the composition of Plan Development and Management Teams and persons to serve on them.

Meetings

Frequency. The Committee shall meet at the request of the Committee Chairman, with the approval of the Council Executive Director, as often as necessary to fulfill its responsibilities. The usual time for meetings shall be the day before and the first day of each Council meeting.

Public participation. A specific time for members of the public to comment on issues under consideration shall be established and advertised in the news release. At the discretion of the Committee Chairman, testimony may be limited.

Public notification of meetings. Notice of Committee meetings shall be announced in the **Federal Register** and in a Council news release.

Minutes. A record of each meeting shall be kept and shall contain a record of the persons present, and accurate description of matters discussed and conclusions reached, and copies of all statements filed.

Advisory Panels

The Pacific Council shall establish an Advisory Panel. The Advisory Panel shall consist of advisory subpanels, one for each fishery management plan being developed or monitored. Members of the subpanels shall be selected by the majority of voting Council members and shall serve for two-year terms. The Council Chairman shall appoint a Chairman for each advisory subpanel. Advisory subpanels are accountable to and report to the Council, and shall meet with the approval of the Council Chairman or Executive Director.

Advisory subpanels shall have representation from user groups and interests concerned with management of the fishery for which a plan is being prepared or reviewed. The functions of the subpanels shall be to advise the Council as to fishery management problems, to provide input into fishery management planning efforts, and to advise the Council on the content and effects of management plans, amendments and pre-season and in-season management measures.

Meetings

Frequency. The Subpanels shall meet at the request of the Subpanel Chairman, with the approval of the Council Executive Director, as often as necessary to fulfill their responsibilities.

Public participation. The Subpanels shall receive comments from members of the public on issues under consideration at a specific time advertised in the news release. Such testimony may be limited by the Chairman.

Public notification of meetings. Notice of Subpanel meetings shall be announced in the **Federal Register** and in a Council news release.

Minutes. A record of each meeting shall be kept and shall contain a record of the persons present, and accurate description of matters discussed and conclusions reached, and copies of all statements filed.

Plan Development/Management Teams

Organization. A planning/management team shall be established by the Council for each management unit which will be the subject of a planning effort. Plan Development/Management Teams shall be working teams of state, federal, and nongovernment specialists. The Plan Development/Management Teams will report to the Council through the Executive Director.

Practices and Procedures

1. *Work Plans/Scoping.* The Council staff, in consultation with the appropriate regional office of NMFS, shall be responsible for work plans and the scoping process, with assistance from the Teams.

2. *Team's Responsibility in Drafting of Plans or Amendments.* The Teams are responsible for drafting the management plans or amendments under the direction of the Council. The SSC and Advisory Subpanels shall advise the Teams and the Council, but their advice is not binding on the Teams. The Council shall decide if the plan or amendment is to be modified and Teams shall comply with Council directives.

Plan Development/Management Team members shall remain objective in the drafting of management plans or amendments. They should not be subject to pressure from their employers, rather they should be able to develop management plans or amendments independently without regard to agency policy. The Council should be assured that the product received from the Team represents the best objective, scientific appraisal of the fishery and the resource. Policy considerations and decisions are the exclusive prerogative of the Council.

Plan Development/Management Teams shall conduct their planning and evaluation effort in such a way as to satisfy the Magnuson Fishery Conservation and Management Act.

The Council shall seek strong commitments to plan development or amendment activities. Plan development or amendment should be high priority for all Team members. This time commitment may be formalized in a contract between the agency and the Council. Compensation for agency personnel should be arranged on a case-by-case basis.

Council staff members may be assigned to assist Plan Development/Management Teams.

3. *Plan Objectives.* The Council shall adopt objectives as early as possible in the plan development or amendment process. The objectives shall be operational and as specific as possible.

4. *Alternative Management Measures.* The Teams shall develop and present all viable alternative management measures which would attain the objectives. It shall not be the Team's responsibility to recommend preferred options to the Council, unless such preferences can be made on technical grounds without regard to policy considerations or unless the Council solicits the Team's opinion. It is the duty of only the Council to narrow the list of options.

5. *Plan or Amendment Drafts.* When Teams present successive drafts of management plans or amendments to the Council, they shall submit in writing to the Council a list of problems and alternative solutions which require resolution by the Council. The Council shall respond to each item, at that time if possible, and the Executive Director shall submit to the respective team(s) a written response from the Council as soon after the meeting as possible.

Upon completion of each draft of a plan or amendment, it shall be transmitted to the Council through the Executive Director. Copies will be transmitted to the Scientific and

Statistical Committee and the appropriate Advisory Subpanel for review and comment to the Council. The Council shall evaluate these comments and, if necessary, refer the plan back to the Plan Development/Management Team for further work.

6. *Attendant Documents.* The Teams and the Council Staff shall have responsibility for drafting the plan or amendment, the Environmental Assessment (EA), the Environmental Impact Statement (EIS) or Supplemental Environmental Impact Statement (SEIS), the Regulatory Impact Review (RIR), Initial Regulatory Flexibility Analysis (IRFA), the Coastal Zone Management Consistency Document, and an assessment of possible impact on requirements set forth under the Endangered Species and Marine Mammal Acts. The assistance of the National Marine Fisheries Service (NMFS) shall be provided in the preparation of these documents if requested. The appropriate NMFS Region and NOAA General Counsel Office shall prepare the regulations, preamble for the plan or amendment, and pre-season and in-season action documents, if needed. The Teams, however, must assist in the preparation of these related documents to ensure that correct interpretations of the plan have been made. In some cases, individual team members may be assigned to these activities.

7. *Notice of Availability.* When the Council is satisfied with the plan or amendment, it together with all the above documents will be transmitted to the Department of Commerce through the Regional Director of the National Marine Fisheries Service. A notice of availability will be published according to federal requirements.

8. *Hearings.* Following publication of the notice of availability of the draft plan or amendment, the Council shall sponsor public hearings to solicit input and comments from those groups or individuals who might be affected by future regulatory action. Prior to holding public hearings, the Council shall distribute copies widely so that all interests have an opportunity to review and consider the proposed action.

After consideration of public comments, the Plan Development/Management Team shall make such revision of the FMP or amendment as the Council deems necessary and assist in revision of the DEIS, DRA and proposed regulations as appropriate.

9. *Transmittal to the Secretary.* Upon final adoption of the fishery management plan or amendment, the Council shall transmit the final FMP or amendment, final Regulatory Impact Review, Regulatory Flexibility Analysis, Environmental Impact Statement or Supplement and proposed regulations, through the NMFS Regional Director, to the Secretary of Commerce for final approval and promulgation of implementing regulations.

10. *Management and Monitoring Activities.* The teams shall accept responsibility for coordinating the fishery monitoring and plan maintenance process. Activities included are: fishery and resources status updates; pre-season and in-season management activities as required by the respective plan; review of management objectives; appraisal of the management regime's effectiveness in achieving the objectives; impact of management measures; special analyses and other duties.

Meetings

Frequency. The Teams shall meet at the request of their Chairman, with the approval of the Council Chairman or Executive Director, as often as necessary to fulfill their responsibilities.

Public participation. The Teams shall receive comments from members of the public on issues under consideration at a specific time advertised in the news release. Such testimony may be limited by the Chairman.

Public notification of meetings. Notice of Team meetings shall be published in the **Federal Register** and appropriate news media.

Minutes. A record of each meeting shall be kept and shall contain a record of the persons present, and accurate description of matters discussed and conclusions reached, and copies of all statements filed.

Administrative Management System

Office of Management and Budget Circular No. A110 provides uniform administrative requirements applicable to the Pacific Fishery Management Council, including standards for financial management, financial reporting, property management, and procurement. The Council will operate in full compliance with these standards.

Conflict of Interest. Appointed public Council members and administrative employees are subject to Federal laws and regulations concerning bribery and conflicts of interest. Council members drawn from the fishing industry will *not* be precluded from voting on fishery management plans which might directly affect their income.

Procurement Procedures. The Council will contract for services to be provided by other government agencies, educational institutions, profit and non-profit organizations. Detailed procurement procedures have been approved by the Council and are available for review at the Council's office. These procurement procedures provide for agreements and orders for procurement of supplies and services. It includes awards and notices of award: fixed price, cost, cost-plus-a-fixed-fee, negotiated, or incentive type contracts; letter contracts and purchase orders. Topic covered are formal advertising; sole source procurements; awards; contract types; contract administrations; protests, contract disputes, and appeals; and code of conduct.

Property Management System. A perpetual inventory system will be maintained of all Council non-expandable tangible personal property having a useful life of more than one year and an acquisition cost of $300 or more. All such items will be marked "PFMC" with an assigned property control number. All personal property acquired by the Council shall be safeguarded under conditions which a prudent person would follow. Only Council staff or individuals or entities under contract shall havae access to Council property. Procedures for disposal of any surplus property shall be submitted to and approved by the Northwest Regional office of NMFS. A listing of federally-owned property will be submitted to the Chief of Administrative Operations Division for NOAA Northwest Administrative Service Office within 60 days after the close of each fiscal year.

Accounting and Budgetary Control Procedures. The accounting and budgetary control system will be maintained in compliance with the U.S. Department of Commerce/NOAA General Provisions and Special Conditions which are included in the cooperative agreements for funding the Council's administrative and programmatic needs. A summary of the financial system ingredients follows:

1. *Formal Books of Accounts.* A cash receipts and disbursements journal, a payroll register journal, a general journal and a general ledger will be maintained to record financial transactions.

2. *Chart of Accounts.* The following general account number structure will be followed in recording financial transactions of the Council:

Assets (1000); Liabilities (2000); Fund Balances (3000); Revenues (4000); Expenses (5000–9000).

The detailed chart of accounts which provides line-item fiscal control over expenditures for monthly reporting to the Council and quarterly reporting to

NOAA is available for inspection at the Council's office.

3. *Obligations.* The following guidelines are followed in charging obligations against the proper fiscal year:

Compensation and Benefits: Month in which pay period ends
Purchase of Supplies and Equipment: Date purchase order is signed
Transportation: Fiscal period when travel is begun
Travel Expense: Fiscal period when expense occurred
Communications, Utilities and Rent: On 1st day of billing period
Contracts—operational: Fiscal period when expense occurred
Contracts—programmatic: Fiscal period when item is budgeted.

Travel Reimbursement Procedures. Detailed procedures covering the processing of travel claims are available for inspection at the Council's office. The guidelines for reimbursing individuals are as follows:

A. All non-federal members of the Council, Scientific and Statistical Committee, Advisory Panels, Plan Development Teams, Management Teams or Task Forces, staff and special consultants performing authorized services for the Council shall normally be entitled to reimbursement for actual meals and lodging expenses up to a limit set by the Council. However, the total amount claimed for meals and lodging shall not exceed the established federal rate except when authorized in extenuating circumstances.

B. Claims for reimbursement must be supported with receipts for all expenses other than meals except those expenses that individually amount to less than $25.

C. Official telephone calls, taxis, privately-owned vehicle mileage, common carrier fares, parking, baggage handling, etc. will be reimbursed in the amount of actual expenditure and are not included in meal and lodging limits set by the Council.

Standards for Compensation and Other Personnel Actions. Salary and wage administration, fringe benefits, hours or work, etc. for the Council staff are detailed in the Personnel Rules approved by the Council which are available at the Council's office.

Council Member Pay. Council members whose eligibility for compensation has been established in accordance with NOAA guidelines will be paid on a contract basis without deductions being made for Social Security, or federal and state income taxes. A report of compensation will be furnished each year as required by the Internal Revenue Service. Such compensation is paid on a full day's basis whether in excess of eight hours a day of less that eight hours a day. The time is compensable where the individual member is required to expend a significant private effort which substantially disrupts the employee's daily routine to the extent that a work day is lost to the member. "Homework" time in preparation for formal Council meetings *is not* compensable.

Non-government Council members receive compensation for:

a. Days spent in actual attendance at a meeting of the Council or jointly with another Council.

b. Travel on the day preceding or following a scheduled meeting that precluded the member from conducting his normal business on the day in question if travel time for additional days is necessary.

c. Meetings of standing committees of the Council if approved in advance by the Chairman.

d. Individual member meeting with scientific and technical advisors where approved in advance by the Chairman and a substantial portion of any day is needed.

e. Conducting or attending hearings when authorized in advance by the Chairman.

f. Other meetings involving Council business when approved in advance by the Chairman.

Confidentiality of Statistics. The Council will follow appropriate procedures for ensuring the confidentiality of the statistics that may be submitted to it by Federal or State authorities, and may be voluntarily submitted to it by private persons; including, but not limited to, procedures for the restriction of Council member and employee access and the prevention of conflicts of interest; except that such procedures must, in the case of statistics submitted to the Council by a State, be consistent with the laws and regulations of the State concerning the confidentiality of such statistics. These procedures are on file with the Council and are available for inspection.

Security Clearances. Security clearances for non-federal members of the Council, AP, Teams and Staff shall be requested as necessary.

Relationship to Magnuson Fishery Conservation and Management Act (MFCMA) Operations Handbook

This Statement of Operating Practices and Procedures in intended to be in general conformance with the guidelines set forth in the MFCMA Operations Handbook distributed by the National Marine Fisheries Service in November, 1980. In the event of any change in the future, the Council shall file an amendment to this statement with the required information.

Availability of Additional Details Concerning Council Operation

Certain section of this SOPPs are, by necessity, not quoted verbatim. If additional specifics are needed, please contact the Pacific Fishery Management Council, 526 S.W. Mill Street, Portland, Oregon 97201.

[FR Doc. 84-4103 Filed 2-14-84; 8:45 am]
BILLING CODE 3510-22-M

COMMODITY FUTURES TRADING COMMISSION

New Orleans Commodity Exchange; Proposed Amendments Relating to the Long-Grain Rough Rice Futures Contract

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of proposed contract market rule changes.

SUMMARY: The New Orleans Commodity Exchange has submitted a proposal to amend Rule 1102.07, Location Differentials, for its long-grain rough rice futures contract. Rule 1102.07 concerns the procedures under which the Exchange establishes quarterly locational differentials for the delivery of long-grain rough rice at various regular warehouses. The Commodity Futures Trading Commission ("commission") has determined that the proposal is of major economic significance and that, accordingly, publication of that proposal is in the public interest, will assist the Commission in considering the views of interested persons, and is consistent with the purposes of the Commodity Exchange Act.

DATE: Comments should be received on or before March 16, 1984.

ADDRESS: Interested persons should submit their views and comments to Jane K. Stuckey, Secretary, Commodity Futures Trading Commission, 2033 K Street NW., Washington, D.C. 20581. Reference should be made to NOCE Rule 1102.07.

FOR FURTHER INFORMATION CONTACT: Fred Linse, Division of Economics and Education, Commodity Futures Trading Commission, 2033 K Street NW., Washington, D.C. 20581, (202) 254-6990.

SUPPLEMENTARY INFORMATION: The New Orleans Commodity Exchange ("NOCE" or "Exchange") is proposing to amend Rule 1102.07, Location Differentials, for

its long-grain rough rice futures contract. Rule 1102.07 concerns the procedures under which the Exchange establishes locational differentials for the delivery of long-grain rough rice at various regular warehouses during the immediately following calendar quarter. The NOCE's interpretation of existing Rule 1102.07 appears to be at variance with the language of the rule as currently written. Accordingly, the NOCE has submitted clarifying language which codifies its existing practice for the establishment of locational differentials.

Currently, Rule 1102.07 specifies that the Exchange staff and the Rice Committee calculate locational differentials on a quarterly basis based on the actual costs of transportation between Stuttgart, Arkansas, the par delivery point, and the major Exchange-approved regional milling centers of Jonesboro, Arkansas, Crowley, Louisiana, Greenville, Mississippi and Houston, Texas and between these milling centers and local warehouses. Based on the formula for calculating locational differentials as specified in the rule, Exchange staff submit to the Rice Committee for its consideration a schedule of proposed locational differentials. If the Rice Committee does not believe the proposed locational differentials reflect to the maximum degree possible the actual commercial differences between the value of rice at the regional milling centers, the Committee may amend the proposed regional center differentials, citing its reasons for making any such changes.

In January 1982, the Rice Committee concluded that the actual commercial differences between the milling centers and Stuttgart were more accurately calculated based on the adjusted transportation costs for milled rice to the gulf ports. The NOCE has continued to establish locational differentials based on transportation costs for milled rice to the gulf ports. Therefore, the NOCE is proposing to amend current Rule 1102.07 to codify the existing Exchange procedures for calculating locational differentials. Proposed Rule 1102.07 explicitly provides a transportation credit for deliveries of rough rice at local warehouses or regional milling centers in proximity to the major Gulf export centers of Lake Charles and Houston because the value of rough rice increases in proportion as its location is nearer the gulf ports.

Specifically, the NOCE is proposing to establish locational differentials in the following manner. The cost of shipping a single fully loaded boxcar of milled rice (bagged) from the regional milling centers to their respective gulf ports shall be added to the port charge (unloading charges, wharfage, and other costs incidental to placing milled rice "free alongside ship") for rice. The cost shall be known as the "F.A.S. differential." To establish a regional differential, the F.A.S. differential for each regional milling center will be subtracted from the F.A.S. differential for the par delivery location, Stuttgart, Arkansas, and the result will be multiplied by the rough to milled rice conversion factor of .55. The local differential for regular warehouses located outside the muncipal boundaries of a regional milling center will be based on a combination of the rates paid for shipping rough rice from the local warehouses to its nearest regional milling center and the regional differential established for the regional milling center. The regional and local differentials established as provided above will constitute the locational differentials applied on a quarterly basis to deliveries on the rough rice contract.

In establishing the locational differentials for both the regional milling centers and the local warehouses, Exchange officials will use rates within the range of such rates actually paid during the preceding calendar quarter. If no actual shipments have been made during such a period by any warehouse, Exchange officials may establish a differential for such warehouse on the basis of the percentage change in actual rates gathered with respect to the next nearest warehouse from the preceding quarter to the quarter for which such differential is being established. If the Rice Committee disagrees with the locational differentials as proposed by the Exchange staff it may alter the differentials to more accurately reflect the costs of transportation or charges for placing rice F.A.S., recording in detail its reasons for making any changes.

In accordance with Section 5a(12) of the Commodity Exchange Act, 7 U.S.C. 7a(12) (1982), the Commission has determined that the proposal submitted by the NOCE concerning Rule 1102.07 is of major economic significance. Accordingly, the NOCE's proposal will be available for inspection at the Office of the Secretariat, Commodity Futures Trading Commission, 2033 K Street, N.W., Washington, D.C. 20581. Copies can be obtained through the Office of the Secretariat by mail at the above address or by phone at (202) 254–6314.

Other materials submitted by the NOCE in support of the proposed rule may be available upon request pursuant to the Freedom of Information Act (5 U.S.C. 552) and the Commission's regulations thereunder (17 CFR Part 145 (1982)). Requests for copies of such materials should be made to the FOIA, Privacy and Sunshine Acts Compliance staff of the Office of the Secretariat at the Commission's headquarters in accordance with 17 CFR 145.7 and 145.8.

Any person interested in submitting written data, views or arguments on the proposed amendments should send such comments to Jane K. Stuckey, Secretary, Commodity Futures Trading Commission, 2033 K Street NW., Washington, D.C. 20581, by March 16, 1984. Such comment letters will be publicly available except to the extent they are entitled to confidential treatment as set forth in 17 CFR 145.5 and 145.9.

Issued in Washington, D.C. on February 10, 1984.

Jane K. Stuckey,

Secretary of the Commission.

[FR Doc. 84-4122 Filed 2-14-84; 8:45 am]

BILLING CODE 6351-01-M

New York Mercantile Exchange; Proposed Amendments Relating to the Palladium Futures Contract

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of proposed contract market rule changes.

SUMMARY: The New York Mercantile Exchange has submitted a proposal to amend Rules 100.03, 100.05, 100.11 and 100.17 of its palladium futures contract. The Exchange's proposal would raise the quality standard for palladium from the current minimum quality level of 99.8 percent pure to 99.9 percent pure. The Commodity Futures Trading Commission ("Commission") has determined that the proposal is of major economic significance and that, accordingly, publication of that proposal is in the public interest, will assist the Commission in considering the views of interested persons, and is consistent with the purposes of the Commodity Exchange Act.

DATE: Comments should be received on or before March 16, 1984.

ADDRESS: Interested persons should submit their views and comments to Jane K. Stuckey, Secretary, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C., 20581. Reference should be made to NYMEX Palladium Rules 100.03, 100.05, 100.11 and 100.17.

FOR FURTHER INFORMATION CONTACT: Richard Shilts, Division of Economics

and Eduation, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. (202) 254–7303.

SUPPLEMENTARY INFORMATION:

Currently, the New York Mercantile Exchange ("NYMEX" or "Exchange") palladium futures contract specifies a minimum deliverable grade of 99.8 percent pure metal. Under the Exchange's proposal, a second palladium futures contract would be established with a minimum deliverable grade of 99.9 percent pure. The Exchange states that the concurrent trading in the two separate contracts is intended to be a transitional measure, as the NYMEX intends to phase out trading in the 99.8 percent contract.

Under th NYMEX's proposal, the Board of Governors would set an initial delivery month in 1985 for delivery under the 99.9 contract ("transition delivery month") and also establish a date for the commencement of trading in the 99.9 contract. The last month for delivery under the 99.8 contract would be a month prior to the transition delivery month as fixed by the Exchange, and the last day of trading in the 99.8 contract would be the fourth business day prior to the end of the last delivery month. Palladium certified prior to the last delivery date of the 99.8 contract would be deliverable under the 99.9 contract at a discount of $6.00 per ounce. In addition, the Exchange is proposing that assay certificates for 99.8 percent pure palladium, which must be certified prior to the last deliery date under the 99.8 contract, be valid for 15 years from the date of issuance, but that there be no time restrictions on the life of assay certificates for palladium certified as 99.9 percent pure.

In accordance with Section 5a(12) of the Commodity Exchange Act, 7 U.S.C. 7a(12) (1982), the Commission has determined that the proposal submitted by the NYMEX concerning its palladium futures contract is of major economic significance. Accordingly, the NYMEX's proposal will be avialble for inspection at the Office of the Secretariat, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581. Copies can be obtained through the Office of the Secretariat by mail at the above address or by phone at (202) 245–6314.

Other materials submitted by the NYMEX in support of the proposed rule may be available upon request pursuant to the Freedom of Information Act (5 U.S.C. 552) and the Commission's regulation thereunder (17 CFR Part 145 (1982)). Requests for copies of such materials should be made to the FOIA, Privacy and Sunshine Acts Compliance staff of the Office of the Secretariat at the Commission's headquarters in accordance with 17 CFR 145.7 and 145.8.

Any person interested in submitting written data, views or arguments on the proposed amendments should send such comments to Jane K. Stuckey, Secretary, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581, by March 16, 1984. Such comment letters will be publicly available except to the extent they are entitled to confidential treatment as set forth in 17 CFR 145.5 and 145.9.

Issued in Washington, D.C. on February 10, 1984.

Jane K. Stuckey,

Secretary of the Commission.

[FR Doc. 84-4123 Filed 2-14-84; 8:45 am]

BILLING CODE 6351-01-M

DEPARTMENT OF DEFENSE

Office of the Secretary

Extension of Enlistment/Reenlistment Document-Armed Forces of the United States—DD Form 4 Series

The Enlistment/Reenlistment Document-Armed Forces of the United States, DD form 4 Series is scheduled to expire 29 February 1984. This notice cancels that expiration indefinitely. Users should line through the expiration data located at the bottom of the form and require the enlistee/reenlistee and the enlisting officer to initial the line. However, failure to accomplish the line through and initialing will not invalidate the document. A revised DD Form 4 Series is being published and will be distributed prior to 1 June 1984.

For further information contact Major S. F. Davidson, Office of the Assistant Secretary of Defense (Manpower, Installations, and Logistics) (Military Personnel and Force Management) (Accession Policy, Room 2B271, Pentagon, Washington, D.C., Telephone (202) 697–9271.

Dated: February 13, 1984.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 84-4193 Filed 2-14-84; 8:45 am]

BILLING CODE 3810-01-M

DEPARTMENT OF EDUCATION

Discretionary Grant Program; Correction

Office of Special Education and Rehabilitative Services

AGENCY: Department of Education.

ACTION: Correction—Discretionary Grant Programs Under the Rehabilitation Act of 1973, as amended; Application Notices Establishing Closing Dates for Transmittal of Fiscal Year 1984 Application.

SUMMARY: On January 30, 1984 an application notice establishing closing dates for transmittal of applications for certain discretionary grant programs under the Rehabilitation Act of 1973 was published at 49 FR, pp. 3681–3684.

On page 3683, second column, in the application notice for 84.128G—Handicapped Migratory and Seasonal Farmworker Vocational Rehabilitation Services Projects, the closing date for new projects is changed to read "March 23, 1984".

Dated: February 9, 1984.

Maureen E. Corcoran,

General Counsel.

[FR Doc. 84-4086 Filed 2-14-84; 8:45 am]

BILLING CODE 4000-01-M

Office of Special Education and Rehabilitative Sevices

Training Personnel for the Education of the Handicapped Program

AGENCY: Department of Education.

ACTION: Application notice extending the closing Date for transmittal of fiscal year 1984 new applications—Training personnel for the education of the handicapped program.

Applications are invited for new projects under the Training Personnel for the Education of the Handicapped program; Trainers of Volunteers, Including Parents(84.029P). This competition was originally announced in the **Federal Register** on October 3, 1983 (48 FR 45145), with a closing date of November 28, 1983, for submission of applications. The enactment of Pub. L. 98–199, the Education of the Handicapped Act Amendments of 1983, on December 2, 1983, substantially changed the requirements for support of parent training activities under the Act. The closing date is therefore extended to provide applicants the opportunity to amend or resubmit their applications to meet these requirements. Application will also be accepted from those who have not previously submitted them.

Authority for this program is contained in Section 631(c) of Part D of the Education of the Handicapped Act, as amended by Pub. L. 98–199 (20 U.S.C. 1431).

In accordance with Section 631(c) of the Act, an application may be submitted by a private nonprofit organization which—

(1) Is governed by a board of directors on which a majority of the members are parents of handicapped childern and youth and which includes members who are professionals in the field of special education and related services who serve handicapped children and youth; or

(2) If it does not have such a board, has a membership which represents the interests of individuals with handicapping conditions, and has established a special governing committee on which a majority of members are parents of handicapped childern and youth and which includes members who are professionals in the fields of special education and related services, to operate the proposed training and information program.

Closing Date for Transmittal of Applications: Applications for new awards or amendments to previously submitted applications must be mailed or hand delivered on or before March 30, 1984. Applicants who submitted applications in response to the original announcement may:

(1) Notify the Division of Personnel Preparation, Special Education Programs, that they wish to have their applications processed as originally submitted;

(2) Submit amendments to previously submitted applications;

(3) Submit revised applications based on the new requirements; or

(4) Withdraw their applications if they cannot, or do not wish to, meet the new requirements.

Applications Delivered by Mail: New applications or amendments must be addressed to the Department of Education, Application Control Center, Attention: CFDA 84.029P, 400 Maryland Avenue SW., Washington, D.C. 20202

An applicant must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other evidence of mailing acceptable to the U.S. Secretary of Education.

If an application is sent through the U.S. Postal Service, the Secretary does not accept either of the following as proof of maining: (1) A private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service, does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with the local post office.

An applicant is encouraged to use registered or at least first class mail.

Each late applicant will be notified that its application will not be considered.

Applications Delivered by Hand: Hand-delivered applications must be taken to the Department of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets SW., Washington, D.C.

The Application Control Center will accept hand-delivered applications between 8:00 a.m. and 4:30 p.m. (Washington, D.C. time) daily, except Saturdays, Sundays, and Federal holidays.

An application for a new project that is hand delivered will not be accepted by the Application Control Center after 4:30 p.m. on the closing date.

84.029P—Handicapped—Trainers of Volunteers, Including Parents

Program Information: In accordance with Section 631(c)(1) of the Act, this program provides grants to eligible private nonprofit organizations for the purpose of providing training and information to parents of handicapped children and youth, and to volunteers who work with parents, to enable those parents and volunteers to participate more effectively with professionals in meeting the educational needs of handicapped children and youth.

As provided in Section 631(c)(5) of the Act, awards are made under this program to assist parents to:

(1) Better understand the nature and needs of the handicapping condition of their handicapped child or youth;

(2) Provide follow-up support for their handicapped child's or youth's educational programs;

(3) Communicate more effectively with special and regular educators, administrators, related services personnel, and other relevant professionals;

(4) Participate in educational decisionmaking processes including the development of their handicapped child's or youth's individualized educational program;

(5) Obtain information about the programs, services, and resources available to their handicapped child or youth, and the degree to which the programs, services, and resources are appropriate; and

(6) Understand the provisions for the education of handicapped children and youth as specified under Part B of the Education of the Handicapped Act and 34 CFR Part 300.

Prospective applicants are also advised that—

(1) An approved project must serve parents of children with the full range of handicapping conditions, as required by section 631(c)(2)(B) of the Act;

(2) An application must include information demonstrating the applicant's capacity and expertise to conduct effectively the training and information activities it proposes, as required by Section 631(c)(2)(C) of the Act;

(3) The board of directors or special governing committee of each grantee must meet al least once in each calendar quarter to review its project, and each special governing committee must advise the governing board directly of its views and recommendations, as required by Section 631(c)(3) of the Act; and

(4) Each grantee must consult with appropriate agencies which serve or assist handicapped children and youth and are located in the jurisdictions served by the project, as required by Section 631(c)(6) of the Act.

Available Funds: Approximately $2.8 million will be available for new awards under this program for Fiscal Year 1984. The average award is expected to be about $80,000. This estimate of funding level does not bind the Department to a specific number of grants, or to the amount of any grant, unless that amount is otherwise specified by statute or regulations. Applicants may propose project periods of up to 24 months.

Application Forms: Application forms and program information packages for new applications are available. These materials may be obtained by writing to the Division of Personnel Preparation, Office of Special Education Programs, Department of Education, 400 Maryland Avenue, S.W., Room 4628, Switzer Building, Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the legislation, regulations instructions, and forms included in the application package. However, the program information is intended only to aid applicants in applying for assistance. Nothing in the program information package is intended to impose any paperwork, application content, reporting, or grantee performance requirements beyond those imposed

under the statute and regulations. The Secretary urges that the narrative portion of the application not exceed 75 double-spaced pages in length. The Secretary further urges applicants to submit only the information that is requested.

Applicable Regulations: Regulations applicable to this program announcement include the following:

(a) Subparts A and D of the regulations governing the Training Personnel for the Education of the Handicapped program (34 CFR Part 318). Applicants should not, in particular, that applications will be evaluated on the basis of the current selection criteria in 34 CFR 318.30); and

(b) The Education Department General Administrative Regulations (EDGAR) (34 CFR Parts 74, 75, 77, and 78).

FOR FURTHER INFORMATION CONTACT: Dr. Max Mueller, Director, Division of Personnel Preparation, Office of Special Education Programs, U.S. Department of Education, 400 Maryland Avenue SW., Switzer Building, Room 4628, Washington, D.C. 20202; Telephone: (202) 245–0005.

(20 U.S.C. 1431(c))

(Catalog of Federal Domestic Assistance No. 84.029, Training Personnel for the Education of the Handicapped)

Dated: February 10, 1984.

Madeleine Will,

Assistant Secretary.

[FR Doc. 84-4112 Filed 2-14-84; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

Petraco Valley Oil and Refining Co.; Action Taken on Consent Order

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of action taken on consent order.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) announces that it has adopted a Consent Order with Petraco Valley Oil and Refining Company (Petraco) as a final order of the DOE.

EFFECTIVE DATE: February 15, 1984.

FOR FURTHER INFORMATION CONTACT: Milton C. Lorenz, Special Counsel, Economic Regulatory Administration, 1000 Independence Avenue, SW., Washington, D.C. 20585, (202) 252–9500.

SUPPLEMENTARY INFORMATION: On December 7, 1983, 48 FR 54866, the ERA published a notice in the Federal Register that it executed a proposed Consent Order with Petraco Valley Oil and Refining Company of Houston, Texas on October 25, 1983, not to become effective sooner than 30 days after publication of that notice. The Consent Order settles alleged regulatory violations brought by the DOE against Petraco, relating to Petraco's compliance with the Mandatory Petroleum Allocation and Price Regulations administered by DOE and its predecessor agencies as applied to Petraco's transactions involving crude oil during the period July 1, 1979 through January 27, 1981. Under the terms of the Consent Order the company will refund $700,000. The funds are to be paid to the DOE for ultimate distribution.

Pursuant to 10 CFR 205.199(J)(c), interested persons were invited to submit comments concerning the terms and conditions of the proposed Consent Order. Nine states commented. None of the comments objected to the Consent Order. Rather, the comments suggested that the funds which are not distributed to directly, identifiable, injured customers should be distributed to the states for use in energy related programs. Some of the comments also suggested specific guidelines for use of the funds. ERA has considered these comments and has determined that the Consent Order should be made final without modification. ERA has not yet determined an appropriate distribution for the refunded amount; however, the ERA believes that depositing the funds into a DOE interest bearing escrow account for ultimate distribution is an appropriate disposition of the funds at this time.

Since the DOE received no other comments, the Consent Order as proposed will become effective on the date this notice is published in the Federal Register.

The first of fourteen monthly payments is due within thirty days after the effective date of this Consent Order. The remaining monthly payments will be due on the first of each succeeding month until the total amount of the Consent Order is refunded to DOE.

Issued in Washington, D.C. on the 31st day of January 1984.

Milton C. Lorenz,

Special Counsel, Economic Regulatory Administration.

[FR Doc. 84-4086 Filed 2-14-84; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Project Nos. 7923-000, et al.]

Hydroelectric Applications (Magic Water Co., Inc., et al.; Applications Filed With the Commission

Take notice that the following hydroelectric applications have been filed with the Federal Energy Regulatory Commission and are available for public inspection:

1a. Type of Application: Conduit Exemption.

b. Project No.: 7923–000.

c. Date Filed: December 15, 1983.

d. Applicant: Magic Water Company, Inc.

e. Name of Project: Magic Water Company, Inc.

f. Location: On Salmon Falls Creek, near Town of Buhl, in Twin Falls County, Idaho.

g. Filed Pursuant to: Federal Power Act, Section 30, 16 U.S.C. 823(a).

h. Contact Person: Dale Hatch, Cook Electric, Inc., P.O. Box No. 1071, Twin Falls, Idaho 83303.

i. Comment Date: March 23, 1984.

j. Description of Project: The proposed project would consist of: (1) A penstock, connected to the end of the existing 36-inch-diameter conduit pipe, and which would bifurcate into two 30-inch-diameter steel pipes; (2) a powerhouse containing one generating unit rated at 113 kw; and (3) a 40-foot-long transmission line. The water would discharge into the sump of the existing pumping station. The average annual energy generation is estimated to be 910,000 kWh.

An exemption, if issued, gives the Exemptee priority of control, development, and operation of the project under the terms of the exemption from licensing, and protects the Exemptee from permit or license applicants that would seek to take or develop the project.

k. Purpose of Project: Power would be transmitted into the Idaho Power Company Power grid.

l. This notice also consists of the following standard paragraphs: A3, A9, B, C & D3b.

2a. Type of Application: Preliminary Permit.

b. Project No: 7992–000.

c. Date Filed: January 19, 1984.

d. Applicant: Worcester/Southbridge Associates.

e. Name of Project: Westville.

f. Location: Quinebaug River, Town of Southbridge, Worcester County, Massachusetts.

g. Filed Pursuant to: 16 U.S.C. 791(a)–825(r).

h. Contact Person: J. Kirk Rector, CFS Financial Corporation, 324 South State Street, Suite 500, Salt Lake City, Utah 84111.

i. Comment Date: April 13, 1984.

j. Description of Project: The proposed project would utilize the existing U.S. Army Corps of Engineers Westville Lake Flood Control Dam. Applicant proposes to construct a 100-foot-long, 8-foot-diameter penstock from the existing dam outlet works, a new powerhouse containing a single 1–MW turbine-generator, a 100-foot-long tailrace channel and a 1,200-foot-long 12-kV transmission line. The proposed project would produce up to 4,300,000 kWh annually.

k. Purpose of Project: Energy produced at the project would be sold to local municipal electric systems.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, D2.

m. Proposed Scope and Cost of Studies under Permit: A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license. Applicant seeks issuance of a preliminary permit for a period of 36 months, during which time it would perform surveys and geologic investigations, coordinate with the U.S. Army Corps of Engineers on project operation, determine the economic feasibility of the project, reach final agreement on sale of project power, secure financing commitments, consult with Federal, State, and local government agencies concerning the potential environmental effects of the project, and prepare an application for an FERC license, including an environmental report. Applicant estimates the cost of the work under the permit would be $25,000.

3a. Type of Application: Preliminary Permit.

b. Project No: 7791–000.

c. Date Filed: November 1, 1983.

d. Applicant: Hydroelectric Development, Inc.

e. Name of Project: Ashuelot Paper Power Project.

f. Location: On the Ashuelot River, in the Town of Winchester, in Cheshire County, New Hampshire.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Michael P. Demos, Hydroelectric Development, Inc., 200 Union Boulevard/Denver, Colorado 80228.

i. Comment Date: April 13, 1984.

j. Description of Project: The proposed project would consist of: (1) An existing rock-filled timber crib, concrete capped dam, about 110 feet long and 12 feet high; (2) an existing headworks structure; (3) and existing reservoir with a surface area of 3 acres, negligible storage capacity, and a normal maximum water surface elevation of 365 feet M.S.L.; (4) a proposed powerhouse structure, approximately 40 feet wide by 50 feet long, housing three turbine/generators with a total installed capacity of 850 kW; (5) a proposed 69.0-kV transmission line approximately 1,000 feet long; and (6) appurtenant facilities. Applicant estimates that the average annual energy generation would be 4,850,000 kWh. Owner of the dam is the Ashuelot Paper Company, Inc.

k. Purpose of Project: The Applicant anticipates that project energy will be sold to the Public Service Company of New Hampshire.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C and D2.

m. Proposed Scope and Cost of Studies under Permit: A preliminary permit, if issued, does not authorize construction. Applicant seeks issuance of a preliminary permit for a period of 18 months during which time it would prepare studies of the hydraulic, construction, economic, environmental, historic and recreational aspects of the project. Depending on the outcome of the studies, Applicant would prepare an application for an FERC license. Applicant estimates the cost of the studies under the permit would be $37,000.

4a. Type of Application: Preliminary Permit.

b. Project No: 7955–000.

c. Date Filed: January 3, 1984.

d. Applicant: Yolo County Flood Center and Water Conservation District.

e. Name of Project: Peninsula Hydroelectric.

f. Location: On Cache Creek in Lake County, California.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: James F. Eagan, General Manager, Yolo County Flood Control and Water Conservation District, P. O. Box 1940, Woodland, California 95695.

i. Comment Date: April 16, 1984.

j. Description of Project:

The proposed project would consist of: (1) A 160-foot-high concrete gravity dam at elevation 1,120 feet, forming; (2) a reservoir with gross storage capacity of 20,000 acre-feet; (3) a powerhouse at the foot of the dam, containing two generating units with combined rated capacity of 6,300 kW, operating under a 160 feet of head; and (4) a 115-kV, 3.5-mile-long transmission line connecting the project with the existing Pacific Gas and Electric Company's (PG&E) transmission line northwest of the powerhouse.

k. Purpose of Project: The estimated 18 million kWh of project energy would be sold to PG&E.

l. This notice also consists of the following standard paragraphs: A6, A7, A9, B, C, and D2.

4a. Type of Application: Preliminary Permit.

b. Project No: 7965–000.

c. Date Filed: January 9, 1984.

d. Applicant: Hydrowaltham.

e. Name of Project: Moody Street Water Power Project.

f. Location: On the Charles River, in Middlesex and Norfolk Counties, in the cities of Waltham and Newton, Massachusetts.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Jason M. Cortell, Jason M. Cortell and Associates, Inc., 244 Second Avenue, Waltham, Massachusetts 02154.

i. Comment Date: April 16, 1984.

j. Description of Project: The proposed project would consist of: (1) An existing stone block masonry dam, 10 feet high and 150 feet long with 3-foot flashboards; (2) an existing reservoir with a storage capacity of 750 acre-feet and water surface area of 260 acres at normal water surface elevation of 34.8 feet m.s.l.; (3) an existing fish passage facility; (4) a new intake structure; (5) a new 6-foot-diameter penstock, 425 feet long; (6) a new powerhouse, approximately 30 feet square, housing a turbine/generator with an installed capacity of 364 kW; (7) a new 50-foot-long tailrace; (8) a proposed 13.8–kV transmission line, approximately 300 to 600 feet long; and (9) appurtenant facilities. Applicant estimates that the average annual generation would be 1,818,000 kWh. The owner of the dam is the Metropolitan District Commission of Massachusetts.

k. Purpose of Project: The Applicant anticipates that project energy will be sold to the adjacent industrial or residential complexes, the Boston Edison Company, or to the City of Waltham.

l. This notice also consists of the following standard paragraphs: A6, A7, A9, B, C, and D2.

m. Proposed Scope of Studies under Permit: A preliminary permit, if issued, does not authorize construction. Applicant seeks issuance of a preliminary permit for a period of 18 months during which time it would

prepare studies of the hydraulic, construction, economic, environmental, historic and recreational aspects of the project. Depending on the outcome of the studies, Applicant would prepare an application for an FERC license. Applicant estimates the cost of the studies under the permit would be $87,000.

6a. Type of Application: Major License (Over 5 MW).

b. Project No: 3428-001.

c. Date Filed: February 25, 1983.

d. Applicant: Miller Hydro Group, Inc.

e. Name of Project: Worumbo.

f. Location: Androscoggin River, towns of Lisbon and Durham, Androscoggin County, Maine.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. Contact Person: Mark Isaacson, V.P., Miller Hydro Group, Inc., P.O. Box 97, Lisbon Falls, Maine 04252.

i. Comment Date: April 16, 1984.

j. Description of Project: The proposed project would consist of: (1) An existing dam/uncontrolled spillway consisting of: (a) a 260-foot-long, 12-foot-high rock-filled timber crib dam on the east side, crest elevation of 97.0 feet M.S.L. to be replaced by a concrete spillway to 97.0 feet M.S.L.; (b) the center exposed rock ledge section including a 150-foot length of concrete dike with a maximum height of 4 feet and a crest elevation of 97.0 feet M.S.L.; and (c) a 17-foot-high, 520-foot-long rock-filled timber crib dam on the west side, including a 170-foot length reinforced by a concrete face, at a crest elevation of 97.0 feet M.S.L.; (2) a new stanchion stop-log structure to be located at the eastern dam section, 60 feet long and 35 feet high, containing two stop log bays; (3) an existing 180-acre reservoir at elevation 97.0 feet M.S.L. with no usable storage capacity; (4) a new intake structure to be constructed at the head of the existing canal; (5) an existing 750-foot-long power canal to be widened to 40 feet and excavated to an average depth of 35 feet; (6) a downstream fish passage system located in the canal; (7) a new powerhouse located at the end of the canal containing three new turbine-generators with a total rated capacity of 14 MW; (8) a 450-foot-long tailrace channel; (9) a new 4,000-foot-long, 34.5-kV transmission line; and (10) appurtenant facilities. The project would generate up to 83,000,000 kWh annually. Existing facilities are owned by Miller Industries, Inc.

The application was filed during the term of Applicant's preliminary permit for Project No. 3428.

k. Purpose of Project: Energy produced at the project would be sold to Central Maine Power Company.

l. This notice also consists of the following standard paragraphs: A3, A9, B, C and D2.

7a. Type of Application: Preliminary Permit.

b. Project No. 7926-000.

c. Date Filed: December 19, 1983.

d. Applicant: Mr. Richard Gresham.

e. Name of Project: Spread Creek.

f. Location: On Spread Creek in Lincoln County, Montana.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. Contact Person: Mr. Richard R. Gresham, 3420 E. Pinehill Dr., Coeur d'Alene, Id. 83814.

i. Comment Date: April 16, 1984.

j. Description of Project: The proposed project would consist of: (1) Construction of a new 7-foot-high, 20-foot-long diversion structure; (2) a new 36-inch-diameter, 11,000-foot-long steel penstock; (3) a new powerhouse containing 2 generating units having a total rated capacity of 700 kW; (4) the upgrading of 5 miles of existing single phase transmission line to three phase; and (5) appurtenant facilities. The Applicant estimates that the average annual energy output would be 4,292,400 kWh.

k. Purpose of Project: The most likely market for the energy derived at the proposed project would be Pacific Power.

l. This notice also consists of the following standard paragraphs: A6, A7, A9, B, C, and D2.

m. *Proposed Scope of Studies under Permit*—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit is 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on results of these studies Applicant would decide whether to proceed with more detailed studies, and the preparation of an application for license to construct and operate the project. Applicant estimates that the cost of the work to be performed under the preliminary permit would be $13,010.

8a. Type of Application: Preliminary Permit.

b. Project No. P-7925-000.

c. Date Filed: December 16, 1983.

d. Applicant: Colorado Slopes Power.

e. Name of Project: Silver Jack Dam.

f. Location: On Cimarron Creek, in Gunnison, Colorado.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. Contact Person: Mr. Flake H. Wells III, Colorado Slopes Power, P.O. Box 12608, El Paso, Texas 79912.

i. Comment Date: April 16, 1984.

j. Description of Project: The proposed project would utilize the existing Bureau of Reclamation's Silver Jack Dam and reservoir and would consist of: (1) A new powerhouse containing one or more generating units having a total rated capacity of 1 MW; (2) a new transmission line whose length and voltage will be determined during the studies; and (3) appurtenant facilities. The Applicant estimates that the average annual energy output would be 2.5 GWh.

k. Purpose of Project: The most likely market for the energy derived at the proposed project would be an established operating utility.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, and D2.

m. *Proposed Scope of Studies under Permit*—A preliminary permit, if issued, does not authorize construction. Applicant seeks issuance of a preliminary permit for a period of 18 months during which time it would prepare studies of the hydraulic, construction, economic, environmental, historic and recreational aspects of the project. Depending on the outcome of the studies, Applicant would prepare and application for an FERC license. Applicant estimates the cost of the studies under the permit would be $85,000.

9a. Type of Application: License (over 5 MW).

b. Project No.: 7307-000.

c. Date Filed: May 23, 1983.

d. Applicant: The City of Grafton, West Virginia.

e. Name of Project: Tygart Dam Project.

f. Location: At the U.S. Army Corps of Engineers' Tygart Dam on the Tygart River in Taylor County, West Virginia.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. Contact Person: Jeffrey M. Kossak, Suite 2501, 1700 Broadway, New York, New York 10019 and Ms. Peggy Poe City Building, West Main Street, Grafton, West Virginia 26354.

i. Comment Date: March 23, 1984.

j. Competing Application: Project No. 7399-000, Date Filed: June 24, 1983.

k. Description of Project: The proposed project would utilize the U.S. Army Corps of Engineers' Tygart Dam and would consist of: (1) A new intake structure to convey water to one of the two existing 15-foot-diameter penstocks; (2) a new 14.75-foot-diameter and 350-foot-long penstock connected to the same existing penstock; (3) a new powerhouse with 2 turbine-generator units with a total capacity of 20 MW; (4) a new 1-mile-long and 138-kV

transmission line; and (7) other appurtenances. Applicant estimates an average annual generation of 85,000 MWh.

l. Purpose of Project: Project energy would be sold to Monogahela Power Company.

m. This notice also consist of the following standard paragraphs: A3, A9, B, and C.

0a. Type of Application: License (over 5 MW).

b. Project No.: 7399–000.

c. Date Filed: June 24, 1983.

d. Applicant: NOAH Corporation.

e. Name of Project: Tygart Dam Project.

f. Location: At the U.S. Army Corps of Engineers' Tygart Dam on the Tygart River in Taylor County, West Virginia.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Howard M. Hickey or James B. Price, NOAH Corporation, P.O Drawer 640, Aiken, South Carolina 29801.

i. Comment Date: March 23, 1984.

j. Competing Application: Project No. 7307–000, Date Filed: May 23, 1983.

k. Description of Project: The proposed project would utilize the U.S. Army Corps of Engineers' Tygart Dam and would consist of: (1) New trashracks in the 2 existing 15-foot-diameter penstocks; (2) 2 new 15-foot-diameter and 110-foot-long penstock sections connected to the downstream end of the 2 existing penstocks; (3) a new powerhouse with 3 turbine-generator units with a total capacity of 75 MW; (4) a new tailrace; (5) a new switchyard; (6) a new 1.4-mile-long and 138-kV transmission line; and (7) other appurtenances. Applicant estimates an average annual generation of 144,000 MWH.

l. Purpose of Project: Project energy would be sold to Monogahela Power Company.

m. This notice also consists of the following standard paragraphs: A3, A9, B, and C.

11a. Type of Application: Preliminary Permit.

b. Project No. P–7445–000.

c. Date Filed: July 13, 1983.

d. Applicant: Malcolm S. Brown.

e. Name of Project: Napanoch Two.

f. Location: On Roundout Creek in Ulster County, New York.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Malcolm S. Brown, P.O. Box 82, Hortonville, New York 12745.

i. Comment Date: April 13, 1984.

j. Description of Project: The proposed project would consist of three existing dams, No. 1, No. 2 and No. 3 all located on property owned by Recycled National Paper Product Company of Napanoch, New York. The Applicant proposes three options. The option selected would be dependent upon the completion of economic and engineering feasibility studies:

Option No. 1: (1) Dam No. 1, 150-foot-long, 10-foot-high concrete reinforced structure; (2) a reservoir having a surface elevation of 405.4 feet M.S.L. and a storage capacity of 2 acre-feet; (3) a proposed 1,000-foot-long penstock; and (4) a proposed powerhouse containing one or more generating units having a total rated capacity of 125 kW. This option would involve bypassing dams 2 and 3.

Option No. 2: (1) Dam No. 1 and reservoir; (2) a proposed 100-foot-long penstock; (3) a proposed powerhouse which would be built downstream of Dam No. 1 and would contain one or more generating units; (4) Dam No. 2, and 80-foot-long, 12-foot-high concreate reinforced structure; (5) a reservoir having a surface elevation of 336.2 feet M.S.L. and a storage capacity of 2 acre-feet; (6) a proposed penstock long enough to extend past Dam No. 2 and Dam No. 3; and (7) a proposed powerhouse built downstream of Dam No. 3, containing one or more generating units. The total rated capacity would be 125 kW.

Option No. 3: Option No. 3 would consist of the installation of penstocks and powerhouses at each of the three existing dams. Dam No. 3 is an existing, concrete, reinforced dam having two segments joined by an island. Segment "a" is 100 feet long and 6 feet tall, segment "b" is 20 feet long, 10 feet tall, and in deteriorated condition. The existing reservoir at Dam No. 3 has a surface elevation of 305.8 feet M.S.L. and a storage capacity of 2 acre-feet. The total rated capacity would be 125 kW.

Whichever option is chosen would involve a proposed connection with a nearby existing 4.16-kV transmission line, owned by Central Hudson Gas and Electric Company. The Applicant estimates that the average annual energy output would be 1 GWh.

k. Purpose of Project: The most likely market for the energy derived at the proposed project would be Central Hudson Electric & Gas Company.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, and D2.

m. Proposed Scope of Studies Under Permit: A preliminary permit if issued, does not authorize construction. The term of the proposed preliminary permit is 18 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on results of these studies Applicant would decide whether to proceed with more detailed studies, and the preparation of an application for license to construct and operate the project. Applicant estimates that the cost of the work to be performed under the preliminary permit would be $5,000.

12a. Type of Application: Exemption (5 MW or Less).

b. Project No: 7805–000.

c. Date Filed: November 4, 1983.

d. Applicant: Gerald and Glenda Ohs.

e. Name of Project: Ohs Hydro (Cataract Creek) Project.

f. Location: On the Cataract Creek, in Madison County, Montana.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Rhett Hurless, C. C. Bowman and Associates, P. O. Box 3474, Bozeman, Montana 59715.

i. Comment Date: March 26, 1984.

j. Description of Project: The proposed project would consist ofD (1) A proposed steel diversion structure; (2) a proposed 20-inch-diameter penstock; (3) a proposed powerhouse containing 1 generating unit rated at 500 kW; (4) a proposed 12,500-volt transmission line; and (5) appurtenant facilities. the estimated average annual energy output for the project would be 3,000,000 kWh.

k. Purpose of Exemption: An exemption, if issued, gives the Exemptee priority of control, development, and operation of the project under the terms of the exemption from licensing, and protects the Exemptee from permit or license applicants that would seek to take or develop the project.

l. This notice also consists of the following standard paragraphs: A1, A9, B, C and D3a.

13a. Type of Application: Exemption (5 MW or Less).

b. Project No: 7804–000.

c. Date Filed: November 4, 1983.

d. Applicant: Gerald and Glenda Ohs.

Name of Project: Ohs Hydro (North Willow Creek) Project.

f. Location: On the North Willow Creek, in Madison County, Montana.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Rhett Hurless, C. C. Bowman and Associates, P. O. Box 3474, Bozeman, Montana 59715.

i. Comment Date: March 26, 1984.

j. Description of Project: The proposed project would consist of: (1) A proposed steel diversion structure; (2) a proposed 20-inch-diameter penstock; (3) a proposed powerhouse containing 1 generating unit rated at 400 kW; (4) a

proposed 12,500-volt transmission line; and (5) appurtenant facilities. the estimated average annual energy output for the project would be 3,500,000 kWh.

k. Purpose of Exemption: An exemption, if issued, gives the Exemptee priority of control, development, and operation of the project under the terms of the exemption from licensing, and protects the Exemptee from permit or license applicants that would seek to take or develop the project.

l. This notice also consists of the following standard paragraphs: A1, A9, B, C and D3a.

14a. Type of Application: 5 MW Exemption.

b. Project No. 7465–000.

c. Date Filed: July 26, 1983.

d. Applicant: John G. Pless, Sr.

e. Name of Project: Stewarts Creek Hydropower Project.

f. Location: Stewarts Creek, Carroll County, Virginia.

g. Filed Pursuant to: Section 408 of the Energy Security Act of 1980, (16 U.S.C. 2705 and 2708 *as amended*).

h. Contact Person: Mr. John G. Pless, P.O. Box 517, Galax, Virginia 24333.

i. Comment Date: March 26, 1984.

j. Description of Project: The proposed project would consist of: (1) Two proposed concrete box, intake structures to be submerged in the creeks of the North fork and South Fork of Stewarks Creek; (2) two proposed 2,500-foot-long penstocks running from the intake structures on the North and South Fork Creeks to the proposed powerhouse consisting primarily of 12 inch pressure rated PVC pipe; (3) a proposed powerhouse to be built at the confluence of the North and South Fork Creeks with the proposed installation of two turbine-generator units for a total installed capacity of 550 kW; (4) two proposed tailraces, one for each installed unit, will be constructed of 6 inch reinforced concrete and will each be 4 feet wide and 2 feet deep; (5) a proposed 1,500-foot-long transmission line that interconnects with an existing Appalachian Power Company powerline; and (6) appurtenant facilities. The Applicant estimates the total average annual energy production to be 3.1 GWh.

k. Purpose of Project: The Applicant intends to sell the power produced to the Appalachian Power Company.

l. This notice also consists of the following stardard paragraphs: A1, A9, B, C and D3a.

m. Purpose of Exemption: An exemption, if issued, gives the Exemptee priority of control, development, and operation of the project under the terms of the exemption from licensing, and protects the Exemptee from permit or license applicants that would seek to take or develop the project.

15a. Type of Application: 5 MW Exemption.

b. Project No. 7662–000.

c. Date Filed: September 23, 1983.

d. Applicant: The City of Reading, Pennsylvania.

e. Name of Project: Ontelaunee

f. Location: On the Maiden Creek in Berks County, Pennsylvania.

g. Filed Pursuant to: 16 U.S.C. 2705 and 2708.

h. Contact Person: George C. Patton, P.E., Chief Engineer, Bureau of Water, City of Reading, Eighth and Washington Streets, Reading, Pennsylvania 19601.

i. Comment Date: March 26, 1984.

j. Description of Project: The proposed project would consist of: (1) The existing Ontelaunee Dam, a concrete gravity structure approximately 550 feet long and 56 feet high and an adjoining 3,200-foot-long earth embankment; (2) a 1,350-acre reservoir at a normal pool surface elevation of 304.0 feet, (City of Reading Datum) with an 11,600-acre-foot storage capacity; (3) a proposed, approximately 200-foot-long, seven-foot square, reinforced concrete penstock; (4) a proposed powerhouse with an installed generating capacity of 1.2 MW; (5) a proposed two-mile-long transmission line; (6) a proposed 300-foot-long tailrace channel; and (7) appurtenant facilities.

The Applicant estimates the average annual energy generation to be 6.5 GWh.

k. Purpose of Project: It is anticipated that the power output will be utilized for municipal power needs.

l. This notice also consists of the following stardard paragraphs: A1, A9, B, C and D3a.

16a. Type of Application: Preliminary Permit.

b. Project No. 7924–000.

c. Date Filed: December 16, 1983.

d. Applicant: Mt. Hood Hydro.

e. Name of Project: Diver's Creek Hydroelectric Project.

f. Location: Partially in Mt. Hood National Forest, on Diver's Creek, near Parkdale, in Hood River County, Oregon.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Kenneth D. Duncan, Mt. Hood Hydro, 2816 Skyline Road, The Dalles, Oregon 97058.

i. Comment Date: April 9, 1984.

j. Description of Project: The proposed project would consist of: (1) A 4-foot-high, 30-foot-long concrete diversion at elevation 2040 feet; (2) a 15,000-foot-long, 24-inch-diameter steel pipeline; (3) a powerhouse containing a single generator with a rated capacity of 835 kW and an annual energy production of 4.65 GWh at elevation 1320 feet; (4) a 12,000-foot-long transmission line to an existing Pacific Power and Light Company line.

A perliminary permit, if issued, does not authorize construction. Applicant seeks a 24-month preliminary permit to conduct engineering, economic and environmental studies to ascertain project feasibility and to support an application for a license to construct and operate the project. Applicant has stated that no new roads are necessary. The estimated cost of permit activities is $25,000.

k. Purpose of Project: Power may be marketed to Pacific Power and Light Company.

l. This notice also consists of the following standard paragraghs: A5, A7, A9, B, C, D2.

17a. Type of Application: Amendment of License.

b. Project No. 2569–002.

c. Date Filed: October 20, 1983.

d. Applicant: Niagara Mohawk Power Corporation.

e. Name of Project: Black River.

f. Location: On the Black River at the Kamargo Development, Town of LeRay and Rutland, Jefferson County, New York.

g. Filed Pursuant to: 16 U.S.C. 791(a)–825(r).

h. Contact Person: John W. Keib, Niagara Mohawk Power Corporation, 300 Erie Boulevard West, Syracuse, NY 13202.

i. Comment Date: March 16, 1984.

j. Description of Proposal: Licensee proposes to rehabilitate the spillway at the Kamargo Development because maintenance of the four-foot-high flashboards has become increasingly diffucult. Licensee proposes to remove the existing four-foot high flashboards, raise the permanent reinforced-concrete dam crest elevation two feet, and install two-foot high flashboards.

Licensee has analyzed pool water elevations for various flows and determined that there would be no effect on the normal mazimum pool elevation and that the passage of potential flood water would not be inhibited by the proposed spillway modification.

Licensee proposes no changes to historic project operation. The development would continue to be operated to provide power to Licensee's system.

k. This notice also consists of the following standard paragraphs: B, C.

a. Type of Application: Preliminary Permit.

b. Project No: 7771–000.

c. Date Filed: October 25, 1983.

d. Applicant: Big Sage Associates.

e. Name of Project: Randall L. Rigby Hydropower Project.

f. Location: On Rattlesnake Creek, near Alturas, partly within the Modoc National Forest, in Modoc County, California.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. J. Kirk Rector, Sr. Vice President, Diversified Products, #500 CFS Center, 324 South State Street, Salt Lake City, UT 84111.

i. Comment Date: April 9, 1984.

j. Description of Project: The proposed project would consist of: (1) The existing Hot Springs Valley Irrigation District's 49-foot-high Big Sage Dam; (2) a 19,000-foot-long open ditch; (3) a 36-inch-diameter, 1,600-foot-long penstock; (4) a powerhouse with a total installed capacity of 1,500 kW; and (5) a 2-mile-long, 7.2-kV transmission line to connect to an existing Suprise Valley transmission line. The Applicant estimates that the average annual energy production at 4.4 million kWh.

A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a 36-month preliminary permit to conduct technical, environmental and economic studies, and also prepare an FERC license application at an estimated cost of $125,000.

k. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C & D2.

a. Type of Application: Exemption (5 MW or Less).

b. Project No.: 7569–000.

c. Date Filed: September 1, 1983.

d. Applicant: City of South Bend, Indiana.

e. Name of Project: South Bend Hydroelectric Project.

f. Location: On the St. Joseph River, in St. Joseph County, Indiana.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Rajeev K. Chaudhary, Lawson-Fisher Associates, 525 West Washington Street, South Bend, Indiana 46601 or Mr. James R. Seitz, Superintendent, Department of Public Parks, 301 S. St. Louis Boulevard, South Bend, Indiana 46617.

i. Comment Date: April 13, 1984.

j. Description of Project: The proposed project would consist of: (1) An existing reservoir with a surface area of 150 acres and a storage capacity of 800 acre-feet at power pool elevation of 680.5 feet m.s.l.; (2) an existing concrete and timber-crib dam approximately 18 feet high and 435 feet long; (3) a proposed powerhouse containing 1 generating unit rated at 50 kW and 3 generating units rated at 890 kW each, for a total installed capacity of 2,720 kW; and (4) appurtenant facilities. The estimated average annual energy output for the project would be 15,000,000 kWh.

k. Purpose of Exemption: An exemption, if issued, gives the Exemptee priorty of control, development, and operation of the project under the terms of the exemption from licensing, and protects the Exemptee from permit of license applicants that would seek to take or develop the project.

l. This notice also consists of the following standard paragraphs: A1, A9, B, C and D3a.

20a. Type of Application: Preliminary Permit.

b. Project No. 7962–000.

c. Date Filed: January 6, 1983.

d. Applicant: Robert W. Shaw.

e. Name of Project: Baldwin.

f. Location: Connecticut River, Village of Pittsburg, Coos County, New Hampshire.

g. Filed Pursuant to: 16 U.S.C. 791(a)–825(r).

h. Contact Person: Robert W. Shaw, 4 Parson Street, Colebrook, New Hampshire 03576.

i. Comment Date: April 16, 1984.

j. Description of Project: The proposed project would consist of: (1) A new 18-foot-high, 158-foot-long rock filled timber crib dam; (2) a new 2-acre reservoir with no usable storage capacity at elevation 1297 feet M.S.L.; (3) a new 4,000-foot-long penstock of undetermined diameter and material; (4) a new powerhouse located on the western river bank containing turbine-generators with a total rated capacity of 3,500 kW discharging at a tailwater elevation of 1214 feet M.S.L.; (5) a new transmission line; and (6) appurtenant facilities. The project would generate up to 20,000,000 kWh annually.

k. Purpose of Project: Energy provided by the project would be sold to Public Service Company of New Hampshire.

l. This notice also consists of the following standard paragraphs: A6, A7, A9, B, C, and D2.

m. Proposed Scope and Cost of Studies under Permit: A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license. Applicant seeks issuance of a preliminary permit for a period of 18 months, during which time it would perform surveys and geologic investigations, determine the economic feasibility of the project, reach final agreement on sale of project power, secure financing commitments, consult with Federal, State and local government agencies concerning the potential environmental effects of the project, and prepare an application for a FERC license, including an environmental report. Applicant estimates the cost of the work under the permit would be $32,000.

21a. Type of Application: License (over 5 MW).

b. Project No. 4660–001.

c. Date Filed: September 28, 1983.

d. Applicant: Independence County, Arkansas.

e. Name of Project: White River L & D No. 2.

f. Location: On the White River in Independence County, Arkansas.

g. Filed Pursuant to: Federal Power Act, U.S.C. 791(a)–825(r).

h. Contact Person: Honorable James Pearson, County Judge, Independence county Courthouse, Batesville, Arkansas 72501 and Halliwell Associates, Inc., 865 Watermann Avenue, East Providence, Rhode Island 02914.

i. Comment Date: April 6, 1984.

j. Description of Project: The proposed run-of-river project would be located at the White River Lock and Dam No. 2, owned by the Arkansas Light and Power Company and would consist of: (1) The existing White River Lock and Dam No. 2, approximately 658 feet long and 29 feet high, constructed of concrete and timber cribs with the dam crest at El. 257.8 feet (NGVD); (2) a reservoir having minimal pondage; (3) an intake flume, 120 feet long, 100 feet wide and 39 feet high, utilizing the defunct navigation lock at the right river bank; (4) a new powerhouse, with intake structure, containing 3 turbine-generator units having rated capacities of 2,360 kW each for a total rated capacity of 7,080 kW; (5) a tailrace returning flow to the river approximately 400 feet downstream of the dam; (6) a 13.8 kV transmission line approximately 6.4 miles long; and (7) appurtenant facilities. The Applicant estimates that the average annual energy output would be 38,293,000 kWh. Project energy would be sold to the Arkansas Light and Power Company. The Applicant is the Permittee for Project No. 4660.

k. This notice also consists of the following standard paragraphs: A3, A9, B, C & D1.

22a. Type of Application: Exemption (5 MW or less).

b. Project No. 7422–000.

c. Date Filed: July 5, 1983.

d. Applicant: Paul N. Zeller.

e. Name of Project: Horn Creek Ranch Power Generating Project.

f. Location: On Horn Creek in Custer County, Colorado.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)—825(r).

h. Contact Person: Mr. Willbur C. Miller, Route 1, Box 48, Westcliffe, Colorado 81252.

i. Comment Date: April 19, 1984.

j. Description of Project: The proposed project would consist of: (1) Proposed 3-foot high by 10-foot-long diversion structures; (2) proposed 15-inch diameter penstock; (3) 2 proposed powerhouses containing 2, 25 kW generating units having a total installed capacity of 100 kW; (4) proposed 15–KV transmission lines; and (5) appurtenant facilities. The estimated average energy output for the project would be 438,000 kWh

k. Purpose of Exemption: An exemption, if issued, gives the Exemptee priority of control, development, and operation of the project under the terms of the exemption from licensing, and protects the Exemptee from permit or license applicants that would seek to take or develop the project.

l. This notice also consists of the following standard paragraphs: A1, A9, B, C and D3a.

23a. Type of Application: Amendment of License.

b. Project No. 2801–002.

c. Date Filed: December 21, 1983.

d. Applicant: Mary C. Heather.

e. Name of Project: Glendale.

f. Location: Housatonic River, Town of Stockbridge, Berkshire County Massachusetts.

g. Filed Pursuant to: 16 U.S.C. 791(a)—825(r).

h. Contact Person: Mary C. Heather, Sargeant Street, Stockbridge, Massachusetts 01262.

i. Comment Date: March 16, 1984.

j. Description of Project: The proposed amendment would involve the restoration of three existing inoperable turbine-generators inside the existing powerhouse. Currently, one turbine connected to two generators is operable in the project powerhouse producing a total rated capacity of 240 kW. Restoration of the three open turbine-generators would increase the total rated capacity of the project to 640 kW. The project would continue to operate as a run-of-the-river facility producing approximately 4,000,000 kWh annually.

k. Purpose of Project: Energy produced at the project would continue to be sold to Massachusetts Electric Company.

l. This notice also consists of the following standard paragraphs: B and D2.

m. Filing and Service of Responsive Documents: Any filing must bear in all capital letters the title "COMMENTS", "PROTEST" or "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing is in response. Any of the above named documents must be filed by providing the original and the number of copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426.

24a. Type of Application: Preliminary Permit.

b. Project No. 7818–000.

c. Date Filed: November 9, 1983.

d. Applicant: William W. Durgin.

e. Name of Project: Ashton Falls.

f. Location: On the Blackstone River, in Providence County in the Towns of Cumberland and Lincoln, Rhode Island.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: William W. Durgin, 363 Hines Road, Cumberland, Rhode Island 02864.

i. Comment Date: April 6, 1984.

j. Description of Project: The proposed Project would consist of: (1) An existing masonry arched dam approximately 200-feet-long and 10-feet-high; (2) existing outlet works with two sluice gates, and five vertical gates each of approximately 10 foot span; (3) a reservoir with surface area of approximately 35 acres at elevation 74 feet M.S.L. and negligible storage capacity. Normal maximum water surface elevation is approximately 75 feet M.S.L.; (4) an existing canal, approximately 700-feet-long and 30-feet-wide; (5) two proposed penstocks about 5 feet and 7 feet in diameter with each being approximately 30 feet in length; (6) a proposed concrete block powerhouse, approximately 20 feet wide by 30-feet-long, housing two turbine/generator units with a total installed capacity of 750 kW; (7) a proposed 480-volt transmission line approximately 600-feet-long, and (8) appurtenant facilities. Applicant estimates that the average annual energy generation would be 4,000,000 kWh. The existing dam is owned by Ronci Manufacturing Company, Incorporated.

k. Purpose of Project: The Applicant anticipates that project energy will be sold to Blackstone Valley Electric Company.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, and D2.

m. Proposed Scope of Studies under Permit—A preliminary permit, if issued, does not authorize construction. Applicant seeks issuance of a preliminary permit for a period of 36-months during which time it would prepare studies of the hydraulic, construction, economic, environmental, historic and recreational aspects of the project. Depending on the outcome of the studies, Applicant would prepare an application for an FERC license. Applicant estimates the cost of the studies under the permit would be $40,000.

25a. Type of Application: Amendment of License (New Capacity).

b. Project No. 1051–002.

c. Date Filed: July 6, 1982.

d. Applicant: Alaska Power and Telephone Company.

e. Name of Project: Skagway-Dewey Lake.

f. Location: On Reid Falls Creek, Upper Dewey Lake and Creek, Icy Creek, Snyder Creek, and Lower Dewey Lake and Creek within the Tongass National Forest; Skagway, Alaska.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Ralph J. Wilson, President, Alaska Power and Telephone Company, 702 Water Street, Port Townsend, Washington 98368.

i. Comment Date: March 19, 1984.

j. Description of Project: The proposed amendment would consist of: (1) The installation of an additional generating unit with an installed capacity of 780 kW connecting to an existing penstock in the existing powerhouse; and (2) an excavated tailrace to discharge directly into Pullen Creek. The estimated average annual energy output due to this addition would be .5 million kWh.

k. This notice also consists of the following standard paragraphs: B and C.

26a. Type of Application: Preliminary Permit.

b. Project No. 7751–000.

c. Date Filed: October 24, 1983.

d. Applicant: Muskingum River Hydro Associates.

e. Name of Project: Devola Lock & Dam #2.

f. Location: Muskingum River Lock and Dam #2, in Washington County, Ohio.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: David M. Coombe, Synergics, Inc., 410 Severn Ave., Suite 409, Annapolis, MD 21403.

i. Comment Date: April 6, 1984.

j. Description of Project: The proposed project would consist of: (1) An existing 587-foot-long, 11.9-foot-high dam located adjacent to a 160-foot-long, 35.8-foot-wide lock, both of which are owned by the Ohio Department of Natural Resources; (2) an existing reservoir of negligible storage capacity at an elevation of 593.4 feet MSL; (3) a proposed 150 foot-by-120 foot powerhouse containing six generating units with a total installed capacity of 7.2 MW; (4) a proposed 2-mile-long transmission line; and (5) appurtenant

facilities. The estimated average annual energy would be 23,200 MWh.

k. Purpose of Project: Project energy would be sold to the Tennessee Valley Authority.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, D2.

m. Proposed Scope of Studies Under Permit: A preliminary permit, if issued, does not authorize construction. Applicant seeks issuance of a preliminary permit for a period of 36 months during which time Applicant would investigate project design alternatives, financial feasibility, environmental effects of project construction and operation, and project power potential. Depending upon the outcome of the studies, the Applicant would decide whether to proceed with an application for FERC license. Applicant estimates that the cost of the studies under permit would be $36,000.

27a. Type of Application: Preliminary Permit.

b. Project No. 7859–000.

c. Date Filed: November 18, 1983.

d. Applicant: Cook Electric, Inc.

e. Name of Project: Carmen Creek.

f. Location: On Carmen Creek, a tributary to the Salmon River, in Lemhi County, Idaho, within the Salmon National Forest.

g. Filed Pursuant to: Federal Power Act 16 U.S.C. 795–825(r).

h. Contact Person: Mr. Dale Hatch, Cook Electric, Inc., P.O. Box 1071, Twin Falls, Idaho 83303–1071.

i. Comment Date: April 9, 1984.

j. Description of Project: The proposed project would consist of: (1) A 6-foot-high, intake structure at 5,800 feet msl; (2) a 34-inch-diameter, 12,210-foot-long buried penstock; (3) a powerhouse containing 3 generating units with a combined capacity of 2,300 kW operating under a head of 800 feet. The estimated average annual energy production would be 8,641,361 kWh.

A preliminary permit, if issued does not authorize construction. The Applicant seeks a 36 month permit to study the feasibility of constructing and operating the project. No new access road will be needed for the purpose of conducting these studies. The estimated cost for conducting these studies is $15,250.

k. Purpose of Project: Project power would be sold to Idaho Power Company.

l. This notice also consists of the following standard paragraphs: A6, A7, A9, B, C and D1.

28a. Type of Application: Preliminary Permit.

b. Project No. 7746–000.

c. Date Filed: October 24, 1983.

d. Applicant: Geoffrey Shadroui.

e. Name of Project: Stevens Branch Project.

f. Location: On the Stevens Branch near Barre City, in Washington County, Vermont.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Geoffrey Shadroui, 121 Maple Avenue, Barre, Vermont 05641.

i. Comment Date: April 6, 1984.

j. Description of Project: The project would consist of: (1) An existing dam with an overall length of 214 feet and a maximum height of 12 feet; (2) an existing 0.18-acre reservoir with a storage capacity of 1.4 acre-feet at the normal water surface elevation of 650 feet M.S.L.; (3) a proposed 300-foot-long, 3-foot-diameter penstock; (4) a proposed powerhouse to contain an installed generating capacity of 125 kW; and (5) appurtenant facilities. The existing dam is owned by the City of Barre, Vermont. The Applicant estimates that the average annual energy generation will be 450 MWh.

k. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, and D2.

l. Proposed Scope of Studies Under Permit: A preliminary permit if issued, does not authorize construction. The term of the proposed preliminary permit is 18 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on results of these studies Applicant would decide whether to proceed with more detailed studies, and the preparation of an application for license to construct and operate the project. Applicant estimates that the cost of the work to be performed under the preliminary permit would be $3,000.

29a. Type of Application: Preliminary Permit.

b. Project No. 7876–000.

c. Date Filed: November 25, 1983.

d. Applicant: Darius A. Gray.

e. Name of Project: Gray Hydroelectric.

f. Location: On Pine Creek, in Wasatch County, Utah.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Darius A. Gray, 7721 South 1100 East, Midvale, Utah 84047.

i. Comment Date: April 9, 1984.

j. Description of Project: The proposed project would consist of: (1) A new concrete overflow diversion dam approximately five feet high with a trashrack-protected 24-inch slidegate intake on the eastern side; (2) a new power canal with a capacity of 30 cfs that extends 13,000 feet from elevation 7,850 m.s.l. to 6,080 m.s.l.; (3) a new penstock, 24 inches in diameter and 5,200 feed long; (4) a new 40-foot square wood or metal powerplant housing one 3,500-kW turbine/generator unit operating under a head of 1,700 feet; (5) a new 12.5-kV transmission line one mile long; and (6) appurtenant electrical and mechanical facilities.

The estimated average annual generation of 20 million kWh would be sold to Utah Power & Light Company.

k. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, and D2.

l. Proposed Scope of Studies under Permit: Applicant has requested a 36-month permit to prepare a definitive project report, including preliminary permit design, results of geological, environmental, and economic feasibility studies. The cost of the above activities, along with preparation of an environmental impact report, obtaining agreements with the Corps and other Federal, State, and local agencies, preparing a license application, conducting final field surveys, and preparing designs is estimated by the Applicant to be $50,000.

m. Purpose of Preliminary Permit: A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other information necessary for inclusion in an application for a license.

30a. Type of Application: License (Under 5 MW).

b. Project No. P–7272–000.

c. Date Filed: May 12, 1983.

d. Applicant: Atlantic Power Development Corporation.

e. Name of Project: Hildebrand Project.

f. Location: On the Monongahela River in Monongalia County, West Virginia.

g. Filed pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Florijan Bevec, 401 C Street NW., Washington, D.C. 20002.

i. Comment Date: April 9, 1984.

j. Description of Project: The proposed project would utilize the U.S. Army Corps of Engineers' Hildebrand Lock and Dam and would consist of: (1) Intake structures; (2) two new parallel penstocks 12.2 feet in diameter and 36 feet long; (3) a new powerhouse with 2 turbine-generator units with a total

installed capacity of 4,000 kW; (4) a 0.7-mile-long transmission line; and (5) other appurtenances. Applicant estimates an average annual generation of 19,800,000 kWh.

k. Purpose of Project: Project energy would be sold to a local utility and used for residential, commercial, industrial, and other purposes.

l. This notice also consists of the following standard paragraphs: A3, A9, B, C and D1.

31a. Type of Application Major License (Over 5 MW).

b. Project No. 6939-001.

c. Date Filed: April 2, 1983.

d. Applicant: City of Jackson, Ohio.

e. Name of Project: Belleville.

f. Location: On the Ohio River near Parkersburg in Wood County, West Virginia.

g. Filed Pursuant to: 16 U.S.C. 791(a)-825(r)

h. Contact Person: Mr. James S. Sigg, P.O. Box 1383, Portsmouth, Ohio 45662.

i. Comment Date: April 6, 1984.

k. Description of Project: The proposed project would utilize the existing U.S. Army Corps of Engineer's Belleville Dam and would consist of: (1) A new excavated intake channel along the left (east) bank; (2) a new submersible powerhouse containing two generating units having a total rated capacity of 42,000-kW operated under an 18-feet head and at a flow of 34,000 cfs, and having integral trash racks, an intake stoplog structure, a gantry crane, a 4,160 v./138-kV substation, and draft tube gates; (3) a new excavated tailrace; (4) a new access bridge; (5) an 11.89-mile long 138-kV transmission line; and (6) miscellaneous appurtenant facilities.

Applicant proposed a run-of-river operation. Applicant estimates that the proposed project would cost $98,674,820.

l. Purpose of Project: Applicant intends to use the project power to serve the needs of its existing and future customers. Excess energy would be sold to American Municipal Power—Ohio, Inc. Applicant estimates that the average annual energy output would be 253,258,830 KWh.

m. This notice also consists of the following standard paragraphs: A2, A9, B, and C.

Competing Applications

A1. Exemption for Small Hydroelectric Power Project under 5MW Capacity—Any qualified license or conduit exemption applicant desiring to file a competing application must submit to the Commission, on or before the specified comment date for the particular application, either a competing license or conduit exemption application that proposes to develop at least 7.5 megawatts in that project, or a notice of intent to file such an application. Any qualified small hydroelectric exemption applicant desiring to file a competing application must submit to the Commission, on or before the specified comment date for the particular application, either a competing small hydroelectric exemption application or a notice of intent to file such an application. Submission of a timely notice of intent allows an interested person to file the competing license, conduit exemption, or small hydroelectric exemption application no later than 120 days after the specified comment date for the particular application. Applications for preliminary permit will not be accepted in response to this notice.

A2. Exemption for Small Hydroelectric Power Project under 5MW Capacity—Any qualified license or conduit exemption applicant desiring to file a competing application must submit to the Commission, on or before the specified comment date for the particular application, either a competing license or conduit exemption application that proposes to develop at least 7.5 megawatts in that project, or a notice of intent to file such an application. Submission of a timely notice of intent allows an interested person to file the competing license or conduit exemption application no later than 120 days after the specified comment date for the particular application. Applications for preliminary permit and small hydroelectric exemption will not be accepted in response to this notice.

A3. License or Conduit Exemption—Any qualified license, conduit exemption, or small hydroelectric exemption applicant desiring to file a competing application must submit to the Commission, on or before the specified comment date for the particular application, either a competing license, conduit exemption, or small hydroelectric exemption application, or a notice of intent to file such an application. Submission of a timely notice of intent allows an interested person to file the competing license, conduit exemption, or small hydroelectric exemption application no later than 120 days after the specified comment date for the particular application. Applications for preliminary permit will not be accepted in response to this notice.

This provision is subject to the following exception: if an application described in this notice was filed by the preliminary permittee during the term of the permit, a small hydroelectric exemption application may be filed by the permittee only (license and conduit exemption applications are not affected by this restriction).

A4. License or Conduit Exemption—Public notice of the filing of the initial license, small hydroelectric exemption or conduit exemption application, which has already been given, established the due date for filing competing applications or notices of intent. In accordance with the Commission's regulations, any competing application for license, conduit exemption, small hydroelectric exemption, or preliminary permit, or notices of intent to file competing applications, must be filed in response to and in compliance with the public notice of the initial license, small hydroelectric exemption or conduit exemption application. No competing applications or notices of intent may be filed in response to this notice.

A5. Preliminary Permit: Existing Dam or Natural Water Feature Project—Anyone desiring to file a competing application for preliminary permit for a proposed project at an existing dam or natural water feature project, must submit the competing application to the Commission on or before 30 days after the specified comment date for the particular application (see 18 CFR 4.30 ot 4.33 (1982)). A notice of intent to file a competing application for preliminary permit will not be accepted for filing.

A competing preliminary permit application must conform with 18 CFR 4.33 (a) and (d).

A6. Preliminary Permit: No Existing Dam—Anyone desiring to file a competing application for preliminary permit for a proposed project where no dam exists or where there are proposed major modifications, must submit to the Commission on or before the specified comment date for the particular application, the competing application itself, or a notice of intent to file such an application. Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 60 days after the specified comment date for the particular application.

A competing preliminary permit application must conform with 18 CFR 4.33 (a) and (d).

A7. Preliminary Permit—Except as provided in the following paragraph, any qualified license, conduit exemption, or small hydroelectric exemption applicant desiring to file a competing application must submit to the Commission, on or before the specified comment date for the particular application, either a competing license, conduit exemption, or small hydroelectric exemption application or a notice of intent to file

such an application. Submission of a timely notice of intent to file a license, conduit exemption, or small hydroelectric exemption application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application.

In addition, any qualified license or conduit exemption applicant desiring to file a competing application may file the subject application until: (1) A preliminary permit with which the subject license or conduit exemption application would compete is issued, or (2) the earliest specified comment date for any license, conduit exemption, or small hydroelectric exemption application with which the subject license or conduit exemption application would compete; whichevery occurs first.

A competing license application must conform with 18 CFR 4.33 (a) and (d).

A8. Preliminary Permit—Public notice of the filing of the initial preliminary permit application, which has already been given, established the due date for filing competing preliminary permit applications on notices of intent. Any competing preliminary permit application, or notice of intent to file a competing preliminary permit application, must be filed in response to and in compliance with the public notice of the initial preliminary permit application. No competing preliminary permit applications or notices of intent to file a preliminary permit may be filed in response to this notice.

Any qualified small hydroelectric exemption applicant desiring to file a competing application must submit to the Commission, on or before the specified comment date for the particular application, either a competing small hydroelectric exemption application or a notice of intent to file such an application. Submission of a timely notice of intent to file a small hydroelectric exemption application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application.

In addition, any qualified license or conduit exemption applicant desiring to file a competing application may file the subject application until: (1) A preliminary permit with which the subject license or conduit exemption application would compete is issued, or (2) the earliest specified comment date for any license, conduit exemption, or small hydroelectric exemption application with which the subject license or conduit exemption application would compete; whichever occurs first.

A competing license application must conform with 18 CFR 4.33 (a) and (d).

A9. Notice of intent—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, include an unequivocal statement of intent to submit, if such an application may be filed, either (1) a preliminary permit application or (2) a license, small hydroelectric exemption, or conduit exemption application, and be served on the applicant(s) named in this public notice.

B. *Comments, Protests, or Motions to Intervene*—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

C. *Filing and Service of Responsive Documents*—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST" or "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing is in response. Any of the above named documents must be filed by providing the original and the number of copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Project Management Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

D1. *Agency Comments*—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are requested to provide comments pusuant to the Federal Power Act, the Fish and Wildlife Coordination Act, the Endangered Species Act, the National Historic Preservation Act, the Historical and Archeological Preservation Act, the National Environmental Policy Act, Pub. L. No. 88–29, and other applicable statues. No other formal requests for comments will be made.

Comments should be confined to substantive issues relevant to the issuance of a license. A copy of the application may be obtained directly from the Applicant. If an agency does not file comments with the Commission within the time set for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

D2. *Agency Comments*—Federal, State, and local agencies are invited to file comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

D3a. *Agency Comments*—The U.S. Fish and Wildlife Service, the National Marine Fisheries Service, and the State Fish and Game agency(ies) are requested, for the purposes set forth in Section 408 of the Energy Security Act of 1980, to file within 60 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or to otherwise carry out the provisions of the Fish and Wildlife Coorination act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, the agency will be presumed to have none. Other Federal, State, and local agencies are requested to provide any comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 60 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

D3b. *Agency Comments*—The U.S. Fish and Wildlife Service, the National Marine Fisheries Service, and the State Fish an Game agency(ies) are requested, for the purposes set forth in Section 30 of the Federal Power Act to file within 45 days from the date of issuance of this

notice appropriate terms and conditions to protect any fish and wildlife resources or otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, State, and local agencies are requested to provide comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 45 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Dated: February 10, 1984.

Kenneth F. Plumb,

Secretary.

[FR Doc. 4113 Filed 2-14-84; 8:45 am]

BILLING CODE 4717-01-M

Office of Hearings and Appeals

Issuance of Decisions and Orders; Week of Jan. 2 Through Jan. 6, 1984

During the week of January 2 through January 6, 1984, the decisions and orders summarized below were issued with respect to appeals and applications for exception or other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Appeal

Penkerton's Inc., January 4, 1984, *HFA–0200*

Pinkerton's, Inc. filed an Appeal from a partial denial by the Acting Authorizing Official for DOE's Savannah River Operations Office of a Request for Information which the firm had submitted under the Freedom of Information Act (the FOIA). Pinkerton's had requested a copy of a contract submitted by another firm in response to the DOE's Request for Proposal for providing security services. In considering the Appeal the DOE found that the requested material was correctly withheld pursuant to Exemption 4 of the FOIA, which exempts confidential, commercial documents from mandatory release. The DOE determined that contract proposals remain confidential during the period subsequent to selection of a firm for contract negotiation, but prior to the awarding of a contract. The DOE pointed out that disclosure of such material would allow a competitor to obtain information concerning a pending proposal and to use that information to improve its own proposal should rebidding occur. However, the submitter of the material did not object to release of a portion of the previously withheld material. Accordingly, the Appeal was denied in part and granted in part.

Request for Exception

Mid-America Refining Co., Inc., January 6, 1984, *DEE–1859 BEE–1117*

Mid-America Refining Co., Inc. filed two Applications for Exception from the provisions in 10 CFR 211.67, the Crude Oil Entitlements Program. With respect to Mid-Amerian's first exception request, the DOE found that the firm did not incur any serious hardship, gross inequity, or unfair distribution of burdens as a result of the DOE regulations. The DOE therefore denied the exception request. With regard to the second Mid-America exception request, the DOE found that the firm incurred substantial crude oil cost disparities, and as a result suffered serious financial difficulties. The DOE also found that a portion of the firm's cost disparities was attributable to a deficiency in the entitlement benefits that the firm received. The DOE therefore granted Mid-America exception relief to compensate the firm for the deficiency in the entitlement benefits.

Request for Modification and or Rescission

Jack E. Guenther, January 4, 1984, *HRR–0072*

Jack E. Guenther filed a Motion for Partial Reconsideration of a Decision and Order in which the DOE denied a Motion for Discovery filed by Guenther in connection with his Statement of Objections to a Proposed Remedial Order issued to him. In his Motion, Guenther contended that the Decision and Order erroneously failed to consider requests for the discovery of certain material, and requested that he now be permitted to discover that meterial. The DOE determined that the ERA has responded to the relevant portions of Guenther's discovery request as written, that the material now requested was in fact not sought in the firm's original discovery request, and that the present Motion therefore impermissibly sought untimely new discovery. The DOE also noted that the requested material was not relevant to contested issues in the underlying enforcement proceeding. Accordingly, the DOE denied Guenther's Motion.

Motion for Discovery

Amcole Energy Corporation, et al., January 4, 1984, HRD–0117, HRH–0117

Amcole Energy Corporation and six working interest owners of a crude oil producing property (Respondents) filed Motions for Discovery and Evidentiary Hearing in connection with their Statement of Objections to a Proposed Remedial Order issued to them. In the discovery motion, Respondents requested information regarding whether: (i) The recompletion of the well on their crude oil producing property reached a new reservoir, (ii) the ERA may issue a PRO without previously issuing a notice of probable violation, (iii) the DOE has authority to assess interest at the prime rate on unpaid overcharges, (IV) the DOE has the authority to order that refunds of overcharges be paid to the United States Treasury, (v) the DOE may properly serve a PRO upon an operator which was not a working interest owner of the property involved. In considering the Motion, the DOE found that the issues raised by Respondents related to legal rather than factual matters and were therefore not proper subjects for discovery. The DOE further found that the discovery sought by Respondents was intended to support legal propositions which have been consistently rejected as unfounded. Accordingly, the Motion for Discovery was denied.

In their Motion for Evidentiary Hearing, Respondents sought to present testimony regarding their legal argument that the reworked well, which was the subject of the PRO, should be considered a separate property. The DOE pointed out that the purpose of an evidentiary hearing is to permit a party to establish evidence regarding material issues of fact, and that Respondents sought to present testimony regarding an essentially legal issue. With respect to Respondents' request to present testimony regarding the issue of state recognition of a new reservoir, the DOE found that such recognition could best be established through the submission of documentary evidence. Accordingly, the Motion for Evidentiary Hearing was denied.

Refund Applications

OKC Corporation/Williams Chemical Co., January 4, 1984, RR13–1

Williams Chemical Company filed a Motion for Reconsideration in which it sought an increase of the refund awarded to it by the DOE in the OKC Corporation special refund proceeding. The DOE had declined to grant Williams' original refund application for its purchases of OKC covered products in excess of the 50,000 gallon per month purchase threshold, because the firm failed to demonstrate that it was injured by OKC's pricing practices. The DOE also disqualified certain motor gasoline purchases claimed by Williams from refund consideration because Williams did not demonstrate that OKC was the ultimate source of the gasoline. In its Motion for Reconsideration, Williams submitted documentation establishing that OKC was in fact the source of the motor gasoline disqualified from refund consideration, and requested that its refund be increased in recognition of this additional purchase volume. After reviewing Williams' Motion, the DOE denied the firm's request for an increased refund, noting that Williams was awarded the maximum refund to which it is entitled in the absence of a demonstration of injury. The submission of additional purchase volume documentation therefore did affect the refund amount to which Williams was entitled.

Standard Oil Co. (Indiana)/Augie Standard, et al., January 3, 1984, RF21–0824, et al.

The DOE issued a Decision and Order concerning 78 Applications for Refund filed by retailers of Amoco motor gasoline. All of

these firms elected to apply for a refund based upon the presumption of injury and the formulae outlined in *Office of Special Counsel*, 10 DOE ¶ 85,048 (1982). In considering these applications, the DOE concluded that each of the 76 applicants should receive a refund based upon the total volume of its Amoco motor gasoline purchases. The refunds granted in this proceeding total $72,811.

Standard Oil Co. (Indiana)/Russell A. Rosenberg, January 4, 1984, *RF 21–12256*

The DOE issued a Supplemental Order concerning an Application for Refund filed by Russell A. Rosenberg, a retailer of Amoco motor gasoline. Rosenberg originally elected to apply for a refund based upon the presumption of injury and the formulae outlined in *Office of Special Counsel*, 10 DOE ¶ 85,048 (1982). In considering Rosenberg's original application, the DOE concluded that the applicant should receive a refund of $59 based upon the total volume of its Amoco motor gasoline purchases. Subsequently, Rosenberg indicated to the DOE that there were errors in the original application, and that he was entitled to an additional refund. After reviewing copies of Rosenberg's monthly records, the DOE found that he was entitled to an additional refund of $543.

Vickers Energy Corporation/Highland Petroleum, Inc. January 4, 1984, *RF1–268*

Highland Petroleum, Inc., a motor gasoline retailer, filed an Application for refund in which it sought a portion of the funds obtained by the DOE through a Consent Order entered into with Vickers Energy Corporation. Because Highland's purchases from Vickers exceeded the 50,000 gallon per month small claims threshold, the DOE requested the applicant to establish that it had experienced an injury as a result of Vickers' pricing practices. After analyzing detailed information concerning the applicant's Vickers purchase volumes, acquisition costs and average prices for motor gasoline, the DOE concluded that Highland was injured by the alleged overcharges, and should receive a refund of $64,099 plus interest, based upon the volume of its Vickers motor gasoline purchases for which it had made a showing of injury. Accordingly, the Application for Refund was granted in part.

Dismissals

The following submissions were dismissed:

Name	Case No.
J&J Amoco	RF21–12176
Northeast Petroleum Industries, Inc.	HEF–0299
Winston Refining Co.	HRO–0099, HRD–0103, HRH–0103

Copies of the full text of these decisions and orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room 1E–234, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays. They are also available in *Energy Management: Federal Energy Guidelines*, a commercially published loose leaf reporter system.

Dated: February 7, 1984.

George H. Breznay,

Director, Office of Hearings and Appeals.

[FR Doc. 84–4066 Filed 2–14–84; 8:45 am]

BILLING CODE 6450–01–M

Issuance of Proposed Decisions and Orders; Week of January 23 Through January 27, 1984

During the week of January 23 through January 27, 1984, the proposed decisions and orders summarized below were issued by the Office of Hearings and Appeals of the Department of Energy with regard to applications for exception.

Under the procedural regulations that apply to exception proceedings (10 CFR Part 205, Subpart D), any person who will be aggrieved by the issuance of a proposed decision and order in final form may file a written notice of objection within ten days of service. For purposes of the procedural regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date an aggrieved person receives actual notice, whichever occurs first.

The procedural regulations provide that an aggrieved party who fails to file a Notice of Objection within the time period specified in the regulations will be deemed to consent to the issuance of the proposed decision and order in final form. An aggrieved party who wishes to contest a determination made in a proposed decision and order must also file a detailed statement of objections within 30 days of the date of service of the proposed decision and order. In the statement of objections, the aggrieved party must specify each issue of fact or law that it intends to contest in any further proceeding involving the exception matter.

Copies of the full text of these proposed decisions and orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room 1E–234, Forrestal Building, 1000 Independence Avenue, SW, Washington, D.C. 20585, Monday though Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays.

Dated: February 7, 1984.

George B. Breznay,

Director, Office of Hearings and Appeals.

Ergon, Inc., Washington, D.C., HEE–0064, Crude Oil

Ergon, Inc. filed an Application for Exception from the provisions of 10 CFR 211.67 (the Entitlements Program). The exception request, if granted, would consolidate the provisions of three orders previously issued to the firm and would result in Ergon receiving funds held in an escrow account. On January 25, 1984, the Department of Energy issued a Proposed Decision and Order which determined that the exception request be denied.

John T. Howe, Inc., Lake Ariel, Pennsylvania, HEE–0068

John T. Howe, Inc. filed an Application for Exception from the requirement that it file Forms EIA–1A2 and EIA–782B. The exception request, if granted, would permit John T. Howe, Inc. to be excepted from filing the two forms, Form GIA–172 and Form GIA–782B. On January 23, 1984, the Department of Energy issued a Proposed Decision and Order which determined that the exception request be denied.

[FR Doc. 84–4067 Filed 2–14–84; 8:45 am]

BILLING CODE 6450–01–M

ENVIRONMENTAL PROTECTION AGENCY

[PP 8G2118/T436, PH–FRL 2525–7]

Ethalfluralin; Extension of Temporary Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has extended temporary tolerances for residues of the herbicide ethalfluralin in or on the raw agricultural commodities peanuts and peanut hulls.

DATE: These temporary tolerances expire March 1, 1985.

FOR FURTHER INFORMATION CONTACT: By mail: Richard Mountfort, Product Manager (PM) 23, Registration Division (TS–767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

Office location and telephone number: R. 237, CM No. 2, 1921 Jefferson Davis Highway, Arlington, VA, (703–557–1830).

SUPPLEMENTARY INFORMATION: EPA issued a notice, that was published in the **Federal Register** of June 10, 1981 (46 FR 30693), announcing the establishment of temporary tolerances for residues of the herbicide ethalfluralin N-ethyl-N-(2-methyl-2-propenyl)-2,6-dinitro-4-(trifluoromethyl)benzenamine in or on

the raw agricultural commodities peanuts and peanut hulls at 0.05 part per million (ppm). These tolerances were issued in response to pesticide petition PP 8G2118, submitted by Elanco Products Company, 740 South Alabama St., Indianapolis, IN 46285.

These temporary tolerances have been extended to permit the continued marketing of the raw agricultural commodities named above when treated in accordance with the provisions of experimental use permit 1471–EUP–63 which is being extended under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended, (Pub. L. 95–396, 92 Stat. 819; 7 U.S.C. 136).

The scientific data reported and other relevant material were evaluated, and it was determined that the extension of these temporary tolerances will protect the public health. Therefore, the temporary tolerances have been extended on the condition that the pesticide be used in accordance with the experimental use permit and with the following provisions:

1. The total amount of the active ingredient to be used must not exceed the quantity authorized by the experimental use permit.

2. Elanco Products Co. must immediately notify the EPA of any findings from the experimental use that have a bearing on safety. The company must also keep records of production, distribution, and performance and on request make the records available to any authorized officer or employee of the EPA or the Food and Drug Administration.

These tolerances expire March 1, 1985. Residues not in excess of this amount remaining in or on the raw agricultural commodities after this expiration date will not be considered actionable if the pesticide is legally applied during the term of, and in accordance with, the provisions of the experimental use permit and temporary tolerances. These tolerances may be revoked if the experimental use permit is revoked or if any experience with or scientific data on this pesticide indicate that such revocation is necessary to protect the public health.

The Office of Management and Budget has exempted this notice from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96–534, 94 stat. 1164, 5 U.S.C. 610–612), the administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981, (46 FR 24950).

(Sec. 408(j), 68 Stat. 516, (21 U.S.C. 346a(j)))

Dated: February 2, 1984.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 84–3828 Filed 2–14–84; 8:45 am]

BILLING CODE 6560–50–M

[OPP–30238 PH–FRL 2526–1]

ICI Americas Inc.; Application To Register a Pesticide Product Containing a New Active Ingredient

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces receipt of an application to register a pesticide product containing an active ingredient not included in any previously registered pesticide product pursuant to the provisions of section 3(c)(4) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended.

DATE: Comment by March 16, 1984.

ADDRESS: Written comments, identified by the document control number [OPP–30238] and the file number (10182–TT) should be submitted by mail to:.

Program Management and Support Division (TS–757C), Attn: Product Manager (PM) 25, Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460

In person, bring comments to: Rm. 236, CM#2, Attn: (PM) 25, Registration Division (TS–767C), Environmental Protection Agency, 1921 Jefferson Davis Highway, Arlington, VA 22202.

FOR FURTHER INFORMATION CONTACT: Robert Taylor, PM 25, (703–557–1800).

SUPPLEMENTARY INFORMATION: ICI Americas Inc., Agricultural Chemicals Div., Wilmington, DE 19897, has submitted an application to EPA to register the plant growth regulator Clipper" 50 WP, EPA File Symbol 10182–TT, containing the active ingredient (2RS,3RS)-1-(4-chlorophenyl)-4,4-dimethyl-2-2-1,2,4-triazol-1-yl--)pentan-3-ol at 50 percent, pursuant to the provisions of section 3(c)(4) of FIFRA. The application proposes that the product be classified for general use as an ornamental tree injection. Notice of receipt of this application does not imply a decision by the Agency on the application.

Notice of approval or denial of an application to register a pesticide product will be announced in the **Federal Register**. The procedure for requesting data will be given in the **Federal Register** if an application is approved.

Comments received within the specified time period will be considered before a final decision is made; comments received after the time specified will considered only to the extent possible without delaying processing of the application.

Written comments filed pursuant to this notice, will be available in the product manager's office from 8:00 a.m. to 4:00 pm., Monday through Friday, except legal holidays. It is suggested that persons interested in reviewing the application file, telephone the product manager's office to ensure that the file is available on the date of intended visit.

(Sec. 3(c)(4) of FIFRA, as amended)

Dated: February 2, 1984.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 84–3824 Filed 2–14–84; 8:45 am]

BILLING CODE 6560–50–M

[OPP–C31051B] PH–FRL 2525–8]

Sandoz, Inc.; Approval of Application To Conditionally Register a Pesticide Product Involving a Changed Use Pattern

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has approved the application by Sandoz, Inc. to conditionally register the product Safrotin Emulsifiable Concentrate Insecticide, involving a changed use pattern pursuant to the provisions of section 3(c)(4) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended.

FOR FURTHER INFORMATION CONTACT: By mail:

William Miller, Product Manager PM 16, Registration Division (TS–767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460

Office location and telephone number Rm. 211, CM§2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703–557–2600).

SUPPLEMENTARY INFORMATION: EPA issued a notice published in the **Federal Register** of July 2, 1981 (46 FR 34697), which announced that Sandoz, Inc., Corp Protection, 480 Camino Del Rio

South, San Diego, CA 92106, had submitted an application to conditionally register the product Safrotin 4 Emulsifiable Concentrate Insecticide containing 50 percent of the active ingredient propetamphos [(*E*)-1-methylethyl 3-[[(ethylamino) methoxyphosphinothioyl]oxy]-2-butenoate] for restricted use for control of cockroaches and other pests. The application proposed a changed use pattern of the product. The company subsequently amended the application (47 FR 32609; July 28, 1982) to include use in food areas of food handling establishments.

The application was approved on November 28, 1983 for restricted use. The product was assigned EPA Registration No. 11273–22.

A copy of the approved label and the list of data references used to support registration are available for public inspection in the office of the product manager. The data and other scientific information used to support registration will be available for public inspection in accordance with section 3(c)(2) of FIFRA within 30 days after registration date. Requests for data must be made in accordance with the provisions of the Freedom of Information Act and must be addressed to the Freedom of Information Office (A–101), EPA, 401 M St., SW., Washington, D.C. 20460. Such requests should: (1) identify the product name and registration number and (2) specify the data or information desired.

(Sec. 3(c)(2) FIFRA, as amended)

Dated: January 31, 1984.

Edwin L. Johnson,

Director, Office of Pesticide Programs.

[FR Doc. 84–3825 Filed 2–14–84; 8:45 am]

BILLING CODE 6560–50–M

[OPTS–59143B; TS4–FRL 2527–7]

Certain Chemicals; Approval of Test Marketing Exemption

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces EPA's approval of three applications for test marketing exemptions (TMEs), under section 5(h)(6) of the Toxic Substances Control Act (TSCA), TME–84–20, TME–84–21 and TME–84–22. The test marketing conditions are described below.

EFFECTIVE DATE: February 9, 1984.

FOR FURTHER INFORMATION CONTACT: Joe B. Boyd, Premanufacture Notice Management Branch, Chemical Control Division (TS–794), Office of Toxic Substances, Environmental Protection Agency, Rm. E–201, 401 M St. SW., Washington, DC. 20460, (202–382–3739).

SUPPLEMENTARY INFORMATION: Section 5(h)(1) of TSCA authorizes EPA to exempt persons from premanufacture notification (PMN) requirements and to permit them to manufacture or import new chemical substances for test marketing purposes if the Agency finds that the manufacture, processing, distribution in commerce, use and disposal of the substances for test marketing purposes will not present any unreasonable risk of injury to health or the environment. EPA may impose restrictions on test marketing activities.

EPA hereby approves TME–84–20, TME–84–21 and TME–84–22. EPA has determined that test marketing of the new chemical substances described below, under the conditions set out in the TME applications, and for the time periods specified below, will not present any unreasonable risk of injury to health or the environment. Production volumes, number of workers exposed to the new chemical, and the levels and durations of exposure must not exceed those specified in the applications. All other conditions described in the applications must be met.

TME 84–20

Date of Receipt: December 28, 1983.
Notice of Receipt: January 6, 1984. (49 FR 932).
Applicant: Confidential.
Chemical: (Generic) Ketimine.
Use: Confidential.
Production Volume: Confidential.
Number of Customers: Confidential.
Exposure Information: Confidential.
Test Marketing Period: 6 Months.
Commencing on: February 9, 1984.
Risk Assessment: No significant health or environmental concerns were identified. The estimated worker exposure and releases of the test market substance are expected to be low. The test market substance should not pose an unreasonable environmental risk.
Public Comment: None.

TME 84–21

Date of Receipt: December 28, 1983.
Notice of Receipt: January 6, 1984 (49 FR 9320.).
Applicant: Confidential.
Chemical: (Generic) Ketimine.
Use: Confidential.
Production Volume: Confidential.
Number of Customers: Confidential.
Exposure Information: Confidential.
Testing Marketing Period: 6 Months.
Commencing on: February 9, 1984.
Risk Assessment: No significant health or environmental concerns were identified. The estimated worker exposure and releases of the test market substance are expected to be low. The test market substance should not pose an unreasonable environmental risk.
Public Comments: None.

TME 84–22

Date of Receipt: December 28, 1983.
Notice of Receipt: January 6, 1984 (49 FR 932).
Applicant: Confidential.
Chemical: (Generic) Ketimine.
Use: Confidential.
Production Volume: Confidential
Number of Customers: Confidential.
Worker Exposure: Confidential.
Testing Marketing Period: 6 Months.
Commencing on: February 9, 1984.
Risk Assessment: No significant health or environmental concerns were identified. The estimated worker exposure and releases of the test market substance are expected to be low. The test market substance should not pose an unreasonable environmental risk.

The Agency reserves the right to rescind approval of an exemption should any new information come to its attention which casts significant doubt on its finding that the test marketing activities will not present an unreasonable risk to health or the environment.

Dated: February 9, 1984.

Don R. Clay,

Director, Office of Toxic Substances.

[FR Doc. 84–4079 Filed 2–14–84; 8:45 am]

BILLING CODE 6560–50–M

[OW–FRC 2528–1]

Management Advisory Group to the EPA Construction Grants Program; Open Meeting

Under Pub. L. 92–463, notice is hereby given that a two day meeting of the Management Advisory Group to the EPA Construction Grants Program (MAG) Task Force on Publicly Owned Treatment Works Funding will be held on March 1–2, 1984, at the Environmental Protection Agency, 4th and M Streets, SW., Washington, D.C. The meeting will begin at 9:00 a.m. on both days in Rooms 2126/2409M.

The principal agenda items will be: (1) A review with financial experts of the potentialities of using loans to finance wastewater treatment projects, and (2) presentations by various organizations on their views on future funding of municipal wastewater treatment works. The agenda will also include briefings and discussions on other topics of current or future interest to MAG. Any member of the public wishing to make comments is invited to submit them in

writing to the executive Secretary at the meeting.

The meeting will be open to the public. Any member of the public wishing additional information should contact Georgette Brown at (202) 382–5859.

Dated: February 9, 1984.

Jack E. Ravan,

Assistant Administrator for Water (WH–556)

[FR Doc. 84–4077 Filed 2–14–84; 8:45 am]

BILLING CODE 6560–32–M

[OPP–180637; PH–FRL 2526–4]

Pesticides; Emergency Exemptions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has granted specific exemptions for the control of various pests in the five States listed below. Also listed is one crisis exemption initiated by one State.

DATES: See each specific and crisis exemption for its effective dates.

FOR FURTHER INFORMATION CONTACT: See each specific and crisis exemption for the name of the contact person. The following information applies to all contact people:

By mail: Registration Division (TS–767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

Office Location and telephone number: Rm. 716, CM#2, 1921 Jefferson Davis Highway, Arlington, VA. (703–557–1192).

SUPPLEMENTARY INFORMATION: EPA has granted specific exemptions to the:

1. Arizona Commission of Agriculture and Horticulture for the use of iprodione on head lettuce to control rhizoctonia bottom rot; December 16, 1983 to June 1, 1984. (Jim Tompkins)

2. California Department of Food and Agriculture for the use of formetanate hydrochloride on strawberries to control two-spotted spider mites; January 1, 1984 to January 1, 1985 (Pat Critchlow).

3. Florida Department of Agriculture and Consumer Services for the use of thiobencarb on celery to control barnyardgrass and purslane; January 4, 1984 to August 31, 1984. (Libby Welch)

4. North Dakota Department of Agriculture for the use of metalayl on sunflower seeds for export to Brazil, Italy, and Turkey to control downy mildew; December 22, 1983 to January 31, 1984 (Jack E. Housenger).

5 Texas Department of Agriculture for the use of permethrin on collards, mustard, and turnip greens to control cabbage loopers; December 29, 1983 to January 31, 1984 (Jack E. Housenger).

A crisis exemption was initiated by the:

1. Arizona Commission of Agriculture and Horticulture on December 9, 1983, for the use of fenamiphos on non-bearing coccus and Phoenix palms to control the reniform nematode. Since it was anticipated that this program would be needed for more than 15 days, Arizona has requested a specific exemption to continue it. The need for this program is expected to last until January 1, 1985 (Jim Tompkins).

(Sec. 18, as amended, 92 Stat. 819 (7 U.S.C. 136))

Dated: February 6, 1984.

Edwin L. Johnson,

Director, Office of Pesticide Programs.

[FR Doc. 84–3980 Filed 2–14–84; 8:45 am]

BILLING CODE 6560–50–M

[OPTS–140045; TSH–FRL 2527–6]

Chemical Abstracts Service; Transfer of Data to Contractor

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA will provide Chemical Abstracts Service (CAS) access to information submitted by manufacturers, processors, and importers of chemical substances under sections 5 and 8 (a) and (b) of the Toxic Substances Control Act (TSCA). Some of this information may be claimed as confidential. Under EPA guidance, CAS will maintain and perform searches on the TSCA Chemical Substance Inventory.

DATE: Access under this contract by CAS to information submitted to EPA claimed as confidential will take place no sooner than February 27, 1984.

FOR FURTHER INFORMATION CONTACT: Jack P. McCarthy, Director, TSCA Assistance Office (TS–799), Office of Toxic Substances, Environmental Protection Agency, Rm. E–543, 401 M Street SW., Washington, D.C. 20460, Toll Free (800–424–9065), In Washington, D.C.: Outside the USA: (Operator–202–554–1404).

SUPPLEMENTARY INFORMATION: Under section 8 of TSCA, 15 U.S.C. 2607, manufacturers, importers, and processors of chemical substances were required to report for EPA's Inventory of Chemical Substances. Section 8 requires that the Inventory be kept current to allow manufacturers and importers to determine whether new chemical substances they intend to manufacture or import are included on the list and thus whether they are subject to the reporting requirements of section 5 of TSCA, 15 U.S.C. 2604. In the process of implementing section 5 and other sections of the Act, EPA must search the Inventory to determine whether chemical substances reported to the Agency are listed there, to identify the different substances in a related group or to perform similar activities.

Under its contract with EPA (No. 68–01–6814), Chemical Abstracts Service, with guidance from EPA, will assist the Agency in maintaining, updating, and performing chemical searches on the TSCA Chemical Substances Inventory. In accordance with 40 CFR 2.306(j), it has been determined that access by CAS to TSCA confidential business information will be necessary for satisfactory performance of work under this contract.

CAS' work under this contract will be substantially the same as that performed under a previous contract with EPA (No. 68–01–4684) under which CAS was allowed access to TSCA confidential business information.

Under the EPA security manual, "Contractor Requirements for the Control and Security of TSCA Confidential Business Information," CAS will be authorized to have access to this information on a secured computer and in manual files located at their offices in Columbus, Ohio. EPA has approved CAS' security plan and performed the required inspections of their facility and found them to be in compliance with the requirements of the manual.

EPA is issuing this notice to inform submitters of information under TSCA section 5 and for the TSCA Inventory under sections 8 (a) and (b) that CAS will have access to confidential business information from EPA.

In accordance with the contractor requirements security manual, CAS personnel will be required to sign nondisclosure agreements and will be briefed on appropriate security procedures before they are permitted access to such information.

Dated: February 8, 1984.

Don R. Clay,

Director, Office of Toxic Substances.

[FR Doc. 84–4078 Filed 2–14–84; 8:45 am]

BILLING CODE 6560–50–M

[OPP-31063A; PH-FRL 2527-5]

Kimberly Clark Corp.; Approval of Application to Conditionally Register a Pesticide Product Involving a Changed Use Pattern

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has approved the application by Kimberly Clark Corp. to conditionally register the product Kleenex Avert Virucidal Tissue, involving a changed use pattern pursuant to the provisions of section 3(c)(4) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended.

FOR FURTHER INFORMATION CONTACT:

By mail: Arturo Castillo, Product Manager PM 32, Registration Division (TS–767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

Office location and telephone number: Rm. 244, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703–557–3965).

SUPPLEMENTARY INFORMATION: EPA issued a notice published in the **Federal Register** of August 31, 1983 (48 FR 39501), which announced that Kimberly Clark Corp., PO Box 999, Neenah, WI 54956, had submitted an application to conditionally register the product Kleenex Virucidal Tissue containing the active ingredients citric acid at 10 percent, malic acid at 5 percent, and sodium lauryl sulfate at 2 percent. The application proposed a changed use pattern of the product.

The application was approved on December 16, 1983 for general use as a chemically impregnated dry facial tissue. The product was assigned EPA Registration No. 9402–3.

A copy of the approved label and the list of data references used to support registration are available for public inspection in the office of the product manager. The data and other scientific information used to support registration will be available for public inspection in accordance with section 3(c)(2) of FIFRA within 30 days after registration date. Requests for data must be made in accordance with the provisions of the Freedom of Information Act and must be addressed to the Freedom of Information Office (A–101), EPA, 401 M St., SW., Washington, D.C. 20460. Such requests should: (1) identify the product name and registration number and (2) specify the data or information desired.

(Sec. 3(c)(2) FIFRA, as amended)

Dated: February 4, 1984.

Edwin L. Johnson,

Director, Office of Pesticide Programs.

[FR Doc. 84–4028 Filed 2–14–84; 8:45 am]

BILLING CODE 6560–50–M

[OW–FRL 2522–2]

Water Quality Criteria; Availability of Document

AGENCY: Environmental Protection Agency.

ACTION: Notice of Final Ambient Water Quality Criteria Document.

SUMMARY: EPA announces the availability and provides a summary of a final ambient water quality criteria document for 2,3,7,8-tetrachlorodibenzo-p-dioxin (TCDD). These criteria are published pursuant to section 304(a)(1) of the Clean Water Act.

Availability of Document

A summary of the criteria from this document is published below. Copies of the complete document may be obtained from the person listed below. This document is also available for public inspection and copying during normal business hours at the Public Information Reference Unit, U.S. Environmental Protection Agency, Room 2404 (rear), 401 M St,. S.W., Washington, D.C. 20460. As provided in 40 CFR Part 2, a reasonable fee may be charged for copying services. Copies of this document are also available for review in the EPA Regional Office libraries.

FOR FURTHER INFORMATION CONTACT:

Dr. Frank Gostomski, Criteria and Standards Division (WH–585), United States Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460, (202) 245–3030.

SUPPLEMENTARY INFORMATION:

Background

Pursuant to section 304(a)(1) of the Clean Water Act, 33 U.S.C. 1314(a)(1), EPA is required to periodically review and publish criteria for water quality accurately reflecting the latest scientific knowledge:

(A) on the kind and extent of all identifiable effects on health and welfare including, but not limited to, plankton, fish, shellfish, wildlife, plant life, shorelines, beaches, esthetics, and recreation which may be expected from the presence of pollutants in any body of water, including groundwater, (B) on the concentration and dispersal of pollutants, or their byproducts, through biological, physical, and chemical processes, and (C) on the effects of pollutants on biological community diversity, productivity, and stability, including information on the factors affecting rates of eutrophication and rates of organic and inorganic sedimentation for varying types of receiving waters.

On November 28, 1980, EPA announced the availability of final ambient water quality criteria documents for 64 of the 65 pollutants designated as toxic under section 307(a)(1) of the Clean Water Act (45 FR 79318). An initial draft criteria document for the remaining pollutant, TCDD, was made available for public comment on March 15, 1979 (44 FR 15928). After consideration of all comments received from the public and peer reviewers, final criteria for TCDD have been derived.

A complete description of the water quality criteria program, including the use of criteria in water quality standards, the methodologies used to derive criteria, and the response to public comment were published in the **Federal Register** on November 28, 1980 (45 FR 79318).

Summary of Criteria:

2,3,7,8-TETRACHLORODIBENZO-P-DIOXIN

Aquatic Life

Not enough data are available concerning the effects of 2,3,7,8-TCDD on aquatic life and its uses to allow derivation of national criteria. The available information indicates that acute values for some freshwater animal species are above 1.0 μg/l; some chronic values are below 0.01 μg/l, and the chronic value for rainbow trout is below 0.001 μg/l. Because exposures of some species of fishes to 0.01 μg/l for less than six days resulted in substantial mortality several weeks later, derivation of aquatic life criteria for 2,3,7,8-TCDD may require special consideration. Estimated bioconcentration factors (BCFs) for 2,3,7,8-TCDD range from 3,000 to 900,000, but the available measured BCFs range from 390 to 13,000. If the BCF is 5,000, concentrations above 0.00001 μg/l should result in concentrations in edible freshwater and saltwater fish and shellfish that exceed levels identified in an FDA health advisory. If the BCF is greater than 5,000 or if uptake in a field situation is greater than that in laboratory tests, concentrations of less than 0.00001 μg/l could result in exceedence of levels in the FDA health advisory.

Human Health

For the maximum protection of human health from the potential carcinogenic effects due to exposure to 2,3,7,8-TCDD through ingestion of contaminated water and contaminated aquatic organisms, the ambient water concentration should be zero based on the non-threshold

assumption for this chemical. However, zero level may not be attainable at the present time. Therefore, the levels that may result in an increase of cancer risk over the lifetime are estimated at 10^{-5}, 10^{-6}, and 10^{-7}. The corresponding recommended criteria are 1.3×10^{-7} µg/l, 1.3×10^{-8} µg/l, and 1.3×10^{-9} µg/l, respectively. If the above estimates are made for consumption of aquatic organisms only, excluding consumption of water, the levels are 1.4×10^{-7} µg/l, 1.4×10^{-8} µg/l, and 1.4×10^{-9} µg/l, respectively. Other concentrations representing different risk levels may be calculated. The risk estimate range is presented for information purposes and does not represent an Agency judgment on an "acceptable" risk level.

Dated: February 2, 1984.

Jack E. Ravan,

Assistant Administrator for Office of Water.

[FR Doc. 84-3382 Filed 2-14-84; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL RESERVE SYSTEM

Bankers Trust New York Corp., et al.; Applications to engage de Novo in Permissible Nonbanking Activities

The companies listed in this notice have filed an application under § 225.23(a)(1) of the Board's Regulation Y (40 FR 794) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (49 FR 794) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies.Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompained by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than March 5, 1984.

A. **Federal Reserve Bank of New York** (A. Marshall Puckett, Vice President) 33 Liberty Street, New York, New York 10045:

1. *Bankers Trust New York Corporation*, New York, New York, to engage *de novo* through its subsidiary, BT Futures Corp., in executing and clearing options on futures contracts in foreign exchange on the international monetary market division of the Chicago Mercantile Exchange and its affiliated clearing association.

B. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Talmage Investment, Inc.*, Talmage, Kansas, to engage *de novo* through its subsidiary, Talmage Insurance Agency, Talmage, Kansas, in the sale of general insurance in a town with a population not exceeding 5,000. These activities would be performed in the Village of Talmage, Kansas and the surrounding rural area.

C. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President) 101 Market Street, San Francisco, California 94105:

1. *BankAmerica Corporation*, San Francisco, California; to engage worldeide through a *de novo* office of its subsidiary, BA Investment Management Corporation, in London, England, in acting as investment and financial advisor including, but not limited to, acting as investment advisor as defined in the Investment Company Act of 1940, providing portfolio investment advice and furnishing general economic information and advice, general economic statistical forecasting services and industry studies, pursuant to § 225.25(b)(4) of Regulation Y.

Board of Governors of the Federal Reserve System, February 9, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-4054 Filed 2-14-84; 8:45 am]

BILLING CODE 6210-01-M

BSB Financial Corp.; et al. Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (49 FR 794) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than March 9, 1984.

A. **Federal Reserve Bank of Philadelphia** (Thomas K. Desch, Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105:

1. *BSB Financial Corporation*, Trenton, New Jersey; to become a bank holding company by acquiring 100 percent of the voting shares of The Broad Street National Bank of Trenton, Trenton, New Jersey.

B. **Federal Reserve Bank of Cleveland** (Lee S. Adams, Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. *Farmers State Bancorp, Inc.*, Booneville, Kentucky; to become a bank holding company by acquiring 100 percent of the voting shares of Farmers State Bank, Booneville, Kentucky.

C. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, NW., Atlanta, Georgia 30303:

1. *First National Bancorp of the South, Inc.*, Opp, Alabama; to acquiring 100 percent of the voting shares of First National Bank of Andalusia, Andalusia, Alabama.

Board of Governors of the Federal Reserve System, February 9, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-4052 Filed 2-14-84; 8:45 am]

BILLING CODE 6210-01-M

Mammoth Investments and Credit Corp., Inc., et al.; Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulations Y (49 FR 794) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated for that application. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. With respect to each application, interested persons may express their views in writing to the Reserve Bank indicated for that application or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifyinig specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later March 8, 1984.

A. **Federal Reserve Bank of St. Louis** (Delmer P. Weisz, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *Mammoth Investments and Credit Corp., Inc.,* Anthony, Kansas, to become a bank holding company by acquiring 98.5 percent of the voting shares or assets of Peoples Bank of Mammoth Spring, Mammoth Spring, Arkansas and 99.4 percent of the voting shares or assests of Bank of Sidney, Sidney, Arkansas.

B. **Federal Reserve Bank of Minneapolis** (Bruce J. Hedblom Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *The First Freeman Corporation,* Freeman, South Dakota; to become a bank holding company by acquiring 97.1 percent of the voting shares of The First National Bank of Freeman, Freeman, South Dakota.

C. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *American Bank Shares, Inc.,* Great Bend, Kansas; to become a bank holding company by acquiring 100 percent of the voting shares of American State Bank & Trust Company, Great Bend, Kansas.

D. **Federal Reserve Bank of Dallas** (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Gulf Southwest Bancorp, Inc.,* Houston, Texas; to acquire 100 percent of the voting shares of Atascocita State Bank, Atascocita, Texas.

2. *McAllen Metropolitan Bancshares, Inc.,* McAllen, Texas; to become a bank holding company by acquiring at least 80 percent of the voting shares of Metropolitan National Bank, McAllen, Texas.

E. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President) 101 Market Street, San Francisco, California 94105:

1. *Ranch Bankshares, Inc.,* Scottsdale, Arizona; to become a bank holding company by acquiring 100 percent of the voting shares of Ranch National Bank, Scottsdale, Arziona.

Board of Governors of the Federal Reserve System, February 9, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-4050 Filed 2-14-84; 8:45 am]

BILLING CODE 6210-01-M

J. P. Morgan & Co. Inc., et al.; Engaging de Novo in Permissible Nonbanking Activities

The bank holding companies listed in this notice have filed a notice under § 225.34(a)(1) of the Board's Regulation Y (49 FR 794) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (49 FR 794) to commence or to engage *de novo,* either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated for that application. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. With respect to each notice, interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated for the application or the offices of the Board of Governors not later than March 5, 1984.

A. **Federal Reserve Bank of New York** (A. Marshall Puckett, Vice President) 33 Liberty Street, New York, New York 10045:

1. *J. P. Morgan & Co. Incorporated,* New York, New York, to engage *de novo* through its subsidiary, J. P. Morgan Investment Management Inc., in activities which may be carried on by an investment adviser, including serving as investment adviser to an investment company registered under the Investment Company Act of 1940 and providing investment advice to individuals, corporations, employee benefit funds, governmental entities and other institutions, including Morgan Guaranty Trust Company of New York, on both a discretionary and nondiscretionary basis. Comments, on this application must be received not later than March 2, 1984.

2. *J. P. Morgan & Co. Incorporated,* New York, New York, to engage *de novo* through its subsidiary, Morgan Futures Corporation, in the execution and clearance for nonaffiliated persons of options on futures contracts in foreign exchange on major commodities exchanges of which MFC is a member. Comments on this application must be received not later than March 2, 1984.

B. **Federal Reserve Bank of Cleveland** (Lee S. Adams, Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. *PNC Financial Corp.,* Pittsburgh, Pennsylvania, to enage through its wholly-owned subsdiary, The Kissell Company, in making or acquiring and servicing for its own account and/or the accounts of others, loans and other extensions of credit.

C. Federal Reserve Bank of Kansas City (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *International Bancshares of Oklahoma, Inc.*, Yukon, Oklahoma, to engage directly in management consulting for banks and non-bank depository institutions, including reviewing, designing, and implementing management information systems to efficiency provide timely and meaningful information for decisionmaking purposes.

2. *International Bancshares of Oklahoma, Inc.*, Yukon, Oklahoma, to engage directly in making and acquiring loans and other extensions of credit such as would be made by a commercial finance company, making commercial loans secured by borrower's inventory, accounts receivable and other assets; purchasing or otherwise acquiring such loans from others; and servicing such loans for others.

D. Federal Reserve Bank of San Francisco (Harry W. Green, Vice President) 101 Market Street, San Francisco, California 94105:

1. *Deseret Bancorporation*, Pleasant Grove, Utah, to engage *de novo* through its subsidiary Deseret Mortgage Corporation, Pleasant Grove, Utah, in processing construction loans, mortgage loans, purchasing and/or selling of mortgage loans, servicing of mortgage loans, and any or all other activities related to the aforementioned, pursuant to § 225.4(a) of Regulation Y.

Board of Governors of the Federal Reserve System, February 9, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-4051 Filed 2-14-84; 8:45 am]

BILLING CODE 6210-01-M

Newburg Corp.; Formations of, Acquisitions by, and Mergers of Bank Holding Companies and Acquisitions of Nonbanking Companies

The company listed in this notice has applied under § 225.14 of the Board's Regulation Y (49 FR 794) for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) to become a bank holding company or to acquire voting securities of a bank or bank holding company. The listed company has also applied under § 225.23(a)(2) of Regulation Y (49 FR 794) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (49 U.S.C. 794) to engage in or to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies, or to engage in such an activity. Unless otherwise noted, these activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than March 8, 1984.

A. Federal Reserve Bank of Chicago (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *The Newburg Corporation*, St. Anagar, Iowa; to become a bank holding company by acquiring 84 percent of the voting shares of Cedar National Bank, Carpenter, Iowa; and to engage in the sale of insurance in a community that has a population not exceeding 5,000.

Board of Governors of the Federal Reserve System, March 9, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-4053 Filed 2-14-84; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Fiscal Year 1984 Funding Preferences for Grants for Residency Training in the General Practice of Dentistry

The Bureau of Health Professions, Health Resources and Services Administration, Division of Associated and Dental Health Professions, announces the final funding preferences which will govern the distribution of grant awards for Residency Training in the General Practice of Dentistry for Fiscal Year 1984.

Funding preferences were published for public comment in the **Federal Register** of December 23, 1983 (48 FR 56857) and one comment was received during the 30-day comment period. The respondent proposed that first preference be given to program expansion, followed by program improvement, and then program initiation. The respondent also urged that preference be given to expanding programs which have not previously received dental general practice residency training grant support and that preference for programs located in States with no presently existing programs be eliminated altogether.

The goal of the grant program for Residency Training in the General Practice of Dentistry is to increase the number of training opportunities for advanced education in general dentistry. As a part of increasing the number of training opportunities, the Bureau will continue to give priority to increasing the number of dental general practice residency programs and to improving their geographic distribution, for there are data that indicate that health care providers have a tendency to establish practice where training is completed. Regulations covering this grant program indicate that all accredited dental general practice residency programs are eligible to participate in the grant program. Therefore, all applicants addressing the program expansion category of funding compete equally for available funds, irrespective of previous grant support.

Therefore, in making Fiscal Year 1984 grant awards for Residency Training in the General Practice of Dentistry, the following funding preferences will be used: new programs (Category 1), followed by expanding programs (Category 2), and then program improvements (Category 3); and within Category 1, first funding will be for approved applications designed to establish programs in States in which no nonfederally supported dental general practice residency programs are currently in operation.

Dated: February 8, 1984.

Robert Graham,

Administrator, Assistant Surgeon General.

[FR Doc. 84-4035 Filed 2-14-84; 8:45 am]

BILLING CODE 4160-15-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

[Docket No. N-84-1343]

Advisory Committee on Contract Document Reform: Meeting

AGENCY: Department of Housing and Urban Development.

ACTION: Notice of meeting of the Advisory Committee on Contract Document Reform.

SUMMARY: The third meeting of the Committee on Contract Document Reform will be held on February 28, 1984 at 10:00 a.m. in the Under Secretary's Conference Room (10106) at the Department of Housing and Urban Development, 451 7th Street, SW., Washington, D.C. 20410.

The purpose of the meeting is to discuss and analyze suggested amendments to contract document clauses.

This meeting is open to the public. Any interested persons may attend, appear before, or file statements with the Committee. Oral statements may be made at the meeting at the time and in the manner permitted by the committee.

FOR FURTHER INFORMATION CONTACT: Joseph Lupica, Office of the Secretary, Department of Housing and Urban Development, 451 7th Street, SW., Washington, D.C. 20410. Telephone: (202) 755-5713. (This is not a toll-free number.)

Dated: February 8, 1984.

Philip Abrams,

Under Secretary, Department of Housing and Urban Development.

[FR Doc. 84-4071 Filed 2-14-84; 8:45 am]

BILLING CODE 4210-32-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[U-48777]

Management Framework Plan Amendment; Recreation and Public Purposes in Emery County, Utah

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Intent to Amend San Rafael Management Framework Plan (MFP); R&PP Classification and Lease/Sale.

SUMMARY: This notice issued pursuant to 43 CFR Parts 1600 and 2740, invites public review and comment on preliminary issues and planning criteria to be used in evaluating a petition to classify the following public land in Emery County, Utah, for recreation and public purposes:

T. 22 S., R. 6 E., SLM,
Sec. 4, lot 8.

Containing 41.94 acres.

If found suitable for classification for public purposes, the land may be leased or conveyed to Emery County School District and all minerals reserved to the United States.

The proposed planning action involves preparation of an environmental assessment utilizing input from the public. The environmental assessment will be prepared in accordance with 40 CFR Part 1500 and will include a determination of the proposed action's consistency with the policies and programs of local, state, and other federal agencies.

Preliminary issues identified include: Community expansion needs vs. possible mineral development as highest and best use rights of permittees and lessees, and consistency with the plans and programs of other government entities.

Planning criteria to be used in evaluating the proposal are:

1. Public lands may be leased or conveyed under the Recreation and Public Purposes Act, as amended (43 U.S.C. 869 et. seq.) for an established or definitely proposed project for which there is a reasonable timetable of development and satisfactory development and management plans.

2. Lands shall not have national significance.

3. No more lands than are reasonably necessary for the proposed use shall be leased or conveyed.

4. In the event of a finding of interference with current or future operations under the various mineral leasing acts, the Bureau may elect to proceed with disposal or use authorization where the proposed surface use would be more beneficial and/or in the public interest than would retention of the land for possible mineral development.

The interdisciplinary team performing the land use analysis/environmental assessment includes the following disciplines: Realty, Wildlife, Geology, Hydrology, and Visual Resource Management.

Public participation will be obtained by a public comment period initiated by this notice. Comments received on or before March 5, 1984, will be considered.

Comments or requests for further information should be addressed to: Samuel R. Rowley, Area Manager, 900 North 700 East, P.O. Drawer AB, Price, Utah 84501, phone (801) 637-4584.

Copies of the environmental assessment will be available for review on or about March 15, 1984, at the San Rafael Resource Area Office listed above, and at the Moab District Office, P.O. Box 970, Moab, Utah 84532.

Dated: February 7, 1984.

Gene Nodine,

District Manager.

[FR Doc. 84-4100 Filed 2-14-84; 8:45 am]

BILLING CODE 4310-DQ-M

Las Cruces District Grazing Advisory Board; Meeting

AGENCY: Bureau of Land Management (BLM), Las Cruces District, New Mexico, Interior.

ACTION: Notice of meeting.

DATE: March 22, 1984, 9:30 a.m.

ADDRESS: Elephant Butte Inn, north of Truth or Consequences, New Mexico, 3½ miles east of I-25 on Highway 52.

FOR FURTHER INFORMATION CONTACT: Daniel C. B. Rathbun, District Manager, Bureau of Land Management, P.O. Box 1420, Las Cruces, New Mexico 88004. Telephone: (505) 524-8551; FTS 571-8313.

SUPPLEMENTARY INFORMATION: Agenda.

1. Approval of minutes.
2. Status of FY 84 Range Improvement Projects.
3. Presentation of tentative FY 85 Range Improvements.
4. Briefing on Cooperative Management Agreements.
5. Update on White Sands RMP.
6. Other business.

The meeting will be open to the public and interested persons may make oral statements to the Board during an allotted time period beginning at 2:00 pm and lasting at least one-half hour. The District Manager may establish a time for oral statements depending on the number of persons wishing to make statements. Anyone wishing to make an oral statement must notify the District Manager, Bureau of Land Management, 317 North Main (P.O. Box 1420), Las Cruces, New Mexico 88004 by March 22, 1984.

Robert R. Calkins,

Associate District Manager.

[FR Doc. 84-4047 Filed 2-14-84; 8:45 am]

BILLING CODE 4310-FB-M

Shoshone District Grazing Advisory Board; Meeting

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Shoshone District Grazing Advisory Board Meeting.

SUMMARY: Notice is hereby given, in accordance with Pub. L. 94–529, and 43 CFR Part 1780, that a meeting of the Shoshone District Grazing Advisory Board will be held on Thursday, March 22, 1984 at 9 a.m. at the BLM District Office, 400 West F Street, Shoshone, Idaho 83352.

The purpose of the meeting will be to disburse Advisory Board funds for range improvements, reviewing Monument RMP progress update, review and recommend nominees for Cooperative Management Agreement (CMA), and review selective management categories for allotments in the Sun Valley and Shoshone planning areas.

SUPPLEMENTARY INFORMATION: The public is invited to attend and make written or oral statements between 2:00 p.m. and 3:00 p.m. The statements should not exceed 15 minutes in length. Requests for these statements should be made to the official listed below at least five days prior to the meeting.

Further information concerning this meeting may be obtained from the Shoshone District Manager, Bureau of Land Management, P.O. Box 2B, Shoshone, Idaho 83352, telephone (208) 886–2206. Minutes of the meeting will be available for public inspection and copying three weeks after the meeting at the Shoshone District Office, Shoshone, Idaho.

Dated: February 6, 1984.

Charles J. Hasxier,

District Manager.

[FR Doc. 84-4048 Filed 2-14-84; 8:45 am]

BILLING CODE 4310-84-M

[W-81326]

Conveyance: Sale of Public Land in Laramie County, Wyoming

February 7, 1984.

Notice is hereby given that pursuant to Section 203 of the Federal Land Policy and Management Act of 1976; 43 U.S.C. 1713 (1976), True Ranches, Inc. has purchased and received a patent for the following described land in Laramie County, Wyoming.

Sixth Principal Meridian, Wyoming

T. 18 N., R. 66 W.,
Sec. 18, lot 3.
T. 17 N., R. 67 W.,
Sec. 30, lot 4.
T. 18 N., R. 68 W.,
Sec. 32, SE¼NW¼.

Containing 120.97 acres.

James L. Edlefsen,

Chief, Branch of Land Resources.

[FR Doc. 84-4049 Filed 2-14-84; 8:45 am]

BILLING CODE 4310-22-M

Minerals Management Service

Oil and Gas Leasing; Receipt of Development Operations Coordination Document

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the receipt of a Proposed Development Operations Coordination Document (DOCD).

SUMMARY: Notice is hereby given that ODECO Oil and Gas Company has submitted a DOCD describing the activities it proposes to conduct on Lease OCS 0229, Block 90, SE/4, Eugene Island area, offshore Louisiana. Proposed plans for the above area provide for the development and production of hydrocarbons with support activities to be conducted from an onshore base located at Dulac, Louisiana.

DATE: The subject DOCD was deemed submitted on February 6, 1984.

ADDRESSES: a copy of the subject DOCD is available for public review at the Office of the Regional Manager, Gulf of Mexico Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana (Office Hours: 9 a.m. to 3:30 p.m., Monday through Friday).

FOR FURTHER INFORMATION CONTACT: Warren Williamson, Minerals Management Service, Gulf of Mexico Region; Rules and Production; Plans, Platform and Pipeline section, Exploration/Development Plans Unit; Phone (504) 838–0817.

SUPPLEMENTARY INFORMATION: The purpose of this Notice is to inform the public, pursuant to section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the DOCD and that it is available for public review.

Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in DOCDs available to affected states, executives of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in revised § 250.34 of Title 30 of the CFR.

Dated: February 6, 1984.

John L. Rankin,

Regional Manager, Gulf of Mexico Region.

[FR Doc. 84-4050 Filed 2-14-84; 8:45 am]

BILLING CODE 4310-MR-M

National Park Service

Bureau Forms Submitted for Review

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed information collection requirement and related forms and explanatory material may be obtained by contacting the Bureau's clearance officer at the phone number listed below. Comment and suggestions on the requirement should be made directly to the Bureau clearance officer and the Office of Management and Budget reviewing official, telephone 202–395–7313.

Title: Procedures for Approved State and Local Government Historic Preservation Programs, 36 CFR Part 61, Proposed Rule
Bureau Form Number: None
Frequency: On Occasion
Description of Respondents: State and Local Governments
Annual Responses: 57
Annual Burden Hours: 1,596
Bureau clearance officer: Russell K. Olsen, 202–523–5133

Dated: February 7, 1984.

Russell K. Olsen,

Information Collection Clearance Officer.

[FR Doc. 84-4055 Filed 2-14-84; 8:45 am]

BILLING CODE 4310-70-M

Bureau Forms Submitted for Review

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed information collection requirement and related forms and explanatory material may be obtained by contacting the Bureau's clearance officer at the phone number listed below. Comment and suggestions on the requirement should be made directly to the Bureau clearance officer and the Office of Management and Budget reviewing official, telephone 202–395–7313.

Title: Procedures for Approved State & Local Government Historic Preservation Programs, 36 CFR Part 61.

Bureau Form Number: None.

Frequency: On Occasion.

Description of Respondents: State and Local Governments.

Annual Responses: 214.

Annual Burden Hours: 17,671.

Bureau clearance officer: Russell K. Olsen, 202–523–5133.

Dated: February 7, 1984.

Russell K. Olsen,

Information Collection Clearance Officer.

[FR Doc. 84–4101 Filed 2–14–84; 8:45 am]

BILLING CODE 4310–70–M

Canaveral National Seashore Advisory Commission; Meeting

Notice is hereby given in accordance with the Federal Advisory Commission Act that a meeting of the Canaveral National Seashore Advisory Commission will be held at 2:00 p.m. on Wednesday, March 7, 1984, in the Titusville City Hall, City Council Chambers (2nd floor), 555 South Washington Avenue, (U.S. #1 Northbound), Titusville, Florida.

The purpose of the Canaveral National Seashore Advisory Commission is to consult and advise with the Secretary of the Interior on all matters of planning, development and operation of the Canaveral National Seashore. The agenda will include: Presentation of the Public Access Alternatives Study for Playalinda Beach.

The members of the Advisory Commission are as follows:

Mr. James Reinman, Chairman
Mr. James Powell
Mr. Ney C. Landrum
Ms. Doris Leeper
Mr. Sion Faulk
Mr. Peter E. Cardiff
Mr. T. C. Wilder

The meeting will be open to the public; however, facilities and space for accommodating members of the public are limited. Any member of the public may file with the commission a written statement concerning the matters to be discussed.

Persons wishing further information concerning the meeting or who wish to submit written statements may contact Linwood Jackson, Acting Superintendent, Canaveral National Seashore, Post Office Box 2538, Titusville, Florida 32780, Telephone 305/867–4675. Minutes of the meeting will be available for public inspection at park headquarters approximately 4 weeks after the meeting.

Date: February 6, 1984.

Neal G. Guse, Jr.,

Acting Regional Director, Southeast Region.

[FR Doc. 84–4125 Filed 2–14–84; 8:45 am]

BILLING CODE 4310–70–M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–166 (Final)]

Bicycle Tires and Tubes From Taiwan

AGENCY: International Trade Commission.

ACTION: Institution of final antidumping investigation and scheduling of a public hearing to be held in connection with the investigation.

EFFECTIVE DATE: January 20, 1984.

SUMMARY: As a result of an affirmative redetermination by the U.S. Department of Commerce that imports from Taiwan of bicycle tires and tubes, provided for in items 772.48 and 772.57 of the Tariff Schedules of the United States, respectively, were being, or were likely to be, sold in the United States at less than fair value (LTFV) within the meaning of section 731 of the Tariff Act of 1930 (19 U.S.C. 1673), the United States International Trade Commission hereby gives notice of the institution of investigation No. 731–TA–166 (Final) under section 735(b) of the act (19 U.S.C. 167 3d(b)) to determine whether an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from Taiwan of such merchandise.

FOR FURTHER INFORMATION CONTACT: Mr. Woodley Timberlake (202–523–4618), Office of Investigations, U.S. International Trade Commission.

SUPPLEMENTARY INFORMATION:

Background

On December 29, 1978, the Department of Treasury published in the **Federal Register** a notice of a negative determination with respect to alleged LTFV sales in the antidumping

investigation of bicycle tires and tubes imported from Taiwan. Treasury's negative determination was based on the finding of either no margins, de minimus margins, or minimum margins on sales of the products which were the subject of the investigation. The petitioner in the case, the Carlisle Tire & Rubber Company, initiated a suit in the United States Court of International Trade challenging Treasury's negative determination. On May 12, 1982, the Court remanded the case to the Department of Commerce for redetermination of dumping margins.

Based on a recalculation of the dumping margins, Commerce redetermined that certain bicycle tires and tubes imported from Taiwan were being, or were likely to be, sold in the United States at less than fair value. In its recalculation of dumping margins on sales covering the period September 1, 1977, through February 28, 1978, Commerce determined weighted average dumping margins should be applied to bicycle tires and tubes manufactured or exported by Cheng Shin Rubber Industrial Ltd. (1.66 percent), Kenda Rubber Tire Corp., Ltd. (7.02 percent), and Hwa Fong Rubber Industrial Co., Ltd. (8.30 percent). A fourth Taiwan producer, Nan Kang Rubber and Industrial Corp., was excluded from the remand order since no dumping margins were found during Treasury's investigation. The petitioner accepted the results of Commerce's redetermination, which was issued on October 11, 1983, but requested that a weighted average dumping margin of 3.65 percent also be applied to all other Taiwan manufacturers/exporters, except Nan Kang. Upon the acceptance by both parties of Commerce's redetermination and petitioner's stipulation, the Court entered an order on December 5, 1984, affirming Commerce's redetermination together with the stipulation.

Participation in the Investigation

Persons wishing to participate in the investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11 of the Commission's Rules of Practice and Proceedure (19 CFR 201.11), not later than 21 days after the publication of this notice in the **Federal Register**. Any entry of appearance filed after this date will be referred to the Chairman, who shall determine whether to accept the late entry for good cause shown by the person desiring to file the entry.

Upon the expiration of the period for filing entries of appearance, the Secretary shall prepare a service list containing the names and addresses of all persons, or their representatives, who are parties to the investigation, pursuant to § 201.11(d) of the Commission's rules (19 CFR 201.11(d)). Each document filed by a party to this investigation must be served on all other parties to the investigation (as identified by the service list), and a certificate of service must accompany the document. The Secretary will not accept a document for filing without a certificate of service (19 CFR 201.16(c)).

Staff Report

A public version of the staff report containing preliminary findings of fact in this investigation will be placed in the public record on April 2, 1984, pursuant to § 207.21 of the Commission's rules (19 CFR 207.21).

Hearing

The Commission will hold a hearing in connection with the investigation beginning at 10:00 a.m., on April 17, 1984, at the U.S. International Trade Commission Building, 701 E Street NW., Washington, D.C. 20436. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission not later than the close of business (5:15 p.m.) on April 9, 1984. All persons desiring to appear at the hearing and make oral presentations should file prehearing briefs and attend a prehearing conference to be held at 10:00 a.m., on April 13, 1984, in room 117 of the U.S. International Trade Commission Building. The deadline for filing prehearing briefs is April 12, 1984.

Testimony at the public hearing is governed by § 207.23 of the Commission's rules (19 CFR 207.23). This rule requires that testimony be limited to a nonconfidential summary and analysis of material contained in prehearing briefs and to information not available at the time the prehearing brief was submitted. All legal arguments, economic analyses, and factual materials relevant to the public hearing should be included in prehearing briefs in accordance with § 207.22 (19 CFR 207.22). Posthearing briefs must conform with the provisions of § 207.24 (19 CFR 207.24) and must be submitted not later than the close of business on April 24, 1984.

Written Submissions

As mentioned, parties to this investigation may file prehearing and posthearing briefs by the dates shown above. In addition, any person who has not entered an appearance as a party to the investigation may submit a written statement of information pertinent to the subject of the investigation on or before April 24, 1984. A signed original and fourteen (14) true copies of each submission must be filed with the Secretary to the Commission in accordance with § 201.8 of the Commission's rules (19 CFR 201.8). All written submissions except for confidential business data will be available for public inspection during regular business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary to the Commission.

Any business information for which confidential treatment is desired shall be submitted separately. The envelope and all pages of such submissions must be clearly labeled "Confidential Business Information." Confidential submissions and requests for confidential treatment must conform with the requirements of § 201.6 of the Commission's rules (19 CFR 201.6).

For further information concerning the conduct of the investigation, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, Part 207, Subparts A and C (19 CFR Part 207), and Part 201, Subparts A through E (19 CFR Part 201).

This notice is published pursuant to § 207.20 of the Commission's rules (19 CFR 207.20).

By order of the Commission.

Issued: February 9, 1984.

Kenneth R. Mason,

Secretary.

[FR Doc. 84-4147 Filed 2-14-84; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. TA-201-51]

Carbon and Certain Alloy Steel Products

AGENCY: International Trade Commission.

ACTION: Institution of an investigation under section 201 of the Trade Act of 1974 (19 U.S.C. 2251) and scheduling of hearings to be held in connection with the investigation.

EFFECTIVE DATE: January 24, 1984.

SUMMARY: Following receipt of a petition filed on January 24, 1984, on behalf of the United Steelworkers of America, AFL–CIO/CLC, and Bethlehem

Steel Corp., the Commission instituted investigation No. TA–201–51 under section 201 of the Trade Act of 1974 to determine whether the following products of alloy and other than alloy steel (except those of stainless steel, of heat resisting steel, or of tool steel, but including those of tool steel of the type described in headnote 2(h)(vii) to part 2B of schedule 6 of the Tariff Schedules of the United States (TSUS)), provided for in the following parts of schedule 6 of the TSUS, are being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or the threat thereof, to the domestic industry producing articles like or directly competitive with the imported articles:

Products provided for in part 2B:

Ingots, blooms, billets, slabs, and sheet bars;

Bars and wire rods;

Hollow drill steel;

Plates, sheets, and strip;

Wire;

Angles, shapes, and sections, hot rolled, or, if cold rolled, weighing over 0.29 pound per linear foot;

Sheet piling;

Rails; joint bars, and tie plates; and

Pipes and tubes and blanks therefor;

Products provided for in part 3B:

Barbed wire provided for in TSUS item 642.02;

Wire strand provided for in TSUSA items 642.1105, 642.1120, 642.1142, 642.1144, and 642.1146;

Wire ropes, cables, and cordage provided for in TSUS items 642.12 and 642.16;

Galvanized wire fencing provided for in TSUS item 642.35;

Bale ties made from wire provided for in TSUS items 642.90 and 642.91; and

Milliners' wire and other wire provided for in TSUS items 642.96 and 642.97;

Products provided for in part 3D:

Brads, nails, spikes, staples, and tacks, of round wire, of one-piece construction, provided for in TSUS items 646.25 and 646.26; and

Railway track spikes provided for in TSUSA item 646.3020;

Products provided for in part 3F:

Columns, pillars, posts, beams, girders, and similar structural units provided for in TSUS items 652.94 and 652.96; and

Products provided for in part 6A:

Railway wheels and axles, and parts thereof, and railway axle bars, provided for in TSUS items 690.25 and 690.30.

For purposes of this investigation, the terms in the above enumeration shall have the meanings assigned to them by the applicable headnotes in the TSUS. The Commission must report its determination to the President by July 24, 1984.

FOR FURTHER INFORMATION CONTACT: Robert Eninger (202/523–0312) or Lynn Featherstone (202/523–0242), U.S. International Trade Commission Office of Investigations, Washington, D.C. 20436.

SUPPLEMENTARY INFORMATION:

Participation in the Investigation

Persons wishing to participate in this investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided in § 201.11 of the Commission's Rules of Practice and Procedure (19 CFR 201.11), not later than 21 days after the publication of this notice in the **Federal Register.** Any entry of appearance filed after that date will be referred to the Chairman, who shall determine whether to accept the late entry for good cause shown by the person desiring to file the entry.

Upon the expiration of the period for filing entries of appearance, the Secretary shall prepare a service list containing the names and addresses of all persons, or their representatives, who are parties to the investigation (19 CFR 201.11(d)). Each document filed by a party to this investigation must be served on all other parties to the investigation (as identified by the serivce list), and a certificate of service must accompany the document. The Secretary will not accept a document for filing without a certificate of service (19 CFR 201.16(c)).

Public Hearing

The Commission will hold a public hearing in connection with the injury phase of this investigation beginning at 10:00 a.m., on May 9, 1984, in the Auditorium of the U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission no later than the close of business (5:15 p.m.) on April 16, 1984.

Prehearing Procedures

To facilitate the hearing process, it is requested that persons wishing to appear at the injury hearing on May 9, 1984, submit prehearing briefs enumerating and discussing the issues which they wish to raise at the hearing. An original and 22 copies of such prehearing briefs should be submitted to the Secretary no later than the close of business on May 3, 1984. Confidential submissions should be in accordance with the requirements of § 201.6 of the Commission's rules (19 CFR 201.6). Copies of any prehearing briefs submitted will be made available for public inspection in the Office of the Secretary. Any prepared statements submitted will be made a part of the transcript. Oral presentations at the hearing should, to the extent possible, be limited to issues raised in the prehearing briefs.

A prehearing conference will be held on April 30, 1984, at 10:00 a.m., in Room 117 of the U.S. International Trade Commission Building, 701 E Street, NW., Washington, D.C.

Persons not represented by counsel or public officials who have relevant matters to present may give testimony without regard to the suggested prehearing procedures outlined above.

Written Submissions

As mentioned, parties to this investigation may file prehearing briefs by the date shown above. Posthearing briefs must be submitted no later than the close of business on May 18, 1984. In addition, any person who has not entered an appearance as a party to the investigation may submit a written statement of information pertinent to the subject of the investigation on or before May 15, 1984. A signed original and 22 copies of each submission must be filed with the Secretary to the Commission. All written submissions, except for confidential business information, will be available for public inspection during regular business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary to the Commission.

Commercial or financial data and any information for which confidential treatment is desired should be submitted separately. The envelope and all pages of such submission must be clearly marked "Confidential Business Information." Confidential submissions and requests for confidential treatment must conform with the requirements of § 201.6 of the Commission's Rules (19 CFR 201.6).

Remedy

In the event that the Commission makes an affirmative injury determination in this investigation, a public hearing on the subject of remedy recommendations will be held beginning at 10:00 a.m., on June 21, 1984, in the Hearing Room of the U.S. International Trade Commission Building. A prehearing conference will be held June 15, 1984, beginning at 10:00 a.m., in Room 117 of the U.S. International Trade Commission Building. Prehearing brief will be due to the Secretary no later than the close of business on June 15, 1984, and must conform with the requirements of section 201.6 of the

Commission's rules. Posthearing briefs will be due to the Secretary no later than the colse of business on June 29, 1984.

Inspection of Petition

The petition filed in this case is available for public inspecton at the Office of the Secretary, U.S. International Trade Commission.

For further information concerning the conduct of the investigation, hearing process, and rules of general application, consult the Commission's Rules of Practice and Procedure, Part 201 (19 CFR Part 201) and Part 206, Subparts A and B (19 CFR Part 206, Subparts A and B).

Issued: February 10, 1984.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 84-4139 Filed 2-14-84; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-182]

Certain Fluidized Supporting Apparatus; Order No. 1

Pursuant to my authority as Chief Administrative Law Judge of this Commission, I hereby designate Administrative Law Judge James. P. Timony as Presiding Officer in this investigation.

The Secretary shall serve a copy of this order upon all parties of record and shall publish it in the Federal Register.

Issued: February 9, 1984.

Donald K. Duvall,

Chief Administrative Law Judge.

[FR Doc. 84-4140 Filed 2-14-84; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-182]

Certain Fluidized Supporting Aparatus; Investigation

AGENCY: International Trade Commission.

ACTION: Institution of investigation pursuant to 19 U.S.C. 1337.

SUMMARY: Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on January 4, 1984, pursuant to section 337 of the Tariff Act of 1930 (19 U.S.C. 1337), on behalf of Support Systems International, Inc., 4349 Corporated Raod, Charleston, South Carolina 29405. A motion for temporary relief was filed on January 9, 1984. A supplemental complaint was filed on January 25, 1984. The complaint as supplemented alleges unfair methods of competition and unfair acts in the importation of certain fluidized supporting apparatus into the United States, or in their rental and/or sale, by reason of alleged infringmenet of claims 1–3, 5–13, 16–18, and 21–23 of U.S. Letters Patent 3,428,973. The complaint furhter allegs that the effect or tendency of the unfair methods of competition and unfair acts is to destroy or substantially unjue an industry, efficiently and economically operated, in the United States.

The complaint requests that the Commission institute an investigation conduct expedited temporary relief proceedings, and issue a temporary exclusion order prohibiting importation of the articles in question inot the United States, except under bond, and a temporary cease and desist order. After a full investigation, the complaint requests that the Commission issue a permanent exclusion order and a permanent cease and desist order.

Authority

The authority for institution of this investigation is contained in section 337, of the Tariff Act of 1930 and in § 210.12 of the Commission's Rules of Practice and Procedure (19 CFR 210.12).

Scope of Investigation

Having considered the complaint, the U.S. International Trade Commission, on February 1, 1984, ordered that—

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, an investigation be instituted to determine whether there is a violation of subsection (a) of section 337 in the unlawful importation of certain fluidized supporting apparatus into the United States, or in their sale, by reason of alleged infringment of claims 1–3, 5–13, 16–,8, and 21–23 of U.S. Letters Patent 3,428,973, the effect or tendency of which is to destroy or substantially injure an industry, efficiently and economically operated, in the United States;

(2) Pursuant to § 210.24(e) of the Commission's rules, the motion for temporary relief under subsection (e) and (f) of section 337 of the Tariff Act of 1930, which was filed on January 9, 1984, shall be forwarded to the presiding officer for an initial determination pursuant to § 210.53(b) of the rules.

(3) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainant is—Suprt Systems International, Inc., 4349 Corporate Road, Charleston, South Carolina 29405.

(b) The respondents are the folliwng companies, alleged to be in violation of section 337, and are the parties upon which the complaint is to be served:

UHI Corporation, 10100 Santa Monica Blvd., Los Angeles, California 90067

UHI Systems, K.K., 1–2–3– Kita-Aoyama, Minato-Ku, Tokyo, Japan

Fuji Electric Company, Ltd., Location No. 1–27, Fujicho, Hokkaichi City, Mie Prefecture, 510, Japan

Shigatu Katayama, 2426 Mariondale Avenue, Los Angeles, California.

(c) Denise T. DiPersio, Esq., Unfair Import Investigations Division, U.S. International Trade Commission, 701 E Street NW., Room 124, Washington, D.C. 20436, shall be the Commission investigation attorney, a party to this investigation; and

(4) For the investigation so instituted, Donald K. Duvall, Chief Administrative Law Judge, U.S. International Trade Commission, shall designate the presiding officer. Pursuant to section 210.24(e) of the Commission's Ruls of Practice and Procedure whether or not temporary relief proceedings should be instituted.

Responses must be submitted by the named respondents in accordance with § 210.21 of the Commission's Rules of Practice and Procedures (19 CFR 210.21). Pursuant to § 201.16(d) and 210(a) of the rules, such responses will be considered by the Commission if received not later than 20 days after the date of service of the complaint. Responses to the motion for temporary relief may be submitted by the named respondents in accordance with § 210.24(e)(3) of the Commission's rules. Any such responses must be filed within 20 days after service of the motion. Extensions of time for submitting responses to the complaint and/or the motion for temporary relief will not be granted unless good cause therefor is shown.

Failure of a respondent to each allegation in the complaint and in this motice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorizew the presiding officer and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter both an initial determination and a final determination containing such findings.

The complaint, except for any confidential information contained therein, is available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Room 156, Washington, D.C. 20436, telephone 202/523–0471.

FOR FURTHER INFORMATION CONTACT: Denise T. DiPersio, Esq., Unfair Import Investigations Division, U.S. International Trade Commission, telephone 202/523-0113.

Issued: February 7, 1984.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 84-4141 Filed 2-14-84; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-181]

Certain Meat Deboning Machines; Order No. 1

Pursuant to my authority as Chief Administrative Law Judge of this Commission, I hereby designate Administrative Law Judge John J. Mathias as Presiding Officer in this investigation.

The Secretary shall serve a copy of this order upon all parties of record and shall publish it in the **Federal Register.**

Issued: February 8, 1984.

Donald K. Duvall,

Chief Administrative Law Judge.

[FR Doc. 84-4142 Filed 2-14-84; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-181]

Certain Meat Deboning Machines; Investigation

AGENCY: International Trade Commission.

ACTION: Institution of investigation pursuant to 19 U.S.C. 1337.

SUMMARY: Notice is heregy given that a complaint was filed with the U.S. International Trade Commission on January 3, 1984, under section 337 of the Tariff Act of 1930 (19 U.S.C. 1337), on behalf of Lever Brothers Co., 390 Park Avenue, New York, New York 10022; Protecon B.V., Wim de Korverstraat 43a, Postbus 9, 5830 44 Boxmeer, Holland; and Protecon, Inc., P.O. Box 1109, 1126-88th Place, Kenosha, Wisconsin 53151. Supplements to the complaint were filed on January 31, 1984 and February 1, 1984. The complaint as supplemented alleges unfair methods of competition and unfair acts in the importation of certain meat deboning machines into the United States, or in their sale, by reason of alleged infringement of claim 1 of U.S. Letters Patent 4,137,605. The complaint further alleges that the effect of tendency of the unfair methods of competition and unfair acts is to destroy or substantially injure an efficiently and economically operated domestic industry and/or to prevent the establishment of such and industry in the United States.

Complainants request the Commission to institute an investigation and, after a full investigation, to issue a permanent exclusion order and a permanent cease and desist order.

Authority

The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930 and in section 210.12 of the Commission's Rules of Practice and Procedure (19 CFR 210.12).

Scope of Investigation

Having considered the complaint, the U.S. International Trade Commission, on February 1, 1984, ordered that—

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, an investigation be instituted to determine whether there is a violation of subsection (a) of section 337 in the unlawful importation of certain meat deboning machines into the United States, or in their sale, by reason of alleged infringement of claim 1 of U.S. Letters Patent 4,137,605, the effect or tendency of which is to prevent the establishment of an efficiently and economically operated domestic industry in the United States.

(2) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainants are—

Lever Brothers Co., 390 Park Avenue, New York, New York 10022

Protecon B.V., Wim de Korverstraat 43a, Postbus 9, 5830 44 Boxmeer, Holland

Protecon, Inc., P.O. Box 1109, 1126-88th Place, Kenosha, Wisconsin 53151.

(b) The respondents are the following companies, alleged to be in violation of section 337, and are the parties upon which the complaint is to be served.

Machinefabrieken H.J. Langen & Zoner B.V. Cuyk, Netherlands

H.J. Langen & Sons, LTD., 2357 Devon Ave., Elk Grove, Village, Illinois 60607.

(c) Linda L. Moy, Esq., Unfair Import Investigations Division, U.S. International Trade Commission, 701 E Street NW., Room 126, Washington, D.C. 20436, shall be the Commission investigative attorney, a party to this investigation; and

(3) For the investigation so instituted, Donald K. Duvall, Chief Administrative Law Judge, U.S. International Trade Commission, shall designate the presiding officer.Responses must be submitted by the named respondents in accordance with § 210.21 of the Commission's Rules of Practice and Procedure (19 CFR 210.21). Pursuant to § 201.16(d) and 210.21(a) of the rules, such responses will be considered by the Commission if received not later than 20 days after the date of service of the complaint. Extensions of time for submitting a response will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and inthis notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the presiding officer and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter both an initial determination and a final determination containing such findings.

The complaint, except for any confidential information contained therein, is available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Room 156, Washington, D.C. 20436, telephone 202-523-0471.

FOR FURTHER INFORMATION CONTACT: Linda L. Moy, Esq., Unfair Import Investigations Division, U.S. International Trade Commission, telephone 202-523-4693.

Issued: February 6, 1984.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 4144 Filed 2-14-84; 8:45 am]

BILLING CODE 7020-02-M

[332-180]

Probable Economic Effect of Providing Duty-Free Treatment for Imports From Israel

AGENCY: International Trade Commission.

ACTION: Institution of an investigation under section 332(g) of the Tariff Act of 1930 (19 U.S.C. 1332(g)) concerning the probable economic effect of providing duty-free treatment for imports from Israel on U.S. industries producing like or directly competitive articles and on consumers, at the direction of the President, and the scheduling of a hearing in connection therewith.

EFFECTIVE DATE: February 8, 1984.

FOR FURTHER INFORMATION CONTACT:

Mr. Robert Roeder (202-724-1170)—Agricultural and forest products

Mr. Robert Wallace (202–523–0120)—Textiles and apparel
Mr. Jim Emanuel (202–523–0334)—Energy and chemicals
Mr. Robert Ruhlman (202–523–0309)—Minerals and metals
Mr. Nelson Hogge (202–523–0377)—Machinery and equipment
Ms. Edith Hagelin (202–724–1746)—Miscellaneous manufactures

All of the above staff are in the Commission's Office of Industries. For information on legal aspects of the investigation contact Mr. William Gearhart of the Commission's Office of the General Counsel at 202–523–0487.

Background and Scope of Investigation

The Commission instituted the investigation, No. 332–180, following receipt on January 30, 1984, of a request therefor by the President transmitted through the U.S. Trade Representative (USTR). The advice requested would be used in connection with negotiations with the Government of Israel relating to the establishment of a free trade area between the United States and Israel.

The Commission will, as requested by USTR, advise the President with respect to each item in the Tariff Schedules of the United State as to the probable economic effect of providing duty-free treatment for imports from Israel on industries in the United States producing like or directly competitive articles and on consumers.

As requested by USTR, the Commission will conduct this investigation as if the request had been made pursuant to section 131 of the Trade Act of 1974 (19 U.S.C. 2151). The Commission's scheduled completion date for the report is May 30, 1984.

Public Hearing

A public hearing in connection with the investigation will be held in the Commission Hearing Room, 701 E Street NW., Washington, D.C. 20436, beginning at 10:00 a.m., on April 10, 1984, to be continued on April 11, if required. All persons shall have the right to appear by council or in person, to present information, and to be heard. Requests to appear at the public hearing should be filed with the Secretary, United States International Trade Commission, 701 E Street NW., Washington, D.C. 20436, not later than noon, April 3, 1984.

Written Submissions

In lieu of or in addition to appearances at the public hearing, interested persons are invited to submit written statements concerning the investigation. Written statements should be received by the close of business on April 3, 1984. Commercial or financial information which a submitter desires the Commission to treat as confidential must be submitted on separate sheets of paper, each clearly marked "Confidential Business Information" at the top. All submissions requesting confidential treatment must conform with the requirements of § 201.6 of the Commission's Rules of Practice and Procedure (19 CFR 201.6). All written submission, except for confidential business information, will be made available for inspection by interested persons. All submissions should be addressed to the Secretary at the Commission's office in Washington, D.C.

Issued: February 9, 1984.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 84–4146 Filed 2–14–84; 8:45 am]

BILLING CODE 7020–02–M

[Investigation No. 332–116]

Study of the Effect of the Enlargement of the European Community on U.S. Trade; Termination of Investigation

AGENCY: International Trade Commission.

ACTION: Termination of investigation.

EFFECTIVE DATE: February 10, 1983.

Background

The Commission, on its own motion, instituted the study, effective September 29, 1980, investigation No. 332–116, under section 332(b) of the Tariff Act of 1930 (19 U.S.C. 1332(b)). Notice of the institution of the investigation was published in the **Federal Register** on October 8, 1980 (47 FR 7350).

Issued: February 8, 1984.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 84–4143 Filed 2–14–84; 8:45 am]

BILLING CODE 7020–02–M

[Investigation No. TA–201–52]

Unwrought Copper; Investigation

AGENCY: International Trade Commission.

ACTION: Institution of an investigation under section 201 of the Trade Act of 1974 (19 U.S.C. 2251) and scheduling of a hearing to be held in connection with the investigation.

EFFECTIVE DATE: January 26, 1984.

SUMMARY: Following receipt of a petition filed on January 26, 1984, on behalf of Anaconda Minerals Co., Asarco Inc., Copper Range Co., Cyprus Mines Corp., Duval Corp., Inspiration Consolidated Copper Co., Kennecott Corp. Magma Copper Co., Phelps Dodge Corp., Pinto Valley Copper Corp., and Ranchers Exploration and Development Corp., the Commission instituted investigation No. TA–201–52 under section 201 of the Trade Act of 1974 to determine whether black copper, blister copper, and anode copper, provided for in item 612.03 of the Tariff Schedules of the United States (TSUS), or unwrought copper, other than alloyed, provided for in TSUS item 612.06, are being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or the threat thereof, to the domestic industry producing articles like or directly competitive with the imported articles. The Commission must report its determination to the President by July 26, 1984.

FOR FURTHER INFORMATION CONTACT: Daniel Leahy, Investigator (202/523–1369), or Vera A. Libeau, Supervisory Investigator (202/523–0368), U.S. International Trade Commission, Washington, D.C. 20436.

SUPPLEMENTARY INFORMATION:

Participation in the Investigation

Persons wishing to participate in this investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided in § 201.11 of the Commission's Rules of Practice and Procedure (19 CFR 201.11), not later than 21 days after the publication of this notice in the **Federal Register** Any entry of appearance filed after that date will be referred to the Chairman, who shall determine whether to accept the late entry for good cause shown by the person desiring to file the entry.

Upon the expiration of the period for filing entries of appearance, the Secretary shall prepare a service list containing the names and addresses of all persons, or their representatives, who are parties to the investigation (19 CFR 201.11(d)). Each document filed by a party to this investigation must be served on all other parties to the investigation (as identified by the service list), and a certificate of service must accompany the document. The Secretary will not accept a document for filing without a certificate of service (19 CFR 201.16(c)).

Public Hearing

The Commission will hold a public hearing in connection with this investigation beginning at 10:00 a.m., on May 15, 1984, in the Hearing Room, U.S. International Trade Commission

Building, 701 E Street, NW, in Washington, D.C. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission no later than the close of business (5:15 p.m.) on April 30, 1984.

Prehearing Procedures

To facilitate the hearing process, it is requested that persons wishing to appear at the hearing submit prehearing briefs enumerating and discussing the issues which they wish to raise at the hearing. An original and 22 copies of such prehearing briefs should be submitted to the Secretary no later than the close of business on May 8, 1984. Confidential submissions should be in accordance with the requirements of § 201.6 of the Commission's rules (19 CFR 201.6). Copies of any prehering briefs submitted will be made available for public inspection in the Office of the Secretary. Any prepared statements submitted will be made a part of the transcript. Oral presentations at the hearing should, to the extent possible, be limited to issues raised in the prehearing briefs.

A prehearing conference will be held on May 4, 1984, at 10:00 a.m., in Room 117 of the U.S. International Trade Commission Building.

Persons not represented by counsel or public officials who have relevant matters to present may give testimony without regard to the suggested prehearing procedures outlined above.

Written Submissions

As mentioned, parties to this investigation may file prehearing briefs by the date shown above. Posthearing briefs must be submitted no later than the close of business on May 23, 1984. In addition, any person who has not entered an appearance as a party to the investigation may submit a written statement of information pertinent to the subject of the investigation on or before May 23, 1984. A signed original and 22 copies of each submission must be filed with the Secretrary to the Commission. All written submissions, except for confidential business information, will be available for public inspection during regular business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary to the Commission.

Commercial or financial data and any information for which confidential treatment is desired should be submitted separately. The envelope and all pages of such submissions must be clearly marked "Confidential Business Information". Confidential submissions and requests for confidential treatment must conform with the requirements of § 201.6 of the Commission's Rules (19 CFR 201.6).

Remedy

In the event that the Commission makes an affirmative injury determination in this investigation, remedy briefs will be due to the Secretary no later than the close of business on June 18, 1984, and must conform with the rquirements of § 201.6 of the Commission's rules.

Inspection of Petition

The petition filed in this case is available for public inspection at the Office of the Secretary , U.S. International Trade Commission.

For further information concerning the conduct of the investigation, hearing process, and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201 and part 206 Subparts A and B (19 CFR Part 201 and 206, Subparts A and B).

Issued: February 8, 1984.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 84-4145 Filed 2-14-84; 8:45 am]

BILLING CODE 7020-02-M

INTERSTATE COMMERCE COMMISSION

[OP4FC-036]

Motor Carriers; Decision

The following applications seek approval to consolidate, purchase, merge, lease operating rights and properties, or acquire control of motor carriers pursuant to 49 U.S.C. 11343 or 11344. Also, applications directly related to these motor finance applications (such as conversions, gateway eliminations, and securities issuances) may be involved.

The applications are governed by 49 CFR 1182.1 of the Commission's Rules of Practice. See Ex Parte 55 (Sub-No. 44), *Rules Governing Applications Filed By Motor Carriers Under 49 U.S.C. 11344 and 11349*, 363 I.C.C. 740 (1981). These rules provide among other things, that opposition to the granting of an application must be filed with the Commission in the form of verified statements within 45 days after the date of notice of filing of the application is published in the **Federal Register**. Failure seasonably to oppose will be construed as a waiver of opposition and participation in the proceeding. If the protest includes a request for oral hearing, the request shall meet the requirements of Rule 242 of the special rules and shall include the certification required.

Persons wishing to oppose an application must follow the rules under 49 CFR 1182.2. A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00, in accordance with 49 CFR 1182.2(d).

Amendments to the request for authority will not be accepted after the date of this publication. However, the Commission may modify the operating authority involved in the application to conform to the Commission's policy of simplifying grants of operating authority.

We find, with the exception of those applications involving impediments (e.g., jurisdictional problems, unresolved fitness questions, questions involving possible unlawful control, or improper divisions of operating rights) that each applicant has demonstrated, in accordance with the applicable provisions of 49 U.S.C. 11301, 11302, 11343, 11344, and 11349, and with the Commission's rules and regulations, that the proposed transaction should be authorized as stated below. Except where specifically noted this decision is neither a major Federal action significantly affecting the quality of the human environment nor does it appear to qualify as a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests as to the finance application *or* to any application directly related thereto filed within 45 days of publication (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (unless the application involves impediments) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. To the extent that the authority sought below may duplicate an applicant's existing authority, the duplication shall not be construed as conferring more than a single operating right.

Applicant(s) must comply with all conditions set forth in the grant or grants of authority within the time period specified in the notice of effectiveness of this decision-notice, or

the application of a non-complying applicant shall stand denied.

James H. Bayne,

Acting Secretary.

Please direct status inquiries about the following to Team 4 at (202) 275–7669.

Volume No. OP4FC–036

Decided: February 8, 1984.

By the Commission, Review Board, Members: Carleton, Joyce and Krock.

No. MC–FC–81991. By decision of Febraury 8, 1984, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1181, the Review Board, Members Carleton, Joyce and Krock approved the transfer to THOR KOFOD TRUCKING, INC., of Rio Vista, CA, of Permit MC–154726 and Certificate No. MC–154726 Sub 1, issued January 21, 1982, respectively, to WALTER M. KOFOD, d.b.a. THOR KOFOD TRUCKING, of Rio Vista, CA, authorizing the transportation of: (1) *Petroleum and petroleum products*, between points in the United States, under continuing contract(s) with Carson Valley Oil Co., of Carson City, NV, and (2) *machinery, equipment, materials and supplies* used in or in connection with the discovery, development, production, refining, manufacture, processing, storage and transmission and distribution of geothermal energy, natural gas and petroleum and their products and by-products, and *machinery, equipment, materials and supplies* used in or in connection with the construction, operation, repair, servicing, maintenance and dismantling of pipe lines, including the stringing and picking up thereof, between points in CA, OR, WA, NV, ID, UT, and WY. Representative: Daniel W. Baker, 100 Pine St., Ste. 2550, San Francisco, CA 94111, (415) 986–1414.

[FR Doc. 84–4089 Filed 2–14–84; 8:45 am]

BILLING CODE 7035–01–M

DEPARTMENT OF JUSTICE

Federal Bureau of Investigation

Advisory Policy Board National Crime Information Center; Meeting

The Advisory Policy Board of the National Crime Information Center (NCIC) will meet on February 29 and March 1, 1984, from 9 a.m. until 5 p.m. at the Langford Resort Hotel, 300 East New England Avenue, Winter Park, Florida.

The major topics to be discussed include:

(1) Status report on the phased testing and future development of the Interstate Identification Index.

(2) Presentations of proposals recommended by state and local users of the NCIC System to enhance the quality and completeness of records in the system.

(3) Consideration of future enhancements in the development of the NCIC System.

The meeting will be open to the public with approximately 20 seats available for seating on a first-come-first-served basis. Any member of the public may file a written statement with the Advisory Policy Board before or after the meeting. Anyone wishing to address a session of the meeting should notify the Advisory Committee Management Officer, Mr. Kier T. Boyd, FBI, at least 24 hours prior to the start of the session. The notification may be by mail, telegram, cable or hand-delivered note. It should contain the name, corporate designation, consumer affiliation or Government designation, along with a capsulized version of the statement and an outline of the material to be offered. A person will be allowed not more than 15 minutes to present a topic, except with the special approval of the Chairman of the Board.

Inquires may be addressed to Mr. David F. Nemecek, Committee Management Liaison Officer, NCIC, Federal Bureau of Investigation, Washington, D.C. 20535, telephone number 202–324–2606.

Dated: February 10, 1984.

William H. Webster,

Director.

[FR Doc. 84–4088 Filed 2–14–84; 8:45 am]

BILLING CODE 4410–02–M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Humanities Panel Meetings

AGENCY: National Endowment for the Humanities, NFAH.

ACTION: Notice of meetings.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, as amended), notice is hereby given that the following meetings of the Humanities Panel will be held at the Old Post Office, 1100 Pennsylvania Avenue, NW., Washington, D.C. 20506.

Date: March 1–2, 1984.
Time: 9:00 a.m. to 5:00 p.m.
Room: 315.
Program: This meeting will review applications submitted for Exemplary Projects in Undergraduate and Graduate Education and Teaching Materials from Recent Research, for projects beginning after July 1984.

Date: March 1–2, 1984.
Time: 9:00 a.m. to 5:00 p.m.
Room: 430.
Program: This meeting will review applications submitted for Special Project/Youth Projects Programs, Division of General Programs, for projects beginning after July 1, 1984.

Date: March 2, 1984.
Time: 8:30 a.m. to 5:00 p.m.
Room: 415.
Program: This meeting will review applications in the area of European Literature (Renaissance to Modern) submitted to the Reference Works Program: Editions, Division of Research Programs, for projects beginning after July 1, 1984.

Date: March 5, 1984.
Time: 8:30 a.m. to 5:00 p.m.
Room: 315.
Program: This meeting will review applications in the fields of Literature and Philosophy submitted to the Reference Works Program: Research Tools, Division of Research Programs, for projects beginning after July 1, 1984.

Date: March 8, 1984.
Time: 9:00 a.m. to 5:00 p.m.
Room: 430.
Program: This meeting will review applications submitted for the Planning Assessment Studies Programs, Office of Program and Policy Studies, for projects beginning after July 1, 1984.

The proposed meetings are for the purpose of Panel review, discussion, evaluation and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended including discussion of information given in confidence to the agency by grant applicants. Because the proposed meetings will consider information that is likely to disclose: (1) Trade secrets and commercial or financial information obtained from a person and privileged or confidential; (2) information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy; and (3) information the disclosure of which would significantly frustrate implementation of proposed agency action; pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated January 15, 1978, I have determined that these meetings be closed to the public pursuant to subsections (c)(4), (6) and (9)(B) of section 552b of Title 5, United States Code.

Further information about these meetings can be obtained from Mr. Stephen J. McCleary, Advisory Committee Management Officer, National Endowment for the

Humanities, Washington, D.C. 20506, or call (202) 786–0322.

Stephen J. McCleary,

Advisory Committee Management Officer.

[FR Doc. 84–4094 Filed 2–14–84; 8:45 am]

BILLING CODE 7536–01–M

ACTION

Peace Corps

Proposed Privacy Act System of Records

AGENCY: Peace Corps.

ACTION: Notice of Proposed Privacy Act System of Records.

SUMMARY: The Peace Corps is publishing this notice of a proposed system of records that would contain the names and addresses of current and past donors and potential donors who would support the Peace Corps Partnership Program.

This notice is published to provide the public an opportunity to submit comments regarding the maintenance of this system. The Partnership Program channels financial support from the U.S. private sector to small self-help development projects initiated by communities being served by Peace Corps Volunteers overseas. Partnership projects are small-scale and are in the areas of health, agriculture, energy, water, sanitation, nutrition, etc. Project summaries are distributed to American school groups, businesses, civic organizations, churches, corporations and individuals who have sought additional information about the program.

When inquiries are received by Peace Corps the names and addresses of the individual are recorded on the envelope/kit that contains the requested information. The kit is mailed without further record entry. Currently, if an individual becomes a donor their name and address is logged on a cuff record with the amount and date of their donation, the project they selected and the date of authorization from the Partnership Office to support the overseas project.

Currently, there is no centralized or continuing system for documenting respondent information. The Agency is proposing to enter, in a computer based record, the names, telephone numbers and addresses of respondents, donors and potential donors; amount and date of donation; the project selected; the source that prompted interest; and date authorized to support a particular project. The automation of this system will provide information to staff on a regular basis in an efficient and economical manner.

DATES: Comments must be received on or before April 16, 1984.

ADDRESS: Comments may be mailed or delivered to the Director of Administrative Services, Room P–314, Peace Corps, 806 Connecticut Avenue, NW, Washington, D.C. 20526.

FOR FURTHER INFORMATION CONTACT: Nicole Vanasse, Office of Private Sector Development, 806 Connecticut Avenue, NW, Washington, D.C. 20526. Telephone number 202–254–8406. This is not a toll-free number.

SUPPLEMENTARY INFORMATION:

Executive Order 12291

The Peace Corps has determined that this is not a major rule for the purpose of E.O. 12291 because it is not likely to result in an annual effect on the economy of $100 million or more.

The Partnership Program has been in effect since 1964. When the Peace Corps' record systems were reviewed in 1975 it was decided that the Partnership Program records were not a system subject to notification procedures required by the Privacy Act. With the recent addition of the interest card and the proposed automation of data it has not been determined that these records are subject to provisions of the Privacy Act.

The Agency proposes to adopt the following system notice:

SYSTEM NAME:

Peace Corps Partnership Donor Records.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Peace Corps, Office of Private Sector Development, 806 Connecticut Avenue, NW., Washington, D.C. 20526.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals requesting information on how to join and/or information on current projects seeking support in the Peace Corps Partnership Program.

CATEGORIES OF RECORDS IN THE SYSTEM:

Currently in hard copy form but will be computerized. Consists of name, organization, (if appropriate), current home/business address and telephone number, amount of contribution, name of project supporting and source that prompted interest in the program.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The Peace Corps Act, 22 U.S.C. 2501 et. seq.

PURPOSE:

This system is being established to provide a continuing source of donors to the Peace Corps Partnership Program.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in these records will be used by the Peace Corps to inform individuals who have expressed an interest in the Partnership Program, how to join and about new projects on a regular basis. Information in this system is also subject to the following of the Agency's nine general routine uses: 2. In the event the Agency receives a request from a Federal, State or local instrumentality under the jurisdiction of the United States for a record to be used for a civil or criminal law enforcement activity, authorized by law, such record shall be disclosed to such agency or instrumentality provided Peace Corps receives a written request from the head of such agency or instrumentality specifying the particular portion of the record desired and the law enforcement activity for which the record is sought. 4. A record may be disclosed as a routine use in the course of presenting evidence to a court, magistrate or administrative tribunal of appropriate jurisdiction and such disclosure shall include disclosures to opposing counsel in the course of settlement negotiations.

7. Information in any system may be used as a data source, for management information, for the production of summary descriptive statistics and analytical studies in support of the function for which the records are collected and maintained, or for related personnel management functions or manpower studies. Information may also be disclosed to respond to general requests for statistical information (without personal identification of individuals) under the Freedom of Information Act or the Privacy Act. 8. Information from any system of records may be disclosed to a Congressional Office, in response to an inquiry from any such office, made at the request of the individual to whom the record pertains. 9. A record from any system of records may be disclosed as a routine use to the National Archives and Records Service, General Services Administration in records management inspections conducted under authority of 44 U.S.C. 2904 and 2906.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are currently maintained in hard copy form which are kept in locked files when not in immediate use in a building with a 24 hour guard. When the system is placed on the computer the hard copy will be destroyed. The computer record shall be stored on diskettes or disc packs with tape backup in secured rooms with access limited to those employees whose official duties require access.

RETRIEVABILITY:

Records are indexed by categories such as name, city, state, organization and special interest.

SAFEGUARDS:

Records in the system will be available only to the Peace Corps, Office of Private Sector Development staff on a need to know basis.

RETENTION AND DISPOSAL:

Unless removal or extension is requested by the individual the record is maintained for ten years after voluntary entry in the file.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Private Sector Development, Peace Corps, Room 1204, 806 Connecticut Avenue NW., Washington, D.C. 20526.

NOTIFICATION PROCEDURE:

Individuals may inquire as to whether this system contains information pertaining to them by addressing the System Manager in writing. Such request should include the name and address of the individual, and any relevant data concerning the information sought.

RECORD ACCESS PROCEDURES:

In response to a written request the System Manager shall arrange for access to the requested record or advise the requester if no such record exists. If an individual wishes to contest the content of any record, he or she may do so by addressing a written request to the Director, Administrative Services, Peace Corps, 806 Connecticut Avenue NW., Washington, D.C. 20526. The Director shall provide all necessary information regarding such contest and appeal.

CONTESTING RECORD PROCEDURES:

Same as Record Access Procedures above.

RECORD SOURCE CATEGORIES:

Information is supplied by individuals who have requested more information about the Partnership Program.

SYSTEMS EXEMPTED FROM CERTAIN PROVISION OF THE ACT:

None.

This notice is issued in Washington, D.C. on December 5, 1983.

Robert T. Spencer,

Associate Director for Management.

[FR Doc. 84-4036 Filed 2-14-84; 8:45 am]

BILLING CODE 6051-51-M

PENSION BENEFIT GUARANTY CORPORATION

Exemption From Bond/Escrow Requirement Relating to Sale of Assets by an Employer That Contributes to a Multiemployer Plan: Happiness Laundry Service, Inc. et al.

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Notice of exemption.

SUMMARY: The Pension Benefit Guaranty Corporation has, on the basis of a joint request from Happiness Laundry Service, Inc. and Briarcliff Laundry Corp., granted an exemption from the bond/escrow requirement of section 4204(a)(1)(B) of the Employee Retirement Income Security Act of 1974, as amended. A notice of the request for exemption from this requirement was published on December 12, 1983 (48 FR 55360). The effect of this notice is to advise the public of the decision on the exemption request.

ADDRESSES: The request for an exemption and the PBGC response to the request are available for public inspection at the PBGC Communications & Public Affairs Department, Suite 7100, 2020 K Street, NW., Washington, D.C. 20006, between the hours of 9:00 a.m. and 4:00 p.m. A copy of these documents may be obtained by mail from the PBGC Disclosure Officer (160) at the above address.

FOR FURTHER INFORMATION CONTACT: James M. Graham, Attorney, Corporate Planning and Program Development Department (611), Pension Benefit Guaranty Corporation, 2020 K Street, NW., Washington, D.C. 20006, (202) 254-4962.

SUPPLEMENTARY INFORMATION:

Background

Section 4204(a)(1) of the Employee Retirement Income Security Act of 1974, as amended ("ERISA"). 29 U.S.C. 1384, provides that the sale of assets of an employer that contributes to a multiemployer pension plan will not constitute a complete or partial withdrawal from the plan if certain conditions are met. One of these conditions is that the purchaser post a bond or deposit money in escrow for five plan years after the sale.

Section 4204(c) of ERISA authorizes the Pension Benefit Guaranty Corporation ("PBGC") to grant individual or class variances or exemptions from the purchaser's bond/escrow requirement of section 4204(a)(1)(B). Under § 2643.3(a) of the PBGC's regulation on procedures for variances for sales of assets (29 CFR Part 2643), the PBGC shall approve a request for a variance or exemption if it determines that approval of the request is warranted, in that it—

(1) Would more effectively or equitably carry out the purpose of Title IV of the Act; and

(2) Would not significantly increase the risk of financial loss to the plan.

The legislative history of section 4204 indicates a Congressional intent that the sales rules be administered in a manner that assures protection of the plan with the least practicable intrusion into normal business transactions.

ERISA sections 4204(c) and 2643.3(b) of the regulation reqiure the PBGC to publish a notice of the pendency of a request for a variance or an exemption in the **Federal Register**, and to provide interested parties with an opportunity to comment on the proposed variance or exemption.

Decision

On December 12, 1983 (48 FR 55360), PBGC published a joint request from Happiness Laundry Service, Inc. ("Happiness") and Briarcliff Laundry Corp. ("Briarcliff") (collectively referred to as the "Parties") for an exemption from the requirement of ERISA section 4204(a)(1)(B). On June 16, 1982, Briarcliff sold its laundry to Happiness.

In connection with this sale, Happiness has assumed the responsibilities of Briarcliff under a collective bargaining agreement with the Local 338 Milk Drivers and Dairy Employees Union, I.B.T., which requires contributions to the Industry and Local 338 Pension Fund ("Fund"). The Fund has computed Briarcliff's potential withdrawal liability to be $14,477. The amount of the bond/escrow that would be required under ERISA section 4204(a)(1)(B) is $6,642 (the annual contribution required to be made by Briarcliff for the 1980–1981 plan year, the plan year preceding the sale).

In accordance with PBGC's regulation (29 CFR 2643.2(d)(7)), copies of Happiness's unaudited financial statements for its fiscal years 1978, 1980 and 1981 were submitted as part of the application. (The financial statement for its fiscal year ended December 31, 1979 is not available.) However, the Parties have asserted that the financial information is exempt from disclosure under the Freedom of Information Act, 5 U.S.C. 552(b)(4) and PBGC regulation (29 CFR 2603.18).

The Parties stated that the request for an exemption should be granted on a *de minimis* basis. Based on information provided by the Fund, the average annual contributions made by all employers to the Fund for the three plan years preceding the plan year in which the sale occurred was $2,249,816. Thus, the amount of the bond/escrow is about three-tenths of one percent of the amount of employer contributions. When the notice of pendency for this request was published, PBGC indicated that it was considering granting the request for an exemption on a *de minimis* basis. No comments were received in response to the notice. PBGC believes that when, as in this request, the amount of the bond/escrow is very small in comparison to the total annual contributions to a plan, an exemption from the bond/escrow requirement would not significantly increase the risk of financial loss to the plan. *Heinemann's, Inc., et al.* 48 FR 29638, June 27, 1983.

Therefore, based on the facts of this case and the representations and statements made in connection with the request for exemption, PBGC has determined that this request is *de minimis* in nature and thus an exemption from the bond/escrow requirement is warranted, in that it would more effectively carry out the purpose of Title IV of ERISA and would not significantly increase the risk of financial loss to the Fund. Accordingly, PBGC hereby grants the request by the Parties for an exemption from the bond/escrow requirement. The granting of an exemption or variance from the bond/escrow requirement of section 4204(a)(1)(B) does not constitute a finding by PBGC that the transaction satisfies the other requirements of section 4204(a)(1). The determination of whether the transaction satisfies such other requirements is a determination to be made by the plan sponsor.

Issued at Washington, D.C. on this 8th day of February 1984.

C. C. Tharp,

Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 84-4092 Filed 2-14-84; 8:45 am]

BILLING CODE 7708-01-M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

[Georgia Project M-7050(1)]

Environmental Impact Statement; Columbia-Richmond Counties, Georgia

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for a proposed highway project in Columbia-Richmond Counties, Georgia.

FOR FURTHER INFORMATION CONTACT: James Erickson, District Engineer, Federal Highway Administration, Suite 700, 1422 West Peachtree Street, NW., Atlanta, Georgia 30309, telephone (404) 881-4758, or Peter Malphurs, State Environmental Analysis Engineer, Georgia Department of Transportation, Office of Environmental Analysis, 65 Aviation Circle, Atlanta, Georgia 30336, telephone (404) 696-4634.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Georgia Department of Transportation (Georgia DOT) will prepare an environmental impact statement (EIS) on a proposal to extend Murray Road in Columbia and Richmond Counties.

Project M-7050(1) begins in Columbia County at the intersection of Baston Road and Washington Road and parallels the Seaboard Coastline Railroad on new location to Steven Creek Road. The existing alignment of Murray Road is followed thru the proposed interchange with I-20 to the intersection with Alexander Rd. From this point the proposed roadway proceeds easterly on new location and carries traffic to downtown Augusta by way to Broad Street or distributes traffic on Eve and Crawford Streets for access to J.C. Calhoun Expressway. This project will be partial limit access. Rights of way widths are variable depending on the adjacent conditions to the project.

Section I Alternate I begins in Columbia County at the Baston Road Intersection, extends northeasterly paralleling the Seaboard Coastline Railroad on the north side to the intersection with Steven Creek Road and Murray Road. There will be two at-grade intersection: (1) Pleasant Home Road, (2) Steven Creek Road. The type of intersection required will depend on the traffic volumes. The existing railroad grade separation at S.R. 28 (Fury's Ferry Road) may require widening to improve the sight distance. Alternate I consists of four 12' travel and a 14' flush median, all on new location with controlled access. A comon ditch with the railroad is proposed.

Alternate II begins in Richmond County at the Washington Road and Cherry Street Intersection and extends northeasterly on new location to the intersection with S.R. (Fury's Ferry Road). The Seaboard Coastline Railroad is bridged just east of the proposed intersection with S.R. 28 and continues parallel to the RR to the intersection of Steven Creek Road and Murray Road. A high type intersection is proposed with Washington Road. The intersections at S.R. 28 (Fury's Ferry Road) and Steven Creek Road will be at grade. The typical section will consist of four 12' travel lanse and a 14' flush median all on new location with controlled access.

Section II begins at the Steven Creek Road and Murray Road Intersection and extends parallel to the RR along the Murray Road alignment to Interstate 20. This section will consist of four 12' travel lanes with a 14' flush median using open ditches and controlled access.

Section III is the proposed addition of an interchange with Murray Road and Interstate 20. The existing Murray Road is a two lane facility. A full interchange north of the existing Murray Road and the Seaboard Coastline Railroad is proposed. The typical section will consist of four 12' travel lanes with 14' flush median with open ditches with the exception of the roadway under Interstate 20 bridge where the section would only handle four 12' travel lanes with no median. The new intersection will provide for all of the needed movements.

Section IV begins at Interstate 20 and Alexander Drive and continues north of the Seaboard Coastline Railroad and crosses the Augusta Canal downstream from the City of Augusta water intake, then crosses the Seaboard Coastline track to the northside and approximately parallels the Augusta canal on the northside. The alignment

turns to a southerly direction and ties into Broad Street where it also distributes traffic along Eve and Crawford Streets. The typical section will consist of four 12' travel lanes with 14' flush median with open ditches and all on new location with controlled access. The intersections of Alexander Drive, Eisenhower Drive, Eve Street, Crawford Street and Broad Street will be designed as required to handle the traffic. Section IV which is on new location has five grade separations: (1) Seaboard Coastline Railroad south of the Augusta Water Works; (2) Augusta Canal; (3) Seaboard Coastline Railroad northeasterly of the water works. (4) Rae's Creek; (5) Augusta Canal and Seaboard Coastline Railroad west of Eve Street Connection.

Section V begins at the intersection of Eve Street and continues on new location with controlled access until it intersects with Crawford Street. The typical section will consist of four 12' travel lanes with 14' flush median with open ditches. The section from Crawford Street to the existing five lanes will be widened to the northside. The typical section will consist of four 12' travel lanes with 14' flush median with curb and gutter.

The proposed project will provide a more expeditious traffic movement between west Richmond County and the Augusta Central Business district and relieve some of the congestion on Washington Road.

Alternatives under consideration include: two build alternatives and the no-build alternatives.

Letters describing the proposed action and soliciting comments have been sent to appropriate Federal, State and local agencies, and to private organizations and citizens who have previously expressed interest in this proposal. A formal scoping meeting has not been scheduled. A public hearing will be held. Public notice will be given of the time and place of the hearing.

To ensure that the full range of issues related to this proposed project are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments and questions concerning this proposed action and the EIS should be directed to the FHWA at the address provided above.

The Catalog of Federal Domestic Assistance Program Number is 20.205, *Highway Research, Planning and Construction.* The provisions of OMB Circular No. A–95 regarding State and local clearinghouse review of Federal and Federally assisted programs and projects apply to this program.

James Erickson,

District Engineer, Federal Highway Administration, Atlanta, Georgia.

[FR Doc. 84–4084 Filed 2–14–84; 8:45 am]

BILLING CODE 4910–22–M

DEPARTMENT OF THE TREASURY

Performance Review Board

AGENCY: Treasury Department.

ACTION: Notice of Members of Performance Review Board (PRB).

SUMMARY: This notice announces the appointment of members of the composite PRB for the Bureaus of Engraving and Printing, Mint, Government Financial Operations, Public Debt, and the Savings Bonds Division.

FOR FURTHER INFORMATION CONTACT: Richard L. Gregg, Deputy Commissioner, Bureau of the Public Debt, Room 300, 1435 G Street, NW., Washington, D.C. 20239: Telephone 202–376–0265.

SUPPLEMENTARY INFORMATION: Pursuant to 5 U.S.C. 4314(c)(4) and the Civil Service Reform Act of 1978, the members of the Senior Executive Service Performance Review Board for the Bureaus of Engraving and Printing, Mint, Government Financial Operations, Public Dept, and the Savings Bonds Division are listed below. This Board reviews the performance of Senior Executives below the level of bureau head and principal deputy in the five bureaus, except for the Assistant Commissioner (Comptroller) at the Bureau of Government Financial Operations. At least three voting members constitute a quorum.

	Primary	Alternate
E&P	Peter Daly, Deputy Director.	Milton Seidel, Assistant Director (Research & Engineering).
GFO	Russell Morris, Assistant Commissioner (Banking & Cash Management).	Mitchell Levine, Assistant Commissioner (Comptroller).
GFO	Bland T. Brockenborough, Assistant Commissioner (Disbursement & Claims).	Michael D. Serlin, Assistant Commissioner (Governmentwide Accounting).
Mint	Eugene H. Essner, Deputy Director.	Andrew Cosgarea, Associate Director for Operations.
PD	Richard L. Gregg, Deputy Commissioner.	Kenneth W. Rath, Assistant Commissioner (Washington); Eleanor Holsopple, Assistant Commissioner (Administration).
SB	Steve Mead, Executive Director.	Edward Guss, Deputy Executive Director.

This notice does not meet the Department's criteria for significant regulations

Dated: February 8, 1984.

Richard L. Gregg,

Deputy Commissioner, Public Debt PRB Chairman, 1984.

[FR Doc. 84–4080 Filed 2–14–84; 8:45 am]

BILLING CODE 4810–40–M

Office of the Secretary

Worldwide Unitary Taxation Working Group; Meeting

Pursuant to the Federal Advisory Committee Act (Pub. L. 92–463) the Department of the Treasury announces the third meeting of the Worldwide Unitary Taxation Working Group. The Working Group is studying the complex issues raised by states' use of the worldwide unitary method of taxation.

The Working Group will meet at 10:30 A.M. on February 24, 1984, in the Cash Room of the Main Treasury Building. At the meeting, the Working Group will receive a report from its staff-level Task Force discussing possible options for the Working Group's consideration. The Working Group will discuss these possible options. If consensus can be reached on options, implementation will be discussed; otherwise, the future direction of the Working Group will be discussed.

Inquiries concerning the Working Group should be addressed to its Staff Director, Dr. Charles E. McLure, Jr., Deputy Assistant Secretary (Tax Analysis), Room 3108, Main Treasury Building, 15th Street and Pennsylvania Avenue NW., Washington, D.C. 20220.

Dated: February 9, 1984.

Ronald A. Pearlman,

Acting Assistant Secretary (Tax Policy).

[FR Doc. 84–4138 Filed 2–14–84; 8:45 am]

BILLING CODE 4810–25–M

Public Information Collection Requirements Submitted to OMB for Review

Dated: February 9, 1984.

On February 9, 1984, the Department of Treasury submitted the following public information collection requirement(s) to OMB (listed by submitting bureaus), for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96–511. Copies of these submission may be obtained from the Treasury Department Clearance Officer, by calling (202) 535–6020. Comments regarding these information collections should be

addressed to the OMB reviewer listed at the end of each bureau's listing and to the Treasury Department Clearance Officer, Room 7227, 1201 Constitution Avenue, NW, Washington, D.C. 20220.

Internal Revenue Service

OMB Number: 1545–0197
Form Number: IRS Form 5300
Type of Review: Revision
Title: Application for Determination for Defined Benefit Plan, Supp. Application for Approval of Employee Benefit Plans Under TEFRA, Application for Determination for Defined Contribution Plan

OMB Number: 1545–0668
Form Number: Letters 1671C, 1671(DO), and 1671(SC)
Type of Review: Extension
Title: Second Request for Information to Handle Problem Resolution Case

OMB Number: 1545–0110
Form Number: Form 1099–DIV
Type of Review: Existing Collection
Title: Statement for Recipients of Dividents and Distributions

OMB Number: 1545–0802
Form Number: None
Type of Review: Revision
Title: Business Focus Groups (ADL)

OMB Number: 1545–0032
Form Number: 941NMI and 941aNMI
Type of Review: Extension
Title: Employer's Quarterly Tax Return; Continuation Sheet for Schedule A of Form 941NMI, Report of Wages Taxable Under the NMISSRS

OMB Number: 1545–0256
Form Number: 941C and 941C (PR)
Type of Review: Existing Collection
Title: Statement to Correct Information

OMB Number: 1545–0170
Form Number: Form 4466
Type of Review: Existing Collection
Title: Corporation Application for Quick Refund of Overpayment of Estimated Tax

OMB Number: 1545–0704
Form Number: 5471 & Schedules M, N, & O (Form 5471)
Type of Review: Existing Collection
Title: Information Return with Respect to a Foreign Corporation

OMB Number: 1545–0056
Form Number: 1023 & Form 872–C
Type of Review: Existing Collection
Title: Application for Recognition of Exemption Under Section 501(c)(3) of the IRC. Consent Fixing Period of Limitation Upon Assessment of Tax Under Section 4940 of the IRC

OMB Number: 1545–0024
Form Number: 843
Type of Review: Existing Collection
Title: Claim

OMB Number: None
Form Number: 1983 Opinion Survey
Type of Review: New
Title: 1983 General Purpose Taxpayer Opinion Survey

Bureau of the Public Debt

OMB Number: 1535–0020
Form Number: PD 4633, PD 4633–1, PD 4633–2
Type of Review: Revision
Title: Request for Change in Status of Book Entry Treasury Bill Accounts

OMB Number: 1535–0018
Form Number: PD 4882
Type of Review: Revision
Title: Application for Purchase of United States Savings Bonds
OMB Reviewer: Norman Frumkin (202) 395–6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503.

Comptroller of the Currency

OMB Number: 1557–0100
Form Number: FFIEC 009
Type of Review: Revision
Title: County Exposure Report

OMB Number: New
Form Number: FFIEC 009A
Type of Review: New
Title: County Exposure Disclosure

OMB Number: 1557–0081
Form Number: None
Type of Review: Revision
Title: Interagency Call Report

Office of the Secretary

OMB Number: 1505–0041
Form Number: None
Type of Review: Reinstatement
Title: Requirement to Retain Record of Real Property Purchases with Revenue Sharing Funds

OMB Number: New
Form Number: Treasury ORS Form 3233
Type of Review: Existing Collection
Title: General Revenue Sharing Allocations
OMB Reviewer: Judy McIntosh, (202) 395–6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503.

Cathy Thomas,

Departmental Reports Management Office.

[FR Doc. 83-4136 Filed 2-14-84; 8:45 am]

BILLING CODE 4810-25-M

Public Information Collection Requirements Submitted to OMB for Review

Dated: February 10, 1984.

On February 10, 1984, the Department of Treasury submitted the following public information collection requirement(s) to OMB (listed by submitting bureaus), for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96–511. Copies of these submissions may be obtained from the Treasury Department Clearance Officer, by calling (202) 535–6020. Comments regarding these information collections should be addressed to the OMB reviewer listed at the end of each bureau's listing and to the Treasury Department Clearance Officer, Room 7227, 1201 Constitution Avenue, NW., Washington, D.C. 20220.

Internal Revenue Service

OMB Number: 1545–0155
Form Number: IRS Form 3468
Type of Review: Existing Collection
Title: Computation of Investment Credit

OMB Number: 1545–0042
Form Number: Form 970
Type of Review: Revision
Title: Application to Use LIFO Inventory Method

OMB Number: 1545–0045
Form Number: Form 976
Type of Review: Existing Collection
Title: Claim for Deficiency Dividends Deduction by a Personal Holding Company, Reg. Inv. Co., or REIT

OMB Number: 1545–0047
Form Number: Form 990 and Schedule A (Form 990)
Type of Review: Existing Collection
Title: Return of Organization Exempt From Income Tax and Organization Exempt Under (501(c)(3).
OMB Reviewer: Norman Frumkin (202) 395–6880 Office of Management and Budget Room 3208, New Executive Office Building, Washington, D.C. 20503.

Cathy Thomas,

Departmental Reports Management Office.

[FR Doc. 84-4137 Filed 2-14-84; 8:45 am]

BILLING CODE 4810-25-M

Office of Revenue Sharing

Data and Allocation Notice

AGENCY: Office of Revenue Sharing, Treasury.

ACTION: Close of data definitions and date of initial allocations

SUMMARY: In accordance with the recent reauthorization of the Revenue Sharing Program, this notice provides that the data definitions are final and that the initial allocations for Entitlement Period 15 (October 1, 1983–September 30, 1984) were completed on December 12, 1983. This notice publicizes the data definition changes made to the Revenue Sharing Program by Pub. L. 98–185, effective

October 1, 1983, and also incorporates into the data definitions for Period 15, the most recently updated Bureau of the Census and Bureau of Economic Analysis data series that were available prior to October 1, 1983.

FOR FURTHER INFORMATION CONTACT: Matthew Butler, Manager, Data and Demography Division, Office of Revenue Sharing, Washington, D.C. 20226; (202) 634–5155.

SUPPLEMENTARY INFORMATION: Since the beginning of the Revenue Sharing Program in 1972, the Office of Revenue Sharing (ORS) has published in the **Federal Register**, prior to each entitlement period, by the final data definitions for that period. The ORS also provided by regulation [31 CFR 51.23(a)] that the final data definitions shall not be subject to change.

The Revenue Sharing Act has been amended and extended three times: 1976; 1980; and most recently by the "Local Government Fiscal Assistance Amendments of 1983" (Pub. L. 98–185), signed into law by President Reagan on November 30, 1983. The 1983 Amendments, which are retroactive to October 1, 1983, extend the Revenue Sharing Program for an additional three years, through September 30, 1986. Payments to State governments are no longer authorized.

The ORS will implement the new statutory data definitions and the updated Bureau of the Census data definitions, which were held in abeyance until the Program was reauthorized. The ORS is obligated to use the 1983 Amendments for Entitlement Period 15, since the Congress specified that the effective date of the Amendments was October 1, 1983. Accordingly, the data definitions (for the then-proposed Entitlement Period 15) published by the ORS in the **Federal Register** on June 27, 1983 (48 FR 29651–56) are changed as a result of the 1983 Amendments made by Sections 5 and 9 of Pub. L. 98–185. This notice finalizes the data definitions for Entitlement Period 15, and details the changes in the data definitions caused by the 1983 Amendments, as well as recent updates to the data series described in the original data definitions notice. It is a long-established policy to use the most recent data series available prior to the beginning of an entitlement period.

The ORS has incorporated the best data available on November 30, 1983 from data series developed before October 1, 1983 into the computation of the initial allocations for Entitlement Period 15. These initial allocations were completed on December 12, 1983. Since there was not sufficient time to notify governments of their Period 15 entitlement prior to the first quarterly payments, governments eligible for payment received approximately one-quarter of their entitlement on January 9, 1984. The ORS will send new "Recipient Account Statement" forms to all governments during February 1984. These forms will include information about data used to calculate each government's allocation, any adjustments for prior periods, and the entitlement amount for Period 15.

The revisions in the data definitions and the new data updates incorporated in the Period 15 application process are as follows:

State Area Data Definitions

I. Population

The populations for the States which were referred to in the data definitions published in the **Federal Register** on June 27, 1983 were provisional estimates of the total resident population on July 1, 1982 as determined by the Bureau of the Census. Since that time, the Census Bureau has provided the ORS with revised July 1, 1982 State population estimates based on recent modifications to its methods for annual State population updates. For a complete discussion of these changes, please consult the Census Bureau's *Current Population Reports*, Series P–25, No. 944, scheduled to be published during February 1984. Updated State population estimates based on the methodology available before October 1, 1983 will be used to recompute Period 15 allocations in October 1984.

II. General Tax Effort Factor

One element used in the computation of the general tax effort factor for a State is the State aggregate personal income. The earlier data definitions notice referred to the State aggregate personal income data for calendar year 1981 as published by the Bureau of Economic Analysis in the *Survey of Current Business* for July, 1982. Since then, revised aggregate personal income estimates for 1981 have been published by the Bureau of Economic Analysis in "Total Personal Income by States and Regions" for selected years, Table 1, *Survey of Current Business*, August 1983, Volume 63, Number 8. These revised data were used in calculating the general tax effort factors for the States.

Local Governments Data Definitions

I. Memphis Rule

According to the regulations, 31 CFR 51.23(b), the data definitions include the provisions of 31 U.S.C. 6709(a)(3), the "Memphis Rule." This provision allows the Government of a State to certify, for the computation of local tax effort, that certain county sales taxes are eligible to be credited to local governments in the county. Since the ORS did not receive any additional certifications on or before the October 1, 1983, effective date of the reauthorization legislation, no additional governments can be affected by this provision for Entitlement Period 15.

II. Economic Dislocation

A new provision has been added to 31 U.S.C. 6713 for the purpose of considering the negative impact on the adjusted taxes of governments whose allocations are reduced by 20 percent or more as a result of a specific economic dislocation that causes the closing of places of employment, declines in real estate tax collections, or declines in its sales, income, or other tax yields. Governments with allocation declines of at least 20 percent from the preceding entitlement period will be contacted by the ORS during 1984 to provide documentation as to whether they qualify under this provision. Preliminary analysis of available data suggests that only a few governments are likely to be affected by this provision. Regulations implementing this provision are being drafted. For governments whose documentation of the impact of economic dislocation is acceptable, the higher FY 1981 adjusted taxes will be used to compute their Period 15 allocations in October 1984. The results of these allocations will be reflected in payments during 1985.

III. Massachusetts Tax Effort

A new provision of the 1983 Amendments applies only to the adjusted taxes of certain local governments in Massachusetts for fiscal year 1982. This provision allows these governments to include in their adjusted taxes certain property taxes levied in fiscal year 1982 but not actually collected until the following fiscal year. The provision will affect only the distribution of allocated funds among Massachusetts local governments, and does not affect the allocation among the States. No tax collections credited to a Massachusetts local government for fiscal year 1982 may be credited to that government for any other fiscal year.

The initial allocations to Massachusetts local governments were computed using the definition of adjusted taxes in the new provision. Massachusetts governments will be advised of their revised FY 1982 adjusted taxes on the "Recipient Account Statement" forms scheduled to be mailed in February 1984.

This notice is issued under the authority of 31 U.S.C. 6701–6724, and 31 CFR 51.1.

Dated: February 10, 1984.

Michael F. Hill,

Director, Office of Revenue Sharing.

[FR Doc. 84–4124 Filed 2–14–84; 8:45 am]

BILLING CODE 4810–25–M

UNITED STATES INFORMATION AGENCY

Advisory Commission on Public Diplomacy; Meeting

The United States Advisory Commission on Public Diplomacy will conduct a meeting in Room 840, 301 4th Street, SW., on February 22 from 10:00 AM to 4:30 PM.

The meeting will be closed to the public from 10:00 AM to 12:30 PM, because it will involve a discussion of classified information relating to pending Voice of America site negotiations and modernization plans. The Commission will also discuss policy issues and public affairs program planning relating to NATO, arms control negotiations, and U.S.-Soviet relations. (5 U.S.C. 552b(c)(1)) Premature disclosure of this information is likely to significantly frustrate implementation of proposed Agency action, because there will be a discussion of future Agency policy and programs. (5 U.S.C. 552b(c)(9)(B))

The Commission will meet from 2:30—4:30 p.m. to discuss USIA's budget request for FY 1985 and legal issues relating to USIA's "WORLDNET" satellite television programs. This portion of the meeting is open to the public. Please call Elizabeth Fahl, (202) 485–2468, if you plan to attend because entrance to the building is controlled.

Dated: February 10, 1984.

Leslie Lenkowsky,

Acting Director.

[FR Doc. 84–4104 Filed 1–14–84; 8:45 am]

BILLING CODE 8230–01–M

VETERANS ADMINISTRATION

Agency Forms Under OMB Review

AGENCY: Veterans Administration.

ACTION: Notice.

The Veterans Administration has submitted to OMB for review the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). This document contains proposed extensions and lists the following information: (1) The department or staff office issuing the form; (2) The title of the form; (3) The agency form number, if applicable; (4) How often the form must be filled out; (5) Who will be required or asked to report; (6) An estimate of the number of responses; (7) An estimate of the total number of hours needed to fill out the form; and (8) An indication of whether section 3504(h) of Public Law 96–511 applies.

ADDRESSES: Copies of the proposed forms and supporting documents may be obtained from Patricia Viers, Agency Clearance Officer (004A2), Veterans Administration, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 389–2146. Comments and questions about the items on this list should be directed to the VA's OMB Desk Officer, Dick Eisinger, Office of Management and Budget, 726 Jackson Place, NW, Washington, DC 20503, (202) 395–6880.

DATES: Comments on the forms should be directed to the OMB Desk Officer within 60 days of this notice.

Dated: February 10, 1984.

By direction of the Administrator.

Dominick Onorato,

Associate Deputy Administrator for Information Resources Management.

Extensions

1. Department of Veterans Benefits
2. Direct Loan Closing Sheet
3. VA Form 26–6937
4. On occasion
5. Individuals or households, small businesses or organizations
6. 25 responses
7. 12.5 hours
8. Not applicable

* * * * *

1. Department of Veterans Benefits
2. Nonsupervised Lender's Nomination and Recommendation of Credit Underwriter
3. VA Form 26–8736a
4. On occasion
5. Businesses or other for-profit; Small businesses or orgainzations
6. 100 responses
7. 33 hours
8. Not applicable

* * * * *

1. Department of Veterans Benefits
2. Report of Medical Examination for Disability Evaluation
3. VA Form 21–2545
4. On occasion
5. Individuals or households
6. 260,000 responses
7. 65,000 hours
8. Not applicable

* * * * *

1. Department of Veterans Benefits
2. Fiduciary Account Book
3. VA Form 27–4718
4. On occasion
5. Individuals or households, State or local governments, Federal agencies or employees, non-profit institutions
6. 32,060 responses
7. 80,150 hours
8. Not applicable

* * * * *

1. Department of Veterans Benefits
2. Accounting for Guardian
3. VA Form 27–4706
4. On occasion
5. Individuals or households, State or local governments, Federal agencies or employees, non-profit institutions
6. 15,167 responses
7. 7,584 hours
8. Not applicable

* * * * *

1. Department of Veterans Benefits
2. Court Appointed Fiduciary's Account
3. VA Form 27–4706c
4. On occasion
5. Individuals or households, State or local governments
6. 4,200 responses
7. 2,100 hours
8. Not applicable

[FR Doc. 84–4105 Filed 2–14–84; 8:45 am]

BILLING CODE 8320–01–M

Sunshine Act Meetings

Federal Register
Vol. 49, No. 32
Wednesday, February 15, 1984

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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1

CIVIL AERONAUTICS BOARD

NOTICE OF ADDITIONS AND CLOSURE OF ITEMS TO THE FEBRUARY 9, 1984 MEETING

TIME AND DATE: 10:00 a.m., February 9, 1984.

PLACE: Room 1027 (Open), Room 1012 (Closed), 1825 Connecticut Avenue, NW., Washington, D.C. 20428.

SUBJECT:

20. Discussion on Greece. (BIA)
22. Report on Poland. (BIA)
22. U.S.-Venezuela Air Service. (BIA)
23. Discussion on Korea. (BIA)
24. Discussion on China. (BIA)

STATUS: Closed.

PERSON TO CONTACT: Phyllis T. Kaylor, The Secretary (202) 673–5068.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 84-4135 Filed 2-10-84; 4:57 pm]

BILLING CODE 6320-01-M

2

SECURITIES AND EXCHANGE COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENTS: (To be published).

STATUS: Open meeting.

PLACE: 450 Fifth Street, N.W., Washington, D.C.

DATE PREVIOUSLY ANNOUNCED: Tuesday, February 7, 1984.

CHANGE IN THE MEETING: Additional items.

The following additional items will be considered at an open meeting scheduled for Wednesday, February 15, 1984, at 9:30 a.m., in Room 1C30.

1. Consideration of whether to rescind the Commission's interpretation originally issued in Accounting Series Release No. 115 relating to certification of financial statements. For further information, please contact Andrea E. Bader at (202) 272–2130.

2. Consideration of whether to recommend legislation to Congress to permit the Commission to institute administrative proceedings against persons (a) subject to section 14 of the Securities Exchange Act; (b) who cause violations of sections 12, 13, 14, or 15(d) of the Securities Exchange Act; and (c) associated with transfer agents. The Commission will also consider whether to authorize the Commission's staff to consult with Congressional staffs concerning legislation to amend Section 24 of the Securities Exchange Act of 1934 to provide that (a) disclosure of information to the Commission in the course of the Commission's enforcement of the securities laws would not waive any attorney-client or other applicable evidentiary privileges; and (b) to exempt from the Freedom of Information Act records that were submitted to the Commission in the course of investigations. For further information, please contact Gerald J. Laporte at (202) 272–2428.

Chairman Shad and Commissioners Treadway and Cox determined that Commission business required the above changes and that no earlier notice thereof was possible.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Bruce Kohn at (202) 272–3195.

February 13, 1984.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84-4240 Filed 2-13-84; 1:50 pm]

BILLING CODE 8010-01-M

federal register

Wednesday
February 15, 1984

Part II

Environmental Protection Agency

40 CFR Ch. I

Hazardous Waste Management System; Advance Notice of Proposed Rulemaking

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Ch. I

[SWH-FRL 2494-1]

Hazardous Waste Management System

AGENCY: Environmental Protection Agency.

ACTION: Advance Notice of Proposed Rulemaking.

SUMMARY: Between May 19, 1980 and July 26, 1982, the Environmental Protection Agency (EPA) issued an extensive series of regulations under the Resource Conservation and Recovery Act for the disposal of hazardous waste into or on the land. While the current land disposal regulations are designed to minimize migration of hazardous waste constituents into the environment, this may not be accomplished completely or forever. EPA therefore concludes that additional controls should be considered to further restrict or prohibit the disposal of hazardous wastes on or into the land. This notice sets forth EPA's thinking on this subject; announces the Agency's current activities to develop regulations to further restrict or prohibit the land disposal of certain hazardous wastes under certain conditions; and solicits public comment on this matter.

DATES: The Agency will accept public comment on this advance notice of proposed rulemaking until May 15, 1984.

ADDRESSES: Comments should be mailed to the Docket Clerk [Docket No. 3001/3004, Land Disposal Restrictions], Office of Solid Waste (WH-562), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460.

Comments received by EPA and all references used in this document may be inspected in Room S-212C, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C., from 9:30 a.m. to 4:00 p.m. Monday through Friday, except on legal holidays.

FOR FURTHER INFORMATION CONTACT: RCRA/Superfund Hotline, at (800) 424-9346 (toll free), or at (202) 382-3000. For additional information on the program contact Susan Bromm, Office of Solid Waste (WH-562), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C., 20460, (202) 382-5219.

SUPPLEMENTARY INFORMATION:

I. Background

A. Introduction

Since May 1980, EPA has issued a series of regulations implementing the hazardous waste management system under Subtitle C of the Resource Conservation and Recovery Act of 1976, as amended (RCRA). These regulations are published in Title 40 of the Code of Federal Regualtions (CFR) in Parts 124, 260 to 266, 270 and 271. The regulations delineate which solid wastes are regulated as hazardous wastes, and set forth the responsibilities of generators and transporters of hazardous waste, as well as owners or operators of hazardous waste treatment, storage, or disposal (TSD) facilities. In addition, the regulations establish a permitting program for TSD facilities and provide for State authorization to administer the program.

The scope and complexity of this regulatory program has compelled the Agency to issue the regulations in phases over a period of several years. The promulgation of interim final standards for new and existing hazardous waste facilities that treat, store, and dispose of hazardous waste into or on the land [1] on July 26, 1982, essentially completed the principal elements of the hazardous waste program needed to process permits for such facilities, although the Agency does expect to undertake some additional refinement of these standards. The objective of the land disposal standards is to prevent the migration of hazardous waste constituents into the environment during operation, and to minimize such migration to the extent necessary to protect human health and the environment after closure. In addition, the regulations require ground-water monitoring and response programs that are designed to detect significant contamination from land disposal units and provide corrective action when needed.

[1] Throughout the remainder of this document, the term land disposal facility will be used to denote treatment, storage, or disposal facilities at which, in whole or in part, hazardous waste is intentionally placed on or into the land and at which the waste or waste residue will remain after closure. Land disposal units addressed in the July 26, 1982, rulemaking inclue: (1) *surface impoundments* where the waste remains after closure, (2) *land treatment units*, and (3) *landfills* (including *waste piles* where the waste remains after closure). However, for purposes of this Notice, the term land disposal unit also includes underground injection wells and other land disposal practices such as open burning or detonation of explosive waste or placement of wastes in caves, mines, or salt deposits. Underground injection wells are unique among waste management units in that they are specifically regulated under a separate statute as well as under RCRA. Under the Safe Drinking Water Act, EPA regulates the subsurface injection of liquid in wells through the underground injection control (UIC) program. Where the liquids injected are hazardous wastes, there is overlapping jurisdiction between the UIC program and the RCRA hazardous waste program.

Many States have already adopted or will be adopting comparable rules in the near future in order to qualify for interim or final authorization under Section 3006 of RCRA. The result will be that protection of human health and the environment from the potential hazards associated with the land disposal of hazardous waste will be significantly enhanced on a nationwide scale. Despite these requirements, the Agency believes that further restrictions on the land disposal of hazardous waste may be necessary. It is difficult to assure the containment of most wastes and their constituents for extended time periods. As a result, the regulation of hazardous waste land disposal must proceed from the assumption that hazardous wastes constituents and by-products will eventually migrate into the environment at some unknown rate and concentration. (See 46 FR 11129, February 5, 1981.) Restricting the land disposal of wastes that contain constituents that are highly toxic, highly mobile, highly persistent, or likely to bioaccumulate in the environment will reduce the potential for harm to public health or the environment from the disposal of those wastes.

B. Previously Issued Restrictions on the Land Disposal of Hazardous Waste

EPA previously recognized that some hazardous wastes pose particular dangers when disposed in a land disposal facility. Previously issued restrictions dealt with two broad classes of problems: (1) fires, explosions, production of toxic fumes, and similar problems resulting from improper management of ignitable, reactive, and incompatible wastes; and (2) contamination of surface and ground waters. The Agency has, therefore, promulgated requirements specifically designed to prevent these problems (see, for example, 40 CFR 264.17, 265.17, and 265.314) by conditionally restricting the land disposal of ignitable, reactive, incompatible, and liquid wastes. For example, ignitable and reactive wastes may not be placed in a land disposal facility: (1) Unless the waste is treated, rendered, or mixed before or immediately after placement so that the resulting waste, mixture, or dissolution of material no longer meets the definition of reactive or ignitable or (2) for ignitable wastes in landfills, unless containerized and protected from materials or conditions that might cause them to ignite. Incompatible wastes may not be placed in the same land disposal unit unless precautions are taken to prevent reactions that threaten human health and the environment and such

precautionary measures are documented. Bulk or non-containerized free liquid waste may not be placed in a landfill unless the landfill has a liner and leachate collection and removal system that meets the design and performance standards of 40 CFR 264.301. Containerized free liquid waste may not be placed in a landfill unless: (1) All free-standing liquid has been removed, (2) the container is very small, such as an ampule, (3) the container is designed to hold free liquids for use other than storage, such as a battery or capacitor, or (4) the container is a lab pack (as defined in 40 CFR 264.316) and meets the disposal requirements of § 264.316. The Agency established its basis for these restrictions in the preamble to the May 19, 1980, regulations (see, *e.g.*, 45 FR 33182–33183; 33209–33215), and in the preambles to subsequent amendments of these regulations (see, *e.g.*, 47 FR 12316–12318, March 22, 1982).

C. Other Restrictions on the Land Disposal of Chemical Wastes: PCBs

The use and disposal of polychlorinated biphenyls (PCBs) are regulated under Section 6(e) of the Toxic Substances Control Act of 1976 (TSCA). PCBs are toxic to animal and aquatic life and have been identified by EPA's Carcinogen Assessment Group to be a potential human carcinogen. Their slow rates of chemical and biological degradation, capacity to bioaccumulate, potential to migrate when mixed with solubilizing solvents, persistence within the biosphere, and biological effects, cause PCBs to be of particular environmental concern. Under TSCA, EPA has prohibited the land disposal of certain PCB wastes. These restrictions are published in the Code of Federal Regulations at 40 CFR Part 761, Subpart B. In these regulations, EPA generally requires incineration of liquid PCBs, and in all cases prohibits landfilling of liquids containing PCBs in concentrations of greater than 500 ppm. EPA has limited high concentrations of liquid PCBs from landfills due to the potential for migration of the liquids out of the landfill, coupled with their extreme persistence and ability to bioaccumulate.

D. Congressional and State Actions

Amendments to RCRA are pending before both Houses of Congress that would require EPA to promulgate regulations prohibiting one or more methods of land disposal of specified hazardous wastes that are identified or listed under 40 CFR Part 261. (See S.757, 98th Cong., 1st Sess. section 5 (1983); H.R. 2867, 98th Cong., 1st Sess. section 5 (1983).) Both bills recognize the uncertainties associated with long-term containment of hazardous wastes in land disposal facilities, and thus, as currently drafted, require the Administrator to prohibit the land disposal of certain hazardous wastes unless it may reasonably be anticipated that one or more methods of land disposal will be protective of human health and the environment for as long as the waste remains hazardous. In addition, the Senate bill provides that for certain hazardous wastes containing significant concentrations of constituents that are highly toxic, are highly mobile, or have a strong propensity to bioaccumulate, a method of land disposal will not be deemed protective of human health and the environment unless it is established, to a reasonable degree of certainty, that there will be migration of such constituents for as long as the waste remains hazardous.

Both bills also direct the Agency to develop a schedule for reviewing hazardous wastes for possible restriction. This schedule must provide for review of one-third of all listed hazardous wastes within 32 months of enactment, two-thirds of all listed wastes within 42 months of enactment, and 100 percent of all listed wastes, as well as all wastes identified by hazardous waste characteristics, within 52 months of enactment. The House bill contains a provision that automatically prohibits land disposal of hazardous waste if EPA fails to meet the time schedule for reviewing wastes for purposes of determining whether prohibitions are warranted. However, since final legislation has not been enacted, the statutory criteria for such prohibitions are still not firmly established.

In addition, a number of States have taken legislative and regulatory actions over the past three years. California has developed a comprehensive program to restrict wastes from land disposal. Other States that are active in this areas include Illinois, Massachusetts, Minnesota, Missouri, New York, Ohio, Rhode Island, and Wisconsin. The nature of these activities is shown in brief in Table 1. A complete synopsis of these various state requirements has been assembled by EPA and is available for viewing in the RCRA docket (see additional information under "**ADDRESSEES**").

II. EPA Plans

The Agency has recently initiated a program to explore whether certain wastes should be restricted from some or all types of land disposal, what the nature of the restrictions should be, and what treatment and recycling alternatives exist for such wastes. The purpose of this notice is to describe that program, and solicit comments from the public on the design and components of that effort. EPA's approach is to move forward on two tracks to determine which wastes pose a significant hazard to human health and the environment and thus are candidates for restriction from various types of land disposal. The longer track is a two-year study that will determine which hazardous wastes are the most toxic, mobile, persistent, and bioaccumulative in the land disposal environment; survey and evaluate alternative technologies and their capacities for treating or recycling those wastes; and assess the economic, environmental, and regulatory impact of any prohibitions.

TABLE 1.—SUMMARY OF STATE ACTIVITIES FOR RESTRICTING LAND DISPOSAL OF HAZARDOUS WASTES

State	Legislative action	Report required by legislature	Regulatory action proposed	Regulatory action draft	Regulatory action final
California	X	X			X
Illinois	X				
Massachusetts					X
Minnesota	X	X	X		
Missouri					X
New York	X	X			
Ohio			X		
Rhode Island					X
Wisconsin	X	X		X	

The Agency has termed the other track the "fast-track approach" because it is scheduled to be completed in a short time frame. The purpose is to assess for two general classes of hazardous waste—dioxin-containing wastes (proposed EPA Hazardous Waste Nos. F020, F021, F022, and F023) and certain solvent wastes (EPA Hazardous Waste Nos. F001, F002, F004, and F005)—the alternative technologies, capacities, costs, and regulatory impacts

of prohibiting these wastes from land disposal.

In addition, the Agency is looking at State experience in this area to determine which State actions would be appropriate and effective for the Federal program. The remainder of this notice discusses these various activities.

A. Two-year Study

1. Defining Which Wastes Merit Further Land Disposal Restrictions

As a first step in identifying candidate wastes for land disposal restrictions, EPA plans to first designate screening criteria for toxicity, mobility, persistence, and bioaccumulation, and then screen and rank wastes according to these criteria. This waste ranking will also be used for the purpose of developing a schedule for reviewing wastes for possible restriction, if such a schedule is mandated as a result of RCRA Reauthorization amendments.

Toxicity screening will consider any existing information on acute and chronic effects, as well as carcinogenic, mutagenic, and teratogenic effects. Some work has been done previously for the Agency to develop such a data base, including a weighting scheme for the various toxic effects of waste constituents.[2] EPA will consider using this type of an approach for purposes of this study, in addition to others. The Agency specifically solicits comments on any toxicity screening criteria. With respect to mobility, EPA is interested in both a waste's ability to migrate to ground water and to volatilize into the atmosphere. Regarding a waste's potential for migration to ground water, we are primarily concerned with the solubility of a waste or its constituents in water; however, we will also consider its solubility in other liquids (*e.g.*, solvents) as well as historical evidence of migration (*e.g.*, past damage incidents). We will also look to a contaminant's ability to be attenuated by different soil types or absorbed, adsorbed or any physical/chemical changes of the leachate as it moves through the soil. With respect to a waste's volatility, we will look at a number of factors including vapor pressure (see detailed discussion in 45 FR 33166, May 19, 1980; also see 46 FR 12430, February 13, 1981).

EPA is also concerned about the persistence of toxic constituents in a land disposal environment, including persistence in ground water, should the waste constituents leach out of the disposal site. There are certain waste constituents, such as metals, that persist forever. Persistent constituents that are also toxic would be of particular regulatory concern. For other contaminants that degrade over time, EPA is considering using half-life data as an indication of persistence.

In addition, other criteria are available for consideration in determining estimates of persistence. These can be broken into two areas, physical measurements and general structural characteristics:

a. *Physical measurements*—the best indicators of lifetime (persistence), along with water insolubility (log P) are melting points, boiling points, electrochemical oxidation voltages and electrical breakdown strengths (for which there are extensive tables on organic chemicals), ignition temperature, resistence to gamma radiation, dielectric loss tangent at low frequency (< cps.), dielectric constants and measurements from thermal gravimetric analysis (*e.g.*, heat of formation, etc.). Generally, any measurements indicative of low ionic character, low polarity, low non-ultra violet light adsorption and high bond energies would be considered to estimate a longer lifetime.

b. *General structural characteristics*—compounds considered stable are those which are non-ionic, aromatic-polycyclic fluorinated and/or chlorinated, aromatic cyclic ethers, organic-metallic, and organic ring structures containing sulfur. Those considered unstable are compounds such as those containing nitro groups, compounds sensitive to reduction, and compounds containing groups such as hydroxy and acids, which are ionic and sensitive to hydrolysis.

We specifically request information on these and any other indicators of persistence that would be useful to the Agency.

The propensity of a chemical to bioaccumulate is also important and will be considered in evaluating which wastes should be restricted from land disposal. This property may be demonstrated by the uptake and bioconcentration in marine and freshwater vertebrates and invertebrates, or again, we may utilize appropriate physical measurements or general structural characteristics (as discussed above). Where this information exists on individual waste constituents, it will be evaluated for its usefulness as part of the screening process for the hazardous wastes of concern.

Screening criteria such as those discussed above will be used to assess the hazards of all known constituents of listed wastes and selected characteristic wastes. Certain hazardous constituents of listed wastes are identified in Appendix VII of Part 261. Where EPA has information on hazardous constituents of listed wastes other than those listed in Appendix VII, the Agency will also use this information to evaluate the hazards of the listed wastes. Where adequate information exists on the health effects of the whole waste, it will be used; otherwise some type of weighting scheme will be devised to assess the combined effect of the individual waste constituents of concern.

As a first step in developing a ranking of hazardous wastes, EPA is reviewing and analyzing existing hazardous chemical ranking methodologies. Hazard ranking schemes under review include those developed by Federal and State agencies, European organizations, quasi-governmental organizations, trade associations, and the private sector. These schemes fall within three general categories:

(1) Modeling schemes—those which employ a model to combine the toxicological properties, the environmental mobility, and the persistence of hazardous substances into a single number which takes into account the probability of an effect as a function of dose;

(2) Numerical schemes—those which assign numerical scores to inherent properties and environmental factors; and

(3) Decision-rule schemes—those which divide waste into general classifications based on predetermined definitions.

Modeling schemes are generally more complex than the other types of schemes and require more data input. They do, however, provide more precise results in the form of a single numerical risk score. Numerical and decision-rule schemes are more straightforward and easier to use but provide less quantitative results than modeling schemes, particularly because they generally consider less factors than modeling schemes.

As a result of reviewing and analyzing existing ranking schemes, EPA intends to do two preliminary rankings of hazardous wastes using both a modeling scheme and numerical scheme that reflect the criteria selected for toxicity, mobility, persistence, and bioaccumulation. The results of these two rankings will then be compared for consistency. EPA's final ranking will be based on the results of these two preliminary rankings as well as data on volumes of waste generated and current

[2] "Toxicity Scoring System Using the Registry of Toxic Effects of Chemical Substances (RTECS) Data Base," prepared by Clement Associates for U.S. EPA, June 18, 1982.

management practices. Data on waste volumes and current management practices will be obtained from EPA's recently completed National Survey of Hazardous Waste Generators and Treatment, Storage, and Disposal Facilities Regulated under RCRA in 1981.

2. Assessment of Alternative Technologies

The purpose of this portion of the study is to examine the extent to which wastes identified as candidates for land disposal restrictions are currently land disposed and to identify appropriate alternatives to land disposal of these wastes, including treatment, recycling, waste reduction technologies, and long-term storage. The focus will be on proven technologies and will include an assessment of current and anticipated new capacity, future capacity requirements, and the cost of the various alternatives. EPA will also examine the environmental effects of the alternative technologies.

More specifically, the Agency will evaluate whatever information and data are available to:

- Define each waste (*e.g.*, spent solvents, spent still-bottoms, solvent-containing sludges) and describe its characteristics (including physical form, solids content, organic content, heat content) that may affect its ability to be treated prior to disposal.
- Identify all proven (and developing) treatment, recycling, and waste reduction technologies that are practical for each waste type, including an assessment of destruction and stabilization capabilities of the technologies, and any pretreatment of the waste necessary to make the technology feasible;
- Identify the current practices used to manage each waste type; and
- Survey the available or expected capacity (both on a national and regional basis) for each waste technology. EPA plans to rely, in part, on information contained in the Hazardous Waste Data Management System (HWDMS) and data from the National Survey of Hazardous Waste Generators and Treatment, Storage, and Disposal Facilities regulated under RCRA in 1981 for this purpose.

In addition, EPA believes that it is important to determine the hazards posed to human health and the environment from emissions generated by the alternative technologies, in order to assess the environmental acceptability of these technologies. Therefore, we hope to characterize the emissions/releases for each treatment technology/waste combination, including the rate of release of the various toxic constituents into the air, surface water, and ground water. The Agency also plans to characterize and quantify any residues generated from each treatment technology identified.

The Agency also intends to consider other factors in determining environmental acceptability, such as the probability of increased transportation accidents. (For example, we will compare the hazards posed by transporting a hazardous waste thousands of miles to a treatment facility with the hazards of transporting the same waste to a land disposal facility only a few miles away.) EPA solicits comments on possible date sources on the risks of transportation.

3. Criteria for Prohibiting Wastes From Land Disposal

Once the Agency has completed its ranking of hazardous wastes based on toxicity, mobility, persistence, and propensity to bioaccumulate and its assessment of the availability, capacity, and risks of alternative management, it must then determine which wastes should be subject to restrictions. The first step will be to review the waste ranking and the screening criteria to determine whether there is a breakpoint at which constituents can be considered highly mobile, highly toxic, highly persistent, or highly bioaccumulative. After defining this breakpoint, one possible regulatory approach is to prohibit the land disposal of all wastes identified in this first step. There are, however, several shortcomings to an approach which only considers inherent waste characteristics. First, under this approach, no attempt is made to determine if the wastes identified in one step might, despite their characteristics, be suitable for certain types of land disposal. Secondly, this approach does not consider whether alternative treatment technologies exist and, if they do exist, whether there is sufficient alternative capacity. Thus, the possible result would be long-term storage of wastes for which alternative technology or capacity does not exist. Thirdly, under this approach there is no attempt to determine whether alternatives to land disposal, including long-term storage, actually presents a lesser risk to human health and the environment than land disposal.

Another approach would be to add a second step to the decision rule to determine if wasts identified in step one are in fact suitable for one or more types of land disposal. For example, although landfilling of a particular waste may be of considerable long-term hazard, the waste might be very effectively disposed of by land treatment. A possible variation on this approach is to place the burden of demonstrating the acceptability of certain methods of land disposal of wastes identified in step one on interested members of the regulated community through a petition process.

There are various standards that can be used for determining the acceptability of different types of land disposal. One such standard is not migration from the disposal unit for as long as the waste remains hazardous. Another possible standard is no migration from the disopsal unit for a fixed number of years (*e.g.*, 100 years, 1000 years, etc.). A third possible approach is to allow land disposal if the risks to human health and the environment from known alternative management technologies (including long-term storage) are greater than the risks of land disposal. EPA solicits comments on possible standards for determining the acceptability of land disposal for particular wastes.

After a determination is made that a waste is not suitable for one more methods of land disposal, an effective date for the land disposal restriction must be determined based on the availability and adequacy of alternative management technology. In the case of wastes for which effective alternative management capacity does not exist, longer effective dates for land disposal prohibitions could be set to allow a reasonable time for the siting, permitting, and construction of additional capacity. In the cases of wastes for which environmentaliy acceptable alternative technology has not been developed, however, setting effective dates will be more difficult since it is virtually impossible to predict how long it will take to develop acceptable alternatives technology. In such cases, wastes could be placed in long-term storage pending development of acceptable alternative technology.

EPA is also exploring the use of risk analysis as part of its approach to prohibit certain wastes from land disposal. The Agency would like to be able to determine the relative risks to human health and the environment posed by land disposal of hazardous wastes using various facility designs or hydrogeologic settings as compared to the risks of the alternative technologies, measuring these risks in terms of emissions of hazardous constituents into the environment, and human exposure to them on a regional or site-specific basis. However, the Agency has some concerns that there may be difficulties regarding the accuracy and precision of the analysis. For instance, some of the

difficulties that may be encountered in attempting to perform risk analysis include: characterizing the concentration and quantities of release of hazardous constituents from hazardous waste management facilities, modeling exposure to these constituents through soils, ground water or air; finding acceptable ground-water models for characterizing mixtures of wastes; and a general disagreement in the scientific community on the assumptions to be considered. Nonetheless, while some difficulties do exist, they must not be so severe as to prohibit the use of risk analysis. Thus, EPA is exploring possible use of this type of analysis and solicits comments on the use of risk analysis for this purpose.

4. Pretreatment Standards

There currently exist a variety of treatment technologies that change the physical or chemical nature of a waste, reduce the waste volume, and reduce or separate hazardous constituents in the waste. These technologies may either render a waste nonhazardous, reduce the hazard level of a waste, or change properties of a waste so as to make the waste safer to land dispose or easier to recover. Many treatment technologies result in treatment residuals that may still be hazardous, thus requiring some type of further management control.

A regulatory program that merely specifies that certain wastes are prohibited from land disposal leaves open the questions of (1) what is the appropriate manner of managing treatment residuals and (2) to what level must a waste be treated in order to be safely land disposed? For example, certain stabilization or solidification technologies will reduce the mobility of toxic constituents in a waste but do not actually destroy or render the constituents non-toxic. Thus, although the stabilization or solidification process may significantly reduce the risks associated with the land disposal of a waste, it will not necessarily render the waste non-hazardous nor its disposal risk-free.

In the Office of Technology Assessment's report on Technologies and Management Strategies for Hazardous Waste Control (OTA–M–196, March 1983), residuals from treatment operations and pretreated (or stabilized) waste are included in those found in general to be most suitable for land disposal. In consideration of these factors, the Agency is exploring the possibility of specifying pretreatment standards for hazardous wastes prior to land disposal.

Such standards could take several forms. If, in restricting wastes from land disposal, EPA establishes concentration levels for hazardous constituents, then presumably treatment to below the specified level would render the waste suitable for land disposal. Alternatively, pretreatment standards could specify acceptable treatment technologies for particular wastes.

5. Regulatory Analyses

Once we determine that certain hazardous wastes should be restricted from one or more types of land disposal, EPA will conduct a regulatory impact analysis (RIA) as may be required under Executive Order 12291.[•] A regulatory impact analysis will consist of (1) problem definition; (2) examination of regulatory alternatives; (3) cost analysis of waste management options; (4) cost/benefit analysis to assess and compare the relative costs and benefits of the land disposal restrictions; and (5) economic impacts (*e.g.*, plant closures, job losses, price changes, etc.). Under the Regulatory Flexibility Act, the Agency will also examine whether there would be a significant impact on small business, and if so, what special alternatives would be available.

6. Analysis of State Land Disposal Restrictions.

To date, EPA knows of nine States that have initiated regulations or policies to prohibit or restrict the disposal of hazardous waste. An in-depth evaluation of the various State approaches would be useful in determining which of these provisions could be incorporated into the Federal program. In addition to the initial survey that EPA has already performed, the Agency plans to analyze several aspects of each State's program, including: (1) the technical basis for restricting specific wastes; (2) the extent to which the wastes are required to be treated before land disposal and the supporting rationale; (3) the regulatory impact of waste restrictions, including the effect on waste management practices and costs (for example, the availability of alternative technology, the possibility of wastes being placed in indefinite storage, shipments out of State, increased illegal disposal); and (4) the availability and impact of variance procedures (with their resource implications). EPA realizes that a particular State's rules may well be formulated for State-specific waste disposal problems and, therefore, the kind of analysis discussed above is required in order to determine whether any such provisions could truly be applicable on a nationwide basis. We solicit comments on the above issues as they relate to State programs which are both under development and currently in place.

B. "Fast-track" Study

For the "fast-track" study, several wastes have been selected—namely dioxin-containing wastes (Proposed EPA Hazardous Waste Nos. F020, F021, F022, and F023) and solvent wastes (EPA Hazardous Waste Nos. F001, F002, F004, and F005)—and we are proceeding with examining the alternative technologies and regulatory impacts of prohibiting these wastes from land disposal. EPA has chosen these wastes because of their toxicity and persistence (particularly in the case of dioxins) and because of the adverse effects that solvents are known to have on liners in land disposal and storage facilites. Further, solvents frequently appear in drinking water supplies. The Agency expects to propose a rule on these wastes, if appropriate, in 1984.

III. Request for Comments

EPA solicits comments on all aspects of this Advance Notice of Proposed Rulemaking. Comments should be mailed to the address noted in the "**ADDRESSES**" section within 90 days of the date of this notice.

General issues, applicable to both the fast-track and the longer track studies, on which EPA would like to receive comments include:

- Which wastes should be prohibited from land disposal and why? How can EPA define "highly toxic," "highly mobile," "highly persistent," and "strong propensity to bioaccumulate" as these terms relate to hazardous constituents especially if there is no natural breakpoint in the hazardous waste ranking? Should these factors be considered individually or in combination? (e.g., should a waste that is very toxic but not very mobile be subject to restriction?) If these four factors are to be considered in combination, what relative weights should they be given?
- Should regulations restricting the land disposal of a waste consider the various forms of a particular listed waste (*e.g.*, dioxin contaminated soil vs production still bottoms)?

[•] Under Executive Order 12291, EPA must conduct an RIA for all major rules. A major rule is any regulation that is likely to result in: (1) an annual effect on the economy of $100 million or more; (2) a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets.

• Should quantity of waste (or contaminant) generated have any bearing on a decision as to whether a restriction is appropriate?

• In restricting wastes from land disposal, should EPA establish concentration limits for hazardous constituents? Presumably, if a hazardous waste contained these constituents in concentrations greater than those specified, the waste would be prohibited from land diposal. Should this type of approach be used? How should concentration limits be set?

• Should EPA differentiate between types of land disposal facilities (e.g. landfills, land treatment, surface impoundments, injection wells) in setting restrictions? If so, is this best done generically through the rulemaking process, or through a petition process thereby placing the burden of proof on the regulated community to show that certain methods of land disposal are appropriate for certain wastes?

• Should the Agency take hydrogeologic setting into account in restricting certain wastes from land disposal? If so, how is this best done?

• What standard should the Agency apply in determining if certain methods of land disposal are acceptable for wastes that contain significant concentrations of constituents that are highly mobile, highly toxic, highly persistent, or that have a stong propensity to bioaccumulate? (One possible standard is no migration from the disposal unit for as long as the waste remains hazardous.)

• How can risk assessment be used in formulating a set of land disposal prohibitions? How accurate are models simulating the discharge from land disposal facilities, including characterization of the concentrations and quantities of hazardous releases and attenuation? How accurate are models simulating exposure to these constituents through ground water and air? How useful are dose-response curves in assessing the health effects of these constituents, based on current knowledge? How could EPA do an analysis of the exposure to hazardous constituents from land disposal facilities as compared to the exposure to emissions from an alternative treatment or recycling technology?

• How should cost be considered in deciding whether to prohibit wastes from land disposal?

• Should the availability and technical feasibility of alternative treatment and recycling technologies be the driving force for setting land disposal restrictions, or should land disposal restrictions be set regardless of existing technology in hope of creating an incentive for the development of the needed processes? How should availability of alternative technologies be considered in setting effective dates for land disposal restrictions? Must the alternative techniques be more protective of human health and the environment than land disposal? If so, how should EPA measure and compare the risks of land disposal and alternative technologies? Should the risks associated with transportation of wastes longer distances to alternative technology sites be considered in assessing the risks associated with alternative technology? If acceptable alternative treatment or recycling technology is not available, should wastes be placed in long-term storage?

• Can treatment and recycling facilities be expected to develop or will public opposition to such facilities be a signficant deterrent to this program? Are the construction and operation of treatment and recycling facilities perceived to be as much of a threat to human health and the environment as land disposal facilities?

• How should EPA determine what level of pretreatment is necessary in order for wastes to be safely land disposed? Should EPA specify pretreatment standards (*i.e.*, the performance to be achieved by treatment) or acceptable treatment technologies (*e.g.*, specific methods of stabilization)? What form should these standards take?

EPA intends to continue its efforts as described in this Notice and to consider all public comments received. However, as previously discussed, both Houses of Congress are considering bills that contain amendments specifically relating to land disposal restrictions. The passage of such legislation could redirect the Agency's efforts in this area.

Dated February 3, 1984.

William D. Ruckelshaus,

Administrator.

[FR Doc. 84-4034 Filed 2-14-84; 8:45 am]

BILLING CODE 6560-50-M

VOL
49
ISS
32
FE
15
1984
UMI

federal register

Wednesday
February 15, 1984

Part III

Environmental Protection Agency

40 CFR Part 463

Plastics Molding and Forming Point Source Category; Effluent Limitations Guidelines, Pretreatment Standards, and New Source Performance Standards; Proposed Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 463

[FRL 2513-1]

Plastics Molding and Forming Point Source Category; Effluent Limitations Guidelines, Pretreatment Standards, and New Source Performance Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed regulation.

SUMMARY: EPA proposes a regulation to limit effluent discharges to waters of the United States and limit the introduction of pollutants into publicly owned treatment works from plants engaged in plastics molding and forming. The purposes of this proposal are to provide effluent limitations guidelines based on "best practicable technology," "best available technology," and "best conventional technology"; to establish new source performance standards; and to address whether to establish pretreatment standards for new and existing sources under the Clean Water Act. After considering comments received in response to this proposal, EPA will promulgate a final rule.

DATE: Comments on this proposal must be submitted by April 16, 1984.

ADDRESS: Send comments to: Mr. Robert M. Southworth, Effluent Guidelines Division (WH-552), Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460, Attention: EGD Docket Clerk, Proposed Plastics Molding and Forming Rule (WH-552). The supporting information and all comments on this proposal will be available for inspection and copying at this EPA Public Information Reference Unit, Room 2404 (EPA Library Rear). The EPA public information regulation (40 CFR Part 2) provides that a reasonable fee may be charged for copying. Copies of technical documents may be obtained from the Distribution Officer at the above address or by calling (202) 382-7115. The economic analysis may be obtained from Ms. Ann M. Watkins, Economic Analysis Staff (WH-586), Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460, or by calling (202) 382-5387.

FOR FURTHER INFORMATION CONTACT: Technical information may be obtained from Mr. Robert M. Southworth at the address listed above or by calling (202) 382-7150. Economic information may be obtained from Ms. Ann M. Watkins at the above address or by calling (202) 382-5387.

SUPPLEMENTARY INFORMATION:

Overview

This preamble describes the legal authority and background, the technical and economic bases, and other aspects of the proposed regulation. The abbreviations, acronyms, and other terms used in the Supplementary Information section are defined in Appendix A to this notice.

This proposed regulation is supported by three major documents available from EPA. Analytical methods are discussed in *Sampling and Analysis Procedures for Screening of Industrial Effluents for Priority Pollutants.* EPA's technical conclusions are detailed in the *Development Document for Proposed Effluent Limitations Guidelines, New Source Performance Standards, and Pretreatment Standards for the Plastics Molding and Forming Point Source Category.* The Agency's economic analysis is found in *Economic Impact Analysis of Proposed Effluent Limitations and Standards for the Plastics Molding and Forming Industry* (EPA 440/2-84-001).

This proposed rule does not contain any information collection requirements subject to Office of Management and Budget (OMB) review under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*

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I. Legal Authority

The regulation described in this notice is proposed under authority of Sections 301, 304, 306, 307, 308, and 501 of the Clean Water Act (the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1251 *et seq.*, as amended by the Clean Water Act of 1977, Pub. L. 95-217) (the "Act"). This regulation is also proposed in response to the Settlement Agreement in *Natural Resources Defense Council, Inc.* v. *Train,* 8 ERC 2120 (D.D.C. 1976), *modified* 12 ERC 1833 (D.D.C. 1979), *modified* by orders dated October 26, 1982, August 2, 1983, and January 6, 1984.

II. Background

A. The Clean Water Act

The Federal Water Pollution Control Act Amendments of 1972 established a comprehensive program to "restore and maintain the chemical, physical, and biological integrity of the Nation's waters," Section 101(a). By July 1, 1977, existing industrial dischargers were required to achieve "effluent limitations requiring the application of the best practicable control technology currently available" (BPT"), Section 301(b)(1)(A). By July 1, 1983, these dischargers were required to achieve "effluent limitations requiring the application of the best available technology economically achievable—which will result in reasonable further progress toward the national goal of eliminating the discharge of all pollutants" ("BAT"), Section 301(b)(2)(A). New industrial

direct dischargers were required to comply with Section 306 new source performance standards ("NSPS") based on best available demonstrated technology; and new and existing dischargers to publicly owned treatment works ("POTW") were subject to pretreatment standards under Sections 307(b) and (c) of the Act. The requirements for direct dischargers were to be incorporated into National Pollutant Discharge Elimination System (NPDES) permits issued under Section 402 of the Act. Pretreatment standards were made enforceable directly against dischargers to POTW (indirect dischargers).

Although Section 402(a)(1) of the 1972 Act authorized the setting of requirements for direct dischargers on a case-by-case basis, Congress intended that, for the most part, control requirements be based on regulations promulgated by the Administrator of EPA. Section 304(b) of the Act required the Administrator to promulgate regulations providing guidelines for effluent limitations setting forth the degree of effluent reduction attainable through the application of BPT and BAT. Moreover, Sections 304(c) and 306 of the Act required promulgation of regulations for NSPS and Sections 304(f), 307(b), and 307(c) required promulgation of regulations for pretreatment standards. In addition to these regulations for designated industry categories, Section 307(a) of the Act required the Administrator to promulgate effluent standards applicable to all dischargers of toxic pollutants. Finally, Section 501(a) of the Act authorized the Administrator to prescribe any additional regulations "necessary to carry out his functions" under the Act.

EPA was unable to promulgate many of these regulations by the dates contained in the 1972 Act. In 1976, EPA was sued by several environmental groups, and in settlement of this lawsuit, EPA and the plaintiffs executed a "Settlement Agreement" that was approved by the Court. This Agreement required EPA to develop a program and adhere to a schedule for promulgating for 21 major industries BAT effluent limitations guidelines, pretreatment standards, and new source performance standards for 65 "priority" toxic compounds and classes of compounds. *See, Natural Resources Defense Council, Inc.* v. *Train,* 8 ERC 2120 (D.D.C. 1976), *modified,* 12 ERC 1833 (D.D.C. 1979), *modified* by orders dated October 26, 1982, August 2, 1983, and January 6, 1984.

On December 27, 1977 the President signed into law the Clean Water Act of 1977. Although this law makes several important changes in the Federal water pollution control program, its most significant feature is its incorporation into the Act of several of the basic elements of the Settlement Agreement program for toxic pollutant control. Sections 301(b)(2)(A) and 301(b)(2)(C) of the Act now require the achievement by July 1, 1984, of effluent limitations guidelines requiring application of BAT for "toxic" pollutants, including the 65 "priority" toxic compounds and classes of compounds that Congress declared "toxic" under Section 307(a) of the Act. Likewise, EPA's programs for new source performance standards and pretreatment standards are now aimed principally at toxic pollutant controls. Moreover, to strengthen the toxics control program, Section 304(e) of the Act authorizes the Administrator to prescribe "best management practices" ("BMP") to prevent the release of toxic and hazardous pollutants from plant site runoff, spillage or leaks, sludge or waste disposal, and drainage from raw material storage associated with, or ancillary to, the industrial manufacturing or treatment process.

The 1977 Amendments added Section 301(b)(2)(E) to the Act establishing "best conventional pollutant control technology" ("BCT") for discharges of conventional pollutants from existing industrial point sources. Conventional pollutants are those defined in Section 304(a)(4) [biological oxygen demanding pollutants (BOD), total suspended solids (TSS), fecal coliform, and pH], and any additional pollutants defined by the Administrator as "conventional" [oil and grease, 44 FR 44501, July 30, 1979.]

BCT is not an additional control but replaces BAT for the control of conventional pollutants. In addition to other factors specified in Section 304(b)(4)(B), the Act requires that BCT limitations be assessed in light of a two part "cost-reasonableness" test. *See, American Paper Institute* v. *EPA,* 660 F.2d 954 (4th Cir. 1981). The first test compares the cost for private industry to reduce its conventional pollutants with the costs to publicly owned treatment works for similar levels of reduction in their discharge of these pollutants. The second test examines the cost-effectiveness of additional industrial treatment beyond BPT. EPA must find that the BCT limitations are "reasonable" under both tests before they are established. In no case may BCT be less stringent than BPT.

EPA published its methodology for carrying out the BCT analysis on August 29, 1979 (44 FR 50732). In the case mentioned above, the Court of Appeals ordered EPA to correct data errors underlying EPA's calculation of the first test and to apply the second cost test. (EPA had argued that a second cost test was not required.)

On October 29, 1982, the Agency proposed a revised BCT methodology (47 FR 49176). This methodology was used to determine whether costs of additional controls for the conventional pollutants beyond BPT in this category are "reasonable."

For nonconventional pollutants, Sections 301(b)(2)(A) and (b)(2)(F) require achievement of BAT effluent limitations guidelines within three years after the limitations are established or July 1, 1984, whichever is later, but not later than July 1, 1987.

The purpose of this proposed regulation is to provide effluent limitations guidelines for BPT, BAT, and BCT; to establish NSPS; and to address whether to establish pretreatment standards for existing sources (PSES) and pretreatment standards for new sources (PSNS) under Sections 301, 304, 306, 307, 308, and 501 of the Clean Water Act.

B. Prior EPA Regulations

EPA has not previously proposed or promulgated regulations for the plastics molding and forming (PM&F) point source category.

C. Overview of the Industry

The plastic molding and forming industry is a large and diversified industry with many different types of production processes that process various combinations of raw materials.

Plants in the plastics molding and forming category are generally included within SIC 3079 of the *Standard Industrial Classification Manual* prepared in 1972 and supplemented in 1977 by the Office of Management and Budget, Executive Office of the President.

EPA estimates there are 10,260 plastics molding and forming (PM&F) plants distributed through out the United States. EPA further estimates that 1,898 of the 10,260 plants have 2,522 PM&F processes that use process water (i.e., they are wet). The 1,898 wet plants have 789 wet PM&F processes with direct discharges, 1,117 wet processes with indirect discharges, and 616 wet processes with no discharge.

The plastics molding and forming category consists of plants that blend, mold, form, or otherwise process a wide variety of plastic materials into intermediate or final plastic products. There are eight generic processes used to process plastic materials. They are:

1. Extrusion,
2. Molding,
3. Coating and laminating,
4. Thermoforming,
5. Calendering,
6. Casting,
7. Foaming, and
8. Cleaning and finishing.

Each of these processes is described briefly below including discussion of which PM&F processes use process water and the purpose of such use. In the context of this proposed rule, process water is defined as any raw, service, recycled, or reused water that contacts the plastic product or contacts shaping equipment surfaces, such as molds and mandrels, that are or have been in contact with the plastic product.

Only process water discharges are covered by this proposed rule. Noncontact cooling water is not process water and thus is not controlled by this proposed regulation. Permitting and control authroities will establish limitations for the discharge of noncontact cooling water and other nonprocess wastewater on a case-by-case basis.

Extrusion is the forcing of molten polymer through a shaping die to form products of uniform cross-sectional area such as pipe, tube, profile, sheet, and film. This process has several applications including pelletizing, the production of parisons (blow molding preforms) for later use, the production of finished and semi-finished products, and the coating of substrate materials. Process water is frequently used in extrusion processes to cool the plastic product.

Molding is the most common process used to produce finished or semi-finished products from plastic resins. Molded parts can be solid, hollow, or foamed. Plastic objects of almost any desired shape can be produced commercially by seven different types of molding processes. These are:

—Injection molding,
—Blow molding,
—Compression molding,
—Transfer molding,
—Expandable bead foam molding,
—Reaction injection molding, and
—Rotational molding

Process water may be used in injection, blow, compression, transfer, and expandable bead foam molding processes to cool or heat the molded product. This reduces the time that the product stays in the mold. Process water generally is not used in reaction injection and rotational molding processes. Usually, noncontact cooling water is used to cool the outside of the molds used in those processes.

Coating and laminating processes combine polymeric materials with other materials to produce products with special properties such as chemical resistance, toughness, humidity resistance, corrosion resistance, and electrical insulation. Heat is used in both processes. In addition to heat, lamination also requires high pressures.

Coating processes are classified into four types: plastisol coating, powder coating, spread coating, and extrusion coating. Process water may be used to cool the coated products.

Lamination processes can be classified into three types: flat sheet lamination, rod and tube lamination, and continuous lamination. Process water is generally not used in lamination processes.

Thermoforming involves the heating of thermoplastic sheet or film to a pliable form and forcing the heated thermoplastic around the contours of a mold. Vacuum, air pressure, or mechanical force aid in the forming of the product. Process water is usually not used in thermoforming processes. However, in some cases, the thermoformed product may be cooled by spraying it with process water.

Calendering is widely used in the plastics molding and forming category to produce uniform quality film and sheet at high production rates. Calendering processes squeeze pliable thermoplastic between a series of rolls to produce the polymer film and sheet, to emboss sheet and film, the perform compounding operations, and to coat textile and paper products. Process water is usually not used in calendering processes.

In the plastics molding and forming industry, the term casting is used rather lossely to describe a wide variety of processes. Casting involves using liquid plastic material at atmospheric pressure in a mold or on a mold surface. There are six casting processes: pot casting, slush and dip casting, chilled film casting, solvent casting, cell casting, and continuous casting. Process water may be used in pot and slush and dip casting processes to cool the plastic product. Process water is not used in chilled film, solvent, cell, and continuous casting processes.

During the solvent casting process, the solvent used to produce a slurry of the plastic material evaporates. The gases are captured and processed to recover the solvent. Wastewater is generated during the solvent recovery operation.

Foamed plastic products (often called cellular or expanded plastics) are made by adding a blowing agent to thermoplastics or thermosets to form a spongelike material. Blowing agents are either added to the raw plastic material and then vaporized or are generated as a by-product of a cure reaction. Foamed plastic products can be classified into one of three types: extruded thermoplastic foam, structural foam, or multicomponent thermoset foam. The first is an extrusion product while the other two are molded products. Process water may be used in foaming processes to cool the foamed product.

Products produced by the various molding and forming processes may require further processing to become useful end products. A cleaning or finishing process is used to produce the final product.

Cleaning processes consist of washing plastic products to remove residual mold release agents and other matter. Washing is generally divided into two segments: a detergent wash cycle and a rinse cycle for the removal of detergents and other foreign matter. Process water is used as the carrier solution in both washing and rinsing operations. Process equipment, such as molds, pots, and mandrels, are also washed in a cleaning process.

Finishing processes render the plastic products useful. There are three general types of finishing processes: machining, decorating, and assembling. Machining processes drill, cut, mill, and otherwise shape products to match final product specifications. Decorative finishes are applied to plastic parts by a variety of methods including painting, printing, hot stamping, and vacuum metallizing. Assembling involves joining two or more plastic parts by methods such as solvent welding, ultrasonic welding, or electronic heat sealing. Process water may be used in finishing processes to carry away waste plastic material or to lubricate the product.

In several instances, particular PM&F processes and the wastewater generated by these processes may fall within this and other industrial categories for which the Agency has established effluent limitations guidelines and standards. Thus, for the purpose of regulatory coverage, the Agency has separated each process to ensure that it is clearly subject to one set of effluent limitations guidelines and standards. Processes that coat a plastic material onto a substrate may fall within the definition of electroplating and metal finishing as defined in 40 CFR Parts 413 and 433 (see, 48 FR 32485; July 15, 1983). These coating operations are excluded from the effluent limitations guidelines and standards for the electroplating and metal finishing point source category and are included in the PM&F category. See 40 CFR Part 433.10(b). Coating of plastic material onto a formed metal

substrate is also covered by the PM&F effluent limitations guidelines and standards and is not covered by the specific metal forming effluent limitations guidelines such as those for aluminum forming (40 CFR Part 467 (48 FR 49126; October 24, 1983)), copper forming (40 CFR 468 (48 FR 36942; August 15, 1983)), and nonferrous metals forming. However, the PM&F regulation applies only to the coating process; the prior forming operations are subject to the specific metal forming regulation.

Some molding and forming processes (e.g., extrusion and pelletizing) are used by plastic resin manufacturers to process crude intermediate plastic material. For the purpose of this regulation, plastic molding and forming processes used by plastic resin manufacturers to process crude intermediate plastic materials for shipment off-site are excluded from this regulation and regulated under the organic chemicals, plastics, and synthetic fibers category. Plastic molding and forming processes used by plastic resin manufacturers to process plastic materials on-site into intermediate or final plastic products by further molding and forming are controlled by the effluent limitations guidelines and standards for the plastics molding and forming category in this Part.

The characteristics of the process wastewater generated by PM&F plants may vary depending on the use of such water. The conventional and nonconventional pollutants found in PM&F wastewater are: (1) Conventional pollutants—biochemical oxygen demand (BOD), suspended solids (TSS), oil and grease, and pH and (2) nonconventional pollutants—total organic carbon, chemical oxygen demand, and total phenols. The priority toxic pollutants found are: (1) *Contact cooling and heating water*—benzene, carbon tetrachloride, 1,1,1-trichloroethane, p-chloro-m-cresol, chloroform, methylene chloride, phenol, bis(2-ethylhexyl) phthalate, di-n-butyl phthalate, tetrachloroethylene, toluene, aldrin, dieldrin, 4,4'-DDE, heptachlor, α-BHC, β-BHC, λ-BHC, δ-BHC, cadmium, total chromium, copper, lead, mercury, nickel, and zinc and, (2) *cleaning and finishing water*—benzene, chloroform, methylene chloride, N-nitrosodiphenylamine, phenol, bis(2-ethylhexyl) phthalate, toluene, aldrin, heptachlor, α-BHC, λ-BHC, δ-BHC, total chromium, copper, nickel, selenium, and zinc.

III. Scope of This Rulemaking and Summary of Methodology

This proposed regulation is a part of the Agency's continuing effort in water pollution control requirements. For most industries, the 1973–1976 round of rulemaking emphasized the achievement of best practicable technology (BPT) by July 1, 1977. In general, this technology level represented the average of the best existing performance of well-known technologies for control of familiar (or "classical") pollutants. However, for this category, BPT effluent limitations guidelines were not proposed or promulgated. BPT effluent limitations guidelines were established on a case-by-case basis by permit writers.

In the current round of rulemakings, EPA is proposing to establish nationally applicable BPT effluent limitations guidelines and is addressing the achievement by July 1, 1984, of effluent limitations guidelines based on the best available technology economically achievable (BAT), which will result in reasonable further progress toward the national goal of eliminating the discharge of all pollutants. In general, the BAT level represents the very best economically achievable performance in any industrial category or subcategory. As a result of the Clean Water Act of 1977, the emphasis of EPA's program has generally shifted from "classical" pollutants to the control of a lengthy list of toxic pollutants. The Agency is also proposing to establish BTC effluent limitations guidelines and new source performance standards. For the reasons discussed below, the Agency is not proposing categorical pretreatment standards for new and existing indirect discharges in this category.

In developing this proposed regulation, EPA studied the plastics molding and forming category to determine whether differences in raw materials, final products, manufacturing processes, equipment, age and size of plants, water use, wastewater characteristics, or other factors required the development of separate effluent limitations guidelines and standards for different segments (or subcategories) of the category. This study included the identification of raw waste characteristics, sources and volumes of water used, processes employed, and sources of wastewaters. Sampling and analysis of specific wastewaters enabled EPA to determine the presence and concentration of pollutants in wastewater discharges.

EPA also identified actual and potential wastewater control and treatment technologies (including both inprocess and end-of-process technologies). The Agency analyzed both historical and newly generated data on the performance, operational constraints, and reliability of these technologies. In addition, EPA considered the impacts of these technologies on air quality, solid waste generation, water scarcity, and energy requirements.

The Agency estimated the costs of each control and treatment technology using cost equations developed by standard engineering analyses. EPA derived control technology costs for the 408 PM&F plants in the Agency's data base. The Agency then evaluated the potential economic impacts of these costs on the category.

The Agency also developed a financial profile for 384 of the 408 plants in the data base using information from questionnaire surveys and publicly available data. Using plant specific financial information and compliance cost estimates, the impact of the proposed regulation on 101 plants with a direct discharge was determined. Those impacts were extrapolated to the estimated number of plants in the PM&F category that discharge wastewater directly to navigable waters.

On the basis of this information, EPA identified various control and treatment technologies to use as the basis for the effluent limitations guidelines and standards addressed by this proposed rule. The proposed regulation does not require, however, the installation of any particular technology. Rather, it requires compliance with effluent limitations guidelines and standards based on the proper operation of these technologies.

IV. Data Gathering Efforts

The proposed PM&F effluent limitations guidelines and standards were developed using information obtained from several sources. Information was obtained from three questionnaire surveys of PM&F plants, other EPA studies, literature, and existing discharge permits for plants in the category.

In 1978, a single page questionnaire was mailed to approximately 8,000 plants to obtain information about any PM&F processes. Results of that survey were used to select 750 plants that had plastic molding and forming processes and that used water in those processes. Under the authority of Section 308 of the Clean Water Act, these plants were mailed a detailed questionnaire in 1979 to obtain additional information (e.g., amount of water used and production) about the PM&F category. In June 1983, another questionnaire was mailed under authority of Section 308 of the Clean Water Act to 330 PM&F plants to update the 1979 information and to obtain information on "new" PM&F plants. The mailing included a random sample of

plants that returned the 1979 questionnaire, a random sample of plants that did not return the 1979 questionnaire, and a random sample of plants that entered the market between January 1, 1978, and December 31, 1981, as identified by a Dun and Bradstreet, Inc. listing and a telephone survey. All of these plants had a primary SIC of 3079 as reported by Dun and Bradstreet, Inc. To obtain information from plants with a secondary SIC of 3079 (i.e., captive plastics molders and formers), 170 questionnaires were mailed to plants on the mailing list for the magazine "Plastics World" in August 1983.

In summary, the data base for this project contains questionnaires from 408 plants. One hundred and ninety-six of the questionnaires are from the 1979 survey; 163 are from the 1983 survey of plants with a primary SIC of 3079; and 49 are from the 1983 survey of plants with a secondary SIC of 3079. If a plant submitted a questionnaire in 1979 and again in 1983, only the updated questionnaire from the 1983 survey was included in the data base.

Information on PM&F processes, economic and financial characteristics, wastewater treatment technologies, and costs were obtained from various studies and literature searches. Information regarding currently controlled pollutants and treatment technologies used was also obtained from existing National Pollutant Discharge Elimination Systems (NPDES) permits. Although the Agency used all available data obtained from these sources, effluent concentration data for specific treatment technologies considered were limited. Thus, the Agency supplemented its analyses by using treated effluent concentration data for conventional pollutants that were used to develop the proposed effluent limitations guidelines and standards for the organic chemicals, plastics, and synthetic fibers category (48 FR 11828; March 21, 1983).

Further discussions of the data gathering efforts for this project are presented in Section IV of the technical development document for this proposed regulation development document for this proposed regulation and in the Economic Impact Analysis.

During the sampling program for this project, samples were collected and analyzed for conventional pollutants, selected nonconventional pollutants, and priorty toxic pollutants. The analytical methods used during this program are discussed in the proposed regulation for the Leather Tanning Point Source Category, 40 CFR Part 425 (44 FR 38749; July 2, 1979) and in Section VI of the technical development document for this proposed regulation.

The list of 65 toxic compounds and classes of compounds specified in the NRDC Settlement Agreement and in the Clean Water Act of 1977 includes thousands of specific pollutants; analyses of all of those pollutants would have overwhelmed private and government laboratory resources. Therefore, to make the task more manageable, EPA selected 129 specific toxic pollutants (known as priority pollutants) for study in this and other industry rulemakings.

The sampling program for this project consisted of four sampling episodes in 1980 and seven sampling episodes in 1983. Forty-four samples were collected from PM&F processes that use contact cooling and heating water and 25 samples were collected from cleaning and finishing processes.

Samples of the different types of wastewater discharged by plastics molders and formers were collected and analyzed for biochemical oxygen demand (BOD), oil and grease, total suspended solids (TSS), pH, chemical oxygen demand, ammonia, total kjeldahl nitrogen, total phosphorus, total organic carbon, total phenols, sulfate, sulfite, sulfide, nitrates, fluorine, free chlorine, boran, bromide, surfactants (MBAS), and the 129 priority toxic pollutants. The analytical results are presented in Appendix A of the technical development document.

VI. Industry Subcategorization

In developing this proposed regulation, the Agency reviewed the PM&F category to determine if different effluent limitations guidelines and standards were appropriate for different segments (subcategories) of the category. The major factors considered during this review included: waste characteristics, material used, manufacturing processes, products manufactured, water use, water pollution control technology, treatment costs, solid waste generation, size of plant, age of plant, number of plant employees, total energy requirements, non-water quality characteristics, and unique plant characteristics. Section V of the technical development document contains a detailed discussion of these factors and the rationale for the basis for the PM&F industry subcategorization scheme.

The PM&F processes previously discussed generate basically two types of wastewater: contact cooling and heating water and cleaning and finishing water. Results of our sampling program indicate that the characteristics of the two types of wastewater are different in terms of the number and concentration of priority toxic pollutants found to be present. In addition, the concentrations of the conventional and nonconventional pollutants are different, although the pollutants or pollutant properties are the same. Therefore, the PM&F category was subcategorized based on the type of wastewater generated by a process. The other factors considered did not result in differences that required subcategorization of the category.

The two subcategories established for the PM&F category are: (1) Contact cooling and heating water subcategory and (2) cleaning and finishing water subcategory.

Plants in the PM&F category may have processes generating only one type of wastewater and thus fit within one subcategory. However, many plants generate both contact cooling and heating water and cleaning and finishing water. In this instance, plants must comply with the effluent limitations guidelines and standards for both subcategories. The end-of-pipe model treatment technologies used as the basis for the limitations are the same for both subcategories. Thus plants having both types of wastewater may combine both types of wastewater for common end-of-pipe treatment to achieve the effluent limitations guidelines for each subcategory.

The contact cooling and heating water subcategory includes those processes where process water contacts raw materials or plastics products for the purpose of heat transfer during plastics molding and forming. In identifying model treatment technology options for this subcategory, the Agency found that further subdivision based on average process water usage flow rate was required. Thus, processes with an average process water usage flow rate of 35 gpm or less are in one subdivision and processes with an average process water usage flow rate greater than 35 gpm are in a different subdivision. Further discussion of the flow cut-off for this subcategory is presented in Section VIII of this preamble and in Section X of the technical development document.

The cleaning and finishing subcategory includes those processes that use process water to clean or finish the plastic product or to clean shaping equipment that is or has been in contact with the formed plastic product. Process water used to clean the plastic product or shaping equipment includes water used in the detergent wash cycle and water used in the rinse cycle to remove detergents and other foreign matter. Finishing water consists of water used

to carry away waste plastic material or to lubricate the product during finishing processes.

Wastewater is also generated by the solvent recovery operation in the solution or solvent casting process. However, this wastewater does not result from the blending, molding, forming, or any processing of the plastic material and is not a process water. Samples of this wastewater indicate that its pollutant characteristics are different from the characteristics of PM&F process wastewater. In addition, the Agency estimates that only eight plants in the category generate solvent recovery wastewater. For these reasons, the Agency believes that solvent recovery wastewater is best controlled on a case-by-case basis by the permit writer or control authority. Analytical data for this type of wastewater from the Agency's study of the plastics molding and forming category may be used as a guide by the permit writer.

VII. Available Wastewater Control and Treatment Technologies

A. Control and Treatment Technologies Considered

The control and treatment technologies available for this category include both in-process and end-of-pipe technologies. These technologies were considered appropriate for the treatment of plastics molding and forming wastewater and formed the basis of the regulatory options.

The in-process control technology considered for this proposed regulation is recycle of the process water (i.e., flow reduction). Recycle consists of returning the process water to the process so that it can be used again for the same purpose. By reducing the amount of water discharged, the size and cost of the technologies used to treat the discharge are reduced. Additionally, treatment technology performance may be improved using a recycle system because the concentrations of the pollutants in the discharge from the recycle unit are higher than the concentrations in the process water. Treatment technologies usually perform better with a more concentrated wastewater.

Process water that requires cooling prior to recycle is recycled through a technology that lowers the temperature of the water. One type of recycle unit is a holding tank. Process water is held in the tank until the temperature drops through passive heat transfer to the environment. Application of this recycle unit is limited to low flow rate processes.

Another type of recycle unit is a chiller. Chillers cool the process water by mechanical refrigeration. They can be used with higher flow rate processes simply by adding the number of chillers needed to provide the required amount of refrigeration. However, at the high flow rates, the high energy cost per unit of cooling makes the chiller less attractive than other recycle units such as a cooling tower.

A cooling tower lowers the water temperature by evaporative cooling. Water flows over the surfaces of the cooling tower and is cooled when it contacts the air that is blown into the tower. This unit is particularly appropriate for high flow rate processes because of its small space and low energy requirements.

A sedimentation tank may be used to recycle process water that requires the removal of solids or oil and grease. The solids settle to the bottom of the tank and are removed; oil and grease are skimmed off of the tank water surface. The treated water is then recycled to the process.

End-of-pipe technologies considered appropriate for PM&F wastewater include pH adjustment, sedimentation, and the activated sludge process.

pH Adjustment. Acidic and basic materials are used to control the pH of the wastewater. Proper pH adjustment not only controls a pollutant property but also serves to ensure proper treatment technology performance.

Sedimentation. Sedimentation is a process that removes solid particles from a liquid matrix by gravitational force. This is done by reducing the velocity of the flow in a large volume tank so that gravitational settling can occur. Floatable materials such as oils can also be removed in this process by skimming them from the surface of the water in the tank.

Biological Treatment (Activated Sludge). The activated sludge process is a widely used biological treatment process characterized by a suspension of microorganisms maintained in a homogeneous state by mixing and turbulence induced by aeration. The microorganisms oxidize soluble and colloidal organic material to carbon dioxide and water in the presence of molecular oxygen. This process treats dissolved pollutants such as biochemical oxygen demand (BOD), total organic carbon, and total phenols. The activated sludge process, which is designed to assure optimal removal of BOD, removes organic priority pollutants in the wastewater.

Activated sludge technology also can be used with sedimentation technologies to make a package activated sludge plant. These are self-contained plants usually consisting of a primary sedimentation unit, an activated sludge unit, and a final sedimentation unit. Package activated sludge plants are used to treat flows from as low as 600 gallons per day to as high as 100,000 gallons per day.

B. Status of In-Place Technology

Recycle is a widely demonstrated in-process control in the plastics molding and forming category. Process water is recycled for 42 percent of the contact cooling and heating water processes in the data base for this project. One hundred percent of the process water is recycled for 47 percent of those processes. Process water is also recycled for 16 percent of the cleaning and finishing processes in the data base.

The end-of-pipe technologies currently used by both direct and indirect dischargers in the PM&F category include pH adjustment, sedimentation, and oil skimming. Treatment technologies used at plants where PM&F wastewater and other wastewater are combined for treatment include sedimentation, the activated sludge process, the activated carbon process, and pH adjustment.

VIII. Best Practicable Technology (BPT) Effluent Limitations Guidelines

The factors considered in defining best practicable control technology currently available (BPT) include the total cost of applying the technology in relation to the effluent reduction benefits derived, the age of equipment and facilities involved, the processes employed, non-water quality environmental impacts (including energy requirements), and other factors the Administrator considers appropriate. In general, the BPT level represents the average of the best existing performance of plants of various ages, sizes, processes, or other common characteristics. Where existing performance is uniformly inadequate, BPT may be transferred from a different subcatgory or category. Limitations based on transfer technology must be supported by a conclusion that the technology is, indeed, transferable and a reasonable prediction that it will be capable of achieving the prescribed effluent limitations guidelines. *See, Tanners' Council of America* v. *Train*, 540 F.2d 1188 (4th Cir. 1976). BPT focuses on end-of-pipe treatment rather than process changes or internal controls, except where such controls are common industry practice.

The cost-benefit inquiry for BPT is a limited balancing, committed to EPA's discretion, that does not require the Agency to quantify benefits in monetary terms. *See, American Iron and Steel Institute* v. *EPA*, 526 F.2d 1027 (3rd Cir. 1975). In balancing costs in relation to effluent reduction benefits, EPA considers the volume and nature of existing discharges, the volume and nature of discharges expected after application of BPT, the general environmental effects of the pollutants, and the cost and economic impacts of the required pollution control level. The Act does not require or permit consideration of water quality problems attributable to particular point sources or industries, or water quality improvements in particular water bodies. Accordingly, water quality considerations were not the basis for selecting the proposed BPT. *See, Weyerhaeuser Company* v. *Costle*, 590 F.2d 1011 (D.C. Cir. 1978).

Contact Cooling and Heating Water Subcategory

The Agency identified three technology options as the basis for the proposed BPT effluent limitations guidelines for the contact cooling and heating water subcategory. These options are discussed briefly below and in further detail in Section X of the technical development document for this proposed regulation.

Option 1: Sedimentation: The technology for this option consists of a tank in which the velocity of the wastewater is reduced so that solid material can settle by gravitational force. This option was rejected early in the development of this proposed rule because the suspended solids concentration in the cooling and heating water is very low and because the technology does not remove the dissolved pollutants (e.g., biochemical oxygen demand) in the contact cooling and heating water.

Option 2: For processes with an average process water usage flow rate of 35 gpm or less—zero discharge by 100 percent recycle of the process water using either a tank or chiller.

For processes with an average process water usage flow rate greater than 35 gpm—recycle through a cooling tower and treatment of the recycle unit discharge in a package activated sludge plant. An equilization tank is included as part of the package plant.

The flow cut-off (i.e., 35 gpm) for this option is based on the average of the best performance of plants in the contact cooling and heating water subcategory that achieve 100 percent recycle. Data from the questionnaire surveys for this project indicate that 89 processes in this subcategory with a flow rate up to 50 gpm achieve 100 percent recycle. Of these processes, eight have a flow rate between 20 gpm and 50 gpm. The Agency averaged the flow rate for those eight processes to arrive at a flow rate of 35 gpm as the cut-off based on the average of the best. Above 50 gpm, a cooling tower is most commonly used to recycle process water. A cooling tower necessarily includes some amount of discharge, which is treated in a package activated sluge plant in this option.

This technology option results in no discharge of pollutants from processes with an average process water usage flow rate of 35 gpm or less and significantly reduces the concentration of conventional, nonconventional, and priority pollutants discharged by processes with an average process water usage flow rate greater than 35 gpm.

Option 3: For processes with an average process water usage flow rate of 35 gpm or less—Zero discharge by 100 percent recycle of the wastewater through either a tank or a chiller.

For processes with an average process water usage flow rate greater than 35 gpm—Recycle through a cooling tower and zero discharge by contract haul of the discharge from the recycle unit.

The 35 gpm flow rate was used as the cut-off for this option for the same reasons it was used in Option 2. A cooling tower is also used in this option to recycle process water for processes with an average process water usage flow rate greater than 35 gpm. However, the recycle unit discharge is contract hauled to achieve zero discharge instead of being treated at the plant and discharged.

Contract haul was used in this option to handle the discharge from the recycle unit because treatment technologies other than those used in Option 2 are not considered feasible for the PM&F category. Technologies (e.g., activated carbon) that could be used to treat PM&F wastewater are expensive and are difficult to operate and maintain. The Agency considers contract haul more practicable for this subcategory than those technologies.

This technology option results in zero discharge of pollutants from all processes that use process water for contact cooling and heating.

Option Selected

The Agency is proposing Option 2 as the model technology basis for BPT effluent limitations guidelines for the contact cooling and heating water subcategory. As prevously mentioned, many plants in the data base for this project indicated they currently recycle 100 percent of the contact cooling and heating water from PM&F processes with an average process water usage flow rate of 35 gpm or less. Further, those plants reported that the only wastes from this technology result from occasional cleaning of the recycle units (i.e., once every one to two years) for which a discharge allowance is not required.

The proposed BPT effluent limitations guidelines for processes with an average process water usage flow rate of 35 gpm or less require zero discharge of the wastewater. The "average process water usage flow rate" is the volume of process water used per year by a process divided by the total time per year the process operates. The "average process water usage flow rate" for a plant with more than one PM&F process that uses contact cooling and heating water is the sum of the "average process water usage flow rates" for each of these processes. The sum of the process flow rates determines if a plant has PM&F contact cooling and heating processes with an average process water usage flow rate less than, equal to, or greater than 35 gpm.

The proposed BPT effluent limitations guidelines for processes with an average process water usage flow rate greater than 35 gpm are based on recycle through a cooling tower and treatment of the recycle unit discharge in a package activated sludge plant. The activated sludge process is only demonstrated at integrated treatment facilities that treat PM&F wastewater combined with wastewater discharged by other industrial processes. Treatment at plants that discharge PM&F wastewater separately is uniformly inadequate because these plants indicated that they use only sedimentation and oil skimming, which, as discussed earlier, does not remove dissolved pollutants. None of the PM&F plants where the Agency collected samples and none of the plants in the questionnaire data base had an activated sludge process solely for the treatment of PM&F wastewater.

Since the Agency found that plants discharging PM&F wastewater separately have uniformly inadequate treatment and since the Agency lacks performance data for the activated sludge process on only PM&F wastewater, the treatment effectiveness of this technology was evaluated and established by examining its performance on similar wastewaters. The Agency compared the PM&F data obtained during the sampling program

for this project to wastewater data from the organic chemicals, plastics, and synthetic fibers category, particularly the plastics only subcategory, and found that the wastewaters for the two categories have similar characteristics. Specifically, data on raw waste concentrations of BOD, TSS, and oil and grease were examined statistically. The results show that the raw waste concentrations for these pollutants are neither significantly greater nor more variable than the raw waste concentrations at plants that manufacture plastics. This provided support for the Agency's technical judgment that activated sludge will treat PM&F wastewater effectively and achieve conventional pollutant levels demonstrated by activated sludge processes that treat wastewater generated by plastics manufacturing plants in the organic chemicals, plastics, and synthetic fibers category. Thus, the Agency transferred the activated sludge technology and treated effluent data for that technology from the organic chemicals, plastics, and synthetic fibers category to the PM&F category. Effluent concentration values were transferred for biochemical oxygen demand, total suspended solids, and oil and grease.

The Agency is proposing mass-based BPT effluent limitations guidelines because flow reduction by recycle of the wastewater is an important part of the model treatment technology. The effluent limitations guidelines are expressed in terms of the allowable mass of pollutant discharged per unit of production and reflect the reduction in flow achieved by application of BPT.

The mass limitations were calculated by combining two values: (1) Treatment technology effluent concentrations and (2) a production normalized wastewater flow for the subcategory. The unit of production used to determine the production normalized wastewater flow is mass of plastic material processed. Mass of plastic material processed was selected as the appropriate production normalizing parameter because the mass of pollutants generated relates to the mass of plastic material processed. Also, many plants reported that records are routinely kept in terms of mass of plastic materials processed. Thus, in addition to providing an equitable normalizing parameter, this parameter minimizes compliance burdens on the industry.

The production normalized flow (PNF) used to calculate the allowable mass was obtained using information from the questionnaire surveys. Since the selected BPT option is based on flow reduction, information from plants that currently recycle water was used to calculate the PNF. Of the 183 plants in this subcategory reporting recycle of contact cooling and heating water, 48 had an average process water usage flow rate greater than 35 gpm and a recycle ratio between 90 and 99.9 percent. Thus, the total discharge for these 48 processes (liters per year) was divided by the total production reported for these processes to obtain a production normalized flow (liters per thousand kilograms) for all processes in this subcategory. The Agency considered but is not establishing a separate production normalized flow for each type of molding or forming process. Data indicate that the amount of water required for contact cooling or heating purposes is primarily a function of the mass of material cooled or heated and does not appear to be dependent on the type of molding and forming process used. The PNF was multiplied by the concentration values to obtain the allowable mass of a pollutant discharged per mass of plastic material processed for this subcategory.

Under BPT, the Agency proposes to establish effluent limitations guidelines for biochemical oxygen demand, total suspended solids, oil and grease, and pH. The Agency estimates that when these limitations are met approximately 79 percent of the amount of nonconventional pollutants discharged by PM&F processes and approximately 80 percent of the amount of priority toxic pollutants discharged will be removed. These estimates are based on removal percentages reported in previous EPA studies and other literature sources for the nonconventional and priority toxic pollutants.

Although the proposed model treatment technology removes approximately 79 percent of the amount of nonconventional pollutants discharged, a substantial amount of those pollutants remain in the discharge. For this reason, the Agency plans to study the nonconventional pollutants, particularly chemical oxygen demand and total organic carbon, between proposal and promulgation of the PM&F effluent limitations guidelines and standards to determine the chemical constituents of these pollutants. Depending on the results of that work, the Agency may consider additional controls for the nonconventional pollutants.

The 35 gpm cut-off used in BPT Options 2 and 3 is based on the demonstrated recycle of 100 percent of the process water for processes with an average process water usage flow rate of 35 gpm or less. However, available information suggests that 100 percent recycle may be achieved by processes with higher flow rates. Accordingly, the Agency will give further consideration to the flow cut-off for this subcategory between proposal and promulgation of the PM&F effluent limitations guidelines and standards. If additional information and further studies confirm the achievability of 100 percent recycle for flows up to and including all contact cooling and heating water flows, the Agency may decide to raise the 100 percent recycle flow cut-off. EPA invites comment on this issue.

The Agency is not proposing Option 3 as the technology basis for the BPT effluent limitations guidelines for this subcategory because the mass of toxic pollutants in the raw wastewater is very low (i.e., approximately one kilogram per day per direct discharger) and the annual costs are significantly higher for contract hauling than the annual costs for treatment in Option 2 ($9.4 million per year for Option 2 compared to $41.2 million per year for Option 3). (All costs are expressed in 1982 dollars.) However, as discussed earlier, the Agency will be conducting further studies to identify what contributes to the nonconventional pollutants. Based on the results of this study, EPA may give further consideration to Option 3 and to other appropriate technologies, including a higher flow cut-off for 100 percent recycle, for the control of nonconventional pollutants.

The Agency estimates that the proposed BPT effluent limitations guidelines for this subcategory result in the removal of approximately 7.5 million kilograms of conventional pollutants per year, 21.5 million kilograms per year of nonconventional pollutants, and 99,000 kilograms per year of priority toxic pollutants from the raw wastes. The estimate investment costs and total annual costs in 1982 dollars for the proposed BPT effluent limitations guidelines are $15.2 million and $9.4 million, respectively. The Agency has determined that the effluent reduction benefits associated with compliance with BPT justify the costs.

Engineering cost estimates, effluent reduction estimates, and the economic impact analysis for BPT Options 2 and 3 are based on an average process water usage flow rate cut-off of 15 gpm. The cut-off was subsequently changed to 35 gpm. The Agency believes that the results of those analyses using the 15 gpm cut-off support the proposed BPT 35 gpm cut-off because technology costs for processes with flow rates between 15 and 35 gpm are expected to decrease

and benefits for those processes are expected to increase (i.e., more processes will recycle 100 percent of the process water) when the 35 gpm cut-off is used. The Agency will revise those analyses using the 35 gpm cut-off prior to promulgation of the PM&F effluent limitations guidelines and standards.

Cleaning and Finishing Water Subcategory

The Agency identified three technology options for the basis for the proposed BPT effluent limitations guidelines for the cleaning and finishing water subcategory. One hundred percent recycle of cleaning and finishing wastewater is not feasible because of the high solids concentration in that water and, therefore, was not considered for this subcategory. The three options considered are discussed briefly below and in further detail in Section X of the technical development document.

Option 1: pH Adjustment and Sedimentation: The technology for this option consists of a tank in which the velocity of the wastewater is reduced so that solid material can settle by gravitational force. Acidic or basic material is added to either the tank influent or the tank effluent to adjust the pH of the wastewater.

Option 2: This option consists of recycle through a sedimentation tank and treatment of the discharge from the recycle unit in a package activated sludge plant. The package plant includes an equalization unit and pH adjustment. A sedimentation tank is used to remove the suspended solids so that the process water can be recycled.

Option 3: Option 3 consists of recycle through a sedimentation tank for all processes and contract haul of the discharge from the recycle unit.

Option Selected

The Agency is proposing Option 2 as the technology basis for the BPT effluent limitations guidelines for this subcategory. For the same reasons discussed in the preceding section on the contact cooling and heating water subcategory, the effluent concentration values for BOD, TSS, and oil and grease for the activated sludge process were transferred from plants that manufacture plastics in the organic chemicals, plastics, and synthetic fibers category.

The Agency is proposing mass-based BPT effluent limitations guidelines because flow reduction by recycle of the wastewater is an important part of the model treatment technology. The limitations are expressed in terms of the allowable mass of pollutant discharged per unit of production and reflect the reduction in flow achieved by application of BPT.

For this subcategory, the Agency calculated two production normalized flows, one applicable to cleaning processes, which include both detergent wash cycle and a rinse cycle, and one applicable to finishing processes. The Agency determined that two separate production normalized flow were necessary for processes within this subcategory because of the difference in the amounts of wastewater discharged from cleaning as opposed to finishing processes. Data indicate that washing and rinsing of molded or formed plastic parts and shaping equipment uses significantly more water than used to finish plastic products. Thus, EPA calculated the production normalized flow for cleaning processes by adding the total discharge (liters per year) for all cleaning processes that recycle process water by the total production (kkg) from these processes as reported by plants in the data base. The Agency used the same method to calculate a production normalized flow for all finishing processes using all available data for those processes. These production normalized flows were then multiplied by the concentration value for the activated sludge process to obtain the allowable mass of pollutant discharged per cleaning or finishing process.

The Agency estimates that the proposed BPT effluent limitations guidelines result in the removal of 643,000 kilograms per year of conventional pollutants, 806,000 kilograms per year of nonconventional pollutants, and 790 kilograms per year of priority pollutants from the raw waste. The estimated total investment costs and total annual costs for the proposed BPT effluent limitations guidelines are $2.0 million and $1.5 million, respectively. The Agency has determined that the costs are justified by the effluent reduction benefits.

Costs used to evaluate Option 2 are based on recycle and contract hauling for flows of two gpm or less because the Agency assumes that plants will comply with the regulations in the least costly manner. Equipment vendors indicate that the smallest commercially available activated sludge package plant is designed for a flow rate of 600 gallons per day. Using the assumed recycle ratio for the flow reduction unit in the model treatment technology for this subcategory, a process must have an average process water usage flow of greater than two gpm for this treatment technology to be practical. Although EPA recognizes that plants with cleaning and finishing processes with a flow rate of two gpm or less may choose to install a custom built system to achieve the limitations, it is difficult for EPA to estimate the costs of a custom system. Further, the Agency believes that for plants with an average process water usage flow rate of two gpm or less, it may be more economical to contract haul the wastewater. Thus, the Agency costed contract hauling for plants with an average process water usage flow rate of two gpm or less. PM&F plants that contract haul their wastewater will achieve the proposed BPT effluent limitations guidelines and standards.

The Agency is not proposing BPT effluent limitations guidelines for this subcategory based on Option 1 because that technology does not adequately remove the pollutants for this subcategory. The Agency is not proposing BPT effluent limitations guidelines based on Option 3 because the incremental mass of toxic pollutants removed by this option from raw wastewater is very low (i.e., less than 0.1 kilogram per day per direct discharger) and the annual costs are significantly higher for this option than the annual costs for treatment at Option 2 ($1.5 million per year for Option 2 as compared to $6.0 million per year for Option 3). However, as discussed in the section on the contact cooling and heating water subcategory, the Agency may give further consideration to BPT effluent limitation guidelines based on other technology options, including Option 3, depending on the results of further study of the nonconventional pollutants. Under BPT, the Agency proposes to establish limitations for biochemical oxygen demand, total suspended solids, oil and grease, and pH. EPA believes that the toxic pollutants for this subcategory are effectively controlled when the limitations for the above pollutants are met.

IX. Best Available Technology (BAT) Effluent Limitations Guidelines

The factors considered in assessing best available technology economically achievable (BAT) include the age of equipment and facilities involved, the process employed, process changes, non-water quality environmental impacts (including energy requirements) and the costs of applying such technology (Section 304(b)((2)(B) of the Clean Water Act). At a minimum, the BAT technology level represents the best economically achievable performance of plants of various ages, sizes, processes, or other shared

characteristics. As with BPT, where the Agency has found the existing performance to be uniformly inadequate, BAT may be transferred from a different subcategory or category. BAT may include feasible process changes or internal controls even when not common industry practice.

The required assessment of BAT "considers" costs, but does not require a balancing of costs against effluent reduction benefits (*See, Weyerhaeuser, v. Costle, supra*). In developing the proposed BAT, however, EPA has given substantial weight to the reasonableness of cost. The Agency has considered the volume and nature of discharges expected after application of BPT, the general environmental effects of the pollutants, and the costs and economic impacts of the additional pollution control levels.

Despite this expanded consideration of costs, the primary determinant of BAT is effluent reduction capability. As a result of the Clean Water Act of 1977, the achievement of BAT has become the principal national means of controlling toxic pollutants. The wastewaters generated by PM&F processes contain approximately 28 priority toxic pollutants including eight toxic metals and 20 toxic organics.

Contact Cooling and Heating Water Subcategory

The Agency considered two technology options as the basis for the proposed BAT effluent limitations guidelines. These options are the same as Option 2 and Option 3 considered for the proposed BPT effluent limitations guidelines for this subcategory and are discussed in the preceding section of this preamble.

The Agency is not proposing BAT effluent limitations guidelines more stringent than the proposed BPT effluent limitations guidelines for this subcategory because there are insignificant quantities of toxic pollutants remaining in contact cooling and heating water after compliance with the applicable BPT effluent limitations guidelines. As previously discussed, the proposed BPT technolgy (Option 2) achieves significant removal of toxic pollutants present in contact cooling and heating water. Of the estimated 124,000 kilograms per year of toxic pollutants currently discharged by direct dischargers in this subcategory, 99,000 kilograms per year of these pollutants will be removed by compliance with the proposed BPT effluent limitiations guidelines. Thus, 25,000 kilograms per year of toxic pollutants will be discharged after applications of the BPT effluent limitations guidelines.

This discharge equates to approximately 0.20 kilograms per day of toxic pollutants per direct discharger in this subcategory. The Agency believes that the amount and toxicity of these pollutants do not justify establishing more stringent BAT effluent limitations guidelines for the toxic pollutants. Accordingly, EPA is proposing to exclude these pollutants from further national regulation under Paragraph 8(a)(i) of the Settlement Agreement in *NRDC* v. *Train, supra*. However, the Agency will give further consideration to applicable technologies, including Option 3 and raising the 100 percent recycle flow cut-off in Option 2, based on further study of the nonconventional pollutants. In addition, if the final technology basis for BPT effluent limitations guidelines differs from that proposed, the Agency will re-evaluate the appropriateness of establishing more stringent BAT effluent limitations guidelines.

Cleaning and Finishing Water Subcategory

The Agency considered two technology options for the basis for the BAT effluent limitations guidelines for this subcategory. These options are the same as Option 2 and Option 3 discussed above for the BPT effluent limitations guidelines for this subcategory.

The Agency in not proposing BAT effluent limitations guidelines more stringent than the proposed BAT effluent limitations guidelines for this subcategory because there are insignificant quantities of priority toxic pollutants remaining in cleaning and finishing water after compliance with the proposed applicable BPT effluent limitations guidelines. The Agency estimates that BPT effluent limitations guidelines will result in the removal of 790 kilograms per year of toxic pollutants from the current discharge of 890 kilograms per year toxic pollutants by plants in this subcategory. Thus, 100 kilograms per year of toxic pollutants would be discharged after application of the proposed BPT effluent limitations guidelines. This equates to less than 0.01 kilograms per day of toxic pollutants per direct discharger. The Agency has determined that the amount and toxicity of these pollutants do not justify establishing more stringent BAT effluent limitations guidelines for toxic pollutants. Accordingly, EPA is proposing to exclude these pollutants from further national regulation under Paragraph 8(a)(i) of the Settlement Agreement in *NDRC* v. *Train, supra*. However, the Agency may give further consideration to other applicable technologies, including Option 3, after reviewing the results of the study on nonconventional pollutants. In addition, if the final model technology basis for the BPT effluent limitations guidelines differs from that proposed, the Agency will re-evaluate the appropriateness of establishing more stringent BAT effluent limitations guidelines for this subcategory.

X. Best Conventional Technology (BCT) Effluent Limitations Guidelines

BCT effluent limitations guidelines control the discharge of conventional pollutants from existing industrial point sources. BCT is not an additional limitation but replaces BAT for the control of conventional pollutants.

In addition to factors specified in Section 304(b)(4)(B) of the Act, EPA is required to access the BCT effluent limitations guidelines in light of a two-part "cost-reasonableness" test, which was previously discussed. EPA must find that the BCT effluent limitations guidelines are "reasonable" under both parts before they are established. In no case may BCT be less stringent than BPT.

The Agency reviewed treatment techologies that could be used to remove additional conventional pollutants after BPT in each subcategory. The only technology considered feasible in each subcategory is flow reduction and zero discharge by contract haul of the discharge from the flow reduction unit (e.g. a cooling tower or sedimentation tank).

Based on the preliminary results of the proposed two-part BCT cost test (47 FR 49176; October 29, 1982), the costs to achieve the additional removal of conventional pollutants are not "reasonable." The Agency proposes, therefore, that BCT equal BPT for each subcategory and that no further controls be established for the conventional pollutants beyond BPT.

If the BPT effluent limitations guidelines are revised between proposal and promulgation, the Agency will apply the two-part BCT cost test to the revised BPT effluent limitations guidelines to determine whether the cost of further control is "reasonable". The Agency will also conduct that test again when the final BCT cost methodology is promulgated. Thus depending on these results, EPA may promulgate more stringent BCT effluent limitations guidelines.

XI. New Source Performance Standards (NSPS)

The basis for new source performance standards (NSPS) under Section 306 of

the Act is the best available demonstrated technology. New plants have the opportunity to design and use the best and most efficient plastic molding and forming processes and wastewater treatment technologies without facing the added costs and restrictions encountered in retrofitting an existing plant. Therefore, Congress directed EPA to consider the best demonstrated process changes, in-plant controls, and end-of-pipe treatment technologies that reduce pollution to the maximum extent feasible.

The Agency believes that characteristics of wastewater discharged by new PM&F processes in each subcategory will be the same as the characteristics of wastewater discharged by existing PM&F processes in those subcategories. Thus, the options considered for new sources in each subcategory are the same as those considered for existing sources.

The Agency is proposing NSPS based on the same model treatment technologies as the proposed BPT effluent limitations guidelines in each subcategory. EPA is not proposing NSPS more stringent than the effluent limitations guidelines for existing sources because the amount and toxicity of the toxic pollutants remaining after treatment in the BPT/BAT model treatment technologies for each subcategory do not justify more stringent controls. However, the Agency may give further consideration to a higher flow rate cut-off for 100 percent recycle for the contact cooling and heating water subcategory after the study on nonconventional pollutants is completed. EPA may also consider other technology options for NSPS if the final technology basis for the BPT effluent limitations guidelines differs from that proposed.

The model technology basis for NSPS is zero discharge by 100 percent recycle for processes in the contact cooling and heating water subcategory with an average process water usage flow rate of 35 gpm or less. For contact cooling and heating water processes with an average process water usage flow rate greater than 35 gpm and for all cleaning and finishing water processes, the NSPS option consists of recycle and treatment of the discharge from the recycle unit. As discussed earlier, the technology basis for the treatment of the discharge is equalization, pH adjustment, and a package activated sludge plant.

Recycle and pH adjustment are fully demonstrated at existing PM&F plants. For the reasons stated earlier, the activated sludge process was transferred from the organic chemicals, plastics, and synthetic fibers category. The production normalized flows used to calculate NSPS are the same as those used at BPT for each subcategory. These technologies and production normalized flows are discussed in more detail in Section VIII of this preamble.

Pollutants controlled by NSPS include biochemical ozygen demand, total suspended solids, oil and grease, and pH. The Agency believes that the toxic pollutants for both subcategories are effectively controlled when the NSPS for the above pollutants are met. NSPS are expressed in terms of mass of plastic produced for the reasons discussed under BPT. As discussed in the BPT section of this preamble, the Agency will further study the nonconventional pollutants discharged after compliance with the BPT effluent limitations guidelines. Depending on the results of this study to determine what contributes to the nonconventional pollutants, the Agency may establish additional controls for nonconventional pollutants at NSPS. The data relied on for selection of NSPS were primarily the data developed for existing sources, which includes costs on a plant-by-plant basis along with retrofit costs where applicable. The Agency believes that compliance costs could be lower for new sources than cost estimates for equivalent existing sources because production processes can be designed to achieve the model regulatory flows and there will be no costs associated with retrofitting in-process controls. The Agency does not believe that applying this level of technology to new sources, including major modifications to existing sources, creates a barrier to entry into the category because new sources will expend an amount equal to, or possibly less than, the amount required by existing sources to comply with this proposed regulation.

XII. Pretreatment Standards for Existing Sources (PSES)

Section 307(b) of the Act requires EPA to promulgate pretreatment standards for existing sources (PSES) to prevent the discharge of pollutants that pass through, interfere with, or are otherwise incompatible with the operation of POTW. These standards must be achieved within three years of promulgation.

To determine whether pollutants pass through a POTW, the Agency compares the percentage of a pollutant removed by a POTW to the percentage removed by direct dischargers applying the best available technology economically achievable. In this case where EPA is not proposing BAT effluent limitations guidelines more stringent than the proposed BPT effluent limitations guidelines, the Agency determined pass through by comparing POTW removals to BPT level removals. Thus, a pollutant is deemed to pass through the POTW when the average percentage removed nationwide by well-operated POTWs meeting secondary treatment requirements is less than the average percentage removed by direct dischargers complying with the proposed BPT effluent limitations guidelines for that pollutant.

This definition of pass through satisfies two competing objectives set by Congress; (1) That standards for indirect dischargers be equivalent to standards for direct dischargers, and, at the same time, (2) that the treatment capability and performance of the POTW be recognized and taken into account in regulating the discharge of pollutants from indirect dischargers.

The BPT effluent limitations guidelines for PM&F processes in the contact cooling and heating water subcategory with an average process water usage flow rate greater than 35 gpm and for all processes in the cleaning and finishing water subcategory are based on treatment by the activated sludge process. As discussed earlier, the Agency estimated the percentage removals for that technology for the toxic and nonconventional pollutants based on information presented in previous EPA studies and literature sources. The Agency compared percentage toxic pollutant removals for that process to POTW percent removal data and found that the toxic pollutants do not pass through a POTW. The average percentage of the toxic pollutants in PM&F wastewater removed by well operated POTWs meeting secondary treatment requirements is about 64 percent, whereas the percentage that can be removed by a direct discharger applying BPT/BAT is approximately 62 percent. Based on those findings, the Agency has concluded that toxic pollutants in PM&F wastewater do not pass through a POTW.

The BPT/BAT effluent limitations guidelines for processes in the contact cooling and heating water subcategory with an average process water usage flow rate of 35 gpm or less are based on zero discharge by 100 percent recycle. Based on a comparison of the National average percentage removal of priority pollutants by well operated POTWs meeting secondary treatment requirements to the 100 percent removal of pollutants in the BPT/BAT technology, the priority pollutants pass through a POTW. However, the amount of pollutants discharged per day per

indirect discharger in the contact cooling and heating water subcategory with an average process water usage flow rate of 35 gpm or less is estimated to be 0.6 kilogram per day. The Agency believes that the amount and toxicity of the priority pollutants discharged by those processes do not justify the development of PSES for this segment of the PM&F category. Accordingly, pretreatment standards are not being developed for those pollutants based on Paragraph 8(a)(iv) of the Settlement Agreement in *NRDC* v *Train, supra.* If the 100 percent recycle flow rate in the contact cooling and heating water subcategory is revised in the final rule, the Agency will re-evaluate the amount and toxicity of the pollutants that pass through a POTW.

Accordingly, the Agency proposes no PSES for the PM&F category. Even though plants within this category are not regulated by categorical pretreatment standards, they must comply with the General Pretreatment Regulations (40 CFR Part 403).

XIII. Pretreatment Standards for New Sources (PSNS)

Section 307(c) of the Act requires EPA to promulgate pretreatment standards for new sources (PSNS) at the same time that it promulgates NSPS. New indirect dischargers, like new direct dischargers, have the opportunity to incorporate the best available demonstrated technologies including the process changes, in-plant controls, and end-of-pipe treatment technologies, and to use plant site selection to ensure adequate treatment system installation.

The Agency is not proposing PSNS for this category because the pollutants for this category either do not pass through a POTW or the amount and toxicity of the pollutants discharged to a POTW do not justify establishing PSNS. The Agency believes that new and existing indirect discharge sources will discharge the same pollutants in similar amounts. As discussed in the preceding section, the average percentage removal by well operated POTWs meeting secondary treatment requirements is approximately equivalent to the percentage of toxic pollutants removed by a direct discharger in the cleaning and finishing subcategory and by direct discharges with an average process water usage flow rate greater than 35 gpm in the contact cooling and heating water subcategory to comply with NSPS (also the proposed BPT effluent limitations guidelines). In addition, for those plants in the contact cooling and heating water subcategory with an average process water usage flow rate of 35 gpm or less, even though some toxic pollutants may pass through, the amount and toxicity (0.6 kilograms per discharger per day) do not justify establishing PSNS. Even though new indirect dischargers are not subject to categorical pretreatment standards, they must comply with the General Pretreatment Regulations (40 CFR Part 403).

XIV. Regulated Pollutants

The basis on which the pollutants for the PM&F category were selected is discussed in Sections VII and X of the technical development document for this proposed rule. Some of these pollutants are designated as toxic under Section 307(a) of the Act. Three pollutants have been deleted from the list of 129 toxic pollutants. These are dichlorodifluoromethane and trichlorofluoromethane (46 FR 79692; January 8, 1981) and (bis(chloromethyl) ether (46 FR 10723; February 4, 1981).

Pollutants controlled by the proposed BPT effluent limitations guidelines are biochemical oxygen demand, total suspended solids, oil and grease, and pH. The discharge is controlled by maximum daily and monthly average mass effluent limitations stated in milligrams (mg) per kilogram of plastic material processed.

The Agency proposes not to establish specific limitations guidelines at BAT for the priority pollutants in PM&F wastewater because the BPT level of treatment for conventional pollutants provides effective control of the priority pollutants. These toxic pollutants are listed in Appendix B.

The Agency is proposing BCT effluent limitations guidelines equal to the proposed BPT effluent limitations guidelines. Therefore, no additional controls are established for conventional pollutants at BCT.

The pollutants limited by the proposed NSPS are the same as those limited by the proposed BPT effluent limitations guidelines.

No pollutants are controlled by categorical pretreatment standards. New and existing indirect discharges must comply with the General Pretreatment Standards (40 CFR Part 403).

XV. Pollutants and Subcategory Segments Excluded From Regulation

The Settlement Agreement in *NRDC* v. *Train, supra* contains provisions authorizing the exclusion from regulation in certain instances of toxic pollutants and industry subcategories. These provisions have been rewritten in a Revised Settlement Agreement that was approved by the District Court for the District of Columbia on March 8, 1979. See *NRDC* v. *Costle,* 12 ERC 1833 (D.D.C. 1979), *modified* by orders dated October 26, 1982, August 2, 1983, and January 6, 1984.

A. Exclusion of Pollutants

The Agency has deleted the following three pollutants from the toxic pollutant list: (49) trichlorofluoromethane and (50) dichlorofluoromethane (46 FR 79692; January 8, 1981) and (17) bis(chloromethyl)ether (46 FR 10723; February 4, 1981). The other 126 priority pollutants are being excluded from regulation for the reasons listed below.

Paragraph 8(a)(i) of the Settlement Agreement allows the Administrator to exclude from regulation pollutants where equal or more stringent protection is already provided by an effluent limitations guideline, new source performance standard, or pretreatment standard promulgated pursuant to Sections 301, 304, 306, 307(a), 307(b), or 307(c) of the Act. Appendix B contains the toxic pollutants excluded in each subcategory for this reason.

Paragraph 8(a)(ii) of the Settlement Agreement allows the Administrator to exclude from regulation pollutants found in concentrations at or below the concentration of the pollutants in the source water. Appendix C lists the toxic pollutants excluded for this reason.

Paragraph 8(a)(iii) of the Settlement Agreement allows the Administrator to exclude from regulation toxic pollutants not detectable by Section 304(h) analytical methods or other state-of-the-art methods. Appendix D lists the toxic pollutants excluded for this reason including those pollutants that were detected at or below the analytical detection limit.

Paragraph 8(a)(iii) also allows the Administrator to exclude from regulation toxic pollutants detectable in the effluent from only a small number of sources within the subcategory because they are uniquely related to those sources. Appendix E lists, for each subcategory, toxic pollutants that were excluded from regulation for this reason.

B. Exclusion of Subcategory Segment

Additionally, Paragraph 8(a)(iv) of the Settlement Agreement authorizes the exclusion of subcategories in which the amount and toxicity of each pollutant in the discharge do not justify developing national regulations. The segment in the contact cooling and heating water subcategory with processes that have an average process water usage flow rate of 35 gpm or less is being excluded from pretreatment standards for this reason. Appendix F lists the pollutants excluded

from pretreatment standards in that segment.

XVI. Economic Considerations

A. Introduction

The Agency's economic impact assessment of this proposed regulation is presented in the report entitled *Economic Impact Analysis of Effluent Limitations and Standards for the Plastics Molding and Forming Industry*, EPA 440/2-84-001. Section IX of the technical development document details the investment and annual costs for the plastics molding and forming industry. These compliance costs are based on engineering estimates of capital requirements for the effluent control systems described earlier in this preamble. The Economic Impact Analysis assesses the impact of these effluent control costs on the PM&F industry in terms of price changes, production cost changes, plant closures, employment effects, and balance of trade effects. The impacts for each of the model treatment technologies options are discussed in the report.

In addition, EPA has conducted an analysis of the incremental removal cost per pound equivalent for each of the technology options. A pound equivalent is calculated by multiplying the number of pounds of a toxic pollutant discharged by a weighting factor for that pollutant. The weighting factor is equal to the water quality criterion for a standard pollutant (copper), divided by the water quality criterion for the pollutant, being evaluated. The use of "pound equivalent" gives relatively more weight to removal of more toxic pollutants. Thus, for a given expenditure, the cost per pound equivalent removed would be lower when a highly toxic pollutant is removed than if a less toxic pollutant is removed. This analysis is included in the record of this proposed rulemaking, and is entitled "Cost Effectiveness Analysis of Proposed Effluent Limitations and Standards for the Plastics Molding and Forming Industry." EPA invites comments on the methodology used in this analysis.

B. Impacts

1. Universe. EPA estimates there are 10,280 plastics molding and forming plants. The Agency also estimates that 1,898 of these plants have plastic molding and forming processes that use process water. The other 8,282 plants have dry plastics molding and forming processes.

2. Aggregate costs and Impacts. Total investment for the proposed BPT for both subcategories is projected to be $17.2 million with annual costs of $10.9 million, including depreciation and interest. If water cost savings achieved by the treatment technologies are included, the annual costs are only $2.9 million. These costs, as well as subsequent costs, are expressed in 1982 dollars and are based on the determination that plants will build on existing treatment. No plant closures are projected as a result of compliance costs for this proposed regulation. However, this regulation is projected to result in 22 jobs lost due to four process line closures. Production cost increases would be less then 0.1 percent. If all costs were passed on to consumers, price increases would be less than 0.2 percent. Balance of trade effects are insignificant. Since EPA is not proposing BAT effluent limitations guidelines more stringent than BPT effluent limitations guidelines, there are no additional impacts for BAT compliance. For reasons explained elsewhere in this preamble, the Agency is not proposing to establish PSES or PSNS. Thus, there well be no economic impact on indirect dischargers as a result of the proposed regulation.

3. Methodology. The methodology for the economic impact analysis is detailed in Section 3 of the Economic Impact Analysis Report. The economic impacts were analyzed for three groups of direct dischargers in the plastics molding and forming industry: those plants that have only contact cooling and heating water processes; those plants that have only cleaning and finishing water processes; and those plants that have both processes.

Economic and financial data were available for 384 of the plants that completed survey questionnaires. Data from 101 direct discharging plants were used in the closure analysis. Of the remaining 283 plants in the economic data base, data were not used for 111 plants because they do not discharge wastewater and data were not used from another 172 plants because they are indirect dischargers and so are not affected by this regulation. A finanical profile was developed for each of the 101 plants included in the closure analysis, using the questionnaire data and publicly available data. Key variables analyzed for each plant included present profitability and salvage value of the plant.

The costs of implementing the proposed regulation were estimated for each of the 101 direct dischargers. Variables considered in developing plant-by-plant costs included plant size and treatment-in-place. Using these compliance costs and sales information from each plant, the Agency performed a discounted cash flow analysis and plant closure analysis.

The estimated cost of the treatment technology was subtracted from the plant's cash flow. If the plant had a positive cash flow after investment, it was assumed that the plant can afford the pollution control. Implicitly, then, that plant could obtain financing for the pollution control investment. In the plant closure analysis, plants were assumed to close if the expected discounted cash flow of the plant, less the investment cost of the pollution control equipment, was less than the salvage value of the plant. The results of the closure analysis were extrapolated to the estimated number of plastics molding and forming plants in the category that are direct dischargers of wastewater.

C. BPT

The proposed BPT effluent limitations guidelines are expected to affect all direct discharging plants within both subcategories. The cost to comply with BPT for these plants is projected to be $17.2 million in investment costs and $10.9 million in annual costs (including depreciation and interest). Annual costs are only $2.9 million if water cost savings are included. These costs are based on engineering compliance cost estimated presented earlier in the preamble. According to the analysis of economic impact, no plant closures are associated with the proposed BPT treatment option in each subcategory. However, 22 job losses are expected to result from the closure of four process lines. Production costs are expected to increase less than 0.1 percent. If all costs were passed on to consumers, price increases would be less than 0.2 percent. The Agency has determined that the effluent reduction benefits associated with compliance with the proposed BPT effluent limitations guidelines justify the costs.

D. BAT

Since the Agency proposes BAT effluent limitations guidelines equal to BPT effluent limitations guidelines, there are no additional costs or impacts associated with the proposed BAT effluent limitations guidelines.

E. NSPS

The versatility of molded and formed plastics products and relatively inexpensive oil supplies, from which plastic resins are synthesized, contributed to the rapid growth of the plastic molding and forming industry in the last four decades. EPA believes that demand for molded and formed plastics products will continue to increase in the

years ahead. This projected increase in demand should result in the opening of new plants.

EPA is proposing NSPS based on the same technologies as BPT/BAT. Comparing estimated costs for the treatment technologies to expected revenues, the Agency developed a small and large "normal" plant for each of the two subcategories. A normal plant is a theoretical plant that has the operations covered by the subcategory and production that is the average level of production in the subcatgory. Section XII of the technical development document presents in detail the composition of the plastics molding and forming "normal" plants.

The Agency estimates that NSPS overall costs for the normal plant will be $26,068 for investment and $10,896 in annual costs. Production costs at new sources are estimated to increase less than 0.5 percent as a result of NSPS. These estimated costs apply to all new sources regardless of whether they result from major modifications of existing facilities or are constructed as greenfield sites. The Agency believes that the proposed NSPS will not deter entry into the plastics molding and forming industry because new sources will expend amounts equal to or possibly less than those expended by existing sources to comply with the proposed regulation.

F. Special Impacts

No plant closures in the plastics molding and forming industry are projected to result from this proposed regulation. However, four process lines that use process water in cleaning and finishing are projected to close, with 22 associated job losses. The community impact of these 22 job losses will be minimal.

G. Regulatory Flexibility Analysis

Public Law 96–354 requires EPA to prepare an Initial Regulatory Flexibility Analysis for all proposed regulations that have a significant impact on a substantial number of small entities. This analysis may be done in conjunction with or as a part of any other analysis conducted by the Agency. The economic impact analysis described above indicates that there will not be a significant impact on any segment of the regulated population, large or small. Therefore, a formal regulatory flexibility analysis is not required.

H. SBA Loans

The Agency continues to encourage small plants to use Small Business Administration (SBA) financing as needed for pollution control equipment. The three basic programs are: (1) The Pollution Control Bond Program, (2) the Section 503 Program, and (3) the Regular Business Loan Program. Eligibility for SBA programs varies by industry. Generally, a company must be independently owned; not dominant in its field; the employee size ranges from 250 to 1,500 employees (dependent upon industry); and annual sales revenue ranges from $275,000 to $22 million (varies by industry). The estimated economic impacts for this category do not include consideration of financing available through these programs.

For further information and specifics on the Pollution Control Bond Program contact: U.S. Small Business Administraton, Office of Pollution Control Financing, 4040 North Fairfax Drive, Rosslyn, Virginia 22203 (703) 235–2920.

The Section 503 Program, as amended in July 1980, allows long-term loans to small and medium sized businesses. These loans are made by SBA approved local development companies. These companies are authorized to issue Government-based debentures that are bought by the Federal Financing Bank, an arm of the U.S. Treasury.

Through SBA's Regular Business Loan Program, loans are made available by commercial banks and are guaranteed by the SBA. This program has interest rates equivalent to market rates.

For additional information on the Regular Business Loan and Section 503 Programs contact your local SBA Office. The coordinator at EPA headquarters is Ms. Frances Desselle who may be reached at (202) 382–5373.

I. Executive Order 12291

Executive Order 12291 requires EPA and other agencies to perform regulatory impact analyses of major regulations. Major rules are those that impose a cost on the economy of $100 million a year or more or have certain other economic impacts. This regulation is not a major rule because its annualized cost of $10.9 million is less than $100 million and it meets none of the other criteria specified in Section I paragraph (b) of the Executive Order. The economic impact analysis prepared for this proposed rulemaking meets the requirements for non-major rules.

XVII. Non-Water Quality Aspects of Pollution Control

The elimination or reduction of one form of pollution may cause other environmental problems. Therefore, Sections 304(b) and 306 of the Act require EPA to consider the non-water quality environmental impact (including energy requirements) of certain regulations. In compliance with these provisions, EPA has considered the effect of this proposed regulation on air pollution, solid waste generation, water scarcity, and energy consumption. This proposed rule was circulated to and reviewed by EPA personnel responsible for non-water quality environmental programs. While it is difficult to balance pollution problems against each other and against energy utilization, EPA is proposing a regulation that it believes best serves often competing national goals.

The following are the non-water quality environmental impacts (including energy requirements) associated with the proposed regulation:

A. Air Pollution

Technologies used as the basis for the proposed effluent limitations guidelines and standards settle or biologically oxidize polluants found in PM&F wastewater. Some volatile organic compounds may be emitted to the air from these treatment technologies. However, those emissions are not expected to cause air pollution problems. Accordingly, the proposed effluent limitations guidelines and standards will not create any substantial air pollution problems.

B. Solid Waste

EPA believes that only very small amounts of solid wastes are currently generated by PM&F plants because of the limited use of treatment technologies in the PM&F category. EPA estimates that the proposed BPT effluent limitations guidelines will increase the production of solid wastes by 42,000 metric tons (or kkg) per year beyond that generated by treatment in place. These wastes are comprised of settled solids that may contain toxic metals, treatment process sludges containing biological solids, skimmed oil, and residues from the periodic cleaning of the tank or chiller. The proposed BAT effluent limitations guidelines result in no additional solid waste production because BAT is the same as BPT.

EPA believes that the amount of solid wastes generated by a new source will be the same as the amount genereated by an existing source at BPT.

Therefore, the estimated annual average plant production of solid wastes generated in compliance with NSPS is the same as the annual average plant production for BPT, whilch is 22 metric tons per year. No additional solid wastes will be generated by indirect dischargers because the Agency is not proposing categorical pretreatment standards.

The Agency examined the solid wastes that would be generated at PM&F plants by the proposed model treatment technologies and believes they are not hazardous under Section 3001 of the Resource Conservation and Recovery Act (RCRA). This judgment is based on the recommended treatment technology of a package activated sludge plant consisting of primary sedimentation, activated sludge, and final sedimentation.

None of the toxic organic compounds for which the extract in the Extraction Procedure (EP) toxicity test are analyzed are in PM&F process water (see 40 CFR 261.24 (45 33084; May 19, 1980)). Only four of the eight mutals for which the extracts from the EP toxicity test are analyzed were found in contact coooling and heating process water. Only two of those metals were found in cleaning and finishing process water. EPA believes that the estimated concentration of those metals in the treatment system sludge will not cause the concentration of those metals in the EP test extract to exceed the "allowable" concentration (i.e., the concentration that makes the wastes hazardous) in the extract.

PM&F wastes are also not listed as hazardous pursuant to 40 CFR Part 261.11 (45 FR 33121; May 19, 1980, as amended by 45 FR 76624; November 19, 1980). Since the PM&F wastes are not believed to be hazardous, no estimates were made of the costs to dispose of those wastes in accordance with RCRA hazardous waste requirements.

Although it is the Agency's view that solid wastes generated as a result of these guidelines are not expected to be classified as hazardous under the regulations implementing Subtitle C of the Resource Conservation and Recovery Act (RCRA), generators of these wastes must test the waste to determilne if they meet any of the characteristics of hazardous waste. See 40 CFR Part 262.11 (45 FR 12732–12733; February 26, 1980). The Agency may also list these sludges as hazardous pursuant to 40 CFR Part 261.11 (45 FR at 33121; May 19, 1980, as amended at 45 FR 76624; November 19, 1980).

If these wastes are identified as hazardous, they will come within the scope of RCRA's "cradle to grave" hazardous waste management program, requiring regulation from the point of generation to point of final disposition. EPA's generator standards require generators of hazardous wastes to meet containerization, labeling, record keeping, and reporting requirements; if plastics molders or formers dispose of hazardous wastes off-site, they would have to prepare a manifest that tracks the movement of the wastes from the generator's premises to a permitted off-site treatment, storage, or disposal facility. See 40 CFR Part 262.20 (45 FR 33142; May 19, 1980, as amended at 45 FR 86973; December 31, 1980). The transporter regulations require transporters of hazardous wastes to comply with the manifest system to ensure that the wastes are delivered to a permitted facility. See 40 CFR Part 263.20 (45 FR 33142; May 19, 1980, as amended at 45 FR 86973; December 31, 1980). Finally, FCRA regulations establish standards for hazardous waste treatment, storage, and disposal facilities allowed to receive such wastes. See 40 CFR Part 264 (46 FR 2802; January 12, 1981, 47 FR 32274; July 26, 1982).

Even if these wastes are not identified as hazardous, they still must be disposed in a manner that will not violate the open dumping prohibition of 4005 of RCRA. The Agency has calculated as part of the costs for wastewater treatment the cost of hauling and disposing of these wastes in accordance with this requirement. For more details see Section IX of the technical development document.

C. Consumptive Water Loss

Recycle of contact cooling and heating water requires the use of a cooling tower for PM&F processes with large flow rates. The evaporative cooling mechanism in a cooling tower can cause water loss and could contribute to water scarcity problems—a primary concern in arid and semi-arid regions. While this proposed regulation assumes water recyle through a cooling tower, the quantity of water loss in the cooling tower is not regionally significantly. Thus, EPA concludes that the consumptive water loss is insigificant and that the effluent reduction benefits of recyle technologies outweigh their impact on consumptive water loss.

D. Energy Requirements

The Agency estimates that the achievement of BPT effluent limitations guidelines will result in a net increase in electrical energy consumption of approximately 19.9 million kw-hr/yr, which is less than one percent of the estimated total current energy usage for the PM&F category. Since the Agency is not proposing BAT or BCT effluent limitations guidelines more stringent than BPT, no additional electrical energy is required. There is no additional electrical energy consumption associated with pretreatment standards since the Agency is not proposing PSES and PSNS. EPA believes that the energy used by a new direct discharging plant will be the same amount used by an existing source at BPT. Therefore, the estimated annual plant energy use for NSPS is the same as the annual average energy use for BPT, which is 14,000 kw-hr/yr. This does not significantly add to the total energy consumption for the PM&F category. The Agency concludes that the increased energy use to comply with these proposed effluent limitations guidelines and standards is insignificant and that effluent reduction benefits outweigh the increased energy use.

XVIII. Best Management Practices (BMP)

Section 304(e) of the Clean Water Act authorizes the Administrator to prescribe "best management practices" ("BMP"), as described in the "Authority and Background" section of this preamble. EPA is not now considering proposing or promulgating BPM specific to the plastics molding and forming category.

XIX. Upset and Bypass Provisions

An issue of recurring concern has been whether industry guidelines should include provisions authorizing noncompliance with effluent limitations guidelines during periods of "upset" or "bypass." An upset, sometimes called an "excursion," is unintentional noncompliance occurring for reasons beyond the reasonable control of the permittee. Industry argues that an upset provision in EPA's effluent limitations guidelines is necessary because such upsets inevitably occur due to limitations in even properly opeated control equipment. Because technology-based limitations require only what technology can achieve, they claim that liability for such situations is improper. When confronted with this issue, courts have been divided on the question of whether an explicit upset or excursion exemption is necessary or whether upset or excusion incidents may be handled through EPA's exercise of enforcement discretion. Compare, *Marathan Oil Co.* v. *EPA*, 564 F.2d 1253 (9th Cir. 1977), with *Weyerhaeuser Co.* v. *Costle*, 590 F.2d 1011 (D.C. Cir. 1978), and *Corn Refiners Association, Inc.* v. *Costle*, 594 F.2d 1223 (8th Cir. 1979.) *See also, American Petroleum Institute* v. *EPA*, 540 F.2d 1023 (10th Cir. 1976); *CPC International, Inc.* v. *Train*, 540 F.2d 1320 (8th Cir. 1976); *FMC Corp.* v. *Train*, 539 F.2d 973 (4th Cir. 1976).

While an upset is an unintentional episode during which effluent limitations guidelines are exceeded, a bypass is an act of intentional noncompliance during which waste treatment facilitates are circumvented in emergency situations. Bypass provisions

have, in the past, been included in NPDES permits.

EPA has determined that both upset and bypass provisions should be included in NPDES permits and has promulgated NPDES regulations that include such permit provisions (40 CFR 122.41; 45 FR 14146; April 1, 1983). The upset provision establishes an upset as an affirmative defense to prosecution for violation of technology-based effluent limitations guidelines. The bypass provision authorizes bypassing to prevent loss of life, personal injury or severe property damage. Because permittees in the plastics molding and forming category are entitled to upset and bypass provisions in NPDES permits, this proposed regulation does not address these issues.

XX. Variances and Modifications

Upon the promulgation of the final regulation, the numerical effluent limitations guidelines for the appropriate subcategory must be applied in all federal and state NPDES permits thereafter issued to plastics molding and forming direct dischargers.

For the BPT effluent limitations guidelines, the only exception to the binding limitations is EPA's "fundamentally different factors" variance. *See, E. I. duPont de Nemours and Co.* v. *Train,* 430 U.S. 112 (1977); *Weyerhaeuser Co.* v. *Costle, supra.* This variance recognizes factors concerning a particular discharger that are fundamentally different from the factors considered in this rulemaking. However, the economic ability of the individual operator to meet the compliance cost for BPT effluent limitations guidelines is not a consideration for granting a variance. *See, National Crushed Stone Association* v. *EPA,* 449 U.S. 64 (1980). This variance clause was originally set forth in EPA's 1973–1976 industry regulations and will not be included in the plastics molding and forming or other specific industry regulations. See the NPDES regulations at 40 CFR Part 125 Subparts A & D for the text and explanation of the "fundamentally different factors" variance.

The BAT effluent limitations guidelines in this regulation also are subject to EPA's "fundamentally different factors" variance. New source performance standards are not subject to EPA's "fundamentally different factors" variance or any statutory or regulatory modifications. *See, duPont* v. *Train, supra.*

XXI. Relationship to NPDES Permits

The BPT, BAT, and BCT effluent limitations guidelines and NSPS in this proposed regulation will be applied to individual plastics molding and forming plants through NPDES permits issued by EPA or approved state agencies under Section 402 of the Act. The preceding sections of this preamble discussed the binding effect of this regulation on NPDES permits, except to the extent that variances and modifications are expressly authorized. This section describes several other aspects of the interaction of this regulation and NPDES permits.

One matter that has been subject to different judicial views is the scope of NPDES permit proceedings in the absence of effluent limitations guidelines and standards. Under currently applicable EPA regulations, states and EPA Regions issuing NPDES permits before promulgation of this regulation must do so on a case-by-case basis. This regulation provides a technical and legal base for new permits.

Another noteworthy topic is the effect of this regulation on the powers of NPDES permit issuing authorities. The proposed regulation does not restrict the power of any permit-issuing authority to act in a manner that is consistent with the law on these or any other EPA regulations, guidelines, or policy. For example, the fact that this regulation does not control a particular pollutant does not preclude the permit issuer from limiting such pollutant on a case-by-case basis, when necessary to carry out the purposes of the Act. In addition, to the extent that state water quality standards or other provisions of state or Federal law require limitation of pollutants not covered by this regulation (or require more stringent effluent limitations guidelines on covered pollutants), the permit-issuing authority must apply such effluent limitations guidelines.

One additional topic that warrants discussion is the operation of EPA's NPDES enforcement program, many aspects of which have been considered in developing this regulation. The Agency wishes to emphasize that, although the Clean Water Act is a strict liability statute, the initiation of enforcement proceedings by EPA is discretionary (*Sierra Club* v. *Train,* 557 F. 2d 485 (5th Cir. 1977)). EPA has exercised and intends to exercise that discretion in a manner that recognizes and promotes good faith compliance efforts.

XXII. Summary of Public Participation

In June 1983, EPA mailed a detailed questionnaire to 330 plants in the PM&F category. The purpose of questionnaire, which was reviewed and approved by the Office of Management and Budget (OMB), was to obtain information on which to base this proposed regulation. Prior to receiving OMB's approval, EPA published a notice (48 FR 75; January 3, 1983) that indicated a questionnaire was going to be sent to PM&F plants and requested comments on the questionnaire.

Comments were received for the Society of Plastics Industries (SPI). A meeting was held with SPI on June 9, 1983, to discuss their comments. A memorandum that discusses their comments and EPA's response to those comments is in the adminstrative record for this proposed rule.

XXIII. Solicitation of Comments

EPA invites and encourages public participation in this proposed rulemaking. The Agency asks that any deficiencies in the record of this proposal be specifically addressed and that suggested revisions or corrections be supported by data.

EPA is particularly interested in receiving additional comments and information on the following issues:

(1) To estimate the number of plants that have PM&F processes and to select the plants that received a questionnaire, the Agency relied on: (1) A list of plants with a primary Standard Industrial Classification of 3079 obtained from Dun and Bradstreet, Inc.; (2) a Fortune 500 list of plants that mold and form plastic material; (3) various state industrial guides; and (4) the mailing list for the magazine "Plastics World." EPA requests comments with respect to the accuracy of this estimate. Particularly, if our estimate is inaccurate, what is a more accurate estimation and why? Also, the Dun and Bradstreet list relied on for survey mailings contained only those P&F plants having 10 or more employees. EPA requests additional information for plants with less than 10 employees.

(2) The effluent limitations guidelines and standards proposed in this regulation are mass based (i.e., an allowable mass of pollutant discharged per mass of plastic material processed). EPA believes that the amount of wastewater generated and the mass of pollutants discharged are related to the amount of plastic material processed. EPA requests comments on this approach.

(3) The proposed BPT and BAT effluent limitation guidelines and NSPS for PM&F processes in the contact cooling and heating water subcategory with an average process water usage flow rate greater than 35 gpm and for the cleaning and finishing water subcategory are based on the

performance of the activated sludge biological treatment process. That technology was transferred from the organic chemicals, plastics, and synthetic fibers category because EPA found that treatment for only PM&F wastewater was uniformly inadequate. The Agency has determined that organic chemicals, plastics, and synthetic fibers process wastewater, particularly wastewater generated by processes in the plastics only subcategory, and PM&F process wastewater have similar conventional pollutant characteristics. EPA requests comments on this approach and information on other treatment processes that may be used to control the pollutants in PM&F wastewaters.

(4) Conventional pollutant performance data for the activated sludge process were also transferred from the organic chemicals, plastics, and synthetic fibers category, particularly the plastics only subcategory. Those data were used along with the production normalized flows derived from PM&F data to calculate the allowable mass of conventional pollutants that can be discharged. The Agency solicits additional conventional pollutant concentration data for PM&F process water prior to treatment and any data on the performance of the activated sludge process on PM&F wastewater with respect to conventional pollutant removals.

(5) To estimate removal of priority toxic pollutants by the activated sludge process, the Agency relied upon percentage removal rates as reported in various literature sources and previous EPA studies. Based on these estimates, the Agency believes that the proposed BPT effluent limitations guidelines for conventional pollutants, which are based on the performance of the activated sludge process, adequately control the priority toxic pollutants in PM&F wastewaters. Further, relying again on these estimates, the Agency is not proposing toxic pollutant effluent limitations guidelines at BAT because there are not significant quantities of toxic pollutants remaining in PM&F wastewater after compliance with the proposed BPT effluent limitations guidelines. As part of any sampling for further study on nonconventional pollutants after proposal, the Agency may also collect additional data on toxic pollutants in PM&F wastewaters. These data will be used to further evaluate the amount of priority toxic pollutants present in PM&F wastewater and the technologies that can be used to treat the wastewater. In addition, since the Agency has no treatment performance data on the activated sludge process on PM&F wastewaters only, EPA will try to identify activated sludge treatment processes that treat only PM&F wastewaters and, if possible, sample the effluent from these processes. In light of any additional data gathered, the Agency will re-evaluate the amount of toxic pollutants generated and the removal of these pollutants by the activated sludge process. The Agency may also consider establishing specific limitations at BAT for toxic pollutants and reconsider the issue of pass-through of toxic pollutants for indirect dischargers depending on the results of further study. The Agency specifically requests any additional information and comment on the amount and presence of priority toxic pollutants in PM&F wastewaters and the removals achieved by the activated sludge process including data on treated effluent from this process.

(6) The production normalized flows used to calculate the allowable discharge mass were obtained for each subcategory by adding the production for plants in the questionnaire data base that currently recycle process water. The total production was divided into the total wastewater discharged by those plants (as reported on the questionnaires) to obtain the production normalized flow (liters/kkg) for each subcategory. The Agency requests comments on this approach for calculating production normalized flows.

(7) The proposed BPT effluent limitations guideline and NSPS for PM&F processes in the contact cooling and heating water subcategory with an average process water usage flow rate of 35 gpm or less are based on 100 percent recycle of the wastewater. The 35 gpm cut-off was selected because it is the average of the best performance for plants currently achieving 100 percent recycle. Before promulgation the Agency will consider raising this cut-off level and thus requests comments on the appropriate cut-off value. Specifically, should the cut-off be higher since available information suggest 100 percent recycle can be achieved by higher flow rate processes; can all plants, regardless of flow rate, recycle 100 percent of their cooling and heating water; or should the cut-off be lower? Additionally, should a higher cut-off than the cut-off use for BPT be used as the basis for BAT effluent limitations guidelines and new source performance standards?

(8) The mass based effluent limitations guidelines and standards in the proposed regulation require PM&F plants to provide information to the permit writer concerning the amount of plastic material processed. For the contact cooling and heating water subcategory, the amount of plastic material processed by all of the PM&F processes at a plant that use process water for contact cooling or heating is the total plastic material processed by that plant. For the cleaning and finishing water subcategory, the amount of plastic product cleaned is part of the production value used to calculate the allowable mass discharged. The other part is the production related to the PM&F equipment that is cleaned. That production is defined as the amount of plastic material processed in the equipment that is cleaned. The total amount of plastic material processed for cleaning processes where both plastic products and equipment are cleaned is the sum of the two productions. The amount of plastic material processed in a finishing process is the production for that process. EPA requests comments on this approach, particularly on the method used to determine the production associated with cleaning PM&F equipment.

(9) The average process water usage flow rate in the contact cooling and heating water subcategory is calculated by determining the volume of water used in the PM&F process during a one year period. That volume is divided by the total minutes that the process operates during the year to obtain the flow rate in gallons per minute. The flow rate is used to determine which limitations (i.e., 100 percent recycle or allowable mass discharge) apply to a PM&F plant. The Agency requests comments on this methodology. In particular, should the time period used to obtain the volume of water be less than one year? If yes, what is a more appropriate time period?

(10) During the sampling program for this project, wastewater generated during the solvent recovery operation in a solvent casting process was sampled. The Agency proposes not to control that wastewater in this regulation because the process that generates the wastewater is not a PM&F process. Instead, that wastewater would be controlled on a case-by-case basis by the permit writer using data obtained from this study. The Agency requests comments on this approach.

(11) To determine the economic impact of this proposed regulation, the Agency calculated the cost of installing BPT and NSPS. Details of the estimated costs and other impacts are presented in Section IX of the technical development document and in the Economic Impact Analysis. Based on results of these

analyses, the Agency projects that four process lines will close with a loss of 22 jobs as a result of this proposed regulation. The Agency invites comments, supported by appropriate data, on the economic impact analysis and projections. Commenters should provide supporting data not only on the likelihood of plant closures and employment losses, but also on the effects of the regulation on: modernization or expansion of production, production costs, the ability to finance non-environmental investments, product prices, profitability, international competitiveness, and the availability of less costly technology.

(12) The Agency recognizes that because the proposed regulation impacts only direct dischargers, PM&F plants that are direct dischargers may be at a competitive disadvantage compared with indirect dischargers. The Agency therefore solicits comments, supported by appropriate data, from direct dischargers on their ability to incur the estimated compliance costs and still remain competitive and on their ability to pass in any increases in production costs to consumers.

(13) In the Agency's sample of PM&F plants that received a questionnaire, small plants, expecially those with 10 or less employees, may have been underrepresented. Therefore, we solicit comments on the ability of small PM&F plants to incur the estimated compliance costs. These comments should identify the plant, indicate PM&F employment, and include appropriate supporting data on the small plants financial position for 1982 and 1983 as reflected in sales, cost of production, return on investment, and the salvage value of the plant.

XXIV. Availability of Technical Assistance

The major documents on which this regulation is based are: (1) *The Development Document (Proposal) for Effluent Limitations Guidelines, New Source Performance Standards, and Pretreatment Standards for the Plastics Point Source Category (Proposal);* and (2) *Economic Impact Analysis of Proposed Effluent Limitations Guidelines and Standards for the Plastics Molding and Forming Industry.*

This regulation was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291. Any comment made by OMB is in the record for this proposed rulemaking.

XXV. List of Subjects in 40 CFR Part 463

Plastic molded and formed products, Waste treatment and disposal, Water pollution control

Dated: February 3, 1984.

William D. Ruckelshaus,

Administrator.

XXVI. Appendices

Appendix A—Abbreviations, Acronyms and Other Terms Used in This Notice

Act—The Clean Water Act.

Agency—The U.S. Environmental Protection Agency.

BAT—The best available technology economically achievable under Section 304(b)(2) of the Act.

BCT—The best conventional pollutant control technology, under Section 304(b)(4) of the Act.

BPM—Best management practices under Section 304(e) of the Act.

BPT—The best practicable control technology currently available under Section 304(b)(1) of the Act.

Clean Water Act—The Federal Water Pollution Control Act Amendments of 1972 (33 U.S.C. 1251 *et seq.*), as amended by the Clean Water Act of 1977 (Pub. L. 95–217).

Direct discharger—A facility that discharges or may discharge pollutants into waters of the United States.

Indirect discharger—A facility that introduces or may introduce pollutants into a publicly owned treatment works.

NPDES permit—A National Pollutant Discharge Elimination System permit issued under Section 402 of the Act.

NSPS—New source performance standards under Section 306 of the Act.

POTW—Publicly owned treatment works.

PSES—Pretreatment standards for existing sources of indirect discharges under Section 307(b) of the Act.

PSNS—Pretreatment standards for new sources of indirect discharges under Section 307 (b) and (c) of the Act.

RCRA—Resource Conservation and Recovery Act (Pub. L. 94–589) of 1976, as amended.

Appendix B—Toxic Pollutants Not Regulated at BAT Because They are Effectively Controlled by Technologies Upon Which are Based Other Effluent Limitations Guidelines

Contact Cooling and Heating Water Subcategory

4. benzene
6. carbon tetrachloride (tetrachloromethane)
11. 1,1,1-trichloroethane
22. parachlorometa cresol
23. chloroform (trichloromethane)
44. methylene chloride (dichloromethane)
65. phenol
66. bis(2-ethylhexyl) phthalate
67. di-n-butyl phthalate
85. tetrachloroethylene
86. toluene
89. aldrin
90. dieldrin
93. 4,4′-DDE(p,p′DDX)
100. heptachlor
102. α-BHC
103. β-BHC
104. γ-BHC
105. δ-BHC
108. cadmium
119. chromium (Total)
120. copper
122. lead
123. mercury
124. nickel
128. zinc

Cleaning and Finishing Water Subcategory

4. benzene
23. chloroform (trichloromethane)
44. methylene chloride (dichloromethane)
62. N-nitrosodiphenylamine
65. phenol
66. bis(2-ethylhexyl)phthalate
86. toluene
89. aldrine
100. heptachlor
102. α-BHC
104. γ-BHC
105. δ-BHC
119. chromium (Total)
120. copper
124. nickel
125. selenium
128. zinc

Appendix C—Toxic Pollutants With A Concentration Greater in the Source Water than the Concentration in the Wastewater Samples

Contact Cooling and Heating Water Subcategory

47. bromoform (tribromomethane)
87. trichloroethylene

Cleaning and Finishing Water Subcategory

22. parachlorometa cresol
121. cyanide (Total)

Appendix D—Toxic Pollutants Not Detected or Detected at or Below the Analytical Detection Limit

PM&F Point Source Category

1. acenaphthene
2. acrolein
3. acrylonitrile
5. benzidene
7. chlorobenzene

8. 1,2,4-trichlorobenzene
9. hexachlorobenzene
10. 1,2-dichloroethane
13. 1,1-dichloroethane
14. 1,1,2-trichloroethane
15. 1,1,2,2-tetrachloroethane
16. chloroethane
18. bis(2-chloroethyl) ether
19. 2-chloroethyl vinyl ether (mixed)
20. 2-chloronaphthalene
21. 2,4,6-trichlorophenol
24. 2-chlorophenol
25. 1,2-dichlorobenzene
26. 1,3-dichlorobenzene
27. 1,4-dichlorobenzene
28. 3,3'-dichlorobenzidine
29. 1,1-dichloroethylene
31. 2,4-dichlorophenol
32. 1,2-dichloropropane
33. 1,2-dichloropropylene (1,3-dichloropropene)
34. 2,4-dimethylphenol
35. 2,4-dinitrotoluene
36. 2,6-dinitrotoluene
37. 1,2-diphenylhydrazine
38. ethylbenzene
39. fluoranthene
40. 4-chlorophenyl phenyl ether
41. 4-bromophenyl phenyl ether
42. bis(2-chloroisopropyl) ether
43. bis(2-choroethoxy) methane
45. methyl chloride (chloromethane)
46. methyl bromide (bromomethane)
51. chlorodibromomethane
52. hexachlorobutadiene
53. hexachlorocyclopentadiene
54. isophorone
56. nitrobenzene
57. 2-nitrophenol
58. 4-nitrophenol
59. 2,4-dinitrophenol
60. 4,6-dinitro-o-cresol
61. N-nitrosodimethylamine
63. N-nitrosodi-n-propylamine
64. pentachlorophenol
67. butyl benzyl phthalate
72. benzo (a)anthracene (1,2-benzanthracene)
74. 3,4-benzofluoranthene
75. benzo(k)fluoranthane (11,12-benzofluroanthene)
76. chrysene
77. acenaphthylene
78. anthracene
79. benzo(ghi)perylene (1,11-benzoperylene)
80. fluorene
81. phenanthrene
82. dibenzo (a,h)anthracene (1,2,5,6-dibenzanthracene)
83. indeno (1,2,3-cd)pyrene (w,e,-o-phenylenepyrene)
84. pyrene
86. vinyl chloride (chloroethylene)
91. chlordane (technical mixture and metabolites)
95. α-endosulfan
106. PCB–1242 (Arochlor 1242)
107. PCB–1254 (Arochlor 1254)
108. PCB–1221 (Arochlor 1221)
109. PCB–1232 (Arochlor 1232)
110. PCB–1248 (Arochlor 1248)
111. PCB–1260 (Arochlor 1260)
112. PCB–1016 (Arochlor 1016)
113. toxaphene
116. asbestos
129. 2,3,7,8-tetra chlorodibenzo-p-dioxin (TCDD)

Contact Cooling and Heating Water Subcategory

48. dichlorobromomethane
62. N-nitrosodiphenylamine
98. endrin
114. antimony
115. arsenic
121. cyanide (Total)
125. selenium

Cleaning and Finishing Water Subcategory

6. carbon tetrachloride (tetrachloromethane)
12. hexachlorethane
30. 1,2-trans-dichloroethylene
47. bromoform (tribromomethane)
55. naphthalene
69. di-n-octyl phthalate
70. diethyl phthalate
71. dimethyl phthalate
73. benzo (a)pyrene (3,4-benzopyrene)
85. tetrachloroethylene
87. trichloroethylene
90. dieldrin
92. 4,4'-DDT
93. 4,4'-DDE(p,p'DDX)
94. 4,4'-DDD(p,p'TDE)
96. β-endosulfan
97. endosulfan sulfate
99. endrin aldehyde
101. heptachlor epoxide
117. beryllium
118. cadmium
122. lead
127. thallium

Appendix E—Toxic Pollutants Detected in the Effluent From Only a Small Number of Sources

Contact Cooling and Heating Water Subcategory

12. hexachloroethane
30. 1,2–trans-dichloroethylene
55. naphthalene
69. di-n-octyl phthalate
70. diethyl phthalate
71. dimethyl phthalate
73. benzo (a)pyrene (3,4-benzopyrene)
92. 4,4'-DDT
94. 4,4'-DDD(p,p'TDE)
96. β-endosulfan
97. endosulfan sulfate
99. endrin aldehyde
101. heptachlor epoxide
117. beryllium
126. silver
127. thallium

Cleaning and Finishing Water Subcategory

11. 1,1,1-trichlorethane
48. dichlorobromomethane
68. di-n-butyl phthalate
98. endrin
103. β-BHC
114. antimony
115. arsenic
123. mercury
126. silver

Appendix F—Toxic Pollutants Excluded From Pretreatment Standards for Processes in the Contact Cooling and Heating Water Subcategory With an Average Process Water Usage Flow Rate of 35 gpm or Less Because the Amount and Toxicity Do Not Justify Category Pretreatment Standards

4. Benzene
6. carbon tetrachloride (tetrachloromethane)
11. 1,1,1-trichloroethane
22. parachlorometa cresol
23. chloroform (trichloromethane)
44. methylene chloride (dichloromethane)
65. phenol
66. bis(2-ethylhexyl) phthalate
68. di-n-butyl phthalate
85. tetrachloroethylene
86. toluene
89. aldrin
90. dieldrin
93. 4,4'-DDE(p,p'DDX)
100. heptachlor
102. α-BHC
103. β-BHC
104. λ-BHC
105. δ-BHC
118. cadmium
119. chromium (Total)
120. copper
122. lead
123. mercury
124. nickel
128. zinc

It is proposed to add a new Part 463 to read as set forth below:

PART 463—PLASTICS MOLDING AND FORMING POINT SOURCE CATEGORY

General Provisions

Sec.
463.01 Applicability.
463.02 General definitions.
463.03 Monitoring and reporting requirements.

Subpart A—Contact Cooling and Heating Water Subcategory

463.10 Applicability; description of the contact cooling and heating water subcategory.
463.11 Specialized definitions.
463.12 Effluent limitations guidelines representing the degree of effluent

Sec.
reduction attainable by the application of the best practicable control technology currently avalilable.
463.13 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.
463.14 New source performance standards.
463.15 Pretreatment standards for existing sources.
463.16 Pretreatment standards for new sources.
463.17 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology.

Subpart B—Cleaning and Finishing Water Subcategory

463.20 Applicability; description of the cleaning and finishing water subcategory.
463.21 Specialized definitions.
463.22 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.
463.23 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.
463.24 New source performance standards.
463.25 Pretreatment standards for existing sources.
463.26 Pretreatment standards for new sources.
463.27 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology.

Authority: Secs. 301, 304 (b), (c), (e), and (g), 306 (b) and (c), 307, 308, and 501, Clean Water Act (Federal Water Pollution Control Act Amendments of 1972, as amended by Clean Water Act of 1977) (the "Act"); 33 U.S.C. 1311, 1314 (b), (c), (e) and (g), 1316 (b) and (c), 1317 (b) and (c), 1318, and 1361; 86 Stat. 816, Pub. L. 92–500; 91 Stat. 1567, Pub. L. 95–217.

General Provisions

§ 463.01 Applicability.

(a) This part applies to any plastics molding and forming process that discharges or may discharge pollutants to waters of the United States or that introduces pollutants into a publicly owned treatment works. Plastic molding and forming includes processes that blend, mold, form, or otherwise process plastic materials into intermediate or final plastic products. They include commonly recognized processes such as extrusion, molding, coating and laminating, thermoforming, calendering, casting, foaming, and cleaning and finishing.

(b) Plastics molding and forming processes (e.g., extrustion and pelletizing) used by plastics resin manufacturers to process crude intermediate plastic material for shipment off-site are excluded from this regulation and regulated under the organic chemicals, plastics, and synthetic fibers category. Plastics molding and forming processes used by plastic resin manufacturers to process plastic materials on-site into intermediate or final plastics products by further molding and forming are controlled by the effluent limitations guidelines and standards for the plastics molding and forming category in this Part.

(c) Processes that coat a plastic material onto a substrate may fall within the definition of electroplating and metal finishing as defined in 40 CFR Parts 413 and 433 (see, 48 FR 32485; July 15, 1983). These coating processes are excluded from the effluent limitations guidelines and standards for the electroplating and metal finishing point source categories and are included in the plastics molding and forming category in this Part.

(d) Coating of plastic material on a formed metal substrate is also covered by the plastics molding and forming effluent limitations guidelines and standards and is not covered by the specific metal forming guidelines such as aluminum forming (40 CFR Part 467 (48 FR 49126; October 24, 1983)), copper forming (40 CFR Part 468 (48 FR 36992; August 15, 1983)), and nonferrous metals forming. However, the plastics molding and forming effluent limitations guidelines and standards in this Part apply only to the coating process; the metal forming operations are subject to the specific metal forming regulation.

§ 463.02 General definitions.

In addition to the definitions set forth in 40 CFR Part 401, the following definitions apply to this part:

(a) "Plastic molding and forming" is a manufacturing process in which plastic materials are blended, molded, formed, or otherwise processed into intermediate or final plastic products.

(b) "Process water" is any raw, service, recycled, or reused water that contacts the plastic product or contacts shaping equipment surfaces such as molds and mandrels that are, or have been, in contact with the plastic product.

(c) "Contact cooling and heating water" is process water that contacts the raw materials or plastic product for the purpose of heat transfer during the plastic molding and forming process.

(d) "Cleaning water" is process water used to clean an intermediate or final plastic product or to clean equipment used in plastic molding and forming that contacts an intermediate or final plastic product. It includes water used in both the detergent wash and rinse cycles of a cleaning process.

(e) "Finishing" water is process water used to remove waste plasic material generated during a finishing process or to lubricate a plastic product during a finishing process. It includes water used to machine, to decorate, or to assemble intermediate or final plastic products.

(f) "Plastic material" is an organic polymeric material of large molecular weight that can be shaped by flow. The material can be either homogeneous polymeric resins or resins combined with fillers, plasticizers, pigments, stabilizers, or other additives.

§ 463.03 Monitoring and reporting requirements.

The "monthly average" regulatory values shall be the basis for the monthly average discharge limitations in direct discharge permits. Compliance with the monthly average discharge limitations is required regardless of the number of samples analyzed and averaged.

Subpart A—Contact Cooling and Heating Water Subcategory

§ 463.10 Applicability; description of the contact cooling and heating water subcategory.

This subpart applies to discharges of pollutants from processes in the contact cooling and heating water subcategory to waters of the United States and the introduction of such pollutants into publicly owned treatment works. Processes in the contact cooling and heating water subcategory are processes where process water comes in contact with plastic materials or plastic products for the purpose of heat transfer during plastics molding and forming.

§ 463.11 Specialized definitions.

For the purpose of this subpart:

(a) The "average process water usage flow rate" of a process in gallons per minute is equal to the volume of process water (gallons) used per year by a process divided by the total time (minutes) per year the process operates. The "average process water usage flow rate" for a plant with more than one plastics molding and forming process that uses contact cooling and heating water is the sum of the "average process water usage flow rates" for those plastics molding and forming processes.

(b) The "volume of process water used per year" is the volume of process water that flows through a process and comes in contact with the plastic product over a period of one year.

(c) "Mass of plastic material processed (kg or lbs)" when used to determine effluent limitations is the mass of plastic material that process water comes in contact with for cooling or heating purposes. If the same unit mass of plastic undergoes more than one molding and forming process (for example, it is compounded and pelletized, extruded, and blow molded), the mass of plastic material processed in each process is added to obtain the total mass of plastic material processed.

§ 463.12 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

Except as provided in 40 CFR 125.30–125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available:

(a) There shall be no discharge of wastewater pollutants from existing processes in the contact cooling and heating water subcategory with an average process water usage flow rate of 35 gpm (132 liters per minute) or less.

(b) The mass of pollutants in process water discharged from existing processes in the contact cooling and heating water subcategory with an average process water usage flow rate greater than 35 gpm (132 liters per minute) shall not exceed the following values:

SUBPART A

[Contact cooling and heating water]

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of plastic material processed	
BOD5	78	35
Oil & Grease	113	27
TSS	186	57
pH	[1]	[1]

[1] Within the range of 6.0 to 9.0 at all times.

§ 463.13 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

The Agency has determined that there are insignificant quantities of toxic pollutants in contact cooling and heating wastewaters after compliance with applicable BPT effluent limitations guidelines. Accordingly, since the BPT level of treatment provides adequate control, the Agency is not proposing more stringent BAT effluent limitations quidelines.

§ 463.14 New source performance standards.

Any new source subject to this subpart must achieve the following performance standards:

(a) There shall be no discharge of wastewater pollutants from new sources with processes in the contact cooling and heating water subcategory with an average process water usage flow rate of 35 gpm (132 liters per minute) or less.

(b) The mass of pollutants in process water discharged from new sources in the contact cooling and heating water subcategory having processes with an average process water usage flow rate greater than 35 gpm (132 liters per minute) shall not exceed the following values:

SUBPART A

[Contact cooling and heating water]

Pollutant or pollutant property	NSPS	
	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of plastic material processed	
BOD5	78	35
Oil & Grease	113	27
TSS	186	57
pH	(1)	(1)

[1] Within the range of 6.0 to 9.0 at all times.

§ 463.15 Pretreatment standards for existing sources.

Any existing source subject to this subpart that introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403—General Pretreatment Regulations.

§ 463.16 Pretreatment standards for new sources.

Any new source subject to this subpart that introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403—General Pretreatment Regulations.

§ 463.17 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology.

Except as provided in 40 CFR 125.30–125.32, any existing point source subject to this subpart must achieve the following effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology:

(a) There shall be no discharge of conventional pollutants from existing processes in the contact cooling and heating water subcategory with an average process water usage flow rate of 35 gpm (132 liters per minute) or less.

(b) The mass of conventional pollutants in process water discharged from existing processes in the contact cooling and heating water subcategory with an average process water usage flow rate greater than 35 gpm (132 liters per minute) shall not exceed the following values:

SUBPART A

[Contact Cooling and Heating Water]

Pollutant or pollutant property	BCT effluent limitations	
	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of plastic material processed	
BOD5	78	35
Oil & Grease	113	27
TSS	186	57
pH	(1)	(1)

[1] Within the range of 6.0 to 9.0 at all times.

Subpart B—Cleaning and Finishing Water Subcategory

§ 463.20 Applicability; description of the cleaning and finishing water subcategory.

This subpart applies to discharges of pollutants from processes in the cleaning and finishing water subcategory to waters of the United States and the introduction of such pollutants into publicly owned treatment works. Processes in the cleaning and finishing water subcategory are processes where water comes in contact with the plastic product for the purpose of cleaning the product; where water comes in contact with shaping equipment, such as molds and mandrels, that contact the plastic material for the purpose of cleaning the equipment; and where water comes in contact with the plastic product during finishing.

§ 463.21 Specialized definitions.

For the purpose of this subpart:

(a) "Mass of plastic material processed (kg or lbs)" when used to determine effluent limitations is the mass of plastic material that process water comes in contact with for product cleaning or finishing purposes. If the same unit mass of plastic material undergoes more than one cleaning or finishing process (for example, it is cleaned and finished), the mass of plastic material processed in each process is added to obtain the total mass of plastic material processed. For the purpose of calculating limitations for water used to clean shaping equipment,

such as molds and mandrels, "mass of plastic material processed" refers to the mass of plastic material that was molded or formed by the shaping equipment being cleaned.

§ 463.22 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of best practicable control technology currently available.

Except as provided in 40 CFR 125.30-125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

(a) The mass of pollutants in process water discharged from existing cleaning processes subject to this subpart shall not exceed the following values:

SUBPART B

[Cleaning water]

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of plastic material processed	
BOD5	220	99
Oil & Grease	318	76
TSS	524	161
pH	(1)	(1)

[1] Within the range of 6.0 to 9.0 at all times.

(b) The mass of pollutants in process water discharged from existing finishing processes subject to this subpart shall not exceed the following values:

SUBPART B

[Finishing water]

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of plastic material processed	
BOD5	52	23
Oil & Grease	76	18
TSS	125	38
pH	(1)	(1)

[1] Within the range of 6.0 to 9.0 at all times.

§ 463.23 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

The Agency has determined that there are insignificant quantities of toxic pollutants in cleaning and finishing process wastewaters after compliance with applicable BPT effluent limitations guidelines. Accordingly, since the BPT level of treatment provides adequate control, the Agency is not proposing more stringent BAT effluent limitations guidelines.

§ 463.24 New source performance standards.

Any new source subject to this subpart must achieve the following performance standards.

(a) The mass of pollutants in process water discharged from cleaning processes subject to this subpart at new sources shall not exceed the following values:

SUBPART B

[Cleaning water]

Pollutant or pollutant property	NSPS	
	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of plastic material processed	
BOD5	220	99
Oil & Grease	318	76
TSS	524	161
pH	(1)	(1)

[1] Within the range of 6.0 to 9.0 at all times.

(b) The mass of pollutants in process water discharged from finishing processes subject to this subpart at new sources shall not exceed the following values:

SUBPART B

[Finishing water]

Pollutant or pollutant property	NSPS	
	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of plastic material processed	
BOD5	52	23
Oil & Grease	76	18
TSS	125	38
pH	(1)	(1)

[1] Within the range of 6.0 to 9.0 at all times.

§ 463.25 Pretreatment standards for existing sources.

Any existing source subject to this subpart that introduces pollutants into a publicly owned treatment works must comply with 40 CFR 403—General Pretreatment Regulations.

§ 463.26 Pretreatment standards for new sources.

Any new source subject to this subpart that introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403—General Pretreatment Regulations.

§ 463.27 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology.

Except as provided in 40 CFR 125.30–125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology.

(a) The mass of conventional pollutants in process water discharges from existing cleaning processes subject to this subpart shall not exceed the following values:

SUBPART B

[Cleaning water]

Pollutant or pollutant property	BCT effluent limitations	
	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of plastic material processed	
BOD5	220	99
Oil & Grease	318	76
TSS	524	161
pH	(1)	(1)

[1] Within the range of 6.0 to 9.0 at all times.

(b) The mass of conventional pollutants in process water discharged from existing finishing processes subject to this subpart shall not exceed the following values:

SUBPART B

[Finishing water]

Pollutant or pollutant property	BCT effluent limitations	
	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds) of plastic material processed	
BOD5	52	23
Oil & Grease	76	18
TSS	125	38
pH	(1)	(1)

[1] Within the range of 6.0 to 9.0 at all times.

[FR Doc. 84-4037 Filed 2-14-84; 8:45 am]
BILLING CODE 6560-50-M

VOL
49
ISS
32
FE
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1984
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federal register

Wednesday
February 15, 1984

Part IV

Department of Energy

Federal Energy Regulatory Commission

Determinations by Jurisdictional Agencies, Under the Natural Gas Policy Act of 1978; Notices

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Vol. 1061]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: February 10, 1984.

The following notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" before the section code. Estimated annual production (PROD) is in million cubic feet (MMCF).

The applications for determination are available for inspection except to the extent such material is confidential under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol St., Washington, D.C. Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 275.204, file a protest with the Commission within fifteen days after publication of notice in the **Federal Register**.

Source data from the Form 121 for this and all previous notices is available on magnetic tape from the National Technical Information Service (NTIS). For information, contact Stuart Weisman (NTIS) at (703) 487–4808, 5285 Port Royal Rd, Springfield, Va 22161.

Categories within each NGPA section are indicated by the following codes:

Section 102–1: New OCS lease
102–2: New well (2.5 Mile rule)
102–3: New well (1000 Ft rule)
102–4: New onshore reservoir
102–5: New reservoir on old OCS lease

Section 107–DP: 15,000 feet or deeper
107–GB: Geopressured brine
107–CS: Coal Seams
107–DV: Devonian Shale
107–PE: Production enhancement
107–TF: New tight formation
107–RT: Recompletion tight formation

Section 108: Stripper well
108–SA: Seasonally affected
108–ER: Enhanced recovery
108–PB: Pressure buildup

Kenneth F. Plumb,
Secretary.

NOTICE OF DETERMINATIONS

ISSUED FEBRUARY 10, 1984

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
OHIO DEPARTMENT OF NATURAL RESOURCES									
-APPALACHIAN EXPLORATION INC		RECEIVED: 01/11/84		JA: OH					
8415720		3405923528		107-TF		E PYLE #1	LIBERTY	73.0	
8415724		3415321497		107-TF		EMICH UNIT #1	COPLEY	25.6	
8415725		3415321523		107-TF		LOCH RAVEN UNIT #4	COPLEY	27.4	
8415723		3415321207		107-TF		MANGES #2	NORTON	54.8	
8415721		3410323543		107-TF		R MUSSER #3	SHARON	18.3	
8415722		3415321193		107-TF		SCHRANK #2	BATH	27.4	
-BATES OIL & GAS INC		RECEIVED: 01/11/84		JA: OH					
8415726		3408322380		108		GAY HUGHES ESTATE #1		2.0	COLUMBIA GAS TRAN
8415727		3408322462		108		TIMOTHY DODRILL #1		3.1	COLUMBIA GAS TRAN
-BELDEN & BLAKE & CO #3		RECEIVED: 01/11/84		JA: OH					
8415729		3401921563		103	107-TF	A & M WASIK #1-341202	BROWN	36.5	
8415728		3401921384		103		M & M SCHOLES #1-341355	ROSE	36.5	
8415730		3401921564		103	107-TF	M EVANS WELL #1-341216	BROWN	36.5	
8415732		3415123937		103		R & M WILSON COMM #4-341353	MARLBORO	36.5	
8415731		3401921663		103	107-TF	WHITACRE-GREER #39-341340	BROWN	36.5	
-BERRESFORD ENTERPRISES INC		RECEIVED: 01/11/84		JA: OH					
8415733		3416726490		107-TF		BASIL HALL #3	WATERFORD	0.0	
-BILL BLAIR INCORPORATED		RECEIVED: 01/11/84		JA: OH					
8415734		3402920978		103	107-TF	DYE #3	HANOVERTON	0.0	EAST OHIO GAS CO
-BLAUSER WELL SERVICE INC		RECEIVED: 01/11/84		JA: OH					
8415743		3416725095		107-TF		DAVID D DUNBAR #2	FAIRFIELD	0.5	COLUMBIA GAS TRAN
8415742		3416725094		107-TF		DAVID D DUNBAR #3	FAIRFIELD TOWNSHIP	0.5	COLUMBIA GAS TRAN
8415741		3416725083		107-TF		E GRANT RUSSELL #1	FAIRFIELD TOWNSHIP	1.1	COLUMBIA GAS TRAN
8415740		3416725082		107-TF		E GRANT RUSSELL #2	FAIRFIELD	1.1	COLUMBIA GAS TRAN
8415736		3416724354		107-TF		HENRY WUNDERLICH #1	SALEM TOWNSHIP	4.5	COLUMBIA GAS TRAN
8415737		3416725048		107-TF		HENRY WUNDERLICH #2	SALEM TOWNSHIP	1.1	COLUMBIA GAS TRAN
8415738		3416725049		107-TF		HENRY WUNDERLICH #3	SALEM TOWNSHIP	1.1	COLUMBIA GAS TRAN
8415746		3416725114		107-TF		HOWARD L MATLACK #1	DECATUR	2.7	COLUMBIA GAS TRAN
8415748		3416725116		107-TF		HOWARD L MATLACK #2	DECATUR TOWNSHIP	2.7	COLUMBIA GAS TRAN
8415750		3416725137		107-TF		HOWARD L MATLACK #3	DECATUR TOWNSHIP	2.7	COLUMBIA GAS TRAN
8415739		3416725081		107-TF		ROBERT J KUBOTA #1	SALEM TOWNSHIP	3.3	COLUMBIA GAS TRAN
8415744		3416725112		107-TF		ROBERT J KUBOTA #2	SALEM TOWNSHIP	3.3	COLUMBIA GAS TRAN
8415735		3400922000		107-TF		ROBERT R HARPER #1	CARTHAGE TOWNSHIP	5.9	COLUMBIA GAS TRAN
8415747		3416725115		107-TF		RUSSELL F & MARY L MCVICAR #2	FAIRFIELD TOWNSHIP	1.0	COLUMBIA GAS TRAN
8415745		3416725113		107-TF		RUSSELL F & MARY L MCVICAR #3	WASHINGTON TOWNSHIP	1.0	COLUMBIA GAS TRAN
8415749		3416725136		107-TF		RUSSELL F & MARY L MCVICAR #4	FAIRFIELD TOWNSHIP	1.0	COLUMBIA GAS TRAN
-BUCKEYE CRUDE EXPLORATION INC		RECEIVED: 01/11/84		JA: OH					
8415751		3416724573		108		BALL #2	CATS CREEK	10.0	OHIO OIL GATHERIN
-COASTAL PETROLEUM CORP		RECEIVED: 01/11/84		JA: OH					
8415752		3415321035		107-TF		SOURS #1	COPLEY	9.0	EAST OHIO GAS CO
-ENERGY DEVELOPMENT CORP		RECEIVED: 01/11/84		JA: OH					
8415757		3413321658		108		HAHN #1		9.0	EAST OHIO GAS CO
8415756		3413321657		108		HAHN #2		10.0	EAST OHIO GAS CO
8415758		3415120274		108		HERSHBERGER #1		8.0	ANCHOR HOCKING CO
8415754		3413320813		108		LAPPERT #1		7.0	EAST OHIO GAS CO

BILLING CODE 6717-01-M

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8415755		3413321554		108		LAPPERT #5		7.0	EAST OHIO GAS CO
8415759		3415122798		108		LEEMAN #1		6.0	ANCHOR HOCKING CO
-ENINUN INC				RECEIVED: 01/11/84 JA: OH					
8415760		3411926561		103	107-TF	CARL RITTBERGER #2	LICKING	20.0	NATIONAL GAS & OI
-ENTERPRISE ENERGY CORP				RECEIVED: 01/11/84 JA: OH					
8415761		3411926688		103	107-TF	OHIO POWER #18	NEWTON	18.2	TEXAS EASTERN TRA
8415762		3411926817		103	107-TF	OHIO POWER #30	NEWTON	18.2	TEXAS EASTERN TRA
8415763		3411926819		103	107-TF	OHIO POWER #38	NEWTON	18.2	TEXAS EASTERN TRA
-ENVIROGAS INC				RECEIVED: 01/11/84 JA: OH					
8415765		3400922892		103	107-TF	PEABODY COAL #21D	[illegible]IVER	18.2	
8415764		3400922889		103	107-TF	PEABODY COAL #26D	[illegible]OVER	18.2	
-GASEARCH INC				RECEIVED: 01/11/84 JA: OH					
8415767		3415321544		103	107-TF	GOLDEN LINKS #10	NORTHFIELD CENTER	20.0	GAS OHIO TRANSPOR
8415766		3415321507		103	107-TF	GOLDEN LINKS #22	NORTHFIELD CENTER	20.0	GAS OHIO TRANSPOR
8415769		3415522334		103	107-TF	GROSSMAN #2	MESOPOTAMIA	20.0	GAS OHIO TRANSPOR
8415768		3415522321		103	107-TF	ISAACS #2	MESOPOTAMIA	20.0	GAS OHIO TRANSPOR
-GEO ENERGY INC				RECEIVED: 01/11/84 JA: OH					
8415770		3418322689		107-TF		BRANT #14-4-1	LIVERPOOL	8.0	COLUMBIA GAS OF O
-H I SMITH OIL & GAS INC				RECEIVED: 01/11/84 JA: OH					
8415771		3416922158		108		VARNER #2		10.0	POMINEX INC
8415772		3416923087		108		VARNER #3		10.0	POMINEX INC
-HATFIELD JOHN J				RECEIVED: 01/11/84 JA: OH					
8415780		3416923609		103		KRAMER #1	CHIPPEWA	12.0	
8415781		3416923610		103		KRAMER #2	CHIPPEWA	12.0	
-HLH DRILLING INC				RECEIVED: 01/11/84 JA: OH					
8415774		3400722233		107-TF		BROOKS #1	RICHMOND	30.0	POI ENERGY INC
8415773		3400722231		107-TF		BROOKS #2	RICHMOND	30.0	POI ENERGY INC
8415775		3400722234		107-TF		SEELEY #1	RICHMOND	30.0	POI ENERGY INC
-HOPCO RESOURCES INC				RECEIVED: 01/11/84 JA: OH					
8415776		3403151710		107-TF		BALO #2	KEENE	12.0	COLUMBIA GAS TRAN
-JADOIL INC				RECEIVED: 01/11/84 JA: OH					
8415778		3412725727		103		CLYDE & GLADYS HENDERSON #5	READING	2.0	NATIONAL GAS & OI
8415779		3412725756		103		GEARY-SPANGLER UNIT #1	HOPEWELL	2.0	NATIONAL GAS & OI
8415777		3408323275		103		WALTER W BALE #1	WAYNE	15.0	
-KENOIL				RECEIVED: 01/11/84 JA: OH					
8415782		3416923414		107-TF		ARLEENE JACKSON #2	CANAAN	18.0	COLUMBIA GAS TRAN
-KING PETROLEUM				RECEIVED: 01/11/84 JA: OH					
8415783		3411926761		107-TF		CECIL HOFFMAN #1	LICKING	8.8	NATIONAL GAS & OI
-L & M PETROLEUM INC				RECEIVED: 01/11/84 JA: OH					
8415788		3416724588		108		CLAIR HUCK #2		11.0	GAS TRANSPORT INC
8415786		3416724436		108		EARL ULLOM #2		10.0	GAS TRANSPORT INC
8415789		3416725242		108		ELWOOD HOFFERT #1		10.0	GAS TRANSPORT INC
8415784		3412723951		108		EPIFANO #1		10.0	FORAKER GAS CO IN
8415785		3412725311		108		ROBERT JENKINS #2		10.0	FORAKER GAS CO
8415787		3416724440		108		VERNON AUGENSTEIN #1N		10.0	GAS TRANSPORT INC
-LEW BATES JR				RECEIVED: 01/11/84 JA: OH					
8415794		3408322512		108		DONALD BRITTON #1		3.6	COLUMBIA GAS TRAN
8415793		3408322295		108		DWIGHT GORSUCH #1		0.1	COLUMBIA GAS TRAN
8415791		3408322139		108		LINDA SHANNON #1		0.3	COLUMBIA GAS TRAN
8415792		3408322198		108		RUTH HOFFSINGER #1		3.4	COLUMBIA GAS TRAN
8415790		3403122422		108		WILLIAM MCLOY #1		5.2	COLUMBIA GAS TRAN
-LOMAK PETROLEUM INC				RECEIVED: 01/11/84 JA: OH					
8415795		3413322899		107-TF		J THORNTON UNIT #1	FRANKLIN	35.0	
-M B OPERATING CO INC				RECEIVED: 01/11/84 JA: OH					
8415798		3415123316		108		FISHER UNIT #1		17.5	REPUBLIC STEEL CO
8415797		3415122814		108		FLINTKOTE CO UNIT #7		1.9	REPUBLIC STEEL CO
8415796		3415122812		108		FLINTKOTE CO UNIT #8		11.3	REPUBLIC STEEL CO
-MERIDIAN OIL & GAS ENT INC				RECEIVED: 01/11/84 JA: OH					
8415799		3400721701		108		WILLIAM L SPENCER #1-A		3.0	EAST OHIO GAS CO
-ONEAL PETROLEUM INC				RECEIVED: 01/11/84 JA: OH					
8415800		3411523224		103	107-TF	W MORRIS HEIRS #12	CALDWELL SOUTH	25.0	EAST OHIO GAS CO
-OXFORD OIL CO				RECEIVED: 01/11/84 JA: OH					
8415822		3405920830		108		ALAN MITCHELL #1		3.0	COLUMBIA GAS TRAN
8415828		3408924822		103		BEBOUT & OTHERS #1	PERRY	18.0	
8415823		3405920902		108		EUNICE GORDON #1		1.0	COLUMBIA GAS TRAN
8415826		3405920913		108		GORDON-WATSON #1		3.0	COLUMBIA GAS TRAN
8415824		3405920906		108		JOHN WATSON #1		3.0	COLUMBIA GAS TRAN
8415827		3405920928		108		JOHN WATSON #2		1.0	COLUMBIA GAS TRAN
8415829		3411926660		103	107-TF	MARY PARKINSON #2	BLUE ROCK	18.0	NATIONAL GAS & OI
8415825		3405920908		108		WATSON-GORDON #1		1.0	COLUMBIA GAS TRAN
-P/T DRILLING JOINT VENTURE				RECEIVED: 01/11/84 JA: OH					
8415805		3400722385		103	107-TF	SCHANFISH #1	NEW LYME	40.0	
-POI ENERGY INC				RECEIVED: 01/11/84 JA: OH					
8415804		3405520598		103	107-TF	EDWARDS #OP-2	BAINBRIDGE	30.0	
8415801		3400722387		103	107-TF	MASON #ZRM-1	NEW LYME	35.0	
8415802		3400722415		103	107-TF	PIPER #RM-1	CHERRY VALLEY	33.0	
8415803		3405520469		103	107-TF	SEA WORLD #MG-7	BAINBRIDGE	35.0	
-QUAKER STATE OIL REFINING CORP				RECEIVED: 01/11/84 JA: OH					
8415806		3407322185		103		NATCO #35	GREEN	5.5	GENERAL CLAY PROD
8415807		3407322823		103		SUNDAY CREEK COAL CO #66	WARD	4.4	COLUMBIA GAS TRAN
-QUESTA JOINT VENTURE 83				RECEIVED: 01/11/84 JA: OH					
8415808		3404520879		103		HOWARD ROWLES #2	PLEASANT	16.0	
8415809		3404520882		103		MAX MILLER #5	PLEASANT	10.0	
-R H HUTCHESON				RECEIVED: 01/11/84 JA: OH					
8415810		3409921240		107-TF		ASHWORTH-LOO #1	SMITH	60.0	EAST OHIO GAS CO
8415811		3409921579		107-TF		LOO #1	SMITH	60.0	EAST OHIO GAS CO
-RELIANCE ENERGY				RECEIVED: 01/11/84 JA: OH					
8415753		3407522528		108		ALLAN GRIFFITHS #1		8.0	COLUMBIA GAS TRAN
-RSC ENERGY CORP				RECEIVED: 01/11/84 JA: OH					
8415812		3411926647		103	107-TF	CONSOLIDATION COAL - CR #68	MADISON	13.8	REPUBLIC STEEL CO
8415813		3411926777		103	107-TF	CONSOLIDATION COAL - CR #74	ADAMS	13.0	REPUBLIC STEEL CO
8415814		3411926778		103	107-TF	CONSOLIDATION COAL - CR #75	ADAMS	14.0	REPUBLIC STEEL CO
8415815		3411926795		103	107-TF	CONSOLIDATION COAL - CR #77	MADISON	14.6	REPUBLIC STEEL CO
-S O G DRILLING PROGRAM LTD 83-1				RECEIVED: 01/11/84 JA: OH					
8415816		3413323047		107-TF		MEEKER #1	KENT	12.0	COLUMBIA GAS OF O
-STOCKER & SITLER INC				RECEIVED: 01/11/84 JA: OH					
8415817		3415723864		103	107-TF	ENOS UNIT #2	CLAY	7.0	PANHANDLE EASTERN
8415818		3415723865		103	107-TF	ENOS UNIT #3	CLAY	18.0	PANHANDLE EASTERN
-STRATA CORP				RECEIVED: 01/11/84 JA: OH					
8415819		3411926178		103	107-TF	G MOORE #3	NEWTON	25.0	TEXAS EASTERN TRA
-THE BENATTY CORPORATION				RECEIVED: 01/11/84 JA: OH					
8415821		3411926214		103	107-TF	ANDERSON-WILSON #2	RICH HILL	30.0	COLUMBIA GAS TRAN
8415820		3411924541		103	107-TF	E HAYES #1	SALT CREEK	25.0	COLUMBIA GAS TRAN
-WAYNE HAMMOND				RECEIVED: 01/11/84 JA: OH					

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8415830		3415723950		103	107-TF	ZIMMERMAN #1	LAURENCE	365.0	YANKEE RESOURCES
-WENNER PETROLEUM CORPORATION				RECEIVED:	01/11/84	JA: OK			
8415831		3416923601		107-TF		R GASSER #5	MILTON-WAYNE POOL	23.7	COLUMBIA GAS TRAN
-WENTEX INTERNATIONAL INC				RECEIVED:	01/11/84	JA: OK			
8415832		3412723049		108		ROY J MASTERSON #1		10.8	NATIONAL GAS & OI
-WILLIAM F HILL				RECEIVED:	01/11/84	JA: OK			
8415833		3607526143		103		WILBUR MILLER #2	HOY	8.0	
-WITCO CHEMICAL CORP				RECEIVED:	01/11/84	JA: OK			
8415834		3401921667		108		ANDERVONT-COLE UNIT #1		2.5	CANTON OIL & GAS
8415845		3415123014		108		BITTINGER #1		2.5	CANTON OIL & GAS
8415841		3415122902		108		D SICKAFOOSE #1		2.5	CANTON OIL & GAS
8415844		3415123012		108		D SICKAFOOSE #2		2.5	CANTON OIL & GAS
8415842		3415123009		108		D SICKAFOOSE #3		2.5	CANTON OIL & GAS
8415843		3415123011		108		D SICKAFOOSE #4		2.5	CANTON OIL & GAS
8415839		3415122335		108		DEEM-SUTHERLAND #1		2.5	CANTON OIL & GAS
8415838		3415122163		108		FOLTZ B #1		2.5	CANTON OIL & GAS
8415840		3415122480		108		KASER-SUTHERLAND #1		2.5	CANTON OIL & GAS
8415837		3415122149		108		LEACH #1		2.5	CANTON OIL & GAS
8415835		3415121495		108		MERRICK-SUTHERLAND #1		2.5	CANTON OIL & GAS
8415836		3415122148		108		RINDCHEN UNIT #1		2.5	CANTON OIL & GAS
OKLAHOMA CORPORATION COMMISSION									
-AIR OIL CO				RECEIVED:	01/12/84	JA: OK			
8415947	25815	3514723020		103		HARRIS #3		105.1	OKLAHOMA RESOURCE
-AMOCO PRODUCTION CO				RECEIVED:	01/12/84	JA: OK			
8415940	25698	3513900000		108		TRUITT GAS UNIT #1	GUYMON - HUGOTON	14.0	PHILLIPS PETROLEU
-AM-SON CORPORATION				RECEIVED:	01/12/84	JA: OK			
8415903	23557	3503920841		102-2		SOAR #1-18	EAST CLINTON	525.6	PRODUCERS GAS CO
8415905	23609	3503920829		102-2		TEURMAN #1-13	N CANUTE	658.8	
-ANADARKO PRODUCTION COMPANY				RECEIVED:	01/12/84	JA: OK			
8415920	23626	3500722354		102-4		KING C #1	EAST LORENA FIELD	100.0	PANHANDLE EASTERN
8415945	23760	3500722354		102-4		KING C-1	EAST LORENA FIELD	130.0	PANHANDLE EASTERN
8415980	25731	3513920163		103		N E HARDESTY #12-3	N E HARDESTY	9.0	PHILLIPS PETROLEU
8415979	25730	3513921703		103		N E HARDESTY #22-3	N E HARDESTY	2.8	PHILLIPS PETROLEU
8415981	25732	3513921704		103		N E HARDESTY #26-2	N E HARDESTY	4.7	PHILLIPS PETROLEU
-ARCO OIL AND GAS COMPANY				RECEIVED:	01/12/84	JA: OK			
8415884	23656	3511922159		102-4		IRENE WRIGHT NO 1	NORTHWEST STILLWATER	36.5	ARCO OIL & GAS CO
8415975	25705	3500722533		103		NICHOLSON #1-29	S W LOGAN	200.0	NORTHERN NATURAL
8415976	25706	3504922160		103		T A VAUGHN (SINCLAIR) #2	GOLDEN TREND	255.0	WARREN PETROLEUM
-BEC ENERGY INC				RECEIVED:	01/12/84	JA: OK			
8415912	25603	3510721670		103		HIGGINS #1		36.5	SWAB CORP
-BOGERT OIL CO				RECEIVED:	01/12/84	JA: OK			
8415969	25672	3501722592		103		MOFFAT #1-3	SOONER TREND	438.0	PHILLIPS PETROLEU
-BROOKS HALL OIL CORP				RECEIVED:	01/12/84	JA: OK			
8415977	25710	3503725035		103		ASHLEY #1-23	EAST SLICK	109.9	HERITAGE GAS CO
8415978	25711	3503725033		103		ROOSEVELT #1-26	EAST SLICK	397.9	HERITAGE GAS CO
-C W SMITH & ASSOCIATES INC				RECEIVED:	01/12/84	JA: OK			
8415925	25528	3508122097		103		HOPKINS/OLIVER #3	S E DAVENPORT	7.0	MERIDIAN ENERGY I
-CHALLENGER EXPLORATION INC				RECEIVED:	01/12/84	JA: OK			
8415950	25800	3505321195		103		GERTIE #1	SOONER TREND	0.0	UNION TEXAS PETRO
-CLARK RESOURCES INC				RECEIVED:	01/12/84	JA: OK			
8415906	24169	3509322708		103		FAST 10-1	SOONER TREND	200.0	PHILLIPS PETROLEU
-CONTINENTAL RESOURCES CORP				RECEIVED:	01/12/84	JA: OK			
8415917	23610	3504321666		102-4	103	REYNOLDS #12-2		0.0	HYDROCARBON SERVI
-CORE PETROLEUM LTD				RECEIVED:	01/12/84	JA: OK			
8416000	26826	3514920333		107-DP		BOSE #1-22		0.0	PRODUCERS GAS CO
-COTTON PETROLEUM CORPORATION				RECEIVED:	01/12/84	JA: OK			
8415986	21578	3512120954		102-4	103	KATHRYN #1	PITTSBURG	0.0	ARKANSAS LOUISIAN
-D & J OIL COMPANY				RECEIVED:	01/12/84	JA: OK			
8416015	25536	3509322755		103		BETTY FUZZELL 1-13	SOUTH CLEO SPRINGS	116.8	AMINOIL USA INC
8415941	25565	3505321202		103		JOHN GLAHN 1A	NORTHEAST POND CREEK	36.5	UNION TEXAS PETRO
-DLB ENERGY CORP				RECEIVED:	01/12/84	JA: OK			
8415887	23638	3507323770		102-4	103	RUEB #34-11	SOONER TREND	50.0	PHILLIPS PETROLEU
-DONEGHY JAMES				RECEIVED:	01/12/84	JA: OK			
8415930	25662	3511124595		103		JACKSON #2	COALTON DISTRICT	360.0	PHILLIPS PETROLEU
-DYCO PETROLEUM CORPORATION				RECEIVED:	01/12/84	JA: OK			
8415935	23764	3505120991		102-4		BASSETT 1-24		0.0	MOBIL OIL CORP
8415914	25611	3501521320		103		HAMILTON 1-3		75.0	MUSTANG FUEL CORP
8415927	25658	3514920394		103		MEGLI 1-14		100.0	MUSTANG FUEL CORP
8415934	23763	3505121099		102-4		SHOCKEY 1-25		8.0	MOBIL OIL CORP
-EL PASO NATURAL GAS COMPANY				RECEIVED:	01/12/84	JA: OK			
8415892	20701	3500920136		108-PB		MONTGOMERY #2	ERICK SOUTH	0.0	EL PASO NATURAL G
-EXXON CORPORATION				RECEIVED:	01/12/84	JA: OK			
8415958	24037	3500735082		108		STATE-RICARDS #1	MOCANE-LAVERNE	19.0	COLORADO INTERSTA
-FRENCH PETROLEUM CORP				RECEIVED:	01/12/84	JA: OK			
8415924	25340	3508720837		103		GRAY #1	MANTOOTH	90.0	SUN EXPLORATION &
-FUNK EXPLORATION INC				RECEIVED:	01/12/84	JA: OK			
8415889	23650	3500722444		102-4		PAUL #1-8	DOMBEY	150.0	PANHANDLE EASTERN
8415883	23651	3500722426		102-4		SCHRODER #1	DOMBEY AREA	260.0	PANHANDLE EASTERN
-GEO-SUM CORP				RECEIVED:	01/12/84	JA: OK			
8416010	25638	3500722543		103		HEITSCHMIDT #2-23		0.0	PHILLIPS PETROLEU
-GETTY OIL COMPANY				RECEIVED:	01/12/84	JA: OK			
8415974	25702	3513900000		103		C T GOLDEN #1	N E GUYMON	36.5	NORTHWEST CENTRAL
8415921	24753	3513900000		108		HENRY WERNER #1	GUYMON HUGOTON	8.2	NORTHWEST CENTRAL
-GILL JOHN K				RECEIVED:	01/12/84	JA: OK			
8416003	25684	3511124414		103		SIBERTS #1-A	YOUNGSTOWN	16.8	SWAB CORP
-GRAHAM EXPLORATION LTD DRILLING PAR				RECEIVED:	01/12/84	JA: OK			
8416022	25125	3515321424		103		FEIL #1	MOROCCO	0.0	
-GRAND RESOURCES INC				RECEIVED:	01/12/84	JA: OK			
8415880	25540	3512920968		103		STELL MCLEAN #1-9	SE PEEK	45.0	PHILLIPS PETROLEU
8415899	23241	3506120568		102-4	103	WALKER 1-11	KINTA	1591.0	OKLAHOMA GAS & EL
-GREAT WESTERN LAND CO INC				RECEIVED:	01/12/84	JA: OK			
8415968	25665	3510721545		103		R K JR #2		75.0	SWAB CORP
-GULF OIL CORPORATION				RECEIVED:	01/12/84	JA: OK			
8416005	01633	3512920075		108-PB		HORRELL #1	PEEK SOUTH	0.0	PANHANDLE EASTERN
8415953	23686	3501722316		102-2		PAULINE MORGAN #1-1	NORTH MUSTANG (MUNTON	0.0	
-H YOUNG INC				RECEIVED:	01/12/84	JA: OK			
8415966	25663	3508720913		103		BASS #1-36		0.0	SUN GAS CO
-HAMILTON BROTHERS OIL CO				RECEIVED:	01/12/84	JA: OK			
8415918	23621	3512120877		102-2		INDIAN NATIONS #1-19	WAPANUCKA	188.0	ARKANSAS LOUISIAN
8415919	23622	3512120945		102-2		INDIAN NATIONS #1-30	WAPANUCKA	1095.0	ARKANSAS LOUISIAN
-HARPER OIL COMPANY				RECEIVED:	01/12/84	JA: OK			
8415995	23720	3514921241		102-2		DOUG #1	M W CORN	274.0	

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8415985	25804	3510322006		103		KEMNITZ #1	S E LUCIEN	20.0	AMINOIL USA INC
-HAWKINS OIL & GAS INC				RECEIVED:	01/12/84	JA: OK			
8415915	25628	3504520809		103		SALISBURY #1-16 U	N W CARMARGO	77.0	
-HEARTLAND EXPLORATION INC				RECEIVED:	01/12/84	JA: OK			
8416001	25645	3504922197		103		BROWN #1-15	WEST MAYSVILLE	[illegible]	WARREN PETROLEUM
-HERITAGE PETROLEUM SERVICES CORP				RECEIVED:	01/12/84	JA: OK			
8415898	23556	3515121367		102-4		SCHIERLOH #2	FRITZLEN	[illegible]	PANHANDLE EASTERN
-HIGH-MCDONALD OPERATING CO				RECEIVED:	01/12/84	JA: OK			
8415955	23727	3503320622		102-2		HOOKER #1	N E WALTERS	[illegible]	ENSERCH CORP
8415956	23728	3503320649		102-2		HOOKER #3	N E WALTERS	[illegible]	ENSERCH CORP
8415957	23729	3503320734		102-2		HOOKER #4	N E WALTERS	[illegible]	ENSERCH CORP
-HOLD OIL CORP				RECEIVED:	01/12/84	JA: OK			
8416027	23583	3506120533		102-2		KRUGER #1-20	BROOKEN	188.0	ARKANSAS LOUISIANA
8416019	23787	3506120534		102-2		KRUGER #2-20	BROOKEN	75.0	ARKANSAS LOUISIANA
-J M HUBER CORPORATION				RECEIVED:	01/12/84	JA: OK			
8415926	25549	3504723422		103		LOVELL #1A	W WAUKOMIS	109.5	UNION TEXAS PETRO
-JACK BOWLES				RECEIVED:	01/12/84	JA: OK			
8416025	23675	3504723042		102-4		NEUNDORF #1		[illegible].0	ARCO OIL & GAS CO
-JERRY L PUTMAN				RECEIVED:	01/12/84	JA: OK			
8415908	24439	3503700000		103		WEATHERALL 037-80278 OTC NUMBER	DUTCHER	26.0	HERITAGE GAS CO
-JONES & PELLOW OIL CO				RECEIVED:	01/12/84	JA: OK			
8415949	25802	3501900000		103		NEWBERRY #12-1		0.0	MOBIL OIL CORP
-KAISER-FRANCIS OIL COMPANY				RECEIVED:	01/12/84	JA: OK			
8415895	23503	3505121405		102-4	103	GARRETT #1-5	N E VERDEN	1606.0	OKLAHOMA GAS & EL
8415916	23502	3505121409		102-4		GARRETT #1-6 (B)	N E VERDEN	1500.1	ARKANSAS LOUISIAN
-KANOKLA ENERGY CORP				RECEIVED:	01/12/84	JA: OK			
8416026	23676	3513322238		102-2		HARJO #1	HARJO	[illegible].0	KANOKLA ENERGY CO
-KIRKPATRICK OIL CO				RECEIVED:	01/12/84	JA: OK			
8416023	25416	3507323834		103		RATCLIFF A-2		[illegible].0	EXXON CO USA
-LEEDE OIL & GAS INC				RECEIVED:	01/12/84	JA: OK			
8415944	23805	3503920877		102-2		KILHOFFER #1	S E MOOREWOOD	470.0	TRANSOK PIPE LINE
-LITTLE RIVER ENERGY CO				RECEIVED:	01/12/84	JA: OK			
8415961	25043	3503724933		103		WHITEHEAD #3	N BRISTOW	[illegible].0	ARCO OIL & GAS CO
-LUBELL OIL CO				RECEIVED:	01/12/84	JA: OK			
8415992	25755	3512100000		103		BROWN #1-29	ULAN	[illegible].0	TRANSOK INC
8415951	25787	3512100000		103		GRANTHAM #1-28	ULAN	100.0	TRANSOK INC
8415970	25673	3506300000		103		MEYER #1-36	YEAGER	0.0	MEGA NATURAL GAS
8415971	25674	3510700000		103		STANFORD #2-35	S WELEETKA	[illegible].0	TRANSOK INC
-MAGIC CIRCLE ENERGY CORP				RECEIVED:	01/12/84	JA: OK			
8415984	25793	3515121306		103		CORBIN #1-32	S E WAYNOKA	[illegible].0	MAGIC CIRCLE GAS
8415881	25544	3501722477		103		MEYER #1	EAST OKARCHE	145.0	MAGIC CIRCLE GAS
8415993	25792	3507323800		103		RUDOLPH #1	OKARCHE	[illegible].0	PHILLIPS PETROLEU
-MARATAN RESOURCES CORP				RECEIVED:	01/12/84	JA: OK			
8415910	25433	3501722566		103		PAT #1-3	N E CONCHO	30.0	PHILLIPS PETROLEU
-MECA PETROLEUM CORP				RECEIVED:	01/12/84	JA: OK			
8416004	26700	3510500000		108		DEAN HUGHES #1	NOWATA CLAGETT	12.6	A-G SYSTEMS INC
-MUSTANG PRODUCTION CO.				RECEIVED:	01/12/84	JA: OK			
8416029	23628	3504922120		102-4		THOMAS JAMES #1-22	S W PAOLI	[illegible].0	WARREN PETROLEUM
-N S P CORP				RECEIVED:	01/12/84	JA: OK			
8415909	24441	3503700000		103		RUFF #3 037-72413-1	EDNA FIELD	[illegible].0	HERITAGE GAS CO
-NATURAL GAS ANADARKO INC				RECEIVED:	01/12/84	JA: OK			
8415907	24374	3500722397		103		KIMBALL 1-22	WEST 6 MILE	[illegible].0	TRANSWESTERN PIPE
-NONDORF OIL & GAS INC				RECEIVED:	01/12/84	JA: OK			
8415933	23761	3508322044		102-3		FOX #1-34	N SEWARD	104.0	EASON OIL CO
-OKIE OIL INC				RECEIVED:	01/12/84	JA: OK			
8415888	23648	3511922227		102-2		BISHOP #1	E SCHEGEL	201.0	
-OKLAND OIL CO				RECEIVED:	01/12/84	JA: OK			
8416028	23616	3501722445		102-2		CROOKHAM #1-3		[illegible].0	PHILLIPS PETROLEU
8415994	23734	3501722458		102-2		DALE ROBERTSON #1-34	NORTH YUKON	[illegible].0	CONOCO INC
-OKTEX OIL & GAS INC				RECEIVED:	01/12/84	JA: OK			
8416007	25357	3511124374		103		HOWARD #1	HECTORVIELD	54.8	PHILLIPS PETROLEU
-ONYX ENERGY CORP				RECEIVED:	01/12/84	JA: OK			
8415990	25748	3510222039		103		IDA MAY #3-20		[illegible].5	AMINOIL USA INC
8415991	25749	3507323698		103		PETRO #1-34		[illegible].5	PHILLIPS PETROLEU
-P C OIL CO				RECEIVED:	01/12/84	JA: OK			
8415988	25741	3511124570		103		TOMLIN #2	BEGGS DISTRICT	[illegible].0	PHILLIPS PETROLEU
-PCX CORP				RECEIVED:	01/12/84	JA: OK			
8415900	23338	3501521356		102-4		KOEHLER #1		[illegible].0	EL PASO NATURAL G
-PETROLEUM RESOURCES CO				RECEIVED:	01/12/84	JA: OK			
8415929	25658	3508100000		103		MATTHEWS #1		[illegible].2	TRIOK INC
-PHILLIPS PETROLEUM COMPANY				RECEIVED:	01/12/84	JA: OK			
8415952	9514	3501720806		108-PB		MATTHIES "A" #1		[illegible].0	TRANSOK PIPELINE
-PHOENIX ENERGY CORP				RECEIVED:	01/12/84	JA: OK			
8415997	25408	3501121699		103		FOX #1	SOONER TREND	128.0	PHILLIPS PETROLEU
-PHOENIX RESOURCES COMPANY				RECEIVED:	01/12/84	JA: OK			
8415913	25610	3515100000		103		CAMP-BIXLER # #2	WAYNOKA	19.0	PANHANDLE EASTERN
-PREMIER OPERATING CO				RECEIVED:	01/12/84	JA: OK			
8415928	25652	3504772345		103		HUTCHINSON #1	SOONER TREND	[illegible].0	EXXON CO USA
-PROSPECTIVE INVESTMENT & TRADING CO				RECEIVED:	01/12/84	JA: OK			
8415999	23793	3504521109		102-2		JENNY #1		0.0	PHILLIPS PETROLEU
-R & M PETROLEUM INC				RECEIVED:	01/12/84	JA: OK			
8415962	25220	3503725216		103		MARY B #2	MANNFORD	1.0	
-RAMCO OIL CO				RECEIVED:	01/12/84	JA: OK			
8415998	25707	3511724800		103		GRIESEL #1	UNKNOWN	[illegible].4	HJD GAS CO
-RATLIFF EXPLORATION CO				RECEIVED:	01/12/84	JA: OK			
8415890	25013	3510920784		102-4	103	AIRPORT TRUST A-33 #1		[illegible].0	MOBIL OIL CORP
8415878	25321	3510920793		102-4	103	AIRPORT TRUST B-33 #1		[illegible].0	
8415965	25606	3510920786		102-4		AIRPORT TRUST D-27 #1		[illegible].0	CONOCO INC
8415886	24298	3502720768		102-4	103	CALDWELL 7-#1		[illegible].0	
8415885	24296	3502720758		102-4	103	GILLS 6-#1		0.0	
8415964	25483	3510920771		102-4	103	HOOD 31 #1		[illegible].0	
8415894	21508	3502720702		102-4	103	MUZNY #6-1		[illegible].0	MOBIL OIL CORP
8415931	20675	3510920500		102-4	103	PALM BLADE #33-1		[illegible].0	MOBIL OIL CORP
8415893	20996	3502720719		102-4	103	PENICK #6-2		0.0	MOBIL OIL CORP
8415891	24676	3510920714		102-4	103	POWELL #31-1		0 0	
-RED EAGLE OIL CO				RECEIVED:	01/12/84	JA: OK			
8415983	25766	3501121838		103		POLLMAN #1	N W OKEENE	[illegible].0	PIONEER GAS PRODU
-REH INDUSTRIES				RECEIVED:	01/12/84	JA: OK			
8415882	23514	3510526277		102-2		ROBERTS E-3		21.0	NORTHWEST CENTRAL
8415902	23512	3510526278		102-2		ROBERTS E-4		20.0	NORTHWEST CENTRAL
8415896	23513	3510526267		102-2		ROBINSON #1		15.0	NORTHWEST CENTRAL
-ROBINSON BROS DRILLING CO INC				RECEIVED:	01/12/84	JA: OK			
8416038	23657	3514920336		102-4		KISSLER #3-1	SW WEATHERFORD	71.0	
-RUSSMARK ENERGY				RECEIVED:	01/12/84	JA: OK			

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8416014	25516	3501121893		103		SWAIM #1-24	NORTH HITCHCOCK	180.0	PHILLIPS PETROLEU
-RUST OIL CORP				RECEIVED:	01/12/84	JA: OK			
8415939	23768	3508322218		102-2		G WILLIAMSON #1		1255.6	SUN EXPLORATION &
-SANTA FE-ANDOVER OIL CO				RECEIVED:	01/12/84	JA: OK			
8415982	23692	3501722262		102-2	103	BOMHOFF #20-3		153.0	DELHI GAS PIPELIN
8415911	25566	3501121812		103		HOCHA ESTATE #22-2		360.0	ONG WESTERN INC
8415943	23806	3501721125		102-2	103	JACK COOKSEY #10-1		41.0	DELHI GAS PIPELIN
8416002	25679	3501121878		103		KEPHART #32-3		100.0	OKLAHOMA GAS PIPE
-SENECA OIL CO				RECEIVED:	01/12/84	JA: OK			
8415932	23801	3501722411		102-4	103	SIMPSON #1-5		11.0	PHILLIPS PETROLEU
-SIMCOE OIL CO				RECEIVED:	01/12/84	JA: OK			
8415973	25695	3507323851		103		BARR #2	SOONER TREND	90.0	PHILLIPS PETROLEU
-SPECTRA ENERGY CORP				RECEIVED:	01/12/84	JA: OK			
8415987	22607	3500722429		102-4		LONG #2	WILDCAT	1.0	
-STANTON ENERGY INC				RECEIVED:	01/12/84	JA: OK			
8415989	25743	3507325126		103		EVANS #2	PRUE FORMATION	0.0	
-SUNRISE EXPLORATION INC				RECEIVED:	01/12/84	JA: OK			
8415904	23560	3514920288		102-2	103	JOHNSON #1	CRYSTAL LAKE	182.5	MICHIGAN WISCONSI
-TANNER RESOURCES CORP				RECEIVED:	01/12/84	JA: OK			
8415946	25817	3505300000		103		LOTTI #A-1	MISSISSIPPI FORMATION	0.0	UNION TEXAS PETRO
-TENNECO OIL COMPANY				RECEIVED:	01/12/84	JA: OK			
8415960	25040	3509322725		103		L A WILCOX #2-3	OKEENE NW	0.5	PUBLIC SERVICE GA
8416021	25039	3501922783		103		SOUTH GRAHAM DEESE SAND UNIT #80-13	SHO-VEL-TUM	1.0	MOBIL OIL CORP
-TEXACO INC				RECEIVED:	01/12/84	JA: OK			
8416011	25642	3513921777		103		C OLSON "B" #2	GUYMON N E	29.0	
-TEXCO PETROLEUM INC				RECEIVED:	01/12/84	JA: OK			
8415923	25315	3511124313		103		TEXCO/AMEGA CROWELL #2	HECTOR	32.9	PHILLIPS PETROLEU
-THE WIL-MC OIL CORP				RECEIVED:	01/12/84	JA: OK			
8416008	25567	3511922259		103		DISNEY #1	NORTH COYLE	6.5	
8415965	25329	3510321957		103		EDMONDSON #1	INGRAM-PERRY	24.4	EL GRANDE PIPELIN
8416018	25508	3511922118		103		J O WILLIAMS #1	S W PARADISE	11.4	
8416012	25509	3511922163		103		J O WILLIAMS #2	S W PARADISE	11.4	
8416013	25510	3511922242		103		J O WILLIAMS #3	S W PARADISE	14.6	
8416017	25507	3511922245		103		J O WILLIAMS #4	S W PARADISE	14.6	
8415879	25506	3511922266		103		OTIS #1	COYLE ROAD	6.5	
-TOM BROWN INC				RECEIVED:	01/12/84	JA: OK			
8416024	23668	3501521328		102-3		AMERADA-FARMER #1-20	WILDCAT	0.0	TRANSOK PIPE LINE
-TOMMY M MOORE				RECEIVED:	01/12/84	JA: OK			
8415972	25687	3511124551		103		SHOUSE #1-A		49.0	PHILLIPS PETROLEU
-TOWNER PETROLEUM CO				RECEIVED:	01/12/84	JA: OK			
8415897	23536	3501521522		102-4	103	DELANO #12-1		0.0	
-TRANS-WESTERN EXPLORATION INC				RECEIVED:	01/12/84	JA: OK			
8415996	23774	3505214518		102-2	103	CAPRON-SMITH #1-31		875.0	OKLAHOMA GAS & EL
8415938	23767	3514920303		102-2		HUMBARGER #1-34		140.0	OKLAHOMA GAS & EL
8415936	23765	3514920296		102-2	103	MEGLI #1-36		150.0	OKLAHOMA GAS & EL
8415937	23766	3514920323		102-2	103	PAYNE #1-25		135.0	OKLAHOMA GAS & EL
-TXO PRODUCTION CORP				RECEIVED:	01/12/84	JA: OK			
8415948	25814	3503121169		103		DEE DEE #2-9	FT SILL	0.0	DELHI GAS PIPELIN
8416016	25497	3512121053		103		KETCHUM #1		230.0	
8415942	25071	3504320181		108		MEYER "A" #1	PUTNAM	12.5	DELHI GAS PIPELIN
8415901	23380	3507920263		102-4		ROY REED #1-28		0.0	DELHI GAS PIPELIN
8416006	23173	3504321659		102-4		ZINGER #1	VICI	0.0	MUSTANG FUEL CORP
-UNION TEXAS PETROLEUM				RECEIVED:	01/12/84	JA: OK			
8416020	24880	3507300000		108		HENRY PEACH #1	DOVER HENNESSEY	17.0	EXXON CO
8415959	24835	3500320985		108		HERTZLER C #2	HODGE I	0.0	PANHANDLE EASTERN
-WARD PETROLEUM CORP				RECEIVED:	01/12/84	JA: OK			
8415922	25307	3502720769		103		URBANSKY #1	E MOORE	3421.0	SUN GAS CO
-WILLIAM M DAVIS				RECEIVED:	01/12/84	JA: OK			
8415954	23687	3510321641		103		GEORGE KLEIN #1	E POLO	14.0	ARCO OIL & GAS CO
-WOODS PETROLEUM CORPORATION				RECEIVED:	01/12/84	JA: OK			
8416009	25637	3510322041		103		BMU BACK #B-5	S BILLINGS MISSISSIPP	16.0	ARCO OIL & GAS CO
8415967	25564	3501722525		103		EARLES UNIT #2	M COGAR	477.0	NORTHWEST CENTRAL
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PENNSYLVANIA DEPARTMENT OF ENVIRONMENTAL RESOURCES									
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-CASTLE GAS CO INC				RECEIVED:	01/12/84	JA: PA			
8415848	20101	3706327430		103		L E SMITH #1(C-771) IND-27430	CENTER TOWNSHIP	60.0	PEOPLES NATURAL G
8415852	21563	3706327396		103		V ENDERLEIN #3 (C-769) IND-27396	WHITE TOWNSHIP	55.0	PEOPLES NATURAL G
-CONSOLIDATED GAS SUPPLY CORPORATION				RECEIVED:	01/12/84	JA: PA			
8415846	19649	3706522066		108		A P ANTHONY WN-1806	HENDERSON	22.0	GENERAL SYSTEM PU
-DOC-MCC SERVICE CO				RECEIVED:	01/12/84	JA: PA			
8415866	20001	3712921764		108		D A & R E PORTER 890-2	EAST HUNTINGDON	21.2	TEXAS EASTERN TRA
8415847	19797	3712921773		108		GILBERT W & FOSTER POORBAUGH 797-2	EAST HUNTINGDON	19.5	TEXAS EASTERN TRA
-EASTERN STATES EXPLORATION CO				RECEIVED:	01/12/84	JA: PA			
8415855	21754	3702720030		102-2		COMMONWEALTH OF PA TR-231 #4	COUNCIL RUN	60.0	TEXAS EASTERN TRA
-ENVIROGAS INC				RECEIVED:	01/12/84	JA: PA			
8415862	21884	3704920949		102-4		G M MCGUIRE #1	NORTH EAST	18.0	NATIONAL FUEL GAS
-GULF OIL CORPORATION				RECEIVED:	01/12/84	JA: PA			
8415874	21924	3703320559		108-SA		DAISHER WM #2	REED-DEEMER (UPPER DE	19.3	NATIONAL FUEL GAS
8415870	21918	3703320396		108-SA		DICKEY #1	REED-DEEMER (UPPER DE	19.3	NATIONAL FUEL GAS
8415869	21917	3703320405		108-SA		FEE "A" #70	REED-DEEMER (UPPER DE	19.3	NATIONAL FUEL GAS
8415873	21921	3703320411		108-SA		FEE "A" #79	REED-DEEMER (UPPER DE	19.3	NATIONAL FUEL GAS
8415872	21920	3703320601		108-SA		FEE "A" #88	REED-DEEMER (DEVONIAN	19.3	NATIONAL FUEL GAS
8415876	21926	3703300000		108-SA		IRVIN B W #1	REED-DEEMER (DEVONIAN	19.3	NATIONAL FUEL GAS
8415871	21919	3703320400		108-SA		IRVIN B W #4	REED-DEEMER (DEVONIAN	19.3	NATIONAL FUEL GAS
8415875	21925	3703320557		108-SA		IRVIN B W #6	REED-DEEMER (DEVONIAN	19.3	NATIONAL FUEL GAS
8415877	21927	3703320398		108-SA		KUNTZ "B" #1	REED-DEEMER (DEVONIAN	20.8	NATIONAL FUEL GAS
8415868	21916	3703321527		108-SA		SEIFERT #2	REED-DEEMER (DEVONIAN	19.7	NATIONAL FUEL GAS
8415867	21915	3706521045		108-SA		SOMMERVILLE #2	REED-DEEMER (DEVONIAN	19.3	NATIONAL FUEL GAS
-HIMES BOBBY A				RECEIVED:	01/12/84	JA: PA			
8415863	21890	3706521826		103		WARREN R REYNOLDS #1	WINSLOW	4.0	
-INTEGRATED ENERGY INC				RECEIVED:	01/12/84	JA: PA			
8415861	21866	3702120055		108		JAMES E WESTRICK #1	HASTINGS	2.0	ALLEGHENY LUDLUM
8415860	21865	3702120065		108		RICHARD P ANNA #1	HASTINGS	4.0	ALLEGHENY LUDLUM
-J & J ENTERPRISES INC				RECEIVED:	01/12/84	JA: PA			
8415849	21090	3706362032		108		ORVILLE M WATSON #4	WASHINGTON	8.0	T W PHILLIPS GAS
-JEAN O MYERS				RECEIVED:	01/12/84	JA: PA			
8415865	21905	3700520516		107-PE		HUFFMAN #3	PARKS	550.8	PEOPLES NATURAL G
8415864	21904	3700520849		107-PE		HUFFMAN #4	PARKS	550.8	PEOPLES NATURAL G
-MARK RESOURCES CORP				RECEIVED:	01/12/84	JA: PA			
8415851	21429	3712135078		107-TF		DEEFER #1	JACKSON	50.0	NATIONAL FUEL GAS
8415850	21390	3705335078		108		SWANSON-FOX TRUST #2	HOWE	0.0	UGI CORP
-PEOPLES NATURAL GAS CO				RECEIVED:	01/12/84	JA: PA			
8415856	21759	3712922224		103		LATROBE BREWING CO #5 WES-22224	W PENNA - UPPER DEVON	18.0	PEOPLES NATURAL G

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-S T JOINT VENTURE 82-C				RECEIVED: 01/12/84		JA: PA			
8415859	21770	3703321543		103		O'DELL #1	PIKE	25.0	CONSOLIDATED GAS
-S T JOINT VENTURE 82-D				RECEIVED: 01/12/84		JA: PA			
8415858	21769	3703321525		103		THOMAS #1	PENN	25.0	CONSOLIDATED GAS
-S T JOINT VENTURE 82E				RECEIVED: 01/12/84		JA: PA			
8415853	21639	3703321530		102-2		MCCLURE #1	PIKE	25.0	CONSOLIDATED GAS
-W G SHAMER				RECEIVED: 01/12/84		JA: PA			
8415857	21765	3703100000		108		GENE REIGHART #1	NEW BETHLEHEM	0.0	COLUMBIA GAS TRAN
-W J LYDIC INC				RECEIVED: 01/12/84		JA: PA			
8415854	21386	3712521446		107-DV		JOHN HUNTER #1	HOPEWELL	18.0	PEOPLES NATURAL G
UTAH DIVISION OF OIL,GAS, & MINING									
-BELCO DEVELOPMENT CORP				RECEIVED: 01/04/84		JA: UT			
8416031	K-111-21	4304731385		103		107-TF CWU 225-2	CHAPITA WELLS UNIT	0.0	MOUNTAIN FUEL SUP

CORRECTIONS TO PREVIOUS NOTICES / REVISIONS TO PRIOR DETERMINATIONS

JD No.	JA	Applicant	Well Name	Orig. FERC Vol. No.	Date Pub. in Federal Register	C: Correction to prior Fed. Register notice
80-11836	KS	American Petrofina	Blunk No. 1	142	2-6-80	C: 108-ER approved, not 108
81-49773	US(MT)	Midland Gas Corp.	3551 Federal #1	519	10-26-81	C: Well name
82-01097	NM	J Gregory Merrion & Robert L. Bayless	East Lindrith #6	529	11-9-81	C: 103 approved; not denied
82-28055	OH	Superior Petroleum Inc.	Ward #1	645	5-12-82	C: 107-DV approved, not denied
82-28294	OK	Sentry Petroleum	Marco #3	646	5-17-82	C: 102-4 & 103 approved
82-41985	OK	Trans-Western Expl.	Franz #1-9	696	8-13-82	C: 102-4 & 103 approved
82-42689	OK	R J Walker Oil Co, Inc.	Hart No. 1	699	8-4-82	C: 102-4 and 103 approved
82-49057	OK	Petro-Energy Explo., Inc.	Gompf 1-30	726	9-17-82	C: Well name
82-56168	PA	Jean O. Myers	Robert Burlando #3	753	10-14-82	C: Well name
83-01083	TX	TXO Production Corp.	Mobley #1	765	11-4-82	C: Applicant name
83-28005	OK	Ricks Exploration	Sauer 23-A	808	4-18-83	C: 102-4 & 103 approved
83-37846	KS	South Eastern Gas & Oil	Benning #3	912	6-15-83	C: Applicant name
83-37847	KS	South Eastern Gas & Oil	Benning #1	912	6-15-83	C: Applicant name
83-41164	TX	Mitchell Energy	J. C. Chaney #1	925	7-7-83	C: 108-PB approved, not 108
83-45698	NM	Amoco Production Co.	Bruington Gas Com "C" No. 1	944	7-18-83	C: 108 approved, not 103
83-45977	OK	Kaiser-Francis Oil Co.	State Bob #3	945	8-8-83	C: 102-4 & 103 approved
83-46364	OK	DLB Energy Corp.	Ellen #17-8	947	8-15-83	C: 102-4 approved, not 103
83-53044	NY	Azel R. Ford	Bully Hill 6213 (JO) EGSPNY #1	968	9-20-83	C: Well name
83-53045	NY	Maynard Oil Co.	Frank Newton #1	968	9-20-83	C: Well name
83-53055	NY	P & S Drilling	Vanstrom #1	968	9-20-83	C: 102-2 & 107-TF approved
83-53074	US(CO)	American Resources	C C 25-3	968	9-20-83	C: 103 & 107-TF approved
83-53075	US(CO)	American Resources	T C 3-4	968	9-20-83	C: 102 & 107-TF approved
83-53076	US(CO)	American Resources	C C 26-1	968	9-20-83	C: 102 & 107-TF approved
83-53747	WV	St. Mary's Eastern Energy Inc.	Spindletop-Wetz E.E. #101	970	9-20-83	C: Well name
83-53887	PA	Le Boeuf Energy Inc.	McGahan #1 ER122450	971	9-28-83	C: 102-2 approved, not 102-1
83-54420	US(MT)	Celsius Energy Co.	Benjamin Federal Land Bank 1-27	973	9-30-83	C: Well name
83-54444	US(CO)	Coors Energy Co.	USA-1-8MR	973	9-30-83	102-2 & 107-TF approved

JD No.	JA	Applicant	Well Name	Orig. FERC Vol. No.	Date Pub. in Federal Register	C: Correction to prior Fed. Register notice
83-54445	US(CO)	Coors Energy Co.	USA 1-26 HG	973	9-30-83	C: 102-2 & 107-TF approved
83-54454	WV	Patty R. Richner	Buzzo #1	973	9-30-83	C: 107-TF approved, not 107-DV
83-54586	LA	Ergon Inc.	Mary Hayes #1	974	9-30-83	C: 103 & 107-TF approved
83-54593	LA	Cotton Petroleum Corp.	O'Daniel #1 SMK RA SU "A"	974	9-30-83	c: 102-4 & 103 approved
83-55400	US(WY)	N.C.C. of California	NGC 41-14E Federal	978	10-6-83	C: 103 & 107-TF approved
83-55417	US(WY)	Snyder Oil Co.	West Wamsutter Fed. 1-34	978	10-6-83	C: 103 & 107-TF approved
83-55419	US(WY)	Belco Petroleum Corp.	Elbu 37-U	978	10-6-83	C: 103 & 107-TF approved
83-55420	US(WY)	HPC Inc.	Triton #10	978	10-6-83	C: 102-2 & 107-TF approved
83-55444	US(WY)	Natural Gas Corp. of Col.	NGC 32-31 Federal	978	10-6-83	C: 103 & 107-TF approved
83-55456	US(WY)	Snyder Oil Co.	CIGE Federal 1c-30-17-93	978	10-6-83	C: 103 & 107-TF approved
83-55457	US(WY)	Snyder Oil Co.	CIGE Pet. Corp. Federal 10-32-18-93	978	10-6-83	C: 103 & 107-TF approved
83-55460	US(WY)	Amoco	Coal Gulch Unit "H" 1	978	10-6-83	C: 102-2 & 107-TF approved
83-55461	US(WY)	Gulf Oil	Barrell Springs Unit 12-1	978	10-6-83	C: 103 & 107-TF approved
83-55462	US(WY)	Natural Gas Corp. of Col.	Fontenelle 11-27B	978	10-6-83	C: 103 & 107-TF approved
83-55468	US(WY)	Snyder Oil	PTS Federal 1c-18-18-92	978	10-6-83	C: 103 & 107-TF approved
83-55490	US(WY)	Bensen-Hantin-Cneer	Brown's Hill Unit J-31X	978	10-6-83	C: 102-4 & 107-RT approved
83-55553	OK	Beta Oil	Davis #3-2	978	10-6-83	C: 102-4 & 103 approved
83-55602	OK	Samson Resources Co.	Walker #2-36	979	10-7-83	C: 102-4 & 103 approved
83-55789	LA	Gas Accounting Service	Wheeler et al #2	980	10-14-83	C: 103 & 107-TF approved
83-55837	LA	Franks Petroleum Inc. et al.	E.J. Joseph #1 GR RA SUE	980	10-14-83	C: 102-2 & 103 approved
83-55918	LA	Conoco	S/L 979 WD BLK 54 #23	980	10-14-83	C: Well name
83-56018	WY	NRM Petroleum Corp.	Brake #1	980	10-14-83	C: Well name
83-56116	TX	Edwin L. Cox	Olmitos Ranch #6	981	10-14-83	C: Well name
83-56279	TX	TXO Prod. Corp.	Burke "C" #1	981	10-14-83	C: Well name
83-56286	TX	Precision Drilling	Hardy Blue #4	981	10-14-83	C: Well name
83-56667	OK	PSEC Inc.	Lowery #1 -35	983	10-18-83	C: 107-TF approved, not 107-PE
83-56758	OK	Paul Walker	URICE #3	984	10-18-83	C: Well name
83-57160	US(LA)	Shell Offshore Inc.	WD 105 FLD OCS 841 #C-11-B	985	10-20-83	C: 102-5 approved, not 102-4
83-57187	US(LA)	Gulf Oil Corp.	OCS G-0983 #1-1D	985	10-20-83	C: Well name
83-57387	WV	Peake Operating Co.	Crab Orchard #15-AC	986	10-31-83	C: 107-TF approved; not 107-DV
83-57766	US(NM)	Tenneco Oil Corp.	Day 1E	988	10-31-83	C: Well name
84-00014	US(CO)	Fuel Resources Develop.	#21-16 Federal	988	10-31-83	C: 103 & 107-TF approved
84-00037	TX	Howell Drlg.	Leon Barnes #B-1	989	11-1-83	C: 102-4 & 107-DP approved
84-00478	TX	Conoco	TJ-JL Waggoner #53	990	11-1-83	C: Well name
84-00756	WV	Alleghany Land & Mineral Co.	A-1094	992	11-9-83	C: 102-2 approved, not 103
84-00860	WV	Stonestreet Lands Co.	Sears Bailey #5-G-1	992	11-9-83	C: 103 approved, not 107-DV
84-01195	VA	Philadelphia Oil Co.	TJ Ball -#P-23	994	11-9-83	C: 103 & 107-TF approved
84-01196	VA	Philadelphia Oil Co.	Wilma C. Helton #P-133	994	11-9-83	C: 103 & 107-TF approved
84-01197	VA	Philadelphia Oil Co.	Nell Phipps - #P-134	994	11-9-83	C: 103 & 107-TF approved
84-01198	VA	Philadelphia Oil Co.	Steinman Development Co. #P-140	994	11-9-83	C: 103 & 107-TF approved
84-01199	VA	Philadelphia Oil Co.	Jesse Wampler - #P-143	994	11-9-83	C: 103 & 107-TF approved
84-01200	VA	Philadelphia Oil Co.	Isaac Cochran -#P-166c	994	11-9-83	C: 103 & 107-TF approved
84-01201	VA	Philadelphia Oil Co.	James H. Sutherland #P-167c	994	11-9-83	C: 103 & 107-TF approved
84-01314	OK	Santa Fe Energy Products	Larry #1-33	994	11-9-83	C: 102-3 & 107-DP approved
84-01680	TX	Lear Pet. Explo. Inc.	Davis #1-56	996	11-9-83	C: 107-DP approved
84-02005	US(MT)	Midlands Gas Corp.	Federal 1-0871	997	11-9-83	C: 108-ER approved, not 108
84-02006	US(MT)	Midlands Gas Corp.	Federal 1-0832	997	11-9-83	C: 108-ER approved, not 108
84-02752	CO	Union Texas Petroleum	Jones Dupree #7	1000	11-25-83	C: 107-RT approved, not 107-PE

[FR Doc. 84-4114 Filed 2-14-84; 8:45 am]
BILLING CODE 6717-01-C

[Vol. 1062]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: February 10, 1984.

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The applications for determination are available for inspection except to the extent such material is confidential under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol St., Washington, D.C. Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 275.204, file a protest with the Commission within fifteen days after publication of notice in the Federal Register.

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102-4: New onshore reservoir
102-5: New reservoir on old OCS lease
Section 107-DP; 15,000 feet or deeper
107-GB: Geopressured brine
107-CS: Coal Seams
107-DV: Devonian Shale
107-PE: Production enhancement
107-TF: New tight formation
107-RT: Recompletion tight formation
Section 108: Stripper well
108-DA: Seasonally affected
108-ER: Enhanced recovery
108-PB: Pressure buildup

Kenneth F. Plumb,
Secretary.

NOTICE OF DETERMINATIONS
ISSUED FEBRUARY 10, 1984

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
LOUISIANA OFFICE OF CONSERVATI									
-CONOCO INC				RECEIVED:	01/13/84	JA: LA			
8416256	83-0648	1703920260		103		B G FONTENOT #6	VILLE PLATTE FIELD	15.0	LOUISIANA INTRAST
-ELDORADO GAS INC				RECEIVED:	01/13/84	JA: LA			
8416265	831643	1703920208		103		Y SUC DESHOTELS #1	WEST FENRIS	25.0	CONOCO INC
-GRACE PETROLEUM CORPORATION				RECEIVED:	01/13/84	JA: LA			
8416260	83-1058	1701724255		103		L W BRYSON #1	LONGWOOD	0.0	ARKANSAS LOUISIAN
-GULF OIL CORPORATION				RECEIVED:	01/13/84	JA: LA			
8416268	83-1516	1708920355		103		DSCI #139	BAYOU COUBA	29.0	TRANSCONTINENTAL
8416259	83-0738	1705721978		103		S L PP 192 # 297	TIMBALIER BAY	75.0	TENNESSEE GAS PIP
-KERR-MCGEE CORPORATION				RECEIVED:	01/13/84	JA: LA			
8416258	83-0697	1772620265		103		S L 1999 #43	BRETON SOUND BLOCK 38	31.0	SOUTHERN NATURAL
8416257	83-0696	1772620294		103		S L 2000 #61	BRETON SOUND BLOCK 20	260.0	SOUTHERN NATURAL
-MICH-LA OIL & GAS EXPLORATION				RECEIVED:	01/13/84	JA: LA			
8416262	83-1060	1703122021		103		W G LORD #9	GROGAN	12.0	TENNESSEE GAS PIP
-MRT EXPLORATION COMPANY				RECEIVED:	01/13/84	JA: LA			
8416267	83-1640	1706120293		103		FRANK H CALLAWAY #1	HICO-KNOWLES	216.0	MISSISSIPPI RIVER
-PETRO-LEWIS CORPORATION				RECEIVED:	01/13/84	JA: LA			
8416261	83-1054	1708720227		103		BILOXI MARSHLAND #3	CHANDELEUR SOUND BLOC	547.5	SOUTHERN NATURAL
8416263	83-1061	1708720227		103		BILOXI MARSHLAND #3D	CHANDELEUR SAND BLOCK	[illegible].5	SOUTHERN NATURAL
-PRIDE EXPLORATION INC				RECEIVED:	01/13/84	JA: LA			
8416264	83-1645	1701724958		103		ELLERBE #1	GREENWOOD-WASKOM	175.0	TEXAS EASTERN TRA
-SUPERIOR OIL CO				RECEIVED:	01/13/84	JA: LA			
8416269	83-1363	1704720689		103		SCHWING L & S CO #91	BAYOU BLEU	[illegible].0	DOW INTRASTATE GA
-TEXACO INC				RECEIVED:	01/13/84	JA: LA			
8416270	83-1712	1770720120		103		SL 340 MOUND POINT #93	MOUND POINT	322.3	KAISER ALUMINUM &
-TEXAS GENERAL PETROLEUM CORP				RECEIVED:	01/05/84	JA: LA			
8416271	83-1095	1773020007		102-2		STATE LEASE 9680 #1	WILDCAT - CHANDELEUR	400.0	
-UNION OIL COMPANY OF CALIF				RECEIVED:	01/13/84	JA: LA			
8416266	83-1642	1710922445		103		HOUMA COMMUNITY #2 TEX(W)4 RA SUA	HOUMA	[illegible].0	UNITED GAS PIPE L
MISSISSIPPI OIL & GAS BOARD									
-AMOCO PRODUCTION CO				RECEIVED:	01/13/84	JA: MS			
8416278	74-83-220	2302320641		103		MASONITE 15-15 WELL #2	PRAIRIE BRANCH	[illegible].0	GETTY OIL CO
-CALLON PETROLEUM CO & ENERGETICS IN				RECEIVED:	01/13/84	JA: MS			
8416277	78-83-129	2312720070		102-4	103	JONES #1	SOUTH MERIT FIELD	100.0	
-CALLON PETROLEUM COMPANY				RECEIVED:	01/13/84	JA: MS			
8416274	59-83-372	2312720039		103		ABERNATHY GAS UNIT #1	OAK GROVE	195.0	FRM INC
8416276	49-83-372	2312720037		103		OLIVE-BERRY GAS UNIT #1	OAK GROVE	0.0	
8416281	71-83-372	2312720092		102-2	103	PAUL NEWSOME ESTATE 2-9 WELL #1	OAK GROVE	640.0	FRM INC
8416275	50-83-372	2312720047		103		THURMAN-MAGEE GAS UNIT #1	OAK GROVE	[illegible].0	
-GETTY OIL COMPANY				RECEIVED:	01/13/84	JA: MS			
8416282	78-83-119	2314720107		102-4		STOGNER 12-8 #1	DEXTER	[illegible].0	SOUTHERN NATURAL
-MOSBACHER PRODUCTION CO				RECEIVED:	01/13/84	JA: MS			
8416280	72-83-434	2307720069		107-DP		EDWARD HEDGEPETH #1	MONTICELLO (HOSSTON)	116.0	
-PRUET PRODUCTION CO				RECEIVED:	01/13/84	JA: MS			

BILLING CODE 6717-01-M

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8416086	NM-1747-83PB	3004506452		108-PB		JOHN CHARLES #5	SOUTH BLANCO	0.0	EL PASO NATURAL G
8416083	NM-1751-83PB	3004506554		108-PB		MARSHALL A #2	SOUTH BLANCO	0.0	EL PASO NATURAL G
-GULF OIL CORPORATION				RECEIVED:	01/12/84	JA: NM 4			
8416041	NM-1385-83PB	3004524584		108-PB		FULLERTON FEDERAL #12	WEST KUTZ PICTURED CL	10.0	EL PASO NATURAL G
-JOHN E SCHALK				RECEIVED:	01/12/84	JA: NM 4			
8416053	NM-1858-83PB	3003921037		108-PB		SCHALK 29-4 #1	BLANCO	0.0	NORTHWEST PIPELIN
-KOCH INDUSTRIES INC				RECEIVED:	01/12/84	JA: NM 4			
8416043	NM-1515-83PB	3004521838		108-PB		CAIN #2	BLANCO	0.0	EL PASO NATURAL G
8416042	NM-1649-83PB	3004508504		108-PB		WRIGHT #2	AZTEC	0.0	EL PASO NATURAL G
-LIVELY EXPLORATION COMPANY				RECEIVED:	01/12/84	JA: NM 4			
8416044	NM-1826-83PB	3004521818		108-PB		LIVELY #1	BASIN	0.0	EL PASO NATURAL G
-M J BRANNON				RECEIVED:	01/12/84	JA: NM 4			
8416039	NM-1680-83PB	3004505238		108-PB		FEDERAL 28 #1	BASIN DAKOTA	15.0	EL PASO NATURAL G
-MERRION OIL & GAS CORP				RECEIVED:	01/12/84	JA: NM 4			
8416045	NM-1832-83PB	3004320273		108-PB		JICARILLA 428 #4	BALLARD	0.0	NORTHWEST PIPELIN
-MOBIL PRDG TEXAS & NEW MEXICO INC				RECEIVED:	01/12/84	JA: NM 4			
8416046	NM-1831-83PB	3003907044		108-PB		JICARILLA E #3	BLANCO S GAVALIN	0.0	NORTHWEST PIPELIN
8416047	NM-1828-83PB	3004509323		108-PB		STEPHENS UNIT #1	BASIN	0.0	NORTHWEST PIPELIN
-NORTHERN NATURAL GAS PRODUCING CO				RECEIVED:	01/12/84	JA: NM 4			
8416048	NM-1829-83PB	3004500000		108-PB		NYE FEDERAL #3	BLANCO	0.0	EL PASO NATURAL G
8416049	NM-1830-83PB	3004500000		108-PB		NYE FEDERAL TRACT 1 #2	BASIN	0.0	NORTHERN NATURAL
-NORTHWEST PIPELINE CORPORATION				RECEIVED:	01/12/84	JA: NM 4			
8416076	NM-1898-83PB	3004521163		108-PB		COX CANYON #11	BLANCO PICTURED CLIFF	0.0	NORTHWEST PIPELIN
8416068	NM-1891-83PB	3004521487		108-PB		HOLT #3	BLANCO PICTURED CLIFF	0.0	NORTHWEST PIPELIN
8416077	NM-1899-83PB	3003920019		108-PB		JICARILLA 92 #5	TAPACITO PICTURED CLI	0.0	NORTHWEST PIPELIN
8416069	NM-1892-83PB	3003921133		108-PB		JICARILLA 93 #10	TAPACITO PICTURED CLI	0.0	NORTHWEST PIPELIN
8416070	NM-1890-83PB	3003907963		108-PB		ROSA UNIT 16	BLANCO MESAVERDE	0.0	NORTHWEST PIPELIN
8416071	NM-1888-83PB	3003907971		108-PB		ROSA UNIT 22	BLANCO MESAVERDE	0.0	NORTHWEST PIPELIN
8416072	NM-1887-83PB	3003907981		108-PB		ROSA UNIT 41	BLANCO MESAVERDE	0.0	NORTHWEST PIPELIN
8416078	NM-1900-83PB	3003907567		108-PB		SAN JUAN 29-5 UNIT 16	BLANCO MESAVERDE	0.0	NORTHWEST PIPELIN
8416079	NM-1901-83PB	3003907838		108-PB		SAN JUAN 30-5 UNIT 10	BLANCO MESAVERDE	0.0	NORTHWEST PIPELIN
8416074	NM-1907-83PB	3003921148		108-PB		SAN JUAN 30-5 UNIT 2R	BLANCO MESAVERDE	0.0	NORTHWEST PIPELIN
8416067	NM-1902-83PB	3003907792		108-PB		SAN JUAN 30-5 UNIT 27	BLANCO MESAVERDE BASI	0.0	NORTHWEST PIPELIN
8416066	NM-1903-83PB	3003907799		108-PB		SAN JUAN 30-5 UNIT 30	BLANCO MESAVERDE	0.0	NORTHWEST PIPELIN
8416073	NM-1908-83PB	3003907799		108-PB		SAN JUAN 30-5 UNIT 30	BLANCO MESAVERDE	0.0	NORTHWEST PIPELIN
8416081	NM-1904-83PB	3003921791		108-PB		SAN JUAN 30-5 UNIT 63	BLANCO PICTURED CLIFF	0.0	NORTHWEST PIPELIN
8416065	NM-1894-83PB	3003907754		108-PB		SAN JUAN 30-5 UNIT 7	BLANCO MESAVERDE	0.0	NORTHWEST PIPELIN
8416075	NM-1906-83PB	3003907907		108-PB		SAN JUAN 31-6 UNIT 14	BLANCO MESAVERDE	0.0	EL PASO NATURAL G
8416080	NM-1905-83PB	3004511251		108-PB		SAN JUAN 32-7 UNIT 14	BLANCO MESAVERDE	0.0	NORTHWEST PIPELIN
8416064	NM-1895-83PB	3004511135		108-PB		SAN JUAN 32-8 UNIT 14	BLANCO MESAVERDE	0.0	NORTHWEST PIPELIN
8416045	NM-1893-83PB	3004510675		108-PB		SAN JUAN 32-8 UNIT 23	BLANCO MESAVERDE	0.0	NORTHWEST PIPELIN
8416062	NM-1897-83PB	3004522170		108-PB		SAN JUAN 32-8 UNIT 37	LOS PINOS NO FRUITLAN	0.0	EL PASO NATURAL G
-R & G DRILLING CO				RECEIVED:	01/12/84	JA: NM 4			
8416050	NM-1862-83PB	3004520359		108-PB		HAMMOND #49	SOUTH BLANCO	0.0	EL PASO NATURAL G
8416051	NM-1703-83PB	3004507200		108-PB		SCHLOSSER #26	KUTZ FRUITLAND	14.8	EL PASO NATURAL G
-SCHALK DEVELOPMENT COMPANY				RECEIVED:	01/12/84	JA: NM 4			
8416052	NM-1857-83PB	3003920929		108-PB		SCHALK 52-6	BLANCO	0.0	NORTHWEST PIPELIN
-SOUTHERN UNION EXPLORATION COMPANY				RECEIVED:	01/12/84	JA: NM 4			
8416054	NM-1827-83PB	3004511852		108-PB		HODGES #9	BASIN DAKOTA	11.0	EL PASO NATURAL G
-SOUTHLAND ROYALTY CO				RECEIVED:	01/12/84	JA: NM 4			
8416055	NM-18-83-ER	3004507381		108-ER		BRINK #2	FULCHER KUTZ	0.0	SOUTHERN UNION GA
8416057	NM-1872-83PB	3004508787		108-PB		HARE #1	AZTEC	0.0	EL PASO NATURAL G
8416058	NM-1871-83PB	3004511125		108-PB		LAWSON FEDERAL #1	BLANCO	0.0	SOUTHERN UNION GA
8416056	NM-1380-83PB	3004507512		108-PB		MCCLANAHAN #1	AZTEC	0.0	EL PASO NATURAL G
8416060	NM-1217-83PB	3004507512		108-PB		MCCLANAHAN #1	AZTEC	0.0	EL PASO NATURAL G
8416059	NM-1870-83PB	3004524150		108-PB		STATE LINE #2	BASIN	0.0	EL PASO NATURAL G
-TENNECO OIL COMPANY				RECEIVED:	01/12/84	JA: NM 4			
8416105	NM-1863-83PB	3004511659		108-PB		FLORANCE #56	BLANCO	0.0	EL PASO NATURAL G
8416106	NM-1868-83PB	3004511797		108-PB		MOORE C #1	BASIN	0.0	NORTHWEST PIPELIN
8416107	NM-1864-83PB	3004511818		108-PB		MOORE C #2	BASIN	0.0	NORTHWEST PIPELIN
-UNION TEXAS PETROLEUM				RECEIVED:	01/12/84	JA: NM 4			
8416061	NM-1210-83PB	3004507993		108-PB		ALBRIGHT #7	BASIN	0.0	EL PASO NATURAL G

[FR Doc. 84-4115 Filed 2-14-84; 8:45 am]

BILLING CODE 6717-01-C

[Vol. 1063]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

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Kenneth F. Plumb,

Secretary.

NOTICE OF DETERMINATIONS
ISSUED FEBRUARY 10, 1984

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
COLORADO OIL & GAS COMMISSION									
-ACEITE ENERGY CORP				RECEIVED:	01/13/84	JA: CO			
8416293	83-501	0512311016		103		L F RANCH #1-24	SAND CANYON	200.0	ASSOCIATED NATURA
8416294	83-500	0512311015		103		TWO E RANCH #1-10	SAND CANYON	170.0	ASSOCIATED NATURA
-AMERICAN PETROLEUM ENERGY CO INC				RECEIVED:	01/13/84	JA: CO			
8416378	83-473	0506706164		108		ARGENTA UTE #2	IGNACIO-BLANCO	0.0	NORTHWEST PIPELIN
-AMOCO PRODUCTION CO				RECEIVED:	01/13/84	JA: CO			
8416335	83-465	0512303419		108		AL KURTZ GAS UNIT #1	WATTENBERG	16.1	PANHANDLE EASTERN
8416326	83-587	0512307939		108		ANDERSON FAMILY TRUST "C" #1	WATTENBERG	15.7	PANHANDLE EASTERN
8416328	83-461	0500107208		108		CHAMPLIN 67 AMOCO "E" #1	CHIEFTAIN	17.5	PANHANDLE EASTERN
8416329	83-601	0500107192		108		CHAMPLIN 75 AMOCO "G" #1	WATTENBERG	18.5	PANHANDLE EASTERN
8416339	83-591	0512307967		108		CHARLES R MILLIKEN UNIT #1	WATTENBERG	19.0	PANHANDLE EASTERN
8416340	83-592	0512307924		108		DONALD K NORGREN UNIT "C" #1	WATTENBERG	20.2	PANHANDLE EASTERN
8416290	83-483	0506706339		103		FORD GAS UNIT "E" #1	IGNACIO BLANCO - DAKO	13.0	
8416291	83-482	0506706339		103		FORD GAS UNIT "F" #1	IGNACIO BLANCO - MESA	25.0	
8416332	83-462	0512308418		108		FRANK GUERTNER #1	WATTENBERG	19.7	PANHANDLE EASTERN
8416325	83-458	0512308413		108		GILBERT ACORD GAS UNIT #1	WATTENBERG	20.3	PANHANDLE EASTERN
8416331	83-588	0512307744		108		GOTTLIEB GABLE UNIT #1	WATTENBERG	17.1	PANHANDLE EASTERN
8416348	83-562	0512307273		108		J J WARDELL "C" #1 - (2ND FILING)	WATTENBERG	14.9	PANHANDLE EASTERN
8416330	83-561	0500106976		108		JEAN A EHLER GAS UNIT #1	WATTENBERG	20.6	PANHANDLE EASTERN
8416292	83-558	0506706331		103		KOON GAS UNIT #1E	IGNACIO BLANCO	20.0	EL PASO NATURAL G
8416324	83-600	0512308084		108		LEONARD G ABBETT GAS UNIT #1	WATTENBERG	14.8	PANHANDLE EASTERN
8416327	83-464	0512308050		108		MABEL BRATTAIN UNIT #1	WATTENBERG	16.3	PANHANDLE EASTERN
8416338	83-589	0512307757		108		NILES S MILLER UNIT #1	WATTENBERG	19.1	PANHANDLE EASTERN
8416334	83-460	0512308019		108		NOEL HUBERT GAS UNIT #1	WATTENBERG	20.2	PANHANDLE EASTERN
8416341	83-456	0506706299		108		PAN AM FEE GAS UNIT "A" #1	IGNACIO BLANCO	3.0	
8416342	83-455	0506705796		108		PAN AMERICAN FEE GAS UNIT "B" #1	IGNACIO BLANCO	7.0	NORTHWEST PIPELIN
8416337	83-590	0512307882		108		PHILLIP MCCOY UNIT "B" #1	SPINDLE	18.3	PANHANDLE EASTERN
8416344	83-457	0512309531		108		STATE OF COLORADO "AJ" #1	LOST CREEK	15.9	CRYSTAL OIL CO
8416343	83-466	0512308065		108		TOM L RUSSELL UNIT "C" #1	WATTENBERG	20.5	PANHANDLE EASTERN
8416345	83-593	0512307848		108		UPRR 22 PAN AMERICAN "G" #1	WATTENBERG	14.5	PANHANDLE EASTERN
8416346	83-463	0512307198		108		UPRR 23 PAN AM "H" #1	WATTENBERG	19.4	PANHANDLE EASTERN
8416312	83-527	0512307223		107-RT		UPRR 41 PAN AMERICAN "A" #1	WATTENBERG	27.0	PANHANDLE EASTERN
8416347	83-563	0512307861		108		UPRR 53 PAN AMERICAN "F" #1	WATTENBERG	17.3	PANHANDLE EASTERN
8416333	83-602	0512307829		108		VERN HAGANS #1	WATTENBERG	19.5	PANHANDLE EASTERN
8416336	83-459	0512308297		108		WALTER MAYER GAS UNIT #1	WATTENBERG	16.4	PANHANDLE EASTERN
-ARROWHEAD ENERGY CORP				RECEIVED:	01/13/84	JA: CO			
8416295	83-546	0512310611		103		STEVENS #1	WATTENBERG	0.0	KOCH HYDROCARBON
8416296	83-543	0512310497		103		STRAWDER #1	WATTENBERG	0.0	PANHANDLE EASTERN
-BELLWETHER EXPLORATION CO				RECEIVED:	01/13/84	JA: CO			
8416313	83-520	0512311112		107-TF		ELDRIDGE #1-23	BRACEWELL	90.5	NORTHERN NATURAL
-BLACK HAWK RESOURCES CORP				RECEIVED:	01/13/84	JA: CO			
8416297	83-523	0512311154		103		WARD-ENGLISH #42-20	UNNAMED	62.0	NATURAL GAS ASSOC
-BYRON OIL INDUSTRIES INC				RECEIVED:	01/13/84	JA: CO			
8416298	83-647	0500108023		103		BYRON-SAUVAGE #3	SPINDLE	0.0	PANHANDLE EASTERN
-CENTENNIAL OIL COMPANY				RECEIVED:	01/13/84	JA: CO			
8416349	83-230	0506706031		108		FLORIDA GAS UNIT #1	IGNACIO BLANCO	12.0	WESTERN SLOPE GAS

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-CHAMPLIN PETROLEUM COMPANY				RECEIVED:	01/13/84	JA: CO			
8416299	83-570	0501706345		103		MCCORMICK 44-34 #2-C	SORRENTO	14.0	
8416300	83-498	0500108252		103		VETTER 12-2 (2-63) #1	CHIEFTAIN	109.0	
-CHEVRON U S A INC				RECEIVED:	01/13/84	JA: CO			
8416301	83-607	0510308760		103		CHEVRON FEE 135X	RANGELY	3.0	NORTHWEST PIPELIN
-CODY NORDELL EXPLORATION INC				RECEIVED:	01/13/84	JA: CO			
8416305	83-488	0512310929		103		BATES #1	WILDCAT	0.0	ASSOCIATED NATURA
8416306	83-524	0512310802		103		WEIDEMAN #1	WATTENBERG	0.0	PANHANDLE EASTERN
8416317	83-525	0512310802		107-TF		WEIDEMAN #1	WATTENBERG	0.0	PANHANDLE EASTERN
-COORS ENERGY CO				RECEIVED:	01/13/84	JA: [illegible]			
8416302	83-626	0500108260		103		FRI 1-18	WATTENBERG SECTION 18	114.5	COORS ENERGY CO
-CRYSTAL OIL CO				RECEIVED:	01/13/84	JA: CO			
8416350	83-456	0512308558		108		DEVERN-STATE #33-30	S W ROGGEN	20.8	COLORADO INTERSTA
-EL PASO NATURAL GAS COMPANY				RECEIVED:	01/13/84	JA: CO			
8416379	83-553	0506705325		108-PB		IGNACIO 33-8 #7	IGNACIO BLANCO	0.0	EL PASO NATURAL G
-ENERGY MINERALS CORPORATION				RECEIVED:	01/13/84	JA: CO			
8416376	83-535	0512308639		108		DUFF 23-31	KIOWA CREEK	15.0	DAMSON OIL CORP
8416314	83-488	0512310922		107-TF		JIM #1	WATTENBERG	75.0	PANHANDLE EASTERN
8416315	83-489	0512310921		107-TF		JIM #2	WATTENBERG	75.0	PANHANDLE EASTERN
8416351	83-470	0512308668		108		LINCOLN #1	SPINDLE	21.0	COLORADO INTERSTA
8416352	83-471	0512308679		[illegible]		LINCOLN #2	SPINDLE	21.0	COLORADO INTERSTA
8416353	83-472	0512305130		[illegible]		ROSS #2	WAITE LAKE	18.0	DAMSON OIL CORP
8416354	83-609	0512309477		108		SAYA #1	ROGGEN	18.7	PHILLIPS PETROLEU
-ENERGY OIL INC				RECEIVED:	01/13/84	JA: CO			
8416316	83-580	8512311079		107-TF		THOUTT #1	WATTENBERG	67.5	PANHANDLE EASTERN
-FUEL RESOURCES DEVELOPMENT CO				RECEIVED:	01/13/84	JA: CO			
8416303	83-574	0512310643		103		AVEY #1	WATTENBERG	4.0	PANHANDLE EASTERN
8416304	83-573	0510309025		103		C-K LEASING #27-3	CATHEDRAL	30.0	NORTHWEST PIPELIN
-K N ENERGY INC				RECEIVED:	01/13/84	JA: CO			
8416355	83-451	0512506256		108		STULP 1-2	SCHRAMM	16.0	
8416356	83-303	0512506262		108		VINCENT 1-8	WHISPER	19.0	
-LOCKRIDGE & THOMPSON				RECEIVED:	01/13/84	JA: CO			
8416357	83-584	0512109783		108		ALLEN #1-15	DE NOVA	15.0	NATURAL GAS PIPEL
8416358	83-583	0512109578		108		AXSOM #1-26	SPEAR	14.0	NATURAL GAS PIPEL
-MACHII-ROSS PETROLEUM CO				RECEIVED:	01/13/84	JA: CO			
8416359	83-549	0512300000		108		BOULDER BANK #1	WATTENBERG	18.0	COLORADO INTERSTA
-MARTIN EXPLORATION MGMT CORP				RECEIVED:	01/13/84	JA: CO			
8416360	83-496	0512309813		108		BECKY #1	SPINDLE	16.6	PANHANDLE EASTERN
-MARTIN OIL SERVICE INC				RECEIVED:	01/13/84	JA: CO			
8416361	83-514	0512309078		[illegible]		MAHONEY #2	SPINDLE	28.2	COLORADO INTERSTA
8416362	83-515	0512509079		108		MAHONEY-PERRIN #2	SPINDLE	28.2	COLORADO INTERSTA
-MIDLANDS GAS CORPORATION				RECEIVED:	01/13/84	JA: CO			
8416363	83-224	0512506424		108		ROCKWELL 1-14	REPUBLICAN	20.0	KN ENERGY INC
-NIELSON ENTERPRISES INC				RECEIVED:	01/13/84	JA: CO			
8416365	83-450	0512309028		108		MCARTHUR #1	HAMBERT	17.0	PANHANDLE EASTERN
8416364	83-558	0512309610		108		WILLIAM EWING GAS UNIT #2	HAMBERT	17.0	PANHANDLE EASTERN
-NORDIC PETROLEUMS INC				RECEIVED:	01/13/84	JA: CO			
8416307	83-497	0512310842		103		EATON CATTLE CO #1-18	WATTENBERG	73.0	NATURAL GAS ASSOC
8416318	83-498	0512310842		107-TF		EATON CATTLE CO #1-18	WATTENBERG	73.0	NATURAL GAS ASSOC
8416319	83-502	0512310991		107-TF		FRONT RANGE LAND #1-17	WATTENBERG	72.0	NATURAL GAS ASSOC
-NORRIS OIL CO				RECEIVED:	01/13/84	JA: CO			
8416366	83-532	0507708135		108		FINCH 13-3	PLATEAU	1.6	ROCKY MOUNTAIN NA
-NORTHWEST PIPELINE CORPORATION				RECEIVED:	01/13/84	JA: CO			
8416367	83-576	0506705331		108		BONDAD 33-9 #9	IGNACIO BLANCO MESAVE	0.0	NORTHWEST PIPELIN
-OXL				RECEIVED:	01/13/84	JA: CO			
8416320	83-507	0512310803		107-TF		ANDERSON #1	WILDCAT	0.0	ASSOCIATED NATURA
8416321	83-508	0512311010		107-TF		ROTHARMEL #1	WILDCAT	0.0	ASSOCIATED NATURA
-SHEPLER & THOMAS INC				RECEIVED:	01/13/84	JA: CO			
8416308	83-491	0512311040		103		MCDOWELL #34-1	WATTENBERG-CODELL	180.[illegible]	
8416322	83-492	0512311040		107-TF		MCDOWELL #34-1	WATTENBERG-CODELL	180.[illegible]	
8416309	83-586	0512311133		103		W R MELLON #28-1	WATTENBERG	[illegible].0	NATURAL GAS ASSOC
8416323	83-585	0512311133		107-TF		W R MELLON #28-1	WATTENBERG	0.[illegible]	NATURAL GAS ASSOC
-SUN EXPLORATION & PRODUCTION CO				RECEIVED:	01/13/84	JA: CO			
8416286	83-579	0501776353		102-2		LOWE ARNOLD #1	GROUSE	[illegible].0	
8416287	83-578	0501776366		102-2		LOWE ARNOLD #2	GROUSE	[illegible].0	
-TERMO CO OF TEXAS				RECEIVED:	01/13/84	JA: CO			
8416288	83-538	0512310348		102-2		MCKAY LAND & CATTLE CO #1	BRACE WELL	35.0	
-TETON ENERGY CO INC				RECEIVED:	01/13/84	JA: CO			
8416380	83-467	0507708106		108-PB		KATHLYN YOUNG #1-15	PLATEAU	0.0	NORTHWEST PIPELIN
-TIFFANY GAS CO				RECEIVED:	01/13/84	JA: CO			
8416377	83-494	0506700000		108 ER		SUTTON #1	IGNACIO BLANCO	18.0	EL PASO NATURAL G
-TXO PRODUCTION CORP				RECEIVED:	01/13/84	JA: CO			
8416310	83-541	0509906216		103		IDLER "B" #2	BETA	182.0	NUECES CO
8416368	83-487	0506700000		108		TIFFANY "B" #1	IGNACIO BLANCO	10.8	NORTHWEST PIPELIN
-UNICON PRODUCING CO				RECEIVED:	01/13/84	JA: CO			
8416371	83-628	0506705100		108		FARMER #1	PICTURED CLIFFS/MESA	47.0	PEOPLES NATURAL G
8416370	83-556	0506705260		[illegible]		IVIE #2	BLANCO MESA VERDE	11.0	PEOPLES NATURAL G
8416369	83-557	0506705149		108		UTE #6-A	BLANCA MESA VERDE	11.0	PEOPLES NATURAL G
-UTE ENERGY CO				RECEIVED:	01/13/84	JA: CO			
8416289	83-484	0500506830		102-3		PETERSON HEIRS #1	CHALICE	42.0	NATURAL GAS PIPEL
-VESSELS OIL & GAS COMPANY				RECEIVED:	01/13/84	JA: CO			
8416372	83-511	0512300000		108		HINGLEY #2	SPINDLE FIELD	9.9	VESSELS GAS PROCE
8416373	83-510	0512308128		108		HINGLEY #3	SPINDLE FIELD	9.9	VESSELS GAS PROCE
8416374	83-512	0512308388		108		HINGLEY #4	SPINDLE FIELD	5.1	VESSELS GAS PROCE
8416375	83-513	0512308389		108		HINGLEY #5	SPINDLE	285.0	VESSELS GAS PROCE
-VOYAGER PETROLEUMS LTD				RECEIVED:	01/13/84	JA: CO			
8416311	83-421	0508106523		103		POWDER WASH FEDERAL #29-1	POWDER WASH	400.0	MOUNTAIN FUEL SUP

OKLAHOMA CORPORATION COMMISSION

-AMOCO PRODUCTION CO				RECEIVED:	01/13/84	JA: OK			
8416440	25689	3513900000		108		HUGHEY GAS UNIT "B" #1	GUYMEN - HUGOTON	0.0	PHILLIPS PETROLEU
-AN-SON CORPORATION				RECEIVED:	01/13/84	JA: OK			
8416434	25511	3500700000		108		EADES #1	WILDCAT	9.5	NORTHERN NATURAL
-ANADARKO PRODUCTION COMPANY				RECEIVED:	01/13/84	JA: OK			
8416422	23565	3513921675		102-4		HOOD B-1	EAST LORENA FIELD	182.5	PANHANDLE EASTERN
-ANCHORAGE OIL & GAS INC				RECEIVED:	01/13/84	JA: OK			
8416464	25486	3509322686		103		BAUSTERT 2-21	BAUSTERT 2-21	100.0	PHILLIPS PETROLEU
-ARROWHEAD ENERGY INC				RECEIVED:	01/13/84	JA: OK			
8416442	25719	3501722488		103		SPITLER #1	N MUSTANG	73.0	PHILLIPS PETROLEU
-BETTIS BOYLE & STOVALL				RECEIVED:	01/13/84	JA: OK			
8416425	24921	3515300000		108		CASEY-WHEELER UNIT #1	N W QUINLAN FIELD	14.6	NORTHWEST CENTRAL
-BOGERT OIL CO				RECEIVED:	01/13/84	JA: OK			
8416461	25526	3507323844		103		GRUMMER #1-10	SOONER TREND	909.0	PHILLIPS PETROLEU

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-CARNES PETROLEUM CO				RECEIVED:	01/13/84	JA: [illegible]			
8416452	17180	3511721248		103		RIPLEY 2-2		7.3	M J D CATTLE CO I
-CLARK RESOURCES INC				RECEIVED:	01/13/84	JA: OK			
8416454	23533	3507323744		102-4	103	BRUEGGEN 23-1	SOONER TREND	30.0	CONOCO INC
8416435	25666	3509322743		103		HOUK 18-1	SOONER TREND	225.0	UNION TEXAS PETRO
8416455	23577	3507323762		102-4	103	JAMES 22-1	SOONER TREND	106.0	CONOCO INC
-CONTINENTAL RESOURCES CORP				RECEIVED:	01/13/84	JA: OK			
8416458	21636	3504321529		102-4		HOLDER #14-1		0.0	PHILLIPS PETROLEU
8416470	23076	3504321641		102-4		HOLDER #14-2		0.0	PHILLIPS PETROLEU
-CRAWLEY PETROLEUM CORPORATION				RECEIVED:	01/13/84	JA: OK			
8416413	25247	3509322606		103		SUSIE HEINRICHS #2	NORTH DANE	500.0	PHILLIPS PETROLEU
-CUESTA ENERGY CORP				RECEIVED:	01/13/84	JA: OK			
8416424	24168	3507323071		103		MURCHISON - MCEACHERN #1	SOONER TPEND	146.0	PHILLIPS PETROLEU
8416456	23680	3504723147		102-4		TEFFT #1-21		73.0	UNION TEXAS PETRO
-DAUBE CO				RECEIVED:	01/13/84	JA: OK			
8416475	23397	3504922058		102-2		GERTRUDE #1	UNKNOWN	0.0	WELLHEAD ENTERPRI
-EARTH SEARCH INC				RECEIVED:	01/13/84	JA: OK			
8416479	25370	3508700000		103		RUTH WILEY #3		55.0	SUN GAS CO
-EL PASO NATURAL GAS COMPANY				RECEIVED:	01/13/84	JA: [illegible]			
8416426	25049	3500935438		108-PB		VANNERSON #1	ERICK SOUTH	0.0	EL PASO NATURAL G
-EMSERCH EXPLORATION INC				RECEIVED:	01/13/84	JA: OK			
8416453	22852	3515100000		103		FORREST REX BAIRD #2	WILDCAT	547.0	PANHANDLE EASTERN
-EXXON CORPORATION				RECEIVED:	01/13/84	JA: OK			
8416477	24038	3513921315		108		JOLLIFFE TRUST #2	MARDESTY	17.0	PANHANDLE EASTERN
-GUIDON OIL & GAS CO INC				RECEIVED:	01/13/84	JA: OK			
8416468	25378	3510500000		108		STALL #2		0.0	NORTHWEST CENTRAL
8416467	25379	3510500000		108		STALL #3		0.0	NORTHWEST CENTRAL
8416466	25380	3510500000		108		STALL #4		0.0	NORTHWEST CENTRAL
-HADSON PETROLEUM CORP				RECEIVED:	01/13/84	JA: OK			
8416441	25716	3508720878		103		MAULDIN #1-31	SW WAYNE	83.0	WARREN PETROLEUM
-HARPER OIL COMPANY				RECEIVED:	01/13/84	JA: OK			
8416432	05579	3504700000		108-ER		CHESTNUT #3	N DRUMMOND	0.0	UNION TEXAS PETRO
8416451	25798	3504381508		103		ELLA #2	N W CANTON	36.0	PHILLIPS PETROLEU
8416433	06499	3504700000		108-ER		SCOTT #2	SOONER TREND	0.0	EXXON CORP
-HERITAGE PETROLEUM SERVICES CORP				RECEIVED:	01/13/84	JA: OK			
8416479	23554	3515121359		102-4		GALLON #2	FRITZLEN	54.0	PANHANDLE EASTERN
-HOLD OIL CORP				RECEIVED:	01/13/84	JA: OK			
8416474	23396	3512121007		102-2		JANEWAY #2-12	BROOKEN FIELD	110.0	ARKANSAS LOUISIAN
-INDIAN OIL CO				RECEIVED:	01/13/84	JA: OK			
8416487	25421	3515321410		103		BAKER #1-12	N WOODWARD	200.0	IGC ENERGY INC
-INEXCO OIL COMPANY				RECEIVED:	01/13/84	JA: OK			
8416476	23488	3512920976		102-2		LAMB #1-11	N E STRONG CITY	738.0	DELHI GAS PIPELIN
-J WALTER DUNCAN JR				RECEIVED:	01/13/84	JA: OK			
8416478	24501	3501521536		102-4		BEAVER #1	N E OLNEY	161.3	PIONEER GAS PRODU
-JET OIL COMPANY				RECEIVED:	01/13/84	JA: OK			
8416458	25795	3504723414		103		WILSON #2		0.0	EASON OIL CO
-JOE C RICHARDSON JR				RECEIVED:	01/13/84	JA: OK			
8416408	25522	3505921136		103		BUSTER #1-13	MOCANE-LAVERNE GAS AR	401.0	CALICHE PIPELINE
8416409	25523	3500722393		103		ELISE #1-24	MOCANE-LAVERNE GAS AR	173.0	TRANSWESTERN PIPE
-KAISER-FRANCIS OIL COMPANY				RECEIVED:	01/13/84	JA: OK			
8416457	23772	3505120950		102-4		AARON C LITTLE #1	S W MINEO	365.0	OKLAHOMA NATURAL
8416420	73277	3505121409		102-2	103	GARRETT #1-6	N E VERDEN	1500.2	ARKANSAS LOUISIAN
-KEITH F WALKER				RECEIVED:	01/13/84	JA: OK			
8416405	25453	3501922661		103		CHAN RIX VICTORY #2	OIL CITY	36.5	MOBIL OIL CORP
-MACK ENERGY CO				RECEIVED:	01/13/84	JA: OK			
8416429	25444	3505321190		103		BEEJAY #1	KREMLIN	100.0	UNION TEXAS PETRO
8416411	25554	3505121312		103		TROOP HILL (OWWO) #1	WILDCAT	122.5	
-MAGIC CIRCLE ENERGY CORP				RECEIVED:	01/13/84	JA: OK			
8416443	25734	3508321771		103		ABELL #1	W CRESCENT	60.0	CONOCO INC
-MASSO ELIAS				RECEIVED:	01/13/84	JA: OK			
8416423	23572	3514321564		102-2		JENKINS #1	JENKINS	25.0	DIAMONDS GAS SYST
-MCM ENERGY				RECEIVED:	01/13/84	JA: OK			
8416472	23229	3510721562		103		HILDA #30-1	SE LAFFOON	1.0	
-MIKE MULLINS				RECEIVED:	01/13/84	JA: OK			
8416473	23373	3510321131		102-4		MULLINS #1	SE WHITROCK	29.0	
-MOBIL OIL CORP				RECEIVED:	01/13/84	JA: OK			
8416400	25492	3504521138		103		BERRYMAN "B" #2	S E ARNETT	0.0	PANHANDLE EASTERN
8416401	25491	3504521165		103		BERRYMAN "B" #3	S E ARNETT	0.0	PANHANDLE EASTERN
-OFS-TULSA CORP				RECEIVED:	01/13/84	JA: [illegible]			
8416428	25169	3507323811		103		BEN #2-23		180.0	CONOCO INC
-ONYX ENERGY CORP				RECEIVED:	01/13/84	JA: OK			
8416444	25750	3510322008		103		IDA MAY #1-20		0.7	AMINOIL USA INC
8416445	25751	3510322017		103		IDA MAY #2-20		54.8	AMINOIL USA INC
-PAWNEE EXPLORATION INC				RECEIVED:	01/13/84	JA: OK			
8416446	25752	3512322225		103		ARUBA #1	FRANCIS	0.0	CONTINENTAL GAS S
-PENNZOIL COMPANY				RECEIVED:	01/13/84	JA: [illegible]			
8416471	23207	3512920705		102-2		LOVETT #1-A	SOUTHEAST ROLL	182.5	TRANSWESTERN PIPE
-PETROLEUM RESOURCES [illegible]				RECEIVED:	01/13/84	JA: OK			
8416437	25668	3508100000		103		COX #1		1.5	TRIOK INC
8416436	25667	3508100000		103		COX #2		0.1	TRIOK INC
8416438	25669	3508100000		103		COX #3		0.0	TRIOK INC
8416439	25670	3508100000		103		MORSE #1		0.0	TRIOK INC
-PHILLIPS PETROLEUM COMPANY				RECEIVED:	01/13/84	JA: OK			
8416402	25490	3513900000		108		GAYLE #3	GUYMON HUGOTON GAS -	0.0	
8416397	25500	3513700000		108		HARRY A #1	S D DOYLE	1.9	AMINOIL USA INC
8416449	25782	3501721777		108		MEYER D #1	N CONCHO	6.5	PANHANDLE EASTERN
8416403	25489	3513900000		108		RONAN A #2	GUYMON HUGOTON GAS-MO	0.0	
-READING & BATES PETROLEUM CO				RECEIVED:	01/13/84	JA: [illegible]			
8416430	25502	3504723448		103		EARLEY #2-4	KREMLIN	73.0	UNION TEXAS PETRO
-RED EAGLE OIL CO				RECEIVED:	01/13/84	JA: [illegible]			
8416406	25434	3501121829		103		WAGGONER #1	N W OKEENE	365.0	PIONEER GAS PRODU
-REDMAN OIL CO INC				RECEIVED:	01/13/84	JA: OK			
8416460	18370	3510500000		102-2		ALLISON #1		45.0	REN INDUSTRIES
-SABINE CORP				RECEIVED:	01/13/84	JA: OK			
8416404	25484	3504500000		108		HUNTER #1		0.0	PHILLIPS PETROLEU
-SEAGULL OPERATING CO INC				RECEIVED:	01/13/84	JA: [illegible]			
8416448	24760	3510721479		103		STANDLEY #1	NORTHEAST BEARDON	108.0	TRANSOK INC
-SOUTHLAND ROYALTY CO				RECEIVED:	01/13/84	JA: OK			
8416395	25520	3509321559		108		BAUSTERT #1-21	HUNTON - MISSISSIPPIA	0.0	PANHANDLE EASTERN
8416396	25519	3504321398		108		WOODRING #5-31	ORION	14.0	PHILLIPS PETROLEU
-STANTON ENERGY INC				RECEIVED:	01/13/84	JA: OK			
8416415	25622	3503724455		103		GREENWOOD 1A		150.0	COLORADO GAS COMP
8416414	25621	3514322691		103		LUVENA #6	KEYSTONE	25.0	COLORADO GAS COMP
8416410	25553	3510721686		103		WESLEY #3		90.0	

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME			FIELD NAME	PROD	PURCHASER
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-TENNECO OIL COMPANY				RECEIVED:	01/13/84	JA: [illegible]					
8416459	18475	3510722327		103		LEON LITTLE #1-2			WATONGA-CHICKASHA TRE	223.5	
-TEXACO INC				RECEIVED:	01/13/84	JA: OK					
8416418	23580	3505321016		102-2		O GRAYSON "B" #1			GILBERT SOUTH	139.6	SUN EXPLORATION &
-TEXAS AMERICAN OIL CORP				RECEIVED:	01/13/84	JA: [illegible]					
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-THE WIL-MC OIL CORP				RECEIVED:	01/13/84	JA: [illegible]					
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8416398	25494	3505321074		103		DORIS SMART #2			NORTH DEER CREEK	13.0	EL GRANDE PIPELIN
-TOM MCGEE CORP				RECEIVED:	01/13/84	JA: OK					
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-TRIGG DRILLING COMPANY INC				RECEIVED:	01/13/84	JA: [illegible]					
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8416427	25068	3508300000		108		CROOK #1			CRESCENT	49.0	CONOCO INC
8416417	20787	3512120916		103		WARD #1-K			SOUTH BREWER	605.[illegible]	
-UNION OIL COMPANY OF CALIF				RECEIVED:	01/13/84	JA: OK					
8416462	25513	3501900000		108		SMITH H C W [illegible]			CADDO	6.0	UNION OIL CO OF C
8416463	25512	3501900000		108		SMITH H C W #3			CADDO	11.[illegible]	UNION OIL CO OF C
-UNIT DRILLING & EXPLORATION CO				RECEIVED:	01/13/84	JA: OK					
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-WELLS EARL JR				RECEIVED:	01/13/84	JA: OK					
8416431	25514	3510720502		103		GURNES #1				21.4	PHILLIPS PETROLE"
-WORLDWIDE ENERGY CORPORATION				RECEIVED:	01/13/84	JA: OK					
8416416	19320	3500700000		108-ER		RATZLAFF #1			DOMBEY	1.4	K-N ENERGY
********** WEST VIRGINIA DEPARTMENT OF MINES **********											
-J & J ENTERPRISES INC				RECEIVED:	01/13/84	JA: WV					
8416387		4703302339		107-TF		B-346			SARDIS	0.0	CONSOLIDATED GAS
8416386		4703302550		107-TF		B-373			TENMILE	0.0	CONSOLIDATED GAS
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8416390		4700101466		107-TF		B-391			PLEASANT	0.0	CONSOLIDATED GAS
8416385		4703302573		107-TF		B-396			SARDIS	0.0	CONSOLIDATED GAS
8416389		4700101681		107-TF		B-438			GLADE	0.0	CONSOLIDATED GAS
8416392		4700101670		107-TF		B-449			PHILIPPI	0.0	CONSOLIDATED GAS
8416393		4700101673		107-TF		B-454			PHILIPPI	0.0	CONSOLIDATED GAS
8416384		4703302745		107-TF		B-456			SARDIS	0.0	CONSOLIDATED GAS
8416394		4700101680		107-TF		B-464			GLADE	0.0	CONSOLIDATED GAS
8416383		4700101708		107-TF		B-501			PHILIPPI	0.0	CONSOLIDATED GAS
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8416381		4708300699		102-4		FAHRNER #1			MIDDLE FORK	35.0	
8416382		4709702439		102-4		SAMPSON #3-B			WASHINGTON	35.0	TENNESSEE GAS PIP

[FR Doc. 84-4116 Filed 2-14-84; 8:45 am]

BILLING CODE 6717-01-C

federal register

Wednesday
February 15, 1984

Part V

Department of Education

34 CFR Part 356

National Institute of Handicapped Research: Fellowship Programs; Proposed Rule and Notice

DEPARTMENT OF EDUCATION

34 CFR Part 356

National Institute of Handicapped Research: Fellowship Programs

AGENCY: Department of Education.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Secretary proposes to amend the regulations governing the National Institute of Handicapped Research (NIHR). These amendments will revise and clarify the regulations governing NIHR's Fellowship Program. These changes are proposed on the basis of experience gained on the first year of operation of the program and on reactions received from the field and from fellowship applicants. The data from these sources indicate that the current regulations are unclear as to who is eligible for fellowship assistance; do not establish a basis for awarding different kinds of fellowships with different stipend levels; do not clearly require a research proposal; do not provide for adequate, properly weighted selection criteria; are unclear as to the types of research that may be investigated under a fellowship; and are unnecessarily confusing as to payment of stipends and expense allowances. These proposed amendments, if adopted, would clarify that eligibilitly is limited to individuals; would establish two categories of Fellowships—Distinguished and Merit—with different stipends and different elegibility requirements for each category; would require a research or project proposal as part of the application; would specify two equally weighted selection criteria (personal qualifications and research propasal); would describe the complete process for selection of applicants; and would simplify the provisions governing stipends and allowances.

DATES: Interested persons are invited to submit comments on or before March 16, 1984.

ADDRESSES: Written comments should be addressed to Betty Jo Berland, National Institute of Handicapped Research, Department of Education, 400 Maryland Avenue SW., Room 3070, Mary E. Switzer Building, Washington, D.C. 20202.

FOR FURTHER INFORMATION CONTACT: For further information contact Betty Jo Berland, National Institute of Handicapped Research, Department of Education, 400 Maryland Avenue SW., Room 3511, Mary E. Switzer Building, Washington, D.C. 20202. Telephone: (202) 472–5801 or TTY for the Deaf (202) 472–0779.

SUPPLEMENTARY INFORMATION: On September 10, 1981, NIHR published final program regulations under which it is now operating (46 FR 45300). On October 6, 1983 NIHR published proposed amendments to those regulations (48 FR 45568); those proposed amendments establish new selection criteria for NIHR research grants programs but do not affect the fellowship program. In 1983, NIHR conducted the first competition for fellowship awards. On the basis of this experience plus reports of the peer reviewers, the applicants, and others who considered responing to the Notice, NIHR has determined that the current regulations are confusing to applicants. There is a lack of clarity about eligibility, research areas which may be studied, criteria for determinig different stipend levels, the need for a research proposal, and the selection criteria and processes to be used in reviewing applications. The present regulations do not place appropriate emphasis on the need for a research or project proposal. These proposed regulations will clarify the application process for the public and interested potential applicants, and will make the program more equitable and easier to administer.

The proposed amendments also simplify the payments section of the regulations. There will no longer be a separate health insurance allowance, although fellows may use a portion of their stipend to pay for this expense if they choose. All expenses currently covered by a fellowship award will be continued, except that travel costs will no longer include the expenses of dependents.

Executive Order

These proposed amendments to regulations have been reviewed in accordance with Executive Order 12291.

They are classified as non-major because they do not meet the criteria for major regulations established in the Order.

Regulatory Flexibility Act Certification

The Secretary certifies that these proposed regulations will not have a significant economic impact on a substantial number of small entities. Only individuals are eligible to apply for fellowships and individuals are not included in the category of small entities under the Act.

Paperwork Reduction Act

This information collection is approved under the OMB Paperwork Reduction Act of 1981 OMB No. 1820–0027.

Assessment of Education Impact

The Secretary particularly requests comments on whether the regulations in this document would require transmission of information that is being gathered by or is available from any other agency or authority in the United States.

Invitation To Comment

Interested persons are invited to submit comments and recommendations regarding these proposed regulations. Written comments and recommendations may be sent to the address given at the beginning of this document. All comments submitted on or before the 30th day after publication of this document will be considered before the Secretary issues final regulations.

All comments submitted in response to these proposed regulations will be available for public inspection, during and after the comment period, in Room 3511, Switzer Building, 330 C Street, SW, Washington, D.C. between the hours of 8:30 a.m. and 4:00 p.m. Monday through Friday of each week except on Federal holidays.

To assist the Department in complying with the specific requirements of Executive Order 12291 and the Paperwork Reduction Act of 1980, and their overall requirements of reducing regulatory burden, public comment is invited on whether there may be further opportunities to reduce any regulatory burdens found in these proposed regulations.

List of Subjects in 34 CFR Part 356

Education, Educational research, Fellowships.

Citation of Legal Authority

A citation of statutory or other legal authority is placed in parentheses on the line following each substantive provision of these proposed regulations.

(Catalog of Federal Domestic Assistance No. 84.133, National Institute of Handicapped Research)

Dated: February 9, 1984.

T. H. Bell,

Secretary of Education.

PART 356—HANDICAPPED RESEARCH: RESEARCH FELLOWSHIPS

The Secretary proposes to amend Part 356 of Title 34 of the Code of Federal Regulations as follows:

1. The entries for Subparts D and F in the Table of Contents are revised to read as follows:

* * * * *

Subpart D—How Does the Secretary Select a Fellow?

Sec.
356.30 What selection criteria are used for this program?
356.31 How does the Secretary evaluate an application under this part?
356.32 What are the special considerations in selecting applications for funding under this part?

* * * * *

Subpart F—What Are the Administrative Responsibilities of a Fellow?

356.50 What kinds of payments are allowed under this program?
356.51 What reports are required?
356.52 Are there other requirements?

2. Section 356.1 is revised to read as follows:

§ 356.1 What is the Research Fellowships Program?

The purpose of this program is to build research capacity by providing support to highly qualified individuals to perform research on the rehabilitation of disabled persons.

(Sec. 202(d); 29 U.S.C. 761a(d))

3. Section 356.2 is revised to read as follows:

§ 356.2 Who is eligible for assistance under this program?

(a) Only individuals are eligible to be recipients of Fellowships.

(b) Any individual is eligible for assistance under this program who has training and experience that indicate a potential for engaging in scientific research related to the solution of rehabilitation problems of handicapped persons.

(c) The program will provide two categories of Fellowships: Merit Fellowships and Distinguished Fellowships. To be eligible for a Distinguished Fellowship, an individual must have seven or more years of research experience in subject areas, methods, or techniques relevant to rehabilitation research and must have a doctorate, other terminal degree, or comparable academic qualifications.

(d) Merit Fellowships are awarded to individuals in earlier stages of their careers in research. To be eligible for a Merit Fellowship, an individual must have either advanced professional training or experience in independent study in an area which is directly pertinent to disability and rehabilitation.

(Sec. 202(d); 29 U.S.C. 761a(d))

4. Section 356.10 is revised to read as follows:

§ 356.10 What types of activities are authorized?

(a) Fellows may conduct original research in any area authorized by Section 204 of the Act.

(b) Each year the Secretary may determine that research is needed in certain areas authorized under Section 204 of the Act and may set aside funds to provide fellowship assistance for research in these specific areas. The Secretary publishes the selected priorities, if any, in a notice in the **Federal Register.**

(Sec. 202(d); 29 U.S.C. 761a(d))

5. Section 356.21 is revised to read as follows:

§ 356.21 What is the fellowship review process?

Fellowship applications will be reviewed in accordance with the peer review requirements governing grants in 34 CFR 350.31–350.32 and the selection criteria contained in § 356.30.

(Sec. 202(d); 29 U.S.C. 761a(d))

6. Section 356.30 is revised to read as follows:

§ 356.30 What selection criteria are used for this program?

An application from an individual applying for a research fellowship will be evaluated on the basis of:

(a) Quality and level of formal education, previous work experience, and recommendations of present or former supervisors or colleagues that include an indication of the applicant's ability to work creatively in scientific research.

(b) The quality of a research proposal of no more than 12 pages setting forth the following:

(1) The importance of the problem to be investigated to the purpose of the Act and the mission of NIHR;

(2) The research hypotheses or related objectives and the methodology and design to be followed; and

(3) Assurance of the availability of any necessary data resources, equipment, or institutional support required to carry out the proposed activity.

(Sec. 202(d); 29 U.S.C. 761a(d))

7. A new § 356.31 is added to read as follows:

§ 356.31 How does the Secretary evaluate an application under this part?

(a) The Secretary evaluates an application under this part on the basis of the selection criteria in § 356.30.

(b) The Secretary awards the following points for each application based on how well the applicant addresses the two criteria in § 356.30: Outstanding (5); Superior (4); Satisfactory (3); Marginal (2); Poor (1).

(Sec. 202(d); 29 U.S.C. 761a(d))

8. A new § 356.32 is added to read as follows:

§ 356.32 What are the special considerations in selecting applications for funding under this Part?

(a) The Secretary reserves funds to support some or all of the applications which have been awarded a rating of superior or better (4–5 points) under the procedures described in § 356.31.

(b) In making a final selection of applicants to support under this program, the Secretary will consider the extent to which applicants rated outstanding or superior present a unique opportunity to effect a major advance in knowledge, address critical problems in innovative ways, build research capacity within the field, or complement and significantly increase the potential value of already planned research and related activities.

(Sec. 202(d); 29 U.S.C. 761a(d))

9. Section 356.40 is revised to read as follows:

§ 356.40 What is the length of a fellowship award?

Fellowships will be awarded for a period of 12 months. Under exceptional circumstances, the Secretary may extend the period of a Fellowship; such an extension will not exceed 12 months.

(Sec. 202(d); 29 U.S.C. 761a(d))

10. Section 356.50 is revised to read as follows:

§ 356.50 What kinds of payments are allowed under this program?

A Fellowship award in either the Distinguished or Merit category will include a fixed stipend and a flat rate allowance for research and research-related expenses including travel expenses.

(Sec. 202(d); 29 U.S.C. 761a(d))

11. Section 356.51 is revised to read as follows:

§ 356.51 What reports are required?

Fellows are required to submit final reports. Each report must contain at a minimum an analysis of the significance of the project and an assessment of the degree to which the objectives of the project have been achieved.

(Sec. 202(d); 29 U.S.C. 761a(d))

(Approved by the Office of Management and Budget under control number 1820–0027)

12. A new § 356.52 is added to read as follows:

§ 356.52 Are there other requirements?

The Secretary may require fellows to attend one or more meetings in connection with Fellowship activities.

(Sec. 202(d); 29 U.S.C. 761a(d))

[FR Doc. 84-4110 Filed 2-14-84; 8:45 am]
BILLING CODE 4000-01-M

DEPARTMENT OF EDUCATION

National Institute of Handicapped Research; Transmittal of Applications for Fellowships for Fiscal Year 1984

AGENCY: Department of Education.

ACTION: Application Notice for Transmittal of Applications for Fellowships for Fiscal Year 1984.

Applications are invited for Fellowships in Handicapped Research under the National Institute of Handicapped Research (NIHR).

Authority for this program is contained in section 202(d) of the Rehabilitation Act of 1973, as amended by Pub. L. 95-602 (29 U.S.C. 761a(d)).

Closing Date for Transmittal of Applications: Applications for fellowships must be mailed or hand delivered by April 16, 1984.

Applications Delivered by Mail: An application sent by mail must be addressed to the U.S. Department of Education, Application Control Center, Attention: 84.133F, 400 Maryland Avenue, SW., Washington, D.C. 20202

An applicant must show proof of mailing, consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the U.S. Secretary of Education.

If an application is sent through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing: (1) a private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first class mail. Each late applicant will be notified that its application will not be considered. Amendments received after the closing date also will not be considered in the review of the application.

Applications Delivered by Hand: An application that is hand delivered must be taken to the U.S. Department of Education, Application Control Center, Room 5673, Regional Office Building No. 3, 7th and D Streets, SW., Washington, D.C. 20202.

The Application Control Center will accept hand-delivered applications between the hours of 8:00 a.m. and 4:30 p.m. (Washington, D.C., time), daily except Saturdays, Sundays, and Federal holidays. An application that is hand delivered will not be accepted after 4:30 p.m. on the closing date.

Program Information: The National Institute of Handicapped Research (NIHR) was established to provide for a comprehensive and coordinated approach to the conduct of research and related activities for the rehabilitation of handicapped individuals. NIHR's major responsibilities include administering research programs, disseminating information acquired through research, participating in international rehabilitation programs, and chairing an Interagency Committee to promote coordination of all Federal policies and priorities for research related to rehabilitation of handicapped individuals.

The Institute is also authorized to establish and maintain fellowships to build research capacity in the field by providing support to highly qualified research fellows to perform research activities in rehabilitation.

The Secretary is publishing in this issue of the **Federal Register** proposed amendments to the regulations governing NIHR which would affect the operation of the Fellowship program. These proposed regulations are subject to modification by the Secretary following the public comment period and will then be published as final regulations. However, if any substantive changes are made in the final regulations, applicants will be notified and given additional time to modify or resubmit their applications.

Fellows may conduct research in any areas included in section 204 of Title II of the Rehabilitation Act of 1973, as amended.

Under this program fellowship awards will be made to highly qualified individuals whose training and experience indicate a potential for engaging in scientific research related to the solution of rehabilitation problems of handicapped persons. (See proposed 34 CFR 356.2(b).) NIHR intends to award both Merit Fellowships and Distinguished Fellowships. Individuals with seven or more years of experience may apply for Distinguished Fellowships. Highly qualified individuals with less experience are eligible for Merit Fellowships. (See proposed 34 CFR 356.2(c).) Fellows may work at any setting which is appropriate to the conduct of the research.

Individuals applying for research fellowships will be evaluated on the basis of: quality and level of formal education; work experience; recommendations of former or present supervisors or colleagues; and a research proposal submitted to NIHR. (See proposed 34 CFR 356.30.) Fellowship applications will be reviewed in accordance with the peer review requirements governing NIHR's research fellowship program. (See proposed 34 CFR 356.21, 356.31 and 356.32.)

Fellows are required to submit a final report which contains, as a minimum, an analysis of the significance of the project and an assessment of the degree to which the objectives of the project have been achieved. (See proposed 34 CFR 356.51.) Publication, distribution, and disposition of all manuscripts and other materials resulting from the fellowship awarded must acknowledge assistance received from the Department and NIHR. Three copies of these publications or other materials must be furnished to NIHR. (See 34 CFR 356.42.) Fellows may also be required to attend one or more meetings, at the invitation and expense of the Federal government, in connection with fellowship activities. (See proposed 34 CFR 356.5.)

Available Funds: NIHR has reserved funds to award up to ten fellowships. It is anticipated that five Distinguished Fellowships with stipends of $30,000 each and five Merit Fellowships with stipends of $25,000 each will be awarded. However, the Secretary may award more than five fellowships in one category if there are not at least five applicants rated Outstanding or Superior in the other category. All fellows will receive, in addition to the stipend, a flat rate allowance of $1,500 to be used for expenses in connection with the Fellowship.

These estimates, however, do not bind the U.S. Department of Education to a specific number of fellowships or to the amount of any fellowship unless that number is specified in statute or regulations.

All fellowships will be for a one-year period. NIHR anticipates that awards will be made by June 15, 1984 and that fellowship periods will begin between July 1, 1984 and September 30, 1984, as determined by NIHR and the individual fellow. (See proposed 34 CFR 356.40.) Fellows will be required to devote full-time to the fellowship activity. (See proposed 34 CFR 356.41.)

Application Procedures: Application forms and further information may be obtained by writing to or calling the National Institute of Handicapped Research, U.S. Department of Education, Mary E. Switzer Building, Room 3511, 330 C Street, SW., Washington, D.C.

20202 (Attention: Fellowship Unit). Telephone: 202–245–3819.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the application package. However, the program information is only intended to aid applicants in applying for assistance. Nothing in the program information package is intended to impose any paperwork, application content, reporting, or other performance requirements beyond those imposed under the statute and regulations. Applicants should note that proposals are limited to 12 pages. (See proposed CFR 356.30.)

In addition to the research proposal, applicants must also submit evidence of quality and level of formal education, work experience, and recommendations of former or present supervisors or colleagues as specified in the regulations governing the NIHR fellowship program. (See proposed 34 CFR 356.30.)

(OMB No. 1820–0027; Expires 11/84.)

Applicable Regulations: Regulations governing the program are: Applicable NIHR regulations in 34 CFR Part 356, including proposed modifications to those regulations published in this issue of the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Ms. Rheable Edwards, National Institute of Handicapped Research, U.S. Department of Education, Switzer Office Building, Room 3511, 330 C Street, SW., Washington, D.C. 20202. Telephone: 202/245–0797, TTY for deaf individuals 202/472/4217.

(29 U.S.C. 762)

Dated: February 10, 1984.

(Catalog of Federal Domestic Assistance No. 84.133, National Institute of Handicapped Research)

Madeleine Will,

Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 84-4111 Filed 2-14-84; 8:45 am]

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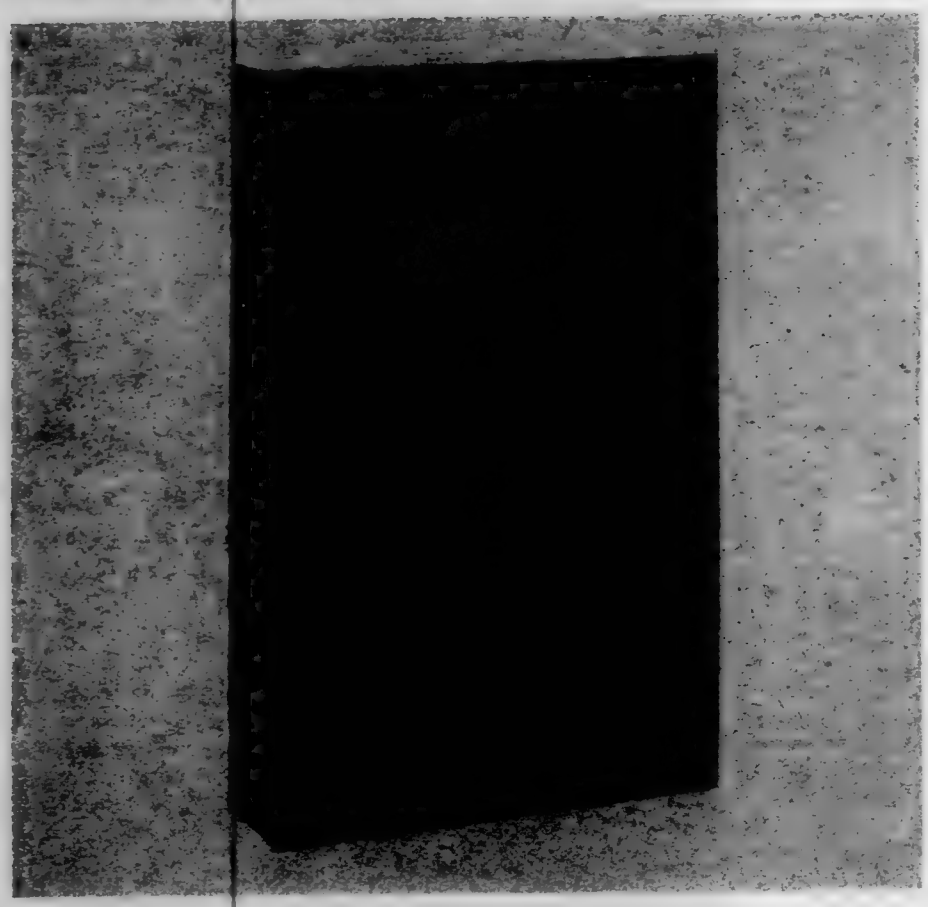

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SECOND CLASS NEWSPAPER

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Questions and requests for specific information may be directed to the telephone numbers listed under INFORMATION AND ASSISTANCE in the READER AIDS section of this issue.

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Title 3—

The President

Proclamation 5150 of February 13, 1984

Save Your Vision Week, 1984

By the President of the United States of America

A Proclamation

Every day we rely on vision to provide us with a clear, vivid picture of our surroundings and the people we care about. Although we use our eyesight in virtually all activities, we often take it for granted until it is endangered by disease or injury. This is unfortunate because there are steps we can take to protect our eyes and to safeguard the precious gift of sight.

As a sight-saving precaution, everyone should have regular, professional eye examinations. Most people who have these checkups will get the reassuring news that their eyes are healthy. But a few people will receive an early warning of some serious eye disease requiring prompt treatment. An eye examination revealing the need for treatment of glaucoma or some other sight-destroying disease could spare thousands of Americans visual loss each year.

People with diabetes should be particularly aware of the need to have their eyes examined regularly to prevent the blindness that sometimes stems from the disease. This is especially important because there now is a sight-saving treatment which is highly effective if applied early enough in the course of the disease.

Regular eye checkups are also of special importance for older people because many serious eye diseases tend to strike in the later years. With early warning of a need for treatment, people can obtain the required medical care and give themselves the best possible chance of retaining good vision throughout their lives. Children also need regular eye examinations in order that readily treatable problems which otherwise could needlessly affect them in school and at play may be detected.

Protecting our eyes against injury is another way to preserve vision. In work with chemicals or machinery which might be dangerous to the eyes, safety glasses, goggles, or a face mask should be worn. Protective eyewear is also important for people participating in sports.

In looking to the needs of others, we can arrange to donate our eyes after death and, in this way, offer the gift of sight to a person who needs corneal transplant surgery. We also can support the many fine organizations which are devoted to research, sight conservation, and rehabilitation of the visually handicapped.

To encourage the American people to cherish the gift of sight and take steps to protect it, the Congress, by joint resolution approved December 30, 1963 (77 Stat. 629, 36 U.S.C. 169a), has requested the President to proclaim the first week in March as "Save Your Vision Week."

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim the week beginning March 4, 1984, as Save Your Vision Week, 1984. I urge all Americans to participate in appropriate observances and activities and to make eye care and eye safety an important part of their lives.

IN WITNESS WHEREOF, I have hereunto set my hand this thirteenth day of February, in the year of our Lord nineteen hundred and eighty-four, and of the Independence of the United States of America the two hundred and eighth.

Ronald Reagan

[FR Doc. 84-4360
Filed 2-14-84; 11:53 am]
Billing code 3195-01-M

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Presidential Documents

Proclamation 5151 of February 13, 1984

National Surveyors Week, 1984

By the President of the United States of America

A Proclamation

In the development of our country, the role of the surveyor has been of vital importance. In colonial days, surveyors were among the leaders in the community—statesmen, influential citizens, and shapers of cultural standards, including people such as George Washington and Thomas Jefferson. It was the surveyor's work that determined the boundaries of land, the greatest economic asset in the colonies. Thomas Jefferson chaired a committee in 1784 to devise a plan for disposing of lands west of the Thirteen Colonies. He argued that surveying before sale was necessary to prevent overlapping claims and to simplify deeds and registers. He reportedly wrote a plan which was debated in Congress, and in modified form was adopted as the Land Ordinance of May 20, 1785. The ordinance established the Public Land Survey System (PLSS)—the rectangular system that continues in effect today in 30 midwestern and western states.

Since 1785, the nature of surveying has changed dramatically. No longer is surveying limited to the description and location of land boundaries. Today, hydrographic surveys are important to the use of all our bodies of water; engineering surveys are utilized in the study and selection of engineering construction; geodetic surveys determine precise global positioning for such activities as aircraft and missile navigation; and cartographic surveys are used for mapping and charting, including the use of photogrammetry, the science of using aerial photographs for measurement and map production. Many services are provided through the use of sophisticated equipment and techniques, such as satellite-borne remote sensing devices and automated positioning, measuring, recording, and plotting equipment.

In recognition of the significant contribution made by surveyors to the United States, the Congress, by Senate Joint Resolution 44, has authorized and requested the President to designate the week beginning on March 11, 1984, as "National Surveyors Week."

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim the week beginning March 11, 1984, as National Surveyors Week. I urge the people of the United States to observe this week with appropriate ceremonies and activities paying tribute to professional surveyors and their contribution to society. I invite all Americans to look back at the historic contributions of surveying and look ahead to the new technologies which are constantly modernizing this honored and learned profession.

IN WITNESS WHEREOF, I have hereunto set my hand this 13th day of Feb., in the year of our Lord nineteen hundred and eighty-four, and of the Independence of the United States of America the two hundred and eighth.

Ronald Reagan

[FR Doc. 84-4361
Filed 2-14-84; 11:54 am]
Billing code 3195-01-M

VOL
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ISS
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Presidential Documents

Proclamation 5152 of February 13, 1984

National Agriculture Day, 1984

By the President of the United States of America

A Proclamation

The United States produces nearly one-twelfth of the total output of the world's major agricultural commodities. This abundant production enables us to feed not only our own population, but tens of millions of other people throughout the world.

Our remarkable food and fiber production links together 23 million Americans who are involved in growing, processing, and marketing hundreds of United States agricultural commodities. Our farmers and ranchers produce a wide variety of meat, fruits, vegetables, food grains, flowers, dairy products, fibers, fish, and livestock. Maintaining such production requires natural resources, fertilizers, chemicals, credit, specialized equipment, processing, transporting, marketing, and State and national policies that strengthen the system. This vast integration of production and labor—an outgrowth of our free enterprise system—has transformed agriculture into the Nation's largest industry, with assets exceeding one trillion dollars.

To honor the working men and women of agriculture in America and to achieve a greater understanding of the stake each American has in maintaining the strength of the Nation's most basic industry, the Congress, by House Joint Resolution 311 (Public Law 98–206), has authorized and requested the President to proclaim March 20, 1984, as "National Agriculture Day."

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim March 20, 1984, as National Agriculture Day, and I call upon the people of the United States to observe this day with appropriate ceremonies and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this 13th day of Feb., in the year of our Lord nineteen hundred and eighty-four, and of the Independence of the United States of America the two hundred and eighth.

Ronald Reagan

[FR Doc. 84–4362
Filed 2–14–84; 11:55 am]
Billing code 3195–01–M

VOL
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ISS
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Presidential Documents

Proclamation 5153 of February 13, 1984

Municipal Clerk's Week, 1984

By the President of the United States of America

A Proclamation

The municipal clerk is the oldest of public servants and a critical part of efficient and responsive local government. The accurate recording, careful safeguarding, and prompt retrieval of public records are vital functions, without which effective local government could not exist.

As local government has grown in responsibility and importance through the Nation's history, so has the role of the municipal clerk. The clerk provides a direct link between past, present, and future by preserving records for posterity and implementing governmental decisions. Municipal clerks also seek better and more effective ways to perform these critical responsibilities in light of the rapid technological advances of today's world.

In recognition of the outstanding and vital services performed by municipal clerks and their dedication to public service, the Congress, by Senate Joint Resolution 92, has designated the week beginning May 13, 1984, as "Municipal Clerk's Week," and has authorized and requested the President to issue a proclamation in observance of that week.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim the week beginning May 13, 1984, as Municipal Clerk's Week. I call upon the people of the United States to observe that week with appropriate ceremonies and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this 13th day of Feb., in the year of our Lord nineteen hundred and eighty-four, and of the Independence of the United States of America the two hundred and eighth.

Ronald Reagan

[FR Doc. 84-4363
Filed 2-14-84; 11:56 am]
Billing code 3195-01-M

VOL
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ISS
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Presidential Documents

Memorandum of February 13, 1984

Memorandum of Determination Under Section 301 of the Trade Act of 1974

Memorandum for the United States Trade Representative

Pursuant to Section 301(a)(1) of the Trade Act of 1974, as amended (19 U.S.C. 2411(a)(1)), I have determined that the action described below is appropriate and feasible to enforce United States rights under the Agreement on the Interpretation and Application of Articles VI, XVI and XXIII of the General Agreement on Tariffs and Trade (the Subsidies Code) with respect to the subsidy practices of the Government of Brazil concerning exports of soybean oil and meal. With a view toward eliminating or reducing the harmful effects of the Brazilian subsidies on soybean oil and meal exports, I am directing the United States Trade Representative to pursue the dispute settlement procedures which have already been initiated under the Subsidies Code.

This determination, together with the Statement of Reasons, shall be published in the **Federal Register**.

Ronald Reagan

THE WHITE HOUSE,
Washington, February 13, 1984.

STATEMENT OF REASONS

The United States Trade Representative (USTR) initiated an investigation under Section 301 on May 23, 1983 (48 FR 23947), on the basis of a petition filed by the National Soybean Processors Association. The petitioner alleged that Brazil has acted inconsistently with its obligations under the Subsidies Code by granting subsidies on the production and exportation of soybean oil and meal. These subsidies include: 1) the provision of preferential loans to oil and meal exporters for operating funds and for the purchase of raw materials to be processed and exported; 2) the partial exemption from income tax of profits from oil exports; and 3) the exemption from tax of gains from foreign hedging operations. The petitioner further alleged that as a result of the Brazilian subsidy programs, Brazilian exports of oil and meal have increased and have displaced United States exports in third country markets.

In an effort to resolve this problem, the United States held consultations with Brazil on November 21, 1983. Those consultations focussed on the United States complaint and on a subsequent Brazilian complaint against United States programs as they relate to the production and export of soybean oil and meal. During the consultation process it was learned that Brazil had suspended the application of two of its subsidy programs to soybean products. Both parties agreed to a further exchange of information regarding their respective programs which is scheduled to occur within the next month. If a resolution to the problem is not reached through consultations, the United States will continue the dispute settlement process as set forth in the Subsidies Code.

While it is disappointing that the dispute settlement process has not moved more expeditiously, I believe that the process is moving smoothly and that United States interests would be best served by following that process to its conclusion. I expect the USTR to pursue a resolution of this issue in a diligent and expeditious manner.

[FR Doc. 84-4380
Filed 2-14-84; 2:06 pm]
Billing code 3195-01-M

VOL
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ISS
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Rules and Regulations

Federal Register
Vol. 49, No. 33
Thursday, February 16, 1984

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

7 CFR Part 442

[Amdt. No. 2]

Prevented Planting Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Final rule; correction.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) published a final rule; correction (49 FR 2225, January 19, 1984) to correct an error in omission in the Prevented Planting Crop Insurance Regulations wherein Appendix A, listing the counties where prevented planting crop insurance is otherwise authorized, was inadvertently omitted.

The correcting document, as published, omitted the portion of the listing showing those counties authorized for prevented planting insurance in Wisconsin. This notice is being published to correct that error.

EFFECTIVE DATE: February 16, 1984.

ADDRESS: Any suggestions or inquiries on this notice should be sent to the Office of the Manager, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C. 20250, telephone (202) 447–3325.

SUPPLEMENTARY INFORMATION: On Thursday, January 19, 1984, FCIC published a notice to correct the Prevented Planting Crop Insurance Regulations, published as a final rule in the **Federal Register** on Tuesday, December 12, 1983, at 48 FR 55418. This document further corrects the final rule as follows:

On page 55421, the Appendix is corrected by inserting the words "Wisconsin: Clark, Eau Claire", after the words Ohio: Brown, Highland," and before the words "Approved by the Board of Directors on * * *".

Done in Washington, D.C., on February 6, 1984.

Peter F. Cole,

Secretary, Federal Crop Insurance Corporation.

Dated: February 9, 1984.

Approved by:

Merritt W. Sprague,

Manager.

[FR Doc. 84–4271 Filed 2–15–84; 8:45 am]

BILLING CODE 3410–08–M

Agricultural Marketing Service

7 CFR Part 910

[Lemon Reg. 450; Correction]

Lemons Grown in California and Arizona, Limitation of Handling; Correction

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule; correction.

SUMMARY: This document corrects a final rule issued February 8, 1984, establishing the quantity of California/Arizona lemons that may be shipped to the fresh market during the period February 12–18, 1984. The final rule should have established such quantity at 235,000 cartons, rather than 225,000 cartons as published. The final rule was published in the **Federal Register** (49 FR 5053) on February 10, 1984.

FOR FURTHER INFORMATION CONTACT: William J. Doyle, Chief, Fruit Branch F&V, AMS, USDA, Washington, D.C. 20250, telephone 202–447–5975.

Accordingly, § 910.750 Lemon Regulation 450 is corrected to read as follows:

§ 910.750 Lemon Regulation 450.

The quantity of lemons grown in California and Arizona which may be handled during the period February 12, 1984, through February 18, 1984, is established at 235,000 cartons.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: February 10, 1984.

Russell L. Hawes,

Acting Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 84–4200 Filed 2–15–84; 8:45 am]

BILLING CODE 3410–02–M

CHRYSLER CORPORATION LOAN GUARANTEE BOARD

13 CFR Part 400

Chrysler Corporation Loan Guarantee Program

AGENCY: Chrysler Corporation Loan Guarantee Board.

ACTION: Final rule.

SUMMARY: This rule amends portions of the regulations of the Chrysler Corporation Loan Guarantee Board dealing with the Freedom of Information Act (5 U.S.C. 552) in order to reflect (i) changes in staff functions and (ii) changes in the fee schedule.

EFFECTIVE DATE: February 16, 1984.

FOR FURTHER INFORMATION CONTACT: Ellen Seidman, Associate General Counsel, Chrysler Corporation Loan Guarantee Board, Room 2018 Main Treasury Building, Washington, D.C. 20220, (202) 566–2278.

SUPPLEMENTARY INFORMATION: On August 15, 1983, Chrysler Corporation repaid the debt remaining outstanding which had been guaranteed by the United States under the Chrysler Corporation Loan Guarantee Act (Pub. L. 96–185, 93 Stat. 1324), and notified the Chrysler Corporation Loan Guarantee Board (the "Board") of its intention not to seek further guarantees. As a result, the bulk of the work of the Board has been completed. The Board has therefore consolidated its staff by electing the same individual to the positions of Secretary and General Counsel. The Board's current regulations provide for initial decisions n Freedom of Information Act matters to be made by the Secretary of the Board, with appeals to the General Counsel. To provide a meaningful appeal system under the new staff designations, the Board has detemined that initial decisions will be made by the Executive Director, with appeals to the General Counsel.

On March 24, 1983, 48 FR 12351, the Department of the Treasury published

revised fee schedules for response to Freedom of Infomation Act requests. The staff of the Board is administratively a unit of the Department of the Treasury. The changes made to the fee schedules by this rule conform the Board's fee schedules to those recently adopted by the Department of the Treasury.

This rule relates solely to the agency management and procedures and is thus not subject to the Regulatory Flexibility Act (5 U.S.C. 603 *et seq.*) or the notice and comment and deferred effective date provisions of the Administrative Procedure Act (5 U.S.C. 553).

List of Subjects in 13 CFR Part 400

Freedom of Information.

PART 400—[AMENDED]

For the reasons set out in the preamble, Part 400 of Title 13, Code of Federal Regulations, is amended as set forth below.

1. The authority citation for Part 400 reads as follows:

Authority: 5 U.S.C. 552.

§ 400.7 [Amended]

2. 13 CFR 400.7 is amended by removing the word "Secretary" and inserting in its place the words "Executive Director."

3. 13 CFR 400.7(g)(6)(i) is amended by removing the number "10 cents" and inserting in its place the number "15 cents."

4. 13 CFR 400.7(g)(6)(ii) and 13 CFR 400.7(g)(6)(iii) are amended by removing the number "$5" and inserting in its place the number "$10".

By order of the Board, February 1, 1984.

Peter J. Wallison,

Secretary.

[FR Doc. 84-4197 Filed 2-15-84; 8:45 am]

BILLING CODE 4910-25-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 83-NM-91-AD; Amdt. 39-4810]

Airworthiness Directives: Lockheed Model L-1011 Series Airplane

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final Rule.

SUMMARY: This document amends an existing airworthiness directive (AD) applicable to Lockheed Model L-1011-385 series airplanes, which requires repetitive inspections and hydraulic leak checks in the area of the auxiliary power unit (APU) exhaust duct and shroud. This modification is required to reduce the exhaust shroud external skin temperature to an acceptable level. An excessively high exhaust shroud skin temperature is a potential ignition source for flammable fluids or vapor existing in the vicinity of the shroud.

DATE: Effective March 19, 1984.

Compliance schedule as prescribed in the body of the AD, unless already accomplished.

ADDRESSES: The applicable service information may be obtained from: Lockheed-California Company, P.O. Box 551, Burbank, California 91520, Attention: Commercial Support Contracts, Dept. 63-11, U-33, B-1. This information also may be examined at FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or 4344 Donald Douglas Drive, Long Beach, California.

FOR FURTHER INFORMATION CONTACT: Mr. Ken Izumikawa, Aerospace Engineer, Propulsion Branch, ANM-140L, Federal Aviation Administration, Los Angeles Aircraft Certification Office, Northwest Mountain Region, 4344 Donald Douglas Drive, Long Beach, California 90808, telephone (213) 548-2835.

SUPPLEMENTARY INFORMATION: A Notice of Proposed Rulemaking (NPRM) was published in the **Federal Register** April 18, 1983 (48 FR 16501), which proposed that AD 82-03-04 be amended to require the installation of insulation blankets over the APU exhaust duct and shroud in accordance with Part II of the Accomplishment Instructions of Lockheed L-1011 Service Bulletin 093-49-58, Revision 3, dated October 28, 1982. The comment period provided for the proposal closed June 7, 1983.

Amendment 39-4310, AD 82-03-04, requires repetitive inspection of the APU exhaust duct area. The possibility still exists for fuel or hydraulic leaks to occur between the leak tests and inspections required by this AD. The condition represents a potential fire hazard in an area that does not have firewalls, fire detectors, or fire extinguishers. For this reason, this amendment is considered to be necessary.

Discussion of Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. A total of six comments were received, four from domestic operators, one from a foreign operator, and one from the type certificate holder. Five of the six commenters did not object to the proposal.

The domestic operator who objected proposed continuing the leak test and inspection procedure, and to leave the modification as an option. The FAA does not agree with this position. The leak tests and inspection procedure were implemented only as an interim measure against a potentially hazardous condition until a final solution could be developed. The possibility still exists for fuel or hydraulic fluid leaks to occur between the inspection required by AD 82-03-04, which would represent a potential fire hazard in an area that does not have firewalls, fire detection, or fire extinguishing systems. Installation of the insulation blankets around the exhaust duct and shroud per Lockheed L-1011 Service Bulletin 093-049-058, Revision 3, dated October 28, 1982, will correct a design deficiency and reduce the shroud skin temperature to a safe level and eliminate the need for repetitive leak tests and inspection.

Estimated Costs

The estimated costs to accomplish the modification are as follows: Kit costs: $2,000 per airplane x 122 airplanes=$244,000. Installation costs: 12.3 manhours per airplane x $35 per manhour x 122 airplanes=$52,521. The total cost is estimated to be $296,521. For these reasons the rule is not considered to be a major rule under the criteria of Executive Order 12291. No small entities within the meaning of the Regulatory Flexibility Act will be affected since no small entities operate Lockheed Model L-1011 airplanes.

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

List of Subjects in 14 CFR Part 39

Aviation Safety, Aircraft.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by amending Amendment 39-4310 (47 FR 5197, February 4, 1982), AD 82-03-04, as follows:

1. Revise the first paragraph to read as follows:

Lockheed-California Company: Applies to Lockheed Model L-1011-385 series airplanes, prior to Serial No. 1239, certificated in all categories. Compliance required as indicated, unless previously accomplished.

2. Revise paragraphs A., B., & C., by changing the word "Chief" to "Manager" and by deleting the word "Area".

3. Reidentify paragraph B. as paragraph A.3.

4. Add new paragraph B. to read as follows:

B. To reduce the APU exhaust shroud skin temperature to a safe level, within 5,000 flight hours or two (2) calendar years after the effective date of this amendment, whichever occurs first, install the APU Exhaust Duct and Shroud Insulation as specified in Part II, Accomplishment Instructions of Lockheed L-1011 Service Bulletin 093-49-058, Revision 3, dated October 28, 1982, or later revisions approved by the Manager, Los Angeles Aircraft Certification Office, FAA, Northwest Mountain Region. This action terminates the requirements for repetitive inspections required by paragraph A., above.

5. Delete the first paragraph after paragraph D.

6. Revise the FAA Seattle address in the paragraph after paragraph D to read as follows:

FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington,

This amendment became effective March 19, 1984.

(Sec. 313(a), 314(a), 601 through 610, and 1102 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421 through 1430, and 1502); 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89)

Note.—For the reasons discussed earlier in the preamble, the FAA has determined that this regulation is not considered to be major under Executive Order 12291 or significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979) and it is further certified under the criteria of the Regulatory Flexibility Act that this rule will not have a significant economic effect on a substantial number of small entities because few, if any, Model L1011 airplanes are operated by small entities. A final evaluation has been prepared for this regulation and has been placed in the docket. A copy of it may be obtained by contacting the person identified under the caption "**FOR FURTHER INFORMATION CONTACT.**"

Issued in Seattle, Washington on February 2, 1984.

Wayne J. Barlow,

Acting Director, Northwest Mountain Region.

[FR Doc. 84-4190 Filed 2-15-84; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 83-NM-45-AD; Amdt. 39-4809]

Airworthiness Directives; Sundstrand Data Control, Inc., Digital Flight Data Recorder, Model 573A

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adds a new airworthiness directive (AD) which requires inspection of certain Sundstrand Data Control, Inc., Model 573A Digital Flight Data Recorders (DFDR) installed in transport category airplanes. This AD is necessary because some DFDR connector sockets were manufactured without retaining clips, which may cause erratic operation. Failure of a DFDR may result in loss of data necessary to investigate accidents and to develop accident prevention measures.

DATE: Effective March 19, 1984.

ADDRESSES: The applicable service information may be obtained from: Sundstrand Data Control, Inc., Overlake Industrial Park, Redmond, Washington 98052. This information may also be examined at the address listed below.

FOR FURTHER INFORMATION CONTACT: Mr. Alvin Habbestad, Systems & Equipment Branch, ANM-130S, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington, telephone (206) 431-2942. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include an AD requiring the inspection on certain Sundstrand Data Control, Inc. Model 573A Digital Flight Data Recorders was published in the **Federal Register** on July 11, 1983 (48 FR 31662). The comment period was closed on August 26, 1983.

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to all comments received.

Three commenters had no objection to the AD as proposed.

One commenter stated that the compliance time of 2000 flight hours placed a high burden on the operators and proposed a compliance time of 4000 hours or, as an alternaitve, proposed that the compliance time be 2000 hours or one year. The FAA has determined that the compliance time can be adjusted to 2000 hours or one year, whichever occurs later, without compromising safety, and the rule as adopted reflects this change.

One commenter stated the intent of the AD would be accomplished regardless of the outcome of the NPRM since a service bulletin (SB) has been issued that provides the needed corrective action and only a limited number of DFDR's are defective. The FAA does not concur. Of the 950 DFDR's (not 450 as previously reported in the NPRM), two hundred forty (240) DFDR's have been examined, and thirty four (34) of those required connector replacement. That leaves seven hundred ten (710) DFDR's to be checked. The SB only identifies the potential problem with DFDR's and does not mandate all DFDR users comply with the SB. Therefore, issuance of an AD is necessary to insure all incorrect connectors which could cause erratic operation and loss of data are replaced.

It is estimated that for the 950 digital flight recorders affected by this AD, it will take approximately ¼ manhour to identify the type of sockets used and two hours to replace the connectors. Based on these figures, the maximum total cost of this AD to all operators combined is estimated to be $19,000. For these reasons, the AD is not considered to be a major rule under the criteria of Executive Order 12291. Few, if any, small entities within the meaning of the Regulatory Flexibility Act will be affected.

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and public interest require the adoption of the rule with the change noted above.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new airworthiness directive:

Sundstrand Data Control, Inc.: Applies to Sundstrand Model 573A, Digital Flight Data Recorded (DFDR) Part Numbers 981-6009-001/010/011/012/013/014. To prevent loss of recorded data, accomplish the following within the next 2,000 hours time in service or 1 year after the effective date of this AD, whichever occurs later, unless already accomplished:

A. Inspect the DFDR to determine modification status. For DFDR's which have Mod 8 accomplished, but not Mod 15, accomplish Sundstrand Service Bulletin No.

23, (Document No. 012-0118-123), (Mod 15), dated August 2, 1982, or later FAA approved revisions.

B. Alternative means of compliance which provide an equivalent level of safety may be used when approved by the Manager, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region.

This amendment becomes effective March 19, 1984.

(Secs. 313(a), 314(a), and 601 through 610, and 1102 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421 through 1430, and 1502); 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89)

Note.—For the reasons discussed earlier in the preamble, the FAA has determined that this regulation is not considered to be major under Executive Order 12291 or significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is further certified under the criteria of the Regulatory Flexibility Act that this rule will not have a significant economic effect on a substantial number of small entities since it involves few, if any, small entities. A final evaluation has been prepared for this regulation and has been placed in the docket. A copy of it may be obtained by contacting the person identified under the caption "**FOR FURTHER INFORMATION CONTACT.**"

Issued in Seattle, Washington on February 2, 1984.

Wayne J. Barlow,

Acting Director, Northwest Mountain Region.

[FR Doc. 84-4180 Filed 2-15-84; 8:45 am]

BILLING CODE 4910-13-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 230

[Release No. 33-6508]

Revisions to the Resale Provisions Applicable to Securities Acquired in Registered Business Combinations

AGENCY: Securities and Exchange Commission.

ACTION: Final rule.

SUMMARY: The Commission announces the adoption of amendments to Rule 145 under the Securities Act of 1933 to provide that certain persons receiving securities in registered business combination transactions shall not be deemed underwriters and may freely transfer such securities if they are not affiliates of the issuer and either: (1) have beneficially owned the securities for at least three years; or (2) have beneficially owned the securities for at least two years and the issuer meets the public information requirements of paragraph (c) of Rule 144. The amendments are designed to make the resale provisions applicable to securities acquired in registered business combinations consistent with the resale provisions applicable to securities acquired in exempt business combinations.

EFFECTIVE DATE: March 26, 1984.

FOR FURTHER INFORMATION CONTACT: Prior to the effective date, Mary M. Jackley at (202) 272-2644, Office of Small Business Policy, Division of Corporation Finance, Securities and Exchange Commission, 450 Fifth Street NW., Washington, D.C. 20549. After the effective date, contact Ann Glickman, (202) 272-2573, Office of the Chief Counsel, Division of Corporation Finance, Securities and Exchange Commission, 450 Fifth Street NW., Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION: Rule 145 (17 CFR 230.145) under the Securities Act of 1933 (15 U.S.C. 77a *et seq.* (1976 and Supp. IV 1980)) ("Securities Act") provides that certain transactions involving business combinations, such as mergers, consolidations and acquisitions of assets, which are submitted for the vote or consent of security holders, are subject to the registration requirements of the Securities Act. With respect to resales of securities acquired in Rule 145 transactions,[1] Paragraph (c) of Rule 145 provides that persons who are affiliates [2] of entities which are acquired in Rule 145 transactions are deemed to be underwriters within the meaning of Section 2(11) of the Securities Act. Notwithstanding the provisions of paragraph (c), a person is not deemed to be an underwriter if: (1) the securities are sold in compliance with certain provisions of Rule 144 (17 CFR 230.144); [3] or (2) such person is not an affiliate of the issuer and has held the securities for at least two years, and the issuer has been a reporting company under the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.* (1976 and Supp IV 1980)) ("Exchange Act") and has filed all required reports for the preceding 12 months.[4]

On September 23, 1983, the Commission proposed amendments to Rule 145(d)(2) to permit resales by a non-affiliate who has been the beneficial owner of securities for at least two years, if the issuer meets the informational requirements of paragraph (c) of Rule 144 and proposed new paragraph (d)(3) to permit resales by a non-affiliate who has been the beneficial owner of securities for at least three years without further restriction.[5] The proposal of new paragraph (3) of Rule 145 was responsive to a comment letter received by the Commission in connection with the recent adoption of an amendment to Rule 144(k) [6] to remove, as a prerequisite to sales of restricted securities by non-affiliates who have held securities for three years, the requirement that current information be publicly available regarding the issuer. The commentator noted that the amendment to Rule 144 would establish theoretically less stringent resale requirements for restricted securities received in a business combination pursuant to a transactional exemption under the Securities Act than for registered securities acquired in a transaction subject to Rule 145 because of the 12 month reporting requirement currently prescribed by Rule 145(d).

A former affiliate of an acquired company, for example, who is not an affiliate of the acquiring company after a transaction would be able to freely transfer securities received in the exempt transaction after a three year holding period. Pursuant to Rule 145(d), the same person receiving registered securities would be able to freely transfer such securities after a three year holding period only if the issuer has been a reporting company for one year. The Commission does not believe that such a distinction between these resale provisions is either necessary or appropriate. Accordingly, it published

[1] Persons who are effecting resales of registered securities issued in Rule 145 transactions generally fall into four categories. Rule 145(d) would apply to their resales as follows: (1) Non-affiliate of acquired company who is a non-affiliate of the acquiring company after the transactions—Rule 145 (c) and (d) not applicable and securities are unrestricted; (2) Non-affiliate of acquiring company who is an affiliate of the acquiring company after the transaction—Rule 145 (c) and (d) not applicable, but Rule 144 would be, if no other exemption could be found; (3) Affiliate of acquired company who is a non-affiliate of the acquiring company after the transaction—resales may be made under Rule 145 (d) (1), (2) or (3); and (4) Affiliate of acquired company who is an affiliate of the acquiring company after the transaction—Rule 145(d)(1) applies.

[2] An "affiliate" of an entity is defined in Rule 405 (17 CFR 230.405) under the Securities Act as "a person that directly or indirectly through one or more intermediaries, controls or is controlled by, or is under common control with, the (entity)."

[3] Paragraph (d)(1) of Rule 145 permits resales in accordance with paragraphs (c), (e), (f) and (g) of Rule 144. Those paragraphs require that there be current public information available about the issuer of the securities, that the amount of securities sold during any three month period not exceed certain specified limits, and that the securities be sold in brokers' transactions. The person or party reselling securities under revised paragraph (d)(2), of course, would be entitled to rely on the provisions of Rule 144(c) that permit reliance on statements made by the issuer that it has filed all required reports under the Exchange Act.

[4] Rule 145(d)(2).

[5] Release No. 33-6487 (September 23, 1983) (48 FR 44843).

[6] Release No. 33-6488 (September 23, 1983) (48 FR 44770).

for comment the proposed amendments to Rule 145 to make the resale provisions of Rule 145(d) consistent with those of Rule 144.

Six letters of comment were received which unanimously supported the Commission's intent to provide consistency in the resale provisions of Rules 144 and 145. Based on the comments received and its own experience, the Commission has determined to adopt the amendments as published for comment [7] with the following exception. As suggested by one commentator, the amendments have been revised to refer to "such person or party" to be consistent with the other provisions of Rule 145. The commentators also suggested additional revisions which will be considered as part of a comprehensive reexamination of the resale provisions of Rules 144 and 145.

Summary of Final Regulatory Flexibility Analysis

The Commission has prepared a final regulatory flexibility analysis in accordance with 5 U.S.C. 604 regarding the revision of Rule 145. A summary of the corresponding Initial Regulatory Flexibility Analysis was included in the release proposing the amendment to Rule 145 at 48 FR 44843. Members of the public who wish to obtain copies of the Final Regulatory Flexibility Analysis should contact Mary M. Jackley in the manner specified above.

List of Subjects in 17 CFR Part 230

Reporting and recordkeeping requirements, Securities.

Statutory Authority

The amendments to Rule 145 are adopted by the Commission pursuant to Sections 2(11), 4(1), 4(4), and 19(a) of the Securities Act.

(Secs. 2(11), 4(1), 4(4), 19(a), 48 Stat. 74, 77, 85; sec. 209, 48 Stat. 908; secs. 1–4, 68 Stat. 683; sec. 12, 78 Stat. 580; sec. 308(a)(2), 90 Stat. 57; 15 U.S.C. 77b(11), 77d(1), 77d(4), 77s(a))

Text of Amendment

Pursuant to Section 19(a), Chapter II of Title 17 of the Code of Federal Regulations is hereby amended as follows:

[7] One of the commentators asked that the Commission take action to clarify a statement made by it in Release No. 33–5932 (May 15, 1978) (43 FR 21660) that Rule 145(d) was the exclusive means for resale by persons considered underwriters under Rule 145(c). The Commission's statement in the earlier release was intended to apply only to public resales made without registration. Registered resales, of course, are not subject to Rule 145(d) limitations. Moreover, resales possibly could be made in private transactions. In making such private resales, the persons presumably would rely on the so-called "Section 4 (1½)" exemption.

PART 230—GENERAL RULES AND REGULATIONS, SECURITIES ACT OF 1933

1. By revising paragraph(d) of § 230.145 as follows:

§ 230.145 Reclassification of securities, mergers, consolidations and acquisitions of assets.

* * * * *

(d) *Resale provisions for persons and parties deemed underwriters.* Notwithstanding the provisions of paragraph(c), a person or party specified therein shall not be deemed to be engaged in a distribution and therefore not to be an underwriter of registered securities acquired in a transaction specified in paragraph(a) of this section if: (1) Such securities are sold by such person or party in accordance with the provisions of paragraphs (c), (e), (f) and (g) of § 230.144; (2) such person or party is not an affiliate of the issuer and has been the beneficial owner of the securities for at least two years as determined in accordance with paragraph (d) of § 230.144, and the issuer meets the requirements of paragraph (c) of § 230.144; or (3) such person or party is not, and has not been for at least three months, an affiliate of the issuer and has been the beneficial owner of the securities for at least three years as determined in accordance with paragraph(d) of § 230.144.

* * * * *

By the Commission.

George A. Fitzsimmons,

Secretary.

February 10, 1984.

[FR Doc. 84–4205 Filed 2–15–84; 8:45 am]

BILLING CODE 8010–01–M

DEPARTMENT OF JUSTICE

Office of the Attorney General

28 CFR Part 45

[Order No. 1045–84]

Amendment of Standards of Conduct; Designation of Deputy Designated Agency Ethics Officials

AGENCY: Department of Justice.

ACTION: Final rule.

SUMMARY: This order amends Part 45, Title 28 of the Code of Federal Regulations to provide for the designation of Deputy Designated Agency Ethics Officials (DAEOs) for the Department, and describe the duties of Deputy DAEOs.

EFFECTIVE DATE: February 7, 1984.

FOR FURTHER INFORMATION CONTACT: William J. Snider, Administrative Counsel and Alternate Designated Agency Ethics Official, Justice Management Division, Department of Justice, Room 6239, 10th And Constitution Avenue, NW., Washington, D.C. 20530 (202–633–3452).

SUPPLEMENTARY INFORMATION: The Office of Government Ethics regulations at 5 CFR 738.204, interpreting Title II of the Ethics in Government Act of 1978 (Pub. L. No. 95–521, as amended), permit each DAEO appointed under the Act to appoint one or more Deputy DAEO(s). The Department has thus decided to require the head of each division (defined in 28 CFR 45.735–3(a) to include a division, bureau, service, office or board) to nominate an individual to be designated a Deputy DAEO for his or her component, to carry out the duties set forth in this order.

This regulation is exempt from the requirements of Exec. Order No. 12291 as a regulation related to agency organization and management. Furthermore, this regulation will not have a significant impact on a substantial number of small entities because its effect is internal to the Department of Justice. The index term for the part amended hereunder is "Conflict of Interests."

List of Subjects in 28 CFR Part 45

Conflict of interest.

PART 45—[AMENDED]

By virtue of the authority vested in me, as Attorney General, by 28 U.S.C. 509 and 510 and 5 U.S.C. 301, Part 45 of Title 28, Code of Federal Regulations is hereby amended as follows:

Section 45.735–26 is amended by revising paragraphs (a) and (c) and by adding paragraphs (d) and (e) to read as follows:

§ 45.735–26 Designated Agency Ethics Official and Deputy Designated Agency Ethics Officials.

(a) The Assistant Attorney General for Administration is the "designated agency ethics official" (DAEO) for this Department. Each division head is directed to nominate an individual to be designated by the DAEO as a Deputy DAEO for the component under the division head's supervision.

* * * * *

(c) Each Deputy DAEO, under the general supervision and guidance of the DAEO, shall have responsibility for coordinating and managing the Department's Ethics Program within his or her component, including the education and counselling of employees

on matters of conduct and professional ethics.

(d) Each Deputy DAEO, within his or her component, shall:

(1) Assist in the review and certification of public financial disclosure statements filed under the Ethics in Government Act of 1978 as required by 28 CFR 45.735–27(d);

(2) Assist in the review and certification of any confidential financial disclosure reports filed by employees;

(3) Counsel employees with regard to actual or potential conflicts of interest and other ethical standards;

(4) Counsel departing and former employees on post-employment conflicts of interest standards;

(5) Provide training and education in standards of conduct for all employees;

(6) Provide for the efficient dissemination, collection and review of public and confidential financial disclosure statements required by the Ethics in Government Act of 1978 and regulations published thereunder;

(7) Report annually to the DAEO any circumstances or situations which have resulted or may result in noncompliance with ethics laws and regulations;

(8) Assist the division head in taking prompt and effective action, including administrative action, to remedy:

(i) Violations or potential violations, or appearances thereof, of the Department's standards of conduct, including post-employment regulations;

(ii) The failure to file a financial disclosure report or portions thereof;

(iii) Potential or actual conflicts of interest, or appearances thereof, which were disclosed on a financial disclosure report; and

(iv) Potential or actual violation of other laws governing the conduct or financial holdings of officers or employees of the Department;

(9) Assist the division head in ensuring that ordered remedial actions, including divestiture and disqualification, are actually taken; and

(10) Perform other duties as required by the DAEO, the Attorney General, or, when appropriate, the Office of Government Ethics.

(e) Each division head will notify the DAEO when that division's Deputy DAEO is no longer able to serve and will nominate a new Deputy DAEO to be appointed by the DAEO.

Dated: February 7, 1984.

William French Smith,

Attorney General.

[FR Doc. 84–4166 Filed 2–15–84; 8:45 am]

BILLING CODE 4410–01–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD 12–84–01]

Marine Parade; Pacific Inter-Club Yacht Association Opening Day Parade on San Francisco Bay; Correction

AGENCY: Coast Guard, DOT.

ACTION: Final rule, correction.

SUMMARY: This correction renumbers the special local regulation for the annual Pacific Inter-Club Yacht Association Opening Day Parade on San Francisco Bay. The final rule for the special local marine parade regulation was published in the **Federal Register** on March 24, 1983 (48 FR 12351). By renumbering the regulation, the permanent special local marine parade regulations will be uniformly located at the end of PART 100 of Title 33 of the Code of Federal Regulations.

FOR FURTHER INFORMATION CONTACT: LT C. A. Amen, c/o Commander (d1), Twelfth Coast Guard District, Government Island, Alameda, CA 94501, (415) 437–3330.

Accordingly, the following correction is made to FR Doc. 83–7641, published at 48 FR 12351, March 24, 1983:

1. The amendatory paragraph and the section heading of the Final Regulation are corrected to read as follows:

In consideration of the foregoing, Part 100 of Title 33, Code of Federal Regulations, is amended by adding § 100.1201 to read as follows:

§ 100.1201 Opening Day Marine Parade, San Francisco Bay.

* * * * *

Dated: February 3, 1984.

C. E. Larkin,

Vice Admiral, U.S. Coast Guard Commander, Twelfth Coast Guard District.

[FR Doc. 84–4277 Filed 2–15–84; 8:45 am]

BILLING CODE 4910–14–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 469

[FRL 2510–7]

Electrical and Electronic Components Point Source Category Effluent Limitations Guidelines Phase I

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: EPA is today adopting as final the interim final rule and corrections that were published in the **Federal Register** on October 4, 1983 (48 FR 45249). The rule amends the compliance deadline for the best available technology economically achievable (BAT) effluent limitations guidelines for fluoride in the Electronic Crystals Subcategory. The latest possible compliance date, as determined by the permit writer, is November 8, 1985, instead of July 1, 1984.

DATES: This amendment became effective on November 17, 1983 as an interim final rule.

ADDRESS: For technical information write to Mr. David Pepson, Effluent Guidelines Division (WH–552) Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460, Attention: Electrical and Electronic Components Phase I. The administrative record, including all comments, is available for inspection and copying at the EPA Public Information Reference Unit, Room 2402 (Rear) (EPA Library). The EPA public information regulation (40 CFR Part 2) provides that a reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: David Pepson at (202) 382–7124.

SUPPLEMENTARY INFORMATION: .

I. Purpose of Amendment

On April 8, 1983, EPA promulgated Clean Water Act effluent limitations guidelines, pretreatment standards, and new source performance standards for semiconductor and electronic crystal manufacturing plants. 48 FR 15382, 40 CFR Part 469. These plants comprise two subcategories within the electrical and electronics components point source category.

Among the limitations EPA established was a best available technology economically achievable (BAT) limitation for fluoride for electronic crystal manufacturing plants. EPA set a compliance deadline of "as soon as possible as determined by the permit writer, but in no event later than July 1, 1984" for this limitation. 40 CFR 469.21. EPA did not extend the compliance deadline beyond July 1, 1984, as is authorized by section 301(b)(2)(F) for nonconventional pollutants because, based on the available data in the record, EPA determined that all the direct dischargers in the subcategory had fluoride treatment in place.

Subsequent to promulgation, EPA learned that one of the direct dischargers in the Electronic Crystal Subcategory did not have fluoride treatment installed. Based on this new

information, the Agency amended the BAT compliance deadline from no later than July 1, 1984 to "as soon as possible as determined by the permit writer but in no event later than November 8, 1985." This amendment was published as an interim final rule in 48 FR 45249 (October 4, 1983). That notice should be referred to for further background information. EPA also made several typographical corrections to the April 8, 1983 regulations.

The comment period for the interim final rule closed on November 3, 1983. One comment was received and this comment supported the amendment. EPA is therefore now promulgating the interim final rule published on October 4, 1983 as a final rule.

II. Executive Order 12291 and Regulatory Flexibility Analysis

Executive Order 12291 requires EPA and other agencies to perform regulatory impact analyses of major regulations. The primary purpose of the Executive Order (E.O.) is to ensure that regulatory agencies carefully evaluate the need for taking regulatory action. Major rules are those which impose a cost on the economy of $100 million a year or more or have certain other economic impacts. This amendment it not a major rule because its annualized cost is less than $100 million and it meets none of the other criteria specified in Section 1 paragraph (b) of the E.O.

Pub. L. 96–354 requires EPA to prepare an Initial Regulatory Flexibility analysis for all regulations that have a significant impact on a substantial number of small entities. This analysis may be done in conjunction with or as a part of any other analysis conducted by the Agency. The economic impact analysis done for the April 8, 1983 regulation indicates that this amendment would not have a significant impact on any segment of the regulated population. Therefore, a formal regulatory flexibility analysis is not required.

III. OMB Review

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

This amendment does not contain any information or collection requirements subject to OMB review under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*

List of Subjects in 40 CFR Part 469

Electrical and electronic equipment, Water pollution control, Waste treatment and disposal.

Dated: February 1, 1984.

William D. Ruckelshaus,

Administrator.

PART 469—[AMENDED]

The interim rule and corrections published in the **Federal Register** of October 4, 1983 (48 FR 45249) are adopted as final with the following changes:

Authority: Sections 301, 304 (b), (c), (e), and (g), 306 (b) and (c), 307 (b) and (c), and 501 of the Clean Water Act (the Federal Water Pollution Control Act Amendments of 1972, as amended by the Clean Water Act of 1977) (the "Act"); 33 U.S.C. 1311, 1314 (b), (c), (e), and (g), 1316 (b) and (c), 1317 (b) and (c), and 1361; 86 Stat. 816, Pub. L. 92–500; 91 Stat. 1567, Pub. L. 95–217.

2. Section 469.21 is amended by revising the second sentence to read as follows:

§ 469.21 Compliance Dates.

* * * * *

The compliance date for PSES for total toxic organics (TTO) is July 1, 1984 and for arsenic is November 8, 1985.

[FR Doc. 84–3505 Filed 2–15–84; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF THE INTERIOR

Office of the Secretary

43 CFR Part 7

DEPARTMENT OF AGRICULTURE

Forest Service

36 CFR Part 296

TENNESSEE VALLEY AUTHORITY

18 CFR Part 1312

DEPARTMENT OF DEFENSE

32 CFR Part 229

Archaeological Resources Protection Act of 1979; Final Uniform Regulations

Correction

In FR Doc. 84–346 beginning on page 1016 in the issue of Friday, January 6, 1984, the headings should read as set forth above. Also, make the following corrections:

1. On page 1018, the middle column, the first complete paragraph, the ninth line, the word "of" should read "or".

2. On page 1021, the first column, the first complete paragraph, the last line, the word "received" should read "receive".

3. On page 1022, the first column, the seventh line, the word "are" should read "un-".

4. On page 1024, the middle column, the second complete paragraph, the first line, place the word "a" before the word "utility".

5. On page 1028, the third column, in § —.3(a)(3)(iii), the seventh line, the word "ivery" should read "ivory".

6. On page 1029, the first column, in § —.3(c)(2), the second line, the word "respects" should read "respect".

7. On page 1031, the first column, the third paragraph under § —.8 should be designated "(i)".

8. On the same page, the middle column, in § —.8(a)(4), the last line, the word "deeded" should read "deemed".

9. On the same page, the third column, in § —.8(b), the fourth line, the word "manager" should read "managers".

10. On page 1032, the first column, in § —.10(b), the eighth line, insert the word "not" before the word "in".

11. On page 1034, the middle column, in the heading of § —.18, the word "or" should read "of".

BILLING CODE 1505-01-M

Bureau of Land Management

43 CFR Public Land Order 6515

[M–41513]

Partial Revocation and Modification of Stock Driveway Withdrawal; Montana

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order partially revokes and modifies a Secretarial order, as modified, which withdrew lands for stock driveway purposes. Revocation of 842.92 acres is merely a record clearing action since these lands are privately owned. This action also establishes a 20-year life term for the withdrawal on 2,985.29 acres of public land. These lands have been and continue to be open to mining and mineral leasing.

EFFECTIVE DATE: February 16, 1984.

FOR FURTHER INFORMATION CONTACT: Roland F. Lee, Montana State Office, 406–657–6291.

By virtue of the authority vested in the Secretary of the Interior, by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. Secretarial Order dated October 28, 1920, which withdrew lands for Stock Driveway No. 22, Montana No. 3, as modified by Secretarial Order of July 21,

1923, is hereby revoked insofar as it affects the following described lands:

Principal Meridian

T. 13 S., R. 4 W.,
Sec. 4, lots 1, 2, 3, and 4, S½N½, W½SE¼, and SW¼;
Sec. 5, NE¼SW¼, S½SW¼, and SE¼.

The area described contains 842.92 acres in Beaverhead County.

2. This action will not restore the above described lands to operation of the public laws as they are in private ownership.

3. Secretarial Order dated October 28, 1920, as modified, which withdrew lands for Stock Driveway No. 22, Montana No. 3, is hereby modified to continue for a period of 20 years from the effective date of this order on the following described lands:

Principal Meridian

T. 13 S., R. 4 W.,
Sec. 1, lots 1, 2, 3, and 4, S½N½ and S½;
Sec. 2, lots 1, 2, 3, and 4, S½N½ and S½;
Sec. 3, lots 1, 2, 3, and 4, S½N½ and S½;
Sec. 4, E½SE¼;
Sec. 5, lots 1, 2, 3, and 4, S½N½ and NW¼SW¼;
Sec. 6, lots 1, 2, 3, 4, 5, 6, and 7, S½NE¼, SE¼NW¼, E½SW¼, and SE¼.

The area described contains 2,985.92 acres in Beaverhead County.

4. The lands described in paragraph 1 in Section 4, and the E½SE¼ Section 5, T. 13 S., R. 4 W., and the lands in paragraph 3 have been and continue to be open to location under the mining laws and to applications and offers under the mineral leasing laws. The remaining lands in paragraph 1 were patented without minerals reserved to the United States.

5. Pursuant to Section 204(f) of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714(f), the withdrawal of the lands in paragraph 3 will be reviewed within 20 years from the effective date of this order and, if appropriate, at subsequent 20-year intervals, to ensure that the lands are still being used for the purpose for which they were originally withdrawn.

Inquiries concerning the lands should be addressed to the Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, P.O. Box 30157, Billings, Montana 59107.

Dated: February 9, 1984.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

[FR Doc. 84-4286 Filed 2-15-84; 8:45 am]

BILLING CODE 4310-84-M

43 CFR Public Land Order 6516

[NM 44725]

Revocation of Stock Driveway Withdrawal No. 16; New Mexico

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order revokes a Secretarial order insofar as it affects the remaining 17.50 acres of public land withdrawn for a stock driveway. This action will restore the land to surface entry. The land has been and will remain open to mining and mineral leasing.

EFFECTIVE DATE: March 17, 1984.

FOR FURTHER INFORMATION CONTACT: Dolores L. Vigil, New Mexico State Office, 505–988–6635.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. Secretarial Order of August 17, 1951, creating Stock Driveway No. 16, is hereby revoked in its entirety:

New Mexico Principal Meridian

T. 29 N., R. 13 W.,
Sec. 7, N½N½SE¼NW¼, E½SE¼SE¼NW¼, SE¼NE¼SE¼NW¼.

The area described contains 17.50 acres in San Juan County.

2. At 8 a.m. on March 17, 1984, the land will be opened to operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals and the requirements of applicable law. All valid applications received at or prior to 8 a.m. on March 17, 1984, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

The land has been and will remain open to mineral location under the United States mining laws and to applications and offers under the mineral leasing laws.

Inquiries concerning the land should be addressed to the State Director, Bureau of Land Management, P.O. Box 1449, Santa Fe, New Mexico 87501.

Dated: February 9, 1984.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

[FR Doc. 84-4286 Filed 2-15-84; 8:45 am]

BILLING CODE 4310-84-M

43 CFR Public Land Order 6518

[I-14538 and I-15304]

Partial Revocation and Modification of the Secretarial Orders of July 17, 1918, and May 11, 1931; Idaho

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order revokes two Secretarial orders as to 34,850.75 acres of public land withdrawn for stock driveway purposes. This action restores to surface entry 34,702.53 acres which have been and remain open to mining and mineral leasing. Of the balance, 148.22 acres of surface and 80 acres of subsurface were conveyed out of Federal ownership and will not be restored to surface entry, mining, or mineral leasing. The remaining 68.22 acres of subsurface have been and remain open to mining and mineral leasing. Additionally, this action establishes a 20-year term for the continued use of 1,280.68 acres for stock driveway purposes. This continued acreage remains closed to surface entry, but open to mining and mineral leasing.

EFFECTIVE DATE: March 17, 1984.

FOR FURTHER INFORMATION CONTACT: Larry Lievsay, Idaho State Office, 208–334–1735.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. The Secretarial Orders of July 17, 1918, and May 11, 1931, which withdrew public lands for stock driveway purposes, are hereby revoked insofar as they affect the following described lands:

Boise Meridian

Stock Driveway No. 29

T. 7 N., R. 3 E.,
Sec. 28, SE¼SE¼;
Sec. 33, lot 2, NE¼NW¼.
T. 2 N., R. 4 E.,
Sec. 24, lots 2, 9, N½SE¼, SW¼SE¼;
Sec. 25, W½E½.
T. 1 S., R. 6 E.,
Sec. 1, S½NW¼, SW¼, W½SE¼, SE¼SE¼;
Sec. 2, lots 1, 2, 3, S½NE¼, SE¼NW¼, E½SW¼, SE¼;
Sec. 11, E½NE¼, W½E½,E½W½, SW¼NW¼, W½SW¼;
Sec. 12, N½, N½SE¼, SE¼SE¼;
Sec. 14, W½E½, W½, SE¼SE¼;
Sec. 23, E½, E½W½;
Sec. 26, E½, E½W½;
Sec. 35, NE¼, N½SE¼, SE¼SE¼.
T. 1 S., R. 7 E.,
Sec. 6, lot 7, SE¼SW¼;

Sec. 7;
Sec. 8, N½NE¼, S½N½, S½;
Sec. 9;
Sec. 13, E½E½, N½NW¼;
Sec. 17, NW¼NE¼, NW¼;
Sec. 18, N½NE¼, NE¼NW¼;
Sec. 24, E½NE¼.
T. 1 S., R. 8 E.,
Sec. 27, N½NE¼, NE¼NW¼, S½SE¼;
Sec. 33, S½NE¼, E½SW¼, SW¼SW¼, SE¼;
Sec. 34.
T. 2 S., R. 5 E.,
Sec. 22, N½SE¼, SE¼SE¼;
Sec. 23, E½NE¼, SW¼NE¼, S½;
Sec. 24;
Sec. 25, lot 1, NW¼NE¼, N½NW¼;
Sec. 26, N½N½, SW¼NW¼, NW¼SW¼;
Sec. 27, E½E½, SW¼SE¼;
Sec. 33, lot 1, NE¼SE¼;
Sec. 34, lots 1 to 4, inclusive, NE¼, E½NW¼, N½S½.
T. 2 S., R. 6 E.,
Sec. 1, lot 4;
Sec. 2, lots 1 to 4, inclusive, S½N½, N½S½, S½SW¼;
Sec. 3, SE¼NE¼, E½SE¼;
Sec. 10;
Sec. 11, W½;
Sec. 15;
Sec. 19 to 22, inclusive;
Sec. 27, N½N½;
Sec. 28, N½N½;
Sec. 29, N½N½;
Sec. 30, lot 1, N½NE¼, NE¼NW¼.
T. 2 S., R. 7 E.,
Sec. 12, S½SE¼;
Sec. 13, E½;
Sec. 24, E½;
Sec. 25, NE¼, N½SE¼, SE¼SE¼.
T. 2 S., R. 8 E.,
Sec. 4, lots 1 to 4, inclusive, S½N½, N½S½, S½SW¼, SW¼SE¼;
Sec. 5, SE¼SW¼, SE¼;
Sec. 7, lot 4, SE¼SW¼, S½SE¼;
Sec. 8, E½, E½W½, W½SW¼;
Sec. 9, NW¼, N½SW¼, SW¼SW¼;
Sec. 17, N½, N½S½;
Sec. 18, lots 1 to 4, inclusive, NE¼, E½NW¼, NE¼SW¼, N½SE¼;
Sec. 19, lots 1 to 4, inclusive;
Sec. 30, lots 1 to 4, inclusive, SE¼NW¼, E½SW¼, SW¼SE¼;
Sec. 31, lots 1 to 3, inclusive, W½E½, E½W½.
T. 3 S., R. 4 E.,
Sec. 24, lots 3 and 4;
Sec. 25, lots 1 to 4, inclusive, SW¼NE¼, SW¼, W½SE¼;
Sec. 26, SW¼SE¼;
Sec. 34, lots 1 to 4, inclusive, NE¼, E½NW¼, SW¼NW¼, N½S½;
Sec. 35, lot 4, N½, NW¼SW¼.
T. 3 S., R. 5 E.,
Sec. 3;
Sec. 4, lot 1, S½NE¼, E½SW¼, SW¼SW¼, SE¼;
Sec. 8, E½, E½SW¼, SW¼SW¼;
Sec. 9;
Sec. 10 NW¼NE¼, NW¼, W½SW¼;
Sec. 17;
Sec. 18, E½E½, SW¼SE¼;
Sec. 19, lots 2, 3, 4, E½, E½W½;
Sec. 20 N½,N½SW¼, SW¼SW¼;
Sec. 30, lots 1 to 4, inclusive, NE¼, E½W½, NW¼SE¼.
T. 3 S., R. 7 E.,
Sec. 1, W½SW¼;
Sec. 2, SE¼;
Sec. 11, E½, S½SW¼;
Sec. 12, W½W½;
Sec. 13, NW¼NW¼;
Sec. 14, N½, SW¼, NW¼SE¼;
Sec. 15, E½E½, SW¼SE¼;
Sec. 20, SE¼SE¼;
Sec. 21, NE¼, E½NW¼, SW¼NW¼, SW¼, N½SE¼, SW¼SE¼;
Sec. 22, N½, N½S½;
Sec. 23, W½NW¼, NW¼SW¼;
Sec. 28, W½;
Sec. 29, E½NE¼, S½SW¼, SE¼;
Sec. 32, N½;
Sec. 33, N½NW¼.
T. 4 S., R. 4 E.,
Sec. 2, lot 4, SW¼NW¼, W½SW¼;
Sec. 3;
Sec. 10;
Sec. 11, W½W½;
Sec. 14, W½W½;
Sec. 15;
Sec. 21, NE¼, E½SE¼;
Sec. 22;
Sec. 23, W½W½;
Sec. 26, W½NW¼;
Sec. 27, N½;
Sec. 28, E½NE¼.

Stock Driveway No. 22

T. 9 S., R. 2 W.,
Sec. 26, SW¼.
The area described contains 34,850.75 acres in Boise, Elmore and Owyhee Counties.

2. At 9 a.m. on March 17, 1984, the lands described in paragraph 1, except as provided in paragraphs 3 and 4, shall be opened to operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All valid applications received at or prior to 9 a.m. on March 17, 1984, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

3. The following described lands have been conveyed out of Federal ownership and are not subject to operation of the public land laws, including the mining and mineral leasing laws:

Boise Meridian

Stock Driveway No. 29

T. 7 N., R. 3 E.,
Sec. 28, SE¼SE¼;
T. 2 S., R. 6 E.,
Sec. 27, NW¼NE¼.
The area described contains 80 acres in Boise and Elmore Counties.

4. The surface of the following described land has been conveyed out of Federal ownership and is not subject to operation of the public land laws. This federally owned subsurface has been and remains open to location and entry under the United States mining laws, and to applications and offers under the mineral leasing laws.

Boise Meridian

Stock Driveway No. 29

T. 7 N., R. 3 E.,
Sec. 33, lot 2, NE¼NW¼.
The area described contains 68.22 acres in Boise and Elmore Counties.

5. The Secretarial Order of July 17, 1918, which withdrew the following described lands, is hereby modified to expire 20 years from the effective date of this order, unless as a result of a review conducted before the effective date, pursuant to Section 204(f) of the Federal Land Policy and Management Act, 43 U.S.C. 1714(f), the Secretary determines that the withdrawal shall be extended.

Boise Meridian

Stock Driveway No. 29

T. 6 N., R. 2 E.,
Sec. 2, SE¼SE¼;
Sec. 11, NE¼NE¼;
Sec. 12, S½NE¼, E½NW¼, NW¼NW¼, NE¼SE¼.
T. 6 N., R. 3 E.,
Sec. 4, lot 4;
Sec. 5, lots 1, 2, 3, SW¼NE¼, S½NW¼, N½SW¼, SW¼SW¼;
Sec. 6, SE¼SW¼, E½SE¼, SW¼SE¼;
Sec. 7, lots 2 and 3, E½NW¼, NE¼SW¼.
T. 7 N., R. 3 E.,
Sec. 33, lots 3 and 4, N½NE¼, SW¼NE¼, SE¼NW¼, NE¼SW¼.
The area described contains 1,280.66 acres of public land in Bingham County.

The lands described in paragraph 5 have been and remain closed to operation of the public land laws generally, but open to location and entry under the United States mining laws, and applications and offers under the mineral leasing laws.

Inquiries concerning the lands should be directed to the Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, 3380 Americana Terrace, Boise, Idaho 83706.

Dated: February 9, 1984.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

[FR Doc. 84-4285 Filed 2-15-84; 8:45 am]
BILLING CODE 4310-84-M

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43 CFR Public Land Order 6519

[M-41560]

Modification of Secretarial Order Dated December 5, 1941, as Amended; Montana

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order modifies a Secretarial order which withdrew

1,897.24 acres of public land for stock driveway purposes. The modification establishes a 20-year term. The lands would remain closed to surface entry, but have been and remain open to mining and mineral leasing.

EFFECTIVE DATE: February 16, 1984.

FOR FURTHER INFORMATION CONTACT: Roland F. Lee, Montana State Office, 406–657–6291.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. Secretarial Order dated December 5, 1941, as amended, which withdrew Stock Driveway No. 11, Montana No. 1, described below from disposal under the public land laws, is hereby modified to expire 20 years from the effective date of this order as to the following described land:

Principal Meridian

T. 12 S., R. 8 W.,
Sec. 22, E½SW¼ and SE¼;
Sec. 27, N½NE¼, SW¼NE¼, and W½;
Sec. 31, lots 3 and 4, E½SW¼ and SE¼;
Sec. 32, S½;
Sec. 33, S½;
Sec. 34, NW¼, N½SW¼ and SW¼SW¼.

The area described contains 1,897.24 acres in Beaverhead County.

2. The lands have been and remain open to location and entry under the mining laws and to applications and offers under the mineral leasing laws.

3. Pursuant to Section 204(f) of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714(f), this withdrawal will be reviewed within 20 years from the effective date of this order and, if appropriate, at subsequent 20 yeaf intervals to ensure that the lands are still being used for the purpose for which they were withdrawn.

Inquiries concerning the lands should be addressed to the Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, P.O. Box 30157, Billings, Montana 59107.

Dated: February 9, 1984.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

[FR Doc. 84–4267 Filed 2–15–84; 8:45 am]

BILLING CODE 4310–84–M

43 CFR Public Land Order 6520

[OR–34465]

Revocation of Executive Order of March 29, 1866; Oregon

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order revokes an Executive order which withdrew 47.30 acres of acquired land to establish the Cape Blanco Lighthouse Reservation. This acquired land is not subject to the surface land or mining laws; however, it has been and remains open to acquired lands mineral leasing. This is merely a record clearing action.

EFFECTIVE DATE: March 17, 1984.

FOR FURTHER INFORMATION CONTACT: Champ C. Vaughan, Jr., Oregon State Office, 503–231–6905.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. The Executive Order of March 29, 1866, which withdrew land for use by the U.S. Coast Guard for the Cape Blanco Lighthouse Reservation, is hereby revoked:

Willamette Meridian

T. 32 S., R. 16 W.,
Sec. 2, lot 1.

The area described aggregates 47.30 acres in Curry County.

2. This acquired land is not subject to operation of the public land laws, including the mining laws. The land has been and remains open to acquired lands mineral leasing.

Inquiries concerning the land should be addressed to Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, P.O. Box 2965, Portland, Oregon 97208.

Dated: February 9, 1984.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

[FR Doc. 84–4284 Filed 2–15–84; 8:45 am]

BILLING CODE 4310–84–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 2

Organization, Functions, and Delegations of Authority

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Final rule.

SUMMARY: This document revises the existing FEMA regulation on organization, functions and delegations of authority and describes elements of the organization of FEMA, and the general course and method by which its functions are channeled and determined. This document revises delegations of authority by the Director. The revisions result from recent realignments within FEMA

EFFECTIVE DATE: February 16, 1984.

FOR FURTHER INFORMATION CONTACT: William L. Harding, Office of General Counsel, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287–0377.

SUPPLEMENTARY INFORMATION: This document reflects reassignment of the flood-plain management function from the Associate Director, State and Local Programs and Support to the Federal Insurance Administrator, the establishment of the Emergency Operations Directorate, and establishing Acquisition Management, Personnel, and Administrative Support as staff offices under the Executive Administrator.

This document relates to FEMA's organization and internal practices. Further, it is not a substantive rule, and it makes no substantial changes in existing arrangements. Hence, notice and public comment have been omitted and the rule has been made effective immediately upon publication in the **Federal Register.**

This rule has no effect on the economy, competition or similar matters, nor does it impact on small entities. Hence no regulatory impact analyses will be prepared under E.O. 12291 or the Regulatory Flexibility Act. Further, this document is an administrative action and thus is categorically excluded from the requirement for environmental assessments under Part 10 of this chapter. There are no collection of information requirements and thus section 3504(h) of the Paperwork Reduction Act is inapplicable.

List of Subjects in 44 CFR Part 2

Authority delegations (government agencies), Organization and functions (government agencies).

PART 2—ORGANIZATION, FUNCTIONS, AND DELEGATIONS OF AUTHORITY

Accordingly, Part 2, Chapter 1, Title 44, Code of Federal Regulations, is amended as follows:

1. The Table of Contents of Part 2 of Title 44 is revised to read as follows:

Subpart A—Organization and Functions

General

Sec.
2.1 Purpose.
2.2 Organization of FEMA.

FEMA Offices

2.10 Office of the Director.

Sec.
2.11 Office of the Deputy Director.
2.12 Office of the Executive Deputy Director.
2.13 State and Local Programs and Support Directorate (SLPS).
2.14 National Preparedness Programs Directorate (NPP).
2.15 [Reserved]
2.16 Training and Fire Programs Directorate/National Emergency Training Center (TFP).
2.17 Federal Insurance Administration (FIA).
2.18 Emergency Operations Directorate (OP).
2.19 Office of the Inspector General (IG).
2.20 Office of the General Counsel (GC).
2.21 Office of Program Analysis and Evaluation (PA&E).
2.22 Office of Executive Administration.
2.23 Office of the Comptroller.
2.24 Office of Special Programs.
2.25 Office of Regional Operations.
2.26 Regional Offices.

FEMA Locations

2.30 FEMA Headquarters.
2.31 FEMA Regions.
2.32 National Emergency Training Center.

Subpart B—Delegations

General

2.50 Purpose.
2.51 Exercise of Authority.
2.52 General limitations and reservations.
2.53 Delegations not included.
2.54 Redelegation of authority.
2.56 Designation of subordinates to act.
2.55 General delegations.

Delegations to Specific Officers

2.60 Deputy Director [Reserved].
2.61 Associate Director, State and Local Programs and Support (SLPS).
2.62 Executive Deputy Director [Reserved].
2.63 Associate Director, National Preparedness Programs (NPP).
2.64 Federal Insurance Administrator (FIA).
2.65 Associate Director, Emergency Operations (OP).
2.66 Associate Director, Training and Fire Programs (TFP).
2.67 Director, Acquisition Management.
2.68 Comptroller.
2.69 General Counsel (GC).
2.70 Inspector General (IG).
2.71 Regional Directors.
2.72 Director, Administrative Support.
2.73 Director, Personnel.

Authority: 5 U.S.C. 552; Sec. 106, Reorganization Plan No. 3 of 1978; Executive Order 12127 of March 31, 1979; Executive Order 12148 of July 20, 1979, as amended.

§ 2.13 [Amended]

2. Section 2.13 is amended by removing the words "The floodplain management functions under the National Flood Insurance Act," from the first sentence.

3. Section 2.13(a) is amended by removing the last sentence.

4. Section 2.13(b) is amended by adding the following sentence at the end. "It is responsible for fire suppression assistance in coordination with the United States Fire Administration."

§ 2.15 [Reserved]

5. Section 2.15 is removed and the number reserved.

§ 2.17 [Amended]

6. Section 2.17 introductory paragraph is amended by adding a new second sentence as follows:

* * * It also is responsible for floodplain mangement functions under the National Flood Insurance Act and FEMA functions under the Coastal Barrier Resources Act, except for functions relative to the Disaster Relief Act of 1974.

7. Section 2.17 is amended by adding new paragraphs (d) and (e) as follows:

* * * * *

(d) The Office of Loss Reduction is responsible for developing, administering, and coordinating FIA's overall floodplain management policy and implementing procedures among the Federal agencies, State and local governments (including establishing and maintaining community participation in the NFIP); it provides consultative services to other Federal agencies on Executive Order 11988 (Floodplain Management); it performs lead agency duties under the Unified National Program for Floodplain Management; and it administers the NFIP property acquisition program.

(e) The Office of Risk Assessment conducts studies to produce flood risk data and hazard maps for the Nation's flood-prone communities in support of actuarial insurance rating and floodplain management activities under the National Flood Insurance Program. This includes development of technical methodology and policy, resolution of appeals of risk designations, technical assistance in the use and interpretation of risk information and operation of dissemination systems for risk data and hazard mapping.

§ 2.18 [Amended]

8. The heading of § 2.18 is amended by adding the word "Directorate" at the end.

9. The first sentence of the introductory paragraph of § 2.18 is amended by removing the words "Emergency Operations" and adding "the Directorate" in place thereof.

10. The last sentence of the introductory paragraph of § 2.18 is amended by removing the words "a Director" and adding the words "an Associate Director" in place thereof.

11. The first sentence of § 2.18(d) is amended by removing the words "Office of Program and Support" and adding "Office of Emergency Coordination and Support" in place thereof.

§ 2.19 [Amended]

12. Section 2.19 is amended by removing the word "Federal" in the third sentence.

§ 2.22 [Amended]

13. Section 2.22 is amended by adding paragraphs (b) (6), (7), and (8).

* * * * *

(b) * * *

(6) The *Office of Personnel* develops, implements, administers, and manages FEMA's personnel policies and programs, including position management and classification, recruitment, placement, salary administration, labor management relations, merit pay, special programs (NDER, DAE, Shelter Survey), performance appraisal, incentive awards, discipline, retirement, health insurance, training and career development, and in conjunction with the Equal Opportunity Office, equal employment opportunity.

(7) *The Office of Administrative Support* directs the administrative programs and systems necessary for effective management of the agency and provides the administrative services and support essential to day-to-day operations. Services and support include: space and property management; motor vehicle management; mail management; printing procurement; centralized publications management including storage/distribution; graphic arts and design for visual presentation materials; records and information systems management which encompasses the directives systems, reports and forms management, control of public information collection, and management of official records; and providing a variety of support services at FEMA Headquarters including supplies, materials, equipment and furnishings.

(8) *The Office of Acquisition Management* negotiates, awards, and administers contracts, grants, cooperative agreements, interagency agreements and purchase orders. This office is also responsible for developing and improving Agency acquisition policies and procedures, evaluating the effectiveness of all Agency procurement activities in headquarters and field levels, conducting procurement training courses for all Agency personnel involved in the procurement process, operating a procurement and assistance management information system which produces reports for Agency

management, OMB, Congress and the public, providing technical support for field procurement activities, and managing the Agency's preferential procurement program goals and achievements.

14. Section 2.55(b) is amended by revising it to read as follows:

§ 2.55 General delegations.

* * * * *

(b) The officers authorized to exercise authorities in paragraph (c) of this section are:

Federal Insurance Administrator
Associate Director, National Preparedness Programs
Associate Director, State and Local Programs and Support
Associate Director, Training and Fire Programs
Associate Director, Emergency Operations
Executive Administrator
Comptroller
Inspector General
General Counsel
Director, Office of Program Analysis and Evaluation
Directors, Staff Offices, Executive Administration
Regional Directors

* * * * *

§ 2.61 [Amended]

15. Section 2.61 is amended by removing and reserving paragraphs (h) and (i).

16. Section 2.61 is amended by revising paragraph (n) to read:

* * * * *

To carry out hazard mitigation functions, including studies and research assigned under Executive Order 12148.

17. Section 2.61 is amended by revising paragraph (m) to read:

* * * * *

To Apply the Coastal Barrier Resources Act to the Disaster Relief Act of 1974.

* * * * *

§ 2.64 [Amended]

18. Section 2.64 is amended by removing and reserving paragraph (b)(4).

19. Section 2.64 (c) and (d)(1) are amended by removing "National Flood Insurance Act of 1956" and adding "Federal Flood Insurance Act of 1956."

20. Section 2.64 (e) is amended by adding before the period at the end the following: "and with respect to the consultation function under Executive Order 11988, 'Floodplain Management,' as amended."

21. Section 2.64 is amended by removing and reserving paragraph (d)(5).

22. Section 2.64 is amended by removing paragraphs (d)(7) through (14).

23. Section 2.64 is amended by revising paragraph (e) to read as follows:

* * * * *

(e)(1) The Federal Insurance Administrator is authorized to perform the functions necessary to make flood insurance unavailable pursuant to the Coastal Barrier Resources Act (Pub. L. 97-348). The Administrator is also authorized to define the terms 'new construction, substantial improvement and new flood insurance coverage' as used in the Coastal Barrier Resources Act, and to issue any regulations necessary to implement this § 2.64(e).

(2) The Administrator shall exercise the authority under the Coastal Barrier Resources Act to determine those areas which are included in the Department of the Interior's designation of the Coastal Barrier Resources System, transpose DOI's designations onto FEMA's floodplain maps, and perform all other actions necessary to interpret DOI's maps.

* * * * *

§ 2.65 [Amended]

24. The heading of § 2.65 is amended by adding the word "Associate" before the word "Director."

25. The introductory paragraph of § 2.65 is amended by adding the word "Associate" before the word "Director".

26. Section 2.67 is revised to read as follows:

§ 2.67 Director, Acquisition Management.

The Director, Acquisition Management is authorized to:

(a)(1) Exercise authority under section 104(h) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 delegated to the Director by section 2(f) of Executive Order 12316;

(2) Exercise authority of the Director concerning extra-ordinary contractual actions under paragraph 21 of Executive Order 10789.

(3) Exercise authority delegated to the Director by Executive Order 12352 and act as procurement executive.

(b)(1) Make purchases and contracts by advertising for equipment and supplies, administrative equipment, office supplies, professional services, transportation of persons and property, and nonpersonal services, and determine that the rejection of all bids is in the public interest;

(2) Negotiate purchases and contracts for equipment and supplies, professional services, transportation of persons and property, and non-personal services without advertising; and make and issue determinations related thereto pursuant to section 302(c) (1)–(10), (14) and (15) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 252(c) (1)–(10), (14) and (15)) and 40 U.S.C. 541–544 with respect to contracting for services of Architects Engineers;

(3) Enter into and administer interagency agreements under the Economy Act or any other such agreement involving obligation of funds;

(c) Notwithstanding any general delegation of statutory authority in this part to another officer of FEMA, if the authority delegated in the general statutory delegation contains procurement authority that authority is delegated solely to the Director, Acquisition Management, with authority to redelegate to any employee of FEMA. As used in this paragraph (c) the term "procurement" includes acquisition from a recipient including a State or local government, of property or services for the direct benefit or use of the Federal Government. This includes authority under section 201(h) of the Federal Civil Defense Act but excludes authority under section 1362 of the National Flood Insurance Act.

(d) Notwithstanding any general delegation of authority in this part to another officer of FEMA, other than the delegation to Regional Directors under § 2.71, if the authority delegated contains authority to award discretionary grants that authority is delegated to the Director, Acquisition Management, who is authorized to exercise the authority of the Director with respect thereto. The Director, Acquisition Management, may redelegate this authority to any employee of FEMA. Discretionary grants include those instruments which are awarded to a selected or limited number of recipients deemed best qualified based upon criteria designed for the conduct of a specific project. This can include governments. Discretionary grants do not include those awarded to recipients for which: (1) The recipient or class of recipient is mandated by legislation or regulation; (2) the amount of the instrument or the amount of the program is established by legislation and discretion in the award process is limited; or (3) there is no choice in the purpose of the award or whether to make the award. The delegation to the Regional Directors under § 2.71 to implement various programs is not affected by this delegation to the Director, Acquisition Management.

§ 2.68 [Amended]

27. Section 2.68 is amended by revising paragraph (8) to read:

* * * * *

Issue budget allocation advice to Associate Directors, Administrators, Office Directors or equivalent, and Regional Directors. Officials who receive budget allocations shall limit obligations to amounts permitted by budget allocations. Officials who incur obligations or make expenditures in excess of their budget allocations are subject to administrative disciplinary actions, as circumstances warrant.

* * * * *

28. Part 2 of Title 44 is amended by adding new §§ 2.72 and 2.73, as follows:

§ 2.72 Director of Administrative Support.

The Director, Administrative Support, is authorized to:

(a) Manage records and files within FEMA, including records creation, organization, maintenance, and disposal. Place advertisements in newspapers pursuant to 44 U.S.C. 3702;

(b) Assign and reassign real and personal property other than contributions loan property within FEMA. Exercise authority under section 201(j) of the Federal Civil Defense Act of 1950, as amended;

(c) Provide for accountability for property;

(d) Issue determinations of excess property other than contributions loan property and transfer of same as required;

(e) Make purchases and contracts for procurement of printing and binding services in accordance with the current government printing and binding regulations of the Joint Committee on Printing, and Title 44, United States Code.

§ 2.73 Director of Personnel.

Notwithstanding any general delegations of authority in this part to another officer of FEMA, if authority delegated in the general delegation contains personnel authorities, that authority is delegated to the Director of Personnel with authority to redelegate to any employee of FEMA. As used in the paragraph the term "personnel" includes development, implementation, administration and management of personnel policies and programs, including position management and classification, recruitment, placement, salary administration, labor management relations, merit pay, special program (NDER, DAE, Shelter Survey), performance appraisal, incentive awards, discipline, retirement, health insurance, training and career development, and in conjunction with the Equal Opportunity Officer, equal employment opportunity.

Dated: February 10, 1984.

Louis O. Giuffrida,

Director, Federal Management Agency.

[FR Doc. 84-4168 Filed 2-15-84; 8:45 am]

BILLING CODE 6718-01-M

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44 CFR Part 151

Reimbursement for Costs of Firefighting on Federal Property

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: This regulation updates an existing regulation to reflect organizational changes resulting from the transfer of functions under the Federal Fire Prevention and Control Act from the Department of Commerce to the Federal Emergency Management Agency (FEMA), as a result of Reorganization Plan No. 3 of 1978 and Executive Order 12127 of March 31, 1979.

EFFECTIVE DATE: This rule takes effect March 19, 1984.

FOR FURTHER INFORMATION CONTACT: Arthur E. Curry, Chief, Policy Division, Office of the Comptroller, Federal Emergency Management Agency, Telephone: (202) 287-0630.

SUPPLEMENTARY INFORMATION: When issued in 1977, this regulation placed responsibilities for administration of Section 11 of the Federal Fire Prevention and Control Act in the Administrator of what became the United States Fire Administration. Reorganization Plan No. 3 of 1978 transferred the functions of the Administrator to the Director, Federal Emergency Management Agency (FEMA). The United States Fire Administration and the position of Administrator were transferred from the Department of Commerce to FEMA and are now part of the Training and Fire Programs Directorate of FEMA. The regulation needs to be amended to reflect these changes. Certain other changes were needed, such as a reference to the Court of Claims (now the U.S. Claims Court), and to 31 U.S.C. 231, now recodified.

Instead of assigning the functions to the Administrator, they have been retained in the Director, Federal Emergency Management Agency, for appropriate delegation (presently to the Comptroller). The proposed rule was issued on November 3, 1983, at 48 FR 50778. Comments were due no later than January 3, 1984. No comments were received by that date. However, the regulation was reviewed by OMB under section 3504(h) of the Paperwork Reduction Act, and the collection of information requirements contained in § 151.11 approved.

FEMA has made certain changes to proposed § 151.11 to reduce records collection requirements by eliminating such requirements as evidence that the person submitting the claim is authorized to do so, copies of mutual aid agreements between the United States and the fire service, or evidence the Federal Government owns full title to the property. Other editorial changes were made.

This regulation deals with administrative matters and, hence, is categorically excluded from requirements for an environmental assessment under 44 CFR Part 10.

The rule is not a major rule as defined in Section 1(b) of Executive Order 12291 nor will it have a significant economic impact on a substantial number of small entities. Hence, regulatory impact analyses are unnecessary.

List of Subjects in 44 CFR Part 151

Claims, Government property.

Accordingly, Part 151 of Title 44, Code of Federal Regulations is revised to read as follows:

PART 151—REIMBURSEMENT FOR COSTS OF FIREFIGHTING ON FEDERAL PROPERTY

Subpart A—Purpose, Scope, Definitions

Sec.

151.01 Purpose.
151.02 Scope.
151.03 Definitions.

Subpart B—Submission, Determination, Appeal

151.11 Submission of claims.
151.12 Determination of amount authorized for payment.
151.13 Reconsideration of amount authorized for payment.
151.14 Adjudication.

Subpart C—Administration, Penalties

151.21 [Reserved]
151.22 Audits.
151.23 Penalties.

Authority: Secs. 11, and 21(b)(5), Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2210, and 2218(b)(5)); Reorganization Plan No. 3 of 1978 (3 CFR Part 1978 Comp. p. 379) and Executive Order 12127, dated March 31, 1979 (3 CFR Part 1979 Comp. p. 376).

Subpart A—Purpose, Scope, Definitions

§ 151.01 Purpose.

Section 11 of the Federal Fire Prevention and Control Act of 1974, provides that "each fire service that

engages in the fighting of a fire on property which is under the jurisdiction of the United States may file a claim with the Director of the Federal Emergency Management Agency for the amount of direct expenses and direct losses incurred by such fire service as a result of fighting such fire." This part, implements section 11 of the Act and governs the submission, determination, and appeal of claims under section 11.

§ 151.02 Scope.

Fire services, in any State, may file claims for reimbursement under section 11 and this part for the direct expenses and losses which are additional firefighting costs over and above normal operating costs incurred while fighting a fire on property which is under the jurisdiction of the United States. Section 11 requires that certain payments be deducted from those costs and that the Treasury Department will ordinarily pay the amount resulting from the application of that formula. Where the United States has entered into a contract (which is not a mutual aid agreement, defined in § 151.03) for the provision of fire protection, and it is the intent of the parties that reimbursement under section 11 is unavailable, this intent will normally govern. Where a mutual aid agreement is in effect between the claimant and an agency of the United States for the property upon which the fire occurred, reimbursement will be available in otherwise proper situations. However, any payments (including the value of services) rendered under the agreement during the term of the agreement (or the Federal fiscal year in which the fire occurred, if no term is discernible) shall be deducted from the costs claimed, pursuant to § 151.12.

§ 151.03 Definitions.

(a) "The Act" means the Federal Fire Prevention and Control Act of 1974, 15 U.S.C. 2201 *et seq.*

(b) "Additional firefighting costs over and above normal operating costs" means reasonable and authorized (or ratified by a responsible Federal official) costs ordinarily associated with the function of firefighting as performed by a fire service. Such costs would normally arise out of response of personnel and apparatus to the site of the fire, search and rescue, exposure protection, fire containment, ventilation, salvage, extinguishment, overhaul, and preparation of the equipment for further use. This would also include costs associated with emergency medical services to the extent normally rendered by a fire service in connection with a fire. Not included are administrative expenses, costs of employee benefits, insurance, disability, death, litigation or health care, and the costs associated with processing claims under Section 11 of the Act and this part.

(c) "Director" means the Director of the Federal Emergency Management Agency, or his/her designee.

(d) "Claimant" means a fire service as defined in paragraph (g) of this section.

(e) "Direct expenses and losses" means expenses and losses which would not have been incurred had not the fire in question taken place. This includes salaries for specially employed personnel, overtime pay, the cost of supplies expended, and the depreciated value of equipment destroyed or damaged. It does not include such costs as the ordinary wages of firefighters, overhead costs, or depreciation (if based on other than hours of use during fires). Expenses as defined herein would normally be incurred after the first call or alarm and would normally cease upon the first of the following: return to station, report in-service and ready for further operations, or commence response to another incident.

(f) "Fire" means any instance of destructive or uncontrolled burning, including scorch burns and explosions of combustible dusts or solids, flammable liquids, and gases. The definition does not include the following except where they cause fire or occur as a consequence of fire: lightning or electrical discharge, explosion of steam boilers, hot water tanks, or other pressure vessels, explosions of ammunition or other detonating materials, overheating, mechanical failures, or breakdown of electrical equipment in power transmission facilities, and accidents involving ships, aircraft, or other vehicles. Not included in this definition are any costs associated with false alarms, regardless of cause.

(g) "Fire service" means any organization in any State consisting of personnnel, apparatus, and equipment which has as its purpose protecting property and maintaining the safety and welfare of the public from the dangers of fire, including a private firefighting brigade. The personnel of any such organization may be paid employees or unpaid volunteers or any combination thereof. The location of any such organization and its responsibility for extinguishment and suppression of fires may include, but need not be limited to, a State, city, town, borough, parish, county, fire district, fire protection district, rural fire district, or other special district.

(h) "Mutual aid agreement" means any reciprocal agreement whether written or oral between a Federal agency and the claimant fire service, or its parent jurisdiction, for the purpose of providing fire protection for the property of the United States upon which the fire which gave rise to the claim occurred and for other property for which the claimant normally provides fire protection. Such agreement must be primarily one of service rendered for service, or must be entered into under 42 U.S.C. 1856–1856d. Not included are all other agreements and contracts, particularly those in which the intent of the parties is that the United States pays for fire protection.

(i) "FEMA" means the Federal Emergency Management Agency.

(j) "Over and above normal operating expenses" means costs, losses and expenses which are not ordinarily and necessarily associated with the maintenance, administration, and day-to-day operations of a fire service and which would not have been incurred absent the fire out of which the claim arises.

(k) "Payments to the fire service or its parent jurisdiction, including taxes or payments in lieu of taxes, the United States has made for the support of fire services on the property in question" means any Federal monies, or the value of services, including those made available through categorical or block grants, contracts, mutual aid agreements, taxes, and payments in lieu of taxes which the United States has paid to the fire service or its parent jurisdiction for fire protection and firefighting services. Such payments will be determined on the basis of the term of the arrangement, or if no such term is discernible, on the basis of the Federal fiscal year in which the fire occurred.

(l) "Property which is under the jurisdiction of the United States" means real property and Federal improvements thereon and appurtenances thereto in which the United States holds legal fee simple title. This excludes Federal leasehold interests. This likewise excludes Federal personal property on land in which the United States does not hold fee simple title.

(m) "State" means any State of the United States of America, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, The Commonwealth of the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States.

Subpart B—Submission, Determination, Appeal

§ 151.11 Submission of claims.

Any fire service in any State which believes it has a claim(s) cognizable under section 11 shall submit its claim(s) in writing within 90 days of the occurrence of the fire(s) for which a claim(s) is made. If the fire is of such duration that the claimant desires to submit a claim before its conclusion, it may do so, but only for the eligible costs actually incurred to date. Additional claims may be filed for costs later incurred. Claims shall be submitted to the Director, FEMA, Washington, D.C. 20472. Each claim shall include the following information:

(a) Name, address, jurisdiction and nature (volunteer, private, municipal, etc.) of claimant's fire service organization;

(b) Name, title, address and telephone number of individual authorized by the claimant fire service to make this claim in its behalf and his/her certification as to the accuracy of the information provided;

(c) Name and telephone number of Federal employee familiar with the facts of the event and the name and address of the Federal agency having jurisdiction over the property on which the fire occurred;

(d) Proof of authority to fight the fire (source of alarm, whether fire service was requested by responsible Federal official or whether such an official accepted the assistance when offered);

(e) Personnel and equipment committed to fighting of fire (type of equipment and number of items); and an itemized list of direct expenses (e.g., hours of equipment operation, fuel costs, consumables, overtime pay and wages for any specially hired personnel) and direct losses (e.g., damaged or destroyed equipment, to include purchase cost, estimate of the cost of repairs, statement of depreciated value immediately preceding and subsequent to the damage or destruction and the extent of insurance coverage) actually incurred in fighting the fire. A statement should be included explaining why each such expense or loss is considered by the claimant not be a normal operating cost, or to be in excess of normal operating costs;

(f) Copy of fire report which includes the location of the fire, a description of the property burned, the time of alarm, etc.;

(g) Such other information or documentation as the Director considers relevant to those considerations to be made in determining the amount authorized for payment, as set forth in § 151.12 of these regulations;

(h) Source and amount of any payments received or to be received for the fiscal year in which the fire occurred, including taxes or payments in lieu of taxes and including all monies received or receivable from the United States through any program or agreement including categorical or block grants, and contracts, by the claimant fire service or its parent jurisdiction for the support of fire services on the property on which the fire occurred. If this information is available when the claim is submitted, it should accompany the claim. If it is not, the information should be submitted as soon as practicable, but no later than 15 days after the end of the Federal fiscal year in which the fire occurred.

(Approved by Office of Management and Budget under Control No. 3067–0141)

§ 151.12 Determination of amount authorized for payment.

(a) The Director shall determine the amount to be paid on a claim (subject to payment by the Department of the Treasury). The amount to be paid is the total of eligible expenses, costs and losses under paragraph (a)(1) of this section which exceeds the amount of payments under paragraph (a)(2) of this section. The Director shall establish the reimbursable amount by determining:

(1) The extent to which the fire service incurred additional firefighting costs, over and above its normal operating costs, in connection with the fire which is the subject of the claim, i.e., the "amount of costs"; and

(2) What payments, if any, including taxes or payments in lieu of taxes, the fire service or its parent jurisdiction has received from the United States for the support of fire services on the property on which the fire occurred. The reimbursable amount is the amount, if any, by which the amount of costs, determined under paragraph (a)(1) of this section exceeds the amount of payments determined under paragraph (a)(2) of this section. Where more than one claim is filed the aggregate reimbursable amount is the amount by which the total amount of costs, determined under paragraph (a)(1) of this section exceed the amount of Federal payments (in the case of a mutual aid agreement—its term or if none is determinable, the Federal fiscal year) determined under paragraph (a)(2) of this section.

(b) The Director will first determine the costs as contemplated in paragraph (a)(1) of this section. The Director will then notify the claimant as to that amount. The claimant must indicate within 30 days its acceptance or rejection of that amount.

(1) If the determination is accepted by the claimant, this will be the final and conclusive determination of the amount of costs by the claimant in conjunction with the fire for which the claims are submitted.

(2) If the claimant rejects this amount, it must notify the Director, within 30 days, of its reasons for its rejection. Upon receipt of notification of rejection, the Director shall reconsider his determination and notify the claimant of the results of the reconsideration. The amont determined on reconsideration will constitute the costs to be used by the Director in determining the reimbursable amount.

(c) Upon receipt of documentation from the claimant on the amount of payments the Federal Government has made for the support of fire services on the property in question, the Director will, following such verification or investigation as the Director may deem appropriate, calculate the full amount to be reimbursed under the Section 11 formula as set forth in § 151.12(a). This calculation of the reimbursable amount is based upon the costs determined pursuant to § 151.12(b) and the documentation of Federal payments that the claimant submitted.

(d) The Director's determination of the reimbursable amount will be sent to the Secretary of the Treasury. The Secretary of the Treasury shall, upon receipt of the claim and determination made under § 151.12 (a), (b), and (c), determine the amount authorized for payment, which shall be the amount actually available for payment from any monies in the Treasury not otherwise appropriated but subject to reimbursement (from any appropriations which may be available or which may be made available for the purpose) by the Federal department or agency under whose jurisdiction the fire occurred. This shall be a sum no greater, although it may be less, that the reimbursable amount determined by the Director, FEMA, with respect to the claim under § 151.12 (a), (b) and (c).

(e) Upon receipt of written notification from the claimant of its intention to accept the amount authorized as full settlement of the claim, accompanied by a properly executed document of release, the Director will forward the claim, a copy of the Director's determination and the claimant's document of release to the Secretary of the Treasury for payment of the claim in the amount authorized.

(f) Subject to the discovery of additional material evidence, the Director may reconsider any

determination in this section, whether or not made as his final determination.

§ 151.13 Reconsideration of amount authorized for payment.

(a) If the claimant elects to protest the amount authorized for payment, after the applicable procedures of § 151.12 have been followed, it must within 30 days of receipt of notification of the amount authorized notify the Director in writing of its objections and set forth the reasons why the Director should reconsider the determination. The Director will upon notice of protest and receipt of additional evidence reconsider the determination of the amount of Federal payments under § 151.12(a)(2) but not the determination of the amount of costs under § 151.12(a)(1). The Director shall cause a reconsideration by the Secretary of the Treasury of the amount actually available and authorized for payment by the Treasury. The Director, upon receipt of the Secretary of the Treasury's reconsidered determination, will notify the claimant in writing of the amount authorized, upon reconsideration, for payment in full settlement of the claim.

(b) If the claimant elects to accept the amount authorized, upon reconsideration, for payment in full settlement of its claims, it must within 30 days (or a longer period of time acceptable to the Director) of its receipt of that determination notify the Director of its acceptance in writing accompanied by a properly executed document of release. Upon receipt of such notice and document of release, the Director will forward the claim, a copy of the Director's final determination, and the claimant's document of release to the Secretary of the Treasury for payment of the claim in the amount of final authorization.

§ 151.14 Adjudication.

If the claimant, after written notice by the Director of the amount authorized for payment in full settlement of the claim and after all applicable procedures of § 151.12 and § 151.13 have been followed elects to dispute the amount authorized, it may then initiate action in the United States Claims Court, which shall have jurisdiction to adjudicate the claim and enter judgment in accordance with Section 11(d) of the Act.

Subpart C—Administration, Penalties

§ 151.21 [Reserved]

§ 151.22 Audits.

At the discretion of the Director, all claims submitted under Section 11 of the Act and all records of the claimant will be subject to audit by the Director or his/her designee. In addition, the Comptroller General of the United States or his/her designee shall have access to all books and records of all claimants making claims under Section 11.

§ 151.23 Penalties.

Claimant's officials or others who provide information or documentation under this Part are subject to, among other laws, the criminal penalties of Title 18 of the United States Code, Section 287 and 1001, which punish the submission of false, fictitious or fraudulent claims and the making of false, fictitious or fraudulent statements and which provide for a fine of not more than $10,000 or imprisonment for not more than five years, or both. For such a violation, the person is likewise subject to the civil penalties set out in 31 U.S.C. 3729 and 3730.

Dated: February 10, 1984.

Louis O. Giuffrida,

Director.

[FR Doc. 84-4170 Filed 2-15-84; 8:45 am]

BILLING CODE 6718-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 663

[Docket No. 31230-249]

Pacific Coast Groundfish Fishery

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Rule-related notice; clarification of fishing restrictions and boundary revision; request for comments.

SUMMARY: This notice clarifies and supersedes the **Federal Register** notice effective January 1, 1984, which restricted fishing for the *Sebastes* complex of rockfish managed under the Pacific Coast Groundfish Fishery Management Plan, and revises the boundary line established in that notice. This action is taken to promote better understanding of the fishing restrictions and to facilitate data collection, compliance, and enforcement.

DATES: This notice is effective from 0001 Pacific Standard Time, February 12, 1984, until modified, superseded, or rescinded. Comments will be accepted through March 2, 1984.

ADDRESSES: Dr. T. E (Gene) Kruse, Acting Director, Northwest Region, National Marine Fisheries Service, 7600 Sand Point Way NE, BIN C15700, Seattle, Washington 98115; or Mr. E. Charles Fullerton, Director, Southwest Region, National Marine Fisheries Service, 300 South Ferry Street, Terminal Island, California 90731.

SUPPLEMENTARY INFORMATION: Management measures to limit the levels of fishing for the *Sebastes* complex (all rockfish except Pacific ocean perch and widow, shortbelly, and *Sebastolobus* rockfishes) off Washington, Oregon, and California were published in the **Federal Register** on January 5, 1984 (49 FR 597). These measures set a harvest guideline in 10,100 metric tons (mt) for the *Sebastes* complex in the Vancouver-Columbia area (from the U.S.-Canada border to 43° N. latitude). To achieve the harvest guideline, only one landing of the *Sebastes* complex above 3,000 pounds, but not above 30,000 pounds, was allowed from each vessel per week in the Vancouver-Columbia area. South of this area, no harvest guideline was assigned and a 40,000-pound trip limit was imposed with no restriction on the number of landings.

Public comment received after these management measures became effective revealed confusion over how the trip limits were to be applied and questioned whether 43° N. latitude was an appropriate boundary between the two management areas. Because 43° N. latitude transects a major *Sebastes* fishing ground, fishermen often fish south but land north of this line. Furthermore, although 43° N. latitude is a boundary used by the International North Pacific Fisheries Commission (INPEC) for statistical purposes, resource data from the State of Oregon for the area north of the line includes data from the area south of 43° to Cape Blanco (42°50′ N. latitude).

At its January 11, 1984, meeting in Portland, Oregon, the Pacific Fishery Management Council (Council) heard testimony from concerned fishermen and processors, enforcement agents, and fishery managers, and affirmed its intention of making the trip limits for the *Sebastes* complex effective and enforceable. The Council agreed that *Sebastes* taken *or* landed in the Vancouver-Columbia area should be regulated by the more restrictive 30,000-pound, once-a-week limit, whereas *Sebastes* taken *and* landed south of this area should be covered by the 40,000-pound limit.

The Council also was concerned about changing trip limits at 43° N. latitude and asked the Groundfish Task Force for guidance. In conference by telephone on January 24, 1984, the

Council agreed with the recommendation of the Groundfish Task Force (which met January 18, 1984, in Portland, Oregon) that the 30,000-pound, once-a-week trip limit should be extended ten miles south to Cape Blanco (42°50′ N. latitude) to include the Coquille fishing area.

Council Recommendation

As a result of these two meetings, the Council recommended that the 30,000-pound, once-a-week restriction should apply to the *Sebastes* complex taken north of Cape Blanco, regardless of the place of landing, and also should apply to landings north of Cape Blanco, regardless of the place of taking. The 10,100-mt harvest guideline, extended south to Cape Blanco, would be maintained since landing between 42°50′ and 43°00′ N. latitude traditionally were included in the Columbia area. The 40,000-pound trip limit applies only to the *Sebastes* complex taken *and* landed south of Cape Blanco. As in the January 1 action, an unlimited number of landings of the *Sebastes* complex less than 3,000 pounds are allowed in all areas.

Secretarial Action

In order to promote better understanding of the fishing restrictions placed on the *Sebastes* complex and to encourage compliance and conform the regulatory boundary to the State of Oregon's statistical reporting practices, the Secretary of Commerce clarifies the management measures for the *Sebastes* complex announced at 49 FR 597 and modifies the boundary line as follows:

(1) *All areas.* There is no limit on the number of landings under 3,000 pounds (round weight) of the *Sebastes* complex allowed per week. Landings in greater amounts are allowed only as provided below.

(2) *North of Cape Blanco* (from 42°50′ N. latitude to the U.S.-Canada border).

(i) No more than 30,000 pounds (round weight) of the *Sebastes* complex may be retained per vessel at any time north of Cape Blanco.

(ii) One landing of not more than 30,000 pounds (round weight) of the *Sebastes* complex taken north of Cape Blanco is allowed per vessel per week, regardless of where the landing occurs.

(iii) One landing of not more than 30,000 pounds (round weight) of the *Sebastes* complex is allowed north of Cape Blanco per vessel per week, regardless of where the fish were taken.

(iv) The 1984 harvest guideline for the *Sebastes* complex north of Cape Blanco is 10,100 mt. This harvest guideline is not a quota.

(3) *South of Cape Blanco* (from 42°50′ N. latitude to the U.S.-Mexico border).

Except as provided in paragraph (2):

(i) No more than 40,000 pounds (round weight) of the *Sebastes* complex may be retained per vessel at any time south of Cape Blanco.

(ii) No more than 40,000 pounds (round weight) of the *Sebastes* complex may be landed south of Cape Blanco per vessel per fishing trip.

(iii) There is no limit of the number of landings allowed per week of the *Sebastes* complex taken *and* landed south of Cape Blanco.

(4) A "week" is defined as seven consecutive days beginning 0001 hours Sunday and ending 2400 hours Saturday local time.

(5) The above restrictions apply to all fish of the *Sebastes* complex taken and retained in ocean waters offshore of, or landed in, Washington, Oregon, and California, regardless of the place of taking.

(6) Landings of the *Sebastes* complex in the pink shrimp, spot, and ridge-back prawn fisheries are governed by regulations at 50 CFR 663.28.

These management measures will be reviewed at the Council's April 10–12, 1984, meeting in San Francisco, California.

Classification

The determination to impose these management measures was published at 49 FR 597 and prior comment was waived for good cause. The same waiver remains in effect for this notice which is a clarification of and technical revision to the earlier notice.

The need for clarification of the regulations and modification of the boundary line was discussed at the Council's January 11–12, 1984, meeting in Portland, Oregon, at which time the public was invited to comment. Public comment also was invited by notice in the **Federal Register** and was received at the January 19, 1984, meeting of the Groundfish Task Force. Further public comments will be accepted for 15 days after publication of this notice in the **Federal Register**.

(16 U.S.C. 1801 *et seq.*)

List of Subjects in 50 CFR Part 663

Administrative practice and procedure, Fish, Fisheries, Fishing.

Dated: February 13, 1984.

Carmen J. Blondin,

Deputy Assistant Administrator, for Fisheries Resource Management, National Marine Fisheries Service.

[FR Doc. 84-4310 Filed 2-13-84; 5:01 pm]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 49, No. 33
Thursday, February 16, 1984

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

NUCLEAR REGULATORY COMMISSION

10 CFR Part 60

Disposal of High-Level Radioactive Wastes in the Unsaturated Zone

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is considering amending its rules on the disposal of high-level radioactive wastes (HLW) in geologic repositories so that the technical criteria for geologic disposal in the saturated zone may be equally applicable to disposal within the unsaturated zone. The amendments are being proposed in response to public comments on the proposed technical criteria for geologic disposal in the saturated zone. Final technical criteria adopted by the Commission for disposal of HLW in the saturated zone were published in the **Federal Register** on June 21, 1983.

DATES: Comment period expires April 16, 1984. Comments received after this date will be considered if it is practical to do so, but assurance of consideration cannot be given except as to comments received on or before this date.

ADDRESSES: Send comments or suggestions to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch. Copies of comments received may be examined at the NRC Public Document Room, 1717 H Street NW., Washington, DC 20555.

FOR FURTHER INFORMATION CONTACT: Dr. Colleen Ostrowski, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC, 20555, telephone (301) 427–4343.

SUPPLEMENTARY INFORMATION:

Background

On February 25, 1981 the Nuclear Regulatory Commission (NRC) published a rule that established procedures for licensing the disposal of HLW in geologic repositories (46 FR 13971). NRC published proposed technical criteria to be used in the evaluation of license applications under those procedures on July 8, 1981 (46 FR 35280). In response to solicitation for public comments on the proposed technical criteria NRC received 93 comment letters. The Commission considered all public comments in developing the final technical criteria which were published on June 21, 1983 (48 FR 28194).

Several commenters on the proposed rule, including the U.S. Department of Energy (DOE), the U.S. Department of the Interior, and separately the U.S. Geological Survey (USGS), took issue with a statement made by the Commission at 46 FR 35281 which explained that the proposed technical criteria were developed specifically for disposal in saturated geologic media because DOE plans at that time called for HLW disposal at sufficient depth to be situated in the hydrogeologic region termed the saturated zone. The commenters considered disposal in the unsaturated zone [1] to be a viable alternative, and noted that since the technical criteria were generally applicable without regard to the possibility of saturation, their scope and applicability should not be unduly restricted. DOE, in its comments on this issue, suggested that since opportunities may arise for exploratory studies in unsaturated geologic media, the Commission should reexamine the rule and make whatever changes are necessary to ensure that the rule will apply to all geologic media. The U.S. Department of the Interior urged that the rule be modified because, under appropriate conditions, the unsaturated zone could provide one more natural barrier to the movement of radionuclides from the geologic repository to the water table.

The Commission has determined that disposal of HLW within the unsaturated zone is a realistic alternative to disposal within the saturated zone, provided that the site and the geologic repository design are carefully selected, and are capable of meeting the performance objectives of 10 CFR Part 60. In reaching this determination, the Commission has examined the arguments presented by the public commenters as well as the analysis of the principal issues associated with unsaturated zone disposal described in the NRC staff technical support document (draft NREG–1046) prepared in conjunction with the proposed amendments. This document identifies the positive aspects and possible concerns associated with disposal in the unsaturated zone and explains why the Commission has developed the following proposed amendments. Other issues which were discussed by public commenters but which did not result in proposed changes to the final rule are also addressed in the technical support document. Upon publication, a copy of draft NUREG–1046 entitled "Disposal of High-Level Radioactive Wastes in the Unsaturated Zone: Technical Considerations" will be placed in the Public Document Room, 1717 H Street NW., Washington, DC 20555. Since this document is available to the general public,[2] only a summary discussion of these issues is presented below.

Issues Examined by the Commission

The depth to the regional water table varies throughout the United States. Potential geologic repository sites within unsaturated geologic media may be identified in arid to semi-arid geographic regions of the country because such regions generally are characterized by a deep regional water table and hence, a relatively thick unsaturated zone. The unsaturated zone in certain arid regions of the United States has been documented as extending to depths of approximately 600 meters below the ground surface. In contrast, the unsaturated zone in humid regions is often only a few meters thick, or entirely non-existent.

Perhaps the most positive aspect associated with disposal of HLW within the unsaturated zone is that the HLW would be emplaced in a relatively dry (i.e., low moisture content) geologic

[1] The definition of the term "unsaturated zone" is derived from U.S. Geological Survey Water Supply Paper 1988 (Washington, DC, 1972).

[2] Free single copies of Draft NUREG–1046 may be requested for public comment by writing to the Publication Services Section, Division of Technical Information and Document Control, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

medium. The Commission considers the relatively low moisture content of unsaturated sediment and rock as a positive aspect of HLW disposal in the unsaturated zone because the lack of available moisture could reduce leaching of the waste packages and thus, significantly reduce the likelihood of radionuclide transport by groundwater [3] migration. Further, it is generally recognized that vertical groundwater flux in the unsaturated zone is very small. A credible pathway for the migration of water soluble contaminants from a geologic repository located in the unsaturated zone to the accessible environment would probably be vertically downward to the underlying regional water table, and subsequently through the saturated groundwater units to the regional discharge points.

The Commission has reviewed several other issues that are of general concern to disposal of HLW in geologic repositories, regardless of the hydrogeologic zone involved. Such issues include the effects of climatic changes on the regional hydrologic systems, the potential for human intrusion into the geologic repository, and the effects of geologic processes (e.g., tectonism) on the structural stability of the geologic repository. The Commission does not believe that any of these issues would negate the generic concept of HLW disposal within the unsaturated zone. However, since the relative importance of these issues will depend upon natural conditions existing at a particular site, each must be evaluated on a site-by-site basis.

Vapor transport of contaminants has been identified by the Commission's staff as a potential concern associated with HLW disposal in the unsaturated zone. In unsaturated geologic media, water is transported in both liquid and vapor phases. The relative contribution of transport via liquid and vapor phases, and their direction of movement with respect to a geologic repository will have a direct influence on the containment of contaminants. Vapor transport, particularly when a thermal gradient is imposed may provide a possible mechanism for radionuclide migration from a geologic repository. However, positive aspects associated with vapor transport in the unsaturated zone may also be discerned since water vapor formed-near the geologic repository may flow through air-filled openings and partially drained fractures, resulting in a drying of the surrounding host rock. This drying zone may extend hundreds of meters from the geologic repository, and thus may inhibit the movement of soluble contaminants. Therefore, the Commission views vapor transport as another issue which must be evaluated on a case-by-case basis to determine its effects (whether favorable or potentially adverse) on a particular site.

[3] The Commission recognizes that the term "groundwater" is generally applied by the technical community to water which occurs beneath the water table (i.e., phreatic water) while the term "vadose water" is more accurately applied to the soil water, gravitational water and capillary water which occur in the unsaturated zone (zone of aeration, vadose zone). However, for the sake of simplicity, groundwater is defined in the proposed amendments as all water which occurs below the Earth's surface.

Other Comments Considered by NRC

The Commission has reviewed the following six issues related to HLW disposal within the unsaturated zone which were addressed in the public comments on the proposed rule, as well as in a recent USGS publication,[4] and has determined that the final rule (48 FR 28194) accommodates these concerns. More detailed discussion of these issues is presented in draft NUREG–1046.

Minimum 300-Meters Depth for Waste Emplacement

One commenter on the proposed 10 CFR Part 60 technical criteria who advocated applying the rule equally to the saturated and unsaturated zones considered it necessary to change the siting criterion which sets a minimum depth of 300 meters for waste emplacement. However, the commenter incorrectly identified this provision (see § 60.122(b)) as a requirement, rather than as a favorable condition. The Commission notes that favorable conditions are those which may enhance waste isolation potential. Hence, a minimum depth of 300 meters for waste emplacement is considered a favorable condition because the deeper the HLW is emplaced, the less likely it is to be disturbed. Viewed in that light this depth is a favorable condition, irrespective of hydrogeologic zone. Since the unsaturated zone may extend to depths of up to 600 meters, the Commission considers this favorable condition to be a realistic one for both the saturated and unsaturated zones. Therefore, this provision of the rule has not been modified.

Requirements for Sealing Shafts and Boreholes

In USGS Circular 903 the view was expressed that, with respect to a geologic repository within the unsaturated zone, sealing shafts and boreholes tightly to inhibit water movement may be undesirable. The reasoning behind this view is that although shafts and boreholes need to be carefully sealed in the saturated zone so that they do not become future conduits for radionuclide migration, they may have an entirely different relation to an unsaturated zone repository. Shafts and boreholes would increase the amount of water moving through a geologic repository located within the unsaturated zone only if they diverted a significant amount of runoff to the subsurface.

The Commission has reviewed both the arguments of the USGS and the provisions of the final rule relating to the design of seals for shafts and boreholes (§ 60.134). The provisions of § 60.134 appear to be generally applicable to seals of shafts and boreholes in both hydrogeologic zones. Therefore, the Commission does not consider it necessary to modify § 60.134 at this time.

Backfill Requirements

Another issue which has been identified both in public comments on the proposed technical criteria and in USGS Circular 903 pertains to the necessity of backfill in a geologic repository located within the unsaturated zone. The USGS expressed the view that the role of backfill in the unsaturated zone would be the opposite of that in the saturated zone. Backfill material that would inhibit the flow of water to, and radionuclide migration from, the waste packages may be highly desirable in the saturated zone. In the unsaturated zone, however, the designers of a geologic repository may wish to promote drainage. The opinion has been expressed that within the unsaturated zone backfill should allow groundwater to drain readily, rather than serve as a barrier to drainage. It was suggested in USGS Circular 903 that if backfill is necessary to perserve structural or waste package integrity, a relatively permeable material (e.g., cobble-sized rock) could be used to permit continued drainage.

The final rule published by the Commission on June 21, 1983 contained only the general functional statement that the engineered barrier system (including backfill) be designed to assist the geologic setting in meeting the performance objectives for the period following permanent closure (§ 60.133(h), 48 FR 28227). This provision, as promulgated, should be

[4] Roseboom, E. H. Jr., 1983, Disposal of High-Level Nuclear Waste Above the Water Table in Arid Regions, U.S. Geological Survey Circular 903, Washington, DC, p. 21.

responsive to the concerns discussed above.

Waste Package Design Criteria

As defined at § 60.2, the term "waste package" means "the waste form and any containers, shielding, packing and other absorbent materials immediately surrounding an individual waste container" (48 FR 28219). The point has been raised that because of the different nature of the emplacement environment designs of waste package components for the saturated and unsaturated zones may be quite different. The Commission recognizes that several characteristics of the emplacement environment (e.g., oxidation conditions, lithostatic pressure, geochemistry, contact with groundwater, etc.) may vary significantly between the two hydrogeologic zones. This variation of emplacement environment may necessitate that DOE consider alternative designs for waste packages (including waste form, canisters, overpack, etc.) for geologic disposal in the unsaturated zone. The Commission has reviewed the performance objectives which pertain to the waste package (§ 60.111 and § 60.113), and believes that the provisions, as currently written, are equally applicable to waste packages emplaced within either the saturated or unsaturated zone. Similarly, the specific design criteria for the waste package and its components (§ 60.135, 48 FR 28227) have been determined to be generally applicable to both zones. Therefore, no changes have been made to the provisions of §§ 60.111, 60.113, or 60.135.

Ventilation

The issue of restricting the number of ventilation shafts associated with a geologic repository was addressed in USGS Circular 903. In the case of the saturated zone, the number of ventilation shafts may be kept at a minimum since the shafts could constitute potential pathways to the accessible environment. In USGS Circular 903 it is stated that in the case of the unsaturated zone additional shafts for ventilation would not compromise the geologic repository's performance because sealing shafts in the unsaturated zone is much simpler and of less consequence than in the saturated zone. Several potential benefits were cited by the USGS to support this view—e.g., reducing the problem of thermal load in the early phases of the geologic repository, removal of any water vapor during the operational period, drawing large amounts of desert air through the geologic repository to promote even drier conditions and increasing worker safety by providing alternative sources of ventilation and escape routes.

The number of ventilation shafts included in any geologic repository will be decided by the designer—DOE. No provision of 10 CFR Part 60 expressly limits the number of ventilation shafts that a geologic repository may contain. What is important is that the surface facility ventilation systems comply with the design critera in § 60.132(b) (48 FR 28226) and that the underground facility ventilation system be designed in accordance with § 60.133(g) (48 FR 28227). The Commission considers the design requirements for the ventilation systems set forth in §§ 60.132 and 60.133 to be applicable to both the saturated and unsaturated zones. As long as the ventilation system complies with provisions of §§ 60.111(a), 60.132, and 60.133 and does not compromise the integrity of the site to host a geologic repository, DOE will have broad flexibility in designing the system.

Exploratory Boreholes

Provisions relating to site characterization are set forth in the final rule at § 60.10 (48 FR 28219). Section 60.10(d)(2) requires that the number of exploratory boreholes and shafts be limited to the extent practical, consistent with obtaining the information needed for site characterization. The view was expressed in USGS Circular 903 that in the unsaturated zone, if the host rock already has a high vertical permeability, there is no reason to limit the number of drill holes. Thus, the USGS noted that if necessary, a proposed geologic repository could be explored like an ore body or coal bed, with drill holes every few hundred feet on a rectangular grid.

The Commission's view on the importance of not compromising the integrity of a site during the site characterization program of testing and exploration has been clearly stated at 44 FR 70409. However, if DOE should opt for a site exploration and characterization program which includes plans for drilling numerous boreholes then DOE would have the burden of showing the Commission that the ability of the site to isolate HLW has not been compromised during these activities.

Groundwater Travel Time in the Unsaturated Zone

The concept of groundwater travel time generally is applied in evaluations of saturated flow systems, where flow is continuous and temporal fluctuations in the potential of the systems are small. In contrast, water movement in the unsaturated zone is generally discontinuous and strongly dependent upon initial conditions (e.g., magnitude and spatial and temporal distribution recharge events) and the conductive properties of the partially saturated geologic media, which vary with moisture content. Reliable calculations and predictions of groundwater travel times and velocities require knowledge of these conditions and properties. Within the unsaturated zone the movement of a given volume of water over a given distance depends very strongly upon the nature of the recharge events. Additionally, the material properties (e.g., moisture characteristic curves, porosity, irreducible saturation, etc.) and the initial conditions (e.g., saturation, capillary pressure, matric potential) may be extremely difficult to measure on a representative scale for unsaturated porous and fractured geologic media.

For these reasons, calculations of pre-waste-emplacement groundwater travel time along the fastest path of likely radionuclide travel through the unsaturated zone may have large associated uncertainities, and may be of questionable value in estimating the capability of the geologic setting to isolate HLW from the accessible environment.

The new definition of the term "groundwater" which the Commission is proposing would have the effect of expanding the scope of the performance objectives set forth in § 60.113 to disposal in either the saturated or unsaturated zone. Similarly, the proposed amendment to the Siting Criteria (§ 60.122(b)(7)) would have the effect of making pre-waste-emplacement groundwater travel time along the fastest path of likely radionuclide travel from the disturbed zone to the accessible environment which substantially exceeds 1,000 years a favorable condition for HLW disposal within either the saturated or unsaturated zone.

The Commission's current thinking on this issue is that if DOE can demonstrate with reasonable assurance that travel time for groundwater movement through the unsaturated zone can be quantified, then DOE should be allowed to include such travel time when demonstrating compliance with § 60.113(a)(2). However, such calculations of groundwater travel times through the unsaturated zone could involve considerable uncertainty. Further, long groundwater travel time possibly may be inconsistent with the proposed amendment which identifies a host rock that provides for free drainage as a

favorable hydrogeologic condition for disposal of HLW within the unsaturated zone. It may be more appropriate for the Commission to specify another parameter upon which performance may be evaluated for a geologic setting in the unsaturated zone, or to utilize the approach set forth in § 60.113(b) which provides the Commission with the flexibility to specify variations in performance objectives on a case-by-case basis, as long as the overall system performance objective is satisifed. Therefore, to solicit input in these matters the Commission is particularly seeking public comment on the following questions:

1. How can groundwater travel time in the unsaturated zone be determined with reasonable assurance? Should the groundwater travel time performance objective be limited to groundwater movement within the saturated zone?

2. Does groundwater travel time represent an appropriate measure of performance for a site within the unsaturated zone, or would an alternative performance objective for the geologic setting, (e.g., maximum likely volumetric flow rate of groundwater through the geologic repository) be more appropriate?

Environmental Impact: Negative Declaration

Pursuant to Section 121(c) of the Nuclear Waste Policy Act of 1982, the promulgation of these criteria shall not require the preparation of an environmental impact statement under Section 102(2)(C) of the National Environmental Policy Act of 1969 or any environmental review under subparagraph (E) or (F) of Section 102(2) of such Act.

Paperwork Reduction Review

The proposed rule contains no new or amended recordkeeping, reporting or application requirements, or any other type of information collection requirements subject to the Paperwork Reduction Act (Pub. L. 96–511).

Regulatory Flexibility Act Certification

In accordance with the Regulatory Flexibility Act of 1980 (5 U.S.C. 605(b)), the Commission certifies that this rule, if adopted, will not have a significant economic impact on a substantial number of small entities. The only entity subject to regulation under this rule is the U.S. Department of Energy.

List of Subjects in 10 CFR Part 60

High-level waste, Nuclear power plants and reactors, Nuclear materials, Penalty, Reporting and recordkeeping requirements, Waste treatment and disposal.

Issuance

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, the Nuclear Waste Policy Act of 1982, and 5 U.S.C. 553, the Nuclear Regulatory Commission is proposing the following amendments to 10 CFR Part 60.

PART 60—DISPOSAL OF HIGH-LEVEL RADIOACTIVE WASTES IN GEOLOGIC REPOSITORIES

Authority: Secs. 51, 53, 62, 63, 65, 81, 161, 182, 183, 68 Stat. 929, 930, 932, 933, 935, 948, 953, 954, as amended (42 U.S.C. 2071, 2073, 2092, 2093, 2095, 2111, 2201, 2232, 2233); secs. 202, 206, 88 Stat. 1244, 1246, (42 U.S.C. 5842, 5846); secs. 10 and 14, Pub. L. 95–601, 92 Stat. 2951 (42 U.S.C. 2021a and 5851); sec. 102, Pub. L. 91–190, 83 Stat. 853 (42 U.S.C. 4332); sec. 121, Pub. L. 97–425, 96 Stat. 2228 (42 U.S.C. 1014).

For the purposes of sec. 223, 68 Stat. 958, as amended (42 U.S.C. 2273). §§ 60.71 to 60.75 are issued under sec. 161o, 68 Stat. 950, as amended (42 U.S.C. 2201(o)).

1. Section 60.2 is amended by adding two new definitions in proper alphabetical sequence:

§ 60.2 Definitions.

* * * * *

"Groundwater" means all water which occurs below the Earth's surface.

"Unsaturated zone" means the zone between the land surface and the deepest water table. Generally, water in this zone is under less than atmospheric pressure, and some of the voids may contain air or other gases at atmospheric pressure. Beneath flooded areas or in perched water bodies the water pressure locally may be greater than atmospheric.

* * * * *

2. Section 60.122 is amended by revising paragraph (b)(2)(iii), designating paragraph (b)(2)(iv) as (b)(7), and adding new paragraphs (b)(8), (c) (22), (23) and (24) to read as follows:

§ 60.122 Siting criteria.

* * * * *

(b) * * *

(2) * * * (iii) Low vertical permeability and low hydraulic potential between the host rock and the surrounding hydrogeologic units.

* * * * *

(7) Pre-waste-emplacement groundwater trave time along the fastest path of likely radionuclide travel from the disturbed zone to the accessible environment that substantially exceeds 1,000 years.

(8) For disposal in the unsaturated zone, hydrogeologic conditions that provide—

(i) Low and nearly constant moisture flux in the host rock and in the overlaying and underlying hydrogeologic units;

(ii) A water table sufficiently below the underground facility such that fully saturated voids continuous with the water table do not encounter the underground facility;

(iii) A laterally extensive low-permeability hydrogeologic unit above the host rock that would inhibit the downward movement of water or divert downward moving water to a location beyond the limits of the underground facility;

(iv) A host rock that provides for free drainage; or

(v) A climatic regime in which the average annual historic precipitation is a small percentage of the average annual potential evapotranspiration.

* * * * *

(c) * * *

(22) Potential for the water table to rise sufficiently so as to cause saturation of an underground facility located in the unsaturated zone.

(23) Potential for existing or future perched water bodies that may have the effect of saturating portions of the underground facility or providing a faster flow path for radionuclide movement from an underground facility located in the unsaturated zone to the accessible environment.

(24) Potential for vapor transport of radionuclides from the underground facility located in the unsaturated zone to the accessible environment.

Dated at Washington, D.C., this 13th day of February 1984.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 84–4308 Filed 2–15–84; 8:45 am]

BILLING CODE 7590–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Fair Housing and Equal Opportunity

24 CFR Part 115

[Docket No. R-84-1141; FR-1878]

Recognition of Substantially Equivalent Laws

AGENCY: Office of the Assistant Secretary for Fair Housing and Equal Opportunity, HUD.

ACTION: Proposed rule.

SUMMARY: This proposed rule would amend 24 CFR Part 115, which provides recognition by the Department of those State and local fair housing laws that provide rights and remedies substantially equivalent to those provided by Title VIII of the Civil Rights Act of 1968 (Act), to recognize the laws of several additional State and local jurisdictions as substantially equivalent, and to withdraw recognition from one previously recognized local law.

DATES: Comment due date: April 16, 1984.

ADDRESS: Interested persons are invited to submit comments regarding the rule to the Office of General Counsel, Rules Docket Clerk, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410. Communications should refer to the above docket number and title. A copy of each communication submitted will be available for public inspection and copying during regular business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Steven J. Sacks, Director, Federal, State and Local Programs Division, Room 5214, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410, telephone (202) 426-3500. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION:

I. Recognition of Additional Laws

The Department is proposing to grant recognition to the fair housing laws of the following additional jurisdictions, in accordance with Section 810(c) of Title VIII of the Civil Rights Act of 1968: (1) The States of Florida, North Carolina and Hawaii; and (2) the localities of Allentown, Pennsylvania; Park Forest, Illinois; Pensacola, Florida; Tallahassee, Florida; Olathe, Kansas; Detroit, Michigan, and Fort Worth, Texas. The evaluation of the laws of these jurisdictions was conducted in accordance with the provisions of 24 CFR Part 115, with particular focus on §§ 115.2(a), 115.3 and 115.8. Those sections are set forth to give appropriate information to all parties with an interest in HUD's proposed action.

Section 115.2, Procedures for Recognition, provides, in paragraph (a): Recognition under this part shall be based on a consideration of the following materials and information: (1) The text of the jurisdiction's fair housing law and any regulations or directives issued thereunder; (2) the organization of the agency responsible for administering and enforcing such law; (3) the amount of funds and personnel made available to such agency for fair housing purposes during the current operating year; (4) when considering agencies which have been in operation for 1 year or more, any available indicia of the agency's ability to satisfactorily administer its law consonant with the performance standards delineated in § 115.8; and (5) any additional documents which the agency may wish to have considered.

Section 115.3, Criteria, provides: In order for a determination to be made that a State or local fair housing law provides rights and remedies for alleged discriminatory housing practices which are substantially equivalent to those provided in the Act, the law or ordinance must: (a) Provide for an administrative enforcement body to receive and process complaints; (b) Delegate to the administrative enforcement body comprehensive authority to investigate the allegations of complaints, and power to conciliate complaint matters; (c) Not place any excessive burdens on the complainant which might discourage the filing of complaints; (d) Not contain exemptions which substantially reduce the coverage of housing accommodations as compared to Section 803 of the Act which provides coverage with respect to all dwellings except, under certain circumstances, single-family homes sold or rented by the owner, and units in owner occupied dwellings containing living quarters for no more than four families; and (e) Be sufficiently comprehensive in its prohibitions so as to be an effective instrument in carrying out and achieving the intent and purposes of the Act, i.e., the prohibition of the following acts if they are based on discrimination because of race, color, religion, sex, or national origin:

(1) Refusal to sell or rent.

(2) Refusal to negotiate for a sale or rental.

(3) Making a dwelling unavailable.

(4) Discriminating in terms, conditions, or privileges of sale or rental, or in the provisions of services or facilities.

(5) Advertising in a discriminatory manner.

(6) Falsely representing that a dwelling is not available for inspection, sale or rental.

(7) Blockbusting.

(8) Discrimination in financing.

(9) Denying a person access to or membership or participation in multiple listing services, real estate brokers' organizations, or other services.

Provided, that a law may be determined substantially equivalent if it meets all of the criteria set forth in this section but does not contain adequate prohibitions with respect to one or more of the acts based on discrimination because of sex, or with respect to one or more of the cases described in paragraphs (e) (7), (8), and (9) of this section; (f) In addition to the factors described in paragraphs (a), (b), (c), (d), and (e) of this section, consideration will be given to the provisions of the law affording judicial protection and enforcement of the rights embodied in the law. However, a law may be determined substantially equivalent even though it does not contain express provisions for access to State or local courts.

Section 115.8, Performance Standards, provides: (a) The initial and continued recognition by the Secretary that a State or local fair housing law provides rights and remedies substantially equivalent to those provided in the Act will be dependent upon, where applicable, an assessment of the State or local agency's administration of its fair housing law to ensure that the law is in fact providing substantially equivalent rights and remedies. The performance standards set forth in paragraph (b) of this section will be used in making such assessment; (b) A State or local agency must: (1) Consistently and affirmatively seek the elimination of all prohibited practices under its fair housing law; (2) Consistently and affirmatively seek and obtain the type of relief designed to prevent recurrences of such practices; (3) Establish a mechanism for monitoring compliance with any agreements or orders entered into with or issued by the State or local agency to resolve discriminatory housing practices; (4) Engage in comprehensive and thorough investigative activities; and (5) Commence and complete the administrative processing of a complaint in a timely manner, i.e., the average complaint should, under ordinary circumstances, be investigated and, where applicable, set for conciliation within 30-45 days.

II. Withdrawal of Recognition—Fair Housing Ordinance of the City of Wichita, Kansas

On October 12, 1983, HUD notified the City of Wichita, Kansas that (1) it proposed to withdraw its recognition of that city's fair housing ordinance because HUD found that the ordinance had been amended on July 5, 1983 and no longer provided rights and remedies for alleged discriminatory housing practices which are substantially equivalent to Title VIII of the Civil Rights Act of 1968, and (2) the city had fifteen (15) days within which to submit data, views, and arguments in opposition and to request an opportunity for a conference under 24 CFR Part 115. The Department did not receive any rebuttal nor a request for a conference from the City of Wichita within the prescribed time period. Accordingly, this proposed rule includes withdrawal of the City of Wichita from the list of localities with substantially equivalent laws.

III. Other Matters

On August 9, 1983, the Department published a proposed rule (48 FR 36133) to revise 24 CFR Part 115 to simplify the process of issuing or withdrawing recognition of substantially equivalent laws. The proposed rule would provide for addition or deletion of jurisdictions through publication of rule-related notices in the **Federal Register**, although an opportunity for interested parties to comment on the actions proposed in such notices, equivalent to the public comment period permitted for proposed rule amendments, would be retained. Since the August 9, 1983 proposed rule has not yet been published as a final and effective rule, this proposed rule continues the past practice of providing for the issuance or withdrawal of recognition by rule amendment.

This proposed rule does not constitute a "major rule" as that term is defined in section 1(b) of the Executive Order on Federal Regulation issued by the President on February 17, 1981. Analysis of the proposed rule indicates that it does not (1) have an annual effect on the economy of $100 million or more; (2) cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) have a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations in 24 CFR Part 50 that implement Section 102(2)(C) of the National Environmental Policy Act of 1969, 42 U.S.C. 4332. The Finding of No Significant Impact is available for public inspection and copying during regular business hours in the Office of the Rules Docket Clerk, Room 10276, 451 Seventh Street, SW., Washington, D.C. 20410.

Under 5 U.S.C. 605(b) (the Regulatory Flexibility Act), the Undersigned hereby certifies that this rule would not have a significant economic impact on a substantial number of small entities. The rule only carries out the Department's statutory responsibility as set out in section 810(c) of the Fair Housing Act, 42 U.S.C. 3610(c).

This rule was listed as Item FH&EO–5–83 in the Department's Semiannual Agenda of Regulations published on October 17, 1983 (48 FR 47422) pursuant to Executive Order 12291 and the Regulatory Flexibility Act.

The Catalog of Federal Domestic Assistance Program numbers and titles are: 14.400, Equal Opportunity in Housing and 14.401, Fair Housing Assistance Program.

List of Subjects in 24 CFR Part 115

Fair housing, Intergovernmental relations.

PART 115—RECOGNITION OF SUBSTANTIALLY EQUIVALENT LAWS

Accordingly, it is proposed to revise 24 CFR 115.11 as follows:

§ 115.11 Jurisdictions with Substantially Equivalent Laws.

The following jurisdictions are recognized as providing rights and remedies for alleged discriminatory housing practices substantially equivalent to those in the Act, and complaints will be referred to the appropriate State or local agency as provided in § 115.6.

States

Alaska
California
Colorado
Connecticut
Delaware
Florida
Hawaii
Illinois
Indiana
Iowa
Kansas
Kentucky
Maine
Maryland
Massachusetts
Michigan
Minnesota
Montana
Nebraska
Nevada
New Hampshire
New Jersey
New Mexico
New York
North Carolina
Oregon
Pennsylvania
Rhode Island
South Dakota
Virginia
Washington
West Virginia
Wisconsin

Localities

Anchorage, Alaska
Phoenix, Arizona
District of Columbia
New Haven, Connecticut
Clearwater, Florida
Metropolitan Dade County, Florida
Jacksonville, Florida
Orlando, Florida
Pensacola, Florida
St. Petersburg, Florida
Tallahassee, Florida
Bloomington, Illinois
Evanston, Illinois
Park Forest, Illinois
Springfield, Illinois
Urbana, Illinois
Columbus, Indiana
East Chicago, Indiana
Fort Wayne, Indiana
Gary, Indiana
South Bend, Indiana
Iowa City, Iowa
Kansas City, Kansas
Olathe, Kansas
Salina, Kansas
Lexington-Fayette, Kentucky
Howard County, Maryland
Montgomery County, Maryland
Prince George's County, Maryland
Detroit, Michigan
Minneapolis, Minnesota
St. Paul, Minnesota
Kansas City, Missouri
Lincoln, Nebraska
Omaha, Nebraska
New York City, New York
Charlotte, North Carolina
Mecklenberg County, North Carolina
New Hanover County, North Carolina
Raleigh, North Carolina
Winston-Salem, North Carolina
Dayton, Ohio
Allentown, Pennsylvania
Harrisburg, Pennsylvania
Philadelphia, Pennsylvania
Pittsburgh, Pennsylvania
York, Pennsylvania
Sioux Falls, South Dakota
Knoxville, Tennessee
Fort Worth, Texas
King County, Washington
Seattle, Washington
Tacoma, Washington
Beckley, West Virginia
Charleston, West Virginia
Huntington, West Virginia
Beloit, Wisconsin

Authority: Sec. 810(c) of the Civil Rights Act of 1968, 42 U.S.C. 3610, Sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: January 31, 1984.

Antonio Monroig,

Assistant Secretary for Fair Housing and Equal Opportunity.

[FR Doc. 84-4318 Filed 2-15-84; 8:45 am]

BILLING CODE 4210-28-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[LR-185-81]

Accelerated Cost Recovery System; Public Hearing on Proposed Regulations

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of public hearing on proposed regulations.

SUMMARY: This document provides notice of a public hearing on proposed regulations relating to the accelerated cost recovery system (ACRS) under section 168 of the Internal Revenue Code of 1954.

DATES: The public hearing will be held on Monday, May 21, Tuesday, May 22, and Wednesday, May 23, 1984, beginning at 10:00 a.m. Outlines of oral

comments must be delivered or mailed by Monday, April 30, 1984.

ADDRESS: The public hearing will be held in the I.R.S. Auditorium, Seventh Floor, 7400 Corridor, Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, D.C. The requests to speak and outlines of oral comments should be submitted to the Commissioner of Internal Revenue, Attn: CC:LR:T (LR–185–81), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: Lou Ann Craner of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224, telephone 202–566–3935 (not a toll-fee call).

SUPPLEMENTARY INFORMATION: The subject of the public hearing is proposed regulations under section 168 of the Internal Revenue Code of 1954. The proposed regulations appear in this issue of the **Federal Register** (See FR Doc. 84–3922).

The rules of § 601.601(a)(3) of the "Statement of Procedural Rules" (26 CFR Part 601) shall apply with respect to the public hearing. Persons who have submitted written comments within the time prescribed in the notice of proposed rulemaking and who also desire to present oral comments at the hearing on the proposed regulations should submit, not later than Monday, April 30, 1984, an outline of the oral comments to be presented at the hearing and the time they wish to devote to each subject.

Each speaker will be limited to 10 minutes for an oral presentation exclusive of the time consumed by questions from the panel for the government and answers to these questions.

Because of controlled access restrictions, attendees cannot be admitted beyond the lobby of the Internal Revenue Building until 9:45 a.m.

An agenda showing the scheduling of the speakers will be made after outlines are received from the speakers. Copies of the agenda will be available free of charge at the hearing.

By direction of the Commissioner of Internal Revenue.

George H. Jelly,

Director, Legislation and Regulations Division.

[FR Doc. 84–3881 Filed 2–6–84; 11:11 am]
BILLING CODE 4830–01–M

26 CFR Part 1

[LR–185–81]

Accelerated Cost Recovery System

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed regulations relating to the Accelerated Cost Recovery System (hereinafter referred to as ACRS) for recovering capital costs of eligible property. Changes to the applicable tax law were made by the Economic Recovery Tax Act of 1981 (hereinafter referred to as ERTA), the Tax Equity and Fiscal Responsibility Act of 1982 (hereinafter referred to as TEFRA) and the Technical Corrections Act of 1982. Prior law allowed as a depreciation deduction a reasonable allowance for exhaustion, wear and tear, or obsolescence of eligible property. ERTA replaced this prior law depreciation system with ACRS. Generally, under ACRS cost recovery deductions are determined by the use of tables which reflect the use of accelerated methods of cost recovery over predetermined recovery periods. These recovery periods are generally unrelated to, and shorter than, prior law "useful lives." TEFRA repealed the more accelerated tables for personal property which were to be effective for property placed in service after 1984. These regulations would provide taxpayers with the guidance needed to comply with the Acts.

DATES: Written comments must be delivered or mailed by May 16, 1984. In general, these regulations apply to eligible property placed in service after December 31, 1980.

ADDRESS: Send comments to: Commissioner of Internal Revenue, Attention: CC:LR:T (LR–185–81), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: John A. Tolleris (with respect to § 1.168–4 (202–566–3590)), Joseph M. Rosenthal (with respect to the repair allowance, § 1.167(a)–11(d)(2) (202–566–6456)), or George T. Magnatta (with respect to all other provisions (202–566–3294)), of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224 (Attention: CC:LR:T).

SUPPLEMENTARY INFORMATION:

Background

This document contains proposed amendments to the Income Tax Regulations (26 CFR Part 1) under sections 167, 168, 178, and 1016 of the Internal Revenue Code of 1954. These amendments are proposed to conform the regulations to sections 201 and 203 of the Economic Recovery Tax Act of 1981 (Pub. L. 97–34; 95 Stat. 203, 221), sections 205 and 206 of the Tax Equity and Fiscal Responsibility Act of 1982 (Pub. L. 97–248; 96 Stat. 427, 431), and section 102 of the Technical Corrections Act of 1982 (Pub. L. 97–448; 96 Stat. 2367). These amendments are to be issued under the authority contained in section 168 (95 Stat. 203; 26 U.S.C. 168) and section 7805 (69A Stat. 917; 26 U.S.C. 7805) of the Internal Revenue Code of 1954.

Accelerated Cost Recovery System

Section 168, as added by ERTA, is a replacement for the prior law depreciation system for recovering the capital costs of trade or business assets or investment assets. Generally, this new Accelerated Cost Recovery System (ACRS), added by section 168, provides for the recovery of capital costs of eligible property by the use of tables, which reflect the use of accelerated methods of cost recovery over predetermined recovery periods. These recovery periods are generally unrelated to, and shorter than, those under prior law. Unlike prior law ACRS does not make any distinction between new and used property. This new capital cost recovery system is mandatory for all eligible property, hereinafter referred to as "recovery property." Recovery property includes both real and personal property. Generally, to be eligible for ACRS property must be (1) tangible property of a character subject to the allowance for depreciation, (2) used in a trade or business or held for the production of income, and (3) placed in service by the taxpayer after December 31, 1980. Recovery property does not include (1) tangible depreciable property the taxpayer properly elects to depreciate under a method not expressed in terms of years, (2) public utility property where the taxpayer does not use a normalization method of accounting, and (3) certain pre-1981 property involved in post-1980 "churning" transactions to obtain the benefits of ACRS.

In addition, recovery property does not include intangible property. The Internal Revenue Service is continuing to examine the extent to which certain types of property, such as computer software and master motion picture negatives, may constitute intangible property that is ineligible for ACRS. The Internal Revenue Service is also examining the manner in which other

provisions of the Code (such as section 48(k)) may apply if such property is considered eligible for ACRS. Accordingly, these issues have been reserved in these proposed regulations and are the subject of a recently opened project, under which regulations will be issued as soon as possible. In the meantime, the Service will continue to administer the area in accordance with its current position. Comments on these questions from interested persons are welcome.

The allowable ACRS deduction is generally determined by multiplying the unadjusted basis of the property by the applicable percentage contained in the relevant ACRS tables. The prior law concept of salvage value is abolished in determining deductions under this new system. Thus, the entire cost or other basis of the property is recovered under ACRS. The proposed regulations provide rules for determining the allowable deduction when the basis of the property is redetermined (*e.g.*, where there is a readjustment of the purchase price).

Under ACRS, the cost of personal property must be recovered over a 3-year, 5-year, 10-year, or 15-year recovery period (unless the taxpayer elects a longer recovery period under rules described below). Real property is recovered over a 15-year recovery period (unless a longer period is elected). With respect to personal property, a full year's recovery deduction is allowed in the first recovery year regardless of when the asset is placed in service during that taxable year. No recovery deduction is allowed in the taxable year in which personal property is disposed of. The proposed regulations provide rules for computing the allowable deduction where the taxpayer has a taxable year of less than 12 months. In addition, for real property, the recovery for the year the asset is placed in service or is disposed of is based on the number of months the property is in service during the year, regardless of whether the taxpayer has a normal or short taxable year.

Taxpayers may elect to recover the cost of eligible property using the straight line method over that applicable recovery period or over a longer optional recovery period. For example, taxpayers may recover the capital costs of 5-year recovery property over a 5-year, 12-year, or 25-year period or the cost of real property over a 15-year, 35-year, or 45-year period, using the straight line method. Except for real property, the election applies to all recovery property of the particular class placed in service in the same taxable year. Generally, this election is irrevocable. The proposed regulations provide tables containing the applicable percentages when an optional straight line election is made.

Taxpayers may, under certain conditions, election to recover the capital costs of certain recovery property in a mass asset account. If the election is made, mass assets which have the same asset depreciation range (ADR) midpoint life as of January 1, 1981, and which are placed in service in the same taxable year, will be accounted for in a single account. As a consequence of the election, upon the disposition of an asset from that account, the taxpayer will generally include in income the full amount realized on the disposition. The unadjusted basis of the asset disposed of will continue to be included in determining the recovery deduction for the account. The proposed regulations define mass assets, provide rules for determining when dispositions occur for purposes of investment tax credit recapture, and provide rules for recovering any increases in basis resulting from such recapture. The proposed regulations also provide rules relating to the recognition of gain or loss on the disposition of recovery property other than from a mass asset account.

Under ACRS, component cost recovery is not permitted. Thus, the same recovery period and method generally must be used for a building and all structural components. The recovery period for a component generally begins at the later of the time the component or the building is placed in service.

Under the proposed regulations, a building is considered placed in service when a significant portion is made available for use in a finished condition. The taxpayer at that time begins recovery of so much of the capitalized costs as are properly allocable to the portion of the building in service. Similarly, as portions of the building are later made available, recovery of the properly allocable costs will commence.

Capitalized expenditures, which are section 1250 property, paid or incurred after the building is completed are recovered under the same period and method as are used for the building, recovery beginning when the improvement is placed in service. However, if a capitalized expenditure qualifies as a "substantial improvement," a new recovery period and method are permitted, recovery beginning when the improvement is placed in service.

Similarly, with respect to personal property, amounts paid or incurred after the property is placed in service, which are properly chargeable to capital account, are treated as newly-purchased property for ACRS purposes. That property is assigned to the same recovery class as the property to which the expenditure relates. Any applicable recovery period and method may be selected for such improvement, recovery beginning when the improvement is placed in service.

Rules are also provided clarifying the results when a lessee makes improvements on leased property.

The proposed regulations clarify the rules which prevent taxpayers from converting pre-1981 property into post-1980 recovery property. Under those rules, if the taxpayer enters into certain "churning" transactions, the methods of cost recovery provided under ACRS are not available with respect to the property.

ACRS contains special rules for property which is used predominantly outside the United States. The proposed regulations define this type of property and also provide guidance for property which ceases or begins to be used predominantly outside the United States after having been placed in service in a prior taxable year.

Similiarly, the proposed regulations provide rules for determining the deductions for other property which changes status under ACRS (*e.g.*, property which ceases to be used in connection with research and experimentation, property converted from personal to business use). Additionally, the proposed regulations provide rules for determining the deductions for property which is used both for personal and business purposes.

ACRS provides special rules for recovery property which is involved in certain nonrecognition and other transactions (section 168(f) (7), (10)). Generally, in these transactions the transferee is bound by the transferor's recovery period and method with respect to so much of the basis of the property in the hands of the transferee as does not exceed its basis in the hands of the transferor. The proposed regulations clarify the class of transactions subject to the rules and the manner of computing the deductions available to the transferor and transferee.

The proposed regulations also clarify the rules with respect to property involved in a transaction to which section 1031 or 1033 applies (section 168(f)(7)). Additionally, the proposed

regulations clarify the deductions available with respect to property transferred by gift or bequest and with respect to partnership property to which basis adjustments are made.

The proposed regulations also provide the guidance necessary for making the various elections under section 168.

Since Congress made no change to certain provisions of the Code which require (or allow) a taxpayer to compute depreciation by use of the straight line method over the property's useful life (*e.g.*, Section 163(d)(3)(C), 1016(a)(3)), the proposed regulations contain no special rules in that regard. As a result, the rules under prior law continue to apply.

Section 203(b) of ERTA terminated the class life asset depreciation range (ADR) system, authorized by section 167(m) of the Code, for recovery property placed in service after 1980. Additionally, section 201(c) of ERTA repealed the asset guideline class repair allowance, authorized by section 263(e), effective for property placed in service after December 31, 1980. The proposed regulations implement these statutory changes by amending § 1.167(a)–11 (a)(1) and (d)(2) and by making other conforming amendments. The proposed regulations also clarify that the repair allowance is continued in effect for expenditures made after December 31, 1980, for the repair, maintenance, rehabilitation, or improvement of property placed in service before January 1, 1981.

The proposed regulations provide that the taxpayer may elect the repair allowance for a taxable year by (a) making the election to apply ADR for the taxable year (even if all the property placed in service during the taxable year is recovery property to which the ADR system does not apply), and (b) making an election to apply the asset guideline class repair allowance for the taxable year.

For periods after December 31, 1980, the proposed regulations provide that expenditures that are property improvements or excluded additions under the repair allowance rules shall generally be treated as separate items of recovery property, as described above.

These regulations concerning ACRS are effective for property placed in service after December 31, 1980. A taxpayer who has filed a return and who either did not claim allowable ACRS deductions, or did not claim the full amount allowable (*e.g.*, because the taxpayer used a different rule for years following a short taxable year than is provided in these regulations), should file an amended return.

Non-Applicability of Executive Order 12291

It has been determined that this notice of proposed rulemaking is not subject to review under Executive Order 12291 or the Treasury and OMB implementation of the order dated April 29, 1983.

Regulatory Flexibility Act

Although this document is a notice of proposed rulemaking which solicits public comment, the Internal Revenue Service has concluded that the regulations proposed herein are interpretative and that the notice and public procedure requirements of 5 U.S.C. 553 do not apply. Accordingly, these proposed regulations do not constitute regulations subject to the Regulatory Flexibility Act (5 U.S.C. chapter 6).

Comments—Public Hearing

Before adopting these proposed regulations, consideration will be given to any written comments that are submitted (preferably seven copies) to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying. A public hearing will be held in accordance with the notice of hearing published in this issue of the **Federal Register.**

Paperwork Reduction Act

The collection of information requirements contained in this notice of proposed rulemaking have been submitted to the Office of management and Budget (OMB) for review under section 3504(h) of the Paperwork Reduction Act. Comments on these requirements should be sent to the Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer for Internal Revenue Service, New Executive Office Building, Washington, D.C. 20503. The Internal Revenue Service requests that persons submitting comments on these requirements to OMB also send copies of those comments to the Service.

Drafting Information

The principal authors of these regulations are John A. Tolleris, George T. Magnatta, Harold T. Flanagan, and Joseph M. Rosenthal of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulations, both on matters of substance and style.

List of Subjects

26 CFR 1.61–1—1.281–4

Income taxes, Taxable income, Deductions, Exemptions.

26 CFR 1.1001–1—1.1102–3

Income taxes, Gain and loss, Basis, Nontaxable exchanges.

Proposed Amendments to the Regulations

The proposed amendments to 26 CFR Part 1 are as follows:

Paragraph 1. Section 1.167(a)–11 is amended as follows:

1. Paragraph (a)(1) is amended by adding a new sentence at the beginning thereof.

2. Paragraph (d)(2) is amended as follows:

a. A caption is added to paragraph (d)(2)(i)(*a*) and new paragraph (d)(2)(i)(*b*) is added,

b. Paragraph (d)(2)(ii) is amended by adding a new sentence at the end thereof,

c. In paragraph (d)(2)(iii)(*b*), the tenth sentence is amended by adding "property that is first placed in service (as provided in paragraph (e)(1) (i) and (ii) of this section) before January 1, 1981, and is" immediately after the phrase " 'repair allowance property' means", and

d. New paragraph (d)(2)(viii)(*d*) is added immediately after paragraph (d)(2)(viii)(*c*).

The revised and added provisions read as follows:

§ 1.167 (a)–11 Depreciation based on class lives and asset depreciation ranges for property placed in service after December 31, 1970.

(a) *In general*—(1) *Summary.* This section does not apply with respect to recovery property (within the meaning of section 168 and the regulations thereunder) placed in service after December 31, 1980.* * *

* * * * *

(d) *Special rules for salvage, repairs and retirements.** * *

(2) *Treatment of repairs*—(i) *In general—(a) Treatment of repair expenditures.** * *

(b) Property placed in service after December 31, 1980. This paragraph (d)(2) does not apply to any expenditures with respect to property first placed in service after December 31, 1980, but may apply to expenditures paid or incurred after such date with respect to property first placed in service before January 1, 1981. Expenditures with respect to property first placed in service after December 31, 1980, shall be treated as

capital expenditures or as deductible expenses for the taxable year in which paid or incurred in accordance with the general rules provided in sections 162, 212, and 263. Property is considered first placed in service for purposes of this paragraph (d)(2)(i)(*b*) under the rules of paragraph (e)(1) (i) and (ii) of this section.

(ii) *Election of repair allowance.* * * * For taxable years ending after December 31, 1980, and before February 16, 1984, notwithstanding paragraph (f)(1) of this section, the taxpayer may elect (in the original return or in an amended return) to apply this section and the asset guideline class repair allowance described in paragraph (d)(2)(iii) of this section on or before the later of the due date (including extensions) of the taxpayer's tax return for the taxable year or November 16, 1984.

* * * * *

(viii) *Treatment of property improvements and excluded additions.* * * *

(*d*) Paragraph (d)(2)(viii) (*a*), (*b*), and (c) of this section does not apply to a property improvement, excluded addition, or part thereof considered first placed in service by the taxpayer after December 31, 1980. Such property improvement, excluded addition, or part thereof shall generally be treated as a separate item of recovery property (as defined in section 168(c)(1)), and shall be assigned to the appropriate class of recovery property in accordance with section 168(c)(2). See § 1.168–2(e)(2). For taxable years ending after December 31, 1980, notwithstanding the succeeding sentence, for purposes of this paragraph (d)(2)(viii)(*d*), a property improvement, excluded addition, or part thereof is considered first placed in service under the rules provided in paragraph (e)(1) (i) and (ii) of this section and not under the rules provided in paragraph (e)(1) (iii) and (iv) of this section. * * *

* * * * *

Par. 2 Sections 1.168–1 through 1.168–6 are revised to read as follows:

§ 1.168–1 Accelerated Cost Recovery System; in general.

(a) *Cost recovery deduction allowed.* Section 168 of the Internal Revenue Code of 1954 provides a system for determining cost recovery deductions for recovery property, the Accelerated Cost Recovery System ("ACRS"). The deduction allowable under section 168 is deemed to constitute the reasonable allowance for depreciation allowed as a deduction under section 167(a). Operating rules regarding determination of the allowable cost recovery deduction are provided in § 1.168–2. The definition of recovery property and the classification of recovery property into recovery categories of 3, 5, 10, and 15 years are provided in § 1.168–3. ACRS must be applied with respect to recovery property placed in service after December 31, 1980, except for certain property which does not qualify under section 168 or which may be excluded from ACRS; § 1.168–4 provides rules regarding such exclusions and nonqualifications. Special rules regarding ACRS are provided in § 1.168–5. Rules relating to the recognition of gain or loss on dispositions are provided in § 1.168–6.

(b) *Cross references.* See § 1.167(a)–11(d)(2) regarding the election after 1980 of the repair allowance for certain property. See § 178–1 regarding the availability of ACRS deductions for, or the amortization of, improvements on leased property. See § 1.1016–3(a)(3) regarding the basis adjustment for the amount allowable where no ACRS deduction is claimed.

§ 1.168–2 Amount of deduction for recovery property.

(a) *Computation of recovery allowance*—(1) *General rule.* Except as otherwise provided in section 168 and the regulations thereunder, the recovery allowance for any taxable year equals the aggregate amount determined by multiplying the unadjusted basis (as defined in § 1.168–2(d)) of recovery property (as defined in § 1.168–3) by the appropriate applicable percentage provided in paragraph (b) of this section. For purposes of determining the recovery allowance, salvage value shall be disregarded.

(2) *No allowance in year of disposition.* Except for 15-year real property and except as otherwise provided in § 1.168–5, no recovery allowance shall be allowed in the year of disposition of recovery property.

(3) *Proration of allowance in year of disposition of 15-year real property.* In the taxable year in which 15-year real property is disposed of, the recovery allowance shall be determined by multiplying the allowance (determined without regard to this subparagraph) by a fraction, the numerator of which equals the number of months in the taxable year that the property is in service in the taxpayer's trade or business or for the production of income and the denominator of which is 12. In the case of 15-year real property that is disposed of in the first recovery year, the denominator shall equal the number of months in the taxpayer's taxable year after the recovery property was placed in service by the taxpayer (including the month the property was placed in service). If the recovery allowance for the taxable year is limited by reason of the short taxable year rules of section 168(f)(5) and paragraph (f) of this section (*e.g.*, if the taxpayer dies, or if the taxpayer is a corporation which becomes a member, or ceases being a member, of an affiliated group of corporations filing a consolidated return), then the denominator shall equal the number of months in the taxpayer's taxable year. For purposes of this subparagraph, 15-year real property shall be treated as disposed of as of the last day of the month preceding the month in which it is withdrawn from service.

(b) *Applicable percentage*—(1) *Property other than 15-year real property.* The applicable percentage for recovery property, other than 15-year real property, is as follows:

If the recovery year is:	And the class of property is:			
	3-yr	5-yr	10-yr	15-yr public utility
	The applicable percentage is:			
1	25	15	8	5
2	38	22	14	10
3	37	21	12	9
4		21	10	8
5		21	10	7
6			10	7
7			9	6
8			8	6
9			9	6
10			8	6
11				6
12				6
13				6
14				6
15				6

(2) *15-year real property.* (i) The applicable percentage for 15-year real property, other than low-income housing is as follows:

If the recovery year is:	And the month in the 1st recovery year the property is placed in service is:											
	1	2	3	4	5	6	7	8	9	10	11	12
	The applicable percentage is:											
1	12	11	10	9	8	7	6	5	4	3	2	1
2	10	10	11	11	11	11	11	11	11	11	11	12
3	9	9	9	9	10	10	10	10	10	10	10	10
4	8	8	8	8	8	8	9	9	9	9	9	9
5	7	7	7	7	7	7	8	8	8	8	8	8
6	6	6	6	6	7	7	7	7	7	7	7	7

If the recovery year is:	And the month in the 1st recovery year the property is placed in service is:											
	1	2	3	4	5	6	7	8	9	10	11	12
	The applicable percentage is:											
7	[illegible]	6	6	6	6	6	6	6	6	6	6	6
8	[illegible]	6	6	6	6	6	5	6	6	6	6	6
9	[illegible]	6	6	6	5	6	5	5	5	6	6	6
10	[illegible]	6	5	6	5	5	5	5	5	5	6	5
11	5	[illegible]	5	5	5	5	5	5	5	5	5	5
12	5	5	5	5	5	5	5	5	5	5	5	5
13	5	5	5	5	5	5	5	5	5	5	5	5
14	5	5	5	5	5	5	5	5	5	5	5	5
15	[illegible]	5	5	5	5	5	5	5	5	5	5	5
16			1	1	2	2	3	3	4	4	4	5

(ii) The applicable percentage for 15-year real property that is low-income housing is as follows:

If the recovery year is:	And the month in the 1st recovery year the property is placed in service is:											
	1	2	3	4	5	6	7	8	9	10	11	12
	The applicable percentage is:											
1	13	12	11	10	9	8	7	6	4	3	2	1
2	12	12	12	12	12	12	12	13	13	13	13	13
3	10	10	10	10	11	11	11	11	11	11	11	11
4	9	9	9	9	9	9	9	9	10	10	10	10
5	8	8	8	8	8	8	8	8	8	8	8	[illegible]
6	7	7	7	7	7	7	7	7	7	7	7	7
7	6	6	6	6	6	6	6	6	6	6	6	6
8	5	5	5	5	5	5	5	5	5	5	6	[illegible]
9	5	5	5	5	5	5	5	5	5	5	5	[illegible]
10	5	5	5	5	5	5	5	5	5	5	5	[illegible]
11	4	5	5	5	5	5	5	5	5	5	5	5
12	4	4	4	5	4	5	5	5	5	5	5	[illegible]
13	4	4	4	4	4	4	5	4	5	5	5	5
14	4	4	4	4	4	4	4	4	4	5	4	4
15	4	4	4	4	4	4	4	4	4	4	4	[illegible]
16			1	1	2	2	2	3	3	3	4	4

(iii) For purposes of this section, the term "low-income housing" means property described in clause (i), (ii), (iii), or (iv) of section 1250(a)(1)(B).

(iv) For purposes of this subparagraph (2), 15-year real property placed in service on or after the first day of a month shall be treated as placed in service in that month.

(c) *Election of optional recovery percentage*—(1) *Straight line method.* Except as provided by section 168(f)(2) and § 1.168–2(g) (relating to property used predominantly outside the United States), in lieu of using the applicable percentages prescribed in section 168(b)(1) and (2) and § 1.168–2(b), the taxpayer may elect (in accordance with § 1.168–5(e)), for recovery property placed in service during the taxable year, to determine the recovery allowance by using the straight line method over one of the recovery periods elected by the taxpayer and set forth in the following table:

Class of property	Recovery periods
3-yr property	3, 5, or 12 yrs.
5-yr property	5, 12, or 25 yrs.
10-yr property	10, 25, or 35 yrs.
15-yr real property	15, 35, or 45 yrs.
15-yr public utility property	Do.

Such election is irrevocable without the consent of the Commissioner. See subparagraph (4) of this paragraph for tables containing the applicable percentages to be used in computing the recovery allowance.

(2) *Election for property other than 15-year real property.* Except in the case of 15-year real property, a single recovery period must be elected under this paragraph for all recovery property which is in the same recovery class and which is placed in service in the same taxable year. A different recovery period may be elected (or the tables provided in section 168(b)(1) and § 1.168–2(b)(1) may be used) for recovery property in different recovery classes placed in service during the same taxable year, or for recovery property placed in service in different taxable years, whether or not in the same recovery class.

(3) *Election for 15-year real property.* In the case of 15-year real property, the election provided in paragraph (c)(1) may be made separately with respect to each property.

(4) *Applicable percentage.* (i) For property other than 15-Year real property—

If the recovery year is:	And the period elected is:							
	3	5	10	12	15	25	35	45
	The applicable percentage is:							
1	17	10	5	4	3	[illegible]	1	1.1
2	[illegible]	[illegible]	10	9	7	4	[illegible]	2.3
3	[illegible]	[illegible]	10	9	7	4	3	2.3
4	17	[illegible]	10	9	7	4	[illegible]	2.3
5		[illegible]	10	9	7	4	3	2.3
6		10	10	8	7	4	3	2.3
7			10	8	7	4	3	2.3
8			10	8	7	4	[illegible]	2.3
9			10	8	7	4	[illegible]	2.3
10			10	8	7	4	[illegible]	2.3
11			5	8	7	4	[illegible]	2.3
12				8	6	4	[illegible]	2.2
13				4	6	4	3	2.2
14					6	4	[illegible]	2.2
15					6	4	[illegible]	2.2
16					[illegible]	4	3	2.2
17						4	[illegible]	2.2
18						4	[illegible]	2.2
19						4	[illegible]	2.2
20						4	3	2.2
21						4	[illegible]	2.2
22						4	3	2.2
23						4	[illegible]	2.2
24						4	3	2.2
25						4	[illegible]	2.2
26						2	[illegible]	2.2
27							[illegible]	2.2
28							3	2.2
29							3	2.2
30							[illegible]	2.2
31							3	2.2
32							[illegible]	2.2
33							2	2.2
34							[illegible]	2.2
35							2	2.2
36							1	2.2
37								2.2
38								2.2
39								2.2
40								2.2
41								2.2
42								2.2
43								2.2
44								2.2
45								2.2
46								1.1

(ii) For 15-year real property—

(A) For which a 15-year period is elected—

If the recovery year is:	And the month in the 1st recovery year that the property is placed in service is:						
	1	2–3	[illegible]	5–6	7–8	9–10	11–12
	The applicable percentage is:						
1	7	6	5	4	[illegible]	[illegible]	1
2	7	7	7	7	7	7	7
3	7	7	7	7	7	7	7
4	7	7	7	7	7	7	7
5	7	7	7	7	7	7	7
6	7	7	7	7	7	7	7
7	7	7	7	7	7	7	7
8	7	7	7	7	7	7	7
9	7	7	7	7	7	7	7
10	7	7	7	7	7	7	7
11	6	6	6	6	6	6	6
12	6	6	6	6	6	6	6
13	6	6	6	6	6	6	6
14	6	6	6	6	6	6	[illegible]
15	6	6	6	6	6	6	6
16		1	[illegible]	3	4	5	6

(B) For which a 35-year period is elected—

If the recovery year is:	And the month in the 1st recovery year that the property is placed in service is:		
	1–2	3–6	7–12
	The applicable percentage is:		
1	3	2	1
2	3	3	3
3	3	3	3
4	3	3	3
5	3	3	3
6	3	3	3
7	3	3	3
8	3	3	3
9	3	3	3
10	3	3	3
11	3	3	3
12	3	3	3
13	3	3	3
14	3	3	3
15	3	3	3
16	3	3	3
17	3	3	3
18	3	3	3
19	3	3	3
20	3	3	3
21	3	3	3
22	3	3	3
23	3	3	3
24	3	3	3
25	3	3	3
26	3	3	3
27	3	3	3
28	3	3	3
29	3	3	3
30	3	3	3
31	3	3	3
32	2	2	2
33	2	2	2
34	2	2	2
35	2	2	2
36	2	1	2

(C) For which a 45-year period is elected—

If the recovery year is:	And the month in the 1st recovery year that the property is placed in service is:											
	1	2	3	4	5	6	7	8	9	10	11	12
	The applicable percentage is:											
1	2.3	2.0	1.9	1.7	1.5	1.3	1.2	1.0	.7	.6	.4	.2
2	2.3	2.3	2.3	2.3	2.3	2.3	2.3	2.3	2.3	2.3	2.3	2.3
3	2.3	2.3	2.3	2.3	2.3	2.3	2.3	2.3	2.3	2.3	2.3	2.3
4	2.3	2.3	2.3	2.3	2.3	2.3	2.3	2.3	2.3	2.3	2.3	2.3
5	2.3	2.3	2.3	2.3	2.3	2.3	2.3	2.3	2.3	2.3	2.3	2.3
6	2.3	2.3	2.3	2.3	2.3	2.3	2.3	2.3	2.3	2.3	2.3	2.3
7	2.3	2.3	2.3	2.3	2.3	2.3	2.3	2.3	2.3	2.3	2.3	2.3
8	2.3	2.3	2.3	2.3	2.3	2.3	2.3	2.3	2.3	2.3	2.3	2.3
9	2.3	2.3	2.3	2.3	2.3	2.3	2.3	2.3	2.3	2.3	2.3	2.3
10	2.3	2.3	2.3	2.3	2.3	2.3	2.3	2.3	2.3	2.3	2.3	2.3
11	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2
12	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2
13	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2
14	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2
15	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2
16	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2
17	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2
18	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2
19	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2
20	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2
21	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2
22	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2
23	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2
24	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2
25	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2
26	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2
27	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2
28	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2
29	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2
30	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2
31	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2
32	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2
33	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2
34	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2
35	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2
36	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2
37	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2
38	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2
39	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2
40	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2
41	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2
42	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2
43	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2
44	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2
45	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2
46		.3	.4	.5	.6	1.0	1.1	1.4	1.6	1.7	1.9	2.1

(iii) For purposes of this paragraph, 15-year real property that is placed in service on or after the first day of a month shall be treated as placed in service in that month.

(5) *Property financed with the proceeds of industrial development bonds.* If, in accordance with section 168(f)(12) and § 1.168–2(m), the recovery allowance for property financed with the proceeds of an industrial development bond (as described in section 103(b)) is determined using the straight line method, then an election as provided in section 168(b)(3) and this paragraph shall be deemed to have been made with respect to such property.

(d) *Unadjusted basis*—(1) *Computation.* Except as provided in paragraph (j)(6)(ii) of this section (relating to change of status), the unadjusted basis of recovery property is equal to the difference between—

(i) The basis of the property for purposes of determining gain under sections 1011 through 1024 but without regard to any adjustments to basis described in section 1016(a) (2) and (3), and

(ii) Any portion of the basis for which the taxpayer properly elects amortization in lieu of cost recovery (*e.g.*, under section 167(k)) or treatment as an expense under section 179.

The unadjusted basis of recovery property shall be first taken into account under this section for the taxable year in which the property is placed in service (as defined in paragraph(l)(2) of this § 1.168–2) as recovery property.

(2) *Reductions in basis.* (i) If an investment tax credit is determined under section 46(a)(2) with respect to recovery property, then, unless the taxpayer makes an election provided under section 48(q)(4), for purposes of this section the unadjusted basis shall be reduced by 50 percent of the amount of the credit so determined. In the case of a credit determined under section 46(a)(2) for any qualified rehabilitation expenditure made in connection with a qualified rehabilitated building (other than a certified historic structure), the unadjusted basis shall be reduced by 100 percent of the amount of the credit so determined. See section 48(q) and the regulations thereunder. For rules relating to the treatment of such basis adjustment upon the disposition of an asset from a mass asset account, see § 1.168–2(h)(4).

(ii) Subject to the rules of other applicable provisions of the Code (*e.g.*, section 280A), for recovery property which is used in the taxpayer's trade or business (or for the production of income) as well as in a personal or tax-exempt activity throughout a taxable year, the unadjusted basis shall be determined by multiplying the unadjusted basis (determined without regard to this subdivision) by a fraction, the numerator of which equals the taxpayer's use of the property during the taxable year in his trade or business (or for the production of income) and the denominator of which equals the taxpayer's total use of the property during the taxable year. For property converted from personal or tax-exempt use to use in the taxpayer's trade or

business (or for the production of income), or for property devoted to increased use in the taxpayer's trade or business (or for the production of income), see § 1.168–2(j).

(iii) The provisions of subdivision (ii) may be illustrated by the following example:

Example. In 1981, A, a calendar year taxpayer, purchases a car for $10,000 to be used in his business as well as for his personal enjoyment. During 1981, A drives the car a total of 20,000 miles of which 8,000 miles (*i.e.*, 40 percent) is in the course of A's business. During 1982, A drives the car a total of 30,000 miles of which 21,000 miles (*i.e.*, 70 percent) is in the course of A's business. During 1983, A drives the car a total of 10,000 miles of which 3,000 miles (*i.e.*, 30 percent) is in the course of A's business. The optional straight line method provided under § 1.168–2(c) is not elected. Thus, A's recovery allowance in 1981 equals $1,000 (*i.e.*, ($10,000×.40)×.25), in 1982 equals $2,660 (*i.e.*, ($10,000×.70)×.38) and in 1983 equals $10,000×.30)×.37). If A continues to use the car in his business after 1983, additional recovery may be allowed. See § 1.168–2(j).

(3) *Redeterminations.* (i) For the taxable year (and subsequent taxable years) in which the unadjusted basis of recovery property is redetermined (*e.g.*, due to contingent purchase price or discharge of indebtedness), the recovery allowance shall be the amount determined by multiplying the redetermined adjusted basis by the redetermined applicable percentage. For purposes of this subparagraph, the redetermined adjusted basis is the unadjusted basis reduced by the recovery allowance previously allowed or allowable to the taxpayer with respect to the property and adjusted to reflect the redetermination. The redetermined applicable percentage is the percentage determined by dividing the applicable percentage otherwise provided in paragraph (b), (c), (g), or (m) or § 1.168–2 for the recovery year by an amount equal to the unrecovered percentage (*i.e.*, 100 percent minus the applicable percentage for recovery years prior to the year in which the basis is redetermined). Thus, the increase or decrease in basis shall be accounted for over the remaining recovery years beginning with the recovery year in which the basis is redetermined.

(ii) The following examples illustrate the provisions of this subparagraph (3):

Example (1). On July 15, 1984, A places in service 5-year recovery property with an unadjusted basis of $100,000. In order to purchase the property, A borrowed $80,000 from B. On December 1, 1984, B forgives $10,000 of the indebtedness. A makes the election provided in section 108(d)(4). The recovery allowance for the property in 1984 is $15,000. Under section 1017(a), as of January 1, 1985, the adjusted basis of the property is $75,000. In 1985 the recovery allowance is $19,411.77 (*i.e.*, .22/(1.00–.15)×($100,000–($10,000+$15,000))). In 1986, 1987, and 1988 the recovery allowance is $18,529.41 in each year (*i.e.*, .21/(1.00–.15)×($100,000–($10,000 + $15,000))).

Example (2). On July 15, 1984, C purchases and places in service 5-year recovery property with an unadjusted basis of $100,000. In addition to the $100,000, C agrees to pay the seller 25 percent of the gross profits from the operation of the property in the first year. On July 15, 1985, C pays to the seller an additional $10,000. The recovery allowance for the property in 1984 is $15,000. In 1985 the recovery allowance is $24,580.23 (*i.e.*, .22/1.00–.15)×($100,000+($10,000–$15,000))). In 1986, 1987 and 1988 the recovery allowance is $23,470.59 in each year (*i.e.*, .21/(1.00–.15)×($100,000+($10,000–$15,000))).

(e) *Components and improvements*—(1) *Component cost recovery not permitted.* In general, the unadjusted basis of structural components (as defined in § 1.48–1(e)(2)) of a building must be recovered as a whole. Thus, the same recovery period and method must be used for all structural components, and such components must be recovered as consitituent parts of the building of which they are a part. The recovery period for a component begins on the later of the first day of the month in which the component is placed in service as recovery property or the first day of the month in which the building of which the component is a part is placed in service as recovery property. See subparagraph (3) of this paragraph for the treatment of components of a building which is made available in stages.

(2) *Treatment of amounts added to capital account.* (i) Sections 162, 212, and 263 provide rules for the treatment of certain expenditures for the repair, maintenance rehabilitation, or improvement of property. An expenditure which is treated as a capital expenditure under such sections (after application of the repair allowance rules of § 1.167(a)–11(d)(2)) is treated as the purchase of recovery property if the improvement for which the expenditure is made is placed in service after December 31, 1980. The recovery of such expenditure shall begin when the improvement is placed in service. See subparagraph (3) of this paragraph for the treatment of a building which is made available in stages.

(ii) For capital expenditures (which are section 1250 class property) made with respect to an improvement of a building which is recovery property, the taxpayer must use the same recovery period and method as are used with respect to the building, unless the improvement qualifies as a substantial improvement. See subparagraph (4) of this paragraph. If capital expenditures (which are section 1250 class property) are made with respect to improvements of a building which is not recovery property under section 168(e) and § 1.168–4, then the taxpayer may select any applicable recovery period and method for the recovery of the first of such expenditures. The recovery period and method so selected shall apply to each subsequent expenditure (unless the improvement qualifies as a substantial improvement).

(iii) A capital expenditure made with respect to the improvement of property, other than a building, is assigned to the same recovery class (as defined in § 1.168–3(b)) as the property of which the improvement is a part. For such an expenditure, the taxpayer need not use the same recovery period and method as are used with respect to the property of which the improvement is a part.

(3) *Recovery for a building which is made available in stages.* This subparagraph (3) (and not subparagraphs (1) and (2) of this paragraph) applies to a building which is made available in stages. For purposes of this section, a building shall be considered placed in service (and, therefore, recovery will begin) only when a significant portion is made available for use in a finished condition (*e.g.*, when a certificate of occupancy is issued with respect to such portion). If less than the entire building is made available, then the unadjusted basis which is taken into account under this section shall be that amount of the unadjusted basis of the building (including capital expenditures for any components) as is properly allocable to the portion made available. If another portion of the building is subsequently made available, then that amount of the unadjusted basis (including capital expenditures for any components) as is properly allocable to the ensuing portion shall be taken into account under this section when such portion becomes available. The taxpayer must use the same recovery period and method for all portions of the building.

(4) *Substantial improvements.* (i) A substantial improvement to a building shall be treated as a separate building. Thus, the taxpayer may use a different period and method for computing the recovery allowance for the substantial improvement than are used for computing the allowance for the building.

(ii) An improvement is a substantial improvement if—

(A) Over 24 consecutive months the aggregate expenditures properly

chargeable to the capital account for a building equal at least 25 percent of the adjusted basis of the building (disregarding adjustments provided in section 1016(a) (2) and (3)) as of the day on which the first expenditure is made, and

(B) All expenditures for the improvement are made 3 or more years after the building is placed in service by the taxpayer.

For purposes of the preceding sentence, a building acquired in a transaction to which section 1031 or 1033 applies is considered placed in service when the building that was replaced was placed in service. Similarly, a building acquired in a transaction to which section 168(f)(10)(A) applies is deemed placed in service by the transferee when such building was placed in service by the transferor. An expenditure which is allocated to a 24-month period shall not be allocated to another 24-month period. For example, an expenditure may not be part of one substantial improvement when considered together with an expenditure incurred 15 months earlier and also be part of another substantial improvement when combined with an expenditure incurred 10 months later.

(iii) It is possible that an improvement will not be part of a substantial improvement in the taxable year in which the improvement is placed in service but will become part of a substantial improvement in a subsequent taxable year. In such case, if the taxpayer uses a different method and recovery period with respect to the substantial improvement, then the tax return filed for the taxable year in which the first improvement is placed in service shall be amended accordingly.

(5) *Examples.* The provisions of this paragraph may be illustrated by the following examples:

Example (1). In 1985, A spends $10,000 to improve machinery used in his trade or business. The $10,000 is added to capital account under the principles of sections 162, 212, and 263. The machinery would be 5-year property if placed in service after 1980. The $10,000 expenditure is treated as the purchase of 5-year recovery property, placed in service in 1985. Any election made by A with respect to the underlying machinery will not affect the recovery allowance for the improvement.

Example (2). B, a calendar year taxpayer, begins constructing a 10-story office building in 1982. All floors will have approximately the same amount of usable floor space. By 1983, B has paid or incurred $10 million for the building's shell (and other items not directly related to any specific portion of the building), $4 million for work with respect to the first three floors, and $5 million for work directly related to other floors (including installation of components). In March 1983, B receives a certificate of occupancy for the first three floors and begins offering the floors for rental to tenants. The building is considered placed in service in March 1983. No deduction is allowable under this section with respect to the building for 1982. No election is made under § 1.168–2 (c) to use the optional recovery percentages. B's recovery for 1983 is the properly allocable unadjusted basis times the applicable percentage (10 percent). The properly allocable unadjusted basis is $7 million, consisting of the amount of unadjusted basis directly related to the portion of the building which is made available for use ($4 million), plus that amount of the unadjusted basis which is not directly related to any specific portion of the building ($10 million) properly allocable to the portion which is made available for use (*i.e.*, 3 floors/10 floors equals 30 percent or $3 million). No deduction is allowable in 1983 for the $5 million paid or incurred for work directly related to portions of the building not made available for use. B will recover the $7 million unadjusted basis over the 15-year recovery period, beginning in March 1983.

Example (3). The facts are the same as in example (2) except that, in January 1984, B receives a certificate of occupancy for the remaining seven floors and begins offering them for rental to tenants. B has spent an additional $7 million to complete the building as of the date on which the remaining seven floors are offered for rental. In January 1984, B takes into account as unadjusted basis the $12 million not previously taken into account, plus the $7 million of later expenditures. B will recover the $19 million unadjusted basis over a 15-year recovery period beginning in January 1984. B may not use a different recovery period and method for such amount than were used for the amount taken into account in March 1983.

Example (4). The facts are the same sas in examples (2) and (3) except that in 1990 B spends $1 million, which is added to capital account to rehabilitate certain portions of the building. The $1 million is treated as the purchase by B of 15-year real propery in 1990. B must use the same recovery period and method with respect to that improvement as were used for the underlying building. The improvement as were used for the underlying building. The improvement has a 15-year recovery period, and the recovery begins when the improvement is placed in service.

Example (5). In 1983 C spends $1 million, which is added to capital account, to rehabilitate certain portions of a building placed in service by C in 1975. The $1 million is treated as the purchase by C of 15-year real property in 1983. C may use any applicable recovery period and method with respect to such expenditure, and the recovery begins when the improvement is placed in service. The recovery period and method selected with respect to such expenditure, however, will apply to all ensuing capital expenditures made by C with respect to the building, unless an expenditure qualifies as part of a substantial improvement. The result in this example would be the same if the building were placed in service by C after 1980, but did not qualify as recovery property by reason of the provisions of section 168(e)(4) and § 1.168–4(d).

(f) *Short taxable years*—(1) *General rule.* For any recovery year in which there are less than 12 months (hereinafter in this section referred to as a "short taxable year"), the recovery allowance shall be determined by multiplying the deduction which would have been allowable if the recovery year were not a short taxable year by a fraction the numerator of which equals the number of months and part-months in the short taxable year and the denominator of which is 12. This paragraph shall not apply to 15-year real property for the year the property is placed in service or disposed of.

(2) *Subsequent years' allowance.* Recovery allowances for years in a recovery period following a short taxable year shall be determined in accordance with paragraph (a), (c), (g), or (m) of this section without reference to the short taxable year.

(3) *Unrecovered allowance.* In the taxable year following the last year in the recovery period, a recovery allowance is permitted to the extent of any unrecovered allowance. If the optional recovery percentages are elected under § 1.168–2(c) or (g)(3) and the short taxable year is the last recovery year, then the unrecovered allowance shall be allowed in the year following the short taxable year. The term "unrecovered allowance" means the difference between—

(i) The recovery allowance properly allowed for the short taxable year, and

(ii) The recovery allowance which would have been allowable if such year were not a short taxable year.

In no event shall the recovery allowance for any taxable year following the last year in the recovery period be greater than what the recovery allowance would be for the last year in the recovery period assuming that such year consists of 12 months. Any amount in excess of such recovery allowance for the last year in the recovery period shall be taken into account in the following taxable year or years in the same manner as provided in this subparagraph (3).

(4) *When a taxable year begins.* For purposes of this section, a taxable year of a person placing property in service does not include any month prior to the month in which the person begins engaging in a trade or business or holding recovery or depreciable property for the production of income. For purposes of applying the preceding sentence to an employee, an employee is not considered engaged in a trade or business by virture of his employment except that, for purposes of applying this section to recovery property used for

purposes of employment, the taxable year includes any month during which a person is engaged in trade or business as an employee. In addition, if a person engages in a small amount of trade or business activity for the purpose of obtaining a disproportionately large recovery allowance for assets for the taxable year in which they are placed in service, and if placing those assets in service represents a substantial increase in the person's level of business activity, then for purposes of the recovery allowance for such assets the person will not be treated as beginning a trade or business until the increased amount of business activity begins. For property held for the production of income, the principle of the preceding sentence also applies.

(5) *Successive short taxable years.* In applying the rule of subparagraph (1) of this paragraph, no month shall be taken into account more than once. Thus, if a taxpayer has successive short taxable years, with one taxable year ending and the following taxable year beginning in the same calendar month, then the recovery year which is ending shall not include the month in which the taxable year terminates.

(6) *Examples.* The following examples illustrate the application of this paragraph:

Example (1). On October 10, 1983, A and B enter into an agreement to form a partnership (P), for the purpose of leasing sailboats. The partnership adopts a calendar year as its taxable year pursuant to § 1.706–1(b) (1). On November 5, 1983, P purchases four sailboats for a total of $20,000 and places the sailboats in service immediately. For purposes of section 168, P's taxable year begins on November 5, 1983. Sailboats are 5-year recovery property as defined in section 168 (c)(2). No straight line election is made under § 1.168–2(c). The recovery allowance for the sailboats in 1983, a short taxable year, is $500 (*i.e.*, .15×$20,000×$\frac{1}{12}$). In 1984, the recovery allowance is $4,400 (.22×$20,000). In 1985, 1986, and 1987, the recovery allowance is $4,200 annually (.21×$20,000). In 1988, the taxable year following the last year in the recovery period, the unrecovered allowance equal to $2,500 may be deducted by A and B.

Example (2). In November 1984, Corporation L is incorporated and places in service two race horses which it acquired for a total of $18,500. The corporation adopts a calendar year as its taxable year. For purposes of section 168, the race horses are 3-year recovery property. No straight line election is made under § 1.168–2(c). In 1984, the recovery allowance permitted to L for the race horses is $770.83 (*i.e.*, (.25×$18,500) ×$\frac{1}{12}$. At the close of business on June 30, 1985, all of the stock of L is acquired by Corporation M. M elects in accordance with section 1501 to file a consolidated return with respect to M and L. M's taxable year begins on July 1. By reason of becoming included in the consolidated return, under § 1.1502–76 L's second taxable year ending June 30, 1985, is also a short taxable year containing 6 months. In the second taxable year, L is permitted a recovery allowance equal to $3,515 (*i.e.*, .38×$18,500×$\frac{6}{12}$). In the third taxable year ending June 30, 1986, L is entitled to a recovery allowance of $6,845 (*i.e.*, .37×$18,500). Thus, the unrecovered allowance as of July 1, 1986, equals $7,369.17. Since the unrecovered allowance exceeds the recovery allowance for the third recovery year (the last year in the recovery period), the recovery allowance for the taxable year ending June 30, 1987, equals the allowance for such year, $6,845. The recovery allowance in the taxable year ending June 30, 1988, equals $524.17, the remaining unrecovered allowance.

Example (3). On August 1, 1984, Partnership M is formed and places in service a warehouse which will be leased to an unrelated person. M acquires the warehouse for $250,000. M adopts a calendar year as its taxable year pursuant to § 1.706–1(b)(1). In 1984, M has a short taxable year within the meaning of § 1.168–2(f)(1). Since the property is 15-year real property, however, the recovery allowance is computed as though 1984 were a full taxable year. Because the recovery property would have been placed in service in the eighth month of M's normal taxable year, the recovery property is deemed placed in service in the eighth month of the first recovery year. The recovery allowance in 1984 is $12,500 (*i.e.*, .05×$250,000).

Example (4). In July 1983, D, who has been an employee of Corporation N since 1982, purchases an automobile for use in the performance of his employment for N. On June 5, 1984, D purchases a truck for use in another business. D begins the new business on June 5, 1984. In 1984, D holds no other depreciable or recovery property for the production of income. D does not have a short taxable year for the automobile purchased in 1983 since the automobile is used by D in his trade or business as an employee. Since an employee is not considered engaged in a trade or business by virtue of employment, however, for purposes of determining when a taxable year begins with respect to property not used in the trade or business of employment, D has a short taxable year in 1984 for the truck purchased in that year. The recovery allowance permitted D in 1984 with respect to the truck must be adjusted in accordance with the provisions of § 1.168–2(f).

Example (5). A has been actively engaged in the trade or business of selling used cars since 1981. On July 1, 1983, A accepts employment with Corporation M and on that same date purchases a truck for $10,000 for use in the performance of his employment for M. A does not have a short taxable year for the truck because the taxable year of a person placing property in service includes all months during which that person is engaged in a trade or business.

Example (6). In 1983, C graduates from college and on July 1, 1983, is employed by N. On that same day, C purchases an automobile for $10,000 for use in the performance of his employment for N. C has a short taxable year for the automobile purchased in 1983. Although, for recovery property used for purposes of employment, the taxable year includes any month during which a person is an employee, C does not begin that trade or business until July. In addition, C is engaged in no other trade or business (and does not hold any depreciable or recovery property for the production of income) during the taxable year. The recovery allowance permitted C in 1983 with respect to the automobile must be adjusted in accordance with the provisions of § 1.168–2(f).

Example (7). Corporation X, a calendar year taxpayer, has been in the trade or business of selling household appliances since 1979. On July 1, 1983, X purchases a restaurant. On that same day, X purchases restaurant equipment for use in its new business. X does not have a short taxable year for the restaurant equipment because the taxable year of a person placing property in service includes all months during which that person is engaged in a trade or business.

(g) *Special rules for property used predominantly outside the United States.* (1) *General rule.* (i) In lieu of the deduction allowed under paragraphs (a) and (c) of this § 1.168–2, except as provided in subparagraphs (3) and (4) of this paragraph, and except as otherwise provided in section 168 and the regulations thereunder, the recovery allowance for recovery property used predominantly outside the United States (as described in § 1.168–2(g)(5)) during the taxable year equals the aggregate amount determined by multiplying the unadjusted basis (as defined in § 1.168–2(d)) of such recovery property by the applicable percentage provided in paragraph (g)(2) of this section. For purposes of determining the recovery allowance, salvage value shall be disregarded.

(ii) The recovery period for recovery property used predominantly outside the United States, other than 15-year real property, shall be the present class life. For recovery property (other than 15-year real property) which is not assigned a present class life, the recovery period shall be 12 years. For 15-year real property used predominantly outside the United States, the recovery period shall be 35 years.

(iii) Except for 15-year real property and except as otherwise provided in § 1.168–5, no recovery allowance shall be allowed in the year of disposition of recovery property described in this paragraph.

(iv) For purposes of this paragraph, rules similar to the rules of paragraph (e) of this section shall apply.

(2) *Applicable percentages. (i) For property other than 15-year real property—*

If the recovery year is:	And the recovery period is:									
	2.5	3	3.5	4	5	6	6.5	7	7.5	8
	The applicable percentage is:									
1	40	33	29	25	20	17	15	14	13	13
2	46	45	41	38	32	28	26	25	23	23
3	12	15	17	19	19	18	18	17	17	16
4		7	13	12	12	12	13	13	13	12
5				6	12	10	10	9	9	9
6					5	10	9	9	9	8
7						5	9	9	9	8
8								4	8	8
9										4

If the recovery year is:	And the recovery period is:									
	8.5	9	9.5	10	10.5	11	11.5	12	12.5	13
	The applicable percentage is:									
1	12	11	11	10	10	9	9	8	8	8
2	21	20	19	18	17	17	16	15	15	14
3	16	15	15	14	14	13	13	13	12	12
4	12	12	12	12	11	11	11	11	10	10
5	9	9	9	9	9	9	9	9	9	9
6	8	8	7	7	7	7	7	7	7	7
7	8	7	7	7	7	7	8	6	8	8
8	7	7	7	7	7	6	8	6	8	8
9	7	7	7	7	6	6	8	6	8	8
10		8	6	6	6	6	8	6	6	5
11				6	6	6	8	5	5	5
12						6	5	5	5	8
13								3	5	8
14										8

If the recovery year is:	And the recovery period is:									
	13.5	14	15	16	16.5	17	18	19	20	22
	The applicable percentage is:									
1	7	7	7	6	6	6	6	5	5	5
2	14	13	12	12	11	11	10	10	10	9
3	12	11	11	10	10	10	9	9	9	8
4	10	10	9	8	9	9	8	8	8	7
5	8	8	8	8	8	8	7	7	7	6
6	7	7	7	7	7	7	7	6	6	5
7	6	6	6	6	6	6	6	6	6	5
8	6	6	5	5	5	5	5	5	5	5
9	5	5	5	5	5	5	5	5	4	4
10	5	5	5	5	5	4	4	4	4	4
11	5	5	5	5	4	4	4	4	4	4
12	5	5	5	4	4	4	4	4	4	4
13	5	5	5	4	4	4	4	4	4	4
14	5	5	4	4	4	4	4	4	4	3
15		5	4	4	4	4	4	4	3	3
16			5	4	4	4	4	4	3	3
17				5	4	3	4	3	3	3
18						5	3	3	3	3
19							5	3	3	3
20								5	3	3
21									3	3
22										3
23										2

If the recovery year is:	And the recovery period is:						
	25	26.5	28	30	35	45	50
	The applicable percentage is:						
1	4	4	4	3	3	2	2
2	8	7	7	6	6	4	4
3	7	7	6	6	5	4	4
4	6	6	6	6	5	4	4
5	6	6	6	5	5	4	4
6	5	5	5	5	4	4	3
7	5	5	5	5	4	3	3
8	5	5	4	4	4	3	3
9	4	4	4	4	4	3	3
10	4	4	4	4	3	3	3
11	4	4	4	3	3	3	3
12	3	3	3	3	3	3	3
13	3	3	3	3	3	3	2
14	3	3	3	3	3	3	2
15	3	3	3	3	3	2	2
16	3	3	3	3	3	2	2
17	3	3	3	3	2	2	2
18	3	3	3	3	2	2	2

If the recovery year is:	And the recovery period is:						
	25	26.5	28	30	35	45	50
	The applicable percentage is:						
19	3	3	3	3	2	2	2
20	3	3	3	3	2	2	2
21	3	3	3	3	2	2	2
22	3	3	2	2	2	2	2
23	3	3	2	2	2	2	2
24	2	2	2	2	2	2	2
25	2	2	2	2	2	2	2
26	1	2	2	2	2	2	2
27		1	2	2	2	2	2
28			2	2	2	2	2
29			1	2	2	2	2
30				2	2	2	2
31				1	2	2	2
32					2	2	2
33					1	3	3
34						2	2
35						2	2
36						1	2	1

If the recovery year is:	And the recovery period is:						
	25	26.5	28	30	35	45	50
	The applicable percentage is:						
37						1	1
38						1	1
39						1	1
40						1	1
41						1	1
42						1	1
43						1	1
44						1	1
45						1	1
46						1	1
47							1
48							1
49							1
50							1
51							1

(ii) For 15-year real property—

If the recovery year is:	And the month in the 1st recovery year in which the property is placed in service is:				
	1	2,3	4,5,6	7,8	9,10,11,12
	The applicable percentage is:				
1	4	4	3	2	1
2	4	4	4	4	4
3	4	4	4	4	4
4	4	4	4	4	4
5	4	4	4	4	4
6	3	3	3	4	4
7	3	3	3	3	3
8	3	3	3	3	3
9	3	3	3	3	3
10	3	3	3	3	3
11	3	3	3	3	3
12	3	3	3	3	3
13	3	3	3	3	3
14	3	3	3	3	3
15	3	3	3	3	3
16	2	3	3	3	3
17	3	3	3	3	3
18	3	3	3	3	3
19	3	3	3	3	3
20	3	3	3	3	3
21	3	3	3	3	3
22	3	3	3	3	3
23	3	3	3	3	3
24	3	3	3	3	3
25	3	3	3	3	3
26	2	3	2	3	2
27	3	2	3	2	2
28	2	2	3	3	2
29	2	2	3	2	2
30	2	2	3	2	2
31	2	3	3	3	2
32	2	2	2	3	2
33	2	2	3	2	2
34	3	3	3	3	3
35	3	3	3	3	2
36		1	1	3	2

(3) *Election of optional recovery percentage method.* (i) In lieu of the applicable percentage provided by subparagraphs(1) and (2), the taxpayer may elect (in accordance with § 1.168–5(e)), for recovery property used predominatly outside the United States that is placed in service during the taxable year, to determine the recovery allowance by using the straight line method over one of the recovery periods elected by the taxpayer and set forth in the following table:

Class of property	Recovery period
3-yr. property	5 or 12 yrs. or present class life.
5-yr. property	12 or 25 yrs. or present class life.
10-yr. property	25 or 35 yrs. or present class life.

Class of property	Recovery period
15-yr. real property	35 or 45 yrs. or present class life.
15-yr. public utility property.	35 or 45 yrs. or present class life.

Such election is irrevocable without the consent of the Commissioner. See subdivision (iv) of this subparagraph for tables containing the applicable percentages to be used in computing the recovery allowance.

(ii) Except in the case of 15-year real property, a single recovery period must be elected under this subparagraph for all recovery property placed in service in the same taxable year which is in the same recovery class and which has the same present class life. For property other than 15-year real property the recovery period elected may not be shorter than the present class life (or, if none, 12 years). A different recovery period may be elected (or the tables provided in subparagraph (2) may be used) for recovery property in different recovery classes, or with different present class lives, placed in service during the taxable year, or for recovery property placed in service in a different taxable year, whether or not in the same recovery class or with the same persent class life.

(iii) In the case of 15-year real property, the election provided by this subparagrah may be made separately with respect to each property.

(iv) (A) For property other than 15-year real property—

If the recovery year is:	And the period elected is:								
	2.5	3	3.5	4	5	[illegible]	6.5	7	7.5
	The applicable percentage is:								
1	[illegible]	17	14	13	10	[illegible]	[illegible]	[illegible]	7
2	[illegible]	33	29	25	[illegible]	[illegible]	16	14	14
3	[illegible]	33	29	25	[illegible]	[illegible]	16	14	14
4		17	[illegible]	25	20	17	15	14	13
5				12	20	17	15	14	13
6					10	17	15	14	13
7						7	15	14	13
8								[illegible]	13

If the recovery year is:	And the period elected is:								
	[illegible]	8.5	9	9.5	10	10.5	11	11.5	12
	The applicable percentage is:								
1	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
2	13	12	11	11	[illegible]	[illegible]	9	9	[illegible]
3	13	12	11	11	[illegible]	[illegible]	9	9	[illegible]
4	13	12	11	11	10	10	9	9	9
5	13	12	11	11	10	10	9	9	9
6	12	12	11	11	10	10	9	9	8
7	12	12	11	[illegible]	[illegible]	[illegible]	9	9	[illegible]
8	12	11	11	10	10	[illegible]	9	9	[illegible]
9	[illegible]	11	11	[illegible]	[illegible]	[illegible]	9	9	[illegible]
10			6	10	10	9	9	8	8
11					5	[illegible]	9	8	[illegible]
12							5	8	8
13									[illegible]

If the recovery year is:	And the period elected is:								
	12.5	13	13.5	14	15	16	16.5	17	18
	The applicable percentage is:								
1	[illegible]	4	[illegible]	4	[illegible]	[illegible]	3	[illegible]	3
2	[illegible]	[illegible]	[illegible]	[illegible]	7	7	7	[illegible]	6
3	[illegible]	[illegible]	[illegible]	7	7	7	[illegible]	6	5
4	[illegible]	[illegible]	[illegible]	7	7	7	6	[illegible]	[illegible]
5	[illegible]	[illegible]	[illegible]	7	7	7	[illegible]	[illegible]	6
6	[illegible]	[illegible]	[illegible]	7	7	6	[illegible]	[illegible]	[illegible]
7	[illegible]	[illegible]	7	7	7	6	6	6	[illegible]
8	[illegible]	[illegible]	7	7	7	6	[illegible]	[illegible]	[illegible]
9	[illegible]	[illegible]	7	7	7	[illegible]	6	[illegible]	[illegible]
10	[illegible]	[illegible]	7	7	7	[illegible]	6	[illegible]	[illegible]
11	[illegible]	7	7	7	7	[illegible]	6	[illegible]	[illegible]
12	[illegible]	7	7	7	6	[illegible]	6	[illegible]	5
13	[illegible]	7	7	7	6	[illegible]	[illegible]	[illegible]	5
14		3	7	7	[illegible]	[illegible]	[illegible]	[illegible]	5
15				4	[illegible]	[illegible]	[illegible]	6	[illegible]
16					[illegible]	[illegible]	[illegible]	[illegible]	5
17						3	[illegible]	5	5
18								[illegible]	5
19									[illegible]

If the recovery year is:	And the period elected is:							
	19	20	22	25	26.5	28	30	35
	The applicable percentage is:							
1	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
2	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
3	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]

If the recovery year is:	And the period elected is:							
	15	20	22	25	26.5	26	30	35
	The applicable percentage is:							
4	6	5	5	4	4	4	4	3
5	6	5	5	4	4	4	4	3
6	6	5	5	4	4	4	4	3
7	5	5	5	4	4	4	4	3
8	5	5	5	4	4	4	4	3
9	5	5	5	4	4	4	4	3
10	5	5	5	4	4	4	4	3
11	5	5	5	4	4	4	4	3
12	5	5	5	4	4	4	4	3
13	5	5	5	4	4	4	4	3
14	5	5	4	4	4	4	4	3
15	5	5	4	4	4	4	4	3
16	5	5	4	4	4	4	3	3
17	5	5	4	4	4	3	3	3
18	5	5	4	4	4	3	3	3
19	5	5	4	4	4	3	3	3
20	2	5	4	4	4	3	3	3
21		2	4	4	4	3	3	3
22			2	4	3	3	3	3
23				4	3	3	3	3
24				4	3	3	3	3
25				4	3	3	3	3
26				2	3	3	3	3
27					3	3	3	3
28						3	3	3
29						2	3	3
30							3	2
31							2	2
32								2
33								2
34								2
35								2
36								1

If the recovery year is:	And the month in the 1st recovery year the property is placed in service is:		
	1-2	3-6	7-12
	The applicable percentage is:		
1	3	2	1
2	3	3	3
3	3	3	3
4	3	3	3
5	3	3	3
6	3	3	3
7	3	3	3
8	3	3	3
9	3	3	3
10	3	3	3
11	3	3	3
12	3	3	3
13	3	3	3
14	3	3	3
15	3	3	3
16	3	3	3
17	3	3	3
18	3	3	3
19	3	3	3
20	3	3	3
21	3	3	3
22	3	3	3
23	3	3	3
24	3	3	3
25	3	3	3
26	3	3	3
27	3	3	3
28	3	3	3
29	3	3	3
30	3	3	3
31	2	2	2
32	2	2	2
33	2	2	2
34	2	2	2
35	2	2	2
36		1	2

If the recovery year is:	And the period elected is:	
	45	50
	The applicable percentage is:	
1	1.1	1
2	2.3	2
3	2.3	2
4	2.3	2
5	2.3	2
6	2.3	2
7	2.3	2
8	2.3	2
9	2.3	2
10	2.3	2
11	2.3	2
12	2.2	2
13	2.2	2
14	2.2	2
15	2.2	2
16	2.2	2
17	2.2	2
18	2.2	2
19	2.2	2
20	2.2	2
21	2.2	2
22	2.2	2
23	2.2	2
24	2.2	2
25	2.2	2
26	2.2	2
27	2.2	2
28	2.2	2
29	2.2	2
29	2.2	2
30	2.2	2
31	2.2	2
32	2.2	2
33	2.2	2
34	2.2	2
35	2.2	2
36	2.2	2
37	2.2	2
38	2.2	2
39	2.2	2
40	2.2	2
41	2.2	1
42	2.2	1
43	2.2	1
44	2.2	2
45	2.2	2
46	1.1	2
47		2
48		2

If the recovery year is:	And the period elected is:	
	45	50
49		2
50		2
51		1

(B) *For 15-year real property—(1)* If a 35-year period is elected—

If the recovery year is:	And the month in the 1st recovery year the property is placed in service is:											
	1	2	3	4	5	6	7	8	9	10	11	12
	The applicable percentage is:											
1	2.3	2.0	1.9	1.7	1.5	1.3	1.2	1.0	.7	.6	.4	.2
2	2.3	2.3	2.3	2.3	2.3	2.3	2.3	2.3	2.3	2.3	2.3	2.3
3	2.3	2.3	2.3	2.3	2.3	2.3	2.3	2.3	2.3	2.3	2.3	2.3
4	2.3	2.3	2.3	2.3	2.3	2.3	2.3	2.3	2.3	2.3	2.3	2.3
5	2.3	2.3	2.3	2.3	2.3	2.3	2.3	2.3	2.3	2.3	2.3	2.3
6	2.3	2.3	2.3	2.3	2.3	2.3	2.3	2.3	2.3	2.3	2.3	2.3
7	2.3	2.3	2.3	2.3	2.3	2.3	2.3	2.3	2.3	2.3	2.3	2.3
8	2.3	2.3	2.3	2.3	2.3	2.3	2.3	2.3	2.3	2.3	2.3	2.3
9	2.3	2.3	2.3	2.3	2.3	2.3	2.3	2.3	2.3	2.3	2.3	2.3
10	2.3	2.3	2.3	2.3	2.3	2.3	2.3	2.3	2.3	2.3	2.3	2.3
11	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2
12	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2
13	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2
14	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2
15	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2
16	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2
17	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2
18	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2
19	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2
20	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2
21	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2
22	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2
23	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2
24	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2
25	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2
26	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2
27	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2
28	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2
29	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2
30	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2
31	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2
32	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2
33	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2
34	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2
35	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2
36	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2

(2) If a 45-year period is elected—

If the recovery year is:	And the month in the 1st recovery year the property is placed in service is:											
	1	2	3	4	5	6	7	8	9	10	11	12
	The applicable percentage is:											
37	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2
38	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2
39	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2
40	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2
41	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2
42	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2
43	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2
44	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2
45	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2
46		.3	.4	.6	.8	1.0	1.1	1.4	1.6	1.7	1.9	2.1

(4) *Rules for year of disposition and placement in service of 15-year real property.* (i) In the taxable year in which 15-year real property is disposed of, the recovery allowance shall be determined by multiplying the allowance (determined without regard to this subdivision) by a fraction, the numerator of which equals the number of months in the taxable year that the property is in service in the taxpayer's trade or business or for the production of income and the denominator of which is 12. In the case of 15-year real property that is disposed of during the first recovery year, the denominator shall equal the number of months in the taxpayer's taxable year after the property was placed in service by the taxpayer (including the month the property was placed in service). If the recovery allowance for the taxable year is limited by reason of the short taxable year rules of section (*e.g.*, if the taxpayer dies, or if the taxpayer is a corporation which becomes a member, or ceases being a member, of an affiliated group of corporations filing a consolidated return), then the denominator shall equal the number of months in the taxpayer's taxable year.

(ii) For purposes of this paragraph—

(A) 15-year real property that is placed in service on or after the first day of a month shall be treated as placed in service in that month; and

(B) 15-year real property that is disposed of during the recovery year shall be treated as disposed of as of the last day of the month preceding the month in which it is withdrawn from service.

(5) *Determination of whether property is used predominantly outside the United States.* (i) The determination of whether property is used predominantly outside the United States (as defined in section 7701(a)(9)) during the taxable year shall be made by comparing the period in such year during which the property is physically located outside of the United States with the period during which the property is physically located within the United States. If the property is physically located outside the United States during more than 50 percent of the taxable year, such property shall be considered used predominantly outside the United States during the year. If property is placed in service after the first day of the taxable year, the determination of whether such property is physically located outside the United States during more than 50 percent of the taxable year shall be made with respect to the period beginning on the date on which the property is placed in service and ending on the last day of such taxable year.

(ii) This paragraph applies whether recovery property is used predominantly outside the United States by the owner or by the lessee of the property. For recovery property which is leased, the determination of whether such property is physically located outside the United States during the taxable year shall be made with respect to the taxable year of the lessor.

(iii) For purposes of this § 1.168–2(g), the following property is not "property used predominantly outside the United States":

(A) Any aircraft which is registered by the Administrator of the Federal Aviation Agency, and which (*1*) is operated, whether on a scheduled or nonscheduled basis, to and from the United States, or (*2*) is operated under contract with the United States, provided that the use of the aircraft under the contract constitutes its principal use outside the United States during the taxable year. The term "to and from the United States" shall not exclude an aircraft which makes flights from one point in a foreign country to another such point, as long as such aircraft returns to the United States with some degree of frequency;

(B) Rolling stock which is used within and without the United States and which is (*1*) of a domestic railroad corporation subject to part I of the Interstate Commerce Act or (*2*) of a United States person (other than a corporation subject ot part I of the Interstate Commerce Act) but only if the rolling stock is not leased to one or more foreign persons for periods totaling more than 12 months in any 24-month period. For purposes of this subdivision (iii) (B), the term "rolling stock" means locomotives, freight and passenger train cars, floating equipment, and miscellaneous transportation equipment on wheels, the expenditures for which are of the type chargeable to the equipment investment accounts in the uniform system of accounts for railroad companies prescribed by the Interstate Commerce Commission;

(C) Any vessel documented under the laws of the United States which is operated in the foreign or domestic commerce of the United States. A vessel is documented under the laws of the United States if it is registered, enrolled, or licensed under the laws of the United States by the Commandant, United States Coast Guard. Vessels operated in the foreign or domestic commerce of the United States include those documented for use in foreign trade, coast-wise trade, or fisheries;

(D) Any motor vehicle of a United States person (as defined is section 7701(a)(30)) which is operated to and from the United States with some degree of frequency;

(E) Any container of a United States person which is used in the transportation of property to and from the United States;

(F) Any property (other than a vessel or an aircraft) of a United States person which is used for the purpose of exploring for, developing, removing, or transporting resources from the outer Continental Shelf (within the meaning of section 2 of the Outer Continental Shelf Lands Act, as amended and supplemented, 43 U.S.C. section 1331), *e.g.*, offshore drilling equipment;

(G) Any property which (*1*) is owned by a domestic corporation (other than a corporation which has an election in effect under section 936 or which is entitled to the benefits of section 934(b)), by a United States citizen (other than a citizen entitled to the benefits of section 931, 932, 933, or 934(c)), or by a domestic partnership, all of whose partners are domestic corporations (none of which has an election in effect under section 936 or is entitled to the benefits of section 934(b)) or United States citizens (none of whom is entitled to the benefits of section 931, 932, 933, or 934(c), and (*2*) which is used predominantly in a possession of the United States during the taxable year by such a corporation, citizen, or partnership, or by a corporation created or organized in, or under the law of, a possession of the United States. The determination of whether property is used predominantly in a possession of the United States during the taxable year shall be made under principles similar to those

described in subdivision (i) of this subparagraph. For example, if a machine is placed in service in a possession of the United States on July 1, 1981, by a calendar year taxpayer and if it is physically located in such a possession during more than 50 percent of the period beginning on July 1, 1981, and ending on December 31, 1981, then such machine shall be considered used predominantly in a possession of the United States during the taxable year 1981;

(H) Any communications satellite (as defined in section 103(3) of the Communications Satellite Act of 1962, 47 U.S.C. 702(3)), or any interest therein, of a United States person;

(I) Any cable, or any interest therein, of a domestic corporation engaged in furnishing telephone service to which section 46(c)(3)(B)(iii) applies (or of a wholly owned domestic subsidiary of such corporation), if such cable is part of a submarine cable system which constitutes part of a communications link exclusively between the United States and one or more foreign countries;

(J) Any property (other than a vessel or an aircraft) of a United States person which is used in international or territorial waters within the northern portion of the Western Hemisphere for the purpose of exploring for, developing, removing, or transporting resources from ocean waters or deposits under such waters. The term "northern portion of the Western Hemisphere" means the area lying west of the 30th meridian west of Greenwich, east of the international dateline, and north of the Equator, but not including any foreign country which is a country of South America; and

(K) Any property described in section 48 (l)(3)(A)(ix) which is owned by a United States person and which is used in international or territorial waters to generate energy for use in the United States.

(h) *Mass asset accounts.* (1) *In general.* In accordance with the provisions of § 1.168–5(e), a taxpayer may elect to account for mass assets (as defined in § 1.168–2(h)(2)) in the same mass asset account, as though such assets were a single asset. If such treatment is elected, the taxpayer, upon disposition of an asset in the account, shall include as ordinary income (as defined in section 64) all proceeds realized to the extent of the unadjusted basis in the account (as defined in paragraph (d) of this section), less any amounts previously so included, and shall include as capital gain any excess, unless gain on such disposition is not recognized under another provision of the Code. With respect to the recovery allowance, the account shall be treated as though the asset were not disposed of.

(2) *Definition.* For purposes of this section, the term "mass assets" means a mass or group of individual items of recovery property (i) not necessarily homogenous, (ii) each of which is minor in value relative to the total value of such mass or group, (iii) numerous in quantity, (iv) usually accounted for only on a total dollar or quantity basis, (v) with respect to which separate identification is impracticable, (vi) with the same present class life, and (vii) placed in service in the same taxable year.

(3) *Election.* The election under this paragraph shall be made for the taxable year in which the assets in the account are placed in service. The election shall apply, with respect to the account, througout the applicable recovery period and for all subsequent taxable years. The taxpayer is not bound by such election with respect to assets placed in service in other taxable years, or with respect to other assets placed in service in the same taxable year, which may properly be included in another mass asset account (*e.g.*, assets with a different present class life).

(4) *Recovery of an increase in basis.* To the extent that § 1.168–2(d)(2)(i) (relating to reductions in basis) applies, if as a result of early disposition of an asset in a mass asset account (determined in accordance with the provision of subparagraph (5) of this paragraph), the investment tax credit is recaptured (in accordance with section 47 and the regulations thereunder), then the basis of the account shall be increased by an amount equal to one-half of the amount of the recapture. Such increase shall be treated in a manner similar to § 1.168–2(d)(3), relating to redeterminations. For purposes of subparagraph (1) of this paragraph, such increase will be taken into account as unadjusted basis in determining the inclusion of proceeds as ordinary income.

(5) *Identification of dispositions for purposes of basis increase.* For purposes of subparagraph (4) of this paragraph, disposition of assets from a mass asset account shall be determined by the use of an appropriate mortality dispersion table. If the taxpayer adopts recordkeeping practices consistent with his prior practices and consonant with good accounting and engineering practices, and supplies such reasonable information as may be required by the Commissioner, the mortality dispersion table may be based upon an acceptable sampling of the taxpayer's actual experience or other acceptable statistical or engineering techniques. Alternatively, the taxpayer may use the following standard mortality dispersion table:

STANDARD MORTALITY DISPERSION TABLE

[Percentage of basis of mass asset account considered disposed of each 12-mo period after the account is placed in service]

Present class life	1st	2d	3d	4th	5th	6th	7th	8th	9th	10th
	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)
2.5	3.59	23.84	45.14	21.84	3.50					
3	2.28	13.59	34.13	34.13	13.59	2.28				
3.5	1.62	8.23	23.51	33.28	23.51	8.23	1.62			
4	1.22	5.46	15.98	27.34	27.34	15.98	5.46	1.22		
5	.82	2.77	7.92	15.91	22.58	22.58	15.91	7.92	2.77	.82
6	.62	1.66	4.40	9.19	14.99	19.15	19.15	14.99	9.19	4.40
6.5	.55	1.33	3.38	7.25	12.00	16.39	18.20	16.39	12.00	7.25
7	.51	1.11	2.74	5.49	9.64	13.87	16.64	16.64	13.87	9.64
7.5	.47	.92	2.20	4.49	7.79	11.55	14.65	15.86	14.65	11.55
8	.44	.78	1.85	3.61	6.46	9.52	12.91	14.43	14.43	12.91
8.5	.40	.70	1.52	2.97	5.16	8.18	10.87	13.05	14.25	13.05
9	.38	.61	1.29	2.47	4.43	6.68	9.27	11.93	12.93	12.93
9.5	.37	.52	1.13	2.07	3.65	5.57	8.13	10.44	11.72	12.72
10 and 10.5	.35	.47	.97	1.80	3.09	4.83	6.90	9.01	10.79	11.79
11 and 11.5	.32	.39	.75	1.35	2.24	3.64	5.10	6.82	8.51	10.24
12 and 12.5	.30	.32	.60	1.06	1.73	2.67	3.86	5.31	6.79	8.19
13 and 13.5	.28	.27	.48	.84	1.34	2.04	3.12	4.13	5.37	6.63
14	.27	.24	.40	.71	1.06	1.66	2.32	3.17	4.36	5.26
15	.26	.21	.35	.57	.88	1.31	1.86	2.60	3.43	4.36
16 and 16.5	.25	.18	.29	.49	.75	1.10	1.48	2.13	2.83	3.63
17	.24	.16	.28	.42	.60	.92	1.30	1.67	2.24	2.82
18	.23	.15	.24	.37	.51	.78	1.08	1.36	1.90	2.50
19	.23	.14	.20	.32	.47	.66	.92	1.15	1.61	2.06
20 to 24	.22	.13	.19	.25	.40	.57	.77	1.00	1.38	1.73
25 to 29	.20	.09	.12	.18	.23	.31	.41	.53	.67	.85
30 to 50	.19	.07	.09	.12	.15	.20	.25	.32	.40	.49

Present class life	11th	12th	13th	14th	15th	16th	17th	18th	19th	20th
	(11)	(12)	(13)	(14)	(15)	(16)	(17)	(18)	(19)	(20)
2.5										
3										
3.5										
4										
5										
6	1.66	.82								
6.5	2.38	1.33	.55							
7	5.45	2.74	1.11	.51						
7.5	7.70	4.49	2.20	.92	.47					
8	9.52	5.46	3.61	1.85	.78	.44				
8.5	10.87	8.19	5.16	2.97	1.52	.70	.40			
9	11.83	9.27	6.69	4.43	2.47	1.29	.81	.38		
9.5	11.72	10.44	8.13	5.57	3.69	2.07	1.13	.52	.37	
10 and 10.5	11.79	10.79	9.01	6.90	4.83	3.09	1.80	.97	.47	.36
11 and 11.5	10.64	10.64	10.24	8.51	6.82	5.10	3.64	2.24	1.35	.75
12 and 12.5	9.28	9.87	9.87	9.28	8.19	6.79	5.31	3.88	2.67	1.73
13 and 13.5	7.77	8.62	9.10	9.10	8.62	7.77	6.63	5.37	4.13	3.12
14	6.62	7.25	8.32	8.32	8.32	8.32	7.25	6.62	5.26	4.38
15	5.32	6.23	7.04	7.61	7.93	7.93	7.61	7.04	6.23	5.32
16 and 16.5	4.22	5.30	6.11	6.80	6.89	7.54	7.54	6.88	6.80	6.11
17	3.71	4.48	4.94	5.93	6.51	6.54	7.14	7.14	6.54	6.51
18	3.12	3.57	4.46	4.81	5.71	6.19	6.21	6.75	6.75	6.21
19	2.60	2.97	3.76	4.37	4.96	5.48	5.53	5.19	6.36	6.36
20 to 24	2.17	2.66	3.18	3.72	4.25	4.76	5.22	5.57	5.83	5.96
25 to 29	1.06	1.29	1.55	1.85	2.18	2.50	2.84	3.19	3.54	3.84
30 to 50	.53	.72	.87	1.02	1.20	1.40	1.60	1.83	2.06	2.30

Present class life	21st	22d	23d	24th	25th	26th	27th	28th	29th	30th
	(21)	(22)	(23)	(24)	(25)	(26)	(27)	(28)	(29)	(30)
2.5										
3										
3.5										
4										
5										
6										
6.5										
7										
7.5										
8										
8.5										
9										
9.5										
10 and 10.5										
11 and 11.5	.58	.32								
12 and 12.5	1.06	.60	.32	.30						
13 and 13.5	2.04	1.34	.84	.49	.27	.28				
14	3.17	2.32	1.68	1.06	.71	.40	.24	.27		
15	4.36	3.43	2.60	1.85	1.31	.89	.57	.35	.21	.26
16 and 16.5	5.30	4.22	3.60	2.83	2.13	1.48	1.10	.75	.49	.29
17	5.93	4.94	4.48	3.71	2.82	2.34	1.67	1.30	.92	.60
18	6.19	5.71	4.81	4.46	3.57	3.12	2.50	1.93	1.39	1.06
19	6.19	5.53	5.48	4.96	4.37	3.76	2.97	2.60	2.08	1.61
20 to 24	5.96	5.83	5.57	5.22	4.76	4.25	3.72	3.18	2.66	2.17
25 to 29	4.13	4.38	4.58	4.70	4.78	4.78	4.70	4.58	4.38	4.13
30 to 50	2.54	2.78	3.01	3.23	3.42	3.61	3.75	3.86	3.95	3.98

For purposes of applying the standard mortality dispersion table, all assets in a mass asset account placed in service during a taxable year are considered to be placed in service on the same day. If the taxpayer uses the standard mortality dispersion table for a taxable year, such table must be used for all subsequent taxable years unless the taxpayer obtains the consent of the Commissioner.

(6) *Transitional rule.* Unless the taxpayer establishes to the contrary (by statistical methods or otherwise), all proceeds realized upon the disposition of assets from one or more mass asset accounts shall be considered realized with respect to accounts placed in service by the taxpayer after December 31, 1980.

(i) [Reserved]

(j) *Changes in use*—(1) *Conversion from personal use or use in tax-exempt activity.* If property which was previously used by the taxpayer for personal purposes or in a tax-exempt activity is converted to use in a trade or business or for the production of income during the taxable year, then the recovery allowance for the taxable year (and subsequent taxable years) shall be determined as though the property were placed in service by the taxpayer as recovery property on the date on which the conversion occurs. Thus, the recovery allowance shall be determined by multiplying the unadjusted basis (as provided in subparagraph (6)(ii) of this paragraph) by the applicable percentage.

(2) *Increased business use of property.* If a taxpayer uses property in a trade or business (or for the production of income) and for personal (or tax-exempt) purposes during a recovery period, and increases the business (or income-producing) use of such property after the recovery for that period is completed, then a recovery allowance shall continue to be allowed with respect to such property. The amount of the allowance shall be determined as though, to the extent of the increase in business (or income-producing) use, the property were placed in service by the taxpayer as recovery property at the beginning of the taxable year in which such increased use occurs. Thus, the recovery allowance for the taxable year shall be determined first by multiplying the unadjusted basis (as provided in subparagraph (6)(ii) of this paragraph) by the applicable percentage, and then by the excess of the percentage of the business (or income-producing) use during the taxable year over the average of such use during the prior recovery period (or periods). The combined recovery under this subparagraph and subparagraph (1) shall not exceed the original cost of the property. See Example (2) of subparagraph (7) of this paragraph.

(3) *Domestic property changing recovery classes.* (i) When the class of recovery property not used predominantly outside the United States changes during the taxable year, and the property continues to be used as recovery property by the taxpayer (*e.g.*, when property ceases to be used predominantly in connection with research and experimentation) the following rules apply.

(A) If the change results in the property's being assigned to a class with a shorter recovery period, then the recovery allowance for the taxable year in which the change occurs (and subsequent taxable years) shall be determined as though the property were placed in service as recovery property in the year of the change. Thus, the recovery allowance shall be determined by multiplying the unadjusted basis (as provided in subparagraph (6)(ii) of this paragraph) by the applicable percentage. Alternatively, the taxpayer may continue to treat the property as though the change had not occurred.

(B) If the change results in the property's being assigned to a class with

a longer recovery period, then the recovery allowance for the taxable year of the change (and subsequent taxable years) shall be determined as though the property has originally been assigned to that longer recovery class. Proper adjustment shall be made under the principles of § 1.168–2 (d)(3) (relating to redeterminations) to account for the deductions allowable to the taxpayer with respect to the property prior to the year of the change in excess of those which would have been allowable had the taxpayer used the applicable percentages for the longer recovery class for those years.

(4) *Foreign property.* (i) If recovery property ceases being used predominantly outside the United States during a taxable year, and the property continues to be used as recovery property by the taxpayer, then the recovery allowance for the taxable year (and subsequent taxable years) shall be determined as though the property were placed in service as recovery property in the year of the cessation. Thus, the recovery allowance shall be determined by multiplying the unadjusted basis (as provided in subparagraph (6)(ii) of this paragraph) by the applicable percentage. Alternatively, the taxpayer may continue to treat the property as though the cessation had not occurred. See §§ 1.168–5(e)(5) and 1.1016–3(a)(3)(iii) and (iv).

(ii) If the recovery property begins to be used by the taxpayer predominantly outside the United States during a taxable year after having been used otherwise by the taxpayer as recovery property in the previous taxable year, then the recovery allowance for the taxable year in which the change occurs (and subsequent years) shall be determined as though the property had originally been placed in service by the taxpayer as recovery property used predominantly outside the United States. Proper adjustment shall be made under the principles of § 1.168–2(d)(3) to account for the difference between the deductions allowable with respect to the property prior to the year of the change and those which would have been allowable had the taxpayer used the applicable percentages for property used predominantly outside the United States for those years.

(5) *Low income housing.* If 15-year real property begins or ceases to be low income housing (as defined in § 1.168–2(b)(2)(iii)) during a taxable year, then the recovery allowance for the taxable year in which the change occurs (and subsequent taxable years) shall be determined under the principles of paragraph (j)(3)(i)(B) and (4)(ii) of this section.

(6) *Special rules.* (i) For purposes of this paragraph, if, prior to a change in status, the taxpayer used the optional applicable percentages (under paragraph (c) or (g) (3) of this section) with respect to recovery property, then similar optional percentages shall be used with respect to the property after the change.

(ii) For purposes of subparagraphs (1) and (2) of this paragraph, the unadjusted basis shall be the lesser of the fair market value or the adjusted basis of the property (taking into account the adjustments described in section 1016(a)(3)) at the time of the conversion to use in the taxpayer's trade or business (or for the production of income), or at the beginning of the taxable year in which the increase in business (or income-producing) use occurs, as the case may be. For purposes of subparagraphs (3)(i)(A) and (4)(i) of this paragraph, the unadjusted basis shall be the adjusted basis of the property (taking into account the adjustments described in section 1016(a)(2) and (3) at the begining of the year in which the change or cessation occurs.

(7) *Examples.* The following examples illustrate the application of this paragraph:

Example (1). A, a calendar year taxpayer, purchases a house in 1981 which he occupies as his principal residence. In June 1985, A ceases to occupy the house and converts it to rental property. Under paragraph (j)(1) of this section, for purposes of determining the recovery allowance, A is deemed to have placed the house in service as recovery property in June 1985. A does not elect to compute the recovery allowance by use of the optional recovery method provided in § 1.168–2(c). Thus, A's recovery allowance under section 168 for 1985 is determined by multiplying the unadjusted basis of the property by .07. Under paragraph (j)(6)(ii) of this section, the unadjusted basis is the lesser of the property's basis or its fair market value in June 1985. See also section 280A and the regulations thereunder.

Example (2). In 1981, B (a calendar year taxpayer) purchases an automobile for $10,000. In taxable years 1981 through 1983, B's business use of the automobile is 60 percent of his total use. B does not elect use of the optional percentages provided in § 1.168–2(c). The fair market value of the automobile at the beginning of 1984 is $7,500. In 1984, B's business use of the automobile is 70 percent of the total. B's allowable deduction for 1984 is $187.50, computed as follows: $7,500 (lesser of basis or fair market value) × .25 (applicable percentage) × .10 (increase in the percentage business use in 1984 (70 percent) over the average business use during 1981–1983 (60 percent)). In 1985, B's business use of the automobile is 50 percent of the total. B is entitled to no recovery allowance with respect to the automobile for 1985 since B's business use of the automobile in that year does not exceed the average business use during 1981–1983 (60 percent). In 1986, B's business use of the automobile is 75 percent of the total. B's allowable deduction for 1986 is $416.25 computed as follows: $7,500 (lesser of basis or fair market value in 1984) × .37 (applicable percentage) × .15 (increase in the percentage business use in 1986 (75 percent) over the average business use during 1981–1983 (60 percent)).

Example (3). In 1981 C, a calendar year taxpayer, purchases for $20,000 and places in service section 1245 class property used predominantly in connection with research and experimentation. C does not elect to compute the recovery allowance by use of the optional method as provided in § 1.168–2(c). In 1981 C's allowable deduction is $5,000 (*i.e.*, .25×$20,000). In 1982 C continues to use the property as recovery property, but not predominantly in connection with research and experimentation. As a result, in 1982 the property is treated as 5-year property. C's recovery allowance for 1982 (and subsequent taxable years) is determined as though C had placed the property in service in 1981 as 5-year property. The excess recovery allowance allowed in 1981 is accounted for in accordance with § 1.168–2(d)(3). Thus, the difference between the recovery allowance which would have been allowed had the applicable percentage for 5-year property been used (*i.e.*, .15×$20,000=$3,000) and the recovery allowance in 1981 (*i.e.*, .25×$20,000=$5,000) equals $2,000 and is accounted for as follows:

Unadjusted basis × applicable percentage for second recovery year ($20,000.00×.22)	$4,400.00
Excess allowable × applicable percentage for second recovery year ÷ the sum of the remaining unused applicable percentages (($2,000.00×.22)/.85)	−517.65
Difference—allowable deduction for 1982	3,882.35

Example (4). In 1981 D, a calendar year taxpayer, places in service 5-year recovery property with an unadjusted basis of $100,000 and a present class life of 8 years. D uses the property predominantly outside the United States in 1981, 1982, and 1983. D does not elect to compute the recovery allowances by use of the optional method as provided in § 1.168–2(g)(3). In 1984 D uses the property as recovery property but not predominantly outside the United States. D's allowable deduction for 1984 (and subsequent taxable years) is determined as though D placed the property in service in 1984 as recovery property not used predominantly outside the United States. The basis of the property is deemed to be the adjusted basis in 1984. Thus, D's allowable deduction for 1984 is $7,350 (*i.e.*, .15×$49,000 (basis)) and for 1985 is $10,780 (*i.e.*, .22×49,000 (basis)). If D elected to use the optional method based on the present class life, D would use the optional percentages based on a 5-year recovery period. Alternatively, D may continue to treat the property as though it continued to be used predominantly outside the United States. If so treated D's allowable

deductions for 1984 and 1985 would be $12,000 (*i.e.*, .12×$100,000) and $9,000 (.09×$100,000), respectively.

Example (5). The facts are the same as in exemple (4) except that the recovery property is not used predominantly outside the United States for 1981 through 1983. In 1984, however, D begins using the property predominantly outside the United States. D's allowable deduction for 1984 is determined as though D placed the property in service in 1981 as property used predominantly outside the United States. Additionally, D accounts for the difference between the recovery allowance for 1981 through 1983 ($58,000) and the allowance which would have been allowable for those years had the applicable percentages for property used predominantly outside the United States been used ($51,000) in accordance with § 1.168–2(d)(3). Thus, the recovery allowance in 1984 is $10,285.71, determined as follows:

Unadjusted basis × applicable percentage for 4th recovery year for property with an 8-year present class life ($100,000.00×.12)	$12,000.00
Excess recovery from 1981 through 1983 × applicable percentage for 4th recovery year ÷ the sum of the remaining unused applicable percentages (($7,000.00×.12)/.49)	−1,714.29
Difference	10,285.71

If, for 1981 through 1983, D elected to use the optional method based on a 5-year recovery period, then the allowable deduction for 1984 and subsequent taxable years would be determined using the optional percentages over the 8-year present class life.

(k) *Ratable inclusion rule*—(1) *General rule.* In general, the recovery allowance provided by section 168 and this section shall be considered as accruing ratably over the taxable year. Thus, for example, the distributive share of the recovery allowance for each partner in a partnership in which a partner's partnership interest varies so as to be subject to section 706(c)(2)(B) shall be determined by allocating to each partner a pro rata share of such allowance for the entire taxable year of the partnership. This paragraph does not apply, however, in determining the recovery allowance for the taxable year in which 15-year real property is placed in service or disposed of.

(2) *Example.* The provisions of this subparagraph are illustrated by the following example:

Example. In 1978 A and B each acquire 50 percent interests in partnership P which is in the business of renting and managing beach resort property. On December 1, 1983, C and D each acquire from the partnership 25 percent interests in the partnership. On December 15, 1983, the partnership acquires for rental and places in service two sailboats (5-year recovery property) for $10,000 each. No election is made to use the optional recovery percentages provided by § 1.168–2(c). The recovery allowance for P for the sailboats in 1983 equals $3,000 (i.e., .15×$20,000). The recovery allowance, however, must be allocated pro rata over the taxable year. As such, the distributive share of the recovery allowance for A and B is $1,437.50 each. The distributive share of the recovery allowance for C and D is $62.50 each.

(l) *Definitions.* For purposes of section 168 and §§ 1.168–1 through 1.168–6—

(1) *Disposition.* The term "disposition" means the permanent withdrawal of property from use in the taxpayer's trade or business or use for the production of income. Withdrawal may be made in several ways, including sale, exchange, retirement, abandonment, or destruction. A disposition does not include a transfer of property by gift or by reason of the death of the taxpayer. See § 1.168–5(f) (3) and (4). A disposition also does not include the retirement of a structural component of 15-year real property. The manner of disposition (*e.g.*, ordinary retirement, abnormal retirement) is not a consideration. For rules relating to nonrecognition transactions see section 168(f) (7) and (10) and the regulations thereunder. For rules relating to the recognition of gain or loss on dispositions, see § 1.168–6.

(2) *Placed in service.* The term "placed in service" means the time that property is first placed by the taxpayer in a condition or state of readiness and availability for a specifically assigned function, whether for use in a trade or business, for the production of income, in a tax-exempt activity, or in a personal activity. In the case of a building which is intended to house machinery and equipment, such readiness and availability shall be determined without regard to whether the machinery or equipment which the building houses, or is intended to house, has been placed in service. However, in an approrpriate case, as, for example, where the building is essentially an item of machinery or equipment, or the use of the building is so closely related to the use of the machinery or equipment that it clearly can be expected to be replaced or retired when the property it initially houses is replaced or retired, the determination of readiness or availability of the building shall be made by taking into account the readiness and availability of such machinery or equipment. For a building which becomes available for use in separate stages, see paragraph (e)(3) of this section.

(3) *Recovery year.* The term "recovery year" means the taxable year during which recovery property is placed in service by the taxpayer and each subsequent taxable year for which a deduction is allowable to the taxpayer under this section with respect to such property.

(4) *Recovery period.* The term "recovery period" means the actual period of years assigned, or elected by the taxpayer, for the computation under this section of the recovery allowance with respect to the unadjusted basis of the recovery property (*e.g.*, 3 years, 5 years, 12 years, present class life). The recovery period does not include any year after the end of the period assigned or elected, even though under paragraph (c), (g)(3), or (m) of this section a year following the recovery period may be a recovery year (as defined in subparagraph (3)).

(m) *Limitation on property financed with proceeds of industrial development bonds.* [Reserved]

(n) *Application to adjustment to basis of partnership property under sections 734(b) and 743(b)—(1) Increases in basis.* (i) If, under section 734(b) (relating to the optional adjustment to the basis of undistributed partnership property) or section 743(b) (relating to the optional adjustment to the basis of partnership property), the basis of a partnership's recovery property is increased as a result of the distribution of property to a partner or the transfer of a partnership interest (as the case may be), then the increased portion of the basis shall be taken into account under this section as if it were newly-purchased recovery property placed in service when the distribution or transfer occurs. Any applicable recovery period and method may be used to determine the recovery allowance with respect to the increased portion of the basis. No change shall be made for purposes of determining the recovery allowance under this section for the portion of the basis for which there is no increase.

(2) *Decreases in basis.* If, under section 734(b) or section 743(b), the basis of a partnership's recovery property is decreased as a result of the distribution of property to a partner or the transfer of a partnership interest (as the case may be), then such decrease shall be taken into account under the principles of paragraph (d)(3) of this section (relating to redeterminations). See also § 1.755–1.

(3) *Example.* The provisions of this paragraph may be illustrated by the following example.

Example. On January 1, 1984, A, a partner who owns a 20 percent interest in partnership X, sells his entire interest to B for $400,000. Partnership X has one asset, a building which is recovery property, placed in service by X after 1980. A's adjusted basis in his partnership interest, allocable entirely to the building, is $100,000. A valid election under section 754 is in effect with respect to the sale of the partnership interest. Accordingly,

partnership X makes an adjustment, pursuant to section 743(b), to increase the basis of the building with respect to B from $100,000 to $400,000. The amount of the basis adjustment with respect to partner B ($300,000) is taken into account under this section as if it were newly-purchased recovery property placed in service on January 1, 1984. Any applicable period and method may be used with respect to such portion of the basis. Accordingly, if the optional applicable percentages provided under § 1.168–2(c) are not used, the recovery with respect to the basis adjustment for 1984 is $36,000 *(i.e.,* $300,000 × .12). Such portion of the basis will have a 15-year recovery period, beginning January 1, 1984. No change is made with respect to the calculation of the recovery allowance for the portion of the basis of the partnership property *(i.e.,)* $100,000) not affected by the basis adjustment under section 743.

§ 1.168–3 Recovery property.

(a) *Recovery property*—(1) *In general.* Except as provided in § 1.168–4, "recovery property" to which ACRS applies means tangible property of a character subject to the allowance for depreciation which is—

(i) Used in a trade or business, or

(ii) Held for the production of income.

Property is considered recovery property only if such property would have been depreciable under section 167. Thus, ACRS applies only to that part of the property which is subject to wear and tear, to decay or decline from natural causes, to exhaustion, and to obsolescence. ACRS does not apply to inventories or stock in trade, works of art, or to land apart from the improvements or physical development added to it. ACRS does not apply to natural resources which are subject to the allowance for depletion provided in section 611. No deduction shall be allowed under ACRS for automobiles or other vehicles used solely for pleasure, for a building used by the taxpayer solely as his residence, or for furniture or furnishings therein, personal effects, or clothing; but properties and costumes used exclusively in a business, such as a theatrical business, may be recovery property. For rules regarding the recovery allowance for property which is used partly for business and partly for personal purposes, or which is converted from personal to business use, see §§ 1.168–2(d)(2)(ii) and 1.168–2(j) (1) and (2).

(2) *Intangible property. [Reserved]*

(3) *Boilers fueled by oil or gas.* The term "recovery property" includes property described in section 167 (p), relating to boilers fueled by oil or gas, if such property otherwise qualifies as "recovery property" under section 168 and subparagraph (1) of this paragraph.

(b) *Classes of recovery property.* Each item of recovery property shall be assigned to one of the following classes of property:

(1) 3-year property,

(2) 5-year property,

(3) 10-year property,

(4) 15-year real property, or

(5) 15-year public utility property.

Any property which is treated as included in a class of property by reason of paragraph (c) (1), (2), (3), (4), or (5) of this § 1.168–3 shall not be treated as property included in any other class.

(c) *3-, 5-, 10-, and 15-year recovery property; definitions*—(1) *3-year property.* The following recovery property is included in the 3-year class:

(i) Section 1245 class property (as defined in paragraph (c) (6) of this § 1.168–3) with a present class life (as defined in paragraph (c) (8)) of 4 years or less,

(ii) Section 1245 class property predominantly used in connection with research and experimentation (as described in section 174 and § 1.174–2(a)). Property is used in connection with research and experimentation if the property is used (A) by its owner to conduct research and experimentation in its owner's trade or business, (B) by its owner to conduct research and experimentation for another person, (C) by a lessee to conduct research and experimentation in its trade or business, or (D) by the lessee to conduct research and experimentation for another person, and

(iii) Any race horse which is more than 2 years old at the time the horse is placed in service and any other horse which is more than 12 years old at the time the horse is placed in service. A horse is more than 2 (or 12) years old after 24 (or 144) months after its actual birthdate.

Examples of 3-year recovery property are automobiles and light-duty trucks.

(2) *5-year property.* The following recovery property is included in the 5-year class: Section 1245 class property which is not 3-year property (as defined in paragraph (c)(1)), or 10-year property (as defined in paragraph (c)(3)), or 15-year public utility property (as defined in paragraph (c) (5) and (10)). Included in the 5-year recovery property class are horses which are not included in the 3-year recovery property class, property which, prior to January 1, 1981, may have been depreciated under the retirement-replacement-betterment method (subject to the provisions of § 1.168–5(a)), single-purpose agricultural and horticultural structures, and storage facilities (other than buildings and their structural components) used in connection with the distribution of petroleum or any of its primary products. Primary products of petroleum are products described in § 1.993–3(g)(3)(i).

(3) *10-year property.* The following recovery property is included in the 10-year class:

(i) Public utility property with a present class life of more than 18 years but not more than 25 years, other than section 1250 class property (as defined in paragraph (c) (7)) or 3-year property,

(ii) Section 1250 class property with a present class life of 12.5 years or less,

(iii) Railroad tank cars,

(iv) Manufactured homes (as defined in 42 U.S.C. section 5402 (6)) which are section 1250 class property used as dwelling units, and

(v) Qualified coal utilization property (as defined in paragraph (c) (9)) which would otherwise be 15-year public property.

A building (and its structural components, if any) is not treated as having a present class life of 12.5 years or less if, in its original use (as defined in paragraph (c)(11) of this § 1.168–3), the building (and its structural components, if any) does not have a present class life of 12.5 years or less. Thus, for example, a theme park structure is considered 10-year property only if the original use of such structure is as a theme park structure.

(4) *15-year real property.* Fifteen-year real property is section 1250 class property which does not have a present class life of 12.5 years or less (including section 1250 class property which does not have a present class life). Examples of 15-year real property are office buildings and elevators and escalators.

(5) *15-year public utility property.* Fifteen-year public utility property is public utility property, other than section 1250 class property or 3-year property, with a present class life of more than 25 years. Examples of 15-year public utility property are: most property in electric utility steam production plants, gas utility manufactured gas production plants, water utility property, and telephone distribution plants.

(6) *Section 1245 class property defined.* For purposes of section 168 and §§ 1.168–1 through 1.168–6, section 1245 class property is tangible property described in section 1245(a)(3) (other than subparagraphs (C) and (D)). See § 1.168–4 for exclusion of certain "section 1245 class property" from recovery property.

(7) *Section 1250 class property defined.* For purposes of section 168 and §§ 1.168–1 through 1.168–6, section 1250 class property is property described in section 1250(c) and property described in section 1245(a)(3)(C). See § 1.168–4 for

exclusion of certian "section 1250 class property" from recovery property.

(8) *Present class life defined.* (i) For purposes of section 168 and §§ 1.168–1 through 1.168–6, present class life is the asset depreciation range (ADR) class life ("midpoint" or "asset guideline period") (if any) applicable with respect to the property as of January 1, 1981, published in Rev. Proc. 83–35. No changes will be made to the classes or class lives which are set forth in Rev. Proc. 83–35.

(ii) The application of subdivision (i) may be illustrated by the following example:

Example. X purchases a light-duty truck to be used in his trade or business. The ADR midpoint life of this asset as of January 1, 1981, determined under Rev. Proc. 83–35 is 4 years. Since this truck is section 1245 class property with a present class life of 4 years or less, it is 3-year recovery property under section 168.

(9) *Qualified coal utilization property.* See section 168 (g)(8) for the definition of "qualified coal utilization property".

(10) *Public utility property.* (i) For purposes of section 168 and §§ 1.168–1 through 1.168–6, the term "public utility property" means property used predominantly in the trade or business of the furnishing or sale of—

(A) Electrical energy, water, or sewage disposal services,

(B) Gas or steam through a local distribution system,

(C) Telephone services, or other communication services if furnished or sold by the Communications Satellite Corporation for purposes authorized by the Communications Satellite Act of 1962 (47 U.S.C. section 701), or

(D) Transportation of gas or steam by pipeline, if the rates for such furnishing or sale, as the case may be, are regulated, *i.e.,* are established or approved by a State (including the District of Columbia) or political subdivision thereof, by any agency or instrumentality of the United States, or by a public service or public utility commission or other similar body of any State or political subdivision thereof. A taxpayer's rates are "regulated" if they are established or approved on a rate-of-return basis. Rates regulated on a rate-of-return basis are an authorization to collect revenues that cover the taxpayer's cost of providing goods or services, including a fair return on the taxpayer's investment in providing such goods or services, where the taxpayer's costs and investment are determined by use of a uniform system of accounts prescribed by the regulatory body. A taxpayer's rates are not "regulated" if they are established or approved on the basis of maintaining competition within an industry, insuring adequate service to customers of an industry, insuring adequate security for loans, or charging "reasonable" rates within an industry since the taxpayer is not authorized to collect revenues based on the taxpayer's cost of providing goods or services. Rates are considered to be "established or approved" if a schedule of rates is filed with a regulatory body that has the power to approve such rates, even though the regulatory body takes no action on the filed schedule or generally leaves undisturbed rates filed by the taxpayer.

(ii) Public utility property includes property which is leased to others by a taxpayer, where the leasing of such property is part of the lessor's public utility activity, as described in subdivision (i). Public utility property also includes property leased to a person who uses such property predominantly in a public utility activity, as described in subdivision (i).

(11) *"Original use".* The term "original use" means the first use to which the property is put, whether or not such use corresponds to the use of such property by the taxpayer.

§ 1.168–4 Exclusions from ACRs.

(a) *Property placed in service by the taxpayer before January 1, 1981.* ACRS does not apply with respect to property placed in service by the taxpayer before January 1, 1981. See § 1.168–2(l)(2) for when property is placed in service. As provided in paragraph (d) of this section, ACRS does not apply with respect to property placed in service before January 1, 1981, which is transferred in certain "churning" transactions. If property is excluded from ACRS, the provisions of section 167 (and related provisions) apply in determining the allowable depreciation deduction with respect to such property.

(b) *Property amortized or depreciated other than in term of years*—(1) *Depreciation.* If—

(i) Property can properly be depreciated under a method not expressed in a term of years (such as unit-of-production) which, before January 1, 1981, was a recognized method within the particular industry for the type of property in question, and

(ii) The taxpayer properly elects such treatment for such property in accordance with section 168(f)(4) and § 1.168–5(e) for the first taxable year for which an ACRS deduction would (but for this election) be allowable with respect to such property in the hands of the taxpayer,

then such property shall be entirely excluded from ACRS so long as it remains in the hands of such taxpayer. A taxpayer may elect to apply a depreciation method not expressed in a term of years (and thereby exclude the property from ACRS) with respect to some or all property within the same recovery class and placed in service in the same taxable year.

(2) *Amortization.* If—

(i) The basis of a recovery property may be amortized, in lieu of being depreciated, under any section of the Code (such as section 167(k), relating to expenditures to rehabilitate low-income rental housing, or section 169, relating to pollution control facilities), and

(ii) The taxpayer properly elects to amortize such property in accordance with the relevant amortization provision,

then the amount subject to such amortization shall be excluded from the property's unadjusted basis as defined in section 168(d)(1)(A) and § 1.168–2(d). A taxpayer may elect amortization with respect to one property (or a portion thereof) and apply ACRS with respect to other property (or the remaining portion) within the same recovery class and placed in service in the same taxable year.

(c) *Special rule for public utility property.* [Reserved]

(d) *Anti-churning rules for certain transactions in property placed in service before 1981*—(1) *In general.* To be eligible for ACRS, property must be placed in service by the taxpayer after 1980. The anti-churning rules of section 168(e)(4) and this paragraph (d) are designed generally to deny ACRS to property in service before 1981 in the absence of a significant change in ownership or use.

(2) *Section 1245 class property*—(i) *In general.* Section 1245 class property, as defined in section 168(g)(3) and § 1.168–3(c)(6), acquired by the taxpayer after December 31, 1980, will not qualify for ACRS if—

(A) The property was owned or used at any time during 1980 by the taxpayer or a related person,

(B) The property is acquired from a person who owned such property at any time during 1980, and, as part of the transaction, the user of the property does not change,

(C) The property is leased by the taxpayer for more than 3 months to a person (or a person related to such person) who owned or used such property at any time during 1980, or

(D) The property is acquired in a transaction in which the user of such property does not change, and the property does not qualify for ACRS in the hands of the person from whom the property is so acquired due to

subdivisions (B) and (C) of this paragraph (d)(2)(i).

See section 168(e)(4)(D) and subparagraph (6) of this paragraph (d) for definition of the term "related person". See subparagraph (3) of this paragraph (d) for the treatment of the acquisition of section 1245 class property acquired incidental to the acquisition of section 1250 class property. See subparagraph (4) of this paragraph (d) for other special rules.

(ii) *Change in user.* For purposes of subdivision (i) of this paragraph (d)(2), the user of a section 1245 class property shall not be considered to have changed as part of a transaction if the property is physically used, for more than 3 months after its transfer, by the same person (or a related person) who used such property before the transfer, or if such person, pursuant to a plan, resumes use of the property after the transfer. If the former owner (or a related person) continues to operate section 1245 class property through an arrangement such as a management contract for more than 3 months after the transfer, then all facts and circumstances will be taken into account in determining whether the user of the property has changed as part of such transaction for purposes of section 168(e)(4)(A) and subdivision (i) of this paragraph (d)(2). Among the factors which would indicate that the user of section 1245 property has changed in such case are—

(A) The arrangement in question is a customary commercial practice,

(B) The transaction in question has been arranged at arm's length, and

(C) The new owner has assumed all benefits and burdens of ownership. For purposes of this subdivision (ii)(C), the former owner will not be considered to have retained any benefits and burdens of ownership solely by reason of receiving contingent payments if such payments—

(*1*) Represent the real value of services rendered,

(*2*) Are reasonable in amount, and

(*3*) Are ordinary and customary in both nature and amount within the industry and region for the transaction in question.

(3) *Section 1250 class property.* A section 1250 class property, as defined in section 168(g)(4) and § 1.168–3(c)(7), acquired by the taxpayer after December 31, 1980, will not qualify for ACRS if—

(i) The property was owned at any time during 1980 by the taxpayer or a related person,

(ii) The property is leased by the taxpayer for more than 3 months to a person (or a person related to such person) who owned such property at any time during 1980, or

(iii) The property is acquired in an exchange described in section 1031 (relating to exchange of property held for productive use or investment), section 1033 (relating to involuntary conversions), section 1038 (relating to certain reacquisitions of real property), or section 1039 (relating to certain sales of low-income housing projects), to the extent that the basis of such property includes an amount representing the adjusted basis of other property owned by the taxpayer or a related person at any time during 1980. The excess of the basis of the property acquired over the adjusted basis of such other property shall be considered a separate item of property, eligible for ACRS, provided that the exchange is not otherwise treated as a "churning" transaction under section 168(e)(4) and this paragraph. Property which does not qualify for ACRS under this subdivision shall be considered, for purposes of this section, as owned by the taxpayer during 1980.

See section 168(e)(4)(D) and subparagraph (6) of this paragraph (d) for definition of the term "related person". If, in a transaction, section 1245 class property is acquired incidental to the acquisition of section 1250 class property, then the rules of section 168(e)(4)(B) and this subparagraph shall apply with respect to the section 1245 property acquired in such transaction instead of the rules of section 168(e)(4)(A) and paragraph (d)(2) of this section. The preceding sentence will not apply in transactions where section 1245 property constitutes a significant portion of the property acquired.

(4) *Special rules.*—(i) *Property under construction during 1980.* For purposes of paragraph (d) (2) and (3) of this section, a taxpayer shall not be deemed to own property under construction during 1980 until it is placed in service, as described in § 1.168–2(l)(2).

(ii) *Entire property excluded.* Except as provided in paragraph (d)(3)(iii) of this section (relating to excess basis in substituted basis transactions), subdivision (iii) of this paragraph (d)(4) (relating to the lease of a portion of section 1250 class property), and paragraph (d)(6)(ii)(C) of this section (relating to transactions between persons related by reason of the application of § 1.267(b)–1(b)), if property is acquired in a transaction described in paragraph (d) (2) or (3) of this section, the entire property shall be excluded from ACRS.

(iii) *Lease of portion of section 1250 class property.* Paragraph (d)(3)(ii) of this section (relating to the lease of section 1250 class property) shall apply only with respect to that portion of the property (determined on a fair market value basis) that is leased to the person (or to a person related to such person) who owned the property during 1980. The portion of the property excluded from ACRS shall not exceed the portion of the property which was owned by the lessee (or a person related to the lessee) during 1980.

(iv) *Undivided interests.* Subject to the provisions of paragraph (d)(7) of this section (relating to avoidance), if an undivided interest in property is acquired, and the resulting arrangement is not a partnership for tax purposes, then such interest shall be treated as a separate item of property for purposes of paragraph (d) (2) and (3) of this section.

(v) *Acquisition by or lease to 1980 owner or user.* If recovery property is acquired by, or leased to, its 1980 owner (or, in the case of section 1245 class property, its 1980 owner or user), or a related person, then the property shall cease to qualify for ACRS.

(vi) *Sale-leaseback of disqualified property.* If property which does not qualify for ACRS under this section becomes the subject of a sale-leaseback transaction, then the property shall not become ACRS property by virtue of that transaction.

(5) *Certain nonrecognition transactions*—(i) *In general.* With respect to property placed in service by the transferor or distributor before January 1, 1981, and which is acquired by the taxpayer after December 31, 1980, in a nonrecognition transaction described in section 168(e)(4)(C) and in subdivision (ii) of this paragraph (d)(5), ACRS shall not apply to the extent that the property's basis in the hands of the taxpayer is determined by reference to its basis in the hands of the transferor or distributor. In such a transaction, the taxpayer shall be treated as the transferor or distributor for purposes of computing the depreciation allowance under section 167 with respect to so much of the basis of the acquired property in the hands of the taxpayer as does not exceed its adjusted basis in the hands of the transferor or distributor. However, the taxpayer shall treat the portion of the basis of the acquired property which exceeds the adjusted basis in the hands of the transferor or distributor as a separate item of property, eligible for ACRS, provided that sale of exchange of such property by the transferor or distributor to the taxpayer would not be treated as a

"churning" transaction under section 168(e)(4) and this paragraph.

(ii) *Nonrecognition transactions affected.* Subdivision (i) of this paragraph (d)(5) applies to transactions described in any of the following provisions:

(A) Section 332 (relating to distributions in complete liquidation of an 80 percent or more controlled subsidiary corporation) except where the basis of the assets distributed is determined under section 334(b)(2) (as in effect on August 31, 1982);

(B) Section 351 (relating to transfer to a corporation controlled by transferor);

(C) Section 361 (relating to exchanges pursuant to certain corporate reorganizations);

(D) Section 371(a) (relating to exchanges pursuant to certain receivership and bankruptcy proceedings);

(E) Section 374(a) (relating to exchanges pursuant to certain railroad reorganizations);

(F) Section 721 (relating to transfers to a partnership in exchange for a partnership interest); and

(G) Section 731 (relating to distributions by a partnership to a partner.

A distribution of property by a partnership to a partner in liquidation of the partner's interest in the partnership (where the basis of the distributed property to the partner is determined under section 732(b)) is not a transaction described in section 168(e)(4)(C) and this subdivision (ii) since, in such case, the base of the property is determined by reference to the partner's adjusted basis in his interest in the partnership and not by reference to the basis of the property in the hands of the partnership. However, such distribution may be described in paragraph (d) (2) or (3) of this section.

(iii) *Successive application.* Property which does not qualify for ACRS by reason of its acquisition in a nonrecognition transaction will not qualify for ACRS if it is subsequently transferred in another nonrecognition transaction. The preceding sentence shall apply to the extent that the basis of the property in the hands of the transferee does not exceed the basis that does not qualify for ACRS in the hands of the transferor.

(6) *Related person defined*—(i) *In general.* For purposes of this paragraph (d) except as provided in section 168(e)(4)(E) and in subparagraph (11) of this paragraph (d), persons are related if—

(A) They bear a relationship specified in section 267(b) or section 707(b)(1) and the regulations thereunder, or

(B) They are engaged in trades or businesses under common control (as defined by subsections (a) and (b) of section 52 and the regulations thereunder).

For purposes of applying section 267(b) and 707(b)(1) with respect to this paragraph (d)(6), "10 percent" shall be substituted for "50 percent".

(ii) *Special rules.* (A) In general, persons are related if they are related either immediately before or immediately after the taxpayer's acquisition of the property in question. When a partnership's acquisition of property results from the termination of another partnership under section 708(b)(1)(B), whether the acquiring partnership is related to such other partnership shall be determined by comparing the ownership of the acquiring partnership immediately after the acquisition with that of the terminated partnership as it existed immediately before the event resulting in such termination occurs. Similarly, when the acquisition of property by a partner results from the termination of a partnership under section 708(b)(1)(A), whether the acquiring person is related to the partnership shall be determined immediately before the event resulting in such termination occurs.

(B) If a person would be related to a corporation, partnership, or trust which owned (or, in the case of section 1245 class property, owned or used) property during 1980 but for the fact that such corporation, partnership, or trust is no longer in existence when the taxpayer acquires such property, then for purposes of this subparagraph (6), such corporation, partnership, or trust is deemed to be in existence when the taxpayer acquires such property. Similarly, when a taxpayer leases property to a newly-created corporation, partnership, or trust, and a person who owned (or, in the case of section 1245 class property, owned or used) such property during 1980 would be related to the lessee but for the fact that such corporation, partnership, or trust is not in existence when the taxpayer acquires such property, then for purposes of this subparagraph (6), such corporation, partnership, or trust is deemed to be in existence when the taxpayer acquires such property.

(C) If persons are related by reason of the application of § 1.267(b)–1(b), then only a portion of the property shall be excluded from ACRS, consistent with the principles of § 1.267(b)–1(b). See, however, paragraph (d)(7) of this section (relating to avoidance).

(D) If persons are not considered to be engaged in trades or businesses under common control (as defined by subsections (a) and (b) of section 52 and the regulations thereunder), but are considered to be related persons by substituting "10 percent" for "50 percent" within the provisions of section 267(b) or 707(b)(1), then such persons are considered to be related persons for purposes of this subparagraph (6).

(7) *Avoidance purpose indicated.* Property acquired by the taxpayer after December 31, 1980, does not qualify for ACRS if it is acquired in a transaction one of whose principal purposes is to avoid the operation of the effective date rule of section 168(e)(1) and the "anti-churning" rules of section 168(e)(4), and the rules of this section. A transaction will be presumed to have a principal purpose of avoidance if it does not effect a significant change in ownership or use of property in service before 1981 commensurate with that otherwise required for ACRS to apply. Among the circumstances in which a principal avoidance purpose may be indicated, and in which the property involved in the transfer may therefore be ineligible for ACRS, are—

(i) The same person owns (other than as a nominee), directly or indirectly, more than a 10 percent interest in the taxpayer (or the taxpayer's lessee) and in a person who owned (or, in the case of section 1245 class property, owned or used) the property during 1980;

(ii) There is a mere change in form of the ownership of property owned by a person during 1980 (such as from a partnership to undivided interests);

(iii) The taxpayer (or the taxpayer's lessee) and a person who owned (or, in the case of section 1245 class property, owned or used) the property during 1980 are engaged in trades or businesses under common control within the meaning of section 52 (a) and (b) and the regulations thereunder, substituting a 25 percent test for the 50 percent tests of § 1.52–1 or there is a similar 25 percent common ownership in the property (or in a leasehold of the property) and in a person who owned (or, in the case of section 1245 class property, owned or used) the property during 1980;

(iv) The taxpayer (or the taxpayer's lessee) is related during 1980 to the person who owned (or, in the case of section 1245 class property, owned or used) the property during 1980;

(v) Section 1250 class property is operated by a person who owned such property during 1980 (or by a related person) under a management contract and, had such property been section 1245 class property instead of section 1250 class property, the user would be considered not to have changed as part

of the transaction (see § 1.168–4(d)(2)(ii));

(vi) The taxpayer leases section 1250 class property to a person and, through one or more subleases, the property is leased to a person who owned such property during 1980 (or to a related person); or

(vii) Section 1245 class property is acquired in an exchange described in section 1031, relating to exchange of property held for productive use or investment, to the extent that the basis of such property includes an amount representing the adjusted basis of other property owned by the taxpayer or a related person at any time during 1980. In the case of property which does not qualify for ACRS under this subdivision, rules similar to those of paragraph(d)(3)(iii) of this section shall apply.

In general, the avoidance intent indicated in subdivisions (i) through (vii) may be rebutted by evidence of an overrriding business purpose (or purposes) for the transaction. However, even if the taxpayer demonstrates an overriding business purpose (or purposes) for the transaction, the property will not qualify for ACRS if the Internal Revenue Service establishes that one of the principal purposes of the transaction is to avoid the operation of the effective date rule of section 168(e)(1) and the "anti-churning" rules of section 168(e)(4), and the rules of this section.

(8) *Adjustment to basis of partnership property.* ACRS shall not apply with respect to any adjustment to the basis of partnership property made under section 734(b) (relating to the optional adjustment to the basis of undistributed partnership property) or section 743(b) (relating to the optional adjustment to the basis of partnership property) if the partnership property itself does not qualify for ACRS because of section 168(e) and this section. If a partnership has property which qualifies for ACRS, see § 1.168–2(n) for the application of ACRS to the adjustments, pursuant to section 734(b) or 743(b), to the basis of such property.

(9) *Acquisitions by reason of death.* Property acquired by the taxpayer after December 31, 1980, by reason of death, for which the basis is determined under section 1014(a), is eligible for ACRS.

(10) *Reduction in unadjusted basis.* The unadjusted basis of property for purposes of section 168(d)(1) and § 1.168–2(d) shall be reduced to the extent that such property does not qualify for ACRS due to the application of this paragraph (d). The basis not taken into account for ACRS purposes pursuant to the preceding sentence shall be taken into account by the taxpayer for purposes of other provisions of the Code.

(11) *Certain corporate transactions.* For purposes of section 168(e)(4) and § 1.168–4(d)(6), a corporation is not related to a distributee (or, in the case of a transaction described in section 338, the new target corporation) if—

(i) Such corporation is a distributing corporation in a transaction to which section 334(b)(2)(B) (as in effect on August 31, 1982) applies, or is a target corporation for which an election under section 338 is made, and at least 80 percent of the stock of such corporation (as described in section 334(b)(2)(B) or 338(d)(3)) is acquired by purchase after December 31, 1980, or

(ii) Such corporation is a distributing corporation in a complete liquidation to which section 331(a) applies, or a partial liquidation to which section 331(a) (as in effect on August 31, 1982) applies, or to which section 302(b)(4) applies, and the distributee (or a related person) by himself or together with one or more persons acquires the amount of stock specified in subdivision (i) of this paragraph (d)(11) by purchase after December 31, 1980.

(e) *Examples.* The application of this section may be illustrated by the following examples:

Example (1). In 1978 A buys a house which he uses as his family residence. In 1983, A's family moves out, and A converts the house into rental property. A may not use ACRS with respect to the property because he placed it in service before 1981. A must depreciate the property in accordance with section 167 and the regulations thereunder, subject to the other applicable provisions of the Code.

Example (2). In 1982 X Corp. purchases and places in service two major pieces of manufacturing equipment. One is newly constructed, while the other is a used machine expected to produce only 5,000 additional units. X elects to depreciate the used machine under the unit-of-production method. Such method was properly used with-in X's industry before 1981. Assuming that X has met the requirements of section 168(f)(4) and § 1.168—5(e), the used machine will not be recovery property as defined in section 168(c)(1) and § 1.168—3(a). X will apply ACRS with respect to the new machine even though it properly elected to apply the unit-of- production method with respect to the used machine.

Example (3). On November 15, 1984, B, a calendar year taxpayer, places in service in 10-unit apartment building for individuals and families of low income under section 8 of the United States Housing Act of 1937. B acquired the building for $100,000 and has incurred an additional $100,000 of expenditures for its rehabilitation, which B elects to amortize under section 167(k). In 1984, B is entitled to an allowance under ACRS of $2,000 (*i.e.*, .02×$100,000). The $100,000 which B amortizes under section 167(k) is not included in the unadjusted basis and therefore is not recovered under the provisions of ACRS.

Example (4). C is an individual engaged in the trucking business. On February 1, 1983, C purchases a new truck from a dealer. As in his normal business practice, C financed the transaction partly by trading in a truck C had used in his business for the previous 3 years. Although this transaction is described in section 1031, it does not have as one of its principal purposes avoidance of the rules of section 168(e)(1) and (4). C therefore will use ACRS with respect to the entire unadjusted basis of the truck purchased in 1983, including cash paid, indebtedness incurred, and the amount attributable to the adjusted basis of the used truck traded in.

Example (5). On June 1, 1983, in a transaction described in section 1031, Corporation M exchanges a corporate jet, acquired before 1981, for a very similar corporate jet owned and also acquired before 1981 by unrelated Corporation N. There is no significant difference to M or N in the use of the jet acquired from that of the jet exchanged, and the operations of each corporation do not change significantly as a result of the transaction. These facts and circumstances indicate that one of the principal purposes of this transaction is to avoid the principles of paragraphs (1) and (4) of section 168(e). Thus, absent evidence of an overriding business purpose (or purposes) for the transaction, neither of the jets will be treated as recovery property. Further, even if an overriding business purpose (or purposes) for the transaction is (or are) demonstrated, the property will not be eligible for ACRS if the Internal Revenue Service establishes that one of the principal purposes of the transaction is to avoid the principles of paragraphs (1) and (4) of section 168(e). The result in this example would be the same if, after the exchange, M or N sold the acquired property and leased it back, or sold the property to a related person.

Example (6). Z Corp., owner and largest occupant of the Z Building since 1965, sells this building to an institutional investor, M Corp., on May 1, 1983. After this sale, 25 percent of the Z building is leased to Z until May 1, 1985. Because 25 percent of the Z building is leased for more than 3 months by Z, which owned the building during 1980, M may not take ACRS deductions with respect to this 25 percent portion. Such portion must be depreciated in accordance with section 167. However, ACRS will apply with respect to the portion of the Z Building which is not leased by Z for more than 3 months after the above-described sale. If Z had leased the building only until July 31, 1983, then M Corp. would apply ACRS with respect to the entire building.

Example (7). During 1980 O Corp. undertakes construction of a department shore which becomes available for its assigned business function on April 1, 1981. For purposes of section 168 (e)(4)(B), O is not treated as owning the department store building under construction until it placed it in service on April 1, 1981. Accordingly,

ACRS will apply with respect to the building, beginning on the day it is placed in service.

Exampe (8). On June 1, 1983, P Corp. sells an undivided 70 percent interest in a building it has owned since March 1, 1980, To Q Corp. which is not related to P. R Corp., which is not related to P, has occupied the building as a tenant since June 1980 and will continue to occupy it after this sale. P and Q will own the building as tenants-in-common. Q, but not P, will take ACRS deductions with respect to its portion of the building. The fact that the user of the building did not change will not affect this result. However, if P and Q had formed a partnership which owned the building after the sale, no portion of the building would qualify for ACRS because the taxpayer acquiring the property after 1980 (the partnership) would be related under section 168(e)(4)(D) to a person (P) which owned the building in 1980.

Example (9). On January 1, 1984, D, a 20 percent partner in Partnership W, sells his entire partnership interest in E for $400,000. Partnership W has one asset, a building it placed in service before 1981. D's adjusted basis in his partnership interest, allocable entirely to the building, is $200,000 when it is sold. A valid election under section 754 is in effect with respect to the sale of the partnership interest. Accordingly, Partnership W makes an adjustment pursuant to section 743(b) to increase the basis of the building with respect to E from $200,000 to $400,000. Under the provisions of § 1.168–4(d)(8) no portion of the increase in the basis of the partnership property with respect to E is eligible for ACRS because the partnership property itself does not qualify for ACRS due to the provisions of section 168(e)(1) and § 1.168–4(a).

Exampe (10). In 1983, F, an individual, sells a piece of business equipment he placed in service in 1980 to X, a partnership in which F owns a 20 percent interest. No portion of such equipment will qualify for ACRS since it was acquired after 1980 by the taxpayer (Partnership X) and was owned during 1980 by a related person (partner B). The result in this example would not be changed if F owned no interest in X in 1980.

Exampe (11). G, an individual, has owned an apartment building containing furnished apartments since 1979. On June 1, 1983, G sells the building and its furnishings to unrelated Partnership Y. The furniture was purchased by G before 1981. Most of these apartments will continue to be occupied by the same tenants who occupied them before the sale. For purposes of section 168(e)(4)(I) and § 1.168–4(d)(3), the furniture is acquired incidential to the acquisition of the building. Therefore, ACRS will apply with respect to the furniture, notwthstanding that many of the tenants who used the furniture do not change as part of the transaction.

Example (12). On June 1, 1983, Partnership Z purchases a factory which has been leased by Corporation S, an unrelated person, since 1979. Corporation S continues to use this factor for more than 3 months after the sale. The pre-1981 section 1245 class property transferred in this transaction, such as machinery and equipment, represents a significant portion of the unadjusted basis of the property purchased by Z. Since the unadjusted basis of such section 1245 class property is significant in relation to the factory's unadjusted basis, for purposes of section 168(e)(4)(I) and § 1.168–4 (d)(3), the machinery and equipment are not acquired incidential to the acquisition of the factory. Since the user of such machinery and equipment does not change as part of the transaction, Partnership Z may not use ACRS with respect to such section 1245 class property. However, Z will use ACRS with repsect to the factory and the other section 1250 class property acquired.

Example (13). Partnership W, in which Partner E holds a 25 percent interest, has as its sole asset an office building it placed in service in 1980. On May 1, 1983, E dies, and his partnership interest, whose basis is determined under section 1014, passes to his daughter, D. ACRS is not available with respect to any increase in the basis of the partnership property with respect to D, because the partnership property itself does not qualify for ACRS due to the provisions of section 168(e) (1) and § 1.168–4(a).

Example (14). On July 1, 1983, Corporation X sells a building it had owned in 1980 to Corporation Y, an unrelated person. X retains an option to repurchase this building within 5 years. This building qualifies as recovery property in Y's hands, and Y will take ACRS deductions under section 168 with respect to it. On July 1, 1985, X exercises its option and repurchases the building. When X repurchases the building, it ceases to be recovery property because the taxpayer (X) owned the building during 1980. X may not take ACRS deductions with respect to the repurchased building. Instead, X must depreciate it under section 167 and the regulations thereunder.

Example (15). F, an individual, sells his business (including section 1245 class property owned in 1980) to G, on August 1, 1983. Under their arrangement, F. continues to manage the business for G, using the same equipment he had previously used. F receives as compensation for managing the business a fixed salary plus 5 percent of the gross profits. The arrangement follows customary commercial practice and was negotiated by F and G at arm's length. In addition, the amounts received (including the 5 percent of gross profits) represent the real value of the services rendered by F and are reasonable in amount. Further, receipt of 5 percent of gross profits under these circumstances is an ordinary and customary feature in the sale of a business in the industry and region in question. This arrangement results in a sufficient change in the ownership and use of the equipment that G will recover the cost of such equipment under ACRS.

Example (16). Individuals J and K each own a 50 percent interest in Partnership X, whose only asset is a building placed in service before 1981. On August 1, 1983, H, an individual, purchases a 25 percent interest each from J and K. Partnership X is deemed under section 708(b)(1)(B) to have terminated when H purchases the 50 percent interest. The building is not eligible for ACRS because the taxpayer acquiring the property after 1980 (the new partnership formed by H, J, and K) is related to the person who owned the property during 1980 (the old partnership), since J and K own more than a 10 percent interest in each of the two partnerships.

Example (17). In 1980, individual A owns all of the stock of Corporation T, which in turn owns depreciable property. In 1982, A sells the stock of T to unrelated Corporation V. Shortly thereafter, T sells some of the depreciable property it owned in 1980 to A. Under section 168(e)(4)(D), the property is not owned during 1980 by a person related to the taxpayer (A) since A is not related to the 1980 owner (T) when A acquires the property. However, an avoidance purpose is indicated under § 1.168–4(d)(7)(iv) since A was related in 1980 to the 1980 owner (T). Also, A broke the relationship with T shortly before acquiring the property. Accordingly, A may not use ACRS with respect to the property acquired, unless he can demonstrate an overriding business purpose (or purposes) for the transaction. Further, even if an overriding business purpose (or purposes) for the transaction is (or are) demonstrated, the property will not be eligible for ACRS if the Internal Revenue Service establishes that one of the principal purposes of the transaction is to avoid the principles of paragraphs (1) and (4) of section 168(e).

Example (18). In 1980, individual B owns all of the stock of Corporations X and Y. In 1980, X owns depreciable property. In 1981, X liquidates. In 1982, B sells to Y property owned by X in 1980. Y may not use ACRS with respect to the acquired property. Since the taxpayer (Y) would be related to the 1980 owner (X) but for the fact that X is no longer in existence when Y acquires the property, then, under § 1.168–4(d)(6)(ii)(B), X is considered to be in existence for purposes of determining whether the property was owned (or used) by a related person during 1980.

Example (19). In 1980, individual C owns all of the stock of Corporation M, which in turn owns all of the stock of Corporation N. In 1980, N owns depreciable property. In 1981, N distributes such 1980 property to M. In 1982, M sells the N stock to an unrelated person. In 1983, M distributes to C the property it received from N. Under section 168(e)(4)(D), the property is not owned during 1980 by a person related to the taxpayer (C), since C is not related to the 1980 owner (N) when C acquires the property. However, under § 1.168–4(d)(7)(iv) an avoidance purpose is indicated since the taxpayer (C) is related in 1980 to the 1980 owner (N). Also, upon acquisition, C is related to the person from whom the property is acquired (M). Therefore, C may not use ACRS with respect to the property unless he demonstrates an overriding business purpose (or purposes) for the transaction. Further, even if an overriding business purpose (or purposes) will not be eligible for ACRS if the Internal Revenue Service establishes that one of the principal purposes of the transaction is to avoid the principles of paragraphs (1) and (4) of section 168(e).

Example (20). D owns 20 percent of Corporation X and a 20 percent interest in Partnership P. X owns depreciable property in 1980. In 1981, X sells the property to P. Under § 1.267(b)–1 (b), the sale is considered as occurring between X and the members of the partnership (including D) separately.

Accordingly, under the principles of § 1.267(b)–1 (b), 20 percent of the unadjusted basis of the property is excluded from ACRS. In addition, under § 1.168–4(d)(7)(i) and avoidance purpose is indicated since D owns more than a 10 percent interest in the taxpayer (P) and the person who owned the property during 1980 (X). Therefore, ACRS is not available with respect to the remainder of the unadjusted basis of the property unless an overriding business purpose (or purposes) for the transaction is (or are) demonstrated. Further, even if an overriding business purpose (or purposes) for the transaction is (or are) demonstrated, the property will not be eligible for ACRS if the Internal Revenue Service establishes that one of the principal purposes of the transaction is to avoid the principles of paragraphs (1) and (4) of section 168(e).

Example (21). In 1980, E leases section 1245 class property to F. In 1982, at the termination of the lease, F purchases the property from E and continues to use it for more than 3 months after the sale. F is not entitled to use ACRS with respect to the property since, as part of the transaction, the user of the property did not change. The result in this example would be the same if, instead of selling the property to F, E sold the property to G, subject to F's lease, with F's use continuing for more than 3 months after the sale.

Example (22). In 1980, H and I each own section 1245 class property which they use in their respective businesses. In 1981, H and I swap titles to the property, with the parties continuing to use the same property as before the exchange. Neither H nor I is entitled to use ACRS with respect to the acquired property, since the user of the property does not change as part of the transaction.

Example (23). A owns section 1250 class property in 1980. In 1981, A sells the property to B who leases it back to A. B later sells the property to C, subject to A's lease. ACRS is not available with respect to the property in the hands of C since the taxpayer (C) leases the property to a person who owned it during 1980 (A).

Example (24). D owns section 1250 class property in 1980. In 1981, D transfers the property to E (an unrelated person) in exchange for property of a like kind in a transaction described in section 1031. Subsequently, D sells to and leases back from F the property acquired from E. Under § 1.168–4(d)(3)(iii), the property acquired from E is considered to have been owned by D in 1980. Therefore, ACRS is not available with respect to such property in the hands of F since the taxpayer (F) leases the property to a person who owned it during 1980(D). The result in this example would be the same if, instead of selling the property to F, D sold it to G (regardless of whether G leased it back to D), a person related to D under section 168(e)(4)(D) and § 1.168–4(d)(6).

Example (25). In 1980, Corporation X places in service section 1245 class property. In 1981, X merges into Corporation Y in a transaction described in section 368(a)(1)(A). Subsequently, Y sells to and leases back from Z the 1980 section 1245 class property acquired from X in the merger. Under § 1.168–4(d)(4)(vi), ACRS is not available with respect to the property in the hands of Z.

§ 1.168–5 Special rules.

(a) *Retirement-replacement-betterment (RRB) property*—(1) RRB replacement property placed in service before January 1, 1985. (i) Except as provided in subdivision (ii), the recovery deduction for the taxable year for retirement-replacement-betterment (RRB) replacement property (as defined in subparagraph (3) of this paragraph (a)) placed in service before January 1, 1985, shall be (in lieu of the amount determined under section 168(b)) an amount determined by applying to the unadjusted basis (as defined in § 1.168–2(d)) of such property the applicable percentage determined in accordance with the following table:

If the recovery year is:	And the year the property is placed in service is:			
	1981	1982	1983	1984
	The applicable percentage is:			
1	100	50	33	25
2		50	45	38
3			22	25
4				12

(ii) The provisions of subparagraph (1)(i) do not apply to any taxpayer who did not use the RRB method of depreciation under section 167 as of December 31, 1980. In such case, RRB replacement property placed in service by the taxpayer after December 31, 1980, shall be treated as other 5-year recovery property under section 168.

(2) *RRB replacement property placed in service after December 31, 1984.* RRB replacement property placed in service after December 31, 1984, is treated as other 5-year recovery property under section 168.

(3) *RRB replacement property defined.* RRB replacement property, for purposes of section 168, means replacement track material (including rail, ties, other track material, and ballast) installed by a railroad (including a railroad switching or terminal company) if—

(i) The replacement is made pursuant to a scheduled program for replacement,

(ii) The replacement is made pursuant to observations by maintenance-of-way personnel of specific track material needing replacement,

(iii) The replacement is made pursuant to the detection by a rail-test car of specific track material needing replacement, or

(iv) The replacement is made as a result of a casualty.

Replacements made as a result of a casualty shall be RRB replacement property only to the extent that, in the case of each casualty, the replacement cost with respect to the replacement track material exceeds $50,000.

(4) *Recovery of adjusted basis of RRB property as of December 31, 1980.* The taxpayer shall recover the adjusted basis of RRB property (as defined in section 168(g)(6)) as of December 31, 1980, over a period of not less than 5 years and not more than 50 years, using a rate of recovery consistent with any method described in section 167(b), including the method described in section 167(b)(2), switching to the method described in section 167(b)(3) at a time to maximize the deduction. For purposes of determining the recovery allowance under this subparagraph, salvage value shall be disregarded. Upon disposition of such RRB property, the usual rules of §§ 1.168–2(a)(2) and 1.168–6 or, at the taxpayer's election, the rules of § 1.168–2(h)(1) (relating to mass assets) will apply. The election to use the rules of § 1.168–2(h)(1) shall be made in accordance with the provisions of paragraph (e) of this section, except that the election shall be made on the taxpayer's income tax return for the first taxable year in which a disposition affected by the election occurs. If such return is filed on or before May 16, 1984 the election may be made on a return, as amended, filed within the time prescribed by law (including extensions) for filing the return for such taxable year, or on an amended return for such taxable year. An election under § 1.168–2(h)(1) with respect to RRB property shall apply throughout the applicable period of recovery and for all subsequent taxable years.

(5) *RRB property (which is not RRB replacement property) placed in service after December 31, 1980.* Property placed in service by the taxpayer after December 31, 1980, which is not RRB replacement property and which, under the taxpayer's method of depreciation as of December 31, 1980, would have been depreciated by the taxpayer under the RRB method, is treated as other property under section 168.

(b) *Transferee bound by transferor's period and method in certain transactions*—(1) *In general.* In the case of recovery property which is transferred in a transaction described in section 168(f)(10)(B) and subparagraph (2) of this § 1.168–5(b), the transferee shall be treated as the transferor for purposes of computing the recovery allowance under section 168(a) and § 1.168–2 with respect to so much of the basis of such property in the hands of the transferee as does not exceed its adjusted basis (determined before the application of the section 48(q)(2) adjustment, if any) in the hands of the transferor immediately before the transfer.

(2) *Transactions covered.* The provisions of subparagraph (1) of this paragraph (b) apply to the following transactions:

(i) A transaction described in—

(A) Section 332 (relating to distributions in complete liquidation of an 80 percent or more controlled subsidiary corporation) except where the basis of the assets distributed is determined under section 334(b)(2) (as in effect on August 31, 1982);

(B) Section 351 (relating to transfer to a corporation controlled by transferor);

(C) Section 361 (relating to exchanges pursuant to certain corporate reorganizations);

(D) Section 371(a) (relating to exchanges pursuant to certain receivership and bankruptcy proceedings);

(E) Section 374(a) (relating to exchanges pursuant to certain railroad reorganizations);

(F) Section 721 (relating to transfers to a partnership in exchange for a partnership interest); and

(G) Section 731 (relating to distributions by a partnership to a partner);

(ii) An acquisition (other than one described in subdivision (i) of this paragraph (2)) from a related person (as defined in section 168(e)(4)(D) and § 1.168–4(d)(6)). Property acquired from a decedent is not property acquired in a transaction included in this subdivision (ii); and

(iii) An acquisition followed by a leaseback to the person from whom the property is acquired. A leaseback does not exist for purposes of this subdivision (iii) if the former owner in turn subleases the property to another person.

(3) *Transactions excluded.* The provisions of section 168(f)(10)(A) and paragraph (b)(1) of this section do not apply—

(i) To recovery property which is transferred within 12 months after the property is placed in service by the transferor. The exception of this subdivision (i) shall not apply in the case of a transaction also described in section 168(f)(7) (*i.e.*, a transaction in which gain or loss is not recognized in whole or in part); or

(ii) To any transaction described in section 168(e)(4) and § 1.168–4(d).

(4) *Allowable deduction when transferor and transferee are calendar year taxpayers or have the same fiscal year.* When the transferor and transferee are calendar year taxpayers or when both the transferee and transferor have the same fiscal year—

(i) *Allowable deduction in year of transfer.* The allowable deduction for the recovery year in which the property is transferred shall be prorated between the transferor and the transferee on a monthly basis. For property other than 15-year real property, the transferor's deduction for such year is the deduction allowable to the transferor (determined without regard to this subdivision) multiplied by a fraction, the numerator of which is the number of months in the transferor's taxable year before the month in which the transfer occurs, and the denominator of which is the total number of months in the tranferor's taxable year. The remaining portion of the transferor's allowable deduction for the taxable year of the transfer (determined without regard to this subdivision) shall be allocated to the transferee. For property transferred in a transaction described in section 332, 361, 371(a), 374(a), or 731, the two preceding sentences shall be applied by disregarding that the taxable year of the transferor may end on the date of the transfer. In the case of 15-year real property, the transferor's deduction for the year of the transfer is the deduction allowable to the transferor under the disposition rules or § 1.168–2(a)(3) or (g)(4) (as the case may be). The remaining portion of the transferor's allowable deduction for the taxable year of the transfer (determined as if the transfer had not occurred) shall be allocated to the transferee. See subdivision (ii) of this paragraph (4) for a special rule applicable to certain nonrecognition transactions.

(ii) *Special rule for certain nonrecognition transactions occurring as of the close of business on the last day of any calendar month.* For purposes of this paragraph (b), in the case of a transaction described in section 168(f)(10)(B)(i) and paragraph (b)(2)(i) of this section, if the transfer occurs as of the close of business on the last day of any calendar month, such transfer is deemed to occur on the first day of the next calendar month.

(iii) *Transferee's allowable deduction for a taxable year subsequent to the year of transfer.* The allowable deduction to the transferee for taxable years subsequent to the year of transfer shall be determined as if the cost of the property were being recovered in the transferor's hands (*i.e.*, by multiplying the transferor's applicable recovery percentage for the current recovery year by the transferor's unadjusted basis in the transferred property).

Thus, for example, A, a calendar year taxpayer, purchases for $30,000 and places in service 15-year real property (other than low income housing) on February 15, 1981, and transfers the property to partnership B, a calendar year partnership, on March 15, 1981, in a transaction described in section 721. A does not elect to use the optional recovery percentages provided in § 1.168–2(c). For 1981, A's allowable deduction is $300 (*i.e.*, $30,000×.11×1/11). B's allowable deduction for 1981 and 1982 are $3,000 (*i.e.*, $3,300−$300) and $3,000 (*i.e.*, .10×$30,000), respectively.

(5) *Allowable deduction when transferor and transferee have different taxable years.* When the transferor and the transferee have different taxable years—

(i) *Transferor's allowable deduction.* The allowable deduction to the transferor for any taxable year in which the property is transferred shall be determined as under paragraph (b)(4)(i) and (ii) of this section.

(ii) *Transferee's allowable deduction.* In computing the transferee's allowable deduction for the year of transfer and for subsequent taxable years, the property shall similarily be treated as if its cost were being recovered by the transferor. However, the allowable deduction for any taxable year shall be allocated to the transferee based on the transferee's taxable year.

Thus, for example, B, a calendar year taxpayer, purchases for $30,000 and placed in service 15-year real property (other than low income housing) on February 15, 1981. B's allowable deduction for 1981 is $3,300 (*i.e.*, .11×$30,000). B transfers the property to C on March 15, 1982, C's taxable year is a fiscal year ending June 30. For 1982, B's allowable deduction is $500 (*i.e.*, $30,000×.10×2/12). For fiscal year 1982, C's allowable deduction is $1,000 (*i.e.*, the remainder of B's 1982 deduction ($2,500), allocated to the period March 1 through June 30, 1982 (4 months /10 months)). For fiscal year 1983, C's allowable deduction is $2,850 (*i.e.*, the remainder of B's allowable 1982 deduction ($1,500), plus $1,350 which is B's allowable 1983 deduction $2,700 ($30,000×.09) allocated to the period January 1 through June 30, 1983 (*i.e.*, $2,700×6 months/12 months).

(6) *Transferee's basis lower than transferor's.* If the adjusted basis of the property in the hands of the transferee is lower than the adjusted basis of the property in the hands of the transferor immediately before the transfer, see § 1.168–2(d)(3) for rules relating to redeterminations of basis.

(7) *Portion of basis in hands of transferee which exceeds transferor's adjusted basis.* The transferee shall treat as newly purchased ACRS property that portion of the basis of the

property in the hands of the transferee that exceeds the adjusted basis (determined before the application of the section 48(q)(2) adjusted, if any) of the property in the hands of the transferor immediately before the transfer. Thus, such excess shall be treated as recovery property placed in service by the transferee in the year of the transfer. The transferee may choose any applicable recovery period and recovery methods with repect to such excess and need not use the transferor's recovery period and recovery method.

(8) *Examples.* The application of this paragraph (b) may be illustrated by the following examples:

Example (1). In 1981, A, a calendar year taxpayer, purchases for $12,000 and places in service 3-year recovery property. Under section 168(b)(1) and § 1.168–2(b)(1), the recovery allowances for the first and second recovery years are $3,000 (*i.e.*, .25×$12,000) and $4,560 (*i.e.*, .38×$12,000), respectively. On February 15, 1983, A transfers the property to M Corporation, a calendar year taxpayer, in exchange for M's stock and $2,000 cash in a transaction described in section 351. A's recovery allowance for 1983 is $370 (*i.e.*,(½×.37)×$12,000). A's adjusted basis immediately before the exchange is $4,070 (*i.e.*, $12,000−$7,930). Assume A recognizes gain of $2,000 on the transaction. The basis attributable to the property under section 362 is determined to be $8,070 in the hands of M Corporation. Under the provisions of section 168(f)(10)(A) and this paragraph (b), M, the transferee, is treated the same as A, the transferor, with respect to $4,070, which is so much of M's basis as does not exceed A's adjusted basis. However, in computing the deduction allowable with respect to such basis, A's unadjusted basis ($12,000) is used. Thus, in the third recovery year, M may deduct $4,070 (*i.e.*, (1½×$12,000) under section 168(f)(10)(A) and § 1.168–5(b) (1) and (4). The remaining $2,000 of basis in the property is treated as newly purchased ACRS property placed in service in 1983. M may choose any applicable recovery period and recovery method with respect to such $2,000 and need not use A's recovery period and recovery method.

Example (2). In 1983, B, a calendar year taxpayer, purchases for $12,000 and places in service 5-year recovery property. Under section 46, B's investment tax credit for such property is $1,200. Under section 48(q)(1) and § 1.168–2(d)(2), B reduces his basis by $600 (*i.e.*, .50×$1,200). Therefore, B's unadjusted basis for purposes of section 168 is $11,400 (*i.e.*, $12,000−$600). Under section 168(b)(1) and § 1.168–2(b)(1), the recovery allowances for the first and second recovery years are $1,710 (*i.e.*, .15×$11,400) and $2,508 (*i.e.*, .22×$11,400), respectively. On February 15, 1985, B sells the property for $13,000 to C, a related party (as defined in section 168(e)(4)(D) and § 1.168–4(d)(6)) who is a calendar year taxpayer. B's recovery allowance for 1985 is $199.50 (*i.e.*, (½×.21)×$11,400). B's adjusted basis (determined without regard to the section 48(q)(2) adjustment), immediately before the sale is $8,982.50 (*i.e.*, $11,400−$4,417.50). The basis of the property under section 1012 is $13,000 in C's hands. Under the provisions of section 168(f)(10)(A) and this paragraph (b), C, the transferee, is treated the same as B, the transferor, with respect to $8,982.50, which is so much of C's basis as does not exceed B's adjusted basis. However, in computing the deduction allowable with respect to such basis, B's unadjusted basis ($11,400) is used. Thus, in the third recovery year, C may deduct $2,194.50 (*i.e.*, (1½×.21)×$11,400) under section 168(f)(10)(A) and § 1.168–5(b) (1) and (4). In the fourth and fifth recovery years, C may deduct $2,394 (*i.e.*, .21×$11,400) each year. The remaining basis of $6,017.50 (*i.e.*, $13,000−$6,982.50) in the property is treated as newly purchased ACRS property placed in service in 1985. C may choose any applicable period and recovery method with respect to such amount and need not use B's recovery period and recovery method.

Example (3). In 1981, D, a calendar year taxpayer, purchases for $12,000 and places in service 5-year recovery property. Under section 168(b)(1) and § 1.168–2(b)(1), the recovery allowances for the first and second recovery years are $1,800 (*i.e.*, .15×$12,000) and $2,640 (*i.e.*, .22×$12,000), respectively. On March 15, 1983, D transfers the property to N Corporation, a taxpayer having a fiscal year ending June 30, in exchange for N's stock and $2,000 cash in a transaction described in section 351. D's recovery allowance for 1983 is $420 (*i.e.*, (7½×.21)×$12,000). D's adjusted basis in the property immediately before the exchange is $7,140 (*i.e.*, $12,000−$4,860). Assume D recognizes gain of $2,000 on the transaction. The basis attributable to the property under section 362 is determined to be $9,140 in the hands of N Corporation. Under the provisions of section 168(f)(10)(A) and this paragraph (b), N, the transferee, is treated the same as D, the transferor, with respect to $7140, which is so much of N's basis as does not exceed D's adjusted basis. However, in computing the deduction allowable with respect to such basis, D's unadjusted basis ($12,000) is used. Thus, in the fiscal year 1983, N Corporation's allowance deduction with respect to the carryover basis is $840 (*i.e.*, (7½×.21)×$12,000). For fiscal years 1984 and 1985, N Corporation's allowable deduction is $2,520 (*i.e.*, [(9½×.21)+(9½×.21)]×$12,000). For fiscal year 1986, N Corporation's allowable deduction is $1,260 (*i.e.*, (5½×.21)×$12,000). The remaining $2,000 of basis in the property is treated as newly purchased ACRS property. N may choose any applicable recovery period and recovery method with respect to such basis and need not use D's recovery period and recovery methods. N elects to use the optional recovery percentage based on a 5-year recovery period with respect to the $2,000 of basis which is treated as newly purchased ACRS property. For fiscal years 1983, 1984, 1985, 1986, 1987, and 1988, N's recovery allowances with respect to such $2,000 basis are $200, $400, $400, $400, $400, and $200, respectively. If N's fiscal year ending June 30, 1983, were a short taxable year, the provisions of § 1.168–2(f) would apply with respect to the $2,000 considered newly purchased ACRS property, but not with respect to N's basis carried over from D.

Example (4). On May 1, 1981, E, a calendar year taxpayer, purchases for $100,000 and places in service 5-year recovery property. On April 1, 1982, E sells the property for $100,000 to F who leases it back to E. Under the provisions of paragraph (b)(3), section 168(f)(10)(A) and § 1.168–5(b)(1) do not apply. Thus, F may choose any applicable recovery period and recovery method with respect to its unadjusted basis of $100,000, with recovery beginning in 1982.

Example (5). Assume the same facts as in example (4) except that the property is sold to F and leased back to E on June 15, 1982. Assume further that F's fiscal year ends on July 31, 1982. For 1981, E's allowable deduction is $15,000 (*i.e.*, $100,000×.22×5½). E's adjusted basis in the propety immediately before the transfer is $75,833.33 (*i.e.*, $100,000−$24,166.67). Under the provisions of section 168(f)(10)(A) and this paragraph (b), F, the transferee, is treated the same as E, the transferor, with respect to $75,833.33 which is so much of F's basis as does not exceed E's adjusted basis. However, in computing the deduction allowable with respect to such basis, E's unadjusted basis ($100,000) is used. Thus, in the fiscal year ending July 31, 1982, F's allowable deduction with respect to the carryover basis is $3,666.66 (*i.e.*, 7½×.22×$100,000)). For fiscal year 1983, F's allowable deduction is $21,416.67 (*i.e.*, (5½×.22×$100,000)+(7½×.21×$100,000)). For fiscal years 1984 and 1985, F's allowable deductions are $21,000 (*i.e.*, (.21×5½×$100,000)+(.21×7½×$100,000)). For the fiscal year ending July 31, 1986, F's allowable deduction is $8,750 (*i.e.*, 5½×.21×$100,000). The remaining $24,166.67 of basis is treated as newly-purchased property, placed in service by F in 1981. F may choose any applicable recovery period and method for such amount and need not use E's recovery period and method.

Example (6). On January 1, 1981, G, a calendar year taxpayer, purchases for $1 million and places in service 15-year real property (other than low income housing). On July 15, 1988, G sells the property to H for $1.5 million, who leases it back to G. H's taxable year is a fiscal year ending September 30. G does not elect use of the optional percentages provided by § 1.168–2(c). For 1988, G's allowable deduction is $30,000 (*i.e.*, .06×$1,000,000×5½). H is treated the same as G with respect to $390,000, which is so much of the basis of the property in the hands of H as does not exceed its adjusted basis to G immediately before the transfer (*i.e.*, $1,000,000−$610,000). H's allowable deduction for its fiscal year ending September 30, 1988, with respect to such basis is $15,000 (*i.e.*, the remainder of G's allowable deduction for 1988 ($30,000) allocated to the period July 1 through September 30, 1988 (3 months/6 months)). For H's fiscal year ending September 30, 1989, H's allowable deduction is $60,000 (*i.e.*, the remainder of G's allowable 1988 deduction ($15,000) plus G's allowable 1989 deduction ($60,000) allocated to the period January 1 through September 30, 1989 (9 months/12 months) or $45,000). For H's fiscal year ending September 30, 1990, H's allowable deduction is $52,500 (*i.e.*, the remainder of G's

allowable deduction for 1989 ($15,000), plus G's allowable deduction for 1990 ($50,000), allocated to the period January 1 through September 30, 1990 (9 months/12 months), or $37,500). For H's fiscal year ending September 30, 1996, H is entitled to G's allowable deduction for 1995 ($50,000), allocated to the period October 1 through December 31, 1995 (3 months/12 months), or $12,500. The amount of H's basis in excess of G's adjusted basis (*i.e.*, $1,500,000 less $390,000, or $1,110,000) is treated as newly purchased ACRS property placed in service by H on July 15, 1988. H may use any applicable recovery period and method with respect to such basis. Thus, assuming H does not elect the optional percentages provided by § 1.168–2(c), H has an additional allowable deduction for its year ending September 30, 1988, of $33,000 (*i.e.*, .03 × $1,110,000). For its fiscal year ending September 30, 1989, H's allowable deduction with respect to such basis is $122,100 (*i.e.*, .11 × $1,110,000).

Example (7). On January 1, 1981, partnership P, a calendar year taxpayer, purchases for $1,000,000 and places in service 15-year real property (other than low income housing) which is the only asset of the partnership. At no time does the partnership have an election under section 754 in effect. P is owned equally by partners A, B, and C. On April 18, 1985, individual D purchases the interests of B and C for $1,500,000, thereby terminating the partnership under section 708(b)(1)(B). The deduction allowable with respect to the property for 1985 prior to the termination is $17,500 (*i.e.*, $1,000,000×.07×3/12). The partnership's adjusted basis in the property immediately before the termination is $592,500 (*i.e.*, $1,000,000−$407,500). Under the provisions of section 168(f)(10)(A) and § 1.168–5(b)(1), the new partnership which is created by A and D is treated the same as the old partnership with resepct to $592,500, which is so much of the adjusted basis of the property to the new partnership as does not exceed its adjusted basis to the old partnership. However, in computing the allowable deduction with respect to such basis the old partnership's unadjusted basis ($1,600,000) is used. Thus, for 1985, the deduction allowable to the new partnership with respect to such basis is $52,500 (*i.e.*, $1,000,000×.07×9/12) and for 1986 is $60,000 (*i.e.*, $1,000,000×.06). This result would be the same if D purchased a 95 percent interest in the partnership. Recovery of such basis will be completed in 1995. The new partnership's basis in the property in excess of that of the old partnership is taken into account under ACRS as if it were newly-purchased recovery property placed in service in 1985. Any applicable period and method may be used with respect to such basis.

Example (8). In 1981, Corporation X, a calendar year taxpayer, purchases for $100,000 and places in service 5-year recovery property. Under section 168(b)(1) and § 1.168–2(b)(1), X's recovery allowance for 1981 is $15,000. On March 15, 1982, X merges into Corporation Y in a transaction described in section 368(a)(1)(A) solely in exchange for Y stock. Y's taxable year is a fiscal year ending August 31. X's recovery allowance for 1982 is $3,666.66 (*i.e.*, 2/12 ×.22×$100,000). Under section 362, Y's basis in the property is the same as the property's adjusted basis in the hands of X immediately before the transfer. Therefore, for fiscal year 1982, Y's allowable deduction is $11,000 which is the remainder of X's allowable deduction for 1982, $18,333.34 (*i.e.*, $22,000−$3,666.66) allocated to the period March 1, 1982, through August 31, 1982 (*i.e.*, 6 months/10 months). For fiscal year 1983, Y's allowable deduction is $21,333.34 which is the remainder of X's allowable deduction for 1982 ($7,333.34) plus the deduction which would be allowable to X in 1983 (*i.e.*, $100,000×.21, or $21,000) allocated to the period January 1 through August 31, 1983 (*i.e.*, $21,000×8 months/12months or $14,000). In computing the deductions allowable to X and Y, the fact that X's taxable year ends on the date of the merger is disregarded.

(c) *Recovery property reacquired by the taxpayer*—(1) *In general.* Recovery property which is disposed of and then reacquired by the taxpayer shall be treated (for purposes of computing the allowable deduction under section 168(a) and § 1.168–2) as if such property had not been disposed of by the taxpayer. This paragraph (c)(1) generally applies only to such much of the taxpayer's adjusted basis in the reacquired property as does not exceed his adjusted basis at the time he disposed of the property.

(2) *Taxpayers to whom provisions apply.* The provisions of section 168(f)(10)(C) and paragraph (c)(1) of this section apply only to a taxpayer who, at the time of the disposition of the property; anticipates a reacquisition of the same property.

(3) *Exceptions.* Section 168(f)(10)(C) and paragraph (c)(1) of this section shall not apply—

(i) To recovery property which is disposed of during the same taxable year that the property is placed in service by the taxpayer, or

(ii) To any transaction described in section 168(e)(4) and § 1.168–4(d).

(4) *Taxpayer resumes prior recovery.* For purposes of paragraph (c)(1) of this § 1.168–5, the reacquiring taxpayer shall resume the recovery under § 1.168–2 applicable at the time of the disposition. For example, if the taxpayer originally uses a 3-year recovery period and the applicable percentages prescribed in section 168(b)(1) and § 1.168–2(b)(1), in the year of reacquisition the recovery allowance is computed by applying the applicable percentage for the year of disposition to the original unadjusted basis (*i.e.*, the unadjusted basis at the time the taxpayer originally placed the recovery property in service).

(5) *Portion of unadjusted basis in reacquired property which exceeds taxpayer's adjusted basis at the time of disposition.* That part of the unadjusted basis in the reacquired property which exceeds the taxpayer's adjusted basis in the property at the time of disposition shall be treated generally as newly purchased ACRS property. For property other than a building, any appropriate recovery period and method may be used with respect to such excess. For a building, the taxpayer must use the same recovery period and method with respect to such excess would qualify as a substantial improvement under § 1.168–2(e)(4) if paid or incurred by the taxpayer for an improvement if he had continued to own the building.

(6) *Unadjusted basis in reacquired property lower than taxpayer's adjusted basis at time of disposition.* If the unadjusted basis in the reacquired property is lower than the taxpayer's adjusted basis in the property at the time of disposition, see § 1.168–2(d)(3) for rules relating to redetermination of basis.

(7) *Examples.* The provisions of this paragraph may be illustrated by the following examples:

Example (1). In 1981 A, a calendar year taxpayer, purchases for $6,000 and places in service 3-year recovery property. A does not elect an optional recovery percentage under § 1.168–2(c). Under section 168(b)(1) and § 1.168–2(b)(1), A's recovery allowance for 1981 is $1,500 (*i.e.*, .25 x $6,000). A wants to change his method of cost recovery from the use of the accelerated percentages to the use of the optional straight line percentages. To effectuate this change, A sells the property to B in 1982 for $7,000 anticipating that B will sell the property back to A. B does not elect to use an optional recovery percentage. B's recovery deduction for 1982 is $1,750 (*i.e.*, .25 x $7,000). In 1983 A reacquires the property from B for $9,000. With respect to that portion of A's unadjusted basis in the reacquired property which does not exceed the adjusted basis at the time of disposition (*i.e.*, $4,500), A's recovery allowance for 1983 is determined as if A had not disposed of the property, that is, by applying the percentage (38 percent) applicable for the second recovery year (*i.e.*, 1982, the year of disposition) to the original unadjusted basis ($6,000). Thus, A's allowable deduction is $2,280 (*i.e.*, .38 x $6,000). That portion of the unadjusted basis in the reacquired property which exceeds A's adjusted basis at the time of disposition (*i.e.*, $4,500) is treated as newly purchased ACRS property placed in service in 1983. A may use any appropriate recovery period and method for such excess. Thus, if A uses the tables under § 1.168–2(b)(1), A's recovery allowance for 1983 also includes $1,125 (*i.e.*, .25 x $4,500). A's recovery allowances for 1984 are $2,220 (*i.e.*, .37 x $6,000) plus $1,710 (*i.e.*, .38 x $4,500). A's recovery allowance for 1985 is $1,665 (*i.e.*, .37 x $4,500).

Example (2). In 1981 C, a calendar year taxpayer, purchases for $15,000 and places in service 3-year recovery property and elects under § 1.168–2(c) the optional 5-year

recovery period using the straight line method. Under § 1.168–2(c)(4), C's recovery allowance for 1981 is $1,500 (*i.e.*, .10 x $15,000). C wants to change his method of cost recovery from the use of the optional straight line percentages to the use of the accelerated percentages. Consent to change is not granted to C under section 168(f)(4). Therefore, C tries to effectuate this change by selling the property to D in 1982 for $16,000 anticipating that D will sell the property back to C. D does not elect to use the optional recovery percentages. D's recovery allowance for 1982 is $4,000 (*i.e.*, .25 x $16,000). In 1983, C reacquires the property from D for $17,000. With respect to that portion of C's unadjusted basis in the reacquired property that does not exceed the adjusted basis at the time of disposition (*i.e.*, $13,500), C must use the optional recovery percentages originally elected. C's recovery allowances for 1983, 1984, 1985, 1986, and 1987 are determined as if C had not disposed of the property, that is, by applying the applicable percentages beginning in the second recovery year to the original unadjusted basis ($15,000). Thus, C's allowable deductions are $3,000, $3,000, $3,000, $3,000, and $1,500, respectively. With respect to that portion of the unadjusted basis in the reacquired property which exceeds C's adjusted basis at the time of disposition (*i.e.*, $3,500), C may use any appropriate recovery period and method. Cost recovery for this portion of the reacquired property begins in 1983 as if C placed the property in service in that year.

Example (3). On February 15, 1981, E, a calendar year taxpayer, purchases for $30,000 and places in service 15-year real property (other than low income housing) and does not elect the optional straight line percentages under § 1.168–2(c). Under § 1.168–2(b)(2), E's recovery allowance for 1981 is $3,300 (*i.e.*, .11 x $30,000). E wants to change his method of cost recovery from the use of the accelerated percentages to the use of the optional straight line percentages. To effectuate this change, E sells the property to F on February 15, 1983, anticipating that F will sell the property back to E. E's recovery allowance for 1982 is $3,000 (*i.e.*, .10 x $30,000) and for 1983 is $225 (*i.e.*, .09 x 1/12 x $30,000). In 1985 E reacquires the property from F for $28,000. With respect to that portion of E's unadjusted basis in the reacquired property which does not exceed the adjusted basis at the time of disposition (*i.e.*, $23,475) E's recovery allowance for 1985 is determined as if E had not disposed of the property, that is, by applying the percentage (9 percent) applicable for the third recovery year to the original unadjusted basis ($30,000). The recovery for the year of reacquisition must be adjusted to reflect the number of months the property is used by the taxpayer in that year as recovery property. Thus, if E reacquired the property in July, E's recovery allowance for 1985 would be $1,350 (*i.e.*, .09 x 6/12 x $30,000). The unrecovered allowance for the third recovery year, $1,125 ($30,00 x .09 x 5/12), must be recovered in the year following the last recovery year. With respect to that portion of the unadjusted basis at the time of disposition (*i.e.*, $4,525), E may not elect an optional recovery period. Cost recovery for this portion of the reacquired property will begin in 1985. Thus, if the reacquisition occurred in July, E's allowable deduction for 1985 with respect to this portion would be $271.50 (*i.e.*, .06 x $4,525).

(d) *Treatment of leasehold improvements*—(1) *In general.* Capital expenditures made by a lessee for the erection of buildings or the construction of other permanent improvements on leased property are recoverable through ACRS deductions or amortization deductions. If the recovery period of such improvements in the hands of the taxpayer is equal to or shorter than the remaining period of the lease, the allowances shall take the form of ACRS deductions under section 168. If, on the other hand, the recovery period of such property in the hands of the taxpayer would be longer than the remaining period of such lease, the allowances shall take the form of annual deductions from gross income in an amount equal to the unrecovered cost of such capital expenditures divided by the number of years remaining on the term of the lease. Such deductions shall be in lieu of ACRS deductions. See section 162 and the regulations thereunder.

(2) *Determination of recovery period.* For purposes of determining whether the recovery period is longer than the lease term, an election of an optional recovery period under section 168(b)(3) or (f)(2)(C) shall be taken into account.

(3) *Determination of the effect given to lease renewal options; related lessee and lessor.* Section 178 governs the effect to be given renewal options in determining whether the recovery period of the improvements exceeds the remaining period of the lease. Section 178 also provides rules for determining the period of a lease when the lessee and lessor are related. In making any determination under section 178, the "recovery period" of the improvement shall be taken into account in lieu of its useful life. See § 1.178–1.

(4) *Improvements made by lessor.* If a lessor makes an improvement to the leased property, the cost of the improvement must be recovered under the general provisions of section 168. The provisions of 168(f)(6) and this paragraph (d) do not apply to improvements made by the lessor.

(5) *Example.* The application of this paragraph may be illustrated by the following example:

Example. In 1981, A leases B's land for a term of 99 years. The lease provisions do not include any options to renew the lease. In 2034, A places in service 15-year real property which he built on the leased premises. Since the remaining term of the lease (46 years) is longer than any recovery period which A could select under section 168 (*i.e.*, 15, 35, or 45 years), A must recover the costs of the improvement under section 168.

(e) *Manner and time for making election*—(1) *Elections to which this paragraph applies.* The rules in this paragraph apply to the following elections provided under section 168:

(i) Section 168(b)(3)(A) and (B)(i) and § 1.168–2(c) (1) and (2), relating to election of optional recovery percentage with respect to property in the same recovery class (*i.e.*, all 3-year recovery property);

(ii) Section 168(b)(3)(A) and (B)(ii) and § 1.168–2(c) (1) and (3), relating to election of optional recovery percentage on a property-by-property basis for 15-year real property;

(iii) Section 168(d)(2)(A) and § 1.168–2(h), relating to election to account for mass assets in the same mass asset account and to include in income all proceeds realized on disposition;

(iv) Section 168(e)(2) and § 1.168–4(b), relating to election to exclude property from ACRS by use of a method of depreciation not expressed in a term of years;

(v) Section 168(f)(2)(C)(i) and (ii)(I) and § 1.168–2(g)(3) (i) and (ii), relating to election of optional recovery percentage for property used predominantly outside the United States in the same recovery class and with the same present class life (*i.e.*, 3-year recovery property with a present class life of 4 years); and

(vi) Section 168(b)(2)(C) (i) and (ii)(II) and § 1.168–2(g)(3) (i) and (iii), relating to election of optional recovery percentage on a property-by-property basis for 15-year real property used predominantly outside the United States.

Use by a taxpayer of a method of cost recovery described in section 168(b) (1) and (2) and § 1.168–2(b) (1) and (2) or section 168(f)(2) (A) and (B) and § 1.168–2(g) (1) and (2) (relating to the use of the accelerated percentages) is not an election for purposes of section 168 and this paragraph (e). Thus, no consent will be granted to change from such a method to another method described in section 168. The provisions of section 168(f)(4) and this paragrah (e) do not apply to elections which must be made under another section of the Code. Thus, for example, if a taxpayer wants to amortize property under section 167(k), the rules under section 167(k) apply with respect to such election and the revocation of such election.

(2) *Time for making elections.* Except as provided in subparagraph (4) or (5), the elections specified in subparagraph (1) of this paragraph (e) shall be made on the taxpayer's income tax return filed

for the taxable year in which the property is placed in service as recovery property (as defined in § 1.168–3(a)) by the taxpayer. If the taxpayer does not file a timely return (taking into account extensions of the time for filing) for such taxable year, the election shall be made at the time the taxpayer files his first return for such year. The election may be made on a return, as amended, filed within the time prescribed by law (including extensions) for filing the return for such taxable year. A separate election may be made for each corporation which is a member of an affiliated group (as defined in section 1504) and which joins in the making of a consolidated return in accordance with section 1502 and the regulations thereunder. See § 1.1502–77.

(3) *Manner of making elections.* Except as provided in subparagraph (5), Form 4562 is provided for making an elelction under this paragraph and for submitting the information required. The taxpayer must specify in the election—

(i) The name of the taxpayer;

(ii) The taxpayer's identification number;

(iii) The year the recovery property was placed in service (or, in the case of 15-year real property, the month the property was placed in service);

(iv) The unadjusted basis of the recovery property; and

(v) Such other information as may be required.

An election will not be rendered invalid so long as there is substantial compliance, in good faith, with the requirements of this subparagraph (3).

(4) *Special rule for qualified rehabilitated buildings.* In the case of any qualified rehabilitated building (as defined in section 48(g)(1)), an election under section 168(b)(3) and § 1.168–2(c) (relating to election of optional recovery percentage) may be made at any time before the date 3 years after the building was placed in service by the taxpayer.

(5) *Special rule for foreign taxpayers*—(i) *Foreign corporations subject to section 964.* In the case of a foreign corporation whose earnings and profits are determined under section 964, the elections specified in subparagraph (1) of this paragraph (e) shall be made at the time and in the manner provided in § 1.964–1(c). Except as provided in the regulations under section 952 and section 1248, any election made under this subdivision (i) shall apply with respect to the recovery property affected by the election from the taxable year in which such property is placed in service. Such election may be revoked only as provided in § 1.964–1(c)(7) and subparagraph (9) of this paragraph.

(ii) *Foreign taxpayers other than corporations subject to section 964.* In the case of a foreign taxpayer other than a corporation described in subdivision (i) of this subparagraph (5), the elections specified in subparagraph (1) of this paragraph (e) shall be made at the time and in the manner provided in subparagraphs (2) and (3) of this paragraph, except that the election shall be made on the taxpayer's income tax return for the later of the taxable year in which the property is placed in service as recovery property by the taxpayer or the first taxable year in which the taxpayer is subject to United States tax. Any election made under this subdivision (ii) shall apply with respect to the recovery property affected by the election from the taxable year in which such property is placed in service. Such election may be revoked only as provided in subparagraph (9) of this paragraph. No election may be made under this subdivision (ii) by a taxpayer who was required to, but did not make the election at the time and in the manner prescribed under subdivision (i). For purposes of this subdivision (ii)—

(A) "Foreign taxpayer" means a taxpayer that is not a United States person as defined in section 7701(a)(30), and

(B) "United States tax" means tax under subtitle A of the Code (relating to income taxes) other than sections 871(a)(1) and 881 thereof.

(6) *Failure to elect optional recovery percentages.* If a taxpayer does not elect to use the optional recovery percentages within the time and in the manner prescribed in subparagraphs (2), (3), (4), and (5) (or is not considered to have elected under § 1.168–2(c)(5)), the amount allowable under section 168 must be determined under section 168(b)(1) or (2) (or under section 168(f)(2) (A) or (B), where applicable) for the year in which the recovery property is placed in service and for all subsequent recovery years. Thus, no election to use such optional percentages may be made by the taxpayer in any other manner (*e.g.*, through a request under section 446(e) to change the taxpayer's method of accounting).

(7) *Individuals, partnerships, trusts, estates, and corporations.* Except as provided in subparagraph (8) of this paragraph with respect to transactions to which section 168(f)(10) (A) and (B) applies, and subject to other applicable provisions of the Code and regulations, if recovery property is placed in service by an individual, trust, estate, partnership, or corporation, an election under this paragraph shall be made by the individual, trust, estate, partnership, or corporation placing such property in service.

(8) *Transactions to which section 168(f)(10) (A) and (B) applies.* In a transaction to which sections 168(f)(10) (A) and (B) and paragraph (b) of this § 1.168–5 apply, the transferee is bound by the transferor's election (or nonelection) under this paragraph with repect to the property so acquired. The rule of the preceding sentence shall apply only with respect to so much of the basis of the property in the hands of the transferee as does not exceed the adjusted basis of the property in the hands of the transferor immediately before the transfer.

(9) *Revocation of election.* An election under this paragraph, once made, may be revoked only with the consent of the Commissioner. Such consent will be granted only in extraordinary circumstances. Requests for consent must be filed with the Commissioner of Internal Revenue, Washington, D.C. 20224.

(f) *Treatment of certain nonrecognition transactions*—(1) *Section 1033 transactions*—(i) *Allowable deduction for section 1033 converted property.* For any taxable year in which a transaction described in section 1033 occurs, the full year's allowable deduction shall be prorated on a monthly basis under the principles of paragraph (b)(4)(i) of this section. Thus, for example, on March 3, 1981, A, a calender year taxpayer, purchases for $25,000 and places in service 3-year recovery property. On August 14, 1981, the property is converted. A's 1981 allowable deduction for the converted property is $3,645.83 (*i.e.*, $25,000 × .25 × 7/12). If the property were 15-year real property (other than low income housing) A's 1981 allowable deduction for the converted property would be $1,250 (*i.e.*, $25,000 × .10 × 5/10).

(ii) *Allowable deduction for section 1033 replacement property in year of replacement and subsequent taxable years.* (A) Replacement property acquired in a transaction to which section 1033 applies, which qualifies as recovery property, shall be treated the same as the converted property. Thus, the replacement property shall be recovered over the remaining recovery period using the same recovery method as the converted property. The preceding sentence applies only with respect to so much of the basis (as determined under section 1033(b)) in the replacement property as does not exceed the adjusted basis in the converted property. Any excess of the unadjusted basis of the replacement property over the adjusted basis of the

converted property shall be treated as newly purchased ACRS property. Any excess of the adjusted basis of the converted property over the unadjusted basis of the replacement property shall be recovered under the principles of § 1.168–2(d)(3) (relating to redeterminations).

(B) The allowable deduction for the replacement property in the year of replacement (whether such replacement year is the same as the year of conversion or a later year) shall be based on the number of months the replacement property is in service as recovery property during the replacement year.

(*1*) If the number of months in the conversion year after the property is converted (including the month of conversion) is greater than or equal to the number of months the replacement property is in service during the replacement year, the allowable deduction for the replacement year shall equal—

$$(a/b\times c)\times d$$

where

a=number of months replacement property is in service as recovery property during replacement year,

b=12 or, in the case of 15-year real property converted in the first recovery year, the number of months in the taxpayer's taxable year after the converted property was placed in service by the taxpayer (including the month the property was placed in service),

c=applicable recovery percentage for converted property in year of conversion, and

d=unadjusted basis of converted property.

An allowance is permitted to the extent of any unrecovered allowance in the taxable year following the final recovery year. The term "unrecovered allowance" means the difference between—

(*i*) The sum of recovery allowances for the year of the conversion and the year of the replacement, and

(*ii*) The recovery allowance which would have been allowable in the year of conversion had such conversion not occurred.

In a year following the year of replacement, the allowable deduction shall be computed by multiplying the applicable recovery percentage for the next recovery year to the unadjusted basis of the converted property.

(*2*) If the number of months in the conversion year after the property is converted (including the month of conversion) is less than the number of months the replacement property is in service during the replacement year, the allowable deduction for the replacement year shall equal—

$$[a/b\times c)+(d/12\times e)]\times f$$

where

a=number of months in conversion year after the property is converted (including the month of conversion).

b=12 or, in the case of 15-year real property converted in the first recovery year, the number of months in the taxpayer's taxable year after the converted property was placed in service by the taxpayer (including the month the property was placed in service),

c=applicable recovery percentage for converted property in the year of conversion,

d=number of months replacement property is in service as recovery property during the replacement year minus a,

e=applicable recovery percentage for the next recovery year, and

f=unadjusted basis of converted property.

An allowance is permitted to the extent of any unrecovered allowance in the taxable year following the final recovery year. The term "unrecovered allowance" means the difference between—

(*i*) The sum of the recovery allowances for the year of conversion and the year of replacement, and

(*ii*) The sum of the recovery allowances which would have been allowable in the year of conversion and the next recovery year had such conversion not incurred.

In a year following the year of replacement, the allowable deduction shall be computed by multiplying the unadjusted basis of the converted property by the applicable recovery percentage for the second recovery year after the year of conversion.

(iii) *Examples.* The provisions of paragraph (f)(1) (i) and (ii) may be illustrated by the following examples:

Example (1). On January 1, 1981, A, a calendar year taxpayer, purchases for $40,000 and places in service recovery property which is 15-year real property (other than low income housing). Under section 168(b)(2) and § 1.168–2(b)(2), the allowable deductions for the first and second recovery years are $4,800 (*i.e.*, .12×$40,000) and $4,000 (*i.e.*, .10×$40,000). On March 3, 1983, A's property is involuntarily converted. Under the provisions of subdivision (i), A's 1983 allowable deduction for the converted property is $600 (*i.e.*, 2/12×.09×$40,000). On May 15, 1984, A acquires replacement property. A's unadjusted basis in the replacement property is the same as his adjusted basis in the converted property (*i.e.*, $30,600). Under the provisions of subdivision (ii), the replacement property is treated the same as the converted property with respect to such $30,600 of basis. However, in computing the allowable deduction with respect to such basis, A's unadjusted basis in the converted property ($40,000) is used. Thus, A's allowable deduction for 1984 is $2,400 (*i.e.*, 8/12×.09×$40,000). Under the provisions of subdivision (ii)(B)(*1*), the unrecovered allowance is $800 (*i.e.*, $3,600−$3,000), and it must be recovered in the taxable year following the final recovery year, that is, in the taxable year following the fifteenth recovery year. A's allowable deduction for 1985 is $3,200 (*i.e.*, .08×$40,000).

Example (2). Assume the same facts as in example (1) except that A acquires the replacement property on January 1, 1984. A's allowable deduction for 1984 is $3,533.33 (*i.e.*, [(10/12×.09)+(2/12×.08)]×$40,000). Under the provisions of subdivision (ii)(B)(*2*), the unrecovered allowance is $2,666.67 (*i.e.*, $6,800−$4,133.33), and it must be recovered in the taxable year following the final recovery year, that is, in the taxable year following the fifteenth recovery year. A's allowable deduction for 1985 is $2,800 (*i.e.*, .07×$40,000).

Example (3). Assume the same facts as in example (1) except that A acquires the replacement property on the same day as the conversion (March 3, 1983). A's allowable deduction for 1983 for the converted property is $600 (*i.e.*, (2/12×.09)×$40,000). A's allowable deduction for 1983 for the replacement property is $3,000 (*i.e.*, (10/12×.09)×$40,000). A's allowable deduction for 1984 is $3,200 (*i.e.*, $40,000×.08).

Example (4). On February 3, 1981, B, a calendar year taxpayer, purchases for $100,000 and places in service recovery property which is 15-year real property (other than low income housing). On June 25, 1981, B's property is involuntarily converted. On that same day B acquires replacement property with the same basis as the converted property. B's allowable deduction for 1981 for the converted property is $4,000 (*i.e.*, 4/11×11.×$100,000). B's allowable deduction for 1981 for the replacement property is $7,000 (*i.e.*, 7/11×.11×$100,000). B's allowable deduction for 1982 is $10,000 (*i.e.*, $100,000×.10).

(2) *Section 1031 transactions*—(i) *Allowable deductions.* In a transaction to which section 1031 applies, the allowable deduction for the exchanged and acquired properties shall be determined under the principles of subparagraph (1) of this paragraph. Similarly, any excess of the unadjusted basis of the acquired property over the adjusted basis of the exchanged property shall be treated as newly purchased ACRS property, and any excess of the adjusted basis of the exchanged property over the unadjusted basis of the acquired property shall be recovered under the principles of § 1.168–2(d)(3) (relating to redeterminations).

(ii) *Examples.* The provisions of paragraph (f)(2)(i) may be illustrated by the following examples:

Example (1). In 1981 A, a calendar year taxpayer, purchases for $12,000 and places in service recovery property which is 3-year recovery property. Under section 168(b)(1) and § 1.1.68–2(b)(1), the allowable deductions for the first and second recovery years are $3,000 (*i.e.*, .25×$12,000) and $4,560 (*i.e.*, .38×$12,000), respectively. On March 3, 1983,

A exchanges this property and $1,000 cash for property of a "like kind." A's 1983 allowable deduction for the exchanged property is $740 (*i.e.*, 1/12×.37×$12,000). A's basis in the acquired property is $4,700. The acquired property is treated the same as the exchanged property with respect to $3,700, which is so much of the bais in the acquired property as does not exceed the adjusted basis in the exchanged property. However, in computing the allowable deduction with respect to such basis, A's unadjusted basis in the exchanged property ($12,000) is used. Therefore, A's 1983 allowable deduction for the acquired property with respect to the substituted basis is $3,700 (*i.e.*, 10/12×.37×$12,000). The remaining $1,000 of basis in the acquired property is treated as newly purchased ACRS property placed in service in 1983. A may choose any applicable recovery period and recovery method for such basis and need not use the same recovery period and recovery method used for the exchanged property. If A uses the tables provided in section 168(b)(1) and § 1.168–2(b)(1), for 1983, 1984, and 1985, A is entitled to additional allowable deductions of $250, $380, and $370, respectively.

Example (2). On February 8, 1981, B, a calendar year taxpayer, purchases for $80,000 and places in service 15-year real property (other than low income housing). Under the provisions of section 168(b)(2) and § 1.168–2(b)(2), the allowable deduction for 1981 is $8,800 (*i.e.*, .11×$80,000). On March 3, 1982, B exchanges this property and $20,000 cash for property of a "like kind." B's 1982 allowable deduction for the exchanged property is $1,333.33 (*i.e.*, (2/12×.10×$80,000). B's basis in the acquired property is $89,866.67. The acquired property is treated the same as the exchanged property with respect to $69,866.67, which is so much of the basis in the acquired property as does not exceed the adjusted basis in the exchanged property. However, in computing the allowable deduction with respect to such basis, B's unadjusted basis in the exchanged property ($80,000) is used. Therefore, B's 1982 and 1983 allowable deductions for the acquired property with respect to the substituted basis are $6,666.66 (*i.e.*, 10/12×.10×$80,000) and $7,200 (*i.e.*, .09×$80,000), respectively. The remaining $20,000 of basis in the acquired property is treated as newly purchased ACRS property placed in service in March 1982. B may choose any applicable recovery period and recovery method for this basis and need not use the same period and method used for the exchanged property. If B uses the tables prescribed in § 1.168–2(b)(2), B's 1982 allowable deduction for this basis is $2,000 (*i.e.*, $20,000×.10).

(3) *Transfers of property by gift*—(i) *Allowable deductions.* With respect to recovery property which is transferred by gift (where the donee's basis is determined under section 1015), the allowable deduction for the taxable year of the gift shall be apportioned between the donor and donee under the principles of paragraphs (b) (including paragraph (b)(4)(ii)) and (f)(1) of this section, and the donee shall be treated as the donor for subsequent taxable years to the extent that the donee's basis is carried over from the donor. That portion of the donee's basis (as determined under section 1015) in the property that exceeds the donor's adjusted basis immediately preceding the gift shall be treated as newly purchased ACRS property. The donee may choose any applicable recovery period and recovery method with respect to such excess and need not use the donor's recovery period and recovery method.

(ii) *Example.* The provisions of paragraph (f)(3)(i) may be illustrated by the following example:

Example. In 1981, A, a calendar year taxpayer, purchases for $12,000 and places in service 5-year recovery property. Under section 168(b)(1) and § 1.168–2(b)(1), the allowable deduction for 1981 is $1,800 (*i.e.*, .15×$12,000). On March 15, 1982, A transfers the property by gift to B (another calendar year taxpayer) who continues to use it as recovery property. A's 1982 allowable deduction is $440 (*i.e.*, 2/12×.22×$12,000). Under section 1015, B's basis in the property is determined to be $11,000. In the hands of B, the donee, the property is treated the same as in the hands of the donor with respect to $9,760, which is so much of the carryover basis as does not exceed the donor's adjusted basis in the property immediately preceding the gift. However, in computing the allowable deduction with respect to such basis, the donor's unadjusted basis ($12,000) is used. Therefore, B's 1982 allowable deduction with respect to such basis is $2,200 (*i.e.*, 10/12×.22×$12,000). The remaining $1,240 (*i.e.*, $11,000−$9,760) of basis is treated as newly purchased ACRS property. B may choose any applicable recovery period and recovery method for such basis and need not use the donor's recovery period and recovery method.

(4) *Transfers of property by reason of death.* Where recovery property is transferred by reason of the death of the taxpayer, the allowable deduction for the taxpayer's taxable year which ends upon his death shall be governed by the rules applicable to short taxable years. See § 1.168–2(f).

§ 1.168–6 Gain or loss on dispositions.

(a) *General rule.* Except as provided in § 1.168–2(h) (relating to mass assets), where recovery property is disposed of during a taxable year, the following rules shall apply;

(1) If the asset is disposed of by sale or exchange, gain or loss shall be recognized as provided under the applicable provisions of the Code.

(2) If the asset is disposed of by physical abandonment, loss shall be recognized, in the amount of the adjusted basis of the asset at the time of the abandonment. For a loss of quality for recognition under this subparagraph (2), the taxpayer must intend to discard the asset irrevocably so that he will neither use the asset again, nor retrieve it for sale, exchange, or other disposition.

(3) If the asset is disposed of other than by sale or exchange or physicial abandonment (as, for example, where the asset is transferred to a supplies or scrap account), gain shall not be recognized. Loss shall be recognized in the amount of the excess of the adjusted basis of the asset over its fair market value at the time of the disposition. No loss shall be recognized upon the conversion of property to personal use.

(b) *Definitions.* (1) See § 1.168–2(l)(1) for the definition of "disposition," which excludes the retirement of a structural component of 15-year real property. Thus, no loss shall be recognized on such retirement and the unadjusted basis of the property under § 1.168–2(d) shall not be reduced. For example, if a taxpayer replaces the roof on 15-year real property, no loss is recognized upon the retirement of the replaced roof, and the unadjusted basis of the property continues to be recovered over the remaining period. For determination of the deductions allowable under section 168 with respect to the expenditures paid or incurred to replace the roof, see § 1.168–2(e).

(2) The adjusted basis of an asset at the time of its disposition is its unadjusted basis, as provided in § 1.168–2, adjusted as prescribed in § 1.1011–1.

Par. 3. Section 1.178–1 is amended as follows:

1. Paragraph (a) is amended by removing the term "section 167 or 611" and inserting "section 167, 168, or 611" in its place.

2. Paragraph (b) (1)(i) and (3) is amended by removing the term "estimated useful life" wherever it appears and by inserting "estimated useful life or, in the case of recovery property (as defined in section 168), the recovery period (including, where applicable, any optional recovery period under section 168 (b)(3) or (f)(2)(C))" and removing the term "section 167" in the one place it appears in paragraph (b)(3) and by inserting "section 167 or 168", in its place.

3. Paragraph (b)(2) is amended by removing the term "(or depreciation)" and by inserting "(or depreciation under section 167 or accelerated cost recovery under section 168)" in lieu thereof.

4. Paragraph (d)(1)(i) is amended by removing the term "remaining estimated useful life" and by inserting "remaining estimated useful life or, in the case of recovery property (as defined in section 168), the recovery period (including, where applicable, any optional recovery

period under section 168 (b)(3) or (f)(2)(C)) in its place.

5. Paragraph (b) (6) is amended by adding two examples immediately after example (5), which read as follows:

§ 1.178–1 Depreciation or amortization of improvements on leased property and cost of acquiring a lease.

* * * * *

(b) *Determination of amount of deduction.* * * *

(6) * * *

Example (6). Lessee C, a calendar year taxpayer, constucts a building on land leased from lessor D. The construction is completed and the building is placed in service on January 1, 1984, at which time C has 8 years remaining on the lease with no options to renew. On January 1, 1988, D grants C an option to renew the lease for a 10-year period. As of January 1, 1988, the date the renewal option is granted, section 178(a) and paragraph (b)(1) of this section become applicable, since the portion of the term of the lease remaining upon completion of the building (8 years) is less than 60 percent of any recovery period applicable to the building (60 percent of the shortest recovery period (15 years) is 9 years). As of January 1, 1988, the term of the lease shall be treated as including the remaining portion of the original lease (4 years) and the 10-year renewal, or 14 years, unless C can establish that, as of the close of 1988, it is more probable that the lease will not be renewed than that it will be. In such case, since the term of the lease as of January 1, 1988 (14 years) is less than the ACRS recovery period, a deduction is not allowed under section 168 with respect to such building.

Example (7). The facts are the same as in example (6), except that the option to renew is for 15 years. If, as of the close of 1988, C cannot establish that it is more probable that the lease will not be renewed than that it will be, the term of the lease as of January 1, 1988, will be 19 years. Since the term of the lease would be longer than the ACRS recovery period (unless a 35- or 45-year optional recovery period were desired), the provisions of section 168 will be applicable with respect to this building. For purposes of section 168, C is considered as having placed the building in service on January 1, 1988, with a 15-year recovery period extending from that time. C's unadjusted basis for purposes of section 168 is the adjusted basis in the building as of January 1, 1988.

Par. 4. Paragraph (a)(3) of § 1.1016–3 is redesignated as (a)(4), and a new paragraph (a)(3) is added to read as follows:

§ 1.1016–3 Exhaustion, wear and tear, obsolescence, amortization, and depletion for periods since February 28, 1913.

(a) *In general.* * * *

(3) *Adjustment for amount allowable where no cost recovery deduction claimed under section 168.* (i) Except as provided in subdivision (iii) of this subparagraph (3), if the taxpayer has not taken a deduction under section 168 (hereinafter referred to as ACRS deduction) either in the taxable year or for any prior taxable year, the adjustments to basis of the property for the ACRS deduction allowable shall be determined by using the recovery method described in section 168(b) (1) or (2) or, where applicable section 168(f)(2) (A) or (B).

(ii) If the taxpayer with respect to any recovery property has properly taken an ACRS deduction under one of the methods provided in section 168 for one or more years but has omitted the deduction in other years, the adjustment to basis for the ACRS deduction allowable in such a case will be the deduction under the method which was used by the taxpayer with respect to that property. Thus, for example, A acquired property in 1981 for which he properly elected to compute his ACRS deduction by use of one of the optional straight line percentages described in section 168(b)(3) for the first recovery year but did not take a deduction in the second and third years of the asset's recovery period. The adjustment to basis for the ACRS deduction allowable for the second and third recovery years will be computed using the optional straight line percentages which were elected.

(iii) If the taxpayer has made an election under § 1.168–5(e)(5) (relating to special election rules for foreign taxpayers) to use an optional straight line percentage with respect to recovery property, the adjustments to basis of the property for the ACRS deduction allowable shall be determined pursuant to that election.

(iv) The provisions of subdivision (iii) of this subparagraph (3) may be illustrated by the following example:

Example. In 1981, Corporation F (a calendar year taxpayer) purchases for $100,000 and places in service in a foreign country 5-year recovery property which has a present class life of 7.5 years. F is not subject to United States income tax, other than under section 881, and is not required to compute earnings and profits under section 964. On January 1, 1983, F begins engaging in a trade or business in the United States (making it subject to tax under section 882), and uses the property in the United States in connection with that trade or business. Under § 1.168–5(e)(5)(ii), F may elect to use the optional recovery percentages with respect to the property placed in service in 1981 by submitting the requisite information on its income tax return for the taxable year beginning in 1983. That election will apply with respect to such property from the taxable year in which it is placed in service. Thus, if F elects the optional recovery percentages based on a 12-year recovery period under § 1.168–2(g)(3), the allowable ACRS deductions for 1981 and 1982 would be $4,000 (*i.e.*, .04×$100,000) and $9,000 (*i.e.*, .09×$100,000) respectively, and F's adjusted basis in the property on January 1, 1983, would be $87,000 (*i.e.*, $100,000−$13,000). For the deduction allowable to F with respect to the property in 1983, see § 1.168–2 (j)(4)(i) and (j)(6) (relating to change in status).

* * * * *

Par. 5. Section 1.1016–4 is amended by adding a new sentence at the end of paragraph (b) thereof, to read as follows:

§ 1.1016–4 Exhaustion, wear and tear, obsolescence, amortization, and depletion; periods during which income was not subject to tax.

* * * * *

(b) * * * For purposes of this section, the amount that would have been allowable as a deduction shall be determined without reference to section 168.

Roscoe L. Egger, Jr.,

Commissioner of Internal Revenue.

[FR Doc. 84–3922 Filed 2–9–84; 11:10 am]

BILLING CODE 4830–01–M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 920

Public Comment Period and Opportunity for Public Hearing on Proposed Modifications to the Maryland Permanent Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Proposed rule.

SUMMARY: OSM is announcing procedures for a public comment period and hearing on the substantive adequacy of certain program amendments submitted by the State of Maryland as modifications to its permanent regulatory program under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The Maryland submission contains revisions to the State's regulations at Sections .07 and .40 under the code of Maryland Regulations (COMAR) 08.13.09 concerning permitting requirements and performance standards for coal exploration activities and inspection and enforcement procedures.

This notice sets forth the times and locations that the Maryland program and proposed amendments are available for public inspection, the comment period during which interested persons

may submit written comments on the proposed amendments, and the procedures that will be followed regarding the public hearing.

DATE: Written comments must be received on or before 4:00 p.m. on March 19, 1984 to be considered. A public hearing on the proposal will be held upon request from 7:00 p.m. to 9:00 p.m. on February 21, 1984, at the Maryland Bureau of Mines listed below under "**ADDRESSES**."

Any person interested in making an oral or written presentation at the hearing should contact Mr. David H. Halsey at the OSM Charleston field Office by the close of business on February 13, 1984. If no one has contacted Mr. Halsey to express an interest in participating in the hearing by that date, the hearing will not be held. If only one person has so contacted Mr. Halsey, a public meeting, rather than a hearing, may be held and the results of the meeting included in the Administrative Record.

ADDRESSES: Written comments should be mailed or hand delivered to: Office of Surface Mining Reclamation and enforcement, Charleston Field Office, Attention: Maryland Administrative Record, 603 Morris Street, Charleston, West Virginia 25301, Telephone: (304) 347–7158.

The public hearing will be held upon request at: Maryland Bureau of Mines 69 Hill Street, Frostburg, Maryland 21532.

See "**SUPPLEMENTARY INFORMATION**" for addresses where copies of the Maryland program, the amendments and the administrative record on the Maryland program are available. Each requestor may receive, free of charge, one single copy of the proposed program amendments by contacting the OSM Charleston Field Office listed above.

FOR FURTHER INFORMATION CONTACT: David H. Halsey, Director, Charleston Field Office, Office of Surface Mining Reclamation and Enforcement, 603 Morris Street, Charleston, West Virginia 25301, Telephone: (304) 347–7158.

SUPPLEMENTARY INFORMATION: Copies of the proposed modifications, the Maryland program, and the administrative record on the Maryland program are available for public review and copying at the OSM offices and the office of the State regulatory authority listed below, Monday through Friday, 9:00 a.m. 4:00 p.m., excluding holidays.

Office of Surface Mining Reclamation and Enforcement, Charleston Field Office, 603 Morris Street, Charleston, West Virginia 25301, Telephone: (304) 347–7158

Office of Surface Mining Reclamation and Enforcement, 1100 "L" Street, NW., Room 5315, Washington, D.C. 20240, Telephone: (202) 343–7896

Maryland Bureau of Mines, 69 Hill Street, Frostburg, Maryland 21532, Telephone: (301) 689–4136

In addition, copies of the proposed amendments are available for inspection and copying during regular business hours at the following location: Office of Surface Mining Reclamation and Enforcement, Morgantown Area Office, 75 High Street, Room 229, Morgantown, West Virginia 26505, Telephone: (304) 291–4004.

On March 3, 1980, OSM received a proposed regulatory program from the State of Maryland. This proposed program was conditionally approved by the Secretary of the Interior on December 1, 1980 (45 FR 79430–79451). On February 18, 1982, following submission of program amendments to satisfy the conditions of approval, the Maryland program was fully approved by the Secretary (47 FR 7214–7217).

On January 13, 1984, the State of Maryland submitted proposed statutory and regulatory revisions to its approved program (Administrative Record No. MD 229). The Maryland submission contains revisions to the State's regulations at Sections .07 and .40 under the Code of Maryland Regulations (COMAR) 08.13.09 concerning permitting requirements and performance standards for coal exploration activities and inspection and enforcement procedures concerning the following: right-of-entry, public participation, notices of violation and cease and desist orders. It also contains revisions to Sections 7–506, 7–507, 7–514.6 and 7–907 of Title 7 of the Annotated Code of Maryland including provisions (1) requiring that an operator, rather then the department, publish notice of the release of a bond for a permitted strip mine; (2) authorizing the department to enter on private property for purposes of access to any open-pit mining or prospecting operation, subject to certain notice to property owners and subject to judicial order where necessary; (3) requiring that the Bureau of Mines shall reimburse a property owner for any damages resulting from such entry on private property; (4) authorizing the department to extend beyond 90 days the abatement time scheduled for a strip mining violaton; and (5) altering requirements concerning prospecting for coal—

—to provide for written approval of the Bureau only where prospecting will result in substantial disturbance of the land or harm to water supplies or water quality, subject to certain bond requirements,

—to place a certain limit on the amount of coal which may be removed during prospecting,

—to establish certain procedures where written approval is necessary, and

—to protect trade secrets or confidential commercial or financial information submitted by a prospector.

The State's submission also includes a statutory change to provide that the department is authorized to place a lien on all abandoned mine reclamation projects conducted under Title 7 and is precluded from placing a lien on such projects under certain conditions. As this change pertains to the State's approved abandoned mine land program under Title IV of SMCRA rather than the State's regulatory program, OSM will not be considering it under this rulemaking.

In accordance with the provisions of 30 CFR 732.15 and 30 CFR 732.17, OSM is seeking comments from the public on the adequacy of the proposed modifications. Comments should address the issues of whether the enforcement procedures portions of the proposed amendments are the same or similar as OSM's and whether the other portions of the proposed amendments are no less effective than OSM's regulations. Comments on the proposed amendments must be submitted prior to the close of the public comment period on March 19, 1984.

Additional Determinations

1. *Compliance with the National Environmental Policy Act:* The Secretary has determined that, pursuant to Section 702(d) of SMCRA, 30 U.S.C. 1292(d), no environmental impact statement need be prepared on this rulemaking.

2. *Executive Order No. 12291 and the Regulatory Flexibility Act:* On August 28, 1981, the Office of Management and Budget (OMB) granted OSM an exemption from Sections 3, 4, 7, and 8 of Executive Order 12291 for actions directly related to approval or conditional approval of State regulatory programs. Therefore, for this action, OSM is exempt from the requirement to prepare a Regulatory Impact Analysis and this action is exempt from regulatory review by OMB.

The Department of the Interior has determined that this rule would not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This rule would not impose any new requirements; rather, it would ensure that existing requirements

established by SMCRA and the Federal rules would be met by the State.

3. *Paperwork Reduction Act:* This rule does not contain information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3507.

List of Subjects in 30 CFR Part 920

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

Authority: Pub. L. 95–87, Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201 *et seq.*).

Dated: February 13, 1984.

James R. Harris,

Director, Office of Surface Mining.

[FR Doc. 84–4274 Filed 2–15–84; 8:45 am]

BILLING CODE 4310–05–M

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30 CFR Part 935

Public Comment Procedures and Opportunity for Public Health on Proposed Amendment to the Ohio Permanent Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Proposed rule.

SUMMARY: OSM is announcing procedures for a public comment period and for requesting a public hearing on the substantive adequacy of a program amendment submitted by Ohio as an amendment to the State's permanent regulatory program (hereinafter referred to as the Ohio program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA).

The amendment consists of proposed changes to the Ohio regulations concerning the prime farmland investigation information required in the permit application. This notice sets forth the times and locations that the Ohio program and proposed amendment will be available for public inspection, the comment period during which interested persons may submit written comments on the proposed amendment, and the procedures that will be followed for the public hearing.

DATES: Written comments from the public must be received by 4:30 p.m., March 19, 1984 to be considered in the decision on whether the proposed amendment should be approved and incorporated into the Ohio regulatory program. A public hearing on the proposed amendment will be held only if requested. If no one requests a public hearing, none will be held. If only one person requests a public hearing, a public meeting, rather than a hearing, may be held and the results of the meeting included in the Administrative Record. If a hearing is requested and scheduled, a notice announcing the time and location of the hearing will be announced in the **Federal Register.** Requests for a public hearing should be directed to Ms. Nina Rose Hatfield at the address or telephone number listed below by 4:00 p.m., March 2, 1984.

ADDRESSES: Written comments and requests for a hearing should be directed to Ms. Nina Rose Hatfield, Field Office Director, Columbia Field Office, Office of Surface Mining, Room 202, 2242 South Hamilton Road, Columbus, Ohio 43227; Telephone: (614) 866–0578.

Copies of the Ohio program, the proposed modifications to the program, a listing of any scheduled public meetings, and all written comments received in response to this notice will be available for public review at the OSM Field Office listed above and at the OSM Headquarters Office and the Office of the State regulatory authority listed below, during normal business hours Monday through Friday, excluding holidays.

Office of Surface Mining, Room 5315, 1100 "L" Street, NW., Washington, D.C. 20240

Ohio Division of Reclamation, Building B, Fountain Square, Columbus, Ohio 43224.

FOR FURTHER INFORMATION CONTACT: Ms. Nina Rose Hatfield, Field Office Director, Columbus Field Office, Office of Surface Mining, Room 202, 2242 South Hamilton Road, Columbus, Ohio 43227; Telephone: (614) 866–0578.

SUPPLEMENTARY INFORMATION:

I. Background

The Ohio program was approved effective August 16, 1982, by notice published in the August 10, 1982 **Federal Register** (47 FR 34688). The approval was conditioned on the correction of 28 minor deficiencies contained in 11 conditions. Information pertinent to the general background, revisions, modifications, and amendments to the Ohio program submission, as well as the Secretary's findings, the disposition of comments, and a detailed explanation of the conditions of approval of the Ohio program can be found in the August 10, 1982 **Federal Register.**

II. Submission of Revisions

By letter dated January 30, 1984, Ohio submitted regulatory amendments to revise the prime farmland investigation requirement in the permit application.

Specifically, the proposed revision is to paragraph (K) of Ohio rule 1501:13–4–13 relating to prime farmland investigation. Paragraph (K) is revised to substitute the phrase "area proposed to be affected by surface operations and facilities" for the phrase "permit and adjacent area."

The full text of the proposed program amendment submitted by Ohio is available for public inspection at the addresses listed above. The Director now seeks public comment on whether the proposed amendment is no less effective than the Federal regulations. If approved, the amendment will become part of the Ohio program.

III. Procedural Requirements

1. *Compliance with the National Environmental Policy Act:* The Secretary has determined that, pursuant to Section 702(d) of SMCRA, 30 U.S.C. 1292(d), no environmental impact statement need be prepared on this rulemaking.

2. *Executive Order No. 12291 and the Regulatory Flexibility Act:* On August 28, 1981, the Office of Management and Budget (OMB) granted OSM an exemption from Sections 3, 4, 7, and 8 of Executive Order 12291 for actions directly related to approval or conditional approval of State regulatory programs. Therefore, this action is exempt from preparation of a Regulatory Impact Analysis and regulatory review by OMB.

The Department of the Interior has determined that this rule would not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This rule would not impose any new requirements; rather, it would ensure that existing requirements established by SMCRA and the Federal rules would be met by the State.

3. *Paperwork Reduction Act:* This rule does not contain information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3507.

List of Subjects in 30 CFR Part 935

Coal mining, Intergovernmental relations; Surface mining, Underground mining.

Accordingly, 30 CFR Part 935 is proposed to be amended as set forth herein.

Authority: Pub. L. 95–87, 30 U.S.C. 1201 *et seq.*

Dated: February 13, 1984.

James R. Harris,

Director, Office of Surface Mining.

[FR Doc. 84–4273 Filed 2–15–84; 8:45 am]

BILLING CODE 4310–05–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD 08-83-02]

Drawbridge Operation Regulations; Louisiana

AGENCY: Coast Guard, DOT.

ACTION: Withdrawal of proposed rule.

SUMMARY: This document withdraws a proposed rule regarding a change to the regulations (33 CFR 117.540) for nine Louisiana Department of Transportation and Development (LDOTD) drawbridges. This proposal is being withdrawn because of major changes needed in the proposed rule. The changes became apparent as a result of substantive comments received from concerned parties.

FOR FURTHER INFORMATION CONTACT: Perry F. Haynes, Bridge Administrator, Eighth Coast Guard District, Hale Boggs Federal Building, 500 Camp Street, New Orleans, Louisiana 70130, (504) 589-2965.

SUPPLEMENTARY INFORMATION: In the June 9, 1983 issue of the **Federal Register** (48 FR 26625), the Coast Guard published a proposed rule (Docket No. CGD 08-83-02) regarding changes to the regulations for nine LDOTD drawbridges.

It was proposed that:

(1) At least four hours advance notice be given for an opening of the draw at all times, for the:

Amite River, mile 6.0, LA 22 swing bridge at Clio.

Belle River, mile 43.5, LA 70 pontoon bridge near Belle River.

Lower Grand River, mile 25.9, LA 977 pontoon bridge at Pigeon.

Pierre Pass, mile 1.0, LA 70 swing bridge at Pierre Part.

Plaquemine Bayou, mile 6.5, Spur 3066 swing bridge at Indian Village.

West Pearl River, mile 7.9, U.S. 90 lift bridge near Pearlington.

(2) At least four hours advance notice be given for an opening of the draw from 9:00 p.m. to 5:00 a.m. and to open on signal at all other times, for the:

Kelso Bayou, mile 0.7, LA 27 swing bridge at Hackberry.

Mermentau River, mile 7.1, LA 82 swing bridge at Grand Chenier.

(3) At least four hours advance notice be given for an opening of the draw from 6:00 p.m. to 6:00 a.m. and to open on signal at all other times, for the Superior Oil Company Canal, mile 6.3, LA 82 swing bridge in Cameron Parish.

Interested persons were given until July 25, 1983 to comment. This proposal was also disseminated by Commander, Eighth Coast Guard District Public Notice No. CGD8-9-83 dated June 15, 1983.

Many of the comments received in response to the notices addressed substantive issues regarding the proposed rule. After review of these comments, several areas of the proposed rule were identified as requiring significant modification before the LDOTD request for changes to the existing drawbridge regulations could be pursued further. In light of the foregoing, the Coast Guard has decided to withdraw the proposed rule.

List of Subjects in 33 CFR Part 117

Bridges.

Accordingly, the proposed rule published in the **Federal Register** (48 FR 26625) on June 9, 1983 is hereby withdrawn.

(33 U.S.C. 499, 49 U.S.C. 1655(g)(2); 49 CFR 1.46(c)(5), 33 CFR 1.05-1(g)(3))

Dated: February 6, 1984.

W. H. Stewart,

Rear Admiral, U.S. Coast Guard, Commander, Eighth Coast Guard District.

[FR Doc. 84-4276 Filed 2-15-84; 8:45 am]

BILLING CODE 4910-14-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 716

[OPTS-84008; BHFRL 2497-3]

Health and Safety Data Reporting Submission of Lists and Copies of Health and Safety Studies

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed Rule.

SUMMARY: The Environmental Protection Agency is proposing the addition of five chemicals to the list of chemical substances and designated mixtures subject to the requirements of the Health and Safety Data Reporting Rule (40 CFR Part 716), which was promulgated under the authority of section 8(d) of the Toxic Substances Control Act (TSCA), 15 U.S.C. 2607(d). The chemicals are: 2-methylpyridine, 3-methylpyridine, 4-methylpyridine, methylpyridine, and maleic anhydride. Section 8(d) would require manufacturers and processors of these chemicals to submit lists and copies of unpublished health and safety studies to EPA. The information received by the Agency will be used to support a more detailed assessment of the health and environmental risks of these chemicals.

DATE: Comments on this proposed rule must be submitted on or before March 19, 1984.

ADDRESSES: Written comments should bear the document control number OPTS-84008, and should be submitted to the following address: TSCA Public Information Office (TS-793), Office of Toxic Substances, Environmental Protection Agency, Rm. E-108, 401 M St., SW., Washington, D.C. 20460.

All written comments filed under this proposal will be available for public inspection in Rm. E-107 at the address given above from 8:00 a.m. to 4:00 p.m. Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT: Jack P. McCarthy, Director, TSCA Assistance Office (TS-799), Office of Toxic Substances, Environmental Protection Agency, Rm. E-543, 401 M St., SW., Washington, D.C. 20460, Toll free: (800-424-9065), In Washington, D.C.: (554-1404), Outside the USA: (Operator-202-554-1404).

SUPPLEMENTARY INFORMATION: OMB Control Number: 2070-0004.

I. Legal Authority

Section 8(d) of TSCA authorizes the Administrator of the Environmental Protection Agency to require chemical manufacturers and processors to submit lists and copies of health and safety studies on chemical substances and mixtures. Under the authority of section 8(d), EPA issued regulations in the **Federal Register** of September 2, 1982 (46 FR 38780), requiring the submission of unpublished studies for chemicals that are listed in the rule. The rule established standardized reporting requirements with regard to health and safety studies, and provides for amendment of the list of chemicals subject to the rule. EPA may add chemicals to the rule in order to gather data for the assessment of those chemicals.

The EPA Administrator has delegated his authority to approve certain section 8(d) reporting requirements to the Assistant Administrator for Pesticides and Toxic Substances. This rule falls within that delegation of authority.

II. Reporting Requirements

This rule proposes that five chemicals be added to the list of chemicals subject to section 8(d). The chemical names of these substances are as follows:

1. 2-Methylpyridine (CAS No. 109-06-8).

2. 3-Methylpyridine (CAS No. 108-99-6).

3. 4-Methylpyridine (CAS No. 108–89–4).

4. Methylpyridine (CAS No. 1333–41–1).

5. Maleic anhydride (CAS No. 108–31–6).

Manufacturers (including importers) and processors of these chemicals would be required to provide EPA with lists and copies of any unpublished health and safety studies on the chemicals, subject to the provisions of 40 CFR Part 716, Subpart A. A company that manufactures or processes a methyl pyridine but is unable to identify the particular insomer that it produces would still be required to submit health and safety data for unspecified methylpyridine (CAS No. 1333–41–1). The same requirement would apply to a company that produces a combination of two or more methyl pyridine isomers.

III. Agency Objectives

A. Methyl Pyridines

EPA first became concerned with methyl pyridines through its Current Awareness Program, which involves an ongoing survey of current published literature on chemical substances. The Agency found data indicating that methyl pyridines are potentially toxic to humans. From this starting point, EPA began an initial evaluation of the health and environmental risks posed by methyl pyridines as part of its ongoing Existing Chemicals Assessment Program. In doing so, EPA utilized additional data from published literature and other Agency sources.

However, the Agency has found that methyl pyridines have not been extensively studied by the scientific community. EPA has little data on their potential for adverse health and environmental effects. The limited information that so far has been available to EPA indicates that these chemicals represent a potential health and environmental risk of unknown magnitude. It is necessary for the Agency to obtain more information on methyl pyridines in order to adequately assess the degree of risk posed by these chemicals. EPA therefore has determined that the current lack of data is sufficient justification for this proposed information-gathering rule.

In terms of the potential health effects of methyl pyridines, toxicological studies currently available to EPA indicate that their primary impact is likely to be on the central nervous system, particularly at high levels of concentration. At moderate levels of concentration, methyl pyridines may cause irritation and depression of the central nervous system. Existing studies indicate that methyl pyridines also may have neurotoxic effects at low concentrations, but the current data are inconclusive on this point. Methyl pyridines are easily absorbed into the body through several routes. They may accumulate over time in body tissue, and because of their toxicity may have adverse effects on a number of body functions. Other possible toxic effects of methyl pyridines, such as carcinogenicity, mutagenicity, teratogenicity, and reproductive effects, are not known at this time, according to data available to EPA.

EPA also has very little data about the possible environmental effects of methyl pyridines. It is known, however, that these chemicals are extremely water soluble, and although they are biodegradable, the rate of degradation is slow. These compounds are capable of being absorbed into the soil, penetrating to groundwater supplies and concentrating in aquatic systems. Methyl pyridine isomers have been detected in groundwater. In addition, these isomers have been detected in surface water and process water at oil shale and tar and pitch plants. They have also been found in effluents from coke oven operations, coal gasification processes, chemical manufacturing plants, and in wastes from such plants.

In spite of the limited amount of health and environmental effects data available with regard to methyl pyridines, their likely neurotoxic effects, and particularly their unknown effects at low levels of concentration, are a primary source of the Agency's concern with regard to these chemicals. This concern is heightened by the possible release of methyl pyridines into some water supplies. EPA wishes to use this rule to supplement its limited data on methyl pyridines, because the Agency seeks to ensure that it has all existing health and safety data before undertaking a more detailed assessment of these chemicals. There may be additional health studies, currently unknown to the Agency, which may provide valuable information about the degree of exposure necessary to cause neurotoxic effects, or the possibility that methyl pyridines may cause other health or environmental effects.

B. Maleic Anhydride

EPA is also proposing the addition of maleic anhydride to the section 8(d) rule, under the Agency's existing chemicals evaluation program. By obtaining health and environmental effects data on maleic anhydride, the Agency will be better able to assess the potential risks posed by that chemical.

Maleic anhydride is produced in large quantities, and large numbers of individuals may be exposed to the chemicals. In 1979, the industry-wide production volume of maleic anhydride was approximately 350 million pounds. Most of this quantity was used as a chemical intermediate in the manufacture of polyester resins, agricultural chemicals, and lubricating oil additives. In addition, the National Institute for Occupational Safety and Health (NIOSH) has estimated that over 70,000 persons are employed at plants that manufacture or process maleic anhydride.

Despite the significant exposure potential of maleic anhydride, EPA has limited health and safety data on that chemical. The Agency was able to locate only one mutagenicity study, one teratogenicity study, and one oncognenicity study of maleic anhydride. The mutagenicity test was positive for chromosomal aberrations. The teratogenicity study was judged by EPA to be inconclusive, because the study was available only as an abstract and the Agency did not have sufficient details of experimental procedures or results. The one significant oncogeneticity study located by EPA was negative. This limited health effects data base restricts the Agency's ability to make an adequate assessment of the teratogenicity, mutagenicity, and carcinogenicity of maleic anhydride.

With regard to environmental effects data, maleic anhydride is known to be water soluble and biodegradable; bioaccumulation is not expected to occur. However, there are significant data gaps on the toxicity of maleic anhydride to soil microorganisms, plants, aquatic algae, invertebrates, and wildlife. EPA is therefore unable to make a comprehensive assessment of environmental risk.

As with the methyl pyridines, EPA wishes to supplement the existing health and environmental effects data on maleic anhydride with any unpublished health and safety studies that may exist, in order to ensure a comprehensive data base with which to assess potential risk.

IV. Economic Impact

EPA estimates that the establishment of section 8(d) reporting requirements for methyl pyridines and maleic anhydride will cost the chemical industry approximately $31,600. This cost estimate is relatively high, because the Agency is uncertain about the likely number of respondents to the rule. Although EPA has used the best available data to make its economic projections, much of those data are not

current. Therefore, if the Agency's estimate of regulatory impact is somewhat inaccurate, EPA intends to overestimate rather than underestimate that impact.

Nevertheless, the cost of this rule is low in comparison with its potential benefits. Health and safety studies concerning methyl pyridines and maleic anhydride would improve EPA's ability to identify potential public health and environmental problems with regard to these chemicals. The Agency therefore would be better able to determine whether further regulatory action would be necessary.

The total industry cost estimate is broken down as follows:

Corporate review	$15,750
File search	5,400
Title listing	234
Photocopying	1,205
Managerial review	7,700
Ongoing reporting	1,250
Total	31,609

Assuming a ±30 percent margin of error for the total industry cost estimate, the range of probable cost would be from $22,100 to $41,100. Based on this total industry cost estimate, the approximate cost for each company required to make an initial submission of health and safety data would be $1,470. With a ±30 percent margin of error, the range of probable cost per reporting firm would be from $1,030 to $1,920.

V. Regulatory Assessment Requirements—Paperwork Reduction Act, Regulatory Flexibility Act, Executive Order 12291

The Office of Management and Budget (OMB) has approved the information collection requirements of the final section 8(d) rule (to which the chemicals in this proposed rule would be added) under the provisions of the Paperwork Reduction Act of 1980, 44 U.S.C. *et seq.* The OMB control number is 2070–0004. Comments on these requirements should be submitted to the Office of Information and Regulatory Affairs of OMB, marked Attention: Desk Officer for EPA. The final rule package will respond to any OMB or public comments on the information collection requirements.

Only a small number of companies are expected to report under this rule. Therefore, in accordance with the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, EPA has determined that this proposed amendment to the section 8(d) rule will not have a significant economic impact on a substantial number of small entities.

The proposed rule was submitted to OMB for review as required by Executive Order 12291.

VI. Rulemaking Record

The following documents constitute the administrative record for this rule (docket number OPTS–84008). All documents are available to the public in the OTS Reading Room, 8:00 a.m. to 4:00 p.m. weekdays (Rm. E–107, 401 M St., SW., Washington, D.C.). This record includes basic information considered by the Agency in developing this proposed rule. EPA will supplement the record with additional information as it is received. The record includes the following:

(1) Health and Safety Study Reporting Regulations (40 CFR Part 716), Public Record, Docket No. 084003.

(2) Reports Impact Analysis for 40 CFR Part 716 and this rulemaking.

EPA anticipates adding the following types of information to the rulemaking record:

1. All comments on this proposed amendment.

2. All relevant support documents and studies.

3. Records of all communications between EPA personnel and persons outside the Agency pertaining to the development of this rule. This does not include any inter- or intra-agency memoranda unless specifically noted in the index of the rulemaking record. EPA will identify the complete rulemaking record on or before the date of promulgation of this rule, as prescribed by section 19(a)(3) of TSCA, and will accept additional material for inclusion in the record at any time between the date of this notice and that designation. The final rule will also permit persons to identify errors or omissions in the record. (Sec. 8(d), Pub. L. 94–469, 90 Stat. 2029, (15 U.S.C. 2607(d)).)

List of Subjects in 40 CFR Part 716

Chemicals, Health and safety, Environmental protection, Hazardous materials Recordkeeping and reporting requirements.

Dated: December 20, 1983

John A. Moore,

Assistant Administrator for Pesticides and Toxic Substances.

Therefore, it is proposed that 40 CFR 716.17 be amended by adding paragraph (a)(6) to read as follows:

PART 716—[AMENDED]

§ 716.17 Substances and designated mixtures to which this subpart applies.

(a) * * *

(6) As of the date of publication of this amendment as a final rule in the **Federal Register**, the following chemical substances are added to this subpart.

Substances	CAS Numbers
2-Methylpyridine	109-06-8
3-Methylpyridine	108-99-6
4-Methylpyridine	108-89-4
Methylpyridine	1333-41-1
Maleic anhydride	108-31-6

[FR Doc. 84-4220 Filed 2-15-84; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 8

National Security Information

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Proposed rule.

SUMMARY: This proposed rule sets forth FEMA procedures delegating original classification authority and for systematic and mandatory review for declassification of classified information. This proposed rule is necessary to implement the requirements of section 5.3(b) of Executive Order 12356, National Security Information.

DATE: Comments are due April 16, 1984.

ADDRESS: Rules Docket Clerk, Office of General Counsel, Federal Emergency Management Agency, Room 835, 500 C Street SW., Washington, D.C. 20472.

FOR FURTHER INFORMATION CONTACT: Arlan L. Kinney, Director, Office of Security, FEMA, Telephone (202) 287–0700.

SUPPLEMENTARY INFORMATION: This proposed regulation provides information to the public for obtaining information that may be declassified. This proposed regulation is not a major rule within the terms of Executive Order 12291, nor does it have significant economic impact on a substantial number of small businesses. Hence no regulatory impact anaylses are being prepared. It deals with administrative matters and has no impact on the environment and is within categorical exemption clauses under 44 CFR part 10. There are no collection of information requirments, hence the proposed regulation is not subject to 3504(e) of the Paperwork Reduction Act.

List of Subjects in 44 CFR Part 8

Classified information.

Accordingly Chapter 1 of Title 44 Code of Federal Regulations is proposed

to be amended by adding a new Part 8 as follows:

PART 8—NATIONAL SECURITY INFORMATION

Sec.
8.1 Purpose.
8.2 Original Classification Authority.
8.3 Senior FEMA Official Responsible for the Information Security Program.
8.4 Mandatory Declassification Review Procedures.

Authority: Reorganization Plan No. 3 of 1978, Executive Orders 12148 and 12356.

§ 8.1 Purpose.

(a) Section 5.3(b) of Executive Order (EO) 12356, "National Security Information" requires agencies to promulgate implementing policies and regulations. To the extent that these regulations affect members of the public, these policies are to be published in the **Federal Register.**

(b) This notice provides public notification of the FEMA procedures for processing requests for the mandatory review of classified information, Section 3.4(d) of E.O. 12356.

§ 8.2 Original Classification Authority.

(a) The Director, Federal Emergency Management Agency (FEMA), has the authority to classify information originally as TOP SECRET, as designated by the President in the **Federal Register,** Vol 47, No. 91, May 11, 1982, in accordance with Section 1.2(a)(2), E.O. 12356.

(b) In accordance with section 1.2(d)(2), E.O. 12356, the following positions have been delegated ORIGINAL TOP SECRET CLASSIFICATION AUTHORITY by the Director, FEMA:

(1) Deputy Director, FEMA.

(2) Associate Director, Emergency Operations Directorate, FEMA.

(3) Director, Office of Security.

(c) The positions delegated ORIGINAL TOP SECRET CLASSIFICATION AUTHORITY in paragraph (b) of this section, are also delegated ORIGINAL SECRET AND CONFIDENTIAL CLASSIFICATION AUTHORITY by virtue of this delegation. Any further delegation of original classification authority, for any classification level, will be accomplished only by the Director of FEMA.

§ 8.3 Senior FEMA Official Responsible for the Information Security Program.

The Director of Security, FEMA, has been designated as the senior official to direct and administer the FEMA information security program, in accordance with section 5.3(a), EO 12356.

§ 8.4 Mandatory Declassification Review Procedures.

(a) All information classified by FEMA under E.O. 12356 or predecessor orders shall be subject to a review for declassification if such a request is made by a United States citizen or permanent resident alien, a Federal agency or a State or local government.

(b) Requests for declassification review shall be submitted to the Office of Security, Federal Emergency Management Agency, Washington, D.C. 20472.

(c) If within 30 days the requestor does not respond to the agency's request for classification or additional information, the FEMA Office of Security shall notify the requestor that no further action can be taken on the request. If the requestor's response to the agency's initial request is inadequate, the Office of Security shall notify him or her that no further action will be taken until such time as the agency is provided with adequate information concerning the request. In addition, the agency's response will set forth the agency's explanation of the deficiencies of the request.

(d) Once a request meets the foregoing requirements for processing, it will be acted upon as follows:

(1) Receipt of all requests shall be acknowledged within ten (10) working days.

(2) FEMA action upon a request shall be completed with sixty (60) calendar days.

(e) The Director of Security shall designate a FEMA component to conduct the declassification review. This will normally be the originating component. The designated program or staff office shall conduct the review and forward its recommendation to the Office of Security. Information no longer requiring protection under E.O. 12356 shall be declassified and released unless with-holding is otherwise authorized under applicable law. When information cannot be declassified in its entirety, FEMA will make a reasonable effort to release those declassified portions of the requested information that constitute a coherent segment. If the information may not be released in whole or part, the requestor shall be given a brief statement as to the reason for the denial, a notice of the right to appeal the determination to the Director of FEMA and a notice that such an appeal must be filed within sixty (60) calendar days to be considered.

(f) Requests for mandatory declassification review of classified documents that contain foreign government information shall be processed and acted upon in accordance with the provisions outlined above. However, FEMA is not authorized to declassify or release foreign government information. Foreign government information will only be declassified and/or released if concurrence can be obtained from the appropriate foreign government classification authority.

(g) If the request requires the rendering of services for which fees may be changed under 31 U.S.C. 9701, such fees may be imposed in accordance with the provisions of 44 CFR part 5, subpart C.

(h) The following procedures shall be following when denials of requests for declassification are appealed:

(1) The Director shall, within fifteen (15) working days of receipt of the appeal, convene a meeting of the FEMA Information Security Oversight Committee (ISOC). Representation on the FEMA ISOC shall include the Director of Security or his representative, a representative of the component that denied the original request, a representative from the Office of General Counsel, a representative from the Office of Public Affairs and the Special Assistant for Security Policy.

(2) If the ISOC upholds the appeal in its entirety, the information will be released in accordance with the provisions of Section 8.4(e), above.

(3) If the ISOC denies the appeal, in part of in its entirety, then it will forward the appeal with their recommendation(s) to the Director of FEMA, for a final determination. A repiy will be forwarded to the requestor enclosing the declassified releasable information if any, and an explanation for denying the request in whole or in part.

(4) Final action on appeals shall be completed within thirty (30) working days of receipt of appeal.

Dated: February 10, 1984.

Louis O. Giuffrida,

Director.

[FR Doc. 84-4167 Filed 2-15-84; 8:45 am]

BILLING CODE 6718-01-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Findings on Pending Petitions and Description of Progress on Listing Actions

Correction

In FR Doc. 84-1210, beginning on page 2485, in the issue of Friday, January 20,

1984, in Table 1, on pages 2486 and 2487, in the last column "Warranted", "Yes.*" Should have read "Yes.", in the following entries: "Squirrel Chimney cave shrimp; Uncompaghre fritillary butterfly; Bay checkerspot butterfly; Weist's sphinx moth; San Francisco tree lupine moth; Bliss Rapids snail; Snake River physa snail; Ozark cavefish; Niangua darter; Shoshone sculpin; Bonneville cutthroat trout; Marianas crow; Marianas Fruit dove; Marianas gallinule; Guam Micronesian kingfisher; Guam rail; Interior least tern; Least Bell's vireo; Truk greater white-eye; Woodland caribou; Choctawhatchee beach mouse; Alabama beach mouse; Perdido Key beach mouse; and Silver rice rat.

BILLING CODE 1505-01-M

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50 CFR Part 17

Experimental Populations; Extension of Comment Period

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Extension of comment period.

SUMMARY: The Service extends the comment period for the proposed rule implementing the Experimental Population regulation for an additional 30-day period. The experimental population designation is a new management approach for the recovery of listed species. As such the Service wishes to insure that all interested parties have ample opportunity to comment on this regulation. This extension will provide them that opportunity.

DATES: Comment should be received on or before March 12, 1984.

ADDRESSES: Interested persons or organizations are requested to submit comments to: Associate Director—Federal Assistance, U.S. Fish and Wildlife Service, Washington, D.C. 20204, Attention: Experimental Populations.

FOR FURTHER INFORMATION CONTACT: Mr. John L. Spinks, Jr., Chief, Office of Endangered Species, U.S. Fish and Wildlife Service, Washington, D.C. 20204 (703/235-2771).

SUPPLEMENTARY INFORMATION: The proposed Experimental Population regulation published in the January 9, 1984, **Federal Register** (49 FR 1166–1169) has a comment period that would expire on February 9, 1984. The Service has extended this to March 12, 1984. Comments received after that date may still be considered.

The proposed rule of January 9 implemented Section 10(j) of the 1982 Amendments to the Endangered Species Act, which established procedures for the designation of specific populations of listed species as an "experimental population."

List of Subjects in 50 CFR Part 17

Endangered and threatened wildlife, Fish, Marine mammals, Plants (agriculture).

Dated: February 10, 1984.

G. Ray Arnett,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 84-4275 Filed 2-15-84; 8:45 am]

BILLING CODE 4310-07-M

Notices

Federal Register
Vol. 49, No. 33
Thursday, February 16, 1984

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

Committee on Rulemaking, Committee on Regulation; Public Meetings

Committee on Rulemaking

Date: Monday, February 27, 1984. Time: 1:30 p.m. Location: Office of Hughes, Hubbard and Reed, 1201 Pennsylvania Avenue, NW., Suite 300, Washington, D.C. Agenda: Consideration of (1) draft study by Dean Paul Verkuil of adjudication procedures in the immigration setting; (2) legislative review of agency rules following the Supreme Court's legislative veto decisions; and (3) the status of Professor Thomas McGarity's study of agency implementation of regulatory impact analysis requirements. Contact: Michael W. Bowers, 202–254–7065.

Committee on Regulation

Date: Tuesday, February 6, 1984. Time: 9:30 a.m. to 12 noon. Location: 2120 L Street, NW., Washington, D.C., Lower Level, Hearing Room 1. Agenda: Consideration of revised recommendation on procedures for siting of large scale industrial projects. Consultant: Gregory L. Ogden. Contact: William C. Bush, 202–254–7065.

Public Participation

Attendance at the committee meetings is open to the public, but limited to the space available. Persons wishing to attend should notify the contact person at least two days in advance of the meeting. The committee chairman may permit members of the public to present appropriate oral statements at the meeting. Any member of the public may file a written statement with a committee before, during, or after the meeting. Minutes of the meetings will be available on request to the contact persons. The contact persons' mailing address is: Administrative Conference of the United States, 2120 L Street, NW., Suite 500, Washington, D.C. 20037. These meetings are subject to the Federal Advisory Committee Act (Pub. L. 92–463.

Richard K. Berg,
General Counsel.
February 10, 1984.
[FR Doc. 84–4162 Filed 2–15–84; 8:45 am]
BILLING CODE 6110–01–M

DEPARTMENT OF AGRICULTURE

Forest Service

Medicine Bow National Forest Grazing Advisory Board; Meeting

The annual meeting of the Medicine Bow National Forest Grazing Advisory Board will be March 12, 1984, at 10 a.m. in the Medicine Bow National Forest Supervisor's Office, 605 Skyline Drive, Laramie, Wyoming.

The agenda for the meeting will include: (1) Accepting new board members; (2) acquaint new members with the function of the Board; (3) recommendations concerning the development of allotment management plans and the utilization of range betterment funds; (4) location and agenda for the summer tour; and (5) amend by-laws for ways to select a board member in case of tie vote.

The meeting will be open to the public. Persons who wish to attend and participate should notify Ladd Frary (307/745–8971) Laramie, Wyoming, prior to the meeting. Public members may participate in discussions at any time during the meeting, or may file a written statement following the meeting.

Dated: February 7, 1984.

Ladd G. Frary,
Acting Forest Supervisor.
[FR Doc. 84–4164 Filed 2–15–84; 8:45 am]
BILLING CODE 3410–11–M

Packers and Stockyards Administration

Proposed Posting of Stockyard; Nashville Livestock

The Packers and Stockyards Administration, United States Department of Agriculture, has information that the livestock market named below is a stockyard as defined in section 302 of the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 202), and should be made subject to the provisions of the Act.

AR–160 Nashville Livestock Comm., Inc.
Nashville, Arkansas

Notice is hereby given that pursuant to authority under the Packers and Stockyards Act, as amended (7 U.S.C. 181 *et seq.*), it is proposed to designate the stockyard named above as a posted stockyard subject to the provisions of the Act as provided in section 302 thereof.

Any person who wishes to submit written data, views, or arguments concerning the proposed designation, may do so by filing them with the Chief, Financial Protection Branch, Packers and Stockyards Administration, United States Department of Agriculture, Washington, D.C. 20250, by March 2, 1984.

All written submissions made pursuant to this notice shall be made available for public inspection in the office of the Chief of the Financial Protection Branch during normal business hours.

Done at Washington, D.C., this 10th day of February, 1984.

Jack W. Brinckmeyer,
Chief, Financial Protection Branch, Livestock Marketing Division.
[FR Doc. 84–4201 Filed 2–15–84; 8:45 am]
BILLING CODE 3410–02–M

Deposting of Stockyard; Council Grove Livestock Commission Company

It has been ascertained, and notice is hereby given, that the livestock market named herein, originally posted on the respective date specified below as being subject to the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 *et seq.*), no longer comes within the definition of a stockyard under said Act and is, therefore, no longer subject to the provisions of the Act.

Facility No., Name, and Location of Stockyard

KS–116 Council Grove Livestock Commission Company

Date of Posting

March 31, 1950

Notice or other public procedure has not proceded promulgation of the foregoing rule. There is no legal

justification for not promptly deposting a stockyard which is no longer within the definition of that term contained in the Act.

The foregoing is in the nature of a change relieving a restriction and may be made effective in less than 30 days after publication in the **Federal Register**. This notice shall become effective upon publication in the **Federal Register**.

(42 Stat. 159, as amended and supplemented; 7 U.S.C. 181 *et seq.*)

Done at Washington, D.C., this 10th day of February, 1984.

Jack W. Brinckmeyer,

Chief Financial Protection Branch, Livestock Marketing Division.

[FR Doc. 84-4302 Filed 2-15-84; 8:45 am]

BILLING CODE 3410-02-M

COMMISSION ON CIVIL RIGHTS

Connecticut Advisory Committee; Agenda and Notice of Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Connecticut Advisory Committee to the Commission will convene at 7:30 a.m. and will end at 9:30 a.m., on March 13, 1984, at the Connecticut Education Association, 27 Oak Street, Hartford, Connecticut 06106. The purpose of the meeting is to continue work on a followup report on battered women.

Persons desiring additional information, or planning a presentation to the Committee, should contact the Chairperson, Ms. Judith H. Holmes, at (203) 247-9211 or the New England Regional Office at (617) 223-4671.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., February 13, 1984.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 84-4316 Filed 2-15-84; 8:45 am]

BILLING CODE 6335-01-M

New Hampshire Advisory Comitttee; Agenda and Notice of Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S.Commission on Civil Rights, that a meeting of the New Hampshire Advisory Committee to the Commission will convene at 7:30 a.m. and will end at 9:30 a.m., on March 21, 1984, at the District Court, Court Room 1, City Hall Annex, Market Street Entrance, Manchester, New Hampshire 03101. The purpose of this meeting is to continue work on the Committee's study of civil rights enforcement in block grant programs.

Persons desiring additional information, or planning a presentation to the Committee, should contact the Chairperson, Andrew T. Stewart, at (603) 523-4882 or the New England Regional Office at (617) 223-4671.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., February 13, 1984.

John I. Binkley,

Advisory Commmittee Management Officer.

[FR Doc. 84-4317 Filed 2-15-84; 8:45 am]

BILLING CODE 6335-01-M

Washington Advisory Committee; Agenda and Notice of Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Washington Advisory Committee will convene at 10:00 a.m. and will end at 12:00 p.m., on March 9, 1984, at the Federal Building, 915 Second Avenue, Room 1848, Seattle Washington. The purpose of this meeting is to discuss program planning.

Persons desiring additional information, or planning a presentation to the Committee, should contact the Chairperson, Katharine M. Bullitt, at (206) 447-9800 or the Northwestern Regional Office at (306) 442-1245.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., February 13, 1984.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 84-4315 Filed 2-15-84; 8:45 am]

BILLING CODE 6335-01-M

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket No. 3-84]

Proposed Foreign-Trade Zone—Albuquerque, New Mexico, With Subzone for Summa Medical Corp.; Application and Public Hearing

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the City of Albuquerque, New Mexico, requesting authority to establiah a general-purpose foreign-trade zone and a special-purpose subzone for Summa Medical Corporation in Albuquerque, within the Albuquerque Customs port of entry. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a-81u), and the regulations of the Board (15 CFR Part 400). It was formally filed on January 30, 1984. The applicant is authorized to make this proposal under Section 3-18-29, New Mexico Statutes Annnotated, 1978.

The proposed general-purpose zone will be located at 1414—12th Street, NW., Albuquerque. Covering 2.5 acres, the site has an existing 50,000 square foot warehouse building available for zone activity. The City has selected FTZ Operators of New Mexico to administer the zone project. Albuquerque Assembly and Distribution Freeport Warehouse Corporation will operate the zone warehousing services.

The application contains evidence of the need for general-purpose zone services in the Albuquerque area. Several firms have expressed an interest in using zone procedures to warehouse/distribute products, such as electronic articles, instruments, pesticides, transportation components, apparel and food products. No requests for manufacturing in the general-purpose zone are being made at this time; such requests would be made to the Board on a case-by-case basis.

The proposed subzone will be located at Summa Medical Corporation's research and production facility, 4272 Balloon Park Road, Albuquerque. It occupies 2,000 square feet in an industrial park building. The special "clean room" facility is used to develop and manufacture oncologic pharmaceuticals. Summa purchases special bio-chemical raw materials from foreign sources. The company will begin exporting the products on a commercial basis upon FDA approval. Future plans call for substantial sales to the domestic market after FDA certifies the drugs.

Zone procedures will exempt the company from duty payments on the foreign items it uses for its exports. In the future, secondary savings will result from deferral of duty and possible duty rate adjustment on products destined for the domestic market. These savings will help encourage Summa to continue production operations in the U.S. and create the environment for the possible increase in operations, adding up to 35 persons to the current workforce of 15.

In accordance with the Board's regulations, an examiners committee has been appointed to investigate the application and report to the Board. The committee consists of: John J. Da Ponte, Jr. (Chairman), Director, Foreign-Trade Zones Staff, U.S. Department of

Commerce, Washington, D.C. 20230; Donald Gough, Deputy Assistant Regional Commissioner, U.S. Customs Service, Southwest Region, 5850 San Felipe Street, Houston, TX 77057; and Lt. Colonel Julian E. Plyant, Jr., District Engineer, U.S. Army Engineer District Albuquerque, P.O. Box 1580, Albuquerque, NM 87103.

As part of its investigation, the examiners committee will hold a public hearing on March 14, 1984, beginning at 9:00 a.m., in the Otto Miller Room of the Albuquerque Convention Center, 401 Second Street.

Interested parties are invited to present their views at the hearing. Persons wishing to testify should notify the Board's Executive Secretary in writing at the address below or by phone (202/377–2862) by March 7. Instead of an oral presentation, written statements may be submitted in accordance with the Board's regulations to the examiners committee, care of the Executive Secretary, at any time from the date of this notice through April 13, 1984.

A copy of the application and accompanying exhibits will be available during this time for public inspection at each of the following locations:

U.S. Dept. of Commerce District Office, Suite 1015, 505 Marquette Avenue, NW., Albuquerque, NM 87102

Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, Room 1872, 14th and Pennsylvania, NW., Washington, D.C. 20230

Dated: February 10, 1984.

John J. Da Ponte, Jr.,
Executive Secretary.

[FR Doc. 84–4239 Filed 2–15–84; 8:45 am]
BILLING CODE 3510–DS–M

Foreign-Trade Zone Board

[Docket No. 21–83]

Proposed Foreign-Trade Zone; Providence and North Kingston, Rhode Island; Amendment to Application

Notice is hereby given that the application submitted to the Foreign-Trade Zones Board (the Board) on April 5, 1983, by the Rhode Island Port Authority and Economic Development Corporation for a general-purpose foreign-trade zone with sites in Providence and North Kingston, Rhode Island (48 FR 32205, 7/14/83), has been amended to include an additional site covering 100 acres at the Quonset State Airport in North Kingston. The zone plan, which was discussed at the August 17 public hearing, remains otherwise unchanged.

Because of this amendment, the record is reopened for comments until March 15, 1984. Written comments should be addressed to the Executive Secretary at the address below. The application, hearing transcript, and amendment material are available for public inspection at the following locations:

U.S. Customs Service, District Director's Office, 24 Weybosset Street, Providence, R.I. 02903.

Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, 14th and Pennsylvania, NW, Room 1872, Washington, D.C. 20230.

Dated: February 13, 1984.

John J. DaPonte, Jr.,
Executive Secretary.

[FR Doc. 84–4309 Filed 2–15–84; 8:45 am]
BILLING CODE 3510–DS–M

[Order No. 243]

Resolution and Order Approving Application of Port Authority of New York and New Jersey for a Foreign-Trade Subzone at Ford's Auto Plant in Edison, New Jersey, Within New York Customs Port of Entry; Proceedings of the Foreign-Trade Zones Board, Washington, D.C.

Resolution and Order

Pursuant to the authority granted in the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board has adopted the following Resolution and Order:

The Board, having considered the matter, hereby orders:

After consideration of the application of the Port Authority of New York and New Jersey, grantee of Foreign-Trade Zone 49 in Newark/Elizabeth, New Jersey, filed with the Foreign-Trade Zones Board (the Board) on July 27, 1983, requesting special-purpose subzone status at Ford Motor Corporation's auto assembly plant in Edison, New Jersey, within the New York Customs port of entry, the Board, finding that the requirements of the Foreign-Trade Zones Act, as amended, and the Board's regulations are satisfied, and that the proposal is in the public interest, approves the application.

The Secretary of Commerce, as Chairman and Executive Officer of the Board, is hereby authorized to issue a grant of authority and appropriate Board Order.

Grant of Authority To Establish a Foreign-Trade Subzone in Edison, New Jersey, Within the New York Customs Port of Entry

Whereas, by an Act of Congress approved June 18, 1934, an Act "To provide for the establishment, operation, and maintenance of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes", as amended (19 U.S.C. 81a–81u) (the Act), the Foreign-Trade Zones Board (the Board) is authorized and empowered to grant to corporations the privilege of establishing, operating, and maintaining foreign-trade zones in or adjacent to ports of entry under the jurisdiction of the United States;

Whereas, the Board's regulations (15 CFR 400.304) provide for the establishment of special-purpose subzones when existing zone facilities cannot serve the specific use involved, and where a significant public benefit will result;

Whereas, the Port Authority of New York and New Jersey, grantee of Foreign-Trade Zone No. 49, Newark/Elizabeth, New Jersey has made application (filed July 27, 1983, Docket No. 27–83, 48 FR 37504) in due and proper form to the Board requesting a special-purpose subzone at the Ford Motor Corporation automobile manufacturing plant in Edison, New Jersey, within the New York Customs port of entry;

Whereas, notice of said application has been given and published, and full opportunity has been afforded all interested parties to be heard; and

Whereas, the Board has found that the requirements of the Act and the Board's regulations are satisfied;

Now, Therefore, in accordance with the application filed July 27, 1983, the Board hereby authorizes the establishment of a subzone at Ford's Edison, New Jersey plant, designated on the records of the Board as Foreign-Trade Subzone No. 49A at the location mentioned above and more particularly described on the maps and drawings accompanying the application, said grant of authority being subject to the provisions and restrictions of the Act and the Regulations issued thereunder, to the same extent as though the same were fully set forth herein, and also to the following express conditions and limitations:

Activation of the subzone shall be commenced within a reasonable time from the date of issuance of the grant, and prior thereto, any necessary permits

shall be obtained from Federal, State, and municipal authorities.

Officers and employees of the United States shall have free and unrestricted access to and throughout the foreign-trade subzone in the performance of their official duties.

The grant shall not be construed to relieve responsible parties from liability for injury or damage to the person or property of others occasioned by the construction, operation, or maintenance of said subzone, and in no event shall the United States be liable therefor.

The grant is further subject to settlement locally by the District Director of Customs and District Army Engineer with the Grantee regarding compliance with their respective requirements for the protection of the revenue of the United States and the installation of suitable facilities.

In Witness Whereof, the Foreign-Trade Zones Board has caused its name to be signed and its seal to be affixed hereto by its Chairman and Executive Officer or his delegate at Washington, D.C. this 6th day of February 1984 pursuant to Order of the Board.

Foreign-Trade Zones Board.

William T. Archey,

Acting Assistant Secretary of Commerce for Trade Administration, Chairman, Committee of Alternates.

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 84-4312 Filed 2-15-84; 8:45 am]

BILLING CODE 3510-DS-M

[Order No. 242]

Resolution and Order Approving Application of Toledo-Lucas County Port Authority for a Foreign-Trade Subzone at Jeep Corporation Plant in Toledo, Ohio; Proceedings of the Foreign-Trade Zones Board, Washington, D.C.

Resolution and Order

Pursuant to the authority granted in the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board has adopted the following Resolution and Order:

The Board, having considered the matter, hereby orders:

After consideration of the application of the Toledo-Lucas County Port Authority, grantee of Foreign-Trade Zone 8, filed with the Foreign-Trade Zones Board (the Board) on June 6, 1983, requesting special-purpose subzone status for the vehicle manufacturing facilities of Jeep Corporation in Toledo, Ohio, within the Toledo Customs port of entry, the Board, finding that the requirements of the Foreign-Trade Zones Act, as amended, and the Board's regulations are satisfied, and that the proposal is in the public interest, approves the application.

The Secretary of Commerce, as Chairman and Executive Officer of the Board, is hereby authorized to issue a grant of authority and appropriate Board Order.

Grant of Authority To Establish a Foreign-Trade Subzone in Toledo, Ohio, Within the Toledo Customs Port of Entry

Whereas, by an Act of Congress approved June 18, 1934, and Act "To provide for the establishment, operation, and maintenance of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes", as amended (19 U.S.C. 81a–81u) (the Act), the Foreign-Trade Zones Board (the Board) is authorized and empowered to grant to corporations the privilege of establishing, operating, and maintaining foreign-trade zones in or adjacent to ports of entry under the jurisdiction of the United States;

Whereas, the Board's regulations (15 CFR 400.304) provide for the establishment of special-purpose subzones when existing zone facilities cannot serve the specific use involved, and where a significant public benefit will result;

Whereas, the Toledo-Lucas County Port Authority, grantee of Foreign-Trade Zone No. 8, Toledo, Ohio, has made application (filed June 6, 1983, Docket No. 20–83, 48 FR 27590) in due and proper form to the Board requesting a special-purpose subzone at the Jeep Corporation vehicle manufacturing facilities in Toledo, Ohio, within the Toledo Customs port of entry;

Whereas, notice of said application has been given and published, and full opportuntiy has been afforded all interested parties to be heard; and

Whereas, the Board has found that the requirements of the Act and the Board's regulations are satisfied;

Now, therefore, in accordance with the application filed June 6, 1983, the Board hereby authorizes the establishment of a subzone at Jeep's Toledo, Ohio plant, designated on the records of the Board as Foreign-Trade Subzone No. 8A at the location mentioned above and more particularly described on the maps and drawings accompanying the application, said grant of authority being subject to the provisions and restrictions of the Act and the Regulations issued thereunder, to the same extent as though the same were fully set forth herein, and also to the following express conditions and limitations:

Activation of the subzone shall be commenced within a reasonable time from the date of issuance of the grant, and prior thereto, any necessary permits shall be obtained from Federal, State, and municipal authorities.

Officers and employees of the United States shall have free and unrestricted access to and throughout the foreign-trade subzone in the performance of their official duties.

The grant shall not be construed to relieve responsible parties from liability for injury or damage to the person or property of others occasioned by the construction, operation, or maintenance of said subzone, and in no event shall the United States be liable therefor.

The grant is further subject to settlement locally by the District Director of Customs and District Army Engineer with the Grantee regarding compliance with their respective requirements for the protection of the revenue of the United States and the installation of suitable facilities.

In Witness Whereof, the Foreign-Trade Zones Board has caused its name to be signed and its seal to be affixed hereto by its Chairman and Executive Officer or his delegate at Washington, D.C. this 6th day of February 1984 pursuant to Order of the Board.

Foreign-Trade Zones Board.

William T. Archey,

Acting Assistant Secretary of Commerce for Trade Administration, Chairman, Committee of Alternates.

John J. DaPonte, Jr.,

Executive Secretary.

[FR Doc. 84-4311 Filed 2-15-84; 8:45 am]

BILLING CODE 3510-DS-M

International Trade Administration

[A-570-002]

Final Determination of Sales at Less Than Fair Value: Chloropicrin From the People's Republic of China

AGENCY: International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: We have determined that chloropicrin from the People's Republic of China (PRC) is being sold in the United States at less than fair value and that "critical circumstances" do not exist with respect to exports of chloropicrin from the PRC. The U.S. International Trade Commission (ITC) will determine, within 45 days of publication of this notice, whether these

imports are materially injuring, or are threatening to materially injure, a United States industry.

EFFECTIVE DATE: February 16, 1984.

FOR FURTHER INFORMATION CONTACT: Michael Ready, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230; telephone: (202) 377–2613.

SUPPLEMENTARY INFORMATION:

Final Determination

We have determined that chloropicrin from the PRC is being sold in the United States at less than fair value, as provided in section 735 of the Tariff Act of 1930, as amended (19 U.S.C. 1673d) (the Act).

We found that the foreign market value of chloropicrin from the PRC exceeded the United States price on 100 percent of sales. These margins ranged from 38 percent to 63 percent. The overall weighted-average margin on all sales compared is 58 percent *ad valorem.*

Case History

On April 6, 1983, we received a petition from counsel for LCP Chemicals & Plastics, Inc., and Niklor Chemical Company, Inc., filed on behalf of the United States chloropicrin industry. In accordance with the filing requirements of 353.36 of the Commerce Regulations (19 CFR 353.36), the petition alleged that imports of chloropicrin from the PRC are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Act, and that these imports are materially injuring, or threaten to materially injure, a United States industry. The petitioners also alleged that critical circumstances exist with respect to imports of chloropicrin from the PRC. After reviewing the petition, we determined that it contained sufficient grounds to initiate an antidumping investigation. We notified the ITC of our action and initiated the investigation on May 2, 1983 (48 FR 19765). On June 2, 1983, the ITC found that there is a reasonable indication that imports of chloropicrin are materially injuring a United States industry (48 FR 24798).

A questionnaire are presented to counsel for China National Chemicals Import and Export Corporation (SINOCHEM) on June 3, 1983. Responses were received on August 15 and October 7, 1983.

We published a preliminary determination of sales at less than fair value on September 19, 1983 (48 FR 41799). We published a Notice of Postponement of Final Antidumping Determination on October 7, 1983 (48 FR 45816). On December 3–19, we conducted verifications in the PRC of the responses submitted by SINOCHEM and in India of the data used to value the PRC factors of production. Our notice of the preliminary determination provided interested parties with an opportunity to submit views orally or in writing. On December 14, 1983, we held a public hearing.

As discussed under the "Foreign Market Value" section, we determined that the PRC is a state-controlled-economy country for the purposes of this investigation.

Scope of Investigation

The merchandise covered by this investigation is chloropicrin, also known as trichloronitromethane. A major use of the product is as a pre-plant soil fumigant. Chloropicrin is currently classifiable under item numbers 408.1600, 408.2900 and 425.5290 of the *Tariff Schedules of the United States Annotated* (TSUSA).

This investigation covers the period from November 1, 1982, to April 30, 1983. SINOCHEM is the only known PRC exporter of chloropicrin to the United States. We examined 100 percent of SINOCHEM's sales to the United States made during the period of investigation.

Fair Value Comparison

To determine whether sales of the subject merchandise in the United States were made at less than fair value, we compared the United States price with the foreign market value.

United States Price

As provided in section 772 of the Act, we used the purchase price of the subject merchandise to represent the United States price because the merchandise was sold to unrelated purchasers prior to its importation into the United States. We calculated the purchase price based on the FOB Chinese port of CIF Hongkong price to unrelated purchasers. We made deductions for PRC inland freight and where applicable for ocean freight and marine insurance.

Foreign Market Value

In accordance with section 773 of the Act, and § 353.8(c) of the Commerce Regulations, we determined foreign market value by constructing a value for chloropicrin based on surrogate country costs. The petitioner alleged that the economy of the PRC is state-controlled to the extent that sales of the subject merchandise from that country do not permit a determination of foreign market value under section 773(c) of the Act. After analyzing the PRC's economy and considering briefs submitted by the parties, we concluded that the PRC is a state-controlled economy country for purposes of this investigation. Among the factors involved in so determining were: (1) Output quotas for purchase by the state are set and prices are administered at least up to the quota level so that prices cannot be considered useful for the proper allocation of resources, (2) profits are misleading, and (3) there is not adequate representation of the costs of production.

As a result, section 773(c) of the Act requires us to use prices or the constructed value of such or similar merchandise in a "non-state-controlled economy" country. Section 353.8 of the Commerce Regulations establishes a preference for foreign market value based upon sales prices. The regulations further provide that, to the extent possible, we should determine sales prices on the basis of prices in a "non-state-controlled economy" country at a stage of economic development comparable to the country with the state-controlled economy.

Japan and France are the only non-state-controlled-economy-countries other than the United States which produce chloropicrin. Yet neither Japan or France is a suitable surrogate for purposes of this determination, because neither country is at a stage of economic development comparable to the PRC.

Therefore, pursuant to § 353.8(c) of the Commerce Regulations, we proceeded to construct a value based on specific components or factors of production in the PRC, valued on the basis of prices and costs in a non-state-controlled-economy country "reasonably comparable" in economic development to the PRC. After analyzing those non-state-controlled economies most similar to the PRC, we concluded that India was a comparable economy for valuation of the PRC factors of production. Valuation of the PRC raw materials, labor, energy and factory overhead was based on information obtained from several chemical companies in India. To these values we added amounts for general expenses and profit as required by section 773(e)(1)(B) of the Act, and the cost of all containers and coverings and other expenses, as required by section 773(e)(1)(C) of the Act.

Verification

In accordance with Section 776(a) of the Act, we verified data used in making this determination by using verification

procedures which included on-site inspection of manufacturer's facilities and examination of company records and selected original source documentation containing relevant information.

Negative Determination of Critical Circumstances

Counsel for petitioner alleged that imports of chloropicrin from the PRC present "critical circumstances." Under section 735(a)(3) of the Act, for the purposes of a final determination, critical circumstances exist when we find that: (1)(a) There is a history of dumping in the United States or elsewhere of the merchandise under investigation, or (b) the person by whom, or for whose account, the merchandise was imported knew or should have known that the exporter was selling the merchandise under investigation at less than its fair value; and (2) there have been massive imports of the merchandise under investigation over a relatively short period.

For a preliminary determination under section 733(e)(1) of the Act, on the other hand, we determine only "whether there is a *reasonable basis to believe or suspect*" that such elements are present (emphasis added). The standard for a final affirmative determination is more stringent, since we must make an actual finding of whether the necessary elements exist.

In our preliminary determination in this case, we made an affirmative critical circumstances determination. We found a reasonable basis to believe or suspect that imports were massive over a relatively short period, and that importers knew or should have known that the exporter was selling chloropicrin at less than fair value. (We found no history of dumping.) The basis for our belief or suspicion regarding knowledge of dumping was solely the fact that prices on chloropicrin from the PRC were 25% less than prices for domestically produced chloropicrin. In the absence of U.S. imports from any other country, we felt that comparing PRC and U.S. prices was a reasonable basis for a belief or suspicion about knowledge of dumping. In reaching that affirmative preliminary determination, we resolved any doubts in favor of an affirmative determination in order to preserve our options for the final determination.

For purposes of this final determination, we still have found no history of dumping of chloropicrin, based on our review of: (1) Antidumping findings of the Department of the Treasury, (2) Department of Commerce antidumping duty orders, and (3) antidumping actions of other countries made available to us through the Antidumping Code Committee established by the Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade.

To determine finally whether the person by whom, or for whose account, the merchandise was imported knew or should have known that the exporter was selling the merchandise at less than fair value, we considered all information on the record. In investigations involving a product from a state-controlled economy country, it is more difficult to impute to importers knowledge of sales at less than fair value. We must make a determination on a case-by-case basis using the available information and drawing upon market conditions in the industry which is the subject of the investigation. In this case the only sources for chloropicrin in the United States are domestically produced product and chloropicrin from the PRC, since producers in other countries do not export this product to the United States. If chloropicrin were imported from third countries, importers might be able to use the price of such imports as a fair value benchmark to determine whether the PRC imports were sold at less than fair value. The absence of any third country imports significantly increases an importer's difficulty in making such a determination. Based upon the facts of the investigation, we therefore determine that the person by whom or for whose account the merchandise was imported did not know, and could not reasonably be expected to know, that the exporter was selling chloropicrin for export to the United States at less than its fair value.

Having made such a finding, we need not finally consider whether there have been massive imports of chloropicrin over a relatively short period.

For the above reasons, we determine that critical circumstances do not exist with respect to imports of chloropicrin from the PRC.

Petitioner's Comments

Comment 1

A constructed value under § 353.8(c) should not be used in this case because of the impossibility of accurately measuring the objective factors of production.

DOC Position

We conducted a verification of the factors of production for chloropicrin by applying our usual tests and other procedures, which included review and analysis of financial statements and records, verification to source documents, and inspection of manufacturing facilities. These are the same tests and procedures which we use for the verification of cost-of-production data in non-state-controlled-economy countries. We found that financial statements and other underlying financial records support the data submitted by SINOCHEM. We are satisfied that the quantities, adjusted when necessary, which SINOCHEM used in the calculations of the factors of production were adequately verified.

Comment 2

The price of Japanese chloropicrin is the most appropriate basis for a foreign market value.

DOC Position

We agree that there is latitude within the Act and Regulations to base foreign market value on domestic prices in a non-state-controlled-economy country, such as Japan, at a higher level of economic development than the PRC. Such a methodology is provided for in § 353.8(b)(2) of the Regulations. However, § 353.8(b)(2) also requires that if such a method is employed then the prices in the surrogate county must be "suitably adjusted for known differences in the costs of material and labor". Due to the impracticality of making such adjustments in this case, we used the constructed value approach based on factors of production valued in a surrogate country at a comparable level of economic development.

Comment 3

The petitioners argue that India is not a proper choice as a surrogate country to provide fair market values for factors of production because: (1) The Indian dye intermediates industry is state-controlled and (2) Indian prices for dye intermediates, including chlorobenzene, are not suitable elements of a constructed value because they have been depressed by Chinese imports.

Doc Position

In past antidumping investigations involving products from India, the DOC has determined that "there is not sufficient government control to classify India's economy as state-controlled". While there is evidence of a degree of government involvement in the chemical dye intermediate industry, the government does not set prices within the industry. Furthermore, information concerning many of the factors of production which were valued in India was obtainable from companies which

are not chemical dye intermediate producers.With regard to the petitioners' assertion that chlorobenzene prices in India are depressed by PRC imports, none of the Indian chlorobenzene producers which the Department contacted mentioned having any difficulty with imports from the PRC. Furthermore, these companies are profitable in their chlorobenzene business.

Comment 4

Chlorine from the Dalian plant's chlor-alkali facility is not a true waste product and should be fully valued.

DOC Position

We agree. The chlorine and the caustic soda were considered to be co-products and therefore cholorine was valued at its proportional share of the joint costs.

Comment 5

Costs of the land and buildings at the Dalian plant must be included in a constructed value.

DOC Position

We agree. The costs of land and buildings used by the Dalian plant are included in our constructed value calculation. The cost of the buildings was included as depreciation; the cost of land was included as financing charges.

Comment 6

The production of cloropicrin and intermediate products impose unavoidable costs of disposal of waste products.

DOC Position

Costs incurred for the disposal of waste products produced during the manufacturing process were included as part of the factory overhead.

Comment 7

No commercial value exists for spent sulfuric acid which is not purified.

DOC Position

The spent sulfuric acid resulting from the production of chloropicrin is recycled at the Dalian plant and either reused for production of chloropicrin or used in other manufacturing processes at the Dalian plant. A credit for the spent acid used in other manufacturing processes at the Dalian plant was included in the calculation of the costs of chloropicrin.

Comment 8

The petitioners argue that the general expenses and profits ordinarily reflected in the sale of specialty chemicals such as chloropicrin amount to at least 61.6% of production costs. Therefore, in calculating constructed value, we should make an addition in this amount for general expenses and profit.

DOC Position

We have used the general expenses and profit incurred by a manufacturer of dyestuffs in India. General observations concerning the financial results of 13 U.S. companies involved to some degree in the production of "specialty chemicals" and possessing some foreign operations were submitted by the petitioners. However, since we selected India as a "surrogate" for the PRC and the data submitted by the petitioners was not relevant to India, did not appear to directly pertain to "specialty chemicals" only, and was not specific as to the type of costs included in the classifications of "general expense", we used for our determination information independently obtained in India during our investigation.

Comment 9

The costs of containers and other expenses incident to shipment must be included in a constructed value.

DOC Position

In the case of one of the two sales to the United States, the customer provided the containers. In this case no addition was made for packing in calculating constructed value. In the other sale, the seller provided the containers. In this case we valued the seller's factors of production for the packing in India and added the amounts so calculated to the constructed value. In both cases, labor hours associated with packing the marchandise for export to the United States were included in the factors of production.

Comment 10

Depreciation of the plant and equipment is a production cost, not a general expense.

DOC Position

We agree.

Comment 11

No adjustment should be made for excess labor used at the Dalian plant.

DOC Position

We agree.

Comment 12

No adjustmens for the factors of production found in India should be made to the sources of fresh water and boiler fuel at the Dalian plant.

DOC Position

We agree.

Importer's Comments

Comment 1

The importer argues that our preliminary affirmative determination with regard to critical circumstances was incorrect.

DOC Position

As noted above under "Negative Determination of Critical Circumstances," we have determined tht critical circumstances do not exist with respect to chloropicrin from the PRC.

Comment 2

The importer argues that the DOC was incorrect in determining that the economy of the PRC is state-controlled to an extent sales of chloropicrin in the PRC do not permit a determination of foreign market value.

DOC Position

For the reasons noted above in the Foreign Market Value section of this notice, we have determined that the PRC is a state-controlled economy country for purposes of this investigation. No evidence has been presented which lessens the validity of our reasons for so determining. Furthermore, in an official statement dated November 30, 1983, submitted in conjunction with the countervailing duty investigation of textiles, apparel and related products from the PRC, a PRC Ministry of Foreign Economic Relations and Trade spokesman stated, among other things, that: "The People's Republic of China is a country with a planned economy. Import and export trade is carried out in compliance with the state plan and takes up only a small proportion of our gross national product." Further along in the statement, the spokesman said: "Export commodities are purchased at domestic prices and sold at prices prevailing on the international market. Import goods are bought at international prices and sold at domestic prices. There is no direct relation between the domestic and international prices of import and export commodities."

Our determination is not that the PRC chloropicrin is totally state-controlled. Rather, we have determined that the economy of the PRC is state-controlled to an extent that sales of such or similar merchandise in the PRC do not permit a determination of foreign market value.

Comment 3

DOC Position

The importers contends that for our preliminary determination, we should have used cost of production data submitted by SINOCHEM and "the

statutory constructed value factors for general expenses and profit as the basis of foreign market value."

DOC Position

As noted above we determined that for the purposes of this investigation, the PRC is a state-controlled-economy country. The Act does not permit using constructed value based on a state-controlled-economy country's costs as the basis for foreign market value.

Comment 4

DOC Position

The importer argues that we should adjust the value of the chlorobenzene found in India downward because one of the two grades of chlorobenzene used by the PRC producer is of a lower grade than the Indian chlorobenzene.

DOC Position

No such adjustment is warranted. The India value used in an average value. No information is available as to the average grade of chlorobenzene sold in India.

Comment 5

The importer argues that the cost of Indian chlorine should be substantially reduced because the PRC producer uses chlorine that is an unavoidable by-product of other operations and that the actual cost of the chlorine is that of collecting it and piping it to the chloropicrin workshop.

DOC Position

We do not agree that chlorine is an unavoidable by-product. For this determination we have ascertained the factors of production of the chlorine used to produce chloropicrin and valued those factors based on information obtained in India.

Comment 6

The importer argues that the value of caustic soda should be proportionally adjusted if the concentration of the Indian caustic soda for which values were obtained was different from the concentration of the PRC caustic soda.

DOC Position

In this determination we have valued caustic soda at a market price. Rather, we have ascertained the factors of production of the caustic soda to produce chloropicrin and valued those factors.

Comment 7

The importer argues that the PRC factor of production for labor hours should be reduced if it is found that wage rates in India are higher than in the PRC.

DOC Position

Inasmuch as the PRC has been determined to be a state-controlled economy country for the purposes of this investigation, the wage rates paid in the PRC are not a relevant item for consideration. For the valuation of the PRC factors of production, including labor hours, all that is required is to find values in a country at a comparable level of economic development, which we have done.

Comment 8

The importer argures that the wage rates we have obtained in India are too high and perhaps are daily, rather than hourly rates.

DOC Position

The hourly wage rates which are the subject of the comment were provided by a finance officer of a major Indian chemical company. Furthermore, when extrapolated to monthly rates, they are comparable to the monthly rates provided by two other companies in India. We are therefore satisfied that the wage rates used in our analysis are correct.

Comment 9

The importer argues that in calculating Indian values for the PRC raw material factors of production, we should not include the amounts of central excise duty applicable in India to such raw materials, because under certain circumstances, central excise duties paid on raw materials are rebated to producers upon the exportation of finished products incorporating such raw materials.

DOC Position

The DOC experience with the Indian statute relating to the rebate of central excise duties is that an exporter does not receive a full rebate for all of the excise duty he has paid on an exported product's raw material inputs. A different rate of rebate (drawback) is determined for each exported product. Chloropicrin is not produced and the exported from India. Therefore, to our knowledge, no drawback rate exists for chloropicrin. Since we have no reasonable way to ascertain what amount of excise duty rebate would be applicable to chloropicrin, we have included the full amount of such duty in our calculations of Indian values for PRC raw material factors of production.

Continuation of Suspension of Liquidation

We are directing the U.S. Customs service to continue to suspend liquidation of all entries of chloropicrin from the PRC subject to this investigation which are entered, or withdrawn from warehouse, for consumption, on or after the date of publication of the preliminary determination in the **Federal Register** (September 19, 1983). Because we have determined that critical circumstances do not exist with respect to imports of chloropicrin from the PRC, liquidation is no longer suspended, nor are cash deposits or bonds required, with respect to chloropicrin from the PRC entered, or withdrawn from warehouse for consumption, prior to September 19, 1983. With respect to entries or withdrawals made on or after September 19, 1983, the Customs Service shall continue to require a cash deposit or the posting of a bond equal to the estimated weighted-average amount by which the foreign market value of the merchandise subject to this investigation exceeds the United States price. The bond or cash deposit amount established in our preliminary determination of September 19, 1983, remains in effect with respect to entries or withdrawals made prior to the date of publication of this notice in the **Federal Register**. With respect to entries or withdrawals made on or after the publication of this notice, the bond or cash deposit amount required is 58 percent of the FOB China price.

ITC Notification

In accordance with section 735(d) of the Act, we will notify the ITC of our determination. We will allow the ITC access to all privileged and confidential information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under administrative protective order, without the written consent of the Deputy Assistant Secretary for Import Administration.

The ITC will make its determination whether these imports are materially injuring, or threatening to materially injure, a U.S. industry within 45 days of the publication of this notice. If the ITC determines that material injury or threat of material injury does not exist, this proceeding will be terminated and all securities posted as a result of the suspension of liquidation will be refunded or cancelled. However, if the ITC determines that such injury does exist, we will issue an antidumping duty order directing Customs officers to

assess an antidumping duty on chloropicrin from the PRC entered, or withdrawn from warehouse, for consumption after the suspension of liquidation, equal to the amount by which the foreign market value exceeds the United States price. This determination is being published pursuant to section 735(d) of the Act (19 U.S.C. 1673(d)).

Dated: February 1, 1984.

William T. Archey,

Acting Assistant Secretary for Import Administration.

[FR Doc. 84-4206 Filed 2-15-84; 8:45 am]

BILLING CODE 3510-DS-M

National Technical Information Service

Intent To Grant Exclusive Patent License; Pyott-Boone Electronics

The National Technical Information Service (NTIS), U.S. Department of Commerce, intends to grant Pyott-Boone Electronics, having a place of business at Tazewell, Virginia, an exclusive right to manufacture, use, and sell products embodied in the invention, "Sub-Micron Particle Detector," U.S. Patent 4,053,776. The patent rights in this invention will be assigned to the United States of America, as represented by the Secretary of Commerce.

The proposed exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 41 CFR 101–4.1. The proposed license may be granted unless, within sixty days from the date of this published Notice, NTIS receives written evidence and argument which establishes that the grant of the proposed license would not serve the public interest.

Inquiries, comments and other materials relating to the proposed license must be submitted to the Office of Government Inventions and Patents, NTIS, Box 1423, Springfield, VA 22151.

Douglas J. Campion,

Patent Licensing, Office of Government Inventions and Patents, U.S. Department of Commerce, National Technical Information Service.

[FR Doc. 84-4285 Filed 2-15-84; 8:45 am]

BILLING CODE 3510-04-M

Intent To Grant Exclusive Patent License; Seton Co.

The National Technical Information Service (NTIS), U.S. Department of Commerce, intends to grant to Seton Company, having a place of business at Newark, New Jersey, an exclusive right to manufacture, use, and sell products embodied in the invention, "Process for Producing Granular and Fibrous Collagen Dispersions," U.S. Patent No. 3,665,988. The patent rights in this invention have been assigned to the United States of America, as represented by the Secretary of Commerce.

The proposed exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 41 CFR 101–4.1. The proposed license may be granted unless, within sixty days from the date of this published Notice, NTIS receives written evidence and argument which establishes that the grant of the proposed license would not serve the public interest.

Inquiries, comments and other materials relating to the proposed license must be submitted to the Office of Government Inventions and Patents, NTIS, Box 1423, Springfield, VA 22151.

Douglas J. Campion,

Patent Licensing, Office of Government Inventions and Patents, U.S. Department of Commerce, National Technical Information Service.

[FR Doc. 84-4286 Filed 2-15-84; 8:45 am]

BILLING CODE 3510-04-M

COMMODITY FUTURES TRADING COMMISISON

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of request for approval.

Section 236 of the Futures Trading Act of 1982, Pub. L. No. 97–444, 96 Stat. 2294, 2300 (1983), requires that the Commodity Futures Trading Commission "* * * conduct a study of (A) the nature, extent, and effects of trading in representative futures markets by persons possessing material information not generally available to the public regarding present or anticipated cash or futures transactions. * * * The Commission shall * * * transmit * * * a report describing the results of the study and including any recommendations for legislative action * * *" to Congress. As part of this study, the Commission intends to solicit from large commercial firms in livestock, grain, metal, energy and financial markets certain information concerning their policies regarding personal futures trading by directors, officers, and employees of the firm. This information will be collected through a one-time mail survey.

The Commission has submitted to the Director of the Office of Management and Budget ("OMB"), pursuant to the provisions of the Paperwork Reduction Act (44 U.S.C. Ch. 35), an explanation and details of this information collection. Interested members of the public may obtain a complete copy of these information collection proposals by contacting Joseph Salazar at (202) 254–9735. Persons wishing to comment on the Paperwork Reduction Act implications of these proposals are asked to send a copy of their comments to Mr. Salazar at the Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581, and to the OMB desk officer for the agency, Katy Lewin, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503, (202) 395–7231. In this respect, persons wishing to comment on this matter should note that although OMB has 60 days upon which to act, the Commission has requested expedited approval of this information collection. 44 U.S.C. 3507 and 5 CFR 1320.12.

Issued in Washington, D.C. on February 10, 1984.

Jane K. Stuckey,

Secretary of the Commission.

[FR Doc. 84-4153 Filed 2-15-84; 8:45 am]

BILLING CODE 6351-01-M

DEPARTMENT OF DEFENSE

Department of the Air Force

USAF Scientific Advisory Board; Meeting

February 8, 1984.

The USAF Scientific Advisory Board Ad Hoc Committee on Strategic Reconnaissance Technologies will meet at the Pentagon, Washington, D.C. on March 8, 1984.

The purpose of the meeting will be to study the future of strategic reconnaissance technologies. The meeting will convene at 8:00 a.m. to 5:00 p.m.

The meeting concerns matters listed in section 552b(c) of Title 5, United States Code, specifically subparagraph (1) thereof, and accordingly, will be closed to the public.

For further information, contact the Scientific Advisory Board Secretariat at 202–697–8845.

Winnibel F. Holmes,

Air Force Federal Register Liaison Officer.

[FR Doc. 84-4152 Filed 2-15-84; 8:45 am]

BILLING CODE 3910-01-M

USAF Scientific Advisory Board; Meeting

February 10, 1984.

The USAF Scientific Advisory Board Ad Hoc Committee on Effects of HEMP on Military will meet at the Pentagon, Washington, D.C. on March 2, 1984.

The purpose of the meeting will be to gather information on the effects of HEMP on C^3. The meeting will convene at 8:00 a.m. to 5:00 p.m.

The meeting concerns matters listed in section 552b(c) of Title 5, United States Code, specifically subparagraph (1) thereof, and accordingly, will be closed to the public.

For further information, contact the Scientific Advisory Board Secretariat at 202–697–8845.

Winnibel F. Holmes,

Air Force Federal Register Liaison Officer.

[FR Doc. 84-4151 Filed 2-15-84; 8:45 am]

BILLING CODE 3910-01-M

Corps of Engineers, Department of the Army

Intent To Prepare a Draft Supplement to the Environmental Impact Statement (DSEIS); Operation and Maintenance (O&M) of the East Fork, Tombigbee River, Itawamba County, Mississippi

AGENCY: US Army Corps of Engineers, DOD.

ACTION: Notice of intent to prepare a DSEIS.

SUMMARY: The East Fork Flood Control Project was constructed from 1938–39. The improvements consisted of clearing the banks of trees and underbrush to flood stage, removing drift jams, and excavating cutoff channels. Prior to 1971, no OM work was accomplished on this project. Limited O&M activities were performed from 1971–1973. Then on May 25, 1973, a Final Environmental Impact Statement (FEIS) for the continued O&M project was filed with the Council on Environmental Quality. This FEIS addressed the removal and disposal of snags, overhanging trees and log jams and bank clearing operations. From 1974–1983 the project was periodically maintained in selected areas.

During the 1970's increased sedimentation occurred in the East Fork, contributed primarily from several channelized streams tributary to the project area. Siltation problems have resulted in the preparation of two Environmental Assessments (EA) to cover specific sediment removal and disposal operations. However, sediment accumulation has continued and has been accelerated by recent record floods. Sediment accumulation in the channel and with log jams has effectively blocked the flow of water in some areas, and is causing out-of-bank flooding at low flow conditions. Other accumulations are affecting channel efficiency during floods which has resulted in severe bank erosion. In order to perform the needed O&M activities, a supplement to the existing O&M EIS will be prepared to specifically cover the potential impacts of sediment removal and disposal in the project area.

1. *Proposed Action.* The proposed action is to renovate the East Fork Channel by removing sediment and associated debris that are restricting channel capacity or causing out-of-bank flow. Log jams, overhanging trees and fallen, yet rooted, trees that are impacting flow will also be removed. All material will be placed on an adjacent bank in upland sites. Some bank clearing will be required for equipment access and material disposal. Isolated areas of severe bank erosion will also be restored and protected with riprap. Excavation methods will involve waterbased equipment such as a barge mounted dragline, an amphibious dragline, and a portable dredge in addition to limited blasting.

2. *Alternatives.* Plans for the following O&M alternatives will be developed and considered.

a. No action. (Continuing the O&M practices as covered under the existing EIS.)

b. Use land based excavation equipment.

c. Sedimentation and erosion control or tributary stream systems.

3. *Scoping Process.* Scoping is not required, nevertheless a scoping process will be undertaken consisting of coordination and consultation by telephone and letters with concerned Federal, State and local agencies and interested persons that may wish to provide input. No formal scoping meetings will be conducted during this process. The previous EA's prepared for the project have been coordinated with the agencies and made available to the public, and their views on these EA's will be considered in the preparation of the DSEIS.

4. *DSEIS Preparation.* It is anticipated that the DSEIS will be available to the public in March 1984. Question or imput regarding the proposed action and DSEIS can be addressed to: Mr. Kenneth R. Sims, US Army Engineer District, Mobile, Post Office Box 2288, Mobile, AL 36628, (205) 690–2722 or FTS 537–2722.

Dated: Febraury 8, 1984.

Patrick J. Kelly,

Colonel, CE District Engineer.

[FR Doc. 84-4241 Filed 2-15-84; 8:45 am]

BILLING CODE 3710-GX-M

Intent To Prepare a Draft Environmental Impact Statement (DEIS); Proposed Small Flood Control Project at Willoughby Hills, Lake County, OH

AGENCY: U.S. Army Engineer District, Buffalo, Department of Defense.

ACTION: Notice of Intent to Prepare a Draft Environmental Impact Statement (DEIS).

Proposed Action: The proposed action would involve the implementation of nonstructural measure to reduce flood damages within the Chagrin River flood plain.

Alternatives Considered: Three alternatives will be evaluated. These three are:

a. *Relocation*—This plan consists of the relocation of some or all flood plain residences and the conversion of the evacuated areas to recreational uses. Homes and property in the flood plain would be purchased and owners reimbursed up to $15,000 apiece for moving costs, the difference in mortgage interest costs, and the difference in price between similar houses inside and outside of the flood plain. Once the homes have been razed or salvaged, a park would be developed along the river and maintained by local authorities.

b. *Flood Warning System*—This plan would involve the upgrading of the existing local flood warning system (i.e., an informal network of people who watch river stages during periods of flooding threats) to an automatic warning system with reporting gages.

c. *No Action Plan*—This alternative would mean no Federal involvement in flood protection along the river.

Scoping Process: A Reconnaissance Report was completed in 1979 and agency coordination was initiated. Scoping of the DEIS will include continued coordination with interested local, State, and Federal agencies, as well as other interested parties. A public meeting is tentatively scheduled for Spring 1984. Interested parties are urged to participate actively in the scoping process by submitting their concerns to the Buffalo District as soon as possible.

Significant issues to be addressed in the DEIS include, but are not limited to, health and safety; community cohesion; community growth; tax revenues; recreation; water quality; and fish and wildlife resources.

Availability: The DEIS is expected to be available for public and agency review in September 1984.

Address: Questions about the proposed action and DEIS can be answered by Mr. William E. Butler, U.S. Army Engineer District, Buffalo, 1776 Niagara Street, Buffalo, New York 14207.

Dated: February 9, 1984.

Robert R. Hardiman,

Colonel, Corps of Engineers, District Commander.

[FR Doc. 84-4159 Filed 2-15-84; 8:45 am]

BILLING CODE 3710-GP-M

Department of the Navy

Naval Research Advisory Committee; Partially Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. App. I), notice is hereby given that the Naval Research Advisory Committee Working Group on Amphibious Operations will meet on March 13 and 14, 1984, at the Office of Naval Research, Arlington, Virginia. The first session of the meeting will commence at 9:30 a.m. and terminate at 12:30 p.m. on March 13, 1984. The second session will commence at 12:30 p.m. and terminate at 2:30 p.m. on March 13, 1984. The third session will commence at 2:30 p.m. and terminate at 4:30 p.m. on March 13, 1984. The fourth session will commence at 8:30 a.m. and terminate at 11:30 a.m. on March 14, 1984. All sessions of the meeting will be held in room 915, Office of Naval Research. The second session from 12:30 p.m. to 2:30 p.m. on March 13, 1984 will be open to the public. The remaining three sessions will be closed to the public.

The purpose of the meeting is to discuss lightweight protection such as armor and other materials in general, amphibious logistics and cover and deception. The open session will generally cover a presentation on amphibious logistics. The remaining sessions of the meeting will consist of classified information that is specifically authorized under criteria established by Executive order to be kept secret in the interest of national defense and is in fact properly classified pursuant to such Executive order. The Secretary of the Navy has therefore determined in writing that the public interest requires that the first, third, and fourth sessions of the meeting be closed to the public because they will be concerned with matters listed in section 552b(c)(1) of title 5, United States Code.

For further information concerning this meeting contact: Commander M. B. Kelley, U.S. Navy, Office of Naval Research (Code 100N), 800 North Quincy Street, Arlington, VA 22217, Telephone number (202) 696-4870.

Dated: February 10, 1984.

William F. Roos, Jr.,

Lieutenant, JAGC, U.S. Naval Reserve, Alternative Federal Register Liaison Officer.

[FR Doc. 84-4226 Filed 2-15-84; 8:45 am]

BILLING CODE 3810-AE-M

Chief of Naval Operations, Executive Panel Advisory Committee; Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. App. I), notice is hereby given that the Chief of Naval Operations (CNO) Executive Panel Advisory Committee will meet on March 8-9, 1984, from 9 a.m. to 5 p.m. each day, at 2000 North Beauregard Street, Alexandria, Virginia. All sessions will be closed to the public.

The purpose of the meeting is to evaluate alternative strategic planning methods for developing future naval warfare capabilities. The entire agenda for the meeting will consist of discussions of key issues related to the rapid development and fielding of cost-effective, integrated warfighting capabilities. These matters constitute classified information that is specifically authorized by Executive order to be kept secret in the interest of national defense and is, in fact, properly classified pursuant to such Executive order. Accordingly, the Secretary of the Navy has determined in writing that the public interest requires that all sessions of the meeting be closed to the public because they will be concerned with matters listed in Section 552b(c)(1) of Title 5, United States Code.

For further information concerning this meeting, contact Lieutenant Thomas E. Arnold, Executive Secretary of the CNO Executive Panel Advisory Committee, 2000 North Beauregard Street, Alexandria, Virginia 22311. Telephone: (703) 756-1205.

Dated: February 10, 1984.

William F. Roos, Jr.,

Lieutenant, JAGC, U.S. Naval Reserve, Federal Register Liaison Officer.

[FR Doc. 84-4225 Filed 2-15-84; 8:45 am]

BILLING CODE 3810-AE-M

Chief of Naval Operations Executive Panel Advisory Committee, Cost Technology Task Force; Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. App. I), notice is hereby given that the Chief of Naval Operations (CNO) Executive Panel Advisory Committee Cost Technology Task Force will meet on March 6-7, 1984, from 9 a.m. to 5 p.m. each day, at 2000 North Beauregard Street, Alexandria, Virginia. All sessions will be closed to the public.

The purpose of the meeting is to review alternative platform contractual architectures and man-machine interface strategies. The entire agenda for the meeting will consist of discussions of key issues related to cost growth and cost technology of naval strategic and tactical systems and platforms and related intelligence. These matters constitute classified information that is specifically authorized by Executive order to be kept secret in the interest of national defense and is, in fact, properly classified pursuant to such Executive order. Accordingly, the Secretary of the Navy has determined in writing that the public interest requires that all sessions of the meeting be closed to the public because they will be concerned with matters listed in Section 552b(c)(1) of Title 5, United States Code.

For further information concerning this meeting, contact Lieutenant Thomas E. Arnold, Executive Secretary of the CNO Executive Panel Advisory Committee, 2000 North Beauregard Street, Alexandria, Virginia 22311. Telephone: (703) 756-1205.

Dated: February 10, 1984.

William F. Roos, Jr.,

Lieutenant, JAGC, U.S. Naval Reserve, Federal Register Liaison Officer.

[FR Doc. 84-4224 Filed 2-15-84; 8:45 am]

BILLING CODE 3810-AE-M

Naval Research Advisory Committee; Partially Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. App. I), notice is hereby given that the Naval Research Advisory Committee Working Group on Navy-Supported University Laboratories will meet on March 8, 1984, at the Applied Physics Laboratory, Pennsylvania State University, State College, Pennsylvania. The first session of the meeting will commence at 8:30 a.m. and terminate at 1:00 p.m. on March 8, 1984. The second session will commence at 1:00 p.m. and terminate at 4:30 p.m. on March 8, 1984. All sessions of the meeting expect the tour will be held in the Eric Walker Conference Room. The first session from 8:30 a.m. to 1:00 p.m. on March 8, 1984 will be open to the public. The remaining session will be closed to the public.

The purpose of the meeting is to review various Navy-sponsored programs conducted by APL, Penn State. The open session will generally cover a presentation on meeting objectives, laboratory overview, and a tour of the laboratory. The remaining session of the meeting will consist of classified information that is specifically authorized under criteria established by Executive order to be kept secret in the interest of national defense and is in fact properly classified pursuant to such Executive order. The Secretary of the Navy has therefore determined in writing that the public interest requires that the second session of the meeting be closed to the public because it will be concerned with matters listed in section 552b(c)(1) of title 5, United States Code.

For further information concerning this meeting contact: Commander M. B. Kelley, U.S. Navy, Office of Naval Research (Code 100N), 800 North Quincy Street, Arlington, VA 22217. Telephone number (202) 696–4870.

Dated: February 10, 1984.

William F. Roos, Jr.,

Lieutenant, JAGC, U.S. Naval Reserve, Alternate Federal Register Liaison Officer.

[FR Doc. 84–4223 Filed 2–15–84; 8:45 am]

BILLING CODE 3810–AE–M

DEPARTMENT OF ENERGY

Bonneville Power Administration

Discussion of Policy Issues or Providing Access to the Pacific Northwest-Pacific Southwest Intertie; Request for Comments

AGENCY: Bonneville Power Administration (BPA), Department of Energy.

ACTION: Discussion of policy issues, environmental issues and request for comments.

File No. TIE–1

SUMMARY: The Pacific Northwest-Pacific Southwest (PNW-PSW) Intertie is used to transmit electricity between the PNW Region and Northern and Southern California. BPA built a large portion of the Intertie facilities north of the Oregon border and controls access with respect to that portion of the Intertie. BPA holds the most extensive rights to use of Intertie facilities of any Pacific Northwest entity. Details of Intertie ownership and rights to use of it are provided in the Appendix to this discussion paper. BPA's use of the Intertie is guided by Congressional direction contained in the Public Appropriations Act of 1965, the Federal Columbia River Transmission System Act, Pub. L. 93–454; the Pacific Northwest Preference Act, Pub. L. 88–552 and the Pacific Northwest Electric Power Planning and Conservation Act, Pub. L. 96–501 (Regional Act).

BPA intends to establish a policy for use of Intertie facilities for BPA's own transmission needs and those of other parties, within the context of existing contractual obligations. A notice of Intent to Develop Intertie Policy was published July 22, 1983. At that time, BPA requested recommendations from the public. Fifty-five parties responded with written recommendations. Copies of recommendations and a summary of responses are available from BPA's Public Involvement Office. This discussion covers issues raised by BPA and by others in oral and written responses to that notice.

DATES: BPA will accept comments for consideration in developing a proposed Intertie Access Policy through March 16, 1984. Written comments should be postmarked by that date. In addition, BPA will continue to endeavor to meet with interested persons. To request such a meeting, interested persons should contact the BPA Area or District Manager in their locality, the Public Involvement Offices, or the Responsible Official (listed below).

ADDRESSES: Comments should be submitted to Ms. Donna L. Geiger, Public Involvement Manager, P.O. Box 12999, Portland, Oregon 97212. Recommendations also may be submitted orally at the phone numbers listed below.

Responsible Official

The official responsible for development of the Intertie Access Policy is James L. Jones, Deputy Power Manager.

FOR FURTHER INFORMATION CONTACT: Ms. Donna L. Geiger, Public Involvement Manager, at the above address, 503–230–3478. Oregon callers may use 800–452–8429; callers in California, Idaho, Montana, Nevada, Utah, Washington, and Wyoming may use 800–547–6048.

Information may also be obtained from:

Mr. George Gwinnutt, Lower Columbia Area Manager, Suite 288, 1500 Plaza Building, 1500 NE. Irving Street, Portland, Oregon 97232, 503–230–4551

Mr. Ladd Sutton, Eugene District Manager, Room 206, 211 East Seventh Avenue, Eugene, Oregon 97401, 503–687–6952

Mr. Ronald H. Wilkerson, Upper Columbia Area Manager, Room 561, West 920 Riverside Avenue, Spokane, Washington 99201, 509–456–2581

Mr. George E. Eskridge, Montana District Manager, 800 Kensington, Missoula, Montana 59801, 406–329–3560

Mr. Ronald K. Rodewald, Wenatchee District Manger, P.O. Box 741, Wenatchee, Washington 98801, 509–662–4377, extension 379

Mr. Richard D. Casad, Puget Sound Area Manager, West 415 First Avenue North, Room 250, Seattle, Washington 98109, 206–442–4130

Mr. Thomas Wagenhoffer, Snake River Area Manager, West 101 Poplar Walla Walla, Washington 99362, 509–525–5500, extension 701

Mr. Robert N. Laffel, Idaho Falls District Manager, 531 Lomax Street, Idaho Falls, Idaho 83401, 208–523–2706

Mr. Fred Rettenmund, Boise District Manager, Owyee Plaza Suite 245, 1109 Main Street, Boise, Idaho 83707, 208–334–9137.

SUPPLEMENTARY INFORMATION:

Reason for Policy Development

BPA presently has resources surplus to its existing loads and most PNW utilities are in a similar surplus condition. Thus, there likely will be more demand for use of the Intertie than available Intertie capacity. Several utilities, resource developers, and other parties have asked BPA for firm or nonfirm contractual access to BPA's portion of the Intertie. BPA must view these requests in the context of several concerns, the central one of which is BPA's own need to use the Intertie for its power marketing program. To the extent Intertie transmission arrangements supersede or displace BPA transactions, there are adverse impacts on BPA ratepayers. BPA must examine the use of its transmission facilities in light of BPA objectives for its power marketing program.

Description of Current Intertie Transactions, Practices and Contracts

Information was made available in connection with BPA's July 22, 1983 Notice of Intent to Develop Intertie Policy and is being provided as an Appendix to this issue discussion. The Appendix includes narrative describing Intertie facilities, ownership, some major contracts and practices, and a table of "Current Long-Term Electric Power Import Export Transactions."

Comments Requested on Intertie Access Policy Issues

BPA invites comment on the following discussion of issues identified to date for consideration on formulating a proposed Intertie Access Policy. In addition, BPA seeks advice and

recommendations from interested persons on alternatives for resolving those issues and on additional issues not addressed herein.

Comments Requested on Environmental Issues

Public input on potential environmental impacts associated with this policy will help BPA determine the appropriate National Environmental Policy Act (NEPA) process. To date, BPA has identified three areas for analysis: resource development, system operations and transmission development. Comments specifically related to environmental issues should be clearly identified.

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Appendix

BPA Intertie Access Policy Issues

Introduction

Many entities and groups requested meetings with BPA officials pursuant to the July 22, 1983 Notice to discuss the development of a new Intertie Access Policy. In these meetings, BPA explained the current operations and described the major concepts which must be involved in a new policy. A description of current operations was provided with the BPA Notice of Intent to Develop Intertie Policy and is included as an Appendix to this discussion. There are a number of long term contracts for use of the Intertie. Some major agreements are the Exportable Energy Agreement (explained in the Appendix), contracts granting priority Intertie transmission rights to PGE and PP&L, two long term firm wheeling contracts between the Washington Water Power Company (WWP) and California utilities, and BPA's power sales contracts.

In addition, there are a number of agreements for use of the Intertie which do not include BPA as a party. These are also shown in the table provided with the Appendix.

One such agreement is the power sales contract between Western Area Power Administration (WAPA) and Basin, shown under "Firm Power Sales" as "BEC–WAPA (CVP)." Under this contract, WAPA agreed to purchase from Basin a 185 MW share of the Antelope Valley generating resource with some obligation to pay a share of costs even if it does not take delivery of power. A significant obligation of the United States could be created if Intertie transmission is not provided for this power.

The use of the Intertie is not always controlled by the Exportable Agreement or other contracts with BPA. Transactions are arranged on a bilateral basis between Pacific Northwest sellers and Pacific Southwest buyers based on BPA's Intertie access practices. Under these practices, BPA schedules transmission for transactions in the amounts agreed on by buyers and sellers, unless the Exportable Agreement allocations are being made. When the Exportable Agreement allocations are being made, only the allocated Exportable Agreement transactions made by parties pursuant to that agreement are scheduled. The mechanism for this allocation is explained in detail in the Appendix. During times when the Exportable Agreement is not in effect, BPA may have power available which it is unable to sell. This can occur because other Pacific Northwest parties have made sales at prices below established BPA rates and below the full cost of resources, using the Intertie to make their deliveries. This adversely affects BPA's ability to recover adequate revenues to keep rates for its power customers as low as would otherwise be possible, consistent with sound business principles.

BPA's power marketing program may be impacted if BPA is not assured use of its own transmission lines to deliver BPA power. BPA must solve two key problems:

1. How to determine, on a planning basis, the amount of Intertie capacity necessary for transmission of BPA power pursuant to the objectives of a prudent power marketing program; and
2. How to determine and apportion the amount, if any, of excess Intertie capacity that is then available to other entities after providing for BPA needs.

The following discussions will treat these and related ideas. BPA's own needs for Intertie transmission will depend on the amount of BPA firm and nonfirm surplus. Excess capacity is the Intertie capacity not needed for BPA's power and not already committed pursuant to other contracts such as those identified in the table attached to the Appendix. The following discussion, BPA considers a priority system for access to excess capacity. In addition, BPA raises the separate issue of allow whether to access to Intertie capacity for transactions that reduce BPA's surplus or reduce the region's surplus including that of BPA.

1. What Should Be the Scope of BPA's Intertie Access Policy?

The Intertie Access Policy will establish guidelines and priorities for firm and nonfirm access to BPA-owned Intertie capacity. The policy also would govern access to any BPA-owned Intertie capacity which might be built or acquired in the future. However, joint investment in new facilities may require agreements for use of such increased Intertie capacity.

The following principles are considered important with respect to the new policy:

a. To insure adequate transmission to carry out BPA's power marketing program on a planning basis;

b. To provide access to others to excess BPA Intertie capacity on a fair and equitable basis consistent with applicable laws;

c. To meet short range requirements and recognize the need to respond to changing circumstances over time.

2. What is the Schedule for Policy Finalization in Context With Environmental Review?

Final policy adoption must be preceded by completion of review of potential environmental impacts of the proposed policy. If significant environmental impacts are found to

result from implementation of the proposed policy, BPA would issue a Notice of Intent to Prepare an Environmental Impact Statement (EIS). Preparation, review, and approval of an EIS could take until the spring of 1985. BPA plans to adopt an interim policy pending completion of the NEPA process and adoption of a final policy. In that case, BPA would offer interim contracts. Alternatively, if no significant environmental impacts are found, BPA would prepare an Environmental Assessment (EA) and, after a Finding of No Significant Impact, finalize the policy as soon as possible, probably summer 1984. Public comment is requested to help determine impacts to air, land, and water quality if any.

3. May BPA Grant Firm or Nonfirm Access to the Intertie if Providing That Service Would Substantially Interfere With the Administrator's Power Marketing Program?

BPA's use of its transmission lines is governed by various laws. These laws also require BPA to provide transmission and other services to utilities. A new standard was created by section 9(i)(3) of the Regional Act:

> The Administrator shall furnish services including transmission, storage and load factoring unless he determines such services cannot be furnished without substantial interference with his power marketing program, applicable operating limitations or existing contractual obligations.

This language must be analyzed together with the provisions of earlier legislation such as the Pacific Northwest Regional Preference Act, which states that interregional transmission capacity "which is not required for the transmission of Federal energy" shall be made available for the transmission of other electric energy. However, section 9(i)(3) of the Regional Act requires that BPA use and reserve its transmission capacity, on a planned basis to substantially achieve BPA's power marketing program objectives.

The Regional Act refers to this concept again in section 9(i)(1) which provides:

> At the request and expense of any customer or group of customers of the Administrator within the Pacific Northwest, the Administrator shall, to the extent practicable * * *
>
> (B) dispose of, or assist in the disposal of, any electric power that a customer or group of customers proposes to sell within or without the Region at rates and upon terms specified by such customer or group of customers, if such disposition is not in conflict with the Administrator's other marketing obligations and the policies of this Act and other applicable laws.

a. *BPA Power Marketing Program.* The term "BPA's power marketing program" does not refer to the title of a single identifiable BPA program. It describes instead the aggregate of various BPA marketing actions taken to further BPA's statutory obligations and policy directives. These actions share the theme of permitting BPA to exercise the Administrator's broad authorities to act, consistent with sound business principles, to recover adequate revenue to repay the Federal investment in BPA's system while, at the same time, encouraging the widest possible diversified use of electric power at the lowest possible rates to BPA customers. These actions are dynamic by their nature and change over time to reflect changed circumstances. BPA's intertie access policy directly impacts BPA's power marketing program since BPA must recover its annual revenue requirement. Failure to collect sufficient revenues to recover BPA's annual revenue requirement would have adverse rate impacts on BPA's wholesale power customers.

The following processes contribute to the formation of BPA's power marketing program:

(1) BPA annually revises 20-year long-range load resource balance for use in aid to firm resource planning.

(2) BPA forecasts its revenue requirement to establish for BPA rate adjustments. Sales at various rates must be estimated to develop the appropriate rate levels that will collect the amount of the revenue requirement.

(3) BPA's resource acquisition program uses BPA's long-range forecast of loads and resources and other variables such as the Regional Act priorities and the Regional Council's Plan.

(4) Submittals are made by BPA and all other parties to the Pacific Northwest Coordination Agreement demonstrating firm load carrying capability during the operating year beginning on each July 1.

(5) BPA makes short-range determinations of the availability of the firm surplus, i.e., unsold firm energy load carrying capability for several months in the future. These determinations may be the basis for offers of sale of firm surplus to BPA customers in the PNW Region and California.

(6) Determinations of nonfirm energy are made based on the best currently available data on BPA loads and available resources. The determination of the amounts of nonfirm available is used to calculate Exportable Agreement allocations. In a typical year, there is a high probability that BPA could fill a substantial portion of available capacity for significant periods of time, with its available nonfirm energy.

(7) Nonpower constraints on the Federal Columbia River Power System are used to shape the operations program for Federal resources for every operating year. Such nonpower constraints included flood control, operations in support of fish flows, recreational uses, etc. Some important factors, such as reservoir levels, are not determined by BPA, but are set by the Corps of Engineers and the United States Bureau of Reclamation (USBR).

b. *Present Practices.* The following are the most significant features of BPA's present Intertie access practices:

1. BPA has refused to grant firm transmission on the PNW–PSW Intertie to other entities. In the past 2 years, BPA has refused requests from entities for firm Intertie access.

2. BPA provides nonfirm transmission on any hour, except during periods when capacity is allocated under the Exportable Agreement (see Appendix), if BPA determines Intertie capacity is available for a selling utility that has a California buyer.

3. Intertie schedules are subject to all existing contractual commitments, including displacement by power scheduled pursuant to the Exportable Agreement.

Under the present practices, BPA schedules power for other utilities on an access capacity basis (except during allocation of capacity under the Exportable Agreement) without regard to the impact that such service has on the Administrator's power marketing program. As a result, access to the northern portion of the Intertie is often available to any requesting utility. Access to the southern end of the Intertie is limited to a small number of utilities that have ownership rights to fixed portions of capacity. Since competition among southern purchasers is restricted, the resources of northern utilities, including BPA, have been sold at prices below full cost and below the economic value of such resources.

Some entities which responded to BPA's July 22, 1983, Notice of Intent believe that BPA should not limit use by others of BPA's Intertie capacity to prevent substantial interference with BPA's power sales. The California Energy Commission, Pacific Gas and Electric, and San Diego Gas and Electric recommended a continuation of the status quo in which BPA sales could be displaced by another seller. The Pacific Power and Light Company (PP&L) recommended that BPA not use its Intertie capacity to give itself a market advantage over PNW utilities. The

Montana Public Service Commission recommended that BPA give a priority to higher cost, longer term resources from PNW entities, and not provide access to utilities selling at a price below the fixed and variable cost of the selling utilities most expensive resource.

c. *Effect of Failure to Market Surplus Power.* BPA's FY 1983 revenues were $278 million less than forecasted in setting rates. This undercollection was caused by many factors including BPA's inability to sell its surplus firm energy at the Surplus Power (SP–1) rate of 32.1 mills/kWh, or its Surplus Energy (SE–1) rate of 28.4 mills/kWh.

In the rate case which established rates for FY 1983, BPA forecasted sales of 548 average MW at the SP–1 rate. Actual sales were only 102 average MW at the SE–1 rate. Thus, BPA's inability to sell its surplus firm power resulted in an undercollection of approximately $94.7 million in FY 1983.

BPA's experience during this period was that Northwest utilities were consistently utilizing the BPA-owned Intertie capacity to make sales at prices below established BPA rates and below the full cost of the resources being sold.

In BPA's rate case that established rates for the period from November 1, 1983, to June 30, 1985, BPA took several actions to improve its ability to market surplus energy. These actions included more flexible firm surplus rates (SP–83 and SE–83) as well as guarantees for delivery of nonfirm energy for limited periods. BPA forecasted sales for fiscal year 1984 of 420 average MW at the SP–83 rate of 31.1 mills/kWh.

However, after 4 months of experience, BPA now forecasts sales of approximately 200 average MW, even with more flexible rates. This will result in an undercollection from firm power sales during fiscal year 1984 of approximately $33.4 million.

This forecasted undercollection is especially troublesome because BPA's inability to make required payments to the United States Treasury in recent years has come under increasing criticism and scrutiny by Congressional Committees, the Government Accounting Office, FERC, and others.

In establishing the rates effective November 1983, BPA forecast that it would be unable to sell 768 average MW of firm surplus at the SP–83 or the SE–83 rate during operating year 1984 (July 1, 1983 to June 31, 1984). BPA assumed that this power would be sold at nonfirm rates averaging about 14 mills/kWh. The difference between surplus firm sales and nonfirm sales was $115 million. The impact of this unsold surplus firm raised wholesale power rates to BPA's direct service industrial (DSI) customers by approximately 2 mills/kWh.

Two mills/kWh is equivalent to an additional 1.5–1.6 cents per pound in the cost of producing aluminum at regional smelters. This additional cost has contributed to the economic situation that make the PNW smelters "swing plants." Swing plants will be among the first to reduce operating levels when aluminum markets are depressed. Also, several of the nonaluminum DSI's are currently in economically precarious situations. If DSI loads are reduced, a greater portion of BPA costs must be absorbed in rates paid by other customer groups.

In July 1985, BPA's rate directives in the Regional Power Act change. One impact of these changes is that the cost of unsold surplus is potentially borne by all ratepayers.

In BPA's 1983 rate case BPA proposed an alternative Intertie transmission rate that would have applied to wheeling non-BPA firm energy. The rate was to be established at a level equal to the estimated lost revenue to BPA in mills per kilowatthour as a result of BPA's inability to use Intertie capacity for BPA sales. Estimates of this alternative rate were between 4.5 mills to approximately 6 mills per kWh. BPA did not include this alternative rate proposal in its final transmission rate adjustment because a revision of the Intertie Access Policy was planned that would potentially change the situation. However, the discussion of the proposed "lost revenue" transmission rate in the rate case served to express the Administrator's very serious concern about potential interference of Intertie access practices with BPA's marketing program.

4. How Could BPA Establish a Policy Which Would Provide Intertie Transmission to Utilities Without Substantial Interference With the Administrator's Power Marketing Program?

As a general principle, BPA should first use the Intertie for transactions that market the Administrator's surplus and serve to keep rates to BPA customers as low as possible consistent with sound business principles. Transactions that reduce BPA's firm surplus and at the same time reduce the surplus of utilities in the PNW should also be granted Intertie access. For example, a multiparty sale of BPA and non-BPA resources to the Southwest that would reduce both BPA's surplus and the surplus of PNW utilities should receive access to the Intertie. For such a sale, Intertie access could be provided using excess capacity for the non-BPA resources. The power supplied by BPA for such a sale would use a portion of BPA's reserved Intertie capacity. This concept of Intertie transmission for a sale of resources from BPA and others is discussed in greater detail in Issue No. 5.

a. *Determination of Excess Capacity.* BPA would determine prospectively, on an annual basis, the amount of excess Intertie capacity available to other entities. This would be the amount of Intertie capacity available after reserving sufficient capacity for the sale of BPA surplus firm and nonfirm energy. Subsection b below discusses this determination. The excess capacity would be reduced further by any pre-existing commitments that conveyed rights on BPA-owned Intertie capacity to others. For further discussion of these commitments on Intertie facilities, see subsection c below and the Appendix.

The excess capacity portion of the Intertie could then operate much as the northern end of the PNW–PSW Intertie now operates, with the addition of possible priorities categories as discussed in Issues 5, 8, and 9. Sale of firm and nonfirm energy could be made between utilities, and scheduled by BPA with transmission provided on an excess capacity basis.

The amount of excess Intertie transmission capacity available would be adjusted periodically to take into account fluctuations in the amount of available BPA surplus firm and nonfirm energy. Subsection b below discusses the problems presented by these fluctuations.

Availability of excess capacity for specific transactions would be governed by priorities established in the Intertie Access Policy. Exemples of transactions that could have priority for firm access to the excess capacity would be: 9(i)(3) resources; resources to which BPA has acquired an option (discussed in Issues 8 and 9); or a regional sale of surplus which includes BPA power and therefore benefits BPA's power marketing program (discussed in Issue 5). BPA would provide Intertie access for transactions that would reduce the Administrator's firm surplus and not adversely impact BPA's ability to generate required revenues.

b. *Determination of BPA's Need for Intertie Capacity.* Any reduction in BPA's ability to use the Intertie could potentially interfere with BPA's ability to market its surplus firm and nonfirm energy, and, therefore, with the power marketing program. Even if BPA were able to predict exactly the average amount of its nonfirm energy available to sell to PSW buyers for a particular month, the distribution of the nonfirm

energy within the month would vary. Therefore, if BPA reserved only the Intertie capacity needed to transfer the average amount of nonfirm energy in a month, BPA would risk having to spill rather than sell the total actual amount. Assessment of this risk will be a continuing task during development of this policy.

Another uncertainty arises because PSW utilities recently have not purchased all available PNW nonfirm energy on light load hours due to conditions within their own systems. In the future, PSW utilities may not purchase as much nonfirm energy as they have in the past during light load hours due to baseload nuclear plants coming online. In order to deliver energy during the limited hours when it will be accepted, BPA would require, in some months, more Intertie capacity during peak hours than offpeak hours inorder to sell all its available firm surplus power and nonfirm energy.

BPA has studied methods for determining the Intertie transmission needs of its power marketing program taking into account the risks involved in estimating available power. Generally, it has been assumed that BPA's power marketing program should include the following: (1) BPA firm surplus resources in excess of its firm loads; and (2) an estimate of nonfirm energy which could be sold using transmission to the PSW. It has also been assumed that BPA would operate under current Exportable Agreement practices. The level of firm surplus would be shaped across months of the year.

An estimate of BPA's nonfirm energy which would be available to sell to the PSW would involve several factors. First, the monthly amount of nonfirm energy available to sell to the PSW after meeting the needs of the PNW market must be estimated for different water conditions. On the basis of historical data on water availability BPA could estimate the probability of occurrence of different water levels and, therefore, the probability of having more or less nonfirm energy available to sell to the SW in different months. An additional risk factor could be incorporated for the uncertainty of the distribution of the water within a month and for PSW light load limitations.

c. *Transmission Services.* As a general principle, BPA should offer wheeling services to other parties where such services would not interfere with BPA's power marketing program. Therefore, "firm transmission" in its most commonly used sense may not be the form of transmission service that BPA should offer. Rather, qualified interruptibility requirements may be imposed as well as the transmission demand levels being subject to monthly decreases.

One existing Intertie transmission contract with the WWP for wheeling of power to Southern California Edison may provide a potential model for future Intertie transmission services. Deliveries of power under the contract are firm, although the energy may be displaced by Exportable Energy if an allocation has been made. However, WWP has a right to purchase from BPA a portion of BPA's allocation of nonfirm Exportable Energy as an alternative to interruption. This concept could be used to support transmission agreements guaranteeing a firm delivery of power although the resource seller would have to replace its own source of generation with BPA system generation during some periods.

5. Are There Circumstances Under Which BPA Could Grant Firm Transmission on Intertie Capacity for Transactions Which Are Compatible With the Administrator's Power Marketing Program?

a. *Agency Agreements and Intertie Transmission.* BPA believes that section 9(i)(1)(B) of the Regional Power Act and other statutory authorities clearly grant BPA authority to act as the agent of the Administrator's customers. Section 9(i)(1) states:

> At the request and expense of any customer or group of customers of the Administrator within the Pacific Northwest, the Administrator shall, to the extent practicable—(A) * * *; and (b) dispose of, or assist in the disposal of, any electric power that a customer or group of customers proposes to sell within or without the region at rates and upon terms specified by such customer or group of customers, if such disposition is not in conflict with the Administrator's other marketing obligations and the policies of this Act and other applicable laws.

Such transactions offer the potential to conclude marketing arrangements beneficial to BPA, its customers, and the region as a whole. It may therefore be appropriate to grant firm access on a pro rata basis both to excess Intertie capacity and the capacity reserved for the Administrator's power marketing program.

b. *Other Transactions.* There are various circumstances in which the Intertie transmission for another utility could be compatible with BPA's power marketing program. If a utility purchased BPA firm surplus for use in its own system, this could reduce BPA's need for Intertie capacity. Also, if BPA and another utility supplied surplus power from both their systems for a joint sale to the PSW, BPA could provide Intertie access to the participating utility.

As another example, a utility requesting Intertie access could reduce the BPA firm surplus by reducing BPA's residential exchange load through a sale of that utility's residential exchange power to another buyer. The needs of BPA's power marketing program would be correspondingly reduced because BPA's surplus is reduced and Intertie capacity could be made available to that utility.

6. Are There Any Circumstances Under Which BPA Could Grant Nonfirm Transmission on Intertie Capacity That Had Otherwise Been Reserved for the Administrator's Power Marketing Program?

In general, nonfirm transmission could be provided by BPA to others on an hourly basis to the extent capacity is not required by BPA for firm or nonfirm sales. Nonfirm schedules from other entities could potentially be accepted on reserved BPA capacity to the extent BPA energy was unavailable for that hour.

When BPA firm or nonfirm energy is available, BPA's power marketing program is best served by maintaining priority access for BPA power. This could result in unused Intertie capacity if BPA power were not purchased at the offered price. This is not likely to happen because BPA has the rate flexibility to offer energy at rates that are economically advantageous to California buyers when compared to the cost of operating thermal resources.

7. Should BPA Apply Conditions to Other Entities for Obtaining Intertie Access?

If transmission and services should be provided by BPA so as to avoid interference with its power marketing program, there are a number of possible conditions that might be prerequisites for Intertie access for other entities.

a. *Relationship to the Regional Council's Plan.* An issue to be resolved is the extent to which the Intertie Access Policy should be used to enforce the Regional Council's Plan. In order to encourage compliance with the Regional Council's Plan, BPA could refuse to provide Intertie access for sales of resources which are not consistent with the Plan. This approach could discourage development of nonconforming resources for sale outside the Region and minimize the risk of adverse environmental and resource cost impacts.

The National Resources Defense Council recommended that BPA refuse

to provide access for Intertie transmission for any utility unless that utility's resource development planning is in full compliance with the Regional Council's Plan, particularly with respect to conservation standards.

b. *Relationship to BPA's Fish and Wildlife Responsibilities.* The National Wildlife Federation recommended that BPA's Intertie Access Policy deny Intertie access to utilities or developers whose surplus for export is created by resources which are inconsistent with the fish and wildlife policies of the Regional Act. This concept raised the possibility that furtherance of BPA fish and wildlife responsibilities should go beyond limiting Intertie access for a specific facility to limiting even the indirect use of such a project to make power from other resources that are available for export. Specifically, BPA could refuse to provide Intertie access for power produced or made available by operations of hydroelectric projects which do not meet the conditions of section 1200 of the Columbia River Basin Fish and Wildlife Program or Appendix E of the Regional Council's Plan.

c. *Residential Exchange Costs.* BPA may refuse Intertie access for transactions that would have the effect of increasing BPA's residential exchange costs which must be borne by other ratepayers. For instance, BPA could consider a requirement that residential exchange costs be unaffected by impacts of a sale made at less than fully allocated costs.

d. *Relationship to the Exportable Agreement.* Since the execution of the Exportable Agreement (see Appendix), BPA has not granted any firm transmission rights which supersede the transmission of exportable energy under the terms of the contract. This practice has been questioned in recommendations to BPA on the Intertie Access Policy. The relationship to the Exportable Agreement of an existing Intertie transmission agreement held by the WWP mentioned in Issue 5 above has been offered as an example for the new policy. It provides that WWP's transmission to the Southern California Edison Company over the Intertie may be interrupted when the Exportable Agreement is in effect. However, WWP has the prerogative to purchase from BPA's allocation of exportable energy to avoid having WWP's own sale displaced. This concept could be expanded to provide a sharing of benefits by all Exportable Agreement parties.

Another recommendation has been to provide firm transmission agreements that are not interruptible in favor of the Exportable Agreement in order to provide the most advantageous climate for a firm sale at the fully allocated cost of the resource sold.

e. *Non-Pacific Northwest Regional Resources.* The BPA transmission system is also interconnected with utilities to the east and north of the PNW Region. Resources from the east or from Canadian utilities to the north also are potential PNW–PSW Intertie users. The issue raised is whether or not transmission of these resources would present substantial interference with the BPA power marketing program. Pass-through wheeling of non-PNW resources could interfere with the BPA power marketing program in the absence of some other compensating factors. On the other hand, a simultaneous purchase by the non-regional utility of BPA's firm surplus power could further the objectives of the power marketing program in such a manner that Intertie wheeling would present no substantial interference. Other questions would be relative priority between non-Regional resources and PNW Regional Resources, including 9(i)(3) priority holders, discussed in Issue 8.

8. How Should BPA Apportion Access To Intertie Capacity Not Needed for BPA's Power Marketing Program?

It is likely that the requests for Intertie wheeling will be greater than the amount of capacity not needed for BPA power. Apportionment of the available capacity will be addressed in the context of statutory provisions on transmission priority.

Priority of access to transmission, including Intertie wheeling, was addressed in section 9(i)(3) of the Regional Act. This provision gives priority status to resources that were under construction on the date of the Regional Act and that were offered to BPA for acquisition but were not acquired. Section 9(i)(3) priority may provide an export advantage to utilities which have made relatively expensive recent investments prior to the Regional Act to develop resources in anticipation of projected imminent regional deficits. However, priority access to transmission cannot guarantee a sale of the resource.

At the present time, no resources meet the 9(i)(3) requirement that the facilities be offered to BPA for acquisition. BPA has determined that actual offers to sell have not yet been made.

Another priority category could be resources for which BPA holds an option to meet BPA's future needs. These facilities would be resources that conform to the Regional Act priorities and the Plan. The advantage of gaining present access to markets outside the Region during PNW surplus would be reasonable because such option resources would be important to flexible long-range planning. Issue 9 also deals with a specific application of this concept with respect to cogeneration resources.

9. Should Resources Such as Cogeneration Facilities That Are Subject to a BPA Option To Purchase Be Given Priority To Intertie Access?

The Regional Council has recommended as part of its Plan that BPA provide Intertie access to cogeneration resources. Followup discussions with the Regional Council have led to the suggestion that BPA provide Intertie access for new cogeneration facilities which might be lost to the PNW Region if not marketed and which are under a BPA option for future purchase.

This suggestion is consistent with BPA's concerns with respect to all non-BPA resources. Transmission for non-BPA resources should not cause substantial interference with the BPA power marketing program.

Owners of cogeneration resources would probably need to arrange for scheduling services in aid of transmission on the Intertie as discussed in Issue 10.

10. Should BPA's Policy on Intertie Access Differentiate Between Utilities Which Have the Ability To Schedule Power and Operate a Generation Control Area, and Those Utilities or Other Entities That Do Not?

It has been recommended that BPA accept Intertie schedules only from utilities that operate generation control facilities. This would require an entity without generation control facilities to arrange for services from the utility which operates the generation control for the area where the resource is located. Prudent utility operating practices do not seem to provide any alternative for this situation. The effect is not to prevent other entities from gaining Intertie access, but to recognize the need for development of various services, over and above usual transmission services which are necessary for scheduling of Intertie transmission. If such a resource were located inside BPA's generation control area, BPA would be the appropriate utility to provide resource services in aid of Intertie transmission. If the facility were located in the generation control area of another utility, the sponsor would contact that utility for services before Intertie scheduling could be accepted.

11. How Should BPA Intertie Policy Interact With the Administration of the Exportable Energy Agreement?

Most recommendations contemplate that the administration of the Exportable Agreement would not be changed for the rest of its term. As mentioned previously, BPA has not provided any firm transmission on the Intertie that supercedes Exportable Agreement schedules since that agreement was signed. However, in the future it might be possible to make exportable market allocations of Intertie capacity without consideration of the selling price of the offering utility. In that scenario, once Intertie capacity were allocated among offering parties, the supplying utility could adjust its selling price to fill as much as possible of its allocated capacity. If the capacity were not filled for lack of a buyer at the offered price, the allocated amount would go unused.

In addition, it has been suggested that the terms of the Exportable Agreement do not prohibit BPA from providing firm transmission users with priority over Exportable schedules. BPA firm transactions or firm power sales contracts of other PNW utilities could have priority, with exportable allocations applying to the remaining capacity.

Yet another recommendation from Snohomish County Public Utility District was that the present membership of the Exportable Agreement be expanded to all requesting PNW utilities.

12. Should BPA Intertie Access Policy Provide Guidelines for the Period Following the Expiration of the Exportable Agreement?

The Exportable Agreement expires on January 1, 1989. New demands on BPA hydro resources may justify a reconsideration the present Exportable Agreement principles. For instance, BPA operating requirements for fish operations and implementation of the water budget may justify a higher priority for BPA power during certain periods. It has been recommended that the Exportable Agreement be extended in its present form. The Inter Company Pool recommended that a successor to the Exportable Agreement be open to all scheduling utilities within the area described by the Pacific Northwest Regional Preference Act. Experience with Intertie transactions under the Intertie Access Policy may suggest other export principles which are compatible with BPA power marketing program. Comment is sought on future potential vehicles for providing transmission for PNW nonfirm power to PSW purchasers.

Issued in Portland, Oregon, on February 1, 1984.

Peter T. Johnson,

Administrator.

Appendix

Background of PNW-PSW Intertie Facilities

The PNW-PSW Intertie consists of three high-voltage transmission lines: two 500-kilovolt (kV) alternating current (ac) lines and one 800-kV direct current (dc) line.

The ac lines extend from John Day Substation (John Day) near John Day Dam on the Columbia River to the Lugo Substation (Lugo) near Los Angeles. They are interconnected with other transmission lines at eight points, including the Malin Substation (Malin) near the Oregon/California border. Malin is the contractual ac delivery point of Northwest power delivered to California and vice versa. The ac legs of the Intertie can transmit electricity between the Northwest and Northern or Southern California, or to a limited extent between points on the line within either Region.

The dc line runs directly from the Celilo Converter Station near The Dalles Dam to the Sylmar Converter Station near Los Angeles. The dc line transmits power directly between the Northwest and Southern California. Power is then redistributed throughout California on the ac line.

Present capability of the three Intertie lines is 4,360 megawatts (MW), 2,800 of which is on the two ac lines and 1,560 of which is on the dc line. The ac lines are being upgraded in California between Malin and Table Mountain Substation to 3,200 MW, an increase of 400 MW. BPA will utilize this 400 MW increase at the northern end of the PSW Intertie by using the Government's additional capacity in the 500 kV Buckley-Summer Lake-Malin line. The ac lines from Malin north will remain at 2,800 MW. The dc line is being upgraded and will have a scheduling capability of 1,956 MW in 1985.

Use of the Intertie is partly governed by contracts among utilities which built portions of the lines and among other utilities which have contracted for use of the Intertie with one or more Intertie owners.

PNW-PSW Intertie Ownership

The Northwest ac portion of the Intertie is primarily owned by the Government through BPA, and by the Portland General Electric Company (PGE). PP&L, PGE, and the Government (through BPA and the Western Area Power Administration (Western)) invested in facilities at the Malin Substation. PGE constructed the 500 kV Grizzly-Malin No. 2 line and connected it to one of the Government's 500 kV lines from Grizzly Substation to John Day. Contractually, the parties exchanged rights in each other's line portion. These rights are currently in dispute and are being negotiated.

Ownership south of the Malin Substation is as follows: PP&L owns a line section from Malin to Indian Spring; the Government (through Western) owns a line section from Malin to Round Mountain Substation; Pacific Gas & Electric (PG&E) owns everything else south to Midway Substation; from Midway south, Southern California Edison (SCE) owns the facilities to Lugo, which is the southern terminus.

The use of ac Intertie capacity in California is controlled by separate agreements to which BPA is not a party. The State of California Department of Water Resources (DWR) has 300 MW of firm capacity and Western has 400 MW of firm capacity south of Malin. The Sacramento Municipal Utility District (SMUD) has a contract with PG&E, SCE, and San Diego Gas & Electric (SDG&E) which provides SMUD 200 MW of firm capacity south of Malin. PG&E disputes SMUD's rights. However, SMUD recently won a ruling from the Federal Energy Regulatory Commission (FERC) confirming SMUD's right to such firm Intertie capacity. PG&E, SCE, and SDG&E split the balance of the ac capacity plus any unused portion of the DWR and Western capacity based on each party's respective percentages of 50, 43, and 7.

The dc Intertie was constructed by BPA and the City of Los Angeles. The Government owns the dc lines in Oregon. Ownership of the dc in California is split 50/50 public/private, and the percentages are divided among seven parties, as follows: PG&E 25.0 percent; SCE 21.5 percent; SDG&E 3.5 percent; Los Angeles (LADWP) 40.0 percent; Burbank 3.86 percent; Glendale 3.86 percent; and Pasadena 2.28 percent.

Practices and Contracts Governing Use of the PNW-PSW Intertie

Use of the PNW-PSW Intertie is largely governed by discretionary practices developed over time. There are a small number of BPA contracts which provide wheeling use to others. BPA's Intertie Access Policy will be developed within the framework of these contracts, explained briefly below.

(a) The most significant contract currently governing use of the Intertie is

the Exportable Agreement, Contract No. 14–03–73155. BPA and 14 Northwest utilities are parties to this agreement. At times, the Northwest's hydroelectric/thermal system is capable of producing more energy than can be marketed in the Region at any established rate and the total amount of energy available exceeds the capability of the Intertie or the available California market. At such times, the Exportable Agreement allocation provisions go into effect.

Under the Exportable Agreement, BPA schedules the Government's apportionment of surplus nonfirm energy over the Intertie to entities outside the Region. It has been the practice that such energy is sold at the lowest rate specified under BPA's Wholesale Nonfirm Energy Rate Schedule. Any other party to the Exportable Agreement may schedule its apportionment of energy that is excess to its need under section 5(b) and 5(d) of this agreement provided that such party is willing to sell at applicable BPA rates. When a party schedules its apportioned "Exportable Energy" to BPA, such party's energy is combined with all other Exportable Energy, and sold by BPA as Federal energy to California utilities under BPA's existing power sales contracts at the lowest rate specified under BPA's Wholesale Nonfirm Energy Rate Schedule. The scheduling party is credited by BPA (i.e., paid) for its "sale" of Exportable Energy to BPA at the referenced rate. Under section 5(c) of the Exportable Agreement, a party may sell all or part of its apportioned share of an Exportable Energy schedule on a bilateral basis to a specific California entity. The rate for this bilateral transaction may be different than the applicable BPA nonfirm rate according to the power sales contract between the parties.

Until January 1, 1989, the expiration date of the Exportable Agreement, when Exportable Energy is scheduled by parties over available ac and dc Intertie capacity under the Exportable Agreement, such schedules take priority over all other schedules on the Intertie except those made pursuant to contracts described below:

(b) Until January 1, 1986, PGE is entitled to wheel an annual maximum of 1,100,000 MWh on the Intertie pursuant to Contract No. 14–03–55063. This may be used in conjunction with PGE's rights to Exportable Energy schedule as it wishes, up to the annual limit of its priority right and subject to any priority sharing arrangement with PP&L. Every PGE Intertie schedule between the Northwest and Southwest counts against its priority right until such annual right is exhausted. It should be noted that PGE must use any capacity of its own before it utilizes BPA's capacity on a priority basis.

(c) Until January 1, 1987, PP&L is entitled to use its annually renewed 270,000 MWh Intertie access priority right described in Contract No. 14–03–56379 with BPA to absorb as much of any Exportable Energy schedule as it wishes, up to the limit of its priority right and subject to any priority sharing arrangement with PGE. Every PP&L Intertie schedule between the Northwest and Southwest counts against its priority right until such annual right is exhausted.

(d) Until April 1, 1988, the WWP has a firm, noninterruptible right to schedule 40 average NW per week (112 peak) of combined ac and dc line capacity to San Diego Gas & Electric under Contract No. 14–03–79101 with BPA. This agreement was executed prior to the Exportable Agreement.

In addition, there is another WWP wheeling agreement which is interruptible by the Exportable Agreement, but provides for an option to escape interruption of the sale without decreasing exportable sales. Until July 1, 1991, WWP has a right to schedule 80 MW to Southern California Edison (SCE) under Contract No. DE–MS79–81BP90185, subject to displacement by the Exportable Agreement. WWP may purchase exportable energy from BPA to avoid such displacement.

When the Exportable Agreement is not in effect; i.e., when the Federal Hydro-System is not spilling or in imminent danger of spilling, and when the total power offered for sale does not exceed Intertie capacity or the available California market, BPA provides hour-by-hour access to available Intertie capacity to all PNW and Canadian utilities, for sales to PSW utilities as agreed to by buyers and sellers in the market.

The majority of generating utilities in the northwest United States, southwest Canada, and the southwest United States have scheduled energy over the BPA portion of the Intertie on a relatively short-term basis over capacity that BPA determines may be available during a given hour.

Other BPA Uses of the Intertie

BPA must make firm capacity available, upon request, under provisions of several Peak/Energy Exchange Agreements between BPA and several California utilities. The sum of the maximum contract demands of these utilities is a total of 1,202 MW throughout the year. In addition, PG&E has the right to 600 NM of firm capacity from BPA during the period May through October (billed under Contract No. 14–03–54132, at BPA's CF–2 Wholesale Firm Capacity Rate Schedule).

These contracts expire on the following dates:

Utility	Contract No. (14–03–)	Expiration date	Contract demand (MW)
Burbank	53290	05/05/87	42
Glendale	53295	12/30/86	52.5
Los Angeles	50323	07/19/86	525
PG&E*	54134	07/31/87	0
Pasadena	53297	01/24/88	31.5
San Diego G&E*	58638	12/29/87	0
SCE	54126	07/31/87	550

* Note.—PG&E and SDG&E are not requesting or receiving any exchange capacity from BPA under these agreements.

BPA's scheduling of firm capacity to fulfill its obligations to five California utilities (Burbank, Glendale, Los Angeles, Pasadena, and SCE) provides BPA with a firm energy resource and benefits Northwest utilities by creating an additional market for secondary energy. These California utilities must provide to BPA peaking replacement energy and exchange energy (firm energy resource for BPA) pursuant to the capacity Energy Exchange Agreements. This exchange energy is often purchased from Northwest utilities for delivery to BPA for the account of the California utility.

Non-BPA Contracts—California Sales, Exchanges, Transfers

There are a number of contractual arrangements between and among Northwest and Southwest utilities to which BPA is not a party. A listing of long-term arrangements (5 years or more) involving import/export transactions is contained in this Appendix entitled "Current Long-Term Electric Power Import-Export Transactions."

TABLE II-2.—CURRENT LONG-TERM ELECTRIC POWER IMPORT-EXPORT TRANSACTIONS[a]

Contract (transaction) type	Contract provisions				Month	Price	Expiration
	Export capacity[b] (MW)	Import capacity[b] (MW)	Export energy[c] (MW)	Import energy[c] (MW)			
Firm Capacity/Energy Exchanges:							
BPA—LADWP	525	0	0	2,500/MWh demand/yr	All	N/A	7/19/86
BPA—City of Burbank	42	0	0	2,500/MWh demand/yr	All	N/A	5/5/87.
BPA—City of Glendale	62.5	0	0	2,500/MWh demand/yr	All	N/A	12/30/86.
BPA—City of Pasadena	91.5	0	0	2,500/MWh demand/yr	All	N/A	1/24/88.
BPA—SCE	550	0	0	2,500/MWh demand/yr	All	N/A	7/31/87.
BPA—SDGE[d]	0	0	0	2,500/MWh demand/yr	All	N/A	12/29/87.
BPA—PG&E[d]	0	0	0	2,500/MWh demand/yr	All	N/A	7/31/87.
BPA—MPC	100	0	0	16	All	N/A	8/21/87
WWP—SDGE	112	0	0	32	All	N/A	8/9/88.
Firm Capacity/Capacity Exchange:							
WWP—SCE	50	0	0	0	Mar. to Nov.	N/A	5/30/90.
	0	50	0	0	Dec. to Feb.	N/A	.
Firm Capacity Sales:							
BPA—PG&E	500	0	0	0	June to Oct.	$11.76/kW/season	7/31/87.
PGE—SCE	100	0	0	0	May 16 to Sept. 15	To be supplied	Evergreen.[e]
PGE—PG&E	400	0	0	0	May 16 to Sept. 15	To be supplied	Evergreen.[e]
Firm Energy/Energy Exchanges:							
EWEB—So. California Municipals	0	0	60 MkWh	60 MkWh	Seasonal	N/A	Open.[f]
Firm Power Sales:							
CSPE[g]—State of California	150	0	50	0	All	$125/MW of gross capacity[h]	3/31/88.
WPP—APS	0	20	0	20	All	37 mills/kWh	10/11/85.
BEC—WAPA (CVP)[i]	185	185	185	185	Pending	Pending	Pending.
Surplus Energy Sales:[j]							
BPA—City of Anaheim	0	0	0	0	As available	Adjustable	6/8/98.
BPA—City of Riverdale	0	0	0	0	As available	Adjustable	6/8/98.
BPA—City of Biggs[k]	0	0	0	0	As available	Adjustable	9/7/98.
BPA—City of Alameda[k]	0	0	0	0	As available	Adjustable	8/10/98.
BPA—City of Gridley[k]	0	0	0	0	As available	Adjustable	10/6/98.
BPA—City of Healdsburg[k]	0	0	0	0	As available	Adjustable	9/12/98.
BPA—City of Lodi[k]	0	0	0	0	As available	Adjustable	7/14/98.
BPA—City of Lompoc[k]	0	0	0	0	As available	Adjustable	8/11/98.
BPA—City of Roseville[k]	0	0	0	0	As available	Adjustable	10/17/98.
BPA—City of Ukiah[k]	0	0	0	0	As available	Adjustable	8/10/98.
BPA—City of Santa Clara[k]	0	0	0	0	As available	Adjustable	8/14/98.
BPA—City of Plumas Sierra REC[k]	0	0	0	0	As available	Adjustable	6/23/98.
BPA—CDWR	0	0	0	0	As available	Adjustable	9/5/87.
BPA—SMUD	0	0	0	0	As available	Adjustable	8/22/87.
PGE—PG&E	333	0	0	0	All	39.94 mills/kWh	Evergreen.[e]
Intra-Company Transfers:[l]							
PP&L:							
1982-83	205	1,492	0	1,009	N/A	N/A	N/A.
1984-85	221	1,357	105	998	N/A	N/A	N/A.
1986-90	269	1,273	124	905	N/A	N/A	N/A.
1994-95	To be supplied						.
1999-00	To be supplied						.
MPC:							
1982-83	0	550	0	364	N/A	N/A	N/A.
1984-85	0	600	0	392	N/A	N/A	N/A.
1986-90	0	825	0	459	N/A	N/A	N/A.
1994-95	To be supplied						.
1999-00	To be supplied						.
UPL:							
1982-83	0	225	0	159	N/A	N/A	N/A.
1984-85	0	225	0	163	N/A	N/A	N/A.
1986-90	0	253	0	175	N/A	N/A	N/A.
1994-95	To be supplied						.
1999-00	To be supplied						.
Miscellaneous:							
BPA to MPC: Geographical Preference[m].	50	0	0	0	All	(n)	8/21/87.
BPA to MPC: Hanford Extension[o].	0	0	48	0	Sept. to May	$5.2 million[p]	6/30/83.
BPA to MPC: Restoration[q]	0	0	0	0	All		6/30/03.
BPA to MPC: WNP1 or Replacement[r].	90	0	55	0	All	$13 million	6/30/96.

[a] Contract information from D. Jones, R. Schlewe, D. Faulkner (BPA), D. Young (WWP), R. Scales (EWEB), D. Dyer (PGE).
[b] January peak capacity unless otherwise stated in "Month" column.
[c] Average annual energy unless otherwise stated in "Month" column.
[d] This contract has never been invoked.
[e] Open-ended contracts which can be cancelled with 5 years notice.
[f] Open-ended contracts which can be cancelled with 3 years notice.
[g] Columbia Storage Power Exchange: Chelan Co. PUD, Grant Co. PUD, Douglas Co. PUD, (Canadian Entitlement Exchange Agreement).
[h] Gross capacity is approximately 157 MW.
[i] Basin Electric Cooperative, South Dakota. This is a power wheeling arrangement which is included in this table because final negotiations may include BPA's ability to preempt part or all of the 185 MW (see Section 4.3).
[j] These transactions can include provisional energy.
[k] This contract was created to permit transactions with BPA should they be desirable at some future date. They are currently not invoked.
[l] Colstrip, Jim Bridger, and Valmy transactions are discussed in Volume XI, Coal. Prices are provided by the forecasting/supply demand equilibrium model being developed for the Power Council by Charles River Associates, Inc., at the average annual generation cost for private utilities.
[m] The Bureau of Reclamation operates the Hungry Horse Dam in Montana and BPA markets the power with the stipulation that some of the generation is to remain in Montana.
[n] Included as part of the BPA-MPC exchange agreements (see above).
[o] As long as the Hanford N Reactor continues to operate MPC owns 10 percent of the power generated. Under current renegotiation, a new contract will be designated as the Hanford Continuation, extending for 10 years after it is signed. The N reactor is shut down approximately April through May each year.
[p] The price for 1982–1983 percentage of generation.

[1] When the Columbia Storage Power Exchange agreement was exercised it was determined that while most interconnected power systems would benefit from the new hydraulic coordination, some might lose capacity. MPC has such a system and consequently has 6 MW of the average annual energy "restored" to it for the life of the agreement.
[2] MPC pays 10 percent of the estimated operating costs of WNP #1 and in return receives the equivalent energy at appropriate firm rates.

[FR Doc. 84-4313 Filed 2-15-84; 8:45 am]
BILLING CODE 6450-01-M

Program Budget Levels Request for Comments

AGENCY: Bonneville Power Administration (BPA), DOE.

ACTION: Request for Comments. *BPA File No.*: PB-84

SUMMARY: BPA is beginning the process of determining program levels for the period of time to be covered by the next rate filing. Any adjustments in BPA's wholesale power and/or transmission rates as a result of this rate filing will take effect July 1, 1985. The program levels established for BPA's various programs (e.g., energy conservation, resource planning, construction programs, etc.) determine the revenue requirements which BPA must satisfy over the rate period. By this notice, BPA is soliciting comments from interested parties on the various program areas in which BPA is involved.

Responsible Officials: Mr. Paul O. Crabtree, Jr. and Ms. Norma L. Pizza, of the Division of Planning and Budget are the officials responsible for this request for comments.

DATES: Written comments on program level estimates will be accepted until March 19, 1984.

ADDRESSES: Written comments should be submitted to the Public Involvement Manager, Bonneville Power Administration, P.O. Box 12999, Portland, Oregon 97212.

FOR FURTHER INFORMATION CONTACT: Ms. Kathleen S. Johnson, Public Involvement office, at the above address, 503-230-3478. Oregon callers outside of Portland may use 800-452-8429; callers in California, Idaho, Montana, Nevada, Utah, Washington, and Wyoming may use 800-547-6048. Information may also be obtained from:

Mr. George Gwinnutt, Lower Columbia Area Manager, Suite 288, 1500 Plaza Building, 1500 NE. Irving Street, Portland, Oregon 97232, 503-230-4551.

Mr. Ladd Sutton, Eugene District Manager, Room 206, 211 East Seventh Avenue, Eugene, Oregon 97401, 503-687-6952.

Mr. Ronald H. Wilkerson, Upper Columbia Area Manager, Room 561, West 920 Riverside Avenue, Spokane, Washington 99201, 509-456-2518.

Mr. George E. Eskridge, Montana District Manager, 800 Kensington, Missoula, Montana 59801, 406-329-3860.

Mr. Ronald K. Rodewald, Wenatchee District Manager, P.O. Box 741, Wenatchee, Washington 98801, 509-662-4377, extension 379.

Mr. Richard D. Casad, Puget Sound Area Manager, 415 First Avenue North, Room 250, Seattle, Washington 98109, 206-442-4130.

Mr. Thomas Wagenhoffer, Snake River Area Manager, West 101 Poplar, Walla Walla, Washington 99362, 509-525-5500, extension 701.

Mr. Robert N. Laffel, Idaho Falls District Manager, 531 Lomax Street, Idaho Falls, Idaho 83401, 208-523-2706.

Mr. Frederic D. Rettenmund, Boise District Manager, Owyhee Plaza, Suite 245, 1109 Main Street, Boise, Idaho 83707, 208-334-9138.

SUPPLEMENTARY INFORMATION:

I. Background

BPA's Fiscal year (FY) 1985 budget recently went to the U.S. Congress as part of the Budget of the United States for FY 1985. That budget contains not only program estimates and detailed information for FY 1985, but also contains estimates for the years 1986-1989. The 1986 and 1987 program estimates are currently being reviewed by BPA program managers to determine revenue requirements for the next rate filing, for rates which will take effect beginning July 1, 1985. The program level decisions made by the BPA Administrator will be reflected in the Revenue Requirement Study filed with BPA's initial rate proposal in late summer 1984.

II. Public Comment Procedures

BPA welcomes comments from the public on its estimated program levels for FY 1986 and 1987, the fiscal years relevant for the next rate filing. For your use in making comments, BPA will make available, upon request, BPA's budget for FY 1985 and related documents. The 1985 budget document contains detailed information on BPA's various programs. A similar breakdown can be assumed for FY 1986 and 1987.

Copies of the budget document will be available for viewing at the Area and District offices listed in the addresses section of this notice. Copies will also be available in the Public Reference Room, located in the BPA Headquarters building in Portland. BPA suggests potential commenters review this budget material at field locations, if it is convenient for them to do so. If commenters then wish to receive a personal copy of the document, it can be obtained by contacting the Public Involvement office at the address or telephone numbers indicated in the addresses section of this notice. All comments and suggestions will be submitted to the BPA Administrator for his consideration in determining program levels.

Issued in Portland, Oregon, on February 9, 1984.

Peter T. Johnson,
Administrator.

[FR Doc. 84-4373 Filed 2-15-84; 8:45 am]
BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket No. CP84-227-000]

Columbia Gas Transmission Corp.; Request Under Blanket Authorization

February 10, 1984.

Take notice that on February 7, 1984, Columbia Gas Transmission Corporation (Columbia), 1700 MacCorkle Avenue, S.E., Charleston, West Virginia 25314, filed in Docket No. CP84-227-000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) that Columbia proposes to transport natural gas on behalf of Virginia Linen Services, Inc. (Virginia Linen) under the authorization issued in Docket No. CP83-76-000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Specifically, Columbia proposes to transport up to 140 million Btu of natural gas per day for Virginia Linen for a term of one year. It is stated that the gas to be transported would be purchased from Resources Exploration, Inc. (Resources), and would be used for boiler fuel in Virginia Linen's Petersburg, Virginia, plant.

It is indicated that Columbia has released certain gas supplies of Resources and that these supplies are subject to the ceiling provisions of Section 108 of the Natural Gas Policy Act of 1978. It is further indicated that Virginia Linen has made arrangements to purchase this released gas from Resources. Columbia states that it would receive the gas from Resources in Guernsey and Harrison Counties, Ohio and redeliver the gas to Commonwealth Gas Pipeline Corporation, which would redeliver the gas to Commonwealth Gas

Services, the distributor serving Virginia Linen in Petersburg, Virginia. Further, Columbia states that depending upon whether its gathering facilities are involved, it would charge either (1) its average system-wide storage and transmission charge, currently 40.11 cents per dt equivalent, exclusive of company-use and unaccounted-for gas, or (2) its average system-wide storage, transmission and gathering charge, currently 44.93 cents per dt equivalent, exclusive of company-use and unaccounted-for gas. Columbia states that it would retain 2.85 percent of the total quantity of gas delivered into its system for company-use and unaccounted-for gas.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-4286 Filed 2-15-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP84-230-000]

Columbia Gas Transmission Corp. and Columbia Gulf Transmission Co.; Request Under Blanket Authorization

February 10, 1984.

Take notice that on February 8, 1984, Columbia Gas Transmission Corporation (Columbia), P.O. Box 1273, Charleston, West Virginia 25325-1273, and Columbia Gulf Transmission Company (Columbia Gulf), P.O. Box 683, Houston, Texas 77001, filed in Docket No. CP84-230-000 a joint request pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) that they propose to transport natural gas on behalf of W. R. Grace and Co., Davis Chemical Division (W. R. Grace), for use as boiler and process fuel under authorizations issued in Docket Nos. CP83-76-000 and CP83-496-000, respectively, pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

Columbia and Columbia Gulf propose to transport for one year up to 4,500 dt equivalent of natural gas per day for W. R. Grace. It is indicated that Exxon Corporation (Exxon) would deliver natural gas to Columbia Gulf and that Columbia Gulf would transport and deliver equivalent volumes to Columbia. It is further stated that in turn Columbia would transport and deliver equivalent volumes of natural gas to Baltimore Gas and Electric Company (BG&E) in Baltimore, Maryland. Columbia states that it has released this gas and that these supplies are subject to the ceiling price provisions of Sections 102 and 103 of the Natural Gas Policy Act of 1978. It is further indicated that W. R. Grace would purchase this released natural gas from Exxon and that BG&E is the distribution company serving W. R. Grace in Baltimore, Maryland.

For this transportation it is stated that Columbia Gulf would charge W. R. Grace its average system-wide onshore or offshore transmission cost, exclusive of company-use and unaccounted-for gas, currently 26.19 cents per dt and 44.63 cents per dt, respectively. Columbia Gulf would retain 2.58 percent and 3.33 percent of the gas delivered to it from onshore and offshore, respectively, for company-use and unaccounted-for gas. It is also stated that Columbia would charge W. R. Grace its average system-wide storage and transmission cost, exclusive of company-use and unaccounted-for gas, currently 40.11 cents per dt. In addition Columbia would retain 2.85 percent of the gas delivered to it for company-use and unaccounted-for gas. It is further stated that Columbia would collect the GRI funding unit charge of 1.21 cents per dt.

Columbia states that in Docket No. CP84-54-000 it requested authority to transport up to 4,500 million Btu of natural gas per day for W. R. Grace from POI Energy, Inc. (POI). It is stated that Columbia and Columbia Gulf would transport up to 4,500 million Btu of gas to W. R. grace from either POI or Exxon or a combination of the two.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-4288 Filed 2-15-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. G-11913-000, et al.]

Mobil Producing Texas & New Mexico Inc., et al.; Applications for Certificates, Abandonments of Service and Petitions To Amend Certificates [1]

February 10, 1984.

Take notice that each of the Applicants listed herein has filed an application or petition pursuant to Section 7 of the Natural Gas Act for authorization to sell natural gas in interstate commerce or to abandon service as described herein, all as more fully described in the respective applications and amendments which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before February 27, 1984, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, .214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or to be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[1] This notice does not provide for consolidations for hearing of the several matters covered herein.

Docket No. and date filed	Applicant	Purchaser and Location	Price per 1,000 ft ³	Pressure base
G-11913-000, D, Feb. 6, 1984	Mobil Producing Texas & New Mexico Inc., Nine Greenway Plaza, Suite 2700, Houston, Tex. 77046.	Tennessee Gas Pipeline Co., Piedre Lumbre Field, Duvall, Tex.	(1)	
G-11947-000, D, Feb. 6, 1984	do	Tennessee Gas Pipeline Co., Hagist Ranch and N. Government, Wells Field, Duvall, Tex.	(1)	
G-15814-000, E, Jan. 31, 1984	Anadarko Production Company (successor in interest to Delmer Daves), P.O. Box 1330, Houston, Tex. 77251.	Kansas Nebraska Natural Gas Co., Gilbert No. 1 and Gilbert No. 2 Wells, Section 8-2N-19ECM, Texas County, Okla.	(2)	
G-19563-000, E, Jan. 31, 1984	do	Kansas Nebraska Natural Gas Co., Tharp "B" No. 1 Well, Section 17-2N-19ECM, Texas County, Okla.	(2)	
CI61-569-000, E, Jan. 31, 1984	do	Panhandle Eastern Pipe Line Co.,Schoolfield No. 1-17 Well, Section 17-6N-9ECM, Cimarron County, Okla.	(2)	
CI61-1421-000, D, Feb. 6, 1984	Shell Offshore Inc., P.O. Box 4480, Houston, Tex. 77210.	Tennessee Gas Pipeline Co., South Pass Block 27, Plaquemines Parish, La.	(3)	
CI63-1229-000, D, Feb. 1, 1984	Mobil Producing Texas & New Mexico Inc., Nine Greenway Plaza, Suite 2700, Houston, Tex. 77046.	Natural Gas Pipeline Co. of America, South Lundell Field, Duval County, Tex.	(4)	
CI63-1299-000, D, Feb. 6, 1984	do	Natural Gas Pipeline Co. of America, South Lundell Field, Duval County, Texas.	(1)	
CI64-766-000, E, Jan. 31, 1984	Anadarko Production Company (successor in interest to Delmer Daves), P.O. Box 1330, Houston, Tex. 77251.	Panhandle Eastern Pipe Line Co., Martin No. 1-28 and Minns A No. 1 Wells, Sections 28-4N-9ECM and 20-4N-9ECM, Cimarron County, Okla.	(2)	
CI84-190-000 (CI77-90), B, Jan. 23, 1984.	Exxon Corp., P.O. Box 2180, Houston, Tex. 77252-2180.	Columbia Gas Transmission Corp., Lake Sand Field, St. Mary and Iberia Parishes, La.	(5)	
CI84-191-000 (CI71-886), B, Jan. 23, 1984.	Sun Exploration & Production Co., P.O. Box 2880, Dallas, Tex. 75221-2880.	Transcontinental Gas Pipe Line Corp., Vinton Field, Calcasieu Parish, La.	(10)	
CI84-192-000 (CI75-719), B, Jan. 27, 1984.	Tenneco Oil Co., P.O. Box 2511, Houston, Tex. 77001.	Tennessee Gas Pipeline Co., Eugene Island Block 208, Offshore La.	(11)	
CI84-193-000 (CI75-717), B, Jan. 27, 1984.	Tenneco Exploration, Ltd., P.O. Box 2511, Houston, Tex. 77001.	Tenneco Oil Co., Eugene Island Block 208, Offshore Louisiana.	(11)	
CI84-194-000, B, Jan. 27, 1984	U.S. Department of the Army, Corps of Engineers, successor to James A. Hughes.	Equitable Gas Co., Skin Creek District, Lewis County, W. Va.	(12)	
CI84-195-000 (G-17264), B, Feb. 6, 1984.	Shell Offshore Inc., P.O. Box 4480, Houston, Tex. 77210.	Tennessee Gas Pipeline Co., Atchafalaya Bay Field, St. Mary and Terrebonne Parishes, La.	(13)	
G-3357-000, E, Feb. 2, 1984	Phillips Oil Co. (successor to Phillips Petroleum Co.), 336 HS&L Building, Bartlesville, Okla. 74004.	El Paso Natural Gas Co., Jal Field, Lea County, N. Mex.	(14)	
G-8637-003, D, Feb. 6, 1984	Shell Offshore Inc., P.O. Box 4480, Houston, Tex. 77210.	Tennessee Gas Pipeline Co., Halter Island, South Pass Block 24 and South Pass Block 27 Fields, Plaquemines and Terrebonne Parishes, La.	(15)	
G-11732-000, E, Feb. 3, 1984	Phillips Oil Co. (successor to Phillips Petroleum Co.), 336 HS&L Building, Bartlesville, Okla. 74004.	Columbia Transmission Corp., North Erath Field, Vermilion Parish, La.	(16)	
G-12004-003, D, Feb. 6, 1984	Mobil Oil Exploration & Producing Southeast Inc., Nine Greenway Plaza, Suite 2700, Houston, Tex. 77046.	Transcontinental Gas Pipeline Corp., West Gueydan Field, Vermilion Parish, La.	(17)	
G-12334-000, E, Feb. 7, 1984	Phillips Oil Co. (successor to Phillips Petroleum Co.), 336 HS&L Building, Bartlesville, Okla. 74004.	Southern Natural Gas Co., Eloi Bay 5750' and 6450' Sand Units, St. Bernard, La.	(18)	
G-12335-000, E, Feb. 6, 1984	Phillips Oil Co. (successor to Phillips Petroleum Co.), 336 HS&L Building, Bartlesville, Okla. 74004.	Southern Natural Gas Co., Breton Sound Block 20 Field, Plaquemines Parish, La.	(19)	

[1] By assignment of lease dated January 5, 1984, Mobil Producing Texas & New Mexico Inc. assigned to McAllen State Bank Trustee certain leases and assignments.
[2] Not used.
[3] By assignment, executed on July 1, 1981, effective July 1, 1980, Applicant acquired the interest of Delmer Daves in the acreage covered by the Gas Purchase and Sales Agreement dated September 6, 1957.
[4] By assignment, executed on July 1, 1981, effective July 1, 1980, Applicant acquired the interest of Delmer Daves in the acreage covered by the Gas Purchase and Sales Agreement dated August 24, 1960.
[5] Lease was released May 23, 1983.
[6] Lease released to Duval County Ranch Company individually and as Agent for the State of Texas on April 13, 1982 by MPTM. Last well plugged and abandoned.
[7] Not used.
[8] By assignment, executed on July 1, 1981, effective July 1, 1980, Applicant acquired the interest of Delmer Daves in the acreage covered by the Gas Purchase and Sales Agreement dated September 11, 1963.
[9] The available supply of gas is depleted, the well has been plugged and abandoned and the contract has been cancelled.
[10] Assignment and Bill of Sale executed on December 1, 1982, effective December 1, 1982, wherein Sun Exploration and Production Company assigned all interest in Lease No. T00397 to James T. Fenwick (25%) Jerald J. Hatcher (25%), Sam M. Udden (25%) and Gene A. Smitherman (25%).
[11] Depletion of reserves.
[12] Depletion of reserves; February 1978 is the date of last sale.
[13] Leases assigned to St. Paul Oil & Gas Corporation and to Graham Energy, Ltd.
[14] Effective November 1, 1983, Phillips Petroleum Company assigned to Phillips Oil Company its interest in the Sims lease located in Lea County, New Mexico.
[15] Leases were partially released on August 20, and August 26, 1982.
[16] Effective December 1, 1983, Phillips Petroleum Company assigned to Phillips Oil Company its interest in the Adelaide Lease located in Vermilion Parish, Louisiana.
[17] Lease expired.
[18] Effective December 1, 1983, Phillips Petroleum Company assigned to Phillips Oil Company its interest in the 5750' and 6450' Sand Units in Wells 4, 5, 9 and 10 on State Lease 2221 and Well No. 5 on State Lease 2220, both located in Saint Bernard Parish, Louisiana.
[19] Effective November 1, 1983, Phillips Petroleum Company assigned to Phillips Oil Company its 50% interest in the wells in State Lease 1997 (5800' RB SU) State Lease 1998; State Lease 1999 (5800' RA SU, 5800' BR SU, 6900' RB SU) State Lease 2000 (undesignated sands, 5800' RA SU, 6100' RASU)
Filing Code: A—Initial Service; B—Abandonment; C—Amendment to add acreage; D—Amendment to delete acreage; E—Total Succession; F—Partial Succession.

[FR Doc. 84-4290 Filed 2-15-84; 8:45 am]
BILLING CODE 6717-01-M

[Docket Nos. RP83-81-004, CP83-254-007, and CP83-335-007]

Montana-Dakota Utilities Co.; Proposed Changes In FERC Gas Tariffs

February 10, 1984.

Take notice that on February 3, 1984, Montana-Dakota Utilities Co. (MDU) tendered for filing revisions to its FERC Gas Tariffs as follows:

First Revised Volume No. 2

Twentieth Revised Sheet No. 10
Original Sheet No. 10.1

Original Volume No. 4

Second Revised Sheet No. 5G
Original Sheet No. 5G.1
First Revised Sheet No. 5Q
Original Sheet No. 5QA.

An effective date of January 27, 1984 is requested.

MDU states that their revisions are in conjunction with a Stipulation and Agreement of Settlement (Settlement) which was filed on January 27, 1984. Under the terms of the Settlement, MDU is to file tariff sheets implementing interim rates. The above revisions are to be deemed in compliance of the Settlement.

MDU states that the Commission has not ruled on the Settlement, and that the tariff sheets filed will be subject to the

Commission's ultimate decision approving or rejecting the Settlement.

In the event that the Settlement is not approved by the Commission, or is otherwise not put into effect, MDU requests that its currently effective compliance rates may be used back to January 27, 1984. Furthermore, should the compliance rates be used, MDU requests that it may collect any amounts under Section II(14) of the Settlement necessary to collect the full charges set forth in its compliance rates which were made effective November 1, 1983.

MDU requests a waiver of the 30-day notice requirement of Section 4(d) of the Natural Gas Act, in order to permit its tariff sheets to be effective as of January 27, 1984.

MDU states that each person is designated on the official service list in this proceeding has been served with a copy of its filing.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before February 16, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-4291 Filed 2-15-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP84-200-000]

National Fuel Gas Supply Corp.; Request Under Blanket Authorization

February 9, 1984.

Take notice that on January 18, 1984, National Fuel Gas Supply Corporation (Supply), 10 Lafayette Square, Buffalo, New York 14203 filed in Docket No. CP84-200-000 a request pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) that Supply proposes to transport natural gas for an eligible end-user under the authorization issued in Docket No. CP83-4-000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Supply proposes to transport up to 1,000 Mcf of gas per day and 401,500 Mcf of gas per year, for the account of The Stackpole Corporation (Stackpole), to National Fuel Gas Distribution Corporation (Distribution) which, in turn, would deliver the gas to Stackpole at Stackpole's facilities in St. Mary's Pennsylvania, pursuant to the terms of the gas transportation agreement dated August 10, 1983 (transportation agreement). Supply states that the current transportation rate is 34.14 cents which includes an added incentive charge of 5.0 cents per Mcf, plus 2 percent retainage for shrinkage which is in accordance with its transportation Rate Schedule T-2.

Supply states that the gas to be purchased by Stockpole involves gas supplies previously under contract to and released by Supply. Stackpole would use the gas transported by Supply in boiling kilns, air exchange units, steam boilers and fume incinerators which are qualified end-uses pursuant to § 157.209(e)(2) of the Regulations, it is asserted. Supply states that no new facilities are necessary to effectuate the proposed transportation. It is stated that the proposed transportation would commence on March 1, 1984 and terminate at 11:59 p.m. on June 30, 1985, or upon termination of the contract which term is for 3 months, effective August 8, 1983, and month to month thereafter, whichever occurs first.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-4287 Filed 2-15-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No QF84-161-000]

AES Placerita, Inc.; Application for Commission Certification of Qualifying Status of a Cogeneration Facility

February 13, 1984.

On January 31, 1984, AES Placerita, Inc. (Applicant), of 1925 North Lynn Street, Suite 1200, Arlington, Virginia 22209, submitted for filing an application for certification of a facility as a qualifying facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The combined-cycle cogeneration facility will be located at the Placerita oil field in Newhall, California. The facility will consist of a gas turbine generator, a waste heat recovery boiler, and a steam turbine generator. The useful thermal energy output, which will be in the form of steam, will be injected into the oil field for enhanced oil recovery. The primary energy source for the facility will be natural gas. The electric power production capacity of the facility will be 74 megawatts.

Any person desiring to be heard or objecting to the granting of qualifying stauts should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protest must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-4292 Filed 2-15-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RE81-67-001]

City of Austin Electric Utility Department, Austin, Texas; Application for Exemption

February 13, 1984.

Take notice that the City of Austin Electric Utility Department (Austin) filed an application on January 6, 1984, for exemption from certain requirements of Part 290 of the Federal Energy regulatory Commission's (FERC) regulations

concerning collection and reporting of cost of service information under Section 133 of the Public Utility Regulatory policies act (PURPA), Order No. 48 (44 FR 58687, October 11, 1979). Exemption is sought from the requirement to file on or prior to June 30, 1984, and biennally thereafter, information on the costs of providing electric service as specified in Subparts B, C, D, and E.

In its application for exemption Austin states, in part, that it should not be required to file the specified data for the following reasons:

Austin believes that the information sought under Section 290 is not necessary to carry out the intent of PURPA Section 133. The information of the type sought by section 133 is not necessary to allow for full citizen participation in rate making in Austin. Austin has and continues to make available pertinent data to citizens and there has been no complaint by citizens that necessary information is not available from the utility.

Lastly, the cost of gathering and filing the information with FERC iscessive relative to the benefits as stated above. The utility currently provides useful information to the citizens of Austin for making intelligent decisions concerning their electric rates. To obtain the information sough in Section 133 not currently available, would conservatively cost the utility from $35,000 to $50,000 per year. Indeed, to obtain some of the data will require the implementation of new systems and software by Austin at a significant cost.

Copies of the application for exemption are on file with FERC and are available for public inspection. FERC's regulations require that said utility also apply to any state regulatory authority having jurisdiction over it to have the application published in any official state publication in which electric rate change applications are usually noticed, and that the utility publish a summary of the application in newspapers of general circulation in the affected jurisdiction.

Any person desiring to present written views, arguments, or other comments on the application for exemption should file such information with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before 45 days following the date this notice is published in the **Federal Register**. Within that 45 day period, such person must also serve a copy of such comments on: Mr. H. L. Peterson, Deputy Director, City of Austin, Electric Utility Dept., P.O. Box 1088, Austin, Texas 78767.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-4293 Filed 2-15-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. GP84-20-000]

City of Farmington v. Amoco Gas Co. and Amoco Production Co.; Complaint and Petition for Declaratory Relief

Issued: February 13, 1984.

On January 18, 1984, the City of Farmington (Farmington) filed a complaint with the Federal Energy Regulatory Commission (Commission) alleging violations to the Natural Gas Act (NGA),[1] and the Natural Gas Policy Act of 1978 (NGPA).[2] Farmington petitioned for declaratory relief in the same filing.

Farmington described the background of this dispute. For twenty years, 1961–1981, Amoco Gas Company and Amoco Production Company (Amoco) sold gas intrastate to the City of Farmington. During that time, 1967–1972, Amoco sold gas interstate to El Paso. Amoco obtained a Certificate of Public Convenience and Necessity for the El Paso sale. The gas sold by Amoco was produced from the same wells and commingled in Amoco's gathering line before delivery to Farmington and El Paso. Unable to negotiate a new gas contract, Amoco stopped deliveries to Farmington. Until a preliminary injunction was ended by the District Court, Amoco delivered gas to Farmington for a few months in 1982.

Farmington states that Amoco violated § 7(b) of the NGA by stopping gas deliveries without abandonment authorization. Farmington states that Amoco violated § 504(a)(1) of the NGPA by selling gas in 1982 in excess of the maximum lawful prices.

Farmington asks that Amoco deliver gas until it gets abandonment authorization. Farmington also asks that Amoco refund with interest all monies owed from the 1982 gas sales.

Within 30 days of publication in the **Federal Register**, any person may file a protest or a petition to intervene with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. If you wish to become a party, you must file a petition to intervene. *See* Rules 214 or 211.[3]

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-4294 Filed 2-15-84; 8:45 am]

BILLING CODE 6717-01-M

[1] 15 U.S.C. 717, *et seq.* (1976 & Supp. II 1978).
[2] 15 U.S.C. 3301–3432 (Supp. V 1981).
[3] 18 CFR 385.214 or 385.211 (1983).

[Docket No. QF84-148-000]

Greenleaf Power Corp., Application for Commission Certification of Qualifying Status of a Cogeneration Facility

February 13, 1984.

On January 27, 1984, Greenleaf Power Corp., 2815 Mitchell Drive, Suite 200, Walnut Creek, California 94598, submitted for filing an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The topping cycle congeneration facility will be located in Sutter County, California. It consists of a gas turbine-generator set. Combustion products discharged from the heat recovery steam generator will provide heat for a wood chip dryer. The primary energy source will be natural gas. The net electric power production capacity will be 49,500 kilowatts.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission are are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-4295 Filed 2-15-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF84-165-000]

Greenleaf Power Corp.; Application for Commission Certification of Qualifying Status of a Cogeneration Facility

February 13, 1984.

On January 27, 1984, Greenleaf Power Corp., 2815 Mitchell Drive, Suite 200, Walnut Creek, California 94598, submitted for filing an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's regulations. No determination has been

made that the submittal constitutes a complete filing.

The topping cycle cogeneration facility will be located in Sutter County, California. It consists of a gas turbine-generator set, a heat recovery steam generator, and a condensing steam turbine-generator set. Irrigation water will be warmed by intermixing it with cooling tower water that is pumped through the condenser associated with the condensing steam turbine-generator. During four months of the year, this warmed water will be used to improve growth in rice fields. The primary energy source will be natural gas. The net electric power production capacity will be 49,500 kilowatts.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-4296 Filed 2-15-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP75-57-010]

KN Energy, Inc.; Petition To Amend

February 13, 1984.

Take notice that on January 20, 1984, KN Energy, Inc. (Petitioner), P.O. Box 15265, Lakewood, Colorado 80215, filed in Docket No. CP75-57-010 a petition to amend the order issued May 11, 1977,[1] in Docket No. CP75-57, as amended, pursuant to Section 7(c) of the Natural Gas Act so as to authorize certain clarifying contract revisions, reorganized exhibits, and the addition of several new delivery points for the transportation and exchange of natural gas, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

[1] This proceeding was commenced before the FPC. By joint regulation of October 1, 1977 (10 CFR 1000.1), it was transferred to the Commission.

It is stated that Petitioner and Montana-Dakota Utilities Company (MDU) entered into a gas sales, transportation and gas exchange agreement (agreement) on May 10, 1974, which provided for the sale of a portion of the gas available to and gathered by Petitioner in the Bowdoin area of Phillips and Valley Counties, Montana, and for the delivery and exchange of natural gas delivered by Petitioner to MDU in said counties and the redelivery to Petitioner at a point of interconnection in Fremont County, Wyoming. Petitioner further states that the agreement provided for the right to purchase various percentages of certain gas volumes being exchanged. Petitioner asserts that the services and facilities provided for in the agreement were authorized in Docket No. CP75-57.

Petitioner now requests amendment of its certificate in Docket No. CP75-57 in the following manner: Exhibit C (showing wells connected to MDU's gathering system) and Exhibit D (setting forth the dedication of gas from various wells) would be deleted. Exhibit C would be revised to set forth in all delivery points from Petitioner to MDU, including several new delivery points not yet reported under Petitioner's and MDU's next scheduled annual report of additions or deletions.

Petitioner further asserts that on June 27, 1983, Petitioner and MDU entered into an amendment to the agreement dated May 10, 1974, which serves as the basis for the instant petition.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before March 5, 1984, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practices and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-4297 Filed 2-15-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RE80-19-003]

Pacific Power and Light Co.; Application for Exemption

February 13, 1984.

Take notice that Pacific Power and Light Company (PP&L) filed an application on January 18, 1984 for exemption from certain requirements of Part 290 of the Federal Energy Regulatory Commission's (FERC) regulations concerning collection and reporting of cost of service information under Section 133 of the Public Utility Regulatory Policies Act (PURPA), Order No. 48 (44 FR 58687, October 11, 1979). Exemption is sought from the requirement to file on or prior to June 30, 1984 and biennally thereafter, information on the costs of providing electric service as specified in Subparts B, C, D, and E.

In its application for exemption PP&L states, in part, that it should not be required to file the specified data for the following reasons:

A primary emphasis of PURPA was to promote the consideration of modern approaches to rate development. The major PURPA ratemaking standards have now been considered by each of the six state regulatory jurisdictions in which PP&L operates, and most of the standards have been adopted. The implementation of PURPA has been completed and the amount and detail of the information supplied by utilities now is a function of the needs of state commissions, utilities and other participants in retail rate case proceedings. Data requests which originate with and respond to specific needs of state commissions and other interested parties will better coincide with the spirit of the PURPA legislation and more specifically the purposes of Section 133.

A major thrust of PURPA Section 133 was directed at prompting utilities and regulators to develop information which in many cases might not otherwise have been addressed including load data and cost of service information. PP&L, however, began its load data collection efforts in 1974, well in advance of the passage of PURPA legislation, and has found load data to be of great value in its research and ratemaking activities. The collection of load data will continue in the absence of PURPA requirements. Similarly, marginal cost and accounting cost information has been regularly submitted to state regulatory agencies and other interested parties as part of PP&L's requests for rate relief. Marginal cost information is required by the Oregon, California, and Montana Commissions for ratemaking proceedings and is useful to PP&L, Commissions and customers for preparing the cost-effectiveness analyses associated with various conservation programs.

Accounting or embedded cost of service studies are required by the Washington and Wyoming Commissions for ratemaking proceedings. Timely marginal cost and accounting information relevant to the issue

being addressed has been and will continue to be prepared and made available in the absence of PURPA requirements.

However, certain PURPA reporting requirements are so broad that data are either unavailable or inapplicable to specific utilities and regions. For example, variations in hydro availability impact the development of historic time-of-day costs in the PP&L Northwest. Pacific has received FERC exemptions with concurrence of the Oregon Public Utility Commissioner from certain PURPA reporting requirements for the 1980 and the 1982 filings. The Wyoming Public Service Commission also concurred with PP&L's request for exemption from the 1980 PURPA Section 133 filing.

Copies of the application for exemption are on file with FERC and are available for public inspection. FERC's regulations require that said utility also apply to any state regulatory authority having jurisdiction over it to have the application published in any official state publication in which electric rate change applications are usually noticed, and that the utility publish a summary of the application in newspapers of general circulation in the affected jurisdiction.

Any person desiring to present written views, arguments, or other comments on the application for exemption should file such information with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before 45 days following the date this notice is published in the **Federal Register**. Within that 45 day period, such person must also serve a copy of such comments on: Mr. Fredric D. Reed, Vice President, Pacific Power and Light Company, Public Service Building, Room 1500, 920 S.W. Sixth Avenue, Portland, Oregon 97204.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-4298 Filed 2-15-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. SA84-7-000]

Sims Oil Company, Inc.; Petition for Waiver of § 271.804(c) of Regulations Under Section 108 of the NGPA

February 13, 1984.

On January 30, 1984, Sims Oil Company, Inc., P.O. Box 31754, Dallas, Texas 75231-0754 (Petitioner), filed a petition with the Federal Energy Regulatory Commission (Commission) requesting temporary waiver of § 271.804(c) of the Commission's rules issued under section 108 of the Natural Gas Policy Act of 1978 (NGPA), 15 U.S.C. 3318 (Supp. V 1982). Petitioner's request was filed under § 1.7 of the Commission's rules, but will be treated as a petition for staff adjustment under § 385.1101 *et seq.*

Section 271.804(c) requires that a stripper well determination must be based on a 90-day production period which falls entirely within the 180-days prior to the date on which the application for the determination was filed. Applicant states that, although mailed eight days earlier, its stripper well application covering four wells in Ector County, Texas (TXL Well #1, TXL Well #2, Slater C. Well #1, and Slater C. Well #2), was not stamped as filed at the Texas Railroad Commission (TRC) until December 29, 1983, the 182nd day following the start of the qualifying 90-day production period of July through September 1983. Applicant seeks waiver of § 271.804(c) to enable the 90-day production period to be used by the TRC in making its determination for the subject well.

The procedures applicable to the conduct of this adjustment proceeding are found in Rules 1101–1117 of the Commission's Rules of Practice and Procedure. Any person desiring to participate in this proceeding must file a motion to intervene under Rule 214. All motions to intervene must be filed within fifteen days of publication of this notice in the **Federal Register**.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-4299 Filed 2-15-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. GP84-21-000]

Sonat Exploration Co.; Petition for Declaratory Order or, in the Alternative, Waiver of Regulations

February 13, 1984.

On January 27, 1984, Sonat Exploration Company (Sonat) petitioned the Federal Energy Regulatory Commission (Commission) under Rule 207[1] for a declaratory order to remove an uncertainty respecting the monthly escalation in Section 102(d) rates under Sonat's Gas Rate Schedule Nos. 11, 12, and 17. Sonat requested a finding that it is entitled to such monthly escalations under the filings it made under these rate schedules.

In the alternative, Sonat asked for waiver of the filing requirements under § 154.94(h)(2)(iii) of the Commission's regulations to permit the monthly escalation applicable to section 102(d) gas sold from certain wells, or for waiver of the notice requirement of section 4(d) of the Natural Gas Act to permit the amended blanket affidavit and Forms 250.14 submitted with its petition to become effective on the date of initial deliveries of gas.

Sonat cited numerous cases in support of its petition, including *Superior Oil Company* v. *Federal Energy Regulatory Commission*, 667 F.2d 1181 (5th Cir. 1982) and *Atlantic Richfield Corp.* v. *FPC*, 201 F.2d 568 (4th Cir. 1953). Sonat submitted that failure to grant the relief requested would constitute exaltation of form over substance, "particularly in light of the face that the rate escalations involved are constractually authorized, there was clear public notice of them, and they are Congressionally established." Sonat viewed the actions involved as "ministerial and techincal in nature, not substantive" and stated that it would suffer an unduly harsh penalty if a declaratory order or waiver is not granted. Sonat argued that relief (in whatever form) "must be granted unless undue and unlawful discrimination is to ensue."

Any person desiring to be heard or to protest this petition must file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with the requirements of Rules 211 or 214 within 15 days of publication of this notice in the **Federal Register**. The Commission will consider protests in determining the appropriate action to be taken, but protests will not serve to make the protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of Sonat's petition are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-4300 Filed 2-15-84; 8:45 am]

BILLING CODE 6717-01-M

[1] 18 CFR 385.207 (1983).

Office of Conservation and Renewable Energy

Energy Conservation Program for Consumer Products; Representative Average Unit Costs of Energy

AGENCY: Department of Energy.

ACTION: Notice.

SUMMARY: In this notice, the Department of Energy is forecasting the representative average unit costs of five residential energy sources for the year 1984. The five sources are electricity, natural gas, No. 2 heating oil, propane and kerosene. The representative unit costs of these energy sources are used in the energy conservation program for

consumer products established by the Energy Policy and Conservation Act (Pub. L. 94–163, 89 Stat. 917), as amended by the National Energy Conservation Policy Act (Pub. L. 95–619, 92 Stat. 3266).

EFFECTIVE DATE: The representative average unit costs of energy contained in this notice will become effective March 19, 1984, and will remain in effect until further notice.

FOR FURTHER INFORMATION CONTACT:
Michael J. McCabe, U.S. Department of Energy, Office of Conservation and Renewable Energy, Forrestal Building, Mail Station CE–113.1, 1000 Independence Avenue, SW., Washington, D.C. 20585, (202) 252–9127.
Eugene Margolis, Esq., U.S. Department of Energy, Office of General Counsel, Forrestal Building, Mail Station GC–33, 1000 Independence Avenue, SW., Washington, D.C. 20585, (202) 252–9513

SUPPLEMENTARY INFORMATION: Section 323 of the Energy Policy and Conservation Act (Act)[1] requires that the Department of Energy (DOE) prescribe test procedures for the determination of the estimated annual operating cost and other measures of energy consumption for certain consumer products specified in the Act. DOE has prescribed test procedures for the types of products listed in Section 322(a)(1)–(13) of the Act. These test procedures are found in 10 CFR Part 430, Subpart B.

Section 323(b) of the Act requires that the estimated annual operating cost of a covered product be computed from measurements of energy use in a representative average-use cycle and from representative average unit costs of the energy needed to operate such product during such cycle. The section further requires DOE to provide information regarding the representative average unit costs of energy for use wherever such costs are needed to perform calculations in accordance with the test procedures. Most notably, these costs are used under the Federal Trade Commission labeling program estalished by Section 324 of the Act and in connection with advertisements of appliance energy use and energy costs which are covered by Section 323(c) of the Act.

On July 15, 1977, DOE's predecessor, the Federal Energy Administration, first published representative average unit costs of residential energy for use in the energy conservation program for consumer products (42 FR 36549). Subsequently, notices updating these representative average unit costs of energy were published by DOE on June 27, 1979 (44 FR 37534), December 1, 1980 (45 FR 79575), May 4, 1982 (47 FR 19200) and January 25, 1983 (48 FR 3409). Effective [30 days after publication], the cost figures published on January 25, 1983, will be seperseded by the cost figures set forth in this notice.

DOE's Energy Information Administration (EIA) has developed the 1984 representative average unit costs of electricity, natural gas and No. 2 heating oil found in this notice. These costs were generated from the EIA Short-Term Energy Price Projection System, which forecasts the retail cost of selected energy products based on changes in world oil prices, wellhead natural gas prices, seasonal patterns in retail prices and established trends in margins and operating expenses. The development of these costs is discussed in detail in the November 1983 issue of EIA's quarterly publication of historical and forecasted energy consumption and prices, "Short-Term Energy Outlook," DOE/EIA–0202 (83/4Q). Copies of this report are available at the National Energy Information Center, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585.

In the case of propane and kerosene, the 1984 representative average unit costs found in this notice were developed by other means since EIA's "Short-Term Energy Outlook" does not provide forecasts of the retail costs of these fuels. However, historical refiner and gas plant operator sales prices for propane, kerosene, No. 2 heating oil and other petroleum-based fuels are available from another EIA publication, "Petroleum Marketing Monthly," DOE/EIA–0380. Referring to Table 5 of "Petroleum Marketing Monthly," DOE obtained refiner and gas plant operator average sales prices for propane, kerosene, and No. 2 heating oil for each month of the period January 1983 to the most recent month for which data was available, September 1983. Based on these data, DOE computed the average monthly sales prices for each of these fuels. To forecast 1984 representative average unit costs for propane and kerosene, DOE made the assumption that the relative difference between the average refiner and gas plant operator sales price and the average residential retail cost of propane, kerosene and No. 2 heating oil (i.e. the percentage price "mark-up") is the same for each of these types of fuel. DOE also assumed that the relative difference between the refiner and gas plant operator 1983 and 1984 average sales prices of propane, kerosene and No. 2 heating oil (i.e. percentage sales price increase) is the same for each of these types of fuel. On the basis of these two assumptions, DOE computed the relative difference between the 1984 representative average unit cost of No. 2 heating oil (taken from the November 1983 issue of "Short-Term Energy Outlook") and the average monthly refiner and gas plant operator sales prices for No. 2 heating oil over the period of January 1983 through September 1983. DOE then applied this computed value to the average monthly refiner and gas plant operator sales prices for propane and kerosene over the period of January 1983 through September 1983 to forecast their 1984 representative average unit costs.

The 1984 representative average unit costs stated in Table 1 are provided pursuant to Section 323(b)(2) of the Act and will become effective March 19, 1984. They will remain in effect until further notice.

Issued in Washington, D.C., January 31, 1984.

Pat Collins,

Acting Assistant Secretary, Conservction and Renewable Energy.

TABLE 1.—REPRESENTATIVE AVERAGE UNIT COSTS OF ENERGY FOR FIVE RESIDENTAL ENERGY SOURCES

[1984]

Type of energy	In common terms	As required by test procedure	Dollars per million Btu [1]
Electricity	7.63¢/kWh [2, 3]	$0.0763/kWh	$22.36
Natural Gas	69.6¢/Therm [4] or $7.07/MCF [5, 6]	$0.00000696/Btu	6.96
No. 2 Heating Oil	$1.09/gallon [7]	$0.00000786/Btu	7.86
Propane	84.2¢/gallon [8]	$0.00000925/Btu	9.25
Kerosene	$1.14/gallon [9]	$0.00000846/Btu	8.46

[1] Btu stands for British thermal units
[2] kWh stands for kilowatt hour
[3] 1 kWh=3,413 Btu
[4] 1 therm=100,000 Btu
[5] MCF stands for 1,000 cubic foot
[6] For the purposes of this table, one cubic foot of natural gas has an energy equivalence of 1,016 Btu.
[7] For the purposes of this table, one gallon of No. 2 heating oil has an energy equivalence of 138,700 Btu.
[8] For the purposes of this table, one gallon of liquid propane has an energy equivalence of 91,000 Btu.
[9] For the purposes of this table, one gallon of kerosene has an energy equivalence of 134,700 Btu.

[FR Doc. 84–4314 Filed 2–15–84; 8:45 am]
BILLING CODE 6450–01–M

[1] References to the "Act" refer to the Energy Policy and Conservation Act, as amended by the National Energy Conservation Policy Act.

Grant Programs for Schools and Hospitals, and for Buildings Owned by Units of Local Government and Public Care Institutions

AGENCY: Department of Energy.

ACTION: Notice concerning grant program Cycle VI.

SUMMARY: The Department of Energy (DOE) announces the dates and other information for Cycle VI for the grant program for schools and hospitals.

The sixth grant program cycle will begin as of the date of this notice. Applications recommended by the State for funding must be submitted to the appropriate DOE Operations or Support Office no later than June 30, 1984. Notices of grant award will be issued for approved applications on or before August 31, 1984, the ending date of the grant program cycle.

Preliminary fund allocations by States for Cycle VI are shown below. Final fund allocations will be provided State offices by April 30, 1984. Up to fifteen percent of the funds may be used to support technical assistance analyses.

Applicable regulations governing these programs are found at 10 CFR Part 455.

DATES: February 16, 1984: beginning of grant program cycle; June 30, 1984: date State recommended applications are due at DOE Operations or Support Office; and August 31, 1984: end of grant program cycle.

FOR FURTHER INFORMATION CONTACT:

Frank M. Stewart, Institutional Conservation Programs Division, Office of Conservation and Renewable Energy, Department of Energy, Mail Stop 5G–070, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585 (202) 252–2198.

Edward H. Pulliam, Office of General Counsel, Department of Energy, Mail Stop 6B–144, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585 (202) 252–9507.

SUPPLEMENTARY INFORMATION: The Grant Program for Schools and Hospitals is established under Part 1 of Title III of the National Energy Conservation Policy Act, 42 U.S.C. 6371–6371j.

Issued in Washington, D.C., February 8, 1984.

Pat Collins,

Acting Assistant Secretary, Conservation and Renewable Energy.

GRANT PROGRAM CYCLE VI ALLOCATIONS

State	Cycle VI allocation
Alabama	$885,534
Alaska	294,231
American Samoa	184,400
Arizona	557,617
Arkansas	491,884
California	2,439,656
Colorado	762,522
Connecticut	768,731
Delaware	264,735
District of Columbia	271,660
Florida	1,283,186
Georgia	954,979
Guam	195,857
Hawaii	270,858
Idaho	357,918
Illinois	2,428,311
Indiana	1,197,969
Iowa	802,205
Kansas	595,555
Kentucky	757,505
Louisiana	676,183
Maine	451,216
Maryland	854,331
Massachusetts	1,277,929
Michigan	2,068,094
Minnesota	1,226,196
Mississippi	501,618
Missouri	1,053,613
Montana	350,536
Nebraska	495,136
Nevada	312,711
New Hampshire	392,844
New Jersey	1,467,309
New Mexico	367,998
New York	3,441,262
North Carolina	908,741
North Dakota	345,702
Ohio	2,175,937
Oklahoma	631,301
Oregon	559,382
Pennsylvania	2,333,708
Puerto Rico	614,484
Rhode Island	356,956
South Carolina	567,471
South Dakota	329,078
Tennessee	850,382
Texas	2,044,410
Utah	459,723
Vermont	307,367
Virgin Islands	187,814
Virginia	979,697
Washington	844,396
West Virginia	492,695
Wisconsin	1,240,754
Wyoming	271,740
Total	47,000,000

[FR Doc. 84–4204 Filed 2–15–84; 8:45 am]

BILLING CODE 6450–01–M

Office of Hearings and Appeals

Implementation of Special Refund Procedures

AGENCY: Office of Hearings and Appeals, Department of Energy.

ACTION: Notice of Implementation of Special Refund Procedures and Solicitation of Comments.

SUMMARY: The Office of Hearings and Appeals of the Department of Energy solicits comments concerning the appropriate procedures to be followed in refunding $9,719 in consent order funds to members of the public. This money is being held in escrow following the settlement of enforcement proceedings involving Blaylock Oil Company, Inc., a reseller-retailer of motor gasoline located in Homestead, Florida.

DATE AND ADDRESS: Comments must be filed on or before March 19, 1984 and should be addressed to the Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue, SW., Washington, D.C. 20585. All comments should conspicuously display a reference to case number HEF–0037.

FOR FURTHER INFORMATION CONTACT: Richard W. Dugan, Associate Director Office of Hearings and Appeals 1000 Independence Avenue, SW. Washington, D.C. 20585 (202) 252–2860.

SUPPLEMENTARY INFORMATION: In accordance with § 205.282(b) of the procedural regulations of the Department of Energy, 10 CFR 205.282(b), notice is hereby given of the issuance of the Proposed Decision and Order set out below. The Proposed Decision relates to a consent order entered into by Blaylock Oil Company, Inc., which settled possible pricing violations in the firm's sales of motor gasoline to wholesale and retail customers during the October 1, 1979 through December 31, 1979 audit period.

The Proposed Decision sets forth the procedures and standards that the DOE has tentatively formulated to distribute the contents of an escrow account funded by Blaylock pursuant to the consent order. The DOE has tentatively established procedures under which purchasers of Blaylock motor gasoline during the audit period may file claims for refunds from the consent order fund. Applications for Refund should not be filed at this time. Appropriate public notice will be given when the submission of claims is authorized.

Any member of the public may submit written comments regarding the proposed refund procedures. Commenting parties are requested to submit two copies of their comments. Comments should be submitted on or before March 19, 1984 and should be sent to the address set forth at the beginning of this notice. All comments received in this proceeding will be available for public inspection between the hours of 1:00 to 5:00 p.m., Monday through Friday, except federal holidays, in the Public Docket Room of the Office of Hearings and Appeals, located in Room 1E–234, 1000 Independence Avenue, SW., Washington, D.C. 20585

Dated: February 7, 1984.
George B. Breznay,
Director, Office of Hearings and Appeals.
February 7, 1984.

Proposed Decision and Order of the Department of Energy

Special Refund Procedures

Name of Firm: Blaylock Oil Company, Inc.
Date of Filing: October 13, 1983.
Case Number: HEF–0037

Under the procedural regulations of the Department of Energy (DOE), the Economic Regulatory Administration (ERA) may request the Office of Hearings and Appeals (OHA) to formulate and implement special procedures to make refunds in order to remedy the effects of violations of the DOE regulations. *See* 10 CFR Part 205, Subpart V. The Subpart V regulations set forth general guidelines by which the OHA may formulate and implement a plan of distribution for funds received as part of a settlement agreement or pursuant to a Remedial Order. The Subpart V process is intended to be used in situations where the DOE is unable readily to ascertain the persons who were allegedly injured or the amounts that such persons are eligible to receive as a result of enforcement proceedings. *See Office of Enforcement,* 9 DOE ¶ 82,553 at 85,284 (1982).

I. Background

Pursuant to the provisions of Subpart V, on October 13, 1983, the ERA filed a Petition for the Implementation of Special Refund Procedures in connection with a consent order entered into with Blaylock Oil Company, Inc. (Blaylock). Blaylock is a "reseller-retailer" of refined petroleum products as that term was defined in 10 CFR 212.31, and is located in Homestead, Florida. The firm was subject to the Mandatory Petroleum Price Regulations set forth in 10 CFR Part 212, Subpart F until January 28, 1981, when motor gasoline and other refined petroleum products were exempted from price and allocation controls. Exec. Order No. 12287, 46 Fed. Reg. 9909 (January 30, 1981). A DOE audit of Blaylock's records revealed possible regulatory violations in the amount of $90,829.43 with respect to the firm's pricing of motor gasoline during the period October 1, 1979 through December 31, 1979 (the audit period). In order to settle all claims and disputes between Blaylock and the DOE regarding the firm's sales of motor gasoline during that three month period, Blaylock and the DOE entered into a consent order on October 15, 1981, in which Blaylock agreed to remit $9,719 to the DOE. This payment was deposited into an interest-bearing escrow account for ultimate distribution to the parties injured by the alleged overcharges. This Proposed Decision concerns the distribution of the $9,719 that was deposited into the escrow account, plus accrued interest.

II. Proposed Refund Procedures

We have considered the ERA's Petition for the Implementation of Special Refund Procedures and determined that it is appropriate to establish such a proceeding with respect to the Blaylock consent order fund. As we have stated in previous Decisions, refunding moneys obtained through DOE enforcement proceedings is the focus of Subpart V proceedings. *See generally Office of Enforcement,* 8 DOE ¶ 82,597 (1981) (*Vickers*). Based upon our experience with Subpart V cases, we believe that the distribution of refunds in the present case should take place in two stages. The first stage will attempt to refund moneys to identifiable purchasers of Blaylock motor gasoline who may have been injured by Blaylock's pricing practices during the period October 1, 1979 through December 31, 1979. After meritorious claims are paid in the first stage, a second stage refund procedure may become necessary. *See generally Office of Special Counsel,* 10 DOE ¶ 85,048 (1982) (*Amoco*) (refund procedures established for first stage applicants, second stage refund procedures tentatively proposed).

A. Refunds to Identifiable Purchasers

We propose that the Blaylock consent order funds be distributed to claimants who satisfactorily demonstrate that they have been adversely affected by Blaylock's alleged pricing practices. The information available to us at this time regarding Blaylock's operations during the consent order period does not provide specific names and addresses of Blaylock's customers. However, from our experience with Subpart V proceedings, we believe that the claimants in this proceeding will fall into the following categories:(1) resellers (including retailers) of motor gasoline, and (2) firms, individuals, or organizations that were consumers (end-users) of Blaylock motor gasoline. The motor gasoline purchased by these claimants will have been purchased either directly from Blaylock or from other firms in a chain of distribution leading back to Blaylock.

Resellers generally will be required to establish that they absorbed the alleged overcharges. To make this showing, they will have to demonstrate that, at the time they purchased motor gasoline from Blaylock, market conditions would not permit them to increase their prices to pass through the additional costs associated with the alleged overcharges. In addition, resellers will be required to show that they maintained "banks" of unrecovered costs in order to demonstrate that they did not subsequently recover those costs by increasing their prices. *See Office of Enforcement,* 10 DOE ¶ 85,029 at 88,125 (1982) (*Ada*). However, as in many prior special refund cases, resellers will not be required to demonstrate injury if their refund claim is based on average monthly purchases of less than 50,000 gallons.* *Id.* at 88,122.

If resellers made only spot purchases from Blaylock, however, we propose that they should be presumed to have suffered no injury. As we have previously stated with respect to spot purchasers:

"[T]hose customers tend to have considerable discretion in where and when to make purchases and would therefore not have made spot market purchases of [the firm's product] at increased prices unless they were able to pass through the full amount of [the firm's] quoted selling price at the time of purchase to their own customers."

Vickers at 85,396–7. We believe the same rationale holds true in the present case. Accordingly, in order to overcome the rebuttable presumption that they were not injured, spot purchasers should submit additional evidence to establish that they were unable to recover the increased prices they paid to Blaylock. *See Amoco* at 88,200.

With respect to customers who were consumers of Blaylock motor gasoline, a showing of injury should not be necessary in order to qualify for a refund. *See Standard Oil Co. (Indiana)/ Union Camp Corp.,* 11 DOE ¶ 85,007 (1983), and *Standard Oil Co. (Indiana)/ Elgin, Joliet, and Eastern Railway,* 11 DOE ¶ 85,105 (1983) (end-users of various refined petroleum products granted refunds solely on the basis of documented purchase volumes). Therefore, in this proceeding, we propose that consumers need only document the specific quantities of Blaylock motor gasoline they purchased during the consent order period.

With respect to applicants who demonstrate that they are entitled to refunds, we propose to utilize a volumetric method of allocating refunds. Under this method, a volumetric refund amount is calculated by dividing the settlement amount by the total volume of those products covered by the consent order that were sold by the firm

during the consent order period. In the present case, based on the information available to us at this time, the volumetric refund amount will be $0.00459 per gallon ($9,719 divided by 2,116,189 gallons of motor gasoline). Successful claimants will receive refunds based on their eligible purchase volumes multiplied by the volumetric refund amount, plus a proportionate share of the interest accrued on the consent order fund since it was remitted to the DOE. As in previous cases, we will establish a minimum refund amount of $15.00 for first stage claims. We have found through our experience in prior refund cases that the cost of processing claims in which refunds are sought for amounts less than $15.00 outweighs the benefits of restitution in those situations. *See, e.g., Uban Oil Co.*, 9 DOE ¶ 82,541 at 85,225 (1982).

Detailed procedures for filing applications will be provided in a final Decision and Order. Before disposing of any of the funds received as a result of the consent order involved in this proceeding, we intend to publicize widely the distribution process to solicit comments on the proposed refund procedures and to provide an opportunity for any affected party to file a claim. In addition to publishing notice in the **Federal Register**, notice will be provided to the Southeastern Independent Oil Marketers Assocation, and also to the Independent Gasoline Marketers Council, the National Oil Jobbers Council, the Service Station Dealers of America, and the Society of Independent Gasoline Marketers of America. These organizations should be helpful in advising potential claimants of this proceeding. In addition, we are continuing our efforts to obtain a list of the names and addresses of first purchasers of Blaylock motor gasoline.

B. Distribution of the Remainder of the Consent Order Funds

In the event that money remains after all first stage claims have been disposed of, undistributed funds could be distributed in various ways, or they could be deposited into the U.S. Treasury. However, we will not be in a position to decide what should be done with any remaining funds until the first stage refund procedure is completed. We encourage the submission by other parties of proposals containing alternative distribution schemes.

It Is Therefore Ordered That: The $9,719 refund amount supplied by Blaylock Oil Company, Inc. pursuant to the consent order entered into with the Department of Energy on October 15, 1981, will be distributed in accordance with the foregoing Decision.

Footnote

*Resellers whose average monthly purchases during the period for which a refund is claimed exceed 50,000 gallons, but who cannot establish that they did not pass through the price increases, or who limit their claims to the threshold amount, will be eligible for a refund for purchases up to the 50,000 gallons per month threshold without being required to demonstrate injury. *See Vickers* at 85,396; *see also Ada* at 88,122.

[FR Doc. 84-4238 Filed 2-15-84; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[AD-FRL-2528-3]

Benefit Analysis of Alternative National Ambient Air Quality Standards for Ozone

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of public meeting.

SUMMARY: EPA's Office of Air Quality Planning and Standards will hold a public meeting to solicit comment on a contractor's technical report developing a health benefit analysis methodology for ozone.

DATE: The meeting will be from 9:00 A.M. to 4:00 P.M. on Tuesday, April 3, 1984.

ADDRESS: The meeting will be held in the EPA Environmental Research Center Auditorium, Research Triangle Park, NC 27711.

FOR FURTHER INFORMATION CONTACT: Janet Scheid, (919) 541-5623/FTS 629-5623, of the Economic Analysis Branch, Strategies and Air Standards Division, Office of Air Quality Planning and Standards. The mailing address is: Economic Analysis Branch (MD-12), U.S. Environmental Protection Agency, Research Triangle Park, NC 27711.

SUPPLEMENTARY INFORMATION: This report presents the methodology and results of a study designed to identify the benefits in the form of improved human health associated with possible alternative air quality standards for ozone. Unique features of the study include using physicians to frame health effects/pollution concentration hyptheses, specifying the residence/monitor location relationship to proxy exposure, and integrating health effects with behavioral responses to provide for development of consistent benefit functions. This report may be used in the Regulatory Impact Analysis required by E.O. 12291 for any revised national ambient air quality standards for ozone.

A panel of experts in the fields of epidemiology, statistics, atmospheric chemistry, and environmental benefit analysis will review and critically discuss this analysis. Questions and comments from the general public at this meeting will also be discussed.

Dated: February 8, 1984.

Sheldon Meyers,

Acting Assistant Administrator for Air and Radiation.

[FR Doc. 84-4237 Filed 2-15-84; 8:45 am]

BILLING CODE 6560-50-M

[OW-FRL-2528-4]

Federal Role in Municipal Wastewater Treatment; Study

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice sets forth the elements and the schedule of an EPA study on the Federal role in promoting long-term self-sufficiency in the management, construction, operation and replacement of municipal wastewater treatment facilities. The study will examine alternative strategies for providing Federal assistance, including a range of transitional technical, managerial, and non-financial assistance. The purpose of this notice is to inform potentially affected parties of the study and to issue a call for papers on the study elements described in this notice. In conjunction with the reauthorization of Title II of the Clean Water Act, the study will provide a basis for possible changes in the current municipal wastewater treatment construction grant program. The Office of Water Program Operations (OWPO), EPA, will be the principal staff organization for this study. An EPA-wide Task Force on the Reauthorization of the Municipal Wastewater Treatment Construction Grants Program will provide overall direction for the study. The Task Force and OWPO staff will be aided by an Interagency Group, the Construction Grants Management Advisory Group (MAG), and a Liaison Group.

DATES: In order to receive adequate consideration, papers and written comments on the study elements described in this notice should be submitted on or before April 2, 1984.

ADDRESS: Comments should be addressed to: George F. Ames, Acting Chief, Policy and Guidance Branch (WH-595), Office of Water Program Operations, Office of Water, EPA, 401 M Street, SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Charles Mooar, Office of Water Program

Operations [WH–595], EPA, Washington, D.C. 20460, (202) 382–7276.

SUPPLEMENTARY INFORMATION:

I. Purpose

EPA is undertaking a study of Federal, State and local roles in obtaining expenditious construction of municipal wastewater treatment facilities needed to meet the requirements of the Clean Water Act. The study will identify and evaluate program alternatives which will effectively and efficiently assist local communities in meeting two underlying objectives of the Clean Water Act:

- To foster long-term local self-sufficiency and capability to construct, operate, and replace municipal wastewater treatment facilities, and
- To facilitate compliance by municipal wastewater treatment facilities with the requirements of their National Pollutant Discharge Elimination System (NPDES) permits.

A major goal throughout the course of the study will be to develop a national consensus for an appropriate funding delivery mechanism and an appropriate level of Federal involvement (financial and otherwise) for the period beyond the current authorization ending in fiscal year (FY) 1985. In order to provide an opportunity for public involvement and input to the study and to provide necessary background information and analyses for developing recommendations on the appropriate Federal role, this notice provides a call for papers and written comments on various study elements. The study recommendations will be considered within the context of reauthorization of the construction grants program.

II. Study Assumptions

A primary assumption underlying this study is that the needs and capabilities of various types of communities may differ markedly. Thus, the study will describe the needs and capabilities of small, medium, and large communities, with special attention to their unique water quality and financial requirements. In determining financial capability, the study will assess not only the financial resources of communities, but will also assess the ability of individual households to pay for wastewater treatment.

A further assumption of the study is that the attainment of the goal of long-term self-sufficiency, with an attendant reduction in the level of Federal financial involvement in the construction of municipal wastewater treatment facilities, should be phased to minimize potential disruption. A corollary assumption is that expeditious compliance by municipalities with the requirements of the Clean Water Act may require some type of continuing Federal presence in the financial arrangements for certain types of projects in certain communities. In addition, the study will examine the emerging issue of future replacement needs for communities that have previously received Federal grants to construct all of the treatment facilities needed to meet the requirements of the Clean Water Act. The study then will clarify whether such communities will be eligible for further Federal financial assistance in replacing facilities after the end of their useful life.

At the completion of this study, the Agency expects to develop a legislative proposal for a recommended Federal funding strategy, which will describe the funding delivery mechanism(s) to be used, a timetable for implementation, and specification of the dollar amounts to be authorized. The study does not assume that the final recommendation will necessarily be limited to any one particular funding delivery mechanism, *e.g.*, grants, or loans. Rather, the study assumes that alternatives comprised of a combination of different Federal funding mechanisms should be examined as a means of addressing differing community needs and capabilities.

III. Study Methods

A. *Baseline Capability Analysis for Local Communities:* In order to provide a baseline for analyses, the study will assess the ability of different types of communities to provide wastewater treatment without Federal financial assistance. In the absence of Federal financial assistance, the study will assume that local communities will rely upon local sources of capital financing and revenue. Such sources include, but are not limited to, the issuance of municipal debt (general obligation bonds and revenue bonds), new sewer connection charges, *ad valorem* taxes, and sewer use charges. This baseline analysis will assume that communities will complete all needed municipal wastewater treatment projects, including wastewater treatment facilities, interceptor sewers, collector sewers, the rehabilitation of existing collector systems, the correction of infiltration and inflow to existing systems, and the correction of combined sewer overflows. As part of this analysis, the study will also set forth non-financial Federal actions in helping States and communities reassess their needs and enhance their technical, managerial and financial skills.

B. *Assessment of State Funding Alternatives:* Where a need for outside financial assistance has been identified, the second phase of the study will examine the extent to which State programs or other non-Federal means of financing will be capable of meeting the need. Existing and proposed State programs for financial assistance will be identified and analyzed in terms of their ability to address the needs of certain communities.

C. *Assessment of Private Sector Funding Alternatives:* The study will also identify the feasibility and magnitude of the potential use of private sector funding in assisting local communities to construct and operate needed facilities.

D. *Assessment of Federal Funding Alternatives:* Given the baseline local resources and the extent to which States and the private sector can provide financial resources, the study will next address the need for Federal financial assistance to communities that will be least able to meet their projected needs. The study does not assume that any one particular form of Federal financial assistance will be recommended. A preliminary listing of types of aid would include Federal credit support, loan guarantees, loans (subsidized or market rate), and grants. A wide range of delivery systems for such types of aid will also be considered. For each type of community, the study will examine the type and level of Federal assistance that best addresses its special needs, while promoting long-term local self-sufficiency and compliance.

The design of the Federal funding alternatives will be constrained by certain factors, which are identified here at the outset of the study. First, Federal funding alternatives will be examined in terms of the provisions of the current U.S. tax code. Although the study will consider the effects of proposed legislation to change the tax code, the study will *not* take a position on such proposals. Furthermore, the study will not develop or recommend alternatives that would require changes to the U.S. tax code.

Second, the design of Federal funding alternatives will be limited by provisions of the 1981 Amendments to the Clean Water Act (Pub. L. 97–117) which established certain limits on the extent of Federal financial involvement for certain alternatives. Thus, for alternatives providing a continuation of the construction grant program, the study will *not* re-open the issues of grant eligibilities for reserve capacity and collector sewers, nor will the study consider options for increasing the

Federal grant share above 55 percent as defined in the 1981 Amendments. This initial limitation is applied to the construction grants program and will not constrain the consideration of other Federal assistance programs that might target Federal funds to projects not eligible under the construction grants program as amended by the 1981 Amendments.

Finally, the study will seek to limit the long-term dollar value for potential Federal financial involvement to a value equal to or less than $37 billion (1982 constant dollars), which represents an estimated dollar amount for Federal grants that would be potentially required if all wastewater treatment needs under the 1981 Amendments were addressed through the construction grants program.

IV. Evaluative Criteria for Assessing Alternatives

The study will evaluate funding alternatives according to the following criteria:

A. *Changes in Federal Subsidy Cost and Local Share:* In order to compare changes in grant, loan and other Federal funding alternatives from the current program, the concept of equivalent Federal grant share will be used. For subsidized interest loan programs and private sector funding arrangements that use tax subsidies, a present value of the Federal subsidy will be calculated. Each funding mechanism will be assessed to determine the proportionate share of the funded projects borne by the Federal government, and the annual cost to the U.S. Treasury. Each funding alternative will also be evaluated in terms of changes in an estimated annual cost to municipalities and typical users.

B. *Equity:* Each funding alternative will be evaluated according to its financial impact to different types of communities and their citizens. The financial impact of each alternative will be evaluated in terms of the annual project costs to communities and their citizens, the financial resources of communities, and the ability of citizens to pay for wastewater treatment facilities.

C. *Effectiveness:* Each funding alternative will be evaluated in terms of its effectiveness in targeting funds in a cost-effective and timely manner to those municipal wastewater treatment projects which contribute most directly to a community's ability to meet the requirements of its NPDES permit. This criterion will thus evaluate for each alternative the key elements that address eligibility determinations for funding, the basis for setting priorities among projects, the time required to advance funds, and any comparative cost savings that may result from the use of a given alternative.

D. *Compliance:* Each funding alternative will be evaluated according to its ability to increase each community's incentive to comply with the requirements of its NPDES permit. In applying this criterion, consideration will be given to elements of alternatives that link the award of Federal financial assistance to demonstrated compliance, and elements of alternatives that encourage municipalities to construct needed wastewater treatment facilities if Federal funds are currently unavailable.

E. *Implementation Goals:* The study will identify the institutional, program management and legislative changes that may be required to implement each funding alternative. Then, each alternative will be evaluated in terms of its ability to provide long-term stability and certainty in the construction program, its ability to enhance State and local government flexibility and participation in the program, and the ease by which it can be implemented in the short and long term.

V. A Call for Papers

To facilitate the conduct of the study, the Agency invites papers from affected parties on the following study elements:

A. *Prereguisites for Local Self-Sufficiency:* Papers on this topic should describe problems that contribute to a lack of long-term local self-sufficiency in the construction, management, operation and replacement of needed municipal wastewater treatment facilities. Such papers should discuss prerequisite functions and responsibilities that must be performed by publicly owned treatment works operators/owners in order for the treatment plant to be considered self-sufficient. (Such papers may also disucss those functions and responsibilities that should be handled at a State or Federal level.) The Agency specifically requests that papers on this topic address possible Federal, State and local actions that will ensure the collection of adequate user charges and other revenues, such that all operations, maintenance and replacement expenses will be fully met at the local level.

B. *Local Financial Needs and Capabilities:* Papers on this topic should address differences in the financial needs/capabilities of various types of communities, with special attention to factors such as community size, State and/or local laws affecting local financing, and the type of wastewater treatment needs faced by communities, *e.g.*, CSO problems, need for new collectors or wastewater treatment facilities. Such papers should address the ability of communities to finance needed facilities with and without Federal funding.

C. *Capital Financing Delivery Systems:* Papers on this topic should address the framework needed to implement certain capital financing delivery systems. Papers may be comparative or focus on a particular delivery system. A preliminary listing of capital financing delivery systems is as follows:

—Traditional Municipal Debt Issues: Bonds.

—Municipal Leasing (or Sale/Leaseback) of Facilities:

—Tax-subsidizied privatization schemes in the absence of direct Federal funds.

—External Credit Support Programs: Bond insurance, loan guarantees.

—Intergovermental Loan Programs: State or Federal loans.

—Grant Programs: State or Federal Categorical grants programs or block grant programs.

—Intergovernmental Revenue Transfer: General Revenue Sharing (GRS) or State pass-through of GRS to local governments.

There are many variants to each of these approaches. As an aid in comparing alternatives, it is suggested that writers, to the extent possible, provide detailed descriptions of the mechanics of delivery systems such that the evaluate criteria may be applied (see Section IV of this notice). The Agency specifically requests that papers on this topic include a comparison of the Federal subsidy cost of a delivery system with that of a Federal grant.

D. *Preliminary Listing of Federal Funding Alternatives:* Papers are requested on the feasibility and desirable features of the following examples of possible Federal funding alternatives. The listing is arranged starting from the level of least Federal involvement and proceeding to the highest level of Federal involvement envisioned given the scope of this study. The listing is *not* all inclusive, and can be expanded or refined. A Federal funding alternative could involve a combination of these approaches, with program responsibilities resting with EPA, States, Farmers Home Administration (FmHA), newly created entities, or shared responsibilities.

1=Complete local (or State) financing. No direct Federal grants or loans. Reliance upon traditional and innovative local financing (plus any State-initiated grant or loan programs).

2=1, but provide a loan program for small or needy communities, such as that conducted by Farmers Home Administration (FmHA).
3=2, but extend loan program to larger eligible projects.
3-1: State Loan Banks started with Federal seed money.
3-2: Federal Trust Fund loan program.
4=3, but add a limited categorical grants program for eligible small communities, *e.g.*, the combined FmHA loan/grant program.
5=4, but add a categorical grants program for the completion of projects that had received some initial EPA construction grants funding.
6=Extend the authorization period for the construction grant program under FY 1985 requirements.
6-1: Convert to Block Grant.
6-2: New Federalism.

It should be noted that a Federal *strategy* might include additional elements beyond mere financing arrangements. For example, regardless of the funding mechanisms used, consideration will be given to alternative methods of expediting cost-effective planning, design construction, and operation services.

VI. Study Recommendations

The study will provide the basis of recommendations for legislative proposals on reauthorization of the construction grants program. A final report will be prepared which summarizes the issues and alternatives addressed in the papers and comments received. The recommendations will address alternatives of delivery system(s) for the Federal funding, the time period for authorization, and levels of Federal funding.

VII. Study Organization and Schedule

As noted in the summary section of this notice, the principal staff support for this study will be provided by the EPA Office of Water Program Operations (OWOP), which will coordinate and manage the activities of a staff-level work group. Direction of the study will be provided by an EPA-wide Task Force on the Reauthorization of the Municipal Wastewater Treatment Construction Grant Program, comprised of selected EPA Assistant Administrators and Associate Administrators, a Regional Administrator, a Deputy Regional Administrator, a Regional Water Management Division Director, the Office Director, OWPO, and an ex officio State member. The Task Force will be chaired by the Assistant Administrator for the Office of Water.

The Task Force and study working group while be directly aided by an officially constituted advisory group to the construction grants program (the Construction Grants Management Advisory Group (MAG)), and an Interagency Group consisting of Federal Government officials from other U.S. government agencies and departments. An informal Liaison Group will be used to coordinate study activities with outside parties and receive comments from associations of State and local government officials, organizations of the manufacturing, construction, engineering, and consulting professions, environmental groups, and representatives of other interest groups in the municipal water pollution control field.

The papers received in response to this notice will be included in full or in part in an appendix to the final report. Copies or summaries of such papers will be provided to members of the Task Force, Interagency Group, MAG and the Liasion Group. To ensure adequate consideration, all comments and papers in response to this notice should be directed to the individual and location provided in the **ADDRESS** section of this notice.

The Agency expects to complete the study in accordance with the following schedule of activities.

Activity	Date
Close Comments	April 2, 1984
Complete Background Studies	June 15, 1984.
Final Report	November 1984.
Legislative Proposal	February 1985 (99th Congress, 1st Session).

Dated: February 10, 1984.

Jack E. Ravan,

Assistant Administrator for Water.

[FR Doc. 84-4221 Filed 2-15-84; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL RESERVE SYSTEM

Bank of Boston Corp.; Acquisition of Bank Shares by a Bank Holding Company

Bank of Boston Corporation, Boston Massachusetts, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to become a bank holding company by acquiring 100 percent of the voting shares of Colonial Bancorp, Inc., Waterbury, Connecticut, and indirectly Colonial Bank, Waterbury, Connecticut, through the merger of Colonial Bancorp, Inc., into a wholly-owned subsidiary of Applicant. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Bank of Boston Corporation, Boston, Massachusetts, has also applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to acquire voting shares of Colbanc Realty Corporation, Waterbury, Connecticut, and Colbanc Leasing Corporation, Waterbury, Connecticut.

Applicant states that the proposed subsidiaries would engage in the activities of mortgage banking and personal property leasing. These activities would be performed from offices of Applicant's subsidiaries in Waterbury, Connecticut and the geographic area to be served is the State of Connecticut. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Boston.

Any views or requests for hearing should be submitted in writing and received by William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. not later than March 9, 1984.

Board of Governors of the Federal Reserve System, February 10, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-4210 Filed 2-15-84; 8:45 am]

BILLING CODE 6210-01-M

Commerce Union Corp., et al.; Notice of Applications To Engage de Novo in Permissible Nonbanking Activities

The companies listed in this notice have filed an application under § 225.23(a)(1) of the Board's Regulation Y (49 FR 794) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (49 FR 794) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than March 7, 1984.

A. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, NW., Atlanta, Georgia 30303:

1. *Commerce Union Corporation*, Nashville, Tennessee; to engage *de novo* through its wholly-owned subsidiary, Commerce Union Realty Services Corporation, Nashville, Tennessee, in the activity of arranging equity financing for income producing real properties.

B. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Indiana National Corporation*, Indianapolis, Indiana; to engage *de novo* through its subsidiary Indiana Mortgage Corporation, Indianapolis, Indiana, in arranging equity financing for commercial and industrial income producing real estate projects.

C. **Federal Reserve Bank of Minneapolis** (Bruce J. Hedblom, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *First Bank System, Inc.*, Minneapolis, Minnesota; to engage *de novo* through its subsidiary, First Bank System Community Development Corporation, Minneapolis, Minnesota, in making a debt investment in the West Bank Homes Low-Income Leased Cooperative Scattered Site, an 18 unit project in the Cedar-Riverdale Neighborhood area of Minneapolis, Minnesota, designed primarily to promote community welfare through the development of the low-income housing.

2. *First Bank System, Inc.*, Minneapolis, Minnesota; to engage, *de novo* through its subsidiary, First Bank System Community Development Corporation, Minneapolis, Minnesota, in making a debt investment in the Worthington Student Housing Project, Worthington, Minnesota, designed primarily to promote community welfare through the development of low-income housing.

D. **Federal Reserve Bank of Dallas** (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Centex Community Bankshares, Inc.*, Killeen, Texas; to engage in making or acquiring commercial or consumer loans and other extensions of credit and to act as insurance agent or broker for any insurance that is directly related to an extension of credit by itself or its subsidiary Citizens National Bank of Killeen.

E. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President) 101 Market Street, San Francisco, California 94105:

1. *Security Pacific Corporation*, Los Angeles, California; to engage through its subsidiary, Security Pacific Finance Corp., Los Angeles, California, in making or acquiring for its own account or for the account of others, loans and extensions of credit, including making consumer installment personal loans, purchasing consumer installment sales finance contracts, making loans to small businesses and other extensions of credit such as would be made by a factoring company or a consumer finance company, and servicing loans or other extensions of credit, pursuant to § 225.25(b)(1) of Regulation Y.

Board of Governors of the Federal Reserve System, February 10, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-4213 Filed 2-15-84; 8:45 am]

BILLING CODE 6210-01-M

FSB Bancshares, Inc.; Formation of Bank Holding Co.

The company listed in this notice has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring voting shares or assets of a bank. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated. With respect to the application, interested persons may express their views in writing to the address indicated. Any comment on the application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Federal Reserve Bank of Dallas (Anthony J. Montelaro, Vice President) 400 South Akard, Street, Dallas, Texas 75222:

1. *FSB Bancshares, Inc.*, Waco, Texas; to become a bank holding company by acquiring 80 percent of the voting shares of each of the following banks: First State Bank-Coolidge, Coolidge, Texas; First State Bank-Mount Calm, Mount Calm, Texas; and First State Bank-Italy, Italy, Texas. Comments on this application must be received not later than March 6, 1984.

Board of Governors of the Federal Reserve System, February 10, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-4208 Filed 2-15-84; 8:45 am]

BILLING CODE 6210-01-M

Lewisville Bancorp, Inc., et al., Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. § 1842) and § 225.14 of the Board's Regulation Y (49 FR 794) to become a bank holding company or to acquire a bank or bank

holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than March 8, 1984.

A. Federal Reserve Bank of Minneapolis (Bruce J. Hedblom, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Lewisville Bancorp, Inc.*, Lewisville, Minnesota; to become a bank holding company by acquiring 86.8 percent of the voting shares of Merchants State Bank of Lewisville, Lewisville, Minnesota.

B. Federal Reserve Bank of Dallas (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Texas Southwest Bancorp, Inc.*, Mesquite, Texas; to acquire 100 percent of the voting shares or assets of Southwest Bank-Garland, Garland, Texas.

Board of Governors of the Federal Reserve System, February 10, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-4209 Filed 2-15-84; 8:45 am]

BILLING CODE 6210-01-M

Midwest Banco Corp.; Merger of Bank Holding Companies

Midwest Banco Corporation, Cozad, Nebraska, has applied for the Board's approval under § 3(a)(5) of the Bank Holding Company Act (12 U.S.C. 1842(a)(5)) to merge with Wilber State Company, and indirectly acquire The Bank of Wilber, Wilber, Nebraska. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than March 8, 1984. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, February 10, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-4211 Filed 2-15-84; 8:45 am]

BILLING CODE 6210-01-M

The National Bank of Washington; Corp. To Do Business Under Section 25(a) of the Federal Reserve Act

An application has been submitted for the Board's approval of the organization of a corporation to do business under section 25(a) of the Federal Reserve Act ("Edge Corporation"), to be known as NBW International Banking Corporation, Baltimore, Maryland. NBW International Banking Corporation would operate as a subsidiary of The National Bank of Washington, Washington, D.C. The factors that are considered in acting on the application are set forth in § 211.4(a) of the Board's Regulation K (12 CFR 211.4(a)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Richmond. Any person wishing to comment on the application should submit views in writing to William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received not later than March 9, 1984. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identify specifically any questions of fact that are in dispute and summarize the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, February 10, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-4212 Filed 2-15-84; 8:45 am]

BILLING CODE 6210-01-M

GENERAL SERVICES ADMINISTRATION

Agency Information Collections Under Review by the Office of Management and Budget (OMB); Federal Acquisition Regulation (Interim Clearance), and Request for Approval of Equipment

AGENCY: Office of Policy and Management Systems, GSA.

ACTION: Notice.

SUMMARY: The General Services Administration (GSA) plans to request the Office of Management and Budget (OMB) to approve two requests for information collections. This action is required by the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35).

COMMENT DATE: Submit comments on these collections before March 2, 1984.

ADDRESSES: Send comments to Franklin S. Reeder, GSA Desk Officer, Room 3235, NEOB, Washington, D.C. 20503, and to John F. Gilmore, GSA Clearance Officer (ATRAI), Washington, DC 20405.

FOR FURTHER INFORMATION CONTACT: Victoria Moss, Office of Acquisition Policy (202-523-4799).

SUPPLEMENTARY INFORMATION:

1. *Federal Acquisition Regulation (Parts 16, 22, 31, 32, 36, 42, 45, 46).*

a. *Purpose.* This collection provides an interim clearance that covers all recordkeeping and reporting requirements necessary for the acquisition of supplies and services contained in this directive. It includes:

(1) Subchapter C, Part 16 Contracting Methods and Contract Types.

(2) Subchapter D, Part 22, Socioeconomic Programs, Application of Labor Laws to Government Acquisitions.

(3) Subchapter E, General Contracting Requirements:

(a) Part 31, Contract Cost Principles and Procedures.

(b) Part 32, Contract Financing.

(4) Subchapter F, Part 36, Special Categories of Contracting, Construction and Architect-Engineer Contracts.

(5) Subchapter G, Contract Management:

(a) Part 42, Contract Administration.

(b) Part 45, Government Property.

(c) Part 46, Quality Assurance.

(6) Subchapter H, Clauses and Forms:

(a) Part 52, Solicitation Provisions and Contract Clauses.

(b) Part 53, Forms.

(7) Miscellaneous actions:

(a) Invoice requirements.

(b) Labeling requirements.

(c) Price information.

(d) Protests.

(e) Requests for addresses, etc.
(f) Shipping documents annotations.
(g) Written claims.
(h) Discount for prompt payment.

b. *Annual reporting and recordkeeping burden.* This is estimated as follows: Respondents and recordkeepers 6,063, responses 30,315, reporting and recordkeeping hours 60,630.

2. *Request for Approval of Equipment.*

a. *Purpose.* This collection requests firms that have construction contracts that require the installation of equipment to provide data to ensure that the machinery meets Federal standards.

(b) *Annual reporting burden.* This is estimated as follows: Respondents 316, responses 747, hours 119.

3. *Copies of proposals.* Requestors may obtain copies from the Directives and Reports Management Branch (ATRAI), Room 3004, GS Building, Washington, DC 20405, telephone (202–566–066).

Dated: February 9, 1984.

William W. Hiebert,

Acting Director, Information Management Division.

[FR Doc. 84–4173 Filed 2–15–84; 8:45 am]
BILLING CODE 6820–34–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Statement of Organization, Functions and Delegations of Authority; Office of Inspector General

This notice amends Part A (Office of the Secretary) of the Statement of Organization, Functions, and Delegations of Authority of the Department of Health and Human Services, to make a change in Chapter AF, Office of Inspector General (47 FR 20035, May 10, 1982, as amended by 47 FR 39616, August 9, 1982; 48 FR 4917, February 3, 1983; and 48 FR 4919, February 3, 1983).

The purpose of this amendment is to reflect the reorganization of a major component within the Office of Inspector General, the Office of Systems Integrity. Although the general responsibilities of this office will be similar to those it has previously held, the title of the Office will be changed to the Office of Program Inspections, and the staff alignments within the Office will be modified.

1. Amend section AF.10 of Chapter AF by deleting "Office of Systems Integrity" and inserting instead "Office of Program Inspections".

2. Amend section AF.20.E to read as follows:

E. *The Office of Program Inspections.* The Office of Program Inspections is under the general supervision of the Assistant Inspector General for Program Inspections.

The Office of Program Inspections:

(a) Develops and leads management studies of HHS programs;

(b) Conducts service delivery assessments;

(c) Reviews proposed Congressional legislation and regulations ensuring that they contain adequate safeguards against fraud, waste, abuse and mismanagement;

(d) Develops legislative and regulatory proposals to maintain and strenthen HHS programs;

(e) Develops corrective action and recommendations for HHS OPDIVs to assist them in reducing fraud, waste, abuse and mismanagement;

(f) Tracks agency follow-up activities to ensure appropriate action from recommendations made by the Office of Inspector General (OIG), Office of Management and Budget, Government Accounting Office and/or Congressional reports;

(g) Coordinates HHS participation in the President's Council on Integrity and Efficiency (PCIE), and other interagency efforts addressing common program integrity concerns;

(h) Provides policy strategy and program advice to the Inspector General;

(i) Maintains liaison with other Offices of Inspector General, related professional organizations, Federal agencies and non-governmental entities to promote the objectives of the Office of Inspector General;

(j) Conducts reviews to identify systems vulnerabilities in HHS programs and recommends appropriate changes in program policy, regulations, and laws to decrease the opportunity for and the incidence of fraud, waste, abuse and mismanagement; and

(k) Prepares the Inspector General's Work-plan and the Semiannual Report to the Congress.

The Office of Program inspections consists of the following:

(a) Inter-Departmental Coordinations Staff

(b) Division of Legislative and Regulatory Review

(c) Division of Interagency Projects

(d) Division of Analysis and Inspections

(1) Field Inspections Branch

(2) Social Security Analysis Branch

(3) General Analysis Branch

The functions of the components of the Office of Program Inspections are:

(a) *Inter-Departmental Coordinations Staff:*

(i) Provides coordination for the Inspector General's participation in joint activities with other governmental entities, including the OMB, Agency Inspectors General and the PCIE;

(ii) Develops and maintains effective liaison with OMB staff assigned to coordinate activity with other agency PCIE coordinators and PCIE project leaders in the Department;

(iii) Supports and advises the Inspector General regarding the scope of inter-departmental activities and recommends directions for further activities;

(iv) Coordinates the Forum of Assistant Inspectors General;

(v) Prepares the Inspector General's Work-plan and Semiannual Report to the Congress; and

(vi) Organizes and issues reports to the Inspector General and the OMB on PCIE activities.

(b) *Division of Legislative and Regulatory Review:*

(i) Responsible for the major prevention activities of the Inspector General;

(ii) Inspects HHS regulations and legislative proposals;

(iii) Prepares advisory reports describing how various actions contribute to or deviate from appropriate HHS systems program integrity;

(iv) Consolidates audit, studies and inspection findings;

(v) Prepares recommendations for OIG-initiated legislation and/or regulations;

(vi) Develops legislative and regulatory proposals;

(vii) Develops OIG strategies by monitoring HHS policy trends and Congressional legislative trends.

(c) *Division of Interagency Projects:*

(i) Manages interagency projects approved and assigned by the President's Council on Integrity and Efficiency which are generally national in scope and require coordination between Federal, State, and local government agencies;

(ii) Coordinates Federal, State, and local agencies' surveys and analyzes data collected from these surveys and interviews;

(iii) Prepares and distributes technical documents;

(iv) Develops policy papers and reports on integrity and efficiency in Federal programs;

(v) Provides leadership for PCIE project task forces and technical workgroups;

(vi) Prepares testimony, speeches, and articles concerning the work and outcome of PCIE projects;

(vii) Collects and synthesizes information and prepares monographs on a variety of Departmental program issues.

(c) *Division of Analysis and Inspections:*

(i) Conducts comprehensive HHS program inspections to assess HHS programs' management efficiency and to identify systemic vulnerability to fraud, waste, abuse and mismanagement;

(ii) Conducts comprehensive inspections, which include reviewing the findings of audits, reviews, inspections and service delivery assessments to identify and measure trends and patterns of fraud, waste, abuse and mismanagement in HHS programs;

(iii) Develops recommendations to improve program efficiency and to provide early detection and prevention of fraud, waste, abuse and mismanagement.

(1) *Field Inspections Branch:*

(i) Conducts short-term inspections and service delivery assessments in HHS field programs and regional offices, including site visits and discussions with HHS program staff and program participants;

(ii) Reviews program information to identify systemic vulnerability to fraud, waste, abuse and mismanagement and coordinates all studies with components of the OIG and HHS Divisions.

(2) *Social Security Analysis Branch:*

(i) Conducts inspections and comprehensive analyses of all Social Security programs including site visits and discussions with HHS program staff and program participants;

(ii) Reviews Social Security program information to identify systemic vulnerability to fraud, waste, abuse and mismanagement;

(iii) analyzes investigative and management implication reports pertaining to any Social Security program to identify areas requiring corrective action or further analysis and coordinates all studies with components or the OIG and HHS Divisions.

(3) *General Analysis Branch:*

(i) Conducts inspections and comprehensive analyses of health, human development and Office of the Secretary (OS) programs;

(ii) analyzes management implication reports pertaining to health, human development and OS programs to identify areas requiring corrective action or further analysis;

(iii) Conducts site visits and discusses with program staff and program participants, and reviews program information to identify systemic vulnerability to fraud, waste, abuse and mismanagement;

(iv) Coordinates all studies with components of the OIG and HHS Divisions.

Dated: February 8, 1984.

John J. O'Shaughnessy,

Assistant Secretary for Management and Budget.

[FR Doc. 84-4227 Filed 2-15-84; 8:45 am]

BILLING CODE 4150-04-M

Alcohol, Drug Abuse, and Mental Health Administration

Meetings

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. Appendix I), announcement is made of the following national advisory bodies scheduled to assemble during the month of March 1984.

Cognition, Emotion, and Personality Research Review Committee: March 2–4; 9:00 a.m., Holiday Inn Georgetown, 2101 Wisconsin Avenue, NW., Washington, D.C. 20007.

Open: March 2; 9:00–10:00 a.m.

Closed: Otherwise.

Contact: Shirley Maltz, Room 9C26, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–3944.

Purpose: The Committee is charged with the initial review of applications for assistance from the National Institute of Mental Health for support of research and research training activities relating to personality, emotion, cognition, and related higher mental processes, with recommendations to the National Advisory Mental Health Council for final review.

Agenda: From 9:00–10:00 a.m., March 2, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of 5 U.S.C. 552b(c)(6), and section 10(d) of the Pub. L. 92–463 (5 U.S.C. Appendix I).

* * * * *

Research Scientist Development Review Committee: March 4–6; 7:00 p.m., Sheraton Washington Hotel, 2660 Woodley Road at Connecticut Avenue, Washington, D.C. 20008.

Open: March 5; 9:00–9:30 a.m.

Closed: Otherwise.

Contact: Diana Souder, Room 9C05, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–6470.

Purpose: The Committee is charged with the initial review of applications for assistance from the National Institute of Mental Health for support of activities to develop and execute a program of Research Scientist and Research Scientist Development Awards to appropriate institutions for the support of individuals who are engaged full time in research and related activities relevant to mental health, with recommendations to the National Advisory Mental Health Council for final action.

Agenda: From 9:00–9:30 a.m., March 5, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of 5 U.S.C. 552b(c)(6), and section 10(d) of Pub. L. 92–463 (5 U.S.C. Appendix I).

* * * * *

Mental Health Research Education Review Committee: March 7–9; 9:00 a.m., Holiday Inn Georgetown, 2101 Wisconsin Avenue, NW., Washington, D.C. 20007.

Open: March 7–9; 9:00–10:00 a.m.

Closed: Otherwise.

Contact: Emilie Embrey, Room 9–101, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–3857.

Purpose: The Committee is charged with the initial review of applications for assistance from the National Institute of Mental Health for support of research training activities in the areas of biological sciences, the psychological sciences, and the applied behavioral sciences related to mental health, with recommendations to the National Advisory Mental Health Council for final review.

Agenda: From 9:00–10:00 a.m., March 7, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of 5 U.S.C. 552b(c)(6), and

section 10(d) of the Pub. L. 92–463 (5 U.S.C. Appendix I).

* * * * *

Neuropsychology Research Subcommittee of the Basic Psychopharmacology and Neuropsychology Research Review Committee: March 8–10; 9:00 a.m., The Capitol Hill Hotel, 200 C Street, SE., Washington, D.C. 20003.

Open: March 8; 9:00–10:00 a.m.

Closed: Otherwise.

Contact: Fay Polcak, Room 9C26, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–3936.

Purpose: The Committee is charged with the initial review of applications for assistance from the National Institute of Mental Health for support of research and research training activities relating to basic psychopharmacology and neuropsychology with recommendations to the National Advisory Mental Health Council for final review.

Agenda: From 9:00–10:00 a.m., March 8, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of 5 U.S.C. 552(c)(6), and section 10(d) of Pub. L. 92–463 (5 U.S.C. Appendix I).

* * * * *

Clinical Program Projects/Clinical Research Centers Subcommittee of the Treatment Development and Assessment Research Review Committee: March 13–14; 9:00 a.m., Sheraton Washington Hotel, 2660 Woodley Road, NW., Washington, D.C. 20008.

Open March 13; 9:00–10:00 a.m.

Closed: Otherwise.

Contact: Pamela J. Mitchell, Room 9C18, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–1367.

Purpose: The Subcommittee is charged with the initial review of applications for assistance from the National Institute of Mental Health for support of Mental Health Clinical Research Centers, clinical program projects, and other large-scale multidisciplinary research projects, and makes recommendations to the National Advisory Mental Health Council for final review.

Agenda: From 9:00–10:00 a.m., March 13, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Administator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of 5 U.S.C. 552b(c)(6), and section 10(d) of Pub. L. 92–463 (5 U.S.C. Appendix I).

* * * * *

Epidemiologic and Services Research Review Committee: March 19–21; 9:00 a.m. Sheraton Washington Hotel, 2660 Woodely Road at Connecticut Avenue, NW., Washington, D.C. 20008.

Open: March 19; 9:00–10:00 a.m.

Closed: Otherwise.

Contact: Gloria Yockelson, Room 9C18, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–1367.

Purpose: The Committee is charged with the initial review of applications for assistance from the National Institute of Mental Health for support of research and research training activities as they relate to mental health epidemiology, mental health service systems research, and evaluation of clinical mental health services, with recommendations to the National Advisory Mental Health Council for final review.

Agenda: From 9:00–10:00 a.m., March 19, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of 5 U.S.C. 552b(c)(6), and section 10(d) of Pub. L. 92–463 (5 U.S.C. Appendix I).

* * * * *

Mental Health Small Grant Review Committee: March 28–31; 1:30 p.m., The Henley Park Hotel, 926 Massachusetts Avenue, NW., Washington, D.C. 20001.

Open: March 28; 1:30–2:30 p.m.

Closed: Otherwise.

Contact: Virginia Harter, Room 9–95, Parklawn Building, 5600 Fisher Lane, Rockville, Maryland 20857, (301) 443–4843.

Purpose: The Committee is charged with the initial review of applications for research in all disciplines pertaining to alcohol, drug abuse, and mental health for support of research in the areas of psychology, psychiatry and the behavioral and biological sciences, with recommendations to the National Advisory Mental Health Council, the National Advisory Council on Alcohol Abuse and Alcoholism, and the National Advisory Council on Drug Abuse.

Agenda: From 1:30–2:30 p.m., March 28, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of 5 U.S.C. 552b(c)(6), and section 10(d) of Pub. L. 92–463 (5 U.S.C. Appendix I).

* * * * *

Substantive information may be obtained from the contact persons listed above. Summaries of the meetings and rosters of Committee members may be obtained as follows: Ms. Helen W. Garrett, Committee Management Officer, National Institute of Mental Health, Room 17C26, Parklawn Building 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–4333.

Dated: February 10, 1984.

Sue Simmons,

Committee Management Officer, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc. 84–4157 Filed 2–15–84; 8:45 am]

BILLING CODE 4160–20–M

Food and Drug Administration

Advisory Committee; Meeting

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). This notice also sets forth a summary of the procedures governing committee meetings and methods by which interested persons may participate in open public hearings conducted by the committees and is issued under section 10(a) (1) and (2) of the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770–776 (5 U.S.C. App. I)), and FDA regulations (21 CFR Part 14) relating to advisory committees. The following advisory committee meeting is announced:

Vaccines and Related Biological Products Advisory Committee

Date, time, and place. March 12, 8:30 a.m., Bldg. 29, Rm. 121, 8800 Rockville Pike, Bethesda, MD.

Type of meeting and contact person. Open public hearing, 8:30 a.m. to 9:30 a.m.; closed committee discussion, 9:30 a.m. to 5 p.m.; Jack Gertzog, National Center for Drugs and Biologics (HFN–6), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–5455.

General function of the committee. The committee reviews and evaluates data on the safety and effectiveness of vaccines and related biological products intended for use in the diagnosis, prevention, or treatment of human diseases.

Agenda—Open public hearing. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee.

Closed committee discussion. The committee will discuss trade secret or confidential commercial information relevant to pending investigational new drugs (IND's), and license applications. This portion of the meeting will be closed to permit discussion of this information (5 U.S.C. 552b(c)(4)).

Each public advisory committee meeting listed above may have as many as four separable portions: (1) An open public hearing, (2) an open committee discussion, (3) a closed presentation of data, and (4) a closed committee deliberation. Every advisory committee meeting shall have an open public hearing portion. Whether or not it also includes any of the other three portions will depend upon the specific meeting involved. The dates and times reserved for the separate portions of each committee meeting are listed above.

The open public hearing portion of each meeting shall be at least 1 hour long unless public participation does not last that long. It is emphasized, however, that the 1 hour time limit for an open public hearing represents a minimum rather than a maximum time for public participation, and an open public hearing may last for whatever longer period the committee chairman determines will facilitate the committee's work.

Meetings of advisory committees shall be conducted, insofar as is practical, in accordance with the agenda published in this Federal Register notice. Changes in the agenda will be announced at the beginning of the open portion of a meeting.

Any interested person who wishes to be assured of the right to make an oral presentation at the open public hearing portion of a meeting shall inform the contact person listed above, either orally or in writing, prior to the meeting. Any person attending the hearing who does not in advance of the meeting request an opportunity to speak will be allowed to make an oral presentation at the hearing's conclusion, if time permits, at the chairman's discretion.

Persons interested in specific agenda items to be discussed in open session may ascertain from the contact person the approximate time of discussion.

A list of committee members and summary minutes of meetings may be requested from the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday. The FDA regulations relating to public advisory committees may be found in 21 CFR Part 14.

The Commissioner, with the concurrence of the Chief Counsel, has determined for the reasons stated that those portions of the advisory committee meetings so designated in this notice shall be closed. The Federal Advisory Committee Act (FACA), as amended by the Government in the Sunshine Act (Pub. L. 94–409), permits such closed advisory committee meetings in certain circumstances. These portions of a meeting designated as closed, however, shall be closed for the shortest possible time, consistent with the intent of the cited statutes.

The FACA, as amended, provides that a portion of a meeting may be closed where the matter for discussion involves a trade secret; commercial or financial information that is privileged or confidential; information of a personal nature, disclosure of which would be a clearly unwarranted invasion of personal privacy; investigatory files compiled for law enforcement purposes; information the premature disclosure of which would be likely to significantly frustrate implementation of a proposed agency action; and information in certain other instances not generally relevant to FDA matters.

Examples of portions of FDA advisory committee meetings that ordinarily may be closed, where necessary and in accordance with FACA criteria, include the review, discussion, and evaluation of drafts of regulations or guidelines or similar preexisting internal agency documents, but only if their premature disclosure is likely to significantly frustrate implementation of proposed agency action; review of trade secrets and confidential commercial or financial information submitted to the agency; consideration of matters involving investigatory files compiled for law enforcement purposes; and review of matters, such as personnel records or individual patient records, where disclosure would constitute a clearly unwarranted invasion of personal privacy.

Examples of portions of FDA advisory committee meetings that ordinarily shall not be closed include the review, discussion, and evaluation of general preclinical and clinical test protocols and procedures for a class of drugs or devices; consideration of labeling requirements for a class of marketed drugs or devices; review of data and information on specific investigational or marketed drugs and devices that have previously been made public; presentation of any other data or information that is not exempt from public disclosure pursuant to the FACA, as amended; and, notably deliberative sessions to formulate advice and recommendations to the agency on matters that do not independently justify closing.

Dated: February 10, 1984.

Mark Novitch,

Acting Commissioner of Food and Drugs.

[FR Doc. 84–4156 Filed 2–15–84; 8:45 am]

BILLING CODE 4160–01–M

Consumer Participation; Open Meetings

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the following consumer exchange meetings:

Detroit District Office, chaired by Alan L. Hoeting, District Director. The topic to be discussed is Patient Education.

DATE: Tuesday, February 21, 1984, 9:30 a.m.

ADDRESS: George Potter Larrick Bldg., Conference Room, 1560 East Jefferson Ave., Detroit, MI 48207.

FOR FURTHER INFORMATION CONTACT: Janine W. Jarvela, Acting Consumer Affairs Officer, Food and Drug Administration, 1560 East Jefferson Ave., Detroit, MI 48207, 313–226–6260.

Minneapolis District Office, chaired by John Feldman, District Director. The topics to be discussed are Health Fraud, Safe Use of Drugs, and Sodium.

DATE: Monday, March 5, 1984, 1 p.m. to 3 p.m.

ADDRESS: Labor Center, 2002 London Rd., Duluth, MN 55812.

FOR FURTHER INFORMATION CONTACT: Blanche L. Erkel, Consumer Affairs Officer, Food and Drug Administration, 240 Hennepin Ave., Minneapolis, MN 55401, 612–725–2121.

Los Angeles District Office, chaired by Abraham I. Kleks, District Director. The topics to be discussed are Drugs and the Elderly and Other Current Issues.

DATE: Thursday, March 8, 1984, 9 a.m.

ADDRESS: Food and Drug Administration, 1521 West Pico Blvd., Los Angeles, CA 90015.

FOR FURTHER INFORMATION CONTACT: Gordon L. Scott, Consumer Affairs Officer, Food and Drug Administration, 1521 West Pico Blvd., Los Angeles, CA 90015, 213–688–4395.

SUPPLEMENTARY INFORMATION: The purpose of these meetings is to encourage dialogue between consumers and FDA officials, to identify and set priorities for current and future health concerns, to enhance relationships between local consumers and FDA's District Offices, and to contribute to the agency's policymaking decisions on vital issues.

Dated: February 10, 1084.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 84–4154 Filed 2–15–84; 8:45 am]

BILLING CODE 4160–01–M

National Institutes of Health

Cancer Clinical Investigation Review Committee; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Cancer Clinical Investigation Review Committee, National Cancer Institute, March 5–7, 1984, Building 31C, Conference Room 10, National Institutes of Health, Bethesda, Maryland 20205. This meeting will be open to the public on March 5, from 8:30 a.m. to 9:00 a.m., to review administrative details. Attendance by the public will be limited to space available.

In accordance with provisions set forth in Sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Pub. L. 92–463, the meeting will be closed to the public on March 5, from approximately 9:00 a.m. to recess, on March 6, from 8:30 a.m. to recess, and on March 7, from 8:30 a.m. to adjournment, for the review, discussion, and evaluation of individual cooperative agreement applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mrs. Winifred Lumsden, Committee Management Officer, National Cancer Institute, Building 31, Room 10A06, National Institutes of Health, Bethesda, Maryland 20205 (301/496–5708) will provide summaries of the meeting and rosters of committee members, upon request.

Dr. Richard K. Hsieh, Executive Secretary, Cancer Clinical Investigation Review Committee, National Cancer Institute, Westwood Building, Room 819, National Institutes of Health, Bethesda, Maryland 20205 (301/496–7481) will furnish substantive program information.

Dated: February 9, 1984.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 84–4175 Filed 2–15–84; 8:45 am]

BILLING CODE 4140–01–M

Meetings for the Review of Grant Applications

Pursuant to Pub. L. 92–463, notice is hereby given for meetings of several committees of the National Cancer Institute.

These meetings will be open to the public to discuss administrative details or other issues relating to committee business as indicated in the notice. Attendance by the public will be limited to space available.

These meetings will be closed to the public as indicated below in accordance with the provisions set forth in Sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Pub. L. 92–463, for the review, discussion and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mrs. Winifred Lumsden, Committee Management Officer, National Cancer Institute, Building 31, Room 10A06, National Institutes of Health, Bethesda, Maryland 20205 (301/496–5708) will furnish summaries of meetings and rosters of committee members upon request. Other information pertaining to the meetings can be obtained from the Executive Secretary indicated.

Name of Committee: Cancer Control Grant Review Committee.

Dates: March 5–6, 1984.

Place: National Institutes of Health, Building 31C, Conference Room 6, 9000 Rockville Pike, Bethesda, MD 20205.

Times

Open: March 5, 8:30 a.m.–9:00 a.m.

Agenda: A review of administrative details.

Closed: March 5, 9:00 a.m.—recess; March 6, 8:30 a.m.—adjournment.

Closure reason: To review grant applications.

Executive Secretary: Dr. Robert F. Browning, Westwood Building, Room 806, National Institutes of Health, Bethesda, MD 20205.

Phone: 301/496–7413.

(Catalog of Federal Domestic Assistance Number 13.399, project grants in cancer control, National Institutes of Health)

Name of Committee: Cancer Preclinical Program Project Review Committee.

Dates: March 15–16, 1984.

Place: National Institutes of Health, Building 31C, Conference Room 8, 9000 Rockville Pike, Bethesda, MD 20205.

Times

Open: March 15, 9:00 a.m.–9:30 a.m.

Agenda: A review of administrative details.

Closed: March 15, 9:30 a.m.—recess; March 16, 8:30 a.m.—adjournment.

Closure reason: To review grant applications.

Executive Secretary: Dr. Dennis F. Cain, Westwood Building, Room 820, National Institutes of Health, Bethesda, MD 20205.

Phone: 301/496–7929.

(Catalog of Federal Domestic Assistance Number 13.392, project grants in cancer construction, National Institutes of Health)

Name of Committee: Clinical Cancer Program Project Review Committee.

Dates: March 29–30, 1984.

Place: National Institutes of Health, Building 31C, Conference Room 10, 9000 Rockville Pike, Bethesda, MD 20205.

Times

Open: March 29, 8:30 a.m.–10:00 a.m.

Agenda: Review by the Division Director, Branch Chief, Executive Secretary and Chairman; and a review of administrative details.

Closed: March 29, 10:00 a.m.—recess; March 30, 8:30 a.m.—adjournment.

Closure reason: To review grant applications.

Executive Secretary: Dr. M. Wayne Hurst, Westwood Building, Room 848, National Institutes of Health, Bethesda, MD 20205.

Phone: 301/496–7924.

(Catalog of Federal Domestic Assistance Number 13.397, project grants in cancer center support, National Institutes of Health)

Name of Committee: Cancer Center Support Review Committee.

Dates: March 29–30, 1984.

Place: National Institutes of Health, Building 31C, Conference Room 6, 9000 Rockville Pike, Bethesda, MD 20205.

Times

Open: March 29, 8:30–9:30 a.m.

Agenda: Reports by Division Director, Branch Chief, and Executive Secretary on Committee concerns followed by open discussion and review of administrative details.

Closed: March 29, 9:30 a.m.—recess; March 30, 8:30 a.m.—adjournment.

Closure reason: To review grant applications.

Executive Secretary: Dr. John W. Abrell, Westwood Building, Room 826, National Institutes of Health, Bethesda, MD 20205.

Phone: 301/496–9767.

(Catalog of Federal Domestic Assistance Number 13.397, project grants in cancer center support, National Institutes of Health)

Dated: February 9, 1984.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 84–4176 Filed 2–15–84; 8:45 am]

BILLING CODE 4140–01–M

Developmental Therapeutics Contracts Review Committee; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Developmental Therapeutics Contracts Review Committee, National Cancer Institute, March 12, 1984, Building 31, Conference Room 8, 9000 Rockville Pike, Bethesda, Maryland 20205. This meeting will be open to the public on March 12, from 8:30 a.m. to 9:00 a.m. to review administrative details. Attendance by the public will be limited to space available.

In accordance with provisions set forth in Sections 552b(c)(4) and 552b(c)(6), Title 5, United States Code and Section 10(d) of Pub. L. 92–463, the meeting will be closed to the public on March 12, from approximately 9:00 a.m. to adjournment for the review, discussion and evaluation of individual contract proposals. These proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the proposal, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mrs. Winifred Lumsden, the Committee Management Officer, National Cancer Institute, Building 31, Room 10A06, National Institutes of Health, Bethesda, Maryland 20205 (301/496–5708) will provide summaries of the meeting and rosters of committee members, upon request.

Dr. Kendall G. Powers, Executive Secretary, Developmental Therapeutics Contracts Review Committee, National Cancer Institute, Westwood Building, Room 805, National Institutes of Health, Bethesda, Maryland 20205 (301/496–7575) will furnish substantive program information.

Dated: February 9, 1984.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 84–4177 Filed 2–15–84; 8:45 am]

BILLING CODE 4140–01–M

Environmental Health Sciences Review Committee; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Environmental Health Sciences Review Committee on March 19–20, 1984, in Building 101 Conference Room, Research Triangle Park, North Carolina. This meeting will be open to the public from 9:00 a.m. to approximately 10:30 a.m. on March 19, for general discussions. Attendance by the public is limited to space available.

In accordance with provisions set forth in section 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Pub. L. 92–463, the meeting will be closed to the public from 10:30 a.m., March 19, to adjournment on March 20, for the review, discussion and evaluation of individual grant applications and contract proposals. These applications and proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications and proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Dr. Carol Shreffler, Executive Secretary, Environmental Health Sciences Review Committee, National Institute of Environmental Health Sciences, National Institutes of Health, P.O. Box 12233, Research Triangle Park, North Carolina 27709, (telephone 919–541–7826), will provide summaries of meeting, rosters of committee members, and substantive program information.

(Catalog of Federal Domestic Assistance Program Nos. 13.112, Characterization of Environmental Health Hazards; 13.113, Biological Response to Environmental Health Hazards; 13.114, Applied Toxicological Research and Testing; 13.115, Biometry and Risk Estimation; 13.894, Resource and Manpower Development, National Institutes of Health)

Dated: February 9, 1984.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 84–4178 Filed 2–15–84; 8:45 am]

BILLING CODE 4140–01–M

Cancer Therapeutics Program Project Review Committee; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Cancer Therapeutics Program Project Review Committee, National Cancer Institute, April 9 and 10, 1984, Building 31C, Conference Room 9, National Institutes of Health, Bethesda, Maryland 20205. This meeting will be open to the public on April 9, from 9:00 a.m. to 9:30 a.m., to review administrative details. Attendance by the public will be limited to space available.

In accordance with provisions set forth in Sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Pub. L. 92–463, the meeting will be closed to the public on April 9, from approximately 9:30 a.m. to recess, and on April 10, from 9:00 a.m. to adjournment, for the review, discussion, and evaluation of individual program project applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mrs. Winifred Lumsden, Committee Management Officer, National Cancer Institute, Building 31, Room 10A–06, National Institutes of Health, Bethesda, Maryland 20205 (301/496–5708) will provide summaries of the meeting and rosters of committee members, upon request.

Dr. Eric R. Jurrus, Executive Secretary, Cancer Therapeutics Program Project Review Committee, National Cancer Institute, Westwood Building, Room 834, National Institutes of Health, Bethesda, Maryland 20205 (301/496–2330) will furnish substantive program information.

Dated: February 9, 1984.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 84–4179 Filed 2–15–84; 8:45 am]

BILLING CODE 4140–01–M

Board of Scientific Counselors, Division of Cancer Etiology; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Board of Scientific Counselors, Division of Cancer Etiology on March 1–2, 1984, Building 31, C Wing, Conference Room 10, National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland 20205. The meeting will be open to the public from approximately 11:00 a.m. to

recess on March 1, and from 9:00 a.m. to adjournment on March 2, for an update of the Division budget and review of concepts for grants and contracts. Attendance by the public will be limited to space available.

The Board of Scientific Counselors meeting will be closed to the public from 9:00 a.m. to approximately 11:00 a.m. on March 1, 1984, in accordance with the provisions set forth in section 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Pub. L. 92–463, for the review, discussion and evaluation of individual programs and projects conducted by the Division of Cancer Etiology. The programs, projects, and discussions could reveal personal information concerning individuals associated with the programs and projects, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mrs. Winifred Lumsden, Committee Management Officer, National Cancer Institute, Building 31, Room 10A06, National Institutes of Health, Bethesda, Maryland 20205 (301/496–5708) will provide summaries of the meeting and rosters of committee members, upon request.

Dr. David McB. Howell, Executive Secretary of the Board of Scientific Counselors, Division of Cancer Etiology, National Cancer Institute, Building 31, Room 11A04, National Institutes of Health, Bethesda, Maryland 20205 (301/496–6927) will furnish substantive program information.

Dated: February 9, 1984.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 84–4180 Filed 2–15–84; 8:45 am]

BILLING CODE 4140–01–M

Subcommittee on Animal Resources of the Animal Resources Review Committee; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Subcommittee on Animal Resources, Animal Resources Review Committee, Division of Research Resources, on March 1, 1984 from 8:00 a.m. to recess and on March 2, 1984 from 8:00 a.m. to adjournment in Conference Room 2, Building 31, National Institutes of Health, Bethesda, Md., 20205.

The meeting will be open to the public on March 1 from 3:00 p.m. to approximately 5:00 p.m. for a brief staff presentation on the current status of the Animal Resources Program and the selection of future meeting dates. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in Sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Pub. L. 92–463, the meeting will be closed to the public on March 1 from approximately 8:00 a.m. to 3:00 p.m. and on March 2 from 8:00 a.m. to adjournment for the review, discussion, and evaluation of individual grant applications submitted to the Laboratory Animal Sciences Program. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mr. James Augustine, Information Officer, Division of Research Resources, Room 5B13, Building 31, National Institutes of Health, Bethesda, Md. 20205, (301) 496.5545, will provide summaries of the meeting and rosters of the Committee members. Dr. Carl E. Miller, Executive Secretary of the Animal Resources Review Committee, Room 5B55, Building 31, National Institutes of Health, Bethesda, Md. 20205, (301) 496–5175, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Programs No. 13.306, Laboratory Animal Sciences, National Institutes of Health)

Dated: February 1, 1984.

Betty J. Beveridge,

NIH Committee Management Officer.

[FR Doc. 84–4181 Filed 2–15–84; 8:45 am]

BILLING CODE 4140–01–M

Biomedical Library Review Committee and the Subcommittee for the Review of Medical Library Resource Improvement Grant Applications; Meetings

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Biomedical Library Review Committee on March 14–15, 1984, convening each day at 8:30 a.m. in the Board Room of the National Library of Medicine, Building 38, 8600 Rockville Pike, Bethesda, Maryland, to adjournment on March 15, and the meeting of the Subcommittee for the Review of Medical Library Resource Improvement Grant Applications on March 13 from 2:00 p.m. to 5:00 p.m. in the 5th-Floor Conference Room of the Lister Hill Center Building.

The meeting on March 14 will be open to the public from 8:30 to 11:00 a.m. for the discussion of administrative reports and program developments. Attendance by the public will be limited to space available.

In accordance with provisions set forth in Sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code, and Section 10(d) of Pub. L. 92–463, the regular meeting and the subcommittee meeting will be closed to the public for the review, discussion, and evaluation of individual grant applications as follows: The regular meeting on March 14 from 11:00 a.m. to 5:00 p.m., and on March 15, from 8:30 a.m. to adjournment; and the subcommittee meeting on March 13 from 2:00 p.m. to 5:00 p.m. These applications and the discussion could reveal confidential trade secrets or commercial property, such as patentable material, and personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Dr. Roger W. Dahlen, Executive Secretary of the Committee, and Chief, Biomedical Information Support Branch, Extramural Programs, National Library of Medicine, 8600 Rockville Pike, Bethesda, Maryland 20209, telephone number: 301–496–4191, will provide summaries of the meeting, rosters of the committee members, and other information pertaining to the meeting.

(Catalog of Federal Domestic Assistance Program No. 13.879—Medical Library Assistance, National Institutes of Health)

Dated: February 1, 1984.

Betty J. Beveridge,

NIH Committee Management Officer.

[FR Doc. 84–4182 Filed 2–15–84; 8:45 am]

BILLING CODE 4140–01–M

Aging Review Committee; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Aging Review Committee, National Institute on Aging, on March 21, 22, and 23, 1984, in Building 31, Conference Room 6, National Institutes of Health, Bethesda, Maryland.

The meeting will be open to the public from 9:00 a.m. to 10:00 a.m. on March 21, for introductory remarks. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in Sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Pub. L. 92–463, the meeting will be closed to the public on March 21, from 10:00 a.m. to adjournment on March 23, for the review, discussion and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning

individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Ms. June C. McCann, Committee Management Officer, NIA, Building 31, Room 2C05, National Institutes of Health, Bethesda, Maryland, Area Code 301, 496–5898, will provide summaries of meetings and rosters of Committee members as well as substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.866, Aging Research, National Institutes of Health)

Dated: February 1, 1984.

Betty J. Beveridge,

NIH Committee Management Officer.

[FR Doc. 84-4183 Filed 2-15-84; 8:45 am]

BILLING CODE 4140-01-M

Vision Research Program Committee; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Vision Research Program Committee, National Eye Institute, March 22 and 23, 1984, Conference Room 8, Building 31, National Institutes of Health, Bethesda, Maryland.

This meeting will be open to the public on March 22 from 8:30 a.m. to 9:30 a.m. for opening remarks and discussion of program guidelines. Attendance by the public will be limited to space available.

In accordance with provisions set forth in Sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Pub. L. 92–463, the meeting will be closed to the public from 9:30 a.m. on March 22 until adjournment on March 23 for the review, discussion and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Ms. Mary Carter, Committee Management Officer, National Eye Institute, Building 31, Room 6A–03, National Institutes of Health, Bethesda, Maryland 20205 (301) 496–4903, will provide summaries of the meeting and rosters of committee members.

Dr. Catherina Henley, Review and Special Projects Officer, Extramural and Collaborative Programs, National Eye Institute, Building 31, Room 6A–06, National Institutes of Health, Bethesda, Maryland 20205 (301) 496–5561, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program Nos. 13.867, Retinal and Choroidal Diseases Research; 13.868, Corneal Diseases Research; 13.869, Cataract Research; 13.870, Glaucoma Research; and 13.871, Sensory and Motor Disorders of Visual Research; National Institutes of Health)

Dated: February 1, 1984.

Betty J. Beveridge,

Committee Management Officer, National Institutes of Health.

[FR Doc. 84-4184 Filed 2-15-84; 8:45 am]

BILLING CODE 4140-01-M

National Diabetes Advisory Board; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the National Diabetes Advisory Board on March 5, 1984, 8:30 a.m. to adjournment, at the Bethesda Marriott, 5151 Pooks Hill Road, Bethesda, Maryland 20814. The meeting which will be open to the public, is being held to discuss the Board's activities and to continue the evaluation of the implementation of the long-range plan to combat diabetes mellitus. Attendance by the public will be limited to space available. Notice of the meeting room will be posted in the Hotel lobby.

Mr. Raymond M. Kuehne, Executive Director, National Diabetes Advisory Board, P.O. Box 30174, Bethesda, Maryland 20205, (301) 496–6045, will provide an agenda and rosters of the members. Summaries of the meeting may also be obtained by contacting his office.

Dated: February 9, 1984.

Betty J. Beveridge,

NIH, Committee Management Officer.

[FR Doc. 84-4185 Filed 2-15-84; 8:45 am]

BILLING CODE 4140-01-M

Board of Scientific Counselors, NLM; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Board of Scientific Counselors, National Library of Medicine, March 19 and March 20, 1984, in the Board Room of the National Library of Medicine, Building 38, 8600 Rockville Pike, Bethesda, Md.

The meeting will be open to the public from 9:00 a.m. to 4:00 p.m. on March 19, 1984, and from 8:30 a.m. to 4:00 p.m. on March 20, 1984, for the review of research and development programs of the Lister Hill National Center for Biomedical Communications. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in Section 552(c)(6), Title 5, U.S. Code and Section 10(d) of Pub. L. 92–463, the meeting will be closed to the public on March 19, 1984, from approximately 4:00 p.m. to 5:00 p.m. for the consideration of personnel qualifications and performance of individual investigators, and similar items, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

The Executive Secretary, Dr. Richard B. Friedman, Director, Lister Hill National Center for Biomedical Communications, National Library of Medicine, 8600 Rockville Pike, Bethesda, Md. 20209, telephone (301) 496–4441, will furnish summaries of the meeting, rosters of committee members, and substantive program information.

Dated: February 6, 1984.

Betty J. Beveridge,

NIH Committee Management Officer.

[FR Doc. 84-4186 Filed 2-15-84; 8:45 am]

BILLING CODE 4140-01-M

Research Manpower Review Committee; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Research Manpower Review Committee, National Heart, Lung, and Blood Institute, National Institutes of Health on March 11–12, 1984, at the Bethesda Marriott Hotel, 5151 Pooks Hill Road, Bethesda, Maryland 20814.

This meeting will be open to the public on March 11, 1984, from 8:00 p.m. until recess, to discuss administrative details and to hear reports concerning the current status of the National Heart, Lung and Blood Institute.

In accordance with the provisions set forth in Section 552b(c)(6), title 5, U.S. Code, and Section 10(d) of Pub. L. 92–463, the meeting will be closed to the public on March 12, 1984, from 8:00 a.m. until adjournment for the review, discussion and evaluation of individual grant applications. These applications and the discussions could reveal personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Terry Bellicha, Chief, Public Inquiries and Reports Branch, National Heart, Lung, and Blood Institute, National Institutes of Health, Bethesda, Maryland 20205, phone (301) 496–4236, will provide summaries of the meeting and rosters of the committee members.

Dr. John L. Fakunding, Executive Secretary, NHLBI, Westwood Building,

Room 550, Bethesda, Maryland 20205, phone (301) 496–7361, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program Nos. 13.837, Heart and Vascular Diseases Research; 13.838, Lung Diseases Research; and 13.839, Blood Diseases and Resources Research, National Institutes of Health)

Dated: February 6, 1984.

Betty J. Beveridge,

NIH Committee Management Officer.

[FR Doc. 84–4187 Filed 2–15–84: 8:45 am]

BILLING CODE 4140–01–M

Health Care Financing Administration

Medicare Program; List of Covered Surgical Procedures for Ambulatory Surgical Centers

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Proposed notice and request for comment.

SUMMARY: HCFA is seeking suggestions for possible additions or revisions to the current list of ambulatory surgical center (ASC) procedures covered under Medicare. Our current list of covered ASC procedures was published in the **Federal Register** on August 5, 1982 (47 FR 34099). In this notice we are also soliciting comments on additional ASC procedures that have been suggested by the public since publication of our current list.

DATE: To assure consideration, comments must be received by April 16, 1984.

ADDRESS: Address comments in writing to: Health Care Financing Administration, Department of Health and Human Services, Attention: BERC–274–PNC, P.O. Box 26676, Baltimore, Maryland 21207.

If you prefer, you may deliver your comments to Room 309–G, Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, D.C., or to Room 132, East High Rise Building, 6401 Security Boulevard, Baltimore, Maryland 21235.

Comments will be available for public inspection beginning approximately 2 weeks from publication in Room 309–G of the Department's office at 200 Independence Ave., S.W., Washington, D.C. 20201, on Monday through Friday of each week from 8:30 a.m. to 5:00 p.m. (202–245–7890).

FOR FURTHER INFORMATION CONTACT: Herbert J. Jacobs, M.D., 301–597–1734.

SUPPLEMENTARY INFORMATION:

Background

Section 934 of Pub. L. 96–499, the Omnibus Reconciliation Act of 1980, amended title XVIII of the Social Security Act (the Act) to authorize Medicare Part B coverage for facility services furnished in connection with certain surgical procedures performed in an ambulatory surgical center (ASC). (42 CFR 416.60 and 416.61). For those procedures performed in the ambulatory surgical facility or on an outpatient basis in a hospital, 100 percent of the physician's reasonable charge will be paid if the physician accepts assignment. (Under the usual procedures, Medicare reimburses 80 percent of the physician's reasonable charge and the beneficiary is responsible for the remainder (42 CFR 405.240).)

With respect to the surgical procedures covered under this provision, the Act requires the Secretary to specify in consultation with appropriate medical organizations, surgical procedures that, although appropriately performed in an inpatient hospital setting, may also be performed safely in certain ambulatory settings. The report accompanying the legislation (Report of the Committee on the Budget to Accompany H.R. 7766. H.R. Rep. No. 96–1167, p. 390) explained that Congress intended that procedures currently performed on an ambulatory basis, especially in physicians' offices, that do not generally require the more elaborate facilities of an ASC, should not be included in the list of covered procedures.

In line with this Congressional intent, our current regulations specify the following four requirements regarding the range of covered services.

1. Procedures on the list are to be those commonly performed on an inpatient basis but which also may, consistent with accepted medical practice, be performed in an ambulatory surgical facility (42 CFR 416.65(a)(1)).

2. The list is to exclude procedures that are commonly performed, or that may be safely performed, in physicians' offices (42 CFR 416.65(a)(2)).

3. Procedures should be limited to those requiring a dedicated operating room and not requiring an overnight stay (42 CFR 416.65(a)(3)).

4. The list should not contain procedures excluded from Medicare coverage (42 CFR 416.65(a)(4)).

We recognize that for individuals with certain medical conditions, a procedure on the list may be safely performed only on an inpatient basis. The choice of operating site remains a matter for the professional judgment of the patient's physician.

The first list of covered ASC procedures was published as a final notice on August 5, 1982 (47 FR 34099). This notice presents potential revisions to the list of covered surgical procedures and requests information and suggestions for revisions and additions to the current list of ASC procedures. After reviewing the comments we intend to publish any revisions in a later document.

We intend to circulate this proposed notice to appropriate medical organizations as a means of initiating discussions with these groups regarding suggestions for additions and revisions to the list of covered procedures.

Request for Information

A. Suggestions for Changes to the List of Covered Procedures

Advances in medical science make additions or revisions to the list of covered ASC procedures necessary to keep pace with changing practices. In making suggestions for revisions in the list, we ask that respondents specifically consider the four requirements contained in 42 CFR 416.65(a) and discussed above. We also request that suggestions for additional procedures or changes in existing procedures refer to each surgical procedure according to HCFA Common Procedure Coding System (HCPCS) or the American Medical Association's (AMA) CPT–4 terminology and coding. This is because procedures are so listed in the Medicare Carriers Manual—Part B, and can be easily referenced.

B. Information for Determining Reimbursement for New Procedures

ASC covered procedures are classified according to a four group reimbursement classification system, as follows:

Group 1—$231
Group 2—$275
Group 3—$296
Group 4—$336.

All procedures within each group are reimbursed at a single rate adjusted for geographic variation. The reimbursement methodology employs an index method to rank each procedure based on a facility's charges for an individual procedure as compared to its average charge for all procedures offered. We account for new procedures that might be added to the list from time to time by developing an average index number from our existing charge data and assigning a procedure to its appropriate group. For an explanation of how the reimbursement rates are determined and how individual

procedures are classified to one of the four payment groups, see the preamble to the proposed rule (47 FR 12579, March 23, 1982). We are very interested in receiving charge schedules for new procedures from ambulatory surgical facilities to determine index values for new procedures and to ensure that new procedures are accurately assigned to payment groups. Based on the data in our files and the charging information we receive as a result of this notice, we will classify each procedure that we add to the list of covered surgical procedures in connection with ambulatory surgical services to one of the four payment groups.

C. Previously Suggested Additiions to the List of Covered ASC Procedures

Following is a list of suggested additions to the list of covered ASC procedures. These suggestions were taken from comments received after publication of our initial list of covered procedures. The suggested procedures are listed according to body system and the appropriate terminology and coding. The HCPCS has adopted both the code numbers and terminology of CPT–4. Therefore, reference to the listed ASC procedures may be found in both documents. These represent suggestions of commenters rather than an initial finding by HCFA that these specific procedures should be covered when performed in ASCs.

Body system and term for procedure	HCPCS or CPT–4 code
Integumentary System:	
Adjacent tissue transfer or rearrangement.	14000–14061.
Incision and drainage of abscess, complicated.	10061.
Dressings and/or debridement; under anesthesia.	16010 and 16015.
Incision and removal of foreign body, complicated.	10121.
Musculoskeletal System:	
Phalangectomy, single	28150.
Hallux valgus (bunion) correction, with metatarsal osteotomy.	28296.
Osteotomy procedures	25350–25355, 26300 and 26304.
Bursectomy procedures	27060–27062 and 27340.
Fasciotomy/Fasciectomy procedures.	27600–27602 and 28060.
Arthroplasty carpometacarpal joint.	26527.
Removal of implant; superficial and deep.	20670 and 20680.
Meniscectomy	27332 and 27333.
Webbing operation	26260.
Biopsy, muscle; deep	20205.
Respiratory System:	
Biopsy, intranasal	30100
Cardiovascular System:	
Repair of pacemaker; with replacement of pulse generator.	33219
Digestive System:	
Colonoscopy	45360–45386.
Vestibuloplasty	40840–40845.
Proctosigmoidoscopy with removal of polyp or papilloma.	45310.
Fissurectomy, with or without sphincterotomy.	46200.
Incision and drainage of rectal abscess.	45005.
Rectal biopsy	45100.
Esophageal motility study	91010.
Urinary System:	
Cystourethroscopy procedures.	52105 and 52110.
Lithotripsy	52800.
Male Genital System:	
Circumcision	54154 and 54161.
Biopsy of testis	54505–54508.
Slitting of prepuce, dorsal or lateral.	54001.
Incision and drainage of epididymis, testis and/or scrotal space.	54700.
Female Genital System:	
Biopsy of cervix	57520.
Incision and drainage of perineal abscess.	56000.
Incision and drainage, abscess of vulva, ischiorectal.	56400.
Destruction of condylomata	56500.
Colporrhaphy	57200.
Nervous System:	
Internal neurolysis by dissection.	64727.
Eye and Ocular Adnexa System:	
Keratoplasty—all types except refractive.	65710–65750.
Destruction of progressive retinopathy, photocoagulation, laser.	67228.
Fistulization procedures for glaucoma.	66150–66170.
Cyclodiathermy	66700–66701.
Cyclocryotherapy	66720–66721.
Cyclodialysis	66740–66741.
Vitrectomy	67010 and 67015.
Repair retinal detachment	67102–67108.
Discission of secondary membranous cataract.	66820.
Paracentesis	65800–65815.
Iridectomy	66600–66635.
Removal of foreign body intraocular; magnetic and nonmagnetic.	65260–65265.
Repair laceration; conjunctiva.	65270.
Excision lesion cornea	65400.
Biopsy cornea	65410.
Excision lesion sclera	66130.
Revision or repair operative wound.	66250.
Auditory System:	
Excision aural polyp	69540.
Removal of foreign body from external auditory canal; with general anesthesia.	69205.

Please send comments and suggestions regarding these proposed additions and any other procedures to the address indicated at the beginning of this proposed notice.

Impact Statement

As noted above, we are seeking suggestions for possible additions or revisions to the current list of ASC procedures covered under Medicare and we are also soliciting comments on a proposed list of additional ASC procedures and to classifying them to appropriate payment groups. We have determined that this proposal will not meet the threshold criteria of Executive Order 12291 or the Regulatory Flexibility Act as no economic impact results from our soliciting public comments. However, we intend to analyze the impact of any additions or revisions, to the list of ASC procedures or to their classification by payment group, when the list of procedures is published in the final notice.

(Section 1833(i)(1) of the Social Security Act (42 U.S.C. 1395))

(Catalog of Federal Domestic Assistance Program No. 13.774, Medicare-Supplementary Medical Insurance Program)

Dated: February 10, 1984.

Carolyne K. Davis,

Administrator, Health Care Financing Administration.

[FR Doc. 84–4281 Filed 2–15–84: 8:45 am]

BILLING CODE 4120–03–M

Public Health Service

National Toxicology Program Board of Scientific Counselors; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of a meeting of the National Toxicology Program (NTP) Board of Scientific Counselors, U.S. Public Health Service, in the first floor auditorium, Hubert Humphrey Building, 200 Independence Avenue, SW., Washington, D.C., on March 23, 1984.

The meeting will be open to the public from 9:00 a.m. until adjournment. The primary agenda item is the completion of peer review on draft technical reports of long-term toxicology and carcinogenesis studies from the National Toxicology Program. Reviews will be conducted by the Technical Reports Review Subcommittee of the Board in conjunction with an *ad hoc* panel of experts.

Draft technical reports on the following chemicals (listed alphabetically with Chemical Abstracts Service registry numbers and routes of administration) will be peer reviewed March 23. Also listed are the NTP chemical managers for each study.

Chemical (CAS Registry No.)	Route	Chemical manager (telephone No.)
Chlorodibromomethane (124–48–1).	Gavage	Dr. J. Dunnick (919–541–4611).
Diallylphthalate (131–17–9)	Gavage	Dr. W. Kluwe (919–541–4177).
Hamamelis Water (Witch Hazel) (68916–39–2).	Dermal	Dr. P. Thadani (919–541–4633).
HC Blue 1 (2784–94–3)	Feed	Dr. J. Mennear (919–541–4178).
8-Hydroxyquinoline (148–24–3).	Feed	Dr. J. French (919–541–7790).

The Executive Secretary, Dr. Larry G. Hart, Office of the Director, National Toxicology Program, P.O. Box 12233, Research Triangle Park, North Carolina 27709, telephone (919–541–3971), FTS (629–3971), will furnish rosters of subcommittee and panel members and

other program information prior to the meeting, and summary minutes subsequent to the meeting.

Dated: February 10, 1984.

David P. Rall,

Director, National Toxicology Program.

[FR Doc. 84-4174 Filed 2-15-84; 8:45 am]

BILLING CODE 4140-01-M

Centers for Disease Control; Statement of Organization, Functions, and Delegations of Authority

Part H, Chapter HC (Centers for Disease Control) of the Statement of Organization, Functions, and Delegations of Authority of the Department of Health and Human Services (45 FR 67772-67776, dated October 14, 1980, and corrected at 45 FR 69296, October 20, 1980, as amended most recently at 48 FR 36897-36898, August 15, 1983) is amended to: (1) Reflect the transfer of the real property and space management functions from the Communications and Management Analysis Office to the Engineering Services Office, and to include responsibility for office automation and telecommunications security in the Communications and Management Analysis Office; (2) revise the functional statement of the Laboratory Program Office to delete the introductory statement referring to the position of Assistant Director for Science since the Director, Laboratory Program Office, now reports to the Director, Centers for Disease Control; (3) within the Center for Prevention Services, change the name of the Division of Venereal Disease Control to the Division of Sexually Transmitted Diseases, and change references to venereal diseases in the functional statement to sexually transmitted diseases, and revise the Division of Immunization functional statement to add the word "designated" when referring to diseases for which immunizing agents are available.

Section HC-B, *Organization and Functions,* is hereby amended as follows:

1. After the heading and statement for the *Office of Administrative Management (HCA5),* delete in their entirety the statements for the *Communications and Management Analysis Office (HCA59)* and the *Engineering Services Office (HCA52),* and substitute the following in the proper order:

Communications and Management Analysis Office (HCA59). (1) Plans, coordinates, and provides CDC-wide administrative, technical, management, and information services in the following areas: Committee management, communications, correspondence, delegations of authorities, distribution, forms, Freedom of Information Act Index, issuances, library services, mail, office automation, organization and functions, personnel and documentary security, policy and procedures, printing and reproduction, Privacy Act, public inquiries, records, regulations, reports, and studies and surveys; (2) develops and implements policies and procedures in these areas; (3) maintains liaison with HHS, PHS, General Services Administration, the Government Printing Office, and other Government and private agencies.

Engineering Services Office (HCA52). (1) Operates, maintains, repairs, and modifies CDC's Atlanta area plant facilities; and conducts a maintenance and repair program for CDC's program support equipment; (2) carries out facilities planning functions for CDC, including new or expanded facilities, and a major repair and improvement program; (3) plans and directs the real property and space management program throughout CDC, including the acquisition and utilization of leased space; (4) develops services for new, improved, and modified equipment to meet program needs; (5) maintains physical security for the Chamblee and Lawrenceville facilities; (6) provides technical assistance for and reviews maintenance and operation programs of field installations and recommends appropriate action; (7) maintains liaison with the Division of Health Facilities Planning of the Office of the Assistant Secretary for Health, and the Office of Facilities Engineering, Office of the Secretary.

2. After the heading *Laboratory Program Office (HCJ),* delete the introductory statement: "Under the direction of CDC's Assistant Director for Science:"

3. After the heading and statement for the *Center for Prevention Services HCM),* make the following changes:

a. Delete the title and statement for the *Division of Venereal Disease Control (HCM4)* in its entirety and substitute the following:

Division of Sexually Transmitted Diseases (HCM4). (1) Administers research and operational programs for the prevention and control of syphilis, gonorrhea, and other sexually transmitted diseases; (2) provides consultation, training, statistical, promotional, educational, epidemiological, and other technical services to assist and stimulate State and local health departments in the planning, development, implementation, and overall improvement of sexually transmitted disease control programs; (3) supports a nationwide framework for effective surveillance of sexually transmitted diseases; (4) provides technical supervision to State and local assignees working on sexually transmitted disease control activities.

b. In the subparagraph titled *Division of Immunization (HCM2),* amend items (2) and (3) to read as follows: "(2) provides consultation, training, statistical, promotional, educational, epidemiological, and other technical services to assist and stimulate State and local health departments in the planning, development, implementation, and overall improvement of programs for the prevention, control, and eventual eradication of designated serious diseases for which effective immunizing agents are available; (3) supports a nationwide framework for effective surveillance of designated diseases for which effective immunizing agents are available;"

Dated: February 6, 1984.

Edward N. Brandt, Jr.,

Assistant Secretary for Health.

[FR Doc. 84-4207 Filed 2-15-84; 8:45 am]

BILLING CODE 4160-18-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Administration

[Docket No. N-84-1345]

Submission of Proposed Information Collections to OMB

AGENCY: Office of Administration, HUD.

ACTION: Notices.

SUMMARY: The proposed information collection requirements described below have been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposals.

ADDRESS: Interested persons are invited to submit comments regarding these proposals. Comments should refer to the proposal by name and should be sent to: Robert Neal, OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, D.C. 20503.

FOR FURTHER INFORMATION CONTACT: David S. Cristy, Acting Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, SW., Washington, D.C. 20410, telephone (202) 755-5310. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal described below for the collection of information to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The Notices list the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the agency form number, if applicable; (4) how frequently information submissions will be required; (5) what members of the public will be affected by the proposal; (6) an estimate of the total number of hours needed to prepare the information submission; (7) whether the proposal is new or an extension or reinstatement of an information collection requirement; and (8) the names and telephone numbers of an agency official familiar with the proposal of the OMB Desk Officer for the Department.

Copies of the proposed forms and other available documents submitted to OMB may be obtained from David S. Cristy, Acting Reports Management Officer for the Department. His address and telephone number are listed above. Comments regarding the proposals should be sent to the OMB Desk Officer at the address listed above.

The proposed information collection requirements are described as follows:

Notice of Submission of Proposed Information Collection to OMB

Proposal: Electricity Data, Gas Data, and Water and Sewage Disposal Data
Office: Public and Indian Housing
Form number: HUD-51466a, HUD-51466b, and HUD-51466c
Frequency of submission: Annually
Affected public: State or Local Governments and Non-Profit Institutions
Estimated burden hours: 8,000
Status: New
Contact: Charles Ashmore, HUD, (202) 755-6640; Robert Neal, OMB, (202) 395-7316

Authority: Sec. 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Proposal: Request for Approval of Advances for Non-Permanently Financed Projects and Development Cost Budget Statement
Office: Public and Indian Housing
Form number: HUD-5216, HUD-52344, HUD-52397, HUD-52423, HUD-52427, and HUD52484
Frequency of submission: On Occasion
Affected public: State or Local Governments and Non-Profit Institutions
Estimated burden hours: 14,463
Status: Revision
Contact: Raymond W. Hamilton, HUD, (202) 426-0938; Robert Neal, OMB, (202) 395-7316

Authority: Sec. 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Proposal: Development Program of Public Housing Agency
Office: Public and Indian Housing
Form Number: HUD-52483
Frequency of Submission: On Occasion
Affected Public: State or Local Governments and Non-Profit Institutions
Estimated burdens hours: 490
Status: Revision
Contact: Raymond W. Hamilton, HUD, (202) 426-0938; Robert Neal, OMB, (202) 395-7316.

Authority: Sec. 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Proposal: Forms for Application and PHA Proposal
Office: Public and Indian Housing
Form Number: HUD-51971-I/II, HUD-52470, HUD-52471, HUD-52481, HUD-52482, HUD-52483-A, HUD-52485, HUD-52651-A, HUD-9009, and HUD-9013
Frequency of Submission: On Occasion
Affected Public: State or Local Governments and Non-Profit Institutions
Estimated burden hours: 4,704
Status: Revision
Contact: Raymond W. Hamilton, HUD, (202) 426-0938; Robert Neal, OMB, (202) 395-7316.

Authority: Sec. 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Proposal: PHA Designation of Depositary and Depositary Agreement Forms
Office: Public and Indian Housing
Form Number: HUD-274, HUD-51999, HUD-51999A, and HUD-52000
Frequency of Submission: On Occasion
Affected Public: State or Local Governments and Non-Profit Institutions
Estimated burdens hours: 451
Status: New
Contact: Raymond W. Hamilton, HUD, (202) 426-0938; Robert Neal, OMB, (202) 395-7316.

Authority: Sec. 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: January 25, 1984.

Donald C. Demitros,

Acting Director, Office of Information Policies and Systems.

[FR Doc. 84-4319 Filed 2-15-84; 8:45 am]

BILLING CODE 4210-01-M

[Docket No. N-84-1344]

Submission of Proposed Information Collection to OMB

AGENCY: Office of Administration, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

ADDRESS: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and should be sent to: Robert Neal, OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, D.C. 20503.

FOR FURTHER INFORMATION CONTACT: David S. Cristy, Acting Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, SW., Washington, D.C. 20410, telephone (202) 755-5310. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal described below for the collection of information to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the agency form number, if applicable; (4) how frequently information submissions will be required; (5) what members of the public will be affected by the proposal; (6) an estimate of the total number of hours needed to prepare the information submission; (7) whether the proposal is new or an extension or reinstatement of an information collection requirement; and (8) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Copies of the proposed forms and other available documents submitted to OMB may be obtained from David S. Cristy, Acting Reports Management Officer for the Department. His address

and telephone number are listed above. Comments regarding the proposal should be sent to the OMB Desk Officer at the address listed above.

The proposed information collection requirement is described as follows:

Notice of Submission of Proposed Information Collection to OMB

Proposal: Tentative Allocation of Funds and Solicitation of Program Proposals
Office: Solar Energy and Energy Conservation Bank
Form number: None
Frequency of submission: On Occasion
Affected public: State or Local Governments and Non-Profit Institutions
Estimated burden hours: 800
Status: New
Contact: Richard H. Francis, HUD, (202) 755–7166; Robert Neal, OMB, (202) 395–7316

Authority: Sec. 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: February 3, 1984.

Donald C. Demitros,

Acting Director, Office of Information Policies and Systems.

[FR Doc. 84–4320 Filed 2–15–84; 8:45 am]

BILLING CODE 4210–01–M

[Docket No. D–84–730]

Designation of Authority; Order of Succession; Regional Administrator

AGENCY: Department of Housing and Urban Development, Region I.

ACTION: Designation of authority—order of succession.

SUMMARY: This document designates the order of succession to the position of Regional Administrator, in the absence of the Regional Administrator.

EFFECTIVE DATE: This designation is effective January 17, 1984.

FOR FURTHER INFORMATION CONTACT: Marvin H. Lerman, Regional Counsel, Boston Regional Office, Department of Housing and Urban Development, JFK Federal Building, Boston, MA 02203, (617) 223–4321. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: During any period when, by reason of absence or disability, the Regional Administrator is unavailable to exercise the powers and perform the duties of the Regional Administrator, appointees to the positions listed below are authorized to act as Regional Administrator and exercise all powers, functions and duties assigned to or vested in the Regional Administrator. However, no official shall act as Regional Administrator until all of the appointees listed before such official's title in this designation are unable to act by reason of absence, disability, or vacancy in office.

1. Deputy Regional Administrator.
2. Regional Counsel.
3. Director, Office of Housing.
4. Director, Office of Administration.
5. Director, Office of Community Planning and Development.
6. Director, Office of Fair Housing and Equal Opportunity.

This designation supersedes the designation effective July 28, 1978.

Authority: Delegation of Authority 27 FR 4319 (1962); Section 9(c), Department of Housing and Urban Development Act, 42 U.S.C. 3531 note; and Interim Order II, 31 FR 815 (1966).

Dated: February 13, 1984.

John C. Mongan,

Regional Administrator—Regional Housing Commissioner, Region I, Department of Housing and Urban Development.

[FR Doc. 84–4321 Filed 2–15–84; 8:45 am]

BILLING CODE 4210–32–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Arizona Strip District Advisory Council Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Meeting.

DATE: March 15, 1984 at 8:00 a.m.

ADDRESS: Thunderbird Motor Lodge, 150 North 1000 East, St. George, Utah.

SUPPLEMENTARY INFORMATION: The agenda will include a discussion of land patterns, Antelope Cave, areas of critical mineral potential, cooperative management agreement, wilderness status, wildlife reintroduction status and plans, and modified fire suppression plan. The public is invited to attend and anyone may appear before the Council at 3:30 p.m. to present oral or written comments.

FOR FURTHER INFORMATION CONTACT: G. William Lamb, District Manager, Arizona Strip District, 196 East Tabernacle, St. George, Utah 84770, (801/673–3545).

G. William Lamb,

District Manager.

February 6, 1984.

[FR Doc. 84–4165 Filed 2–15–84; 8:45 am]

BILLING CODE 4310–84–M

Montana; Resource Management Plan/ Environmental Impact Statement

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of availability of draft resource management plan/ environmental impact statement and public hearings.

SUMMARY: Pursuant to section 202(f) of the Federal Environmental Policy and Management Act of 1976 and section 102(c) of the National Environmental Policy Act of 1969, a Draft Resource Management Plan/Environmental Impact Statement (RMP/EIS) has been prepared for the Powder River Resource Area. The Powder River Resource Area, Miles City District, contains 1,080,675 acres of public land located in southeastern Montana, including Powder River and Treasure Counties and portions of Rosebud, Carter, Big Horn and Custer Counties. The Draft RMP/EIS examines five management plan alternatives: Preferred Alternative (a combination of the other alternatives); Alternative A (continuation of existing management or no action); Alternative B (multiple use); Alternative C (resource production); and Alternative D (resource protection).

FOR FURTHER INFORMATION CONTACT: Jay Guerin, Project Manager, (406) 232–4331.

PUBLIC PARTICIPATION: Copies of the Draft RMP/EIS are available from the Miles City District Office, Garryowen Road, P.O. Box 940, Miles City, Montana 59301, phone (406) 232–4331. Public reading copies will be available for review at the following locations:

Office of Public Affairs, Location Building, 18th and C Streets, N.W., Washington, D.C. 20240
Public Affairs Office, BLM Montana State Office, 222 N. 32nd Street, Billings, Mont. 59107

Written comments on the Draft RMP/EIS should be submitted between March 9 and June 7 (90-day comment period) to: Jay Guerin, Project Manager, Bureau of Land Management, P.O. Box 940, Miles City, Mont. 59301. Oral or written comments will be received at formal public hearings to be held as follows: April 10, Carter County High School, Ekalaka, Mont.; April 11, Community Center, Broadus, Mont.; April 12, Miles Community College, Miles City, Mont.; April 17, Holiday Inn, Sheridan, Wyo.; April 18, Colstrip Junior High School, Colstrip, Mont. All meetings begin with a question and answer period at 7 p.m.

with the formal hearing beginning at 8 p.m. Oral or written comments concerning the adequacy of the Draft RMP/EIS will be considered in the preparation of the final RMP/EIS for the Powder River Resource Area.

Michael J. Penfold,

State Director.

February 7, 1984.

[FR Doc. 84-4183 Filed 2-15-84; 8:45 am]

BILLING CODE 4310-DQ-M

Wyoming, North Fork Well, Park County Worland BLM District, Wyoming; Availability of Draft Environmental Impact Statement and Public Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of availability of draft environmental impact statement and public meeting.

SUMMARY: Pursuant to section 102(2)(c) of the National Environmental Policy Act of 1969, notice is hereby given that the Bureau of Land Management, U.S. Department of the Interior, has prepared a draft evnironmental impact statement (EIS) on the North Park Well in Park County, Wyoming, and has made copies of the document available for public review and comment.

In addition, notice is also given that a public meeting will be held to explain the Application for Permit to Drill and for the purpose of seeking public input on the EIS.

The draft EIS analyzes the environmental impacts that would result from drilling the proposed exploratory North Park Well (Federal 34–13) and potential subsequent development and production of that well and potential development of the area.

DATES: Written comments on the draft environmental impact statement will be accepted until April 16, 1984, at 1700 Robertson Avenue, Worland, Wyoming. A public meeting will be held on March 21, 1984, at the Cody Convention Center, 1240 Beck Avenue, Cody, Wyoming.

ADDRESSES: A copy of the draft EIS can be obtained from, and written comments on the EIS should be addressed to: John Thompson, Team Leader, Bureau of Land Management, P.O. Box 119, Worland, Wyoming 82401.

The draft environmental impact statement is available for inspection at the following locations: BLM District Office (Worland); Cody BLM Area Office (Cody), Shoshone National Forest Headquarters (Cody).

Chester E. Conard,

District Manager.

[FR Doc. 84-4180 Filed 2-15-84; 8:45 am]

BILLING CODE 4310-22-M

[AA-50379-19]

Alaska Native Claims Selection; Chugach Natives, Inc.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice is hereby given taht a decision to issue conveyance under the provisions of Sec. 22(f) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1621) (ANCSA), will be issued to Chugach Natives, Inc., for approximately 580 acres. The lands involved are within the Copper River Meridian, Alaska:

T. 14 S., R. 4 E.

The decision to issue conveyance will be published once a week, for four (4) consecutive weeks, in the CORDOVA TIMES upon issuance of the decision. For information on how to obtain copies, contact the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513.

Any party claiming a property interest in lands affected by this decision, an agency of the Federal Government, or regional corporation may appeal the decision to the Interior Board of Land Appeals, Office of Hearings and Appeals, in accordance with the regulations in 43 Code of Federal Regulation (CFR), Part 4, Subpart E, as revised.

If an appeal is taken, the notice of appeal must be filed in the Bureau of Land Management, Alaska State Office, Division of Conveyance Management (960), 701 C Street, Box 13, Anchorage, Alaska 99513. Do not send the appeal directly to the Interior Board of Land Appeals. The appeal and copies of pertinent case files will be sent to the Board from this office. A copy of the appeal must be served upon the Regional Solicitor, 701 C Street, Box 34, Anchorage, Alaska 99513.

The time limits for filing an appeal are:

1. Parties receiving service of the decision by personal service or certified mail, return receipt requested, shall have thirty days from the receipt of the decision to file an appeal.

2. Unknown parties, parties unable to be located after reasonable efforts have been expended to locate, parties who failed or refused to sign their return receipt, and parties who received a copy of the decision by regular mail which is not certified, return receipt requested, shall have until March 19, 1984 to file an appeal.

Any party known or unknown who is adversely affected by the decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Bureau of Land Management, Alaska State Office, Division of Conveyance Management.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeal. Further information on the manner of and requirements for filing an appeal may be obtained from the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513.

If an appeal is taken, the party to be served with a copy of the notice of appeal is: Chugach Natives, Inc., 903 West Northern Lights Boulevard, Suite 201, Anchorage, Alaska 99503.

Barbara A. Lange,

Section Chief, Branch of ANCSA Adjudication.

[FR Doc. 84-4217 Filed 2-15-84; 8:45 am]

BILLING CODE 4310-JA-M

Arizona; Boundary Modification of the Eagletail Mountains Wilderness Study Area

AGENCY: Bureau of Land Management, U.S. Department of the Interior.

ACTION: Notice of boundary modification.

SUMMARY: This notice serves as an amendment to previous inventory decisions establishing the eastern boundary of the Eagletail Mountains Wilderness Study Area (AZ–020–128). Boundaries were previously established for this wilderness study area (WSA) by publication of the Palo Verde-Devers 500 kV Transmission Line Environmental Impact Statement (February 1979), the Phoenix District Wilderness Inventory Situation Evaluation (March 1979), and the Intensive Narrative Report (March 1981).

The Bureau of Land Management's Phoenix District Office has determined that inconsistencies and errors exist in maps and boundary descriptions of the Eagletail Mountain WSA. These maps were prepared for public and government agency use in reviewing BLM wilderness review proposals. These errors, due to administrative oversight, continue to cause public and governmental agency concern.

To rectify these boundary discrepancies and mapping irregularities, an eastern boundary of

the WSA will be established which differs from previous boundaries. The boundary will be established using the proposed western right-of-way boundary of the Westside Canal. The boundary change will have a beneficial impact on the WSA. Establishing the boundary parallel to the Westside Canal will create an easily recognizable and more manageable eastern WSA boundary, locatable on the ground and serving as a barrier to cross-country ORV use, wood collecting, and other ongoing activities presently detrimental to wilderness values.

Wilderness values within the Eagletail Mountain WSA remain unchanged from those described in the Intensive Inventory Narrative Report, except that the WSA acreage is changed from 120,925 acres to 119,700 acres.

This amended decision will become final 30 days from the date of this publication unless an appeal is received. Any person adversely affected by this decision may appeal the decision under the provisions of 43 Code of Federal Regulations (CFR), Part 4. Such appeals must be sent to the District Manager, Bureau of Land Management, Phoenix District Office, 2015 West Deer Valley Road, Phoenix, Arizona 85027 and be received within 30 days of publication of this notice.

Information of the Eagletail Mountain Wilderness Study Area can be obtained by contacting BLM personnel at the following location: Phoenix District Office, 2015 West Deer Valley Road, Phoenix, Arizona 85027, (602) 581–1996: Marlyn V. Jones, District Manager; Richard B. Hanson, Wilderness Coordinator.

Dated: February 8, 1984.

Marlyn V. Jones,

Phoenix District Manager, Bureau of Land Management.

[FR Doc. 84–4250 Filed 2–15–84; 8:45 am]

BILLING CODE 4310–32–M

[A–18991]

Arizona: Realty Action; Direct Sale of Public Land in Greenlee County

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Realty Action—Direct Sale of Public Land in Greenlee County, Arizona.

SUMMARY: The following described land is suitable for disposal by sale under Section 203(a)(3) of the Federal Land Policy and Management Act of 1976 (90 Stat. 2750, 43 U.S.C. 1713), at no less than the appraised fair market value of $58,800.

Gila and Salt River Meridian, Arizona

T. 5 S., R. 30 E.,
Sec. 5: SW¼NE¼, SE¼NW¼, NE¼SW¼.
120 acres more or less.

The subject land is needed for community expansion by the Town of Clifton, Arizona which was affected by flooding in October, 1983. The direct sale of this land to the Town of Clifton will occur on April 19, 1984 at the Bureau of Land Management, Safford District Office, 425 E. 4th Street, Safford, Arizona.

The patent, when issued, will contain the following reservations to the United States:

1. A right-of-way thereon for ditches and canals constructed by the authority of the United States, Act of August 30, 1890 (26 Stat. 391; 43 U.S.C. 945).

2. All minerals will be reseved to the United States. The locatable and salable minerals can be offered for sale. The leaseable minerals, except for oil and gas and geothermal resources, can be offered for sale.

3. A right-of-way thereon described under Serial No. PHX–679873 for gas pipeline purposes granted under the Act of February 25, 1920, as amended (41 Stat. 449, 30 U.S.C. 185).

4. Same as above for gas pipeline described under Serial No. AR–06734.

5. Same as above for gas pipeline described under Serial No. A–788.

6. A right-of-way thereon described under Serial No. PHX–040734 for telephone line purposes granted under the Act of March 4, 1911 (36 Stat. 1253, 16 U.S.C. 5).

The patent will also be subject to:

1. Those rights granted by Oil and Gas Lease A–11876 made under Section 29 of the Act of February 25, 1920 (41 Stat. 437) and the Act of March 4, 1933 (47 Stat. 1570). This patent is issued subject to the right of the prior permittee or lessee to use so much of the surface of said land as is required for proper oil and gas exploration and development operations without compensation for the duration of the lease A–11876 and any authorized extension of the lease. Upon termination or relinquishment of said oil and gas lease, this reservation shall terminate.

2. Such rights for an electric powerline right-of-way as Duncan Valley Electric Cooperative, Inc. may have under Serial No. A–19032 filed under Title V of the Federal Land Policy and Management Act of 1976 (90 Stat. 2776, 43 U.S.C. 1761).

3. Such rights as Greenlee County may have for the existing road located on the subject lands.

DATE: Comments should be submitted within 45 days of the date of this publication. Comments received or postmarked after that date may not be considered in the decisionmaking process.

ADDRESS: Comments and suggestions should be sent to: District Manager, Bureau of Land Management, Safford District Office, 425 East 4th Street, Safford, Arizona 85546.

Comments will be available for public review in the Safford District Office during regular business hours (7:45 a.m. to 4:15 p.m.), Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Jon Freeman, (602) 428–4040.

Dated: February 8, 1984.

Lester K. Rosenkrance,

District Manager.

[FR Doc. 84–4252 Filed 2–15–84; 8:45 am]

BILLING CODE 4310–32–M

[A–17000–C]

Arizona; Opening of Public Lands; Correction

February 8, 1984.

In Federal Register Document Number 83–24975, appearing on Page 41244, on Wednesday, September 14, 1983, the following corrections are made:

1. In Section 19, T. 8 N., R. 4 W., the S½SE¼, NE¼E½SW¼ is changed to the S½SE¼NE¼, E½SW¼.

2. In Section 20, T. 8 N., R. 4 W., the W½E¼, W¼SE¼ is changed to the W½E½SE¼, SW¼SE¼.

3. In Section 23, T. 8 N., R. 4 W., the NW¼NW¼ is changed to the NW¼SW¼.

Mildred C. Kozlow,

Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc. 84–4251 Filed 2–15–84; 8:45 am]

BILLING CODE 4310–32–M

[OR–3225–A]

Oregon; Partial Termination of Classification for Multiple Use Management Correction

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: This action will correct an error in the land description of the notice published September 15, 1981.

ADDRESS: Inquiries concerning the correction should be sent to: Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, P.O. Box 2965, Portland, Oregon 97208.

FOR FURTHER INFORMATION CONTACT: Champ C. Vaughan, Jr., Oregon State Office, 503–231–6905.

In FR Doc. 81–26800 published at page 45819, in the issue of Tuesday, September 15, 1981, make the following correction: On page 45819, in the third column under T. 17 S., R. 16 E., sec. 5, Lots 1, 2, should read sec. 5, Lots 1, 3.

Dated: February 10, 1984.

Harold A. Berends,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 84–4244 Filed 2–15–84; 8:45 am]

BILLING CODE 4310–33–M

Emergency Closure of Public Lands in Colorado

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of emergency closure of public lands in Conejos County, Colorado.

SUMMARY: Notice is hereby given that effective immediately all public lands in:

T.35N., R.8E.,
T.34N., R.8E.,
T.34N., R.7E.,
T.33N., R.8E.,
T.33N., R.7E.
Conejos County, Colorado.
Are Closed to Snowmobile Use.

The purpose of this closure is to protect wintering big game populations of elk, deer, and antelope in the vicinity of the Mogote Peaks and La Jara Canyon.

The authority for this closure is 43 CFR 8341.2. The closure will remain in effect until May 1, 1984.

Stewart A. Wheeler,

Acting District Manager.

[FR Doc. 84–4282 Filed 2–15–84; 8:45 am]

BILLING CODE 4310–JB–M

[OR–35885]

Oregon; Notice of Conveyance

Notice is hereby given that, pursuant to Section 203 of the Act of October 21, 1976 (90 Stat. 2743, 2750; 43 U.S.C. 1701, 1713), the following described public land in Douglas County, was purchased by modified competitive sale and conveyed to the party shown:

Tracy and Gail Ward, 632 Schudeiske Road, Sutherlin, Oregon 97479

Willamette Meridian, Oregon

T. 25 S., R. 6 W.,
Sec. 12, Lot 2.

The purpose of this Notice is to inform the public and interested State and local governmental officials of the issuance of the conveyance document to Mr. and Mrs. Ward.

Dated: February 10, 1984.

Harold A. Berends,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 84–4245 Filed 2–15–84; 8:45 am]

BILLING CODE 4310–33–M

[OR–35889]

Oregon; Notice of Conveyance

Notice is hereby given that, pursuant to Section 203 of the Act of October 21, 1976 (90 Stat. 2743, 2750; 43 U.S.C. 1701, 1713), the following described public land in Douglas County, was purchased by modified competitive sale and conveyed to the party shown:

Ms. Trudy Riley, Post Office Box 1552, Winston, Oregon 97496

Willamette Meridian, Oregon

T. 28 S., R. 7 W.,
Sec. 31, Lot 9.

The purpose of this Notice is to inform the public and interested State and local governmental officials of the issuance of the conveyance document to Ms. Riley.

Dated: February 10, 1984.

Harold A. Berends,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 84–4246 Filed 2–15–84; 8:45 am]

BILLING CODE 4310–33–M

[OR–35888]

Oregon; Notice of Conveyance

Notice is hereby given that, pursuant to Section 203 of the Act of October 21, 1976 (90 Stat. 2743, 2750; 43 U.S.C. 1701, 1713), the following described public land in Douglas County, was purchased by modified competitive sale and conveyed to the party shown:

Roy William Tetrick, 1834 Swan Hill Road, Roseburg, OR 97470

Willamette Meridian, Oregon

T. 28 S., R. 7 W.,
Sec. 23, Lot 10.

The purpose of this Notice is to inform the public and interested State and local governmental officials of the issuance of the conveyance document to Mr. Tetrick.

Dated: February 8, 1984.

Harold A. Berends,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 84–4254 Filed 2–15–84; 8:45 am]

BILLING CODE 4310–33–M

[OR–36327 A&B]

Oregon; Notice of Conveyance

Notice is hereby given that, pursuant to Section 203 of the Act of October 21, 1976 (90 Stat. 2743, 2750; 43 U.S.C. 1701, 1713), the following described public land in Gilliam County, was purchased by modified competitive sale and conveyed to the party shown:

Stone Machinery Co., P.O. Box 1097, Walla Walla, WA 99362

Willamette Maridian, Oregon

T. 2 N., R. 21 E.,
Sec. 30, NE¼SE¼
Sec. 32, SE¼NE¼

The purpose of this Notice is to inform the public and interested State and local government officials of the issuance of the conveyance document to Stone Machinery Co.

Dated: February 8, 1984.

Harold A. Berends,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 4256 Filed 2–15–84; 8:45 am]

BILLING CODE 4310–33–M

[OR–36327 C]

Oregon; Notice of Conveyance

Notice is hereby given that, pursuant to Section 203 of the Act of October 21, 1976 (90 Stat. 2743, 2750; 43 U.S.C. 1701, 1713), the following described public land in Gilliam County, was purchased by modified competitive sale and conveyed to the party shown:

Donald D. Ramsey, Star Route, Arlington, OR 97812

Willamette Meridian, Oregon

T. 1 N., R. 20 E.,
Sec. 14, S½SW¼.

The purpose of this Notice is to inform the public and interested State and local governmental officials of the issuance of the conveyance document to Mr. Ramsey.

Dated: February 8, 1984.

Harold A. Berends,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 4257 Filed 2–15–84; 8:45 am]

BILLING CODE 4310–33–M

[OR–36327 D]

Oregon; Notice of Conveyance

Notice is hereby given that, pursuant to Section 203 of the Act of October 21, 1976 (90 Stat. 2743, 2750; 43 U.S.C. 1701, 1713), the following described public

land in Gilliam County, was purchased by modified competitive sale and conveyed to the party shown:

James M. Hoag, Star Route, Arlington, OR 97812

Willamette Meridian, Oregon

T. 2 N., R. 20 E.,
Sec. 6, SE¼NE¼.

The purpose of this Notice is to inform the public and interested State and local governmental officials of the issuance of the conveyance document to Mr. Hoag.

Dated: February 8, 1984.

Harold A. Berends,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 84-4258 Filed 2-15-84; 8:45 am]

BILLING CODE 4310-33-M

[OR-36328 C]

Oregon; Notice of Conveyance

Notice is hereby given that, pursuant to Section 203 of the Act of October 21, 1976 (90 Stat. 2743, 2750; 43 U.S.C. 1701, 1713), the following described public land in Gilliam County, was purchased by modified competitive sale and conveyed to the party shown:

Mr. & Mrs. W. E. West, Rural Route, Arlington, Oregon 97812.

Willamette Meridian, Oregon

T. 1 N., R. 22 E.,
Sec. 20, W½NW¼.

The purpose of this Notice is to inform the public and interested State and local governmental officials of the issuance of the conveyance document to Mr. & Mrs. West.

Dated: February 8, 1984.

Harold A. Berends,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 84-4259 Filed 2-15-84; 8:45 am]

BILLING CODE 4310-33-M

[OR-36315]

Washington; Notice of Conveyance

Notice is hereby given that, pursuant to Section 203 of the Act of October 21, 1976 (90 Stat. 2743, 2750; 43 U.S.C. 1701, 1713), the following described public land in Chelan County, was purchased by modified competitive sale and conveyed to the party shown:

Dan F. Henderson, 632 36th Ave. E, Seattle, WA 98112

Willamette Meridian, Washington

T. 27 N., R. 22 E.,
Sec. 12, NW¼NE¼.

The purpose of this Notice is to inform the public and interested State and local governmental officials of the issuance of the conveyance document to Mr. Henderson.

Dated: February 8, 1984.

Harold A. Berends,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 84-4255 Filed 2-15-84; 8:45 am]

BILLING CODE 4310-33-M

[Utah U-51367]

Realty Action; Exchange of Public Lands in Washington County, Utah

AGENCY: Bureau of Land Management, Interior.

ACTION: It is proposed to exchange public lands in lot 9, sec. 12 (including associated accreted land), T. 43 S., R. 16 W., SLB&M, totaling 11.44 acres, for non-federal land owned by Terracor Corporation in parts of lots 1 and 6, sec. 22 (including associated accreted land), T. 43 S., R. 16 W., SLB&M, totaling 36.01 acres. This land would be exchanged under Sec. 206 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716).

SUMMARY: The purpose of this exchange is to settle an unintentional occupancy trespass. The value of the lands to be exchanged is equal.

DATES: Comments should be submitted within 45 days from the date of this notice.

ADDRESS: Comments should be sent to: Area Manager, Dixie Resource Area Office, Bureau of Land Management, First South Plaza, Suite 202, P.O. Box 726, St. George, Utah 84770.

Detailed information concerning the exchange is available for review at the Dixie Resource Area Office, at the above address.

SUPPLEMENTARY INFORMATION: The terms and conditions applicable to the exchange are:

1. There is reserved to the United States a right-of-way for ditches or canals constructed by the authority of the United States, Act of August 30, 1980 (43 U.S.C. 945).

2. The exchange will be for surface estate only. Minerals will remain with the appropriate party.

The publication of this notice in the **Federal Register** segregates the public lands described above from appropriation under the public land laws, including the mining laws.

Any comments received during the comment period will be evaluated and the District Manager may vacate or modify this realty-action. In the absence of any action by the District Manager, this realty action notice will become the final determination of the Department of the Interior.

Dated: February 8, 1984.

Morgan Jensen,

District Manager.

[FR Doc. 84-4242 Filed 2-15-84; 8:45 am]

BILLING CODE 4310-DQ-M

Oregon/Washington; Filing of Plats of Survey

The plats of survey of the following described lands were officially filed in the Oregon State Office, Bureau of Land Management, Portland, Oregon on the dates hereinafter stated:

Willamette Meridian

T. 39 S., R. 1 E., OR., Accepted November 23, 1983
T. 35 S., R. 3 W., OR., Accepted November 23, 1983
T. 17 N., R. 14 E., WA., Accepted December 1, 1983
T. 26 N., R. 2 W., WA., Accepted November 30, 1983

The above-listed plats officially filed December 6, 1983, represent dependent resurveys and/or section subdivision.

T. 23 N., R. 10 W., WA., Accepted December 16, 1983
T. 21 N., R. 10 E., WA., Accepted December 19, 1983
T. 29 S., R. 9 W., OR., Accepted December 22, 1983
T. 29 S., R. 10 W., OR., Accepted December 22, 1983
T. 18 S., R. 11 E., OR., Accepted January 12, 1984
T. 12 S., R. 11 W., OR., Accepted January 6, 1984
T. 22 S., R. 13 W., OR., Accepted January 6, 1984
T. 23 S., R. 13 W., OR., Accepted December 30, 1983

The above-listed plats officially filed January 17, 1984, represent dependent resurveys, section subdivision, and/or corner remonumentation.

T. 21 S., R. 7 W., OR., Accepted January 17, 1984
T. 10 N., R. 15 E., WA., Accepted January 20, 1984
T. 11 N., R. 15 E., WA., Accepted January 20, 1984

The above-listed plats officially filed January 23, 1984, represent resurveys and/or section subdivision.

All inquiries about these lands should be sent to the Oregon State Office, P.O. Box 2965, Portland, Oregon 97208.

Dated: February 10, 1984.

Harold A. Berends,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 84-4243 Filed 2-15-84; 8:45 am]

BILLING CODE 4310-33-M

Cedar City District Grazing Advisory Board Meeting

Notice is hereby given in accordance with Pub. L. 92-463 that a meeting of the Cedar City District Grazing Advisory Board will be held on Thursday, March 29, 1984. The meeting will begin at 9:30 a.m. in the Bureau of Land Management Cedar City District Office located at 1579 North Main Street, Cedar City, Utah.

The agenda is as follows: (1) Grazing Advisory Board organization, (2) Report on Grazing Fee Review and Evaluation, (3) Review of Cooperative Management Agreements, (4) Rangeland Betterment Projects and Ranking, (5) AMP Reports from resource areas, and (6) General Board Business.

Grazing Advisory Board meetings are open to the Public. Interested persons may make oral statements or file written statements for the Board's consideration. Oral statements will be received at 9:30 a.m. Anyone wishing to make an oral statement must notify the District Manager, Bureau of Land Management, 1579 North Main Street, Cedar City, Utah 84720, phone 801-586-2401, by March 23, 1984. Depending on the number of persons wishing to make statements, a per person time limit may be established by the District Manager.

Summary minutes of the Board meetings will be maintained in the District Office and be available for public inspection and reproduction (during regular business hours) within 30 days following the meeting.

Dated: February 10, 1984.

J. Kent Giles,

Acting District Manager.

[FR Doc. 84-4247 Filed 2-15-84; 8:45 am]

BILLING CODE 4310-DQ-M

[OR 36685]

Realty Action; Sale, Public Land in Gilliam County, Oregon

The following described land has been identified as suitable for disposal by sale under 43 CFR Part 2750 (90 Stat. 2743, 43 U.S.C. 1713), at no less than the appraised fair market value.

Parcel No.	Legal description	Acreage	Fair market value
1	T. 2 S., R. 19 E., Will. Mer., Sec. 9, SE¼SW¼.	40	$2,400
2	T. 2 S., R. 19 E., Will. Mer., Sec. 35, E½SE¼.	80	2,400
3	T. 2 S., R. 22 E., Will. Mer., Sec. 34, SE¼SE¼.	40	2,200
4	T. 2 S., R. 22 E., Will. Mer., Sec. 35, SE¼NW¼.	40	2,600
5	T. 3 S., R. 22 E., Will. Mer., Sec. 25, SE¼NW¼, SW¼SE¼.	80	4,800

These tracts are difficult and uneconomic to manage as part of the public lands and are not suitable for management by another federal agency. There are no significant resource values which will be affected by this disposal. Physical access is by foot to all tracts with the exception of tract number 4 which has a dirt road to it. There is no legal public access to any of the tracts. The sale is consistent with BLM plans for disposal and the public interest is served by offering this land for sale.

Modified competitive bidding procedures are being used to recognize the needs of adjoining landowners and historical use by these landowners. Preference to meet the high selling bid is authorized under Section 203 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1713; 43 CFR 2711.3-2(a)(2).

The sale will be held on April 18, 1984, at 10:00 AM in the Prineville District Office, 184 E. 4th Street. At that time all sealed bids will be opened and the high bidders declared.

All parcels are being offered for sale through modified competitive bidding and the following designated bidders have a preference right to meet the high bid:

Parcel No. 1: Durward Kaseburg, Enid Johnstone, John Murtha and May Britt
Parcel No. 2: Luran Maley
Parcel No. 3: Ronald and Gloria Davis and David Whitehead
Parcel No. 4: David Whitehead, Jack Osterlund and Dale, Keith and Steve Beamer
Parcel No. 5: John and Mary Campbell and Delbert and Cleo Edwards.

Sealed bids are being solicited for each parcel, no oral bidding will take place and no tract will be sold for less than the appraised fair market value. Designated bidders must submit a sealed bid for at least the appraised value to exercise their right to meet the high sealed bid.

Federal law requires that individuals be 18 years of age or over and a U.S. citizen, and corporations be subject to the laws of any State of the United States.

Sealed or written bids will be considered only if received by the Bureau of Land Management, P.O. Box 550, Prineville, Oregon 97754, prior to 4:00 PM, Tuesday, April 17, 1984. A separate written bid must be submitted for each parcel desired.

All sealed bids will be opened and publicly declared at 10:00 AM, April 18, 1984, in the Prineville District Office.

Terms and conditions applicable to the sale are:

(1) If two or more envelopes containing valid bids for the same tract are of equal value, the determination of which is to be considered the qualifying bid shall be by drawing. However, should the high sealed bid be received from an individual who is not acting in the capacity of a designated bidder, all designated bidders will be notified through certified mail that they have 30 days to either meet the high bid or submit a second sealed bid of greater value. Failure to agree to meet the high bid within the 30 day period immediately following the sale, shall constitute a waiver of all preference rights.

(2) All sealed bids received from designated bidders exercising their right to meet the high bid will be opened and the high bidder declared, immediately following the 30 days period. If two or more bids of equal amounts are received from the designated bidders, the qualifying bid shall then be determined by drawing, immediately following the opening of the sealed bids.

(3) The BLM may accept or reject any and all offers, or withdraw any land or interest in land from sale if, in the opinion of the authorized officer, consummation of the sale would not be fully consistent with the Federal Land Policy and Management Act or other applicable laws.

(4) A reservation to the United States for ditches and canals constructed by the authority of the United States Act of August 30, 1890 (26 Stat. 391; 43 U.S.C. 945).

(5) The mineral interests being offered for conveyance have no known mineral value. A bid will constitute an application for conveyance of the mineral estate, with the exception of the oil and gas resources which will be reserved to the United States in accordance with Section 209 of the Federal Land Policy and Management Act (90 Stat. 2757; 43 U.S.C. 1719). The declared high bidder will be required to deposit a $50.00 nonreturnable filing fee immediately following the sale (43 CFR 2720.1-2).

(6) The sale will be subject to all valid existing rights.

(7) The successful bidder for each parcel shall submit the remainder of the full bid price, prior to the expiration of 30 days from the date of the sale.

Those parcels not sold pursuant to this Notice of Realty Action will continue to be available for sale on a sealed bid basis until sold or withdrawn. All sealed bids for available parcels will be opened at 10:00 AM on the first Wednesday of each month and must be received in the Prineville Office by 4:00 PM the last working day prior to the monthly drawing. Priority will not be given to first filed bids.

Detailed information concerning the sale, including the planning documents, environmental assessment and the record of public involvement is available for review at the District Office, Bureau of Land Management, P.O. Box 550, Prineville, Oregon 97754. For a period of 45 days after the issuance of this notice, the public and interested parties may submit comments to the District Manager, at the above address. Any adverse comments received as a result of the Notice of Realty Action or notification to the congressional committees and delegations pursuant to Pub. L. 97–394, will be evaluated by the District Manager who may vacate or modify this realty action and issue a final determination. In the absence of any action by the District Manager, this realty action will become a final determination of the Department of the Interior. Interested parties should continue to check with the District Office to keep themselves advised of any changes.

Gerald E. Magnuson,

District Manager.

[FR Doc. 84–4200 Filed 2–15–84; 8:45 am]

BILLING CODE 4310–33–M

[U–53101]

Utah; Realty Action Sale of Public Lands in Uintah County

The Bureau of Land Management, based on land use plans, has determined that the following described land is suitable for disposal by sale under Section 203 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2750, 43 U.S.C. 1713), at no less than the appraised fair market value ($2,000):

T.6 S., R. 25 E., SLM,
Sec. 15: SE¼ NE¼.
Total 40 acres.

The above described land will be offered for sale on April 27, 1984, by sealed bids. All bids must be received by 12:00, April 27, 1984, at the Vernal District Office, 170 South 500 East, Vernal, Utah 84078. Bids will be opened and a high bidder declared at 1300 hours, April 27, 1984.

The land is being offered for sale in order to facilitate land-use planning in the area, enhance land-use compatibility with adjoining private lands, and to streamline administrative procedures. The land has potential for livestock grazing and limited wildlife use. The sale is consistent with the Bureau's planning for the land involved with notification to the Uintah County Commission, the Utah State Planning Office, and the Utah Division of Wildlife Resources.

The terms and conditions applicable to the sale are:

1. The BLM may accept or reject any and all offers, or withdraw any land or interest in land from sale if, in the opinion of the authorized officer, consummation of the sale would not be fully consistent with the Federal Land Policy and Management Act or other applicable laws.

2. The sale will involve the surface estate only. The subsurface estate will be reserved to the United States.

3. The sale of this land will be subject to all existing rights.

4. No preference right will be given to the adjoining private land owner. No bids will be accepted for less than the appraised price and bids must include all land in the parcel. Federal law requires that bidder be U.S. citizens or, in the case of a corporation, be subject to the laws of the State of Utah. Proof of citizenship may be required.

5. The United States will reserve the right of ingress and egress for mineral development.

6. Upon disqualification of the apparent high bidder, the next high bid will be honored.

7. A right-of-way is reserved for ditches and canals constructed by the authority of the Act of August 30, 1890 (26 Stat. 391; 43 U.S.C. 945).

8. The successful bidder agrees that he takes the real estate subject to the existing grazing use of the K-Ranch. The rights of the K-Ranch to graze domestic livestock on the real estate according to the conditions and terms of the existing authorization shall cease on February 28, 1989. The successful bidder is entitled to receive annual grazing fees from the K–Ranch in an amount not to exceed that which would be authorized under the Federal grazing fee published annually in the **Federal Register**.

The highest bid will establish the sale price. Each bid must be accompanied by a deposit of one-fifth of the full bid price. The remainder of the full bid price shall be paid within 30 days of the sale. Failure to pay the full price within 30 days shall disqualify the apparent high bidder and the deposit shall be forfeited and disposed of as other receipts of sale.

All bids will be either returned, accepted, or rejected within 30 days of the sale date.

For a period of 45 days from the date of this Notice, interested parties may submit comments to the Vernal District Manager, 170 South 500 East, Vernal, Utah 84078. Any adverse comments will be evaluated by the District Manager, who may vacate or modify this realty action and issue a final determination. In the absence of any action by the District Manager, this realty action will become the final determination of the Department of the Interior.

Lloyd H Ferguson,

District Manager.

[FR Doc. 84–4201 Filed 2–15–84; 8:45 am]

BILLING CODE 4310–DQ–M

[W–71186]

Wyoming; Proposed Continuation of Withdrawal

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Bureau of Reclamation proposes that a 2,110.40-acre withdrawal for the Palisades Project continue for an additional 100 years. The land will remain closed to surface entry and mining but have been and will remain open to mineral leasing.

DATE: Comments and requests for a public meeting should be received by April 16, 1984.

ADDRESS: Comments and meeting request should be sent to: Chief, Branch of Land Resources, Bureau of Land Management, P.O. Box 1828, Cheyenne, Wyoming 82003.

FOR FURTHER INFORMATION CONTACT: Scott Gilmer, Wyoming State Office, 307–772–2089.

The Bureau of Reclamation proposes that the existing land withdrawal made by the Secretarial Order of December 29, 1938, be continued for a period of 100 years pursuant to Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751, 43 U.S.C. 1714. The land is described as follows:

Sixth Principal Meridian, Wyoming

T. 37 N., R. 118 W.,
Sec. 14, SE¼;
Sec. 28, lot 1, NE¼NW¼, and NE¼SE¼;
Sec. 20, E½E½NW¼;
Sec. 21, that part of lot 1 in NE¼SE¼, lots 2, 3, 4, 5, 6, 7, and 8;
Sec. 22, N½,SW¼ and N½SE¼;
Sec. 23, N½ and N½SW¼;

Sec. 28, NW¼, E½SW¼, and W½SE¼;
Sec. 29, Unsold part of lot 2;
Sec. 33, NE¼, NE¼NW¼, and NE¼SE¼.

The area described contains 2,110.40 acres in Lincoln County, Wyoming.

The purpose of the withdrawal is to protect the Palisades Project. The withdrawal segregates the land from operation of the public land laws generally, including the mining laws, but not the mineral leasing laws. No change is proposed in the purpose or segregative effect of the withdrawal.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal continuation may present their views in writing to the Chief, Branch of Land Resources, in the Wyoming State Office.

Notice is hereby given that an opportunity for a public meeting is afforded in connection with the proposed withdrawal continuation. All interested persons who desire a public meeting for the purpose of being heard must submit a written request to the Chief, Branch of Land Resources, within 90 days from the date of publication of this notice. If the authorized officer determines that a public meeting will be held, a notice of the time and place will be published in the **Federal Register** at least 30 days before the scheduled date of the meeting.

The authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the land and its resources. A report will also be prepared for consideration by the Secretary of the Interior, the President and Congress, who will determine whether or not the withdrawal will be continued and if so, for how long. The final determination on the continuation of the withdrawal will be published in the **Federal Register.** The existing withdrawal will continue until such final determination is made.

Dated: February 9, 1984.

P. D. Leonard,

Associate State Director, Wyoming.

[FR Doc. 84-4288 filed 2-15-84; 8:45 am]

BILLING CODE 4310-22-M

[M-59770]

Montana, Carter County; Realty Action

AGENCY: Bureau of Land Management, Miles City District Office, Interior.

ACTION: Notice of Realty Action M-59770, exchange of public and private lands in Carter County, Montana.

SUMMARY: The following described lands have been determined to be suitable for disposal by exchange under Section 206 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1716:

Principal Meridian, Montana

T. 7 S., R. 60 E.
Sec. 2: Lots 1–4 S½N½, SW¼;
Sec. 3: Lot 3, SE¼NW¼;
Sec. 11: NW¼NW¼,SW¼NE¼,SE¼;
Sec. 12: NW¼SW¼;
Sec. 13: N½NE¼,NE¼NW¼;
Sec. 20: All.
T. 7 S., R. 61 E.
Sec. 8: E½SE¼;
Sec. 9: NW¼SW¼;
Sec. 17: N½NE¼,S½NW¼,W½SE¼;
Sec. 18: N½ Lot 1, N½NE¼NW¼.

Containing 1,994.0 acres.

In exchange for these lands, the United States Government will acquire the surface estate in the following described lands:

Principal Meridian, Montana

T. 7 S., R. 59 E.
Sec. 12: All.
T. 7 S., R. 60 E.
Sec. 7: Lots 1–4 NW¼NE¼,S½NE¼, SE¼;
Sec. 8: S½NW¼, SW¼;
Sec. 18: Lots 1–4, W½E½, N½NE¼NE¼, N½S½NE¼NE¼;
Sec. 34: Lots 3,4, N½SE¼;
Sec. 35: Lot 1, S½NW¼, N½SW¼.

Containing 2,062.6 acres.

DATES: For a period of 45 days from the date of this notice, interested parties may submit comments to the District Manager, Bureau of Land Management, Garryowen Road, P.O. Box 940, Miles City, Montana 59301. Any adverse comments will be evaluated by the State Director, who may vacate or modify this realty action and issue a final determination. In the absence of any action by the State Director, this realty action will become the final determination of this department.

FOR FURTHER INFORMATION CONTACT: Information related to this exchange, including the environmental assessment and land report, is available for review at the Miles City District Office, Garryowen Road, Miles City, Montana 59301.

SUPPLEMENTARY INFORMATION: The purpose of this exchange is to provide for more efficient land management by blocking up both the public and private land within one grazing allotment. In addition, the exchange will trade public land without access for private land with access.

This exchange is consistent with the Bureau's planning for these lands and has been discussed with State of Montana officials and Carter County Commissioners. The public interest will be well served by making the exchange. The publication of this notice segregates the public lands described above from appropriation under the public land laws, including the mining laws, but not from exchange pursuant to Section 206 of the Federal Land Policy and Management Act of 1976.

The exchange will be made subject to:

1. A reservation to the United States of a right-of-way for ditches or canals constructed by the authority of the United States in accordance with 43 U.S.C. 945, for lands being transferred out of federal ownership.

2. The reservation to the United States of all minerals in the lands being transferred out or federal ownership.

3. All valid existing rights (e.g. rights-of-way, easements, and leases of record).

4. The exchange acreage has been adjusted to assure that an equal value trade is made.

5. The exchange must meet the requirements of 43 CFR 4110.4–2(b).

Dated: February 10, 1984.

Ray Brubaker,

District Manager.

[FR Doc. 84-4249 Filed 2-15-84; 8:45 am]

BILLING CODE 4310-DN-M

[OR-35887]

Oregon; Conveyance

Notice is hereby given that, pursuant to Section 203 of the Act of October 21, 1976 (90 Stat. 2743, 2750; 43 U.S.C. 1701, 1713), the following described public land in Douglas County, was purchased by modified competitive sale and conveyed to the party shown:

Mr. & Mrs. Charles E. Havel, 3750 Happy Valley Rd., Roseburg, OR 97470.

Willamette Meridian, Oregon

T. 28 S., R. 6 W.,
Sec. 7, Lot 10.

The purpose of the Notice is to inform the public and interested State and local governmental officials of the issuance of the conveyance document to Mr. & Mrs. Havel.

Dated: February 8, 1984.

Harold A. Berends,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 84-4253 Filed 2-15-84; 8:45 am]

BILLING CODE 4310-33-M

Bureau of Reclamation

Lower Gunnison Basin Unit, Colorado River Water Quality Improvement Program; Availability of Final Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, as amended, the Department of the Interior has prepared a proposed feasibility report/final environmental statement on a proposed salinity control project that would reduce salt loading to the Colorado River system by lining canals and laterals in Delta and Montrose Counties in western Colorado.

Copies are available for inspection at the following locations:

Director, Office of Environmental Affairs, Room 7622, Bureau of Reclamation, Washington, D.C. 20240. Telephone: (202) 343–4991

Division of Management Support, General Service, Library Section, Code 950, Denver Federal Center, Denver, Colorado 80225, Telephone: (303) 234–3019

Regional Director, Bureau of Reclamation, Upper Colorado Regional Office, P.O Box 11568, Salt Lake City, Utah 84147, Telephone: (801) 524–5592

Grand Junction Projects Office, Bureau of Reclamation, 764 Horizon Drive, Grand Junction, Colorado 81501. Telephone: (303) 243–4992

Montrose Projects Office, Bureau of Reclamation, P.O. Box 1390, Montrose, Colorado 81401, Telephone: (303) 249–9687.

Single copies of the statement may be obtained on request to the Director, Office of Environmental Affairs, or the Regional Director at the above addresses. Copies also will be available for inspection in libraries in the project vicinity.

Dated: February 10, 1984.

Robert A. Olson,

Acting Commissioner.

[FR Doc. 84-4278 Filed 2-15-84; 8:45 am]

BILLING CODE 4310-09-M

Fish and Wildlife Service

Kenai National Wildlife Refuge Comprehensive Conservation Plan/ Environmental Impact Statement and Wilderness Review, Kenai Peninsula Borough, Alaska

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability and public hearings; correction.

SUMMARY: This document corrects a notice of availability and public hearings that appeared on page 2029 in the **Federal Register** of Tuesday, January 17, 1984 (49 FR 2029). This action is necessary to correct an omission of the address of one Fish and Wildlife Service Regional Office where the document may be reviewed and to correct the date by which comments should be submitted.

FOR FURTHER INFORMATION CONTACT: William Knauer, Wildlife Resources, U.S. Fish and Wildlife Service, 1011 East Tudor Road, Anchorage, Alaska 99503, Telephone (907) 786–3399.

The following corrections are made in FR DOC. 84–1163 appearing on 2029 in the issue of January 17, 1984:

1. On page 2029 column one, second paragraph, first sentence, **"DATES"** is corrected to read "Comments on the draft CCP/EIS must be submitted on or before April 6, 1984 to receive consideration in the preparation of the final CCP/EIS."

2. On page 2029, column two, fifth full paragraph is amended to include the following address:

U.S. Fish and Wildlife Service, Wildlife Resources, One Gateway Center, Suite 700, Newton Corner, MA 02158

Dated: February 6, 1984.

Jan E. Riffe,

Acting Regional Director.

[FR Doc. 84-4186 Filed 2-15-84; 8:45 am]

BILLING CODE 4310-07-M

Office of Surface Mining Reclamation and Enforcement

Extension of Public Comment Period on the Proposed Fruita Mine Complex, Mesa and Garfield Counties, Colorado

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Extension of public comment period.

SUMMARY: On February 1, 1984, OSM published a notice of intent to prepare an environmental impact statement on the proposed Fruita Mine Complex and to hold a public scoping meeting (49 FR 4043–4044). The public comment period, discussed in that noitce, ended on March 7, 1984, one week following the public meeting.

Several individuals from state and local government have expressed the desire to extend the comment period for an additional week. Accordingly, OSM is hereby extending the period for public comment on the scope of the EIS on the Dorchester Coal Company's Fruita Mine Complex in Mesa and Garfield Counties, Colorado.

DATE: Written comments or statements on the proposed project and the scope of the EIS must be received no later than 4:00 p.m. MST, March 16, 1984, at the address below.

ADDRESS: Written comments or statements should be sent or delivered to: Administrator, Western Technical Center, Office of Surface Mining, Second Floor, Brooks Towers, 1020 15th Street, Denver, Colorado 80202.

FOR FURTHER INFORMATION CONTACT: Floyd Johnson or Stephen Parsons, (telephone (303) 837–5656) at the location shown under **ADDRESS.**

SUPPLEMENTARY INFORMATION: Additional information on the proposed project, the EIS, and the locations where the mining plan may be reviewed are contained in the notice of intent to prepare the EIS published in the **Federal Register** on February 1, 1984 (49 FR 4043–4044).

Dated: February 10, 1984.

Brent Wahlquist,

Assistant Director, Technical Service and Research.

[FR Doc. 84-4192 Filed 2-15-84; 8:45 am]

BILLING CODE 4310-05-M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

[Amendment to A.I.D. Delegation of Authority No. 40.11]

Redelegation of Authorities to the Field, Latin America and the Caribbean Region

(47 FR 24471, Jan. 4, 1982)

AID Delegation of Authority No. 40.11, is hereby amended as follows:

In IVB insert after the words "to his or her deputy", the words "and in the case of the Director RDO/C to the principal AID officer in Grenada,".

Dated: February 7, 1984.

Marshall Brown,

AA/LAC (Acting).

[FR Doc. 84-4282 Filed 2-15-84; 8:45 am]

BILLING CODE 6116-01-M

INTERSTATE COMMERCE COMMISSION

[Finance Docket Nos. 30387 and 30387 (Sub-No. 1)]

Canadian National Railway Co. and Canadian Pacific Ltd., Acquisition, Interests of Consolidated Rail Corp., in Canada Southern Railway Co. and Detroit River Tunnel Co.; and Application for Trackage Rights Over Consolidated Rail Corp. Trackage in Detroit, MI

AGENCY: Interstate Commerce Commission.

ACTION: Acceptance of applications under 49 U.S.C. 11343 and setting of procedural schedule.

SUMMARY: The Commission accepts for consideration the applications (a) of Canadian National Railway Company (CN) and Canadian Pacific Limited (CP) to acquire the interest of Consolidated Rail Corporation (Conrail) in Canada Southern Railway Company (CSR) and Detroit River Tunnel Company (DRTC); and (b) and CN and CP for the acquisition of trackage rights over Conrail trackage in Michigan.

DATES: Written comments must be served and filed with the Commission no later than March 19, 1984. Preliminary comments by intervening public parties must be filed by April 2, 1984. Additional scheduling information is included in the Commission's decision.

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer (202) 275–7245.

ADDRESSES: An original and 10 copies of all pleadings, referring to Finance Docket No. 30387, should be sent to:

Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, D.C. 20423

Applicants' representatives:

Lawrence Z. Shiekman, 2001 The Fidelity Building, 123 South Broad Street, Philadelphia, PA 19109

John F. DePodesta, 1777 F Street, NW., Washington, D.C. 20006

Basil Cole, 888 Sixteenth Street, NW., Washington, D.C. 20006

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to T.S. InforSystems, Inc., Room 2227, Interstate Commerce Commission, Washington, D.C. 20423, or call 259–4357 (DC Metropolitan area) or call toll free (800) 424–5403.

Decided: February 9, 1984.

By the Commission, Chairman Taylor, Vice Chairman Andre, Commissioners Sterrett and Gradison. Chairman Taylor dissented with a separate expression.

James H. Bayne,

Acting Secretary.

[FR Doc. 84–4136 Filed 2–15–84; 8:45 am]

BILLING CODE 7035–01–M

DEPARTMENT OF JUSTICE

Lodging of Modified Consent Decree Pursuant to Clean Water Act

In accordance with Departmental Policy, 28 CFR 50.7, 38 FR 19029, notice is hereby given that on February 7, 1984, a proposed modified consent decree in *United States of America* v. *Orange County, Florida, et al.* (M.D. Fla., Civ. No. 79–189–ORL–CIV–Y) was lodged with the United States District Court for the Middle District of Florida. The proposed modified consent decree establishes modified compliance schedules by which Orange County will eliminate the discharge of pollutants from five wastewater treatment plants.

The proposed modified consent decree may be examined at the office of the United States Attorney, 80 North Hughey Avenue, Orlando, Florida, and at the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice, Room 1517, Ninth and Pennsylvania Avenue, NW., Washington, D.C. 20530. The proposed modified consent decree may also be examined at the Region Four Office of the Environmental Protection Agency, 345 Courtland Street, NE., Atlanta, Georgia. A copy of the proposed modified consent decree may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice.

The Department of Justice will receive written comments relating to the proposed consent decree for a period of thirty (30) days from the date of this publication.

Comments should be addressed to the Assistant Attorney General, Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States* v. *Orange County, Florida, et al.* (M.D. Fla. Civ. No. 79–189–ORL–CIV–Y) (D.J. Ref. 90–5–1–1–1144).

F. Henry Habicht II,

Assistant Attorney General; Land and Natural Resources Division.

[FR Doc. 84–4158 Filed 2–15–84; 8:45 am]

BILLING CODE 4410–01–M

Drug Enforcement Administration

Quotas for Controlled Substances in Schedules I and II

Correction

In FR Doc. 84–2744 beginning on page 4051 in the issue of Wednesday, February 1, 1984, make the following correction.

On page 4052, first column, in the table, the quota for "Diphenoxylate" (sixth controlled substance from the bottom) now reading "862,000" should read "864,000".

BILLING CODE 1505–01–M

NATIONAL TRANSPORTATION SAFETY BOARD

Notice of Hearing and Reports, Recommendations and Responses; Availability of

Hearing

Notice is hereby given that the hearing in the matter of the accident involving Air Illinois, Inc., Hawker Siddley 748–2A, of United States Registry, N748LC, near Pinckneyville, Illinois, on October 11, 1983, will reconvene at 9 a.m. on February 27, 1984, in Conference Room 8ABC, 8th Floor, 800 Independence Avenue, SW., Washington, D.C.

Reports Issued

Marine Accident Report—United States Bulk Carrier Marine Electric, Capsizing and Sinking, About 30 Nautical Miles East of Chincoteague, Virginia, February 12, 1983 (NTSB/MAR–84/01) (NTIS Order No. PB84–916401).

Railroad Accident Report—Rear End Collision of Two Burlington Northern Railroad Company Freight Trains, Pacific Junction, Iowa, April 13, 1983 (NTSB/RAR–83/09) (NTIS Order No. PB83–916309).

Highway Accident Report—Collision of Humboldt County Dump Truck and Klamath-Trinity Unified District Schoolbus, State Route 96, near Willow Creek, California, February 24, 1983 (NTSB/HAR–83/05) (NTIS Order No. PB83–916205).

Note.—Reports may be ordered from the National Technical Information Service, 5285 Port Royal Road, Springfield, Virginia 22161, for a fee covering the cost of printing, mailing, handling, and maintenance. For information on reports call 703–487–4650 and to order subscriptions to reports call 703–487–4630.

Recommendations to

Aviation—*Federal Aviation Administration: Feb. 1: A–84–4:* Verify by appropriate sampling or other methods that all hydraulic actuator rod end bearings, Cessna part No. MS–21242S–4K, and variations thereof, are manufactured in accordance with applicable design specifications and standards. *A–84–5:* Issue an Airworthiness Directive applicable to

Cessna Model 441, 404, 421C, 414A, 402C, and 425 airplanes to require the installation of Cessna Service Kit SK–441–76 or SK–421–121, as appropriate. *A–84–8:* Conduct an engineering analysis to determine whether the stress margins of rod end bearings which do not conform to design specifications and standards installed on Cessna Model 400 series flap actuators, flap control rod assemblies, and landing gear doors are adequate and, if indicated, initiate action to require replacement of any inservice bearings not conforming to Military Standard MS–21242 or Military Specification NIL–B–81935. *Feb. 8: A–84–10:* Issue an Airworthiness Alert (Advisory Circular 43–16) to operators of Piper model PA–28 airplanes advising of the hazard of operating high-time engines in very cold weather conditions without winterization kits on crankcase breather lines. *A–84–11:* Evaluate the design of crankcase breather line installations of all Piper model 28 airplanes and Piper models with similar engine installations to determine the need to provide icing protection on crankcase breather tubes for cold weather operations, and take appropriate action to initiate a retrofit of those models of airplanes that need such protection. *Feb. 8: A–84–12:* Require that after December 3, 1984, only devices which meet the standards of TSO–C69a will be acceptable for installation on newly manufactured airplanes which are to be equipped with passenger evacuation devices. *A–84–13:* Specify a date by which airplane passenger evacuation devices which do not meet the standards of TSO–C69a must be taken out-of-service or upgraded to meet the standards of TSO–C69a.

Marine—U.S. Coast Guard: *Feb. 6: M–83–93:* Identify critical areas of the Western Rivers which are difficult to navigate due to unusual conditions, sharp bends, navigation clearance restrictions, or similar circumstances, and require future applicants for licenses as operators of uninspected towing vessels to take an examination regrading local knowledge of these areas. *M–83–94:* Expedite the promulgation of regulations to require installation of retroreflective material on bridges to supplement navigation lights. *M–83–95:* Study the use of auxiliary lighting to enhance the mariner's ability to identify lights marking the navigation spans of bridges where such lights may be difficult to detect due to interference from other lights or due to impaired visibility or where it is essential that the mariner locate a span quickly. *Feb. 8: M–84–4:* Require that jack-up offshore supply vessels, performing activities in support of exploration, exploitation, or production of offshore mineral or energy resources, be equipped with an approved operating manual that contains guidance to the master for the safe operation of the vessel including maximum deck load, maximum water depth, and the minimum air gap required for expected sea conditions. *Feb. 7: M–84–13:* Amend 46 CFR Subpart 180.40 to eliminate the present exception from the requirement to carry an Emergency Position Indicating Radiobeacon (EPIRB) on coastwise vessels carrying passengers for hire that carry radiotelephone communications equipment that complies with Federal Communications Commission requirements. *M–84–14:* Require that operators of charter fishing boats making an offshore trip or voyage to prepare a crew and passenger list and deposit the list, or copy thereof, at a suitable location ashore before departure. *M–84–15:* Direct inspectors of charter fishing boats to make a one-time verification during their next inspection that watertight hatch closures are equipped with adequate securing devices which are being properly maintained, and to inform the boat operators of the importance of keeping hatch covers secured to preserve the watertight integrity of the hull. *M–84–16:* Publicize to charter fishing boat operators and their associations the regulatory requirements for conducting safety orientations so that passengers who are not familiar with the marine environment will be better able to survive in emergencies.

U.S. Army Corps of Engineers: Feb. 6: M–83–96. Develop and publish a navigation guide or guides for mariners navigating the Western Rivers similar in format to the United States Coast Pilot. *M–83–97:* Include profile drawings of all bridges in the next revision of the Upper Mississippi River Navigation Charts.

Valley Towing Service, Inc.: Feb. 6: M–83–98: Formalize existing qualification procedures to insure that operators piloting your towing vessels have sufficient experience and knowledge regarding all areas of their assigned routes to navigate safely in all prevailing waterway conditions.

The American Waterway Operators, Inc.: Feb. 6: M–83–99: Publish an article in your newsletter informing your members of the circumstances of the accident in St. Louis, Missouri, on April 2, 1983, and of the benefits of having formal qualification procedures to insure that operators piloting towing vessels have sufficient experience and knowledge regarding all areas of their assigned routes to navigate safely in all prevailing waterway conditions.

Highway—*National Safety Council: Feb. 7: H–84–1:* Develop and include in the Safety Council's driver training textbooks and defensive driving training programs advice, such as appears in the South Carolina Driver's Guide, as to the hazards presented by highways blanketed with smoke and what actions the motorists should take if they are suddenly confronted with such a situation.

American Association of Motor Vehicle Administrators: Feb. 7: H–84–2: Urge its members to develop and include in their own State Driver Manuals advice, such as appears in South Carolina State Driver's Guide, concerning the hazards presented by highways blanketed with smoke and what actions the motorists should take if they are suddenly confronted with such a situation.

Note.—Single copies of these recommendation letters are available on written request to: Public Inquiries Section, National Transportation Safety Board, Washington, D.C. 20594. Please include recommendation number in your request. Copies of recent recommendations are free of charge while supplies last. Recommendations that must be photocopied will be billed at a cost of 14 cents per page ($1 minimum charge).

Recommendation Responses From

Aviation—*Federal Aviation Administration: Jan. 30: A–83–82:* Issued Change 74 to FAA Order 8340.1A which transmits Maintenance Bulletin No. 68–1, Brittan Norman BN–2A Islander and BN–2A MK–111 Trilander-Hartzell HC–C2TK–2B propellers. The bulleting requests the principal maintenance inspectors to alert and emphasize to their assigned operators the importance of establishing appropriate inspection periods and that flightcrews should pay more attention during their preflight checks to propeller blade deicer boot lead strap restrainers. *Jan. 26: A–82–145,* which recommended amending 14 CFR 135 to require human engineering evaluations of the airplane, including the operating equipment as well as its controls and displays, as a basis for certification of single-pilot, multiengine IFR operations: FAA believes the existing regulatory requirements in 14 CFR 135 adequately address the operating environment. *Jan. 26: A–83–83:* Has met with representatives of France's Direction Generale de L'Aviation Civil and of Turbomeca to discuss the axial compressor blade failures in the Turbomeca Artouste III series engines. *Jan. 26: A–83–70 through –72:* Has developed a Notice of Proposed Rulemaking to be published in the **Federal Register** proposing equipment requirements to improve cabin fire protection for airplanes operated under 14 CFR Part 121. *A–83–73:* Has evaluated the electrical design details of lavatory flushing pump motor systems on transport category airplanes and has identified several situations where improvement in wire routing, circuit breaker protection, and/or thermal protection could be made. *A–83–74 and –75:* Is considering a possible need for including protective breathing equipment standards in the operating rules of 14 CFR 121. This is currently being addressed by development of a Notice of Proposed Rulemaking in which Technical standard Order C99 or equivalent may be added to 14 CFR 121.337 of the operating rules. *A–83–76:* Is assessing various types of protective breathing equipment to determine if such equipment should be considered as a requirement for passenger cabins. *A–83–77:* Will review airplane flight manuals and training procedures to insure that they clearly state that after conducting the fire suppression and smoke evacuation procedures and even though the smoke has dissipated, if it has not or cannot be visibly verified that the fire has been put out, immediately land at the nearest suitable airport; and after conducting the cargo compartment fire suppression or smoke evacuation procedures, regardless of the duration capability of the cargo fire extinguishing system, land at the nearest suitable airport. Airplane flight manual changes will be made if needed, but not if existing procedures are found to be adequate or more conservative. *A–83–78:* Published Notice of Proposed Rulemaking No. 83–14 on Oct. 11, 1983, proposing new and more stringent flammability requirements for seat cushions used in transport category aircraft certificated under 14 CFR 25 and 29 and requiring that the cushions in transport

category airplanes type certificated after Jan. 1, 1958, and operating under 14 CFR 121 comply with these requirements. *A–83–79:* NPRM No. 83–14 also proposed new performance standards for floor proximity emergency escape path markings to provide visual guidance for emergency cabin evacuation when all sources of cabin lighting more than 4 feet above the aisle floor are totally obscured by smoke. *A–83–80:* Tactile markers on overhead stowage racks are not as readily perciptible or as effective as illuminated floor proximity escape path markings for a typical mix of airline passengers who are not necessarily familiar with the emergency features of an airplane cabin. *A–83–81:* It is not feasible or practical to require additional items such as the location of the tactile emergency exit indicators to be added to the already extensive oral briefing.

Note.—Single copies of these response letters are available on written request to: Public Inquiries Section, National Transportation Safety Board, Washington, D.C. 20594. Please include respondent's name, date of letter, and recommendation number(s) in your request. The photocopies will be billed at a cost of 14 cents per page ($1 minimum charge).

H. Ray Smith, Jr.,

Federal Register Liaison Officer.

February 13, 1984.

[FR Doc. 84–4218 Filed 2–15–84; 8:45 am]

BILLING CODE 7533–01–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–70–OLR, ASLBP No. 83–481–01–OLR]

General Electric Co.; GETR Vallecitos

February 13, 1984.

Please take notice that the Prehearing Conference in the above captioned proceeding scheduled to take place on Tuesday, March 6, 1984, 9:30 A.M. to 5:00 P.M., at the U.S. Court of Appeals, Courtroom 3, 7th and Mission Streets, San Francisco, California 94101, has been rescheduled to begin at 2:00 P.M. Monday, March 5, 1984, at the same location. If necessary, the conference will continue on Tuesday morning, March 6.

At the Prehearing Conference the Board wishes to hear the response of Petitioner Jack Turk to the arguments raised by the General Electric Company and the NRC Staff concerning his contentions.

Bethesda, Maryland.

For the Atomic Safety and Licensing Board.

John H. Frye, III,

Chairman, Administrative Judge.

[FR Doc. 84–4301 Filed 2–15–84; 8:45 am]

BILLING CODE 7590–01–M

[NRC Form 354]

Reporting and Recordkeeping Requirements; Office of Management and Budget Review

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice.

SUMMARY: The Nuclear Regulatory Commission has recently submitted to the Office of Management and Budget (OMB) for review, the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

1. Type of submission, new, revision or extension: Revision and extension.
2. The title of the information collection: Data Report on Spouse.
3. The form number, if applicable: NRC Form 354.
4. How often the collection is required: On occasion.
5. Who will be required or asked to report: Alien spouses of NRC applicants; alien spouses of NRC contractor and licensee employees pending NRC access authorization processing; spouses of NRC applicants, contractor or licensee employees who marry after applying for NRC access authorization; and spouses of NRC, NRC contractor and NRC licensee employees who marry after having been granted NRC access authorization.
6. An estimate of the number of responses: 88.
7. An estimate of the total number of hours needed to complete the requirement or request: 22.
8. An indication of whether section 3504(h), Pub. L. 96–511 applies: Not applicable.
9. Abstract: NRC Form 354 provides necessary security background data on spouses of individuals applying for (or who have been granted) NRC access authorizations. The data is evaluated under requirements of E.O.s 10450 and 10865; 10 CFR Part 10; and the Atomic Energy Act of 1954, as amended, to ensure only individuals possessing unquestioned character, associations and loyalty are granted access.

Copies of the submittal may be inspected or obtained for a fee from the NRC Public Document Room, 1717 H Street, NW., Washington, D.C. 20555.

Comments and questions should be directed to the OMB reviewer, Jefferson B. Hill, (202) 395–7430.

NRC Clearance Officer is R. Stephen Scott, (301) 492–8585.

Dated at Bethesda, Maryland, this 9th day of February 1984.

For the Nuclear Regulatory Commission.

Patricia G. Norry,

Director, Office of Administration.

[FR Doc. 84–4305 Filed 2–15–84; 8:45 am]

BILLING CODE 7590–01–M

Advisory Committee on Reactor Safeguards, Subcommittee on Quality and Quality Assurance in Design and Construction; Meeting Date Change

The ACRS Subcommittee on Quality and Quality Assurance In Design and Construction scheduled for February 23, 1984 has been changed to Friday, Feburary 24, 1984, Room 1167, at 1717 H Street, NW, Washington, D.C. This notice was published Thursday, February 2, 1984.

The Subcommittee will have a closed meeting to review and discuss with the NRC Staff its draft report to Congress on Quality Assurance during construction of nuclear power plants (report required by Pub. L. 97–415, NRC Authorization Act, Section 13).

I have determined, in accordance with Subsection 10(d) Pub. L. 92–463 that it will be necessary to close the meeting under the provisions of Exemption (9)b to the Sunshine Act, 5 U.S.C. 552b(c).

The entire meeting will be closed because the discussions, if held in public session, would reveal information requested by the Congress before that information is submitted officially by the Agency.

Dated: February 13, 1984.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 84–4306 Filed 2–15–84; 8:45 am]

BILLING CODE 1590–01–M

[Docket No. 50–387]

Pennsylvania Power & Light Co. and Allegheny Electric Cooperative, Inc.; Consideration of Issuance of Amendment to Facility Operating License and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. NPF–14, issued to Pennsylvania Power & Light Company and Allegheny Electric Cooperative, Inc. (the licensees), for operation of the Susquehanna Steam Electric Station, Unit 1 located in Luzerne County, Pennsylvania.

The amendment would change Technical Specifications 3.6.5.1 and

4.6.5.1 to revise the operation of the Standby Gas Treatment System (SGTS) to include three zone mixing and to allow operation of the unit assuming the other unit is isolated from the SGTS and shutdown in accordance with the licensee's application for amendment dated December 19, 1983, as amended by licensee letters dated January 5, 1984, and January 21, 1984.

Specifically, in Technical Specification 3.6.5.1, the proposed change would revise the definition of secondary containment to include three zones when both units are in communication with the SGTS or two zones when one unit is isolated from the SGTS. Technical Specification 3.6.5.1 would change from: "SECONDARY CONTAINMENT INTEGRITY shall be maintained." to read: "SECONDARY CONTAINMENT # INTEGRITY shall be maintained." with an associated footnote," # Secondary Containment consists of Zone I, Zone II, and Zone III or Zone I and Zone III when Zone II is isolated from Zone I and Zone III."

Technical Specification 4.6.5.1.b.1 would be revised to clearly identify when the railroad bay access door can be opened so as not to violate secondary containment integrity. Technical Specification 4.6.5.1.b.1 would change from: "1. All secondary containment railroad access hatches are closed and sealed or the railroad bay access door is closed." to read: "1.a. When the railroad bay door (No. 101) is closed: verify all Zone I and III hatches, removable walls, dampers, and doors connected to the railroad access bay are closed,## or i) *Only* Zone I removable walls and/or doors are open to the railroad access shaft,## or ii) *Only* Zone III hatches and/or dampers are open to the railroad access shaft ##." and "1.b. When the railroad bay door (No. 101) is open: verify all Zone I and III hatches, removable walls, dampers, and doors connected to the railroad access bay are closed." The Associated footnote would read ## "Personnel ingress and egress through doors within the secondary containment is not prohibited by this specification."

Technical Specification 4.6.5.1.b.2 would become 4.6.5.1.b.2.a and Techinical Specification 4.6.5.1.b.2.b would be added to clarify that under normal operation, secondary containment zones are not connected. Technical Specification 4.6.5.1.b.2.b would read: "2.b. At least one door in each access between secondary containment zones is closed ##."

Technical Specification 4.6.5.1.b.3 would be revised via an added footnote to define secondary containment penetrations for the purpose of supporting revised analysis. The footnote would read: "** Penetrations between secondary containment zones, penetrations to no-zones, and penetrations to the outside atmosphere."

The addition of new Technical Specifications 4.6.5.1.b.4 and 4.6.5.1.b.5 would be made to allow three zone mixing of the SGTS. Technical Specification 4.6.5.1.b.4 would read: "4. The truck bay access hatch is closed." and Technical Specification 4.6.5.1.b.5 would read: "5. The truck bay door (No. 102) is closed unless Zone II is isolated from Zones I and III."

Technical Specifications 4.6.5.1.c.1 and 4.6.5.1.c.2, with its associated footnote, would be deleted and replaced with surveillance procedures to support operation of the Standby Gas Treatment System for both three zone and two zone operation. The revised Technical Specification 4.6.5.1.c.1 would read: "1.a For three zone operation: i.a Verifying that one standby gas treatment subsystem will draw down the secondary containment (Zone I and Zone III) to greater than or equal to 0.25 inches of vacuum water gauge in less than or equal to 15 seconds; i.b Operating one standby gas treatment subsystem for one hour and maintaining greater than or equal to 0.25 inches of vacuum water gauge in the secondary containment at a flow rate of less than or equal to 2885 cfm from Zone I and Zone III; and i.c Verifying by calculation that one standby gas treatment subsystem will maintain greater than or equal to 0.25 inches of vacuum water gauge in the secondary containment at a flow rate of less than or equal to 4000 cfm from Zone I, Zone II, and Zone III. Or, ii.a Verifying that one standby gas treatment sybsystem will draw down the secondary containment (Zone 1, Zone II and Zone III) to greater than or equal to 0.25 inches of vacuum water gauge in less than or equal to 92 seconds; and ii.b Operating one standby gas treatment subsystem for one hour and maintaining greater than or equal to 0.25 inches of vacuum water gauge in the secondary containment at a flow rate of less than or equal to 4000 cfm from Zone I, Zone II, and Zone III. Or"

The revised Technical Specification 4.6.5.1.c.2 would read: "2. For two zone operation (Zone II isolated from Zone I and Zone III): i. Verifying that one standby gas treatment subsystem will draw down the secondary containment (Zone I and Zone III) to greater than or equal to 0.25 inches of vacuum water gauge in less than or equal to 83 seconds; and ii. Operating one standby gas treatment subsystem for one hour and maintaining greater than or equal to 0.25 inches of vacuum water gauge in the secondary containment at a flow rate of less than or equal to 2885 cfm from Zone I and Zone III."

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The licensee states in the December 19, 1983, January 5, 1984, and January 21, 1984, submittals that all the changes described above to revise the operation of the SGTS system involve no significant hazards consideration. The proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated because the probability of an accident has not changed due to three zone mixing since analyses for either two or three zone mixing considers single failure of the SGTS. The consequences (off-site dose) of an accident increase slightly; however, the dose is well below the 10 CFR Part 100 limits and does not involve a significant increase. The proposed changes do not create the possibility of a new or different kind of accident from any previously evaluated because the design of the SGTS accounts for single failures in the system. The proposed changes do not involve a significant reduction in a margin of safety because the SGTS operates within its design limits and there is only a slight increase in off-site doses, which remain well within the 10 CFR Part 100 limits. The staff agrees with the licensee's evaluation in this regard, and accordingly, the NRC staff proposes to find the amendment request involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination. The Commission will not normally make a final determination

unless it receives a request for a hearing.

Comments should be addressed to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, ATTN: Docketing and Service Branch.

By March 19, 1984, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Request for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary of the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be issued in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference sheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to a least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment involves a significant hazards consideration, any hearing held would place before the issuance of any amendment.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and state comments received. Should the Commission take this action, it will publish a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, ATTN: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325-6000 (in Missouri (800) 342-6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addresed to A. Schwencer: petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this Federal Register notice. A copy of the petition should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to Jay Silberg, Esquire, Shaw, Pittman, Potts & Trowbridge, 1800 M Street NW., Washington D.C. 20036, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or request hearing will not be entertained absent a determination by the Commission, the presiding officer of the Atomic Safety and Licensing Board designated to rule on the petition and/or request, that the petitioner has made a substantial showing of good cause for the granting of a late petition and/or request. That determination will be based upon a balancing of the factor specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment which is available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., and at the Osterhout Free Library, Reference Department, 71 South Franklin Street, Wilkes-Barre, Pennsylvania 18701.

Dated at Bethesda, Maryland this 8th day of February 1984.

For the Nuclear Regulatory Commission.

A. Schwencer, Chief,

Licensing Branch No. 2 Division of Licensing.

[FR Doc. 84-4302 Filed 2-15-84; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-327 and 50-328]

Tennessee Valley Authority; Consideration of Issuance of Amendments to Facility Operating Licenses and Opportunity for Prior Hearing

The United States Nuclear Regulatory Commission (the Commission) is considering issuance of amendments to Facility Operating License Nos. DPR-77 and DPR-79, issued to Tennessee Valley Authority (the licensee), for operation of the Sequoyah Nuclear Plant, Units 1 and 2, located in Hamilton County, Tennessee.

The amendments would authorize the operation of an installed Postaccident Sampling System (PAS) for Sequoyah Unit 1 and 2. The Sequoyah Nuclear Plant operating licenses stipulated that the licensee is required to complete the corrective actions necessary for PAS in order to meet the requirements of NUREG–0737. This system is designed to promptly obtain and perform radioisotope and chemical analysis of reactor coolant and containment atmosphere samples under degraded core accident conditions without excessive exposures to plant personnel who are performing the analysis. NUREG–0737, item II.B.3, provides the criteria for the design and operations of a PAS system, including exposure levels for individual involved with PAS.

In their amendment request the licensee informed the NRC that a portion of the modifications associated with PAS has been determined to be an unreviewed safety question. In particular, the PAS ventilation design had not been previously analyzed in the licensee's Final Safety Analysis Report.

The licensee's application for amendments was dated November 23 and supplemented December 21, 1983, and January 9 and 10, 1984.

Prior to issuance of the proposed license amendments, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

By March 19, 1984, the licensee may file a request for a hearing with respect to issuance of the amendments to the subject facility operating licenses and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Request for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later that fifteen (15) day prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendments under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

A request for a hearing or a petition for leave to intervene shall be filed with the Secretary of the Commission, United States Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner or representative for the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325–6000 (in Missouri) (800) 342–6700. The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to Elinor G. Adensam (petitioner's name and telephone number); (date petition was mailed); (plant name); and (publication date and page number of this **Federal Register** notice). A copy of the petition should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to Herbert S. Sanger, Jr., Esq., General Counsel, Tennessee Valley Authority, 400 Commerce Avenue, E11B33, Knoxville, Tennessee 37902, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board designated to rule on the petition and/or request, that the petitioner has made a substantial showing of good cause for the granting of a late petition and/or request. That determination will be based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the applications for amendments dated November 23 and December 21, 1983, and January 10, 1984, which are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. and at the Chattanooga-Hamilton County Bicentennial Library, 1001 Broad Street, Chattanooga, Tennessee 37401.

Dated at Bethesda, Maryland this 10th day of February 1984.

For the Nuclear Regulatory Commission.

Elinor G. Adensam,

Chief, Licensing Branch No. 4, Division of Licensing.

[FR Doc. 84–4303 Filed 2–15–84; 8:45 am]

BILLING CODE 7590–01–M

[Docket Nos. 50–266 and 50–301]

Wisconsin Electric Power Co.; Consideration of Issuance of Amendment to Facility Operating License and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License Nos. DPR–24 and DPR–27, issued to Wisconsin Electric Power Company (the licensee), for operation of the Point Beach Nuclear Plant Units 1 and 2 located in the Town of Two Creeks, Manitowoc County, Wisconsin.

The amendment would revise the surveillance interval for evaluating the leakage integrity of post-accident recovery systems outside containment in accordance with the licensee's application for amendment dated December 23, 1983.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

On July 2, 1980 all pressurized water reactor licensees were sent guidance in the form of model technical specifications in order to provide reasonable assurance that facility operation would be maintained within the limits determined acceptable following implementation of the TMI–1 Lessons Learned Category "A" items. In part, these model technical specifications included the surveillance requirement for integrated leak testing of systems outside containment that would or could contain highly radioactive fluids during a serious transient or accident "at a frequency not to exceed refueling cycle intervals." The Commission's guidance took into account that several licensees' refueling cycle intervals were at 18 month intervals.

The normal refueling interval for the Point Beach Nuclear Plant Units 1 and 2 is approximately 12 months. Wisconsin Electric Power Company (licensee) proposed a yearly surveillance frequency for evaluating the integrity of post accident recovery systems outside containment. Slight deviations (±25%) from the yearly surveillance interval were allowed by previously existing technical specifications to accommodate small changes in the annual refueling outage dates. At the time the licensee's proposed technical specifications were reviewed and approved, the licensee did not anticipate conducting extended refueling outages which might exceed the normal five-week duration. Subsequent to the issuance of the technical specifications for evaluating the integrity of post-accident recovery systems outside containment, the licensee has begun an extended refueling outage (six-months duration) on Point Beach Unit 1. This also creates the need for Unit 2 to remain in a greater than 12 month operating cycle so as not to have both units shutdown simultaneously. Because of this, the licensee has requested changes to the wording of the surveillance frequency for evaluating the integrity of post-accident recovery systems to an inspection interval of "each refueling cycle." While the interval between inspections may, in unique situations (such as following an extended refueling outage), exceed the current yearly inspection interval, it is clearly within the guidelines proposed by the Commission in their July 2, 1980 letter to all licensees of pressurized water reactors. For this reason, the staff proposes to determine that the amendments do not involve a significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination. The Commission will not normally make a final determination unless it receives a request for a hearing.

Comments should be addressed to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attn: Docketing and Service Branch.

By March 19, 1984, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Request for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary of the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent to the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment involves a significant hazards consideration, any hearing held

would take place before the issuance of any amendment.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish a notice of issuance and provide for opportuity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street NW. Washington, D.C., by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325–6000 (in Missouri (800) 342–6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to James R. Miller, Chief, Operating Reactors Branch #3, Division of Licensing: petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this Federal Register notice. A copy of the petition should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to Gerald Charnoff, Esq., Shaw, Pittman, Potts and Trowbridge, 1800 M Street NW., Washington, D.C. 20036, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board designated to rule on the petition and/or request, that the petitioner has made a substantial showing of good cause for the granting of a late petition and/or request. That determination will be based upun a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment which is available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., and at the Joseph P. Mann Public Library, 1516 Sixteenth Street, Two Rivers, Wisconsin.

Dated at Bethesda, Maryland this 9th day of February, 1984.

For the Nuclear Regulatory Commission.

James R. Miller,

Chief, Operating Reactors Branch #3, Division of Licensing.

[FR Doc. 84-4304 Filed 2-15-84; 8:45 am]

BILLING CODE 7590-01-M

PACIFIC NORTHWEST ELECTRIC POWER AND CONSERVATION PLANNING COUNCIL

Hydropower Assessment Steering Committee; Meeting

AGENCY: Hydropower Assessment Steering Committee of the Pacific Northwest Electric Power and Conservation Planning Council (Northwest Power Planning Council).

ACTION: Notice of meeting to be held pursuant to the Federal Advisory Committee Act, 5 U.S.C. Appendix I, 1–4. Activities will include:

- River assessments, National Park Service.
- Cumulative impacts proposed methodology.
- Discussion of FERC activities.
- Discussion of site ranking criteria.
- Other.
- Public comment.

STATUS: Open.

SUMMARY: The Northwest Power Planning Council hereby announces a forthcoming meeting of its Hydropower Assessment Steering Committee.

DATE: February 21, 1984. 9:30 a.m.

ADDRESS: The meeting will be held at the Council Hearing Room in Portland, Oregon.

FOR FURTHER INFORMATION CONTACT: Peter Paquet at 503–222–5161.

Edward Sheets,

Executive Director.

[FR Doc. 84-4214 Filed 2-15-84; 8:45 am]

BILLING CODE 0000-00-M

PENSION BENEFIT GUARANTY CORPORATION

Approval of Special Withdrawal Liability Rules: International Longshoremen's and Warehousemen's Union-Pacific Maritime Association Pension Plan

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Notice of Approval.

SUMMARY: The Pension Benefit Guaranty Corporation has granted the request of the International Longshoremen's and Warehousemen's Union-Pacific Maritime Association pension Plan for approval of a plan amendment providing for special withdrawal liability rules under section 4203(f) of the Employee Retirement Income Security Act of 1974, as amended. A notice of the request for approval was published on January 17, 1983 (48 FR 2086). The effect of this notice is to advise the public of the decision on the request.

ADDRESS: The request for approval, the comments received and PBGC response to the request are available for public inspection at the PBGC Communications and Public Affairs Department, Suite 7100, 2020 K Street, NW., Washington, D.C. 20006, between the hours of 9:00 a.m. and 4:00 p.m. A copy of these documents may be obtained by mail from the PBGC Disclosure Officer (611) at the above address.

FOR FURTHER INFORMATION CONTACT: James M. Graham, Attorney, Corporate Planning and Program Development Department (611), 2020 K Street, NW., Washington, D.C. 20006; (202) 254–4862.

SUPPLEMENTARY INFORMATION:

Background

Under section 4203(f) of the Employee Retirement Income Security Act of 1974, as amended ("ERISA"), 29 U.S.C. 1383(f), the Pension Benefit Guaranty Corporation ("PBGC") may authorize plans in industries other than construction and entertainment to adopt special complete withdrawal liability rules similar to those in section 4203(b) and (c) for the construction and entertainment industries. ERISA section 4208(e)(3) provides that PBGC may permit plans to adopt special partial withdrawal liability rules upon a finding by PBGC that the rules are consistent with the purposes of Title IV of ERISA. Under ERISA section 4203(f) and § 2645.4(a) of PBGC's regulation on procedures for extension of special withdrawal liability rules (29 CFR Part 2645), PBGC will approve a plan

amendment establishing special withdrawal rules if PBGC determines that the plan amendment—

(A) Will apply only to an industry that has characteristics that would make use of the special withdrawal rules appropriate; and

(B) Will not pose a significant risk to the insurance system.

The statute provides that the characteristics necessary for appropriateness must be "clearly shown."

In order for PBGC to determine whether a special withdrawal rule is appropriate, § 2645.3(d)(7) of the regulation requires that plans provide information on the industry which is the subject of the rule. This includes information on the effects of withdrawals on the plan's contribution base, as well as information sufficient to demonstrate the existence of industry characteristics which would indicate that withdrawals in the industry do not typically have an adverse effect on the plan's contribution base.

Under § 2645.2(a) of the regulation, a special partial withdrawal rule must be consistent with the rule the plan has adopted on complete withdrawals. The regulation also requires that a plan indicate how the special rules will operate in the event of a sale of assets by a contributing employer or the withdrawal from the plan of all employers (§ 2645.3(d)(4)). Finally, § 2645.4(b) requires PBGC to publish a notice of the pendency of a request for approval of special withdrawal rules in the **Federal Register** and to provide interested parties with an opportunity to comment on the request.

The Request

On January 17, 1983 (48 FR 2086), PBGC published a notice soliciting public comment on a request from the International Longshoremen's and Warehousemen's Union-Pacific Maritime Association Pension Plan (the "Plan") for approval of a Plan amendment providing for special withdrawal liability rules. The comment period ended on March 3, 1983. Five timely comments were received in response to the notice. One comment endorsed the request in general terms, and the Plan filed a comment providing supplementary financial information. The remaining three comments opposed approval of the request. In addition, after the close of the comment period, the Plan responded to one of the opposition comments, and another comment supporting the request was received.

The Plan is a multiemployer plan, with approximately 110 employers contributing in 1980, that is maintained pursuant to collective bargaining agreements between the International Longshoremen's & Warehousemen's Union ("ILWU") and the Pacific Maritime Association ("PMA"). The Plan, which is administered in San Francisco, covers all longshoring and stevedoring work with respect to dry cargo for ocean-going vessels arriving at or departing from any Pacific coast port. The Plan does not cover petroleum and other liquid cargoes or cargoes handled by inland boatmen.

The PMA is an employer association charged with negotiating the industry's master collective bargaining agreement. The PMA is composed of operators and owners of vessels operating from Pacific ports, stevedoring firms, and terminal operators.

Virtually all of the employees covered by the Plan work in the longshoring industry. As of December 31, 1981, the Plan covered 10,140 active workers and 9,322 retirees. The Plan had assets of $178.8 million and liability for unfunded vested benefits of $391.4 million. During calendar year 1981, the Plan received $46.4 million in contributions and paid $39.8 million in benefits.

Plan benefit levels are set by negotiations between the PMA and the ILWU, while contribution rates are determined annually by the PMA on the basis of the ERISA minimum funding requirements. Stevedoring firms contribute at the rate of $1.73 per hour of work, and vessel operators contribute on the basis of tonnage. In 1984 and thereafter, contributions for all types of employers will be based solely on hours of work.

The total number of contributing employers remained relatively stable from 1972 through 1979 (110 and 107 employers, respectively.) However, about 30 percent of the individual employers contributing in 1972 were no longer contributing by 1979.

According to the request, the west coast shipping industry as a whole has grown steadily over the past two decades and looks forward to increased growth in the future. The total tonnage of dry cargo handled through all ports amounted to about 29 million tons in calendar year 1960, 40 million tons in 1965, 60 million tons in 1970, 67 million tons in 1975 and 114 million tons in 1980. Information submitted by the Plan projects further increases over the next decade. However, because of dramatic productivity gains and technological advances, increased shipping activity has not resulted in increased manpower utilization. Productivity gains at the beginning of this period were so significant that, for a time, the industry did not require new workers to replace those retiring from the work force. That situation appears to be changing somewhat, since covered man-hours have increased in the past several years, from fewer than 16 million in 1975 to more than 18 million in 1980.

As part of its request, the Plan submitted copies of its three most recent actuarial valuation reports. The reports show that during the 4-year period spanned by the reports (12/31/77–12/31/81), the Plan population was relatively stable, while annual contributions increased from $36.7 million to more than $46 million, and Plan assets rose from $64 million to $178.8 million. During the period covered by the reports, the Plan's monthly benefit accrual rate increased from $18 to $26. This coupled with an increase in the maximum number of years for which participants could accrue benefits, raised the monthly maximum benefit from $450 to $780. These changes increased the Plan's unfunded accrued liability to approximately $529 million. The rate of benefit increases under the Plan has exceeded the rate of contribution increases. As a result, annual benefit payments, as a percentage of annual contributions have increased from 87 percent to 91 percent during the period reported.

A summary of the three actuarial valuations is set forth below.

SUMMARY OF ACTUARIAL VALUATION RESULTS [1]

	Valuation date		
	Dec. 31, 1981	Dec. 31, 1979	Dec. 31, 1977
A. Participants and benefits:			
1. Number of participants: [2]			
a. Active	10,140	10,179	10,216
b. Retired	9,322	9,237	9,073
2. Benefit accruals used for valuation:			
a. Monthly accrual rate	$26	$22	$18
b. Maximum monthly benefit	780	550	450
B. Contributions and benefits payout (in thousands):			
1. Annual contributions [3]	$43,433	$43,130	$36,669
2. Annual benefit payout [3]	39,306	37,406	31,779
3. Market value of assets	178,844	134,753	100,861

SUMMARY OF ACTUARIAL VALUATION RESULTS [1]—Continued

	Valuation date		
	Dec. 31, 1981	Dec. 31, 1978	Dec. 31, 1977
4. Net minimum funding charges, ignoring credit balance	50,156	43,540	32,741
C. Plan liabilities (in thousands):			
1. Entry age normal cost	$10,800	$8,848	$8,253
2. Unfunded [4] value of:			
a. Accrued liability—EAN	529,162	470,598	$96,780
b. Liability for vested benefits	[5] 391,442	383,427	[6]
3. Interest rate used to value liabilities (percent)	6½	6¾	5

[1] Taken from actuarial reports submitted with request.
[2] Excludes terminated vested participants (2 or 3 per report).
[3] Average of cash basis for the 2-year period ending on the valuation date.
[4] Assets taken at market value as shown in B.3.
[5] Figures in report adjusted to reflect estimated effect on July 1, 1981 benefit increase.
[6] Not reported.

Complete and Partial Withdrawal Rules

On March 23, 1982, the Plan adopted an amendment prescribing special withdrawal rules. The amendment was modified by the Plan on December 3, 1982 and on January 18, 1984. The amendment provides that, upon approval by the PBGC, the special rules shall be effective as of the effective date of the withdrawal liability provisions of the Multiemployer Pension Plan Amendments Act of 1980. The special definitions for a complete and partial withdrawal read as follows:

"1.42 Complete Withdrawal: Complete Withdrawal from the Plan by an Employer occurs if—

"(A) An Employer permanently ceases to have an obligation to make Contributions to the Plan (unless such cessation of the obligation to contribute is attributable solely to a change in the method of determining Contributions to the Plan such as a change from a formula based on tonnage to one based on hours, or vice versa), and

"(B) The Employer

"(i) Continues to perform work of the type for which Contributions to the Plan are currently or were previously required at any Pacific Coast port in the United States,

"(ii) Resumes such work at any time during the Plan Year in which the obligation to make Contributions under the Plan ceases or the five succeeding Plan Years, and does not renew the obligation to make Contributions at the time of such resumption,

"(iii) Sells or otherwise transfers a substantial portion of its business or assets, directly or indirectly, to another person that, at any time during the six Plan Years described in clause (ii), performs longshore work within the meaning of Section 4.042(a) at any Pacific Coast port in the United States without having the obligation to make Contributions to the Plan in accordance with the Collective Bargaining Agreements under which the Plan is maintained, or

"(iv) Ceased to have an obligation to contribute in connection with the withdrawal of every Employer from the Plan or the withdrawal of substantially all the Employers pursuant to an agreement or arrangement to withdraw from the Plan within the meaning of Section 4219(c)(1)(D) of ERISA. For purposes of this clause, the terms 'withdraw' and 'withdrawal' shall be interpreted in accordance with Section 4203(a) of ERISA and without regard to this Section 1.42.

"1.42 Partial Withdrawal: Partial Withdrawal from the Plan by such Employer occurs on the date of a 'partial withdrawal' of such Employer within the meaning of Section 4205 of ERISA, but only if, at any time during the Plan Year in which such date occurs or the five succeeding Plan Years, the Employer.

"(A) Performs work of the type for which Contributions to the Plan are currently or were previously required at any Pacific Coast port in the United States without having the obligation to make Contributions to the Plan in accordance with the Collective Bargaining Agreements under which the Plan is maintained, or

"(B) Sells or otherwise transfers a substantial portion of its business or assets, directly or indirectly, to another person that, at any time during the six Plan Years described in Paragraph 1.43, performs longshore work within the meaning of Section 4.042(a) at any Pacific Coast port in the United States without having the obligation to make Contributions to the Plan in accordance with the Collective Bargaining Agreements under which the Plan is maintained."

Other Provisions of the Plan Amendment

1. Paragraph 4.011 of the ILWU-PMA Pension Agreement ("Agreement") was amended by adding a second sentence thereto to read as follows: "Notwithstanding any other provision of this Plan, the Contributions for each Plan Year shall be not less than the total administrative costs and benefits to be paid by the Trustee during said Plan Year."

2. Paragraph 4.042 of the Agreement was amended to read as follows:

"4.042(a) Pursuant to ERISA Section 4203(f) and amendments to the Plan adopted thereunder, an Employer whose obligation to make Contributions to the Plan is with respect to persons all of whom perform longshore work, including work performed by any longshoreman, clerk, walking boss, or foreman, carloader, lockerman, gearman, sweeper, grain handler, or other employee employed in connection with the loading or unloading of dry cargo on or off of vessels or at any facility used in the loading or unloading of dry cargo that is subject to the jurisdiction of the Union and/or its Locals shall have withdrawal liability under Title IV, Subtitle E, Part 1 of ERISA only for a Complete Withdrawal or a Partial Withdrawal within the meaning of Paragraphs 1.42 and 1.43, respectively.

"4.042(b) Paragraph 4.042(a), as a limitation on Title IV, Subtitle E, Part 1, of ERISA, shall be effective for an Employer who has, as of the date of this Twentieth Amendment, as Amended, withdrawn from the Plan, or thereafter withdraws but, in the latter case, only when the Special Contribution Commitment has been met for each preceding Plan Year beginning with the Plan Year commencing July 1, 1984. For any Plan Year, the 'Special Contribution Commitment' shall be deemed to have been met if the 'Special Contribution Amount' (as defined below), if any, for such Plan Year is, within the period described by section 412(c)(10) of the Internal Revenue Code, contributed by the Employers of the Pension Fund in addition to Contributions otherwise required by law (determined without regard to any credit balance in the Funding Standard Account), or by other provisions of Section 4; provided that, if not otherwise met, the Special Contribution Commitment shall always be deemed to have been met for any Plan Year in which Contributions therefor are at least equal to the maximum amount deductible by Employers under Section 404 of the Internal Revenue Code for the purpose of determining their respective taxable incomes. If the Special Contribution Commitment is ever not met with respect to any Plan Year, paragraph (a) shall have no applicability to any Employer withdrawing after the last day of such Plan Year.

"4.042(c) Definitions.

"(i) The 'Special Contribution Amount' shall be the level annual amount which, on the basis of a Certified Actuarial Projection, the Plan Actuary certifies will, when added to the amounts otherwise required by law (determined without regard to any credit balance in the funding standard account) or other provisions of Section 4, be sufficient to make the Funding Percentage as of the Applicable Funding Goal Date at least equal to the Applicable Funding Goal.

"(ii) The term 'Funding Percentage' shall mean, for any Plan Year, the percentage derived by dividing the market value of the assets of the Pension Fund by the present value of nonforfeitable benefits within the meaning of ERISA section 4213(c)(A), both values to be as determined in the Certified Actuarial Projection as of the end of such Plan Year.

"(iii) For the first through fifth Plan Years commencing on or after July 1, 1984, the term 'Applicable Funding Goal' for each such Plan Year shall mean 50 percent (50%), and the 'Applicable Funding Goal Date' for each such Plan Year shall mean the last day of the tenth such Plan Year; for each succeeding Plan Year, the term 'Applicable Funding Goal' shall mean the percentage set forth in the Accelerated Funding Schedule for the Plan Year commencing four years after the end of Plan Year in question, and the 'Applicable Funding Goal Date' for each such Plan Year shall mean the last day of the Plan Year commencing four years after the end of the Plan Year in question.

"(iv) The 'Accelerated Funding Schedule' shall be the following schedule:

Plan year	Percent
10	50
11	53
12	56
13	59
14	62
15	65
16	68
17	71
18	74
19	77
20 [1]	80

[1] And all subsequent years.

"(v) The 'Certified Actuarial Projection' shall be a projection, which is prepared as of each actuarial valuation date so as to derive the Funding Percentage on the Applicable Funding Goal Date, by using the actuarial assumptions and methods utilized in the December 31, 1982 Actuarial Valuation of the Plan and the then current asset and census data, which projection shall be certified to in each Plan Year by the Plan actuary. This projection shall be on the basis of (1) the benefit levels in effect during the Plan Year for which the projection is made and (2) the Contributions required for such Plan Year by Section 4, together with any Special Contribution Amounts. When the Applicable Funding Goal is met for the twentieth or subsequent Plan Year, the Special Contribution Amount may be limited to the amount necessary to maintain such Applicable Funding Goal for each subsequent Plan Year."

3. Paragraph 7.02 of the Agreement was amended to read, in pertinent part, as follows:

"7.02 Amendment: The Union and . Association by their mutual agreement in writing may at any time amend, modify, or delete any provisions of the Agreement * * * provided, further, all amendments shall be consistent with the applicable provisions of the Employee Retirement Income Security Act of 1974, and no amendments shall be made to paragraphs 1.42, 1.43 or 4.042, or to the second sentence of paragraph 4.011, without the approval of the Pension Benefit Guaranty Corporation * * *"

The special rules quoted above contain three substantive changes which the Plan made after the notice of pendency was published. First, the Plan added paragraphs 4.042 (b) and (c), which provide that the special rules will cease to apply to withdrawals that occur after a plan year in which the Plan has not satisfied certain funding requirements for that year. The funding requirements are designed so that the Plan will attain specified funding percentages (the ratio of assets to nonforfeitable benefits). Second, the Plan modified the special complete withdrawal rules so that they would not apply in the event that all, or substantially all employers, withdraw within the meaning of section 4203(a) of ERISA. Third, the Plan limited the application of the special rules to employers who contribute to the plan solely for employees who perform "longshore work" as that term is defined in paragraph 4.042(a) of the Agreement.

Treatment of Sales of Assets

The Plan has stated that ERISA section 4204 (and applicable PBGC regulations thereunder) would continue to apply to sales of assets involving contributing employers to the Plan. According to the Plan, if a sale of assets did not constitute a complete or partial withdrawal by reason of section 4202, there would be no occasion for the Plan's special liability rules to be applied, since there would be no withdrawal liability under Part 1, Subtitle E of ERISA. If, however, the sale did not meet the conditions of section 4204 and accordingly gave rise to a complete or partial withdrawal under the statute, the Plan's special withdrawal liability rules would apply.

Decision

In order to approve a request for special withdrawal liability rules, PBGC must make two independent determinations, as provided in ERISA section 4203(f)(2) and § 2645.4(a) of the regulation. First, on the basis of a clear showing by the plan, PBGC must determine that the plan amendment will apply only to an industry that has characteristics that would make use of the special rules appropriate. Second, PBGC must determine that the plan amendment will not pose a significant risk to the insurance system. PBGC discussion on each of these issues follows.

a. Appropriateness

The legislative history of the Multiemployer Act indicates that the basic consideration in determining the appropriateness of special rules is the effect of cessations of contributions by employers on the plan's contribution base. Various characteristics may be indicative of an industry in which cessations typically do not weaken the contribution base. In determining whether an industry has the characteristics that would make use of special rules appropriate, an important, although not necessarily dispositive, line of inquiry is the extent to which the particular industry possesses those characteristics that led Congress to adopt special rules for the construction and entertainment industries. An industry that is similar to construction or entertainment in terms of those characteristics is generally appropriate for rules similar to the construction and entertainment rules.

Appropriate characteristics include, but are not necessarily limited to, the mobility of employees, the intermittent nature of employment, extreme fluctuations in the level of an employer's covered work under the plan, the project-by-project or temporary nature of the employer's participation in the plan, the existence or non-existence of a consistent pattern of entry and withdrawal by employers, and the local nature of the work performed.

PBGC believes that the industry covered by the Plan clearly evidences characteristics similar to these of the construction industry, the most important of which is the local nature of the work. The work covered under the Plan involves the loading and unloading of vessels at Pacific coast ports. Workers are employed by stevedoring

firms, generally on a daily basis from hiring halls, to work pursuant to contracts with vessel operators. The work must, of course, be performed at the port of embarkation or debarkation. Thus, as long as there are vessels to unload at west coast ports, longshore work can only be performed in the jurisdiction of the Plan. If an employer leaves the Plan's geographical jurisdiction, it can no longer compete with remaining employers for work in the industry.

In addition, an employer in this industry cannot withdraw from the Plan while continuing to perform longshore work at any Pacific coast port, because longshore work along the entire west coast for all ocean-going dry cargo is covered by collective bargaining agreements that require contributions to the Plan. Therefore, unlike the construction industry, where there is no guaranty against a nonunion contractor replacing a union employer, there is an assurance in this case that a new employer who performs longshore work anywhere on the Pacific coast will contribute to the Plan.

Because of the local nature of the work and the requirement that contributions be made to the Plan for all longshore work done on the Pacific coast, the comings and goings of stevedoring firms do not have an adverse effect on the Plan's contribution base, which depends upon the level of shipping activity on the west coast, rather than the existence of particular employers. For these reasons, the covered industry evidences characteristics which indicate that cessations by employers typically do not have a weakening effect on the Plan's contribution base.

One of the comments received in response to the notice questioned whether the covered industry possessed other characteristics mentioned in the legislative history. On the issue of the project-by-project nature of the work, the comment stated that the high level of shipping activity suggests "it is unlikely that stevedoring employment could be considered intermittent or temporary within any given year. In addition, we believe that the unloading of a single ship by stevedores is not the equivalent of the construction of a building or the run of a Broadway play." The comment also questioned whether, given the significant increase in the level of west coast shipping activity, "stevedoring employers experience extreme fluctuations in covered employment especially when the available workforce has not expanded in the last decade." According to the comment, stevedoring employers must have a fairly constant level of work from year to year in order to remain in business. Finally, with respect to a consistent pattern of entry and withdrawal, the comment noted that, although there had been significant turnover of employers between 1972 and 1979, there was no demonstration of a consistent pattern of employer movement in and out of the Plan:

> "* * * it is unlikely that a stevedoring employer will come into a jurisdiction for only one job. Such employers generally work primarily, if not exclusively, within a single jurisdiction * * * The continuing participation of these employers in the Plan is the norm rather than the exception."

PBGC disagrees with the comment's assertion that the work covered under the Plan is neither intermittent nor project-by-project in nature. The process of loading or unloading a vessel is, by its nature, project-by-project work. The fact that this industry uses a hiring hall system, dispatching employees to employers each day as needed, is further evidence that work occurs on an intermittent basis. In addition, PBGC believes that the project-by-project work of a stevedore is similar to that of employees in the construction and entertainment industries. For example, an electrician may work on a construction project for only one or two days, or an actor may perform in a single television program.

Where there is clear evidence, as there is in this case, of project-by-project work, fluctuations in the level of a particular employer's covered work also typically occur. Although no specific figures were provided, the Plan's request stated:

> "The work done by a particular company may fluctuate dramatically from month to month as well as from year to year. A particular stevedoring company may, through the dispatch hall system, call upon a sufficient work force to unload five ships in one week, and then have no ships to unload the next * * * a given company may have forty or fifty employees on Monday and only a few on Tuesday. It may handle a hundred thousand revenue tons in one month and only a small fraction of that in the next."

PBGC agrees that the west coast shipping industry does not evidence a consistent pattern of entry and withdrawal from the Plan by employers. In fact, it appears that employer participation in the Plan is very stable, and employers do not enter or leave the Plan because specific projects are obtained or completed. However, the legislative history of the Multiemployer Act recognized that construction industry employers too could have a "long-sustained attachment to a plan." As the legislative history states: "For example, a local building contractor may have a long attachment to a plan, but work consisting of a series of contracts, each of a temporary duration." (House Floor Explanation, *Congressional Record*, H 7900 (August 26, 1980)). This is similar to the situation presented by this request. The fact that the overall level of work in the industry is stable, with many employers continuing in business for long periods of time, is not a bar to the adoption of special rules.

Moreover, the existence or nonexistence of one or even several specific characteristics is not necessarily determinative of appropriateness. The fact that an industry is similar to the construction or entertainment industries in some respects, but not similar in other respects, does not mean that the industry is inappropriate for special rules. Therefore, PBGC has concluded that the Pacific coast longshore industry, while not possessing all of the characteristics mentioned as significant in the legislative history, does clearly evidence characteristics that make use of special rules appropriate.

b. Risk to the Insurance System

In addition to determining that special rules are appropriate to this case, PBGC must find that their use will not pose a significant risk to the insurance system.

The Plan submitted actuarial reports for the four-year period, December 31, 1977 through December 31, 1981. The most recent of those reports indicates an unfunded actuarial liability of $529 million, an unfunded liability for vested benefits of $391.4 million, and assets of $178.8 million. In the four-year period, the Plan's unfunded actuarial liability increased from $397 million to $529 million, the monthly accrual rate went from $18 to $26 per year of service and the maximum number of years for which participants could accrue benefits was increased. These changes increased the monthly maximum benefit from $450 to $780. The $26 monthly accrual rate exceeds the maximum monthly accrual rate guaranteed by PBGC under ERISA section 4022A(c), which is $16.25 or 62.5 percent of the Plan's accrual rate. In addition, the rate of benefit increases under the Plan has exceeded the rate of contribution increases, with the result that annual benefit payments, as a percentage of annual contributions, have increased from 87 percent to 91 percent during the period reported. PBGC notes that the population of active participants is substantially older than under the typical multiemployer plan, and thus the

cost associated with a given level of benefits is greater than usual.

In the short term, PBGC believes that the condition of the Plan and of the covered industry is such that the use of the Plan's special rules will not pose a significant risk to the insurance system. In addition to the information already mentioned, the actuarial reports show a stable Plan population, an increase in annual contributions ($36.7 million to more than $46 million), and an increase in Plan assets ($64 million to $178.8 million) during that four-year period. Plan income has also consistently exceeded benefit pay-outs. The Plan and the covered industry have unique characteristics that suggest that the Plan's contribution base is likely to remain stable at least for the near future. The Plan covers all west coast loading and unloading of ocean-going dry cargo, the tonnage of which has been steadily increasing. Due to technology and productivity gains, increased shipping activity has not meant a commensurate increase in manpower utilization, but there has been some increase in the Plan's covered man-hours in the past several years. Moreover, because of the Plan's coverage of the entire Pacific coast, the departure of one employer from the Plan is not likely to have an adverse effect on the contribution base so long as the level of shipping does not decline.

Nevertheless, long-term considerations led PBGC to have certain reservations concerning the effect of the Plan's special rules. The Plan has large unfunded liabilities, a comparatively low ratio of assets to liabilities and a past history of benefit increases that have not been matched by increases in contributions. If the Plan's past funding practices were to continue, and the industry were to suffer a decline at some future point, the contribution base might prove insufficient to maintain the Plan and fund benefits. The result could be Plan insolvency and a claim on the insurance system. In that situation, special rules waiving withdrawal liability obviously would mean that the Plan would not have funds that otherwise would have been collected under the general statutory withdrawal rules. In addition, PBGC believes that the general withdrawal rules would have provided a strong incentive for employers to improve the funding of the Plan. For these reasons, PBGC found it difficult to conclude that the use of the Plan's special rules, as originally proposed, would not pose a significant risk to the insurance system.

PBGC communicated these concerns to the Plan. In response, the Plan revised its proposed rules to provide that specific funding objectives, designed to improve the Plan's financial condition, must be met each year in order for the special rules to continue to apply. Specifically, the Plan must satisfy an "accelerated funding schedule" requiring an annual "special contribution amount" in addition to contributions that would normally be required by ERISA's minimum funding standards. The required special contribution is the level annual amount needed to raise the Plan's vested benefit funding ratio to 50 percent after 10 years and 80 percent after 20 years. PBGC believes that meeting these objectives will place the Plan on a sound long-term financial basis. If the objectives are not met, the special rules will automatically be cancelled. In the context of this Plan and the nature of the industry that it covers, PBGC has concluded that the use of the special rules, as revised, will not pose a significant risk to the insurance system.

Two comments raised concerns relating to the issue of risk. One comment pointed out that, despite significant increases in the amount of tonnage shipped through west coast ports, "growth of stevedoring has been stragnant for the past decade", as evidenced by the very small increase in the number of covered man-hours in that period. According to the comment, this lack of growth is likely to continue in the future, and greater technological advances in the loading and unloading of vessels may result in erosion of covered employment. The comment also pointed out that, under the contribution formula scheduled to take effect in 1984, increased tonnage will not necessarily translate into increased Plan contributions, because all contributions will be based on man-hours. The comment thus concluded that "the Plan's contribution base can hardly be said to be secure when it is based on stevedoring man-hours which have not increased significantly in the last decade." After noting the Plan's underfunding, recent benefit increases and comparatively older population, the comment stated that "approval of more lenient withdrawal liability rules will remove an incentive for the PMA to establish realistic contribution levels which are sufficient to fund promised benefits." According to the comment, the result will be greater exposure to risk for the insurance system. The comment urged PBGC to "strongly encourage" the ILWU and PMA to put the Plan on a sounder financial basis. A separate comment raised concerns about "the substantial decrease in coverage over the past 10 to 15 years" and the "substantial changes in shipping patterns" which, in the opinion of the commenter, are likely to continue to occur in the future.

PBGC's decision responds to the issues raised by these comments. The evidence indicates that the Plan's contribution base has been stable, that there has been an increase in covered man-hours, and that there is no reason to conclude that this situation will change in the near future. The Plan's revision of the special rules to include mandatory funding objectives addresses the concern that the approval of special rules will remove an incentive to improve Plan funding.

Based on the facts of this case and the representations and statements made in connection with the request for approval, PBGC has determined that the Plan amendment (i) will apply only to an industry that has characteristics that would make the use of special withdrawal rules appropriate and (ii) will not pose a significant risk to the insurance system. PBGC also finds that the proposed partial withdrawal rule is consistent with the rule that the Plan proposes for complete withdrawals. Therefore, PBGC hereby grants the Plan's request for approval of the special withdrawal liability rules set forth herein. Should the Plan wish to amend these rules at any time, PBGC approval of the amendment will be required.

Issued at Washington, D.C. on this 30th day of January, 1984.

Edwin M. Jones,

Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 84-4191 Filed 2-15-84; 8:45 am]

BILLING CODE 7708-01-M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Trade Policy Staff Committee: Public Hearings on the Possible Establishment of a Free Trade Area With Israel

Summary: This publication gives notice that the Trade Policy Staff Committee will conduct public hearings on consideration of the possible establishment of a U.S.-Israel Free Trade Area (FTA).

1. Public Hearings

The Chairman of the Trade Policy Staff Committee invites public comments on consideration of the possible establishment of a U.S.-Israel FTA. Such comments will be considered by the Executive Branch in deciding

whether it is in the interest of the United States to enter into a FTA arrangement with Israel. The Committee is inviting specific comments on the merits of establishing a U.S.-Israel FTA, including comments on the possible scope of a FTA arrangement.

Interested parties are invited to submit testimony or written comments on this issue.

2. Requests To Participate in the Public Hearings

Hearings will be held on April 12, 1984, beginning at 10:00 a.m. in the GSA Auditorium, 18th and F Streets, NW., Washington, D.C., and will continue on April 13 if required. Parties wishing to testify orally at the hearings must provide written notification of their intention by noon, April 3, 1984 to Carolyn Frank, TPSC Secretary (Office of the United States Trade Representative, Room 500, 600 Seventeenth Street, NW., Washington, D.C. 20506) giving:

(1) Their names, addresses and telephone numbers; and

(2) A brief summary of their presentation.

Those parties presenting oral testimony must submit a complete written brief, in 20 copies, by noon, April 6, 1984.

Remarks at the hearings should be limited to no more than 15 minutes to allow for possible questions from the Chairman and the interagency panel. participants should provide twenty typed copies of their oral presentation at the time of the hearings.

Persons not wishing to participate at the hearings may submit a written statement, in twenty copies, by April 20 to the TPSC Secretary at the address noted above.

Parties are referred to Section 2003 of Title 15 of the Code of Federal Regulations for the Committee's rules concerning oral testimony, the submission of written briefs, the treatment of business confidential information and other procedures related to TPSS hearings.

3. Background

On November 29, 1983, President Reagan and Israeli Prime Minister Shamir agreed to proceed with bilateral negotiations on a U.S.-Israel two-way free trade area. The Israeli Government had originally proposed these negotiations in 1981. Since that time, the U.S. has reviewed the economic and political merits of this proposal and recently determined that the U.S. could gain substantially from a free trade area with Israel. The U.S. began negotiations with Israel in mid-January 1984.

In connection with these negotiations, the President has requested the International Trade Commission to conduct an investigation, pursuant to section 332(g) of the Tariff Act of 1930, and to provide advice, with respect to each item in the Tariff Schedules of the United States as to the probable economic effect of providing duty free treatment for imports from Israel on industries in the United States producing like or directly competitive articles and on consumers. In addition, the President informed the International Trade Commission that he may seek additional advice regarding the probable economic effects on certain modifications in nontariff areas on domestic industries and purchasers and on prices and quantities of articles in the United States.

4. Comments

Comments are particularly invited on:

(a) potential coverage of tariff items and nontariff barriers in a U.S.-Israel FTA;

(b) general observations regarding a proposed U.S.-Israel FTA;

(c) experiences in trading with Israel;

(d) particular benefits or disadvantages to the establishment of a U.S.-Israel FTA.

5. Additional Information

Any questions with regard to the establishment of a U.S.-Israel FTA should be directed to Nancy Adams, Director, Mid-East Affairs, Office of the United States Trade Representative, Room 318, 600 17th Street, NW., Washington, D.C. 20506; telephone (202) 395–6813.

Frederick L. Montgomery,

Chairman, Trade Policy Staff Committee.

[FR Doc. 84–4169 Filed 1–15–84; 8:45 am]

BILLING CODE 3190–01–M

SECURITIES AND EXCHANGE COMMISSION

[File No. 1–5784]

Caressa, Inc., Common Stock, $.50 Par Value; Application To Withdraw From Listing and Registration

February 8, 1984.

The above named issuer has filed an application with the Securities and Exchange Commission pursuant to Section 12(d) of the Securities Exchange Act of 1934 ("Act") and Rule 12d2–2(d) promulgated thereunder, to withdraw the specified security from listing and registration on the American Stock Exchange, Inc. ("Amex").

The reasons alleged in the application for withdrawing this security from listing and registration include the following:

1. The common stock of Caressa, Inc. ("Company") is listed and registered on the Amex. Pursuant to a Registration Statement on Form 8–A which became effective on December 13, 1983, the Company is also listed and registered on the New York Stock Exchange ("NYSE"). The Company has determined that the direct and indirect costs and expenses do not justify maintaining the dual listing of the common stock on the Amex and the NYSE.

2. This application relates solely to withdrawal of the common stock from listing and registration on the Amex and shall have no effect upon the continued listing of such stock on the NYSE. The Amex has posed no objection to this matter.

Any interested person may, on or before March 1, 1984, submit by letter to the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549, facts bearing upon whether the application has been made in accordance with the rules of the Exchange and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84–4235 Filed 2–15–84; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 13752; 812–5706]

CIGNA Aggressive Growth Fund, Inc., et al.; Application for an Order

February 8, 1984.

Notice is hereby given that CIGNA Aggressive Growth Fund, Inc. ("Aggressive") and CIGNA Value Fund, Inc. ("Value") (the "New Funds"), Hartford, Connecticut 06152, open-end, diversified management investment companies registered under the Investment Company Act of 1940 ("Act"), filed an application on November 23, 1983, requesting an order of the Commission, pursuant to Sections 6(c) and 17 (d) of the Act and Rule 17d–1 thereunder, exempting Applicants from the provisions of, and rules under,

Sections 13(a)(2), 17(d), 18(f)(1), and 22(d), (f) and (g) of the Act, in connection with a proposed Deferred Fee Arrangement to be entered into by each Applicant and transactions to be effected by the New Funds and certain of their directors pursuant to the agreement. In addition, the New Funds and CIGNA Securities, Inc. ("CIGNA Securities") (collectively, "Applicants") have applied for an order of the Commission pursuant to Section 6(c) of the Act exempting Applicants from Section 22(d) of the Act to permit (i) the inclusion of certain accumulated annuity values, or amounts to which there is a statement of intention in effect for the purchase of such annuities, in determining the sales loan applicable to purchases of shares of Aggressive and Value where rights of accumulation, statements of intention, or aggregation of amounts invested are employed, (ii) the sales of the New Funds' shares at no-load where purchase payments represent transfers of certain accumulated annuity values and (iii) the application of amounts payable under insurance contracts issued by Connecticut General Life Insurance Company ("CG Life") to the purchase at a reduced sales charge of shares of the New Funds. All interested persons are referred to the application on file with the Commission for a statement of the representations made therein, which are summarized below, and are referred to the Act and rules thereunder for further information as to the provisions to which the exemptions apply.

According to the application, the primary objective of Aggressive is long-term capital appreciation which will be pursued through investing principally in equity securities of small-to-medium sized companies that growth. The primary objective of Value is long-term capital appreciation through investing in undervalued securities. CIGNA Investment Management Company ("CIGNA Management"), an indirect subsidiary of CIGNA Corporation ("CIGNA"), is the investment manager or adviser for various other mutual funds sponsored by affiliates of CIGNA and for a number of pension advisory and separate accounts. CIGNA Securities, an affiliate of CIGNA Management, is the New Funds' principal underwriter and distributor. Shares of the New Funds are offered to the public at their net asset value plus a sales charge payable to CIGNA Securities. The sales charge varies depending upon the amount invested and ranges from 7½ percent of the public offering price (8.11 percent of the net asset value) on purchases of less than $10,000 to a minimum of 1 percent of the public offering price 1.01 percent of the net asset value) on purchases of $1,000,000 or more.

I. Section 22(d)

Applicants state that CG Life, an affiliate of CIGNA, will sell annuity products in conjunction with shares of the New Funds as alternative or complimentary funding vehicles for tax qualified accounts ("Retirement Plans"). Shares of the New Funds and the annuities are sold with an identical sales load. Applicants assert that retirement plans that split their assets between annuities and shares of the New Funds will pay higher sales charges than Retirement Plans allocating all of their investments either to annuities or to shares of the New Funds because of applicable break-points in the sales load structure and the inability of the New Funds to consider values accumulated in annuities for purposes of the right of accumulation, a statement of intention, or the right of aggregation in determining the sales load on purchase of the New Funds' shares.

Applicants assert that a reduced sales load should be available to a Retirement Plan that chooses to split its investment between shares of the New Funds and the annuities. Applicants submit that a reduced sales load should be available through the rights of accumulation and aggregation and statements of intention which are utilized by fund complexes pursuant to Rule 22d–1. Applicants assert that because Retirement Plans use annuity contracts and shares of all the CIGNA Funds as alternative funding vehicles, only one sales effort is used to sell the package rather than a separate sales effort for each investment vehicle.

Additionally, Applicants seek authority to permit the no-load purchase of the New Funds' shares with amounts transferred from accumulated fixed annuity values in order to be consistent with the desire to charge one sales load against present and future allocations of retirement plan assets to shares of the New Funds, shares of CIGNA Funds or CG Life annuities. Applicants assert that such transfers of assets will occur as a result of changes in a Retirement Plan's investment objectives and not as a result of any selling effort. Applicants further assert that requiring a sales load under these circumstances places an unnecessary burden upon fiduciaries who should be given as much flexibility as possible in allocating assets during the life of the Retirement Plan. Finally, Applicants assert that permitting the no-load purchase of New Fund shares with annuity cash values will assure that salesmen do not churn accounts in order to generate sales commissions.

According to the application, the CG Life annuities will contain features that will discourage speculation and extreme shifts between the CG Life annuities and the New Funds. Applicants state that under the CG Life annuity contract only 15 percent of the annuities account value can be withdrawn in any year without penalty to purchase any CIGNA Fund shares. Applicants state that, consistent with the Act, no restrictions are placed on the purchase or redemption of any CIGNA Fund shares, and salesmen will not receive any compensation in advising or handling asset reallocations between the New Funds and CG Life annuities. Applicant further states that all the restrictions noted above are part of the CG Life annuities, which are regulated by state insurance departments and subject to different regulatory requirements and objectives than the New Funds.

Applicants undertake to implement certain safeguards intended to eliminate any possibility of abuse arising out of the proposed transactions. Applicants represent that annual prospectuses of the New Funds will disclose the applicable sales loads and existence of a transfer privilege to holders of certain CG Life annuities. Applicants further represent that all requests for reallocation of Retirement Plans assets will be accepted only after a request form has been signed by the Retirement Plan fiduciary and sent to CIGNA Securities. Finally, Applicants represent that all requests for reallocation of assets will be subject to CIGNA Securities' routine "compliance check" which includes an examination of whether transfers of assets are handled properly, and which helps to assure that the lowest possible sales load is applied against each purchase of New Fund shares.

Applicants seek authority to permit the application of amounts payable under insurance contracts issued by CG Life to the purchase of New Fund shares at a reduced sales load. According to the application, the premiums on CG Life insurance contracts which will be the source of the insurance proceeds will already have been subject to certain sales charges. Applicants represent that the cost of selling New Fund shares to CG Life insurance beneficiaries is less than the cost of selling fund shares to individuals that have never been "introduced" to the New Funds. If the requested relief is granted the sales load would range from 5.25 percent of the offering price for purchases of less than $10,000 to .70 percent of the offering

price for purchases of $1,000,000 or more Applicants assert that the reduced charges reflect the reduced cost of selling the New Funds' shares to individuals purchasing the shares with insurance proceeds.

II. Deferred Directors' Fees

Applicants state that each Applicant's board of directors consists of twelve persons, a majority of whom are not "interested persons" of each Applicant within the meaning of Section 2(a)(19) of the Act. Each director who is not an interested person of CIGNA, CGC, CC Life or CIGNA Management receives a retainer of $7,800 for serving as a director of all the Applicants plus a meeting fee of $525 for each board or committee meeting attended. Applicants will have audit, nominating and contracts committees. Directors acting as chairmen of committees receive an additional retainer of $1,500 per year. With two exceptions, no director who is an interested person of CIGNA, CGC, CG Life or CIGNA Management receives any remuneration from Applicants. Those exceptions are James H. Torrey, a Director of CIGNA, who receives a retainer of $26,000 per year for acting as Chairman of the Board of each Applicant in lieu of all other fees, and Harold H. Bigler, a former officer of CG Life and currently president and majority shareholder of Bigler Investment Management Company, Inc., who receives the standard amount of director's fees. Bigler Investment Management Company, Inc. has a contractual relationship with an affiliate of CIGNA Corporation.

According to the application, the total renumeration payable to the directors is allocated among all the CIGNA Funds, including Applicants, based on their relative net assets. Applicants pay no other remuneration to their directors. The amounts paid to the directors are, and are expected to continue to be, insignificant in comparison to the toal net assets of each Applicant.

Applicants state that the requested order would cover an agreement to be available for the deferral of fees payable by the Applicants. Each agreement will allow each individual director to elect to defer receipt of all director's fees which otherwise would become payable to him for services performed after the date of the agreement.

According to the application, the purpose of the agreement is to permit directors of each of the Applicants to elect to defer receipt of his directors' fees, in order to avoid diminution or loss of social security benefits to which the directors may otherwise be entitled, to enable the directors to defer payment of income taxes on such fees, or for other reasons.

Under the agreement, the deferred directors' fees will be credited to a book reserve account (the "Deferred Fee Account") as of the date such fees would have been paid. Directors' fees that become payable for attending Board meetings or meetings of committees of the Board will be credited to the Deferred Fee Account on the following business day. Deferred fees will accrue interest on a daily basis from and after the date of credit to the Deferred Fee Account in an amount equal to the amount that would have been earned had an amount equal to such deferred fees (plus all interest earned thereon on a daily basis) been invested in CIGNA Cash Fund, Inc. ("CIGNA Cash").

The agreement provides that each New Funds' obligation to make payments of deferred fees and interest accrued thereon will be a general obligation of such Applicant, and payments made pursuant to the agreement will be made from the New Funds' general assets and property. The relationship of the director to the New Fund will be only that of a general unsecured creditor. The agreement also provides that the New Funds will be under no obligation to purchase, hold or dispose of any investments under the agreement, but, if the Applicant chooses to purchase investments to cover its obligations under such agreement, then any and all such investments will continue to be a part of the general assets and property of such Applicant.

According to the application, the deferred directors' fees and any interest thereon will become payable in cash upon termination of the director's services in such capacity, in a lump sum or in such number of annual installments as shall be determined by each New Fund in its sole discretion. In the event of the director's death, amounts payable to him under the agreement will thereafter be payable to his designated beneficiary; in all other events, the director's right to receive payments will be nontransferable.

Applicants state that deferral of directors' fees in accordance with the agreement will have a negligible effect on the assets, liabilities, net assets and net income per shares of the New Funds. Further, Applicants state that the agreement will not obligate either New Fund to retain a director in such capacity, nor will it obligate either to pay any (or any particular level of) directors' fees to any director.

Applicants represent that participation in the deferred fee arrangement will be available to all directors who currently receive directors' fees from each Applicant, *i.e.*, those directors who are not "interested persons" of the Applicants within the meaning of Section 2(a)(19) of the Act and Messrs. Torrey and Bigler.

Applicants submit that the agreement is in the best interests of New Funds and their shareholders and consistent with the purposes fairly intended by the policy and provisions of the Act. In addition, Applicants submit that the requested exemptions are necessary and appropriate in the public interest and consistent with the protection of investors.

With respect to the requested exemptions from Sections 18(f)(1) and 13(a)(2), Applicants contend that the agreement possesses none of the characteristics of senior securities which led Congress to enact the restrictions on the issuance of such securities set forth in Sections 18 and 13(a)(2) of the Act. Applicants submit that they would not be "borrowing" from their directors in the sense that concerned Congress and that all liabilities created by credits to the Deferred Fee Accounts under the agreement would be offset by essentially equal assets of the Applicants which would not otherwise exist if the directors' fees were paid on a current basis. Applicants further argue that the agreement would not induce speculative investments by the New Funds or provide opportunity for manipulative allocations of their expenses and profits; that control of the New Funds would not be affected; and, given the common existence of deferred compensation agreements today, the agreement would not confuse investors, make it difficult for them to value the New Funds' shares or convey a false impression of safety.

With respect to the requested exemption from Section 22(f) of the Act, Applicants argue that this section was designed to bar only those restrictions on transferability or negotiability either not disclosed to the holder of the subject security or expressly prohibited by Commission rule or regulation, neither of which circumstances would apply here. Applicants point out that the restriction on transferability of directors' benefits would be clearly set forth in the agreement, would be included primarily to benefit the director and would not adversely affect the interests of the directors or of the shareholders.

As to Section 22(g) of the Act, Applicants contend that the legislative history of the Act indicates that Congress was primarily concerned with

the dilutive effect on the equity and voting power of the common stock of, or units of beneficial interest in, an open-end company if securities were issued for consideration not readily valued. Applicants submit that the agreement would not have this effect, particularly in view of current disclosure requirements applicable to director compensation. Applicants also contend that the obligation to make payments under the agreement need not be viewed as being "issued" for services or for property other than cash or securities, because, while any director's fees which might become payable to a director would clearly be for services, any such fees would become payable independent of the agreement. Thus, according to the Applicants, the agreement would merely provide for deferral of payment of such fees and thus may be viewed as being "issued" not in return for services but in return for Applicant's not being required to pay such fees on a current basis. For these reasons, Applicants submit that the requested exemption of the agreement and future transactions effected pursuant to them from Section 22(f) and (g) of the Act also would be consistent with the protection of investors and the purposes of the Act.

Applicants submit that the agreement is not a joint transaction between an Applicant and its directors within the meaning of Section 17(d) and Rules 17d–1 thereunder, as the interest to be accrued on the deferred amounts under the agreement is to be based on the yield of CIGNA Cash, not that of the Applicant entering into the agreement. If the agreement is considered to be joint transactions, Applicants state in support of their requested exemption that the use of the CIGNA Cash's yield to determine interest on deferred amounts does not inherently differ from (but might be fairer than) the use of the prime rate or another assumed rate of interest. In addition, Applicants assert that the total fees paid to the Applicants' directors which would be eligible for deferral will be de minimis as compared to the Applicants' total assets. Applicants emphasize their view that their ability to recruit and retain highly qualified directors would be enhanced if they were able to offer their directors the option of deferred payment of their directors' fees. Applicants submit that this benefit to the Applicants and their shareholders outweighs any tax, social security or other benefit that may be realized by an individual director under the proposed Agreements.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than March 5, 1984, at 5:30 p.m., do so by submitting a written request setting forth the nature of his/her interest, the reasons for the request, and the specific issues of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date, an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84–4229 Filed 2–15–84; 8:45 am]

BILLING CODE 8010–01–M

[File No. 1–3985]

EDO Corp., Common Stock, $1 Par Value; Application To Withdraw From Listing and Registration

February 9, 1984.

The above named issuer has filed an application with the Securities and Exchange Commission pursuant to Section 12(d) of the Securities Exchange Act of 1934 ("Act") and Rule 12d2–2(d) promulgated thereunder, to withdraw the specified security from listing and registration on the American Stock Exchange, Inc. ("Amex").

The reasons alleged in the application for withdrawing this security from listing and registration include the following:

1. The common stock of EDO Corporation ("Company") is listed and registered on the Amex. Pursuant to a Registration Statement on Form 8–A which became effective on November 18, 1983, the Company is also listed and registered on the New York Stock Exchange ("NYSE"). The Company has determined that the direct and indirect costs and expenses do not justify maintaining the dual listing of the common stock on the Amex and the NYSE.

2. This application relates solely to withdrawal of the common stock from listing and registration on the Amex and shall have no effect upon the continued listing of such stock on the NYSE. The Amex has posed no objection to this matter.

Any interested person may, on or before March 2, 1984, submit by letter to the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549, facts bearing upon whether the application has been made in accordance with the rules of the Exchange and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84–4230 Filed 2–15–84; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 13757; 812–5737]

National Housing Partnership Realty Fund I, the National Housing Partnership and National Corporation for Housing Partnership; Application for an Order Granting Exemption

February 9, 1984.

Notice is hereby given that National Housing Partnership Realty Fund I ("Partnership"), a Maryland limited partnership, its general partner, The National Housing Partnership ("NHP"), and National Corporation for Housing Partnerships ("NCHP"), 1133 Fifteenth Street, NW., Washington, D.C. 20005, the sole general partner of NHP (Partnership, NHP and NCHP hereinafter collectively referred to as "Applicants"), filed an application on January 4, 1984, pursuant to Section 3(b)(2) of the Investment Company Act of 1940 ("Act") for an order declaring that the Partnership is not an investment company, or, in the alternative, pursuant to Section 6(c) of the Act exempting the partnership from all provisions of the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below, and to the Act for the text of the applicable statutory provisions.

Applicants state that the Partnership was formed under the Maryland Revised Uniform Limited Partnership Act as of October 21, 1983, as a vehicle for equity investment in government-assisted rental housing in accordance with the policies and objectives of Title IX of the Housing and Urban Development Act of 1968 ("Title IX"). Applicants further state that the Partnership will operate as

a "two-tier" entity, i.e., the Partnership, as a limited partner, will invest in other limited partnerships ("Local Partnerships") which in turn will own and operate existing multifamily rental housing projects, which receive one or more forms of assistance from federal, state, or local governments or agencies. All such investments are represented to be in accordance with the purposes and criteria set forth in Investment Company Act Release No. 8456 (August 9, 1974), which release sets forth the views of the Commission's Division of Investment Management with respect to the applicability of the Act to two-tier real estate limited partnerships.

Applicants state that NHP and NCHP were created by Congress pursuant to Title IX "to encourage the widest possible participation by private enterprise in the provision of housing for low and moderate-income families." Applicants further state that the creation of entities such as the Partnership is merely ancillary to NHP's and NCHP's Congressionally-authorized function and that based upon the history of NHP and NCHP and the stated objectives of the Partnership, Applicants are primarily engaged in the business of providing housing for low and moderate-income persons.

It is further stated, that the Partnership is organized as a limited partnership because that form of organization is the only one that provides investors with both (i) liability limited to their capital investments, and (ii) the ability to claim on their individual tax returns the deductions, losses, credits, and other tax items that originate from the Partnership's interests in the Local Partnerships. It is represented that counsel is rendering its opinion that the Partnership will be treated as a partnership for federal income tax purposes. The Partnership's objectives, Applicant states, are to (i) preserve and protect Partnership capital; (ii) provide current tax benefits to investors to the extent permitted by law, including, but not limited to, deductions which investors may use to offset otherwise taxable income from other sources, in the form of tax losses; (iii) provide potential capital appreciation through increase in the value of Partnership investments subject to consideration of capital preservation and tax planning; and (iv) provide potential cash distributions from sales or refinancings of the Partnership's investments and, on a limited basis, from operations.

It is further stated that on October 21, 1983, the Partnership filed a registration statement and preliminary prospectus under the Securities Act of 1933 ("Securities Act"), and an amendment thereto on December 29, 1983, pursuant to which the Partnership intends to offer publicly 20,000 units of limited partnership interests ("Interests") at $1,000 per unit. It is represented that Dean Witter Reynolds, Inc. ("Dean Witter") and other authorized broker-dealers will act as selling agents for the offering of Interests. Applicants state that the Partnership will have between a minimum of $4,300,000 and a maximum of $17,500,000 available for investment from the proceeds of this offering. From the amount available for investment, the Partnership will pay certain expenses and fees to NHP. Applicants state, and the remainder of the amount available for investment will be invested in Local Partnerships.

Applicants further state that subscriptions for Interests must be approved by NHP and Dean Witter, which approval shall be conditioned upon representations as to suitability of the investment for each subscriber. The application states that in order to become a limited partner of the Partnership ("Limited Partner") each subscriber will represent among other things; that (i) some part of his income (without regard to the investment) for the current year (and which is expected to continue) will be subject to federal income tax rate of 38% or more, and (2) he has either (a) a net worth (exclusive of homes, furnishings and automobiles) of at least $60,000 and estimates that he will have an annual gross income of at least $50,000, or (b) a net worth (as computed above) of at least $150,000.

Applicants state that the Partnership will be controlled by NHP, but that the Limited Partners, consistent with their limited liability status, will be entitled to vote on certain material matters affecting the operation of the Partnership. Limited Partners owning a majority of Partnership interests, it is stated, will have the right to dissolve the Partnership, remove any General Partner and elect a replacement therefore, and to approve or disapprove a sale of all or substantially all of the assets of the Partnership in a single transaction or a series of related transactions. Any amendment to the Partnership Agreement, however, may not allow the Limited Partners to take part in the control of the Partnership's business or otherwise affect their limited liability, Applicants note. It is further stated that, under the Partnership Agreement, each Limited Partner is entitled to review all books and records of the Partnership at any and all reasonable times.

Applicants represent that NHP will participate in each Local Partnership as a managing general partner and if there is a co-general partner, NHP will obtain management control. Applicants further represent that the Partnership will own between 90% and 99% of the limited partnership Interests in each Local Partnership and that the Partnership together with the NHP will control each Local Limited Partnership.

It is represented, in addition, that all compensation to be paid to NHP and its affiliates is believed to be fair and within applicable guidelines necessary to permit Interests to be offered and sold in the various states which prescribe such guidelines, including, without limitation, the statement of policy adopted by the North American Securities Administrators Association, Inc. with respect to real estate programs.

Applicants state that since it is anticipated that the Partnership will register the Interests pursuant to Section 12 of the Securities Exchange Act of 1934 ("Exchange Act"), the Partnership expects to file with the Commission, pursuant to Section 15(d) of the Exchange Act, all required current reports on Forms 10–K, 10–Q and 8–K, as well as any other reports required by such Act. The Partnership will distribute to the Limited Partners certain reports concerning its business and operation. Applicants also state.

Applicants state that the Amended and Restated Certificate and Agreement of Limited Partnership ("Partnership Agreement") provides that the Partnership will indemnify NHP for losses sustained by them or their affiliates by reason of acts or omissions performed in connection with the business of the Partners. Nevertheless, the Partnership Agreement further provides that there shall be no indemnification in connection with (1) any claim or settlement involving the Securities Act unless (a) the persons seeking indemnification are successful in defending such action and (b) such indemnification is specifically approved by a court which has been advised as to the current position of the Commission concerning such indemnification (unless the Partnership's counsel advises that the matter has been settled by controlling precedent), or (2) any liability imposed by law, including liability for fraud, bad faith, or negligence.

Without conceding that the Partnership is an investment company as defined in the Act, Applicants request that the Commission issue an order pursuant to Section 3(b)(2) of the Act declaring that the Partnership is not

an investment company or, in the alternative that the Partnership be exempted from all the provisions of the Act pursuant to Section 6(c) of the Act. In support of this request, Applicants assert that such relief is both necessary and appropriate in the public interest and would be consistent with the protection of investors and the purposes and policies underlying the Act.

Applicants assert that investment in low and moderate income housing in accordance with the national policy expressed in Title IX is not economically suitable for private investors without the tax and organizational advantages of the limited partnership structure. In addition, Applicants maintain that application of the Act would discourage two-tier limited partnership arrangements and thus eliminated the best available means of attracting private equity capital into government-assisted housing and thereby frustrate national policy. Applicants maintain that contemplated operations of the Partnership are not susceptible to abuses of the sort that the Act was designed to remedy. Applicants represent that the Partnership Agreement and Partnership prospectus contain numerous provisions designed to insure fair dealing by NHP with the Limited Partners. Appliants state that the suitability standards, requirements for fair dealing and pertinent governmental regulations imposed on the Partnership and each local partnership by various federal, state and local agencies provide protection to investors comparable to and in some respects greater than that provided by the Act.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than March 2, 1984, at 5:30 p.m., do so by submitting a written request setting forth the nature of his/her interest, the reasons for the request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicants at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date, an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84-4228 Filed 2-15-84; 8:45 am]

BILLING CODE 8010-01-M

[File No. 1-51]

Natomas Energy Co.—8⅛% Sinking Fund Debentures (due 3-15-97); Application To Withdraw From Listing and Registration

February 9, 1984.

The above named issuer has filed an application with the Securities and Exchange Commission pursuant to Section 12(d) of the Securities Exchange Act of 1934 ("Act") and Rule 12d2-2(d) promulgated thereunder, to withdraw the specified security from listing and registration on the New York Stock Exchange, Inc. ("NYSE").

The reasons alleged in the application for withdrawing this security from listing and registration include the following:

Natomas Energy Company ("Company") has determined that continued lising of its debentures is no longer justified on the NYSE because of the sporadic and low volume of trading, the small number of holders of the debentures, the size and sophistication of the holders of a substantial portion of the aggregate outstanding principal amount of the debentures and the direct and indirect costs and expenses of continued listing. The NYSE has posed no objection to this matter.

Any interested person may, on or before March 2, 1984, submit by letter to the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549, facts bearing upon whether the application has been made in accordance with the rules of the Exchange and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84-4231 Filed 2-15-84; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-20628; File No. SR-MSRB-84-2]

Self-Regulatory Organizations; Proposed Rule Change by Municipal Securities Rulemaking Board Relating to Uniform Practice and Customer Confirmations

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on January 12, 1984, the Municipal Securities Rulemaking Board filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

(a) The Municipal Securities Rulemaking Board (the "Board") is filing an interpretation of Board rules G-12 on uniform practice and G-15 on customer confirmations (hereafter referred to as the "proposed rule change"), concerning confirmation disclosures. The text of the proposed rule change, contained in a Board interpretive letter dated January 4, 1984, is as follows:

> * * * [C]all features on . . . [zero coupon, compound interest, multiplier, or other similar type of security] often express the call prices in terms of a percentage of the compound accreted value of the security as of the call date. You note that, in computing a price or yield to such a call feature, it is necessary for the computing dealer to convert such a call price into its equivalent in terms of a percentage of maturity value (*i.e.*, into a standard dollar price), and use this figure in the computation. You inquire whether, in circumstances where the confirmation of a transaction is required to disclose a yield or dollar price computed to such a call feature, the call price used in the calculation should be stated on the confirmation in terms of the percentage of the compound accreted value or in terms of the equivalent percentage of maturity value.
>
> The requirement which is the subject of your inquiry is set forth in Board rule G-15(a)(i)(I) as follows:
>
> > In cases in which the resulting dollar price or yield shown on the confirmation is calculated to call or par option, this must be stated, and the call or option date and price used in the calculation must be shown * * * [*]
>
> The Board is of the view that, in the case of a computation of a yield or dollar price to a call or option feature on a transaction in a

*Comparable requirements with respect tointer-dealer confirmations are set forth in Board rule G-12(c)(v)(I).

zero coupon or similar security, the call price shown on the confirmation should be expressed in terms of a percentage of the security's maturity value. The Board believes that the disclosure of the call price in terms of the security's maturity value would provide more meaningful information to the purchaser, since other confirmation disclosures on these types of securities are also expressed in terms of the security's maturity value. This form of disclosure therefore presents the information to a purchaser in a consistent format, thereby facilitating the purchaser's understanding of the information shown on the confirmation. The Board notes also that this form of disclosure is simpler and requires less confirmation space to present.

The full text of the interpretive letter is on file at the offices of the Board.

II. Self-Regulatory Organization's Statement on Purpose of, and Statutory Basis for, the Proposed Rule Change

A. Self-Regulatory Organization's Statement on the Purpose of, and Statutory Basis for, the Proposed Rule Change

(a) Rules G–12 and G–15 relating to uniform practice and customer confirmations, respectively, contain certain provisions pertaining to confirmation disclosures. Rules G–15(a)(i)(I) and G–12(c)(v)(I) require that in cases in which the resulting dollar price or yield shown on the confirmation is calculated to call or par option, this must be stated, and the call or option date and price used in the calculation must be shown. The Board has received questions from municipal securities dealers concerning the appropriate method of disclosing on a confirmation a call price used in the computation of a dollar price or yield on a transaction in a zero coupon, compound interest, multiplier, or other similar type of security.

The Board has determined that, in the case of a computation of a yield or dollar price to a call or option feature on such securities, the call price shown on the confirmation should be expressed in terms of a percentage of the security's maturity value. The Board is of the view that a call price expressed in terms of maturity value would facilitate purchasers' understanding of the information on the confirmation, would be consistent with other disclosures required for these securities which must be related to the maturity value of the securities,* and would require less confirmation space to present.

(b) The Board has adopted the proposed rule change pursuant to section 15B(b)(2)(C) of the Securities Exchange Act which authorizes and directs the Board to adopt rules

> * * * designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in municipal securities, to remove impediments to and perfect the mechanism of a free and open market in municipal securities, and, in general, to protect investors and the public interest * * *

B. Self-Regulatory Organization's Statement on Burden on Competition

The Board believes that the proposed rule change will not have any impact on competition since it merely clarifies the manner in which municipal securities brokers and dealers are to comply with an existing requirement of Board rules, and applies equally to all municipal securities brokers and dealers.

C. Self-Regulatory Organization's Statement of Comments on Proposed Rule Change Received From Members, Participants and Others

The Board has not solicited or received comments on the proposed rule change. The proposed rule change is an interpretation made in response to a request from a member of the industry.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3) of the Securities Exchange Act and subparagraph (e) of Securities Exchange Act Rule 19b–4. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section. Copies of such filing also will be available for inspection and copying at the principal officer of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted within 21 days after the date of this publication.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: February 8, 1984.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84–4236 Filed 2–15–84; 8:45 am]

BILLING CODE 8310–01–M

*See Amendments Approved on Transactions in Zero Coupon, Compound Interest and Multiplier Securities, *MSRB Reports*, Vol. 3, no. 6 (October/November 1983). The amendments were the subject of file no. SR–MSRB–83–12.

Self-Regulatory Organizations; Cincinnati Stock Exchange; Applications for Unlisted Trading Privileges and of Opportunity for Hearing

February 8, 1984.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to Section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f–1 thereunder, for unlisted trading privileges in the following stocks:

Anthem Electronics, Inc.
Common Stock, No Par Value (File No. 7–7364)
Ohio Mattress Co. (The)
Common Stock, $1 Par Value (File No. 7–7365)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before March 1, 1984 written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted

trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84-4234 Filed 2-15-84; 8:45 am]

BILLING CODE 8010-01-M

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing

February 8, 1984.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to Section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the following stocks:

Iowa Resources Inc.
Common Stock, No Par Value (File No. 7-7371)
Mickelberry Corporation
Common Stock, $1 Par Value (File No. 7-7372) [1]
Ohio Sealy Mattress Manufacturing Company
Common Stock, $1 Par Value (File No. 7-7373)
LTV Corporation
$3.06 Cumulative Convertible Preferred Stock, Series B, $1 Par Value (File No. 7-7374)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before March 1, 1984 written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84-4232 Filed 2-15-84; 8:45 am]

BILLING CODE 8010-01-M

[1] Iowa Resources and Mickelberry Corporation ("Company") are currently listed and registered on the Midwest Stock Exchange, Inc. ("MSE"). However, at the request of each Company, the MSE filed applications on February 3, 1984 to remove their stock from listing and registration. The MSE has requested that the effective date for the delistings and the unlisted trading privileges applications be concurrent so there will be no lapse in the trading of the issues.

Self-Regulatory, Organizations; Philadelphia Stock Exchange, Inc.; Applications for Unlisted Trading Privileges and of Opportunity for Hearing

February 8, 1984.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to Section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the following stocks:

Atlantic Richfield Company [1]
Common Stock, $2.50 Par Value (File No. 7-7366)
CooperVision, Inc.
Common Stock, $.10 Par Value (File No. 7-7367)
Showboat, Inc.
Common Stock, $1 Par Value (File No. 7-7368)
Verbatim Corporation
Common Stock, No Par Value (File No. 7-7369)
Echo Bay Mines Ltd.
Common Stock, No Par Value (File No. 7-7370)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before March 1, 1984 written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84-4233 Filed 2-15-84; 8:45 am]

BILLING CODE 8010-01-M

[1] Atlantic Richfield ("Company") is currently listed and registered on the Philadelphia Stock Exchange, Inc. ("Phlx"). However, at the request of the Company, the Phlx filed an application on February 6, 1984 to remove the Company's stock from listing and registration on the Phlx. The Phlx has requested that the effective date for the delisting and the unlisted trading privileges application be concurrent so there will be no lapse in the trading of the issue.

[Rel. No. 13760; 811-3353]

AAA U.S. Government Money Market Account, Inc.; Filing of Application

Notice is hereby given that AAA U.S. Government Money Market Account, Inc. ("Applicant") 10235 Regency Circle, Omaha, NB 68114, registered as an open-end, diversified, management investment company under the Investment Company Act of 1940 ("Act"), filed an application on December 27, 1983, for an order, pursuant to Section 8(f) of the Act, declaring that it has ceased to be an investment company as defined in the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below, and to the Act for the complete text of the relevant provisions.

Applicant states that it was incorporated on September 18, 1981, under the laws of the State of Nebraska, and that on December 17, 1981, it registered under the Act, pursuant to Section 8(b) of the Act. Its registration statement, filed under the Securities Act of 1933, was declared effective on April 5, 1982, and an initial public offering commenced immediately thereafter.

The application states that an "Agreement and Plan of Reorganization" was approved by Applicant's board of directors on August 22, 1983, and approved by a majority of its shareholders at a special meeting held on November 15, 1983. Also on November 15, 1983, the application indicates that Applicant's shareholders received, on an equivalent net asset value basis, an amount of shares of Mutual of Omaha Cash Reserve Fund equal to the number of shares which the respective shareholders owned in Applicant's account on that date. Applicant represents that it has filed a

Statement of Intent to dissolve and intends to file Articles of Dissolution with the State of Nebraska.

The application further indicates that Applicant has no assets, debts, or outstanding liabilities remaining, and it is not a party to any litigation or administrative proceeding. Applicant states that it had no securityholders at the time of filing of the application. Applicant further states that within the last 18 months it has not transferred any of its assets to a separate trust. Finally, Applicant states that it is not now engaged, and does not propose to engage, in any business activity other than that necessary to wind-up its affairs.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than March 6, 1984, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date, an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84-4325 Filed 2-15-84; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 13763; 812-5731]

Hutton VIP Fund; Application

February 10, 1984.

Notice is hereby given that Hutton VIP Fund ("Applicant") 11011 North Torrey Pines Road, P.O. Box 2700, La Jolla, California 92038, registered under the Investment Company Act of 1940 ("Act") as an open-end, diversified management investment company, filed an application on December 21, 1983, for an order of the Commission pursuant to Section 6(c) of the Act exempting Applicant from the provisions of Sections 13(a)(2), 18(f)(1), 22(f) and 22(g) of the Act, in connection with its proposed Directors' Deferred Compensation Plan ("Plan"), and pursuant to Section 17(d) of the Act and Rule 17d-1 thereunder, to permit certain transactions to be effected by Applicant and certain of its directors pursuant to the Plan. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below, and to the Act for a statement of the applicable statutory provisions.

Applicant states that it is a series-type investment company consisting of three series ("Money Market Series", "Bond and Income Series" and "Equity Series") each of which has its own investment objectives and policies. Applicant further states that its shares are currently only offered to the Hutton VIP Separate Account ("Separate Account") of E.F. Hutton Life Insurance Company. The Separate Account, it is stated, funds the Individual Flexible Premium Deferred Annuity and Variable Accumulation Contract offered by E.F. Hutton Life Insurance Company ("Hutton Life"). E.F. Hutton & Company Inc. ("E.F. Hutton") serves as Applicant's investment adviser and distributor.

Applicant further states that its board of directors consists of five individuals, three of whom are not "interested persons" of Applicant within the meaning of Section 2(a)(19) of the Act. Each of the directors who is not an interested person of Applicant, E.F. Hutton, or Hutton Life currently receives $8,000 annually and $1,000 per meeting attended in addition to expenses incurred in attending meetings of the board of directors. Applicant pays no other remuneration to its directors, and the amounts paid to its directors are expected to be insignificant in comparison to its total net assets, Applicant asserts.

Applicant submits that the purpose of the Plan is to permit individual directors who are not interested persons of Applicant, E.F. Hutton, or Hutton Life to elect to defer receipt of their directors' fees, so as to avoid diminution or loss of social security benefits to which the directors may otherwise be entitled, to enable the directors to defer payment of income taxes, or for other reasons. The availability of such a deferred fee arrangement will enhance Applicant's ability to continue to attract and retain directors of the same high caliber as those who now serve on its board.

Applicant states, in addition, that the Plan will allow an individual director to elect to defer receipt of fees which otherwise would become payable to him for services performed after the date of the election. This election will continue in effect until terminated in writing and any such termination will take effect on the first day of the calendar year beginning after receipt of the notice of termination. An election will be irrevocable as to payments deferred in conformity with that election and each deferred fee will be credited, at the time when it otherwise would have been payable, to an account on Applicant's books to be established for each electing director. Interest on each director's account will be compounded on the first day of each quarter based upon the balance of each director's account as of the first day of the preceding quarter. Applicant represents that the interest rate used will be equal to the prevailing 90-day U.S. Treasury Bill rate at the beginning of the preceding quarter, and will be used for the entire succeeding quarter. Applicant's obligations to the director or his designated beneficiary under the Plan will be unsecured.

It is further represented that all amounts credited to the account of a director will be paid to the director in accordance with the payment option selected by the director, which must be selected prior to the deferral of any amount under the Plan. In the event of a director's death, Applicant states, amounts payable to him under the Plan will thereafter be payable to his designated beneficiary; in all other events, a director's rights to receive payments will be non-transferable.

Applicant states further that its obligation to make payments of amounts accrued under the Plan will be a general unsecured obligation payable solely from its general assets and property. No shares of Applicant will be purchased for any director's account with those amounts nor will any special fund or separate account be established for those amounts. Additionally, Applicant submits that it is not obligated under the Plan to retain a director in such capacity, nor will it be obligated to pay any (or any particular level of) fees to any director.

Without conceding that interests in the Plan are "securities" as defined in Section 2(a)(36) of the Act, Applicant submits, with respect to the exemptions requested from Sections 18(f)(1) and 13(a)(2) of the Act, that the Plan contains none of the characteristics of senior securities which led Congress to enact the restrictions on the issuance of such securities set forth in Sections 18 and 13(a)(2) of the Act. Applicant further contends that it would not be "borrowing" from its directors in the sense that concerned Congress, *e.g.*, borrowing for securities speculation. Additionally, Applicant asserts that all liabilities created by accruals under the Plan would be offset by essentially

equal assets of Applicant which would not otherwise exist if the fes were paid on a current basis. The Plan would not induce speculative investments by Applicant, it is stated, or provide opportunity for manipulative allocation of Applicant's expenses and profits; control of Applicant would not be affected; and, given the common existence of deferred compensation agreements today, Applicant states, the Plan would not confuse investors, make it difficult for them to value Applicant's shares, or convey a false impression of safety.

As to Section 22(f) of the Act, Applicant contends that this section of the Act was designed to bar only those restrictions on transferability or negotiability either not disclosed to the holder of the subject security, or expressly prohibited by Commission rule or regulation, neither of which circumstance would apply to the restriction on transferability of a director's benefits under the Plan. Applicant also asserts that the restrictions under the Plan would be clearly set forth in the Plan and would not adversely affect the interests of the director or of any Applicant's shareholders.

Applicant contends, in addition, that the legislative history of Section 22(g) of the Act indicates that Congress was primarily concerned with the dilutive effect on the equity and voting power of the common stock of, or units of beneficial interest in, an open-end company when securities are issued for consideration not readily valued. It is submitted that the Plan would not have this effect, particulary because of current disclosure requirements applicable to director compensation. Applicant further submits that Applicant's obligation to make payments under the Plan would not be "issued" for services or for property other than cash or securities, as although any directors' fees which might become payable to a director would clearly be for services, any such fees would become payable independent of the Plan. The Plan would provide for deferral of payment of such fees and thus, should not be viewed as being "issued" in return for services but in return for Applicant's not being required to pay such fees on a current basis.

Applicant submits that the Plan is not a joint transaction between Applicant and its directors within the meaning of Section 17(d) and Rule 17d–1 thereunder, as the interest to be accrued on the deferred amounts is to be based on the objectively-determined interest rate applicable to 90-day Treasury bills, so that the Plan will possess none of the profit-sharing characteristics required for a joint transaction. Applicant contends that the effect of the Plan would be to defer the payment of fees that Applicant otherwise would be obligated to pay on a current basis as services are performed by the directors. Applicant further contends that liabilities created by the accruals under the Plan would be offset by essentially equal assets of Applicant and that those assets would not exist if the directors' fees were paid on a current basis (that is, the fees otherwise payable currently to the director would remain as part of Applicant's general assets and property). Applicant contends that there is no expectation of profits being generated through applicant or other investments on behalf of the directors since Applicant would be undertaking no funding investment commitment under the Plan and the interest earned by the directors during the deferral period would not be dependent upon Applicant's investment performance but rather to the objectively determinable interest rate applicable to 90-day Treasury bills during the immediately preceding quarter.

Applicant asserts that deferral of directors' fees in accordance with the Plan would essentialy maintain the parties viewed both separately and in their relationship to one another, in the same position as if the fees were paid on a current basis. Additionally, Applicant asserts that it is expected that deferral would have a negligible effect on its assets, liabilities, net assets and net income per share. Applicant believes that its ability to recruit and retain highly qualified directors would be enhanced if it were able to offer its directors the option of deferred payment of their directors' fees, and their benefit to Applicant and its shareholders outweighs any tax, social security, or other benefit that may be realized by an individual director under the Plan.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than March 6, 1984, at 5:30 p.m., do so by submitting a written request setting forth the nature of his/her interest, the reasons for the request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date, an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84–4329 Filed 2–15–84; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. 13762; 811–2812]

Mutual Asset and Management, Inc.; Application

February 10, 1984.

Notice is hereby given that Mutual Assets and Management, Inc. ("Applicant") 19 Main Street, New Milford, Connecticut 06776, registered under the Investment Company Act of 1940 ("Act"), as a closed-end, diversified management investment company, filed an application on January 5, 1983, for an order of the Commission pursuant to Section 8(f) of the Act, declaring that Applicant has ceased to be an investment company. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant states that it filed its registration statement under the Act on February 22, 1978. According to the application, at June 27, 1983, Applicant had 450 shares of common stock outstanding, with an aggregate net asset value of $5,003,469.65. Those shares were the only class of Applicant's shares outstanding and had a net asset value per share of $11,000.27.

Applicant represents that on December 19, 1983, its Board of Directors authorized liquidation of Applicant. Applicant further represents that on December 19, 1983, Applicant's shareholders unanimously adopted the recommendation that the corporation be dissolved. Applicant states that no proxy material was distributed to securityholders of Applicant.

Applicant states that distributions to securityholders were made as follows: on June 28, 1983, each of Applicant's shareholders redeemed 98% of their shares, at a net asset value of $11,000.277 per share. On that same date a special dividend of $5,000 per shares was declared for the nine remaining shares of record as of June 29, 1983, which dividend was paid on June 30, 1983. The Applicant states that on June 30, 1983, after the distribution of the special dividend, Applicant's net asset

value was $53,345. Applicant represents that at the time of filing of the application, Applicant's sole remaining assets consisted of bank deposits of $55,145. Applicant further represents that such assets have not been and will not be invested in securities other than bank deposits. Applicant states that such assets have been retained as a reserve fund pursuant to the plan of liquidation and distribution, in order to pay costs and expenses associated with such liquidation and distribution. Applicant undertakes to distribute in cash to each remaining shareholder in accordance with their ownership of shares, the balance of assets remaining after the payment of the various costs and expenses associated with the liquidation and dissolution.

Applicant states that it is not a party to any litigation or administrative proceeding and that it does not intend to engage in business activities other than those necessary for the winding up of its affairs. The application states that Applicant remains in legal existence as a corporation in the State of Connecticut, but intends to file a Certificate of Dissolution prior to December 31, 1983.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than March 6, 1984, at 5:30 p.m., do so by submitting a written request setting forth the nature of his/her interest, the reasons for his request, and the specific issues of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date, an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84-4327 Filed 2-15-84; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 13759; 812-5907]

Pacific Horizon Funds, Inc.; Filing of Application

February 10, 1984.

Notice is hereby given that Pacific Horizon Funds, Inc. ("Applicant") 3550 Wilshire Boulevard, Suite 932, Los Angeles, CA 90010 filed an application on November 25, 1983, and an amendment thereto on January 25, 1984, requesting an order of the Commission pursuant to Section 17(d) of the Investment Company Act of 1940 ("Act") and Rule 17d-1 thereunder to permit Applicant to enter into master repurchase agreements with non-affiliated financial institutions such as broker-dealers and banks pursuant to which individual repurchase transactions would be effected as described therein. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below, and to the Act and the rules thereunder for the text of their relevant provisions.

According to the application, Applicant is a registered open-end, management investment company that currently intends to offer four classes of shares, representing interests in four investment portfolios—a Government Portfolio, a Money Market Portfolio, a Fixed Income Portfolio and an Equity Portfolio. The relief requested by the application concerns only the Government and Money Market Portfolios.

Applicant's shares will be sold by Dreyfus Service Corporation (the "Distributor") to the general public, including individuals, businesses and customers of Security Pacific or its affiliates that maintain customer-directed, non-discretionary accounts at Security Pacific or its affiliate. In particular, a portion of the shares of the Government and Money Market Portfolios will be purchased by Security Pacific, acting as agent for its customers, in automatic investment transactions. In these transactions Security Pacific, as agent, will follow the standing instructions of its customers and automatically invest excess cash balances in customers' custody, agency, or other non-discretionary accounts in shares of either Applicant's Government or Money Market Portfolios. Shares thus purchased by Security Pacific customers are registered in the customers' names and are not held of record by Security Pacific. These sweep transactions will be effected automatically by computer each business day at 12:00 noon (Pacific Time).

According to the application, the machine processing required to tabulate the day's transaction activity in Security Pacific's customer and other accounts is completed through Security Pacific's batch data processing system, which processes account transactions from Security Pacific's more than 600 branches at a time (the "completion time") after all those branches close for the day normally not later than 10 p.m. (Pacific Time) the same day. While the total amount invested in the Applicant through the sweep program each day is therefore not known until that evening, those assets are held by Security Pacific as Applicant's sub-custodian as of 12:00 Noon (Pacific Time) and are immediately available for investment. The relief requested in the application is intended to permit Security Pacific, as Applicant's adviser, to invest those funds on behalf of Applicant in repurchase transactions with nonaffiliated financial institutions with confirmation of the exact principal amount of the transaction occurring the following business day.

The application states that the investment policies governing the Government and Money Market Portfolios will permit them to enter into repurchase agreement transactions with financial institutions such as banks and broker dealers. Applicant presently intends to use a standard master repurchase agreement ("Master Agreement") for this purpose that is substantially the same as the form General Repurchase Agreement prepared by the Investment Company Institute for the mutual fund industry.

The net asset value of the Government and Money Market Portfolios will be determined and shares of each portfolio will be priced twice daily as of 12:00 Noon and 4:00 p.m. (Eastern Time). To be executed on a given day, a purchase order for shares of these portfolios must be received that day by The Bank of New York (Applicant's custodian) prior to 12:00 Noon (Eastern Time) except that purchase orders effected automatically through Security Pacific's computer system may be received by Security Pacific (as Applicant's sub-custodian) through 12:00 Noon (Pacific Time, 3:00 p.m. Eastern Time). Purchase orders received by the custodian or sub-custodian after these times will be executed the next business day. Orders for the purchase of shares of the Government and Money Market Portfolios will be executed only when Federal or other funds are immediately available to the custodian or sub-custodian for investment by Applicant.

The application states that in accordance with its customers' standing instructions, as of 12:00 Noon (Pacific Time) Security Pacific's computers will automatically sweep excess cash balances from customers' accounts for investment in shares of the Government or Money Market Portfolios. At that time, assets invested in Applicant

through the sweep program will be held by Security Pacific as Applicant's sub-custodian and will be immediately available to Applicant for investment. In order to permit Applicant to invest anticipated net assets attributed to the sweep program on the same day they are available for investment (despite the fact that the exact amount thereof will not be known until after the time for any possible investment), Applicant and Security Pacific propose the following procedure. Security Pacific would enter into a repurchase transaction under the Master Agreement on behalf of Applicant in an amount which it considers, based upon its experience in administering its computer sweep program, to be sufficient to invest any net assets of Applicants attributable to the operation of the sweep program that day. For example, the Security Pacific, as Applicant's adviser, estimated that the Government and Money Market Portfolios would each receive net $7 million during the day through automatic investment transactions (after allowing for other net sales or net redemptions of shares of these portfolios), Security Pacific would increase the amount of repurchase transactions entered into on behalf of the respective portfolios by an amount which it believed sufficient to cover its estimate (e.g., in this example, the adviser might enter into an additional $9 million in repurchase transactions for each portfolio). This transaction would consist of either a single transaction on behalf of both the Government Money Market and Money Market Portfolios of the Fund or a separate transaction on behalf of each Portfolio, as appeared to be most advantageous. If a single repurchase agreement were entered into, the collateral therefor would be limited to investments eligible (except with regard to maturity) for purchase by the Government Money Market Portfolio.

Applicant and Security Pacific would follow the same procedures with respect to these additional repurchase transactions as would be applicable to any repurchase transaction entered into on behalf of Applicant. In particular, Security Pacific would receive all of the eligible securities transferred to it in its capacity as sub-custodian for Applicant. As required by the Master Agreement, the Seller in the transaction would take whatever action necessary to perfect a security interest in favor of Applicant in those securities at the time of transfer. At the same time, Security Pacific would credit the sale price of the transferred securities to an account of the Seller in immediately available funds. Until Security Pacific's completion time that evening, Applicant would have a perfected security interest in all of the transferred securities. However, pursuant to the Master Agreement, only those specific securities described in the Seller's confirmation the next business day would be subject to the transaction.

After the completion time that evening, the records maintained by Security Pacific for its customer accounts, and in its capacities as Applicant's sub-custodian, would show:

1. For Security Pacific's customer accounts, a cash debit (credit) for the amount of Applicant shares purchased (redeemed) and a corresponding credit (debit) to the customer accounts for the number of Applicant shares purchased (redeemed) as of 12:00 noon (Pacific Time) through operation of the computer "sweep" program; and

2. For Applicant's sub-custodian account, all share purchase and redemption transactions and the net cash proceeds received (if any) by each of the portfolios through the operation of Security Pacific's computer sweep (or, conversely, the net redemption proceeds paid or payable by Applicant if there were net redemptions).

In addition, to the extent that the portfolio's additional repurchase transaction were sufficient to make the portfolio fully invested, Applicant's subcustodian account would reflect the specific amount it had in fact invested in the transaction (including its ownership of the eligible securities purchased by such investment). If the amount of the additional repurchase transaction were not sufficient to make the portfolio fully invested, Applicant's records would reflect its investment in the entire amount of the repurchase transaction and an uninvested cash position. If the computer sweep program had resulted in unanticipated net redemptions for the portfolio, net redemptions for the portfolio, Applicant's sub-custodian account would reflect this fact and show no ownership of any of the eligible securities transferred by the Seller since (contrary to advisers' expectations) none of Applicant's assets would have been used to purchase the securities. Each portfolio is permitted by Applicant's investment policies to borrow from banks for temporary purposes up to 10% of the value of its total assets. Applicant expects to meet any unanticipated net redemptions through such borrowings.

After the completion time, Security Pacific would transmit to The Bank of New York records relating to these automatic investment transactions. The Bank of New York, as the Applicant's transfer agent, would thereafter show for the Applicant's shareholder account records a credit (debit) to each of the corresponding shareholder accounts for the number of Applicant's shares automatically purchased (redeemed) as of 12:00 noon (Pacific Time) through operation of the computer sweep program. On the next business day, based upon the amount invested by Applicant through operation of the computer sweep, the Seller and Security Pacific, as Applicant's sub-custodian, would confirm by telephone the amount of the repurchase transaction that Applicant had, in fact, entered into with its own assets and the Seller would issue the required telex or wire confirmation of the specific terms of Applicant's repurchase transaction. In addition, the Seller would also issue a separate confirmation to Security Pacific for its own account confirming that those eligible securities transferred by the Seller the previous day that Applicant had not purchased with its own assets had, in fact, been purchased by Security Pacific with its funds. Except for differences attributable to the differing amounts of the repurchase transactions, the terms of the transactions and the confirmations to Applicant and to Security Pacific would be identical.

In the event that the repurchase transaction entered into the previous day was secured by issues of securities that differed as to quality, maturity or rate, each particular issue would be apportioned pro rata to the extent possible between the Fund and Security Pacific. In the event that a pro rata allocation between the Fund and Security Pacific cannot be made (i.e., where the transfer agent for the particular issue will not divide the securities appropriately), securities would be distributed in a manner judged by the investment adviser to leave each party in a comparably secured position. Applicant would continue to have a perfected security interest in those eligible securities which were confirmed to it as being subject to its repurchase transaction under the Master Agreement. To the extent that the total amount credited to the account of the Seller when it transferred eligible securities the previous day exceeded Applicant's assets that were available for investment (as shown by the results of the day's computer processing), Security Pacific would have purchased those securities with its own funds and have entered into a repurchase transaction with the Seller for its own account.

Applicant states that it and its adviser wish to adopt the proposed investment

procedure in the interests of all shareholders and in response to the demands placed on portfolio management by automatic purchase and redemption transactions. Shareholders in the Government and Money Market Portfolios will be entitled to daily dividends on their shares beginning the day their purchase order is executed and continuing through the day before their shares are redeemed. The computer sweep program provides Security Pacific's customers who desire this service the ability to invest on a daily basis any excess cash balances in their custody, agency or other non-discretionary account and to maintain a minimum cash balance. The effect of the program is, of course, to computerize Applicant's purchase and redemption procedures for these shareholders.

Applicant asserts that the proposed procedure for helping to ensure that each of Applicant's portfolios is fully invested provides only benefits and no disadvantages to shareholders. Applicant's rights *vis-a-vis* Sellers under repurchase transactions will be protected by the Master Agreement that has been developed for the industry. Pending reconciliation of the day's transaction activity, Security Pacific will segregate and hold for the exclusive benefit of Applicant all securities transferred to Security Pacific in connection with repurchase transactions entered into for Applicant. Until the amount of Applicant's assets actually invested in the transaction is determined at the end of the day, Security Pacific will assume that only Applicant's assets were used and Applicant will have a perfected security interest in those securities.

Applicant asserts that shareholders purchasing Fund shares through the computer sweep program have funds on deposit with Security Pacific (the Fund's sub-custodian) that are available for investment on behalf of the Fund. However, because such transactions are processed through Security Pacific's batch data processing system, the precise amount of funds invested in the Fund cannot be determined until after the close of business. As described above, the Fund provides for dividends on the day of investment through the day before redemption. Absent the relief applied for herein, persons making an investment in the Fund through the computer sweep program would be entitled to a dividend on the day the investment was made; however, the Fund would be unable to determine the amount of and invest the proceeds of this investment, even though actually on deposit with the Fund's sub-custodian. Each day, therefore, the pro-rata portion of the Fund's assets representing that day's investment through the automatic sweep program would be uninvested, thereby diluting each shareholder's dividend for the day. If the Fund revised its purchase and redemption requirements so that all shareholders would be required to deliver Federal funds to the Fund's custodian prior to 12 o'clock Noon (Eastern Time) (9:00 a.m. (Pacific Time)), to become a shareholder and receive dividends that day (as is now required for shareholders not investing through the automatic sweep), purchases of Fund shares arising from the automatic sweep would not be effected until the day after the customer's accounts were debited by the sweep. This would avoid the Fund's having uninvested assets. However, it would make the Fund materially less attractive to Security Pacific's customers because they would lose a day's income.

Applicant also asserts that the proposed transaction should result in minimal anticipated costs to Security Pacific, and should not create a substantial risk to Security Pacific of having its own funds univested. As described above, Security Pacific in effect commits to purchase with its funds the difference between the initial amount of repurchase transaction and the amount of the repurchase transaction and the amount of the repurchase transaction and the amount confirmed the subsequent day as having been purchased by the Fund. Security Pacific will, of course, receive the repurchase rate on the sums it so invests. During trading, Security Pacific's investment personnel should be able to invest in accordance with their usual procedure all available balances except for the maximum amount of Security Pacific's repurchase commitment. If Security Pacific then invests in the full amount of the repurchase commitment, it will earn a return on all available balances. If Security Pacific invests in less than all of the repurchase agreement because part or all is purchased by the Fund, Security Pacific will, of course, not earn interest on the fund's investment. However, because the Fund will invest in the repurchase transaction described above to invest amounts transferred to the Fund from Security Pacific's customer deposit accounts, the amount of Security Pacific's funds available for investment should be reduced by an amount equal to the portion of the repurchase transaction purchased by the Fund. Security Pacific should, therefore, not have available funds uninvested as a result of the program.

Applicant states that it will not enter into any repurchase transactions with Security Pacific, its affiliates or with any other affiliated person of Applicant. Both the documentation and policies followed in connection with the proposed transactions will be the same as those used for any repurchase transaction entered into by Applicant. In particular, Applicant has agreed that it will satisfy the conditions to the Division's "no-action" position concerning repurchase agreements under Section 12(d)(3) of the Act (see Investment Company Act Release No. 13005, February 2, 1983, and Investment Company Act Release No. 10666, April 18, 1979) for all repurchase transactions, including those described above.

Applicant asserts that the interest of Security Pacific in negotiating the maximum interest rate available on any repurchase transaction entered into for Applicant will be the same as that of Applicant. To the extent that the adviser is deemed to have any participation in the proposed investment procedure within the meaning of Section 17(d) and Rule 17d–1 thereunder, Applicant asserts that its participation is clearly not "on a basis different from or less advantageous than that of" Security Pacific.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than March 6, 1984, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date, an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84–4328 Filed 2–15–84; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. 3761; 811-3293]

SAFECO Variable Account A; Filing of Application

February 10, 1984.

Notice is herey given that SAFECO Variable Account A ("Applicant") SAFECO Plaza, Seattle, WA 98185, (811-3293), registered under the Investment Company Act of 1940 ("Act") as an open-end, nondiversified, management investment company, filed an application on December 6, 1983, for an order of the Commision, pursuant to Section 8(f) of the Act, declaring that Applicant has ceased to be an investment company. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below, and to the Act for the text of the relevant provisions thereof.

A separate account of SAFECO Life Insurance Company ("SAFECO Life"), applicant states that it was created pursuant to provisions of the insurance code of the State of Washington and that on October 21, 1981, it registered under the Act, and filed its registration statement on Form N-1, pursuant to the Securities Act of 1933. As of the date of filing of the application, that registration statement, covering an indefinite number of Single Purchase Payment Deferred Variable Annuity Contracts ("Contracts"), has never become effective, and no public offering of the Contracts ever commenced. On November 4, 1983, Applicant transferred back to SAFECO Life all of its assets, i.e., $125,000, plus interest accrued, which was initially contributed to Applicant by SAFECO Life. According to oral representations of James W. Ruddy, corporate counsel to SAFECO Corporation, Applicant has retained no assets at the time of filing of the application.

Applicant represents that it has no debts or other outstanding liabilities; it has no securityholdets; and it is not a party to any litigation or administrative proceeding. Applicant states that, within the last 18 months, it has not, for any reason, transferred any of its assets to a separate trust. Applicant further states that it is not now nor does it propose to engage in any activities other than the winding-up of its affairs.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than march 6, 1984, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date, an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84-4323 Filed 2-15-84; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 20637; SR-CBOE-80-16]

Self-Regulatory Organizations; Chicago Board Options Exchange, Inc.; Order Extending Partial Approval of Proposed Rule Change on a Summary and Temporary Basis

February 9, 1984.

I. Introduction

On June 9, 1980, the Chicago Board Options Exchange, Incorporated ("CBOE"), LaSalle at Van Buren, Chicago, IL 60605, filed with the Commission, pursuant to the Securities Exchange Act of 1934 (the "Act") and rule 19b-4 thereunder, copies of a proposed rule change to modify its operations and procedures relating to options market makers. Among other things, the proposed rule change created a single class of market makers by eliminating supplemental appointments, increased the number of options classes in which market makers were permitted to have appointments, and established a new Exchange committee responsible for evaluating the performance of and taking disciplinary action against market makers. The proposed rule change also prescribed minimum requirements concerning the extent to which a market maker's trading activity must be conducted in person.[1] The rule change was approved by the Commission on February 12, 1981,[2] but the 1981 approval order was vacated on April 5, 1982, by the United States Court of Appeals for the Seventh Circuit in *Clement* v. *Securities and Exchange Commission*, an action challenging the minimum requirement for in-person market maker transactions, and the matter was remanded to the Commission.[3]

On May 11, 1982, with extensions thereafter effective until February 10, 1984, the Commission reviewed the rule filing and summarily and temporarily approved those portions of the proposed rule change not addressed in *Clement*.[4] During this interval, the Commission awaited certain amendments to the proposal and additional information from CBOE.[5] The Commission also solicited and evaluated public comment upon the proposed rule change.[6]

Further information has been received from the CBOE concerning the impact of CBOE's previous in-person requirement prior to that requirement's elimination by *Clement* v. *Securities and Exchange Commission*.[7] The Commission expects

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[1] Notice of the proposed rule change was published in Securities Exchange Act Release No. 16919 (June 24, 1980), 45 FR 43914 (1980). Subsequently, on July 9, 1980, the CBOE filed an amendment to the proposed rule change excluding certain closing transactions from the calculations of transactions required to be executed in person by market makers and requiring the recording of additional information on market maker orders. Notice of the amendment to the proposed rule change was published in the Securities Exchange Act Release No. 17012 (July 25, 1980), 45 FR 51325 (1980).

[2] Securities Exchange Act Release No. 17535 (February 12, 1981), 46 FR 13055 (1981) ("1981 Approval Order").

[3] *Clement* v. *Securities and Exchange Commission*, 674 F.2d 641 (7th Cir. 1982).

[4] *See* Securities Exchange Act Release Nos. 18727 (May 11, 1982), 47 FR 21169 (1982); 18963 (August 16, 1982), 47 FR 37020 (1982); 19203 (November 1, 1982), 47 FR 50790 (1982); 19386 (December 30, 1982), 48 FR 915 (1983); 19641 (March 29, 1983), 48 FR 14795 (1983); and 19923 (June 28, 1983), 48 FR 31133 (1983); 20082 (August 12, 1983), 48 FR 37755 (1983); 20228 (September 23, 1983), 48 FR 44962 (1983); and 20362 (November 10, 1983), 48 FR 52529 (1983); 20475 (December 13, 1983), 48 FR 56291 (1983); and 20552 (January 12, 1984), 49 FR 2176 (1984).

[5] CBOE filed a substantive amendment to the proposed rule change on October 19, 1982. *See* Securities Exchange Act Release No. 19203 (November 1, 1982), 47 FR 50790 (1982). The Commission also received a letter from CBOE requesting approval of its proposed "in-person" rule on a pilot basis. *See* letter of May 10, 1983, from Anne Taylor, Secretary and Associate General Counsel, CBOE, to Richard Chase, Division of Market Regulation, Securities and Exchange Commission. File No. SR-CBOE-80-16.

[6] The public comments received since the beginning of November 1982 are discussed in Securities Exchange Act Release Nos. 19386 (December 30, 1982), 48 FR 915 (1983); 19641 (March 29, 1983), 48 FR 14795 (1983); and 20082 (August 12, 1983), 48 FR 37755 (1983), and are available for public inspection in File No. SR-CBOE-80-16. A further letter from CBOE, noted in the preceding footnote, is discussed in Securities Exchange Act Release No. 19923 (June 28, 1983), 48 FR 31133 (1983). Further letters are discussed below.

[7] *See* letter of Anne Taylor, Secretary and Associate General Counsel, CBOE, to Kevin Fogarty, Division of Market Regulation, Securities and Exchange Commission, September 22, 1983. The Chicago Board of Trade also submitted its interpretation of the data provided in this CBOE letter. *See* letter of January 10, 1984, from Thomas R. Donovan, President, Chicago Board of Trade, to

Continued

to act soon with respect to the proposed in-person rule. In the interim, it will be necessary for the Commission to extend for an additional 30 days its summary and temporary approval of those portions of the proposed rule change not at issue in *Clement.*[8]

Copies of the original submission, all subsequent amendments, all written statements with respect to the proposed rule change which are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room. Copies of the filing and of any subsequent amendments also will be available for inspection and copying at the principal office of the CBOE.

It is therefore ordered, that the proposed rule change referenced above, and to the extent indicated above, be, and it hereby is, approved until March 12, 1984.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84-4328 Filed 2-15-84; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-20635; File No. SR-CBOE-84-06]

Self-Regulatory Organizations; Proposed Rule Change by Chicago Board Options Exchange, Inc.; Relating to Financial Committee

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on February 6, 1984 the Chicago Board Options Exchange, Incorporated filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Test of the Proposed Rule Change

Additions are italicized there are no deletions.

Financial Planning Committee

Rule 2.13. the Financial Planning Committee shall oversee the financial activities of the Exchange. The Committee shall make recommendations to the Executive Committee and the Board of Directors, in regard to fee structures, financing, capital and operating budgets, and other financial matters as it deems appropriate. The Committee shall consist of at least seven members and the President of the Exchange. The Chairman or Vice Chairman of the Committee shall be a Director. Notwithstanding the language of Rule 2.1 respecting the duration of terms of Committee members, members of this Committee shall be appointed for three-year terms staggered so that the term of at least two members expire each year. As initially constituted pursuant to this rule, the Committee shall include at least two members appointed for one-year terms and two for two-year terms. The presence of a majority of the members of the Committee shall constitute a quorum for the transaction of business.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below and is set forth in sections (A), (B), and (C) below.

(A) Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change.

The purpose of this proposed rule change is to formally establish the Financial Planning Committee, which Committee will oversee the Exchange's financial activities and will make recommendations to the Executive Committee and to the Board of Directors. The Committee will consist of at least seven members and the Exchange's President, with the Chairman or Vice Chairman being an Exchange Director. In addition, in order to achieve continuity the Committee members will be appointed for three-year terms staggered so that the terms of at least two members expire each year. The statutory basis for the proposed rule change is section 6(b) (3) and (4) of the Securities and Exchange Act of 1934 (the Act), in that the Committee (whose members must be approved by the Board pursuant to section 8.3 of the Exchange's Constitution) will fairly represent the membership and in that the Committee will assist in insuring that reasonable dues, fees and other charges are equitably allocated among those persons and organizations using Exchange facilities.

(B) Self-Regulatory Organization's Statement on Burden on Competition.

The Exchange does not believe that this proposed rule change will impose any burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others.

Comments have neither been solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submission should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should

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George A. Fitzsimmons, Secretary. File No. SR-CBOE-80-16.

[8] CBOE has consented to this extension of partial approval.

be submitted within 21 days after the date of this publication.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Dated: February 9, 1984.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84-4322 Filed 2-15-84; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 20647; SR-MSE-83-4]

Self-Regulatory Organizations; Midwest Stock Exchange, Inc.; Order Approving Proposed Rule Change

February 10, 1984.

The Midwest Stock Exchange, Inc. ("MSE") 120 South LaSalle Street, Chicago Illinois 60603, submitted on April 8, 1983, copies of a proposed rule change pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act") and Rule 19b-4 thereunder, to amend Article IV, Rule 3 of the MSE rules to grant the Exchange Floor Procedure Committee ("Committee") the authority to act through sub-committees, if it so determines, to perform any of the Committee's duties. The Exchange has indicated in its filing that the Committee presently has varied functions, including responsibility for floor registration process and market maker assignments, floor decorum, arbitration, trading practices, disciplinary referrals, discussion and guidance regarding Exchange operational needs, and coordination with the Specialist Assignment and Evaluation Committee. Any member adversely affected by a determination of a sub-committee can appeal to the full Committee.[1]

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by the issuance of a Commission Release (Securities Exchange Act Release No. 19693, April 21, 1983) and by publication in the **Federal Register** (48 FR 19109, April 27, 1983). No comments were received with respect to the proposed rule filing.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities and, in particular, the requirements of Section 6 and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84-4324 Filed 2-15-84; 8:45 am]

BILLING CODE 8010-01-M

[1] The Exchange has stated that the amendment to Article IV, Rule 3 does not give the Floor Procedure Committee the authority to delegate to a subcommittee its powers and responsibilities in connection with either any arbitration proceedings (Article VIII, Rule 23) or any disciplinary proceedings (Article XII, Rule 3). *See* letter from Pactrick K. Conroy, Counsel, MSE, to Michael Cavalier, Division of Market Regulation, SEC, dated January 16, 1984.

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area No. 3004; Amdt. No. 3]

Georgia; Declaration of Physical Disaster Loan Area

The above numbered declaration (48 FR 55793, Amendment No. 1—48 FR 57396 and Amendment No. 2—49 FR 2040) is amended pursuant to the Secretary of Agriculture's Designation authorizing Farmers Home Administration (FmHA) to accept emergency loan applications in the following area:

State of Georgia

Authorized by FmHA		Incident and date
Number	Date	
S092	1/9/84	Severe losses to crops caused by extended drought and extreme high temperatures occurring from May 1, 1983, through October 10, 1983.

Counties

Appling, Bacon, Ben Hill, Berrien, Bleckley, Bulloch, Chatham, Colquitt, Cook, Dodge, Forsyth, Glassock, Jeff Davis, Johnson, Laurens, Manon, Sumter, Toombs, Turner, Wayne, Worth.

As a result of this designation, I have determined the above counties in the State of Georgia constitute a disaster loan area for agricultural enterprises which are ineligible for disaster assistance from the FmHA because of alien status; Corporations, partnerships and cooperatives not being primarily engaged in farming, farm owners who do not operate their farms, etc., and for Economic Injury Disaster loans for non-farm small business concerns.

The interest rates for eligible applicants under this designation are as follows:

	Percent
Agricultural enterprises with credit available elsewhere	10.5
Agricultural enterprises without credit available elsewhere	8.0
Non-farm small businesses (Economic Injury)	8.0

Loan applications for Physical Disaster Loans from eligible agricultural enterprises may be filed for a period not to exceed thirty days from the date of the letter of referral from FmHA, provided that the application for EM assistance from FmHA or the formal written request for a letter of referral by FmHA was filed within the time limits set forth in the FmHA designation. Loan applications for Economic Injury for non-farm small businesses may be filed until the close of business on July 9, 1984. The number assigned to this disaster is 3004 for Physical damage to eligible agricultural enterprises and for Economic Injury 609301. Eligible enterprises may file applications for loan for physical damage or economic injury at: U.S. Small Business Administration, Area 2 Disaster Office, 75 Spring Street SW., Suite 822, Atlanta, Georgia 30303, (800) 554-3455 and in Georgia (800) 241-5625 or other locally announced locations.

(Catalog of Federal Domestic Assistance Programs Nos. 59002 and 59008)

Dated: February 1, 1984.

Bernard Kulik,

Deputy Associate Administrator for Disaster Assistance.

[FR Doc. 84-4331 Filed 2-15-84; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area No. 3004]

Georgia; Declaration of Physical Disaster Loan Area; Correction

The above numbered declaration was erroneously published on January 17, 1984 (49 FR 2040) as Amendment No. 1. It should have been Amendment No. 2.

Ronald Allen,

Federal Register Liaison Officer.

[FR Doc. 84-4330 Filed 2-15-84; 8:45 am]

BILLING CODE 8025-01

DEPARTMENT OF STATE

[Public Notice 895]

Agency Forms Submitted for OMB Review

AGENCY: Department of State.

ACTION: In accordance with the provisions of the Paperwork Reduction Act of 1980, the Department has submitted two proposed collections of information to the Office of Management and Budget for review.

Purpose: The Bureau of Consular Affairs proposes to revise the forms used to (A) determine an aliens

eligibility under our immigration laws to apply for an immigrant visa and (B) gather biographic data on the applicant necessary to initiate security clearances required by our laws.

SUMMARY: The following summarizes the information collection proposals submitted to OMB:

(A)

1. Type of request—revision.
2. Title of information collection—Preliminary Questionnaire to Determine Immigrant Status.
3. Origin—Bureau of Consular Affairs.
4. Form Number—Optional Form 222.
5. Frequency—On occasion.
6. Respondents—Foreign nationals who wish to immigrate to the United States.
7. Estimated number of responses—100,000.
8. Estimated total number of hours needed to respond—20,000.

(B)

1. Type of request—revision.
2. Title of information collection—Biographic Data for Visa Purposes.
3. Origin—Bureau of Consular Affairs.
4. Form Number—Optional Form 179.
5. Frequency—On occasion.
6. Respondents—Foreign nationals who are applying for immigration to the United States.
7. Estimated number of responses—350,000.
8. Esitmated total number of hours needed to respond—115,500.

Section 3504(h) of Pub. L. 96–511 does not apply.

Additional Information or Comments: Copies of the proposed forms and supporting documents may be obtained from Gail J. Cook (202) 632–3602. Comments and questions should be directed to (OMB) Francine Picoult (202) 395–7231.

Dated: January 24, 1984.

Robert E. Lamb,

Assistant Secretary for Administration.

[FR Doc. 84–4283 Filed 2–15–84; 8:45 am]

BILLING CODE 4710–22–M

TENNESSEE VALLEY AUTHORITY

Paperwork Reduction Act of 1980; Forms Under Review by the Office of Management and Budget

AGENCY: Tennessee Valley Authority.

ACTION: Forms Under Review by the Office of Management and Budget.

SUMMARY: The Tennessee Valley Authority (TVA) has sent to OMB the following proposal for the collection of information under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35).

Requests for information, including copies of the forms proposed and supporting documentation, should be directed to the Agency Clearance Officer whose name, address, and telephone number appear below. Questions or comments should be directed to the Agency Clearance Officer and also to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503, Attention: Desk Officer for Tennessee Valley Authority, 395–7313.

Agency Clearance Officer: Mark R. Winter, Tennessee Valley Authority, 100 Lupton Building, Chattanooga, TN 37401; (615) 751–2524, FTS 858–2524.

Type of Request: New.

Title of Information Collection: Credit Application for Purchase of TVA Surplus Property.

Frequency of Use: On occasion.

Type of Affected Public: Individuals, farms, businesses or other for-profit, non-profit institutions, and small businesses.

Small Businesses or Organizations Affected: Yes.

Federal Budget Functional Category Code: 271.

Estimated Number of Annual Responses: 50.

Estimated Total Annual Burden Hours: 100.

Estimated Annual Cost from Appropriated Funds: $0.

Need For and Uses of Information: TVA proposes an information collection from purchasers of TVA surplus personal property that seek credit. The information will be used to determine whether or not to grant such credit.

Dated: February 6, 1984.

John W. Thompson,

Assistant General Manager, Senior Agency Official.

[FR Doc. 84–4172 Filed 2–15–84; 8:45 am]

BILLING CODE 8120–06–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

National Airspace Review; Meeting

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of meeting.

SUMMARY: Pursant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App. 1) notice is hereby given of a meeting of Task Group 2–2 of the Federal Aviation Administration (FAA) National Airspace Review Advisory Committee. The agenda for this meeting is as follows: The task group will conduct a review of current Special VFR procedures and their application. A review of pertinent handbook material and Federal Aviation Regulations relating to these operations will be undertaken by the group.

DATE: Beginning Monday, March 12, 1984, at 11 a.m., continuing daily, except Saturdays, Sundays, and holidays, not to exceed three weeks.

ADDRESS: The meeting will be held at the Federal Aviation Administration, conference room 7A/B, 800 Independence, SW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: National Airspace Review Program Management Staff, room 1005, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591, 426–3560. Attendance is open to the interested public, but limited to the space available. To insure consideration, persons desiring to make statements at the meeting should submit them in writing to the Executive Director, National Airspace Review Advisory Committee, Associate Administrator for Air Traffic, AAT–1, 800 Independence Avenue, SW., Washington, D.C. 20591, by March 5. Time permitting and subject to the approval of the chairman, these individuals may make oral presentations of their previously submitted statements.

Issued in Washington, D.C. on February 9, 1984.

John Watterson,

Acting Manager, Special Projects Staff, Office of the Associate Administrator for Air Traffic.

[FR Doc. 84–4215 Filed 2–15–84; 8:45 am]

BILLING CODE 4910–13–M

Sunshine Act Meetings

Federal Register
Vol. 49, No. 33
Thursday, February 16, 1984

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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1

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

DATE AND TIME: 9:30 AM (Eastern Time), Tuesday, February 21, 1984

PLACE: Commission Conference Room No. 200–C on the 2nd Floor of the Columbia Plaza Office Building, 2401 "E" Street, NW., Washington, D.C. 20507

STATUS: Part will be open to the public and part will be closed to the public.

MATTERS TO BE CONSIDERED:

1. Announcement of Notation Votes
2. A Report on Commission Operations (Optional)
3. Freedom of Information Act Appeal No. 84–1–FOIA–2–BA, concerning a request for an investigator's memorandum and a memorandum of Legal advice.
4. Freedom of Information Act Appeal No. 83–12–FOIA–127–DA, concerning a request for documents from a closed ADEA charge file.
5. Freedom of Information Act Appeal No. 83–10–FOIA–069–CT, concerning a request for information deleted from an Investigator's Log of Settlement Discussion.
6. Freedom of Information Act Appeal No. 83–12–FOIA–200–SL, concerning a request for information from a charge file.
7. Proposed Opinion Letter on Foreign Relocation Allowance
8. Report on Evaluation of the First Six Voluntary Assistance Symposia

Closed

1. Litigation Authorization, General Counsel Recommendations
2. Consideration of Certain Subpoenas
3. Consideration of Commissioner Charge Decisions

Note: Any matter not discussed or concluded may be carried over to a later meeting. (In addition to publishing notices on EEOC Commission Meetings in the **Federal Register**, the Commission also provides recorded announcements a full week in advance on future Commission sessions. Please telephone (202) 634–6748 at all times for information on these meetings).

CONTACT PERSON FOR MORE INFORMATION: Treva McCall, Executive Secretary to the Commission at (202) 634–6748.

This Notice Issued February 14, 1984.

Treva McCall,

Executive Secretary to the Commission.

[FR Doc. 84-4301 Filed 2-14-84; 3:41 pm]

BILLING CODE 6750-06-M

2

FEDERAL ELECTION COMMISSION

PREVIOUSLY ANNOUNCED DATE AND TIME: Thursday, February 16, 1984, 10:00 a.m.

The following item has been carried over from the meeting of February 9: Revised Draft Advisory Opinion #1984–1, Edward A. Dudek, Treasurer, Re-Elect Clement J. Zablocki to Congress Club.

The following item has been withdrawn: Proposed Directive: Circulation vote procedures.

* * * * *

DATE AND TIME: Wednesday, February 22, 1984, 10:00 a.m.

PLACE: 1325 K Street, NW., Washington, D.C.

STATUS: This meeting will be closed to the public.

ITEMS TO BE DISCUSSED: Compliance. Litigation. Audits. Personnel. Internal Procedures of the Reports and Analysis Division (Continued from the meeting of February 14).

* * * * *

DATE AND TIME: Thursday, February 23, 1984, 10:00 a.m.

PLACE: 1325 K Street, NW., Washington, D.C. (Fifth Floor)

STATUS: This meeting will be open to the public.

MATTERS TO BE CONSIDERED:

Setting of dates of future meetings correction and approval of minutes eligibility report for candidates to receive Presidential primary matching funds
Draft Advisory Opinion #1984–3, Michael Chanin on behalf of Charles C. "Cliff" Finch.
Finance Committee report.
Routine administrative matters.

PERSON TO CONTACT FOR INFORMATION: Mr. Fred Eiland, Information Officer, Telephone 202–523–4065.

Marjorie W. Emmons,

Secretary of the Commission.

[FR Doc. 84-4381 Filed 2-14-84; 3:37 pm]

BILLING CODE 6715-01-M

3

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Agency Meeting.

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 2:30 p.m. on Tuesday, February 21, 1984, the Federal Deposit Insurance Corporation's Board of Directors will meet in closed session, by vote of the Board of Directors, pursuant to sections 552b (c)(2), (c)(6), (c)(8), and (c)(9)(A)(ii) of Title 5, United States Code, to consider the following matters:

Summary Agenda: No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Recommendations with respect to the initiation, termination, or conduct of administrative enforcement proceedings (cease-and-desist proceedings, termination-of-insurance proceedings, suspension or removal proceedings, or assessment of civil money penalties) against certain insured banks or officers, directors, employees, agents or other persons participating in the conduct of the affairs thereof:

Names of persons and names and locations of banks authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(6), (c)(8), and (c)(9)(A)(ii)).

Note.—Some matters falling within this category may be placed on the discussion agenda without further public notice if it becomes likely that substantive discussion of those matters will occur at the meeting.

Discussion Agenda:

Applications for Federal deposit insurance:

Broadway Manufacturers Hanover Industrial Bank, an operating noninsured industrial bank located at 636 South Broadway, Denver, Colorado.

Denver Manufacturers Hanover Industrial Bank, an operating noninsured industrial bank located at 1640 Champa Street, Denver, Colorado.

Manufacturers Hanover Industrial Bank, an operating noninsured industrial bank located at 1895 South Federal Boulevard, Denver, Colorado.

Southglenn Manufacturers Hanover Industrial Bank, an operating noninsured industrial bank located at 2275 East Arapahoe Road, Littleton, Colorado.

Westminster Manufacturers Hanover Industrial Bank, an operating noninusred industrial bank located at 7398 North Federal Boulevard, Westminster, Colorado.

Personnel actions regarding appointments, promotions, administrative pay increases, reassignments, retirements, separations, removals, etc.:

Names of employees authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(2) and (c)(6) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(2) and (c)(6)).

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 500 17th Street, NW., Washington, D.C.

Requests for further information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 389–4425.

Dated: February 14, 1984.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 84-4396 Filed 2-14-84; 3:58 pm]

BILLING CODE 6714-01-M

4

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Agency Meeting.

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that the Federal Deposit Insurance Corporation's Board of Directors will meet in open session at 2:00 p.m. on Tuesday, February 21, 1984, to consider the following matters:

Summary Agenda: No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Disposition of minutes of previous meetings.

Application for Federal deposit insurance:

Hawaii Thrift & Loan, Incorporated, an operating noninsured industrial bank, located at 165 South King Street, Honolulu, Hawaii.

Application for consent to purchase assets and assume liabilities and establish one branch:

Farmers and Merchants Bank, Milford, Nebraska, an insured State nonmember bank, for consent to purchase certain assets of and assume the liability to pay certain deposits made in the Cordova Cooperative Credit Association, Cordova, Nebraska, and for consent to establish the sole office of Cordova Cooperative Credit Association as a branch of Farmers and Merchants Bank.

Request for reconsideration of a previous denial of an application for consent to purchase assets and assume liabilities:

Peoples National Bank, Honolulu, Hawaii, a proposed national bank, for consent to purchase the assets of and assume the liability to pay deposits made in Peoples Savings and Loan Association, Honolulu, Hawaii, a non-FDIC insured institution.

Application for consent to transfer assets in consideration of the assumption of deposit liabilities:

Horizon Bank, National Association, Morristown, New Jersey, for consent to transfer certain assets to Lakeland Savings and Loan Association, Succasunna, New Jersey, a non-FDIC insured institution, in consideration of the assumption of the liability to pay deposits made in the Fredon Office, Fredon, New Jersey, and the Tranquility Office, Green Township, New Jersey, of Horizon Bank, National Association.

Memorandum and Resolution re: Final amendments to Part 348 of the Corporation's rules and regulations, entitled "Management Official Interlocks" in order to conform that Part to a change in the Depository Institutions Management Interlocks Act which deleted all references to "Standard Metropolitan Statistical Areas" ("SMSA's") and substituted therefor the new classifications for metropolitan statistical areas adopted by the Office of Management and Budget.

Memorandum and Resolution re: Withdrawal of proposed Part 350 of the Corporation's rules and regulations, entitled "Special Reporting Basis for Insured Savings Bank," which would have required that insured savings banks modify the basis upon which Reports of Condition and Income submitted to the Corporation are prepared.

Memorandum and Resolution re: Revisions to the FDIC Statement of Policy Relating to the Development and Review of FDIC Rules and Regulations—Semiannual Agenda of Regulations.

Reports of committees and officers:

Minutes of actions approved by the standing committees of the Corporation pursuant to authority delegated by the Board of Directors.

Reports of the Division of Bank Supervision with respect to applications, requests, or actions involving administrative enforcement proceedings approved by the Director or an Associate Director of the Division of Bank Supervision and the various Regional Directors pursuant to authority delegated by the Board of Directors.

Report of the Director, Division of Accounting and Corporate Services:

Memorandum re: Investment Management Report—December 31, 1983.

Report of the Director, Office of Corporate Audits and Internal Investigations:

Audit Report re: Franklin National Bank, New York, New York.

Discussion Agenda:

No matters scheduled.

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550—17th Street, N.W., Washington, D.C.

Requests for further information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 389–4425.

Dated: February 14, 1984.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 84-4399 Filed 2-14-84; 3:48 pm]

BILLING CODE 6714-01-M

5

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Agency Meeting.

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 9:50 p.m. on Friday, February 10, 1984, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session, by telephone conference call, to (1) receive bids for the purchase of certain assets of and the assumption of the liability to pay deposits made in West Olympia Bank, Los Angeles, California, which was closed by the Superintendent of Banks for the State of California on Friday, February 10, 1984; (2) accept the bid for the transaction submitted by Wilshire State Bank, Los Angeles, California, an insured State nonmember bank; (3) approve the application of Wilshire State Bank, Los Angeles, California, for consent to purchase certain assets of and to assume the liability to pay deposits made in West Olympia Bank, Los Angeles, California, and for consent to establish the two offices of West Olympia Bank as branches of Wilshire State Bank; and (4) provide such financial assistance, pursuant to section 13(c)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1823(c)(2)), as was

necessary to effect the purchase and assumption transaction.

The Board of Directors also considered an application for assistance under section 13(c) of the Federal Deposit Insurance Act (name and location of bank authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(4), (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(4), (c)(6), (c)(8), and (c)(9)(A)(ii)).

In calling the meeting, the Board determined, on motion of Chairman William M. Isaac, seconded by Director Irvine H. Sprague (Appointive), concurred in by Mr. Doyle L. Arnold, acting in the place and stead of Director C. T. Conover (Comptroller of the Currency), that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting pursuant to subsections (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

Dated: February 13, 1984.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 84-4352 Filed 2-14-84; 11:32 am]

BILLING CODE 6714-01-M

6

FEDERAL HOME LOAN BANK BOARD

TIME AND DATE: 3:30 P.M., Wednesday, February 15, 1984.

PLACE: Board Room, 6th Floor, 1700 G St., NW., Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION: Ms. Gravelee, (202-377-6970).

MATTERS TO BE CONSIDERED: The following items are scheduled for the bank board meeting of Wednesday, February 15, 1984 at 3:30 p.m.

Minimum Net-Worth Requirements of Insured Institutions
Insurance Coverage of Accounts Held by Investment Companies;
Insurance of Joint Accounts

The following item is scheduled for the bank board meeting of Thursday, February 23, 1984 at 2:30 p.m., Board Room 6th floor 1700 G St., NW., Washington, D.C.

Conversions from Mutual to Stock Form

No. 75, February 14, 1984.

J. J. Finn,

Secretary.

[FR Doc. 84-4400 Filed 2-14-84; 3:58 pm]

BILLING CODE 6720-01-M

7

FEDERAL HOME LOAN BANK BOARD

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: Vol. No. 49, Page No. 5022. Date published—February 9, 1984.

PLACE: Board Room, 6th Floor, 1700 G St., N.W., Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION: Ms. Gravelee, (202-377-6970).

CHANGES IN THE MEETING: The Bank Board meeting previously scheduled for Tuesday, February 14, 1984, at 2:30 p.m., has been cancelled.

No. 74, February 14, 1984.

J. J. Finn,

Secretary.

[FR Doc. 84-4368 Filed 2-14-84; 12:11 pm]

BILLING CODE 6720-01-M

8

FEDERAL RESERVE SYSTEM

TIME AND DATE: 10:00 a.m., Tuesday, February 21, 1984

PLACE: 20th Street and Constitution Avenue, NW., Washington, D.C. 20551

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions assignments, reassignments and salary actions) involving individual Federal Reserve System employees.
2. Any items carried forward from a previously announced meeting.
3. Federal Reserve Bank and Branch director appointments.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204.

Dated: February 13, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-4307 Filed 2-13-84; 4:34 pm]

BILLING CODE 6212-01-M

9

LEGAL SERVICES CORPORATION

Operations and Regulations Committee Meeting.

TIME AND DATE: The meeting will commence at 1:30 P.M. and continue until all official business is completed. Friday, February 24, 1984.

PLACE: Office of Personnel Management, Auditorium, 1900 "E" Street, N.W., Washington, D.C.

STATUS OF MEETING: Open.

MATTERS TO BE CONSIDERED:

1. Approval of Agenda
2. Approval of Minutes
   —July 20, 1983
   —August 23, 1983
3. Regulations Proposed for Final Approval
   —1609—Fee-Generating Cases
   —1620—Priority Setting
4. Regulations Proposed
   —1600—Definitions
   —1612—Restrictions on Certain Activities
   —1614—Private Attorney Involvement
   —1628—Recipient Fund Balance

CONTACT PERSON FOR MORE INFORMATION: LeaAnne Bernstein, Office of the President, (202) 272-4040.

Date issued: February 13, 1984.

Donald P. Bogard,

President.

[FR Doc. 84-4379 Filed 2-14-84; 1:52 pm]

BILLING CODE 6820-35-M

10

SECURITIES AND EXCHANGE COMMISSION

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94-409, that the Securities and Exchange Commission will hold the following closed meeting on Monday, February 13, 1984, at 5:00 p.m. at 450 5th Street, N.W., Washington, D.C., to consider the following item.

Regulatory matter bearing enforcement implications.

The Commissioners, Counsel for the Commissioners and the Secretary of the Commission will attend the closed meeting. Certain staff members who are responsible for the calendared matter will be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, the item to be considered at the closed meeting will be considered pursuant to the exemptions set forth in 5 U.S.C. 552b(c)(5) and (9)(B) and 17 CFR 200.402(a)(5) and (9)(ii).

Chairman Shad and Commissioners Treadway and Cox voted to consider the item listed for the closed meeting in closed session.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted

or postponed, please contact: Bruce Kohn at (202) 272–3195.

George A. Fitzsimmons,

Secretary.

February 13, 1984.

[FR Doc. 84-4370 Filed 2-14-84; 12:44 pm]

BILLING CODE 8010-01-M

11

SECURITIES AND EXCHANGE COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENTS: (49 FR 4066 February 1, 1984).

STATUS: Closed meeting.

PLACE: 450 Fifth Street, NW., Washington, D.C.

DATE PREVIOUSLY ANNOUNCED: Friday, January 27, 1984.

CHANGE IN THE MEETING: Additional meeting.

The following items were considered at a closed meeting scheduled for Thursday, February 9, 1984, following the 2:30 p.m. open meeting.

Chapter 11 proceedings.
Formal order of investigation.
Settlement of injunctive actions.
Institution and settlement of administrative proceedings of an enforcement nature.
Litigation matter.

Chairman Shad and Commissioners Treadway and Cox determined that Commission business required the above changes and that no earlier notice thereof was possible.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: JoAnn Zuercher at (202) 272–2014.

George A. Fitzsimmons,

Secretary.

February 13, 1984.

[FR Doc. 84-4371 Filed 2-14-84; 12:44 pm]

BILLING CODE 8010-01-M

12

SECURITIES AND EXCHANGE COMMISSION

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94–409, that the Securities and Exchange Commission will hold the following meetings during the week of February 21, 1984, at 450 Fifth Street, NW., Washington, D.C.

A closed meeting will be held on Wednesday, February 22, 1984, 9:30 a.m. An open meeting will be held on Thursday, February 23, 1984, at 2:30 a.m., in Room 1C30.

The Commissioners, Counsel to the Commissioners, the Secretary of the Commission, and recording secretaries will attend the closed meeting. Certain staff members who are responsible for the calendared matters may be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, the items to be considered at the closed meeting may be considered pursuant to one or more of the exemptions set forth in 5 U.S.C. 552b(c) (4), (8), (9)(A) and (10) and 17 CFR 200.402(a) (4), (8), (9)(i) and (10).

Chairman Shad and Commissioners Treadway and Cox voted to consider the items listed for the closed meeting in closed session.

The subject matter of the closed meeting scheduled for Wednesday, February 22, 1984, 9:30 a.m., will be:

Formal orders of investigation.
Institution of injunctive action.
Regulatory matter regarding financial institution.
Opinion.

The subject matter of the open meeting scheduled for Thursday, February 23, 1984, at 9:30 a.m., will be: Consideration of whether to authorize the publication of a staff report entitled, The Financing and Regulatory Capital Needs of the Securities Industry. For further information, please contact Bill Atkinson at (202) 272–2850.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Jerry Marlatt at (202) 272–2092.

George A. Fitzsimmons,

Secretary.

February 13, 1984.

[FR Doc. 84-4372 Filed 2-14-84; 12:44 pm]

BILLING CODE 8010-01-M

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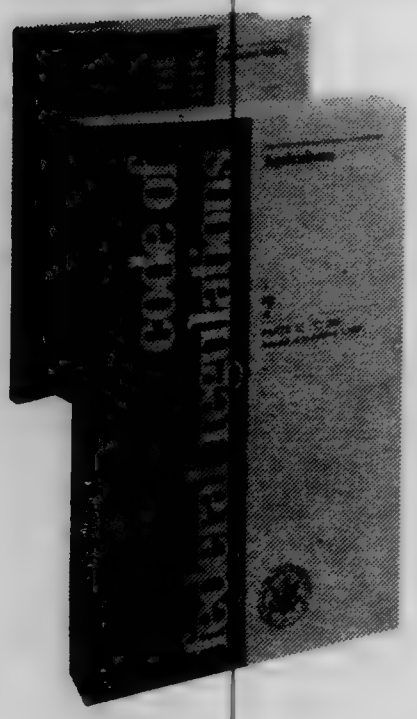

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(ISSN 0097-6326)

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Presidential Documents

Title 3—

The President

Presidential Determination No. 84–3 of December 10, 1983

Argentine Certification

Memorandum for the Honorable George P. Shultz, the Secretary of State

Pursuant to Section 725(b) of the International Security and Development Cooperation Act of 1981, I hereby determine and certify:

(1) that the Government of Argentina has made significant progress in complying with internationally recognized principles of human rights, and

(2) that the eligibility of Argentina for the provision of security assistance and the transfer of defense articles and defense services, and the provision and transfer thereof, in accordance with the Foreign Assistance Act of 1961 and the Arms Export Control Act, are in the national interests of the United States.

This determination, together with the justification therefor, shall be reported to the Congress. This determination shall be published in the **Federal Register**.

Ronald Reagan

THE WHITE HOUSE,
Washington, December 10, 1983.

[FR Doc. 84–4536
Filed 2–15–84; 3:03 pm]
Billing code 3195–01–M

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Presidential Documents

Presidential Determination No. 84–4 of January 18, 1984

International Military Education and Training for Yugoslavia

Memorandum for the Honorable George P. Shultz, the Secretary of State

By virtue of the authority vested in me by the Foreign Assistance Act of 1961, as amended (the Act):

I hereby find pursuant to section 620(f) of the Act that the furnishing of assistance to Yugoslavia under chapter 5 of part II of the Act is vital to the security of the United States, that Yugoslavia is not controlled by the international Communist conspiracy, and that such assistance will further promote the independence of Yugoslavia from international communism.

Pursuant to section 614(a)(1) of the Act—

(a) I hereby determine that the furnishing of such assistance to Yugoslavia is important to the security interests of the United States; and

(b) I hereby authorize the furnishing of such assistance to Yugoslavia without regard to section 620(f) of the Act in the amount of $130,000 in the fiscal year 1984.

This determination shall be reported to the Congress and published in the **Federal Register.**

Ronald Reagan

THE WHITE HOUSE,
Washington, January 18, 1984.

cc: The Secretary of Defense

[FR Doc. 84–4537
Filed 2–15–84; 3:04 pm]
Billing code 3195–01–M

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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 301

[Docket No. 84-303]

Mexican Fruit Fly; Expansion of Regulated Areas

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule.

SUMMARY: This document amends subpart 301.64 ("Subpart-Mexican Fruit Fly") of the domestic quarantine notices (7 CFR Part 301.64 *et seq.)* by expanding the area listed as a regulated area in Los Angeles County, California. This action is necessary as an emergency measure in order to prevent the artificial spread of the Mexican fruit fly, *Anastrepha ludens* (Loew), into noninfested areas of the United States. The effect of this amendment is to impose certain restrictions on regulated articles moving interstate from the regulated area.

DATES: Effective date of amendment February 17, 1984. Written comments concerning this final rule must be received on or before April 17, 1984.

ADDRESSES: Written comments concerning this rulemaking should be submitted to Thomas O. Gessel, Director, Regulatory Coordination Staff, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, 6505 Belcrest Road, Room 728, Federal Building, Hyattsville, MD 20782. Written comments received may be inspected at Room 728 of the Federal Building, between 8:00 a.m. and 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Gary Moorehead, Staff Officer, Field Operations Support Staff, Plant Protection and Quarantine, APHIS, USDA, Federal Building, 6505 Belcrest Road, Room 663, Hyattsville, MD 20782, (301) 436-8295.

SUPPLEMENTARY INFORMATION:

Emergency Action

Harvey L. Ford, Deputy Administrator of the Animal and Plant Health Inspection Service for Plant Protection and Quarantine, has determined that an emergency situation exists which warrants publication without prior opportunity for a public comment period on this final action because of the possibility that Mexican fruit fly could be spread artificially to noninfested areas of the United States. This situation requires immediate action to better control the spread of this pest.

Further, pursuant to the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that prior notice and other public procedure with respect to this emergency final action are impracticable and contrary to the public interest; and good cause is found for making this emergency final action effective less than 30 days after publication of this document in the **Federal Register.** Comments will be solicited for 60 days after publication of this document, and this emergency final action will be scheduled for review so that a final document discussing comments received and any amendments required can be published in the **Federal Register** as soon as possible.

Background

The Mexican fruit fly, *Anastrepha ludens* (Loew), is an extremely destructive pest of certain fruits and vegetables. The Mexican fruit fly can cause serious economic loss and it has a short life cycle that allows rapid development of serious outbreaks.

Infestations of Mexican fruit fly were found in portions of Los Angeles County, California, on October 25, 1983. Based on these findings, an emergency rulemaking document, effective upon publication, was published in the **Federal Register** on December 6, 1983 (48 FR 54577–54584). This document amended the Mexican fruit fly regulations (7 CFR 301.64 *et seq.*) by, among other things, designating a portion of Los Angeles County as a regulated area in § 301.64–3(c). On January 16, 1984, § 301.64–3 of the Mexican fruit fly regulations was further amended by expanding the portion of Los Angeles County designated as a regulated area by approximately 7 miles (see 49 FR 1871–1872). This action was taken because of findings by the Department that the infestation of Mexican fruit fly had spread beyond the perimeter of the original regulated area.

The portion of Los Angeles County designated as a regulated area by the January 16, 1984, rulemaking document remains infested at this time. However, additional Mexican fruit flies have since been found outside the regulated area in Los Angeles County. These findings were based on trapping surveys conducted by inspectors of the U.S. Department of Agriculture and state agencies of California and indicate that the Mexican fruit fly has spread beyond the outer perimeter of the regulated area in Los Angeles County. Therefore, in order to prevent further spread of the Mexican fruit fly it is necessary as an emergency measure to amend § 301.64–3 of the Mexican fruit fly regulations. This amendment expands the area in Los Angeles County, California designated as a regulated area prior to the publication of this document by approximately 12 square miles to cover a previously nonregulated portion of Los Angeles County where Mexican fruit fly has been found and now occurs.

The portion of Los Angeles County that is designated as a regulated area by this rulemaking document is described as follows (the area added by this rulemaking document is in italic):

Los Angeles County:

Beginning at the point where the Santa Monica Freeway (Interstate 10) intersects the Harbor Freeway (State Highway 110); then southerly along the Harbor Freeway to its intersection with El Segundo Boulevard; then easterly along El Segundo Boulevard to its intersection with Alpine Avenue; then northerly along Alpine Avenue to its intersection with Magnolia Avenue; then easterly along Magnolia Avenue to its intersection with Long Beach Boulevard; then northerly along Long Beach Boulevard to its intersection with Imperial Highway; then easterly along Imperial Highway to its intersection with Garfield Avenue; then northerly along Garfield Avenue to its intersection with Eastern Avenue; then northerly along Eastern Avenue to its intersection with *Atlantic Boulevard; then northeasterly along Atlantic Boulevard to its intersection with Garvey Avenue; then westerly along Garvey Avenue to its*

intersection with the northern boundary line of the city of Monterey Park; then westerly along said line to its intersection with the boundary line between the city of Los Angeles and Los Angeles County territory; then westerly along said line to its intersection with Medford Street; then westerly along Medford Street to Soto Street; then southwesterly along Soto Street to its intersection with San Bernardino Freeway (Interstate 10); then westerly along the San Bernardino Freeway to its intersection with the Golden State Freeway (Interstates 5 and 10); then southwesterly along the Golden State Freeway to its intersection with the Santa Monica Freeway; then westerly along the Santa Monica Freeway to the point of beginning.

Executive Order 12291 and Regulatory Flexibility Act

The interim rule is issued in conformance with Executive Order 12291 and Secretary's Memorandum No. 1512–1, and has been determined to be not a "major rule." Based on information compiled by the Department, it has been determined that this interim rule will not have a significant effect on the economy; will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and will not have a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. In addition, the review provisions required by sections three, four and seven of Executive Order 12291 have been waived by OMB for purposes of this interim rule.

Mr. Bert W. Hawkins, Administrator of Animal and Plant Health Inspection Service, has determined that this action will not have a significant impact on a substantial number of small entities. This amendment affects the interstate movement of regulated articles from a portion of Los Angeles County, California, previously unregulated that is about 12 square miles in size. It appears that there is very little or no commercial activity that occurs in this area because it is comprised of local private farms. The only commercial activity to be found stems from local street vendors, eight fruit stands and two local nurseries. These enterprises sell regulated articles primarily for intrastate, not interstate, movement.

List of Subjects in 7 CFR Part 301

Agricultural commodities, Mexican fruit fly, Plant diseases, Plant pests, Plants (Agriculture), Quarantine, Transportation.

PART 301—DOMESTIC QUARANTINE NOTICES

Accordingly, the description of the regulated area in Los Angels, County, California, found in paragraph (c) of § 301.64–3 is amended to read as follows:

§ 301.64–3 Regulated areas.

* * * * *

(c) The areas described below are designated as regulated areas:

California

Los Angeles County. Beginning at the point where the Santa Monica Freeway (Interstate 10) intersects the Harbor Freeway (State Highway 110); then southerly along the Harbor Freeway to its intersection with El Segundo Boulevard; then easterly along El Segundo Boulevard to its intersection with Alpine Avenue; then northerly along Alpine Avenue to its intersection with Magnolia Avenue; then easterly along Magnolia Avenue to its intersection with Long Beach Boulevard; then northerly along Long Beach Boulevard to its intersection with Imperial Highway; then easterly along Imperial Highway to its intersection with Garfield Avenue; then northerly along Garfield Avenue to its intersection with Eastern Avenue; then northerly along Eastern Avenue to its intersection with *Atlantic Boulevard; then northeasterly along Atlantic Boulevard to its intersection with Garvey Avenue; then westerly along Garvey Avenue to its intersection with the northern boundary line of the city of Monterey Park; then westerly along said line to its intersection with the boundary line between the city of Los Angeles and Los Angeles County territory; then westerly along said line to its intersection with Medford Street; then westerly along Medford Street to Soto Street; then southwesterly along Soto Street to its intersection with the San Bernardino Freeway (Interstate 10); then westerly along the San Bernadino Freeway to its intersection with the Golden State Freeway (Interstates 5 and 10); then southwesterly along the Golden State Freeway* to its intersection with the Santa Monica Freeway; then westerly along the Santa Monica Freeway to the point of beginning.

* * * * *

Authority: Secs. 8 and 9, 37 Stat. 318, as amended (7 U.S.C. 161, 162); secs. 105 and 106, 71 Stat. 32, 71 Stat. 33 (7 U.S.C. 150dd, 150ee); 37 FR 28464, 38477, as amended; 45 FR 8564, 8565.

Done at Washington, D.C., this 14th day of February, 1984.

H. L. Ford,

Deputy Administrator, Plant Protection and Quarantine, Animal and Plant Health Inspection Service.

[FR Doc. 84–4344 Filed 2–16–84; 8:45 am]

BILLING CODE 3410–34–M

Soil Conservation Service

7 CFR Parts 620, 622, and 623

Water Resources; Watershed Projects

AGENCY: Soil Conservation Service (SCS), USDA.

ACTION: Final rule.

SUMMARY: This rule prescribes the general procedures for implementation of the Watershed Protection and Flood Prevention Program under the authority of Pub. L. 83–566 and those under the authority of Pub. L. 78–534. 7 CFR Parts 620 and 623 are being removed and reserved, as the information contained in these parts is now included in 7 CFR Part 622. Incorporating the material in 7 CFR simplifies and clarifies the rule by eliminating unnecessary detail and repetitious wording. These changes will result in a more accurate and usable regulation. The need for separate rules no longer exists.

EFFECTIVE DATE: March 19, 1984.

FOR FURTHER INFORMATION CONTACT: Edgar H. Nelson, Director, Basin and Area Planning Division, Soil Conservation Service, USDA, P.O. Box 2890, Washington, D.C. 20013, (202) 447–3587.

SUPPLEMENTARY INFORMATION:

I. General

Pub. L. 83–566 and Pub. L. 78–534 authorize the Secretary of Agriculture to cooperate with State and local agencies in the planning and carryout out of works of improvement for flood prevention; for the conservation, development, utilization, and disposal of water; and for the conservation and proper utilization of land in watershed or subwatershed areas. Under Pub. L. 83–566, these areas shall not exceed 250,000 acres; there is no limitation on acres for Pub. L. 78–534. The Secretary of Agriculture has delegated authority for administration of the Act to the Chief of the Soil Conservation Service (SCS) with two exceptions: (a) The Administrator of Farmers Home Administration (FmHA) has responsibility for administering Sec. 8 of the Act and those functions with respect to repayment obligations under section 4

and (b) The Chief of the Forest Service (FS) administers the forestry aspects of the Act under such general program criteria and procedures as may be established by the Chief of SCS.

This action has been reviewed under USDA procedures established in Secretary's Memorandum 1512–1 to implement Executive Order 12291, and has been classified "nonmajor."

It will not affect the national economy by $100 million or more, nor will it cause a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions. It will not have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. Peter C. Myers, Chief, Soil Conservation Service, has determined that this action will not have a significant economic impact on a substantial number of small entities.

There will be no major increase in cost or prices for consumers, individuals, industries, Federal, State or local government agencies, or geographic regions.

The rule will govern a program of technical and financial assistance in which participation is voluntary. Thus, it will not impose an unnecessary regulatory, information or compliance burden on small businesses, organizations, or governmental jurisdictions as defined in the Regulatory Flexibility Act, Pub. L. 96–354 (5 U.S.C. 601).

II. Discussion of Comments

On April 19, 1983, SCS published a proposed rule (48 FR 16691) to revise its regulations for the watershed programs. This rule also covered the cancellation of 7 CFR Part 620 and 7 CFR Part 623 since this information is covered in 7 CFR Part 622. At that time, SCS solicited written comments from interested persons regarding the proposed revisions. The public comment period ended on June 20, 1983. Comments were received from three state environmental agencies, one regional environmental agency, four environmental advocacy organizations, and one Federal agency. A summary of the comments and SCS responses are as follows:

Comment 1: The most universal comment received from environmental organizations was concern over the loss of the environmental objective as a coequal objective in planning. The primary concern is that environmental concerns will not receive equal treatment during planning.

Response: It is not the intent of this rule to change the method of planning to exclude consideration of the environment. This regulation provides several mechanisms for the consideration of environmental concerns during the planning effort.

The Economic and Environmental Principles and Guidelines for Water and Related Land Resources Implementation Studies (P&G) issued by the Water Resources Council set the policy for planning watershed projects. SCS is committed to following the P&G along with regulations issued by the Council on Environmental Quality for complying with Pub. L. 91–190, National Environmental Policy Act (NEPA). By using both sets of guidelines, watershed plans will be developed which reasonably maximize net national economic benefits while at the same time minimize adverse environmental impacts. This is consistent with the Federal objective of water and related land resources planning which "is to contribute to national economic development consistent with protecting the Nation's environment, pursuant to national environmental statutes, applicable executive orders and other Federal planning requirements."

These guidelines also make it clear that any alternative plans (including the NED plan) developed will "include appropriate mitigation of adverse environmental effects." Using the environmental quality account and the impacts section, environmental effects will be accounted for in the analysis and the plan. Another key point is covered under the State and local concerns of the Principles and Guidelines. Alternative plans can be developed to address State and local concerns when their concerns are not fully addressed by the NED plan. In this regard, environmental concerns can be raised and thus examined in the planning effort.

Comment 2: Several comments were received which took exception to the deletion of § 622.2 (c) and (d) which addressed planning with environmental considerations and the input of other agencies.

Response: The two paragraphs of concern have been reincorporated in the rule as part of a new subpart: Subpart D—Planning.

Comment 3: Many comments were received indicating the new rule eliminates planning guidance and the new § 622.4 does not convey any substantial information. Suggestions were made to go back to the existing rule or at least be more explicit.

Response: Section § 622.4 was incorporated into the rule to cover all planning procedures which are to be followed in the watershed program. By including all references, the need for repeating information available from other sources is eliminated. The SCS intends to continue complying with all rules, regulations, and legislative mandates which affect the program. The last sentence of § 622.4 has been changed to more clearly convey this intent.

Comment 4: One commenter disagreed with the decision that this is a nonmajor action and, therefore, should have a program environmental impact statement.

Response: A major Federal action is defined as a change in the regulations which will result in an effect on the national economy of $100 million or more. Although the watershed program is funded on the average of more than $100 million, these proposed rule changes will not cause any change in the funding or any change which would have more than a $100 million impact (see the Supplementary Information at the beginning of this rule.) Therefore, under USDA procedures established in Secretary's Memorandum 1512–1 which implement Executive order 12291, this change has been classified as "nonmajor."

Comment 5: Most of the commenters were concerned over the change in the rule which states that projects must reasonably maximize "net national economic benefits" rather than just have benefits which are greater than the costs as in the former rule.

Response: The rule has been changed to indicate that net national economic benefits would be the criteria because of the changes put into effect with the approval of the *Economic and Environmental Principles and Guidelines for Water and Related Land Resources Implementation Studies (P&G).* The Principles state that "A plan recommending Federal action is to be the alternative plan with the greatest net economic benefit consistent with protecting the Nation's environment (the NED plan) is to be selected unless the Secretary of a department or head of an independent agency grants an exception . . ." The SCS has no choice but to follow the P&G. However, Pub. L. 83–566 requires that the benefits be greater than the costs and, therefore, a benefit-cost ratio will normally be developed for each water resource project plan.

Comment 6: There also were concerns over the elimination of the detail and protective language (planning procedures, environmental concerns, etc.) in the existing rule. Numerous

commenters felt that substantive parts of the existing rule should be retained.

Response: The simplification of the rule was carried out in accordance with Executive Order 12291, and Departmental and Office of Management and Budget guidelines. Detailed policy and procedural matters are reserved for departmental and agency directives and manuals. The SCS will continue to utilize the most up-to-date planning and implementation procedures that have evolved from experiences over the years in the soil and water resource arena.

Comment 7: Several sections dealing with the priority of considering measures have been eliminated. It has been suggested that the consideration of land treatment should be first, and channel work the last measure considered. This concept should be retained in the proposed rule.

Response: According to the procedures outlined in the *Economic and Environmental Principles and Guidelines for Water and Related Land Resources Implementation Studies*, all possible solutions shall be considered to determine the one which maximizes net NED benefits. This is interpreted to mean that all measures must be considered in order to formulate the National Economic Development Plan.

Comment 8: Several comments indicate that the rule seems to imply that other agencies will be left out of the planning process.

Response: As a result of the comments received, § 622.3 has been changed to clarify this point. Section 12 of Pub. L. 83–566, which requires coordination with the Fish and Wildlife Service and specifically refers to coordination with land management agencies when Federal lands are involved, is now cited in the rule.

Comment 9: The rule appears to require SCS to do all the design work for municipal and industrial (M&I) water supply structures.

Response: SCS's requirements for design of M&I water supply structures have not been changed by this proposed rule. Design work for an M&I structure will continue to be done by private consultants or the sponsor's own engineers.

Comment 10: Several reviewers suggested Subpart D—Planning and Approval be retained in the rule.

Response: As a result of this and other similar comments, Subpart D—Planning has been added to the proposed rule. The step-by-step procedures dropped from the old ruie are now replaced with an overview of the planning and review process.

Comment 11: The proposed rule states that 7 CFR 623 is being cancelled but there is nothing in the rule that indicates the differences between the watershed program (Pub. L. 83–566) and the flood prevention program (Pub. L. 78–534).

Response: Section 622.3 has been added to the rule to summarize the differences between the programs.

Comment 12: The rule does not state that the programs will be operated so as not to be discriminatory.

Response: Section 622.6 on equal opportunity has been added to the rule.

List of Subjects

7 CFR Part 620

Soil conservation, Water resources.

7 CFR Part 622

Watersheds, Flood prevention, Technical assistance, Soil conservation, Grant programs-natural resources, Loan programs-natural resources.

7 CFR Part 623

Flood assistance.

Dated: January 11, 1984.

Peter C. Myers,

Chief, Soil Conservation Service.

Accordingly, Chapter VI of Title 7 is amended by removing and reserving Parts 620 and 623 and by revising Part 622 to read as follows:

PART 620—[RESERVED]

PART 622—WATERSHED PROJECTS

Subpart A—General

Sec.

622.1 Purpose.
622.2 Scope.
622.3 Relationship to the Pub. L. 78–534 Program.
622.4 Relationship to other agencies.
622.5 Guidelines.
622.6 Equal opportunity.
622.7 Notification under Executive Order 12372.

Subpart B—Qualifications

622.10 Sponsors.
622.11 Eligible watershed projects.

Subpart C—Application Procedure

622.20 Application.
622.21 State agency approval.

Subpart D—Planning

622.30 General.
622.31 Basic planning efforts.
622.32 Reviews and approvals.

Authority: Pub. L. 83–566, 68 Stat. 666 as amended (16 U.S.C. 1001, et seq.); Pub. L. 78–534, 58 Stat. 889, 33 U.S.C. 701b–1.

Subpart A—General

§ 622.1 Purpose.

This part sets forth the general policies for planning and carrying out watershed projects under Pub. L. 83–566, 68 Stat. 666 (16 U.S.C. 1001 et seq.) and flood prevention projects under Pub. L. 78–534, 58 Stat. 889 (33 U.S.C. 701b–1).

§ 622.2 Scope.

(a) To assist sponsors in preparing and carrying out watershed plans, the Soil Conservation Service (SCS) shall conduct investigations and surveys, with the cooperation and assistance of other Federal agencies, to:

(1) Determine the extent of watershed problems and needs, and

(2) Set forth viable alternative solutions consistent with local, regional, and national objectives, including an alternative solution which makes the greatest net contribution to national economic development.

(b) Alternatives will consist of either land treatment, nonstructural or structural measures, or combinations thereof that will help accomplish one or more of the authorized project purposes.

(c) Authorized project purposes are watershed protection, conservation and proper utilization of land, flood prevention, agricultural water management including irrigation and drainage, public recreation, public fish and wildlife, municipal and industrial water supply, hydropower, water quality management, ground water supply, agricultural pollution control, and other water management.

(d) After a final plan for works of improvement is agreed upon between SCS and the sponsors and the approval processes are completed, SCS will provide technical and financial assistance to install the project, subject to the availability of funds and the budgeting and fiscal policies of the President.

§ 622.3 Relationship to the Pub. L. 78–534 Program.

(a) *General.* The purposes and objectives of the programs under Pub. L. 83–566 and Pub. L. 78–534 are the same in most cases. Planning criteria, economic justification, local sponsorship, agency participation, financial assistance, eligible measures, operation and maintenance arrangements for the Pub. L. 78–534 program are consistent with those of the Pub. L. 83–566 program. The differences with the Pub. L. 78–534 program are outlined below.

(b) *Initiation.* Flood prevention projects are individually authorized by

Federal legislation. The state conservationist and the sponsors agree on a plan of action and notify interested parties to solicit their participation. The sponsors keep the public informed and solicit their views and comments.

(c) *Subwatershed plans.* These plans are administratively approved by the state conservationist. If the plan involves purposes other than flood prevention, clearance must be obtained from the Office of Management and Budget before approval. Financial assistance available differs only in that program funds may be used for the purchase of land rights for single-purpose flood prevention structures and installing land treatment on Federal lands.

(d) *Installation.* SCS shall award and administer contracts for the installation of project measures unless the sponsors agree to perform the work. Project agreements between the sponsors and SCS are not required if the work consists of flood prevention structures built and funded by SCS.

§ 622.4 Relationship to other agencies.

SCS will coordinate responsibilities with other water and land resource development agencies on projects that may come under the jurisdictions of various authorities. This will include any land management agencies which may have land which would be affected by project measures. Coordination with the U.S. Department of the Interior's Fish and Wildlife Service will be in accordance with section 12 of Pub. L. 83–566 (as amended).

§ 622.5 Guidelines.

Guidelines for carrying out programs authorized under Pub. L. 83–566 and Pub. L. 78–534 are contained in miscellaneous instructions, manuals, and handbooks issued by the Soil Conservation Service, Regulations for Implementing NEPA (40 CFR Parts 1500–1508) issued by the Council on Environmental Quality, and in Economic and Environmental Principles and Guidelines for Water and Related Land Resources Implementation Studies issued by the Water Resources Council. Watershed projects are to be planned and carried out in a way that will conform to conditions mandated by the above and other applicable laws, Executive orders, and codified rules.

§ 622.6 Equal opportunity.

The Pub. L. 83–566 and Pub. L. 78–534 programs will be conducted in compliance with all requirements respecting nondiscrimination as contained in the Civil Rights Act of 1964, as amended, and in the regulations of the Secretary of Agriculture (7 CFR Part 15), which provide that no person in the United States shall, on the grounds of race, color, national origin, sex, age, handicap, or religion be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity conducted or assisted by the Department of Agriculture.

§ 622.7 Notification under Executive Order 12372.

This program is covered under Executive Order 12372, "Intergovernmental Review of Federal Programs" and 7 CFR Part 3015, Subpart V, "Intergovernmental Review of the Department of Agriculture Programs and Activities." State processes or directly affected State, areawide, regional and local officials and entities have 60 days for comment starting from the date of submission of the application to the State Single Point of Contact.

Subpart B—Qualifications

§ 622.10 Sponsors.

(a) Watershed projects are sponsored by one or more local organizations qualifying as sponsors. All watershed plans shall be sponsored by entities legally organized under State law or by any Indian tribe or tribal organization having the authority to carry out, operate and maintain works of improvement. Those plans that incorporate the use of nonstructural or structural measures shall be sponsored by organizations that, individually or collectively, have:

(1) The power of eminent domain,

(2) The authority to levy taxes or use other adequate funding sources, including state, regional, or local appropriations, to finance their share of the project cost and all operation and maintenance costs.

(b) To receive Federal assistance for project installation, sponsors must commit themselves to use their powers and authority to carry out and maintain the project as planned.

§ 622.11 Eligible watershed projects.

(a) To be eligible for Federal assistance, a watershed project must:

(1) Meet the definition of a watershed area as defined in SCS's National Watersheds Manual.

(2) Not exceed 250,000 acres in size.

(3) Not include any single structure that provides more than 12,500 acre-feet of floodwater detention capacity nor more than 25,000 acre-feet of total capacity.

(4) Have significant land or water management problems that can be solved or alleviated by measures for watersheld protection, flood prevention, drainage, irrigation, recreation, fish and wildlife, municipal or industrial water supply, or other water management.

(5) Produce substantial benefits to the general public, to communities, and to groups of landowners.

(6) Cannot be installed by individual or collective landowners under alternative cost-sharing assistance.

(7) Have strong local citizen and sponsor support through agreement to obtain land rights, contribute the local cost of construction, and carry out operation and maintenance.

(b) Works and improvement that may be included in a watershed project are those that:

(1) Contribute to reducing floodwater, erosion, and sediment damages.

(2) Further the conservation, development, utilization, and disposal of water and the conservation and proper utilization of land.

(3) Have the greatest net national economic benefits consistent with protecting the Nation's environment (for structural water resource projects) relative to alternative works, unless an exception is granted by the Secretary.

Subpart C—Application Procedure

§ 622.20 Application.

Sponsors shall follow State developed procedures (based on Executive Order 12372) for coordination of proposed Federal financial assistance and also USDA's 7 CFR Part 3015 in applying for Pub. L. 83–566 assistance. Standard forms for Federal assistance or other approved forms may be obtained from SCS State, area, or field offices. These forms should be submitted to the Single Point of Contact in accordance with the State developed procedures.

§ 622.21 State agency approval.

The governor or designated State agency will approve or disapprove the application. If disapproved, no further action is required of SCS. If approved or not disapproved within 45 days, the application shall be sent to the SCS state conservationist. After the state conservationist has determined that the application is legally valid, he will notify the sponsor of receipt of the application. If found not legally valid, the state conservationist will return it to the originator with an opinion.

Subpart D—Planning

§ 622.30 General.

(a) Watershed projects are to be planned and carried out in a way that will (1) minimize all adverse impacts, and (2) mitigate unavoidable losses to the maximum practicable degree. Projects must comply with the requirements of the National Environmental Policy Act of 1969 (Pub. L. 91–190, 83 Stat. 852) (42 U.S.C. 4321 et seq.).

(b) Fish and Wildlife enhancement measures proposed by Federal or State fish and wildlife agencies will be included if they are technically and economically feasible and are acceptable to the sponsors and the SCS. If additional sponsors are needed to carry out the recommended fish and wildlife measures, SCS will assist fish and wildlife agencies in attempting to obtain such sponsors.

(c) All planning efforts by SCS and the sponsors must include well publicized public meetings to obtain public input and views on the project.

§ 622.31 Basic planning efforts.

Upon receipt of an application, the SCS will make any necessary field studies and develop a report to justify the need for planning effort. Once planning is authorized by the Chief of SCS, a watershed plan-environmental impact statement (plan-EIS) or a watershed plan-environmental assessment (plan-EA) will be prepared by SCS to request funding. This effort must be coordinated with other State and Federal agencies.

§ 622.32 Reviews and approvals.

(a) The watershed plan-environmental impact statement (or assessment) will be subject to internal technical reviews, sponsor and other local party review, interagency review by other Federal, state, and concerned groups, and a final review as stated in SCS's National Watersheds Manual.

(b) After thorough review by SCS and other agencies, the SCS and the sponsors shall accept the plan-EIS or plan-EA by signing the watershed agreement. The watershed plan must be approved by the Committees of Congress or the Chief of SCS. Funding for installation can then be granted by the Chief of SCS.

PART 623—[RESERVED]

[FR Doc. 84–1985 Filed 2–16–84; 8:45 am]

BILLING CODE 3410–16–M

Agricultural Marketing Service

7 CFR Part 910

[Lemon Reg. 451]

Lemons Grown in California and Arizona; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of fresh California-Arizona lemons that may be shipped to market at 250,000 cartons during the period February 19–25, 1984. Such action is needed to provide for orderly marketing of fresh lemons for the period due to the marketing situation confronting the lemon industry.

EFFECTIVE DATE: February 19, 1984.

FOR FURTHER INFORMATION CONTACT: William J. Doyle, Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone 202–447–5975.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under Secretary's Memorandum 1512–1 and Executive Order 12291, and has been designated a "non-major" rule. William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this action will not have a significant economic impact on a substantial number of small entities.

This final rule is issued under Marketing Order No. 910, as amended (7 CFR Part 910) regulating the handling of lemons grown in California and Arizona. The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The action is based upon recommendations and information submitted by the Lemon Administrative Committee and upon other available information. It is hereby found that this action will tend to effectuate the declared policy of the Act.

This action is consistent with the marketing policy currently in effect. The committee met publicly on February 14, 1984, at Ventura, California, to consider the current and prospective conditions of supply and demand and recommended a quantity of lemons deemed advisable to be handled during the specified week. The committee reports the demand for lemons is fair.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation is based and the effective date necessary to effectuate the declared purposes of the Act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting. It is necessary to effectuate the declared purposes of the Act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

List of Subjects in 7 CFR Part 910

Marketing agreements and orders, California, Arizona, Lemons.

PART 910—[AMENDED]

Section 910.751 is added as follows:

§ 910.751 Lemon Regulation 451.

The quantity of lemons grown in California and Arizona which may be handled during the period February 19, 1984, through February 25, 1984, is established at 250,000 cartons.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: February 15, 1984.

Russell L. Hawes,

Acting Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 84–4554 Filed 2–16–84; 8:45 am]

BILLING CODE 3410–02–M

Packers and Stockyards Administration

9 CFR Parts 201 and 203

Regulations and Policy Statements

AGENCY: Packers and Stockyards Administration, Agriculture.

ACTION: Final rule.

SUMMARY: This document removes two recordkeeping and accounting regulations and revises and consolidates four additional accounting regulations. It also consolidates the two regulations and one policy statement authorizing the disposal of records into a single policy statement. Eight trade practice regulations are revised and consolidated into a single, simplified regulation by this document. Three other trade practice regulations involving employment restrictions, solicitation of consignments, and gratuities are removed and two others, concerning settlement on actual weights and market agencies providing clearing services, are revised. Two trade practice regulations relating to false reports of market conditions and prices are similarly

consolidated and revised. The changes made in the regulations and policy statements by this notice will remove several restrictions on the business activities of market agencies and greatly simplify and clarify the trade practice regulations.

EFFECTIVE DATE: March 19, 1984.

FOR FURTHER INFORMATION CONTACT: Harold W. Davis, Director, Livestock Marketing Division (202) 447–6951 or Kenneth Stricklin, Director, Packer and Poultry Division (202) 447–7363.

SUPPLEMENTARY INFORMATION: The regulations and policy statements revised herein were first published in the **Federal Register** (47 FR 42114) and proposed for review by the Packers and Stockyards Administration on September 24, 1982. On November 24, 1982, the period for filing comments on this proposal was extended to December 13, 1982 (47 FR 53027).

A total of 11 comments were filed in response to the notice: One additional comment was filed after the December deadline. The comments generally supported the proposals, although some objections to the proposed changes were raised and modifications suggested. All comments of record were carefully considered by the Administration and several modifications were made, based upon the comments, as set forth below.

Accounting and Records

Prompt Payment and Accounting: Only two of the comments filed specifically addressed the proposed changes to and the consolidation of sections 201.43 and 201.111 concerning accounting and payment for livestock and poultry. Both comments supported the proposed changes. One comment, from a major trade group representing livestock marketing businesses, suggested section 201.43 be modified further to eliminate the requirement that authorizations to draw drafts in payment for livestock be in writing. This suggestion is contrary to the language and intent of section 409 of the Packers and Stockyards Act (P&S Act). Both the Senate and House Committee Reports on the 1976 amendments to the P&S Act state that a draft does not satisfy the prompt payment requirements of the new section 409(a). Section 409(b) provides, however, that prompt payment may be waived by express written agreement by the parties. The written draft authorization serves as such a waiver. Accordingly, § 201.43 of the regulations will be modified as proposed and § 201.111 will be removed.

No specific comments were received concerning the proposal to retain § 201.44 in its current form. For the reasons set forth in the proposal, this regulation, which requires prompt accounting by market agencies for purchases on order, will be retained without change.

Inspection of records by Principals. Section 201.45 of the regulations requiring market agencies to make certain records available for inspection by their principals will be retained for the reasons set out in the proposal. There were no specific comments relating to this section.

Daily Records. The proposal to remove § 201.46 of the regulations requiring a specific daily record of livestock received and shipped or bought and sold was specifically addressed by one comment which supported the proposed removal. Removal of this section will afford greater flexibility to the industry in meeting the recordkeeping requirements of the P&S Act. Accordingly, § 201.46 will be removed.

Scale tickets. Five of the comments filed addressed the proposed changes in §§ 201.49 and 201.107 of the regulations and their consolidation as § 201.49. Three of the comments endorsed the requirement that hot carcass weights be recorded on a permanent record when livestock is purchased on a carcass weight basis. One comment from a meat packer trade group questioned the use of the term "permanent" record. The Agency did not intend to require that such a record be retained indefinitely, but rather that hot carcass weights be accurately recorded and such records retained as a part of the packer's business records in accordance with the Administration's policy statement concerning record disposal. The language in the proposed regulation has been modified to clarify this point.

Two trade groups filed comments objecting to the proposed requirement that scale tickets be used in numerical sequence. Their primary concerns are: (1) That a particular customer's tickets would not be in sequence because all the trucks from a customer may not arrive at the same time; (2) that the scales may be used to weigh other commodities; and (3) the handling of scale tickets for multi-plant operations. The proposed changes to the regulations do not require that all the weight transactions with a particular customer be performed, recorded, or maintained together. Rather, it is intended that scale tickets be used in sequence so the order of weighing and approximate time of weighing can be determined or reconstructed. The weighing firm or agency would continue to exercise its own discretion in determining whether such serially numbered scale tickets would be used for other commodities or weighing services. The handling of serially numbered scale tickets for multi-plant operations is entirely within the discretion of the firm doing the weighing. The Administration does not believe that the proposed regulation would be costly or burdensome. In fact, most persons subject to the P&S Act are currently employing this procedure.

A trade group representing livestock marketing businesses filed a comment opposing the requirement that scale tickets include the name, initials, or number of the person who weighed the livestock. The association contended that a market agency is liable for the acts of its employees and therefore the requirement has little utility. However, weighmasters at stockyards are subject to the Act and can be charged with violations thereof, and any weighmaster creating a false record may be subject to criminal prosecution. Further identification of the weighmaster is necessary to facilitate investigations involving false or inaccurate weights. Therefore, this requirement will be continued in the regulation.

For the reasons set forth above, the proposed § 201.49 will be adopted with the modification noted above regarding the recording of hot carcass weights and the retention of such weight records. Section 201.107 will be removed.

Disposal of Records. Two comments were received concerning the proposed consolidation of the two existing regulations and one policy statement dealing with records disposal. One comment supported the proposal. The other objected to the incorporation of the policy statement dealing with the disposal of packer records into § 201.50 of the regulations and suggested a consolidated policy statement in lieu of the proposed regulation.

The Administration has reconsidered this proposal and determined that a policy statement which provides guidance as to the periods of time after which records may be disposed of is sufficient to effect the purpose and intent of section 401 of the P&S Act. Section 401 requires records to be kept which fully and correctly disclose all transactions involved in a person's business subject to the Act, but does not provide for the eventual disposal of such records. Policy statement § 203.4 sets forth time periods after which records may be destroyed.

For the reasons set forth above and in the proposal, the two regulations and one policy statement concerning records disposal will be consolidated into a single policy statement. Sections 201.50 and 201.101 of the regulations will be

removed. Section 203.4 of the policy statements will be revised.

Withholding of Information by Market Agency. It was proposed to remove § 201.52 of the regulations which prohibits market agencies from furnishing livestock sales information to unauthorized parties. No comments were received in opposition to this proposal. For the reasons set forth in the proposal, § 201.52 of the regulations will be removed.

Trade Practices

Responsibilities of Market Agencies Selling on Commission—Purchases from Consignment. The Administration proposed to consolidate eight trade practice regulations dealing with market agency responsibilities to consignors. In addition to numerous comments which expressed broad support for all the proposals in this group, five comments were filed which specifically addressed this proposal.

Two national livestock producer organizations expressed support for the proposal. One of these, however, stated, "Caution is urged so that the regulations are not modified to a point where consignors do not receive the true market value for their livestock". The Administration will continue to enforce the P&S Act to ensure fair competition and fair trade practices in livestock marketing.

One comment supported parts of the proposal, but contended that a market agency should be permitted to speculate on livestock purchased out of consignment. Another opposed the entire regulation as proposed and argued that speculative purchases should be permitted. It also suggested the terms "speculative resale" and "market support" should be defined. The comments from a major trade group representing livestock marketing businesses contended that failure to define "speculative resale" discourages legitimate market support.

In the context of this proposal, purchases for speculative resale are purchases made for the buyer's own account with the intent or expectation of making a profit by a gain in price on the prompt resale, whether or not a profit is actually realized. Market support purchases, on the other hand, are purchases made from consignments by the market agency to which the livestock is consigned with the intent and solely for the purpose of protecting the legitimate interest of the consignor when the market agency believes that the highest available bid does not reflect the true market value of the livestock. Determinations as to whether transactions are market support or speculative purchases require analysis of the facts surrounding the transactions at issue.

When a market agency accepts livestock for sale on consignment, it has a fiduciary responsibility and must assure that the consignor receives the highest available bid for the livestock. Conflicts of interest must be avoided to meet this responsibility.

Purchases from consignments for speculative resale create an inherent conflict of interest which cannot be reconciled with the market agency's fiduciary responsibilities. Therefore, the Administration has determined that the prohibition against speculating in consigned livestock should be retained as proposed.

One comment contended the requirement that disclosure be made both at the time of sale and on the account of sale, as set forth in paragraph (e) of proposed § 201.56 would increase the existing disclosure requirements. It should be noted that the proposal merely continues existing requirements. The Administration believes such disclosure requirements are essential to the protection of livestock sellers.

Clarifying changes have been made in the language of paragraph (d) of § 201.56. That section prohibits key employees of market agencies selling at auction from purchasing, for their own account, consigned livestock for speculative resale or to fill orders. The regulation does not, however, prohibit such key employees from executing bids and purchasing consigned livestock on behalf of the market agency to fill orders received by the market agency.

Accordingly, § 201.56 of the regulations will be revised as proposed. Sections 201.47, 201.57, 201.58, 201.59, 201.60, 201.62, and 201.66(b) will be removed.

Market Conditions and Prices—False Reports. It was proposed to consolidate §§ 201.53 and 201.102 of the existing regulations as § 201.53 and extend coverage of the regulation to meat prices. These sections proscribe making or circulating false or misleading reports about market conditions and prices. None of the comments filed specifically addressed this proposal. Section 201.53 will be revised and § 201.102 will be removed for the reasons set forth in the proposal.

Gratuities. Only one comment was filed concerning the proposal to remove § 201.54 of the regulations dealing with gratuities to truckers, and it supported the removal. For the reasons stated in the proposal, § 201.54 will be removed.

Actual Weights. Two comments were received concerning the proposal to revise § 201.55 dealing with accurate weights. The proposed changes clarify the language in the existing regulation. Both comments support the intent of this regulation. However, one suggested the language be modified to recognize that adjustments to the actual weights do occur in some transactions with the complete understanding of the parties. However, the proposed regulation explicitly recognizes that weight adjustments may be made by agreement. Where such adjustments are made, the proposed regulation requires full and accurate accounting for such adjustments. Therefore, § 201.55 of the regulations will be revised as proposed.

Clearing Services. No comments were filed concerning the proposal to revise § 201.61 dealing with clearing and financing services. That proposal removed some of the restrictions imposed by the existing regulation on market agencies. Section 201.61 of the regulations will be revised in accordance with the proposal for the reasons stated therein.

Consignments Not to be Solicited or Intercepted. One comment supported the proposed removal of § 201.63, which prohibits dealers from soliciting or intercepting consignments to a stockyard. None of the other comments addressed this section. For the reasons stated in the proposal, § 201.63 of the regulations will be removed.

Price Guarantees Not to be Given. No comments were received concerning the proposed retention of § 201.64 of the regulations pertaining to market agencies guaranteeing prices. Section 201.64 will be retained for the reasons stated in the proposal.

Employment of Salesmen on Split Commission. Only one comment addressed the proposal to remove § 201.65, which prohibits the employment of salesmen by market agencies on the basis of a split of the commissions. Removal of this section was supported by the comment. Section 201.65 of the regulations will be removed.

Paying the Expenses of Buyers. None of the comments specifically addressed the proposed retention of § 203.5 of the Statements of General Policy, which sets forth the Agency's policy with respect to market agencies selling on commission paying the expenses of buyers attending their sales. Policy Statement § 203.5 will be retained for the reasons stated in the proposal.

Executive Order

It has been determined that the regulations and policy statements relating to the accounting and recordkeeping and trade practices of

stockyards, market agencies, dealers, meat packers, and live poultry dealers or handlers, as revised herein, are not "major" rules as defined by section 1(b) of E.O. 12291.

The rules will not have an annual effect on the economy of $100 million or more, will not result in major increases in costs or prices for consumers, individual industries, Government agencies, or geographic regions, and will not have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of U.S. based enterprises to compete with foreign based enterprises in domestic or export markets. Accordingly, regulatory impact analyses are not required.

Regulatory Flexibility Act

B. H. (Bill) Jones, Administrator, Packers and Stockyards Administration, has determined that these regulations and policy statements will not have a significant economic impact on a substantial number of small entities.

The changes made in the regulations and policy statements by this notice will remove several restrictions on the business activities of market agencies and greatly simplify and clarify the trade practice regulations.

These regulations simply proscribe certain unfair and deceptive practices which are unlawful under the Packers and Stockyards Act. Consolidation of the records disposal regulations and policy statement into a single policy statement does not impose any new recordkeeping requirements and, in fact, reduces the retention period for some packer records.

Paperwork Reduction Act of 1980

In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*) the reporting and recordkeeping provisions that are included in these rules have been approved by the Office of Management and Budget (OMB) and have been assigned clearance number 0590–0001.

List of Subjects in 9 CFR Parts 201 and 203

Reporting and recordkeeping requirements, Stockyards, Trade practices.

(7 U.S.C. 228, 7 U.S.C. 222, and 15 U.S.C. 46)

Done at Washington, D.C. this 10th day of Feb. 1984.

B. H. (Bill) Jones,

Administrator, Packers and Stockyards Administration.

Parts 201 and 203, Chapter II, Title 9 of the Code of Federal Regulations are amended as follows:

PART 201—[AMENDED]

§§ 201.46, 201.47, 201.50, 201.52, 201.54, 201.57, 201.58, 201.59, 201.60, 201.62, 201.63, 201.65, 201.101, 201.102, 201.107 and 201.111 [Removed]

§ 201.66 [Amended]

1. Sections 201.46, 201.47, 201.50, 201.52, 201.54, 201.57, 201.58, 201.59, 201.60, 201.62, 201.63, 201.65, 201.66(b), 201.101, 201.102, 201.107 and 201.111 of the regulations are removed.

2. Section 201.43 of the regulations is revised to read as follows:

§ 201.43 Payment and accounting for livestock and live poultry.

(a) *Market agencies to make prompt accounting and transmittal of net proceeds.* Each market agency shall, before the close of the next business day following the sale of any livestock consigned to it for sale, transmit or deliver to the consignor or shipper of the livestock, or the duly authorized agent, in the absence of any knowledge that any other person, or persons, has any interest in the livestock, the net proceeds received from the sale and a true written account of such sale, showing the number, weight, and price of each kind of animal sold, the date of sale, the commission, yardage, and other lawful charges, and such other facts as may be necessary to complete the account and show fully the true nature of the transaction.

(b) *Prompt payment for livestock—terms and conditions.* (1) No packer, market agency, or dealer shall purchase livestock for which payment is made by a draft which is not a check, unless the seller expressly agrees in writing before the transaction that payment may be made by such a draft. (In cases of packers whose average annual purchases exceed $500,000, and market agencies and dealers acting as agents for such packers, see also § 201.200).

(2)(i) No packer, market agency, or dealer purchasing livestock for cash and not on credit, whether for slaughter or not for slaughter, shall mail a check in payment for the livestock unless the check is placed in an envelope with proper first class postage prepaid and properly addressed to the seller or such person as he may direct, in a post office, letter box, or other receptacle regularly used for the deposit of mail for delivery, from which such envelope is scheduled to be collected (A) before the close of the next business day following the purchase of livestock and transfer of possession thereof, or (B) in the case of a purchase on a "carcass" or "grade and yield" basis, before the close of the first business day following determination of the purchase price.

(ii) No packer, market agency, or dealer purchasing livestock for slaughter, shall mail a check in payment for the livestock unless (A) the check is made available for actual delivery and the seller or his duly authorized representative is not present to receive payment, at the point of transfer of possession of such livestock, on or before the close of the next business day following the purchase of the livestock and transfer of possession thereof, or, in the case of a purchase on a "carcass" or "grade and yield" basis, on or before the close of the first business day following determination of the purchase price; or unless (B) the seller expressly agrees in writing before the transaction that payment may be made by such mailing of a check.

(3) Any agreement referred to in paragraphs (b) (1) or (2) of this section shall be disclosed in the records of any market agency or dealer selling such livestock, and in the records of the packer, market agency, or dealer purchasing such livestock, and retained by such person for such time as is required by any law, or by written notice served on such person by the Administrator, but not less than two calendar years from the date of expiration thereof.

(4) No packer, market agency, or dealer shall, as a condition to its purchase of livestock, impose, demand, compel or dictate the terms or manner of payment, or attempt to obtain a payment agreement from a seller through any threat of retaliation or other form of intimidation.

(c) *Purchaser to promptly reimburse agents.* Each packer, market agency, or dealer who utilizes or employs an agent to purchase livestock for him, shall, in transactions where such agent uses his own funds to pay for livestock on order, transmit or deliver to such agent the full amount of the purchase price before the close of the next business day following receipt of notification of the payment of such purchase price, unless otherwise expressly agreed between the parties before the purchase of the livestock. Any such agreement shall be disclosed in the records of the principal and in the records of any market agency or dealer acting as such agent.

(d) *Purchasers to pay promptly for live poultry purchases.* Each packer or live poultry dealer or handler shall, before the close of the fifth business day following slaughter of any poultry purchased, transmit or deliver to the seller of such poultry or his duly authorized agent the full amount of the purchase price thereof, unless otherwise expressly agreed between the parties

before the purchase of the poultry. Any such agreement shall be disclosed in such purchaser's records and on all accountings or other documents issued by such purchaser relating to the transaction.

(Approved by the Office of Management and Budget under control number 0590–0001)

3. Section 201.49 of the regulations is revised to read as follows:

§ 201.49 Requirements regarding scale tickets evidencing weighing of livestock and live poultry.

(a) *Livestock.* When livestock is weighed for the purpose of purchase or sale, a scale ticket shall be issued which shall show: (1) The name and location of the agency performing the weighing service; (2) the date of the weighing; (3) the name of the buyer and seller or consignor, or a designation by which they may be readily identified; (4) the number of head; (5) kind; (6) actual weight of each draft of livestock; and (7) the name, initials, or number of the person who weighed the livestock, or if required by State law, the signature of the weigher. Scale tickets issued under this section shall be serially numbered and used in numerical sequence. Sufficient copies shall be executed to provide a copy to all parties to the transaction. In instances where the weight values are automatically recorded directly on the account of purchase, account of sale or other basic record, this record may serve in lieu of a scale ticket. When livestock is purchased on a carcass weight or carcass grade and weight basis, the hot carcass weights shall be accurately recorded, either manually or automatically, and retained as part of the person or firm's business records to substantiate settlement on each transmission.

(b) *Live poultry.* When live poultry is weighed for the purpose of purchase, sale, acquisition, or settlement by a packer or live poultry dealer or handler, a scale shall be issued which shall show: (1) The name of the agency performing the weighing service; (2) the name of the packer or live poultry dealer or handler; (3) the name and address of the grower, purchaser, or seller; (4) the name or initials of the person who weighed the poultry; (5) the location of the scale; (6) the gross weight, tare weight, and net weight; (7) the date and time gross weight and tare weight are determined; (8) the number of poultry weighed; (9) the weather conditions; (10) whether the driver was on or off the truck at the time of weighing; and (11) the license number of the truck or the truck number; PROVIDED, That when live poultry is weighed on a scale other than a vehicle scale, the scale ticket need not show the information specified in (9), (10), and (11) of this paragraph. Scale tickets issued under this paragraph shall be at least in duplicate form and shall be serially numbered and used in numerical sequence. One copy shall be furnished to the grower, purchaser, or seller, and one copy shall be furnished to or retained by the packer or live poultry dealer or handler.

(Approved by the Office of Management and Budget under control number 0590–0001)

4. Section 201.53 of the regulations is revised to read as follows:

§ 201.53 Persons subject to the Act not to circulate misleading reports about market conditions or prices.

No packer, live poultry dealer or handler, stockyard owner, market agency, or dealer shall knowingly make, issue, or circulate any false or misleading reports, records, or representation concerning the market conditions or prices of livestock, meat, live poultry, or dressed poultry.

5. Section 201.55 of the regulations is revised to read as follows:

§ 201.55 Purchases and sales to be made on actual weights.

When livestock is bought or sold on a weight basis, settlement therefore shall be on the basis of the actual weight shown on the scale ticket. If the actual weight used is not obtained on the date and at the place of transfer of possession, this information shall be disclosed with the date and location of the weighing on the accountings, bills, or statements issued. Any adjustment to the actual weights shall be fully and accurately explained on the accountings, bills, or statements issued and records shall be maintained to support such adjustment.

(Approved by the Office of Management and Budget under control number 0590–0001)

6. Section 201.56 of the regulations is revised to read as follows:

§ 201.56 Market agencies selling on commission; purchases from consignment.

(a) *Livestock to be sold openly at highest available bid.* Every market agency engaged in the business of selling livestock on a commission or agency basis shall sell the livestock consigned to it openly, at the highest available bid, and in such a manner as to best promote the interest of each consignor.

(b) *Purchases from consignment to fill orders.* No market agency engaged in the business of selling and buying livestock on a commission basis shall use livestock consigned to it for sale to fill orders on an agency basis, nor shall it permit its owners, officers, agents, employees, or any firm in which such market agency or its owners, officers, agents, or employees have an ownership or financial interest to use livestock consigned to such market agency to fill orders on an agency basis, without first offering the livestock for sale in an open and competitive manner to other available buyers, and then only at a price higher than the highest available bid on such livestock.

(c) *Market agencies not to speculate on pruchases from consignments.* No market agency engaged in selling livestock on a commission basis shall purchase livestock from consignments to such market agency for speculative resale, and no such market agency shall permit its owners, officers, agents, employees, or any firm in which such market agency or its owners, officers, agents, or employees have an ownership or financial interest to purchase livestock from consignments to such market agency for speculative resale; PROVIDED, That this paragraph shall not be construed to prohibit a market agency form purchasing livestock for its own account to support the market when necessary to protect the legitimate interests of its consignors.

(d) *Key employees at auction sales not to purchase livestock out of consignments to fill orders or for speculation.* No market agency engaged in selling livestock at auction shall permit its auctioneers, weighmasters, ringmen, or other employees performing duties of comparable responsibility in connection with the actual conduct of the auction sales, to purchase livestock out of consignment for their own account, directly, or indirectly, for speculative resale or to fill orders on an agency basis.

(e) *Purchases from consignment; disclosure required.* When a market agency purchases livestock consigned to it for sale to fill orders or to support the market, or sells consigned livestock to any owner, officer, agent, employee, or any person in whose business such market agency, owner, officer, agent, or employee has an ownership or financial interest, the market agency shall disclose the name of the buyer and the nature of the relationship existing between the market agency and the buyer. Such disclosure shall be made at the time of sale and on the account of sale.

(Approved by the Office of Management and Budget under control number 0590–0001)

7. Section 201.61 of the regulations is revised to read as follows:

§ 201.61 Market agencies selling or purchasing livestock on commission; relationships with dealers.

(a) *Market agencies selling on commission.* No market agency selling consigned livestock shall enter into any agreement, relationship or association with dealers or other buyers which has a tendency to lessen the loyalty of the market agency to its consignors or impair the quality of the market agency's selling services. No market agency selling livestock on commission shall provide clearing services for any independent dealer who purchases livestock from consignments to such market agency.

(b) *Market agencies buying on commission.* No market agency purchasing livestock on commission shall enter into any agreement, relationship, or association with dealers or others which will impair the quality of the buying services furnished to its principals. No market agency purchasing livestock on commission shall, in filling orders, purchase livestock from a dealer whose operations it clears or finances without disclosing the relationship between the market agency and dealer to its principals on the accountings furnished to the principals.

(Approved by the Office of Management and Budget under control number 0590-0001)

PART 203—[AMENDED]

8. Section 203.4 of the Statements of General Policy is revised to read as follows:

§ 203.4 Statement with respect to the disposition of records by packers, live poultry dealers or handlers, stockyard owners, market agencies and dealers.

(a) *Records to be kept.* Section 401 of the Packers and Stockyards Act (7 U.S.C. 221) provides, in part, that every packer, live poultry dealer or handler, stockyard owner, market agency, and dealer shall keep such accounts, records, and memoranda as fully and correctly disclose all transactions involved in his business, including the true ownership of such business by stockholding or otherwise. In order to properly administer the P&S Act, it is necessary that records be retained for such periods of time as may be required to permit the Packers and Stockyards Administration a reasonable opportunity to examine such records. Section 401 of the Act does not, however, provide for the destruction or disposal of records. Therefore, the Packers and Stockyards Administration has formulated this policy statement to provide guidance as to the periods of time after which records may be disposed of or destroyed.

(b) *Records may be disposed of after two years except as otherwise provided.* Except as provided in paragraph (c) of this section, each packer, live poultry dealer or handler, stockyard owner, market agency, and dealer may destroy or dispose of accounts, records, and memoranda which contain, explain, or modify transactions in its business subject to the Act after such accounts, records, and memoranda have been retained for a period of two full years; *Provided,* That the following records made or kept by a packer may be disposed of after one year: cutting tests; departmental transfers; buyers' estimates; drive sheets; scale tickets received from others; inventory and products in storage; receiving records; trial balances; departmental overhead or expense recapitulations; bank statements; reconciliations and deposit slips; production or sale tonnage reports (including recapitulations and summaries of routes, branches, plants, etc.); buying or selling pricing instructions and price lists; correspondence; telegrams; teletype communications and memoranda relating to matters other than contracts, agreements, purchase or sales invoices, or claims or credit memoranda; and Provided further, That microfilm copies of records may be substituted for and retained in lieu of the actual records.

(c) *Retention for longer periods may be required.* The periods specified in paragraph (b) of this section shall be extended if the packer, live poultry dealer or handler, stockyard owner, market agency, or dealer is notified in writing by the Administrator that specified records should be retained for a longer period pending the completion of any investigation or proceeding under the Act.

(d) *Unauthorized disposal of records.* If it is found that any person subject to the Act has disposed of accounts, records, and memoranda which are necessary to fully and correctly disclose all transactions in its business prior to the periods specified in this statement, consideration will be given to the issuance of a complaint charging a violation of section 401 of the Act and seeking an appropriate order. The administrative proceeding initiated will be conducted in accordance with the Rules of Practice Governing Formal Adjudicatory Proceedings Instituted by the Secretary (7 CFR 1.130 *et seq.*).

(Approved by the Office of Management and Budget under control number 0590-0001)

[FR Doc. 84-4199 Filed 2-16-84; 8:45 am]
BILLING CODE 3410-KD-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 83-NM-57-AD; Amdt. 39-4812]

Airworthiness Directives; British Aerospace Model HS/BH/DH 125 Series 1A, 400A, 600A, and 700A Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adds a new airworthiness directive (AD) applicable to certain British Aerospace Model HS/BH/DH 125 series 1A, 400A, 600A, and 700A airplanes equipped with Garrett TFE731-3 engines which requires a change of the source of direct current electrical supply for the engines' fuel computers. This is needed to prevent the lose of both engine fuel computers due to a single fuse failure. The loss of electrical power to both engine fuel computers may result in an uncommanded thrust change on both engines which has the potential of resulting in the loss of the airplane.

DATES: Effective March 22, 1984.

ADDRESSES: The service bulletin specified in this AD may be obtained upon request to British Aerospace, Inc., Librarian, Box 17414, Dulles International Airport, Washington, D.C. 20041, or may be examined at the address shown below.

FOR FURTHER INFORMATION CONTACT: Mr. Sulmo Mariano, Foreign Aircraft Certification Branch, ANM-150S, Seattle Aircraft Certification Office FAA, Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington, telephone (206) 431-2979. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: The Civil Aviation Authority of the United Kingdom has classified British Aerospace 125 series Service Bulletin 24-225-(2747) as mandatory. The manufacturer has determined that failure of a single fuse could result in the loss of both engine fuel computers if their source of direct power is from the PE2 bus bar. The loss of electrical power

to both engine fuel computers may result in an uncommanded thrust change on both engines. The failure may require immediate action by the pilot for continued safe flight, but under certain conditions this may be impossible to achieve and may result in the loss of the airplane. The service bulletin prescribes that the electrical power supply to Nos. 1 and 2 engine fuel computers be transferred from the PE2 bus bar to the PE bus bar.

A proposal to amend Part 39 of the Federal Aviation Regulations to include an airworthiness directive requiring the transfer of the power supply to the engine fuel computers from the PE2 bus bar to the PE bus bar was published in the **Federal Register** on September 22, 1983 (48 FR 43187). The comment period closed on November 8, 1983, and interested persons have been afforded an opportunity to participate in the making of this amendment. Two comments were received. Both agreed with the FAA in the issuance of the AD but pointed out that the only airplanes affected have Garrett TFE731–3 engines, which was not clearly stated in the proposed AD. The final rule has editorial changes and changes in the effectivity statement that reduce the number of airplanes affected; this is accomplished by mentioning the modifications that specify Garrett TFE731–3 engines are installed. The series 700A was originally certificated with these engines.

It is estimated that 45 U.S. registered airplanes will be affected by this AD, that it will take approximately 8 manhours to accomplish the required actions and that the average labor cost will be $35 per manhour. The kit materials are estimated at $500 per airplane. Based on these figures, the total cost impact of this AD on the U.S. operators is estimated to be $35,100. For these reasons, the proposed rule is not considered to be a major rule under the criteria of Executive Order 12291. Few small entities within the meaning of the Regulatory Flexibility Act will be affected.

Therefore, the FAA has determined that air safety and the public interest require the adoption of the rule with the changes previously noted.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new airworthiness directive:

British Aerospace: Applies to Model HS 125 airplanes series 1A with modifications 251867 and 252605, series 400A with modification 252550, series 600A with modification 252468, and series 700A, certificated in all categories. The serial numbers of the affected airplanes are listed in the Planning Information section of British Aerospace 125 series Service Bulletin 24–225–(2747), dated October 17, 1980. Compliance is required as indicated, unless already accomplished.

To prevent loss of power to both engine fuel computers by a single fuse failure, accomplish the following:

A. Modify the engine fuel computers' direct current power supply electrical circuits within the next 500 hours time in service or one year, whichever occurs first after the effective date of this AD, in accordance with paragraph 2, Accomplishment Instructions, of British Aerospace, HS 125 series Service Bulletin 24–225–(2747), dated October 17, 1980.

B. Alternate means of compliance which provide an equivalent level of safety may be used when approved by the Manager, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region.

C. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base for the accomplishment of inspections and/or modifications required by this AD.

This amendment becomes effective March 22, 1984.

(Sec. 313(a), 314(a), 601 through 610, and 1102 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421 through 1430, and 1502); 49 U.S.C. 106(g) (Revised, Pub. L. 97–449, January 12, 1983); and 14 CFR 11.89).

Note.—For reasons discussed earlier in the preamble, the FAA has determined that this regulation is not considered to be major under Executive Order 12291 or significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is further certified under the criteria of the Regulatory Flexibility Act that this rule will not have a significant economic effect on a substantial number of small entities because few small entities operate British Aerospace Model HS/BH/DH 125 airplanes. A final evaluation has been prepared for this regulation and has been placed in the docket. A copy of it may be obtained by contacting the person identified under the caption "**FOR FURTHER INFORMATION CONTACT.**"

Issued in Seattle, Washington on February 6, 1984.

Wayne J. Barlow,

Acting Director, Northwest Mountain Region.

[FR Doc. 84–4333 Filed 2–16–84; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 39

[Docket No. 84–NM–60–AD; Amdt. 39–4813]

Airworthiness Directives; McDonnell Douglas Model DC–10–30, –30F, –40, and Military KC–10A Series Airplanes Equipped With Goodyear, P/N 6002870, Antiskid Control Unit

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) which requires modification of the Goodyear P/N 6002870 antiskid control unit on McDonnell Douglas Model DC–10–30, –30F, –40, and Military KC–10A series airplanes. There has been a report of the antiskid control unit being unable to detect an open circuit condition of the wheel speed transducer. Should this condition exist, rejected takeoff and landing braking distances would be greatly increased, and during heavy braking, the associated tire(s) would be damaged. This AD is needed to prevent an undetected severe loss in braking capability with possible loss of directional control.

DATES: Effective February 27, 1984. Compliance schedule as prescribed in the body of the AD, unless already accomplished.

ADDRESSES: The applicable service information may be obtained from: McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Director, Publications and Training, C1–750 (54–60). This information also may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or at 4344 Donald Douglas Drive, Long Beach, California.

FOR FURTHER INFORMATION CONTACT: Mr. Eugene F. Huettner Aerospace Engineer, Systems & Equipment Branch, ANM–130L, FAA, Northwest Mountain Region, Los Angeles Aircraft Certification Office, 4344 Donald Douglas Drive, Long Beach, California 90808, telephone (213) 548–2831

SUPPLEMENTARY INFORMATION: One operator has reported that a BITE test of the phase IV antiskid control box failed to detect a wheel speed transducer open circuit condition. In-service and subsequent testing has shown that a condition exists in the antiskid control unit in which the system test provides a test response indication to the pilot that the system is functional when a transducer open circuit exists. If any open transducer circuit were to exist

during heavy braking the associated tire would not provide braking until below 30 knots at which point the tire would be damaged. Rejected takeoff and landing braking distance would be greatly increased, depending upon how many open wheel speed transducers were undetected. Douglas DC–10 Alert Service Bulletin A32–202, dated November 30, 1983, and Goodyear Service Bulletin DC–10–30/40–32–36, dated July 29, 1983, have been released to correct this condition by changing the resistance values of five resistors.

Since this situation is likely to exist or develop on other airplanes of the same type design, this AD requires modification of Goodyear P/N 6002870 antiskid control unit and an interim revision of the FAA approved Airplane Flight Manual (AFM) Limitations Section.

Since a situation exists that requires immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable, and good cause exists for making this amendment effective in less than 30 days.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new airworthiness directive:

McDonnell Douglas: Applies to McDonnell Douglas Model DC–10–30, –30, –40, and KC–10A (Military) series airplanes, certificated in all categories, equipped with Goodyear P/N 6002870 antiskid control unit. Compliance required as indicated, unless previously accomplished.

To prevent undetected severe loss of braking ability, accomplish the following:

A. Compliance required within 30 days after the effective date of this AD. Revise the Limitations Section of the FAA approved Airplane Flight Manual by adding a paragraph which reads as follows:

"Prior to each takeoff, turn the ANTISKID ARM switch in the cockpit from the ARM position to the OFF position, then back to the ARM position. Within sixty (60) seconds thereafter, initiate the ANTISKID TEST function using the cockpit test switch. Verify that no antiskid fail lights remain illuminated on the annunciator panel."

Note.—A copy of this AD may be inserted in the AFM as an acceptable means of compliance with the required AFM revision.

B. Compliance required within 3000 flight hours after the effective date of this AD. Modify Goodyear P/N 6002870 antiskid control unit in accordance with the Accomplishment Instructions of Douglas DC–10 Alert Service Bulletin A32–202, dated November 30, 1983, and Goodyear Service Bulletin DC–10–30/40–32–36, dated July 29, 1983, of later revisions approved by the Manager, Los Angeles Aircraft Certification Office, FAA, Northwest Mountain Region. Modification of the antiskid control unit as specified above constitutes terminating action for this AD and the interim AFM revision required by paragraph A., above, may be removed.

C. Alternate means of compliance which provide an equivalent level of safety may be used when approved by the Manager, Los Angeles Aircraft Certification Office, FAA, Northwest Mountain Region.

D. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

All persons affected by this directive who have not already received these documents from the manufacturer may obtain copies upon request to McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Director, Publications and Training, C1–750 (54–60). These documents also may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Los Angeles Aircraft Certification Office, 4344 Donald Douglas Drive, Long Beach, California.

This Amendment becomes effective Feb. 27, 1984.

(Secs. 313(a), 314(a), 601 through 610, and 1102 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421 through 1430, and 1502); 49 U.S.C. 106(g) (Revised, Pub. L. 97–449, January 12, 1983); and 14 CFR 11.89).

Note.—The FAA has determined that this regulation is an emergency regulation that is not major under Section 8 of Executive Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant/major regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation is not required). A copy of it, when filed, may be obtained by contacting the person identified under the caption **"FOR FURTHER INFORMATION CONTACT."**

Issued in Seattle, Washington on February 6, 1984.

Leroy A. Keith,

Acting Director, Northwest Mountain Region.

[FR Doc. 84–4332 Filed 2–16–84; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 71

[Airspace Docket Number 83–ACE–20]

Designation of Transition; Abilene, Kansas

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The nature of this Federal action is to designate a 700-foot transition area at Abilene, Kansas, to provide controlled airspace for aircraft executing a new instrument approach procedure to the Abilene Municipal Airport, Abilene, Kansas, utilizing the Salina, Kansas, VORTAC as a navigational aid. This action will change the airport status from VFR to IFR. The intended effect of this action is to ensure segregation of aircraft using the new approach procedure under Instrument Flight Rules (IFR) and other aircraft operating under Visual Flight Rules (VFR).

EFFECTIVE DATE: May 10, 1984.

FOR FURTHER INFORMATION CONTACT: Dale L. Carnine, Airspace Specialist, Operations, Procedures and Airspace Branch, Air Traffic Division, ACE–532, FAA, Central Region, 601 East 12th Street, Kansas City, Missouri 64106, Telephone (816) 374–3408.

SUPPLEMENTARY INFORMATION: To enhance airport usage, a new instrument approach procedure is being developed for the Abilene, Kansas, Municipal Airport, utilizing the Salina Kansas, VORTAC as a navigational aid. This navigational aid will provide new navigational guidance for aircraft utilizing the airport. The establishment of an instrument approach procedure based on this approach aid entails designation of a transition area at Abilene, Kansas, at or about 700 feet above the ground (AGL) within which aircraft are provided air traffic control service. Transition areas are designed to contain IFR operations in controlled airspace during portions of the terminal operation and while transiting between the terminal and enroute environment. The intended effect of this action is to ensure segregation of aircraft using the new approach procedure under Instrument Flight Rules (IFR) and other aircraft operating under Visual Flight Rules (VFR). This action will change the airport status from VFR to IFR.

Discussion of Comments

On pages 55139 and 55140 of the **Federal Register** dated December 9, 1983, the Federal Aviation Administration published a Notice of

Proposed Rulemaking which would amend Section 71.181 of Part 71 of the Federal Aviation Regulations so as to designate a transition area at Abilene, Kansas. Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No objections were received as a result of the Notice of Proposed Rulemaking.

List of Subjects in 14 CFR Part 71

Aviation safety, Transition areas.

Accordingly, pursuant to the authority delegated to me, § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, effective 0901 G.m.t. May 10, 1984, by designating the following transition area:

Abilene, Kansas

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Abilene Municipal Airport (latitude 38°54'20" N., longitude 97°14'08" W.) and within 2 miles each side of the Salina VORTAC (latitude 38°52'57" N., longitude 97°37'39" W.) 088° bearing extending from the 5-mile radius area to 5.75 miles west of the Abilene Municipal Airport.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); and Sec. 11.69 of the Federal Aviation Regulations (14 CFR 11.69)

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Kansas City, Missouri, on February 6, 1984.

Murray E. Smith,

Director, Central Region.

[FR Doc. 84-4338 Filed 2-16-84; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 84-ASO-2]

Revocation of Transition Area, Cullowhee, North Carolina

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment revokes the Cullowhee, North Carolina, transition area which is centered on the Jackson County Airport. The transition area was designated in 1979 to provide controlled airspace for containment of aeronautical activities in the vicinity of the airport. A non-federal radio beacon was to be commissioned to support Instrument Flight Rule (IFR) approach procedures at the airport; however, because of marginal radio signal reception, precipitous terrain and atmospheric conditions it has been determined that aviation safety would not benefit from establishment of the procedures. Therefore, since the transition area serves no useful purpose it will be revoked and the floor of controlled airspace, within a 20 mile radius of Jackson County Airport, will be raised from 700 to 1,200 feet above the surface.

DATES: Effective date: 0901 G.M.T., April 12, 1984. Comments must be received on or before March 12, 1984.

ADDRESSES: Send comments on the rule in triplicate to: Federal Aviation Administration, ATTN: Manager Airspace and Procedures Branch, ASO-530, Air Traffic Division, P.O. Box 20636, Atlanta, Georgia 30320.

The official docket may be examined in the Office of the Regional Counsel, Room 652, 3400 Norman Berry Drive, East Point, Georgia 30344, telephone: (404) 763-7646.

FOR FURTHER INFORMATION CONTACT: Donald Ross, Airspace and Procedures Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone: (404) 763-7646.

SUPPLEMENTARY INFORMATION:

Request for Comments on the Rule

Although this action is in the form of a final rule, which involves revocation of the Cullowhee, North Carolina, transition area, and was not preceded by notice and public procedure, comments are invited on the rule. When the comment period ends, the FAA will use the comments submitted, together with other available information, to review the regulation. After the review, if the FAA finds that changes are appropriate, it will initiate rulemaking proceedings to amend the regulation. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in evaluating the effects of the rule and determining whether additional rulemaking is needed. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy aspects of the rule that might suggest the need to modify the rule.

The Rule

The purpose of this amendment to § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is to revoke the Cullowhee, North Carolina, transition area as the procedures for which it was designated were never established. Section 71.181 of part 71 of the Federal Aviation Regulations was republished in Advisory Circular AC 70-3A dated January 3, 1983. Under the circumstances presented, the FAA concludes that there is a need to revoke the transition area and raise the floor of controlled airspace from 700 to 1,200 feet above the surface within a 20-mile radius of Jackson County Airport. This revocation reduces the burden on the public by raising the base of controlled airspace over mountainous terrain. This action will enhance aviation safety for Visual Flight Rule aeronautical activity by providing additional uncontrolled airspace for such operations. Therefore, I find that notice or public procedure under 5 U.S.C. 553(b) is unnecessary.

List of Subjects in 14 CFR Part 71

Aviation safety, Airspace, Transition area.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, the Cullowhee, North Carolina, transition area under § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) (as amended) is further amended, effective 0901 G.M.T., April 12, 1984, as follows:

Cullowhee, NC—[Revoked]

By revoking the title and text.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); 49 U.S.C. 106(g) (Revised, Public Law 97-449, January 12, 1983))

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in East Point, Georgia, on January 25, 1984.

George R. LaCaille,

Acting Director, Southern Region.

[FR Doc. 84-4337 Filed 2-16-84; 8:45 am]

BILLING CODE 4910-13-M

FEDERAL TRADE COMMISSION

16 CFR Part 2

Organization, Procedures, and Rules of Practice

AGENCY: Federal Trade Commission.

ACTION: Final rule.

SUMMARY: The Commission has amended § 2.7 of its Rules of Practice and Procedure to delegate to a single Commissioner, to be designated by the Chairman, the authority to dispose of petitions to limit or quash an investigational subpoena or civil investigative demand or in his/her discretion to refer such petitions to the full Commission for action. The Commission will permit petitioners to seek review by the full Commission of the delegated Commissioner's rulings if a request for review is received within three days after service of the ruling.

EFFECTIVE DATE: February 17, 1984.

FOR FURTHER INFORMATION CONTACT: Bruce G. Freedman, (202) 523-3487, Deputy Assistant General Counsel, Federal Trade Commission, 6th Street and Pennsylvania Avenue, NW., Washington, D.C. 20580.

SUPPLEMENTARY INFORMATION: The Commission met on September 15, 1983 to consider ways in which to streamline and expedite its procedures. As part of that effort, the Commission determined to delegate authority to a single Commissioner to dispose of petitions to limit or quash compulsory process subject to review by the full Commission if such review is sought by the petitioner in a timely fashion. The Commission believes that many petitions to limit or quash compulsory process raise no novel questions of law or policy and may be disposed of upon careful examination of the facts presented and applicable legal principles without participation by the full Commission. In addition, the rule permits the delegated Commissioner, in his or her discretion, to refer more complex petitions to the Commission for decision. A similar procedure as been in effect for many years with respect to adjudicative motions, and it is hoped that its use in handling petitions to limit or quash will promote expeditious processing of these matters while maintaining the necessary protections for the petitioner.

List of Subjects in 16 CFR Part 2

Administrative practice and procedure, investigations, reporting and recordkeeping requirements.

PART 2—[AMENDED]

Accordingly, the Commission amends 16 CFR 2.7 by revising paragraphs (d) through (f) and by adding paragraph (g) to read as follows:

§ 2.7 Compulsory process in investigations.

* * * * *

(d) *Petitions to limit or quash*—(1) *General.* Any petition to limit or quash any investigational subpoena or civil investigative demand shall be filed with the Secretary of the Commission within twenty (20) days after service of the subpoena or civil investigative demand, or, if the return date is less than twenty (20) days after service, prior to the return date. Such petition shall set forth all assertions of privilege or other factual and legal objections to the subpoena or civil investigative demand, including all appropriate arguments, affidavits and other supporting documentation.

(2) *Extensions of time.* Bureau Directors, Deputy Directors, and Assistant Directors in the Bureaus of Competition and Economics, the Bureau Director, Deputy Directors and Associate Directors in the Bureau of Consumer Protection, Regional Directors and Assistant Regional Directors are delegated, without power of redelegation, the authority to rule upon requests for extensions of time within which to file such petitions.

(3) *Disposition.* A Commissioner, to be designated by the Chairman, is delegated, without power of redelegation, the authority to rule upon petitions to limit or quash an investigational subpoena or civil investigative demand, but the designated Commissioner may, in his or her sole discretion, refer a petition to the full Commission for determination.

(e) *Stay of compliance period.* The timely filing of a petition to limit or quash any investigational subpoena or civil investigative demand shall stay the time permitted for compliance with the portion challenged. If the petition is denied in whole or in part, the ruling will specify a new return date.

(f) *Review.* Any petitioner, within three days after service of a ruling by the designated Commissioner denying all or a portion of the relief requested in its petition, may file with the Secretary of the Commission a request that the full Commission review the ruling. The timely filing of such a request shall not stay the return date specified in the ruling, unless otherwise specified by the Commission.

(g) *Public disclosure.* All petitions to limit or quash investigational subpoenas or civil investigative demands and the responses thereto are part of the public records of the Commission, except for information exempt from disclosure under § 4.10(a) of this chapter.

(15 U.S.C. 46(g))

By direction of the Commission, Commissioners Pertschuk and Bailey voting in the negative.

Emily H. Rock,

Secretary.

Dissenting Statement of Commissioner Patricia P. Bailey

Delegation of Authority Re Closing of Investigations and Petitions To Quash

February 8, 1984.

In the first of these two proposed changes in Commission rules, the Commission majority delegates to Commission senior staff the authority to determine that material subpoenaed by majority vote of the Commission does not present sufficient "reason to believe" a law violation has occurred, or that even if it does, it is not in the "public interest" to pursue the case. This is a delegation of substantial, substantive, policy-making power to the senior staff. This is authority not only to terminate ongoing law enforcement investigation conducted with the authority of subpoenas bearing the signatures of Commissioners, it is also a potential deterrent to staff initiative to propose new investigative activity. Such delegation reverses a short-lived trend towards management of this agency "from the top down."

Where as a Commissioner, by approving a request for compulsory process, I have voted to intrude our jurisdiction into private corporate records, I have begun a process of inquiry into the distinct possibility that I might come eventually to see "reason to believe" that a law violation exists that it may be in the public interest to pursue. This decision is the very essence of the Commission's statutory power. Thus this delegation raises troubling concerns. For example, if I follow the practice of applying *per se* standards to certain kinds of violations, such as resale price maintenance, I may now find that the subject of my inquiry has failed some different legal standard applied by the staff Bureau chief. Or, I may belatedly discover that the case was judged "too small" to justify further resource commitments by the Bureau, or that the industry that forms the context

of an investigation is not an "appropriate target" of antitrust concern. On the other side of the FTC docket, I might believe a specific inquiry into deceptive practices is appropriate, only to find that a staff Bureau Director has determined that deception has a newer and different meaning than I understand the law currently to provide.

I regard all this sort of decision-making as my statutory prerogative, and not that of the staff Bureau Directors.

The new policy also offers fewer guarantees to those that are subject to Commission investigations. I do not see how a company subject to compulsory process can draw the same degree of comfort from a staff person's unilateral decision to close that it may now feel from a closing letter that comes "By Direction of the Commission" after a Commission level decision that use of compulsory process has resulted in a determination not to sue. The proponents of this reform have eliminated the tangible value that a Commission closing letter has represented in prior practice.

Two features of this "reform",—packaged as a way to eliminate delays rather than as the substantive change it really is—operate to ameliorate the effects of this rule. Ironically, however, both these saving features may lead to new delays. First, a Bureau director's decision to close a formal investigation in which compulsory process has been authorized by the Commission involves a three-day "negative option" during which the Commissioners may try at second guessing the Bureau chief's pending decision, based on whatever explanation for closing might be proffered. Second, Section 1(b) of Reorganization Plan No. 4 of 1961 provides that two Commissioners may direct that a matter be subjected to full Commission review.

The second proposed rules change is to delegate to the "petitions to quash" or "subpoena Commissioner" the personal unilateral authority to dispose of or modify aspects of respondents' compliance with subpoenas duces tecum and civil investigative demands that are signed, in a substantial number of instances, by a Commissioner other than the one handling petitions to quash. I have less objection to this proposed change than to the one affording staff personnel the right to terminate investigations, but I am sufficiently concerned to oppose the change.

The proposed rules change does *not* reflect the Commission's actual decision (to which I dissented at the time) that only "non-controveral" petitions to quash be subject to the delegation. *All* petition to quash resolution powers are being delegated to one Commissioner. While the rules change contemplates the submission to the Commission for approval those petitions to quash that the delegated Commissioner personally deems appropriate for such treatment, I would prefer a simpler streamlining of procedure that simply grants the delegated Commissioner the power to deny petitions to quash. These sorts of dispositions have been the bulk of the work in this area in the past, and if the purpose of this rules change is merely to reduce delay, allowing prompt disposition of petition denials should be sufficient to achieve such a goal.

The recent law requiring a Commissioner to sign a subpoena is based on Congress' concept that individual Commissioners should be held accountable for compulsory FTC demands for private property. If a Commissioner is accountable for the subpoenas he or she signs, that Commissioner always should be part of any decision that implies such a subpoena has swept too broadly. Where a subpoena has been issued, I believe it inappropriate to later declare portions of such a subpoena as irrelevant or burdensome without full consultation with the signatory Commissioner, and full Commission review. Although I have every confidence that this delegation will be administered with sensitivity, it has a potential to undermine the collegial operation of the Commission, and to allow the sort of "forum shopping" and delay we should not wish to encourage.

[FR Doc. 84-4387 Filed 2-16-84; 8:45 am]
BILLING CODE 6750-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 430, 436, 440, 450, 455, and 555

[Docket No. 83N-0395]

Antibiotic Drugs; Updating and Technical Changes

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending certain antibiotic regulations providing for accepted standards of antibiotic and antibiotic-containing drugs for both human and veterinary use by making updatings and noncontroversial technical changes, and by revoking a bulk drug monograph. These changes will result in more accurate and usable regulations.

DATES: Effective February 17, 1984; comments, notice of participation, and request for hearing by March 19, 1984; data, information, and analyses to justify a hearing by April 17, 1984. The Director of the Office of the Federal Register approves the incorporation by reference of certain publications in 21 CFR 450.20 effective February 17, 1984.

ADDRESS: Written comments to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Joan M. Eckert, National Center for Drugs and Biologics (HFN-140), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4290.

SUPPLEMENTARY INFORMATION: FDA is amending certain antibiotic drug regulations providing for acceptable standards of antibiotic and antibiotic-containing drugs intended for human and veterinary use by making updatings and noncontroversial technical changes, and by revoking a bulk drug nonograph. In three instances, the need for a change was called to FDA's attention by industry representatives. To aid in understanding the types of changes included in this document, the changes have been grouped into three general classes for discussion in this preamble: updating, technical changes, and revocation.

Updating

1. Section 450.20a is being redesignated as § 450.20 and revised to provide for a nonsterile bulk drug, dactinomycin. The nonsterile bulk drug is used in the manufacture of the only dactinomycin dosage form, dactinomycin for injection, which dosage form is subsquently made sterile by a filtration process. Also, conforming amendments are made to § 450.220 (a)(1), (b)(1)(ii)*(c)*, and (b)(4).

2. Current § 455.310b *Chloramphenicol ophthalmics* is being divided into two sections, §§ 455.310b and 455.310e, to provide separate monographs for the solution and suspension products. The amended § 455.310b, which provides for chloramphenicol for ophthalmic solution, is also revised editorially to conform to the current format for antibiotic monographs.

3. As noted § 455.310e is added to provide for a separate monograph for chloramphenicol-hydrocortisone acetate for ophthalmic suspension, which was

formerly included under § 455.310b. The new section, taken from the current § 455.310b, is revised editorially to conform to the current format for antibiotic monographs.

Technical Changes

1. Section 436.335 is added to provide for a high-pressure liquid chromatographic (HPLC) assay method to replace the current assay method for determining potency for chloramphenicol palmitate. The sole manufacturer has submitted adequate data to support this revision. Also, conforming amendments are made to §§ 430.5(b), 455.11 (a)(3)(i) and (b)(1), 455.111 (a)(3)(i) (*a*) and (*b*) and (b)(1), and 555.111 (a)(3)(i) (*a*) and (*b*) and (b)(1).

2. In § 440.55a(a)(1)(vi), the pH range for sterile penicillin G benzathine (5.0–7.5) is revised to read 4.0 to 6.5. Paragraph (b)(6) is also revised by providing for a new sample preparation method for determining pH. One manufacturer has submitted adequate data to support these revisions. The agency has contacted all affected manufacturers and these firms support the revisions.

3. In §§ 455.111(a)(1) and 555.111(a)(1), the chloramphenicol palmitate concentration in chloramphenicol palmitate oral suspension (31.25 milligrams per milliliter) is revised to read 30.0 milligrams per milliliter. The sole manufacturer has submitted adequate data to support this revision.

4. In § 455.310b(b)(3), the directions for the test sample preparation for determining pH of chloramphenicol for ophthalmic solution are revised by directing that the test sample be diluted to a specific concentration rather than reconstituting the test sample as directed in the labeling. Because the current method may result in three different test sample concentrations which give different pH readings, diluting to a specific concentration will improve the uniformity of the pH test results. The sole manufacturer has submitted adequate data to support this revision.

Revocation

Section 440.57 *Penicillin V. benzathine* is removed. This bulk drug product is not used in the manufacture of any dosage form. Also, conforming amendments are made to §§ 436.33(b) and 436.204(b)(2).

The agency has determined pursuant to 21 CFR 25.24(b)(22) (proposed December 11, 1979; 44 FR 71742) that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects

21 CFR Part 440

Administrative practice and procedure, Antibiotics.

21 CFR Part 436

Antibiotics.

21 CFR Part 440

Antibiotics, penicillin.

21 CFR Part 450

Antibiotics, antitumor, Incorporation by reference.

21 CFR Part 455

Antibiotics.

21 CFR Part 555

Animal drugs, Antibiotics, chloramphenicol.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 507, 512(n), 701 (f) and (g), 52 Stat. 1055–1056 as amended, 59 Stat. 463 as amended, 82 Stat. 350–351 (21 U.S.C. 357, 360(n), 371 (f) and (g))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), Parts 430, 436, 440, 450, 455, and 555 are amended as follows:

PART 430—ANTIBIOTIC DRUGS: GENERAL

1. Part 430 is amended in § 430.5, by adding new paragraph (b)(81) to read as follows:

§ 430.5 Definitions of master and working standards.

* * * * *

(b) * * *

(81) *Chloramphenicol palmitate.* The term "chloramphenicol palmitate working standard" means a specific lot of a homogeneous preparation of chloramphenicol palmitate.

PART 436—TESTS AND METHODS OF ASSAY OF ANTIBIOTIC AND ANTIBIOTIC-CONTAINING DRUGS

2. Part 436 is amended:

§ 436.33 [Amended]

a. In § 436.33 *Safety test,* by amending the table in paragraph (b) by removing the item "Penicillin V benzathine."

§ 436.204 [Amended]

b. In § 436.204 *Iodometric assay,* by amending the table in paragraph (b)(2) by removing the items "Penicillin V benzathine blank solution" and "Penicillin V benzathine inactivated solution."

c. By adding new § 436.335 to read as follows:

§ 436.335 High-pressure liquid chromatographic assay for chloramphenicol palmitate.

(a) *Equipment.* A suitable high-pressure liquid chromatograph equipped with:

(1) A low dead volume cell 8 to 20 microliters;

(2) A light path of 1 centimeter;

(3) A suitable ultraviolet detection system operating at a wavelength of 280 nanometers;

(4) A suitable recorder of at least 25.4-centimeter deflection;

(5) A suitable integrator; and

(6) A 30-centimeter column having an inside diameter of 4.0 millimeters and packed with octadecyl silane chemically bonded to porous silica or ceramic microparticles, 5 to 10 micrometers in diameter, U.S.P. XX.

(b) *Mobile phase.* Mix methanol:water:glacial acetic acid (170:30:1). Degas the mobile phase just prior to its introduction into the chromatograph pumping system.

(c) *Operating conditions.* Perform the assay at ambient temperature with a typical flow rate of 2.0 milliliters per minute. Use a detector sensitivity setting that gives a peak height for the reference standard that is at least 50 percent of scale. The minimum between peaks must be no more than 2 millimeters above the initial baseline.

(d) *Preparation of sample and working standard solutions.* Accurately weigh approximately 65 milligrams of sample or chloramphenicol palmitate working standard each into a 50-milliliter volumetric flask. Add approximately 35 milliliters of methanol and 1 milliliter of glacial acetic acid. Place in an ultrasonic bath for 10 minutes and dilute to volume with methanol.

(e) *Procedure.* Using the equipment, mobile phase, and operating conditions listed in paragraphs (a), (b), and (c) of this section, inject 10 microliters of the working standard solution into the chromatograph. Allow an elution time sufficient to obtain satisfactory separation of expected components. After separation of the working standard solution has been completed, inject 10 microliters of the sample solution into the chromatograph and repeat the procedure described for the working standard solution.

(f) *Calculations.* Calculate the chloramphenicol content as follows:

$$\text{Micrograms of chloramphenicol per milligram} = \frac{(A)(W_s)(f)}{(B)(W_u)}$$

where:

A = Area of chloramphenicol palmitate sample peak (at a retention time equal to that observed for the standard);
B = Area of the working standard peak;
W_s = Weight of standard in milligrams;
W_u = Weight of sample in milligrams; and
f = Micrograms of chloramphenicol activity per milligram of chloramphenicol palmitate working standard.

PART 440—PENICILLIN ANTIBIOTIC DRUGS

3. Part 440 is amended:

a. In § 440.55a, by revising paragraphs (a)(1)(vi) and (b)(6) to read as follows:

§ 440.55a Sterile penicillin G benzathine.

(a) * * *

(1) * * *

(vi) Its pH in a 1:1 mixture of absolute ethyl alcohol and water containing 0.5 milligram per milliliter is not less than 4.0 and not more than 6.5.

* * * * *

(b) * * *

(6) *pH.* Proceed as directed in § 436.202 of this chapter, except prepare the sample as follows: Dissolve 50 milligrams of sample with 50 milliliters of absolute ethyl alcohol. Add 50 milliliters of distilled water and mix well.

* * * * *

§ 440.57 [Removed]

b. By removing § 440.57 *Penicillin V benzathine.*

PART 450—ANTITUMOR ANTIBIOTIC DRUGS

4. Part 450 is amended:

a. By redesignating § 450.20a as § 450.20 and revising it to read as follows:

§ 450.20 Dactinomycin.

(a) *Requirements for certification*—(1) *Standards of identity, strength, quality, and purity.* Dactinomycin is a bright-red compound that is so purified and dried that:

(i) Its potency is not less than 900 micrograms of dactinomycin per milligram, calculated on an anhydrous basis.

(ii) Its LD_{50}[1] in mice is not less than 0.65 and not more than 1.23 milligrams of dactinomycin per kilogram of body weight.

(iii) Its loss on drying is not more than 15 percent.

(iv) Its absorptivity at 445 nanometers is not less than 0.95 and not more than 1.03 times that of the dactinomycin working standard at the same wavelength. Its absorbance at 240 nanometers is not less than 1.3 and not more than 1.5 times its absorbance at 445 nanometers.

(v) It is crystalline.

(2) *Labeling.* It shall be labeled in accordance with the requirements of § 432.5(b) of this chapter, and in addition each package shall bear on its label the statement "Protect from light and excessive heat."

(3) *Requests for certification; samples.* In addition to the requirements of § 431.1 of this chapter, each such request shall contain:

(i) Results of tests and assays on the batch for potency, LD_{50}, loss on drying, absorptivity, and crystallinity.

(ii) Samples required: 16 packages, each containing approximately 40 milligrams.

(b) *Tests and methods of assay.* Dactinomycin is toxic and corrosive. It must be handled with care in the laboratory. Transfer all dry powders in a suitable hood, while wearing rubber gloves. Avoid inhaling fine particles of the powder. Do not pipette by mouth. If any of the substance contacts the skin, wash copiously with soap and water. Dispose of all waste material by dilution with large volumes of trisodium phosphate solution.

(1) *Potency.* Proceed as directed in § 436.105 of this chapter, preparing the sample for assay as follows: Dissolve an accurately weighed sample in sufficient methyl alcohol to obtain a stock solution of 10 milligrams of dactinomycin per milliliter (estimated). Further dilute the stock solution with 0.1*M* potassium phosphate buffer, pH 8.0 (solution 3), to the reference concentration of 1.0 microgram of dactinomycin per milliliter (estimated).

(2) *LD_{50}*—(i) *Sample solution.* Prepare a solution containing 50 micrograms of dactinomycin per milliliter by dissolving an appropriate quantity of the sample in sufficient sterile distilled water. If the sample does not dissolve immediately, place it in an ice water bath or a refrigerator for 1 to 2 hours, and then allow to reach room temperature before use.

(ii) *Procedure.* Select 70 female mice weighing between 18 and 20 grams. Individually identify and weigh them to the nearest 0.1 gram. Use 10 mice at each of the following dose levels: 9.6, 11.52, 13.9, 16.7, 20.0, 24.0, and 28.8 milliliters of sample solution per kilogram of body weight. Calculate the volume of solution to be given to each mouse and administer the appropriate volume intravenously at the rate of 0.5 milliliter per minute. Observe the mice daily for 14 days and record any signs of drug toxicity and times of death. Estimate the LD_{50} and its 95 percent confidence limits by the method of Carrol S. Weil, published in *Biometrics*, Vol. 8, pp. 249–263 (1952), which is incorporated by reference. Copies are available from the Managing Editor, "Biometrics," P.O. Box 5962, Raleigh, NC 27607, or available for inspection at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408.

(3) *Loss on drying.* Proceed as directed in § 436.200(b) of this chapter.

(4) *Absorptivity*—(i) *Procedure.* Accurately weigh approximately 15 milligrams of the sample "as is" and 15 milligrams of the working standard dried as directed in § 436.200(a) of this chapter. Transfer each weighing to separate 100-milliliter volumetric flasks. Dissolve the material and bring to volume with spectrophotometric-grade methyl alcohol. Mix well. Pipette 5.0 milliliters of each solution into separate 25-milliliter volumetric flasks, dilute to volume with spectrophotometric-grade methyl alcohol. Mix well. Using a suitable spectrophotometer and 1-centimeter absorption cells, determine the absorbance of the sample solution at the 240-nanometer and at the 445-nanometer absorption peaks (the exact position of the peaks should be determined for the particular instrument used). Determine the absorbance of the standard at the 445-nanometer absorption peak.

(ii) *Calculations.* Calculate the relative absorptivity and the ratio for the absorbances of the sample as follows:

Relative absorptivity at 445 nanometers = A_2 X milligrams of standard X potency of the standard in micrograms per milligram / A_3 X milligrams of sample X (100–M) X 10

Ratio for the absorbances of the sample at 240 and 445 nanometers = A_1/A_2

where:

A_1 = Absorbance at 240 nanometers for the sample;
A_2 = Absorbance at 445 nanometers for the sample;
A_3 = Absorbance at 445 nanometers for the standard; and
M = Percent moisture in the sample.

(5) *Crystallinity.* Proceed as directed in § 436.203(a) of this chapter.

b. In § 450.220, by revising the last sentence in paragraph (a)(1), by revising

[1] The term "LD_{50}" refers to the dosage of the drug that should be expected to kill 50 percent of the animals that receive the drug.

paragraph (b)(1)(ii)(*c*), and by revising the first sentence in paragraph (b)(4) to read as follows:

§ 450.220 Dactinomycin for injection.

(a) * * *

(1) * * * The dactinomycin used conforms to the standards prescribed by § 450.20(a)(1) (i), (v), (vi), and (vii).

* * * * *

(b) * * *

(1) * * *

(ii) * * *

(*c*) *Procedure.* Determine the absorbance of the sample and standard solution at the 455-nanometer absorption peak as directed in § 450.20(b)(6)(i).

* * * * *

(4) LD_{50}. Proceed as directed in § 450.20(b)(4), except prepare the sample for test as follows: Reconstitute a sufficient number of containers to yield 2,000 micrograms of dactinomycin. * * *

PART 455—CERTAIN OTHER ANTIBIOTIC DRUGS

5. Part 455 is amended:

a. In § 455.11, by revising paragraphs (a)(3)(i) and (b)(1) to read as follows:

§ 455.11 Chloramphenicol palmitate.

(a) * * *

(3) * * *

(i) Results of tests and assays on the batch for chloramphenicol content, safety, melting range, specific rotation, and crystallinity.

* * * * *

(b) * * *

(1) *Chloramphenicol content.* Proceed as directed in § 436.335 of this chapter.

* * * * *

b. In § 455.111, by revising the second sentence in paragraph (a)(1) and by revising paragraphs (a)(3)(i) (*a*) and (*b*) and (b)(1) to read as follows:

§ 455.111. Chloramphenicol palmitate oral suspension.

(a) * * *

(1) * * * Each milliliter contains chloramphenicol palmitate equivalent to 30.0 milligrams of chloramphenicol.

* * *

* * * * *

(3) * * *

(i) * * *

(*a*) The chloramphenicol palmitate used in making the batch for chloramphenicol content, safety, melting range, specific rotation, and crystallinity.

(*b*) The batch for chloramphenicol content, pH, and content of polymorph A crystals.

* * * * *

(b) * * *

(1) *Chloramphenicol content (high-pressure liquid chromatography).* Proceed as directed in § 436.335 of this chapter, except prepare the sample solution and calculate the chloramphenicol content as follows:

(i) *Preparation of sample solution.* Transfer a portion of the sample equivalent to 150 milligrams of chloramphenicol into a 200-milliliter volumetric flask. Add 100 milliliters of methanol and 4 milliliters of glacial acetic acid. Shake and dilute to volume with methanol. Filter the solution through a glass fiber filter or equivalent that is capable of removing particulate contamination to 1 micron in diameter.

(ii) *Calculations.* Calculate the chloramphenicol content as follows:

$$\text{Milligrams of chloramphenicol per milliliter} = \frac{(A)(W_s)(f)(4)}{(B)(1{,}000)(V)}$$

where:

A = Area of the chloramphenicol palmitate sample peak (at a retention time equal to that observed for the standard);

B = Area of the working standard peak;

W_s = Weight of standard in milligrams;

f = Micrograms of chloramphenicol activity per milligram of chloramphenicol palmitate working standard; and

V = Volume of sample in milliliters.

* * * * *

c. By revising § 455.310b to read as follows:

§ 455.310b Chloramphenicol for ophthalmic solution.

(a) *Requirements for certification*—(1) *Standards of identity, strength, quality, and purity.* Chloramphenicol for ophthalmic solution contains 25 milligrams of chloramphenicol with one or more suitable and harmless buffer substances. When reconstituted as directed in the labeling, its potency is not less than 90 percent and not more than 130 percent of the number of milligrams of chloramphenicol that it is represented to contain. It is sterile. Its pH is not less than 7.1 and not more than 7.5. The chloramphenicol used conforms to the standards prescribed by § 455.10(a)(1).

(2) *Labeling.* It shall be labeled in accordance with the requirements of § 432.5 of this chapter.

(3) *Requests for certification; samples.* In addition to complying with the requirements of § 431.1 of this chapter, each such request shall contain:

(i) Results of tests and assays on:

(*a*) The chloramphenicol used in making the batch for potency, safety, pH, specific rotation, melting range, absorptivity, and crystallinity.

(*b*) The batch for potency, sterility, and pH.

(ii) Samples required:

(*a*) The chloramphenicol used in making the batch: 10 packages, each containing approximately 300 milligrams.

(*b*) The batch:

(*1*) For all tests except sterility: A minimum of five immediate containers.

(*2*) For sterility testing: 20 immediate containers, collected at regular intervals throughout each filling operation.

(b) *Tests and methods of assay*—(1) *Potency.* Use either of the following methods:

(i) *Microbiological turbidimetric assay.* Proceed as directed in § 436.106 of this chapter, preparing the sample for assay as follows: Reconstitute as directed in the labeling. Dilute an accurately measured representative aliquot of the sample with sufficient distilled water to obtain a stock solution of convenient concentration. Further dilute an aliquot of the stock solution with distilled water to the reference concentration of 2.5 micrograms of chloramphenicol per milliliter (estimated).

(ii) *Spectrophotometric assay.* Reconstitute the sample as directed in the labeling and dilute a 1.0-milliliter aliquot in sufficient distilled water to obtain a solution containing 20 micrograms of chloramphenicol per milliliter. Dissolve an accurately weighed portion of the working standard in sufficient distilled water to obtain a solution containing 20 micrograms per milliliter. Using a suitable spectrophotometer and distilled water as the blank, determine the absorbance of the sample and standard solutions at 278 nanometers. Calculate the potency of the sample as follows:

Milligrams of chloramphenicol per milliliter = Absorbance of sample X labled potency per milliliter in milligrams/Absorbance of standard.

(2) *Sterility.* Proceed as directed in § 436.20 of this chapter, using the method described in paragraph (e)(1) of that section.

(3) *pH.* Proceed as directed in § 436.202 of this chapter, using an aqueous solution containing 5 milligrams per milliliter.

d. By adding new § 455.310e to read as follows:

§ 455.310e Chloramphenicol-hydrocortisone acetate for ophthalmic suspension.

(a) *Requirements for certification*—(1) *Standards of identity, strength, quality, and purity.* Chloramphenicol-hydrocortisone acetate for ophthalmic suspension contains 12.5 milligrams of

chloramphenicol and 25 milligrams of hydrocortisone acetate with one or more suitable and harmless buffer substances, preservatives, and diluents. When reconstituted as directed in the labeling, its potency is not less than 90 percent and not more than 130 percent of the number of milligrams of chloramphenicol that it is represented to contain. It is sterile. Its pH is not less than 7.1 and not more than 7.5. The chloramphenicol used conforms to the standards prescribed by § 455.10(a)(1).

(2) *Labeling.* It shall be labeled in accordance with the requirements of § 432.5 of this chapter.

(3) *Requests for certification; samples.* In addition to complying with the requirements of § 431.1 of this chapter, each such request shall contain:

(i) Results of tests and assays on:

(*a*) The chloramphenicol used in making the batch for potency, pH, specific rotation, melting range, absorptivity, and crystallinity.

(*b*) The batch for potency, sterility, and pH.

(ii) Samples required:

(*a*) The chloramphenicol used in making the batch: 10 packages, each containing approximately 300 milligrams.

(*b*) The batch:

(*1*) For all tests except sterility: A minimum of five immediate containers.

(*2*) For sterility testing: 20 immediate containers, collected at regular intervals throughout each filling operation.

(b) *Tests and methods of assay*—(1) *Potency.* Use either of the following methods:

(i) *Microbiological turbidimetric assay.* Proceed as directed in § 436.106 of this chapter, preparing the sample for assay as follows: Reconstitute as directed in the labeling. Dilute an accurately measured representative aliquot of the sample with sufficient distilled water to obtain a stock solution of convenient concentration. Further dilute an aliquot of the stock solution with distilled water to the reference concentration of 2.5 micrograms of chloramphenicol per milliliter (estimated).

(ii) *Spectrophotometric assay.* Reconstitute the sample as directed in the labeling and dilute a 1.0-milliliter aliquot in sufficient distilled water to obtain a solution containing 20 micrograms of chloramphenicol per milliliter. Dissolve an accurately weighed portion of the working standard in sufficient distilled water to obtain a solution containing 20 micrograms per milliliter. Using a suitable spectrophotometer and distilled water as the blank, determine the absorbance of the sample and standard solutions at 278 nanometers. Calculate the potency of the sample as follows:

Milligrams of chloramphenicol per milliliter = Absorbance of sample X labeled potency per milliliter in milligrams/Absorbance of standard.

(2) *Sterility.* Proceed as directed in § 436.20 of this chapter, using the method described in paragraph (e)(1) of that section.

(3) *pH.* Proceed as directed in § 436.202 of this chapter, using an aqueous solution containing 5 milligrams per milliliter.

PART 555—CHLORAMPHENICOL DRUGS FOR ANIMAL USE

6. Part 555 is amended in § 555.111, by revising the second sentence in paragraph (a)(1) and by revising paragraphs (a)(3)(i) (*a*) and (*b*) and (b)(1) to read as follows:

§ 555.111 Chloramphenicol palmitate oral suspension.

(a) * * *

(1) * * * Each milliliter contains chloramphenicol palmitate equivalent to 30.0 milligrams of chloramphenicol. * * *

* * * * *

(3) * * *

(i) * * *

(*a*) The chloramphenicol palmitate used in making the batch for chloramphenicol content, safety, melting range, specific rotation, and crystallinity.

(*b*) The batch for chloramphenicol content, pH, and content of polymorph A crystals.

* * * * *

(b) * * *

(1) *Chloramphenicol content (high-pressure liquid chromatography).* Proceed as directed in § 436.335 of this chapter, except prepare the sample solution and calculate the chloramphenicol content as follows:

(i) *Preparation of sample solution.* Transfer a portion of the sample equivalent to 150 milligrams of chloramphenicol into a 200-milliliter volumetric flask. Add 100 milliliters of methanol and 4 milliliters of glacial acetic acid. Shake and dilute to volume with methanol. Filter the solution through a glass fiber filter or equivalent that is capable of removing particulate contamination to 1 micron in diameter.

(ii) *Calculations.* Calculate the chloramphenicol content as follows:

$$\text{Milligrams of chloramphenicol per milliliter} = \frac{(A)(W_s)(f)(4)}{(B)(1,000)(V)}$$

where:

A = Area of the chloramphenicol palmitate sample peak (at a retention time equal to that observed for the standard);

B = Area of the working standard peak;

W_s = Weight of standard in milligrams;

f = Micrograms of chloramphenicol activity per milligram of chloramphenicol palmitate working standard; and

V = Volume of sample in milliliters.

* * * * *

These amendments institute changes that are corrective, editorial, or of a minor substantive nature. Because the amendments are not controversial and because when effective they provide notice of accepted standards, FDA finds that notice, public procedure, and delayed effective date are unnecessary and not in the public interest. The amendments, therefore, may become effective February 17, 1984. However, interested persons may, on or before March 19, 1984, submit written comments on this regulation to the Dockets Management Branch (address above). Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Any person who will be adversely affected by this regulation may file objections to it and request a hearing. Reasonable grounds for the hearing must be shown. Any person who decides to seek a hearing must file (1) on or before March 19, 1984, a written notice of participation and request for hearing, and (2) on or before April 17, 1984, the data, information, and analyses on which the person relies to justify a hearing, as specified in 21 CFR 430.20. A request for a hearing may not rest upon mere allegations or denials, but must set forth specific facts showing that there is a genuine and substantial issue of fact that requires a hearing. If it conclusively appears from the face of the data, information, and factual analyses in the request for hearing that no genuine and substantial issue of fact precludes the action taken by this order, or if a request for hearing is not made in the required format or with the required analyses, the Commissioner of Food and Drugs will enter summary judgment against the person(s) who request(s) the hearing, making findings and conclusions and denying a hearing. All submissions must be filed in three copies, identified with the docket number appearing in the heading of this order and filed with the Dockets Management Branch.

The procedures and requirements governing this order, a notice of participation and request for hearing, a submission of data, information, and analyses to justify a hearing, other comments, and grant or denial of a hearing are contained in 21 CFR 430.20.

All submissions under this order, except for data and information prohibited from public disclosure under 21 U.S.C. 331(j) or 18 U.S.C. 1905, may be seen in the Dockets Management Branch, between 9 a.m. and 4 p.m., Monday through Friday.

Effective date. This regulation shall be effective February 17, 1984.

(Secs. 507, 512(n), 701 (f) and (g), 52 Stat. 1055–1056 as amended, 59 Stat. 463 as amended, 82 Stat. 350–351 (21 U.S.C. 357, 360b(n), 371 (f) and (g)))

Dated: February 13, 1984.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 84-4353 Filed 2-16-84; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF THE INTERIOR

Minerals Management Service

30 CFR Part 250

Outer Continental Shelf Oil and Gas Operations; Marking of Equipment

AGENCY: Minerals Management Service, Interior.

ACTION: Amendments to OCS Order No. 1; extension of effective date and correction of final rule.

SUMMARY: This Notice extends the effective date of the Final rule published on January 16, 1984 (49 FR 1897), amending Paragraph 5, *Marking of Equipment,* of OCS Order No. 1 and corrects editorial errors. The effective date is being extended to allow sufficient time for implementation. The editorial corrections make the subparagraphs on information collections consistent with the requirements of paragraph 5.

EFFECTIVE DATE: The effective date of the Final rule, as published on January 16, 1984, is extended to May 15, 1984.

FOR FURTHER INFORMATION CONTACT: David A. Schuenke; Chief, Branch of Rules, Orders, and Standards; Offshore Rules and Operations Division; Mail Stop 646; Minerals Management Service; U.S. Department of the Interior; 12203 Sunrise Valley Drive; Reston, Virginia 22091; telephone (703) 860–7916 or (FTS) 928–7916.

Dated: February 13, 1984.

John B. Rigg,

Associate Director for Offshore Minerals Management.

The following corrections are made to Paragraph 5, *Marking of Equipment,* of OCS Order No. 1 appearing in FR Doc. 84–988 on January 16, 1984 (49 FR 1897):

1. On page 1899 in item (5) at the bottom of column three, paragraph g, in the second line, the phrase "in paragraph 1" is corrected to read "in paragraph 5"; and in the eighth line, the word "materials," is replaced with the phrase "marking conventions for."

2. On page 1900 in item (6) at the top of column one, paragraph h, in the second line, the phrase "in paragraph 1" is corrected to read "in paragraph 5"; and in the eighth line, the word "materials," is replaced with the phrase "marking conventions for."

(43 U.S.C. 1334)

[FR Doc. 84-4423 Filed 2-16-84; 8:45 am]

BILLING CODE 4310-MR-M

POSTAL SERVICE

39 CFR Part 111

Handling Custom Designed Express Mail Shipments Lacking Address Information Outside the Pouch

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: This rule amends postal regulations in the Domestic Mail Manual (DMM) to encourage a change in certain mailing practices which have caused unnecessary delays to some Custom Designed Express Mail shipments. An Express Mail shipment is normally intended for a single addresse. Hence, the practice had developed among some mailers of placing their Custom Designed Express Mail articles in an Express Mail pouch without either enclosing them in any other wrapper or including delivery address information inside the pouch or on the articles themselves. This practice had resulted in a growing tendency by postal employees to regard the Express Mail pouch itself as the sealed wrapper, which could be opened only in response to a search warrant or in a dead mail branch for the sole purpose of identifying a delivery address, whereas the items of Express Mail sealed against inspection are limited to the contents of an Express Mail pouch. The net result was that Express Mail pouches which had lost their outside address information were not generally opened by postal employees at the time the address information was found to be missing, but were forwarded to a dead mail branch for opening, causing delay to the mail. To alleviate this problem, postal regulations are changed to clarify that postal employees are authorized to open any Express Mail pouch lacking a delivery address in order to find such an address inside the pouch. Where no address can be found without disturbing the wrappers of the contents, the pouch and its contents must be immediately sent to the dead mail branch to be opened completely, including any wrappers if necessary, to find a delivery address.

EFFECTIVE DATE: March 18, 1984.

FOR FURTHER INFORMATION CONTACT: Ed McClure, (202) 245–4530.

SUPPLEMENTARY INFORMATION: On December 28, 1983, the Postal Service published for comment in the **Federal Register** (48 FR 57142) proposed changes to parts 115, 159, and 262 of the Domestic Mail Manual, dealing with Custom Designed Express Mail shipments lacking address information outside the pouch as explained in the summary above. Two minor errors in the regulations were also proposed to be corrected. Interested persons were invited to suibmit comments concerning the proposed changes on or before January 27, 1984. No comments were received.

Accordingly, the Postal Service hereby adopts, without change, the following amendments to the Domestic Mail Manual, which are incorporated by reference in the Code of Federal Regulations (39 CFR 111.1).

Lists of Subjects in 39 CFR Part 111

Postal Service.

Part 115—Mail Security

1. In 115.2, revise .21c to read as follows:

115.2 Opening, Reading, and Searching of Sealed Mail Generally Prohibited.

.21 General

* * * * *

c. A person executing a search warrant in accordance with 115.6.

2. In 115.3, revise .31h to read as follows:

115.3 Permissible Detention of Mail

.31 Sealed Mail Generally Not Detained. No postal employee may detain mail sealed against inspection (other than dead mail) except:

* * * * *

h. A postal employee, during the period required to seek and obtain instructions under 153.7, concerning mail whose delivery is in dispute, or under

424.1 of the Postal Operations Manual (POM), concerning legal process, other than a search warrant duly issued under Rule 41 of the Federal Rules of Criminal Procedure, purporting to require the surrender of mail matter.

Part 159—Undeliverable Mail

3. In 159.3, revise the title of .32 and add new .323 to read as follows:

159.3 Address Correction Service and Return

* * * * *

.32 Registered, C.O.D., and Express Mail

* * * * *

.323 Any postal employee who cannot dispatch, distribute, or deliver an Express mail pouch because there is no delivery address on the outside of the pouch must promptly open the pouch in order to find a delivery address on the outside of any envelope, wrapper, or other article inside the pouch. Postal employees must not open the wrappers or envelopes or break the seals of any Express Mail article inside the pouch. If address information is found, the pouch must be closed securely and promptly tagged and forwarded to the delivery address. If no address information is found inside the pouch, the pouch must be handled in accordance with 159.521h.

4. In 159.5, add new .521h to read as follows:

159.5 Dead Mail

* * * * *

.52 Treatment at Last Office of Address

.521 Disposition

* * * * *

h. When an Express Mail pouch must be opened to identify a delivery address (see 159.323), but no address is found without disturbing wrappers of the contents, the pouch and its contents must be immediately sent to the dead mail branch without a retention period. Express Mail outside pieces with defaced labels which cannot be read must also be immediately sent to the dead mail branch.

Part 262—Express Mail Custom Designed Service

5. Revise 262 to read as follows:

262 Express Mail Custom Designed Service

262.1 Except as provided in 261.2 (for outside pieces) and 223.24 (for pick-up from post office box addresses), all Custom Designed Service mail must be tendered in Express Mail pouches which are closed and which have the required receipt forms securely attached.

262.2 The mailer should wrap the individual contents of a Custom Designed Express Mail pouch so as to provide both the intended privacy and a space for appropriate address information. In addition to the address on the outside of the pouch, the mailer should also include address information either on a card or sheet of paper placed inside the pouch or preferably on the wrapper of each individual piece. This internal address is important because if the outside address of a pouch is lost, a postal employee who opens the pouch may be unable to determine to whom the pouch should be delivered (see 159.323).

262.3 Failure to provide an internal wrapper and address may have the following consequences if a Custom Designed Express Mail shipment is found lacking address information on the outside:

a. Any contents of the pouch which are intended and entitled to be kept private may be exposed to view if it is necessary for a postal employee to open the pouch to attempt to identify a delivery address.

b. Delivery of the shipment will be delayed or prevented if it is sent to a dead mail branch for examination and for disposal along with other undeliverable and nonreturnable mail if a delivery address is not found.

A transmittal letter making these changes in the pages of the Domestic Mail Manual will be published and will be transmitted to subscribers automatically. Notice of issuance of the transmittal letter will be published in the **Federal Register** as provided in 39 CFR 111.3.

(39 U.S.C. 401(2))

W. Allen Sanders,

Associate General Counsel, Office of General Law and Administration.

[FR Doc. 84-4407 Filed 2-16-84; 8:45 am]

BILLING CODE 7710-12-M

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

43 CFR Part 426

Acreage Limitation: Rules and Regulations; Correction

AGENCY: Bureau of Reclamation, Interior.

ACTION: Final rules; correction.

SUMMARY: This document corrects the final rules on acreage limitation that appeared on page 54748–54786 in the **Federal Register** on Tuesday, December 6, 1983 (48 FR 54748). The action is necessary to correct cross-reference, word usage, and typographical errors.

FOR FURTHER INFORMATION CONTACT: Phillip Doe, Acting Chief, Acreage Limitation Branch, Bureau of Reclamation, E&R Center, D–410, P.O. Box 25007, Denver Colorado 80225, (303) 234–7195.

The following corrections are made in volume 48, No. 235 of the **Federal Register,** pages 54748–54786 in the December 6, 1983 issue:

1. At the top of the first column on page 54748, under the subject heading, the date "November 3, 1983" is deleted.

2. In the first column on page 54748, under the first sentence of the "Summary" section, "* * * proposes to issue final rules * * *" is corrected to read "* * * is issuing final rules * * *."

3. On page 54748, column 1, last paragraph, "period" is corrected to read "period."

4. On page 54750, column 2, the third full paragraph, "thay" is corrected to read "that."

5. On page 54751, column 1, the first heading, "43 CFR 426.4(l) Irrigable land" is corrected to read "43 CFR 426.4(l) Irrigable land."

6. On page 54751, column 2, the first complete paragraph, "facilites" is corrected to read "facilities."

7. On page 54751, column 2, the last sentence in the sixth full paragraph, "930 acres" is corrected to read "960 acres."

8. On page 54751, column 2, the fourth sentence in the second last paragraph, "intent" is corrected to read "intend."

9. On page 54751, column 2, the fifth sentence in the second last paragraph, "906 acres" is corrected to read "960 acres."

10. On page 54751, column 3, the first sentence, "enought" is corrected to read "enough."

11. On page 54752, column 1, the last full sentence, "* * * that would be considered * * *" is corrected to read "* * * that would not be considered * * *."

12. On page 54752, column 2, the second heading, "43 CFR 426.5(2) New contracts" is corrected to read "43 CFR 426.5(a)(2) New contracts."

13. On page 54753, column 3, the first full sentence, "ot" is corrected to read "not."

14. On page 54753, column 3, the fifth full paragraph, "use" is corrected to read "used."

15. On page 54754, column 1, the first sentence, "articles" is corrected to read "article."

16. On page 54756, column 1, the third full paragraph, the first sentence, "* * * multidistrict ownership which * * *" is corrected to read "* * * multidistrict ownership in which * * *."

17. On page 54756, column 2, the second paragraph, "* * * is in the rules is * * *" is corrected to read "* * * are in the rules are * * *."

18. On page 54756, column 2, the fourth heading, "43 CFR 426.7(b)(1) The form and provisions of a lease" is corrected to read "43 CFR 426.7(b) The form and provisions of a lease."

19. On page 54757, column 1, the last heading, "43 CFR 426.7(3)" is corrected to read "43 CFR 426.7(c)(3)."

20. On page 54757, column 2, the third sentence of the second paragraph, "* * * section of the financing abilities * * *" is corrected to read "* * * section on the financing abilities * * *."

21. On page 54757, column 2, the last line, "* * * provisions of the title * * *" is corrected to read "* * * provisions of title * * *."

22. On page 54757, column 3, the last sentence of the first full paragraph, "* * * different classes of water and * * *" is corrected to read "* * * different classes of water, and * * *."

23. On page 54758, column 1, the third line, "have" is corrected to read "has."

24. On page 54758, column 3, the first sentence of the last full paragraph, "* * * the full O&M due * * *" is corrected to read "* * * the full O&M costs due * * *."

25. On page 54758, column 3, the first sentence of the last full paragraph, "* * * the full O&M due * * *" is corrected to read "* * * the full O&M costs due * * *."

26. On page 54759, column 1, the second sentence of the third full paragraph, "* * * full O&M under * * *" is corrected to read "* * * full O&M costs under * * *."

27. On page 54759, column 1, the last sentence of the third full paragraph, "* * * pay full O&M, * * *" is corrected to read "* * * pay full O&M costs, * * *."

28. On page 54759, column 3, the first sentence of the sixth full paragraph, "* * * is the same as that which has * * *" is corrected to read "* * * are the same as that which have * * *."

29. On page 54760, column 1, the second sentence of the last full paragraph, "is" is corrected to read "are."

30. On page 54761, column 1, the second sentence of paragraph 2, "not" is corrected to read "no."

31. On page 54761, column 1, the last paragraph, "their" is corrected to read "its."

32. On page 54761, column 2, the first paragraph, "paper work" is corrected to read "paperwork."

33. On page 54762, column 3, the fifth full paragraph, "it" is corrected to read "its."

34. On page 54763, column 2, the last sentence of the last full paragraph, "is" is corrected to read "are."

35. On page 54764, column 2, the first full sentence, "required" is corrected to read "acquired."

36. On page 54765, column 2, the last full paragraph in column 2, "* * * Corps of Engineers project * * *" is corrected to read "* * * Corps of Engineers projects * * *."

37. On page 54765, column 3, the fourth full paragraph, "ony" is corrected to read "only."

38. On page 54766, column 1, the last heading,"betterment" is corrected to read "Betterment."

39. On page 54766, column 2, the fifth paragraph, "adressed" is corrected to read "addressed."

40. On page 54766, column 2, the first word in the sixth paragraph, "Thr" is corrected to read "The."

41. On page 54767, column 2, the second sentence of the fourth full paragraph, "an" is corrected to read "and"

42. On page 54767, column 3, the first sentence of the third paragraph, "reclamation's" is corrected to read "Reclamation's."

43. On page 54767, column 3, the last heading, "reclamation" is corrected to read "Reclamation."

44. On page 54768, column 1, the heading "43 CFR 426.22 Severability" is corrected to read "43 CFR 426.23 Severability."

45. On page 54768, column 2, section 426.21 of the table of contents, "reclamation" is corrected to read "Reclamation."

§ 426.2 [Corrected]

46. On page 54768, column 3, the first full paragraph, "426.22" is corrected to read "426.23."

§ 426.5 [Corrected]

47. On page 54770, column 1, the second last line, "In these rules individuals * * *" is corrected to read, "In these rules, individuals * * *."

48. On page 54770, column 2, the heading for the third full paragraph, "amendements" is corrected to read "amendments."

49. On page 54771, column 1, the first sentence of the second full paragraph, "* * * not time limits * * *" is corrected to read "* * * no time limits * * *."

§ 426.6 [Corrected]

50. On page 54771, column 2, in the sixth sentence of the first full paragraph, "eligiblity" is corrected to read "eligibility."

51. On page 54771, column 3, the first sentence, "requirments" is corrected to read "requirements."

52. On page 54771, column 3, the second sentence of Example (1), "section 426.6(3)" is corrected to read "section 426.6(b)(3)."

53. On page 54771, column 3, the second sentence of Example (2), "section 426.6(3)" is corrected to read "section 426.6(b)(3)."

54. On page 54772, column 2, Example (5), "cares" is corrected to read "acres."

55. On page 54773, column 1, Example (1), "acrea" is corrected to read "acres."

56. On page 54773, column 1, the last sentence of Example (3), "purposed" is corrected to read "purposes."

§ 426.7 [Corrected]

57. On page 54774, column 1, introduction for the second Example (1), "(1)" is corrected to read "(1)."

58. On page 54775, column 3, the third last line, "shal" is corrected to read "shall."

59. On page 54776, column 2, the first line, "annul" is corrected to read "annual."

§ 426.8 [Corrected]

60. On page 54776, column 3, the first sentence of the first full paragraph, "* * * make irrevocable election * * * is corrected to read "* * * make an irrevocable election * * *."

61. On page 54776, column 3, the second sentence of the first full paragraph, "recipients" is corrected to read "recipient's."

§ 426.9 [Corrected]

62. On page 54776, column 3, last paragraph, "indentified" is corrected to read "identified."

§ 426.11 [Corrected]

63. On page 54781, column 3, the third and fifth sentences of Example (i), "landowner X" is corrected to read "Landowner X."

64. On page 54782, column 2, the last sentence of the second full paragraph, "(i)" is corrected to read "(j)."

§ 426.17 [Corrected]

65. On page 54784, column 3, last full paragraph, "(b) Sales Irrigation * * *" is corrected to read "(b) Sales. Irrigation * * *."

§ 426.18 [Corrected]

66. On page 54785, column 1, in section 426.18(b)(1), "flands" is corrected to read "lands."

67. On page 54785, column 1, the sixth last line, "* * * exchange" is corrected to read "* * * exchange." (Period added after "exchange.")

68. On page 54785, column 2, the third line, "by" is corrected to read "but."

§ 426.21 [Corrected]

69. On page 54786, column 1, the first line, "reclamation" is corrected to read "Reclamation."

§ 426.22 [Corrected]

70. On page 54786, column 2, the fourth full sentence, "have" is corrected to read "has."

§ 426.23 [Corrected]

71. On page 54786, column 3, the last paragraph, "in" is corrected to read "is."

Dated: January 12, 1984.

John N. Etchart,

Acting Commissioner.

[FR Doc. 84-1510 Filed 2-16-84; 8:45 am]

BILLING CODE 4310-05-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 95

Editorial Amendment; Personal Radio Services

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document amends Subparts C and E of Part 95, Personal Radio Services, to specify the classes of emissions that Radio Control (R/C) radio stations are authorized to use. The amendment is necessary so that the technical regulations that apply to R/C stations will conform to the operational rules for those stations. The effect of this action is to bring about conformity among the regulations that govern R/C stations.

EFFECTIVE DATE: February 21, 1984.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR INFORMATION CONTACT: Maurice J. DePont, Private Radio Bureau, Washington, D.C. 20554.

List of Subjects in 47 CFR Part 95

Communications equipment, Radio.

Order

In the Matter of Editorial Amendment of 47 CFR Part 95, Subparts C and E, Personal Radio Services.

Adopted: January 30, 1984.
Released: February 3, 1984.

1. By Report and Order of November 4, 1982, in General Docket No. 82-181 (47 FR 51875; November 18, 1982), the Commission amended § 95.220(c), Radio Control (R/C) Rule 20, to specify the classes of emission which R/C radio stations are authorized to use.[1] Inadvertently, the Technical Regulations (Part 95, Subpart E) for equipment to be used at Radio Control stations were not amended at that time. The purpose of this rule amendment is to conform the Technical Regulations, § 95.611(c), to the Radio Control Radio Service Rule 11, § 95.211(c).

2. Since this amendment is editorial in nature, the notice and comment provisions of Section 553(b) of the Administrative Procedure Act are not applicable. For the same reason, the effective date provisions of Section 553(d) do not apply.

3. Authority for this action is contained in Sections 4(i) and 303(r) of the Communications Act of 1934, as amended, and § 0.231(d) of the Commission's Rules.

4. Accordingly, it is ordered, that §§ 95.211(c) and 95.611(c) of the Commission's Rules are amended as set forth in the attached Appendix.

5. The effective date of this rule amendment is February 21, 1984.

Federal Communications Commission.

Edward J. Minkel,

Managing Director.

Appendix

PART 95—[AMENDED]

Part 95, Subparts C and E, of Chapter I of Title 47 of the Code of Federal Regulations is amended, as follows:

1. Section 95.211(c) in Subpart C is revised to read, as follows:

§ 95.211 (R/C Rule 11) What communications may be transmitted?

* * * * *

(c) Your R/C station may only transmit non-voice:

(1) Stations in the 26–27 MHz range may employ only the following emissions:

(i) Amplitude tone modulated emissions (A9); or

(ii) On-off (on-off keying of an unmodulated carrier) emissions (A9).

(2) Stations in the 26–27 MHz range are not afforded any protection from interference caused by the operation of industrial, scientific or medical devices. Such stations also operate on a shared basis with other stations in the Personal Radio Services.

(3) Stations in the 72–76 MHz range may employ only the following emissions:

(i) Amplitude modulated emissions (A9); or

(ii) On-off (on-off keying of an unmodulated carrier) emissions (A9); or

(iii) Frequency (or phase) modulated emissions (F9).

(4) Stations in the 72–76 MHz range are subject to the condition that interference will not be caused to the remote control of industrial equipment operating on the same or adjacent frequencies or to the reception of television transmissions on Channels 4 and 5. These frequencies are not afforded any protection from interference due to the operation of fixed and mobile stations in other services assigned to the same or adjacent frequencies.

2. Section 95.611 in Subpart E is amended by revising paragraph (c), as follows:

§ 95.611 Availability of frequencies.

* * * * *

(c) R/C stations. (1) Frequencies authorized for use at R/C stations.

(i) 26–27 MHz frequency range:

MHz: 26–995; 27.045; 27.095; 27.145; 27.195; 27.255 [1].

(ii) 72–76 MHz frequency range:

MHz: 72.01; 72.03; 72.05; 72.07; 72.09; 72.11; 72.13; 72.15; 72.17; 72.19; 72.21; 72.23; 72.25; 72.27; 72.29; 72.31; 72.33; 72.35; 72.37; 72.39; 72.41; 72.43; 72.45; 72.47; 72.49; 72.51; 72.53; 72.55; 72.57; 72.59; 72.61; 72.63; 72.65; 72.67; 72.69; 72.71; 72.73; 72.75; 72.77; 72.79; 72.81; 72.83; 72.85; 72.87; 72.89; 72.91; 72.93; 72.95; 72.97; 72.99; 75.41; 75.43; 75.45; 75.47; 75.49; 75.51; 75.53; 75.55; 75.57; 75.59; 75.61; 75.63; 75.65; 75.67; 75.69; 75.71; 75.73; 75.75; 75.77; 75.79; 75.81; 75.83; 75.85; 75.87; 75.89; 75.91; 75.93; 75.95; 75.97; 75.99;

and the following frequencies until December 20, 1987:

MHz 72.08; 72.16; 72.24; 72.32; 72.40; 72.96 and 75.64.

(2) Special conditions.

(i) The frequencies listed above are available for non-voice transmissions only. (Certain operating limitations applicable to specific frequencies are listed in § 95.207 (R/C Rule 7)).

(ii) Stations in the 26–27 MHz range may employ only the following emissions:

(A) Amplitude tone modulated emissions (A9); or

(B) On-off (on-off keying of an unmodulated carrier) emissions (A9).

(iii) Stations in the 26–27 MHz range are not afforded any protection from interference caused by the operation of industrial, scientific or medical devices. Such stations also operate on a shared

[1] Section 95.220(c), R/C Rule 20, was redesignated as § 95.211(c), R/C Rule 11, by Report and Order of April 27, 1983, PR Docket No. 82-799, effective July 5, 1983 (48 FR 24684; June 3, 1983).

[1] This frequency is shared with stations in other services.

basis with other stations in the Personal Radio Services.

(iv) Stations in the 72–76 MHz range may employ only the following emissions:

(A) Amplitude modulated emissions (A9); or

(B) On-off (on-off keying of an unmodulated carrier) emissions (A9); or

(C) Frequency (or phase) modulated emissions (F9).

(v) Stations in the 72–76 MHz range are subject to the condition that interference will not be caused to the remote control of industrial equipment operating on the same or adjacent frequencies or to the reception of television transmissions on Channels 4 and 5. These frequencies are not afforded any protection from interference due to the operation of fixed and mobile stations in other services assigned to the same or adjacent frequencies.

* * * * *

(Secs. 4, 303, 48 Stat. as amended, 1066, 1082; 47 U.S.C. 154, 303)

[FR Doc. 84–4203 Filed 2–16–84; 8:45 am]

BILLING CODE 6712–01–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Final Rule To List Bidens Cuneata and Schiedea Adamantis as Endangered Species

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The Service determines two plants, *Bidens cuneata* Sherff (cuneate bidens) and *Schiedea adamantis* St. John (Diamond Head schiedea), to be endangered. These two species are known from a single small population each, restricted to the rim of Diamond Head Crater, Oahu, Hawaii. This action is being taken because of the threat to the plants resulting from habitat degradation and potential fire hazards. This rule will implement the full protection provided by the Endangered Species Act of 1973, as amended.

DATE: The effective date of this rule is March 19, 1984.

ADDRESSES: The complete file for this rule is available for inspection by appointment during normal business hours at the Service's Office of Endangered Species, 1000 North Glebe Road, Arlington, Virginia. Active files on these species are maintained at the U.S. Fish and Wildlife Service, Endangered Species Field Station, 300 Ala Moana Boulevard, Room 6307, Honolulu, Hawaii.

FOR FURTHER INFORMATION CONTACT: Mr. Sanford R. Wilbur, Endangered Species Program, Region 1, U.S. Fish and Wildlife Service, Department of the Interior, 500 N.E. Multnomah Street, Suite 1692, Portland, Oregon 97232 (501/231–6131).

SUPPLEMENTARY INFORMATION:

Background

Bidens cuneata Sherff and *Schiedea adamantis* St. John are known from a single, small population each, growing on the rim of Diamond Head Crater, Honolulu, Hawaii. The continued existence of these species is threatened by several factors documented in recent status reports (Takeuchi 1980a, 1980b), and summarized below:

1. Both species' populations are located just below the trail following the crater crestline. Passage of hikers and sightseers through this summit area results in soil compaction and removal of vegetative cover, thus promoting runoff and the consequent erosion of habitat. The State intends to develop Diamond Head into a public park and recreation area. Although the State does not plan to develop those portions of the trail near the plants, the development will increase the number of persons using the area and necessitate measures to protect these two species from human impacts.

2. Due to the dry conditions that generally exist in the area, fire hazards are a significant potential threat. This threat will increase as the number of persons using the area increases.

3. Pressures attributable to the presence of exotic vegetation and the concomitant competition for soil moisture and space also are probable threats.

4. The extremely small numbers of extant individuals and their limited distribution also threaten the continued existence of these species. A single fire or natural fluctuations in the number of individuals in the community could cause their demise.

Both plants are of great scientific interest because they are members of families that have undergone much evolutionary diversification in Hawaii. Both are members of genera that would make excellent models for the study of evolution and adaptive radiation in insular floras. The Hawaiian species of *Bidens* have been and are presently being used for such studies (Gillet and Lim 1970). Additionally, *Schiedea*, an endemic genus of the carnation family, has an unusual floral structure for that family, and is of scientific interest due to its breeding systems.

Section 12 of the Endangered Species Act of 1973 (the Act) directed the Secretary of the Smithsonian Institution to prepare a report on those plants considered to be endangered, threatened or extinct. This report, designated as House Document 94–51, *Report on Endangered and Threatened Plant Species of the United States*, included a list of those plants considered by the Smithsonian Institution to qualify for endangered or threatened status. The Service accepted the report as a petition within the context of section 4(c)(2) of the Act, and it was the principal basis for a notice published in the July 1, 1975, **Federal Register** (40 FR 27824–27924) indicating that over 3,000 plant taxa were being considered for listing as endangered or threatened.

Subsequently, in the June 16, 1976, **Federal Register** (41 FR 24524–24572), the Service published a proposal advising that sufficient evidence was then on file to support determinations that 1,783 plant taxa were endangered species as defined by the Act. That is, each of the included taxa was in danger of extinction over all or a significant portion of its range because of one or more of the factors set forth in Section 4(a)(1) of the Act. The proposal solicited comments, suggestions, objections and factual information from all interested persons.

Notification of the proposal and a solicitation for comments or suggestions were sent to the Governor of Hawaii and other interested parties on July 1, 1976. A public hearing regarding the proposal was held on July 14, 1976, in Honolulu, Hawaii. *Bidens cuneata* and *Schiedea adamantis* were included in House Document 94–51, the July 1, 1975, notice of review and the June 16, 1976, proposal.

Following the June 16, 1976, proposal, hundreds of comments were received from individuals, conservation organizations, botanical groups, and business and professional organizations. Few of these comments were specific in nature in that they did not address specific plant species. Most comments addressed the program or the concept of endangered plants and their protection and regulation.

These comments were summarized in the April 26, 1978, **Federal Register** publication of a final rule that also determined 13 plant species to be endangered or threatened (43 FR 17909–17916).

The 1978 Amendments to the Act subsequently required that all proposals

over two years old be withdrawn. A one year grace period was given to proposals already over two years old. On December 10, 1979, the Service published a notice withdrawing the portion of the June 16, 1976, proposal that had not been subject to final action, along with four other proposals that had expired (44 FR 70796–70797).

Bidens cuneata and *Schiedea adamantis* were again proposed for endangered status on August 23, 1982 (47 FR 36675–36678), based on information available at the time of the 1976 proposal and information gathered since that time.

Summary of Comments and Recommendations

In the August 23, 1982, proposed rule, all interested parties were requested to submit factual reports or information that might contribute to the development of a final rule. A letter was sent to the Governor of the State of Hawaii on September 2, 1982, notifying him of the proposed rule listing *Bidens cuneata* and *Schiedea adamantis*. Also in that month, notifications were sent to appropriate Federal agencies and other interested parties. Comments were received from the Governor of Hawaii, the Department of Transportation's Federal Aviation Administration and the National Park Service's Cooperative Resources Studies Unit at the University of Hawaii. All comments received have been considered in formulating this final rule.

The Governor of Hawaii concurred that both plants are in danger of extinction and that listing them will aid in their recovery by making them eligible to receive Federal funding. Both species are included in the proposed 10-year threatened and endangered plant action plan of the State's Division of Forestry and Wildlife. He also stated that both plants occur in areas where hiking is discouraged by the Division of State Parks.

Clifford W. Smith, Director of the Cooperative National Park Resources Studies Unit at the University of Hawaii, stated that there is "* * * an overwhelming need to protect these species in their wild condition," and that he knows of no private or state program preserving these plants in their natural habitat. He noted that listing of the plants by the Federal government will also place them under the protection of the State endangered species law.

John H. Gordon, Manager of the Honolulu Sector of the Federal Aviation Administration, appreciated our concern for the plants. He stated that his agency will coordinate any modifications of their Diamond Head facility with the Service to prevent any harm to the plants.

Summary of the Factors Affecting the Species

After a thorough review and consideration of all the available information, the Service has determined that *Bidens cuneata* and *Schiedea adamantis* should be classified as endangered species. Procedures found at section 4(a)(1) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*) and regulations promulgated to implement the listing provisions of the Act (codified at 50 CFR; under revision to accommodate 1982 amendments) were followed. A species may be determined to be an endangered or a threatened species due to one or more of the five factors described in Section 4(a)(1). These factors and their application to *Bidens cuneata* (cuneate bidens) and *Schiedea adamantis* (Diamond Head Schiedea) are as follows:

A. *Present or threatened destruction, modification, or curtailment of its habitat or range.* Direct, human-induced threats probably were not significant before 1906, due to limited use of the crater rim habitat prior to that date. Subsequent to that time, several facilities were constructed on the Diamond Head crestline. These include the FAA link site on the northeast crest and military emplacements along the southern and western ridge summits. It is not known what effects, if any, these constructions may have had on the distribution of *B. cuneata* and *S. adamantis*, although it is of possible significance that no collection of either species has ever been made from the summit region in which these structures were erected. The Service has been assured full cooperation in protecting these species by both State and Federal agencies with management responsibilities on the crater rim. The proliferation of exotic plant species may also have been responsible for serious reductions in the populations as they existed in their original, undisturbed state. This possibility is difficult to evaluate since extensive introduction into the native lowland flora had already occurred by the time of the initial discovery of *Bidens cuneata* in 1903, and *Schiedea adamantis* in 1955. However, very few of the species found associated with the surviving *Bidens cuneata* and *Schiedea adamantis* individuals are native. Throughout the Diamond Head area, there are numerous indications of competitive displacement of natives by introduced species. A hiking trail extends almost entirely around the Diamond Head crater, following its crest. The presence of this trail constitutes a significant threat, since all reported sightings of the two plant species have been at or near the top of the crater rim in exactly the areas through which the trail passes. Habitat deterioration in the form of soil compaction, promotion of erosion, trampling of plants, and dislodging of rocks due to the passage of hikers are potential threats to the continued existence of these plants. However, Hawaii's Division of State Parks discourages hiking along the crater rim except in a few selected places. The two species do not occur in the approved hiking areas.

B. *Overutilization for commercial, recreational, scientific or educational purposes.* Not known to affect these species.

C. *Disease or predation.* Not known to affect these species.

D. *The inadequacy of existing regulatory mechanisms.* Although *Bidens cuneata* and *Schiedea adamantis* do appear on an informal State list developed by botanists (Fosberg and Herbst 1975), no local, State or Federal laws presently protect these species.

E. *Other natural or manmade factors affecting its continued existence.* Although the principal factor endangering these taxa is past and potential degradation or loss of habitat, it is possible that their reproductive success has been affected by a decline of native pollinating insects. Due to the dry conditions that generally exist in the area, fires are also a significant potential threat. Because of the dry conditions, vegetative litter decomposes very slowly and tends to accumulate over the soil surface. During the months of April–September, the litter dries out and is easily ignited. The location of the *Schiedea* population on windward-facing slopes makes it particularly susceptible to this potential hazard. Any fire originating on the lower rim in the vicinity of the crater entrance would be fanned toward the *Schiedea* population by the prevailing winds. Such a fire could be very severe if it should occur in the dry season following a particularly wet winter, since the volume of litter capable of sustaining a blaze would be especially great. Fire could easily result in the extinction of *Schiedea adamantis*, not only through the immediate destruction of established plants and propagules, but also by initiating a secondary vegetational succession in which the *Schiedea* might be excluded. Fires are less of a threat to the *Bidens*, which grows in a comparatively litter-free area.

The State's intention to develop Diamond Head into a public park and

recreation area will increase the number of persons using the area. The increased levels of human activity in this environment can be expected to increase the fire hazard potential as well as the rate of degradation of the habitat unless control measures are undertaken. Finally, the small number of individuals of both species and their limited distribution must be considered a threat to their existence. A single action could extirpate the taxa, as could natural fluctuations in their populations.

Critical Habitat

Section 4(a)(3) of the Endangered Species Act, as amended, requires that, to the maximum extent prudent and determinable, the Secretary designate critical habitat at the time a species is determined to be endangered or threatened. The Service finds that designations of critical habitat are not prudent for these species at this time. The single known remaining wild population of *Bidens cuneata* is estimated to be comprised of 10 mature individuals, while that of *Schiedea adamantis* is estimated to be 78. Both populations are adjacent to a trail used by hikers. Inadvertent or deliberate damage to or destruction of these small populations could result from vandalism or curiosity generated by listing the species. Acts of vandalism to vegetation are well documented in Hawaii, as well as elsewhere. Publication of critical habitat descriptions would pinpoint their exact localities, thus making them more vulnerable and increasing enforcement problems. So few individuals of either species remain that any damage to or destruction of these small populations would seriously jeopardize their survival. Therefore, it would not be prudent to determine critical habitat for either plant at this time.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Endangered Species Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing encourages and results in conservation actions by Federal, State, and private agencies, groups and individuals. The Endangered Species Act provides for land acquisition and cooperation with the States and requires that recovery actions be carried out for all listed species. Such actions are initiated by the Service following listing. The protection required by Federal agencies are discussed, in part, below.

Section 7(a) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened. Regulations implementing this Interagency Cooperation provision of the Act are codified at 50 CFR Part 402 and are now under revision (see proposal at 48 FR 29989; June 29, 1983). Section 7(a)(2) requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of a listed species. If a "may effect" situation is determined the Federal agency must enter into formal consultation with the Service. This provision of the Act now applies to *Bidens cuneata* and *Schiedea adamantis*.

The Act and its implementing regulations found at 50 CFR 17.61, 17.62, and 17.63 set forth a series of trade prohibitions and exceptions which apply to all endangered plant species. These prohibitions, in general, make it illegal for any person subject to the jurisdiction of the United States to import or export endangered plants; deliver, receive, carry, transport, or ship them in interstate commerce in the course of a commercial activity; or to sell them or offer them for sale in interstate or foreign commerce.

The Act and 50 CFR 17.62 and 17.63 provide for the issuance of permits to carry out otherwise prohibited activities involving endangered species under certain circumstances. Such permits involving endangered species are available for scientific purposes to enhance the propagation or survival of the species. In some instances, permits may be issued during a specified period of time to relieve undue economic hardship which would be suffered if such relief were not available.

Section 9(a)(2)(B) of the Act, as amended in 1982, states that it is unlawful to remove and reduce to possession endangered plant species from areas under Federal jurisdiction. This new taking prohibition does not apply to the *Bidens* and *Schiedea* species since they are known to occur only on State-owned land.

Requests for copies of the regulations on plants, and inquiries regarding them, may be addressed to the Federal Wildlife Permit Office, U.S. Fish and Wildlife Service, Washington, D.C. 20240. In addition to the protection provided by the Act, the Service will review these plants to determine whether they should be proposed to the Secretariat of the Convention on International Trade in Endangered Species of Wild Fauna and Flora for placement upon the appropriate appendix(ices) to that Convention, or whether they should be considered under other appropriate international agreements.

References

Fosberg, F.R. and D. Herbst. 1975. Rare and endangered species of Hawaiian vascular plants. Allertonia 1(1):1–72. ,

Gillett, G.W. and E.K.S. Lim. 1970. An experimental study of the genus *Bidens* (Asterceae) in the Hawaiian Islands. U.C. Publ. Bot. 56:1–63.

Takeuchi, W. 1980a. Unpubl. status report on *Bidens cuneata* Sherff. U.S. Fish and Wildlife Service, Honolulu.

Takeuchi, W. 1980b. Unpubl. status report on *Schiedea adamantis* St. John. U.S. Fish and Wildlife Service, Honolulu.

Author

The primary author of this rule is Derral Herbst, U.S. Fish and Wildlife Service, P.O. Box 50167, Honolulu, Hawaii 96850 (808/546–7530). It was edited by John L. Paradiso and John J. Fay, Office of Endangered Species, U.S. Fish and Wildlife Service, Washington, D.C. 20240 (703/235–1975).

List of Subjects in 50 CFR Part 17

Endangered and threatened wildlife, fish, marine mammals, plants (agriculture).

Regulations Promulgation

PART 17—[AMENDED]

Accordingly, Part 17, Subchapter B of Chapter I, Title 50 of the U.S. Code of Federal Regulations, is amended as set forth below:

1. The authority section for Part 17 reads as follows:

Authority: Pub. L. 93–205, 87 Stat. 884; Pub. L. 94–359, 90 Stat. 911; Pub. L. 95–632, 92 Stat. 3751; Pub. L. 96–159, 93 Stat. 1225; Pub. L. 97–304, 96 Stat. 1411 (16 U.S.C. 1531 *et seq.*).

§ 17.12 [Amended]

2. Amend § 17.12(h) by adding the following in alphabetical order under the families Asteraceae and Caryophyllaceae to the List of Endangered and Threatened Plants:

* * * * *

(h) * * *

Species		Historic range	Status	When listed	Critical habitat	Special rules
Scientific name	Common name					
Asteraceae—aster family:						
Bidens cuneata	Cuneate bidens	U.S.A. (HI)	E		NA	NA
Caryophyllaceae—pink family:						
Schiedea adamantis	Diamond Head schiedea	U.S.A. (HI)	E		NA	NA

Dated: January 9, 1984.

G. Ray Arnett,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 84-4359 Filed 2-15-84; 8:45 am]

BILLING CODE 4310-07-M

Proposed Rules

Federal Register
Vol. 49, No. 34
Friday, February 17, 1984

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Federal Grain Inspection Service

7 CFR Part 810

Proposed Revision of the U.S. Standards for Rye

Corrections

In FR Doc 84–2503 beginning on page 3663, in the issue of Monday, January 30, 1984, make the following corrections.

1. On page 3665, second column, § 810.402, paragraph (e), last line, "same" should read "sample".

2. On page 3666, in the table § 810.406, in the fourth entry under "Grade No." the footnote reference after "U.S. No. 4" should be removed.

3. On the same page under § 810.407 paragraph (a), line 6, the word "plumb" should read "plump".

4. Under § 810.408, paragraph (a), first line the word "no" should read "not".

BILLING CODE 1505-01-M

SMALL BUSINESS ADMINISTRATION

13 CFR Part 124

Minority Small Business and Capital Ownership Development Assistance

AGENCY: Small Business Administration.

ACTION: Notice of extension of comment period on proposed rule.

SUMMARY: On December 22, 1983, SBA published in the **Federal Register** a proposed rule regarding its Minority Small Business and Capital Ownership Development Program (see 48 FR 56686). That publication provided that comments on the proposed rule would be received for a period of 60 days from date of publication. This notice extends the comment pertaining to the proposed rule for an additional 30 days in order to provide more time for public comment.

DATE: Comments on the above-referenced proposed rule must be receive by March 21, 1984..

ADDRESS: Written comments should be submitted to Mr. Henry T. Wilfong, Jr., Associate Administrator for Minority Small Business and Caiptal Ownership Development, U.S. Small Business Administration, 1441 L Street NW., Washington, D.C. 20416, Room 602.

FOR FURTHER INFORMATION CONTACT: Henry T. Wilfong, Jr., telephone (202) 653–6407.

SUPPLEMENTARY INFORMATION: In order to provide more time for public comment on the above-referenced proposed rule. SBA is hereby extending the comment period relative to the proposal for an additional 30 days. The public is encouraged to supply comments in writing to the address indicated above so that a complete record on this important proposed rule can be established.

Dated: February 10, 1984.

James C. Sanders,

Administrator.

[FR Doc. 84–4369 Filed 2–16–84; 8:45 am]

BILLING CODE 8025–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 83–AWA–22]

Proposed Alteration of the Dallas-Fort Worth Terminal Control Area

Correction

In FR Doc. 84–3390, beginning on page 4765, in the issue of Wednesday, February 8, 1984, the maps on pages 4770 through 4777 are republished in there entirely.

BILLING CODE 1505–01–M

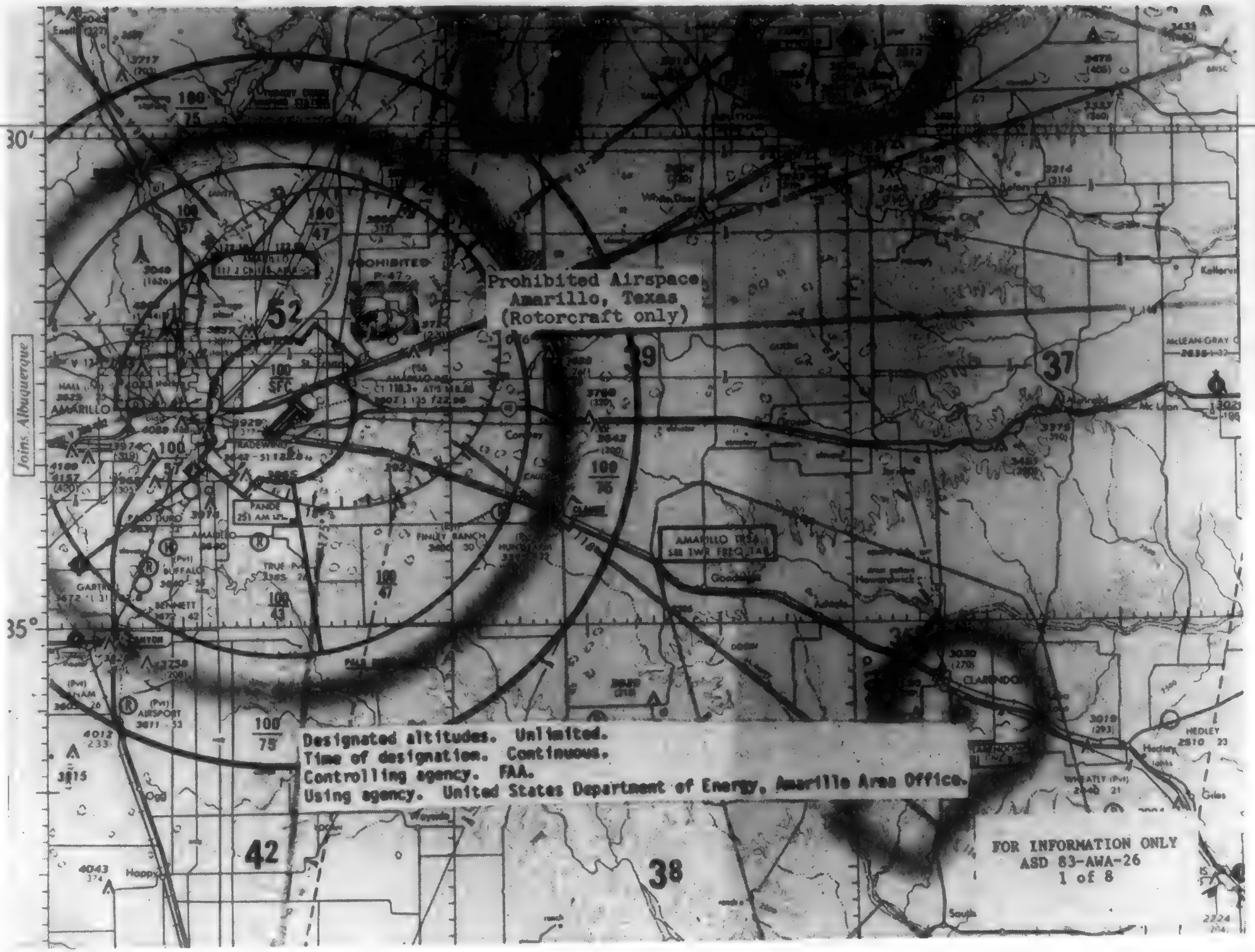

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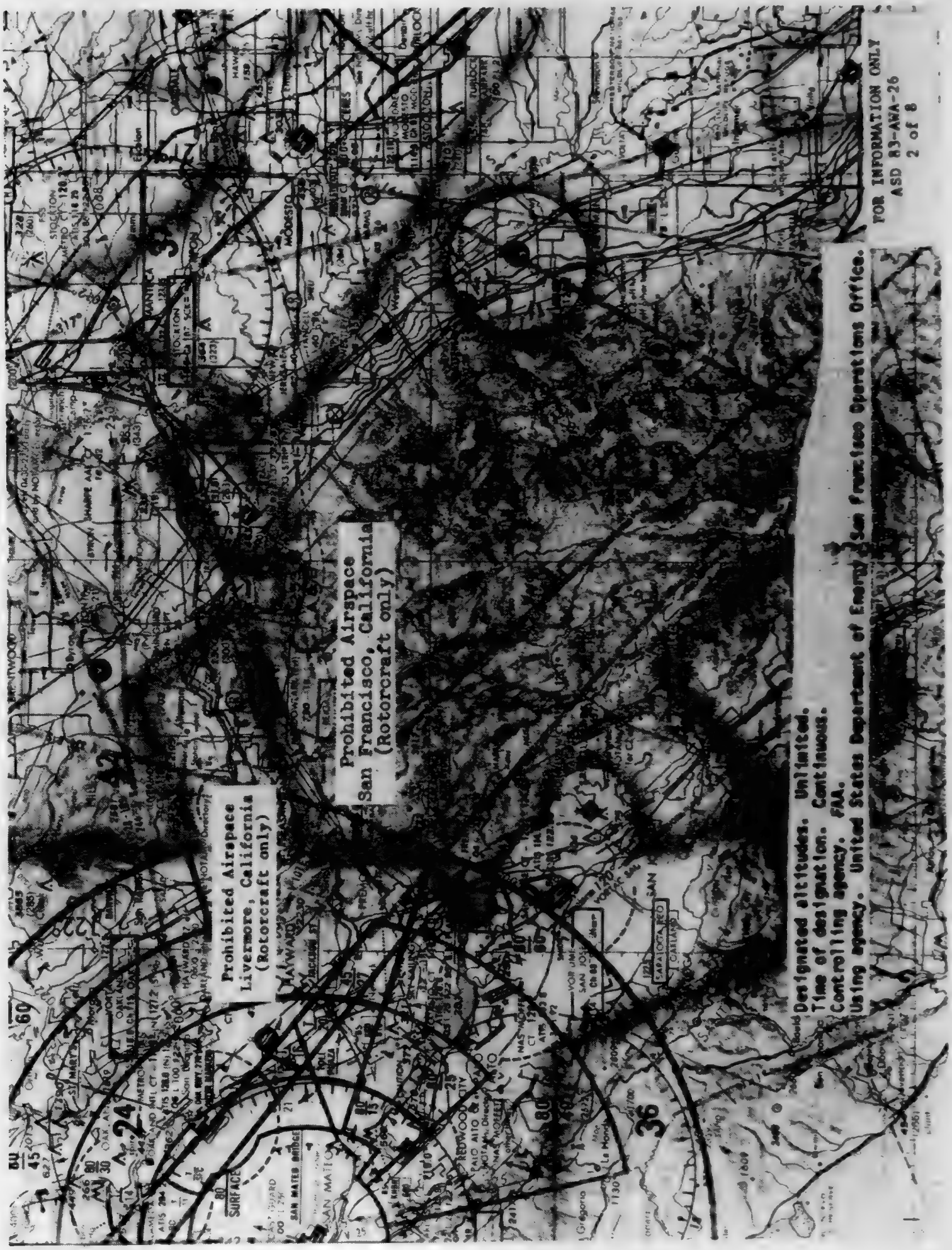
Prohibited Airspace
Livermore, California
(Rotorcraft only)
Prohibited Airspace
San Francisco, California
(Rotorcraft only)
Designated altitudes. Unlimited.
Time of designation. Continuous.
Controlling agency. FAA.
Using agency. United States Department of Energy
San Francisco Operations Office.
FOR INFORMATION ONLY
ASD 83-AWA-26
2 of 8

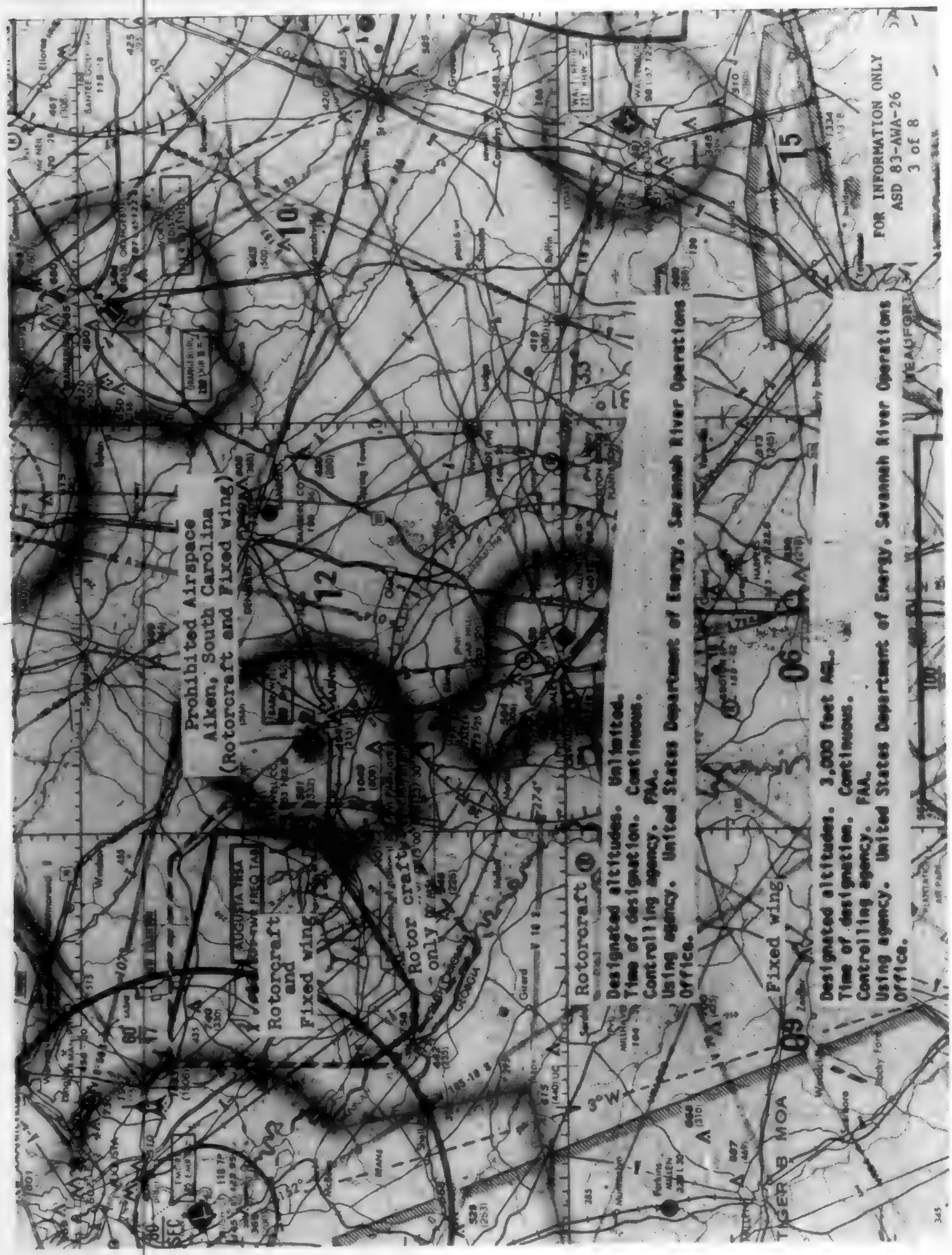
Prohibited Airspace
Aiken, South Carolina
(Rotorcraft and Fixed wing)
Rotorcraft and Fixed wing
Rotorcraft only
Rotorcraft
Fixed wing
TIGER B MOA
Designated altitudes. Unlimited.
Time of designation. Continuous.
Controlling agency. FAA.
Using agency. United States Department of Energy, Savannah River Operations Office.
FOR INFORMATION ONLY
ASD 83-AWA-26
3 of 8
Designated altitudes. 3,000 feet AGL.
Time of designation. Continuous.
Controlling agency. FAA.
Using agency. United States Department of Energy, Savannah River Operations Office.

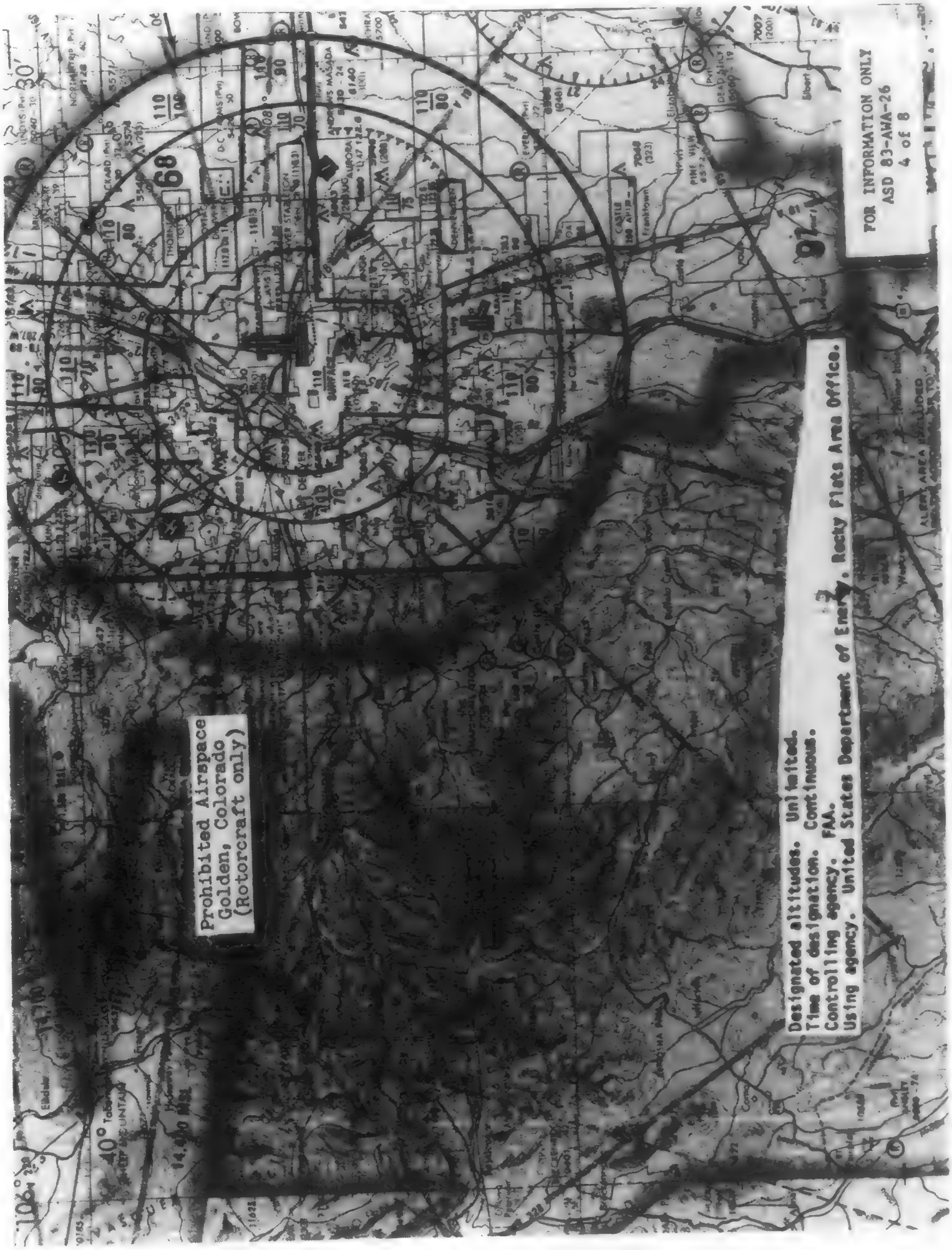
FOR INFORMATION ONLY
ASD 83-AWA-26
4 of 8
Prohibited Airspace
Golden, Colorado
(Rotorcraft only)
Designated altitudes. Unlimited.
Time of designation. Continuous.
Controlling agency. FAA.
Using agency. United States Department of Energy, Rocky Flats Area Office.

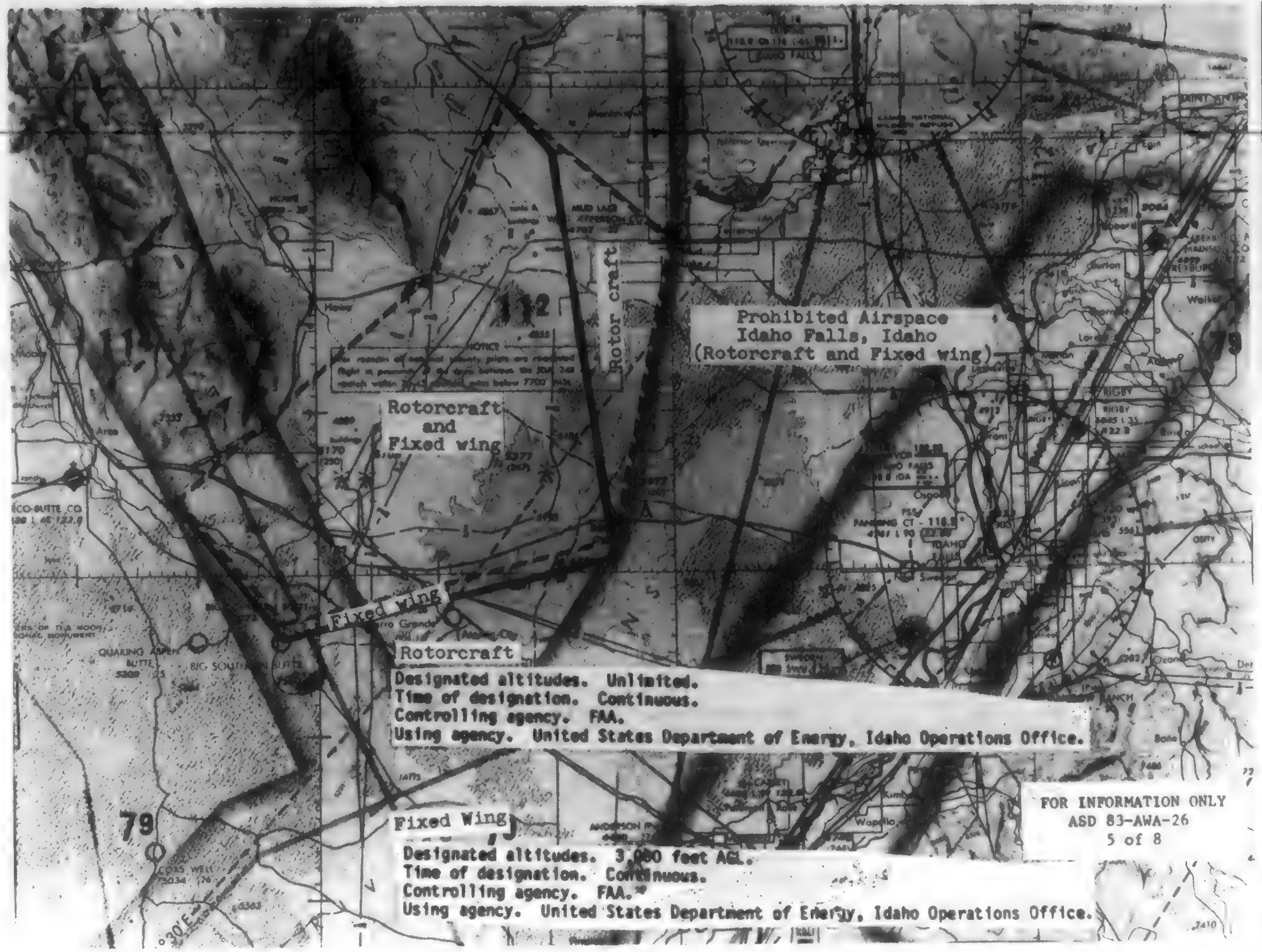

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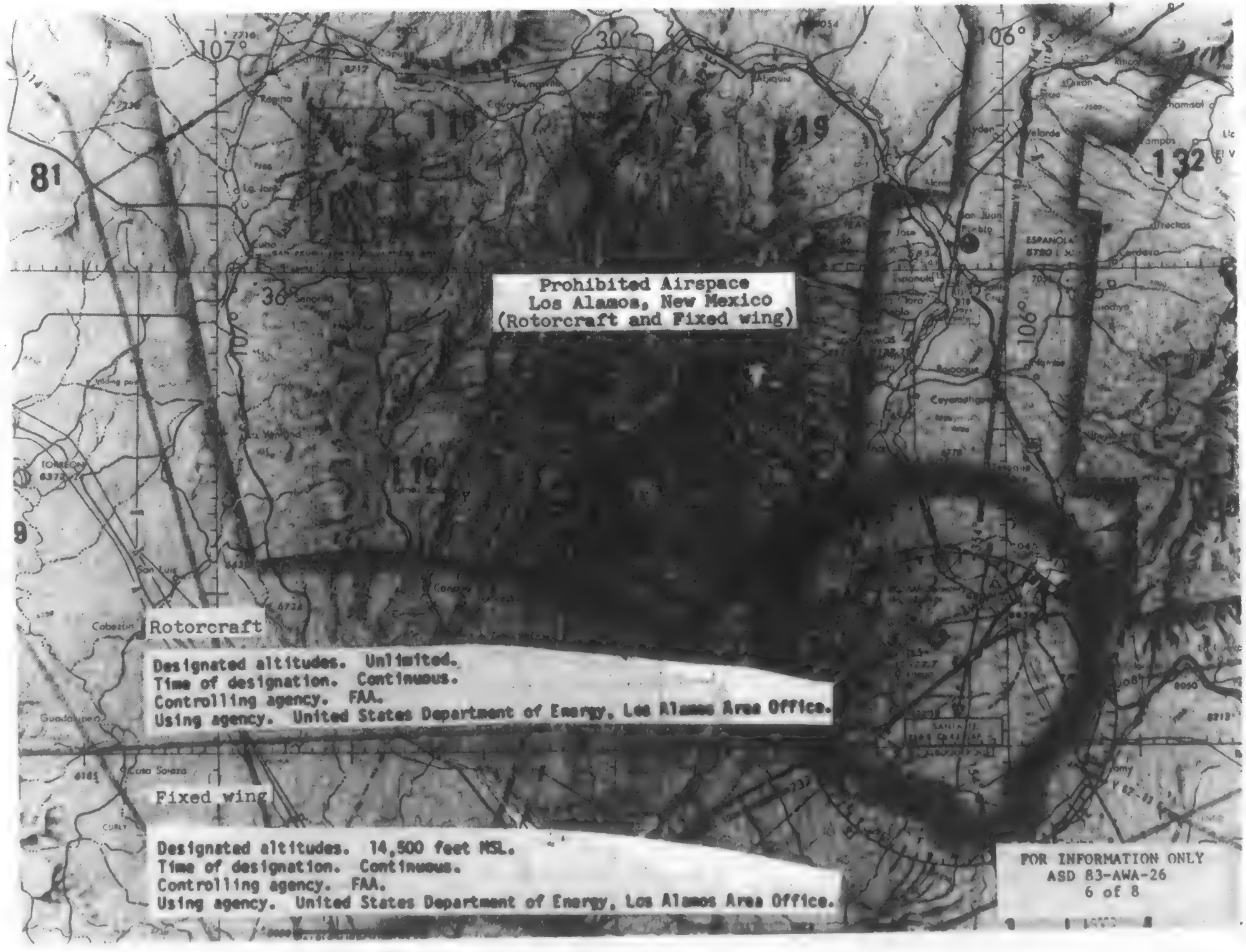
Prohibited Airspace
Los Alamos, New Mexico
(Rotorcraft and Fixed wing)
Rotorcraft
Designated altitudes. Unlimited.
Time of designation. Continuous.
Controlling agency. FAA.
Using agency. United States Department of Energy, Los Alamos Area Office.
Fixed wing
Designated altitudes. 14,500 feet MSL.
Time of designation. Continuous.
Controlling agency. FAA.
Using agency. United States Department of Energy, Los Alamos Area Office.
FOR INFORMATION ONLY
ASD 83-AWA-26
6 of 8

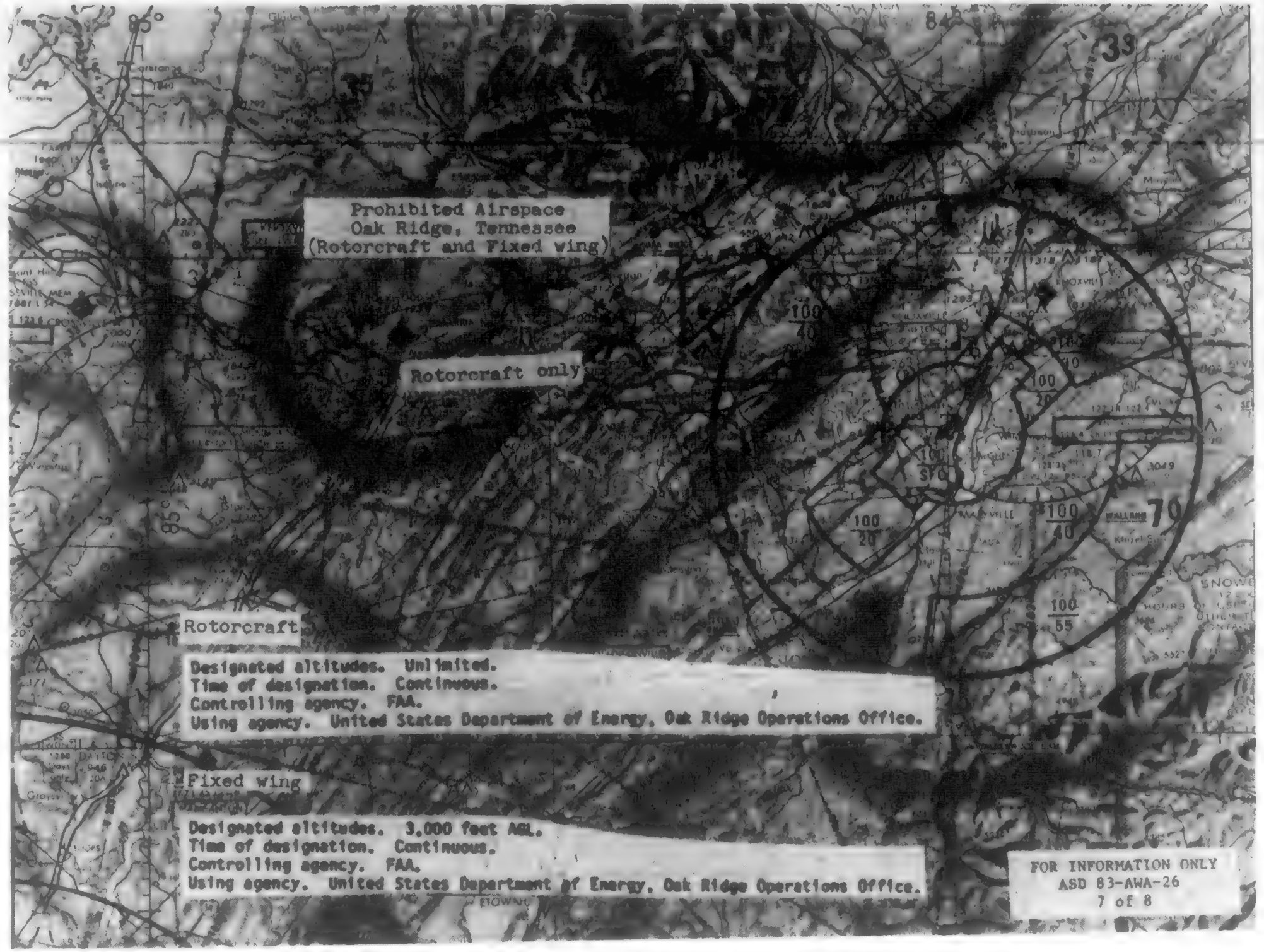

VOL 49 ISS 34 FEB 17 1984 UMI

BILLING CODE 4910-14-C

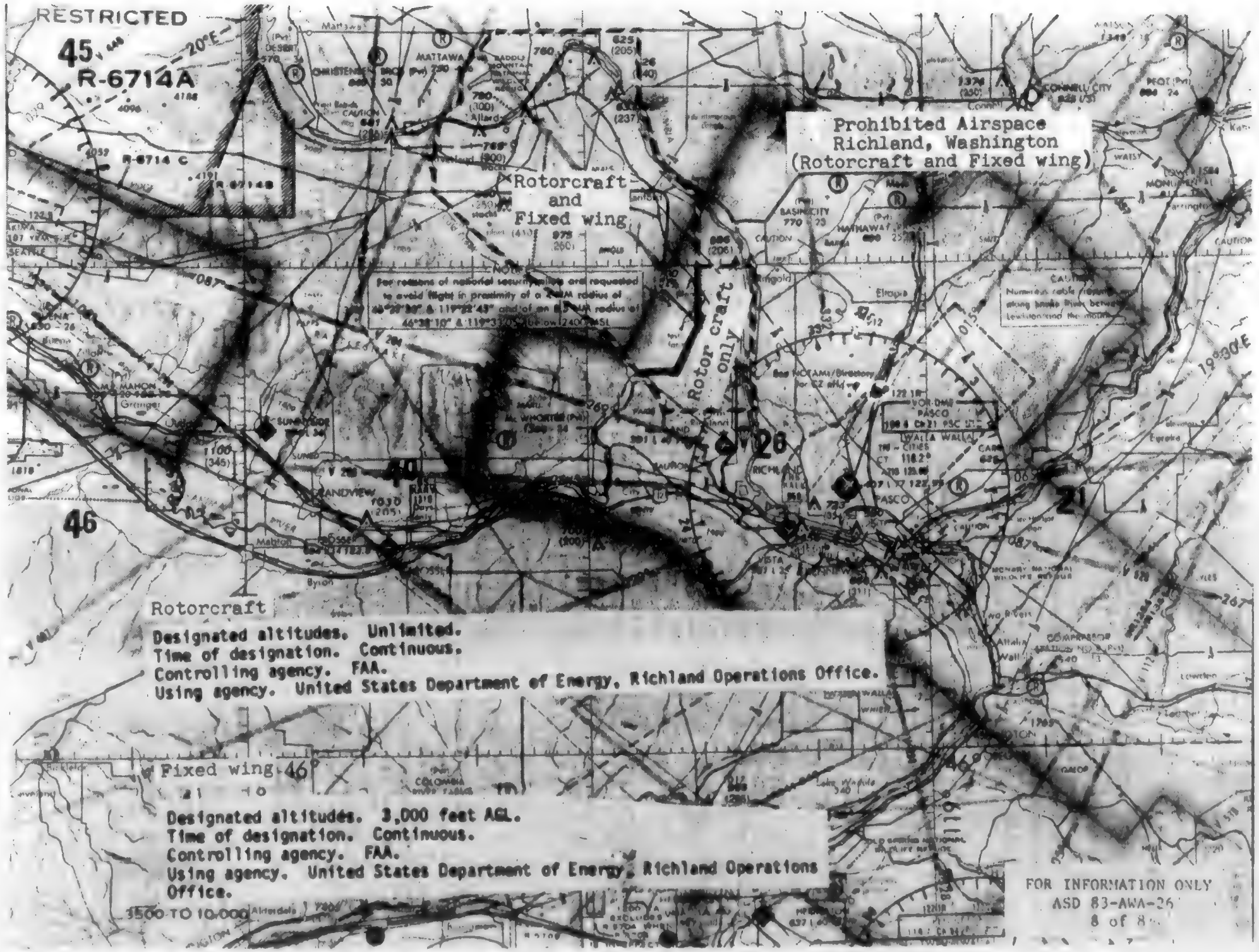

A file line should appear at the end of the document as follows:

[FR Doc. 84-3380 Filed 2-7-84; 8:45 am]
BILLING CODE 1505-01-M

14 CFR Part 71

[Airspace Docket No. 84-ASW-6]

Designation of Federal Airways, Area Low Routes, Controlled Airspace, and Reporting Points; Proposed Alteration of Transition Area: Giddings, TX

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Aviation Administration proposes to alter the transition area at Giddings, TX. The intended effect of the proposed action is to provide additional controlled airspace for aircraft executing a new standard instrument approach procedure (SIAP) to the Giddings-Lee County Airport. This action is necessary since there is a new RNAV Runway 35 SIAP to the airport which will require an additional 700-foot transition area south of the airport.

DATE: Comments must be received on or before March 19, 1984.

ADDRESSES: Send comments on the proposal in triplicate to: Manager, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, TX 76101.

The official docket may be examined in the Rules Docket, weekdays, except Federal holidays, between 8 a.m. and 4:30 p.m. The FAA Rules Docket is located in the Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, 4400 Blue Mound Road, Fort Worth, TX.

FOR FURTHER INFORMATION CONTACT: Kenneth L. Stephenson, Airspace and Procedures Branch, ASW-535, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Forth Worth, TX 76101; telephone: (817) 877-2630.

SUPPLEMENTARY INFORMATION:

History

Federal Aviation Regulation Part 71, Subpart G, § 71.181 as republished in Advisory Circular AC 70-3A dated January 3, 1983, contains the description of transition areas designated to provide controlled airspace for the benefit of aircraft conducting instrument flight rules (IFR) activity. Alteration of the transition area at Giddings, TX, will necessitate an amendment to this subpart. This amendment will be required at Giddings, TX, since there is a proposed change in IFR procedures to the Giddings-Lee County Airport.

Comments Invited

Interested persons are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposals. (Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposals.) Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 84-ASW-6." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Manager, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, TX 76101, or by calling (817) 877-2630. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should contact the office listed above.

List of Subjects in 14 CFR Part 71

Control Zones, Transition areas, Aviation safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the FAA proposes to amend 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) by adding:

Giddings, TX Amended

; and within 2.5 miles each side by the 176° bearing of the airport extending from the 5-mile radius area to 6 miles south of the airport.

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a)); Sec. 6(c), 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); and 14 CFR 11.61(c))

Note: The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since that is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Fort Worth, TX, on February 7, 1984.

Henry J. Christiansen,

Acting Director, Southwest Region.

[FR Doc. 84-4335 Filed 2-16-84; 8:45 am]
BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 84-ASO-5]

Proposed Alteration of Transition Area, Cullman, Alabama

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to alter the Cullman, Alabama, transition area by revoking an unneeded arrival extension, increasing the size of the basic area centered on Folsom Field airport and designating additional controlled airspace in the vicinity of Rountree Field airport. The arrival extension located north of Folsom Field in not required for protection of aeronautical activities and the basic area centered on the airport needs to be enlarged from 6.5 to 7.5 miles to accommodate the size aircraft which the airport is capable of accommodating. Additional controlled airspace is required in the vicinity of Rountree Field to accommodate Instrument Flight Rule (IFR) operations to and from the airport. An instrument approach procedure has been developed to serve the airport and this transition area alteration will lower the base of controlled airspace, in the

vicinity of Rountree Field, from 1,200 to 700 feet above the surface.

DATES: Comments must be received on or before: March 27, 1984.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, Attn: Manager, Airspace and Procedures Branch, ASO-530, P.O. Box 20636, Atlanta, Georgia 30320.

The official docket may be examined in the Office of the Regional Counsel, Room 652, 3400 Norman Berry Drive, East Point, Georgia 30344, telephone: (404) 763-7646.

FOR FURTHER INFORMATION CONTACT: Donald Ross, Airspace and Procedures Branch, Air Traffic Division, Federal Aviation Administration, P. O. Box 20636, Atlanta, Georgia 30320; telephone: (404) 763-7646.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should indentify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAS to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. ———." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Manager, Airspace and Procedures Branch (ASO-530), Air Traffic Division, P. O. Box 20636, Atlanta, Georgia 30320. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2 which describes the application procedure.

The Proposal

The FAA is considering an amendment to § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) that will designate additional controlled airspace in the vicinity of Rountree and Folsom Fields. In addition, the floor of controlled airspace in an area north of Folsom Field will be raised from 700 to 1,200 feet above the surface. If these actions are found acceptable, the operating status of Rountree Field will be changed to IFR and an instrument approach procedure will be established to serve the airport. Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in Advisory Circular AC 70-3A dated January 3, 1983.

List of Subjects in 14 CFR Part 71

Aviation safety, Airspace, Transition area.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend the Cullman, Alabama, transition area under § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

Cullman, AL—[Revised]

That airspace extending upward from 700 feet above the surface within a 7.5-mile radius of Folsom Field (Lat. 34° 15'57"N., Long. 86° 51'35"W.); with a 6.5-mile radius of Rountree Field (Lat. 34° 24'28"N., Long. 86° 55'58"W.).

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); 49 U.S.C. 106(g) (Revised, Public Law 97-449, January 12, 1983))

Note.—The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in East Point, Georgia, on February 3, 1984.

George R. LaCaille,

Acting Director, Southern Region.

[FR Doc. 84-4334 Filed 2-16-84; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 176

[Docket No. 84N-0025]

Incorporation by Reference; Proposed Updating of Text

Correction

In FR Doc. 84-2258 beginning on page 3804 in the issue of Monday, January 30, 1984, make the following correction.

On page 3824, first column, the fourth line of § 176.170(d)(3) should have read "cell described in Official Methods of Analysis of the Association of Official Analytical".

BILLING CODE 1505-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 35

[WH-FRL 2267-5]

Grants for Construction of Treatment Works

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule with request for comments.

SUMMARY: This rule proposes to specify a maximum allowable project cost which will limit increases on grants for construction of publicly owned treatment works (POTWs). This limit is intended to provide additional incentive for communities to manage their grant funds as efficiently as possible. It will limit the allowable cost increase for grants awarded after the effective date of this rule.

DATES: Comments must be received on or before April 17, 1984.

ADDRESSES: Comments should be addressed to: Central Docket Section (LE-131, Attention Docket No. G-82-06, Environmental Protection Agency, Washington, D.C. 20460.) The public may inspect the comments received on this proposed rule at: Central Docket

Section, Gallery 1 West Tower Lobby, Environmental Protection Agency, 401 M Street, SW., Washington, D.C., between 8 a.m. and 4 p.m., business days.

FOR FURTHER INFORMATION CONTACT: William Kramer, Facility Requirements Division (WH–595), Environmental Protection Agency, Washington, D.C. 20460, (202) 382–7277.

SUPPLEMENTARY INFORMATION: In the final construction grants regulation, 40 CFR Part 35, Subpart I (published elsewhere in this issue of the **Federal Register**), Federal involvement in the review of individual construction grant projects is greatly reduced. At the same time, the regulation includes several provisions to encourage more efficient and effective grantee management of their construction grant projects.

Commentors on the interim final regulation (47 FR 20450, May 12, 1982) recommended further improvements in the allowable cost provisions related to change orders, claims assessment and defense against contractor claims. In response, EPA revised those provisions of the final regulation to clarify the criteria under which such costs would be allowable.

In addition, several commenters recommended that the regulation limit the total amount a grant could be increased to cover cost increases. Historical experience in the construction grants program indicates that, in a well managed construction subagreement, the total costs associated with all grant increases generally amount to approximately two to four percent of the original bid price. However, these percentages can vary considerably. Most construction grant agreements include a contingency amount of from two to five percent of the estimated allowable cost of the project to permit minor cost increases without grant amendments.

The States and EPA have traditionally approved grant increases to cover the Federal share of cost increases that exceed the contingency. Based on this experience, we believe it would be reasonable to limit all grant increases, and we are proposing a new section (§ 35.2205) which would do that. If readers of this proposed rule have data supporting or questioning the percentage used here, EPA would appreciate that information as a comment on this proposal.

The new section would apply to all construction grants regardless of the grant award date. For grants awarded before the effective date of this rule, the rule will apply only to increases beyond the approved grant amount (including contingencies) on building subagreements awarded after the effective date. In these cases, allowable cost increases will be limited to five percent of the initial subagreement price. For grants awarded after the effective date of this rule, increases in allowable cost will be limited to five percent of the allowable project cost, including the initial price of subagreements, the estimated cost of force account included in the grant agreement, the cost of any eligible land and the amount budgeted in the original grant award for other project costs, less any amounts included in the grant to cover contingencies.

Effective Date

The rule will be effective 90 days after publication as a final rule in the **Federal Register**.

List of Subjects in 40 CFR Part 35

Grant programs—environmental protection, Waste treatment and disposal.

Regulation Development Process

Under Executive Order 12291, EPA is required to judge whether a regulation is "major" and therefore subject to the regulatory impact analysis requirements of the Order or whether it may follow other regulation development procedures. I have determined this regulation is not a major regulation, and thus is not subject to the impact analysis requirements of executive order 12291.

Under the Regulatory Flexibility Act (5 U.S.C. 601) I hereby certify that this regulation will not have a significant impact on a substantial number of small entities. This rule would apply to all municipalities in the same way and our survey shows that there would not be a disproportionate impact on small municipalities.

This program is listed in the Catalog of Federal Domestic Assistance as number 66.418—Construction Grants for Wastewater Treatment Works.

This regulation was submitted to OMB for review as required by Executive Order 12291.

Dated: February 3, 1984.

William D. Ruckelshaus,

Administrator.

PART 35—[AMENDED]

For the reasons set forth in the preamble, 40 CFR Part 35 is proposed to be amended by adding § 35.2205 to read as follows:

§ 35.2205 Maximum allowable project cost.

(a) *Grant assistance awarded on or after (effective date of this regulation).* For grants awarded on or after (effective date of this regulation), the total allowable project cost will not exceed the sum of:

(1) The initial amount of all subagreements awarded for the project;

(2) The initial amount approved for force account work to be performed on the project;

(3) The purchase price of any eligible real property;

(4) The amount budgeted in the original grant award amount for project costs not included under paragraphs (a)(1) through (a)(3) of this section, excluding any amounts included in the grant amount to cover contingencies; and

(5) Five percent of the sum of the costs included under paragraphs (a)(1) through (a)(4) of this section.

(b) *Grant assistance awarded before (effective date of this regulation).* For grants awarded before (effective date of this regulation), increases in the allowable cost for work covered by a subagreement awarded on or after (effective date of this regulation) will be limited to five percent of the initial award amount of the subagreement, unless the increases are within the approved grant amount on (effective date of this regulation).

(Federal Water Pollution Control Act, 33 U.S.C. 466, et seq.)

[FR Doc. 84–4075 Filed 2–16–84; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 83

[PR Docket No. 84–139; RM–4575; FCC 84–46]

Radiotelegraph Officers to Perform Maintenance and Repair Duties While Keeping the Mandatory Watch on 500 kHz

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This notice proposes to allow a radiotelegraph officer during his watch to perform maintenance and repair duties at the request of the master, at locations away from the station's main transmitter, provided he keeps a listening watch using headphones, loudspeakers, or a portable receiver. This proposal was recommended by the Department of Transportation's Maritime Administration. The new rule, if adopted, would allow more effective use of the radio officer than is presently

permitted. Its effect would be to enhance the radiotelegraph officer's value as a member of the ship's crew.

DATES: Comments must be received on or before April 17, 1984 and reply comments must be received on or before May 17, 1984..

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Maureen Cesaitis, Private Radio Bureau, (202) 632–7175.

List of Subjects in 47 CFR Part 83

Communications equipment, Marine safety, Radio, Telegraph vessels.

Proposed Rule Making

In the matter of amendment of part 83 of the Commission's rules to allow radiotelegraph officers to perform maintenance and repair duties while keeping the mandatory watch on 500 kHz. PR DOCKET No. 84–139, RM–4575.

Adopted: February 7, 1984.
Released: February 10, 1984.

By the Commission.

1. This Notice of Proposed Rule Making (NPRM) proposes rule amendments to allow merchant ship radio officers to perform maintenance and repair duties of electronic equipment while keeping an uninterrupted watch on 500 kHz.

2. Our rules require that all ship stations employing radiotelegraph on frequencies between 405 and 535 kHz keep watch on the international distress frequency, 500 kHz, during the ship's hours of service. Additionally, they must keep a silent watch by radio officer, twice each hour, for three-minute periods known as the "silence periods." This Notice proposes to allow the radio officer to perform maintenance and repair duties at the request of the master, at locations away from the station's main transmitter, provided he keeps a listening watch by suitable means, such as headphones, loudspeaker(s) or a portable receiver, except during the "silence periods."

3. This proposal was initiated in response to a letter from the U.S. Department of Transportation's Maritime Administration (MARAD). That agency's request, RM–4575, was placed on public notice on August 19, 1983. No comments were filed in response to the petition. MARAD suggests that such a rule would permit more efficient use of the radio officer.

4. At present, radio officers are permitted to discontinue listening on the radiotelegraph distress frequency when handling traffic on other frequencies or when necessary in performing urgent repair of equipment for radiocommunication used for safety or radio navigational equipment. This notice does not propose to allow additional watch relief. Instead, it proposes to allow the radio officer, at the request of the master, to perform maintenance and repair duties at locations away from the station's main or reserve transmitter, provided the watch is kept by suitable means such as a remote loudspeaker, headphones, or a portable receiver. However, the radio officer must continue to be in the radiotelegraph room for each of the silence periods.

5. Under the proposed procedure the general watch would not be interrupted by the radio officer's additional duties. However, there could be a slight delay in the radio officer's response to a call because the officer would have to return to the station in order to transmit. This occasional delay appears to be outweighed by the increased utility of the watch officer. Due to the delay described above the proposed new rule requires the radiotelegraph officer to stand the silence period watch in the radiotelegraph room. Thus, if a distress call is received during a silence period, the radiotelegraph officer will be able to respond immediately.

6. For the reasons discussed above, we propose to add new paragraph (e) to § 83.204 of the rules. The new rule sets forth the conditions under which the radiotelegraph officer may leave the main transmitter site to perform maintenance on equipment. This notice is issued under the authority contained in Sections 4(i) and 303 (c) and (r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i) and 303 (c) and (r).

7. Under procedures set out in Section 1.415 of the Rules and Regulations, 47 CFR 1.415, interested persons may file comments on or before April 17, 1984 and reply comments on or before May 17, 1984. All relevant and timely comments will be considered by the Commission before final action is taken in this proceeding. In reaching its decision, the Commission may take into consideration information and ideas not contained in the comments, provided such information or a writing indicating the nature and source of such information is placed in the public file, and provided that the fact of the Commission's reliance on such information is noted in the report and order.

8. In accordance with the provisions of § 1.419 of the Rules and Regulations, 47 CFR 1.419, formal participants shall file an original and 5 copies of their comments and other materials. Participants wishing each Commissioner to have a personal copy of their comments should file an original and 11 copies. Members of the general public who wish to express their interest by participating informally may do so by submitting one copy. All comments are given the same consideration, regardless of the number of copies submitted. All documents will be available for public inspection during regular business hours in the Commission's Public Reference Room at its headquarters in Washington, D.C.

9. For purposes of this non-restricted notice and comment rule-making proceeding, members of the public are advised that *ex parte* contacts are permitted from the time the Commission adopts a notice of proposed rulemaking until the time a public notice is issued stating that a substantive disposition of the matter is to be considered at a forthcoming meeting or until a final order disposing of the matter adopted by the Commission, whichever is earlier. In general, an *ex parte* presentation is any written, or oral communication (other than formal written comments/ pleadings and formal oral arguments) between a person outside the Commission and a Commissioner or a member of the Commission's staff which addresses the merits of the proceeding. Any person who submits a written *ex parte* presentation must serve a copy of that presentation on the Commission's Secretary for inclusion in the public file. Any person who makes an oral *ex parte* presentation addressing matters not fully covered in any previously-filed written comments for the proceeding must prepare a written summary of that presentation; on the day of oral presentation, that written summary must be served on the Commission's Secretary for inclusion in the public file, with a copy to the Commission official receiving the oral presentation. Each *ex parte* presentation described above must state on its face that the Secretary has been served, and must also state by docket number the proceeding to which it relates. See generally, Section 1.1231 of the Commission's rules, 47 CFR 1.1231.

10. Pursuant to Section 605 of the Regulatory Flexibility Act of 1980 (Pub. L. 96–354), we certify that the proposed new rules will not have a significant economic impact on a substantial number of small entities. These rules propose to enhance the radiotelegraph officer's position aboard ship by allowing him to assume duties he could previously not carry out during his eight-hour watch. Wiring and loudspeakers, headphones, or remote receivers would be necessary to take advantage of the

Section, Gallery 1 West Tower Lobby, Environmental Protection Agency, 401 M Street, SW., Washington, D.C., between 8 a.m. and 4 p.m., business days.

FOR FURTHER INFORMATION CONTACT: William Kramer, Facility Requirements Division (WH–595), Environmental Protection Agency, Washington, D.C. 20460, (202) 382–7277.

SUPPLEMENTARY INFORMATION: In the final construction grants regulation, 40 CFR Part 35, Subpart I (published elsewhere in this issue of the **Federal Register**), Federal involvement in the review of individual construction grant projects is greatly reduced. At the same time, the regulation includes several provisions to encourage more efficient and effective grantee management of their construction grant projects.

Commentors on the interim final regulation (47 FR 20450, May 12, 1982) recommended further improvements in the allowable cost provisions related to change orders, claims assessment and defense against contractor claims. In response, EPA revised those provisions of the final regulation to clarify the criteria under which such costs would be allowable.

In addition, several commenters recommended that the regulation limit the total amount a grant could be increased to cover cost increases. Historical experience in the construction grants program indicates that, in a well managed construction subagreement, the total costs associated with all grant increases generally amount to approximately two to four percent of the original bid price. However, these percentages can vary considerably. Most construction grant agreements include a contingency amount of from two to five percent of the estimated allowable cost of the project to permit minor cost increases without grant amendments.

The States and EPA have traditionally approved grant increases to cover the Federal share of cost increases that exceed the contingency. Based on this experience, we believe it would be reasonable to limit all grant increases, and we are proposing a new section (§ 35.2205) which would do that. If readers of this proposed rule have data supporting or questioning the percentage used here, EPA would appreciate that information as a comment on this proposal.

The new section would apply to all construction grants regardless of the grant award date. For grants awarded before the effective date of this rule, the rule will apply only to increases beyond the approved grant amount (including contingencies) on building subagreements awarded after the effective date. In these cases, allowable cost increases will be limited to five percent of the initial subagreement price. For grants awarded after the effective date of this rule, increases in allowable cost will be limited to five percent of the allowable project cost, including the initial price of subagreements, the estimated cost of force account included in the grant agreement, the cost of any eligible land and the amount budgeted in the original grant award for other project costs, less any amounts included in the grant to cover contingencies.

Effective Date

The rule will be effective 90 days after publication as a final rule in the **Federal Register**.

List of Subjects in 40 CFR Part 35

Grant programs—environmental protection, Waste treatment and disposal.

Regulation Development Process

Under Executive Order 12291, EPA is required to judge whether a regulation is "major" and therefore subject to the regulatory impact analysis requirements of the Order or whether it may follow other regulation development procedures. I have determined this regulation is not a major regulation, and thus is not subject to the impact analysis requirements of executive order 12291.

Under the Regulatory Flexibility Act (5 U.S.C. 601) I hereby certify that this regulation will not have a significant impact on a substantial number of small entities. This rule would apply to all municipalities in the same way and our survey shows that there would not be a disproportionate impact on small municipalities.

This program is listed in the Catalog of Federal Domestic Assistance as number 66.418—Construction Grants for Wastewater Treatment Works.

This regulation was submitted to OMB for review as required by Executive Order 12291.

Dated: February 3, 1984.

William D. Ruckelshaus,

Administrator.

PART 35—[AMENDED]

For the reasons set forth in the preamble, 40 CFR Part 35 is proposed to be amended by adding § 35.2205 to read as follows:

§ 35.2205 Maximum allowable project cost.

(a) *Grant assistance awarded on or after (effective date of this regulation).* For grants awarded on or after (effective date of this regulation), the total allowable project cost will not exceed the sum of:

(1) The initial amount of all subagreements awarded for the project;

(2) The initial amount approved for force account work to be performed on the project;

(3) The purchase price of any eligible real property;

(4) The amount budgeted in the original grant award amount for project costs not included under paragraphs (a)(1) through (a)(3) of this section, excluding any amounts included in the grant amount to cover contingencies; and

(5) Five percent of the sum of the costs included under paragraphs (a)(1) through (a)(4) of this section.

(b) *Grant assistance awarded before (effective date of this regulation).* For grants awarded before (effective date of this regulation), increases in the allowable cost for work covered by a subagreement awarded on or after (effective date of this regulation) will be limited to five percent of the initial award amount of the subagreement, unless the increases are within the approved grant amount on (effective date of this regulation).

(Federal Water Pollution Control Act, 33 U.S.C. 466, et seq.)

[FR Doc. 84–4075 Filed 2–16–84; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 83

[PR Docket No. 84–139; RM–4575; FCC 84–46]

Radiotelegraph Officers to Perform Maintenance and Repair Duties While Keeping the Mandatory Watch on 500 kHz

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This notice proposes to allow a radiotelegraph officer during his watch to perform maintenance and repair duties at the request of the master, at locations away from the station's main transmitter, provided he keeps a listening watch using headphones, loudspeakers, or a portable receiver. This proposal was recommended by the Department of Transportation's Maritime Administration. The new rule, if adopted, would allow more effective use of the radio officer than is presently

permitted. Its effect would be to enhance the radiotelegraph officer's value as a member of the ship's crew.

DATES: Comments must be received on or before April 17, 1984 and reply comments must be received on or before May 17, 1984..

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Maureen Cesaitis, Private Radio Bureau, (202) 632–7175.

List of Subjects in 47 CFR Part 83

Communications equipment, Marine safety, Radio, Telegraph vessels.

Proposed Rule Making

In the matter of amendment of part 83 of the Commission's rules to allow radiotelegraph officers to perform maintenance and repair duties while keeping the mandatory watch on 500 kHz. PR DOCKET No. 84–139, RM–4575.

Adopted: February 7, 1984.
Released: February 10, 1984.

By the Commission.

1. This Notice of Proposed Rule Making (NPRM) proposes rule amendments to allow merchant ship radio officers to perform maintenance and repair duties of electronic equipment while keeping an uninterrupted watch on 500 kHz.

2. Our rules require that all ship stations employing radiotelegraph on frequencies between 405 and 535 kHz keep watch on the international distress frequency, 500 kHz, during the ship's hours of service. Additionally, they must keep a silent watch by radio officer, twice each hour, for three-minute periods known as the "silence periods." This Notice proposes to allow the radio officer to perform maintenance and repair duties at the request of the master, at locations away from the station's main transmitter, provided he keeps a listening watch by suitable means, such as headphones, loudspeaker(s) or a portable receiver, except during the "silence periods."

3. This proposal was initiated in response to a letter from the U.S. Department of Transportation's Maritime Administration (MARAD). That agency's request, RM–4575, was placed on public notice on August 19, 1983. No comments were filed in response to the petition. MARAD suggests that such a rule would permit more efficient use of the radio officer.

4. At present, radio officers are permitted to discontinue listening on the radiotelegraph distress frequency when handling traffic on other frequencies or when necessary in performing urgent repair of equipment for radiocommunication used for safety or radio navigational equipment. This notice does not propose to allow additional watch relief. Instead, it proposes to allow the radio officer, at the request of the master, to perform maintenance and repair duties at locations away from the station's main or reserve transmitter, provided the watch is kept by suitable means such as a remote loudspeaker, headphones, or a portable receiver. However, the radio officer must continue to be in the radiotelegraph room for each of the silence periods.

5. Under the proposed procedure the general watch would not be interrupted by the radio officer's additional duties. However, there could be a slight delay in the radio officer's response to a call because the officer would have to return to the station in order to transmit. This occasional delay appears to be outweighed by the increased utility of the watch officer. Due to the delay described above the proposed new rule requires the radiotelegraph officer to stand the silence period watch in the radiotelegraph room. Thus, if a distress call is received during a silence period, the radiotelegraph officer will be able to respond immediately.

6. For the reasons discussed above, we propose to add new paragraph (e) to § 83.204 of the rules. The new rule sets forth the conditions under which the radiotelegraph officer may leave the main transmitter site to perform maintenance on equipment. This notice is issued under the authority contained in Sections 4(i) and 303 (c) and (r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i) and 303 (c) and (r).

7. Under procedures set out in Section 1.415 of the Rules and Regulations, 47 CFR 1.415, interested persons may file comments on or before April 17, 1984 and reply comments on or before May 17, 1984. All relevant and timely comments will be considered by the Commission before final action is taken in this proceeding. In reaching its decision, the Commission may take into consideration information and ideas not contained in the comments, provided such information or a writing indicating the nature and source of such information is placed in the public file, and provided that the fact of the Commission's reliance on such information is noted in the report and order.

8. In accordance with the provisions of § 1.419 of the Rules and Regulations, 47 CFR 1.419, formal participants shall file an original and 5 copies of their comments and other materials. Participants wishing each Commissioner to have a personal copy of their comments should file an original and 11 copies. Members of the general public who wish to express their interest by participating informally may do so by submitting one copy. All comments are given the same consideration, regardless of the number of copies submitted. All documents will be available for public inspection during regular business hours in the Commission's Public Reference Room at its headquarters in Washington, D.C.

9. For purposes of this non-restricted notice and comment rule-making proceeding, members of the public are advised that *ex parte* contacts are permitted from the time the Commission adopts a notice of proposed rulemaking until the time a public notice is issued stating that a substantive disposition of the matter is to be considered at a forthcoming meeting or until a final order disposing of the matter adopted by the Commission, whichever is earlier. In general, an *ex parte* presentation is any written, or oral communication (other than formal written comments/ pleadings and formal oral arguments) between a person outside the Commission and a Commissioner or a member of the Commission's staff which addresses the merits of the proceeding. Any person who submits a written *ex parte* presentation must serve a copy of that presentation on the Commission's Secretary for inclusion in the public file. Any person who makes an oral *ex parte* presentation addressing matters not fully covered in any previously-filed written comments for the proceeding must prepare a written summary of that presentation; on the day of oral presentation, that written summary must be served on the Commission's Secretary for inclusion in the public file, with a copy to the Commission official receiving the oral presentation. Each *ex parte* presentation described above must state on its face that the Secretary has been served, and must also state by docket number the proceeding to which it relates. See generally, Section 1.1231 of the Commission's rules, 47 CFR 1.1231.

10. Pursuant to Section 605 of the Regulatory Flexibility Act of 1980 (Pub. L. 96–354), we certify that the proposed new rules will not have a significant economic impact on a substantial number of small entities. These rules propose to enhance the radiotelegraph officer's position aboard ship by allowing him to assume duties he could previously not carry out during his eight-hour watch. Wiring and loudspeakers, headphones, or remote receivers would be necessary to take advantage of the

proposed new rules; however, no vessels would be required to make the investment or to operate in this fashion. There are approximately 800 radiotelegraph-fitted vessels of U.S. registry. The operation of a single such vessel typically runs into the millions of dollars per year.

11. Regarding questions on matters covered in this document contact Maureen Cesaitis (202) 632–7175.

12. It is ordered, That a copy of this Notice of Proposed Rule Making shall be sent to the Chief Counsel for Advocacy of the Small Business Administration.

Federal Communications Commission.
(Secs. 4, 303, 48 stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

William J. Tricarico,

Secretary.

Appendix

Part 83 of Chapter I of Title 47 of the Code of Federal Regulations is proposed to be amended as follows:

PART 83—STATIONS ON SHIPBOARD IN THE MARITIME SERVICES

Section 83.204 is amended by adding new paragraph (e), to read as follows:

§ 83.204 Provisions governing radiotelegraph watch.

* * * * *

(e) When authorized by the master, the radio officer may perform maintenance or repair of communications, navigation or other electronic equipment outside of the radiotelegraph room, provided that the listening watch on 500 kHz can be maintained by headphones, loudspeakers, portable receivers, or other suitable means. The watch on 500 kHz must be maintained in the radiotelegraph room during the silence period.

[FR Doc. 84-4347 Filed 2-16-84; 8:45 am]
BILLING CODE 6712-01-M

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47 CFR Parts 81 and 83

[PR Docket No. 84-140; RM 4534; RM 4535; RM 4536; FCC 84-47]

Radioprinter Communications by Vessels of Less than 1,600 Gross Tons

AGENCY: Federal Communications Commission.

ACTION: Proposed rules.

SUMMARY: This document proposes rules for the introduction and use, in the Maritime Mobile Service, of radioprinter communications by vessels of less than 1,600 gross tons using frequencies in the shared bands. This action is in response to three separate petitions for rulemaking which pointed out need for a radioprinter communications in conjunction with the operation of relatively small vessels. The intended effect is to make radioprinter communication services available for use between limited coast stations and vessels of less than 1,600 gross tons.

DATE: Comments must be received by April 2, 1984, and reply comments must be received by April 17, 1984.

ADDRESS: Send comments to: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Robert E. Mickley, Private Radio Bureau, (202) 632–7175.

List of Subjects

47 CFR Part 81

Coast stations, Communications equipment.

47 CFR Part 83

Communications equipment, Ship stations.

Proposed Rule Making

In the matter of radioprinter communications by vessels of less than 1,600 gross tons; PR Docket No. 84–140, RM 4534, RM 4535, and RM 4536.

Adopted: February 7, 1984.
Released: February 10, 1984.

By the Commission.

Introduction

1. In this Notice of Proposed Rule Making we propose to amend Part 81 and 83 of the rules to provide for the use of shared maritime frequencies for a simple system of radioteletype (RTTY) for business and operational communications by vessels of less than 1,600 gross tons.

2. Petitions for this rulemaking were filed by Northwest Instrument, United New York-New Jersey Sandy Hook Pilot's Benevolent Association, and A.P. St. Philip, Inc. The petitioners seek to amend the Commission's rules to permit relatively small vessels, such as tug boats, pilot boats and fishing vessels, to communicate for operational and business purposes by means of radioprinter (RTTY) with associated limited coast stations.[1]

3. Mobile Marine Radio, Inc. (MMR) filed comments concerning each of the three petitions for rulemaking referred to above. In essence, MMR argued that a new proceeding was unnecessary since PR Docket No. 82–828 addressed the matter of licensing and availability of narrow-band direct-printing (NB–DP) RTTY frequencies. However, in the Report and Order in PR Docket No. 82–828,[2] the Commission deferred consideration of limited coast station radioteletype operations to a follow-on proceeding, which we are initiating with this notice.

Discussion

4. Large oceangoing vessels have a sophisticated and relatively expensive system of narrow-band direct-printing (NB-DP) radiotelegraphy. By means of this equipment they communicate with public coast radiotelegraph stations on a tariffed basis.[3]

5. The petitioners contend that the needs of smaller vessels such as fishing vessels, pilot boats, and tug boats can be satisfied by a simple RTTY system rather than the more complex internationally standardized public correspondence NB-DP telegraphy system used by high seas vessels. In justification of their proposal, the petitioners point out that the requested radioprinter system would provide:

a. More efficient use of the radio spectrum by using a communication mode more capable of handling a high volume of message traffic;

b. Proportionate relief for the congestion now being experienced on the frequencies authorized for voice communication;

c. Some degree of privacy as compared with the single sideband voice communication mode; and

d. A relatively low cost system which would enable direct communications between limited coast stations and their associated vessels.

6. We believe that the proposal made by the petitioners has merit and that the simple RTTY system benefits seem realistic and attainable. We also believe there is a valid need for this additional mode of communications and consider that the public interest would be served by the authorization of a simpler RTTY system for the use of smaller vessels.

7. The simpler RTTY system we are proposing would not conform to the common standards which are necessary for international NB-DP public correspondence. This dictates that the proposed system use frequencies different from those now available for NB-DP in the maritime mobile service. We are proposing, therefore, that

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[1] Limited coast stations serve the operational and business needs of ships and are not open to public correspondence. Such stations are normally licensed to owners/operators of radio equipped vessels.

[2] See Report and Order, PR Docket No. 82–828, released November 15, 1983, 48 FR 53118.

[3] Public coast stations are open to public correspondence and are licensed to provide a communication service to ships at sea on the basis of a filed tariff.

frequencies in the shared bands which are available to the maritime mobile service as a result of recent Commission action,[4] be used to satisfy the simpler RTTY system for smaller vessels. We believe the shared bands can provide adequate numbers of frequencies to serve this requirement of ships under 1600 gross tons. It is envisioned that applicants for the proposed radioprinter system will have the responsibility to select and propose specific frequencies for use. The Commission will then initiate the frequency coordination process. In view of the current extensive and varied use of frequencies in these shared bands, satisfactory coordination may be difficult.

8. Accordingly, we propose to amend Parts 81 and 83 of the Commission's rules as set forth in the attached Appendix to provide for the use of radioprinter by vessels of less than 1600 gross tons.

9. The proposed amendments to the Commission's rules set forth in the attached Appendix are issued under the authority contained in Sections 4(i) and 303(b), (c), (e), (g), and (r) of the Communications Act of 1934, as amended.

Comments

10. Under procedures set out in § 1.415 of the Rules and Regulations, 47 CFR 1.415, interested persons may file comments on or before April 2, 1984, and reply comments on or before April 17, 1984. All relevant and timely comments will be considered by the Commission before final action is taken in this proceeding. In reaching its decision, the Commission may take into consideration information and ideas not contained in the comments, provided that such information or a writing indicating the nature and source of such information is placed in the public file, and provided that the fact of the Commission's reliance on such information is noted in the Report and Order.

11. In accordance with the provisions of § 1.419 of the Rules and Regulations, 47 CFR 1.419, formal participants shall file an original and 5 copies of their comments and other materials. Participants wishing each Commissioner to have a personal copy of their comments should file an original and 11 copies. Members of the general public who wish to express their interest by participating informally may do so by submitting one copy. All comments are given the same consideration, regardless of the number of copies submitted. All documents will be available for public inspection during regular business hours in the Commission's Public Reference Room at its headquarters in Washington, D.C.

12. For purposes of this non-restricted notice and comment rulemaking proceeding, members of the public are advised that *ex parte* contacts are permitted from the time the Commission adopts a notice of proposed rulemaking until the time a public notice is issued stating that a substantive disposition of the matter is to be considered at a forthcoming meeting or until a final order disposing of the matter is adopted by the Commission, whichever is earlier. In general, an *ex parte* presentation is any written oral communication (other than formal written comments/pleadings and formal oral arguments) between a person outside the Commission and a Commissioner or a member of the Commission's staff which addresses the merits of the proceeding. Any person who submits a written *ex parte* presentation must serve a copy of that presentation on the Commission's Secretary for inclusion in the public file. Any person who makes an oral *ex parte* presentation addressing matters not fully covered in any previously-filed written comments for the proceeding must prepare a written summary of that presentation; on the day of the oral presentation, that written summary must be served on the Commission's Secretary for inclusion in the public file, with a copy to the Commission official receiving the oral presentation. Each *ex parte* presentation described above must state on its face that the Secretary has been served, and must also state by docket number the proceeding to which it relates. See generally, § 1.1231 of the Commission's rules, 47 CFR 1.1231.

13. The rules proposed herein would provide for the use of radioprinter by vessels of less than 1600 gross tons. It is intended that the service rendered under these rules would expand the modes of communication available to vessels of this category. At the option of the user, the proposed rules could result in equipment being added to these vessels. However, no additional equipment or expanded service would be mandated by these rules. Therefore, pursuant to the Regulatory Flexibility Act of 1980, 5 U.S.C. 605(b), we certify that the proposed rules will not, if promulgated, have a significant economic impact on a substantial number of small entities.

14. Regarding questions on matters covered in this document, contact Robert E. Mickley, (202) 632-7175.

15. It is ordered, That a copy of this Notice of Proposed Rule Making shall be sent to the Chief Council for Advocacy of the Small Business Administration.

(Secs. 4, 303, 48 stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix

Parts 81 and 83 of Chapter I of Title 47 of the Code of Federal Regulations are proposed to be amended as follows:

PART 81—STATIONS ON LAND IN THE MARITIME SERVICES AND ALASKA-PUBLIC FIXED STATIONS

Three new §§ 81.374, 81.376 and 81.378 are added, to read as follows:

§ 81.374 Frequencies available for radioprinter.

(a) Frequencies assigned to limited coast stations for radioprinter use will be taken from those non-exclusive frequency bands listed below which are shared among several services including the Maritime Mobile Service:

kHz

2107–2170	3155–3400	5060–5450
2194–2495	4438–4650	5730–5950
2505–2850	4750–4850	7300–8100

(b) Each assigned frequency is available on a shared use basis only, not for the exclusive use of any one station or licensee. All station licensees must cooperate to minimize interference and obtain the most effective use of authorized frequencies.

(c) Frequencies requested and the names of ships to be served must be included on the application.

§ 81.376 Nature of service and supplemental radioprinter eligibility.

(a) Limited coast stations which use radioprinter may transmit to authorized ship stations aboard vessels of less than 1600 tons gross tonnage.

(b) A radioprinter authorization for a limited coast station may be issued to the owner or operator of a vessel of less than 1600 tons gross tonnage, a community of vessels, or an association whose members operate vessels of less than 1600 tons gross tonnage.

(c) Limited coast station licensees must provide copies of their license to all vessels with which they are authorized to conduct radioprinter operations.

[4] The Report and Order in General Docket 80-739, released December 8, 1983, FCC 83-511, the United States Table of Frequency Allocations to implement the Final Acts of The World Administrative Radio Conference, Geneva, 1979.

§ 81.378 Technical radioprinter requirements.

The technical provisions of Subpart E of this part shall apply to radioprinter operations except as follows:

(a) CCITT Alphabet No. 2 (Baudot) or No. 5 (USASCII) may be employed.

(b) The keying speed must not exceed 300 bits per second.

(c) The operational mode must be single frequency simplex.

PART 83—STATIONS ON SHIPBOARD IN THE MARITIME SERVICES

§ 83.339 [Redesignated as § 83.333]

1. The section currently designated § 83.339 is renumbered § 83.333.

§ 83.340 [Redesignated as § 83.334]

2. The section currently designated § 83.340 is renumbered § 83.334.

§ 83.341 [Redesignated as § 83.335]

3. The section currently designated § 83.341 is renumbered § 83.335.

4. Five new §§ 83.337, 83.339, 83.341, 83.343, and 83.345 are added, to read as follows:

§ 83.337 Frequencies available for radioprinter.

(a) Frequencies assigned to ship stations for radioprinter use will be taken from those non-exclusive frequency bands listed below which are shared among several services including the Maritime Mobile Service:

kHz		
2107–2170	3155–3400	5060–5450
2194–2495	4438–4650	5730–5950
2505–2850	4750–4850	7300–8100

(b) Each assigned frequency is available on a shared use basis only, not for the exclusive use of any one station or licensee. All station licensees must cooperate to minimize interference and obtain the most effective use of authorized frequencies.

(c) Ship stations may conduct radioprinter operations with limited coast stations based upon frequency selection guidance received from the limited coast station.

§ 83.339 Nature of service and supplemental radioprinter eligibility.

(a) A ship station is eligible to conduct radioprinter operations if the vessel is associated with a limited coast station authorized to conduct radioprinter operations.

(b) Ship radioprinter communications may be conducted only with the limited coast station with which the ship is associated.

(c) Ships authorized to communicate by radioprinter with a given limited coast station may also conduct intership radioprinter operations.

(d) Radioprinter communications may only be authorized aboard ships of less than 1600 tons gross tonnage.

§ 83.341 Authority for radioprinter operations.

Licensed ship radio stations will operate under the authority of the limited coast station license which lists the vessels authorized to conduct radioprinter operations with that station. A copy of the limited coast station license must be posted at the principal operating location of the ship radio station.

§ 83.343 Technical radioprinter requirements.

The technical provisions of Subpart E of this part shall apply to equipment used aboard ship to provide radioprinter communications, except as follows:

(a) CCITT Alphabet No. 2 (Baudot) or No. 5 (USASCII) may be employed.

(b) The keying speed must not exceed 300 bits per second.

(c) The mode of operation must be single frequency simplex.

§ 81.345 Authorized radioprinter communications.

Only those communications which concern the business and operation of the vessel are authorized.

[FR Doc. 84-4346 Filed 2-16-84; 8:45 am]
BILLING CODE 6712-01-M

INTERSTATE COMMERCE COMMISSION

49 CFR Parts 1002, 1011, 1152, 1177, 1180 and 1182

[Ex Parte No. 246 (Sub-No. 2)]

Fees for Services Performed in Connection With Licensing and Related Services

AGENCY: Interstate Commerce Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Interstate Commerce Commission (ICC) is proposing to amend its regulations to establish fees for services and benefits provided by the Commission under its jurisdictional statute. The Commission is authorized by the Independent Offices Appropriation Act of 1952 (IOAA) to establish fees for services and benefits it provides. A report issued by GAO in 1983 recommended that the Commission revise and update its current fees and look at certain other services for which fees are not assessed to determine whether such items should be included in the fee schedule. The amendments proposed in this proceeding update the Commission's current fee schedules found at 49 CFR Part 1002.1, 1002.2(d) and also add new fee items.

DATES: The Commission has been required by the Congress to issue final rules on or before May 1, 1984. Therefore no extension of the comment period will be permitted Comments must be submitted by March 19, 1984.

ADDRESS: An original and 15 copies should be sent to: Ex Parte No. 246 (Sub-No. 2), Case Control Branch, Room 1312, Office of the Secretary, Interstate Commerce Commission, Washington, DC 20423. Also copies of the additional cost study material can be obtained upon request from: Office of the Secretary, Room 2215, Interstate Commerce Commission, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT: Cost Study Information, Paul Meder (202) 275–7457, Susan Maslar (202) 275–7548. Other Information, James H. Bayne (202) 275–7428, Kathleen King (202) 275–7429.

SUPPLEMENTARY INFORMATION:

Summary

In this proceeding, we propose to adjust many existing fees and establish other new ones. The following discussion addresses types of fees, levels of fees, and proposed exceptions. Appendix A contains the proposed rules, including proposed fees. Appendix B contains the results of the cost analyses on which we relied. Additional work papers are available from the Secretary's Office upon request.

The proposed fee items in Appendix A are subject to the caveats discussed in this notice. First, a number of costs are questionable and certain functions have not been separately studied. Accordingly, additional studies will be undertaken during the comment period. Second, we have serious reservations about the lawfulness or propriety of charging a fee for a number of items in Appendix A. These issues are discussed below. Third, certain of the proposed fee categories are overlapping or confusing due to combining existing categories with GAO suggestions. We intend to correct this in the final rules and seek comment on which fees to consolidate.

Background

The Commission, as an independent regulatory agency, is authorized under the Independent Offices Appropriation Act of 1952, 31 U.S.C. 483a [IOAA] to establish fees for services and benefits that it provides. The IOAA provides that:

[A]ny work, service, publication, report, document, benefit, privilege, authority, use, franchise, license, permit, certificate, registration, or similar thing of value or utility performed, furnished, provided, granted, prepared, or issued by any Federal agency * * * to or for any person * * * shall be self-sustaining to the full extent possible, and the head of each Federal agency is authorized by regulation * * * to prescribe therefore such fee, charge, or price, if any, which he shall determine, in case none exists, or redetermine, in case of an existing one, to be fair and equitable taking into consideration the direct and indirect costs to the Government, value to the recipient, public policy or interest served, and other pertinent facts, and any amounts so determined or redetermined shall be collected and paid into the Treasury as miscellaneous receipts * * *

The primary guidance for implementation of this Act is set forth in Bureau of the Budget Circular A–25 *User Fees* (September 23, 1959). That circular states that the general policy that "a reasonable charge . . . should be made to each identifiable recipient for a measurable unit or amount of the Government services or property for which there derives a special benefit . . ." (Circular A–25 at 1). Examples of special benefits include patents or licenses to carry on specific business which enable the beneficiary to obtain more immediate or substantial gains than those which the general public obtain, or certificates of necessity and convenience for airline routes which assure public confidence in a business.

These guidelines were used by the Commission when it established its first user fee schedule in 1966 in *Regulations Governing Fees For Services*, 326 I.C.C. 573 (1966). That decision was modified in a supplemental decision at 329 I.C.C. 814 (1967). The last major revision of the Commission's user fee schedule occurred in *Regulations Governing Fees For Services*, 339 I.C.C. 555 (1971). At that time the Commission conducted cost studies to determine the processing costs for its various fee items. Also, the Commission adopted fees which represented about one-half of the average costs incurred by the Commission, because the Commission then believed that approximately 50 percent of the benefit for performing the services accrued to the public at large.

Since 1971 there have been several court decisions interpreting the IOAA and setting forth the general standards that agencies must meet in establishing fees under this Act. In 1974, the Supreme Court stated that a fee may only be charged for a special benefit provided to identifiable beneficiaries measured by its value to the recipient. It also stated that the special benefit must have some connection between the agency and the recipient other than the mere fact of regulation or the adoption of some practice of general benefit to the industry as a whole. The Court also upheld that portion of Circular A–25 stating that there could be no charge where the identity of the beneficiary is obscure and the services can be primarily considered to benefit the general public. See *National Cable Television Association* v. *United States* 415 U.S. 336 (1974) and *FPC* v. *New England Power Co.*, 415 U.S. 345 (1974).

In 1976, the U.S. Court of Appeals for the District of Columbia rendered a series of decisions which provided additional guidance for agencies adopting or revising fee schedules issued under IOAA. See *National Cable Television Association* v. *F.C.C.*, 554 F2d 1094 (D.C. Cir. 1976); *Electronic Industries Association* v. *F.C.C.*, 554 F.2d 1109 (D.C. Cir. 1976); and *Capital Cities Communications Inc.* v. *F.C.C.*, 554 F.2d 1135 (D.C. Cir. 1976). In those decisions, the court set out the following guidelines:

1. An agency may impose a reasonable charge on recipients for an amount of work for which they benefit. The fees must be for specific services to specific persons. These services include the issuance of a license and assistance in complying with a statutory duty such as tariff filing.

2. The fees may not exceed the cost to the agency in rendering the service.

3. An agency may recover the full cost of providing a service to an identifiable beneficiary regardless of the incidental public benefits which may flow from service.

The agency, when it proposes a fee, must also meet the requirements set out in *Electronic Industries Association* v. *F.C.C.*, 554 F.2d at 1117:

1. The agency must justify the assessment of a fee by a clear statement of the particular service or benefit for which it seeks reimbursement.

2. The agency must calculate the cost basis for each fee by:

a. Allocating specific expenses of the cost basis of the fee to the smallest practical unit.

b. Excluding expenses that service an independent public interest; and

c. A public explanation of the specific expenses included in the cost basis for a particular fee, and an explanation of the criteria used to include or exclude a particular item.

3. The fee must be set to return the cost basis at a rate that reasonably reflects the cost of the services performed and value conferred on the payor.

In 1982, the United States General Accounting Office (GAO) conducted a review of the ICC's policies and procedures for assessing user fees. That review culminated in a report issued by GAO on January 13, 1983 entitled "Interstate Commerce Commission Should Revise Its User Fee Program" (GAO/RCED 83–55). The GAO recommended that the Commission revise and update its current fees and look at certain other services for which fees are not assessed to determine whether such items should be included in the fee schedule.

In response to this report, the Commission established an agency-wide User Fee Task Force. The Task Force was assigned the responsibility of developing cost data for existing fee items, recommending other items for inclusion in the fee schedule, and revising the Commission's procedures with respect to user fees.

A 13-week time and motion study of all current fee items and a number of other items identified by use and suggested by GAO was conducted. Interviews also were conducted with staff to determine the processing time that would be needed for those items which were not received during the cost study period. One item, tariff filings was the subject of a one-week special study because of the large volume of items filed daily. These studies were used to approximate direct labor costs. The Task Force also developed a governmental overhead cost percentage of 46.3 percent which includes 20 percent for Leave and Holidays, 20.4 percent Retirement and Disability and 5.9 percent Health, Life Insurance and Social Security. The basis of these calculations is found in Office of Management and Budget Circular A–76 *Policies for Acquiring Commercial or Industrial Type Products and Services Needed by the Government.* It also established the general and administrative cost which includes estimated departmental overhead costs for the Offices and Bureaus included in the study at 19.92 percent. Costs were also determined for **Federal Register** and *ICC Register* publication and environmental assessments, when applicable.

Qualifications to the Cost Study Results

The cost study involved tracking the staff time expended on various items received by the Commission in a 13-week period beginning on May 23, 1983 and ending on August 19, 1983. The cost data were collected by attaching a specifically designed abstract to each item as it was received. Each employee who worked on an item recorded the amount of time he or she spent on the item. The work was classified into either clerical, professional, or supervisory based on the individual's grade level and function. The employee provided information from which his or her actual

hourly pay rate could be determined. A computer program was developed which analyzed these data and developed direct labor costs for these items processed during the cost study period.

The cost study produced questionable data for certain items. It appears that many of the items received during the cost study period may not have been representative of their respective categories. In some instances, too few items may have been received to make a valid study. The 13-week period also clearly was not long enough to capture complete data for some items, because the proceedings were not completed within the 13-week period. Therefore, the data collected are not representative of the staff time normally spent on such proceedings. Also, it appears that some of the initial staff estimates were conservative.

The items which we believe are especially questionable are shown with an asterisk in the proposed fee listing in Appendix A. We invite comment on these and other items. Underlying work papers will be made available upon request. We consider fees for these items as preliminary figures which are subject to adjustment based on further study by the Task Force. We will continue to develop more complete data on the questionable items during the comment period. Our Task Force will review our historical records for such procedures and conduct follow-up interviews with our senior staff.

We believe that our proposal to assess fees for these items is valid even if the exact dollar amount is not known at the time proposed rules are issued. Our intent is clear and we invite comment on our methodology.

Proposed Fees

A. Types of Fees

Our Task Force has completed a review of all activities performed by the Commission. The activities in Appendix A of this decision appear to be the type of activities which may be considered for inclusion in a fee schedule issued under the authority of the IOAA and Circular A–25.

The majority of these activities is the "Proceedings" group, which includes most applications or petitions on which the Commission must take formal action. The second group includes tariff filings and formal and informal proceeding related to tariffs. The third group includes our clerical and reproduction services such as certifications, photocopying and computer services and other services such as adding names of interested persons to service lists and personal delivery of decisions to the rail carriers' Washington, D.C. agents.[1] The remaining items cover a variety of subjects, which range from acceptance and publication of notices through which a person may qualify for the intercorporate hauling exemption to informal opinions rendered by our staff on various subjects.

There are many difficult questions that need to be resolved before the Commission can establish a revised fee schedule that takes into consideration all of these activities and services. The first major issue is whether there should be a separate fee for opposed and unopposed licensing and certain rate cases.

We are able to isolate the additional costs for opposed temporary and permanent motor carrier and related applications and protests to tariffs. Proposed fees based on our initial cost estimate are found at items (1), (8), (64) and (71). Tentatively, we have proposed to charge a fee for such protests. In the licensing area, one could argue there is specific benefit to protestants which would allow us to assess such a fee. Similar claims could be made with regard to protests of tariffs. We would like to receive public comment on this issue. If adopted, applicants would be charged the average cost of an unopposed filing. Each protestant would pay the fee computed in our cost study. The fee is based on the additional costs incurred in protested cases divided by the average number of protestants.

Another problem area involves proceedings filed with different titles [e.g., declaratory orders (item 63) and complaints item (60); and proposed items (76) and (86)] but which seek the same relief. In the first example both procedures seek an agency adjudication on the legality of a particular action or the correctness of an interpretation. In which areas are separate categories necessary? A number of proposed fees may also overlap as now worded. See, e.g., items (44) and (48). At this point, we propose to consolidate a number of these categories to avoid such fee inequities.

Another relevant issue is whether separate categories should exist for requests for waiver and exemption. The term waiver is intended to denote a request that the agency dispense with a particular *regulation* in a specific proceeding. The term exemption refers to a request for the particular *statutory* exemption. Proposed fee item (62) is intended to cover general waiver requests. Specific waiver requests such as special permission—proposed fee item (73)—and requests for wiaver of lease and interchange requirements—proposed fee item (79)—were maintained because they are handled by specific procedures by offices other than the Office of Proceedings. We would like the public to comment on whether these distinctions should continue or whether it would be simpler to develop one fee item to cover any request for waiver or exemption. While we wish to develop a cost-specific fee schedule, we also desire a simple one that is easily applied.

Another issue is whether we should establish a fee for petitions for rulemaking.[2] We do not believe that a fee should be established for this type of proceeding because of its broad public significance and quasi-legislative nature. The public is the primary beneficiary of such actions. While we are proposing a fee for petitions for exemptions under 49 U.S.C. 10505, we only would impose the fee for exemptions which benefit only one or two persons, such as a particular trackage rights exemption. No fee would be assessed for petitions for exemption of general scope which are handled as rulemakings. If a private exemption proceeding is expanded into a case of national significance, we proposed to refund the filing fee.

Another area in which a cost study was done but we are uncertain whether to assess a fee is tariff (and contract) filing. We question whether there is any private or public benefit in this requirement, and seek comment on this analysis. If a charge is assessed, a quarterly billing system is proposed.

For all the areas for which fees are proposed, the most difficult issue is whether the benefits from the activity or service flow to an identifiable private beneficiary. The public is requested to comment on this issue of private versus public benefit. We also solicit comment as to whether any of the proposed items do not confer any benefits—public or private. Any such areas identified could qualify for administrative change or a recommendation to Congress for statutory modification.

As to the third group, clerical functions, we are also proposing modification of our regulations in 49 CFR 1002.1 *Fees for record search,*

[1] Since there are a substantial number of decisions which must be served in this manner each year, it may not be feasible to issue bills with each delivery. We are exploring the possibility of establishing a quarterly billing system for such deliveries. We would like to receive public comment on the best method of billing for this service.

[2] While we do not propose a fee for petitions for rulemaking, we developed costs for that item during our cost study which are included at the end of the cost study.

copying, certification, and services in connection therewith, as set forth in Appendix A. Our modifications include establishing fees for search time for records based on the actual grade level of the researchers rather than the average fees for clerical and supervisory and professional personnel now used in 49 CFR 1002.1(f)(1). Our proposal also applies these search and copying fees, which previously applied to search involving records not considered public under the Freedom of Information Act, to record searches conducted for public records. Our fees for certifications, photocopying, and computer services will be modified to reflect current costs of those operations. These fees only include the Commission's direct cost as required by 5 U.S.C. 552.

Our Task Force has prepared preliminary cost studies on all the items listed in the proposed fee schedule. While we are not satisfied with all of the results, as previously discussed, these figures will serve as a starting point. The level of the fee is secondary to the propriety of charging the fee. We will continue to develop more precise data during the comment period. The GAO study and the Congressional interest it generated made it clear that we must establish additional fee items. Many of the proposed items reflect changes brought about by the Motor Carrier Act of 1980, the Staggers Rail Act and The Bus Regulatory Reform Act of 1982. We would like the public to comment on whether these items are appropriate items to be included in the Commission's fee schedule.

There are several items that the GAO report listed as services for which we are not proposing to charge a fee. Our cost study showed that requests for reference assistance average less than $1.00 in direct costs. We foresee a collection problem here because most inquiries are telephone requests. The cost of billing for these services would be more than the charge for the service itself. Under Circular A–25, it is acceptable not to assess a fee when the incremental cost of collecting the fee would be an unduly large part of the receipts. See Circular A–25 at 3. We will reserve the right to charge individual requestors for any copying services which we may perform or for staff time as set forth in 49 CFR 1002.1 for substantial research requests.

We have also evaluated the follow-up activities relating to the filing of delinquent reports. That service is not a service which benefits an identifiable beneficiary.

Our Task Force originally proposed the addition of a fee item for Life Analyses Studies-Railroads. However, this service is no longer provided by the Depreciation Branch of the Bureau of Accounts. Therefore, no fee is proposed.

We are required by the IOAA to base our fees on the smallest practical unit of a category of service or benefit. In *Electronic Industries Association* v. *F.C.C.*, 554 F.2d at 1116–17, the Court of Appeals for the D.C. Circuit stated that it expected the smallest practical unit would be a class of carriers, applicants, grantees or service. We have done this by revising our current fee schedule to provide separate proposed fees for various types of proceedings and services. For certain rail items our proposed fee schedule also provides separate fees for the different classification of applications see e.g., regulations at 49 C.F.R. 1180.2.

The public should inform us if any of our proposed fee item descriptions are confusing and if alternative descriptions or categories would be helpful. The listing in Appendix A should be viewed as a starting point. We are willing to consider any changes in the description or listing of the items which would make the fee schedule easier for the public to use.

B. Level of Fees

In the past, the Commission arbitrarily allocated 50 percent of the cost of such activities to the public interest. We do not believe that formula is appropriate today. The guidance that the courts have given us in this area shows that an agency should as a general rule set fees to recover the full cost of processing the application or petition. We believe that to fulfill our responsibility under IOAA, and A–25 policy we must set our fees at the full cost recovery levels unless a specific A–25 policy would allow a lesser assessment. The fees that we propose include the direct labor costs, governmental overhead and general and administrative costs (including operational overhead) and additional costs where appropriate, such as **Federal Register** or *ICC Register* publication costs and environmental assessments performed by our staff.

It is appropriate to include governmental overhead and general and administrative costs. As the Fifth Circuit has stated:

> The individual (employee) must be supplied with working space, heating, lighting, telephone service and secretarial support. Arrangements must be made so that [he is] hired, paid on a regular basis and provided specialized training courses. These and other costs such as depreciation and interest on plant and capital equipment are all necessarily incurred in the process of reviewing an application." *Miss. Power & Light* v. *U.S. Nuclear Regulatory Commission,* 601 F2d 223 (5th Cir. 1979).

The direct labor costs in our studies are intended, with one exception, to include all staff work, including clerical, professional and supervisory staff time, performed on the application or petitions. We did not include the Office of Hearings costs in the proposed fees. Few Commission cases now are the subject of oral hearings. Hearings are reserved for major complex cases, such as rail merger cases or controversial cases such as contested abandonments which require public participation. The length of hearings varies from case to case and it is impossible to estimate the cost in advance. A hearing often is scheduled due to widespread public opposition to a proceeding, and we do not believe it appropriate to charge this cost to the applicant. The extra cost has been factored in the case of a major or significant rail finance transaction. See discussion, infra.

As we discussed in the previous section, "Qualifications to The Cost Study Results," we are continuing to verify certain items to insure that all staff time spent on a particular type of application or petition is included in the direct labor costs.

A review of Appendix A will reveal many changes in existing fee levels as well as many new fees. Perhaps the most significant development is the fee reduction for license-related matters. Motor carrier licensing is our largest work area by far and affects the greatest number of companies and individuals. The fee reduction is possible due to the procedural and substantive changes of the Motor Carrier Act and certain administrative efficiencies.

C. Exceptions to full cost recovery.

While we intend to establish fees which include all the recoverable costs associated with a particular benefit or service provided by the Commission, we recognize that in certain instances this is not possible. Therefore, we are proposing to include some special exceptions to these proposed fees.

Circular A–25 allows agencies to make exceptions to the general policy of full cost recovery under the following circumstances:

* * * * *

> (3) The recipient is engaged in a non-profit activity designed for the public safety, health, or welfare.
>
> (4) Payment of the full fee by a State, local government or non-profit group would not be in the interest of the program. (Circular A–25 at 4)

The first exception is that none of our proposed filng fees will apply to other

federal government agencies which institute proceedings at the Commission or which participate in our cases. We also believe that the public interest warrants the exemption of all state and local governmental entities from 50 percent of our proposed filing fees. A state or local government entity that files an application or pleading with the Commission is representing the interest of its citizens. While this clearly is a private interest, there is also a public benefit.

We believe that it is also appropriate to exempt an individual filing on his or her own behalf from most of our filing fee requirements. However, this exemption would not apply to motor carrier, or water carrier permanent or temporary authority applications or permanent broker and freight forwarder authority.

We are also considering providing lower fees or total fee exemption for non-profit citizen groups which seek to participate in our cases. However, it is difficult to devise an exception that would distinguish between an ad-hoc, non-profit group which is organized to participate in a particular Commission proceeding and a permanent, staffed association which serves a particular group. We would like the public to comment on whether a better definition can be developed so that an exception can be provided for the grass-roots citizens group. Also, should it make a difference if the group is represented by counsel?

When fees are established, the Commission must review the fairness and equitability of the proposed fee in terms of the value to the recipient. There are several fees which require adjustment under this principle. One fee is proposed item (5), a petition to renew authority to transport explosives under 48 USC 10922 or 10923. We believe that the fee for that process should be the same as the fee for a request for modification of an operating authority to make ministerial correction, proposed fee item (4).

The other fee is proposed fee item (83), petition for reinstatement of a dismissed operating rights application. We believe that the fee for this item should be the same as the filing fee for an initial operating rights request, proposed fee item (1).

The processing costs for several of the proposed fee items, specifically items 46 through 49 relating to railroad merger proceedings vary based upon the type of transaction involved. Our Task Force obtained staff estimates of the direct labor cost for these items broken down by the transaction classification set forth in 49 CFR 1180.2. Since there is a substantial difference in the processing time for each transaction type, we are proposing different fee levels for each type.

Our staff estimates for major and significant transactions also include the time devoted to directly related and responsive applications. Such applications expand the scope of the proceeding. The benefits from the handling of directly related or responsive applications flow to the parties filing those applications; therefore, the expenses associated with such applications must be excluded from our proposed fee for these items. We believe that generally 50 percent of the expenses in major and significant cases are attributable to directly related or responsive applications. Therefore, the fully distributed costs for major and significant transactions should be decreased by 50 percent.

One other adjustment needs to be made to the fee for major and significant transactions. We believe that a certain percentage of the expenses of these types of applications is attributable to the general public interest. Obviously, this cannot be quantified exactly. Thus, we propose arbitrarily apportioning a 25 percent reduction. Major transactions involve the merger of at least two class I railroads. In such cases the Commission must consider, among other matters, the effect of the proposed transaction on the adequacy of transportation service to the public and the interest of carrier employees. See 49 U.S.C. 11344(B). A significant transaction involves at least one class I railroad acting together with one or more other class I or class II railroads in a major market extension. Such a transaction would be either of regional or national transportation significance. In such a case the Commission must consider the impact of the transaction.

Therefore, the fees that we propose for major and significant merger transactions represent a reduction of total of 75 percent of the processing costs of these proceedings. The resulting proposed fees would be $100,000 for major transactions and $20,000 for significant transactions. Due to the substantial amount of the fees for major transactions, we are proposing to allow the applicant to remit the fee in four equal payments of $25,000 each. The first payment would be due when the application is filed. The remaining payments would be due in 3, 6, and 9 month intervals.

These adjustments will also affect proposed fee item 50, an application for determination of a fact of competition under 49 U.S.C. 11321(a)(2). Our estimates for that item were based on the similarity between that type of proceeding and a significant merger transaction. We believe that a similar 75 percent reduction is warranted in that type of proceeding because of the public interest issues. Therefore, we propose to reduce the proposed fee for that item to $20,000.

We tentatively conclude that no reductions are warranted for the proposed fees for minor or exempt transactions. Directly related or responsive applications are not filed in this type of proceeding. These types of transactions also do not involve primarily public interest issues. Therefore, we propose that the fees for those types of transactions will remain at the fully distributed cost level. However, we would like to receive comments on this proposal. We especially seek comment on the issue of whether the fee for these exemptions plus other types of exemptions (both rail and motor carriers) should be set at less than the fully distributed cost levels. It may be argued that these exemptions benefit all through administrative efficiency and should be encouraged or that we should consider broader class exemptions.

As discussed above, we propose to modify our current practice and assess a separate fee for directly related or responsive applications or for notices of exemptions. See 49 CFR 1180.4(c). We propose a fee of $1,750 for each directly related or responsive application. The fee for these of exemptions is proposed to be $480.

One additional minor modification also needs to be discussed. Currently the Commission's abandonment regulations in 49 CFR 1152.23 provide for a separate fee for summary applications. We propose to delete that provision from 49 CFR 1152.23 since our cost study figures have provided us with the actual costs of processing abandonments.

We believe that there are also public policy considerations which warrant setting lower fees for proposed fee item (18), petition to discontinue motor carrier of passenger transportation in one state, and items (68) and (69), petition for review of state regulation of intrastate rate, rules or practices filed by interstate rail and motor passenger carriers, pursuant to 49 U.S.C. 11501. These three proceedings involve Federal preemption of decisions of state regulatory agencies. The Commission stands in the position of an appellate court for such state actions to determine whether the state actions are in conformance with federal practices and are not an unreasonable burden on interstate commerce. Congress saw a

special need to create this extraordinary remedy and, accordingly, we believe that the fees for these items should be $500, so that the carriers will not be deterred from pursuing their special Congressionally-granted remedy.

All of our proposed fee items, except the hourly search rates, and filing fees of less than $30 have been rounded down to the nearest ten dollars. Filing fee items of less than $30 have been rounded down to the nearest dollar.

Proposed fees will be adjusted in the final rules for new general schedule wage increases.

Fee Collections

Several modifications to 49 CFR 1002.2, *Filing Fees,* are warranted. Our policy regarding filing fees that are not refundable is proposed to be modified to reflect current Commission policy of allowing applicant to credit filing fees or use the fees from rejected applications to file replacement applications.

A new paragraph also is proposed to be added to express the Commission's policy that generally filing fees will not be waived for individual applications or proceedings. However, we will establish a waiver provision through which an applicant or petitioner can apply for waiver of fees. It is our intent only to grant fee waivers in the most unusual circumstances. We will use the same waiver standard that we currently use for waiver of fees and charges for searches and copying of records not considered public under the Freedom of Information Act. That standard allows waiver ". . . if such waiver is found to be in the best interest of the public, or if a fee or charge would impose an undue hardship upon the requestor." See 49 CFR 1002.4. We will delegate responsibility for fee waiver decisions to the Secretary of the Commission, who will consult with any involved office. The public is invited to submit comments on whether this is an appropriate standard to establish. Alternative standards will be considered, if submitted.

Additional language is being proposed to state that a filing is deficient if the appropriate fee is not submitted. Such a deficient application can be *rejected* by the Commission. *We are proposing to consider the filing date of the application as the date the appropriate fee is submitted* in those instances in which an application initially is submitted without a fee or with an incorrect fee. We would like the public to comment on how strictly this policy should be applied. As a minor matter, we will also modify our rules to specify the type of conversion referred to in this paragraph as a conversion of a certificate of registration only not a conversion of a permit to a certificate of public convenience and necessity.

Annual Updating of Fees

The Commission also proposes to update its user fees annually to reflect current Commission costs. An updated fee schedule will be published in the **Federal Register** each year, on or about August 30th. The new fee schedule will become effective on October 1st of each year. The fees will be updated by applying the formula set forth in proposed section 49 CFR 1002.2.

Regulatory Flexibility Analysis

The Regulatory Flexibility Act (RFA) (5 U.S.C. 601–612) requires us to issue an initial regulatory flexibility analysis, and receive public comment on that analysis. Our analysis must describe the impact the proposed rule will have on small entities.

Our proposed proposal will have a significant effect on small entities. However, this impact generally will be beneficial. Our application fee for motor carrier authority will decrease rather than increase. This will benefit all small carriers since this is the major contact that they have with the Commission. Our fee for owner-operator applications also will decrease which should enable more owner-operators to participate more directly in regulated transportation. We have proposed separate rail and non-rail fees in many instances, which will again benefit small entities whose filing fees will no longer subsidize the more complex proceedings. We propose to adopt a fee waiver procedure, which should allow small businesses to continue to use Commission procedures.

In the rail fees we have provided separate fee categories in the merger, consolidation and purchase applications so that small rail carriers will not be burdened with the fees that correspond to major rail proceedings.

These rules, as proposed, appear to represent the appropriate balance which would satisfy the purpose of both the IOAA and the RFA. However, this is the first time the Commission has had to revise its fee schedules and meet the requirements of the RFA. We welcome any alternative suggestions that the public may have.

List of Subjects in 49 CFR Parts 1002, 1011, 1152, 1177, 1180, 1182

Administrative practice and procedure.

Authority: 5 U.S.C. 553, 31 U.S.C. 483a, and 49 U.S.C. 10321.

Dated: February 10, 1984.

By the Commission, Chairman Taylor, Vice Chairman Andre, Commissioners Sterrett and Gradison.

James H. Bayne,

Acting Secretary.

Appendix A [1]

Title 49 of the Code of Federal Regulations would be amended as follows:

PART 1002—FEES

(1) In § 1002.1, the heading, introductory text and paragraphs (a)–(c), (e) and (f) would be revised and paragraph (d) added to read as follows:

§ 1002.1 Fees for records search, copying, certification, and related services.

Certifications and copies of such tariffs, reports and other public records and documents on file with the Interstate Commerce Commission, as may be practicable to furnish, as well as searches and copying of records not considered public under the Freedom of Information Act (5 U.S.C. 552), will be furnished on the following basis:

(a) Certificate of the Secretary, $3.00.

(b) Services involved in examination of tariffs or schedules for preparation of certified copies of tariffs or schedules or extracts therefrom at the rate of $15.00 per hour.

(c) Services involved in checking records to be certified to determine authenticity, the clerical work, etc. Incidental thereto, at the rate of $11.00 per hour.

(d) Electrostatic copies of tariffs, reports, and other public documents, at the rate of $0.60 per letter size or legal size exposure. A minimum charge of $3.00 will be made for this service.

(e) The fee for search and copying services requiring ADP processing are as follows:

(1) A fee of $28.00 per hour for professional staff time will be charged when it is required to fulfill a request for ADP data.

(2) The fee for port minute time for the search will be set at the current rate set forth in the Commission's contract with our time sharing computer contractor. Information on those charges can be obtained from the Chief, Section of Systems Development, Interstate Commerce Commission, Washington, D.C. 20423.

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[1] A number of the proposed fee levels for substantive activity are based on cost study data that are not considered representative. These items are starred and should not be relied upon. Further study is being undertaken and will be completed before May 1. We invite comment on other items that appear incorrect.

(3) Printing shall be charged at the rate of $.05 per page of computer generated output with a minimum charge of $.25. A charge of $25 per reel of magnetic tape will be made if the tape is to be permanently retained by the requestor.

(f) Search and copying services for records not considered public under the Freedom of Information Act are as follows:

(1) The search fee hourly rate will be based on the hourly rate of the individual or individuals who perform the search. Those hourly rates are set forth in the following table:

Grade	Rate
GS-1	$4.73
GS-2	5.15
GS-3	5.81
GS-4	6.51
GS-5	7.29
GS-6	8.12
GS-7	9.02
GS-8	9.99
GS-9	11.04
GS-10	12.16
GS-11	13.35
GS-12	16.01
GS-13	19.03
GS-14	22.49
GS-15 and above	26.45

(2) The fee for electrostatic copies shall be $0.60 per letter size or legal size exposure with a minimum charge of $3.00.

(3) The fee charged for ADP data is set forth in (e) above.

(4) No fee shall be charged for time spent reviewing documents to determine disclosability under the Freedom of Information Act. A fee may be charged for searches which are not productive and for searches for records or those parts of records which are determined to be exempt from disclosure.

* * * * *

(2) Section 1002.2 would be revised to read as follows:

§ 1002.2 Filing fees.

(a) *Manner of payment.* (1) All filing fees will be payable at the time and place the application, petition, notice, tariff, contract, or other documents is tendered for filing.

(2) Except as specified below, fees will be payable to the Interstate Commerce Commission by check drawn upon funds deposited in a bank in the United States or money order payable in U.S. currency.

(3) For those categories of cases for which there is an initial payment and subsequent quarterly direct billing, only the initial fee must be paid when the application is filed.

(b) *Deficiencies.* (1) Any filing that is not accompanied by the appropriate filing fee is deficient.

(2) The Secretary will inform any person who submits a deficient filing that:

(i) Such filing will be rejected, unless the appropriate fee is submitted within a specified time;

(ii) The Commission will not process any filing that is deficient under this paragraph; and

(iii) The date of filing will be deemed the date on which the Commission receives the appropriate fee.

(3) This provision does not preclude a determination that a filing is deficient for any other reason.

(c) *Fees not refundable.* Fees will be assessed for every filing in the type of proceeding listed in the schedule of fees contained in paragraph (f) of this section, subject to the exceptions contained in paragraphs (d) and (e) of this section. After the application, petition, notice, tariff, contract, or other document has been accepted for filing by the Commission, the filing fee will not be refunded, regardless of whether the application, petition, notice, tariff, contract, or other document is granted or approved, denied, dismissed, or withdrawn. If an application, petition, notice, tariff, contract, or other document is rejected by the Commission as incomplete or for some other reason, prior to docketing, the fee will be returned. If an application is rejected as incomplete after docketing, the applicant will be given the opportunity to file a replacement application with reference to the fee number assigned to the prior application and no additional fee will be required, but the fee will not be refunded.

(d) *Related or consolidated proceedings.* (1) Separate fees need not be paid on related applications filed by the same applicant which would be the subject of one proceeding, such as a single petition for modification of more than one certificate or permit held by the same person; a related plan of track relocation, joint use, purchase of trackage rights, and issuance of securities, however, such applications must be filed by the same applicant that filed the primary application; a motor common carrier acquisition application combined with a related section application for a certificate of public convenience and necessity; or the like. In such instances the only fee to be assessed will be that applicable to the embraced proceeding which carries the highest filing fee as listed in paragraph (f) of this section; except that, directly related applications involving a transfer under 49 U.S.C. 10926 or an application on Form OP-1 for gateway elimination and/or a conversion of a certificate of registration and a certificate of public convenience and necessity the sole fee shall be the basic fee for the transfer application. However, the directly related application must be filed at the same time the primary application is filed.

(2) Each filing of an original or updated notice of intent to engage in compensated intercorporate hauling operations shall be considered a separate filing, and shall be subject to payment as described in paragraph (f)(12) of this section.

(3) Separate fees will be assessed for the filing of temporary authority applications as provided in paragraphs (f)(8) (9) and (10) of this section, regardless of whether such applications are related to an application for corresponding permanent authority.

(4) The Commission may reject concurrently filed applications, petitions, notices, contracts, or other documents asserted to be related and refund the filing fee if, in its judgment, they embrace two or more severable matters which should be the subject of separate proceedings.

(e) *Waiver of filing fees.* It is the general policy of the Commission not to waive filing fees except as described below:

(1) Filing fees are waived for an application or other proceeding which is filed by a federal government agency. Fifty percent of the applicable filing fees will be waived for a state or local government entity.

(2) All filing fees except for applications for motor carrier, or water carrier temporary or permanent operating authority and broker or freight forwarder operating authority will be waived for an individual applying on his or her own behalf.

(3) In extraordinary situations the Commission will accept requests for waivers in accordance with the following procedure:

(i) *When to request.* At the time that a filing is submited to the Commission the applicant may request a waiver or reduction of the fee prescribed in this part. Such request should be addressed to the Secretary.

(ii) *Basis.* The applicant must show the waiver or reduction of the fee is in the best interest of the public, or that payment of the fee would impose an undue hardship upon the requestor.

(iii) *Commission Action.* The Secretary will notify the applicant of the decision to grant or deny the request for waiver or reduction.

(f) Schedule of Filing Fees:

Type of proceedings	Proposed fees	Existing fees
PART 1: NON-RAIL-APPLICATIONS FOR OPERATING AUTHORITY OR EXEMPTIONS		
(1) An application for motor carrier or water carrier operating authority, water carrier exemption authority, a certificate of registration or an application for broker or freight forwarder authority	$*150	$350
Protest to permanent authority application	*190	None
(2) A fitness only application for motor common carrier authority under 49 U.S.C. 10922(b)(4)(E) or motor contract authority under 49 U.S.C. 10923(b)(5)(A) to transport food and related products	90	150
(3) A petition to interpret or clarify an operating authority under 49 CFR 1160.64	90	200
(4) A request seeking the modification of operating authority only to the extent of making a ministerial correction, a change in the name of the shipper or owner of a plant-site or the change of a highway name or number	27	None
(5) A petition to renew authority to transport explosives under 49 U.S.C. 10922 or 10923	27	5
(6) An application to remove restriction or broaden unduly narrow authority under 49 CFR 1165	90	350
(7) An application for authority to deviate from authorized regular route authority 49 U.S.C. 10923(a)	90	15
(8) An application for motor carrier or water carrier temporary authority under 49 U.S.C. 10928(b)	*70	80
Protest to a temporary authority application	*26	None
(9) An application for motor carrier emergency temporary authority 49 U.S.C. 10928(c)(1)	50	None
(10) An extension of the time period during which an outstanding application for emergency temporary authority as defined in 49 U.S.C. 10928(c)(1) may continue	12	10
(11) Request for name change of carrier, broker or freight forwarder	5	None
(12) A notice required by 49 U.S.C. 10524(b) to engage in compensated incorporate hauling including an updated notice required by 49 CFR 1167.4	70	150
(13) A notice of intent to operate under the agricultural cooperative exemption in 49 U.S.C. 10526(a)(5)	60	None
(14) [Reserved]		
(15) [Reserved]		
(16) [Reserved]		
PART II: NON-RAIL-APPLICATION TO DISCONTINUE TRANSPORTATION		
(17) A notice or petition to discontinue ferry service. 49 U.S.C. 10908	6,170	650
(18) A petition to discontinue motor carrier of passenger transportation in one state	500	650
(19) [Reserved]		

Type of proceedings	Proposed fees	Existing fees
PART III: NON-RAIL-APPLICATIONS TO ENTER UPON A PARTICULAR FINANCIAL TRANSACTION OR JOINT ARRANGEMENT		
(20) An application for the pooling or division of traffic	730	100
(21) An application of two or more carriers to consolidate or merge their properties or franchises or any part thereof into one corporation for the ownership management and operation of the properties previously in separate management. 49 U.S.C. 11343(a)(1)	*930	700
(22) An application of a noncarrier to acquire control of two or more carriers through ownership of stock or otherwise	*830	700
(23) An application of a carrier or carriers to purchase, lease or contract to operate the properties of another, or to acquire control of another by purchase of stock or otherwise. 49 U.S.C. 11343(a) (2) and (3)	*820	700
(24) An application for approval of, or to amend, a non-rail rate association agreement. 49 U.S.C. 10706	7,110	800
(25) An application for temporary authority to operate a motor or water carrier. 49 U.S.C. 11349	*130	80
(26) An application to transfer, or lease of a certificate or permit, including a certificate of registration, and a broker license or change of control of companies holding broker's license. 49 U.S.C. 10926	*150	100
(27) A petition to transfer a water carrier exemption authorized under 49 U.S.C. 10542 and 10544 to a successor	120	100
(28) An application for approval of a motor vehicle rental contract. 49 CFR 1057.41(d)	120	30
(29) A petition for exemption under 49 U.S.C. 11343(e)	200	None
(30) [Reserved]		
(31) [Reserved]		
(32) [Reserved]		
PART IV: RAIL-APPLICATIONS FOR OPERATING AUTHORITY		
(33) An application for a certificate authorizing the construction, extension, acquistion, or operation of lines of railroad. 49 U.S.C. 10901	6,170	700
(34) An application filed under 49 U.S.C. 10910 Feeder Line Development Program	1,810	300
(35) [Reserved]		
(36) [Reserved]		
(37) [Reserved]		
PART V: RAIL-APPLICATIONS TO DISCONTINUE TRANSPORTATION SERVICES		
(38) An application for authority to abandon all or a portion of a line of railroad or operation thereof filed by a railroad except Consolidated Rail Corporation	1,620	700
(39) An application for authority to abandon all or a portion of a line of railroad or operation thereof filed by Consolidated Rail Corporation pursuant to the North East Rail Service Act	190	None

Type of proceedings	Proposed fees	Existing fees
(40) A notice or petition to discontinue passenger train service	8,170	650
(41) [Reserved]		
(42) [Reserved]		
(43) [Reserved]		
PART VI: RAIL-APPLICATIONS TO ENTER UPON A PARTICULAR FINANCIAL TRANSACTION OR JOINT ARRANGEMENT		
(44) An application for use of terminal facilities or other application. 49 U.S.C. 11103	*5,180	150
(45) An application for the pooling or division of traffic. 49 U.S.C. 11342	3,570	100
(46) An application for two or more carriers to consolidate or merge their properties or franchises or a part thereof, into one corporation for ownership, management, and operation of the properties previously in separate ownership:		
(i) Major transaction	100,000	700
(ii) Significant transaction	20,000	700
(iii) Minor transaction	1,750	700
(iv) Exempt transaction	480	None
(v) Responsive application	1,750	None
(47) An application of a noncarrier to acquire control of two or more carriers through ownership of stock or otherwise. 49 U.S.C. 11343(a)(1):		
(i) Major transaction	100,000	700
(ii) Significant transaction	20,000	700
(iii) Minor transaction	1,750	700
(iv) Exempt transaction	480	None
(v) Responsive application	1,750	None
(48) An application to acquire trackage rights over, joint ownership in, or joint use of, any railroad lines owned and operated by any other carrier and terminals incidental thereto. 49 U.S.C. 11343:		
(i) Major transaction	100,000	700
(ii) Significant transaction	20,000	700
(iii) Minor transaction	1,750	700
(iv) Exempt transaction	480	None
(v) Responsive application	1,750	None
(49) An application of a carrier or carriers to purchase, lease, or contract to operate the properties of another, or to acquire control of another by purchase of stock or otherwise:		
(i) Major transaction	100,000	700
(ii) Significant transaction	20,000	700
(iii) Minor transaction	1,750	700
(iv) Exempt transaction	480	None
(v) Responsive application	1,750	None
(50) An application for a determination of fact of competition. 49 U.S.C. 11321 (a)(2) or (b)	20,000	800
(51) An application for approval of, or to amend a rail rate association agreement. 49 U.S.C. 10706	10,000	500
(52) An application for authority to hold a position as officer or director. 49 U.S.C. 11322	50	10
(53) An application to issue securities; an application to assume obligation or liability in respect to securities of another; an application or petition for modification of an outstanding authorization, or an application for exemption for competitive bidding requirements of Ex Parte No. 158, 49 CFR 1175.10. 49 U.S.C. 11301	*830	200

Type of proceedings	Proposed fees	Existing fees
(54) A petition for exemption (other than a rulemaking) filed by rail carriers. 49 U.S.C. 10505	*530	None
(55) An application for forced sale of bankrupt railroad lines	300	300
(56) [Reserved]		
(57) [Reserved]		
(58) [Reserved]		
(59) [Reserved]		
PART VII: OTHER PROCEEDINGS		
(60) A complaint alleging unlawful rates or practices of carriers	*340	None
(61) A complaint seeking or a petition requesting institution of an investigation seeking the prescription of division of joint rates, fares or charges. 49 U.S.C. 10705(f)(1)(A)	*400	700
(62) A petition for waiver from Commission regulations	*610	None
(63) A petition for declaratory order	*930	
(64) A request for motor, water or freight forwarder nationwide or regional general rate increases, including major rate restructures	*3,650	
Protest to a general rate increase	*160	None
(65) A petition to define or redefine a commercial zone, or to remove the exemption applicable to commercial zone movements	160	150
(66) A petition for exemption from filing tariffs by water and bus carriers	110	None
(67) An application for shipper antitrust immunity. 49 U.S.C. 10706(a)(5)(A)	1,970	None
(68) Petition for review of state regulations of intrastate rates, rules or practices filed by interstate rail carriers. 49 U.S.C. 11501	500	None
(69) Petition for review of state regulations of intrastate rates, rules or practices filed by interstate bus carriers. 49 U.S.C. 11501	500	None
(70) Commission verification of the quarterly index applicable to rail rate increases	1,330	None
(71) Request for suspension or investigation of tariff matter	29	None
(72) An application for authority to establish released value rates or ratings under 49 U.S.C. 10730 except that no fee will be assessed for applications seeking such authority in connection with reduced rates established to relieve distress caused by drought or other calamitous visitation	330	200
(73) An application for special permission for short notice or the waiver of other tariff publishing requirements	30	20
(74) The filing of tariff and rate schedules including supplements	[1] *8	None
(75) Special docket application from rail and water carriers	[2] 40	None
(76) Informal complaint about rate application	160	None
(77) An application for original qualification as an insurer, surety or self-insurer	[3] 65	65
(78) A service fee for insurer, surety or self-insurer accepted certificate of insurance or surety bond. The fee is based on a formula of $10 per accepted certificate of insurance or surety bond as indication of ICC insurance activity. (There is a $50 annual minimum)	[4] 10	10
(79) A petition for waiver of any provision of the lease and interchange regulations. 49 CFR Part 1057	630	85
(80) A petition for reinstatement of revoked operating authority	30	60
(81) Acceptance of filings of designated agents for service of process	[5] 8	None
(82) Request for informal interpretations from the Office of Compliance and Consumer Assistance	300	None
(83) Petition for reinstatement of a dismissed operating rights application	150	None
(84) Filing of documents for recordation. 49 U.S.C. 11303 and 49 CFR 1177.3(c)	[6] 10	[7] 50
(85) Valuations of railroad lines in conjunction with purchase offers in abandonment proceedings	770	None
(86) Informal opinions about rate applications	80	None
(87) [Reserved]		
(88) [Reserved]		
(89) [Reserved]		
(90) [Reserved]		
(91) [Reserved]		
(92) [Reserved]		
(93) [Reserved]		
(94) [Reserved]		
(95) [Reserved]		
PART VIII: SERVICES		
(96) Messenger delivery of decisions to a railroad carrier's Washington, DC agent	[8] 7	None
(97) Request for service list for proceedings	[9] 5	None
(98) Requests to be added to the service list of a proceeding by a non-party	[10] 2	None
(99) Requests for copies of the one-percent carload waybill sample	80	None
(100) Verification of surcharge level pursuant to Ex Parte No. 389, Procedures for Requesting Rail Variable Cost & Revenue Determination for Joint Rates Subject to Surcharge or Cancellation	[11] 10	None
(101) Diazo copies of public docket materials	[12] .05	None
(102) Application fee for Interstate Commerce Commission Practitioners' Exam	50	50

[1] Per series transmitted.
[2] Per letter of intent or disposition.
[3] Current fee retained due to changes made in Ex Parte MC-5 (Sub-No. 2) and Ex Parte No. 159 (Sub-No. 1) (eff. 1/13/84). Will be reviewed when fee schedule is updated.
[4] Per accepted certificate.
[5] Per filing.
[6] Per document.
[7] For primary document. 10 for secondary document.
[8] Per delivery.
[9] Per list.
[10] Per request.
[11] Per movement.
[12] Per copy with a .25 minimum.

(3) Section 1002.3 would be added to read as follows:

§ 1002.3 Updating user fees.

(a) *Update.* Each fee established in this part shall be updated in accordance with this section annually.

(b) *Publication and effective dates.* Updated fees shall be published in the **Federal Register** and shall become effective 30 days after publication.

(c) *Payment of fees.* Any person submitting a filing for which a fee is established shall pay the fee in effect at the time of the filing.

(d) *Method of updating fees.* Each fee shall be updated by updating the cost components comprising the fee. Cost components shall be update as follows:

(1) Direct labor costs shall be updated by multiplying base level direct labor costs by percentage changes in average wages and salaries of Commission employees. Base level direct labor costs are direct labor costs determined by the Commission's FY 1983–84 User Fee Cost Study. The base period for measuring changes shall be April 1984.

(2) Governmental overhead costs shall be updated by multiplying updated direct labor costs by estimated employee fringe benefits and other wage related governmental cost contributions. Estimates of these benefits and contributions are currently published by the Office of Management and Budget in OMB Circular A–76.

(3) General and administrative costs and operational overhead shall be updated by multiplying updated direct labor and governmental overhead costs by the sum of base level operations overhead and current Commission general and administrative percentage costs. Base level operations overhead are those percentage costs determined by the Commission's FY 1983–84 User Fee Cost Study. Current Commission general and administrative percentage costs shall be deteremined by dividing budgeted Commission general and administrative costs for the current fiscal year by total budgeted agency expenses for the current fiscal year.

(4) Other costs shall be updated by multiplying base level other costs by percentage changes in the consumer price index. Base level other costs are other costs determined by the Commission's FY 1983–84 User Fee Cost Study. The base period for measuring changes shall be April 1984.

(e) *Rounding of updated fees.* Updated fees shall be rounded down to the nearest ten dollar increment, except fees of less than $30 will be rounded down to the nearest $1.00. (This rounding procedure excludes copying, printing and search fees).

PART 1011—COMMISSION ORGANIZATION; DELEGATIONS OF AUTHORITY

(4) in § 1011.8, a new paragraph (b) would be added to read as follows:

§ 1011.8 Delegation of Authority by the Interstate Commerce Commission to Specific Bureaus and Offices of the Commission.

* * * * *

(b) *Office of the Secretary.* Authority to waive filing fees set forth in 49 CFR 1002.2(f) will be delegated to the Secretary of the Commission, to be exercised in consultation with involved offices.

PART 1152—ABANDONMENT AND DISCONTINUANCE OF RAIL LINES AND RAIL TRANSPORTATION UNDER 49 U.S.C. 10903

(5) In § 1152.23, paragraph (e) would be revised to read as follows:

§ 1152.23 Summary application.

* * * * *

(e) A check or money order payable to the Interstate Commerce Commission must be submitted with the application to cover the applicable filing fee.

PART 1177.3—RECORDATION OF DOCUMENTS

In§ 1177.3 paragraph (c) would be revised to read as follows:

§ 1177.3 Requirements for submission.

* * * * *

(c) Be accompanied by a fee in the appropriate amount. The filing fee for either a primary or secondary document is $10 per document. However, assignments which are executed prior to the filing of the primary document and which are submitted concurrently will be treated along with the primary document as one for fee purposes and will be assessed only one $10 fee. A lease and agreement (Philadelphia Plan) shall be similarly treated.

* * * * *

PART 1180—RAILROAD ACQUISITION, CONTROL, MERGER, CONSOLIDATION PROJECT, TRACKAGE RIGHTS, AND LEASE PROCEDURES

(7) In § 1180.4, paragraph (c)(1) would be revised to read as follows:

§ 1180.4 Procedures.

* * * * *

(c) *Application.* (1) The filing fee to file a primary application with the Commission under these procedures is set forth at 49 CFR 1002.2(f) (46–49). There is no filing fee for a directly related application filed by the party that filed the primary application. The fee for a directly related or responsive application filed by another party is $1,620. For a finance-related exemption filed by any party the fee is $480.

* * * * *

PART 1182—MOTOR CARRIER APPLICATIONS TO CONSOLIDATE, MERGE, OR ACQUIRE CONTROL UNDER 49 U.S.C. 11343–11344

§ 1182.1 [amended]

(8) In § 1182.1, paragraph (b) would be amended by revising the amount "$700" in the third sentence to read "$1,750.

Appendix B—Cost Report—Filing and Service Fees

Cost Analyses

The following analyses provides the primary information base used to determine the cost data applicable to the filing, service fees and other items under consideration in the User Fee Study. Procedures utilized in the performance of the thirteen (13) week time and motion study are available upon request. Special studies and interviews were conducted to develop cost information on those items which did not appear during the course of the time and motion study or where unrepresentative cost study results could be quickly adjusted to produce a more accuate estimate. Explanations regarding the cost treatment of each service, whether included in the study and/or developed through special studies and interviews are outlined herein.

Average cost data associated with each service under consideration were constructed on the basis of the following cost considerations:

A. Direct Labor cost data per unit resulting from the time and motion study and/or special studies and interviews.

B. Government Overhead Costs—Fringe benefits and other wage related governmental cost contributions as noted. (Source: Office of Management and Budget—OMB Circular A–76):

1. Leave and holidays: 20.0 percent (Chapter IV, page 20)
2. Retirement and Disability: 20.4 percent (Chapter IV, page 23)
3. Health, Life Insurance and Social Security: 5.9 percent (Chapter IV, page 23)
4. Total: 46.3 percent (Applied to Direct Cost)

C. Commission General and Administrative Costs including estimated operational overhead costs for those Offices and/or Bureaus included in the study amounts to 19.92 percent. (See attachment 1)

D. Publication costs i.e., Federal Register and/or I.C.C. Register.

E. Total Cost (Sum of costs in A. through D.).

A post study audit of the cost items shown in this report reveal that certain cost items produce results that appear unrepresentative of the average cost of handling these types of proceedings, i.e., unrepresentative samples and conservative estimates from staff interviews, and are questionable. A further review of these items will be made during the comment period in an effort to develop more representative cost information. The specific areas of concern are starred.

Cost Data

A detailed account of the average cost per unit record based on the cost levels outlined in A. through D. above, will be made available on request. Titles used here may not be identical to titles used in the current 49 CFR Part 1002—Fees.

§ 1002.1

(a) Certificate of the Secretary.

Direct Labor Cost—$1.94.

Fully Distributed Cost—$3.39.

Current Fee—$2.50.

Discussion

Fee based on GM 15 @ 5 minutes @$23.34=$1.94.

(b) Services involved in examination of tariffs and schedules for preparation of certified copies of tariffs or schedules or extracts therefrom.

Direct Labor Cost—$9.02.

Fully Distributed Cost—$15.82.

Current Fee—$7.00.

Discussion

Fee based on GS 7/5 level. ($9.02 per hour).

(c) Services involved in checking records to be certified to determine authenticity, the clerical work, etc., incidental thereto.

Direct Labor Cost—$6.51.

Fully Distributed Cost—$11.42.

Current Fee—$4.00.

Discussion

Fee based on GS 4/5 level. ($6.51 per hour)

(d) Electrostatic copies of Tariffs, Reports and other public documents.

Direct Labor Costs—$0.36.

Fully Distributed Cost—$0.64.

Current Fee—$0.25.

Discussion

A special study was conducted and the cost results are based on the following:

Pages copied during fiscal year 1983 (10/1/82 through 9/30/83) is 61,793.

(e)(1) The direct labor cost for professional staff time to fulfill a request for automated data processing service is estimated on the following:

	Fully distributed
Clerical, GS 4, Step 1=$5.75 per hour	$10.09
Professional, GS 12, Step 5=16.01 per hour	28.08
Supervisory, GM 15, Step 5=26.45 per hour	46.41

(e)(2) The direct cost for computer time expended in data searches is estimated as follows:

$.18 cents per port minute—CompuServe System.

The cost is based on average computer port time charges of $11.00 per hour ($11.00 per hour÷60 minutes=$0.183 cents per minute).

(e)(3). Printing cost per page of computer generated data is estimated at $0.05 per page. Material cost for one reel of magnetic tape permanently retained by requestor is estimated at $25.00.

(f) Search and copying services, not considered public under the Freedom of Information Act.

Discussion

Estimates of direct labor costs applicable to the search and copy services relative to information sought under the Freedom of Information Act are outlined as follows:

(f)(1) The direct labor cost for clerical, professional and supervisory personnel, on a per hour basis, is estimated at the mid-level (Step 5) for each grade level in the October 1982 General Schedule Federal Pay Scales as follows:

GS grade	Plain per hour
1	$4.73
2	5.15
3	5.81
4	6.51
5	7.29
6	8.12
7	9.02
8	9.99
9	11.04
10	12.16
11	13.35
12	16.01
13	19.03
14	22.49
15	26.45

Estimates of average direct labor costs (Clerical grades 1 thru 6, Professional 7 thru 14 and Supervisory at GS 15) are as follows:

Clerical GS 4, Step 1=$5.75 per hour.

Professional GS 11, Step 1=$11.78 per hour.

Supervisory GS 15, Step 1=$23.34 per hour.

(f)(2) See (d) above.

(f)(3) See (e) above.

49 CFR Part 1002.2(f)—Schedule of Filing Fees.

1.*An application for motor or water carrier operating or exemption authority, a certificate of registration or an application for broker or freight forwarder authority.

Direct Labor Cost—$85.24 (unopposed applications).

Fully Distributed cost—$154.55 (unopposed applications).

Direct Labor Cost $108.18 (protests).

Fully Distributed Cost—$193.16 (protests).

Current Fee—$350.00.

Discussion

During the study period 2,777 unopposed applications and 536 opposed applications were observed. Direct labor cost was seen as $29.21 for each unopposed application and $24.51 *more* for each opposed one. A review of the cost data indicated that staff time was substantially understated for both types of cases. The figures have, therefore, been recomputed by analyzing total staff hours dedicated to these applications. This produced costs as follows:

Unopposed—10,400 staff hours× average hourly rate from cost study of $15.57=direct labor cost of $161,928÷2,777 applications=$58.31 direct labor cost per unit.

Opposed—4,160 staff hours×average hourly rate from cost study of $17.44=direct labor costs of $72,550÷536 applications=$135.35 direct labor cost per unit (opposed cases). Case status records indicate that on the average, there are 1.5 protests per application.

In addition it is estimated that the review process of these applications requires an additional hour by three review board members amounting to $26.45. (GM 15/5 @26.45 at 20 minutes×3=one hour or $26.45). Moreover mail room handling is estimated at $0.48 (GS 4/1 @$5.75 per hour×5 minutes=$0.48), resulting in additional direct labor costs per unit of $26.93.

Unopposed direct labor cost $58.31+ $26.93=$85.24.

Opposed direct labor cost $135.35+$26.93=$162.28÷1.5=$108.18.

Publication costs ICC Register are estimated to be $5.00.

2. A fitness only application for motor common carrier authority under 10922(b)(4)(E) or motor contract authority under 10923(b)(5)(A) to transport food and related products.

Direct Labor Cost—$15.21.

Fully Distributed Cost—$31.68.

Current Fee—$150.00.

Discussion

During the study period a total of 78 applications were observed resulting in direct labor costs per unit of $15.21.

Publication costs in the ICC Register are estimated at $5.00.

3. A petition to interpret or clarify an operating authority under 49 CFR 1160.54.

Direct Labor Cost—$52.03.

Fully Distributed Cost—$96.28.

Current Fee—$200.00.

Discussion

During the study period no petitions were observed. A review of the processing functions required to produce this service indicates that handling of these petitions is comparable to processing restriction removals. Therefore, we are estimating the direct labor costs based on restriction removals (Item 6) of $52.03.

Publication Costs I.C.C. Register are estimated to be $5.00.

Durint the final data input of outstanding abstracts one application was observed resulting in direct labor costs of $82.00 and fully distributed costs amounting to $148.86.

4. A request seeking the modification of operating authority only to the extent of making a ministerial correction, a change in the name of a shipper or owner of a plant-site, or the change of a highway name or number.

Direct Labor Cost—$15.21.

Fully Distributed Cost—$27.21.

Current Fee—None.

Discussion

During the study period there were no requests observed. A review of the procedures involved in handling these requests, by the appropriate personnel, indicates that the processing time is comparable to fitness only applications (Item 2 abve). It is recommended that fitness only direct costs of $15.21 be used to develop the cost base for these requests.

This item is not published.

5. A petition to renew authority to transport explosives under Section 10922 or 10923.

Direct Labor Cost—$70.72.

Fully Distributed Cost—$124.07.

Current Fee—$5.00.

Discussion

During the study period there were no petitions observed. A review of the procedures involved in handling the above petitions, by appropriate section personnel, indicates the following direct labor cost estimates:

Clerical 8 hours (GS 6/8—$8.84 per hour=$70.72.

This item is not published.

6. An application to remove restriction or broaden unduly narrow authority under 49 CFR 1109.

Direct Labor Cost—$52.03.
Fully Distributed Cost—$96.28.
Current Fee—$350.00.

Discussion

During the study period a total of 29 applications were observed, resulting in direct labor costs per unit of $52.03.

Publication costs in the I.C.C Register are estimated at $5.00.

7. An application for authority to diviate from authorized regular route, 49 CFR § 1042.

Direct Labor Cost—$49.85.
Fully Distributed Cost—$92.46.
Current Fee—$15.00.

Discussion

During the study period there were no applications filed. A review of the procedures involved in handling these types of applications, by the appropriate personnel, indicates the follow direct labor cost estimates:

Clerical—3 hours (GS 4/7)—$6.89 per hr	$20.67
Professional—2 hours (GS 12/2)—$14.59 per hr	29.18
Total	49.85

Publication costs in the ICC Register are estimated at $5.00.

8.* An application for motor carrier and water carrier temporary authority.

Motor—Direct Labor Cost—$38.01; Fully Distributed Cost—$71.69.

Water—Direct Labor Cost—$14.05; Fully Distributed Cost—$29.64.

Combined—Direct Labor Cost—$37.94; Fully Distributed Cost—$71.57.

Protests—Direct Labor Cost—$14.95; Fully Distributed Cost—$26.23.

Current Fee—$60.00.

Discussion

During the study period a total of 1,296 motor carrier and 8 water carrier applications were observed, resulting in direct labor cost (motor) $24.84 and (water) $14.05. Combined direct labor cost amounts to $24.77.

It was estimated by the filed staff that an additional 1,800 hours during the study period were spent in the 51 district offices throughout the six regions in handling these cases. Therefore, additional direct labor costs per unit of $13.17 are assigned, based on an average hourly rate calculated from the study data, by dividing direct labor dollars (motor) $32,187 by direct labor hours of 3,396=$9.48 per hour × 1,800 hours=$17,064÷1,296 applications=$13.17.

Estimates applicable to the cost of handling protests are as follows:

GS 8/5—1 hour at $9.99 p.h.	$9.99
GS 14 (R.B. 3 members) at 5 min. per member=15 min at $19.84	4.96
Total	14.95

Publication costs in the I.C.C. Register is estimated at $5.00.

9. and 10. Emergency temporary applications for motor carrier authority including an extension of the time period defined in 49 CFR 1162.1(b)(1).

ETA—Direct Labor Cost—$30.19; Fully Distributed Cost—$52.97.

EXT—Direct Labor Cost—$7.12; Fully Distributed Cost—$12.50.

Current Fee—ETA—None; Extension—$10.00.

Discussion

During the study period a total of 762 emergency temporary applications were processed and 19 extensions were observed (all field offices), resulting in direct labor cost of $30.19 and $7.12.

This item is not published.

11. Requests for name changes of carrier, broker or freight forwarder.

Direct Labor Cost—$3.17.
Fully Distributed Cost—$5.56.
Current Fee—None.

Discussion

During the study period a total of 274 records were observed resulting in direct labor cost per unit of $2.69. An additional $0.48 has been added for mail room handling based on the estimate shown in Item 1 above increasing direct labor costs per unit to $3.17.

12. A notice required by 49 U.S.C. 10524(b) to engage in Compensated Intercorporate Hauling, including updates.

Direct Labor Cost—$3.10.
Fully Distributed Cost—$70.43.
Current Fee—$150.00.

Discussion

During the course of the study 16 notices were observed resulting in a direct cost per unit of $1.55. Estimated costs, based on data reflected in 84 below above of $1.55 are added, increasing direct labor cost per unit to $3.10.

Federal Register costs are estimated at $65.00 (1/2 column per notice).

13. Accepting, processing and publishing Agricultural Co-Op Filings.

Direct Labor Cost—$2.23.
Fully Distributed Cost—$68.91.
Current Fee—None.

Discussion

During the study period 6 filings were observed resulting in direct labor costs per unit of $1.75. An additional $0.48 cents per unit has been added to cover mail room handling resulting in direct labor costs per unit of $2.23.

Federal Register publication costs are estimated at $65.00 (1/2 column per notice).

14.–16. Reserved.

17. and 40. Notice of Petition to discontinue Train or Ferry Service. Section 13(a).

Direct Labor Cost—$3,445.89.
Fully Distributed Cost—$8,175.57.
Current Fee—$650.00.

Discussion

During the course of the study no notices of petitions were observed. A review of the processing requirements indicate that this service involves a considerable amount of time because of their complexity. A discussion with the appropriate personnel indicate the following estimated direct labor

Clerical—GS–5—15 hrs. @$6.43 per hr.	$96.45
Professional—GS–14—150 hrs. @$19.48 per hr.	2976.00
Supervisory—GM–15—16 hrs. @$23.34 per hr.	373.44
Total	3445.89

Publication costs—**Federal Register** is estimated at $130.00 (1 column).

18. A petition to discontinue motor carrier transportation of passengers in one state.

Direct Labor Cost—$1,030.50.
Fully Distributed Cost—$1,807.77.
Current Fee—$350.00.

Discussion

Although there were approximately 23 petitions completed since April 1983, the responsible office did not include this item in the study. A review of the handling procedures, by the appropriate personnel, indicates the following direct labor cost estimates:

Clerical—10 hours (GS 4/6)—$6.70 per hr.	$67.00
Professional—40 hours (GS 14/3)—$21.17 per hr.	846.80
Supervisory—20 hours (GM 15)—$23.34 per hr.	116.70
Total	1,030.50

No publications costs are assigned since petitions are not published.

19. Reserved.

20. and 45. An Application for the pooling or division of traffic. Section 5(1).

Rail—Direct Labor Cost—$1,963.65; Fully Distributed Cost—$3,574.74.
Motor—Direct Labor Cost—$416.68; Fully Distributed Cost—$735.18;
Current Fee—$100.00.

Discussion

During the course of the study no applications, rail or motor, were observed. A review of the processing requirements with appropriate

personnel indicates the following estimated direct labor costs:

	Rail	Motor
Clerical—GS5 $6.43 per hr	15 hrs $96.45	4 hrs $25.72
Professional—GS14 $19.46 per hr	80 hrs 1,567.20	15 hrs 297.60
Supervisory—GM15 $23.34 per hr	12 hrs 280.00	4 hrs 93.36
Total	$1,963.65	$416.68

Publication costs—**Federal Register** (Rail) estimated at $130.00 (1 column); I.C.C. Register (Motor) estimated at $4.00.

21.* and 46.[1] An application of two or more carriers to consolidate or merge their properties or franchises, or any part thereof, into one corporation for the ownership, management and operation of the properties therefore in separate ownership.

Rail—Direct Labor Cost—Various—See below.

Fully Distributed Cost—Various—See below.

Motor—Direct Labor Cost—$400.32.

Fully Distributed Cost—$832.23.

Current Fee—$700.00.

Discussion

During the course of the study there were no rail or motor applications observed.

A review of the rail processing requirements, with appropriate personnel, indicates that these applications are segregated into four major categories prior to processing and the respective estimates for each category are shown as follows:

	Major	Significant
Cler.—GS5 $6.43 per hr	1,000 hrs $6,430	200 hrs $1,286
Prof.—GS14 $19.84 per hr	10,000 hrs 198,400	2,000 hrs 39,680
Sup.—GM15 $23.34 per hr	1,000 hrs 23,340	200 hrs 4,668
Total	228,170	45,634

	Minor	Exempt
Cler.—GS5 $6.43 per hr	6 hrs $39	3 hrs $19
Prof.—GS14 $19.84 per hr	40 hrs 794	8 hrs 159
Sup. GM15 $23.34 per hr	4 hrs 93	1 hr 23
Totals	925	201

Fully Distributed Cost—Major $400,220.06; Significant 80,044.01; Minor 1,753.73; Exempt 483.27.

A review of the motor processing requirements, with appropriate personnel, indicate the following estimated direct labor costs:

Clerical—GS5—2 hrs	$6.43	$12.86
Professional—GS14—16 hrs	19.84	317.44
Supervisory—GM15—3 hrs	23.34	70.02
Total		400.32

Publication Costs (Rail) and (Motor) **Federal Register** are estimated at $130.00

22.* and [1] 47 An application of a non-carrier to acquire control of two or more carriers through ownership of stock or otherwise.

Rail—Direct Labor Cost—See Item 21; Fully Distributed Cost—see item 21;

Motor—Direct Labor Cost—$400.43; Fully Distributed Cost—$832.23; Current Fee—$700.00.

Rail—See Discussion in Item 21, for cost estimates applicable to this service.

Motor—See Discussion in Item 21, for cost estimates applicable to this service.

23.* and [1] 49. An Application of a carrier or carriers to purchase, lease or contract to operate the properties of another, or to acquire control of another by purchase of stock or otherwise.

Rail—Direct Labor Cost—See Item 21;* Fully Distributed Cost—See item 21.

Motor—Direct Labor Cost—$284.72; Fully Distributed Cost—$629.53; Current Fee—$700.00.

Discussion

Rail—See Discussion in Item 21, for cost estimates applicable to this service. During the study period 2 rail applications were observed resulting in direct labor costs of $437.71 and fully distributed cost of $897.93

Motor—During the study period 20 applications were observed resulting in direct labor costs of $284.72.

Publication costs in the **Federal Register** are estimated at $130.00

24. and 51. An application for approval of, or to amend a rate association agreement. Section 5(a).

	Rail	Motor
Direct Labor Cost	$10,698.01	$3,983.36
Fully Distributed Cost	18,898.91	7,118.53
Current Fee—$300.00		

Discussion

During the course of the 13-week study period no current rate bureau agreement applications could be usefully monitored for an exact cost study. However, a review of the procecedures utilized in the preparation of these applications, with the appropriate personnel, indicate the following actual handling time and direct labor costs considerations:

	Rail	Motor
Cler. GS4/9—8hrs. $7.27	$58.16	$58.16
Prof. GS14—602 hrs. ($19.84 p.h.) $11,943.68		
GM 15—320 hrs. ($23.34 p.h.) = $7,468.80 ($11,943.68 + 7,468.80) = 19,412.48 ÷ 2	9,706.25	
GS14/2—180 ($20.51 p.h.) = Supv. GM/15—40 hrs. ($23.34 p.h.)	933.60	3,691.80
GM/15—10 hrs. (23.34 p.h.)		233.40
Total	10,698.01	3,983.36

Publication costs in the **Federal Register** are estimated at $130.00 (1 column).

[1] 25.* An application for temporary authority to operate a motor or water carrier.

Direct Labor Cost—$75.59.

Fully Distrubuted Cost—$137.61.

Current Fee—$60.00.

Discussion

During the study period a total of 15 records were observed resulting in direct labor cost per unit of $75.69.

Publication cost I.C.C. Register is estimated at $5.00.

[1] 26.* An application for transfer or lease of a certificate or permit, including a certificate of registration, and a broker license or change of control of companies holding broker licenses.

Direct Labor Cost—$87.46.

Full Distributed Cost—$156.44.

Current Fee—$100.00

Discussion

During the study period a total of 202 applications were observed, resulting in direct labor costs of $87.46.

Publication costs in the ICC Register are estimated at $3.00.

27. A petition to transfer a water carrier exemption to a successor.

Direct Labor Cost—$68.23.

Fully Distributed Cost—$124.73.

Current Fee—$100.00.

Discussion

During the study period no petitions were observed. A review of procedures involved in handling these petitions, by the appropriate personnel, indicates the following direct labor cost estimates:

Clerical—1 hr (GS 4/6)—$6.70 per hr	$6.70
Professional—3 hrs (GS 14/2)—$20.51 per hr	61.53
Total	68.23

Publication costs in the ICC Register are estimated at $5.00.

28. An application for approval of a motor vehicle rental contract. [49 CFR 1057.6(b)].

Direct Labor Cost—$68.11.

Fully Distributed Cost—$124.49.

Current Fee—$30.00.

[1] Further studies will be conducted on motor carrier costs to determine whether the costs are associated with standard applications or exemption petitions.

Discussion

During the study period no applications were received. A review of the processing functions applicable to this item indicate the following direct labor cost estimates:

Clerical—(GS5)—30 minutes—$6.42	$3.21
Professional—(GS12)—3 hours—14.12	42.36
Professional—(GS13)—1 hour—16.70	16.70
Supervisory—(GM15)—15 minutes—23.34	5.84
Total	68.11

Publication costs I.C.C. Register are estimated at $5.00.

29. Petitions for exemption from Commission regulations under 49 U.S.C. 11343.

Direct Labor Cost—$224.27.

Fully Distributed Cost—$398.47.

Current Fee—None.

Discussion

During the study period 148 petitions were processed resulting in direct labor cost per unit of $116.98.

A post study audit revealed that of the 148 petitions, 99 were tariff exemptions and 49 were associated with exemptions under 49 U.S.C. 11343. The direct labor unit costs were recalculated and are shown herein and in item 66 below.

The 49 petitions observed resulted in direct labor cost of $224.27.

Publication cost I.C.C. Register is estimated at $5.00.

30–32. Reserved.

33. An application for a certificate authorizing the construction, extension, acquisition or operation of lines of railroad.

Direct Labor Cost—$3,445.89.

Fully Distributed Cost—$6,175.57.

Current Fee—$700.00.

Discussion

During the study period 3 publications were observed resulting in direct labor costs per unit of $206.81. **Federal Register** costs are estimated at $100.00 (¾ of 1 column).

It was determined in post study reviews that only a small portion of the direct labor costs were captured on this item, since the three applications were not completed during the study. A review of these applications, with appropriate personnel indicates that direct labor costs would be comparable to the direct labor cost estimates for Items 17 and 40 of $3,445.89 and fully distributed costs of $6,175.57.

34. An application filed under 49 U.S.C. 10910, Feeder Line Development Program.

Direct Labor Cost—$979.60.

Fully Distributed Cost—$1,818.55.

Current Fee—$300.00.

Discussion

During the study period no applications were observed. A review of the processing functions required to provide the service were discussed with the appropriate personnel and findings indicate the following direct labor cost estimates:

Clerical—10 hrs (GS4/7)—$6.89	$68.90
Professional—40 hrs (GS14/1)—$19.85	794.00
Supervisory—5 hrs (GM15)—$23.34	116.70
Total	979.60

Publication Costs **Federal Register** are estimated at $100.00 (3/4 of 1 column).

35.–37. Reserved.

38. An application to abandon all or a portion of a line of railroad or the operation thereof.

Direct Labor Cost—$849.97.

Fully Distributed Cost—$1,621.22.

Current Fee—$700.00.

Discussion

During the course of the study 20 applications were observed, resulting in direct costs per unit of $290.77.

Direct labor cost for providing environmental analyses is based on the following data:

Cler.—1,040 hrs×$6.12 per hr (GS 6/5)=$8,445÷102 anal	$82.78
Prof.—3,640 hrs×$13.35 per hr (GS 11/5)=$48,594÷102 anal	476.41
Total	559.20

Federal Register cost is estimated at $130.00 (1 column).

Direct Labor and Fully Distributed Costs for opposed applications are as follows (10 applications): $1,452.78 ($893.58+$559.20) and $2,678.80.

39. Conrail Abandonment Proceedings.

Direct Labor Cost—$72.02.

Fully Distributed Cost—$191.32.

Current Fee—None.

Discussion

During the course of the study no applictions were observed. A review of the processing functions required to provide the service were discussed with the appropriate personnel. The findings indicate the following direct labor cost:

Clerical—3 hrs (GS4/7)—$6.89 per hr	$20.67
Professional—2 hrs (GS14/1)—$19.84 per hr	39.68
Supervisory—30 min. (GM15)—$23.34per hr	11.67
Total	72.02

Publication Costs in the **Federal Register** are estimated at $65.00 (1/2 of column).

40. (See Item 17).

41.–43. Reserved.

44. * An application for use of Terminal Facilities.

Direct Labor Cost—$2,882.84.

Fully Distributed Cost—$5,187.81.

Current Fee—$150.00.

Discussion

During the course of the study no applications were observed. A review of the processing requirements with the appropriate personnel indicate the following estimated direct labor costs:

Clerical—GS 5—20 hrs.—$6.43 per hr	$128.60
Professional—GS 14—120 hrs.—19.84 per hr.	2,380.80
Supervisory—GM 15—16 hrs.—23.43 per hr	373.44
Total	2,882.84

Publication costs—**Federal Register** is estimated at $130.00 (1 column).

45. (See Item 20.)

46. (See Item 21.)

47. (See Item 22.)

48. An application to acquire trackage rights over joint ownership in, or joint use of, any railroad lines owned and operated by any other carrier and terminals incidental thereto.

Direct Labor Cost—Various—See item 21.

Fully Distributed Cost—Various—See item 21.

Current Fee—$700.00.

Discussion

Rail—See Discussion in item 21 for cost estimates applicable to this service.

During the study one (1) application was observed resulting in direct labor cost of $184.06 and fully distributed cost of $452.92.

49. (See Item 23.)

50. An application for a determination of fact of competition.

Direct Labor Cost—$45,634.00.

Fully Distributed Cost—$80,044.01.

Current Fee—$100.00.

Discussion

During the course of the study no applications were observed. A review of the processing requirements, with appropriate personnel, indicate the following estimated cost considerations:

Clerical—GS5—$6.43—200 hrs.	$1,286.00
Professional—GS14—$19.84—2000 hrs.	39,680.00
Supervisory—GM15—$23.34—200 hrs.	4,668.00
Total	45,634.00

Publication costs in the **Federal Register** estimated at $130.00 (1 column).

51. (See Item 24.)

52. An application for authority to hold a position as Officer or Director.

Direct Labor Cost—$30.52.

Fully Distributed Cost—$53.54.

Current Fee—$10.00.

Discussion

During the study period no applications were filed. A review of the processing functions attributed to this item indicates that it takes less than one day to process. The cost base is estimate at 2 hours processing time, separated as follows: (Not applicable to motor carrier).

Clerical—GS5—$6.42—4[illegible] mins	$4.82
Professional—GS14—$15.85—1 hr	10.85
Supervisory—GM15—$23.43—15 mins	5.85
Total	30.52

This item is not published.

[2] 53. An application to issue securities; and application to assume obligation or liability in respect to securities of another; an application or petition for modification of an outstanding authorization; or an application for exemption from competitive bidding requirements of Ex Parte No. 158, 49 CFR 1175.10.

Direct Labor Cost—$417.78.
Fully Distributed Cost—$832.96.
Current Fee—$200.00.

Discussion

During the study period 6 rail applications were processed resulting in direct labor costs of $417.78.

Publication cost Federal Register is estimated at $100.00 (¾ of 1 column).

No motor carrier jurisdiction on Securities.

54. *Petitions for exemption under 49 U.S.C. 10505.

Direct Labor Cost—$233.65.
Fully Distributed Cost—$539.92.
Current Fee—None.

Discussion

During the study period 55 petitions were observed resulting in a direct labor cost per unit of $233.65.

Publication costs in the Federal Register are estimated at $130.00 (1 column).

55. An application for forced sale of bankrupt railroad lines.

No cost study was prepared for this item because it was established in Ex Parte No. 282 (Sub-No. 4a) *Forced Sale Procedures for Bankrupt Railroad Lines*, 367 I.C.C. 789.

56–59. Reserved.

60. *Complaint cases based on unlawful rates or practices of carriers.

Direct Labor Cost—$195.54.
Fully Distributed Cost—$343.07.
Current Fee—None.

Discussion

During the study period 14 (13 Rail and 1 Motor) complaint cases were observed. Direct Labor Costs (Rail) are $196.28 and (Motor) are $182.05. The weighted average direct labor for both modes is $195.54.

61. *A complaint seeking or a petition requesting institution of an investigation seeking the prescription of divisions of joint rates, fares or charges.

Direct Labor Cost—$154.26.
Fully Distributed Cost—$400.64.
Current Fee—$700.00.

Discussion

During the study period 1 complaint was observed resulting in direct labor costs of *$154.26*. A review of this item with Rail Section personnel indicates that these types of proceedings compare to major complaint cases. Estimates from appropriate personnel indicate that these types of compliants/petitions would produce direct labor costs in excess of $100,000.00.

Publication Costs—Federal Register are estimated at $130.00 (1 column).

62.* Petitions for waiver of Commission regulations.

Direct Labor Cost—$350.43.
Fully Distributed Cost—$614.81.
Current Fee—None.

Discussion

During the study period 6 rail and 2 motor petitions were procesed, resulting in rail direct labor cost of *$402.85* and Motor Direct Labor Cost of *$191.52*. The weighted average direct labor cost for both modes is *$350.43*.

63. *Petitions for Declaratory Orders.

Direct Labor Cost—$416.32.
Fully Distributed Cost—$938.41.
Current Fee—None.

Discussion

During the study period 5 rail and 2 motor petitions were observed, resulting in Direct Labor Cost (Rail) of $314.96 and (Motor) of $668.52. The weighted average direct labor cost for both modes is $416.32.

Publication costs Federal Register are estimated at $208.00 (1 and ½ colums)

[3] *64. Requests for nationwide or regional motor, water or freight forwarder carrier general rate increases, including major rate restructures.

Direct Labor Cost—$2,085.09; Fully Distributed Cost—$3,658.14.

Direct Labor Cost—$107.55 (Protest): Fully Distributed Cost—$188.69 (Protest).

Current Fee—None.

Discussion

During the study period a total of 8 major motor general rate and rate restructure cases were observed resulting in direct labor cost per unit of $2,085.09.

Estimates applicable to the cost of handling protests are as follows:

48 hours processing time × average hourly wage (cost study) of 17.93 = $860.40 ÷ 8 cases = 107.55 × 1 average protest per case = $107.55.

65. A petition to define or redefine a commercial zone, or to remove the exemption applicable to commercial zone movements and petition for individual determination of the exempt areas within which air cargo pickup and delivery service or transportation of air passengers may be performed.

Direct Labor Cost—$69.37.
Fully Distributed Cost—$186.71.
Current Fee—$150.00.

Discussion

During the course of the study no petitions were filed. A review of the processing functions, by the appropriate personnel, indicate that these petitions require approximately one-third more processing time than a restriction removal (Item 6). Therefore, we estimate direct labor costs to be $69.37 ($52.03 × 1.33).

Publication costs in the the Federal Register are estimated at $65.00 (½ of one column).

66. Petitions for exemption from filing tariffs by water and bus carriers.

Direct Labor Cost—$63.88.
Fully Distributed Cost—$117.07.
Current Fee—None.

Discussion

During the study period 99 petitions were observed resulting in direct labor costs per unit of $63.88.

Publication cost I.C.C. Register is estimated at $5.00.

67. *Application—Shipper Antitrust Immunity.

Direct Labor Cost—$1,052.66.
Fully Distributed Cost—$1,976.82.
Current Fee—None.

Discussion

During the study period no applications were observed. A review of the processing functions necessary to provide this type of application, with the appropriate personnel, indicates the following direct labor cost estimates:

Clerical—GS 4/6—8 hrs—$8.36	$68.88
Professional—GS 14/2—45 hrs—$20.51	820.40
Supervisory—GM 15—7 hrs—$23.34	163.38

Publication Costs Federal Register are estimated at $130.00 (1 column)

68. Petition for review of State regulation of intrastate rates, rules or

[2] A similar question as is raised in footnote 1 for motor cases arises in this rail item.

[3] Water and freight forwarder will be costed during the comment period.

practices filed by interstate rail carriers pursuant to 49 U.S.C. 11501.
Direct Labor Cost—$2,071.68.
Fully Distributed Cost—$3,634.42.
Current Fee—None.

Discussion

No petitions were captured during the study period. A review of the processing time, with appropriate personnel, indicates the following direct labor cost estimates:

Clerical—16 hours (GS 4/7)—$6.89 per hr	$110.24
Professional—80 hours (GS 14/1)—$19.85 per hr	1,586.00
Supervisory—16 hours (GM 15)—$23.34 per hr	373.44
Total	2,071.68

69. Petition for review of State regulation of Intrastate rates, rules or practices filed by interstate bus carriers pursuant to 49 U.S.C. 11501.
Direct Labor Cost—$875.93.
Fully Distributed Cost—$1,536.76.
Current Fee—None.

Discussion

A review with appropriate personnel, indicates that these petitions require approximately 85% of the processing time required to provide a discontinuance (Item 18). Therefore, the direct labor cost is established at $875.93. ($1,030.50×85%)

70. Vertification of Quarterly Index applicable to Rail Rate Increases.
Direct Labor Cost—$686.52.
Fully Distributed Cost—$1,334.45.
Current Fee—None.

Discussion

A review of the processing requirements used to verify and prepare the quarterly index indicates the following direct labor cost estimates.

Clerical—GS 5/5 4 hrs.—$7.28 per hr	$29.12
Prof.—GS 13/7 30 hrs.—$20.15 per hr	604.50
Supr.—GM 15/5 2 hrs.—$26.45 per hr	52.90
Total	686.52

Publication costs in the **Federal Register** is estimated at $130.00.

71. Requests for investigation or suspension of tariff matter.
Direct Labor Cost—$25.14.
Fully Distributed Cost—$29.41.
Current Fee—None.

Discussion

During the study period, no protests were reviewed. Processing time applicable to such requests produces the following direct labor cost.

GS 11—1 hr.—$11.78 per hr	$11.78
GS 13—30 min.—$16.79 per hr	8.40
GS 14—15 min.—$19.84 per hr	4.96
Total	25.14

Fully distributed cost=44.11+average protest per filing of 1.5=adjusted fully distributed cost of $29.41.

72. An application for authority to establish released value rates or ratings.
Direct Labor Cost—$189.72.
Fully Distributed Cost—$334.85.
Current Fee—$200.00.

Discussion

No released rate applications were observed during the during the study period. A review of the processing time applicable to this item, by appropriate personnel, indicates the following direct cost based estimates:

Clerical—(GS 5)—15 mins—$6.72	$1.68
Professional—(GS 11)—12 hrs—$11.78	141.36
Supervisory—(GM 15)—2 hrs—$23.34	46.68
Total	189.72

Publication costs I.C.C. Register is estimated at $2.00.

73. An application for special permission for short notice or the waiver of tariff publishing requirements.
Director Labor Cost—$19.03.
Fully Distributed Cost—$33.39.
Current Fee—$20.00.

Discussion

During the study period a total 3,664 special permission applications were observed resulting in direct labor costs per unit of $19.03.

No publication cost is assigned since applications are not published.

[4] 74. Filing of tariffs and contracts, including supplements.
Direct Labor Cost—$4.92.
Fully Distributed Cost—$8.63.
Current Fee—None.

Discussion

Due to the magnitude of tariff filings it was determined that a special study be initiated to determine cost estimates for this service. The study was designed to recover the direct labor resource of the responsible section. First, it was determined that the monthly direct labor expenses for the section amounted to $75,650.00. This figure was determined by applying 147 average monthly staff hours to the hourly rate of each of the 49 employees assigned to the Section. The 147 average monthly hours were developed by reducing annual employee hours of 2,080 by 312 hours for annual and sick leave plus holidays (30 days Annual & Sick Leave & 9 Holidays) resulting in 1,760 productive hours÷12 months=147 average monthly productive hours.

[4] During the comment period, we will undertake further studies costing specific tariff-related functions (e.g., filing vs. rejection).

Second, a one week study of teransmittal letters received was taken and resulting in 3,591 transmittal letters. The weekly transmittal count was reduced to a daily figure by dividing by 7 days resulting in a daily count of 513. The 513 average daily count was expanded to a monthly figure by 30 days resulting in an estimated monthly transmittal count of 15,390 transmittals.

Lastly, direct labor costs per transmittal were then calculated by dividing the $75,650.00 monthly labor costs by 15,390 average monthly transmittals resulting in an average direct labor cost of $4.92 per transmittal.

75. Special docket application from rail and water carriers
Direct Labor Cost—$22.90.
Fully Distributed Cost—$40.17.
Current Fee—None.

Discussion

During the study period a total of 153 requests were observed resulting in direct labor costs per unit of $22.90.

[5] 76. Informal Rate Complaints.
Direct Labor Cost—$93.00.
Fully Distributed Cost—$163.16.
Current Fee—None.
During the study period a total of 17 complaints were observed resulting in direct labor costs per unit of $93.00.

77. An application for original qualification as an insurer, surety or self insurer.
Direct Labor Cost—$404.45.
Fully Distributerd Cost—$709.58.
Current Fee—$65.00.

Discussion

During the study period 2 applications were processed resulting in direct labor costs per unit of $404.45.

No publication costs are assigned since applications are not published.

78. Service fee for insurer, surety, or self insurer accepted certificate of insurance or surety bond.
Direct Labor Cost—$.0.50.
Fully Distributed Cost—$0.88.
Current Fee—Contract (During Study Period).

Discussion

During the study period a total of 1,275 qualifications were observed resulting in direct labor costs of $0.50 cents per qualification. The direct labor cost is in addition to the Contract Fee Schedule.

79. A petition for waiver of any provision of the lease and interchange regulations 49 CFR Part 1057.
Direct Labor Cost—$128.76.

[5] These items illustrate the manner in which functions overlap but costs differ.

Fully Distributed Cost—$230.91.
Current Fee—$35.00.

Discussion

During the study period a total of 7 petitions were observed resulting in direct labor cost per unit of $128.76.

Publication Costs ICC Register are estimated at $5.00.

80. A petition for reinstatement of revoked operating authority.
Direct Labor Cost—$21.11.
Fully Distributed Cost—$37.03.
Current Fee—$60.00.

Discussion

During the study period a total of 13 petitions were observed resulting in direct labor costs per unit of $21.11.

This item is not published.

81. Acceptance of filing designating agents for service of process.
Direct Labor Cost—$4.94.
Fully Distributed Cost—$8.67.
Current Fee—None.

Discussion

During the study period a total of 50 filings were processed resulting in a direct labor cost per unit of $4.94.

No publication costs are assigned since filings are not published.

82. Informal interpretations.
Direct Labor Cost—$115.28.
Fully Distributed Cost—$202.25.
Current Fee—None.

Discussion

During the study period a total of 24 interpretations were processed resulting in direct labor costs per unit of $115.28. Initial GAO requested that we study informal interpretations on operating rights. It was determined at the outset that we should broaden this to include all informal interpretations processed by the OCCA staff.

No publication costs are assigned since interpretations are not published.

83. Reinstatement of dismissed applications.
Direct Labor Cost—$125.69.
Fully Distributed Cost—$220.51.
Current Fee—None.

Discussion

During the study period 11 motor applications were observed. Discussions with the Rail Section indicate that they do not process these types of applications. Direct Labor Costs are $125.69.

No publication costs are assigned since applications are not published.

84. Filing of any primary and secondary document as defined in 49 CFR 1177.1(a) for recordation under 49 CFR 11303 and 49 CFR 1116.3(c).
Direct Labor Cost—$6.00 and $5.63.
Fully Distributed Cost—$10.53 and $9.86.
Current Fee—$50.00—Primary; $10.00—Secondary.

Discussion

During the study period a total of 286 primary documents and 190 secondary documents were observed resulting in direct labor costs per unit of *$4.45* and *$4.08*. In addition we have estimated other direct labor costs per unit of *$0.48* for mail room handling and $1.07 per unit for review by the application unit resulting in direct costs per unit of *$6.00* and *$5.63*. Cost data is based on the following: Mail Room GS–4/1 at $5.75 per hour times 5 minutes=$0.48 and Application Unit GS–5/1 at $6.42 per hour times 10 minutes=$1.07.

85. Valuations of railroad lines in conjunction with purchase offers in abandonment proceedings.
Direct Labor Cost—$443.28.
Fully Distributed Cost—$777.71.
Current Fee—None.

Discussion

During the study no valuations were observed. A review of the process involved in providing a valuation indicates the following direct labor cost considerations:

Professional GS–13/4—@24 hours $18.47 per hr=*$443.28*.

All reports are machine generated therefore no clerical time is required.

[5] 86. Informal opinions about rate applications.
Direct Labor Cost—$39.80.
Fully Distributed Cost—$69.83.
Current Fee—None.

Discussion

During the study period a total of 457 reviews were observed resulting in direct labor costs per unit of $39.80.

87.–95. Reserved.

96. Messenger delivery of decisions to a rail carrier's Washington, D.C. agent.
Direct Labor Cost—$4.45.
Fully Distributed Cost—$7.81.
Current Fee—None.

Discussion

During the study period 577 decisions were observed resulting in a direct labor cost per unit delivered of *$3.93*. Additional estimates include recovery of Commission cost of $0.52 cents for messenger service to physically deliver the notices. The $0.52 cents is based on a contract cost of $3.13, to deliver multiple decisions to an agent, reduced by an estimate of 6 decisions per delivery. The total direct cost per unit is *$4.45*.

[5] Footnote

97. Providing service lists for cases to the public upon request.
Direct Labor Cost—$3.08.
Fully Distributed Cost—$5.14.
Current Fee—None.

Discussion

During the study period 16 requests were observed resulting in direct labor costs per unit of $2.60. An additional $0.48 cents per unit has been added to cover mail room handling resulting in total direct labor costs per unit of *$3.08*.

98. Adding names of interested parties.
Direct Labor Cost—$1.42.
Fully Distributed Cost—$2.49.
Current Fee—None.

Discussion

Direct Labor costs applicable to this item were not captured during the study period. A review of the processing functions involved in providing the above service indicates that it takes a GS–7/3 approximately 10 minutes to perform the service. It is estimated that the direct labor cost per unit is $1.42 ($8.49 per hour at 10 minutes=$1.42).

99. Processing of requests for copies of one-percent carload waybill sample.
Direct Labor Cost—$46.64.
Fully Distributed Cost—$81.82.
Current Fee—None.

Discussion

During the study period 16 requests were observed resulting in direct labor cost per unit of $46.64.

No publication costs are assigned since requests are not published.

100. Verification of Surcharge levels pursuant to Ex Parte No. 389, Procedures for Requesting Rail Variable Cost and Revenue Determination for Joint Rates Subject to Surcharge or Cancellation.
Direct Labor Cost—$5.85 per movement.
Fully Distributed Cost—$10.27 per movement.
Current Fee—None.

Discussion

During the study period a total of 7 movements were costed resulting in direct labor costs per movement of $5.85.

No publication cost is assigned since verfications are not published.

101. Requests for Diazo Copies of Microfilm documents.
Direct Labor Cost—$0.03.
Fully Distributed Cost—$0.05.
Current Fee—None.

Discussion

During the course of study 21, 486 diazo copies were observed resulting in direct labor costs per unit of $0.03.

Items Eliminated From Consideration

—Reference assistance to the public.
Direct Labor Cost—$0.73.
Fully Distributed Cost—$1.28.
Current Fee—None.

Discussion

During the study period 425 inquiries were observed resulting in direct labor cost per inquiry of $0.73.

—Life Analyses Studies—Railroads.
Direct Labor Cost—None.
Fully Distributed Cost—None.
Current Fee—None.

Discussion

This service is no longer provided by the Depreciation Branch in the Bureau of Accounts, Section of Accounting and Reporting and was not studied. All Future Life Analyses Studies will be provided by the individual railroads based on depreciation rates set by the I.C.C. Therefore, it is recommended that this item be eliminated from further consideration.

—Deliquent Filings—Annual Report.
Direct Labor Cost—$1.20 and $3.68.
Fully Distributed Cost—$2.11 and $6.46.
Current Fee—None.

Discussion

Annual Report filings are currently being processed by an independent contractor including the tracing of delinquent filings. The tracer letter cost to the Commission is $1.20 for the initial letter and $3.68 for a follow-up letter. It is noted that the I.C. Act, Section 11901 provides for a fine of $500.00 for each violation, and $250.00 per day for each day the violation continues.

—Petitions for rulemaking.
Direct Labor Cost—$411.83.
Fully Distributed Cost—$930.34.
Current Fee—None.

Discussion

During the study period 8 rail and no motor petitions were observed resulting in direct labor cost per unit of $411.83.

Attachment 1.—Outline of Computation of General and Administrative Cost—Commission and Departmental

A. Commission General and Administrative Costs—Based on Fiscal Year 1983 Budget and Fiscal Determinations.

1. Personnel Costs (Commissioners, Managing Director, General Counsel and Auditing Costs)	$5,000,000
2. Rent, Communications and Utilities Cost	1,102,300
3. Printing and Reproduction Costs	30,200
4. Supplies and Materials	67,200
5. Furniture and Equipment	[illegible]
6. Leasehold Improvements	[illegible]
Total	$6,294,800

Total Agency Expenses FY 1983=$69,000,000.
Commission G&A $6,294,800 ÷ FY 1983 Expense $69,000,000 = 9.10 percent.

B. Operations overhead—Based on the relationship of Supervisory Direct Labor to total Direct Labor (Clerical, Professional and Supervisory) from the cost study.

Supervisory Direct Labor=$65,473.00.
Total Direct Labor=$362,875.00.
Supervisory direct labor ÷ total direct labor = 18.04 percent.

It was determined that operations overhead should not be considered as being 100 percent related to projects under consideration in the fee study, since certain administrative functions would be associated with other Commission business. Therefore, operations overhead percent is estimated to be 60 percent leaving 40 percent associated with other functions, or *10.82% (18.04% × 60%= 10.82%)*.

C. Commission General and Administrative=9.10 percent; Operations Overhead=10.82 percent; Total 19.92 percent.

[FR Doc. 84-4161 Filed 2-16-84; 8:45 am]
BILLING CODE 7035-01-M

Notices

Federal Register
Vol. 49, No. 34
Friday, February 17, 1984

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

List of Warehouses and Availability of List of Cancellations and/or Terminations

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice of Publication of List of Warehouses Licensed Under the U.S Warehouse Act and Availability of List of Cancellations and/or Terminations Occurring During Calendar Year 1983.

Notice is hereby given that the Agricultural Marketing Service has published a list of warehouses licensed under the U.S. Warehouse Act (7 U.S.C. 241 *et seq.*) as of December 31, 1983, as required by section 26 of that Act. Also available is a list of cancellations and/or terminations that occurred during calendar year 1983. A copy of the list of warehouses as of December 31, 1983, will be distributed to all licensed warehousemen. Other interested parties may obtain a copy of either list from: Mrs. Judy Fry, Warehouse Service Branch, Warehouse and Seed Division—AMS, U.S. Department of Argiculture, Room 2720–South Agriculture Bldg., Washington, D.C. 20250, PH: 202–447–3821.

Done at Washington, D.C., February 13, 1984.

William T. Manley,

Deputy Administrator, Marketing Program Operations.

[FR Doc. 84–4367 Filed 2–16–84; 8:45 am]
BILLING CODE 3410–02–M

Agricultural Stabilization and Conservation Service

Burley Tobacco; 1984–85 National Marketing Quota for Burley Tobacco

AGENCY: Agricultural Stabilization and Conservation Service, Agriculture (USDA).

ACTION: Notice of Determination of 1984–85 Marketing Quota.

SUMMARY: The purpose of this notice is to announce determinations with respect to the 1984 crop of burley tobacco in accordance with the Agricultural Adjustment Act of 1938, as amended. In addition to other determinations, the Secretary of Agriculture has determined that the 1984–85 national marketing quota for burley tobacco shall be 583 million pounds. The Secretary is required by statute to announce the 1984–85 national marketing quota by February 1, 1984.

EFFECTIVE DATE: February 1, 1984.

FOR FURTHER INFORMATION CONTACT: Robert L. Tarczy, Agricultural Economist, Analysis Division, ASCS, Room 3736-South Building, P.O. Box 2415, Washington, D.C. 20013 (202) 447–5187. The Final Regulatory Impact Analysis describing the options considered in developing this notice and the impact of implementing each option is available on request from Robert L. Tarczy.

SUPPLEMENTARY INFORMATION: This notice has been reviewed under USDA procedures established in accordance with Executive Order 12291 and Departmental Regulation No. 1512–1 and has been classified "not major." This action has been classified "not major" since implementation of these determinations will not result in: (1) An annual effect on the economy of $100 million or more, (2) a major increase in costs or prices for consumers, individual industries, Federal, State or local governments, or geographical region, or (3) significant adverse effects on competition, employment, investment, productivity, innovation, the environment, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The title and number of the Federal Assistance Program that this notice applies to are: Title—Commodity Loan and Purchases; Number 10.051, as set forth in the Catalog of Federal Domestic Assistance.

It has been determined that the Regulatory Flexibility Act is not applicable to this notice since the Agricultural Stabilization and Conservation Service (ASCS) is not required by 5 U.S.C. 553 or any provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this notice.

This notice of determination is issued in accordance with the Agricultural Adjustment Act of 1938, as amended (hereinafter referred to as the "Act"), in order to announce for the 1984–85 marketing year for burley tobacco the following:

1. The amount of the reserve supply level;
2. The amount of the total supply;
3. The amount of the national marketing quota;
4. The national factor; and
5. The national reserve:

A. For establishing marketing quotas for new farms, and

B. For making corrections and adjusting inequities in marketing quotas old farms.

Marketing quotas on a poundage basis were proclaimed by the Secretary of Agriculture for burley tobacco for the 1983–84, 1984–85, and 1985–86 marketing years (see 48 FR 7228). Since at least one-third of the burley tobacco producers voting in a marketing quota referendum during the period February 28 through March 3, 1983, did not vote to disapprove marketing quotas, such marketing quota is in effect for the 1984–85 marketing year (see 48 FR 28303).

The determinations by the Secretary as set forth in this notice have been made on the basis of the latest available statistics of the Federal Government and after consideration of data, views, and recommendations received from burley tobacco producers and others pursuant to a Proposed Notice of Determination which was published on November 17, 1983 (48 FR 52339).

Discussion of Comments

During the comment period, 16 written responses were received from producers, farm groups and a State Department of Agriculture. Five of the 8 comments which made specific recommendations with respect to the size of the 1984–85 marketing quota recommended a 10 percent reduction in

the quota, noting that supplies were excessive. One comment recommended at least a five percent reduction in quota and two other comments recommended that the 1984–85 marketing quota should be maintained at the same level as the 1983–84 marketing quota. The other 8 responses made no specific recommendations on the amount of the marketing quota.

A meeting was held in the burley tobacco producing area to give producers and others a further opportunity to express their views. Nine of the 10 persons in attendance who expressed views favored a 10 percent reduction in quota, while the other favored a 5 percent reduction in quota. All of these comments were based upon the existing excess supply of burley tobacco.

Section 319(c) of the Act provides, in part, that the national marketing quota which is determined for burley tobacco for any marketing year shall be the amount of burley tobacco which is produced in the United States which the Secretary estimates will be utilized domestically and will be exported during such marketing year, adjusted upward or downward in such amount as the Secretary, in his discretion, determines is desirable for the purpose of maintaining an adequate supply or for effecting an orderly reduction of supplies to the reserve supply level. Any such downward adjustment shall not exceed 10 percent of such estimated domestic utilization and exports. For each marketing year for which marketing quotas are in effect under section 319, the Secretary in his discretion may establish a reserve (hereinafter referred to as the "national reserve") from the national marketing quota in an amount not in excess of 1 percent of the national marketing quota. The national reserve is to be available for making corrections and adjusting inequities in farm marketing quotas and for establishing marketing quotas for new farms.

Section 319(e) of the Act provides, in part, that the farm marketing quota for the 1984–85 marketing year shall be determined by multiplying the previous year's farm marketing quota by a national factor obtained by dividing the national marketing quota (less the national reserve) by the sum of the farm marketing quotas for the immediately preceding year for all farms for which burley tobacco marketing quotas will be determined for the 1984–85 marketing year. However, such national factor shall be not less than 90 percent.

Section 301(b)(14)(B) of the Act defines "reserve supply level" as the normal supply, plus 5 percent thereof, to insure a supply adequate to meet domestic consumption and export needs in years of drought, flood, or other adverse conditions, as well as in years of plenty.

The "normal supply" is defined in section 301(b)(10)(B) of the Act as a normal year's domestic consumption and exports, plus 175 percent of a normal year's domestic use and 65 percent of a normal year's exports as an allowance for a normal year's carryover.

A "normal year's domestic consumption" is defined in section 301(b)(11)(B) of the Act as the average quantity produced and consumed in the United States during the 10 marketing years immediately preceding the marketing year in which the quota must be announced (1983–84), adjusted for current trends in such consumption.

A "normal year's exports" is defined in section 301(b)(12) of the Act as the average quantity produced in the United States which was exported from the United States during the 10 marketing years immediately preceding the marketing year in which such exports are determined, adjusted for current trends in such exports.

The reserve supply level is 1,629 million pounds, based on a normal year's domestic consumption of 480 million pounds and a normal year's exports of 140 million pounds. The average domestic usage for the past 10 marketing years is 493 million pounds. Domestic use has trended downward in recent years. The 10-year average for exports is 112 million pounds. Exports have averaged 138 million pounds during the past 2 marketing years and are expected to continue their upward trend in the future as foreign manufacturers upgrade their blends. In view of these data and estimates, a reserve supply level of 1,629 million pounds has been determined to be reasonable.

The total supply for the 1983–84 marketing year (carryover stocks as of October 1, 1983 plus estimated marketings of the 1983 crop) is 1,822 million pounds. This is 193 million pounds above the reserve supply level.

Total disappearance for the 1984–85 marketing year is estimated at 585 million pounds. While it would appear appropriate to establish a national marketing quota for the 1984–85 marketing year at significantly less than estimated disappearance, section 319(e) of the Act provides that the sum of the farm marketing quotas for such marketing year cannot be less than 90 percent of the farm marketing quotas for the previous marketing year. Accordingly, the national marketing quota for burley tobacco for the marketing year beginning October 1, 1984 is determined to be 583 million pounds. The sum of the preliminary farm marketing quotas for farms eligible for the 1984–85 marketing year is 646,585,555 pounds. A quota of 583 million pounds, less a national reserve of 1,000,000 pounds, results in a national factor for burley tobacco for the 1984–85 marketing year of 0.90.

Determinations 1984–85 Marketing Year

Accordingly, the following determinations have been made with respect to burley tobacco for the marketing year beginning October 1, 1984:

(a) A national marketing quota of 583 million pounds.

(b) A reserve supply level of 1,629 million pounds.

(c) The national reserve of 1,000,000 pounds.

(d) The national factor is 0.90.

(Secs. 301, 319, 375, 52 Stat. 38, as amended, 85 Stat. 23, 52 Stat. 66, as amended, 7 U.S.C. 1301, 1314e, 1375)

Signed at Washington, D.C. on February 13, 1984.

John R. Block,

Secretary.

[FR Doc. 84-4366 Filed 2-16-84; 8:45 am]

BILLING CODE 3410-05-M

Fire-Cured (Type 21), Fire-Cured (Types 22–23), Dark Air-Cured, Virginia Sun-Cured, Cigar-Binder (Types 51 & 52), and Cigar-Filler and Binder (Types 42, 43, 44, 53, 54 & 55) Tobaccos; 1984–85 Marketing Quota and Acreage Allotments

AGENCY: Agricultural Stabilization and Conservation Service, USDA.

ACTION: Notice of Determination of 1984–85 Marketing Quota and Acreage Allotments.

SUMMARY: The purpose of this notice is to announce determinations with respect to the 1984 crops of fire-cured (type 21), fire-cured (types 22–23), dark air-cured, Virginia sun-cured, cigar-binder, and cigar filler and binder tobaccos. In addition to other determinations, USDA has declared national acreage allotments for the following kinds of tobaccos: fire-cured (type 21), 8,751 acres; fire-cured (types 22–23), 24,737 acres; dark air-cured, 9,637 acres; Virginia sun-cured, 1,227 acres; cigar binder (types 51 & 52), 1,974 acres; cigar-filler and binder (types 42–44 & 53–55), 11,593 acres.

Separate referenda for cigar-binder (types 51–52) and cigar-filler and binder (types 42–44; 53–55) tobaccos will be

held during the period February 27–March 1, 1984, by mail,to determine whether or not these producers favor quotas for the next three marketing years.

EFFECTIVE DATE: February 1, 1984.

FOR FURTHER INFORMATION CONTACT: Robert L. Tarczy, Agricultural Economist, Analysis Division, ASCS, Room 3736 South Building, P.O. Box 2415, Washington, D.C. 20013, (202) 447–5187. The Final Regulatory Impact Analysis describing the options considered in developing this notice and the impact of implementing each option is available on request from Robert L. Tarczy.

SUPPLEMENTARY INFORMATION: This notice has been reviewed under USDA procedures established in accordance with Executive Order 12291 and Departmental Regulation No. 1512–1 and has been classified "not major." This action has been classified "not major" since implementation of these determinations will not result in: (1) An annual effect on the economy of $100 million or more, (2) a major increase in costs or process for consumers, individual industries, Federal, State or local governments, or geographical region, or (3) significant adverse effects on competition, employment, investment, productivity, innovation, the environment or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The title and number of the Federal Assistance Program that this notice applies to are: Title—Commodity Loan and Purchases; Number 10.051, as set forth in the Catalog of Federal Domestic Assistance.

It has been determined that the Regulatory Flexibility Act is not applicable to this notice since the Agricultural Stabilization and Conservation Service (ASCS) is not required by 5 U.S.C. 553 or any provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this notice.

Under section 312(a) of the Agricultural Adjustment Act of 1938, as amended (hereinafter referred to as the "Act"), the Secretary is required to proclaim not later than February 1 of any marketing year with respect to any kind of tobacco, other than flue-cured tobacco, a national marketing quota for any kind of tobacco for each of the next 3 marketing years if such marketing year is the last year of three consecutive years for which marketing quotas previously proclaimed will be in effect. Such is the case with respect to cigar-binder (types 51–52) and cigar-filler and binder (types 42–44; 53–55) tobaccos. The Act also requires the Secretary to announce the reserve supply level and the total supply of fire-cured (type 21), fire-cured (types 22–23), dark air-cured, Virginia sun-cured, cigar-binder, and cigar-filler and binder tobaccos for the marketing year beginning October 1, 1983, and to announce for the 1984–85 marketing year the amounts of the national marketing quotas, national acreage allotments, and national acreage factors for apportioning the national acreage allotments (less reserves) to old farms, and the amounts of the national reserves and parts thereof available for (a) new farms and (b) making corrections and adjusting inequities in old farm allotments for fire-cured (type 21), fire-cured (types 22–23), dark air-cured, Virginia sun-cured, cigar-binder, cigar-filler and binder tobaccos.

These determinations have been made on the basis of the latest available statistics of the Federal Government, and after consideration of data, views, and recommendations received from tobacco producers and others in response to a Proposed Notice of Determination which was published on November 17, 1983 (48 FR 52340).

Pursuant to the provisions of section 317(c) of the Act, it has been determined that acreage-poundage quotas will not be announced for the 1984–85 marketing year for any of these kinds of tobaccos since such quotas would not result in a more effective marketing quota program for such kinds of tobacco.

Discussion of Comments

Seventy-two written responses were received. A summary by kind of tobacco is as follows:

Fire-cured (type 21) tobacco: Four comments were received recommeding that quotas remain unchanged.

Virginia sun-cured (type 37) tobacco: Two comments were received recommending quotas remain unchanged.

Fire-cured (types 22–23) tobacco: Thirty-three comments were received. Comments were in two main categories with almost all growers recommending that quotas remain unchanged, and all dealers and manufacturers recommending that quotas be increased by as much as 20 percent.

Dark air-cured tobacco: Twenty-two comments were received. Comments were in two main categories with almost all growers recommending that quotas remain unchanged, and all dealers and manufacturers recommending that quotas be increased by as much as 20 percent.

Cigar binder (types 51–52) tobacco: A total of six comments were received. Five comments recommended no change in quota, while one recommended a substantial reduction.

Cigar-filler and binder (types 42–44; 53–55) tobacco: Five comments were received. Three recommended that quotas remain unchanged, while two recommended that quotas be reduced from 10 to 15 percent.

There was one comment which recommended that the referendum be held by mail ballot.

In addition to the written comments, a meeting was held to discuss quotas for Kentucky-Tennessee fire-cured and dark air-cured tobaccos. A combined total of 28 comments were made. Of the 4 comments that made a specific recommendation on fire-cured quotas, all stated that the quota should be increased between 17 and 20 percent. Of the 4 comments specifically on the dark air-cured quota, all recommendations called for an increase in quota of between 10 and 20 percent.

Statutory Provisions

Section 312(b) of the Act provides, in part, that the amount of the national marketing quotas is the total quantity of a kind of tobacco which may be marketed which will make available during such marketing year a supply of such tobacco equal to the reserve supply level. Since producers of these kinds of tobacco generally produce less than their respective national acreage allotments, it is determined that a larger quota would be necessary to make available production equal to the reserve supply level. The amount of the national marketing quota so announced may, not later than the following March 1, be increased by not more than 20 percent if the Secretary determines that such increase is necessary in order to meet market demands or to avoid undue restriction of marketings in adjusting the total supply to the reserve supply level.

Definitions

Section 301(b)(14)(B) of the Act defines "reserve supply level" as the normal supply, plus 5 percent thereof, to insure a supply adequate to meet domestic consumption and export needs in years of drought, flood, or other adverse conditions, as well as in years of plenty. The "normal supply" is defined in section 301(b)(10)(B) of the Act as a normal year's domestic use and 65 percent of a normal year's exports as an allowance for a normal year's carryover. A "normal year's domestic consumption" is defined in section 301(b)(11)(B) of the Act as the average quantity produced and consumed in the United States during the 10 marketing

years immediately preceding the marketing year in which the quota must be announced (1983–84), adjusted for current trends in such consumption.

A "normal year's exports" is defined in section 301(b)(12) of the Act as the average quantity produced in and exported from the United States during the 10 marketing years immediately preceding the marketing year in which the quota must be announced (1983–84), adjusted for current trends in such exports.

Fire-Cured (Type 21) Tobacco

The yearly average quantity of fire-cured (type 21) tobacco produced in the United States which is estimated to have been consumed in the United States during the 10 marketing years preceding the 1983–84 marketing year was approximately 2.0 million pounds. The average annual quantity of fire-cured (type 21) tobacco produced in the United States and exported from the United States during the 10 marketing years preceding the 1983–84 marketing year was 3.3 million pounds (farm sales weight basis). Domestic use has shown an upward trend, while exports have trended downward. Accordingly, a normal year's domestic consumption has been set at 3.2 million pounds while a normal year's exports has been set at 3.0 million pounds. Application of the formula prescibed by section 301(b)(14)(B) of the Act results in a reserve supply level of 14.4 million pounds.

Manufacturers and dealers reported stocks of fire-cured (type 21) tobacco held on October 1, 1983, of 10.3 million pounds. The 1983 fire-cured (type 21) tobacco crop is estimated to be 4.8 million pounds. Therefore, the total supply of fire-cured (type 21) tobacco for the 1983–84 marketing year is 15.1 million pounds. During the 1983–84 marketing year, it is estimated that disappearance will total approximately 4.5 million pounds. By deducting this disappearance from the total supply, a carryover of 10.6 million pounds for the 1984–85 marketing year is obtained.

The difference between the reserve supply level and the estimated carryover on October 1, 1984 is 3.8 million pounds. This represents the quantity of fire-cured (type 21) tobacco which may be marketed which will make available during such marketing year a supply equal to the reserve supply level. Because about 47 percent of the announced national marketing quotas during the past 5 marketing years has been produced, it is hereby determined that a national marketing quota of 8.0 million pounds is necessary to make available production of 3.8 million pounds. Increasing the quota by 20 percent in accordance with section 312(b) of the Act to 9.6 million pounds is necessary to avoid undue restriction of marketings. This results in the 1984–85 national marketing quota of 9.6 million pounds.

In accordance with section 313(g) of the Act, the 1984–85 national marketing quota, divided by the 1979–83, 5-year national average yield of 1.097 pounds per acre, results in a 1984 national acreage allotment of 8,751.14 acres.

Pursuant to the provisions of section 313(g) of the Act, a national acreage factor of 0.95 is determined by dividing the national acreage allotment, less a national reserve of 55.0 acres, by the total of 1984 preliminary farm acreage allotments. The preliminary farm coverage allotments reflect the factors specified in section 313(g) of the Act for apportioning the national acreage allotment, less the national reserve, to old farms.

Fire–Cured (Types 22 & 23) Tobacco

The yearly average quantity of fire-cured (types 22 & 23) tobacco produced in the United States which is estimated to have been consumed in the United States during the 10 years preceding the 1983–84 marketing year was about 15.9 million pounds. The average annual quantity of fire-cured (types 22 & 23) tobacco produced in the United States and exported during the 10 marketing years preceding the 1983–84 marketing year was 19.8 million pounds (farm-sales weight basis). Domestic use and exports have trended up recently. Accordingly, a normal year's domestic consumption has been established at 18.1 million pounds and a normal year's exports at 21.3 million pounds. Application of the formula prescribed by section 301(b)(14)(B) of the Act results in a reserve supply level of 89.1 million pounds.

Manufacturers and dealers reported stocks of fire-cured (types 22 & 23) tobacco on October 1, 1983, of 68.7 million pounds. The 1983 fire-cured (types 22 & 23) crop is estimated to be 30.7 million puunds. Therefore, the total supply of fire-cured (types 22 & 23) tobacco for the marketing year beginning October 1, 1983, is 99.4 million pounds. During the 1983–84 marketing year, it is estimated that disappearance will totally approximately 39.0 million pounds. By deducting this disappearance from the total supply, a carryover of 60.4 million pounds for the 1984–85 marketing year is obtained.

The difference between the reserve supply level and the estimated carryover on October 1, 1984 is 28.7 million pounds. This represents the quantity of fire-cured (types 22 & 23) tobacco which may be marketed which will make available during the 1984–85 marketing year a supply equal to the reserve supply level. Because about 81 percent of the announced national marketing quotas over the past 5 years has been produced, it is hereby determined that a national marketing quota for the 1984–85 marketing year of 35.3 million pounds is necessary to make available production of 28.7 million pounds. In accordance with section 312(b) of the Act, it has been further determined that the 1984–85 national marketing quota must be increased in order to avoid undue restriction of marketings. This results in a national marketing quota for the 1984–85 marketing year of 42.4 million pounds.

The national acreage allotment for the 1984–85 marketing year is determined to be 24,737.46 acres. In accordance with section 313(g) of the Act, the national marketing quota for the 1984–85 marketing year has been divided by the 1979–83, 5-year national average yield of 1,714 pounds per acre, to obtain a national acreage allotment of 24,737.46 acres, for the 1984–85 marketing year.

Pursuant to the provisions of section 313(g) of the Act, a national acreage factor of 1.10 is determined by dividing the national acreage allotment for the 1984–85 marketing year less a national reserve of 130 acres, by the total of the 1984 preliminary farm acreage allotments. The preliminary farm acreage allotments reflects the factors specified in section 313(g) of the Act for apportioning the national acreage allotment, less a reserve, to old farms.

Dark Air–Cured Tobacco

The yearly average quantity of dark air-cured tobacco produced in the United States which is estimated to have been consumed in the United States during the 10 years preceding the 1984–84 marketing year was approximately 14.4 million pounds. The average annual quantity produced domestically and exported during this period was 2.2 million pounds (farm-sales weight basis). Exports have shown a downward trend while domestic use has been erratic. Accordingly, 15.7 million pounds have been used as a normal year's domestic consumption and 2.0 million pounds have been used as a normal year's exports. Application of the formula required by section 301(14)(B) of the Act results in a reserve supply level of 48.8 million pounds.

Manufacturers and dealers reported stocks of dark air-cured tobacco held on October 1, 1983, of 42.3 million pounds. The 1983 dark air-cured crop is

estimated to be 12.1 million pounds. Therefore, the total supply for the market-year beginning October 1, 1983, is 54.4 million pounds. During the 1983–84 marketing year, it is estimated that disappearance will total approximately 16.0 million pounds. By deducting this disappearance from the total supply, a carryover of 38.4 million pounds for the 1984–85 marketing year is obtained.

The difference between the reserve supply level and the estimated carryout on October 1, 1984 is 10.4 million pounds. This represents the quantity of dark air-cured tobacco which may be marketed which will make available during such marketing year a supply equal to the reserve supply level. Because only about 77 percent of the announced national marketing quotas over the past 5 years has been produced, it is hereby determined that a national marketing quota for the 1984–85 marketing year of 13.5 million pounds is necessary to make available production of 10.4 million pounds. In accordance with section 312(b) of the Act, it has been further determined that the 1984–85 marketing quota must be increased by 20 percent to 16.2 million pounds.

In accordance with section 313(g) of the Act, the 1984–85 national marketing quota, divided by the 1979–83, 5-year national average yield of 1,681 pounds per acre, results in a national acreage allotment of 9,637.12 acres.

Pursuant to the provisions of section 313(g) of the Act, a national acreage factor of 1.0 is determined by dividing the national acreage allotment, less a national reserve of 45 acres, by the total of the 1984 preliminary farm acreage allotments. The preliminary farm acreage allotments reflect the factors specified in section 313(g) for apportioning the national acreage allotment, less the national reserve, to old farms.

Virginia Sun-Cured Tobacco

The yearly average quantity of Virginia sun-cured tobacco produced in the United States which is estimated to have been consumed in the United States during the 10 marketing years preceding the 1983–84 marketing year was approximately 730 thousand pounds. The average annual quantity produced in the United States and exported during the same period was approximately 170 thousand pounds (farm-sales weight basis). Both domestic use and exports have shown a downward trend. Accordingly, 549 thousand pounds have been used as a normal year's domestic consumption and 60 thousand pounds have been used as a normal year's exports. Application of the formula prescribed by section 301(b)(14)(B) of the Act results in a reserve supply level of 1,724 thousand pounds.

Manufacturers and dealers reported stocks of Virginia sun-cured tobacco held on October 1, 1983, of 1,451 thousand pounds. The 1983 Virginia sun-cured tobacco crop is estimated to be 490 thousand pounds. Therefore, the total supply of Virginia sun-cured tobacco for the 1983–84 marketing year is 1,941 thousand pounds. During the 1983–84 marketing year, it is estimated that disappearance will total approximately 800 thousand pounds. By deducting this disappearance from the total supply, a carryover of 1,141 thousand pounds for the 1984–85 marketing year is obtained.

The difference between the reserve supply level and the estimated carryover on October 1, 1984 is 583 thousand pounds. This represents the quantity of Virginia sun-cured tobacco which may be marketed which will make available during such marketing year a supply equal to the reserve supply level. Because less than half of the announced national marketing quotas over the past 5 years have been produced, it is hereby determined that a national marketing quota of 1,166 thousand pounds is necessary to make available production of 583 thousand pounds. Increasing the quota by 20 percent in accordance with section 312(b) of the Act to 1,399 thousand pounds is necessary to avoid undue restriction of marketings. This results in a national marketing quota of 1,399 thousand pounds.

In accordance with section 313(g) of the Act, the 1984–85 national marketing quota, divided by the 1979–83, 5-year national average yield of 1,140 pounds per acre, results in a 1984 national acreage allotment of 1,227.19 acres.

Pursuant to the provisions of section 313(g) of the Act, a national acreage factor of 1.0 is determined by dividing the national acreage allotment, less a national reserve of 8.0 acres, by the total of the 1984 preliminary farm acreage allotments. The preliminary farm acreage allotments reflect the factors specified in section 313(g) of the Act for apportioning the national acreage allotment, less the national reserve, to old farms.

Cigar-Binder (Types 51 & 52) Tobacco

The yearly average quantity of cigar-binder (types 51 & 52) tobacco produced in the United States, which is estimated to have been consumed in the United States during the 10 years preceding the 1983–84 marketing year, was approximately 2.6 million pounds. The average annual quantity of cigar-binder tobacco produced in the United States and exported from the United States during the 10 marketing years preceding the 1983–84 marketing year was .1 million pounds (farm-sales weight basis). Domestic use has shown an upward trend, while exports have fluctuated between .1 and .2 million pounds. Accordingly, 2.8 million pounds have been used as a normal year's domestic consumption and .2 million pounds have been used as a normal year's exports.

Application of the formula prescribed by section 301(b)(14)(B) of the Act results in a reserve supply level of 8.4 million pounds.

Manufacturers and dealers reported stocks of cigar-binder tobacco held on October 1, 1983 of 7.3 million pounds. The 1983 cigar-binder tobacco crop is estimated to be 2.7 million pounds. Therefore, the total supply of cigar-binder tobacco for the 1983–84 marketing year is 10.0 million pounds. During the 1983–84 marketing year, it is estimated that disappearance will total about 3.0 million pounds. By deducting the estimated disappearance during the 1983–84 marketing year from the total supply, a carryover of 7.0 million pounds at the beginning of the 1984–85 marketing year is obtained.

The difference between the reserve supply level and the estimated carryover on October 1, 1984 is 1.4 million pounds. This represents the quantity of cigar-binder tobacco which may be marketed which will make available during such marketing year a supply equal to the reserve supply level. Because about 47 percent of the announced national marketing quotas over the past 5 years has been produced, it is hereby determined that a national marketing quota of 2.9 million pounds is necessary to make available production of 1.4 million pounds. In accordance with section 312(b) of the Act, an increase in the computed quota by 20 percent to 3.5 million pounds is necessary in order to avoid undue restriction of marketings. This results in a national marketing quota of 3.5 million pounds.

In accordance with section 313(g) of the Act, the 1984–85 national marketing quota of 3.5 million pounds, divided by the 1979–83, 5-year national average yield of 1,773 pounds per acre, results in a 1984 national acreage allotment of 1,974.06 acres.

Pursuant to the provisions of Section 313(g) of the Act, a national acreage factor of 0.808 is determined by dividing the national acreage allotment, less a national reserve of 19.7 acres, by the total of the 1984 preliminary farm acreage allotments. The preliminary farm acreage allotments reflect the

factors specified in section 313(g) of the Act for apportioning the national allotment, less the national reserve, to old farms.

Cigar-Filler and Binder Tobacco

The yearly average quantity of cigar-filler and binder tobacco produced in the United States which is estimated to have been consumed in the United States during the 10 years preceding the 1983–84 marketing year was approximately 23.2 million pounds. The average annual quantity of cigar-filler and binder tobacco produced in the United States and exported from the United States during the 10 marketing years preceding the 1983–84 marketing year was less than .1 million pounds. Domestic use is erratic, while exports are steady.

Accordingly, a normal year's domestic consumption has been set at 26.7 million pounds while a normal year's exports has been set at 0.05 million pounds. Application of the formula prescribed by section 301(b)(14)(B) the Act results in a reserve supply level of 77.2 million pounds.

Manufacturers and dealers report stocks of cigar-filler and binder tobacco held on October 1, 1983 of 66.2 million pounds. The 1983 cigar-filler and binder crop is estimated to be 18.0 million pounds. Therefore, the total supply of cigar-filler and binder tobacco for the 1983–84 marketing year is 84.2 million pounds. During the 1983–84 marketing year, it is estimated that disappearance will total about 21.0 million pounds. By deducting this disappearance from the total supply, a carryover of 63.2 million pounds at the beginning of the 1984–85 marketing year is obtained.

The difference between the reserve supply level and the estimated carryover on October 1, 1984 is 14.0 million pounds. This represents the quantity of cigar-filler and binder tobacco which may be marketed which will make available during such marketing year a supply equal to the reserve supply level. Because about 76 percent of the announced national marketing quotas over the past 5 years have been produced, it is hereby determined that the 1984–85 national marketing quota of 18.5 million pounds is necessary to make available production of 14.0 million pounds. Increasing the quota by 20 percent in accordance with section 312(b) of the Act to 22.2 million pounds, is necessary to avoid undue restriction of marketings. This results in the 1984–85 national marketing quota of 22.2 million pounds.

In accordance with section 313(g) of the Act, the 1984–85 national marketing quota of 22.2 million pounds, divided by the 1979–83, 5-year national average yield of 1,915 pounds per acre, results in the 1984–85 national acreage allotments of 11,592.69 acres.

Pursuant to the provisions of section 313(g), a national acreage factor of 0.90 is determined by dividing the national acreage allotment, less a national reserve of 70 acres, by the total of the 1984 preliminary farm acreage allotments. The preliminary farm acreage allotments reflect the factors specified in section 313(g) for apportioning the national acreage allotment, less the national reserve, to old farms.

Reasons for Immediate Implementation

Since section 312 of the Act requires that the amount of the national marketing quotas for the 1984–85 marketing year for the minor kinds of tobacco be announced by February 1, 1984, it is hereby determined that no further public rulemaking is required. Therefore, this notice shall become effective February 1, 1984.

Determinations—Proclamations of National Marketing Quotas

1. Cigar-binder (Types 51–52)

Since the 1983–84 marketing year is the last of 3 consecutive years for which marketing quotas previously proclaimed will be in effect for cigar-binder (types 51 & 52) tobacco, a national marketing quota for such kind of tobacco for each of the 3 marketing years beginning October 1, 1984. October 1, 1985, and October 1, 1986 is hereby proclaimed.

2. Cigar-filler and Binder (Types 42–44; 53–55)

Since the 1983–84 marketing year is the last of 3 consecutive years for which marketing quotas previously proclaimed will be in effect for cigar-filler and binder (types 42–44; 53–55) tobacco, national marketing quota for such kind of tobacco for each of the 3 marketing years beginning October 1, 1984, October 1, 1985, and October 1, 1986 is hereby proclaimed.

Method and Period for Holding Referenda

It is hereby determined and announced that separate referenda of farmers engaged in 1983 production of cigar-binder (types 51 & 52) tobacco and 1983 production of cigar-filler and binder (types 42–44; 53–55) will be conducted by mail ballot during the period February 27—March 1, 1984 inclusive. If more than 66⅔ percent of those voting favor quotas, then quotas will be in effect for the next three marketing years beginning October 1, 1984.

Determinations 1984–85 Marketing Year

For cigar-binder (types 51 & 52) tobacco for the marketing year October 1, 1984:

(a) *Reserve supply level.* The reserve supply level for cigar-binder (types 51 & 52) tobacco is 8.4 million pounds.

(b) *Total supply.* The total supply of cigar-binder (types 51 & 52) tobacco for the marketing year beginning October 1, 1983 is 10.0 million pounds.

(c) *Carryover.* The estimated carryover of cigar-binder (types 51 & 52) tobacco for the marketing year beginning October 1, 1984 is 7.0 million pounds.

(d) *National marketing quota.* The amount of cigar-binder (types 51 & 52) tobacco which will make available during the marketing year beginning October 1, 1984 a supply equal to the reserve supply level of such tobacco is 1.4 million pounds. Because producers have been producing about 47 percent of the announced national acreage allotment over the past 5 years, it is hereby determined that a national marketing quota of 2.9 million pounds is necessary to make available production of 1.4 million pounds. Accordingly, a national marketing quota of 2.9 million pounds is hereby announced. It is further determined, however, that a national marketing quota in the amount of 2.9 million pounds would result in undue restriction of marketings during the 1984–85 marketing year in adjusting the total supply to the reserve supply level. Accordingly, such amount is hereby increased by 20 percent. Therefore, the amount of the national marketing quota for cigar-binder (types 51 & 52) tobacco in terms of the total quantity of such tobacco which may be marketed during the marketing year beginning October 1, 1984, is 3.5 million pounds.

(e) *National acreage allotment.* The national acreage allotment is 1,974.06 acres.

(f) *National acreage factor.* The national acreage factor for use in determining farm acreage allotments for the 1984–85 marketing year is 0.808.

(g) *National reserve.* The national acreage reserve is 19.7 acres of which 5.0 acres are made available for new farms, and 14.7 acres are for making corrections in adjusting inequities in old farm allotments.

For cigar-filler and binder (types 42–44, 53–55) tobacco for the marketing year October 1, 1984:

(a) *Reserve supply level.* The reserve supply for cigar-filler and binder (types 42–44, 53–55) tobacco is 77.2 million pounds.

(b) *Total supply.* The total supply of cigar-filler and binder (types 42–44, 53–55) tobacco for the marketing year beginning October 1, 1984 is 84.2 million pounds.

(c) *Carryover.* The estimated carryover of cigar-filler and binder (types 42–44, 53–55) tobacco for the marketing year beginning October 1, 1984 is 63.2 million pounds.

(d) *National marketing quota.* The amount of cigar-filler and binder (types 42–44, 53–55) tobacco which will make available during the marketing year beginning October 1, 1984, a supply equal to the reserve supply level of such tobacco is 14.0 million pounds. Because producers have been producing about 76 percent of the announced national acreage allotment over the past 5 years, it is hereby determined that a national marketing quota of 18.5 million pounds is necessary to make available production of 14.0 million pounds. Accordingly, a national marketing quota of 18.5 million pounds is hereby announced. It is further determined, however, that a national marketing quota in the amount of 18.5 million pounds would result in undue restriction of marketings during the 1985–85 marketing year in adjusting the total supply to the reserve supply level. Accordingly, such amount is hereby increased by 20 percent. Therefore, the amount of the the national marketing quota for cigar-filler and binder (types 42–44; 53–55) tobacco in terms of the total quantity of such tobacco which may be marketed during the marketing year beginning October 1, 1984, is 22.2 million pounds.

(e) *National acreage allotment.* The national acreage allotment is 11,592.69 acres.

(f) *National acreage factor.* The national acreage factor for use in determining farm acreage allotments for the 1984–85 marketing year is 0.90.

(g) *National reserve.* The national acreage reserve is 70 acres, of which 65 acres are made available for 1984 new farms, and 5 acres are made available for making corrections and adjusting inequities in old farm allotments.

For fire-cured (type 21) tobacco for the marketing year October 1, 1984:

(a) *Reserve supply level.* The reserve supply level for fire-cured (type 21) tobacco is 14.4 million pounds.

(b) *Total supply.* The total supply of fire-cured (type 21) tobacco for the marketing year beginning October 1, 1983, is 15.1 million pounds.

(c) *Carryover.* The estimated carryover of fire-cured (type 21) tobacco for the marketing year beginning October 1, 1984, is 10.6 million pounds.

(d) *National marketing quota.* The amount of fire-cured (type 21) tobacco which will make available during the marketing year beginning October 1, 1984 a supply equal to the reserve supply level of such tobacco is 3.8 million pounds. Because producers have been producing about 47 percent of the announced national marketing quota during the past 5 marketing years, a national marketing quota of 8.0 million pounds is hereby announced.

It is further determined, however, that a national marketing quota in the amount of 8.0 million pounds would result in undue restriction of marketings during the 1984–85 marketing year. Accordingly, such amount is hereby increased by 20 percent. Therefore, the amount of the national marketing quota for fire-cured (type 21) tobacco in terms of the total quantity of such tobacco which may be marketed during the marketing year beginning October 1, 1984 is 9.6 million pounds.

(e) *National acreage allotment.* The national acreage allotment is 8,751.14 acres.

(f) *National acreage factor.* The national acreage factor for use in determining farm acreage allotments is .95.

(g) *National reserve.* The national acreage reserve is 55 acres, of which 15.0 acres are made available for 1984 new farms, and 40.0 acres are made available for making corrections and adjusting inequities in old farms allotments.

For fire-cured (types 22 & 23) tobacco for the marketing year October 1, 1984:

(a) *Reserve supply level.* The reserve supply level for fire-cured (types 22 & 23) tobacco is 89.1 million pounds.

(b) *Total supply.* The total supply of fire-cured (types 22 & 23) tobacco for the marketing year beginning October 1, 1983, is 99.4 million pounds.

(c) *Carryover.* The estimated carryover of fire-cured (types 22 & 23) tobacco for the marketing year beginning October 1, 1984, is 60.4 million pounds.

(d) *National marketing quota.* The amount of fire-cured (types 22 & 23) tobacco which will make available during the marketing year beginning October 1, 1984, a supply equal to the reserve supply level of such tobacco is 28.7 million pounds. Because producers have been producing about 81 percent of the announced national marketing quota during the past 5 marketing years, it is hereby determined that a national marketing quota for the 1984–85 marketing year of 35.3 million pounds is necessary to make available production of 28.7 million pounds. Accordingly, the 1984–85 national marketing quota of 35.3 million pounds is hereby announced. It is further determined, however, that the 1984–85 national marketing quota in the amount of 35.3 million pounds would result in undue restriction of marketings during the 1984–85 marketing year. Accordingly, such amount is hereby increased by 20 percent. Therefore, the amount of the 1984–85 national marketing quota for fire-cured (typse 22 & 23) tobacco in terms of the total quantity of such tobacco which may be marketed during the marketing year beginning October 1, 1984, is 42.4 million pounds.

(e) *National acreage allotment.* The national acreage allotment is 24,737.46 acres.

(f) *National acreage factor.* The national acreage factor for use in determining farm acreage allotments for the 1984–85 marketing year is 1.10.

(g) *National reserve.* The national reserve is 130.0 acres of which 15.0 acres are made available for 1984 new farms, and 115 acres are made available for making corrections and adjusting inequities in old farm allotments.

For dark air-cured tobacco for the marketing year October 1, 1984:

(a) *Reserve supply level.* The reserve supply level for dark air-cured tobacco is 48.8 million pounds.

(b) *Total supply.* The total supply of dark air-cured tobacco for the 1984–85 marketing year beginning October 1, 1983, is 54.4 million pounds.

(c) *Carryover.* The estimated carryover of dark air-cured tobacco for the 1984–85 marketing year beginning October 1, 1984, is 38.4 million pounds.

(d) *National marketing quota.* The amount of dark air-cured tobacco which will make available during the 1984–85 marketing year beginning October 1, 1984, a supply equal to the reserve supply level of such tobacco is 10.4 million pounds. Because producers have been producing only about 77 percent of the announced national marketing quota during the past 5 marketing years, it is hereby determined that the 1984–85 national marketing quota of 13.5 million pounds is necessary to make available production of 10.4 million pounds. Accordingly, the 1984–85 national marketing quota of 13.5 million pounds is hereby announced. It is determined, however, that a national marketing quota in the amount of 13.5 million pounds would result in undue restriction of marketings during the 1984–85 marketing year. Accordingly, such amount is hereby increased by 20 percent. Therefore, the amount of the 1984–85 national marketing quota for dark air-cured (types 35 & 36) tobacco in terms of the total quantity of such

tobacco which may be marketed during the marketing year beginning October 1, 1984, is 16.2 million pounds.

(e) *National acreage allotment.* The national acreage allotment is 9,637.12 acres.

(f) *National acreage factor.* The national acreage factor for use in determining farm acreage allotments for the 1984–85 marketing year is 1.0.

(g) *National reserve.* In accordance with 313(g) of the Act the national acreage reserve is 45.0 acres, of which 10.0 acres are made available for the 1984 new farms, and 35 acres are made available for making corrections and adjusting inequities in old farm allotments.

For Virginia sun-cured tobacco for the marketing year October 1, 1984:

(a) *Reserve supply level.* The reserve supply level for Virginia sun-cured tobacco is 1,724 thousand pounds.

(b) *Total supply.* The total supply of Virginia sun-cured tobacco for the marketing year beginning October 1, 1983, is 1,941 thousand pounds.

(c) *Carryover.* The estimated carryover of Virginia sun-cured tobacco for the marketing year beginnning October 1, 1984, is 1,141 thousand pounds.

(d) *National marketing quota.* The amount of Virginia sun-cured tobacco which will make available during the marketing year beginning October 1, 1984, a supply equal to the reserve level of such tobacco is 583 thousand pounds. Because producers have been producing less than half of the announced national acreage allotment over the past 5 years, it is hereby determined that a national marketing quota of 1,166 thousand pounds is necessary to make available production of 583 thousand pounds. Accordingly, a national marketing quota of 1,166 thousand pounds is hereby announced. It is further determined, however, that a national marketing quota in the amount of 1,166 thousand pounds would result in undue restriction of marketings during the 1984–85 marketing year. Accordingly, such amount is hereby increased by 20 percent. Therefore, the amount of the national marketing quota for sun-cured (type 37) tobacco in terms of the total quantity of such tobacco which may be marketed during the marketing year beginning October 1, 1984, is 1,399 thousand pounds.

(e) *National acreage allotment.* The national acreage allotment is 1,277.19 acres.

(f) *National acreage factor.* The national acreage factor for use in determining farm acreage allotments for the 1984–85 marketing year is 1.0.

(f) *National reserve.* The national acreage reserve is 8 acres, of which 4.0 acres are made available for 1984 new farms, and 4.0 acres are made available for making corrections and adjusting inequities in old farm allotments.

Authority: Secs. 301, 312, 313, 375, 52 Stat. 38, as amended, 46, as amended, 66, as amended; 7 U.S.C. 1301, 1312, 1313, 1375.

Signed at Washington, D.C. on February 13, 1984.

John R. Block,

Secretary.

[FR Doc. 84-4365 Filed 2-16-84; 8:45 am]

BILLING CODE 3410-05-M

Forest Service

Stanislaus National Forest Grazing Advisory Board; Meeting

The Stanislaus National Forest Grazing Advisory Board will meet at 8:00 p.m., on March 21, 1984, in Conference Room–B, of the Forest Supervisor's Office, 19777 Greenley Road, Sonora, California. The purpose of this meeting is to consider (1) priorities for use of range betterment funds, and (2) allotment management plans. This is the Board's fourth semi-annual meeting.

The meeting will be open to groups and individuals who have an interest in range management. Persons who wish to attend should notify me at 19777 Greenly Road, Sonora, California 95370. (209) 532–3671. Written statements may be filed with the committee before or after the meeting.

The committee has not established rules for public participation.

Dated: February 9, 1984.

Blaine L. Cornell,

Forest Supervisor.

[FR Doc. 84-4364 Filed 2-16-84; 8:45 am]

BILLING CODE 3410-11-M

DEPARTMENT OF COMMERCE

International Trade Administration

President's Export Council; Open Meeting

A meeting of the President's Export Council's Services Subcommittee will be held March 6, 1984, 10:00 a.m., Room 6802, 14th Street and Constitution Avenue, NW., Washington, D.C. The Council's purpose is to advise the President on matters relating to United States export trade.

Agenda: Introduction to and overview of international leasing, U.S. and foreign government policies and practices that affect international leasing, and other trade-related concerns of the international leasing sector.

The meeting will be open to the public with a limited number of seats available. For further information or copies of the minutes contact Angi Knapp (202) 377–1125, H3213, U.S. Department of Commerce, Washington, D.C. 20230.

Dated: February 15, 1984.

Henry Misisco,

Acting Director, Office of Planning and Coordination.

[FR Doc. 84-4367 Filed 2-16-84; 8:45 am]

BILLING CODE 3510-DR-M

National Oceanic and Atmospheric Administration

Marine Mammals; Issuance of General Permits; Embassy of the Republic of Korea, et al.

On February 1, 1984, general permits to incidentally take marine mammals during commercial fishing operations in 1984 were issued to:

1. The Embassy of the Republic of Korea, 2320 Massachusetts Avenue, NW., Washington, D.C. 20008 in Category 1: Towed or Dragged Gear, to take 95 northern sea lions, 5 northern fur seals, 15 harbor seals and 5 cetaceans.

2. The Hochseefischeri Nordstern A.G., 2850 Bremerhaven, Am Seedeich, West Germany in Category 1: Towed or Dragged Gear, to take 24 northern sea lions, 1 northern fur seal, 10 harbor seals and 5 cetaceans.

All takings are incidental to commercial fishing operations within the United States Fishery Conservation Zone, pursuant to 50 CFR 216.24 (45 FR 72187–72196).

The general permits are available for public review in the Office of the Assistant Administrator for Fisheries, 3300 Whitehaven Street, NW., Washington, D.C.

Dated: February 9, 1984.

Carmen J. Blondin,

Deputy Assistant Administrator for Fisheries Resource Management, National Marine Fisheries Service.

[FR Doc. 84-4374 Filed 2-16-84; 8:45 am]

BILLING CODE 3510-22-M

Marine Mammals; Receipt of Application for Permit; Dr. Bruce R. Mate

Notice is hereby given that an Applicant has applied in due form for a Permit to take marine mammals as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–

1407), the Regulations, Governing the Taking and Importing of Marine Mammals (50 CFR Part 216), the Endangered Species Act of 1973 (16 U.S.C. 1531–1543), the National Marine Fisheries Service regulations governing endangered fish and wildlife permits (50 CFR Parts 217–222).

1. Applicant:

a. Name: Dr. Bruce R. Mate (P129F).

b. Address: Marine Science Center, Oregon State University, Marine Science Drive, Newport Oregon 97365.

2. Type of Permit: Scientific Research/ Scientific Purposes.

3. Name and Number of Animals: Bowhead whale (*Balaena mysticetus*), 840.

4. Type of Take: Up to 800 whales by potential harassment over 4 years while attempting to tag up to 40 whales for radio/satellite monitoring.

5. Location of Activity: Bering, Chukchi and Beaufort Sea Alaska.

6. Period of Activity: 4 Years.

Concurrent with the publication of this notice in the **Federal Register**, the Secretary of Commerce is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors.

Written data or views, or requests for a public hearing on this application should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, U.S. Department of Commerce, Washington, D.C. 20235, within 30 days of the publication of this notice. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries.

All statements and opinions contained in this application are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

Documents submitted in connection with the above application are available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street NW., Washington, D.C.;

Regional Director, National Marine Fisheries Service, Northwest Region, 7600 Sand Point Way NE., Seattle Washington, 98115; and

Regional Director, National Marine Fisheries Service, Alaska Region, P.O. Box 1668, Juneau, Alaska 99802.

Dated: February 13, 1984.

Carmen J. Blondin,

Deputy Assistant Administrator for Fisheries Resource Management, National Marine Fisheries Service.

[FR Doc. 84–4375 Filed 2–16–84; 8:45 am]

BILLING CODE 3510–22–M

Marine Mammals; Receipt of Application for Permit; Northwest and Alaska Fisheries Center

Notice is hereby given that an Applicant has applied in due form for a Permit to take marine mammals as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216).

1. Applicant:

a. Name: Northwest and Alaska Fisheries Center (P77#9).

b. Address: National Marine Fisheries Service, NOAA, 2725 Montlake Blvd., East, Seattle, Washington 98112.

2. Type of Permit: Scientific Research.

3. Name and Number of Animals: Northern elephant seal (*Mirounga angustirostris*) , 90/yr=270.

4. Type of Take: Capture, immobilize, stomach lavage and release for food habits study.

5. Location of Activity: San Miguel Island, California.

6. Period of Activity: 3 Years.

Concurrent with the publication of this notice in the **Federal Register**, the Secretary of Commerce is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors.

Written data of views, or requests for a public hearing on this application should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, U.S. Department of Commerce, Washington, D.C. 20235, within 30 days of the publication of this notice. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries.

All statements and opinions contained in this application are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

Documents submitted in connection with the above application are available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street NW., Washington, D.C.

Regional Director, National Marine Fisheries Service, Northwest Region, 7600 Sand Point Way, N.E. Seattle Washington, 98115; and

Regional Director, National Marine Fisheries Service, Southwest Region, 300 South Ferry Street, Terminal Island, California 90731.

Dated: February 13, 1984.

Carmen J. Blondin,

Deputy Assistant Administrator for Fisheries Resource Management, National Marine Fisheries Service.

[FR Doc. 84–4376 Filed 2–16–84; 8:45 am]

BILLING CODE 3510–22–M

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

Procurement List 1984 Addition and Deletions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Addition to and deletions from procurement list.

SUMMARY: This action adds to and deletes from Procurement List 1984 commodities to be produced by and services to be provided by workshops for the blind and other severely handicapped.

EFFECTIVE DATE: February 17, 1984.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, Crystal Square 5, Suite 1107, 1755 Jefferson Davis Highway, Arlington, Virginia 22202.

FOR FURTHER INFORMATION CONTACT: C. W. Fletcher, (703) 557–1145.

SUPPLEMENTARY INFORMATION: On November 25, December 9, and December 23, 1983, the Committee for Purchase from the Blind and Other Severely Handicapped published notices (48 FR 53148, 48 FR 55157, and 48 FR 56820) of proposed addition to and deletions from Procurement List 1984, October 18, 1983 (48 FR 48415).

Addition

After consideration of the relevant matter presented, the Committee has determined that the service listed below is suitable for procurement by the Federal Government under 41 U.S.C. 46–48c, 85 Stat. 77.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered were:

a. The action will not result in any additional reporting, recordkeeping or other compliance requirement.

b. The action will not have a serious economic impact on any contractor for the service listed.

c. The action will result in authorizing a small entity to provide a service procured by the Government.

Accordingly, the following service is hereby added to Procurement List 1984:

SIC 0782

Grounds Maintenance, Social Security Administration, Computer Center, 6201 Security Boulevard, Baltimore, Maryland

Deletions

After consideration of the relevant matter presented, the Committee has determined that the commodities and services listed below are no longer suitable for procurement by the Federal Government under 41 U.S.C. 46–48c, 85 Stat. 77.

Accordingly, the following commodities and services are hereby deleted from Procurement List 1984:

Class 1430

Circuit Card Assembly: 1430–00–421–4036

Class 7510

Refill, Pocket Planning Set: 7510–01–113–2079

SIC 0782

Ground Maintenance, Federal Service Center, 4747 Eastern Avenue, Bell, California

SIC 7349

Janitorial/Custodial, U.S. Customs, 160–19 Rockaway Boulevard, Jamaica, New York
Janitorial/Custodial, U.S. Army Reserve Center, Williamsburg, Virginia

SIC 7399

Packaging-Canteen, Water, Disposable (8465–01–062–5854), General Services Administration, Region 8, Denver, Colorado.

C. W. Fletcher,

Executive Director.

[FR Doc. 84–4300 Filed 2–16–84; 8:45 am]

BILLING CODE 6820–33–M

Procurement List 1984; Proposed Additions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Proposed additions to procurement list.

SUMMARY: The Committee has received proposals to add to Procurement List 1984 commodities to be produced by a services to be provided by workshops for the blind and other severely handicapped.

Comments must be received on or before: March 21, 1984.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, Crystal Square 5, Suite 1107, 1755 Jefferson Davis Highway, Arlington, Virginia 22202.

FOR FURTHER INFORMATION CONTACT: C. W. Fletcher, (703) 557–1145.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2), 85 Stat. 77. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed actions.

If the Committee approves the proposed additions, all entities of the Federal Government will be required to procure the commodities and services listed below from workshops for the blind or other severely handicapped.

It is proposed to add the following commodities and services to Procurement List 1984, October 18, 1983 (48 FR 48415):

Class 5120

Screwdriver, Cross Tip: 5120–00–240–8716, 5120–00–764–8102, 5120–00–832–6219, 5120–00–764–8098, 5120–00–237–8172
Screwdriver, Flat Tip: 5120–00–805–6730, 5120–00–010–7913, 5120–00–042–6837, 5120–00–010–7915, 5120–00–010–7914, 5120–00–555–2063, 5120–00–805–6729, 5120–00–010–7916, 5120–00–832–6223, 5120–00–782–4564, 5120–00–764–8058, 5120–00–764–8059, 5120–00–237–8985, 5120–00–278–1276, 5120–00–764–8061, 5120–00–278–1283

Class 7530

Jacket, Filing, Wallet: 7530–00–285–2913, 7530–00–285–2914

Class 8415

Cover, Helmet, Chemical Protective: 8415–01–111–8028

SIC 0782

Grounds Maintenance, U.S. Geological Survey, 341 Middlefield Road, Menlo Park, California
Grounds Maintenance, Veterans Administration Medical Center, 3801 Miranda Avenue, Palo Alto, California

SIC 7218

Laundry Service, Hill Air Force Base, Utah

SIC 7349

Janitorial/Custodial, U.S. Army Reserve Facility, 701 North Columbia Avenue, Medford, Oregon
Janitorial/Custodial, U.S. Army Reserve Facility, 14631 S.E. 1092nd Street, Renton, Washington.

C. W. Fletcher,

Executive Director.

[FR Doc. 84–4299 Filed 2–16–84; 8:45 am]

BILLING CODE 6820–33–M

CONGRESSIONAL PANEL ON SOCIAL SECURITY ORGANIZATION

Congressional Panel on Social Security Organization; Meeting

Correction

In FR Doc. 84–3836 beginning on page 5369, in the issue of Monday, February 13, 1984, make the following corrections.

1. In the third column, in the table, the second entry under the heading "Time", "3:00 a.m.–5:00 p.m." should read "3:00 p.m.–5:00 p.m."

2. In the fifth entry "2:00 a.m.–5:00 p.m." should read "2:00 p.m.–5:00 p.m."

BILLING CODE 1505–01–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Privacy Act of 1974; Systems of Records: Amended Systems

AGENCY: DOD.

ACTION: Amendment of a notice for a system of records.

SUMMARY: The Office of the Secretary of Defense (OSD) proposes to amend the notice for a system of records subject to the Privacy Act of 1974. The system notice is amended as set forth below, followed by the amended system notice in its entirety.

DATES: This shall be effective without further notice on March 19, 1984 unless comments are received which would result in a contrary determination.

ADDRESS: Send any comments to the System Manager identified in the system notice.

FOR FURTHER INFORMATION CONTACT: Norma Cook, Privacy Act Officer, ODASD(A), Room 5C–315, Pentagon, Washington, D.C. 20301. Telephone: 202/695–0970.

SUPPLEMENTARY INFORMATION: The Office of the Secretary of Defense (OSD) systems of records notices as prescribed by the Privacy Act of 1974, Title 5, United States Code Section 552a (Pub. L. 93–579; 44 Stat. 1896, *et seq.*) have been published in the Federal Register at: FR Doc. 83–12048 (48 FR 25827) June 6, 1983

The proposed amendments are not within the purview of the provisions of 5 U.S.C. 552a(o) of the Act which requires

the submission of an altered system report.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense

February 14, 1984.

Amendments

DMRA&L 22.0

System name:

DoD Dependent Children's School Program Files (48 FR 25827, June 6, 1983).

Changes:

Add the following heading *"PURPOSE(S)"* before the heading *Routine Uses of Records Maintained in the System, Including Categories of Users and Purposes of Such Uses.*

Delete the heading *"Routine uses of Records Maintained in the System, Including Categories of Users and Purpose of Such Uses."*

Delete the heading *"Internal Users, Uses, and purpose."*

Delete the last Paragraph of the above heading "4. Provide data of other government Agencies and Congress When a Specific Authorized Need requires it."

Delete the heading *"External Users, Uses, and Purposes"* and add the heading *"Routine Uses of Records Maintained in the System, Including Categories of Users and Purpose of such Uses."*

Add fourth Paragraph to the above heading "Provide data to other government agencies and Congress when specific authorized need requires it."

Add the following heading: *"Disclosure to Consumer Reporting Agencies."*

Add the following Paragraph Under the above heading.

"Disclosure pursuant to 5 U.S.C. 552a(b)(12), may be made from this system to 'consumer reporting agencies' as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)93))."

Delete first three words under the heading *System Manager and Address;* and add "Dr. Beth Stephens".

As revised, System DMRA&L 22.0 reads as follows:

DMRA&L 22.0

SYSTEM NAME:

DoD Dependent Children's School Program Files.

SYSTEM LOCATION:

Active Students—DoD operated overseas dependents schools, regional offices, and the Office of Dependents Schools (ODS), Alexandria, Virginia.

Former High School Students—Permanent records (high school transcripts) are retained at the school for 4 years subsequent to graduation, transfer, or termination, then forwarded to the regional office for 1 year where they are complied and forwarded to the Washington National Records Center (WNRC) except Panama. Records for the Panama region are retired to the East Point, Georgia, Federal Archieves Records Center (FARC).

Former Panama Canal College Students—Permanent records (college transcripts) are retained at the college for 10 years, then retired to East Point FARC.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Students in the DoD operated overseas dependent schools.

CATEGORIES OF RECORDS IN THE SYSTEM:

A. *Enrollement files.* Documents relating to the admission, registration, and departure of dependent school students. Included are pupil enrollment applications, course preference, admission cards, drop cards, and similar or related documents.

B. *Daily attendance register files.* Documents reflecting the daily attendance of pupils at dependent schools. Included are forms, printouts, bound registers and similar or related documents.

C. *Elementary school academic records.* Documents reflecting the standardized achievement, mental ability, yearly grade average, attendance of each student and the teachers' comments. Included are forms, notes, and similar or related documents.

D. *Elementary school report card files.* Documents reflecting grades, personality traits, and promotion of failure. Included are report cards and similar or related documents.

E. *Elementary school teacher class register files.* Documents reflecting daily, weekly, semester, or annual scholastic grades and averages, absence and tardiness data.

F. *Elementary school student files.* Documents pertaining to individual elementary school students. Included in each folder are reading and health records; individual education plans; intelligence quotient; achievement, aptitude, and similar test results; notes related to pupil's progress and characteristics; and similar matters used by counselors and successive teachers.

G. *Secondary school absentee files.* Documents reflecting absence of students. Included are homeroom teachers' registers, secondary school daily attendance records of absentees reported by teachers, tardy slips for admission of students to classroom, transfer slips notifying teachers of new class or homeroom assignment, notices of change by school principal to teacher upon change of classroom, student applications for permission to be absent, student pass slips, and similar or related documents

H. *Secondary school academic record files.* Documents reflecting student grades and credits earned. Included are forms, notes, and similar or related documents.

I. *Secondary school report card files.* Documents reflecting scholastic grades, personality traits, and promotion or failure. Included are report cards and related documents.

J. *Secondary school teacher class register files.* Documents reflecting daily, weekly, semester, or annual scholastic marks and averages, absence and tardiness, and withdrawal data. Included are class registers and similar or related documents.

K. *Secondary school class reporting files.* Documents reflecting teacher reports to principals and used as source documents for preparing secondary school academic record cards. Included are forms, correspondence, and similar or related documents.

L. *Credit transfer certificate files.* Documents reflecting secondary school scholastic credits earned. Included are certificates and similar or related documents.

M. *Secondary school student files.* Documents pertaining to individual secondary school students. Included in each folder are student health records; individual education plans; absence reports and correspondence with parents pertaining to absence; records of achievement and aptitude tests; notes concerning participation in extracurricular activities, hobbies, and other special interests or activities of the student; and, miscellaneous memorandum used by student counselors.

N. *College absence, withdrawal, and add files.* Student applications for permission to be absent from final exams. Student drop and add class records and administrative withdrawal letter.

O. *College academic record files.* Documents reflecting student grades and credits earned. Included are forms, notes, and similar or related documents.

P. *College report card files.* Documents reflecting scholastic grades and promotion of failure. Included are report cards and related documents.

Q. *College teacher class register files.* Documents reflecting daily, weekly, semester, or annual scholastic marks and averages, absence and withdrawal data. Included are class registers and similar or related documents.

R. *College class reporting files.* Documents reflecting teacher reports to Registrar and used as source documents for preparing college transcripts. Included are forms, correspondence, and similar or related documents.

S. *Credit transfer certificate files.* Documents reflecting college scholastic credits earned. Included are certificates and similar or related documents.

T. *College student files.* Documents pertaining to individual college students. Included in each folder are absence reports, records of achievement, and aptitude tests.

U. *Automated support files.* Automated date files are composed of records containing the following information (varies by regional system): Student registration data-student identification number, student name, sex, grade level, bus number, date of enrollment, date of birth, course numbers and names, teachers, credit, grades received, dates of absences, and sponsor's name, status, rank, date of rotation, organization, location of unit, local address, emergency address and phone.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Recurring provisions of the DoD Appropriations Act and Department of Defense Directive 1342.6, "Department of Defense Dependent's Schools," dated October 17, 1978, with change 1.

PURPOSE(S):

A. Dependent children's school program files (general):

1. Records of students attending DoD operated overseas dependent schools are used by school officials, including teachers, to:

a. Determine the eligibility of children to attend these schools;

b. Schedule children for transportation;

c. Record daily and/or class attendance of students and date(s) of withdrawal;

d. Determine tuition paying students and record status of payments;

e. Determine students located in areas not serviced by dependents schools so that alternative arrangements for education can be made and payment made, as required;

f. Monitor special education services required by and received by the student; and,

g. Used to develop and maintain reading and health records, including school related medical needs.

2. Records may also be released to other officials of the Department of Defense requiring information for operation of the Department (including defense investigative agencies) on a case-by-case basis in accordance with established policies and procedures.

B. Dependent children's school program files (elementary):

1. Used by school officials, including teachers, in the current and/or gaining school to develop and provide an educational program for elementary students by school personnel cited above.

2. Used in the following manner to record:

a. Teacher or standardized to record;

b. Attendance, absences, and/or tardiness of each student;

c. Recommendations for promotion or retention including teacher comments;

d. Daily, weekly, semester, or annual grades; and,

e. Notes related to the individual pupil's progress and learning characteristics useful to professional school personnel in counseling the student and in the determination of his/her proper placement.

C. Department children's school program files (secondary):

1. Used by school officials, including teachers, in the current and/or gaining school to develop and provide an education program for secondary students.

2. Documents are used by school personnel cited above in the following manner to:

a. Record teacher and/or standardized test data;

b. Record attendance, absences, and/or tardiness of each student;

c. Form the basis for a decision on a student request for permission to be absent from a class or classes;

d. Determine proper class or grade placement or graduation;

e. Determine scholastic grades and/or grade point average;

f. Form the basis for school recommendations for student financial aid for postsecondary education;

g. For the basis for preparing the secondary school transcript;

h. Determine secondary school academic credits earned; and,

i. Note special interest or hobbies of the student.

3. Used by DoD recruiting officials to determine eligibility for military service.

D. Dependent children's school program files (college):

1. Used by school officials, including teachers, in the current and/or gaining school to develop and provide an educational program for college students.

2. Documents are used by school personnel cited above in the following manner to:

a. Record teacher and/or standardized test data;

b. Record attendance and absences of each student;

c. Form the basis for a decision on a student request for permission to be absent from a class or classes;

d. Determine proper class or grade placement or graduation;

e. Determine scholastic grades and/or grade point average;

f. Form the basis for school recommendations for student financial aid for college education;

g. Form the basis for preparing the college transcript; and,

h. Determine college academic credits earned.

3. Used by DoD recruiting officials to determine eligibility for military service.

E. Automated support. Automated support is used by school and regional officials (where applicable) to:

1. Provide academic data to each student upon request, provide report cards, etc., at the end of each grading period, provide transcripts upon request, and provide hard copy for manual files.

2. Provide academic data within the region and to ODS.

3. Provide data within the Department of Defense on a need-to-know basis.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Documents of students attending the DoD overseas dependent schools may be used by authorized Federal representatives for employment purposes.

Academic data may be provided to other educational institutions and employers or prospective employers in accordance with current policies and procedures.

Student records and test results may be used by agencies contracted by DoDDS to evaluate various aspects of the system and student population. Contractors will be informed of their obligations under the Privacy Act in accordance with current policies and procedures.

Provide data to other government agencies and Congress when a specific authorized need requires it.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosures pursuant to 5 U.S.C. 552a(b)(12). Disclosures pursuant to 5

U.S.C 552a(b)(12), may be made from this system to Consumer reporting agencies as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Files are paper records in file folders.

RETRIEVABILITY:

A. Elementary school academic records and secondary school and college academic records (transcripts) are filed alphabetically by school, school year, and last name of student.

B. Elementary, secondary, and college teacher class register files are filed by school, school year, and last name of teacher.

C. Remaining dependent school student files are filed by school, school year, and last name of student.

D. The automated files are indexed by a variety of data, depending upon the region and school involved (some have regionally assigned student identification numberes, others are by last name of student). Also, any combination of data in the file can be used to select individual records. Only authorized personnel have required information to access the system or process job.s

SAFEGUARDS:

Paper records are maintained in files accessible only to authorized personnel.

Authorized records:

A. *Description of the automated process.* Current hard copy records of all information are kept in locked file cabinets in limited access school offices. Computer-produced student records and reports become an integral part of the manual system and are retained in limited access school offices and/or locked cabinets. Computer disks, tapes, etc., are maintained in limited access areas within the various computer centers, regional offices, and/or schools. Approved special requests for data can be supported by ad hoc inquiry. Any combination of data can be used to select individual records for special processing.

B. *Physical safeguards.* Computer facilities and remote terminals are located in schools and regional offices throughout the school system. Particular regional systems vary; however, the same basic safeguards are employed (in various combinations) in all the systems. Computer hardware disk cards and other materials are secured in locked facilities after normal duty hours or are maintained in secure military computer centers. During school hours, storage media is stored in areas where access can be monitored. On-line access is protected by combinations of the following various factors: (1) Users must have file and/or disk names; (2) users must have possession or approval to gain possession of appropriate disk(s); and, (3) users must have specifically designed codes and/or keys to permit read/write operations.

C. *Storage media.* Hard copy files are stored in the school offices of each participating school and regional offices. Computer files are stored on magnetic tape and disks, as outlined above.

D. *Risk analysis.* All personal information which is collected and/or maintained for this system is stored in locations adequately secure for such information. Administrative safeguards have been instituted to prevent access to information in the automated systems.

RETENTION AND DISPOSAL:

A. *Enrollment files.* Maintained at the respective school for 1 year after graduation, withdrawal, transfer, or death of the student, then destroyed.

B. *Daily attendance register files.* Destroyed after reviewing attendance registers for the next school year.

C. *Elementary school academic record files.* When a student transfers to another school, this file is forwarded by mail to officials of the receiving school on request in accordance with current regulations, or destroyed at the school 5 years after graduation, death, or withdrawal of the student.

D. *Elementary school report card files.* Released to parents or students at the end of the school year or on transfer of the student.

E. *Elementary school teacher class register files.* Destroyed at the school concerned after 5 years.

F. *Elementary school student files.* 1. When a student tranfers to another school, the reading and health records are released to the parent or student (if over 18 years of age) for hand-carrying to the receiving school.

2. Remaining documents pertaining to the students are forwarded by mail to the officials of the receiving school or the parent/guardian on request in accordance with current regulations; if not requested documents, are destroyed at the school concerned 1 year after graduation, death, or withdrawal of the student.

G. *Secondary school absentee files.* Destroyed at the school after 1 year.

H. *Secondary school academic record files (high school transcript).* 1. Permanent file.

2. When a student transfers to another DoD dependents school, this film (transcript) is forwarded by mail to officials of the receiving school on request.

3. When a student transfers to a non-DoD school, a copy of the transcript is forwarded to the receiving school on request in accordance with current regulations.

4. Files not forwarded to another DoD school are retained at the school concerned for 4 years, the regional office for 1 year and then retired to the WNRC (or East Point FARC if in the Panama region) for an additional 60 years.

I. *Secondary school report card files.* Released to parents of students or student (if over 18 years of age) at the end of the school year or on transfer of student.

J. *Secondary school teacher class register files.* Retained at the school concerned for 5 years and then destroyed.

K. *Secondary school class reporting files.* Destroyed at the school after 1 year.

L. Credit transfer certificate files. Destroyed at the school after 1 year.

M. *Secondary school student files.* 1. Retained at the school concerned for 2 years after graduation, death, or withdrawal of the student.

2. When a student transfers to another school:

a. A copy of the record may be released to the parents or student (if over 18 years of age) for hand-carrying to the receiving school.

b. An official copy of the record will be forwarded to the receiving school in accordance with current regulations upon request. (The original record is retained at the school.)

N. *College absentee files.* Destroyed at the school after 1 year.

O. *College academic record files (college transcripts).* 1. Permanent file.

2. When a student transfers to another college or university, this file (transcript) is forwarded by mail to officials of the receiving school upon receipt of an authorized request.

3. Original files (transcripts) are retained at the college for 10 years then retired to East Point FARC.

P. *College report card files.* Released to student at the end of the semester or school year, or on transfer of student.

Q. *College teacher class register files.* Retained at the school for 5 years and then destroyed.

R. *College class reporting files.* Destroyed at the school after 1 year.

S. *Credit transfer certificate files.* Destroyed at the school after 1 year.

T. *College school student files.* 1. Retained at the school for 2 years.

2. When a student transfers to another school:

a. A copy of the record may be released to the parents or student (if 18 years of age) for hand-carrying to the receiving school.

b. An official copy of the record will be forwarded to the receiving school upon request pending receipt of authorized request. (The original record is retained at the school.)

U. *Automated files.* Automated files are normally retained for 1 year. However, this may vary as all information is documented in the manual files and the information in automated form may be destroyed earlier or later than 1 year for various internal purposes.

SYSTEM MANAGER AND ADDRESS:

Dr. Beth Stephens, Director, Department of Defense Dependents Schools, 2461 Eisenhower Avenue, Alexandria, Virginia 22331, telephone: (202) 325–0188.

NOTIFICATION PROCEDURE:

Information may be obtained from officials of the school concerned or from the System Manager.

RECORD ACCESS PROCEDURES:

A. Written requests for information on the records system and for instructions concerning personal visits may be forwarded to the principal of the school within 4 years after graduation, transfer, withdrawal, or death of student.

B. The fifth year, the principal should be contacted for elementary records or the System Manager for secondary records.

C. Subsequently, all requests for secondary records may be forwarded to the Department of the Army, HQ DA (DAAG–AMR), Washington, D.C. 20310, except for information from schools in Panama. These requests should be sent to: Director, DoDDS—Panama, APO Mami 34002.

D. All requests for college records should be sent to the college for the first 10 years, then to the Director, DoDDS—Panama, address above.

CONTESTING RECORD PROCEDURES:

The Agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned are contained in 32 CFR Part 286b, and OSD Administrative Instruction 81.

RECORD SOURCE CATEGORIES:

Information is obtained from the individuals concerned and their parents/guardians, teachers, and school administrators.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 84–4418 Filed 2–16–84; 8:45 am]

BILLING CODE 3810–01–M

Office of the Secretary of Defense

Defense Intelligence Agency Advisory Committee; Closed Meeting

Pursuant to the provisions of subsection (d) of Section 10 of Pub. L. 2–463, as amended by Section 5 of Pub. L. 94–409, notice is hereby given that a closed meeting of a Panel of the DIA Advisory Committee has been scheduled as follows: Thursday, 8 March 1984, Rosslyn, VA.

The entire meeting, commencing at 0900 hours is devoted to the discussion of classified information as defined in Section 552b(c)(1), Title 5 of the U.S. Code and therefore will be closed to the public. Subject matter will be used in a special study on Arms Control Verification.

Dated: February 14, 1984.

M.S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 84–4402 Filed 2–16–84; 8:45 am]

BILLING CODE 3810–01–M

Special Operations Policy Advisory Group; Meeting

The Special Operations Policy Advisory Group (SOPAG) will meet in closed session 29 February 1984 in the Pentagon, Arlington, Virginia.

The mission of the SOPAG is to advise the Office of the Secretary of Defense on key policy issues related to the development and maintenance of effect Special Operations Forces.

A meeting of the SOPAG has been scheduled for 29 February 1984 to discuss sensitive, classified topics.

In accordance with Section 10(d) of Pub. L. 92–463, the "Federal Advisory Committee Act," and Section 552b(c)(1) of Title 5, United States Code, this meeting will closed to the public.

Dated: February 14, 1984.

M. S. Healy,

OSD Federal Register Liaison, Washington Headquarters Services, Department of Defense.

[FR Doc. 84–4401 Filed 2–16–84; 8:45 am]

BILLING CODE 3810–01–M

Department of the Army

Army Science Board; Meeting Change

The following change has occurred for the meeting of the Army Science Board Ad Hoc Subgroup on the Army's LXH Aircraft Program which was originally announced in the **Federal Register** issue of Thursday, January 26, 1984 (49 FR 3239), FR Doc. No. 84–2201:

Dates of Meeting: Tuesday, Wednesday, and Thursday, 20, 21, and 22 March 1984 (instead of Tuesday through Thursday, 21–23 February 1984).

Sally A. Warner,

Administrative Officer.

[FR Doc. 84–4404 Filed 2–14–84; 4:12 pm]

BILLING CODE 3710–08–M

Army Science Board's Closed Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following Committee Meeting:

Name of the committee: Army Science Board (ASB).

Dates of meeting: Thursday & Friday, 8 & 9 March 1984.

Times: 0830–1700 hours (Closed).

Place: Washington, D.C. area—exact location to be determined

Agenda: The Army Science Board Ad Hoc Subgroup on Light Equipment will meet for classified briefings and discussions. This meeting will be closed to the public in accordance with Section 552b(c) of Title 5, U.S.C., specifically subparagraph (1) thereof, and Title 5, U.S.C., Appendix 1, subsection 10(d). The classified and nonclassified matters to be discussed are so inextricably intertwined so as to preclude opening any portion of the meeting. The Army Science Board Administrative Officer, Sally Warner, may be contacted for further information at (202) 695–3039 or 695–7046.

Sally A. Warner,

Administrative Officer.

[FR Doc. 84–4415 Filed 2–16–84; 8:45 am]

BILLING CODE 3710–08–M

Army Science Board; Closed Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following Committee Meeting:

Name of the committee: Army Science Board (ASB).

Dates of meeting: Tuesday & Wednesday, 13 & 14 March 1984.

Times: 0830–1700 hours (Closed).

Place: The Pentagon, Washington, D.C.

Agenda: The Army Science Board Manning a Ready Force Subpanel of the 1984 Summer Study on Leading and Manning Army 21 will

meet for classified briefings and discussions addressing the following (1) How can high technology improve mobilization?; (2) Explore Army Reserve and Army National Guard view of mobilization from a personnel standpoint; and, (3) Manpower and manning requirements for Army 21. This meeting will be closed to the public in accordance with Section 552b(c) of Title 5, U.S.C., specifically subparagraph (1) thereof, and Title 5, U.S.C., Appendix 1, subsection 10(d). The classified and nonclassified matters to be discussed are so inextricably intertwined so as to preclude opening any portion of the meeting. The Army Science Board Administrative Officer, Sally Warner, may be contacted for further information at (202) 695–3039 or 695–7046.

Sally A. Warner,

Administrative Officer.

[FR Doc. 84-4416 Filed 2-16-84; 8:45 am]

BILLING CODE 3710-08-M

Army Science Board; Closed Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following Committee Meeting:

Name of the committee: Army Science Board (ASB).

Dates of meeting: Thursday & Friday, 15&16 March 1984.

Times: 0830–1700 hours (Closed).

Place: 15 March 1984—The Pentagon, Washington, DC. 16 March 1984—U.S. Army Intelligence and Security Command, Arlington, Virginia.

Agenda: The Army Science Board Personnel Factors in Weapons System Performance Subpanel of the 1984 Summer Study on Leading and Manning Army 21 will meet for classified and proprietary briefings and discussions on personnel problems with specific weapon systems, hardware-manpower methodology, program manager training, and human technologies. This meeting will be closed to the public in accordance with Section 552b(c) of Title 5, U.S.C., specifically subparagraphs (1 and 4) thereof, and Title 5, U.S.C. App. 1, subsection 10(d). The classified/nonclassified and proprietary/nonproprietary matters to be discussed are so inextricably intertwined so as to preclude opening any portion of the meeting. The Army Science Board Administrative Officer, Sally Warner, may be contacted for further information at (202) 695–3039 or 695–7046.

Sally A. Warner,

Administrative Officer.

[FR Doc. 84-4417 Filed 2-16-84; 8:45 am]

BILLING CODE 3710-08-M

Army Science Board; Open Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following Committee Meeting:

Name of the committee: Army Science Board (ASB).

Date of meeting: Wednesday, 21 March 1984.

Time: 0830–1700 hours (Open).

Place: Fort Belvoir, Virginia.

Agenda: The ASB Leadership Subpanel of the 1984 Summer Study on Leading and Manning Army 21 will meet for briefings and discussions on leadership development programs and techniques. This meeting is open to the public. Any interested person may attend, appear before, or file statements with the committee at the time and in the manner permitted by the committee. For further information please contact Sally Warner, the ASB Administrative Officer, at (202) 695–3039 or 695–7046.

Sally A. Warner,

Administrative Officer.

[FR Doc. 84-4419 Filed 2-16-84; 8:45 am]

BILLING CODE 3710-08-M

Army Science Board; Open Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following Committee Meeting:

Name of the committee: Army Science Board (ASB).

Date of meeting: Friday, 23 March 1984.

Time: 0830–1700 hours (Open).

Place: Fort Lee, Virginia.

Agenda: The ASB Leadership Subpanel of the 1984 Summer Study on Leading and Manning Army 21 will meet for briefings and discussions on leadership development programs and techniques. This meeting is open to the public. Any interested person may attend, appear before, or file statements with the committee at the time and in the manner permitted by the committee. For further information please contact Sally Warner, the ASB Administrative Office, at (202) 695–3039 or 695–7046.

Sally A. Warner,

Administrative Officer.

[FR Doc. 84-4420 Filed 2-16-84; 8:45 am]

BILLING CODE 3710-08-M

United States Army Medical Research and Development Advisory Committee, Subcommittee on Medical Entomology; Partially Closed Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. Appendix, Sections 1–15), announcement is made of the following Subcommittee Meeting:

Name of Committee: United States Army Medical Research and Development Advisory Committee, Subcommittee on Medical Entomology

Date of meeting: March 12, 1984.

Time and place: 0830 hrs, Bldg 1425, Conference Room, US Army Medical Research Institute of Infectious Diseases, Fort Detrick, Frederick, MD.

Proposed agenda: This meeting will be open to the public from 0830–1015 hrs for the administrative review and discussion of the scientific research program of the Medical Entomology Group, Walter Reed Army Institute of Research. Attendance by the public at open sessions will be limited to space available.

In accordance with the provisions set forth in Section 552b(c)(6), US Code, Title 5 and Section 1–15 of Appendix, the meeting will be closed to the public from 1030–1630 hrs for the review, discussion and evaluation of individual programs and projects conducted by the US Army Medical Research and Development Command, including consideration of personnel qualifications and performance, the competence of individual investigators, medical files of individual research subjects, and similar items, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Dr. Howard Noyes, Associate Director for Research Management, Walter Reed Army Institute of Research, Bldg 40, Room 1111, Walter Reed Army Medical Center, Washington, DC 20307 (202/576–2436) will furnish summary minutes, roster of Subcommittee members and substantive program information.

For the Commander.

Fred C. Brand

Colonel, MSC, Executive Officer.

[FR Doc. 84-4414 Filed 2-16-84; 8:45 am]

BILLING CODE 3710-92-M

United States Army Medical Research and Development Advisory Committee, Subcommittee on Trauma; Partially Closed Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. Appendix, Section 1–15), announcement is made of the following subcommittee meeting:

Name of committee: United States Army Medical Research and Development Advisory Committee, Subcommittee on Trauma.

Date of meeting: March 12 and 13, 1984.

Time and place: 0830 hrs, Marriott Hotel, San Antonio, Texas.

Proposed agenda: This meeting will be open ot the public from 0830–1030 hrs on March 12 and from 1300–1700 hrs March 13 for the administrative review and discussion of the scientific research program of the Trauma Group, Letterman Army Institute of Research. Attendance by the public at open sessions will be limited to space available.

In accordance with the provisions set forth in Section 552b(c)(6), U.S. Code, Title 5 and Section 1–15 of Appendix, the meeting will be closed to the public from 1040–1200 hrs and 1300–1700 hrs on March 12, and from 0800–1200 hrs on March 13, for the review, discussion and evaluation of individual programs and projects conducted by the U.S. Army Medical Research and Development Command, including consideration of personnel qualifications and performance, the competence of individual investigators, medical files of individual research subjects,

and similar items, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Dr. Ryan Neville, Assistant Director, Research Contract Management, Letterman Army Institute of Research, Presidio of San Francisco, CA 94129 (415/561-4367) will furnish summary minutes, roster of subcommittee members and substantive program information.

For the Commander.

Fred C. Brand,

Colonel, MSC, Executive Officer.

[FR Doc. 84-4413 Filed 2-16-84; 8:45 am]

BILLING CODE 3710-92-M

DEPARTMENT OF EDUCATION

Office of Postsecondary Education

List of Accrediting Agencies To Be Reviewed

AGENCY: Department of Education.

ACTION: Notice—List of accrediting agencies to be reviewed under a special procedure.

SUMMARY: The Secretary lists nationally recognized accrediting agencies with the assistance of recommendations from the National Advisory Committee on Accreditation and Institutional Eligibility. Recommendations to the Secretary concerning renewal of recognition of accrediting agencies already on the list is handled under a special review procedure. The list of agencies to which the Advisory Committee has applied this procedure is composed of (1) agencies that were awarded the full four-year recognition period in their last review and (2) agencies that have submitted interim reports. The Advisory Committee is relying on the Eligibility and Agency Evaluation Staff analyses of these agencies and public comment on the analyses to formulate recommendations to the Secretary.

DATE: Comments on these analyses must be received no later than March 19, 1984.

ADDRESS: Comments may be submitted to Richard J. Rowe, Director, Eligibility and Agency Evaluation Staff, Office of Postsecondary Education, 400 Maryland Avenue, SW., (Room 3030, ROB-3), U.S. Department of Education, Washington, D.C. 20202.

FOR FURTHER INFORMATION CONTACT: Richard J. Rowe, Telephone: (202) 245-9873.

SUPPLEMENTARY INFORMATION: This document is intended to advise the public that the National Advisory Committee on Accreditation and Institutional Eligibility, in making recommendations to the Secretary regarding his responsibility for listing accrediting agencies as required by 20 U.S.C. 1141(a), 20 U.S.C. 1094(b)(3) and other statutes, is following a special review procedure regarding some agencies.

Usually the Advisory Committee reviews in detail each report and petition and each staff analysis and hears oral presentations from the petitioning agencies and interested third parties before formulating the recommendations to the Secretary regarding the accrediting agencies.

The special procedure for reviewing agency petitions and interim reports will reduce the depth of review by the Advisory Committee of agencies that were awarded the full four-year recognition period in their last review, and of agencies which have submitted interim reports. The Advisory Committee will use both staff analyses and public comment before submitting final recommendations to the Secretary regarding the list of these agencies as required under 34 CFR Part 603.

This notice provides the names of the agencies being reviewed under this special procedure. The Department's Eligibility and Agency Evaluation Staff has prepared analyses of the petitions and reports of these agencies according to the criteria in 34 CFR 603.6, and has prepared recommendations on them.

The public is offered an opportunity to comment on these analyses before the Advisory Committee makes final recommendations to the Secretary.

The reports and petitions of the following agencies are being reviewed:

Petitions for Recognition As Nationally Recognized Accrediting Agencies and Associations

A. Petitions for Continuation of Recognition

American Dental Association, Commission on Dental Accreditation

Proposed Recommendation: Continue recognition for a period of four years.

Society of American Foresters

Proposed Recommendation: Continue recognition for a period of four years.

B. Interim Reports

American College of Nurse-Midwives, Division of Accreditation

Proposed Recommendation: Accept the report.

Association of Advanced Rabbinical and Talmudic Schools, Accreditation Commission

Proposed Recommendation: Accept the report.

National Association of Schools of Theatre, Commission on Accreditation

Proposed Recommendation: Accept the report.

Invitation to Comment

A copy of the analysis of any of the reports and petitions submitted by the agencies listed in this Notice may be obtained from Richard J. Rowe.

Dated: February 13, 1984.

T. H. Bell,

Secretary of Education.

[FR Doc. 84-4421 Filed 2-16-84; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP82-119-007]

Algonquin Gas Transmission Co.; Amendment to Application

February 14, 1984.

Take notice that on January 26, 1984, Algonquin Gas Transmission Company (Algonquin Gas), 1284 Soldiers Field Road, Boston, Massachusetts 02135, filed in Docket No. CP82-119-004 an amendment to its application in Docket No. CP82-119-000 for a certificate of public convenience and necessity pursuant to Section 7(c) of the Natural Gas Act authorizing the transportation and sale for resale of natural gas from domestic supply sources and the construction and operation of facilities therefor, all as more fully set forth in the amendment on file with the Commission and open to public inspection.

Algonquin proposes in the instant amendment to purchase up to 63,360 MMBtu per day of domestic gas supplies from Consolidated Gas Supply Corporation (Consolidated) and up to 18,760 MMBtu per day of domestic gas supplies from National Fuel Gas Supply Corporation (National Fuel). In the case of the purchase from Consolidated, Algonquin would cause the gas to be transported from Consolidated's facilities to the facilities of Algonquin by Texas Easter Transmission Corporation (Texas Eastern). Algonquin would then sell such gas to its customers under proposed Rate Schedule F-2. In the case of National Fuel, Algonquin would cause the gas to be transported from National Fuel's facilities to the facilities of Algonquin by Transcontinental Gas Pipe Line Corporation (Transco). Algonquin would then sell such gas to its customers under proposed Rate Schedule F-3. All of Algonquin's customers would purchase some gas under each rate schedule by November 1, 1986.

Algonquin proposes to render service under Rate Schedules F-2 and F-3 to certain of its customers which have

chosen to receive such service. Quantities available from Consolidated and National Fuel have been apportioned on a *pro rata* basis between Rate Schedule F–2 and Rate Schedule F–3, and customers are assigned maximum daily entitlements to service under each rate schedule on such basis. Algonquin requests authority to recover, on a current cost basis, all charges imposed by Consolidated, National Fuel, Texas Eastern, and Transco, for the services underlying Rate Schedules F–2 and F–3, and for authority to flow through, on a current cost basis, any changes in charges or conditions of service made by the companies supplying the services underlying Rate Schedules F–2 and F–3.

Algonquin proposes to make the following sales:

	Predevelopment period for the period *November 1, 1984–October 31, 1985*		
	F–2	*F–3*	*Total*
Boston Gas Co	215	175	390
Bristol and Warren Gas Co	1,376	1,122	2,498
Colonial Gas Co	6,620	5,393	12,013
Commonwealth Gas Co			
The Connecticut Light & Power Co			
Connecticut Natural Gas Corp	4,475	3,644	8,119
Granite State Gas Transmission, Inc			
Town of Middleborough, Mass	72	58	130
North Attleboro Gas Co	33	27	60
City of Norwich, Conn	526	429	955
The Pequot Gas Co	67	54	121
Providence Gas Co	1,653	1,347	3,000
South County Gas Co	145	118	263
The Southern Connecticut Gas Co	2,964	2,415	5,379
Total	18,146	14,782	32,926

	November 1, 1985–October 31, 1986		
	F–2	*F–3*	*Total*
Boston Gas Co	225	165	390
Bristol and Warren Gas Co	1,440	1,058	2,498
Colonial Gas Co	6,927	5,086	12,013
Commonwealth Gas Co			
The Connecticut Light & Power Co			
Connecticut Natural Gas Corp	4,682	3,437	8,119
Granite State Gas Transmission, Inc			
Town of Middleborough, Mass	75	55	130
North Attleboro Gas Co	46	34	80
City of Norwich, Conn	551	404	955
The Pequot Gas Co	70	51	121
Providence Gas Co	2,883	2,117	5,000
South County Gas Co	152	111	263
The Southern Connecticut Gas Co	3,102	2,277	5,379
Total	20,153	14,795	34,948

	November 1, 1986–Termination		
	F–2	*F–3*	*Total*
Boston Gas Co	21,138	6,259	27,397
Bristol and Warren Gas Co	351	39	390
Colonial Gas Co	1,928	570	2,498
Commonwealth Gas Co	10,237	3,031	13,268
The Connecticut Light & Power Co	5,792	1,768	7,740
Connecticut Natural Gas Corp	6,264	1,855	8,119
Granite State Gas Transmission Inc	5,200	1,540	6,740
Town of Middleborough, Mass	116	34	150
North Attleboro Gas Co	77	23	100
City of Norwich, Conn	737	218	955
The Pequot Gas Co	93	28	121
Providence Gas Co	6,172	1,828	8,000
South County Gas Co	203	60	263
The Southern Connecticut Gas Co	4,922	1,457	6,379
Total	63,360	18,760	82,120

Algonquin also request authority to construct and operate facilities necessary to render service under proposed Rate Schedules F–2 and F–3. These facilities consist of certain pipeline looping and replacement, including 10.3 miles of loop on Algonquin's M system from its mainline in Chesire, Connecticut, to the Farmington, Connecticut, meter station, 1.8 miles of loop on its C1 system in North Haven, Connecticut, and 0.12 mile of pipeline on its B1 system in Naugatuck, Connecticut. Such facilities also would include four 3,830 h.p. turbine engine compressor units at Hanover, New Jersey, Stoney Point, New York, and Cromwell, Connecticut; miscellaneous meter and regulator station modifications at various points including Hanover, New Jersey; and a new interconnection with Transco near Centerville, New Jersey. Algonquin estimates the cost of these facilities to be $49.6 million.

Construction would preceed in stages, reaching full firm service November 1, 1986. Algonquin proposes to charge a $19.53 per MMBtu demand charge and a $.1474 per MMBtu commodity charge when all proposed facilities have been constructed. For interim years beginning November 1, 1984, Algonquin proposes to charge rates which reflect the cost of the facilities installed to provide service at that time. For the period beginning November 1, 1984, Algonquin proposes to deliver 18,146 MMBtu per day under proposed Rate Schedules F–2 and 14,782 MMBtu per day under proposed Rate Schedule F–3. Algonquin request permission to adjust the rates for service under Rate Schedules F–2 and F–3 to reflect the cost of facilities installed at each build-up stage of service.

Algonquin states that this amendment is filed to implement agreements by Algonquin and its customers in Phase 1a of the *Boundary Gas, Inc.*, Docket No. CP81–107–000, *et al.*, proceedings.

Any person desiring to be heard or to make any protest with reference to said amendment should on or before February 23, 1984, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules. Persons who have heretofore filed need not file again.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84–4428 Filed 2–16–84; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP84–226–000]

Columbia Gas Transmission Corp. and Columbia Gulf Transmission Co.; Request Under Blanket Authorization

February 13, 1984.

Take notice that on February 7, 1984, Columbia Gas Transmission Corporation (Columbia), P.O. Box 1273, Charleston, West Virginia 25325–1273 and Columbia Gulf Transmission Company (Columbia Gulf,), P.O. Box 683, Houston, Texas 77001, filed in Docket No. CP84–226–000 a joint request pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) that they propose to transport natural gas on behalf of WESTVACO Corporation (WESTVACO) for use as boiler fuel under authorizations issued in Docket Nos. CP83–76–000 and CP83–496–000, respectively, pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

Columbia and Columbia Gulf propose to transport for one year up to 4,625 dt equivalent of natural gas per day for WESTVACO. It is indicated that Exxon Corporation (Exxon) and Delhi Gas Pipeline Corporation (Delhi) would deliver natural gas to Columbia Gulf and that Columbia Gulf would transport and deliver equivalent volumes to Columbia. It is further stated that in turn Columbia would transport and deliver equivalent volumes of natural gas to Columbia Gas of West Virginia, Inc. (CWV), in Beryle, West Virginia. Columbia states that it has released the Exxon gas and that these supplies are subject to the ceiling price provisions of Sections 102 and 103 of the Natural Gas Policy Act of 1978. It is also stated that the gas sold by Delhi to WESTVACO

would not be release gas. It is further indicated that WESTVACO would purchase this natural gas from Exxon and Delhi and that CWV is the distribution company serving WESTVACO in Beryle, West Virginia.

For this transportation it is stated that Columbia Gulf would charge WESTVACO its average system-wide onshore or offshore transmission cost, exclusive of company-use and unaccounted-for gas, currently 26.19 cents per dt equivalent and 44.63 cents per dt equivalent, respectively. Columbia Gulf would retain 2.58 percent and 3.33 percent of the gas delivered to it from onshore and offshore, respectively, for company-use and unaccounted-for gas. It is also stated that Columbia would charge WESTVACO its average system-wide storage and transmission cost, exclusive of company-use and unaccounted-for gas, currently 40.11 cents per dt. In addition Columbia would retain 2.85 percent of the gas delivered to it for company-use and unaccounted-for gas. Columbia also states that it would collect the GRI funding unit charge of 1.21 cents per dt.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and, pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-4430 Filed 2-16-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP84-228-000]

Columbia Gas Transmission Corp. and Columbia Gulf Transmission Co.; Notice of Request Under Blanket Authorization

February 13, 1984.

Take notice that on February 7, 1984, Columbia Gas Transmission Corporation (Columbia), P.O. Box 1273, Charleston, West Virginia 25325-1273, and Columbia Gulf Transmission Company (Columbia Gulf), P.O. Box 683, Houston, Texas 77001, filed in Docket No. CP84-228-000 a joint request pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) that they propose to transport natural gas on behalf of Howmet Aluminum Corporation (Howmet) under authorizations issued in Docket Nos. CP83-76-000 and CP83-496-000, respectively, pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

Columbia and Columbia Gulf propose to transport for one year up to 3,000 dt equivalent of natural gas per day for Howmet. It is indicated that Exxon Corporation would deliver natural gas to Columbia Gulf and that Columbia Gulf would transport and deliver equivalent volumes to Columbia. It is further stated that in turn Columbia would transport and deliver equivalent volumes of natural gas to UGI Corporation (UGI) in Lancaster, Pennsylvania. Columbia states that it has released this gas and that these supplies are subject to the ceiling price provisions of Sections 102 and 103 of the Natural Gas Policy Act of 1978. It is further indicated that Howmet would purchase this released natural gas from Exxon and the UGI is the distribution company serving Howmet in Lancaster, Pennsylvania, and that Howmet would use these volumes in melting of aluminum, painting, annealing and space heating of buildings in its Lancaster, Pennsylvania, plant.

For this transportation it is stated that Columbia Gulf would charge Howmet its average system-wide onshore or offshore transmission cost, exclusive of company-use and unaccounted-for gas, currently 26.19 cents per dt equivalent and 44.63 cents per dt equivalent, respectively. Columbia Gulf would retain 2.58 percent and 3.33 percent of the gas delivered to it from onshore and offshore, respectively, for company-use and unaccounted-for gas. It is also stated that Columbia would charge Howmet its average system-wide storage and transmission cost, exclusive of company-use and unaccounted-for gas, currently 40.11 cents per dt. In addition Columbia would retain 2.85 percent of the gas delivered to it for company-use and unaccounted-for gas. Columbia also states that it would collect the GRI funding unit charge of 1.21 cents per dt.

Any person or the Commisson's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-4431 Filed 2-16-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP84-7-001]

National Fuel Gas Supply Corp.; Amendment to Application

February 14, 1984.

Take notice that on January 31, 1984, National Fuel Gas Supply Corporation (National Fuel), 10 Lafayette Square, Buffalo, New York 14203, filed in Docket No. CP84-7-001 an amendment to its application in Docket No. CP84-7-000 for a certificate of public convenience and necessity pursuant to Section 7(c) of the Natural Gas Act authorizing the sales in interstate commerce of natural gas for resale to certain purchasers in New Jersey, New York, and the New England area, as more full set forth in the amendment which is on file with the Commission and open to public inspection.

National Fuel proposes to make the following sales:

Purchaser	Commencement through Oct. 31, 1984, interruptible (dt/d)	Nov. 1, 1984 through Oct. 31, 1985, firm (dt/d)	Nov. 1, 1985 to termination firm (dt/d)
Algonquin Gas Transmission Company [1]	14,782	14,795	18,795
The Brooklyn Union Gas Company	0	0	3,250
Consolidated Edison Company of New York, Inc.	5,500	5,500	7,800
Elizabethtown Gas Company	1,000	1,000	1,095
New Jersey Natural Gas Company	0	0	2,250
Public Service Electric and Gas Company	15,500	15,500	6,850
Total	36,782	36,795	40,000

[1] Deliveries from November 1, 1984, through October 31, 1985, would be interruptible, since Algonquin, it is said, would not have the necessary facilities to provide firm deliveries to its customers during this period.

Service through October 31, 1984, would be at the effective 100% load factor Rate Schedule RO rate. From

November 1, 1984, through October 31, 1992, service would be at the effective rate contained in National Fuel's Rate Schedule RO. With regard to deliveries to Algonquin Gas Transmission Company from November 1, 1984, through October 31, 1985, National Fuel proposes to charge the rate specified in its Rate Schedule RO, expressed as a commodity rate and calculated on an imputed 70% load factor basis.

The amendment states that National Fuel will deliver the gas for the account of the purchasers or Transcontinental Gas Pipe Line Corporation at the existing points of interconnection between their facilities. The amendment further states that the source of the gas proposed to be sold is National Fuel's general system supply and that this gas is surplus to the needs of National's Fuel's customers.

National Fuel states that this amendment is filed to implement agreements arrived at by National Fuel and the buyers in Phase Ia of the *Boundary Gas, Inc.*, Docket No. CP81–107–000, *et al.*, proceedings.

Any person desiring to be heard or to make any protest with reference to said amendment should on or before February 23, 1984 file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules. Persons who have heretofore filed need not file again.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84–4432 Filed 2–16–84; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP80–22–006]

Northern Natural Gas Co.; Petition for Authority for Specified Accounting and Rate Treatment for Settlement Payments Made to Consolidated Natural Gas, Limited, in Lieu of Contractual Take-or-Pay Deficiency Payment Obligations

February 14, 1984.

Take notice that on February 7, 1984, Northern Natural Gas Company, Division of InterNorth, Inc. (Northern) filed a petition pursuant to Sections 3 and 4 of the Natural Gas Act, and Parts 153 and 154 of the Commission's Regulations requesting the Commission issue an Order *first*, finding that the gas purchase contract amendments between Northern, Consolidated Natural Gas, Limited (Consolidated) and TransCanada Pipeline Limited (TransCanada) are just and reasonable; *second*, finding that the incurrence of settlement costs associated with the contract amendments are prudent; and *third*, that such settlement costs are considered to be part of the total cost of purchasing Canadian gas, and authorizing Northern to record such amount in accordance with Northern's approved Purchase Gas Adjustment Tariff (PGA).

As more fully set out in the petition, Northern states that the amend contracts with Consolidated implement a settlement reached with its Canadian supplier, TransCanada, wherein certain take-or-pay claims are waived. In total, the contract amendment, when compared to the terms of the original contract will enable Northern to reduce its purchases from Canada by approximately $240 million over the contract period. This reduction in Canadian gas purchase costs will be partially offset by the cost of increased purchases of domestic gas which is priced considerably lower than Canadian gas. Northern further states that because of the reduced level of gas to be purchased by Northern, Consolidated and TransCanada will incur contractual volume deficiency obligations with its respective suppliers. In consideration of these obligations, Northern has agreed to make certain settlement payments to Consolidated who, in turn, will make payment of the same amount to TransCanada in lieu of contractual deficiency payment obligations. Based on present estimates, the total settlement payments payable to TransCanada will be approximately $29 million for the four contract years ending October 31, 1983.

In addition, Northern has requested that the Commission, in its order accepting the proposed tariff revisions: determine the revised tariff to be just and reasonable and in the public interest; find that incurrence of costs associated with the settlement is prudent and that the settlement payments are costs of purchasing Canadian gas. The various contract amendments executed to implement this settlement provide that all governmental and regulatory approvals must be obtained by May 15, 1984 or the Agreement terminates and is of no further force or effect.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on, or before February 27, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84–4433 Filed 2–16–84; 8:45 am]

BILLING CODE 6717–01–M

[Docket Nos. ER84–198–000, et al.]

Puget Sound Power and Light Co., et al.; Order Accepting Rates for Filing Subject To Refund or Adjustment, Noting Interventions, and Deferring Establishment of Procedures

Issued: February 10, 1984.

On January 6, 1984, December 15, 1983, and December 13, 1983, Puget Sound Power and Light Company (Puget), Portland General Electric Company (Portland), and Montana Power Company (Montana) filed in Docket Nos. ER84–198–000, ER84–163–000, and ER84–156–000, respectively, pursuant to § 35.13(c) of the Commission's regulations (18 CFR 35.13(c)), revised Average System Cost (ASC) rates applicable to exchange sales made to the Bonneville Power Administration (BPA), under the terms of the Pacific Northwest Electric Power Planning and Conservation Act (Northwest Power Act).[1] The Northwest Power Act authorizes participating electric utility systems to sell to BPA at "average system cost" amounts of energy equivalent to their residential customers' loads and to repurchase such energy from BPA at BPA's lower preference rate.

[1] *See* Attachment for rate schedule designations.

The Commission issued a Final Rule [2] governing these exchanges on October 6, 1983. Under the established procedures, which are in substance identical to those provided for in the Commission's interim rule, jurisdictional utilities must file each ASC rate proposal with BPA. That rate is to be reviewed by BPA within 120 days. If BPA's review results in an ASC determination different from that developed by the utility, BPA is to issue a report of its findings, together with the ASC rate to be used by the utility. The utility's proposed ASC rate, BPA's report, and BPA's adjusted ASC rate, if any, must then be filed with the Commission for review. The final rules further provide that such filings are subject to the procedures applicable to other filings under section 205 of the Federal Power Act, as the Commission deems appropriate. The Commission may order changes in an ASC rate which was not determined in compliance with the final rules. The three filings addressed by this order represent the first ASC rates to be processed under the final rule.

Montana's revised ASC rate covers exchange sales to BPA for the exchange period beginning June 30, 1983. The filing includes BPA's written report and redetermination of Montana's ASC proposal. Montana also submitted objections to certain of BPA's adjustments to the ASC rate.[3]

Portland's revised ASC rate applies to the exchange period beginning July 29, 1983, and reflects Portland's quarterly Power Cost Adjustment (PCA) authorized by the Public Utility Commission of Oregon. Portland does not contest BPA's adjustments in this proceeding. However, the ASC rate represents a power cost adjustment to a base rate which has been contested by Portland in Docket No. ER83–540–000. Accordingly, Portland's objections in Docket No. ER83–540–000 apply equally to the instant dockets.[4]

Puget's revised ASC rate applies to the period beginning August 2, 1983. In addition to BPA's report, Puget also submitted a summary of BPA adjustments in this and Puget's other pending ASC proceedings [5] to which Puget objects.[6] Also, Puget moves for consolidation of all of its pending ASC proceedings and requests expedited review, including "an independent audit" by the Commission staff, a settlement conference, and the initiation of a hearing.

Notices of the filings were published in the **Federal Register**, with comments due by January 13, 1984, January 19, 1984, and February 1, 1984, in Docket Nos. ER84–156–000, ER84–163–000, and ER84–198–000, respectively. Timely interventions were filed by BPA and by BPA's Direct Service Industrial Customers (DSIs) [7] in all three dockets.

Neither BPA nor the DSIs raise any issues not previously identified in other pending Portland and Montana ASC proceedings.[8] In Docket No. ER84–198–000, the DSI's raise several issues advanced in other Puget ASC dockets and also several new issues regarding reconcilation of Puget's filing in Docket No. ER84–198–000 with its latest rate order from the Washington Commission.[9] BPA has raised no new issues in Docket No. ER84–198–000. BPA and the DSI's also state their intention to file written comments in the future and reserve the right to request a hearing or oral argument.

BPA and the DSIs also filed timely answers in opposition to Puget's motion for consolidation and request for expedited review. They allege that Puget is seeking preferential treatment and seeking to avoid the procedures established in Order No. 337 for resolution of contested generic issues.

On February 1, 1984, the Washington Utilities and Transportation Commission filed a motion in Docket No. ER84–198–000 for an order convening a Joint State Board, pursuant to section 9(g) of the Northwest Power Act, for purposes of reviewing ASC rates that will affect residential customers in the State of Washington.

Discussion

Under Rule 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.214), the unopposed interventions serve to make BPA and the DSIs parties to the proceedings in Docket Nos. ER84–163–000, ER84–156–000 and ER84–198–000.

As noted the filings in these proceedings are the first ASC filings to be considered subsequent to the effective date of the final rules regarding the ASC methodology. In each instance where ASC rates were accepted for filing under the interim rules, the filing utility and/or the DSIs have objected to certain of BPA's adjustments. Our policy under the interim rules was to hold in abeyance any decision on contested issues and procedures until the final rules were issued. In addition, we have stated that the determinations will be made "with such assistance from the Joint Board as the Commission determines to be appropriate." *See*, 17 FERC ¶ 61,005. We have also granted parties sixty days from the effective date (January 10, 1984) of our Final Rule, on the ASC methodology in which to file comments as to whether they intend to pursue issues previously raised.[10] When these filings are received, we may find that there are common questions of law or fact that will lend themselves to consolidated or generic proceedings. At such time, we can best determine what procedures will most efficiently and most expeditiously resolve these cases, and what the appropriate role of the Joint Board should be in assisting the Commission in its determinations.

We shall therefore accept for filing the BPA adjusted ASC rates for Puget, Portland, and Montana in Docket Nos. ER84–198–000, ER84–163–000, and ER84–156–000, respectively. The rates shall become effective, subject to refund or further adjustment, as of August 2, 1983, July 29, 1983, and June 30, 1983, respectively.

While we do not wish to impede a prompt resolution of the issues in these proceedings, we decline to formally

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[2] Order No. 337, Docket No. RM81–41–000, Sales of Electric Power to the Bonneville Power Administration; Methodology and Filing Requirements; Final Rule. 25 FERC ¶ 61,055. The final rules became effective on January 10, 1984.

[3] The adjustments contested by Montana include: (1) Exclusion of the cost of certain new load from the ASC; (2) exclusion from ASC of costs relating to radial lines; (3) BPA's use of gross plant ratios to functionalize general plant maintenance; and (4) BPA's loss factor adjustments.

[4] The major issue in Docket No. ER83–540–000 relates to alleged terminated plant costs excluded by BPA from Portland's ASC rate. BPA has adjusted Portland's revised ASC rate in the instant docket to reflect the same adjustment to Portland's base rate as that made in Docket No. ER83–540–000.

[5] Puget's other pending ASC proceedings are in Docket Nos. ER82–448–000, ER82–715–000, ER83–44–000, ER83–45–000, ER83–46–000, ER83–187–000, ER83–334–000, ER83–541–000, ER83–567–000, ER83–706–000, and ER84–40–000.

[6] Puget objects to, *inter alia*, BPA's treatment of the Washington Public Utility Tax, terminated plant costs, functionalization, plant investment, working capital, administrative and general expenses, regulatory expenses, radial lines, and Federal income taxes.

[7] The DSIs are Aluminum Company of America, ARCO Metals Company, The Carborundum Company, Georgia-Pacific Corporation, Intalco Aluminum Corporation, Kaiser Aluminum and Chemical Corporation, Maritn Marietta Alumninum, Inc., Oregon Metalurgical Corporation, Pacific Carbide and Alloys Co., Pennwalt Corporation, and Reynolds Metal Company.

[8] Portland has other ASC proceedings pending in Docket Nos. ER83–540–000, ER84–42–000, ER82–533–000, ER82–539–000, and ER83–573–000, and ER82–462–000. Montana has other ASC proceedings pending in Docket No. ER83–386–000.

[9] These issues include functionalization of attritian allowance, purchased power, transmission operation and maintenance expenses and depreciation.

[10] *See* Order No. 337, 25 FERC ¶ 61,055.

expedite the proceedings at this time. The ASC rates will be collected subject to refund or adjustment; therefore, no prejudice should result to the parties pending resolution of these cases.

Puget's pleadings are not entirely clear as to what is contemplated in its request for an "independent audit" by the Commission staff. Puget may wish to further articulate its request. In any event, we find in light of the discussion above that it would be premature to act on Puget's request for an audit at this time.

The Commission orders:

(A) Puget's, Portland's, and Montana's ASC rates in Docket Nos. ER84–198–000, ER84–163–000, and ER84–156–000, respectively, as adjusted by BPA, are hereby accepted for filing, to become effective as of August 2, 1983, July 29, 1983, and June 30, 1983, respectively, subject to refund or further adjustment, pending further proceedings to be established as discussed in the body of this order.

(B) Action on the Washington Commission's motion to convene a Joint State Board is hereby deferred as discussed in the body of this order.

(C) The Secretary shall promptly publish this order in the **Federal Register**.

By the Commission.

Kenneth F. Plumb,

Secretary.

RATE SCHEDULE DESIGNATIONS

Designation	Description
Docket No. ER84-156-000	
Montana Power Company	
Supplement No. 5 to Supplement No. 3 to Montana Power Company/Bonneville Power Administration Service Agreement under Pacific Northwest Electric Power Planning and Conservation Act FERC Electric Tariff Original Volume No. 1 (Supersedes Supplement No. 4 to Supplement No. 3).	Revised ASC for Montana Jurisdiction with BPA Report.
Docket No. ER84-163-000	
Portland General Electric Company	
Supplement No. 11 to Supplement No. 3 to Portland General Electric Company/Bonneville Power Administration Service Agreement under Pacific Northwest Electric Power Planning and Conservation Act FERC Electric Tariff Original Volume No. 1 (Supersedes Supplement No. 10 to Supplement No. 3).	Revised ASC for Oregon Jurisdiction with BPA Report.
Docket No. ER84-198-000	
Puget Sound Power & Light Company	
Supplement No. 11 to Supplement No. 3 to Puget Sound Power & Light Company/Bonneville Power Administration Service Agreement under Pacific Northwest Electric Power Planning and Conservation Act FERC Electric Tariff Original Volume No. 1 (Supersedes Supplement No. 10 to Supplement No. 3).	Revised ASC for Washington Jurisdiction with BPA Report.

[FR Doc. 84-4341 Filed 2-16-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. RP82-57-013 and RP3-52-007]

United Gas Pipeline Co.; Proposed Changes in FERC Gas Tariff

February 14, 1984

Take notice that United Gas Pipeline Company (United), on February 3, 1984, tendered for filing Sixty-Fifth Revised Sheet No. 4, Thirteenth Revised Sheet No. 4–C, and First Revised Sheet No. 4–D to its FERC Gas Tariff, First Revised Volume No. 1.

United states that these sheets are submitted to implement the approved Interim Settlement Agreement in Docket Nos. RP82–57–012 and RP83–52–006. United requests waiver of § 154.22 of the Code of Federal Regulations to permit these tariff sheets to be effective January 1, 1984.

Copies of the filing will be served upon United's jurisdictional customers and the public service commissions of the states of Alabama, Florida, Louisiana and Mississippi, and the Texas Railroad Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 385.214 and 385.211 of this chapter. All such petitions or protests should be filed on or before February 24, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-4437 Filed 2-16-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-108-000]

Virginia Electric and Power Co.; Order Accepting for Filing and Suspending Rates, Noting Interventions, Granting Waiver of Notice Requirements, and Establishing Hearing Procedures

Issued: February 10, 1984.

On November 21, 1983, as completed on December 14, 1983, Virginia Electric and Power Company (VEPCO) tendered for filing an Interconnection and Operating Agreement with Old Dominion Electric Cooperative (Old Dominion) to supersede individual rate schedules with 10 Virginia electric cooperatives.[1] VEPCO proposes to cease serving the individual members of Old Dominion [2] and to begin service directly to Old Dominion under the proposed rates as of the closing date of VEPCO's sale to Old Dominion of an 11.6% ownership interest in the North Anna nuclear generating Unit Nos. 1 and 2.[3] The proposed rates reflect two phases, the second of which includes allowances for construction work in progress (CWIP). These rates were derived using the cost of service underlying the filed rates to the individual electric cooperatives which are currently under investigation in Docket Nos. ER83–430–000 and ER83–618–000. However, the cost of service has been adjusted to exclude all costs associated with the North Anna units.[4]

VEPCO requests waiver of the notice requirements to allow the proposed non-CWIP rates to become effective, subject to refund, as of the closing date for the sale of the North Anna units and to allow the proposed CWIP rates to become effective on January 31, 1984, subject to refund, to coincide with the

[1] *See* Attachment for rate schedule designations. Although VEPCO's original filing was submitted on November 21, 1983, the filing was not completed until December 14, 1983, when the company tendered various amendments and corrections to its original submittal.

[2] The members of Old Dominion are BARC, Community, Mecklenburg, Northern Neck, Northern Virginia, Prince George, Rappahannock, Shenandoah Valley, and Southside Electric Cooperatives. VEPCO states that the instant filing will not supersede agreements with the Central Virginia on Craig-Botetourt Electric Cooperatives, since these cooperatives have elected not to remain members of Old Dominion.

[3] As contemplated in the filing, the partial sale of the North Anna units to Old Dominion was consummated on December 21, 1983.

[4] The rates currently on file were also submitted in two phases. Rates excluding allowances for CWIP were accepted for filing and suspended for five months to become effective on October 31, 1983, subject to refund, in a Commission order issued on May 27, 1983, in Docket No. ER83–430–000, 23 FERC ¶61,289, *clarified*, 24 FERC ¶61.0185. The CWIP phase was suspended to become effective on January 31, 1984, subject to refund, by Commission order issued on August 30, 1983, in Docket No. ER83–618–000. 24 FERC ¶61,265. The currently proposed rates include a transmission service charge, supplemental power charges, separate charges for service at the bear Island delivery point, a charge for reserve power, and an excess facilities charge. The proposed supplemental power rates and rates for service at Bear Island reflect both a CWIP and non-CWIP phase, similar to the rates filed in Docket Nos. ER83–430–000 and ER83–618–000. The proposed transmission, reserve power, and excess facilities charges do not include a CWIP component. The proposed rates for service at Bear Island and the excess facilities charge are essentially identical to the rates filed for such services in Docket Nos. ER83–430–000 and ER83–618–000.

effective date of VEPCO's previously filed CWIP rates. VEPCO also requests that this docket not be consolidated with Docket Nos. ER83–430–000 and ER83–618–000, stating that a settlement in principle has been reached in those dockets and that consolidation would delay prompt resolution of the proceedings. In view of the fact that the proposed rates are based on the same cost of service as the rates currently under investigation, VEPCO requests that any hearing on the proposed rates be held in abeyance until Docket Nos. ER83–430–000 and ER83–618–000 are resolved, noting that resolution of those dockets will eliminate many of the common issues.

Notice of VEPCO's filing was published in the **Federal Register**, with comments due on or before December 30, 1983.[5] Old Dominion and Bear Island Paper Company (BI) filed timely motions to intervene. BI states that it is a high load factor industrial customer which purchases power furnished by VEPCO to Rappahannock Electric Cooperative. Although BI raises no specific cost of service issues, the company requests that the proposed rates be suspended for at least one day and set for hearing.

Old Dominion requests suspension of the proposed rates, but concurs with VEPCO's requested effective dates. Additionally, Old Dominion requests that this docket be considered in two phases, separating the non-CWIP rates from the CWIP rates. In support of its request for suspension, Old Dominion raises several cost of service issues which are currently being addressed in Docket Nos. ER83–430–000 and ER83–618–000, as well as various issues that are directly related only to the instant filing.[6]

Discussion

Under Rule 214(c)(1) of the Commission's Rules of Practice and Procedure (18 CFR 385.214), the timely motions to intervene serve to make BI and Old Dominion parties to this proceeding.

Our preliminary review of VEPCO's filing and the pleadings indicates that VEPCO's proposed rates have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful. Accordingly, we shall accept the proposed rates for filing and suspend them as ordered below.

[5] 48 FR 56637 (1983).

[6] The additional issues raised by Old Dominion include: (1) The method for determining the transmission and distribution service rates; (2) treatment of reserve capacity revenues; and (3) determination of the cash working capital allowance.

In *West Texas Utilities Company*, Docket No. ER82–23–000, 18 FERC ¶ 61,189 (1982), we explained that where our preliminary examination indicates that proposed rates may be unjust and unreasonable and may be substantially excessive, as defined in *West Texas*, we would generally impose a five month suspension. In the instant proceeding, our examination suggests that VEPCO's proposed rates may result in substantially excessive revenues. However, we note that the proposed supplemental power rate is lower than the current firm service rate for the individual members of Old Dominion. In addition, Old Dominion requires the added transmission and reserve services included in the current filing in order to receive the benefits of its North Anna entitlement. Finally, we note that VEPCO and Old Dominion are in agreement with respect to the proposed effective dates. Under these circumstances, we find that good cause exists to waive the notice requirements and to suspend the rates for a nominal period. Accordingly, we shall suspend the proposed non-CWIP supplemental charges, non-CWIP charges for service to the Bear Island delivery point, and the reserve power, transmission, and excess facilities charges, to become effective, subject to refund, as of December 21, 1983, the closing date of the sale of the North Anna facilities. The rates reflecting CWIP will be suspended to become effective, subject to refund, on January 31, 1984.

Since the rates in the instant filing are derived from the cost of service at issue in Docket Nos. ER83–430–000 and ER83–618–000, many of the matters raised by the intervenors here may be resolved in the earlier proceeding. Furthermore, we are informed that the parties to the prior dockets have reached a settlement in principle. Therefore, we shall grant VEPCO's request to hold the hearing in this docket in abeyance pending the outcome of Docket Nos. ER83–430–000 and ER83–618–000. However, the Chief Administrative Law Judge shall have the discretion to commence proceedings when appropriate and to consolidate this proceeding with Docket Nos. ER83–430–000 and ER83–618–000, in the event that settlement of the earlier case does not occur. In addition, at such time as a hearing is convened, the presiding judge may consider the appropriateness of Old Dominion's request for phasing.

The Commission orders:

(A) VEPCO's request for waiver of the notice requirements is hereby granted.

(B) VEPCO's proposed non-CWIP supplemental charges, non-CWIP charges for service to the Bear Island delivery point, and the reserve power, transmission, and excess facilities charges are hereby accepted for filing and suspended, to become effective, subject to refund, as of December 21, 1983. The proposed rates reflecting CWIP are hereby accepted for filing and suspended, to become effective, subject to refund, on January 31, 1984.

(C) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by section 402(a) of the Department of Energy Organization Act and by the Federal Power Act, particularly sections 205 and 206 thereof, and pursuant to the Commission's Rules of Practice and Procedure and the regulations under the Federal Power Act (18 CFR, Ch. I), a public hearing shall be held concerning the justness and reasonableness of VEPCO's rates.

(D) The hearing in this docket shall be held in abeyance pending resolution of Docket Nos. ER83–430–000 and ER83–618–000. However, the Chief Administrative Law Judge is authorized to convene a hearing or to consolidate these proceedings, as noted in the body of this order, and to rule on all motions (except motions to dismiss) pending assignment of a presiding administrative law judge.

(E) The Secretary shall promptly publish this order in the **Federal Register.**

By the Commission.

Kenneth F. Plumb,

Secretary.

VIRGINIA ELECTRIC AND POWER COMPANY
RATE SCHEDULE DESIGNATIONS

[Docket No. ER84–108–000]

Designation	Description
(1) Rate Suchedule FERC No. 106 (Supersedes Rate Schedules Nos. 76,77,79,80,82,83,84,85,86 and 101, as supplemented).	Interconnection and Operating Agreement.
(2) Supplement No. 1 to Rate Schedule FERC No. 106.	Appendix B—Transmission Service Charge.
(3) Supplement No. 2 to Rate Schedule FERC No. 106.	Appendix C—Charges for Capacity and Energy Purchases by VEPCO.
(4) Supplement No. 3 to Rate Schedule FERC No. 106.	Compliance Appendix E—Charges for purchases by Old Dominion.
(5) Supplement No. 4 to Rate Schedule FERC No. 106.	Charges at Bear Island Delivery Point.
(6) Supplement No. 5 to Rate Schedule FERC No. 106 (Supersedes Supplement No. 3).	CWIP Appendix E—Charges for Purchases by Old Dominion.
(7) Supplement No. 6 to Rate Schedule FERC No. 106 (Supersedes Supplement No. 4.	Charges at Bear Island Delivery Point Including CWIP
(8) Supplement No. 7 to Rate Schedule FERC No. 106.	Appendix G—Charges for Reserve Capacity.

VIRGINIA ELECTRIC AND POWER COMPANY
RATE SCHEDULE DESIGNATIONS—Continued

[Docket No. ER84-108-000]

Designation	Description
(9) Supplement No. 8 to Rate Schedule FERC No. 108.	Appendix H—Facilities Charges.
(10) Supplement No. 9 to Rate Schedule FERC No. 108.	Appendix K—Power Factor.
(11) Supplement No. 10 to Rate Schedule FERC No. 108.	Appendix L—North Anna Nuclear Production Operation and Maintenance Expenses.

[FR Doc. 84-4342 Filed 2-16-84; 8:45 am]
BILLING CODE 6717-01-M

Blanket Notice of Determination Under the Natural Gas Policy Act for OCS Leases Issued on or After April 20, 1977

February 13, 1984.

On September 27, 1983, the Federal Energy Regulatory Commission (Commission) issued Order No. 336 under Docket Nos. RM83-3 and RM81-12 (48 FR 44508 September 29, 1983). In that order, the Commission amended its regulations relating to filing requirements for well category applications under the Natural Gas Policy Act of 1978 (NGPA). The determination process for natural gas produced from a new lease, i.e., a lease entered into on or after April 20, 1977, on the Outer Continental Shelf (OCS), and qualifying as new natural gas under Section 102 of the NGPA, was amended in two respects. First, the Commission eliminated the requirement that a determination be made for each well producing gas from a new OCS lease. Second, in lieu of filing an application for each well, the Commission now permits the grant of a new OCS lease to constitute the requisite jurisdictional agency determination that the gas is produced from a new OCS lease.

Under the new procedures, the U.S. Department of Interior, Minerals Management Service (MMS), must file within 60 days of the grant of the lease a notice of determination which includes the lease number, the area and block number, and the date on which the OCS lease was issued by the Secretary of the Interior. This determination is subject to Commission review in the same manner as other jurisdictional agency determinations.

The Commission also adopted a blanket notice of determination procedure that allows new leases that have been granted by the MMS prior to the effective date of Order No. 336 to take advantage of this new rule. Pursuant to Section 274.104(c) of the Commission's regulations, as revised by Order No. 336, notice is hereby given that on January 23, 1984, the MMS notified the Commission that the following leases in the Alaska OCS region, listed by date of sale, were granted on or after April 20, 1977, and therefore qualify as new OCS leases under Section 102 of the NGPA:

Alaska OCS Region

Date of Sale	Lease Numbers
12-01-77	OCS-Y-0083 to 0140
12-01-77	OCS-Y-0142 to 0145
12-01-77	OCS-Y-0147 to 0161
12-01-77	OCS-Y-0163 to 0165
12-01-77	OCS-Y-0167 to 0173
06-01-80	OCS-Y-0175
07-01-80	OCS-Y-0176
06-01-80	OCS-Y-0177 to 0188
07-01-80	OCS-Y-0189 to 0193
06-01-80	OCS-Y-0194 to 0198
12-01-80	OCS-Y-0199 to 0207
12-01-80	OCS-Y-0209 to 0212
12-01-80	OCS-Y-0214 to 0235
06-01-81	OCS-Y-0236
11-01-81	OCS-Y-0241 to 0253
12-01-82	OCS-Y-0254 to 0320
12-01-82	OCS-Y-0322 to 0329
12-01-82	OCS-Y-0331 to 0349
12-01-82	OCS-Y-0351 to 0371
12-01-82	OCS-Y-0373 to 0378
06-01-83	OCS-Y-0379 to 0380
06-01-83	OCS-Y-0382
06-01-83	OCS-Y-0384 to 0385
06-01-83	OCS-Y-0387 to 0427
06-01-83	OCS-Y-0429 to 0431
06-01-83	OCS-Y-0433 to 0442

On February 8, 1984, the Atlantic OCS Region Office of the MMS notified the Commission that the following leases in the Atlantic OCS Region, listed by date of sale, were granted on or after April 20, 1977, and therefore qualify as new OCS leases under Section 102 of the NGPA:

Atlantic OCS Region

South Atlantic Sale #43: 03-28-78

OCS-A-0663 to 0664
OCS-A-0666
OCS-A-0669 to 0689
OCS-A-0691 to 0693
OCS-A-0695 to 0696
OCS-A-0698 to 0708
OCS-A-0709 to 0713

Mid Atlantic Sale #49: 2-28-79

OCS-A-0102 to 0109
OCS-A-0111 to 0115
OCS-A-0117
OCS-A-0119 to 0120
OCS-A-0122 to 0125
OCS-A-0127 to 0145
OCS-A-0219

North Atlantic Sale #42: 12-18-79

OCS-A-0146 to 0147
OCS-A-0149 to 0154
OCS-A-0156 to 0159
OCS-A-0162 to 0164
OCS-A-0166 to 0184
OCS-A-0187 to 0194
OCS-A-0196 to 0204
OCS-A-0207 to 0216

South Atlantic Sale #58: 08-04-81

OCS-A-0220 to 0240
OCS-A-0242 to 0244
OCS-A-0247 to 0251
OCS-A-0254 to 0258
OCS-A-0261 to 0273

Mid Atlantic Sale: #59: 12-08-81

OCS-A-0274 to 0275
OCS-A-0297
OCS-A-0305
OCS-A-0308 to 0320
OCS-A-0323 to 0324
OCS-A-0327 to 0328
OCS-A-0330 to 0333
OCS-A-0335 to 0337
OCS-A-0339
OCS-A-0341
OCS-A-0343 to 0345
OCS-A-0347 to 0348
OCS-A-0350
OCS-A-0353 to 0354
OCS-A-0356 to 0357
OCS-A-0359 to 0367
OCS-A-0369 to 0370

Resale #2: 08-05-82

OCS-A-0372 to 0374
OCS-A-0376 to 0383
OCS-A-0385 to 0399

April 1983 Lease Offering #76:

OCS-A-0401 to 0409
OCS-A-0411 to 0414
OCS-A-0416 to 0439

South Atlantic Sale: #78: 07-26-83

OCS-A-0440 to 0450

A complete list of OCS lease numbers, with the area and block numbers and date on which each lease was issued by the Secretary of the Interior is available for inspection at the Commission's Division of Public Information, Room 1000, 825 North Capitol St., Washington, D.C. Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 275.204, file a protest with the Commission within fifteen days after publication of this notice in the **Federal Register.**

Kenneth F. Plumb,

Secretary.

[FR Doc. 4339 Filed 2-16-84; 8:45 am]
BILLING CODE 6717-01-M

Notice of Determination Under the Natural Gas Policy Act for OCS Leases Issued on or After April 20, 1977

On September 27, 1983, the Federal Energy Regulatory Commission (Commission) issued Order No. 336 under Docket Nos. RM83-3 and RM81-12 (48 FR 44508 September 29, 1983). In that order, the Commission amended its regulations relating to filing requirements for well category applications under the Natural Gas Policy Act of 1978 (NGPA). The determination process for natural gas

produced from a new lease, i.e., a lease entered into on or after April 20, 1977, on the Outer Continental Shelf (OCS), and qualifying as new natural gas under Section 102 of the NGPA, was amended in two respects. First, the Commission eliminated the requirement that a determination be made for each well producing gas from a new OCS lease. Second, in lieu of filing an application for each well, the Commission now permits the grant of a new OCS lease to constitute the requisite jurisdictional agency determination that the gas is produced from a new OCS lease.

Under the new procedures, the U.S. Department of Interior, Minerals Management Service (MMS), must file within 60 days of the grant of the lease a notice of determination which includes the lease number, the area and block number, and the date on which the OCS lease was issued by the Secretary of the Interior. This determination is subject to Commission review in the same manner as other jurisdictional agency determinations.

On February 6, 1984, the Commission received notice from MMS, Gulf of Mexico OCS Region, that on January 5, 1984, MMS conducted a lease offering for the Eastern Gulf of Mexico. Included in this offering were lease numbers OCS–G–6390 through OCS–G–6545. Pursuant to Order No. 336, these leases have been determined to qualify under NGPA Section 102(c)(1)(A), as new OCS leases granted on or after April 20, 1977.

A complete list of OCS lease numbers, with the area and block numbers for this sale is available for inspection at the Commission's Division of Public Information, Room 1000, 825 North Capitol St., Washington, D.C. Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 275.204, file a protest with the Commission within fifteen days after publication of this notice in the **Federal Register**,

Kenneth F. Plumb,

Secretary.

[FR Doc. 84–4340 Filed 2–16–84; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. QF84–147–000]

Alcon (Puerto Rico). Inc.; Application For Commission Certification of Qualifying Status of a Cogeneration Facility

February 14, 1984.

On January 27, 1984, Alcon (Puerto Rico), Inc., (Applicant) of P.O. Box 3000, Humacao, Puerto Rico 00661, submitted for filing an application for certification of a facility as a qualifying facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The topping-cycle cogeneration facility will be located at the Applicant's facility at Road 925, Barrio Junquitos, Humacao, Puerto Rico. The facility will consist of two diesel generator sets. The primary energy source for the facility will be No. 5 fuel oil. The useful thermal energy output will be in the form of chilled water for air conditioning and steam for production processes. The electric power production capacity of the facility will be 1820 kilowatts.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84–4427 Filed 2–16–84; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. QF84–155–000]

Cogenic Energy Systems Inc.—Freehold Area Y.M.C.A.; Application for Commission Certification of Qualifying Status of a Cogeneration Facility

February 14, 1984.

On January 30, 1984, Cogenic Energy Systems Inc., (Applicant) of 307 South Leadbetter Road, Ashland, Virginia 23005, submitted for filing an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The topping-cycle cogeneration facility will be located at the Greater Freehold Area Y.M.C.A., East Freehold Road, Freehold, New Jersey. The facility will consist of an internal combustion engine generator unit with waste heat recovery from both jacket water and exhaust gases. The primary energy source for the facility will be natural gas. The electric power production capacity of the facility will be 100 kilowatts.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to bcome a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84–4429 Filed 2–16–84; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. QF84–158–000]

Owens-Illinois, Inc.—Big Island Facility; Application for Commission Certification of Qualifying Status of a Cogeneration Facility

February 14, 1984.

On January 30, 1984, Owens-Illinois, Inc., (Applicant) of One SeaGate, Toledo, Ohio 43666, submitted for filing an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The topping-cycle cogeneration facility is located at the Applicant's pulp and paper corrugated medium mill in Big Island, Virginia. The facility consists of two boilers and a steam turbine generator. The primary energy source for the facility is biomass in the form of bark and wood refuse, supplemented by coal and fuel oil. The useful thermal energy output, which is the form of steam at two separate pressure levels, is utilized in pulp and paper production processes. The electric power production capacity of the facility is 8 megawatts. The present steam turbine generator was installed in 1965.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene

or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to bcome a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-4434 Filed 2-16-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF84-149-000]

Owens-Illinois, Inc.—Valdosta Facility; Application for Commission Certification of Qaulifying Status of a Cogeneration Facility

February 14, 1984.

On January 27, 1984, Owens-Illinois, Inc., (Applicant) of One SeaGate, Toledo, Ohio 43666, submitted for filing an application for certification of a facility as a qualifying facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The topping-cycle cogeneration facility is located at the Applicant's pulp and paper corrugated linerboard mill near Valdosta, Georgia. The facility consists of six boilers and two turbine generators. The useful thermal energy output, which is in the form of steam at two separate pressure levels, is utilized in pulp and paper production processes. The primary energy source of the facility is biomass which is in the form of bark, wood refuse, and dry black liquor solids, supplemented by natural gas and fuel oil/reprocessed oil. The electric power production capacity of the facility is 15 megawatts. The facility began operation as a cogeneration facility in 1953.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-4435 Filed 2-16-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. OF84-75-000]

Turbo Gas and Electric, Ltd.; Amendment to Application for Commission Certification of Qualifying Status of a Small Power Production Facility

February 14, 1984.

On January 30, 1984, Turbo Gas and Electric, Ltd., (Applicant), 91 Newbury Street, 3rd Floor, Boston, Massachusetts 02116, submitted for filing an amended application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's regulations. The original application was filed November 28, 1983. No determination has been made that the submittal constitutes a complete filing.

The amendment changes the capacity of the facility from 1000 kilowatts to 1500 kilowatts. The facility, as changed, will heat outlet gas from the turbo expander facility using natural gas and other energy sources including biomass, waste, renewable resources, and geothermal resources. (In the original application, gas was preheated using natural gas exclusively.)

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-4436 Filed 2-16-84; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPTS-51506; BH-FRL 2528-6]

Certain Chemicals; Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in EPA statements of the final rule published in the **Federal Register** of May 13, 1983 (48 FR 21722). This notice announces receipt of twenty PMNs and provides a summary of each.

DATES: Close of Review Period:

PMN 84-359—April 25, 1984.

PMN 84-378, 84-379, 84-380 and 84-381—May 2, 1984.

PMN 84-382—May 5, 1984.

PMN 84-383, 84-384, 84-385, 84-386, 84-387, 84-388, 84-389, 84-390 and 84-391—May 6, 1984.

PMN 84-392, 84-393 and 84-394—May 7, 1984.

PMN 84-395 and 84-396—May 8, 1984.

Written comments by:

PMN 84-359—March 26, 1984.

PMN 84-378, 84-379, 84-380 and 84-381—April 2, 1984.

PMN 84-382—April 5, 1984.

PMN 84-383, 84-384, 84-385, 84-386, 84-387, 84-388, 84-389, 84-390 and 84-391—April 6, 1984.

PMN 84-392, 84-393 and 84-394—April 7, 1984.

PMN 84-395 and 84-396—April 8, 1984.

ADDRESS: Written comments, identified by the document control number "[OPTS-51506]" and the specific PMN number should be sent to: Document Control Officer (TS-793), Office of Toxic Substances, Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-409, 401 M St., SW., Washington, D.C. 20460. (202-382-3532).

FOR FURTHER INFORMATION CONTACT: Margaret Stasikowski, Acting Chief, Premanfacture Notice Management Branch, Chemical Control Division (TS–794), Office of Toxic Substances, Environmental Protection Agency, Rm. E–216, 401 M St., SW., Washington DC 20460 (202–382–3729).

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the non-confidential version of the submission provided by the manufacturer on the PMNs received by EPA. The complete non-confidential document is available in the Public Reading Room E–107 at the above address.

PMN 84–359

Importer. American Hoechst Corporation.
Chemical. (S) 2,2-bis(4-(3-di(cocoalkylpolyoxyethyl)amino-2-hydroxypropoxy)phenyl)propane, ethoxylated.
Use/Import. (S) Surfactant for dispersion preparations for industrial, commercial and consumer use. Import range: 300–400 kg/yr.
Toxicity Data. No data submitted.
Exposure. Processing and use: dermal, a total of 40 workers, up to 20 manhours/yr.
Environmental Release/Disposal. No release.

PMN 84–378

Manufacturer. Confidential.
Chemical. (G) Aromatic sulfonate of substituted heteropolycycle.
Use/Production. (G) Open, non-dispersive use. Prod. range: Confidential.
Toxicity Data. No data on the PMN substance submitted.
Exposure. Confidential.
Environmental Release/Disposal. Confidential. Disposal by navigable waterway.

PMN 84–379

Manufacturer. Confidential.
Chemical. (G) Aromatic sulfonate of substituted heteropolycycle.
Use/Import. (G), non-dispersive use. Prod. range: Confidential.
Toxicity Data. No data on the PMN substance submitted.
Exposure. Confidential.
Environmental Release/Disposal. Disposal by navigable waterway.

PMN 84–380

Manufacturer. Confidential.
Chemical. (G) Aromatic sulfonate of substituted heteropolycycle.
Use/Import. (G) Open, non-dispersive use. Prod. range: Confidential.
Toxicity Data. No data on the PMN substance submitted.
Exposure. Confidential.
Environmental Release/Disposal. Confidential. Disposal by navigable waterway.

PMN 84–381

Manufacturer. Monsanto Company.
Chemical. (G) Polyphenyl ether.
Use/Production. (S) Industrial chemical intermediate. Prod. range: Confidential.
Toxicity Data. No data on the PMN substance submitted.
Exposure. Confidential.
Environmental Release/Disposal. Less than 0.01–14 kg/batch released to drum with 0.1 gk/batch to air. Disposal by incineration and landfill.

PMN 84–382

Manufacturer. ALCOLAC INC.
Chemical. (S) 2-propenoic acid 3-(2-hydroxyethoxy) 3-oxypropyl ester.
Use/Production. (S) Industrial reactive dilvent for radiation curable coatings and adhesives. Prod. range: Confidential.
Toxicity Data. Irritation: Skin—severe, Eye—Extreme.
Exposure. Manufacture: dermal, a total of 3 workers, up to 15 hrs/da, up to 12 da/yr.
Environmental Release/Disposal. 12 kg/batch released to land. Disposal by publicly owned treatment works (POTW) and landfill.

PMN 84–383

Manufacturer. Confidential.
Chemical. (G) Linseed based alkyd.
Use/Production. (G) The new substance will function as an ingredient in inks which are commercially applied to various substrates in an open use. Prod. range: 250,000–360,000 kg/yr.
Toxicity Data. No data submitted.
Exposure. Manufacture and processing: dermal, a total of 99 workers, up to 9 hrs/da, up to 250 da/yr.
Environmental Release/Disposal. 0.3–90 kg/yr released to land. Disposal by incineration and landfill.

PMN 84–384

Importer. Confidential.
Chemical. (G) Substituted cyclohexane and cyclohexene esters.
Use/Import. (G) Highly dispersive use. Import range: Confidential
Toxicity Data. Acute oral: 8,000 mg/kg; Acute dermal: 4,000 mg/kg; Irritation: Skin—Slight, Eye—Moderate, Phototoxicity: Negative; Skin sensitization: Non-sensitizer.
Exposure. Confidential.
Environmental Release/Disposal. Confidential. Disposal by POTW.

PMN 84–385

Manufacturer. Confidential.
Chemical. (G) Substituted phenylmagnesium chloride.
Use/Production. (G) Chemical intermediate. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

PMN 84–386

Manufacturer. Confidential.
Chemical. (G) Substituted phenylmagnesium chloride.
Use/Production. (G) Chemical intermediate. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

PMN 84–387

Manufacturer. Confidential.
Chemical. (G) Substituted benzyl alcohol.
Use-Production. (G) Chemical intermediate. Prod. range: Confidential.
Toxicity Data. Acute oral: 500 mg/kg; Acute dermal: 200 mg/kg; Irritation: Skin—Non-irritant; Ames Test: Not mutagenic.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

PMN 84–388

Manufacturer. Confidential.
Chemical. (G) Reaction product of a phenol-formaldehyde polymer, a carbocyclic anhydride, and an amine.
Use/Production. (G) Molding compound additive. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

PMN 84–389

Manufacturer. Confidential.
Chemical. (G) Urethane acrylate.
Use/Production. (G) Resin coating. Prod. range: 40,000–250,000 kg/yr.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

PMN 84–390

Importer. Confidential.
Chemical. (G) Benzoic acid, 2-[(6-[(4-chloro-6-[(4-((substituted)azo)phenyl)amino)-1,3,5-triazin-2-yl)amino)-1-hydroxy-3-sulfo-2-naphthalenyl)azo-, chromium complex.

Use/Import. (S) Commercial dyes for cellulosic fibres. Import range: Confidential.

Toxicity Data. Ames Test: Negative: TLm 48 hr (Orange medaka)—Above 1,000 parts per million (ppm).

Exposure. No data submitted.

Environmental Release/Disposal. No data submitted.

PMN 84–391

Importer. Confidential.

Chemical. (G) Cuprate(5-), [5-hydroxy-2-[[4-[[5-hydroxy-6-[[2-methoxy-5-(substituted)phenyl]azo]-7-sulfo-2-naphthalenyl]amino]-6-[[3-sulfophenyl)aminol]-1,3,5-triazin-2-yl]amino]-6-[(2-hydroxy-5-sulfophenyl)]azo-1,7-naphthalenedisulfonato(7-)], pentasodium.

Use/Import. (S) Commercial dyes for cellulosic fibres. Import range: Confidential.

Toxicity Data. TLm 48 hr (Orange medaka)—Above 1,000 ppm; Ames Test: Negative.

Exposure. No data submitted.

Environmental Release/Disposal. No data submitted.

PMN 84–392

Manufacturer. Milliken Chemical.

Chemical. (G) Alkoxylated cycloaliphatic diamine.

Use/Production. (G) Disubstituted cyclohexane. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Confidential.

Environmental Release/Disposal. Confidential.

PMN 84–393

Manufacturer. Confidential.

Chemical. (G) 2-Chloro-N-methyl-N-substituted acetamide.

Use/Production. (G) Starch modifier. Prod. range: Confidential.

Toxicity Data. Acute oral: 0.33 g/kg; Acute dermal: Males—1.39 g/kg, Females—1.60 g/kg; Irritation: Skin—Severe, Eye—Moderate to severe.

Exposure. Confidential.

Environmental Release/Disposal. Confidential. Disposal by POTW.

PMN 84–394

Manufacturer. Minnesota Mining and Manufacturing Company.

Chemical. (G) Polymer of ethylene oxide, propylene oxide, and aliphatic isocyanate.

Use/Production. (G) Sealant. Prod. range: Confidential.

Toxicity Data. Acute oral: > 5,000 mg/kg; Irritation: Skin-Non-irritant, Eye—Minimal; Ames Test: Non-mutagenic, LC_{50} 96 hour (Fathead minnow)— > 10,000 mg/1.

Exposure. Manufacturer: dermal, a total of 9 workers.

Environmental Release/Disposal. 25 kg released. Disposal by incineration.

PMN 84–395

Manufacturer. Confidential.

Chemical. (G) Dimer acids, dicarboxylic acid, diamines polyamide resin.

Use/Production. (G) Hot melt adhesive in a contained use. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture: dermal and inhalation, a total of 4 workers.

Environmental Release/Disposal. Less than 0.1 kg/batch released to water with 2 kg/batch to land. Disposal by landfill and state approved treatment system.

PMN 84–396

Importer. Ajinomoto U.S.A., Inc.

Chemical. (S) Dipentaerythritol, adipic acid ester.

Use/Import. (S) Industrial stabilizer and lubricant for PVC. Import range: 5,000–10,000 kg/yr.

Toxicity Data. Acute oral: > 50 g/kg; Ames Test: Not mutagenic.

Exposure. Manufacture: A total of 10 workers.

Environmental Release/Disposal. No data submitted.

Dated: Feburary 10, 1984.

V. Paul Fuschini,

Acting Director, Information Management Division.

[FR Doc. 84–4219 Filed 2–16–84; 8:45 am]

BILLING CODE 6560–50–M

[OPTS–59146; TSH–FRL 2528–5]

Certain Chemicals; Premanufacture Exemption Applications

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA may upon application exempt any person from the premanufacturing notification requirements of section 5 (a) or (b) of the Toxic Substances Control Act (TSCA) to permit the person to manufacture or process a chemical for test marketing purposes under section 5(h)(1) of TSCA. Requirements for test marketing exemption (TME) applications, which must either be approved or denied within 45 days of receipt, are discussed in EPA's final rule published in the **Federal Register** of May 13, 1983 (48 FR 21722). This notice, issued under section 5(h)(6) of TSCA, announces receipt of fours applications for exemptions, provides a summary, and requests comments on the appropriateness of granting each of the exemptions.

DATE: Written comments by March 5, 1984.

ADDRESS: Written comments, identified by the document control number "[OPTS–59146]" and the specific TME number should be sent to: Document Control Officer (TS–793), Information Management Division, Office of Toxic Substances, Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E–409, 401 M Street, SW, Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Margaret Stasikowski, Acting Chief, Premanufacture Notice Management Branch, Chemical Control Division (TS–794), Office of Toxic Substances, Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E–216, 401 M Street, SW, Washington, DC 20460.

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the non-confidential version of the submission provided by the manufacturer on the TMEs received by EPA. The complete non-confidential document is available in the Public Reading Room E–107 at the above address.

TME 84–26

Close of Review Period. March 21, 1984.

Manufacturer. Confidential.

Chemical. (G) Polyamic resin solution.

Use/Production. (G) Specialty coatings.

Toxicity Data. No data submitted.

Exposure. Manufacture: a total of 4 workers.

Environmental Release/Disposal. No release.

TME 84–27

Close of Review Period. March 21, 1984.

Manufacturer. Confidential.

Chemical. (G) Polyamic resin solution.

Use/Production. (G) Speciality coatings.

Toxicity Data. No data submitted.

Exposure. Manufacture: a total of 4 workers.

Environmental Release/Disposal. No release.

TME 84–28

Close of Review Period. March 22, 1984.

Manufacturer. Confidential.

Chemical. (G) Alkyl polyether.

Use/Production. (G) Industrial polyurethane. Prod. range: 20,000 kg, 6 months.

Toxicity Data. No data submitted.

Exposure. Manufacturer: dermal, a total of 10 workers, up to 2 hrs/da, up to 6 da/yr.

Environmental Release/Disposal. Release to land. Disposal by landfill.

TME 84-29

Close of Review Period. March 22, 1984.

Manufacturer. Confidential.

Chemical. (G) Urethane acrylate.

Use/Production. (G) Resin coating. Prod. range: 20,000 lbs, 1 year.

Toxicity Data. No data on the TME substance submitted.

Exposure. Manufacture, processing and use: dermal, a total of 30 workers.

Environmental Release/Disposal. Confidential.

Dated: February 10, 1984.

V. Paul Fuschini,

Acting Director, Information Management Division.

[FR Doc. 84-4216 Filed 2-16-84; 8:45 am]

BILLING CODE 6560-50-M

[ER-FRL-2528-2]

Availability of Environmental Impact Statements Filed February 6 Through February 10, 1984 Pursuant to 40 CFR 1506.9

Responsible agency: Office of Federal Activities, General Information (202) 382-5073 or (202) 382-5075.

EIS No. 840051, Draft, FHW, MI, Detroit Travel Information Center Construction and Associated Roadway Improvements, I-75 at Ambassador Bridge, Wayne Co. Due: Apr. 2, 1984.

EIS No. 840052, Draft, OSM, MT, Montco Surface Coal Mine, Permit, Rosebud County, Due: Apr. 9, 1984.

EIS No. 840053, Draft, EPA, REG, Natural Gas Production Industry, VOC Equipment Leaks, Emissions Standards, Due: Apr. 2, 1984.

EIS No. 840054, Draft, EPA, REG, Natural Gas Production Industry, S02 Emissions Standards, Due: Apr. 2, 1984.

EIS No. 840055, Draft, DOE, WY, Thermopolis-Alcova-Casper Transmission Line Project, Approval, Hot Springs and Natrona Counties, Due: Apr. 6, 1984.

EIS No. 840056, Draft, BLM, ND, North Dakota Livestock Grazing Management Plan, Dickinson District, Due: Apr. 13, 1984.

Amended Notices:

EIS No. 840015, Draft, MMS, AK, 1984 Gulf of Alaska/Cook Inlet OCS Gas and Oil Sale, Leasing, Due: Mar. 20, 1984. Published FR 01-27-84—Review extended.

EIS No. 840003, Draft, NOA, HI, Hawaii Humpback Whale National Marine Sanctuary, Designation, Due: Mar. 20, 1984. Published FR 1-27-84. Clarification: Official filing date Jan. 10, 1984; Official review period began Jan. 20, 1984; Review extended.

Dated February 14, 1984.

David G. Davis,

Acting Director, Office of Federal Activities.

[FR Doc. 84-4412 Filed 2-16-84; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

[MM Docket No. 84-53, et al.; File No. BP-821109AC]

Newport Broadcasting et al.; Hearing Designation Order

In the matter of applications of Benita Soho d.b.a. Newport Broadcasting, KMAP, South Saint Paul, Minnesota (MM Docket No. 84-53; File No. BP-821109AC), Has: 1370 kHz, 500 W, DA-D, Req: 1100 kHz, 2.5 kW, D; Benito Juarez Sandoval, Newport, Minnesota (MM Docket No. 84-54; File No. BP-83037AC), Req: 1100 kHz, 1 kW, D; and Frontier Radio Corporation, Madison Lake, Minnesota (MM Docket No. 84-55; File No. BP-830324AI), Req: 1100 kHz, 0.5 kW, D, for construction permit.

Adopted: January 24, 1984.
Released: February 3, 1984.

By the Chief, Mass Media Bureau.

1. The Commission, by the Chief, Mass Media Bureau, acting pursuant to delegated authority, has under consideration the above-captioned mutually exclusive applications.[1] [2]

2. *Newport Broadcasting (KMAP).* Pursuant to special temporary authority granted it by the Commission, this station has been off the air since October 1982. The STA reflects difficulties caused by a malfunctioning directional antenna system which required major repair and the necessity to financially rehabilitate the station. In December, 1983, Newport Broadcasting sought an extension of its STA on grounds that a prior claim to its existing transmitter site had been recognized and the applicant advised that once title to the site was perfected, KMAP would be required to vacate the premises. As the site in question is the one specified by Newport here, an issue is raised as to whether reasonable assurance of its availability remains. In addition, while Newport furnished this information in its STA request, it failed to amend the pending application with respect to the impending loss of the transmitter site. An amendment will be required.

3. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. However, since the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding. Although the applications are for different communities, they would serve substantial areas in common. Therefore, in addition to determining pursuant to section 307(b) of the Communications Act of 1934, as amended, which of the proposals would best provide a fair, efficient and equitable distribution of radio service, a contingent comparative issue will be specified.

4. Accordingly, it is ordered, that pursuant to section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent order, upon the following issues:

1. To determine with respect to Newport Broadcasting whether the applicant has reasonable assurance of the availability of a transmitter site for its use.

2. To determine the areas and populations which would receive primary service from each proposal, and the availability of other primary aural service to such areas and populations.

3. To determine in light of section 307(b) of the Communications Act of 1934, as amended, which of the proposals would better provide a fair, efficient and equitable distribution of radio service.

4. To determine, in the event it be concluded that a choice among applicants should not be based solely on considerations relating to section 307(b), which of the proposals would on a comparative basis best serve the public interest.

5. To determine, in light of the foregoing issues which of the applications should be granted.

5. It is further ordered that Newport Broadcasting shall amend its application as specified in paragraph 2 above within 30 days of the release of this Order.

6. It is further ordered, that the amendment to the Benito Juarez Sandoval application dated September 1, 1983 is accepted for filing.

7. It is further ordered, that to avail themselves of the opportunity to be heard and pursuant to section 1.221(c) of

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[1] We have by separate action denied an informal objection to the application of Benita Soho d.b.a. Newport Broadcasting on grounds that the allegations raised—namely failure to honor contractual obligations—are not properly within our jurisdiction. Should the objector choose to pursue this claim in court, Newport Broadcasting must of course, report such action to us.

[2] We will accept pursuant to Section 1.65 of our Rules, a September 1, 1983 amendment filed by Benito Juarez Sandoval, updating ownership information.

owner of TRG Broadcasting Systems, Inc., owns 100 percent of the stock of several cable television systems: Turnertown Cable T.V., Turnertown, Texas; Laneville Cable T.V., Inc., Laneville, Texas; New Summerfield Cable T.V., Inc., New Summerfield, Texas; Mount Enterprise Cable T.V., Inc., Mount Enterprise, Texas, and 45 percent of the stock of New London Cable T.V., Inc., New London, Texas. These cable systems are within the predicted Grade B contour of the proposed station. Consequently, grant of TRG's application would violate the rule. However, Mr. Gilchrist has represented to the Commission that he would divest himself of his interest in the cable television systems in the event that he is the successful applicant. Accordingly, any grant of a construction permit to TRG will be conditioned upon Mr. Gilchrist's divesture of all interest in, and connection with, the cable television systems.

7. The Commission is not in receipt of a determination from the Federal Aviation Administration that the tower height and location proposed by TRG would not constitute a hazard to air navigation. Accordingly, an issue regarding this matter will be specified.

8. Section 73.685(f) of the Commission's Rules requires an applicant proposing to use a directional antenna to include a tabulation of relative field pattern, oriented so that 0 degree corresponds to True North and tabulated at least every 10 degrees plus any minima or maxima. TRG has not supplied this data. Accordingly, the applicant will be required to submit an amendment with the appropriate information, to the presiding Administrative Law Judge and a copy to the TV Branch, Mass Media Bureau, within 20 days after the date of the release of this Order.

9. Section 73.682(a)(15) of the Commission's Rules states that the effective radiated power of the aural transmitter shall not be less than 10 percent nor more than 20 percent of the peak radiated power of the visual transmitter. TRG's aural power is only 1% of the visual. The applicant will be required to correct this situation by an appropriate amendment.

10. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. Since the applications are mutually exclusive, the Commission is unable to make the statutory finding that their grant will serve the public interest, convenience, and necessity. Therefore, the applications must be designated for hearing in a consolidated proceeding on the issues specified below.

11. Accordingly, it is ordered, that pursuant to section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, to be held before an Administrative Law Judge at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine with respect to Tarzan Televison Company:

(a) Whether the application is consistent with § 73.610 of the Commission's Rules and, if not, whether circumstances exist which would warrant a waiver of the rule;

(b) If necessary (see paragraph 3), whether common ownership, operation or control of the FM station proposed in (Docket No. 83-1305) Jacksonville, Texas and the proposed television station would be in the public interest.

2. To determine with respect to TRG Broadcasting Systems, Inc. whether there is a reasonable possibility that the tower height and location proposed would constitute a hazard to air navigation.

3. To determine which of the proposals would, on a comparative basis, better serve the public interest.

4. To determine, in light of the evidence adduced pursuant to the foregoing issues, which of the application should be granted.

12. It is further ordered, that Association of Maximum Service Telecasters, Inc., is made a party respondent to this proceeding with respect to issue 1(a).

13. It is further ordered, that Tarzan shall submit a list of limited partners to the presiding Administrative Law Judge within 20 days after this Order is released.

14. It is further ordered, that in the event of a grant of TRG Broadcasting Systems, Inc.'s application, it will be conditioned as follows:

Prior to the commencement of operation of the television station authorized herein, permittee shall certify to the Commission that Robert Gilchrist has divested himself of all interest in, and connection with Turnertown Cable T.V., Turnertown, Texas; Laneville Cable T.V., Inc., Laneville, Texas; New Summerfield Cable T.V., Inc., New Summerfield, Texas; Mount Enterprise Cable T.V., Inc., Mount Enterprise, Texas, and New London Cable T.V., Inc., New London, Texas.

15. It is further ordered, that TRG Broadcasting Systems, Inc. shall submit an amendment providing the information required by § 73.685(f) of the Commission's Rules, to the presiding Administrative Law Judge and a copy to TV Branch, Mass Media Bureau, within 20 days after this Order is released.

16. It is further ordered, that TRG Broadcasting Systems, Inc. shall submit to the presiding Administrative Law Judge, within 20 days after this Order is released, an appropirate amendment that demonstrates compliance with § 73.685(a)(15) of the Commission's Rules.

17. It is further ordered, that the Federal Aviation Administration is made a party respondent to this proceeding with respect to issue 2.

18. It is further ordered, that, to avail themselves of the opportunity to be heard, the applicants and parties respondent herein shall, pursuant to § 1.221(c) of the Commission's Rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this Order.

19. It is further ordered, that the applicants herein shall, pursuant to section 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594 of the Commission's Rules, give notice of the hearing within the time and in the manner prescribed in such Rule, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the Rules.

Federal Communications Commission.

Roy J. Stewart,

Chief, Video Services Division.

[FR Doc. 84-4349 Filed 2-16-84; 8:45 am]

BILLING CODE 6712-01-M

[MM Docket Nos. 84-87 and 84-88] File Nos. BPCT-830310KE and BPCT-830506LW]

Chrysostom Corp. and Harriscope Broadcasting Corp.; Hearing Designation Order

In the matter of Applications of The Chrysostom Corporation, Sheridan, Wyoming (MM Docket No. 84-87; File No. BPCT-830310KE) and Harriscope Broadcasting Corporation, Sheridan, Wyoming (MM Docket No. 84-88; File No. BPCT-830506LW) for construction permit.

Adopted: January 27, 1984. Released: February 7, 1984.

By the Chief, Mass Media Bureau.

1. The Commission, by the Chief, Mass Media Bureau, acting pursuant to delegated authority, has before it the above-captioned mutually exclusive applications for authority to construct a new commercial television broadcast station on Channel 7, Sheridan, Wyoming; petition to deny filed by The Chrysostom Corporation (Chrysostom); opposition filed by Harriscope

Broadcasting Corporation (Harriscope); and related pleadings.[1]

2. On July 7, 1983, Chrysostom Corporation filed a "Petition to Dismiss or Deny" the Harriscope application. Chrysostom's petition is, in effect, a predesignation petition to specify issues against a competing applicant. Such pleadings are no longer authorized. *Processing of Contested Broadcasting Applications,* 72 FCC 2d 202, 214 (1979). Accordingly, Chrysostom's petition will be dismissed. *See, e.g., Kay-Smith Enterprises,* 90 FCC 2d 105, 106 n.2 (1982).

3. Harriscope proposes to use a directional antenna with a maximum-to-minimum ratio of 26dB. Section 73.685(e) of Commission's Rules limits the maximum-to-minimum ratio of a VHF directional antenna to 10dB. A waiver has been requested. Accordingly, an appropriate issue will be specified to determine whether waiver of § 73.685(e) is warranted.

4. The effective radiated visual power, antenna height above average terrain and other technical data submitted by the applicants indicates that there would be a significant difference in the size of the areas and populations that they propose to serve. Consequently, for the purpose of comparison, the areas and populations which would be within each predicted 64 dBu (Grade B) contour, together with the availability of other television service of Grade B or greater intensity, will be considered under the standard comparative issue, for the purpose of determining whether a comparative preference should accrue to either of the applicants.

5. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. Since the applications are mutually exclusive, the Commission is unable to make the statutory finding that their grant will serve the public interest, convenience, and necessity. Therefore, the applications must be designated for hearing in a consolidated proceeding on the issues specified below.

6. Accordingly, it is ordered, that pursuant to section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, to be held before an Administrative Law Judge at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine with respect to Harriscope Broadcasting Corporation whether circumstances exist which would warrant a waiver of § 73.685(e) of the Commission's Rules.

2. To determine which of the proposals would, on a comparative basis, better serve the public interest.

3. To determine, in light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

7. It is further ordered, that the petition to deny filed by Chrysostom Corporation is dismissed.

8. It is further ordered, that, to avail themselves of the opportunity to be hear, the applicants herein shall, pursuant to § 1.221(c) of the Commission's Rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this Order.

9. It is further ordered, that the applicants herein shall, pursuant to section 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594 of the Commission's Rules, give notice of the hearing within the time and in the manner prescribed in such Rule, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the Rules.

Federal Communications Commission.

Roy J. Stewart,

Chief, Video Services Division, Mass Media Bureau.

[FR Doc. 84-4351 Filed 2-16-84; 8:45 am]

BILLING CODE 6712-01-M

[1] Chrysostom also filed a "Petition for Leave to Amend" on October 3, 1983, accompanied by an amendment to eliminate short-spacing. Also, on October 31, 1983, Harriscope filed an opposition. Since the amendment eliminates the need for an issue, the amendment will be accepted, but Chrysostom will not be allowed to accure any comparative advantage since the amendment was filed after the "B" cut off date.

FEDERAL DEPOSIT INSURANCE CORPORATION

Information Collection Submitted to OMB for Review

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Notice of information collection submitted to OMB for review and approval under the Paperwork Reduction Act of 1980

Title of information collection: Country Exposure Report.

Background: In accordance with requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), the FDIC hereby gives notice that it has submitted to the Office of Management and Budget a form SF-83, "Request for OMB Review," for the information collection system identified above.

ADDRESS: Written comments regarding the submission should be addressed to July McIntosh, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503 and to John Keiper, Federal Deposit Insurance Corporation, Washington, D.C. 20429.

FOR FURTHER INFORMATION CONTACT: Requests for a copy of the submission should be sent to John Keiper, Federal Deposit Insurance Corporation, Washington, D.C. 20429, telephone (202) 389-4351.

SUMMARY: This information collection submitted to OMB revises the Country Exposure Report (form FFIEC 009), OMB No. 3064-0017, to implement the requirements of the International Lending Supervision Act of 1983 (Pub. L. 98-181). The Act provides for greater public disclosure of country exposures of U.S. banks and requires the submission of Country Exposure Reports no fewer than four times each calendar year.

The principal change to the reporting requirement is the new Country Exposure Information Report (form FFIEC 009A) which is to be filed as a supplement to the quarterly Country Exposure Report. The information in this new report will be made available to the public. The only other reporting change is the replacement of a memorandum item in the existing Country Exposure Report with a new one in which banks will show exposures covered by U.S. Government guarantees.

It is planned that the amended reporting requirement will become effective with the reports filed for March 31, 1984, contingent upon the issuance of regulations by the three banking agencies (OCC, FRB, and the FDIC) as required by the Act.

The addition of the new report supplement (form FFIEC 009A) and the change from semi-annual reporting to quarterly reporting is expected to increase the annual reporting burden for each bank by approximately 64 hours.

Dated: February 10, 1984.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 84-4356 Filed 2-16-84; 8:45 am]

BILLING CODE 6714-01-M

Information Collection Submitted to OMB for Review

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Notice of information collection submitted to OMB for review and approval under the Paperwork Reduction Act of 1980.

Title of Information Collection

Consolidated Reports of Condition and Income (Insured State Nonmember Commercial Banks).

Background

In accordance with requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), the FDIC hereby gives notice that it has submitted to the Office of Management and Budget a form SF–83, "Request for OMB Review," for the information collection system identified above.

ADDRESS: Written comments regarding the submission should be addressed to Judy McIntosh, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503 and to John Keiper, Federal Deposit Insurance Corporation, Washington, D.C. 20429.

FOR FURTHER INFORMATION CONTACT: Requests for a copy of the submission should be sent to John Keiper, Federal Deposit Insurance Corporation, Washington, D.C. 20429, telephone (202) 389–4351.

SUMMARY: The FDIC is submitting for OMB approval changes to the consolidated Reports of Condition and Income (Call Reports) filed quarterly by insured state nonmember commercial banks. This change emanates solely from the requirements set forth in Section 905 of the International Lending Supervision Act of 1983. The following new items would first appear on the reports to be submitted as of March 31, 1984:

(1) Reports of Condition, Schedule RC, Balance Sheet, item 4(c) "Allocated transfer risk reserve,"
(2) Report of Income, Schedule RI, Income Statement, item 4(b), "Provision of allocated transfer risk," and
(3) Report of Income, Schedule RI–B, Part II, Column B, "Changes in allocated transfer risk reserve."

The first two items are to be added on all four sets of the report forms while the third change would affect only the FFIEC 031 and the FFIEC 032.

Because of the relatively few banks that would be required to create a separate allocated transfer risk reserve, the overall burden resulting from this proposal will be negligible and the total annual burden associated with the commercial bank Call Report will be unchanged.

Dated: February 14, 1984.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 84–4422 Filed 2–16–84; 8:45 am]

BILLING CODE 6714–01–M

FEDERAL ELECTION COMMISSION

Clearinghouse on Election Administration Clearinghouse Advisory Panel; Meeting

In accordance with the provisions of the Federal Advisory Committee Act (5 U.S.C. App. I) and Office of Management and Budget Circular A–63, as revised, the Federal Election Commission announces the following Advisory Panel meeting:

Name: Federal Election Commission Clearinghouse Advisory Panel.

Date: 6–7 March 1984.

Place: Quality Inn, 415 New Jersey Ave., NW., Washington, DC.

Time: 0900–1200; 1400–1700 on 6 March 1984; 0900–1200– 1400–1530 on 7 March 1984.

Proposed Agenda: Discussion sessions addressing Clearinghouse research projects, status report on Voting Systems Standards Project, discussion of technical election assistance to foreign governments, regional conference wrap-up report and status report on State Workshop Program.

Purpose of the Meeting: The Panel will discuss the agenda items as well as present their views on problems in the Administration of federal elections, and formulate recommendations to the Federal Election Commission Clearinghouse for its future program development.

The Advisory Panel meeting is open to the public depending on available space. Any member of the public may file a written statement with the Panel before, during, or after the meeting. To the extent that time permits, the Panel Chairman may allow public presentation or oral statements at the meeting.

All communications regarding this Advisory Panel should be addressed to Dr. Gary Greenhalgh, Clearinghouse on Election Administration, Federal Election Commission, 1325 K Street, NW., Washington, DC 20463.

Dated: February 13, 1984.

Lee Ann Elliott,

Chairman, Federal Election Commission.

Attest:

Marjorie W. Emmons,

Secretary of the Commission.

[FR Doc. 84–4280 Filed 2–16–84; 8:45 am]

BILLING CODE 6715–01–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

Privacy Act of 1974; Addition of New Routine Use to An Existing System of Records

AGENCY: Federal Emergency Management Agency.

ACTION: Proposed addition of a new routine use to an existing FEMA system of records entitled, "National Flood Insurance Application and Related Documents Files—FEMA/FIA–2."

SUMMARY: The purpose of this proposal is to give notice that an additional routine use "to Write-Your-Own companies as authorized in 44 CFR 62.63 to avoid duplication of benefits following a flooding event or disaster and for carrying out the purposes of the National Flood Insurance Program" is being proposed to be added to the National Flood Insurance Application and Related Documents Files. In addition, the Associate Director, Office of State and Local Programs and Support is being deleted from the routine use section and the Federal Insurance Administrator is being replaced. This action is necessitated as a result of an agency realignment of functions.

In an effort to economize on the cost of publication in the **Federal Register**, we are publishing only the sections of the system of records affected by this notice. For clarification purposes, the entire text of the routine use section is being reprinted. The remaining portions of the system can be viewed in the November 26, 1982, **Federal Register**, 47 FR 53492.

DATE: Any interested parties may submit written comments regarding this proposal. To be considered, comments must be received on or before March 19, 1984. Unless comments are received on or before that date which would result in a contrary determination, the routine use will become effective as proposed without further notice on March 19, 1984.

ADDRESS: Address comments to the Rules Docket Clerk, Federal Emergency Management Agency, Room 840, 500 C Street, SW., Washington, D.C. 20472. Comments received will be available for public inspection at the above address from 9 a.m. to 4 p.m. during normal working days.

FOR FURTHER INFORMATION CONTACT: Linda M. Keener, Office of Public Affairs, (202) 287–0313.

SUPPLEMENTARY INFORMATION: The National Flood Insurance Act of 1968, as amended (Pub. L. 90–448, 42 U.S.C. 4001) establishes the direction of having the

National Flood Insurance Program "carried out to the maximum extent practicable by the private insurance industry" (42 U.S.C. 4001) and authorizes the Director, FEMA, to "encourage and arrange for * * * appropriate financial participation and risk sharing in the program by insurance companies" (42 U.S.C. 4011). Clearly, the rationale for the enabling legislation recognizes the benefits to be derived from the operation of a national program of flood insurance by private sector property insurers, who are the traditional providers of insurance to the public.

To assist private sector property insurers improve insurance services to their policyholders, FEMA issued a final rulemaking effective November 15, 1983, to establish a "Write-Your-Own" (WYO) program of flood insurance whereby an individual insurer will be able to market Federal flood insurance coverage under its own name to any of its applicants for insurance or policyholders, who are insured by the company against other property insurance perils, e.g., under a homeowners policy.

The purpose of this proposed routine use is allow FEMA to share claims data with the WYO companies to avoid duplication of benefits following a flooding event or disaster and for carrying out the purposes of the National Flood Insurance Program.

Based on the above reasons, the Federal Emergency Management Agency finds it necessary to include the following routine use in the "National Flood Insurance Application and Related Documents Files." (The new language is underlined).

FEMA/FIA-2

SYSTEM NAME:

National Flood Insurance Application and Related Documents Files.

* * * * *

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

To property loss reporting bureaus, State insurance departments, and insurance companies investigating fraud or potential fraud in connection with claims, subject to the approval of the Office of Inspector General, FEMA; for use of insurance agents, brokers, and adjusters, and lending institutions for carrying out the purposes of the National Flood Insurance Program; to Small Business Administration, the American Red Cross, the Farmers Home Administration, State and local government individual and family grant and assistance agencies, including but not limited to the State of Ohio Disaster Services Agency and the Johnstown, Pennsylvania Redevelopment Authority for determining eligibility for benefits and for verification of nonduplication of benefits following a flooding event or disaster; *to Write-Your-Own companies as authorized in 44 CFR 62.63 to avoid duplication of benefits following a flooding event or disaster and for carrying out the purposes of the National Flood Insurance Program;* to State and local government individual and family grant agencies so as to permit such agencies to assess the degree of financial burdens toward residents such as States and local governments might reasonably expect to assume in the event of a flooding disaster, and to further the flood insurance marketing activities of the National Flood Insurance Program; to State and local government individual and family grant and assistance agencies which furnish to the Federal Insurance Administration the names and addresses of policyholders for purposes consistent with the relocation projects of the Federal Insurance Administration and acquisition projects under the National Flood Insurance Program carried out pursuant to Section 1362 of the National Flood Insurance Act of 1973, as amended, and to State and local government agencies who provide the names and addresses of policyholders and a brief general description of their plan for acquiring and relocating their flood prone properties for review by the Federal Insurance Administrator, to ensure that their State and/or local government agency is engaged in flood plain management improved real property acquisition and relocation projects consistent with the National Flood Insurance Program; and, upon the approval by the Federal Insurance Administrator, that the use is in furtherance of the flood plain management and hazard mitigation goals of the Agency, to State and local government agencies and municipalities to review National Flood Insurance Program policy and claim files to assist them in hazard mitigation and flood plain management activities and in monitoring compliance with the flood plain management measures duly adopted by the community.

Additional routine uses may include Nos. 1, 5, 6, and 8 of Appendix A.

* * * * *

Dated: February 13, 1984.

Russell B. Clanahan,

Acting Director, Office of Public Affairs, Federal Emergency Management Agency.

[FR Doc. 84-4378 Filed 2-16-84; 8:45 am]

BILLING DATE 6718-01-M

FEDERAL RESERVE SYSTEM

Amboy-Madison Bancorpration; et al.; Formation of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (49 FR 794) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than March 14, 1984.

A. **Federal Reserve Bank of New York** (A. Marshall Puckett, Vice President) 33 Liberty Street, New York, New York 10045:

1. *Amboy-Madison Bancorporation,* Old Bridge, New Jersey; to become a bank holding company by acquiring 100 percent of the voting shares of Amboy-Madison National Bank, Old Bridge, New Jersey.

2. *Westport Bancorp, Inc.*, Westport, Connecticut; to become a bank holding company by acquiring 100 percent of the voting shares of The Westport Bank and Trust Company, Westport, Connecticut.

B. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, NW., Atlanta, Georgia 30303:

1. *Pan American Banks Inc.*, Miami, Florida; to acquire 100 percent of the voting shares or assets of Royal Trust

Bank of Jacksonville, Jacksonville, Florida.

C. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *First Indiana Bancorp*, Elkhart, Indiana; to directly acquire 11.17 percent of State Bank of Syracuse and 17.73 percent of First Charter Financial Corporation, Syracuse, Indiana, and thereby indirectly acquire 68.18 percent of Syracuse Bancorp and 83.31 percent of State Bank of Syracuse, both located in Syracuse, Indiana.

D. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *American Bank Corporation*, Denver, Colorado; to acquire 100 percent of the voting shares or assets of First State Bank at Afton, Afton, Wyoming.

E. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President) 101 Market Street, San Francisco, California 94105:

1. *Rio Salado Bancorp*, Tempe, Arizona; to become a bank holding company by acquiring 90 percent of the voting shares of Rio Salado Bank, Tempe, Arizona.

Board of Governors of the Federal Reserve System, February 13, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-4440 Filed 2-16-84; 8:45 am]

BILLING CODE 6210-01-M

Kimberly Leasing Corp.; Acquisition of Bank Shares by a Bank Holding Company

The company listed in this notice has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C 1842(a)(3)) to acquire voting shares or assets of a bank. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated. With respect to the application, interested persons may express their views in writing to the address indicated. Any comment on the application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. **Federal Reserve Bank of Minneapolis** (Bruce J. Hedblom, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Kimberly Leasing Corporation*, Rush City, Minnesota; to acquire 99.4 percent of the voting shares or assets of Security State Bank of Pillager, Pillager, Minnesota. Comments on this application must be received not later than March 13, 1984.

Board of Governors of the Federal Reserve System, February 13, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-4441 Filed 2-16-84; 8:45 am]

BILLING CODE 6210-01-M

Manufacturers Hanover Corp.; Proposed Acquisition of Manufacturers Hanover Money Market Corp.

Manufacturers Hanover Corporation, New York, New York, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permisson to acquire voting shares of Manufacturers Hanover Money Market Corp., New York, New York.

Applicant states that the proposed subsidiary would engage in the activities of underwriting, dealing in, brokering, purchasing and selling such obligations of the United States government and its various agencies, general obligations of various states and political subdivisions thereof and other such obligations, including money market instruments such as certificates of deposit, bankers acceptances and commercial paper to the extent a state member bank is permitted to do so.

These activities would be performed from offices of Applicant's subsidiary in Chicago, Illinois; Miami, Florida; Los Angeles, California; Atlanta, Georgia; and Houston, Texas and the geographic area to be served is the entire United States. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of New York.

Any views or requests for hearing should be submitted in writing and received by William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, Washington, D.C., not later than March 14, 1984.

Board of Governors of the Federal Reserve System, February 13, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-4442 Filed 2-16-84; 8:45 am]

BILLING CODE 6210-01-M

Shawmut Corporation, et al.; Applications to engage de novo in Permissible Nonbanking Activities

The companies listed in this notice have filed an application under § 225.23(a)(1) of the Board's Regulation Y (49 FR 794) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (49 FR 794) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the

reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than March 8, 1984.

A. **Federal Reserve Bank of Boston** (Richard E. Randall, Vice President) 600 Atlantic Avenue, Boston, Massachusetts 02106:

1. *Shawmut Corporation,* Boston, Massachusetts; to engage *de novo* through its subsidiary, SHA Corp., doing business as One Federal Asset Management, in investment advisory activities including portfolio investment advice and management for institutional and employee benefit account customers; and investment advisory service to and management of accounts supervised by the Applicant's subsidiary banks. In addition, One Federal Asset Management will serve as an investment adviser to an investment company or companies that may be organized by the Applicant, or any of its subsidiaries, to the extent permitted by law; provide portfolio investment advice or management to a limited number of personal trust or investment management agency customers; and furnish general economic information and advice, general economic statistical forecasting services, and industry and company studies to the foregoing parties.

B. **Federal Reserve Bank of New York** (A. Marshall Puckett, Vice President) 33 Liberty Street, New York, New York 10045:

1. *The Chase Manhattan Corporation,* New York, New York; to engage *de novo* through its subsidiary, Chase Home Mortgage Corporation, in making or acquiring, for its own account and for the account of others, loans and other extensions of credit, including but not limited to, first and second mortgage loans secured by one-to-four family residential properties; servicing loans and other extensions of credit for any person; and offering credit life insurance, accident and health insurance and disability insurance directly related to the proposed lending and servicing activities.

2. *The Chase Manhattan Corporation,* New York, New York; to engage *de novo* through its subsidiary, Chase Commerical Corporation, in making or acquiring, for its own account and for the account of others, loans and other extensions of credit, such as would be made by a commerical finance or equipment finance company, including business installment lending as well as unsecured commerical loans; servicing loans and other extensions of credit; leasing on a full payout basis personal property or acting as agent, broker or advisor in leasing such property, including the leasing of motor vehicles.

3. *The Chase Manhattan Corporation,* New York, New York; to engage through its subsidiary, Chase Manhattan Financial Services, Inc., in making or acquiring, for its own account and for the account of others, loans and other extensions of credit, both secured, and unsecured, including, but not limited to, consumer and business lines of credit, installment loans for personal, household and business purposes and mortgage loans secured by real property; servicing loans and other extensions of credit; and acting as insurance agent for credit life insurance and credit accident and health insurance directly related to such lending and servicing activities.

4. *Republic New York Corporation,* New York, New York; Saban, S.A., Panama City, Republic of Panama; Trade Development Bank Holding, S.A., City of Luxembourg, Grand Duchy of Luxembourg; Trade Development Finance (Netherlands Antilles) N.V., Curacao, The Netherlands Antilles; and Trade Development Holland Holdings, B.V., Amsterdam The Netherlands; to engage *de novo* through their subsidiary, Republic Clearing Corp., in the execution and clearance of futures contracts and options on futures contracts in gold and silver bullion, foreign exchange, U.S. Government Securities, and money market instruments on major commodity exchanges.

c. **Federal Reserve Bank of Richmond** (Lloyd W. Bostian, Jr., Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. *The Palmer National Bancorp, Inc.,* Washington, D.C.; to engage directly in making, acquiring, and servicing loans and other extensions of credit for its own account and for the account of others.

Board of Governors of the Federal Reserve System, February 13, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-4439 Filed 2-16-84; 8:45 am]

BILLING CODE 6210-01-M

Van Alstyne Financial Corp.; Formation of a Bank Holding Company

The company listed in this notice has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring voting shares or assets of a bank. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated. With respect to the application, interested persons may express their views in writing to the address indicated. Any comment on the application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. **Federal Reserve Bank of Dallas** (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Van Alstyne Financial Corporation,* Van Alstyne, Texas; to become a bank holding company by acquiring at least 80 percent of the voting shares of First National Bank of Van Alstyne, Van Alstyne, Texas. Comments on this application must be received not later than March 13, 1984.

Board of Governors of the Federal Reserve System, February 13, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-4443 Filed 2-16-84; 8:45 am]

BILLING CODE 6210-01-M

FEDERAL TRADE COMMISSION

Delegation of Authority

SUMMARY: This notice sets forth a delegation from the Commission to the Directors of the Bureaus of Competition and Consumer Protection of limited authority to close investigations which they have approved, including those in which compulsory process has been authorized, absent a Commission directive to the contrary. The Commission retains sole authority to close investigations that were initiated by its direction. This delegation supersedes the previous delegations, insofar as they concern closing investigations, published at 27 FR 481 (1962), 32 FR 16121 (1967) and 35 FR 10627 (1970).

EFFECTIVE DATE: February 17, 1984.

FOR FURTHER INFORMATION CONTACT: Bruce G. Freedman, (202) 523-3487, Deputy Assistant General Counsel,

Federal Trade Commission, 6th Street and Pennsylvania Avenue NW., Washington, D.C. 20580.

Delegation: Pursuant to the authority provided by the provisions of Reorganization Plan No. 4 of 1961 (26 FR 6191), the Federal Trade Commission, on September 15, 1983, voted to delegate to the Directors of the Bureaus of Competition and Consumer Protection, severally, and without power of redelegation, the authority to close investigations which they have approved, including those in which the Commission has previously authorized use of compulsory process: *Provided*, that the closing under the foregoing delegation of any investigation in which the Commission has authorized compulsory process shall not be effective until the file has been transmitted to the Secretary and the Secretary shall have advised the Commission of the direction to close and no one member, within 3 working days thereafter, shall have objected to the closing. If, upon the expiration of the 3-day period, no Commissioner shall have objected, the Secretary shall enter upon the records of the Commission the closing of the matter and take such other action as the closing requires.

Investigations that have been initiated by direction of the Commission may be closed only by the Commission.

By direction of the Commission, Commissioners Pertschuk and Bailey voting in the negative.

Dated: February 8, 1984.

Emily H. Rock,

Secretary.

Dissenting Statement of Commissioner Patricia P. Bailey—Delegation of Authority Re Closing of Investigations and Petitions To Quash

February 8, 1984.

In the first of these two proposed changes in Commission rules, the Commission majority delegates to Commission senior staff the authority to determine that material subpoenaed by majority vote of the Commission does not present sufficient "reason to believe" a law violation has occurred, or that even if it does, it is not in the "public interest" to pursue the case. This is a delegation of substantial, substantive, policy-making power to the senior staff. This is authority not only to terminate ongoing law enforcement investigations conducted with the authority of subpoenas bearing the signatures of Commissioners, it is also a potential deterrent to staff initiative to propose new investigative activity. Such delegation reverses a short-lived trend towards management of this agency "from the top down."

Where as a Commissioner, by approving a request for compulsory process, I have voted to intrude our jurisdiction into private corporate records, I have begun a process of inquiry into the distinct possibility that I might come eventually to see "reason to believe" that a law violation exists that it may be in the public interest to pursue. This decision is the very essence of the Commission's statutory power. Thus this delegation raises troubling concerns. For example, if I follow the practice of applying *per se* standards to certain kinds of violations, such as resale price maintenance, I may now find that the subject of my inquiry has failed some different legal standard applied by the staff Bureau chief. Or, I may belatedly discover that the case was judged "too small" to justify further resource commitments by the Bureau, or that the industry that forms the context of an investigation is not an "appropriate target" of antitrust concern. On the other side of the FTC docket, I might believe a specified inquiry into deceptive practices is appropriate, only to find that a staff Bureau Director has determined that deception has a newer and different meaning than I understand the law currently to provide.

I regard all this sort of decision-making as my statutory prerogative, and not that of the staff Bureau Directors.

The new policy also offers fewer guarantees to those that are subject to Commission investigations. I do not see how a company subject to compulsory process can draw the same degree of comfort from a staff person's unilateral decision to close that it may now feel from a closing letter that comes "By Direction of the Commission" after a Commission level decision that use of compulsory process has resulted in a determination not to sue. The proponents of this reform have eliminated the tangible value that a Commission closing letter has represented in prior practice.

Two features of this "reform",—packaged as a way to eliminate delays rather than as the substantive change it really is—operate to ameliorate the effects of this rule. Ironically, however, both these saving features may lead to new delays. First, a Bureau director's decision to close a formal investigation in which compulsory process has been authorized by the Commission involves a three-day "negative option" during which the Commissioners may try at second guessing the Bureau chief's pending decision, based on whatever explanation for closing might be proffered. Second, Section 1(b) of Reorganization Plan No. 4 of 1961 provides that two Commissioners may direct that a matter be subjected to full Commission review.

The second proposed rules change is to delegate to the "petitions to quash" or "subpoena Commissioner" the personal unilateral authority to dispose of or modify aspects of respondents' compliance with subpoena duces tecum and civil investigative demands that are signed, in a substantial number of instances, by a Commissioner other than the one handling petitions to quash. I have less objection to this proposed change than to the one affording staff personnel the right to terminate investigations, but I am sufficiently concerned to oppose the change.

The proposed rules change does *not* reflect the Commission's actual decision (to which I dissented at the time) that only "noncontroversial" petitions to quash be subject to the delegation. *All* petition to quash resolution powers are being delegated to one Commissioner. While the rules change contemplates the submission to the Commission for approval those petitions to quash that the delegated Commissioner personally deems appropriate for such treatment, I would prefer a simpler streamlining of procedure that simply grants the delegated Commissioner the power to deny petitions to quash. These sorts of dispositions have been the bulk of the work in this area in the past, and if the purpose of this rules change is merely to reduce delay, allowing prompt disposition of petition denials should be sufficient to achieve such a goal.

The recent law requiring a Commissioner to sign a subpoena is based on Congress' concept that individual Commissioners should be held accountable for compulsory FTC demands for private property. If a Commissioner is accountable for the subpoenas he or she signs, that Commissioner always should be part of any decision that implies such a subpoena has swept too broadly. Where a subpoena has been issued, I believe it inappropriate to later declare portions of such a subpoena as irrelevant or burdensome without full consultation with the signatory Commissioner, and full Commission review. Although I have every confidence that this delegation will be administered with sensitivity, it has a potential to undermine the collegial operation of the Commission, and to allow the sort of "forum

shopping" and delay we should not wish to encourage.

[FR Doc. 84-4388 Filed 2-16-84; 8:45 am]

BILLING CODE 6750-01-M

Granting of Request for Early Termination of the Waiting Period Under the Premerger Notification Rules

Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Federal Trade Commission and the Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A (b) (2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register.**

The following transactions were granted early termination of the waiting period provided by law and the premerger notification rules. The grants were made by the Federal Trade Commission and the Assistant Attorney General for the Antitrust Division of the Department of Justice. Neither agency intends to take any action with respect to these proposed acquisitions during the applicable waiting period:

Transaction	Waiting period terminated effective
(1) 83-1109—Hoechst Aktiengesellschaft's proposed acquisition of voting securities of The Exolon Co.	Jan. 27, 1984.
(2) 83-1110—Dr. Alexander Wacker Familiengesellschaft, (Wacker Chemie GmbH) proposed acquisition of voting securities of Exolon Co.	Do.
(3) 84-0033—Gelco Corp.'s proposed acquisition of assets of Newell Leasing Systems, Inc., Newell Newco, Inc., Omnicor, Inc., (Howard F. Newell and Jerome P. Stanoch, UPE's).	Do.
(4) Royal Insurance Plc's proposed acquisition of voting securities of Silvey Corp.	Do.
(5) 84-0039—Peachtree Holding Corp.'s proposed acquisition of Royal Crown Cos., Inc.	Do.
(6) 84-0040—Pennzoil Co.'s proposed acquisition of voting securities of Getty Oil Co.	Do.
(7) 84-0022—American Financial Corp.'s proposed acquisition of voting securities of The Circle K Corp.	Jan. 30, 1984.
(8) 84-0011—Naturin-Werk Becker & Co.'s proposed acquisition of assets of Hansen Trust PLC.	Jan. 31, 1984.
(9) 84-0038—Ladbroke Group PLC's proposed acquisition of voting securities of Turf Paradise Inc.	Do.
(10) 83-1117—Worthington Industries Inc.'s proposed acquisition of assets of National Rolling Mills, Inc.	Feb. 2, 1984.
(11) 84-0045—General Foods Corp.'s proposed acquisition of voting securities of Ronzoni Corp.	Do.
(12) 84-0049—Seaboard Flour Corp.'s proposed acquisition of assets of Central Soya Co., Inc.	Do.
(13) 84-0052—Royal Dutch Petroleum Co. proposed acquisition of assets of Marathon Oil Co., (United States Steel Corp., UPE).	Do.
(14) 84-0053—Harvard Industries Inc., (Dr. William D. Hurley, UPE) proposed acquisition of voting securities of Harman Automotive, Inc., (Beatrice Foods Division, UPE).	Do.
(15) 84-0061—Richard A. Bernstein proposed acquisition of voting securities of Western Publishing Co., (Mattel, Inc., UPE).	Feb. 3, 1984.
(16) 84-0037—DWG Corp.'s proposed acquisition of voting securities of Royal Crown Cos., Inc.	Do.
(17) 84-0051—The Dow Chemical Co.'s proposed acquisition of voting securities of Magma Power Co.	Do.
(18) 84-0062—Hillenbrand Industries Inc.'s proposed acquisition of voting securities of Medeco Security Locks, Inc.	Do.
(19) 84-0024—J. B. Haralson's proposed acquisition of assets of Mountain States Financial Corp., (The Dale J. Bellamah Foundation, UPE)..	Feb. 6, 1984.
(20) 84-0060—Dameon Oil Corp.'s proposed acquisition of voting securities of Dorchester Gas Corp.	Feb. 7, 1984.
(21) 84-0076—Interco Inc.'s proposed acquisition of voting securities of Abe Schrader Corp.	Do.
(22) Transaction No. 84-0070—The Penn Central Corp.'s proposed acquisition of voting securities of Solid State Scientific, Inc., (Mattel, Inc., UPE).	Feb. 8, 1984.
(23) Transaction No. 84-0027—Craig O. McCaw as voting trustee of MFC, Inc.'s proposed acquisition of voting securities of Home Theatres, Inc.	Do.

FOR FURTHER INFORMATION CONTACT: Patricia A. Foster, Compliance Specialist, Premerger Notification Office, Bureau of Competition, Room 301, Federal Trade Commission, Washington, D.C. 20580, (202) 523-3894.

By direction of the Commission.

Emily H. Rock,

Secretary.

[FR Doc. 84-4386 Filed 2-16-84; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Agency Forms Submitted to the Office of Management and Budget for Clearance

Each Friday the Department of Health and Human Services (HHS) publishes a list of information collection packages it has submitted to the Office of Management and Budget (OMB) for clearance in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). The following are those packages submitted to OMB since the last list was published on February 10.

Public Health Service

Health Resources and Services Administration

Subject: Health Resources and Services Administration Non-Competing Training Grant Application and Supplements (0915-0061)—Revision.
Respondents: Educational institutions.
Subject: Health Resources and Services Administration Competing Training Grant Application and Supplements (0915-0060)—Revision.
Respondents: Educational institutions.
OMB Desk Officer: Fay S. Iudicello.

Centers for Disease Control

Subject: Tuberculosis Statistics and Program Evaluation Activity (0920-0026)—Extension/No Change.
Respondents: State and local health departments.
OMB Desk Officer: Fay S. Iudicello.

Food and Drug Administration

Subject: Color Additive Petitions—Existing Collection.
Respondents: Businesses.
OMB Desk Officer: Bruce Artim.

Social Security Administration

Subject: Application for the Collection of Delinquent Child Support Payments by the Internal Revenue Service (0960-0281)—Revision.
Respondents: State child support enforcement agencies.
Subject: Request for Correction of Earnings Record (0960-0029)—Extension/No Change.
Respondents: Individuals.
OMB Desk Officer: Milo Sunderhauf.

Copies of the above information collection clearance packages can be obtained by calling the HHS Reports Clearance Officer on 202-245-6511.

Written comments and recommendations for the proposed information collections should be sent directly to the appropriate OMB Desk Officer designated above at the following address: OMB Reports Management Branch, New Executive Office Building, Room 3208; Washington, D.C. 20503, Attn: (name of OMB Desk Officer).

Dated: February 13, 1984.

Robert F. Sermier,

Deputy Assistant Secretary for Management Analysis and Systems.

[FR Doc. 84-4408 Filed 2-16-84; 8:45 am]

BILLING CODE 4150-04-M

Food and Drug Administration

[Docket No. 84M-0031]

Wampole Laboratories; Premarket Approval of AFP-TEST®

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing its approval of the application for premarket approval under the Medical Device Amendments of 1976 of the AFP-TEST® (Farr Technique) sponsored by Wampole Laboratories, Division of Carter-Wallace, Inc., Cranbury, NJ. After reviewing the recommendation of the Immunology Device Section of the Immunology and Microbiology Devices Panel, FDA notified the sponsor that the application was approved because the device had been shown to be safe and effective for use as recommended in the submitted labeling.

DATE: Petitions for administrative review by March 19, 1984.

ADDRESS: Requests for copies of the summary of safety and effectiveness data and petitions for administrative review may be sent to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Charles H. Kyper, National Center for Devices and Radiological Health (HFZ-402), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7445.

SUPPLEMENTARY INFORMATION: On December 16, 1976, Wampole Laboratories, Division of Carter-Wallace, Inc., Cranbury, NJ 08512, submitted to FDA an application for premarket approval of the AFP-TEST® (Farr Technique). The AFP-TEST® (Farr Technique) is an in vitro device indicated for the quantitative measurement of alpha-fetoprotein (AFP) in maternal serum (gestational weeks 15 to 20) and amniotic fluid (gestational weeks 15 to 20). Test results, when used in conjunction with ultrasonography, or amniography, and amniotic fluid acetylcholinesterase testing, are a safe and effective aid in the detection of open neural tube defects. The application was reviewed by the Immunology Device Section of the Immunology and Microbiology Devices Panel, and FDA advisory committee, which recommended approval of the application. On January 13, 1984, FDA approved the application by a letter to the sponsor from the Acting Director, Office of Device Evaluation of the National Center for Devices and Radiological Health.

A summary of the safety and effectiveness data on which FDA's approval is based is on file in the Dockets Management Branch (address above) and is available upon request from that office. A copy of all approved final labeling is available for public inspection at the National Center for Devices and Radiological Health—contact Charles H. Kyper (HFZ-402), address above. Requests should be identified with the name of the device and the docket number found in brackets in the heading of this document.

Opportunity for Administrative Review

Section 515(d)(3) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360e(d)(3)) authorizes any interested person to petition, under section 515(g) of the act (21 U.S.C 360e(g)), for administrative review of FDA's decision to approve this application. A petitioner may request either a formal hearing under Part 12 (21 CFR Part 12) of FDA's administrative practices and procedures regulations or a review of the application and of FDA's action by an independent advisory committee of experts. A petition is to be in the form of a petition for reconsideration of FDA's action under § 10.33(b) (21 CFR 10.33(b)). A petitioner shall identify the form of review requested (hearing or independent advisory committee) and shall submit with the petition supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through administrative review. After reviewing the petition, FDA will decide whether to grant or deny the petition and will publish a notice of its decision in the Federal Register. If FDA grants the petition, the notice will state the issues to be reviewed, the form of review to be used, the persons who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may, at any time on or before March 19, 1984, file with the Dockets Management Branch (address above) two copies of each petition and supporting data and information, identified with the name of the device and the docket number found in brackets in the heading of this document. Received petitions may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: February 10, 1984.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 84-4354 Filed 2-16-84; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 84M-0032]

Kallestad Laboratories, Inc.; Premarket Approval of Quantitope® ^{125}I-AFP RIA Kit

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing its approval of the application for premarket approval under the Medical Device Amendments of 1976 of the Quantitope® ^{125}I-AFP RIA Kit sponsored by Kallestad Laboratories, Inc., Chaska, MN. After reviewing the recommendation of the Immunology Device Section of the Immunology and Microbiology Devices Panel, FDA notified the sponsor that the application was approved because the device had been shown to be safe and effective for use as recommended in the submitted labeling.

DATE: Petitions for administrative review by March 19, 1984.

ADDRESS: Requests for copies of the summary of safety and effectiveness data and petitions for administrative review may be sent to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Charles H. Kyper, National Center for Devices and Radiological Health (HFZ-402), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7445.

SUPPLEMENTARY INFORMATION: On January 19, 1981, Kallestad laboratories, Inc., Chaska, MN 55318, submitted to FDA an application for premarket approval of the Quantitope® ^{125}I-AFP RIA Kit. The Quantitope® ^{125}I-AFP RIA Kit is an in vitro device indicated for the quantitative measurement of alpha-fetoprotein (AFP) in maternal serum (gestational weeks 15 to 20) and amniotic fluid (gestational weeks 15 to 22). Test results, when used in conjunction with ultrasonography, or amniography, and amniotic fluid acetylcholinesterase testing, are a safe and effective aid in the detection of fetal open neural tube defects. The application was reviewed by the Immunology Device Section of the Immunology and Microbiology Devices

Panel, an FDA advisory committee, which recommended approval of the application. On January 13, 1984, FDA approved the application by a letter to the sponsor from the Acting Director, Office of Device Evaluation of the National Center for Devices and Radiological Health.

A summary of the safety and effectiveness data on which FDA's approval is based is on file in the Dockets Management Branch (address above) and is available for public inspection at the National Center for Devices and Radiological Health—contact Charles H. Kyper (HFZ–402), address above. Requests should be identified with the name of the device and the docket number found in brackets in the heading of this document.

Opportunity for Administrative Review

Section 515(d)(3) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360e(d)(3)) authorizes any interested person to petition, under section 515(g) of the act (21 U.S.C. 360e(g)), for administrative review of FDA's decision to approve this application. A petitioner may request either a formal hearing under Part 12 (21 CFR Part 12) of FDA's administrative practices and procedures regulations or a review of the application and of FDA's action by an independent advisory committee of experts. A petition is to be in the form of a petition for reconsideration of FDA's action under § 10.33(b) (21 CFR 10.33(b)). A petitioner shall identify the form of review requested (hearing or independent advisory committee) and shall submit with the petition supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through administrative review. After reviewing the petition, FDA will decide whether to grant or deny the petition and will publish a notice of its decision in the Federal Register. If FDA grants the petition, the notice will state the issues to be reviewed, the form of review to be used, the persons who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may, at any time on or before March 19, 1984, file with the Dockets Management Branch (address above) two copies of each petition and supporting data and information, identified with the name of the device and the docket number found in brackets in the heading of this document. Received petitions may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: February 10, 1984.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 84–4356 Filed 2–16–84; 8:45 am]

BILLING CODE 4160–01–M

Small Business Participation; Open Meeting

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing a forthcoming small business exchange meeting to be chaired by Lynn A. Campbell, Director, San Juan District Office.

DATE: Friday, March 16, 1984, at 1 p.m.

ADDRESS: The meeting will be held at the Mayaguez Medical Center Lounge Area Room, Road No. 2, Mayaguez, RP.

FOR FURTHER INFORMATION CONTACT:

Persons in Puerto Rico should contact:
Sonia De La Torre, Food and Drug Administration P.O. Box S–4427, Old San Juan Station, San Juan, PR 00905. 809–753–4495

Other interested persons should contact:
George Walden, Small Business Representative, Food and Drug Administration, 20 Evergreen Place, East Orange, NJ 07018. 201–645–6466.

SUPPLEMENTARY INFORMATION: The purpose of this meeting is to encourage dialogue between small businesses and FDA officials. The meeting will provide a forum for the owners and managers of small businesses to express their concerns about FDA, encourage discussion about the effects of regulation and regulatory alternatives, convey knowledge about the agency's operations and procedures, and increase participation by small business persons in FDA's decisionmaking process.

Dated: February 10, 1984.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 84–4345 Filed 2–16–84; 8:45 am]

BILLING CODE 4160–01–M

Health Care Financing Administration

Medicare Program; Reissuance of the Wage Index in the 1981 Schedule of Limits on Hospital Per Diem Inpatient General Routine Operating Costs

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Proposed notice.

SUMMARY: We are reissuing for public comment the change in the types of data that were used to calculate the wage index that was contained in the schedules of limits on hospital per diem inpatient general routine operating costs reimbursable under Medicare that were applicable to cost reporting periods beginning on or after July 1, 1981 and for cost reporting periods ending after September 30, 1981. The cost limits for cost reporting periods beginning on or after October 1, 1982 are governed by the notice published in the Federal Register on September 30, 1982 (47 FR 43296) and August 30, 1983 (48 FR 39426) and are not affected by this reissuance. The wage index was originally issued as part of the schedule of limits published on June 30, 1981 (46 FR 33637) and September 30, 1981 (46 FR 48010) and is being reissued as the result of the April 29, 1983 decision of the United States District Court for the District of Columbia in the case of *District of Columbia Hospital Association, et al. v Heckler, et al.* (No. 82–2520 DDC). The District Court held that the 1981 schedule of hospital cost limits was invalid for failure to comply with the Administrative Procedure Act insofar as the schedule incorporated or was formulated by using a wage index that was calculated by excluding Federal government hospital wage data.

DATES: To assure consideration comments must be received by March 19, 1984.

ADDRESS: Address comments in writing to: Health Care Financing Administration, Department of Health and Human Services, Attention: BERC–276–P, P.O. Box 26676, Baltimore, Maryland 21207.

If you prefer, you may deliver your comments to Room 309–G Hubert H. Humphrey Building, 200 Independence Ave., SW., Washington, D.C., or to Room 132, East Hight Rise Building, 6325 Security Boulevard, Baltimore, Maryland 21207. In commenting, please refer to BERC–276–P.

Comments will be available for public inspection as they are received, beginning approximately three weeks from today, in Room 309–G of the Department's offices at 200 Independence Ave., SW., Washington, D.C. 20201, on Monday through Friday of each week from 8:30 a.m. to 5:00 p.m. (Phone: 202–245–7890).

FOR FURTHER INFORMATION CONTACT: Marilyn Koch, 301–594–9343.

SUPPLEMENTARY INFORMATION:

I. Background

Section 1861(v)(1) of the Social Security Act (42 U.S.C. 1395x(v)(1)) as amended by Section 223 of Pub. L. 92–603, the Social Security Amendments of 1972, authorizes the Secretary to set prospective limits on the costs that are reimbursed under Medicare. These limits may be applied to direct or indirect overall costs or to costs incurred for specific items or services furnished by a Medicare provider, and may be based on estimates of the cost necessary for the efficient delivery of needed health services.

Regulations implementing this authority are set forth at 42 CFR 405.460. Under this authority, we published limits on hospital per diem inpatient general routine service costs annually from 1974 through 1978, and limits on hospital per diem inpatient general routine operating costs in 1979, 1980, and 1981.

On June 30, 1981, we published in the **Federal Register** (46 FR 33637) a schedule of limits on hospital per diem inpatient general routine operating costs applicable to cost reporting periods beginning on or after July 1, 1981. A revised schedule of limits incorporating changes made by the Omnibus Budget Reconciliation Act of 1981 (Pub. L. 96–499) was published on September 30, 1981, (46 FR 48010), effective for cost reporting periods ending after September 30, 1981. For cost reporting periods that began before October 1, 1981, the limits in the September 30, 1981 notice applied only to the portion of the cost reporting period that occurred after September 30, 1981. In these notices, we described the scope of the cost limits and explained our methodology for deriving and applying the limits.

The June 30, 1981, notice (46 FR 33637) was published as a final notice without a prior notice and comment period. In the preamble to that notice, we stated that "in developing the revised limits, we followed the same methodology we used to develop the current limits," except for "minor technical changes in the types of data we used to calculate the wage index and the market basket values." The preamble went on to state that data from Federal government hospitals were excluded from the wage index to improve the accuracy of the wage index adjustment because Federal hospitals typically use national pay scales that do not necessarily reflect area wage levels (46 FR 33699). We determined that, while this wage adjustment would negatively affect only a few hospitals in only a relatively few standard metropolitan statistical areas (SMSAs), it would prevent an unwarranted distribution of public funds to certain hospitals and also prevent the distorting effect of Federal wage scales on the entire wage index. Thus, we determined that use of the notice and comment procedures of the Administrative Procedure Act (APA) with respect to the calculation of the wage index was both unnecessary and contrary to the public interest. We therefore concluded that under the good cause exception of 5 U.S.C. 553(b)(B) of the APA, there was adequate justification to waive these procedures.

On April 29, 1983, the District Court for the District of Columbia in the case of *District of Columbia Hospital Association, et al* v. *Heckler, et al.* (No. 82–2520 DDC) declared the exclusion of Federal hospital wage data from the wage index without prior notice and comment to be a violation of the APA. The court declared invalid the 1981 hospital cost limit schedule insofar as it incorporated or was formulated by using a hospital wage index that excluded Federal government hospital data. As part of this decision on April 29, 1983, the District Court for the District of Columbia ordered us to publish a notice in the **Federal Register** stating that the 1981 schedule of hospital cost limits had been declared invalid with respect to the wage index. We published this notice in the **Federal Register** on September 2, 1983 (48 FR 39998).

The purpose of the reissuance of the wage index as set forth below, is to seek public comments solely on the exclusion of Federal government hospital wage data from the index. All other aspects of the cost limit methodology, as published in the June 30, 1981 (46 FR 33637) and September 30, 1981 (46 FR 48010) notices, remain in effect and unchanged.

II. Explanation of the Wage Index Methodology

The use of the wage index as one component in the setting of cost limits was first introduced in 1979 to replace per capita income as an indicator of area variations in wage levels. In developing the cost limit schedules for the June 30, 1981 and September 30, 1981 notices, we used a hospital wage index to reflect area-by-area differences in the labor-related component of hospital costs (wages and salaries, employee benefits, professional fees, costs of business services, and other miscellaneous expenses). We developed this index from hospital wage data obtained from the Bureau of Labor Statistics (BLS). The data used are those for the "hospital industry," a standard BLS reporting category. The wage index we used for the limits in the June 30, 1981 and September 30, 1981 notices was based on data for calendar year 1979, which were the lastest available data. We have used the same data for this proposed reissued wage index.

To calculate this index, we first computed the average hospital wage for each Standard Metropolitan Statistical Area (SMSA) or New England County Metropolitan Area (NECMA) and non-SMSA/non-NECMA. We then calculated the national average hospital wages for all SMSAs or NECMAs, and a separate national average hospital wage for all non-SMSAs/non-NECMAs. We then divided the average wage level for each area by the appropriate national average (SMSA/NECMA or non-SMSA/non-NECMA). These calculations resulted in an index value for each SMSA or NECMA that reflects the wage level for that area relative to the national average for all SMSAs/NECMAs, and an index value for each non-SMSA/non-NECMA that reflects the wage level for that area relative to the national average for all non-SMSAs/non-NECMAs (see Table IA and IB).

In addition to being based on more current data, the wage index we used in the June 30, 1981 and September 30, 1981 notices differed in two ways from the wage index used in developing the 1980 hospital cost limits. First, we used approximate rather than actual index values for 26 areas. (These approximate values are identified by asterisks in Table IA). We made this change because the BLS, which supplies the data on wages and numbers of employees that we use to calculate the wage index, informed us that its confidentiality requirements prohibited it from disclosing actual data for areas that included fewer than three reporting units. (A reporting unit need not have been a single hospital. Reporting unit was (and is currently) defined by the BLS as the smallest unit for which data are recorded on the employer's contribution report. For example, two facilities in the same area owned by one employer could have appeared as one reporting unit.)

To make it possible to calculate limits for these areas, we asked the BLS to identify the areas having wage index values numerically closest to, but not less than, the areas for which it could not supply actual data. In the case of each area for which actual data were unavailable, we substituted the wage index value identified by the BLS as being closest to the actual value. We stated our belief that the use of approximate rather than actual values for these areas would not affect the accuracy of the limit significantly, and would assure that no hospital's limit

was reduced because actual data for its area were unavailable.

Second, in developing the wage index used for the limits in the June 30, 1981 and September 30, 1981 notices, we excluded data from Federal government hospitals. In this proposed reissuance of the 1981 wage index, we are continuing to exclude data from Federal hospitals from the wage data.

As a result of prior schedules that were issued, we received correspondence concerning the inequity of including Federal hospital wages in developing the wage index. We examined this issue and found that including Federal hospital wages resulted in wage index values that were unrealistically low in areas without Federal hospitals in comparison to adjacent areas with Federal hospitals. The reason for this is that including Federal hospital wages in the data raises the national average hospital wage for all SMSAs/NECMAs and the national average hospital wage for all non-SMSAs/non-NECMAs. However, in determining the wage index for an adjacent area, the area's average wage would be divided by this higher national average resulting in a lower wage index. Yet these adjacent areas with an unrealistically low wage index were competing for the same employees as those areas whose only difference in average wages was the fact that a Federal hospital was located in the SMSA or non-SMSA. Including Federal hospital wage data resulted in wage indexes that did not reflect the differences in wages from area to area. Therefore, in order to correct this inaccuracy, we excluded Federal hospital data from the 1981 wage index.

The exclusion of Federal hospital data is technical in nature. It is designed to improve the accuracy of the wage index so that the index accurately reflects actual differences in wages from one area to another area. It is the purpose of hospital limits to ensure that the Medicare program reimburses providers only for those costs necessary in the efficient delivery of needed health services (42 U.S.C. 1395x(v)(1)(A)). The hospital wage index is but one component of the methodology used to establish limits on hospital inpatient routine operating costs. The wage index serves to reflect area-by-area differences in the labor related component of hospital costs. The more accurate the wage index, the more accurately it reflects these area-by-area differences and thus, ultimately, the more accurate the cost limits. In turn, this means that in accordance with Congressional intent, reimburesment is limited to those costs necessary in the effecient delivery of services. Therefore, we believe that in 1981 we were correct in improving the accuracy of the hospital wage index by excluding the wage data of Federal government hospitals. We concluded that the exclusion of Federal government hospital data would improve the accuracy of the wage index because most Federal hospitals characteristically employ physicians and other high salaried professionals whose salaries are based on national rather than local wage scales. This factor tends to overstate the average hospital wage in areas with Federal institutions as compared to areas without such Federal facilities. Since the purpose of the wage index is to reflect area-by-area differences in the labor-related component of hospital costs, the exclusion of Federal hospital data better enables the wage index to accurately reflect area-by-area labor-related costs.

To the extent hospitals must pay employees wage rates similar to those of Federal facilities to attract qualified personnel, this competitive behavior is reflected in the non-Federal BLS data used to calculate the wage index. That is, if non-Federal hospitals in an area pay wage rates relatively equivalent with those of Federal hospitals, the exclusion of Federal wages would have little effect on the wage index. If wages paid to Federal hospital employees are higher than most area hospital wage levels, then the inclusion of Federal data results in most hospitals receiving a higher Medicare cost limit than is warranted based on their expected costs. Such a result defeats the purpose of the cost limits, which is to limit a provider's reimbursement to only those costs necessary in the efficient delivery of needed health services. Therefore, reissuance of the wage index excluding Federal hospital data reflects Congressional intent to limit hospital reimbursement to those costs necessary in the efficient delivery of services.

The reissuance of the wage index excluding Federal hospital data also avoids placing an unwarranted hardship and burden on intermediaries and many hospitals, while it would impose only a minimal burden on a few hospitals. The inclusion of Federal data in the wage index at this point in time would result in overpayments to many hospitals. As explained previously if we were to include Federal data now, we would have to recompute the national average hospital wage for all SMSAs or NECMAs and the national average hospital wage for all non-SMSAs/non-NECMAs. Both of these averages would be higher if the Federal hospital wage data were included. If the average wage level in an area without Federal hospitals were divided by the recomputed higher national average hospital wage, a lower wage index would result for that area. In this case, we would instruct the intermediaries to recompute the cost limits for those hospitals in areas with revised wage indexes and to recoup any overpayments that would result from the recomputation of the cost limits. We realize that this would create a hardship and burden on both hospitals and intermediaries. Intermediaries would have to review and revise already settled cost reports and reissue notices of program reimbursement (NPRs). Hospitals would be faced with overpayments as the result of these revised cost reports and may have to borrow money to repay the government. In contrast, those few hospitals that would receive less reimbursement if Federal hospital data are excluded from the wage index would not be unduly harmed or burdened by the reissuance of the wage index since these hospitals could only have relied on the wage index as published on June 30, 1981 and September 30, 1981 for reimbursement purposes. Since these limits are prospectively established and published in advance, all hospitals knew before the beginning of their respective cost reporting periods what their cost limit would be. No hospital could have reasonably relied on a wage index that included Federal hospital data after the June 30, 1981 **Federal Register** notice. No hospital nor intermediary would be unduly harmed by this reissuance of the wage index. This proposed notice would simply put the previously set cost limits back into effect.

In summary, we believe that the exclusion of Federal hospital data from the wage index more accurately reflects actual hospital experience. We wish to note that the data used to develop the wage index were supplied by the BLS, and are the most reliable data available. All hospitals are required under State unemployment compensation laws to report these data. If we discover that we or the BLS have made an error based on data received from hospitals that results in an incorrect wage index for any area, we will publish corrected indexes in the **Federal Register** and will direct the Medicare intermediaries to recalculate the limits. However, the BLS has advised us that they are unable to correct any inaccuracies in the wage index that may result from a hospital's failure to report the required wage data

It should be noted that from the time the original notice was published on June 30, 1981, BLS has advised us of various reporting errors in the wage and employment data. In addition on June 19, 1981, the Office of Management and Budget (OMB) announced the designation of new SMSAs and NECMAs as well as revisions in metropolitan classifications based on the results of the 1980 census. We have issued instructions to the intermediaries advising them of these changes. However, in those situations where the corrected data resulted in a lower wage indexes for an area, we continued to use the higher wage index. The wage index which are shown in Tables I–A and I–B reflect the corrections that have been made since June 30, 1981.

III. Impact Analyses

A. Executive Order 12291 and Regulatory Flexibility Act

Executive Order 12291 requires us to prepare and publish a regulatory impact analyses for any regulations that are likely to have an annual effect on the economy of $100 million or more, cause a major increase in costs or prices, or meet other threshold criteria that are specified in that order. In addition, the Regulatory Flexibility Act (Pub. L. 96–354) requires us to prepare and publish a regulatory flexibility analyses for regulations unless the Secretary certifies that the regulations will not have a significant economic impact on a substantial number of small entities. (For purposes of the Regulatory Flexibility Act, small entities include all nonprofit and most for-profit hospitals.) Under both the Executive Order and the Regulatory Flexibility Act, such analyses must, when prepared, show that the agency issuing the regulations has examined alternatives that might minimize unnecessary burden or otherwise ensure the regulations to be cost-effective.

We have determined that this proposed notice, if implemented, would not meet the criteria of either E.O. 12291 or the Regulatory Flexibility Act. We considered two alternatives:

- To republish area wage indexes calculated as published in 1981 with no change in methodology; or
- To publish area wage indexes recalculated to incorporate Federal hospitals in the base data.

In the process of reviewing these alternatives, we considered their comparative impacts on hospital cost reporting periods subject to the cost limits published in 1981. We found that if we included Federal hospitals in the area wage index determinations, we would have to recalculate both urban SMSAs/NECMAs and rural national average hospital wage levels, as well as the means used to determine the per diem limits for each group (published as Tables I and II in the 1981 notices). This would affect the limit for every hospital subject to the limits, although only to a relatively small degree. The limits for some groups would increase, while the limits for other groups would decrease.

The effect on a particular hospital would be the result of multiplying the per diem limit for the hospital's group by the hospital's revised area wage index. If both the limit and index for a hospital increased or decreased, the effect would of course be multiplied, while if they moved in opposite directions, the changes would tend to cancel out.

We determined that the net effect on overall program expenditures would be relatively small, due to the tendency of increases and decreases in limits and indexes to cancel each other out in the aggregate. A change of area wage indexes to incorporate Federal hospitals in the base data would have the primary effect of redistributing marginal advantages and disadvantages. However, if Federal wages were included, more hospitals would be adversely affected, although the impact on the majority of individual hospitals would be relatively small. Including Federal hospital wage data would benefit those few hospitals located in an area with Federal hospital employees. We estimate that very few hospitals would have their annual reimbursement affected by more than $5,000. In the aggregate, the reissuance of wage indexes excluding Federal hospitals would result in smaller net disadvantage to hospitals as a whole, and is more cost beneficial to the hospitals.

Since the use of the wage index methodology as initially published in 1981 does not meet any of the criteria for identifying a major rule under E.O. 12291, we have determined that this notice is not a major rule and that a regulatory impact analysis is not required. In addition, the Secretary certifies under section 603(b) of the Regulatory Flexibility Act, that this notice will not result in a significant economic impact on a substantial number of small entities, and that a regulatory flexibility analysis is not required.

B. Paperwork Burden

This notice contains no information collection requirements, and therefore, is not subject to review by the Office of Management and budget under the Paperwork Reduction Act of 1980 (44 U.S.C. 3507).

IV. Wage Index Tables

TABLE I–A.—WAGE INDEX FOR URBAN AREAS

SMSA area	Wage index
Abilene, TX	0.8485
Akron, OH	1.0417
Albany, GA	.8588
Albany-Schenectady-Troy, NY	.9624
Albuquerque, MN	1.0009
Alexandria, LA	.9218
Allentown-Bethlehem-Easton, PA–NJ	1.0569
Altoona, PA	1.0219
Amarillo, TX	.9233
Anaheim-Santa Ana-Garden Grove, CA	1.2115
Anchorage, AK	1.6461
Anderson, IN	.9812
Anderson, SC	.8814
Ann Arbor, MI	1.2446
Anniston, AL	.8400
Appleton-Oshkosh, WI	1.0124
Asheville, NC	.9578
Athens, GA	.8812
Atlanta, GA	.9162
Atlantic City, NJ	1.0174
Augusta, GA–SC	.9237
Austin, TX	.9859
Bakersfield, CA	1.1223
Baltimore, MD	1.1698
Bangor, ME	.9239
Baton Rouge, LA	.8813
Battle Creek, MI	1.0229
Bay City, MI	1.1238
Beaumont-Port Arthur-Orange, TX	.8530
Bellingham, WA	1.0124
Benton Harbor, MI	.8569
Billings, MT	.9506
Biloxi-Gulfport, MS	.8143
Binghamton, NY–PA	.9769
Birmingham, AL	.9658
Bismarck, ND	.9118
Bloomington, IN	.9481
Bloomington-Normal, IL	.8913
Boise City, ID	.0824
Boston-Lowell-Brockton-Lawrence-Haverhill, MA–NH	1.1277
Bradenton, FL	.8631
Bremerton, WA	.8899
Bridgeport-Stamford-Norwalk-Danbury, CT	1.1647
Brownsville-Harlingen-San Benito, TX	.9312
Bryan-College Station, TX	.8377
Buffalo, NY	.9926
Burlington, NC	.8899
Burlington, VT	.9441
Canton, OH	.9447
Casper, WY	1.0506
Cedar Rapids, IA	.9193
Champaign-Urbana-Rantoul, IL	1.1197
Charleston-North Charleston, SC	.9751
Charleston, WV	1.0628
Charlotte-Gastonia, NC	.9456
Charlottesville, VA	.9943
Chattanooga, TN–GA	1.0226
Chicago, IL	1.2061
Chico, CA	1.0327
Cincinnati, OH–KY–IN	1.0819
Clarksville-Hopkinsville, TN–KY	.8397
Cleveland, OH	1.1957
Colorado Springs, CO	.9743
Columbia, MO	1.1712
Columbia, SC	.9743
Columbus, GA–AL	.9021
Columbus, OH	1.1184
Corpus Christi, TX	.9337
Cumberland, MD–WV	.8594
Dallas-Fort Worth, TX	.9403
Danville, VA	.8807
Davenport-Rock Island-Moline, IA–IL	.8380
Dayton, OH	1.1064
Daytona Beach, FL	.9423
Decatur, IL	.9506
Denver-Boulder, CO	1.0950
Des Moines, IA	1.0176
Detroit, MI	1.2250
Dubuque, IA	.9426
Duluth-Superior, MN–WI	.9193
Eau Claire, WI	.9806
El Paso, TX	.8714
Elkhart, IN	.8372
Elmira, NY	.9642
Enid, OK	.8785
Erie, PA	.9652
Eugene-Springfield, OR	.9639
Evansville, IN–KY	1.0742

TABLE I–A.—WAGE INDEX FOR URBAN AREAS—Continued

SMSA area	Wage index
Fargo-Moorhead, ND–MN	[5] [6] .9478
Fayetteville, NC	[4] .8353
Fayetteville-Springdale, AR	.7997
Flint, MI	[6] 1.1919
Florence, AL	[4] .8056
Florence, SC	[4] .8328
Fort Collins, CO	[4] .8353
Fort Lauderdale-Hollywood, FL	[6] 1.0506
Fort Myers, FL	[6] .9391
Fort Smith, AR–OK	[6] .8899
Fort Wayne, IN	[4] .8985
Fort Walton Beach, FL	[4] .7997
Fresno, CA	1.1265
Gadsden, AL	[4] .9264
Gainsville, FL	[4] .9019
Galveston-Texas City, TX	[6] 1.0607
Gary-Hammond-East Chicago, IN	[6] 1.1664
Glen Falls, NY	[4] .9023
Grand Forks, ND–MN	[4] .8779
Grand Rapids, MI	[4] .9463
Grand Falls, MT	[5] [6] .9162
Greeley, CO	[5] [6] .9312
Green Bay, WI	[4] .9740
Greensboro-Winston-Salem-High Point, NC	[4] .9232
Greenville-Spartanburg, SC	[4] .9371
Hagerstown MD	[4] 1.0742
Hamilton-Middleton, OH	[6] 1.0620
Harrisburg, PA	1.0534
Hartford-New Britain-Bristol, CT	[5] [6] 1.1601
Hickory, NC	[4] .8454
Honolulu, HI	1.1645
Houston, TX	1.0630
Huntington-Ashland, WV–KY–OH	.9270
Huntsville, AL	[4] .8593
Indianapolis, IN	[5] [6] 1.0519
Iowa City, IA	[5] [6] 1.1780
Jackson, MI	[5] [6] 1.0173
Jackson, MS	.8699
Jacksonville, FL	[4] .9331
Jacksonville, NC	[4] .8936
Janesville-Beloit, WI	[4] .8579
Jersey City, NJ	1.1180
Johnson City-Kingsport-Bristol, TN–VA	[4] .8786
Johnstown, PA	[6] 1.0445
Joplin, MO	[4] .8500
Kalamazoo-Portage, MI	[6] 1.1695
Kankakee, IL	[6] 1.0073
Kansas City, MO–KS	[6] .9427
Kenosha, WI	[5] [6] 1.0789
Killeen-Temple, TX	.8868
Knoxville, TN	[4] .9100
Kokomo, IN	[3] [4] .9646
La Crosse, WI	[5] [6] .9016
Lafayette, LA	[4] .8622
Lafayette-West Lafayette, IN	[6] .9141
Lake Charles, LA	[4] .8706
Lakeland-Winter Haven, FL	[4] .9745
Lancaster, PA	[6] 1.0674
Lansing-East Lansing MI	[6] 1.0611
Laredo, TX	[5] [6] .8593
Las Cruces, NM	[5] [6] .8129
Las Vegas, NV	[6] 1.1884
Lawrence, KS	[5] [6] .9193
Lawton, OK	[4] .8377
Lewiston-Auburn, ME	[5] [6] .8899
Lexington-Fayette, KY	.9016
Lima, OH	[4] .9932
Lincoln, NE	.9259
Little Rock-North Little Rock, AR	1.0205
Long Branch-Asbury Park, NJ	[6] 1.0648
Long View, TX	.8129
Lorain-Elyria, OH	[6] 1.0207
Los Angeles-Long Beach, CA	[3] 1.2599
Louisville, KY-IN	[4] .9920
Lubbock, TX	[4] .9042
Lynchburg, VA	[4] .8676
Macon, GA	[4] .9637
Madison, WI	1.0257
Manchester-Nashua, NH	[4] .9441
Mansfield, OH	[4] .9196
McAllen-Pharr-Edinburg, TX	[4] .8165
Medford, OR	[4] .9868
Melbourne-Titusville-Cocoa, FL	[4] .9374
Memphis, TN–AR–MS	1.0371
Miami, FL	1.1050
Midland, TX	[5] [6] .9141
Milwaukee, WI	1.0080
Minneapolis-St. Paul, MN-WI	.9802
Mobile, AL	[4] .9416
Modesto, CA	[5] [6] 1.0508
Monroe, LA	[6] .9451
Montgomery, AL	.9520
Muncie, IN	[5] [6] .9852
Muskegon-Norton Shores-Muskegon Heights, MI	[4] .9658
Nashville-Davidson, TN	1.0187
Nassau-Suffolk, NY	[6] 1.2758
New Bedford-Fall River, MA	[4] .8687
New Brunswick-Perth Amboy-Sayreville, NJ	[3] 1.0409
New Haven-Waterbury-Meriden, CT	1.0000
New London-Norwich, CT	[3] 1.0903
New Orleans, LA	.9644
New York, NY-NJ	[3] 1.3958
Newark, NJ	1.2099
Newark, OH	[4] .9592
Newburgh-Middletown, NY	[3] 1.0789
Newport News-Hampton, VA	[4] .8974
Norfolk-Virginia Beach-Portsmouth, VA-NC	[4] .9687
Northeast Pennsylvania	1.0598
Ocala, FL	[4] .9306
Odessa, TX	[5] [6] .9506
Oklahoma City, OK	.9252
Olympia, WA	[6] 1.0142
Omaha, NE-IA	[4] .9435
Orlando, FL	[4] .9057
Owensboro, KY	[5] [6] .8377
Oxnard-Simi Valley-Ventura, CA	[6] 1.3788
Panama City, FL	[5] [6] .8777
Parkersburg-Marietta, WV-OH	[6] 1.0461
Pascagoula-Moss Point, MS	[5] [6] 1.1547
Paterson-Clifton-Passic, NJ	[3] 1.0958
Pensacola, FL	.8841
Peoria, IL	[5] [6] 1.1130
Petersburg-Colonial Heights-Hopewell, VA	[4] .9454
Philadelphia, PA-NJ	[6] 1.1810
Phoenix, AZ	[6] 1.1100
Pine Bluff, AR	[5] [6] .7997
Pittsburgh, PA	[6] 1.1275
Pittsfield, MA	[5] [6] 1.0276
Portland, ME	[5] [6] 1.0032
Portland, OR-WA	[5] [6] 1.1034
Portsmouth-Dover-Rochester, NH-ME	[6] .8115
Poughkeepsie, NY	[6] 1.1151
Providence-Warwick-Pawtucket, RI	[5] [6] 1.0349
Provo-Orem, UT	[4] .9454
Pueblo, Co	[5] [6] 1.0961
Racine, WI	[4] .9240
Raleigh-Durham, NC	1.0173
Rapid City, SD	[1] .8680
Reading, PA	[6] 1.0101
Redding, CA	[6] 1.0271
Reno, NV	1.2428
Richland-Kennewick, WA	[5] [6] .9935
Richmond, VA	.9252
Riverside-San Bernadino-Ontario, CA	[6] 1.1729
Roanoke, VA	[4] .9614
Rochester, MN	.9852
Rochester, NY	[6] 1.0653
Rockford, IL	[5] [6] 1.0222
Rock Hill, SC	[4] .9136
Sacramento, CA	[5] [6] 1.2231
Saginaw, MI	[6] 1.1279
St. Cloud, MN	.8680
St. Joseph, MO	[4] .9748
St. Louis, MO-IL	[4] .9977
	[4] .9975
Salem, OR	[6] 1.1063
Salinas-Seaside-Monterey, CA	[6] 1.2428
Salisbury-Concord, NC	[4] 1.0308
Salt Lake City-Ogden, UT	[4] .8550
San Angelo, TX	[4] .8364
San Antonio, TX	.9509
San Diego, CA	1.1113
San Francisco-Oakland, CA	[6] 1.3153
San Jose, CA	1.3055
Santa Barbara-Santa Maria-Lompoc, CA	[5] [6] 1.0828
Santa Cruz, CA	[5] [6] 1.0985
Santa Rosa, CA	[6] 1.4037
Sarasota, FL	[5] [6] .9835
Savannah, GA	[6] .9414
Seattle-Everett, WA	[6] 1.0500
Sharon, PA	[4] .9618
Sheboygan, WI	[4] .8439
Sherman-Denison, TX	[6] .8277
Shreveport, LA	.9292
Sioux City, IA–NE	.9305
Sioux Falls, SD	.8844
South Bend, IN	[6] .9156
Spokane, WA	1.0921
Springfield, IL	[5] [6] 1.0230
Springfield, MO	.8933
	[4] .8902
Springfield, OH	[4] .9621
Springfield-Chicopee-Holyoke, MA	[5] [6] 1.0285
State College, PA	[3] 1.1034
Steubenville-Weirton, OH–WV	[5] [6] .9750
Stockton, CA	[6] 1.3046
Syracuse, NY	[4] 1.0278
Tacoma, WA	[6] 1.0558
Tallahassee, FL	[5] [6] .9264
Tampa-St. Petersburg, FL	.9698
Terre Haute, IN	[5] [6] .8734
Texarkana, TX-Texarkana, AR	[4] 1.0929
Toledo, OH–MI	[6] 1.1157
Topeka, KS	1.0602
Trenton, NJ	[6] 1.1708
Tucson, AZ	.9977
Tulsa, OK	[4] .9626
Tuscaloosa, AL	1.0142
Tyler, TX	[4] .9481
Utica-Rome, NY	[6] 1.0145
Vallejo-Fairfield-Napa, CA	[6] 1.5862
Victoria, TX	[4] .8356
Vineland-Millville-Bridgeton, NJ	[3] 1.0083
Visalia-Tulare-Portarville, CA	[6] 1.3627
Waco, TX	.8503
Washington, DC–MD–VA	[6] 1.1547
Waterloo-Cedar Falls, IA	[4] .8631
Wausau, WI	[4] .9709
West Palm Beach-Boca Raton, FL	[4] .9632
Wheeling, WV–OH	[5] [6] 1.0158
Wichita, KS	1.0248
Wichita Falls, TX	[4] .8262
Williamsport, PA	[4] .9749
Wilmington, DE–NJ–MD	[6] 1.0917
Wilmington, NC	[4] .8606
Worcester-Fitchburg-Leominster, MA	[5] [6] .9769
Yakima, WA	[4] .9523
York, PA	[6] .9864
Youngstown-Warren, OH	[6] 1.1090
Yuba City, CA	[3] 1.0726

[1] Approximate value for area.
[2] Effective June 19, 1981, no longer qualified as an SMSA.
[3] Effective June 19, 1981, newly designated SMSAs.
[4] Effective June 19, 1981, new and revised NECMA's.
[5] Recomputed wage index in parentheses based on corrected reporting data from BLS lower than published index.
[6] Revised wage index based on corrected reporting data from BLS.
[7] Including Federal hospital wage data in the computation of the index results in lower wage index for the SMSA/NECMA then the one being issued here for comment.

TABLE I–B.—WAGE INDEX FOR RURAL AREAS

Non-SMSA area	Wage index
Alabama	.8960
Alaska	1.5578
Arizona	1.0299
Arkansas	[6] .8686
California	[6] 1.2415
Colorado	.8990
Connecticut	[5] [6] 1.1617
Delaware	[6] 1.0370
Florida	[4] .8950
Georgia	[4] .8463
Hawaii	[5] [6] 1.3452
Idaho	[4] .9589
Illinois	[5] [6] .9650
Indiana	[5] .9863
Iowa	[4] .9220
Kansas	[4] .9009
Kentucky	[4] .8833
Louisiana	[4] .8216
Maine	[4] .8926
Maryland	[6] 1.1028
Massachusetts	[6] 1.1722
Michigan	[5] [6] 1.1535
Minnesota	[4] .9052
Mississippi	[6] .8751
Missouri	[4] .9158
	[5] .9151
Montana	[5] .9596
Nebraska	[4] .8130
Nevada	[3] 1.0796
New Hampshire	[3] [6] 1.1301
New Jersey	[3] 1.0620

TABLE I–B.—WAGE INDEX FOR RURAL AREAS—Continued

Non-SMSA area	Wage index
New Mexico	1.0073
New York	[4]1.0327
North Carolina	[4].9917
North Dakota	[4].9045
Ohio	1.0088
Oklahoma	.9111
Oregon	1.0673
Pennsylvania	[3] [4]1.1371
Rhode Island	([1])
South Carolina	[4].9180
South Dakota	[3] [4].8237
Tennessee	[4].8779
Texas	.8979
Utah	[3] [4].8552
Vermont	.9993
Virginia	[4].9792
Washington	1.0466
West Virginia	[3]1.0123
Wisconsin	.9179
Wyoming	1.0402

[1] Not applicable. All of Rhode Island is classified as urban.
[2] Recomputed wage index lower than the published index.
[3] Revised wage index based on corrected reporting data from BLS.
[4] Including Federal hospital wage data in the computation of the index results in a lower wage index for the State than the one being issued here for comment.

Sec. 1102, 1814(b), 1861(v)(1), 1866(a), and 1871 of the Social Security Act (42 U.S.C. 1302, 1395f(b), 1395x(v)(1), 1395cc(a), 1395hh, and 42 CFR 405.460)

(Catalog of Federal Domestic Assistance Program No. 13.773; Medicare-Hosptial Insurance)

Dated: November 17, 1983

Carolyne K. Davis,

Administrator, Health Care Financing Administration.

Approved: February 8, 1984.

Margaret M. Heckler,

Secretary.

[FR Doc. 84-4107 Filed 2-16-84; 8:45 am]
BILLING CODE 4120-03-M

Public Health Service

Privacy Act of 1974; System of Records

AGENCY: Department of Health and Human Services; Public Health Service.

ACTION: Notification of a new system of records: 09–30–0046, "Survey of Alcohol Use Among Youth and Young Adults, HHS/ADAMHA/NIAAA".

SUMMARY: In accordance with the requirements of the Privacy Act, the Public Health Service (PHS) is publishing notice of a proposal to establish a new system of records entitled, "Survey of Alcohol Use Among Youth and Young Adults, HHS/ADAMHA/NIAAA," to create a single comprehensive research data base so that critical issues associated with alcohol use among 16- to 27-year-olds can be analyzed. PHS invites interested persons to submit comments on the proposed routine uses on or before March 19, 1984.

DATES: PHS has sent a Report of a New System to the Congress and to the Office of Management and Budget (OMB) on February 8, 1984 PHS has requested that OMB grant a waiver of the usual requirement that a system of records not be put into effect until 60 days after the report is sent to OMB and Congress (If this waver is granted, PHS will publish a notice to that effect in the **Federal Register.)**

ADDRESS: Address comments to: Project Officer, Survey of Alcohol Use Among Youth and Young Adults, National Institute on Alcohol Abuse and Alcoholism, 5600 Fishers Lane, Room 14C–26, Rockville, MD 20857.

The public may inspect the comments we receive, at the above address, from 8:30 a.m. to 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Thomas C. Harford, Ph.D, National Institute on Alcohol Abuse and Alcoholism, 5600 Fishers Lane, Room 14C–26, Rockville, MD 20857, Telephone: (301) 443–4897.

SUPPLEMENTARY INFORMATION: The purpose of the system is to create a comprehensive research data base so that critical issues associated with alcohol use among 16- to 27-year olds can be analyzed. Among these issues are age-related variations in drinking levels and problem behaviors; differences between males and females and blacks and nonblacks in ages when alcohol use begins and when certain long-term consequences are experienced; appropriate measurement of drinking behavior for this age group levels and nature of impact of drinking contexts, social networks, and alcohol availability on young persons' drinking behavior; and the marginal contibutions of alcohol to young persons' already high risk for certain negative experiences (e.g., traffic accidents). Results of these analyses will be used by the National Institute on Alcohol Abuse and Alcoholism (NIAAA) to determine the most appropriate questions for measuring drinking for this age group and to identify the factors related to alcohol use among youth and young adults that are most amenable to prevention or intervention efforts.

The NIAAA contractor—the Research Triangle Institute of Research, Triangle Park, North Carolina—will conduct a survey of a representative sample of 16- to 27-year-old residents of the Baton Rouge, Louisiana Standard Metropolitan Statistical area. Data for the study with be developed from face-to-face and self-administered interviews will voluntary participants. Informed consent will be obtained from all participants; signed informed consent will be obtained from parents of participants who are minors. Confidentially will be discussed when obtaining informed consent. NIAAA has provided for thorough protection of the records. We will require the contractor to set up physical safeguards, as described in the system notice, to protect the security, confidentiality, and integrity of the records. For example, only authorized contractor staff will have access to personally-identified information. The contractor staff will edit the date and enter them into computer files. Computer files and paper records containing personally identifying information will be destroyed following verification and data processing activities specified by the study design. The contractor will provide to NIAAA only aggregated statistical summaries, tables, and analyses and computer tapes of the individual records that have been stripped of personal identifiers. The system of records will exist only until data collection and processing activities for the study have been completed—about five months. When the contractor destroys the computer files used in generating screening assignments and in generating interviewing assignment, original forms, and cross-reference lists, the system of records will no longer exist.

NIAAA proposes two routine uses for this system of records. The first routine use permitting disclosure to a congressional office is proposed to allow subject individuals to obtain assistance from their representatives in Congress, should they so desire. Such disclosure would be made only pursuant to a written request of the individual and is thus compatible with the purpose of the system. Routine use No. 1 reads as follows:

"1. Disclosure may be made to a congressional office from the record of an individual in response to a verified inquiry from a congressional office made at the written request of that individual."

NIAAA has contracted with the Research Triangle Institute (RTI) of Research Triangle Park, North Carolina: (1) To conduct this study among youth and young adults regarding their alcohol and drug consumption, (2) to process and analyze the data, and (3) to submit the data to NIAAA in aggregated statistical summary tables and analyses. The contractor is bound by terms of the contract to take all necessary steps to protect the records from any disclosure, intentional or accidental, except to

NIAAA. Using a contractor as outlined above increases NIAAA's efficiency and effectiveness in carrying out its legislated mandate and, thus, is compatible with the purpose of the system.

The proposed routine use No. 2 will permit the contractor to develop the records and reads as follows:

"2. NIAAA has contracted with the Research Triangle Institute to collect, analyze, aggregate and otherwise refine records in the system. The contractor will disclose records from this system only to NIAAA and is required to maintain in Privacy Act safeguards with respect to such records."

The following notice is written in the present, rather than future tense, in order to avoid the unnecessary expenditure of public funds to republish the notice after the system has become effective.

Dated: February 10, 1984.

Wilford J. Forbush,

Deputy Assistant Secretary for Health Operations and Director, Office of Management.

SYSTEM NAME

Survey of Alcohol Use Among Youth and Young Adults, HHS/ADAMHA/NIAAA.

SECURITY CLASSIFICATION

None.

SYSTEM LOCATION

Research Triangle Institute P.O. Box 12194—Cornwallis Road, Research Triangle Park, NC 27709.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM

Normal youth and young adults aged 16 to 27, in the Baton Rouge, Louisiana, Standard Metropolitan Statistical Area, who have volunteered to participate in the study during the winter and spring of 1984.

CATEGORIES OF RECORDS IN THE SYSTEM

An original and amended listing of Baton Rouge area household residents, parental consent forms, and screening and other data collection forms completed during the winter and spring of 1984 containing: (1) Personal characteristics such as age, date of birth, education, race, national origin, sex, marital status; (2) information on drinking experience, such as type and amount of alcoholic beverage(s) consumed, frequency of consumption, context of drinking; (3) drug use; and (4) leisure time and other activities.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM

42 U.S.C. 4591, Section 501 of the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970.

PURPOSE(S)

The purpose of the system is to create a comprehensive research data base so that critical issues associated with alcohol use among 16- to 27-year-olds can be analyzed. Results of these analyses will be used by the National Institute on Alcohol Abuse and Alcoholism (NIAAA) to determine the most appropriate questions for measuring drinking for this age group and to identify the factors related to alcohol use among youth and young adults that are most amendable to prevention or intervention efforts.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES

1. Disclosure may be made to a congressional office from the record of an individual in response to a verified inquiry from a congressional office made at the written request of that individual.

2. NIAAA has contracted with the Research Triangle Institute to collect, analyze, aggregate, or otherwise refine records in the system. The contractor will disclose records from this system only to NIAAA and is required to maintain Privacy Act safeguards with respect to such records.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM

STORAGE

Data collection forms and magnetic tapes and disks will be stored in closed cabinets in a locked room with controlled accessibility.

RETRIEVABILITY

The records will be indexed and retrieved by subject-participant's name and unique numeric identifier. In order to relate the data collected to specific individuals, however, the contractor will use the link file discussed under Safeguards.

SAFEGUARDS

The safeguards which follow are in accordance with the DHHS Chapter 45–13 and supplementary Chapter PHS.hf: 45–13 in the HHS General Administration Manual and Part 6, "ADP System Security" in the HHS ADP Systems Security Manual.

Physical Security: The contractor stores individually identified forms in a locked room with controlled entry; i.e., only on the written authority of the professional staff member in charge of data handling and processing operations. The contractor staff enter the collected information onto computer tape or disks as soon after contact with the subject-participant as possible, and store the computerized records in a secured area with access limited as above.

Technical Security: Access to the computerized records is protected by a computerized password routine which is changed periodically. In addition, the project staff complies with the contractor's (Research Triangle Institute) standard procedures for safeguarding data. The link file system that identifies individuals with personal data has three components: (1) Identification information, (2) data base information, and (3) the link file, which contains identifying number pairs which match data with individuals. The advantage of this system is that one may use the baseline data directly for report generation and other purposes without accessing the personal information or link files.

Administrative Security: The data management task leader, the project leader, or the project director provide technical supervision of all data collection and processing activities and are the authorized contractor staff who supervise access to the records (computerized and hard copy files) in the system. The contractor provides only aggregated data tabulations in reports to NIAAA and the public. The contractor will furnish to NIAAA a computer tape file containing only data base information on subject-participants without identification information. The contractor who maintains records in this system has been instructed to make no further disclosure of the records except as authorized by the system manager and permitted by the Privacy Act. Privacy Act requirements have been specifically included in the contract for this project. The NIAAA project officer and contract officer will oversee compliance with these requirements.

RETENTION AND DISPOSAL

The contractor staff destroys data collection forms by shredding immediately after they complete direct entry on magnetic tape or disk storage and verify the information. The contractor will destroy individual identification and link files by shredding or burning at the termination of the data collection and processing phases of the project, approximately five months after the system is initiated. NIAAA will retain the data base records on data tapes for research purposes. These tapes will not have any individually identifiable information.

SYSTEM MANAGER AND ADDRESS

Project Officer, Survey of Alcohol Use Among Youth and Young Adults, National Institute on Alcohol Abuse and Alcoholism, 5600 Fishers Lane, Room 14C–26, Rockville, MD 20857.

NOTIFICATION PROCEDURE

To determine if a record exists, contact the contractor:

Project Director, Survey of Alcohol Use Among Youth and Young Adults, Research Triangle Institute, P.O. Box 12194—Cornwallis Road, Research Triangle Park, NC 27709.

Requesters should provide verifiable proof of identity—such as notarized original signature—for mail requests, inquiries, and responses; or driver's license with picture for in-person inquiries and requests.

RECORD ACCESS PROCEDURE

Same as notification procedure. Requesters should also reasonably specify the record contents being sought.

CONTESTING RECORD PROCEDURES

Contact the System Manager at the address above and reasonably identify the record, specify the information being contested, and state the corrective action being sought, with supporting justification.

RECORD SOURCE CATEGORIES

The subject individuals are the sole source of the information in the records.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE PRIVACY ACT

None.

[FR Doc. 84–4377 Filed 2–10–84; 8:45 am]

BILLING CODE 4160–20–M

Centers for Disease Control

National Institute for Occupational Safety and Health; Research and Demonstration Grants Relating to Occupational Safety and Health; Availability to Funds for Fiscal Year 1984

The National Institute for Occupational Safety and Health (NIOSH), Centers for Disease Control (CDC), announces the availability of funds in Fiscal Year 1984 for research and demonstration project grants relating to occupational safety and health. This grant program is authorized by section 20(a)(1) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 669(a)(1)) and section 501 of the Federal Mine Safety and Health Act of 1977 (30 U.S.C. 951). Program regulations applicable to these grants are in Part 87, "National Institute for Occupational Safety and Health Research and Demonstration Grants," of Title 42, Code of Federal Regulations. Except as otherwise indicated, the basic grant administration policies of the Department of the Health and Human Services and the Public Health Service are applicable to this program. Applications responsive to this announcement are not subject to Executive Order NO. 12372, Intergovernmental Review of Federal Programs.

Research Project Grants

A research project grant application should be designed to establish discover, develop, explain, or confirm information relating to occupational safety and health, including innovative methods, techniques, and approaches for dealing with occupational safety and health problems. These studies may generate information that is readily available to solve problems or contribute to a better understanding of underlying causes and mechanisms.

Demonstration Project Grants

A demonstration project grant application should address, either on a pilot or full-scale basis, the technical or economic feasibility or application of (1) a new or improved occupational safety and health procedure, method, technique, or system; or (2) an innovative method, technique, or approach for preventing occupational safety and health problems.

Small Grants

A small grant application is intended to provide financial support to carry out exploratory or pilot studies, to develop or test new techniques or methods, or to analyze data previously collected. This small grant program is intended for pre-doctoral graudate students, post-doctoral researchers (within 3 years following completion of doctoral degree or completion or residency or public health training), and junior faculty members (no higher than assistant professor). If university policy requires that a senior person be listed as principal investigator, the application should specify that the funds are for the use of a particular student or junior-level person and should include appropriate justification for this arrangement. Although biographical sketches are required only for the person actually doing the work, the application should indicate who will be supervising the research. Small grant applications should be identified as such on the application form.

The total small grant award may comprise direct costs of up to $15,000 per year and additional indirect costs, as appropriate. The grants may be awarded for up to 2 years and are thereafter continued by competitive renewal as a regular research grant. Salary of the principal investigator, as well as that of the junior investigator, if university policy requires a senior person to be listed as the principal investigator, will not be allowed on a small grant, although salaries can be requested for necessary support staff such as laboratory technicians, interviewers, etc.

Program Project Grants

NIOSH will also accept applications for program project grants, but only after eligible applicants discuss with the individuals listed under **"FOR FURTHER INFORMATION CONTACT."**

Programmatic Interest

Examples of work-related programmatic interest to NIOSH, which are applicable to all of the above types of grants, are listed below. The conditions or examples listed under each category are selected examples and not comprehensive definitions of the category. However, investigators may apply in any areas related to occupational safety and health.

1. Occupational lung diseases: Asbestosis, byssinosis, silicosis, coal workers' pneumoconiosis, lung cancer, and occupational asthma;
2. Musculoskeletal injuries: Disorders of the back, trunk, upper extremity, neck, and lower extremity; and traumatically-induced Raynaud's phenomenon;
3. Occupational cancers (other than lung): Leukemia; mesothelioma; and cancers of the bladder, nose, and liver;
4. Amputations, fractures: eye losses, lacerations, and traumatic deaths;
5. Cardiovascular diseases: Hypertension, coronary artery disease, and acute myocardial infarction;
6. Disorders of reproduction: Infertility, spontaneous abortion, and teratogenesis;
7. Neurotoxic disorders: Peripheral neuropathy, toxic encephalitis, psychoses, and extreme personality changes (exposure-related);
8. Noise-induced loss of hearing;
9. Dermatologic conditions: Dermatoses, burns (scaldings), chemical burns, and contusions (abrasions);
10. Psychologic disorders: Neuroses, personality disorders, alcoholism, and drug dependency;
11. Control technology research: Application of scientific principles to control strategies, preconstruction review, technology forcing/new source performance concepts, technology

transfer, substitution, unit operations approaches; and

12. Respirator research: New and innovative respiratory protective devices; techniques to predict performance; effectiveness of respirator programs; physiologic and ergonomic factors; medical surveillance strategies; psychological and motivational aspects; effectiveness of sorbents and filters, including chemical and physical properties.

Applications submitted in response to this announcement will be reviewed for their responsiveness and relevance to occupational safety and health. Potential applicants with questions concerning the acceptability of their proposed work should contact the individuals listed in this announcement under "FOR FURTHER INFORMATION CONTACT."

Eligibility Requirements

Eligible applicants include nonprofit and for-profit organizations. Thus, universities, colleges, research institutions, other public and private organizations, including State and local governments, and small, minority and/or woman-owned businesses, are eligible for these research and demonstration grants. For-profit organizations will be required to submit a certification as to their status as part of their application.

Availability of Funds

In Fiscal Year 1984, $6,501,000 will be available to award grants. It is estimated that $3.8 million of this amount will support continuation grants, and $400,000 will be funded in the Special Emphasis Research Career Award (SERCA) program. NIOSH published information about the SERCA program in the Federal Register on December 13, 1983 (48 FR 55515). Grants are usually funded for 12 months in project periods of up to 5 years—2 years for small grants. Continuation awards within the project period are made on the basis of satisfactory progress and on the availability of funds. Grantees will be expected to cost share a minimum of 5 percent.

Criteria for Review

Applications will be evaluated by a dual review process. The primary (peer) review is based on scientific merit and significance of the project, competence of the proposed staff in relation to the type of research involved, feasibility of the project, likelihood of its producing meaningful results, appropriateness of the proposed project period, adequacy of the applicant's resources available for the project, and appropriateness of the budget request.

Demonstration project grant applications will be reviewed additionally on the basis of the following criteria:

- Degree to which project objectives are clearly established, obtainable, and for which progress toward attainment can and will be measured;
- Availability, adequacy, and competence of personnel, facilities, and other resources needed to carry out the project;
- Degree to which the project can be expected to yield or demonstrate results that will be useful and desirable on a national or regional basis; and
- Extent of cooperation expected from industry, unions, or other participants in the project, where applicable.
- Small grant applications will be reviewed additionally on the basis of the following criterion:
- The review process will take into consideration the fact that the applicants do not have extensive experience with the grant process.

A secondary review will also be conducted in which the factors to be considered will include:

- The results of the initial review;
- The significance of the proposed study to the research programs of NIOSH;
- National needs and program balance; and
- Policy and budgetary consideration.

Applications

Applications should be submitted on Form PHS–398 (revised May 1982) or on PHS–5161–1 for State and local government applicants to the address below: Division of Research Grants, National Institutes of Health, Westwood Building, Room 240, Bethesda, Maryland 20205.

The instructions in the application packet should be followed concerning deadlines for either delivering or mailing the application. Forms should be available from the institutional business offices or from the CDC Procurement and Grants Office, Centers for Disease Control, 255 E. Paces Ferry Road, Room 107A, Atlanta, Georgia 30305.

FOR FURTHER INFORMATION CONTACT.

For technical information: Roy M. Fleming, Sc.D., Chief, Grants Administration, and Review Branch, NIOSH, Bldg. 1, Room 3053, Centers for Disease Control, Atlanta, Georgia 30333, Telephone: (404) 329–3343 or FTS 236–3343.

For application procedures: Leo A. Sanders, Chief, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control, Atlanta, Georgia 30333, Telephone: (404) 262–6575 or FTS 236–6575.

(This program is described in the Catalog of Federal Domestic Assistance Program No. 13.262, Occupational Safety and Health Research Grants)

Dated: February 7, 1984.

J. Donald Millar,

Director, National Institute for Occupational Safety and Health.

[FR Doc. 84-4424 Filed 2-16-84; 8:45 am]

BILLING CODE 4160-19-M

DEPARTMENT OF THE INTERIOR

Office of the Secretary

Presidential Commission on Indian Reservation Economies; Public Hearings and Site Visits

AGENCY: Presidential Commission on Indian Reservation Economies, Interior.

ACTION: Notice of meetings.

SUMMARY: This notice sets forth the dates, time and location of forthcoming hearings and site visits of the Presidential Commission on Indian Reservation Economies for March 1984:

1. *March 1, 1984 (Thursday)—Hearing:* Hilton Inn, 445 Mt. Rushmore Road, Rapid City, South Dakota 57701; Time: 9:00 a.m.—5:00 p.m.
2. *March 2, 1984 (Friday)—Site Visit:* Oglala Sioux Tribe—Reservation Pine Ridge, South Dakota.
3. *March 5, 1984 (Monday)—Hearing:* MGM-Grand Hotel, 2500 E. Second Street, Reno, Nevada 89585; Time: 9:00 a.m.—5:00 p.m.
4. *March 6, 1984 (Tuesday)—Site Visit*

Paiute Tribe—Reservation, Pyramid Lake, Nevada

Washo, Paiute, Shoshone Tribes, Reno-Sparks Indian Colony, Reno, Nevada 89585

The purpose of the hearings will be to receive both oral and written testimony from Indian leaders, Indian businessmen and other representatives from the tribal, public and private sectors concerning the development and sustainment of viable economic enterprises within Indian reservation environments. The site visits will enable the Commission to witness first hand both problems and successes associated with economic and business development on Indian reservations.

Parties interested in testifying at a hearing should present their testimony in writing either in advance of the

hearing or at the onsite registration for the hearing. An oral summary of the testimony may be given at the hearing. Those desiring to submit written testimony and make an oral presentation should submit in writing a brief statement of the general nature of the testimony to be presented, the names and addresses of proposed participants and an indication of the approximate time required to make their presentation. This information should be sent to Tanna Chattin, Director, Office of Public, Tribal and Governmental Affairs, Presidential Commission on Indian Reservation Economies, Suite 765, 1717 H Street, Northwest, Washington, D.C. 20006. Questions regarding testimony or registration procedures may also be directed to Ms. Chattin at (202) 653–2436. The agenda for oral testimony will be completed five days in advance of each hearing.

Any person attending a hearing who has not requested an opportunity to speak five days in advance of the meeting, will be allowed to make an oral presentation at the conclusion of the hearing, if time permits and at the discretion of the Co-Chairman.

FOR FURTHER INFORMATION CONTACT:
Eric Rudert, Deputy Director, Presidential Commission on Indian Reservation Economies, 1717 H Street, Northwest, Suite 765, Washington, D.C. 20006. Telephone (202) 653–2436.

Dated: February 13, 1984.

Eric Rudert,

Deputy Director, Presidential Commission on Indian Reservation Economies.

[FR Doc. 84–4222 Filed 2–16–84; 8:45 am]

BILLING CODE 4310-02-M

Bureau of Land Management

[U–53729]

Utah; Order Providing for Opening of Lands

Correction

In FR Doc. 84–2811 appearing on page 4157 in the issue of Thursday, February 2, 1984, make the following correction.

After the thirty-first line of the legal description for Salt Lake Meridian, Utah, add the line:

"Sec. 29, all ;".

BILLING CODE 1505–01–M

[NM 12253]

New Mexico; Proposed Reinstatement of Terminated Oil and Gas Lease

Under the provisions of Pub. L. 97–451, TXO Production Corporation petitioned for reinstatement of oil and gas lease NM 12253 covering the following described lands located in Chaves County, New Mexico:

T. 6 S., R. 26 E., NMPM.
Sec. 34: N½, E½SW¼, SE¼;
Sec. 35: N½NE¼, SE¼NE¼, NE¼NW¼, E½SE¼.
Containing 800.00 acres.

It has been shown to my satisfaction that failure to make timely payment of rental was due to inadvertence.

No valid lease has been issued affecting the lands. Payment of back rentals and administrative cost of $500.00 has been paid. Future rentals shall be at the rate of $5.00 per acre per year and royalties shall be at the rate of 16⅔ percent. Reimbursement for the cost of publication of this notice shall be paid by the lessee.

Reinstatement of the lease will be effective as of the date of termination, September 1, 1981.

Dated: February 10, 1984.

S. Gene Day,

Acting State Director.

[FR Doc. 84–4425 Filed 2–16–84; 8:45 am]

BILLING CODE 4310-FB-M

[NM 12846]

New Mexico; Proposed Reinstatement of Terminated Oil and Gas Lease

Under the provisions of Pub. L. 97–451, Gulf Oil Corporation petitioned for reinstatement of oil and gas lease NM 12846 covering the following described lands located in Lea County, New Mexico.

T. 22 S., R. 33 E., NMPN.
Sec. 13: SE¼;
Sec. 15: SE¼;
Sec. 23: NE¼;
Sec. 25: SE¼;
Sec. 26: NW¼.
Containing 800.00 acres.

It has been shown to my satisfaction that failure to make timely payment of rental was due to inadvertance.

No valid lease has been issued affecting the lands. Payment of back rentals and administrative cost of $500.00 has been paid. Future rentals shall be at the rate of $5.00 per acre per year and royalties shall be at the rate of 16⅔ percent. Reimbursement for the cost of publication of this notice shall be paid by the lessee.

Reinstatement of the lease will be effective as of the date of termination, January 2, 1982.

Dated: February 10, 1984.

S. Gene Day,

Acting State Director.

[FR Doc. 84–4426 Filed 2–16–84; 8:45 am]

BILLING CODE 4310-FB-M

Bureau of Reclamation

[INTFES 84–4]

Regulatory Storage Division, Central Arizona Project, Arizona; Availability of Final Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, as amended, the Department of the Interior has prepared a final environmental statement on the environmental consequences of constructing and operating the Regulatory Storage Division of the Central Arizona Project, including concurrent and coincident aspects of the Bureau of Reclamation's Safety of Dams program for the Salt and Verde Rivers.

Copies of the statement are available for inspection at the following locations:

Director, Office of Environmental Affairs, Bureau of Reclamation, Department of the Interior, 18th and C Streets, NW., Room 7622, Washington, D.C. 20240, Telephone (202) 343–4991

Library Branch, Division of Management Support, Engineering and Research Center, Room 450, Building 67, Denver Federal Center, Denver, CO 80225, Telephone: (303) 234–3019

Office of the Regional Director, Bureau of Reclamation, Nevada Highway and Park Street, Boulder City, NV 89005, Telephone (702) 193–8411,

Arizona Projects Office, Bureau of Reclamation, Suite 2200 Valley Center, 201 North Central Avenue, Phoenix, AZ 85073, Telephone: (602) 261–3577

Libraries

Phoenix City Library, 12 East McDowell Road, Phoenix, AZ 85004

Tucson City Library, 200 South Sixth Avenue, Tucson, AZ 85701

Single copies of the final statement may be obtained on request to the Commissioner of Reclamation or the Regional Director at the addresses listed above, at no charge. Please refer to the statement number above.

Dated: February 10, 1984

Bruce Blanchard,

Director, Environmental Project Review.

[FR Doc. 84–4279 Filed 2–16–84; 8:45 am]

BILLING CODE 4310-09-M

Quarterly Status Tabulation of Water Service and Repayment Contract Negotiations; Proposed Contractual Actions Pending Through March 1984

Pursuant to section 226 of the Reclamation Reform Act of 1982 (96 Stat. 1273), and to § 426.20 of the rules and regulations published in the Federal Register December 6, 1983, Vol. 48, page 54785, the Bureau of Reclamation will publish notice of proposed irrigation or amendatory irrigation contract actions in newspapers of general circulation in the affected area at least 60 days prior to contract execution. The Bureau of Reclamation announcements of irrigation contract actions will be published in newspapers of general circulation in the areas determined by the Bureau of Reclamation to be affected by the proposed action. Announcements may be in the form of news releases, legal notices, official letters, memorandums, or other forms of written material. Meetings, workshops, and/or hearings may also be used, as appropriate, to provide local publicity. The public participation requirements do not apply to proposed contracts for the sale of surplus of interim irrigation water for a term of 1 year or less. The Secretary or the district may invite the public to observe any contract proceedings. All public participation procedures will be coordinated with those involved in complying with the National Environmental Policy Act if the Bureau determines that the contract action may or will have "significant" environmental effects.

Pursuant to the "Final Revised Public Participation Procedures" for water service and repayment contract negotiations, published in the Federal Register February 22, 1982, Vol. 47, page 7763, a tabulation is provided below of all proposed contractual actions in each of the seven Reclamation regions. Each proposed action listed is, or is expected to be, in some stage of the contract negotiation process during January, February, or March of 1984. When contract negotiations are completed, and prior to execution, each proposed contract form must be approved by the Secretary, or pursuant to delegated or redelegated authority, the Commissioner of Reclamation or one of the Regional Directors. In some instances, congressional review and approval of a report, water rate, or other terms and conditions of the contract may be involved. The identity of the approving officer and other information pertaining to a specific contract proposal may be obtained by calling or writing the appropriate regional office at the address and telephone numbers given for each region.

This notice is one of the variety of means being used to inform the public about proposed contractual actions. Some of the actions listed have been publicized in the Federal Register previously. When this is the case, the date of publication is given. Individual notice of intent to negotiate, and other appropriate announcements, will be made in the Federal Register for those actions found to have widespread public interest.

Acronym Definitions Used Herein

(FR) Federal Register
(ID) Irrigation District
(IDD) Irrigation and Drainage District
(M&I) Municipal and Industrial
(D&MC) Drainage and Minor Construction
(R&B) Rehabilitaiton and Betterment
(O&M) Operation and Maintenance
(CVP) Central Valley Project
(P–SMBP) Pick-Sloan Missouri Basin Program
(CRSP) Colorado River Storage Project
(SRPA) Small Reclamation Projects Act
(SOFAR) Southern Fork American River

Pacific Northwest Region

Bureau of Reclamation, 550 West Fort Street, Box 043, Boise, ID 83724, telephone (208) 334–9011.

1. Boise Cascade Corporation, Columbia Basin Project, Washington; Industrial water service contract; 250 acre-feet; FR notice published April 7, 1980, Vol. 45, page 23531.

2. Boise Project Board of Control, Boise Project, Idaho-Oregon; Irrigation repayment contract; 22,800 acre-feet of stored water in Arrowrock Reservoir.

3. Douglas County, Oregon; SPRA loan repayment contract; $11,605,000 proposed loan obligation. Loan application also includes a request for $14,395,000 in grant funds towards anadromous fish enhancement, recreation, fish and wildlife functions.

4. Miscellaneous Water Users, Pacific Northwest Region, Idaho, Oregon and Washington; Temporary (interim) water service contracts for surplus project water; Maximum of 10,000 acre-feet annually per contractor for irrigation and maximum of 2,000 acre-feet annually per M&I contractor for terms of up to 2 years.

5. Rouge River Basin water users, Rogue River Basin Project, Oregon; Water service contracts; $5 per acre-foot or $20 minimum per annum, not to exceed 320 acres or 1,000 acre-feet of water per contractor for terms up to 40 years.

6. Willamette Basin water users, Willamette Basin Project, Oregon; Water service contracts; $1.25 per acre-foot or $20 minimum per annum, not to exceed 320 acres or 1,000 acre-feet of water annually per contractor for terms up to 40 years.

7. Granger ID, Yakima Project, Washington; R&B loan repayment contract; $1,111,000 proposed obligation.

8. Washington Water Power Company, Inc., Columbia Basin Project, Washington; Industrial water service contract; 32,000 acre-feet of water per year from Franklin D. Roosevelt Lake for the proposed Creston Powerplant; FR notice published December 11, 1982, Vol. 46, page 60658.

9. Cascade Reservoir water users, Boise Project, Idaho; Irrigation repayment contracts; 57,251 acre-feet of stored water in Cascade Reservoir.

10. Boise Water Corporation, Boise Project, Idaho; Short-term (2 years) M&I water service contract; up to 5,000 acre-feet annually from stored water in Lucky Peak Reservoir.

11. Grandview I.D. Yakima Project, Washington; R&B loan repayment contract; $1,054,000 proposed obligation.

12. Irrigation Districts and Similar Water User Entities; Amendatory repayment and water service contracts; Purpose is to conform to the Reclamation Reform Act of 1982 (Pub. L. 97–293).

Mid Pacific Region

Bureau of Reclamation, (Federal Office Building) 2800 Cottage Way, Sacramento, CA 95825, telephone (916) 484–4680.

1. 2047 Drain Water Users Association, CVP, California; Water right settlement contract; FR notice published July 25, 1979, Vol. 44, page 43535.

2. Tuolumne Regional Water District, CVP, California; Water service contract; 3,200 acre-feet from New Melones Reservoir; FR notice published February 5, 1982, Vol. 47, page 5473.

3. Calaveras County Water District, CVP, California; Water service contract; 500 acre-feet from New Melones Reservoir; FR notice published February 5, 1982, Vol. 47, page 5473.

4. Miscellaneous Water Users, Mid-Pacific Region, California, Oregon, and Nevada; Temporary (interim) water service contracts for surplus project water; Maximum of 10,000 acre-feet annually per contractor for irrigation and maximum of 2,000 acre-feet annually per M&I contractor for terms up to 2 years.

5. State of California, Department of Water Resources, CVP, California; Interim water service contract for approximately 500,000 acre-feet.

6. Pacheco Water District, CVP, California; Amendatory water service contract providing for a change in point of delivery from Delta-Mendota Canal to the San Luis Canal.

7. City of Redding, CVP, California; Agreement for operation of the City of Redding's Lake Redding Power Project and resolution of potential impacts on Keswick Powerplant.

8. South San Joaquin ID and Oakdale ID, CVP, California; Operating agreement for conjunctive operation of New Melones Dam and Reservoir on the Stanislaus River; FR notice published June 6, 1979, Vol. 44, page 32483.

9. San Luis Water District, CVP, California; Amendatory water service contract providing for a change in point of delivery from Delta-Mendota Canal to the San Luis Canal.

10. The Westside Irrigation District, CVP, California; Amendment to existing water service contract to provide for transportation of District owned water rights through the Delta-Mendota Canal.

11. Oakdale Irrigation District, SRPA, California; Loan repayment contract; $17,845,000 proposed obligation.

12. Lindsay-Strathmore Irrigation District, CVP, California; Amendatory Water service contract providing for M&I use to the City of Lindsay.

13. County of Colusa, CVP, California; Contract for M&I water service (40 acre-feet).

14. Irrigation Districts and Similar Water User Entities; Amendatory repayment and water service contracts; Purpose is to conform to the Reclamation Reform Act of 1982 (Pub. L. 97–293).

15. County of San Benito, San Felipe Division, CVP, California; Repayment recreation agreement will provide recreation facilities in an area that now has a deficit of recreation areas.

16. Santa Barbara County, Cachuma Project, California; Recreation Management Agreement will provide funds for recreation development to a project with heavy visitor use.

Upper Colorado Region

Bureau of Reclamation, P.O. Box 11568, (125 South State Street) Salt Lake City, UT 84147, telephone (801) 524–5435.

1. Miscellaneous water users, Upper Colorado Region, Utah, Wyoming, Colorado, and New Mexico; Temporary (interim) water service contracts for surplus project water; Maximum of 10,000 acre-feet annually per contractor for irrigation and maximum of 2,000 acre-feet annually per M&I contractor for terms up to 2 years.

2. Fontenelle (Chevron) State of Wyoming, Seedskadee Project, Wyoming; Water sales contract for 22,500 acre-feet per year for industrial use. Environmental Impact Statement under preparation; approval pending outcome and compliance with Section 7, Endangered Species Act. FR notice published January 26, 1983, Vol. 48, No. 18, page 3662.

3. Animas-La Plata Conservancy District, Animas-La Plata Project, Colorado; Water service contract; 9,200 acre-feet per year for M&I use; 72,200 acre-feet per year for irrigation; FR notice published April 17, 1981, Vol. 46, No. 74, page 22474.

4. La Plata Conservancy District, Animas-La Plata Project, New Mexico; Water service contract; 16, 000 acre-feet per year for irrigation; FR notice published April 17, 1981, Vol. 46, No. 74, page 22474.

5. City of Farmington, Animas-La Plata Project, New Mexico; M&I water service contract; 19,700 acre-feet per year; FR notice published April 17, 1981, Vol. 46, No. 74, page 22474.

6. City of Aztec, Animas-La Plata Project, New Mexico; M&I water service contract; 5,800 acre-feet per year; FR notice published April 17, 1981, Vol. 46, No. 74, page 22474.

7. City of Bloomfield, Animas-La Plata Project, New Mexico; M&I water service contract; 5,300 acre-feet per year; FR notice published April 17, 1981, Vol. 46, No. 74 page 22474.

8. Preston-Whitney Irrigation Company, North Cache Water Development Project, Idaho; Small Reclamation Projects Act, Pub. L. 84–984; Repayment contract for $26,000,000; Federal loan to convert open ditch system with individual pumps for sprinkler pressurization to a closed pipe gravity pressurized system; FR notice published April 26, 1983, Vol. 48, No. 81, page 18907.

9. Central Utah Project, Bonneville Unit, Utah; Supplemental M&I repayment contract for 99,000 acre-feet year; Negotiations anticipated to be reactivated; FR notice published August 22, 1980, Vol. 45, No. 165, page 56199.

10. Central Utah Project, Bonneville Unit, Utah; $34,000,000 D&MC Contract—Duchesne River Area Canals rehabilitation to meet 1987 construction commitment. Repayment covered under executed repayment contract.

11. Ogden River Water Users Association, Weber Basin Project, Utah; Amendatory Emergency Loan of $250,000 for canal repair; Negotiations have been completed and execution of contract expected in January 1984.

12. Irrigation Districts and Similar Water User Entities; Amendatory repayment and water service contracts; Purpose is to conform to the Reclamation Reform Act of 1982 (Pub. L. 97–293).

Lower Colorado Region

Bureau of Reclamation, P.O. Box 427, (Nevada Highway and Park Street) Boulder City, NV 89005, telephone (702) 293–8536.

1. City of Yuma, Boulder Canyon Project, Arizona; Supplemental and amendatory M&I water service contract; 3,613 acre-feet per year.

2. Agricultural and M&I water users, Central Arizona Project, Arizona; Water service subcontracts; A certain percent of available supply for irrigation entities and up to 640,000 acre-feet per year for M&I use.

3. Roosevelt Water Conservation District, Higley, Arizona; R&B loan contract; $7,474,424; FR notice published March 30, 1979, Vol. 44, page 19048.

4. Agricultural and M&I water users, Central Arizona Project, Arizona; Contracts for repayment of Federal expenditures for construction of distribution systems.

5. Contracts with 16 agricultural entities located near the Colorado River in Arizona; Boulder Canyon Project; Water service contracts for up to 27,894 acre-feet per year total.

6. Fallbrook Public Utility District, Santa Margarita Project, California; repayment and water service contract; $46,000,000 total obligation.

7. Gila River Indian Community, CAP, Arizona; Water service contract; Contract for delivery of up to 173,100 acre-feet per year.

8. Yuma-Mesa Irrigation and Drainage District, Gila Project Arizona; Amendatory contract to allow the district to market up to 7,000 acre-feet of water per year for M&I purposes.

9. Hillcrest Water Company, Boulder Canyon Project, Arizona; Contract for delivery of 84 acre-feet of water per year to serve existing mobile home park pursuant to recommendation by Arizona Department of Water Resources.

10. Sunset Mobile Home Park, Boulder Canyon Project, Arizona; M&I water service contract for delivery of 30 acre-feet of water per year pursuant to recommendation of Arizona Department of Water Resources.

11. Irrigation Districts and Similar Water User Entities; Amendatory repayment and water service contract; Purpose is to conform to the Reclamation Reform Act of 1982 (Pub. L. 97–293).

12. Santa Ana Watershed Project Authority, Riverside, California; Contract for the repayment of a $14,917,000 Small Reclamation Projects Act loan.

13. Yuma County Water Users Association, Valley Division, Yuma Project, Arizona; Amendatory contract for the advancement of $1,500,000 to the association by the United States on a nonreimbursable basis for the construction of new headquarters facilities and accompanying relocation costs.

Southwest Region

Bureau of Reclamation, Commerce Building, Suite 201, 714 South Tyler, Amarillo, TX 79101, telephone (806) 378–5430.

1. City of Belen, San Juan-Chama Project, New Mexico; M&I water service contract for 500 acre-feet annually. FR notice published April 26, 1982, Vol. 47, page 1782.

2. Fort Cobb Reservoir Master Conservancy District, Washita Basin Project, Oklahoma; Amendatory repayment contract to convert 4,700 acre-feet of irrigation water to M&I use; FR notice published August 13, 1981, Vol. 46, page 40940.

3. Foss Reservoir Master Conservancy District, Washita Basin Project, Oklahoma; Amendatory repayment contract for remedial work. Necessity of amendment is dependent upon outcome of pending Safety of Dams legislation, S. 956 and H.R. 3208.

4. Vermejo Conservancy District, Veremjo Project, New Mexico; Amendatory contract to relieve the district of further repayment obligation, presently exceeding $2 million, pursuant to Pub. L. 96–550.

5. State of Colorado, Closed Basin Division, San Luis Valley Project; Repayment contract for State's share of costs associated with development of recreation facilities and certain fish and wildlife facilities; Obligation will be negotiated in accordance with the Federal Water Project Recreation Act (Pub. L. 98–72), as amended; FR notice published February 12, 1982, Vol. 47, page 6493.

6. Harlingen Irrigation District, Lower Rio Grande Valley, Texas; R&B loan contract; $3 million potential obligation; Amendment of existing, SRPA repayment contract is a major issue.

7. Irrigation Districts and Similar Water User Entities; Amendatory repayment and water service contracts; Purpose is to conform to the Reclamation Reform Act of 1982 (Pub. L. 97–293).

Upper Missouri Region

Bureau of Reclamation, P.O. Box 2553, Federal Building, 316 North 26th Street, Billings, Montana 59103, Telephone (406) 657–6413.

1. Miscellaneous Water Users, Upper Missouri Region, Montana, Wyoming, North Dakota, and South Dakota; Temporary (interim) water service contracts for surplus project water; Maximum of 10,000 acre-feet annually per contractor for irrigation and maximum of 2,000 acre-feet annually per M&I contractor for terms of up to 2 years.

2. Individual Irrigators, Canyon Ferry Unit, P–SMBP, Montana; Irrigation water service contracts not to exceed 320 acres of 1,000 acre-feet of water annually per contractor for terms up to 40 years.

3. Crook County ID (formerly Belle Fourche-Wymoing Water Association), Keyhole Unit, P–SMBP, Wyoming; Repayment contract for irrigation storage; 10 percent (presently 18,500 acre-feet) of Keyhole Reservoir storage space as provided by Belle Fourche River Compact; FR notice published August 21, 1980, Vol. 45, Page 55842.

4. Belle Fourche Irrigation District, Belle Fourche Unit, P–SMBP, South Dakota; Repayment contract covering construction and rehabilitation of existing irrigation facilities authorized by Pub. L. 98–157.

5. Town of Kirby, Boysen Unit, P–SMBP, Wyoming; Water service contract for municipal water services; Water entitlement not expected to exceed 50 acre-feet annually.

6. Nokota Company, Lake Sakakawea, P–SMBP, North Dakota; Industrial water service contract; Up to 16,800 acre-feet of water annually; FR notice published May 5, 1982, Vol. 47, Page 19472.

7. State of Wyoming, Buffalo Bill Dam Modifications, P–SMBP, Wyoming; Contract with State of Wyoming for division of additional water impounded, sharing of revenues, and sharing of costs to construct, operate, and maintain modification of the existing Buffalo Bill Dam and Reservoir.

8. Helena Valley ID, P–SMBP, Montana; R&B loan repayment contract; Up to $2.2 million.

9. Fort Shaw ID, Sun River Project, Montana; R&B loan repayment contract; Up to $1.5 million.

10. Glasgow Irrigation District, Milk River Project, Montana; Rehabilitation and Betterment Act loan repayment contract; Loan amount up to $2.2 million.

11. Irrigation Districts and Similar Water User Entities; Amendatory repayment and water service contracts; Purpose is to conform to the Reclamation Reform Act of 1982 (Pub. L. 97–293).

12. City of Huron, James Diversion Dam, P–SMBP, South Dakota; Agreement for continued use of James Diversion Dam and Reservoir facilities and operation and maintenance arrangements; Contract term 20 years.

13. Shoshone Irrigation District, Shoshone Project, Wyoming; Cost escalation loan under Small Reclamation Projects Act to provide funds to complete Garland Canal Power Project; Loan amount $214,000; Contract term 40 years.

14. Individual Irrigators, Garrison Diversion Unit, P-SMBP, North Dakota; Use of surplus capacity in water supply system to deliver water to nonproject lands for terms up to 10 years.

Lower Missouri Region

Bureau of Reclamation, P.O. Box 25247 (Building 20, Denver Federal Center), Denver, Colorado 80225, telephone (303) 234–3327.

1. H&RW ID, Frenchman-Cambridge Unit, P-SMBP, Nebraska; Amendatory water service contract; $1,200,000 outstanding; FR notice published February 5, 1982, Vol. 47, Page 5472.

2. Central Nebraska Public Power and ID, Glendo Unit, P-SMBP, Nebraska; Irrigation water service contract; 8,000 acre-feet; FR notice published December 30, 1983, Vol. 48, Page 57632.

3. Purgatoire River Water Conservancy District, Trinidad Project, Colorado; Amendatroy repayment contract for extension of the development period and revision of the repayment determination methodology; FR notice published August 6, 1982, Vol. 47, page 34206.

4. Casper-Alcova ID, Kendrick Project, Wyoming; Amendatory contract to provide water service to subdivided district lands; FR notice published November 24, 1980, Vol. 45, page 77522.

5. Corn Creek ID, Mitchell ID, Earl Michael, Glendo Unit, P-SMBP, Wyoming, and Nebraska; Irrigation water service contracts. FR notice published January 26, 1983, Vol. 48, page 3662.

6. Town of Breckenridge, Colorado-Big Thompson Project, Colorado; Storage in Green Mountain Reservoir. FR notice published January 26, 1983, Vol. 48, page 3662.

7. Pueblo West Metropolitan District, Fryingpan-Arkansas Project, Colorado; Use of municipal outlet of Pueblo Dam for conveyance service; FR notice published January 26, 1983, Vol. 48, page 3662.

8. Miscellaneous water users, Lower Missouri Region, Southeastern Wyoming, Colorado, Nebraska, and northern Kansas; Temporary (interim) water service contracts for surplus project water, maximum of 10,000 acre-feet annually per contractor for irrigation and maximum of 2,000 acre-

feet annually per M&I contractor for terms up to 2 years; FR notice first published on February 16, 1982, Vol. 47, page 6725.

9. Ruedi Reservoir, Fryingpan-Arkansas Project, Colorado; Second round of proposed contract negotiations for sale of water from the regulatory capacity of Ruedi Reservoir; FR notice published April 26, 1983, Vol. 48, page 18909.

10. Irrigation Districts and Similar Water User Entities; Amendatory repayment and water service contracts; Purposes is to conform to the Reclamation Reform Act of 1982 (Pub. L. 97–293); FR notice published October 31, 1983, Vol. 48, page 50178.

11. Lower South Platte Water Conservancy District, Centeral Colorado Water Conservancy District, and the Colorado Water Resources and Power Development Authority, P-SMBP, Narrows Unit, Colorado; Water service contracts for repayment of costs; FR notice published August 3, 1983, Vol. 48, page 35182.

12. CF&I Steel Corporation (formerly Colorado Fuel and Iron Corporation), Fryingpan-Arkansas Project, Colorado; Amendment of Contract No. 6–07–70-W0089 to include provision for assignment of part of the replacement storage contract to third parties when CF&I Steel Corporation sells storage space.

13. Board of Water Works of Pueblo, Fryingpan-Arkansan Project, Colorado; Negotiate and execute a 6,000 acre-foot 1984 temporary storage contract.

Opportunity for public participation and receipt of comments on contract proposals will be facilitated by adherence to the following procedures:

(1) Only persons authorized to act on behalf of the contracting entities may negotiate the terms and conditions of a specific contract proposal.

(2) Advance notice of meetings or hearings will be furnished to those parties that have made a timely written request for such notice to the appropriate regional or project office of the Bureau of Reclamation.

(3) All written correspondence regarding proposed contracts will be made available to the general public pursuant to the terms and procdures of the Freedom of Information Act (80 Stat. 383), as amended.

(4) Written comments on a proposed contract or contract action must be submitted to the appropriate Bureau of Reclamation officials at locations and within time limits set forth in the advance public notices.

(5) All written comments received and testimony presented at any public hearings will be reviewed and summarized by the appropriate regional office for use by the contract approving authority.

(6) Copies of specific proposed contracts may be obtained from the appropriate Regional Director or his designated public contact as they become available for review and comment.

(7) In the event modifications are made in the form of proposed contract, the appropriate Regional Director shall determine whether republication of the notice and/or extension of the 60-day comment period is necessary.

Factors which shall be considered in making such a determination shall include, but are not limited to: (i) The significance of the impact(s) of the modification and (ii) the public interest which has been expressed over the course of the negotiations. As a minimum, the Regional Director shall furnish revised contracts to all parties which requested the contract in response to the initial public notice.

Dated: February 11, 1984.

Robert A. Olson,

Acting Commissioner of Reclamation.

[FR Doc. 84–4385 Filed 2–16–84; 8:45 am]

BILLING CODE 4310–09–M

INTERSTATE COMMERCE COMMISSION

[Docket No. AB–39 (Sub-4)]

St. Louis Southwestern Railway Co.; Abandonment in Arkansas County, AR; Findings

The Commission has issued a certificate authorizing the St. Louis Southwestern Railway Company to abandon its line of railroad extending from milepost 262.00 near Indiana, to milepost 268.10 at Gillett, a distance of 6.1 miles in Arkansas County, AR. The abandonment certificate will become effective 30 days after this publication unless the Commission also finds that: (1) A financially responsible person has offered financial assistance (through subsidy or purchase) to enable the rail service to be continued; and (2) it is likely that the assistance would fully compensate the railroad.

Any financial assistance offer must be filed with the Commission and the applicant no later than 10 days from publication of this Notice. The following notation shall be typed in bold face on the lower left-hand corner of the envelope containing the offer: "Rail Section, AB–OFA." Any offer previously made must be remade within this 10-day period.

Information and procedures regarding financial assistance for continued rail service are contained in 49 U.S.C 10905 and 49 CFR 1152.27.

James H. Bayne,

Acting Secretary.

[FR Doc. 84–4358 Filed 2–16–84; 8:45 am]

BILLING CODE 7035–01–M

DEPARTMENT OF JUSTICE

Office of Juvenile Justice and Delinquency Prevention Coordinating Council; Meeting

The quarterly meeting of the Coordinating Council on Juvenile Justice and Delinquency Prevention will be held in Washington, D.C. on March 29, 1984. The meeting will take place at the Department of Housing and Urban Development, Room 10233, 451 Seventh Street, SW. from 9:30 a.m. to 12 noon. The public is welcome to attend.

The agenda will include matters related to the coordination of the Federal effort in the area of juvenile justice and delinquency prevention.

For further information, please contact Roberta Dorn, Office of Juvenile Justice and Delinquency Prevention, 633 Indiana Avenue, NW., Washington, D.C. 20531, (202) 724–7655.

Dated: February 13, 1984.

Approved:

Alfred S. Regnery,

Administrator, Office of Juvenile Justice and Delinquency Prevention.

[FR Doc. 84–4382 Filed 2–16–84; 8:45 am]

BILLING CODE 4410–18–M

National Advisory Committee; Meeting

The thirtieth quarterly meeting of the National Advisory Committee for Juvenile Justice and Delinquency Prevention will be held in Los Angeles, California on March 14–15, 1984.

The meeting will be held at the Beverly Pavilion Hotel, Room 402, 9360 Wilshire Boulevard, Los Angeles beginning at 9:00 a.m. on March 14 and concluding no later than 12 noon on March 15. The public is welcome to attend.

The agenda will include discussion and topics related to the redirection of the Federal effort in juvenile justice.

For further information, please contact Roberta Dorn, Office of Juvenile Justice and Delinquency Prevention, 633 Indiana Avenue, NW., Washington, D.C. 20531, (202) 724–7655.

Dated: February 13, 1984.

Approved:

Alfred S. Regnery,

Administrator, Office of Juvenile Justice and Delinquency Prevention.

[FR Doc. 84-4383 Filed 2-16-84; 8:45 am]

BILLING CODE 4410-18-M

DEPARTMENT OF LABOR

Bureau of Labor Statistics

Meeting of the Business Research Advisory Council

The regular winter meeting of the Business Research Advisory Council will be held at 1:30 p.m., March 14, 1984, in Room N-3437 of the Frances Perkins Department of Labor Building, 200 Constitution Avenue, NW., Washington, D.C.

The Business Research Advisory Council and its committees advise the Bureau of Labor Statistics with respect to technical matters associated with the Bureau's programs. Membership consists of technical officers from American business and industry. The agenda for the meeting is as follows:

1. Chairperson's Opening Remarks—Warren H. Bacon
2. Commissioner's Remarks—Janet L. Norwood
3. Committee Reports:
   (a) Wages and Industrial Relations
   (b) Economic Growth
   (c) Price Indexes
4. Other Business
5. Chairperson's Closing Remarks

This meeting is open to the public. It is suggested that persons planning to attend as observers contact Janice D. Murphey, Liaison, Business Research Advisory Council on Area Code (202) 523-1347.

Signed at Washington, D.C., this 13th day of February 1984.

Janet L. Norwood,

Commissioner of Labor Statistics.

[FR Doc. 84-4396 Filed 2-16-84; 8:45 am]

BILLING CODE 4510-24-M

Business Research Advisory Council Committee; Meetings and Agenda

The regular winter meetings of committees of the Business Research Advisory Council will be held on March 13 and 14, 1984.

The committees will meet in Room N-3437, Frances Perkins Department of Labor Building, 200 Constitution Avenue, NW., Washington, D.C.

The Business Research Advisory Council and its committees advise the Bureau of Labor Statistics with respect to technical matters associated with the Bureau's programs. Membership consists of technical officers from American business and industry.

The schedule and agenda of the meetings are as follows:

Tuesday, March 13

9:30 a.m.—Committee on Economic Growth

1. Review of the Status of the Economic Growth Program
2. Status of BLS State and Area Projections Program
3. Discussion of How Technological Change Enters BLM Projections
4. Other Business

1:30 p.m.—Committee on Price Indexes

1. Status Report On Consumer Price Index Revision
2. Status Report On International Price Program
3. Status Report On Producer Price Indexes
4. Status Report On Consumer Expenditures
5. Other Business

Wednesday, March 14

10:00 a.m.—Committee on Wages and Industrial Relations

1. Election of Committee Officers
2. Review of 1985 Budget for Wages and Industrial Relations
3. Collective Bargaining Settlements in 1983
4. Special Research on the Level of Employee Benefits
5. Data Needs for Collective Bargaining, Discussion Topic (Mr. Tom Swan)
6. Other business

The meetings are open to the public. It is suggested that persons planning to attend these meetings as observers contact Janice D. Murphey, Liaison, Business Research Advisory Council on Area Code (202) 523-1347.

Signed At Washington, D.C., this 13th day of February 1984.

Janet L. Norwood,

Commissioner of Labor Statistics.

[FR Doc. 84-4397 Filed 2-16-84; 8:45 am]

BILLING CODE 4510-24-M

Employment and Training Administration

[TA-W-14, 648]

Endicott Forging & Mfg. Co., Inc., Endicott, New York; Negative Determination on Reconsideration

On January 12, 1984, the Department issued an Affirmative Determination Regarding Application for Reconsideration for workers and former workers at Endicott Forging & Manufacturing Company, Inc., Endicott, New York. This determination was published in the **Federal Register** on January 20, 1984 (49 FR 2559).

The company in its application for reconsideration claimed that certain steel forging sales were lost to foreign firms supplying Endicott's customers. It also reported that the Department of Commerce recently certified the firm for trade adjustment assistance.

Investigation findings, which served as the bases for the Department's determination, show that the Endicott Forging and Manufacturing Company produced steel forgings and that the worker petition did not meet the "contributed importantly" test of Section 222 of the Group Eligiblity Requirements of the Trade Act of 1974. The "contributed importantly" test is usually demonstrated through a survey of the firm's customers which reflects the extent to which customers shifted purchases to foreign sources. Results of the Department's survey of Endicott's major customers show that those customers that decreased purchases from Endicott either did not import steel forgings or decreased their purchases of imported steel forgings in 1982 compared to 1981 and in the January through June period of 1983 compared to the same period in 1982. The one customer which increased its import purchases in the first six months of 1983 compared to the same period in 1982 also had increased purchases from Endicott.

On reconsideration, the scope and results of the customer survey were reviewed to ascertain whether they supported a change in the Department's determination. The scope of the survey was sound and the results which were attested to by responsible officials of the firms surveyed did not substantiate that imports of steel forgings contributed importantly to worker separations at Endicott.

With respect to certain sales of forging parts lost to foreign firms supplying Endicott's customers, investigation findings show that most of these sales were lost in 1981 and therefore not applicable to the Department's determination. Section 233(b)(1) of the Act does not permit the certification of workers separated more than one year prior to the date of the petition on which a certification is issued. The date of the Endicott petition is May 13, 1983. The remaining sales of

the forging part numbers in question in 1982 and 1983 did not account for a sufficient percent of Endicott's sales to provide a basis for certification. Production workers at Endicott are not separately identifiable by forging part number.

Conclusion

After reconsideration, I reaffirm the original denial eligibility to apply for adjustment assistance to workers and former workers of the Endicott Forging & Manufacturing Co., Inc., Endicott, New York.

Signed at Washington, D.C., this 7th day of February 1984.

Robert O. Deslongchamps,

Director, Office of Legislation and Actuarial Service, UIS.

[FR Doc. 84-4303 Filed 2-16-84; 8:45 am]

BILLING CODE 4510-30-M

Investigations Regarding Certifications of Eligibility to Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to Section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than February 27, 1984.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than February 27, 1984.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 601 D Street NW., Washington, D.C. 20213.

Signed at Washington, D.C. this 13th day of February 1984.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner Union/workers or former workers of—	Location	Date received	Date of petition	Petition no.	Articles produced
Eastern Associated Coal Corp., Warton #4 Mine & Lightfoot #1 Mine (UMWA).	Wharton, WV	2/6/84	1/27/84	TA-W-15,204	Metallurgical coal, mining.
Glassboro Sportswear, Inc. (ILGWU)	Glassboro, NJ	2/3/84	1/26/84	TA-W-15,205	Contractor—ladies' blazers.
Laura of Dallas, Inc. (company)	Dallas, TX	2/3/84	1/30)/84	TA-W-15,206	Ladies' dresses & sportswear.
McQuay, Inc., Components Div. (IAMAW)	Milwaukee, WI	2/6/84	1/30/84	TA-W-15,207	Industrial & commercial heat transfer products.
Melville Footwear Mfg., Inc., Burnswick Div. (workers)	Brunswick, Maine	2/6/84	2/3/84	TA-W-15,208	Cuts & stitches components parts for women's boots.
Royal Coal Co. (workers)	Oak Hill, WV	2/5/84	2/2/84	TA-W-15,209	Metallurgical coal—mining.
TRW Bearings Div., TRW, Inc. (UAW)	Falconer, NY	2/6/84	1/2/84	TA-W-15,210	Roller & ball berings (aircraft industry).
TRW Bearings Div., TRW, Inc. (UAW)	Jamestown, NY	2/3/84	1/2/84	TA-W-15,210	Roller & ball bearings (agricultural & automobile industry).
US. Steel Corp., Atlanta Region, Jacksonville Sales Office (wkrs).	Fairless Hills, PA	2/9/84	1/3/84	TA-W-15,212	Steel wire & rod.
US. Steel Corp., Atlanta Region, Jacksonville Sales Office (wkrs).	Jacksonville, Fla	2/8/84	1/3/84	TA-W-15,213	Sales Office.

[FR Doc. 84-4305 Filed 2-16-84; 8:45 am]

BILLING CODE 4510-30-M

Revised Schedule of Remuneration for the UCX Program

Under Section 8521(a)(2) of Title 5 of the United States Code the Secretary of Labor is required to issue from time to time a Schedule for Remuneration specifying the pay and allowances for each pay grade of members of the military services. The schedules are used to calculate the base period wages and benefits payable under the program of Unemployment Compensation for Ex-Servicemembers (UCX Program).

The revised schedule published with this Notice reflects increases in military pay and allowances which were effective in January 1984. The revised schedule was issued on January 9, 1984, in Unemployment Insurance Program Letter No. 12-84, and is effective with respect to UCX first claims filed on or after April 1, 1984.

Accordingly, the following new Schedule of Remuneration, issued pursuant to 5 U.S.C. 8521(a)(2) and 20 CFR 614.12, applies to "First Claims" for UCX which are effective on and after April 1, 1984:

Pay grade	Monthly rate
(1) *Commissioned Officers:*	
O-10	$6,964
O-9	6,063
O-8	6,812
O-7	6,059
O-6	5,051
O-5	4,145
O-4	3,461
O-3	2,880
O-2	2,301
O-1	1,716
(2) *Warrant Officers:*	
W-4	3,205
W-3	2,663
W-2	2,266
W-1	1,923
(3) *Enlisted Personnel:*	
E-9	2,906
E-8	2,437
E-7	2,061
E-6	1,770
E-5	1,497
E-4	1,271
E-3	1,102
E-2	1,025
E-1	913

The publication of this new Schedule of Remuneration does not revoke any prior schedule or change the period of time any prior schedule was in effect.

Signed at Washington, D.C., on February 9, 1984.

Patrick J. O'Keefe,

Acting Deputy Assistant Secretary of Labor.

[FR Doc. 84-4394 Filed 2-16-84; 8:45 am]

BILLING CODE 4510-35-M

NATIONAL SCIENCE FOUNDATION

Advisory Committee for Advance Scientific Computing; Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92–462, the National Science Foundation announces the following meeting:

Name: Advisory Committee for Advanced Scientific Computing.

Date and Time: March 5–6, 1984; 9:00 am to 5:00 pm each day.

Place: Room 540, National Science Foundation, 1800 G Street NW., Washington, D.C. 20550.

Type of Meeting: Part Open—Open March 5–9 am to noon; Closed March 5–noon to 5:00 pm; Closed March 6—9:00 am to 5:00 pm.

Contact Person: Dr. Edward F. Hayes, Controller, National Science Foundation, Washington, D.C. 20550, Telephone (202) 357–9418.

Summary of Minutes: May be obtained from Dr. Edward F. Hayes.

Purpose of Committee: To provide advice and recommendations concerning NSF support for advanced computing resources.

Agenda: The open session will be focused on planning. The closed session will involve review of pending proposals.

Reason for Closing: The closed session of the meeting will deal with a review of proposals containing the names of applicant institutions and principal investigators and privileged information from the files pertaining to the proposals. These matters are within exemptions (4) and (6) of U.S.C. 552b(c), Government in the Sunshine Act.

Authority to Close Meeting: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92–463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF, on July 6, 1979.

M. Rebecca Winkler,

Committee Management Coordinator.

[FR Doc. 84-4406 Filed 2-16-84; 8:45 am]

BILLING CODE 7555-01-M

Committee Management Advisory Committee for Science and Engineering Education; Establishment

Pursuant to the Federal Advisory Committee Act (Pub. L. 92–463), it is hereby determined that the establishment of the Advisory Committee for Science and Engineering Education is necessary, appropriate, and in the public interest in connection with the performance of duties imposed upon the Director, National Science Foundation (NSF), and other applicable law. This determination follows consultation with the Committee Management Secretariat, General Services Administration, pursuant to Section 9(a) of the Federal Advisory Committee Act and other applicable issuances.

Name of Committee: Advisory Committee for Science and Engineering Education.

Purpose: To provide advice and recommendations concerning the Foundation's science and engineering education programs.

Effective Date of Establishment and Duration: This establishment is effective upon filing the charter with the Director, NSF, and with the standing committees of Congress having legislative jurisdiction of the Foundation. The Committee will operate for an initial period of two years.

Membership: Members of the Committee shall be chosen from among experts in the fields of science and engineering education in a mammer so as to provide appropriate balance among: various scientific and engineering disciplines, and institutional types, including educational institutions at all levels, industry and nonprofit organizations as appropriate.

Furthermore, those chosen shall reflect a balance derived from the consideration of other important indices, including the geographic location and sex of its members, and the participation of groups underrepresented in science and engineering.

Operation: The Commitltee will operate in accordance with provisions of the Federal Advisory Committee Act (Pub. L. 92–463), Foundation policy and procedures, GSA Interim Rule on Federal Advisory Committee Management, and other directives and instructions issued in implementation of the Act.

Edward A. Knapp,

Director.

February 14, 1984.

[FR Doc. 84-4405 Filed 2-16-84; 8:45 am]

BILLING CODE 7545-01-M

SECURITIES AND EXCHANGE COMMISSION

[File No. 22–12939]

General Foods Corp.; Application and Opportunity for Hearing

February 13, 1984.

Notice is hereby given that General Foods Corporation, a Delaware corporation (the "Company"), has filed an application under clause (ii) of Section 310(b)(1) of the Trust Indenture Act of 1939 (the "Act") for a finding by the Securities and Exchange Commission (the "Commission") that the trusteeship of Citibank, N.A. ("Citibank") under indentures of the Company dated July 1, 1970, March 1, 1974, June 15, 1981, and March 1, 1982, (collectively the "Qualified Indentures") heretofore qualified under the Act, and the trusteeship of Citibank under an indenture between The Delaware Economic Development Authority (the "Authority") and Citibank, Trustee, dated as of December 1, 1983 (the "1983 Indenture") which will not be qualified under the Act because of the exemption contained in Section 304(a)(4) of the Act, is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify Citbank from acting as trustee under the Qualified Indentures.

Section 310(b) of the Act provides, *inter alia,* that if a trustee under an indenture qualified under the Act has or shall acquire any conflicting interest (as defined in the Section), it shall within ninety days after ascertaining that it has such conflicting interest either eliminate such conflicting interest or resign. Subsection (1) of this Section provides, with certain exceptions that a trustee is deemed to have a conflicting interest if it is acting as trustee under another indenture of the same obligor. However, pursuant to clause (ii) of subsection (1), there may be excluded from the operation of this provision another indenture or indentures under which other securities of such obligor are outstanding, if the issuer shall have sustained the burden of proving on application to the Commission, and after opportunity for hearing thereon, that trusteeship under the indentures is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify such trustee from acting as trustee under one of such indentures.

The Company alleges that:

1. The Company has outstanding (as of October 1, 1983) the following debentures and notes (collectively the "Securities"):

(a) $20,282,000 principal amount of its 8⅞% Sinking Fund Debentures due July 1, 1990 issued under an indenture dated as of July 1, 1970 between the Company and Citibank, Trustee after giving effect to a sinking fund payment of $4,500,000 made on July 1, 1983. This indenture was filed as Exhibit 9(c) 2.3 to Registration Statement No. 2–37567 of the Company under the Securities Act of 1933 and has been qualified under the Act.

(b) $100,000,000 principal amount of its 7½% Notes due March 1, 1984, issued under an indenture dated as of March 1, 1974 between the Company and Citibank, Trustee. This indenture was filed as Exhibit 16(b) 2.2 to Registration Statement No. 2–50181 of the Company under the Securities Act of 1933 and has been qualified under the Act.

(c) $150,000,000 principal amount of its 6% Debentures due June 15, 2001 and $200,000,000 principal amount of its 7% Debentures due June 15, 2011 pursuant to two indentures both dated as of June 15, 1981, between the Company and Citibank, Trustee. The indentures applicable to the aforementioned obligations were filed as Exhibits 13(4)(a) and 13(4)(b), respectively, to Registration Statement No. 2–72815 of the Company under the Securities Act of 1933 and have been qualified under the Act.

(d) $150,000,000 14¾% Notes due March 1, 1989 issued under an indenture dated as of March 1, 1982 between the Company and Citibank, Trustee. This indenture was filed as Exhibit 13(4) to Registration Statement No. 2–75968 under the Securities Act of 1933 and has been qualified under the Act.

2. On December 20, 1983, the Authority issued $9,300,000 aggregate principal amount of its 9% Pollution Control Revenue Bonds (General Foods Financial Corporation Project), Series 1983 (the "Bonds") pursuant to the 1983 Indenture. The proceeds of the sale of the Bonds have been loaned by the Authority to General Foods Financial Corporation, a wholly-owned subsidiary of the Company ("GFFC") pursuant to the terms of a Loan Agreement dated as of December 1, 1983 between the Authority and GFFC (the "Loan Agreement"). The obligations of GFFC under the Loan Agreement are unconditionally guaranteed by the Company. The Bonds are to be payable solely from revenues derived by the Authority from GFFC under the terms of the Loan Agreement. The rights and benefits of the Authority under the Loan Agreement have been assigned to the Trustee as security for payment of the Bonds. The Bonds are exempt from registration under the Securities Act of 1933 by virtue of an exemption contained in Section 3(a)(2) and the 1983 Indenture is not being qualified under the Act.

3. Section 7.08 of the Qualified Indentures provide in part as follows:

> Section 7.08. (a) If the Trustee has or shall acquire any conflicting interest as defined in this Section 7.08, it shall, within 90 days after ascertaining that it has such conflicting interest, either eliminate such conflicting interest or resign in the manner and with the effect specified in Section 7.10.
>
> (b) In the event that the Trustee shall fail to comply with the provisions of subsection (a) of this Section 7.08, the Trustee shall, within 10 days after the expiration of such 90 day period, transmit notice of such failure to the debentureholders in the manner and to the extent provided in subsection (c) of Section 5.04.
>
> (c) For the purposes of this Section 7.08 the Trustee shall be deemed to have a conflicting interest if
>
> (1) the Trustee is trustee under another indenture under which any other securities, or certificates of interest or participation in any other securities, of the Company, are outstanding, unless such other indenture is a collateral trust indenture under which the only collateral consists of Debentures issued under this Indenture, *provided that there shall be excluded from the operation of this paragraph any other indenture or indentures under which other securities, or certificates of interest or participation in other securities, of the Company are outstanding if* (i) this Indenture and such other indenture or indentures are wholly unsecured and such other indenture or indentures are hereafter qualified under the Trust Indenture Act of 1939, unless the Securities and Exchange Commission shall have found and declared by order pursuant to subsection (b) of Section 305 or subsection (c) of Section 307 of the Trust Indenture Act of 1939 that differences exist between the provisions of this Indenture and the provisions of such other indenture or indentures which are so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify the Trustee from acting as such under this Indenture or such other indenture or indentures, or (ii) *the Company shall have sustained the burden of proving, on application to the Securities and Exchange Commission and after opportunity for hearing thereon, that the trusteeship under this Indenture and such other indenture or indentures is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify the Trustee from acting as such under one of such indentures;* (Emphasis Supplied)

4. Execution of the 1983 Indenture may involve Citibank in a conflict of interest within the meaning of Section 7.08 of the Qualified Indentures since the 1983 Indenture is not being qualified under the Act and is not the subject of any other proceeding of the Commission.

5. The Company's obligations with respect to the Securities and the Bonds are wholly unsecured and rank on a parity with each other. However, the Company may, under certain conditions specified in Section 11.03 of the Qualified Indentures, be required to secure the Securities issued pursuant to the Qualified Indentures. The Company believes it is extremely unlikely that the Securities issued pursuant to the Qualified Indentures will ever become secured.

6. The only material differences between the Qualified Indentures and the 1983 Indenture and between the rights of the holders of the Securities and the holders of the Bonds relate to the fact that the Company is the issuer of the Securities whereas its payment obligations under the Bonds are through a guaranty by the Company to Citibank, Trustee, of GFFC's obligations under the Loan Agreement and also relate to differences between the Qualified Indentures and the 1983 Indenture as to aggregate principal amounts, dates of issue, denominations, interest rates, interest payment dates, maturity, form of registration, redemption provisions and procedures, Trustees' reports, conversion, provisions for conflicting interest of the Trustee and other provisions of a similar nature. The provisions of the 1983 Indenture also differ from the Qualified Indentures in providing for optional and mandatory redemption prior to maturity upon the occurrence of certain specified events, in not providing for Sinking Fund redemption, having different time periods upon which certain defaults become an "event of default", and having different convenants, conditions and provisions, reflecting the differing nature of the transaction.

7. No default has at any time existed under the Qualified Indentures or under the 1983 Indenture. It is possible that a default might arise under one of the Qualified Indentures or the 1983 Indenture without necessarily arising under both Qualified Indentures and the 1983 Indenture. Apart from any default, it is possible under the convenants in the Qualified Indentures that the Securities may in the future become secured under the Section 11.03 while the Bonds remain unsecured. If this should occur, a conflicting interest of Citibank might arise which would require either the elimination of such conflicting interest or the resignation of Citibank under the Qualified Indentures or the 1983 Indenture, but unless and until one of such events occur there will be no conflicting interest by reason of such convenants.

8. Such differences as exist between the Qualified Indentures and the 1983 Indenture are not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify Citibank from acting as Trustee under the Qualified Indentures or the 1983 Indenture.

9. Under Section 7.08(c)(1) of the Qualified Indentures, Citibank is deemed to have a conflicting interest because it is acting as Trustee under the 1983 Indenture and the Qualified Indentures and because the 1983 Indenture has not been qualified under the Act, unless it is deemed not to have such a conflicting interest by reason of a finding by the Commission after an opportunity for a hearing that Citibank's acting as Trustee under the Qualified Indentures and the 1983 Indenture is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify Citibank from so acting.

10. The Company has waived (a) notice of hearing, (b) hearing on the issues raised by its application and (c) all rights to specify procedures under the Commission's Rules of Practice with respect to the application.

For a more detailed account of the matters of fact and law asserted, all persons are referred to said application, which is on file in the offices of the Commission at 450 Fifth Street, NW., Washington, D.C. 20549.

Notice is further given that an order granting this application may be issued by the Commission at any time on or after March 9, 1984, unless prior thereto a hearing upon the application is ordered by the Commission, as provided in clause (ii) of Section 310(b)(1) of the Trust Indenture Act of 1939, as amended. Any interested person may, not later than March 9, 1984 at 5:30 P.M., in writing, submit to the Commission, his views or any additional facts bearing upon this application or the desirability of a hearing thereon. Any such communication request should be addressed: Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549, and should state briefly the nature of the interest of the person submitting such information or requesting a hearing, the reasons for such request, and the issues of fact and law raised by the application which he desires to controvert.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84-4406 Filed 2-16-84; 8:45 am]
BILLING CODE 8010-01-M

[Release No. 34-20642; File No. SR-CBOE-84-07

Self-Regulatory Organizations; Proposed Rule Change by Chicago Board Options Exchange, Incorporated; Allocation Plan

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on February 6, 1984, the Chicago Board Options Exchange, Incorporated filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Text of the Proposed Rule Change.

Additions are *italicized*; deletions are bracketed.

ALLOCATION PLAN

A. through E.—no change.

F. At any time after the initial allocation, further allocations shall be held at the request or one or more options exchanges, [continuing the sequence described in A.5] whereby the four participating options exchanges would be able to select any unallocated eligible underlying stock [including new underlying stock becoming eligible for options trading by the occurrence of events or because an options exchange that had previously been allocated an underlying stock failed to commence the trading of options with respect thereto within six months of the date of selection] under the procedures set forth as follows:

1.—no change.

2. Each of the exchanges shall have 30 calendar days from the date of notification of a call for an allocation to provide the arbitrator with a list of desired underlying securities. Such list may not be changed once submitted to the arbitrator. Once the arbitrator has received lists from all the exchanges, he shall thereafter *(i)* serve copies of the selection lists on each of the exchanges *and (ii) establish the sequence for making stock selections, using the procedure set forth in Paragraph 2A below, and deliver notice to each of the exchanges* so that all exchanges receive *both* the *selection* lists *and selection sequence* on the same date.

2.A. For each allocation, the arbitrator, using the following procedure, shall establish the sequence for making stock selections by randomly matchnig a leter A through D with each of the four exchanges and using the order established below for up to four rounds. At the allocation, selection of eligible securities will then proceed in accordance with such order. If there are to be more than four rounds in an allocation, the arbitrator shall repeat the procedure, randomly matching the four letters to the four exchanges a second time to establish the selection order for rounds five through eight, and so on, depending on the number of rounds called for by the allocation. The selection order is as follows:

Round	Selection order
1	A B C D
2	D C B A
3	C D A B
4	B A D C

3. Through 9.—no change.

G. Though I.—no change

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the poposed rule change. The text of these statements may be examined at the places specified in Item IV below and is set forth in sections (A), (B), and (C) below.

(A) Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

The Chicago Board Options Exchange, Incorporated ("CBOE") proposes to amend the agreement previously entered into by the options exchanges and approved by the Securities and Exchange Commission on May 30, 1980 (*see* Securities Exchange Act Release No. 16863) and as amended on June 1, 1981 (*see* Securities Exchange Act Release No. 17833) and February 2, 1982 (*see* Securities Exchange Act Release No. 18464), concerning procedures for the selection and replacement of underlying securities for options trading. This agreement is also referred to as the "Allocation Plan."

The purpose of this proposed rule change is to amend the option

exchanges' Allocation Plan to establish a random order for making stock selections during an allocation. The American, Philadelphia and Pacific Stock Exchanges have filed similar amendments on January 16, 1984, February 1, 1984, and February 2, 1984. The proposed rule change is in furtherance of the Commission's request that the option exchanges create a plan that provides for the equitable allocation of new options among the options exchanges. The option exchanges have agreed to put this rule change into effect after the first allocation to take place after December 16, 1983. The proposed rule change is consistent with section 6(b)(5) of the Securities Exchange Act of 1934 (the Act), which provides in pertinent part that the rules of the Exchange be designed to promote just and equitable principles of trade.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change creates any burden on competition that is not necessary or appropriate under the Act.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

Comments have neither been solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) by order approve such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submission should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying the Commission's Public Reference Section, 450 Fifth Street NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted within 21 days after the date of this publication.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: February 10, 1984.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84-4469 Filed 2-16-84; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-20644; File No. SR-CBOE-84-04]

Self-Regulatory Organizations; Proposed Rule Change by Chicago Board Options Exchange, Incorporated; Option Contracts Open for Trading

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on January 30, 1984, the Chicago Board Options Exchange, Incorporated filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organizaiton. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Text of Proposed Rule Change

Additions are italicized; deletions are bracketed.

Option Contracts Open for Trading

Rule 5.5. The Securities Committee shall, from time to time, open for trading series of options in respect of underlying securities which have been approved by the Board in accordance with Rule 5.3. Only option contracts of series of options currently open for trading may be purchased or written on the Exchange. The opening of a new series of options shall not affect other series of options of the same class previously opened. On the business day prior to the expiration date of particular option series, the closing rotation for such series shall commence at [2:00 p.m.,] *3:00 p.m.* [except that the closing rotation for index option series shall commence at 3:00 p.m.]

II. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below and is set forth in sections (A), (B), and (C) below.

(A) Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

Under existing rules, the open trading on expiring options series other than index options stops at 2:00 p.m. on the Friday prior to expiration; open trading on expiring index option series stops at 3:00 p.m. The proposed rule change would permit open trading to continue until 3:00 p.m. on the Friday before expiration in all expiring series of options.

The proposed rule change would serve several purposes. First, the rule would conform the time for open trading in expiring options series. Second, the rule would eliminate the potential confusion to the public of disparate closing times for open trading in expiring options series. Third, the rule change would permit open trading in expiring equity option series to continue while the underlying stocks continue to trade. The Exchange has conferred with the American, Pacific and Philadelphia Stock Exchanges, all of whom are considering a comparable rule change.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed amendment imposes any unnecessary burdens on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Comments on the proposed rule change were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal**

Register or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) by order approve such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying the Commission's Public Reference Section, 450 Fifth Street NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted within 21 days after the date of this publication.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: February 10, 1984.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84-4471 Filed 2-16-84; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-20636; File No. SR-PHLX 83-25]

Self-Regulatory Organizations; Proposed Rule Change by Philadelphia Stock Exchange, Inc.; Relating Procedures for Delivery and Pricing of Orders in Securities Which Compose an Index

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1) notice is hereby given that on December 19, 1983 the Philadelphia Stock Exchange, Inc. filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change which is described below, consists of procedures regarding the delivery and pricing of orders in Philadelphia Stock Exchange ("PHLX") traded securities which compose an index. Such procedures are proposed to be implemented on a nine-month pilot basis.

(a) Definitions:

(i) PRL means a combined round-lot and odd-lot order, and

(ii) eligible securities means those securities designated by the specialist.

(b) The PHLX proposes, on a trial basis, to utilize existing computer facilities to enable member organizations to electronically transmit, directly to the specialist post, market orders in eligible securities after the opening of trading in such securities. Such orders will be executed in accordance with the applicable rules of the PHLX as follows:

(A) Market orders (odd-lots, round-lots and PRL's up to 599 shares) will be executed at the best bid/offer quote among the American, Boston, Cincinnati, Midwest, New York, Pacific or Philadelphia Stock Exchanges.

(B) Market orders (round-lots and PRL's over 599 shares) will be executed in accordance with arrangements agreed upon by the specialist and the member organization transmitting the order.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

3. Self-Regulatory Organization's Statement on the Purpose and Statutory Basis for the Proposed Rule Change.

(a) *Purpose.* Member organizations of the PHLX have developed techniques for reflecting the performance of an index composed of equity securities by putting together a package of securities proportioned in such a fashion so as to form a hedge against price movement in the index itself with a high degree of mathematical accuracy. In using such techniques, member organizations will be able to hedge, with equity securities, index related transactions, e.g. in index options, index futures and options on index futures.

A major difficulty in using equity securities as a hedge in index related transactions is entry and execution of the orders in the equity securities which compose the hedge. For example, if the performance of a given index could be mirrored by positions in 17 of the securities composing the index, e.g., 600 shares of A; 138 shares of B; 328 shares of C; 300 shares of D; 97 shares of E and so forth, it would be necessary today to enter the 17 orders individually through a time consuming, inefficient and cumbersome process. Unless all of the orders are market orders, some may not be executed. The purpose of the method of order entry and execution described in Item 1 herein is to provide member organizations with an easy, efficient method of order entry and execution with timely reports. This method will be called Designated Underlying Index Transaction ("DUIT").

The personal computer of the member organization ("user") will allow the user to build and maintain a table of securities, constructed in such a manner so as to constitute a hedge in index related transactions. The purpose of the table is two-fold: (1) To calculate the value of shares required to compose such a hedge and (2) to calculate the number of shares of each security to be executed in order to effect the hedge.

When the user wishes to hedge an index related transaction with equity securities by means of a Designated Underlying Index Transaction, the necessary orders in the securities composing the hedge will be formatted and delivered in an automated fashion.

Since the purpose of the Designated Underlying Index Transaction program is to provide an easy, efficient method for entry and execution of orders in

equity securities which will a hedge an index related transaction, the program is not intended for any other use such as purchasing a package or group of securities without a corresponding index related transaction. Similarly, the orders in equity securities which will provide the hedge should be entered promptly by the user upon entry of the corresponding index related order(s).

Should a member organization use the Designated Underlying Index Transaction program for a purpose other than that for which it is intended or use it in a manner other than described herein, a specialist may withdraw the eligibility of one or more securities with respect to such member organization.

Given the nature of the Designated Underlying Index Transaction program and the prohibition against users entering orders to sell short in connection therewith, all orders entered under the program will be for the purchase or sale (long) of such securities. Accordingly the Exchange is requesting an exemption for the specialist from the short selling rules pursuant to paragraph (f) of SEC Rule 10a–1 with respect to principal short sales effected to fill orders entered under the Designated Underlying Index Transaction program at a price which represents a "minus" tick from the consolidated last sale.

Prior to the expiration of the nine-month pilot period, the Exchange expects to either submit a formal codification of the procedures described herein, revised as appropriate based on the Exchange's experience with the pilot, or request an extension of the time period for the pilot pending further study and evaluation. The Exchange may also terminate the experiment at any time.

(b) *Statutory basis for proposed rule change.* Implementation of the proposed rule change will be consistent with those provisions of the Securities Exchange Act of 1934 ("Act") which encourages the use of new data processing and communications techniques which create the opportunity for more efficient and effective market operations. See Sections 6(b)(5) and 11A(a)(1) of the Act.

Self-Regulatory Organization's Statement on Burden on Competition

The PHLX does not believe that any burdens will be placed on competition as a result of such change.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No comments on this proposed rule change have been solicits or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street NW., Washington, D.C. 20549. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted within 21 days after the date of this publication.

For the Commission, by the Division of Market Regulation, Pursuant to delegated authority.

Dated: February 9, 1984.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84-4470 Filed 2-16-84; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area No. 2114; Amdt. No. 1]

Texas; Declaration of Disaster Loan Area

Because certain victims of this disaster will be unable to determine their physical loss within the established deadline for filing applications, the above numbered declaration (49 FR 2041) is amended to extend the deadline for filing physical damage applications to May 8, 1984.

All other information remains the same, i.e., the termination date for filing applications for economic injury is October 8, 1984.

(Catalog of Federal Domestic Assistance Programs Nos. 59002 and 59008)

Dated: February 13, 1984.

Bernard Kulik,

Deputy Associate Administrator for Disaster Assistance.

[FR Doc. 84-4446 Filed 2-16-84; 8:45 am]

BILLING CODE 8025-01-M

VETERANS ADMINISTRATION

Agency Form Under OMB Review

AGENCY: Veterans Administration.

ACTION: Notice.

The Veterans Administration has submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). This document contains a proposed extension and lists the following information: (1) The department of staff office issuing the form; (2) the title of the form; (3) the agency form number, if applicable; (4) how often the form must be filled out; (5) who will be required or asked to report; (6) an estimate of the number of responses; (7) an estimate of the total number of hours needed to fill out the form; and (8) an indication of whether section 3504(h) of Pub. L. 96–511 applies.

ADDRESSES: Copies of the proposed form and supporting documents may be obtained from Patricia Views, Agency Clearance Officer (004A2), Veterans Administration, 810 Vermont Avenue, NW, Washington, DC 20420, (202) 389–2146. Comments and questions about the items on this list should be directed to the VA's OMB Desk Officer, Dick Eisinger, Office of Management and Budget, 726 Jackson Place, NW., Washington, DC 20503, (202) 395–6880.

DATES: Comments on the form should be directed to the OMB Desk Officer within 60 days of this notice.

Dated: February 13, 1984.

By direction of the Administrator.

Dominick Onorato,

Associate Deputy Administrator for Information Resources Management.

Extension

1. Department of Veterans Benefits
2. Certification of Attendance for Courses Not Leading to a Standard College Degree and Farm Cooperative Courses
3. VA Form 22–6553a
4. On occasion and monthly
5. Individuals or households, State or local governments, Non-profit institutions, Small businesses or organizations
6. 42,213 responses
7. 119,603 hours
8. Section 3504 does apply

[FR Doc. 84–4411 Filed 2–16–84; 8:45 am]

BILLING CODE 8320–01–M

Proposed Expansion of the National Cemetery at Florence, South Carolina; Finding of No Significant Impact

AGENCY: Veterans Administration.

ACTION: Notice of Finding of No Significant Impact.

SUMMARY: It is the intention of the VA (Veterans Administration) to expand the operation of the existing Florence National Cemetery by acquiring new additional acreage located near Florence, South Carolina.

The VA has assessed the potential environmental impacts that may occur resulting from the development of approximately 4.6 acres of land located in close proximity to the existing VA National Cemetery. The expansion project will involve acquisition of the land and construction of a maintenance building and yard, grading of land, construction of roads, drainage facilities, water distribution lines and gravesite control monumentation. It is estimated the project will provide approximately 3,000 gravesites and will provide sufficient burial area for continuation of interments. To date, no specific design has been accomplished, nor has a project cost estimate been determined.

Three alternatives and the option of "No Action" have been considered in the project development process.

The preferred alternative proposes the scope of the work as described above on a site located approximately 350 feet east of the existing cemetery entrance road and is situated on the opposite roadside of National Cemetery Road (State Highway Route 13). The land would be acquired by donation.

Another alternative considered acquisition of adjacent land continguous with the existing cemetery. This option would require assembling privately owned parcels comprising approximately 30 acres. Because of both the legal and economical technicalities involved, it was determined that the potential success of land assembly would be minimal.

Another alternative land area within a portion of the South Carolina Mental Retardation Center campus was also considered. This alternative, consisting of approximately 6 acres, would require alteration of an existing campus road and granting of easement for landscape buffer. Otherwise, this alternative is similar to the proposed action in terms of location and terrain.

The "No Action" alternative would continue to insure the closure of the national cemetery as it currently exists. The cemetery has been closed to burials and accommodates only re-opening of partially utilized plots at this time.

The proposed project action will affect the human and natural environment to a minimal degree influencing only soils and air quality. Earthwork operations will expose bare soil to wind and water erosion. Disturbed soil during construction exhibits a high probability of significant erosion if not controlled. Impacts upon air quality include associated construction dust and fumes.

The mitigation of the described impacts will include erosion and sedimentation controls. During construction and operation, the project will adhere to applicable Federal, State, and local air quality standards. VA construction specifications will include Environmental Protection Specifications, Section EP, which will specifically address actions to avoid environmental effects.

Findings conclude the proposed action will not cause a significant effect on the physical and human environment and therefore does not require preparation of an Environmental Impact Statement. A determination of no effect has been received from the State of South Carolina Historic Preservation Officer, pursuant to Advisory Council on Historic Preservation Regulations, 36 CFR Part 800.

The significance of the identified impacts has been evaluated relative to the considerations of both context and intensity so defined by the Council on Environmental Quality, 40 CFR 1508.27.

An Environmental Assessment has been performed in accordance with the requirements of the National Environmental Policy Act Regulations, 40 CFR 1501.3 and 1508.9. A "Finding of No Significant Impact" has been reached based upon the information presented in this assessment.

The assessment is being placed for public examination at the Veterans Administration, Washington, DC. Persons wishing to examine a copy of the document may do so at the following office: Mr. William F. Sullivan, Director, Office of Environmental Affairs (088C), Room 423, Veterans Administration, 811 Vermont Avenue, NW., Washington, DC 20420, (202) 389–3316. Questions or requests for single copies of the Environmental Assessment may be addressed to the above office.

Dated: February 13, 1984.

By direction of the Administrator.

Everett Alvarez, Jr.,

Deputy Administrator.

[FR Doc. 84–4409 Filed 2–16–84; 8:45 am]

BILLING CODE 8320–01–M

Advisory Committee on Readjustment Problems of Vietnam Veterans; Meeting

The Veterans Administration gives notice under Pub. L. 92–463 that a meeting of the Advisory Committee on the Readjustment Problems of Vietnam Veterans will be held in room 119, VA Central Office, 810 Vermont Avenue, NW., Washington, D.C., on March 8 and 9, 1984. The March 8 meeting will begin at 9:00 a.m. and conclude at 4:30 p.m. The March 9 meeting will begin at 8:30 a.m. and adjourn at 4:30 p.m.

Both meetings will be open to the public to the seating capacity of the room. Anyone having questions concerning the meetings may contact Mr. Edward Lord, Assistant Director for Administration and Development, Readjustment Counseling Service, Veterans Administration Central Office, at phone number 202/389–3317.

Dated: February 9, 1984.

By direction of the Adminstration.

Rosa Maria Fontanez,

Committee Management Officer.

[FR Doc. 84–4410 Filed 2–16–84; 8:45 am]

BILLING CODE 8320–01–M

Sunshine Act Meetings

Federal Register
Vol. 49, No. 34
Friday, February 17, 1984

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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1

COUNCIL ON ENVIRONMENTAL QUALITY
February 14, 1984.

TIME AND DATE: Monday, February 27, 1984, 10:00 a.m.

PLACE: Conference Room, 722 Jackson Place, NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. To hear a report on the status of the contract(s) awarded by CEQ/OEQ to conduct a study to consider and define a National Center for Water Resources Research and a study to define and plan a National Clearinghouse for Water Resources Information.

2. Other business.

Dinah Bear,
General Counsel.
[FR Doc. 84-4445 Filed 2-4-84; 4:54 pm]
BILLING CODE 1416-53-M

2

FEDERAL MARITIME COMMISSION

TIME AND DATE: 9:00 a.m.—February 22, 1984.

PLACE: Hearing Room One—1100 L Street, NW., Washington, D.C. 20573.

STATUS: Parts of the meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Portion open to the public:

1. Agreement No. 93-32: Modification of North Europe-United States Pacific Coast Freight Conference and Agreement No. 5200-45: Modification of the Pacific Coast European Conference to delete the provisions limiting joint services to one vote.

Portion Closed to the public:

1. Docket No. 83-20: AABCO, Inc.—Petition for Declaratory Order.

CONTACT PERSON FOR MORE INFORMATION: Francis C. Hurney, Secretary,(202) 523-5725.

Francis C. Hurney,
Secretary.
[FR Doc. 84-4447 Filed 2-15-84; 9:37 am]
BILLING CODE 6730-01-M

3

FEDERAL MARITIME COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: February 10, 1984, 49 FR 5227.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 9:00 a.m., February 15, 1984.

CHANGE IN THE MEETING: Withdrawal of the following item from the open session:

3. Docket No. 81-50: Per Container Rates—Tariff Filing Regulations Applicable to Carriers and Conferences in the Foreign Commerce of the United States—Notice seeking further comment.

Francis C. Hurney,
Secretary.
[FR Doc. 84-4544 Filed 2-15-84; 3:31 pm]
BILLING CODE 6730-01-M

4

FEDERAL RESERVE SYSTEM

TIME AND DATE: 10:00 a.m., Wednesday, February 22, 1984.

PLACE: 20th Street and Constitution Avenue, NW., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments; and salary actions) involving individual Federal Reserve System employees.

2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204.

Dated: February 14, 1984.

James McAfee,
Associate Secretary of the Board.
[FR Doc. 84-4444 Filed 2-16-84; 4:54 pm]
BILLING CODE 6210-01-M

federal register

Friday
February 17, 1984

Part II

Department of Labor

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions; Notice

DEPARTMENT OF LABOR

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor specify, in accordance with applicable law and on the basis of information available to the Department of Labor from its study of local wage conditions and from other sources, the basic hourly wage rates and fringe benefit payments which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of the character and in the localities specified therein.

The determinations in these decisions of such prevailing rates and fringe benefits have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of subtitle A of title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's Orders 12–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in effective date as prescribed in that section, because the necessity to issue construction industry wage determination frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions are effective from their date of publication in the **Federal Register** without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision together with any modifications issued subsequent to its publication date shall be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR, Part 5. The wage rates contained therein shall be the minimum paid under such contract by contractors and subcontractors on the work.

Modifications and Supersedeas Decisions to General Wage Determination Decisions

Modifications and supersedeas decisions to general wage determination decisions are based upon information obtained concerning changes in prevailing hourly wage rates and fringe benefit payments since the decisions were issued.

The determinations of prevailing rates and fringe benefits made in the modifications and supersedeas decisions have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of subtitle A of title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's orders 13–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in foregoing general wage determination decisions, as hereby modified, and/or superseded shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged in contract work of the character and in the localities described therein.

Modifications and supersedeas decisions are effective from their date of publication in the **Federal Register** without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5.

Any person, organization, or governmental agency having an interest in the wages determined as prevailing is encouraged to submit wage rate information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Office of Government Contract Wage Standards, Division of Government Contract Wage Determinations, Washington, D.C. 20210. The cause for not utilizing the rulemaking procedures prescribed in 5 U.S.C. 553 has been set forth in the original General Determination Decision.

Modifications to General Wage Determination Decisions

The numbers of the decisions being modified and their dates of publication in the **Federal Register** are listed with each State.

Alaska: AK82–5125	Oct. 22, 1982.
Arizona: AZ83–5102	Mar. 4, 1983.
Maryland: MD83–3010	June 3, 1983.
Nebraska: NE83–4085	Dec. 9, 1983.
New York:	
NY81–3039	Apr. 4, 1980.
NY81–3030	May 1, 1981.
NY83–3013	Apr. 29, 1983.
Ohio: OH83–5127	Dec. 23, 1983.
Pennsylvania:	
PA81–3081	Oct. 23, 1981.
PA81–3066	Oct. 23, 1981.
PA81–3090	Dec. 18, 1981.
PA81–3010	Mar. 5, 1982.
PA81–3047	Oct. 14, 1983.
PA81–3051	Nov. 25, 1983.
PA81–3001	Aug. 19, 1983.
Puerto Rico: PR83–3031	July 29, 1983.
Wisconsin: WI83–2075	Sept. 23, 1983.

Supersedeas Decisions to General Wage Determinations Decisions

The numbers of the decisions being superseded and their dates of publication in the **Federal Register** are listed with each State. Supersedeas decision numbers are in parentheses following the numbers of the decisions being superseded.

Florida, Georgia, North Carolina, South Carolina, Virgina and Washington, D.C.: GA83–1035(FL84–1002).	Apr. 29, 1983.
Louisiana: LA83–4019 (LA84–4008)	Feb. 4, 1983.
Iowa: IA83–4056 (IA84–4006)	July 29, 1983.
Pennsylvania: PA81–3043 (PA84–3004)	July 17, 1981.
Texas: TX83–4053 (TX84–4007)	July 22, 1983.

Signed at Washington, D.C. this 10th day of February 1984.

James L. Valin,

Assistant Administrator.

BILLING CODE 4510-27-M

MODIFICATIONS

DECISION NO. AK82-5125 - Mod. #4
(47 FR 47150 - October 22, 1982)
Statewide, Alaska

	Basic Hourly Rates	Fringe Benefits
Omit:		
Carpenters:		
Area 1		
Lathers (statewide)		
Add:		
Carpenters:		
Area 1:		
Zone 1:		
Carpenter; Lather; Drywall Applicator	$26.00	5.55
DeWalt or similar type saw op., Saw filer; Nailing machine op., Power-actuated tool op., Marlite and Acoustic applicator; Floor-workers; Fire or flood repair work	26.54	5.55
Millwright	26.75	5.55
Zone 2:		
Carpenter; Lather; Drywall Applicator	27.04	5.55
DeWalt or similar type saw op., Saw filer; Nailing machine op., Power-actuated tool op., Marlite and Acoustic applicator; Floor-workers; Fire or flood repair work	27.58	5.55
Millwright	27.79	5.55
Zone 3:		
Carpenter; Lather; Drywall Applicator	27.69	5.55
DeWalt or similar type saw op., Saw filer; Nailing machine op., Power-actuated tool op., Marlite and Acoustic applicator; Floor-workers; Fire or flood repair work	28.23	5.55
Zone 3: Cont'd		
Millwright	$28.44	5.55
Lathers:		
Areas 2 and 3 Lathers	24.44	4.75

Carpenters Zone Descriptions:
Zone 1: (0-15 Miles from Fairbanks Post Office)
Zone 2: (15-35 Miles from Fairbanks Post Office)
Zone 3: (35-50 Miles from Fairbanks Post Office)

DECISION NO. AZ83-5102 - MOD. #6
(48 FR 9824 - March 4, 1983
Maricopa County, Arizona

	Basic Hourly Rates	Fringe Benefits
OMIT:		
Electricians:		
Electricians on projects having an electricial contrant value of less than $20 million	$16.00	2.1%+ 3%
Electricians on projects having an electrical contract value of $20 million or more	17.85	2.2%+ 3%
ADD:		
Electricians	18.18	1.32

MODIFICATIONS

DECISION NO. MD83-3010-MOD. # 3 (48 FR 25100-JUNE 3,1983) ANNE ARUNDEL (EXCLUDING THE D.C. TRAINING SCHOOL) BALTIMORE & BALTIMORE CITY, MARYLAND, & FOR HEAVY CONSTRUCTION IN HARFORD & HOWARD COUNTIES, MARYLAND	Basic Hourly Rates	Fringe Benefits
CHANGE:		
ASBESTOS WORKERS	$16.63	4.38
BOILERMAKERS	19.50	3.09
CARPENTERS	13.45	2.56
PILEDRIVERS	13.30	2.71
ELECTRICIANS (ZONE 2)	16.85	3%+ 3.25
MASON TENDERS:		
MASON TENDER	10.45	1.225
SCAFFOLD BUILDERS	10.70	1.225
PLUMBERS	16.28	4.16
POWER EQUIPMENT OPERATORS:		
GROUP 1	15.48	3.05
GROUP 2	13.90	3.05
GROUP 3	13.17	3.05
GROUP 4	12.48	3.05
GROUP 5	11.08	3.05
ROOFERS (REMAINDER OF JURISDICTION) SEE MOD. #1 DATED JUNE 17,1983	11.85	1.75
SHEET METAL WORKERS	14.93	2.97
SPRINKLER FITTERS BALTIMORE CITY INCLUDING A 10 MILE RADIUS BEYOND THE CITY LIMITS	17.40	3.23
STEAMFITTERS	16.28	4.16
ADD:		
LABORERS (HEAVY CONSTRUCTION)		
LABORERS	7.75	1.225
POWER TOOL OPERATORS,FORM SETTER TENDER	7.85	1.225
JACK HAMMER OPERATOR,80 POUNDS & OVER	8.00	1.225
FORM SETTER	8.05	1.225
PIPELAYERS,WAGON DRILL OPRS. AIR TRACK DRILLERS,BURNERS (DEMOLITION) CONCRETE		
SURFACER TENDER	8.25	1.225
CONCRETE SURFACER	9.02	1.225

DECISION NO.NY81-3039
MOD NO. #8
(45 FR 23264 - April 4, 1980)
Monroe County, New York

CHANGE:	Basic Hourly Rates	Fringe Benefits
SPRINKLER FITTERS	16.92	3.23

DECISION #NE83-4085 - MOD. #3
(48 FR 55258 - December 9, 1983) Douglas, Sarpy, and Cass Counties, Nebraska

CHANGE:	Basic Hourly Rates	Fringe Benefits
Laborers:		
Common Laborers	10.41	1.80
Buggymobile opers., mortar mixers, mason tenders	10.585	1.80
Plasterers tenders	10.795	1.80

MODIFICATIONS

DECISION NO. NY83-3013 - MOD. #2 (48 FR 19560 - April 29, 1983) CONNECTICUT, DELAWARE, MAINE, MARYLAND, MASSACHUSETTS, NEW HAMPSHIRE, NEW JERSEY, NEW YORK, PENNSYLVANIA & RHODE ISLAND	Basic Hourly Rates	Fringe Benefits
CHANGE:		
DIPPER & CLAMSHELL DREDGES:		
Operator	15.42	2.03+ 7%+a
Engineer	15.30	2.03+ 7%+a
Craneman	15.01	2.03+ 7%+a
Maintenance Engineer	14.80	2.03+ 7%+a
Welder	14.59	2.03+ 7%+a
Mate	13.89	2.03+ 7%+a
Fireman and Oiler	12.84	2.03+ 7%+a
Deckhand, Handyman and Tug Deckhand	15.54	2.03+ 7%+a
Scowman and Rodman	12.40	2.03+ 7%+a
HYDRAULIC DREDGES:		
Leverman	15.16	2.03+ 7%+a
Engineer and Derrick Operator	15.01	2.03+ 7%+a
Maintenance Engineer	14.80	2.03+ 7%+a
Boilerman; Dredge Carpenter; Dredge Blacksmith; Electricians and Dredge Welder	14.59	2.03+ 7%+a
Spider Barge Operator	14.46	2.03+ 7%+a
Mate	13.89	2.03+ 7%+a
Fireman and Oiler	12.84	2.03+ 7%+a
Tug Deckhand	12.54	2.03+ 7%+a
Deckhand; Handyman; Shoreman and Rodman	12.40	2.03+ 7%+a
COMPANY LEAD DREDGEMAN:		
Lead Dredgeman	15.16	2.03+ 7%+a
TUG BOATS over 400 H.P. (with master or captain having license endorsed for 200 miles off shore):		
Tug Engineer	14.53	2.03+ 7%+a
Tug Deckhand	12.59	2.03+ 7%+a
TUG BOATS over 400 H.P. (without master or captain having license endorsed for 200 miles off shore):		
Tug Engineer	13.98	2.03+ 7%+a
Tug Deckhand	12.54	2.03+ 7%+a

DECISION NO. NY81-3030 - MOD. #13 (46 FR 24850 - May 1, 1981) CATTARAUGUS, CHAUTAUQUA & ERIE COUNTIES, NEW YORK	Basic Hourly Rates	Fringe Benefits
CHANGE:		
ASBESTOS WORKERS	17.35	3.51
BRICKLAYERS		
Erie County & Cattaraugus County (the Township of Perrysburg and the town of Gowanda in Persia Township)		
Bricklayers, Stonemasons, Painters, Cleaners & Caulkers	16.66	5.00
Marble Masons	16.375	5.00
Terrazzo Workers & Tile Setters	16.28	5.00
Chautauqua County & Cattaraugus County (Remainder of County)	13.24	2.98
SPRINKLER FITTERS:		
Erie County	15.54	5.21
Chautauqua County & Cattaraugus County	16.97	3.23

MODIFICATIONS

DECISION NUMBER OH83-5127 - MOD. #3 (48 FR 56903 - December 23, 1983) Adams, Allen,... Wood, & Wyandot Counties, Ohio	Basic Hourly Rates	Fringe Benefits
Changes:		
Asbestos Workers:		
Area 2	$17.70	$2.32
Area 9	18.80	2.75
Boilermakers:		
Area 2	20.425	3.23
Bricklayers; Caulkers; Cleaners; Pointers; & Stonemasons:		
Area 13	16.60	2.86
Carpenters:		
Area 1	14.93	3.33
Area 7	16.40	3.57
Area 8:		
Exclu. Nursing Homes	18.01	1.81
Nursing Homes	12.61	1.81
Area 9	19.31	2.73
Area 12	17.40	3.49
Cement Masons:		
Area 9	17.73	3.30
Area 12	18.23	2.86
Electricians:		
Area 8:		
Electricians	18.00	45%
Cable Splicers	18.50	45%
Area 12	18.24	15.5%+ 1.30
Area 14:		
Electricians	20.00	3.3%+ 3.00
Cable Splicers	23.00	3.3%+ 3.00
Area 16	17.78	3.2%+ 1.25
Area 20	19.11	9.7%+ 1.51
Area 23:		
Electricians	19.51	3.2%+ 2.05
Cable Splicers	20.88	3.2%+ 2.05
Elevator Constructors:		
Area 8:		
Elevator Constructors	17.25	2.69 +e+f
Helpers	70%JR	2.69 +e+f
Helpers (Prob.)	50%JR	
Ironworkers:		
Area 9	17.06	3.61
Area 10	19.46	3.44
Lathers:		
Area 2	$15.76	$3.52
Area 4	16.40	3.57
Area 5:		
Exclu. Nursing Homes	18.01	1.81
Nursing Homes	12.61	1.81
Area 7	19.31	2.73
Marble Setters; Terrazzo Workers; & Tile Setters:		
Area 11:		
Marble Setters	16.60	2.86
Area 15:		
Terrazzo Workers & Tile Setters	16.90	2.36
Millwrights:		
Area 8	19.31	2.73
Painters:		
Area 18:		
Brush; Paperhangers; & Rollers	16.65	2.42
Structural Steel; Drywall Finishers & Tapers	17.40	2.42
Spray	17.50	2.42
Piledrivermen:		
Area 1	15.32	3.33
Area 7	16.99	17%
Area 8	16.40	3.57
Area 9	19.31	2.73
Pipefitters; Plumbers; & Steamfitters:		
Area 12	17.57	5.66
Area 13	19.20	3.72
Roofers:		
Area 3	17.24	3.11
Area 4	14.03	2.70
Area 5	18.15	1.58
Sheet Metal Workers:		
Area 3	17.51	3.30+1
Area 7	17.805	3.905
Area 10	16.46	2.57+1
Soft Floor Layers:		
Area 1	14.93	3.33
Area 7	14.40	3.57
Area 8	17.54	2.91
Laborers:		
Area 11:		
Exclu. Apartments, Condominiums, & Nursing Homes:		
Group 1	13.02	3.00
Group 2	13.14	3.00
Group 3	13.165	3.00
Group 4	13.17	3.00
Group 5	13.195	3.00
Group 6	13.255	3.00
Group 7	13.31	3.00

MODIFICATIONS.

MODIFICATIONS

MODIFICATIONS.

DECISION NUMBER OH83-5127 (Cont'd)

	Basic Hourly Rates	Fringe Benefits
Change (Cont'd):		
Laborers (Cont'd):		
Area 11 (Cont'd):		
Group 8	$13.425	$3.00
Group 9	13.67	3.00
Apartments, Condominiums, & Nursing Homes	70%JR	3.00
Line Construction:		
Area 12:		
Cable Splicers; Linemen; Operators - Poledigging Equipment	19.50	.85+ 10½%
Groundmen	15.60	.85+ 10½%
Area 16:		
Cable Splicers; Equipment Ops.; & Linemen	17.78	1.25+ 3½%
Truck Drivers (Winch) Groundman; Groundmen	11.56	1.25+ 3½%
Area 22:		
Linemen	19.51	1.99+ 3½%
Cable Splicers	20.88	1.99+ 3½%
Equipment Operators	14.63	1.99+ 3½%
Truck Drivers; Groundman	9.76	1.99+ 3½%
Truck Drivers:		
Area 3:		
Group 1	$13.50	$92.03q
Group 2	13.51	92.03q
Group 3	13.55	92.03q
Group 4	13.58	92.03q
Group 5	13.60	92.03q
Group 6	13.70	92.03q
Group 7	13.78	92.03q
Group 8	13.83	92.03q
Group 9	13.86	92.03q
Group 10	14.13	92.03q
Group 11	14.20	92.03q
Group 12	14.23	92.03q
Area 9:		
Group 1	13.28	53.00q
Group 2	13.29	53.00q
Group 3	13.33	53.00q
Group 4	13.36	53.00q
Group 5	14.05	53.00q
Group 6	13.36	53.00q
Group 7	13.85	53.00q
Group 8	13.94	53.00q

MODIFICATIONS

	Basic Hourly Rates	Fringe Benefits
DECISION NO. PA81-3081 - MOD. #5 (46 FR 52080 - October 23, 1981) Sullivan County, Pennsylvania		
CHANGE:		
Asbestos Workers	16.33	2.31
Electricians: Western part of County	13.06	3.57
Plumbers & Steamfitters	17.06	2.44
Soft Floor Layers	11.94	2.25
DECISION NO. PA81-3066 - MOD. #11 (46 FR 52082 - October 23, 1981) Cumberland, Dauphin, Perry, Juniata, New Cumberland Depot, in York County, Pennsylvania		
CHANGE:		
LINE CONSTRUCTION: Linemen	14.74	.80+3 3/8%
Groundmen	8.77	.80+3 3/8%
Winch Truck operator	10.26	.80+3 3/8%
DECISION NO. PA81-3090 - MOD. #9 (46 FR 61813 - December 18, 1981) Lycoming County, PA		
CHANGE:		
CARPENTERS	13.22	2.25
ELECTRICIANS	13.06	3.57
MILLWRIGHTS	16.57	2.25
SOFT FLOOR LAYERS	11.94	2.25

	Basic Hourly Rates	Fringe Benefits
DECISION NO. PA82-3010 MOD NO. 11 (47 FR 9684 - March 5, 1982) Clinton, Centre, Huntingdon, Fulton and Mifflin Counties, PA		
CHANGE:		
ELECTRICIANS: Clinton County in its entirety; Townships in Centre County Burnside, Curtin, Liberty, Howard, Marion, Walker, Miles and Haines	13.06	3.57
Line Construction Mifflin County Lineman	14.74	.80+3 3/8%
Winch Truck Operator	10.26	.80+3 3/8%
Groundman	8.77	.80+3 3/8%
PLASTERERS: Fulton County	11.90	2.21
PLUMBERS & STEAMFITTERS: Centre, Mifflin & Fulton Counties	17.05	2.39
ROOFERS: Composition (Centre County)	12.61	2.10
SHEET METAL WORKERS: Centre, Huntingdon, Fulton and Mifflin Counties, Pennsylvania	15.23	4.39

MODIFICATIONS

	Basic Hourly Rates	Fringe Benefits
DECISION NO. PA83-3047 - MOD. NO. 1 (48 FR 46922 - October 14 1983) Luzerne County, PA		
CHANGE:		
~~CARPENTERS:~~ Hazleton, Freeland, Black Creek, Butlers, Dennison, Foster, Hazle, Hollenback, Nescpeck, Sugarloaf and lower part of Salem Twps.	14.50	2.25
DECISION NO. PA83-3051 - MOD. NO. 1 (48 FR 53264 - November 25, 1983) Franklin County, PA		
CHANGE:		
IRONWORKERS	17.265	3.745
LINE CONSTRUCTION: Linemen	14.74	.80+3 3/8%
Winch Truck Operator	10.26	.80+3 3/8%
Groundman	8.77	.80+3 3/8%
PLASTERERS	11.90	2.21
PLUMBERS	17.05	2.39

	Basic Hourly Rates	Fringe Benefits
DECISION NO. PR83-3031 - MOD. #2 (48 FR 34632 July 29, 1983) Puerto Rico, Island Wide		
CHANGE:		
PLUMBERS & PIPEFITTERS	4.21	
PLUMBERS & PIPEFITTERS HELPERS	3.70	

	Basic Hourly Rates	Fringe Benefits
DECISION NO. PA83-3001 - MOD. #4 (48 FR 37805 - August 19, 1983) Adams, Berks, Bradford, Carbon, Columbia, Cumberland, Dauphin, Juniata, Lackawanna, Lancaster, Lebanon, Lehigh, Luzerne, Lycoming, Monroe, Montour, Northampton, Northumberland, Perry, Pike, Schuylkill, Snyder, Sullivan, Susquehanna, Tioga, Union, Wayne, Wyoming and York Counties Pennsylvania		
CHANGE:		
LINE CONSTRUCTION: Northampton County Lineman	17.08	.80+3 3/8%
Winch Truck Operator	11.96	.80+3 3/8%
Truck Driver	11.10	.80+3 3/8%
Groundman	10.25	.80+3 3/8%

	Basic Hourly Rates	Fringe Benefits
Decision #WI83-2075-Mod #2 (48 FR-43536- September 23, 1983) Barron, Dunn, Polk and St. Croix Counties, Wisconsin		
Change		
Ironworkers: Structural, Ornamental and Reinforing	17.10	1.39

SUPERSEDEAS DECISION

STATES: FLORIDA (All counties on the Atlantic Coast & Gulf Coast West to the Aucilla River & All tributary waterways), GEORGIA (West to the Aucilla & Ocumulgee Rivers within the Jacksonville & Savannah Districts of the Corps of Engineers), NORTH CAROLINA, SOUTH CAROLINA, VIRGINIA, & WASHINGTON, D.C.

DECISION NUMBER: FL84-1002 DATE: DATE OF PUBLICATION

Supersedes Decision Number GA83-1035 dated April 29, 1983 in 48 FR 19563

DESCRIPTION OF WORK: DREDGING PROJECTS.

	Basic Hourly Rates	Fringe Benefits
HYDRAULIC DREDGES 20" & OVER:		
Leverman	$11.47	2.03+a
Engineer	11.36	2.03+a
Mate	10.27	2.03+a
Welder	10.60	2.03+a
Derrick Operator	10.97	2.03+a
Spill Barge Operator	10.75	2.03+a
Spider Barge Operator	10.75	2.03+a
Tug Master	10.20	2.03+a
Tug Mate	9.76	2.03+a
Tug Deckhand	8.18	2.03+a
Carpenter	10.89	2.03+a
Electrician	11.15	2.03+a
Machinist	10.81	2.03+a
Steward	8.97	2.03+a
Oiler & Fireman	8.71	2.03+a
Deckhand	8.18	2.03+a
Shoreman	8.04	2.03+a
Second Cook	8.18	2.03+a
Messman	8.04	2.03+a
HYDRAULIC DREDGES UNDER 20":		
Leverman	9.92	2.03+a
Engineer	9.45	2.03+a
Welder	9.60	2.03+a
Mate	8.60	2.03+a
Oiler & Fireman	8.11	2.03+a
Deckhand	7.70	2.03+a
Launchman	8.19	2.03+a
Shoreman	7.56	2.30+a
Spill Barge Operator	8.81	2.30+a
Spider Barge Operator	8.81	2.30+a
CLAMSHELL DREDGES:		
Operator	11.40	2.03+a
Engineer	10.78	2.03+a
Welder	10.46	2.03+a
Mate	10.08	2.03+a
Fireman & Oiler	8.71	2.03+a
Deckhand	8.18	2.03+a
Launchman	8.71	2.03+a
Scowman	8.30	2.03+a

	Basic Hourly Rates	Fringe Benefits
DIPPER DREDGES:		
Operator	$11.52	2.03+a
Crane man	11.01	2.03+a
Engineer	11.24	2.03+a
Welder	10.60	2.03+a
Mate	10.27	2.03+a
Fireman & Oiler	8.71	2.03+a
Deckhand	8.18	2.03+a
Launchman	8.71	2.03+a
Scowman	8.30	2.03+a
TUGS (TENDING DIPPER & CLAMSHELL DREDGES):		
Tug Master	10.38	2.03+a
Tug Mate	9.85	2.03+a
Engineer	10.38	2.03+a
Assistant Engineer	9.66	2.03+a
Deckhand	8.07	2.03+a
Cook	8.30	2.03+a
STEWARD DEPARTMENT (ON DIPPER & CLAMSHELL DREDGES & ON HYDRAULIC DREDGES UNDER 20"):		
Cook	8.11	2.03+a
Mess Cook	7.64	2.03+a
Messman & Janitor	7.53	2.03+a
DRILL BOATS:		
Driller, Blaster & Operator Engineer	11.36	2.03+a
Helper	8.71	2.03+a

FOOTNOTE: a - SIX PAID HOLIDAYS: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Christmas Day. Plus VACATION CONTRIBUTION of 7% of straight time pay for all hours worked.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR 5.5 (a)(1)(ii)(A)).

SUPERSEDEAS DECISION

DECISION NO.: LA84-4008

SUPERSEDEAS DECISION

STATE: Louisiana PARISH Calcasieu
DECISION NO.: LA84-4008 DATE: Date of Publication
Supersedes Decision NO. LA83-4019, dated February 4, 1983, in 48 FR 5448.
DESCRIPTION OF WORK: Residential Projects consisting of single family homes & apartments up to & including 4 stories.

	Basic Hourly Rates	Fringe Benefits
ASBESTOS WORKERS	18.645	2.335
BRICKLAYERS & STONE-MASONS	16.10	2.32
CARPENTERS:		
Carpenters, piledrivermen & soft floor layers	10.72	1.60
Millwrights	18.47	.07
CEMENT MASONS	16.17	
ELECTRICIANS:		
New & old single or multiple family residence & apt. complex not to exceed 12 units		
2-story walk-ups	10.90	2.00+ 3-5/10%
Other electricians:		
Electricians	17.70	2.00+ 3-5/10%
Cable splicers	18.20	"
ELEVATOR CONSTRUCTORS:		
Mechanics	14.82	3.00+ a
Helpers	70%JR	"
Helpers (Prob.)	50%JR	
GLAZIERS	15.25	.02+b
IRONWORKERS	16.10	2.42
LABORERS	8.10	.94
LATHERS	10.72	1.60
MARBLE & TERRAZZO WORKERS	16.10	2.32
PAINTERS	13.75	.60
PLASTERERS	17.11	
PLUMBERS & PIPEFITTERS	17.98	3.00
ROOFERS:		
Roofers	15.70	.20
Roofers helpers remove old roofing, hustle material & cleanup under supervision of journeymen	12.30	.20
SHEET METAL WORKERS	17.28	3%+3.12
SPRINKLER FITTERS	15.07	3.23
TILE SETTERS	14.07	1.70

	Basic Hourly Rates	Fringe Benefits
TRUCK DRIVERS:		
Pickup drivers	13.27	.70
Stake bodies, dumps, trailer trucks, winch truck & Mississippi wagon	14.16	.70
POWER EQUIPMENT OPERATORS:		
Group 1	16.40	2.50
Group 2	11.56	2.50
Group 3	16.65	2.50
Group 4	16.90	2.50
Group 5	17.15	2.50
Group 6	17.40	2.50
Group 7	17.90	2.50

WELDERS: Receive rate prescribed for craft performing operation to which welding is incidental.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5(a)(1)(ii)).

DECISION NO.: LA84-4008

PAID HOLIDAYS FOR ELEVATOR CONSTRUCTORS & GLAZIERS
A - New Years' Day; B - Memorial Day; C - Independence Day; D - Labor Day; E - Thanksgiving Day; F - the Friday after Thanksgiving Day; G- Christmas Day

FOOTNOTES FOR ELEVATOR CONSTRUCTORS & GLAZIERS
a - 1st 6 mos. - none; 6 mos. to 5 yrs. - 6%; over 5 yrs. - 8% of basic hourly rate; Seven Paid Holidays
b - 5 days paid vacation; Paind Holidays A, C, D, E, G & Good Friday

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS
GROUP 1 - Asphalt plant operator; Asphalt spreader; Backhoes (all types); Boom Trucks; Bulldozers; Bull Floats; Bush Hog; Cableways; Cherry Pickers (all types); Concrete Mixers (over one sack); Concrete Pump; Concrete Saw; Concrete Spreader; Cranes; Deck Winches; Derricks; Distributors; Ditching or Trenching Machines (riding type); Dowel Bar Machine; Draglines; Dredges; Elevator Operator; Finishing Machines (roadway, riding type); Fork Lifts (other than farm-type outside warehouse); Foundation Drill; Front End Loaders; Grease Service Man; Hoists; Locomotive (all types); Mechanic; Mixer Plant Op. (central Mix); Motor Patrols; Motorized Street Sweepers (self-propelled); Piledrivers; Pull Cat; Pump (3" & over); Push Cat; Road Pavers; Rollers; Scrapers; Shovels; Sideboom; Test Pump-Internal Combustion Engine Powered; Tower Cranes; Welder Journeyman; Well Point System; Whirleys; Winch Cats; Winch Truck with A-Frame; Work Boats
GROUP 2 - Batch Plant; Compressor; Ditching or Trenching Machine (non-riding type); Fireman; Generator or Light Plant over 5 h.p.; Mixers (one sack & under); Oiler, Oiler-Compressor op.; Oiler-Driver on Motor Crane; Oiler-Fireman; Pump (under 3" suction); Scale op.; Water Blast Pump; Welding Machine
GROUP 3 - Crane 60 tons & over; Crane Boom 100' & over but less than 150'
GROUP 4 - Crane 100 tons & up to 125 tons; Crane Boom 150' & over but less than 225'
GROUP 5 - Crane over 125 tons up to 200 tons
GROUP 6 - Crane over 200 tons up to 300 tons; Crane Boom 225' & over but less than 300'
GROUP 7 - Crane over 300 tons; Crane Boom 300' & over

UMI

SUPERSEDEAS DECISION

STATE: Iowa

COUNTIES: ZONE 1-Black Hawk; ZONE 2-Cerro Gordo; ZONE 3-Clinton; ZONE 4-Des Moines; ZONE 5-Dubuque; ZONE 6-Johnson; ZONE 7-Linn & ZONE 8-Polk

DECISION NO.: IA84-4006 DATE: Date of Publication

Supersedes Decision NO. IA83-4056, dated July 20, 1983, in 48 FR 34611.

DESCRIPTION OF WORK: Building (does not include single family homes & apartments up to & including 4 stories). DOES NOT APPLY TO WATER & SEWER TREATMENT PLANTS.

	Basic Hourly Rates	Fringe Benefits
Asbestos Workers:		
ZONES: 1,3,4,5,6 & 7	$16.86	$2.40
ZONES: 2 & 8	16.17	3.155
Boilermakers	17.345	3.00
Bricklayers & Stonemasons:		
ZONE 1	11.83	2.62
ZONE 2	13.99	1.07
ZONE 3	14.28	1.22
ZONE 4	13.03	1.00
ZONE 5	13.00	.57
ZONE 6 & 7	14.04	.57
ZONE 8	14.19	2.82
Carpenters:		
ZONE 1:		
Carpenters, soft floor layers, piledrivermen	9.00	2.78
Millwrights	9.60	2.78
ZONE 2:		
Carpenters & soft floor layers	10.91	1.65
Millwrights & piledrivermen	11.16	1.65
ZONE 3:		
Carpenters	12.83	2.71
Piledrivermen	13.33	2.71
Millwrights	16.28	3.57
ZONE 4:		
Remodeling (change appearance or purpose of any type of present existing structures) & renovation (for any work on or replacement of any existing machinery, or structures, or related manufacturing items, within any type of manufacturing complex:		
Carpenters	13.57	1.08
Millwrights	14.27	1.08
All other work:		
Carpenters	14.37	1.08
Millwrights/Piledrivermen	15.07	1.08
Carpenters (Cont'd):		
ZONE 5:		
Carpenters	11.62	1.04
Piledrivermen	12.02	1.04
Millwrights	12.12	1.04
ZONES 6 & 7:		
Carpenters & soft floor layers	11.74	1.93
Piledrivermen	12.24	1.93
Millwrights	15.28	3.57
ZONE 8:		
Carpenters	12.95	2.54
Millwrights & piledrivermen	13.30	2.54
Drywall	12.95	2.54
Cement Masons:		
ZONE 1	9.00	2.50
ZONE 2	11.45	
ZONE 3	13.78	1.22
ZONE 4	17.65	
ZONE 5	12.68	
ZONE 6 & 7	11.72	1.00
ZONE 8	14.25	.94
Electricians:		
ZONE 1: Electricians	15.64	.65+ 3-3/4%
Cable Splicers	16.11	.65+ 3-3/4%
ZONE 2	15.26	.65+ 3-3/4%
ZONE 3: Electricians	16.34	1.66+ 8%
Cable Splicers	17.34	1.66+ 8%
ZONE 4	16.72	1.80+ 3-3/4%
ZONE 5	14.95	1.80+ 3-3/4%
ZONE 6 & 7	16.52	2.35+ 3-3/4%
ZONE 8	15.68	2.70+ 3-3/4%
Elevator Constructors:		
ZONES 1,5,6 & 7:		
Mechanics	12.55	3.00+a
Helpers	70%JR	3.00+a
Helpers (prob.)	50%JR	

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	Basic Hourly Rates	Fringe Benefits
Elevator Constructors (Cont'd):		
ZONE 8:		
Mechanics	15.10	2.69 +a
Helpers	70%JR	2.69 +a
Helpers (prob.)	50%JR	+a
Glaziers:		
ZONES 2 & 8	13.64	1.31+ 4.384 +b
ZONES 3,4,5, 6 & 7	15.71	1.77
Ironworkers:		
ZONE 1	10.70	1.96
ZONE 5 (except S.E. part of Dubuque Co.)	12.26	2.00
ZONES 7 & 8	13.67	2.61
ZONE 3 & S.E. part of Dubuque Co.	16.45	3.085
ZONE 4:		
Maintenance projects of $200,000 & under; metal, buildings of 20,000 sq. ft. & under & a maximum of 20' eaves in height	13.65	2.40
All other work	16.00	2.40
ZONES 6 & 7	12.26	2.00
Laborers:		
ZONE 1 - Group 1	7.35	1.60
Group 2	7.50	1.60
Group 3	7.70	1.60
ZONE 2	7.75	1.05
ZONE 3:		
All jobs totaling over $500,000:		
Group 1	11.63	1.35
Group 2	11.88	1.35
Group 3	11.93	1.35
All jobs totaling $500,000 or less:		
Group 1	8.72	1.35
Group 2	8.97	1.35
Group 3	9.02	1.35
ZONE 4:		
Construction laborer (all projects with a total volume of $200,000 & under) or projects with a total volume of $325,000 & under for remodeling & additions which change the appearance or purpose of any type of present existing structures & renovation for any work or replacement of any existing machinery or structures or related manufacturing items, within any type of manufacturing complex:	10.00	1.70
Laborers (Cont'd):		
ZONE 4 (Cont'd):		
Construction laborer (all other work)	11.00	1.70
Powderman	11.00	1.70
Mason tender	11.16	1.70
Creosote & tarring	11.50	1.70
ZONE 5	10.65	.90
ZONE 6	9.50	1.50
ZONE 7	9.61	1.56
ZONE 8 - Group 1	12.305	1.71
Group 2	12.405	1.71
Group 3	12.43	1.71
Group 4	12.455	1.71
Group 5	12.505	1.71
Group 6	12.605	1.71
Lathers:		
ZONE 1	9.00	2.78
ZONE 3	12.83	2.71
ZONE 5	11.62	1.04
ZONES 6 & 7	11.74	1.93
ZONE 8	12.95	2.54
Line Construction (excluding ZONES 3 & 5):		
Group 1: Lineman; all rigs setting assembled "H" fixtures, steel transmission structures & transmission concrete structures	16.09	1.00+ 7-1/2% +c
Group 2: Blaster	12.87	"
Group 3: Special equipment operations (hole digging machines, all tractors, transmission line pole hauling & setting equipment other than assembled "H" fixtures	13.35	1.00+ 7-1/2% +c
Group 4: Groundman	10.46	"
Group 5: Groundman - truck driver	10.62	"
Group 6: Pole treating truck driver	10.30	"
Group 7: Pole treating specialist	12.39	"

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	Basic Hourly Rates	Fringe Benefits
Marble, Tile & Terrazzo Workers & Finishers:		
ZONE 1 - Tile Setters	12.80	.90
ZONE 3 - Marble Setters	14.20	1.22
ZONE 5 - Marble Setters	13.00	.57
ZONES 6 & 7 - Tile Setters	14.93	.80
ZONE 8:		
Marble, Tile & Terrazzo Workers	14.79	
Marble, Tile & Terrazzo Finishers	12.09	
Painters:		
ZONE 1:		
Brush or Roller	12.68	.83
Paper & Vinyl Hanging	13.28	.83
Sandblasting	13.43	.83
Spray	13.58	.83
ZONE 2:		
Brush or Roller	13.55	.80
Spray	14.05	.80
Paper & Vinyl Hanging Sandblasting	14.15	.80
ZONE 3:		
Brush or Roller	12.50	3.49
Spray; Structural Steel; Sandblasting; Drywall Tapers	13.00	3.49
ZONE 4:		
Brush & Paperhangers; Drywall Finishers	13.00	.50
Roller	13.10	.50
Structural Steel (over 25 ft.)	13.70	.50
Spray & Sandblast	14.00	.50
Sign	13.50	.50
ZONE 5:		
Brush & Roller; Paperhanging; Taping Drywall	10.50	1.60
High work & Steel; Spray	11.05	1.60
ZONES 6 & 7:		
Brush, Roller, Tapers & Finishers	13.50	.03
Paperhangers	13.75	.03
Structural Steel	14.00	.03
Spray	14.00	.03
Sandblasting	14.00	.03
ZONE 8:		
Brush or Roller	14.02	.85
Paperhanger	14.27	.85
Sandblaster; Spray; Swing Stage & Boatswain Chair; Structural Steel	14.82	.85
Plasterers:		
ZONE 1	11.75	.45
ZONE 2	9.00	
ZONE 3	14.28	1.22
ZONE 4	17.28	
ZONE 5	13.50	
ZONES 6 & 7	16.47	
ZONE 8	14.325	.90
Plumbers & Pipefitters:		
ZONE 1	15.96	3.74
ZONE 2	11.35	1.65
ZONE 3	16.60	2.85
ZONE 4	16.15	2.80
ZONE 5	14.92	2.10
ZONES 6 & 7	13.05	2.27
ZONE 8	15.74	3.15
Power Equipment Operators:		
ZONES 1,2,5,6 & 7:		
Group 1	13.00	2.25
Group 2	11.72	2.25
Group 3	10.00	2.25
Group 4	9.00	2.25
ZONES 3 & 4:		
Group 1	15.25	2.98
Group 2	13.85	2.98
Group 3	12.80	2.98
ZONE 8:		
Group 1	13.98	2.25
Group 2	13.725	2.25
Group 3	12.03	2.25
Group 4	11.205	2.25
Roofers:		
ZONE 1	12.76	
ZONE 2	9.52	
ZONE 3	15.60	2.65
ZONE 4	14.13	
ZONE 5	12.16	.80
ZONES 6 & 7	11.95	
ZONE 8	12.25	2.85
Sheet Metal Workers:		
ZONE 1	12.91	2.70
ZONES 2 & 8	15.55	2.99
ZONES 3, 4 & 5	13.53	3.57
ZONES 6 & 7	17.20	1.11
Sprinkler Fitters	16.47	3.23
Truck Drivers:		
ZONE 1	7.47	1.88

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	Basic Hourly Rates	Fringe Benefits
Truck Drivers (Cont'd):		
ZONE 4:		
Jobs $200,000.00 & under & remodeling & addition work with a total volume of $325,000.00 or less:		
Group 1	11.12	28.50 per wk.
Group 2	11.33	28.50 per wk.
Group 3	11.43	28.50 per wk.
All Other Work:		
Group 1	12.12	28.50 per wk.
Group 2	12.33	28.50 per wk.
Group 3	12.43	28.50 per wk.
ZONE 6 & 7:		
Flat bed trucks & dump trucks (single axle)	9.025	104.70 per wk. +e
Drivers of ten wheelers (tandem axle) trucks & semi-trailer & tractor combinations	9.125	104.70 per wk. +e
Truck Drivers (Cont'd):		
Zone 8:		
Pickups, dumpsters	9.83	96.50 per wk +e
Winch trucks dumpcrete & scoopmobiles	9.88	96.50 per wk +e
Semis	9.98	96.50 per wk +e
Tandem trucks	10.08	96.50 per wk +e

WELDERS:
Receive rate prescribed for craft performing operation to which welding is incidental.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR 5.5(a)(1)(ii)).

FOOTNOTES:
a - Employer contributes 8% of basic hourly rate for over 5 yrs. service & 6% of basic hourly rate for 6 mos. to 5 yrs. service as Vacation Pay Credit. Also Seven Paid Holidays A thru G.
b - Six Paid Holidays A thru E + G
c - Seven Paid Holidays A thru G
d - 1 week vacation with pay with 1 yr service; 2 weeks vacation with pay after 2 yrs. service & 3 weeks vacation with pay after 10 yrs. service.
e - All employees accumulating 1 yr. service shall receive & take 1 week vacation with pay. All employees accumulating 3 yrs. or more of service shall receive & take 2 weeks vacation with pay. All employees accumulating 10 yrs. or more of service shall receive & take 3 weeks vacation with pay.

PAID HOLIDAYS- A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-the Friday after Thanksgiving Day; G-Christmas Day

CLASSIFICATION DEFINITIONS

LABORERS - ZONE 1
Group 1 - Common laborers; carpenter tenders; moving, wrecking & demolition
Group 2 - Mason tenders; hod carriers; machine & air tool operators
Group 3 - Powderman

LABORERS - ZONE 3
Group 1 - Common laborers
Group 2 - Jackhammers over 60 lbs.
Group 3 - Cutting torch burner

LABORERS - ZONE 8
Group 1 - General laborers
Group 2 - Mortar mixers; motor buggies when pouring concrete; power tool ops. (air tools, concrete, vibrator, gunnite nozzlemen, electric drills & hammers)
Group 3 - Plasterers' tenders
Group 4 - Powdermen
Group 5 - Air tool, power tampers & other similar self-powered tools weighing 50 lbs. & over
Group 6 - Paving breakers weighing 50 lbs. and over

POWER EQUIPMENT OPERATORS - ZONES 1,2,5,6,7 & 8
Group 1 - Cranes, incl. those being used as backhoe, dragline, clamshell, etc.; tower cranes; electric overhead cranes; truck cranes & cherry pickers 12½ ton & over rated capacity; derricks; piledrivers & extractors; caisson rigs; sideboom & winch truck used for erection of structural steel & moving & setting of heavy machinery; 3 drum hoist; welders; mechanics; locomotive; dredge (levermen);
Group 2 - 1 & 2 drum hoists; air & electric tuggers (on power plants or setting steel or grating); economobiles; plant mixers; farm type tractors (with loaders, backhoes, attachments, etc.); scrapers (tournapull, etc.); endloaders; dredge engineer); sideboom & winch truck other than Group No. 1; motor patrol; bulldozers; push cat; truck cranes & cherry pickers (under 12½ ton); concrete mixers (yd. & over); ditching machines (8" & over); fork lifts (on steel erection & machinery moving or hoisting above one complete story); concrete pump; temporary hoist cage operated; second man on locomotive; vibrating concrete spreader (Gomaco, C-450 or equal); working boat (tug, tow, etc.); group greaser

POWER EQUIPMENT OPERATORS - ZONES 1,2,5,6,7 & 8 (Cont'd):
Group 3 - Tractors (under 35 HP) with or without attachments; endloaders (under 35 HP) with or without attachments; firemen (boiler); fork lifts (other than Group No. 2); gunnite machine; self-propelled rollers; stump chippers; self-propelled tampers; air & electric tuggers other than above); ditching machine under 8"; pile threader
Group 4 - Mechanical heaters; truck crane drivers; permanent elevators; air compressors (one or a combination of 400 cfm. or more); pumps 3" or over; welding machines 600 amps or combination thereof; conveyors; generator (75 KW & over); dewatering pumps; boat used for personnel transport or as a safety boat

POWER EQUIPMENT OPERATORS - ZONES 3 & 4
Group 1 - All hoists or steel erecting equip.; Crane, Shovel, Clamshell, Dragline, Backhoe, Derrick, Tower Crane, Cableway, Concrete Spreader (servicing 1 pavers), Asphalt Spreader, Asphalt Mixer Plant Engineer, Dipper Dredge Op.; Dipper Dredge Craneman, Dual Purpose Truck (boom or winch), Leverman or Engineman (hydraulic dredge), Mechanic, Paving Mixer with tower attached (2 ops. required), Piledriver, Boom Tractor, Stationary, Portable or Floating Mixing Plant, Trenching Machine (over 40 HP), Building Hoist (2 drums), Hot Paint Wrapping Machine, Cleaning & Priming Machine, Backfiller (throw bucket), Locomotive Engineer, Qualified Welder, Tow or Push Boat, Concrete Paver, Seaman Trav-L-Plant or similar machines, CMI Autograder or similar machines, Slip Form Paver, Caisson Augering Machine, Mucking Machine, Asphalt Heater-Planer Unit, Hydraulic Cranes, Mine Hoists; Athey, Barber-Green, Euclid or Haiss Loader, Asphalt Pug Mill, Fireman & Drier, Concrete Spreader (servicing 1 paver), Bulldozer, Endloader, Log Chippers or similar machines, Elevating Grader, Group Equipment Greaser, LeTourneaupull & similar machines, DW-10, Hyster Winch & similar machines, Motor Patrol, Power Blade, Push Cat, Tractor Pulling Elevating Grader or Power Blade, Tractor operating Scoop or Scraper, Tractor with Power Attachments, Roller on Asphalt or Blacktop, Single Drum Hoist, Jaeger Mix & Place Machine, Pipe Bending Machine, Flexaplane or similar machines, Automatic Curbing Machines, Automatic Cement & Gravel Batch Plant (1 stop set-up), Seaman Pulvi-Mixer or similar machines, Blastholer self-propelled Rotary Drill or similar machines, Work Boat, Combination Concrete Finishing Machine & Float, Self-propelled Sheepsfoot Roller or Compactor (used in conjunction with Grading Spread), Asphalt Spreader Screen Op., Aspco Spreader or similar machine, Slusher, Forklift (over 6000 lbs. capacity or working at heights above 28 ft.), Concrete Conveyors, Concrete Pump
Group 2 - Asphalt Booster, Fireman & pump Op. at Asphalt Plant, Mud Jack, Underground Boring Machine, Concrete Finishing Machines, Form Grader with Roller on Earth, Mixers (3 bag to 16 E), Power Operated Bull Float, Tractor without Power attachment, Dope Pot (agitating motor), Dope Chop Machine, Distributor (back end), Straddle Carrier, Portable Machine Fireman, Hydro-Hammer, Power Winch on Paving Work, Self-propelled Roller or Compactor (other than provided for above), Pump Op. (more than 1 well point pump), Portable Crusher, Trench Machine (under 40 HP), Power Subgrader (on forms) or similar machines, Forklift (6000 lbs. or less capacity), Gypsum Pump, Conveyor over 20 HP, Fuller Kenyon Cement Pump or similar machines; Air Compressors (275 CFM or over), Driver on Truck Crane or similar machines, Light Plant, Mixers (1 or 2 bag), Power Batching Machines (Cement Auger or Conveyor), Boiler (Engineer or Fireman), Water Pumps, Mechanical Broom, Automatic Cement & Gravel Batch Plant (2 or 3 stop set-up), Small Rubber-tired Tractors (not including backhoes or endloaders), Self-propelled curing machine
Group 3 - Oiler, Mechanical Heater (other than steam boiler), Belt Machine, Small Outboard Motor Boat, Engine Driven Welding Machine

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DECISION NO.: IA84-4006

CLASSIFICATION DEFINITIONS - (Cont'd)

TRUCK DRIVERS - ZONE 4
Group 1 - Warehousemen, greasers; drivers on single axle flat beds & dump trucks; drivers pulling air compressors & welding machines, batch trucks 2-3½E batches or less & chip spreaders
Group 2 - Drivers on cheater axle & tandems; drivers on all 6-wheel trucks, semi-trailers, carryall, winch trucks & mixer trucks; drivers on batch trucks over 2-3½E; drivers on A-frame trucks & pole trailers
Group 3 - Drivers on track truck, euclid-type truck; front & rear, all types of dumpsters & pavement breakers

SUPERSEDEAS DECISION

STATE: Pennsylvania
DECISION NO.: PA84-3004
Supersedeas Decision No.: PA81-3043, July 17, 1981, in 46 FR 37212.
DESCRIPTION OF WORK: Building Erection and Foundation Excavation, (does not include single family homes or apartments up to and including 4 stories) exculding Sewage and Treatment plant projects.

COUNTIES: * See Below
DATE: Date of Publication

*Armstrong, Allegheny, Beaver, Butler, Fayette, Indiana, Washington & Westmoreland

	Basic Hourly Rates	Fringe Benefits
ABSESTOS WORKERS	15.88	5.29
BOILERMAKERS	16.67	.79+ 14½%
BRICKLAYERS		
ZONE 1	15.02	3.70
ZONE 2	16.15	4.66
ZONE 3	15.26	5.15
ZONE 4	14.70	3.06
ZONE 5	16.135	3.87
CARPENTERS		
ZONE 1	15.00	29%
ZONE 2	14.00	30%
CEMENT MASONS		
ZONE 1	15.94	3.98
ZONE 2	16.77	
ELECTRICIANS		
ZONE 1	17.70	2.85+ 3%
ZONE 2	16.72	5.33+ 3%
ZONE 3	17.50	1.50+ 10½%
ELEVATOR CONSTRUCTORS	17.375	3.00+ a+b
ELEVATOR CONSTRUCTORS' HELPERS	12.16	3.00+ a+b
ELEVATOR CONSTRUCTORS' HELPERS (PROB.)	8.69	
GLAZIERS	14.98	3.85
IRONWORKERS, STRUCTURAL, ORNAMENTAL & REINFORCING	16.37	4.95
LABORERS		
ZONE 1		
CLASS 1	13.55	20%
CLASS 2	13.68	20%
CLASS 3	13.81	20%
CLASS 4	14.08	20%
CLASS 5	14.28	20%
ZONE 2		
CLASS 1	13.51	20%
CLASS 2	13.64	20%
CLASS 3	13.76	20%
CLASS 4	14.04	20%
CLASS 5	14.24	20%
ZONE 3		
CLASS 1	13.42	20%
CLASS 2	13.56	20%
CLASS 3	13.69	20%
CLASS 4	13.96	20%
CLASS 5	14.14	20%
LANDSCAPING		
Landscape laborer to include general landscaping work and driving of trucks for the distributing of materials on the job site but not to include dump trucks used to transport supplies to the job	10.30	20%
Landscape Tractor Operator to operate small industrial rubber tire tractor equipped with front end loader and back hoe attachments used for the sole purpose of landscape work including soil spreading, but not for heavy and highway construction work	10.72	22%
LEADBURNERS	10.75	.66+c
LATHERS		
ZONE 1	13.62	2.71
ZONE 2	14.00	30%
LINE CONSTRUCTION		
ZONE 1		
Lineman	18.06	.80+ 3%
Winch Truck Operator	12.59	.80+ 3%
Groundman	10.76	.80+ 3%
ZONE 2		
Lineman, Dynamite man, heavy equipment operator	15.64	.65+ 3+3/8%
Winch Truck Operator	10.94	.65+ 3 3/8%
Groundman	10.46	.65+ 3 3/8%
MARBLE SETTERS		
ZONE 1	14.92	3.77

DECISION NO.: PA84-3004

	Basic Hourly Rates	Fringe Benefits
MARBLE SETTERS (CONT'D)		
ZONE 2	15.26	5.15
ZONE 3	15.02	3.70
ZONE 4	14.70	2.65
ZONE 5	16.135	3.87
MILLWRIGHTS	14.80	39½%
PAINTERS:		
ZONE 1		
COMMERCIAL - shall include schools, warehouses not in plant showrooms, churches, apartments buildings, commercial garage, office buildings		
Brush	16.06	2.45
Paperhangers	16.06	2.45
Spray	16.56	2.45
INDUSTRIAL - shall include sewage treatment plants, water works or authorities, and power plants, all skeleton steel, railroad and highway bridges towers, tanks, furnances, machinery corrugated ceiling and sidewalks, sheeting steel sash and all steel surfaces, officers & hospital, both interior and exterior		
Brush	16.71	2.45
Spray	17.21	2.45
PAINTERS:		
ZONE 2		
COMMERCIAL - shall include stores, schools, warehouses not in plant showrooms, churches, apartment buildings, commercial garage, office buildings		
Brush	9.95	3.20
Spray	10.47	3.20
INDUSTRIAL - shall include sewage treatment plants, all skeleton steel, railroad and highway bridges, towers, tanks, storage tanks, furnances, machinery, corrugated ceiling and sidewalks, sheeting steel sash and all steel surfaces, officers &		

	Basic Hourly Rates	Fringe Benefits
PAINTERS (COND'T)		
INDUSTRIAL (COND'T)		
hosptial, both interior and exterior		
Brush	11.85	3.20
Roller	12.38	3.20
PAINTERS:		
ZONE 3		
COMMERCIAL - shall include stores, schools, warehouses not in plant showrooms, churches, apartment buildings, commercial garage, office buildings		
Brush & Roller	15.70	2.80
Spray	16.70	2.80
INDUSTRIAL - shall include sewage treatment plants, water works or authorities, and power plants, all skeleton steel, railroad and highway bridges, towers tanks, storage tanks, furnances, machinery, corrugated ceiling and sidewalks, sheeting sash and all steel surfaces, offices & hospital, both interior and exterior		
Brush & Roller	16.20	2.80
Spray	17.20	2.80
PAINTERS:		
ZONE 4		
COMMERCIAL - shall include stores, schools, warehouses not in plants showrooms, churches, apartment buildings, commercial garage, office buildings,		
Brush	13.00	4.30+ 2%
INDUSTRIAL - shall include sewage treatment plants, water works or authorities, and power plants, all skeleton steel, railroad and highway bridges, towers, tanks, storage		

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	Basic Hourly Rates	Fringe Benefits
PAINTERS (COND'T)		
INDUSTRIAL (COND'T)		
tanks, furnances, machinery corrugated ceiling and sidewalks, sheeting steel sash and all steel surfaces, office & hospital, both interior and exterior		
Brush	14.65	4.30+ 2%
PAINTERS:		
ZONE 5		
COMMERCIAL - shall include stores, warehouses not in plant showrooms, churches, apartment buildings, commercial garage, office buildings		
Brush	13.09	3.27
Spray	15.09	3.27
INDUSTRIAL - shall in clude sewage treatment plants, water works or authorities, and power plants, all skeleton steel, railroad and highway bridges, towers, tanks, storage tanks, furnances, machinery, corrugated ceiling and sidewalks, sheeting steel sash and all steel surfaces, office & hospital, both interior and exterior		
Brush	15.23	2.02
Spray	15.73	2.02
PILEDRIVERMEN	16.14	28%
PLASTERERS		
ZONE 1	14.19	3.42
ZONE 2	16.77	
ZONE 3	14.85	.01
PLUMBERS:		
ZONE 1	17.45	3.78
ZONE 2	16.40	4.34
ZONE 3	16.48	3.48
ROOFERS	16.89	2.65
SHEET METAL WORKERS	16.59	4.38
SOFT FLOOR LAYERS		
ZONE 1	14.46	33½%
ZONE 2	14.00	30%

	Basic Hourly Rates	Fringe Benefits
SPRINKLER FITTERS		
ZONE 1	17.60	3.19
ZONE 2	16.92	3.23
STEAMFITTERS		
ZONE 1	17.40	3.39
ZONE 2	16.48	3.48
ZONE 2	17.45	3.93
STONEMASONS		
ZONE 1	15.02	3.70
ZONE 2	14.48	5.69
ZONE 3	15.26	5.15
ZONE 4	15.74	3.46
ZONE 5	16.135	3.87
TERRAZZO WORKERS		
ZONE 1	15.55	3.51
ZONE 2	15.56	5.15
ZONE 3	14.70	3.06
ZONE 4	16.135	3.87
TILE SETTERS		
ZONE 1	14.00	4.76
ZONE 2	15.26	5.15
ZONE 3	14.70	2.65
ZONE 4	16.135	3.87
POWER EQUIPMENT		
OPERATORS:		
CLASS I	16.825	3.44
CLASS I-A	17.075	3.44
CLASS I-B	17.325	3.44
CLASS I-C	17.575	3.44
CLASS II	16.625	3.44
CLASS III	14.54	3.44
CLASS III-A	15.04	3.44
CLASS IV	13.53	3.44
CLASS V	13.22	3.44
CLASS V-A	13.32	3.44
CLASS V-B	13.47	3.44
CLASS V-C	14.22	3.44
TRUCK DRIVERS:		
CLASS 1	11.86	16.8%+a
CLASS 2	11.91	16.8%+a
CLASS 3	11.93	16.8%+a
CLASS 4	12.01	16.8%+a
CLASS 5	12.20	16.8%+a
CLASS 6	12.03	16.8%+a
CLASS 7	12.18	16.8%+a

DECISION NO. PA84-3004

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DECISION NO. PA84-3004

AREA COVERED BY BRICKLAYERS ZONES-

ZONE 1 - Armstrong, Indiana, Remainder of Fayette and Westmoreland Counties

ZONE 2 - Allegheny County; Washington County Twps: Cross Creek, Hanover, Jefferson, Mt. Pleasant, Nottingham, Peters, Robinson, Smith & Union

ZONE 3 - Beaver County

ZONE 4 - Butler County

ZONE 5 - Twps, in Fayette of Jefferson & Washington; Westmoreland County, Twp of Rostraver; Remainder of Washington County

AREA COVERED BY CARPENTERS ZONES

ZONE 1 - Allegheny, Armstrong, Beaver, Butler, Fayette, Washington, Westmoreland Counties

ZONE 2 - Indiana County

AREA COVERED BY CEMENT MASON ZONES

ZONE 1 - Allegheny, Armstrong, Butler, Fayette, Indiana, Washington, Westmoreland Counties.

ZONE 2 - Beaver County

AREA COVERED BY ELECTRICIAN ZONES

Zone 1 - Allegheny, Armstrong, Fayette, Indiana, Washington Westmoreland

ZONE 2 - Beaver County

ZONE 3- Butler County

AREA COVERED BY LABORERS ZONES

ZONE 1 - Allegheny County

ZONE 2 - Beaver, Butler, Washington, Westmoreland

ZONE 3 - Armstrong, Fayette & Indiana

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AREA COVERED BY LINE CONSTRUCTION ZONES

ZONE 1 - Allegheny, Armstrong, Beaver, Fayette, Indiana, Washington and Westmoreland

ZONE 2 - Butler County

AREA COVERED BY LATHERS ZONES

ZONE 1 - Allegheny, Armstrong, Beaver Butler, Fayett, Washington & Westmoreland Counties

ZONE - 2 Indiana County

AREA COVERED BY MARBLE SETTERS ZONES

ZONE 1 - Allegheny, Butler, Westmoreland, Charleroi Twp. in Washington County

ZONE 2 - Beaver County

ZONE 3 - Fayette County, Jefferson and Washington Twps.

ZONE 4 - Eastern part of Indiana County

ZONE 5 - Remainder of Washington & Fayette Counties

AREA COVERED BY PAINTERS ZONES

ZONE 1 - Allegheny County

ZONE 2 - Beaver County

ZONE 3 - Butler County

ZONE 4 - Fayette & Washington Counties

ZONE 5 - Armstrong, Indiana, Westmoreland Counties

AREA COVERED BY PLASTERERS ZONES

ZONE 1 - Allegheny, Armstrong, Fayette, Butler, Westmoreland and Washington County

ZONE 2 - Beaver County

ZONE 3 - Indiana County

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AREA COVERED BY PLUMBERS ZONES

ZONE 1 - Beaver & Butler Counties

ZONE 2 - Allegheny, Armstrong Counties; Washington County (that part West of a straight line drawn from Library to Kirby); Pennsylvania

ZONE 3 - Fayette, Indiana, Westmoreland Counties; Washington County (that part east of a straight line drawn from Library to Kirby) Pennsylvania

AREA COVERED BY SOFT FLOOR LAYERS ZONES

ZONE 1 - Allegheny, Armstrong, Beaver, Butler, Fayette, Washington and Westmoreland

ZONE 2 - Indiana County

AREA COVERED BY SPRINKLER FITTERS ZONES

ZONE 1 - Allegheny County

ZONE 2 - Armstrong, Beaver, Butler, Fayette, Indiana, Washington and Westmoreland

AREA COVERED BY STEAMFITTERS ZONES

ZONE 1 - Allegheny, Armstrong, remainder of Washington County, Fayette, Indiana, Westmoreland Counties

ZONE 2 - Twp. of Charleroi in Washington County

ZONE 3 - Beaver & Butler Counties

AREA COVERED BY STONEMASONS ZONES

ZONE 1 - Armstrong, Indiana, Westmoreland Counties; Remainder of Fayette County

ZONE 2 - Allegheny County; Twps., in Washington County, Cross Creek, Hanover, Jefferson, Mt. Pleasant, Nottingham, Peters, Robinson, Smith and Union; Twps., in Fayette County of Jefferson & Washington

ZONE 3 - Beaver County

ZONE 4 - Butler County

ZONE 5 - Remainder of Washington County

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AREA COVERED BY TERRAZZO WORKERS ZONES

ZONE 1 - Allegheny, Butler, Washington, Westmoreland

ZONE 2 - Beaver County

ZONE 3 - Indiana County

ZONE 4 - Fayette County

AREA COVERED BY TILE SETTERS ZONES

ZONE 1 - Allegheny, Butler, Washington, Westmoreland

ZONE 2 - Beaver County

ZONE 3 - Indiana County

ZONE 4 - Fayette County

CLASSIFICATION DEFINITIONS LABORERS ZONES

CLASS 1 - Laborer, Carryable pumps, west brick buggy or similar non-self-propelled vibrator operators walk behind forklift or similar, stripper and mover of forms, cement finishers, footers, window cleaner, all material conveyor (regardless of power used including starting and stopping)

CLASS 2 - West brick buggy or similar (self-propelled), power wheelbarrows buggies, walk behand forklift or similar, (self-propelled) wagon drill tender, drill runner, drill runners' tender (including drill mounted on truck, track or similar), blaster's tender, all operators of compacting equipment, pipe layers, burner, jackhammer man-concrete buster

CLASS 3 - Hnd carrier, scaffold builder, bell and bottom man or furnances and stacks, mortar mixer, mortar mixing machine (regardless of power used), concrete saw operator, wagon drill operator

CLASS 4 - Gunnite Nozzleman

CLASS 5 - Blaster

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POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS

CLASS I - Austin-Western or similar type under 25 Ton, Austin-Western or similar type 25 ton or over; auto grader (CMI or similar); backhoe; batch plant - when conveyors are used for direct feeding or discharge, batch plant - no conveyors for direct feeding or discharge; cableway; caisson drill, central mix plant; cranes (exculding overhead) (truck or crawler type); cranes - tower (mobile); cranes - tower (stationary) (climbing type); cranes - tower (climbing type) cranes - hydraulic self-contained wagon crane - over 18 ton; derrick-traveler (self-propelled); derrick (all) types) derrick boats; dragline; dredge; engineer-maintenance; franki or similar type pile driver; gradall (remote control or otherwise; helicopter (when used for erection purposes); helicopter hoist operators (when used for erection purposes); hi-lift 4 yds. or over; hoist-hod (2 cages up to 10 floors; hoist-single cage with Chicago boom attached; hoist (50 ft. or over) (stacks, stoves, stoves or furnances); hoist (slip form jobs; hop-to or similar type with 180 degrees swing; hop-to or similar type with 360 degrees swing; kocal; koehring scooper; metro chip harvester or similar type; mix mobile or similar type (with self-loading attachment); mix mobile or similar type; mucking machine (tunnel); multiple bow machines; pile driver (sonic or similar type); post driver - guard rail (truck mounted); post driver - guard rail (skid type); pumpkrete - mobil or similar type; quad nine; shovels (all types); slip form paver (CMI or similar) 1 tractors - boom mounted (all types); tractors (all types with hydraulic back-hoe attached); tug boat and whirley

CLASS I-A - Austin-Western or similar type under 25 ton with jib; Austin Western or similar type 25 ton or over with jib; cranes (boom or mast 100 ft. or over to & including 150 ft. (truck or crawler type); cranes - mobile (any type 15 tons or overplaced on any bldg. structure; hoist-hod (2 cages over 10 floors)

CLASS I-B - Cranes (boom or mast over 150 ft. up to & including 200 ft. truck or crawler type)

CLASS I-C - Cranes (boom or mast over 200 ft.)

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POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS CONT'D

CLASS II - Asphalt plant operator; athey loader; auger - truck tractor mounted; back filling machine; boat - material or personnel carrying (powered); boat - job work (inboard or outboard); bulldozer; cable layer; compactor with blade; compressor (1) and air tugger (1) (combination); compressor (1) and gunite machine (1) (combination); concrete belt placer; crane - overhead; curshing & screening plants; drill - Davey or similar type; drill - core (truck or skid mounted) drill - well & core (truck mounted); elevator (new buildings); euclid loader; excavating equipment (all other); forklift-lull or similar; grader; grader-elevating; greaser-equipment (head); hi-lift - less than 4 yds; hoist - one drum (4 floors or over); hoist - hod (buildings 4 floors or more); hoist - (2 drums or more in one unit); jumbo operator; locomotive; lift slab machine (hydraulic); mixer - paving; mucking machine pipe cleaning machine; refrigeration plant (used for constr. jobs i.e., cooling, concrete & holding banks); ross carrier (or similar type); scoope (single bowl) (self-powered & tractor drawn); spreader - concrete asphalt and stone; tower mobile (hoisting or lower material); trencher; well point systems; compressors (3 within a reasonable distance); generators electric (3) (over) 5 KW up to 20 KW); pumps (1½' discharge or less) (4 to 5 within reasonable distance); pumps (3) (over 1½ discharge) (within reasonable distance) welding machine (4 to 6 within reasonable distance) other than electrically driven); elevator (when used for alteration & remoldeling all bldgs.); grout pump (10H.P. or over); paver operator - asphalt (spreader); pumpkrete or similar type (not self-propelled); pumpkrete machine operator (stationary); tire repairman (when assigned to job); welder (repairman)

CLASS III - Ballast regulator; boiler; boring machine; broom, power (except push type); compressor - single (over 65 CFM; compressor (over 125 CFM and air pump); compressor (1) and sand blasting machine (1) (combination); conveyor over 1 and up to 3 units (regardless of power used); crane (carry; curb builder (self-propelled); drills - well and horizontal truck mounted; forklifts (ridden or self-propelled); form line machine; generator (over 5 KW: hoists (monorail) (regardless of power used); hoist one drum (regardless of power used) hoist roof (regardless of power used); huck machine or similar type; mixer concrete (regardless of power used); pavement breaker (self-propelled or ridden); pipe dream; plant, private or industrial air or steam valve; pump (over 1½" discharge regardless of power used); roller; saw (concrete); soil stablizer (pump type); spray cure machine (power driven);

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POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS CONT'D

steam jenny (or similar type); stone crusher; stone spreader self-propelled; syphon (steam or air); tractors (when used for snaking and hauling); truck, (winch) truck or hydraulic boom (when hoisting & placing); tube finisher (CMI or similar type); tugger; welding machine single (300 amp or over) other than electrically driven); compressors (2); generators (2); mortar machine over 10 cu. ft. and single unit conveyor; pumps (1½" discharge (2) in bank) (within reasonable distance); welding machines (2 to 3) (other than electrically driven)

CLASS III-A - Conveyors 4 units or more

CLASS IV - Compressor - 65 cubic ft. or under (regardless of power used); conveyors one (1) unit regardless of power used); heaters - up to and including 6; jack motor hydraulic (single type) power driven; ladavator; mixer mortar (10 cubic ft. or under); mulching machine; pin puller (powered); pulverizer; pump - 1½" discharge or less; seeding machine; spreader side delivery shoulder (attachment); tie tamper (multiple heads); tractor farm (when used for landscaping); water blaster

CLASS V - Brakeman; deckHand; helicopter oiler; mechanic

CLASS V-A - Truck crane; oiler & fireman

CLASS V-B - Oiler on truck crane 50-ton up to but not incl. 100-ton

CLASS V-C - Oiler truck crane 100 ton and over

TRUCK DRIVER CLASSIFICATIONS DEFINITIONS

CLASS 1 - Service truck (pickup, jeep, buses, station wagon, panel truck, escort vehicle, including fuel and water trucks)

CLASS 2 - Dump and flat top (including fuel and water trucks, fork lift in warehouse or job site storage area and single axle trucks with power tailgate); distributor truck over 33,000 lbs. gross weight (oil, tar asphalt products two man operation, bottomsmen)

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TRUCK DRIVER CLASSIFICATIONS DEFINITIONS CONT'D

CLASS 3 - Transit mix, single axle

CLASS 4 - Transit mix, tandem

CLASS 5 - Heavy duty tractor and trailer with low bed, 6 to 16 wheels and pole trailer and wide load

CLASS 6 - Distributor truck up to 33,000 lbs. gross weight (oil tar asphalt products) one man operation; truck with dolly and scissor truck; truck with dump trailer or tandem, including fuel and water, tandem axle truck with mixer, driver towing equipment

CLASS 7 - Winch truck and form truck

WELDERS - Rate of craft

PAID HOLIDAYS: (Where Applicable)

A-New Year's Day; B-Memorial Day; C-Inpendence Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:

a. Employer Contributes 8% basic hourly rate for 5 years or more of service or6% basic hourly rate for 6 months to 5 years of service as Vacation Pay Credit.

b. Paid Holidays: A through F, plus the Friday after Thanksgiving Day.

c. Paid Holidays: A through F and Washington's Birthday, Good Friday and Christmas Eve, provided the employee has worked 45 days for the employer the 120 days prior to the holiday, and is available for work the day preceding and following the holiday.

d. Paid Holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Christmas Day and Veterans Day and Good Friday, provided the employee is available for work the day before and the day after the holiday and has been employed by the employer a minimum of 40 hours each calendar month for two consecutive month.

"Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii))."

SUPERSEDEAS DECISION

DECISION NO.: TX84-4007

SUPERSEDEAS DECISION

STATE: Texas
DECISION NO.: TX84-4007
COUNTIES: Statewide
DATE: Date ofPublication
Supersedes Decision No. TX83-4053, dated July 22, 1983, in 48 FR 33625.
DESCRIPTION OF WORK: See "Area Covered by Various Zones"

	ZONE 1	ZONE 2	ZONE 3	ZONE 4	ZONE 5
	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates
Air Tool Man	6.00	-	5.50	-	6.25
Asphalt Heaterman	6.10	5.00	5.50	5.15	5.25
Asphalt Raker	6.55	6.30	5.75	5.45	5.90
Asphalt Shoveler	-	-	-	4.20	5.05
Batching Plant Scaleman	7.10	5.85	6.00	5.65	5.35
Batterboard Setter	-	-	7.00	-	-
Carpenter	6.90	6.50	6.45	5.95	6.45
Carpenter Helper	6.10	5.85	5.40	4.75	5.30
Concrete Finisher (Paving)	8.00	7.55	-	7.05	7.00
Concrete Finisher Helper (Paving)	-	6.30	-	4.75	5.00
Concrete Finisher (Structures)	7.45	6.90	6.30	5.40	6.20
Concrete Finisher Helper (Structures)	5.90	5.90	5.25	4.75	5.05
Concrete Rubber	-	-	5.00	-	4.85
Electrician	-	-	11.70	11.80	11.50
Electrician Helper	-	-	-	9.75	6.60
Fireman	-	-	-	-	-
Form Builder (Structures)	6.45	7.25	6.50	5.50	6.35
Form Builder Helper (Structures	-	-	5.15	4.60	5.25
Form Liner (Paving & Curb)	7.75	-	6.50	-	-
Form Setter (Paving & Curb)	6.95	7.10	6.50	4.75	6.55
Form Setter Helper (Paving & Curb)	6.10	-	-	4.20	5.00
Form Setter (Structures)	7.40	7.25	6.30	5.35	6.45
Form Setter Helper (Structures)	6.05	6.60	4.70	4.70	5.40
Laborer, Common	4.95	4.70	4.70	4.20	4.50
Laborer, Utility Man	5.80	5.55	5.70	5.05	5.10
Manhole Builder, Brick	5.75	-	-	-	-
Mechanic	8.40	8.00	7.65	6.60	7.55
Mechanic Helper	6.25	-	5.95	-	5.60
Oiler	6.10	5.60	6.00	5.20	5.80
Serviceman	6.50	6.70	5.60	5.40	5.80
Painter (Structures)	-	-	-	-	9.00
Painter Helper (Structures)	-	-	-	-	6.50
Piledrivermen	6.95	-	-	-	-
Pipelayer	6.00	6.50	-	-	5.70
Pipelayer Helper	4.95	-	-	-	5.15
Pneumatic Mortarman	4.95	-	-	-	-
Powderman	7.00	-	5.80	6.50	6.45
Reinforcing Steel Setter (Paving)	-	-	5.50	5.60	6.00

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	ZONE 1	ZONE 2	ZONE 3	ZONE 4	ZONE 5
	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates
Reinforcing Steel Setter (Structures)	6.90	6.50	6.55	5.35	6.20
Reinforcing Steel Setter Helper	5.70	-	5.40	4.60	5.40
Steel Worker (Structural	5.70	-	-	-	-
Steel Worker Helper (Structural)	-	-	-	-	-
Sign Erector	-	-	-	-	6.00
Sign Erector Helper	-	-	-	-	-
Spreader Box Man	6.20	6.10	6.00	6.55	5.50
Swamper	-	4.75	-	-	-
Power Equipment Operators:					
Asphalt Distributor	7.35	6.50	6.90	5.80	5.95
Asphalt Paving Machine	7.30	6.30	6.90	6.10	6.35
Broom or Sweeper Operator	5.25	5.45	-	5.30	5.05
Bulldozer 150 HP & Less	6.35	6.50	6.75	5.50	6.10
Bulldozer over 150 HP	7.05	6.70	6.95	6.55	6.35
Concrete Paving Curing Machine	6.75	-	-	-	7.50
Concrete Paving Finishing Machine	7.00	-	-	-	-
Concrete Paving Joint Machine	-	-	-	-	-
Concrete Paving Joint Sealer	-	-	-	-	-
Concrete Paving Longitudinal Float	-	-	-	-	-
Concrete Paving Saw	-	-	-	-	-
Concrete Paving Spreader	8.50	-	-	-	-
Paving Sub Grader	8.50	6.50	-	7.50	-
Crane, Clamshell, Backhoe, Derrick, Dragline, Shovel (less than 1½ CY)	7.00	6.00	8.35	6.00	8.45
Crane, Clamshell, Backhoe, Derrick, Dragline, Shovel (1½ CY & Over)	8.00	8.60	7.00	7.05	7.55
Crusher or Screening Plant Operator	7.00	6.70	6.35	-	6.00
Form Loader	-	-	-	-	-
Foundation Drill Operator (Crawler Mounted)	-	-	-	-	-
Foundation Drill Operator (Truck Mounted)	8.75	9.25	-	-	9.15
Foundation Drill Operator Helper	-	5.90	-	-	6.00
Front End Loader (2½ CY & less)	6.10	6.05	5.80	4.95	5.70
Front End Loader (Over 2½ CY)	7.20	6.70	7.05	6.25	6.60
Hoist (Over 2 Drums)	6.90	-	-	-	-
Mixer (Over 16 CF)	-	-	-	-	-
Mixer (16 CF & Less)	-	-	-	-	-
Motor Grader Operator, Fine Grade	8.20	8.35	8.50	7.75	7.95
Motor Grader Operator	7.25	7.45	7.05	6.75	7.10
Roller, Steel Wheel (Plant-Mix Pavements)	6.15	6.50	6.00	4.85	4.90
Roller, Steel Wheel (Other-Flat Wheel or Tamping)	5.65	5.30	5.25	4.75	5.05
Roller, Pneumatic (self-propelled)	5.20	5.00	5.40	4.90	5.00
Scrapers (17 CY & Less)	5.85	5.30	5.50	5.00	5.50
Scrapers (Over 17 CY)	6.75	7.40	6.60	5.95	6.20
Self-Propelled Hammer	-	-	-	-	-

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	ZONE 1	ZONE 2	ZONE 3	ZONE 4	ZONE 5
	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates
Side Boom	4.95	-	-	-	-
Tractor (Crawler Type) 150 HP & Less	5.30	4.95	5.20	-	6.00
Tractor (Crawler Type) over 150 HP	6.85	7.00	6.25	-	6.75
Tractor (Pneumatic) 80 HP & Less	5.70	5.50	5.50	-	5.05
Tractor (Pneumatic) over 80 HP	6.50	6.50	6.75	-	5.60
Traveling Mixer	-	-	-	-	5.70
Trenching Machine, Light	4.95	-	-	-	-
Trenching Machine, Heavy	5.85	-	-	6.15	-
Wagon Drill, Boring Machine or Post Hole Driller Operator	6.00	-	5.55	4.50	6.00
Truck Drivers:					
Single Axle, Light	5.60	5.20	5.30	4.80	4.80
Single Axle, Heavy	6.15	5.40	5.35	5.15	5.25
Tandem Axle or Semitrailer	5.90	5.70	6.25	5.15	5.10
Lowboy-Float	6.60	-	6.70	5.95	5.25
Transit-Mix	5.90	6.00	-	-	-
Winch	7.00	-	-	-	5.00
Welder	8.00	7.30	6.85	6.10	6.70
Welder Helper	7.15	6.00	6.00	-	5.35

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5(a)(1)(ii)).

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	ZONE 6	ZONE 7	ZONE 8	ZONE 9	ZONE 10
	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates
Air Tool Man	-	-	-	-	5.25
Asphalt Heaterman	-	4.60	5.65	5.70	5.90
Asphalt Raker	-	5.30	6.10	6.00	7.05
Asphalt Shoveler	5.05	5.05	-	-	6.40
Batching Plant Scaleman	-	6.75	-	7.25	6.70
Batterboard Setter	-	-	6.80	-	6.00
Carpenter	7.50	7.05	6.70	6.80	7.10
Carpenter Helper	5.70	5.40	5.35	5.80	5.85
Concrete Finisher (Paving	5.75	-	5.95	6.80	7.70
Concrete Finisher Helper (Paving)	-	-	-	5.25	6.60
Concrete Finisher (Structures)	6.40	6.50	6.7	6.40	7.20
Concrete Finisher Helper (Structures)	5.00	5.65	-	5.50	6.15
Concrete Rubber	-	-	-	5.10	-
Electrician	-	11.50	12.75	10.00	9.75
Electrician Helper	-	7.10	-	-	8.25
Fireman	-	-	-	-	-
Form Builder (Structures)	6.50	7.10	6.65	6.25	7.25
Form Builder Helper (Structures)	-	-	6.30	5.35	5.95
Form Liner (Paving & Curb)	-	-	-	-	7.25
Form Setter (Paving & Curb)	5.25	6.20	5.50	-	7.00
Form Setter Helper (Paving & Curb)	-	-	5.25	-	5.60
Form Setter (Structures)	6.00	6.60	6.50	7.15	6.35
Form Setter Helper (Structures)	-	5.15	6.20	5.45	5.95
Laborer, Common	4.00	4.00	4.60	4.80	5.00
Laborer, Utility Man	5.65	4.80	5.50	5.25	5.70
Manhole Builder, Brick	-	-	-	-	-
Mechanic	7.05	7.05	7.35	7.60	8.40
Mechanic Helper	5.10	4.75	6.10	5.50	6.00
Oiler	-	-	7.00	-	6.85
Serviceman	5.60	6.10	5.45	6.35	5.90
Painter (Structures)	-	-	14.00	-	-
Painter Helper (Structures)	-	-	8.00	-	-
Piledriverman	-	-	-	-	-
Pipelayer	5.15	6.00	-	6.00	6.20
Pipelayer Helper	-	-	-	4.80	5.00
Pneumatic Mortarman	-	5.50	-	-	-
Powderman	-	-	6.00	-	-
Reinforcing Steel Setter (Paving)	-	-	-	-	6.25
Reinforcing Steel Setter (Structures)	7.00	6.80	6.95	6.15	7.00
Reinforcing Steel Setter Helper	-	4.75	5.75	5.30	5.70
Steel Worker (Structural)	-	7.00	-	-	-
Steel Worker Helper (Structural)	-	5.75	-	-	-
Sign Erector	-	6.50	-	-	7.10
Sign Erector Helper	-	4.00	-	-	-

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	ZONE 6	ZONE 7	ZONE 8	ZONE 9	ZONE 10
	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates
Spreader Box Man	5.45	5.40	5.95	-	6.25
Swamper	-	-	5.15	-	-
Power Equipment Operators:					
Asphalt Distributor	6.15	5.90	6.20	6.55	6.55
Asphalt Paving Machine	-	6.35	6.25	6.15	7.40
Broom or Sweeper Operator	5.25	-	5.25	-	6.35
Bulldozer 150 HP & Less	6.00	6.25	5.95	6.55	7.00
Bulldozer Over 150 HP	6.95	6.65	6.85	7.35	7.60
Concrete Paving Curing Machine	-	-	-	-	-
Concrete Paving Finishing Machine	-	-	-	-	7.90
Concrete Paving Joint Machine	-	-	-	-	-
Concrete Paving Joint Sealer	-	-	-	-	-
Concrete Paving Longitudinal Float	-	-	-	-	-
Concrete Paving Saw	-	-	-	5.25	7.00
Concrete Paving Spreader	-	-	-	-	-
Paving Sub Grader	-	-	-	-	-
Crane, Clamshell, Backhoe, Derrick, Dragline, Shovel (Less than 1½ CY)	5.75	6.50	6.75	7.00	7.45
Crane, Clamshell, Backhoe, Derrick, Dragline, Shovel (1½ CY & Over)	7.40	7.60	8.15	7.85	8.15
Crusher or Screening Plant Operator	8.00	-	-	-	-
Form Loader	-	-	-	-	7.25
Foundation Drill Operator (Crawler Mounted)	-	-	-	-	-
Foundation Drill Operator (Truck Mounted)	-	-	-	9.00	9.50
Foundation Drill Operator Helper	-	-	-	6.35	7.00
Front End Loader (2½ CY & Less)	5.65	5.25	5.95	5.85	6.55
Front End Loader (Over 2½ CY)	6.35	6.35	6.65	7.20	7.90
Hoist (Over 2 Drums)	-	-	-	-	-
Mixer (Over 16 CF)	-	-	-	-	-
Mixer (16 CF & Less)	-	-	-	-	6.00
Motor Grader Operator, Fine Grade	7.50	7.80	8.00	7.95	8.55
Motor Grader Operator	6.50	6.85	7.50	7.05	7.75
Roller, Steel Wheel (Plant-Mix Pavement)	4.05	5.45	5.30	6.20	6.65
Roller, Steel Wheel (Other-Flat Wheel or Tamping)	4.80	5.40	5.15	5.35	6.50
Roller, Pneumatic (Self-Propelled)	4.50	4.50	4.90	5.10	5.80
Scrapers (17 CY & Less)	5.50	4.60	5.55	5.85	7.00
Scrapers (Over 17 CY)	6.40	6.35	6.00	7.15	7.00
Self-Propelled Hammer	-	-	6.10	-	-
Side Boom	-	-	-	-	-
Tractor (Crawler Type) 150 HP & Less	5.60	-	4.60	5.00	6.25
Tractor (Crawler Type) Over 150 HP	6.65	-	5.75	-	7.25
Tractor (Pneumatic) 80 HP & Less	4.70	-	-	6.25	5.90
Tractor (Pneumatic) Over 80 HP	5.20	5.85	5.40	6.50	-
Traveling Mixer	-	4.70	-	5.90	6.50
Trenching Machine, Light	-	-	-	-	-
Trenching Machine, Heavy	-	6.50	-	7.40	-

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	ZONE 6	ZONE 7	ZONE 8	ZONE 9	ZONE 10
	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates
Wagon Drill, Boring Machine or Post Hole Driller Operator	-	-	5.00	-	5.75
Truck Drivers:					
Single Axle, Light	4.50	4.50	5.10	5.30	5.80
Single Axle, Heavy	-	5.15	5.15	6.40	5.80
Tandem Axle or Semi-trailer	6.10	5.75	5.40	5.80	5.80
Lowboy-Float	-	-	-	-	5.90
Transit-Mix	-	-	5.65	-	6.50
Winch	-	5.30	-	-	-
Welder	-	-	6.15	-	7.50
Welder Helper	-	-	-	-	6.00

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5(a)(1)(ii)).

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	ZONE 11	ZONE 12	ZONE 13	ZONE 14	ZONE 15
	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates
Air Tool Man	6.50	6.50	-	-	6.00
Asphalt Heaterman	-	6.00	6.00	-	-
Asphalt Raker	7.60	6.55	5.70	5.25	6.95
Asphalt Shoveler	5.60	5.50	-	-	7.35
Batching Plant Scalaman	7.10	6.35	-	-	8.00
Batterboard Setter	-	-	-	-	-
Carpenter	7.20	7.10	7.00	8.95	8.35
Carpenter Helper	6.05	6.00	6.05	5.25	6.55
Concrete Finisher (Paving)	8.00	6.90	7.55	-	8.20
Concrete Finisher Helper (Paving)	6.85	5.60	6.00	-	6.20
Concrete Finisher (Structures)	7.15	6.80	7.20	7.50	7.75
Concrete Finisher Helper (Structures)	5.90	5.85	5.70	6.75	6.25
Concrete Rubber	6.00	-	5.50	-	6.70
Electrician	10.60	9.00	9.50	-	11.25
Electrician Helper	8.15	-	-	-	7.85
Fireman	5.70	-	-	-	-
Form Builder (Structures)	7.25	6.40	6.35	-	7.35
Form Builder Helper (Structures)	5.95	5.70	5.90	-	5.80
Form Liner (Paving & Curb)	7.15	5.75	7.25	-	8.20
Form Setter (Paving & Crub)	7.45	7.00	6.40	-	7.15
Form Setter Helper (Paving & Curb)	5.95	5.50	-	-	6.50
Form Setter (Structures)	7.00	7.10	7.00	8.20	7.55
Form Setter Helper (Structures)	5.10	5.70	6.75	6.55	6.55
Laborer, Common	4.70	4.85	5.10	4.75	5.30
Laborer, Utility Man	5.20	5.65	5.40	5.35	6.10
Manhole Builder, Brick	7.50	-	-	-	7.15
Mechanic	8.35	8.65	8.00	9.15	8.80
Mechanic Helper	6.55	6.25	-	7.00	7.15
Oiler	6.75	5.80	6.25	5.95	7.00
Serviceman	6.50	6.00	6.00	6.15	7.45
Painter (Structures)	-	-	-	-	-
Painter Helper (Structures)	-	-	-	-	-
Piledriverman	6.00	-	8.00	-	7.00
Pipelayer	6.25	6.15	-	-	6.85
Pipelayer Helper	5.50	5.00	-	-	5.70
Pneumatic Mortarman	-	-	-	-	-
Powderman	7.50	-	-	-	-
Reinforcing Steel Setter (Paving)	6.05	6.65	-	-	6.50
Reinforcing Steel Setter (Structures)	6.75	5.60	7.00	7.75	7.20
Reinforcing Steel Setter Helper	5.50	4.85	5.10	-	6.10
Steel Worker (Structural)	6.70	5.80	-	-	8.00
Steel Worker Helper (Structural)	6.00	5.00	-	-	6.10
Sign Erector	7.75	6.30	-	-	5.50
Sign Erector Helper	7.05	-	-	-	-
Spreader Box Man	-	6.25	6.15	5.50	7.25

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	ZONE 11	ZONE 12	ZONE 13	ZONE 14	ZONE 15
	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates
Swamper	-	6.50	-	-	-
Power Equipment Operators:					
Asphalt Distributor	6.95	6.65	6.20	5.85	6.60
Asphalt Paving Machine	7.50	6.90	6.55	5.75	7.95
Broom or Sweeper Operator	-	5.25	5.60	-	-
Bulldozer 150 HP & Less	7.00	6.75	6.95	6.75	7.00
Bulldozer over 150 HP	7.85	7.15	7.20	7.05	8.00
Concrete Paving Curing Machine	7.75	6.50	-	-	7.40
Concrete Paving Finishing Machine	7.75	7.50	-	-	8.00
Concrete Paving Joint Machine	-	7.00	-	-	-
Concrete Paving Joint Sealer	-	7.00	-	-	-
Concrete Paving Longitudinal Float	7.75	-	-	-	-
Concrete Paving Saw	6.50	7.00	-	-	7.00
Concrete Paving Spreader	-	-	-	-	8.25
Paving Sub Grader	-	-	-	-	-
Crane, Clamshell, Backhoe, Derrick, Dragline, Shovel (less than 1½ CY)	7.30	7.20	7.05	6.50	8.05
Crane, Clamshell, Backhoe, Derrick, Dragline, Shovel (1½ CY & Over)	7.70	8.20	8.25	8.60	8.85
Crusher or Screening Plant Operator	6.00	-	-	-	-
Form Loader	-	-	-	-	-
Foundation Drill Operator (Crawler Mounted)	-	8.50	-	-	11.25
Foundation Drill Operator (Truck Mounted)	7.75	-	-	10.25	9.00
Foundation Drill Operator Helper	-	-	-	-	-
Front End Loader (2½ CY & Less)	6.70	6.60	6.50	5.90	6.90
Front End Loader (Over 2½ CY)	7.50	7.00	6.75	7.85	7.85
Mixer (Over 16 CF)	-	7.00	-	-	6.60
Mixer (16 CF & Less)	-	-	-	-	6.00
Motor Grader Operator, Fine Grade	8.20	8.45	7.75	8.70	8.75
Motor Grader Operator	7.60	7.35	7.10	8.25	7.95
Roller, Steel Wheel (Plant-Mix Pavements)	7.00	5.85	6.15	5.20	6.85
Roller, Steel Wheel (Other-Flat Wheel or Tamping)	6.65	6.30	6.15	5.50	6.00
Roller, Pneumatic (Self-Propelled)	6.30	5.70	6.30	5.55	6.35
Scrapers (17 CY & Less)	6.00	6.50	6.25	6.00	6.75
Scrapers (Over 17 CY)	7.35	6.85	7.00	7.55	7.75
Self-Propelled Hammer	-	-	-	-	-
Side Boom	-	5.45	5.10	-	-
Tractor (Crawler Type) 150 HP & Less	6.00	5.50	6.70	-	6.35
Tractor (Crawler Type) Over 150 HP	7.10	6.50	6.75	-	7.55
Tractor (Pneumatic) 80 HP & Less	-	-	-	-	6.00
Tractor (Pneumatic) Over 80 HP	6.75	-	-	-	-
Traveling Mixer	6.50	5.75	-	6.00	6.25
Trenching Machine, Light	6.00	-	-	-	-

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	ZONE 11	ZONE 12	ZONE 13	ZONE 14	ZONE 15
	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates
Trenching Machine, Heavy	6.90	-	-	-	-
Wagon Drill, Boring Machine or Post Hole Driller Operator	-	-	-	-	8.00
Truck Drivers:					
Single Axle, Light	5.95	5.65	6.00	6.00	6.25
Single Axle, Heavy	6.20	6.00	6.25	6.35	6.70
Tandem Axle or Semi-trailer	6.00	6.30	6.25	-	6.60
Lowboy-Float	6.85	-	6.95	-	7.95
Transit-Mix	6.60	6.75	-	-	7.00
Winch	6.70	-	-	-	-
Welder	7.70	7.50	6.50	-	8.10
Welder Helper	7.00	-	-	-	-

Unlisted classifications needed for work not included within the scope of the classifications listed may be added only as provided in the labor standards contract clauses (29 CFR, 5.5(a)(1)(ii)).

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	ZONE 16				
	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates
Air Tool Man	-				
Asphalt Heaterman	7.50				
Asphalt Raker	6.50				
Asphalt Shoveler	-				
Batching Plant Scaleman	-				
Batterboard Setter	-				
Carpenter	8.00				
Carpenter Helper	6.25				
Concrete Finisher (Paving)	9.00				
Concrete Finisher Helper (Paving)	-				
Concrete Finisher (Structures)	8.15				
Concrete Finisher Helper (Structures)	-				
Concrete Rubber	-				
Electrician	-				
Electrician Helper	-				
Fireman	-				
Form Builder (Structures)	7.75				
Form Builder Helper (Structures)	-				
Form Liner (Paving & Curb)	-				
Form Setter (Paving & Curb)	-				
Form Setter Helper (Paving & Curb)	-				
Form Setter (Structures)	7.10				
Form Setter Helper (Structures)	-				
Laborer, Common	6.05				
Laborer, Utility Man	7.00				
Manhole Builder, Brick	-				
Mechanic	10.90				
Mechanic Helper	5.75				
Oiler	-				
Serviceman	-				
Painter (Structures)	7.25				
Painter Helper (Structures	6.00				
Piledrivermen	-				
Pipelayer	-				
Pipelayer Helper	-				
Pneumatic Mortarman	-				
Powderman	-				
Reinforcing Steel Setter (Paving)	-				
Reinforcing Steel Setter (Structures)	-				
Reinforcing Steel Setter Helper	-				
Steel Worker (Structural)	-				
Steel Worker Helper (Structural)	-				
Sign Erector	-				
Sign Erector Helper	-				
Spreader Box Man	7.50				
Swamper	-				

	ZONE 16				
	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates
Power Equipment Operators:					
Asphalt Distributor	-				
Asphalt Paving Machine	8.00				
Broom or Sweeper Operator	6.15				
Bulldozer 150 HP & Less	8.00				
Bulldozer Over 150 HP	10.00				
Concrete Paving Curing Machine	-				
Concrete Paving Finishing Machine	-				
Concrete Paving Joint Machine	-				
Concrete Paving Joint Sealer	-				
Concrete Paving Longitudinal Float	-				
Concrete Paving Spreader	-				
Paving Sub Grader	-				
Crane, Clamshell, Backhoe, Derrick, Dragline, Shovel (Less than 1½ CY)	8.00				
Crane, Clamshell, Backhoe, Derrick, Dragline, Shovel (1½ CY & Over	9.50				
Crusher or Screening Plant Operator	-				
Form Loader	-				
Foundation Drill Operator (Crawler Mounted)	-				
Foundation Drill Operator (Truck Mounted)	-				
Foundation Drill Operator Helper	-				
Front End Loader (2½ CY & Less)	7.00				
Front End Loader (Over 2½ CY)	8.75				
Hoist (Over 2 drums)	-				
Mixer Over 16 CF)	-				
Mixer (16 CF & Less)	-				
Motor Grader Operator, Fine Grade	9.85				
Motor Grader Operator	8.10				
Roller, Steel Wheel (Plant-Mix Pavements)	6.35				
Roller, Steel Wheel (Other-Flat Wheel or Tamping	-				
Roller, Pneumatic (Self-Propelled)	7.00				
Scrapers (17 CY & Less)	-				
Scrapers (Over 17 CY)	-				
Self-Propelled Hammer	-				
Side Boom	-				
Tractor (Crawler Type) 150 HP & Less	-				
Tractor (Crawler Type) Over 150 HP	-				
Tractor (Pneumatic) 80 HP & Less	7.00				
Tractor (Pneumatic) Over 80 HP	8.00				

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	ZONE 16				
	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates
Traveling Mixer	-				
Trenching Machine, Light	-				
Trenching Machine, Heavy	-				
Wagon Drill, Boring Machine or Post Hole Driller Operator	-				
Truck Drivers:					
Single Axle, Light	6.55				
Single Axle, Heavy	-				
Tandem Axle or Semitrailer	7.00				
Lowboy-Float	-				
Transit-Mix	-				
Winch	-				
Welder	-				
Welder Helper	-				

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5(a)(1)(ii)).

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AREA COVERED BY VARIOUS ZONES

ZONE 1 - Archer, Armstrong, Baylor, Briscoe, Carson, Castro, Childress, Clay, Collingsworth, Dallam, Deaf Smith, Donley, Gray, Hall, Hansford, Hardeman, Hartley, Hemphill, Hutchinson, Lipscomb, Montague, Moore, Ochiltree, Oldham, Parmer, Potter, Randall, Roberts, Sherman, Swisher, Wheeler, Wichita & Wilbarger Counties

DESCRIPTION OF WORK: Heavy (excluding tunnels & dams) and Highway Projects (does not include building structures in rest area projects)

ZONE 2 - Bailey, Borden, Cochran, Cottle, Crosby, Dawson, Dickens, Fisher, Floyd, Foard, Gaines, Garza, Hale, Haskell, Hockley, Jones, Kent, King, Knox, Lamb, Lubbock, Lynn, Motley, Scurry, Shackelford, Stephens, Stonewall, Terry, Throckmorton, Yoakum & Young Counties

DESCRIPTION OF WORK: Heavy (excluding tunnels & dams) and Highway Projects (does not include building structures in rest area projects)

ZONE 3 - Andrews, Brown, Callahan, Coke, Coleman, Comanche, Concho, Crane, Crockett, Eastland, Ector, Erath, Glasscock, Howard, Irion, Kimble, Loving, Martin, McCulloch, Menard, Midland, Mills *, Mitchell, Nolan, Reagan, Runnels, San Saba, Schleicher, Sterling, Sutton, Taylor, Tom Green, Upton, Ward & Winkler Counties

DESCRIPTION OF WORK: Heavy (excluding tunnels & dams) and Highway Projects (does not include building structures in rest area projects)
*Not to be used for work on water or sewage treatment plant or lift/pump stations in Mills County

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ZONE 4 - Brewster, Culberson, El Paso *, Hudspeth, Jeff Davis, Pecos, Presidio, Reeves & Terrell Counties

DESCRIPTION OF WORK: Heavy (excluding tunnels & dams), Water & sewer lines and Highway Projects (does not include building structures in rest area projects)

*Not to be used for Heavy Projects in El Paso County

ZONE 5 - Atascosa, Bandera, Bexar, Comal, Dimmit, Edwards, Frio, Guadalupe, Kendall, Kerr, Kinney, LaSalle, Maverick, McMullen, Medina, Real, Uvalde, Val Verde, Wilson & Zavala Counties

DESCRIPTION OF WORK: Heavy (excluding tunnels & dams) and Highway Projects (does not include building structures in rest area projects)

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ZONE 6 - Brooks, Cameron, Duval, Hidalgo, Jim Hogg, Kenedy, Starr, Webb, Willacy & Zapata Counties

DESCRIPTION OF WORK: Heavy (excluding tunnels & dams) and Highway Projects (does not include building structures in rest area projects) & Incidental Shore Work

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ZONE 7 - Aransas, Bee, Calhoun, DeWitt, Goliad, Jackson, Jim Wells, Karnes, Kleberg, Lavaca, Live Oak, Nueces, Refugio, San Patricio & Victoria Counties

DESCRIPTION OF WORK Heavy (excluding tunnels & dams) and Highway Projects (does not include building structures in rest area projects) & Incidental Shore Work

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ZONE 8 - Austin, Bastrop, Blanco, Burnet, Caldwell, Colorado, Fayette, Gillespie, Gonzales, Hays, Lee, Llano, Mason, Travis & Williamson * Counties

DESCRIPTION OF WORK: Heavy (excluding tunnels & dams) and Highway Projects (does not include building structures in rest area projects)
*Not to be used on work on water or sewage treatment plant or lift pump Stations in Williamson Co

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ZONE 9 - Bell, Bosque, Coryell, Falls, Freestone, Hamilton, Hill, Lampasas, Limestone, McLennan & Navarro Counties

DESCRIPTION OF WORK Heavy (exluding tunnels, dam & work on water or sewage treatment plant or lift/pump stations) and Highway Projects (does not include building structures in rest area projects)

ZONE 10 - Cooke, Denton, Hood, Jack, Johnson, Palo Pinto, Parker, Somervell, Tarrant * and Wise Counties

DESCRIPTION OF WORK: Heavy (exluding tunnels & dams), Water & Sewer Lines and Highway Projects (does not include building structures in rest area projects)
*Not to beused for Heavy Projects in Tarrant County

ZONE 11 - Collin, Dallas, Ellis, Grayson & Rockwall Counties

DESCRIPTION OF WORK: Water & sewer lines & Highway Construction Projects Only

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ZONE 12 - Bowie, Camp, Cass, Delta, Fannin, Franklin, Gregg, Harrison, Hopkins, Hunt, Kaufman, Lamar, Marion, Morris, Rains, Red River, Rusk, Smith, Titus, Upshur, Van Zandt & Wood Counties

DESCRIPTION OF WORK: Heavy (excluding tunnels & dams) and Highway Projects (does not include building structures in rest area projects)

ZONE 13 - Anderson, Angelina, Cherokee, Henderson, Houston, Jasper, Nacogdoches, Newton, Panola, Polk, Sabine, San Augustine, San Jacinto, Shelby, Trinity & Tyler Counties

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DESCRIPTION OF WORK: Heavy (excluding tunnels & dams) and Highway Projects (does not include building structures in rest area projects) & Incidental Shore Work

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ZONE 14 - Brazos, Burleson, Grimes, Leon *, Madison, Milam *, Robertson *, Walker & Washington Counties

DESCRIPTION OF WORK: Heavy (excluding tunnels & dams) and Highway Projects (does not include building structures in rest area projects)
*Not to be used for work on water or sewage treatment plant or lift/pump stations in Leon, Milam & Robertson Cos.

ZONE 15 -Brazoria, Fort Bend, Galveston, Harris, Matagorda, Montgomery, Waller & Wharton Counties

DESCRIPTION OF WORK: Highway Construction Projects Only

ZONE 16 - Chambers, Hardin, Jefferson *, Liberty & Orange * Counties

DESCRIPTION OF WORK: Heavy Projects (excluding tunnels & dams) and Highway Projects (does not include building structures in rest area projects) & Incidental Shore Work

*Not to be used for Heavy Projects & Incidental Shore Work In Jefferson & Orange Cos.

[FR Doc. 84-4128 Filed 2-16-84; 8:45 am]
BILLING CODE 4510-27-C

federal register

Friday
February 17, 1984

Part III

Environmental Protection Agency

40 CFR Part 35

Grants for Construction of Treatment Works; Final and Interim Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 35

[WH-FRL 2267-5]

Grants for Construction of Treatment Works

AGENCY: Environmental Protection Agency.

ACTION: Final and interim final rules.

SUMMARY: The construction grants regulation is being published in two places in today's **Federal Register**. This portion includes, as a final rule, the main body of the construction grant regulation (§ 35.2000 et seq.), Appendix B (Allowance for Facilities Planning and Design), and Appendix C (Subpart I Information Collection Requirements).

Appendix A (Determinations of Allowable Costs), published together with this final rule, is a *revised* interim final rule which responds to some of the comments received on the May 12, 1982 publication of Appendix A. These comments are described below under Description of Major Issues. EPA is publishing Appendix A as a revised *interim final* rule for two main reasons. First, the Congressional authorization for the construction grants program expires after fiscal year 1985 (September 30, 1985). In anticipation of reauthorization hearings on the Clean Water Act in 1984, the Agency is conducting a one-year study of the funding of municipal wastewater facilities. The study will evaluate a broad range of funding mechanisms such as loan programs, privatization and infrastructure banks in addition to the present grants program. The common goals which will be used to compare these alternatives are greater self-sufficiency of local communities in addressing wastewater treatment, more efficient targeting of Federal financial assistance, and quicker attainment of water quality goals. We expect to publish a notice of the study in the **Federal Register** in February. The results of the study may result in changes to the allowable costs described in Appendix A. Second, the proposed rule (§ 35.2205) is expected to elicit comments which may extend to allowable cost items in Appendix A.

A proposed rule published elsewhere in today's **Federal Register**, would create a new section (§ 35.2205) that would define the maximum increase in the allowable cost of a grant award. The new section would apply to all construction grants regardless of the grant award date.

This regulation includes only those items called for by the Clean Water Act, including the Municipal Wastewater Treatment Construction Grant Amendments of 1981, and the minimum requirements necessary for effective program management. The changes clarify and simplify the regulation and thereby reduce project costs.

DATES: This regulation is effective February 17, 1984. See also the section in the preamble on "Effective Date." Comments on the interim final regulation contained in Appendix A, must be received on or before April 17, 1984.

ADDRESS: Comments should be addressed to: Central Docket Section (LE131), Attention: Docket No. G-81-5, Environmental Protection Agency, Washington, D.C. 20460.

The public may inspect the comments received on this interim final rule at: Central Docket Section, Gallery 1 West Tower Lobby, Environmental Protection Agency, 401 M Street, SW., Washington, D.C., between 8 a.m. and 4 p.m., business days.

FOR FURTHER INFORMATION CONTACT: William Kramer, Office of Water Program Operations (WH-595), Environmental Protection Agency, Washington, D.C. 20460, (202) 382-7277.

SUPPLEMENTARY INFORMATION: In keeping with the President's mandate to reduce the burden of government regulation, EPA has undertaken a comprehensive review of the construction grants regulation. Based on that review, revisions to the regulation were proposed in the November 6, 1981 **Federal Register** and published as interim final on May 12, 1982. The interim rule reflected extensive experience with the program, comments received over the years from a broad spectrum of the program's constituents and comments received on the interim rule. In developing this regulation, the Agency consulted with a wide variety of organizations representing various participants in the program.

On December 29, 1981, the Municipal Wastewater Treatment Construction Grant Amendments of 1981, Pub. L. 97-117 (1981 amendments), were signed into law, making several basic modifications to the grants program. This regulation, which is built on the Administration's commitment to reduce regulatory burdens to a minimum while maintaining the program's environmental and financial integrity, incorporates provisions to implement the 1981 amendments and comments on the interim rule.

This regulation includes items required by statute—free of detailed procedures to be followed—and those additional minimum requirements that EPA considers necessary for effective program management.

In conjunction with this effort to reduce regulatory requirements to a minimum, EPA will issue appropriate guidance documents. These guidance documents will not be regulations in disguise. The regulatory requirements are repeated in the guidance solely for continuity and clarity. If there appears to be a difference between the regulations and the guidance, the regulations govern. The guidance materials will contain information which is helpful to States and grantees in managing and carrying out the construction grants program. Use of the information in the guidance documents is to be discretionary. That is, States or grantees may adopt other procedures which are sufficient to meet the requirements of this regulation.

The first major guidance document, *Facilities Planning 81 (FP 81)*, was published in 1981. Its successor, *Construction Grants 82 (CG 82)*, companion to the interim final regulation, reflects and includes this new emphasis on increased flexibility in its guidance for planning, design, and building. Future editions in the *CG* series will continue this approach. Other guidance publications in the areas of operation and maintenance, financial planning and development of user charge systems are being developed. By linking efforts to reduce mandatory requirements and to provide guidance, the greatest possible flexibility is provided to States and local governments to effectively carry out the construction grants program.

Although this subpart is the primary regulation governing the construction grants program, it is not the only one. Others that apply include EPA's Uniform Relocation Assistance and Real Property Acquisition Policies Act regulation (Part 4), NEPA regulation (Part 6), public participation regulation (Part 25), intergovernmental review regulation (Part 29), general grant regulation (Part 30), debarment and suspension regulation (Part 32), procurement regulation (Part 33), and pretreatment regulation (Part 403). Rather than repeat verbatim selected portions of these Parts, this regulation will rely on the others and, where appropriate, cross reference those requirements. It is felt that this is a simpler approach and, more helpful to the States and grantees. Requirements of these other Parts still apply to the construction grants program.

Following is a table showing the relationship of Subpart I to Subpart E:

CONSTRUCTION GRANT REGULATION—40 CFR PART 35

Subpart I		Subpart E
Sec.		Sec.
35.2000	Purpose and policy	35.900, 35.901, 35.903, and 35.912.
35.2005	Definitions	35.905.
35.2010	Allotment; reallotment	35.910 et seq.
35.2015	State priority system and project priority list.	35.915.
35.2020	Reserves	35.915–1.
35.2021	Reallotment of reserves	35.915.
35.2023	Water quality management planning.	1981 Amendments.
35.2024	Combined sewer overflows.	1981 Amendments.
35.2025	Allowance and advance of allowance.	1981 Amendments.
35.2030	Facilities planning	35.917 et seq.
35.2032	Innovative and alternative technologies.	35.908.
35.2034	Privately owned individual systems.	35.918.
35.2040	Grant application	35.920 et seq.
35.2042	Review of grant applications.	1981 Amendments.
35.2050	Effect of approval or certification of documents.	35.935–1.
35.2100	Limitations on award	35.925.
35.2101	Advanced treatment	New Section.
35.2102	Water quality management plans.	25.925–2.
35.2103	Priority determination	35.925–3.
35.2104	Funding and other considerations.	35.925–5.
35.2105	Debarment and suspension.	New Section.
35.2106	Plan of operation	35.925–12.
35.2107	Intermunicipal service agreements.	35.920–3.
35.2108	Phased or segmented treatment works.	New Section.
35.2109	Step 2+3	35.909.
35.2110	Access to individual systems.	35.918–1.
35.2111	Revised water quality standards.	1981 Amendments.
35.2112	Marine discharge waiver applicants.	1981 Amendments.
35.2113	Environmental review	35.925–8.
35.2114	Value engineering	1981 Amendments.
35.2116	Collection system	35.925–13.
35.2118	Preaward costs	35.925–16.
35.2120	Infiltration/inflow	35.927 et seq.
35.2122	Approval of user charge system and proposed sewer use ordinance.	35.929–1, 35.935–13, and 35.927–4.
35.2123	Reserve capacity	1981 Amendments.
35.2125	Treatment of wastewater from industrial users.	35.925–15.
35.2127	Federal facilities	35.925–15.
35.2130	Sewer use ordinance	35.927–4.
35.2140	User charge system	35.929–1.
35.2152	Federal share	35.930–4.
35.2200	Grant conditions	35.935 et seq.
35.2202	Step 2+3 projects	35.935–4.
35.2204	Project changes	35.935–11.
35.2206	Operation and maintenance.	35.935–12.
35.2208	Adoption of sewer use ordinance and user charge system.	35.935–4.
35.2210	Land acquisition	New Section.
35.2211	Field testing for innovative and alternative technology report.	1981 Amendments.
35.2212	Project initiation	35.935–9.
35.2214	Grantee responsibilities	35.935–1.
35.2216	Notice of building completion and final inspection.	35.935–14.
35.2218	Project performance	1981 Amendments.
35.2250	Determination of allowable costs.	35.940.
35.2260	Advance purchase of eligible land.	New Section.
35.2262	Funding of field testing	1981 Amendments.
35.2300	Grant payments	35.945.
35.2350	Subagreement enforcement.	35.970.
Appendix A	Determination of allowable costs.	35.940 et seq.
Appendix B	Allowance for facilities planning and design.	1981 Amendments.
Appendix C	Subpart I information collection requirements.	New Section.

Description of Major Issues

In response to the interim final regulation published on May 12, 1982, we received comments from a variety of States, municipalities, professional organizations, firms that work in the program, and industries. Although the preamble doesn't respond to every comment individually, all were considered and many served as the basis for revisions to the interim final regulation.

Effective Date

This regulation is effective for all grants awarded on or after the date of publication in the **Federal Register.** Facilities plans and design initiated under 40 CFR Subpart E continue to be subject to the requirements in Subpart E. Unless required by the 1981 amendments, no revisions to the facilities plan or design will be required. Work done under Subpart E will be accepted for grant awards under this subpart.

Elsewhere in this issue of the **Federal Register,** EPA is proposing a new section, § 35.2205, which would specify a maximum allowable project cost.

Program Direction: Improved Water Quality

The 1981 amendments stress the importance of improving water quality through the construction grants program. The regulation reflects this emphasis in several ways. It incorporates the concept of "priority water quality areas," which States will identify and use in setting priorities for projects. Revised regulations for water quality management planning (40 CFR Part 130) and water quality standards (40 CFR Part 131), and guidance for State preparation of section 305(b) reports will also use the concept of priority water quality areas for scheduling revisions to water quality standards, total daily maximum loads, and major permits, as well as focusing monitoring, enforcement and reporting efforts on critical water quality problems. Priority water quality areas will generally be water quality limited segments, i.e., segments where applicable water quality standards are not attainable with application of technology-based effluent limitations to point sources.

This term was introduced in the interim final regulations; however, the concept is not new. For the purposes of construction grant funding and this regulation, priority water quality areas are specific stream segments or bodies of water where municipal discharges have resulted in the impairment of a designated use or significant public health risks, and where the reduction of pollution from the municipal discharges will substantially restore surface or groundwater uses.

The regulation (§ 35.2111) includes a limitation stating that no grant assistance can be awarded for particular stream segments after December 28, 1984, if a State has failed to review and revise, as appropriate, its applicable water quality standards. To comply with this provision, States will need to review and revise the water quality standards for each stream segment within the State in priority order. In setting priorities for the review of water quality standards States should focus on priority water quality areas, considering the timing of pending advanced treatment and combined sewer overflow funding decisions. The necessary level of review will depend upon the characteristics of a segment and the priority that a State assigns a segment. For most effluent limited segments no further water quality standards reviews will be needed beyond the determination that the segment is indeed effluent limited. A more comprehensive review will be needed for segments designated as water quality limited. Regulations governing priority setting and the review and revision of water quality standards are found in the regulations for water quality standards (40 CFR Part 131).

Within this context for setting priorities, the regulation requires an annual project priority list with two sections: the fundable portion consists of those projects anticipated to be funded from the current allotment; and the planning portion consists of projects anticipated to be funded from future authorized allotments. After September 30, 1982, Regional Administrators will

not fund projects until they accept, and the States use, priority lists that reflect the 1981 amendments.

The 1981 amendments added section 205(j) to the Act which requires States to reserve not less than $100,000 nor more than 1 percent of their annual allotment for water quality management planning. The regulation provides an exception to the $100,000 minimum for Guam, the Virgin Islands, American Samoa, the Trust Territory of the Pacific Islands and the Commonwealth of the Northern Marianas because of the small size of their allotments.

The 1 percent ceiling is a maximum limit rather than a required limit. The language of the amendments states that the reserve is "not to exceed" 1 percent. Also, the "not to exceed" language is identical to the language of the 205(g) reserve for State administration which provides for an optional maximum percentage rather than a required percentage. 40 CFR Part 130 will govern the use of funds reserved under section 205(j).

This regulation in § 35.2108 also addresses the need to make EPA funded treatment works phases and segments operate to improve water quality. Several commenters interpreted the regulation to require in all cases that grant recipients build the complete waste treatment system, including even its lowest priority components, if grant assistance were awarded for any part of the system. We made minor modifications to the regulation to address this misunderstanding.

Section 35.2108 requires that all recipients of grants for a phase or segment of treatment works negotiate a commitment with the Regional Administrator that assures that the treatment works of which the phase or segment is a part will be made operational and meet the enforceable requirements of the Act. Section 35.2108 embodies a longstanding EPA policy previously contained in § 35.930–4. The policy is that grant recipients must commit to making EPA funded phases or segments operational and comply with the enforceable requirements of the Act and to making them part of treatment works that result in water quality improvements. This does not necessarily require recipients to commit to building all parts of a complete waste treatment system. However, the regulation does require that recipients commit to building the treatment works necessary to make EPA funded phases or segments contribute to improved water quality.

Priority System and List

There was some confusion over the due date for submission of revised annual lists to the Regional Administrator for review. We have revised § 35.2015(e) to clarify that each State must submit a new list by August 31 in order to allow time for review by the Regional Administrator prior to the beginning of the next fiscal year.

Activities Prior to Grant Award

One of the most significant changes in the program resulting from the 1981 amendments is the elimination of grants for planning (Step 1) and design (Step 2). An allowance is provided to grantees for facilities planning and design. A full discussion of issues related to the allowance is in the Appendix B section of this preamble.

Step 2+3

We received several comments recommending that the design portion of a Step 2+3 grant be a grant rather than an allowance. We believe the allowance is more consistent with the Congressional intent of the 1981 amendments to reduce EPA involvement in grantees' design activities.

The 1981 amendments raised the limit on building cost for projects eligible for a Step 2+3 grant to $8 million. The amount of the allowance will be based on the estimated Step 3 building cost in the Step 2+3 grant application. If the grantee has not received a grant or advance for facilities planning, the Agency will pay 30 percent of the Federal share of the estimated allowance as soon as requested after the Step 2+3 grant award. EPA will pay half the remaining estimated allowance when the design is 50 percent complete. The final portion of the allowance will be paid after the grantee awards all prime subagreements for building the project.

Advances

The 1981 amendments require States to reserve a portion up to 10 percent of their allotments to provide advances of the allowance to small communities which would otherwise be unable to undertake planning and design activities. Although the amendments do not prescribe a minimum amount, the Agency believes the Congress intended that a reasonable reserve be established. Designation of eligible applicants to receive an advance will be done entirely by the States.

Upon application by a State, a grant will be awarded to the State for making advances of allowance to small communities. A State may request that payments under the grant be assigned to specified potential grant applicants. Any community that has received an advance will have any later allowance reduced by an amount equal to the advance.

Some commenters were concerned that the States would not reserve adequate funds to meet the demand of small communities; others were concerned that States would unjustifiably lose funds through reallotment because there would not be a need or demand for them. The Agency recognizes the potential for problems related to this provision of the law, and believes that solutions can be found to those individual problems within the framework provided by the regulation. In particular, the regulation provides for waiving this reserve requirement when the State can demonstrate it is not necessary because planning and design requiring an advance is not expected to begin during the period of availability of the annual allotment. Some States, prior to the 1981 amendments, had built up a backlog of projects ready for Step 3 grants and had planned to initiate few if any new Step 1 or Step 2 projects. Further, States have available the Step 2+3 approach which, if used extensively, could reduce or eliminate the need for this reserve.

NEPA Compliance

Before publication of the interim final regulation there was great concern expressed that the elimination of grants for planning and design would make NEPA compliance ineffective, because for NEPA compliance to be most effective, environmental issues must be addressed in conjunction with planning the project, and traditionally that has been done during Step 1. The elimination of Step 1 and Step 2 grants postpones official EPA involvement in the project until after planning and design are complete. To avoid the design of environmentally unsound alternatives, the regulation encourages applicants to confer with review agencies very early in the process and request, in writing, that EPA make necessary NEPA determinations. In this way, NEPA responsibilities can be met at the appropriate time, avoiding delay and added expense that could result from postponement. In any case, the regulation requires that the environmental review under NEPA be completed before submission of an application.

Grantees currently in the facilities planning process with Step 1 grant assistance are bound by existing regulations and grant agreements to complete their environmental documents as planned and obtain a formal determination in accordance with Part 6 of this chapter.

Financial Capability

In 1981 amendments stress the importance of the applicant's financial and management capability to adequately build, operate and maintain the proposed project, particularly the ability to finance adequate operations and maintenance (including replacement) of facilities through their user charge systems. Three of the "limitations on awards" (conditions that must be met before a grant can be awarded) are designed to ensure adequate financial capability and management of Federally funded treatment works. First, the applicant is required to demonstrate that it has the legal, institutional, managerial, and financial capability to ensure adequate building and operation and maintenance of the treatment works. Second, the draft plan of operation, required at the time of application, must include "an adequate budget identifying the basis for determining the annual operation and maintenance costs and the costs of personnel, material, energy and administration." Third, the applicant must have the Regional Administrator's approval of a user charge system that will produce adequate revenues required for operation and maintenance (including replacement), and that contains an adequate financial management system that will accurately account for revenues generated by the system and expenditures for operation and maintenance (including replacement) of the treatment system. EPA has developed guidance to assist grantees in meeting these requirements.

Advanced Treatment Reviews

In March 1979 Congress directed EPA to review advanced treatment projects. The 1978 oversight and appropriation hearings focused on the high costs and often marginal benefits of advanced treatment projects. In action approving the FY 1979 appropriation for the construction grants program, the House and Senate Appropriations Conference Committee agree "that grant funds may be used for construction of new facilities providing treatment greater than secondary only if the incremental cost of the advanced treatment is $1 million or less, or if the Administrator personally determines that advanced treatment is required and will definitely result in significant water quality and public health improvements." The incremental dollar limit for the Administrator's review was raised from $1 million to $3 million in FY 1980. Each year's appropriation legislation or committee report has continued the review requirements.

Review procedures were set forth in EPA policy issued in March 1979. EPA published a revised draft policy in June 1980, and a final policy is nearing publication.

Section 35.2101 requires that before award of grant assistance, EPA review under the advanced treatment policy any project requiring advanced treatment. EPA recommends that the proposed advanced treatment projects be submitted for review upon completion of facility planning, but requires that the review be completed before submission of any application.

Innovative and Alternative (I/A) Technology

The 1981 amendments extend the innovative and alternative program by providing an I/A set-aside to increase grants for I/A projects. The regulation allows the Governor to reserve amounts from the annual allotment which range from a minimum of 4 percent up to 7½ percent. The Federal share of grants for I/A technologies will be 20 percent more than the Federal share for grants for conventional technologies as long as the Federal share totals no more than 85 percent. The regulation also includes provisions for field testing for verification of design parameters for higher risk technologies which EPA may fund either as a preaward cost or as a separate field testing grant. Upon completion of the field test, the grantee must submit a report containing the procedure, cost, results and conclusions of the test.

The 1981 amendments maintain the cost-effectiveness preference for the I/A program. Several commenters were confused by the provision which describes the applicability of the cost-effectiveness preference when the I/A components are less then 100 percent of the present worth cost of project. Section 35.2032(b) has been clarified to indicate that when the I/A components are 50 percent or less of the present worth cost of the treatment works, the cost-effectiveness preference applies only to the I/A components.

EPA is incorporating the innovative and alternative technology guidelines from Appendix E of the 1978 regulation into the *CG* series.

Infiltration/Inflow

The interim final regulations simplified the procedure for determining whether a treatment works is subject to excessive infiltration and inflow (I/I). The procedures previously specified in the regulation were not only time consuming and costly, but also produced inaccurate and misleading results in many instances. The net effect was that considerable effort was spent analyzing and repairing sewer systems without achieving the expected benefits of reduced flows and properly sized facilities.

The revised procedures incorporated in the interim final regulation specified baseline values for both infiltration and inflow. Comparison of the guildline values with actual flows in sewer systems allows rapid screening of those systems not subject to excessive I/I. This final regulation continues the use of a baseline for comparison of infiltration rates but deletes the baseline value previously specified for inflow.

The baseline figure of 120 gallons per capita per day (gpcd) for infiltration analysis is unchanged in the final regulation. The figure derived from Needs Survey data for 270 Standard Metropolitan Statistical Area cities. The 120 gpcd value is the national average wastewater flow for these cities and is comprised of 70 gpcd domestic wastewater and 50 gpcd of non-excessive infiltration.

The baseline figure for inflow was deleted because sufficient data were not available to support its uniform application to all projects. In the final regulation, inflow is excessive when it results in chronic operational problems in the treatment system.

The final regulation provides that no further I/I work is required if domestic wastewater plus non-excessive infiltration does not exceed 120 gpcd, and there are no chronic operational problems resulting from hydraulic overloading of the treatment works during storm events. Furthermore, even in cases where infiltration marginally exceeds 120 gpcd, the grantee may proceed with design and construction of facilities to accommodate the entire flow provided that such facilities are cost effective. In these cases, Federal grant participation will be based on 120 gpcd and grantees must demonstrate that sufficient local funds are available to construct and operate the entire treatment works.

Only in cases where infiltration is determined to be excessive in accordance with the previously described procedures or the treatment works is experiencing chronic operational problems due to inflow, will grantees be required to undertake more detailed sewer system evaluation studies and propose an I/I rehabilitation program. A limited amount of grant assisted sewer rehabilitation may also be undertaken on systems with flows less than 120 gpcd provided that grantees can demonstrate that such

rehabilitation is cost effective for specific portions of their systems.

Grantees will be responsible for the results achieved by I/I rehabilitation programs conducted using Federal funds as part of their certification of project performance at the end of the first year's operation of the facility. Grantees will also be responsible for taking corrective actions if flows are not reduced by the amounts specified or operational problems are not corrected as a result of the rehabilitation program.

Public Participation

Several commenters expressed concern that, with the exception of the requirement for public hearings in conjunction with developing State priority systems and project priority lists, the proposed regulation relies on Part 25 to supply all further requirements necessary to involve the public fully in decisions relating to the construction grants program. EPA is fully committed to public participation in all its programs and believes that Part 25 affords every opportunity necessary and available under the Clean Water Act for public participation in the construction grants program.

However, because the elimination of Step 1 and 2 grants effectively prohibits EPA involvement in facilities planning and design, neither provisions of this subpart nor of Part 25 apply to activities of a potential grantee prior to submission of the grant application. Grantees who request an early determination of NEPA compliance can take advantage of involving the public in Step 1 and Step 2 through application of public participation requirements of Part 6. Furthermore, this regulation requires the State to certify at the time of application that there has been adequate public participation in accordance with State and local laws.

Project Schedule

The regulation requires that a timetable of key project events be included in the grant application. The advice of the grantee's design engineer should be sought when developing the schedule. The schedule should include important dates regarding procurement actions, building schedule, and operation of the project. If the grantee has multiple projects, he must coordinate each project's schedule with the others and with the State's project priority list. Any change in the project schedule will require a formal grant amendment. This requirement is necessary to insure the continued coordination of project completion with permit and compliance schedules, court orders and State administrative orders.

State Certification

The 1981 amendments allow States with sufficient delegated program administration authority to certify that grant applications comply with all applicable Federal requirements. The certification must be supported by documentation specified in the delegation agreement, and the Regional Administrator shall accept the certification unless he determines the State has failed to establish adequate grounds for the certification or that an applicable requirement has not been met. Several commenters pointed out the failure of the interim final regulation to state the provision of the 1981 amendments mandating EPA to accept or reject in writing a fully certified application within 45 days of receipt or the application is automatically approved. That oversight has been corrected.

Treatment of Wastewater From Industrial Users

This section of the interim final regulation that dealt with treatment of wastewater from industrial users was intended to continue the Agency policy of not providing grant assistance for treatment works that are exclusively for industrial use. In stating that policy, we used the term "compatible industrial wastewater" and defined it in terms that could have been interpreted to prohibit funding POTW capacity to serve many industrial users. It was not the Agency's intention to place a new restriction on funding for treatment works serving industries. To correct that problem, we eliminated the term "compatible industrial wastewater" and added a new provision. Section 35.2125 prohibits award of grants for treatment works that are exclusively for industrial use. It is similar to a provision proposed in the May 18, 1981 **Federal Register** (46 FR 27314). Several commentors objected to the continuation of the Agency policy not to fund projects exclusively for industrial use. We believe that expanding eligibility to a substantial new category of industrial projects would be contrary to the overall intent of the 1981 amendments.

Project Performance

The purpose of EPA assistance is to build treatment works that have been planned and designed to meet the enforceable requirements of the Act. By executing a grant agreement, the grantee is obligated to build the project according to its approved design specifications and operate and maintain the project during its design life to meet the enforceable requirements of the Act.

The regulation requires the grantee to reach this performance goal within a year after the project has been put into use for its intended purpose. The costs of architectural, engineering, legal, technical and other services necessary to assure that the project is built according to its design drawings and specifications are allowable project costs.

The date of initiation of operation is determined by the grantee, in consultation with the design engineer and included in the project schedule. To assist in operating the project during the first full year, the amendments require the grantee to procure the services of the engineer or firm that provided architect engineering services during construction or the engineer or firm that supervised construction. The regulation uses the term "construction" to clarify congressional intent and makes this provision consistent with the language in the Act. The amendments state that such engineer shall "supervise operation of the treatment works, train operating personnel, and prepare curricula and training material for operating personnel."

EPA uses the term "supervising" as it is used in the law only once, when restating the statutory requirements. Elsewhere in detailing requirements the regulation uses language requiring the engineer to "direct" the operation of the project and revise the operation and maintenance manual as necessary to accommodate operating experience. It is not the intent of the amendment or the regulation to involve the engineer in the administrative details of daily operation of the plant such as individual personnel transactions or direct supervision of a contractor's employees. On the other hand, the legislative history of the amendments makes it clear that Congress envisioned a more active role for the engineer than merely advising the grantee, and that the intent was to firmly establish appropriate responsibility of all participants in the process.

We believe that the regulation provides a sufficiently flexible framework to allow grantees and their engineers to negotiate, on a case-by-case basis, appropriate arrangements that fulfill the intent of the amendments. The grantee may require sufficient assurances, guarantees or indemnity or other contractual requirements to achieve this goal.

At the end of the first year of operation, the grantee must certify to the Regional Administrator whether the project *meets* its design specifications and the enforceable requirements of the

Act. This has been changed from the language of the interim final regulation which said the certification was whether the project was *capable of meeting* project performance standards, in order to more closely reflect the 1981 amendments and their intent. The certification that the project *meets* project performance standards must be satisfactory to the Regional Administrator and must reflect at a minimum that applicable permit or other discharge requirements are currently being met.

If the project is not affirmatively certified, the grantee must provide a corrective action report. The cost of bringing the project into compliance is the responsibility of the grantee except for the modification or replacement of innovative or alternative technology projects. The grantee must also commit itself to a reasonable date on which it can make an affirmative certification to the Regional Administrator. If the grantee does not bring the project into compliance with the design specifications and enforceable requirements of the Act, EPA will take appropriate and prompt remedial action.

More detailed discussion of project certification is contained in the *CG* series guidance.

Delegation

For the sake of simplicity, the regulation refers to the role of the Regional Administrators. Delegation to State agencies remains an integral part of construction grants program management. As stated in § 35.2000(c), to the extent that the Regional Administrator delegates responsibility to a State agency under a delegation agreement, the term "Regional Administrator" is to be read "State agency."

Reserve Capacity

One commenter, noting that interceptors funded after the 1981 amendments are limited to 20 years reserve capacity in all cases, argued that the amendments and their history meant to allow Step 1 or Step 2 grantees with interceptors now under design for 40 years reserve capacity to receive Step 3 grants for that capacity. We disagree and believe that paragraph (a) of § 35.2123 is a correct reading of the law and its history. The "grandfathering" provision applies only if EPA awarded a grant for a Step 3 segment of an interceptor before December 29, 1981.

Several commenters expressed confusion over the application of 1990 needs as used in this section. This has been rewritten to make it clear that this date only has relevance after 1990, with 1990 being the cap on eligible needs after 1990.

Additionally, several questions were raised on how to determine "existing needs" and their relation to unallowable (beginning October 1, 1984) reserve capacity. First, existing needs should be considered flows as estimated to exist at time of grant award, and as described in an approved facility plan or facility plan amendment. For onsite systems, existing needs can include anticipated flows from failing onsite systems. The amount of these anticipated flows should be based on studies updated to the estimated date of grant award where necessary. Second, the length of the planning period to use in determining reserve capacity and in the cost-effectiveness analyses is to be 20 years (§ 35.2030(b)(3)). This is consistent with previous practice (40 CFR, Part 35, Subpart E, Appendix A.6.b and sections 204(a) (1) and (2) and 208(b)(2)(A) of the Clean Water Act). While this does not require that the project include capacity for a twenty-year period, it does require that the project be shown to be the most cost effective when compared to alternatives with capacity for a twenty year period.

For example, a project that only provides capacity for existing needs may be a stage of a complete waste treatment system. Alternatively, the project could be only for the costs to meet the existing needs, with the costs for reserve capacity identified using cost curves as described in the *CG* series guidance.

Federal Share

Some commenters expressed confusion relating to eligibility of treatment works phases or segments for 75 percent Federal grants after September 30, 1984 (grandfathering). Section 35.2152 of the regulation, which sets forth the requirement grandfathering, has been clarified in the final regulation. The final regulation makes our original intent that all grandfathered phases or segments be described in a facilities plan approved by the Regional Administrator before October 1, 1984, and that they be built in logical sequence assuring expeditious operation and compliance with the enforceable requirements of the Act.

The fact that an approved facilities plan describes a complete waste treatment system that includes a grandfathered phase or segment does not mean that the complete system is grandfathered. The description of the complete system is a planning tool to help put the proposed project in context. Under § 35.2152, the only grandfathered treatment works are those that are described in a facilities plan that is approved prior to October 1, 1984, and that include a phase or segment that is awarded a Step 3 grant prior to October 1, 1984. Treatment works that do not include a phase or segment that is awarded a grant prior to October 1, 1984, are not grandfathered merely because they are described in a facilities plan that contains grandfathered treatment works. For example, if there were two treatment facilities and their interceptors described in the facilities plan, and only one had received a grant for a phase or segment prior to October 1, 1984, then only that facility and its interceptors are eligible for grandfathering. However, two treatment facilities with simple interconnections, such as sludge lines, are considered separate treatment facilities for purposes of this regulation.

Concerning the sequence for EPA funding of grandfathered phases and segments, § 35.2152 requires that EPA funded phases and segments be built in a sequence necessary to make phases or segments previously funded by EPA operational and comply with the enforceable requirements of the Act before other phases or segments receive EPA funding. EPA expects the sequence of funding segments will result in the earliest compliance with the enforceable requirements of the Act. For example, where an interceptor segment is built, the next segments to be funded are those which will make the interceptor operational and meet the enforceable requirements of the Act. EPA would not expect to fund a segment in another interceptor until the first interceptor is operational.

Another area of concern is the uniform lower Federal share. The lower uniform Federal share is applied on a project-by-project basis. That is, each separate grant, including phased and segmented grants, is viewed individually. Prior to October 1, 1984, grant assistance is awarded for a phase or segment with the Federal share prevailing at the time of award. Separate phases or segments of the same treatment works may, therefore, receive grant assistance with varying Federal shares, but once grant assistance is awarded for a project, the Federal share shall be the same for any grant increase within the scope of the project.

There was a question raised on the relationship between the "grandfathering" Federal share provision for treatment works first awarded segment grants before October 1, 1984, and the Governor's discretion to

uniformly reduce the Federal grant share throughout a State.

When EPA first proposed a regulation to implement the 1980 amendment (Pub. L. 96–483) regarding the uniform lower Federal share (46 FR 27314, May 18, 1981), we addressed the issue of varying the Federal share among treatment works phases or segments. That proposal and this regulation allow variations among treatment works phases of segments. Requiring States to maintain the same Federal share to each phase or segment of an entire waste treatment system would inhibit, or even preclude effectiveness of the amendment. However, for increases within the scope of a project, the Federal share will be the same as the share of the initial award for that project.

In instituting the "grandfathering" provision, Congress did not restrict the use of the lower Federal share. The 1981 amendments used the phrase "shall be eligible for grants at 75 per centum . . .," not "shall be 75 per centum." Reading this provisions consistent with the uniform lower Federal share means that should the Governor not reduce the Federal share, post 1984 phases or segments would receive 75 percent grants like 1984 or earlier phases or segments of that treatment works. If the Governor reduces the share, post-1984 phases or segments would be eligible for a grant at only the reduced Federal share prevailing in that State.

By maintaining our initial interpretation we are able to give effect to both provisions now part of the law. We believe, further, that this view is consistent with prevailing policies calling for maintaining and increasing State control over the construction grants program.

Another issue was the period of time for which the share would be reduced. EPA believes that one year periods are reasonable, but the Governor may lower the share for a shorter or longer period of time as the Governor deems appropriate. However, this flexibility may not be used to discriminate against particular projects or classes of projects.

Allotment and Reallotment

Recent experience with reallotment and several comments on the interim regulation highlighted the need for changes in the "Allotment and reallotment" section (§ 35.2010) and the "Reserves" section (§ 35.2020).

First, we made it clear that § 35.2010 applies only to funds appropriated under section 205 of the Clean Water Act. Funds available to the construction grants program from sources other than section 205, such as the Public Works Employment Act and section 206 of the Clean Water Act, are not subject to reallotment under § 35.2010.

We revised § 35.2010 (c) and (d) to clarify the intent of those provisions. The interim final regulation revised § 35.910–2 in response to a problem encountered in reallotting FY 1979 and FY 1980 funds last year. Some regions deobligated funds late in fiscal year 1981 that were subject to reallotment on October 1, 1981. Deobligated funds must be reissued to the regions by the EPA Comptroller in headquarters before the Regional Administrator can reobligate them to other projects. That process takes time and some funds were not reissued in time for use before the end of the fiscal year. As a result, § 35.2010 (c) and (d) provide that funds deobligated by a Region which are not reissued to the Region before the reallotment date for those funds will not be subject to reallotment and shall be made available for obligation.

We added a new section (§ 35.2021) to clarify the reallotment provisons of the various reserves under § 35.2020. Paragraph (c) of § 35.2021 requires that Regions which deobligate funds from one of the mandatory reserves under § 35.2020 before the initial reallotment date for those funds return them to the same reserve after they are reissued by the EPA Comptroller. Funds from a mandatory reserve which are deobligated after the initial reallotment date for those funds are not to be returned to the reserve and are governed by § 35.2010(d).

Finally, we deleted the words "sums alloted for" from the second sentence of § 35.2010(b). This change was necessary to clarify the year with which funds realloted or deobligated before an approval of an appropriation for the current year would be identified. In the future these funds will be treated like funds for the current year regardless of whether funds for that year have been appropriated.

Combined Sewer Overflow

The regulation incorporates two provisions of the 1981 amendments directly related to funding the correction of combined sewer overflow problems:

(1) Section 35.2024 implements section 201(n)(1) of the Act and states that after September 30, 1984 (when correction of combined sewer overflows is no longer an eligible category), the Governor may elect to use the regular State allotments from funds authorized under section 207 to address impaired uses in priority water quality areas due to the impacts of combined sewer overflows (CSOs).

(2) Section 35.2024 also deals with the use after September 30, 1982, of funds to be appropriated under section 201(n)(2) of the Act for addressing impaired uses or public health risks resulting from combined sewer overflows in marine bays and estuaries. In addition to the priority criteria set forth here, § 35.2040 contains particular grant application requirements for this separate fund.

While this separate CSO fund's eligibility and priority criteria and application requirements are distinct, it is subject to all applicable limitations on award and grant conditions, as well as Federal share, allowable cost and other provisions imposed on CSO projects funded with monies authorized in section 207.

The regulation reflects the language of the conference committee report on H.R. 4503, placing restrictions on the funding of combined sewer overflow correction. Directed at both provisions for funding of combined sewer overflow projects, this language requires States to demonstrate to EPA the necessity for the project and the specific benefits to be achieved.

Guidance on the preparation and review of applications for marine CSO projects is available from the State water pollution control agency. Non-marine CSO projects applied for under § 35.2015(b)(2) (iii) and (iv) can also use the marine CSO guidance to prepare the demonstration of water quality benefits required by § 35.2024(b); however, the demonstration should address fishing (rather than shellfishing under the marine CSO program).

Work by Debarred or Suspended Persons

EPA published procedures for debarments and suspensions under EPA assistance programs, 40 CFR Part 32 (47 FR 35940) on August 17, 1982. This regulation states EPA's policy to do business only with persons who properly use Federal assistance.

The purpose of § 35.2105 is to inform EPA whether the applicant awarded a contract for planning or design work to a debarred, suspended, or excluded individual, organization, or unit of government. If the applicant certifies that it has made such an award, EPA shall closely examine the facilities plans, and design drawings and specifications to determine whether to award a Step 3 grant or take other appropriate action.

Value Engineering

Before the enactment of Pub. L. 97–117, value engineering was required during the design of projects with a projected total Step 3 grant eligible cost of $10 million or more, excluding the

cost for interceptor and collector sewers. Pub. L. 97–117 requires that value engineering be conducted on all projects that did not have prior grant assistance for design where the total cost of building the treatment works is estimated to exceed $10 million. (This includes the cost of building interceptor and collector sewers but does not include the cost of services.) Projects that had grant assistance for design are subject to the value engineering requirements of 40 CFR 35.926.

Miscellaneous Terms

The terms "project," "treatment works" and "complete waste treatment system" have specific meanings in this regulation and should not be used interchangeably. This reflects a consistency with the Act and EPA's general regulations for assistance programs (40 CFR Part 30).

"Project" refers only to the activities or tasks identified in the grant agreement.

The definition of "treatment works" is essentially the same as that contained in section 212 of the Act. In the context of the Clean Water Act, this is a broad definition, and includes "any devices and systems for the storage, treatment, recycling, and reclamation of municipal sewage, domestic sewage, or liquid industrial wastes."

A "complete waste treatment system" is the total of all elements necessary for the transport, treatment and ultimate disposal of treated wastewater and residuals.

Building

The term "building" has been used throughout this regulation to describe the principal activity to be undertaken in the grants program. That is, the program provides assistance for the erection, acquisition, alteration, remodeling, improvement or extension of facilities to transport and treat wastewater. The term "building" is used in this regulation rather than "construction" (the term used in the past) because "construction" is defined in the Act to include facilities planning and design. EPA can no longer award grant assistance solely for facilities planning and design activities.

Costs of Acquiring Existing Treatment Works

Section D.1.e of Appendix A to the interim final rule states long-standing EPA policy limiting grant assistance for the acquisition of existing publicly or privately owned treatment works. This provision explains that the costs of acquiring existing treatment works are allowable only if the acquisition provides new pollution control benefits and meets three other criteria.

The limitations contained in section D.1.e reflect the purpose of section 201 of the Clean Water Act, which is to make grant funds available to municipalities for the construction of treatment works that provide new pollution control benefits (i.e., pollution control services that are additional to those being provided before grant award) and not to provide reimbursement for costs incurred to construct existing facilities. In view of this purpose, acquisitions of existing treatment works are generally ineligible for section 201 funding because they usually do not provide new pollution control benefits. Conversely, the upgrade, expansion, or rehabilitation of a project that includes an acquisition does provide such benefits and thus the upgrade, expansion, or rehabilitation portion may be eligible although the acquisition portion is not. An example of an eligible acquisition would be a municipality's purchase of demonstrated excess treatment works capacity that was built without Federal funds and provides new pollution control benefits.

On October 28, 1982, subsequent to the promulgation of the interim final rule, the EPA Board of Assistance Appeals issued a decision on the case of *Atlantic City Municipal Utilities Authority* (EPA Docket No. 81–19) which misinterpreted the new pollution control benefits principle. In *Atlantic City*, the Board found allowable the costs incurred by the Authority to purchase a privately-owned sewage collection system. The Board based its determination on the assumption that the acquisition would result in new pollution control benefits because the Authority intended to rehabilitate the system. This determination, however, overlooked the fact that the acquisition independent of the rehabilitation plan would not provide new water pollution control services additional to those being provided before acquisition.

We have modified Appendix A to state explicitly that in determining the eligibility of acquisitions of existing facilities it is necessary to distinguish between the acquisition and any subsequent improvements. An acquisition of an existing facility is eligible only if the acquisition, in and of itself, considered apart from any upgrade, expansion or rehabilitation, provides new pollution control benefits.

Appendix A—Revised Interim Final Rule

Allowable Costs

Appendix A consolidates information on allowable and unallowable costs. Although the Appendix continues existing Agency policy in 40 CFR Part 35, the Handbook of Procedures and Program Requirement Memoranda, it also reflects new policies designed to restrict allowability assuring more pollution control benefits from limited program funds. To simplify its use, Appendix A has been organized by type of cost, i.e., subagreement costs, small systems, equipment, etc.

Replacement and Additions Costs

Section H.2.e of Appendix A states EPA's policy against providing grant assistance for replacing, through reconstruction or substitution, failed treatment works that were built with construction grants assistance. This provision bars the procedure of providing grant assistance for replacement costs after the costs under the original grant for the failed treatment works are disallowed.

Based on comments received on the interim final regulation, we have clarified the replacement cost provision in two ways. First, the sentence structure has been modified to make clear that the provision applies to treatment works that fail before the expiration of their design life, either before or after initiation of operation. Second, the statutory reference has been modified to clarify our original intent that the provision covers treatment works built with Federal assistance provided under the Federal Water Pollution Control Act of 1956 (Pub. L. 84–660) or any subsequent amendments including, but not limited to, Pub. L. 92–500.

We have also clarified the policy against grant assistance for replacement costs by explaining, in Paragraph H.1.d of Appendix A, EPA's policy concerning additions to projects that fail to meet their performance standards. The additions provision is not an exception to the prohibition against grant assistance for replacement costs. As Paragraph H.2.e makes clear, the costs of replacing failed treatment works through reconstruction or substitution are unallowable.

Paragraph H.1.d provides that if the additions costs are demonstrated not to be caused by the grantee's mismanagement or the improper actions of others (e.g., the grantee's engineers or contractors), the costs are allowable under limited conditions. Subparagraph

H.1.d(3)(a) provides that if the need for additions is caused by changes in performance standards or design criteria outside the grantee's control or by a written agreement or directive to delay building a portion of the treatment works, the cost of the additions is allowable. Subparagraph H.1.d(3)(b) limits the allowability of additions not covered by subparagraph H.1.d(3)(a) by excluding the costs of rework, delay, acceleration or disruption caused by the additions and requiring on projects for which grants are awarded after December 28, 1981, that the additions be made during the project's first year of operation.

Cost of Corrective Action Report

In the interim final regulation the cost of the corrective action report was listed as allowable. One commenter questioned this, and upon review of the 1981 amendments we have concluded that the Congress intended this cost to be unallowable. The statute refers to undertaking correction at other than Federal expense, and the corrective action report is a part of that effort.

Costs Related to Subagreement Enforcement

The construction grants regulation has long referred to the authority of EPA to provide technical and legal assistance in the administration and enforcement of subagreements. This regulation describes EPA financial assistance as an alternative to direct assistance. It is generally unallowable unless a number of conditions are met. These conditions include a formal grant amendment specifically covering the costs before they are incurred and the Regional Administrator's determination that there is a significant Federal interest in the subagreement matters at issue.

Mercury Seals

The cost of process equipment such as trickling filters and comminutors that use mercury seals is no longer listed as an unallowable cost. While the Agency continues to have concerns about the safe use of mercury seals, there is no statutory basis for prohibiting the use of mercury seals. Decisions on the use of mercury seals should be made on a case-by-case basis; specific guidance on this subject is contained in the *CG* series guidance.

Appendix B: Allowance for Facilities Planning and Design—Final Rule

One of the most significant changes in the construction grants program resulting from the 1981 Amendments is the elimination of grants for planning (Step 1) and design (Step 2). Grant agreements include an allowance for facilities planning and design. Grantees that currently have a Step 1 or Step 2 grant will be able to complete the work included in their scope of work using the present system of grant payments. However, the 1981 Amendments prohibit new grants exclusively for facilities planning or design. Those activities will be completed by potential grantees before they apply for a grant to build their projects. The Congress, in providing the allowance mechanism, sought to achieve systemwide efficiency. In so doing, the Congress acknowledged the potential for inequity in the allowance for any given project. The device in the law is not a cost reimbursement, but an allowance. EPA understands that, in practice, any savings realized from the allowance will be available to each community for general public purposes. The Agency expects that these funds will be used to defray unreimbursed expenses associated with plant construction. Due to the unrestricted nature of the allowance, however, EPA will not audit the use of these funds.

Appendix B contains the procedures to determine the amount of advances of allowance and of the estimated and final allowances. Allowances in Appendix B are based on the percentage of building costs that have historically been attributable to facilities planning and design. Costs of specific facilities planning and design activities are not segregated and cannot be considered as a basis for reimbursement in addition to the allowance.

The allowance for a project is a single sum based on the actual total allowable building cost. Allowances are not auditable and the activities they cover are not subject to EPA requirements for procurement under assistance agreements (40 CFR Part 33). However, the Congress did not intend to reduce the opportunities afforded minority and women's business enterprises (MBE/WBE) to compete for contracts associated with construction of publicly owned treatment works; therefore, it is EPA's policy to encourage recipients to adopt procurement procedures for all activities of their construction program that, at a minimum, include the affirmative steps in 40 CFR § 33.240. EPA will request information from grant applicants regarding the level of minority and women's business enterprise participation achieved during planning and design activities in order to meet our obligation to report MBE and WBE participation in the construction grants program.

The data analysis for the development of the allowances took the form of using one parameter as the sole predictor of a second parameter. The method employed was bivariate analysis using a linear regression technique, a convenient, widely accepted way of analyzing both large and small data sets for relationships. The least-squares method was used for the linear regression analysis; this method yields an equation which expresses one variable in terms of another. The allowances for facilities planning and design are based on such regression equations.

Since the allowance applies to all of the work performed during the facilities planning and design of the project, not just architectural or engineering services, the historical data used to develop the allowance tables included all of the allowable costs of the Step 1 and Step 2 work. In addition, prior to any analysis being performed, all of the cost values were updated (adjusted for inflation) and normalized (adjusted to a common geographical area) to fourth quarter (calendar year) 1980 Kansas City/St. Joseph, Missouri dollars.

After the publication of the proposed allowance tables in the **Federal Register** on May 12, 1982, additional analysis of the historical cost data was performed. This additional work was undertaken for two reasons. First, it was desired to verify the appropriateness of the methodology and procedures used to develop the allowance tables, and if possible to improve it. Second, the additional analysis was necessary to respond to comments which suggested different approaches for analyzing the cost data. As part of this follow-up analysis, EPA contracted for a statistician to conduct an independent review of the methodology and procedure that were used to develop the proposed (May 12, 1982) allowance tables.

The follow-up analysis contains two refinements that were not included in the development of the proposed allowance tables. The proposed allowance tables were developed from a regression analysis that related building cost (in dollars) to Step 1 and/or Step 2 cost (expressed as a percentage of building cost). The proposed allowance tables were calculated using the resulting regression equations. This technique, although valid, showed a poor correlation between the two variables. Although the basic technique used to generate the regression equation is sound, the result tends to mask the actual relationships between building cost and Step 1 and Step 2 cost. In order to overcome the masking of the variation, the independent statistical consultant suggested a new method of

relating the two variables. The new method entailed relating the building cost (in dollars) directly to the Step 1 and/or Step 2 cost (in dollars), and not to Step 1 and/or Step 2 cost (expressed as a percentage of building cost) as was done in the original analysis. This method produced a very good correlation (in the 80–85% range) and supported the underlying hypothesis that a change in building cost results in a change in Step 1 and/or Step 2 cost.

Since the method for developing the regression equation changed, it was necessary to change the method of calculating the allowance percentage. Instead of inserting the building cost into an equation and calculating a percent, a two step process was necessary. First a building cost was entered into the regression equation to obtain the facilities planning and/or design cost. The resulting dollar value was then divided by the input building cost to obtain the allowance percentage.

The second change in the development of the final allowance tables involved the selection of projects that were included in the analysis. The analysis that resulted in the development of the proposed allowance tables included all of the projects in EPA's construction cost data base that had Step 1 cost and/or Step 2 cost. This resulted in the inclusion of a number of projects in the analysis that were lacking an associated Step 1 or Step 2 cost. The Step cost could have been missing for a number of reasons. For example, the Step 1 cost could have been funded by the community. This would result in a project being included in the analysis that had a Step 2 cost without any associated Step 1 cost. For this reason, the analysis that resulted in the final allowance tables only included projects that had both a Step 1 *and* a Step 2 cost.

In the proposed allowance tables, the allowance for design was developed by subtracting the values obtained from the regression equation for facilities planning from the values obtained from the regression equation for combined facilities planning and design to develop a third equation. This mathematical procedure was necessary because many of the Step 2 projects included in the earlier analysis contained reimbursement for facilities planning cost in the Step 2 awards. Since the analysis that resulted in the development of the final allowance tables only included projects that contained both a Step 1 and Step 2 cost, it was not necessary to use this mathematical procedure. Instead the allowance for design was developed directly from the regression equation relating building cost (in dollars) to Step 2 cost (in dollars).

As a result of this follow-up analysis, the final allowance tables differ slightly from the tables that were published on May 12, 1982. The percentages in the final allowance tables are higher for projects with low building cost and lower for projects with high building cost than those in the proposed allowance tables.

We received 38 comments concerning the allowance for facilities planning and design. A number of commenters stated that the allowance would not fully compensate communities for the facilities planning and design cost associated with complicated or involved projects. Similarly, other commenters were concerned that the allowance procedure could discourage value engineering (VE) or designs incorporating innovative or alternative (I/A) technologies, because the higher cost normally associated with these services would not be fully covered by the allowance.

EPA carefully considered these comments. However, after extensive deliberation, we determined that it was not in the best interest of the program to change the allowance procedures. This decision was based on the following:

(1) EPA does not want to create a compensation schedule for facilities planning or design services such as the one contained in the American Society of Civil Engineer's Manual No. 45. If separate allowance tables were created for advanced treatment projects, innovative projects, value engineering projects, or for different geographical areas of the country, it would give the impression that the allowance tables could be used to determine the compensation for services on these types of projects.

(2) EPA does not believe the amount paid under the allowance procedures would have any significant impact on the effectiveness of the VE program or selection of I/A technologies. The I/A program already has many incentives, including a larger Federal share, lower operational cost, and higher ranking on the State's priority list. Similarly, EPA believes that there are sufficient safeguards and incentives contained in the regulations to assure an effective VE program.

(3) Congress, in providing an allowance for facilities plannning and design, sought to achieve overall program efficiencies. ... doing so, the Congress acknowledged the potential for inequity in the allowance for an individual project.

A number of commenters suggested that the allowance tables be changed to show the percentage for the Federal share. Although this could simplify the application of the allowance procedures, this change could not be made because the Federal share of a project is not fixed. Therefore, the tables continue to show the total allowance and EPA pays the prevailing Federal share of that figure.

The proposed allowance procedures require that the allowance be based on the allowable cost of building the treatment works. Accordingly, the allowance for a segment of a treatment works was to be based on the cumulative allowable building cost to date minus any previous allowances. We received comments from a number of communities and from members of the engineering profession stating that this was not an equitable way to determine the allowance. These commenters said that in most cases each segment stands alone, and for this reason, the allowance should be based only on the building cost of that segment. Another commenter wrote that the proposed procedure was more complex, difficult to understand, and different than the procedures generally used in the engineering profession. It was also pointed out that the analysis of the historical cost information did not, in many instances, represent the entire cost of building the treatment works. Because of these reasons EPA is deleting the procedures that were proposed for determining the allowance for segmented and phase funded treatment works. In the future, the allowance will be based on the allowable building cost of each segment.

A number of commenters objected to the adjustment of the allowance to reflect the building cost one year after substantial completion of the design drawings and specifications. They argue that since the allowance is not directly related to the cost of facilities planning and design, it should not be related to the date of completion of such work. EPA agrees with this logic. Accordingly, the proposal to adjust the allowance to reflect the date of completion of facilities planning and design was deleted from Appendix B.

In response to a number of comments the allowance tables were expanded to include projects with building cost less then $100,000 and projects with building cost between $100 million and $200 million.

One commenter suggested that all references to the allowance being based on an analysis of historical data be removed from Appendix B because such

a discussion could give the impression that the tables could be used to estimate the actual facilities planning and design cost. Since these references are not needed to determine the allowance, and because this preamble includes an extensive discussion of the data and analysis, these references have been deleted from Appendix B.

Many commenters expressed concern that the allowance tables in Appendix B would be used by communities to determine the amount to be paid to architect/engineering firms for planning and design services. As stated above, the tables are not designed to be used as a compensation schedule for facilities planning or design services. In fact, many variables, including demonstrated competence, experience and qualifications of the firms involved are important factors in determining the appropriate fees for architect/engineering services. To reinforce this fact, a "Note" to this effect has been incorporated into Appendix B.

Regulation Development Process

This program is listed in the Catalog of Federal Domestic Assistance as number 66.418—Construction Grants for Wastewater Treatment Works. Executive Order 12372 of July 14, 1982, detailed a State and local elected official consultation process to replace Office of Management and Budget Circular A–95. EPA published a final regulation on June 24, 1983, implementing this Executive Order (48 FR 29288).

Under Executive Order 12291 EPA is required to judge whether a regulation is "major" and therefore subject to the regulatory impact analysis requirements of the Order. We are making these changes to implement Pub. L. 96–483, the October 21, 1980 amendments to the Clean Water Act, to reduce the complexity of the regulation, and to implement the Municipal Wastewater Treatment Construction Grant Amendments of 1981 (Pub. L. 97–117). I have determined this regulation is not a major regulation as it will not have a substantial impact on the nation's economy or large numbers of individuals or businesses. Thus it is not subject to the impact analysis requirements of Executive Order 12291.

Information collection requirements contained in this regulation have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 et seq. and have been assigned OMB control number 2040–0027. (See Appendix C.)

Under the Regulatory Flexibility Act (5 U.S.C. 601) I hereby certify that this regulation will not have a significant impact on a substantial number of small entities. This rule is designed to reduce regulation burdens to a minimum. The revisions made clarify and simplify the regulation, and reduce project costs.

List of Subjects in 40 CFR Part 35

Air pollution control, Grant programs—environmental protection, Indians, Pesticides and pests, Reporting and recordkeeping requirements, Waste treatment and disposal, Water pollution control.

This regulation was submitted to the Office of Management and Budget for review as required by Executive Order 12291.

Dated: February 3, 1984.

William D. Ruckelshaus,

Administrator.

For the reasons outlined in the preamble, 40 CFR Part 35 is amended by revising Subpart I, to read as follows:

PART 35—STATE AND LOCAL ASSISTANCE

* * * * *

Subpart I—Grants for Construction of Treatment Works

Sec.

35.2000 Purpose and policy.
35.2005 Definitions.
35.2010 Allotment; reallotment.
35.2015 State priority system and project priority list.
35.2020 Reserves.
35.2021 Reallotment of reserves.
35.2023 Water quality management planning.
35.2024 Combined sewer overflows.
35.2025 Allowance and advance of allowance.
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35.2042 Review of grant applications.
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35.2100 Limitations on award.
35.2101 Advanced treatment.
35.2102 Water quality management plans.
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35.2108 Phased or segmented treatment works.
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35.2110 Access to individual systems.
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35.2118 Preaward costs.
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35.2122 Approval of user charge system and proposed sewer use ordinance.
35.2123 Reserve capacity.
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35.2140 User charge system.
35.2152 Federal share.
35.2200 Grant conditions.
35.2202 Step 2+3 projects.
35.2204 Project changes.
35.2206 Operation and maintenance.
35.2208 Adoption of sewer use ordinance and user charge system.
35.2210 Land acquisition.
35.2211 Field testing for Innovative and Alternative Technology Report.
35.2212 Project initiation.
35.2214 Grantee responsibilities.
35.2216 Notice of building completion and final inspection.
35.2218 Project performance.
35.2250 Determination of allowable costs.
35.2260 Advance purchase of eligible land.
35.2262 Funding of field testing.
35.2300 Grant payments.
35.2350 Subagreement enforcement.
Appendix A—Determination of allowable costs.
Appendix B—Allowance for facilities planning and design.

Subpart I—Grants for Construction of Treatment Works

Authority: Secs. 101(e), 109(b), 201 through 205, 207, 208(d), 210 through 212, 215 through 217, 304(d)(3), 313, 501, 502, 511 and 516(b) of the Clean Water Act, as amended, 33 U.S.C 1251 et seq.

§ 35.2000 Purpose and policy.

(a) The primary purpose of Federal grant assistance available under this subpart is to assist municipalities in meeting enforceable requirements of the Clean Water Act, particularly, applicable National Pollutant Discharge Elimination System (NPDES) permit requirements.

(b) This subpart supplements EPA's Uniform Relocation and Real Property Acquisition Policies Act regulation (Part 4 of this chapter), its National Environmental Policy Act (NEPA) regulation (Part 6 of this chapter), its public participation regulation (Part 25 of this chapter), its intergovernmental review regulation (Part 29 of this chapter), its general grant regulation (Part 30 of this subchapter), its debarment regulation (Part 32 of this subchapter), and its procurement under assistance regulation (Part 33 of this subchapter), and establishes requirements for Federal grant assistance for the building of wastewater treatment works. EPA may also find it necessary to publish other requirements applicable to the construction grants program in response

to Congressional action and executive orders.

(c) EPA's policy is to delegate administration of the construction grants program on individual projects to State agencies to the maximum extent possible (see Subpart F). Throughout this subpart we have used the term Regional Administrator. To the extent that the Regional Administrator delegates review of projects for compliance with the requirements of this subpart to a State agency under a delegation agreement (§ 35.1030), the term Regional Administrator may be read State agency. This paragraph does not affect the rights of citizens, applicants or grantees provided in Subpart F.

(d) In accordance with the Federal Grant and Cooperative Agreement Act (Pub. L. 95–224) EPA will, when substantial Federal involvement is anticipated, award assistance under cooperative agreements. Throughout this subpart we have used the terms grant and grantee but those terms may be read cooperative agreement and recipient if appropriate.

(e) From time to time EPA publishes technical and guidance materials on various topics relevant to the construction grants program. Grantees may find this information useful in meeting requirements in this subpart. These publications, including the MCD and FRD series, may be ordered from: EPA, 401 M St. SW, Room 1115 ET, WH 547, Washington, DC 20460. In order to expedite processing of requests, persons wishing to obtain these publications should request a copy of EPA form 7500–21 (the order form listing all available publications), from EPA Headquarters, Municipal Construction Division (WH–547) or from any EPA Regional Office.

§ 35.2005 Definitions.

(a) Words and terms not defined below shall have the meaning given to them in 40 CFR Parts 30 and 33.

(b) As used in this subpart, the following words and terms mean:

(1) *Act.* The Clean Water Act (33 U.S.C. 1251 et seq., as amended).

(2) *Ad valorem tax.* A tax based upon the value of real property.

(3) *Allowance.* An amount based on a percentage of the project's allowable building cost, computed in accordance with Appendix B.

(4) *Alternative technology.* Proven wastewater treatment processes and techniques which provide for the reclaiming and reuse of water, productively recycle wastewater constituents or otherwise eliminate the discharge of pollutants, or recover energy. Specifically, alternative technology includes land application of effluent and sludge; aquifer recharge; aquaculture; direct reuse (non-potable); horticulture; revegetation of disturbed land; containment ponds; sludge composting and drying prior to land application; self-sustaining incineration; methane recovery; individual and onsite systems; and small diameter pressure and vacuum sewers and small diameter gravity sewers carrying partially or fully treated wastewater.

(5) *Alternative to conventional treatment works for a small community.* For purposes of §§ 35.2020 and 35.2032 a treatment works in a small community using innovative or alternative technology.

(6) *Architectural or engineering services.* Consultation, investigations, reports, or services for design-type projects within the scope of the practice of architecture or professional engineering as defined by the laws of the State or territory in which the grantee is located.

(7) *Best Practicable Waste Treatment Technology (BPWTT).* The cost-effective technology that can treat wastewater, combined sewer overflows and nonexcessive infiltration and inflow in publicly owned or individual wastewater treatment works, to meet the applicable provisions of:

(i) 40 CFR Part 133—secondary treatment of wastewater;

(ii) 40 CFR Part 125, Subpart G—marine discharge waivers;

(iii) 40 CFR 122.44(d)—more stringent water quality standards and State standards; or

(iv) 41 FR 6190 (February 11, 1976)—Alternative Waste Management Techniques for Best Practicable Waste Treatment (treatment and discharge, land application techniques and utilization practices, and reuse).

(8) *Building.* The erection, acquisition, alteration, remodeling, improvement or extension of treatment works.

(9) *Building completion.* The date when all but minor components of a project have been built, all equipment is operational and the project is capable of functioning as designed.

(10) *Collector sewer.* The common lateral sewers, within a publicly owned treatment system, which are primarily installed to receive wastewaters directly from facilities which convey wastewater from individual systems, or from private property, and which include service "Y" connections designed for connection with those facilities including:

(i) Crossover sewers connecting more than one property on one side of a major street, road, or highway to a lateral sewer on the other side when more cost effective than parallel sewers; and

(ii) Except as provided in (b)(10)(iii) of this section, pumping units and pressurized lines serving individual structures or groups of structures when such units are cost effective and are owned and maintained by the grantee.

(iii) This definition excludes other facilities which convey wastewater from individual structures, from private property to the public lateral sewer, or its equivalent and also excludes facilities associated with alternatives to conventional treatment works in small communities.

(11) *Combined sewer.* A sewer that is designed as a sanitary sewer and a storm sewer.

(12) *Complete waste treatment system.* A complete waste treatment system consists of all the treatment works necessary to meet the requirements of title III of the Act, involving: (i) The transport of wastewater from individual homes or buildings to a plant or facility where treatment of the wastewater is accomplished; (ii) the treatment of the wastewater to remove pollutants; and (iii) the ultimate disposal, including recycling or reuse, of the treated wastewater and residues which result from the treatment process.

(13) *Construction.* Any one or more of the following: Preliminary planning to determine the feasibility of treatment works, engineering, architectural, legal, fiscal, or economic investigations or studies, surveys, designs, plans, working drawings, specifications, procedures, field testing of innovative or alternative wastewater treatment processes and techniques (excluding operation and maintenance) meeting guidelines promulgated under section 304(d)(3) of the Act, or other necessary actions, erection, building, acquisition, alteration, remodeling, improvement, or extension of treatment works, or the inspection or supervision of any of the foregoing items.

(14) *Conventional technology.* Wastewater treatment processes and techniques involving the treatment of wastewater at a centralized treatment plant by means of biological or physical/chemical unit processes followed by direct point source discharge to surface waters.

(15) *Enforceable requirements of the Act.* Those conditions or limitations of section 402 or 404 permits which, if violated, could result in the issuance of a compliance order or initiation of a civil or criminal action under section 309 of the Act or applicable State laws. If a permit has not been issued, the term shall include any requirement which, in the Regional Administrator's judgment,

would be included in the permit when issued. Where no permit applies, the term shall include any requirement which the Regional Administrator determines is necessary for the best practicable waste treatment technology to meet applicable criteria.

(16) *Excessive infiltration/inflow.* The quantities of infiltration/inflow which can be economically eliminated from a sewer system as determined in a cost-effectiveness analysis that compares the costs for correcting the infiltration/inflow conditions to the total costs for transportation and treatment of the infiltration/inflow. (See §§ 35.2005(b)(28), (b)(29) and 35.2120).

(17) *Field testing.* Practical and generally small-scale testing of innovative or alternative technologies directed to verifying performance and/or refining design parameters not sufficiently tested to resolve technical uncertainties which prevent the funding of a promising improvement in innovative or alternative treatment technology.

(18) *Individual systems.* Privately owned alternative wastewater treatment works (including dual waterless/gray water systems) serving one or more principal residences, or small commercial establishments. Normally these are onsite systems with localized treatment and disposal of wastewater, but may be systems utilizing small diameter gravity, pressure or vacuum sewers conveying treated or partially treated wastewater. These systems can also include small diameter gravity sewers carrying raw wastewater to cluster systems.

(19) *Industrial user.* Any nongovernmental, nonresidential user of a publicly owned treatment works which is identified in the Standard Industrial Classification Manual, 1972, Office of Management and Budget, as amended and supplemented, under one of the following divisions:

Division A. Agriculture, Forestry, and Fishing
Division B. Mining
Division D. Manufacturing
Division E. Transportation, Communications, Electric, Gas, and Sanitary Services
Division I. Services

(20) *Infiltration.* Water other than wastewater that enters a sewer system (including sewer service connections and foundation drains) from the ground through such means as defective pipes, pipe joints, connections, or manholes. Infiltration does not include, and is distinguished from, inflow.

(21) *Inflow.* Water other than wastewater that enters a sewer system (including sewer service connections) from sources such as, but not limited to, roof leaders, cellar drains, yard drains, area drains, drains from springs and swampy areas, manhole covers, cross connections between storm sewers and sanitary sewers, catch basins, cooling towers, storm waters, surface runoff, street wash waters, or drainage. Inflow does not include, and is distinguished from, infiltration.

(22) *Initiation of operation.* The date specified by the grantee on which use of the project begins for the purposes that it was planned, designed, and built.

(23) *Innovative technology.* Developed wastewater treatment processes and techniques which have not been fully proven under the circumstances of their contemplated use and which represent a significant advancement over the state of the art in terms of significant reduction in life cycle cost or significant environmental benefits through the reclaiming and reuse of water, otherwise eliminating the discharge of pollutants, utilizing recycling techniques such as land treatment, more efficient use of energy and resources, improved or new methods of waste treatment management for combined municipal and industrial systems, or the confined disposal of pollutants so that they will not migrate to cause water or other environmental pollution.

(24) *Interceptor sewer.* A sewer which is designed for one or more of the following purposes:

(i) To intercept wastewater from a final point in a collector sewer and convey such wastes directly to a treatment facility or another interceptor.

(ii) To replace an existing wastewater treatment facility and transport the wastes to an adjoining collector sewer or interceptor sewer for conveyance to a treatment plant.

(iii) To transport wastewater from one or more municipal collector sewers to another municipality or to a regional plant for treatment.

(iv) To intercept an existing major discharge of raw or inadequately treated wastewater for transport directly to another interceptor or to a treatment plant.

(25) *Interstate agency.* An agency of two or more States established under an agreement or compact approved by the Congress, or any other agency of two or more States, having substantial powers or duties pertaining to the control of water pollution.

(26) *Marine bays and estuaries.* Semi-enclosed coastal waters which have a free connection to the territorial sea.

(27) *Municipality.* A city, town, borough, county, parish, district, association, or other public body (including an intermunicipal agency of two or more of the foregoing entities) created under State law, or an Indian tribe or an authorized Indian tribal organization, having jurisdiction over disposal of sewage, industrial wastes, or other waste, or a designated and approved management agency under section 208 of the Act.

(i) This definition includes a special district created under State law such as a water district, sewer district, sanitary district, utility district, drainage district or similar entity or an integrated waste management facility, as defined in section 201(e) of the Act, which has as one of its principal responsibilities the treatment, transport, or disposal of domestic wastewater in a particular geographic area.

(ii) This definition excludes the following:

(A) Any revenue producing entity which has as its principal responsibility an activity other than providing wastewater treatment services to the general public, such as an airport, turnpike, port facility or other municipal utility.

(B) Any special district (such as school district or a park district) which has the responsibility to provide wastewater treatment services in support of its principal activity at specific facilities, unless the special district has the responsibility under State law to provide wastewater treatment services to the community surrounding the special district's facility and no other municipality, with concurrent jurisdiction to serve the community, serves or intends to serve the special district's facility or the surrounding community.

(28) *Nonexcessive infiltration.* The quantity of flow which is less than 120 gallons per capita per day (domestic base flow and infiltration) or the quantity of infiltration which cannot be economically and effectively eliminated from a sewer system as determined in a cost-effectiveness analysis. (See §§ 35.2005(b)(16) and 35.2120.)

(29) *Nonexcessive inflow.* The rainfall induced peak inflow rate which does not result in chronic operational problems related to hydraulic overloading of the treatment works during storm events. These problems may include surcharging, backups, bypasses, and overflows. (See §§ 35.2005(b)(16) and 35.2120.)

(30) *Operation and Maintenance.* Activities required to assure the dependable and economical function of treatment works.

(i) *Maintenance:* Preservation of functional integrity and efficiency of equipment and structures. This includes

preventive maintenance, corrective maintenance and replacement of equipment (See § 35.2005(b)(36)) as needed.)

(ii) *Operation:* Control of the unit processes and equipment which make up the treatment works. This includes financial and personnel management; records, laboratory control, process control, safety and emergency operation planning.

(31) *Principal residence.* For the purposes of § 35.2034, the habitation of a family or household for at least 51 percent of the year. Second homes, vacation or recreation residences are not included in this definition.

(32) *Project.* The activities or tasks the Regional Administrator identifies in the grant agreement for which the grantee may expend, obligate or commit funds.

(33) *Project performance standards.* The performance and operations requirements applicable to a project including the enforceable requirements of the Act and the specifications, including the quantity of excessive infiltration and inflow proposed to be eliminated, which the project is planned and designed to meet.

(34) *Priority water quality areas.* For the purposes of § 35.2015, specific stream segments or bodies of water, as determined by the State, where municipal discharges have resulted in the impairment of a designated use or significant public health risks, and where the reduction of pollution from such discharges will substantially restore surface or groundwater uses.

(35) *Project schedule.* A timetable specifying the dates of key project events including public notices of proposed procurement actions, subagreement awards, issuance of notice to proceed with building, key milestones in the building schedule, completion of building, initiation of operation and certification of the project.

(36) *Replacement.* Obtaining and installing equipment, accessories, or appurtenances which are necessary during the design or useful life, whichever is longer, of the treatment works to maintain the capacity and performance for which such works were designed and constructed.

(37) *Sanitary sewer.* A conduit intended to carry liquid and water-carried wastes from residences, commercial buildings, industrial plants and institutions together with minor quantities of ground, storm and surface waters that are not admitted intentionally.

(38) *Services.* A contractor's labor, time or efforts which do not involve the delivery of a specific end item, other than documents (e.g., reports, design drawings, specifications). This term does not include employment agreements or collective bargaining agreements.

(39) *Small commercial establishments.* For purposes of § 35.2034 private establishments such as restaurants, hotels, stores, filling stations, or recreational facilities and private, nonprofit entities such as churches, schools, hospitals, or charitable organizations with dry weather wastewater flows less than 25,000 gallons per day.

(40) *Small community.* For purposes of §§ 35.2020(b) and 35.2032, any municipality with a population of 3,500 or less, or highly dispersed sections of large municipalities, as determined by the Regional Administrator.

(41) *State.* A State, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Marianas. For the purposes of applying for a grant under section 201(g)(1) of the act, a State (including its agencies) is subject to the limitations on revenue producing entities and special districts contained in § 35.2005(b)(27)(ii).

(42) *State agency.* The State agency designated by the Governor having responsibility for administration of the construction grants program under section 205(g) of the Act.

(43) *Step 1.* Facilities planning.

(44) *Step 2.* Preparation of design drawings and specifications.

(45) *Step 3.* Building of a treatment works and related services and supplies.

(46) *Step 2+3.* Design and building of a treatment works and building related services and supplies.

(47) *Storm sewer.* A sewer designed to carry only storm waters, surface run-off, street wash waters, and drainage.

(48) *Treatment works.* Any devices and systems for the storage, treatment, recycling, and reclamation of municipal sewage, domestic sewage, or liquid industrial wastes used to implement section 201 of the Act, or necessary to recycle or reuse water at the most economical cost over the design life of the works. These include intercepting sewers, outfall sewers, sewage collection systems, individual systems, pumping, power, and other equipment and their appurtenances; extensions, improvement, remodeling, additions, and alterations thereof; elements essential to provide a reliable recycled supply such as standby treatment units and clear well facilities; and any works, including acquisition of the land that will be an integral part of the treatment process or is used for ultimate disposal of residues resulting from such treatment (including land for composting sludge, temporary storage of such compost and land used for the storage of treated wastewater in land treatment systems before land application); or any other method or system for preventing, abating, reducing, storing, treating, separating, or disposing of municipal waste or industrial waste, including waste in combined storm water and sanitary sewer systems.

(49) *Treatment works phase or segment.* A treatment works phase or segment may be any substantial portion of a facility and its interceptors described in a facilities plan under § 35.2030, which can be identified as a subagreement or discrete subitem. Multiple subagreements under a project shall not be considered to be segments or phases. Completion of building of a treatment works phase or segment may, but need not in and of itself, result in an operable treatment works.

(50) *Useful life.* The period during which a treatment works operates. (Not "design life" which is the period during which a treatment works is planned and designed to be operated.)

(51) *User charge.* A charge levied on users of a treatment works, or that portion of the ad valorem taxes paid by a user, for the user's proportionate share of the cost of operation and maintenance (including replacement) of such works under sections 204(b)(1)(A) and 201(h)(2) of the Act and this subpart.

(52) *Value engineering.* A specialized cost control technique which uses a systematic and creative approach to identify and to focus on unnecessarily high cost in a project in order to arrive at a cost saving without sacrificing the reliability or efficiency of the project.

§ 35.2010 Allotment; reallotment.

(a) Allotments are made on a formula or other basis which Congress specifies for each fiscal year (FY). The allotment for each State and the availability period shall be announced each fiscal year in the **Federal Register**. This section applies only to funds allotted under section 205 of the Act.

(b) Unless otherwise provided by Congress, all sums allotted to a State under section 205 of the Act shall remain available for obligation until the end of one year after the close of the fiscal year for which the sums were appropriated. Except as provided in § 35.2020)(a), sums not obligated at the end of that period shall be subject to reallotment on the basis of the same ratio as applicable to the then-current

fiscal year, but none of the funds reallotted shall be made available to any State which failed to obligate any of the fiscal year funds being reallotted. Any sum made available to a State by reallotment under this section shall be in addition to any funds otherwise allotted to such State for grants under this subpart during any fiscal year and the reallotted funds shall remain available for obligation until the last day of the fiscal year following the fiscal year in which the reallotted funds are issued by the Comptroller to the Regional Administrator.

(c) Except for funds appropriated for FY 72 and fiscal years prior to 1972, sums which are deobligated and reissued by the Comptroller to the Regional Administrator before their reallotment date shall be available for obligation in the same State and treated in the same manner as the allotment from which such funds were derived.

(d) Except for funds appropriated for FY 72 and fiscal years prior to 1972, deobligated sums which are reissued by the Comptroller to the Regional Administrator after their reallotment date shall be available for obligation in the same State until the last day of the fiscal year following the fiscal year in which the reissuance occurs.

(e) Deobligated FY 72 and prior to 1972 fiscal year funds, except 1964, 1965 and 1966 funds, will be credited to the allowances of the same Region from which such funds are recovered, and the Regional Administrator may determine how these recoveries are credited to the States within the Region.

§ 35.2015 State priority system and project priority list.

(a) *General.* The Regional Administrator will award grant assistance from annual allotments to projects on a State project priority list developed in accordance with an approved State priority system. The State priority system and list must be designed to achieve optimum water quality management consistent with the goals and requirements of the Act. All projects for building treatment works to be funded by EPA must be included on a State project list, except training facilities funded under section 109(b) of the Act and marine CSO projects funded under section 201(n)(2) of the Act.

(b) *State priority system.* The State priority system describes the methodology used to rank projects that are considered eligible for assistance. The priority system should give high priority to projects in priority water quality areas. The priority system may also include the administrative, management, and public participation procedures required to develop and revise the State project priority list. The priority system includes at least the following elements:

(1) *Criteria.* (i) The priority system shall include at least the following criteria for ranking projects:

(A) The impairment of classified water uses resulting from existing municipal pollutant discharges; and

(B) The extent of surface or ground water use restoration or public health improvement resulting from the reduction in pollution.

(ii) The State may also include other criteria in its priority system for ranking projects, such as the use of innovative or alternative technology, the need to complete a waste treatment system for which a grant for a phase or segment was previously awarded; and the category of need and the existing population affected.

(iii) In ranking phased and segmented projects States must comply with § 35.2108.

(2) *Categories of need.* All projects must fit into at least one of the categories of need described in this paragraph to be eligible for funding, except as provided in paragraphs (b)(2)(iii) and (b)(2)(iv) of this section. States will have sole authority to determine the priority for each category of need.

(i) Before October 1, 1984, these categories of need shall include at least the following:

(A) Secondary treatment (category I);

(B) Treatment more stringent than secondary (category II);

(C) Infiltration/inflow correction (category IIIA);

(D) Major sewer system rehabilitation (category IIIB);

(E) New collector sewers and appurtenances (category IVA);

(F) New interceptors and appurtenances (category IVB);

(G) Correction of combined sewer overflows (category V).

(ii) After September 30, 1984, except as provided in paragraphs (b)(2)(iii) and (b)(2)(iv) of this section, these categories of need shall include only the following:

(A) Secondary treatment or any cost-effective alternative;

(B) Treatment more stringent than secondary or any cost-effective alternative;

(C) New interceptors and appurtenances; and

(D) Infiltration/inflow correction.

(iii) After September 30, 1984, up to 20 percent (as determined by the Governor) of a State's annual allotment may be used for categories of need other than those listed in paragraph (b)(2)(ii) of this section.

(iv) After September 30, 1984, the Governor may include in the priority system a category for projects needed to correct combined sewer overflows which result in impaired uses in priority water quality areas. Only projects which comply with the requirements of § 35.2024(a) may be included in this category.

(c) *Project priority list.* The State's annual project priority list is an ordered listing of projects for which the State expects Federal financial assistance. The priority list contains two portions: the fundable portion, consisting of those projects anticipated to be funded from funds available for obligation; and the planning portion, consisting of projects anticipated to be funded from future authorized allotments.

(1) The State shall develop the project priority list consistent with the criteria established in the approved priority system. In ranking projects, the State must also consider total funds available, needs and priorities set forth in areawide water quality management plans, and any other factors contained in the State priority system.

(2) The list shall include an estimate of the eligible cost of each project.

(d) *Public participation.* (1) In addition to any requirements in 40 CFR Part 25, the State shall hold public hearings as follows:

(i) Before submitting its priority system to the Regional Administrator for approval and before adopting any significant change to an approved priority system; and

(ii) Before submitting its annual project priority list to the Regional Administrator for acceptance and before revising its priority list unless the State agency and the Regional Administrator determine that the revision is not significant.

(iii) If the approved State priority system contains procedures for bypassing projects on the fundable portion of the priority list, such bypasses will not be significant revisions for purposes of this section.

(2) Public hearings may be conducted as directed in the State's continuing planning process document or may be held in conjunction with any regular public meeting of the State agency.

(e) *Regional Administrator review.* The State must submit its priority system, project priority list and revisions of the priority system or priority list to the Regional Administrator for review. The State must also submit each year, by August 31, a new priority list for use in the next fiscal year.

(1) After submission and approval of the initial priority system and submission and acceptance of the project priority lists under paragraph (c) of this section, the State may revise its priority system and list as necessary.

(2) The regional Administrator shall review the State priority system and any revisions to insure that they are designed to obtain compliance with the criteria established in accordance with paragraphs (b) and (d) of this section and the enforceable requirements of the Act as defined in § 35.2005(b)(15). The Regional Administrator shall complete review of the priority system within 30 days of receipt of the system from the State and will notify the State in writing of approval or disapproval of the priority system, stating any reasons for disapproval.

(3) The Regional Administrator will review the project priority list and any revisions to insure compliance with the State's approved priority system and the requirements of paragraph (c) of this section. The Regional Administrator will complete review of the project priority list within 30 days of receipt from the State and will notify the State in writing of acceptance or rejection, stating the reasons for the rejection. Any project which is not contained on an accepted current priority list will not receive funding.

(f) *Compliance with the enforceable requirements of the Act.* (1) Except as limited under paragraph (f)(2) of this section, the Regional Administrator, after a public hearing, shall require the removal of a specific project or portion thereof from the State project priority list if the Regional Administrator determines it will not contribute to compliance with the enforceable requirements of the Act.

(2) The Regional Administrator shall not require removal of projects in categories under paragraphs (b)(2)(i)(D) through (b)(2)(i)(G) of this section which do not meet the enforceable requirements of the Act unless the total Federal share of such projects would exceed 25 percent of the State's annual allotment.

§ 35.2020 Reserves.

In developing its priority list the State shall establish the reserves required or authorized under this section. The amount of each mandatory reserve shall be based on the allotment to each State from the annual appropriation under § 35.2010. The State may also establish other reserves which it determines appropriate.

(a) *Reserve for State management assistance grants.* Each State may request that the Regional Administrator reserve, from the State's annual allotment, up to 4 percent of the State's allotment based on the amount authorized to be appropriated, or $400,000, whichever is greater, for State management assistance grants under Subpart F of this part. Grants may be made from these funds to cover the costs of administering activities delegated or scheduled to be delegated to a State. Funds reserved for this purpose that are obligated by the end of the allotment period will be added to the amounts last allotted to a State. These funds shall be immediately available for obligation to projects in the same manner and to the same extent as the last allotment.

(b) *Reserve for alternative systems for small communities.* Each State with 25 percent or more rural population (as determined by population estimates of the Bureau of Census) shall reserve 4 percent of the State's annual allotment for alternatives to conventional treatment works for small communities. The Governor of any non-rural State may reserve up to 4 percent of that State's allotment for the same purpose.

(c) Reserve for innovative and alternative technologies. Each State shall reserve not less than 4 percent nor more than 7½ percent from its annual allotment to increase the Federal share of grant awards under § 35.2032 for projects which use innovative or alternative wastewater treatment processes and techniques. Of this amount not less than one-half of one percent of the State's allotment shall be set aside to increase the Federal share for projects using innovative processes and techniques.

(d) *Reserve for water quality management.* Each State shall reserve not less than $100,000 nor more than 1 percent from its annual allotments, to carry out water quality management planning under § 35.2023, except that in the case of Guam, the Virgin Islands, American Samoa, the Trust Territory of the Pacific Islands and the Commonwealth of the Northern Marianas, a reasonable amount shall be reserved for this purpose.

(e) *Reserve for Advances of Allowance.* Each State shall reserve a reasonable portion of its annual allotment not to exceed 10 percent for advances of allowance under § 35.2025. The Regional Administrator may waive this reserve requirement where a State can demonstrate that such a reserve is not necessary because no new facilities planning or design work requiring an advance and resulting in Step 3 grant awards is expected to begin during the period of availability of the annual allotment.

§ 35.2021 Reallotment of reserves.

(a) Mandatory portions of reserves under § 35.2020(b) through (e) shall be reallotted if not obligated during the allotment period. The State management assistance reserve under § 35.2020(a) is not subject to reallotment.

(b) States may request the Regional Administrator to release funds in optional reserves or optional portions of required reserves under § 35.2020(b) through (e) for funding projects at any time before the reallotment date. If these optional reserves are not obligated or released and obligated for other purposes before the reallotment date, they shall be subject to reallotment under § 35.2010(b).

(c) Sums deobligated from the mandatory portion of reserves under paragraphs (b) through (e) of § 35.2020 which are reissued by the Comptroller to the Regional Administrator before the initial reallotment date for those funds shall be returned to the same reserve. (See § 35.2010.)

§ 35.2023 Water quality management planning.

(a) From funds reserved under § 35.2020(d) the Regional Administrator shall make grants to the States to carry out water quality management planning including but not limited to:

(1) Identifying the most cost-effective and locally acceptable facility and non-point measures to meet and maintain water quality standards;

(2) Developing an implementation plan to obtain State and local financial and regulatory commitments to implement measures developed under paragraph (a)(1);

(3) Determining the nature, extent and causes of water quality problems in various areas of the State and interstate region, and reporting on these annually; and

(4) Determining which publicly owned treatment works should be constructed, in which areas and in what sequence, taking into account the relative degree of effluent reduction attained, the relative contributions to water quality of other point or nonpoint sources, and the consideration of alternatives to such construction, and implementing section 303(e) of the Act.

(b) In carrying out planning with grants made under paragraph (a), a State shall develop jointly with local, regional and interstate entities, a plan for carrying out the program and give funding priority to such entities and designated or undesignated public comprehensive planning organizations to carry out the purposes of this section.

§ 35.2024 Combined sewer overflows.

(a) *Grant assistance from State allotment.* As provided in § 35.2015(b)(2)(iv), after September 30, 1984, upon request from a State, the Administrator may award a grant under section 201(n)(1) of the Act from the State allotment for correction of combined sewer overflows provided that the project is on the project priority list, it addresses impaired uses in priority water quality areas which are due to the impacts of the combined sewer overflows and otherwise meets the requirements of this subpart. The State must demonstrate to the Administrator that the water quality goals of the Act will not be achieved without correcting the combined sewer overflows. The demonstration shall as a minimum prove that significant usage of the water for fishing and swimming will not be possible without the proposed project, and that the project will result in substantial restoration of an existing impaired use.

(b) *Separate fund for combined sewer overflows in marine waters.* (1) After September 30, 1982, the Administrator may award grants under section 201(n)(2) of the Act for addressing impaired uses or public health risks in priority water quality areas in marine bays and estuaries due to the impacts of combined sewer overflows. The Administrator may award such grants provided that the water quality benefits of the proposed project have been demonstrated by the State. The demonstration shall as a minimum prove that significant usage of the water for shellfishing and swimming will not be possible without the proposed project for correction of combined sewer overflows, and the proposed project will result in substantial restoration of an existing impaired use.

(2) The Administrator shall establish priorities for projects with demonstrated water quality benefits based upon the following criteria:

(i) Extent of water use benefits that would result, including swimming and shellfishing;

(ii) Relationship of water quality improvements to project costs; and

(iii) National and regional significance.

(3) If the project is a phase or segment of the proposed treatment works described in the facilities plan, the criteria in paragraph (b)(2) of this section must be applied to the treatment works described in the facilities plan and each segment proposed for funding.

(4) All requirements of this Subpart apply to grants awarded under section 201(n)(2) of the Act except §§ 35.2010, 35.2015, 35.2020, 35.2021, 35.2025(b), 35.2042, 35.2103, 35.2109, and 35.2202.

§ 35.2025 Allowance and advance of allowance.

(a) *Allowance.* Step 2+3 and Step 3 grant agreements will include an allowance for facilities planning and design of the project to be determined in accordance with Appendix B of this subpart.

(b) *Advance of allowance to potential grant applicants.* (1) After application by the State (see § 35.2040(d)), the Regional Administrator will award a grant to the State in the amount of the reserve under § 35.2020(e) to advance allowances to potential grant applicants for facilities planning and project design.

(2) The State may request that the right to receive payments under the grant be assigned to specified potential grant applicants.

(3) The State may provide advances of allowance only to small communities, as defined by the State, which would otherwise be unable to complete an application for a grant under § 35.2040 in the judgment of the State.

(4) The advance shall not exceed the Federal share of the estimate of the allowance for such costs which a grantee would receive under paragraph (a) of this section.

(5) In the event a Step 2+3 or Step 3 grant is not awarded to a recipient of an advance, the State may seek repayment of the advance on such terms and conditions as it may determine. When a State recovers such advances they shall be added to its most recent grant for advances of allowance.

§ 35.2030 Facilities planning.

(a) *General.* (1) Facilities planning consists of those necessary plans and studies which directly relate to treatment works needed to comply with enforceable requirements of the Act. Facilities planning will investigate the need for proposed facilities. Through a systematic evaluation of alternatives that are feasible in light of the unique demographic, topographic, hydrologic and institutional characteristics of the area, it will demonstrate that, except for innovative and alternative technology under § 35.2032, the selected alternative is cost effective (i.e., is the most economical means of meeting the applicable effluent, water quality and public health requirements over the design life of the facility while recognizing environmental and other non-monetary considerations). For sewered communities with a population of 10,000 or less, consideration must be given to appropriate low cost technologies such as facultative ponds, trickling filters, oxidation ditches, or overland-flow land treatment; and for unsewered portions of communities of 10,000 or less, consideration must be given to onsite systems. The facilities plan will also demonstrate that the selected alternative is implementable from legal, institutional, financial and management standpoints.

(2) Grant assistance may be awarded before certification of the completed facilities plan if:

(i) The Regional Administrator determines that applicable statutory and regulatory requirements (including Part 6) have been met; that the facilities planning related to the project has been substantially completed; and that the project for which grant assistance is awarded will not be significantly affected by the completion of the facilities plan and will be a component part of the complete waste treatment system; and

(ii) The applicant agrees to complete the facilities plan on a schedule the State accepts and such schedule is inserted as a special condition of the grant agreement.

(b) *Facilities plan contents.* A completed facilities plan must include:

(1) A description of both the proposed treatment works, and the complete waste treatment system of which it is a part.

(2) A description of the Best Practicable Wastewater Treatment Technology. (See § 35.2005(b)(7).)

(3) A cost-effectiveness analysis of the feasible conventional, innovative and alternative wastewater treatment works, processes and techniques capable of meeting the applicable effluent, water quality and public health requirements over the design life of the facility while recognizing environmental and other non-monetary considerations. The planning period for the cost-effectiveness analysis shall be 20 years. The monetary costs to be considered must include the present worth or equivalent annual value of all capital costs and operation and maintenance costs. The discount rate established by EPA for the construction grants program shall be used in the cost-effectiveness analysis. The population forecasting in the analysis shall be consistent with the current Needs Survey. A cost-effectiveness analysis must include:

(i) An evaluation of alternative flow reduction methods. (If the grant applicant demonstrates that the existing average daily base flow (ADBF) from the area is less than 70 gallons per capita per day (gpcd), or if the Regional Administrator determines the area has

an effective existing flow reduction program, additional flow reduction evaluation is not required.)

(ii) A description of the relationship between the capacity of alternatives and the needs to be served, including capacity for future growth expected after the treatment works become operational. This includes letters of intent from significant industrial users and all industries intending to increase their flows or relocate in the area documenting capacity needs and characteristics for existing or projected flows;

(iii) An evaluation of improved effluent quality attainable by upgrading the operation and maintenance and efficiency of existing facilities as an alternative or supplement to construction of new facilities;

(iv) An evaluation of the alternative methods for the reuse or ultimate disposal of treated wastewater and sludge material resulting from the treatment process;

(v) A consideration of systems with revenue generating applications;

(vi) An evaluation of opportunities to reduce use of, or recover energy;

(vii) Cost information on total capital costs, and annual operation and maintenance costs, as well as estimated annual or monthly costs to residential and industrial users.

(4) A demonstration of the non-existence or possible existence of excessive infiltration/inflow in the sewer system. See § 35.2120.

(5) An analysis of the potential open space and recreation opportunities associated with the project.

(6) An adequate evaluation of the environmental impacts of alternatives under Part 6 of this chapter.

(7) An evaluation of the water supply implications of the project.

(8) For the selected alternative, a concise description at an appropriate level of detail, of at least the following:

(i) Relevant design parameters;

(ii) Estimated capital construction and operation and maintenance costs, (identifying the Federal, State and local shares), and a description of the manner in which local costs will be financed;

(iii) Estimated cost of future expansion and long-term needs for reconstruction of facilities following their design life;

(iv) Cost impacts on wastewater system users; and

(v) Institutional and management arrangements necessary for successful implementation.

(c) *Submission and review of facilities plan.* Each facilities plan must be submitted to the State for review. EPA recommends that potential grant applicants confer with State reviewers early in the facilities planning process. In addition, a potential grant applicant may request in writing from the State and EPA an early determination under Part 6 of this chapter of the appropriateness of a categorical exclusion from NEPA requirements, the scope of the environmental information document or the early preparation of an environmental impact statement.

§ 35.2032 Innovative and alternative technologies.

(a) *Funding for innovative and alternative technologies.* Projects or portions of projects using unit processes or techniques which the Regional Administrator determines to be innovative or alternative technology shall receive increased grants under § 35.2152.

(1) Only funds from the reserve in § 35.2020(c) shall be used to increase these grants.

(2) If the project is an alternative to conventional treatment works for a small community, funds from the reserve in § 35.2020(b) may be used for the 75 percent portion, or any lower Federal share of the grant as determined under § 35.2152.

(b) *Cost-effectiveness preference.* The Regional Administrator may award grant assistance for a treatment works or portion of a treatment works using innovative or alternative technologies if the total present worth cost of the treatment works for which the grant is to be made does not exceed the total present worth cost of the most cost-effective alternative by more than 15 percent.

(1) Privately-owned individual systems (§ 35.2034) are not eligible for this preference.

(2) If the present worth costs of the innovative or alternative unit processes are 50 percent or less of the present worth cost of the treatment works, the cost-effectiveness preference applies only to the innovative or alternative components.

(c) *Modification or replacement of innovative and alternative projects.* The Regional Administrator may award grant assistance to fund 100 percent of the allowable costs of the modification or replacement of any project funded with increased grant funding in accordance with paragraph (a) of this section if he determines that:

(1) The innovative or alternative elements of the project have caused the project or significant elements of the complete waste treatment system of which the project is a part to fail to meet project performance standards;

(2) The failure has significantly increased operation and maintenance expenditures for the project or the complete waste treatment system of which the project is a part; or requires significant additional captial expenditures for corrective action;

(3) The failure has occurred prior to two years after initiation of operation of the project; and

(4) The failure is not attributable to negligence on the part of any person.

§ 35.2034 Privately owned individual systems.

(a) An eligible applicant may apply for a grant to build privately owned treatment works serving one or more principal residences or small commercial establishments.

(b) In addition to those applicable limitations set forth in § 35.2100 through § 35.2127 the grant applicant shall:

(1) Demonstrate that the total cost and environmental impact of building the individual system will be less than the cost of a conventional system;

(2) Certify that the principal residence or small commercial establishment was constructed before December 27, 1977, and inhabited or in use on or before that date;

(3) Apply on behalf of a number of individual units to be served in the facilities planning area;

(4) Certify that public ownership of such works is not feasible and list the reasons; and

(5) Certify that such treatment works will be properly operated and maintained and will comply with all other requirements of section 204 of the Act.

§ 35.2040 Grant application.

Applicants for Step 2+3 or Step 3 assistance shall submit applications to the State. In addition to the information required in Parts 30 and 33 of this subchapter, applicants shall provide the following information:

(a) *Step 2+3: Combined design and building of a treatment works and building related services and supplies.* An application (EPA form 5700–32) for Step 2+3 grant assistance shall include:

(1) A facilities plan prepared in accordance with Subpart E or I as appropriate;

(2) Certification from the State that there has been adequate public participation based on State and local statutes;

(3) Notification of any advance received under § 35.2025(b); and

(4) Evidence of compliance with all applicable limitations on award (§§ 35.2100 through 35.2127).

(b) *Step 3: Building of a treatment works and related services and supplies.* An application (EPA form 5700–32) for Step 3 grant assistance shall include:

(1) A facilities plan prepared in accordance with Subpart E or I as appropriate;

(2) Certification from the State that there has been adequate public participation based on State and local statutes;

(3) Notification of any advance received under § 35.2025(b);

(4) Evidence of compliance with all applicable limitations on award (§§ 35.2100 through 35.2127);

(5) Final design drawings and specifications;

(6) The project schedule; and

(7) In the case of an application for Step 3 assistance that is solely for the acquisition of eligible real property, a plat which shows the legal description of the property to be acquired, a preliminary layout of the distribution and drainage systems, and an explanation of the intended method of acquiring the real property (see 40 CFR Part 4).

(c) *Training facility project.* An application (EPA form 5700–32) for a grant for construction and support of a training facility, facilities or training programs under section 109(b) of the Act shall include:

(1) A written commitment from the State agency to carry out at such facility a program of training; and

(2) If a facility is to be built, an engineering report including facility design data and cost estimates for design and building.

(d) *Advances of allowance.* State applications for advances of allowance to small communities shall be on EPA form 5700–31, Application for Federal Assistance (short form). The application shall include:

(1) A list of communities that received an advance of allowance and the amount received by each under the previous State grant; and

(2) The basis for the amount requested.

(e) *Field Testing of Innovative and Alternative Technology.* An application (EPA Form 5700–32) for field testing of I/A projects shall include a field testing plan containing:

(1) Identification; including size, of all principal components to be tested;

(2) Location of testing facilities in relationship to full scale design;

(3) Identification of critical design parameters and performance variables that are to be verified as the basis for I/A determinations;

(4) Schedule for construction of field testing facilities and duration of proposed testing;

(5) Capital and O&M cost estimate of field testing facilities with documentation of cost effectiveness of field testing approach; and

(6) Design drawing, process flow diagram, equipment specification and related engineering data and information sufficient to describe the overall design and proposed performance of the field testing facility.

(f) *Marine CSO Project.* An application (EPA Form 5700–32) for marine CSO grant assistance under § 35.2024(b) shall include:

(1) All information required under paragraphs (b)(1), (b)(2), (b)(4), (b)(6), and (b)(7), of this section;

(2) Final design drawings and specifications or a commitment to provide them by a date set by the Regional Administrator; and

(3) The water quality benefits demonstration required under § 35.2024(b)(1).

(Approved by the Office of Management and Budget under control number 2040–0027)

§ 35.2042 Review of grant applications.

(a) All States shall review grant applications to ensure that they are complete. When the State determines the proposed project is entitled to priority it shall forward the State priority certification and, except where application review is delegated, the complete application to the regional Administrator for review.

(b)(1) All States delegated authority to manage the construction grants program under section 205(g) of the Act and Subpart F of this part shall furnish a written certification to the Regional Administrator, on a project-by-project basis, stating that the applicable Federal requirements within the scope of authority delegated to the State under the delegation agreement have been met. The certification must be supported by documentation specified in the delegation agreement which will be made available to the Regional Administrator upon request. The Regional Administrator shall accept the certification unless he determines the State has failed to establish adequate grounds for the certification or that an applicable requirement has not been met.

(2)(i) When EPA receives a certification covering all delegable preaward requirements, the Regional Administrator shall approve or disapprove the grant within 45 calendar days of receipt of the certification. The Regional Administrator shall state in writing the reasons for any disapproval, and he shall have an additional 45 days to review any subsequent revised submissions. If the Regional Administrator fails to approve or disapprove the grant within 45 days of receipt of the application, the grant shall be deemed approved and the Regional Adminstrator shall issue the grant agreement.

(ii) Grant increase requests are subject to the 45 day provision of this section if the State has been delegated authority over the subject matter of the request.

(c) Applications for assistance for training facilities funded under section 109(b) and for State advances of allowance under section 201(l)(1) of the Act and § 35.2025 will be reviewed in accordance with Part 30 of this subchapter.

(Approved by the Office of Management and Budget under control number 2040–0027)

§ 35.2050 Effect of approval or certification of documents.

Review or approval of facilities plans, design drawings and specifications or other documents by or for EPA is for administrative purposes only and does not relieve the grantee of its responsibility to properly plan, design, build and effectively operate and maintain the treatment works described in the grant agreement as required under law, regulations, permits, and good management practices. EPA is not responsible for increased costs resulting from defects in the plans, design drawings and specifications or other subagreement documents.

§ 35.2100 Limitations on award.

Before awarding grant assistance for any project the Regional Administrator shall approve the facilities plan and final design drawings and specifications, and determine that the applicant and the applicant's project have met all of the applicable requirements of § 35.2040 and §§ 35.2100 through 35.2127 except as provided in § 35.2202 for Step 2+3 projects.

§ 35.2101 Advanced treatment.

Projects proposing advanced treatment shall be awarded grant assistance only after the project has been reviewed under EPA's advanced treatment review policy. This review must be completed before submission of any application. EPA recommends that potential grant applicants obtain this review before initiation of design.

§ 35.2102 Water quality management plans.

The project shall be consistent with the approved elements of any applicable

water quality management (WQM) plan approved under section 208 or section 303(e) of the Act; and the applicant shall be the wastewater management agency designated in that WQM plan.

§ 35.2103 Priority determination.

The project shall be entitled to priority in accordance with § 35.2015, and the award of grant assistance for the project shall not jeopardize the funding of any project of higher priority under the approved priority system.

§ 35.2104 Funding and other considerations.

The applicant shall:

(a) Agree to pay the non-Federal project costs;

(b) Demonstrate the legal, institutional, managerial, and financial capability to ensure adequate building and operation and maintenance of the treatment works throughout the applicant's jurisdiction including the ability to comply with Part 30 of this subchapter. This demonstration must include: an explanation of the roles and responsibilities of the local governments involved; how construction and operation and maintenance of the facilities will be financed; a current estimate of the cost of the facilities; and a calculation of the annual costs per household. It must also include a written certification signed by the applicant that the applicant has analyzed the costs and financial impacts of the proposed facilities, and that it has the capability to finance and manage their building and operation and maintenance in accordance with this regulation;

(c) Certify that it has not violated any Federal, State or local law pertaining to fraud, bribery, graft, kickbacks, collusion, conflict of interest or other unlawful or corrupt practice relating to or in connection with facilities planning or design work on a wastewater treatment works project.

(d) Indicate the level of participation for minority and women's business enterprises during facilities planning and design of the project.

(Approved by the Office of Management and Budget under control number 2040–0027)

§ 35.2105 Debarment and suspension.

The applicant shall indicate whether it used the services of any individual, organization, or unit of government for facilities planning or design work whose name appears on the master list of debarments, suspensions, and voluntary exclusions. See 40 CFR 32.400. If the applicant indicates it has used the services of a debarred individual or firm, EPA will closely examine the facilities plan, design drawings and specifications to determine whether to award a grant. EPA will also determine whether the applicant should be found non-responsible under Part 30 of this subchapter or be the subject of possible debarment or suspension under Part 32 of this subchapter.

§ 35.2106 Plan of operation.

The applicant shall submit a draft plan of operation that addresses development of: An operation and maintenance manual; an emergency operating program; personnel training; an adequate budget consistent with the user charge system approved under § 35.2140; operational reports; laboratory testing needs; and an operation and maintenance program for the complete waste treatment system.

§ 35.2107 Intermunicipal service agreements.

If the project will serve two or more municipalities, the applicant shall submit the executed intermunicipal agreements, contracts or other legally binding instruments necessary for the financing, building and operation of the proposed treatment works. At a minimum they must include the basis upon which costs are allocated, the formula by which costs are allocated, and the manner in which the cost allocation system will be administered. The Regional Administrator may waive this requirement provided the applicant can demonstrate:

(a) That such an agreement is already in place; or

(b) Evidence of historic service relationships for water supply, wastewater or other services between the affected communities regardless of the existence of formal agreements, and

(c) That the financial strength of the supplier agency is adequate to continue the project, even if one of the proposed customer agencies fails to participate.

(Approved by the Office of Management and Budget under control number 2040–0027)

§ 35.2108 Phased or segmented treatment works.

Grant funding may be awarded for a phase or segment of a treatment works, subject to the limitations of § 35.2123, although that phase or segment does not result in compliance with the enforceable requirements of the Act, provided:

(a) The great agreement requires the recipient to make the treatment works of which the phase or segment is a part operational and comply with the enforceable requirements of the Act according to a schedule specified in the grant agreement regardless of whether grant funding is available for the remaining phases and segments; and

(b) Except in the case of a grant solely for the acquisition of eligible real property, one or more of the following conditions exist:

(1) The Federal share of the cost of building the treatment works would require a disproportionate share of the State's annual allotment relative to other needs or would require a major portion of the State's annual allotment;

(2) The period to complete the building of the treatment works will cover three years or more; or

(3) The treatment works must be phased or segmented to meet the requirements of a Federal or State court order.

§ 35.2109 Step 2+3.

The Regional Administrator may award a Step 2+3 grant which will provide the Federal share of an allowance under Appendix B and the estimated allowable cost of the project only if:

(a) The population of the applicant municipality is 25,000 or less according to the most recent U.S. Census;

(b) The total Step 3 building cost is estimated to be $8 million or less; and

(c) The project is not for a treatment works phase or segment.

§ 35.2110 Access to individual systems.

Applicants for privately owned individual systems shall provide assurance of access to the systems at all reasonable times for such purposes as inspection, monitoring, building, operation, rehabilitation and replacement.

§ 35.2111 Revised water quality standards.

After December 29, 1984, no grant assistance can be awarded in a State for stream segments which have not had their water quality standards reviewed and revised, as appropriate, or new standards adopted under section 303(c) of the Act, unless the State has in good faith submitted such water quality standards and the Regional Administrator has failed to act on them within 120 days of receipt.

§ 35.2112 Marine discharge waiver applicants.

If the applicant is also an applicant for a secondary treatment requirement waiver under section 301(h) of the Act, a plan must be submitted which contains a modified scope of work, a schedule for completion of the less-than-secondary facility and an estimate of costs providing for building the proposed less-than-secondary facilities, including

provisions for possible future additions of treatment processes or techniques to meet secondary treatment requirements.

§ 35.2113 Environmental review.

(a) The environmental review required by Part 6 of this Chapter must be completed before submission of any application. The potential applicant should work with the State and EPA as early as possible in the facilities planning process to determine if the project qualifies for a categorical exclusion from Part 6 requirements, or whether a finding of no significant impact or an environmental impact statement is required.

(b) In conjunction with the facilities planning process as described in § 35.2030(c), a potential applicant may request, in writing, that EPA make a formal determination under Part 6 of this chapter.

§ 35.2114 Value engineering.

(a) If the project has not received Step 2 grant assistance the applicant shall conduct value engineering if the total estimated cost of building the treatment works is more than $10 million.

(b) The value engineering recommendations shall be implemented to the maximum extent feasible.

(Approved by the Office of Management and Budget under control number 2040-0027)

§ 35.2116 Collection system.

Except as provided in § 35.2032(c), if the project involves collection system work, such work:

(a) Shall be for the replacement or major rehabilitation of an existing collection system which was not build with Federal funds awarded on or after October 18, 1972, and shall be necessary to the integrity and performance of the complete waste treatment system; or

(b) Shall be for a new cost-effective collection system in a community in existence on October 18, 1972, which has sufficient existing or planned capacity to adequately treat such collected wastewater and where the bulk (generally two-thirds) of the expected flow (flow from existing plus future residential users) will be from the resident population on October 18, 1972. The expected flow will be subject to the limitations for interceptors contained in § 35.2123. If assistance is awarded, the grantee shall provide assurances that the existing population will connect to the collection system within a reasonable time after project completion.

§ 35.2118 Preaward costs.

(a) EPA will not award grant assistance for Step 2+3 and Step 3 work performed before award of grant assistance for that project, except:

(1) In emergencies or instances where delay could result in significant cost increases, the Regional Administrator may approve preliminary Step 3 work (such as procurement of major equipment requiring long lead times, field testing of innovative and alternative technologies, minor sewer rehabilitation, acquisition of eligible land, or of an option for the purchase of eligible land or advance building of minor portions of treatment works), after completion of the environmental review as required by § 35.2113.

(2) If the Regional Administrator approves preliminary Step 3 work, such approval is not an actual or implied commitment of grant assistance and the applicant proceeds at its own risk.

(b) Any procurement is subject to the requirements of 40 CFR Part 33, and in the case of acquisition of eligible real property, 40 CFR Part 4.

(Approved by the Office of Management and Budget under control number 2040-0027)

§ 35.2120 Infiltration/inflow.

(a) *General.* The applicant shall demonstrate to the Regional Administrator's satisfaction that each sewer system discharging into the proposed treatment works project is not or will not be subject to excessive infiltration/inflow. For combined sewers, inflow is not considered excessive in any event.

(b) *Inflow.* If the rainfall induced peak inflow rate results or will result in chronic operational problems during storm events, the applicant shall perform a study of the sewer system to determine the quantity of excessive inflow and to propose a rehabilitation program to eliminate the excessive inflow. All cases in which facilities are planned for the specific storage and/or treatment of inflow shall be subject to a cost-effectiveness analysis.

(c) *Infiltration.* (1) If the flow rate at the existing treatment facility is 120 gallons per capita per day or less during periods of high groundwater, the applicant shall build the project including sufficient capacity to transport and treat any existing infiltration. However, if the applicant believes any specific portion of its sewer system is subject to excessive infiltration, the applicant may confirm its belief in a cost-effectiveness analysis and propose a sewer rehabilitation program to eliminate that specific excessive infiltration.

(2) If the flow rate at the existing treatment facility is more than 120 gallons per capita per day during periods of high groundwater, the applicant shall either:

(i) Perform a study of the sewer system to determine the quantity of excessive infiltration and to propose a sewer rehabilitation program to eliminate the excessive infiltration; or

(ii) If the flow rate is not significantly more than 120 gallons per capita per day, request the Regional Administrator to determine that he may proceed without further study, in which case the allowable project cost will be limited to the cost of a project with a capacity of 120 gallons per capita per day under Appendix A.G.2.a.

(Approved by the Office of Management and Budget under control number 2040-0027)

§ 35.2122 Approval of user charge system and proposed sewer use ordinance.

If the project is for Step 3 grant assistance, unless it is solely for acquisition of eligible land, the applicant must obtain the Regional Administrator's approval of its user charge system (§ 35.2140) and proposed (or existing) sewer use ordinance § 35.2130). If the applicant has a sewer use ordinance or user charge system in affect, the applicant shall demonstrate to the Regional Administrator's satisfaction that they meet the requirements of this Part and are being enforced.

(Approved by the Office of Management and Budget under control number 2040-0027)

§ 35.2123 Reserve capacity.

EPA will limit grant assistance for reserve capacity as follows:

(a) If EPA awarded a grant for a Step 3 interceptor segment before December 29, 1981, EPA may award grants for remaining interceptor segments included in the facilities plan with reserve capacity as planned, up to 40 years.

(b) Except as provided in paragraph (a) of this section, if EPA awards a grant for a Step 3 or Step 3 segment of a primary, secondary, or advanced treatment facility or its interceptors included in the facilities plan before October 1, 1984, the grant for that Step 3 or Step 3 segment, and any remaining segments, may include 20 years reserve capacity.

(c) Except as provided in paragraph (b) of this section, after September 30, 1984, no grant shall be made to provide reserve capacity for a project for secondary treatment or more stringent treatment or new interceptors and appurtenances. Grants for such projects shall be based on capacity necessary to serve existing needs (including existing needs of residential, commercial, industrial, and other users) as

determined on the date of the approval of the Step 3 grant. Grant assistance awarded after September 30, 1990 shall be limited to the needs existing on September 30, 1990.

(d) For any application with capacity in excess of that provided by this section:

(1) All incremental costs shall be paid by the applicant. Incremental costs include all costs which would not have been incurred but for the additional excess capacity, i.e., any cost in addition to the most cost-effective alternative with eligible reserve capacity described under paragraphs (a) and (b) of this section.

(2) It must be determined that the actual treatment works to be built meets the requirements of the National Environmental Policy Act and all applicable laws and regulations.

(3) The Regional Administrator shall approve the plans, specifications and estimates for the actual treatment works.

(4) The grantee shall assure the Regional Administrator satisfactorily that it has assessed the costs and financial impacts of the actual treatment works and has the capability to finance and manage their construction and operation.

(5) The grantee must implement a user charge system which applies to the entire service area of the grantee.

(6) The grantee shall execute appropriate grant conditions or releases protecting the Federal Government from any claim for any of the costs of construction due to the additional capacity.

§ 35.2125 Treatment of wastewater from industrial users.

(a) Grant assistance shall not be provided for a project unless the project is included in a complete waste treatment system and the principal purpose of both the project and the system is for the treatment of domestic wastewater of the entire community, area, region or district concerned.

(b) Allowable project costs do not include:

(1) Costs of interceptor or collector sewers constructed exclusively, or almost exclusively, to serve industrial users; or

(2) Costs for control or removal of pollutants in wastewater introduced into the treatment works by industrial users, unless the applicant is required to remove such pollutants introduced from nonindustrial users.

§ 35.2127 Federal facilities.

Grant assistance shall not be provided for costs to transport or treat wastewater produced by a facility that is owned and operated by the Federal government which contributes more than 250,000 gallons per day or five percent of the design flow of the complete waste treatment system, whichever is less.

(Approved by the Office of Management and Budget under control number 2040–0027)

§ 35.2130 Sewer use ordinance.

The sewer use ordinance (see also §§ 35.2122 and 35.2208) or other legally binding document shall prohibit any new connections from inflow sources into the treatment works and require that new sewers and connections to the treatment works are properly designed and constructed. The ordinance or other legally binding document shall also require that all wastewater introduced into the treatment works not contain toxics or other pollutants in amounts or concentrations that endanger public safety and physical integrity of the treatment works; cause violation of effluent or water quality limitations; or preclude the selection of the most cost-effective alternative for wastewater treatment and sludge disposal.

(Approved by the Office of Management and Budget under control number 2040–0027)

§ 35.2140 User charge system.

The user charge system (see §§ 35.2122 and 35.2208) must be designed to produce adequate revenues required for operation and maintenance (including replacement). It shall provide that each user which discharges pollutants that cause an increase in the cost of managing the effluent or sludge from the treatment works shall pay for such increased cost. The user charge system shall be based on either actual use under paragraph (a) of this section, ad valorem taxes under paragraph (b) of this section, or a combination of the two.

(a) *User charge system based on actual use.* A grantee's user charge system based on actual use (or estimated use) of wastewater treatment services shall provide that each user (or user class) pays its proportionate share of operation and maintenance (including replacement) costs of treatment works within the grantee's service area, based on the user's proportionate contribution to the total wastewater loading from all users (or user classes).

(b) *User charge system based on ad valorem taxes.* A grantee's user charge system which is based on ad valorem taxes may be approved if:

(1) On December 27, 1977, the grantee had in existence a system of dedicated ad valorem taxes which collected revenues to pay the cost of operation and maintenance of wastewater treatment works within the grantee's service area and the grantee has continued to use that system;

(2) The ad valorem user charge system distributes the operation and maintenance (including replacement) costs for all treatment works in the grantee's jurisdiction to the residential and small non-residential user class (including at the grantee's option nonresidential, commercial and industrial users that introduce no more than the equivalent of 25,000 gallons per day of domestic sanitary wastes to the treatment works), in proportion to the use of the treatment works by this class; and

(3) Each member of the industrial user and commercial user class which discharges more than 25,000 gallons per day of sanitary waste pays its share of the costs of operation and maintenance (including replacement) of the treatment works based upon charges for actual use.

(c) *Notification.* Each user charge system must provide that each user be notified, at least annually, in conjunction with a regular bill (or other means acceptable to the Regional Administrator), of the rate and that portion of the user charges or ad valorem taxes which are attributable to wastewater treatment services.

(d) *Financial management system.* Each user charge system must include an adequate financial management system that will accurately account for revenues generated by the system and expenditures for operation and maintenance (including replacement) of the treatment system, based on an adequate budget identifying the basis for determining the annual operation and maintenance costs and the costs of personnel, material, energy and administration.

(e) *Charges for operation and maintenance for extraneous flows.* The user charge system shall provide that the costs of operation and maintenance for all flow not directly attributable to users (i.e., infiltration/inflow) be distributed among all users based upon either of the following:

(1) In the same manner that it distributes the costs for their actual use, or

(2) Under a system which uses one or any combination of the following factors on a reasonable basis:

(i) Flow volume of the users;

(ii) Land area of the users;

(iii) Number of hookups or discharges of the users;

(iv) Property valuation of the users, if the grantee has an approved user charge system based on ad valorem taxes.

(f) After completion of building a project, revenue from the project (e.g., sale of a treatment-related by-product; lease of the land; or sale of crops grown on the land purchased under the grant agreement) shall be used to offset the costs of operation and maintenance. The grantee shall proportionately reduce all user charges.

(g) *Adoption of system.* One or more municipal legislative enactments or other appropriate authority must incorporate the user charge system. If the project accepts wastewater from other municipalities, the subscribers receiving waste treatment services from the grantee shall adopt user charge systems in accordance with this section. These user charge systems shall also be incorporated in appropriate municipal legislative enactments or other appropriate authority of all municipalities contributing wastes to the treatment works.

(h) *Inconsistent agreements.* The user charge system shall take precedence over any terms or conditions of agreements or contracts which are inconsistent with the requirements of section 204(b)(1)(A) of the Act and this section.

(Approved by the Office of Management and Budget under control number 2040–0027)

§ 35.2152 Federal share.

(a) *General.* The Federal share for each project shall be based on the sum of the total Step 3 allowable costs and the allowance established in the grant agreement under Appendix B. Except as provided elsewhere in this section, the Federal share shall be:

(1) 75 percent for grant assistance awarded before October 1, 1984;

(2) 55 percent for grant assistance awarded after September 30, 1984, except as provided in paragraph (a)(3) of this section; and

(3) Subject to paragraph (c) of this section, 75 percent for grant assistance awarded after September 30, 1984, for sequential phases or segments of a primary, secondary, or advanced treatment facility or its interceptors, or infiltration/inflow correction provided:

(i) The treatment works being phased or segmented is described in a facilities plan approved by the Regional Administrator before October 1, 1984;

(ii) The Step 3 grant for the initial phase or segment of the treatment works described in (a)(3)(i) of this section is awarded prior to October 1, 1984; and

(iii) The phase or segment that receives 75 percent funding is necessary to (A) make a phase or segment previously funded by EPA operational and comply with the enforceable requirements of the Act, or (B) complete the treatment works referenced in (a)(3)(i) of this section provided that all phases or segments previously funded by EPA are operational and comply with the enforceable requirements of the Act.

(b) *Innovative and alternative technology.* In accordance with § 35.2032, the Federal share for eligible treatment works or unit processes and techniques that the Regional Administrator determines meet the definition of innovative or alternative technology shall be 20 percent greater than the Federal share under paragraph (a) or (c) of this section, but in no event shall the total Federal share be greater than 85 percent. This increased Federal share depends on the availability of funds from the reserve under § 35.2020. The proportional State contribution to the non-Federal share of building costs for I/A projects must be the same as or greater than the proportional State contribution (if any) to the non-Federal share of eligible building costs for all treatment works which receive 75 or 55 percent grants or such other Federal share under paragraph (c) of this section in the State.

(c) *Uniform lower Federal share.* (1) Except as provided in § 35.2032 (c) and (d) of this section, the Governor of a State may request the Regional Administrator's approval to revise uniformly throughout the State the Federal share of grant assistance for all future projects. The revised Federal share must apply to all needs categories (see § 35.2015(b)(2)).

(2) After EPA awards grant assistance for a project, the Federal share shall be the same for any grant increase that is within the scope of the project.

(d) *Training Facilities.* The Federal share of treatment works required to train and upgrade waste treatment works operations and maintenance personnel may be up to 100 percent of the allowable cost of the project.

(1) Where a grant is made to serve two or more States, the Administrator is authorized to make an additional grant for a supplemental facility in each State. The Federal funds awarded to any State under section 109(b) for all training facilities shall not exceed $500,000.

(2) Any grantee who received a grant under section 109(b) before December 27, 1977, may have the grant increased up to $500,000 by funds made available under the Act, not to exceed 100 percent of the allowable costs.

(Approved by the Office of Management and Budget under control number 2040–0027)

§ 35.2200 Grant conditions.

In addition to the EPA General Grant Conditions (Part 30 of this subchapter), each treatment works grant shall be subject to the conditions under §§ 35.2202 through 35.2218.

§ 35.2202 Step 2+3 projects.

(a) Prior to initiating action to acquire eligible real property, a Step 2+3 grantee shall submit for Regional Administrator review and written approval the information required under § 35.2040(b)(7).

(b) Before initiating procurement action for the building of the project, a Step 2+3 grantee shall submit for the Regional Administrator's review and written approval the information required under §§ 35.2040 (b)(5) and (b)(6), 35.2106, 35.2107, 35.2130 and 35.2140.

§ 35.2204 Project changes.

(a) Minor changes in the project work that are consistent with the objectives of the project and within the scope of the grant agreement do not require the execution of a formal grant amendment before the grantee's implementation of the change. However, the amount of the funding provided by the grant agreement may only be increased by a formal grant amendment.

(b) The grantee must receive from the Regional Administrator a formal grant amendment before implementing changes which:

(1) Alter the project performance standards;

(2) Alter the type of wastewater treatment provided by the project;

(3) Significantly delay or accelerate the project schedule;

(4) Substantially alter the facilities plan, design drawings and specifications, or the location, size, capacity, or quality of any major part of the project; or

(5) Otherwise require a formal grant amendment under Part 30 of this subchapter.

§ 35.2206 Operation and maintenance.

(a) The grantee must assure economical and effective operation and maintenance (including replacement) of the treatment works.

(b) Except as provided in paragraphs (c)(1) and (c)(2) of this section, the Regional Administrator shall not pay more than 50 percent of the Federal share of any project unless the grantee has furnished and the Regional Administrator has approved the final plan of operation required by § 35.2106, and shall not pay more than 90 percent of the Federal share of any project unless the grantee has furnished and the Regional Administrator has approved an operation and maintenance manual.

(c)(1) In projects where segmenting of a proposed treatment works has occurred, the Regional Administrator shall not pay more than 90 percent of the Federal share of the total allowable costs of the proposed treatment works until the grantee has furnished and the Regional Administrator has approved an operation and maintenance manual.

(2) In projects where a component is placed in operation before completion of the entire project, the Regional Administrator shall not make any additional payment on that project until a final operation and maintenance manual for the operating component is furnished and approved.

(Approved by the Office of Management and Budget under control number 2040–0027)

§ 35.2208 Adoption of sewer use ordinance and user charge system.

The grantee shall adopt its sewer use ordinance and implement its user charge system developed under §§ 35.2130 and 35.2140 before the treatment works is placed in operation. Further, the grantee shall implement the user charge system and sewer use ordinance for the useful life of the treatment works.

§ 35.2210 Land acquisition.

The grantee shall not acquire real property determined allowable for grant assistance until the Regional Administrator has determined that applicable provisions of 40 CFR Part 4 have been met.

§ 35.2211 Field testing for innovative and alternative technology report.

The grantee shall submit a report containing the procedure, cost, results and conclusions of any field testing. The report shall be submitted to the Regional Administrator in accordance with a schedule to be specified in the grant agreement.

(Approved by the Office of Management and Budget under control number 2040–0027)

§ 35.2212 Project initiation.

(a) The grantee shall expeditiously initiate and complete the project, in accordance with the project schedule contained in the grant application and agreement. Failure to promptly initiate and complete a project may result in the imposition of sanctions under Part 30 of this subchapter.

(b) The grantee shall initiate procurement action for building the project promptly after award of a Step 3 grant or after receiving written approval of the information required under § 35.2202 under a Step 2+3 grant. Public notice of proposed procurement action should be made promptly after Step 3 award or final approvals for a Step 2+3 grant under § 35.2202. The grantee shall award the subagreement(s) and issue notice(s) to proceed, where required, for building all significant elements of the project within twelve months of the Step 3 award or final Step 2+3 approvals.

(c) Failure to promptly award all subagreement(s) for building the project will result in a limitation on allowable costs. (See Appendix A, A.2.e.).

(d) The grantee shall notify the Regional Administrator immediately upon award of the subagreement(s) for building all significant elements of the project (see 40 CFR 33.211).

(Approved by the Office of Management and Budget under control number 2040–0027)

§ 35.2214 Grantee responsibilities.

(a) The grantee shall complete the project in accordance with the grant agreement including: the facilities plan that establishes the need for the project; the design drawings and specifications; the plan of operation under § 35.2106 that identifies the basis to determine annual operating costs; the financial management system under § 35.2140(d) that adequately accounts for revenues and expenditures; the user charge system under § 35.2140 that will generate sufficient revenue to operate and maintain the treatment works; the project schedule; and all other applicable regulations. The grantee shall maintain and operate the project to meet project performance standards including the enforceable requirements of the Act for the design life.

(b) The grantee shall provide the architectural and engineering services and other services necessary to fulfill the obligation in paragraph (a) of this section.

§ 35.2216 Notice of building completion and final inspection.

The grantee shall notify the Regional Administrator when the building of the project is complete. Final inspection shall be made by the Regional Administrator after receipt of the notice of building completion.

(Approved by the Office of Management and Budget under control number 2040–0027)

§ 35.2218 Project performance.

(a) The grantee shall notify the Regional Administrator in writing of the actual date of initiation of operation.

(b) Subject to the provisions of 40 CFR Part 33, the grantee shall select the engineer or engineering firm principally responsible for either supervising construction or providing architectural and engineering services during construction as the prime engineer to provide the following services during the first year following the initiation of operation:

(1) Direct the operation of the project and revise the operation and maintenance manual as necessary to accommodate actual operating experience;

(2) Train or provide for training of operating personnel and prepare curricula and training material for operating personnel; and

(3) Advise the grantee whether the project is meeting the project performance standards.

(c) On the date one year after the initiation of operation of the project, the grantee shall certify to the Regional Administrator whether the project meets the project performance standards. If the Regional Administrator or the grantee concludes that the project does not meet the project performance standards, the grantee shall submit the following:

(1) A corrective action report which includes an analysis of the cause of the project's failure to meet the performance standards (including the quantity of infiltration/inflow proposed to be eliminated), and an estimate of the nature, scope and cost of the corrective action necessary to bring the project into compliance;

(2) The schedule for undertaking in a timely manner the corrective action necessary to bring the project into compliance; and

(3) The scheduled date for certifying to the Regional Administrator that the project is meeting the project performance standards.

(d) Except as provided in § 35.2032(c) the grantee shall take corrective action necessary to bring a project into compliance with the project performance standards at its own expense.

(e) Nothing in this section:

(1) Prohibits a grantee from requiring more assurances, guarantees, or indemnity or other contractual requirements from any party performing project work; or

(2) Affects EPA's right to take remedial action, including enforcement, against a grantee that fails to carry out its obligations under § 35.2214.

(Approved by the Office of Management and Budget under control number 2040–0027)

§ 35.2250 Determination of allowable costs.

The Regional Administrator will determine the allowable costs of the project based on applicable provisions of laws and regulations, the scope of the approved project, § 30.705 of this subchapter, and Appendix A of this subpart.

§ 35.2260 Advance purchase of eligible land.

In the case of grant assistance awarded solely for the acquisition of eligible land, the following provisions are deferred until the award of the ensuing Step 3 assistance for the building of facilities: §§ 35.2105, 35.2130, 35.2140, 35.2206 and 35.2208.

§ 35.2262 Funding of field testing.

In the case of grant assistance for field testing of innovative or alternative wastewater process and techniques, the following provisions are deferred until the award of assistance for building the approved facilities: §§ 35.2105, 35.2106, 35.2122, 35.2130, 35.2140, 35.2206, and 35.2208.

§ 35.2300 Grant payments.

Except as provided in § 35.2206, the Regional Administrator shall pay the Federal share of the allowance under § 35.2025 and the allowable project costs incurred to date and currently due and payable by the grantee, as certified in the grantee's most recent payment request.

(a) *Adjustment.* The Regional Administrator may at any time review and audit requests for payment and payments and make appropriate adjustments as provided in Part 30 of this subpart.

(b) *Refunds, rebates and credits.* The Federal share of any refunds, rebates, credits, or other amounts (including any interest) that accrue to or are received by the grantee for the project, and that are properly allocable to costs for which the grantee has been paid under a grant, must be credited to the current State allotment or paid to the United States. Examples include rebates for prompt payment and sales tax refunds. Reasonable expenses incurred by the grantee securing such refunds, rebates, credits, or other amounts shall be allowable under the grant when approved by the Regional Administrator.

(c) *Release.* By its acceptance of final payment, the grantee releases and discharges the United States, its officers, agents, and employees from all liabilities, obligations, and claims arising out of the project work or under the grant, subject only to exceptions previously specified in writing between the Regional Administrator and the grantee.

(d) *Payment of costs incurred under the Uniform Relocation Assistance and Real Property Acquisition Policies Act.* Notwithstanding the provisions of the introductory paragraph of this section, if the Regional Administrator determines it is necessary for the expeditious completion of a project, he may make advance payment after grant award for the Federal share of the eligible cost of any payment of relocation assistance under § 4.502(c) of this chapter by the grantee. The requirements in Part 30 of this subchapter apply to any advances of funds for assistance payments.

(e) *Payment under grants to States for advances of allowance*—(1) *Advance payment to State.* Notwithstanding the provisions of the introductory paragraph of this section, the Regional Administrator, under a State grant for advances of allowance (see § 35.2025), may make payments on an advance or letter-of-credit payment method in accordance with the requirements under Part 30 of this subchapter. The State and the Regional Administrator shall agree to the payment terms.

(2) *Assignment.* If the State chooses to assign its payments to a potential grant applicant, it shall execute an agreement with the potential grant applicant authorizing direct payment from EPA and establishing appropriate terms for payment. The State shall provide a copy of the agreement to EPA.

(Approved by the Office of Management and Budget under control number 2040–0027)

§ 35.2350 Subagreement enforcement.

(a) *Regional Administrator authority.* At the grantee's request the Regional Administrator may provide technical and legal assistance in the administration and enforcement of any subagreement related to treatment works for which an EPA grant was made and to intervene in any civil action involving the enforcement of such subagreements, including subagreement disputes which are the subject of either arbitration or court action.

(b) *Privity of subagreement.* The Regional Administrator's technical or legal involvement in any subagreement dispute will not make EPA a party to any subagreement entered into by the grantee.

(c) *Grantee responsibilities.* The provision of technical or legal assistance under this section in no way releases the grantee from its obligations under § 35.2214, or affects EPA's right to take remedial action, including enforcement, against a grantee that fails to carry out those obligations.

Appendix A—Determination of Allowable Costs

(a) *Purpose.* The information in this appendix represents Agency policies and procedures for determining the allowability of project costs based on the Clean Water Act, EPA policy, appropriate Federal cost principles under Part 30 of this subchapter and reasonableness.

(b) *Applicability.* This cost information applies to grant assistance awarded on or after the effective date of this regulation. Project cost determinations under this subpart are not limited to the items listed in this appendix. Additional cost determinations based on applicable law and regulations must of course be made on a project-by-project basis. Those cost items not previously included in program requirements are not mandatory for decisions under grants awarded before the effective date. They are only to be used as guidance in those cases.

A. Costs Related to Subagreements

1. Allowable costs related to subagreements include:

a. The costs of subagreements for building the project.

b. The costs of complying with the procurement requirements of Part 33 of this subchapter, other than the costs of self-certification under § 33.110.

c. The cost of legal and engineering services incurred by grantees in deciding procurement protests and defending their decisions in protest appeals under subpart G of 40 CFR Part 33.

d. The costs for establishing or using minority and women's business liaison services.

e. The costs of services incurred during the building of a project to ensure that it is built in conformance with the design drawings and specifications.

f. The costs (including legal, technical, and administrative costs) of assessing the merits of or negotiating the settlement of a claim by or against a grantee under a subagreement provided:

(1) The claim arises from work within the scope of the grant;

(2) A formal grant amendment is executed specifically covering the costs before they are incurred;

(3) The costs are not incurred to prepare documentation that should be prepared by the contractor to support a claim against the grantee; and

(4) The Regional Administrator determines that there is a significant Federal interest in the issues involved in the claim.

g. Change orders and the costs of meritorious contractor claims for increased costs under subagreements as follows:

(1) Change orders and the costs of meritorious contractor claims provided the costs are:

(i) Within the scope of the project;

(ii) Not caused by the grantee's mismanagement; and

(iii) Not caused by the grantee's vicarious liability for the improper actions of others.

(2) Provided the requirements of paragraph g(1) are met, the following are examples of allowable change orders and contractor claim costs:

(i) Building costs resulting from defects in the plans, design drawings and specifications, or other subagreement documents only to the extent that the costs would have been incurred if the subagreement documents on which the bids were based had been free of the defects, and excluding the costs of any rework, delay,

acceleration, or disruption caused by such defects;

(ii) Costs of equitable adjustments under Clause 4, Differing Site Conditions, of the model subagreement clauses required under § 33.1030 of this Subchapter.

(3) Settlements, arbitration awards, and court judgments which resolve contractor claims shall be reviewed by the grant award official and shall be allowable only to the extent that they meet the requirements of paragraph g(1), are reasonable, and do not attempt to pass on to EPA the cost of events that were the responsibility of the grantee, the contractor, or others.

h. The costs of the services of the prime engineer required by § 35.2218 during the first year following initiation of operation of the project.

i. The cost of development of a plan of operation including an operation and maintenance manual required by § 35.2106.

j. Start-up services for onsite training of operating personnel in operation and control of specific treatment processes, laboratory procedures, and maintenance and records management.

2. Unallowable costs related to subagreements include:

a. The costs of architectural or engineering services or other services incurred in preparing a facilities plan and the design drawings and specifications for a project.

b. Except as provided in 1.g. above, architectural or engineering services or other services necessary to correct defects in a facilities plan, design drawings and specifications, or other subagreement documents.

c. The costs (including legal, technical and administrative) of defending against a contractor claim for increased costs under a subagreement or of prosecuting a claim to enforce any subagreement unless:

(1) The claim arises from work within the scope of the grant;

(2) A formal grant amendment is executed specifically covering the costs before they are incurred;

(3) The claim cannot be settled without arbitration or litigation;

(4) The claim does not result from the grantee's mismanagement;

(5) The Regional Administrator determines that there is a significant Federal interest in the issues involved in the claim; and

(6) In the case of defending against a contractor claim, the claim does not result from the grantee's responsibility for the improper action of others.

d. Bonus payments, not legally required, for completion of building before a contractual completion date.

e. All incremental costs of delay due to the award of any subagreements for building more than 12 months after the Step 3 grant award or final Step 2+3 approvals.

B. Mitigation

1. Allowable costs include:

a. Costs necessary to mitigate only direct, adverse, physical impacts resulting from building of the treatment works.

b. The costs of site screening necessary to comply with NEPA related studies and facilities plans, or necessary to screen adjacent properties.

c. The cost of groundwater monitoring facilities necessary to determine the possibility of groundwater deterioration, depletion or modification resulting from building the project.

2. Unallowable costs include:

a. The costs of solutions to aesthetic problems, including design details which require expensive building techniques and architectural features and hardware, that are unreasonable or substantially higher in cost than approvable alternatives and that neither enhance the function or appearance of the treatment works nor reflect regional architectural tradition.

C. Privately or Publicly Owned Small and Onsite Systems

1. Allowable costs for small and onsite systems serving residences and small commercial establishments inhabited on or before December 27, 1977 include:

a. The cost of major rehabilitation, upgrading, enlarging and installing small and onsite systems, but in the case of privately owned systems, only for principal residences.

b. Conveyance pipes from property line to offsite treatment unit which serves a cluster of buildings.

c. Treatment and treatment residue disposal portions of toilets with composting tanks, oil flush mechanisms, or similar in-house devices.

d. Treatment or pumping units from the incoming flange when located on private property and conveyance pipes, if any, to the collector sewer.

e. The cost of restoring individual system building sites to their original condition.

2. Unallowable costs for small and onsite systems include:

a. Modification to physical structure of homes or commercial establishments.

b. Conveyance pipes from the house to the treatment unit located on user's property.

c. Wastewater generating fixtures such as commodes, sinks, tubs, and drains.

D. Real Property

1. Allowable costs for land and rights-of-way include:

a. The cost (including associated legal, administrative and engineering costs) of land acquired in fee simple or by lease or easement under grants awarded after October 17, 1972, that will be an integral part of the treatment process or that will be used for the ultimate disposal of residues resulting from such treatment provided the Regional Administrator approves it in the grant agreement. These costs include:

(1) The cost of a reasonable amount of land, considering irregularities in application patterns, and the need for buffer areas, berms, and dikes;

(2) The cost of land acquired for a soil absorption system for a group of two or more homes;

(3) The cost of land acquired for composting or temporary storage of compost residues which result from wastewater treatment;

(4) The cost of land acquired for storage of treated wastewater in land treatment systems before land application. The total land area for construction of a pond for both treatment and storage of wastewater is allowable if the volume necessary for storage is greater then the volume necessary for treatment. Otherwise, the allowable cost will be determined by the ratio of the storage volume to the total volume of the pond.

b. The cost of complying with the requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4621 et seq., 4651 et seq.), under Part 4 of this chapter.

c. The cost of contracting with another public agency or qualified private contractor for part or all of the required acquisition and/or relocation services.

d. The cost associated with the preparation of the treatment works site before, during and, to the extent agreed on in the grant agreement, after building. These costs include:

(1) The cost of demolition of existing structures on the treatment works site (including rights-of-way) if building cannot be undertaken without such demolition;

(2) The cost (considering such factors as betterment, cost of contracting and useful life) of removal, relocation or replacement of utilities, provided the grantee is legally obligated to pay under state or local law; and

(3) The cost of restoring streets and rights-of-way to their original condition. The need for such restoration must result directly from the construction and is generally limited to repaving the width of trench.

e. The cost of acquiring all or part of an existing publicly or privately owned wastewater treatment works provided all the following criteria are met:

(1) The acquisition, in and of itself, considered apart from any upgrade, expansion or rehabilitation, provides new pollution control benefits;

(2) The acquired treatment works was not built with previous Federal or State financial assistance;

(3) The primary purpose of the acquisition is *not* the reduction, elimination, or redistribution of public or private debt; and

(4) The acquisition does not circumvent the requirements of the Act, these regulations, or other Federal, State or local requirements.

2. Unallowable costs for land and rights-of-way include:

a. The costs of acquisition (including associated legal, administrative and engineering etc.) of sewer rights-of-way, waste treatment plant sites (including small system sites), sanitary landfill sites and sludge disposal areas except as provided in paragraph 1.a. of this section.

b. Any amount paid by the grantee for eligible land in excess of just compensation, based on the appraised value, the grantee's record of negotiation or any condemnation proceeding, as determined by the Regional Administrator.

c. Removal, relocation or replacement of utilities located on land by privilege, such as franchise.

E. Equipment, Materials and Supplies

1. Allowable costs of equipment, materials and supplies include:

a. The cost of a reasonable inventory of laboratory chemicals and supplies necessary

to initiate plant operations and laboratory items necessary to conduct tests required for plant operation.

b. The costs for purchase and/or transportation of biological seeding materials required for expeditiously initiating the treatment process operation.

c. Cost of shop equipment installed at the treatment works necessary to the operation of the works.

d. The costs of necessary safety equipment, provided the equipment meets applicable Federal, State, local or industry safety requirements.

e. A portion of the costs of collection system maintenance equipment. The portion of allowable costs shall be the total equipment cost less the cost attributable to the equipment's anticipated use on existing collection sewers not funded on the grant. This calculation shall be based on: (1) The portion of the total collection system paid for by the grant, (2) a demonstrable frequency of need, and (3) the need for the equipment to preclude the discharge or bypassing of untreated wastewater.

f. The cost of mobile equipment necessary for the operation of the overall wastewater treatment facility, transmission of wastewater or sludge, or for the maintenance of equipment. These items include:

(1) Portable stand-by generators;

(2) Large portable emergency pumps to provide "pump-around" capability in the event of pump station failure or pipeline breaks; and

(3) Sludge or septic tanks, trailers, and other vehicles having as their sole purpose the transportation of liquid or dewatered wastes from the collector point (including individual or on-site systems) to the treatment facility or disposal site.

g. Replacement parts identified and approved in advance by the Regional Administrator as necessary to assure uninterrupted operation of the facility, provided they are critical parts or major systems components which are:

(1) Not immediately available and/or whose procurement involves an extended "lead-time;"

(2) Identified as critical by the equipment supplier(s); or

(3) Critical but not included in the inventory provided by the equipment supplier(s).

2. Unallowable costs of equipment, materials and supplies include:

a. The costs of equipment or material procured in violation of the procurement requirements of 40 CFR Part 33.

b. The cost of furnishings including draperies, furniture and office equipment.

c. The cost of ordinary site and building maintenance equipment such as lawnmowers and snowblowers.

d. The cost of vehicles for the transportation of the grantees' employees.

e. Items of routine "programmed" maintenance such as ordinary piping, air filters, couplings, hose, bolts, etc.

F. Industrial and Federal Users

1. Except as provided in paragraph F.2.a., allowable costs for industrial and Federal facilities include development of a municipal pretreatment program approvable under Part 403 of this chapter, and purchase of monitoring equipment and construction of facilities to be used by the municipal treatment works in the pretreatment program.

2. Unallowable costs for industrial and Federal facilities include:

a. The cost of developing an approvable municipal pretreatment program when performed solely for the purpose of seeking an allowance for removal of pollutants under Part 403 of this chapter.

b. The cost of monitoring equipment used by industry for sampling and analysis of industrial discharges to municipal treatment works.

c. All incremental costs for sludge management incurred as a result of the grantee providing removal credits to industrial users under 40 CFR 403.7 beyond those sludge management costs that would otherwise be incurred in the absence of such removal credits.

G. Infiltration/Inflow

1. Allowable costs include:

a. The cost of treatment works capacity adequate to transport and treat nonexcessive infiltration/inflow under § 35.2120.

b. The costs of sewer system rehabilitation necessary to eliminate excessive infiltration/inflow as determined in a sewer system study under § 35.2120.

2. Unallowable costs include:

a. When the Regional Administrator determines that the flow rate is not significantly more than 120 gallons per capita per day under § 35.2120(c)(2)(ii), the incremental cost of treatment works capacity which is more than 120 gallons per capita per day.

H. Miscellaneous Costs

1. Allowable costs include:

a. The costs of salaries, benefits and expendable materials the grantee incurs for the project.

b. Unless otherwise specified in this regulation, the costs of meeting specific Federal statutory procedures.

c. Costs for necessary travel directly related to accomplishment of project objectives. Travel not directly related to a specific project, such as travel to professional meetings, symposia, technology transfer seminars, lectures, etc., may be recovered only under an indirect cost agreement.

d. The costs of additions to a treatment works that was assisted under the Federal Water Pollution Control Act of 1956 (Pub. L. 84–660), or its amendments, and that fails to meet its project performance standards provided:

(1) The project is identified on the State priority list as a project for additions to a treatment works that has received previous Federal funds;

(2) The grant application for the additions includes an analysis of why the treatment works cannot meet its project performance standards; and

(3) The additions could have been included in the original grant award and:

(a) Are the result of one of the following:

(i) a change in the project performance standards required by EPA or the State;

(ii) a written understanding between the Regional Administrator and grantee prior to or included in the original grant award;

(iii) a written direction by the Regional Administrator to delay building part of the treatment works; or

(iv) a major change in the treatment works' design criteria that the grantee cannot control; or

(b) Meet all the following conditions:

(i) if the original grant award was made after December 28, 1981, the treatment works has not completed its first full year of operation;

(ii) the additions are not caused by the grantee's mismanagement or the improper actions of others;

(iii) the costs of rework, delay, acceleration or disruption that are a result of building the additions are not included in the grant; and

(iv) the grant does not include an allowance for facilities planning or design of the additions.

(4) This provision applies to failures that occur either before or after the initiation of operation. This provision does not cover a treatment works that fails at the end of its design life.

e. Costs of royalties for the use of or rights in a patented process or product with the prior approval of the Regional Administrator.

f. Costs allocable to the water pollution control purpose of multiple purpose projects as determined by applying the Alternative Justifiable Expenditure (AJE) method described in the *CG* series. Multiple purpose projects that combine wastewater treatment with recreation do not need to use the AJE method, but can be funded at the level of the most cost-effective single-purpose alternative.

g. Costs of grantee employees attending training workshops/seminars that are necessary to provide instruction in administrative, fiscal or contracting procedures required to complete the construction of the treatment works, if approved in advance by the Regional Administrator.

2. Unallowable costs include:

a. Ordinary operating expenses of the grantee including salaries and expenses of elected and appointed officials and preparation of routine financial reports and studies.

b. Preparation of applications and permits required by Federal, State or local regulations or procedures.

c. Administrative, engineering and legal activities associated with the establishment of special departments, agencies, commissions, regions, districts or other units of government.

d. Approval, preparation, issuance and sale of bonds or other forms of indebtedness required to finance the project and the interest on them.

e. The costs of replacing, through reconstruction or substitution, a treatment works that was assisted under the Federal Water Pollution Control Act of 1956 (Pub. L. 84–660), or its amendments, and that fails to meet its project performance standards. This provision applies to failures that occur either before or after the initiation of operation. This provision does not apply to an innovative and alternative treatment works eligible for funding under § 35.2032(c) or a treatment works that fails at the end of its design life.

f. Personal injury compensation or damages arising out of the project.

g. Fines and penalties due to violations of, or failure to comply with, Federal, State or local laws, regulations or procedures.

h. Costs outside the scope of the approved project.

i. Costs for which grant payment has been or will be received from another Federal agency.

j. Costs of treatment works for control of pollutant discharges from a separate storm sewer system.

k. The cost of treatment works that would provide capacity for new habitation or other establishments to be located on environmentally sensitive land such as wetlands or floodplains.

l. The costs of preparing a corrective action report required by § 35.2218(c).

Appendix B—Allowance for Facilities Planning and Design

1. This Appendix provides the method EPA will use to determine both the estimated and the final allowance under § 35.2025 for facilities planning and design. The Step 2+3 and Step 3 grant agreement will include an estimate of the allowance.

2. The Federal share of the allowance is determined by applying the applicable grant percentage in § 35.2152 to the allowance.

3. The allowance is not intended to reimburse the grantee for costs actually incurred for facilities planning or design. Rather, the allowance is intended to assist in defraying those costs. Under this procedure, questions of equity (i.e., reimbursement on a dollar-for-dollar basis) will not be appropriate.

4. The estimated and final allowance will be determined in accordance with this Appendix and Tables 1 and 2. Table 2 is to be used in the event that the grantee received a grant for facilities planning. The amount of the allowance is computed by applying the resulting allowance percentage to the initial allowable building cost.

5. The initial allowable building cost is the initial allowable cost of erecting, altering, remodeling, improving, or extending a treatment works, whether accomplished through subagreement or force account. Specifically, the initial allowable building cost is the allowable cost of the following:

a. The initial award amount of all prime subagreements for building the project.

b. The initial amounts approved for force account work performed in lieu of awarding a subagreement for building the project.

c. The purchase price of eligible real property.

6. The estimated allowance is to be based on the estimate of the initial allowable building cost.

7. The final allowance will be determined one time only for each project, based on the initial allowable building cost, and will not be adjusted for subsequent cost increases or decreases.

8. For a Step 3 project, the grantee may request payment of 50 percent of the Federal share of the estimated allowance immediately after grant award. Final payment of the Federal share of the allowance may be requested in the first payment after the grantee has awarded all prime subagreements for building the project, received the Regional Administrator's approval for force account work, and completed the acquisition of all eligible real property.

9. For a Step 2+3 project, if the grantee has not received a grant for facilities planning, the grantee may request payment of 30 percent of the Federal share of the estimated allowance immediately after the grant award. Half of the remaining estimated allowance may be requested when design of the project is 50 percent complete. If the grantee has received a grant for facilities planning, the grantee may request half of the Federal share of the estimated allowance when design of the project is 50 percent complete. Final payment of the Federal share of the allowance may be requested in the first payment after the grantee has awarded all prime subagreements for building the project, received the Regional Administrator's approval for force account work, and completed the acquisition of all eligible real property.

10. The allowance does not include architect or engineering services provided during the building of the project, e.g., reviewing bids, checking shop drawings, reviewing change orders, making periodic visits to job sites, etc. Architect or engineering services during the building of the project are allowable costs subject to this regulation and 40 CFR Part 33.

11. The State will determine the amount and conditions of any advance under § 35.2025(b), not to exceed the Federal share of the estimated allowance.

12. EPA will reduce the Federal share of the allowance by the amount of any advances the grantee received under § 35.2025(b).

TABLE 1.—ALLOWANCE FOR FACILITIES PLANNING AND DESIGN

Building cost	Allowance as a percentage of building cost*
$100,000 or less	14.4945
120,000	14.1146
150,000	13.6631
175,000	13.3597
200,000	13.1023
250,000	12.6832
300,000	12.3507
350,000	12.0764
400,000	11.8438
500,000	11.4649
600,000	11.1644
700,000	10.9165
800,000	10.7062
900,000	10.5240
1,000,000	10.3637
1,200,000	10.0920
1,500,000	9.7692
1,750,000	[illegible]
2,000,000	9.3682
2,500,000	[illegible]
3,000,000	8.8309
3,500,000	[illegible]
4,000,000	[illegible]
5,000,000	8.1975
6,000,000	7.9827
7,000,000	[illegible]
8,000,000	7.6550
9,000,000	[illegible]
10,000,000	7.4101
12,000,000	7.2159
15,000,000	[illegible]
17,500,000	[illegible]
20,000,000	[illegible]
25,000,000	6.4841

TABLE 1.—ALLOWANCE FOR FACILITIES PLANNING AND DESIGN—Continued

Building cost	Allowance as a percentage of building cost*
30,000,000	6.3142
35,000,000	[illegible]
40,000,000	[illegible]
50,000,000	5.8613
60,000,000	5.7077
70,000,000	[illegible]
80,000,000	5.4734
90,000,000	[illegible]
100,000,000	[illegible]
120,000,000	5.1594
150,000,000	[illegible]
175,000,000	[illegible]
200,000,000	4.7894

NOTE.—The allowance does not reimburse for costs incurred. Accordingly, the allowance Tables shall not be used to determine the compensation for facilities planning or design services. The compensation for facilities planning or design services should be based upon the nature, scope and complexity of the services required by the community

* Interpolate between values.

TABLE 2.—ALLOWANCE FOR DESIGN ONLY

Building cost	Allowance as a percentage of building cost*
$100,000 or less	[illegible]
120,000	[illegible]
150,000	8.1570
175,000	[illegible]
200,000	7.8772
250,000	[illegible]
300,000	7.4991
[illegible]	7.3602
[illegible]	7.2419
[illegible]	7.0485
[illegible]	[illegible]
700,000	6.7666
800,000	[illegible]
900,000	[illegible]
1,000,000	[illegible]
1,200,000	6.3383
1,500,000	6.1690
1,750,000	6.0547
2,000,000	5.9574
2,500,000	5.7983
3,000,000	5.6714
3,500,000	[illegible]
4,000,000	5.4769
5,000,000	5.3306
[illegible],000,000	5.2140
7,000,000	5.1174
[illegible],000,000	5.0352
9,000,000	4.9637
10,000,000	4.9007
12,000,000	4.7935
15,000,000	4.6655
17,500,000	4.5790
20,000,000	4.5054
25,000,000	4.3851
30,000,000	[illegible]
35,000,000	4.2097
40,000,000	4.1421
50,000,000	4.0314
60,000,000	3.9432
70,000,000	[illegible]
80,000,000	[illegible]
90,000,000	3.7540
100,000,000	3.7063
120,000,000	[illegible]
150,000,000	[illegible]
175,000,000	3.4630
200,000,000	3.4074

NOTE.—The allowance does not reimburse for costs incurred. Accordingly, the allowance Tables shall not be used to determine the compensation for facilities planning or design services. The compensation for facilities planning or design services should be based upon the nature, scope and complexity of the services required by the community

*Interpolate between values.

[FR Doc. 84-4076 Filed 2-16-84; 8:45 am]

BILLING CODE 6560-50-M

VOL
49
ISS
34
FE
17
1984
UMI

federal register

Friday
February 17, 1984

Part IV

Environmental Protection Agency

40 CFR Part 35
Financial and Management Capability for Construction, Operations and Maintenance of Publicly Owned Wastewater Treatment Systems; Final Policy

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 35

[WH-FRL-2267-5]

Financial and Management Capability for Construction, Operation and Maintenance of Publicly Owned Wastewater Treatment Systems

AGENCY: Environmental Protection Agency.

ACTION: Notice of final policy .

SUMMARY: This notice sets forth Agency policy and procedures to ensure that construction grants applicants demonstrate their financial and management capability to construct, operate, and maintain (including equipment replacement) a wastewater treatment system. The policy describes the statutory and regulatory requirements for applicants to demonstrate that they have answered five questions concerning the total costs of the proposed treatment system, how it will be financed, the total annual costs per household, and the roles and responsibilities of local governments involved. The demonstration must also include a written certification by applicants that they have analyzed the costs and financial impacts of the proposed facilities and that they have the necessary financial and management capability to complete and successfully operate the treatment system. The purpose of the policy is to interpret more fully the relevant provisions of the final construction grants regulations and the Clean Water Act, as amended, in order to protect adequately the Federal investment in the construction of publicly owned treatment systems.

EFFECTIVE/EXPIRATION DATE: This policy will apply to any applications received in EPA Regional Offices after publication of this notice in the **Federal Register.** It will expire on September 30, 1988.

FOR FURTHER INFORMATION CONTACT: Keith Dearth, Environmental Protection Agency, WH-595, 401 M Street, SW., Washington, D.C. 20460, (202) 382-7226.

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*, the information provisions in this notice have been submitted to the Office of Management and Budget (OMB), and will become effective upon OMB approval. A notice of that approval will be published in the **Federal Register.**

Dated: December 13, 1983.

Jack E. Ravan,

Assistant Administrator for Water.

The authority for this action is found in section 204(b)(1) of the Clean Water Act, as amended.

Financial and Management Capability for Construction and Operation of Publicly Owned Treatment Systems

I. Statement of Policy

It is the policy of the Environmental Protection Agency (EPA) that no grant shall be awarded for the construction of a publicly owned treatment works (POTW) unless the applicant has demonstrated substantively to the satisfaction of the delegated State (or EPA for non-delegated States) that it has the legal, institutional, managerial, and financial capability to ensure construction, operation and maintenance (including equipment replacement) of the proposed treatment system.

II. Effective/Expiration Date

This policy will apply to any applications received in EPA Regional Offices after publication of this notice in the **Federal Register.** It will expire on September 30, 1988.

III. Background

The purpose of this policy is to interpret more fully the relevant provisions of the revised construction grants regulations and the Clean Water Act, as amended, in order to protect adequately the Federal investment in the construction of publicly owned treatment works. It draws together various statutory and regulatory provisions pertaining to the local financing and management of Federally funded POTWs.

Authority

The authority for this policy on financial capability is found in the Clean Water Act (CWA), as amended, as well as the revised construction grants regulations. Specifically, each applicant is required to demonstrate its financial capability prior to award of a Step 3 or 2+3 grant (40 CFR 35.2104); and the Administrator is required to determine whether the applicant has, in fact, shown sufficient evidence that it has the legal, institutional, managerial, and financial capability to ensure adequate construction, operation and maintenance of the proposed treatment system (section 204(b)(1)).

Discussion

The decision to construct a wastewater treatment facility represents a major financial commitment by a local government. Consequently, there is a need for each applicant to determine whether the community and its residents have the financial and institutional capability to pay for and manage the proposed system prior to actual construction.

This need has been clearly recognized in the Clean Water Act, which requires that, before awarding a grant, the Administrator must be satisfied that a grantee has the adequate legal, institutional, managerial, and financial capability to complete and maintain the proposed wastewater system. This was further strengthened with the 1981 Amendments, which state that the Administrator should encourage and assist all applicants for grant assistance to develop a capital financing plan. The clear intent, therefore, is that all applicants need to assess adequately the financial impact of the proposed facility on the community and its users, and to disclose how the system will be financed and managed following construction.

IV. Application

This policy will apply to all applicants for a Step 3 or 2+3 grant award under the Amendments to Title II of the Clean Water Act and the revised costruction grants regulations.

V. Implementation

At the time of application for a Step 3 or 2+3 grant award, an applicant must demonstrate that it has the legal, institutional, managerial, and financial capability to construct, operate, and maintain the proposed facility. To do so, the applicant must answer the following questions:

1. What is proposed in the facilities plan?
2. What roles and responsibilities will local governments have?
3. How much will the facilities cost at today's prices?
4. How will construction, operation and maintenance of the facilities be financed?
5. What are the annual costs per household?

Attachment A [1] provides a format that the applicant may use to respond to the above questions.

The applicant must also submit, along with the Step 3 or 2+3 application, written certification that it has analyzed the costs and financial impacts of the proposed facilities and that it has the capability to finance and manage the construction and operation of the facilities in accordance with the

[1] Attachment A has been provided as an example of how the information required to demonstrate financial capability might be displayed. The grant applicant may use any format he chooses to meet the requirement, including, as examples, a financial plan, a separate chapter in the facilities plan, or procedures as prescribed by a delegated State, provided that the information required is adequately addressed. A publication entitled

Continued

construction grants regulations. Before signing the certification the applicant must consider the responses to the questions above as well as the community's financial condition. The certification should be signed by an elected official or chief financial officer for the municipality authorized to commit funding. An example certification letter is provided in Attachment B.

An applicant proposing to construct a wastewater treatment facility designed to serve two or more public agencies or jurisdictions must show how the costs will be allocated among the participating jurisdictions or agencies. Such applicants must provide an executed intermunicipal service agreement which, at a minimum, incorporates the following information: the basis upon which costs are allocated; [2] the formula by which costs are allocated; and the manner in which the cost allocation system will be administered. Executed intermunicipal service agreements are to be submitted with a Step 3 grant application or before initiation of procurement action for building the project for Step 2+3 grants. This requirement may be waived by the Regional Administrator or the delegated State if the applicant can demonstrate: that such an agreement is already in place, or that there is evidence of a service relationship in the absence of formal agreement, and that the supplier agency exhibits sufficient financial strength to continue the project if one or more of the customer agencies fails to participate (40 CFR 35.2107).

The intermunicipal service agreement serves as the legal, contractual basis for implementation of the wastewater treatment system, and guarantees future commitments. Although it will guard against reneging or unilateral actions by participants, it should also serve as a basis for a sound working relationship. Its institutional provisions should provide for a management framework, and should assign roles and responsibilities for management and operation of the system.

Financial Capability Guidebook is available to assist communities in completing Attachment A or in developing comparable information.

[2]The regional cost basis consists of facilities (including equipment, sewage treatment facilities, and interceptors, etc.) and services (administrative, managerial, legal, etc.) which are to be shared by two or more jurisdictions and are, therefore, eligible for regional cost allocation. An auditable cost accounting system is usually maintained by the supplier agency; it defines the regional cost basis and is included in service agreements. Attachment C provides elements to consider in determining regional cost basis, and is excerpted from "Financial Planning for Wastewater Facilities: A Guide for Wyoming Local Officials" (Part 3).

In implementing this policy, States, EPA Regions, and EPA Headquarters have the following responsibilities:

- *All States*: In order to account for unique aspects of State laws governing local financing and institutional arrangements, all States are encouraged to develop specific guidance and procedures for communities to use to demonstrate their financial capability. Attachment A may be used as the basis for this guidance, and may be modified according to individual State needs.

- *Delegated States*: At the time of transmittal of a Step 3 or 2+3 grant application, a delegated State must indicate that it has reviewed the financial information provided by the applicant, and has determined that the applicant has adequately demonstrated its financial capability, and, as appropriate, has provided an executed intermunicipal agreement. Delegated States may waive the requirement for an executed intermunicipal agreement on the basis of the criteria cited above.

The criteria for approving the financial capability portion of a grant application are listed below ("Regional Offices"). States should use the reviewer's checklist guidance provided by EPA or develop comparable guidance for applying these criteria to financial capability demonstrations.

Delegated States must also develop screening procedures for identifying communities whose projects need greater attention to satisfy the requirements of this policy. These projects could be identified on the basis of their high cost, technological appropriateness or potential financial impact. A combination of several of the following criteria should be used for this purpose: size of the community, extent of sewers (for presently unsewered communities), type of technology proposed, total capital costs per household, total annual household costs, total annual cost per household as a percentage of median income, capital cost of treatment per 1000 gpd capacity, or other meaningful indicators.

Delegated States should conduct a more intensive review of projects identified by these procedures and should not certify grant applications for these projects unless the State is completely satisfied that the community and its users can successfully finance and manage the wastewater treatment system. If this intensive review discloses that the project may not be financially sound, the State should provide assistance to the applicant to resolve the problem. This assistance should include both the technical aspects of projects (e.g., appropriate technology and project scope and staging) and the necessary financial arrangements (e.g., other sources of funding and alternative methods for financing the local share.) Screening procedures should be applied as early as is feasible during the development of a project so that problems can be resolved prior to the actual grant application.

- *Nondelegated States*: Nondelegated States are encouraged to meet with communities to review local financial capability, as well as the overall feasibility of implementing proposed projects from financial and institutional aspects.

- *Regional Offices:* In the case of non-delegated States, the EPA Regional Office will review the applications as outlined under "Delegated States."

The RA or delegated State representative may approve an application if all other regulatory requirements are met and if, in his or her judgment, the applicant has adequately demonstrated financial capability by submission of financial information consistent with relevant information in the facility plan; appropriate assumptions regarding population projections, cost estimates, or eligible costs; appropriate analysis of the community's proposed financing system, and the financial impacts of the proposed system on its users; and submission of an executed intermunicipal service agreement if there are two or more participating jurisdictions, except as prescribed above.

If approval is withheld, the RA or delegated State representative will notify the applicant of the reason(s) and will work with the applicant to resolve any identified problems or deficiencies.

- *Headquarters:* EPA Headquarters will provide guidance and technical assistance to Regions and to States to carry out the intent of this policy.

VI. Overview

Each fiscal year, the EPA Regions and States develop an overview progam consistent with the section 205(g) regulation. These overview programs should provide for the Region's review of all guidance and procedures used by delegated States to implement this policy, as well as a random sample of financial capability demonstrations that have been accepted by the State. The overview program should provide for the Region's review of financial capability demonstrations for specific, selected projects that warrant special attention or are determined to be of overriding Federal interest consistent with the section 205(g) regulation.

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Attachment A (to Policy Statement)

Wastewater Facilities Financial Information Sheet

Applicant

Name_____

Address_____

City_____ Zip_____

Contact_____

Telephone_____

(This is provided for optional use by the grantee community, or its A-E consultant, as an aid to conventional Facility planning financial analyses. EPA developed this improved and simplified form with the Municipal Financial Officers Assn., based on feedback on earlier versions, which have been used successfully by consultants for projects in Texas, North Carolina, Tennessee, and Pensylvania.)

(Information to complete this sheet should be contained in the Facility Plan.)

Additional assistance in completing the Financial Information Sheet can be found in the Financial Capability Guidebook which is available from the US Department of Commerce, National Technical Information Service (NTIS) 5285 Port Royal Road Springield, VA 22161

(This Sheet and the Guidebook will also be provided to grant applicants (to assist in facility planning) by EPA Regions & delegated States in the application package.)

What Is Proposed In The Facilities Plan? (Information should be in Facility Plan.)

- The proposed facilities will be: (check more than one if applicable) ☐ New ☐ An expansion ☐ An upgrade

- If treatment facilities are proposed, do they feature low O+M Cost Technology such as ponds, trickling filters, overland flow? If yes, please identify. ☐ Yes ☐ No

  _____

  _____

  _____

- The facilities will serve: ☐ Existing Population on Sewers ☐ Existing Area Served by On-Site Systems ☐ Existing Industries ☐ Anticipated Growth

  Indicate the approximate percentage of the plant's capacity that will be allocated to each. _____% _____% _____% _____%

- Entities to be served: ☐ County ☐ Municipality ☐ Sewer district ☐ Industry

- Design population _____ (Year _____)

THIS IS A SAMPLE FORMAT

Wastewater Facilities Financial Information Sheet

What Roles And Responsibilities Will Local Governments Have? (Information in Facility Plan.)

Cooperative arrangements between various entities may be required to meet the management needs of wastewater treatment facilities.

- What agency will: ☐ Own the facilities _____ ☐ Operate _____ ☐ Finance _____
- Will there be financial contributions by: ☐ Other agencies ☐ Industry
- Have participating agencies been asked to review: ☐ Wastewater facilities plan ☐ Population projections ☐ Service area boundaries
- Have agreements been sought between the operating agency and: ☐ Participating agencies ☐ Other agencies ☐ Industry

How Much Will The Facilities Cost At Today's Prices? (Information in Facility Plan.)

The following figures are estimated costs for construction, operation, and maintenance of the proposed facilities. Dollar amounts are uninflated and reflect today's prices.

A. Construction costs estimate

- Wastewater treatment plant _____
- Pump stations _____
- Interceptor sewers _____
- Collection sewers _____
- On-site systems _____
- Land acquisition _____
- Other _____
- Total construction costs _____

B. Estimated annual operation, maintenance, and replacement (O,M + R) costs for the proposed facilities

- Labor _____ per year
- Utilities _____ per year
- Materials _____ per year
- Outside services _____ per year
- Misc. expenses _____ per year
- Equipment replacement _____ per year
- Total operation, maintenance and replacement costs _____ per year

How Will The Facilities Be Financed? (Information in Facility Plan.)

A. Amount to be borrowed

- Grantee share of construction costs _____
- Construction-related costs _____
- Grantee contributions _____
- Amount to be borrowed _____

B. Methods of financing the amount to be borrowed

Financing method	Amount borrowed	Interest rate	Term of maturity	Annual debt service payment
General obligation bond				
Revenue bond				
Loan				
Total				

C. Total estimated annual wastewater facilities costs

- Net existing O,M + R _____
- Existing annual debt service _____
- O,M + R for proposed facilities _____
- Debt service for proposed facilities _____
- Total estimated annual wastewater facilities costs _____

D. Sources of funding for total annual wastewater facilities costs

- Sewer service charges _____
- Surcharge _____
- Special assessments and fees
  - — connection fee _____
  - — betterment assessments _____
  - — other _____
- Transfers from other funds _____
- Other _____
- Total funding _____

THIS IS A SAMPLE FORMAT

Wastewater Facilities Financial Information Sheet

What Are The Annual Costs Per Household? (Information in Facility Plan)

- Total estimated annual wastewater facilities charges _____
- Nonresidential share of total annual charges _____
- Residential share of total annual charges _____
- Number of households _____
- Annual costs per household for
  - — wastewater collection and treatment _____
  - — other _____
- Total annual costs per household _____

Certification of Financial Capability

Your community must certify that it has the capability to finance and manage the proposed facility.

The answers to the preceeding questions will provide useful information regarding the cost of the proposed facility, how it will be financed, and what this means in terms of costs to the typical household user. In order to evaluate effectively the true impact of the proposed treatment system, however, this infomation must be viewed within the overall context of the community's financial condition, financial resources, legal constraints, and local public policy.

Listed below are additional elements relating to a community's overall financial condition and its ability to pay the local costs of constructing and operating the treatment system. These factors should be considered before signing the financial and management capability certification.

- reasonableness of population projections relative to historic trends (if new population growth is needed to help finance the proposed system.)
- total current outstanding indebtedness
- state finance laws and legal debt limits
- historical trends in your community's revenue sources (e.g., changes in taxable assessed property valuation with respect to population)
- current bond rating and its historical trend

If your community would have difficulty financing the proposed project, it should consider alternative methods of financing to mitigate the adverse impacts, re-evaluate the project alternative and scope, or consider staging implementation to spread out financing to future users. When certifying your project, the community should be fully satisfied that both the users and the community as a whole have the capability to finance and manage the facility as proposed.

THIS IS A SAMPLE FORMAT

ATTACHMENT B

EXAMPLE - CERTIFICATION LETTER

Mr. John Brown
Any City
Any State

(Regional Administrator if applicant is in non-delegated State)

Dear Mr. Brown:

I hereby certify that we have analyzed the local share of the costs of the proposed wastewater treatment facilities, including their financial impact on this community and the residents of the service area. As a result of these analyses, I have found that we have the legal, institutional, managerial and financial capability to ensure adequate construction, operation and maintenance, and replacement of the wastewater treatment works.

Sincerely yours,

Honorable Joseph Stevens
Mayor of (name of City)
(City), State 00000

THIS IS A SAMPLE FORMAT

[FR Doc. 84-4074 Filed 2-16-84; 8:45 am]
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ATTACHMENT C

BASIS FOR IDENTIFICATION OF REGIONAL COST

SYSTEM-WIDE CAPITAL COST BASIS

- **Proposed Regional Facilities:**
  Local share of capital cost of new components proposed in regional facilities plan.
- **Contributed Capital Facilities:**
  Value of existing facilities which are to be incorporated into regional system (based on an estimate of the replacement value, fair market value, or undepreciated value of the component).

  Estimated value of land on which existing contributed facilities are located (calculated at fair market value or other acceptable method).
- **Periodic Capital Requirements:**
  Additions, expansion, or replacement of equipment or system components (not included in initial facilities plan), as required by regional use.

SYSTEM-WIDE OPERATIONS AND MAINTENANCE COST BASIS

- **Direct Costs for Regional System O & M:**
  Annual costs directly attributable to regional operations and maintenance, identified in appropriate budget categories of the regional system operator.
- **Administrative Costs for Regional System:**
  Costs associated with management, administration, and overhead of the regional operator. For example, if a municipality operates the system, appropriate portions of administrative time must be identified in the municipal budget.

SOURCE: Financial Planning for Wastewater Facilities: A Guide for Wyoming Local Officials, Part 3, "Regional Wastewater Facilities: Cost Sharing, Financing, and Intergovernmental Relations." (Wyoming Department of Environmental Quality), page 16.

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Part V

Department of Defense

32 CFR Parts 1-39

Defense Acquisition Regulation; Final Rule

DEPARTMENT OF DEFENSE

32 CFR Parts 1-39

[DAC 76-47]

Defense Acquisition Regulation

AGENCY: Department of Defense.

ACTION: Final rule.

SUMMARY: This document publishes changes to the Defense Acquisition Regulation contained in the Code of Federal Regulations. The changes are the same as those in Defense Acquisition Circular 76-47. Some of the changes include: deletion of requirement for reporting of identical bids; listing of contracting activities; revision to the Uniform Contract Format; reinstatement of the Exchange Program; and DoD contract simplification test. Also included in this document are the following items issued for information and guidance: (1) Information with respect to publication of the DoD FAR Supplement; (2) reprint of a memorandum from the Acting Deputy Under Secretary (Acquisition Management), Subject: Solicitations Under Mandatory Federal Supply Schedules; and (3) reprint of Determinations and Findings executed by the Director of the Defense Logistics Agency, concurred in by the Administrator of the Small Business Administration, which exempt requirements for perishable subsistence and brand-name subsistence for commissary resale from the synopsis provisions of the Small Business Act.

EFFECTIVE DATE: Upon receipt, in accordance with DAR 1-106.2(d).

FOR FURTHER INFORMATION CONTACT: J. Brannan, Director, Defense Acquisition Regulatory Council, OUSDRE(AM)(DARS), OUSDRE(M&RS), Room 3D 139, Pentagon, Washington, D.C. 20301, Telephone (202) 697-7266.

SUPPLEMENTARY INFORMATION:

Background

The Defense Acquisition Regulation (DAR) is codified in Title 32, Parts 1-39, Volumes I, II, and III, of the Code of Federal Regulations (CFR). The July 1, 1983 revision of the CFR is the most recent edition of that title. It reflects amendments to the 1976 edition of the DAR made by Defense Acquisition Circulars 76-1 through 76-44.

The Department of Defense announced the promulgation of the 1979 CFR edition in the **Federal Register** of December 31, 1979 (44 FR 77158), and also announced at that time that subsequent amendments to the DAR would be published in the **Federal Register**.

Defense Acquisition Circular 76-47

This document contains amendments to the Defense Acquisition Regulation in the form of replacement pages which were included in DAC 76-47, issued 15 December 1983. The following is a summary of the amendments:

Reports of Identical Bids. DAR 1-114 and the references thereto in DAR 1-111.2(c) are deleted to implement Executive Order 12430 of July 6, 1983, which revokes Executive Order 10936 of April 24, 1961. The revocation cancels the requirement of Federal agencies to report identical bids to the Attorney General.

Designation of Contracting Activities. DAR 1-201.14 is revised to update the listing of contracting activities for the Army, the Navy, and the Defense Logistics Agency.

Identification of FMS Requirements (UCF). A revision is made to the Uniform Contract Format (UCF) to incorporate a requirement to stamp the cover sheet of appropriate contracts with the legend "FMS Requirement," which was a part of the UCF prior to its revision by DAC 76-20. The requirement was inadvertently omitted from DAC 76-20, but was reinstated by Departmental direction. This change codifies that Departmental direction.

Exchange of Nonexcess Personal Property. Based on recent actions by the House Appropriations Committee, the Department of Defense has reinstated the Exchange Program which had previously been a major portion of the Exchange Sale Program, addressed at DAR Section IV, Part 2. A new DoD Directive 4140.51 was issued on March 2, 1983.

Because the Defense Acquisition Regulation concerns agency management, public property, and contracts, it is not necessary to issue proposed rules for public comment. Neither is it necessary to delay the effective date until 30 days after the date of publication of these rules, 5 U.S.C. 533 (a) and (d). The amendments became effective on receipt in accordance with DAR 1-106.2(d).

How To Use Replacement Pages

Reproduced at the end of this document are replacement pages from DAC 76-47. The number at the top of each page (for example, 1:9) identifies the page from the Regulation which is being replaced. The number at the bottom of the page is a reference to the last appearing numbered paragraph on that page, or if none above, on a preceding page. The vertical line in the right margin indicates where the amendment is located.

List of Subjects in 32 CFR Parts 1-39

Government procurement.

Adoption of Amendments

Therefore, the Defense Acquisition Regulation contained in the July 1, 1983 edition of 32 CFR Parts 1-39, Volumes I, II, and III, is amended in the DAR paragraphs indicated by substitution of the replacement pages listed in the table.

DAR paragraph	Replacement pages
Volume I	
1-111.2(c) (deleted)	1:9
1-114 (reserved) (deleted)	1:12, 1:13
1-201.14	1:16, 1:17
2-201(a)(Sec.A)(ii) (added)	2:4
3-501(b)(3)(Sec.A)(iv) (added)	3:59, 3:60
Section IV, Part 2 (added)	4:22
4-200 (added)	4:22
4-201 (added)	4:22
4-202 (added)	4:22
4-203 (added)	4:22
4-203.1 (added)	4:22, 4:23
4-203.2 (added)	4:23, 4:24
4-204 (added)	4:25
4-204.1 (added)	4:25
4-204.2 (added)	4:25
4-204.3 (added)	4:25, 4:26
Volume II	
7-110 (added)	7:169
7-110.1 (added)	7:169, 7:169-A
7-1913 (added)	7:465
7-1913.1 (added)	7:465, 7:465-A
7-2004 (added)	7:526-I
7-2004.1 (added)	7:526-J
7-2004.2 (added)	7:526-J, 7:526-K
7-2004.3 (added)	7:526-K
7-2004.4 (added)	7:526-K
7-2004.5 (added)	7:526-L
7-2004.6 (added)	7:526-L
7-2004.7 (added)	7:526-M, 7:526-N
7-2004.8 (added)	7:526-N
7-2004.9 (added)	7:526-N
7-2004.10 (added)	7:526-O

M. S. Healy,

OSD Federal Register Liaison Officer, Washington Headquarters Services, Department of Defense.

February 8, 1984.

BILLING CODE 3810-01-M

requirements of Federal agencies, and provide all levels of management with data on which to formulate procurement policy as well as to determine the extent of adherence to prescribed policy. Basic to the preparation of all these regular and special reports, so far as they affect individual contracting officers, is DD Form 350 (Individual Procurement Action Report) (Section XXI, Part 1). Each item of this form enters into the preparation of reports furnished the President, the Congress, and other Federal agencies, and is used for management purposes within the Department of Defense. The accuracy, completeness, and timeliness of these reports are fully dependent on the careful preparation and prompt submission of DD Form 350.

1-111 Reports of Suspected Criminal Conduct, Noncompetitive Practices, Kickbacks, and Other Procurement Irregularities.

1-111.1 *Reporting Procedures.* Reports of suspected criminal conduct, noncompetitive practices, kickbacks, and other procurement irregularities shall be made by each Department in accordance with procedures set forth in Part 6 of this Section.

1-111.2 *Noncompetitive Practices.*

(a) Unless bids or proposals are genuinely competitive, contract prices tend to be higher than they should be. If the Secretary concerned or his representative considers that any bid received after formal advertising evidences a violation of the antitrust laws, he is required by 10 U.S.C. 2305(d) to refer such bids to the Attorney General for appropriate action. Similarly, evidence of such violations in negotiated procurements should be referred to the Attorney General. Practices which are designed to eliminate competition or restrain trade and which may evidence possible violations of such laws include collusive bidding, follow-the-leader pricing, rotated low bids, uniform estimating systems, sharing of the business, identical bids, etc.

(b) Reports of identical or equal bids or proposals should not be submitted automatically, but only where there is some reason to believe that those bids or proposals may not have been arrived at independently. Such reports should be accompanied by conformed copies of the bid or proposal, other contract documents, and supporting data. The report should set forth:

(i) the noncompetitive pattern or situation under consideration;

(ii) purchase experience in the same product or service for a reasonable period of time (one or more years) prior to the receipt of the bids or proposals under consideration, including unit and total contract price and abstract of bids;

(iii) community of financial interest among bidders, insofar as is known;

(iv) the extent, if any, to which specification requirements or patents restrict competition;

(v) information which may be available with respect to the pricing system employed in bids or proposals believed to reflect noncompetitive practices; and

(vi) any other information deemed pertinent.

1-111.3 *Subcontractor Kickbacks.* The Anti-Kickback Act (41 U.S.C. 51) prohibits the payment, directly or indirectly, by or on behalf of a subcontractor in any tier under any Government negotiated contract of any fee, commission, compensation, gift, or gratuity to the prime contractor or any higher tier subcontractor or to any officer, partner, employee, or agent of the prime contractor, of any higher tier subcontractor, as an inducement or acknowledgment for the award of a subcontract or order. The Act further provides that the amount of any such fee, commission, or compensation, or the cost or expense of any such gratuity or gift, whether heretofore or hereafter paid by the subcontractor, shall not be charged, either directly or indirectly, as a part of the contract price charged by the subcontractor to the prime contractor or higher tier subcontractor. It also creates a conclusive presumption that the cost of any such prohibited payment has been included in the price of the subcontract or order and ultimately borne by the Government. The Act provides for the recovery on behalf of the United States action, or by set-off of moneys otherwise owing to the subcontractor either by the United States directly or by the prime contractor. The Act imposes criminal penalties on any person who knowingly, makes or receives, directly or indirectly, any such prohibited payment.

1-111.4 *Contractor Gratuities to Government Personnel.*

(a) The right of a contractor to proceed under the contract may be terminated if it is found, after notice and hearing, that the contractor, or his agent or other representative, offered or gave any gratuity, such as entertainment or a gift, to an officer, official, or employee of the Government to obtain a contract or favorable treatment in the awarding, amending, or making of determinations concerning the performance, of a contract.

(b) To constitute a violation under the Gratuities clause (7-104.16) three elements must be present:

(i) the contractor must have a contract which contains the Gratuities clause;

(ii) the contractor, his agent, or other representative must have offered or given a gratuity to an officer, official, or employee of the Government; and

(iii) the gratuity must have been offered or given with the intent to obtain a contract or favorable treatment in the awarding or amending, or the making of determinations concerning the performance, of a contract (in this respect, intent generally must be inferred because an admission is rarely obtainable).

A lack of any of these elements will cause an action taken by the Government pursuant to the Gratuities clause to fail. Procedural requirements for gratuities hearings are set out in Appendix D.

1-112 Federal Property Management Regulations, Federal Procurement Regulations, and GSA Regulations Relating to Acquisition of Supplies and Services. Except for acquisition of ADPE under delegation of contracting authority from GSA, all policy and procedural matters of Federal Procurement Regulations and General Services Administration Regulations applicable to the Department of Defense within the scope of this Regulation are as set forth herein. Changes will be

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implemented through the DAR system. The applicable DoD Directives covering the assignments of responsibility for the purchasing of specific supplies under Interagency Purchase Assignment will be incorporated by reference in this Regulation. For DoD implementation of Federal Supply Schedules, see Section V, Part 1.

1-113 Standards of Conduct.

1-113.1 *Government Personnel.* All governmental personnel engaged in procurement and related activities shall conduct business dealing with industry in a manner above reproach in every respect. Transactions relating to expenditure of public funds require the highest degree of public trust to protect the interests of the Government. While many Federal laws and regulations place restrictions on the actions of governmental personnel, the latter's official conduct must, in addition, be such that the individual would have no reticence about making a full public disclosure thereof. See AR600-50, for the Army; SECNAV Instr. 5370.2G of 4 August 1977, for the Navy; AFR 30-30, for the Air Force; DLAR 5500.1, for the Defense Logistics Agency; DCA Inst. 220-50-1, for the Defense Communications Agency; DNA Inst. 5500.7A, for the Defense Nuclear Agency; and DMA Inst. 5500.1, for the Defense Mapping Agency.

1-113.2 *Organizational Conflicts of Interest.*

(a) Appendix G—Rules for the Avoidance of Organizational Conflicts of Interest sets out some of the more essential policy considerations of the Department of Defense with respect to relationships with non-Federal institutions. Specifically, Appendix G describes examples of various organizational conflicts of interest which might come into being, and rules for avoidance of such conflicts; and it provides that action must be taken to avoid placing a contractor in a position where his judgment might be biased or where he would have an unfair competitive advantage within the scope and intent of the rules. However, the Appendix cannot of itself impose any obligations on the contractor; such obligations must be imposed by a contract clause designed to carry out the intent of the Appendix. Furthermore, potential contractors must be advised in the solicitation as to the extent of applicability of the rules, and must be given an opportunity to negotiate on the terms of the clause and its application.

(b)(1) The contracting officer is responsible for applying the rules in the Appendix to contracts under his cognizance and shall determine whether each proposed procurement is subject to the Appendix.

(2) If the contracting officer initially determines with respect to a particular procurement that a potential conflict of interest exists, he shall, before issuing the solicitation, prepare a written analysis justifying his recommendation to contract with either no restraint, partial restraint, or strict hardware exclusion provisions, including a statement as to which of the four rules (or other conflict of interest not stated in the rules) he considers applicable, and where appropriate a recommended solicitation notice and clause designed to avoid the organizational conflict of interest. This analysis and recommendation shall be reviewed by the Head of the Procuring Activity who shall examine the circumstances for benefits and detriments to both the Government and potential contractors, and who shall either approve, modify or reject the contracting officer's recommendation to contract with either no restraint, partial restraint or strict hardware exclusion provisions. In the event the Head of the Procuring Activity modifies, or rejects the con-

tracting officer's recommendation, he shall document his decision. A standard form of solicitation notice or clause is not prescribed in this Regulation since such notices and clauses must be especially adapted to apply the principle of the rules to the specific facts of each contractual situation. The clause shall spell out the specific extent of any future restrictions on the contractor. The restrictions of the proposed clause shall also have a specific time period of effectiveness. As a general rule, the time effectiveness of any clause which excludes the contractor from participation in subsequent procurement shall have a fixed term of reasonable duration as appropriate, except that where Rule 1 of Appendix G is involved the exclusion shall be permanent. A fixed term of reasonable duration is measured by the time required to avoid the circumstance of unfair competitive advantage. This is variable; for example, it may run to the date of award of the first production contract or for a stated period of time. (See Rules 2 and 3 of Appendix G.) In no event shall an exclusion be stated in the clause without a specific date, or an event certain, terminating the effectiveness of the exclusion except where Rule 1 is involved.

(3) The contracting officer shall include his recommendations and the Head of the Procuring Activity's determination, together with the written analysis, in the negotiation file or record. The approved solicitation notice and proposed clause shall then be included in the solicitation, together with a clear statement that the proposed clause and the application of the Appendix are subject to negotiation.

(4) In no case shall the clause included in a solicitation or in a contract (including letter contracts) pursuant to this paragraph 1-113.2 defer the determination of the application of the Appendix to a time after the contract has been awarded.

(5) When a contract contemplates a Rule 4 situation, it is incumbent on the contracting officer to assure himself that the agreement called for by Rule 4 is in fact executed, and that copies thereof are made available to the Government.

(c) The contracting officer shall not impose restrictions under the Appendix in follow-on procurements on any prospective contractor in the absence of a specific contractual agreement with that contractor. If, during the effective period of any restriction, procurement responsibility for the system or item involved is transferred from the procuring activity which imposed the restriction that activity shall notify the transferee of the restriction and send it a copy of the contract under which it was imposed.

(d) The Departments shall maintain, in accordance with Departmental procedures, and for an appropriate period of time as determined by the circumstances, a record of all solicitation notices and of all clauses incorporated in contracts pursuant to this paragraph 1-113.2.

1-114 Reserved.

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1-115 Noncollusive Bids and Proposals.

(a) In order to promote full and free competition for Government contracts, the certification appearing in 7-2003.1 shall be included in all (i) invitations for bids and (ii) requests for proposals or quotations (other than for small purchases made in accordance with Section III, Part 6; other than for solicitations issued by overseas purchasing offices which will result in contracts performed overseas by foreign suppliers; and other than requests for technical proposals in connection with two-step formal advertising) involving firm fixed-price contracts and fixed-price contracts with economic price adjustment provisions. The certification is included in SF 18, 19-B, and SF 33, and therefore need not be added to solicitations utilizing these forms. When the solicitation authorizes the submission of oral offers and requires that such offers be confirmed in writing, it shall require that the certification be included with or be expressly incorporated by reference in and thereby made a part of the confirmation.

(b) The fact that a firm (1) has published price lists, rates, or tariffs covering items being procured by the Government, (2) has informed prospective customers of proposed or pending publication of new or revised price lists for such items, or (3) has sold the same items to commercial customers at the same prices being offered the Government does not constitute, without more, a disclosure within the meaning of paragraph (a)(2) of the Certificate.

(c) It is not required that a separate written authorization be given to the signer of the bid or proposal for each procurement involved where the signer makes the certification provided in paragraph (b)(2) of the Certificate, provided that with respect to any blanket authorization given, (1) the procurement to which the Certificate applies is clearly within the scope of such authorization, and (2) the person giving such authorization is the person responsible within the bidder's or offeror's organization for the decision as to the prices being bid or offered at the time the Certificate is made in a particular procurement.

(d) After the execution of an initial certificate and the award of a contract in connection therewith, the contractor need not submit additional certificates in connection with proposals submitted on "work orders" or similar ordering instruments issued pursuant to the terms of that contract, where the Government's requirements cannot be met from another source.

(e) The Chief of the Purchasing Office shall make the determination described in paragraph (d) of the above certification.

(f) When a certification is suspected of being false or there is indication of collusion, the matter shall be processed in accordance with 1-111. For rejection of bids which are suspected of being collusive and for the negotiation of procurements subsequent to such rejection, see 2-404.1 (b)(vii) and 3-215.

[The next page is 1:15.]

GENERAL PROVISIONS

Part 2—Definition of Terms

1-201 Definitions. As used throughout this Regulation, the words and terms defined in this paragraph 1-201 shall have the meanings set forth below, unless (i) the context in which they are used clearly requires a different meaning, or (ii) a different definition is prescribed for a particular Section or portion thereof.

1-201.1 *Change Order* means a written order signed by the contracting officer, directing the contractor to make changes which the Changes clause of the contract authorizes the contracting officer to order without the consent of the contractor (see 16-103).

1-201.2 *Contract Modification* means any written alteration in the specification, delivery point, rate of delivery, contract period, price, quantity, or other contract provisions of an existing contract, whether accomplished by unilateral action in accordance with a contract provision, or by mutual action of the parties to the contract. It includes (i) bilateral actions such as supplemental agreements, and (ii) unilateral actions such as change orders, orders for provisioned items, administrative changes, notices of termination, and notices of the exercise of a contract option.

1-201.3 *Contracting Officer* means any person who, either by virtue of his position or by appointment in accordance with procedures prescribed by this Regulation, is currently a contracting officer (see 1-400) with the authority to enter into and administer contracts and make determinations and findings with respect thereto, or with any part of such authority. The term also includes the authorized representative of the contracting officer acting within the limits of his authority. NOTE: Recent assignments of contract administration responsibilities have necessitated a separation of duties related to procurement, with some duties normally performed at a purchasing office and some normally performed at a contract administration office. For convenience of expression, when requiring performance of specific duties by a contracting officer, this Regulation may refer to a contracting officer at the purchasing office as the procuring contracting officer (PCO), and to a contracting officer at a contract administration office as an administrative contracting officer (ACO). Additionally, a contracting officer, responsible for the settlement of terminated contracts, may be referred to as the termination contracting officer (TCO). It is recognized that a single contracting officer may be responsible for duties in any or all of these areas, and reference in this Regulation to PCO, ACO, or TCO does not of itself require that duty be performed at a particular office or activity or restrict in any way a contracting officer in the performance of any duty properly assigned. For example, a duty specified by this Regulation to be performed by the ACO will be performed by a contracting officer at the purchasing office when contract administration or responsibility for that duty has been retained in the purchasing office in accordance with 20-703.3.

1-201.4 *Contracts* means all types of agreements and orders for the procurement of supplies or services. It includes awards and notices of award; contracts of a fixed-price, cost, cost-plus-a-fixed-fee, or incentive type; contracts providing for the issuance of job orders, task orders, or task letters thereunder; letter contracts, and purchase orders. It also includes supplemental agreements with respect to any of the foregoing.

1-201.5 *Department or Military Department* includes the Department of the Army, the Department of the Navy, the Department of the Air Force, the Defense Logistics Agency, the Defense Communications Agency, the Defense Nuclear Agency, the Defense Mapping Agency, and the National Security Agency.

1-201.6 *Department of Defense* comprises the Office of the Secretary of Defense and the Military Departments.

1-201.7 *Head of Procuring Activity* includes the chief, commander, or other official in charge of a Procuring Activity.

1-201.8 *Includes* means "includes but is not limited to"

1-201.9 *Labor Surplus Area Concern*. See 1-801.1.

1-201.10 *May* is permissive. However, the words "no person may . . ." mean that no person is required, authorized, or permitted to do the act prescribed.

1-201.11 *Negotiate and Negotiation*, when applied to the making of purchases and contracts, refer to making purchases and contracts without formal advertising.

1-201.12 *Possession* in a geographic sense includes the Virgin Islands, the Swan Islands, Guantanamo Bay, Johnston Island, American Samoa, Guam, Wake Island, Midway Island, and the guano islands but does not include Puerto Rico, leased bases, or trust territories.

1-201.13 *Procurement* includes purchasing, renting, leasing, or otherwise obtaining supplies or services. It also includes all functions that pertain to the obtaining of supplies and services, including description (but not determination) of requirements, selection and solicitation of sources, preparation and award of contract, and all phases of contract administration.

1-201.14 *Procuring Activity* includes:

FOR THE ARMY:

Office of the Deputy Assistant Secretary (Acquisition), Assistant Secretary of the Army (Research, Development and Acquisition);
Directorate of Procurement & Production, Headquarters, U.S. Army Materiel Development and Readiness Command;
Eighth U.S. Army;
U.S. Army Armament Munitions and Chemical Command;
U.S. Army Missile Command;
U.S. Army Electronics Research and Development Command;
U.S. Army Communications-Electronics Command;
U.S. Army Troop Support Agency;
U.S. Army Troop Support and Aviation Materiel Readiness Command;
U.S. Army Tank-Automotive Command;
U.S. Army Aviation Research and Development Command;
U.S. Army Training and Doctrine Command;
U.S. Army Test and Evaluation Command;
U.S. Army Forces Command;
U.S. Army Health Services Command;
Military District of Washington, U.S. Army;
U.S. Army, Europe;
National Guard Bureau;
Office of the Chief of Engineers;
U.S. Army Communications Command;

Office of The Surgeon General;
U.S. Army Western Command;
Military Traffic Management Command;
U.S. Army Ballistic Missile Defense Systems Command; and
Office of the Assistant Deputy Chief of Staff for Operations and Plans (Command Control, Communications and Computers).

FOR THE NAVY:

Office of Acquisition and Contract Policy, Office of the Assistant Secretary of the Navy (Shipbuilding and Logistics);
Headquarters, Naval Material Command;
Office of the Deputy Chief of Naval Material (Contracts and Business Management);
Naval Air Systems Command;
Naval Data Automation Command;
Naval Electronic Systems Command;
Naval Facilities Engineering Command;
Naval Sea Systems Command;
Naval Supply Systems Command;
Office of Naval Research;
Navy Aviation Supply Office;
Military Sealift Command;
Ships Parts Control Center;
Headquarters, United States Marine Corps; and
Installations and Logistics Department, Headquarters, U.S. Marine Corps.

FOR THE AIR FORCE:

HQ USAF, Director of Contracting and Manufacturing Policy;
Air Force Logistics Command;
Air Force Systems Command;
Strategic Air Command;
Tactical Air Command;
Air Force Communications Command;
Military Airlift Command;
Air Training Command;
Pacific Air Forces;
United States Air Forces in Europe;
Alaskan Air Command; and
Space Command.

FOR THE DEFENSE LOGISTICS AGENCY:

Office of the Executive Director, Contract Management;
Office of the Executive Director, Contracting;
Defense Supply Centers; and
Defense Personnel Support Center.

FOR THE DEFENSE COMMUNICATIONS AGENCY:

Headquarters, Defense Communications Agency; and
Defense Commercial Communications Office.

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FOR THE DEFENSE NUCLEAR AGENCY:
Headquarters, Defense Nuclear Agency.

FOR DEFENSE MAPPING AGENCY:
Headquarters, Defense Mapping Agency, Logistics Office.

FOR THE NATIONAL SECURITY AGENCY:
Headquarters, National Security Agency.

FOR THE DEFENSE SUPPLY SERVICE--WASHINGTON:
Director, Defense Supply Service--Washington

It also includes any other procuring activity hereafter established. The number and designation of particular procuring activities of any Military Department may be changed by directive of the Secretary.

1-201.15 *Secretary* means the Secretary, the Under Secretary, or any Assistant Secretary of any Military Department. Secretary shall also include the Director and Deputy Director of the Defense Supply Agency, the Director of the Defense Communications Agency, the Director, Defense Nuclear Agency, the Director, Defense Mapping Agency, and the Director of the National Security Agency, except to the extent that any law or executive order limits the exercise of authority to persons at the Secretarial level. In the latter situation, such authority shall be exercised by the Assistant Secretary of Defense (Installations and Logistics).

1-201.16 *Shall* is imperative.

1-201.17 *Small Business Concern*. See 1-701.1.

1-201.18 *Supplemental Agreement* means any contract modification which is accomplished by the mutual action of the parties. (See 16-103.)

1-201.19 *Supplies* means all property except land or interest in land. It includes public works, buildings, and facilities; ships, floating equipment, and vessels of every character, type, and description, together with parts, and accessories thereto; aircraft and aircraft parts, accessories, and equipment; machine tools; and the alteration or installation of any of the foregoing. "Supplies" as used in this Regulation is synonymous with "property" as described in 10 U.S.C. 2303(b).

1-201.20 *United States*, when used in a geographic sense, means the States and the District of Columbia.

1-201.21 *Construction*. See 18-101.1.

1-201.22 *Classified Procurement* is that which requires access to classified information ("Confidential, Secret or Top Secret") either to submit a bid or proposal, or to perform the contract; see 1-320.

1-201.23 *Designee*, as used, for example, in the phrase, "Head of a Procuring Activity or his designee", may include one or more officials.

1-201.24 *Purchasing Office* means the office which awards or executes a contract for supplies or services and performs post-award functions not assigned to a contract administration office.

1-201.25 *Contract Administration Office* means the office which performs assigned functions related to the administration of contracts, and assigned pre-award functions.

1-201.26 *Assignment of Contract Administration* means that process whereby identified functions, duties, or responsibilities related to the administration of

PROCUREMENT BY FORMAL ADVERTISING

Part 2—Solicitation of Bids

2-200 Scope of Part. This Part sets forth procedures for the solicitation of bids. Forms used in inviting bids are prescribed in Section XVI, Parts 1 and 4. Invitations for bids shall contain the applicable information described in 2-201 below and any other information required for a particular acquisition. All such information shall be set forth in full in the solicitation rather than incorporated by reference, except that:

(i) Standard Forms consisting of general provisions (contract clauses) may be incorporated by reference to the form number, form name, and edition date; *provided*, the instructions for use of the form do not prohibit incorporation of the form by reference; and

(ii) other contract clauses set forth in Section VII may be incorporated by reference if authorized by 7-001.

No other contract clauses shall be incorporated by reference. Pen and ink entries, deletions, or alterations shall not be made in an invitation for bids after it has been reproduced for issue to prospective bidders. If a change is necessary after reproduction of the invitation for bids, the Standard Form 30 (Amendment of Solicitation/Modification of Contract) shall be used (see 16-101) except that its use for construction contracts is optional (see 16-401.1(ix)).

2-201 Preparation of Invitation for Bids.

(a) *Supply and Services Contracts.* For supply and services contracts, invitations for bids (Standard Form 33) shall contain the following information if applicable to the acquisition involved. For construction contracts, see 2-201(b).

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THE FOLLOWING CHECKED SECTIONS ARE CONTAINED IN THE CONTRACT							
(X)	SEC		PAGE	(X)	SEC		PAGE
		PART I—THE SCHEDULE				PART III—LIST OF DOCUMENTS, EXHIBITS, AND OTHER ATTACHMENTS	
	A	Contract Form					
	B	Supplies/Services and Prices			J	List of Documents, Exhibits, and Other Attachments	
	C	Description/Specifications					
	D	Packaging and Marking				PART IV—GENERAL INSTRUCTIONS	
	E	Inspection and Acceptance			K	Representations, Certifications, & Other Statements of Offeror	
	F	Deliveries or Performance					
	G	Contract Administration Data			L	Instructions and Conditions, and Notices to Offerors	
	H	Special Provisions					
		PART II—GENERAL PROVISIONS			M	Evaluation Factors for Award	
	I	General Provisions					

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PROCUREMENT BY FORMAL ADVERTISING

Acquisition of (1) ship construction, including shipbuilding, conversion, and repair; (ii) supplies or services for which special forms or formats are prescribed by this Regulation, e.g., those prescribed by Part 5 of Section XVI; and (iii) subsistence must contain all applicable items, but such items need not be set forth in the Uniform Contract Format. The following subparagraphs are grouped to conform to the Uniform Contract Format. All items of information shall be set forth in the appropriate sections.

Part I—The Schedule

SECTION A - Contract Form.

(i) Standard Form 33, Part 1 (Solicitation, Offer, and Award and Acknowledgement of Amendments). Instructions for filling out this form are in 16-104.1 and 16-104.2;

(ii) if the contract includes FMS requirements, identify the contracts by clearly stamping or otherwise indicating, "FMS Requirement" on the cover sheet of the contract.

SECTION B - Supplies/Services and Prices.

(i) a brief description of the contract line items being purchased (i.e., item numbers, NSN/part numbers, nouns, and quantities);

(ii) any provision for extent of quantity variation (see 1-325);

(iii) except under the circumstances set forth in 9-505; DD Form 1423 (Contract Data Requirements List); one or more line items or subline items of data in this Section B referring to DD Form 1423 (see 16-815);

(iv) information normally contained in Sections C, D, E, and F relating to specific line items may be included in Section B with the appropriate line item.

SECTION C - Description/Specifications.

(i) when the NSN/part number and noun or brief description is not in sufficient detail to permit full and free competition, a sufficient description (including any necessary specifications) of the supplies and services to be furnished shall be provided in this Section C. Reference to specifications shall include identification of all amendments or revisions thereof applicable to the acquisition and dates of both the specifications and the revisions (see Section 1, Part 12); and

(ii) in accordance with 1-1206.3, the statement in 1-1206.3(a) for a "brand name or equal" item.

PROCUREMENT BY NEGOTIATION

(3) The following subparagraphs are grouped so as to conform to the Uniform Contract Format (including the Table of Contents) set out below. All items of information shall be set forth in the appropriate Sections. Arrangement in this Uniform Contract Format for fixed-price supply and service contracts does not preclude use of the following paragraphs in preparing requests for proposals or requests for quotations for other types of contracts.

TABLE OF CONTENTS

THE FOLLOWING CHECKED SECTIONS ARE CONTAINED IN THE CONTRACT							
(X)	SEC		PAGE	(X)	SEC		PAGE
		PART I—THE SCHEDULE				PART III—LIST OF DOCUMENTS, EXHIBITS, AND OTHER ATTACHMENTS	
	A	Contract Form					
	B	Supplies/Services and Prices			J	List of Documents, Exhibits, and Other Attachments	
	C	Description/Specifications				PART IV—GENERAL INSTRUCTIONS	
	D	Packaging and Marking			K	Representations, Certifications, & Other Statements of Offeror	
	E	Inspection and Acceptance					
	F	Deliveries or Performance			L	Instructions and Conditions, and Notices to Offerors	
	G	Contract Administration Data					
	H	Special Provisions			M	Evaluation Factors for Award	
		PART II—GENERAL PROVISIONS					
	I	General Provisions					

Part I—The Schedule

SECTION A - Contract Form.

(i) for requests for proposals, either Standard Form 33, Part 1 (Solicitation, Offer, and Award and Acknowledgement of Amendments) or forms prescribed by Departmental regulations. Instructions for filling out SF 33 are in 16-604.1 and 16-104.2.

(ii) for requests for quotations, either SF 18 (Request for Quotations) or forms prescribed by Departmental regulations. Instructions for filling out SF 18 are in 16-104.1 and 16-104.5; if the Request for Quotations is for informational or planning purposes, the statement in 1-309 shall be placed on the face of the request;

(iii) when neither SF 18 nor SF 33 is used, the following shall be included in the first page of the solicitation:

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(A) name and address of issuing activity, channels for submission of proposal/quotation, location, including room and building number where proposals/quotations, including a hand-carried proposal or quotation, must be submitted;
(B) date of issuance;
(C) closing date and time;
(D) number of pages;
(E) requisition or other purchase authority.

(iv) if the contract includes FMS requirements, identify the contracts by clearly stamping or otherwise indicating, "FMS Requirement" on the cover sheet of the contract.

SECTION B - Supplies/Services, and Prices.

(i) a brief description of the contract line items being acquired (i.e., item numbers, NSN/part numbers, nouns and quantities);
(ii) any provisions for extent of quantity variations (see 1-325);
(iii) if the DD Form 1423 (Contract Data Requirements List) is used for obtaining data, one or more line or subline items of data in this Section B referring to the DD Form 1423; (see 16-815)
(iv) information normally contained in Sections C, D, E, and F relating to specific line items may be included in Section B with the appropriate line item.

SECTION C - Description/Specifications.

(i) when the NSN/part number and noun or brief description is not in sufficient detail to permit full and free competition, a sufficient description (including any necessary specifications) of the supplies and services to be furnished shall be provided in this Section C. Reference to specifications shall include identification of all amendments or revisions thereof, applicable to the acquisition and dates of both the specifications and the revisions (see Section 1, Part 12);
(ii) in accordance with 1-1206, the statement in 7-2003.10 for a "brand name or equal" item.

SECTION D - Packaging and Marking.

(i) packaging and marking requirements, if any (see 1-1204).

SECTION E - Inspection and Acceptance.

(i) place of inspection and place of acceptance, and any other instructions required to supplement the requirements of Section XIV, Part 3.

and organizations warrant an agreement. These Basic Agreements will be reviewed annually for currency. The responsibility for negotiating Basic Agreements with appropriate educational institutions and nonprofit organizations for DoD is assigned to the Office of Naval Research, 800 North Quincy Street, Arlington, Virginia. Copies of the agreements will be maintained by the Office of Naval Research and provided to DoD and other purchasing activities upon their request. The Office of Naval Research will periodically provide a listing of current Basic Agreements to the ASPR Committee for publication in a Defense Procurement Circular.

(b) DoD activities shall obtain and utilize existing Basic Agreements to the maximum practical extent in contracts with educational institutions and nonprofit organizations. A special clause requirement may be incorporated into Section J - *Special Provisions* - of the standard contract format, whereas, the Basic Agreement is incorporated by reference in Section L *General Provisions*. Therefore, the need for special clauses should not preclude the purchasing office from utilizing these Basic Agreements.

(c) The General Services Administration will issue Federal Procurement Regulation Bulletins periodically which will list Basic Agreements issued by all agencies. The Bulletin will show the office from whom copies of the agreement can be obtained. DoD purchasing activities are encouraged to utilize Basic Agreements of other agencies where one has not been issued by the Office of Naval Research.

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Part 2—Exchange of Nonexcess Personal Property

4-200 Scope of Part. This Part prescribes contracting policies and procedures governing the use by Department of Defense components of the exchange authority of Section 201(c) of the Federal Property and Administrative Services Act of 1949, 63 Stat. 384, as amended (40 U.S.C. 481(c)), when exchange is accomplished concurrently with procurement. The act authorizes the exchange of personal property and the application of the exchange allowance to the acquisition of similar property. Exchange policy, authority, applicability, and limitations are governed by the Federal Property Management Regulations issued by the Administrator for General Services, and by Department of Defense Instruction 4140.51, "Exchange of Nonexcess Personal Property in the Department of Defense."

4-201 Policy. It is DoD policy to use exchange processing for replacing eligible nonexcess items. It shall be used to the maximum extent possible when such transactions foster the economical and efficient accomplishment of an approved program.

4-202 Definitions.

(a) *Exchange (Trade-In) Property.* Property not in excess of the needs of the owning DoD Component, but eligible for replacement because of obsolescence, unserviceability, or other valid reason, that is exchanged and applied as whole or partial payment allowance toward the acquisition of similar items.

(b) *Similar Items.* In exchange transactions, both the item being acquired and the item being replaced. Both must fall within one of the single generic categories listed in 4-203.1, and the item being acquired must be designed and constructed for the same specific purpose as the item being replaced.

4-203 Categories of Property Eligible for Exchange and Categories of Property Ineligible for Exchange.

4-203.1 *Property Eligible for Exchange.* In the exchange of property in the categories below, both the item to be acquired and the item to be replaced must fall within a single number category. Categories of property that do not appear below and do not fall within an ineligible FSCG in 4-203.2, are eligible for processing if designed and constructed for the same specific purpose.

1. Agriculture products, processed foods, and forage
2. Ammunition and ammunition components
3. Animals and animal products
4. Batteries, storage
5. Cards, tabulating
6. Ditching machines
7. Dozer blades
8. Drill presses
9. Drugs, biologicals, and official reagents
10. Earth augers

11. Graders, self-powered and towed
12. Lathes
13. Machines, adding and calculating
14. Machines, addressing and mailing
15. Machines, dictating and transcribing
16. Machines, duplicating
17. Machines, punched card, bookkeeping, tabulating, and accounting
18. Milling machines
19. Mixers, concrete, portable or truck mounted
20. Pile drivers
21. Plows, snow, motor
22. Road rollers, wheeled and sheepsfoot
23. Saws, circular or band
24. Scrapers, earth moving, self-powered
25. Scrapers, earth moving, towed
26. Sedans, station wagons, coupes, limousines
27. Shovels, power
28. Spreaders, aggregate and lime
29. Tractors, warehouse
30. Tractors, wheeled or crawler, with or without special attachments, up to 65 h.p.
31. Tractors, wheeled or crawler, with or without special attachments, 65 h.p and up
32. Trailers, general purpose, multiple axle
33. Trailers, general purpose, single axle
34. Trailers, tank mounted
35. Trucks, forklift
36. Trucks, general purpose, cargo and construction, 12,500 GVW and up (including truck tractors, dump, and multiple drive)
37. Trucks, general purpose and utility, up to 12,500 GVW (including suburbans, carryalls, and sedan deliveries)
38. Trucks, straddle
39. Trucks, tank (special purpose truck on which the tank is an integral part of the construction)
40. Trucks, warehouse, platform, electric and gasoline powered
41. Typewriters, manual and electric

4-203.2 *Property Ineligible for Exchange.* Items that are found in any of the FSCGs listed below are not eligible for handling under exchange procedures without the prior approval of the General Services Administration (such approval shall accompany the purchase request):

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10	Weapons
11	Nuclear ordnance
12	Fire control equipment
14	Guided missiles
15	Aircraft, and airframe structural components*
16	Aircraft components and accessories*
17	Aircraft launching, landing, and ground handling equipment
20	Ship and marine equipment
22	Railway equipment
31	Bearings
32	Woodworking machinery and equipment, except lathes, milling machines, and saws, circular or band
34	Metalworking machinery, except drill presses, lathes, milling machines, and saws, circular or band
40	Rope, cable, chain, and fittings
41	Refrigeration and air conditioning equipment
42	Fire fighting, rescue, and safety equipment
44	Furnace, steam plant, and drying equipment; and nuclear reactors
45	Plumbing, heating, and sanitation equipment
46	Water purification and sewage treatment equipment
47	Pipes, tubing, hoses, and fittings
48	Valves
51	Hand Tools
53	Hardware and abrasives
54	Prefabricated structures and scaffolding
55	Lumber, millwork, plywood, and veneer
56	Construction and building materials
68	Chemicals and chemical products, except medicinal chemicals
71	Furniture
75	Office supplies and devices, except cards, tabulating
83	Textiles, leather, and furs
84	Clothing and individual equipment

* These line items shall be exchanged directly when the Military Departments rely on a contract with a manufacturer for full spare parts support for commercial type aircraft.

4-204 Procedures.

4-204.1 *Offering Property for Exchange.*

(a) Sale of nonexcess personal property is not authorized pursuant to this Part. The objective in exchanging nonexcess personal property shall be to acquire new property from an offeror whose offer will be most advantageous to the Government, price and other factors considered. When procuring new property concurrent with offering exchange property, formal advertising shall be used, except that:

(1) Property may be exchanged through negotiation, obtaining maximum practicable competition, in accordance with applicable laws and regulations.

(2) When the personal property is required to be procured against a mandatory Federal Supply Schedule Contract, the property shall be acquired against such contract, regardless of whether the exchange can be effected under such contract.

(b) The following notation shall be included in the solicitation:

> The property described in item number(s) _____, is being offered in accordance with the exchange provisions of Section 201(c) of the Federal Property and Administrative Services Act of 1949, 63 Stat. 384 (40 U.S.C. 481(c)).

(c) A minimum of 14 calendar days should be allowed in Continental United States (CONUS) for the inspection of property being offered for exchange. For exchanges outside Continental United States, the minimum inspection period should normally be 21 calendar days.

4-204.2 *Purchase Request and Certification.* In connection with a procurement involving exchange, the purchase request must be accompanied by a certification that the property is eligible for exchange and complies with all conditions and limitations specified in DoDI 4140.51, including a written administrative determination of economic advantage which shall indicate:

(a) The anticipated economic advantage to the Government resulting from the use of the exchange authority.

(b) That exchange allowances shall be applied toward or in partial payment for the items to be acquired.

(c) That if required, the exchange property has been rendered safe or innocuous, or has been demilitarized.

4-204.3 *Exchange of Exchange Property.* Each solicitation listing exchange property, in addition to asking for prices

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for the new items being procured, shall request offers in terms of exchange (trade-in allowance) for the exchange property listed. The solicitation shall provide for award(s) which are in the best overall interest of the Government. Exchanges may only be effected with the successful offeror. Thus, if the lowest net price to the Government of the property to be procured (i.e., the price of the new property less the amount offered for the exchange property) results from an offer by a supplier of the new property who agrees to accept the exchange property as a trade-in, a single award would be made which would cover both the acquisition by the Government of the new property and the disposal of the exchange property by trade-in. If, however, the lowest net price to the Government results from a low offered price from a supplier of the new property, without exchange of the exchange property, award shall be made to the low offeror to purchase the new property and the exchange shall not be made.

[The next page is 4:29.]

(5) The Contractor shall (i) insert in each price redetermination or incentive price revision subcontract hereunder the substance of this "Limitation on Payments" provision, including this subparagraph (5), modified to omit mention of the Government and reflect the position of the Contractor as purchaser and of the subcontractor as vendor, and to omit that portion of subparagraph (3) relating to tax credits, and (ii) include in each cost-reimbursement type subcontract hereunder a requirement that each price redetermination and incentive price revision subcontract thereunder will contain the substance of this "Limitation on Payments" provision, including this subparagraph (5), modified as outlined in (i) above.

(g) *Disagreements.* If the Contractor and the Contracting Officer fail to agree upon redetermined prices within sixty (60)** (*See footnotes at end of clause*) days after the date on which the data required by (b) above is to be filed, or within such further time as may be agreed upon by the parties, the failure to agree upon redetermined prices shall be deemed to be a dispute concerning a question of fact within the meaning of the clause of this contract entitled "Disputes," and the Contracting Officer shall promptly issue a decision thereunder. For the purpose of paragraphs (d), (e), and (f) above, and pending final settlement of the disagreement on appeal, or by failure to appeal, or by agreement, such a decision shall be treated as an executed contract modification.

(h) *Termination.* If this contract is terminated prior to price redetermination, prices shall be established pursuant to this clause for completed supplies and services which are not terminated. All other elements of the termination shall be resolved pursuant to other applicable provisions of this contract.

(End of clause)

*Insert, in contracts of the Department of the Navy, the words "and the office or offices designated in the contract to make payments thereunder."

**This period may be varied by the parties at the time of negotiating the contract.

7-110 Simplified Contract Required Clauses. The clauses in this paragraph shall be used only by contracting offices authorized by their Department to use the test procedures of the DoD Contract Simplification Program.

7-110.1 The following clause shall be inserted in all simplified contracts for supplies.

SIMPLIFIED SUPPLY CONTRACT REQUIRED CLAUSES (1983 DEC)

The General Provisions set forth below by reference are incorporated herein with the same force and effect as if set forth in full.

(a) Definitions (1979 MAR), 7-103.1
(b) Changes (1958 JAN), 7-103.2
(c) Variation in Quantity (1949 JUL), 7-103.4
(d) Inspection (1982 NOV), 7-103.5(a)
(e) Title and Risk of Loss (1968 JUN), 7-103.6
(f) Payments (1958 JAN), 7-103.7
(g) Assignment of Claims (1962 FEB), 7-103.8
(h) Federal, State and Local Taxes (1971 NOV), 7-103.10(a).
(i) Default (1969 AUG), 7-103.11
(j) Disputes (1983 FEB), 7-103.12(a)

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(k) Discounts (1968 JUN), 7-103.14
(l) Walsh-Healey Public Contracts Act (1958 JAN), 7-103.17
(m) Equal Opportunity (1978 SEP), 7-103.18(a)
(n) Officials Not to Benefit (1949 JUL), 7-103.19
(o) Covenant Against Contingent Fees (1958 JAN), 7-103.20
(p) Termination for Convenience of the Government (1974 OCT), 7-103.21(b)
(q) Responsibility for Inspection (1968 SEP), 7-103.24
(r) Affirmative Action for Disabled Veterans and Veterans of the Vietnam Era (1983 AUG), 7-103.27
(s) Affirmative Action for Handicapped Workers (1976 MAY), 7-103.28
(t) Invoices (1982 OCT), 7-103.30
(u) Buy American Act and Balance of Payments Program (1980 OCT), 7-104.3
(v) Notice to the Government of Labor Disputes (1958 SEP), 7-104.4
(w) Utilization of Small Business and Small Disadvantaged Business Concerns (1980 AUG), 7-104.14(a)
(x) Gratuities (1952 MAR), 7-104.16
(y) Convict Labor (1975 OCT), 7-104.17
(z) Priorities, Allocations, and Allotments (1975 OCT), 7-104.18
(aa) Utilization of Labor Surplus Area Concerns (1981 MAY), 7-104.20(a)
(ab) Interest (1983 FEB), 7-104.39
(ac) New Material (1965 JAN), 7-104.48
(ad) Government Surplus (1965 JAN), 7-104.49

(End of clause)

PART 2—Cost-Reimbursement Type Supply Contracts

7-200 Scope of Part. This Part sets forth uniform contract clauses for use in cost-reimbursement type supply contracts as defined in 7-202.

7-201 Reserved.

7-202 Applicability. As used in this Part, the term "cost-reimbursement type supply contract" shall mean any contract (other than a letter contract, notice of award; or a supplemental agreement to a contract which does not effect a new procurement) entered into on a cost reimbursement basis as covered in 3-405 for supplies other than (i) the construction, alteration or repair of buildings, bridges, roads, or other kinds of real property; (ii) experimental, developmental, or research work; (iii) facilities to be provided by the Government under a "facilities contract" as defined in 7-701 and Section XIII of this Regulation or (iv) general contracts for communication services and facilities.

7-203 Required Clauses. The following clauses shall be inserted in all cost-reimbursement type supply contracts.

7-203.1 *Definitions.* Insert the clause in 7-103.1. Additional definitions may be included in such clause *provided* they are not inconsistent with the provisions of this Regulation.

7-203.2 *Changes*

CHANGES (1967 APP)

(a) The Contracting Officer may at any time, by a written order, and without notice to the sureties, if any, make changes, within the general scope of this contract, in any one or more of the following:

(i) drawings, designs, or specifications, where supplies to be furnished are to be specially manufactured for the Government in accordance therewith,
(ii) method of shipment or packing; and
(iii) place of delivery.

(b) If any such change causes an increase or decrease in the estimated cost of, or the time required for, the performance of any part of the work under this contract, whether changed or not changed by any such order, or otherwise affects any other provision of this contract, an equitable adjustment shall be made

(i) in the estimated cost or delivery schedule, or both;
(ii) in the amount of any fixed fee to be paid to the Contractor; and
(iii) in such other provisions of the contract as may be so affected, and the contract shall be modified in writing accordingly.

Any claim by the Contractor for adjustment under this clause must be asserted within thirty (30) days from the date of receipt by the Contractor of the notification of change; *provided*, however, that the Contracting Officer, if he decides that the facts justify such action, may receive and act upon any such claim asserted at any time prior to final payment under this contract. Failure to agree to any adjustment shall be a dispute concerning a question of fact within the meaning of the clause of this contract entitled "Disputes." However, except as provided in paragraph (c) below, nothing in this clause shall excuse the Contractor from proceeding with the contract as changed.

(c) Notwithstanding the provisions of paragraphs (a) and (b) above, the estimated cost of this contract and, if this contract is incrementally funded, the funds allotted for the performance thereof, shall not be increased or deemed to be increased except by specific written modification of the contract indicating the new contract estimated cost and, if this contract is incrementally funded, the new amount allotted to the contract. Until such modification is made, the Contractor shall not be obligated to continue performance or incur costs beyond the point established in the clause of this contract entitled "Limitation of Cost" or "Limitation of Funds."

(End of clause)

CONTRACT CLAUSES AND SOLICITATION PROVISIONS

7-1912 Limitation of Liability — Service Contract. In accordance with 1-330, insert the following clause.

LIMITATION OF LIABILITY — SERVICE CONTRACT (1974 APR)

(a) Except to the extent that the Contractor is responsible under this contract for deficiencies in the services required to be performed under this contract, including any materials furnished in conjunction therewith, the contractor shall not be liable, by reason of Contractor's performance of services or delivery of materials under this contract, for loss of or damage to property of the Government occurring after Government acceptance of such services.

(b) The foregoing limitations shall not apply as to loss of or damage to property of the Government caused by willful misconduct or lack of good faith on the part of the Contractor's directors or officers, or on the part of any of his managers, superintendents, or other equivalent representatives, who have supervision or direction of:

(i) all or substantially all of the Contractor's business; or

(ii) all or substantially all of the Contractor's operations at any one plant or separate location, in which this contract is being performed; or

(iii) a separate and complete major industrial operation in connection with the performance of this contract.

(c) Notwithstanding paragraph (a) above, if the Contractor carries insurance or has established a reserve for self-insurance covering liability for damages or losses to property of the Government through performance of the services or furnishing of materials under this contract, then the Contractor shall be liable to the Government for such damages or losses to property of the Government to the extent of such insurance or reserve for self-insurance.

(d) The substance of this clause, suitably altered to reflect the relationship of the contracting parties, shall be included in any subcontracts hereunder.

(End of clause)

7-1913 Simplified Contract Required Clauses. The clauses in this paragraph shall be used only by contracting offices authorized by their Department to use the test procedures of the DoD Contract Simplification Program.

7-1913.1 The following clause shall be inserted in all simplified contracts for services.

SIMPLIFIED SERVICES CONTRACT REQUIRED CLAUSES (1983 DEC)

The General Provisions set forth below by reference are incorporated herein with the same force and effect as if set forth in full.

(a) Definitions (1979 MAR), 7-103.1
(b) Changes (1971 NOV), 7-1902.2
(c) Inspection of Services (1971 NOV), 7-1902.4
(d) Payments (1958 JAN), 7-103.7
(e) Assignment of Claims (1962 FEB), 7-103.8
(f) Federal, State and Local Taxes (1971 NOV), 7-103.10(a)
(g) Default (1969 AUG), 7-103.11
(h) Disputes (1983 FEB), 7-103.12(a)
(i) Discounts (1971 NOV), 7-1902.11
(j) Contract Work Hours and Safety Standards Act - Overtime Compensation (1971 NOV), 7-103.16(a)

CONTRACT CLAUSES AND SOLICITATION PROVISIONS

(k) Equal Opportunity (1978 SEP), 7-103.18(a)
(l) Officials Not to Benefit (1949 JUL), 7-103.19
(m) Covenant Against Contingent Fees (1958 JAN), 7-103.20
(n) Affirmative Action for Disabled Veterans and Veterans of the Vietnam Era (1983 AUG), 7-103.27
(o) Affirmative Action for Handicapped Workers (1976 MAY), 7-103.28
(p) Invoices (1982 OCT), 7-103.30
(q) Notice to the Government of Labor Disputes (1958 SEP), 7-104.4
(r) Utilization of Small Business and Small Disadvantaged Business Concerns (1980 AUG), 7-104.14(a)
(s) Gratuities (1952 MAR), 7-104.16
(t) Convict Labor (1975 OCT), 7-104.17
(u) Utilization of Labor Surplus Area Concerns (1981 MAY), 7-104.20(a)
(v) Interest (1983 FEB), 7-104.39
(w) Service Contract Act of 1965, As Amended (1979 SEP), 7-1903.41(a)

(End of clause)

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ARMED SERVICES PROCUREMENT REGULATION

CONTRACT CLAUSES AND SOLICITATION PROVISIONS

PART 20—CONTRACT CLAUSES AND SOLICITATION PROVISIONS

7-2000 Scope of Part. This part sets forth uniform clauses, provisions, notices, statements, etc., for use in solicitations.

7-2001 Reserved.

7-2002 Required Clauses.

7-2002.1 *Contingent Fee.* In accordance with 1-506.1, insert the following clause.

CONTINGENT FEE (1974 APR)

The Offeror/Quoter represents and certifies as part of his proposal/quotation that (Check all applicable boxes or blocks).

(a) He [ ] has, [ ] has not, employed or retained any company or person (other than a full-time, bona fide employee working solely for the offeror/quoter) to solicit or secure this contract, and (b) he [ ] has, [ ] has not, paid or agreed to pay any company or person (other than a full-time bona fide employee working solely for the offeror/quoter) any fee, commission, percentage, or brokerage fee contingent upon or resulting from the award of this contract, and agrees to furnish information relating to (a) and (b) above, as requested by the Contracting Officer. (For interpretation of the representation, including the term "bona fide employee", see Code of Federal Regulations, Title 41, Subpart 1-1.5.)

If the offeror/quoter, by checking the appropriate box provided therefor, has represented that he has employed or retained a company or person (other than a full-time bona fide employee working solely for the offeror/quoter) to solicit or secure this contract, or that he has paid or agreed to pay any fee, commission, percentage, or brokerage fee to any company or person contingent upon or resulting from the award of this contract, he shall furnish, in duplicate, a complete Standard Form 119, Contractor's Statement of Contingent or Other Fees. If offeror/quoter has previously furnished a completed Standard Form 119 to the office issuing this solicitation, he may accompany his proposal/quotation with a signed statement (a) indicating when such completed form was previously furnished, (b) identifying by number the previous solicitation or contract, if any, in connection with which such form was submitted, and (c) representing that the statement in such form is applicable to this proposal/quotation.

(End of clause)

7-2002.2 *Late Bids, Modifications of Bids or Withdrawal of Bids.* The following provision shall be included in all advertised procurements (this replaces paragraphs 7 and 8 of Standard Forms 22 and 33A).

LATE BIDS, MODIFICATIONS OF BIDS OR WITHDRAWAL OF BIDS (1979 MAR)

(a) Any bid received at the office designated in the solicitation after the exact time specified for receipt will not be considered unless it is received before award is made and either

(i) it was sent by registered or certified mail not later than the fifth calendar day prior to the date specified for the receipt of bids (*e.g.*, a bid submitted in response to a solicitation requiring receipt of bids by the 20th of the month must have been mailed by the 15th or earlier), or,

(ii) it was sent by mail (or telegram if authorized) and it is determined by the Government that the late receipt was due solely to mishandling by the Government after receipt at the Government installation.

(b) Any modification or withdrawal of bid is subject to the same conditions as in (a) above except that withdrawal of bids by telegram is authorized. A bid may also be withdrawn in person by a bidder or his authorized representative, *provided* his identity is made known and he signs a receipt for the bid, but only if the withdrawal is made prior to the exact time set for receipt of bids.

(c) The only acceptable evidence to establish

CONTRACT CLAUSES AND SOLICITATION PROVISIONS

7-2003.91 *Certification of Handicapped Organizations.* In accordance with 2-201(a)Sec.K(xxi), 2-201(b)(lxiv), 3-501(b)Sec.K(xxiii), and 3-501(c)(lxvi), insert the following provision.

HANDICAPPED ORGANIZATIONS (1981 SEP)

The Offeror certifies that it is [ ] is not [ ] an organization eligible for assistance under section 7(h) of the Small Business Act (15 USC 636). An Offeror certifying in the affirmative is eligible to participate in any resultant contracts hereunder or any part thereof as if he were a small business concern as elsewhere defined in the solicitation. An organization to be eligible under section 7(h) of the Small Business Act must be one (i) organized under the laws of the United States or any state; (ii) operated in the interest of handicapped individuals; (iii) the net income of which does not inure in whole or part to the benefit of any shareholder or other individual; (iv) that complies with any applicable occupational health and safety standard prescribed by the Secretary of Labor; (v) that, during the fiscal year in which it bids upon a set-aside, employs handicapped individuals for not less than 75 per cent of the man-hours required for the production or provision of commodities or services; and (vi) that can qualify under the additional criteria prescribed in Section 118.11, SBA Rules and Regulations, 13 CFR 118.11. For purposes of this clause, the term "handicapped individual" means a person who has a physical, mental, or emotional impairment, defect, ailment, disease, or disability of a permanent nature which in any way limits the selection of any type of employment for which the person would otherwise be qualified or qualifiable.

(End of provision)

7-2004 Provisions to be Used for Simplified Contracts. The provisions in this paragraph shall be used only by contracting offices authorized by their Department to use the test procedures of the DoD Contract Simplification Program.

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7-2004.1 The following provision shall be inserted in all solicitations for simplified contracts.

SIMPLIFIED CONTRACT TERMS AND CONDITIONS (1983 DEC)

The following provisions are incorporated herein by reference with the same force and effect as if set forth in full.

(a) Order of Precedence (1973 APR), 7-2003.41
(b) Preparation of Offers (1983 DEC), 7-2004.2
(c) Explanation to Offerors (1983 DEC), 7-2004.3
(d) Acknowledgement of Amendments to Solicitation (1983 DEC), 7-2004.4
(e) Submission of Offers (1983 DEC), 7-2004.5
(f) Failure to Submit Offer (1983 DEC), 7-2004.6
(g) Award of Contract (1983 DEC), 7-2004.7
(h) Labor Information (1983 DEC), 7-2004.8
(i) Parent Company (1983 DEC), 7-2004.9
(j) Solicitation Definitions (1983 DEC), 7-2004.10

(End of provision)

7-2004.2 *Preparation of Offers.* Insert the following provision in all solicitations for simplified contracts.

PREPARATION OF OFFERS (1983 DEC)

(a) Offerors are expected to examine the drawings, specifications, Schedule, and all instructions. Failure to do so will be at the offeror's risk.

(b) Each offeror shall furnish the information required by the solicitation. The offeror shall sign the solicitation and print or type his name on the Schedule and each Continuation Sheet thereof on which he makes an entry. Erasures or other changes must be initialed by the person signing the offer. Offers signed by an agent are to be accompanied by evidence of his authority unless such evidence has been previously furnished to the issuing office.

(c) Unit price for each unit offered shall be shown and such price shall include packing unless otherwise specified. A total shall be entered in the "Amount" column of the Schedule for each item offered. In case of discrepancy between a unit price and extended price, the unit price will be

presumed to be correct, subject, however, to correction to the same extent and in the same manner as any other mistake.

(d) Offers for supplies or services other than those specified will not be considered unless authorized by the solicitation.

(e) The offeror must state a definite time for delivery of supplies or for performance of services unless otherwise specified in the solicitation.

(f) Time, if stated as a number of days, will include Saturdays, Sundays and holidays.

(g) Code boxes are for Government use only.

(End of provision)

7-2004.3 *Explanation to Offerors.* Insert the following provision in all solicitations for simplified contracts.

EXPLANATION TO OFFERORS (1983 DEC)

Any explanation desired by an offeror regarding the meaning or interpretation of the solicitation, drawings, specifications, etc., should be requested in writing and with sufficient time allowed for a reply to reach offerors before the submission of their offers. Oral explanations or instructions given before the award of the contract will not be binding. Any information given to a prospective offeror concerning a solicitation will be furnished to all prospective offerors as an amendment of the solicitation, if such information is necessary to offerors in submitting offers on the solicitation or if the lack of such information would be prejudicial to uninformed offerors.

(End of provision)

7-2004.4 *Acknowledgement of Amendments to Solicitations.* Insert the following provision in all solicitations for simplified contracts.

ACKNOWLEDGEMENT OF AMENDMENTS TO SOLICITATIONS (1983 DEC)

Receipt of an amendment to a solicitation by an offeror must be acknowledged (a) by signing and returning the amendment, or (b) by letter or telegram. Such acknowledgement must be received prior to the hour and date specified for receipt of offers.

(End of provision)

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7-2004.5 *Submission of Offers.* Insert the following provision in all solicitations for simplified contracts.

SUBMISSION OF OFFERS (1983 DEC)

(a) Offers and modifications thereof shall be enclosed in sealed envelopes and addressed to the office specified in the solicitation. The offeror shall show the hour and date specified in the solicitation for receipt, the solicitation number, and the name and address of the offeror on the face of the envelope.

(b) Telegraphic offers will not be considered unless authorized by the solicitation; however, offers may be modified or withdrawn by written or telegraphic notice, provided such notice is received prior to the hour and date specified for receipt.

(c) Samples of items, when required, must be submitted within the time specified, and unless otherwise specified by the Government, at no expense to the Government. If not destroyed by testing, samples will be returned at offeror's request and expense, unless otherwise specified by the solicitation.

(End of provision)

7-2004.6 *Failure to Submit Offer.* Insert the following provision in all solicitations for simplified contracts.

FAILURE TO SUBMIT OFFER (1983 DEC)

If no offer is to be submitted, do not return the solicitation unless otherwise specified. You should advise the issuing office in writing whether future solicitations for the type of supplies or services covered by this solicitation are desired. Failure of the recipient to offer, or to notify the issuing office that future solicitations are desired, may result in removal of the name of such recipient from the mailing list for the type of supplies or services covered by the solicitation.

(End of provision)

7-2004.7 *Award of Contract.* Insert the following provision in all solicitations for simplified contracts.

AWARD OF CONTRACT (1983 DEC)

(a) The contract will be awarded to the responsible offeror whose offer conforming to the solicitation will be most advantageous to the Government, price and other factors considered.

(b) The Government reserves the right to reject any or all offers and to waive informalities and minor irregularities in offers received.

(c) The Government may accept any item or group of items of any offer, unless the offeror qualifies his offer by specific limitations. UNLESS OTHERWISE PROVIDED IN THE SCHEDULE, OFFERS MAY BE SUBMITTED FOR ANY QUANTITIES LESS THAN THOSE SPECIFIED; AND THE GOVERNMENT RESERVES THE RIGHT TO MAKE AN AWARD ON ANY ITEM FOR A QUANTITY LESS THAN THE QUANTITY OFFERED AT THE UNIT PRICES OFFERED UNLESS THE OFFEROR SPECIFIES OTHERWISE IN HIS OFFER.

(d) A written award (or Acceptance of Offer) mailed (or otherwise furnished) to the successful offeror within the time for acceptance specified in the offer shall be deemed to result in a binding contract without further action by either party.

The following paragraphs (e) through (h) apply only to negotiated solicitations.

(e) The Government may accept within the time specified therein, any offer (or part thereof, as provided in (c) above), whether or not there are negotiations subsequent to its receipt, unless the offer is withdrawn by written notice received by the Government prior to award. If subsequent negotiations are conducted, they shall not constitute a rejection or counter offer on the part of the Government.

(f) The right is reserved to accept other than the lowest offer and to reject any or all offers.

(g) The Government may award a contract, based on initial offers received, without discussion of such offers. Accordingly, each initial offer should be submitted on the most favorable terms from a price and technical standpoint which the offeror can submit to the Government.

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(h) Any financial data submitted with any offer hereunder or any representation concerning facilities or financing will not form a part of any resulting contract; provided, however, that if the resulting contract contains a clause providing for price reduction for defective cost or pricing data, the contract price will be subject to reduction if cost or pricing data furnished hereunder is incomplete, inaccurate, or not current.

(End of provision)

7-2004.8 *Labor Information.* Insert the following provision in all solicitations for simplified contracts.

LABOR INFORMATION (1983 DEC)

General information regarding the requirements of the Walsh-Healey Public Contracts Act (41 U.S.C. 35-45) and the Contract Work Hours Standards Act (40 U.S.C. 327-330) may be obtained from the Department of Labor, Washington, D.C. 20210, or from any regional office of that agency. Request for information should include the solicitation number, the name and address of the issuing agency, and a description of the supplies or services.

(End of provision)

7-2004.9 *Parent Company.* Insert the following provision in all solicitations for simplified contracts.

PARENT COMPANY (1983 DEC)

A parent company for the purpose of this offer is a company which either owns or controls the activities and basic business policies of the offeror. To own another company means the parent company must own at least a majority (more than fifty percent (50%)) of the voting rights in that company. To control another company, such ownership is not required; if another company is able to formulate, determine, or veto basic business policy decisions of the offeror. This control may be exercised through the use of dominant minority voting rights, use of proxy voting, contractual arrangmeents, or otherwise.

(End of provision)

7-2004.10 *Solicitation Definitions.* Insert the following provision in all solicitations for simplified contracts.

SOLICITATION DEFINITIONS (1983 DEC)

(a) The term "solicitation" means Invitation for Bids (IFB) where the procurement is advertised, and Request for Proposal (RFP) where the procurement is negotiated.

(b) The term "offer" means bid where the procurement is advertised and proposal where the procurement is negotiated.

(c) For purposes of this solicitation, the term "advertised" includes small business restricted advertising and other types of restricted advertising.

(End of provision)

[FR Doc. 84-4384 Filed 2-16-84; 8:45 am]
BILLING CODE 3810-01-C

VOL 49 ISS 34 FE 17 1984

federal register

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February 17, 1984

Part VI

Department of Labor

Occupational Safety and Health Administration

29 CFR Part 1926

Crane or Derrick Suspended Personnel Platforms; Proposed Rule

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1926

[Docket No. S–409]

Crane or Derrick Suspended Personnel Platforms

AGENCY: Occupational Safety and Health Administration, Labor.

ACTION: Proposed rule.

SUMMARY: OSHA proposes to revise section 1926.550, Cranes and Derricks, of OSHA's construction industry standards, by adding a new paragraph (g). None of the other paragraphs of § 1926.550 will be affected by this rulemaking.

The use of a friction of hydraulic portal, tower, crawler, locomotive, truck, and wheel mounted crane or derrick to hoist employees on a platform is occasionally necessary due to worksite conditions. However, several accidents have occurred as a result of this practice, the most recent of which resulted in four fatalities at Tampa Stadium, Tampa, Florida, March 31, 1983. While OSHA's construction standards do cover the use of elevators, personnel hoists, and aerial lifts to hoist employees, they do not currently provide guidance concerning safe work practices while hoisting personnel platforms with cranes or derricks. This proposed regulatory action would remedy that lack of coverage by providing criteria for the allowance of such a practice as well as design, operational, inspection and testing requirements.

DATES: Written comments and any requests for a hearing must be postmarked on or before April 17, 1984.

ADDRESS: Written comments and any request for a hearing should be submitted to the Docket Officer, Docket No. S–409, Occupational Safety and Health Administration, Room S–6212, U.S. Department of Labor, 200 Constitution Ave, NW., Washington, D.C. 20210, (202) 523–7894.

FOR FURTHER INFORMATION CONTACT: Mr. James Foster, Occupational Safety and Health Administration, Room N3637, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20210, Telephone (202) 523–8151.

SUPPLEMENTARY INFORMATION: The author of this Proposed Rulemaking is Steve Jones of the Office of Construction and Civil Engineering Safety Standards, Occupational Safety and Health Administration.

I. Background

Congress amended the Contract Work Hours Standards Act (CWHSA) (40 U.S.C. 327 et seq.) in 1969 by adding a new Section 107 (40 U.S.C. 333) to provide employees in the construction industry with a safer work environment and to reduce the frequency and severity of construction accidents and injuries. The amendment, comonly known as the Construction Safety Act (CSA) (Pub. L. 91–54; August 9, 1969), significantly strengthened employee protection by providing for occupational safety and health standards for employees of the building trades and construction industry in Federal and federally financed or federally assisted construction projects.

The Occupational Safety and Health Act (the Act) (84 Stat. 1590; 29 U.S.C. 655 et seq.), which expanded coverage to virtually all employments and was enacted less than two years later, authorized the Secretary of Labor to adopt established Federal standards issued under other statutes, including the Construction Safety Act, as occupational safety and health standards under the Act. Accordingly, the Secretary adopted the construction standards, which were issued under the Construction Safety Act, as OSHA standards on May 29, 1971 (36 FR 10466), and redesignated these rules as 29 CFR Part 1926 on December 30, 1971 (36 FR 25232). The standard entitled "Cranes and Derricks," § 1926.550, was adopted as an OSHA standard in Subpart N of Part 1926 as part of this process.

A particular provision within that Cranes and Derricks section that was adopted as an OSHA standard in 1971 is related to the hoisting of employees by crawler, locomotive and truck cranes. Paragraph 550(b)(2) requires that the operation of all such cranes meet the applicable requirements in the ANSI standard B30.5 "Safety Code for Crawler, Locomotive and Truck Cranes." ANSI standard B30.5 Section 5–3.2.3(e), requires that "the operator shall not hoist, lower, swing, or travel while anyone is on the load or hook."

A similar requirement is contained in ANSI standard B30.6. "Safety Code for Derricks." Section 6–3.3.3 requires that "the operator shall not hoist, lower, or swing while anyone is on the load or hook."

There has been some confusion in the construction industry about whether OSHA interprets these ANSI provisions to prohibit the hoisting of personnel platforms, sometimes known as man baskets or man-skip boxes, by crawler, locomotive, and truck cranes and derricks. OSHA's policy in this matter can best be understand by examining the chronology of events related to this matter.

In 1972, a group of contractors in Florida requested a clarification of § 1926.550(b)(2). OSHA interpreted § 1926.550(b)(2) to mean that where no other practical alternative means of transporting employees existed, no citations would be issued, provided that specific requirements were met (Ex. 1).

In 1973 OSHA received an ANSI B30 Committee interpretation of ANSI B30.5, Section 5–3.2.3(e). ANSI interpreted the section to refer to normal loads such as beams, girders or concrete buckets. They further stated that under controlled conditions, a specially designed scale box or other guarded platform for pesonnel that was attached to the crane hook was permissible (Ex. 2).

Again in 1973 OSHA responded to a request for a variance from the Boeing Corporation concerning the application of paragraph .550(b)(2). OSHA determined that a variance was unnecessary because a specifically designed safety work platform suspended from the hook was not covered by the tern"load." OSHA further stated that riding and working on these platforms while using a lifebelt-lifeline system was not the same as riding a material load, or hanging, standing or sitting on the hook which is prohibited by both the ANSI standard and OSHA's standard (Ex. 3. p. 2).

The Advisory Committee on Construction Safety and Health (ACCSH) appointed a subgroup from among the Committee members in December 1973 to examine this issue, to evaluate the need for standards, and to make recommendations to the full Committee.

A two-day meeting of the subgroup, at which interested parties were invited to participate, was held July 30 and 31, 1974 (Ex. 4). After review of all the oral and written comments received, along with data developed by the subgroup, recommendations for a draft proposal were prepared for consideration by the full Committee. The Advisory Committee acted favorably upon these recommendations at a meeting held in October 1974 (Ex. 5).

Following the Advisory Committee meetings, OSHA prepared a draft Proposed Rule to cover the practice of hoisting personnel, but no action was undertaken to publish the document in the **Federal Register**. Instead, since 1975, OSHA has issued four interpretations which provided guidelines for the use of crane suspended work platforms (Ex. 6, 7, 8 and 9). These guidelines were

incorporated into OSHA Instruction STD 1–11.2A, dated October 8, 1981 (Ex. 10). That instruction has recently been revised (OSHA Instruction STD 1–11.2B, dated August 8, 1983) to serve as guidance until this rulemaking is completed (Ex. 11).

OSHA has determined that these administrative interpretations have been less successful than desired in accomplishing the objectives of the OSH Act. Therefore, this rulemaking action has been initiated to clarify and codify those conditions under which employees may be hoisted by cranes or derricks in a personnel platform.

Since that decision was made, a new draft proposal was accordingly developed which incorporated the latest policy on this subject in OSHA standards development, as well as recent ANSI draft guidelines (Ex. 14 and 15). (Subsequent to the completion of this document, a revised ANSI/ASME B30.5 standard was issued on October 31, 1983.) That draft OSHA proposal was discussed by ACCSH May 23 and 24, 1983 (Ex. 12). The recommendations of ACCSH have been incorporated where possible, into this proposed rule. In addition to the ACCSH review, OSHA has widely distributed drafts of this proposal to interested parties. Those comments have been very informative and OSHA appreciates the various parties' efforts (Ex. 19). Further comments are now solicited, especially on the issues highlighted in this proposal.

II. Hazards

OSHA estimates that there would be 42 injuries resulting from the use of cranes or derricks to hoist personnel in a typical year, 10 of which would be fatal (Ex. 21, p. IV–2).

Although the worker population exposed to the hazards of this practice is small relative to other worker populations covered by OSHA standards, the severity of an accident is usually great. A review of several accidents best illustrates the severity of this problem.

One accident in Cheyenne, Wyoming (1973), resulted in two deaths when a telescopic boom severed the load line. Had the employees in the platform been secured by a safety belt and lanyard attached to a lifeline secured to the boom tip, or if the crane had been equipped with a device or feature to prevent two-blocking from severing the load line, the deaths may have been averted. The operator was experienced in operating cranes, but not with the specific machine involved, nor with the type of operation in which the accident occurred. Even employees well acquainted with telescopic boom operations have had problems when working with this equipment in new locations and in unfamiliar surroundings.

In another fatal accident in Kansas City (1972), a structural framework with five men and a significant amount of material and equipment within it fell to the ground when the crane tipped over. The total weight was reported to be only half the rated capacity of the crane when boomed out to the work location, but the crane started tipping before it reached the desired radius. Failures of this nature point out the need for exact knowledge of a crane or derrick's stability, and the need for an accurate determination of the weight of the load, especially prior to its use for hoisting employees.

In Chicago (1981), five employees were killed and a sixth employee was seriously injured when a job-built personnel basket fell 100 feet. The employees were being hoisted by a mobile crane to a work station atop a tower crane being assembled on the site. The metal framework at the top of the cage, to which the hoisting rope was attached, snapped, causing the platform and its occupants to fall. Specific design criteria and inspection and testing requirements should prevent accidents caused by structural failure.

Most recently, in March 1983, four men were killed in an accident at Tampa Stadium in Tampa, Florida. Four men in a personnel platform were being raised by a crane to a work station 135 feet above the ground at the top of the stadium. When the platform reached 130 feet, the boom of the crane fell carrying the men in the platform with it.

The available evidence therefore suggests that there is a significant risk involved in the use of crane or derrick suspended personnel platforms if proper precautions are not followed. OSHA solicits further information on the nature and the extent of this risk.

III. Summary and Explanation of the Proposed Standard

This Notice of Proposed Rulemaking is intended to solicit information relevant to the hazards of this operation and to proposed paragraph (g) of § 1926.550. Comments on the proposed standards, suggestions and recommendations with explanations, and supporting evidence are particularly solicited. OSHA intends to evaluate the comments, recommendations, suggestions and evidence received in response to this Notice and, on the basis of this record and other information available to the Agency, make appropriate modifications.

In order to facilitate public comment, this Notice not only includes the text and explanation of the proposal, but also identifies several issues to which OSHA directs the public's attention for special consideration. OSHA wants to focus attention on these issues that have been raised during the preparation of this proposal in order to encourage the submission of additional valuable information from interested persons.

(A) Issues

1. OSHa's scope and application statement contained in paragraph .550(g)(1) contains several important points on which the Agency solicits comments.

• It is recognized throughout the construction industry that hoisting employees with cranes or derricks should not be allowed as a routine operation. The theme appears again and again that this practice must be limited (Ex. 13–16). This same point has been stressed repeatedly by members of the Advisory Committee on Construction Safety and Health (ACCSH) (Ex. 4, pp. 16–90; Ex. 5, pp. 103–292; Ex. 12, pp. 56–97 and 282–286). It has been and remains OSHA's position that this hoisting practice shall not be used as a way to provide routine access to a working location for reasons of convenience alone.

OSHA considered describing in detail the situations in which this practice would be warranted, but such descriptions would have to list all the complex factors involved in reaching that conclusion. Each situation requiring the hoisting of employees will be unique and must be considered on its own merits. OSHA cannot anticipate every set of circumstances in which this practice would be considered appropriate.

Therefore, OSHA has drafted the scope of this proposed standard in performance language designed to allow the hoisting of employees under a variety of conditions that would meet the criteria.

OSHA considers the scope statement and its limitation on employee hoisting by cranes and derricks to be very important. Therefore, the Agency solicits comment on the effectiveness and clarity of the scope and application statement. Specific suggestions for rewording the statement are encouraged.

• Another issue involves the possibility of future rulemaking actions regarding this practice in general industry and shipyard employments. OSHA recognizes that such operations also occur in general industry and

shipyards as well, and that protection for employees in those industry sectors should be provided also. Thus far, OSHA has concentrated its efforts on the construction industry. However, if comments support coverage of those industries, the Agency may begin development of proposed rules as appropriate.

OSHA solicits comments from those affected industry and employee groups as well as equipment manufacturers on the coverage of general industry and shipyards with a similar standard (Marine Terminals already have rules on this issue). Do the cranes and derricks used or the types of operations performed in all these industries vary sufficiently from those in construction to warrant standards much different from this proposal? Commenters are urged to indicate whether there are reasons not to apply provisions such as those contained in this proposal to the listed types of cranes and derricks used in general industry and shipyards.

2. The second issue of which OSHA particularly solicits comments involves crane and derrick operational criteria. OSHA proposes to require that the load line hoist drum have controlled load lowering. OSHA's intent is to establish effective operator control of the personnel platform under all circumstances. This would remove the potential for a free fall of the personnel platform, protecting the occupants from the hazards of a free fall. If the hoisting equipment has been equipped with the free-fall feature, the free-fall option must not be used while hoisting employees. This protection against the hazards of a free fall would be provided by a system or device on the power train, other than the brake, which can regulate the rate of speed of the hoist mechanism.

OSHA had previously considered prohibiting the use of systems, such as torque converters, that require an increase of the engine or motor speed to reduce the lowering speed of the loadline. The intent of such a prohibition was to eliminate the possibility of equipment which allowed a free fall. However, the Agency has received many comments that there are hoisting mechanisms using torque converters that will provide adequate protection to employees being hoisted in personnel platforms (Ex. 4, pp. 55–60; Ex. 5, pp. 104–130; Ex. 12, pp. 66–288).

Therefore, OSHA is proposing to provide protection to hoisted employees by requiring controlled load lowering. The Agency believes that this rule will provide the intended protection, while allowing the use of any hoist mechanism that could provide that control. OSHA's intent is to prohibit the use of any equipment that could not maintain control over the speed of the drum rotation under all circumstances.

OSHA has followed the example set by ANSI in its draft standards on this topic (Ex. 13, 14 and 15). However, OSHA solicits information on this issue. Specifically, what types of systems exist that maintain this power control of the hoist drum? Are there systems which usually have power control that occasionally lose the control, thus allowing the wire rope to free spool off the hoist drum? If so, what are the causes of this loss of control and how can they be prevented? OSHA encourages the submission of any data on accidents related to this topic.

OSHA's preliminary regulatory impact assessment disclosed that the requirement for controlled load lowering may not be technologically feasible for many older machines that are not so equipped (Ex. 21, p. V–1). Even if this provision was technologically feasible, OSHA's report indicates that such a conversion may not be economically feasible. However, feasibility problems should be confined to a relatively small number of older cranes. OSHA seeks comment on the impact of this proposed rule on older cranes not equipped with controlled load lowering. Is that population of cranes large enough so that the impact of this rule creates a severe hardship for the construction industry? If so, what alternative protections are available for the hazard of a free fall?

3. Another topic which has been discussed is whether OSHA should limit the number of occupants on the personnel platform (Ex. 4, pp. 61–79, 172–178; Ex. 5, pp. 186–187).

One view is that if OSHA does not limit the number of occupants, the Agency would be encouraging the use of platforms to replace personnel hoists or scaffolding. ACCSH received comments from the public on the size of the personnel platform, ranging from two men up to an unlimited number. After looking at the work procedures that would be done from this type of suspended platform, the ACCSH recommended a limit of six employees on a platform (Ex. 4, p. 172; Ex. 5, pp. 186–189). However, several commenters at the Advisory Committee meetings expressed the opinion that the platform should be designed for the number of employees needed for the job, and that the platform's rated capacity should not be exceeded.

The most recent draft of ANSI A10.28, "Crane or Derrick Suspended Work Platforms," does not limit the number of occupants. OSHA does not have the data to support any particular number for a limitation of occupancy of the personnel platforms. The Agency believes that as long as the platform's rated capacity assigned by the engineer who designed the platform is not exceeded, any limitation on the number of occupants is unnecessary. Given that this standard will apply to many different operations and work situations in construction, OSHA believes that such an approach will allow flexibility to meet all those situations, while providing protection to the employees.

OSHA solicits comment on the appropriateness of this approach and welcomes data to support any other approaches that may be recommended. OSHA solicits comment on whether any allowable operation would require more than six occupants.

4. A subject of much discussion has been the safety factors for the wire ropes, the personnel platform and the associated rigging. In previous drafts of this proposed standard, OSHA had proposed a safety factor of 10 for the loadline, rigging, and personnel platform. OSHA believes that safety factors for hoisting employees should be higher than those specified for handling material. OSHA currently requires 3.5 for running ropes, three for standing ropes (by § 1926.550(b)(2) which incorporates ANSI B30.5–1968) and a safety factor of five for wire rope slings and bridles used for material handling rigging equipment (§ 1926.251(c)(1)). OSHA currently has no standard on the safety factor for a personnel platform.

A safety factor of eight for the wire rope was recommended by ACCSH (Ex. 5, p. 199; Ex. 12, pp. 135–136). The most recent draft of ANSI B30.5–3.2.2.3(a)(5) requires minimum load hoist and boom hoist wire rope safety factors for the combined weight of the lift attachments, platform, personnel and tools to be 5:1 for manufacturer's specified constructioon wire rope, and 8:1 for rotation-resistant wire rope.

The "Rigging Manual", published by the Construction Safety Association of Ontario, Canada, states that nonrotating ropes warrant special consideration, handling and care since they are much more easily damaged in service than any other type of rope. They recommend a material handling factor of safety of approximately eight or 10 for optimum nonrotating characteristics. More recent ANSI standards (B30.6–1977 and the draft revision of B30.5) also specify a higher safety factor of five for rotation-resistant wire rope for material handling purposes.

The "Rigging Manual" also specifies a minimum acceptable safety factor of 10 for standing and running ropes used on

equipment that is intended to carry employees.

OSHA is proposing to require a derating of the crane or derrick's capacity as listed on the load rating chart, by 50 percent when handling employees (§ 1926.550(g)(3)(i)(F)). This will in effect double the existing safety factors on the wire ropes, which will result in a safety factor of seven on the loadline, without even further specifying any additonal safety factor. OSHA has proposed a safety factor of seven for the load line in order to be consistent with this derating, i.e, the 3.5 safety factor would automatically be doubled (paragraph .550(g)(3)(i)(B)). Requiring a safety factor other than seven would conflict with the 50% derating provision. OSHA solicits comments on whether this derating of the load rating chart is sufficient to cover the safety factor for standing and running ropes, or if the safety factor should be specifically listed. OSHA further solicits comments on the adequacy of the safety factor of seven for rotation resistant wire rope. Current OSHA standards do not list a specific safety factor for such wire rope, so the 50-percent derating of the load rating chart would have no impact on rotation resistant wire rope safety factors.

The ACCSH Subcommittee on Crane Suspended Work Platforms recommended a safety factor of 10 for the platform (Ex. 4, pp. 173–182). However, ACCSH recommended a safety factor of six for the platform (Ex. 5, p. 199). The ANSI A10.28 draft proposes a safety factor of five for the platform. OSHA is proposing a safety factor of five for the platform in paragraph .550(g)(4)(i)(C). OSHA solicits comments on the sufficiency of such a safety factor for the platform. Will this safety factor be sufficient if the personnel platform strikes and hangs up on a projection while being hoisted, before the operator reacts to clear the projection? If different safety factors are recommended, the reasons for the recommendation should be provided.

5. In an earlier draft of this proposed standard, OSHA included several additional instruments or equipment components. However, comments were received that such devices were either not feasible or unnecessary. Therefore, OSHA has not included these devices in this proposal. OSHA is soliciting comments on these devices and their contribution to the safety of employees engaged in these operations.

A. OSHA had considered a requirement for a load line position indicator with an accuracy of plus or minus one percent to be in view of the operator. The purpose was constantly to inform the operator of the height of the personnel platform by indicating the amount of load line paid out. As an alternative, the proposal would require employees being hoisted to remain in continuous sight and communication with the operator or signal person. Comments are solicited on the necessity of this device if the employees being hoisted remain in continuous sight and communication with the operator or a singal person.

B. OSHA had also considered a requirement for a line speed indicator to be in view of the operator. OSHA had thought that since the Agency was proposing to limit the speed of the personnel platform to 100 feet per minute, the operator would need a speed indicating device to ensure compliance. However, ACCSH comments indicated that such a device was neither feasible or necessary (Ex. 5, p. 239) (See discussion of paragraph (3)(i)(A) later in the preamble)..

OSHA solicits comments on the feasibility and desirability of such devices. Are there other devices which should be required when hoisting employees?

C. Paragraph (3)(ii)(C) requires a means to prevent accidents caused by running the load block or headache ball into the boom tip sheaves (two-blocking). Such an occurrence can break the load line causing the personnel platform to fall, or the boom to be pulled over backwards. OSHA believes that the most effective means of controlling this hazard is for the operator to maintain sight of the load block in relation to the boom tip. However, such constant attention is not ensured due to a wide variety of reasons. Therefore, OSHA is proposing to require either an anti-two-blocking device, which deactivates the hoist drum when contact is made with an upper limit switch, or a two-block damage prevention feature which deactivates the hoist drum before the load line is separated when two-blocking occurs—such as those built into the control circuit of some hydraulic cranes. Other anti-two-blocking devices or damage prevention features may exist and would be allowed by the standard, as long as they are as effective in controlling this hazard. OSHA recognizes the hazards of two-blocking and believes the employer must take the most appropriate measures to ensure that employees are protected from such hazards.

The Agency solicits comments on the effectiveness of anti-two-blocking devices. If problems exists, are they the result of improper use and maintenance or are such devices inherently unreliabe? For example, these devices are sensitive switching mechanisms that are designed to act as back-up safety devices and are not designed to function as an operational control. The device may be used in this fashion by not stopping the rising load block before it strikes the boom tip, thus relying upon the device to stop the hoist drum. Continued use in this mode is beyond the designed capacity of the device and may lead to premature failure. OSHA believes that if the devices are properly used, inspected, tested and maintained, then reliability could be ensured when their functioning is critical to the safety of employees on the platform.

ANSI drafts recognize warning systems as alternatives to positive action devices. OSHA solicits comments on the effectiveness of warning devices in preventing two-blocking accidents.

- OSHA solicits responses to several specific questions on this issue.
- Have anti-two-blocking devices actually been proven to be ineffective as currently used? If so, what are the specific problems involved?
- Will the trial lift, as proposed by paragraph (g)(5)(ii), be sufficient to ensure that this safety device is properly functioning?
- Should OSHA regulate the proper use of these devices as does ANSI B30.2–3.2.4 (Ex. 18)? Such a provision would prohibit the use of anti-two-block devices as an operational control.
- OSHA's preliminary regulatory impact assessment disclosed that the requirement for anti-tow-block protection would entail making major modifications at considerable expense for mechanically operated, frictionclutch type cranes and would probably not be economically feasible for some of these older cranes (Ex. 21, p. V–1). The assessment also indicated that hydraulic cranes can more readily incorporate this safety feature. However, the assessment states that most construction firms and crane rental agencies are likely to retrofit only a small portion of their cranes in view of the infrequency with which the operations covered by this proposed standard are performed. As a result, less adaptable cranes will not likely have to be retrofitted, thereby minimizing any potential feasibility problems. OSHA seeks comments on the economic impact of proposed paragraph (3)(ii)(c). OSHA also seeks comment on the hazards of two blocking when hoisting personnel and seeks suggested alternative protections against such hazards.

6. Employees on the platform may be exposed to the hazard of falling objects. OSHA is proposing in paragraph (g)(4)(ii)(D) to require overhead

protection when employees are exposed to falling objects. During the ACCSH meeting, it was noted that the fall ball may drop into the platform when the platform is landed, if the operator does not immediately stop lowering the loadline. However, it was also pointed out that the nature of the work may not allow overhead protection because some operations require work to be performed almost directly overhead. OSHA solicits comments on whether overhead protection should be required at all times except when the nature of the work would not allow it. If so, what are the work activities that could not be performed if overhead protection were present?

7. OSHA had considered requirements for an automatic brake that stops the load when the operator releases the controls, and a second means of stopping and holding the load. The majority of comments that OSHA has received—comments from engineers and technical representatives of crane manufacturers—state that such requirements are neither feasible nor desirable. Furthermore, neither of the ANSI drafts contain such requirements.

OSHA specifically solicits comments on the feasibility and desirability of requirig automatic brakes. The Agency requests information on accidents involving brakes, especially those which automatic brakes would have prevented, or those in which a secondary stopping means would have prevented an accident when the primary brakes failed.

8. OSHA had also considered a provision which would have required a shackle in lower load blocks and headache balls, when used to hoist employees.

OSHA's objectivn is to prevent accidental disengagement to the platform from the load block. The personnel platform may be jostled, strike an object, or the hook may be inclined, if two-blocked, to an angle where the ring or shackle comes through the throat of the hook. During such events, some hook types may allow disengagement, causing the platform to fall.

The draft ANSI standard 5–3.2.2.2 was the source of OSHA's proposed standard (Ex. 13, p. 2). After analysis of this issue, the Agency decided to propose to allow a hook. However, OSHA is soliciting comment on what types of hooks can be positively closed and locked to prevent accidental disengagement of the platform. Are such hooks capable of supporting the load in a two-blocking situation when the hook is inclined? OSHA solicits data on various hooks which would provide the positive engagement under all circumstances. Data is also requested on the effectiveness of mousing the hook, as is common practice in the maritime industries.

9. OSHA is prohibiting cranes from traveling while employees are suspended, except for portal and tower cranes operating on a fixed track, which have been allowed to travel because operating on a fixed track eliminates the hazards of traveling over uneven or soft ground.

OSHA has received comment that there are circumstances which would require a truck or crawler crane to travel with employees suspended on the platform. OSHA's proposal does not allow such a practice, but solicits comment on this issue, particularly on the following questions.

- What are the operations that would require the crane to travel with employees suspended?
- Why has the use of cranes to hoist employees been selected over other means of access?
- Under what conditions is the traveling of cranes conducted to ensure the safety of suspended employees?
- Should OSHA limit the distance over which cranes can travel? If so, what should the limit be?
- Should an allowance be made for minor positioning as opposed to traveling? How should minor positioning be defined and what precautions must be taken?
- Should OSHA specify exact conditions under which traveling would be allowed? If so, what are they, and why?

10. OSHA solicits comment on whether an additional sling should be used to attach the platform to the load line. This sling would attach to the ring or shackle at the top of the platform rigging or to the platform and would secure to the load line above the hook at the load block or headache ball. This secondary means of attachment would serve to maintain connection of the personnel platform to the load line if the primary point of connection fails for any reason.

This safety bridle is somewhat related to the requirement for overhead protection and the tie-off point for the body belt lanyard. For example, if employees are hoisted on a platform with overhead protection, the most likely location to attach the body belt lanyard is within the platform. Should employees tie off above the hook, and the personnel platform accidentally disengages from the hook, the employees would be struck by the overhead protection on the platform as it dropped past them. However, if employees tie off within the platform, they will remain on the platform if it drops. Both situations are to be avoided.

- Should OSHA require a secondary means of attachment (safety bridle) under all circumstances, or only when overhead protection is provided?
- What data exists on the frequency of the platform being accidentally released from its primary means of attachment to the load line?
- If required, what exactly should this safety bridle consist of, and how should it be attached?

(B) *Summary of the Proposed Standard.*

Section 1926.550(g). This proposal would add a new paragraph (g) to § 1926.550 entitled "Crane or Derrick Suspended Personnel Platforms."

Paragraph (g)(1) Scope and application. Proposed paragraph (g)(1) states the scope and application of this standard. This standard applies to friction or hydraulic portal, tower, crawler, locomotive, truck, and wheel mounted cranes or derricks. OSHA believes that these machines are similar enough to include in the same rulemaking. However, comment is solicited on the impact of inlcuding these various types of cranes in this rulemaking.

This standard will apply only to personnel hoisting operations where a personnel platform is attached to the load line of the aforementioned equipment.

Paragraph (g) (2) General requirement. This requirement will permit employers to hoist employees in such a manner only under the specified circumstances. An employer will have to analyze carefully each situation before a decision is made to hoist employees by a crane or derrick (See (A) Issue (1)).

Paragraph (g) (3) Crane and derrick. This paragraph contains the general provisions that all cranes and derricks covered by this proposal must comply with when hoisting employees.

Paragraph 3(i)(A) would limit lifting and lowering speeds to 100 feet (30.48 m) per minute. The 1974 ACCSH said there ought to be some criterion of speed, and 100 feet per minute was the consensus of the committee. The 1983 ACCSH did not modify that opinion. Furthermore, one crane manufacturer's manual for wire rope suspended personnel platform use specifies a limit of 100 feet per minute (Ex. 17, p. 7–2).

In an issue related to the hoisting speed, the National Constructors Association raised a question of how the operator will know that he is not exceeding 100 feet per minute unless line speed indicators are provided (See

(A) Issue (5)). The ACCSH discussed this question but did not think it was feasible to put on a line speed indicator (Ex. 4, pp. 136–140; Ex. 5, p. 239).

OSHA solicits comments on the limitation of hoisting speeds to 100 f.p.m. as opposed to the approach taken in the most recent ANSI B30.5 draft (Ex. 14, p. 6). ANSI states that movement of the work platform with personnel shall be done in a slow, controlled, cautious manner with no sudden movements of the crane or work platform. What speed should be considered as an upper limit of "slow"?

Paragraph (3)(i)(B) proposes a safety factor of 7 for the load hoist wire rope. "Safety factor" is defined in Section 1926.32(m) and applies to all 1926 standards. Wire rope safety factors are discussed in (A) Issue (4).

Paragraph (3)(i)(C) would require that when the personnel platform is placed into a stationary position where employees will perform the work, all brakes and locking devices that the crane or derrick is equipped with shall be engaged. The draft ANSI B30.5 standard contains a provision that is substantively the same (Ex. 14, p. 5).

Paragraph (3)(i)(D) will require that the load line hoist drum have controlled load lowering. If the crane or derrick is equipped with a free fall capability, it shall not be used during personnel hoisting operations. The ANSI drafts B30.5 and A10.28 require these same criteria. Maintaining control over the lowering of the load line under all circumstances is extremely critical when employees are suspended on a platform on the end of the loadline. If the hoist with which the operator is hoisting the personnel platform is equipped with the free fall capability, the operator must ensure that controlled load lowering is maintained and free fall is never used. OSHA solicits comments on what means are available on different cranes and derricks to ensure that free fall is not used. Should a positive lock-out of some sort be required? (See (A) Issue (2) for further discussion).

Paragraph (3)(i)(E) will require a firm and level foundation for cranes used to hoist the personnel platform. If the equipment is manufactured with outriggers, they must be used in accordance with the manufacturer's specifications when hoisting employees. The "Crane Handbook," published by the Construction Safety Association of Ontario, Canada states that the capacities listed in the load chart are based on the machine being dead level. A reduction of 5 to 30 percent of the chart capacity will occur when the crane is out of level by only one degree.

Paragraph (3)(i)(F) imposes a reduction of 50 percent on the rated capacity of the crane or derrick. Current standards (§ 1926.550(a)(2)) require load rating charts to be visible to the operator at the control station. This standard will require the operator never to exceed 50 percent of the posted capacity for the crane or derrick. Furthermore, this standard will require the employer to determine the weight of the platform; all additional weight imposed on the platform (employees and tools); and the related rigging prior to hoisting the platform in order to ensure that this weight does not exceed 50 percent of the crane or derrick's rated capacity.

Paragraph (3)(i)(G) would prohibit the use of any machine having a live boom to hoist employees. The draft ANSI A10.28 standard defines a live boom to be one in which lowering is controlled by a brake without aid from other lowering retarding devices.

Paragraph (3)(ii) contains provisions for additional instrumentation and components. It should be noted that the Agency is requiring these safeguards only on cranes or derricks when used to hoist employees in a suspended personnel platform.

The rated capacity of a crane or derrick is related to boom angle, boom length, or load radius, and means must be provided by which operators can determine whether the configuration of the lift is within approved limits.

Paragraph (3)(ii)(A) requires a boom angle indicator to be in view of the crane operator. Knowing the angle of the boom is a prerequisite to reading the load rating chart. Comments are solicited on whether there is the need for boom angle indicators on particular types of derricks. If so, what are those types and are there any special operating conditions?

Paragraph (3)(ii)(B) requires that telescoping booms have a means of clearly indicating the extended length to the operator. The boom length must also be known in order to read the load rating chart.

Comments are solicited on whether the boom angle and length or the load radius information is more beneficial to the operator of each type of affected machine. Are there feasible and reliable devices currently available that indicate this information to the operator?

Paragraph (3)(ii)(C) would require either an anti-two-blocking device or a two-block damage prevention feature to be installed on the crane or derrick hoisting the personnel platform. The device is actually an upper limit switch installed to prevent the hoist drum from pulling the block into the boom tip sheaves. The damage prevention feature is meant to include various features within the hoist mechanism that would deactivate the hoisting action upon contact of the load block with the boom tip before enough force is generated to pull the boom over or to separate the load line. One such feature is an override that would stall tha hydraulic fluid system. OSHA has included definitions of these two terms to alleviate problems that may arise from interpretations. The Agency could not find an industry recognized definition of these terms, necessitating the development of the language contained in the proposed rule. OSHA specifically solicits comment on these two definitions. OSHA also solicits comments on these and other positive methods to control two-blocking hazards. OSHA is particulary interested in other two-block damage prevention features on hoisting systems. Are there particular types of cranes or derricks upon which this equipment would not be feasible? ANSI drafts include an allowance for warning device feature. Under what conditions is this a more feasible approach than the device or damage prevention feature?

Telescoping booms possess additional means for causing a two-blocking accident. Is any device other than those proposed recommended to control this hazard?

Paragraph (4) contains the provisions specifically related to personnel platforms.

Paragraph (4(i)IA) requires the personnel platform to be designed by a qualified engineer competent in structural design.

Paragraph (4)(i)(B) requires the suspension system to be designed to minimize tipping of the platform. This would require the various parts of the suspension system to distribute the load equally and to stabilize the platform. OSHA has been informed of single, triple and four-legged suspension systems that meet such criteria (Ex. 16). OSHA is not limiting the material used in this suspension system. The Agency has been informed that both wire rope or solid suspension members have been successfully used. The design engineer required by paragraph (4)(i)(A) would specify the material.

Paragraph (4)(i)(C) requires the personnel platform to be designed with a safety factor of five (See (A) Issue 4). OSHA solicits comment on the appropriateness of specifying a safety factor of five for ultimate breaking strength. Should the Agency specify an additional safety factor based on permanent deformation of the platform?

If so, what would be an appropriate safety factor?

Paragraph (4)(i)(D) would require a minimum height of six feet from the floor to suspension system to provide adequate headroom. The ACCSH recommended a minimum of six feet from the floor to the point of attachment for the rigging to ensure stability and to keep employees inside the entire unit (Ex. 12, pp. 114–116). OSHA solicits comment on whether this height is sufficient.

Paragraph (4)(ii) contains specifications that the engineer must include in the design of the personnel platform.

Perimeter protection is required by paragraph (4)(ii)(A). A choice of solid walls or expanded metal is to be used up to a height of 42 inches (±3 inches) from the floor. Such protection will restrain employees from falling out, and also restrain tools which may be dropped or fall out of a waist apron or tool belt.

OSHA solicits comments on allowing standard guardrail systems for personnel platforms. Have accidents occured involving personnel platforms with guardrail systems that would have been avoided if the walls were enclosed by solid construction or expanded metal? Are there particular operations that could not be performed because of the proposed requirements? If so, what are they and how do the proposed requirements hinder such operations?

A grab rail would be required by paragraph (4)(ii)(B) to be inside the employees platform to provide a safe handhold which would protect occupants' hands should the personnel platform's side contact another object. This grab rail could also serve as a tie-off point for the body belt lanyard, provided that proposed paragraph .550(g)(6)(ix) is complied with.

Paragraph (4)(ii)(C) contains criteria that an access gate must meet, if the personnel platform is provided with a gate. The ACCSH discussed requiring all personnel platforms to have doors (Ex. 4, pp. 127–129 and 172; Ex. 12, p. 143). Although they did not recommend requiring doors, they did agree that if there is a door it must open inward, and should be equipped with a device to prevent accidental opening. Some personnel platform designs, such as a one person barrel-type platform, may not be suitable for having an access gate (Ex. 16).

Paragraph (4)(ii)(D) requires overhead protection when employees are exposed to falling objects (See (A) Issue 6).

Paragraph (4)(ii)(E) would require all rough edges to which employees may be exposed to be ground smooth.

Paragraph (4)(ii)(F) would require that all welding for the personnel platform be performed by a welder qualified to do the type of work required by the designing engineer. This will do much to ensure the structural strength of the personnel platform. OSHA solicits comments on whether a welder meeting the definition of "qualified," as defined in § 1926.32(1), is sufficient or if a certified welder would be more appropriate. What type of welding should this welder be certified to perform? Additionally, should OSHA specify a particular welding standard to be met, or will the design engineer so specify? Should OSHA require prooftesting after fabrication of the personnel platform? If so, what would be an appropriate weight and procedure?

Paragraph (4)(ii)(G) would require a permanent marking on the personnel platform to indicate the weight of the empty platform and the rated load capacity. This marking would indicate how much weight can be carried in the platform.

Paragraph (4)(ii)(H) would require the personnel platform to be easily identifiable either by color or by marking the platform. This will ensure that everyone knows the special purpose for this equipment, and will assist the crane or derrick operator to see the platform at a distance.

Paragraph (4)(iii)(A) would limit the loading of the personnel platform to its posted rated capacity.

Paragraph (4)(iii)(B) requires that the number of occupants on the platform not exceed that necessary to perform the work. OSHA believes that the Agency should not specify a limit of the number of occupants, but that the nature of the task which makes the use of the personnel platform necessary, and the designed size and rated capacity of the platform be the limiting factors (See (A) Issue 3).

Paragraph (4)(iii)(C) restricts the platform's use to employees, their tools, and only those materials necessary to do their work. The ACCSH stressed that only the tools and material necessary for the work should be hoisted, and that the platform not be used for hoisting bulk materials or other loads not related to the specific task involved (Ex. 4, pp. 197–203; Ex. 12, pp. 49–52, 102–112).

Paragraph (4)(iii)(D) would require all materials hoisted on the platform with employees to be secured and evenly distributed to balance the load.

Paragraph (4)(iv) covers the rigging used to suspend the personnel platform from the load block or fall ball.

Paragraph (4)(iv)(A) would require that when a wire rope bridle is used, the bridle legs all connect to a ring or a shackle. This serves to equalize and consolidate all the load into one point of contact when this ring or shackle is hung on the hook or shackle from the load line block or fall ball.

Paragraph (4)(iv)(B) would require the ring or shackle on the end of the lifting bridle to be attached to the load line block or fall ball by a positive locking hook or a shackle, secured by a screwpin, nut and retaining pin. This will eliminate the possibility of the bridle being accidentally dropped out of the load block hook (See (A) Issue 8).

Paragraph (4)(iv)(C) would require that all rigging hardware have a safety factor of seven, which would equal the load line safety factor.

Paragraph (4)(iv)(D) would require that eyes in wire rope slings be fabricated with thimbles to distribute evenly the forces around the eye without kinking the wire rope.

Proposed paragraph (5) includes the additional inspection and testing requirements for this operation.

Paragraph (5)(i) would require that a competent person inspect such cranes and derricks at the beginning of each shift, and again if the crane or derrick has been used for any material handling operation in which greater than 50 percent of the rated capacity was lifted. This stresses that the crane or derrick must be in good condition and set up properly before any employees are hoisted.

Paragraph (5)(ii) would require a trial lift with the personnel platform unoccupied to ensure that all systems, controls, and safety devices are functioning properly. This trial lift must be made at the beginning of each shift and for each new work location. Work location refers to the location to which the platform is hoisted. When this location changes, the crane or derrick's configuration may change, i.e., the crane's superstructure may rotate or the boom angle may change, and the trial lift will ensure that critical components and safety devices are still functioning properly.

Paragraph (5)(iii) requires a test lift different than that described in the above paragraph. However, the two test lifts may be performed at the same time, if desired. A full-cycle operational test lift would require the operator to hoist an unoccupied personnel platform through the same maneuvers required for the actual lift. The unoccupied platform would be hoisted from the same location to the same working position and landed at the same place as the employees will be. The platform is to be loaded to 150 percent of the intended

load (that which will be on the platform during the work). This test lift is to be performed prior to hoisting employees at each new set-up location. Set-up refers to moving the crane to a different location, preparing the ground, setting the outriggers, etc.

OSHA has been informed during reviews of drafts of this rule that this operational test lift may not be necessary under all conditions. For example, if a crawler crane is operating on an area that is well compacted and has performed many lifts of material far in excess of the weight of the loaded personnel platform, an operator would naturally assume that the personnel lift could be safely made without an operational test. This would be especially true when the crane is operating on a surface of timbers or cribbing and the platform has been recently proof tested. OSHA seeks comment on the impact of paragraph (5)(iii) and recommendation of those circumstances or conditions under which this operational test lift should not be required.

Paragraph (iii)(A) requires an immediate visual inspection after the test lift to identify any adverse effects upon any component or structure of the crane, its outriggers and the supporting ground, as well as the platform.

Paragraph (iii)(B) would prohibit the crane or derrick from being used if the test resulted in defects which could present a safety hazard, such as instability or permanent deformation of any component.

Paragraph (6) contains the safe work practices to be followed when hoisting personnel platforms by the cranes and derricks listed in paragraph (g)(1)(i).

Paragraph (6)(i) would require employees to keep all parts of the body inside the platform except when working.

Paragraph (6)(ii) would ensure the stability of the platform prior to employees getting onto or off of the platform. The Agency solicits comment on the hazards of not securing the personnel platform and of any alternate methods of ensuring the personnel platform's stability.

Paragraph (6)(iii) would require tag lines to be used on the platform where their use is practical.

Paragraph (6)(iv) prohibits the crane from traveling while hoisting employees. OSHA must ensure the stability of cranes while employees are being hoisted. Paragraph (3)(i)(E) which requires firm, level footing and the use of outriggers, if so equipped, is another example of how OSHA is regulating the stability of the crane. However, OSHA has received comments that portal and tower cranes operating on a fixed track can travel and not increase the risk to suspended employees. The Agency solicits comments on the listed exceptions (See (A) Issue 9).

Paragraph (6)(v) would require the operator to remain at the controls at all times while hoisting personnel.

Paragraph (6)(vi) would require employee hoisting to cease upon indication of any dangerous weather conditions or other impending danger. The draft ANSI A10.28 (Ex. 15, p. 5) specifically lists high winds, electrical storms, snow, ice, sleet, or other adverse weather conditions. The ACCSH (Ex. 12, pp. 147–148) recommended the proposed wording to include dangers other than the weather. OSHA solicits comments on the types of occurrences which would be hazardous enough to require discontinuance of the employee hoisting operation.

Paragraph (6)(vii) would require a check of the listed items prior to hoisting employees. This work practice of a last minute check prior to employees occupying the platform may identify some problems that need to be corrected before beginning the operation.

Paragraph (6)(viii) would require the hoisted employees to remain in continuous sight of and communication with the operator or signal person. A signal person would only be required when the operator cannot see the hoisted employees. Communication would include means such as voice contact or hand signals. This rule is taken from OSHA's standards on Marine Terminals, July 5, 1983 (48 FR 30920).

Paragraph (ix) would require a body belt and lanyard for each employee on the platform. The point of attachment should be based on the determination of which method is most suitable for the particular operation. The 1974 ACCSH recommended the lanyard be attached to the platform (Ex. 4, pp. 239–244; Ex. 5, p. 224). However, the 1983 ACCSH members recommended allowing the occupants to choose to tie off either to the load block or headache ball, or to a proper location within the platform (Ex. 12, pp. 128, 138–143). All structural members within the platform are to be designed with a safety factor of five which should be more than sufficient for a lanyard attachment point.

Paragraph (x) prohibits the use of bridles and associated hardware for any other service. Material handling involves rough service which may damage the equipment, making it unsuitable for employee hoisting.

Paragraph (7) contains the requirements for the pre-lift meeting. Paragraph (7)(i) would require a pre-lift meeting of all associated employees to review the appropriate requirements of paragraph (g) and the operation.

Paragraph (7)(ii) would require such a meeting to be held prior to commencing any employee hoisting operations at a new work location and when a new employee joins the operation. A new work location, as discussed earlier, is considered to be the location to which the personnel platform is to be lifted.

OSHA considers such a review of this information critical to the proper conduct of such operations. The Agency solicits comment on these provisions, their impact on the industry, value to the operation and any specific recommendation for revision.

IV. Regulatory Impact Assessment, Regulatory Flexibility Certification, and Environmental Impact Assessment

SUMMARY OF EFFECTS

Affected Industries and Construction

The hoisting of personnel is performed throughout a broad range of four-digit Standard Industrial Classification Codes (SICs). OSHA has determined that the proposal could potentially affect all firms within SICs 1541, Industrial Buildings and Warehouses; 1542, Nonresidential, Not Elsewhere Classified; 1622, Bridge, Tunnel, and Elevated Highway Construction; 1623, Water, Sewer, Pipeline, Communication and Power Line Construction; 1629, Heavy Construction, Not Elsewhere Classified; 1791, Steel Erection, and 1795, Demolition. There were 39,897 firms in these SICs in 1977, and OSHA estimates that the number has decreased to about 35,000 firms in 1983. The reader should be advised that this number is an estimate of the number of firms that would need to be familiar with the proposed amendment rather than the considerably smaller number that would actually engage in hoisting personnel with cranes or derricks.

Feasibility, Benefits, and Costs

OSHA has determined that the proposal would be technologically feasible. The standard does not require any mechanical devices that are not presently available for use on cranes and derricks, although some cranes, especially those of older vintage, would require considerable modification in order to comply with the standard.

Benefits from the proposal would accure to those workers who are at risk from current personnel hoisting practices in the construction industry. Although JACA, OSHA's contractor, was unable to estimate the total number of workers who would benefit from the

proposal in view of the infrequency of such operations and the wide diversity of potential applications (which could require a multitude of worker skills rather than a single job category), JACA was able to estimate that one injury occurs every 6,650 lifts. It should be noted that the same workers are likely to be involved in a number of lifts but to an indeterminable extent. JACA also estimated that 10 fatalities, 7 injuries involving total disability, and 25 injuries involving temporary disability would occur each year as a result of the hoisting of personnel by cranes or derricks in the absence of more stringent OSHA regulation. JACA concluded that full compliance with the proposed standard would prevent all of these injuries. JACA also estimated that an additional 5 fatalities and 16 injuries would result from workers riding the load or rigging in the absence of more stringent regulation. JACA concluded that full compliance with the proposed standard would prevent all of these accidents.

OSHA does not endorse any particular estimate for the value of an employee's life. However, for illustrative purposes, OSHA used two methods to estimate the monetary value of the benefits that would result from implementation of the standard. The first method, known as the "human capital" approach, was to estimate directly the foregone earnings and medical costs associated with an occupational injury or death. Lost production and medical costs to society, however, are the minimum benefits resulting from the prevention of an occupational injury. The other method of estimating benefits was based on the willingness-to-pay concept. Willingness to pay is the theoretical amount that the beneficiaries of a program would be willing to pay in order to obtain the benefits of the program or, in an occupational safety context, what a group of workers would pay to reduce the probability of a death or injury. Willingness to pay is therefore a more accurate indicator of the true social benefits of preventing injuries to workers.

Using the "human capital" approach, the present value (using a 10-percent discount rate) of the benefits of the standard over the 1983–1987 period would amount to $54.84 million. The annual incremental benefits ranged from $13 million to $14 million on a current dollar basis over that period. On the basis of the willingness-to-pay concept, the present value of the benefits over the 1983–1987 period was estimated to range from $93.4 million to $152.5 million. The low estimate was based on the assumption that workers would be willing to pay $900,000 and $644,000 to avoid a death and total disability, respectively, whereas the high estimate was based on a willingness to pay of $1.61 million and $.97 million, respectively. A reasonable estimate of the present value of the expected benefits over the 1983–1987 period would be approximately $89 million, which is the midpoint of the range of estimates based on the two approaches.

OSHA estimates that the annualized costs of full compliance with the proposed standard would range from $5.5 million to $5.8 million per year (on a current dollar basis) over the 1983–1987 period. The present value (using a 10-percent discount rate) of the total compliance costs likely to be incurred by industry in implementing the standard over this period would amount to about $23.7 million. JACA concluded that such costs would not result in decreased competition within the construction industry and would be unlikely to force the closure of many firms. OSHA, therefore, finds the proposed standard to be economically feasible.

REGULATORY FLEXIBILITY CERTIFICATION AND ENVIRONMENTAL IMPACT ASSESSMENT

Regulatory Flexibility Certification

Pursuant to the Regulatory Flexibility Act of 1980 (Pub. L. 96–353, 94 Stat. 1164 (5 U.S.C. 60 et seq.)), OSHA has assessed the impact of the proposed standard and concludes that it would not significantly affect a substantial number of small entities. Any potential differential impacts of compliance costs on the profit margins of small firms would be mitigated by the highly fragmented nature of the market structure in the construction industry, which would tend to minimize the extent of direct competition between small and large firms. Data from the U.S. Small Business Administration indicate that small firms, defined as those with annual revenues of less than $10 million, account for about 98 percent of the total number of firms in the affected SICs.

OSHA estimated the economic impacts by firm size by examining the relationship between compliance costs (under both a low and high cost scenario) and annual contract revenues for three, size categories of model firms (annual revenues of $11 million, $50 million, and $250 million). The ratio of these costs to annual revenues was nearly proportional across all size categories under the low-cost scenario and increased slightly with size under the high cost scenario, indicating an absence of economies of scale. Assuming that firms would be forced to absorb all of their compliance costs, however, OSHA found that the percentage decline in the profit margins of small firms would be slightly greater than for larger firms. The actual extent of the decline was quite small, however, averaging about 2.5 percent a year for the small model firm compared to about 1 percent for the medium and large model firms. The significance of the differential impact on profit margins is further reduced by the likelihood that all firms in the industry should be able to pass on a substantial portion of their compliance costs. The demand for the projects built by construction firms most likely to rely on the hoisting of personnel by cranes or derricks would probably be quite inelastic, as no other lower or comparably priced substitutes for cranes appear to exist, regardless of firm size. This means that some construction firms and developers could not underbid on these projects because they would be unable to reduce operating costs merely by using equipment other than cranes to hoist personnel platforms or by redesigning structures to eliminate the use of cranes.

For these reasons, OSHA concludes that small entities would not be significantly affected by the proposal.

Environmental Impact Assessement

This proposal has been reviewed in accordance with the requirements of the National Environmental Policy Act (NEPA) of 1969 (42 U.S.C. 4231 et seq.), the Guidelines of the Council on Environmental Quality (CEQ) (40 CFR Part 1500), and OSHA's DOL NEPA Procedures (29 CFR Part 11). As a result of this review, the Assistant Secretary for OSHA has determined that the proposed revisions qualify as categorically excluded actions according to Subpart B, Section 11.10 of the DOL NEPA regulations and that the proposed rule would have no significant environmental impact outside of the workplace.

OSHA's proposal contains provisions for work practices and procedures to enhance worker safety and reduce safety hazards from the hoisting of personnel platforms by cranes and derricks. The provisions include design criteria for platforms and derricks, the inspection and testing of cranes and derricks, required test lifts, and worker training. Because the proposed revisions focus on the reduction of accident or injury by means of work practices and procedures, proper use and handling of

equipment, and training, they do not impact on air, water, or soil quality, plant or animal life, the use of land or aspects of the environment.

To the extent that the proposed safety procedures are in place and are integrated into daily construction operations, however, the potential for crane-related occupational accidents and injuries will be reduced and the safety of the workplace will be enhanced.

V. Public Participation

Interested persons are invited to submit written data, views and arguments with respect to this proposal. These comments must be postmarked by April 17, 1984 and submitted in quadruplicate to the Docket Officer, Docket S–370, U.S. Department of Labor, Occupational Safety and Health Administration, Room S–6212, 200 Constitution Avenue, NW., Washington, D.C. 20210.

The data, views and arguments that are submitted will be available for public inspection and copying at the above address. All timely submissions received will be made a part of the record of this proceeding.

Additionally, under Section 6(b)(3) of the OSH Act (29 U.S.C. 657), Section 107 of the Construction Safety Act (41 U.S.C. 333), and 29 CFR 1911.11, interested persons may file objections to the proposal and request an informal hearing. The objections and hearing requests should be submitted in quadruplicate to the Docket Officer at the address above and must comply with following conditions:

1. The objections must include the name, and address of the objector;
2. The objections must be postmarked by April 17, 1984;
3. The objections must specify with particularity the provisions of the proposed rule to which each objection is taken and must state the grounds therefore;
4. Each objection must be separately stated and numbered; and
5. The objections must be accompanied by a detailed summary of the evidence proposed to be adduced at the requested hearing.

VI. Recordkeeping

The proposed standard contains a "collection of information" (recordkeeping) requirement pertaining to the posting of the platform's weight and load capacity (§ 1926.550(g)(4)(ii)(G)). In accordance with 5 CFR Part 1320 (48 FR 13666, Controlling Paperwork Burdens on the Public), OSHA has submitted the proposed recordkeeping requirement to the Office of Management and Budget (OMB) for review under section 3504(h) of the Paperwork Reduction Act (44 U.S.C. 3501 et seq.). Comments regarding the proposed recordkeeping requirement may be directed to the Office of Information and Regulatory Affairs OMB, Attention: Desk Officer for the Occupational Safety and Health Administration, Washington, D.C. 20503.

VII. List of Subjects in 29 CFR Part 1926

Construction safety, Construction industry, Occupational safety and health; Protective equipment, Safety, tools.

VIII. State Plan Standards

The 24 States with their own OSHA-approved occupational safety and health plans must adopt a comparable standard within six months of the publication date of the final rule. These States are: Alaska, Arizona, California, Connecticut (for State and local government employees only), Hawaii, Indiana, Iowa, Kentucky, Maryland, Michigan, Minnestoa, Nevada, New Mexico, North Carolina, Oregon. Puerto Rico, South Carolina, Tennessee, Utah, Vermont, Virginia, Virgin Islands, Washington, Wyoming. Until such time as a State standard is promulgated, Federal OSHA will provide interim enforcement assistance, as appropriate, in these States.

IX. Authority

This document was prepared under the direction of Thorne G. Auchter, Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, Third Street and Constitution Avenue, NW., Washington, D.C. 20210.

Accordingly, pursuant to section 6(b) of the Occupational Safety and Health Act of 1970 (84 Stat. 1593; 29 U.S.C. 655), section 107 of the Construction Safety Act (83 Stat. 96, 40 U.S.C. 333), Secretary of Labor's Order No. 9–83 (48 FR 35736), and 29 CFR Part 1911, it is proposed to amend 29 CFR 1926.550 by adding a new paragraph (g) as set forth below.

Signed at Washington, D.C., this 14th day of February 1984.

Thorne G. Auchter,

Assistant Secretary of Labor.

PART 1926—[AMENDED]

29 CFR Part 1926 is proposed to be amended by adding a new paragraph (g) to § 1926.550 to read as follows:

§ 1926.550 Crane and derricks.

* * * * *

(g) *Crane or derrick suspended personnel platforms.*

(1) *Scope and application.* This standard applies to the hoisting of personnel platforms on the load line of friction or hydraulic portal, tower, crawler, locomotive, truck, and wheel mounted cranes or derricks. No crane or derrick function shall be performed while an employee is on a personnel platform attached to a load line on such equipment unless the requirements of this paragraph are met. The practice of hoisting employees on such equipment is permitted only under specific circumstances, as specified in paragraph (g)(2).

Note.—For the purposes of this paragraph (g), "hoisting" means lowering, lifting or suspending.

(2) *General requirement.* The use of a friction or hydraulic portal, tower, crawler, locomotive, truck or wheel mounted crane or derrick to hoist personnel platforms shall be permitted when their use is as safe as the erection, use, or dismantling of conventional means of reaching the worksite, such as ladders, stairways, aerial lifts, elevating work platforms or scaffolds, or when those means are either more hazardous, or are not possible because of structural design or worksite conditions.

(3) *Crane and derrick.* (i) *Operational criteria.* The following general provisions apply when cranes of derricks are used to hoist employees.

(A) Lifting and lowering speeds shall not exceed 100 feet (30.48 m) per minute.

(B) The minimum load hoist wire rope safety factor shall be seven.

(C) Load and boom hoist drum brakes, swing brakes, and locking devices such as pawls or dogs, as equipped, shall be engaged when the occupied personnel platform is in a stationary working position.

(D) The load line hoist drum shall have controlled load lowering. Free fall is prohibited.

Note.—Controlled load lowering means a system or device on the power train, other than the load hoist brake, which can reguate the lowering rate of speed of the hoist mechanism.

(E) The crane shall be uniformly level within one percent of level grade and located on firm footing. Crane outriggers, if provided, shall be used according to manufactirers' specifications when hoisting employees.

(F) The total weight of the loaded personnel platform and related rigging shall not exceed 50 percent of the rated capacity for the radius and configuration of the crane or derrick.

(G) The use of machines having live booms is prohibited.

Note.—Live boom means a boom in which lowering is controlled by brake without aid from other lowering retarding devices.

(ii) *Instruments and components.* Cranes or derricks used to hoist

employees shall be equipped as follows:

(A) A boom angle indicator shall be installed on cranes, readily visible to the operator.

(B) Telescoping booms shall be marked or equipped with a device to clearly indicate at all times the boom's extended length to the operator.

(C) An anti-two-blocking device or two-block damage prevention feature shall be installed.

Note.—Anti-two-blocking device means a positive acting device which prevents contact between the load block or fall ball and the boom tip. Two-block damage prevention feature means a system which deactivates the hoisting action before damage occurs in the event of a two-block situation.

(4) *Personnel Platform.* (i) *Design criteria.* (A) The personnel platform shall be designed by a qualified engineer competent in structural design.

(B) The suspension system shall be designed to minimize tipping of the platform due to movement of employees occupying the platform.

(C) The entire personnel platform shall be designed with a minimum safety factor of five.

(D) Six feet (1.8 m) minimum headroom shall be provided for employees occupying the platform.

(ii) *Platform specifications.* (A) Each personnel platform shall be provided with perimeter protection from the floor to 42 inches (106.7 cm), ± 3 inches 7.62 cm) above the floor, which shall consist of either solid construction or expanded metal having openings no greater than ½ inch (1.27 cm).

(B) A grab rail shall be provided inside the personnel platform.

(C) An access gate, if provided, shall swing inward and shall be equipped with restraining device to prevent accidental opening.

(D) Overhead protection shall be provided on the personnel platform when employees are exposed to falling objects.

(E) All rough edges exposed to contact by employees occupying the platform shall be ground smooth.

(F) All welding shall be performed by a welder qualified for the weld grades, types and material specified in the design.

(G) The personnel platform shall be conspicuously posted with a plate or other permanent marking indicating the personnel platform weight and the rated load capacity of the personnel platform.

(H) Personnel platforms shall be easily identifiable by color or marking.

(iii) *Personnel platform loading.* (A) The rated load capacity of the personnel platform shall not be exceeded.

(B) The number of employees occupying the personnel platform shall not exceed the number required for the work being performed.

(C) Personnel platforms shall be used only for employees, their tools, and sufficient materials to do their work.

(D) Materials on an occupied personnel platform shall be secured and evenly distributed while the platform is in motion.

(iv) *Rigging.* (A) When a wire rope bridle is used to connect the personnel platform to the load line, the bridle legs shall be connected to a single ring or shackle.

(B) Hooks on fall ball assemblies, lower load blocks, or other attachment assemblies shall be of a type that can be closed and locked, eliminating the hook throat opening. Alternatively, a shackle with a screw pin, nut and retaining pin may be used.

(C) Wire rope, shackles, rings, and other rigging hardware shall have a minimum safety factor of seven.

(D) All eyes in wire rope slings shall be fabricated with thimbles.

(5) *Inspection and testing.* (i) In addition to the inspections required by paragraphs (a)(5), (a)(6), (b)(2), and (e) of this section, cranes and derricks which are used to hoist personnel platforms shall be inspected by a competent person, as defined in § 1926.32(f), at the beginning of each shift and prior to hoisting employees on the personnel platform after the crane or derrick has been used for any material handling operations in which greater than 50 percent of the rated capacity was lifted.

(ii) A trial lift with the personnel platform unoccupied shall be made for each new work location and at the beginning of each shift to ensure that all systems, controls and safety devices are functioning properly.

Note.—Work location means the location to which the personnel platform is positioned.

(iii) A full-cycle operational test lift at 150 percent of the intended load of the personnel platform shall be made prior to hoisting of employees for the first time at each new set-up location.

Note.—Set-up location means the location to which the crane or derrick is brought and set-up including assembly and leveling.

(A) A visual inspection of the crane or derrick, personnel platform, and base support shall be conducted immediately after lift testing in order to determine whether the testing has produced any adverse effect upon any component or structure.

(B) Any defects found during such inspections which may create a safety hazard shall be corrected before further use.

(6) *Safe work practices.* (i) Employees shall keep all parts of their body inside the platform during raising, lowering, and positioning.

(ii) If the personnel platform is not landed, it shall be secured to the structure before employees exit or enter the platform.

(iii) Tag lines shall be used where practical.

(iv) Hoisting of employees while the crane is traveling is prohibited, except for portal and tower cranes operating on a fixed track.

(v) The crane or derrick operator shall remain at the controls at all times when hoisting employees.

(vi) Hoisting of employees shall be discontinued upon indication of any dangerous weather conditions or other impending danger.

(vii) The platform shall be hoisted a few inches and inspected to assure that it is secure and properly balanced before employees are allowed to occupy the platform. Employees shall not be hoisted unless the following conditions are determined to exist:

(A) Hoist ropes shall be free of kinks;

(B) Multiple part lines shall not be twisted around each other;

(C) The primary attachment shall be centered over the platform and;

(D) If the wire rope is slack, the hoisting system shall be inspected to assure all ropes are properly seated on drums and in sheaves.

(viii) Employees being hoisted shall remain in continuous sight of and communication with the operator or signal person.

(ix) Employees occupying the personnel platform shall wear a body belt with lanyard appropriately attached to the load block or fall ball, or to a structural member within the personnel platform capable of supporting a fall impact for employees using the anchorage.

(x) Bridles and associated hardware used for attaching the personnel platform to the hoist line shall not be used for any other service.

(7) *Pre-lift meeting.* (i) A meeting attended by the crane or derick operator, signal person(s) (if required), person(s) to be lifted, and the person responsible for the task to be performed shall be held to review the appropriate requirements of this paragraph (g) and the procedures to be followed.

(ii) This meeting shall be held prior to the beginning of personnel hoisting operations at each new work location and thereafter for any employees newly assigned to the operation.

(Sec. 6, 84 Stat. 1593 (29 U.S.C. 655); Sec. 107, 83 Stat. 96 (40 U.S.C. 333); Secretary of Labor's Order No. 9–83 (48 FR 35736); 29 CFR Part 1911)

[FR Doc. 84–4438 Filed 2–16–84; 8:45 am]
BILLING CODE 4510–26–M

federal register

Friday
February 17, 1984

Part VII

Department of Agriculture

Food and Nutrition Service

7 CFR Parts 271, 272, 273, 275, and 277
Food Stamp Program; Quality Control Reviews; Final Rule

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Parts 271, 272, 273, 275, and 277

[Amdt. No. 260]

Food Stamp Program, Quality Control Reviews

AGENCY: Food and Nutrition Service, USDA.

ACTION: Final rule.

SUMMARY: This rulemaking combines and finalizes two recent rules about the Quality Control (QC) system—an interim rule entitled "Error Rate Reduction System" (48 FR 23797 published on May 27, 1983) and a proposed rule entitled "Technical Amendments to the Quality Control Review Process" (48 FR 34650 published on July 29, 1983).

The provisions from the interim rule implement several changes required by the Food Stamp Act Amendments of 1982. These provisions allow the Department to increase the percentage of administrative funding provided to a State that has a relatively low rate of error or reduce the percentage of administrative funding provided to a State with an excessive error rate. The goal is to encourage State agencies to commit themselves to an improved administration of the program that will result in progressively lower error rates.

The provisions from the proposed rule implement various technical changes in the QC review process. State agencies administering the Food Stamp Program are required to conduct QC reviews as a part of the Performance Reporting System under the Food Stamp Act of 1977. These technical changes are based on the Department's experience in administering the QC system. These changes will improve the accuracy of error rate determinations, reduce workloads and costs, simplify the QC system, and increase the compatibility of Food Stamp-QC with the Aid to Families with Dependent Children (AFDC)-QC and Medicaid-QC.

This action also amends Food Stamp Program regulations to correct an error contained in the definition of State.

EFFECTIVE DATES: The provisions of the interim rule were effective on May 27, 1983. However, the statutory changes it embodies were effective October 1, 1982, except that such changes affecting negative case provisions for 55 percent enhanced funding (contained in 7 CFR 277.4(b)(7)) apply from October 1, 1981, through September 30, 1982.

The provisions in this regulation which were in the proposed rule are effective October 1, 1983, except as specified in section 272.1(g)(68) of the regulations.

FOR FURTHER INFORMATION CONTACT: Keith Spinner, Supervisor, State Agency Management and Control Section, Program Design and Rulemaking Branch, Program Planning, Development and Support Division, Family Nutrition Programs, Food and Nutrition Service, USDA, Alexandria, Virginia 22302; 703–756–3431.

SUPPLEMENTARY INFORMATION:

Classification

Justification for Establishing Effective Date. Robert E. Leard, Administrator of the Food and Nutrition Service, pursuant to 5 U.S.C. 553, has determined that good cause exists for making this rule effective less than 30 days after publication. That good cause is the need for certain provisions of this rule to be in place throughout the quality control review period, October 1983 through September 1984. As discussed in the later paragraphs of this preamble concerning implementation, the actual implementation of those provisions should require minimal efforts from State agencies and benefit them by helping them complete cases. As also discussed in those paragraphs, certain provisions can be implemented in January and April 1984 so that State agencies have sufficient time to make those procedural changes.

Executive Order 12291. This final rule has been reviewed under Executive Order 12291 and Secretary's Memorandum No. 1512–1 and has been classified "not major." The rule will not have an annual effect on the economy of $100 million or more, nor is it likely to result in a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions. Because this rule will not affect the business community, it will not result in significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Regulatory Flexibility Act. This rule has also been reviewed with regard to the requirements of Pub. L. 96–354, and Robert E. Leard, Administrator of the Food and Nutrition Service, has certified that it will not have a significant economic impact on a substantial number of small entities. Part of this rule changes Federal regulations to incorporate the provisions of Pub. L. 97–253, the Food Stamp Act Amendments of 1982, designed to encourage State agencies to reduce errors made in the certification of households and reduce the resulting dollar losses. The other part of the rule implements various technical changes aimed at improving the QC review process. State and local welfare agencies will be affected since they administer the program and may be liable, through a reduction in Federal administrative funding, if error rates are not reduced, or may receive additional funding if their error rates are very low. State and local agencies should also experience a reduction in workloads and costs associated with a more simplified QC system. Individuals participating in the program will be affected should the increased accuracy of error rates result in the identification of an underissuance or overissuance in their benefits which would be subsequently corrected.

Paperwork Reduction Act. Information collection requirements contained in this regulation have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96–511) and have been assigned OMB control numbers as follows: 7 CFR 275, Control Number 0584–0303; and 7 CFR 275.14(c) and 275.21, Control numbers 0584–0074 and –0299.

Background

On May 27, 1983, the Department issued an interim rulemaking at 48 FR 23797, which implemented several changes to the Food Stamp Error Rate Reduction Program. Another rule was published on July 29, 1983, at 48 FR 34650 which proposed various technical changes to be made in the QC review process. A full explanation of the rationale and purpose of both rules was provided in the preamble of each rulemaking. Therefore this preamble deals only with significant issues raised by the commenters and the changes made as a result of these comments. A thorough understanding of the basis for the final rules may require reference to the interim and proposed rules.

The Department received a total of 22 comment letters on the interim rules entitled the "Error Rate Reduction System." There were 16 comment letters from State agencies, one from a local agency, two from public interest groups, and three from Food and Nutrition Service (FNS) Regional Offices.

A total of 57 commenters sent in suggestions and comments on the proposed rules entitled "Technical Amendments to the Quality Control Review Process." There were 45 comment letters from State agencies,

one from a local agency, two from State administrative associations, two from public interest groups, six from FNS Regional Offices, and one from the Department of Health and Human Services.

Error Rate Reduction System

General

Several commenters supported the Error Rate Reduction System as a means of reducing erroneous benefits. Many commenters objected to it being used primarily as the basis for establishing liabilities and asserted that it would reduce State agency resources which would otherwise be available to reduce errors. Commenters also objected to the annual error rate goals as arbitrary, and unfair because they did not take account of differences among State situations, and as unreasonable because of the increasingly large costs for reducing each additional percentage of error rate. These objections relate to legislatively imposed requirements and so the pertinent parts of the final rule remain unchanged.

Liabilities

The interim rule changed the definition of payment error rate to measure only dollars issued to ineligible cases and dollars overissued to eligible cases. Dollars underissued were excluded. Commenters on this provision supported it. Some State agencies further stated that client-caused errors should be excluded from error rate liabilities because including them penalizes State agencies for something over what they have little control. One State agency said that technical errors such as refusal or failure to comply with the work registration or job search requirements or refusal or failure to provide a social security number should not be included in the payment error rates since they do not result in an actual overpayment. There is no legislative support for excluding these types of errors, and the Department believes that they should continue to be included since they involve basic program requirements. The final rule is unchanged in this area. (See 7 CFR 271.2.)

Interim regulations retained the "good cause" provisions of the current regulations except for the "good faith effort." Several commenters objected to removal of this provision, which allows for liabilities to be waived when the State agency is showing good faith efforts to reduce its payment error rate. As discussed in the preamble to the interim rule, beginning in Fiscal Year 1983, Congress intended for the 33.3 and 66.7 percent reduction provisions to replace the "good faith effort." The final rule therefore remains unchanged. (See 7 CFR 275.25(d).)

Enhanced Funding

The interim rule also modified the provisions dealing with financial incentives for State agencies with low errors. It provided that, beginning with the Fiscal Year 1983 review period, a State agency's Federal share of administrative funding will be increased to 60 percent if the sum of its payment error rate and its rate of underissuance to eligible households is less than five percent, provided that its rate of invalid decisions in denying and terminating eligibility is less than the national weighted mean rate. Some commenters did not support using a national weighted mean negative error rate for determining a State's eligibility for enhanced funding. They wanted a quantified target to be set in advance. Therefore the Department has changed the final rule to say that in order to be eligible for enhanced funding, a State agency's negative case error rate must be less than the national weighted mean negative case error rate for the prior fiscal year. Thus, the goal will be known in advance and yet is related to standards met by many State agencies.

Two State agencies commented that enhanced funding should be granted to State agencies with error rates of five percent or less on errors on overpayment and ineligibles only instead of also adding in rates for underissuance to eligible households and for invalid decisions in denying or terminating eligibility. They stated that the process for restoration of lost benefits and Management Evaluation (ME) review should be sufficient to ensure program integrity in areas of underissuances. Another State agency commented that enhanced administrative funds should be granted to State agencies that increase overpayment collections. State agencies already have an incentive for overpayment collections because the regulations allow them to retain 25 percent of the value of inadvertant household error claims collected and 50 percent of the value of intentional program violation claims collected. No changes in this area are being made in the final rule because the law is very specific about the conditions under which enhanced funding may be granted. (See 7 CFR 275.25(c).)

Technical Modifications to the Interim Rule

The 1982 Amendments changed the basis for determining the amount of sanctions from food stamp issuance to administrative funding. This eliminated the potential for dual liability for payment error rates and also for negligence or fraud on the part of the State agency in the certification of applicant households. Therefore, the interim rule deleted § 275.25(d)(4)(iii) which dealt with the relationship between the QC sanction system and the negligence portion of the regulations. None of the commenters were opposed to this action.

The interim rule also added a provision that will ensure a State agency does not lose allowable administrative funding for noncompliance with a specific program requirement and for the effect of the noncompliance on the error rate. While FNS may continue to suspend and/or disallow Federal administrative funds if a State agency's administration of the program is ineffective or inefficient, the actual amount of funds withdrawn from the State agency will be adjusted if the specific reason for the disallowance contributes to the State agency's payment error rate, and the State agency is held liable for an excessive payment error rate during a given fiscal year. (Refer to the preamble of the interim rule for an example of this provision.) Two commenters agreed with this section, and no change is being made in the final rule. (See 7 CFR 275.25(d)(4)(ii).)

In connection with the change to error rate goals for each fiscal year, the interim rule changed the definition of QC review period from two semiannual periods to the one 12-month period from October 1 of each calendar year through September 30 of the following year. The definition also provided that the annual review period was made up of two 6-month reporting periods. The proposed rule provided for an annual report for the entire annual review period. This rule makes that requirement final and revises the definition accordingly. (See 7 CFR 271.2.)

The remainder of this preamble deals with issues raised in the proposed rule.

Technical Amendments to the Quality Control Review Process

Definitions

Active case. Current rules define an active case as a household which was certified for and received food coupons during the sample month. As discussed in the preamble to the proposed rule, some State agencies have had problems with this definition. The Department proposed to revise the definition to mean a "household which was certified

prior to or during the sample month and issued food stamp benefits for the sample month."

Seventeen comments were received on the proposed redefinition and the majority of them supported it. Several commenters indicated the need for further clarification of the revised definition, particularly as it relates to the treatment of households whose benefits for the sample month are not issued until the month subsequent to the sample month. These households are considered active cases so long as they are certified prior to or during the sample month. (See 7 CFR 275.2.)

Negative case. Sixteen out of twenty commenters voiced support for the Department's proposal to revise the definition of a negative case to mean a household which was denied certification or whose food stamps were terminated effective for the sample month. Two commenters questioned whether there has to be an actual interruption in the household's benefits in order for it to be considered terminated in the sample month. The focus of the review of negative cases is the determination of the correctness of the State agency's decision to deny or terminate the household. Whether in the case of terminations an actual interruption of benefits occurs is not a factor. So, households receiving continued benefits pending a fair hearing could appear as a negative case. The final rule is the same as the proposed. (See 7 CFR 271.2.)

Cumulative allotment error rate. The Department proposed to eliminate the definition of a cumulative allotment error rate from the regulations in order to bring the current rules in line with the 1982 Amendments related to the Error Rate Reduction System. This proposal received unanimous support from commenters. Therefore the definition of a cumulative allotment error rate has been deleted from section 271.2.

Administrative deficiencies. The Department received overwhelming support for the proposal to eliminate the concept of administrative deficiencies from the QC review system. Most commenters indicated support because this change would reduce the burden of identifying and reporting deficiencies which do not contribute to errors. The elimination of this reporting burden would allow State agencies to focus their resources on correcting errors which result in actual program losses. Several State agencies supported the proposal because it allowed them the flexibility to collect this information if they chose.

Out of 27 commenters on this proposal only two were totally opposed. The opposing commenters believed that the QC system provides the only avenue for timely identification of patterns of deficiencies which would warrant corrective action in order to safeguard and prevent future errors and/or program losses. These commenters felt that ME reviews are not done frequently enough to provide for a continual flow of information on administrative deficiencies and therefore are not sufficient for monitoring program compliance. The Department believes that the structure of the ME system of reviews is adequate for identifying, reporting and developing Statewide corrective actions on these nondollar loss related errors. The final and proposed rules are the same with respect to eliminating the requirement for identifying and reporting administrative deficiencies. Some clarifying material is included, however, as discussed in the paragraph below concerning variance identification.

Quality Control Reviews

Scope and purpose. The proposed rule made several changes in the regulatory provisions concerning scope and purpose of quality control reviews.

Nearly all twenty-five commenters objected to the proposal that cases be reviewed against the Food Stamp Act and regulations, taking into account any waivers, and that State agency manual materials no longer be used for that purpose. There were several points of misunderstanding about this proposal.

Because the Department no longer has authority to require approval of State agency manuals prior to their use, the proposed rule eliminated the requirement for their use in the quality control review process. Commenters believed that the regulations did not allow reviewers to use State agency manuals and related policy guidance but limited them to the Food Stamp Act and regulations. The commenters noted that this would put an added burden on reviewers and cause conflicts between them and State agency program staff, and between State and Federal reviewers. While the Department no longer has the authority to require approval of manuals prior to their use, the rule does not prohibit their use for quality control review purposes. As stated in the preamble to the proposed rule, the Department expects that most State agencies will use their manuals as the basis for quality control reviews.

Since the Department is no longer approving manuals, commenters pointed out that Federal quality control reviewers would be finding errors in manuals before State agencies were otherwise notified of them and these errors would affect the regressed error rate. Commenters objected to this use of quality control reviews and requested that FNS approval be reinstated or that State agencies be given time to correct manuals before an error is counted. Since the prohibition against FNS approval of manuals is in the statute, the Department cannot reinstate that approval. If State agencies were not liable for certification errors resulting from manual materials from the date those materials were in effect, presumably the date of implementation of the pertinent regulations, State agencies would have less of an incentive to implement regulations on time and in conformance with the regulations. For these reasons the final rule is the same as the proposed in these respects.

Other proposed changes were made to conform with the shift to payment error rate from cumulative allotment error rate and to restate, in part, the objectives of quality control reviews. One commenter contended that the quality control system is inadequate as a basis for sanctions as they are currently structured. The Department believes the current system is an adequate basis for determining sanctions and that the modifications provided by this rule will improve the system as discussed in various parts of this preamble.

Another commenter suggested that one of the stated objectives of the system be the determination of entitlement to enhanced funding. That has been added. The final rule also contains a restatement of the purpose of negative case reviews which are inadvertently not included in the proposed rule. (See 7 CFR 275.10 (a) and (b).)

Sampling plan. The Department proposed to correct a technical inconsistency in the regulation concerning prior approval of State quality control sampling plans by requiring State agencies to submit such plans as part of the State Plan of Operation along with other planning documents (i.e., the Disaster Plan (currently reserved) and the optional Nutrition Education Plan). The sampling plan serves as the foundation for FNS review of the integrity of the State agency's quality control sampling procedures. Prior FNS approval of sampling plans is in the best interest of the State agency because it protects the State agency from having its review findings disregarded and its error rates being assigned by FNS because of deficiencies in sampling procedures that are discovered too late for correction.

All commenters appeared to accept the concept of prior approval of sampling plans. Four commenters expressed a definite desire for FNS approval of their sampling plans prior to implementation. Prior approval was viewed by these commenters as being in the best interest of both State agencies and FNS. Most of the other comments on the sampling plan provisions focused on two general issues. These were the inclusion of sampling plans in the State Plan of Operation and the timeframes for submitting plans for prior FNS approval.

Two State agencies strongly objected to submitting the Sampling Plan as a part of their Plan of Operation. One of these indicated that all changes to its State Plan of Operation had to go through its Governor's Office, and this was a burdensome and time consuming process. Both commenters indicated that this requirement would likely have a negative impact on their ability to make timely changes to their sampling plans. The Department does not view this requirement as being unnecessarily burdensome or time consuming. With the exception of the Federal/State agreement, FNS does not require a Governor's approval on any part of the State Plan of Operation. We believe that approval of the sampling plan by the head of the agency administering the Food Stamp Program is sufficient for our purposes and that this will not result in delays to the submittal and approval process. The final rule therefore retains the requirement that the State agency Quality Control Sampling Plans be submitted to FNS for approval as a planning document under the State Plan of Operation. It also specifies that the Sampling Plan must be signed by the head of the State agency.

Several commenters were concerned with the proposed 60 day timeframe for the submittal of Sampling Plans. Two States suggested that the Department retain the current requirement that the sampling plan be submitted 30 days prior to implementation. Another State felt that 60 days for submittal is reasonable under normal circumstances, but that some consideration should be given to shortening this timeframe to 30 days under certain emergency situations. One FNS Regional Office suggested that FNS should require State agencies implementing integrated sampling designs for the first time to submit their plans at least 90 days prior to implementation. As stated in the preamble to the proposed regulation, the Department made this proposal primarily to allow FNS sufficient time to review and approve integrated sampling plan submittals. These plans involve considerable coordination at the National Office level between FNS, the Social Security Administration (SSA), and the Health Care Financing Administration (HCFA), as well as extensive communications between the National and Regional Offices of FNS and State agencies. The final regulation provides that the 60 day timeframe applies to the initial submissions of and major revisions to sampling plans, and when sampling plans are being changed as a result of a general change in procedures. An example of this would be the changes in sample frames which this rule requires be effective by October 1984. The final rule also provides for a 30 day timeframe for submittal of minor changes in previously approved sample plans.

Several States and Regional Offices were also concerned with the timeframes for approval of sampling plans for the review period beginning October 1, 1983. To avoid placing undue burden on State agencies, the Department will consider the quality control sampling plan in effect for each State agency as of October 1, 1983, as submitted and approved, provided that the State agency has already obtained prior FNS approval of its sampling plan. Subsequent changes must be submitted for approval as a part of the State Plan of Operation in accordance with the timeframes specified in this rule. (See 7 CFR 272.2 and 275.11(a).)

Sample size. The proposed regulation provided for the implementation of an annual sampling period, a reduction in the minimum sample size requirements, and a requirement that State agencies agree to accept the level of reliability of the error rates resulting from the sample sizes which they select. A total of 24 commenters including State agencies, FNS Regional Offices, public interest groups, and other Federal agencies responded to these proposals.

Thirteen comments were received on the language to allow reductions in the minimum sample sizes. Commenters were about evenly split in voicing opposition and support. Three commenters opposed a reduction in sample sizes because they perceived that smaller samples could interfere with the use of QC data for corrective action purposes. Other commenters were concerned with the adequacy of the sample sizes for yielding reliable error rates for sanction purposes. Although the Department believes that the sample sizes proposed were adequate, it is retaining the current sizes to remove any question about reliability. For example, State agencies currently required to sample at least 1,200 cases in a semiannual period will be required to sample 2,400 cases in annual period. The Department believes that each State agency shares in the responsibility for operating the QC system in an efficient and effective manner and therefore should be allowed the flexibility to manage the system in the manner most suited to its own particular needs and concerns. Consequently, the final rule provides State agencies the option of reducing their sample sizes, subject to the considerations discussed in the following paragraphs.

State agencies expressed strong opposition to the proposal that State agencies must agree not to challenge the reliability of their error rates based on the sample sizes they have chosen. Several commenters questioned the need for this requirement if, as stated in the preamble to the proposed regulation, the Department is satisfied with the reliability of the estimates that would have resulted from the new minimum levels. As stated in the proposed rule, the Department intends that in selecting their sample sizes State agencies consider what degree of reliability they need. The reliability statement was proposed as a means of assuring that State agencies consider the matter of reliability of error rates when they chose their active sample size. Therefore, State agencies exercising the option in the final rule to reduce the sample size for active cases must submit as part of their sampling plan a statement that they will not challenge the error rates based on their sample size. This required statement also applies to sample sizes computed on the basis of the provisions relating to unanticipated changes in caseloads. In no event may States opt to reduce their sample sizes below those stated in the proposed rule; for example a State required by these regulations to sample 2,400 active cases may, subject to providing the statement agreeing not to challenge its error rate based on its sample size, reduce its sample size to 1,200 cases, but may not sample any fewer cases. Any State agency which is currently reviewing on the basis of the proposed reduced sample sizes but which has not provided FNS a statement agreeing not to challenge the error rates based on sample size must provide the statement to the appropriate FNS Regional Office within 30 days of publication of this rule. Otherwise, no later than the second month after publication of this rule, the State agency must revert to the appropriate higher sample size.

Neither currently nor in the proposed rule is there a requirement for a routine.

periodic submission of changes to a State agency sampling plan. State agencies modify their sampling plans from time to time for such reasons as State agency procedural changes, changes in participation and sample sizes, and changes in Federal regulations. As a matter of practice, State agencies have been reviewing their sampling plans prior to each semiannual review period and providing changes to FNS for approval. The proposed rule did contain an explicit requirement that the sampling plan specify the sample sizes which a State agency chooses. No comments were received on this provision, and the final rule retains it. The final rule also adds the requirement that State agencies explain the basis for their sample size. For the most part this would be the demonstration of the calcuation of the sample size. The Department believes that this is necessary because of the flexibility in the choice of sample sizes which these rules provide to State agencies. For this same reason and because of the provisions in the final rule described in the preceding paragraphs, the final rule requires that prior to each annual review period, State agencies must provide changes in their sampling plan for FNS approval according to the timeframes discussed in this preamble in the section immediately above. So, major changes would have to be submitted 60 days before the beginning of the annual review period (October 1) of each year; minor changes, 30 days before. State agencies choosing to reduce their sample sizes must annually renew their reliability certification.

Only one commenter, a public interest group, objected to the reduction in the minimum size of negative case samples. This was on the grounds that the reduction was proportionately more than for active cases and was not justified by the historically low negative error rates. The Department believes the key reason for the proposed reductions in the negative sample size was as stated in the preamble to the proposed rule, the change in focus of the negative reviews to the correctness of the decision to deny or terminate. For this reason and because negative case review findings are not used to determine State agency liability for payment errors (also stated in the preamble to the proposed rule), the final rule pertaining to minimum negative case samples sizes is the same as the proposed rule.

The proposal to shift the basis of the determination of a State agency's sample size from a semiannual to an annual period brought mixed reactions. Four commenters supported the change and four others objected. Two States indicated that implementation of annual sampling in Food Stamp-QC without a similar change in AFDC–QC would result in disruptions to the integrated sampling process. Other commenters thought that annual sampling would hamper their error analysis activities or reduce the reliability of their error rates. Commenters incorrectly concluded that, in conjunction with annual sampling, the Department was requiring that all State agencies use the minimum sample sizes. This is not the case. In selecting their sample sizes, State agencies should consider their needs relative to error analysis and reliability. State agencies should also take account of the monthly disposition standards and the continuous flow of information which it will provide. The Department expects that State agencies which have integrated sampling plans but want to reduce their sample sizes can do so to some extent. This would be accomplished by submission of a change to the sampling plan. (See 7 CFR 272.2, and 275.11 (a) and (b).)

Sample selection. The proposed regulation would have required that State agencies select for review a twelfth of their annual sample each month during the annual sample period. The Department believed that this and the case disposition standards would ensure an even distribution and timely completion of quality control cases during the review period. The Department further proposed to use these requirements in place of the current requirement that State agencies must select their monthly sample no later than the 20th day of the month following the sample month. A majority of the commenters objected to the proposal to select a twelfth of the sample each month for several reasons. Some State agencies said that they would have to use a different sampling interval each month and develop complex procedures for weighting their sample results. Others indicated that this would require an accurate accounting of their caseload and therefore delay sample selection until the month after the sample month. Several States anticipated negative impacts on their integrated sampling designs.

The Department intended the one-twelfth figure as a guide to ensure that State agencies sample each month a number of cases consistent with completion of required sample sizes. To clarify this, the final rule provides for completion of approximately one-twelfth of the sample each month. This should allow for the normal month to month differences resulting from such factors as variations in participation. In addition, the final rule provides that if, for such reasons as sampling techniques, the proportion of cases selected from month to month will not be approximately one-twelfth of the sample, then in its sampling plan the State agency will specify what number of cases will be selected each month.

Required sample size. Currently in order to assure that they select a sufficient number of cases which are subject to review, State agencies pull a larger sample than the size actually required. They then can avoid having their error rate adjusted for failure to complete the required sample size. In the process of this overpull, usually a number of cases which are subject to review are also selected. Current rules (at 7 CFR 275.11(f)) provide that these cases must be included in the required sample size. The purpose of this is to prevent potential bias. This could result from not reporting the results of a number of cases subject to review equal to the number in excess of the selected sample size.

The proposed rule did not include a comparable provision. Two State agencies raised questions about what the rules meant by "minimum required sample." To clarify this matter, the final rule contains a provision that a State agency's required sample size is the larger of either the number of cases selected which are subject to review or the number chosen for selection and review in the sampling plan. (See 7 CFR 275.11(d).)

Active case frame. The Department proposed several modifications to the active case sample frame and universe in order to facilitate the compilation of accurate sample frames in a timely manner with a minimum of administrative burden. Under the proposed rule both the active case frame and universe would exclude those households certified for benefits after the end of the sample month. The rule further clarifies that a household which participates during the review period is one which is issued benefits for the sample month. A corresponding change clarifies the required contents of supplemental lists which may be needed to ensure that the sample frame includes all cases in the universe.

The Department received eight comments on the changes to the active case sample frame and universe. Most commenters recommended changes to the current list of households which are classified as not subject to the review.

One commenter recommended that the list include households whose entire allotment is recovered for repayment of an overissuance claim, because it would require them to use a supplemental list from which cases would have to be selected manually. The commenter indicated that the number of these cases would be small and therefore not worth the time and expense of the added sampling procedure. The Department agrees that the number of such households will be small but believes that such cases should be sampled as any other active case to determine the accuracy of the State agency's actions. (See 7 CFR 275.11(e)(1).)

Negative case frame. As discussed above under the paragraphs concerning definitions, the Department proposed to change the definition of negative cases. As a result the universe for negative cases would be all households whose application for food stamps was denied or whose certification was terminated effective for the sample month, with the exception of certain cases which are not usually amenable to quality control review.

Six commenters responded to this provision. Although some commenters requested clarification on specific questions, there was no opposition to the proposed change in focus. One commenter questioned whether a negative action is subject to review if the review date falls outside of the annual review period, for example, if the decision to terminate a case is made on September 19, but the action is effective in October. If September is the sample month, since the action was not effective in the sample month, the action would not be subject to review and not a part of the negative case universe. If October is the sample month, since the action is effective in the sample month, it is subject to review for October (in the new annual review period). Its review date is September 19. (See 7 CFR 275.11(e)(2).)

Review of Active Cases

Household case record review. The proposed rule removed the requirement that when a case record cannot be located the review must be terminated and reported as not complete. Instead of terminating the review, the reviewer would use the household issuance record to identify as many pertinent facts as possible and to plan the field investigation.

Seven State agencies and two Regional Offices commented on this proposal. The primary concern was that without the case record reviewers would be unable to complete reviews or would have to devote an inordinate amount of time to such reviews. Several commenters believed that the Department expected the reviewer to reconstruct the case record and to determine the variances involved, such as those resulting from the original certification action and from failure to report. The Department is not requiring this level of review. It is requiring, at a minimum, only a review to determine household eligibility and the correctness of the allotment for the sample month. What few variances may be identified during the field review should be appropriately coded and reported. This procedure should reduce State agency workload and result in more cases being completed. A second issue raised, the treatment of instances when the reviewer cannot locate the household case record or the household itself, is discussed later in connection with the disposition of case reviews.

Field investigation. The proposed rule allowed State agencies to terminate field investigations at the point the reviewer could determine and verify that the household was ineligible if that ineligibility could be resolved with the household. Twenty comments were received on this proposal, sixteen from State agencies, two from Regional Offices, and one from the Department of Health and Human Services (DHHS). Twelve commenters supported the proposed change. Several commenters asked about the condition for resolution with the household. The need for such resolution was questioned. It was suggested that Federal rereviews and fair hearings should be used to resolve these situations.

The preamble to the proposed rule described the resolution of ineligibility with the household as a confirmation of ineligibility with the household. The Department believes that this may not be possible in some instances when information indicates that the household is ineligible. The Department believes, however, that some care needs to be taken in such situations to avoid erroneous terminations of household participation. Consequently, the final rule provides that when the information on which a determination of ineligibility is based was not obtained from the household, the reviewer must confirm the correctness of the information as described in § 275.12(c)(2). This section pertains to such situations in general and does not require contact with the household in all cases.

Two commenters opposed the proposal for such abbreviated reviews because it would result in State agencies collecting less information about cases treated in the abbreviated manner proposed. Abbreviated reviews are optional; those State agencies wishing to continue reviews after ineligibility is verified may do so. One commenter noted that extensive work would be required if an abbreviated review case is later found eligible. The verification standards implemented with this rule should keep such instances at a minimum. (See 7 CFR 275.12 (b) and (c).)

Variance identification. The final rule contains the same provisions concerning the identification of variances, and the types of variances included in and excluded from error analysis. To avoid confusion about the treatment of findings related to certain elements, the final rule includes examples of such situations. For instance, a State agency's failure to take appropriate disqualification action for a household member's failure or refusal to register for work is an example of an included variance; failure to have a work registration form on file is a finding which the State agency need not act on or report to FNS. Such findings are included as administrative deficiencies in current rules, and the examples cited in this final rule are taken from that area of the current rules. (See 7 CFR 275.12(d).)

Error analysis and reporting. The proposed rule provided that the sample case is considered complete at the point ineligibility is determined whether or not the State agency terminates the review at that point. Under the proposal, the reviewer would only be required to code and report those variances that directly contributed to the error determination. We received five comments on this proposal, four from State agencies and one from a Regional Office. All supported the proposal. The final rule is unchanged from the proposed rule. (See 7 CFR 275.12 (e) and (f).)

Disposition of case reviews. The proposed rule provided for several changes in the disposition of case reviews to make it easier for State agencies to complete cases. The Department received a total of 56 comments on these changes.

The first proposal concerned cases where the case record is located but the household cannot be located at the address known to the State agency. If the reviewer takes certain steps to locate the household and if the household still cannot be located but the State agency has evidence that it existed, then the case can be reported as not subject to review. Twenty-two comments were received on this proposal, 19 from State agencies and three from Regional Offices. Twelve commenters stated general support for

the proposal. The most frequently expressed concern was that making all of the required contacts about a missing household's current address was ineffective because some of the sources would be unlikely to have information about the household. To provide State agencies with some flexibility in this area, the final rule provides that State agencies can determine which sources are most likely to know the household's current address and that at least two contacts be made. To help assure that these contacts are reasonably useful, the final rule also provides that Regional Offices will monitor the results of the contacts.

Several comments indicated a misunderstanding about the disposition of cases in which the household could not be located after the reviewer made the required contacts. Even though the contacts cannot provide the household's current address, so long as the State agency has evidence that the household did exist, such cases are not subject to review and are not counted against the 100 percent completion rate. Several commenters asked what would constitute evidence that the household did exist. This evidence usually appears during the normal course of the review. For example, the case record may provide birth certificates, pay stubs, or other documents, and sources contacted may indicate that they know the household. If such evidence does not become apparent, then the reviewer would have to make a special effort to locate and document it. For example, employers may need to be contacted. The final rule provides that adequate documentation in this regard is either documentary evidence of two different elements of eligibility or basis of issuance such as a birth certificate or pay stubs; or the statement of a collateral contact indicating that the household did exist. It should be noted that in these situations the reviewer has located the case record. (See 7 CFR 275.12(g).)

In connection with the policy on completing reviews when the case record cannot be found (discussed in the paragraphs above on household case record review), one commenter asked about the treatment of instances when neither the case record nor the household can be found. The proposed rule made no change in policy with respect to such situations. These cases must be reported as not complete. It is only situations where the case record is not missing that the case can be reported complete if the prescribed actions are taken. Section 275.12(g)(1) has been rewritten to clarify this policy.

The proposal also dealt with households refusing to cooperate with the reviewer. Such a household would have its participation terminated until it cooperated with the reviewer or until 95 days after the end of the annual review period, whichever came first. Also, the proposed rule described certain circumstances when a household's unwillingness to cooperate with the reviewer would be considered as refusal to cooperate. Thirty-five comments were received on this proposal, 31 from State agencies, three from Regional Ofices, and one from a public interest group. Eight commenters supported the proposal, and one objected. Concern was expressed about the length of the penalty period, tracking terminated cases, and the difficulty in reviewing cases where the household agrees to cooperate many months after the sample month.

The Department would point out that the penalty period is a disqualification period which the household can end by cooperating with the quality control reviewer. A copy of the termination notice in the casefile or a code in a computerized data base should be sufficient for tracking households. Reviewing stale cases can present problems, but the Department wants to give State agencies every chance to complete all cases subject to review. To further encourage household cooperation with quality control reviewers, the final rule provides that after the termination period ends, households which have failed to cooperate with the reviewer, should they reapply, would be subject to 100 percent verification to the determined eligible. Another concern in this area was the disposition of cases originally reported not complete because of household refusal to cooperate when the household later cooperates. This would be sufficient reason to allow the case to be disposed of as a complete case and counted towards the required sample completion. (See 7 CFR 273.2(d) and 275.12(g)(1)(iii).)

Comments on the proposed 100 percent completion rate contained objections to the proposed treatment of cases involving refusal to cooperate because often the households which refuse to cooperate are not participating at the time of the review. Consequently, the termination penalty is no incentive to them to cooperate. Commenters also pointed out that some cases can be completed without household cooperation. To help State agencies complete these cases, the final rule adds that before it is referred for termination a household refusing to cooperate must first be notified of the penalties for refusal with respect to termination and reapplication and the possibility that its case will be referred for investigation of willful misrepresentation. If the household still refuses to cooperate, the reviewer may try to complete the review and would refer the household for termination of its participation. This referral is required without regard to the results of the reviewer's attempt to complete the review without household cooperation. The final rules also stipulates that prior to taking these steps State agencies are expected to employ other administrative techniques to persuade households to cooperate. These are such things as having the eligibility worker contact the household, assigning the case of another quality control reviewer, and writing the household a letter from a State official such as the welfare commissioner. (See 7 CFR 275.12(g)(1)(ii).)

In addition to these changes the Department is making another change in the final rules which should further enhance the likelihood of completing cases. The proposed rule eliminated the provisions stating that FNS will help State agencies complete cases reported not complete because of household failure to cooperate or because the household could not be located. Because of the actions a State agency can take when a household cannot be located at an address known to the State agency, and so either locate the household and complete the case or report it as not subject to review, the Department believes that only rarely will such cases be reported as not complete. With respect to cases reported as not complete due to household refusal to cooperate, the final rule provides that FNS Regional Offices will assist State agencies in their completion. (See 7 CFR 275.3(c)(1)(iii).)

The proposed rules also provided that cases could not be reported not complete because the State agency could not complete them in time to meet the time standards for disposition. One commenter spoke to this change and supported it. (See 7 CFR 273.12(g)(1).)

Review of Negative Cases

The proposed rule limited negative case reviews to a determination of the validity of the reason for denial or termination as documented in the household case record. The reviewer would examine the household case record and verify through documentation in the file whether the reason given for the denial or termination was valid, or whether the denial or termination was valid for any

other reason documented in the casefile. If such documentation were present, the case would be considered valid. When the case record alone did not prove ineligibility, the reviewer would attempt to verify the element(s) in question through a phone call to a collateral contact designated in the case record. If the reviewer was able to verify through such a collateral source that a household was correctly denied or terminated from the Program, the negative case would be considered valid. If the reviewer was unable to verify the correctness of the State agency's decision to deny or terminate a household's participation through documentation or collateral contact, the negative case would be considered invalid. In addition, the proposal limited the instances in which a negative case would be classified as not completed to those situations where the reviewer, after all reasonable efforts, was unable to locate the case record. Language was also added to clarify that a negative case could not be reported as not completed solely because the State agency was unable to process the case review in time for it to be reported in accordance with the quality control system's reporting requirements, unless the State agency obtained prior FNS approval to do so.

Twenty-one comments were received on this proposal. Comments were generally favorable, especially with regard to the extent of consistency with AFDC and Medicaid procedures for review of negative actions. Commenters suggested that the term "invalid decision" be changed to "incorrect reason" to better describe the review process. The final rule has made this change. Commenters also stated that limiting collateral contacts to ones in the case record and not allowing contact with the household unnecessarily hampered the review process. The final rule allows State agencies to contact the household and collateral contacts. It should be noted, however, that such contacts are limited to the elements involved in the eligibility worker's decision. One commenter pointed out that since there is no longer a field review involved with reviews of negative cases, a case could not be determined not subject to review for the reason that all household members had died or moved out of State. The provision has been deleted. Several commenters expressed concern that the proposed policy would allow too much conjecture on the part of reviewers about the correctness of eligibility worker decisions. This should not be a problem since the new verification and documentation standards establish standards for documenting the basis of quality control reviewer decisions. (See 7 CFR 275.13.)

Review Processing

The proposed regulation required State agencies to use FNS-designed handbooks, worksheets, and coding forms in the QC review process. The Department received comments from five State agencies on these provisions. Three commenters emphasized the need for a complete and continually updated handbook and that the handbook be distributed in sufficient time and quantity to allow for training of staff. The Department understands this concern and the need to provide such materials accurately and on a timely basis. No change is being made to this section of the final rule. (See 7 CFR 275.14.)

Quality Control Review Reports

Individual cases. The new requirement for State agencies to meet monthly disposition standards received numerous comments. The proposal was for each State agency to dispose of and report the findings of 90 percent of all cases selected in a given sample month within 75 days of the end of the sample month, and 100 percent of all cases within 95 days of the end of the sample month. Several commenters supported these timeframes. However, the majority of comments, for various reasons, were against this provision. The predominant reason for opposing this provision was that the timeframes proposed by the Department were inconsistent with timeframes for the AFDC program. The AFDC standards require submission of 90 percent (or all but five cases) of the cases selected in the active case sample each month within 75 days after the end of the sample month. The same standard applies to cases selected from the negative case sample. AFDC also requires that 100 percent of the cases selected in the active and negative case samples be submitted within 120 days after the end of the quarter. Other commenters were opposed to this section of the regulations because of the amount of time needed to select the sample or to complete difficult cases which involve complex policy applications or in which the household refuses to cooperate.

The Department agrees that the timeframes should be compatible with AFDC and is continuing to work with the Department of Health and Human Services to standardize disposition standards for the two programs. However, the Department remains concerned about the timeliness of QC data. Many complaints have been voiced about the length of time for completing quality control reviews and for reporting the results timely enough to take effective corrective action. The Department also wants to avoid the current problem of backlogs of quality control reviews occurring at the end of the reporting period. Therefore, this provision remains the same as in the proposed rule.

Another new requirement in the proposed rule was that if a case has not been disposed of within 95 days from the end of a given sample month, the State agency would be required to immediately inform its FNS Regional Office of why the case remains pending, the progress of the review to date, and when the case(s) will be disposed of. The FNS Regional Office would use this information to determine whether the State agency has made a good faith effort in disposing of a case or whether the case would be considered overdue. FNS proposed to suspend or disallow a percentage of the State agency's Federal administrative funding when cases are overdue, depending upon the number of overdue cases. The proposal provided for a suspension or a disallowable of one percent of a State agency's Federal funding for quality control for every one percent of its required case reviews overdue in a review period. Several commenters wanted this provision to set out specific criteria for imposing the sanction so that sanctions would be applied in an equal and predefined method. They wanted a definition of sufficient justification for pending status and a quantification of the number of overdue cases. A few State agencies commented that meeting the disposition standards would not be a problem as long as FNS accepts the State agency's explanation about why some cases cannot be completed on time and makes a quick decision as to whether the State agency is making a good faith effort to complete the case. The Department believes that in order to receive timely data it is important to keep the disposition standards and impose a penalty if they are not met. The Department also understands that some reviews require more time to do than others and allowing the State agency to submit progress reports provides the flexibility necessary to complete some cases. The final rule leaves this provision unchanged except that it deletes the specification of the one percent criteria for invoking a sanction. The Department believes that this is too rigid a guideline and prefers to allow Regional Offices to monitor State

agency performance in this area and take action case by case.

Some comments indicated that there is confusion between the disposition standard and the completion standard. The disposition standard requires that 90 and 100 percent of selected cases be disposed of and reported on within 75 days and 95 days, respectively, of the end of the sample month. After the 95-day time period, cases which are not adequately justified as incomplete because review action is not finished are considered in possible sanction action. Cases reported not complete for cause, such as household failure to cooperate, as well as cases reported complete and not subject to review, would not be considered for such action. The case completion standard is pertinent only 95 days after the end of the entire review period when, in the process of adjusting the regressed error rate, all cases not complete for any reason are tallied and assigned two standard deviations. (The completion standard is further discussed later in the preamble under the paragraph on the determination of payment error rates.)

The proposed rules contained a provision that State agencies would report findings from individual active cases by submitting the edited findings on the Integrated Review Schedule, Form FNS–380–1. For negative cases, the State agency would submit the edited findings on the Negative Quality Control Review Schedule, Form FNS–245. The State agency would report review findings by inputting and editing the results of each case in the FNS-supplied computer terminal and transmitting the data to the host computer. For State agencies that do not have FNS-supplied terminals, the State agency would submit the results of each QC review in a format specified by FNS. The final rules clarify that the results of negative cases are entered into the computer which produces a summary and only the summary report is sent to FNS. In order to meet the 75/95 day disposition standards, the reviews must be both completed and reported. A few commenters said that there are problems with timely transmissions of data on the FNS terminals. In that situation the State agency should specify in the report sent to FNS (as described in § 275.21(b)(4)) that cases are overdue because of data transmission problems. The Department would point out that it will entertain requests for alternate computer reporting and use of the FNS-supplied terminals which State agencies may submit under the waiver provisions in § 272.1(c). In addition, State agencies may request FNS to change the results of a review in circumstances where that is justified. For example, FNS would consider changing a case where a household that had previously refused to cooperate subsequently agrees to cooperate so that the review can be completed.

In order to do Federal validation reviews, the proposed regulations would have required State agencies to supply its Regional Office with individual household case records, or copies of the pertinent information contained in the case records, as well as hard copies of individual Forms FNS–380–1 and FNS–245. The State agency would provide these materials to the FNS Regional Office within 10 days of receipt of a request. This material can be either originals or copies. The final regulations clarify that the copies must be legible. (See 7 CFR 275.21(b).)

Other reports. The proposal required each State agency to report to FNS about the monthly progress of sample selection and completion (Form FNS–248) no later than 95 days after the end of the sample month, and to submit a summary report of the results of all quality control reviews (Form FNS–247) no later than 95 days from the end of the annual review period. Several commenters said that manual reports are a duplication of what can be generated by the automated system and should be eliminated. The Department does not intend for State agencies to submit duplicate reports. Each State agency has the flexibility of submitting manually generated reports or utilizing the automated system to generate and transmit the required information. A clarifying phrase about this has been added to the final rules. Some State agencies commented that the due date for Form FNS–245 coincides with the due date for reporting the last case for the sample month and some time needs to be allowed for preparation of the report. The 95 day deadline is not the last date for working on the case reviews. The results must be reported by that date. Therefore, it seems reasonable to expect the Status of Sample Selection and Completion report to be ready at the same time. This provision remains the same as the proposed rule. (See 7 CFR 275.21 (c) and (d).)

Federal Monitoring

The proposed rule provided for various changes in the way that FNS would conduct reviews to determine the accuracy of State agencies' reported sample case review findings and determine State agency error rates. The proposed changes were designed to strengthen the Federal validation process by allowing FNS to direct its Regional Office resources where they are most needed so that FNS could continue meeting its responsibility, under the law, for ensuring that State agencies' error rates are accurate for purposes of determining liability for sanctions and eligibility for enhanced funding.

Selective validation. The Department solicited comments on a proposal to validate State agency error rates selectively based on such factors as a State agency's historical performance in operating the quality control system. Fifteen comments were received, most of them from State agencies. Opposition to the proposal was general. Most commenters objected on the grounds that all State agencies should be tested similarly with respect to error rate determinations and because of the lack of defined criteria for selecting error rates to validate.

The Department has decided not to pursue plans for selective validation at this time because of the possible inequities in treatment of State agencies The Department also has decided that selective validation is not timely since the quality control system is currently shifting to using absolute error rates.

State Agency error rates. The proposed rule replaced the provision of current regulations governing the cumulative allotment error rate with separate provisions outlining the content of the payment error and underissuance error rates. The payment error rate would include the value of the allotments reported as overissued, including overissuances in ineligible cases, for those cases included in the active case error rate. The underissuance error rate would include the value of allotments reported as underissued for those cases included in the active case error rate. In addition, the proposed rulemaking reorganized the provisions relative to the content of the State agency's active case error, payment error, underissuance error, and negative case error rates by locating them in the section of the Program's regulations which govern the determination of a State agency's Program performance. This change reflects FNS responsibility for generating State agency error rates. The one comment on these proposals was based on an apparent failure to realize that payment error rate and underissuance error rate were redefined in the interim rule on quality control error rate reduction (48 FR 23797, published May 27, 1983). These new definitions are included in this final rule. (See 7 CFR 275.25(c).)

Validation of State agency error rates. The proposed rule contained a number of changes in the process of validating State agency error rates.

First it provided that FNS would validate each State agency's active case error rate, payment error rate, and underissuance error rate during each annual quality control review period.

Second, it proposed that FNS would validate the State agency's negative case error rate only when the State agency's payment and underissuance error rates for an annual review period would appear to entitle it to an increased share of Federal administrative funding and its negative case error rate is less than the national weighted mean negative case error rate applicable to the period of such enhanced funding. Two comments were received on this proposal; neither objected to it. As mentioned above in the discussion of the error reduction rule, this final rule provides that the negative case error rate standard is the prior year's national weighted mean negative case error rate.

The proposed rule replaced the current formula used for determining the Federal rereview sample sizes for both active and negative cases with separate formulas for each type of case. These formulas distributed the Federal samples among State agencies according to their annual sample sizes. Several commenters objected to the size of the samples especially as a basis for regression. The proposed sample sizes increase the Federal samples relative to the State sample and the Department believes that the sizes are adequate and is making no change in them in the final rule.

The proposed rule also concentrated the Federal validation process on desk reviews of State agencies' active sample cases supplemented by telephone interviews with participants or collateral contacts, and field investigations to the extent necessary for active cases. For negative cases, the FNS Regional Office would conduct case record reviews to the extent necessary to determine whether the household case record contained sufficient documentation to justify the State agency's quality control findings about the correctness of the agency's decision to deny or terminate a household's participation. Related to these changes, the proposed rule provided that FNS Regional Offices would return cases to the State agency for appropriate action on an individual case basis whenever the Federal reviewer determined that the State agency incorrectly disposed of and reported cases as not completed or not subject to review. Cases could also be returned if the Regional Office reviewer was unable to determine the accuracy of the State agency's findings due to insufficient documentary evidence to support the verification required by FNS guidelines. The State agency would have 30 days to take appropriate action and report the findings. As with cases not disposed of timely, State agencies were required to report adequate reasons for each case that remained pending after 30 days of the date it was returned by the Regional Office or have the case be considered overdue and subject to fiscal sanctions.

Thirty-four comments were received on the proposal about desk reviews and the return of cases. Most comments opposed the proposal, although a few supported it. Concerns fell into several major areas: the additional work for State agencies which the proposed return of cases would cause; the basis for Regional Office determination of incorrectly disposed and incomplete cases; and the impact on error rates of State agency correction and completion of returned cases. The return of cases to State agencies was proposed as a means of ensuring compliance with the verification and documentation standards. Compliance with them would mean that most cases in the Federal subsample would be correctly and completely done. Returned cases would likely have few and limited problems. Regional Office determinations about the correctness and completeness of cases would be consistent since their basis would be the verification and documentation standards and the regulations on case disposition. The original findings of the State agency would not be changed by findings of returned cases. Those findings would be used to compute the Federal error rates.

Because of the concerns expressed, the final rule does not include the provision for the return of incorrectly disposed of and incorrect cases. State agencies are advised, however that, as provided in § 276.4, a failure to meet the verification and documentation standards may be the basis for a determination that a State agency's administration of the Food Stamp Program is inefficient and ineffective and may subject the State agency to suspension or disallowance of administrative funds.

Lastly, the proposed rule eliminated the provision of current regulations stating that FNS will assist State agencies in completing cases that State agencies fail to complete initially. This final rule reinstates that provision for cases reported not complete because of household refusal to cooperate. Because of its relation to case disposition, discussion of this change is in earlier paragraphs concerning case disposition. (See 7 CFR 275.3(c)).

Determination of Payment Error Rates. The proposed rule retains the procedure of current Program regulations for adjusting the State agency's error rates to account for incorrect sample selection. In addition, the rule proposes to increase the case completion standard from 95 percent to 100 percent of the minimum required sample size, to adjust the State agency's error rates for failure to meet the 100 percent standard, and to increase the penalty for such failure. In order to calculate the State agency's official error rates, FNS would adjust the State agency's error rates if it fails to complete 100 percent of its minimum required sample size by assigning two standard deviations of the estimated error rates added to the regressed error rates, to those cases not completed. Thirty-one comments were received on these changes, most of which objected to the 100 percent completion standard on the grounds that it is unrealistic and the penalty unavoidable. The Department believes that the 100 percent completion standard is the only standard which will ensure that State agencies make every reasonable attempt to complete their samples and so minimize any bias which incompleted cases cause. Because of the changes which this rule makes in what cases must now be counted not complete, the Department believes that many State agencies will complete such a high percentage of their required minimum sample size that the penalty will cause no more of a liability under the error reduction provisions than without the calculation of the two standard deviations. While this may be the general situation, some State agencies may not achieve a high enough completion rate to avoid incurring a liability for incomplete cases. The Department believes that the increased liability in such situations is appropriate and necessary as an incentive and to reflect the possible errors in those cases. This will mean that all State agencies have, in effect, the same completion standards. The final rule contains the provisions as proposed relative to determining error rates with the exception of the elimination of some words relating to selective validation. (See 7 CFR 275.25(e)(6).

Implementation

The provisions of this rule are effective beginning with the start of Fiscal Year 1984, with the following two exceptions.

First, all cases sampled for the six months October 1983 through March 1984 are due 95 days after March 31, 1984. The disposition standards for sampled cases specified in § 275.21 are effective for April 1984 and later sample cases. This should allow State agencies sufficient time to adjust their sample selection, case assignment, and related procedures in order to meet the new timeliness standards.

Second, no later than October 1, 1984, all State agencies must have revised their sample frames for active and negative cases. This should allow State agencies sufficient time to develop and obtain approval for changes in their sampling plans. (See 7 CFR 275.11(a) and 275.11(e).)

One area of the rule must be implemented as of the beginning of Fiscal Year 1984 is the disposition of active and negative case reviews with respect to being complete, not complete, or not subject to review (7 CFR 275.12(g) and 275.12(e)). These provisions are required for all cases for all State agencies and may require some reworking of some completed cases. In most instances State agencies should be able to accomplish this work with the material in the quality control case file, with some telephone contact, or with a modest amount of actual field investigation. This work should result in more completed cases and so be to the advantage of the State agency.

Finally, State agencies should note that the new provisions for sample sizes and completion standards are effective as of the beginning of Fiscal Year 1984. This will prevent any conflict between the regulations and waivers granted to some State agencies to reduce their sample sizes according to the provisions of the proposed rule. It also allows State agencies which now want to adjust their sample sizes to do so without delay. This will help those State agencies take advantage of as much of the resulting savings as possible. (See 7 CFR 275.11(b) and (d).)

Correction

The definition of State in § 271.2 is incorrect. The phrase "or as a wholesale food concern" actually belongs with the definition of staple food and was inadvertently added to the definition of State by the April 19, 1983, rule entitled "Food Stamp Program: Termination of the Food Stamp Program in the Commonwealth of Puerto Rico" (48 FR 16832). The phrase is being removed by this action.

Note.—The following paragraphs in 7 CFR which had been amended or revised in accordance with the May 27 interim rules have not changed and are adopted as final in the form originally set forth in the interim rules:

271.2 definitions of payment error rate, review period, and underissuance error rate § 275.25(d)(2), (d)(3), (d)(4)(ii), (d)(5)(i)(c), E, and (F), and (d)(5)(ii); and § 277.4(b)(5), (b)(6), (b)(7), and (b)(8).

For the convenience of the reader, these unchanged paragraphs (except the paragraph that sets forth the implementation schedule of the proposed rules) are printed below with paragraphs from the interim rule which are being amended or revised by this final action and with paragraphs from the July 29 proposed rule which are being finalized by this action.

List of Subjects

7 CFR Part 271

Administratative practice and procedure, Food stamps, Grant programs-social programs.

7 CFR Part 272

Alaska, Civil rights, Food stamps, Grant programs-social programs, Reporting and recordkeeping requirements.

7 CFR Part 273

Administrative practice and procedure, Aliens, Claims, Food stamps, Fraud, Grant programs-social programs, Penalties, Reporting and recordkeeping requirements, Social security, Students.

7 CFR Part 275

Administrative practice and procedure, Food stamps, Reporting and recordkeeping requirements.

7 CFR Part 277

Food stamps, Government procedure, Grant programs—social programs, Investigations, Records, Reporting and recordkeeping requirements.

Therefore, 7 CFR Parts 271, 272, 273, 275, and 277 are being amended as follows:

PART 271—GENERAL INFORMATION AND DEFINITIONS

1. In § 271.2, the definition of "State" is amended by removing the phrase "or as a wholesale food concern" from the end of that definition.

2. In § 271.2, the definition of "cumulative allotment error rate" and "administrative deficiencies" are removed; the definitions of "active case," "negative case," and "review period" are revised; and the definitions of "payment error rate," and "underissuance error rate" are adopted as final. They read as follows:

§ 271.2 Definitions.

"Active case" means a household which was certified prior to, or during, the sample month and issued food stamp benefits for the sample month.

* * * * *

"Negative case" means a household which was denied certification or whose food stamp benefits were terminated effective for the sample month.

* * * * *

"Payment error rate" means the sum of the allotments issued to eligible households to which they were not entitled and the allotments issued to ineligible households, expressed as a percentage of all allotments issued to complete active sample cases excluding those cases processed by SSA personnel or participating in certain demonstration projects designated by FNS.

* * * * *

"Review period" means the 12-month period from October 1 of each calendar year through September 30 of the following calendar year.

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"Underissuance error rate" means an estimate of the proportion of allotments to which eligible households were entitled but did not receive, expressed as a percentage of all allotments issued to active sample cases.

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PART 272—REQUIREMENTS FOR PARTICIPATING STATE AGENCIES

3. In § 272.1, a new paragraphg (68) is added to read as follows:

§ 272.1 General terms and conditions.

* * * * *

(g) *Implementation.* * * *

(68) *Amendment 260.* (i) The quality control review provisions contained in Amendment 260 are effective starting with the beginning of Fiscal Year 1984, except as provided in the following sentences. All cases sampled for the six months October 1983 through March 1984 shall be disposed of and reported within 95 days of March 31, 1984. Cases sampled for April 1984 and for months thereafter shall be disposed of and reported according to § 275.21. For example, 90 percent of April cases are due within 75 days of April 30, and 100 percent are due within 95 days of that date. The structure of sample frames specified in § 275.11(e) must be implemented no later than the sample month of October 1984.

(ii) Starting with the October 1983 sample month, cases must be determined complete, not complete, or not subject to review according to

§§ 275.12(g) and 275.13(e). As of the beginning of Fiscal Year 1984 the sample sizes stated in § 275.11(b) and related sampling plan requirements are effective, and State agencies are required to meet the completion standard stated in § 275.11(d). State agencies currently sampling at the levels provided in § 275.11(b)(1)(iii) must submit to their respective FNS Regional Offices the reliability statement required by § 275.11(a)(2) within 30 days of the publication of this rule, or no later than the second month after publication of this rule begin sampling at the levels specified in § 275.11(b)(1)(ii).

4. In § 272.2, the seventh sentence of paragraph (a)(2) is revised; paragraphs (d)(1)(i) and (ii) are redesignated as paragraphs (d)(1)(ii) and (iii), respectively, and a new paragraph (d)(1)(i) is added; and paragraphs (e)(4) through (6) are redesignated as paragraphs (e)(5) through (7), respectively, and a new paragraph (e)(4) is added. The revision and additions read as follows:

§ 272.2 Plan of operation.

(a) *General Purpose and Content.*

* * *

(2) *Content.* * * * The Plan's attachments include the Quality Control Sample plan, the Disaster Plan (currently reserved), and the optional Nutrition Education Plan. * * *

* * * * *

(d) *Planning Documents.* (1) * * *

(i) Quality Control Sampling Plan as required by § 275.11 (a)(4):

* * * * *

(e) *Submittal Requirements.* * * *

(4) The Quality Control Sampling Plan shall be signed by the head of the State agency and submitted to FNS prior to implementation as follows:

(i) According to the timeframes specified in paragraph (e)(4)(ii) of this section, prior to each annual review period each State agency shall submit any changes in their sampling plan for FNS approval or submit a statement that there are no such changes. These submittals shall include the statement required by § 275.11(a)(2), if appropriate. The Quality Control Sampling Plan in effect for each State agency as of the beginning of Fiscal Year 1984 shall be considered submitted and approved for purposes of this section, provided that the State agency has obtained prior FNS approval of its sampling plan.

(ii) Initial submissions of and major changes to sampling plans and changes in sampling plans resulting from general changes in procedure shall be submitted to FNS for approval at least 60 days prior to implementation. Minor changes to approved sampling plans shall be submitted at least 30 days prior to implementation.

* * * * *

PART 273—CERTIFICATION OF ELIGIBLE HOUSEHOLDS

5. In § 273.2, the text after the title of paragraph (d) is redesignated as paragraph (d)(1), the last two sentences of newly-designated paragraph (d)(1) are revised, and a new paragraph (d)(2) is added. The revisions and additions read as follows:

§ 273.2 Application processing.

* * * * *

(d) *Household cooperation.* (1) * * * The household shall also be determined ineligible if it refuses to cooperate in any subsequent review of its eligibility, including reviews generated by reported changes and applications for recertification. Once denied or terminated for refusal to cooperate, the household may reapply but shall not be determined eligible until it cooperates with the State agency.

(2) In addition, the household shall be determined ineligible if it refuses to cooperate in any subsequent review of its eligibility as a part of a quality control review. If a household is terminated for refusal to cooperate with a quality control reviewer, in accordance with § 275.12(g)(1)(ii), the household may reapply but shall not be determined eligible until it cooperates with the quality control reviewer. If a household reapplies after 95 days from the end of the annual review period, the household shall not be determined ineligible for its refusal to cooperate with a quality control reviewer during the completed review period, but must provide verification of all eligibility requirements prior to being determined eligible.

* * * * *

PART 275—PERFORMANCE REPORTING SYSTEM

6. In § 275.3, paragraph (c) is revised to read as follows:

§ 275.3 Federal monitoring.

* * * * *

(c) *Validation of State Agency Error Rates.* FNS shall validate each State agency's active case error rate, payment error rate, and underissuance error rate, as described in § 275.25(c), during each annual quality control review period. FNS shall validate the State agency's negative case error rate, as described in § 275.25(c), only when the State agency's payment and underissuance error rates for an annual review period appear to entitle it to an increased share of Federal administrative funding for that period as outlined in § 277.4(b) (2), (5), (6), or (7), and its negative case error rate for that period is less than the national weighted mean negative case error rate applicable to the period of enhanced funding. Any deficiencies detected in a State agency's QC system shall be included in the State agency's corrective action plan. The findings of validation reviews shall be used as outlined in § 275.25(e)(6).

(1) *Active case error rate.* The validation review of each State agency's active case error rate shall consist of the following actions:

(i) FNS will select a subsample of a State agency's completed active cases. The Federal review sample for completed active cases is determined as follows:

State annual active case sample size	Federal annual sample size
1,200 and over	n = 400
300–1,199	n = 150 + 0.277 (N–300)
Under 300	n = 150

(A) In the above formula, n is the minimum number of Federal review sample cases which must be selected when conducting a validation review.

(B) In the above formula, N is the State agency's minimum active case sample size as determined in accordance with § 275.11(b)(1).

(ii) FNS Regional Offices will conduct case record reviews to the extent necessary to determine the accuracy of the State agency's findings using the household's certification records and the State agency's QC records as the basis of determination. The FNS Regional Office may choose to verify any aspects of a State agency's QC findings through telephone interviews with participants or collateral contacts. In addition, the FNS Regional Office may choose to conduct field investigations to the extent necessary.

(iii) FNS Regional Offices will assist State agencies in completing active cases reported as not complete due to household refusal to cooperate.

(iv) FNS will also review the State agency's sampling procedures, estimation procedures, and the State agency's system for data management to ensure compliance with § 275.11 and § 275.12.

(v) FNS validation reviews of the State agency's active sample cases will be conducted on an ongoing basis as the State agency reports the findings for individual cases and supplies the necessary case records. FNS will begin the remainder of each State agency's

validation review as soon as possible after the State agency has supplied the necessary information regarding its sample and review activity.

(2) *Payment error rate.* The validation review of each State agency's payment error rate shall occur as a result of the Federal validation of the State agency's active case error rate as outlined in paragraph (c)(1) of this section.

(3) *Underissuance error rate.* The validation review of each State agency's underissuance error rate shall occur as a result of the Federal validation of the State agency's active case error rate as outlined in paragraph (c)(1) of this section.

(4) *Negative case error rate.* The validation review of each State agency's negative case error rate shall consist of the following actions:

(i) FNS will select a subsample of a State agency's completed negative cases. The Federal review sample for completed negative cases is determined as follows:

State annual negative case sample size	Federal annual sample size
800 and over	n=160
150–799	n=75 + 0.130 (N–150).
Under 150	n=75.

(A) In the above formula, n is the minimum number of Federal review sample cases which must be selected when conducting a validation review.

(B) In the above formula, N is the State agency's minimum negative case sample size as determined in accordance with § 275.11(b)(2).

(ii) FNS Regional Offices will conduct case record reviews to the extent necessary to determine whether the household case record contained sufficient documentation to justify the State agency's QC findings of the correctness of the State agency's decision to deny or terminate a household's participation.

(iii) FNS will also review each State agency's negative case sampling and review procedures against the provisions of §§ 275.11 and 275.13.

(iv) FNS will begin each State agency's negative sample case validation review as soon as possible after the State agency has supplied the necessary information, including case records and information regarding its sample and review activity.

(5) *Arbitration.* Each FNS Regional Office will appoint an individual to arbitrate disputes between the State agency and the FNS Regional Office concerning individual case findings and the appropriateness of actions taken to dispose of individual cases on a case-by-case basis. This individual will not be directly involved in the validation effort and will accept questions of certification policy only upon written request by the State agency.

* * * * *

7. In § 275.4, paragraph (c) is revised to read as follows:

§ 275.4 Record retention.

* * * * *

(c) QC review records consist of Forms FNS–380, Worksheet for Integrated AFDC, Food Stamps and Medicaid Quality Control Reviews, FNS–380–1, Integrated Review Schedule, FNS–245, Negative Quality Control Review Schedule, and Form FNS–248, Status of Sample Cases in Reporting Month and Period; other materials supporting the review decision; sample lists; sampling frames; tabulation sheets; and reports of the results of all quality control reviews during each review period.

8. In § 275.10, the fourth, fifth, and sixth sentences of paragraph (a) are revised; and paragraph (b) is revised. The revisions read as follows:

§ 275.10 Scope and purpose.

(a) * * * Reviews of negative cases shall be conducted to determine whether the State agency's decision to deny or terminate the household, as of the review date, was correct. Quality control reviews measure the validity of food stamp cases at a given time (the review date) by reviewing against the Food Stamp Program standards established in the Food Stamp Act and the Regulations, taking into account any FNS authorized waivers to deviate from specific regulatory provisions. FNS and the State agency shall analyze findings of the reviews to determine the incidence and dollar amounts of errors, which will determine the State agency's liability for payment errors and eligibility for enhanced funding in accordance with the Food Stamp Act of 1977, as amended, and to plan corrective action to reduce excessive levels of errors for any State agency with combined payment error and underissuance error rates of 5 percent or more.

(b) The objectives of quality control reviews are to provide:

(1) A systematic method of measuring the validity of the food stamp caseload;

(2) A basis for determining error rates;

(3) A timely continuous flow of information on which to base corrective action at all levels of administration; and

(4) A basis for establishing State agency liability for errors that exceed the National standard and State agency eligibility for enhanced funding.

* * * * *

9. Section 275.11 is revised to read as follows:

§ 275.11 Sampling.

(a) *Sampling plan.* Each State agency shall develop a quality control sampling plan which demonstrates the integrity of its sampling procedures.

(1) *Content.* The sampling plan shall include a complete description of the frame, the method of sample selection, and methods for estimating characteristics of the population and their sampling errors. The description of the sample frames shall include: source, availability, accuracy, completeness, components, location, form, frequency of updates, deletion of cases not subject to review, and structure. The description of the methods of sample selection shall include procedures for: estimating caseload size, overpull, computation of sampling intervals and random starts (if any), stratification or clustering (if any), identifying sample cases, correcting over-or undersampling, and monitoring sample selection and assignment. A time schedule for each step in the sampling procedures shall be included. If appropriate, the sampling plan shall include a description of its relationship to other Federally-mandated quality control samples (e.g., Aid to Families with Dependent Children or Medicaid).

(2) *Criteria.* All sampling plans shall:

(i) Conform to principles of probability sampling;

(ii) Document methods for estimating characteristics of the population and their sampling errors;

(iii) Contain population estimates with the same or better precision as would be obtained by a simple random sample of the size specified in paragraphs (b)(1) and (b)(2) of this section;

(iv) Describe all weighting procedures and their effects on data analysis and reporting requirements;

(v) Provide for the maintenance of the current effort in other phases of the quality control process (e.g., case reviews, statistical reports, and data analysis);

(vi) Specify and explain the basis for the sample sizes chosen by the State agency;

(vii) Specify and explain the basis for the approximate number of sample cases to be selected each month if other than one-twelfth of the active and negative sample sizes; and

(viii) If the State agency has chosen an active sample size as specified in paragraph (b)(1)(iii) of this section, include a statement that, whether or nc

the sample size is increased to reflect an increase in participation as discussed in paragraph (b)(3) of this section, the State agency will not use the size of the sample chosen as a basis for challenging the resulting error rates.

(3) *Design.* FNS generally recommends a systematic sample design for both active and negative samples because of its relative ease to administer, its validity, and because it yields a sample proportional to variations in the caseload over the course of the annual review period. (To obtain a systematic sample, a State agency would select every kth case after a random start between 1 and k. The value of k is dependent upon the estimated size of the universe and the sample size.) A State agency may, however, develop an alternative sampling design better suited for its particular situation.

(4) *FNS review and approval.* The State agency shall submit its sampling plan to FNS for approval as a part of its State Plan of Operation in accordance with § 272.2(e)(4). In addition, all sampling procedures used by the State agency, including frame composition, construction, and content shall be fully documented and available for review by FNS.

(Approved by the Office of Management and Budget under control number 0584–0303.)

(b) *Sample size.* There are two samples for the food stamp quality control review process, an active case sample and a negative case sample. The size of both these samples is based on the State agency's average monthly caseload during the annual review period. Costs associated with a State agency's sample sizes are reimbursable as specified in § 277.4.

(1) *Active cases.* (i) All active cases shall be selected in accordance with standard procedures, and the review findings shall be included in the calculation of the State agency's payment error and underissuance error rates.

(ii) Unless a State agency chooses to select and review a number of active cases determined by the formulas provided in paragraph (b)(1)(iii) of this section and has included in its sampling plan the reliability certification required by paragraph (a)(2)(viii) of this section, the minimum number of active cases to be selected and reviewed by a State agency during each annual review period shall be determined as follows:

Average monthly active households	Required annual sample size
60,000 and over	n=2400.
16,000 to 59,000	n=300+0.042(N–10,000).
Under 16,000	n=300.

(iii) A State agency which includes in its sampling plan the statement required by paragraph (a)(2)(viii) of this section may determine the minimum number of active cases to be selected and reviewed during each annual review period as follows:

Average monthly active households	Required annual sample size
60,000 and over	n=1200.
10,000 to 59,999	n=300+0.018 (N–10,000).
Under 10,000	n=300.

(iv) In the formulas in paragraphs (b)(1)(ii) and (iii) of this section n is the required active case sample size. This is the minimum number of active cases subject to review which must be selected each review period. Also in the formulas, n is the anticipated average monthly participating caseload subject to quality control review (i.e., households which are included in the active universe defined in paragraph (e)(1) of this section) during the annual review period.

(2) *Negative cases.* The minimum number of negative cases to be selected and reviewed during each annual review period shall be determined as follows:

Average monthly negative households	Required annual sample size
5,000 and over	n=800.
500 to 4,999	n=150+0.144 (N–500).
Under 500	n=150.

(i) In the above formula, n is the required negative sample size. This is the minimum number of negative cases subject to review which must be selected each review period.

(ii) In the above formula, n is the anticipated average monthly number of negative cases which are subject to quality control review (i.e., households which are part of the negative universe defined in paragraph (e)(2) of this section) during the annual review period.

(3) *Unanticipated changes.* Since the average monthly caseloads (both active and negative) must be estimated at the beginning of each annual review period, unanticipated changes can result in the need for adjustments to the sample size. Recognizing the difficulty of forecasting caseloads, State agencies will not be penalized if the actual caseload during a review period is less than 20 percent larger than the estimated caseload used to determine sample size. If the actual caseload is more than 20 percent larger than the estimated caseload, the larger sample size appropriate for the actual caseload will be used in computing the sample completion rate.

(4) *Alternative designs.* The active and negative sample size determinations assume that State agencies will use a systematic or simple random sample design. State agencies able to obtain results of equivalent reliability with smaller samples and appropriate design may use an alternative design with FNS approval. To receive FNS approval, proposals for alternative designs must provide population estimates with equivalent or better precision than would be obtained had the State agency reviewed simple random samples of the sizes specified by paragraphs (b)(1) and (b)(2) of this section.

(c) *Sample selection.* The selection of cases for quality control review shall be made separately for active and negative cases each month during the annual review period. Each month each State agency shall select for review approximately one-twelfth of its required sample, unless FNS has approved other numbers of cases specified in the sampling plan.

(1) *Substitutions.* Once a household has been identified for inclusion in the sample by a predesigned sampling procedure, substitutions are not acceptable. An active case must be reviewed each time it is selected for the sample. If a household is selected more than once for the negative sample as the result of separate and distinct instances of denial or termination, it shall be reviewed each time.

(2) *Corrections.* Excessive undersampling must be corrected during the annual review period. Excessive oversampling may be corrected at the State agency's option. Cases which are dropped to compensate for oversampling shall be reported as not subject to review. Because corrections must not bias the sample results, cases which are dropped to compensate for oversampling must comprise a random subsample of all cases selected (including those completed, not completed, and not subject to review). Cases which are added to the sample to compensate for undersampling must be randomly selected from the entire frame in accordance with the procedures specified in paragraphs (b), (c)(1), and (e) of this section. All sample adjustments must be fully documented and available for review by FNS.

(d) *Required sample size.* A State agency's required sample size is the larger of either the number of cases selected which are subject to review or

the number of cases chosen for selection and review according to paragraph (b) of this section.

(e) *Sample frame.* The State agency shall select cases for quality control review from a sample frame. The choice of a sampling frame shall depend upon the criteria of timeliness, completeness, accuracy, and administrative burden. Complete coverage of the sample universes, as defined in paragraph (f) of this section, must be assured so that every household subject to quality control review has an equal or known chance of being selected in the sample. Since the food stamp quality control review process requires an active and negative sample, two corresponding sample frames are also required.

(1) *Active cases.* The frame for active cases shall list all households which were: (i) certified prior to, or during, the sample month; and (ii) issued benefits for the sample month, except for those households excluded from the universe in paragraph (f)(1) of this section. State agencies may elect to use either a list of certified eligible households or a list of households issued an allotment. If the State agency uses a list of certified eligible households, those households which are issued benefits for the sample month after the frame has been compiled shall be included in a supplemental list. If the State agency uses an issuance list, the State agency shall ensure that the list includes those households which do not actually receive an allotment because the entire amount is recovered for repayment of an overissuance in accordance with the allotment reduction procedures in § 273.18.

(2) *Negative cases.* The frame for negative cases shall list all households whose application for food stamps was denied or whose certification was terminated effective for the sample month except those excluded from the universe in paragraph (f)(2) of this section.

(3) *Unwanted cases.* A frame may include cases for which information is not desired (e.g., households which have been certified but did not actually participate during the sample month). When such cases cannot be eliminated from the frame beforehand and are selected for the sample, they must be accounted for and reported as being not subject to review in accordance with the provisions in §§ 275.12(g) and 275.13(e).

(f) *Sample universe.* The State agency shall ensure that its active and negative case frames accurately reflect their sample universes. There are two sample universes for the food stamp quality control review process, an active case universe and a negative case universe. The exceptions noted below for both universes are households not usually amenable to quality control review.

(1) *Active cases.* The universe for active cases shall include all households certified prior to, or during, the sample month and receiving food stamps for the sample month, except for the following:

(i) A household in which all the members had died or had moved out of the State before the review could be undertaken or completed;

(ii) A household receiving food stamps under a disaster certification authorized by FNS;

(iii) A household which is under investigation for intentional Program violation, including a household with a pending administrative disqualification hearing;

(iv) A household appealing an adverse action when the review date falls within the time period covered by continued participation pending the hearing; or

(v) A household receiving restored benefits in accordance with § 273.17 but not participating based upon an approved application. Other households excluded from the active case universe during the review process are identified in § 275.12(g).

(2) *Negative cases.* The universe for negative cases shall include all households whose application for food stamps was denied or whose certification was terminated effective for the sample month except the following:

(i) A household which had its case closed due to expiration of the certification period;

(ii) A household which withdrew an application prior to the agency's determination;

(iii) A household which is under investigation for intentional Program violation;

(iv) A household in which all members had died or had moved out of State at the time of the review (except those negative cases in which the reason for denial or termination is that all household members died or moved out of State). Other households excluded from the negative case universe during the review process are identified in § 275.13(e). The negative case universe shall not include negative actions taken against the household which do not result in the household actually being denied or terminated.

(g) *Demonstration projects/SSA processing.* Households correctly classified for participation under the rules of an FNS-authorized demonstration project which FNS determines to significantly modify the rules for determining households' eligibility or allotment level, and households participating based upon an application processed by Social Security Administration personnel shall be included in the selection and review process. They shall be included in the universe for calculating sample sizes and included in the sample frames for sample selection as specified in paragraphs (b) through (e) of this section. In addition, they shall be included in the quality control review reports as specified in § 275.21(e) and included in the calculation of a State agency's completion rate as specified in § 275.25(e)(6). However, all results of reviews of active and negative demonstration project/SSA processed cases shall be excluded from the determination of State agencies' active and negative case error rates, payment error rates, and underissuance error rates as described in § 275.25(c). The review of these cases shall be conducted in accordance with the provisions specified in §§ 275.12(h) and 275.13(f).

10. Section 275.12 is revised to read as follows:

§ 275.12 Review of active cases.

(a) *General.* A sample of households which were certified prior to, or during, the sample month and issued food stamp benefits for the sample month shall be selected for quality control review. These active cases shall be reviewed to determine if the household is eligible and, if eligible, whether the household is receiving the correct allotment. The determination of a household's eligibility shall be based on an examination and verification of all elements of eligibility (i.e., basic program requirements, resources, income, and deductions). The elements of eligibility are specified in §§ 273.1 and 273.3 through 273.9. The verified circumstances and the resulting benefit level determined by the quality control review shall be compared to the benefits authorized by the State agency as of the review date. When changes in household circumstances occur, the reviewer shall determine whether the changes were reported by the participant and handled by the agency in accordance with the rules set forth in §§ 273.12, 273.13 and 273.21, as appropriate. For active cases, the review date shall always fall within the sample month, either the first day of a calendar or fiscal month or the day of certification, whichever is later. The review of active cases shall include: a household case record review; a field investigation, except as provided in paragraph (b) of this section; the identification of any variances; an error

analysis; and the reporting of review findings

(b) *Household case record review.* The reviewer shall examine the household case record to identify the specific facts relating to the household's eligibility and basis of issuance. If the reviewer is unable to locate the household case record, the reviewer shall identify as many of the pertinent facts as possible from the household issuance record. The case record review shall include all information applicable to the case as of the review month, including the application and worksheet in effect as of the review date. Documentation contained in the case record can be used as verification if it is not subject to change and applies to the sample month. If during the case record review the reviewer can determine and verify the household's ineligibility the review can be terminated at that point, provided that if the determination is based on information not obtained from the household then the correctness of that information must be confirmed as provided in paragraph (c)(2) of this section. The reviewer shall utilize information obtained through the case record review to complete column (2) of the Integrated Worksheet, Form FNS–380, and to tentatively plan the content of the field investigation.

(c) *Field investigation.* A full field investigation shall be conducted for all active cases selected in the sample month except as provided in paragraph (b) of this section. If during the field investigation the reviewer determines and verfies the household's ineligibility, the review can be terminated at that point, provided that if the determination is based on information not obtained from the household then the correctness of that information must be confirmed as provided in paragraph (c)(2) of this section. In Alaska an exception to this requirement can be made in those isolated areas not reachable by regularly scheduled commercial air service, automobile, or other public transportation provided one fully documented attempt to contact the household has been made. Such cases may be completed through casefile review and collateral contact. The field investigation will include interviews with the head of household, spouse, or authorized representative; contact with collateral sources of information; and any other materials and activity pertinent to the review of the case. The scope of the review shall not extend beyond the examination of household circumstances which directly relate to the determination of household eligibility and basis of issuance status. The reviewer shall utilize information obtained through the field investigation to complete column (3) of the Integrated Worksheet, Form FNS–380.

(1) *Personal interviews.* Personal interviews shall be conducted in a manner that respects the rights, privacy, and dignity of the participants. Prior to making a home visit, the reviewer shall notify the household that it has been selected, as part of an ongoing review process, for review by quality control and that a home visit will be made in the future. The method of notifying the household and the specificity of the notification shall be determined by the State agency, in accordance with applicable State and Federal laws. Most interviews will be held in the home; however, interviews can be held elsewhere when circumstances warrant. Under no circumstances shall the interview with the household be conducted by phone, except in Alaska when an exception to the field investigation is made in accordance with this section. During the interview with the participant, the reviewer shall:

(i) Explore with the head of the household, spouse, authorized representative, or any other responsible household member, household circumstances as they affect each factor of eligibility and basis of issuance;

(ii) Establish the composition of the household;

(iii) Review the documentary evidence in the household's possession and secure information about collateral sources of verification; and

(iv) Elicit from the participant names of collateral contacts. The reviewer shall use, but not be limited to, these designated collateral contacts. If required by the State, the reviewer shall obtain consent from the head of the household to secure collateral information. If the participant refuses to sign the release of information form, the reviewer shall explain fully the consequences of this refusal to cooperate (as contained in paragraph (g)(1)(ii) of this section), and continue the review to the fullest extent possible.

(2) *Collateral contacts.* The reviewer shall obtain verification from collateral contacts in all instances when adequate documentation was not available from the participant. This second party verfication shall cover each element of eligibility as it affects the household's eligibility and coupon allotment. The reviewer shall make every effort to use the most reliable second party verfication available (for example, banks, payroll listings, etc.), in accordance with FNS guidelines, and shall thoroughly document all verfication obtained. If any information obtained by the QC reviewer differs from that given by the participant, then the reviewer shall resolve the differences to determine which information is correct before an error determination is made. The manner in which the conflicting information is resolved shall include recontacting the participant unless the participant cannot be reached. When resolving conflicting information reviewers shall use their best judgement based on the most reliable data available and shall document how the differences were resolved.

(d) *Variance identification.* The reviewer shall identify any element of a basic program requirement or the basis of issuance which varies (i.e., information from review findings which indicates that policy was applied incorrectly and/or information verified as of the review date that differs from that used at the most recent certification action). For each element that varies, the reviewer shall determine whether the variance was State agency or participant caused. The results of these determinations shall be coded and recorded in column (5) of the Integrated Worksheet, Form FNS–380.

(1) *Variances included in error analysis.* Except for those variances in an element resulting from one of the situations described in paragraph (d)(2) of this section, any variance involving an element of eligibility or basis of issuance shall be included in the error analysis. Such variances shall include but not be limited to those resulting from a State agency's failure to take the disqualification action related to SSN's specified in § 273.6(c), and related to work requirements, specified in § 273.7(g).

(2) *Variances excluded from error analysis.* The following variances shall be excluded from the determination of a household's eligibility and basis of issuance for the sample month:

(i) Any variance resulting from the nonverified portion of a household's gross nonexempt income where there is conclusive documentation (a listing of what attempts were made to verify and why they were unsuccessful) that such income could not be verified at the time of certification because the source of income would not cooperate in providing verification and no other sources of verification were available. If there is no conclusive documentation as explained above, then the reviewer shall not exclude any resulting variance from the error determination. This follows certification policy outlined in § 273.2(f)(1)(i).

(ii) Any variance in cases certified under expedited certification procedures resulting from postponed verification of an element of eligibility as allowed under § 273.2(i)(4)(i). Verification of gross income, deductions, resources, household composition, alien status, or tax dependency may be postponed for cases eligible for expedited certification. However, if a case certified under expedited procedures contains a variance as a result of a residency deficiency, a mistake in the basis of issuance computation, a mistake in participant identification, or incorrect expedited income accounting, the variance shall be included in the error determination. This exclusion shall only apply to those cases which are selected for QC review in the first month of participation under expedited certification.

(iii) Any variance subsequent to certification in an element of eligibility or basis of issuance which was not reported and was not required to have been reported as of the review date. The elements participants are required to report and the time requirements for reporting are specified in §§ 273.12(a) and 273.21(h) and (i), as appropriate. If, however, a change in any element is reported, and the State agency fails to act in accordance with §§ 273.12(c) and 273.21(j), as appropriate, any resulting variance shall be included in the error determination.

(iv) Any variance in deductible expenses which was not provided for in determining a household's benefit level in accordance with § 273.2(f)(3)(i)(B). This provision allows households to have their benefit level determined without providing for a claimed expense when the expense is questionable and obtaining verification may delay certification. If such a household subsequently provides the needed verification for the claimed expense and the State agency does not redetermine the household's benefits in accordance with § 273.12(c), any resulting variance shall be included in the error determination.

(3) *Other Findings.* Findings other than variances made during the review which are pertinent to the food stamp household or the case record may be acted on at the discretion of the State agency. Examples of such findings are: an incorrect age of a household member which is unrelated to an element of eligibility; an overdue subsequent certification; no current application on file; insufficient documentation; incorrect application of the verification requirements specified in Part 273; and deficiencies in work registration procedural requirements. Such deficiencies include: inadequate documentation of each household member's exempt status; work registration form for each nonexempt household member not completed at the time of application and every six months thereafter; and the household not advised of its responsibility to report any changes in the exempt status of any household member.

(e) *Error analysis.* The reviewer shall analyze all appropriate variances in completed cases, in accordance with paragraph (d) of this section, which are based upon verified information and determine whether such cases are either eligible, eligible with a basis of issuance error, or ineligible. The review of an active case determined ineligible shall be considered completed at the point of the ineligibility determination. For households determined eligible, the review shall be completed to the point where the correctness of the basis of issuance is determined, except in the situations outlined in paragraph (g) of this section. In the event that a review is conducted of a household which is receiving restored or retroactive benefits for the sample month, the portion of the allotment which is the restored or retroactive benefit shall be excluded from the determination of the household's eligibility and/or basis of issuance. A food stamp case in which a household member(s) receives public assistance shall be reviewed in the same manner as all other food stamp cases, using income as received. The determination of a household's eligibility and the correctness of the basis of issuance shall be determined based on data entered on the computation sheet as well as other information documented on other portions of the Integrated Worksheet, Form FNS–380, as appropriate.

(f) *Reporting of review findings.* All information verified to be incorrect during the review of an active case shall be reported to the State agency for appropriate action on an individual case basis. This includes information on all variances in elements of eligibility and basis of issuance in both error and nonerror cases. In addition, the reviewer shall report the review findings on the Integrated Review Schedule, Form FNS–380–1, in accordance with the following procedures:

(1) *Eligibilty errors.* If the reviewer determines that a case is ineligible, the occurrence and the total allotment issued in the sample month shall be coded and reported. Whenever a case contains a variance in an element which results in an ineligibility determination and there are also variances in elements which would cause a basis of issuance error, the case shall be treated as an eligibility error. The reviewer shall also code and report any variances that directly contributed to the error determination. In addition, if the State agency has chosen to report information on all variances in elements of eligibility and basis of issuance, the reviewer shall code and report any other such variances which were discovered and verified during the course of the review.

(2) *Basis of issuance errors.* If the reviewer determines that food stamp allotments were either overissued or underissued to eligible households in the sample month, in an amount exceeding $5.00, the occurrence and the amount of the error shall be coded and reported. The reviewer shall also code and report any variances that directly contributed to the error determination. In addition, if the State agency has chosen to report information on all variances in elements of eligibility and basis of issuance, the reviewer shall code and report any other such variances which were discovered and verified during the course of the review.

(g) *Disposition of case reviews.* Each case selected in the sample of active cases must be accounted for by classifying it as completed, not completed, or not subject to review. These case dispositions shall be coded and recorded on the Integrated Review Schedule, Form FNS–380–1.

(1) *Cases reported as not complete.* Active cases shall be reported as not completed if the household case record cannot be located and the household itself is not subsequently located; if the household case record is located but the household cannot be located unless the reviewer attempts to locate the household as specified in this paragraph; or if the household refuses to cooperate, as discussed in this paragraph. All cases reported as not complete shall be reported to the State agency for appropriate action on an individual case basis. Without FNS approval, no active case shall be reported as not completed solely because the State agency was unable to process the case review in time for it to be reported in accordance with the timeframes specified in § 275.21(b)(2).

(i) If the reviewer is unable to locate the participant either at the address indicated in the case record or in the issuance record and the State agency is not otherwise aware of the participant's current address, the reviewer shall attempt to locate the household by contacting at least two courses which the State agency determines are most

likely to be able to inform the reviewer of the household's current address. Such sources include but are not limited to:

(A) The local office of the U.S. Postal Service;

(B) The State Motor Vehicle Department;

(C) The owner or property manager of the residence at the address in the case record; and

(D) Any other appropriate sources based on information contained in the case record, such as public utility companies, telephone company, employers, or relatives. Once the reviewer has attempted to locate the household and has documented the response of each source contacted, if the household still cannot be located and the State agency has documented evidence that the household did actually exist, the State agency shall report the active case as not subject to review. In these situations documented evidence shall be considered adequate if it either documents two different elements of eligibility or basis of issuance, such as a copy of a birth certificate for age and pay status for income; or documents the statement of a collateral contact indicating that the household did exist. FNS Regional Offices will monitor the results of the contacts which State agencies make in attempting to locate households.

(ii) If a household refuses to cooperate with the quality control reviewer and the State agency has taken other administrative steps to obtain that cooperation without obtaining it, the household shall be notified of the penalities for refusing to cooperate with respect to termination and reapplication, and of the possibility that its case will be referred for investigation for willful misrepresentation. If a household refuses to cooperate after such notice, the reviewer may attempt to complete the case and shall report the household's refusal to the State agency for termination of its participation without regard for the outcome of that attempt. For a determination of refusal to be made, the household must be able to cooperate, but clearly demonstrate that it will not take actions that it can take and that are required to complete the quality control review process. In certain circumstances, the household may demonstrate that it is unwilling to cooperate by not taking actions after having been given every reasonable opportunity to do so, even though the household or its members do not state that the household refuses to cooperate. Instances where the household's unwillingness to cooperate in completing a quality control review has the effect of a refusal to cooperate shall include the following:

(A) The household does not respond to a letter from the reviewer sent Certified Mail-Return Receipt Requested within 30 days of the date of receipt;

(B) The household does not attend an agreed upon interview with the reviewer and then does not contact the reviewer within 10 days of the date of the scheduled interview to reschedule the interview; or

(C) The household does not return a signed release of information statement to the reviewer within 10 days of either agreeing to do so or receiving a request from the reviewer sent Certified Mail-Return Receipt Requested. However, in these and other situations, if there is any question as to whether the household has merely failed to cooperate, as opposed to refused to cooperate, the household shall not be reported to the State agency for termination.

(2) *Cases not subject to review.* Cases which are not subject to review, if they have not been eliminated in the sampling process, shall be eliminated during the review process. These cases shall be as follows:

(i) Death of all members of a household if they died before the review could be undertaken or completed;

(ii) The household moved out of State before the review could be undertaken or completed;

(iii) The household, at the time of the review, is under active investigation for intentional Food Stamp Program violation, including a household with a pending administrative disqualification hearing;

(iv) A household receiving restored benefits in accordance with § 273.17 but not participating based upon an approved application for the sample month;

(v) A household dropped as a result of correction for oversampling;

(vi) A household participating under disaster certification authorized by FNS for a natural disaster;

(vii) A case incorrectly listed in the active frame;

(viii) A household appealing an adverse action when the review date falls within the time period covered by continued participation pending the hearing;

(ix) A household that did not receive benefits for the sample month; or

(x) A household that still cannot be located after the reviewer has attempted to locate it in accordance with paragraph (g)(1)(i) of this section.

(h) *Demonstration projects/SSA processing.* Households correctly classified for participation under the rules of a demonstration project which establishes new FNS-authorized eligibility criteria or modifies the rules for determining households' eligibility or allotment level shall be reviewed following standard procedures provided that FNS does not modify these procedures to reflect modifications in the treatment of elements of eligibility or basis of issuance in the case of a demonstration project. If FNS determines that information obtained from these cases would not be useful, then they may be excluded from review. A household whose most recent application for participation was processed by Social Security Administration personnel shall be reviewed following standard procedures. This includes applications for recertification, provided such an application is processed by the SSA as allowed in § 273.2(k)(2)(ii).

11. Section 275.13 is revised to read as follows:

§ 275.13 Review of negative cases.

(a) *General.* A sample of households denied certification to receive food stamps or which had their participation in the Food Stamp Program terminated during a certification period effective for the sample month shall be selected for quality control review. These negative cases shall be reviewed to determine whether the State agency's decision to deny or terminate the household, as of the review date, was correct. For negative cases, the review date shall be the date of the agency's decision to deny or terminate program benefits. The review of negative cases shall include a household case record review; an error analysis; and the reporting of review findings.

(b) *Household case record review.* The reviewer shall examine the household case record and verify through documentation in it whether the reason given for the denial or termination is correct or whether the denial or termination is correct for any other reason documented in the casefile. When the case record alone does not prove ineligibility, the reviewer may attempt to verify the element(s) of eligibility in question by telephoning either the household and/or a collateral contact(s). Through the review of the household case record, the reviewer shall complete the household case record sections and document the reasons for denial or termination on the Negative Quality Control Review Schedule, Form FNS–245.

(c) *Error analysis.* A negative case shall be considered correct if the reviewer is able to verify through documentation in the household case

record or collateral contact that a household was correctly denied or terminated from the program. Whenever the reviewer is unable to verify the correctness of the State agency's decision to deny or terminate a household's participation through such documentation or collateral contact, the negative case shall be considered incorrect.

(d) *Reporting of review findings.* When a negative case is incorrect, this information shall be reported to the State agency for appropriate action on an individual case basis, such as recomputation of the coupon allotment and restoration of lost benefits. In addition, the reviewer shall code and record the error determination on the Negative Quality Control Review Schedule, Form FNS–245.

(e) *Disposition of case review.* Each case selected in the sample of negative cases must be accounted for by classifying it as completed, not completed, or not subject to review. These case dispositions shall be coded and recorded on the Negative Quality Control Review Schedule, Form FNS–245.

(1) Negative cases shall be reported as not completed if the reviewer, after all reasonable efforts, is unable to locate the case record. In no event, however, shall any negative case be reported as not completed solely because the State agency was unable to process the case review in time for it to be reported in accordance with the timeframes specified in § 275.21(b)(2), without prior FNS approval. This information shall be reported to the State agency for appropriate action on an individual case basis.

(2) Negative cases shall be reported as not subject to review when the household, at the time of the review:

(i) Withdrew an application prior to the State agency's determination;

(ii) Is under active investigation for intentional Food Stamp Program violation;

(iii) Had its case closed due to expiration of the certification period; or

(iv) Was dropped as a result of correction for oversampling.

(f) *Demonstration projects/SSA processing.* A household whose application has been denied or whose participation has been terminated under the rules of an FNS-authorized demonstration project shall be reviewed following standard procedures unless FNS provides modified procedures to reflect the rules of the demonstration project. If FNS determines that information obtained from these cases would not be useful, then these cases may be excluded from review. A household whose application has been processed by SSA personnel and is subsequently denied participation shall be reviewed following standard procedures.

12. Section 275.14 is revised to read as follows:

§ 275.14 Review processing.

(a) *General.* Each State agency shall use FNS handbooks, worksheets, and schedules in the quality control review process. Deviations may be granted from FNS-designed materials under the conditions in § 273.2(b).

(b) *Handbooks.* The reviewer shall follow the procedures outlined in the Quality Control Review Handbook, FNS Handbook 310, to conduct quality control reviews. In addition, the sample of active and negative cases shall be selected in accordance with the sampling techniques described in the Quality Control Sampling Handbook, FNS Handbook 311.

(c) *Worksheets.* The Integrated Review Worksheet, Form FNS–380, shall be used by the reviewer to record required information from the case record, plan and conduct the field investigation, and record findings which contribute to the determination of eligibility and basis of issuance in the review of active cases. In some instances, reviewers may need to supplement Form FNS–380 with other forms. The State forms for appointments, interoffice communications, release of information, etc., should be used when appropriate.

(d) *Schedules.* Decisions reached by the reviewer in active case reviews shall be coded and recorded on the Integrated Review Schedule, Form FNS–380–1. Such active case review findings must be substantiated by information recorded on the Integrated Review Worksheet, Form FNS–380. In negative case reviews, the review findings shall be coded and recorded on the Negative Quality Control Review Schedule, Form FNS–245, and supplemented as necessary with other documentation substantiating the findings.

(Approved by the Office of Management and Budget under control number 0584–0074.)

13. Section 275.21 is revised to read as follows:

§ 275.21 Quality control review reports.

(a) *General.* Each State agency shall submit reports on the performance of quality control reviews in accordance with the requirements outlined in this section. These reports are designed to enable FNS to monitor the State agency's compliance with Program requirements relative to the Quality Control Review System. Every case selected for review during the sample month must be accounted for and reflected in the appropriate report(s).

(b) *Individual cases.* The State agency shall report the review findings on each case selected for review during the sample month. For active cases, the State agency shall submit the edited findings of the Integrated Review Schedule, Form FNS–380–1. For negative cases, the State agency shall submit a summary report which is produced from the edited findings on individual cases which are coded on the Negative Quality Control Review Schedule, Form FNS–245. The review findings shall be reported as follows:

(1) The State agency shall input and edit the results of each active and negative case into the FNS supplied computer terminal and transmit the data to the host computer. For State agencies that do not have FNS supplied terminals, the State agency shall submit the results of each QC review in a format specified by FNS. Upon State agency request, FNS will consider approval of a change in the review results after they have been reported to FNS.

(2) The State agency shall dispose of and report the findings of 90 percent of all cases selected in a given sample month so that they are received by FNS within 75 days of the end of the sample month. All cases selected in a sample month shall be disposed of and the findings reported so that they are received by FNS within 95 days of the end of the sample month.

(3) The State agency shall supply the FNS Regional Office with individual household case records and the pertinent information contained in the individual case records, or legible copies of that material, as well as legible hard copies of individual Forms FNS–380, FNS–380–1, and FNS–245 or other FNS-approved report forms, within 10 days of receipt of a request for such information.

(4) For each case that remains pending 95 days after the end of the sample month, the State agency shall immediately submit a report that includes an explanation of why the case has not been disposed of, documentation describing the progress of the review to date, and the date by which it will be completed. If FNS determines that the above report does not sufficiently justify the case's pending status, the case shall be considered overdue. Depending upon the number of overdue cases, FNS may find the State agency's QC system to be inefficient or ineffective and suspend and/or disallow the State agency's Federal share of

administrative funds in accordance with the provisions of § 276.4.

(c) *Monthly status.* The State agency shall report the monthly progress of sample selection and completion on the Form FNS–248, Status of Sample Selection and Completion or other format specified by FNS. This report shall be submitted to FNS so that it is received no later than 95 days after the end of the sample month. Each report shall reflect sampling and review activity for a given sample month.

(d) *Annual results.* The State agency shall annually report the results of all quality control reviews during the review period. For this report, the State agency shall submit the edited results of all QC reviews on the Form FNS–247, Statistical Summary of Sample Distribution or other format specified by FNS. This report shall be submitted to FNS so that it is received no later than 95 days from the end of the annual review period. Every case selected in the active or negative sample must be accounted for and reported to FNS, including cases not subject to review, not completed, and completed.

(e) *Demonstration projects/SSA processing.* The State agency shall identify the monthly status of active and negative demonstration project/SSA processed cases (i.e., those cases described in § 275.11(f)) on the Form FNS–248, described in paragraph (c) of this section. In addition, the State agency shall identify the annual results of such cases on the Form FNS–247, described in paragraph (d) of this section.

(Approved by the Office of Management and Budget under control numbers 0584–0034 –0074, and –0299.)

14. In § 275.25, paragraphs (c) and (d) are redesignated as paragraphs (d) and (e), respectively; a new paragraph (c) is added; newly redesignated paragraph (d) is revised; newly redesignated paragraphs (e)(1), (e)(2), (e)(3), (e)(4)(ii), (e)(5)(i)(C), (E) and (F), (e)(5)(ii) and (e)(6) are revised. The addition and revisions read as follows:

§ 275.25 Determination of State agency program performance.

* * * * *

(c) *State agency error rates.* FNS shall estimate each State agency's error rates based on the results of quality control review reports submitted in accordance with the requirements outlined in § 275.21. The State agency's active case error, payment error, underissuance error, and negative case error rates shall be estimated as follows:

(1) *Active case error rate.* The active case error rate shall include the proportion of active sample cases which were reported as ineligible or as receiving an incorrect allotment (as described in § 275.12(e)) based upon certification policy as set forth in Part 273.

(2) *Payment error rate.* The payment error rate shall include the value of the allotments reported as overissued, including overissuances in ineligible cases, for those cases included in the active case error rate.

(3) *Underissuance error rate.* The underissuance error rate shall include the value of the allotments reported as underissued for those cases included in the active case error rate.

(4) *Negative case error rate.* The negative case error rate shall be the proportion of negative sample cases which were reported as having been eligible at the time of denial or termination (as described in § 275.13(c)) based upon certification policy as set forth in Part 273.

(5) *Demonstration projects/SSA processing.* The reported results of reviews of active and negative demonstration project/SSA processed cases, as described in § 275.11(f), shall be excluded from the estimate of the active case error rate, payment error rate, underissuance error rate, and negative case error rate.

(d) *Federal enhanced funding.* (1) Before making enhanced funding available to a State agency, as described in § 277.4(b), FNS will:

(i) Validate the State agency's estimated active case error rate, payment error rate, underissuance error rate, and negative case error rate, as provided for in § 275.3(c);

(ii) Ensure that the sampling techniques used by the State agency are FNS-approved procedures, as established in § 275.11; and

(iii) Validate the State agency's quality control completion rate to ensure that all of the minimum required sample cases, of both active and negative quality control samples, have been completed. This completion standard is applied separately to the active and negative case samples, and the State agency's estimated payment and underissuance error rates will be adjusted separately, if necessary, to account for those required cases not completed, in accordance with the procedures described in paragraph (e)(6)(iii) of this section for adjustment of the payment error rate.

(2) After validation and any necessary adjustment of estimated error rates, a State agency with a combined official payment error rate and underissuance error rate of five percent or less for an annual review period shall be eligible for a 60 percent Federally funded share of administrative costs, provided that the State agency's official negative case error rate for that period is less than the national weighted mean negative case error rate applicable to the period of enhanced funding.

(3) State agencies entitled to enhanced funding shall receive the additional funding on a retroactive basis only for the review period in which their error rates are less than the levels described in paragraph (d)(2) of this section.

(e) *State agencies' liabilities for payment error rates.* (1) At the end of each fiscal year, each State agency's payment error rate over the entire fiscal year will be computed, as described in paragraph (e)(6) of this section, and evaluated to determine whether the payment error rate goals established in the following paragraphs have been met.

(2) *Establishment of Payment Error Rate Goals.* (i) Each State agency's payment error rate goal for Fiscal Year 1983 shall be nine percent. Each State agency's payment error rate goal for Fiscal Year 1984 shall be seven percent. Each State agency's payment error rate goal for Fiscal Year 1985, and each fiscal year thereafter, shall be five percent. State agencies' payment error rates for any fiscal year shall be derived from the review period corresponding to the fiscal year.

(ii) If a State agency fails to achieve a nine percent payment error rate in Fiscal Year 1983 but reduces its payment error rate for Fiscal Year 1983 by 33.3 percent (or more) of the difference between its payment error rate during the period of October 1980 through March 1981 and a five percent payment error rate, the State agency shall bear no fiscal liability for its payment error rate. If a State agency fails to achieve a seven percent payment error rate in Fiscal Year 1984, but reduces its payment error rate for Fiscal Year 1984 by 66.7 percent (or more) of the difference between its payment error rate during the period of October 1980 through March 1981 and a five percent payment error rate, the State agency shall bear no fiscal liability for its payment error rate.

(iii) State agencies' payment error rates shall be rounded to the nearest one hundredth of a percent with .005 and above being rounded up to the next highest one-hundredth and .004 and below being rounded to the next lowest one-hundredth.

(3) *State Agencies Failing to Achieve Payment Error Rate Goals.* Each State agency which fails to achieve its payment error rate goal during a fiscal year shall be liable as specified in the following paragraphs.

(i) For every percentage point, or fraction thereof, by which a State agency's payment error rate exceeds the goal for a fiscal year, FNS shall reduce the money it pays for the State agency's Food Stamp Program administrative costs by five percent for that fiscal year; provided that for every percentage point, or fraction thereof, by which a State agency's payment error rate exceeds its goal by more than three percentage points, FNS shall reduce the Federally funded share of Food Stamp Program administrative costs by ten percent for the applicable fiscal year. Thus, if a State agency's reported error rate in Fiscal Year 1983 is 10.5 percent, its Federal administrative funding could be reduced by ten percent. A 13.1 percent error rate, or 4.1 percentage points above the goal, would result in a reduction of 5 percent for each of the three first points, 10 percent for the fourth point and another 10 percent for the fraction above 4 percentage points. This would amount to a 35 percent reduction in Federal administrative funds unless the provisions of paragraph (e)(3)(ii) are applicable to the State agency's circumstances.

(ii) If a State agency fails to reach its payment error rate goal but reduces its error rate as explained in paragraph (e)(2)(ii) for a given fiscal year it will bear no liability for its error rates. If, however, a State agency fails to reach the established goal and fails to meet the reduction percentage for Fiscal Year 1983 and/or 1984, its Federally funded share of program administrative costs shall be reduced by five percent for every percentage point, or fraction thereof, (with a 10 percent reduction applied for every percentage point or fraction above 3 percentage points) by which its error rate exceeds the payment error rate it would have achieved had it met the 33.3 or 66.7 percent reduction percentage for the applicable fiscal year. Thus, if a State agency's payment error rate during the October through March 1981 period was 13 percent and its error rate for Fiscal Year 1983 is 11 percent, it will have failed to achieve a 33.3 percent reduction (13−(13−5)(33.3)=10.34 percent), i.e., the rate the State agency would have achieved had it met the reduction percentage) and incurred a liability equal to five percent of its Federal administrative funding. If the State agency's payment error rate increased to 13 percent in Fiscal Year 1984, it will have missed a 66.7 percent reduction by 5.34 percentage points (13−(13−5)(66.7)=7.66 percent) and incurred a liability equal to 45 percent of its Federal administrative funding. In the latter example, the 45 percent funding reduction results from a 15 percent reduction for the first three percentage points and 30 percent for the additional 2.34 percentage points by which the State agency exceeded a 7.66 percent error rate.

(iii) If a State agency is found liable for an excessive payment error rate, the amount of liability will be calculated by: (A) Multiplying the percent the Federal share is to be reduced by the base Federal reimbursement rate of 50 percent; (B) subtracting the product of (A) from 50 percent; and (C) multiplying the result of (B) by the State agency's costs covered under the base Federal reimbursement rate for the fiscal year in which the State agency incurred the liability. For example, if the total administrative costs (State and Federal) in a State agency are $4,000,000 for the fiscal year, and the State agency's Federal funding is to be reduced by 25 percent, the State agency would be reimbursed at a rate of 37.5 percent (i.e., 50 percent minus 25 percent times 50 percent) or $1,500,000. The State agency's liability would be $500,000 or 12.5 percent of its administative costs.

(iv) A State's Federally funded share of administrative costs shall not be reduced by an amount that exceeds the difference between its payment error rate goal (or what its error rate would have been had it met the reduction criteria of paragraph (ii) above) and its actual error rates expressed as a percentage of its total issuance during the fiscal year. Therefore, if the State agency in the above example issued $10,000,000 in food stamps in the fiscal year and exceeded its goal by four percentage points (as demonstrated by a 25 percent reduction in Federal funding), the State agency's liability would be capped at $400,000 ((.04)(10,000,000)), even though the calculation based upon administrative funds would result in a liability of $500,000.

(4) *Relationship to Warning Process and Disallowance of Funds.* * * *

(ii) FNS may reduce a State agency's share of Federal administrative funding under the provisions of this section or disallow administrative funds under the provisions of § 276.4(c). If a State agency's administrative funding is reduced under the provisions of this section and a portion is also disallowed under § 276.4(c), FNS shall adjust the billing if the disallowance is based upon noncompliance with a program requirement that would constitute a dollar loss reflected in the State agency's payment error rate to the extent that the disallowance and reduction are for the same deficiency and period of time. This adjustment shall ensure that a State agency is not doubled-billed for the same deficiency in its administration of the program. It shall be each State agency's responsibility to demonstrate the need for any adjustments.

(5) *Good Cause and Appeals.*

(i)* * *

(C) Significant caseload growth prior to or during a fiscal year of, for example, 15 percent;

* * * * *

(E) Misapplication of Federal policy where such misapplication directly affects the State's QC error rates and was incorrectly provided or approved by an FNS representative who is reasonably believed to have the necessary authority; and

(F) Other circumstances beyond the control of the State.

(ii) If FNS determines that there was good cause for all or part of a State agency's error rate to exceed its goal in a fiscal year, FNS shall reduce or eliminate the State agency's liability as appropriate.

* * * * *

(6) *Determination of payment error rates.* As specified in § 275.3(c), FNS will validate each State agency's estimated payment error rate through rereviewing the State agency's active case sample and ensuring that its sampling, estimation, and data management procedures are correct.

(i) FNS shall adjust State agencies' estimated error rates based on findings of rereviewed cases. Once the Federal case reviews have been completed and all differences with the State agency have been resolved, the State agency's estimated error rate shall be adjusted using the following linear regression equation.

(A) $y' = y + b(X-x)$ where y' is the average value of allotments overissued to eligible and ineligible households; y is the average value of allotments overissued to eligible and ineligible households in the rereview sample according to the Federal finding; b is the estimate of the slope parameter; x is the average value of allotments overissued to eligible and ineligible households in the rereview sample according to State agency findings; and X is the average value of allotments overissued to eligible and ineligible households in the

full quality control sampling according to the State agency's findings.

(B) The adjusted error rates are given by $r=y'/u$, where u is the average value of allotments issued to participating households.

(C) After application of the provisions of paragraph (e)(6)(iii) of this section, the adjusted payment error rate will then become the State agency's official payment error rate for use in the reduced and enhanced funding determinations described in paragraphs (d) and (e) of this section.

(ii) If FNS determines that a State agency has sampled incorrectly, estimated improperly, or has deficiencies in its QC data management system, FNS will correct the State agency's payment error rate based upon a correction to that aspect of the State agency's QC system which is deficient. If FNS cannot accurately correct the State agency's deficiency, FNS will assign the State agency a payment error rate based upon the best information available. After consultation with the State agency, this assigned payment error rate will then be used in the above described liability determination and in determinations for enhanced funding under paragraph (d) of this section. State agencies shall have the right to appeal assignment of an error rate in this situation in accordance with the procedure of § 276.7.

(iii) Should a State agency fail to complete all of its required sample size, FNS shall adjust the State agency's payment error rate by assigning two standard deviations of the estimated error rate to those cases not completed in order to calculate the State agency's official payment error.

PART 277—PAYMENT OF CERTAIN ADMINISTRATIVE COSTS OF STATE AGENCIES

15. In Section 277.4 paragraphs (b)(2), (b)(5), (b)(6), and (b)(7), and (b)(8) are adopted as final. they read as follows:

§ 277.4 Funding.

* * * * *

(b) *Federal Reimbursement Rate.* * * *

(2) For the period beginning October 1, 1982, a State agency's Federally funded share of Food Stamp Program administrative costs shall be increased to 60 percent when the sum of the State agency's payment and underissuance error rates is less than five percent; provided that the State agency's negative case error rate is less than the national weighted mean negative case error rate for the fiscal year prior to the period of enhanced funding. The State agency's error rates shall be determined through the quality control review process as described in section 275.

* * * * *

(5) For the period beginning October 1, 1980, a State agency's Federally funded share of Food Stamp Program administrative costs shall be increased to 65 percent when the State agency's cumulative allotment error rate is less than five percent; provided that the State agency's negative case error rate is less than the national weighted mean negative case error rate for the 6-month period of enhanced funding. This provision shall not apply to any period after the April through September 1982 period.

(6) For the period beginning October 1, 1980, a State agency's Federally funded share of Food Stamp Program administrative costs shall be increased to 60 percent when the State agency's cumulative allotment error rate is less than eight percent; provided that the State agency's negative case error rate is less than the national weighted mean negative case error rate for the 6-month period of enhanced funding. This provision shall not apply to any period after the April through September 1982 period.

(7) for the 6-month period beginning October 1, 1980, a State agency with a 25 percent or greater reduction in its cumulative allotment error rate from one 6-month period to the comparable period of the next fiscal year shall be entitled to a 55 percent Federally funded share of Food Stamp Program administrative costs; provided that, effective with the 6-month period beginning October 1, 1981, the State agency's negative case error rate is less than the national weighted mean negative case error rate for the period of enhanced funding. This provision shall not apply to any period after the April through September 1982 period.

(8) beginning October 1982, the Federally funded share of administrative costs, as identified in paragraph (b) of this section may be decreased based upon its payment error rate as described in Section 275.25. The rates of Federal funding for the activities identified in paragraphs (b)(1), (b)(3), and (b)(4) of this section shall not be reduced based upon the agency's payment error rate.

(91 Stat. 958 (U.S.C. 2011–2029))

(Catalogue of Federal Domestic Assistance Programs No. 10.551, Food Stamps)

Dated: February 15, 1984.

Robert E. Leard,

Administrator.

[FR Doc. 84-4532 Filed 2-16-84; 8:45 am]

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H.R. 2727 Pub. L. 98–216

To codify without substantive chagne recent laws related to money and finance and tranportation and to improve the United States Code. (Feb. 14,1981; 98 Stat. 3) Price: $1.75

H.R. 3969 Pub. L. 98–217

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Rules and Regulations

Federal Register
Vol. 49, No. 35
Tuesday, February 21, 1984

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 54

Increase in Fees for Federal Meat Grading and Certification Services

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim final rule with request for comments.

SUMMARY: The Agricultural Marketing Service revises the hourly fee rates for voluntary Federal meat grading and certification services as the result of increased program costs. This amendment is hereby implemented on an interim basis due to the Agency's need to recover increased operating costs. It is also being published for comment to allow public participation in the rulemaking process.

DATES: Interim final rule effective March 1, 1984; comments must be received on or before March 31, 1984.

ADDRESS: Written comments may be mailed to Paul M. Fuller, Acting Chief; Meat Grading and Certification Branch; Livestock Division; Agricultural Marketing Service; Room 2631, U.S. Department of Agriculture; Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Paul M. Fuller (202/447–4727).

SUPPLEMENTARY INFORMATION:

Regulatory Impact Analysis

This interim final rule has been reviewed in accordance with U.S. Department of Agriculture (USDA) procedures for implementing Executive Order 12291 and has been classified as a nonmajor rule pursuant to section 1(b)(1), (2), and (3) of that Order. Accordingly, a regulatory impact analysis of the ruling is not required.

This action also was reviewed under the Regulatory Flexibility Act (Pub. L. 96–354, 5 U.S.C. 601 *et seq.)*. William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this rule will not have a significant economic impact on a substantial number of small businesses because the nationwide average cost per pound of meat graded and/or certified will remain essentially unchanged—less than $.0014 per pound.

Background Information

The Agricultural Marketing Act (AMA) of 1946, as amended, empowers the Secretary of Agriculture to provide voluntary Federal meat grading and certification services to facilitate the orderly marketing of meats and meat products. The AMA also requires that hourly fees for Federal meat grading and certification services be collected from the users of the services and that hourly fees be sufficient to cover the program's operating costs. Program operating expenses include employee salaries and fringe benefits, supervisory costs, training, travel, and other administrative and overhead costs.

On January 8, 1984, Federal employees received a 3.5 percent pay increase under the Federal Pay Comparability Act of 1970. Employee salaries and fringe benefits are the largest expense in the program budget, accounting for approximately 80 percent of total operating expenses. Although recent program changes have improved program operating efficiency, the program is unable to absorb the cost of the January 8 pay increase without increasing fees or reducing the amount of supervision and training of meat grading and certification personnel. Reductions in supervision and training could adversely affect the nationwide uniformity and accuracy of the service causing economic inequities among segments of the meat industry.

Because increased revenues are needed immediately to recover the expense of the salary increase, it has been determined that the following amendment will be adopted on an interim basis effective March 1, 1984. A final rule will be issued after evaluation of comments received in response to this notice. Under the authority contained in sections 203 and 205 of the AMA, USDA hereby amends the regulations governing the Grading and Certification of Meats, Prepared Meats, and Meat Products (7 CFR Part 54) as follows:

List of Subjects in 7 CFR Part 54

Meat and meat products, Grading and certification, Beef, Veal, Lamb, and Pork.

PART 54—MEATS, PREPARED MEATS, AND MEAT PRODUCTS (GRADING, CERTIFICATION, AND STANDARDS)

Section 54.27 is amended by revising paragraph (a) to read as follows:

§ 54.27 Fees and other charges for service.

(a) *Fees Based on Hourly Rates.* Except as otherwise provided in this section, fees for service shall be based on the time required to render the service, calculated to the nearest 15-minute period, including the time required for the preparation of certificates and travel of the official grader in connection with the performance of service. A minimum charge for one-half hour shall be made for service pursuant to each request notwithstanding that the time required to perform service may be less than 30 minutes. The base hourly rate shall be $25.60 per hour for work performed between the hours of 6 a.m. and 6 p.m., Monday through Friday, except on Federal legal holidays; $30.60 per hour for work performed before 6 a.m. or after 6 p.m., Monday through Friday, and anytime Saturday or Sunday except Federal legal holidays; and $51.20 per hour for all work performed on Federal legal holidays.

* * * * *

(Agricultural Marketing Act, sec. 203–205, as amended; 60 Stat. 1087, 1090, as amended (7 U.S.C. 1622, 1624))

Done at Washington, D.C.: February 14, 1984.

William T. Manley,

Deputy Administrator, Marketing Program Operations.

[FR Doc. 84–4513 Filed 2–17–84; 8:45 am]
BILLING CODE 3410–02–M

Federal Crop Insurance Corporation

7 CFR Part 400

General Administrative Regulations; Application for Crop Insurance

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Final rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) hereby confirms as final, a revised Application for Crop Insurance. The intended effects of this rule are (1) to issue the application as a separate regulation to simplify the method of amending the application as a document dealing with all crop insurance regulations issued by FCIC; (2) to correct a portion of the present application which provides for automatic acceptance if no rejection of the application is made within 30 days; (3) to comply with the provisions of Secretary's Memorandum No. 1512–1 (June 11, 1981), with regard to review of these regulations; and (4) to confirm the interim rule as published.

EFFECTIVE DATE: February 21, 1984.

FOR FUTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C., 20250, telephone (202) 447–3325.

The Impact Statement describing the options considered in developing this rule and the impact of implementing each option is available upon request from Peter F. Cole.

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA procedures established in Secretary's Memorandum No. 1512–1 (June 11, 1981). It has been determined that this action constitutes a review under such procedures with respect to the need, currency, clarity, and effectiveness of these regulations. The sunset review date established for these regulations is January 10, 1988.

Merritt W. Sprague, Manager, FCIC, has determined that (1) this action is not a major rule as defined by Executive Order No. 12291 (February 17, 1981), (2) this action will not increase the Federal paperwork burden for individuals, small businesses, and other persons, and (3) this action conforms to the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), and other applicable law.

The title and number of the Federal Assistance Program to which this rule applies are: Title—Crop Insurance; Number 10.450.

This action will not have a significant impact specifically upon are and community development; therefore, review as defined by Executive Order No. 12372 (July 14, 1982), was not used to assure that units of local government are informed of this action.

It has been determined that this action is exempt from the provisions of the Regulatory Flexibility Act; therefore, no Regulatory Impact Statement was prepared.

On Monday, January 10, 1983, FCIC published at 48 FR 1022, an interim rule issuing a new subpart in its general administrative regulations prescribing new procedures for applying for crop insurance. The public was given 60 days in which to submit written comments, data, and opinions on the rule, but none were received. Therefore, with the exception of minor and non-substantive changes in language, the interim rule is hereby made final to be effective for the 1983 and succeeding crop years.

Background

In order for a producer to secure crop insurance, an application is completed which provides data on the crop to be insured including the price election, coverage level, name and address of the applicant. The previous application (FCI–12) contained a provision that the application is accepted unless the applicant was notified of rejection within 30 days of the date of the application. In several cases, the Corporation had been in receipt of applications which, for a variety of reasons including non-payment of premium under a previous contract should normally have been rejected. However, due to the time the applications took to clear the acceptance process, or due to the application having been delayed in reaching FCIC for acceptance, the 30 days had elapsed. Therefore, FCIC was obliged to accept the applications which otherwise would have been rejected for cause.

Block No. 23 on the application has been changed to indicate that the insured has no other insurance of a like nature, rather than to state that the insured has received the policies and appendixes for the crop(s) shown on the application. The procedure for providing the insured with the policy and appendix has been changed and such material is forwarded to the insured upon processing of the application by the Corporation, rather than being given to the applicant at the time the application is made.

The application contained in this rule provides for an entry titled Alpha Election. This is for administrative purposes within FCIC and is used for calculating groups of elections to determine liability.

The Privacy Act Statement printed on the reverse side of the application has been amended to clarify the use made of the information provided, and is reproduced in this rule.

The application, as contained in this rule, will become applicable to all crop insurance regulations issued by FCIC to date (7 CFR Parts 400–442) and to future regulations issued by FCIC.

List of Subjects in 7 CFR Part 400D

Crop insurance, Application for crop insurance.

Final Rule

PART 400—[AMENDED]

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation hereby amends Chapter IV of Title 7 of the Code of Federal Regulations, effective upon publication in the **Federal Register**, by revising § 400.38, The Crop Insurance application to read as follows:

BILLING CODE 3410-08-M

§ 400.38 The Crop Insurance application.

B. This application is hereby accepted by the Corporation except that the

§ 400.38 The Crop Insurance application.

-E-

UNITED STATES DEPARTMENT OF AGRICULTURE
FEDERAL CROP INSURANCE CORPORATION
CROP INSURANCE APPLICATION
CONTINUOUS CONTRACT

1. Name of Applicant ____ [ ][ ] - [ ][ ][ ] - [ ][ ][ ][ ][ ][ ]
6. State County 7. Contract Number

2. Authorized Representative ____ 8. County ____ 9. State ____

3. Street or Mailing Address ____ [ ][ ][ ][ ][ ][ ][ ][ ][ ][ ] [ ] [ ]
10. Identification Number 11. SSN--Tax

4. City and State ____ 5. Zip Code ____ 12 Type of Entity ____

13. Applicant is over 18: Yes___ No___ If no, Date of Birth ____

A. The applicant, subject to the provisions of the regulations of the Federal Crop Insurance Corporation (herein called "Corporation"), hereby applies to the Corporation for insurance on the applicant's share in the crop(s) shown below planted on insurable acreage as shown on the county actuarial table. The applicant elects from the actuarial table the coverage level, and where applicable, a price election or plan of insurance. THE PREMIUM RATE AND APPLICABLE PRODUCTION GUARANTEE OR AMOUNT OF INSURANCE PER ACRE SHALL BE THOSE SHOWN ON THE APPLICABLE COUNTY ACTUARIAL TABLE ON FILE IN THE SERVICE OFFICE FOR EACH CROP YEAR.

14. Effective Crop Year	15. Crop	16. Type, Class Plan of Ins.	17. Price Election or Amount of Insurance		18. Level Election	19. 20. 21. For Agency Use Only (A) (P)
						[ ]____ ____
						[ ]____ ____
						[ ]____ ____
						[ ]____ ____
						[ ]____ ____
						[ ]____ ____
						[ ]____ ____
						[ ]____ ____

22. N S I O T-F U R

23. [ ] Crop(s) NOT insured the first year: ____ ____ ____

B. This application is hereby accepted by the Corporation except that the Corporation may reject the application on the basis that (1) the Corporation has determined that the risk is excessive under the provisions of the individual crop insurance regulations; (2) any material fact is concealed or misrepresented or fraud occurs in the application, or submission of the application; (3) the applicant is indebted to any United States Government Agency and that indebtedness is delinquent; (4) the applicant is indebted for crop insurance coverage provided by any company reinsured by the Corporation and that insurance is delinquent; (5) the applicant previously had crop insurance terminated for violation of the terms of the contract or the regulations, or for failure to pay the applicant's indebtedness; (6) the applicant is debarred by any United States Government Agency; or (7) the applicant has failed to provide complete and accurate information to material requests in this application. Rejection shall be accomplished by depositing notification thereof in the United States Mail, Postage Paid, to the above address. Unless rejection as provided above or the time for filing applications has passed at the time this application is filed, the contract shall be in effect for the crops and crop years specified, AND SHALL CONTINUE FOR EACH SUCCEEDING CROP YEAR UNTIL CANCELED OR TERMINATED as provided in the contract. This accepted application, the insurance policy(ies), the applicable appendix(ces), and the provisions of the county actuarial table showing the insurable and uninsurable acreage, coverage levels, premium rates and, wherever applicable, the production guarantees, amounts of insurance, or plan of insurance, shall constitute the contract. No term or condition of the contract shall be waived or changed except in writing by the Corporation.

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24. [ ] Applicant does not have other like insurance on any of the above crops.

25. [ ] Previous Carrier_____ 26. Policy Number_____

27. _____ _____, 19__ [ ] [ ] [ ] [ ] [ ] [ ] [ ]

Applicant's Signature 28. Date 29. Cndu Number

30. _____

Witness to Signature

31. Location of Farm Headquarters Phone:	32. Address of Your Service Office Phone:
SEE REVERSE SIDE OF FORM FOR STATEMENT REQUIRED BY PRIVACY ACT OF 1974	33. Page ____ of ____ pages

COLLECTION OF INFORMATION AND DATA (PRIVACY ACT)

The following statements are made in accordance with the Privacy Act of 1974 (5 U.S.C. 552(a)):

The authority for requesting the information to be supplied on this form is the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 et seq.), and the regulations promulgated thereunder (7 CFR 400 et seq.). The information requested is necessary for FCIC to consider and process the application for insurance; to assist in determining the correct premium and indemnity; and to determine the correct parties to the insurance contract. The information may be furnished to FCIC contract agencies and contract loss adjusters, reinsured companies, other U.S. Department of Agriculture Agencies, the Internal Revenue Service, the Department of Justice or other State and Federal law enforcement agencies, and in response to orders of a court, magistrate, or administrative tribunal. Furnishing the social security number is voluntary and no adverse action will result from failure to do so. Furnishing the information other than the social security number, is also voluntary; however, failure to furnish the correct, complete information requested may result in rejection of the application and/or subsequent denial of any claim for indemnity which may be filed. The failure to supply correct, complete information may also invalidate the automatic acceptance provisions of Section B hereof and may substantially delay acceptance of the application and processing of any claim for indemnity.

BILLING CODE 3410-08-C

Done in Washington, D.C., on December 27, 1983.

Peter F. Cole,

Secretary, Federal Crop Insurance Corporation.

Dated: February 2, 1984.

Approved by:

Merritt W. Sprague,

Manager.

[FR Doc. 84-3833 Filed 2-17-84; 8:45 am]

BILLING CODE 3410-08-M

7 CFR Part 400

General Administrative Regulations; Late Planting Agreement Option Regulations

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Final rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) herewith confirms as final, interim regulations effective for the 1983 and succeeding crop years prescribing procedures for the implementation of a Late Planting Agreement Option of insurance on certain crops, to be known as 7 CFR Part 400 General Administrative Regulations—Late Planting Agreement Option Insurance. The intended effect of this final rule is to confirm the interim rule and be responsive to insured producers who are unable to plant their crop(s) due to excess moisture before the final planting date contained in the regulations for insuring such crop(s). This rule confirms the interim rule published on January 10, 1983, at 48 FR 1021, and makes minor change in language and format for clarity.

EFFECTIVE DATE: February 21, 1984.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C., 20250, telephone (202) 447-3325.

The Impact Statement describing the options considered in developing this rule and the impact of implementing each option are available upon request from Peter F. Cole.

Information collection requirements contained in the regulations to which this final rule applies (7 CFR Parts 416, 417, 418, 419, 420, 421, 422, 423, 424, 425, 426, 427, 428, 429, 430, 431, 432, 433, 434, 435, 436, 437, and 438, have been approved by the Office of Management and Budget (OMB) under the provisions of 44 U.S.C. Chapter 35 and have been assigned OMB Nos. 0563-0003 and 0563-0007. Such control numbers are incorporated into each of these regulations.

Merritt W. Sprague, Manager, FCIC, has determined that (1) this action is not a major rule as defined in Executive Order No. 12291 (February 17, 1981), (2) this action does not increase the Federal paperwork burden for individuals, small businesses, and other persons, and (3) this action conforms to the Federal Crop Insurance Act, as amended (5 U.S.C. 1501 *et seq.*), and other applicable law.

The title and number of Federal Assistance Program to which these regulations applies are: Title—Crop Insurance; Number 10.450.

This action will not have a significant impact specifically upon area and community development; therefore, review as established in Executive Order No. 12372 (July 14, 1982) was not used to assure that units of local government are informed of this action.

It has been determined that this action to promulgate regulations for the implementation of FCIC's Late Planting Agreement constitutes a review as to the need, currency, clarity, and effectiveness of these regulations under the provisions of Secretary's Memorandum No. 1512-1 (June 11, 1981). The sunset review date established for these regulations is October 1, 1987.

It has also been determined that this action is exempt from the provisions of the Regulatory Flexibility Act; therefore, no Regulatory Impact Statement was prepared.

On Monday, January 10, 1983, FCIC published an interim rule, in the **Federal Register** at 48 FR 1021, issuing a new subpart in its general administrative regulations to prescribe procedures for the implementation of a Late Planting Agreement Option on certain crops against late planting due to excess moisture. The interim rule, effective upon publication, was scheduled for review following a 60-day period to allow for public comment on the rule. The public was invited to submit written comments, data, and opinions on the rule, but none were received.

Background

In the past, many insured producers have been unable to plant their crop(s) due to excess moisture conditions, and in some cases of hardship, FCIC has extended that time for planting certain crops. In order to meet insured producers' needs for additional time to plant their crop(s) beyond the final planting date under the 21 individual crop insurance regulations. FCIC developed a Late Planting Agreement Option. In view of past administrative problems involved with extending planting dates, the development and use of the late planting option provides the flexibility necessary for insuring acreage when planting is delayed due to excess moisture, while maintaining the actuarial integrity of the insurance program. Insurance is available to individual insureds who do not finish planting by the final planting date. At the same time, any additional risk or reduced production is recognized by reducing the coverage 10 percent for each five days planting continues after the final planting date on that acreage planted late while maintaining the premium based on the guarantee or amount of insurance which was applicable on the final planting date.

List of Subjects in 7 CFR Part 400

Crop Insurance, Late planting agreement option.

Final Rule

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation hereby revises Subpart A to Part 400 of Title 7 of the Code of Federal Regulations, effective for the 1983 and succeeding crop years, as set forth below:

PART 400—GENERAL ADMINISTRATIVE REGULATIONS

Subpart A—Late Planting Agreement Option; Regulations for the 1983 and Succeeding Crop Years

Sec.

400.1 Availability of the Late Planting Agreement Option.
400.2 Definitions.
400.3 Responsibilities of the insured.
400.4 Applicability to crops insured.
400.5 The Late Planting Agreement Option.

Authority: Sec. 508, Pub. L. 75-430, 52 Stat. 73, as amended (7 U.S.C. 1508)

Subpart A—Late Planting Agreement Option; Regulations for the 1983 and Succeeding Crop Years

§ 400.1 Availability of the Late Planting Agreement Option.

The Late Planting Agreement Option shall be offered under the provisions contained in 7 CFR Parts 402 through 499 within limits prescribed by and in accordance with the provisions of the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), only on those crops identified in § 400.4 of this part. All provisions of the applicable contract for the insured crop apply, except those provisions which are in conflict with this part.

§ 400.2 Definitions.

All definitions contained in the applicable individual crop insurance regulations will apply to this subpart. In addition for the purposes of the Late Planting Agreement Option:

(a) "Final planting date" means the final planting date for the insured crop contained in the actuarial table on file in the service office.

(b) "Late Planting Agreement Option" means that agreement between the FCIC and the insured whereby the insured elects, and FCIC provides, insurance on acreage planted for up to 20 days after the applicable final planting date on file in the service office. The production guarantee applicable on the final planting date will be reduced on the acreage planted after the final planting date by 10 percent for each 5 days that the acreage is planted after the final planting date.

(c) "Production guarantee" means the guarantee level of production under the provisions of the applicable contract for crop insurance (sometimes expressed in amounts of insurance).

§ 400.3 Responsibilities of the insured.

The insured is solely responsible for the completion of the Late Planting Agreement Option and for the accuracy of the data provided. The provisions of this subsection shall not relieve the insured of responsibilities applicable under the provisions of the insurance contract.

§ 400.4 Applicability to crops insured.

The provisions of this subpart shall be applicable to the provisions of FCIC policies issued under the following regulations for insuring crops:

7 CFR Part 416	Peas
7 CFR Part 417	Sugarcane
7 CFR Part 418	Wheat
7 CFR Part 419	Barley
7 CFR Part 420	Grain Sorghum
7 CFR Part 421	Cotton
7 CFR Part 422	Potatoes
7 CFR Part 423	Flax
7 CFR Part 424	Rice
7 CFR Part 425	Peanuts
7 CFR Part 426	Combined Crop
7 CFR Part 427	Oats
7 CFR Part 428	Sunflowers
7 CFR Part 429	Rye
7 CFR Part 430	Sugar Beets
7 CFR Part 431	Soybeans
7 CFR Part 432	Corn
7 CFR Part 433	Dry Beans
7 CFR Part 434	Tobacco (Dollar Plan)
7 CFR Part 435	Tobacco (Quota Plan)
7 CFR Part 436	Tobacco (Guaranteed Production Plan)
7 CFR Part 437	Sweet Corn
7 CFR Part 438	Tomatoes

The Late Planting Option shall be applicable in all counties in which the Corporation offers insurance on the crops contained in 7 CFR Parts 416 through 438. A list of the counties is attached to each of the regulations listed above as Appendix A.

§ 400.5 The Late Planting Agreement Option.

The provisions of the Late Planting Agreement Option are as follows:

FCI–9

(1–83)

U.S. DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

Late Planting Agreement Option

Insured's Name _____
Address _____
_____
Contract No. _____
Crop Year _____
Crop _____

Notwithstanding the provisions of Section 2 of the policy regarding the insurability of crop acreage initially planted after the final planting date on file in the service office, I elect to have insurance provided on acreage planted for 20 days after such date which delay in planting was caused by excess moisture. Upon my making this election, the production guarantee or amount of insurance, whichever is applicable, will be reduced 10 percent for each five days or portion thereof that the acreage is planted after the final planting date. Each 10 percent reduction will be applied to the production guarantee or amount of insurance applicable on the final planting date. The premium will be computed based on the guarantee or amount of insurance applicable on the final planting date; therefore, no reduction in premium will occur as a result of my election to exercise this option. If planting continues under this Agreement after the acreage reporting date on file in the service office the acreage reporting date will be extended to 5 days after the completion of planting the acreage to which insurance will attach under this option.

Insured's Signature _____
Date _____
Corporation Representative's Signature and Code Number _____
Date _____

Done in Washington, D.C., on November 3, 1983.

Peter F. Cole,

Secretary, Federal Crop Insurance Corporation.

Dated: February 2, 1984.

Approved by:

Merritt W. Sprague,

Manager.

[FR Doc. 84–3834 Filed 2–17–84; 8:45 am]

BILLING CODE 3410–08–M

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7 CFR Part 408

Eastern United States Apple Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Final rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) revises and reissues the Eastern United States Apply Crop Insurance Regulation (7 CFR Part 408), effective with the 1984 and succeeding crop years, in compliance with the provisions of Secretary's Memorandum No. 1512–1, which requires that no regulation remain in effect for more than five years without review as to the need, currency, clarity, and effectiveness of such regulations. FCIC has completed such review and herewith publishes as a final rule, its changes in these regulations. The policy for insuring apples in the Eastern United States has been changed to: (1) Provide an easy to read format; (2) provide for the use of the establishment of a production guarantee using actual production records; (3) add drought, fire, earthquake, volcanic eruption, and fruit-set failure as causes of loss; (4) provide that insurance will attach only on acceptable acreage producing a minimum of 150 bushels per acre instead of basing such determination on minimum age and numbers of trees; (5) permit determination of indemnities based on the acreage report including production records for the preceding year; (6) provide a coverage level when an insured does not select one; (7) show different insurance period dates to conform with farming practices; (8) remove the 7-day notice of damage provision and include "harvest of the unit" in the 30-day notice of loss provision; (9) add a 60-day claim for indemnity provision; (10) adjust for quality by the difference between the value of damaged apples and undamaged processing apples; (11) provide for appraisals following the end of the insurance period for unharvested acreage; (12) add a hail/fire provision for appraisals of uninsured causes; (13) add a provision to clarify FCIC's liability in cases of loss by fire; (14) change the cancellation/termination dates to conform with farming practices; (15) provide that any change in the policy will be available in the service office by a certain date; (16) define "fruit-set failure;" (17) add a definition for "service office;" (18) provide for unit determination when the acreage report is filed; and (19) add three sections concerning "descriptive headings", "determination", and "notices."

EFFECTIVE DATE: March 22, 1984.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C., 20250, telephone (202) 447–3325.

The Impact Statement describing the options considered in developing this rule and the impact of implementing

each option is available upon request from Peter F. Cole.

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA procedures established in Secretary's Memorandum No. 1512–1 (June 11, 1981). It has been determined under such procedures that this action constitutes a review as to the need, currency, clarity, and effectiveness of these regulations. The sunset review date established for these regulations is April 1, 1988.

Merritt W. Sprague, Manager, FCIC, has determined that (1) this action is not a major rule as defined in Executive Order No. 12291 (February 17, 1981), (2) this action will not increase the Federal paperwork burden on individuals, small businesses, and other persons, and (3) this action conforms to the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), and other applicable law.

The title and number of the Federal Assistance Program to which these regulations apply are: Title—Crop Insurance; Number 10.450.

This action will not have a significant impact specifically upon area and community development; therefore, review as defined in Executive Order No. 12372 (July 14, 1982) was not used to assure that units of local government are informed of this action.

It has been determined that this action is exempt from the provisions of the Regulatory Flexibility Act; therefore, no Regulatory Impact Statement was prepared.

On Thursday, August 4, 1983, FCIC published a notice of proposed rulemaking in the **Federal Register** at 48 FR 35423, revising and reissuing the policy for insuring apples in the Eastern United States in accordance with the provisions of Secretary's Memorandum No. 1512–1, and issuing a new subsection to contain control numbers assigned by the Office of Management and Budget (OMB) to information collection requirements of these regulations. The public was given 60 days in which to submit written comments, data, and opinions on the rule. Three such comments were received, all expressing concern over the amended quality provision regarding apples which did not grade U.S. No. 1.

One of the respondents interpreted this provision of the policy appearing in the proposed rule as being an elimination of the hail damage from the policy. Another expressed concern that the amended provision should not be made applicable until 1985.

In reviewing the comments, FCIC determined that the proposed rule as published did contain a limited quality provision. It did not eliminate the hail provision, but significantly reduced the indemnity payments as a result of hail damage. Under this final rule the insured may elect to avoid that difficulty.

The proposed rule, as published, provided a "cider" grade method which, compared to the U.S. No. 1 method, had the effect of reducing the percent of damage from 100 percent to zero, if the fruit is graded "cider" or better. Only when the fruit is graded below a "cider" grade does the percent of damage reach 100 percent.

A fresh fruit option will be available. This option will establish a variable percent of damage which would be substantially greater than the "cider" method.

This option will recognize the loss in quality due to hail damage by measuring the loss in value. It also provides a program which is less expensive to the producers and actuarially sound for the Corporation.

FCIC has determined that it is not feasible to remain with the current policy's quality provision, due primarily to the continued expected loss experience (more than 50 percent of all losses were the result of poor quality below U.S. No. 1 processor grade). In order to deal in a responsible manner with concerns expressed by the respondents. This final rule incorporates the following actions:

1. The quality provision as it appeared in 48 FR 35423 will remain unchanged for those producers who do not see this quality provision as a problem and who are interested in the lowest possible rates for insurance protection.

2. For the producers in North Carolina, Virginia, and West Virginia, who view the quality provision differently, a fresh fruit option will be available. A producer may agree in writing to an option amendment which will provide for a quality adjustment based on the relationship between the price for U.S. No. 1 apples and the damaged apples.

3. Premium rates have been reviewed and changed to reflect these situations. Such changes should be acceptable to apple producers, particularly in Henderson County, North Carolina where the level 3 county average base rate has decreased from 22.5 percent for 1983 to 10.1 percent. For producers who elect to have the fresh fruit option, the rate will be approximately 15 to 16 percent. Both rates are substantially lower than the current rate.

In addition, FCIC hereby issues a new subsection to prescribe procedures providing the insured apple grower with a Fresh Fruit Option as an adjunct to the insurance provided under these regulations.

Therefore, with the exception of minor and non-substantive changes in language, the new subsection and the Fresh Fruit Option described above, the proposed rule is hereby published as a final rule to be effective beginning with the 1984 crop year.

List of Subjects in 7 CFR Part 408

Crop insurance, Apples.

Final Rule

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation herewith revises and reissues the Eastern United States Apple Crop Insurance Regulations (7 CFR Part 408), effective for the 1984 and succeeding crop years, to read as follows:

PART 408—EASTERN UNITED STATES APPLE CROP INSURANCE REGULATIONS

Subpart—Regulations for the 1984 and Succeeding Crop Years

Sec.

408.1 Availability of Eastern U.S. apple insurance.
408.2 Premium rates, production guarantees, coverage levels, and prices at which indemnities shall be computed.
408.3 OMB control numbers.
408.4 Creditors.
408.5 Good faith reliance on misrepresentation.
408.6 The contract.
408.7 The application and policy.
408.8 Eastern U.S. Apple Fresh Fruit Option.
Appendix A—Counties Designated for Eastern U.S. Apple Insurance

Authority: Secs. 506, 516, Pub. L. 75–430, 52 Stat. 73, 77 as amended (7 U.S.C. 1506, 1516).

Subpart—Regulations for the 1984 and Succeeding Crop Years

§ 408.1 Availability of Eastern U.S. apple insurance.

Insurance shall be offered under the provisions of this subpart on apples in counties in the Eastern United States within the limits prescribed by and in accordance with the provisions of the Federal Crop Insurance Act, as amended. The counties shall be designated by the Manager of the Corporation from those approved by the Board of Directors of the Corporation. Before insurance is offered in any county, there shall be published by appendix to this part the names of the counties in which apple insurance will be offered.

§ 408.2 Premium rates, production guarantees, coverage levels, and prices at which indemnities shall be computed.

(a) The Manager shall establish premium rates, production guarantees, coverage levels, and prices at which

indemnities shall be computed for apples which will be included in the actuarial table on file in service offices for the county and which may be changed from year to year.

(b) At the time the application for insurance is made, the applicant shall elect a coverage level and price at which indemnities will be computed from among those levels and prices contained in the actuarial table for the crop year.

§ 408.3 OMB control numbers.

The information collection requirements contained in these regulations (7 CFR Part 408) have been approved by the Office of Management and Budget (OMB) under the provisions of 44 U.S.C. Chapter 35 and have been assigned OMB Nos. 0563–0003 and 0563–0007.

§ 408.4 Creditors.

An interest of a person in an insured crop existing by virtue of a lien, mortgage, garnishment, levy, execution, bankruptcy, an involuntary transfer or similar interest shall not entitle the holder of the interest to any benefit under the contract except as provided by the policy.

§ 408.5 Good faith reliance on misrepresentation.

Notwithstanding any other provision of the Eastern U.S. apple insurance contract, whenever (a) an insured person under a contract of crop insurance entered into under these regulations, as a result of a misrepresentation or other erroneous action or advice by an agent or employee of the Corporation (1) is indebted to the Corporation for additional premiums, or (2) has suffered a loss to a crop which is not insured or for which the insured person is not entitled to an indemnity because of failure to comply with the terms of the insurance contract, but which the insured person believed to be insured, or believed the terms of the insurance contract to have been complied with or waived, and (b) the Board of Directors of the Corporation, or the Manager in cases involving not more than $100,000.00, finds (1) that an agent or employee of the Corporation did in fact make such misrepresentation or take other erroneous action or give erroneous advice, (2) that said insured person relied thereon in good faith, and (3) that to require the payment of the additional premiums or to deny such insured's entitlement to the indemnity would not be fair and equitable, such insured person shall be granted relief the same as if otherwise entitled thereto.

§ 408.6 The contract.

(a) The insurance contract shall become effective upon the acceptance by the Corporation of a duly executed application for insurance on a form prescribed by the Corporation. The contract shall cover the apple crop as provided in the policy. The contract shall consist of the application, the policy, the appendix, and the county actuarial table. Any changes made in the contract shall not affect its continuity from year to year. The forms referred to in the contract are available at the service office.

§ 408.7 The application and policy.

(a) Application for insurance on a form prescribed by the Corporation may be made by any person to cover such person's share in the apple crop as landlord, owner-operator, or tenant. The application shall be submitted to the Corporation at the service office on or before the applicable closing date for the county on file in the service office.

(b) The Corporation may discontinue the acceptance of applications in any county upon its determination that the insurance risk is excessive, and also, for the same reason, may reject any individual application. The Manager of the Corporation is authorized in any crop year to extend the closing date for submitting applications or contract changes in any county, by placing the extended date on file in the applicable service offices and publishing a notice in the **Federal Register** upon the Manager's determination that no adverse selectivity will result during the period of such extension. However, if adverse conditions should develop during such period, the Corporation will immediately discontinue the acceptance of applications.

(c) In accordance with the provisions governing changes in the contract contained in policies issued under FCIC regulations for the 1984 and succeeding crop years, a contract in the form provided for in this subpart will come into effect as a continuation of an apple contract issued under such prior regulations, without the filing of a new application.

(d) The application for the 1983 and succeeding crop years is found at Subpart D of Part 400—General Administrative Regulations (7 CFR 400.37; 400.38, first published at 48 FR 1023, January 10, 1983) and may be amended from time to time for subsequent crop years.

The provisions of the Eastern United States Apple Crop Insurance Policy are as follows:

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

Eastern U.S. Apple—Crop Insurance Policy

(This is a continuous contract. Refer to Section 15.)

AGREEMENT TO INSURE: We shall provide the insurance described in this policy in return for the premium and your compliance with all applicable provisions.

Throughout this policy, "you" and "your" refer to the insured shown on the accepted Application and "we," "us" and "our" refer to the Federal Crop Insurance Corporation.

Terms and Conditions

1. Causes of loss.

a. The insurance provided is against unavoidable loss of production resulting from the following causes occurring within the insurance period:

(1) Drought;
(2) Frost;
(3) Freeze;
(4) Wind;
(5) Hail;
(6) Fire;
(7) Earthquake;
(8) Volcanic eruption; or
(9) Fruit-set failure;

unless those causes are excepted, excluded, or limited by the actuarial table or section 9e(4).

b. We shall not insure against any loss of production due to:

(1) The neglect or malfeasance of you, any member of your household, your tenants or employees;

(2) The failure to follow recognized good apple management practices;

(3) Damage resulting from the impoundment of water by any governmental, public or private dam or reservoir project; or

(4) Any cause not specified in section 1a as an insured loss.

2. Crop, acreage, and share insured.

a. The crop insured shall be a variety of apples established as adapted to the area, which is located on insured acreage and for which a guarantee and premium rate are provided by the actuarial table.

b. The acreage insured for each crop year shall be apples located on insurable acreage as designated by the actuarial table and in which you have a share, as reported by you or as determined by us, whichever we shall elect.

c. The insured share shall be your share as landlord, owner-operator, or tenant in the insured apples at the time insurance attaches.

d. We do not insure any acreage:

(1) Which has not produced a minimum of 150 bushels per acre; or

(2) Which we inspect and consider not acceptable.

e. We may limit the insured acreage to any acreage limitation established under any Act of Congress, if we advise you of the limit prior to the time insurance attaches.

3. Report of acreage, share, yield, and number of trees.

You shall report on our form:

a. All the acreage of apples in the county in which you have a share;

b. Your share at the time insurance attaches;

c. The number of bearing trees; and

d. The number of bushels produced from the preceding crop year's insurable acreage on each unit.

You shall designate separately any acreage that is not insurable. You shall report if you do not have a share in any apples located in the county. This report shall be submitted annually on or before the reporting date established by the actuarial table. We may determine all indemnities on the basis of information you have submitted on this report. If you do not submit this report by the reporting date, we may elect to determine by unit the insured acreage, share, and number of trees or we may deny liability on any unit. Any report submitted by you may be revised only upon our approval.

4. Production guarantees, coverage levels, and prices for computing indemnities.

a. The production guarantees, coverage levels, and prices for computing indemnities are contained in the actuarial table.

b. Coverage level 2 will apply if you do not elect a coverage level.

c. You may change the coverage level and price election on or before the closing date for submitting applications for the crop year as established by the actuarial table.

5. Annual premium.

a. The annual premium is earned and payable at the time insurance attaches. The amount is computed by multiplying the production guarantee times the price election, times the premium rate, times the insured acreage, times your share at the time insurance attaches, times the applicable premium adjustment percentage contained in the following table.

PREMIUM ADJUSTMENT TABLE [1]

[Percent adjustments for favorable continuous insurance experience]

	Numbers of years continuous experience through previous year															
	0	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15 or more
	Percentage adjustment factor for current crop year															
Loss ratio [2] through previous crop year																
.00 to .20	100	95	95	90	90	85	80	75	70	70	65	65	60	60	55	50
.21 to .40	100	100	95	85	90	90	90	85	80	80	75	75	70	70	65	60
.41 to .60	100	100	95	85	95	95	95	90	90	90	85	85	80	80	75	70
.61 to .80	100	100	95	95	95	95	95	95	90	90	90	90	85	85	85	80
.81 to 1.09	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100

[Percent adjustments for unfavorable insurance experience]

	Numbers of loss years through previous year [3]															
	0	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
	Percentage adjustment factor for current crop year															
Loss ratio [2] through previous crop year																
1.10 to 1.19	100	100	100	102	104	106	108	110	112	114	116	118	120	122	124	126
1.20 to 1.39	100	100	100	104	108	112	116	120	124	128	132	136	140	144	148	152
1.40 to 1.69	100	100	100	108	116	124	132	140	148	156	164	172	180	188	196	204
1.70 to 1.99	100	100	100	112	122	132	142	152	162	172	182	192	202	212	222	232
2.00 to 2.49	100	100	100	116	128	140	152	164	176	188	200	212	224	236	248	260
2.50 to 3.24	100	100	100	120	134	148	162	176	190	204	218	232	246	260	274	288
3.25 to 3.99	100	100	105	124	140	156	172	188	204	220	236	252	268	284	300	300
4.00 to 4.99	100	100	110	126	146	164	182	200	218	236	254	272	290	300	300	300
5.00 to 5.99	100	100	115	132	152	172	192	212	232	252	272	292	300	300	300	300
6.00 and up	100	100	120	138	158	180	202	224	246	268	290	300	300	300	300	300

[1] For premium adjustment purposes, only the years during which premiums were earned shall be considered.
[2] Loss Ratio means the ratio of indemnity(ies) paid to premium(s) earned.
[3] Only the most recent 15 crop years shall be used to determine the number of "Loss Years". (A crop year is determined to be a "Loss Year" when the amount of indemnity for the year exceeds the premium for the year.)

b. Interest shall accrue at the rate of one and one-half percent (1½%) simple interest per calendar month, or any part thereof, on any unpaid premium balance starting on the first day of the month following the first premium billing date.

c. Any premium adjustment applicable to the contract shall be transferred to:

(1) The contract of your estate or surviving spouse in case of your death;

(2) The contract of the person who succeeds you if such person had previously participated in the orchard operation; or

(3) Your contract if you stop orchard operations in one county and start orchard operations in another county.

d. If participation is not continuous, any premium shall be computed on the basis of previous unfavorable insurance experience but no premium reduction under section 5a shall be applicable.

6. Deductions for debt.

Any unpaid amount due us may be deducted from any indemnity payable to you or from any loan or payment due you under any Act of Congress or program administered by the United States Department of Agriculture or its Agencies.

7. Insurance period.

Insurance on insured acreage attaches for each crop year on November 21 and ends at the earliest of:

a. Total destruction of the apples;

b. Harvest of the apples from the unit;

c. Final adjustment of a loss;

d. The earlier of:

(1) The end of the normal harvest period by variety for the crop year; or

(2) November 20 of the crop year.

8. Notice of damage or loss.

a. In case of damage or probable loss you must give us written notice of the date(s) and cause(s) of damage as follows:

(1) You must give us notice at least 15 days before the beginning of harvest if you anticipate a loss on any unit.

(2) If probable loss is later determined or damage occurs during harvest, immediate notice shall be given.

b. In addition to the notices required by this section, if you are going to claim an indemnity on any unit, we must be given notice not later than 30 days after the earliest of:

(a) Total destruction of the apples on the unit;

(b) Harvest of the unit; or

(c) The calendar date for the end of the insurance period.

c. You must obtain written consent from us before you destroy any of the apples which are not to be harvested.

d. We may reject any claim for indemnity if any of the requirements of this section or section 9 are not complied with.

9. Claim for indemnity.

a. Any claim for indemnity on a unit shall be submitted to us on our form not later than 60 days after the earliest of:

(1) Total destruction of the apples on the unit;

(2) Harvest of the unit; or

(3) The calendar date for the end of the insurance period.

b. We shall not pay any indemnity unless you:

(1) Establish the total production of apples on the unit and that any loss of production has been directly caused by one or more of the insured causes during the insurance period; and

(2) Furnish all information we require concerning the loss.

c. The indemnity shall be determined on each unit by:

(1) Multiplying the insured acreage by the production guarantee;

(2) Subtracting therefrom the total production of apples to be counted (see section 9e);

(3) Multiplying the remainder by the price election; and

(4) Multiplying this product by your share.

d. If the information reported by you results in a lower premium than the actual premium determined to be due, the indemnity shall be reduced proportionately.

e. The total production to be counted for a unit shall include all harvested and appraised production which is marketable.

(1) Appraised production to be counted shall include:

(a) Unharvested marketable production, and potential production lost due to uninsured causes and failure to follow recognized good apple management practices;

(b) Not less than the guarantee for any acreage which is abandoned, damaged solely by an uninsured cause, or destroyed by you without our consent.

(2) Any appraisal we have made on insured acreage shall be considered production to count unless such appraised production:

(a) Is not harvested before the harvest of apples becomes general in the county;

(b) Is harvested; or

(c) Is further damaged by an insured cause.

(3) We may determine the amount of production of any unharvested apples on the basis of field appraisals conducted after the end of the insurance period.

(4) When you have elected to exclude hail and fire as insured causes of loss and the apples are damaged by hail or fire, appraisals for uninsured causes shall be made in accordance with Form FCI–78, "Request to Exclude Hail and Fire".

(5) The commingled production of units will be allocated to such units in proportion to our liability on the harvested acreage of each unit.

f. You shall not abandon any acreage to us.

g. You may not bring suit or action against us unless you have complied with all policy provisions. If a claim is denied, you may sue us in the United States District Court under the provisions of 7 U.S.C. 1508(c). You must bring suit within 12 months of the date notice of denial is mailed to and received by you.

h. We shall pay the loss within 30 days after we reach agreement with you or entry of a final judgment. In no instance will we be liable for interest or damages in connection with any claim for indemnity, whether we approve or disapprove such claim.

i. If you die, disappear, or are judicially declared incompetent, or if you are an entity other than an individual and such entity is dissolved after insurance attaches for any crop year, any indemnity shall be paid to the person(s) we determine to be beneficially entitled thereto.

j. If you have other fire insurance, fire damage occurs during the insurance period, and you have not elected to exclude fire insurance from this policy, we will be liable for loss due to fire only for the smaller of:

(1) The amount of indemnity determined pursuant to this contract without regard to any other insurance; or

(2) The amount by which the loss from fire exceeds the indemnity paid or payable under such other insurance. For the purposes of this section, the amount of loss from fire shall be the difference between the fair market value of the production on the unit before the fire and after the fire.

10. Concealment or fraud.

We may void the contract on all crops insured without affecting your liability for premiums or waiving any right, including the right to collect any amount due us if, at any time, you have concealed or misrepresented any material fact or committed any fraud relating to the contract, and such voidance shall be effective as of the beginning of the crop year with respect to which such act or omission occurred.

11. Transfer of right to indemnity on insured share.

If you transfer any part of your share during the crop year, you may transfer your right to an indemnity. The transfer must be on our form and approved by us. We may collect the premium from either you or your transferee or both. The transferee shall have all rights and responsibilities under the contract.

12. Assignment of indemnity.

You may assign to another party your right to an indemnity for the crop year only on our form and with our approval. The assignee shall have the right to submit the loss notices and forms required by the contract.

13. Subrogation. (Recovery of loss from a third party.)

Because you may be able to recover all or a part of your loss from someone other than us, you must do all you can to preserve any such rights. If we pay you for your loss then your right of recovery shall at our option belong to us. If we recover more than we paid you plus our expenses, the excess shall be paid to you.

14. Records and access to farm.

You shall keep, for two years after the time of loss, records of the harvesting, storage, shipment, sale or other disposition of all apples produced on each unit including separate records showing the same information for production from any uninsured acreage. Any person designated by us shall have access to such records and the farm for purposes related to the contract.

15. Life of contract: cancellation and termination.

a. This contract shall be in effect for the crop year specified on the application and may not be canceled for such crop year. Thereafter, the contract shall continue in force for each succeeding crop year unless canceled or terminated as provided by this section.

b. This contract may be canceled by either you or us for any succeeding crop year by giving written notice on or before the cancellation date preceding such crop year.

c. This contract shall terminate as to any crop year if any amount due us on this or any other contract with you is not paid on or before the termination date preceding such crop year for the contract on which the amount is due. The date of payment of the amount due:

(1) if deducted from an indemnity shall be the date you sign the claim; or

(2) if deducted from payment under another program administered by the United States Department of Agriculture shall be the date such payment was approved.

d. The cancellation and termination dates are November 20.

e. If you die or are judicially declared incompetent, or if you are an entity other than an individual and such entity is dissolved, the contract shall terminate as of the date of death, judicial declaration, or dissolution. *However*, if such event occurs after insurance attaches for any crop year, the contract shall continue in force through the crop year and terminate at the end thereof. Death of a partner in a partnership shall dissolve the partnership unless the partnership agreement provides otherwise. If two or more persons having a joint interest are insured jointly, death of one of the persons shall dissolve the joint entity.

f. The contract shall terminate if no premium is earned for five consecutive years.

16. Contract changes.

We may change any terms and provisions of the contract from year to year. If your price election at which indemnities are computed is no longer offered, the actuarial table shall provide the price election which you shall be deemed to have elected. All contract changes will be available at your service office by August 31 preceding the cancellation date. Acceptance of any changes shall be conclusively presumed in the absence of any notice from you to cancel the contract.

17. Meaning of terms.

For the purposes of Eastern U.S. apple crop insurance:

a. "Actuarial table" means the forms and related material for the crop year approved by us which are available for public inspection in your service office, and which show the production guarantees, coverage levels, premium rates, prices for computing indemnities, insurable and uninsurable acreage, and related information regarding apple insurance in the county.

b. "Contiguous land" means land which is touching at any point, except that land which is separated by only a public or private right-of-way shall also be considered contiguous.

c. "County" means the county shown on the application and any additional land located in a local producing area bordering on the county, as shown by the actuarial table.

d. "Crop year" means the period beginning with the date insurance attaches to the apples and extending through the normal harvest time and shall be designated by the calendar year in which the apples are normally harvested.

e. "Eastern U.S." means those states east of a line extending North-South along the eastern state boundaries of North Dakota, South Dakota, Nebraska, Kansas, Oklahoma and Texas.

f. "Fruit-set failure" means failure of the apple trees to develop blossoms or set fruit due only to adverse weather conditions, but shall not include poor pollination resulting from inadequate pollinizers in the orchard or failure to set fruit due to spray damage or other manageable causes.

g. "Harvest" means the picking of marketable apples from the trees or from the ground.

h. "Insurable acreage" means the land classified as insurable by us and shown as such by the actuarial table.

i. "Insured" means the person who submitted the application accepted by us.

j. "Marketable" means apples which grade U.S. No. 1, 2 or Cider in accordance with the United States Standards for Apples for Processing.

k. "Person" means an individual, partnership, association, corporation, estate, trust, or other business enterprise or legal entity, and wherever applicable, a State, a political subdivision of a State, or any agency thereof.

l. "Service office" means the office servicing your contract as shown on the application for insurance or such other approved office as may be selected by you or designated by us.

m. "Tenant" means a person who rents land from another person for a share of the apples or a share of the proceeds therefrom.

n. "Unit" means all insurable acreage of apples in the county which are located on contiguous land at the time insurance attaches for the crop year:

(1) In which you have a 100 percent share; or

(2) Which is owned by one entity and operated by another entity on a share basis.

Land rented for cash, a fixed commodity payment, or any consideration other than a share in the apples on such land shall be considered as owned by the lessee. Land which would otherwise be one unit may be divided according to applicable guidelines on file in your service office or by written agreement between you and us. Units as herein defined will be determined when the acreage is reported. Errors in reporting such units may be corrected by us to conform to applicable guidelines when adjusting a loss. We may consider any acreage and share thereof reported by or for your spouse or child or any member of your household to be your bona fide share or the bona fide share of any other person having an interest therein.

18. Descriptive headings.

The descriptive headings of the various policy terms and conditions are formulated for convenience only and are not intended to affect the construction or meaning of any of the provisions of the contract.

19. Determinations.

All determinations required by the policy shall be made by us. If you disagree with our determinations, you may obtain reconsideration of or appeal those determinations in accordance with our Appeal Regulations.

20. Notices.

All notices required to be given by you must be in writing and received by your service office within the designated time unless otherwise provided by the notice requirement. Notices required to be given immediately may be by telephone or in person and confirmed in writing. Time of the notice will be determined by the time of our receipt of the written notice.

§ 408.8 Eastern U.S. apple fresh fruit option.

(a) Notwithstanding the provisions of § 408.7(d)9.e. of this part, an insured producer may, upon submission and approval of a Fresh Fruit Option Amendment approved by the Corporation, elect to insure any insurable acreage in which the insured has a share, or any designated portion thereof, under the provisions of the Fresh Fruit Option, providing (1) that only apple acreage which is managed with the intent of producing fresh-market apples shall be insurable under this option, (2) that where management practices are carried out for the production of both fresh and processing apples on insurable acreage and the election is made to insure apples for fresh use under this option and those intended for processing under the Eastern U.S. Apple policy, the election to insure on both a fresh and processing basis must be made when the Fresh Fruit Option Amendment is submitted, and (3) the Fresh Fruit Option Amendment shall be applicable for the current crop year. A new option amendment must be submitted for each subsequent crop year.

(b) For those insureds who elect to insure apples under the Fresh Fruit Option Amendment, all provisions of the Eastern U.S. Apple crop insurance policy shall apply, except those provisions in conflict with the amendment as outlined below:

U.S. DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

Eastern U.S. Apple Crop Insurance Policy
Fresh-Market Quality Option Amendment

Insured's Name _____
Address _____
Contract No. _____
Crop Year _____
Identification No. _____
SSN_____ Tax_____

When you submit a signed Fresh-Market Quality Option Amendment each crop year on or before the final date for accepting applications and we approve such amendment, apples from your insurable acreage, or designated portion thereof, will be adjusted for quality on a fresh-market basis subject to the following conditions:

(1) You must insure all the acreage of apples in the county in which you have a share regardless of the intended use (fresh market or processing). Only that apple acreage which is managed with the intent of producing fresh-market apples will be adjusted according to the quality procedures provided by this amendment.

(2) Where you carry out management practices for the production of both fresh-market and processing apples on your insured acreage, you may elect to insure your apples for fresh market under the quality provisions of this amendment and those intended for processing under the quality provisions of the Eastern U.S. apple policy. Your election to insure on both a fresh-market and processing basis is made when the amendment. Separate line entries according to use will be required on the acreage report.

(3) In lieu of sections 9e and 17j of the policy, your production to count for any acreage designated for fresh market will be adjusted when your apples are damaged by insurable causes to the extent that such apples will not grade U.S. No. 1 (processor grade). The adjustment factor (not to exceed 1) will be the ratio of the average market price received by you or determined by us, whichever is larger, for your damaged production to the average market price for U.S. No. 1 (processor grade) apples. There will be no adjustment for quality if the apples do not grade U.S. No.1 because of size, color or russeting.

(4) Your premium rate will be the applicable area rate shown on the actuarial table for the fresh-market quality amendment.

(5) All provisions of the Eastern U.S. apple policy not in conflict with this amendment will be applicable.

(6) All deteminations regarding the provisions of this amendment will be made by us.

(7) This amendment is not continuous. A new amendment must be submitted each crop year to take advantage of the fresh-market option.

Insured's Signature _____
Date _____
Corporation Representative's Signature and Code Number _____
Date _____

Following is the Privacy Act Statement found on the reverse side of the Eastern U.S. Apple Insurance/Fresh Market Option:

Collection of Information and Data (Privacy Act)

The following statements are made in accordance with the Privacy Act of 1974 (5 U.S.C. 552(a)):

The authority for requesting the information to be supplied on this form is the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), and the regulations for insuring apples under the Eastern U.S. Apple Crop Insurance Regulations promulgated thereunder (7 CFR Part 408). The information requested is necessary for FCIC to process

the option to insure apples to determining the correct premium and indemnity; and to determine the correct parties to the insurance contract. The information may be furnished to FCIC contract agencies and contract loss adjusters, reinsured companies, other U.S. Department of Agriculture Agencies, Internal Revenue Service, Department of Justice, or other State and Federal law enforcement agencies, and in response to orders of a court, magistrate, or administrative tribunal.

Furnishing the Social Security number is voluntary and no adverse action will result from failure to do so. Furnishing the information other than the Social Security number, is also voluntary; however, failure to furnish the correct, complete information requested may result in rejection of the option for insuring apples, and/or subsequent denial of any claim for indemnity which may be filed under such option. The failure to supply correct, complete information may substantially delay acceptance of the Fresh Market Apple Option, and/or any subsequent claim for indemnity.

Appendix A.—Counties Designated for Eastern Apple Crop Insurance

The following counties are designated for Eastern Apple Crop Insurance under the provisions of 7 CFR 408.1.

New York

Ulster Wayne

North Carolina

Alexander Henderson Wilkes
Cleveland Lincoln

Pennsylvania

Adams

Virginia

Frederick

West Virginia

Berkeley

Done in Washington, D.C., on December 16, 1983.

Peter F. Cole,

Secretary, Federal Crop Insurance Corporation.

Dated: February 2, 1984.

Approved by:

Merritt W. Sprague,

Manager.

[FR Doc. 84-3629 Filed 2-17-84; 8:45 am]
BILLING CODE 3410-08-M

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7 CFR Part 409

[Amdt. No. 1]

Arizona-California Citrus Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation, USDA

ACTION: Final rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) hereby amends the Arizona-California Citrus Crop Insurance Regulations (7 CFR Part 409), effective for the 1985 and succeeding crop years, by: (1) Changing the policy to make it easier to read; (2) providing the damage due to fire is insurable only where good grove management practice related to weed control and pruning debris are carried out; (3) adding volcanic eruption as an insurable cause of loss; (4) adding a provision to permit determination of indemnities based on the acreage report rather than at loss adjustment time, (5) providing for a coverage level if the insured does not select one; (6) adding a 60-day claim for indemnity provision; (7) adding a section regarding appraisals following the end of the insurance period for unharvested acreage; (8) adding a hail/fire section for appraisals of uninsured acreage; (9) changing the cancellation/termination dates to conform with farming practices; (10) providing that any change in the policy will be available in the service office by a certain date; (11) providing for unit determination when the acreage report is filed; and (12) adding three sections concerning "descriptive headings," "determinations," and "notices." In addition, FCIC issues a new subsection in these regulations to contain the control numbers assigned by the Office of Management and Budget (OMB) to information collection requirements of these regulations. The intended effect of this rule is to update the policy for insuring citrus in Arizona and California in accordance with Secretary's Memorandum No. 1512–1, requiring a periodic review of the regulations as to need, currency, clarity, and effectiveness, and to comply with OMB regulations requiring publication of OMB control numbers assigned to information collection requirements of FCIC's regulations.

EFFECTIVE DATE: March 22, 1984.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C., 20250, telephone (202) 447–3325.

The Impact Statement describing the options considered in developing this rule and the impact of implementing each option is available upon request from Peter F. Cole.

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA procedures established in Secretary's Memorandum No. 1512–1 (June 11, 1981). This action constitutes a review under such procedures as to the need, currency, clarity, and effectiveness of these regulations. The sunset review date established for these regulations is April 1, 1988.

Merritt W. Sprague, Manager, FCIC, has determined that (1) this action is not a major rule as defined by Executive Order No. 12291 (February 17, 1981), (2) this action will not increase the Federal paperwork burden for individuals, small businesses, and other persons, and (3) this action conforms to the Federal Crop Insurance Corporation Act, as amended (7 U.S.C. 1501 *et seq.*), and other applicable law.

The title and number of the Federal Assistance Program to which these regulations apply are: Title—Crop Insurance; Number 10.450.

This action will not have a significant impact specifically upon area and community development; therefore, review as established by Executive Order No. 12372 (July 14, 1982) was not used to assure that units of local government are informed of this action.

It has been determined that this action is exempt from the provisions of the Regulatory Flexibility Act; therefore, no Regulatory Impact Statement was prepared.

All written comments made pursuant to this rule will be available for public inspection in the Office of the Manager, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C., 20250, during regular business hours, Monday through Friday.

On Thursday, June 23, 1983, FCIC published a notice of proposed rulemaking in the **Federal Register** at 48 FR 28652, amending the policy for insuring citrus in Arizona and California in accordance with the provisions of Secretary's Memorandum No. 1512–1. The public was given 60 days in which to submit written comments, data, and opinions on the proposed rule, but none were received.

In reviewing the regulations for publication as a final rule, FCIC determined that further amendment to the rule was necessary to (1) include the OMB control numbers assigned to information collection requirements in the regulations, and (2) add two additional sections to define "Definitions" and "Notices." These changes have been made and are included herein.

Therefore, with the exception of, minor and non-substantive changes in language and the changes referred to above, the proposed rule is hereby published as a final rule to be effective with the 1985 crop year.

List of Subjects in 7 CFR Part 409

Crop insurance, Arizona-California citrus.

PART 409—[AMENDED]

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation hereby amends the Arizona-California Citrus Crop Insurance Regulations (7 CFR Part 409), effective for the 1985 and succeeding crop years, in the following instances:

1. The Authority citation for 7 CFR Part 409 is:

Authority: Secs. 506, 516, Pub. L. 75–430, 52 Stat. 73, 77 as amended (7 U.S.C. 1506, 1516).

2. 7 CFR 409.3 is added to read as follows:

§ 409.3 OMB control numbers.

The information collection requirements contained in these regulations (7 CFR Part 409) have been approved by the Office of Management and Budget (OMB) under the provisions of 44 U.S.C. Chapter 35 and have been assigned OMB Nos. 0563–0003 and 0563–0007.

3. 7 CFR 409.7(c) is amended by revising the Arizona-California Citrus Crop Insurance Policy therein to read as follows:

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

Arizona-California Citrus—Crop Insurance Policy

(This is a continuous contract. Refer to Section 15.)

AGREEMENT TO INSURE: We shall provide the insurance described in this policy in return for the premium and your compliance with all applicable provisions.

Throughout this policy, "you" and "your" refer to the insured shown on the accepted Application and "we," "us" and "our" refer to the Federal Crop Insurance Corporation.

Terms and Conditions

1. Causes of loss.

a. The insurance provided is against unavoidable loss of production resulting from the following causes occurring within the insurance period:

(1) Adverse weather conditions;
(2) Fire;
(3) Wildlife;
(4) Earthquake;
(5) Volcanic eruption; or
(6) Direct Mediterranean Fruit Fly damage;

unless those causes are excepted, excluded, or limited by the actuarial table or section 9f(7). Direct Mediterranean Fruit Fly damage shall be actual physical damage to the citrus on the unit which causes such citrus to be unmarketable and shall not include unmarketability of such citrus as a result of quarantine, boycott, or refusal to accept the citrus by any entity without regard to actual physical damage to such citrus.

b. We shall not insure against any loss of production due to:

(1) Fire, where weeds and other forms of undergrowth have not been controlled or tree pruning debris has not been removed from the grove;
(2) The neglect or malfeasance of you, any member of your household, your tenants or employees;
(3) The failure to follow recognized good citrus grove practices;
(4) Damage resulting from the impoundment of water by any governmental, public or private dam or reservoir project; or
(5) Any cause not specified in section 1a as an insured loss.

2. Crop, acreage, and share insured.

a. The crop insured shall be any of the citrus types listed below which you elect:

Type I—Navel oranges;
Type II—Sweet oranges;
Type III—Valencia oranges;
Type IV—Grapefruit;
Type V—Lemons;
Type VI—Kinnow mandarins;
Type VII—Minneola tangelos;
Type VIII—Orlando tangelos;

which are grown on insured acreage and for which a guarantee and premium rate are provided by the actuarial table.

b. The acreage insured for each crop year shall be that acreage of citrus in Arizona and California located on insurable acreage as designated by the actuarial table and in which you have a share, as reported by you or as determined by us, whichever we shall elect.

c. The insured share shall be your share as landlord, owner-operator, or tenant in the insured citrus on the date insurance attaches.

d. We do not insure any acreage:

(1) Which is not irrigated; or
(2) On which the trees have not reached the sixth growing season after being set out.

e. We require a written agreement for insurance to attach to any acreage with less than 90 percent of a stand, based on the original planting pattern.

f. We do not insure any loss of production caused by:

(1) The failure to carry out a good citrus irrigation practice, except failure of the water supply after insurance attaches due to an unavoidable cause; or
(2) The failure or breakdown of irrigation equipment or facilities.

g. We may limit the insured acreage to any acreage limitation established under any Act of Congress, if we advise you of the limit prior to the date insurance attaches.

3. Report of acreage, share, yield, and practice.

You shall report on our form:

a. All the acreage of each insured citrus type in the county in which you have a share;
b. The practice;
c. Your share at the time insurance attaches; and
d. The most recent year's production for insurable acreage on each unit.

You shall designate separately any acreage that is not insurable. You shall report if you do not have a share in any citrus grown in the county. This report shall be submitted annually on or before December 10. We may determine all indemnities on the basis of information you have submitted on this report. If you do not submit this report by the reporting date, we may elect to determine by unit the insured acreage, share, and practice or we may deny liability on any unit. Any report submitted by you may be revised only upon our approval.

4. Production guarantees, coverage levels, and prices for computing indemnities.

a. The production guarantees, coverage levels, and prices for computing indemnities will be contained in the actuarial table.

b. Coverage level 2 will apply if you have not elected a coverage level.

c. You may change the coverage level and price election on or before the closing date for submitting applications for the crop year as established by the actuarial table.

5. Annual premium.

a. The annual premium is earned and payable on the date insurance attaches. The amount is computed by multiplying the production guarantee times the price election, times the premium rate, times the insured acreage, times your share on the date insurance attaches, times the applicable premium adjustment percentage contained in the following table.

PREMIUM ADJUSTMENT TABLE [1]

[Percent adjustments for favorable continuous insurance experience]

	Numbers of years continuous experience through previous year															
	0	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15 or more
	Percentage adjustment factor for current crop year															
Loss ratio [2] through previous crop year																
.00 to .20	100	95	95	90	90	85	80	75	70	70	65	65	60	60	55	50
.21 to .40	100	100	95	95	90	90	90	85	80	80	75	75	70	70	65	60
.41 to .60	100	100	95	95	95	95	95	90	90	90	85	85	80	80	75	70
.61 to .80	100	100	95	95	95	95	95	95	90	90	90	90	85	85	85	80
.81 to 1.00	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100

[Percent adjustments for unfavorable insurance experience]

Loss ratio [2] through previous crop year	Numbers of loss years through previous year [3]															
	0	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
	Percentage adjustment factor for current crop year															
1.10 to 1.19	100	100	100	102	104	106	108	110	112	114	116	118	120	122	124	126
1.20 to 1.39	100	100	100	104	108	112	116	120	124	128	132	136	140	144	148	152
1.40 to 1.69	100	100	100	108	116	124	132	140	148	156	164	172	180	188	196	204
1.70 to 1.99	100	100	100	112	122	132	142	152	162	172	182	192	202	212	222	232
2.00 to 2.49	100	100	100	116	128	140	152	164	176	188	200	212	224	236	248	260
2.50 to 3.24	100	100	100	120	134	148	162	176	190	204	218	232	246	260	274	288
3.25 to 3.99	100	100	105	124	140	156	172	188	204	220	236	252	268	284	300	300
4.00 to 4.99	100	100	110	128	146	164	182	200	218	236	254	272	290	300	300	300
5.00 to 5.99	100	100	115	132	152	172	192	212	232	252	272	292	300	300	300	300
6.00 and up	100	100	120	136	158	180	202	224	246	268	290	300	300	300	300	300

[1] For premium adjustment purposes, only the years during which premiums were earned shall be considered.
[2] Loss Ratio means the ratio of indemnity(ies) paid to premium(s) earned.
[3] Only the most recent 15 crop years shall be used to determine the number of "Loss Years". (A crop year is determined to be a "Loss Year" when the amount of indemnity for the year exceeds the premium for the year.)

b. Interest shall accrue at the rate of one and one-half percent (1½%) simple interest per calendar month, or any part thereof, on any unpaid premium balance starting on the first day of the month following the first premium billing date.

c. Any premium adjustment applicable to the contract shall be transferred to:

(1) The contract of your estate or surviving spouse if you die;

(2) The contract of the person who succeeds you if such person had previously participated in the grove operation; or

(3) Your contract if you stop grove operations in one county and start grove operations in another county.

d. If participation is not continuous, any premium shall be computed on the basis of previous unfavorable insurance experience but no premium reduction under section 5a shall be applicable.

6. Deductions for debt.

Any unpaid amount due us may be deducted from any indemnity payable to you or from any loan or payment due you under any Act of Congress or program administered by the United States Department of Agriculture or its Agencies.

7. Insurance period.

Insurance on insured acreage attaches for each crop year on December 1 prior to such crop year and ends at the earliest of:

a. Total destruction of the citrus;

b. Harvest of the citrus;

c . Final adjustment of a loss; or

d. The date shown below immediately following the year in which the bloom is normally set:

(1) August 31 for Navel oranges and Southern California Lemons;

(2) November 30 for Valencia oranges; or

(3) July 31 for all other types of citrus.

8. Notice of damage or loss.

a. In case of damage or probable loss:

(1) You must give us written notice promptly:

(a) After insured damage to the citrus becomes apparent giving date(s) and cause(s) of such damage; or

(b) If you decide not to further care for or harvest any part of them.

(2) You must give us notice at least 15 days before the beginning of harvest if you anticipate a loss on any unit.

(3) If probable loss is later determined, immediate notice shall be given. If harvest will begin after the end of the insurance period, notice shall be given on or before the calendar date for the end of the insurance period.

b. You must obtain written consent from us before you destroy any of the citrus which is not to be harvested.

c. We may reject any claim for indemnity if any of the requirements of this section or section 9 are not complied with.

9. Claim for indemnity.

a. Any claim for indemnity on a unit shall be submitted to us on our form not later than 60 days after the earliest of:

(1) Total destruction of the citrus on the unit;

(2) Harvest of the unit; or

(3) The calendar date for the end of the insurance period.

b. We shall not pay any indemnity unless you:

(1) Establish the total production of citrus on the unit and that any loss of production has been directly caused by one or more of the insured causes during the insurance period; and

(2) Furnish all information we require concerning the loss.

c. The indemnity shall be determined on each unit by:

(1) Multiplying the insured acreage by the production guarantee;

(2) Subtracting therefrom the total production of citrus to be counted (see section 9f);

(3) Multiplying the remainder by the price election; and

(4) Multiplying this product by your share.

d. If the information reported by you results in a lower premium than the actual premium determined to be due, the indemnity shall be reduced proportionately.

e. If frost protection equipment was not property utilized or not properly reported, the indemnity for the unit will be reduced by the percentage of premium reduction allowed for frost protection equipment. You shall keep records showing the starting and ending time for each period the frost protection equipment was used.

f. The total production (cartons) to be counted for each unit shall include all harvested production marketed as fresh packed fruit and all appraised production which could be is marketable as fresh packed fruit.

(1) Any production shall be considered marketed or marketable as fresh packed fruit unless such production was not marketed or marketable as fresh packed fruit due to insurable causes.

(2) In the absence of acceptable records to determine the disposition of harvested citrus, we will determine such disposition and the amount of such production to be counted for the unit.

(3) Appraised production to be counted will include:

(a) Unharvested production, on harvested acreage and potential production lost due to uninsured causes and failure to follow recognized good citrus grove practices;

(b) Not less than the guarantee for any acreage which is abandoned, damaged solely by an uninsured cause or destroyed by you without our consent;

(c) Any appraised production on unharvested acreage.

(4) Any appraisal we have made on insured acreage shall be considered production to count unless such appraised production:

(a) Is not harvested before harvest of the insured citrus type becomes general in the county;

(b) Is harvested; or

(c) Is further damaged by an insured cause.

(5) Citrus which cannot be marketed due to insurable causes will not be considered production.

(6) We may determine the amount of production of any unharvested citrus on the basis of field appraisals conducted after the end of the insurance period.

(7) When you have elected to exclude hail and fire as insured causes of loss and the citrus is damaged by hail or fire, appraisals for uninsured causes shall be made in accordance with Form FCI–78, "Request to Exclude Hail and Fire".

(8) The commingled production of units shall be allocated to such units in proportion to our liability on the harvested acreage of each unit.

g. You shall not abandon any acreage to us.

h. You may not bring suit or action against us unless you have complied with all policy provisions. If a claim is denied, you may sue us in the United States District Court under the provisions of 7 U.S.C. 1508(c). You must

bring suit within 12 months of the date notice of denial is mailed to and received by you.

i. We will pay the loss within 30 days after we reach agreement with you or entry of a final judgment. In no instance will we be liable for interest or damages in connection with any claim for indemnity, whether we approve or disapprove such claim.

j. If you die, disappear, or are judicially declared incompetent, or if you are an entity other than an individual and such entity is dissolved after insurance attaches for any crop year, any indemnity shall be paid to the person(s) we determine to be beneficially entitled thereto.

k. If you have other fire insurance, fire damage occurs during the insurance period, and you have not elected to exclude fire insurance from this policy, we will be liable for loss due to fire only for the smaller of:

(1) The amount of indemnity determined pursuant to this contract without regard to any other insurance; or

(2) The amount by which the loss from fire exceeds the indemnity paid or payable under such other insurance. For the purposes of this section, the amount of loss from fire shall be the difference between the fair market value of the production on the unit before the fire and after the fire.

10. Concealment or fraud.

We may void the contract on all crops insured without affecting your liability for premiums or waiving any right, including the right to collect any amount due us if, at any time, you have concealed or misrepresented any material fact or committed any fraud relating to the contract, and such voidance shall be effective as of the beginning of the crop year with respect to which such act or omission occurred.

11. Transfer of right to indemnity on insured share.

If you transfer any part of your share during the crop year, you may transfer your right to an indemnity. The transfer must be on our form and approved by us. We may collect the premium from either you or your transferee or both. The transferee shall have all rights and responsibilities under the contract.

12. Assignment of indemnity.

You may assign to another party your right to an indemnity for the crop year only on our form and with our approval. The assignee shall have the right to submit the loss notices and forms required by the contract.

13. Subrogation. (Recovery of loss from a third party.)

Because you may be able to recover all or a part of your loss from someone other than us, you must do all you can to preserve any such rights. If we pay you for your loss then your right of recovery will at our option belong to us. If we recover more than we paid you plus our expenses, the excess shall be paid to you.

14. Records and access to grove.

You shall keep, for two years after the time of loss, records of the harvesting, storage, shipment, sale or other disposition of all citrus produced on each unit including separate records showing the same information for production from any uninsured acreage. Any person designated by us shall have access to such records and the grove for purposes related to the contract.

15. Life of contract: Cancellation and termination.

a. This contract shall be in effect for the crop year specified on the application and may not be canceled for such crop year. Thereafter, the contract shall continue in force for each succeeding crop year unless canceled or terminated as provided in this section.

b. This contract may be canceled by either you or us for any succeeding crop year by giving written notice on or before the cancellation date preceding such crop year.

c. This contract shall terminate as to any crop year if any amount due us on this or any other contract with you is not paid on or before the termination date preceding such crop year for the contract on which the amount is due. The date of payment of the amount due:

(1) If deducted from an indemnity will be the date you sign the claim; or

(2) If deducted from payment under another program administered by the United States Department of Agriculture will be the date such payment was approved.

d. The cancellation and termination dates are November 30 for Arizona and California.

e. If you die or are judicially declared incompetent, or if you are an entity other than an individual and such entity is dissolved, the contract shall terminate as of the date of death, judicial declaration, or dissolution. *However,* if such event occurs after insurance attaches for any crop year, the contract will continue in force through the crop year and terminate at the end thereof. Death of a partner in a partnership will dissolve the partnership unless the partnership agreement provides otherwise. If two or more persons having a joint interest are insured jointly, death of one of the persons will dissolve the joint entity.

f. The contract will terminate if no premium is earned for five consecutive years.

16. Contract changes.

We may change any terms and provisions of the contract from year to year. If your price election at which indemnities are computed is no longer offered, the actuarial table will provide the price election which you will be deemed to have elected. All contract changes shall be available at your service office by August 31 preceding the cancellation date. Acceptance of any changes shall be conclusively presumed in the absence of any notice from you to cancel the contract.

17. Meaning of terms.

For the purposes of Arizona-California citrus crop insurance:

a. "Actuarial table" means the forms and related material for the crop year approved by us which are available for public inspection in your service office, and which show the production guarantees, coverage levels, premium rates, prices for computing indemnities, practices, insurable and uninsurable acreage, and related information regarding citrus insurance in the county.

b. "Carton" as to each insured citrus type means the standard container for marketing fresh packed fruit as shown below by citrus type. In the absence of marketing records on such a carton basis, production shall be converted to cartons on the basis of the following average net pounds of packed fruit in a standard packed carton.

Container size	Types of fruit	Pounds
Container #56	Navel oranges, Valencia oranges and Sweet oranges.	38
Container #56	Lemons	80
Container #59	Grapefruit	32
Container #63	Tangerines (including Tangelos) and Mandarin oranges.	25

c. "Contiguous land" means land which is touching at any point, except that land which is separated by only a public or private right-of-way shall be considered contiguous.

d. "County" means the county shown on the application and any additional land located in a local producing area bordering on the county, as shown by the actuarial table.

e. "Crop year" means the period beginning with the date insurance attaches to the citrus crop and extending through normal harvest time, and shall be designated by the calendar year following the year in which the bloom is normally set.

f. "Harvest" means any severance of citrus fruit from the tree either by pulling, picking, or severing by mechanical or chemical means, or picking up the marketable fruit from the ground.

g. "Insurable acreage" means the land classified as insurable by us and shown as such by the county actuarial table.

h. "Insured" means the person who submitted the application accepted by us.

i. "Person" means an individual, partnership, association, corporation, estate, trust, or other business enterprise or legal entity, and wherever applicable, a State, a political subdivision of a State, or any agency thereof.

j. "Service office" means the office servicing your contract as shown on the application for insurance or such other approved office as may be selected by you or designated by us.

k. "Tenant" means a person who rents land from another person for a share of the citrus or a share of the proceeds therefrom.

l. "Unit" means all insurable acreage of any one of the citrus types referred to in section 2 of this policy, located on contiguous land, on the date insurance attaches for the crop year:

(1) In which you have a 100 percent share; or

(2) Which is owned by one entity and operated by another entity on a share basis.

Land rented for cash, a fixed commodity payment, or any consideration other than a share in the citrus on such land shall be considered as owned by the lessee. Land which would otherwise be one unit may be divided according to applicable guidelines on file in your service office or by written agreement with us. We will determine units as herein defined when the acreage is reported. Errors in reporting such units may be corrected by us to conform to applicable guidelines when adjusting a loss. We may consider any acreage and share thereof reported by or for your spouse or child or any member of your household to be your bona fide share or the bona fide share of any other person having an interest therein.

18. Descriptive headings.

The descriptive headings of the various policy terms and conditions are formulated for convenience only and are not intended to affect the construction or meaning of any of the provisions of the contract.

19. Determinations.

All determinations required by the policy shall be made by us. If you disagree with our determinations, you may obtain reconsideration of or appeal those determinations in accordance with Appeal Regulations.

20. Notices.

All notices required to be given by you must be in writing and received by your service office within the designated time unless otherwise provided by the notice requirement. Notices required to be given immediately may be by telephone or in person and confirmed in writing. Time of the notice will be determined by the time of our receipt of the written notice.

4. The "Appendix (Additional Terms and Conditions)" is removed.

5. Appendix A to Part 409 is revised to read as follows:

Appendix A—Counties Designated for Arizona-California Citrus Crop Insurance

The following counties are designated for Arizona-California Citrus Crop Insurance under the provisions of 7 CFR 409.1

Arizona	
Maricopa	Yuma
California	
Fresno	San Diego
Kern	Tulare
Riverside	

Done in Washington, D.C., on December 27, 1983.

Peter F. Cole,

Secretary, Federal Crop Insurance Corporation.

Approved by:

Merritt W. Sprague,

Manager.

Dated: February 13, 1984.

[FR Doc. 84-4534 Filed 2-17-84; 8:45 am]

BILLING CODE 3410-08-M

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7 CFR Part 410

[Amendment No. 1]

Florida Citrus Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Final rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) hereby amends the Florida Citrus Crop Insurance Regulations (7 CFR Part 410), effective for the 1984 and succeeding crop years by: (1) Replacing the present single-crop application with a multi-crop application to reduce the time and administrative requirements; (2) adding fire as an insurable cause of loss; (3) prescribing interest rates to be charged when premium payments are not made within a certain time; (4) requiring the insured to file a notice of loss when the crop is damaged to the extent that a loss is probable, and leave a representative sample of the unharvested crop; and (5) making minor language changes in the policy.

In addition, FCIC hereby issues two new policy sections regarding "descriptions" and "notices", and a new section to contain the control numbers assigned by the Office of Management and Budget (OMB) to information collection requirements of these regulations.

The intended effect of this amendment is to confirm the interim rule published April 8, 1983 at 48 FR 15228, and restore a provision in the regulations regarding losses from fire, improve the debt management practices of FCIC, revise the system of reporting damage to insured crops, simplify the application and policy to make them easier to understand, comply with the OMB regulations with regard to control numbers assigned to information collection requirements, and update the policy for insuring citrus in Florida in accordance with the provisions of Secretary's Memorandum No. 1512-1.

EFFECTIVE DATE: February 21, 1984.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C., 20250, telephone (202) 447-3325.

The Impact Statement describing the options considered in developing this final rule and the impact of implementing each option is available upon request from Peter F. Cole.

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA procedures established in Secretary's Memorandum No. 1512-1 (June 11, 1981). It has been determined that this action constitutes a review under such procedures as to the need, currency, clarity, and effectiveness of these regulations. The sunset review date established for these regulations is January 1, 1988.

Merritt W. Sprague, Manager, FCIC, has determined that: (1) This action is not a major rule as defined by Executive Order No. 12291 (February 17, 1981), (2) this action does not increase the Federal paperwork burden for individuals, small businesses, and other persons, and (3) this action conforms to the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), and other applicable law.

The title and number of the Federal Assistance Program to which these regulations apply are: Title—Crop Insurance; Number 10.450.

This action will not have a significant impact specifically upon area and community development; therefore, review as established in Executive Order No. 12372 (July 14, 1982) was not used to assure that units of local government are informed of this action.

It has also been determined that this action is exempt from the provisions of the Regulatory Flexibility Act; therefore, no Regulatory Impact Statement was prepared.

On Friday, April 8, 1983, FCIC published an interim rule in the **Federal Register** at 48 FR 15228, amending the policy for insuring citrus in Florida in accordance with the provisions of Secretary's Memorandum No. 1512-1 (June 11, 1981). The public was given 60 days in which to submit written comments, data, and opinions on the rule, but none were received. In reviewing the regulations prior to issuance as a final rule, it was determined that two additional subsections should be included regarding "determinations" and "notices", a new section should be included to contain control numbers assigned by OMB to information collection requirements contained in these regulations, and the section regarding good faith reliance on misrepresentation provisions should be amended to reflect the Manager's authority to take action to grant relief in such cases at a higher dollar level. These amendments have been included in the regulations contained herein.

List of Subjects in 7 CFR Part 410

Crop insurance, Florida citrus.

PART 410—[AMENDED]

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation hereby amends the Florida Citrus Crop Insurance Regulations (7 CFR Part 410), published in the **Federal Register** at 46 FR 22559 on Monday, April 20, 1981, effective for the 1984 and succeeding crop years, in the following instances:

1. The Authority citation for 7 CFR Part 410 is:

Authority: Secs. 506, 516, Pub. L. 75-430, 52 Stat. 73, 77, as amended (7 U.S.C. 1506, 1516).

2. 7 CFR 410.3 is added to read as follows:

§ 410.3 OMB control numbers.

The information collection requirements contained in these regulations (7 CFR Part 410) have been

approved by the Office of Management and Budget (OMB) under the provisions of 44 U.S.C. Chapter 35 and have been assigned OMB Nos. 0563–0003 and 0563–0007.

§ 410.5 [Amended]

3. 7 CFR 410.5(b) is amended by removing the word "$20,000" and inserting in its place, the word "$100,000."

4. 7 CFR 410.7(d) is revised to read as follows:

§ 410.7 The application and policy.

* * * * *

(d) The application for 1984 and succeeding crop years is found at Subpart D of Part 400—General Administrative Regulations (7 CFR 400.37 and 400.38), first published at 48 FR 1023, January 10, 1983, and may be amended from time to time for subsequent crop years. The provisions of the Florida Citrus Insurance Policy for the 1984 and succeeding crop years are as follows:

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

Florida Citrus—Crop Insurance Policy

(This is a continuous contract. Refer to Section 15.)

AGREEMENT TO INSURE: We shall provide the insurance described in this policy in return for the premium and your compliance with all applicable provisions.

Throughout this policy, "you" and "your" refer to the insured shown on the accepted Application and "we," "us" and "our" refer to the Federal Crop Insurance Corporation.

Terms and Conditions

1. Causes of loss.

a. The insurance provided is against unavoidable loss of citrus fruit resulting from the following causes occurring within the insurance period: (1) Freeze, (2) hail, (3) fire, (4) hurricane or tornado unless those causes are excepted, excluded, or limited by the actuarial table or section 9k.

b. We shall not insure against:

(1) Any damage to the blossoms or trees;

(2) Any damage to the fruit or trees resulting from fire, where weeds and other forms of undergrowth have not been controlled or tree prunings have not been removed from the grove; or

(3) Any cause of loss or damage due to:

(a) The neglect or malfeasance of you, any member of your household, your tenants or employees;

(b) The failure to follow recognized good grove management practices; or

(c) Any cause not specified in section 1a as an insured loss.

2. Crop, acreage, and share insured.

a. The crop insured shall be any of the following insurable citrus types you elect:

Type I—Early and mid-season oranges;
Type II—Late oranges;
Type III—Grapefruit under which freeze damage shall be adjusted on a juice basis for white grapefruit and on a fresh fruit basis for pink and red grapefruit;
Type IV—Navel oranges, tangelos and tangerines;
Type V—Murcott honey oranges (also known as Honey tangerines) and temple oranges;
Type VI—Lemons;
Type VII—Grapefruit under which freeze damage shall be adjusted on a fresh basis for all grapefruit;

which are located on insured acreage and for which we provide an amount of insurance and premium rate in the actuarial table. "Meyer lemons" and oranges commonly known as "Sour oranges", and "Clementines" shall not be included in any of the insurable types of citrus. When you insure grapefruit, you may elect to insure them as either Type III or Type VII only.

b. The acreage insured for each crop year shall be that citrus located on insurable acreage as designated by the actuarial table and in which you have a share, as reported by you or as determined by us, whichever we shall elect.

c. The insured share shall be your share as landlord, owner-operator, or tenant in the insured citrus crop at the time insurance attaches.

d. We do not insure any acreage:

(1) On which the citrus fruit cannot be expected to mature each crop year in the normal maturity period for the type;

(2) On which the trees have not reached at least the tenth growing season after being set out, unless otherwise provided on the actuarial table; or

(3) Of Robinson tangerines, for any crop year, which you elect to exclude from insurance by April 30 preceding the crop year.

e. Upon our approval, you may elect to insure or exclude from insurance for any crop year any insurable acreage which has a potential of less than 100 boxes per acre. If you:

(1) Elect to insure such acreage, we shall increase the potential to 100 boxes per acre when determining the amount of loss;

(2) Elect to exclude such acreage, it shall be disregarded for all purposes related to this contract; or

(3) Do not report or exclude such acreage:

(a) It will be disregarded if the production is less than 100 boxes per acre; or

(b) If the production from such acreage is 100 or more boxes per acre, will the percent of damage on all of the insurable acreage for the unit will be determined, but the percent of damage for the unit will not be increased by including such acreage.

f. We may limit the insured acreage to any acreage limitation established under any Act of Congress, if we advise you of the limit prior to the date insurance attaches.

g. We may exclude acreage from insurance or limit the amount of insurance on any acreage which was not insured the previous crop year.

3. Report of acreage and share.

You shall report on our form:

a. All the acreage of insured citrus in the county in which you have a share; and

b. Your share.

You must designate separately any acreage that is not insurable or excluded under section 2e. You must submit a revised report for any crop year before May 1 if the insured acreage or your share has changed or if you do not have any insured acreage in the county. The latest report filed must be considered as the basis for the continuation of insurance. If you do not submit this report before May 1, we may elect to determine by unit the insured acreage and share, or we may deny liability on any unit. Any report submitted by you may be revised only upon our approval.

4. Amounts of insurance.

a. The amounts of insurance must be contained in the actuarial table.

b. You may change the amount of insurance on or before the cancellation date.

5. Annual premium.

a. The annual premium is earned and payable at the time insurance attaches (See 7a). The amount is computed by multiplying the amount of insurance times the premium rate, times the insured acreage, times your share at the time insurance attaches, times the applicable premium adjustment percentage shown in the following table.

PREMIUM ADJUSTMENT TABLE [1]

[Percent adjustments for favorable continuous insurance experience]

	Numbers of years continuous experience through previous year															
	0	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15 or more
	Percentage adjustment factor for current crop year															
Loss ratio [2] through previous crop year																
.00 to .20	100	95	95	90	90	85	80	75	70	70	65	65	60	60	55	50
.21 to .40	100	100	95	95	90	90	90	85	80	80	75	75	70	70	65	60
.41 to .60	100	100	95	95	95	95	95	90	90	90	85	85	80	80	75	70
.61 to .80	100	100	95	95	95	95	95	95	90	90	90	90	85	85	85	80

PREMIUM ADJUSTMENT TABLE [1]—Continued

[Percent adjustments for favorable continuous insurance experience]

	Numbers of years continuous experience through previous year															
	0	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15 or more
.81 to 1.09	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100

[Percent adjustments for unfavorable insurance experience]

	Numbers of loss years through previous year [3]															
	0	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
	Percentage adjustment factor for current crop year															
Loss ratio [2] through previous crop year																
1.10 to 1.19	100	100	100	102	104	106	108	110	112	114	116	118	120	122	124	126
1.20 to 1.39	100	100	100	104	108	112	116	120	124	128	132	136	140	144	148	152
1.40 to 1.69	100	100	100	106	116	124	132	140	148	156	164	172	180	188	196	204
1.70 to 1.99	100	100	100	112	122	132	142	152	162	172	182	192	202	212	222	232
2.00 to 2.49	100	100	100	116	128	140	152	164	176	188	200	212	224	236	248	260
2.50 to 3.24	100	100	100	120	134	148	162	176	190	204	218	232	246	260	274	288
3.25 to 3.99	100	100	105	124	140	156	172	188	204	220	236	252	268	284	300	300
4.00 to 4.99	100	100	110	128	146	164	182	200	218	236	254	272	290	300	300	300
5.00 to 5.99	100	100	115	132	152	172	192	212	232	252	272	292	300	300	300	300
6.00 and up	100	100	120	136	158	180	202	224	246	268	290	300	300	300	300	300

[1] For premium adjustment purposes, only the years during which premiums were earned shall be considered.
[2] Loss Ratio means the ratio of indemnity(ies) paid to premium(s) earned.
[3] Only the most recent 15 crop years shall be used to determine the number of "Loss Years". (A crop year is determined to be a "Loss Year" when the amount of indemnity for the year exceeds the premium for the year.)

b. Interest shall accrue at the rate of one and one-half percent (1½%) simple interest per calendar month, or any part thereof, on any unpaid premium balance starting on the first day of the month following the first premium billing date.

c. Any premium adjustment applicable to the contract must be transferred to:

(1) The contract of your estate or surviving spouse if you die;

(2) The contract of the person who succeeds you if such person had previously participated in the grove operation; or

(3) Your contract if you stop grove operations in one county and start grove operations in another county.

d. If participation is not continuous, any premium will be computed on the basis of previous unfavorable insurance experience but no premium reduction under section 5a shall be applicable.

6. Deductions for debt.

Any unpaid amount due us may be deducted from any indemnity payable to you or from any loan or payment due you under any Act of Congress or program administered by the United States Department of Agriculture or its agencies.

7. Insurance period.

a. Insurance attaches on insured acreage on May 1 for each crop year except that for the first crop year if the application is accepted by us after May 1, insurance will attach on the tenth day after the application is received in the service office.

b. Insurance ends at the earliest of:

(1) Total destruction of the insured citrus;

(2) Harvest; or

(3) The date shown below immediately following the beginning of the crop year:

(a) Tangerines and Navel oranges—January 31;

(b) Lemons, tangelos, early and mid-season oranges—April 30;

(c) Late oranges, grapefruit, Temple and Murcott Honey oranges—the second June 30.

8. Notice of damage or loss.

a. In case of damage or probable loss:

(1) You must give us written notice of:

(a) The date(s) of damage; and

(b) The cause(s) of damage.

(2) If an indemnity is to be claimed on any unit, you must give us notice:

(a) At least 15 days before the beginning of harvest if you anticipate a loss on any unit (if damage becomes apparent later or if damage occurs during harvest, immediate notice shall be given); or

(b) By the calendar date for the end of the insurance period if harvest will not begin by that date.

b. You must obtain written consent from us before you destroy any of the insured citrus which is not to be harvested.

c. We may reject any claim for indemnity if any of the requirements of this section or section 9 are not complied with.

9. Claim for indemnity.

a. Any claim for indemnity on a unit must be submitted to us on our form not later than 60 days after the earliest of:

(1) Total destruction of the insured citrus on the unit;

(2) Harvest of the unit; or

(3) The calendar date for the end of the insurance period.

b. We will not pay any indemnity unless you:

(1) Establish the total production of citrus on the unit and that any damage has been directly caused by one or more of the insured causes during the insurance period; and

(2) Furnish all information we require concerning the loss.

c. The indemnity will be determined on each unit by:

(1) Computing the average percent of damage to the citrus which (without regard to any percent of damage arrived at through prior inspections) will be the ratio of the number of boxes of citrus lost from an insured cause to the potential. Citrus shall be considered undamaged potential if it:

(a) Is or could be marketed as fresh fruit;

(b) Is harvested prior to our inspection; or

(c) Is harvested within 7 days after a freeze;

(2) Multiplying the result in excess of 10 percent (e.g., 45%−10%=35% payable) times the amount of insurance for the unit (the amount of insurance for the unit is determined by multiplying the insured acreage on the unit times the applicable amount of insurance per acre); and

(3) Multiplying this product by your share.

d. Pink and red grapefruit of citrus Type III and citrus of Types IV, V, and VII which are seriously damaged by freeze as determined by a fresh fruit cut of a representative sample of fruit in the unit in accordance with the applicable provisions of the Florida Citrus Code and is not or could not be marketed as fresh fruit will be considered damaged to the following extent:

(1) If 15 percent or less of the fruit in a sample shows serious freeze damage, the fruit shall be considered undamaged; or

(2) If 16 percent or more of the fruit in a sample shows serious freeze damage, the fruit will be considered 50 percent damaged, except that:

(a) For tangerines of citrus Type IV, damage in excess of 50 percent will be the actual percent of damaged fruit; and

(b) For other varieties, if we determine that the juice loss in the fruit exceeds 50 percent, the amount so determined shall be considered the percent of damage.

e. Notwithstanding the provisions of 9d, as to any pink and red grapefruit of Type III and citrus of Types IV, V, and VII in any unit which is mechanically separated (using the

specific gravity "floatation" method) into undamaged and freeze-damaged fruit, the amount of damage shall be the actual percent of freeze-damaged fruit not to exceed 50 percent and shall not be affected by subsequent fresh-fruit marketing. The 50 percent limitation on freeze-damaged fruit, mechanically separated, shall not apply to tangerines of citrus Type IV.

f. Any citrus of Types I, II, VI, and white grapefruit of Type III which is damaged by freeze, but may be processed by canning or processing plants, shall be considered as marketable for juice. The percent of damage shall be determined by us by relating the juice content of the damaged fruit as determined by test house analysis to:

(1) The average juice content established by us based on acceptable records furnished by you showing the juice content of fruit produced on the unit for the three previous crop years; or

(2) The juice content for that type fruit established in the actuarial table if acceptable records are not furnished.

g. Any citrus on the ground which is not picked up and marketed shall be considered 90 percent lost if the damage was due to freeze and totally lost if the damage was due to any other insured cause.

h. Any citrus which is unmarketable either as fresh fruit or for juice because it is immature, unwholesome, decomposed, adulterated, or otherwise unfit for human consumption due to an insured cause shall be considered totally lost.

i. Pink and red grapefruit of citrus Type III and citrus of Types IV, V, and VII which are unmarketable as fresh fruit due to serious damage from hail as defined in United States Standards for grades of Florida fruit shall be considered totally lost.

j. Citrus lost due to hurricane or tornado shall be the amount of citrus blown from the trees or which falls from the trees as a result of such damage and which is not picked up from the ground and marketed.

k. When you have elected to exclude hail and fire as insured causes of loss and the citrus is damaged by hail or fire, appraisals for uninsured causes shall be made in accordance with Form FCI–78, "Request to Exclude Hail and Fire".

l. The commingled production of units shall be allocated to such units in proportion to our liability on each unit.

m. You will not abandon any acreage to us.

n. You may not bring suit or action against us unless you have complied with all policy provisions. If a claim is denied, you may sue us in the United States District Court under the provisions of 7 U.S.C. 1508(c). You must bring suit within 12 months of the date notice of denial is mailed to and received by you.

o. We will pay the loss within 30 days after we reach agreement with you or entry of a final judgment. In no instance will we be liable for interest or damages in connection with any claim for indemnity, whether we approve or disapprove such claim.

p. If you die, disappear, or are judicially declared incompetent, or if you are an entity other than an individual and such entity is dissolved after insurance attaches for any crop year, any indemnity shall be paid to the person(s) we determine to be beneficially entitled thereto.

q. If you have other fire insurance, fire damage occurs during the insurance period, and you have not elected to exclude fire insurance from this policy, we will be liable for loss due to fire only for the smaller of:

(1) The amount of indemnity determined pursuant to this contract without regard to any other insurance; or

(2) The amount by which the loss from fire exceeds the indemnity paid or payable under such other insurance. For the purposes of this section, the amount of loss from fire shall be the difference between the fair market value of the production on the unit before the fire and after the fire.

10. Concealment or fraud.

We may void the contract on all crops insured without affecting your liability for premiums or waiving any right, including the right to collect any amount due us if, at any time, you have concealed or misrepresented any material fact or committed any fraud relating to the contract, and such voidance shall be effective as of the beginning of the crop year with respect to which such act or ommission occurred.

11. Transfer of right to indemnity on insured share.

If you transfer any part of your share during the crop year, you may transfer your right to an indemnity. The transfer must be on our form and approved by us. We may collect the premium from either you or your transferee or both. The transferee shall have all rights and responsibilities under the contract.

12. Assignment of indemnity.

You may assign to another party your right to an indemnity for the crop year only on our form and with our approval. The assignee shall have the right to submit the loss notices and forms required by the contract.

13. Subrogation. (Recovery of loss from a third party.)

Because you may be able to recover all or a part of your loss from someone other than us, you must do all you can to preserve any such rights. If we pay you for your loss then your right of recovery shall at our option, belong to us. If we recover more than we paid you plus our expenses, the excess will be paid to you.

14. Records and access to grove.

You shall keep for two years after the time of loss, records of the harvesting, storage, shipment, sale or other disposition of all citrus produced on each unit including separate records showing the same information for production from any uninsured acreage. Any person designated by us will have access to such records and the grove for purposes related to the contract.

15. Life of contract: Cancellation and termination.

a. This contract will be in effect for the crop year specified on the application and may not be canceled for such crop year. Thereafter, the contract will continue in force for each succeeding crop year unless canceled or terminated as provided in this section.

b. This contract on any citrus type may be canceled by either you or us for any succeeding crop year by giving written notice on or before the cancellation date preceding such crop year.

c. This contract will terminate as to any crop year if any amount due us on this or any other contract with you is not paid on or before the termination date preceding such crop year for the contract on which the amount is due. The date of payment of the amount due:

(1) If deducted from an indemnity claim will be the date you sign such claim; or

(2) If deducted from payment under another program administered by the United States Department of Agriculture will be the date such payment was approved.

d. The cancellation and termination dates are April 30:

e. If you die or are judicially declared incompetent, or if you are an entity other than an individual and such entity is dissolved, the contract will terminate as of the date of death, judicial declaration, or dissolution. *However*, if such event occurs after insurance attaches for any crop year, the contract will continue in force through the crop year and terminate at the end thereof. Death of a partner in a partnership will dissolve the partnership unless the partnership agreement provides otherwise. If two or more persons having a joint interest are insured jointly, death of one of the persons will dissolve the joint entity.

f. The contract will terminate if no premium is earned for five consecutive years.

16. Contract changes.

We may change any terms and provisions of the contract from year to year. If your amount of insurance is no longer offered, the actuarial table will provide the amount of insurance which you will be deemed to have elected. All contract changes will be available at your service office by April 15 preceding the cancellation date. Acceptance of any changes shall be conclusively presumed in the absence of any notice from you to cancel the contract.

17. Meaning of terms.

For the purposes of Florida citrus crop insurance:

a. "Actuarial table" means the forms and related material for the crop year approved by us which are available for public inspection in your service office, and which show the amounts of insurance, premium rates, practices, insurable and uninsurable acreage, and related information regarding citrus insurance in the county.

b. "Box" means a standard field box as prescribed in the Florida Citrus Code.

c. "Contiguous land" means land which is touching at any point, except that land which is separated by only a public or private right-of-way shall be considered contiguous.

d. "County" means the county shown on the application and any additional land located in a local producing area bordering on the county, as designated by the actuarial table.

e. "Crop year" means the period beginning May 1 and extending through June 30 of the following year and will be designated by the calendar year in which the insurance period ends.

f. "Harvest" means the severance of citrus fruit from the tree either by pulling, picking, or severing by mechanical or chemical means or picking up the marketable fruit from the ground.

g. "Insurable acreage" means the land classified as insurable by us and shown as such by the actuarial table.

h. "Insured" means the person who submitted the application accepted by us.

i. "Person" means an individual, partnership, association, corporation, estate, trust, or other business enterprise or legal entity, and wherever applicable, a State, a political subdivision of a State, or any agency thereof.

j. "Potential" means production:

(1) Which would have been produced before damage occurred and shall include citrus which:

(a) Was picked before damage occurred;

(b) Remained on the tree after damage occurred;

(c) Was lost from an insured cause; and

(d) Was lost from an uninsured cause.

(2) The potential shall include not less than the product of 100 boxes per acre multiplied by the number of acres in the unit. *However,* if 20 percent or more of any insured citrus acreage within the unit has a potential of less than 100 boxes per acre, we may increase the potential on such acreage to 100 boxes per acre.

(3) The potential shall not include:

(a) Citrus lost before insurance attaches for any crop year;

(b) Citrus lost by normal dropping; or

(c) Any tangerines we determine normally would not, by the end of the insurance period for tangerines, meet the 210 pack size (2 and 1/16 inch minimum diameter) under United States Standards.

k. "Service office" means the office servicing your contract as shown on the application for insurance or such other approved office as may be selected by you or designated by us.

l. "Tenant" means a person who rents land from another person for a share of the citrus or a share of the proceeds therefrom.

m. "Unit" means all insurable acreage in the county of any one of the citrus types referred to in section 2, located on contiguous land on the date insurance attaches for the crop year and:

(1) In which you have a 100 percent share; or

(2) Which is owned by one entity and operated by another entity on a share basis. Land rented for cash, a fixed commodity payment, or any consideration other than a share in the citrus on such land shall be considered as owned by the lessee. Land which would otherwise be one unit may be divided according to guidelines on file in your service office or by written agreement with us. We will determine units as herein defined when the acreage is reported. Errors in reporting such units may be corrected by us to conform to applicable guidelines when adjusting a loss. We may consider any acreage and share thereof reported by or for your spouse or child or any member of your household to be your bona fide share or the bona fide share of any other person having an interest therein.

18. Descriptive headings.

The descriptive headings of the various policy terms and conditions are formulated for convenience only and are not intended to affect the construction or meaning of any of the provisions of the contract.

19. Determinations.

All determinations required by the policy shall be made by us. If you disagree with our determinations, you may obtain reconsideration of or appeal those determinations in accordance with FCIC Appeal Regulations.

20. Notices.

All notices required to be given by you must be in writing and received by your service office within the designated time unless otherwise provided by the notice requirement. Notices required to be given immediately may be by telephone or in person and confirmed in writing. Time of the notice will be determined by the time of our receipt of the written notice.

§ 410.7 [Amended]

5. Section 410.7 is amended in the application and policy by removing the "Appendix (Additional Terms and Conditions)".

6. Appendix B to Part 410 is redesignated as Appendix A and revised to read as follows:

APPENDIX A—Counties Designated for Florida Citrus Crop Insurance

The following counties are designated for Florida Citrus Crop Insurance under the provisions of 7 CFR 410.1.

Florida

Brevard	Highlands	Orange
Broward	Hillsborough	Osceola
Collier	Indian River	Palm Beach
Dade	Lake	Pasco
De Soto	Lee	Polk
Glades	Manatee	St. Lucie
Hardee	Marion	Seminole
Hendry	Martin	
Hernando	Okeechobee	

Done in Washington, D.C. on December 28, 1983.

Dated: February 2, 1984.

Peter F. Cole,

Secretary, Federal Crop Insurance Corporation.

Approved by:

Merritt W. Sprague,

Manager.

[FR Doc. 84-3636 Filed 2-17-84; 8:45 am]

BILLING CODE 3410-08-M

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7 CFR Part 414

[Amdt. No. 2]

Forage Seeding Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Final rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) hereby amends the Forage Seeding Crop Insurance Regulations (7 CFR Part 414), effective for the 1984 and succeeding crop years by: (1) Replacing the present single-crop application with a multi-crop application to reduce time and administrative requirements; (2) adding a modified version of the 60-day claim for indemnity provision adapted to forage seeding crop insurance; (3) adding a hail/fire provision (for use in appraisals for uninsured causes); (4) changing the cancellation and termination for indebtedness dates; and (5) revising the unit definition to provide for unit determination when the acreage report is filed. In addition to these changes, and applicable only in New York State, the following changes are made: (6) providing that the insured crop now includes acreage reseeded before the final spring seeding date; (7) providing that a notice must be given if the acreage is to be reseeded by the final spring seeding date; and (8) adding a 50 percent reduction in indemnity on spring-seeded acreage with a 55–75 percent of a normal stand.

In addition, FCIC issues two new subsections in the policy regarding "Definitions" and "Notices," and a new regulatory section containing control numbers assigned by the Office of Management and Budget (OMB) to information collection requirements of these regulations. The intended effect of this amendment is to confirm the interim rule published on April 8, 1983 at 48 FR 15232, and comply with OMB regulations regarding information collection control numbers.

EFFECTIVE DATE: February 21, 1984.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C., 20250, telephone (202) 447–3325.

The Impact Statement describing the option considered in developing the rule and the impact of implementing each option is available upon request from Peter F. Cole.

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA procedures established in Secretary's Memorandum No. 1512–1 (June 11, 1981). It has been determined that this action constitutes a review under such procedures as to the need, currency, clarity, and effectiveness of these regulations. The sunset review date established for these regulations is January 1, 1988.

Merritt W. Sprague, Manager, FCIC, has determined that (1) This action is not a major rule as defined by Executive Order No. 12291 (February 17, 1981), (2) this action does not increase the Federal paperwork burden for individuals, small businesses, and other persons, and (3) this action conforms to the Federal Crop

Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), and other applicable law.

The title and number of the Federal Assistance Program to which these regulations apply are: Title—Crop Insurance; Number 10.450.

This action will not have a significant impact specifically upon area and community development; therefore, review as established in Executive Order No. 12372 (July 14, 1982) was not used to assure that units of local government are informed of this action.

It has been determined that this action is exempt from the provisions of the Regulatory Flexibility Act; therefore, no Regulatory Impact Statement was prepared.

On Friday, April 8, 1983, FCIC published an interim rule in the **Federal Register** at 48 FR 15232, amending the policy for insuring forage seeding in accordance with the provisions of Secretary's Memorandum No. 1512–1. The public was given 60 days in which to submit written comments, data, and opinions on the action, but none were received. In reviewing the regulations FCIC determined that two additional subsections should be added regarding "Determinations" and "Notices". Further, a section is hereby added to contain the OMB control numbers assigned to information collection requirements of these regulations.

List of Subjects in 7 CFR Part 414

Crop insurance, Forage seeding.

PART 414—[AMENDED]

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation hereby amends the Forage Seeding Crop Insurance Regulations (7 CFR Part 414), effective for the 1984 and succeeding crop years, in the following instances:

1. The authority citation for 7 CFR Part 414 is:

Authority: Secs. 506, 516, Pub. L. 75–430, 52 Stat. 73, 77, as amended (7 U.S.C. 1506, 1516).

2. 7 CFR 414.3 is revised to read as follows:

§ 414.3 OMB control numbers.

The information collection requirements contained in these regulations (7 CFR Part 414) have been approved by the Office of Management and Budget (OMB) under the provisions of 44 U.S.C. Chapter 35 and have been assigned OMB control numbers 0563–0003 and 0563–0007.

3. § 414.7 is amended by revising paragraph (d) to read as follows:

§ 414.7 The application and policy.

* * * * *

(d) The application for 1984 and succeeding crop years is found at Subpart D of Part 400—General Administrative Regulations (7 CFR 400.37 and 400.38), first published at 48 FR 1023, January 10, 1983, and may be amended from time to time for subsequent crop years. The provisions of the Forage Seeding Insurance Policy for the 1984 and succeeding crop years, are as follows:

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

Forage Seeding—Crop Insurance Policy

(This is a continuous contract. Refer to Section 15.) AGREEMENT TO INSURE: We shall provide the insurance described in this policy in return for the premium and your compliance with all applicable provisions.

Throughout this policy, "you" and "your" refer to the insured shown on the accepted Application and "we," "us" and "our" refer to the Federal Crop Insurance Corporation.

Terms and Conditions

1. Causes of loss.

a. The insurance provided is against unavoidable loss of or failure to establish a stand of forage resulting from any of the following causes occurring within the insurance period: (1) Adverse weather conditions; (2) fire; (3) insects; (4) plant disease; (5) wildlife; (6) earthquake; or (7) volcanic eruption unless those causes are excepted, excluded, or limited by the actuarial table or section 9h.

b. We shall not insure against any loss of production due to:

(1) The neglect or malfeasance of you, any member of your household, your tenants or employees;

(2) The failure to follow recognized good forage seeding practices;

(3) Damage resulting from the impoundment of water by any governmental, public or private dam or reservoir project; or

(4) Any cause not specified in section 1a as an insured loss.

2. Crop, acreage, and share insured.

a. The crop insured shall be forage seeded or reseeded (hereafter called the crop) to establish a stand of forage intended for harvest as livestock feed; which is seeded on insured acreage; and for which an amount of insurance and premium rate are provided by the actuarial table.

b. The acreage insured for each crop year shall be acreage of the crop seeded on insurable acreage as designated by the actuarial table and in which you have a share, as reported by you or as determined by us, whichever we shall elect.

c. The insured share shall be your share as landlord, owner-operator, or tenant in the insured crop at the time of seeding.

d. We do not insure any acreage:

(1) Where the farming practices carried out are not in accordance with the farming practices for which the premium rates have been established;

(2) Which is irrigated and an irrigated practice is not provided for in the actuarial table unless you elect to insure the acreage as nonirrigated by reporting it as insurable under section 3;

(3) Which is destroyed, it is practical to reseed to the crop, and such acreage was not reseeded;

(4) Initially seeded after the final seeding date contained in the actuarial table;

(5) Of volunteer forage;

(6) Seeded to a type, variety or mixture not established as adapted to the area or excluded in the actuarial table;

(7) Seeded with another crop (excluding nurse crops); or

(8) Seeded for the development or production of hybrid seed or for experimental purposes.

e. Where insurance is provided for an irrigated practice:

(1) You shall report as irrigated only the acreage for which you have adequate facilities and water to carry out a good forage seeding irrigation practice at the time of seeding; and

(2) Any loss of production caused by failure to carry out a good forage seeding irrigation practice, except failure of the water supply from an unavoidable cause occurring after the beginning of seeding, shall be considered as due to an uninsured cause. The failure or breakdown of irrigation equipment or facilities shall not be considered as a failure of the water supply from an unavoidable cause.

f. We may limit the insured acreage to any acreage limitation established under any Act of Congress, if we advise you of the limit prior to seeding.

3. Report of acreage and share.

You shall report on our form:

a. All the acreage of forage seeding and reseeding in the county in which you have a share; and

b. Your share at the time of seeding or reseeding.

You shall designate separately any acreage that is not insurable. You shall report if you do not have a share in any forage seeding or reseeding in the county. This report shall be submitted annually on or before the reporting date established by the actuarial table. We may determine all indemnities on the basis of information you have submitted on this report. If you do not submit this report by the reporting date, we may elect to determine by unit the insured acreage and share or we may deny liability on any unit. Any report submitted by you may be revised only upon our approval.

4. Amounts of insurance.

a. The amounts of insurance will be contained in the actuarial table.

b. You may change the amount of insurance on or before the closing date for submitting applications for the crop year as established by the actuarial table.

5. Annual premium.

a. The annual premium is earned and payable at the time of seeding. The amount is computed by multiplying the amount of insurance times the premium rate, times the insured acreage, times you share at the time of seeding, times the applicable premium adjustment percentage contained in the following table.

PREMIUM ADJUSTMENT TABLE [1]

[Percent adjustments for favorable continuous insurance experience]

	Numbers of years continuous experience through previous year															
	0	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15 or more
	Percentage adjustment factor for current crop year															
Loss ratio [2] through previous crop year																
.00 to .20	100	95	95	90	90	85	80	75	70	70	65	65	60	60	55	50
.21 to .40	100	100	95	95	90	90	90	85	80	80	75	75	70	70	65	60
.41 to .60	100	100	95	95	95	95	95	90	90	90	85	85	80	80	75	70
.61 to .80	100	100	95	95	95	95	95	95	90	90	90	90	85	85	85	80
.81 to 1.00	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100

[Percent adjustments for unfavorable insurance experience]

	Numbers of loss years through previous year [3]															
	0	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
	Percentage adjustment factor for current crop year															
Loss ratio [2] through previous crop year																
1.10 to 1.19	100	100	100	102	104	106	108	110	112	114	116	118	120	122	124	126
1.20 to 1.39	100	100	100	104	108	112	116	120	124	128	132	136	140	144	148	152
1.40 to 1.69	100	100	100	106	116	124	132	140	148	156	164	172	180	188	196	204
1.70 to 1.99	100	100	100	112	122	132	142	152	162	172	182	192	202	212	222	232
2.00 to 2.49	100	100	100	116	128	140	152	164	176	188	200	212	224	236	248	260
2.50 to 3.24	100	100	100	120	134	148	162	176	190	204	218	232	246	260	274	288
3.25 to 3.99	100	100	105	124	140	156	172	188	204	220	236	252	268	284	300	300
4.00 to 4.99	100	100	110	128	146	164	182	200	218	236	254	272	290	300	300	300
5.00 to 5.99	100	100	115	132	152	172	192	212	232	252	272	292	300	300	300	300
6.00 and up	100	100	120	136	158	180	202	224	246	268	290	300	300	300	300	300

[1] For premium adjustment purposes, only the years during which premiums were earned shall be considered.
[2] Loss Ratio means the ratio of indemnity(ies) paid to premium(s) earned.
[3] Only the most recent 15 crop years shall be used to determine the number of "Loss Years". (A crop year is determined to be a "Lose Year" when the amount of indemnity for the year exceeds the premium for the year.)

b. Interest shall accrue at the rate of one and one-half percent (1½%) simple interest per calendar month, or any part thereof, on any unpaid premium balance starting on the first day of the month following the first premium billing date.

c. Any premium adjustment applicable to the contract shall be transferred to:

(1) The contract of your estate or surviving spouse if you die;

(2) The contract of the person who succeeds you if such person had previously participated in the farming operation; or

(3) Your contract if you stop farming in one county and start farming in another county.

d. If participation is not continuous, any premium shall be computed on the basis of previous unfavorable insurance experience but no premium reduction under section 5a shall be applicable.

6. Deductions for debt.

Any unpaid amount due us may be deducted from any indemnity payable to you or from any loan or payment due you under any Act of Congress or program administered by the United States Department of Agriculture or its Agencies.

7. Insurance period.

Insurance attaches at the time of seeding and ends at the earliest of:

a. Total destruction of the crop;

b. Harvest of the forage crop if not reseeded;

c. Final adjustment of a loss;

d. May 21 following the calendar year of seeding for spring-seeded forage; or

e. October 15 following the calendar year of seeding for fall-seeded forage.

8. Notice of damage or loss.

a. In case of damage or probable loss:

(1) You must give us written notice if:

(a) During the period before harvest, the crop on any unit is damaged and you decide:

(i) Not to further care for the crop; or

(ii) To reseed the acreage in the spring by the final seeding date for spring-seeded acreage;

(b) You want our consent to put the acreage to another use. Insured acreage may not be put to another use until we have appraised the crop and given written consent. We shall not consent to another use until if is too late to reseed. You must notify us when such acreage is put to another use.

(2) In addition to the notices required by this section, if you are going to claim an indemnity on any unit, we must be given notice not later than 30 days after the earlier of:

(a) Total destruction of the crop on the unit; or

(b) The calendar date for the end of the insurance period.

b. You must obtain our written consent before you destroy any of the crop which is not to be harvested.

c. We may reject any claim for indemnity if any of the requirements of this section or section 9 are not complied with.

9. Claim for indemnity.

a. Any claim for indemnity on a unit shall be submitted to us on our form not later than 60 days after the earliest of:

(1) Total destruction of the crop on the unit; or

(2) The calendar date for the end of the insurance period.

b. We shall not pay any indemnity unless you:

(1) Establish the acreage seeded on the unit and that any loss has been directly caused by one or more of the insured causes during the insurance period; and

(2) Furnish all information we require concerning the loss.

c. The indemnity shall be determined on each unit by:

(1) Multiplying the insured acreage by the amount of insurance;

(2) Subtracting therefrom the total amount obtained by multiplying the sum of the acres with an established stand plus 10 percent of the seeded acres for the unit times the amount of insurance; and

(3) Multiplying this result by your share.

d. If the information reported by you results in a lower premium than the actual premium determined to be due, the indemnity shall be reduced proportionately.

e. The acres with an established stand shall include:

(1) Acreage which has at least 75 percent of a normal stand;

(2) Acreage abandoned or put to another use without our prior written consent;

(3) Acreage damaged solely by an uninsured cause; or

(4) Acreage which is harvested and not reseeded.

f. The amount of indemnity on any spring-seeded acreage determined in accordance with section 9c shall be reduced 50 percent if the stand is less than 75 percent but more than 55 percent of a normal stand.

g. A reseeding payment shall be made on any insured fall-seeded acreage with less than a 75 percent stand on which we have given written consent to reseed and which is reseeded in the next succeeding spring by the final spring seeding date. The amount of the reseeding payment shall be equal to 50 percent of the amount of indemnity determined in accordance with section 9c.

h. When you have elected to exclude hail and fire as insured causes of loss and the crop is damaged by hail or fire, appraisals for uninsured causes shall be made in accordance with Form FCI–78, "Request to Exclude Hail and Fire".

i. You shall not abandon any acreage to us.

j. You may not bring suit or action against us unless you have complied with all policy provisions. If a claim is denied, you may sue us in the United States District Court under the provisions of 7 U.S.C. 1508(c). You must bring suit within 12 months of the date notice of denial is mailed to and received by you.

k. We shall pay the loss within 30 days after we reach agreement with you or entry of a final judgment. In no instance will we be liable for interest or damages in connection with any claim for indemnity, whether we approve or disapprove such claim.

l. If you die, disappear, or are judicially declared incompetent, or if you are an entity other than an individual and such entity is dissolved after the seeding for any crop year, any indemnity shall be paid to the person(s) we determine to be beneficially entitled thereto.

m. If you have other fire insurance and fire damage occurs during the insurance period, and you have not elected to exclude fire insurance from this policy, we will be liable for loss due to fire only for the smaller of:

(1) The amount of idemnity determined pursuant to this contract without regard to any other insurance; or

(2) The amount by which the loss from fire exceeds the indemnity paid or payable under such other insurance. For the purposes of this section, the amount of loss from fire shall be the difference between the fair market value of the production on the unit before the fire and after the fire.

10. Concealment or fraud.

We may void the contract on all crops insured without affecting your liability for premiums or waiving any right, including the right to collect any amount due us if, at any time, you have concealed or misrepresented any material fact or committed any fraud relating to the contract, and such voidance shall be effective as of the beginning of the crop year with respect to which such act or omission occurred.

11. Transfer of right to indemnity on insured share.

If you transfer any part of your share during the crop year, you may transfer your right to an indemnity. The transfer must be on our form and approved by us. We may collect the premium from either you or your transferee or both. The transferee shall have all rights and responsibilities under the contract.

12. Assignment of indemnity.

You may only assign to another party your right to an indemnity for the crop year on our form and with our approval. The assignee shall have the right to submit the loss notices and forms required by the contract.

13. Subrogation. (Recovery of loss from a third party.)

Because you may be able to recover all or a part of your loss from someone other than us, you must do all you can to preserve any such rights. If we pay you for your loss then your right of recovery shall at our option belong to us. If we recover more than we paid you plus our expenses, the excess shall be paid to you.

14. Records and access to farm.

You shall keep, for two years after the time of loss, records of the seeding on each unit including separate records showing the same information for seeding on any uninsured acreage. Any person designated by us shall have access to such records and the farm for purposes related to the contract.

15. Life of contract: Cancellation and termination.

a. This contract shall be in effect for the crop year specified on the application and may not be canceled for such crop year. Thereafter, the contract shall continue in force for each succeeding crop year unless canceled or terminated as provided in this section.

b. This contract may be canceled by either you or us for any succeeding crop year by giving written notice on or before the cancellation date preceding such crop year.

c. This contract shall terminate as to any crop year if any amount due us on this or any other contract with you is not paid on or before the termination date preceding such crop year for the contract on which the amount is due. The date of payment of the amount due:

(1) If deducted from an indemnity claim shall be the date you sign such claim; or

(2) If deducted from payment under another program administered by the United States Department of Agriculture shall be the date such payment was approved.

d. The cancellation and termination dates are:

State	Cancellation and termination dates
New York	July 31.
All other States	April 15.

e. If you die or are judicially declared incompetent, or if you are an entity other than an individual and such entity is dissolved, the contract shall terminate as of the date of death, judicial declaration, or dissolution. *However,* if such event occurs after insurance attaches for any crop year, the contract shall continue in force through the crop year and terminate at the end thereof. Death of a partner in a partnership shall dissolve the partnership unless the partnership agreement provides otherwise. If two or more persons having a joint interest are insured jointly, death of one to the persons shall dissolve the joint entity.

f. The contract shall terminate if no premium is earned for five consecutive years.

16. Contract changes.

We may change any terms and provisions of the contract from year to year. If your amount of insurance is no longer offered, the actuarial table shall provide the amount of insurance which you shall be deemed to have elected. All contract changes shall be available at your service office by December 31 for counties with an April 15 cancellation date and by April 30 for all other counties. Acceptance of any changes shall be conclusively presumed in the absence of any notice from you to cancel the contract.

17. Meaning of terms.

For the purposes of forage seeding crop insurance:

a. "Actuarial table" means the forms and related material for the crop year approved by us which are available for public inspection in your service office, and which show the amounts of insurance, premium rates, insurable and uninsurable acreage, and related information regarding forage seeding insurance in the county.

b. "County" means the county shown on the application and any additional land located in a local producing area bordering on the county, as shown by the actuarial table.

c. "Crop year" means the period within which the seeding is or normally would become established and shall be designated by the calendar year in which the seeding is made for spring-seeded acreage and the next succeeding calendar year for fall-seeded acreage.

d. "Harvest" means the severance of the forage plant from the land for the intended use as livestock feed.

e. "Insurable acreage" means the land classified as insurable by us and shown as such by the actuarial table.

f. "Insured" means the person who submitted the application accepted by us.

g. "Person" means an individual, partnership, association, corporation, estate, trust, or other business enterprise or legal entity, and wherever applicable, a State, a political subdivision of a State, or any agency thereof.

h. "Reseed" means the mechanical incorporation of seed into the soil at not less than 50 percent of the original seeding rate.

i. "Service office" means the office servicing your contract as shown on the application for insurance or such other approved office as may be selected by you or designated by us.

j. "Tenant" means a person who rents land from another person for a share of the crop or a share of the proceeds therefrom.

k. "Unit" means all insurable acreage of either fall-seeded or spring-seeded forage in the county on the date of seeding for the crop year:

(1) In which you have a 100 percent share; or

(2) Which is owned by one entity and operated by another entity on a share basis. Land rented for cash, a fixed commodity payment, or any consideration other than a

share in the crop on such land shall be considered as owned by the lessee. Land which would otherwise be one unit may be divided according to guidelines on file in your service office or by written agreement with. Units as herein defined will be determined when the acreage is reported. Errors in reporting such units may be corrected by us to conform to guidelines when adjusting a loss. We may consider any acreage and share thereof reported by or for your spouse or child or any member of your household to be your bona fide share or the bona fide share any other person having an interest therein.

18. Descriptive headings.

The descriptive headings of the various policy terms and conditions are formulated for convenience only and are not intended to affect the construction or meaning of any of the provisions of the contract.

19. Determinations.

All determinations required by the policy shall be made by us. If you disagree with our determinations you may obtain reconsideration of or appeal those determinations in accordance with FCIC Appeal Regulations.

20. Notices.

All notices required to be given by you must be in writing and received by your service office within the designated time unless otherwise provided by the notice requirements. Notices required to be given immediately may be by telephone or in person and confirmed in writing. The time of the notice will be determined at the time of our receipt of the written notice.

§ 414.7 [Amended]

4. Part 414 is amended by removing the "Appendix to § 414.7—Additional Terms and Conditions".

5. Appendix B to Part 414 is redesignated as Appendix A and revised to read as follows:

Appendix A—Counties Designated for Forage Seeding Crop Insurance

The following counties are designated for Forage Seeding Crop Insurance under the provisions of 7 CFR 414.1.

New York

Ontario

North Dakota

Morton

Wisconsin

Dane	Grant	Iowa
Dodge	Green	Lafayette

Approved by the Board of Directors on February 23, 1983.

Dated: February 2, 1984.

Peter F. Cole,

Secretary, Federal Crop Insurance Corporation.

Approved by:

Merritt W. Sprague,

Manager.

[FR Doc. 84-3835 Filed 2-17-84; 8:45 am]

BILLING CODE 3410-08-M

7 CFR Part 418

Wheat Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Final rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) hereby revises and reissues the Wheat Crop Insurance Regulations (7 CFR Part 418) effective for the 1984 and succeeding crop years by: (1) Changing the policy to make it easier to read and understand; (2) eliminating the reduction in production guarantee for unharvested acreage; (3) eliminating the substitute crop provision; (4) adding a 60-day claim for indemnity provisions; (5) clarifying the provision determining production to count when small grains are growing with other planted or volunteer crops; (6) adding a section regarding appraisals immediately following the end of the insurance period for unharvested acreage; (7) changing the cancellation and termination for indebtedness dates; (8) revising the unit definition to provide for unit determination when the acreage report is filed; (9) adding three sections regarding descriptive headings, determinations, and notices; and (10) making format and language corrections for the purpose of clarification. The intended effect of this rule is to update the policy for insuring what in accordance with Secretary's Memorandum No. 1512–1, and to confirm the published interim rule. In addition to the changes described above, FCIC issues a new section to contain control numbers assigned by the Office of Management and Budget (OMB) to information collection requirements of these regulations.

EFFECTIVE DATE: February 21, 1984.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C., 20250, telephone (202) 447–3325.

The Impact Statement describing the options considered in developing this rule and the impact of implementing each option upon request from Peter F. Cole.

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA procedures established in Secretary's Memorandum No. 1512–1 (June 11, 1981). It has been determined that this action constitutes a review under such procedures as to the need, currency, clarity, and effectiveness of these regulations. The sunset review date establishd for these regulations is February 1, 1987.

Merritt W. Sprague, Manager, FCIC, has determined that (1) this action is not a major rule as defined by Executive Order No. 12291 (February 17, 1981), (2) this action does not increase the Federal paperwork burden for individuals, small businesses, and other persons, and (3) this action conforms to the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), and other applicable law.

The title and number of the Federal Assistance Program to which this rule applies are: Title—Crop Insurance; Number 10.450.

This action will not have a significant impact specifically upon area and community development; therefore, review as established in Executive Order No. 12372 (July 14, 1982) was not used to assure that units of local government are informed of this action.

It has been determined that this action is exempt from the provisions of the Regulatory Flexibility Act; therefore, no Regulatory Flexibility Analysis was prepared.

On Tuesday, April 5, 1983, FCIC publishd an interim rule in the **Federal Register** at 48 FR 14563, revising and reissuing the Wheat Crop Insurance Regulations (7 CFR Part 418), effective for the 1984 and succeeding crop years. The public was given 60 days in which to submit written comments, data, and opinions of the rule, but none were received. In reviewing the regulations prior to issuance as a final rule, it was determined that a new section should be issued to contain the OMB control numbers assigned to information collection requirements of these regulations. This change is incorporated in the regulations contained herein in both the Table of Contents and § 418.3 of the regulations.

List of Subjects in 7 CFR Part 418

Crop insurance, Wheat.

Final Rule

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation hereby revises and reissues the Wheat Crop Insurance Regulations (7 CFR Part 418), effective for the 1984 and succeeding crop years, to read as follows:

PART 418—WHEAT CROP INSURANCE

Subpart—Regulations for the 1984 and Succeeding Crop Years

Sec.

418.1 Availability of wheat crop insurance.
418.2 Premium rates, production guarantees, coverage levels, and prices at which indemnities shall be computed.

Sec.
418.3 OMB control numbers.
418.4 Creditors.
418.5 Good faith reliance on misrepresentation.
418.6 The contract.
418.7 The application and policy.

Appendix A—Counties designated for wheat crop insurance

Authority: Secs. 506, 516, Pub. L. 75–430, 52 Stat. 73, 77 as amended (7 U.S.C. 1506, 1516).

Subpart—Regulations for the 1984 and Succeeding Crop Years

§ 418.1 Availability of wheat crop insurance.

Insurance shall be offered under the provisions of this subpart on wheat in counties within limits prescribed by, and in accordance with the provisions of the Federal Crop Insurance Act, as amended. The counties shall be designated by the Manager of the Corporation from those approved by the Board of Directors of the Corporation. Before insurance is offered in any county, there shall be published by appendix to this part the names of the counties in which wheat insurance will be offered.

§ 418.2 Premium rates, production guarantees, coverage levels, and prices at which indemnities shall be computed.

(a) The Manager shall establish premium rates, production guarantees, coverage levels, and prices at which indemnities shall be computed for wheat which will be included in the county actuarial table on file in applicable service offices and may be changed from year to year.

(b) At the time the application for insurance is made, the applicant shall elect a coverage level and price at which indemnities will be computed from among those levels and prices contained in the actuarial table for the crop year.

§ 418.3 OMB control numbers.

Information collection requirements contained in these regulations (7 CFR Part 418) have been approved by the Office of Management and Budget (OMB) under the provisions of 44 U.S.C. Chapter 35 and have been assigned OMB Nos. 0563–0003 and 0563–0007.

§ 418.4 Creditors.

An interest of a person in an insured crop existing by virtue of a lien, mortgage, garnishment, levy, execution, bankruptcy, an involuntary transfer or similar interest will not entitle the holder of the interest to any benefit under the contract except as provided in the policy.

§ 418.5 Good faith reliance on misrepresentation.

Notwithstanding any other provision of the wheat insurance contract, whenever (a) an insured person under a contract of crop insurance entered into under these regulations, as a result of a misrepresentation or other erroneous action or advice by an agent or employee of the Corporation, (1) is indebted to the Corporation for additional premiums, or (2) has suffered a loss to a crop which is not insured, or for which the insured person is not entitled to an indemnity because of failure to comply with the terms of the insurance contract, but which the insured person believes to be insured, or believed the terms of the insurance contract to have been complied with or waived, and (b) the Board of Directors of the Corporation, or the Manager in cases involving not more than $100,000 finds (1) that an agent or employee of the Corporation did in fact make such misrepresentation or take other erroneous action or give erroneous advice, (2) that said insured persons relied thereon in good faith and (3) that to require the payment of the additional premiums or to deny such insured's entitlement to the indemnity would not be fair and equitable, such insured person shall be granted relief the same as if otherwise entitled thereto.

§ 418.6 The contract.

(a) The insurance contract shall become effective upon the acceptance by the Corporation of a duly executed application for insurance. The contract shall cover the wheat crop as provided in the policy. The contract shall consist of the application, the policy, and the provisions of the county actuarial table. Any changes made in the contract shall not affect its continuity from year to year. The forms referred to in the contract are available at the service office.

§ 418.7 The application and policy.

(a) Application for insurance on a form prescribed by the Corporation may be made by any person to cover such person's insurable share in the wheat crop as landlord, owner-operator, or tenant. The application shall be submitted to the Corporation at the service office on or before the applicable closing date for the country on file in the service office.

(b) The Corporation may discontinue the acceptance of applications in any country upon its determination that the insurance risk involved is excessive, and also, for the same reason, to reject any individual application. The Manager of the Corporation is authorized in any crop year to extend the closing date for submitting applications or contract changes in any county, by placing the extended date on file in the applicable service offices and publishing a notice in the **Federal Register** upon the Manager's determination that no selectivity will result during the period of such extension. However, if adverse conditions should develop during such period, the Corporation will immediately discontinue the acceptance of applications.

(c) Wheat contracts in effect for the 1983 crop year are amended by the substitution of the 1984 contract and are continuous unless terminated in accordance with their terms. A new application is not required by these regulations for the 1984 crop year.

(d) The application for the 1984 and succeeding crop years is found at Subpart D of Part 400—General Adminstrative Regulations (7 CFR 400.37, 400.38; first published at 48 FR 1023, January 10, 1983) and may be amended from time to time for subsequent crop years. The provisions of the Wheat Insurance Policy for the 1984 and succeeding crop years, are as follows:

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

Wheat—Crop Insurance Policy

(This is a continuous contract. Refer to Section 15.) AGREEMENT TO INSURE: We shall provide the insurance described in this policy in return for the premium and your compliance with all applicable provisions.

Throughout this policy, "you" and "your" refer to the insured shown on the accepted Application and "we," "us," and "our" refer to the Federal Crop Insurance Corporation.

Terms and Conditions

1. Causes of loss.

a. Insurance provided is against unavoidable loss of production resulting from the following causes occurring within the insurance period:

(1) Adverse weather conditions;
(2) Fire;
(3) Insects;
(4) Plant disease;
(5) Wildlife;
(6) Earthquake; or
(7) Volcanic eruption;

unless those causes are excepted, excluded, or limited by the actuarial table or section 9e(6).

b. We do not insure against any loss of production due to:

(1) The neglect or malfeasance of you, any member of your household, your tenants, or employees;

(2) The failure to follow recognized good wheat farming practices;

(3) Damage resulting from the impoundment of water by any governmental, public or private dam or reservoir project; or

(4) Any cause not specified in section 1a as an insured loss.

2. Crop, acreage, and share insured.

a. The crop insured will be wheat which is planted for harvest as grain, which is grown on insured acreage and for which a guarantee and premium rate are provided by the actuarial table.

b. The acreage insured for each crop year will be wheat planted on insurable acreage as designated by the actuarial table and in which you have a share, as reported by you or as determined by us, whichever we elect.

c. The insured share shall be your share as landlord, owner-operator, or tenant in the insured wheat at the time of planting.

d. We do not insure any acreage:

(1) Where the farming practices carried out are not in accordance with the farming practices for which the premium rates have been established;

(2) Which is irrigated and an irrigated practice is not provided by the actuarial table unless you elect to insure the acreage as nonirrigated by reporting it as insurable under section 3;

(3) Which is destroyed and it is practical to replant to wheat but such acreage is not replanted;

(4) Initially planted after the final planting date contained in the actuarial table unless you agree in writing on our form to coverage reduction;

(5) Of volunteer wheat;

(6) Planted to a type or variety of wheat not established as adapted to the area or excluded by the actuarial table; or

(7) Planted with a crop other than wheat.

e. Where insurance is provided for an irrigated practice:

(1) You shall report as irrigated only the acreage for which you have adequate facilities and water, at the time of planting, to carry out a good wheat irrigation practice; and

(2) Any loss of production caused by failure to carry out a good wheat irrigation practice, except failure of the water supply from an unavoidable cause occurring after the beginning of planting, will be considered as due to an uninsured cause. The failure or breakdown of irrigation equipment or facilities will not be considered as a failure of the water supply from an unavoidable cause.

f. Acreage which is planted for the development or production of hybrid seed or for experimental purposes is not insured unless we agree in writing to insure such acreage.

g. We may limit the insured acreage to any acreage limitation established under any Act of Congress, if we advise you of the limit prior to planting.

3. Report of acreage, share, and practice. You shall report on our form:

a. All the acreage of wheat in the county in which you have a share;

b. The practice; and

c. Your share at the time of planting.

You will designate separately any acreage that is not insurable. You will report if you do not have a share in any wheat planted in the county. This report shall be submitted annually on or before the reporting date established by the actuarial table. We may determine all indemnities on the basis of information you have submitted on this report. If you do not submit this report by the reporting date, we may elect to determine by unit the insured acreage, share, and practice or we may deny liability on any unit. Any report submitted by you may be revised only upon our approval.

4. Production guarantees, coverage levels, and prices for computing indemnities.

a. The production guarantees, coverage levels, and prices for computing imdemnities are in the actuarial table.

b. Coverage level 2 will apply if you do not elect a coverage level.

c. You may change the coverage level and price election on or before the closing date for submitting applications for the crop year as established by the actuarial table.

5. Annual premium.

a. The annual premium is earned and payable at the time of planting. The amount is computed by multiplying the production guarantee times the price election, times the premium rate, times the insured acreage, times your share at the time of planting, times the applicable premium adjustment percentage contained in the following table.

PREMIUM ADJUSTMENT TABLE [1]

[Percent adjustments for favorable continuous insurance experience]

	Numbers of years continuous experience through previous year															
	0	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15 or more
	Percentage adjustment factor for current crop year															
Loss ratio [2] through previous crop year																
.00 to .20	100	95	95	90	90	85	80	75	70	70	65	65	60	60	55	50
.21 to .40	100	100	95	95	90	90	90	85	80	80	75	75	70	70	65	60
.41 to .60	100	100	95	95	95	95	95	90	90	90	85	85	80	80	75	70
.61 to .80	100	100	95	95	95	95	95	95	90	90	90	90	85	85	85	80
.81 to 1.09	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100

[Percent adjustments for unfavorable insurance experience]

	Numbers of loss years through previous year [3]															
	0	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
	Percentage adjustment factor for current crop year															
Loss ratio [2] through previous crop year																
1.10 to 1.19	100	100	100	102	104	106	108	110	112	114	116	118	120	122	124	126
1.20 to 1.39	100	100	100	104	108	112	116	120	124	128	132	136	140	144	148	152
1.40 to 1.69	100	100	100	108	116	124	132	140	148	156	164	172	180	188	196	204
1.70 to 1.99	100	100	100	112	122	132	142	152	162	172	182	192	202	212	222	232
2.00 to 2.49	100	100	100	116	128	140	152	164	176	188	200	212	224	236	248	260
2.50 to 3.24	100	100	100	120	134	148	162	176	190	204	218	232	246	260	274	288
3.25 to 3.99	100	100	105	124	140	156	172	188	204	220	236	252	268	284	300	300
4.00 to 4.99	100	100	110	128	146	164	182	200	218	236	254	272	290	300	300	300
5.00 to 5.99	100	100	115	132	152	172	192	212	232	252	272	292	300	300	300	300
6.00 and up	100	100	120	136	156	180	202	224	246	268	290	300	300	300	300	300

[1] For premium adjustment purposes, only the years during which premiums were earned shall be considered.
[2] Loss Ratio means the ratio of indemnity(ies) paid to premium(s) earned.
[3] Only the most recent 15 crop years shall be used to determine the number of "Loss Years". (A crop year is determined to be a "Loss Year" when the amount of indemnity for the year exceeds the premium for the year.)

b. Interest shall accrue at the rate of one and one-half percent (1½%) simple interest per calendar month, or any part thereof, on any unpaid premium balance starting on the first day of the month following the first premium billing date.

c. Any premium adjustment applicable to the contract will be transferred to:

(1) The contract of your estate or surviving spouse if you die;

(2) The contract of the person who succeeds you if such person had previously participated in the farming operation; or

(3) Your contract if you stop farming in one county and start farming in another county.

d. If participation is not continuous, any premium will be computed on the basis of previous unfavorable insurance experience but no premium reduction under section 5a will be applicable.

6. Deductions for debt.

Any unpaid amount due us may be deducted from any indemnity payable to you or from any loan or payment due you under any Act of Congress or program administered by the United States Department of Agriculture or its Agencies.

7. Insurance period.

a. Insurance attaches when the wheat is planted except that in counties with an April 15 cancellation date, insurance on fall planted wheat will attach on April 16 following planting, if there is an adequate stand on April 16 to produce a normal crop.

b. Insurance ends at the earliest of:

(1) Total destruction of the wheat;

(2) Combining, threshing, or removal from the field;

(3) Final adjustment of a loss; or

(4) The date shown below of the calendar year in which wheat is normally harvested:

(a) Alaska—September 25;

(b) All other states—October 31.

8. Notice of damage or loss.

a. In case of damage or probable loss:

(1) You must give us written notice if:

(a) During the period before harvest, the wheat on any unit is damaged and you decide not to further care for or harvest any part of it;

(b) You want our consent to put the acreage to another use; or

(c) After consent to put acreage to another use is given, additional damage occurs.

Insured acreage may not be put to another use until we have appraised the wheat and given written consent. We will not consent to another use until it is too late to replant. You must notify us when such acreage is put to another use.

(2) If you anticipate a loss on any unit, you must give us notice:

(a) At least 15 days before the beginning of harvest; or

(b) Immediately, if probable loss is later determined, and a representative sample of the unharvested wheat (at least 10 feet wide and the entire length of the field) must be left intact for a period of 15 days from the date of notice, unless we give you written consent to harvest the sample.

(3) In addition to the notices required by this section, if you are going to claim an indemnity on any unit, we must be given notice not later than 30 days after the earliest of:

(a) Total destruction of the wheat on the unit;

(b) Harvest of the unit; or

(c) The calendar date for the end of the insurance period.

b. You must obtain written consent from us before you destroy any of the wheat which is not to be harvested.

c. We may reject any claim for indemnity if any of the requirements of this section or section 9 are not complied with.

9. Claim for indemnity.

a. Any claim for indemnity on a unit must be submitted to us on our form not later than 60 days after the earliest of:

(1) Total destruction of the wheat on the unit;

(2) Harvest of the unit; or

(3) The calendar date for the end of the insurance period.

b. We will not pay any indemnity unless you:

(1) Establish the total production of wheat on the unit and that any loss of production has been directly caused by one or more of the insured causes during the insurance period; and

(2) Furnish all information we require concerning the loss.

c. The indemnity will be determined on each unit by:

(1) Multiplying the insured acreage by the production guarantee;

(2) Subtracting therefrom the total production of wheat to be counted (see section 9e);

(3) Multiplying the remainder by the price election; and

(4) Multiplying this product by your share.

d. If the information reported by you results in a lower premium than the actual premium determined to be due, the indemnity will be reduced proportionately.

e. The total production to be counted for a unit will include all harvested and appraised production.

(1) Mature wheat production:

(a) Which otherwise is not eligible for quality adjustment and which grades No. 4 or better shall be reduced .12 percent for each .1 percent of moisture in excess of 13.5 percent; or

(b) Which, due to insurable causes, does not grade No. 4 or better, or is graded smutty, garlicky, or ergoty, in accordance with the Official United States Grain Standards, will be adjusted by:

(i) Dividing the value per bushel of such wheat by the price per bushel of U.S. No. 2 wheat; and

(ii) Multiplying the result by the number of bushels of such wheat.

The applicable price for No. 2 wheat will be the local market price on the earlier of the day the loss is adjusted or the day the wheat is sold.

(2) Any mature production from other crops growing in the wheat shall be counted as wheat on a weight basis.

(3) Appraised production to be counted shall include:

(a) Potential production lost due to uninsured causes and failure to follow recognized good wheat farming practices;

(b) Not less than the guarantee for any acreage which is abandoned or put to another use without our prior written consent or damaged solely by an uninsured cause; and

(c) Any unharvested production.

(4) Our appraisal on insured acreage for which we have given written consent to be put to another use will be considered production unless such acreage:

(a) Is not put to another use before harvest of wheat becomes general in the county;

(b) Is harvested; or

(c) Is further damaged by an insured cause before the acreage is put to another use.

(5) We may determine the amount of production of any unharvested wheat on the basis of field appraisals conducted after the end of the insurance period.

(6) When you have elected to exclude hail and fire as insured causes of loss and the wheat is damaged by hail or fire, appraisals for uninsured causes will be made in accordance with Form FCI–78, "Request To Exclude Hail And Fire".

(7) The commingled production of units will be allocated to such units in proportion to our liability on the harvested acreage of each unit.

f. You will not abandon any acreage to us.

g. You may not bring suit or action against us unless you have complied with all policy provisions. If a claim is denied, you may sue us in the United States District Court under the provisions of 7 U.S.C. 1508(c). You must bring suit within 12 months of the date notice of denial is mailed to and received by you.

h. We will pay the loss within 30 days after we reach agreement with you or entry of a final judgment. In no instance will we be liable for interest or damages in connection with any claim for indemnity, whether we approve or disapprove such claim.

i. If you die, disappear, or are judicially declared incompetent, or if you are an entity other than an individual and such entity is dissolved after the wheat is planted for any crop year, any indemnity will be paid to the person(s) we determine to be beneficially entitled thereto.

j. If you have other fire insurance, fire damage occurs during the insurance period, and you have not elected to exclude fire insurance from this policy, we will be liable for loss due to fire only for the smaller of:

(1) The amount of indemnity determined pursuant to this contract without regard to any other insurance; or

(2) The amount by which the loss from fire exceeds the indemnity paid or payable under such other insurance. For the purposes of this section, the amount of loss from fire will be the difference between the fair market value of the production on the unit before the fire and after the fire.

10. Concealment or fraud.

We may void the contract on all crops insured without affecting your liability for premiums or waiving any right, including the right to collect any amount due us if, at any time, you have concealed or misrepresented any material fact or committed any fraud relating to the contract. Such voidance shall be effective as of the beginning of the crop year with respect to which such act or omission occurred.

11. Transfer of right to indemnity on insured share.

If you transfer any part of your share during the crop year, you may transfer your right to an indemnity. The transfer must be on our form and approved by us. We may collect the premium from either you or your

transferee or both. The transferee will have all rights and reponsibilities under the contract.

12. Assignment of indemnity.

You may assign to another party your right to an indemnity for the crop year only on our form and with our approval. The assignee shall have the right to submit the loss notices and forms required by the contract.

13. Subrogation. (Recovery of loss from a third party.)

Because you may be able to recover all or a part of your loss from someone other than us, you must do all you can to preserve any such rights. If we pay you for your loss then your right of recovery will, at our option, belong to us. If we recover more than we paid you plus our expenses, the excess will be paid to you.

14. Records and access to farm.

You shall keep, for two years after the time of loss, records of the harvesting, storage, shipment, sale or other disposition of all wheat produced on each unit including separate records showing the same information for production from any uninsured acreage. Any person designated by us shall have access to such records and the farm for purposes related to the contract.

15. Life of contract: Cancellation and termination.

a. This contract shall be in effect for the crop year specified on the application and may not be canceled for such crop year. Thereafter, the contract will continue in force for each succeeding crop year unless canceled or terminated as provided in this section.

b. This contract may be canceled by either you or us for any succeeding crop year by giving written notice on or before the cancellation date preceding such crop year.

c. This contract shall terminate as to any crop year if any amount due us on this or any other contract with you is not paid on or before the termination date preceding such crop year for the contract on which the amount is due. The date of payment of the amount due:

(1) If deducted from an indemnity claim will be the date you sign the claim; or

(2) If deducted from payment under another program administered by the United States Department of Agriculture will be the date the payment was approved.

d. The cancellation and termination dates are:

State and County	Cancellation date	Termination date for indebtedness
Alaska; Alamosa, Conejos, Costilla, Rio Grande and Saguache Counties, Colorado; Maine; all Michigan counties except those listed below; Minnesota; Daniels, Roosevelt, Sheridan and Valley Counties, Montana; New Hampshire; North Dakota; Corson, Walworth, Edmunds, Faulk, Spink, Beadle, Jerauld, Aurora, Douglas and Bon Homme Counties, South Dakota and all South Dakota counties lying north and east thereof; Vermont; and Trempealeau, Jackson, Wood, Portage, Waupaca, Outagamie, Brown, and Kewaunee Counties, Wisconsin and all Wisconsin counties lying north and west thereof.	April 15	April 15.
All Colorado counties except as otherwise listed, Kansas, New Mexico, Oklahoma and Texas.	August 31	August 31.
Nebraska	September 15	September 15.
Archuleta, Custer, Delta, Dolores, Eagle, Garfield, Grand, La Plata, Mesa, Moffat, Montezuma, Montrose, Ouray, Pitkin, Rio Blanco, Routt and San Miguel Counties, Colorado and all other South Dakota counties.	September 15	November 30.
Connecticut; Plymouth, Cherokee, Buena Vista, Pocahontas, Humboldt, Wright, Franklin, Butler, Black Hawk, Buchanan, Delaware and Dubuque Counties, Iowa and all Iowa counties lying north thereof; Massachusetts; all other Montana counties; New York; Rhode Island and Wyoming.	September 30	November 30.
Arizona, California, Idaho, Nevada, Oregon, Utah and Washington	October 31	November 30.
All other Iowa counties; Leelanau, Antrim, Charlevoix, Emmet, Cheboygan and Presque Isle Counties, Michigan and all Michigan counties lying south thereof; all other Wisconsin counties and all other states.	September 30	September 30.

e. If you die or are judicially declared incompetent, or if you are an entity other than an individual and such entity is dissolved, the contract will terminate as of the date of death, judicial declaration, or dissolution. *However,* if such event occurs after insurance attaches for any crop year, the contract will continue in force through the crop year and terminate at the end thereof. Death of a partner in a partnership will dissolve the partnership unless the partnership agreement provides otherwise. If two or more persons having a joint interest are insured jointly, death of one of the persons will dissolve the joint entity.

f. The contract will terminate if no premium is earned for five consecutive years.

16. Contract changes.

We may change any terms and provisions of the contract from year to year. If your price election at which indemnities are computed is no longer offered, the actuarial table will provide the price election which you will be deemed to have elected. All contract changes will be available at your service office by December 31 preceding the cancellation date for counties with an April 15 cancellation date and by May 31 preceding the cancellation date for all other counties. Acceptance of any changes will be conclusively presumed in the absence of any notice from you to cancel the contract.

17. Meaning of terms.

For the purposes of wheat crop insurance:

a. "Actuarial table" means the forms and related material for the crop year approved by us which are available for public inspection in your service office, and which show the production guarantees, coverage levels, premium rates, prices for computing indemnities, practices, insurable and uninsurable acreage, and related information regarding wheat insurance in the county.

b. "County" means the county shown on the application and any additional land located in a local producing area bordering on the county, as shown by the actuarial table.

c. "Crop year" means the period within which the wheat is normally grown and is designated by the calendar year in which the wheat is normally harvested.

d. "Harvest" means the completion of combining or threshing of wheat on the unit.

e. "Insurable acreage" means the land classified as insurable by us and shown as such by the acturial table.

f. "Insured" means the person who submitted the application accepted by us.

g. "Person" means an individual, partnership, association, corporation, estate, trust, or other business enterprise or legal entity, and wherever applicable, a State, a political subdivision of a State, or any agency thereof.

h. "Service office" means the office servicing your contract as shown on the application for insurance or such other approved office as may be selected by you or designated by us.

i. "Tenant" means a person who rents land from another person for a share of the wheat or a share of the proceeds therefrom.

j. "Unit" means all insurable acreage of wheat in the county on the date of planting for the crop year:

(1) In which you have a 100 percent share; or

(2) Which is owned by one entity and operated by another entity on a share basis.

Land rented for cash, a fixed commodity payment, or any consideration other than a share in the wheat on such land shall be considered as owned by the lessee. Land which would otherwise be one unit may be divided according to applicable guidelines on file in your service office or by written agreement with us. Units will be determined when the acreage is reported. Errors in reporting units may be corrected by us to conform to applicable guidelines when adjusting a loss. We may consider any acreage and share thereof reported by or for your spouse or child or any member of your household to be your bona fide share or the bona fide share of any other person having an interest therein.

18. Descriptive headings.

The descriptive headings of the various policy terms and conditions are formulated for convenience only and are not intended to affect the construction or meaning of any of the provisions of the contract.

19. Determinations.

All determinations required by the policy will be made by us. If you disagree with our determinations, you may obtain reconsideration of or appeal those determinations in accordance with Appeal Regulations.

20. Notices.

All notices required to be given by you must be in writing and received by your service office within the designated time unless otherwise provided by the notice requirement. Notices required to be given immediately may be by telephone or in person and confirmed in writing. Time of the notice will be determined by the time of our receipt of the written notice

Appendix A.—Counties Designated for Wheat Crop Insurance

The following counties are designated for Wheat Crop Insurance under the provisions of 7 CFR 418.1.

Alabama

All counties

Alaska

Matanuska-Susitna
Southeast Fairbanks

Arizona

Cochise
Graham
Greenlee
La Paz
Maricopa
Mohave
Navajo
Pima
Pinal
Yavapai
Yuma

Arkansas

All counties

California

Alameda
Amador
Butte
Colusa
Contra Costa
Fresno
Glenn
Imperial
Kern
Kings
Lake
Lassen
Los Angeles
Madera
Mendocino
Merced
Modoc
Monterey
Napa
Orange
Placer
Plumas
Riverside
Sacramento
San Benito
San Bernardino
San Diego
San Joaquin
San Luis Obispo
San Mateo
Santa Barbara
Santa Clara
Shasta
Sierra
Siskiyou
Solano
Sonoma
Stanislaus
Sutter
Tehama
Tulare
Ventura
Yolo
Yuba

Colorado

Adams
Alamosa
Arapahoe
Archuleta
Baca
Bent
Boulder
Cheyenne
Conejos
Costilla
Crowley
Custer
Delta
Dolores
Douglas
Eagle
Elbert
El Paso
Fremont
Garfield
Grand
Huerfano
Jefferson
Kiowa
Kit Carson
La Plata
Larimer
Las Animas
Lincoln
Logan
Mesa
Moffat
Montezuma
Montrose
Morgan
Otero
Ouray
Park
Phillips
Pitkin
Prowers
Pueblo
Rio Blanco
Rio Grande
Routt
Saguache
San Miguel
Sedgwick
Washington
Weld
Yuma

Connecticut

All counties

Delaware

All counties

Florida

Alachua
Bay
Calhoun
Columbia
Dixie
Escambia
Gadsden
Gilchrist
Gulf
Hamilton
Hernando
Holmes
Jackson
Jefferson
Lafayette
Liberty
Madison
Okaloosa
Pasco
Santa Rosa
Suwannee
Walton
Washington

Georgia

Appling
Atkinson
Bacon
Baker
Baldwin
Banks
Barrow
Bartow
Ben Hill
Berrien
Bibb
Bleckley
Brantley
Brooks
Bryan
Bulloch
Burke
Butts
Calhoun
Candler
Carroll
Catoosa
Chatham
Chattooga
Cherokee
Clarke
Clay
Clayton
Clinch
Coffee
Colquitt
Columbia
Cook
Coweta
Crawford
Crisp
Dade
Dawson
Decatur
De Kalb
Dodge
Dooly
Dougherty
Early
Echols
Effingham
Elbert
Emanuel
Evans
Fannin
Fayette
Floyd
Forsyth
Franklin
Fulton
Gilmer
Glascock
Glynn
Gordon
Grady
Greene
Gwinnett
Habersham
Hall
Hancock
Haralson
Harris
Hart
Heard
Henry
Houston
Irwin
Jackson
Jasper
Jeff Davis
Jefferson
Jenkins
Johnson
Jones
Lamar
Lanier
Laurens
Lee
Liberty
Lincoln
Long
Lowndes
Lumpkin
McDuffie
Macon
Madison
Marion
Meriwether
Miller
Mitchell
Monroe
Montgomery
Morgan
Murray
Newton
Oconee
Oglethorpe
Paulding
Peach
Pickens
Pierce
Pike
Polk
Pulaski
Putnam
Quitman
Rabun
Randolph
Richmond
Rockdale
Schley
Screven
Seminole
Spalding
Stevens
Stewart
Sumter
Talbot
Taliaferro
Tattnall
Taylor
Telfair
Terrell
Thomas
Tift
Toombs
Treutlen
Troup
Turner
Twiggs
Union
Upson
Walker
Walton
Ware
Warren
Washington
Wayne
Webster
Wheeler
White
Whitfield
Wilcox
Wilkes
Wilkinson
Worth

Idaho

Ada
Adams
Bannock
Bear Lake
Benewah
Bingham
Blaine
Boise
Bonner
Bonneville
Boundary
Butte
Camas
Canyon
Caribou
Cassia
Clark
Clearwater
Custer
Elmore
Franklin
Fremont
Gem
Gooding
Idaho
Jefferson
Jerome
Kootenai
Latah
Lemhi
Lewis
Lincoln
Madison
Minidoka
Nez Perce
Oneida
Owyhee
Payette
Power
Teton
Twin Falls
Valley
Washington

Illinois

All counties

Indiana

All counties

Iowa

All counties

Kansas

All counties

Kentucky

All counties except:
Bell
Elliot
Harlan
Lawrence
Leslie
Letcher
Martin
Perry
Pike

Louisiana

Acadia
Allen
Ascension
Assumption
Avoyelles
Beauregard
Bienville
Bossier
Caddo
Calcasieu
Caldwell
Cameron
Catahoula
Claiborne
Concordia
De Soto
East Baton Rouge
East Carroll
East Feliciana
Evangeline
Franklin
Grant
Iberia
Iberville
Jackson
Jefferson
Jefferson Davis
Lafayette
Lafourche
La Salle
Lincoln
Livingston
Madison
Morehouse
Natchitoches
Orleans
Ouachita
Palquemines
Pointe Coupee
Rapides
Red River
Richland
Sabine
St. Bernard
St. Charles
St. Helena
St. James
St. John the Baptist
St. Landry
St. Martin
St. Mary
St. Tammany
Tangipahoa
Tensas
Terrebonne
Union
Vermilon
Vernon
Washington
Webster
West Baton Rouge
West Carroll
West Feliciana
Winn

Maine

Aroostook
Kennebec
Penobscot
York

Maryland

All counties

Massachusetts

Berkshire
Bristol
Franklin
Hampden
Hampshire

Michigan

All counties

Minnesota

All counties

Mississippi

All counties

Missouri

All counties

Montana

All counties

Nebraska

All counties except:
Arthur
Grant
Hooker
Thomas

Nevada

All counties and Carson City

New Jersey

Atlantic
Burlington
Camden
Cape May
Cumberland
Gloucester
Hunterdon
Mercer
Middlesex
Monmouth
Morris
Ocean
Salem
Somerset
Sussex
Warren

New Mexcio

All counties except:
Los Alamos
Lincoln

New York

All counties except:
Bronx
Fulton
Hamilton
Kings
Nassau
New York
Putnam
Queens
Richmond
Rockland
Warren
Westchester

North Carolina

Alamance
Alexander
Alleghany
Anson
Beaufort
Bertie

Bladen	Greene	Pender
Brunswick	Guilford	Perquimans
Buncombe	Halifax	Person
Burke	Harnett	Pitt
Cabarrus	Henderson	Polk
Caldwell	Hertford	Randolph
Camden	Hoke	Richmond
Carteret	Hyde	Robeson
Caswell	Iredell	Rockingham
Catawba	Johnston	Rowan
Chatham	Jones	Rutherford
Chowan	Lee	Sampson
Cleveland	Lenoir	Scotland
Columbus	Lincoln	Stanly
Craven	McDowell	Stokes
Cumberland	Madison	Surry
Currituck	Martin	Tyrrell
Davidson	Mecklenburg	Union
Davie	Montgomery	Vance
Duplin	Moore	Wake
Durham	Nash	Warren
Edgecombe	New Hanover	Washington
Forsyth	Northampton	Wayne
Franklin	Onslow	Wilkes
Gaston	Orange	Wilson
Gates	Pamlico	Yadkin
Granville	Pasquotank	

North Dakota

All counties

Ohio

All counties

Oklahoma

All counties

Oregon

Baker	Jackson	Multnomah
Benton	Jefferson	Polk
Clackamas	Josephine	Sherman
Columbia	Klamath	Umatilla
Crook	Lake	Union
Deschutes	Lane	Wallowa
Douglas	Linn	Wasco
Gilliam	Malheur	Washington
Grant	Marion	Wheeler
Harney	Morrow	Yamhill

Pennsylvania

All counties except: Philadelphia — Wayne

Rhode Island

Newport — Washington

South Carolina

All counties

South Dakota

All counties except: Washabaugh

Tennessee

All counties

Texas

Anderson	Borden	Castro
Andrews	Bosque	Chambers
Angelina	Bowie	Cherokee
Archer	Brazoria	Childress
Armstrong	Brazos	Clay
Atascosa	Briscoe	Cochran
Austin	Brown	Coke
Bailey	Burleson	Coleman
Bandera	Burnet	Collin
Bastrop	Caldwell	Collingsworth
Baylor	Calhoun	Colorado
Bee	Callahan	Comal
Bell	Camp	Comanche
Bexar	Carson	Concho
Blanco	Cass	Cooke
Coryell	Howard	Panola
Cottle	Hudspeth	Parker
Crockett	Hunt	Parmer
Crosby	Hutchinson	Pecos
Culberson	Irion	Polk
Dallam	Jack	Potter
Dallas	Jackson	Rains
Dawson	Jeff Davis	Randall
Deaf Smith	Jefferson	Reagan
Delta	Jim Wells	Real
Denton	Johnson	Red River
De Witt	Jones	Reeves
Dickens	Karnes	Refugio
Dimmit	Kaufman	Roberts
Donley	Kendall	Robertson
Duval	Kent	Rockwall
Eastland	Kerr	Runnels
Ector	Kimble	Rusk
Edwards	King	San Jacinto
Ellis	Kinney	San Patricio
El Paso	Kleberg	San Saba
Erath	Knox	Schleicher
Falls	Lamar	Scurry
Fannin	Lamb	Shackelford
Fayette	Lampasas	Shelby
Fisher	La Salle	Sherman
Floyd	Lavaca	Smith
Foard	Lee	Somervell
Fort Bend	Leon	Starr
Franklin	Liberty	Stephens
Freestone	Limestone	Sterling
Frio	Lipscomb	Stonewall
Gaines	Live Oak	Sutton
Galveston	Llano	Swisher
Garza	Lubbock	Tarrant
Gillespie	Lynn	Taylor
Glasscock	McCulloch	Terry
Goliad	McLennan	Throckmorton
Gonzales	McMullen	Titus
Gray	Madison	Tom Green
Grayson	Marion	Travis
Grimes	Martin	Tyler
Guadalupe	Mason	Uvalde
Hale	Matagorda	Van Zandt
Hall	Maverick	Victoria
Hamilton	Medina	Waller
Hansford	Menard	Ward
Hardeman	Midland	Washington
Harris	Milam	Wharton
Harrison	Mills	Wheeler
Hartley	Mitchell	Wichita
Haskell	Montague	Wilbarger
Hays	Moore	Williamson
Hemphill	Morris	Wilson
Henderson	Motley	Wise
Hidalgo	Nacogdoches	Wood
Hill	Navarro	Upton
Hockley	Nolan	Yoakum
Hood	Ochiltree	Young
Hopkins	Oldham	Zavala
Houston	Palo Pinto	

Utah

All counties except: Daggett

Vermont

All counties

Virginia

All counties except: Arlington	Chesapeake City	Suffolk City
In addition the cities of:	Hampton	Virginia Beach
	Newport News	

Washington

All counties except:	Jefferson	Wahkiakum
	Pacific	

West Virginia

Barbour	Cabell	Greenbrier
Berkeley	Fayette	Hampshire
Brooke	Grant	Hancock
Hardy	Nicholas	Ritchie
Harrison	Ohio	Roane
Jackson	Pendleton	Summers
Jefferson	Pleasants	Tucker
Marshall	Pocahontas	Upshur
Mason	Preston	Wetzel
Mineral	Putnam	Wood
Monroe	Raleigh	
Morgan	Randolph	

Wisconsin

All counties

Wyoming

All counties except:	Albany	Sweetwater
	Sublette	

Done in Washington, D.C., on December 27, 1983.

Dated: February 2, 1984.

Peter F. Cole,

Secretary, Federal Crop Insurance Corporation.

Approved by:

Merritt W. Sprague,

Manager.

[FR Doc. 84-3631 Filed 2-17-84; 8:45 am]

BILLING CODE 3410-08-M

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7 CFR Part 425

[Amendment No. 6]

Peanut Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Final rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) hereby amends the Peanut Crop Insurance Regulations (7 CFR Part 425), effective for the 1984 and succeeding crop years, by: (1) Changing the policy to make it easier to read; (2) adding volcanic eruption as an insurable cause of loss; (3) adding a provision to permit determination of indemnities based on the acreage report rather than at loss adjustment time; (4) providing for a coverage level if the insured does not select one; (5) adding a 60-day claim for indemnity provisions; (6) adding a section regarding appraisals following the end of the insurance period for unharvested acreage; (7) adding a hail/fire provision for appraisals of uninsured causes; (8) amending the replanting provision regarding the ineligibility of acreage for replanting payment if FCIC's appraisal of the potential exceeds 90 percent of the guarantee; (9) changing the cancellation and termination dates to conform to farming practices; (10) providing that any change in the policy will be available in the service office by a certain date; (11) providing for unit determination when the acreage report is filed; and (12) adding three sections

concerning "descriptive headings," "determinations," and "notices."

In addition, FCIC issues a new subsection in the peanut crop insurance regulations to contain the control numbers assigned by the Office of Management and Budget (OMB) to information collection requirements of these regulations. The intended effect of this rule is to update the policy for insuring peanuts in accordance with Secretary's Memorandum No. 1512–1, requiring a review of the regulations as to need, currency, clarity, and effectiveness, and to comply with OMB regulations requiring publication of OMB control numbers assigned to information collection requirements in these regulations.

EFFECTIVE DATE: March 22, 1984.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C. 20250, telephone (202) 447–3325.

The Impact Statement describing the options considered in developing this rule and the impact of implementing each option is available upon request from Peter F. Cole.

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA procedures established in Secretary's Memorandum No. 1512–1 (June 11, 1981). This action constitutes a review under such procedures as to the need, currency, clarity, and effectiveness of these regulations. The sunset review date established for these regulations is April 1, 1988.

Merritt W. Sprague, Manager, FCIC, has determined that (1) this action is not a major rule as defined by Executive Order No. 12291 (February 17, 1981), (2) this action will not increase the Federal paperwork burden for individuals, small businesses, and other persons, and (3) this action conforms to the Federal Crop Insurance Act, as amended (7 U.S.C 1501 *et seq.*), and other applicable law.

The title and number of the Federal Assistance Program to which these regulations apply are: Title—Crop Insurance; Number 10.450.

This action will not have a significant impact specifically upon area and community development; therefore, review as established by Executive Order No. 12372 (July 14, 1982) was not used to assure that units of local government are informed of this action.

It has been determined that this action is exempt from the provisions of the Regulatory Flexibility Act; therefore, no Regulatory Impact Statement was prepared.

On Thursday, August 4, 1983, FCIC published a notice of proposed rulemaking in the **Federal Register** at 48 FR 35433, amending the policy for insuring peanuts in accordance with the provisions of Secretary's Memorandum No. 1512–1, and issuing a new subsection to contain control numbers assigned by the Office of Management and Budget (OMB) to information collection requirements of these regulations. The public was given 60 days in which to submit written comments, data, and opinions on the proposed rule, but none were received. Therefore, with the exception of minor and nonsubstantive change in language, the proposed rule as published is hereby issued as a final rule to be effective with the 1984 crop year.

List of Subjects in 7 CFR Part 425

Crop insurance, peanuts.

PART 425—[AMENDED]

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), The Federal Crop Insurance Corporation hereby amends the Peanut Crop Insurance Regulations (7 CFR Part 425), effective for the 1984 and succeeding crop years, in the following instances:

1. The Authority citation for 7 CFR Part 425 is:

Authority: Secs. 506, 516, Pub. L. 75–430, 52 Stat. 73, 77 as amended (7 U.S.C. 1506, 1516).

2. 7 CFR 425.3 is revised;

§ 425.3 OMB control numbers.

The information collection requirements contained in these regulations (7 CFR Part 425) have been approved by the Office of Management and Budget (OMB) under the provisions of 44 U.S.C. Chapter 35 and have been assigned OMB Nos. 0563–0003 and 0563–0007.

3. 7 CFR 425.7(d) is revised to read as follows:

§ 425.7 The application and policy.

* * * * *

(d) * * *

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

Peanut—Crop Insurance Policy

(This is a continuous contract. Refer to Section 15.)

AGREEMENT TO INSURE: We shall provide the insurance described in this policy in return for the premium and your compliance with all applicable provisions.

Throughout this policy, "you" and "your" refer to the insured shown on the accepted Application and "we," "us" and "our" refer to the Federal Crop Insurance Corporation.

Terms and Conditions

1. Causes of loss.

a. The insurance provided is against unavoidable loss of production resulting from the following causes occurring within the insurance period:

(1) Adverse weather conditions;
(2) Fire;
(3) Insects;
(4) Plant disease;
(5) Wildlife;
(6) Earthquake; or
(7) Volcanic eruption;

unless those causes are excepted, excluded, or limited by the actuarial table or section 9g(7).

b. We shall not insure against any loss of production due to:

(1) The neglect or malfeasance of you, any member of your household, your tenants or employees;

(2) The failure to follow recognized good peanut farming practices;

(3) Damage resulting from the impoundment of water by any governmental, public or private dam or reservoir project; or

(4) Any cause not specified in section 1a as an insured loss.

2. Crop, acreage, and share insured.

a. The crop insured shall be peanuts planted for the purpose of digging, maturing and marketing as farmers' stock peanuts, which are grown on insured acreage and for which a guarantee and premium rate are provided by the actuarial table.

b. The acreage insured for each crop year shall be peanuts planted on insurable acreage as designated by the actuarial table and in which you have a share, as reported by you or as determined by us, whichever we shall elect.

c. The insured share shall be your share as landlord, owner-operator, or tenant in the insured peanuts at the time of planting.

d. We do not insure any acreage:

(1) Not planted to a type of peanuts designated as insurable by the actuarial table;

(2) Destroyed for the purpose of conforming with any other program administered by the United States Department of Agriculture;

(3) Where the farming practices carried out are not in accordance with the farming practices for which the premium rates have been established;

(4) Which is irrigated and an irrigated practice is not provided for by the actuarial table, unless you elect to insure the acreage as nonirrigated by reporting it as insurable under section 3;

(5) Which is destroyed, is practical to replant to peanuts and such acreage is not replanted;

(6) Initially planted after the final planting date contained in the actuarial table, unless you agree in writing on our form to coverage reduction; or

(7) Planted for experimental purposes.

e. Where insurance is provided for an irrigated practice:

(1) You shall report as irrigated only the acreage for which you have adequate facilities and water to carry out a good peanut irrigation practice at the time of planting; and

(2) Any loss of production caused by failure to carry out a good peanut irrigation

practice, except failure of the water supply from an unavoidable cause occurring after the beginning of planting, shall be considered as due to an uninsured cause. The failure or breakdown of irrigation equipment or facilities shall not be considered as a failure of the water supply from an unavoidable cause.

f. We may limit the insured acreage to any acreage limitation established under any Act of Congress, if we advise you of the limit prior to planting.

3. Report of acreage, share, poundage quota, practice and yield.

You shall report on our form:

a. All the acreage of peanuts in the county in which you have a share;

b. The practice;

c. Your share at the time of planting;

d. The effective poundage marketing quota, if any, applicable to the unit for the current crop year as provided under ASCS Peanut Marketing Quota Regulations; and

e. The most recent year's production for insurable acreage on each unit. You shall designate separately any acreage that is not insurable. You shall report if you do not have a share in any peanuts planted in the county. This report shall be submitted annually on or before the reporting date established by the actuarial table. We may determine all indemnities on the basis of information you have submitted on this report. If you do not submit this report by the reporting date, we may elect to determine by unit the insured acreage, share, and practice or we may deny liability on any unit. Any report submitted by you may be revised only upon our approval.

4. Production guarantees, coverage levels, and prices for computing indemnities.

a. The production guarantees, coverage levels, and prices for computing indemnities are in the actuarial table.

b. The production guarantee per acre will be reduced by the lesser of 250 pounds or 20 percent for any unharvested acreage.

c. Coverage level 2 will apply if you do not elect a coverage level.

d. You may change the coverage level and price election on or before the closing date for submitting applications for the crop year as established by the actuarial table.

5. Annual premium.

a. The annual premium is earned and payable at the time of planting. The amount is computed by multiplying the production guarantee for the unit (insured acreage times the applicable production guarantee) which may consist of quota and non-quota (additional) peanuts times the applicable price election, times the premium rate, times your share at the time of planting, times the applicable premium adjustment percentage contained in the following table.

PREMIUM ADJUSTMENT TABLE [1]

[Percent adjustments for favorable continuous insurance experience]

	Numbers of years continuous experience through previous year															
	0	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15 or more
	Percentage adjustment factor for current crop year															
Loss ratio [2] through previous crop year																
.00 to .20	100	95	95	90	90	85	80	75	70	70	65	65	60	60	55	50
.21 to .40	100	100	95	95	90	90	90	85	80	80	75	75	70	70	65	60
.41 to .60	100	100	95	95	95	95	95	90	90	90	85	85	80	80	75	70
.61 to .80	100	100	95	95	95	95	95	95	90	90	90	90	85	85	85	80
.81 to 1.09	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100

[Percent adjustments for unfavorable insurance experience]

	Numbers of loss years through previous year [3]															
	0	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
	Percentage adjustment factor for current crop year															
Loss ratio [2] through previous crop year																
1.10 to 1.19	100	100	100	102	104	106	108	110	112	114	116	118	120	122	124	126
1.20 to 1.39	100	100	100	104	108	112	116	120	124	128	132	136	140	144	148	152
1.40 to 1.69	100	100	100	106	116	124	132	140	148	156	164	172	180	188	196	204
1.70 to 1.99	100	100	100	112	122	132	142	152	162	172	182	192	202	212	222	232
2.00 to 2.49	100	100	100	116	128	140	152	164	176	188	200	212	224	236	248	260
2.50 to 3.24	100	100	100	120	134	148	162	176	190	204	218	232	246	260	274	288
3.25 to 3.99	100	100	105	124	140	156	172	188	204	220	236	252	268	284	300	300
4.00 to 4.99	100	100	110	128	146	164	182	200	218	236	254	272	290	300	300	300
5.00 to 5.99	100	100	115	132	152	172	192	212	232	252	272	292	300	300	300	300
6.00 and up	100	100	120	136	158	180	202	224	246	268	290	300	300	300	300	300

[1] For premium adjustment purposes, only the years during which premiums were earned shall be considered.
[2] Loss Ratio means the ratio of indemnity(ies) paid to premium(s) earned.
[3] Only the most recent 15 crop years shall be used to determine the number of "Loss Years". (A crop year is determined to be a "Loss Year" when the amount of indemnity for the year exceeds the premium for the year.)

b. Interest shall accrue at the rate of one and one-half percent (1-1/2%) simple interest per calendar month, or any part thereof, on any unpaid premium balance starting on the first day of the month following the first premium billing date.

c. Any premium adjustment applicable to the contract shall be transferred to:

(1) The contract of your estate or surviving spouse if you die;

(2) The contract of the person who succeeds you if such person had previously participated in the farming operation; or

(3) Your contract if you stop farming in one county and start farming in another county.

d. If participation is not continuous, any premium shall be computed on the basis of previous unfavorable insurance experience but no premium reduction under section 5a shall be applicable.

6. Deductions for debt.

Any unpaid amount due us may be deducted from any indemnity payable to you or from any loan or payment due you under any Act of Congress or program administered by the United States Department of Agriculture or its Agencies.

7. Insurance period.

Insurance attaches when the peanuts are planted and ends at the earliest of:

a. Total destruction of the peanuts;

b. Threshing or removal from the field;

c. Final adjustment of a loss; or

d. The date immediately following planting as follows:

(1) Duval and La Salle Counties, Texas—November 30;

(2) New Mexico, Oklahoma and all other Texas counties—December 31;

(3) All other states—November 30.

8. Notice of damage or loss.

a. In case of damage or probable loss:

(1) You must give us written notice if:

(a) You want our consent to replant peanuts damaged due to any insured cause

(to qualify for a replanting payment, the acreage replanted must be at least the lesser of 10 acres or 10 percent of the insured acreage on the unit);

(b) During the period before threshing, the peanuts on any unit are damaged and you decide not to further care for or thresh any part of them;

(c) You want our consent to put the acreage to another use; or

(d) After consent to put acreage to another use is given, additional damage occurs.

Insured acreage may not be put to another use until we have appraised the peanuts and given written consent. We shall not consent to another use until it is too late to replant. You must notify us when such acreage is replanted or put to another use.

(2) You must give us notice at least 15 days before the beginning of harvest if you anticipate a loss on any unit.

(3) If probable loss is later determined, immediate notice shall be given and a representative sample of the unharvested peanuts (at least 10 feet wide and the entire length of the field) shall be left intact for a period of 15 days from the date of notice, unless we give you written consent to harvest the sample.

(4) In addition to the notices required by this section, if you are going to claim an indemnity on any unit, we must be given notice not later than 30 days after the earliest of:

(a) Total destruction of the peanuts on the unit;

(b) The completion of harvest or otherwise disposing of the peanuts on the unit; or

(c) The calendar date for the end of the insurance period.

b. You may not destroy or replant any of the peanuts on which a replanting payment will be claimed until we give consent.

c. You must obtain written consent from us before you destroy any of the peanuts which are not to be harvested.

d. We may reject any claim for indemnity if any of the requirements of this section or section 9 are not complied with.

9. Claim for indemnity

a. Any claim for indemnity on a unit shall be submitted to us on our form not later than 60 days after the earliest of:

(1) Total destruction of the peanuts on the unit;

(2) Completion of harvest or otherwise disposing of the peanuts on the unit; or

(3) The calendar date for the end of the insurance period.

b. We shall not pay any indemnity unless you:

(1) Establish the total production of peanuts on the unit and that any loss of production has been directly caused by one or more of the insured causes during the insurance period; and

(2) Furnish all information we require concerning the loss.

c. The indemnity shall be determined on each unit by:

(1) Multiplying the insured acreage by the production guarantee;

(2) Subtracting therefrom the total production of peanuts to be counted (see section 9g);

(3) Multiplying the remainder applicable to quota and/or non-quota (additional) production by the applicable price election; and

(4) Multiplying this product by your share.

d. If the information reported by you results in a lower premium than the actual premium determined to be due, the indemnity shall be reduced proportionately.

e. The indemnity shall be reduced by the amount of any replanting payment.

f. The total production to count shall be identified as quota and/or non-quota (additional) production by:

(1) Counting all threshed and appraised production less than or equal to the unit's effective poundage quota as quota production; and

(2) Counting any threshed and appraised production in excess of the unit's effective poundage quota as non-quota (additional) production.

g. The total production to be counted for a unit shall include all threshed and appraised production.

(1) Threshed production shall be the net weight in pounds shown on the United States Department of Agriculture "Inspection Certificate and Sales Memorandum".

(2) Mature peanut production which is damaged, due to insurable causes, shall be adjusted by:

(a) Dividing the value per pound for the insured type of peanuts by the applicable average price per pound; and

(b) Multiplying the result by the number of pounds of such production.

(3) To enable us to determine the net weight and quality of production of any peanuts for which a United States Department of Agriculture "Inspection Certificate and Sales Memorandum" has not been issued, we must be given the opportunity to have such peanuts inspected and graded before you dispose of them. If you dispose of any production without giving us the opportunity to have the peanuts inspected and graded, the gross weight of such production shall be used in determining total production to count unless you submit a marketing record satisfactory to us which clearly shows the net weight and quality of such peanuts.

(4) Appraised production to be counted shall include:

(a) Unharvested production on harvested acreage and potential production lost due to uninsured causes and failure to follow recognized good peanut farming practices;

(b) Not less than the guarantee for any acreage which is abandoned or put to another use without our prior written consent or damaged solely by an uninsured cause; and

(c) Only the appraised and threshed production in excess of the lesser of 250 pounds or 20 percent of the production guarantee on all other unharvested acreage.

(5) Any appraisal we have made on insured acreage for which we have given written consent to be put to another use shall be considered production unless such acreage:

(a) Is not put to another use before harvest of peanuts becomes general in the county;

(b) Is harvested; or

(c) Is further damaged by an insured cause before the acreage is put to another use.

(6) We may determine the amount of production of any unharvested peanuts on the basis of field appraisals conducted after the end of the insurance period.

(7) When you have elected to exclude hail and fire as insured causes of loss and the peanuts are damaged by hail or fire, appraisals for uninsured causes shall be made in accordance with Form FCI–78, "Request To Exclude Hail and Fire".

(8) The commingled production of units shall be allocated to such units in proportion to our liability on the harvested acreage of each unit.

h. A replanting payment may be made on any insured peanuts replanted after we have given consent and the acreage replanted is at least the lesser of 10 acres or 10 percent of the insured acreage for the unit.

(1) No replanting payment will be made on acreage:

(a) On which our appraisal 90 percent of the guarantee;

(b) Initially planted prior to the date we determine reasonable; or

(c) On which a replanting payment has been made during the current crop year.

(2) The replanting payment per acre will be your actual cost per acre for replanting, but shall not exceed the lesser of 250 pounds or 20 percent of the production guarantee multiplied by the applicable price election (the quota price up to and including the unit's effective quota and the non-quota price of any additional peanuts), multiplied by your share.

If the information reported by you results in a lower premium than the actual premium determined to be due, the replanting payment will be reduced proportionately.

Any replanting payment will be considered as an indemnity.

i. You shall not abandon any acreage to us.

j. You may not bring suit or action against us unless you have complied with all policy provisions. If a claim is denied, you may sue us in the United States District Court under the provisions of 7 U.S.C. 1508(c). You must bring suit within 12 months of the date notice of denial is mailed to and received by you.

k. We shall pay the loss within 30 days after we reach agreement with you or entry of a final judgment. In no instance will we be liable for interest or damages in connection with any claim for indemntiy, whether we approve or disapprove such claim.

l. If you die, disappear, or are judically declared incompetent, or if you are an entity other than an individual and such entity is dissolved after the peanuts are planted for any crop year, any indemnity shall be paid to the person(s) we determine to be benefically entitled thereto.

m. If you have other fire insurance and fire damage occurs during the insurance period, and you have not elected to exclude fire insurance from this policy, we will be liable for loss due to fire only for the smaller of:

(1) The amount of indenmity determined pursuant to this contract without regard to any other insurance; or

(2) The amount by which the loss from fire exceeds the indemnity paid or payable under such other insurance. For the purposes of this section, the amount of loss from fire shall be the difference between the fair market value

of the production on the unit before the fire and after the fire.

10. Concealment or fraud.

We may void the contract on all crops insured without affecting your liability for premiums or waiving any right, including the right to collect any amount due us if, at any time, you have concealed or misrepresented any material fact or committed any fraud relating to the contract, and such voidance shall be effective as of the beginning of the crop year with respect to which such act or omission occurred.

11. Transfer of right to indemnity on insured share.

If you transfer any part of your share during the crop year, you may transfer your right to an indemnity. The transfer must be on our form and approved by us. We may collect the premium from either you or your transferee or both. The transferee shall have all rights and responsibilities under the contract.

12. Assignment of indemnity.

You may assign to another party your right to an indemnity for the crop year only on our form and with our approval. The assignee shall have the right to submit the loss notices and forms required by the contract.

13. Subrogation. (Recovery of loss from a third party.)

Because you may be able to recover all or a part of your loss from someone other than us, you must do all you can to preserve any such rights. If we pay you for your loss, then your right of recovery shall, at our option, belong to us. If we recover more than we paid you plus our expenses, the excess shall be paid to you.

14. Records and access to farm.

You shall keep, for two years after the time of loss, records of the harvesting, storage, shipment, sale or other disposition of all peanuts produced on each unit including separate records showing the same information for production from any uninsured acreage. Any person designated by us shall have access to such records and the farm for purposes related to the contract.

15. Life of contract: cancellation and termination.

a. This contract shall be in effect for the crop year specified on the application and may not be canceled for such crop year. Thereafter, the contract shall continue in force for each succeeding crop year unless canceled or terminated as provided in this section.

b. This contract may be canceled by either you or us for any succeeding crop year by giving written notice on or before the cancellation date preceding such crop year.

c. This contract shall terminate as to any crop year if any amount due us on this or any other contract with you is not paid on or before the termination date preceding such crop year for the contract on which the amount is due. The date of payment of the amount due:

(1) If deducted from an indemnity shall be the date you sign the claim; or

(2) If deducted from payment under another program administered by the United States Department of Agriculture shall be the date such payment was approved.

d. The cancellation and termination dates are:

State and County	Cancellation and termination dates
Duval and La Salle Counties, Texas	February 15.
New Mexico; Oklahoma: Brown, Callahan, Comanche, Eastland, Erath, Gaines, Hood, Jones, Montague, Motley, Palo Pinto, Parker and Stonewall Counties, Texas; and Virginia.	April 15.
All other Texas counties and all other states.	March 31.

e. If you die or are judicially declared incompetent, or if you are an entity other than an individual and such entity is dissolved, the contract will terminate as of the date of death, judicial declaration, or dissolution. *However*, if such event occurs after insurance attaches for any crop year, the contract will continue in force through the crop year and terminate at the end thereof. Death of a partner in a partnership will dissolve the partnership unless the partnership agreement provides otherwise. If two or more persons having a joint interest are insured jointly, death of one of the persons will dissolve the joint entity.

f. The contract will terminate if no premium is earned for five consecutive years.

16. Contract changes.

We may change any terms and provisions of the contract from year to year. If your price election at which indemnities are computed is no longer offered, the actuarial table will provide the price election which you shall be deemed to have elected. All contract changes shall be available at your service office by December 31 preceding the cancellation date for counties with an April 15 cancellation date and by November 30 preceding the cancellation date for all other counties. Acceptance of any changes shall be conclusively presumed in the absence of any notice from you to cancel the contract.

17. Meaning of terms.

For the purposes of peanut crop insurance:

a. "Actuarial table" means the forms and related material for the crop year approved by us which are available for public inspection in your service office, and which show the production guarantees, coverage levels, premium rates, prices for computing indemnities, practices insurable and uninsurable acreage, and related information regarding peanut insurance in the county.

b. "ASCS" means the Agricultural Stabilization and Conservation Service of the United States Department of Agriculture.

c. "County" means the county shown on the application and any additional land located in a local producing area bordering on the county, as shown by the actuarial table.

d. "Crop year" means the period within which the peanuts are normally grown and shall be designated by the calendar year in which the peanuts are normally harvested.

e. "Effective Farm Marketing Quota" means the farm marketing quota as established and recorded by ASCS.

f. "Harvest" means the completion of digging of peanuts on any acreage for the purpose of combining or threshing from which acreage at least the lesser of 250 pounds or 20 percent of the production guarantee per acre shown in the actuarial table is dug.

g. "Insurable acreage" means the land classified as insurable by us and shown as such by the actuarial table.

h. "Insured" means the person who submitted the application accepted by us.

i. "Person" means an individual, partnership, association, corporation, estate, trust, or other business enterprise or legal entity, and wherever applicable, a State, a political subdivision of a State, or any agency thereof.

j. "Replanting" means performing the cultural practices necessary to replant insured acreage to the same crop.

k. "Service office" means the office servicing your contract as shown on the application for insurance or such other approved office as may be selected by you or designated by us.

l. "Tenant" means a person who rents land from another person for a share of the peanuts or a share of the proceeds therefrom.

m. "Unit" means all insurable acreage of peanuts in the county on the date of planting for the crop year:

(1) In which you have a 100 percent share; or

(2) Which is owned by one entity and operated by another entity on a share basis.

Land rented for cash, a fixed commodity payment, or any consideration other than a share in the peanuts on such land shall be considered as owned by the lessee. Land which would otherwise be one unit may be divided according to applicable guidelines on file in your service office or by written agreement with us. Units will be determined when the acreage is reported. Errors in reporting such units may be corrected by us to conform to applicable guidelines when adjusting a loss. We may consider any acreage and share thereof reported by or for your spouse or child or any member of your household to be your bona fide share or the bona fide share of any other person having an interest therein.

n. "Value per pound" means the "value per pound including loose shell kernels" as shown on the United States Department of Agriculture "Inspection Certificate and Sales Memorandum", except for Segregation II, III and non-quota (additional) peanuts for which the value per pound shall be determined by us.

18. Descriptive headings.

The descriptive headings of the various policy terms and conditions are formulated for convenience only and are not intended to affect the construction or meaning of any of the provisions of the contract.

19. Determinations.

All determinations required by the policy shall be made by us. If you disagree with our determinations, you may obtain reconsideration of or appeal those determinations in accordance with FCIC Appeal Regulations.

20. Notices.

All notices required to be given by you must be in writing and received by your service office within the designated time unless otherwise provided by the notice requirement. Notices required to be given immediately may be by telephone or in person and confirmed in writing. Time of the

notice will be determined by the time of our receipt of the written notice.

§ 425.7 [Amended]

4. Part 425 is amended by removing the "Appendix to § 425.7—Additional Terms and Conditions".

5. Part 425 is further amended by redesignating and revising Appendix B as new Appendix A to read as follows:

Appendix A.—Counties Designated for Peanut Crop Insurance

The following counties are designated for Peanut Crop Insurance under the provisions of 7 CFR 425.1:

Alabama

Autauga	Covington	Houston
Barbour	Crenshaw	Monroe
Bullock	Dale	Montgomery
Butler	Escambia	Perry
Coffee	Geneva	Pike
Conecuh	Henry	Russell

Arkansas

Crittenden	Little River

Florida

Alachua	Holmes	Okaloosa
Calhoun	Jackson	Santa Rosa
Columbia	Jefferson	Suwannee
Dixie	Lafayette	Wakulla
Escambia	Leon	Walton
Gadsden	Levy	Washington
Gilchrist	Madison	
Hamilton	Marion	

Georgia

Appling	Effingham	Richmond
Atkinson	Emanuel	Schley
Baker	Evans	Screven
Ben Hill	Glascock	Seminole
Berrien	Grady	Stewart
Beckley	Houston	Sumter
Brooks	Irwin	Talbot
Bryan	Jeff Davis	Tattnall
Bulloch	Jefferson	Taylor
Burke	Jenkins	Telfair
Calhoun	Johnson	Terrell
Candler	Laurens	Thomas
Clay	Lee	Tift
Coffee	Lowndes	Toombs
Colquitt	Macon	Treutlen
Cook	Marion	Turner
Crawford	Miller	Twiggs
Crisp	Mitchell	Washington
Decatur	Montgomery	Webster
Dodge	Peach	Wheeler
Dooly	Pulaski	Wilcox
Dougherty	Quitman	Wilkinson
Early	Randolph	Worth

Louisiana

Morehouse

Mississippi

Coahoma

New Mexico

Lea	Quay	Roosevelt

North Carolina

Beaufort	Halifax	Perquimans
Berlin	Hertford	Pitt
Bladen	Johnston	Richmond
Chowan	Martin	Robeson
Columbus	Nash	Sampson
Cumberland	New Hanover	Tyrrell
Currituck	Northampton	Washington
Edgecombe	Onslow	Wilson
Gates	Pasquotank	
Greene	Pender	

Oklahoma

Atoka	Hughes	Okfuskee
Bryan	Jackson	Okmulgee
Caddo	Johnston	Payne
Carter	Lincoln	Pittsburg
Choctaw	Love	Pontotoc
Comanche	McClain	Pottawatomie
Creek	McIntosh	Seminole
Garvin	Marshall	Stephens
Grady	Muskogee	Washita

South Carolina

Aiken	Clarendon	Lee
Allendale	Florence	Orangeburg
Bamberg	Hampton	Sumter
Barnwell	Kershaw	

Tennessee

Tipton

Texas

Anderson	Fayette	McCulloch
Atascosa	Frio	McLennan
Austin	Gaines	Mason
Bastrop	Gonzales	Medina
Bexar	Grayson	Milam
Bosque	Guadalupe	Mills
Brown	Harris	Montague
Callahan	Henderson	Morris
Cherokee	Hill	Motley
Colorado	Hood	Palo Pinto
Comanche	Houston	Parker
Cooke	Johnson	Robertson
Denton	Jones	San Saba
De Witt	Lamar	Somervell
Duval	La Salle	Stonewall
Eastland	Lee	Waller
Erath	Limestone	Wilson
Fannin	Llano	Wise

Virginia

Brunswick	Isle of Wight	Surry
Dinwiddie	Prince George	Sussex
Greensville	Southampton	Suffolk City

Done in Washington, D.C. on December 27, 1983.

Approved by:

Merritt W. Sprague,

Manager.

Dated: Febuary 9, 1984.

Peter F. Cole,

Secretary, Federal Crop Insurance Corporation.

[FR Doc. 84-4270 Filed 2-17-84; 8:45 am]

BILLING CODE 3410-08-M

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7 CFR Part 428

[Amdt. No. 3]

Sunflower Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Final rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) hereby amends the Sunflower Crop Insurance Regulations (7 CFR Part 428), effective for the 1984 and succeeding crop years, by: (1) Changing the policy to make it easier to read; (2) eliminating the substitute crop provision; (3) eliminating the reduction of production guarantee for unharvested acreage and its related provisions; (4) providing that sunflowers are insurable following sunflowers, potatoes, dry beans, soybeans, rape, and mustard, if rotation requirements are carried out; (5) adding a provision that makes sunflowers, planted in rows too close to permit cultivation, insurable only when so designated by the actuarial table; (6) providing for determination of indemnities based on the acreage report at the time of loss adjustment; (7) adding a provision to provide a coverage level if the insured does not select one; (8) providing that residue shall be left intact in the event of a probable loss; (9) adding a provision for replanting payment; (10) adding a 60-day claim for indemnity provision; (11) adding a provision to allow consideration of quality; (12) adding a section regarding appraisals following the end of the insurance period for unharvested acreage; (13) adding a hail/fire provision for appraisals of uninsured causes; (14) changing the cancellation/termination dates to conform with farming practices; (15) providing that any change in the policy will be available in the service office by a certain date; (16) adding a definition for "service office;" (17) providing for a unit determination when the acreage report is filed; and (18) adding three sections regarding "descriptive headings," "notices," and "determinations." The intended effect of this rule is to update the policy for insuring sunflowers in accordance with Secretary's Memorandum No. 1512–1.

In addition to the changes described above, FCIC issues a new subsection in the sunflower crop insurance regulations to contain the control numbers assigned by the Office of Management and Budget (OMB) to information collection requirements of these regulations.

EFFECTIVE DATE: March 22, 1984.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington. D.C. 20250, telephone (202) 447–3325.

The Impact Statement describing the options considered in developing this rule and the impact of implementing each option is available upon request from Peter F. Cole.

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA procedures established in Secretary's Memorandum No. 1512–1 (June 11, 1981). This action constitutes a review under such procedures as to the need, currency, clarity, and effectiveness of these regulations. The sunset review date established for these regulations is April 1, 1988.

Merritt W. Sprague, Manager, FCIC, has determined that (1) this action is not a major rule as defined by Executive Order No. 12291 (February 17, 1981), (2) this action will not increase the Federal paperwork burden for individuals, small businesses, and other persons, and (3) this action conforms to the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), and other applicable law.

The title and number of the Federal Assistance Program to which these regulations apply are: Title—Crop Insurance; Number 10.450.

This action will not have a significant impact specifically upon area and community development; therefore, review as established by Executive Order No. 12372 (July 14, 1982) was not used to assure that units of local government are informed of this action.

It has been determined that this action is exempt from the provisions of the Regulatory Flexibility Act; therefore, no Regulatory Impact Statement was prepared.

On Wednesday, June 22, 1983, FCIC published a notice of proposed rulemaking in the **Federal Register** at 48 FR 28472, amending the policy for insuring sunflowers in accordance with the provisions of Secretary's Memorandum No 1512–1. The public was given 60 days in which to submit written comments, data, and opinions on the proposed rule, but none were received. Therefore, with the exception of minor and non-substantive changes in language, the proposed rule is hereby published as a final rule to be effective with the 1984 crop year.

List of Subjects in 7 CFR Part 428

Crop insurance, Sunflowers.

PART 428—[AMENDED]

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation hereby amends the Sunflower Crop Insurance Regulations (7 CFR Part 428), effective for the 1984 and succeeding crop years, in the following instances:

1. The Authority citation for 7 CFR Part 428 is:

Authority: Secs. 506, 516, Pub. L. 75–430, 52 Stat. 73, 77 as amended (7 U.S.C. 1506, 1516).

2. 7 CFR 428.3 is revised to read as follows:

§ 428.3 OMB control numbers.

The information collection requirements contained in these regulations (7 CFR Part 428) have been approved by the Office of Management and Budget (OMB) under the provisions of 44 U.S.C. Chapter 35 and have been assigned OMB Nos. 0563–0003 and 0563–0007.

3. 7 CFR 428.7(d) is revised to read as follows:

§ 428.7 The application and policy.

* * * * *

(d) The application for the 1983 and succeeding crop years is found at Subpart D of Part 400—General Administrative Regulations (7 CFR 400.37; 400.38, first published at 48 FR 1023, January 10, 1983) and may be amended from time to time for subsequent crop years. The provisions of the Sunflower Seed Insurance Policy are as follows:

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

Sunflower—Crop Insurance Policy

(This is a continuous contract. Refer to Section 15.)

AGREEMENT TO INSURE: We shall provide the insurance described in this policy in return for the premium and your compliance with all applicable provisions.

Throughout this policy, "you" and "your" refer to the insured shown on the accepted Application and "we," "us" and "our" refer to the Federal Crop Insurance Corporation.

Terms and Conditions

1. Causes of loss.

a. The insurance provided is against unavoidable loss of production resulting from the following causes occurring within the insurance period:

(1) Adverse weather conditions;
(2) Fire;
(3) Insects;
(4) Plant disease;
(5) Wildlife;
(6) Earthquake; or
(7) Volcanic eruption;

unless those causes are excepted, excluded, or limited by the actuarial table or section 9f(6).

b. We shall not insure against any loss of production due to:

(1) The neglect or malfeasance of you, any member of your household, your tenants or employees;

(2) The failure to follow recognized good sunflower farming practices;

(3) Damage resulting from the impoundment of water by any governmental, public or private dam or reservoir project; or

(4) Any cause not specified in section 1a as an insured loss.

2. Crop, acreage, and share insured.

a. The crop insured shall be sunflower seed ("sunflowers") which are planted for harvest as sunflowers, which are grown on insured acreage and for which a guarantee and premium rate are provided by the actuarial table.

b. The acreage insured for each crop year shall be sunflowers planted on insurable acreage as designated by the actuarial table and in which you have a share, as reported by you or as determined by us, whichever we shall elect.

c. The insured share shall be your share as landlord, owner-operator, or tenant in the insured sunflowers at the time of planting.

d. We do not insure any acreage:

(1) Where the farming practices carried out are not in accordance with the farming practices for which the premium rates have been established;

(2) Which is irrigated and an irrigated practice is not provided for by the actuarial table unless you elect to insure the acreage as nonirrigated by reporting it as insurable under section 3;

(3) Which is destroyed, it is practical to replant to sunflowers, and such acreage is not replanted;

(4) Initially planted after the final planting date contained by the actuarial table, unless you agree in writing on our form to coverage reduction;

(5) Of volunteer sunflowers;

(6) Planted to a type or variety of sunflowers not established as adapted to the area or excluded by the actuarial table;

(7) Planted with a crop other than sunflowers; or

(8) Which does not meet the rotation requirements designated by the actuarial table.

e. Where insurance is provided for an irrigated practice:

(1) You shall report as irrigated only the acreage for which you have adequate facilities and water to carry out a good sunflower irrigation practice at the time of planting; and

(2) Any loss of production caused by failure to carry out a good sunflower irrigation practice, except failure of the water supply from an unavoidable cause occurring after the beginning of planting, will be considered as due to an uninsured cause. The failure or breakdown of irrigation equipment or facilities will not be considered as a failure of the water supply from an unavoidable cause.

f. Unless otherwise provided by the actuarial table, insurance will attach only on acreage initially planted in rows far enough apart to permit cultivation; but, if such insured acreage is destroyed and replanted, whether in the same manner or by broadcasting, drilling, or in rows too close to permit cultivation, it will be regarded as insured acreage and not as acreage put to another use.

g. Acreage which is planted for the development or production of hybrid seed or for experimental purposes is not insured unless we agree in writing to insure such acreage.

h. We may limit the insured acreage to any acreage limitation established under any Act of Congress, if we advise you of the limit prior to planting.

3. Report of acreage, share, and practice.

You shall report on our form:

a. All the acreage of sunflowers in the county in which you have a share;

b. The practice; and

c. Your share at the time of planting.

You shall designate separately any acreage that is not insurable. You shall report if you do not have a share in any sunflowers planted in the county. This report shall be

submitted annually on or before the reporting date established by the actuarial table. We may determine all indemnities on the basis of information you have submitted on this report. If you do not submit this report by the reporting date, we may elect to determine by unit the insured acreage, share, and practice or we may deny liability on any unit. Any report submitted by you may be revised only upon our approval.

4. Production gurantees, coverage levels, and prices for computing indemnities.

a. The production guarantees, coverage levels, and prices for computing indemnities are contained in the actuarial table.

b. Coverage level 2 will apply if you have not elected a coverage level.

c. You may change the coverage level and price election on or before the closing date for submitting applications for the crop year as established by the actuarial table.

5. Annual premium.

a. The annual premium is earned and payable at the time of planting. The amount is computed by multiplying the production guarantee times the price election, times the premium rate, times the insured acreage, times your share at the time of planting, times the applicable premium adjustment percentage contained in the following table.

PREMIUM ADJUSTMENT TABLE [1]

[Percent adjustments for favorable continuous insurance experience]

	Numbers of years continuous experience through previous year															
	0	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15 or more
	Percentage adjustment factor for current crop year															
Loss ratio [2] through previous crop year																
.00 to .20	100	95	95	90	90	85	80	75	70	70	65	65	60	60	55	50
.21 to .40	100	100	95	95	90	90	90	85	80	80	75	75	70	70	65	60
.41 to .60	100	100	95	95	95	95	95	90	90	90	85	85	80	80	75	70
.61 to .80	100	100	95	95	95	95	95	95	90	90	90	90	85	85	85	80
.81 to 1.09	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100

[Percent adjustments for unfavorable insurance experience]

	Numbers of loss years through previous year [3]															
	0	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
	Percentage adjustment factor for current crop year															
Loss ratio [2] through previous crop year																
1.10 to 1.19	100	100	100	102	104	106	106	110	112	114	116	118	120	122	124	126
1.20 to 1.39	100	100	100	104	108	112	116	120	124	128	132	136	140	144	148	152
1.40 to 1.69	100	100	100	108	116	124	132	140	148	156	164	172	180	188	196	204
1.70 to 1.99	100	100	100	112	122	132	142	152	162	172	182	192	202	212	222	232
2.00 to 2.49	100	100	100	116	128	140	152	164	176	188	200	212	224	236	248	260
2.50 to 3.24	100	100	100	120	134	148	162	176	190	204	218	232	246	260	274	288
3.25 to 3.99	100	100	105	124	140	156	172	188	204	220	236	252	268	284	300	300
4.00 to 4.99	100	100	110	128	146	164	182	200	218	236	254	272	290	300	300	300
5.00 to 5.99	100	100	115	132	152	172	192	212	232	252	272	292	300	300	300	300
6.00 and up	100	100	120	136	158	180	202	224	246	268	290	300	300	300	300	300

[1] For premium adjustment purposes, only the years during which premiums were earned shall be considered.
[2] Loss Ratio means the ratio of indemnity(ies) paid to premium(s) earned.
[3] Only the most recent 15 crop years shall be used to determine the number of "Loss Years". (A crop year is determined to be a "Loss Year" when the amount of indemnity for the year exceeds the premium for the year.)

b. Interest shall accrue at the rate of one and one-half percent (1½%) simple interest per calendar month, or any part thereof, on any unpaid premium balance starting on the first day of the month following the first premium billing date.

c. Any premium adjustment applicable to the contract will be transferred to:

(1) The contract of your estate or surviving spouse if you die;

(2) The contract of the person who succeeds you if such person had previously participated in the farming operation; or

(3) Your contract if you stop farming in one county and start farming in another county.

d. If participation is not continuous, any premium shall be computed on the basis of previous unfavorable insurance experience but no premium reduction under section 5a shall be applicable.

6. Deductions for debt.

Any unpaid amount due us may be deducted from any indemnity payable to you or from any loan or payment due you under any Act of Congress or program administered by the United States Department of Agriculture or its Agencies.

7. Insurance period.

Insurance attaches when the sunflowers are planted and ends upon the earliest of:

a. Total destruction of the sunflowers;

b. Combining, threshing or removal from the field;

c. Final adjustment of a loss; or

d. November 30 of the calendar year in which sunflowers are normally harvested.

8. Notice of damage or loss.

a. In case of damage or probable loss:

(1) You must give us written notice if:

(a) You want our consent to replant sunflowers damaged due to any insured cause (To qualify for a replanting payment, the acreage replanted shall be at least the lesser of 10 acres or 10 percent of the insured acreage on the unit);

(b) During the period before harvest, the sunflowers on any unit are damaged and you decide not to further care for or harvest any part of them;

(c) You want our consent to put the acreage to another use; or

(d) After consent to put acreage to another use is given, additional damage occurs.

Insured acreage may not be put to another use until we have appraised the sunflowers and given written consent. We will not consent to another use until it is too late to replant. You must notify us when such acreage is put to another use.

(2) You must give us notice at least 15 days before the beginning of harvest if you anticipate a loss on any unit.

(3) If probable loss is later determined, immediate notice shall be given and a representative sample of the unharvested sunflowers (at least 10 feet wide and the entire length of the field) shall be left intact for a period of 15 days from the date of notice, unless we give you written consent to harvest the sample.

(4) In addition to the notices required by this section, if you are going to claim an indemnity on any unit, we must be given notice not later than 30 days after the earliest of:

(a) Total destruction of the sunflowers on the unit;

(b) Harvest of the unit; or
(c) The calendar date for the end of the insurance period.

b. You may not destroy or replant any of the sunflowers on which a replanting payment will be claimed until we give consent.

c. You must obtain written consent from us before you destroy any of the sunflowers which are not to be harvested.

d. We may reject any claim for indemnity if any of the requirements of this section or section 9 are not complied with.

9. Claim for indemnity.

a. Any claim for indemnity on a unit shall be submitted to us on our form not later than 60 days after the earliest of:
(1) Total destruction of the sunflowers on the unit;
(2) Harvest of the unit; or
(3) The calendar date for the end of the insurance period.

b. We shall not pay any indemnity unless you:
(1) Establish the total production of sunflowers on the unit and that any loss of production has been directly caused by one or more of the insured causes during the insurance period; and
(2) Furnish all information we require concerning the loss.

c. The indemnity shall be determined on each unit by:
(1) Multiplying the insured acreage by the production guarantee;
(2) Subtracting therefrom the total production of sunflowers to be counted (see section 9f);
(3) Multiplying the remainder by the price election; and
(4) Multiplying this product by your share.

d. If the information reported by you results in a lower premium than the actual premium determined to be due, the indemnity shall be reduced proportionately.

e. The indemnity shall be reduced by the amount of any replanting payment.

f. The total production to be counted for a unit shall include all harvested and appraised production.
(1) Mature sunflower production:
(a) Which otherwise is not eligible for quality adjustment shall be reduced .12 percent for each .1 percentage point of moisture in excess of 10 percent; or
(b) Which, due to insurable causes, has a test weight below 25 pounds per bushel for oil type sunflowers or below 22 pounds per bushel for non-oil type sunflowers shall be adjusted by:
(i) Dividing the value per pound by the price per pound of No. 2 sunflowers; and
(ii) Multiplying the result by the number of pounds of such sunflowers.

The applicable price for No. 2 sunflowers shall be the local market price on the earlier of the day the loss is adjusted or the day the sunflowers were sold.

(2) Any mature production from other crops growing in the sunflowers shall be counted as sunflowers on a weight basis.

(3) Appraised production to be counted shall include:
(a) Unharvested production on harvested acreage, and potential production lost due to uninsured causes, and failure to follow recognized good sunflower farming practices;
(b) Not less than the guarantee for any acreage which is abandoned, put to another use without our prior written consent, or damaged solely by an uninsured cause;
(c) Any appraised production on unharvested acreage.

(4) Any appraisal we have made on insured acreage for which we have given written consent to be put to another use shall be considered production unless such acreage:
(a) Is not put to another use before harvest of sunflowers becomes general in the county;
(b) Is harvested; or
(c) Is further damaged by an insured cause before the acreage is put to another use.

(5) We may determine the amount of production of any unharvested sunflowers on the basis of field appraisals conducted after the end of the insurance period.

(6) When you have elected to exclude hail and fire as insured causes of loss and the sunflowers are damaged by hail and fire, appraisals for uninsured causes shall be made in accordance with Form FCI–78, "Request to Exclude Hail and Fire".

(7) The commingled production of units shall be allocated to such units in proportion to our liability on the harvested acreage of each unit.

g. A replanting may be made on any insured sunflowers replanted after we have given consent and the acreage replanted is at least the lesser of 10 acres or 10 percent of the insured acreage for the unit.

(1) No replanting payment will be made on acreage:
(a) On which our appraisal exceeds 90 percent of the guarantee;
(b) Initially planted prior to the date we determine reasonable; or
(c) On which a replanting payment has been made during the current crop year.

(2) The replanting payment per acre will be your actual cost per acre for replanting, but shall not exceed the product obtained by multiplying 175 pounds, times the price election, times your share.

(3) If the information reported by you results in a lower premium than the actual premium determined to be due, the replanting payment will be reduced proportionately.

(4) Any replanting payment will be considered as an indemnity.

h. You shall not abandon any acreage to us.

i. You may not bring suit or action against us unless you have complied with all policy provisions. If a claim is denied, you may sue us in the United States District Court under the provisions of 7 U.S.C. 1508(c). You must bring suit within 12 months of the date notice of denial is mailed to and received by you.

j. We will pay the loss within 30 days after we reach agreement with you or entry of a final judgment. In no event will we be liable for interest or damages in connection with any claim for indemnity, whether we approve or disapprove such claim.

k. If you die, disappear, or are judicially declared incompetent, or if you are an entity other than an individual and such entity is dissolved after the sunflowers are planted for any crop year, any indemnity shall be paid to the person(s) we determine to be beneficially entitled thereto.

l. If you have other fire insurance, fire damage occurs during the insurance period, and you have not elected to exclude fire insurance from this policy, we will be liable for loss due to fire only for the smaller of:
(1) The amount of indemnity determined pursuant to this contract without regard to any other insurance; or
(2) The amount by which the loss from fire exceeds the indemnity paid or payable under such other insurance. For the purposes of this section, the amount of loss from fire shall be the difference between the fair market value of the production on the unit before the fire and after the fire.

10. Concealment or fraud.

We may void the contract on all crops insured without affecting your liability for preminums or waiving any right, including the right to collect any amount due us if, at any time, you have concealed or misrepresented any material fact or committed any fraud relating to the contract, and such voidance shall be effective as of the beginning of the crop year with respect to which such act or ommission occurred.

11. Transfer of right to indemnity on insured share.

If you transfer any part of your share during the crop year, you may transfer your right to an indemnity. The transfer must be on our form and approved by us. We may collect the premium from either you or your transferee or both. The transferee shall have all rights and responsibilities under the contract.

12. Assignment of indemnity.

You may assign to another party your right to an indemnity for the crop year only on our form and with our approval. The assignee shall have the right to submit the loss notices and forms required by the contract.

13. Subrogation. (Recovery of loss from a third party.)

Because you may be able to recover all or a part of your loss from someone other than us, you must do all you can to preserve any such rights. If we pay you for your loss then your right of recovery shall at our option, belong to us. If we recover more than we paid you plus our expenses, the excess shall be paid to you.

14. Records and access to farm.

You shall keep, for two years after the time of loss, records of the harvesting, storage, shipment, sale or other disposition of all sunflowers produced on each unit including separate records showing the same information for production from any uninsured acreage. Any persons designated by us shall have access to such records and the farm for purposes related to the contract.

15. Life of contract: Cancellation and termination.

a. This contract shall be in effect for the crop year specified on the application and may not be canceled for such crop year. Thereafter, the contract shall continue in force for each succeeding crop year unless canceled or terminated as provided in this section.

b. This contract may be canceled by either you or us for any succeeding crop year by giving written notice on or before the cancellation date preceding such crop year.

c. This contract shall terminate as to any crop year if any amount due us on this or any other contract with you is not paid on or

before the termination date preceding such crop year for the contract on which the amount is due. The date of payment of the amount due:

(1) If deducted from an indemnity claim will be the date you sign such claim; or

(2) If deducted from payment under another program administered by the United States Department of Agriculture will be the date such payment was approved.

d. The cancellation and termination dates are April 15.

e. If you die or are judicially declared incompetent, or if you are an entity other than an individual and such entity is dissolved, the contract shall terminate as of the date of death, judicial declaration, or dissolution. *However*, if such event occurs after insurance attaches for any crop year, the contract will continue in force through the crop year and terminate at the end thereof. death of a partner in a partnership will dissolve the partnership unless the partnership agreement provides otherwise. If two or more persons having a joint interest are insured jointly, death of one of the persons will dissolve the joint entity.

f. The contract will terminate if no premium is earned for five consecutive years.

16. Contract changes.

We may change any terms and provisions of the contract from year to year. If your price election at which indemnities are computed is no longer offered, the actuarial table will provide the price election which you shall be deemed to have elected. All contract changes shall be available at your service office by December 31 preceding the cancellation date. Acceptance of any changes shall be conclusively presumed in the absence of any notice from you to cancel the contract.

17. Meaning of terms.

For the purposes of sunflower crop insurance:

a. "Actuarial table" means the forms and related material for the crop year approved by us which are available for public inspection in your service office, and which show the production guarantees, coverage levels, premium rates, prices for computing indemnities, practices, insurable and uninsurable acreage, and related information regarding sunflower insurance in the county.

b. "County" means the county shown on the application and any additional land located in a local producing area bordering on the county, as shown by the actuarial table.

c. "Crop year" means the period within which the sunflowers are normally grown and will be designated by the calendar year in which the sunflowers are normally harvested.

d. "Harvest" means the completion of combining or threshing of sunflowers on the unit.

e. "Insurable acreage" means the land classified as insurable by us and shown as such by the actuarial table.

f. "Insured" means the person who submitted the application accepted by us.

g. "Person" means an individual, partnership, association, corporation, estate, trust, or other business enterprise or legal entity, and wherever applicable, a State, a political subdivision of a State, or any agency thereof.

h. "Replanting" means performing the cultural practices necessary to replant insured acreage to sunflowers.

i. "Service office" means the office servicing your contract as shown on the application for insurance or such other approved office as may be selected by you or designated by us.

j. "Tenant" means a person who rents land from another person for a share of the sunflowers or a share of the proceeds therefrom.

k. "Unit" means all insurable acreage of sunflowers in the county on the date of planting for the crop year:

(1) In which you have a 100 percent share; or

(2) Which is owned by one entity and operated by another entity on a share basis.

Land rented for cash, a fixed commodity payment, or any consideration other than a share in the sunflowers on such land shall be considered as owned by the lessee. Land which would otherwise be one unit may be divided according to applicable guidelines on file in your service office or by written agreement with us. Units will be determined when the acreage is reported. Errors in reporting such units may be corrected by us to conform to applicable guidelines when adjusting a loss. We may consider any acreage and share thereof reported by or for your spouse or child or any member of your household to be your bona fide share or the bona fide share of any other person having an interest therein.

18. Descriptive headings.

The descriptive headings of the various policy terms and conditions are formulated for convenience only and are not intended to affect the construction or meaning of any of the provisions of the contract.

19. Determinations.

All determinations required by the policy shall be made by us. If you disagree with our determinations, you may obtain reconsideration of or appeal those determinations in accordance with Appeal Regulations.

20. Notices.

All notices required to be given by you must be in writing and received by your service office within the designated time unless otherwise provided by the notice requirement. Notices required to be given immediately may be by telephone or in person and confirmed in writing. Time of the notice will be determined by the time of our receipt of the written notice.

§ 428.7 [Amended]

4. Part 428 is amended by removing the "Appendix to § 428.7—Additional Terms and Conditions."

5. Part 428 is further amended by redesignating Appendix B as Appendix A and revising Appendix A to read as follows:

Appendix A.—Counties Designated for Sunflower Crop Insurance

The following counties are designated for Sunflower Crop Insurance under the provisions of 7 CFR 428.1.

Minnesota

Becker	Lake of the Woods	West Polk
Beltrami	Le Sueur	Pope
Big Stone	Lincoln	Red Lake
Chippewa	Lyon	Renville
Clay	Mahnomen	Roseau
Clearwater	Marshall	Stearns
Crow Wing	Norman	Stevens
Douglas	East Otter Tail	Swift
Grant	West Otter Tail	Traverse
Hubbard	Pennington	Wilkin
Kandiyohi	Pipestone	Yellow Medicine
Kittson	East Polk	
Lac qui Parle		

North Dakota

Adams	Grant	Ransom
Barnes	Griggs	Renville
Benson	Hettinger	Richland
Billings	Kidder	Rolette
Bottineau	La Moure	Sargent
Bowman	Logan	Sheridan
Burke	McHenry	Sioux
Burleigh	McIntosh	Slope
Cass	McKenzie	Stark
Cavalier	McLean	Steele
Dickey	Mercer	Stutsman
Divide	Morton	Towner
Dunn	Mountrail	Traill
Eddy	Nelson	Walsh
Emmons	Oliver	Ward
Foster	Pembina	Wells
Golden Valley	Pierce	Williams
Grand Forks	Ramsey	

South Dakota

Beadle	Edmunds	McPherson
Brookings	Faulk	Marshall
Brown	Grant	Meade
Brule	Gregory	Miner
Campbell	Haakon	Perkins
Charles Mix	Hamlin	Potter
Clark	Hand	Roberts
Codington	Hanson	Spink
Corson	Hughes	Stanley
Day	Kingsbury	Sully
Deuel	Lake	Tripp
Dewey	Lyman	Walworth
Douglas	McCook	

Texas

Bailey	Hale	Randall
Castro	Lamb	Sherman
Deaf Smith	Lubbock	Yoakum
Floyd	Parmer	

Done in Washington, D.C. on December 27, 1983.

Dated: February 9, 1984.

Peter F. Cole,

Secretary, Federal Crop Insurance Corporation.

Approved by:

Merritt W. Sprague,

Manager.

[FR Doc. 84-4272 Filed 2-17-84; 8:45 am]

BILLING CODE 3410-06-M

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7 CFR Part 433

[Amdt. No. 3]

Dry Bean Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Final rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) hereby amends the Dry Bean Crop Insurance Regulations (7 CFR Part 433), effective for the 1984 and succeeding crop years by: (1) Changing the policy to make it easier to read; (2) eliminating the reduction in production guarantee for unharvested acreage and its related provisions; (3) adding a provision regarding rotation requirements; (4) providing for determination of indemnities based on the acreage report rather that at time of loss adjustment; (5) adding a provision to provide for a coverage level if the insured does not select one; (6) providing that residue shall be left intact in the event of a probable loss; (7) adding a provision of replanting payment; (8) adding a 60-day claim for indemnity provision; (9) adding a section regarding appraisals following the end of the insurance period for unharvested acreage; (10) adding a hail/fire provision for appraisals of uninsured causes; (11) changing the cancellation/termination dates to conform to farming practices; (12) providing that any change in the policy will be available in the service office by a certain date; (13) adding a definition for "service office;" (14) providing for unit determination when the acreage is filed; and (15) adding three sections regarding "descriptive headings," "determinations," and "notices."

In addition, FCIC hereby issues a new subsection in the dry bean crop insurance regulations to contain the control numbers assigned by the Office of Management and Budget (OMB) to information collection requirements of these regulations. The intended effect of this rule is to update the policy for insuring dry beans in accordance with the provisions of Secretary's Memorandum No. 1512–1, requiring a review of the regulations as to need, currency, clarity, and effectiveness, and to comply with OMB regulations requiring publication of OMB control numbers assigned to information collection requirements in these regulations.

EFFECTIVE DATE: March 22, 1984.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C., 20250, telephone (202) 447–3325.

The Impact Statement describing the options considered in developing this rule and the impact of implementing each option is available upon request from Peter F. Cole.

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA procedures established in Secretary's Memorandum No. 1512–1 (June 11, 1981). This action constitutes a review under such procedures as to the need, currency, clarity, and effectiveness of these regulations. The sunset review date established for these regulations is April 1, 1988.

Merritt W. Sprague, Manager, FCIC, has determined that (1) this action is not a major rule as defined by Executive Order No. 12291 (February 17, 1981), (2) this action will not increase the Federal paperwork burden for individuals, small businesses, and other persons, and (3) this action conforms to the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), and other applicable law.

The title and number of the Federal Assistance Program to which these regulations apply are: Title—Crop Insurance; Number 10.450.

This action will not have a significant impact specifically upon area and community development; therefore, review as established by Executive Order No. 12372 (July 14, 1982) was not used to assure that units of local government are informed of this action.

It has been determined that this action is exempt from the provisions of the Regulatory Flexibility Act; therefore, no Regulatory Impact Statement was prepared.

On Wednesday, June 22, 1983, FCIC published a notice of proposed rulemaking in the **Federal Register** at 48 FR 28476, amending the policy for insuring dry beans in accordance with the provisions of Secretary's Memorandum No. 1512–1. The public was given 60 days in which to submit written comments, data, and opinions on the rule, but none were received. Therefore, with the exception of minor and non-substantive change in language, the proposed rule as published is hereby issued as a final rule to be effective with the 1984 crop year.

List of Subjects in 7 CFR Part 433

Crop insurance, Dry beans.

PART 433—[AMENDED]

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation hereby amends the Dry Bean Crop Insurance Regulations (7 CFR Part 433), effective for the 1984 and succeeding crop years, in the following instances:

1. The Authority citation for 7 CFR Part 433 is:

Authority: Secs. 506, 516, Pub. L. 75–430, 52 Stat. 73, 77 as amended (7 U.S.C. 1506, 1516).

2. 7 CFR 433.3 is added to read as follows:

§ 433.3 OMB control numbers.

The information collection requirements contained in these regulations (7 CFR Part 433) have been approved by the Office of Management and Budget (OMB) under the provisions of 44 U.S.C. Chapter 35 and have been assigned OMB Nos. 0563–0003 and 0563–0007.

3. 7 CFR 433.7(d) is revised to read as follows:

§ 433.7 The application and policy.

* * * * *

(d) * * *

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

Dry Bean—Crop Insurance Policy

(This is a continuous contract. Refer to Section 15.)

AGREEMENT TO INSURE: We shall provide the insurance described in this policy in return for the premium and your compliance with all applicable provisions.

Throughout this policy, "you" and "your" refer to the insured shown on the accepted Application and "we," "us" and "our" refer to the Federal Crop Insurance Corporation.

Terms and Conditions

1. Causes of loss.

a. The insurance provided is against unavoidable loss of production resulting from the following causes occurring within the insurance period:

(1) Adverse weather conditions;
(2) Fire;
(3) Insects;
(4) Plant disease;
(5) Wildlife;
(6) Earthquake; or
(7) Volcanic eruption;

unless those causes are excepted, excluded, or limited by the actuarial table or section 9g(5).

b. We shall not insure against any loss of production due to:

(1) The neglect or malfeasance of you, any member of your household, your tenants or employees;

(2) The failure to follow recognized good bean farming practices;

(3) Damage resulting from the impoundment of water by any governmental, public or private dam or reservoir project; or

(4) Any cause not specified in section 1a as an insured loss.

2. Crop, acreage, and share insured.

a. The crop insured shall be dry beans ("beans") and shall consist of:

(1) Dry edible beans, planted for harvest as dry beans, of a class designated in the actuarial table; or

(2) Bush varieties of garden seed beans, planted for harvest as seed, and grown under a contract executed with a seed company before the acreage reporting date;

which are grown on insured acreage and for which a guarantee and premium rate are provided by the actuarial table.

b. An instrument in the form of a "lease" under which you retain control of the acreage on which the insured beans are grown and which provides for delivery of the beans under certain conditions and at a stipulated price(s) shall, for the purpose of this contract, be treated as a contract under which you have the share in the beans.

c. The acreage insured for each crop year shall be beans planted on insurable acreage as designated by the actuarial table and in which you have a share, as reported by you or as determined by us, whichever we shall elect.

d. The insured share shall be your share as landlord, owner-operator, or tenant in the insured beans at the time of planting.

e. We do not insure any acreage:

(1) Of bush varieties of garden seed beans not grown under contract or excluded from the contract for, or during, the crop year;

(2) Where the farming practices carried out are not in accordance with the farming practices for which the premium rates have been established;

(3) Which is irrigated and an irrigated practice is not provided for by the actuarial table unless you elect to insure the acreage as nonirrigated by reporting it as insurable under section 3;

(4) Which is destroyed if it is practical to replant to beans and such acreage is not replanted;

(5) Initially planted after the final planting date contained in the actuarial table, unless you agree in writing on our form to coverage reduction;

(6) Of volunteer beans;

(7) Planted to a class of dry edible beans or a bush variety of garden seed beans not established as adapted to the area or excluded by the actuarial table;

(8) Which does not meet the rotation requirements designated by the actuarial table; or

(9) Planted with a crop other than beans.

f. Where insurance is provided for an irrigated practice:

(1) You shall report as irrigated only the acreage for which you have adequate facilities and water to carry out a good bean irrigation practice at the time of planting; and

(2) Any loss of production caused by failure to carry out a good bean irrigation practice, except failure of the water supply from an unavoidable cause occurring after the beginning of planting, shall be considered as due to an uninsured cause. The failure or breakdown of irrigation equipment or facilities shall not be considered as a failure of the water supply from an unavoidable cause.

g. Any acreage of beans which is destroyed and replanted to an insurable class of dry edible beans or bush varieties of garden seed beans shall be regarded as insured acreage and not as acreage put to another use.

h. Acreage which is planted for the development or production of hybrid seed or for experimental purposes is not insured unless we agree in writing to insure such acreage.

i. We may limit the insured acreage to any acreage limitation established under any Act of Congress, if we advise you of the limit prior to planting.

3. Report of acreage, share, and practice.

You shall report on our form:

a. All the acreage of beans in the county in which you have a share;

b. The practice; and

c. Your share at the time of planting.

You shall designate separately any acreage that is not insurable. You shall report if you do not have a share in any beans planted in the county. This report shall be submitted annually on or before the reporting date established by the actuarial table. We may determine all indemnities on the basis of information you have submitted on this report. If you do not submit this report by the reporting date, we may elect to determine by unit the insured acreage, share, and practice or we may deny liability on any unit. Any report submitted by you may be revised only upon our approval.

4. Production guarantees, coverage levels, and prices for computing indemnities.

a. The production guarantees, coverage levels, and prices for computing indemnities shall be contained in the actuarial table.

b. Coverage level 2 will apply if you have not elected a coverage level.

c. You may change the coverage level and price election on or before the closing date for submitting applications for the crop year as established by the actuarial table.

5. Annual premium.

a. The annual premium is earned and payable at the time of planting. The amount is computed by multiplying the production guarantee times the price election, times the premium rate, times the insured acreage, times your share at the time of planting, times the applicable premium adjustment percentage contained in the following table.

PREMIUM ADJUSTMENT TABLE [1]

[Percent adjustments for favorable continuous insurance experience]

Loss ratio [2] through previous crop year	Numbers of years continuous experience through previous year															
	0	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15 or more
	Percentage adjustment factor for current crop year															
.00 to .20	100	95	85	90	90	85	80	75	70	70	65	65	60	60	55	50
.21 to .40	100	100	95	95	90	90	90	85	80	80	75	75	70	70	65	60
.41 to .60	100	100	95	95	95	95	95	90	90	90	85	85	80	80	75	70
.61 to .80	100	100	95	95	95	95	95	95	90	90	90	90	85	85	80	80
.81 to 1.09	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100

[Percent adjustments for unfavorable insurance experience]

Loss ratio [2] through previous crop year	Numbers of loss years through previous year [3]															
	0	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
	Percentage adjustment factor for current crop year															
1.10 to 1.19	100	100	100	102	104	106	108	110	112	114	116	118	120	122	124	126
1.20 to 1.39	100	100	100	104	108	112	116	120	124	128	132	136	140	144	148	152
1.40 to 1.69	100	100	100	108	116	124	132	140	148	156	164	172	180	188	196	204
1.70 to 1.99	100	100	100	112	122	132	142	152	162	172	182	192	202	212	222	232
2.00 to 2.49	100	100	100	116	128	140	152	164	176	188	200	212	224	236	248	260
2.50 to 3.24	100	100	100	120	134	148	162	176	190	204	218	232	246	260	274	288
3.25 to 3.99	100	100	105	124	140	156	172	188	204	220	236	252	268	284	300	300
4.00 to 4.99	100	100	110	128	146	164	182	200	218	236	254	272	290	300	300	300
5.00 to 5.99	100	100	115	132	152	172	192	212	232	252	272	292	300	300	300	300
6.00 and up	100	100	120	136	156	180	202	224	246	268	290	300	300	300	300	300

[1] For premium adjustment purposes, only the years during which premiums were earned shall be considered.

[2] Loss Ratio means the ratio of indemnity(ies) paid to premium(s) earned.

[3] Only the most recent 15 crop years shall be used to determine the number of "Loss Years". (A crop year is determined to be a "Loss Year" when the amount of indemnity for the year exceeds the premium for the year.)

b. Interest shall accrue at the rate of one and one-half percent (1½%) simple interest per calendar month, or any part thereof, on any unpaid premium balance starting on the first day of the month following the first premium billing date.

c. Any premium adjustment applicable to the contract shall be transferred to:

(1) The contract of your estate or surviving spouse in case of your death;

(2) The contract of the person who succeeds you if such person had previously participated in the farming operation; or

(3) Your contract if you stop farming in one county and start farming in another county.

d. If participation is not continuous, any premiums shall be computed on the basis of previous unfavorable insurance experience but no premium reduction under section 5a shall be applicable.

6. Deductions for debt.

Any unpaid amount due us may be deducted from any indemnity payable to you or from any loan or payment due you under any Act of Congress or program administered by the United States Department of Agriculture or its Agencies.

7. Insurance period.

a. Insurance attaches when the beans are planted and ends at the earliest of:

(1) Total destruction of the beans;

(2) Combining, threshing, or removal from the field;

(3) Final adjustment of a loss; or

(4) November 15 of the calendar year in which the beans are normally harvested.

8. Notice of damage or loss.

a. In case of damage or probable loss:

(1) You must give us written notice if:

(a) You want our consent to replant beans damaged due to any insured cause. (To qualify for a replanting payment, the acreage replanted shall be at least the lesser of 10 acres or 10 percent of the insured acreage on the unit.);

(b) During the period before harvest, the beans on any unit are damaged and you decide not to further care for or harvest any part of them;

(c) You want our consent to put the acreage to another use; or

(d) After consent to put acreage to another use is given, additional damage occurs.

Insured acreage may not be put to another use until we have appraised the beans and given written consent. We shall not consent to another use until it is too late to replant. You must notify us when such acreage is replanted or put to another use.

(2) You must give us notice at least 15 days before the beginning of harvest if you anticipate a loss on any unit.

(3) If probable loss is later determined, immediate notice shall be given and a representative sample of the unharvested beans (at least 16 feet wide and the entire length of the field) shall be left intact for a period of 15 days from the date of notice, unless we give you written consent to harvest the sample.

(4) In addition to the notices required by this section, if you are going to claim an indemnity on any unit, we must be given notice not later than 30 days after the earliest of:

(a) Total destruction of the beans on the unit;

(b) Harvest of the unit; or

(c) The calendar date for the end of the insurance period.

b. You may not destroy or replant any of the beans on which a replanting payment will be claimed until we give consent.

c. You must obtain written consent from us before you destroy any of the beans which are not to be harvested.

d. We may reject any claim for indemnity if any of the requirements of this section or section 9 are not complied with.

9. Claim for indemnity.

a. Any claim for indemnity on a unit shall be submitted to us on our form not later than 60 days after the earliest of:

(1) Total destruction of the beans on the unit;

(2) Harvest of the unit; or

(3) The calendar date for the end of the insurance period.

b. We shall not pay any indemnity unless you:

(1) Establish the total production of beans on the unit and that any loss of production has been directly caused by one or more of the insured causes during the insurance period; and

(2) Furnish all information we require concerning the loss.

c. The indemnity shall be determined on each unit of dry edible beans by:

(1) Multiplying the insured acreage by the production guarantee;

(2) Subtracting therefrom the total production of dry edible beans to be counted (see section 9g);

(3) Multiplying the remainder by the price election; and

(4) Multiplying this product by your share.

d. The amount of indemnity for any unit of bush varieties of garden seed beans shall be determined by subtracting the value of production from the dollar amount of insurance and multiplying the remainder by the insured share.

(1) The value of production is obtained by multiplying, by variety, the total production to be counted by the applicable price per pound at which indemnities shall be computed, which shall be the lesser of the amount designated by:

(a) the actuarial table; or

(b) the contract with the seed company.

(2) The dollar amount of insurance is obtained by multiplying, by variety, the production guarantee per acre by the insured acreage, and the result by the price per pound at which indemnities shall be computed, which shall be the lesser of the amount designated by:

(a) The actuarial table; or

(b) The contract with the seed company.

e. If the information reported by you results in a lower premium than the actual premium determined to be due, the indemnity shall be reduced proportionately.

f. The indemnity shall be reduced by the amount of any replanting payment.

g. The total production to be counted for a unit shall include all harvested and appraised production.

(1) Mature dry edible beans:

(a) Which otherwise are not eligible for quality adjustment shall be reduced .12 percent for each .1 percentage point of moisture in excess of 18.0 percent; or

(b) Which are threshed beans of the classes pea and medium white with a pick in excess of 4 percent due to insurable causes and of any other classes which, due to insurable causes, do not grade No. 2 or better, in accordance with the Official United States Grain Standards, shall be adjusted by multiplying the number of pounds of such beans by the conversion factor designated by the actuarial table for the applicable grade or pick; or

(c) Which, due to insurable causes, do not meet any U.S. Grade or pick shown in the actuarial table or would not meet these requirements if properly handled, or if a conversion factor is not designated by the actuarial table, any threshed beans which do not grade No. 2 or better in accordance with the Official United States Grain Standards shall be adjusted by:

(i) Dividing the value per hundredweight of such beans, by the price per hundredweight of U.S. No. 2 beans (except that for the classes of pea and medium white, the price shall be the local market price per hundredweight for these classes with a 4 percent pick); and

(ii) Mutliplying the result by the number of pounds of such beans.

The applicable price for No. 2 beans shall be the local market price on the earlier of: the day the loss is adjusted or the day such beans were sold.

(2) Appraised production to be counted shall include:

(a) Unharvested production on harvested acreage and potential production lost due to uninsured causes and failure to follow recognized good bean farming practices;

(b) Not less than the guarantee for any acreage which is abandoned or put to another use without our prior written consent or damaged solely by an uninsured cause;

(c) Any appraised production on unharvested acreage.

(3) Any appraisal we have made on insured acreage for which we have given written consent to be put to another use shall be considered production unless such acreage:

(a) Is not put to another use before harvest of beans becomes general in the county;

(b) Is harvested; or

(c) Is further damaged by an insured cause before the acreage is put to another use.

(4) We may determine the amount of production of any unharvested beans on the basis of field appraisals conducted after the end of the insurance period.

(5) When you have elected to exclude hail and fire as insured causes of loss and the beans are damaged by hail or fire, appraisals for uninsured causes shall be made in accordance with Form FCI–78, "Request to Exclude Hail and Fire".

(6) The commingled production of units shall be allocated to such units in proportion to the liability on the harvested acreage of each unit.

h. A replanting payment may be made on any insured beans replanted after we have given consent and the acreage replanted is at least the lesser of 10 acres or 10 percent of the insured acreage for the unit.

(1) No replanting payment will be made on acreage:

(a) On which our appraisal exceeds 90 percent of the guarantee;

(b) Initially planted prior to the date we established as reasonable by the actuarial table; or

(c) On which a replanting payment has been made during the current crop year.

(2) The replanting payment per acre will be your actual cost per acre for replanting, but shall not exceed the product obtained by multiplying 100 pounds times the price election times your share.

If the information reported by you results in a lower premium than the actual premium determined to be due, the replanting payment will be reduced proportionately.

Any replanting payment will be considered as an indemnity.

i. You shall not abandon any acreage to us.

j. You may not bring suit or action against us unless you have complied with all policy provisions. If a claim is denied, you may sue us in the United States District Court under the provisions of 7 U.S.C. 1508(c). You must bring suit within 12 months of the date notice of denial is mailed to and received by you.

k. We shall pay the loss within 30 days after we reach agreement with you or entry of a final judgment. In no event shall we be liable for interest or damages in connection with any claim for indemnity, whether we approve or disapprove such claim.

l. If you die, disappear, or are judicially declared incompetent, or if you are an entity other than an individual and such entity is dissolved after the beans are planted for any crop year, any indemnity shall be paid to the person(s) we determine to be beneficially entitled thereto.

m. If you have other fire insurance and fire damage occurs during the insurance period, and you have not elected to exclude fire insurance from this policy, we shall be liable for loss due to fire only for the smaller of:

(1) The amount of indemnity determined pursuant to this contract without regard to any other insurance; or

(2) The amount by which the loss from fire exceeds the indemnity paid or payable under such other insurance. For the purposes of this section, the amount of loss from fire shall be the difference between the fair market value of the production on the unit before the fire and after the fire.

10. Concealment or fraud.

We may void the contract on all crops insured without affecting your liability for premiums or waiving any right, including the right to collect any amount due us if, at any time, you have concealed or misrepresented any material fact or committed any fraud relating to the contract, and such voidance shall be effective as of the beginning of the crop year with respect to which such act or omission occurred.

11. Transfer of right to indemnity on insured share.

If you transfer any part of your share during the crop year, you may transfer your right to an indemnity. The transfer must be on our form and approved by us. We may collect the premium from either you or your transferee or both. The transferee shall have all rights and responsibilities under the contract.

12. Assignment of indemnity.

You may only assign to another party your right to an indemnity for the crop year on our form and with our approval. The assignee shall have the right to submit the loss notices and forms required by the contract.

13. Subrogation. (Recovery of loss from a third party.)

Because you may be able to recover all or a part of your loss from someone other than us, you must do all you can to preserve any such rights. If we pay you for your loss then your right of recovery shall at our option belong to us. If we recover more than we paid you plus our expenses, the excess shall be paid to you.

14. Records and access to farm.

You shall keep, for two years after the time of loss, records of the harvesting, storage, shipment, sale or other disposition of all beans produced on each unit including separate records showing the same information for production from any uninsured acreage. Any person designated by us shall have access to such records and the farm for purposes related to the contract.

15. Life of contract: cancellation and termination.

a. This contract shall be in effect for the crop year specified on the application and may not be canceled for such crop year. Thereafter, the contract shall continue in force for each succeeding crop year unless canceled or terminated as provided in this section.

b. This contract may be canceled by either you or us for any succeeding crop year by giving written notice on or before the cancellation date preceding such crop year.

c. This contract shall terminate as to any crop year if any amount due us on this or any other contract with you is not paid on or before the termination date preceding such crop year for the contract on which the amount is due. The date of payment of the amount due:

(1) If deducted from an indemnity claim shall be the date you sign such claim; or

(2) If deducted from payment under another program administered by the United States Department of Agriculture shall be the date such payment was approved.

d. The cancellation and termination dates are:

State	Cancellation and termination dates
California	March 31.
All other states	April 15.

e. If you die or are judicially declared incompetent, or if you are an entity other than an individual and such entity is dissolved, the contract shall terminate as of the date of death, judicial declaration, or dissolution. *However,* if such event occurs after insurance attaches for any crop year, the contract shall continue in force through the crop year and terminate at the end thereof. Death of a partner in a partnership shall dissolve the partnership unless the partnership agreement provides otherwise. If two or more persons having a joint interest are insured jointly, death of one of the persons shall dissolve the joint entity.

f. The contract shall terminate if no premium is earned for five consecutive years.

16. Contract changes.

We may change any terms and provisions of the contract from year to year. If your price election at which indemnities are computed is no longer offered, the actuarial table shall provide the price election which you shall be deemed to have elected. All contract changes shall be available at your service office by December 31 preceding the cancellation date. Acceptance of any changes shall be conclusively presumed in the absence of any notice from you to cancel the contract.

17. Meaning of terms.

For the purpose of dry bean crop insurance:

a. "Actuarial table" means the forms and related material for the crop year approved by us which are available for public inspection in your service office, and which show the production guarantees, coverage levels, premium rates, prices for computing indemnities, practices, insurable and uninsurable acreage, and related information regarding dry bean insurance in the county.

b. "County" means the county shown on the application and any additional land located in a local producing area bordering on the county, as shown by the actuarial table.

c. "Crop year" means the period within which the beans are normally grown and shall be designated by the calendar year in which the beans are normally harvested.

d. "Harvest" means the completion of combining or threshing of beans on the unit.

e. "Insurable acreage" means the land classified as insurable by us and shown as such by the actuarial table.

f. "Insured" means the person who submitted the application accepted by us.

g. "Person" means an individual, partnership, association, corporation, estate, trust, or other business enterprise or legal entity, and wherever applicable, a State, a political subdivision of a State, or any agency thereof.

h. "Pick" means the percentage, on a weight basis, of the defects such as splits, damaged (including discolored) beans, contrasting classes and foreign material remaining in the beans after dockage has been removed by the proper use of screens or sieves.

i. "Replanting" means performing the cultural practices necessary to replant insured acreage to dry beans.

j. "Service office" means the office servicing your contract as shown on the application for insurance or such other approved office as may be selected by you or designated by us.

k. "Tenant" means a person who rents land from another person for a share of the beans or a share of the proceeds therefrom.

l. "Unit" means all insurable acreage of either dry edible beans or bush varieties of garden seed beans in the county on the date of planting for the crop year:

(1) In which you have a 100 percent share; or

(2) Which is owned by one entity and operated by another entity on a share basis.

Land rented for cash, a fixed commodity payment, or any consideration other than a share in the beans on such land shall be considered as owned by the lessee. Land which would otherwise be one unit may be divided according to applicable guidelines on file in your service office or by written agreement between you and us. We shall determine units as herein defined when the acreage is reported. Errors in reporting such units may be corrected by us to conform to applicable guidelines when adjusting a loss. We may consider any acreage and share thereof reported by or for your spouse or child or any member of your household to be your bona fide share or the bona fide share of any other person having an interest therein.

18. Descriptive headings.

The descriptive headings of the various policy terms and conditions are formulated for convenience only and are not intended to affect the construction or meaning of any of the provisions of the contract.

19. Determinations.

All determinations required by the policy shall be made by us. If you disagree with our determinations, you may obtain reconsideration of or appeal those determinations in accordance with Appeal Regulations.

20. Notices.

All notices required to be given by you must be in writing and received by your service office within the designated time unless otherwise provided by the notice requirement. Notices required to be given immediately may be by telephone or in person and confirmed in writing. Time of the notice will be determined by the time of our receipt of the written notice.

§ 433.7 [Amended]

4. Part 433 is amended by removing the "Appendix to § 433.7—Additional Terms and Conditions."

5. Appendix B to Part 433 is redesignated and revised as new Appendix A to read as follows:

APPENDIX A—Counties Designated for Dry Bean Crop Insurance

The following counties are designated for Dry Bean Insurance under the provisions of 7 CFR 433.1.

California

Butte	Merced	Sutter
Colusa	Monterey	Tulare
Fresno	San Joaquin	Ventura
Glenn	Santa Barbara	Yolo
Kern	Solano	
Madera	Stanislaus	

Colorado

Adams	La Plata	Phillips
Boulder	Larimer	Pueblo
Delta	Logan	Sedgwick
Dolores	Montezuma	Washington
El Paso	Montrose	Weld
Kit Carson	Morgan	Yuma

Idaho

Ada	Gooding	Owyhee
Canyon	Jerome	Twin Falls
Cassia	Lincoln	Washington
Elmore	Minidoka	

Kansas

Sherman

Michigan

Arenac	Gratiot	Montcalm
Barry	Huron	Saginaw
Bay	Ingham	St. Clair
Clinton	Ionia	Sanilac
Eaton	Isabella	Shiawassee
Genesee	Lapeer	Tuscola
Gladwin	Midland	

Minnesota

Clay	East Otter Tail	Renville
Grant	West Otter Tail	Swift
Hubbard	East Polk	
Marshall	West Polk	

Montana

Carbon	Dawson
Custer	Richland

Nebraska

Arthur	Deuel	Morrill
Banner	Dundy	Perkins
Box Butte	Garden	Scotts Bluff
Brown	Hayes	Sheridan
Chase	Keith	Sioux
Cheyenne	Kimball	
Custer	Lincoln	

New Mexico

San Juan

North Dakota

Bottineau	McLean	Steele
Cass	Nelson	Stutsman
Cavalier	Pembina	Towner
Dickey	Ramsey	Traill
Grand Forks	Ransom	Walsh
Griggs	Richland	Wells
La Moure	Sargent	

Oregon

Malheur

Washington

Adams	Franklin	Grant

Wyoming

Big Horn	Laramie	Washakie
Fremont	Park	
Goshen	Platte	

Approved by the Board of Directors on April 28, 1983.

Dated: February 2, 1984.

Peter F. Cole,

Secretary, Federal Crop Insurance Corporation.

Approved by:

Merritt W. Sprague,

Manager.

[FR Doc. 84-3630 Filed 2-17-84; 8:45 am]

BILLING CODE 3410-08-M

7 CFR Part 443

Hybrid Seed Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Final rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) hereby confirms as final Part 443 in Chapter IV of Title 7 of the Code of Federal Regulations prescribing procedures for insuring hybrid seed grown under contract to a processor. This rule was originally published as an interim rule at 48 FR 15875 on April 13, 1983, to be responsive to growers of hybrid seed who have asked for crop insurance protection similar to that presently available to producers of other crops. In addition, FCIC issues a new section in these regulations to contain the control numbers assigned by the Office of Management and Budget (OMB) to the information collection requirements contained in these regulations. The regulations contained herein have been changed from the interim rule to: (1) Remove a restriction requiring the producer to leave crop residue intact for 7 days, no longer included in any FCIC regulations, and (2) remove poor germination as a basis for rejection of commercial seed, both considered restrictions in the hybrid seed crop insurance policy. The intended effect of this rule is to remove two restrictions from the hybrid seed crop insurance policy contained in the regulations, issue a new OMB control number section and confirm the interim as published.

EFFECTIVE DATE: February 21, 1984.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C., 20250, telephone (202) 447–3325.

The Impact Statement describing the options considered in developing this rule and the impact of implementing each option is available upon request from Peter F. Cole.

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA procedures established in Secretary's Memorandum No. 1512–1 (June 11, 1981). It has been determined that this action constitutes a review under such procedures as to the need, currency, clarity, and effectiveness of these regulations. The sunset review date established for these regulations is December 1, 1987.

Merritt W. Sprague, Manager, FCIC, has determined that: (1) This action is

not a major rule as defined by Executive Order No. 12291 (February 17, 1981), (2) this action does not increase the Federal paperwork burden for individuals, small businesses, and other persons, and (3) this action conforms to the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), and other applicable law.

The title and number of the Federal Assistance Program to which this proposed rule applies is: Title—Crop Insurance; Number 10.450.

This action will not have a significant impact specifically upon area and community development; therefore, review as established in Executive Order No. 12372 (July 14, 1982), was not used to assure that units of local government are informed of this action.

It has been determined that this action is exempt the provisions of the Regulatory Flexibility Act; therefore, no Regulatory Impact Statement was prepared.

In the past, crop insurance protection has not been available to growers producing hybrid seed under contract to a processor. Such crops are exposed to similar hazards as other crops insured by FCIC. Following several meetings with producers, FCIC determined that a program of crop insurance protection was necessary. The Board of Directors of FCIC, responding to requests for such an insurance program, authorized the Manager of FCIC to develop a hybrid seed crop insurance program on November 15, 1982. The regulations contained in the interim rule were effective for the 1983 and succeeding crop years in certain counties where commercial seed is grown under contract to a seed company. The hybrid seed crop insurance program offers protection against crop damage or loss due to hail, wind, and other adverse weather conditions, fire, insects, plant disease, wildlife, or earthquake.

On Wednesday, April 13, 1983, at 48 FR 15875, FCIC published an interim rule issuing a new Part 443 in Chapter IV of Title 7 of the Code of Federal Regulations prescribing procedures for insuring hybrid seed grown under contract to a processor. The public was given 60 days after the publication of the interim rule in which to submit written comments, data, and opinions on the rule, but none were received. In reviewing the regulations prior to issuance as a final rule it was determined that a new section should be included to contain the OMB control numbers assigned to information collection requirements contained in the regulations, and that two restrictions in the hybrid seed crop insurance policy should be removed. These amendments will have no adverse effect on the policyholder and are included in the regulations contained herein.

In addition to the amendments described above, minor and non substantive change in language have been made.

List of Subjects in 7 CFR Part 443

Crop insurance, Hybrid seed.

Final Rule

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation hereby amends Chapter IV of Title 7 of the Code of Federal Regulations by revising 7 CFR Part 443 Hybrid Seed Crop Insurance Regulations, effective for the 1983 and succeeding crop years, to read as follows:

PART 443—HYBRID SEED CROP INSURANCE REGULATIONS

Subpart—Regulations for the 1983 and Succeeding Crop Years

Sec.

443.1 Availability of hybrid seed crop insurance.
443.2 Premium rates, production guarantees, coverage levels, and amounts of insurance.
443.3 (OMB) control numbers.
443.4 Creditors.
443.5 Good faith reliance on misrepresentation.
443.6 The contract.
443.7 The application and policy.
Appendix A—Counties designated for Hybrid Seed Crop Insurance

Authority: Secs. 506, 516, Pub. L. 75–430, 52 Stat. 73, 77, as amended (7 U.S.C. 1506, 1516).

Subpart—Regulations for the 1983 and Succeeding Crop Years

§ 443.1 Availability of hybrid seed crop insurance.

Insurance shall be offered under the provisions of this subpart on hybrid seed in counties within limits prescribed by, and in accordance with the provisions of the Federal Crop Insurance Act, as amended. The counties shall be designated by the Manager of the Corporation from those approved by the Board of Directors of the Corporation. Before insurance is offered in any county, there shall be published by appendix to this part the names of the counties in which hybrid seed insurance shall be offered.

§ 443.2 Premium rates, production guarantees, coverage levels, and amounts of insurance.

(a) The Manager shall establish premium rates, production guarantees, coverage levels, and amounts of insurance for hybrid seed which will be included in the actuarial table on file in service offices for the county and may be changed from year to year.

(b) At the time the application for insurance is made, the applicant will elect an amount of insurance per acre and a coverage level from among those levels and amounts contained in the actuarial table for the crop year.

§ 443.3 OMB control numbers.

The information collection requirements contained in these regulations (7 CFR Part 443) have been approved by the Office of Management and Budget (OMB) under the provisions of 44 U.S.C. Chapter 35 and have been assigned OMB Nos. 0563–0003 and 0563–0007.

§ 443.4 Creditors.

An interest of a person in an insured crop existing by virtue of a lien, mortgage, garnishment, levy, execution, bankruptcy, or an involuntary transfer, or similar interest shall not entitle the holder of the interest to any benefit under the contract except as provided by the policy.

§ 443.5 Good faith reliance on misrepresentation.

Notwithstanding any other provision of the hybrid seed insurance contract, whenever (a) an insured person under a contract of crop insurance entered into under these regulations, as a result of a misrepresentation or other erroneous action or advice by an agent or employee of the Corporation (1) is indebted to the Corporation for additional premiums, or (2) has suffered a loss to a crop which is not insured or for which the insured person is not entitled to an indemnity because of failure to comply with the terms of the insurance contract, but which the insured person believed to be insured, or believed the terms of the insurance contract to have been complied with or waived, and (b) the Board of Directors of the Corporation, or the Manager in cases involving not more than $100,000.00, finds (1) that an agent or employee of the Corporation did in fact make such misrepresentation or take other erroneous action or give erroneous advice, (2) that said insured person relied thereon in good faith, and (3) that to require the payment of the additional premiums or to deny such insured's entitlement to the indemnity would not be fair and equitable, such insured person shall be granted relief the same as if otherwise entitled thereto.

§ 443.6 The contract.

(a) The insurance contract shall become effective upon the acceptance

by the Corporation of a duly executed application for insurance on a form prescribed by the Corporation. The contract shall cover the hybrid seed crop as provided in the policy. The contract shall consist of the application, the policy, the appendix, and the county actuarial table. Any changes made in the contract shall not affect its continuity from year to year. The forms referred to in the contract are available at the service office.

§ 443.7 The application and policy.

(a) Application for insurance on a form prescribed by the Corporation may be made by any person to cover such person's share in the hybrid seed crop as landlord, owner-operator, or tenant. The application shall be submitted to the Corporation at the service office on or before the applicable closing date for the county on file in the service office.

(b) The Corporation may discontinue the acceptance of applications in any county upon its determination that the insurance risk is excessive, and also, for the same reason, may reject any individual application. The Manager of the Corporation is authorized in any crop year to extend the closing date for submitting applications or contract changes in any county, by placing the extended date on file in the applicable service offices and publishing a notice in the **Federal Register** upon the Manager's determination that no adverse selectivity will result during the period of such extension. However, if adverse conditions should develop during such period, the Corporation will immediately discontinue the acceptance of applications.

(c) In accordance with the provisions governing changes in the contract contained in policies issued under FCIC regulations for the 1983 and succeeding crop years, a contract in the form provided for in this subpart will come into effect as a continuation of a hybrid seed contract issued under such prior regulations, without the filing of a new application.

(d) The application for the 1983 and succeeding crop years is found at Subpart D of Part 400—General Administrative Regulations (7 CFR 400.37; 400.38, first published at 48 FR 1023, January 10, 1983) and may be amended from time to time for subsequent crop years. The provisions of the Hybrid Seed Insurance Policy are as follows:

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

Hybrid Seed Crop Insurance Policy

(This is a continuous contract. Refer to Section 15.)

AGREEMENT TO INSURE: We shall provide the insurance described in this policy in return for the premium and your compliance with all applicable provisions.

Throughout this policy, "you" and "your" refer to the insured shown on the accepted application and "we," "us" and "our" refer to the Federal Crop Insurance Corporation.

Terms and Conditions

1. Causes of loss.

a. The insurance provided is against unavoidable loss of production resulting from the following causes occurring within the insurance period:

(1) Adverse weather conditions;
(2) Fire;
(3) Insects;
(4) Plant disease;
(5) Wildlife;
(6) Earthquake; or
(7) Volcanic eruption;

Unless those causes are excepted, excluded or limited by the actuarial table or section 9e(4).

b. We shall not insure against any loss of production due to:

(1) The use of unadapted, incompatible or other genetically deficient male or female seed;

(2) The neglect or malfeasance of you, any member of your household, your tenants or employees;

(3) The failure to follow recognized good farming practices, or the grower provisions of the seed contract;

(4) Damage resulting from the impoundment of water by any governmental, public or private dam or reservoir project;

(5) Damage resulting from frost or freeze after October 20; or

(6) Any cause not specified in section 1a as an insured loss.

2. Crop, acreage and share insured.

a. The crop insured shall be any type of female seed ("crop") you elect:

(1) Which is planted for harvest and the production is intended for sale on a commercial basis as seed to produce a type of the crop for grain or silage;

(2) Which is grown under contract executed with a seed company prior to planting;

(3) Which is grown on insured acreage; and

(4) For which an amount of insurance and premium rate are provided by the actuarial table.

b. An instrument in the form of a "lease" under which you retain control of the acreage on which the insured crop is grown and which provides for delivery of the crop under certain conditions and at a stipulated price(s) shall, for the purpose of this contract, be treated as a contract under which you have the share in the crop.

c. The acreage insured for each crop year shall be the crop planted on insurable acreage as designated by the actuarial table and in which you have a share, as reported by you or as determined by us, whichever we shall elect.

d. The insured share shall be your share as landlord, owner-operator, or tenant in the insured crop at the time of planting.

e. We do not insure any acreage:

(1) Which is destroyed, it is practical to replant to the crop and such acreage is not replanted;

(2) Where the farming practices carried out are not in accordance with the farming practices for which the premium rates have been established;

(3) Which is irrigated and an irrigated practice is not provided by the actuarial table unless you elect to insure the acreage as nonirrigated by reporting it as insurable under section 3;

(4) Initially planted after the final planting date contained in the actuarial table unless you agree in writing on our form to coverage reduction;

(5) Of a volunteer crop type;

(6) Planted to a type or variety of the crop not established as adapted to the area or indicated as noninsurable by the actuarial table;

(7) Planted with another type of crop;

(8) Occupied by rows planted with a mixture of female and male seed;

(9) Planted and occupied by the male plants; or

(10) Planted for experimental purposes.

f. Where insurance is provided for an irrigated practice:

(1) You shall report as irrigated only the acreage for which you have adequate facilities and water to carry out a good crop irrigation practice at time of planting; and

(2) Any loss of production caused by failure to carry out a good crop irrigation practice, except failure of the water supply from an unavoidable cause occurring after the beginning of planting, shall be considered as due to an uninsured cause.

g. We may limit the insured acreage to any acreage limitations established under any Act of Congress, if we advise you of the limit prior to the planting.

3. Report of acreage, share, and practice.

You shall report on our form:

a. All the acreage of the crop planted in the county in which you have a share;

b. The practice; and

c. Your share at the time of planting.

You shall designate separately any acreage that is not insurable. You shall report if you do not have a share in any acreage of the insured crop in the county. This report shall be submitted annually before the reporting date established by the actuarial table. We may determine all indemnities on the basis of information you have submitted on this report. If you do not submit this report by the reporting date, we may elect to determine by unit the insured acreage, share, and practice or we may deny liability on any unit. Any report submitted by you may be revised only upon our approval.

4. Production guarantees, coverage levels and amounts of insurance.

a. The amounts of insurance and coverage levels are in the actuarial table.

b. Your production guarantee per acre by type shall be 50, 65 or 75 percent of the

average yield per acre for each variety grown on the unit by you. The yields for the 5-year period immediately preceding the current crop year will be used as the base period. If less than 5 years of yield records are available for any variety, the average yield per acre shall be that established by us. Where more than one variety is grown on a unit, the unit guarantee shall be the combination of the guarantees of each variety grown.

c. You may change the coverage level and the amount of insurance before the closing date for submitting applications for the crop year as established by the actuarial table.

5. Annual premium.

a. The annual premium is earned and payable at the time of planting. The amount is computed by multiplying the amount of insurance times the premium rate, times the insured acreage, times your share at the time of planting, times the applicable premium adjustment percentage contained in the following table.

PREMIUM ADJUSTMENT TABLE [1]

[Percent adjustments for favorable continuous insurance experience]

	Numbers of years continuous experience through previous year															
	0	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15 or more
	Percentage adjustment factor for current crop year															
Loss ratio [2] through previous crop year																
.00 to .20	100	95	95	90	90	85	80	75	70	70	65	65	60	60	55	50
.21 to .40	100	100	95	95	90	90	90	85	80	80	75	75	70	70	65	60
.41 to .60	100	100	95	95	95	95	95	90	90	90	85	85	80	80	75	70
.61 to .80	100	100	95	95	95	95	95	95	90	90	90	90	85	85	85	80
.81 to 1.09	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100

[Percent adjustments for unfavorable insurance experience]

	Numbers of loss years through previous year [3]															
	0	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
	Percentage adjustment factor for current crop year															
Loss ratio [2] through previous crop year																
1.10 to 1.19	100	100	100	102	104	106	108	110	112	114	116	118	120	122	124	126
1.20 to 1.39	100	100	100	104	108	112	116	120	124	128	132	136	140	144	148	152
1.40 to 1.69	100	100	100	108	116	124	132	140	148	156	164	172	180	188	196	204
1.70 to 1.99	100	100	100	112	122	132	142	152	162	172	182	192	202	212	222	232
2.00 to 2.49	100	100	100	116	128	140	152	164	176	188	200	212	224	236	248	260
2.50 to 3.24	100	100	100	120	134	148	162	176	190	204	218	232	246	260	274	288
3.25 to 3.99	100	100	105	124	140	156	172	188	204	220	236	252	268	284	300	300
4.00 to 4.99	100	100	110	128	146	164	182	200	218	236	254	272	290	300	300	300
5.00 to 5.99	100	100	115	132	152	172	192	212	232	252	272	292	300	300	300	300
6.00 and up	100	100	120	136	158	180	202	224	246	268	290	300	300	300	300	300

[1] For premium adjustment purposes, only the years during which premiums were earned shall be considered.
[2] Loss Ratio means the ratio of indemnity(ies) paid to premium(s) earned.
[3] Only the most recent 15 crop years shall be used to determine the number of "Loss Years". (A crop year is determined to be a "Loss Year" when the amount of indemnity for the year exceeds the premium for the year.)

b. Interest shall accrue at the rate of one and one-half percent (1½%) simple interest per calendar month, or any part thereof, on any unpaid premium balance starting on the first day of the month following the first premium billing date.

c. Any premium adjustment applicable to the contract shall be transferred to:

(1) The contract of your estate or surviving spouse in case of your death;

(2) The contract of the person who succeeds you if such person had previously participated in the farming operation; or

(3) Your contract if you stop farming in one county and start farming in another county.

d. If participation is not continuous, any premium shall be computed on the basis of previous unfavorable insurance experience but no premium reduction under section 5a shall be applicable.

6. Deductions for debt.

Any unpaid amount due us may be deducted from any indemnity payable to you or from any loan or payment due you under any Act of Congress or program administered by the United States Department of Agriculture or its Agencies.

7. Insurance period.

Insurance attaches when both the male and female plant seed are planted and terminates at the earliest of:

(a) Total destruction of the crop;

(b) Combining, threshing or picking;

(c) Final adjustment of a loss; or

(d) October 31.

8. Notice of damage or loss.

a. In case of damage or probable loss:

(1) You must give us written notice promptly if:

(a) During the period before harvest, the crop on any unit is damaged and you decide not to further care for it or harvest any part of it;

(b) You want our consent to put the acreage to another use; or

(c) After consent to put acreage to another use is given, additional damage occurs.

Insured acreage may not be put to another use until we have appraised the crop and given written consent. We shall not consent to another use until it is too late to replant. You must notify us when such acreage has been put to another use.

(2) You must give us notice at least 15 days before the beginning of harvest if you anticipate a loss on any unit.

(3) If probable loss is later determined, immediate notice shall be given and a representative sample of the unharvested crop (at least 10 feet wide and the entire length of the field) shall be left intact for a period of 15 days from the date of notice, unless we give you written consent to harvest the sample.

(4) In addition to the notices required by this section, if you are going to claim an indemnity on any unit we must be given notice not later than 30 days after the earliest of:

(a) total destruction of the crop on the unit;

(b) harvest of the unit; or

(c) the calendar date for the end of the insurance period.

b. You must obtain written consent from us before you destroy any of the crop which is not to be harvested.

c. We may reject any claim for indemnity if any of the requirements of this section or section 9 are not complied with.

9. Claim for indemnity.

a. Any claim for indemnity on a unit shall be submitted to us on our form not later than 60 days after the earliest of:

(1) total destruction of the crop on the unit;

(2) harvest of the unit; or
(3) the calendar date for the end of insurance period.

b. We shall not pay any indemnity unless you:

(1) Establish the total production of the crop on the unit and that any loss of production has been directly caused by one or more of the insured causes during the insurance period; and

(2) Furnish all information we require concerning the loss.

c. The indemnity shall be determined on each unit by:

(1) Multiplying the insured acreage by the amount of insurance per acre;

(2) Subtracting from the result obtained in (1) the dollar amount obtained by multiplying the production accepted as commercial seed by the price determined by dividing the amount of insurance per acre by the applicable production guarantee per acre, plus the dollar amount obtained by multiplying:

(a) The production, which for reasons other than inadequate germination, is rejected as commercial seed due to insurable causes;

(b) By the local market price of such production on the earlier of the date the loss is adjusted or the date such production was sold; and

(3) Multiplying this product by your share.

d. If the information reported by you results in a lower premium than the actual premium determined to be due, the indemnity shall be reduced proportionately.

e. The total production to be counted for a unit shall include all harvested and appraised production.

(1) Appraised production to be counted shall include:

(a) Unharvested production on harvested acreage and potential production lost due to uninsured causes and failure to follow recognized good farming practices;

(b) Not less than your guarantee for any acreage which is abandoned or put to another use without our prior written consent or damaged solely by an uninsured cause;

(c) Any appraised production on unharvested acreage.

(2) Any appraisal we have made on insured acreage and given written consent to be put to another use shall be considered as production unless such acreage:

(a) Is not put to another use before harvest of the crop becomes general in the county;

(b) Is harvested; or

(c) Is further damaged by an insured cause before the acreage is put to another use.

(3) We may determine the amount of production of any unharvested acreage of the crop on the basis of field appraisals conducted after the end of the insurance period.

(4) When you have elected to exclude hail and fire as insured causes of loss and the crop is damaged by hail or fire, appraisals shall be made in accordance with Form FCI–70, "Request To Exclude Hail And Fire".

(5) The commingled production of units will be allocated to such units in proportion to our liability on the harvested acreage of each unit.

f. You shall not abandon any acreage to us.

g. You may not bring suit or action against us unless you have complied with all policy provisions. If a claim is denied, you may sue us in the United States District Court under the provisions of 7 U.S.C. 1508(c). You must bring suit within 12 months of the date notice of denial is mailed to and received by you.

h. We shall pay the loss within 30 days after we reach agreement with you or entry of a final judgment. In no event shall we be liable for interest or damages in connection with any claim for indemnity, whether we approve or disapprove such claim.

i. If you die, disappear, or are judicially declared incompetent, or if you are an entity other than an individual and such entity is dissolved after the crop is planted for any crop year, any indemnity shall be paid to the person(s) we determine to be beneficially entitled thereto.

j. If you have other fire insurance and fire damage occurs during the insurance period, and you have not elected to exclude fire from the policy, we shall be liable for loss due to fire only for the smaller of:

(1) The amount of indemnity determined pursuant to this contract without regard to any other insurance; or

(2) The amount by which the loss from fire exceeds the indemnity paid or payable under such other insurance. For the purpose of this section, the amount of loss from fire shall be the difference between the fair market value of the production on the unit before the fire and after the fire.

10. Concealment or fraud.

We may void the contract on all crop types insured without affecting your liability for premiums or waiving any right, including the right to collect any amount due to us if, at any time, you have concealed or misrepresented any material fact or committed any fraud relating to the contract, and such voidance shall be effective as of the beginning of the crop year.

11. Transfer of right to indemnity on insured share.

If you transfer any part of your share during the crop year, you may transfer your right to an indemnity. The transfer must be on our form and approved by us. We may collect the premium from either you or your transferee or both. The transferee shall have all rights and responsibilities under the contract.

12. Assignment of indemnity.

You may only assign to another party your right to an indemnity for the crop year on our form and with our approval. The assignee shall have the right to submit the loss notices and forms required by the contract.

13. Subrogation. (Recovery of loss from a third party.)

Because you may be able to recover all or a part of your loss from someone other than us, you must do all you can to preserve any such rights. If we pay you for your loss than your right of recovery shall at our option belong to us. If we recover more than we paid you plus our expenses, the excess shall be paid to you.

14. Records and access to farm.

You shall keep for two years after the time of loss, records of the harvest, storage, shipment, sale or other disposition of all of the crop produced on each unit including separate records showing the same information for production for any uninsured acreage. Any person designated by us shall have access to such records and the farm for purposes related to the contract.

15. Life of contract: cancellation and termination.

a. This contract shall be in effect for the crop year specified on the application and may not be canceled for such crop year. Thereafter, the contract shall continue in force for each succeeding crop year unless canceled or terminated as provided in this section.

b. This contract may be canceled by either you or us for any succeeding crop year by giving written notice to the other on or before the cancellation date preceding such crop year.

c. This contract shall terminate as to any crop year if any past due amount due us on this or any other contract with you is not paid on or before the termination date for the policy on which the amount is due. The date of payment of the amount due:

(1) If deducted from an indemnity claim shall be the date you sign the claim, or

(2) If deducted from payment under another program administered by United States Department of Agriculture shall be the date such payment was approved.

d. The cancellation and termination dates are April 15.

e. If you die or are judicially declared incompetent, or the insured entity is other than an individual and such entity is dissolved, the contract shall terminate as of the date of death, judicial declaration, or dissolution. *However,* if such event occurs after insurance attaches, the contract shall continue in force through the crop year and terminate at the end thereof. Death of a partner in a partnership shall dissolve the partnership unless the partnership agreement provides otherwise. If two or more persons having a joint interest are insured jointly, death of one of the persons shall dissolve the joint entity.

f. The contract shall terminate if no premium is earned for five consecutive years

16. Contract changes.

We may change any terms and provisions of the contract from year to year. If your amount of insurance is no longer offered, the actuarial table will provide the amount of insurance which you shall be deemed to have elected. All contract changes shall be available at your service office by December 31 preceding the cancellation date. Acceptance of any changes shall be conclusively presumed in the absence of any notice from you to cancel the contract.

17. Meaning of terms.

For the purposes of hybrid seed crop insurance:

(a) "Actuarial table" means the forms and related material for the crop year approved by us which are available for public inspection in your service office, and which show the coverage levels, premium rates, amounts of insurance, practices, insurable and uninsurable acreage, and related information regarding hybrid seed insurance in the county.

(b) "County" means the county shown on the application and any additional land located in a local producing area bordering

on the county, as shown by the actuarial table.

(c) "Crop year" means the period within which the crop is normally grown and shall be designated by the calendar year in which the crop is normally harvested.

(d) "Female plant" means the plants grown for the purpose of producing commercial seed.

(e) "Harvest" means the completion of combining, threshing or picking of the crop on the unit.

(f) "Insurable acreage" means the land classified as insurable by us and shown as such by the actuarial table.

(g) "Local Producing Area" means a portion of a country where insurable crops are grown and which borders on a country with a crop insurance program.

(h) "Male plant" means the plants grown for the purpose of shedding pollen on female plants.

(i) "Insured" means the person who submitted the application accepted by us.

(j) "Person" means an individual, partnership, association, corporation, estate, trust, or other business enterprise or legal entity, and wherever applicable, a State, a political subdivision of a State, or any agency thereof.

(k) "Service office" means the office serving your contract as shown on the application for insurance or such other approved office as may be selected by you or designated by us.

(l) "Tenant" means a person who rents land from another person for a share of the crop or a share of the proceeds therefrom.

(m) "Type" means the crop grown: i.e., corn, grain sorghum, sunflower, popcorn, etc.

(n) "Unit" means all insurable acreage of any one of the crop types in the county on the date of planting for the crop year:

(1) In which you have a 100 percent share; or

(2) Which is owned by one entity and operated by another entity on a share basis.

Land rented for cash, a fixed commodity payment, or any consideration other than a share in the crop on such land shall be considered as owned by the lessee. Land which would otherwise be one unit may be divided according to applicable guidelines on file in your service office or by written agreement between you and us. Units as herein defined will be determined when the acreage is reported. Errors in reporting such units may be corrected by us to conform to applicable guidelines when adjusting a loss. We may consider any acreage and share thereof reported by or for your spouse or child or any member of your household to be your bona fide share or the bona fide share of any other person having an interest therein.

(o) "Variety" means the seed produced from a pair of genetically identifiable parents.

18. Descriptive headings.

The descriptive heading of the various policy terms and conditions are formulated for convenience only and are not intended to affect the construction or meaning of any of the provisions of the contract.

19. Determinations.

All determinations required by the policy shall be made by us. If you disagree with our determinations, you may obtain reconsideration of or appeal those determinations in accordance with Appeal Regulations.

20. Notices.

All notices required to be given by you must be in writing and received by your service office within the designated time unless otherwise provided by the notice requirement. Notices required to be given immediately may be by telephone or in person and confirmed in writing. Time of the notice will be determined by the time of our receipt of the written notice.

Appendix A.—Counties Designated for Hybrid Seed Crop Insurance

The following counties are designated for Hybrid Seed Crop Insurance under the provisions of 7 CFR 443.1

Illinois

Adams	Henderson	Montgomery
Boone	Henry	Morgan
Brown	Iroquois	Moultrie
Bureau	Jersey	Ogle
Calhoun	Jo Daviess	Peoria
Carroll	Kane	Piatt
Cass	Kankakee	Pike
Champaign	Kendall	Putnam
Christian	Knox	Rock Island
Clark	Lake	Sangamon
Coles	La Salle	Schuyler
Cook	Lee	Scott
Cumberland	Livingston	Shelby
De Kalb	Logan	Stark
De Witt	McDonough	Stephenson
Douglas	McHenry	Tazewell
Du Page	McLean	Vermilion
Edgar	Macon	Warren
Ford	Macoupin	Whiteside
Fulton	Marshall	Will
Greene	Mason	Winnebago
Grundy	Menard	Woodford
Hancock	Mercer	

Done in Washington, D.C., on December 19, 1983.

Dated: February 2, 1984.

Peter F. Cole,

Secretary, Federal Crop Insurance Corporation.

Approved by:

Merritt W. Sprague

Manager.

[FR Doc. 84-3632 Filed 2-17-84; 8:45 am]

BILLING CODE 3410-08-M

Agricultural Marketing Service

7 CFR Part 910

Lemons Grown in California and Arizona Amendment of Rules and Regulations

February 14, 1984.

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule amends the rules and regulations of the marketing order to establish an exemption to allow handling of organic lemons without regard to volume and size regulations which may be issued under the order. Requirements applicable to the handling of organic lemons recognize cultural practices employed in the production of such fruit and the outlets to which such fruit is shipped.

DATES: Effective February 14, 1984, through July 31, 1984.

FOR FURTHER INFORMATION CONTACT: William J. Doyle, Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone 202-447-5975.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under Secretary's Memorandum 1512-1 and Executive Order 12291 and has been certified a "non-major" rule. William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this action will not have a significant economic impact on a substantial number of small entities.

This final rule is issued under marketing order 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona. The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). This final rule is based upon the recommendations and information submitted by the Lemon Administrative Committee and upon other available information. It is hereby found that this final rule will tend to effectuate the declared policy of the Act.

Section 910.180(d) of the rules and regulations established under the order prescribes procedures governing the exemption from order regulations of lemons handled in minimum quantities and certain types of shipments. This action would allow handling of organic lemons without regard to volume and size requirements that may be issued under the order if certain safeguards are met. Under the amendment, each handler of organic lemons would be required to apply to the committee for exemption from such regulations and furnish necessary information to the committee. The amendment would allow handlers to ship up to 100 cartons of organic lemons each week to organic or health food wholesalers and retailers. This action is designed to facilitate the marketing of organic lemons and would be in effect for the remainder of the 1983-84 fiscal year, which ends July 31, 1984.

It is found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date of this final rule until 30 days after publication in the **Federal Register** (5 U.S.C 553) in that the time intervening between the date when information

upon which this final rule is based became available and the time when this final rule must become effective in order to effectuate the declared policy of the Act is insufficient. Interested persons were given an opportunity to submit information and views on this action at an open meeting, at which the committee recommended the action with no opposing votes. It is necessary to effectuate the declared purposes of the Act to make this final rule effective as specified. This final rule relieves restrictions on the handling of lemons and handlers have been apprised of such provisions.

List of Subjects in 7 CFR Part 910

Marketing agreement and orders, California, Arizona, Lemons.

PART 910—[AMENDED]

Therefore, § 910.180 is amended by adding a new subparagraph (3) to paragraph (d) to read as follows (this final rule expires July 31, 1984, and will not be published in the annual Code of Federal Regulations):

§ 910.180 Lemons not subject to regulation.

* * * * *

(d) Minimum quantities and types of shipments.

* * * * *

(3) During the period February 14, 1984, through July 31, 1984, any person may be granted an exemption of up to 100 cartons per week, or an equivalent amount thereof, to market or distribute organic lemons to organic or health food wholesalers or retailers. Such lemons shall be exempt from volume and size requirements issued under this part. Persons shall file with the committee an application for exemption as described in paragraph (d)(1) of this section. The committee shall determine if an exemption should be granted to the applicant. The committee shall notify the applicant in writing of its determination. Such persons shall also file weekly reports (LAC form 8) during each week in which such organic lemons are shipped. For purposes of this section, "organic lemons" means lemons which are produced, harvested, distributed, stored, processed and packaged without application of synthetically compounded fertilizers, pesticides or growth regulators. In addition, no synthetically compounded fertilizers, pesticides, or growth regulators shall be applied by the grower to the field or area in which the lemons are grown for 12 months prior to the appearance of flower buds and throughout the entire growing and harvest season for lemons.

* * * * *

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: February 14, 1984.

Russell L. Hawes,

Acting Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 84-4514 Filed 2-17-84; 8:45 am]

BILLING CODE 3410-02-M

Animal and Plant Health Inspection Service

9 CFR Part 78

[Docket No. 83-145]

Brucellosis in Cattle; State and Area Classifications

Correction

In FR Doc. 84–2716 beginning on page 3978 in the issue of Wednesday, February 1, 1984, make the following corrections:

§ 78.20 [Corrected]

1. On page 3979, column three, § 78.20(a), last line "T. 28 N., 116 W.)" should read "T. 28 N., R. 116 W.)".

2. On the same page, column three, amendatory language 3., line two, "Choncho" should read "Concho".

BILLING CODE 1505-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 23903; Amdt. No. 1262]

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: An effective date for each SIAP is specified in the amendatory provisions.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

For Examination—

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, D.C. 20591;

2. The FAA Regional Office of the region in which the affected airport is located; or

3. The Flight Inspection Field Office which originated the SIAP.

For Purchase—

Individual SIAP copies may be obtained from:

1. FAA Public Inquiry Center (APA–430), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, D.C. 20591; or

2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription—

Copies of all SIAPs, mailed once every 2 weeks, are for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

FOR FURTHER INFORMATION CONTACT: Donald K. Funai, Flight Procedures Standards Branch (AFO–230), Air Transportation Division, Office of Flight Operations, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 426–8277.

SUPPLEMENTARY INFORMATION: This amendment to Part 97 of the Federal Aviation Regulations (14 CFR Part 97) prescribes new, amended, suspended, or revoked Standard Instrument Approach Procedures (SIAPs). The complete regulatory description of each SIAP is contained in official FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR Part 51, and § 97.20 of the Federal Aviation Regulations (FARs). The applicable FAA Forms are identified as FAA Forms 8260–3, 8260–4 and 9260–5. Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction on charts printed by

publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form documents is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

This amendment to Part 97 is effective on the date of publication and contains separate SIAPs which have compliance dates stated as effective dates based on related changes in the National Airspace System or the application of new or revised criteria. Some SIAP amendments may have been previously issued by the FAA in a National Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for some SIAP amendments may require making them effective in less than 30 days. For the remaining SIAPs, an effective date at least 30 days after publication is provided.

Further, the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Approach Procedures (TERPs). In developing these SIAPs, the TERPs criteria were applied to the conditions existing or anticipated at the affected airports. Because of the lose and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs is unnecessary, impracticable, and contrary to the public interest and, where applicable, that good cause exists for making some SIAPs effective in less than 30 days.

List of Subjects in 14 CFR Part 97

Approaches, Standard instrument, Aviation safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, Part 97 of the Federal Aviation Regulations (14 CFR Part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective at 0901 G.m.t. on the dates specified, as follows:

1. By Amending § 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN SIAPs identified as follows:

** * * Effective April 12, 1984*

Winslow, AZ—Winslow Muni, VOR RWY 11, Amdt. 3
Camarillo, CA—Camarillo, VOR–A, Amdt. 1
Madill, OK—Madill Muni, VOR/DME–A, Amdt. 2

** * * Effective March 29, 1984*

Danielson, CT—Danielson, VOR–A 4, Amdt. 2
Cochran, GA—Cochran, VOR/DME RWY 4, Amdt. 4
Thomson, GA—Thomson-McDuffie County, VOR/DME RWY 27, Amdt. 2
Toccoa, GA—Toccoa RG Letourneau Field, VOR RWY 20, Amdt. 9
Houghton Lake, MI—Roscommon County, VOR RWY 9, Orig.
Taos, NM—Taos Muni, VOR/DME–B, Amdt. 1
Durhamville, NY—Kamp, VOR RWY 28, Amdt. 1
Lexington, NC—Lexington Muni, VOR/DME RWY 8, Amdt. 1
Salisbury, NC—Rowan County, VOR RWY 2, Amdt. 1
Salisbury, NC—Rowan County, VOR–A, Amdt. 3
Greenville, PA—Greenville Muni, VOR–A, Amdt. 1
Monongahela, PA—Rostraver, VOR–A, Amdt. 3
Selinsgrove, PA—Penn Valley, VOR–A, Amdt. 4
Aguadilla, PR—Borinquen, VOR RWY 8, Amdt. 3
Aguadilla, PR—Borinquen, VOR/DME or TACAN RWY 8, Orig.
Alice, TX—Alice Intl, VOR RWY 31, Amdt. 9
Alice, TX—Alice Intl, VOR–A, Amdt. 11

** * * Effective March 15, 1984*

Chadron, NE—Chadron Muni, VOR RWY 20, Amdt. 5
Chadron, NE—Chadron Muni, VOR/DME RWY 2, Orig.
Chadron, NE—Chadron Muni, VOR–A, Amdt. 10

2. By amending § 97.25 LOC, LOC/DME, LDA, LDA/DME, SDF, and SDF/DME SIAPs indentified as follows:

** * * Effective April 12, 1984*

Houston, TX—Hull Field, LOC RWY 35, Orig.

** * * Effective March 29, 1984*

Boise, ID—Boise Air Terminal (Gowen Field), LOC/DME (BC) RWY 28L, Amdt. 2
Alice, TX—Alice Intl, LOC RWY 31, Amdt. 2

** * * Effective February 6, 1984*

San Diego, CA—San Diego Intl Lindbergh Fld, LOC RWY 27, Amdt. 1

3. By amending § 97.27 NDB and NDB/DME SIAPs identified as follows:

** * * Effective April 12, 1984*

Nogales, AZ—Nogales Intl, NDB–C, Orig.
Chino, CA—Chino, NDB–C, Amdt. 1
Casey, IL— Casey Muni, NDB RWY 4, Amdt. 4
Casey, IL— Casey Muni, NDB RWY 22, Amdt. 2

** * * Effective March 29, 1984*

Tallahassee, FL—Tallahassee Muni, NDB RWY 36, Amdt. 16
Fitzgerald, GA—Fitzgerald Muni, NDB RWY 1, Amdt. 2
Jesup, GA—Jesup–Wayne County, NDB RWY 10, Amdt. 3
Lawrenceville, GA—Gwinnett County, NDB RWY 25, Orig.
Milledgeville, GA—Baldwin County, NDB RWY 27, Amdt. 5
Thomson, GA—Thomson-McDuffie County, NDB RWY 27, Amdt. 4
Bay St. Louis, MS—Stennis Intl, NDB RWY 17, Orig.
Jackson, MS— Hawkins Field, NDB RWY 16, Amdt. 3
Taos, NM—Taos Muni, NDB–A, Amdt. 1
Islip, NY—Long Island MacArthur, NDB RWY 6, Amdt. 16
Lexington, NC—Lexington Muni, NDB RWY 8, Amdt. 2
Salisbury, NC—Rowan County, NDB–A, Amdt. 6
West Jefferson, NC—Ashe County, NDB RWY 27, Orig.
Aiken, SC—Aiken Muni, NDB RWY 24, Amdt. 5
Charleston, SC—Charleston-Executive, NDB RWY 9, Amdt. 5

** * * Effective March 15, 1984*

Marshalltown, IA—Marshalltown Muni, NDB RWY 12, Amdt. 4
Chadron, NE—Chadron Muni, NDB RWY 2, Amdt. 1
Chadron, NE—Chadron Muni, NDB RWY 20, Amdt. 10
Majuro Atoll, TT—Marshall Islands Intl, NDB/DME RWY 7, Orig.
Moen Island, TT—Truk Intl, NDB/DME RWY 221 Orig.

4. By amending § 97.29 ILS ILS/DME, ISMLS, MLS, MLS/DME and MLS/RNAV SIAPs identified as follows:

** * * Effective April 12, 1984*

Chino, CA—Chino, ILS RWY, 26 Amdt. 3
Los Angeles, CA—Los Angeles Intl, ILS RWY 24R, Amdt. 19

** * * Effective March 29, 1984*

Jackson, MS—Hawkins Field, ILS RWY 16, Amdt. 2
Islip, NY—Long Island MacArthur, ILS RWY 6, Amdt. 19
Saranac Lake, NY—Adirondack, ILS RWY 23, Amdt. 6
Charlotte, NC—Charlotte/Douglas Intl, ILS RWY 18R, Amdt. 2
Charlotte, NC—Charlotte/Douglas Intl, ILS RWY 36L, Amdt. 5
Nashville, TN—Nashville Metropolitan, ILS RWY 31, Amdt. 4

6. By amending § 97.33 RNAV SIAPs identified as follows:

** * * Effective March 29, 1984*

Giddings, TX—Giddings-Lee County, RNAV RWY 35, Orig.

(Secs. 307, 313(a), 601, and 1110, Federal Aviation Act of 1958 (49 U.S.C. 1348, 1354(a), 1421, and 1510); 49 U.S.C. 106(g) (Revised,

Pub. L. 97-449, January 12, 1983); and 14 CFR 11.49(b)(3))

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Note.—The incorporation by reference in the preceding document was approved by the Director of the Federal Register on December 31, 1980, and reapproved as of January 1, 1982.

Issued in Washington, D.C. on February 17, 1984.

Kenneth S. Hunt,

Director of Flight Operations.

[FR Doc. 84-4473 Filed 2-17-84; 8:45 am]

BILLING CODE 4910-13-M

FEDERAL TRADE COMMISSION

16 CFR Part 13

[Docket C-2059]

The Procter & Gamble Co.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Modifying order.

SUMMARY: This order reopens the proceeding and modifies the Commission's order issued on Oct. 8, 1971 (36 FR 22149), *modified* Feb. 26, 1974 (39 FR 10237), to ensure that consumers receive necessary information regarding promotions involving chance while allowing the company to publicize such promotions more effectively and efficiently. The modified order changes the disclosure requirements for broadcast and print advertising, and includes a "trigger" modeled on that in the Commission's Games of Chance Rule. The "trigger" would require certain disclosures in print advertisements which "refer in any manner to prizes or their number or availability."

DATES: Consent Order issued Oct. 8, 1971. Modifying Order issued Feb. 3, 1984.

FOR FURTHER INFORMATION CONTACT: FTC/PC, Roger Kirkpatrick, Washington, D.C. 20580. (202) 376-2820.

SUPPLEMENTARY INFORMATION: In the Matter of The Procter & Gamble Company. Codification appearing at 36 FR 22149 remains unchanged.

[Docket No. C-2059]

The Procter & Gamble Company, Order Reopening the Proceeding and Modifying Cease and Desist Order

On May 2, 1983 Procter & Gamble Company, respondents in the above captioned matter, filed a petition pursuant to Rule 2.51 of the Commission's Rules of Practice to reopen the proceeding and modify the consent order entered therein. By letter dated October 21, 1983, petitioner agreed to modify its original proposal.

The order relates to alleged unfair and deceptive practices by Procter & Gamble in connection with any use of a "sweepstakes" or other similar promotional device involving chance. Paragraphs A(1) and B (1), (2), (3), and (4) of the order require petitioner to disclose in all advertising and promotional material: (1) The total number of prizes to be awarded, (2) the exact nature of the prizes, their approximate retail value, and the number of each, (3) the geographic area or states in which any such device is used, and (4) the date the device is initiated and the date the device is to end. Other provisions of the order prohibit petitioner from failing to award all of the prizes as represented, from falsely representing that prizes have already been purchased, from failing to furnish a list of winners on request, and from misrepresenting any aspect of any promotional device involving chance. Procter & Gamble seeks modification only of the disclosure requirements contained in paragraphs A(1) and B (1), (2), (3), and (4) of the order.

Petitioner requests the establishment of different disclosure requirements for broadcast and print advertising, and the lessening of the requirements for both types of ads. In place of the current broadcast advertising requirements petitioner requests those set out in proposed paragraph C. This paragraph would require petitioner to disclose in all advertising: (1) The geographic area or states in which the device is used *if* the advertisement would reach consumers outside that area, (2) the date the device is to end *if* the advertising would be disseminated within less than thirty days before such ending date and, (3) the date the device is to begin *if* the advertising would be disseminated prior to that beginning date. No other disclosures would be required in broadcast advertisements.

Petitioner argues that the changes in the broadcast advertising requirements of the order are justified by changes in law and fact and by the public interest. Petitioner points to nearly identical consent orders against three pesticide producers in which fewer disclosures were required in certain broadcast advertisements than were required in print advertisements. *Union Carbide*, 84 F.T.C. 591 (1974), *modified*, 86 F.T.C. 1231 (1975), *modified*, 94 F.T.C. 315 (1979); *Hercules, Inc.*, 84 F.T.C. 605 (1974), *modified*, 86 F.T.C. 1236 (1975), *modified*, 94 F.T.C. 315 (1979); *FMC Corp.*, 86 F.T.C. 897 (1975), *modified*, 94 F.T.C. 315 (1979). Petitioner also argues that the prize information disclosure requirement amounts to a virtual ban on broadcast advertising of its sweepstakes. Finally petitioner argues that at the time the order was entered into television advertising of sweepstakes promotions was virtually nonexistent, whereas today such advertising is increasingly common and petitioner's inability to place such advertisements places it at competitive disadvantages.

Petitioner also proposes that the order's print advertising disclosure requirements be modified by introducing a "trigger." Under this approach, the disclosures listed in paragraphs A and B would be required only in print advertisements which "refer in any manner to prizes or their number or availability." Print advertising which does not set off the trigger would still have to meet the disclosure requirements of paragraph C, however. Petitioner also proposes special provisos to paragraphs A, B and C. The provisos to paragraphs A and B would allow petitioner to place disclosures triggered by advertisements on package labels on material other than the labels themselves, as long as statements on those packages directed consumers to those disclosures. The proviso to paragraph C would allow petitioner to place any disclosures required by that paragraph on the side or back of packages as long as a statement on the front of the package informed consumers of the disclosures' location.

Finally, petitioner contends that the addition of the "trigger" to the order's print advertising disclosure requirements is justified by changes in law and the public interest. In support, petitioner points to the consent order in *Coca-Cola Co.*, 88 F.T.C. 656 (1976) that regulates the conduct of contest promotions and includes trigger language related to the kind of disclosures required by that order.

With respect to the deletion of the obligation to disclose prize information in broadcast advertisements we note

that in January 1983 we issued a temporary stay of those portions of our Trade Regulation Rule on Games of Chance in the Food Retailing and Gasoline Industries (16 CFR 419) which required the disclosure of prize information in broadcast advertising,[1] (48 FR 1046). This stay will remain in effect pending the conclusion of proceedings to amend that rule. Thus the modification makes petitioner's obligation more consistent with that presently imposed by the rule. Moreover, in this case petitioner's advertising of prize information will remain subject to paragraph A.(5) of the order which forbids petitioner from "misrepresenting in any manner by any means any element, feature, or aspect of any 'sweepstakes,' contest, game or any similar promotional device involving chance."

Similarly, we believe that conditioning disclosure in broadcast advertising of the starting and ending dates and geographic scope of a promotion is also justified by the public interest. Paragraph C of the modified order requires these disclosures whenever they are necessary and helpful to the consumer.

Finally, adoption of a trigger modeled on that contained in our Games of Chance Rule is also in the public interest. The disclosures required in Procter & Gamble's order are similar to those required in the Games of Chance Rule. Both require disclosure of detailed prize information. This requirement is present in the order against petitioner to ensure that consumers are not deceived about the value and nature of the prizes by vague or incomplete references to prizes in advertising. Therefore, the trigger used in the Games of Chance Rule—any reference to prizes—is appropriate for use in petitioner's order. The insertion of this trigger language serves the public interest by more closely tailoring the disclosure requirements to the purposes they serve. The provisos relating to disclosures on package labels are also justified by the public interest. They allow petitioner to provide more information to consumers on package labels than would otherwise be possible under the order, while still ensuring that the required disclosures are available for consumers to view. This increased flow of information to consumers is in the public interest.

Thus, the Commission finds that the changes requested in Procter & Gamble's modified petition are in the public interest. The modified order will ensure that consumers receive necessary information regarding promotions involving chance, while allowing petitioner to publicize such promotions more effectively and efficiently.

It is therefore ordered that the proceeding is hereby reopened and the Decision and Order issued October 8, 1971, as modified February 26, 1974, in Docket No. C–2059 is hereby modified to read as follows:

Order

It is ordered, that the Procter & Gamble Company, a corporation, and its officers, agents, representatives and employees, directly or through any corporate or other device, in connection with the preparation, advertising, sale, distribution or use of any "sweepstakes," contest, game or any similar promotional device involving chance in commerce, as "commerce" is defined in the Federal Trade Commission Act, cease and desist from:

A.(1) Failing to disclose clearly and conspicuously the exact number of prizes which will be awarded, the exact nature of the prizes and the approximate retail value of each prize offered in all print advertising and printed promotional materials which refer in any manner to prizes or their number or availability. Provided, however, that such disclosures in any case need not be made on any package label as long as somewhere on that same package consumers are clearly and conspicuously referred to advertising or promotional material which does contain such disclosures and which may be viewed by consumers without any purchase or other monetary outlay.

(2) Failing to award and distribute all prizes of the type and value represented.

(3) Representing directly or by implication that prizes other than cash prizes have been purchased unless they have in fact been purchased at the time that the representation is made.

(4) Failing to furnish upon request to any individual a complete list of the names and states of residence of winners of major prizes, identifying the prize won by each.

(5) Misrepresenting in any manner by any means any element, feature, or aspect of any "sweepstakes," contest, game or any similar promotional device involving chance.

B. Engaging in the preparation, promotion, sale, distribution, or use of any "sweepstakes," contest, game, or similar promotional device involving chance, unless the following are disclosed clearly and conspicuously in all print advertising and printed promotional material which refer in any manner to prizes or their number or availability. Provided, however, that except as provided in Paragraph C of this order, such disclosures in any case need not be made on any package label as long as somewhere on that same package consumers are clearly and conspicuously referred to advertising or promotional material which does contain such disclosures and which may be viewed by consumers without any purchases or other monetary outlay.

(1) The total number of prizes to be awarded;

(2) The exact nature of the prizes, their approximate retail value, and the number of each;

(3) The geographic area or states in which any such device is used; and

(4) The date the device is initiated and the date the device is to end.

C. Engaging in the preparation, promotion, sale, distribution, or use of any "sweepstakes," contest, game, or similar promotional device involving chance, unless the following are disclosed clearly and prominently in all advertising or promotional material concerning said devices:

(1) The geographic area or states in which any such device is used if the advertising or promotional material would reach consumers outside such geographic area or states; and

(2) The date the device is to end if the advertising or promotional material would be disseminated within less than thirty days before such ending date.

(3) The date the device is to begin if the advertising or promotional material would be disseminated prior to such beginning date.

Provided, however, that in advertising or promotional material printed on package labels it shall be sufficient if such advertising or promotional material contains the clear and conspicuous disclosure of the statement "See back/side for details" and any required information about geographic areas or states and/or ending or beginning dates is then disclosed clearly and conspicuously elsewhere on the package.

It is further ordered, that respondent Procter & Gamble Company shall:

(1) File with the Commission, within sixty (60) days after service upon it of this order, a report in writing setting forth in detail the manner and form in which it has complied with the provisions of this order;

(2) Maintain adequate records:

(a) Which disclose the facts upon which any of the representations of the type described in the preceding paragraphs of this order are based, and

[1] This rule applies only to the food retailing and gasoline industries. It does not apply to petitioner's activities in the sweepstakes area, which are governed solely by the order.

(b) From which the validity of the representations of the type described in the preceding paragraphs of this order can be determined;

(3) Furnish upon the request of the Federal Trade Commission:

(a) A complete list of the names and addresses of the winners of each prize, and an exact description of the prize, including its retail value;

(b) A list of the winning numbers or symbols, if utilized, for each prize;

(c) The total number of coupons or other entries distributed;

(d) The total number of participants in the promotion;

(e) The total number of prizes in each category or denomination which were made available; and

(f) The total number of prizes in each category or denomination which were awarded.

It is further ordered that the respondent shall forthwith distribute a copy of this order to each of its operating divisions.

It is further ordered that respondent notify the Commission at least thrity (30) days prior to any proposed change in its corporate form such as dissolution, assignment or sale resulting in the emergence of successor corporations, the creation or dissolution of subsidiaries, or any other change in the corporation which may affect compliance with this order.

By the Commission. Commissioner Pertschuk voted in the negative.

List of Subjects in 16 CFR Part 13

Sweepstakes promotions, Trade practices.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45)

Dated: February 8, 1984.

Emily H. Rock,

Secretary.

[FR Doc. 84-4545 Filed 2-17-84; 8:45 am]

BILLING CODE 6750-01-M

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

29 CFR Part 1601

706 Agencies; Handling of Employment Discrimination Charges

AGENCY: Equal Employment Opportunity Commission.

ACTION: Final rule.

SUMMARY: The Equal Employment Opportunity Commission amends its regulations designating certain State and local fair employment practice agencies (706 Agencies) so that they may handle employment discrimination charges, within their jurisdictions, filed with the Commission. Publication of this amendment effectuates the designation of the Mason City Iowa Human Rights Commission as a 706 Agency.

EFFECTIVE DATE: February 21, 1984.

FOR FURTHER INFORMATION CONTACT: Hollis Larkins, Equal Employment Opportunity Commission, Office of Program Operations, Special Services Staff, 2401 E Street, NW., Washington, D.C. 20507, telephone 202/634-6806.

SUPPLEMENTARY INFORMATION:

List of Subjects in 29 CFR Part 1601

Administrative practice and procedure, Equal employment opportunity, Intergovernmental relations.

PART 1601—PROCEDURAL REGULATIONS

Accordingly, Title 29, Chapter XIV of the Code of Federal Regulations, 29 CFR 1601.74(a) is amended by adding in alphabetical order the following agency:

§ 1601.74 Designated and notice agencies.

(a) * * * Mason City Iowa Human Rights Commission

* * * * *

(Sec. 713(a) 78 Stat. 265 (42 U.S.C. 2000e12(a))

Signed at Washington, D.C., this 13th day of February 1984.

For the Commission.

Odessa M. Shannon,

Director, Office of Program Operations.

[FR Doc. 84-4565 Filed 2-17-84; 8:45 am]

BILLING CODE 6570-06-M

29 CFR Part 1601

706 Agencies; Handling of Employment Discrimination Charges

AGENCY: Equal Employment Opportunity Commission.

ACTION: Final rule; amendment.

SUMMARY: The Equal Employment Opportunity Commission amends its regulations on certified designated 706 agencies. Publication of this amendment effectuates the designation of the Illinois Department of Human Rights and the Puerto Rico Department of Labor and Human Resources as certified 706 Agencies.

EFFECTIVE DATE: February 21, 1984.

FOR FURTHER INFORMATION CONTACT: Hollis Larkins, Equal Employment Opportunity Commission, Office of Program Operations, Special Services Staff, 2401 E Street, NW., Washington, D.C. 20507, telephone 202/634-6526.

SUPPLEMENTARY INFORMATION: The Commission has determined that the Illinois Department of Human Rights and the Puerto Rico Department of Labor and Human Resources meet the eligibility criteria for certification of a designated 706 agency as established in 29 CFR 1601.75(b).

In accordance with 29 CFR 1601.75(c) the Commission hereby amends the list of certified designated 706 agencies to include the Illinois Department of Human Rights and the Puerto Rico Department of Labor and Human Resources. Publication of this amendment to § 1601.80 effectuates the designation of the following agencies as certified 706 agencies: Illinois Department of Human Rights and the Puerto Rico Department of Labor and Human Resources.

List of Subjects in 29 CFR Part 1601

Administrative practice and procedure, Equal employment opportunity, Intergovernmental relations.

PART 1601—[AMENDED]

§ 1601.80 [Amended]

Accordingly, 29 CFR Part 1601 is amended in § 1601.80 by adding the Illinois Department of Human Rights and the Puerto Rico Department of Labor and Human Resources in alphabetical order.

(42 U.S.C. 2000e-12(a))

Signed at Washington, D.C., this 14th day of February 1984.

For the Commission.

Clarence Thomas,

Chairman, Equal Employment Opportunity Commission.

[FR Doc. 84-4566 Filed 2-17-84; 8:45 am]

BILLING CODE 6570-06-M

DEPARTMENT OF THE TREASURY

Fiscal Service

31 CFR Part 390

Administrative Offset of Claims

AGENCY: Bureau of the Public Debt, Fiscal Service, Department of the Treasury

ACTION: Final rule.

SUMMARY: This rule sets forth procedures for the collection of claims due the United States arising from transactions in Treasury securities, as administered by the Bureau of the Public Debt. The rule is needed to implement the administrative offset provisions of section 10 of the Debt Collection Act of

1982, Pub. L. 97-365, 96 Stat. 1749 (31 U.S.C. 3716).

EFFECTIVE DATE: March 22, 1984.

FOR FURTHER INFORMATION CONTACT: Mary Lou Dasburg, Attorney-Adviser, Bureau of the Public Debt, Office of the Chief Counsel, Divisions Office (202) 447-9859.

SUPPLEMENTARY INFORMATION: Prior to the Debt Collection Act of 1982, the Bureau of the Public Debt relied on the common law right of offset as a tool to administratively collect claims owed to the United States. The Act, while providing statutory authority for administrative offset, also requires specific procedures and safeguards to ensure that alleged debtors will be afforded due process protections. One of the requirements of the Act is that Federal agencies issue regulations consistent with the Act and the Federal Claims Collection Standards (4 CFR, Chapter II) before collecting claims by administrative offset.

The proposed rule was published in the **Federal Register** on October 20, 1983 (48 FR 48688). The comment period closed on December 19, 1983. One comment was received from the Bureau of Government Financial Operations suggesting that where installment payments are involved the written agreement for repayment contain a provision that payments be collected by a direct charge to the debtor's bank account. Until a period of time has elapsed where the volume of installment agreements can be established, the Bureau of the Public Debt prefers not to incorporate such a requirement into the regulatory language. Instead, the suggestion will be considered for the Bureau's internal procedures. The proposed rule is, therefore, being published as a final rule with no changes.

Executive Order 12291

The proposed rule is not a "major rule," as defined in Executive Order 12291, dated February 17, 1981, because it will not result in: (1) An annual effect on the economy of $100 million or more; (2) a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Paperwork Reduction Act

The Paperwork Reduction Act, Pub. L. 96-511, 94 Stat. 2812 (44 U.S.C. Chapter 35) does not apply to this rule because it does not contain information collection requirements which necessitate approval by the Office of Management and Budget.

Regulatory Flexibility Act

The Regulatory Flexibility Act, Pub. L. 96-354, 94 Stat. 1167, does not apply to this proposed rule. The Commissioner of the Public Debt certifies under the provisions of 5 U.S.C. 605(b) that this proposed rule, if issued as a final rule, will not have a significant economic impact on a substantial number of small entities or impose significant reporting or compliance burdens on a substantial number of small entities.

List of Subjects in 31 CFR Part 390

Administrative practice and procedure, Claims.

Accordingly, it is proposed to add Part 390 to subchapter B of 31 CFR, Chapter II, to read as follows:

PART 90—COLLECTION BY ADMINISTRATIVE OFFSET

Sec.
390.0 Scope of regulations.
390.1 General.
390.2 Notification procedures.
390.3 Agency review.
390.4 Written agreement for repayment.
390.5 Administrative offset.

Authority: 31 U.S.C. 3701; 31 U.S.C. 3711; 31 U.S.C. 3716.

§ 390.0 Scope of regulations.

These regulations apply to the collection by the Bureau of the Public Debt of claims by administrative offset under section 5 of the Federal Claims Collection Act of 1966, as added by the Debt Collection Act of 1982 (31 U.S.C. 3716). They are consistent with the Federal Claims Collection Standards on administrative offset issued jointly by the Department of Justice and the General Accounting Office, as set out in 4 CFR 102.3. The term "administrative offset," as defined in 31 U.S.C. 3701(a)(1), means "withholding money payable by the United States Government to, or held by the Government for, a person to satisfy a debt the person owes the Government."

§ 390.1 General.

(a) The Commissioner of the Public Debt, or designee, after attempting to collect a claim from a person under section 3(a) of the Federal Claims Collection Act of 1966, as amended (31 U.S.C. 3711(a)), may collect the claim by administrative offset if the claim is certain in amount. The Commisioner has determined that it is in the best interests of the United States to collect claims by administrative offset because of the decreased costs of collection and the acceleration in the payment of claims.

(b) If the six-year period for bringing an action on a claim provided in section 2415 of Title 28, United States Code, has expired, the claim may be collected by administrative offset only if the costs that would have been incurred in bringing such action were likely to be more than the amount of the claim. No collection by administrative offset shall be made on any claim that has been outstanding for more than 10 years unless facts material to the Government's right to collect the claim were not known and reasonably could not have been known by the official or officials responsible for discovering and collecting such claim.

(c) These regulations do not apply to any case in which administrative offset of the type of debt involved is explicitly provided for or prohibited by another statute, nor do they apply to debts owed by other agencies of the United States or by any State or local government.

§ 390.2 Notification procedures.

Before collecting any claim through administrative offset, a notice shall be sent to the debtor by certified mail, return receipt requested. In the case of an agent qualified under 31 CFR Part 317 or 31 CFR Part 321, the notice need not be sent by certified mail. The notice shall provide:

(a) Written notification of the nature and amount of the claim, the intention of the agency to collect the claim through administrative offset, and an explanation of rights under section 10 of the Debt Collection Act of 1982 (31 U.S.C. 3716);

(b) An opportunity to inspect and copy the records of the agency with respect to the claim;

(c) An opportunity for review within the Bureau of the Public Debt of the determination of the Bureau with respect to the claim; and

(d) An opportunity to enter into a written agreement with the head of the agency, or designee, for the repayment of the amount of the claim.

§ 390.3 Agency review.

(a) A debtor may dispute the existence of the debt, the amount of the debt, or the terms of repayment. A request to review a disputed claim must be submitted to the Bureau within 30

calendar days of the receipt of the written notice described in § 390.2.

(b) If the debtor requests an opportunity to inspect or copy the Bureau's records concerning the disputed claim, 10 business days will be granted for the review. The time period will be measured from the time the request for inspection is granted or from the time the copy of the records is received by the debtor.

(c) Pending the resolution of a dispute by the debtor, transactions in any account(s) of the debtor maintained at the Bureau of the Public Debt may be temporarily suspended. Depending on the type of security, the suspension could preclude its payment, removal, or transfer, as well as prevent the payment of interest or discount due thereon. Should the dispute be resolved in the debtor's favor, the suspension will be immediately lifted.

(d) During the review period, interest, penalties, and administrative costs authorized under the Federal Claims Collection Act of 1966, as amended, will continue to accrue.

§ 390.4 Written agreement for repayment.

A debtor who admits liability, but elects not to have the debt collected by administrative offset, will be permitted to negotiate with the Commissioner of the Public Debt, or designee, concerning a written agreement for the repayment of the debt. If the financial condition of the debtor does not support the ability to pay in one lump-sum, reasonable installments may be considered. No installment arrangement will be considered unless the debtor submits a financial statement, executed under penalty of perjury, reflecting the debtor's assets, liabilities, income, and expenses. The financial statement must be submitted within 10 business days of its request by the Bureau. At the Bureau's option, a confess-judgment note or bond of indemnity with surety may be required for installment agreements. Notwithstanding the provisions of this section, any reduction or compromise of a claim will be governed by 4 CFR Part 103 and 31 CFR 5.3.

§ 390.5 Administrative offset.

If the debtor does not exercise the right to request a review within the time specified in § 390.3, or if, as a result of the review, it is determined that the debt is due and no written agreement is executed, then administrative offset shall be ordered in accordance with these regulations without further notice.

Dated: February 15, 1984.

Richard L. Gregg,

Acting Deputy Commissioner of the Public Debt.

[FR Doc. 84-4481 Filed 2-17-84; 8:45 am]

BILLING CODE 4810-40-M

GENERAL SERVICES ADMINISTRATION

41 CFR Part 101-11

[FPMR Amdt. B-58]

Records Disposition

AGENCY: National Archives and Records Service, GSA.

ACTION: Final rule.

SUMMARY: The General Services Administration is amending its regulations to modify records scheduling paperwork procedures, records center disposition procedures for contingent records, and requirements for scheduling records that have been microfilmed. Agencies often submit comprehensive agency or office records schedules including many records series already appraised and for which no change in retention period is proposed, thus requiring no NARS action. This amendment will require agencies to mark out unchanged items and thereby facilitate NARS processing. Another problem has been caused in records centers by procedures for disposal of contingent records. This amendment will require agencies to respond to contingent disposal notices unless they are prepared to withdraw the records from storage. Due to particular concern over the microfilming of permanent and unscheduled records, this amendment clarifies the scheduling requirements for original and microfilm copies.

EFFECTIVE DATE: February 21, 1984.

FOR FURTHER INFORMATION CONTACT: David F. Peterson, Assistant Archivist for Federal Records Centers (202-724-1614).

SUPPLEMENTARY INFORMATION: The General Services Administration has determined that this rule is not a major rule for the purposes of Executive Order 12291 of February 17, 1981, because it is not likely to result in an annual effect on the economy of $100 million or more; a major increase in costs to consumers or others; or significant adverse effects. The General Services Administration has based all administrative decisions underlying this rule on adequate information concerning the need for, and consequences of, this rule; has determined that the potential benefits to society from this rule outweigh the potential costs and has maximized the net benefits; and has chosen the alternative approach involving the least net cost to society.

List of Subjects in 41 CFR Part 101-11

Advisory committees, Archives and records, Micrographics, National Archives and Records Service, Records and information management.

PART 101-11—RECORDS MANAGEMENT

1. The authority citation for Part 101-11 is revised to read as follows:

Authority: 44 U.S.C. 3301-3314; 44 U.S.C. 2101-2113, 2901-2910, 3101-3107.

2. Section 101-11.404-1 is amended by revising paragraph (a)(3) to read as follows:

§ 101-11.404-1 Comprehensive agency records disposition schedules.

* * * * *

(a) * * *

(3) Only new or revised records series or disposition instructions, or deviations from the General Records Schedules (see § 101-11.404-2) require NARS approval. If any items on a proposed schedule have been previously scheduled, the procedures contained in § 101-11.406-7 must be followed.

* * * * *

3. Section 101-11.406-3 is revised to read as follows:

§ 101-11.406-3 Request for authorization to dispose of temporary records.

Requests for authorization to dispose of records shall be initiated by Federal agencies by submitting Standard Form 115, Request for Records Disposition Authority to the National Archives and Records Service. A Standard Form 115 is used for submitting a schedule (§ 101-11.404-1) or a list (§ 101-11.404-3). Authority contained in an approved disposal list is limited to records already in existence. A schedule is a continuing authorization and should be used in all instances where the types of records described in the request continue to accumulate.

4. Section 101-11.406-7 is revised to read as follows:

§ 101-11.406-7 Request to change disposal authority.

Agencies desiring to change the approved disposition of a series of records should submit a Standard Form 115. If an agency submits a SF 115 that includes items not changed from previous authorizations, the unchanged items must be marked out. Disposition authorizations contained in approved disposal schedules are automatically

superseded by approval of a later schedule applicable to the same records unless the later schedule specified an effective date. Agencies submitting revised schedules must indicate in entry 9 of the SF 115 the relevant schedule and item to be superseded, the citation to the current printed records disposition schedule, if any, and/or the General Records Schedules and item numbers which cover the records.

5. Section 101–11.410–8 is amended by redesignating paragraph (b) as paragraph (c) and adding a new paragraph (b) to read as follows:

§ 101–11.410–8 Disposal clearances for records in Federal records centers.

* * * * *

(b) Contingent records (records of Federal agencies scheduled for destruction after occurrence of an event at some unspecified time in the future) held by Federal records centers will be disposed of upon receipt of agency concurrence in response to GSA Form 3265, Agency Review for Contingent Disposal, or other written concurrence. If the agency does not respnd to the review notice within 90 calendar days, the records center may return the records to the agency and reject future transfers of that records series.

* * * * *

Subpart 101–11.5—Micrographics

6. Section 101–11.502 is amended by redesignating paragraph (i) as (j) and adding a new paragraph (i) to read as follows:

§ 101–11.502 Definitions.

* * * * *

(i) *Unscheduled Records.* Any record that has not been appraised by the National Archives, i.e., a record that has neither been approved for disposal nor designated as permanent by the Archivist of the United States.

* * * * *

7. Section 101–11.506–1 is amended by revising the introductory text of paragraph (a), removing paragraph (c), redesignating paragraph (b) as (c), and adding a new paragraph (b) to read as follows:

§ 101–11.506–1 Authorization.

(a) Agencies proposing to microfilm permanent or unscheduled records shall submit Standard Form (SF) 115, Request for Records Disposition Authority, in accordance with Subpart 101–11.4. The SF 115 shall provide for the disposition of original records and microforms.

* * * * *

(b) The approved retention period for temporary records shall be applied to microform copies of those records; the original records shall be destroyed upon verification of the microfilm, unless legal requirements preclude early destruction of the originals. NARS approval is not required prior to implementation of this provision.

* * * * *

Dated: January 25, 1984.

Ray Kline,

Acting Administrator of General Services.

[FR Doc. 84–4499 Filed 2–17–84; 8:45 am]

BILLING CODE 8820–29–M

DEPARTMENT OF THE INTERIOR

Office of the Secretary

43 CFR Parts 4, 2650

Hearings and Appeals Procedures

AGENCY: Office of Hearings and Appeals, Interior.

ACTION: Final rule.

SUMMARY: This final rule amends the regulations governing hearings and appeals to implement Secretarial Order No. 3078, dated April 29, 1982, abolishing the Alaska Native Claims Appeal Board (ANCAB) and consolidating the functions of that Board under the jurisdiction of the Interior Board of Land Appeals (IBLA) effective June 30, 1982. This action was taken to achieve greater economy in the use of Office of Hearings and Appeals (OHA) resources. The effect of these amendments is to ensure that uniform procedures apply to all appeals submitted to IBLA and to eliminate regulations made duplicative by the consolidation of functions within IBLA.

EFFECTIVE DATE: February 21, 1984.

ADDRESS: Inquiries or suggestions should be sent to: Director, Office of Hearings and Appeals, Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203.

FOR FURTHER INFORMATION CONTACT: Julia A. Barrows (703) 235–3750.

SUPPLEMENTARY INFORMATION: Secretarial Order No. 3078 abolished ANCAB and transferred all of the functions and responsibilities delegated to ANCAB with respect to appeals arising under the Alaska Native Claims Settlement Act (ANCSA), as amended (43 U.S.C. 1601–1628), to IBLA effective June 30, 1982. An interim rule amending Office of Hearings and Appeals regulations to implement this internal organization change was published in the **Federal Register** on June 18, 1982, (47 FR 26390). Prior to issuance of the interim rule a comparison of Subparts E and J of 43 CFR Part 4 had been undertaken to identify any substantive or procedural differences in the two sets of regulations which required special attention in undertaking these regulatory changes. Generally the procedural requirements and practices of ANCAB were similar to those of IBLA. Several differences in the existing requirements applicable to ANCSA land selection appeals were identified and addressed. The interim rule was effective June 30, 1982, but comments were requested for the period ending August 30, 1982. Four comments were received: one from the State of Alaska, two from regional corporations, and one from a private attorney who represents village corporations.

Before addressing the public comments, we note that the language in the interim rule governing notice of appeal, which was adopted from ANCAB's regulations, has the effect of shortening the period of time for a person, who has received service of a Bureau of Land Management (BLM) decision, to file notice of appeal to less than 30 days where the decision is published in the **Federal Register** before the person receives service. The regulation, 43 CFR 4.411(a), as published in the interim rule, requires the filing of a notice of appeal within 30 days after service or within 30 days after publication of the decision in the **Federal Register** "whichever shall occur first." Since it is our intention that any person served with the decision have a full 30 days to appeal and not be restricted by publication in the **Federal Register**, we are revising 43 CFR 4.411(a) to eliminate the phrase "whichever shall occur first" and to provide separate requirements for persons receiving notice of a decision by service or through **Federal Register** publication.

Both regional corporations commented that they support the incorporation of ANCAB's stricter requirement for standing to appeal into 43 CFR 4.410 as consistent with the purposes of ANCSA.

The State of Alaska requested that 43 CFR 4.410 be amended to grant it automatic standing in appeals concerning the reservation of public easements pursuant to section 17(b) of ANCSA. It argued that ANCSA directs that the State is to have a significant role in the process of easement reservation and that in order for the State to participate in a meaningful way its right to appeal should be assured. Section 17 of ANCSA provided for the establishment of a Joint Federal-State Land Use Planning Commission (LUPC)

for Alaska and authorized it to participate in the identification of public easements proposed for reservation across lands selected by Native corporations. BLM's regulations governing the designation of public easements, 43 CFR 2650.4–7, state that the identification of easements shall include participation by appropriate Natives and Native corporations, LUPC, State, Federal agencies, and other members of the public. The State and LUPC are afforded a 90-day period to make recommendations with respect to including particular public easements in any conveyance. If BLM easement decisions are contrary to LUPC's recommendation, LUPC must be given an additional 10 days in which to document the reasons for disagreement. Following issuance of a conveyance decision, the State of Alaska may appeal the designation or non-designation of a public easement where it establishes the requisite property interest. We believe that the current regulation sufficiently protects the State's ability to defend its interests. In addition, as indicated in the preamble to the interim rule, these regulatory changes were intended to implement an internal organization change without substantive change to the existing rights, procedures and practices.

Both regional corporations support the language added to 43 CFR 4.431 and 4.452–2 stating that fact-finding and government contest hearings "shall be conducted within the State of Alsaka, unless the parties agree otherwise." They also urge that the Board's policy on hearing oral argument in Alaska should be stated in regulation and should be the same as that for hearings: "unless the parties agree otherwise" instead of "for good cause shown" as stated in the preamble to the interim rule. We are not amending the general OHA regulation on discretionary oral argument because it applies to all of the OHA appeals boards, but agree that the standards in ANCSA cases should be the same as for ANCSA hearings. Thus the policy of IBLA is to hear oral argument when granted in ANSCA land selection appeals in Alaska unless the parties agree otherwise. One comment also urges that we make a similar statement for prehearing conferences. While we find it unnecessary to repeat this language in the regulation on prehearing conferences, it is OHA's intention that the location of prehearing conferences be consistent with that for hearings.

The regional corporations also urge that IBLA state in regulation, or at a minimum in the preamble to this document, ANCAB's unwritten policy of segregating tracts of land directly affected by an appeal from the rest of the lands in a particular conveyance so that the conveyance of unaffected land can be completed. IBLA intends to continue those practices and policies developed by ANCAB that promote an effective balance between the right of appeal and the efficient conveyance of land. IBLA's policy to promote this balance by the use of segregation is evidenced by the fact that IBLA has issued orders of segregation in conveyance cases since assuming jurisdiction of ANCSA land selection appeals. IBLA will deal with the merits of each case consistent with past practices and the dictates of ANCSA. Since this is a substantive matter relating to the efficient conveyance of land, it is inappropriate for inclusion in the regulations relating to appeals procedures.

The two regional corporations also request that the regulations be modified to require IBLA to give land selection appeals priority review because they fear that conveyances will be delayed when these appeals are integrated into IBLA's large caseload. IBLA dockets appeals in the chronological order in which they are filed and the IBLA judges generally review the cases assigned to them in regular docket sequence insofar as is practical. As to the pending ANCSA appeals transferred to IBLA, the judges have been instructed to consider the appeals filed as of the time originally filed with ANCAB, not as reflected by the current assigned IBLA docket number. New appeals will take their regular place in the docket sequence. We note, however, that in spite of its large caseload, IBLA has been able in many instances to dispose of its appeals significantly faster than ANCAB.

One comment suggested that Subpart E be amended to provide for a repository of the official files of all pending and past ANCSA appeals. Under current practice when an appeal to IBLA is filed with BLM, BLM transmits the appropriate file to IBLA but retains a set of the transmitted documents. Subsequent pleadings are filed with IBLA and all parties receive copies. Unlike ANCAB, once an appeal has been decided, IBLA returns the complete file to BLM in Anchorage. The files for appeals previously decided by ANCAB are now located with BLM in Anchorage. Files available at each location are open for public inspection. We believe these procedures make the files sufficiently available to the public at large without placing additional copy and filing requirements on the parties.

Finally, various comments and concerns were raised by a private practitioner regarding the difficulty of filing notices of appeal and related documents timely under the regulatory time limits. Initially we iterate our comment from the preamble of the interim rule that the requirements in 43 CFR Part 4, Subpart E do not appear to have created any undue difficulty for other appellants in Alaska appealing to IBLA. The 30-day period for filing a notice of appeal is the same as that imposed by ANCAB, and the 10-day grace period provided by 43 CFR 4.401(a) for documents transmitted or probably transmitted before the due date has substantially the same result as ANCAB's postmark rule insofar as it requires mailing by the due date. We believe 10 days is a reasonable amount of time to allow for mail delivery. The commenter was also particularly concerned with the 15-day service requirements. We note first that the grace period applies to such requirement. Second, with respect to late service and other circumstances which will subject an appeal to summary dismissal, the "subject to summary dismissal" language of 43 CFR 4.402 does not mandate automatic dismissal but rather requires the exercise of the Board's reasoned discretion. It is the general practice of the Board not to summarily dismiss an appeal where the requirements of the regulations have been met, albeit late, where good cause for the delay is shown and where no adverse effect on other parties has been established.

Since this is a procedural rule and the only substantive change being made to the interim rule that has been in effect since June 30, 1982, benefits persons wishing to appeal, we find that good cause exists to make this final rule effective upon publication.

The author of this rule is Julia A. Barrows, Office of Hearings and Appeals.

This rule does not contain information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3507.

It is hereby determined that this rule does not constitute a major Federal action significantly affecting the quality of the human environment and that no detailed statement pursuant to section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4332(2)(C)) is required. Further, section 910 of the Alaska National Interest Lands Conservation Act (43 U.S.C. 1638) provides that the National Environmental Policy Act shall not be construed as requiring such statement

for regulations which lead to conveyances to Natives or Native Corporations pursuant to ANCSA.

The Department of the Interior has determined that this document is not a major rule under E.O. 12291 and certifies that this document will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This rule implements an internal organization change and creates no substantive change in the basic right of appeal afforded to persons from decisions by Departmental officials concerning matters related to land selection under ANCSA. It simply changes the appeals board to which the appeal is directed, without substantial modifications of existing procedures and practices. This rule eliminates regulations which are repetitious in view of the consolidation of functions under IBLA, and ensures uniformity of treatment for all appellants before IBLA. It makes no changes in the procedures applicable to other IBLA appellants.

List of Subjects

43 CFR Part 4

Administrative practice and procedure, Lawyers, Public lands.

43 CFR Part 2650

Administrative practice and procedure, Alaska, Public lands, Grants.

Under the authority of R.S. 2478, as amended, 43 U.S.C. 1201; section 25 of the Alaska Native Claims Settlement Act, as amended, 43 U.S.C. 1601–1628; and the Administrative Procedure Act, 5 U.S.C. 551 *et seq.*, Part 4 of Subtitle A and Part 2650, Chapter II, of Subtitle B of Title 43, *Code of Federal Regulations*, are amended as set forth below.

Dated: January 30, 1984.

J. J. Simmons III,

Under Secretary.

The interim rules published June 18, 1982 in the **Federal Register** (47 FR 26390) are adopted as final with the following changes:

PART 4—DEPARTMENT OF HEARINGS AND APPEALS PROCEDURES

1. Section 4.411 is amended to revise paragraph (a), add a new paragraph (b), and redesignate former paragraph (b) as paragraph (c) as follows:

§ 4.411 Appeal; how taken, mandatory time limit.

(a) A person who wishes to appeal to the Board must file in the office of the officer who made the decision (not the Board) a notice that he wishes to appeal. A person served with the decision being appealed must transmit the notice of appeal in time for it to be filed in the office where it is required to be filed within 30 days after the date of service. If a decision is published in the **Federal Register**, a person not served with the decision must transmit a notice of appeal in time for it to be filed within 30 days after the date of publication.

(b) The notice of appeal must give the serial number or other identification of the case and may include a statement of reasons for the appeal, a statement of standing if required by § 4.412(b), and any arguments the appellant wishes to make.

* * * * *

PART 2650—ALASKA NATIVE SELECTIONS

2. The last sentence of 43 CFR 2650.7(d)(2) is revised to read as follows:

§ 2650.7 Publication.

* * * * *

(d) * * *

(2) * * * Furthermore, the decision or notice of decision shall inform readers where further information on the manner of, and requirements for, filing appeal may be obtained, and shall also state that any party known or unknown who may claim a property interest which is adversely affected by the decision shall be deemed to have waived their rights which were adversely affected unless an appeal is filed in accordance with the requirements stated in the decisions or notices provided for in this subsection and the regulation governing such appeals set out in 43 CFR Part 4, Subpart E.

3. The last sentence of 43 CFR 2651.2(a)(4) is revised to read as follows:

§ 2651.2 Eligibility requirements.

(a) * * *

(4) * * * Such decision shall become final unless appealed to the Secretary by a notice filed within 30 days of its publication in the **Federal Register** in accordance with the regulations governing appeals set out in 43 CFR Part 4, Subpart E.

* * * * *

[FR Doc. 84–4392 Filed 2–17–84; 8:45 am]

BILLING CODE 4310–10–M

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43 CFR Part 20

Employee Responsibilities and Conduct

AGENCY: Department of the Interior.

ACTION: Final rule.

SUMMARY: This final rule amends certain regulations governing the Responsibilities and Conduct of Department of the Interior employees as set forth in Part 20 of Title 43 CFR. Proposed amendments to Part 20 were published on October 27, 1983, (48 FR 49662–49664).

In these final rules, one amendment deletes the financial disclosure reporting requirements for Department of the Interior employees identified as performing functions or duties under the Federal Land Policy and Management Act, Mining in the Parks Act, Energy Policy and Conservation Act and the Outer Continental Shelf Lands Act Amendments of 1978. The decision for this action is based on a Justice Department interpretation of Section 207(c) of the Ethics in Government Act of 1978, and on the Department's effort to promote efficiency in the process of collecting and reviewing employee financial disclosure reports to prevent actual of apparent conflicts of interest. Another amendment incorporates a provision to allow management reasonable flexibility in administering employee responsibility and conduct restrictions that apply to Minerals Management Service employees. The remaining revisions in this notice are needed to solve administrative problems identified while enforcing the current rules in 43 CFR Part 20.

EFFECTIVE DATE: February 21, 1984.

FOR FURTHER INFORMATION CONTACT: Mr. Gabriele J. Paone or Mr. Mason Tsai, Departmental Ethics and Audit Coordination Staff, U.S. Department of the Interior, Washington, D.C. 20240, (202) 343–3932.

SUPPLEMENTARY INFORMATION: The proposed amendments published October 27, 1983 (48 FR 49662–49664) provided a 30 day period for public comment. During this period, substantive comments were received from five individuals. In response to these comments, specific regulations have been modified and the basis for these changes is explained below.

Based on a recommendation from the Assistant Agency Ethics Official, the title "Associate Ethics Counselor" is incorporated into the Part to allow bureau and office ethics counselors more flexibility in assigning ethics and and conduct counselling responsibilities to headquarters and field employees.

Section 20.735–3(a)(1)(iv) requires the Inspector General to conduct internal audits and administrative reviews of the ethics and conduct programs in each bureau at least once every three years. The Assistant Inspector General for Audit commented that this cyclical time interval should be changed to recognize

the fact that audits and reviews are also performed by the General Accounting Office and the Office of Government Ethics. Based on this comment § 20.735–3(a)(1)(iv) is changed to eliminate the reference to a specific time period for the conduct of ethics and conduct audits or reviews performed by the Inspector General.

In response to comments offered by two individuals, portions of the proposed provisions in § 20.735–4 are substantially revised. In one comment, amendatory language to § 20.735–4(a) was suggested to emphasize that the sanctions contained in this section are not only limited to conflict of interest matters, but also apply to other employee conduct matters in Part 20. The suggested amendatory language is not adopted since, in our opinion the language as proposed in § 20.735–4(a) already adequately covers this individual's concern. In another comment the same individual suggested language to amend § 20.735–4 in order to point out that disciplinary actions for violations of conflict of interest prohibitions may be imposed independently from and without prior application of remedial actions. This suggestion is incorporated into the final rules. The second commenter stated that collective bargaining agreements should be referenced in the provisions that refer to disciplinary action since collective bargaining agreements occasionally require supplementary procedures which must be respected in effecting such actions. This comment is incorporated into the final rules. This commenter also stated that the proposed second sentence of § 20.735–4(b)(2) seems redundant of the language in proposed § 20.735–4(a). Therefore, the commenter suggested that the proposed second sentence in § 20.735–4(b)(2) be deleted. This suggestion is not adopted. Although we agree that the two sentences are duplicative to a limited degree, we believe that in this instance such duplication is desirable to emphasize to employees that corrective, disciplinary and remedial actions are separate and independent remedies, and that each remedy contains its own set of administrative sanctions.

One commenter requested that specific reference to the prohibitions found in § 20.735–6 (a) and (b) included in the proposed § 20.735–4(a). This recommendation is not adopted since the provisions in §§ 20.735–6 (a) and (b) are already covered by the proposed language in § 20.735–4(a) and the requested specific reference would be superfluous.

In connection with the proposed amendment in § 20.735–20(c), one commenter pointed out that the term, "All Assistant Secretary Immediate Offices including Bureau and Office Directors" is confusing since this implies that Bureau and Office Directors are part of the immediate office of an Assistant Secretary. The commenter suggested language to clarify this point. This language is adopted and incorporated in § 20.735–20(c). In another comment, the same individual pointed out that the term, "The Immediate Office of the Secretary" as listed in § 20.735–20(c), automatically includes six offices that are operated under the Secretary's direct supervision. These offices are the Under Secretary, Executive Secretariat, Secretary's Field Coordination, Alaska Land Use Council, Micronesian Status Negotiation and Historically Black College and University Programs. The commenter questioned whether it is intended and necessary to cover all six of these offices for purposes of applying the prohibitions in § 20.735–24, § 20.735–27 and § 20.735–28. Based on this comment the listing § 20.735–20(c) is amended to specify that all but two of the six offices in the Immediate Office of the Secretary are covered for purposes of applying the prohibitions in §§ 20.735–24, 27 and 28. The two offices deleted from coverage are the Office of Micronesian Status Negotiations and the Office of Historically Black College and University Programs.

In response to the recommendations of one commenter, the proposed language in § 20.735–30(c) is modified to authorize appropriate personnel officials to assume certain responsibilities of Ethics Counselors.

A revised Employee Certification was recently issued by the Bureau of Mines and is incorporated to 43 CFR Part 20 to replace the current Bureau of Mines (BOM) Certification Form in Appendix A–4. The changes in the BOM Certification Form are not substantive but they are necessary to clarify specific instructions to the employee.

The Department of the Interior has determined that the provisions contained in Section 207(c) of the Ethics in Government Act of 1978 (Pub. L. 95–521) supersede and eliminate the public financial disclosure reporting requirements contained in the Federal Land Policy and Management Act of 1976 (Pub. L. 94–579); the Mining in the Parks Act (Pub. L. 94–429), the Energy Policy and Conservation Act (Pub. L. 94–163), and the Outer Continental Shelf Lands Act Amendments of 1978 (Pub. L. 95–372). Interior employees performing duties and functions under any of these four statutes, will not be subject to the financial disclosure requirements contained in each of these statutes. The decision to terminate these filing requirements is based on a Justice Department interpretation of Section 207(c) of the Ethics in Government Act of 1978, and on the Department's effort to promote efficiency in the process of collecting and reviewing employee financial disclosures to prevent actual or apparent conflicts of interest. Refer to the Department of Justice letter of April 11, 1980 from John M. Harmon, Assistant Attorney General to Deputy General Counsel David O. Bickart at the Environmental Protection Agency.

The Department of the Interior has determined that this document is not a major rule under E.O. 12291 and certifies that this document will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et. seq.*).

The primary authors of this final rule are Gabriele J. Paone, Deputy Agency Ethics and Audit Coordination Official and Mason Tsai, Assistant Agency Ethics Official.

List of Subjects in 43 CFR Part 20

Conflicts of interest, Government employees.

Accordingly, 43 CFR Part 20 is amended as follows:

Dated: February 15, 1984.

Joseph E. Doddridge, Jr.,

Acting Principal Deputy Assistant Secretary, Policy, Budget and Administration.

PART 20—[AMENDED]

1. The authority citation for Part 20 is amended to read as follows: **Authority** 5 U.S.C. 301; 18 U.S.C. 207(j) (Supp. V 1981); sec. 12, Ch. 576, 48 Stat. 986 (25 U.S.C. 472); sec. 201(f), Pub. L. 95–87, 91 Stat. 450–51 (30 U.S.C. 1211 (Supp. V 1981)); E.O. 11222, 30 FR 6469 3 CFR 1964–65 (Comp.), as amended (18 U.S.C. 201 note); 5 CFR 735–104; 5 CFR 734.103; 5 CFR 737.1(c)(7).

2. Section 20.735–1 paragraph (a)(12) is revised to read:

§ 20.735–1 Definitions.

(a) * * *

(12) "Assistant Ethics Counselor" or "Associate Ethics Counselor" means a bureau, regional or area personnel officer or other qualified employee who has been delegated responsibility to perform the operational duties of the Ethics Counselor at the field level. Assistant Ethics Counselors or Associate Ethics Counselors may also

be designated within the bureau headquarters.

3. Section 20.735–2 is amended by revising paragraph (h)(4)(i) to read:

§ 20.735–2 Purpose, Policy and General Responsibilities.

* * * * *

(h) * * *

(4)(i) Special codes of conduct have been approved in accordance with § 20.735–2(h) for two groups of employees:

(A) Bureau of Land Management Fire Management Teams—approved January 16, 1981.

(B) Office of Inspector General Auditors and Investigators—approved July 16, 1982.

* * * * *

4. Section 20.735–3 is amended by revising paragraphs (a)(1)(iv) and (a)(1)(v) to read:

§ 20.735–3 Responsibilities of ethics officials and channels for counseling.

(a) * * *

(1) * * *

(iv) Monitor the conflict of interest program using reports requested of bureaus and periodic internal audits and administrative reviews performed by the Office of Inspector General, the Designated Agency Ethics Official, or others.

(v) Review statements of employment and financial interests for those Department employees cited in § 20.735–31(b);

* * * * *

5. Section 20.735–4 is revised to read as follows:

§ 20.735–4 Sanctions.

(a) Violations of the regulations in this part by an employee may be cause for appropriate corrective, disciplinary or remedial action, which may be in addition to any criminal or civil penalty provided by law.

(b)(1) Disciplinary action may include oral or written warning or admonishment, reprimand, suspension, reduction in grade or pay, removal from position or removal from office. Such action shall be taken in accordance with Departmental policies and procedures, applicable statutes, Executive Orders, regulations, and any applicable collective bargaining agreement provisions. Disciplinary action for violation of conflict of interest laws or of the regulations in this Part, may be imposed independently from and without prior application of remedial actions including those remedial actions cited in § 20.735–40.

(2) Remedial actions required may include those actions described in § 20.735–40. Failure to comply with appropriate remedial action may result in suspension or removal from office, or other disciplinary action. Employees may appeal divestiture orders in accordance with procedures contained in § 20.735–43.

(c) The procedures for disciplinary action involving contract education employees in Indian Affairs are contained in 25 CFR 38.6.

6. Section 20.735–7 is amended by revising paragraph (b)(2)(i) to read:

§ 20.735–7 Gifts, entertainment, and favors from domestic sources.

* * * * *

(b) * * *

(2) * * *

(i) Food and refreshments of nominal value on infrequent occasions in the ordinary course of an official luncheon or dinner meeting or other official or professional function or on an inspection tour where an employee may properly be in attendance,

* * * * *

§ 20.735–9 [Amended]

7. Redesignate § 20.735–9, paragraphs (a)(2) and (a)(3) as (a)(3) and (a)(4) respectively. Then add a new paragraph (a)(2) to read: The Department may charge a fee or accept reimbursement for providing a service or thing of value to a private source when the service or thing of value provided benefits to both the Government and the particular private source (31 U.S.C 9701). In such instances only a portion of the costs can be accepted from the private source. The Department must pay expenses associated with its usual official business and for the benefits it receives from participating in the event. The private source can be charged or may reimburse the Department for that portion of the service provided that exceeds the Department's usual expenses and the benefits to the government. Under this provision, payments from private sources must be deposited in the U.S. Treasury unless the bureau receiving the payment is authorized by statute to accept such payments.

8. Section 20.735–9 paragraph (b)(3) is amended by removing the words "International Communication Agency" found in the first sentence and inserting in its place: United States Information Agency.

9. Section 20.735–20 is amended by revising the list of officers in paragraph (c) to read:

§ 20.735–20 Scope of Subpart.

* * * * *

(c) For purposes of applying the prohibitions in § 20.735–24 Interests in federal lands, § 20.735–27 Interests in miming activities, and § 20.735–28 Interests in trading with Indians, of this subpart, the term "Office of the Secretary and other Departmental Offices reporting directly to a Secretarial Officer" means the following offices:

The Immediate Office of the Secretary except for the Office of Micronesian Status Negotiations, and the Office of Historically Black College and University Programs;

Solicitor;

Inspector General;

Hearings and Appeals;

Congressional and Legislative Affairs;

Public Affairs;

All Assistant Secretary Immediate Office staff and heads of bureaus which are subordinate to an Assistant Secretary.

The following offices under the Assistant Secretary—Policy, Budget and Administration:

Acquisition and Property Management;

Budget;

Environmental Project Review;

Policy Analysis.

* * * * *

10. Section 20.735–24 is amended by revising paragraphs (a)(3)(i), (a)(3)(ii), (a)(4)(i), (a)(4)(ii), (b)(1)(ii), and (b)(3), and by adding paragraph (d)(6) as follows:

§ 20.735–24 Interest in Federal Lands.

(a) * * *.

(3) * * *

(i) Membership or outside employment in a business which has interests in federal lands, and

(ii) Ownership of stock or other securities in corporations determined by the Department to have an interest in federal lands directly or through a subsidiary.

(4) * * *

(i) Holdings in land, mineral rights, grazing rights or livestock which in any manner are connected with or involve the substantial use of the resources or facilities of the federal lands, or

(ii) Substantial holdings of a spouse or dependent child. *Refer to § 20.735–21(b)(5) for the definition of "Substantial."*

(b) * * *

(1) * * *

(ii) Retaining a direct interest in federal lands acquired voluntarily or by any other method, before or during employment by the Department in their own name or in the name of their spouse, dependent child, or solely-

owned or family-owned business except that they may acquire or retain such interests in accordance with the waiver criteria in § 20.735–24(e).

* * * * *

(3) All Department employees are prohibited from acquiring or retaining any claim, permit, lease, small tract entries, or other rights in federal lands either in their own name or in the name of their spouse, dependent child, or solely-owned or family-owned business except that they may acquire or retain such interests in accordance with the waiver criteria in § 20.735–24(e). Also, employees, other than those identified in § 20.735–24(b) (1) and (2), may purchase or retain stocks or securities traded on the open market in companies having interests in federal lands, provided that such acquisition will not interfere or appear to interfere with the proper and impartial performance of their official duties.

* * * * *

(d) * * *

(6) The prohibitions imposed on Minerals Management Service employees by § 20.735–24(b) are imposed by the Secretary through regulatory extension of the statutory provisions in 43 U.S.C. 31(a). Accordingly, the Secretary authorizes the Director, Minerals Management Service (LMS), to approve exceptions to this regulatory extension for individual LMS employees or for a class of LMS employees for cause. Exceptions granted by the Director for a class of employees shall be with the prior concurrence of the Designated Agency Ethics Official.

* * * * *

11. Section 20.735–30 is amended by revising paragraph (c) to read:

§ 20.735–30 Executive order filing requirements.

* * * * *

(c) *When to file.* Ethics Counselors or appropriate personnel officials shall notify each employee covered by this section and furnish the necessary form or forms to the employee at the time of his or her entrance on duty and by December 15 of each year.

* * * * *

12. Section 20.735–30 paragraph (c)(1) is amended by removing the last word "or". Section 20.735–30 paragraph (c)(2) is also amended by removing the last word "or".

§ 20.735–34 [Removed]

13. Part 20 of 43 CFR is amended by removing Section 34 in its entirety.

14. Section 20.735–35 is amended by removing paragraph (a)(4).

15. Section 20.735–35 is amended by revising paragraph (b)(2)(i) to read:

§ 20.735–35 How to file.

* * * * *

(b) * * *

(2) * * *

(i) Statutory prohibitions contained in § 20.735–22(c) or the Surface Mining Control and Reclamation Act filing requirements, and

* * * * *

§ 20.735–35 [Amended]

16. Section 20.735–35 is amended by removing paragraph (b)(3) and by adding a note between § 20.735–35(c)(2) and § 20.735–35(c)(3) to read: Note: "covered employee" means an employee who is serving in a position that requires the incumbent to file a financial disclosure statement.

17. Section 20.735–70 is amended by removing paragraphs (a)(18), (a)(19), (a)(20), and (a)(22). Then (a)(21) is redesignated as (a)(18); (a)(23) is redesignated as (a)(19); (a)(24) is redesignated as (a)(20); (a)(25) is redesignated as (a)(21); (a)(26) is redesignated as (a)(22); (a)(27) is redesignated as (a)(23).

18. Section 20.735–70 is amended by revising paragraph (a)(18) to read:

§ 20.735–70 Bibliography of statutes.

(a) * * *

(18) The requirement that each employee of the Office of Surface Mining Reclamation and Enforcement or any other Federal employee performing any function or duty under the Surface Mining Enforcement and Reclamation Act is prohibited from having a direct or indirect financial interest in underground or surface coal mining operations.

* * * * *

19. Appendix A–3 is revised to read as follows:

Appendix A–3—U.S. Department of the Interior, Bureau of Land Management; Employee Certification

Note.—The provisions in 43 CFR 20.735–22(c)(1) and 20.735–24 should be read completely before this statement is signed.

I have received a copy of the Department of the Interior Regulations governing Responsibilities and Conduct of Employees (43 CFR Part 20). I have been advised of the name and location of the Assistant Bureau Ethics Counselor. I understand that I may discuss questions or concerns related to my responsibilities, conduct, and financial interests with this individual.

I certify that I do not have a direct or indirect interest in Federal lands as prohibited in 43 CFR 20.735–22(c)(1) and 20.735–24. I understand that an interest in Federal land is interpreted to include stock ownership in companies which lease Federal lands, leases, permits, contracts, mineral rights, grazing rights, etc.

I certify that I do not now have and that I will not acquire an active real estate license during the time I am an employee of the Bureau of Land Management.

(Employee's Name typed or printed) _____
(Signature of Employee) _____
(Title of Position) _____
(Date) _____

Instructions

1. All employees (including temporaries, reemployed annuitants, excepted appointments, etc.) of the Bureau of Land Management must complete the certifications on this form.

2. Your name must be printed or typed and a signature and date must be on the appropriate lines.

3. Signed certificates shall be sent to and maintained by the Servicing Personnel Office.

4. If you are unable to certify compliance, you must submit a statement of facts to the Assistant Ethics Counselor for review and action.

5. If you do not have a copy of the Department's regulations governing Responsibilities and Conduct (43 CFR Part 20), you may obtain a copy from your Personnel Office. If you do not know the name and location of the Assistant Bureau Ethics Counselor, your Personnel Office can provide you with the name and phone number.

Privacy Act Notice

43 CFR 20.735–22(c)(1), 43 CFR 20.735–24, and 5 U.S.C. 301 constitute the authority for requesting this certification. This certification must be signed; failure to do so can be cause for denying appointment or for appropriate disciplinary action.

This certification will be used to record officially the fact that you have knowledge of, and are in compliance with, the restrictions pertinent to your employment. The information certified to will be considered confidential and will form a part of the records of the office where you file; as such, the contents may be routinely disclosed to authorized Interior personnel, the Office of Personnel Management, the Department of Justice and to appropriate law enforcement agencies.

20. Appendix A–4 is amended to read as follows:

Appendix A–4—U.S. Department of the Interior, Bureau of Mines; Employee Certification

I have been given a copy of Department of the Interior Regulations governing Responsibilities and Conduct of Employees (43 CFR Part 20). I have been advised of the name and location of the Deputy and Assistant Ethics Counselors. I understand that I may discuss questions or concerns related to my responsibilities, conduct, and financial interests with these individuals.

I certify that I have been informed of and that I am in compliance with prohibitions contained in 43 CFR 20.735–27 which implements the statutory restrictions contained in Title 30, U.S.C. 6. I understand

that these provisions prohibit employees of the Bureau of Mines from having any personal or private interests in any mine or the products of any mine under investigation by the Bureau; accepting employment from any private party for services in the examination of any mine or private mineral property; or issuing any report as to the valuation or the management of any mine or other private mineral property other than as part of my official duties.

Note.—The provisions in 43 CFR 20.735–27 should be read completely before the statement is signed.

Employee's Name (Typed or Printed)———
Signature of Employee ———
Title of Position ———
Date ———

Instructions

1. All applicable employees of the Bureau of Mines shall complete the certifications of this form.

2. Signed certificates shall be maintained in the employee's Official Personnel Folder.

3. If an employee is unable to sign the certificate, he or she must submit a statement of facts to the ethics specialist for review and action.

Privacy Act Notice

30 U.S.C. 6 and 5 U.S.C. 301 constitute the authority for requesting this certification. This certification must be signed; failure to do so could be cause for denying appointment or for appropriate disciplinary action.

This certification will be used to record officially the fact that you have knowledge of and are in compliance with, the restrictions pertinent to your employment. The information certified to will be considered confidential and will form a part of the records of the office where you file; as such the contents may be routinely disclosed to authorized auditors, the Office of Personnel Management, the Department of Justice and to appropriate law enforcement agencies.

Appendices D, E, F, and G [Removed]

21. Part 20 of 43 CFR is amended by removing appendices D, E, F, and G.

[FR Doc. 84–4529 Filed 2–17–84; 8:45 am]
BILLING CODE 4310–10–M

Proposed Rules

Federal Register
Vol. 49, No. 35
Tuesday, February 21, 1984

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 53

Standards for Grades of Slaughter Lambs, Yearlings, and Sheep

AGENCY: Agricultural Marketing Service (AMS), USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule would revise the official U.S. standards for grades of slaughter lambs, yearlings, and sheep to align them with the recently revised standards for their respective carcasses. A final rule to revise the official standards for grades of lamb, yearling mutton, and mutton carcasses was published in the **Federal Register** on September 13, 1982, 47 FR 40141. Since all of the changes to the carcass standards are not discernible in live animals, the current quality requirements for slaughter lambs, yearlings, and sheep do not require revision. However, consistent with the other carcass changes, this proposal would standardize the quality and conformation compensations, add descriptions of degrees of muscling associated with each grade to the conformation descriptions, and eliminate the Cull grade for slaughter lambs and yearlings. The proposed changes would make the live animal standards consistent with the carcass standards where possible.

DATE: Comments must be received on or before April 23, 1984.

ADDRESS: Written comments to: Standardization and Review Branch Livestock Division, Agricultural Marketing Service, 2M-Annex, U.S. Department of Agriculture, Washington, D.C. 20250. Comments must be signed and include the address of the sender and should bear reference to the date and page number of this issue of the **Federal Register**. Since the comments will be considered in the resolution of this proposal, they should include definitive information which explains and supports the sender's views. All written submissions will be made available for public inspection at the Standardization and Review Branch, Livestock Division, AMS, 2M-Annex, during regular business hours.

FOR FURTHER INFORMATION CONTACT: Mr. Paul Fuller, Deputy Director, Livestock Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447–4727.

SUPPLEMENTARY INFORMATION: The revision of the lamb carcass standards was reviewed under USDA procedures established to implement Executive Order 12291 and was classified as a non-major rule pursuant to sections 1(b)(1), (2), and (3) of that order because (1) it would not have an annual effect on the economy of $100 million or more, (2) it would not result in a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and (3) it would not have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. Those changes would not significantly affect the number of lamb carcasses in any grade.

William T. Manley, Deputy Administrator, Agricultural Marketing Service, certified that this rule would not have a significant economic impact on a substantial number of small entities because the changes will merely simplify the teaching and application of the quality grade standards without significantly affecting the number of lambs in any grade.

Background

Tentative U.S. standards for the market classes and grades of slaughter ovine (lambs, yearling, and sheep) were prepared in 1917 to provide a basis on which the Federal Market News Service might issue market quotations on these animals according to a uniform classification. Revisions were made in these standards in 1936, 1940, 1951, 1957, and 1960. Yield grades were adopted in 1969. Generally, revisions through the years in the quality grade standards for lamb have been as this proposal is intended—to coordinate them with changes already made in the carcass standards. These standards have been used by the Department as the basis for market reporting of lamb and sheep prices and are also used by States which conduct official lamb grading programs.

The quaility grade standards for slaughter ovine are based on a combination of conformation and quality. Under this proposal the conformation requirements would be unchanged, except that descriptions for various degrees of muscling associated with each grade will be added. However, the rate of compensation of quality for conformation and conformation for quality would be modified in the Choice, Good and Utility grades. In the present grades, compensation is on an equal basis in some cases, and in other cases a half grade of superior conformation or quality is needed to compensate for a third of a grade of inferior quality or conformation. Since the rate of compensation for both quality and conformation are different in different grades, the situation is often confusing. Teaching these compensations to new graders and others is especially difficult. Under these proposed standards all compensations of conformation for quality and quality for conformation would be on an equal basis. The limits and extent of compensations would not be changed. These proposed changes would conform the standards to the carcass standards. (7 CFR Part 54, 47 FR 40141).

Because of the limited number of young ovine which fail to qualify for the Good grade and because of the limited variation among such ovine, it was determined that four quality grades would be sufficient for young ovine. Therefore, it is proposed that the Cull grade in §§ 53.133(e) and 53.134(e) be dropped for the lamb and yearling classes, and all lambs and yearlings which fail to qualify for Good be graded Utility. The Cull grade would be kept for the sheep class. This proposed change would conform the standards with carcass standards.

Previous standards have combined the quality grade specifications for slaughter yearlings and sheep into one section. However, in the carcass standards, yearling mutton and mutton quality grade specifications are contained in separate sections. For greater consistency with the carcass

standards, it is proposed that the corresponding slaughter yearling and sheep specifications in § 53.134 be split into separate sections, proposed §§ 53.134 and 53.135. Present § 53.135 would be renumbered as § 53.136.

In summary, the changes involved in this proposed revision of the standards for grades of slaughter lambs, yearlings, and sheep would provide for the following:

(1) Descriptions of degrees of muscling would be added to the conformation requirements for each grade.

(2) The rate of compensation of conformation for quality and quality for conformation would be changed to be on an equal basis in all grades.

(3) In 7 CFR 53.132 the Cull grade would be dropped for the slaughter lamb and yearling classes.

(4) The quality grade specifications for slaughter yearlings and sheep would be split into separate sections and the yield grade specification section renumbered to allow space for the new section.

Minor non-substantive changes also are proposed throughout the standards to improve clarity and facilitate uniform interpretation.

List of Subjects in 7 CFR Part 53

Livestock (grading, certification, and standards), Lamb.

PART 53—LIVESTOCK (GRADING, CERTIFICATION, AND STANDARDS)

For the reasons set out in the preamble, the official U.S. standards for grades of slaughter lambs, yearlings, and sheep in 7 CFR Part 53 are proposed to be amended by redesignating § 53.135 as § 53.136, and revising §§53.132, 53.133, and 53.134, as follows:

1. The authority citation for Part 53 reads as follows:

Authority: Agricultural Marketing Act of 1946, sec. 203, 205, as amended; 60 Stat. 1087, 1090, as amended (7 U.S.C. 1622 and 1624).

§ 53.135 [Redesignated as § 53.136]

2. Section 53.135 would be redesignated as § 53.136, a new § 53.135 would be added, and §§ 53.132 through 53.134 would be revised to read as follows:

Note.—In this document, new or revised text is enclosed by arrows (►◄). This proposed revision of the subpart also corrects typographical errors.

§ 53.132 Application of standards.

(a) *Grade factors.* Grades of slaughter ovine are intended to be directly related to the grades of the carcasses they produce. To accomplish this, these slaughter ovine grade standards are based on factors which are directly related to the quality grades and the yield grades of ovine carcasses. The standards are written so that the quality and yield grade standards are contained in separate sections. The quality grade standards are divided into three sections applicable to slaughter lambs, slaughter yearlings, and slaughter sheep. There are four quality grades within each class—Prime, Choice, Good, and Utility for lambs and yearlings; and Choice, Good, Utility, and Cull of sheep. Also, there are five yield grades applicable to all classes of slaughter ovine, denoted by numbers 1 through 5, with Yield Grade 1 representing the highest degree of cutability.

(b) *General principles.* (1) The determination of the carcass grade that the slaughter animal will produce requires the exercise of well-regulated judgment. Each animal presents a different combination of the grade-determining factors. Animals frequently have characteristics associated with two or more grades. Therefore, a composite evaluation of all inherent physical charcteristics is essential for accuracy in determining grade.

(2) The accurate determination of the grade of a slaughter ►ovine◄ requires handling in addition to visual observation. The length and density of the fleece vary greatly with individuals and the thickness and firmness of the flesh covering of wooled ►ovine◄ can only he roughly estimated without handling. The technique used in handling usually varies with the degree of precision in mind as well as the experience of the grader. Experienced graders may find one quick handling satisfactory. This usually consists of placing one open hand over the back and ribs in simultaneous motion. The thumb extends just over the backbone, while the fingers, which are held close together, cover the rib section and pressure is applied very lightly with a slight lateral and forward and backward motion. The generally accepted technique of handling ►ovine◄ where time permits, and especially when noting slight defferences between individuals, is to handle forward from the dock to neck with the open hand, fingers together, laid flat and with a slight lateral motion. Both hands may then be used, one on each side, in a similar manner to determine the fleshing over the shoulders, ribs, and hips. Regardless of the method, considerable experience is necessary in handling ovine to accurately determine the grade.

(c) *Quality grades.* (1) The quality grade of a slaughter ►ovine◄ is determined by a composite evaluation of two general considerations which influence carcass excellence: Conformation and quality—fatness, maturity, and other indicators of differences in palatability of the lean flesh.

(2) Conformation refers to the general body proportions of the animal and to the ratio of meat to bone. Although primarily determined by the inherent muscular and skeletal systems, it is also influenced by the degree of fatness. ►However, external fat in excess of that normally left on retail cuts is not considered in evaluating conformation. The conformation descriptions included in each of the grade specifications refer to the thickness of muscling and to an overall degree of thickness and fullness of the animal. Slaughter ovine which meet the requirements for thickness of muscling specified for a grade will be considered to have conformation adequate for that grade despite the fact that, because of a lack of fatness, they may not have the overall degree of thickness and fullness described. Conformation is evaluated by averaging the conformation of the various component parts, giving special consideration to those parts of the body◄ producing the more desirable cuts of meat—loin, hotel rack, and leg.

(3) In grading slaughter ►ovine,◄ quality of the lean flesh must necessarily be evaluated indirectly from consideration primarily of the quantity, distribution, and type of fat or finish in relation to the maturity of the animal being graded. Limited consideration is also given to such factors as character of bone and smoothness and symmetry of body. Finish is evaluated by noting variations in the fullness and apparent thickness of the fat covering over the back, loin, ribs, and legs. A high degree of desirable finish is evidenced by a firm, smooth layer of fat which is uniformly distributed over the body.

(4) Although the market designation of slaughter ovine is usually made by classes, the quality standards are intended to apply to all classes without regard to sex condition. However, male animals which have thick heavy necks and shoulders typical of uncastrated males are discounted in grade in proportion to the extent to which these characteristics are developed. Such discounts may vary from less than half a grade in young lambs in which such characteristics are barely noticeable to as much as two full grades in mature rams in which such characteristics are very pronounced.

(d) *Yield grades.* (1) The yield grades for slaughter ovine are based on the same factors used in the official yield grade standards for ovine carcasses. These factors are as follows:

(i) *Thickness of fat over ribeye.* As the amount of external fat increases, the percent of retail cuts decreases and the numerical yield grade increases. Assuming no change in the other factors, each 0.15 inch change in adjusted fat thickness over the ribeye changes the yield grade by a full grade. On slaughter ovine which do not have a normal distribution of external fat, the fat thickness estimate over the ribeye may be adjusted, as necessary, to reflect unusual amounts of fat on other parts of the animal.

(ii) *Percent of kidney and pelvic fat.* As the amount of these fats increases, the percent of retail cuts decreases. A change of 4 percent of the carcass weight in kidney and pelvic fat changes the yield grade by a full grade.

(iii) *Leg conformation grade.* An increase in the conformation grade of the legs increases the percent of retail cuts. A change of two full grades in conformation of the legs changes the yield grade by approximately one-third of a yield grade.

(2) When evaluating slaughter ovine for yield grade, each of these factors can be estimated and the yield grade determined therefrom by using the equation contained in the official standards for yield grades of lamb, yearling mutton, and mutton carcasses. However, a more practical method of appraising slaughter ovine for yield grade is to use only two factors normally considered in evaluating live ovine—degree of fatness and leg conformation. In this approach, the degree of fatness largely accounts for the effects of thickness of fat over the ribeye and the percent of kidney and pelvic fat.

(3) The overall fatness of an animal can be determined best by giving particular attention to those parts on which fat is deposited at at faster-than-average rate. These include the back, loin, rump, flank, breast, and cod or udder. As ovine increase in fatness, these parts become progressively fuller, thicker, and more distended in relation to the thickness and fullness of the other parts, particularly the legs. However, since an animal's thickness of muscling also affects the development of its various parts, this also needs to be considered when evaluating the degree of fatness. In thinly muscled ovine with a low degree of finish, the width of the back usually will be greater than the width through the center of the legs. Conserversely, in thickly muscled ovine with a low degree of finish, the thickness through the legs will be greater than through the back and the back will be full and rounded. At an intermediate degree of fatness, ovine which are thinly muscled will be considerably wider through the back than through the leg and will be nearly flat across the back. Thickly muscled ovine that have an intermediate degree of fatness will be about the same width through the legs as through the back and the back will appear only slightly rounded. Very fat ovine will be wider through the back than through the legs, but this difference will be greater in thinly muscled ovine than in those that are thickly muscled. As ovine increase in fatness, they also become deeper bodied because of large deposits of fat in the flanks and breast and along the underline. In determining yield grade, variations in fatness are of very much greater importance than variations in conformation of the leg.

(e) *Other considerations.* (1) Other factors such as sex, heredity, and management also may affect the development of grade-determining characteristics in slaughter ovine. Although these factors do not lend themselves to descriptions in the standards, the use of factual information of this nature is justified in determining the grade of slaughter ovines. The ability to make proper allowances for the effects of genetic and management factors on the appearance of grade-determining characteristics must be developed through experience.

(2) Slaughter ovine qualifying for any particular grade may vary with respect to the relative development of their individual grade factors. In fact, some will qualify for a particular grade although they have some characteristics more typical of ovine of another grade. Because it is impractical to describe the nearly infinite number of such recognizable combinations of characteristics, the standards describe only ovine which have a relatively similar development of the various quality and yield grade-determining factors and which are near the lower limits of quality or yield for the grade. However, examples of the extent to which superiority in quality-indicating characteristics may compensate for deficiencies in conformation, and vice versa, are indicated for each quality grade. In the slaughter lamb quality grade standards, the requirements are given for two maturity groups. In the yield grade standards, ovine with two levels of muscling are described and specific examples in terms of carcass characteristics also are included.

§ 53.133 Specifications for official U.S. standards for grades of slaughter lambs (quality).

(a) *Prime.* (1) ►Slaughter lambs having minimum conformation◄ requirements for the Prime grade ►tend to be thickly muscled throughout and they are moderately wide and thick in relation to their length and height.◄ They are moderately wide over the back, loin, and rump. Shoulders and hips are usually moderately smooth. The twist is moderately deep and full and the legs are moderately large and plump. They generally present a well-rounded appearance due to a slight fullness or plumpness over the crops, loins, and rump. Relatively young lambs, under seven months of age, tend to have a moderately thin fat covering over the back, ribs, loins, and rump. In handling, the backbone and ribs are readily discernible. Older, more mature lambs have a slightly thin fat covering over the back, ribs, loin, and rump. In handling, the backbone and ribs are slightly discernible. Prime grade lambs exhibit evidence of rather high quality. The bones tend to be proportionately small, the joints tend to be smooth, and the body tends to be smooth and symmetrical.

(2) To qualify for the Prime grade, a lamb must possess the minimum qualifications for finish regardless of the extent that its conformation may exceed the minimum requirements for Prime. However, a development of finish which is superior to that specified as minimum for the Prime grade may compensate, on an equal basis, for development of conformation which is inferior to that specified for Prime as indicated in the following example: A lamb which has evidences of finish equivalent to the midpoint of the Prime grade may have conformation equivalent to the midpoint of the Choice grade and remain eligible for Prime. However, in no instance may a lamb be graded Prime which has a development of conformation inferior to that specified as minimum for the Choice grade.

(b) *Choice.* (1) ►Slaughter lambs having minimum conformation◄ requirements for the Choice grade ►are slightly thick muscled throughout and they tend to be slightly wide and thick in relation to their length and height.◄ They tend to be slightly wide over the back, loin, and rump. The shoulders and hips are usually slightly smooth but may exhibit a slight tendency toward prominence. The twist tends to be slightly deep and full, and the legs tend to be slightly thick and plump. Relatively young lambs, under seven months of age, have a thin fat covering over the back, ribs, loin, and rump. In handling, the backbone and ribs are moderately prominent. Older, mature lambs have a moderately thin fat covering over the back, ribs, loin, and

rump. In handling, the backbone and ribs are slightly prominent. Choice grade lambs usually present a moderately refined appearance.

(2) ►A development of quality which is superior to that specified as minimum for the Choice grade may compensate, on an equal basis, for a development of conformation which is inferior to that specified as minimum for Choice as indicated in the following example: A lamb which has evidences of quality equivalent to the midpoint of the Choice grade may have conformation equivalent to the midpoint of the Good grade and remain eligible for Choice. However, in no instance may a lamb be graded Choice which has a development of conformation inferior to that specified as minimum for the Good grade. Also, a lamb which has conformation at least one-third grade superior to that specified as minimum for the Choice grade may qualify for Choice with a development of quality equivalent to the lower limit of the upper one-third of the Good grade. Compensation of superior conformation for inferior quality is limited to one-third grade of deficient quality.◄

(c) *Good.* (1)► Slaughter lambs having minimum conformation◄ requirements for the Good grade ►are slightly thin muscled throughout, are moderately narrow in relation to their length and height and◄ are slightly narrow over the back, loin, and rump. Hips and shoulders are moderately prominent. The twist is slightly shallow and the legs are slightly small and thin. Relatively young lambs, under seven months of age, have slightly more than a very thin, uneven fat covering over the back, loin, and upper ribs. In handling, the shoulders, backbone, hips, and ribs are prominent. Older, more mature lambs have slightly more than a thin fat covering over the back, ribs, and loin. In handling, the bones of the shoulders, backbone, hips, and ribs are rather prominent. Good grade lambs may present evidences of slightly low quality. The bones and joints are usually moderately large, and the body is somewhat lacking in symmetry and smoothness.

(2) ►A development of quality which is superior to that specified as minimum for the Good grade may compensate, on an equal basis, for a development of conformation which is inferior to that specified as minimum for Good as indicated in the following example: A lamb which has evidences of quality at least one-third grade superior to that specified as minimum for the Good grade may have conformation equivalent to the minimum for the upper one-third of the Utility grade and remain eligible for Good. However, in no instance may a lamb be graded Good which has a development of conformation inferior to the minimum for the upper one-third of the Utility grade. Also, a lamb which has conformation at least one-third grade superior to that specified as minimum for the Good grade may qualify for Good with a development of quality equivalent to the lower limit of the upper one-third of the Utility grade. Compensation of superior conformation for inferior quality is also limited to one-third grade of deficient quality.◄

(d) *Utility.* ►The Utility grade consists of those lambs whose characteristics are inferior to those specified as minimum for the Good grade.◄

§ 53.134 Specifications for official U.S. standards for grades of slaughter ►yearlings (quality).◄

(a) *Prime.* (1) ►Slaughter yearlings having minimum conformation requirements for the Prime grade tend to be thickly muscled throughout, are moderately wide and thick in relation to their length and height, and they are moderately wide over the back, loin, and rump.◄ Shoulders and hips are usually moderately smooth. The twist is moderately deep and full, and the legs are moderately large and plump. There is a rather distinct fullness or plumpness evident over the crops, lions, and rump which contributes to a well-rounded appearance. There is a slightly thick fat covering over the back, ribs, loin, and rump. In handling, the backbone and ribs are hardly discernible. Prime grade slaughter yearlings exhibit evidences of rather high quality. The bones tend to be proportionately small, the joints tend to be smooth, and the body tends to be smooth and symmetrical.

(2) ►Regardless of the extent to which its conformation may exceed the minmum requirements for Prime, a yearling must have minimum Prime quality to be eligible for the Prime grade. However, a development of quality which is superior to that specified as minmum for the Prime grade may compensate, on an equal basis, for a development of conformation which is inferior to that specified as minimum for Prime as indicated in the following example: A yearling which has evidence of quality equivalent to the midpoint of the Prime grade may have conformation equivalent to the midpoint of the Choice grade and remain eligible for Prime. However, in no instance may a yearling be graded Prime which has a development of conformation inferior to that specified as minimum for the Choice grade.◄

(b) *Choice.* (1) ►Slaughter yearlings having minimum conformation◄ requirements for the Choice grade are slightly thick muscled throughout, they tend to be slightly wide and thick in relation to their length and height, and◄ they tend to be slightly wide over the back, loin, and rump. The shoulders and hips are usually slightly smooth but may show a slight tendency toward prominence. The twist tends to be slightly deep and full and the legs tend to be slightly thick and plump. They have a slightly thin fat covering over the back, ribs, loin, and rump. In handling, the backbone and ribs are readily ►discernible. Choice◄ grade slaughter ►yearlings◄ usually present a moderately refined appearance.

(2) ►A development of quality which is superior to that specified as minimum for the Choice grade may compensate, on an equal basis, for a development of conformation which is inferior to that specified as minimum for Choice as indicated in the following example: A yearling which has evidences of quality equivalent to the midpoint of the Choice grade may have conformation equivalent to the midpoint of the Good grade and remain eligible for Choice. However, in no instance may a yearling be graded Choice which has a development of conformation inferior to that specified as minimum for the Good grade. Also, a yearling which has a development of conformation at least one-third grade superior to that specified as minimum for the Choice grade may qualify for Choice with a development of quality equivalent to the lower limit of the upper one-third of the Good grade. Compensation of superior conformation for inferior quality is limited to one-third grade of deficient quality.◄

(c) *Good.* (1) ►Slaughter yearlings having minimum conformation◄ requirements for the Good grade ►are slightly thin muscled throughout, are moderately narrow in relation to their length and height, and◄ are slightly narrow over the back, loin, and rump. Hips and shoulders are moderately prominent. The twist is slightly shallow, and the legs are slightly small and thin. They have slightly more than a moderately thin fat covering over the back, loin, and upper ribs. In handling, the shoulders, backbone, hips, and ribs are rather ►prominent. Good◄ grade yearlings may present evidences of slightly low quality. The body is somewhat lacking in symmetry and smoothness.

(2) ►A development of quality which is superior to that specified as minimum for the Good grade may compensate, on an equal basis, for a development of conformation which is inferior to that specified as minimum for Good as indicated in the following example: A yearling which has evidences of quality at least one-third grade superior to that specified as minimum for the Good grade may have conformation equivalent to the minimum for the upper one-third of the Utility grade and remain eligible for Good. However, in no instance may a yearling be graded Good which has a development of conformation inferior to the minimum for the upper one-third of the Utility grade. Also, a yearling which has conformation at least one-third grade superior to that specified as minimum for the Good grade may quality for Good with a development of quality equivalent to the lower limit of the upper one-third of the Utility grade. Compensation of superior conformation for inferior quality is also limited to one-third grade of deficient quality.◄

(d) *Utility.* ►The Utility grade includes those yearlings whose characteristics are inferior to those specified as minimum for the Good grade.◄

§ 53.135 Specifications for official U.S. standards for grades of δslaughter sheep (Quality).γ

►(a) *Choice.* (1) Slaughter sheep having minimum conformation requirements for the Choice grade are slightly thick muscled throughout, they tend to be slightly wide and thick in relation to their length and height, and they tend to be slightly wide over the back, loin, and rump. The shoulders and hips are usually slightly smooth but may show a slight tendency toward prominence. The twist tends to be slightly deep and full, and the legs tend to be slightly thick and plump. They have a slightly thick fat covering over the back, ribs, loin, and rump. In handling, the backbone and ribs are slightly discernible. Choice grade slaughter sheep usually present a moderately refined appearance.

(2) A development of quality which is superior to that specified as minimum for the Choice grade may compensate, on an equal basis, for a development of conformation which is inferior to that specified as minimum for Choice as indicated in the following example: A sheep which has evidences of quality equivalent to the midpoint of the Choice grade may have conformation equivalent to the midpoint of the Good grade and remain eligible for Choice. However, in no instance may a sheep be graded Choice which has a development of conformation inferior to that specified as minimum for the Good grade. Also, a sheep which has conformation at least one-third grade superior to that specified as minimum for the Choice grade may qualify for Choice with a development of quality equivalent to the lower limit of the upper one-third of the Good grade. Compensation of superior conformation for inferior quality is limited to one-third grade of deficient quality.

(b) *Good.* (1) Slaughter sheep having minimum conformation requirements for the Good grade are slightly thin muscled throughout, are moderately narrow in relation to their length and height, and they are slightly narrow over the back, loin, and rump. Hips and shoulders are moderately prominent. The twist is slightly shallow and the legs are slightly small and thin. They have a slightly thin fat covering over the back, ribs, and loin. In handling, the bones of the shoulders, backbone, hips, and ribs are slightly prominent. Good grade sheep may present evidences of slightly low quality. The body is somewhat lacking in symmetry and smoothness.

(2) A development of quality which is superior to that specified as minimum for the Good grade may compensate, on an equal basis, for a development of conformation which is inferior to that specified as minimum for Good as indicated in the following example: A sheep which has evidences of quality equivalent to the midpoint of the Good grade may have conformation equivalent to the midpoint of the Utility grade and remain eligible for Good. However, in no instance may a sheep be graded Good which has a development of conformation inferior to that specified as minimum for the Utility grade. Also, a sheep which has conformation at least one-third grade superior to that specified as minimum for the Good grade may qualify equivalent to the lower limit of the upper one-third of the Utility grade. Compensation of superior conformation for inferior quality is limited to one-third grade of deficient quality.

(c) *Utility.* (1) Slaughter sheep having minimum conformation requirements for Utility grade are thinly muscled throughout, are very angular and very narrow in relation to their length and height, and they are very thin fleshed, very narrow over the back, loin, and rump, and very shallow in the twist. The hips are very prominent, and the shoulders are usually open, rough, and prominent. The legs are very small and thin and present a slightly concave appearance. Utility grade slaughter sheep show no visible evidences of fat covering. In handling, the bones of the shoulders, backbone, hips, and ribs are so thinly covered that they are very prominent. Utility grade slaughter sheep are of rather low quality. The bones and joints are proportionately large, and the body is very rough and unsymmetrical.

(2) A development of quality which is superior to that specified as minimum for the Utility grade may compensate, on an equal basis, for a development of conformation which is inferior to that specified as minimum for Utility as indicated in the following example: A sheep which has evidences of quality at least one-third grade superior to that specified as minimum for the Utility grade may have conformation equivalent to the minimum for the upper one-third of the Cull grade and remain eligible for Utility. However, in no instance may a sheep be graded Utility which has a development of conformation inferior to the minimum for the upper one-third of the Cull grade. Also, a sheep which has conformation at least one-third grade superior to that specified as minimum for the Utility grade may qualify for Utility with a development of quality equivalent to the lower limit of the upper one-third of the Cull grade. Compensation of superior conformation for inferior quality is also limited to one-third grade of deficient quality.

(d) *Cull.* (1) The Cull grade includes those slaughter sheep whose characteristics are inferior to those specified as minimum for the Utility grade.◄

►§ 53.136◄ Specifications for official U.S. standards for grades of slaughter lambs, yearlings, and sheep (Yield). [Redesignated from § 53.135]

* * * * *

Done at Washington, D.C., on February 14, 1984.

William T. Manley,

Deputy Administrator, Marketing Program Operations.

[FR Doc. 84-4567 Filed 2-17-84; 8:45 am]

BILLING CODE 3410-02-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 73

[Airspace Docket No. 83-AWA-26]

Proposed Department of Energy Prohibited Areas

Correction

In FR Doc. 84-3990 beginning on page 4765 in the issue of Wednesday,

February 8, 1984, make the following corrections.

On page 4768, second column, third line under "Livermore, CA (Rotorcraft) [New]", "to lat. 37°89'07"" should read "to lat. 37°39'07""; third column, under "Idaho Falls, ID (Rotorcraft) [New]", sixth line, "to lat. 43°48'48'40"" should read "to lat. 43°48'40"".

BILLING CODE 1505-01-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 230, 240 and 270

[Release No. IC-13765; S7-1005]

Status of Savings and Loan Associations Under the Federal Securities Laws; Advance Notice of Possible Commission Action

AGENCY: Securities and Exchange Commission.

ACTION: Extension of time for comment.

SUMMARY: The Securities and Exchange Commission announced today that it has extended until March 13, 1984 the date by which comments on Investment Company Act Release No. 13666 (December 12, 1983) [48 FR 56061 (December 19, 1983)], on the status of savings and loan associations under the Federal securities laws, must be submitted. The Commission has received a request for extension of the comment period on this release and believes that the extension will be beneficial because it will result in the receipt of additional useful comments. The original comment period would have ended on February 13, 1984.

DATE: Comments must be received on or before March 13, 1984.

ADDRESS: Comments should be submitted in triplicate to George A. Fitzsimmons, Secretary, U.S. Securities and Exchange Commission, 450 Fifth Street, NW., Stop 6-9, Washington, D.C. 20549. Comments should refer to File No. S7-1005 and will be available for public inspection and copying in the Commission's Public Reference Room, 450 Fifth Street, NW., Washington, D.C. 20549.

FOR FURTHER INFORMATION CONTACT: Kathleen A. Jackson, Special Counsel to the Director, (202) 272-2751, Division of Investment Management.

SUPPLEMENTARY INFORMATION: In Investment Company Act Release No. 13666, the Securities and Exchange Commission announced that it was requesting public comment on whether the Commission should propose new rules or legislation which would have the effect of affording certain savings and loan associations the same treatment given banks under certain exemptive provisions in the federal securities laws. Specifically, the rulemaking or legislation under consideration would permit savings and loan associations to: (1) Operate certain common and collective trust funds without registering as investment companies and without registering interests in those funds as securities under the federal securities laws; and (2) to manage the funds and otherwise act as an investment adviser without registering with the Commission.

The Commission has received a request that the comment period on Investment Company Act Release No. 13666 be extended. In view of this request and in order to receive the benefit of comments from the greatest number of interested persons, the Commission has extended the comment period for the release until March 13, 1984.

By the Commission.

Dated: February 13, 1984.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84-4510 Filed 2-17-84; 8:45 am]

BILLING CODE 8010-01-M

RAILROAD RETIREMENT BOARD

20 CFR PART 299

Determination of the Level of Annuities Under the Railroad Retirement Act

AGENCY: Railroad Retirement Board.

ACTION: Withdrawl of proposed rule.

SUMMARY: The Railroad Retirement Board published a proposed rule in the Federal Register on July 8, 1983 (48 FR 31410) to provide for the reduction of annuities beginning October 1, 1983, due to a projected shortfall in funds in the Railroad Retirement Account to pay annuities in fiscal year 1984. On August 12, 1983, the Railroad Retirement Solvency Act of 1983 was enacted into law to restore the railroad retirement system to a financially sound condition. With enactment of the Railroad Retirement Solvency Act of 1983, the Board will be able to pay annuities at the full rate in fiscal year 1983 and there will be no need for adoption of a regulation under section 22 of the Railroad Retirement Act. Accordingly, the Board is withdrawing the proposed rule under section 22 of the Railroad Retirement Act.

DATE: This withdrawal is effective February 21, 1984.

ADDRESS: Office of Secretary to the Board, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611.

FOR FURTHER INFORMATION CONTACT: Steven A. Bartholow, Deputy General Counsel, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611, (312) 751-4944 (FTS 387-4944).

SUPPLEMENTARY INFORMATION: The Railroad Retirement Board hereby withdraws the proposed rule, which would have been codified at 20 CFR Part 299, as published in the Federal Register on July 8, 1983.

Dated: Feburary 13, 1984.

By Authority of the Board.

Beatrice Ezerski,

Secretary to the Board.

[FR Doc. 84-4536 Filed 2-17-84; 8:45 am]

BILLING CODE 7905-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 158

[Docket No. 83N-0106]

Quick Frozen Brussels Sprouts; Termination of Consideration of Codex Standard

AGENCY: Food and Drug Administration.

ACTION: Advance notice of proposed rulemaking; termination of consideration.

SUMMARY: The Food and Drug Administration (FDA) is terminating consideration of the establishment of a U.S. standard for quick frozen brussels sprouts based on the Codex Alimentarius Commission Standard for Quick Frozen Brussels Sprouts (Codex standard) because there is neither sufficient interest nor need to warrant proposing a U.S. standard for this food.

FOR FURTHER INFORMATION CONTACT: F. Leo Kauffman, Bureau of Foods (HFF-214), Food and Drug Administration, 200 C St. SW., Washington, DC. 20204, 202-485-0107.

SUPPLEMENTARY INFORMATION: In the Federal Register of April 29, 1983 (48 FR 19413), FDA published an advance notice of proposed rulemaking that offered interested persons an opportunity to review the Codex standard for quick frozen brussels sprouts and to comment on the desirability of, and need for, a U.S. standard for this food. The Codex standard was submitted to the United States for consideration for acceptance by the Joint Food and Agriculture

Organization/World Health Organization's Codex Alimentarius Commission

Two comments were received from a frozen food producer and a trade association in response to the advance notice of proposed rulemaking. Both comments opposed the establishment of a standard of identity for quick frozen brussels sprouts.

Having considered the comments received and other relevant information, FDA has concluded that there is neither sufficient interest nor need to warrant proposing a U.S. standard at this time for quick frozen brussels sprouts under the authority of section 401 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 341).

Therefore, under the procedures in 21 CFR 130.6, notice is given that the Commissioner of Food and Drugs has terminated consideration of developing a U.S. standard for quick frozen brussels sprouts based on the Codex standard. This action is without prejudice to further consideration of the development of a U.S. standard for quick frozen brussels sprouts upon appropriate justification.

FDA will inform the Codex Alimentarius Commission that an imported food that complies with the requirements of the Codex standard for quick frozen brussels sprouts may move freely in interstate commerce in this country, providing it complies with applicable U.S. laws and regulations.

Dated: February 13, 1984.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 84-4483 Filed 2-17-84; 8:45 am]

BILLING CODE 4160-01-M

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21 CFR Part 158

[Docket No. 83N-0110]

Quick Frozen Cauliflower; Termination of Consideration of Codex Standard

AGENCY: Food and Drug Administration.

ACTION: Advance notice of proposed rulemaking; termination of consideration.

SUMMARY: The Food aund Drug Administration (FDA) is terminating consideration of the establishment of a U.S. standard for quick frozen cauliflower based on the Codex Alimentarius Commission Standard for Quick Frozen Cauliflower (Codex standard) because there is neither sufficient interest nor need to warrant proposing a U.S. standard for this food.

FOR FURTHER INFORMATION CONTACT: F. Leo Kauffman, Bureau of Foods (HFF-214), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-485-0107.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of May 10, 1983 (48 FR 20935), FDA published an advance notice of proposed rulemaking that offered interested persons an opportunity to review the Codex Standard for Quick Frozen Cauliflower and to comment on the desirability of and need for, a U.S. standard for this food. The Codex standard was submitted to the United States for consideration for acceptance by the Joint Food and Agriculture Organization/World Health Organization's Codex Alimentarius Commission.

A single letter was received from a frozen food producer in response to the advance notice of proposed rulemaking. The letter opposed the establishment of a standard of identity for quick frozen cauliflower and stated that there are no food safety, nutrition, or economic issues for the consumer that require the additional burden of a formal standard of identity. The comments added that the industry continues to produce safe, wholesome, and nutritious products without the need for formal standards of identity.

Having considered the comment received and other relevant information, FDA has concluded that there is neither sufficient interest nor need to warrant proposing a U.S. standard at this time for quick frozen cauliflower under the authority of section 401 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 341).

Therefore, under the procedures in 21 CFR 130.6, notice is given that the Commissioner of Food and Drugs has terminated consideration of developing a U.S. standard for quick frozen cauliflower based on the Codex standard. This action is without prejudice to further consideration of the development of a U.S. standard for quick frozen cauliflower upon appropriate justification.

FDA will inform the Codex Alimentarius Commission that an imported food that complies with the requirements of the Codex standard for quick frozen cauliflower may move freely in interstate commerce in this country, providing it complies with applicable U.S. laws and regulations.

Dated: February 13, 1984.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 84-4484 Filed 2-17-84; 8:45 am]

BILLING CODE 4160-01-M

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21 CFR Part 158

[Docket No. 83N-0109]

Quick Frozen Green Beans and Quick Frozen Wax Beans; Termination of Consideration of Codex Standard

AGENCY: Food and Drug Administration.

ACTION: Advance notice of proposed rulemaking; termination of consideration.

SUMMARY: The Food and Drug Administration (FDA) is terminating consideration of the establishment of a U.S. standard for quick frozen green beans and quick frozen wax beans based on the Codex Alimentarius Commission Standard for Quick Frozen Green Beans and Quick Frozen Wax Beans (Codex standard) because there is neither sufficient interest nor need to warrant proposing a U.S. standard for this food.

FOR FURTHER INFORMATION CONTACT: F. Leo Kauffman, Bureau of Foods (HFF-214), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-485-0107.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of April 29, 1983 (48 FR 19409), FDA published an advance notice of proposed rulemaking that offered interested persons an opportunity to review the Codex standard for quick frozen green beans and quick frozen wax beans and to comment on the desirability of, and need for, a U.S. standard for this food. The Codex standard was submitted to the United States for consideration for acceptance by the Joint Food and Agriculture Organization/World Health Organization's Codex Alimentarius Commission.

Two comments were received from a frozen food producer and a trade association in response to the advance notice of proposed rulemaking. Both comments opposed the establishment of a standard of identity for quick frozen green beans and quick frozen wax beans.

Having considered the comments received and other relevant information, FDA has concluded that there is neither sufficient interest nor need to warrant proposing a U.S. standard at this time for quick frozen green beans and quick frozen wax beans under the authority of

section 401 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 341).

Therefore, under the procedures in 21 CFR 130.6, notice is given that the Commissioner of Food and Drugs has terminated consideration of developing a U.S. standard for quick frozen green beans and quick frozen wax beans based on the Codex standard. This action is without prejudice to further consideration of the development of a U.S. standard for quick frozen green beans and quick frozen wax beans upon appropriate justification.

FDA will inform the Codex Alimentarius Commission that an imported food that complies with the requirements of the Codex standard for quick frozen green beans and quick frozen wax beans may move freely in interstate commerce in this country, providing it complies with applicable U.S. laws and regulations.

Dated: February 10, 1984.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 84-4482 Filed 2-17-84; 8:45 am]

BILLING CODE 4160-01-M

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21 CFR Part 158

[Docket No. 83N-0105]

Quick Frozen Corn-on-the-Cob; Termination of Consideration of Codex Standard

AGENCY: Food and Drug Administration.

ACTION: Advance notice of proposed rulemaking; termination of consideration.

SUMMARY: The Food and Drug Administration (FDA) is terminating consideration of the establishment of a U.S. standard for quick frozen corn-on-the-cob based on the Codex Alimentarius Commission Standard for Quick Frozen Corn-on-the-Cob (Codex standard) because there is neither sufficient interest nor need to warrant proposing a U.S. standard for this food.

FOR FURTHER INFORMATION CONTACT: F. Leo Kauffman, Bureau of Foods (HFF-214), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-485-0107.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of April 29, 1983 (48 FR 19399), FDA published an advance notice of proposed rulemaking that offered interested persons an opportunity to review the Codex Standard for Quick Frozen Corn-on-the Cob and to comment on the desirability of, and need for, a U.S. standard for this food. The Codex standard was submitted to the United States for consideration for acceptance by the Joint Food and Agriculture Organization/World Health Organization's Codex Alimentarius Commission.

Letters were received from a frozen food producer and a trade association in response to the advance notice of proposed rulemaking. Both letters opposed establishment of a standard of identity for quick frozen corn-on-the-cob.

Having considered the comments received and all other relevant information, FDA has concluded that there is neither sufficient interest nor need to warrant proposing a U.S. standard at this time for quick frozen corn-on-the-cob under the authority of section 401 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 341).

Therefore, under the procedures in 21 CFR 130.6, notice is given that the Commissioner of Food and Drugs has terminated consideration of developing a U.S. standard for quick frozen corn-on-the-cob based on the Codex standard. This action is without prejudice to further consideration of the development of a U.S. standard for quick frozen corn-on-the-cob upon appropriate justification.

FDA will inform the Codex Alimentarius Commission that an imported food that complies with the requirements of the Codex standard for quick frozen corn-on-the-cob may move freely in interstate commerce in this country, providing it complies with applicable U.S. laws and regulations.

Dated: February 13, 1984.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 84-4485 Filed 2-17-84; 8:45 am]

BILLING CODE 4160-01-M

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21 CFR Part 158

[Docket No. 83N-0106]

Quick Frozen Whole Kernel Corn; Termination of Consideration of Codex Standard

AGENCY: Food and Drug Administration.

ACTION: Advance notice of proposed rulemaking; termination of consideration.

SUMMARY: The Food and Drug Administration (FDA) is terminating consideration of the establishment of a U.S. standard for quick frozen whole kernel corn based on the Codex Alimentarius Commission Standard for Quick Frozen Whole Kernel Corn (codex strandard) because there is neither sufficient interest nor need to warrant proposing a U.S. standard for this food.

FOR FURTHER INFORMATION CONTACT: F. Leo Kauffman, Bureau of Foods (HFF-214), Food and Drug Administration, 200 C St. SW., Washington D.C. 20204, 202-485-0107.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of April 29, 1983 (48 FR 19396), FDA published an advance notice of proposed rulemaking that offered interested persons an opportunity to review the Codex Standard for Quick Frozen Whole Kernel Corn and to comment on the desirability of, and need for, a U.S. standard for this food. The Codex standard was submitted to the United States for consideration for acceptance by the Joint Food and Agriculture Organization/World Health Organization's Codex Alimentarius Commission.

Letters were received from a frozen food producer and a trade association in response to the advance notice of proposed rulemaking. Both letters opposed the establishment of a standard of identify for quick frozen whole kernel corn.

Having considered the comments received and all other relevant information, FDA has concluded that there is neither sufficient interest nor need to warrant proposing a U.S. standard at this time for quick frozen whole kernel corn under the authority of section 401 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 341).

Therefore, under the procedures in 21 CFR 130.6, notice is given that the Commissioner of Food and Drugs has terminated consideration of developing a U.S. standard for quick frozen whole kernel corn based on the Codex standard. This action is without prejudice to further consideration of the development of a U.S. standard for quick frozen whole kernel corn upon appropriate justification.

FDA will inform the Codex Alimentarius Commission that an imported food that complies with the requirements of the Codex standard for quick frozen whole kernel corn may move freely in interstate commerce in this country, providing it complies with applicable U.S. laws and regulations.

Dated: February 13, 1984.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 84-4486 Filed 2-17-84; 8:45 am]

BILLING CODE 4160-01-M

21 CFR Part 158

[Docket No. 83N-0111]

Quick Frozen Broccoli; Termination of Consideration of Codex Standard

AGENCY: Food and Drug Administration.

ACTION: Advance notice of proposed rulemaking; termination of consideration.

SUMMARY: The Food and Drug Administration (FDA) is terminating consideration of the establishment of a U.S. standard for quick frozen broccoli based on the Codex Alimentarius Commission Standard for Quick Frozen Broccoli (Codex standard) because there is neither sufficient interest nor need to warrant proposing a U.S. standard for this food.

FOR FURTHER INFORMATION CONTACT: F. Leo Kauffman, Bureau of Foods (HFF-214), Food and Drug Administration, 200 C St. SW., Washington, D.C. 20204; 202-485-0107

SUPPLEMENTARY INFORMATION: In the **Federal Register** of April 29, 1983 (48 FR 19403), FDA published an advance notice of proposed rulemaking that offered interested persons an opportunity to review the Codex Standard for Quick Frozen Broccoli and to comment on the desirability of, and need for, a U.S. standard for this food. The Codex standard was submitted to the United States for consideration for acceptance by the Joint Food and Agriculture Organization/World Health Organization's Codex Alimentarius Commission.

Letters were received from a frozen food producer and a trade association in response to the advance notice of proposed rulemaking. Both letters opposed the establishment of a standard of identity for quick frozen broccoli.

Having considered all the comments received and all other relevant information, FDA has concluded that there is neither sufficient interest nor need to warrant proposing a U.S. standard at this time for quick frozen broccoli under the authority of section 401 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 341).

Therefore, under the procedures in 21 CFR 130.6, notice is given that the Commissioner of Food and Drugs has terminated consideration of developing a U.S. standard for quick frozen broccoli based on the Codex standard. This action is without prejudice to further consideration of the development of a U.S. standard for quick frozen broccoli upon appropriate justification.

FDA will inform the Codex Alimentarius Commission that an imported food that complies with the requirements of the Codex standard for quick frozen broccoli may move freely in interstate commerce in this country, providing it complies with applicable U.S. laws and regulations.

Dated: February 13, 1984.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 84-4487 Filed 2-17-84; 8:45 am]

BILLING CODE 4160-01-M

21 CFR Part 158

[Docket No. 83N-0107]

Quick Frozen French Fried Potatoes; Termination of Consideration of Codex Standard

AGENCY: Food and Drug Administration.

ACTION: Advance notice of proposed rulemaking; termination of consideration.

SUMMARY: The Food and Drug Administration (FDA) is terminating consideration of the establishment of a U.S. standard for quick frozen french fried potatoes based on the Codex Alimentarius Commission Standard for Quick Frozen French Fried Potatoes (Codex standard) because there is neither sufficient interest nor need to warrant proposing a U.S. standard for this food.

FOR FURTHER INFORMATION CONTACT: F. Leo Kauffman, Bureau of Foods (HFF-214), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-485-0107.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of April 29, 1983 (48 FR 19406), FDA published an advance notice of proposed rulemaking that offered interested persons an opportunity to review the Codex Standard for Quick Frozen French Fried Potatoes and to comment on the desirability of, and need for, a U.S. standard for this food. The Codex standard was submitted to the United States for consideration for acceptance by the Joint Food and Agriculture Organization/World Health Organization's Codex Alimentarius Commission.

Three letters were received from two frozen food producers and a trade association in response to the advance notice of proposed rulemaking. All opposed the establishment of a standard of identity for quick frozen french fried potatoes.

Having considered the comments received and all other relevant information, FDA has concluded that there is neither sufficient interest nor need to warrant proposing a U.S. standard at this time for quick frozen french fried potatoes under the authority of section 401 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 341).

Therefore, under the procedures in 21 CFR 130.6, notice is given that the Commissioner of Food and Drugs has terminated consideration of developing a U.S. standard for quick frozen french fried potatoes based on the Codex standard. This action is without prejudice to further consideration of the development of a U.S. standard for quick frozen french fried potatoes upon appropriate justification.

FDA will inform the Codex Alimentarius Commission that an imported food that complies with the requirements of the Codex standard for quick frozen french fried potatoes may move freely in interstate commerce in this country, providing it complies with applicable U.S. laws and regulation.

Dated: February 13, 1984.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 84-4488 Filed 2-17-84; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF DEFENSE

Department of the Army, Corps of Engineers

33 CFR Part 207

San Diego Bay, Calif., Naval Restricted Area

Correction

In FR Doc 84-2410 beginning on page 3419 in the issue of Friday, January 27, 1984, make the following correction:

On page 3492, first column, in the table, under the heading "Longitude," the seventh entry "117°08'4" W." should read "117°08'45" W".

BILLING CODE 1505-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-9-FRL 2523-5]

Nevada State Implementation Plan Revisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to approve the Nevada 1982 carbon monoxide (CO) State Implementation Plan (SIP) revision for the Las Vegas Valley. This notice also proposes to approve amendments to the State motor vehicle inspection and maintenance (I/M) regulations, and to incorporate the amended regulations and State authorizing legislation into the approved SIPs for Las Vegas Valley and Truckee Meadows. These were submitted in response to a CAA request for those areas not attaining the NAAQS. Final action will result in a fully approve CO SIP for Las Vegas Valley.

DATE: Comments should be submitted to EPA on or before March 22, 1984.

ADDRESS: Send any comments to: Regional Administrator, Attn: Air Management Division, Air Programs Branch, State Liaison Section (A–2–2), Environmental Protection Agency, Region 9, 215 Fremont Street, San Francisco, CA 94105.

Copies of the 1982 SIP revision, the Supplemental Revision submitted on September 14, 1983, and EPA's evaluations may be inspected during normal business hours at the above address or at the following locations:

Nevada Department of Conservation and National Resources, 201 S. Fall Street, Room 221, Carson City, NV 89710

Regional Administrative Planning Agency, 241 Ridge Street, Reno, NV 89504

Clark County Department of Comprehensive Planning, 225 Bridger Ave. 7th Floor, Las Vegas, NV 89155

FOR FURTHER INFORMATION CONTACT: Barbara Maco, State Liaison Section Air Programs Branch, Air Management Division, Environmental Protection Agency, Region 9, 215 Fremont Street, San Francisco, CA 94105, Telephone No. (415) 974–7653, FTS: 454–7653.

SUPPLEMENTARY INFORMATION:

Background

On February 3, 1983 (48 FR 5073) EPA proposed to disapprove the 1982 CO SIP revision for the Las Vegas Valley, State of Nevada. A correction notice which noted an error in the "Proposed Actions" section of the February 3, 1983 proposal notice was published on April 18, 1983 (48 FR 16508).

EPA proposed to disapprove the 1982 SIP revision for Las Vegas Valley since the delay in implementing the vehicle inspection and maintenance (I/M) program to July 1, 1983, did not represent an implementation schedule which was as expeditious as practicable. The start-up date of July 1, 1983 was also inconsistent with established I/M policy. EPA also proposed to approve all other portions of the SIP revision. EPA futher proposed that if the major deficiency—delayed implementation of the I/M program—was not remedied before the EPA takes final action, EPA would disapprove the SIP revision. This deficiency was discussed in detail in the Technical Support Document (TSD) for the Nevada CO SIP revisions.

The July 1, 1983 I/M start date for Truckee Meadows was not cited as a major deficiency because I/M was not specifically required for Truckee Meadows.

The February 3, 1983 notice of proposed rulemaking provided for a 45 day comment period ending on March 21, 1983. On March 21, 1983 EPA extended the public comment period an additional 45 days to May 5, 1983 for plans proposed to be disapproved (see 48 FR 11725).

On May 26, 1983, the Nevada State Legislature adopted Assembly Bill 677 which mandated start-up of an annual I/M program in Las Vegas Valley and Truckee Meadows on October 1, 1983. The State Department of Conservation and Natural Resources and the Department of Motor Vehicles subsequently revised the existing I/M rules and regulations. After two public workshops in July and State Environmental Commission (SEC) hearings in August, 1983, the SEC adopted the revised I/M rules and regulations.

Supplemental Revisions

On September 14, 1983, the Governor of Nevada submitted: (1) State legislation which mandated the start-up of an I/M program by October 1, 1983, (2) the revised I/M rules and regulations adopted by the SEC on August 24, 1983, and (3) an I/M public education plan. These submittals revise the previously approved I/M program rules and regulations (46 FR 21758; April 14, 1981) as follows: (1) The startup date changed from July 1, 1981 to October 1, 1983; (2) vehicle coverage is expanded to include an additional 18% of the vehicle fleet in Clark and Washoe Counties; (3) testing is for CO only, using the existing CO cutpoints (the test for HC has been deleted); and (4) the test procedures require mandatory adjustments to manufacturer's specifications with no waivers if a 1965–1981 model year vehicle fails the initial test. The procedures require 1982 and newer vehicles to pass the cutpoints unless emission related repair costs exceed $100.00; the previous waiver limit was $25.00 for parts or $75.00 for labor. A more detailed evaluation of these submittals is contained in the Technical Support Document for this proposed rulemaking action.

The I/M program began in Las Vegas Valley and Truckee Meadows on October 1, 1983 as required by AB 677. The current program also expands the vehicle coverage and therefore continues to comply with EPA's reasonably available control technology requirement for I/M programs. Further, the public awareness plan satisfies the one remaining I/M program deficiency noted in the April 14, 1981 and February 3, 1983 **Federal Register** notices.

Public Comments

EPA received four comments which address this 1982 SIP revision. EPA has prepared responses to these comments as part of the Technical Support Document for this rulemaking. The following is a summary of the comments and EPA's response to substantive issues which relate to EPA's actions proposed on February 3, 1983.

Comments were received from the Clark County Department of Comprehensive Planning (CCDCP), the Nevada Department of Conservation and Natural Resources (NDCNR), and from the Honorable Barbara F. Vucanovich, Nevada Congressional Representative. The CCDCP noted that reasonable efforts were being made to implement an I/M program. These included commitments in the SIP, initiation of a program in Clark County in January, 1980 (this program was revoked in May of the same year), and the ongoing efforts by state and local agencies to make recommendations for revised I/M regulations that would adequately protect consumers. CCDCP also believed that the section 110 construction ban and section 176 (a) and (b) funding limitations would be inconsistent and counter-productive. EPA disagrees that all reasonable efforts were being demonstrated by these actions. A later comment by CCDCP, dated October 25, 1983, noted that the ongoing state program substantially met the requirements of the Clean Air Act. EPA agrees and is now proposing to approve the Las Vegas Valley SIP.

NDCNR stated that the program would be started by July, 1983, and that the earlier change of ownership program resulted in significant emissions reductions. NDCNR also submitted a public awareness program. Again, EPA disagrees that reasonable efforts were

being made when there was no defensible argument for further delaying I/M implementation. As described in this notice, EPA is proposing to approve the public awareness plan submitted by NDCNR. The public awareness plan adequately satisfies the noted deficiency.

Congresswoman Vucanovich requested a two-year extension to implement the program. As discussed in the Supplementary Revisions, EPA is approving both the new I/M legislation and the public awareness program, thus alleviating the need for a two-year extension.

Proposed Actions

Based on EPA's review of Nevada's September 14, 1983 submittal and the public comments to the February 3 Proposed Rulemaking, EPA proposes:

(1) To approve the September 14, 1983 submittal, which includes the I/M legal authority (AB 677), revised I/M rules and regulations and an I/M public awareness plan, and incorporate it into the SIP for Las Vegas Valley and Truckee Meadows under Section 110 of the CAA.

(2) To fully approve the 1982 Las Vegas Valley SIP revision for CO and incorporate it into the SIP under Section 110 of the CAA.

Interested parties are invited to comment on all aspects of these proposed actions regarding the Nevada SIP. Comments should be submitted to the EPA Region 9 Office.

The Administrator has certified that SIP actions do not have a significant economic impact on a substantial number of small entities (see 46 FR 8709). The Office of Management and Budget has exempted this rulemaking from the requirements of Section 3 of Executive Order 12291.

List of Subjects in 40 CFR Part 52

Air pollution control, Particulate matter, Ozone, Sulfur oxide, Nitrogen oxides, Hydrocarbons, Carbon monoxide.

Authority: Sections 110, 129, 171, to 178, and 301(a) of the Clean Air Act as amended (42 U.S.C. 7410, 7429, 7501 to 7503 and 7601(a)).

Dated: December 28, 1983.

Judith E. Ayres,

Regional Administrator.

[FR Doc. 84-3509 Filed 2-17-83; 8:45 am]

BILLING CODE 6560-50-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Ch. 18

NASA Implementation of the Federal Acquisition Regulation (FAR); NASA Federal Acquisition Regulation Supplement (NASA/FAR Supplement)

AGENCY: NASA Office of Procurement, Procurement Policy Division.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice invites written comments on the NASA proposal to establish the NASA Federal Acquisition Regulation Supplement as Chapter 18 of the Federal Acquisition Regulations System. The FAR and the NASA FAR Supplement will supersede the current NASA Procurement Regulation. The proposed NASA FAR Supplement is available for review and comment.

DATE: Comments are due not later than March 22, 1984.

ADDRESS: Requests for copies of the proposal and comments should be addressed to NASA Headquarters Office of Procurement, Procurement Policy Division (Code HP), Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: James H. Wilson, Procurement Policy Division (Code HP), Office of Procurement, NASA Headquarters, Washington, DC 20546, Telephone: 202–453–2118.

SUPPLEMENTARY INFORMATION:

Impact

The Director, Office of Management and Budget (OMB), by memorandum dated October 4, 1982, exempted agency procurement regulations from Executive Order 12291. NASA certifies that this document will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.). This rule provides uniformity with other Federal agencies and reduces the administrative impact on bidders as set forth in OFPP Policy Letter 83–2.

List of Subjects in 48 CFR Ch. 18

NASA Federal Acquisition Regulation Supplement, Government procurement.

S. J. Evans,

Assistant Administrator for Procurement.

[FR Doc. 84-4530 Filed 2-17-84; 8:45 am]

BILLING CODE 7510-01-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Proposal To Reclassify the Snail Darter (Percina Tanasi) From an Endangered Species to a Threatened Species and Rescind Critical Habitat Designation

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The U.S. Fish and Wildlife Service (Service) proposes to reclassify the snail darter (*Percina tanasi*) from an endangered species to a threatened species which the Service believes better reflects its present status. This decision is based on the results of recent snail darter research and on the recommendations of the Snail Darter Recovery Team and the conclusions of the Service's approved Snail Darter Recovery Plan (U.S. Fish and Wildlife Service, 1983a). The snail darter is presently known from only six Tennessee River tributaries and from the main stem of the Tennessee River near the mouth of three tributaries. Most of these populations are extremely small and subject to threats to their continued existence. Neither the Service nor the Snail Darter Recovery Team believes sufficient evidence is presently available to allow the species to be removed from Endangered Species Act protection. The Service also proposes to rescind presently designated snail darter critical habitat on the Little Tennessee River, Loudon County, Tennessee. This area no longer functions as snail darter habitat. It was flooded by the Tellico Reservoir when a Federal law was passed exempting the Tellico Project from Endangered Species Act consideration. Reclassification of the species and rescinding critical habitat would not remove the Act's protection as the snail darter would continue to be protected as a threatened species. Comments and information pertaining to this proposal are sought from the public.

DATE: Comments from all interested parties must be received by April 23, 1984. Public hearing requests must be received by April 6, 1984.

ADDRESSES: Interested persons, organizations, agencies, and local governments are requested to submit comments to the Field Supervisor, Asheville Endangered Species Field Station, U.S. Fish and Wildlife Service, 100 Otis Street, Room 224, Asheville,

North Carolina 28801. Comments and materials relating to this proposal are available for inspection by appointment during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT:
Mr. Richard G. Biggins, Asheville Endangered Species Field Station, U.S. Fish and Wildlife Service, 100 Otis Street, Room 224, Asheville, North Carolina 28801 (704/259–0321 or FTS 8/672–0321), or Mr. John L. Spinks, Jr., Chief, Office of Endangered Species, U.S. Fish and Wildlife Service, Washington, D.C. 20240 (703/235–2771 or FTS 8/235–2771).

SUPPLEMENTARY INFORMATION:

Background

The snail darter was first collected in August 1973 in the lower reaches of the Little Tennessee River, Loudon County, Tennessee, and was described by Dr. David Etnier (1976) as *Percina* (*Imostoma*) *tanasi*. The species is characterized as a robust fish, rarely exceeding 3.4 inches. The background color of the upper portion of the fish's sides is brown with a faint trace of green. Four saddle-like marks cross the back of the fish. The lower part of the sides are lighter and interspersed with dark blotches.The belly is white and the upper portion of the head is dark brown. The cheeks are mottled brown and interspersed with traces of yellow. The fish inhabits shoal areas where the adults spawn. The hatchling young drift downstream and later return to the shoal areas.

The snail darter was listed as an endangered species on October 9, 1975 (40 FR 47506). Critical habitat on the Little Tennessee River, from river mile 0.5 to river mile 17, Loudon County, Tennessee, was designated on April 1, 1976 (41 FR 13926–13928). On September 25, 1979, a Federal law exempted the Little Tennessee River Tellico Reservoir Project from Endangered Species Act consideration. The Reservoir was subsequently completed and a reproducing snail darter population no longer exists in the Little Tennessee River.

When the species was listed and its critical habitat designated the only known population was threatened by the imminent completion of Tellico Dam and the flooding of the fish's Little Tennessee River habitat. Prior and subsequent to the completion of the Tellico Reservoir project, snail darters were introduce to other streams in the Tennessee River Valley. These introductions thus far have proven successful only in the Hiwassee River, Polk County, Tennessee.

Snail darters were found in the Tennessee River, Loudon County, Tennessee, near the mouth of the Little Tennessee River in 1979. Subsequently, they were discovered in South Chickamauga Creek, Hamilton County, Tennessee, in 1980 and later in Catoosa County, Georgia. These discoveries led to additional searches in the Tennessee River and its tributaries. These searches resulted in the discovery of snail darters inhabiting three other Tennessee River tributaries (Sewee Creek, Meigs County, Tennessee; Sequatchie River, Marion County, Tennessee; and Paint Rock River, Jackson and Madison Counties, Alabama), and the main stem of the Tennessee River near the mouth of two tributaries, South Chickamauga Creek (Nickajack Reservoir, Marion County, Tennessee) and Sequatchie River (Guntersville Reservior, Marion County, Tennessee). Review of these data in 1982 by the Snail Darter Recovery Team and the Service during its recovery planning process led the Service to determine that the species could be reclassified from endangered to threatened status. Neither the Recovery Team nor the Service felt sufficient evidence was available for the species to be removed entirely from Endangered Species Act protection.

On July 21, 1983 (48 FR 33328–33329), the Service published an advance notice of a proposed rule to reclassify or delist the snail darter. That notice:

(1) Reaffirmed the Service's conclusion that the species, based on available data, could not be removed entirely from Endangered Species Act protection, but that it could be safely reclassified to threatened status;

(2) Presented the three alternatives from the Service's approved Snail Darter Recovery Plan by which the species could be judged eligible for removal from the list of endangered and threatened wildlife; and

(3) Stated that the Service was involved in an extensive snail darter survey of Tennessee River tributaries aimed at satisfying Alternative B in the Snail Darter Recovery Plan. That criterion states that the species shall be considered recovered when:

> * * * more Tennessee River tributary populations of the species are discovered and existing populations are not lost. The number of additional populations needed to meet this criteria (sic) would vary depending on the status of the new populations, but two populations similar to Sewee Creek, South Chickamagua Creek, or Sequatchie River populations, or one comparable to the Hiwassee River population, would denote recovery." And "No present or forseeable threats exist which could cause the species to become in danger of extinction throughout a significant portion of its range.

The Service has completed its snail darter survey (U.S. Fish and Wildlife Service, 1983b). The study confirmed that snail darters were still surviving in each of the five Tennessee River tributaries known to be inhabited by the species at the time the study was conducted. This survey did not uncover any new populations although twelve other Tennessee River tributaries were searched. However, one snail darter was found in the Little River, Blount County, Tennessee, by an independent stream survey crew (Dr. David Etnier, personal communication, September 1983). This river has been extensively surveyed in the past, and communication with biologists familiar with the species and the Little River indicates that it is unlikely that a substantial population exists there.

The Snail Darter Recovery team reviewed the results of the Service's snail darter survey at a Recovery Team meeting on September 1, 1983. The conclusions reached at that meeting were communicated to the Regional Director, U.S. Fish and Wildlife Service, Atlanta, Georgia, in a September 2, 1983, letter from the Recovery Team leader. That letter made three recommendations to the Service: (1) The snail darter could be downlisted from endangered to threatened status, (2) insufficient data were available to consider removing the species from the Federal list, and (3) the requirements for a Federal permit to collect snail darters should be retained if downlisting occurs. Subsequent to the discovery of a snail darter in the Little River, Blount County, Tennessee, Recovery Team members were contacted to determine if this find changed their recommendations regarding the snail darter's future Federal status. All team members contacted were in agreement that the find of a snail darter in the Little River did not satisfy Alternative B (see above) of the Recovery Plan. They recommended that the Service proceed with reclassifying the species to threatened status.

The July 21, 1983, **Federal Register** (48 FR 33328–33329) also solicited comments from government agencies, local governments, the scientific community, and other interested parties concerning the species' status, and environmental and other impacts of a proposal to downlist or delist the snail darter. The following is a summary of the responses received.

The Atlanta, Georgia, Regional Office of the Federal Energy Regulatory Commission responded that they were forwarding the Service's request for information to their Washington, D.C.

office for response. We received no further comments from this agency.

All three of the State conservation agencies whose states are inhabited by the snail darter, the Alabama Department of Conservation and Natural Resources, the Georgia Department of Natural Resources (GDNR), and the Tennessee Wildlife Resources Agency (TWRA) supported reclassification of the species from endangered to threatened status. Both the GDNR and TWRA further stated that insufficient data were available to make the decision to delist the species.

The Vice-President, North American Production, Conoco, Inc., commended the Service for its proposal to reclassify or delist the snail darter. He further stated that he believed it was evident the snail darter was in adequate supply for such a step.

The National Wildlife Federation supported the reclassification of the snail darter from endangered to threatened status. They concluded their letter by stating:

> * * * biological information on the snail darter indicates that the species is not in immediate danger of extinction and therefore we agree that the species should be reclassified to the threatened category. Delisting the species is not warranted at this time. The well-being of most newly discovered populations is unknown. Habitat degradation continues to propose potential threats and population monitoring, conducted over several years, will be necessary to determine the status of the fish throughout its range.

During the development of the decision to propose reclassification of the snail darter the Service reviewed two other alternatives: (1) Remove the species from the Federal list and (2) retain endangered species status for the species. The Service concluded that neither of these options was appropriate for the following reasons.

The species, by virtue of its distribution, no longer fits the Endangered Species Act definition of endangered which is defined as: "* * * any species which is in danger of extinction throughout all or a significant portion of its range * * *" Conversely, due to threats to the species' continued existence and the scant knowledge concerning the viability of most of the known populations, it would not be in keeping with the Service's administrative responsibilities under the Act to remove the snail darter from Federal protection. Threatened status best reflects the current status of the species, i.e., a species that is likely to become an endangered species within the forseeable future throughout all or a significant portion of its range.

As part of the decision process to rescind the present critical habitat in the Little Tennessee River, Loudon County, Tennessee, the Service considered two other alternatives: (1) Maintain the present critical habitat and (2) designate critical habitat in rivers known to contain snail darter populations. The Service rejected these options for the following reasons.

A September 25, 1979 Federal law exempted the Little Tennessee River Tellico Reservoir Project from Endangered Species Act consideration. The critical habitat was subsequently inundated and is now unsuitable for snail darters. Critical habitat designation is no longer appropriate for this river reach.

The snail darter has received much notoriety. For this reason the Service believes a detailed description of the species' habitat, required during the critical habitat designation process, would draw attention to those specific areas inhabited by the species and could threaten the species by increasing the likelihood of illegal take.

Summary of Factors Affecting the Species

The Endangered Species Act (16 U.S.C. 1531 *et seq.*) and regulations promulgated to implement the listing provisions of the Act [codified at 50 CFR Part 424; under revision to accommodate 1982 amendments—see proposed rule of August 8, 983 (48 FR 36062)] set forth the procedures for reclassifying species on the Federal list. A species shall be determined to be an endangered or a threatened species due to one or more of the five factors described in Section 4(a)(1) of the Act. These factors, and their application to the subject species, are as follows:

A. *The present or threatened destruction, modification, or curtailment of its habitat or range.* The historic range of the snail darter is virtually impossible to determine as essentially no preimpoundment collections were made from the main channel Tennessee River or its major tributaries. However, the Snail Darter Recovery Plan states that the species' range prior to the impoundments probably included gravel shoal habitat areas of the main channel Tennessee River and the lower reaches of its tributaries from perhaps north central Alabama upstream into eastern Tennessee. Presently, the snail darter is known from six Tennessee River tributaries and the main stem of the Tennessee River near the mouth of three tributaries.

Little River, Blout County, Tennessee. One snail darter was collected in the Little River in September 1983. This is the only specimen known from the river although the river has received considerable sampling. The specific site where the fish was taken has been sampled six times. The most recent collection (October 1983) was aimed at finding snail darters (Dr. David Etnier, personal communication, November 1983), but none were taken. This population is believed to be very small.

Little River watershed is rural and sparsely developed. The river contains a diverse assemblage of fish species which indicates quality habitat.

Tennessee River at Watts Bar Reservoir, Loudon County, Tennessee. Snail darters were discovered in Watts Bar Reservoir in 1979 and have been observed on numerous occasions since. However, it is not known if these fish represent a reproducing population or are remnants of the now extirpated Little Tennessee River population. The Little Tennessee River previously entered Watts Bar Reservoir at Tennessee River Mile (TRM) 601.1. If a population does exist in Watts Bar Reservoir it could be threatened by port facility development proposed for TRM 592.5 and TRM 600.2.

Sewee Creek, Meigs County, Tennessee. Snail darters were first collected in Sewee Creek in 1980 and have been observed in the creek every year since that time. The species has been found in concentrations nearly identical to snail darter concentrations once found in the Little Tennessee River. However, the creek section inhabited by the species is very small (5.7 miles) thus limiting the size of the total population.

Sewee Creek's habitat is probably one of the most secure of the six tributaries known to contain the snail darter. The watershed is small and mostly rural and forested.

Hiwassee River, Polk County, Tennessee. This population was introduced utilizing fish from the Little Tennessee River population. The introduction appears to be successful. Snail darters are reproducing and young-of-the year fish have been observed every year from 1976 through 1982.

The population is the largest known to exist, and according to the Snail Darter Recovery Team, the population likely numbers 3000 individuals.

Although the Hiwassee River population is large and appears to be doing well, it is not completely secure. The Hiwassee has had a history of train wrecks involving acid spills. However, recent railroad improvements should decrease the severity of any future spill. Heavy metal and pH problems in the Ocoee River, a tributary of the

Hiwassee, also represent a threat to the population. Wastewater cleanup and reforestation programs have been implemented in the Ocoee to correct the problem. If these Ocoee River watershed programs prove successful, the snail darter population will likely be more secure.

South Chickamauga Creek, Hamilton County, Tennessee, and Catoosa County, Georgia. Snail darters were found in this creek in 1980 and have been collected intermittently since then. This population appears to exist in a precarious situation. The South Chickamauga Creek watershed contains many potential threats to the species including both runoff from urban areas and industrial sites, the threat of accidental chemical spills, and effluent from a wastewater treatment plant. Growth projections for the watershed are significant. Unless the welfare of the species is considered, an increase in threats to the snail darter may be anticipated.

Tennessee River at Nickajack Reservoir, Hamilton County, Tennessee. Four snail darters were seen by scuba divers in Nickajack Reservoir near the mouth of South Chickamauga Creek in 1980. Whether this represents a resident population in the reservoir or part of the South Chickamauga Creek population cannot be determined based on available data.

There are two projects under consideration which could impact the snail darter in the reservoir. A commercial dredging operation is proposed for TRM 453–460 and a port facility is proposed for TRM 466–468. The snail darters were found nearby.

Sequatchie River, Marion County, Tennessee. This population was discovered in 1981 and has been sampled six times since. Although considerable effort has been aimed at assessing this population, only 13 snail darters have ever been observed in this river.

The Sequatchie Valley is a rural valley. However, it does contain coal reserves, and coal mining activities have brought siltation and pH problems to its tributaries. The Little Sequatchie River, a tributary of th e Sequatchie, has experienced fish kills which have been partially attributed to coal mining activity.

Tennessee Rive at Guntersville Reservoir, Marion County, Tennessee. Two snail darters were observed by scuba divers in Guntersville Reservoir area. It is not kenow if these fish represent a resident population of the main Tennessee River or if they are part of the Sequatchie River population. Snail darters in the reservoir could be impacted by a proposed dredging operation at TRM 390.3–423 and a proposed port facility at TRM 424.

Paint Rock River, Jackson and Madison Counties, Alabama. The snail darter population was found in this river in 1981 after extensive searches. A total of four days of sampling yielded only five individuals. Surveys in 1983, attempting to verify the continued existence of the species in the Paint Rock found one snail darter after seven days of searching in the same areas where the species had been previously found.

The Paint Rock River Valley is forested in the upper basin with row crops predominating in the lower basin. Stream siltations and enrichment problems associated with agricultural activities are evident and pesticides may be a threat. The river was channelized by the U.S. Corps of Army Engineers in 1966. Presently, there are some discussions in the valley that this procedure should be repeated.

B. *Overutilization for commercial, recreational, scientific, or educational purposes.* The snail darter has received a tremendous amount of notoriety and this has made the fish vulnerable to illegal take. At present the species is protected by Federal and State laws which require permits for scientific collecting. The degree of protection will not change if the proposal to reclassify the snail darter to threatened status is finalized.

C. *Disease or predation.* There is no evidence of threats from disease or predation.

D. *The inadequacy of existing regulatory mechanisms.* The Federal Endangered Species Act protects the species and its habitat through Section 7, which requires Federal agencies to ensure taht any activity they authorize, fund, or carry out is not likely to jeopardize the continued existence of the species. Thesee provisions of the Act would continue to protect the snail darter if the species is reclassified to threatened status. The States of Alabama, Georgia and Tennessee prohibit take without a scientific collecting permit.

E. *Other natural or manmade factors affecting its continued existence.* There are no other factors, natural or manmade, known to be affecting the continued existence of the snail darter.

Critical Habitat

The Endangered Species Act in Section 4(a)(3), as amended, requires that to the maximum extent prudent and determinable the Secretary shall designate any habitat of a species which is considered to be critical habitat at the time the species is determined to be endangered or thereatened. The Service finds the designation of critical habitat is not prudent for this species. The snail darter has received a tremendous amount of notoriety. Because of this, the Service believes that publication of critical habitat descriptions would make the species vulnerable to illegal taking and increase the law enforcement problem. It might also subject the species to deliberate vandalism. Therefore, it would not be prudent to determine critical habitat for the snail darter at this time.

The Service believes the present critical habitat in the Little Tennessee River from river mile 0.5 through river mile 17 should be remove from Endangered Species Act protection. The area has been flooded by Tellico Reservoir and no longer provides suitable habitat for the snail darter population.

Available Conservation Measures

As there are no special rules being proposed with the snail darter reclassification, the species generally would continue to receive the same Endangered Species Act protection under a threatened species category that it now receives as an endangered species although there would be a slightly broader range of permits that would be available for activities involving threatened species, 50 CFR 17.32. The protection provisions of the Act for endangered and threatened species are reviewed below.

The Act and endangered and threatened species regulations already published in the June 24, 1977, **Federal Register** (42 FR 32372), set forth a series of general prohibitions and exceptions that apply to all endangered and threatened wildlife. These prohibitions are found in §§ 17.21 and 17.31 of 50 CFR and are summarized below.

These prohibitions, in part, would make it illegal for any person subject to the jurisdiction of the United States to take, import or export, ship in interstate commerce in the course of a commercial activity, or sell or offer for sale this species in interstate or foreign commerce. It also would be illegal to possess, sell, deliver, carry, transport, or ship any such wildlife which was illegally taken. Certain exceptions would apply to agents of the Service and State conservation agencies.

Permits may be issued to carry out otherwise prohibited activities involving endangered and threatened species under certain circumstances. Regulations governing permits are at 50 CFR 17.22, 17.23, and 17.32. Threatened

species permits are available for scientific purposes, to enhance the propagation or survival of the species, for zoological exhibition, for educational puposes, for incidental take, or for special purposes consistent with the purposes of the Act.

Section 7(a)(2) of the Act, as amended, requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of a listed species. The snail darter is presently protected under section 7(a)(2) of the Act as an endangered species. If this proposal is made final, the species will continue to receive protection under Section 7(a)(2) as a threatened species.

Public Comments Solicited

The Service intends that the rules finally adopted will be as accurate and as effective as possible in the conservation of any endangered or threatened species. Therefore, any comments or suggestions from the public, concerned governmental agencies, the scientific community, industry, private interests, or any other interested part concerning any aspect of this proposed rule are hereby solicited. Comments particularly are sought concerning:

1. Biological, commercial, or other relevant data concerning any threat (or lack thereof) to the species included in this proposal;

2. The location of and the reason why any habitat of this species should or should not be determined to be critical habitat as provided for by Section 4 of the Act;

3. Additional information concerning the range and distribution of this species; and

4. Current or planned activities in the subject areas and their possible impacts on the snail darter.

Final promulgation of regulations on the snail darter will take into consideration the comments and any additional information received by the Service, and such communications may lead to adoption of a final regulation that differs from this proposal.

The Endangered Species Act provides for a public hearing on this proposal if requested. Requests must be filed within 45 days of the date of the proposal. Such requests should be made in writing and addressed to Warren T. Parker, Field Supervisor, Endangered Species Field Station, U.S. Fish and Wildlife Service, 100 Otis Street, Room 224, Asheville, North Carolina 28801 (704/259-0321 or FTS 8/672-0321).

Author

The primary author of this proposed rule is Richard G. Biggins, Asheville Endangered Species Field Station, U.S. Fish and Wildlife Service, 100 Otis Street, Room 224, Asheville, North Carolina 28801.

National Environmental Policy Act

In accordance with a recommendation from the Council on Environmental Quality (CEQ), the Service has not prepared any NEPA documentation for this proposed rule. The recommendation from CEQ was based, in part, upon a decision by the Sixth Circuit Court of Appeals which held that the preparation of NEPA documentation was not required as a matter of law for listings under the Endangered Species Act, *PLF v. Andrus*, 657 F.2d 829, (6th Cir. 1981).

References

Etnier, David A. 1976. *Percina tanasi*, a new percid fish from the Little Tenessee River, Tennessee. Proc. Biol. Soc. Wash. 88(44): 469–645.

U.S. Fish and Wildlife Service. 1983a. Snail Darter Recovery Plan. U.S. Fish and Wildlife Service, Atlanta, Georgia. 46 pp.

U.S. Fish and Wildlife Service. 1983b. Snail Darter Survey (July, August, and October 1983). U.S. Fish and Wildlife Service, Asheville, North Carolina. 45 pp.

List of Subjects in 50 CFR Part 17

Endangered and threatened wildlife, Fish, Marine mammals, Plants (agriculture).

Proposed Regulations Promulgation

PART 17—[AMENDED]

Accordingly, it is hereby proposed to revise Part 17, Subchapter B of Chapter I, Title 50 of the U.S. Code of Federal Regulations, as set forth below:

1. The authority citation for Part 17 reads as follows:

Authority: Pub. L. 93–205, 87 Stat. 884; Pub. L. 94–359, 90 Stat. 911; Pub. L. 95–632, 92 Stat. 3751; Pub. L. 96–159, 93 Stat. 1225; Pub. L. 97–304, 96 Stat. 1411 (16 U.S.C. 1531 *et seq.*).

2. It is proposed to revise § 17.11(h) by changing the status of the snail darter under "FISHES" from endangered (E) to threatened (T) and deleting the critical habitat citation on the List of Endangered and Threatened Wildlife so that the entry for this species reads as follows:

§ 17.11 Endangered and threatened wildlife.

* * * * *

(h) * * *

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
Fishes:							
Darter, snail	*Percina tanasi*	U.S.A. (AL, GA, TN)	Entire	T	12	NA	NA

3. It is further proposed to revise § 17.95(e) for "Fishes" by removing critical habitat for the snail darter.

Dated: February 10, 1984.

G. Ray Arnett,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 84-4506 Filed 2-17-84; 8:45 am]

BILLING CODE 4310-07-M

Notices

Federal Register
Vol. 49, No. 35
Tuesday, February 21, 1984

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Office of the Secretary

Price-undercutting of Domestic Swiss Cheese by Imported Swiss Cheese Produced in the Federal Republic of Germany and France

On January 18, 1984, the U.S. Department of Agriculture received a complaint alleging price-undercutting of domestic Swiss cheese by imported Swiss cheese produced in the Federal Republic of Germany and France. On January 18, 1984, the U.S. Department of Agriculture received another complaint alleging price-undercutting of domestic Swiss cheese by Swiss cheese produced in the Federal Republic of Germany. Under Section 702 of the Trade Agreements Act of 1979 (Pub. L. 96–39), the Secretary of Agriculture must conduct a price-undercutting investigation and make a determination as to the validity of the allegation no later than 30 days after receiving a complaint.

Based on the investigation of the Director of the Dairy, Livestock and Poultry Division, Foreign Agricultural Service, pursuant to the regulations at 7 CFR 6.40–44, I have determined that the duty-paid wholesale price of Grade A imported Swiss cheese produced in the Federal Republic of Germany is $1.79 per pound and that the domestic wholesale market price for similar U.S. produced Swiss cheese is $1.78 per pound. I have also determined that the duty-paid wholesale price of grade A imported Swiss cheese produced in France is $1.80 per pound and that the domestic wholesale market price for similar U.S. produced Swiss cheese is $1.78 per pound. I, therefore, have determined that there is no price-undercutting of U.S. produced Swiss cheese by imported Swiss cheese produced in the Federal Republic of Germany or France, and I have notified the United States Trade Representative accordingly.

Done at Washington, D.C., this 15th day of February 1984.

Richard E. Lyng,

Acting Secretary.

[FR Doc. 84-4564 Filed 2-17-84; 8:45 am]

BILLING CODE 3410-10-M

Federal Crop Insurance Corporation

Grape Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Notice of Extension of Sales Closing Dates.

SUMMARY: Under the authority contained in the Federal Crop Insurance Act, as amended, the Federal Crop Insurance Corporation (FCIC) herewith gives notice of the extension of the closing date for accepting applications for grape crop insurance in certain counties in California under the provisions contained in this part, effective for the 1984 crop year only. The intended effect of this action is to provide additional time for applicants to consider crop insurance during a period when adverse selectivity is not apparent, and to comply with the provisions of the Grape Crop Insurance Regulations with respect to the authority of the Manager, FCIC, to extend closing dates.

EFFECTIVE DATE: February 21, 1984.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C., 20250, telephone (202) 447–3325.

SUPPLEMENTARY INFORMATION: Under the provisions of 7 CFR Part 411, the Grape Crop Insurance Regulations, the closing date for accepting applications for crop insurance is January 31. Inasmuch as in certain counties in California, grapes of certain varieties have a longer dormant period and adverse selectivity during this period is not a problem, FCIC has determined to provide additional time for potential insureds to make application for crop insurance on their crops.

Under the authority contained in the Grape Crop Insurance Regulations (7 CFR Part 411), the closing date for filing applications may be extended by placing the extended date on file in the service office for the county and by publishing a notice in the **Federal Register** upon determination that no adverse selectivity will result during the period of such extension. If adverse conditions should develop during such period, FCIC will discontinue the acceptance of applications.

Notice

Accordingly, under the authority contained in 7 CFR 411.7(b), the Federal Crop Insurance Corporation herewith gives notice that, effective for the 1984 crop year only, the closing date for accepting applications for grape crop insurance in counties in California north of, but not including, Fresno, Madera, Monterey, and San Benito, is hereby extended through the close of business on February 15, 1984.

Done in Washington, D.C., on February 1, 1984.

Peter F. Cole,

Secretary, Federal Crop Insurance Corporation.

Approved by:

Merritt W. Sprague,

Manager.

Dated: February 13, 1984.

[FR Doc. 84-4535 Filed 2-17-84; 8:45 am]

BILLING CODE 3410-08-M

Rural Electrification Administration

Intent To Conduct Public Scoping Meetings and Prepare Draft Environmental Impact Statement

AGENCY: Rural Electrification Administration, USDA.

ACTION: Notice of Intent to Conduct Public Scoping Meetings and Prepare a Draft Environmental Impact Statement (DEIS).

SUMMARY: REA intends to conduct public scoping meetings and prepare a DEIS in connection with possible REA financing assistance to Associated Electric Cooperative, Inc. (Associated), 2814 South Golden, P.O. Box 754, Springfield, Missouri 65801. The DEIS will discuss and evaluate the feasibility of Associated developing and operating a coal-fired electric generating station and related transmission facilities. Associated is currently investigating sites in Atchison and Carroll Counties, Missouri. Depending upon the site

selected, transmission facilities may be located in the following counties: Atchison, Nodaway, Holt, Andrew, Gentry, De Kalb, Daviess, Caldwell, Livingston, Linn, Carroll, Chariton, Macon, Randolph, Ray, Lafayette, Johnson and Henry.

DATES: REA will conduct public scoping meetings as follows:

March 27, 1984—Central Missouri State University, Auditorium—Science Building, S. College Street, Warrensburg, Missouri 64093, at 7:30 p.m.

March 28, 1984—Northwest Missouri State University, Ballroom—J.W. Jones Student Union, W. 4th Street & College Avenue, Maryville, Missouri 64468, at 7:30 p.m.

March 29, 1984—Chillicothe High School Auditorium, 1535 Calhoun Street, Chillicothe, Missouri 64601, at 7:30 p.m.

ADDRESS: All interested parties are invited to submit written comments to REA prior to, at, or within 30 days after the scoping meetings, in order for the comments to be considered in the preparation of the DEIS. Comments should be sent to Mr. Alexander E. Sherman, Chief, Distribution and Transmission Engineering Branch, Southwest Area-Electric, U.S. Department of Agriculture, Rural Electrification Administration, Room 0009, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Mr. Dean Graham, Associated Electric Cooperative, Inc., Springfield, Missouri, (417) 881–1204.

SUPPLEMENTARY INFORMATION: REA, in order to meet requirements of the National Environmental Policy Act (NEPA) of 1969, the Council on Environmental Quality Regulations and the REA Environmental Policies and Procedures, intends to prepare a DEIS and conduct public scoping meetings. This notice is in connection with possible REA financing assistance to Associated for the development of a coal-fired electric generating station and related transmission facilities. Associated proposes that the project be located in either Atchison County, near Watson, or Carroll County, near Norborne, Missouri. These two sites were chosen from a total of eighteen sites originally under consideration within the State of Missouri. Depending upon the site selected, transmission facilities may be located in the following counties: Atchison, Nodaway, Holt, Andrew, Gentry, De Kalb, Daviess, Caldwell, Livingston, Linn, Carroll, Chariton, Macon, Randolph, Ray, Lafayette, Johnson and Henry.

Associated proposes to develop the chosen site to accommodate a total of 1200 MW of generated power. Initial development will be within the range of 400 to 600 MW of generated power. The Watson site would require approximately 426 km (265 mi) of 345 kV transmission line extending to Fairport, Missouri, and Associated's Thomas Hill Power Plant in Randolph County, Missouri. The Norborne site would require approximately 210 km (130 mi) of 345 kV transmission line extending to Clinton, Missouri, and the Thomas Hill Power Plant. Alternatives to be considered by REA and Associated include, among other options: (1) No project; (2) load management; (3) purchase power from other utilities; (4) alternative sites for the proposed plant; (5) alternative fuels; (6) various unit sizes and (7) alternative transmission line corridors.

The public scoping meetings, to be conducted by a representative of REA, will be held to solicit public input and comments concerning, but not limited to, the nature of the proposed project, its possible location, alternatives, and any significant issues and environmental concerns that should be addressed in the DEIS. REA previously held public scoping meetings near the prospective power plant sites in Rockport and Norborne, Missouri. The above public scoping meetings are located along the prospective transmission line corridors.

REA's financing assistance to Associated will be subject to and contingent upon reaching satisfactory conclusions with respect to the environmental effects of the project. Final action will be taken only after EIS procedures required by NEPA have been satisfied.

This program is listed in the Catalog of Federal Domestic Assistance as 10.850—Rural Electrification Loans and Loan Guarantees.

Dated: February 14, 1984.

Jack Van Mark,

Acting Administrator.

[FR Doc. 84–4515 Filed 2–17–84; 8:45 am]

BILLING CODE 3410-15-M

CIVIL RIGHTS COMMISSION

Massachusetts Advisory Committee; Agenda and Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Massachusetts Advisory Committee to the Commission will convene at 4:00 and will end at 6:00 p.m., on March 28, 1984, at the U.S. Commission on Civil Rights, New England Regional Office, 55 Summer Street, 8th Floor, Boston, Massachusetts 02110. The purpose of this meeting is to discuss plans for a conference on affirmative action in growth industries, and distribution of a publication, "Sexual Harassment on the Job."

Persons desiring additional information, or planning a presentation to the Committee, should contact the Chairperson, Dr. Bradford E. Brown, at (617) 548–5123 or the New England Regional Office at (617) 223–4671.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., February 14, 1984.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 84–4474 Filed 2–17–84; 8:45 am]

BILLING CODE 6335-01-M

DEPARTMENT OF COMMERCE

Bureau of the Census

Estimates of the Voting Age Population for 1983

In accordance with the requirements of the Federal Election Campaign Act Amendments of 1976, 2 U.S.C. 441a(e), I hereby give notice that the estimates of the voting age population for July 1, 1983, for each state, the District of Columbia, the Commonwealth of Puerto Rico, and the Territories of Guam and the Virgin Islands are as shown in the following table.

I have certified these estimates to the Federal Election Commission.

Malcolm Baldrige,

Secretary of Commerce.

ESTIMATES OF THE POPULATION OF VOTING AGE FOR STATES AND SELECTED OUTLYING AREAS: JULY 1, 1983

(In thousands)

Area	18 and over
United States	171,406
Alabama	2,845
Alaska	325
Arizona	2,129
Arkansas	1,677
California	18,624
Colorado	2,293
Connecticut	2,378
Delaware	451
District of Columbia	458
Florida	8,225
Georgia	4,110
Hawaii	739
Idaho	671
Illinois	8,378
Indiana	3,957
Iowa	2,118
Kansas	1,778
Kentucky	2,676
Louisiana	3,062
Maine	836

ESTIMATES OF THE POPULATION OF VOTING AGE FOR STATES AND SELECTED OUTLYING AREAS: JULY 1, 1983—Continued

[In thousands]

Area	18 and over
Maryland	3,212
Massachusetts	4,389
Michigan	6,552
Minnesota	3,016
Mississippi	1,787
Missouri	3,659
Montana	583
Nebraska	1,156
Nevada	662
New Hampshire	708
New Jersey	5,598
New Mexico	969
New York	13,246
North Carolina	4,481
North Dakota	485
Ohio	7,836
Oklahoma	2,380
Oregon	1,953
Pennsylvania	8,950
Rhode Island	728
South Carolina	2,337
South Dakota	496
Tennessee	3,437
Texas	11,083
Utah	1,010
Vermont	385
Virginia	4,126
Washington	3,154
West Virginia	1,425
Wisconsin	3,463
Wyoming	355
Outlying Areas:	
Puerto Rico	2,025
Guam	66
Virgin Islands	60

[FR Doc. 84-4505 Filed 2-17-84 8:45 am]
BILLING CODE 3510-07-M

Foreign-Trade Zones Board

[Docket No. 4-84]

Proposed Foreign-Trade Zone—Jefferson County, New York; Application for Subzone at New York Air Brake Plant in Watertown

An application has been submitted to the Foreign-Trade Zones Board (the Board) by Jefferson County, New York, requesting special-purpose subzone status for the manufacturing plant of New York Air Brake Company in Watertown, New York, adjacent to the Alexandria Bay Customs port of entry. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR Part 400). It was formally filed on February 10, 1984. The applicant is authorized to make this proposal under Chapter 157, Laws of New York 1983.

Jefferson County already has an application pending with the Board for a general-purpose foreign-trade zone which was filed on January 4, 1984 (Docket No. 2–84, 49 FR 1260, 1/10/84). A public hearing was held on the proposal in Watertown on February 9. Board action is expected later this year.

New York Air Brake is a unit of General Signal Corporation, a producer of a variety of rail system and industrial machinery components with annual sales of over $1 billion. New York Air Brake produces rail car braking systems; aircraft hydraulic and engine starting systems; and mobile equipment transmissions. The plant is shared by a affiliate, the Dynapower Company, which produces some of the components. The companies' headquarters and manufacturing facilities are located in Watertown, New York.

The proposed subzone will cover 120 acres of the companies' 273-acre facility on Starbuck Avenue in Watertown. In addition to manufacturing the pneumatic and hydralic equipment described above, the plant is also used to service and repair the equipment that has been sold abroad, and to inventory spare parts. Parts purchased from foreign sources for production include iron castings, discs, brakes, and brake beams. A variety of spare parts for railroad car brakes are also purchased from abroad. The foreign components represent about 4 percent of the companies' sales. Exports, which accounted for about 17 percent of sales in 1983, are expected to approach 30 percent by 1986.

Zone procedures will exempt New York Air Brake from duty payments on the foreign parts used in its exports and on equipment returned to the plant from abroad for service and repair. On domestic sales, secondary savings would come from exemption from duties on scrap and from duty deferral. Because many of the finished products have the same duty rates as the components, benefits from inverted tariffs will be relatively small. These savings, especially on export sales, will help the company in bidding against its foreign competitors and achieving its planned growth in international sales. This will help maintain the 1,400 jobs currently at the facility and encourage the company to add up to 100 new positions.

In accordance with the Board's regulations, an examiners committee has been appointed to investigate the application and report to the Board. The Committee consists of: John J. Da Ponte, Jr. (Chairman), Director, Foreign-Trade Zones Staff, U.S. Department of Commerce, Washington, D.C. 20230; Edward A. Goggin, Assistant Regional Commissioner, U.S. Customs Service, Northeast Region, 100 Summer Street, Boston, MA 02110; and Colonel Robert R. Hardiman, District Engineer, U.S. Army Engineer District Buffalo, 1776 Niagara Street, Buffalo, NY 14207.

Comments concerning the proposed subzone are invited in writing from interested persons and organizations. They should be addressed to the Board's Executive Secretary at the address below and postmarked on or before March 20, 1984.

A copy of the application is available for public inspection at each of the following locations:

Port Director's Office, U.S. Customs Service, Wellesley Island, Alexandria Bay, NY 13604.

Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, Room 1872, 14th and Pennsylvania, NW., Washington, D.C. 20230.

Dated: February 14, 1984.

John J. Da Ponte, Jr.,
Executive Secretary.

[FR Doc. 84-4502 Filed 2-17-84; 8:45 am]
BILLING CODE 3510-DS-M

International Trade Administration

Children's Hospital of Los Angeles; Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897; 15 CFR Part 301). Related records can be viewed between 8:30 AM and 5:00 PM in room 1523, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C.

Docket No. 82–00147R. Applicant: Children's Hospital of Los Angeles, Los Angeles, CA 90007. Instrument: 6 MeV Linear Accelerator, G280F and Accessories. Application is a resubmission, notice of which was published in the Federal Register of May 14, 1982.

Comments: None received.

Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States.

Reasons: The foreign instrument provides dose variations of less than 20% over distances of 0.3 cm when small portals (2 cm x 2cm) are used. The National Institutes of Health advises in its memorandum dated February 3, 1983 that (1) the capability of the foreign instrument described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific

value to the foreign instrument for the applicant's intended use.

We know of no other instrument or apparatus of equivalent scientific value to the foreign instrument which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials).

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 84-4561 Filed 2-17-84; 8:45 am]

BILLING CODE 3510-DS-M

University of Wisconsin Madison; Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897; 15 CFR Part 301). Related records can be viewed between 8:30 AM and 5:00 PM in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C.

Docket No.: 83-133R. Applicant: University of Wisconsin, Madison, Madison, WI 53706. Instrument: Gas Chromatograph Mass Spectrometer System, MS-80 and Accessories. Original notice of this resubmitted application was published in the **Federal Register** of March 7, 1983.

Comments: None received.

Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, was being manufactured in the United States at the time the instrument was ordered (November 30, 1982).

Reasons: This application is a resubmission of Docket Number 83-133 which was denied without prejudice to resubmission for clarification of intended use. The foreign instrument provides a heated probe and a Fast Atom Bombardment (FAB) source. The National Bureau of Standards advises in its memorandum dated October 17, 1983 that (1) the capability of the foreign instrument described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use being manufactured at the time the foreign instrument was ordered.

We know of no other domestic instrument or apparatus of equivalent scientific value to the foreign instrument being manufactured at the time the foreign instrument was ordered.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 84-4560 Filed 2-17-84; 8:45 am]

BILLING CODE 3510-DS-M

[A-475-401]

Certain Valves, Couplings, Nozzles and Connections, of Brass Suitable for Use in Interior Fire Protection Systems From Italy; Initiation of Antidumping Investigation

AGENCY: International Trade Administration, Import Administration, Commerce.

ACTION: Notice.

SUMMARY: On the basis of a petition filed in proper form with the United States Department of Commerce, we are initiating antidumping investigations to determine whether certain valves, couplings, nozzles and connections or brass, suitable for use in interior fire protection systems from Italy are being, or are likely to be, sold in the United States at less than fair value. We are notifying the United States International Trade Commission (ITC) of the action, so that it may determine whether imports of this merchandise are materially injuring, or threatening to materially injure, a United States industry. If the investigations proceed normally, the ITC will make its preliminary determinations on or before March 8, 1984, and we will make our own on or before July 2, 1984.

EFFECTIVE DATE: February 21, 1984.

FOR FURTHER INFORMATION CONTACT: William D. Kane, Office of Investigations, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230: (202) 377-1776.

SUPPLEMENTARY INFORMATION: On January 23, 1984, we received a petition in proper form from counsel for Badger-Powhatan, a division of Figgie International Inc.

In compliance with the filing requirements of § 353.36 of the Commerce Regulations (19 CFR 353.36), the petition alleges that imports of the subject merhandise from Italy are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Tariff Act of 1930, as amended (19 U.S.C. 1673) (the Act), and that these imports are materially injuring, or are threatening to materially injure, a United States industry. The allegations of sales at less than fair value of the merchandise under investigation from Italy are supported by comparisons of U.S. price to home market and third country prices developed by an independent market research study performed in Italy and commissioned by the petitioner.

Initiation of Investigations

Under section 732(c) of the Act, we must determine, within 20 days after a petition is filed, whether it sets forth the allegations necessary for the initiation of an antidumping investigation and whether it contains information reasonably available to the petitioner supporting the allegations. We have examined the petition filed by counsel for Badger-Powhatan, and we have found that it meets the requirements of section 732(b) of the Act. Therefore, we are initiating antidumping investigations to determine whether certain valves, couplings, nozzles and connections, of brass, suitable for use in interior fire protection systems, from Italy are being, or are likely to be, sold at less than fair value in the United States. If our investigations proceed normally, we will make our preliminary determinations by July 1, 1984.

Scope of Investigations

The merchandise covered by these investigations consist of: 1½ inch and 2½ inch brass angle hose valves and 2½ inch brass wedge disc hose gate valves as currently provided for in item 680.1430 of the *Tariff Schedules of the United States, Annotated* (TSUSA); pressure restricting and pressure regulating valves, of brass, currenatly provided for in TSUSA item number 680.2720; brass single clapper and double clapper siamese fire department connections (2½ inch inlet, 4 inch outlet), currently provided for in TSUSA item number 680.1420; 1½ inch and 2½ inch brass fog/straight stream hose nozzles, currently provided for in TSUSA item number 680.1480; and 1½ inch and 2½ inch brass fire hose coupling, currently provided for in TSUSA item number 657.3540.

Notification to the ITC

Section 732(d) of the Act requires us to notify the ITC of this action and to provide it with the information we used to arrive at these determinations. We will notify the ITC and make available to it all nonprivileged and nonconfidential information. We will also allow the ITC access to all privileged and confidential information in our files, provided it confirms that it will not disclose such information either

publicly or under administrative protective order without the written consent of the Deputy Assistant Secretary for Import Administration.

Preliminary Determination by the ITC

The ITC will determine within 45 days of the date the petition was received whether there is a reasonable indication that imports of certain valves, couplings, nozzles and connections, of brass, suitable for use in interior fire protection systems, from Italy are materially injuring, or are likely to materially injure, a United States industry. If its determinations are negative, these investigations will terminate; otherwise they will proceed according to the statutory procedures.

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

February 13, 1984.

[FR Doc. 84-4497 Filed 2-17-84; 8:45 am]
BILLING CODE 3510-DS-M

[C-469-061]

Ferroalloys From Spain; Final Results of Administrative Review of Countervailing Duty Order

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of Final Results of Administrative Review of Countervailing Duty Order.

SUMMARY: On December 22, 1983, the Department of Commerce published the preliminary results of its administrative review of the countervailing duty order on ferroalloys from Spain. The review covers the period January 1, 1982 through December 31, 1982.

We gave interested parties an opportunity to comment on the preliminary results. After a review of all comments received, the final assessment rate is the same as that presented in the preliminary results.

EFFECTIVE DATE: February 21, 1984.

FOR FURTHER INFORMATION CONTACT: Alan Long or Joseph Black, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230; telephone: (202) 377-2786.

SUPPLEMENTARY INFORMATION: .

Background

On December 22, 1983, the Department of Commerce ("the Department") published in the **Federal Register** (48 FR 56621) the preliminary results of its administrative review of the countervailing duty order on ferroalloys from Spain (45 FR 25, January 2, 1980). The Department has now completed that administrative review, in accordance with section 751 of the Tariff Act of 1930 ("the Tariff Act").

Scope of the Review

Imports covered by the review are shipments of Spanish ferroalloys. Such merchandise is currently classifiable under the following items of the Tariff Schedule of the United States Annotated: ferrochrome (over 3 percent carbon), 606.2400; ferromanganese (1-4 percent carbon), 606.2800; ferromanganese (over 4 percent carbon), 606.3000; ferrosilicon manganese, 606.4400; and ferrosilicon (60-80% silicon), 606.3600 and 606.3700.

The review covers the period January 1, 1982 through December 31, 1982, and two programs that we previously found countervailable: (1) A rebate of indirect taxes upon exportation, under the Desgravacion Fiscal a la Exportacion ("the DFE"), (2) an operating capital loans program. The review also covers two other programs.

Analysis of Comments Received

We gave interested parties an opportunity to comment on our preliminary results. The exporters incorporated by reference their comments made during the previous administrative review. We addressed those comments in our notice of final results in our last administrative review (48 FR 34493, July 29, 1983). The exporters also submitted a comment concerning this specific review period.

Comment 1: The exporters maintain that the duty deposit rate should be updated to reflect the current status of Spain's phase-out of the operating capital loans program, citing a 1982 regulation reducing maximum eligibility to 9 percent effective January 1, 1984.

Department's Position: As we stated in our last final results of administrative review for ferroalloys from Spain and for unwrought zinc from Spain (48 FR 35689, August 15, 1983), it is our policy in setting the duty deposit rate to include timely corroborated reports of government actions, subsequent to the review period and already in effect, that affect the size of the benefits on future entries. Therefore, we have incorporated the January 1, 1984 eligibility change in setting our deposit rate.

Final Results of Review

After review of the comments received the final assessment rate is the same as that presented in the preliminary results. We determine the net subsidy to be 2.15 percent *ad valorem* for the period January 1, 1982 through December 31, 1982.

The Department will instruct the Customs Service to assess countervailing duties of 2.15 percent of the f.o.b. invoice price on any shipments exported on or after January 1, 1982 and entered, or withdrawn from warehouse, for consumption on or before April 22, 1982.

On April 23, 1982, the International Trade Commission ("the ITC") notified the Department that the Spanish government had requested an injury determination for this order under section 104(b) of the Trade Agreements Act of 1979. Should the ITC find that there is material injury or likelihood of material injury to an industry in the United States, the Department will instruct the Customs Service to assess countervailing duties, in the amount of the estimated duties required to be deposited, on all unliquidated entries of this merchandise entered, or withdrawn from warehouse, for consumption on or after April 23, 1982 and through the date of the ITC's notification to the Department of its determination.

The Department will instruct the Customs Service to collect a cash deposit of estimated countervailing duties of 0.84 percent of the entered value, as provided for by section 751(a)(1) of the Tariff Act, on any shipment of Spanish ferroalloys entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice. This deposit requirement shall remain in effect until publication of the final results of the nest administrative review. The Department intends to begin immediately the next administrative review.

The Department encourages interested parties to review the public record and submit applications for protective orders as early as possible after the Department's receipt of the requested information.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 355.41 of the Commerce Regulations (19 CFR 355.41).

Dated: February 13, 1984.

Alan F. Holmer,

Deputy Assistant Secretary Import Administration.

[FR Doc. 84-4495 Filed 2-17-84; 8:45 am]
BILLING CODE 3510-DS-M

[C-357-002]

Wool From Argentina; Preliminary Results of Administrative Review of Countervailing Duty Order

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of Preliminary Results of Administrative Review of Countervailing Duty Order.

SUMMARY: The Department of Commerce has conducted an administrative review of the countervailing duty order on wool from Argentina. The review covers the period January 1, 1983 through June 30, 1983.

As a result of the review, the Department has preliminarily determined the total bounty or grant for the period to be 7.15 percent *ad valorem*. Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: February 21, 1984.

FOR FURTHER INFORMATION CONTACT: Peggy Clarke or Lorenza Olivas, Office of Compliance, Room B-099, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230; telephone: (202) 377-2786.

SUPPLEMENTARY INFORMATION:

Background

On April 4, 1983, the Department of Commerce ("the Department") published in the Federal Register (48 FR 14423) the countervailing duty order on wool from Argentina and announced its intent to conduct an administrative review. As required by section 751 of the Tariff act of 1930 ("the Tariff Act"), the Department has now conducted that review.

Scope of the Review

Imports covered by the review are shipments of Argentine wool. Such merchandise is currently classifiable under items 306.3152, 306.3172, 306.3252, 306.3273, 306.3354, and 306.3374 of the Tariff Schedules of the United States Annotated.

The review covers the period January 1, 1983 through June 30, 1983 and six programs: (1) Incentives for exports from southern ports; (2) the reembolso, a cash rebate of taxes; (3) preferential pre-export financing; (4) multiple exchange rates; (5) government assistance to wool growers in Patagonia; and (6) financial reorganization aids.

Analysis of Programs

The Government of Argentina provided an incomplete response to our questionnaire of July 5, 1983, and our follow-up request for information was not adequately answered. Therefore, we are using the information provided in the response, where adequate, and information from the initial investigation, as the best evidence available.

(1) Incentives for Exports from Southern Ports

This program provides a payment for goods shipped from the southern ports of Argentina. This payment is not a rebate of taxes but rather an incentive to promote economic development in the regions south of the Rio Colorado and to develop the southern ports as the primary means of transportation from the southern regions of the country.

Under resolution 287, effective from December 1, 1982 through January 27, 1983, the payment ranged from 5 percent to 9 percent of the f.o.b. price depending on the port used. Resolution 88, effective January 28, 1983 changed the rates to between 8 percent and 11 percent depending on the port used.

In the original investigation, we found that 93 percent of all wool shipped from Argentina went through the port of Madryn. The original investigation also found that virtually all the remaining wool was shipped from Buenos Aires, a port not covered by this program. Based on this information we calculated the total bounty or grant provided by this program during the review period to be 7.15 percent *ad valorem*.

(2) Reembolso, a Cash Rebate of Taxes

On May 5, 1982, Resolution 437 abolished the 5 percent reembolso for washed wool. There is no reembolso for wool in the grease, the only other merchandise included in the order. Therefore, we determine the total benefit to be zero.

(3) Preferential Pre-export Financing

Exports of wool are ineligible for this program. Therefore, no benefit was received.

(4) Other Programs

In the original investigation, the following programs were found to be terminated or suspended. They have not been reinstated during the period of this review.

A. Multiple Exchange Rates;

B. Government Assistance to Wool Growers in Patagonia; and

C. Financial Reorganization Aids.

Preliminary Results of the Review

As a result of our review, we preliminarily determine the total bounty or grant conferred to be 7.15 percent *ad valorem* for the period of review. Accordingly, the Department intends to instruct the Customs Service to assess countervailing duties of 7.15 percent of the f.o.b. invoice price on any shipments entered, or withdrawn from warehouse, for consumption on or after January 14, 1983, the date of suspension of liquidation, and exported on or before June 30, 1983.

As provided by section 751(a)(1) of the Tariff Act, the Department intends to instruct the Customs Service to collect cash deposits of estimated countervailing duties of 7.15 percent of the entered value on all shipments of this merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this administrative review. This deposit requirement shall remain in effect until publication of the final results of the next administrative review.

Interested parties may submit written comments on these preliminary results within 30 days of the date of publication of this notice and may request disclosure and/or a hearing within 10 days of the date of publication. Any hearing, if requested will be held 45 days after the date of publication or the first workday thereafter. Any request for an administrative protective order must be made no later than 5 days after the date of publication. The Department will publish the final results of this administrative review including the results of its analysis of issues raised in any such written comments or at a hearing.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 355.41 of the Commerce Regulations (19 CFR 355.4).

Dated: February 13, 1984.

Alan F. Holmer,

Deputy Assistant Secretary, Import Administration.

[FR Doc. 84-4486 Filed 2-17-84; 8:45 am]

BILLING CODE 3510-DS-M

National Oceanic and Atmospheric Administration

Marine Mammals; Receipt of Application for Permit; Walt Disney Productions

Notice is hereby given that an Applicant has applied in due form for a Permit to take marine mammals as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216).

1. Applicant:

a. Name Walt Disney Productions (P27B).

b. Address P.O. Box 40, Lake Buena Vista, Florida 32830.

2. Type of Permit Public Display.

3. Name and Number of Animals: Atlantic bottlenose dolphin (Tursiops truncatus)—8.

4. Type of Take: Capture/maintain.

5. Location of Activity: Florida, West coast.

6. Period of Activity: 2 yrs.

The arrangements and facilities for transporting and maintaining the marine mammals requested in the above described application have been inspected by a licensed veterinarian, who has certified that such arrangements and facilities are adequate to provide for the well-being of the marine mammals involved.

Concurrent with the publication of this notice in the **Federal Register**, the Secretary of Commerce is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors.

Written data or views, or requests for a public hearing on this application should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, U.S. Department of Commerce, Washington, D.C. 20235, within 30 days of the publication of this notice. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries.

All statements and opinions contained in this application are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

Documents submitted in connection with the above application are available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, NW., Washington, D.C.;

Regional Director, National Marine Fisheries Service, Southeast Region, 9450 Koger Boulevard, St. Petersburg, Florida 33702.

Dated: February 13, 1984.

Carmen J. Blondin,

Deputy Assistant Administrator for Fisheries Resource Management, National Marine Fisheries Service.

[FR Doc. 84-4527 Filed 2-17-84; 8:45 am]

BILLING CODE 3510-22-M

Marine Mammals; Receipt of Application for Permit; Center for Marine Studies

Notice is hereby given that an Applicant has applied in due form for a Permit to take marine mammals as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216), the Endangered Species Act of 1973 (16 U.S.C. 1531–1543), the National Marine Fisheries Service regulations governing endangered fish and wildlife permits (50 CFR Parts 217–222).

1. Applicant:

a. Name: Center for Marine Studies (P79C).

b. Address: Applied Sciences #273, University of California at Santa Cruz, Santa Cruz, California 95064.

2. Type of Permit: Scientific Research/Scientific Purposes.

3. Name and Number of Animals: Gray Whale (*Eschrichtius robustus*) 20/yr/5yrs.

4. Type of Take: Unspecified number taken by potential harassment during photographic studies and 100 whales taken by intentional harassment during biopsy studies over 5 years.

5. Location of Activity: Off Monterey Bay, California.

6. Period of Activity: 5 years.

Concurrent with the publication of this notice in the **Federal Register**, the Secretary of Commerce is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors.

Written data or views, or requests for a public hearing on this application should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, U.S. Department of Commerce, Washington, D.C. 20235, within 30 days of the publication of this notice. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries.

All statements and opinions contained in this application are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

Documents submitted in connection with the above application are available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, NW., Washington, D.C.; and

Regional Director, National Marine Fisheries Service, Southwest Region, 300 South Ferry Street, Terminal Island, California 90731.

Dated: February 13, 1984.

Carmen J. Blondin,

Deputy Assistant Administrator for Fisheries Resource Management, National Marine Fisheries Service.

[FR Doc. 84-4528 Filed 2-17-84; 8:45 am]

BILLING CODE 3510-22-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Announcing a New Official of the Government of the Socialist Republic of Romania Authorized To Issue Export Visas

February 16, 1984.

The Chairman of the Committee for the Implementation of Textile Agreements (CITA), under the authority contained in E.O. 11651 of March 3, 1972, as amended, is announcing a change in officials of the Government of the Socialist Republic of Romania who are authorized to issue export visas, effective on February 24, 1984. For further information contact Diana Bass, International Trade Specialist (202) 377–4212.

Background

The Government of the Socialist Republic of Romania has notified the United States Government that Oncescu Florin, Sirbu Remus Alexandru and Horjan Dan are authorized to issue export visas under the terms of the Bilateral Cotton Textile Agreement of January 28 and March 31, 1983, and the Bilateral Wool and Man-Made Fiber Textile Agreement of September 3 and November 3, 1980, as amended, replacing Ciobanescu Stefan, Sadeanu Neli and Romanescu Mircea, who will no longer issue those documents. A complete list of currently authorized officials follows this notice.

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

Officials authorized by the Government of the Socialist Republic of Romania to issue visas for textile and apparel products exported to the United States:

(1) Sirbu Remus Alexandru
(2) Atanasiu Bogdan
(3) Horjan Dan
(4) Oncescu Florin
(5) Lungu Gheorghe
(6) Mateescu Jeni
(7) Linc Mircea

(8) Tomulescu Petre

[FR Doc. 84-4508 Filed 2-17-84; 8:45 am]
BILLING CODE 3510-DR-M

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

Procurement List 1984 Additions

Correction

In FR Doc. 84-3729, appearing on page 5164 of the issue of Friday, February 10, 1984, make the following correction. In the third columm, under **Class 7520**, the number in the second line reading "7520-00-139-3734" should read "7520-00-139-3743".

BILLING CODE 1505-01-M

COMMODITY FUTURES TRADING COMMISSION

Agency Information Collection Under Review by the Office of Management and Budget (OMB); Procurement Contracts

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of Information Collections.

SUMMARY: Under ther provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), the Commodity Futures Trading Commission plans to request the Office of Management and Budget to review and approve an existing information collection in use without an OMB control number.

DATE: Comments on this information collection must be submitted on or before March 10, 1984.

ADDRESS: Send comments to Katy Lewin, OMB Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 3235, New Executive Office Building, Washington, D.C. 20503, and to Joseph G. Salazar, CFTC. Clearance Officer, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581.

FOR FURTHER INFORMATION CONTACT: Joseph G. Salazar, CFTC Clearance Officer, telephone (202) 254-9735.

SUPPLEMENTARY INFORMATION: The purpose of this information collection is to identify the forms used by the Commission and the type of questions posed to vendors engaged in procurement contracts. The estimated annual reporting burden is: respondents 36, responses 36, hours 5. A copy of this proposal may be obtained from the CFTC clearance officer, Commodity Futures Trading Commission, Room 205, 2033 K Street, NW., Washington, D.C. 20581.

Issued in Washington, D.C. on February 14, 1984.

Jane K. Stuckey,

Secretary of the Commission.

[FR Doc. 84-4528 Filed 2-17-84; 8:45 am]
BILLING CODE 6351-01-M

DEPARTMENT OF ENERGY

Office of the Secretary

International Atomic Energy Agreements; Civil Uses; Proposed Subsequent Arrangement; Sweden

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" under the Agreement for Cooperation Between the Government of the United States of America and the Government of Sweden Concerning Civil Uses of Atomic Energy, as amended.

The subsequent arrangement to be carried out under the above mentioned agreement involves approval for supply of the following material:

Contract Number WC-SW-8, to Studsvik Energiteknik Artiebolag, Studsvik, Sweden, irradiated fuel assemblies containing 6.5 kilograms of uranium, enriched to 2.6 percent in U-235, for post-irradiation examination and ultimate disposal, in support of a Department of Energy fuel performance improvement program.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that the furnishing of the nuclear material will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice.

For the Department of Energy.

Dated: February 14, 1984.

George J. Bradley, Jr.,

Principal Deputy Assistant Secretary for International Affairs.

[FR Doc. 84-4531 Filed 2-17-84; 8:45 am]
BILLING CODE 6450-01-M

National Petroleum Council, Costs and Economic Task Group of the Committee on Enhanced Oil Recovery; Meeting

Notice is hereby given that the Costs and Economics Task Group of the Committee on Enhanced Oil Recovery will meet in February 1984. The National Petroleum Council was established to provide advice, information, and recommendations to the Secretary of Energy on matters relating to oil and natural gas or the oil and natural gas industries. The Committee on Enhanced Oil Recovery will investigate the technical and economic aspects of increasing the Nation's petroleum production through enhanced oil recovery. Its analysis and findings will be based on information and data to be gathered by the various task groups. The time, location and agenda of the Costs and Economics Task Group meeting follows:

The Costs and Economics Task Group will hold it seventeenth meeting on Wednesday, February 29, 1984, starting at 9:00 a.m., in Room 1603, Mobil Exploration and Producing Services Inc., 7200 North Stemmons Freeway, Dallas, Texas.

The tentative agenda for the Costs and Economics Task Group meeting follows:

1. Opening remarks by the Chairman and Government Cochairman.
2. Review progress of Task Group study assignments.
3. Discuss any other matters pertinent to the overall assignment from the Secretary of Energy.

The meeting is open to the public. The Chairman of the Costs and Ecomomics Task Group is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Costs and Economics Task Group will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements should inform G. J. Parker, Office of Oil, Gas, and Shale Technology, Fossil Energy, 301/353-3032, prior to the meeting and reasonable provision will be made for their appearance on the agenda.

Summary minutes of the meeting will be available for public review at the Freedom of Information Public Reading Room, Room 1E-190, DOE Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. between the hours of 8:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, D.C. on February 10, 1984.

William A. Vaughan,

Assistant Secretary, Fossil Energy.

[FR Doc. 84-4517 Filed 2-17-84; 8:45 am]
BILLING CODE 6450-01-M

National Petroleum Council, Chemical Task Group of the Committee on Enhanced Oil Recovery; Meeting

Notice is hereby given that the Chemical Task Group of the Committee on Enhanced Oil Recovery will meet in February 1984. The National Petroleum Council was established to provide advice, information, and recommendations to the Secretary of Energy on matters relating to oil and natural gas or the oil and natural gas industries. The Committee on Enhanced Oil Recovery will investigate the technical and economic aspects of increasing the Nation's petroleum production through enhanced oil recovery. Its analysis and findings will be based on information and data to be gathered by the various task groups. The time, location, and agenda of the Chemical Task Group meeting follows:

The Chemical Task Group will hold its nineteenth meeting on Monday and Tuesday, February 27 and 28, 1984, starting at 8:30 a.m. each day, in Room 112, Phillips Petroleum Company, Research Forum, Bartlesville, Oklahoma.

The tentative agenda for the Chemical Task Group Meeting follows:

1. Opening remarks by the Chairman and Government Cochairman.
2. Review progress of Task Group study assignments.
3. Discuss any other matters pertinent to the overall assignment from the Secretary of Energy.

The meeting is open to the public. The Chairman of the Chemical Task Group is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Chemical Task Group will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements should inform G. J. Parker, Office of Oil, Gas and Shale Technology, Fossil Energy, 301/353–3032, prior to the meeting and reasonable provision will be made for their appearance on the agenda.

Summary minutes of the meeting will be available for public review at the Freedom of Information Public Reading Room, Room 1E–190, DOE Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C., between the hours of 8:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, D.C., on February 10, 1984.

William A. Vaughan,

Assistant Secretary, Fossil Energy.

[FR Doc. 84–4518 Filed 2–17–84; 8:45 am]

BILLING CODE 6450–01–M

National Petroleum Council, Coordinating Subcommittee of the Committee on Enhanced Oil Recovery; Meeting

Notice is hereby given that the Coordinating Subcommittee of the NPC Committee on Enhanced Oil Recovery will meet in March 1984. The National Petroleum Council was established to provide advice, information, and recommendations to the Secretary of Energy on matters relating to oil and natural gas or the oil and natural gas industries. The Committee on Enhanced Oil Recovery will investigate the technical and economic aspects of increasing the Nation's petroleum production through enhanced oil recovery. Its analysis and findings will be based on information and data to be gathered by the various task groups. The time, location, and agenda of the Coordinating Subcommittee meeting follows:

The Coordinating Subcommittee will holds its seventeenth meeting on Thursday, March 1, 1984, starting at 9:30 a.m., in the Lalique Room of the Loews Anatole Hotel, 2201 Stemmons Freeway, Dallas, Texas.

The tentative agenda for the Coordinating Subcommittee meeting follows:

1. Opening remarks by the Chairman and Government Cochairman.
2. Discuss study assignments
3. Review task group study assignments.
4. Discuss any other matters pertinent to the overall assignment from the Secretary of Energy.

The meeting is open to the public. The Chairman of the Coordinating Subcommittee is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Coordinating Subcommittee will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements should inform Gerald J. Parker, Office of Oil, Gas and Shale Technology, Fossil Energy, 301/353–3032, prior to the meeting and reasonable provisions will be made for their appearance on the agenda.

Summary minutes of the meeting will be available for public review at the Freedom of Information Public Reading Room, Room 1E–190, DOE Forrestal Building, 1000 Independence Avenue SW., Washington, D.C., between the hours of 8:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, D.C., on February 10, 1984.

William A. Vaughan,

Assistant Secretary, Fossil Energy.

[FR Doc. 84–4519 Filed 2–17–84; 8:45 am]

BILLING CODE 6450–01–M

Federal Energy Regulatory Commission

[Docket No. ER84–264–000]

Connecticut Light and Power Co.; Filing

February 15, 1984.

The filing Company submits the following:

Take notice that on February 7, 1984, Connecticut Light and Power Company (CL&P) tendered for filing as an initial rate schedule an agreement (the Agreement) between CL&P, Western Massachusetts Electric Company (WMECO, and together with CL&P, the NU Companies) and Bangor Hydro-Electric Company (Bangor). The Agreement, dated as of December 2, 1983, provides for the NU Companies to sell to Bangor power from the systems of the Northeast Utilities Companies (system power) that may be available on a daily or weekly basis (a transaction). CL&P states that the timing of transactions cannot be accurately estimated but that the NU Companies would offer to sell such system power to Bangor only when it was economic to do so. Bangor would only accept such offer if it was economical to do so.

CL&P states that Bangor will pay a capacity charge to the NU Companies for each transaction in an amount equal to the megawatts of system capacity reserved for Bangor by the NU Companies during each hour of a transaction multiplied by the capacity charge rate which is negotiated prior to each transaction. Bangor will pay an energy charge to the NU Companies for each transaction in an amount equal to the megawatthours delivered by the NU Companies during such transaction multiplied by the energy charge rate. The energy charge rate is based on the heat rate and replacement fuel price of the generating unit(s) which the NU Companies determine to be available to provide energy at the time of a transaction.

CL&P requests an effective date of December 2, 1983, and therefore requests waiver of the Commission's notice requirements.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before March 1, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-4448 Filed 2-17-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-255-000]

Consolidated Edison Co. of New York, Inc., Filing

February 15, 1984

The filing Company submits the following:

Take notice that on February 6, 1984, Consolidated Edison Company of New York, Inc. (Con Edison) tendered for filing an amendment (the "Amendment") to its Rate Schedule FERC No. 57, an agreement to provide transmission service to the companies of the Northeast Utilities system (the "NU Companies"). The Amendment increases the transmission charge from 2.3 mills to 2.6 mills per kilowatthour for interruptible transmission of power and energy purchased by the NU Companies from Central Hudson Gas & Electric Corporation.

Con Edison requests an effective date of February 1, 1984, and therefore requests waiver of the Commission's notice requirements.

Con Edison states that a copy of this filing has been served by mail upon the NU Companies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before March 1, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-4449 Filed 2-17-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-249-000]

Empire District Electric Co.; Filing

February 15, 1984.

The filing Company submits the following:

Take notice that on February 6, 1984, Empire District Company (Empire) tendered for filing a proposed Peaking Power Purchase Contract between Empire and the Board of Public Utilities, Kansas City, Kansas (BPU).

Empire states that the proposed contract provides for the sale of 46.8 Mw of peaking capacity and related energy from BPU to Empire for the period beginning January 1, 1984.

Empire requests an effective date of January 1, 1984, and therefore requests waiver of the Commission's notice requirements.

Copies of the filing were served upon the Kansas Corporation Commission, the Missouri Public Service Commission and BPU.

Any person desiring to be heard or to protest said filing shuld file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions on protests should be filed on or before February 29, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-4450 Filed 2-17-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-252-000]

Empire District Electric Co.;

February 15, 1984

The filing Company submits the following:

Take notice that on February 6, 1984, Empire District Electric Company (Empire) tendered for filing a proposed Peaking Power Purchase Contract between Empire and the City of Coffeyville, Kansas (Coffeyville).

Empire states that the proposed contract provides for the sale of 3 Mw of peaking capacity and related energy from Coffeyville to Empire for the period beginning January 1, 1984.

Empire requests an effective date of January 1, 1984, and therefore requests waiver of the Commission's notice requirements.

Copies of this filing were served upon the Kansas Corporation Commission, the Missouri Public Service Commission and Coffeyville.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before February 29, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-4452 Filed 2-17-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-251-000]

Empire District Electric Co.; Filing

February 15, 1984

The filing Company submits the following:

Take notice that on February 6, 1984, Empire District Electric Company (Empire) tendered for filing a proposed Service Schedule J, Peaking Power Service, as a supplement to an Electric Interchange Agreement between Empire and Kansas City Power and Light Company (KCPL).

Empire states that the proposed Service Schedule J provides for the sale of 3 Mw of peaking capacity and related

energy from Empire to KCPL for the period beginning January 1, 1984. The capacity charge is cost plus $0.46 per Kw per month. Related energy will be furnished at cost plus 10% with an allowance for incurred losses. The schedule further provides that KCPL will purchase no more than 3,600 Mwh during any contract year, 1,800 Mwh during any four consecutive months, 600 Kwh in any one month. No less than 180 Mwh may be purchased in any one month. This filing should clarify terms of the original schedule.

Empire requests an effective date of January 1, 1984, and therefore requests waiver of the Commission's notice requirements.

Copies of the filing were served upon the Missouri Public Service Commission, the Kansas Corporation Commission, and the Kansas City Power and Light Company.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before February 29, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-4451 Filed 2-17-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-253-000]

Empire District Electric Co.; Filing

February 15, 1984

Take notice that on February 6, 1984, Empire District Electric Company (Empire) tendered for filing a proposed Peaking Power Purchase Contract between Empire and the City of Higginsville, Missouri (Higginsville).

Empire states that the proposed contract provides for the sale of 3 Mw of peaking capacity and related energy from Higginsville to Empire for the period beginning January 1, 1984.

Empire states that this contract replaces a contract dated May 7, 1981 and all amendments thereto, and is being made to clarify the terms of the original contract.

Empire requests an effective date of January 1, 1984, and therefore requests waiver of the Commission's notice requirements.

Copies of this filing were served upon the Kansas Corporation Commission, the Missouri Public Service Commission and Higginsville.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before March 1, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary,

[FR Doc. 84-4453 Filed 2-17-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-254-000]

Empire District Electric Co.; Filing

February 15, 1984

Take notice that on February 6, 1984, Empire District Electric Company (Empire) tendered for filing a proposed Peaking Power Purchase Contract between Empire and the Kaw Valley Electric Cooperative Company, Inc. Topeka, Kansas (Kaw Valley).

Empire states that the proposed contract provides for the sale of the 1 Mw of peaking capacity and related energy from Kaw Valley to Empire for the period beginning January 1, 1984.

Empire requests an effective date of January 1, 1984, and therefore requests waiver of the Commission's notice requirements.

Copies of this filing were served upon the Kansas Corporation Commission, the Missouri Public Service Commission and Kaw Valley.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before March 1, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-4454 Filed 2-17-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-256-000]

Empire District Electric Co.; Filing

February 15, 1984

The filing Company submits the following:

Take notice that the Empire District Electric Company (Empire), on February 6, 1984, tendered for filing a proposed Service Schedule I, Peaking Power Service, as a supplement to an Electric Interchange Agreement between Empire and Kansas City Power and Light Company (KCPL).

Empire states that the proposed Service Schedule I provides for the sale of 3 Mw of peaking capacity and related energy from Empire to KCPL for the period beginning January 1, 1984. This filing is to clarify certain terms of the original schedule and is not a tariff change.

Empire requests an effective date of January 1, 1984, and therefore requests waiver of the Commission's notice requirements.

Copies of the filing were served upon the Missouri Public Service Commission, the Kansas Corporation Commission, and the Kansas City Power and Light Company.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR §§ 385.211, 385.214). All such motions or protests should be filed on or before March 1, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the

Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-4455 Filed 2-17-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-257-000]

Empire District Electric Co., Filing

February 15, 1984

The filing Company submits the following:

Take notice that The Empire District Electric Company (Empire), on February 6, 1984, tendered for filing a proposed Service Schedule N, Peaking Power Service, as a supplement to an Electric Interchange Agreement between Empire and Kansas Gas and Electric Company (KGE).

Empire states that the proposed Service Schedule N provides for the sale of 14 Mw of peaking capacity and related energy from Empire to KGE for the period beginning January 1, 1984. The capacity charge is cost plus $0.46 per Kw per month. Related energy will be furnished at cost plus 10% with an allowance for incurred losses. The schedule further provides that KGE will purchase no more than 16,800 Mwh during any contract year, 8,400 Mwh during any four consecutive months, 2,800 Mwh in any one month. No less than 840 Mwh may be purchased in any one month.

Empire requests an effective date of January 1, 1984, and therefore requests waiver of the Commission's notice requirements.

Copies of the filing were served upon the Missouri Public Service Commission, the Kansas Corporation Commission, and the Kansas Gas and Electric Company.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with 211, 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before March 1, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-4456 Filed 2-17-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-258-000]

Empire District Electric Co.; Filing

February 15, 1984.

The filing company submits the following:

Take notice that The Empire District Electric Company (Empire), on February 6, 1984, tendered for filing a proposed Service Schedule K, Peaking Power Service, as a supplement to an Electric Interchange Agreement between Empire and Kansas City Power and Light Company (KCPL).

Empire states that the proposed Service Schedule K provides for the sale of 1 Mw of peaking capacity and related energy from Empire to KCPL for the period beginning January 1, 1984. The capacity charge is cost plus $0.46 Kw per month. Related energy will be furnished at cost plus 10% with a allowance for incurred losses. The schedule further provides that KCPL will purchase no more than 1,200 Mwh during any contract year, 600 Mwh during any four consecutive months, 200 Kwh in any one month. No less than 60 Mwh may be purchased in any one month.

Empire requests an effective date of January 1, 1984, and therefore requests waiver of the Commission's notice requirements.

Copies of the filing were served upon the Missouri Public Service Commission, the Kansas Corporation Commission, and the Kansas City Power and Light Company.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before March 1, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-4457 Filed 2-17-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-259-000]

Empire District Electric Co.; Filing

February 15, 1984

The filing Company submits the following:

Take notice that The Empire District Electric Company (Empire), on February 6, 1984, tendered for filing a proposed Peaking Power Purchase Contract between Empire and the Kansas Municipal Energy Agency (KMEA).

Empire states that the proposed contract provides for the sale of 17 Mw of peaking capacity and related energy from KMEA to Empire for the period beginning January 1, 1984.

Empire requests an effective date of January 1, 1984, and therefore requests waiver of the Commission's notice requirements.

Copies of the filing were served upon the Kansas Corporation Commission, and the Missouri Public Service Commission and KMEA.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before March 1, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-4458 Filed 2-17-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-260-000]

Empire District Electric Co.; Filing

February 15, 1984.

The filing Company submits the following:

Take notice that on February 6, 1984, Empire District Electric Company (Empire) tendered for filing a proposed

Peaking Power Purchase Contract between Empire and the Kansas Electric Power Cooperative, Inc. (KEPCO).

Empire states that the proposed contract provides for the sale of 90 Mw of peaking capacity and related energy from KEPCO to Empire beginning when power is available from the Southwestern Power Administration but not later than July 1, 1984.

Empire requests an effective date of January 1, 1984, and therefore requests waiver of the Commission's notice requirements.

Copies of the filing were served upon the Kansas Corporation Commission, the Missouri Public Service Commission and KEPCO.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before March 1, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-4459 Filed 2-17-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-259-004]

Kansas Gas and Electric Co.; Compliance Filing

February 15, 1984.

Take notice that on February 11, 1984, Kansas Gas and Electric Company (KG&E) submitted for filing its Compliance Report pursuant to paragraph (C) of Opinion No. 188 issued October 4, 1983.

Any person desiring to be heard or to protest this filing should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before March 9, 1984. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-4460 Filed 2-17-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. EC84-12-000]

Northern States Power Co.; Filing

February 15, 1984.

Take notice that on February 6, 1984, Northern States Power Company (NSP) tendered for filing an Application for Sale, Lease or Other Disposition, Merger or Consolidation of facilities, or for Purchase or Acquisition of Securities of a Public Utility. The Application provides for the exchange of certain utility facilities between NSP and Cooperative Power Association including the Panther substation and various utility property at the West St. Cloud, Spring Creek, and Prairie Island substations.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR §§ 385.211, 385.214). All such motions or protests should be filed on or before March 1, 1984. Protests will be considred by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-4461 Filed 2-17-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-263-000]

Oklahoma Gas and Electric Co.; Filing

February 15, 1984.

The filing company submits the following:

Take notice that on February 7, 1984, Oklahoma Gas and Electric Company (OG&E) tendered for filing an Amendatory Agreement and Service Schedule for Replacement Energy to Rate Schedule FPC No. 71, between OG&E and Western Farmers Electric Cooperative. The Service Schedule is identical to schedules OG&E has with other companies.

OG&E requests an effective date of September 1, 1983, and therefore requests waiver of the Commission's notice requirements.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NW., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before March 1, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-4462 Filed 2-17-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-262-000]

Pacific Power & Light Co.; Filing

February 15, 1984.

The filing Company submits the following:

Take notice that on February 6, 1984, Pacific Power & Light Company (PP&L) tendered for filing, Exhibit A, Load and Resource Forecast No. 8 to Service Agreement No. 3 under PP&L's FERC Electric Tariff, Original Volume No. 4 (Tariff). Service Agreement No. 3 of the Tariff provides for the sale of wholesale power and energy to the Town of Torrington (Torrington) by PP&L.

PP&L states that each year a Revised Exhibit A is submitted by Torrington to PP&L in accordance with Article 2(d) of the Contract.

Copies of the filing were supplied to the Town of Torrington and the Public Service Commission of the State of Wyoming.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before March 1, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to

the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-4463 Filed 2-17-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-261-000]

Pacific Power & Light Co.; Filing

February 15, 1984.

The filing Company submits the following:

Take notice that on February 6, 1984, Pacific Power & Light Company (PP&L) tendered for filing, Revision No. 7, dated November 17, 1983, to Exhibit A to PP&L's Rate Schedule FERC No. 123. Rate Schedule FERC No. 123 provides for Transmission Service to Tri-State Generation and Transmission Association, Inc. (Tri-State).

PP&L states that Exhibit A is revised annually by Tri-State and approved by PP&L, specifying commitments for service for a four-year rolling period.

Copies of the filing were supplied to Tri-State and the Public Service Commission of the State of Wyoming.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before March 1, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-4464 Filed 2-17-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-241-000]

Southern California Edison Co.; Filing

February 15, 1984

Take notice that on January 30, 1984, Southern California Edison Company (Edison) filed a petition requesting the Commission to waive any regulation, including the regulation pertaining to fuel adjustment clauses, that would permit Edison to treat October 9, 1983 as the effective in-service date for wholesale ratemaking treatment of San Onofre Nuclear Generating Station, Unit No. 2 ("SONGS 2").

According to Edison, SONGS 2 was released to Edison's system dispatcher on August 8, 1983. Edison states that if October 9, 1983 is used as the in-service date for SONGS 2, then energy produced from this unit from August 8, 1983 to October 9, 1983 (the "Interim Period") would be treated as test energy. Edison also states that acceptance of the October 9, 1983 in-service date would result in an adjustment to rate base for ratemaking in the future to reflect the pricing of test energy during the Interim Period and the incurrence during that period of other costs, including an amount equivalent to the appropriate Allowance for Funds Used During Construction incurred at SONGS 2. If the Commission determines that hearings on its petition are necessary, Edison also requests that the Commission consolidate this docket with Docket Nos. ER82-427-000, *et al.*, which involve Edison's proposal for pricing test energy.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with the Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before February 29, 1984. Protests will be considered by the Commission in determining the appropriate parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-4465 Filed 2-17-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RM81-19; Docket No. ST84-165, et al.]

Transcontinental Gas Pipe Line Corp.; Self-Implementing Transactions

February 15, 1984

Take notice that the following transactions have been reported to the Commission as being implemented pursuant to Part 284 of the Commission's Regulations and Sections 311 and 312 of the Natural Gas Policy Act of 1978 (NGPA). The "Recipient" column in the following table indicates the entity receiving or purchasing the natural gas in each transaction.

The "Part 284 Subpart" column in the following table indicates the type of transaction. A "B" indicates transportation by an interstate pipeline pursuant to § 284.102 of the Commission's Regulations.

A "C" indicates transportation by an intrastate pipeline pursuant to § 284.122 of the Commission's Regulations. In those cases where Commission approval of a transportation rate is sought pursuant to § 284.123(b)(2), the table lists the proposed rate and expiration date for the 150-day period for staff action. Any person seeking to participate in the proceeding to approve a rate listed in the table should file a petition to intervene with the Secretary of the Commission

A "D" indicates a sale by an intrastate pipeline pursuant to § 284.142 of the Commission's Regulations and Section 311(b) of the NGPA. Any interested person may file a complaint concerning such sales pursuant to § 284.147(d) of the Commission's Regulations.

An "E" indicates an assignment by an intrastate pipeline pursuant to § 284.163 of the Commission's Regulations and Section 312 of the NGPA.

An "F(157)" indicates transportation by an interstate pipeline for an end-user pursuant to § 157.209 of the Commission's Regulations.

A "G" indicates transportation by an interstate pipeline on behalf an another interstate pipeline pursuant to a blanket certificate issued under § 284.221 of the Commission's Regulations.

A "G(LT)" or "G(LS)" indicates transportation, sales or assignments by a local distribution company pursuant to a blanket certificate issued under § 284.222 of the Commission's Regulations.

A "G(HT)" or "G(HS)" indicates transportation, sales or assignments by a Hinshaw Pipeline pursuant to a blanket certificate issued under § 284.222 of the Commission's Regulations.

Kenneth F. Plumb,

Secretary.

Docket No.[1] and Transporter/seller	Recipient	Date filed	Subpart	Expiration date [2]	Transportation rate (¢/MMBtu)
ST84-165 Transcontinental Gas Pipe Line Corp	Consolidated Edison Co. of New York	12-01-83	B		
ST84-166 National Fuel Gas Supply Corp	Arcata Graphics	12-01-83	F(157)		
ST84-167 National Fuel Gas Supply Corp	The Stackpole Corp	12-01-83	F(157)		
ST84-168 National Fuel Gas Supply Corp	Edison International, Inc.	12-02-83	F(157)		
ST84-169 National Fuel Gas Supply Corp	Bethlehem Steel Corp	12-02-83	F(157)		
ST84-170 National Fuel Gas Supply Corp	Wilco Chemical Corp	12-02-83	F(157)		
ST84-171 National Fuel Gas Supply Corp	Kaufman's Bakery, Inc.	12-02-83	F(157)		
ST84-172 National Fuel Gas Supply Corp	TAM Ceramics, Inc.	12-02-83	F(157)		
ST84-173 National Fuel Gas Supply Corp	Roblin Industries, Inc.	12-02-83	F(157)		
ST84-174 National Fuel Gas Supply Corp	FERRO Corp	12-02-83	F(157)		
ST84-175 National Fuel Gas Supply Corp	Airco Carbon, Inc.	12-02-83	F(157)		
ST84-176 National Fuel Gas Supply Corp	Al Tech Specialty Steel	12-02-83	F(157)		
ST84-177 National Fuel Gas Supply Corp	Great Lakes Carbon Corp	12-02-83	F(157)		
ST84-178 National Fuel Gas Supply Corp	Union Carbide Corp	12-02-83	F(157)		
ST84-179 National Fuel Gas Supply Corp	Morgan Services, Inc.	12-02-83	F(157)		
ST84-180 Texas Gas Transmission Corp	Transcontinental Gas Pipe Line Corp	12-02-83	G		
ST84-181 Texas Gas Transmission Corp	LGS Intrastate, Inc.	12-02-83	B		
ST84-182 Michigan Wisconsin Pipe Line Co	Florida Gas Transmission Co	12-02-83	G		
ST84-183 Michigan Wisconsin Pipe Line Co	ENTEX, Inc.	12-02-83	B		
ST84-184 Michigan Wisconsin Pipe Line Co	Beatrice Cheese Co	12-02-83	F(157)		
ST84-185 Michigan Wisconsin Pipe Line Co	Sugar Bowl Gas Corp.	12-02-83	B		
ST84-186 Tennessee Gas Pipeline Co.	United States Steel Corp	12-02-83	F(157)		
ST84-187 Northern Natural Gas Co.	Endevco Pipeline Co.	12-02-83	B		
ST84-188 Natural Gas Pipeline Co. of America	United States Steel Corp	12-02-83	F(157)		
ST84-189 Midwestern Gas Transmission Co.	Michigan Wisconsin Pipe Line Co.	12-05-83	G		
ST84-190 Tennessee Gas Pipeline Co.	Creole Gas Pipeline Corp.	12-05-83	B		
ST84-191 Tennessee Gas Pipeline Co.	Creole Gas Pipeline Corp.	12-05-83	B		
ST84-192 Tennessee Gas Pipeline Co.	Bay State Gas Co	12-05-83	B		
ST84-193 Columbia Gulf Transmission Co	Texas Gas Transmission Corp	12-02-83	G		
ST84-194 Northern Natural Gas Co.	Cone Mills Corp. et al	12-05-83	F(157)		
ST84-195 Colorado Interstate Gas Co	Gates Rubber Co	12-05-83	F(157)		
ST84-196 Transcontinental Gas Pipe Line Corp	Consolidated Edison Co. of New York	12-05-83	B		
ST84-197 Transcontinental Gas Pipe Line Corp	Gas Transportation Corp.	12-05-83	B		
ST84-198 Transcontinental Gas Pipe Line Corp	Piedmont Natural Gas Co	12-05-83	B		
ST84-199 Transcontinental Gas Pipe Line Corp	Public Service Co. of N. Carolina	12-05-83	B		
ST84-200 Transcontinental Gas Pipe Line Corp	Eastern Shore Natural Gas Co	12-05-83	G		
ST84-201 Texas Gas Transmission Corp.	Bridgeline Gas Distribution Co.	12-05-83	B		
ST84-202 Western Slope Gas Co.	Northwest Natural Gas Co.	09-30-83	D		
ST84-203 Tennessee Gas Pipeline Co.	Creole Gas Pipeline Corp.	12-05-83	B		
ST84-204 Tennessee Gas Pipeline Co.	Texas Eastern Transmission Corp.	12-06-83	G		
ST84-205 Panhandle Eastern Pipe Line Co	Western Slope Gas Co.	12-06-83	B		
ST84-206 Tennessee Gas Pipeline Co.	Laurel Fuel Co	12-07-83	B		
ST84-207 Oklahoma Natural Gas Co	Panhandle Eastern Pipeline Co.	12-12-83	C	05-10-84	10.00
ST84-208 United Gas Pipe Line Co	City of Denham Springs, LA	12-09-83	B		
ST84-209 Transcontinental Gas Pipe Line Corp.	Valero Transmission Co	12-12-83	B		
ST84-210 Northern Natural Gas Co.	Natural Gas Pipeline Co. of America	12-12-83	G		
ST84-211 Mid Louisiana Gas Co.	City of Denham Springs, LA	12-12-83	B		
ST84-212 Consumers Power Co	Michigan Gas Storage Co.	12-12-83	C	05-07-84	85.71
ST84-213 Tennessee Gas Pipeline Co.	Creole Gas Pipeline Corp.	12-13-83	B		
ST84-214 Sea Robin Gas Pipeline Co	Natural Gas Pipeline Co. of America	12-12-83	G		
ST84-215 Panhandle Eastern Pipe Line Co	Transcontinental Gas Pipe Line Corp	12-12-83	G		
ST84-216 Transcontinental Gas Pipe Line Co	Carolina Pipeline Co.	12-13-83	B		
ST84-217 Transcontinental Gas Pipe Line Co	Lynchburg Gas Co	12-13-83	B		
ST84-218 Producer's Gas Co	Mississippi River Transmission Corp	12-13-83	D		
ST84-219 Producer's Gas Co	ENTEX, Inc.	12-13-83	D		
ST84-220 Texas Eastern Transmission Corp	New Jersey Natural Gas Co	12-14-83	B		
ST84-221 Natural Gas Pipeline Co. of America	Northern Natural Gas Co	12-14-83	G		
ST84-222 Delhi Gas Pipeline Corp	Natural Gas Pipeline Co. of America	12-14-83	C		
ST84-223 The Nueces Co	Mountain Fuel Supply Co.	12-14-83	C		
ST84-224 National Fuel Gas Supply Corp	Jackson China, Inc.	12-15-83	F(157)		
ST84-225 Natural Gas Pipeline Co. of America	Michigan Wisconsin Pipe Line Co.	12-12-83	G		
ST84-226 Mid Louisiana Gas Co.	Tennessee Gas Pipeline Co	12-13-83	G		
ST84-227 Northern Natural Gas Co.	Northern Gas Products Co	12-16-83	F(157)		
ST84-228 Columbia Gulf Transmission Co	Northern Natural Gas Co	12-16-83	G		
ST84-229 Columbia Gas Transmission Corp.	Anchor Glass Container Corp.	12-16-83	F(157)		
ST84-230 Columbia Gas Transmission Corp.	Anheuser Busch, Inc.	12-16-83	F(157)		
ST84-231 Columbia Gas Transmission Corp.	Calgon Carbon Corp	12-16-83	F(157)		
ST84-232 Columbia Gas Transmission Corp.	CertainTeed Corp	12-16-83	F(157)		
ST84-233 Columbia Gas Transmission Corp.	CertainTeed Corp	12-16-83	F(157)		
ST84-234 Columbia Gas Transmission Corp.	Corning Glass Works	12-16-83	F(157)		
ST84-235 Columbia Gas Transmission Corp.	The Faultless Rubber Co	12-16-83	F(157)		
ST84-236 Columbia Gas Transmission Corp.	General Electric Co	12-16-83	F(157)		
ST84-237 Columbia Gas Transmission Corp.	General Tire and Rubber Co	12-16-83	F(157)		
ST84-238 Columbia Gas Transmission Corp.	General Tire and Rubber Co	12-16-83	F(157)		
ST84-239 Columbia Gas Transmission Corp.	Gold Bond Building Products	12-16-83	F(157)		
ST84-240 Columbia Gas Transmission Corp.	The Goodyear Tire and Rubber Co	12-16-83	F(157)		
ST84-241 Columbia Gas Transmission Corp.	Maryland Cup Corp	12-16-83	F(157)		
ST84-242 Columbia Gas Transmission Corp.	Nevamar Corp.	12-16-83	F(157)		
ST84-243 Columbia Gas Transmission Corp.	North Metal and Chemical Co	12-16-83	F(157)		
ST84-244 Columbia Gas Transmission Corp.	PPG Industries, Inc	12-16-83	F(157)		
ST84-245 Columbia Gas Transmission Corp.	Procter and Gamble Co	12-16-83	F(157)		
ST84-246 Columbia Gas Transmission Corp.	Stolle Corp	12-16-83	F(157)		
ST84-247 Columbia Gas Transmission Corp.	Trumbull Asphalt	12-16-83	F(157)		
ST84-248 Columbia Gas Transmission Corp.	Hayes-Albion Corp	12-16-83	F(157)		
ST84-249 Columbia Gas Transmission Corp.	Anchor Glass Container Corp.	12-16-83	F		
ST84-250 Columbia Gas Transmission Corp.	Anheuser Busch, Inc.	12-16-83	F		
ST84-251 Columbia Gas Transmission Corp.	Calgon Carbon Corp	12-16-83	F		
ST84-252 Columbia Gas Transmission Corp.	CertainTeed Corp	12-16-83	F		
ST84-253 Columbia Gas Transmission Corp.	CertainTeed Corp	12-16-83	F		
ST84-254 Columbia Gas Transmission Corp.	Corning Glass Works	12-16-83	F		
ST84-255 Columbia Gas Transmission Corp.	The Faultless Rubber Co	12-16-83	F		
ST84-256 Columbia Gas Transmission Corp.	General Tire and Rubber Co	12-16-83	F		

Docket No.[1] and Transporter/seller	Recipient	Date filed	Subpart	Expiration date [2]	Transportation rate (c/MMBtu)
ST84-257 Columbia Gas Transmission Corp.	General Tire and Rubber Co.	12-16-83	F		
ST84-258 Columbia Gas Transmission Corp.	The Goodyear Tire and Rubber Co.	12-16-83	F		
ST84-259 Columbia Gas Transmission Corp.	Maryland Cup Corp.	12-16-83	F		
ST84-260 Columbia Gas Transmission Corp.	Mevamar Corp.	12-16-83	F		
ST84-261 Columbia Gas Transmission Corp.	PPG Industries, Inc.	12-16-83	F		
ST84-262 Columbia Gas Transmission Corp.	Proctor and Gamble Co.	12-16-83	F		
ST84-263 Columbia Gas Transmission Corp.	Stolle Corp.	12-16-83	F		
ST84-264 Columbia Gas Transmission Corp.	Trumbull Asphalt.	12-16-83	F		
ST84-265 Northern Natural Gas Co.	Perry Pipeline Co., Inc.	12-19-83	B		
ST84-266 Texas Eastern Transmission Corp.	Consolidated Edison Co. of New York.	12-15-83	B		
ST84-267 Texas Eastern Transmission Corp.	Consolidated Edison Co. of New York.	12-15-83	B		
ST84-268 United Gas Pipe Line Co.	Mississippi Gulf South Transmission Co.	12-19-83	B		
ST84-269 Transcontinental Gas Pipe Line Corp.	Bridgeline Gas Distribution Co.	12-19-83	B		
ST84-270 Transcontinental Gas Pipe Line Corp.	IMC Pipeline Co.	12-19-83	B		
ST84-271 Columbia Gas Transmission Corp.	Allied Corp.	12-20-83	F(157)		
ST84-272 Columbia Gas Transmission Corp.	GTE Products Corp.	12-20-83	F(157)		
ST84-273 Columbia Gas Transmission Corp.	Maryland Cup Corp.	12-20-83	F(157)		
ST84-274 Texas Gas Transmission Corp.	IMC Pipeline Co., Inc.	12-20-83	B		
ST84-275 Columbia Gulf Transmission Co.	Monterey Pipeline Co.	12-21-83	B		
ST84-276 Columbia Gas Transmission Corp.	SCM Corp.	12-21-83	F(157)		
ST84-277 Transcontinental Gas Pipe Line Corp.	Public Service Electric and Gas Co.	12-27-83	B		
ST84-278 Tennessee Gas Pipeline Co.	Entex, Inc.	12-27-83	B		
ST84-279 Tennessee Gas Pipeline Co.	Gulf South Transmission Co.	12-27-83	B		
ST84-280 Tennessee Gas Pipeline Co.	Cajun Natural Gas Co.	12-27-83	B		
ST84-281 Tennessee Gas Pipeline Co.	Mississippi Gulf Transmission Co.	12-27-83	B		
ST84-282 Tennessee Gas Pipeline Co.	Concord Natural Gas Corp.	12-27-83	B		
ST84-283 Tennessee Gas Pipeline Co.	Valley Gas Co.	12-27-83	B		
ST84-284 Channel Industries Gas Co.	Tennessee Gas Pipeline Co.	12-27-83	C		
ST84-285 Columbia Gulf Transmission Co.	United States Steel Corp.	12-27-83	F(157)		
ST84-286 Michigan Wisconsin Pipe Line Co.	Pioneer Transmission Co.	12-27-83	B		
ST84-287 Michigan Wisconsin Pipe Line Co.	Peoples Natural Gas Co.	12-27-83	B		
ST84-288 Michigan Wisconsin Pipe Line Co.	Westar Transmission Co.	12-27-83	B		
ST84-289 Transok, Inc.	Gulf South Pipeline Co.	12-23-83	C	05-20-84	27.94
ST84-290 Columbia Gas Transmission Corp.	Washington Gas Light Co.	12-29-83	B		
ST84-291 Michigan Wisconsin Pipe Line Co.	Northern Indiana Public Service Co.	12-29-83	B		
ST84-292 Michigan Wisconsin Pipe Line Co.	Northern Indiana Public Service Co.	12-29-83	B		
ST84-293 Northern Natural Gas Co.	High Plains Natural Gas Co.	12-29-83	B		
ST84-294 Louisiana Intrastate Gas Corp.	The Town of Colfax, LA.	12-30-83	C	05-28-84	20.00
ST84-295 Valero Transmission Co.	Northern Natural Gas Co.	12-30-83	C		

[FR Doc. 84-4466 Filed 2-17-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP84-197-000]

United Gas Pipe Line Co.; Application

February 15, 1984.

Take notice that on January 18, 1984, United Gas Pipe Line Company (United), P.O. Box 1478, Houston, Texas 77001, filed in Docket No. CP84-197-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of gas for a direct sale of up to 1,800 Mcf per day of gas on an interruptible basis to Standard Products Company, Inc. (Standard), an existing on-system direct industrial customer, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

United states that this sale would be performed only when United's supplies of natural gas exceed the demands of its customers for certificated firm service, taking into account storage volumes and the requirements for storage injection.

United will charge a price equal to $0.50 per Mcf plus the weighted average cost of gas per Mcf in United's system. Standard will utilize this gas at its Moss Point, Mississippi, fish processing facility in the production of fish oil.

Any person desiring to be heard or to make any protest with reference to said application should on or before March 7, 1984, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for United to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-4467 Filed 2-17-84; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPPE-FRL 2528-8]

Agency Information Collection Activities Under OMB Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 3507(a)(2)(B) of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.) requires the Agency to publish in the **Federal Register** a notice of proposed information collection requests that have been forwarded to the Office of Management and Budget (OMB) for review. The information collection requests listed are available to the public for review and comment.

FOR FURTHER INFORMATION CONTACT: David Bowers; Office of Standards and Regulations; Information Management Section (PM–223); U.S. Environmental Protection Agency; 401 M Street, SW.; Washington, D.C. 20460; telephone (202) 382–2742 or FTS 382–2742.

SUPPLEMENTARY INFORMATION:

Toxics Programs

Title: Tolerance Petitions for Pesticides on Food/Feed and New Inert Pesticides Ingredients (EPA ι0597).

Abstract: The Federal Food, Drug and Cosmetic Act authorizes EPA to establish tolerances or exemptions from tolerances for residues of pesticides and inert ingredients in or on food. To establish a tolerance, EPA requires manufacturers to provide information to support the tolerance or exemption.

Respondents: Pesticides manufacturers.

* * * * *

Comments on all parts of this notice should be sent to:

David Bowers (PM–223), U.S. Environmental Protection Agency, Office of Standards and Regulations, 401 M Street, SW., Washington, D.C. 20460; and

Wayne Leiss, Carlos Tellez or Rick Otis, Office of Management and Budget, Office of Information and Regulatory Affairs, New Executive Office Building (Room 3228), 726 Jackson Place, NW., Washington, D.C. 20503.

Dated: February 13, 1984.

Daniel J. Fiorino,

Acting Director, Regulation and Information Management Division.

[FR Doc. 84–4155 Filed 2–17–84; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL RESERVE SYSTEM

BSB Financial Corp., et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (49 FR 794) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than March 14, 1984.

A. Federal Reserve Bank of Philadelphia (Thomas K. Desch, Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105:

1. *BSB Financial Corporation,* Trenton, New Jersey; to become a bank holding company by acquiring 100 percent of the voting shares of The Broad Street National Bank of Trenton, Trenton, New Jersey. Comments on this application must be received not later than March 5, 1984.

B. Federal Reserve Bank of Chicago (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Two Rivers Bancorp, Inc.,* Prophetstown, Illinois; to become a bank holding company by acquiring 100 percent of the voting shares of The Farmers National Bank of Prophetstown, Prophetstown, Illinois, First National Bank of Manlius, Manlius, Illinois, and Tampico National Bank, Tampico, Illinois.

2. *Wolcott Bancorp,* Wolcott, Indiana; to become a bank holding company by acquiring 80 percent of the voting shares of Bank of Wolcott, Wolcott, Indiana.

Board of Governors of the Federal Reserve System, February 14, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84–4477 Filed 2–17–84; 8:45 am]

BILLING CODE 6210–01–M

Independence Bank Group, Inc., Application To Engage de Novo in Permissible Nonbanking Activities

The company listed in this notice has filed an application under § 225.23(a)(1) of the Board's Regulation Y (49 FR 794) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (49 FR 794) to commence or to engage *de novo,* either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than March 12, 1984.

A. Federal Reserve Bank of Chicago (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Independence Bank Group, Inc.,* Waukesha, Wisconsin; to engage through its *de novo* subsidiary, Independence Trust Company ("Company") in performing functions and activities of a fiduciary, agency and custodial nature, in a manner authoized by federal and state law, for the subsidiary banks of Independence Bank Group, Inc. Company will not be a bank (as the term "bank" is defined in Regulation Y). Company will also engage in: serving as the advisory company for a mortgage or a real estate investment trust; and serving as investment adviser (as defined in section 2(a)(20) of the Investment Company Act of 1940, 15 U.S.C. 80a–2(a)(20)), to an investment company

registered under that act, including sponsoring, organizing, and managing a closed-end investment company. Such trust functions are currently performed through Independence Bank Waukesha (N.A.), a subsidiary bank of Independence Bank Group, Inc. These activities would be performed in the State of Wisconsin.

Board of Governors of the Federal Reserve System, February 14, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-4478 Filed 2-17-84; 8:45 am]

BILLING CODE 6210-01-M

Norwest Corp.; Acquisition of Company Engaged in Permissible Nonbanking Activities

The organization listed in this notice has applied under § 225.23(a)(2) of (f) of the Board's Regulation Y (49 FR 794) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 USC 1843(c)(8)) and § 225.21(a) of Regulation Y (49 FR 794) to retain control of voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related in banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank or the offices of the Board of Governors not later than March 9, 1984.

A. **Federal Reserve Bank of Minneapolis** (Bruce J. Hedblom, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Norwest Corporation,* Minneapolis, Minnesota; to retain the shares of a general insurance agency acquired by its wholly-owned subsidiary, Norwest Agencies, Inc., pursuant to the authority of Section 4(c)(8)(D) if the Bank Holding Company Act of 1956, as amended. The agency was transferred to Norwwest Agencies from Applicant's Banking subsidiary, Norwest Bank Redwood Falls, N.A. These activities would be conducted from offices in Redwood Falls, serving the State of Minnesota.

Board of Governors of the Federal Reserve System, February 14, 1984

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-4476 Filed 2-17-84; 8:45 am]

BILLING CODE 6210-01-M

GENERAL SERVICES ADMINISTRATION

Agency Information Collection Under Review by the Office of Management and Budget (OMB); Organization and Direction of Work

AGENCY: Office of Policy and Management Systems, GSA.

ACTION: Notice.

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), the General Services Administration (GSA) plans to request the Office of Management and Budget (OMB) to review and approve an existing collection in use without an OMB control number.

DATE: Submit comments on this information collection before March 9, 1984.

ADDRESSES: Send comments to Franklin S. Reeder, GSA Desk Officer, Room 3235, NEOB, Washington, DC 20503, and to John F. Gilmore, GSA Clearance Officer, General Services Administration (ATRAI), Washington, DC 20405.

FOR FURTHER INFORMATION CONTACT: Victoria Moss, Office of Acquisition Policy (202-523-4799).

SUPPLEMENTARY INFORMATION:

a. Purpose of collection. The information on organization and direction of work provided by firms performing under Federal cost-reimbursement construction contracts is used to monitor the contractor with regard to performance and cost.

b. *Annual reporting burden.* This is estimated as follows: Respondents and responses 50, hours 38.

c. *Obtaining copies of proposal.* Requestors may obtain copies of the proposal from the Directives and Reports Management Branch (ATRAI), Room 3004, GS Building, Washington DC 20405 (202-566-0666).

Dated: February 9, 1984.

William W. Hiebert,

Acting Director, Information Management Division.

[FR Doc. 84-4498 Filed 2-17-84; 8:45 am]

BILLING CODE 6820-34-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

Advisory Committees; Meetings

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following National Advisory bodies scheduled to meet during the month of March 1984:

Name: Health Care Technology Study Section.

Date and Time: March 5, 1984, 8:00 a.m.

Place: The Pavilion, Party Room, 12000 Old Georgetown Road, Rockville, Maryland 20852.

Open March 5, 8:00 a.m. to 9:00 a.m.

Closed for remainder of meeting.

Purpose: The Committee is charged with the initial review of health research grant applications for Federal assistance in the program areas administered by the National Center for Health Services Research (NCHSR).

Agenda: The open session from 8:00 a.m. to 9:00 a.m. on March 5 will be devoted to a business meeting covering administrative matters, reports, and a presentation by the Director, NCHSR. The closed portion of the meeting will be devoted to review of health services research grant applications relating to the delivery, organization, and financing of health services. The closing is in accordance with the provisions set forth in section 552b(c)(6), Title 5, U.S. Code, and the Determination by the Assistant Secretary for Health, pursuant to Pub. L. 92-463.

Anyone wishing to obtain a roster of members, minutes of meetings, or other relevant information should contact Dr. Alan E. Mayers, National Center for Health Services Research, Room 1-52, Park Building, 5600 Fishers Lane, Rockville, Maryland 20857, telephone (301) 443-3091.

Name: Health Services Research Review Subcommittee.

Date and Time: March 7-8, 1984, 8:00 a.m.

Place: Linden Hill Hotel, Pinehurst Room, 5400 Pooks Hill Road, Bethesda, Maryland 20814.

Open March 7, 8:00 a.m. to 9:00 a.m.

Closed for remainder of meeting.

Purpose: The Subcommittee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Center for Health Services Research (NCHSR).

Agenda: The open session of the meeting on March 7 will be devoted to a business meeting covering administrative matters, reports, and a presentation by the Director, NCHSR. During the closed sessions, the Subcommittee will be reviewing research grant applications relating to the delivery, organization, and financing of health services. The closing is in accordance with provisions set forth in section 552b(c)(6), Title 5, U.S. Code, and the Determination by the Assistant Secretary for Health, pursuant to Pub. L. 92–463.

Anyone wishing to obtain a roster of members, minutes of meetings, or other relevant information should contact Anthony Pollitt, Ph. D., National Center for Health Services Research, Room 1–52, Park Building, 5600 Fishers Lane, Rockville, Maryland 20857, telephone (301) 443–3091.

Agenda items are subject to change as priorities dictate.

Dated: February 13, 1984.

John E. Marshall,

Director, National Center for Health Services Research.

[FR Doc. 84–4558 Filed 2–17–84; 8:45 am]

BILLING CODE 4160–17–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

[Docket No. N–84–1347]

Submission of Proposed Information Collection to OMB

AGENCY: Office of Administration, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

ADDRESS: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and should be sent to: Robert Neal, OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, D.C. 20503.

FOR FURTHER INFORMATION CONTACT: David S. Cristy, Acting Reports Management Officer, Department of Housing and Urban Development, 451 7th Street SW., Washington, D.C. 20410, telephone (202) 755–5310. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal described below for the collection of information to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the agency form number, if applicable; (4) how frequently information submissions will be required; (5) what members of the public will be affected by the proposal; (6) an estimate of the total number of hours needed to prepare the information submission; (7) whether the proposal is new or an extension or reinstatement of an information collection requirement; and (8) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Copies of the proposed forms and other available documents submitted to OMB may be obtained from David S. Cristy, Acting Reports Management Officer for the Department. His address and telephone number are listed above. Comments regarding the proposal should be sent to the OMB Desk Officer at the address listed above.

The proposed information collection requirement is described as follows:

Notice of Submission of Proposed Information Collection to OMB

Proposal: Credit Application for Property Improvement Loan
Office: Housing
Form number: HUD–56001
Frequency of submission: On Occasion
Affected public: Individuals or Households and Small Businesses or Organizations
Estimated burden hours: 63,000
Status: Extension
Contact: James L. Anderson, HUD, (202) 755–6880, Robert Neal, OMB, (202) 395–7316

Authority: Sec. 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: February 3, 1984.

Donald C. Demitros,

Acting Director, Office of Information Policies and Systems.

[FR Doc. 84–4521 Filed 2–17–84; 8:45 am]

BILLING CODE 4210–01–M

DEPARTMENT OF THE INTERIOR

Alaska Land Use Council; Notice

As required by the Alaska National Interest Lands Conservation Act (ANILCA), Pub. L. 96–487, dated December 2, 1980, Section 1201, Paragraph (h), the Alaska Land Use Council will meet at 9:00 a.m., Wednesday, March 21, 1984, in the Governor's Conference Room, Third floor, State Capitol Building, Juneau, Alaska.

The agenda will include status reports and possible recommendations on a Dalton Highway Study; Cadastral Survey; proposed Admiralty Island Monument Boundary Adjustment; Chugach Forest Management Plan; Lake Clark General Management Plan; and adoption of the Council's 1983 Annual Report.

FOR FURTHER INFORMATION CONTACT: Alaska Land Use Council, P.O. Box 100120, Anchorage, Alaska 99510, (907) 272–3422, (FTS) (907) 271–5485.

The public is invited to attend.

J. J. Simmons III,

Under Secretary.

[FR Doc. 84–4556 Filed 2–17–84; 8:47 am]

BILLING CODE 4310–10–M

Bureau of Indian Affairs

Extinguishment of Indian Claims Pursuant to the Mashantucket Pequot Indian Claims Settlement Act

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of extinguishment of Indian claims pursuant to the Mashantucket Pequot Indian Claims Settlement Act, Pub. L. 98–134, October 18, 1983.

SUMMARY: Pursuant to section 4(e) of the Mashantucket Pequot Indian Claims Settlement Act, this notice announces the extinguishment of all land and related claims of the Mashantucket Pequot Tribe and any of its members.

Notice: The Mashantucket Pequot Tribe is defined in section 3 of the Settlement Act. The Settlement was signed into law on October 18, 1983. Upon enactment of the Department of the Interior fiscal year 1984 Appropriations Act, Pub. L. 98–146, November 4, 1983, in which funds were appropriated for the Mashantucket Pequot Indian Claims Settlement and subsequently deposited in the United States Treasury, the following provisions in section 4 of the Settlement Act became effective:

Sec. 4(a) Any transfer before the date of enactment of this Act from, by, or on behalf of the Tribe or any of its members of land or natural resources located anywhere within the United States, and any transfer before the date of enactment of this Act from, by, or on behalf of any Indian, Indian nation, or tribe or band of Indians of land or natural resources located anywhere within the town of Ledyard, Connecticut, shall be deemed to have been made in accordance with the Constitution and all laws of the United States, including without limitation the Trade and Intercourse Act of 1790, Act of July 22, 1790 (ch. 33, sec. 4, 1 Stat. 137, 138), and all amendments thereto and all subsequent reenactments and versions thereof, and Congress hereby does approve and ratify any such transfer effective as of the date of said transfer.

(b) By virtue of the approval and ratification of a transfer of land or natural resources effected by subsection (a), any aboriginal title held by the Tribe or any member of the Tribe, or any other Indian, Indian nation, or tribe or band of Indians, to any land or natural resources the transfer of which was approved and ratified by subsection (a) shall be regarded as extinguished as of the date of such transfer.

(c) By virtue of the approval and ratification of a transfer of land or natural resources effected by this section, or the extinguishment of aboriginal title effected thereby, any claim (including any claim for damages for trespass or for use and occupancy) by, or on behalf of, the Tribe or any member of the Tribe or by any other Indian, Indian nation, or tribe or band of Indians, against the United States, any State or subdivision thereof or any other person which is based on—

(1) Any interest in or right involving any land or natural resources the transfer of which was approved and ratified by subsection (a) or

(2) Any aboriginal title to land or natural resources the extinguishment of which was effected by subsection (b), shall be regarded as extinguished as of the date of any such transfer.

(d) Nothing in this section shall be contrued to affect or eliminate the personal claim of any individual Indian (except for Federal common law fraud claim) which is pursued under any law of general applicability that protects non-Indians as well as Indians.

Thus section 4 extinguishes any claims of aboriginal title of the Mashantucket Pequot Indians anywhere within the United States and bars all claims based on such title. The section also extinguishes any land claims within the town of Ledyard, Connecticut arising under Federal law by any Indian tribe or individual Indian, except that any personal claim of an individual Indian which arises under any law of general applicability to non-Indians as well as Indians would not be extinguished.

In return for the extinguishment of these Indian claims, the Act authorizes appropriations to establish both economic development and land acquisition funds for the Mashantucket Pequot Tribe. These funds will be held in trust by the Secretary of the Interior. Before the Secretary may expend these monies on their behalf, section 5(d) of the Act requires that the Mashantucket Pequot Tribe execute relinguishments and releases acknowledging the extinguishment of their claims to the extent provided in sections 4 and 10 of the Act, including final judicial dismissal with prejudice of its claims.

In addition, as provided by section 5(b)(3)(B) the Mashantucket Pequot Tribe is required to submit an economic development plan to the Secretary of the Interior and the Secretary shall have sixty days in which to approve or disapprove the plan, before any such economic development funds may be expended on their behalf.

This notice is published in the exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs pursuant to 209 DM 8.

For further information on the Settlement Act contact Harry A. Rainbolt, Area Director, Eastern Area Office, Bureau of Indian Affairs, 1951 Constitution Avenue, N.W., Washington, D.C. 20245. (703) 235–2571.

Dated: February 13, 1984.

John W. Fritz,

Acting Assistant Secretary—Indian Affairs.

[FR Doc. 84-4539 Filed 2-17-84; 8:45 am]

BILLING CODE 4310-02-M

Receipt of Petition for Federal Acknowledgement of Existence as an Indian Tribe

February 13, 1984.

This is published in the exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM 8.

Pursuant to 25 CFR 83.8(a) (formerly 25 CFR 54.8(a)) notice is hereby given that the Dunlap Band of Mono Indians, Mono Tribal Council of Dunlap, c/o Florence Chaney, P.O. Box 126, Dunlap, California 93621, has filed a petition for acknowledegment by the Secretary of the Interior that the group exists as an Indian tribe. The petition was received by the Bureau of Indian Affairs on January 4, 1984. The petition was forwarded and signed by members of the group's governing body.

This is a notice of receipt of petition and does not constitute notice that the petition is under active consideration. Notice of active consideration will be by mail to the petitioner and other interested parties at the appropriate time.

Under § 83.8(d) (formerly 54.8(d)) of the Federal regulations, interested parties may submit factual or legal arguments in support of or in opposition to the group's petition. Any information submitted will be made available on the same basis as other information in the Bureau of Indian Affairs files.

The petition may be examined by appointment in the Division of Tribal Government Services, Bureau of Indian Affairs, Department of the Interior, 18th and C Streets, NW., Washington, D.C. 20242.

Kenneth Smith,

Assistant Secretary—Indian Affairs.

[FR Doc. 84-4539 Filed 2-17-84; 8:45 am]

BILLING CODE 4310-02-M

Receipt of Petition for Federal Acknowledgment of Existence as an Indian Tribe

February 13, 1984.

This is published in the exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM 8.

Pursuant to 25 CFR 83.8(a) (formerly 25 CFR 54.8(a)) notice is hereby given that the Nor-El-Muk Band of Wintu Indians of Northern California, c/o Edward Adams, P.O. Box 968, Hayfork, California 96041, has filed a petition for acknowledgment by the Secretary of the Interior that the group exists as an Indian tribe. The petition was received by the Bureau of Indian Affairs on January 5, 1984. The petitions was forwarded and signed by members of the group's governing body.

This is a notice of receipt of petition and does not constitute notice that the petition is under active consideration. Notice of active consideration will be by mail to the petitioner and other interested parties at the appropriate time.

Under § 83.8(d) formerly 54.8(d)) of the Federal regulations, interested parties may submit factual or legal arguments in support of or in opposition to the group's petition. Any information submitted will be made available on the same basis as other information in the Bureau of Indian Affairs files.

The petition may be examined by appointment in the Division of Tribal Government Services, Bureau of Indian Affairs, Department of the Interior, 18th and C Streets, NW., Washington, D.C. 20242.

Kenneth Smith,

Assistant Secretary—Indian Affairs.

[FR Doc. 84-4540 Filed 2-17-84; 8:45 am]

BILLING CODE 4310-02-M

Bureau of Land Management

[OR-35017]

Oregon: Notice of Realty Action; Recreation and Public Purposes Classification and Lease of Public Land in Klamath County, Oregon

Correction

In FR Doc. 84–2301 beginning on page 3541, in the issue of Friday, January 27, 1984, make the following correction:

In the third column, in the land description leaded "Willamette Meridian, Oregon", first line, "T.S., R. 10E." should read T. 41 S., R. 10 E.".

BILLING CODE 1505-01-M

[U-50116]

Public Lands in Uintah County, Utah; Realty Action, State Exchange

The following described lands have been determined to be suitable for an exchange with the State of Utah under section 206 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1716. The federal lands that have been identified to be suitable for disposal by exchange are:

Salt Lake Meridian Utah

T. 10 S., R. 20 E.
Sec. 13: All;
Sec. 24: N½N½, SW¼NW¼;
Sec. 25 All.
T. 10 S. R. 21.
Sec. 17: All;
Sec. 18: Lots 5, 6, E½NW¼, E½,
Sec. 21: All;
Sec. 33: All

Comprising 3,880.74 acres.

In exchange for these federal lands, the United States will acquire the title to the following lands belonging to the State of Utah:

Salt Lake Meridian, Utah

T. 9 S., R. 19 E.
Sec. 36: All.
T. 10 S., R. 19 E.
Sec. 2: All.
T. 10 S., R. 20 E.
Sec. 2: All.
T. 11 S., R. 21 E.
Sec. 2: All.
T. 11 S., R. 22 E.
Sec. 2: All.

And the mineral estate only of the following lands belonging to the State of Utah:

T. 9 S., R. 20 E.
Sec. 32: All.
T. 10 S., R. 20 E.
Sec. 32: All.

Comprising 4,544.51 acres.

The above lands will be subject to an appraisal to determine value. The listed lands may change to reflect value following the appraisal.

Upon publication of this notice, the Federal lands are hereby segregated from appropriation under the public land laws, including the mining laws..

Lands to be transferred from the United States will be subject to the following reservations:

1. A reservation of a right-of-way for ditches and canals constructed by the authority of the United States in accordance with 43 U.S.C. 945.

2. A reservation for the oil and gas.

3. All rights-of-way existing on the subject lands for the duration of the right-of-way grant.

For a period of 45 days from the date of this notice, interested parties may submit comments to the District Manager, Vernal District, 170 South 500 East, Vernal, Utah 84078.

Don Alvord,

Acting District Manager.

[FR Doc. 84-4541 Filed 2-17-84; 8:45 am]

BILLING CODE 4310-DQ-M

[U-50115]

Public Lands in Uintah County, Utah

The following described lands have been determined to be suitable for an exchange with the State of Utah under section 206 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1716. The federal lands that have been identified to be suitable for disposal by exchange are:

Salt Lake Meridian, Utah

T. 9 S., R. 22 E.
Sec. 27: All;
Sec. 28: All;
Sec. 30: Lots 1, 2, 3, 4, NE¼, E½W½, W½SE¼, NE¼SE¼;
Sec. 31: Lot 4, NE¼NW¼;
Sec. 33: All;
Sec. 34: All.
T. 10 S., R. 21 E.
Sec. 1: SW¼;
Sec. 12: S½NE¼, SE¼, W½.
T. 10 S., R. 22 E.
Sec. 3: All;
Sec. 4: All;
Sec. 5: All;
Sec. 6: All;
Sec. 7: Lots 3, 4, E½SW¼, SE¼;
Sec. 8: All;
Sec. 9: All;
Sec. 10: S½N½, NW¼NW¼, S½;
Sec. 15: N½;
Sec. 17: All.

Comprising 9,476.18 acres.

In exchange for these federal lands, the United States will acquire the title to the following lands belonging to the State of Utah:

Salt Lake Meridian, Utah

T. 9 S., R. 20 E.
Sec. 36: All.
T. 9 S., R. 21 E.
Sec. 31: Lots 3–6 inclusive, NE¼SW¼, N½SE¼;
Sec. 32: All;
Sec. 33: Lots 1, 2, 3, 4, N½S½, S½N½.
T. 9 S., R. 22 E.
Sec. 2: All;
Sec. 36: All.
T. 10 S., R. 21 E.
Sec. 4: Lots 1, 2, S½NE¼;
Sec. 36: All.
T. 10 S., R. 22 E.
Sec. 12: All;
Sec. 13: All;
Sec. 19: E½;
Sec. 20: W½;
Sec. 24: NE¼, NE¼SE¼;
Sec. 25: All;
Sec. 32: All;
Sec. 36: All.

and the mineral estate only of the following lands:

T. 9 S., R. 21 E.
Sec. 2: S½;
Sec. 16: NE¼, S½.
T. 9 S., R. 22 E.
Sec. 16: All.

Comprising 9,751.88 acres.

The above lands will be subject to an appraisal to determine value. The listed lands may change to reflect equal value following the appraisal.

Upon publication of this notice, the Federal lands are hereby segregated from appropriation under the public land laws, including the mining laws.

Lands to be transferred from the United States will be subject to the following reservations:

1. A reservation of a right-of-way for ditches and canals constructed by the authority of the United States in accordance with 43 U.S.C. 945.

2. A reservation for the oil and gas.

3. All rights-of-way existing on the subject lands for the duration of the right-of-way grant.

For a period of 45 days from the date of this notice, interested parties may submit comments to the District Manager, Vernal District, 170 South 500 East, Vernal, UT 84078.

Don Alvord,

Acting District Manager.

[FR Doc. 84-4542 Filed 2-17-84; 8:45 am]

BILLING CODE 4310-DQ-M

Minerals Management Service

Fourth Seminar on Technology Assessment and Research Program for Outer Continental Shelf Oil and Gas Operations

The Technology Assessment and Research Program, Minerals Management Service, is holding its

Fourth Seminar on March 28–29, 1984, at the National Center, Reston, Virginia.

The program consists of contract research at universities, Government laboratories, and private companies in the categories of well-control, structural inspection and monitoring, geotechnical, ice mechanics, materials, and risk assessment. The agenda for the Seminar follows:

Wednesday, March 28, 1984

Morning Session

8:00—Registration—Coffee.

8:55—Preliminary Remarks—John Gregory, Chief, Technology Assessment and Research Branch, Minerals Management Service.

9:00—Welcome—William D. Bettenberg, Director, Minerals Management Service.

9:15—Dynamic Response of Offshore Structures Subjected to Waves and Vortex Shedding—Dr. J. Kim Vandiver, Massachusetts Institute of Technology, Cambridge, Massachusetts.

New techniques have been developed for the prediction of viscous damping from waves and currents.

9:45—Reliability of Concrete Structures in The Arctic Environment—Dr. H. S. Lew, National Bureau of Standards, Washington, D.C.

An assessment has been conducted of available information on the design and preformance of concrete structures in an Arctic environment.

10:15—Coffee.

10:45—Wave Force Prediction Models for Ocean Structures—Jerome M. Dummer, Naval Civil Engineering Laboratory, Port Hueneme, Califorinia.

Wave flume experiments have been conducted to evaluate Morison-type wave force prediction models and to provide an improved data base for evaluating future wave force models.

11:15—Assessment of Uncertainties Associated with the Dynamic Behavior of Compliant Offshore Structures—Dr. Emil Simiu, National Bureau of Standards, Washington, D.C.

Errors and other uncertainties in techniques for modeling the behavior of compliant structures are estimated to develop a more rigorous understanding of structural reliability.

11:45—Development of Improved Blowout Prevention Procedures for Deepwater Drilling Operations—Dr. Ted Bourgoyne, Louisiana State University, Baton Rouge, Louisiana.

By means of the new research oil well facility at LSU, well control procedures for deepwater drilling operations are being investigated.

12:15—Lunch.

Afternoon Session

1:30—Oilspill Containment and Cleanup, The Canadian Viewpoint—Kenneth M. Meikle, Chief, Environmental Emergencies Technology Division, River Road Labboratories, Ottawa.

Review of the current state-of-practice for oilspill containment and cleanup on the Canadian Arctic and Sub-Arctic.

2:00—Subsea Collection of Oil from a Blowing Well—Dr. Jerome Milgram, Massachusetts Institute of Technology, Cambridge, Massachusetts.

Large scale field model tests have been conducted to evaluate a subsea collection system for oil which emanates from a blowing well.

2:30—Suppression of Blowout Fires by Using Water Spray—Dr. David D. Evans, National Bureau of Standards, Washington, D.C.

Results are presented on both laboratory and field experimental studies of a blow-out fire suppression technique based on thermal cooling.

3:00—Coffee.

3:30—Seafloor Earthquake Measurement System, An Overview of the SEMS Project—Dr. Henry Dodd, Sandia National Laboratories, Albuquerque, New Mexico.

SEMS is a unique instrumentation system developed for collecting seismic motion data from remote ocean floor sites. Data from a recent earthquake were, on occasion, considerably different from information provided by identical land-based monitoring equipment.

4:00—Cyclic Capacity of Tension Piles; A Perspective—Hudson Matlock, The Earth Technology Corporation, Long Beach, California.

Tension leg production platforms are vertically moored to an ocean bottom foundation which, inturn, is held in place by driven piles. The behavaior of these foundations which are subjected to large, sustained uplift and superimposed cyclic loads is discussed.

4:30—Response of Piles in Clay Soils Subject to Repeated Lateral Loading—Dr. Lymon C. Reese, University of Texas, Austin, Texas.

An advanced soil model is being developed to improve the fundamental understanding of pile/soil response under repeated lateral loading.

5:30—Social Hour.

Thursday, March 29, 1984

Morning Session

8:00—Coffee.

8:30—Flexibility Monitoring Technique for Inspecting Fixed Offshore Platforms—Dr. Sheldon Rubin, The Aerospace Corporation, Los Angeles, California.

Flexibility monitoring circumvents the need to measure harmonic frequencies necessary in conventional vibrational monitoring techniques. Recent field tests have been conducted on the Cognac and Garden Banks platforms to verify the technique.

9:00—Early Detection of Damage in Offshore Structures Using a Global Ultrasonic Inspection Technique—Dr. Joseph L. Rose, Drexel University, Philadelphia, Pennsylvania.

A microprocessor, in conjunction with an ultrasonic flaw detector, can be used as a reliable ultrasonic inspection process.

9:30—Experimental Autonomous Vehicle (EAVE) Program: Unmanned, Untethered Submersible Technology—Paul Heckman, Naval Ocean Systems Center (NOSC), San Diego, California; Dr. Robert Corell, University of New Hampshire (UNH), Durham, New Hampshire.

A collaborative program to develop technology for inspecting underwater pipelines and structures by means of robot vehicles. At NOSC, magnetometer navigation and fiber optic communications have been developed. At UNH, acoustics for both navigation and communications have been investigated. The conclusions of the projects are presented.

10:00—Coffee.

10:30—The EAVE Program continued.

11:00—Environmental Cracking of High-Strength Tension Members in Seawater—Thomas W. Crooker, Naval Research Laboratory, Washington, D.C.

The use of high-strength steels in the tendons of tension leg platforms raises questions concerning long term structural integrity because of the possibility of environmental cracking; results of an experimental study are presented.

11:30—Mechanical Properties of Multiyear Sea Ice—Dr. Gordon F. N. Cox, U.S. Army Cold Regions Research and Engineering Laboratory, Hanover, New Hamsphire.

A combined theoretical and experimental program is being conducted to determine the stress-strain relations and failure criteria for multiyear sea ice as it pertains to the design of Arctic structures.

12:00—Lunch

Afternoon Session

1:30—Ice Forces Against Arctic Offshore Structures—Dr. William Sackinger, University of Alaska, Fairbanks, Alaska.

To determine the lateral forces generated by moving sea ice, uniaxial stress sensors were installed off Seal Island to measure the far field ice forces.

2:00—Assessment of Ice Accretion on Offshore Structures—L. David Minsk, U.S. Army Cold Regions Research and Engineering Laboratory, Hanover, New Hamsphire.

Review of the current knowledge of ice accretion on offshore structures in the Arctic, to include current technology for mitigating ice buildup; the results of a recent field study are presented.

2:30—Engineering Properties of Subsea Permafrost—Edwin Chamberlain, U.S. Army Cold Regions Research and Engineering Laboratory, Hanover, New Hampshire.

Tests have been conducted on samples of subsea permafrost to assess the engineering properties unique to this material and their influence on bottom-founded structures.

3:00—Open discussion of the Technology Assessment and Research Program and MMS Offshore Operations—Mr. Richard Krahl, Deputy Associate Director for Offshore Minerals Operations.

Adjourn.

The Seminar is being held for the public without charge. Interested parties should write for invitations and technical material to Mr. Charles E. Smith, Research Program Manager, Technology Assessment and Research Branch, Minerals Management Service,

647 National Center, Reston, Virginia 22091 or call (703) 860–7865.

Dated: February 13, 1984.

John B. Rigg,

Associate Director for Offshore Minerals Management.

[FR Doc. 84–4507 Filed 2–17–84; 8:45 am]

BILLING CODE 4310–MR–M

National Park Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before February 10, 1984. Pursuant to § 60.13 of 36 CFR Part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, U.S. Department of the Interior, Washington, DC 20243. Written comments should be submitted by March 7, 1984.

Carol D. Shull,

Chief of Registration, National Register.

FLORIDA

Dade County

Miami, *Fire Station No. 4*, 1000 S. Miami Ave.
Miami, *Olympia Thegter and Office Building*, 174 E. Flager St.

IDAHO

Ada County

Foote, Mary Hallock, House Site

INDIANA

Clark County

Jeffersonville, *Louisville Municipal Bridge, Plyons and Administration Building*, Spans Ohio River between Louisville, KY and Jeffersonville, IN

KENTUCKY

Jefferson County

Louisville, *Louisville Municipal Bridge, Plyons and Administration Building*, Spans Ohio River between Louisville, KY and Jeffersonville, IN

Jessamine County

Bethel Academy (15JS80),

MINNESOTA

Hennepin County

Minneapolis, *Gethsemane Episcopal Church*, 901–905 4th Ave. S
Minneapolis, *Owre, Dr. Oscar, House*, 2625 Newton Ave. S

Hubbard County

Park Rapids, *Hubbard County Courthouse*, Court St.

Wabasha County

Lake City, *Williamson-Russell-Rahilly House*, 304 Oak St.

Washington County

Afton, *Cushing Hotel*, 3291 St. Croix Trail Ave. S

Watonwan County

Madelia, *Flanders' Block*, 30 W. Main St.

MISSISSIPPI

Coahoma County

Barner Site (22-Co-542),
Salomon (Salmon) Site,

Harrison County

Gulfport, *U.S Post Office and Customhouse*, 2421 13th St.

NEBRASKA

Lancaster County

Lincoln, *Harris House (proposed move)*, 17th and K Sts.

NORTH CAROLINA

Rockingham County

Cross Rock Rapid Sluice (Dan River Navigation System in North Carolina TR),
Dead Timber Ford Sluices (Dan River Navigation System in North Carolina TR),
Eagle Falls Sluice (Dan River Navigation System in North Carolina TR),
Gravel Shoals Sluice (Dan River Navigation System in North Carolina TR),
Jacob's Creek Landing (Dan River Navigation System in North Carolina TR),
Mayo River Sluice (Dan River Navigation System in North Carolina TR),
Roberson's Fish Trap Shoal Sluice (Dan River Navigation System in North Carolina TR),
Slink Shoal Sluice and Wing Dams (Dan River Navigation System in North Carolina TR),
Tanyard Shoal Sluice (Dan River Navigation System in North Carolina TR),
Three Ledges Shoal Sluice (Dan River Navigation System in North Carolina TR),
Wide Mouth Shoal Sluice (Dan River Navigation System in North Carolina TR),

OKLAHOMA

Creek County

Sapulpa, *U.S. Post Office*, 17 S. Elm St.

TENNESSEE

Maury County

Mt. Pleasant, *Walnut Grove*, 510 N Main St.

TEXAS

Starr County

Roma-Los Saenz, *Roma-San Pedro International Bridge*, SW of Hidalgo St. and Bravo Alley

VERMONT

Windham County

Rockingham vicinity, *Moore and Thompson Paper Mill Complex*, Bridge St.

VIRGINIA

Alexandria (Independent City)

Alexandria City Hall, 301 King St.

Prince Edward County

Farmville vicinity, *Longwood House*, Johnson Dr.

Roanoke (Independent City)

Boxley Building, 416 Jefferson St., SW

WASHINGTON

Franklin/Walla Walla Counties

Lower Snake River Archaeological District

WEST VIRGINIA

Braxton County

Napier vicinity, *Cunningham House and Outbuildings (Bulltown MRA)*, E of Napier
Napier vicinity, *Union Civil War Fortification (Bulltown Civil War Site) (Bulltown MRA)*, E of Napier

WISCONSIN

Milwaukee County

Milwaukee, *Historic Third Ward Historic District*, Bounded by the Milwaukee River, C and NW RR, and E. St. Paul and N. Jackson Sts.
Milwaukee, *State Bank of Wisconsin (Bank of Milwaukee Block)*, 210 E. Michigan St.

Polk County

St. Croix Falls, *Thompson, Thomas Henry, House*, 205 N. Adams St.

WYOMING

Crook County

Sundance, *Sundance State Bank*, 301 Main St.

Laramie County

Cheyenne, *Hynds Lodge*, Curt Gowdy State Park

Sheridan County

Dayton, *Wissler, Susan, House*, 406 Main St.

The 15-day commenting period for the following property is to be waived in order to assist in the building's preservation.

OHIO

Hamilton County

Newtown vicinity, *Harrison-Landers House (proposed move)*, School St.

[FR Doc. 84–4489 Filed 2–17–84; 8:45 am]

BILLING CODE 4310–70–M

U.S. 101 Demonstration Project, Redwood National Park, Prairie Creek Redwoods State Park; Availability of Final Environmental Impact Statement

SUMMARY: This notice announces the availability of a final environmental impact statement for the U.S. 101 Demonstration Project, Redwood National Park and Prairie Creek Redwoods State Park, in Humboldt and Del Norte Counties, California.

The statement evaluates thirteen alternatives to solve the problems of conflict and congestion on U.S. 101 in Prairie Creek Redwoods State Park. The preferred alternative calls for the construction of a 12 mile-long, four lane bypass to the east of the Prairie Creek Redwoods Park with approximately 4.5 acres of parkland required for construction of the bypass. The action complies with Executive Order 11988, Floodplain Management, and Executive Order 11990, Protection of Wetlands.

The 30-day no-action period following the Environmnental Protection Agency's notice of availability of the final EIS will end on or about March 25, 1984. Public reading copies of the final EIS are available for review at the following locations.

Office of Public Affairs, National Park Service, Department of the Interior, 18th and C Streets, N.W., Washington, D.C. 20240; Telephone: 202–343–6843.

Redwood National Park, P.O. Box SS, Arcata, California 95521, Telephone: 707–822–7611.

Division of Planning and Environmental Quality, Western Region, National Park Service, 450 Golden Gate Avenue, San Francisco, California 94102, Telephone: 415–556–5750.

California Department of Transportation, District 01 Office, P.O. Box 3700, Eureka, California 95501, Telephone: 707–442–561.

Dated: February 19, 1984.

Howard H. Chapman,

Regional Director, Western Region National Park Service.

[FR Doc. 84–4543 Filed 2–17–84; 8:45 am]

BILLING CODE 4310–70–M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–180]

Certain X-Ray Image Intensifier Tubes; Investigation

Correction

In FR Doc. 84–2764, beginning on page 4046 in the issue of Wednesday, February 1, 1984, the heading should read as it appears above.

BILLING CODE 1505–01–M

INTERSTATE COMMERCE COMMISSION

[Docket No. AB–1 (Sub-171X)]

Chicago and North Western Transportation Company—Abandonment in Polk County, IA; Exemption

Chicago and North Western Transportation Company (C&NW) filed a notice of exemption under 49 CFR Part 1152 Subpart F—*Exempt Abandonments.* The line to be abandoned is between milepost 78 at Ankeny and Des Moines at milepost 76.3, a total distance of 1.7 miles in Polk County, IA.

C&NW has certified (1) that no local or overhead traffic has moved over the line for at least 2 years and (2) that no formal complaint filed by a user of rail service on the line or a state or local governmental entity acting in behalf of such user regarding cessation of service over the line either is pending with the Commission or has been decided in favor of the complainant within the 2-year period. The Public Service Commission (or equivalent agency) in Iowa has been notified in writing at least 10 days prior to the filing of this notice. *See Exemption of Out of Service Rail Lines,* 366 I.C.C. 885 (1983).

As a condition to use of this exemption, any employees affected by the abandonment shall be protected pursuant to *Oregon Short Line R. Co.—Abandonment—Goshen,* 360 I.C.C. 91 (1979).

The exemption will be effective on March 22, 1984 (unless stayed pending reconsideration). Petitions to stay must be filed by March 2, 1984, and petitions for reconsideration, including environmental, energy and public use concerns, must be filed by March 12, 1984, with: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

A copy of any petition filed with the Commission should be sent to C&NW's representative: Anne E. Keating, One North Western Center, Chicago, IL 60606.

If the notice of exemption contains false or misleading information, the use of the exemption is void *ab initio.*

A notice to the parties will be issued if use of the exemption is conditioned upon environmental or public use conditions.

Decided: February 8, 1984.

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

James H. Bayne,

Acting Secretary.

[FR Doc. 84–4503 Filed 2–17–84; 8:45 am]

BILLING CODE 7035–01–M

[Docket No. AB–55 (Sub-103X)]

Seaboard System Railroad, Inc.—Abandonment—In Hillsborough and Manatee Counties, FL; Exemption

Seaboard System Railroad, Inc. (SBD), filed a notice of exemption for an abandonment under 49 CFR Part 1152 Subpart F—*Exempt Abandonments.* The line to be abandoned is between milepost SW–833.5 and milepost SW–854.0, a distance of approximately 20.5 miles, in Hillsborough and Manatee Counties, FL.

SBD has certified (1) that no local traffic has moved over the line for at least 2 years, and that there is no overhead traffic on the line, and (2) that no formal complaint filed by a user of rail service on the line, or a state or local governmental entity acting on behalf of such user, regarding cessation of service over the line is pending with the Commission or has been decided in favor of the complainant within the 2-year period. The Public Service Commission (or equivalent agency) in Florida has been notified in writing at least 10 days prior to the filing of this notice. *See Exemption of Out of Service Rail Lines,* 366 I.C.C. 885 (1983).

As a condition to use of this exemption, any employees affected by the abandonment shall be protected pursuant to *Oregon Short Line R. Co.—Abandonment—Goshen,* 360 I.C.C. 91 (1979).

The exemption will be effective on March 22, 1984 (unless stayed pending reconsideration). Petitions to stay the effective date of the exemption must be filed by March 2, 1984, and petitions for reconsideration, including environmental, energy and public use concerns, must be filed by March 12, 1984, with: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

A copy of any petition filed with the Commission should be sent to SBD's representative: Charles M. Rosenberger, 500 Water Street, Jacksonville, FL 32202.

If the notice of exemption contains false or misleading information, the use of the exemption is void *ab initio.*

A notice to the parties will be issued if use of the exemption is conditioned upon environmental or public use conditions.

Decided: February 13, 1984.

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

James H. Bayne,

Acting Secretary.

[FR Doc. 84-4502 Filed 2-17-84; 8:45 am]

BILLING CODE 7035-01-M

[No. MC-141265]

Transportadora de Juarez, S.A. (Ciudad Juarez, Chihuahua, Mexico)

Decided: February 9, 1984.

By a late-tendered petition applicant requests that the Commission extend the authority in Permit No. MC-141265 for a period of five years. The involved permit was issued on May 8, 1978, and technically expired on May 8, 1983. The permit covers the transportation of liquefied petroleum gas from eight points in Texas and four points in New Mexico, to the port of entry on the United States-Mexico Boundary line located at or near El Paso, TX, under continuing contract(s) with five named shippers.

In explanation of its failure to request extension of the 5-year term in a timely manner, petitioner indicates that the principals of Transportadora de Juarez are citizens of Mexico, and its states that they are not familiar with the Commission procedures involved in extending a limited-term authority. Petitioner states that it had expected a notice from the Commission prior to the expiration date of the involved permit. It further states that the principals of Transportadora were on an extended tour from May through August, 1983, and through an oversight on their part and that of their attorneys, they failed to file a timely petition for extension.

Petitioner states that it supplies 85 percent of the liquefied petroleum gas for Northern Mexico; and with the winter season approaching thousands of Mexican nationals would be without heating or cooking fuel, if this petition should be denied. Petitioner states that it has an "exemplary" traffic record and request that the petition be granted, and the authority described in its permit extended for another 5 years.

It is not clear whether Congress intended to include withdrawal of existing authority [1] as part of this moratorium. We seek comment on this question. In any event, in view of the possibility of nonrenewal, due process requires that we afford petitioner an opportunity to be heard. Thus, as a matter of law, the existing certificate continues to be valid pending our decision.

It is ordered:

The late-tendered petition is accepted for filing.

This decision will be published in the ICC and **Federal Register** with comments due on March 22, 1984.

Comments should be sent to: MC-141265, Office of the Secretary, Case Control Branch, 12th and Constitution Avenue NW., Washington, DC 20423.

By the Commission, Division 1, Commissioners Sterrett, Taylor, and Andre. Commissioner Taylor is assigned to this Division for the purpose of resolving tie votes. Since there was no tie in this matter, Commissioner Taylor did not participate.

James H. Bayne,

Acting Secretary.

Note.—This action will not significantly affect either the quality of the human environment or conservation of energy resources.

[FR Doc. 84-4501 Filed 2-17-84; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-33 (Sub-24X)]

Union Pacific Railroad Company—Abandonment—in Thomas County, KS; Exemption

Union Pacific Railroad Company (UP) has filed a notice of exemption for an abandonment under 49 CFR Part 1152 Subpart F—*Exempt Abandonments.* The line to be abandoned is a portion of UP's Plainville Branch between milepost 203.71 and milepost 203.83, a distance of approximately 0.12 mile, at Colby, Thomas County, KS.

UP has certified (1) that no local traffic has moved over the line for at least 2 years, and that there is no overhead traffic on the line, and (2) that no formal complaint filed by a user of rail service on the line, or a state or local governmental entity acting on behalf of such user, regarding cessation of service over the line either is pending with the Commission or has been decided in favor of the complainant within the 2-year period. The Public Service Commission (or equivalent agency) in Kansas has been notified in writing at least 10 days prior to the filing of this notice. *See Exemption of Out of Service Rail Lines,* 366 I.C.C. 885 (1983).

As a condition to use of this exemption, any employees affected by the abandonment shall be protected pursuant to *Oregon Short Line R. Co.—Abandonment—Goshen,* 360 I.C.C. 91 (1979).

The exemption will be effective on March 22, 1984 (unless stayed pending reconsideration). Petitions to stay the effective date of the exemption must be filed by March 2, 1984, and petitions for reconsideration, including environmental, energy and public use concerns, must be filed by March 12, 1984, with: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

A copy of any petition filed with the Commission should be sent to UP's representatives: Joseph D. Anthofer, Jeanna L. Regier, 1416 Dodge Street, Omaha, NE 68179.

If the notice of exemption contains false or misleading information, the use of the exemption is void *ab initio.*

A notice to the parties will be issued if use of the exemption is conditioned upon environmental or public use conditions.

Decided: February 13, 1984.

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

James H. Bayne,

Acting Secretary.

[FR Doc. 84-4504 Filed 2-17-84; 8:45 am]

BILLING CODE 7035-01-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[84-16]

Intend To Prepare a Draft Environmental Impact Statement

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of Intent to Prepare a Draft Environmental Impact Statement.

SUMMARY: As part of the planetary exploration program of the United States, the National Aeronautics and Space Administration (NASA) has under development the Galileo mission to conduct detailed and long term, scientific investigations of the Jupiter system. The spacecraft consists of a combined orbiter and atmospheric entry probe. The orbiter will deliver the probe which will enter the atmosphere of Jupiter and then orbit the planet of Jupiter for a period of approximately 20 months. Launch by the Space Transportation System (Space Shuttle and Centaur G Prime) is scheduled for April/May 1986.

Like a number of planetary and interplanetary spacecraft (e.g., Pioneer 10 and 11, Viking Lander, Voyager 1 and 2), the Galileo spacecraft utilizes on-board electric power by Radioisotope Thermoelectric Generators (RTG's). The

[1] Extension of this authority would otherwise be a routine action. LPG authority is typically issued only in 5-year terms. Absent safety problems, the authority is renewed. There is no safety issue and the FHA has recommended renewal.

analyses and environmental impact statements for the prior spacecraft, and analyses to date of the Galileo spacecraft, indicate that the only environmental effects of potential significance would be associated with the possible release of small amounts of plutonium 238 from the RTG's in case of launch accident or inadvertent spacecraft reentry into Earth's atmosphere accompanied by breakup of the protective containment vessel. Thus, the Galileo environmental impact statement will address this question.

Associated with the launch of this (and other) spacecraft are a number of environmental effects from the launch systems. Those resulting from the launch and landing of the Space Shuttle are detailed in the environmental impact statements for the Space Shuttle program (1978) and for the Kennedy Space Center (Revision 1979). The environmental effects of the Centaur G Prime are under study and will be treated separately.

Alternatives to the RTG power source (including solar cells, fuel cells, batteries, and chemical dynamic systems) have been explored. Although potential environmental impact would be less for these alternative systems, these systems would not meet all Galileo project requirements.

The Galileo draft environmental impact statement is expected to be released for review and comment in early 1984. Written comments or suggestions are solicited as part of the environmental impact statement scoping process.

ADDRESS: National Aeronautics and Space Administration, Code El, Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Mr. H. Mannheimer (202) 453–1602.

Dated: February 13, 1984.

John W. Boyd,

Associate Administrator for Management.

[FR Doc. 84–4479 Filed 2–17–84; 8:45 am]

BILLING CODE 7510–01–M

[84–17]

NASA Advisory Council (NAC), Space and Earth Science Advisory Committee (SESAC); Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council, Space and Earth Science Advisory Committee.

DATE AND TIME: March 7, 1984, 8:30 a.m. to 5:30 p.m.; and March 8, 1984, 8:30 a.m. to 12:30 p.m.

ADDRESS: National Aeronautics and Space Administration, Room 226A, 600 Independence Avenue SW, Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Dr. Jeffrey D. Rosendhal, Code E, National Aeronautics and Space Administration, Washington, DC 20546 (202/453–1410).

SUPPLEMENTARY INFORMATION: The NAC Space and Earth Science Advisory Committee consults with and advises the Council as a whole and NASA on plans for, work in progress on, and accomplishments of NASA's Space and Earth Science programs.

The meeting will be open to the public up to the seating capacity of the room (approximately 50 persons including Committee members and other participants). Topics under discussion at this meeting will include a status report on FY 1985 Budget/Program Progress, Results from Spacelab 1 Mission, Update on Space Station Program, Data Management at NASA, Long Range Planning, and an Overview of the Office of Aeronautics and Space Technology (OAST) Program.

Type of Meeting

Open.

AGENDA

March 7, 1984

8:30 a.m.—Introduction, Announcements, Meeting Logistics, and Other Administrative Matters.
8:45 a.m.—Status Reports on the Earth System Science Committee, Space Station Science Task Force, Science on Shuttle Study and Research and Analysis Study.
9:15 a.m.—FY 1985 Budget Status Report.
11:15 a.m.—Status Report on the Space Station Program.
1:15 p.m.—Results from Spacelab 1 Mission.
2:15 p.m.—Report on Data Management at NASA.
3:30 p.m.—Long Range Planning.
5:30 p.m.—Adjourn.

March 8, 1984

8:30 a.m.—Overview of the OAST Space Technology Program.
11:00 a.m.—General Discussion of Committee Activities and Plans for Next Meeting.
12:30 p.m.—Adjourn.

Dated: February 9, 1984.

Richard L. Daniels,

Deputy Director, Logistics Management and Information Programs Division, Office of Management.

[FR Doc. 84–4480 Filed 2–17–84; 8:45 am]

BILLING CODE 7510–01–M

NATIONAL TRANSPORTATION SAFETY BOARD

Recommendation Responses; Availability of

Recommendation Responses from:

Aviation—*Federal Aviation Administration: Jan. 26: A–81–104, –107, and –111:* The Airplane Flight Manual for the McDonnell Douglas DC–9–50 and –80 airplanes has been amended to establish procedures for handling abnormal hydraulics-out landings. *A–81–105 and –108:* The Chairman of the DC–9 Flight Standardization Board has issued a memorandum directing all DC–9 aircraft training programs to incorporate the information and problems associated with reverse thrust operation. *A–81–106, –109, and –122:* The FAA's National Simulator Evaluation Team's evaluation of the DC–9 and B–727 training simulators determined that there is no consistency in the simulator performance throughout the industry for the effect of the decrease in vertical stabilizer and rubber control effectiveness as a function of engine reverse thrust levels. If effective training is to be accomplished, then the first step would be to acquire the necessary data and then develop the mathematical models with sufficient fidelity to provide an effective basis for training for the DC–9 and B–727 airplanes. Title 14 CFR Part 121, Appendix H, specifies reverse thrust data for airplanes on which a type certificate was issued after June 1, 1980. But to have required such data for all aircraft would have been an economic burden to the industry which was not warranted in view of the training value which could be derived. Further, the capability of older simulators to incorporate new features is seriously limited by available computer capacity. *A–81–123:* Because of the simulator team's findings that the simulators are not programmed for a demonstration of directional control characteristics during landing rollout, FAA will endeavor to insure that the difficulties encountered in the reverse thrust maneuver are part of the classroom training program.

Highway—*State of Colorado: Jan. 25: H–83–52:* Governor has asked the Division of Highway Safety to continue to work with the Colorado Coalition on Child Restraints to promote the use of restraint systems and to emphasize the proper use of child safety seats.

State of Maryland: Jan. 20: H–83–52: Project KISS (Kids in Safety Seats) began in Jan. 1980 and has established 62 loaner programs in the State. Project staff provide inservice workshops and training programs. The correct use of car seats has been emphasized in Project KISS educational materials, training programs, and evaluation activities.

Project staff is planning a self-contained audio-visual training package on technical issues related to correct use and educational strategies to increase correct use rates. Project KISS will provide those individuals who conduct education and loaner programs with a reference manual of instructions for the proper use of all dynamically tested car seats.

Lieutenant Governor, State of Mississippi: Jan. 16: H–83–52: Is directing the recommendation concerning misuse of child safety seats to Senator John William Powell, Chairman, Senate Highways and Transportation Committee for his review.

Department of Public Safety, State of Alaska: Feb. 2: H–83–49 and –50: Legislation has been introduced in both the State House and State Senate concerning child passenger protection. The Alaska Highway Safety Planning Agency has also implemented public awareness programs with regard to this problem.

State of Georgia: Jan. 27: H–83–52: Office of Highway Safety has a program to provide information to medical personnel, maternal and infant health care personnel, parents, and parents-to-be on the importance of the proper use of child safety seats.

Department of Transportation, State of New York: Feb. 1: H–79–48: A median treatment conforming to the latest standards has been completed on several sections of the Grand Central Parkway, including the area where the June 8, 1979, accident occurred. This improvement will be monitored to confirm its effectiveness in eliminating the vaulting cross-over problem.

Ford Motor Company: Feb. 2: H–83–60 and –61: The Ford Tot-Guard and the Ford Infant Carrier and their correct use are fully described in specific user instructions provided with and attached to each system. These instructions include specific directions with regard to age, weight, and height, and identify safety belt and harness routing points.

Speaker of the House of Representatives, State of Utah: Dec. 28: H–83–49 and –50: A bill concerning a child restraint law will be introduced in the House Budget Session on Jan. 9, 1984.

Intermodal—*Research and Special Programs Administration: Feb. 2: I–83–4:* Agrees that preshipment inspection criteria, for drums being used to ship regulated hazardous materials, that go beyond existing criteria in 49 CFR 173.28 should be considered. Proposed certain preshipment inspection criteria for inclusion in 49 CFR 173.24 in the Advance Notice of Proposed Rulemaking in Docket No. HM–181. These criteria will be expanded in the upcoming Notice of Proposed Rulemaking in Docket No. HM–181, to require inspection for container integrity.

Marine—*U.S. Coast Guard: Jan. 24: M–81–37:* Requiring containerized dangerous cargo to be stowed near the centerline of the vessel is impractical. Such a regulation would be a severe burden on containship operations resulting in loss of revenue to carriers, delay in shipments, and disruption of port and shipboard activities without a commensurate increase in safety. *M–81–38:* Since the Coast Guard believes that stowage of containerized dangerous cargo near the centerline is impractical, it will not recommend that the International Maritime Organization adopt such a regulation.

Ohio Department of Natural Resources: Jan. 23: M–83–76 and –77: The Division of Watercraft addresses the problem of alcohol and recreational boating in media campaigns and is gathering data on the effects of alcohol and boating. Legislative action is underway that addresses the implied consent statute in regard to alcohol involvement with boating.

Pipeline—*El Paso Natural Gas Company: Jan. 26: P–83–31 through –37:* Acknowledges receipt of recommendations and will reply by Mar. 30 concerning specific actions taken at the Blanco Compressor Station and to prevent similar failures at its other stations.

Railroad—*Burlington Northern Railroad: Jan. 17: R–83–101:* Unless every train has an operable radio which is continuously monitored by head end and rear end crews, a train operating procedure requiring the use of the radio to exchange information between trains on, entering, or departing main track routes would be a hazard to railroad operations. Radios can and do fail; their broadcast range is affected by prevailing atmospheric conditions; crew member's duties do not permit continuous monitoring of the radio; and transmissions can be misinterpreted.

Elgin, Joliet and Eastern Railway Company: Feb. 6: R–83–60 and –61: Has established procedures whereby management supervisory personnel are required to observe and/or contact operating department employees as they are reporting for duty and on many occasions when they report off duty. However, these requirements, although they are strictly enforced, are not a part of any written procedures manual for management personnel.

Bessemer and Lake Erie Railroad Company: Feb. 2: R–83–60 and –61: Has established procedures whereby management supervisory personnel are required to observe and/or contact operating department employees as they are reporting for duty and on many occasions when they report off duty. However, these requirements, although they are strictly enforced, are not a part of any written procedures manual for management personnel.

Note.—Single copies of these response letters are available on written request to: Public Inquiries Section, National Transportation Safety Board, Washington, D.C. 20594. Please include respondent's name, date of letter, and recommendation number(s) in your request. The photocopies will be billed at a cost of 14 cents per page ($1 minimum charge).

H. Ray Smith, Jr.,

Federal Register Liaison Officer.

February 14, 1984.

[FR Doc. 84–4533 Filed 2–17–84; 8:45 am]

BILLING CODE 4910–58–M

Nuclear Regulatory Commission

Advisory Committee on Reactor Safeguards, Subcommittee on Braidwood Station; Meeting

The ACRS Subcommittee on Braidwood Station will hold a meeting on March 8 and 9, 1984, at the Quality Lodge, 19747 Frontage Road (at I–55, Route 50 and 52), Joliet, IL. The Subcommittee will review the application of the Commonwealth Edison Company for an operating license for the Braidwood Station. Notice of this meeting was published January 24, 1984 (49 FR 2972).

In accordance with the procedures outlined in the **Federal Register** on September 28, 1984 (48 FR 44291), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the Cognizant Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The entire meeting will be open to public attendance.

The agenda for subject meeting shall be as follows:

Thursday, March 8, 1984—8:30 a.m. until 12:30 p.m.

Friday, March 9, 1984—8:30 a.m. until the conclusion of business

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the Commonwealth Edison Company, NRC Staff, their consultants, and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant Designated Federal Employee, Mr. Elpidio Igne (telephone 202/634–1413) between 8:15 a.m. and 5:00 p.m., EST.

Date: February 15, 1984.
John C. Hoyle,
Advisory Committee Management Officer.
[FR Doc. 84-4388 Filed 2-17-84; 8:45 am]
BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards; Proposed Meetings

In order to provide advance information regarding proposed meetings of the ACRS Subcommittees and of the full Committee, the following preliminary schedule is published to reflect the current situation, taking into account additional meetings which have been scheduled and meetings which have been postponed or cancelled since the last list of proposed meetings published January 24, 1984 (49 FR 2972). Those meetings which are definitely scheduled have had, or will have, an individual notice published in the **Federal Register** approximately 15 days (or more) prior to the meeting. Those Subcommittee meetings for which it is anticipated that there will be a portion or all of the meeting open to the public are indicated by an asterisk (*). It is expected that the sessions of the full Committee meeting designated by an asterisk (*) will be open in whole or in part to the public. ACRS full Committee meetings begin at 8:30 a.m. and Subcommittee meetings usually begin at 8:30 a.m. The time when items listed on the agenda will be discussed during full Committee meetings and when Subcommittee meetings will start will be published prior to each meeting. Information as to whether a meeting has been firmly scheduled, cancelled, or rescheduled, or whether changes have been made in the agenda for the March 1984 ACRS full Committee meeting can be obtained by a prepaid telephone call to the Office of the Executive Director of the Committee (telephone 202/634-3267, ATTN: Barbara Jo White) between 8:15 a.m. and 5:00 p.m., Eastern Time.

ACRS Subcommittee Meetings

Quality and Quality Assurance in Design and Construction, February 24, 1984, Washington, DC. The Subcommittee will have a closed meeting to review and discuss with the NRC Staff its draft report to Congress on Quality Assurance during construction of nuclear power plants (report required by Pub. L. 97-415, NRC Authorization Act, Section 13). Notice of this meeting was published February 2, 1984.

**Reactor Radiological Effects*, February 24, 1984, Washington, DC. The Subcommittee will review GPU Nuclear Corporation's cleanup plans for Three Mile Island (TMI) Nuclear Power Station Unit 2 and FEMA's report for recent TMI radiological emergency exercises. Notice of this meeting was published February 7, 1984.

**Qualification Program for Safety-Related Equipment*, February 29, 1984, Washington, DC. The Subcommittee will review the status of Generic Issue A-46, "Seismic Qualification of Equipment for Operating Reactors" and review details of the NRC Electrical Equipment Qualification and Plant Aging Research Programs. Notice of this meeting was published February 7, 1984.

**Braidwood Nuclear Power Plant*, March 8 and 9, 1984, Joliet, IL. The Subcommittee will review the application of the Commonwealth Edison Company for an operating license.

**Reactor Operations*, March 13, 1984, Washington, DC. The Subcommittee will review a differing professional opinion (DPO) related to the Westinghouse Safety Parameter Display Systems (SPDS).

**Maintenance Practices and Procedures*, March 14, 1984, Washington, DC. The Subcommittee will review the current status of maintenance practices and procedures for nuclear power reactors.

**Reliability and Probabilistic Assessment*, March 14, 1984, Washington, DC. The Subcommittee will review the revised PRA reference document.

**Safety, Philosophy, Technology, and Criteria*, March 14, 1984, Washington, DC. The Subcommittee will meet with NRC Management and discuss with them their perception of the risk which they associate with a selected collection of recent NRC decisions and the basis on which this level of risk is considered to be acceptable.

**Combined Emergency Core Cooling Systems (ECCS) and Decay Heat Removal*, March 20 and 21, 1984, Washington, DC. The Subcommittee will discuss the status of feed-and-bleed capability in PWRs.

**ACRS Seminar on Probabilistic Risk Assessment*, March 22 and 23, 1984, Washington, DC. A seminar will be held on the state-of-the-art of probabilistic risk assessment.

**Class 9 Accidents*, March 30, 1984, Washington, DC. The Subcommittee will discuss the final Severe Accident Policy Statement.

**Extreme External Phenomena*, April 4, 1984, Washington, DC. The Subcommittee will review the generic methodology for developing design basis severe winds for SEP plants and to review the specific application to Ginna.

**Metal Components*, April 19 and 20, 1984, Washington, DC. The Subcommittee will discuss reactor coolant water chemistry and its effects on material behavior, review the status of pressurized thermal shock and discuss BWR pipe cracking matters.

**Reactor Radiological Effects*, Date to be determined (late April), Morris IL. The Subcommittee will review Dresden decontamination plan.

**AC/DC Power Systems Reliability*, Date to be determined, Washington, DC. The Subcommittee will discuss the status of the NRC Staff actions on Generic Issue B-56, "Diesel Reliability," and Generic Issue A-30, "Adequacy of Safety-Related DC Power Supplies" and Task Action A-44, "Station Blackout."

**Emergency Core Cooling Systems*, Date to be determined, Washington, DC. The Subcommittee will continue the review of the joint NRC/B&W/EPRI integral test program.

Westinghouse Water Reactors, Date to be determined, Washington, DC. The Subcommittee will continue pre-Preliminary Design Approval review of Westinghouse Advanced Pressurized Water Reactor. This meeting will be closed.

**Regulatory Activities*, Date to be determined, Washington, DC. The Subcommittee will review Regulatory Guide 1.35, Rev. 3, "Inservice Inspection of Ungrouted Tendons in Prestressed Concrete Containment Structures;" Regulatory Guide 1.35.1, "Determining Prestressing Forces for Inspection of Prestressed Concrete Containments;" Regulatory Guide 1.12, Rev. 2, "Seismic Instrumentation;" and proposed general revisions to Appendix J to 10 CFR 50, "Primary Reactor Containment Leakage Testing for Water-Cooled Power Reactors."

**River Bend Nuclear Power Plant*, Date to be determined, St. Francisville, LA. The Subcommittee will review the application of the Gulf States Utilities for an operating license.

ACRS Full Committee Meeting

March 15-17, 1984: Items are *tentatively* scheduled.

*A. *NRC Enforcement Policy*—Proposed revised general statement of policy and procedure for enforcement actions.

*B. *Proposed Containment Guidelines*—Proposed NRC Task Action Plan, Containment Performance Guidelines.

*C. *Quality Assurance/Quality Control*—Proposed NRC initiatives to response to Public Law 97-415.

*D. *Consideration of Severe Accidents*—Proposed NRC severe accident policy statement.

*E. *Braidwood Station Units 1 and 2*—Proposed operating license for this station.

*F. *NRC Office of State Programs*—Briefing regarding the activities of the NRC Office of State Programs.

*G. *BWR System Integrity*—Report by NRC Staff regarding status of NRC activities regarding pipe cracking in BWR cooling systems.

*H. *Meeting with NRC Commissioners* (tentative)—Topics to be identified.

*I. *Maintenance Practices and Procedures*—Briefing regarding foreign and U.S. maintenance policies and practices.

*J. *Differing Professional Opinion*—Differing professional opinion of Mr. R. B. A. Licciardo regarding the Westinghouse design Safety Parameter Display System.

*K. *ACRS Subcommittee Activities*—Reports of designated ACRS subcommittees regarding ongoing activities including seismic qualification of safety related equipment, and emergency planning at TMI–1.

April 5–7, 1984—Agenda to be announced.

May 10–12, 1984—Agenda to be announced.

Dated: February 15, 1984.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 84–4557 Filed 2–17–84; 8:45 am]

BILLING CODE 7590–01–M

Advisory Committee on Reactor Safeguards, Subcommittee on Qualification Program for Safety-Related Equipment; Date Change

The ACRS Subcommittee on Qualification Program for Safety-Related Equipment scheduled for February 22, 1984 has been changed to Wednesday, February 29, 1984, Room 1046, 1717 H Street, NW, Washington, DC. The Subcommittee will review the status of Generic Issue A–46, "Seismic Qualification of Equipment for Operating Reactors" and review details of the NRC Electrical Equipment Qualification and Plant Aging Research Programs.

All other items regarding this meeting remain the same as announced in the **Federal Register** published Tuesday, February 7, 1984 (49 FR 4569).

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant Designated Federal Employee, Mr. Paul Boehnert (telephone 202/634–3267) between 8:15 a.m. and 5:00 p.m., EST.

Dated: February 14, 1984.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 84–4555 Filed 2–17–84; 8:45 am]

BILLING CODE 7590–01–M

Documents Containing Reporting or Recordkeeping Requirements; Office of Management and Budget Review

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of the Office of Management and Budget review of information collection.

SUMMARY: The Nuclear Regulatory Commission has recently submitted to the Office of Management and Budget (OMB) for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

1. Type of submission, new, revision or extension: Extension.
2. The title of the information collection: 10 CFR Part 31—General Domestic Licenses for Byproduct Material.
3. The form number if applicable: Not applicable.
4. How often the collection is required: Reports are submitted as events occur. Registration Certificates may be submitted at any time. Changes to the information on the Registration certificate are submitted as they occur.
5. Who will be required or asked to report: All persons desiring to own byproduct material and persons desiring to possess byproduct material in certain items.
6. An estimate of the number of responses: 653.
7. An estimate of the total number of hours needed to complete the requirement or request: 799.
8. An indication of whether Section 3504(h), Pub. L. 96–511 applies: Not applicable.
9. Abstract: 10 CFR Part 31 establishes general licenses for the possession and use of byproduct material in certain items and a general license for ownership of byproduct material.

Copies of the submittal may be inspected or obtained for a fee from the NRC Public Document Room, 1717 H Street, N.W., Washington, DC 20555.

Comments and questions should be directed to the OMB reviewer, Jefferson B. Hill, (202) 395–7340.

The NRC Clearance Officer is R. Stephen Scott, (301) 492–8585.

Dated at Bethesda, Maryland, this 14th day of February 1984.

For the Nuclear Regulatory Commission.

Patricia G. Norry,

Director, Office of Administration.

[FR Doc. 84–4550 Filed 2–17–84; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–348]

Alabama Power Co.; Granting of Relief From ASME Code Requirements

The U.S Nuclear Regulatory Commission (the Commission) has granted relief from certain requirements of the ASME Code, Section XI, "Rules for Inservice Inspection of Nuclear Power Plant Components," to the Alabama Power Company, which revised the inservice inspection program for the Joseph M. Farley Nuclear Plant, Unit No. 1, located in Houston County, Alabama. The ASME Code requirements are incorporated by reference into the Commission's Rules and Regulations in 10 CFR Part 50. The relief is effective as of February 10, 1984.

This action provides additional reliefs from that granted on September 22, 1983, from performing volumetric, surface and visual examinations of the welds on certain class 1, 2 and 3 piping and components and certain hydrostatic pressure tests. Alternate examinations and tests have been proposed and accepted.

The request for relief complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the letter granting relief and accompanying Safety Evaluation.

The Commission has determined that the granting of this relief will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with this action.

For further details with respect to this action, see (1) the letters from Alabama Power Company dated January 28, 1983 and January 23, 1984, (2) the letter to Alabama Power Company dated February 10, 1984, (3) the Commission's

related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the George S. Houston Memorial Library, 212 W. Burdeshaw Street, Dothan, Alabama 3603. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 10th day of February 1984.

For the Nuclear Regulatory Commission.

Steven A. Varga,

Chief, Operating Reactors, Branch No. 1, Division of Licensing.

[FR Doc. 84-4546 Filed 2-17-84; 8:45]

BILLING CODE 7590-01-M

[Docket Nos. 50-424 and 50-425]

Georgia Power Co., and Oglethorpe Power Corp., Municipal Electric Authority of Georgia; City of Dalton, Georgia, Issuance of Amendments to Construction Permits

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 4 to Construction Permit No. CPPR-108 and Amendment No. 4 to Construction Permit No. CPPR-109. The amendments authorize transfer of an additional 5% ownership interest in the facilities from Georgia Power Company to the Municipal Electric Authority of Georgia. Georgia Power Company has sole responsibility for design, construction, and operation of the facilities, which are located in Burke County, Georgia. The amendments are effective as of the date of issuance.

The ownership interests of the applicants are now as follows:

Owner	Shares (percent)
Georgia Power Company	45.7
Oglethorpe Power Corporation	30.0
Municipal Electric Authority of Georgia	22.7
City of Dalton, Georgia	1.6

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations. The Commission has made appropriate findings as required by the Act and the Commission's regulations in 10 CFR Chapter I, which are set forth in the amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

For further details with respect to the action, see (1) the application for amendments dated October 14, 1983, (2) Amendments No. 4 to Construction Permit Nos. CPPR-108 and CPPR-109, (3) and the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. 20555, and at the Burke County Public Library, Fourth Street, Waynesboro, Georgia 30830. In addition, a copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing, Office of Nuclear Reactor Regulation.

Dated at Bethesda, Maryland, this 13th day of February 1984.

For the Nuclear Regulatory Commission.

Elinor G. Adensam,

Chief, Licensing Branch No. 4 Division of Licensing.

[FR Doc. 84-4547 Filed 2-17-84; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-275]

Pacific Gas and Electric Co.; Diablo Canyon Nuclear Power Plant, Unit 1, Exemption

I

The Pacific Gas & Electric Company (the licensee) is the holder of Facility Operating License No. DPR-76 (the license), dated September 22, 1981, which authorizes fuel loading and operation of the Diablo Canyon Nuclear Power Plant, Unit 1 located in San Luis Obispo County, California, at five percent power (166.9 megawatts thermal).[1] This license provides, among other things, that it is subject to all rules, regulations and Orders of the Commission now or hereafter in effect.

II

Section 50.7(e)(3)(i) of 10 CFR Part 50 requires the licensees of nuclear power reactors to submit an Updated Final Safety Analysis Report (UFSAR) within 24 months of either July 22, 1980, or the date of issuance of the operating license, whichever is later. The above regulation would have required submittal of the UFSAR for Diablo Canyon Unit 1 by September 22, 1983.

Accordingly, by letters dated August 23, 1983 and December 9, 1983, Pacific Gas & Electric Company requested a temporary exemption from the requirements of § 50.71(e)(3)(i) of 10 CFR Part 50 because the required submittal date falls near the expected completion of the Design Verification Program. Because of the continuing delays in the completion of the Design Verification efforts, the licensee requested that the submittal date of the Diablo Unit 1 UFSAR be extended approximately one year beyond the regulation filing date. This would permit the UFSAR to more accurately reflect the design of the unit after completion of the Design Verification Program. In addition, the licensee will document in the UFSAR all safety evaluations performed by the licensee in support of its conclusion in requested license amendments that the changes did not involve an unreviewed safety question or safety evalution. The staff's evalution of the activities associated with the Design Verification Program is presented in Supplements 18, 19 and 20 to the staff's Safety Evaluation Report (SER) for Diablo Canyon (NUREG-0675). The staff has reviewed the licensee's request for an extension of the date for submitting the UFSAR and has concluded that issuance of this exemption will have no effect on plant safety. Further, this action will not endanger life and property and good cause has been shown to support the exemption. Therefore, a one year exemption from the date of compliance is acceptable.

III

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12, an exemption is authorized by law and will not endanger life or property or the common defense and security and is otherwise in the public interest. Therefore, the Commission hereby approves the following exemption from compliance with the September 22, 1983, date for submitting an UFSAR:

A revision of the original FSAR containing those original pages that are still applicable plus new replacement pages shall be filed by September 22, 1984. This revision shall bring the FSAR up to date as of a maximum of 6 months prior to the date of filing the revision. Subsequent revisions shall be filed annually and shall be in compliance with § 50.71(e) of 10 CFR Part 50.

The NRC staff has determined that the granting of this exemption will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4), an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with this action.

Dated at Bethesda, Maryland, this 12th day of February 1984.

[1] On November 19, 1981, the Commission suspended the license pending satisfactory completion of a Design Verification Program.

For the Nuclear Regulatory Commission.

Darrell G. Eisenhut,

Director, Division of Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 84-4568 Filed 2-17-84; 8:45 am]

BILLING CODE 7590-01-M

[NUREG-0800]

"Standard Review Plan for the Review of Safety Analysis Reports for Nuclear Power Plants", Issuance and Availability for Comment; Proposed Revision 6 to SRP Section 6.2.1.1.C, NUREG-0978, "Mark III LOCA-Related Hydrodynamic Load Definition and Regulation Analysis"

The U.S. Nuclear Regulatory Commission (NRC) has published proposed revision 6 to Section 6.2.1.1.C, "Pressure-Suppression Type BWR Containments" of NUREG-0800, "Standard Review Plan for the Review of Safety Analysis Reports for Nuclear Power Plants," LWR Edition (SRP).

The proposed revision consists of SRP Section 6.2.1.1.C, Rev. 6; the supporting Regulatory (value/impact) Analysis; and the technical document NUREG-0978, "Mark III LOCA related Hydrodynamic Load Definition". This revision incorporates the resolution of generic issue B-10, "Behavior of Mark III Containments." The guidelines/acceptance criteria incorporated into the SRP section are detailed in Appendix C to NUREG-0978 and implementation guidelines for LOCA-Related Mark III Containment Pool Dynamic loads are identified in section 4 of NUREG-0978. All changes to SRP Section 6.2.1.1.C resulting from the resolution of this generic issue and a few editorial changes are identified by a line in the margin of the revised SRP section.

Comments are being solicited from interested organizations, groups and individuals. The staff will evaluate the comments received, and address them, as appropriate, in the final documents.

Copies of the "For Comment" documents will be available after February 24, 1984. Copies will be sent directly to utilities, utility industry groups and associations and environmental and public interest groups. Other copies will be available for review at the NRC Public Document Room, 1717 H Street, NW, Washington, D.C., and the Commission's Local Public Document Rooms located in the vicinity of nuclear power plants. Addresses of these Local Public Document Rooms can be obtained from the Chief, Local Public Document Room Branch, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, telephone (301) 492-7536.

Comments should be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch, by May 1, 1984.

Dated at Bethesda, Maryland, this 13th day of February 1984.

For the Nuclear Regulatory Commission.

Edson G. Case,

Acting Director, Office of Nuclear Reactor Regulation.

[FR Doc. 84-4551 Filed 2-17-84; 8:45 am]

BILLING CODE 7590-01-M

[Docket No: 040-00299, License No: SUA-648, EA 83-108]

Union Carbide Corp.; Order Imposing Civil Monetary Penalties

I

Union Carbide Corporation, Metals Division, P.O. Box 1029, Grand Junction, Colorado (the "licensee") is the holder of License No. SUA-648 (the "license") issued by the Nuclear Regulatory Commission (the "NRC"). License No. SUA-648 authorizes the possession of source material for milling operations of yellowcake and is due to expire January 31, 1986.

II

An inspection of the licensee's activities under its license was conducted during the period August 23-25, 1983. As a result of the inspection, it appears that the licensee had not conducted its activities in full compliance with the conditions of its license. The results of the inspection were discussed with licensee representatives during an enforcement conference on September 21, 1983. The licensee responded to violations discussed during this meeting in a letter dated September 26, 1983. A written Notice of Violation and Proposed Imposition of Civil Penalties was served upon the licensee by letter dated November 3, 1983. This Notice stated the nature of the violations, the provisions of its license conditions which the licensee had violated, and the amount of civil penalties proposed. An answer dated December 9, 1983 to the Notice of Violation and Proposed Imposition of Civil Penalties was received from the licensee.

III

Upon consideration of the answers received and the statements of fact, explanation, and arguments for remission or mitigation of the proposed civil penalties contained therein, as set forth in the Appendix to this Order, the Director of the Office of Inspection and Enforcement has determined that the penalties proposed for the violations designated in the Notice of Violation and Proposed Imposition of Civil Penalties should be imposed.

IV

In view of the foregoing and pursuant to Section 234 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2282, Pub. L. 96-295) and 10 CFR 2.205, it is hereby ordered that: The licensee pay civil penalties in the total amount of Four Thousand Dollars within 30 days of the date of this Order, by check, draft, or money order, payable to the Treasurer of the United States, and mailed to the Director of the Office of Inspection and Enforcement, USNRC, Washington, D.C. 20555.

V

The licensee may, within 30 days of the date of this Order, request a hearing. A request for hearing shall be addressed to the Director, Office of Inspection and Enforcement, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. A copy of any request for hearing shall also be sent to the executive Legal Director at the same address. If a hearing is requested, the Commission will issue an Order designating the time and place of hearing. Upon failure of the licensee to request a hearing within 30 days of the date of this Order, the provisions of this Order shall be effective without further proceedings and, if payment has not been made by that time, the matter may be referred to the Attorney General for collection.

In the event the licensee requests a hearing as provided above, the issues to be considered at such hearing shall be:

(a) Whether the licensee violated NRC requirements set forth in the Notice of Violation and Proposed Imposition of Civil Penalties, as modified by the Appendix to this Order; and

(b) Whether, on the basis of such violations, this Order should be sustained.

Dated at Bethesda, Maryland, the 10th day of February 1984.

For the Nuclear Regulatory Commission.

Richard C. DeYoung,

Director, Office of Inspection and Enforcement.

Appendix.—Evaluations and Conclusions

For each violation identified in the Notice of Violation (dated November 3, 1983) the original violation is restated and the NRC's evaluation and conclusion regarding the licensee's response (in letters dated September 26,

1983 and December 9, 1983) to each item is presented.

Item 1

Statement of Violation

License Condition 22 requires either hourly checks to verify operation of the yellowcake dryer scrubber or use of an audible alarm to signal system failure. Use of an audible alarm requires that its function be checked daily.

Contrary to this requirement, though the licensee had chosen the option of using an audible alarm, its function had not been checked on a daily basis since August 1982.

Evaluation and Conclusion

The licensee has admitted the violation and has identified no mitigating circumstances.

Item 2

Statement of Violation

License Condition 25 requires, in part, that all radiation monitoring, sampling, and detection equipment shall be recalibrated after each repair and as recommended by the manufacturer or at least semiannually, whichever is more frequent.

Contrary to this requirement:

a. Instrumentation used to analyze radon daughter samples had not been properly calibrated since August 1982.

b. Instrumentation used to perform gamma exposure rate measurements at the mill had not been calibrated from March 1982 to February 1983.

Evaluation and Conclusion

The licensee has denied the first part of the violation on the basis that the instrumentation used to analyze radon daughter samples had been calibrated by the Mine Safety and Health Administration (MSHA) and later "checked against a low level source" by the licensee.

The NRC inspection examined the licensee's calibration records and concluded that the calibration did not meet the requirements of License Condition 25.

The calibration by MSHA was performed at a level more than 200 times that of the ambient radon levels to be measured by the device. Thus, this calibration did not demonstrate the instrument's accuracy in the lower ranges for which it was used. The licensee's "check" of its radon instrumentation against a low level source is not considered adequate to meet the requirements of License Condition 25 since a check of an instrument is not as extensive as a calibration.

The licensee has admitted the remainder of the violation regarding failure to calibrate gamma exposure rate instrumentation and has identified no mitigating circumstances. Therefore, the information presented does not provide an adequate basis for modification or withdrawal of this violation.

Item 3

Statement of Violation

License Condition 30 requires, in part, that written procedures shall be established for nonoperational activities to include in-plant and environmental monitoring, bioassay analysis, and instrument calibrations. All written procedures shall be reviewed and approved in writing by the radiation safety officer before implementation and whenever a change in procedure is proposed.

Contrary to these requirements:

a. Procedures had not been established for the following activities:

(1) Determination of exposure of uranium mill workers to airborne radionuclides.

(2) Conversion of fixed alpha contamination survey data to units of measurement specified in License Annex A.

(3) Administrative control and frequency specification for instrument calibration.

(4) Laboratory fluorometry operations including calibration standard preparation, and sample dilution.

b. Written procedures had not been approved in writing by the radiation safety officer.

Evaluation and Conclusion

The licensee has admitted all but a small portion of this violation. The licensee contests the NRC claim that procedures had not been established for laboratory fluorometry operations including calibration standard preparation, and sample dilution. NRC agrees that the licensee had some guidance on laboratory fluorometry operations, but this guidance was inadequate concerning calibration standard preparation and sample dilution because, as the licensee admits in its response, the guidance was "difficult to read and interpret." Therefore, it did not meet the license requirements.

The NRC considers this a valid violation and does not consider the licensee's response to provide a basis for withdrawal of this violation.

Item 4

Statement of Violation

License Condition 31 requires, in part, that administrative offices shall be surveyed for surface contamination and that survey results shall be compared with limits specified in License Annex A. License Annex A specifies limits for both fixed and removable contamination.

Contrary to this requirements, surveys for fixed contamination had not been performed in administrative offices since August 1982.

Evaluation and Conclusion

The licensee has admitted the violation and has identified no mitigating circumstances.

Item 5

Statement of Violation

License Condition 42(i) issued June 30, 1982, requires, in part, that the licensee shall submit by May 1, 1983, for review and approval in the form of a license amendment, a detailed plan for: (1) a lined evaporation pond for use in seepage and surface water collection, and (2) the collection and rerouting of such water seepage to the mill circuit.

Contrary to this requirement, a plan had not been submitted at the time of the inspection on August 23, 1983.

Evaluation and Conclusion

The licensee has admitted the violation and has identified no mitigating circumstances.

Item 6

Statement of Violation

License Condition 53(d) requires that slurry transport lines and lines from the A–9 pit shall be examined monthly using an ultrasonic device at locations where a rupture of the pipe could be expected to affect the stability of an embankment.

Contrary to this requirement, only one examination was performed since February 1983.

Evaluation and Conclusion

The licensee has admitted the violation and has identified no mitigating circumstances.

Item 7

Statement of Violation

License Condition 56 requires, in part, that the licensee shall implement the environmental monitoring program summarized in Table 6.9 of the Final Environmental Statement related to the Operation of Gas Hills Uranium Projects (NUREG–0702) and shall provide at least

semiannual documented management audits to determine the adequacy of program implementation.

Contrary to this requirement:

a. Although Table 6.9 stipulates that the yellowcake effluent stack shall be sampled quarterly, this stack was sampled only twice during 1982.

b. Semiannual audits have not been performed since August 1982.

Evaluation and Conclusion

The licensee has admitted that it did not conduct the required number of samples and audits in 1982, but asserted that it had conducted the required semiannual audit in 1983. Because of the licensee's admitted failure to comply with the requirements in 1982, a violation of the requirement did occur.

Item 8

Statement of Violation

License Condition 38 requires, in part, that results of semiannual fire drills, including remedial actions, shall be documented.

Contrary to this requirement, results of drills conducted during August 1982 and March 1983 were not documented.

Evaluation and Conclusion

The licensee has admitted the violation and has identified no mitigating corrective action.

Evaluation and Conclusion With Respect to Licensee's Request for Mitigation of the Proposed Civil Penalty

The licensee's response to the eight violations above does not provide a sufficient basis for mitigation of the proposed penalty. In fact, UCC has admitted that all or part of the above mentioned violations occurred, and except for a portion of one violation, the NRC believes that the remainder of the violations occurred as originally stated.

In seeking mitigation or remission of the proposed penalty, the licensee asks that the violations be reclassified as Severity Level IV or V violations. In the licensee's view, the violations do not indicate a breakdown in management's oversight and control of licensed activities and, hence, do not warrant the classification in the aggregate as a Severity Level III problem. As further bases for mitigation, the licensee points to the fact that it initiated corrective actions for the violations and argues that it would have detected the violations during future audits.

If they were viewed in isolation, the violations might well be classified individually at Severity Level IV or V under the enforcement policy. However, the number of violations and the length of time over which they occurred suggest that programmatic deficiencies exist in Union Carbide's implementation of its radiation protection program. The nature, number, and duration of the violations warrant categorization in the aggregate as a Severity Level III problem.

The licensee's claim that it would have detected a number of the violations during future audits is speculative at best. In point of fact, the licensee's audit program did not detect the violations identified in the Notice of Violation. While the enforcement policy permits mitigation of civil penalties for self-identification and prompt reporting of violations by licensees, mitigation is not appropriate here for the possibility that the licensee might have discovered some of the violations on its own.

The staff acknowledges that the licensee has taken corrective action for the violations. However, corrective action is always required to correct violations. In this instance, the licensee's corrective actions were not unusually prompt and extensive, but are only those that the NRC would expect the licensee to take.

Conclusion

The licensee has not provided an adequate basis for mitigation of the proposed civil penalty. Accordingly, the civil penalty remains at Four Thousand Dollars.

[FR Doc. 84-4549 Filed 2-17-84; 8:45 am]
BILLING CODE 7590-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-20645; File No. SR-PSE-84-03]

Self-Regulatory Organizations; Proposed Rule Change by the Pacific Stock Exchange Inc., Relating to Options Allocation Plan

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on February 2, 1984, the Pacific Stock Exchange, Incorporated filed with the Securities and Exchange Commission the proposed rule change as described in Items 1, 11 and 111 below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Pacific Stock Exchange Incorporated ("PSE" or the "Exchange") proposes to amend the agreement previously entered into by the options exchanges and approved by the Securities and Exchange Commission ("SEC") on May 30, 1980 (see SEC Release No. 34-16863), and as amended on June 1, 1981 (see SEC Release No. 34-17833) and February 2, 1982 (see SEC Release No. 34-18464), establishing procedures for the selection and replacement of underlying securities for options trading. This agreement is also referred to as the "Allocation Plan". The American Stock Exchange, Inc., ("AMEX") the Chicago Board Options Exchange, ("CBOE"), the PSE and the Philadelphia Stock Exchange ("PHLX") have agreed to adopt similar amendments to the Allocation Plan to implement a new random selection system for options lotteries. The Amex and the Phlx filed their amendments with the Commission on January 16, 1984 and February 1, 1984, respectively.

The text of the proposed amendments to the Allocation Plan is set forth below. Italics indicate new language; brackets indicate deleted language.

A. through E.—No change.

F. At any time after the initial allocation, further allocations shall be held at the request of one or more options exchanges, [continuing the sequence described in A.5] whereby the four participating options exchanges would be able to select any unallocated eligible underlying stock [including new underlying stock becoming eligible for options trading by the occurrence of events or because an options exchange that had previously been allocated an underlying stock failed to commerce the trading of options with respect thereto within six months of the date of selection] under the procedures set forth as follows:

1. No change.

2. Each of the exchanges shall have 30 calendar days from the date of notification of a call for an allocation to provide the arbitrator with a list of desired underlying securities. Such list may not be changed once submitted to the arbitrator. Once the arbitrator has received lists from all the exchanges, he shall thereafter *(i)* serve copies of the selection lists on each of the exchanges *and (ii) establish the sequence for making stock selections, using the procedure set forth in Paragraph 2.A below, and deliver notice to each of the exchanges* so that all exchanges receive *both* the *selection* lists *and selection sequence* on the same date.

2.A. For each allocation, the arbitrator, using the following procedure, shall establish the sequence for making stock selections by randomly

matching a letter A through D with each of the four exchanges and using the order established below for up to four rounds. At the allocation, selection of eligible securities will then proceed in accordance with such order. If there are to be more than four rounds in an allocation, the arbitrator shall repeat the procedure, randomly matching the four letters to the four exchanges a second time to establish the selection order for rounds five through eight, and so on, depending on the number of rounds called for by the allocation. The selection order is as follows:

Round	Selection order
1	ABCD
2	DCBA
3	CDAB
4	BADC

3. through 9. change.

G. through I. No change.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C), below, of the most significant aspects of such statements.

A. Self-Regulatory Organizations's Statement of the Purpose of, and Statutory Basis for the Proposed Rule Change

The purpose of the proposed rule change is to amend the options exchanges' Allocation Plan to establish a random order for making stock selections during an allocation. The proposed rule change is in furtherance of the Commission's request that the options exchanges create a plan that provides for the equitable allocation of new options among the options exchanges. The options exchanges have agreed to put this rule change into effect after the first allocation to take place after December 16, 1983. The proposed rule change is consistent with Section 6(b)(5) of the Securities Exchange Act of 1934 (the "Act"), which provides in pertinent part that the rules of the Exchange be disigned to promote just and equitable principles of trade.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe this proposed rule change will impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

Comments have neither been solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted within 21 days after the date of this publication.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: February 10, 1984.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84-4512 Filed 2-17 84; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-20643; File No. SR-PHLX-84-3]

Self-Regulatory Organization; Proposed Rule Change by the Philadelphia Stock Exchange, Inc. Relating to the Adoption of a New Random Allocation Process in Connection With Options Lotteries

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s (b)(1), notice is hereby given that on February 1, 1984, the Philadelphia Stock Exchange, Inc. filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Philadelphia Stock Exchange, Inc. ("PHLX" or the "Exchange") proposes to amend the agreement previously entered into by the options exchanges and approved by the Securities and Exchange Commission on May 30, 1980 (see SEC Release No. 34-16863) and as amended on June 1, 1981 (see SEC Release No. 34-17833) and February 2, 1982 (see SEC Release No. 34-18464), concerning procedures for the selection and replacement of underlying securities for options trading. This agreement is also referred to as the "Allocation Plan". The "PHLX", the American Stock Exchange ("AMEX"), the Chicago Board Options Exchange ("CBOE") and the Pacific Stock Exchange ("PSE") have entered into an agreement to similarly adopt amendments concerning the use of a new random allocation process in connection with option lotteries.

The text of the proposed amendments to the Allocation Plan is set forth below. Italics indicates materials proposed to be added to the existing rules; brackets [ ] indicate material proposed to be deleted.

A. through E.—No change.

F. At any time after the initial allocation, further allocations shall be held at the request of one or more options exchanges, [continuing the sequence described in A.5] whereby the four participating options exchanges

would be able to select any unallocated eligible underlying stock [including new underlying stock becoming eligible for options trading by the occurrence of events or because an options exchange that had previously been allocated and underlying stock failed to commence the trading of options with respect thereto within six months of the date of selection] under the procedures set forth as follows:

1. No change.

2. Each of the exchanges shall have 30 calendar days from the date of notification of a call for an allocation to provide the arbitrator with a list of desired underlying securities. Such list may not be changed once submitted to the arbitrator. Once the arbitrator has received lists from all the exchanges, he shall thereafter (i) serve copies of the selection lists on each of the exchanges *and (ii) establish the sequence for making stock selections, using the procedure set forth in Paragraph 2.A below, and deliver notice to each of the exchanges* so that all exchanges receive *both* the *selection* lists *and selection sequence* on the same date. *2.A. For each allocation, the arbitrator, using the following procedure, shall establish the sequence for making stock selections by randomly matching a letter A through D with each of the four exchanges and using the order established below for up to four rounds. At the allocation, selection of eligible securities will then proceed in accordance with such order. If there are to be more than four rounds in an allocation, the arbitrator shall repeat the procedure, randomly matching the four letters to the four exchanges a second time to establish the selection order for rounds five through eight, and so on, depending on the number of rounds called for by the allocation. The selection order is as follows:*

Round	Selection order
1	A B C D
2	D C B A
3	C D A B
4	B A D C

3. through 9. No change.

G. through I. No change.

II. Self-Regulatory Organization's Statment of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C), below, of the most significant aspects of such statements.

A. Self-Regulatory Organizations's Statement of the Purpose of, and Statutory Basis for the Proposed Rule Change

The purpose of the proposed rule change is to amend the options exchanges' Allocation Plan to establish a random order for making stock selections during an allocation. The proposed rule change is in furtherance of the Commission's request that the options exchanges create a plan that provides for the equitable allocation of new options among the options exchanges. The options exchanges have agreed to put this rule change into effect after the first allocation to take place after December 16, 1983. The proposed rule change is consistent with Section 6(b)(5) of the Securities Exchange Act of 1934 (the "Act"), which provides in pertinent part that the rules of the Exchange be disigned to promote just and equitable principles of trade.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe this proposed rule change will impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

Comments have neither been solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted within 21 days after the date of this publication.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: February 10, 1984.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84-4511 Filed 2-17 84; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE-84-3]

Petitions for Exemption; Summary of Petitions Received; Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemption received and of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR Part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR Chapter I), dispositions of certain petitions previously received and corrections. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATE: Comments on petitions received must identify the petition docket number involved and must be received on or before March 12, 1984.

ADDRESS: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-204), Petition Docket No. , 800 Independence Avenue, SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT: The petition, any comments received and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination of the Rules Docket (AGC-204), Room 916, FAA Headquarters Building (FOB 10A), 800 Independence Avenue SW., Washington, D.C. 20591; telephone (202) 426-3644.

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, D.C., on February 13, 1984.

John H. Cassady,

Assistant Chief Counsel, Regulations and Enforcement Division.

Petitions for Exemption

Docket No.	Petitioner	Regulations affected	Description of relief sought
[illegible]	T.B.M., Inc.	14 CFR 91.45	To extend exemption 3562, which expires June 30, 1984, to permit petitioner and its subsidiary, Butler Aircraft Co., to conduct ferry flights with one engine inoperative on their DC-6, DC-7, and DC-7B aircraft, without obtaining a special flight permit for each flight.
[illegible]	do	14 CFR 91.211(a)(1)	To extend exemption 2956B, which expires Apr. 30, 1984, to permit petitioner to operate DC-6 and DC-7 aircraft without a flight engineer during flightcrew training, ferry, and test flights conducted in preparation for firefighting operations under Part 137.
[illegible]	Owens-Illinois	14 CFR Portions of Part 91	To permit petitioner to operate its G159, N900, and G1159, N902, and N903G aircraft using an FAA-approved minimum equipment list.
[illegible]	Bates, Donald E.	14 CFR 61.197	To extend the validity of petitioner's flight instructor certificate for 1 year without completion of the required biennial flight instructor course.
23657	The Soaring Society of America, Inc.	14 CFR 43.9	To permit pilots to make an entry in the aircraft's records each time a different pilot reassembles the aircraft rather than each time the aircraft is reassembled.
16787	Petroleum Helicopters, Inc.	14 CFR 133.1(b) and 133.45(a)(3)	To renew exemption 2534C, as amended, to permit petitioner to use for hire, certain helicopters to lower and hoist, to harbor pilots, on an external hoist, to and from ships at sea, on a test basis.
[illegible]	Mid Pacific Airlines	14 CFR 121.371(a) and 121.378	To revise exemption 3710 to permit petitioner to also use All Nippon Airways Co., Ltd., and Air Asia Co., Ltd., FAA-certificated foreign repair stations for inspection, overhaul and repair of its YS-11 aircraft, including certain airframe accessories and appliances, subject to certain limitations.
[illegible]	Ryan Aviation Corp.	14 CFR 121.623 and 121.645	To permit petitioner to conduct flight operations under the fuel planning requirements of § 121.619 and 121.639 instead of § 121.623 and 121.645.
23077	Trinidad & Tobago Airway Corp.	14 CFR Portions of Parts 21 & 91	To extend exemption 3578, which terminates June 30, 1984, to permit petitioner to operate a leased U.S.-registered L1011 aircraft using an FAA-approved minimum equipment list and continuous inspection and maintenance program subject to certain limitations.
[illegible]	Reeder Flying Service, Inc.	14 CFR 43.3(g)	To amend the name on and extend exemption 3749 to permit petitioner's certificated pilots to remove, check, and reinstall magnetic chip detector plugs installed on Allison 250 series turbine engines, aircraft transmissions, and tail rotor gearboxes of its Bell 206B helicopters, subject to certain conditions.
[illegible]	Crescent Airfreight, Ltd.	14 CFR 135.261(b)	To permit a flight crewmember to accept an assignment for duty in scheduled air freight transportation for no more than 8 hours during any 24 consecutive hours without a rest period at or before the end of that 8 hours, equal to twice the number of hours of duty aloft since the last rest period, but not less than 8 hours.
[illegible]	Alaska International Air	14 CFR 121.343(a)	To permit petitioner to operate a B-737 aircraft leased from Pacific Western Airlines of Canada, using a flight recorder which has not been certified by the FAA.
23853	Zemke, David W.	14 CFR 91.84	To grant petitioner relief from flight plan filing requirements associated with his transborder flights to and from remote sites in Canada where communications are not readily available or accessible.
[illegible]	Tobin Surveys, Inc.	14 CFR 91.109 (a) and (b)	To allow deviation from the VFR Hemispherical Rule while conducting aerial photography.
[illegible]	Paul W. Hornack Pennsylvania State University	14 CFR 141.35(c) (4)(i) and (5)(i)	To permit petitioner to become the chief flight instructor for an FAA-approved instrument rating-airplane flight school course at the university's Park Airport, without meeting the experience requirements.
[illegible]	Agusta Aviation	14 CFR 91.9(a)(1)	To permit petitioner to conduct IFR caterogy II approach operations in its A109 helicopter with a single pilot crewmember.
22706	Bankair, Inc.	14 CFR 135.225(e)(1)	To extend exemption 3553, which expires June 30, 1984, to permit petitioner's pilots to operate from Myrtle Beach Air Force Base and Beaufort Marine Corps Air Station using takeoff visibility minimums which are less than 1 mile and are equal to or greater than the landing visibility minimums for these airfields subject to certain conditions.

Dispositions of Petitions for Exemption

Docket No.	Petitioner	Regulations affected	Description of relief sought disposition
[illegible]	American Airlines	14 CFR 121.434(e)	To allow petitioner to meet 50 percent of the required operating experience for flight attendants in a simulated flight of at least 2.5 hours on a static airplane in lieu of actual aircraft operating experience. *Denied Jan. 11, 1984.*
23810	Trans World Airlines, Inc.	14 CFR 91.27(a)(2)	To permit petitioner to operate its aircraft while using duplicate copies of the aircraft's registration certifications. The original certificates would be retained on file. *Denied Jan. 20, 1984.*
20853	United Air Lines, Inc.	14 CFR 121.99 and 121.351(a)	To grant permanent exemption or indefinite extension of exemption 3122, as amended, which terminated Jan. 31, 1984, which permits petitioner to operate its airplanes in extended overwater operations over any airway or other approved route over the Gulf of Mexico with 1 high frequency (HF) communications radio system and 1 navigational radio system. *Partial Grant Jan. 31, 1984.*

DISPOSITIONS OF PETITIONS FOR EXEMPTION—Continued

Docket No.	Petitioner	Regulations affected	Description of relief sought disposition
23878	Surinam Airways Ltd	14 CFR Portions of Parts 21 and 91	To permit petitioner to operate a U.S.-registered DC-8-62 airplane, N1809, utilizing an FAA-approved minimum equipment list. *Granted Feb. 7, 1984.*
21991	United Airlines	14 CFR Portions of Parts 63 and 121	To extend exemption 3463, which expires Jan. 31, 1984. This exemption grants relief by permitting petitioners, its flight engineers, and flight engineer applicants to use an FAA-approved pictorial means and an approved simulator, in lieu of an actual static airplane, for demonstrating the satisfactory performance of a preflight inspection and assigned flight engineer duties. *Granted Jan. 31, 1984.*
23074	Domar Jet Charter, Inc	14 CFR 135.89(b)(3)	To permit petitioner to operate its Gates Learjet aircraft up to flight level 410 without either pilot being required to wear an oxygen mask as long as there are 2 pilots at the controls and each pilot has a quick-donning type of oxygen mask. *Granted Jan. 13, 1984.*
18114	The Flying Tiger Line, Inc	14 CFR 121.547(c) and 121.583(a)	To extend exemption 2600B, which expires Jan. 31, 1984, to permit petitioner to carry a reporter, photographer, or journalist aboard its B-747 and DC-8 airplanes without complying with the passenger-carrying requirements of Part 121, subject to certain conditions and limitations. *Granted Jan. 26, 1984.*
23709	Republic Airlines, Inc	14 CFR 63.39(b)(1)	To permit flight engineer applicants employed by petitioner to use advanced pictorial means in lieu of an actual airplane to demonstrate satisfactory performance of the preflight inspection portion of training. *Granted Jan. 16, 1984.*
23688	Aviex Jet	14 CFR 135.261(a)(2)	To allow petitioner to operate under the flight time limitations of § 121.521 (a) and (b) instead of § 135.261(a)(2). *Granted Jan. 20, 1984.*
23820	Canadian Pacific Air Lines	14 CFR 21.197	To permit petitioner to obtain a special flight permit with continuing authorization for 3 DC-10 aircraft. *Granted Jan. 27, 1984.*
23852	Northeastern International Airways, Inc	14 CFR 121.311(f)	To permit petitioner to operate its B-727-100 airplanes with a required flight attendant occupying a mid-cabin aisle passenger seat which does not meet the airworthiness standards of 25.785(h) of the FAR's. *Granted Jan. 30, 1984.*
23796	Corporate Jets, Inc	14 CFR 135.261(b)	To allow the petitioner to operate its helicopters in a helicopter hospital emergency medical evacuation service without complying with the duty time limitations of that section. *Granted Jan. 30, 1984.*
22436	American Airlines	14 CFR 121.99 and 121.351(a)	To extend exemption 3493, which expires Jan. 31, 1984, to permit petitioner to operate its turbojet aircraft on routes in the New York Oceanic Control Area between the east coast and Bermuda with one of its 2 installed high frequency communications systems inoperative at the time of departure and without maintaining 2-way radio communications between each aircraft and the dispatch office along the named route. *Granted Jan. 30, 1984.*
22441	United Airlines, Inc	14 CFR Portions of Part 121, as well as Appendix F.	To amend and extend exemption 3451 which expires Feb. 1, 1984: (1) to permit petitioner to accomplish pilot-in-command proficiency check and recurrent training requirements during 1 annual session, (2) to administer the line check required by 121.440 6 months subsequent to that session; and (3) to permit tailoring proficiency checks to particular crew positions, aircraft types, and line operations. *Partial granted Jan. 21, 1984.*
NM-10	Construcciones Aeronauticas, S.A	14 CFR 25.571(e)(2)	To permit type certification of the CASA Model CN-235 without showing that the airplane is capable of successfully completing of flight during which likely structural damage occurs as a result of propeller blade impact. *Granted Jan. 20, 1984.*
23683	Florida Express, Inc	14 CFR 91.307	To allow operation in the United States, under a service to small communities exemption, of specified 2-engine airplanes identified by registration and serial number, that have not been shown to comply with the applicable operating noise limits as follows: Until not later than Jan. 1, 1988: 3 BAC-1-11: N1548, N1545, N1544: *Granted Feb. 6, 1984.*
22703	Emerald Air, Inc	14 CFR 91.307	To amend exemption No. 3547 to add 1 additional aircraft. The present exemption allows operation in the United States, under a service to small communities exemption, of specified 2-engine airplanes, identified by registration and serial number, that have not been shown to comply with the applicable operating noise limits as follows: Until not later than Jan. 1, 1988: 3 DC-9-15F: N50AF, N72AF, and N66AF; and 4 DC-9-14: N38841, N626TX, N903EA, and N931EA. *Granted Feb. 6, 1984.*

[FR Doc. 84-4475 Filed 2-17-84; 8:45 am]

BILLING CODE 4910-13-M

Research and Special Programs Administration

Grants and Denials of Applications for Exemptions

AGENCY: Materials Transportation Bureau, DOT.

ACTION: Notice of Grants and Denials of Applications for Exemptions.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR Part 107, Subpart B), notice is hereby given of the exemptions granted in January 1984. The modes of transportation involved are identified by a number in the "Nature of Exemption Thereof" portion of the table below as follows: 1—Motor vehicle, 2—Rail freight, 3—Cargo vessel, 4—Cargo-only aircraft, 5—Passenger-carrying aircraft. Application numbers prefixed by the letters EE represent applications for Emergency Exemptions.

RENEWAL AND PARTY TO EXEMPTIONS

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
2587-P	DOT-E 2587	H. E. Everson Co., Welding Supply Inc., Grand Forks, ND.	49 CFR 173.315(a)(1)	To become a party to exemption 2587. (Mode 1.)
2587-P	DOT-E 2587	Bill Munn Supplies, Inc., Enid, OK	49 CFR 173.315(a)(1)	Do.
2732-X	DOT-E 2732	U.S. Department of Energy, Washington, DC.	49 CFR 173.65(a), 173.65(b), 173.65(c)	To authorize use of non-DOT specification containers, for transportation of high explosives. (Modes 1 and 2.)

RENEWAL AND PARTY TO EXEMPTIONS—Continued

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
4108–P	DOT–E 4108	Basin Welding Supply, Inc., Odessa, TX	49 CFR 173.315(a)	To become a party to exemption 4108. (Mode 1.)
4108–P	DOT–E 4108	National Welding Supply, Inc., Batesville, AR.	49 CFR 173.315(a)	Do.
4108–P	DOT–E 4108	Natwel Supply Corp., San Antonio, TX	49 CFR 173.315(a)	Do.
4108–P	DOT–E 4108	National Welding Supply Co., Fort Worth, TX.	49 CFR 173.315(a)	Do.
4453–X	DOT–E 4453	Ireco Chemicals, Salt Lake City, UT	49 CFR 173.114a(h)(3)	To authorize use of a non-DOT specification bulk, hopper-tank, for transportation of blasting agent, n.o.s., or ammonium nitrate-fuel oil mixtures. (Mode 1.)
4884–P	DOT–E 4884	Scientific Gas Products, Inc., South Plainfield, NJ.	49 CFR 173.302(a)(1), 175.3, 178.61	To become a party to exemption 4884. (Modes 1, 2, 3, 4, and 5.)
5022–X	DOT–E 5022	National Aeronautics and Space Administration, Washington, DC.	49 CFR 174.101(L), 174.104(d), 174.112(a), 174.86, 177.834(L)(1).	To authorize shipment of certain class A and class B explosives in temperature controlled equipment. (Modes 1 and 2.)
5112–X	DOT–E 5112	Austin Power Co., Cleveland, OH	49 CFR 173.62(a), 177.834(L)(1), 177.835(k).	To authorize use of specially designed kettle drum type aluminum containers, for transportation of class A explosives. (Mode 1.)
5122–X	DOT–E 5122	E. I. du Pont de Nemours & Co., Inc., Wilmington, DE.	49 CFR 173.314(c)	To authorize transport of a certain nonflammable compressed gas, in DOT specification 106A500X and 110A500W multi-unit tank car tanks. (Modes 1 and 2.)
5736–X	DOT–E 5736	Phillips Petroleum Co., Bartlesville, OK	49 CFR 172.101, 173.314(c)	To authorize use of non-DOT specification tank car tanks for transportation of a flammable gas. (Modes 2 and 3.)
6016–X	DOT–E 6016	Guttman Welding Supply Co., Belle Vernon, PA.	49 CFR 173.315(a)	To authorize shipment of liquid oxygen, nitrogen, and argon in non-DOT specification portable tanks. (Mode 1.)
6296–X	DOT–E 6296	Rhone-Poulenc Inc., Monmouth Junction, NJ.	49 CFR 173.377(g)	To authorize additional bag packagings, for transportation of certain class B poisons in DOT specification 44D multi-wall paper bags. (Modes 1 and 2.)
6333–X	DOT–E 6333	Allied Corp., Morristown, NJ	49 CFR 173.245(a)(31), 173.263(a)(10), 173.268(b)(3), 173.272(i)(25), 178.343–1(b).	To authorize transport of certain corrosive liquids, in non-DOT specification type MC–312 glass lined cargo tanks. (Mode 1.)
6464–X	DOT–E 6464	Commonwealth Gas Co., New Bedford, MA.	49 CFR 172.101, 187.315(a)	To authorize use of non-DOT specification cargo tanks, for transportation of certain flammable gases. (Mode 1.)
6464–X	DOT–E 6464	Bay State Gas Co., Canton, MA	49 CFR 172.101, 173.315(a)	Do.
6530–X	DOT–E 6530	Messer Griesheim Industries, Valley Forge, PA.	49 CFR 173.302(c)	To authorize shipment of hydrogen and mixtures of hydrogen with helium, argon, or nitrogen in DOT specification 3A, 3AA, 3AX, or 3AAX steel cylinders. (Modes 1 and 2.)
6530–X	DOT–E 6530	Union Carbide Corp., Danbury, CT	49 CFR 173.302(c)	Do.
6530–X	DOT–E 6530	Air Products & Chemicals, Inc., Allentown, PA.	49 CFR 173.302(c)	Do.
6538–P	DOT–E 6538	Beltronic Marking Inc., New York, NY	49 CFR 173.304(d)(3)(ii), 178.33	To become a party to exemption 6538. (Modes 1 and 3.)
6614–X	DOT–E 6614	All Pure Chemical Co., Inc., Tracy, CA	49 CFR 173.263(a)(28), 173.277(a)(6)	To authorize use of non-DOT specification polyethylene bottles, packed inside a high density polyethylene box, for transportation of certain corrosive liquids. (Mode 1.)
6614–X	DOT–E 6614	Hasa Chemicals, Inc., Saugus, CA	49 CFR 173.263(a)(28), 173.277(a)(6)	Do.
6657–X	DOT–E 6657	Kelsey Welding Supply Corp., New Berlin, WI.	49 CFR 173.34(e)(15)(i), 175.3	To authorize use of DOT specification 3A or 3AA cylinders having an age over 35 years for transportation of certain non-liquefied compressed gases. (Modes 1, 2, 3, 4, and 5.)
6768–X	DOT–E 6768	Van De Mark Chemical Co., Inc., Lockport, NY.	49 CFR 172.101, 173.315(a)(1)	To authorize use of a non-DOT specification vacuum insulated cargo tank, for transportation of a flammable gas. (Mode 1.)
6816–X	DOT–E 6816	General Dyanmics Corp., San Diego, CA	49 CFR 173.53(p)	To authorize shipment of completely assembled liquid and solid fueled missiles in packaging prescribed in 173.57(a). (Modes 1, 2, and 3.)
7052–P	DOT–E 7052	McDonnell Douglas Corp., St. Louis, MO	49 CFR 172.101, 175.3	To become a party to exemption 7052. (Modes 1, 2, 3, and 4.)
7052–P	DOT–E 7052	Moli Energy Ltd., Burnaby, BC	49 CFR 172.101, 175.3	Do.
7052–P	DOT–E 7052	Kearney & Trecker Corp.	49 CFR 172.101, 175.3	Do.
7082–X	DOT–E 7082	Bennett Industries, Pacoima, CA	49 CFR 173.245(a)(26), 173.249(a)(1), 173.250a(a)(1), 173.257(a)(1), 173.263(a)(28), 173.265(d)(6), 173.266(b)(8), 173.272(i)(9), 173.277(a)(6), 173.287(c)(1), 173.289(a)(1), 173.292(a)(1), 178.19.	To authorize variation from the specifications of a DOT specification 34 polyethylene container, for transportation of certain corrosive liquids. (Modes 1, 2, 3.)
7208–X	DOT–E 7208	National Aeronautics and Space Administration, Washington, DC.	49 CFR 172.101, 173.92, 175.3, 175.30(a)(1).	To authorize transport of class B explosives in quantities exceeding present weight limitations, and in non-DOT specification containers. (Mode 4.)
7255–X	DOT–E 7255	U.S. Department of Defense, Washington, DC.	49 CFR 146.29–45(a), 146.29–45(c)	To authorize simultaneous loading of 2 holds within the same hatch when handling military explosives. (Mode 3.)
7542–X	DOT–E 7542	U.S. Cylinders, Inc., Citronelle, AL	49 CFR 173.303(a)	To authorize manufacture, marking and sale of non-DOT specification steel cylinders, for transportation of certain flammable gases. (Modes 1 and 2.)
7549–X	DOT–E 7549	Stauffer Chemical Co., Westport, CT	49 CFR 173.245a(a), 178.245	To authorize use of a non-DOT specification 316L stainless steel portable tank, for shipment of a certain corrosive material. (Modes 1, 2, 3.)
7578–X	DOT–E 7578	U.S. Department of Defense, Washington, DC.	49 CFR 173.93(a)(10)	To authorize shipment of propellant explosive in inside viscose rayon bags, packed in DOT specification 21C fiber drums. (Mode 2.)
7657–X	DOT–E 7657	Welker Engineering Co., Sugar Land, TX	49 CFR 173.302(a)(1), 173.304(a)(1), 173.304(b)(1), 175.3.	To increase the volumetric capacity of subject cylinders from 500 cc to not over 1000 cc. (Modes 1 and 4.)
7682–X	DOT–E 7682	Born Free Plastics, Inc., Gardena, CA	49 CFR 173.245(a)(26), 173.249(a)(1), 173.250a(a)(1), 173.257(a)(1), 173.263(a)(28), 173.265(d)(6), 173.272(i)(9), 173.277(a)(6), 173.287(c)(1), 173.289(a)(1), 173.292(a)(1), 178.19.	To renew and to authorize certain drum design changes. (Modes 1, 2, 3.)
7835–X	DOT–E 7835	Union Carbide Corp., Danbury, CT	49 CFR 177.848, Part 107 Appen. B(1)	To authorize transport of compressed gas cylinders bearing the flammable gas label, the oxidizer label, or the poison gas label and tank car tanks bearing the poison gas label on the same vehicle. (Mode 1.)
7835–X	DOT–E 7835	Messer Griesheim Industries, Valley Forge, PA.	49 CFR 177.848, Part 107 Appen. B(1)	Do.
7907–X	DOT–E 7907	Union Explosivos Rio, Tinto, S.A., Madrid, Spain.	49 CFR 173.127, 173.184, 178.224	To authorize shipment of wet nitrocellulose, a flammable liquid or flammable solid, in non-DOT specification fiberboard drums. (Modes 1 and 2.)

RENEWAL AND PARTY TO EXEMPTIONS—Continued

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
7943-X	DOT-E 7943	Alstar Co., Tracy, CA	49 CFR 173.263(a)(15), 173.272(c), 173.272(i)(12), 173.277(a)(1).	To authorize shipment of corrosive liquids in fiberboard boxes complying with DOT specification 12B except for handholes in top flaps. (Mode 1.)
7943-X	DOT-E 7943	Hasa Chemicals, Inc., Saugus, CA	49 CFR 173.263(a(15), 173.272(c), 173.272(i)(12), 173.277(a)(1).	Do.
7943-X	DOT-E 7943	All Pure Chemical Co., Inc., Tracy, CA	49 CFR 173.263(a)(15), 173.272(c), 173.272(i)(12), 173.277(a)(1).	Do.
7943-X	DOT-E 7943	Georgia-Pacific Corp., Montebello, CA	49 CFR 173.263(a)(15), 173.272(c), 173.272(i)(12), 173.277(a)(1).	Do.
7946-X	DOT-E 7946	Westinghouse Electric Corp., Horseheads, NY.	49 CFR 173.306(b)(4), 175.3	To authorize use of non-DOT specification nonrefillable containers, for shipment of nonflammable gases. (Modes 1, 2, 3, 4, and 5.)
8080-X	DOT-E 8080	Diamond Shamrock Chemicals Co., Irving, TX.	49 CFR 173.164	To authorize use of true DOT specification 111A100-W1 tank cars, for shipment of chromic acid, solid. (Mode 2.)
8129-P	DOT-E 8129	Utah State University, Logan, UT	49 CFR 177.834(k), Parts 173, Subparts D, E, F, H, Subparts K, L, M, O.	To become a party to exemption 8129. (Mode 1.)
8129-P	DOT-E 8129	Northwestern University, Evanston, IL	49 CFR 177.834(k), Part 173, Subparts D, E, F, H, Subparts K, L, M, O.	Do.
8129-P	DOT-E 8129	Waste Technology Services, Inc., Niagara Falls, NY.	49 CFR 177.834(k), Part 173, Subparts D, E, F, H, Subparts K, L, M, O.	Do.
8129-P	DOT-E 8129	Purdue University, West Lafayette, IN	49 CFR 177.834(k), Part 173, Subparts D, E, F, H, Subparts K, L, M, O.	Do.
8129-P	DOT-E 81229	Ralston Purina Co., St. Louis, MO	49 CFR 177.834(k), Part 173, Subparts D, E, F, H, Subparts K, L, M, O.	Do.
8129-P	DOT-E 8129	Ecology Chemical & Refining Co., Manor, PA.	49 CFR 177.834(k), Part 173, Subparts D, E, F, H, Subparts K, L, M, O.	Do.
8129-P	DOT-E 8129	The Sherwin Williams Co., Cleveland, OH	49 CFR 177.834(k), Part 173, Subparts D, E, F, H, Subparts K, L, M, O.	Do.
8129-P	DOT-E 8129	General Foods Corp., Modesto, CA	49 CFR 177.834(k), Part 173, Subparts D, E, F, H, Subparts K, L, M, O.	Do.
8307-P	DOT-E 8307	U.S. Department of Defense, Dover, NJ	49 CFR 173.21, 173.247, 173.25(b), 175.3.	To become a party to exemption 8307. (Modes 1, 2, 3, and 4.)
8329-X	DOT-E 8329	Texas Instruments, Inc., Dallas, TX	49 CFR 173.266	To authorize the use of DOT specification 57 portable tanks in less than truckload quantities with other hazardous materials subject to 49 CFR 177.848. (Mode 1.)
8377-X	DOT-E 8377	Teledyne McCormick Selph, Hollister, CA	49 CFR 172.101, 173.113, 175.3	To authorize transport of devices described as detonating fuzes, class C explosives, in non-DOT specification fiberboard boxes packed in non-DOT specification strong wooden boxes. (Modes 1 and 4.)
8489-X	DOT-E 8489	FMC Corp., Philadelphia, PA	49 CFR 173.154, 173.182, 173.217, 173.245b.	To authorize shipment of trichloro-s-triazinetrione, dry, classed as an oxidizer as an additional commodity. (Modes 1, 2, and 3.)
8526-P	DOT-E 8526	North Star Transport, Inc. Thief River Falls, MN.	49 CFR 177.834(L)(2)(i)	To become a party to exemption 8526. (Mode 1.)
8685-X	DOT-E 8685	Hercules, Inc., Wilmington, DE	49 CFR 173.182(b)(6)(ii)	To authorize shipment of ammonium nitrate fertilizer (prills) in non-DOT specification collapsible polyethylene-lined, woven polypropylene bags having a capacity of approximately 2,240 pounds each. (Modes 1, 2, and 3.)
8708-X	DOT-E 8708	Trical, Inc., Morgan Hill, CA	49 CFR 173.357(b)(2)	To authorize use of non-DOT specification steel drums (overpacked, palletized, and containerized), for shipment of a class B poison. (Modes 1 and 3.)
8795-X	DOT-E 8795	The Marison Co., South Elgin, IL	49 CFR 173.302(a), 173.304(a), 173.305(a), 175.3, 178.55.	To amend exemption to allow increase in volumetric capacity of the cylinder, to authorize additional materials of construction, to modify test requirements, and to authorize additional compressed gases. (Modes 1, 2, 3, 4, and 5.)
8843-P	DOT-E 8843	Owen Oil Tools, Inc. (formerly Chem-Cut Co.), Fort Worth, TX.	49 CFR 173.246, 175.3	To become a party to exemption 8843. (Modes 1, 2, 3, and 4.)
9104-X	DOT-E 9104	Chemical Waste Management, Inc., Oak Brook, IL.	49 CFR 172.203(c), (k), Part 173, Subpart D, Subparts E, F, H.	To authorize 1-time movements of non-DOT specification packages to disposal facilities, and exception to listing hazardous substances constituents or poisonous materials constituents on shipping papers. (Mode 1.)
9158-X	DOT-E 9158	National Beryllia Corp., Haskell, NJ	49 CFR 173.365	To authorize shipment of solid waste materials contaminated with beryllium oxide, in a non-DOT specification roll-on, roll-off, bulk container. (Mode 1.)

NEW EXEMPTIONS

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of Exemption thereof
8985-N	DOT-E 8985	Clover Aero, Inc., Friendswood, TX	49 CFR 172.101, 172.204(c)(3), 173.27, 175.30(a)(1), 175.320(b), Part 107, Appendix B.	To authorize carriage of certain class A, B, and C explosives that are not permitted for air shipment or are in quantities greater than those prescribed for shipment by air. (Mode 4.)
9060-N	DOT-E 9060	CVI Inc., Columbus, OH	49 CFR 173.315(a)(1)	To authorize manufacture, marking, and sale of non-DOT specification super insulated portable tanks, for shipment of nonflammable gas. (Modes 1 and 3.)
9110-N	DOT-E 9110	Occidental Chemical Corp. Niagara Falls NY.	49 CFR 173.163	To authorize shipment of sodium chlorate, in non-DOT specification collapsible polyethylene-lined, woven polypropylene bags. (Modes 1, 2, and 3.)
9144-N	DOT-E 9144	Cajun Bag & Supply Co., Crowley, LA	49 CFR 173.154, 173.182, 173.245b	To authorize manufacture, marking, and sale of large, non-DOT specification collapsible polyethylene-lined woven polypropylene bulk bags, having a capacity of approximately 2,000 pounds each, for shipment of oxidizers and corrosive solids. (Modes 1 and 2.)
9147-N	DOT-E 9147	Columbia Nitrogen Corp., Augusta, GA	49 CFR 172.301	To authorize shipment of ammonium nitrate fertilizer in multi-wall paper bags without identification number displayed on the bags. (Modes 1 and 2.)
9150-N	DOT-E 9150	Hoover Universal, Inc., Beatrice, NE	49 CFR 173.119, 173.256, 173.266, 178.19, 178.253, Part 173, Subpart F.	To authorize manufacture, marking, and sale of non-DOT specification rotationally molded, cross-linked polyethylene portable tanks with bottom outlet, for shipment of corrosive and flammable liquids or an oxidizer. (Modes 1, 2, and 3.)

NEW EXEMPTIONS—Continued

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of Exemption thereof
9170-N	DOT-E 9170	Davison Transport Co., Inc., Ruston, LA	49 CFR 173.245, 178.340-10, 178.340-8, 178.341-3, 178.341-4, 178.341-5, 178.341-7.	To authorize use of non-DOT specification cargo tanks, for transportation of a corrosive liquid. (Mode 1.)
9181-N	DOT-E 9181	Honeywell Inc., Horsham, PA	49 CFR 173.206, 173.21, 173.247	To authorize transport of lithium metal and a thionyl chloride solution in the same non-DOT specification stainless steel vessel. (Mode 1.)

EMERGENCY EXEMPTIONS

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
EE 6637-P	DOT-E 6637	Myers Drum Co., Oakland, CA	49 CFR 173.119(a), 173.119(b), 173.119(m), 173.221, 173.245(a)(26), 173.249(a)(1), 173.250a(a)(1), 173.257(a)(1), 173.263(a)(28), 173.265(d)(6), 173.266(b)(8), 173.272(i)(9), 173.276(a)(10), 173.277(a)(6), 173.287(c)(1), 173.289(a)(1), 173.292(a)(1), 173.346(a), 173.357(b), 173.358(a), 173.359(a), 173.359(b), 178.19.	To become a party to exemption 6637 (Modes 1, 2, and 3.)
EE 6787-P	DOT-E 6787	....do	49 CFR 173.119(a), 173.119(b), 173.119(m), 173.221, 173.245, 173.346(a), 173.357(b), 173.358(a), 173.359(a), 173.359(b).	To become a party to exemption 6787 (Modes 1, 2, and 3.)
EE 7011-P	DOT-E 7011	....do	49 CFR 173.239(a), 173.245b(a)(6)	To become a party to exemption 7011. (Modes 1, 2, and 3.)
EE 9188-N	DOT-E 9188	B. J. Alan Co., Inc., Columbiana, OH	49 CFR 173.51(b), 173.86, Part 171-178	To authorize a 1-time shipment of fireworks (tentative class B explosives). (Mode 1.)
EE 9189-N	DOT-E 9189	Lomaz Financial Corp., d.b.a. Midwest Fireworks Manufacturing, Deerfield, OH.	49 CFR 173.51(b), 173.86, Part 171-178	Do.
EE 9199-N	DOT-E 9199	Cape Fear Tank Co., Inc., Wilmington, NC.	49 CFR 173.34, Part 107, Appendix B	To authorize the repair or rebuilding of DOT specification 4 series cylinders by a method other than as prescribed. (Modes 1 and 2.)
EE 9202-N	DOT-E 9202	Red Rocket Fireworks Co., Inc., Ponchatoula, LA.	49 CFR 173.51(b), 173.86, Parts 171-178	To authorize a 1-time shipment of fireworks (tentative class B explosives). (Mode 1.)
EE 9203-N	DOT-E 9203	Monsanto Co., St. Louis, MO	49 CFR 173.190, 173.190(b)(2)	To authorize shipment of waste phosphorus contaminated with debris, soil, and water to a disposal site. (Mode 1.)
EE 9204-N	DOT-E 9204	Red Rock Trading Co., Inc., Las Vegas, NV.	49 CFR 173.51(b), 173.86, Part 171-178	To authorize a 1-time shipment of fireworks (tentative class B explosives). (Mode 1.)
EE 9205-N	DOT-E 9205	A A Quality Fireworks Imports, Inc., Pearland, TX.	49 CFR 173.51(b), 173.86, Part 171-178	Do.
EE 9206-N	DOT-E [illegible]	McCall Fireworks, Inc., McAlester, OK	49 CFR 173.51(b), 173.86, Parts 171-178	Do.
EE 9207-N	DOT-E 9207	North Central Industries, Inc., Muncie, IN	49 CFR 173.51(b), 173.86, Part 171-178	Do.
EE 9219-N	DOT-E 9219	Firework West, Logan, UT	49 CFR	To authorize a 1-time shipment of fireworks (tentative for emergency shipment only). (Mode 1.)

WITHDRAWALS

Application No.	Applicant	Regulation(s) affected	Nature of exemption thereof
8007-X	The Boeing Co., Seattle, WA	49 CFR 173.391(b)(5), 175.3	To authorize transport of certain devices containing a greater quantity of polonium—210 that is normally authorized under the provision of 49 CFR 173.391(b). (Modes 1, 2, 3, 4, and 5.)
8531-P	E.D.C. Inc., Tulsa, OK	49 CFR 172.101, 172.406, 172.504, 173.114(j)	To become a party to exemption 8531. (Mode 1.)
9151-N	ARCO Aluminum, Terre Haute, IN	49 CFR 173.315	To authorize shipment of liquefied carbon dioxide in a 6 ton capacity non-DOT specification insulated, steel tank. (Mode 1.)

Denials

7060-P—Request by Med-Air Express, Inc. Fairfield, NJ to authorize carriage of radioactive materials aboard cargo-only aircraft when the combined transport index exceeds 50.0 and/or the separation criteria cannot be met denied January 16, 1984.

8980-N—Request by U.S. Chemical & Plastics, Canton, OH to reconsider denial of their request to authorize shipment of resin solutions classed as flammable liquids with a flash point of 89 degrees Fahrenheit to 95 degrees Fahrenheit in containers exceeding one gallon capacity without labeling and placarding denied January 9, 1984.

Issued in Washington, DC, on February 8, 1984.

J. R. Grothe,

Chief, Exemptions Branch, Office of Hazardous Materials Regulation, Materials Transportation Bureau.

[FR Doc. 84-4490 Filed 2-17-84; 8:45 am]

BILLING CODE 4910-60-M

DEPARTMENT OF THE TREASURY

Office of the Secretary

Public Information Collection Requirements Submitted to OMB for Review

Dated: February 15, 1984.

On February 15, 1984, the Department of the Treasury submitted the following public information collection requirement(s) to OMB (listed by submitting bureaus), for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96–511. Copies of these submissions may be obtained from the Treasury Department Clearance Officer, by calling (202) 535–6020. Comments regarding these information collections should be addressed to the OMB reviewer listed at the end of each bureau's listing and to the Treasury Department Clearance Officer, Room 7227, 1201 Constitution Avenue, NW., Washington, D.C. 20220.

Internal Revenue Service

OMB Number: New
Form Number: IRS Form 5473
Type of Review: New
Title: Return Required Under Section 6046A

OMB Number: 1545–0128
Form Number: Form 1120–L
Type of Review: Existing Collection
Title: U.S. Life Insurance Company Income Tax Return

OMB Number: 1545–0415
Form Number: Form W–4P
Type of Review: Existing Collection
Title: Withholding Certificate for Pension or Annuity Payments

Bureau of the Public Debt

OMB Number: 1535–0009
Form Number: PD 1851
Type of Review: Revision
Title: Request for Re-Issue of U.S. Bonds/Notes in Name of Trustee of Personal Trust Estate

OMB Number: 1535–0008
Form Number: PD 1938
Type of Review: Revision
Title: Request for Reissue of U.S. Savings Bonds/Notes During the Lives of Both Co-owners

OMB Number: 1535–0021
Form Number: PD 4632–1, PD 4632–2, PD 4632–3
Type of Review: Existing Collection
Title: Tenders for Treasury Bills

OMB Reviewer: Norman Frumkin (202) 395–6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503

Office of the Secretary

OMB Number: 1505–0038
Form Number: None
Type of Review: Reinstatement
Title: Maintenance of Proposed and Enacted Budgets for Public Inspection

OMB Number: 1505–0042
Form Number: None
Type of Review: Reinstatement
Title: Collection of Information Needed to Determine Compliance with Act

OMB Number: 1505–0043
Form Number: None
Type of Review: Reinstatement
Title: Requirement for Retention of Audit Work Papers and Related Audit Reports for Three Year Period

OMB Reviewer: Judy McIntosh (202) 395–6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503

Cathy Thomas,
Departmental Reports Management Office.

[FR Doc. 84–4559 Filed 2–17–84; 8:45 am]
BILLING CODE 4810–25–M

Customs Service

[T.D. 84–45]

Fees Relating to Vessel Services, Container Stations, and Warehouses

AGENCY: Customs Service, Department of the Treasury.

ACTION: General notice.

SUMMARY: To return to the Government the approximate costs of certain services provided by Customs officers, this document sets forth revised fees to be collected for the following services:

1. Fees to perform vessel services;
2. Fee to establish container stations; and
3. Fees to establish, alter, and relocate a warehouse facility.

The fees are being adjusted because of the January, 1984, Federal pay increase. The fees shall remain in effect until revised.

EFFECTIVE DATE: February 21, 1984.

FOR FURTHER INFORMATION CONTACT: John Holl, Office of Inspection and Control, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229 (202–566–8151).

SUPPLEMENTARY INFORMATION:

Background

Fees to Perform Vessel Services

Public Law 95–410, the "Customs Procedural Reform and Simplification Act of 1978," approved October 3, 1978, (the "Act"), repealed sections 2654, 4381, 4382, and 4383 of the Revised Statutes of the United States (19 U.S.C. 58; 46 U.S.C. 329, 330, and 333), the statutory authority under which Customs had been charging and collecting fees for specific services provided to vessels by Customs officers.

Because these "Navigation Fees," which are set forth in § 4.98(a), Customs Regulations (19 CFR 4.98(a)), did not cover the costs of providing the services, section 214 of the Act authorized the Secretary of the Treasury to establish a new schedule of fees to be charged and collected for furnishing these services. The fees are to be consistent with 31 U.S.C. 9701, which provides that the costs of specific services for private interests shall be reimbursed to the Government.

By Treasury Decision 80–25, published in the **Federal Register** on January 18, 1980 (45 FR 3570), Customs established a fee schedule to be used for 1980, and amended § 4.98(a), Customs Regulations, to provide that a revised fee schedule will be published in the **Federal Register** and Customs Bulletin in December of each year setting forth navigation fees for the specified vessel services to be performed during the following year. The revised fee schedule is to reflect changes in the rate of compensation paid to the Customs officer performing the service. The fees are to be calculated in accordance with § 24.17(d), Customs Regulations (19 CFR 24.17(d)), and based upon the amount of time the average service requires of a Customs officer in the fifth step of GS–9.

In a separate regulatory initiative, Customs will amend § 4.98(a) to remove the requirement that the revised fee schedule be published in December of each year. That requirement is too restrictive, especially since there was no Federal pay increase in October 1983. As amended, § 4.98(a) will provide that a revised free schedule will be published "periodically" and will remain in effect until changed. That is consistent with the procedure followed in the publication of a fee charged to establish a container station in accordance with T.D. 83–56 (48 FR 9853, March 9, 1983), and discussed below.

Because of the Federal pay increase effective January 8, 1984, it is necessary for Customs to revise the schedule of fees to take into account this increased cost. The hourly rate used is $15.60, thereby reflecting the change in the rate of compensation paid to a Customs officer in the fifth step of GS–9 performing the service. The fees have been rounded off to the nearest tenth of a dollar.

Action

The following revised schedule of navigation fees shall remain in effect until revised:

Fee No. and description of services	Fee
1. Entry of vessel, including American, from foreign port:	
(a) Less than 100 net tons	$7.80
(b) 100 net tons and over	15.60
2. Clearance of vessel, including American to foreign port:	
(a) Less than 100 net tons	7.80
(b) 100 net tons and over	15.60
3. Issuing permit to foreign vessel to proceed from district to district, and receiving manifest	15.60
4. Receiving manifest of foreign vessel on arrival from another district, and granting a permit to unlade	15.60
5. Receiving post entry	7.80
6. Reserved	
7. Certifying payment of tonnage tax for foreign vessels only	3.90
8. Furnishing copy of official document, including certified outward foreign manifest, and others not elsewhere enumerated	15.60

Fee To Establish Container Stations

Consistent with 31 U.S.C. 9701 (as recodified), by T.D. 83–56, Customs amended § 19.40, Customs Regulations (19 CFR 19.40), to authorize implementation of a fee schedule to establish a container station. The fee schedule is to be published in the **Federal Register** and Customs Bulletin periodically to revise the fee to reflect the increased costs to establish the container station. The fee is to be calculated in accordance with § 24.17(d), Customs Regulations. The published revised fee schedule will remain in effect until revised.

The fee charged for the service is based upon the amount of time the service requires of each Customs officer and equals the sum of the individual charges plus a charge for mileage incurred by the applicable Customs officer in using a vehicle to visit the premises to perform his or her respective task. The average mileage associated with performing the necessary tasks is 60 miles. Currently, mileage cost are reimbursed at 20.5 cents per mile.

The (1) grade and step of each Customs officer performing his or her respective service; (2) the adjusted hourly rate of pay utilized; (3) the individual charge of each respective service based on the hourly rate of pay of each Customs officer performing his or her respective service; and (4) the total fee, including mileage, for the service rendered rounded off to the nearest dollar follow:

Action—Fee To Establish a Container Station

Customs officer, grade/step	Adjusted hourly rate	Individual charge
1. Clerk, 5/5	$10.29	$51.45
2. Inspector, 11/5	18.88	264.32
3. Agent, 12/5	22.62	497.64
4. Administrator, 13/5	26.89	53.78

The mileage fee is $12.30 (60 miles × 20.5 cents). The total fee to establish a container station is $879.00 ($867.19 + 12.30, rounded off). The fee shall remain in effect until revised.

Fee To Establish, Alter, and Relocate a Warehouse Facility

By T.D. 82–204, published in the **Federal Register** on November 1, 1982 (47 FR 49355), Customs amended its regulations to implement changes relating to the control of merchandise in Customs' bonded warehouses by establishing an audit-inspection program.

As amended, § 19.5, Customs Regulations (19 CFR 19.5), provides that each warehouse proprietor will be charged a fee to establish, alter, or relocate a warehouse facility which shall be determined under 31 U.S.C. 9701. Each warehouse proprietor granted the right to operate a warehouse facility shall be charged an annual fee which shall be determined under section 555, Tariff Act of 1930, as amended, (19 U.S.C. 1555). The fees will be revised annually and published in the **Federal Register** and Customs Bulletin.

The purpose of the annual warehouse fee is to reimburse the Customs appropriation for services rendered to the warehouse community including audit, inspection, and related administrative costs, and is to be projected on the basis of the actual annual cost to Customs in the preceding year plus any Federal salary increases. The current annual fee is $650.00. Any increase in that fee will be the subject of another **Federal Register** document.

To recover the increased costs to Customs, the fees are to be calculated in accordance with § 24.17(d), Customs Regulations.

Action

The following fee schedule to establish, alter, and relocate a warehouse facility shall remain in effect until revised:

1. Establish a Bonded Warehouse—$879.00.
2. Alter an Existing Bonded Warehouse—$382.00.
3. Relocate an Existing Bonded Warehouse—$382.00.

The fees have been rounded off to the nearest dollar.

Authority

(R.S. 251, as amended (19 U.S.C. 66), section 312, 46 Stat. 692, as amended (19 U.S.C. 1312), section 551, 46 Stat. 742, as amended (19 U.S.C. 1551), section 555, 46 Stat. 743, as amended (19 U.S.C. 1555), section 624, 46 Stat. 759 (19 U.S.C. 1624), section 22, 87 Stat. 520 (19 U.S.C. 1646a), 92 Stat. 888 (Pub. L. 95–410), 96 Stat. 1051 (31 U.S.C. 9701))

Drafting Information

The principal author of this document was Charles D. Ressin, Regulations Control Branch, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

George C. Corcoran, Jr.,

Acting Commissioner of Customs.

Approved: January 24, 1984.

John M. Walker, Jr.,

Assistant Secretary of the Treasury.

[FR Doc. 84-4525 Filed 2-17-84; 8:45 am]

BILLING CODE 4820-02-M

VETERANS ADMINISTRATION

New Veterans Administration Medical Center, Palm Beach County, Florida; Intent To Prepare an Environmental Impact Statement

AGENCY: Veterans Administration.

ACTION: Notice of Intent to Prepare an Environmental Impact Statement.

SUMMARY: The Veterans Administration (VA) has identified the need to prepare an Environmental Impact Statement (EIS) to fulfill the requirements of section 102(2)(c) of the National Environmental Policy Act. This notice of Intent (NOI) and initiation of the Scoping Process is being issued under 40 CFR, 1501.7.

FOR FURTHER INFORMATION CONTACT: Mr. William F. Sullivan, Director, Office of Environmental Affairs (088C), Veterans Administration, 810 Vermont Avenue, N.W. Washington, D.C. 20420, (202–389–3316).

SUPPLEMENTARY INFORMATION:

1. Description of Proposed Action

The VA proposes to build a new 625 to 865 bed medical center in Palm Beach County, Florida, on a site to be acquired. A VA site investigation team has delineated an area for the new hospital which will provide the best service to area veterans. This determination was based on population statistics, distance from other VA hospitals, existing and projected traffic and transportation, availability and reserve capacity of

public infrastructure services, and other planning criteria.

The delineated area of consideration is bounded on the east by U.S. Route 1, on the south by Southern Blvd., on the west by the Florida Turnpike, and north by Donald Ross Road. These boundaries encompass an area of approximately 75 square miles. Within this area sites to be considered will be from 40 to 60 acres, easily accessible, physically developable, and near populated areas.

2. Scoping Process

The VA requests input from interested and concerned agencies and individuals for the purpose of identifying issues for consideration in the preparation of the EIS. Comments should be sent to the address previously mentioned.

3. Public and Private Participation in EIS Process

The issues and concerns identified during the scoping process will help determine the nature and extent of the impact analysis performed in the EIS. Participation of individuals, public and private organizations and local, State and Federal agencies is invited.

4. Timing

Tentative times have been established for the completion of the environmental process at the following milestones:

- Complete Scoping Process, March 1984.
- Availability of the draft EIS, December 1984.
- Availability of the final EIS, June 1985.
- Completion of the Record of Decision, August 1985.

5. Request for Copies of the Draft EIS

For placement on the mailing list to receive a Draft EIS or for other VA environmental information, please contact the Office of Environmental Affairs at the above address.

Dated: February 13, 1984.

Harry N. Walters,

Administrator.

[FR Doc. 84-4524 Filed 2-17-84; 8:45 am]

BILLING CODE 8320-01-M

Sunshine Act Meetings

Federal Register
Vol. 49, No. 35
Tuesday, February 21, 1984

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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1

CIVIL AERONAUTICS BOARD

[M-399 Amdt 2; 2/9/84]

Notice of Addition and Closure of Item to the February 9, 1984 Meeting

TIME AND DATE: 10:00 a.m., February 9, 1984.

PLACE: Room 1027 (Open), Room 1012 (Closed), 1825 Connecticut Avenue, NW., Washington, D.C. 20428.

SUBJECT:

25. Global Assessment of United States International Issues: (BIA)

STATUS: Closed.

PERSON TO CONTACT: Phyllis T. Kaylor, The Secretary. (202) 673–5068.

[FR Doc. 84-4586 Filed 2-10-84; 10:10 am]
BILLING CODE 6320-01-M

2

CONSUMER PRODUCT SAFETY COMMISSION

TIME AND DATE: 10:00 a.m., Wednesday, February 22, 1984.

LOCATION: Third Floor Hearing Room, 1111–18th Street, NW., Washington, DC.

STATUS: Open to the Public.

MATTERS TO BE CONSIDERED:

1. Export Policy CPSA & FHSA

The Commission will consider issues related to the export policy under the Consumer Product Safety Act and the Federal Hazardous Substances Act.

2. PPPA Exemption Request, PP 83–1

The Commission will consider a petition from Ayerst Laboratories to exempt certain conjugated estrogens and progestins from special packaging requirements under the PPPA.

(For a recorded message containing the latest agenda information: call 301–492–5709)

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Butts, Office of the Secretary, 5401 Westbard Avenue, Bethesda, MD 20207, 301–492–6800.

Signed: February 9, 1984.

Sheldon D. Butts,

Deputy Secretary.

[FR Doc. 84-4552 Filed 2-15-84; 4:32 pm]
BILLING CODE 6355-01-M

3

CONSUMER PRODUCT SAFETY COMMISSION

TIME AND DATE: 10:00 a.m., Thursday, February 23, 1984.

LOCATION: Westwood Towers, 5401 Westbard Avenue, Bethesda, Maryland.

STATUS: Closed to the Public.

MATTER TO BE CONSIDERED:

Compliance Status Report

The staff will brief the Commission on the status of various compliance matters.

(For a recorded message containing the latest agenda information: Call 301–492–5709)

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Butts, Office of the Secretary, 5401 Westbard Avenue, Bethesda, MD 20207.

Signed: February 15, 1984.

Sheldon D. Butts,

Deputy Secretary.

[FR Doc. 84-4553 Filed 2-15-84; 4:33 pm]
BILLING CODE 6355-01-M

4

NUCLEAR REGULATORY COMMISSION

DATE: Week of February 20, 1984 and Monday, February 27, 1984.

PLACE: Commissioners' Conference Room, 1717 H Street, NW., Washington, D.C.

STATUS: Open and Closed.

MATTERS TO BE DISCUSSED:

Thursday, February 23

2:00 p.m.
Briefing on Advanced Reactors (Public Meeting)

Friday, February 24

10:00 a.m.
Discussion of Interaction of Earthquakes and Emergency Planning (Public Meeting)

2:30 p.m.
Discussion of Need for and Availability of Experienced Reactor Operators for Future Nuclear Power Plants (Public Meeting)

4:30 p.m.
Affirmation/Discussion and Vote (Public Meeting)
a. Commission Policy Statement on Equipment Qualification (Tentative)
b. Financial Qualification (Tentative)
c. Earthquakes—Diablo Canyon (Tentative)

Monday, February 27

2:00 p.m.
Discussion of Staff Recommendations on DOE Siting Guidelines (Public Meeting) (Postponed from February 14)

ADDITIONAL INFORMATION: Discussion of Advance Notice of Rulemaking on Backfitting scheduled for February 16, *postponed.*

TO VERIFY THE STATUS OF MEETINGS CALL: (Recording)—(202) 634–1498.

CONTACT PERSON FOR MORE INFORMATION: Walter Magee, (202) 634–1410.

Walter Magee,

Office of the Secretary.

February 16, 1984.

[FR Doc. 84-4674 Filed 2-16-84; 3:48 pm]
BILLING CODE 7590-01-M

5

POSTAL SERVICE BOARD OF GOVERNORS; NOTICE OF VOTE TO CLOSE MEETING

At its meeting on February 8, 1984, the Board of Governors of the United States Postal Service unanimously voted to close to public observation its meeting, scheduled for March 5, 1984, in Washington, D.C. The meeting will involve: (1) A discussion of possible strategies in anticipated collective bargaining negotiations, pursuant to chapter 12 of title 39 United States Code, involving parties to the 1981 National Agreements, between the Postal Service and four labor organizations representing certain postal employees, which are scheduled to expire in July 1984; and (2) consideration of an anticipated Recommended Decision of the Postal Rate Commission on E–COM rate and classification changes in Docket No. R83–1.

The meeting is expected to be attended by the following persons: Governors Babcock, Camp, McKean, Peters, Ryan, Sullivan, Voss and Waldman; Postmaster General Bolger; Deputy Postmaster General Finch; Secretary of the Board Harris; General Counsel Cox; Senior Assistant Postmasters General Coughlin and

Morris; and Counsel to the Governors Califano.

As to the first of these agenda items, the Board is of the opinion that public access to any discussion of possible strategies that Postal Service management may decide to adopt, or the positions it may decide to assert, in any collective bargaining sessions that may take place would be likely to frustrate action to carry out those strategies or assert those positions successfully. In making this determination, the Board is aware that the effectiveness of the collective bargaining process in labor-management relations has traditionally depended on the ability of the parties to prepare strategies and formulate positions without prematurely disclosing them to the opposite party. The public has a particular interest in the integrity of this process as it relates to the Postal Service, since the outcome of the negotiations between the Postal Service and the various postal unions, and consequently the cost, quality and efficiency of postal operations, may be adversely affected if the process is altered.

Accordingly, the Board of Governors has determined that, pursuant to section 552b(c)(3) of title 5, United States Code, and § 7.3(c) of title 39, Code of Federal Regulations, this portion of the meeting is exempt from the open meeting requirement of the Government in the Sunshine Act (5 U.S.C. 552b(b)), because it is likely to disclose information prepared for use in connection with the negotiation of collective bargaining agreements under chapter 12 of title 39, United States Code, which is specifically exempted from disclosure by section 410(c)(3) of title 39, United States Code. The Board has determined further that, pursuant to section 552b(c)(9)(B) of title 5, United States Code, and § 7.3(i) of title 39, Code of Federal Regulations, the discussion is exempt, because it is likely to disclose information the premature disclosure of which is likely to frustrate significantly proposed Postal Service action. Finally, the Board of Governors has determined that the public has an interest in maintaining the integrity of the collective bargaining process and that the public interest does not require that the Board's discussion of its possible collective bargaining strategies and positions be open to the public.

As to the second agenda item, the Board is of the opinion that public access to the discussion would be likely to disclose information that could become involved in future rate or classification litigation.

Accordingly, the Board of Governors has determined that, pursuant to section 552b(c)(3) of title 5, United States Code, and § 7.3(c) of title 39, Code of Federal Regulations, this portion of the meeting is exempt from the open meeting requirement of the Government in the Sunshine Act (5 U.S.C. 552b(b)), because it is likely to disclose information in connection with proceedings under chapter 36 of title 39, (having to do with postal ratemaking, mail classification and changes in postal services), which is specificaly exempted from disclosure by section 410(c)(4) of title 39, United States Code. The Board has determined further, that pursuant to section 552b(c)(10) of title 5, United States Code, and § 7.3(j) of title 39, Code of Federal Regulations, the discussion is exempt because it is likely to specifically concern the participation of the Postal Service in a civil proceeding or the litigation of a particular case involving a determination on the record after opportunity for a hearing. The Board further determined that the public interest does not require the Board's discussion of this matter be open to the public.

In accordance with section 552b(f)(1) of title 5, United States Code, and § 7.6(a) of title 39, Code of Federal Regulations, the General Counsel of the United States Postal Service has certified that in his opinion the meeting to be closed may properly be closed to public observation, pursuant to sections 552b (c)(3), (9)(B) and (10) of title 5 and sections 410(c) (3) and (4) of title 39, United States Code, and § 7.3 (c), (i) and (j) of title 39, Code of Federal Regulations.

David F. Harris,

Secretary.

[FR Doc. 84-4613 Filed 2-16-84; 12:34 pm]

BILLING CODE 7710-12-M

6

SYNTHETIC FUELS CORPORATION

Meeting of the Board of Directors

ENTITY: United States Synthetic Fuels Corporation

ACTION: Notice of Continuation of Recessed Meeting.

SUMMARY: Interested member of the public are advised that a recessed portion of the meeting of the Board of Directors of the United States Synthetic Fuels Corporation closed by resolution of the Board of Directors of February 16, 1984, will be held on the date and at the time and place specified below by telephone conference call. This public announcement is made pursuant to the requirements of Section 116(f)(1) of the Energy Security Act (9 Stat. 611, 637; 42 U.S.C. 8701, 8712(f)(1) and Section 4 of the Corporation's Statement of Policy on Public Access to Board meetings.

DATE AND TIME: February 24, 1984 at 10:00 a.m. (EST)

PLACE: 2121 K Street, NW., Room 403, Washington, D.C. 20586.

PERSON TO CONTACT FOR MORE INFORMATION: If you have any questions regarding this meeting, please contact Mr. Owen J. Malone, Legal Services Group (202) 822-6336.

United States Synthetic Fuels Corporation.

Robert W. Gambino,

Group Vice President-Corporate.

[FR Doc. 84-4719 Filed 2-17-84; 8:45 am]

BILLING CODE 0000-00-M

VOL
49
ISS
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federal register

Tuesday
February 21, 1984

Part II

Department of the Interior

Bureau of Land Management

43 CFR Part 4100

Grazing Administration, Exclusive of Alaska; Final Rulemaking

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Part 4100

[Circular No. 2541]

Grazing Administration, Exclusive of Alaska

AGENCY: Bureau of Land Management, Interior.

ACTION: Final rulemaking.

SUMMARY: This final rulemaking amends the regulations for the management of grazing on the public lands under the jurisdiction of the Bureau of Land Management. These regulations were issued by the Department of the Interior as proposed rulemaking and published in the **Federal Register** on May 13, 1983 (48 FR 21820) with an initial public comment period of 60 days. At the request of commenters, this period was extended an additional 30 days ending on August 11, 1983. One hundred fifty-six comments were received and considered during the development of this final rulemaking. These final regulations revise the regulations in 43 CFR Part 4100 by eliminating redundant items, clarifying existing language and terms, and reorganizing the regulations for easier understanding.

EFFECTIVE DATE: March 22, 1984.

ADDRESS: Assistant Director for Renewable Resources (220), Bureau of Land Management, 1800 C Street, NW., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT:

Mr. Robert Alexander (202) 653–9210; or Mr. Richard Miller (202) 343–8735.

SUPPLEMENTARY INFORMATION: A **Federal Register** Notice was published on December 16, 1982 requesting comments from the public concerning the Bureau of Land Management's grazing regulations in 43 CFR Part 4100. Comments received were considered during the development of the proposed regulations which were published in the **Federal Register** on May 13, 1983 (48 FR 22081).

Comments received on the proposed regulations have been reviewed by the Department of Interior and carefully considered in developing the final rulemaking. Discussion of the comments is divided into two parts: the first deals with general comments on the proposed regulations and the second specifically addresses points or issues raised by commenters on individual sections of the regulations.

General

One hundred fifty-six letters of comment were received during the public comment period. Most of the public comments opposed the proposed regulations. Generally, comments opposing the regulations expressed the view that the proposed regulations would diminish the ability of the Bureau of Land Management to manage domestic livestock grazing on the public lands within a framework of multiple use management and sustained yield as mandated by the Taylor Grazing Act and the Federal Land Policy and Management Act of 1976. Many comments also interpreted the proposed regulations as limiting the opportunity for public input regarding grazing management decisions.

Some comments supported the proposed changes, generally expressing the view that they streamlined the regulations and made them easier to understand. A major objective was to remove redundant material from this section of title 43. Material which relates to internal operational procedures has been removed and is or will be incorporated into Bureau of Land Management Manuals, handbooks, and other internal directives. The preamble to these final regulations indicates where material has been removed and has been or will be placed in the BLM Manual.

Other comments expressed concern about modification of definitions by the proposed rulemaking and suggested that these and other changes proposed were not sufficiently addressed in the preamble to the proposed regulations.

Most comments opposing the proposed regulations were directed to five principal areas. These areas are addressed briefly in this general section as well as in the section on specific comments received on the proposed rulemaking:

1. Deletion of the provision in § 4120.2–1 of the existing regulations that authorized livestock use shall not exceed the livestock grazing capacity. The removal of the language that prohibited exceeding the level of grazing capacity was interpreted by many commenters as meaning that the Bureau would no longer require livestock grazing to be limited to the grazing capacity. This was not the intent of the proposal. Specific language is included in § 4130.6–1—Mandatory terms and conditions—to reflect the policy that authorized livestock grazing will not exceed the grazing capacity.

2. Deletion of the clause in § 4130.2(d)(3) of the present regulations by the proposed rulemaking which provides that permits and leases would be made subject to cancellation, suspension, or modification "as required by land use planning decisions". Deletion of this provision by the proposed regulations (§ 4130.6–1(b)) was perceived by many commenters as allowing existing grazing leases and permits to override land use planning decisions rather than making leases and permits subject to land use planning decisions as required by the Federal Land Policy and Management Act (FLPMA). Section 4130.6–3 in the final rulemaking retains authority to modify permits or leases to meet land use plan or management objectives.

3. Deletion of the clause in § 4140.1(b)(7) that an operator's grazing permit could be revoked if the operator violates Federal or State environmental protection laws (existing § 4140.1(b) (7) and (8) in the proposed § 4140.1(b)). Many comments expressed the view that use of the public lands for grazing is a privilege that should be revoked if a person fails to respect the laws protecting the public land and its resources. Other comments agreed with the regulation as proposed.

Section 4140.1(b)(5) of the final rulemaking modifies the language of the proposed rulemaking to include violation of the Bald Eagle Protection Act (16 U.S.C. 668) and the Endangered Species Act (16 U.S.C. 1540) as acts prohibited on the public lands which may result in cancellation of a grazing permit or lease because these acts specifically provide that authority to the Secretary.

4. Removal or modification of language in sections 4100.0–5 and 4160 that discusses affected interests other than livestock operators. Comments interpreted these changes as tending to exclude segments of the public from the decisionmaking process and limiting the right to protest and appeal decisions concerning livestock grazing on the public lands. Other comments expressed support for these sections of the proposed regulations. The final rulemaking provides for notifying affected interests concerning proposed and final decisions relating to grazing on the public lands.

5. Cooperative Management Agreements. (§ 4120.1) This proposal was interpreted by many comments as turning management of the public lands over to the livestock operator. Some comments approved the proposal, but suggested that complete discretion concerning the management of grazing should not be provided to the livestock operator under a Cooperative Management Agreement. The

Department has made changes to this section in the final regulations.

A comment suggested including a section on district grazing advisory boards to clarify their roles and functions. The final rulemaking does not include this suggestion because § 1784.6–5 of this title addresses this topic. To repeat the information would be redundant and add unnecessary length to the regulations.

Response of the Department of the Interior to Specific Comments on the Proposed Rulemaking

Section 4100.0–2 Objectives.

One comment requested modification of this section to indicate that the objective of the regulations was to provide technical and administrative services to facilitate and enhance the multiple use of the public lands.

After consideration of this comment the Department of the Interior determined that the section be revised to indicate more clearly that the objectives of the regulations are to provide for orderly use, improvement and development of public rangelands.

Section 4100.0–5 Definitions.

Many comments were received concerning the modification or deletion of definitions in the proposed regulations. Comments opposed modification of the definition of "affected interests" on the grounds that this modification would limit the participation of the general public in livestock grazing management decisions. Comments suggested that the proposed rule would circumscribe the scope of "affected interests" to include only those who have a direct interest in the livestock business. As proposed, the regulations would allow the authorized officer to determine which members of the public were affected by a grazing management decision. Comments opposed this provision, as well as the further requirement that individuals request in writing that they be considered as an affected interest. Comments contended that these requirements might possibly be subject to abuse and be unduly burdensome on the public.

After careful consideration of these comments, the Department of the Interior has modified the definition of affected interest to make it clear that it is the responsibility of individuals or organizations to communicate in writing to the authorized officer that they wish to be considered an affected interest.

The regulations in Part 4100 of this title do not affect the provisions for public participation in the development of land use plans found in § 1601.2 of this title. Any and all people and interests may participate in the development of land use plans and have the right to protest the final decision. The land use plan establishes the goals, objectives and management direction for livestock grazing of the public lands. In addition, a member of the public who has expressed concern in writing for management of livestock grazing on a specific allotment may be considered an affected interest with whom there is to be further consultation, cooperation and coordination in addition to being given copies of grazing decisions for an allotment.

Sections 4.470 and 4160.4 of this title provide that any party may protest management decisions where they are considered to be adverse.

A comment recommended that the definition of "allotment" be modified to indicate that allotments are administered for grazing of livestock. The Department of the Interior has considered this comment and has concluded that the existing language is adequate.

A comment suggested modifying the definition of "Allotment Management Plan" to focus on a particular public land allotment. Another opposed the deletion of the term "operations". The Department has determined that the proposed definition is sufficiently clear for the purposes of grazing management.

It was suggested that the use of the term "authorized officer" be deleted to avoid fragmentation of authority. The Department of the Interior has determined that it is important to retain the use of the term "authorized officer". The delegation of authority for range management decisions is not uniform among states and may change from time to time. In most cases, however, this will be the Area Manager or District Manager.

Comments suggested modifying the definition of "base property" by deleting the requirement of commensurability. However, the Department of the Interior has determined that the existing definition is more appropriate and should be retained because it requires that base property be capable of supporting livestock when they are not on the public lands.

Comments also were received concerning the definition of "Certified Actual Use". Some comments expressed the view that the livestock operator should be required to certify his/her actual use. Another suggested that certified actual use reports should be used only in cases of after-the-fact billing for grazing use. The Department of the Interior has determined that in actual practice the livestock operator certifies the accuracy of the actual use information when he or she signs the actual use form and the inclusion of the word "certified" in the heading of the report provides no additional benefit to the Bureau or to the operator. The proposed definition is adopted in this final rulemaking.

Comments were received on the proposed deletion of the definition of "class and kind of livestock". After considering these comments, the Department of the Interior has determined that although existing definitions in the regulations are consistent with commonly used definitions, confusion may exist because of previous definitions in this title. The final rulemaking retains existing definitions.

Although the definition was not proposed for modification in proposed rulemaking, comments were received concerning the definition of the terms "Consultation, cooperation and coordination". Three comments opposed modification of the existing definition while two proposed that the definition be revised to reflect equality of rank among the participants in the development of a grazing program. After careful consideration, the Department of the Interior has determined that the definition should be revised to clearly reflect the interactive nature of the process of consultation, cooperation and coordination. This change is made in the final rulemaking.

One comment suggested modification of the definition of "grazing preference" to indicate that grazing preference was a right to the privilege of grazing. This suggestion is inconsistent with the language of the Taylor Grazing Act (43 U.S.C. 315 et seq.) which specifically states that no rights are created through the granting of grazing permits or leases. The existing definition is retained in final rulemaking.

One comment opposed the deletion of the definition of "modification". The final rulemaking does not contain a definition of modification as its use in the regulations is standard and well understood.

Comments opposed deletion of the definition of the term "indigenous animal", interpreting the deletion to mean that wildlife would not be considered during the development of allotment management plans.

It is the policy of the Department of the Interior that requirements for wildlife habitat be considered during the development of land use plans and allotment management plans. The reference to indigenous animals in

subpart 4100 of this title addresses only the issuance of special grazing permits or leases for privately owned or controlled indigenous animals and does not refer to those wildlife managed by State game and fish departments or to endangered species for which the Department of the Interior has responsibility. The definition is a standard dictionary definition and therefore its inclusion in these regulations is not necessary for an understanding of the intent of the regulations.

Comments were received concerning the definition of "land use plan" and all opposed modification of this definition, interpreting the proposed new definition to mean that a land use plan was no longer a decision document. In order to clarify the distinction between grazing decisions and the land use plan, the proposal was modified in final rulemaking to indicate that the land use plan establishes coordinated management direction for all resource uses on the public lands including livestock grazing. Livestock grazing is then adjusted through decisions and agreements to be consistent with the coordinated management direction established in the land use plan.

Comments opposed the proposed definition of "livestock grazing capacity", perceiving the new definition to mean that the Bureau of Land Management would no longer develop a precise estimate of grazing capacity on public lands. Other comments supported this change.

After considering these comments, the final rulemaking adopts the proposed language. This definition of grazing capacity is more sensitive to the fact that grazing capacity is not an immutably fixed quantity, but is instead variable, subject to a number of factors, including goals, objectives, type of management, and weather conditions. It is important for the final regulations to reflect that the determination of grazing capacity will always be an estimate because such factors as the effect of weather on grazing capacity cannot be determined precisely in advance.

Comments were received concerning the definition of "monitoring" and how monitoring will be used by the Bureau. The Department of the Interior has determined that the existing definition is adequate and accurate, and the existing language is retained in the final rulemaking.

One comment suggested a modification in the definition of "range improvement" to make it more concise. The Department of the Interior has adopted this suggestion in final rulemaking.

No comments were received concerning the definition of "supplemental feed". However, in light of revisions to section 4140 in response to comments, the definition of "supplemental feed" was also modified in final rulemaking.

Comments were also received concerning the definition of "service area" and "suspended preference". After careful consideration of these comments the Department of the Interior has determined that the proposed definition of "service area" is accurate. Factors that should be considered in the determination of service area are more appropriately placed in the Bureau Manual System. The term "suspended preference" is not used in the regulations and therefore it is not needed in final rulemaking.

Comments suggested replacing the term "suspended preference" with the term "Temporary non-use" and developing a new definition. The Department of the Interior has determined that including this term is not necessary and has therefore not adopted this suggestion.

A definition of "State Director" has been included in final rulemaking.

Comments proposed adding a definition of the term "Stewardship Program". However, this term is not used in the regulations and would be confusing if added to the existing regulations. Therefore, this suggestion was not adopted.

Comments also suggested that a definition of "Cooperative Management Agreement" be incorporated into the regulations. The Department of the Interior has determined that inclusion of a definition of "Cooperative Management Agreement" would be in the public interest and has included a definition in the final regulations.

Section 4110 Allocation of Grazing Use.

A comment suggested the title "Grazing Allocation and Use" be substituted for the proposed section title, because the section dealt with more activities than allocating grazing use. After considering this suggestion, the Department of Interior has adopted a new title, "Qualifications and Preference", which more accurately describes the contents of this section.

4110.1–1 Acquired lands.

The final rulemaking has a new § 4110.1–1 Acquired lands. This section was added in response to a comment that the proposed regulations should clarify that permittees or lessees on lands acquired by the Bureau may be qualified without owning base property.

Comments suggested deleting § 4110.2–1(2)(b) on the grounds that the Bureau of Land Management has no authority to make a determination regarding the length of time the land base property is capable of supporting authorized livestock during the year. This provision has been in the regulations for many years as implementation of the mandate of Section 2 of the Taylor Grazing Act to provide for the orderly use, improvement and development of the public rangelands. The authority of the Department to make such a determination is consistent with the language of the Taylor Grazing Act. However, the Department has determined that the decision should not be made without cooperation, consultation, and coordination. The final rulemaking revises the proposal to reflect this policy.

One comment suggested modification of the title of § 4110.2–2 to delete the term "allocation". After considering the comment, the Department has decided to retain the term to avoid confusion with the title of section 4110.2.

Comments opposed modification of § 4110.2–2. One suggested revision of the section to require that both wild horses and wild burros be controlled in accordance with existing statutes and proper range management. Others expressed the view that the proposed language of § 4110.2–2(a) would prevent future allocation of forage to wildlife or other uses of the public lands. The intent of the proposed regulation was to clarify that present users will have priority over new preference applicants. The Department of Interior agrees that the new wording detracted from the original intent of the paragraph. The final rulemaking retains the existing language of the regulation.

Comments suggested modification of § 4120.2–2(c) by eliminating references to how the preference would be attached to the base property. After considering this comment, the Department has determined that the existing language is appropriate. No change has been made to the provision in the final rulemaking.

The proposed rulemaking deleted existing § 4120.1 Allotments and replaced it with a new proposed § 4120.1 Cooperative Management Agreements.

Comments opposed this proposed deletion. They expressed the view that such a designation of allotments is an important part of land use planning and is also important for informing the public of the condition of the public lands. Another comment suggested adding the requirement of consultation,

cooperation and coordination to the existing paragraph. The Department of the Interior has concluded that authority for the Bureau of Land Management to designate and adjust allotment boundaries is necessary for proper management of the public lands, and that this authority should not be confined to the land use planning process. Therefore the final rulemaking provides such authority in § 4110.2–2(d).

A comment supported the proposed language for § 4110.2–3 Transfer of Grazing Preference. Other comments suggested that § 4110.2–3(a)(3) be deleted as it amounted to the Bureau of Land Management establishing the conditions of sale for a livestock operation. The Department of Interior has determined that it is appropriate for the transferee to discuss the terms and conditions of a new permit or lease with the authorized officer. It is also appropriate for the authorized officer to modify the terms and conditions of the previous permit or lease as necessary to achieve multiple use objectives; and that these terms and conditions be binding. Therefore, the Department of the Interior has modified the proposed language adopted in the final rulemaking.

Another comment suggested that paragraph (d) of this section in the existing regulation be retained and modified and that approval of transfers be made mandatory by inserting the word "shall" in place of the word "may" in the paragraph. After considering this suggestion, the Department of Interior has determined that the language of the proposed regulation is appropriate.

Comments indicated that § 4110.2–3(f) as proposed requires that the transferee and transferor comply with regulations, while the responsibilities apply only to the transferee. In consideration of the comments, the Department of the Interior has determined that a properly executed transfer application requires that the transferor sign the application for transfer of the preference and the interest in range improvements. Therefore, this section of the proposed rulemaking has been adopted in the final rulemaking.

Other comments suggested that the authority to cancel a preference for failure to make proper application for transfer should be retained to assure that applications are timely filed. The final rulemaking provides that authority to the authorized officer.

Comments on the existing § 4110.2–4 urged retention of this section in final rulemaking (§ 4110.2–3) to protect the lienholder. However, the Department of the Interior has concluded that the interests of lienholders are adequately protected because notification of lienholders is part of the existing terms and conditions printed on the grazing permit or lease. Specific procedures for notifying lienholders are more appropriately placed in the Bureau Manual. The section has been deleted from the final rulemaking.

Section 4110.3 Changes in Available Forage.

One comment suggested revision to the introductory paragraph to require consultation, cooperation and coordination with district grazing advisory boards and permittees/lessees. The Department of Interior has determined that such a requirement would not be appropriate for the allocation of forage temporarily available because of the need for a timely decision. However, this requirement would be appropriate for forage that is permanently available. The final rulemaking modifies the proposed § 4110.3–1(c) to reflect the comment.

Other comments suggested that specific procedures be added to the regulations to provide for the allocation of additional available forage. Because of the wide variety of grazing management situations on the public lands, the Department of the Interior has determined that specific guidance should be provided through the Bureau Manual System. Because of this, existing language is retained except for reference numbers which were changed to their location in the final regulations.

A comment suggested retaining § 4110.3–1(d) and revising it to state that where monitoring over five years shows that additional forage for livestock is available the forage would be made available without a phase-in period. It has been determined that § 4110.3–3(a) provides authority to increase grazing in less than five years where agreement with affected interests can be reached. The suggestion was not adopted.

A comment suggested that the phrase "deteriorating forage condition" be added to the list of conditions which would serve to suspend grazing permits or leases in whole or in part in § 4110.3–2. This suggestion was not adopted, because forage deterioration is within the concept of natural causes as specified in this section of the existing regulations.

Several comments opposed deletion of § 4110.3–2(d)(2). They suggested that the new section did not provide for reduction in use to be implemented in less than five years when needed to sustain resource productivity. After careful review of the proposed §§ 4110.3–2 and 4110.3–3, the Department has determined that adequate authority is available for temporary resource protection under §§ 4110.3–2(a) and 4110.3–3(c). Permanent reductions to achieve multiple use objectives should be phased in over a five year period unless agreement can be reached by the parties involved (§ 4110.3–3(b)). Where resource conditions warrant an immediate significant reduction, the initial reductions made the first year may be large enough to significantly improve resource conditions and may be placed in full force and effect to stop resource deterioration (§ 4160.3). Therefore, the final rulemaking adopts the language of the proposed rulemaking.

Section 4110.3–3 Implementation of Changes in Available Forage.

In general, comments opposed this section of the proposed rulemaking expressing the view that delay in decisions may result in substantial long term damage to the resources. After careful consideration of these comments, particularly with reference to correct interpretation of 43 U.S.C. 1732(b), 43 U.S.C. 1752(d) and (e), the Department of the Interior has determined that existing policy and guidance for implementation of changes in available forage are consistent with the statutory language.

Comments also expressed the view that Rangeland Program Summary documents should be retained. The Department of Interior has determined that the procedures for preparation and distribution of Rangeland Program Summary documents found in the existing regulations at § 4110.3–3 are obsolete because of new procedures for land use planning. The requirement to prepare an environmental impact statement concerning livestock grazing is now often being met through the preparation of a Resource Management Plan (RMP) of which an environmental impact statement is an integral part.

In these situations, the summary record of decision for the RMP which follows the preparation of a completed land use plan may replace the Rangeland Program Summary. In some instances, additional summary documents relating to grazing management are prepared to supplement the record developed for the RMP. Guidelines for the development of such Rangeland Program Summary documents are more appropriately placed in the Bureau Manual. Therefore, there is no provision for mandatory development of Rangeland Program Summary documents in these final regulations.

Comments expressed concern that monitoring provisions in the proposed regulations would delay necessary reductions in grazing use on the public lands and result in needless deterioration of the forage resource.

Other comments supported the concept of monitoring as it was proposed. After consideration of these comments, the Department of the Interior has concluded that the proposed rulemaking is consistent with the existing policy of accumulating an accurate data base upon which to make long term resource use decisions which may have substantial impact on public land users. Therefore, this section is adopted in the final regulations.

One comment suggested that the authority in § 4110.3–2(b) should be applied following consultation, cooperation and coordination with district grazing advisory boards, permittees and/or lessees or when other tools are not practical or economical. The final rulemaking revised § 4110.3–3(b) to include consultation, cooperation and coordination prior to a grazing decision. The other procedures suggested are more appropriate for the Bureau Manual System.

Comments received on the proposed regulation at § 4110.3–3(c) recommended that overgrazing be included as one of the causes which would require temporary closure of allotments or portions of allotments to grazing, or to modify the grazing use. The Department of Interior has concluded that the proposed language is adequate in that the paragraph applies to unusual and unexpected circumstances and conditions on the public lands and is not limited to the example cited. Overgrazing would occur as a result if action were not taken to reduce the livestock grazing. Therefore, § 4110.3–3(c) has been adopted as proposed.

A comment suggested deleting the requirement for consultation with affected permittees prior to closure. After consideration of the comment, the Department of the Interior concluded that in situations which require closure to grazing it is important to consult those interests which are affected by such actions to assure that a united approach is taken to the emergency. The proposed language is retained in final rulemaking. Procedures to be followed regarding closures will be placed in the Bureau's Manual System.

Another comment suggested adoption of language to address periods of abundant forage on the public lands and the manner in which this forage should be allocated. This situation is treated in § 4110.3–1 of this title and need not be duplicated in § 4110.3–3(c). Additional procedures for allocation of temporary available forage will be provided by the Bureau Manual System.

One comment suggested that § 4110.4–1 Additional land acreage, be modified to require the authorized officer to coordinate with the district grazing advisory boards prior to allocation of additional forage to qualified applicants. This suggestion was considered and it was determined that such a requirement would not be appropriate in all cases. The suggestion was not adopted in final rulemaking. More detailed instructions will be incorporated into the Bureau Manual System.

Section 4110.4–2 Decrease in land acreage.

Comments suggested that when the public lands are disposed of or devoted to another public purpose, provision be made for compensating for the cancelled permit or lease in addition to compensating for a permittee's or lessee's interest in authorized permanent range improvements on the public lands. The suggestion also provided procedures for compensation. Other comments expressed concern that the proposed language to require a 2 year notification prior to cancelling a permit or lease in whole or in part (§ 4110.4–2(b)) would create planning and financial hardships and delays in developing mineral leases or conducting other non-grazing activities. Comments also expressed the opinion that there is confusion regarding suspension versus cancellation under such circumstances.

These comments and suggestions were considered but not adopted because of inconsistency with current policy and legislative guidance. Regulations providing for a two year notification to lessees or permittees prior to cancellation of a lease or permit are in accordance with section 402(g) of the Federal Land Policy and Management Act.

Section 4120.1 Cooperative Management Agreements.

This proposed section received numerous comments which generally objected to the proposal as it was written. Comments expressed the view that as written this provision provided insufficient authority and control to the Bureau of Land Management overgrazing on the public lands. Comments also indicated that the policy of developing cooperative management agreements which had been implemented by the Bureau of Land Management had insufficient public review. Some comments suggested that the concept of a cooperative management agreement was basically sound, but that existing guidance in the regulations was not adequate. Other comments suggested that the proposed rulemaking provided incentives for livestock operators to practice better range management practices on the public lands. Other comments argued that this section of the proposed regulations was not consistent with present policy or statutory guidance.

After considering the many comments received, the Department of the Interior determined that this section of the proposed regulations should be modified to more clearly indicate the objectives and approach of the cooperative management agreement within the general framework of multiple use management. Modifications to this effect were made in the final rulemaking.

Section 4120 Grazing Management.

The proposed rulemaking deleted § 4120.2–1(b) concerning incorporation of terms and conditions for grazing into the grazing permit in situations where there is no allotment mangement plan. A comment was recommended that this section should be retained because it is needed to give the authorized officer the ability to act in a timely manner. The Department considered this suggestion and has added §4130.6–3 which clearly provides authority to modify a permit or lease if present grazing use is not meeting the objectives established for the allotment.

A number of comments were received recommending retention of § 4120.2–1(c) which was proposed for deletion. Comments recommended retention to make it clear that under the law, permits and leases are subject to land use plans and can be cancelled or modified. In the final rulemaking, § 4130.6–3 was added to provide for modification of permits and leases to meet the objectives of a land use plan or allotment.

The proposed rulemaking would have deleted § 4120.2–1(d) because § 4130.6–1 was considered to be adequate authority for modification of terms and conditions of the grazing permit. However, comments indicated that deletion of paragraph (d) could be regarded as eliminating the requirement for annual review of the terms and conditions of a permit. Comments expressed the view that an annual requirement for review was necessary and that the existing regulations made it clear that the Bureau of Land Management has the authority to review and modify permits. Since the proposed change was not discussed the preamble to the proposed rulemaking, the comment expressed the view that the change should not be made. The Bureau of Land Management regrets this

oversight in the proposed rulemaking. However, the change was made in the body of the proposed rulemaking and did receive comments. After considering these comments, the Department of Interior has added § 4140.6–3 in the final rulemaking which provides authority to modify permits or leases where present grazing use is not meeting the land use plan or management objectives. Guidance concerning frequency of review is more appropriately placed in the Bureau Manual System.

Section 4120.2 regarding development, approval and implementation of allotment management plans received a number of comments concerning proposed language which deleted the reference to prescribing a system of grazing for an allotment. They believed the proposed language indicated a weakening of the Allotment Management Plan approach to grazing management. Comments also provided alternative language concerning the inclusion of private and State lands in an allotment management plan. Comments also suggested that the authority to revise and terminate allotment management plans should be retained by the Bureau of Land Management.

After considering these comments, the Department adopted the proposed language of § 4120.2 in the final rulemaking with a modification. The introductory sentence is deleted in final rulemaking. It was determined that the sentence did not provide any additional authority or guidance to the authorized officer or to the public concerning required contents or procedures for developing allotment mangement plans.

The proposed language regarding State and private lands more accurately reflects existing policy. Each allotment management plan will be incorporated in a lease or permit (§ 4120.2(c)) and can be modified under § 4130.3–6. The Department does not regard the proposal as weakening the approach to allotment management plans. All allotments do not require systematic grazing. Therefore, a description of livestock grazing practices to be used to achieve the objectives is adequate for a quality AMP.

Several comments were received opposing § 4120.2 of the proposed rulemaking. That section noted that the proposed section did not include the provision of the existing § 4120.2–3(e) which requires submission of a Certified Actual Use Report within 15 days of completing their annual grazing use under an allotment management plan. Comments expressed the view that certified actual use should not be a discretionary item. In studying the comments, the Department has determined that authority for the authorized officer to require an actual use report is found under § 4120.6–2(d) of this title. Further authority under § 4120.2 is not required.

The existing regulation § 4120.6–1—Conditions for range improvements, was not amended in the proposed rulemaking but was renumbered as § 4120.3–1. One comment suggested that this section should be modified to indicate that the Bureau of Land Management shall require a permittee or lessee to maintain or modify range improvements located on public lands as this is consistent with existing Bureau policy. Other commenters expressed the view that the Bureau did not have authority to require maintenance of privately owned range improvements on public lands. Another comment suggested that all fences should be maintained by permittees on both sides of the fence. One comment expressed the view that under the proposed regulations, the Bureau would not require upgrading of substandard range improvements. Other comments all suggested modified wording to this section. After considering these comments, it has been determined that it is important for the Bureau of Land Management to retain its existing authority to require maintenance, modification, and removal of range improvements on public lands. Specific guidance for implementing this authority is more appropriately placed in the Bureau of Manual System.

Section 4120.3–2 Cooperative Agreements.

Several comments were received on proposed regulations in § 4120.3–2. Some comments suggested that only permittees or lessees should be allowed to construct a range improvement. Other comments suggested sharing title to non-structural non-removable range improvements to encourage private investment. Another comment suggested that language be clarified as to why the proposal deleted language referring to lessee or permittee but retained language referring to designated allotment. The final rulemaking further modifies the existing regulation by deleting reference to designated allotment but adopted the proposed language. The final rulemaking also provides that the Bureau of Land Management will retain title to non-structural non-removable range improvements. However, the interest in such range improvements by other parties will be recognized as provided for in § 4120.3–6(c).

Section 4120.3–2 Range Improvement Permits.

Comments were also received on § 4120.3–3—Range Improvement Permits. One comment suggested that the Bureau of Land Management control the use of stock ponds or wells because of their importance for wildlife habitat. Another suggested that before the authorized officer approve a range improvement permit, he or she should consult with the local district grazing advisory board. Another suggested language that would make the issuance of range improvement permits non-discretionary. After consideration of these comments, the Department of the Interior has concluded that the language of the proposed rulemaking should be incorporated in final rulemaking. Where range improvements are privately funded the range improvement permit will include design requirements and other stipulations to assure that these improvements are compatible with wildlife habitat and other multiple use management objectives.

The Department of the Interior has further determined that discretionary authority to grant permits should be retained by the authorized officer for approval of range improvements.

The suggestion to modify the regulations to require consultation with the district grazing advisory board prior to the approval of all range improvement permits would result in an unnecessary delay to the approval of an application for a permit in many cases. Because of this, the suggestion was not adopted in final rulemaking.

Section 4120.3–4 Standards, Design and Stipulations.

Several comments were received concerning § 4120.3–4. One comment opposed adoption of the proposed language, and others suggested deleting or changing the language of the proposed rule. Comments expressed the view that this section of the rulemaking may not be consistent with State standards for design of range improvements. After considering this comment, the Department of the Interior has determined that this section should be retained in final rulemaking. The Bureau of Land Management must retain authority to assure that range improvements meet the objectives of managing the public lands on a multiple use basis.

Section 4120.3–5 Assignment of Range Improvements.

Although only the numbering and placement of this section was changed by the proposed rulemaking, the section

received some comments on substantive issues. One comment suggested deleting the section, expressing the view that improvements should not be considered separately from the permit. Another suggested that they not be separated from the land. Both comments suggested that they be automatically transferred. A comment also suggested that where disagreement exists on the amount of compensation the transferor should receive from the transferee the matter should be resolved by the district grazing advisory board. The Taylor Grazing Act specifically gives the Secretary of the Interior the authority described in this section. Therefore, the existing language has been retained in final rulemaking.

Section 4120.3–6 Removal and Compensation for Range Improvements.

This section received a number of comments. Two comments suggested that language requiring the Bureau of Land Management to be notified prior to removal of range improvements be deleted where the permittee or lessee owns the improvement. This comment was not adopted because it is important that the authorized officer be aware of the proposed removal of a range improvement to assure that proper rehabilitation of the range improvement site is made and that orderly administration of the range can be accomplished without the range improvement.

Another comment suggested language which was intended to make paragraph (b) of this section more consistent with existing policy. After considering this comment, changes were made to the language of this section in the final rulemaking.

Additional comments were received on § 4120.3–6(c). One comment suggested that this paragraph should be deleted and expressed the view that private lessees who elect to assume the risk of building a range improvement on public lands should not be compensated because of a change in use of the public lands which eliminated the need for the range improvement. This provision is consistent with Section 402(h) of the Federal Land Policy and Management Act which provides specific authority to the Secretary to provide reasonable compensation to a permittee for . . . "his interest in authorized permanent improvements placed or constructed on lands covered by such permit or lease, but not to exceed the fair market value of the terminated portion of the permittee's or lessee's interest therein." Thus, the pertinent paragraph is retained in final rulemaking.

Another comment suggested that the adjusted value of the range improvement be the fair market value less salvage value and where there is disagreement about such value, it should be set by standard appraisal methods.

Language has been adopted to clarify that the permittee or lessee has the option of compensation or salvage, but not both, for his/her interest in range improvements. Guidelines for determining how the adjusted value will be determined belong in the Bureau Manual.

A final suggestion was that, as written, this section only applies to range improvements made pursuant to a permit and that it should be amended to include range improvement projects constructed under cooperative agreements. Paragraph (c) contains no distinction between the two types of authorizations. Compensation can be made for either pursuant to these final regulations.

A comment was submitted concerning § 4120.3–6(d) which suggested permittees or lessees should be allowed one year to remove range improvements and should not be required to rehabilitate the site when the Bureau determines that the land should be devoted to another use or disposed of. This comment was not adopted in final rulemaking as the livestock operator has the option of either not removing the improvement and being compensated for the adjusted value or of salvaging the materials and rehabilitating the site. In addition, the 180 days allowed to salvage material may be extended by the authorized officer where there are extenuating circumstances on a case-by-case basis.

Section 4120.7 Cooperation in Management.

A comment was received regarding the proposed deletion of this section. The comment suggested that the paragraph should be retained but that the word "may" should replace the word "shall" where it appears. However, Section 307 of the Federal Land Policy and Management Act uses the word "may". Therefore, it would be inconsistent to use "shall". The Department has determined that the repetition of a section of the law is not needed and the section was deleted from final rulemaking.

Section 4130 Authorizing Grazing Use.

Comments directed to most of this section generally were supportive, agreeing that this reorganization of the existing regulations contributed to better understanding of the regulations.

Section 4130.1 Applications.

A comment referencing the proposed rulemaking at § 4130.1–2(d) expressed the view that the Department of the Interior did not have the authority to consider the availability of public access across privately owned or controlled land to public lands when deciding among conflicting applications for grazing use. This criterion has been utilized for many years in evaluating conflicting applications for livestock grazing authorized by the Taylor Grazing Act in order to assist in the orderly administration of the public lands. Eliminating it without providing adequate opportunity for the affected public to comment would be a major substantive change to the regulations. Therefore, the language in paragraph (d) is retained in final rulemaking.

Section 4130.2 Grazing Permits and Leases.

Some comments were opposed to the proposed deletion of § 4130.2(d)(2) that is in the existing regulations. However, the Department of Interior has concluded that it is repetitive of the proposed § 4130.2(c)(1) and this suggestion was not adopted in final rulemaking.

Numerous comments opposed the deletion of § 4130.2(d) (2), (3) and (4) that are in the present regulations from the proposed § 4130.2. The comments suggested that the sections be retained to assure that the Bureau will modify permits and leases to meet the land use plan objectives and constraints. The final rulemaking in § 4130.6–3 provides authority to modify permits and leases when grazing use is not consistent with the land use plan or management objectives.

Numerous comments suggested retaining § 4130.2(e) (1) and (3) to provide for multiple use consideration. This authority appears in § 4130.2(d) of the final rulemaking.

Section 4130.4–1 Exchange of Use Agreements.

This section was modified in the proposed rulemaking to eliminate the 10-year limit on exchange of use agreements. A comment suggested that this limitation be retained so that exchange of use agreements would receive periodic review. After carefully considering this suggestion, the Department of Interior has determined that the authority to enter into exchange-of-use agreements should not be limited by regulations. The BLM Manual is the appropriate place for guidance for the appropriate cycle of

review, modification, and renewal of exchange of use agreements.

Another comment on § 4130.4–1 suggested wording which would require the authorized officer to coordinate exchange of use agreements with state administering agencies to ensure that the Federal permit holder also holds a State grazing lease. This suggestion was not adopted by final rulemaking. Such a change would be a major substantive modification, granting considerable additional authority to the authorized officer. As a major change, it would require that it be presented as proposed rulemaking with an opportunity for public comment.

The proposed regulation deleted wording in § 4120.4(d) concerning the control of unauthorized grazing use and relocated this provision with modified language in § 4130.5(c). The existing regulation states that the authorized officer may require counting and/or additional or special marking or tagging of the authorized livestock in order to control unauthorized grazing use or in order to otherwise promote the orderly administration of the public lands. The Department of the Interior proposed to delete the words ". . . in order to control unauthorized grazing use or in order to otherwise . . ." because it was determined that language relating to control of unauthorized grazing was redundant. One comment suggested that the entire section be deleted. Another comment suggested that this section be modified to apply only under conditions of demonstrated willful trespass, arguing that as written, the requirement was a substantial burden on the livestock operator. After considering these comments, the Department of the Interior has determined that authority to require counting and/or additional or special marking or tagging of the authorized livestock should be clearly stated in these regulations. The proposal was adopted in final rulemaking.

Section 4130.6 Terms and Conditions.

In general, the comments received from non-livestock interests and others objected to this provision. Major concerns of most of the respondents focused on the proposed deletion of four paragraphs describing the terms and conditions for grazing permits and leases.

Many comments reacted negatively to the proposed deletion of the provision in the existing regulations which states that authorized livestock shall not exceed the grazing capacity. Comments interpreted the deletion of this provision as meaning that the Bureau of Land Management would no longer confine authorized grazing to the livestock grazing capacity. The Department of the Interior proposed this change to existing regulations because the language was redundant since livestock grazing capacity would be a factor to be considered in the development of objectives for an allotment. However, to clarify that it is the policy of the Department of the Interior to limit livestock use to livestock grazing capacity, the proposal was modified in the final rulemaking to retain a reference to livestock grazing capacity.

The Bureau of Land Management's approach to determining livestock grazing capacity is premised on establishing management objectives for an allotment. These objectives reflect the management direction and habitat goals which are developed in the land use plan. Following this, a monitoring program is implemented to determine the extent to which these goals and objectives are being attained under existing management and levels of use.

Based on the data yielded by the monitoring program, average livestock grazing capacity may be estimated. This capacity is the estimated average number of animal unit months of forage available for livestock grazing on a sustained yield basis within the framework of the objectives established for the allotment. The grazing capacity depends upon more factors than forage production and animal diet. Such management factors as season of use, kind and class of livestock, distribution of livestock, availability of water, periods of rest from grazing, and goals and objectives may be the controlling or limiting factors of grazing capacity. Forage production on much of the grazing land in the western United States is quite sensitive to external variables such as time and extent of rainfall, temperature, and rates of evaporative loss. These factors vary from year to year. Estimates of average grazing capacity derived through monitoring will reflect the average forage production and management practices actually applied to an allotment.

Another comment suggested that only in common use allotments would the authorized officer establish the number and kinds of livestock, periods of use, allotment to be used, and the amount of use in animal unit months. Another suggestion was to retain § 4120.2–1(b) of the existing regulations and move it to this section of the proposed rulemaking, adding the requirement for consultation with district grazing advisory boards. After considering these comments, the Department of the Interior has placed the authority found in the existing § 4120.2–1(b) in § 4130.6–3 of this final rulemaking.

Section 4130.6–2 Other terms and conditions.

A comment on § 4130.6–2(d) requested including language that indicated that actual use be certified. Another comment supported the proposal, expressing the view that it would contribute to better relationships between the Bureau of Land Management and the rancher, and would improve management of rangelands. As previously discussed, the livestock grazing operator certifies the accuracy of the information by signing the actual use form and the term need not be included in this section of the regulations. Other comments suggested extending the time for submission of actual use reports from 15 to 30 days. After consideration of all comments, the provision in the proposed regulation was adopted in final rulemaking.

One comment suggested adding a discussion of Stewardship Programs. After considering this comment, it has been determined that the provisions in § 4120.1 concerning cooperative management agreements respond to this comment.

Section 4130.7–1 Payment of Fees.

Several comments were received on this section. One comment requested that the term "certified" be included and that detailed procedures be retained. Another comment questioned eliminating publication of the Annual Grazing Fee in the **Federal Register**. After considering these comments, a provision has been added which clearly indicates that bills for grazing use are due upon issuance even under actual use procedures. Annual publication of the grazing fee in the **Federal Register** is not as cost effective as other means of disseminating this information. The grazing fee is published in local newspapers throughout the West where timely access to the **Federal Register** may be limited.

Section 4140 Prohibited Acts.

One comment suggested that prohibited acts should be limited to public lands. After consideration of the comment, the Department of the Interior has determined that these prohibited acts should apply to public lands and other lands administered by the Bureau of Land Management. Comments were received concerning the modification to the regulations concerning placement of supplemental feed (§ 4140.1(a)(3)). The comments suggested that there could be significant impact from supplemental

feeding without the Bureau of Land Management being aware and the Bureau would not have the administrative resources necessary to modify a large number of permits. After consideration of these comments, the Department has adopted the proposed provision in the final rulemaking. Authority to modify a permit or lease to prohibit supplemental feeding, especially maintenance supplemental feeding, is provided for in §§ 4130.6–3 and 4110.3–3(c). However, such actions should be based on local resource conditions and not apply bureauwide. The Bureau Manual will provide proper procedures for the authorized officer to manage supplemental feeding.

Numerous comments were received concerning the proposed deletion of §§ 4140.1 (b)(7) and (b)(8). The existing regulations state that permits or leases are subject to cancellation or suspension if a permittee or lessee violates Federal or State laws or regulations concerning conservation or protection of natural and cultural resources or the environment. These laws or regulations include but are not limited to those relating to air and water quality, protection of fish and wildlife, plants, the use of chemical toxicants, and wild horses and burros.

The comments expressed the view that livestock operators on the public lands should be required to respect and comply with other conservation laws and regulations.

After careful consideration, the Department has determined that the Bald Eagle Protection Act and the Endangered Species Act provide the Secretary with the authority to cancel a grazing permit or lease because of violations of these acts. Therefore, it is appropriate to express this authority in the regulations.

Another comment suggested that regulation requirements concerning littering be deleted. After considering this comment, it has been determined that this regulaiton is appropriate and it is retained in final rulemaking. Littering can be detrimental, potentially hazardous and affects other uses and users of the public lands.

Another comment suggested wording to clarify § 4140.1(b)(7). The final rulemaking corrected a typographical error by replacing "of" with "or". Section 4140.1(b)(8) has also been modified by removing the term "certified" to be consistent with other sections in this title.

Section 4150 Unauthorized Grazing Use.

This section received a number of comments, some supporting the proposed regulation and others expressing opposition to some of the proposed revisions. Other suggestions urged modification of the proposed language to clearly distinguish between willful and nonwillful trespass and urged a more lenient penalty for nonwillful trespass. These suggestions have been considered by the Department of the Interior and no change has been made in final rulemaking.

Section 4160 Administrative Remedies.

Numerous comments were received on the proposed § 4160 Administrative Remedies. The majority of the comments that addressed § 4160.1–1—Proposed Decisions were opposed to the proposed regulation. Comments interpreted the proposal as significantly limiting the non-livestock oriented public's ability to receive notice about public land grazing decisions and limit the opportunity to appeal decisions which would affect their interests. Comments expressed particular concern over the deletion of the paragraph requiring authorized officers to send copies of decisions to individuals who had indicated in writing that their interests may be affected by the proposed decision and the requirement that the authorized officer prepare and distribute a Rangeland Program Summary following completion of a grazing environmental statement.

After carefully considering these comments the Department of the Interior has concluded that it would be in the public interest to modify the proposed language to include affected interests in the procedures for proposed decisions about livestock grazing. However, as in the proposed rulemaking, a requirement for a Rangeland Program Summary document has not been included in final rulemaking. Guidelines for preparing a record of decision following environmental impact statements addressing livestock grazing will be included in the Bureau Manual system.

Section 4160.1–1 Proposed decisions on permits or leases.

Two comments opposed the proposed deletion of § 4160.1–1(c) of existing regulations stating that it is important that all individuals understand what procedures will be used in adjusting livestock use. After careful review of the proposal the Department of Interior has determined that procedures regarding what to include in a decision are more appropriately placed in a Manual Section or handbook rather than in regulations.

Section 4160.1–2 Proposed decisions on alleged violations.

One comment suggested that § 4160.1–2 be modified to provide 30 days for filing a protest to a proposed decision. The Department of Interior has determined that 15 days is adequate time to file a protest with the authorized officer.

Section 4160.2 Protests.

Numerous comments were received on this section. The proposal deleted the provision for including other affected interests among those who could protest a proposed decision. The comments believed that such a modification seriously limited the ability of the non lessees or permittees to participate in grazing decisions and protect their interests on the public lands. The Department of Interior has concluded that it is in the public interest to provide for protests of proposed decisions by affected interests and language is provided for this in the final regulations.

Section 4160.3 Final decisions.

Section 4160.3 received numerous adverse comments. They focused on the deletion of language to provide that the authorized officer serve his final decision on other known affected interests in addition to the protestant or his/her agent or both. The Department of Interior has considered the comments and concluded that it is in the public interest to notify other affected interests of the final decision. The final rulemaking adopted the proposal, with modifications.

Additional comments opposed the proposed language for § 4160.3(c), which provided authority for the authorized officer to place decisions in full force and effect only in an emergency. The comments expressed the view that the Bureau of Land Management should retain authority to place decisions in full force and effect for other than emergency reasons. The Department of Interior has concluded that the authority to place decisions in full force and effect should be utilized only in emergency situations to stop resource deterioration. Therefore, the proposed language is adopted in final rulemaking.

Section 4160.4 Appeals.

Numerous comments were also received on the proposed wording of § 4160.4 concerning appeals. The proposed regulation deleted the term "applicant, permittee, lessee, or any other". The comments expressed the view that the wording change would limit the public's involvement in public rangeland management. After

considering these comments, the Department has concluded that the proposal will not reduce the ability of the public to appeal because the proposed regulation allows any person whose interest is adversely affected by a final decision to appeal. Therefore, the proposed regulation is adopted in final rulemaking.

Section 4170 Penalties.

Section 4170.1–2 Failure to use.

In response to comments, language in § 4170.1–2 was revised to reflect the Department of Interior's policy of consultation, coordination and cooperation with livestock operators.

Section 4170.1–3 Balk Eagle Protection Act and Endangered Species Act.

The proposed regulation removed from the existing regulations the authority to modify, suspend, or cancel grazing permits or leases because of violations of the Bald Eagle Protection Act, the Endangered Species Act and other Federal and State conservation laws. Numerous comments were received concerning allowing violators of Federal or State environmental, conservation, or wildlife laws to retain grazing privileges on the public lands.

The comments were carefully considered and the Department of Interior has determined that authority for cancellation of a grazing permit or lease extends only to those statutes where such penalties are specifically provided. Thus, the final rulemaking states that violation of the Bald Eagle Protection Act or the Endangered Species Act is a prohibited act and prescribes penalties for violation. The Department has further decided to retain § 4170.1–3 to clearly specify when a penalty would be appropriate.

Section 4170.1–4 Cooperative Management Agreement.

A new section has been added which provides authority to cancel a Cooperative Management Agreement for violations of the terms and conditions of the agreement.

The principal author of these regulations is Robert Alexander, Division of Rangeland Management, assisted by the staff of the Office of Legislation and Regulatory Management, Bureau of Land Management.

To reduce the cost of publication in the **Federal Register**, only changes to existing regulations are provided in this notice. Following publication, copies of the complete subpart 4100 will be mailed to all lessees and permittees and will be available at BLM field offices.

The Department of the Interior has determined that this document is not a major rule under Executive Order 12291. Impacts are not expected to exceed 100 million dollars per year. Impacts are expected to affect all individuals or firms associated with livestock grazing on the public lands equally.

The Department of the Interior has further determined that this rulemaking will not have a significant impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.). Changes to the existing regulations made by these amendments will to some extent reduce the compliance burden for those individuals who hold permits or leases to graze livestock on the public lands under the jurisdiction of the Bureau of Land Management.

The information collection requirements contained in this rulemaking have been approved by the Office of Management and Budget under 44 U.S.C. 3501 et seq. and have been assigned the following approval numbers: Cooperative Agreement for Range Improvement 1004–0068; Grazing Application 1004–0005; Range Improvement Permit 1004–0019; Exchange-of-Use Agreement 1004–0020; Grazing Preference Statement 1004–0041; Grazing Application-Preference Summary and Transfer 1004–0047; Grazing Application-Authorized Agent 1004–0049; Actual Grazing Use Record 1004–0051; and Cooperative Agreement 1004–0068.

List of Subjects in 43 CFR Part 4100

Administrative practice and procedure, Grazing lands, Livestock, Penalties, Range management.

Under the authority of the Taylor Grazing Act of 1934 (43 U.S.C. 315 et seq.), The Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.), and the Public Rangelands Improvement Act of 1978 (43 U.S.C. 1901 et seq.), Part 4100, Group 4100 Subchapter D, Chapter II of Title 43 of the Code of Federal Regulations is amended as set forth below.

Dated: January 10, 1984.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

PART 4100—[AMENDED]

1. Section 4100.0–1 Purpose is revised to read as follows:

"§ 4100.0–1 Purpose.

The purpose is to provide uniform guidance for administration of grazing on the public lands exclusive of Alaska."

§ 4100.0–2 [Amended]

2. Section 4100.0–2 Objectives is revised by deleting all the language to the word "range" where it first appears and inserting instead:

The objectives of these regulations are orderly use, improvement and development of the public lands; enhancement of their productivity by prevention of overgrazing and soil deterioration, stabilization of the livestock industry dependent upon the public range;".

§ 4100.0–3 [Amended]

3. Section 4100.0–3 is amended by:

a. Revising paragraph (a) to read:

(a) The Taylor Grazing Act of June 28, 1934 as amended (43 U.S.C. 315, 315a–315r);

* * * * *

b. Revising paragraph (b) to read:

* * * * *

(b) The Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.) as amended by the Public Rangelands Improvement Act of 1978 (43 U.S.C. 1901 et seq.);

* * * * *

c. Revising paragraph (d) to read:

* * * * *

(d) Section 4 of the O&C Act of August 28, 1937 (43 U.S.C. 118(d); and

d. Redesignating paragraph (e) as paragraph (f) and inserting a new paragraph (e) to read:

* * * * *

(e) The Public Rangelands Improvement Act of 1978 (43 U.S.C. 1901 et seq.).

§ 4100.0–5 [Amended]

4. Section 4100.0–5 is amended by:

a. Amending the definition of affected interest to read as follows:

" 'Affected interest' means an individual or organization that has expressed in writing to the authorized officer concern for the management of livestock grazing on specific grazing allotments and who has been determined by the authorized officer to be an affected interest.' "; and

b. Amending the definition of "allotment management plan" by removing the word "document" where it appears and replacing it with the word "documented" and removing the word "operations" where it appears and replacing it with the word "grazing";

c. Amending the definition of "cancellation" by removing the word "Cancellation" where it appears and replacing it with the words "Cancelled or cancellation";

d. Amending the term "certified actual use" by removing the word "Certified";

and replacing the new term in the proper alphabetical order;

e. Removing the definition of "class of livestock" in its entirety; and replacing it with a definition to read: " 'class of livestock' means ages and/or sex groups of a kind of livestock.";

f. Amending the definition of "consultation, cooperation and coordination" by inserting a period after the word "disputes" where it appears and deleting all thereafter;

g. Removing the definition of "contiguous land" in its entirety;

h. Revising the definition of "Consultation, cooperation and coordination" to read:

" 'Consultation, cooperation and coordination' means an interactive process for seeking advice, agreement, or interchange of opinions on issues, plans, or management actions from other agencies and affected permittee(s) or lessee(s), landowners involved, the district grazing advisory boards where established, any State having lands within the area to be covered by an allotment management plan and other affected interests."

i. Inserting a definition of "Cooperative management agreement" to read:

" 'Cooperative management agreement' means a mutually agreed to plan of action embodied in an agreement between the Bureau of Land Management and a qualified applicant or operator that identifies the responsibility of the cooperative partner and performance standards applicable to the grazing operation.";

j. Revising the definition of "grazing fee year" to read:

" 'Grazing fee year' means the year, used for billing purposes, which begins on March 1, of a given year and ends on the last day of February of the following year";

k. Removing the definition of "indigenous animal" in its entirety;

l. Revising the definition of "Land use plan" to read:

" 'Land use plan' means a planning document developed in accordance with the provisions of the Federal Land Policy and Management Act which establishes coordinated management direction for resource uses on public lands."

m. Amending the definition of "livestock grazing capacity" by inserting the word "estimated" before the word "number" and by removing the phrase "on the public lands";

n. Removing the definition of "modification" in its entirety;

o. Removing the definition of "other lands under Bureau of Land Management control" in its entirety;

p. Amending the definition of "public lands" by removing the phrase "lands located on the Outer Continental Shelf" where it appears;

q. Revising the definition of "Range improvement" to read as follows:

" 'Range improvement' means authorized activities or programs which contribute to accomplishing allotment goals and objectives.";

r. Amending the definition of "service area" by removing all after the first sentence;

s. Inserting a definition of "State Director" to read as follows:

" 'State Director' means the State Director, Bureau of Land Management, or his or her authorized representative.";

t. Amending the definition of "Supplemental feed" to read as follows:

" 'Supplemental feed' means a feed which supplements the forage available from the public lands and is provided to improve livestock nutrition or rangeland management.";

u. Removing the definition of "suspended preference" in its entirety; and

v. Revising the definition of "suspension" to read:

* * * * *

" 'Suspension' means temporarily withholding, in whole or in part, a grazing preference from active grazing use. The withholding may be done voluntarily by the permittee or lessee."

* * * * *

5. Subpart 4110.

a. Subpart 4110 is revised by changing the heading to read: "Qualifications and Preference";

b. Section 4110.1 is revised by inserting the figure "4110.1–1," after the figure "§§" and before the figure "4130.3" in the first sentence and adding a new § 4110.1–1 to read as follows:

§ 4110.1–1 Acquired lands.

Where lands have been acquired by the Bureau of Land Management (BLM) through purchase, exchange, Act of Congress or Executive Order, and an agreement or the terms of the act or Executive Order provide that BLM shall honor existing grazing permits or leases, such permittees or lessees shall be considered qualified for grazing use on those acquired lands.

§ 4110.2–1 [Amended]

6. Section 4110.2–1 is amended by removing "§ 4100.0–5(g)" where it appears and replacing it with "§ 4100.0–5.".

7. Section 4110.2–1(b) is revised to read as follows:

"(b) After appropriate consultation, cooperation, and coordination, the authorized officer shall specify the length of time for which land base property shall be capable of supporting authorized livestock during the year, relative to the multiple use management objective of the public lands."

§ 4110.2–2 [Amended]

8. Section 4110.2–2 is amended by removing the "s" from the word "plans" where it appears in paragraph (a) and adding a new paragraph (d) to read as follows:

"(d) Allotments.

After consultation, cooperation and coordination, the authorized officer may designate and adjust allotment boundaries."

§ 4110.2–3 [Amended]

9. Section 41102–3 is amended by:

a. Revising paragraph 4110.2–3(a)(2) to read as follows:

"(2) The transfer applications under paragraphs (b) and (c) of this section shall evidence assignment of interest and obligation in range improvements authorized on public lands under § 4120.3 and maintained in conjunction with the transferred preference (see § 4120.3–5). The terms and conditions of the cooperative agreements and range improvement permits are binding on the transferee.";

b. Removing § 4110.2–3(d) in its entirety;

c. Redesignating § 4110.2–3(e) and 4110.2–3(f) as § 4110.2–3(d) and 4110.2–3(e), respectively; and

d. Redesignating § 4110.2–3(g) as § 4110.2–3(f) and revising it to read:

* * * * *

(f) Failure of either the transferee or the transferor to comply with the regulations of this section may result in rejection of the transfer application or cancellation of grazing preference.

§ 4110.2–4 [Removed]

10. Section 4110.2–4 is revised by removing it in its entirety.

§ 4110.3–1 [Amended]

11. Section 4110.3–1 is amended by:

a. Amending § 4110.3–1 (a) by removing the citation "§ 4130.6" where it appears and replacing it with the citation "§ 4130.1–1":

b. Amending § 4110.3–1(c) by inserting the words "After consultation, cooperation and coordination"at the beginning of the sentence; end of paragraph (c)(1); removing the word "or" at the end of paragraph (c)(2); and removing "§ 4110.5" in paragraph (c)(3) and replacing it with "§ 4130.1–1"; and

c. Removing § 4110.3–1(d) in its entirety.

§ 4110.3–2 [Amended]

12. Section 4110.3–2 is amended by:

a. Removing § 4110.3.2(c) in its entirety;

b. Removing § 4110.3–2(d) in its entirety; and

c. Removing § 4110.3–2(e) in its entirety.

13. A new section 4110.3–3 is added to read;

§ 4110.3–3 Implementation of changes in available forage.

(a) Permanent increases in the allocation of livestock forage (see 4110.3–1(b)) or suspensions of preference (see § 4110.3–2(b)) shall be implemented over a 5-year period, unless after consultation with the affected permittees or lessees and other affected interests, an agreement is reached to implement the increase or suspension in less than 5 years.

(b) After consultation, coordination and cooperation, suspensions of preference shall be implemented through a documented agreement or by decision. If data acceptable to the authorized officer are available, an initial reduction shall be taken on the effective date of the agreement or decision and the balance taken in the third and fifth years following that effective date, except as provided in paragraph (a) of this section. If data acceptable to the authorized officer to support an initial reduction are not available, additional data will be collected through monitoring. Adjustments based on the additional data shall be implemented by agreement or decision that will initiate the 5-year implementation period.

(c) When the authorized officer determines that the soil, vegetation, or other resources on the public lands require temporary protection because of conditions such as drought, fire, flood, or insect infestation, after consultation with affected permittees or lessees and other affected interests, action shall be taken to close allotments or portions of allotments to grazing by any kind of livestock or to modify authorized grazing use. Notices of closure and decisions requiring modification of authorized grazing use shall be issued as final decisions which are placed in full force and effect under § 4160.3(c) of this title.

14. Section 4110.4 is amended by:

§ 4110.4–1 [Amended]

a. Amending § 4110.4–1 by removing "4110.5" where it appears and replacing it with "4130.1–2";

§ 4110.4–2 [Amended]

b. Amending § 4110.4–2(b) by revising it to read as follows:

* * * * *

(b) When public lands are disposed of or devoted to a public purpose which precludes livestock grazing, the permittees and lessees shall be given 2 years' prior notification except in cases of emergency, national defense requirements in time of war, natural disasters, national emergency needs, etc. before their grazing permit or grazing lease and grazing preference may be canceled. A permittee or lessee may unconditionally waive the 2-year prior notification. Such a waver shall not prejudice the permittee's or lessee's right to reasonable compensation for, but not to exceed the fair market value of his or her interest in authorized permanent range improvements located on these public lands. (see § 4120.3–6).

§ 4110.5 [Removed]

15. Section 4110.5 is amended by removing it in its entirety.

§ 4110.5 [Redesignated from § 4110.6]

16. Section 4110.6 is amended by redesignating it as section 4110.5.

§§ 4120.1, 4120.2 and 4120.2–1 [Removed]

17. Subpart 4120 is amended by:

a. Removing § 4120.1 in its entirety;

b. Removing § 4120.2 in its entirety; and

c. Removing § 4120.2–1 in its entirety.

§ 4120.2–2 [Removed]

18. Section 4120.2–2 is revised by removing it in its entirely and adding a new § 4120.1 to read as follows:

§ 4120.1 Cooperative management agreements.

(a) The authorized officer of the Bureau of Land Management may enter into a cooperative management agreement with any permittee or lessee who has demonstrated exemplary rangeland management practices.

(1) A cooperative management agreement establishes the responsibilities and performance standards of the cooperating parties in managing and using of the public lands to graze livestock.

(2) A cooperative management agreement shall be consistent with, and incorporate by reference, all applicable provisions of any existing land use plan as well as the terms of the authorization(s) issued to the cooperative party to graze livestock on the allotment(s).

(3) A cooperative management agreement shall not empower the cooperating party to exclude or limit other authorized uses on the allotment(s).

(b) A cooperative management agreement shall be issued for a term of 10 years and, at the discretion of the authorized officer of the Bureau of Land Management, may be renewed.

(c) A cooperative management agreement, and a cooperating party's performance under it, shall be periodically evaluated by the Bureau of Land Management.

(d) A cooperative management agreement may be transferred by operation of law. If the cooperating party is organized as a corporation or partnership, the cooperative management agreement may, upon notice to the authorized officer, also be transferred as an incident to any change of less than 100 percent in the business organization. All other transfers of the cooperative management agreement are prohibited and shall result in its automatic termination.

§ 4120.2–3 [Amended]

19. Section 4120.2–3, Allotment management plans, is amended by:

a. Redesignating § 4120.2–3 as § 4120.2;

b. Revising the introductory text to read:

When allotment management plans are developed, the following provisions apply:

* * * * *

c. Amendment paragraph (a) by removing the second sentence;

d. Removing "§ 4120.2–1" from paragraph (a) and replacing it with "§ 4130.6";

e. Removing the phrase "prescribe a system of grazing designed" from the third sentence of paragraph (a) and replacing it with the phrase "describe the livestock grazing practices necessary";

f. Revising paragraph (b) to read:

* * * * *

b. Private and State lands shall be included in allotment management plans with the consent or at the request of the party(ies) who owns or controls those lands.;

* * * * *

g. Removing paragraph (c) in its entirety;

h. Redesignating paragraph (d) as paragraph (c) and revising it to read:

* * * * *

(c) Completed allotment management plans shall be incorporated into the terms and conditions of the affected grazing permits and leases.;

* * * * *

j. Removing paragraph (e) in its entirety; and

k. Removing paragraph (f) in its entirety;

§ 4120.3 [Amended]

20. Section 4120.3 is amended by removing it in its entirety and adding the following new §§ 4120.3, 4120.3–1, 4120.3–2, 4120.3–3, 4120.3–4, 4120.3–5, 4120.3–6, and 4120.3–7 to read as follows:

§ 4120.3 Range improvements.

§ 4120.3–1 Conditions for range improvements.

(a) Range improvements shall be installed, used, maintained, and/or modified on the public lands, or removed from these lands, in a manner consistent with multiple-use management.

(b) Prior to installing, using, maintaining, and/or modifying range improvements on the public lands, permittees or lessees shall have entered into a cooperative agreement with the Bureau of Land Management or must have an approved range improvement permit.

(c) The authorized officer may require a permittee or lessee to maintain and/or modify range improvements on the public lands under § 4130.6–2 of this title.

(d) The authorized officer may require a permittee or lessee to install range improvements on the public lands in an allotment with two or more permittees or lessees and/or to meet the terms and conditions of agreement.

(e) A range improvement permit or cooperative agreement does not convey to the permittee or cooperator any right, title, or interest in any lands or resources held by the United States.

§ 4120.3–2 Cooperative agreements.

Any person may enter into a cooperative agreement with the Bureau of Land Management for the installation, use, maintenance, and/or modification of range improvements needed to achieve management objectives. The cooperative agreement shall specify the division of costs or labor, or both, between the United States and cooperator(s). Title to structural or removable improvements shall be shared by the United States and cooperator(s) in proportion to the actual amount of the respective contribution to the initial construction. Title to nonstructural or nonremovable improvements shall be in the United States.

§ 4120.3–3 Range improvement permits.

(a) Any permittee or lessee may apply for a range improvement permit to install, use, maintain, and/or modify range improvements that are needed to achieve management objectives within his/her designated allotment. The permittee or lessee shall agree to provide full funding for construction, installation, modification, or maintenance. Such range improvement permits are issued at the discretion of the authorized officer.

(b) The permittee or lessee shall have title to removable range improvement authorized under range improvement permits.

(c) The use by livestock of stock ponds or wells or wells authorized by a range improvement permit shall be controlled by the grazing permittee or lessee holding the range improvement permit.

§ 4120.3–4 Standards, design and stipulations.

Range improvement permits and cooperative agreements shall specify the standards, design, construction and maintenance criteria for the range improvements and other additional conditions and stipulations or modifications deemed necessary by the authorized officer.

§ 4120.3–5 Assignment of range improvements.

The authorized officer shall not approve the transfer of a grazing preference under § 4110.2–3 of this title or approve use by the transferee of existing range improvements, unless the transferee has agreed to compensate the transferor for fair market value of his interest in the authorized improvements within the allotment as of the date of the transfer. If the parties are unable to agree as to the amount or manner of reasonable compensation, the matter shall be resolved by the authorized officer.

§ 4120.3–6 Removal and compensation for loss of range improvements.

(a) Range improvements shall not be removed from the public lands without authorization.

(b) The authorized officer may require permittees or lessees to remove range improvements which they own on the public lands if these improvements are no longer helping to achieve land use plan or allotment goals and objectives if they fail to meet the criteria under § 4120.3–4 of this title.

(c) Whenever a grazing permit or lease is cancelled in order to devote the public lands covered by the permit or lease to another public purpose, including disposal, the permittee or lessee shall receive from the United States reasonable compensation for the adjusted value of their interest in authorized permanent improvements placed or constructed by the permittee or lessee on the public lands covered by the cancelled permit or lease. The adjusted value is to be determined by the authorized officer. Compensation shall not exceed the fair market value of the terminated portion of the permittee's or lessees interest therein. Where a range improvement is authorized by a range improvement permit, the livestock operator may elect to salvage materials and perform rehabilitation measures rather than be compensated for the adjusted value.

(d) Permittees or lessees shall be allowed 180 days from the date of cancellation of a range improvement permit or cooperative agreement to salvage material owned by them and perform rehabilitation measures necessitated by the removal.

§ 4120.3–7 Contributions.

The authorized officer may accept contributions of labor, material, equipment, or money for administration, protection, and improvement of the public lands necessary to achieve the objectives of this part.

21. Section 4120.4 is amended by removing it in its entirety and inserting a new section to read:

§ 4120.4 Special rules.

(a) When a State Director determines that local conditions require a special rule to achieve improved administration consistent with the objectives of this part, the Director may approve such rules. The rules shall be subject to public review and comment, as appropriate, and upon approval, shall become effective when published in the **Federal Register** as final rules. Special rules shall be published in a local newspaper.

"(b) Where the Bureau of Land Management administers the grazing use of other Federal Agency lands, the terms of an appropriate Memorandum of Understanding or Cooperative Agreement shall apply."

§§ 4120.5, through 4120–6 4120.6–7, 4120.7 and 4120.8 [Removed]

22. Section 4120.5 is removed in its entirety.

23. Sections 4120.6 through 4120.6–7 are removed in their entirety.

24. Sections 4120.7 and 4120.8 are removed in their entirety.

25. Section 4130.1 is amended by removing the word "timely" where it appears;

26. Two new sections, 4130.1–1 and 4130.1–2 are added to subpart 3140 to read;

§ 4130.1–1 Changes in grazing use.

(a) Applications for changes in grazing use should be filed with the authorized officer before the billing notices for the affecting grazing use have been issued. Applications for changes in grazing use filed after the billing notices for the affected grazing use have been issued and which required the issuance of a replacement or supplemental billing notice shall be subject to a service charge under § 4130.7–3 of this title .

(b) Changes in grazing use may be granted by the authorized officer.

§ 4130.1–2 Conflicting applications.

When more than one qualified applicant applies for livestock grazing use of the same public lands and/or where additional livestock forage or additional acreage becomes available, the authorized officer may allocate grazing use of such land or forage on the basis of § 4110.3–1 of this title or on the basis of any of the following factors:

(a) Historical use of the public lands (see § 4130.2(1)(d));

(b) Proper range management and use of water for livestock;

(c) General needs of the applicants, livestock operations;

(d) Public ingress or egress across privately owned or controlled land to public lands;

(e) Topography; and

(f) Other land use requirements unique to the situation.

§ 4130.2 [Amended]

27. Section 4130.2 is amended by:

a. Removing paragraph (a) in its entirety;

b. Redesignating paragraph (b) as paragraph (a) and revising it to read:

(a) Grazing permits or leases shall be issued to authorize livestock grazing on the public lands and other lands under the administration of the Bureau of Land Management. These grazing permits or leases shall specify terms and conditions as required by § 4130.6 of this title;

* * * * *

c. Redesignating paragraph (c) as paragraph (b);

(d) Redesignating paragraph (d)(1) as paragraph (c) and removing paragraphs (d) (2), (3) and (4);

(f) Redesignating paragraph (e) as paragraph (d) and revising it to read as follows:

"(d) Permittees or lessees holding expiring grazing permits or leases shall be given first priority for new permits or leases if:

(1) The lands for which the permit or lease is issued remain available for domestic livestock grazing;

(2) The permittee or lessee is in compliance with the rules and regulations and the terms and conditions in the permit or lease;

(3) The permittee or lessee accepts the terms and conditions to be included by the authorized officer in the new permit or lease."

g. Adding paragraph (e) to read:

* * * * *

(e) Permits or leases may incorporate the percentage of public land livestock use (see § 4130.6–2) or may include private land offered under exchange-of-use grazing agreements (see § 4130.4–1).

§ 4130.3 [Amended]

28. Section 4130.3 is amended by removing "§ 4110.5" where it appears and replacing it with § 4130.1–2".

§ 4130.4 [Amended]

29. Section 4130.4–1 is amended by removing paragraphs (b), (d), and (e) in their entirety and redesignating paragraph (c) as paragraph (b).

30. Section 4130.5 is amended by removing it in its entirety and adding a new section to read:

§ 4130.5 Ownership and identification of livestock.

(a) The permittee or lessee shall own or control and be responsible for the management of the livestock which graze the public land under a grazing permit or lease.

(b) Authorized users shall comply with the requirements of the State in which the public lands are located relating to branding of livestock, breed, grade, and number of bulls, and health and sanitation requirements; and

(c) The authorized officer may require counting and/or additional special marking or tagging of the authorized livestock in order to promote the orderly administration of the public lands.

31. Section 4130.6 is revised to read:

§ 4130.6 Terms and conditions.

Livestock grazing permits and leases shall contain terms and conditions necessary to achieve the management objectives for the public lands and other lands under Bureau of Land Management control identified in land use plans.

32. A new section, § 4130.6–1, mandatory terms and conditions, is added to read:

§ 4130.6–1 Mandatory terms and conditions.

(a) The authorized officer shall specify the kind and number of livestock, the period(s) of use, the allotment(s) to be used, and the amount of use, in animal unit months, for every grazing permit or lease. The authorized livestock grazing use shall not exceed the livestock grazing capacity and may be limited or excluded to the extent necessary to achieve the objectives established for the allotment.

(b) All permits and leases shall be made subject to cancellation, suspension, or modification for any violation of these regulations or of any term or condition of the permit or lease.

27. A new section § 4130.6–2, Other terms and conditions, is added to read:

§ 4130.6–2 Other terms and conditions.

The authorized officer may specify in grazing permits or leases other terms and conditions which will assist in achieving management objectives, provide for proper range management or assist in the orderly administration of the public rangelands. These may include but are not limited to:

(a) The class of livestock that will graze on an allotment;

(b) The breed of livestock in allotments within which two or more permittees or lessees are authorized to graze;

(c) Authorization to use, and directions for placement of supplemental feed, including salt, for improved livestock and rangeland management on the public lands;

(d) A requirement that permittees or lessees operating under a grazing permit or lease submit within 15 days after completing their annual grazing use, or as otherwise specified in the permit or lease, the actual use made;

33. Section 4130.6 is amended by adding a new § 4130.6–3 Modification to read as follows:

§ 4130.6–3 Modification.

Following careful and considered consultation, cooperation and coordination with the lessees, permittees, and other affected interests, the authorized officer may modify terms and conditons of the permit or lease if monitoring data show that present grazing use is not meeting the land use plan or management objectives.

(e) The kinds of indigenous animals authorized to graze under specific terms and conditions;

(f) Provision for livestock grazing to be temporarily delayed, discontinued or modified to allow for the reproduction.

establishment or restoration of vigor of plants, or to prevent compaction of wet soils, such as where delay of spring turnout is required because of weather conditions or lack of plant growth; and

(g) The percentage of public land use determined by the proportion of livestock forage available on public lands within the allotment compared to the total amount available from both public lands and those owned or controlled by the permittee or lessee.

§ 4130.8 [Redesignated from § 4130.7]

35. Section 4130.7 is amended by redesignating it as § 4130.8 and adding new §§ 4130.7, 4130.7–1, 4130.7–2 and 4130.7–3 to read as follows:

§ 4130.7 Fees.

§ 4130.7–1 Payment of fees.

(a) Grazing fees shall be established annually by the Secretary.

(b) Fees shall be charged for livestock grazing upon or crossing the public lands and other lands administered by the Bureau of Land Management at a specified rate per animal unit month.

(c) The full fee shall be charged for each paying animal unit which is defined as each animal six (6) months of age or over at the time of entering the public lands, for all weaned animals regardless of age, and for such animals as will become twelve (12) months of age during the authorized period of use. No charge will be made for animals under six (6) months of age at the time of entering the public lands, that are the natural progeny of animals upon which fees are paid, provided they will not become twelve (12) months of age during the authorized period of use, or for progeny born during that period.

(d) Fees are due upon issuance of billings. When billings are issued prior to the grazing season, payment will be made prior to grazing use. If allotment management plans or cooperative management agreements provide for billing after the grazing season, fees will be based on actual grazing use and will be due upon issuance.

§ 4130.7–2 Refunds.

(a) Grazing fees may be refunded where applications for change in grazing use and related refund are filed prior to the period of use for which the refund is requested.

(b) No refunds shall be made for failure to make grazing use, except during periods of range depletion due to drought, fire, or other natural causes, or in case of a general spread of disease amount the livestock that occurs during the term of a permit or lease. During these periods of range depletion the authorized officer may credit or refund fees in whole or in part, or postpone fee payment for as long as the emergency exists.

§ 4130.7–3 Service charge.

A service charge shall be assessed for each crossing permit, transfer of grazing preference and each replacement or supplemental billing notice except for actions initiated by the authorized officer. Pursuant to section 304(a) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1734(a), calculation of the Bureau service charge assessed shall reflect processing costs and shall be adjusted periodically as costs change. Notice of changes shall be published periodically in the **Federal Register.**

§ 4140.1 [Amended]

36. Section 4140.1 is amended by:

a. Amending paragraph (a)(3) by removing the words "without authorization" and inserting the words "in violation of the terms and conditions of the lease or permit";

b. Amending paragraph (b)(1)(iv) by removing "§ 4120.4(d)" and replacing it with "§ 4130.5(c)";

c. Removing paragraph (b)(7) in its entirety; and

d. Removing paragraph (b)(8) in its entirety and redesignating paragraphs (9) through (11) as paragraphs (7) through (9) respectively; amending new paragraph (b)(7) by removing the word "of" where it appears and replacing it with the word "or"; and revising new paragraph (b)(8) by removing the word "certified" where it appears.

e. Revising paragraph (b) by inserting a paragraph (10) to read as follows:

"(10) Violating the Bald Eagle Protection Act or the Endangered Species Act."

§ 4150.2 [Amended]

37. Section 4150.2 is amended by:

a. Amending paragraph (b) by removing "§ 4150.5" and replacing it with "§ 4150.4"; and

b. Removing paragraph (c) in its entirety.

38. Section 4150.3 is revised to read:

§ 4150.3 Settlement.

The authorized officer shall determine if the violation is nonwillful, repeated nonwillful, willful, or repeated willful. Where violations are repeated nonwillful, the authorized officer may take action under § 4170.1–1(a) of this title. Where violations are repeated willful the authorized officer shall take action under § 4170.1–1(b) of this title. The amount due for all settlements shall include: the full value for all damages to the public lands and other property of the United States; all expenses incurred by the United States including those incurred in gathering, impounding, caring for, and disposing of livestock in cases which necessitate impoundment under § 4150.4; and shall include the amount due the United States for unauthorized grazing use as described in paragraphs (a), (b) or (c) of this section.

(a) For nonwillful violations: The value of forage consumed as determined by the average monthly rate for pasturing livestock on privately owned land (excluding irrigated land) for the 11 Western States as published annually by the Department of Agriculture.

(b) For repeated nonwillful violations: Twice the value of forage consumed as determined in paragraph (a) of this section.

(c) For willful and repeated willful violations: Three times the value of the forage consumed as determined in paragraph (a) of this section."; and

(d) Payment made under this section does not relieve the alleged violator of any criminal liability under Federal or State law.

(e) Violators shall not be authorized to make grazing use on the public lands administered by the Bureau of Land Management until any amount found to be due the United States under this section has been paid. The authorized officer may take action under § 4160.1–2 of this title to cancel or suspend grazing authorizations or to deny approval of applications for grazing use until such amounts have been paid. The proposed decision shall include a demand for payment.

§ 4150.4–1 [Amended]

39. Section 4150.4–1 is amended by removing paragraph (c) in its entirety.

§ 4150.4–2 [Amended]

40. Section 4150.4–2 is amended by removing "§ 4150.4–1(c)" where it appears.

§ 4150.4–3 [Amended]

41. Section 4150.4–3 is amended by removing the second, third, and fourth sentences.

§ 4160.1–1 [Amended]

42. Section 4160.1–1 is amended by deleting the word "The" at the beginning of the first sentence and replacing it with the phrase "In the absence of a documented agreement between the authorized officer and the permittee(s) or lessee(s), the"; inserting the following sentence after the first sentence in the opening paragraph to read:

"The authorized officer shall also send copies to other affected interests.";

and by removing paragraphs (a), (b) and (c) in their entirety.

§ 4160.1–2 [Amended]

43. Section 4160.1–2 is amended by removing "§ 4130.5–1" where it appears and replacing it with "§ 4130.7–1".

§ 4160.2 [Amended]

44. Section 4160.2 is amended by removing the word "adversely" from the first sentence.

§ 4160.3 [Amended]

45. Section 4160.3 is amended by:

a. Amending paragraph (b) by placing a comma after the word "both" and inserting the words "and on other affected interests" in the second sentence and deleting the remainder of the sentence;

b. Amending paragraph (c) by removing the last sentence in the paragraph and replacing it with the sentence "The authorized officer may place the final decision in full force and effect in an emergency to stop resource deterioration. Full force and effect decisions shall take effect on the date specified, regardless of an appeal."; and

c. Removing paragraphs (d) and (e) in their entirety.

§ 4160.4 [Amended]

46. Section 4160.4 is amended by removing the phrase "applicant, permittee, or any other".

47. Section 4170.1–2 is revised to read as follows:

§ 4170.1–2 Failure to use.

After consultation, coordination, and cooperation, the authorized officer may cancel a grazing preference to the extent of failure to use when a permittee or lessee has failed to make substantial grazing use as authorized for 2 consecutive years. (See § 4140.1(a)(2)).

48. Section 4170.1–3 is revised to read as follows:

§ 4170.1–3 Bald Eagle Protection Act and Endangered Species Act.

Violation of the Bald Eagle Protection Act or the Endangered Species Act may result in penalty under § 4170.1–1 where:

(a) Public land administered by the Bureau of Land Management is involved or affected;

(b) Such violation is related to grazing use authorized by permit or lease;

(c) The permittee or lessee has been convicted or otherwise found to be in violation of the law or regulations by a court or by final determination of any agency charged with the administration of the law where no further appeals are outstanding.

49. Section 4170.1–4 is inserted to read as follows:

§ 4170.1–4 Cooperative management agreement.

Violation of the terms and conditions of a cooperative management agreement may result in the cancellation of the agreement. Where violation of Subpart 4140 Prohibited Acts occurs, the authorized officer may take appropriate action under § 4170.1–1 of this title.

[FR Doc. 84–4491 Filed 2–17–84; 8:45 am]

BILLING CODE 4310–84–M

VOL
49
ISS
35
FE
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1984
UMI

federal register

Tuesday
February 21, 1984

Part III

Environmental Protection Agency

40 CFR Part 60

Standards of Performance for New Stationary Sources; Metallic Mineral Processing Plants; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 60

[AD-FRL-2435-5]

Standards of Performance for New Stationary Sources; Metallic Mineral Processing Plants

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: Standards of performance for metallic mineral processing plants were proposed in the **Federal Register** on August 24, 1982 (47 FR 36859). This action promulgates standards of performance for metallic mineral processing plants. These standards implement Section 111 of the Clean Air Act and are based on the Administration's determination that metallic mineral processing plants cause, or contribute significantly to, air pollution which may reasonably be anticipated to endanger public health or welfare. The intended effect of these standards is to require all new, modified, and reconstructed metallic mineral processing facilities to control emissions to the level achievable through use of the best demonstrated system of continuous emission reduction, considering costs, nonair quality health, and environmental and energy impacts.

EFFECTIVE DATE: February 21, 1984.

Under section 307(b)(1) of the Clean Air Act, judicial review of this new source performance standard (NSPS) is available *only* by the filing of a petition for review in the U.S. Court of Appeals for the District of Columbia Circuit within 60 days of today's publication of this rule. Under section 307(b)(2) of the Clean Air Act, the requirements that are the subject of today's notice may not be challenged later in civil or criminal proceedings brought by the EPA to enforce these requirements.

ADDRESSES: *Background Information Document.* The background information document (BID) for the promulgated standards may be obtained from the U.S. EPA Library (MD–35), Research Triangle Park, North Carolina 27711, telephone number (919) 541–2777. Please refer to "Metallic Mineral Processing Plants—Background Information for Promulgated Standards" (EPA–450/3–81–009c). The BID contains: (1) A summary of all the public comments made on the proposed standards and the Administrator's response to the comments, (2) a summary of the changes made to the standards since proposal, and (3) the final Environmental Impact Statement that summarizes the impacts of the standards.

Docket A docket, number A–81–03, containing information considered by EPA in development of the promulgated standards, is available for public inspection between 8:00 a.m. and 4:00 p.m., Monday through Friday, at EPA's Central Docket Section (LE–131), West Tower Lobby, Gallery 1, 401 M Street, SW., Washington D.C. 20460. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Mr. Gene W. Smith, Standards Development Branch, Emission Standards and Engineering Division (MD–13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina, 27711, telephone (919) 541–5624.

SUPPLEMENTARY INFORMATION:

The Standards

Standards of performance for new sources established under Section 111 of the Clean Air Act reflect:

> * * * application of the best technological system of continuous emission reduction which (taking into consideration the cost of achieving such emission reduction, and any nonair quality health and environmental impact and energy requirements) the Administrator determines has been adequately demonstrated [Section 111(a)(1)].

For convenience, this will be referred to as "best demonstrated technology" or "BDT."

The promulgated standards apply to new, modified, or reconstructed metallic mineral processing facilities for which construction was commenced after August 24, 1982. For the purpose of these standards, a metallic mineral plant processes metallic ores into metallic concentrates containing one or more of the following metals: Aluminum, copper, gold, iron, lead, molybdenum, silver, titanium, tungsten, uranium, zinc, and zirconium. Existing facilities are not subject to the regulation unless modified or reconstructed as defined in 40 CFR 60.14 or 60.15, respectively.

The promulgated standards will limit emissions of particulate matter from affected facilities at metallic mineral processing plants. "Affected facilities" at a metallic mineral processing plant are defined as each crusher and screen at an open-pit mine and each crusher, screen, bucket elevator, conveyor belt transfer point, thermal dryer, product packaging station, storage bin, enclosed storage area, truck loading station, truck unloading station, railcar loading station, and railcar unloading station at the mill or concentrator. All facilities located in underground mines are exempted from the standards. At uranium ore processing plants, all facilities subsequent to and including the beneficiation of uranium ore are exempt from the provisions of these standards. All conveyor belt transfer points between crushers located in an open-pit mine and between the mine and milling, storage or waste rock disposal areas, are exempted from the provisions of the standard.

The promulgated standards limit the concentration of particulate matter in stack emissions to 0.05 gram per dry standard cubic meter. This stack emission limit is based on the use of high-energy wet scrubbers under worst case conditions; although, under less stringent conditions, baghouses or low-energy wet scrubbers could also meet the standards. Stack emissions from all affected facilities except those controlled by wet scrubbers are also limited to 7 percent opacity. The promulgated standards limit process fugitive emissions to 10 percent opacity. "Process fugitive emissions" are defined as those emissions from an affected facility that escape collection by a capture system (i.e., a hood or enclosure).

The promulgated standards require the owner or operator of an affected facility using a wet scrubber for controlling emissions to install a monitoring device to continuously measure the liquid flow rate to the wet scrubber and a device to measure the pressure drop across the wet scrubber. The operator of the wet scrubber is also required to record the pressure drop and flow rate at least once a week and to report semiannually the occasions when the measurements of these parameters differ by more than ±30 percent from those measurements recorded during the last performance test.

Reference Methods 1, 2, 3, and 5 or 17 will be used to determine compliance with the stack mass emission standards. Reference Method 9 will be used to measure the opacity of stack emissions and the opacity of process fugitive emissions. Method 9 is amended concurrently with the promulgation of this standard in order to provide more detail on the use of this method to determine the opacity of process fugitive emissions.

Summary of Environmental, Energy, and Economic Impacts

Environmental Impact

The metallic mineral processing industry is composed of approximately 200 plants processing a wide variety of

ores and minerals. Metallic mineral processing plants are located throughout the country, although the largest numbers of existing or new plants are or will be located in the western states. Prior to the proposal of the NSPS, emissions from new and existing sources in the industry were controlled to varying degrees by State standards under the State implementation plans (SIP's). In comparing emission levels achieved with control devices currently used in the industry with emission levels allowed under these standards, it is estimated that the promulgated standards will reduce the total amount of particulate emissions from 25 new plants built by 1985 by as much as 11,800 megagrams per year [(11,800 Mg/yr) (13,000 tons/yr)] below emission levels that would occur if no new standards were set. This reduction would range from 65 Mg/yr (72 ton/yr) for a 23 Mg/hour (25 ton/hour) uranium plant to 2,300 Mg/yr (2,500 ton/yr) for a 2,200 Mg/hour (2,400 ton/hour) iron ore processing plant.

Because these particulate emissions could contain trace amounts of metals and radioactive compounds, depending on the type of ore processed, there would also be a simultaneous reduction in the release of these compounds into the atmosphere.

There would be no significant adverse water pollution or solid waste impacts from the standards. If dry collectors are used to meet the standards, collected emissions could be recycled to the milling process because the collected particles are primarily the ore or the concentrated product of processing plants. Thus the solid waste impact from using dry collectors to meet the standards should be nonexistent. Because no water discharge is generated by dry collectors, there would be no adverse water pollution impact.

If wet scrubbers are used to meet the standards, the slurries recovered from the scrubbers could be added to the wet size-reduction operations or wet concentration steps in the process. Alternatively, the slurries could be combined with tailings from the plant's beneficiation process, which are typically discharged to a tailings pond from which the water is recycled. The material generated from wet scrubbers under worst-case conditions would represent less than 1 percent of the waste material generated in the beneficiation of any metallic mineral covered by the standard.

The only source of noise that would result from the standards would be the exhaust fans used in control systems. When compared with the noise from crushing process equipment, any additional noise from control system exhaust fans would be insignificant.

Energy Impact

The estimated incremental energy requirements of the standards were calculated by comparing the energy requirements of baghouses and high-energy wet scrubbers (pressure drop of 30 inches of water) with the energy requirements of low-energy wet scrubbers (pressure drop of 6 inches of water), which are the most widely used equipment for current emission control. Because a fabric filter baghouse uses a more efficient fan than a low-energy wet scrubber while operating at the same pressure drop and air flow rate, energy consumption would be lower with the installation of baghouses to meet the requirements of the standards.

Assuming worst-case conditions from an energy perspective (i.e., if all new facilities installed only high-energy wet scrubbers), the industry energy use would increase by 317 terajoules (317 TJ) [300×10^9 British Thermal Units (300×10^9 Btu's)] in 1985 over that required if only low-energy wet scrubbers were installed. This increase represents less than 0.5 percent of the energy that would be consumed by these new plants as represented by their projected use of natural gas, liquid fuels, and electrical energy. The energy impacts were determined by comparing the amount of energy consumed by the entire plant complex including the mine and beneficiation process (except iron ore pelletizing and alumina calcining). The maximum incremental increase in energy use at any individual new plant due to compliance with the standards with 30-inch pressure drop wet scrubbers would range from 0.04 percent for aluminum plants to 7 percent for titanium/zirconium plants. These impacts are worst-case projections because it is likely that most installations will not find it necessary to use 30-inch pressure drop wet scrubbers on all affected facilities. In many cases, baghouses or wet scrubbers with less than 30-inch pressure drop would be adequate to achieve the standards.

Economic Impact

The incremental cost and economic impacts associated with the standards are considered to be reasonable. The economic impacts are based on a comparison of 30-inch pressure drop wet scrubbers, the most expensive control option on an annualized cost basis, with a 6-inch pressure drop wet scrubber, the control device most widely used to meet current standards. Less expensive control devices, such as baghouses and lower energy wet scrubbers, are expected in most cases to meet the proposed standards. Thus, the actual economic impact of the standard would be less than the estimates summarized below.

The incremental capital costs associated with the standards were calculated as the difference between the cost of 6-inch pressure drop wet scrubbers and 30-inch pressure drop wet scrubbers. The incremental capital costs ranged from $29,000 for a 23 Mg/h (25 ton/h) uranium plant to $940,000 for a 2,200 Mg/h (2,400 ton/h) iron ore plant for the application of 30-inch pressure drop wet scrubbers to all affected facilities in a plant. The corresponding incremental annualized cost ranged from $28,000 to $870,000 per year. The close correspondence of incremental capital and incremental annualized costs for 30-inch pressure drop scrubbers reflects the high operating cost of 30-inch pressure drop scrubbers. As a percentage of capital cost requirements for new plants, the costs of 30-inch pressure drop scrubbers range from a 0.9 percent increase for uranium plants to a 0.1 percent increase for iron ore plants. The capital costs for new plants include the costs of an entire milling and mining operation.

The total incremental capital cost to install 30-inch pressure drop wet scrubbers on all new plants would be about $5 million for the first 5 years that the standards would be in effect. The total incremental annualized cost would increase by $4,600,000 in the fifth year.

The percentage increase in the cost of producing the metal due to the annualized cost of installing and operating 30-inch pressure drop wet scrubbers at all affected facilities in a plant ranged from less than 0.1 percent for aluminum plants to 1.7 percent for a 140 Mg/h (150 ton/h) copper plant. This size copper plant was the only projected new plant where the impact exceeded 1 percent. In addition, it is likely that the impact on small copper plants is overstated. In calculating the impact of these standards on small copper plants, a very low ore grade was used and the value of coproduced minerals was not considered. For these reasons, the actual increase in production cost for small copper plants will likely be closer to 0.17 percent than 1.7 percent.

The environmental, energy, and economic impacts are discussed in greater detail in the background information document for the proposed standards, "Metallic Mineral Processing Plants—Background Information for Proposed Standards" (EPA–450/3–82–009a).

Public Participation

Prior to proposal of the standards, interested parties were advised by public notice in the **Federal Register** of the meeting of the National Air Pollution Control Techniques Advisory Committee (NAPCTAC) to discuss the standards recommended for proposal. The NAPCTAC meeting was held on April 29, 1981. The meeting was open to the public, and each attendee was given an opportunity to comment on the standards recommended for proposal. The standards were proposed and published in the **Federal Register** on August 24, 1982 (47 FR 36859). The preamble to the proposed standards discussed the availability of the background information document (BID), "Metallic Mineral Processing Plants—Background Information for Proposed Standards" (EPA–450/3–82–009a), which described in detail the regulatory alternatives considered and the impacts of those alternatives. Public comments were solicited at the time of proposal, and copies of the BID were distributed to interested parties. To provide interested persons the opportunity for oral presentation of data, views, or arguments concerning the proposed standards, a public hearing was held on October 7, 1982, at Reseach Triangle Park, North Carolina. The public comment period was from August 24, 1982 to November 8, 1982.

Nineteen comment letters were received during the comment period relative to the proposed standards. The comments have been carefully considered; and, where determined to be appropriate by the Administrator, changes have been made in the final standards.

Significant Comments and Changes to the Proposed Standards

Comments on the proposed standards were received from industry, trade associations, one State air pollution control agency, and a private citizen. A detailed discussion of these comments and responses can be found in the BID for the promulgated standards, which is referred to in the ADDRESSES section of this preamble. The summary of comments and responses in the BID serves as the basis for the revisions that have been made to the standards between proposal and promulgation. The major comments and responses are summarized in this preamble.

In response to the public comments and as a result of EPA reevaluation, certain changes have been made in the proposed standards. Section 60.380 has been modified to clarify that at open-pit mines only crushers and screens are affected facilities. In Section 60.381, the definition of "metallic mineral processing plant" has been modified, and a definition of "metallic mineral concentrate" has been added in order to clarify what is meant by a metallic mineral processing plant. In Section 60.383, the list of ore-contact surfaces whose repairs are exempt from reconstruction provisions has been expanded to include surfaces on pan feeders. Section 60.384 has been expanded to clarify that the owner or operator of a wet scrubber is required to record the scrubber liquid flow rate to the scrubber and the pressure drop across the scrubber during the initial performance test and at least weekly thereafter. Reporting of the results of the initial performance tests is required by the General Provisions, while reporting of subsequent readings is not required. Section 60.385 (Test methods and procedures) has been modified to indicate that Method 9, Visual Determination of the Opacity of Emissions from Stationary Source (Appendix A, 40 CFR Part 60), is to be used for determining opacity for stack and process fugitive emissions. Method 9 has been amended to provide additional instructions for determining opacity from fugitive sources.

Most of the comment letters contained multiple comments. The major comments have been divided into the following areas: General, Emission Control Technology, Economic Impacts, Environmental Impacts, and Test Methods and Monitoring.

General

Opacity Standards for Stack and Process Fugitive Emissions

A number of commenters objected to a process fugitive standard. One of these commenters felt that it had not been justified in terms of its air quality benefits. Two other commenters stated that the lack of difference between a 10 percent process fugitive emission standard and a 7 percent stack standard seemed to imply that the EPA was requiring uncontrolled emissions to be as low as controlled emissions from a stack. One commenter noted that EPA data showed that all facilities tested were meeting the process fugitive standard and that there is no reason to expect that practices would change. This commenter felt that the additional monitoring, performance tests, and recordkeeping resulting from the standard were not justified in view of the insignificance of the emissions. Therefore, he felt the standard can be eliminated. On the other hand, one commenter stated that the standard should be raised from 10 to 20 percent opacity.

The process fugitive emission standard serves at least two purposes. First, the standard ensures that emission from facilities that use control devices such as wet scrubbers or baghouses are in fact collecting these emissions at the point of generation and ducting them to the control device. Demonstrations of control device efficiency in meeting the stack emission standard would do little good if emissions were not being properly ducted to the device. Thus, where control devices are used, the process fugitive emission standard is designed to prevent short-circuiting of emissions and to ensure that the air quality benefits that accrue to the control of stack emissions are achieved.

Second, the process fugitive emission standard allows the facility to use alternative methods of emission control. For example, if the operator of a facility can keep the process fugitive emissions below 10 percent by using enclosures and/or wet suppression, then the operator would not be required to duct emissions to a control device such as a wet scrubber.

As noted by one commenter, the EPA test data do indeed demonstrate the achievability of the standard. Although the EPA's experience shows that a poorly designed capture system could cause emissions in excess of the standard, EPA test data show that properly designed systems can meet the standard. These test data justify a process fugitive opacity standard of 10 percent. In addition, as discussed above, eliminating the standard would make it impossible to judge the effectiveness of alternative control systems such as wet suppression.

Neither the General Provisions nor these standards require preformance tests, monitoring, or recordkeeping with regard to compliance with the process fugitive opacity standard. Thus, the ongoing costs of monitoring and demonstrating compliance with the standard are minimal. However, it is emphasized that the opacity standard is a separate enforceable requirement and that the industry will be evaluated on their ability to comply.

For the above reasons, the Administrator has determined that the process fugitive emission standard is necessary and justified.

Emission Control Technology

One commenter stated that it would be very difficult to achieve the process fugitive emission standard at a reasonable cost at ore dumps (truck unloading stations) and conveyor belt

transfer points in open-pit mines and requested that the standard be withdrawn. This commenter provided data on the cost to control fugitive emissions at ore dumps and conveyor belt transfer points at in-pit crushing systems. This commenter stated that the cost to control emissions at these facilities was high enough to forestall a changeover to in-pit crushing and conveyorized transport. This changeover was being considered at an existing mine as a means to reduce energy and labor costs associated with truck hauling. The commenter also noted that the use of in-pit crushing and conveyorized transport would reduce plant fugitive emissions by 40 to 50 percent because truck hauling would be reduced.

Because these new in-pit crushing and conveying systems were not in use during the development of the NSPS, the EPA has limited information regarding the industry-wide impacts of the NSPS upon these systems. Due to the lack of sufficient emission test data and data on the cost and design of effective in-pit control systems, the EPA is unable to identify the best demonstrated technology (BDT) for these facilities at this time and is, therefore, excluding truck and railcar unloading stations (ore dumps) and conveyor belt transfer points located in open-pit mines and conveyor belt transfer points located in open-pit mines and conveyor belt transfer points located between the mine and the mill, storage, or waste disposal areas from coverage under the NSPS for metallic mineral processing at this time.

However, as a result of the comment, the EPA conducted an evaluation of the impacts associated with the control of emissions from ore dumps at in-pit crushing operations and from overland conveyor systems at one plant for which information was available. This evaluation was based on the process information supplied by the commenter for an open-pit mining operation that involves the excavation of greater than 100,000 tons of ore and 150,000 tons of waste rock per day.

Potential emissions from these ore dumps and conveyor belt transfer points at this plant are significant based on the number of facilities and the amount of material transferred through these points. The EPA calculated that the uncontrolled emissions from the ore dumps at the one facility for which data were available would likely range from 2,000 to 6,000 tons per year. Uncontrolled emissions from conveyor belt transfer points on overland conveyors could be in the range of 2,000 to 23,000 tons per year depending on the actual ore and waste-rock moisture levels.

The cost to control the emissions from these ore dumps and conveyor belt transfer points at this plant also appears significant. Although the EPA believes that some of the costs provided by the commenter are based on process designs that do not allow for the most economical use of control equipment, even the EPA's calculations for less costly designs indicate a potential economic impact on the production costs of copper of as much as 1 percent from the control of emissions from these sources alone.

The EPA notes that the preliminary emission and cost information gathered from this plant suggests that the impact of controlling ore dumps and conveyor belt transfer points is potentially so great as to delay or discourage decisions to replace truck hauling systems with conveyor transport systems. This effect, if it were to occur, would be counterproductive from an environmental standpoint. The uncontrolled emissions from truck hauling are typically much greater than uncontrolled emissions from conveyor belt systems. Viewed in the broad perspective of controlling emissions from the transport of ore and waste rock, the replacement of truck hauling with conveyor belts thus represents a very effective method for reducing emissions from the truck transport of rock, emissions that otherwise in the past have proven difficult to control. Thus, the EPA would seek to encourage this shift in process technology from the use of truck hauling to conveyor transfer.

The EPA will review the development of this transport technology and the impacts of possible control techniques for these facilities during its periodic review of this NSPS.

Economic Impacts

A number of commenters discussed various aspects of the economic impacts of the proposed standards. One commenter stated that the proposed standards have lost sight of the primary purpose of the Clean Air Act, which is to promote "the public health and welfare and the productive capacity of its population." This commenter questioned the necessity of additional regulation of an industry that is struggling under the competition of the world market. Four commenters noted that the economic analyses were performed with 1979 cost and price data that are out of date. Production prices have risen since then while in many cases product prices have fallen. For example, one commenter noted that cost of producing copper increased 44 percent from 1978 to 1981. The cost of copper on the other hand fell from a dollar per pound in 1979 to 65¢ to 75¢ per pound in 1982. The impact of these standards would be correspondingly more severe at these lower prices. An increase in price cannot be passed on because of world-wide competition in the copper market. A similar situation was presented for the aluminum industry. These commenters generally requested that the economic impacts of the standards be reevaluated in light of the weaker economic conditions of the industry today.

The Agency recognizes that since the original economic analyses were performed in developing these standards many segments of the metallic mineral processing industry have experienced severe economic disruptions. The demand for many metals has fallen significantly with a corresponding drop in price. Even at the price figures quoted in 1979 and 1980 for some metals, it was questionable that new processing plants could be profitably built unless there was a reasonable prospect for an increase in demand and price. Nonetheless, the Agency believes that, because of the central role the metallic mineral processing industry plays in the American economy, the long-term prospects for growth in the industry are good. This belief is obviously shared by others outside the Government as the acquisition of several metallic mineral and metal processing firms by still larger natural resource-based companies would attest.

Long-term optimism does not completely redress the short-term difficulties in the industry, yet it is the severe drop in the demand and price for metals—and not environmental regulations—that makes the new construction unlikely at present. When the demand for metals increases with a corresponding increase in price to levels more comparable to 1979 prices (in constant dollars), then new construction will be more likely. Thus, it is reasonable to calculate the impact of these standards for new facilities by using the price of the commodity that is a minimum requisite for the construction of a new facility.

The EPA recognizes that the costs of constructing a new metallic mineral processing plant have likely increased in the past several years. The cost of control equipment has also increased in a proportionate manner. Thus, the costs of control equipment as a percentage of processing equipment cost remained relatively constant. A large

manufacturer of crushers has quoted price increases of 21 to 24 pecent between January 1, 1980, and January 1, 1983 (docket item IV–E–6). During the same period, a manufacturer of control devices has quoted price increases of 20 to 22 percent for multi-vane and venturi wet scrubbers (docket item IV–E–7). At the point at which the rise in the price of metals makes it reasonable to invest in new plants, the cost of meeting the standards will have the same relatively insignificant impacts shown in the analyses based on 1979 dollars.

In addition, the possible economic impacts of the standards are based on several assumptions that tend to exaggerate the impacts, particularly at copper plants. As noted elsewhere in these responses, the economic analysis assumes the universal use of high energy scrubbers when in fact less costly low-energy scrubbers or baghouses can meet the standards at many locations. In addition the concentration of copper in ore at small copper mines was assumed to be 0.45 percent. This figure is more typical of large deposits of larger copper mines, which, because of their economies of scale, can operate at these lower concentrations. One recently expanded mine and mill in Arizona has the capacity to process about 1,700 tons per hour of ore containing 0.49 percent copper and 0.02 percent molybdenum. On the other hand, smaller copper facilities require higher mineral concentrations. New information developed since the original economic analyses were performed indicates that a facility in the planning stage in New Mexico would process about 100 tons of ore per hour containing about 2 percent copper and 3 percent zinc instead of the 0.45 percent copper concentration assumed in the economic analysis for small copper plants. With a higher copper concentration and the consequent higher production of concentrates and the concurrent processing of by-products, the impact of the proposed standards on the production price of metals would be greatly reduced at these smaller plants. Even assuming the universal use of high-energy scrubbers, the economic impact of the standards on copper prices at this planned plant in New Mexico would be closer to 0.17 percent than the 1.7 percent figure quoted for 150 tons per hour copper plants in the preamble and the BID for the proposed standards.

The EPA is very sensitive to the possible adverse economic impacts of the NSPS. For that reason, the Agency has examined very carefully the capital costs of controls, the ability of firms to finance these costs, the potential price increases, and the cost per ton of emissions reduced, which addresses the issue of control costs relative to other industries. As discussed in the proposal preamble, none of these projected impacts appear unreasonable. More specifically, with the one exception discussed above, the projected price increases were all less than 1 percent and typically less than 0.5 percent. In balancing the protection of public health and welfare against the productive capacity of this industry, these costs appear reasonable and, in fact, are small compared to other factors that affect costs and prices.

The EPA has been extremely conservative in calculating the economic impacts of the standards. As demonstrated by our original analyses and the discussion above, the standards will not deter new construction when the demand for metals provides the economic conditions conducive to the development of new plants. Therefore, an extensive reevalution of the economic impacts of the standards will not be performed.

Environmental Impacts

Several commenters stated that the air quality benefits attributable to the proposed standards were overstated because the emission reduction attributable to the proposed standards was overestimated. These commenters gave several reasons why the emission reduction was overestimated. They reiterate that the Agency assumed that the entire industry would be operating under worst-case conditions when calculating the emissions that would occur if the NSPS were not promulgated and if current State standards were allowed to continue. They pointed out that the EPA's own testing indicates that facilities operating under State standards with low-energy wet scrubbers or baghouses are achieving much lower emission rates than EPA's worst-case estimates. One commenter calculated that the true emission reductions with the promulgation of an NSPS would be closer to a 1,000 tons per year as opposed to the EPA's estimate of 14,000 tons per year. These commenters also note that the number of new metallic mineral plants predicted by the EPA is overestimated, particularly in the copper and iron ore industry. Thus, the increase in industry emissions that would occur from new plants if the NSPS were not promulgated is overestimated. Finally, one commenter noted that new plants often replace old plants; these old plant emissions should be subtracted from the industry's emissions when calculating an increase in industry-wide emissions if the NSPS were not promulgated.

Because the technology that must be employed to meet other Clean Air Act requirements will reduce new source particulate emissions to insignificant levels and because of the bleak outlook for future growth in this industry, three of these commenters requested that the NSPS be withdrawn and that the industry be deleted from the NSPS priority list.

The EPA's estimates of the impacts of various regulatory alternatives must be seen as estimates made at a point in time with the best information at hand. In predicting the likelihood of new facilities in the industry, the EPA consulted the best sources available, including the U.S. Bureau of Mines, industry representatives, technical journals, and State agencies. Typically, these sources do not specify particular new plant developments in their forecasts because of various constraints. However, these sources do make various industry forecasts in terms of long-range demand, sources of supply, and growth in the industry. On this basis, the EPA developed models of new plants on which to base its predictions of the costs and environmental impacts of new standards.

Since the time the EPA first developed these predictions, the metallic mineral industry has experienced severe economic difficulties. Numerous plants have suspended or reduced operations, and some new plant construction has been postponed. Nonetheless, the EPA believes that, because of the central role the metallic mineral processing industry plays in the American economy, the long-term prospects for growth in the industry are good and the current difficulties experienced by industry are only temporary.

In predicting the environmental impacts of various regulatory alternatives, several methods could be used. The EPA could have chosen to estimate the emissions that would occur if the State standards were applied at new plants assuming that these emissions would be the maximum allowed by the States. There are several problems with this approach. State regulation of metallic mineral facilities was not consistent from State to State or even within a State as to type of facilities at a plant that might be required to meet State standards. Much of this difficulty arose from the application of the term "unit process" to plants when applying process weighted emission limitations. In addition, some affected facilities under the proposed standards might not be covered at some

locations if State standards continued. On the other hand, the Agency's survey of the industry indicated that many plant facilities covered by State standards were doing better than State standards and that a percentage of the new plants might be expected to do likewise.

Alternately, the Agency could assume the average emission level measured at facilities that the EPA actually tested. There are also problems with this approach. The Agency could not perform an exhaustive test survey of all types of facilities in the industry to determine what the current emission levels are in the industry. Such a test program would not have been a wise use of tax dollars and would not have fulfilled the primary purpose of the EPA's test program. The EPA selects and tests well-designed and well-maintained types of control devices to determine the levels of performance. Some facilities that the EPA inspected, but did not test, were operating with control system designs, devices, or maintenance programs that were not best systems although they were meeting State standards. For example, some facilities are able to use dry cyclones to meet State standards. These control devices were not tested because they are not examples of best systems of continuous emission reduction.

Therefore, the Agency decided to use the so-called "worst-case" approach in calculating emission impacts of the various regulatory alternatives. This approach assumes a baseline emission level equivalent to the emissions from a low-pressure drop scrubber operating under worst-case conditions. The EPA agrees that this approach will not predict the true impact of the proposed standard at each and every new plant that might be built. However, compared to the results of other predictive methods, the Agency feels this method gives a valid overall indication of the impact of the standard. Although the "worst-case" method will overestimate the impact at some facilities, it will not do so as greatly as using the maximum emissions allowed by the States as a basis for calculating the impacts. On the other hand, the "worst-case" approach presumes the use of wet scrubber that may provide better control than a dry cyclone. The "worst-case" approach also presumes coverage of all affected facilities at a plant by the State standards even though State standards may not consistently require control devices on all of these facilities. Uncontrolled emissions from these facilities could easily be higher than "worst-case" baseline emissions of 0.15 gr/dscf. Also, the EPA did not specifically enumerate the reconstruction of facilities at existing plants in estimating emission reductions. The "worst-case" approach used to calculate the environmental benefit of the standard also corresponds to the approach used to calculate the control cost of the standard.

Although the estimates of environmental impacts are approximations, they indicate significant emission reductions such that the NSPS will not result in unnecessary regulation as claimed by some commenters. Because of the expected long-term growth in the industry arising from the construction of new facilities and the reconstruction of existing facilities, this source category will remain listed as a significant source on the priority list for which standards of performance will be promulgated.

Test Methods and Monitoring

A number of commenters noted that no method is specified in the proposal for the determination of the opacity of process fugitive emissions or stated that Method 9, which is specified in the General Provisions, is not appropriate for this measurement. These commenters note that Method 9 was developed for reading opacity at stacks and that the diffuse nature of process fugitive emissions will render Method 9 readings highly variable and subjective. Further, the data used in setting the standard are inappropriately based on Method 9 results in that no procedures for measuring opacity of process fugitive emissions are provided in Method 9. The commenters recommended that the process fugitive emission standard be deleted until an appropriate method is developed.

As stated in the General Provisions (40 CFR 60.11), Method 9 is the method specified for the determination of opacity. The Agency agrees that Method 9, as written, does not provide sufficient guidance for the measurement of opacity levels from process fugitive sources. During the data collection in support of the metallic minerals processing regulation, observers trained in the use of Method 9 followed the guidelines of the method with some modifications in recording visible process fugitive emission data. Method 9 has been amended to incorporate these modifications, which explain in more detail how the opacity of visible process fugitive emissions is determined. The amendment emphasizes the correct positioning of observers and the location within the visible fugitive emissions where opacity reading are to be made.

Information Requirements Impacts

The reporting and recordkeeping requirements of the regulation are assessed in Standard Form 83 and supporting statement, which is included in the docket for public review. This documentation contains: (1) A description of the reporting and recordkeeping required by the regulation and the General Provisions, (2) the reasons for the requirements, and (3) an evaluation of the major alternatives considered (including the use of existing sources of information).

The General Provisions, 40 CFR 60.8, contain notification requirements that enable the Agency to keep abreast of facilities subject to the regulation and also contain requirements for the conduct and reporting of initial performance tests. In addition, the regulation requires semiannual reporting of the occasions when the measurements of scrubber liquid flow rate and the change in pressure across the scrubber differ from the readings of the most recent performance test by more than ±30 percent. Analysis of these reporting requirements indicates that they are both necessary and reasonable considering the savings in Agency time and resources required for effective enforcement.

The resources needed by the industry to maintain records and to collect, prepare, and use the reports for the first 2 years would be about 5.5 person-years per year. The resources required by EPA and State and local agencies to process the reports and to maintain records for the first 2 years would be about 0.74 person-years per year.

Information collection requirements associated with this regulation (40 CFR 60.7, 40 CFR 60.8, and 40 CFR 60.384) have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 et seq. and have been assigned OMB control number 2060–0016.

Regulatory Flexibility Analysis

During the development of the background information document for this standard, the economic impacts for representative small model plants were examined, and there were no significant impacts on these plants.

Docket

The docket is an organized and complete file of all the information considered by EPA in the development of this rulemaking. The docket is a dynamic file, since material is added throughout the rulemaking development. The docket system is intended to allow

members of the public and industries involved to identify readily and locate documents so that they can intelligently and effectively participate in the rulemaking process. Along with the statement of basis and purpose of the proposed and promulgated standards and EPA responses to significant comments, the contents of the docket, except for certain inter-Agency review materials, will serve as the record in case of judicial review (Section 307(d)(7)(A)).

Miscellaneous

The effective date of this regulation is February 21, 1984. Section 111 of the Clean Air Act provides that standards of performance or revisions thereof become effective upon promulgation and apply to affected facilities, construction or modification of which was commenced after the date of proposal (August 24, 1982).

As prescribed by section 111, the promulgation of these standards was preceded by the Administrator's determination (40 CFR 60.16, 44 FR 49222, dated August 21, 1979) that these sources contribute significantly to air pollution that may reasonably be anticipated to endanger public health or welfare. In accordance with section 117 of the Act, publication of these promulgated standards was preceded by consultation with appropriate advisory committees, independent experts, and Federal departments and agencies.

This regulation will be reviewed 4 years from the date of promulgation as required by the Clean Air Act. This review will include an assessment of such factors as the need for integration with other programs, the existence of alternative methods, enforceability, improvements in emission control technology, and reporting requirements.

Section 317 of the Clean Air Act requires the Administrator to prepare an economic impact assessment for any new source standard of performance promulgated under section 111(b) of the Act. An economic impact assessment was prepared for this regulation and for other regulatory alternatives. For the purposes of the economic impact assessment, three regulatory alternatives were identified. Regulatory Alternatives 1, 2, and 3 are based on the performance of low-, medium-, and high-energy scrubbers, respectively, under worst-case operating conditions. All aspects of the assessment were considered in the formulation of the standards to insure that cost was carefully considered in determining BDT. The economic impact assessment is included in the background information document for the proposed standards.

Under Executive Order 12291, the EPA must judge whether a regulation is "major" and therefore subject to the requirement of a Regulatory Impact Analysis. This regulation is not "major" because: (1) The national annualized compliance costs, including capital charges resulting from the standards, total less than $100 million; (2) the standards do not cause a major increase in prices or production costs; and (3) the standards do not cause significant adverse effects on domestic competition, employment, investment, productivity, innovation or competition in foreign markets. This regulation was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291. Any comments from OMB to the EPA and any EPA response to those comments are included in docket number A–81–03. The docket is available for public inspection at the EPA's Central Docket Section, West Tower Lobby, Gallery 1, Waterside Mall, 401 M Street, SW., Washington, D.C. 20460.

List of Subjects in 40 CFR Part 60

Air pollution control, Aluminum, Ammonium sulfate plants, Asphalt, Cement industry, Coal, Copper, Electric power plants, Glass and glass products, Grains, Intergovernmental relations, Iron, Lead, Metals, Metallic minerals, Motor vehicles, Nitric acid plants, Paper and paper pr oducts industry, Petroleum, Phosphate, Sewage disposal, Waste treatment and disposal, Zinc, Tires, Steel, Sulfuric acid plants, Waste treatment and disposal, Zinc, Tires, Incorporation by reference, Can surface coating, Sulfuric acid plants, Industrial organic chemicals, Organic solvent cleaners, Fossil fuel-fired steam generators.

Dated: February 9, 1984.

Alvin L. Alm,

Acting Administrator.

PART 60—[AMENDED]

40 CFR Part 60 is amended by adding a new subpart and by adding paragraph 2.3.3 to Method 9, Appendix A as follows:

1. A new Subpart LL is added as follows:

Subpart LL—Standards of Performance for Metallic Mineral Processing Plants

Sec.

60.380 Applicability and designation of affected facility.
60.381 Definitions.
60.382 Standard for particulate matter.
60.383 Reconstruction.
60.384 Monitoring of operations.
60.385 Recordkeeping and reporting requirements.
60.386 Test methods and procedures.

Authority: Sections 111 and 301(a) of the Clean Air Act, as amended (42 U.S.C. 7411, 7601(a)), and additional authority as noted below.

Subpart LL—Standards of Performance for Metallic Mineral Processing plants

§ 60.380 Applicability and designation of affected facility.

(a) The provisions of this subpart are applicable to the following affected facilities in metallic mineral processing plants: Each crusher and screen in open-pit mines; each crusher, screen, bucket elevator, conveyor belt transfer point, thermal dryer, product packaging station, storage bin, enclosed storage area, truck loading station, truck unloading station, railcar loading station, and railcar unloading station at the mill or concentrator with the following exceptions. All facilities located in underground mines are exempted from the provisions of this subpart. At uranium ore processing plants, all facilities subsequent to and including the beneficiation of uranium ore are exempted from the provisions of this subpart.

(b) An affected facility under paragraph (a) of this section that commences construction or modification after August 24, 1982, is subject to the requirements of this part.

§ 60.381 Definitions.

All terms used in this subpart, but not specifically defined in this section, shall have the meaning given them in the Act and in Subpart A of this part.

"Bucket elevator" means a conveying device for metallic minerals consisting of a head and foot assembly that supports and drives an endless single or double strand chain or belt to which buckets are attached.

"Capture system" means the equipment used to capture and transport particulate matter generated by one or more affected facilities to a control device.

"Control device" means the air pollution control equipment used to reduce particulate matter emissions released to the atmosphere from one or more affected facilities at a metallic mineral processing plant.

"Conveyor belt transfer point" means a point in the conveying operation where the metallic mineral or metallic mineral concentrate is transferred to or from a conveyor belt except where the metallic mineral is being transferred to a stockpile.

"Crusher" means a machine used to crush any metallic mineral and includes feeders or conveyors located immediately below the crushing surfaces. Crushers include, but are not limited to, the following types: jaw, gyratory, cone, and hammermill.

"Enclosed storage area" means any area covered by a roof under which metallic minerals are stored prior to further processing or loading.

"Metallic mineral concentrate" means a material containing metallic compounds in concentrations higher than naturally occurring in ore but requiring additional processing if pure metal is to be isolated. A metallic mineral concentrate contains at least one of the following metals in any of its oxidation states and at a concentration that contributes to the concentrate's commercial value: Aluminum, copper, gold, iron, lead, molybdenum, silver, titanium, tungsten, uranium, zinc, and zirconium. This definition shall not be construed as requiring that material containing metallic compounds be refined to a pure metal in order for the material to be considered a metallic mineral concentrate to be covered by the standards.

"Metallic mineral processing plant" means any combination of equipment that produces metallic mineral concentrates from ore. Metallic mineral processing commences with the mining of ore and includes all operations either up to and including the loading of wet or dry concentrates or solutions of metallic minerals for transfer to facilities at non-adjacent locations that will subsequently process metallic concentrates into purified metals (or other products), or up to and including all material transfer and storage operations that precede the operations that produce refined metals (or other products) from metallic mineral concentrates at facilities adjacent to the metallic mineral processing plant. This definition shall not be construed as requiring that mining of ore be conducted in order for the combination of equipment to be considered a metallic mineral processing plant. (See also the definition of "metallic mineral concentrate.")

"Process fugitive emissions" means particulate matter emissions from an affected facility that are not collected by a capture system.

"Product packaging station" means the equipment used to fill containers with metallic compounds or metallic mineral concentrates.

"Railcar loading station" means that portion of a metallic mineral processing plant where metallic minerals or metallic mineral concentrates are loaded by a conveying system into railcars.

"Railcar unloading station" means that portion of a metallic mineral processing plant where metallic ore is unloaded from a railcar into a hopper, screen, or crusher.

"Screen" means a device for separating material according to size by passing undersize material through one or more mesh surfaces (screens) in series and retaining oversize material on the mesh surfaces (screens).

"Stack emissions" means the particulate matter captured and released to the atmosphere through a stack, chimney, or flue.

"Storage bin" means a facility for storage (including surge bins and hoppers) or metallic minerals prior to further processing or loading.

"Surface moisture" means water that is not chemically bound to a metallic mineral or metallic mineral concentrate.

"Thermal dryer" means a unit in which the surface moisture content of a metallic mineral or a metallic mineral concentrate is reduced by direct or indirect contact with a heated gas stream.

"Truck loading station" means that portion of a metallic mineral processing plant where metallic minerals or metallic mineral concentrates are loaded by a conveying system into trucks.

"Truck unloading station" means that portion of a metallic mineral processing plant where metallic ore is unloaded from a truck into a hopper, screen, or crusher.

§ 60.382 Standard for particulate matter.

(a) On and after the date on which the performance test required to be conducted by § 60.8 is completed, no owner or operator subject to the provisions of this subpart shall cause to be discharged into the atmosphere from an affected facility any stack emissions that:

(1) Contain particulate matter in excess of 0.05 grams per dry standard cubic meter.

(2) Exhibit greater than 7 percent opacity, unless the stack emissions are discharged from an affected facility using a wet scrubbing emission control device.

(b) On and after the sixtieth day after achieving the maximum production rate at which the affected facility will be operated, but not later than 180 days after initial startup, no owner or operator subject to the provisions of this subpart shall cause to be discharged into the atmosphere from an affected facility any process fugitive emissions that exhibit greater than 10 percent opacity.

§ 60.383 Reconstruction.

(a) The cost of replacement of ore-contact surfaces on processing equipment shall not be considered in calculating either the "fixed capital cost of the new components" or the "fixed capital cost that would be required to construct a comparable new facility" under § 60.15. Ore-contact surfaces are: Crushing surfaces; screen meshes, bars, and plates; conveyor belts; elevator buckets; and pan feeders.

(b) Under § 60.15, the "fixed capital cost of the new components" includes the fixed capital cost of all depreciable components (except components specified in paragraph (a) of this section) that are or will be replaced pursuant to all continuous programs of component replacement commenced within any 2-year period following August 24, 1982.

§ 60.384 Monitoring of operations.

(a) The owner or operator subject to the provisions of this subpart shall install, calibrate, maintain, and operate a monitoring device for the continuous measurement of the change in pressure of the gas stream through the scrubber for any affected facility using a wet scrubbing emission control device. The monitoring device must be certified by the manufacturer to be accurate within ±250 pascals (±1 inch water) gauge pressure and must be calibrated on an annual basis in accordance with manufacturer's instructions.

(b) The owner or operator subject to the provisions of this subpart shall install, calibrate, maintain, and operate a monitoring device for the continuous measurement of the scrubbing liquid flow rate to a wet scrubber for any affected facility using any type of wet scrubbing emission control device. The monitoring device must be certified by the manufacturer to be accurate within ±5 percent of design scrubbing liquid flow rate and must be calibrated on at least an annual basis in accordance with manufacturer's instructions.

§ 60.385 Recordkeeping and reporting requirements.

(a) The owner or operator subject to the provisions of this subpart shall conduct a performance test and submit to the Administrator a written report of the results of the test as specified in § 60.8(a).

(b) During the initial performance test of a wet scrubber, and at least weekly thereafter, the owner or operator shall record the measurements of both the

change in pressure of the gas stream across the scrubber and the scrubbing liquid flow rate.

(c) After the initial performance test of a wet scrubber, the owner or operator shall submit semiannual reports to the Administrator of occurrences when the measurements of the scrubber pressure loss (or gain) and liquid flow rate differ by more than ±30 percent from those measurements recorded during the most recent performance test.

(d) The reports required under paragraph (c) shall be postmarked within 30 days following the end of the second and fourth calendar quarters.

(e) The requirements of this subsection remain in force until and unless the Agency, in delegating enforcement authority to a State under section 111(c) of the Act, approves reporting requirements or an alternative means of compliance surveillance adopted by such States. In that event, affected sources within the State will be relieved of the obligation to comply with this subsection, provided that they comply with requirements established by the State.

(Sec. 114, Clean Air Act as amended (42 U.S.C. 7414))

(Approved by the Office of Management and Budget under the control number 2060-0016.)

§ 60.386 Test methods and procedures.

(a) Reference methods in Appendix A of this part, except as provided under § 60.8(b), shall be used to determine compliance with the standards prescribed under § 60.382 as follows:

(1) Method 5 or Method 17 for concentration of particulate matter and associated moisture content;

(2) Method 1 for sample and velocity traverses;

(3) Method 2 for velocity and volumetric flow rate;

(4) Method 3 for gas analysis;

(5) Method 9 for measuring opacity from stack emissions and process fugitive emissions.

(b) For method 5, the following stipulations shall apply:

(1) The sampling probe and filter holder may be operated without heaters if the gas stream being sampled is at ambient temperature;

(2) For gas streams above ambient temperature, the sampling train shall be operated with a probe and filter temperature slightly above the effluent temperature (up to a maximum filter temperature of 121°C (250°F)) in order to prevent water condensation on the filter;

(3) The minimum sample volume shall be 1.7 dscm (60 dscf).

(c) For method 9, the following stipulation shall apply: the observer shall read opacity only when emissions are clearly identified as emanating solely from the affected facility being observed.

(Sec. 114, Clean Air Act, as amended (42 U.S.C. 7414))

2. Appendix A is amended by adding paragraph 2.3.3 in Method 9 as follows:

Appendix A—Reference Methods

* * * * *

Method 9—Visual Determination of the Opacity of Emissions From Stationary Sources

* * * * *

2. *Procedures*

* * * * *

2.3 * * *

2.3.3 Fugitive emissions. The guidelines for positioning of the observer in relation to the stack found in paragraph 2.1 can be applied to determination of visible opacity from fugitive emission sources. That is, the observer should have a clear view of the source and the potential emissions with the sun or other light source at his back. A position at least 15 feet from the source, but permitting a clear, unobstructed view of the source, is recommended. To the extent feasible, the line of sight should be approximately perpendicular to the flow of potential fugitive emissions, and, also, to the longer axis to the potential fugitive emissions. Readings of opacity should be made for the point(s) of highest opacity within the visible fugitive emission. The highest opacity usually occurs immediately above or immediately downwind of the source, so observers should concentrate on the area(s) close to the source.

* * * * *

[FR Doc. 84-4508 Filed 2-17-84; 8:45 am]

BILLING CODE 6560-26-M

federal register

Tuesday
February 21, 1984

Part IV

Department of Transportation

Federal Aviation Administration

14 CFR Part 21

Market Survey Experimental Certificates for Aircraft Modifiers; Proposed Rulemaking

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 21

[Docket No. 23544; Notice No. 84-1]

Market Survey Experimental Certificates for Aircraft Modifiers

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to amend the regulations to permit aircraft modifiers who are neither aircraft nor aircraft engine manufacturers to apply for an experimental certificate to use the modified aircraft for market surveys, sales demonstrations, or customer crew training in the same manner as aircraft and aircraft engine manufacturers. In recent years typed-certificated aircraft have been altered by a variety of modifications other than installation of different engines. Aircraft and aircraft engine manufacturers are eligible for experimental certificates to conduct market survey flights of their modifications. This proposal would permit other aircraft modifiers to conduct such flights using an experimental certificate without obtaining an exemption for this purpose.

DATE: Comments must be received on or before April 23, 1984.

ADDRESS: Send comments on this proposal in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-204), Docket No. 23544, 800 Independence Avenue, SW., Washington, D.C. 20591; or deliver comments in duplicate to: FAA Rules Docket, Room 916, 800 Independence Avenue, SW., Washington, D.C. Comments may be examined in the Rules Docket weekdays, except Federal holidays, between 8:30 a.m. and 5 p.m.

FOR FURTHER INFORMATION CONTACT: Alphonse G. Santarelli, Aircraft Manufacturing Division (AWS-200), Office of Airworthiness, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591, telephone (202) 426-8361.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Comments relating to the environmental, energy, or economic impacts that might result from adoption of the proposals contained in this notice are invited. Communications should identify the regulatory docket or notice number and be submitted in duplicate to the address above. All communications received on or before the closing date for comments will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this notice may be changed in light of comments received. All comments submitted will be available, both before and after the closing date for comments in the Rules Docket for examination by interested persons. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket. Commenters wishing to have the FAA acknowledge receipt of their comments submitted in response to this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 23544." The postcard will be dated, time stamped, and returned to the commenter.

Availability of NPRM

Any person may obtain a copy of this NPRM by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, SW., Washington, D.C. 20591, or by calling (202) 426-8058. Communications must identify the docket number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular 11-2, Notice of Proposed Rulemaking Distribution System, which describes the application procedures.

Background

Section 21.195(a) of the Federal Aviation Regulations (FAR) states that a manufacturer of aircraft manufactured within the United States may apply for an experimental certificate for an aircraft that is to be used for market surveys, sales demonstrations, or customer crew training. Section 21.195(b) of the FAR states that a manufacturer of aircraft engines who has altered a type-certificated aircraft by installing different engines, manufactured by him within the United States, may apply for an experimental certificate for that aircraft to be used for market surveys, sales demonstrations, or customer crew training if the basic aircraft, before alteration, was type certificated in the normal, acrobatic, or transport category. For the purpose of this proposal, an aircraft modifier is a person who has altered the design of an aircraft that before alteration was type certificated in the normal, acrobatic, or transport category.

In recent years, type—certificated aircraft have been altered by a variety of modifications other than installation of different engines. The above sections do not permit a "non-engine" aircraft modifier to apply for an experimental certificate to use an aircraft altered by him for market surveys, sales demonstrations, or customer crew training. A number of aircraft modifiers have been granted exemptions from either § 21.195 (a) or (b) to the extent necessary to permit those aircraft modifiers to apply for experimental certificates or aircraft to be used for market surveys, sales demonstrations, or customer crew training, subject to certain limitations.

Raisbeck-Western petitioned to amend § 21.195(a) to permit aircraft modifiers to use those aircraft for market survey purposes in the same manner as aircraft manufacturers. The petitioner reasons that the present rule penalizes and discriminates against aircraft modifiers, who are not aircraft manufacturers, who should be allowed to use their modified aircraft for market surveys in the same manner as aircraft manufacturers. A summary of the petition was published in the **Federal Register** (48 FR 17105) on April 21, 1983, for public comments.

In support of the Raisbeck-Western petition one commenter states that operation of modified aircraft without the market survey authorization is extremely restrictive and definitely penalizes the modifier in his efforts to show and sell his product.

The FAA has reviewed § 21.195 in view of the Raisbeck-Western petition and the related exemptions granted to date and has determined that aircraft modifiers should also be eligible to apply for experimental certificates under § 21.195. This proposal would permit modifiers to apply for an experimental certificate to use the altered aircraft for market surveys, sales demonstrations, or customer crew training in the same manner as an aircraft or engine manufacturer who altered a type-certificated aircraft. In this way, aircraft modifiers would be able to test the market potential of the modification before mass producing the modification kits or to demonstrate the modified aircraft to potential customers before the supplemental type certificate is obtained.

It is also proposed to add a cross-reference provision to § 21.191(f) to more

clearly show the interrelationship between this paragraph and § 21.195. This is considered to be an editorial change.

Regulatory Evaluation

Benefits

Adoption of this proposal would relieve a regulation which is not believed to be necessary for safety and would thus provide benefits to certain aircraft modifiers. It would allow them to be eligible to apply for experimental certificates under Part 21 prior to issuance of a supplemental type certificate, to test the market potential of modified aircraft before mass producing the modification kits, to demonstrate the modified aircraft to potential customers, and to conduct customer crew training. In addition, a number of aircraft modifiers have been granted exemptions in the past to allow them to apply for experimental certificates for market surveys. This proposed rule would effectively eliminate the need for an aircraft modifier to obtain an exemption from the requirements of Part 21 to apply for an experimental certificate to allow the modifier's aircraft to be used for market surveys, sales demonstrations, or customer crew training in the same manner as an aircraft or aircraft engine manufacturer. By obviating the need for an exemption, this proposal would eliminate the minor cost required to develop and submit a petition for exemption and avoid the minor costs related to time lost while the aircraft modifier awaits the exemption. Additionally, the Federal Government (FAA) would experience minimal cost savings as the requirement to review and process petitions for exemption submitted by aircraft modifiers to apply for experimental certificates would be eliminated.

Costs

This proposed rule would impose no new costs or requirements on aircraft modifiers, the aviation public, or the Federal Government. If adopted, this proposal will permit aircraft modifiers to submit applications for experimental certificates for market surveys which the FAA will process consistent with current practices under § 21.195 (a) and (b).

Benefit Cost Conclusion

Based on the aforementioned discussion of the benefit and cost aspects of the proposed rule, the benefits clearly exceed the costs. The FAA invites comments on the regulatory evaluation.

International Trade Impact Analysis

The FAA believes that this regulation, if adopted, will have little or no impact on foreign trade. However, the FAA invites comments on what impact the public perceives that this regulation would have on the sale of foreign aviation products or services in the United States and on the sale of U.S. aviation products and services in foreign countries.

Regulatory Flexibility Act Determination

The Regulatory Flexibility Act of 1980 (RFA) was enacted by Congress to ensure, among other things, that small entities are not disproportionately affected by Government regulations. The RFA requires agencies to review rules which may have a "significant economic impact on a substantial number of small entities." Certain aircraft modifiers may be classified as small entities according to the RFA. However, since this proposed rule would result in minimal savings and would not impose additional costs, it will not have a significant economic impact on any of these entities.

Therefore, FAA has determined that the proposed rule will not, if enacted, have a significant economic impact on a substantial number of small entities.

List of Subjects in 14 CFR Part 21

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Rule

Accordingly, the Federal Aviation Administration proposes to amend Part 21 of the Federal Aviation Regulations (14 CFR Part 21) as follows:

PART 21—CERTIFICATION PROCEDURES FOR PRODUCTS AND PARTS

1. By amending § 21.191 by revising paragraph (f) to read as follows:

§ 21.191 Experimental certificates.

* * * * *

(f) *Market surveys.* Use of aircraft for purposes of conducting market surveys, sales demonstrations, and customer crew training only as provided in § 21.195.

* * * * *

2. By amending § 21.195 by redesignating present paragraph (c) as (d) and by adding a new paragraph (c) as follows:

§ 21.195 Experimental certificates: Aircraft to be used for market surveys, sales demonstrations, and customer crew training.

* * * * *

(c) A person who has altered the design of a type certificated aircraft may apply for an experimental certificate for the altered aircraft to be used for market surveys, sales demonstrations, or customer crew training if the basic aircraft, before alteration, was type certificated in the normal, acrobatic, or transport category.

* * * * *

(Sec. 313, 314, 601, 603(c), 605, 608, 609, and 610, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354, 1355, 1421, 1423(c), 1425, 1428, 1429, and 1430; 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 21, 1983); and 14 CFR 11.45)

Note.—This proposal would provide compatibility with other paragraphs in § 21.195 whereby a modifier of aircraft could obtain an experimental certificate for a modified aircraft in the same manner as an aircraft or engine manufacturer. Furthermore, this proposal, if adopted, is not likely to result in an annual effect on the economy of $100 million or more or a major increase in costs for consumers; industry; or Federal, State, or local government agencies. In addition, this proposal, if adopted, would have little or no impact on trade opportunities for U.S. firms doing business overseas or for foreign firms doing business in the United States. Accordingly, it has been determined that this is not a major regulation under Executive Order 12291. In addition, the FAA has determined that this action is nonsignificant under Department of Transportation Regulatory Policy and Procedures (44 FR 11034; February 26, 1979). Finally, as discussed previously in the preamble, it is certified under the criteria of the Regulatory Flexibility Act that this proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. A copy of the draft regulatory evaluation for this action is contained in the regulatory docket. A copy of it may be obtained by contacting the person identified under the caption **"FOR FURTHER INFORMATION CONTACT."**

Issued in Washington, D.C., on January 3, 1984.

J. A. Pontecorvo,

Acting Director of Airworthiness.

[FR Doc. 84-4472 Filed 2-17-84; 8:45 am]

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CFR CHECKLIST

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An asterisk (*) precedes each entry that has been changed since last week.

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[1] No amendments to these volumes were promulgated during the period Apr. 1, 1982 to March 31, 1983. The CFR volumes issued as of Apr. 1, 1982 should be retained.

[2] No amendments to this volume were promulgated during the period Apr. 1, 1980 to March 31, 1983. The CFR volume issued as of Apr. 1, 1980, should be retained.

[3] Refer to September 19, 1983, FEDERAL REGISTER, Book II (Federal Acquisition Regulation).

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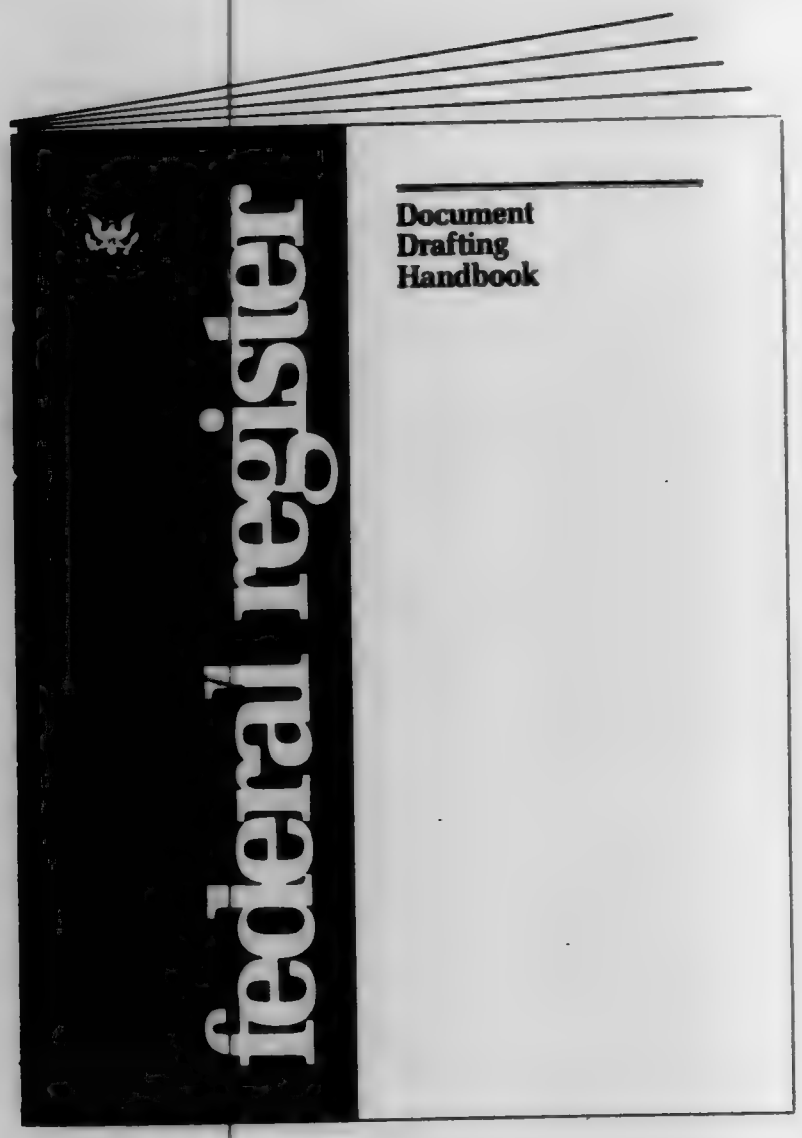

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Federal Register
Vol. 49, No. 36
Wednesday, February 22, 1984

Presidential Documents

Title 3—

The President

Executive Order 12461 of February 17, 1984

Designating a Federal Retirement System Under Public Law 98–168

By the authority vested in me as President by the Federal Employees' Retirement Contribution Temporary Adjustment Act of 1983 (title II of Public Law 98–168) ("the Act"), it is hereby ordered as follows:

Section 1. The District of Columbia Police and Firefighters' Retirement and Disability System, insofar as it applies to Federal employees who are covered under section 203(a)(1) of the Act, is designated a covered retirement system under section 203(a)(2)(D) of the Act. The Secretary of the Treasury is designated the appropriate agency head with respect to such system, under section 205(a)(2)(D) of the Act. In discharging the responsibilities delegated by this Order, the Secretary shall be guided by the information and recommendations provided by the Mayor of the District of Columbia.

Sec. 2. This Order shall be effective as of January 1, 1984.

Ronald Reagan

THE WHITE HOUSE,
February 17, 1984.

[FR Doc. 84–4873
Filed 2–21–84; 10:17 am]
Billing code 3195–01–M

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Presidential Documents

Executive Order 12462 of February 17, 1984

President's Advisory Committee on Mediation and Conciliation

By the authority vested in me as President by the Constitution and statutes of the United States of America, including the Federal Advisory Committee Act, as amended (5 U.S.C. App. I), in order to create an advisory committee on methods of mediating and on the voluntary adjustment of labor disputes, it is hereby ordered as follows:

Section 1. *Establishment.* There is established the President's Advisory Committee on Mediation and Conciliation. The Committee shall be composed of not more than twelve members who shall be appointed or designated by the President from among persons with special knowledge and familiarity with labor relations problems. The Director of the Federal Mediation and Conciliation Service is hereby designated as Chairman of the Advisory Committee.

Sec. 2. *Functions.* (a) The Committee shall advise the President and the Director of the Federal Mediation and Conciliation Service on methods of improving the efficiency of arbitration of disputes arising under collective bargaining agreements, and on other matters, not involving particular labor disputes, of general significance to strengthening and increasing the effectiveness of bilateral dispute resolution mechanisms under such agreements.

(b) In performance of its advisory responsibilities, the Committee shall report to the President and the Director of the Federal Mediation and Conciliation Service from time to time as requested.

(c) The Committee will undertake a review of regulations promulgated by the Federal Mediation and Conciliation Service that affect established arbitration and mediation procedures, and offer their findings and recommendations in a report to the President and the Director of the Federal Mediation and Conciliation Service within nine months of the Committee's establishment.

Sec. 3. *Administration.* (a) The heads of Executive agencies shall, to the extent permitted by law, provide the Committee such information as it may require to carry out its functions.

(b) Members of the Committee shall serve without compensation for their work on the Committee. However, members appointed from among private citizens of the United States may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by law for persons serving intermittently in the government service (5 U.S.C. 5701–5707).

(c) The Director of the Federal Mediation and Conciliation Service shall provide the Committee with such administrative services, facilities, staff and other support as may be necessary for the effective performance of its functions.

Sec. 4. *General.* (a) Notwithstanding the provisions of any other Executive Order, the responsibilities of the President under the Federal Advisory Committee Act, as amended, except that of reporting annually to the Congress, which are applicable to the Committee established by this Order, shall be performed by the Director of the Federal Mediation and Conciliation Service, in accordance with guidelines and procedures established by the Administrator of General Services.

(b) The Committee shall terminate on December 31, 1984, unless sooner extended.

Ronald Reagan

THE WHITE HOUSE,
February 17, 1984.

[FR Doc. 84-4874
Filed 2-21-84; 10:18 am]
Billing code 3195-01-M

Rules and Regulations

Federal Register
Vol. 49, No. 36
Wednesday, February 22, 1984

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 907

[Navel Orange Reg. 594, Navel Orange Reg. 593, Amdt. 1; Navel Orange Reg. 592, Amdt. 2]

Navel Oranges Grown in Arizona and Designated Part of California; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: Regulation 594 establishes the quantity of fresh California-Arizona navel oranges that may be shipped to market during the period February 24–March 1, 1984. Regulation 593, Amendment 1, increases the quantity of such oranges that may be shipped during the period February 17–23, 1984, and Regulation 592, Amendment 2, increases the quantity of such oranges that may be shipped during the period February 10–16, 1984. Such action is needed to provide for the orderly marketing of fresh navel oranges for the period specified due to the marketing situation confronting the orange industry.

DATE: Regulation 594 becomes effective February 24, 1984, and the amendments are effective for the periods February 17–23, 1984, and February 10–16, 1984.

FOR FURTHER INFORMATION CONTACT: William J. Doyle, 202–447–5975.

SUPPLEMENTARY INFORMATION: *Findings.* This rule has been reviewed under USDA procedures and Executive Order 12291 and has been designated a "non-major" rule. William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this action will not have a significant economic impact on a substantial number of small entities.

This regulation and amendments are issued under the marketing agreement, as amended, and Order No. 907, as amended (7 CFR Part 907), regulating the handling of navel oranges grown in Arizona and designated part of California. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The action is based upon the recommendation and information submitted by the Navel Orange Administrative Committee and upon other available information. It is hereby found that these actions will tend to effectuate the declared policy of the Act.

These actions are consistent with the marketing policy for 1983–84. The marketing policy was recommended by the committee following discussion at a public meeting on September 27, 1983. The committee met again publicly on February 14, 1984 at Ventura, California, to consider the current and prospective conditions of supply and demand and recommended a quantity of navel oranges deemed advisable to be handled during the specified week. The committee reports and the demand for navel oranges is good.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation and amendment are based and the effective date necessary to effectuate the declared policy of the Act. Interested persons were given an opportunity to submit information on views on the regulation at an open meeting, and the amendment relieves restrictions on the handling of navel oranges. It is necessary to effectuate the declared purposes of the Act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

List of Subjects in 7 CFR Part 907

Marketing agreements and orders, California, Arizona, Oranges (Navel).

PART 907—[AMENDED]

1. Section 907.894 is added as follows:

§ 907.894 Navel Orange Regulation 594.

The quantities of navel oranges grown in California and Arizona which may be handled during the period February 24, 1984, through March 1, 1984, are established as follows:

(a) District 1: 1,700, 000 cartons;
(b) District 2: Unlimited cartons;
(c) District 3: Unlimited cartons;
(d) District 4: Unlimited cartons.

2. Section 907.893 Navel Orange Regulation 593 paragraphs (a) through (d) are hereby revised to read:

§ 907.893 Navel Orange Regulation 593.

(a) District 1: 1,800,000; cartons;
(b) District 2: Unlimited cartons;
(c) District 3: Unlimited cartons;
(d) District 4: Unlimited cartons.

3. Section 907.892 Navel Orange Regulation 592 (49 FR 4459) paragraphs (a) through (d) are hereby revised to read:

§ 907.892 Navel Orange Regulation 592.

(a) District 1: 1,850,000 cartons;
(b) District 2: Unlimited cartons;
(c) District 3: Unlimited cartons;
(d) District 4: Unlimited cartons.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: February 15, 1984.

Russell L. Hawes,

Acting Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 84–2120 Filed 2–21–84; 8:45 am]
BILLING CODE 3410–02–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 510 and 524

Animal Drugs, Feeds, and Related Products; Nitrofurazone Ointment

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a new animal drug application (NADA) filed by Squire Laboratories, Inc., providing for use of a nitrofurazone ointment (water soluble dressing) for the prevention or treatment of surface bacterial infections on horses. The regulations are also amended to add Squire Laboratories, Inc., to the list of sponsors of approved NADA's.

EFFECTIVE DATE: February 22, 1984.

FOR FURTHER INFORMATION CONTACT: Sandra K. Woods, Bureau of Veterinary Medicine (HFV–114), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–3420.

SUPPLEMENTARY INFORMATION: Squire Laboratories, Inc., 100 Mill St., Revere, MA 02151, is sponsor of NADA 132–427 for use of a 0.2-percent nitrofurazone ointment (water soluble dressing) for the prevention or treatment of surface bacterial infections of wounds, burns, and cutaneous ulcers of horses. The application is approved, and the regulations are amended accordingly. The regulations are also amended to add Squire Laboratories, Inc., to the list of sponsors of approved NADA's. The basis of this approval is discussed in the freedom of information summary.

In accordance with the freedom of information provisions of Part 20 (21 CFR Part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

The Bureau of Veterinary Medicine has determined pursuant to 21 CFR 25.24 (d)(1)(i) (proposed December 11, 1979; 44 FR 71742) that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment not an environmental impact statement is required.

List of Subjects

21 CFR Part 510

Administrative practice and procedure, Animal drugs, Labeling, Reporting and recordkeeping requirements.

21 CFR Part 524

Animal drugs, Topical.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83), Parts 510 and 524 are amended as follows:

PART 510—NEW ANIMAL DRUGS

1. Part 510 is amended in § 510.600 by adding a new sponsor alphabetically to paragraph (c)(1) and numerically to paragraph (c)(2), to read as follows:

§ 510.600 Names, addresses, and drug labeler codes of sponsors of approved applications

* * * * *

(c) * * *

(1) * * *

Firm name and address	Drug labeler code
* * * * *	
Squire Laboratories, Inc., 100 Mill St., Revere, MA 02151	017153
* * * * *	

(2) * * *

Drug labeler code	Firm name and address
* * * * *	
017153	Squire Laboratories, Inc., 100 Mill St., Revere, MA 02151.
* * * * *	

PART 524—OPHTHALMIC AND TOPICAL DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

2. Part 524 is amended in § 524.1580b by revising paragraph (b), to read as follows:

§ 524.1580b Nitrofurazone ointment.

* * * * *

(b) *Sponsor.* For use in dogs, cats, and horses see Nos. 011519, 000864, 012518, 023851, and 015579 in § 510.600(c) of this chapter. For use in dogs and horses see No. 017135 in § 510.600(c) of this chapter. For use in horses see No. 017153 in § 510.600(c) of this chapter.

* * * * *

Effective date. February 22, 1984.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)))

Dated: February 14, 1984.

Lester M. Crawford,

Director, Bureau of Veterinary Medicine.

[FR Doc. 84-4580 Filed 2-21-84; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 53

[T.D. 7944]

Foundation Excise Taxes; Excess Business Holdings of Private Foundations

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final regulations.

SUMMARY: This document provides final regulations dealing with matters reserved in the regulations relating to taxes on the excess business holdings of private foundations. Changes in the applicable tax law were made by the Tax Reform Act of 1969. These regulations provide necessary guidance to the public for compliance with the law and affect private foundations.

DATES: The amendments are generally effective for taxable years beginning after December 31, 1969.

FOR FURTHER INFORMATION CONTACT: Richard J. Wickersham of the Employee Plans and Exempt Organizations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, D.C. 20024 (Attention: CC:LR:T) (202–566–3430) (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

Proposed regulations under section 4943 were first published in the **Federal Register** on January 3, 1973 (38 FR 32). Those regulations, except for certain reserved portions, were adopted in T.D. 7496, published on July 6, 1977 (42 FR 34499). A second notice of proposed rulemaking, setting forth new proposed regulations under the portions reserved in T.D. 7496, was published on May 22, 1979 (44 FR 29680). A third notice, modifying the transitional rules proposed in the second notice, was published on August 16, 1979 (44 FR 47958).

The portions reserved in T.D. 7496 related to reorganizations, redemptions and distributions; the definition of a purchase for purposes of the five-year period provided in section 4943(c)(6) to dispose of excess business holdings acquired other than by purchase; the application of the constructive ownership rules in section 4943(d)(1) to corporations engaged in the active conduct of a trade or business and to partnerships; and the conversion of a passive holding into an active business.

A public hearing concerning the reserved portions was held on September 6, 1979. Comments at that hearing were addressed to all three notices of proposed rulemaking. After consideration of all comments regarding the three notices, the reserved portions of regulations under section 4943 are adopted as revised by this Treasury decision.

Excess Business Holdings Generally

Section 4943 generally imposes an excise tax on a private foundation if the foundation and all disqualified persons with respect to the foundation in combination hold more than 20 percent of the voting stock of a business enterprise. If it can be demonstrated that one or more persons unrelated to the foundation have effective control over the business, the 20-percent limit is raised to 35 percent. A foundation must hold directly or indirectly more than two percent of the voting stock or value of a business enterprise before the limitations of section 4943 come into play, however. These limitations on ownership are applicable both to corporations and to non-corporate businesses such as partnerships, estates, and trusts.

Section 4943(c)(4) provides special grandfather rules that allow the 20- or 35-percent ownership limits to be increased, subject to certain conditions, for combined holdings that exceeded the 20- or 35-percent limits on May 26, 1969. Under these grandfather rules, the combined foundation-disqualified person holdings must be reduced, during an initial transition period, to no more than 50 percent, with certain additional reductions required thereafter.

Constructive Ownership

In computing the percentage of stock held by the foundation and disqualified persons, stock held by or for a corporation, partnership, estate or trust is generally deemed to be held by or for the shareholders, partners, or beneficiaries of that entity. The regulations proposed in 1973 exempted from this constructive ownership rule holdings of corporations engaged in an active trade or business. This exception from the general constructive ownership rule ("the myopia rule") did not apply in four situations: (1) If assets used in active trades or businesses are insubstantial when compared with passive assets; (2) if a small active corporation acquires stock in a much larger active corporation; (3) if an active corporation's trade or business assets before an acquisition of assets are insubstantial when compared to its trade or business assets after the acquisition; or (4) if a transaction constitutes a device to acquire or retain excess business holdings.

The myopia rule is adopted in the final regulations with one significant change. This change treats the passive parent of an affiliated group of active businesses as an active business. Under § 53.4943–8(c)(4) and § 53.4943–10(c)(3), consolidated gross income will be used to determine whether the parent of an affiliated group is a business enterprise and the assets of the entire group will be used in determining whether the parent is an active corporation for purposes of the myopia rule. These changes were made because several commentators pointed out that the myopia rule as originally proposed in 1973 would result in different tax treatment of foundations with interests in controlled groups depending solely on how the controlled groups were structured. If the parent corporation were passive, acquisition of stock in unrelated corporations could result in excess business holdings. An identical group structured so that the parent was an active corporation could acquire interests in other corporations without creating any excess business holdings problems. Because the structure of a controlled group is generally dictated by considerations other than the excess business holdings liability of foundation shareholders, the rule has been changed to create identical results irrespective of how the controlled group is structured.

In addition, the cases in which the myopia rule does not apply have been clarified.

Corporate Readjustments and Distributions

Section 4943(c)(4)(A)(iv) provides that the grandfather rules are to be applied to mergers, recapitalizations, or other reorganizations in a manner determined by regulations. Section 53.4943–7 of the final regulations provides these rules. The term "readjustment" has been substituted for "reorganization" to avoid the implication that only transactions meeting the requirements of section 368(a) will qualify for application of the grandfather rules. A readjustment is defined broadly in § 53.4943–7(d)(1) to include mergers, consolidations, recapitalizations, stock or asset acquisitions, asset transfers, other changes in identity, form, or place of organization, redemptions, and distributions of assets or stock, including distributions to which section 301, 302, 331, or 355 applies and distributions of stock of the distributing corporation.

Generally stock received in a corporate readjustment or distribution is treated as the stock surrendered in (or held prior to) the readjustment for purposes of the grandfather rules. However, under § 53.4943–7(b), stock received in a readjustment will not be treated as the stock surrendered to the extent the stock received represents a greater percentage ownership than the highest percentage ownership in any entity held prior to the readjustment. In general, the excess stock will be treated as an interest acquired other than by purchase (see below).

The percentage limits are applied separately to voting percentages and value percentages and are also applied separately to foundation holdings and combined holdings of the foundation and disqualified persons.

Interest Acquired Other Than by Purchase

Under section 4943(c)(6), an interest acquired by a foundation in a business enterprise that would otherwise cause the private foundation to have excess business holdings is treated as held by a disqualified person rather than by the foundation for a five-year period if the interest is acquired "other than by purchase by the private foundation or by a disqualified person." The final regulations do not define the term purchase as did the regulations proposed in 1979, but instead follow the 1973 proposed regulations in detailing some acquisitions that are not purchases for purposes of section 4943. Acquisitions by gift, devise, bequest, legacy or interstate succession are not purchases, as under the 1973 proposed regulations. The final regulations clarify the rules under the 1979 proposed regulations as to when certain acquisitions by estates will be treated as purchases. Because the proposed regulations were unclear, the final regulations are prospective.

Under the 1973 proposed regulations, any increase in holdings resulting from a corporate readjustment would be treated as acquired other than by purchase. However, the 1973 proposed regulations also stated in the constructive ownership rules that exceptions similar to the exceptions to the myopia rule would apply with respect to interests acquired in a readjustment. The final regulations adopt the rule that an increase in holdings resulting from a corporate readjustment will be treated as acquired other than by purchase, subject to exceptions similar to the exceptions to the myopia rule.

Neither the 1973 nor the 1979 proposed regulations contained rules governing reorganizations involving

section 4943(c) (2) or (3) holdings (stock subject to the normal 20% or 35% limits) or (c)(6) holdings (interests acquired other than by purchase). Under the final regulations, § 53.4943–6(d), any increase in holdings as a result of a readjustment will be treated as acquired other than by purchase except to the extent that the increase is attributable to holdings that were excess business holdings before the readjustment, and subject to exceptions similar to the exceptions to the myopia rule. However, any increase in holdings attributable to holdings that would have been excess business holdings except for the fact that such holdings were treated as held by a disqualified person prior to the readjustment will not be treated as held by a disqualified person after the date on which the original holdings would have ceased to be treated as held by a disqualified person.

Acquisitions, Redemptions and Holdings by Entities That Are Disqualified Persons

The final regulations contain two rules covering situations in which a private foundation owns stock in a corporation or other entity that is itself a disqualified person. If the entity is a business enterprise, redemption of stock by the business enterprise will not be treated as a purchase by a disqualified person merely because the redeeming entity is a disqualified person. Although technically a disqualified person *(i.e.,* the business enterprise) is purchasing stock and, as a result, the foundation's holdings are increased, several commentators suggested that the results should be the same in the situation in which a foundation owns stock in a corporation which is a disqualified person and a situation in which a foundation owns stock in a corporation which is not a disqualified person. In addition, in situations where an entity which is a disqualified person holds stock in a business enterprise, the holdings of the disqualified person entity will be treated as held proportionately by its shareholders, partners, or beneficiaries, rather than by the disqualified person entity, to the extent the constructive ownership rules under § 53.4943–8 apply. Thus, for example, if a private foundation has as a substantial contributor a passive holding company, which under section 4946(a)(1)(A) is a disqualified person with respect to the foundation, and the foundation owns 40 percent of the stock of the passive holding company, an acquisition of a 50 percent interest in a business enterprise by the holding company would not create excess business holdings for the foundation because the foundation would be treated as owning 20 percent of the business enterprise under the normal constructive ownership rules and, assuming that no disqualified persons hold stock in the passive holding company, no disqualified persons will be treated as holding stock in the business enterprise. However, where the disqualified person entity is an entity to which the constructive ownership rules do not apply under the myopia rule (*e.g.,* an active business enterprise), or in the case of another private foundation that is a disqualified person by reason of section 4946(a)(1) (H), the holdings of the disqualified person entity will all be treated as held by a disqualified person.

Changes From Passive Holdings to Business Enterprise

The 1973 proposed regulations treated a change from passive holdings to an active business enterprise as an interest in a business enterprise acquired other than by purchase. The 1979 proposed regulations treated such a change as an acquisition other than by purchase only if the private foundation established that the business enterprise was not effectively controlled by the private foundation, its disqualified persons, or both, at the time of the change. The final regulations under § 53.4943–10(d)(2) adopt an intermediate rule under which a change from passive holdings to an active business enterprise is treated as an acquisition by purchase by the private foundation unless the private foundation establishes that it did not effective control the events which caused the change to occur. This control test is different from the test under section 4943(c)(2) in that it allows the foundation to establish control in third parties and disqualified persons. The rule with respect to changes that are treated as occurring by purchase will apply only to change occurring after the publication of the final regulations.

Corporations With More Than One Class of Stock

Under section 4943(c)(4)(A), the combined holdings of the foundation and disqualified persons and foundation holdings separately may not exceed the lowest percentages held on or after May 26, 1969. This provision was intended to permit a foundation that had holdings on May 26, 1969, to retain its holdings (subject to certain limits), but to prevent an increase in the holdings. Because the percentage limitations of section 4943(c)(4) are applied to the percentage of value held as well as the percentage of voting stock held, a change in the relative values of stock of different classes can result in excess business holdings even though the percentages of stock held in each class remains unchanged. This result was not intended. Therefore, a new § 53.4943–4(d)(10) has been added to the final regulations to provide that increases resulting solely from a change in relative values of stock of different classes will not result in excess business holdings.

Drafting Information

The principal author of these regulations is Richard J. Wickersham of the Employee Plans and Exempt Organizations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulations, both on matters of substance and style.

Regulatory Flexibility Act

No general notice of proposed rulemaking is required by 5 U.S.C. 553(b) for interpretative regulations. Accordingly, the Regulatory Flexibility Act (5 U.S.C. Chapter 6) does not apply and no Regulatory Flexibility Analysis is required for this rule.

Non-Applicability of Executive Order 12291

The Treasury Department has determined that this regulation is not subject to review under Executive Order 12291 or the Treasury and Office of Management and Budget implementation of the Order dated April 29, 1983.

List of Subjects in 26 CFR Part 53

Excise taxes, Foundations, Investments, Trusts and trustees.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR Part 53 is amended as follows:

PART 53—[AMENDED]

Paragraph 1. Section 53.4943–4 is amended by adding a new paragraph (b)(10) to read as follows:

§ 53.4943–4 Present holdings.

* * * * *

(d) *Permitted holdings under section 4943(c)(4).* * * *

(10) *Special rule for changes in the relative values of stock of different classes.*

(i) In the case of a corporation that has more than one class of stock outstanding, if the percentage of value held by the private foundation, its disqualified persons, or both, increases over a period of time solely as a result of

changes in the relative values of the stock of different classes, then the foundation value level, the disqualified person value level, and the substituted combined value level, as defined in paragraph (d)(2) of this section, shall be adjusted to reflect such increase. An increase in the percentage of value held shall not be considered to have occurred solely as a result of changes in the relative values of the stock of different classes if:

(A) There has been any increase during the period in the percentage of any class of stock held by the private foundation, its disqualified persons, or both, or

(B) There has been any issuance, redemption, or purchase by the issuing corporation of any stock during the period.

See § 53.4943–6(d) for rules relating to increases caused by readjustments.

(ii) *Example.* The provisions of this paragraph (b)(10) may be illustrated by the following example:

Example. (i) At all times since May 26, 1969, F, a private foundation, has held 25% (500,000 shares) of the outstanding class of voting stock of X corporation. No disqualified person with respect to F holds any voting stock of X. In addition X has had outstanding since May 26, 1969, a class of non-voting preferred stock, none of which is held by F or a disqualified person. X is an active business corporation and third parties do not have effective control of X. On May 26, 1969, the voting stock (2 million shares outstanding) was trading for $5 a share on the New York Stock Exchange. The non-voting preferred stock, not publicly traded, was valued at $1 million. The total value of all outstanding stock was $11 million ($10 million voting stock plus $1 million non-voting preferred). On May 26, 1969, F held 22.73% of the value of X's outstanding stock ($2.5 million/$11 million).

(ii) On October 31, 1982, X's voting stock is trading for $20 a share and the nonvoting stock is valued at $3 million. At all times during the period May 26, 1969, through October 31, 1982, F has held 25 percent of the voting stock and none of the nonvoting stock of X. No stock of X is owned by disqualified persons. No stock of X has been issued, redeemed or purchased by X during this period. On October 13, 1982, the total value of X's outstanding stock (is $43 million ($40 million voting stock and $3 million nonvoting stock) and F holds 23.26 percent of the value of X's outstanding stock ($10 million/$43 million). F's foundation value level and the substituted combined value level are increased from 22.73 percent to 23.26 percent to reflect this change.

(iii) On November 1, 1982, X corporation distributes the stock of Y corporation, a wholly-owned subsidiary, to X's shareholders. Y is a business enterprise. Under this paragraph (d)(10), all of F's stock in X is permitted holdings under section 4943(c)(4) even though the percentage of value held by F has increased from 22.73 percent on May 26, 1969, to 23.26 percent on November 1, 1982. F's permitted holdings in Y will be determined by reference to F's permitted holdings in X under § 53.4943–7. Therefore, assuming no prohibited transaction occurs, F's permitted holdings in Y stock equal 25 percent of Y's voting stock and, separately, 23.26 percent of the value of all of Y's outstanding stock.

Par. 2. Section 53.4943–6 is amended by adding new paragraph (a)(2), by revising paragraph (b)(1), by revising paragraph (c)(3), and by adding new paragraphs (c)(4), (d), (e), and (f). The new and revised provisions read as follows:

§ 53.4943–6 Five-year period to dispose of gifts, bequests, etc.

(a) *In general.* * * *

(2) *Acquisitions that are not purchases.* Section 4943(c)(6) does not apply if a change in holdings in a business enterprise is the result of a purchase by the private foundation or a disqualified person. For purposes of subparagraph (a) of this paragraph, the term "purchase" shall not include any acquisition by gift, devise, bequest, legacy, or interstate succession. Paragraph (d) of this section provides rules for the treatment of increases in holdings received in a readjustment (as defined in § 53.4943–7(d)(1)).

* * * * *

(b) *Special rules of for acquisitions by will or trust*—(1) *In general.* In the case of an acquisition of holdings in a business enterprise by a private foundation pursuant to the terms of a will or trust, the five-year period described in section 4943(c)(6) and in this section shall not commece until the date on which the distribution of such holdings from the estate or trust to the foundation occurs. See § 53.4943–5(b)(1) for rules relating to the determination of the date of distribution under the terms of a will or trust. For purposes of this subparagraph, holdings in a business enterprise will not be treated as acquired by a private foundation pursuant to the terms of a will where the holdings in the business enterprise were not held by the decedent. Thus, in the case of after-acquired property, this subparagraph shall not apply, the five-year period described in section 4943(c)(6) and this section shall commence on the date of acquisition of such holdings by the estate, and such five-year period may expire prior to the date of distribution of such holdings from the estate. To the extent that an interest to which section 4943(c)(6) and this paragraph (b)(1) apply is constructively held by a private foundation under section 4943(d)(1) and § 53.4943–8 prior to the date of distribution, it shall be treated as held by a disqualified person prior to such date by reason of section 4943(c)(6). See § 53.4943–8 for rules relating to constructive holdings held in an estate or trust for the benefit of the foundation.

* * * * *

(c) *Exceptions.* * * *

(3) The purchase of holdings by an entity whose holdings are treated as constructively owned by a foundation, its disqualified persons, or both, under section 4943(d)(1) shall be treated as a purchase by a disqualified person if the foundation, its disqualified persons or both have effective control of the entity or otherwise can control the purchase. For example, if a foundation is the beneficiary of a specific bequest of $20,000 and its consent is required for the estate to make a purchase using such cash, then a purchase by the estate using such cash would be treated as a purchase by a disqualified person. Similarly, if an executor of an estate is a disqualified person with respect to a private foundation, any purchase by the estate would be treated as a purchase by a disqualified person.

(4) If a private foundation, its disqualified persons, or both, hold an interest in specific property under the terms of a will or trust, and if the private foundation, its disqualified persons, or both, consent or otherwise agree to the substitution of holdings in a business enterprise for such specific property, such holdings shall be treated as acquired by purchase by a disqualified person. For example, if a private foundation is the beneficiary of a specific bequest of $20,000 and the private foundation agrees to accept certain of the estate's holdings in a business enterprise in satisfaction of such specific bequest, such holdings will be treated as acquired by purchase by a disqualified person even if such holdings were held by the decedent.

(d) *Readjustments and distributions*—(1) *General rule.* Except as otherwise provided in subparagraph (2) of this paragraph, any increase in holdings in a business enterprise that is the result of a readjustment (as defined in § 53.4943–7(d)(1)) shall be treated as acquired other than by purchase. However, holdings that are attributable to holdings owned by the private foundation that would have been excess business holdings except for the fact that such holdings were treated as held by a disqualified person prior to the readjustment shall in no event be treated as held by a disqualified person after the date on which the holdings to which the change is attributable would

have ceased to be treated as held by a disqualified person.

(2) *Exceptions.* Any increase in holdings in a business enterprise that is the result of a readjustment (as defined in § 53.4943–7(d)(1)), including any change resulting from application of the rule in § 53.4943–8(c)(3), shall be treated as occurring by purchase by a disqualified person:

(i) To the extent the increase is attributable to holdings that were excess business holdings prior to the readjustment, and separately

(ii) To the full extent of the increase if the readjustment includes a prohibited transaction, unless the foundation establishes to the satisfaction of the Commissoner that effective control of all parties to the transaction was, at the time of the transaction, in one or more persons (other than the foundation) who are not disqualified persons with respect to the foundation. See § 53.4943–7(d)(2) for the definition of prohibited transaction.

(3) *Section 4943(c)(6) holdings.* If, immediately prior to a readjustment (as defined in § 53.4943–7(d)(1)), a private foundation has holdings in a business enterprise that are treated under section 4943(c)(6) as held by a disqualified person, then any holdings in a business enterprise that are received in the readjustment in exchange for such section 4943(c)(6) holdings shall be treated as the holdings surrendered in the exchange to the same extent as provided in § 53.4943–7 with respect to exchanges involving holdings to which section 4943(c) (4) or (5) applies. Rules similar to those in § 53.4943–7(a)(2) shall be applied to determine when holdings are treated as surrendered or received in a readjustment for purposes of this paragraph.

(4) *Redemption by a corporation that is a disqualified person.* If a foundation holds an interest in a corporation that is a disqualified person, an increase in the holdings of the private foundation, its disqualified person, or both, as a result of a redemption or a purchase of stock of the disqualified person corporation by such corporation shall not be treated as acquired by purchase by a disqualified person based solely on the status of the corporation as a disqualified person.

(5) *One percent rule for redemptions.* If the holdings of a foundation, its disqualified persons, or both, in a business enterprise are increased as a result of one or more redemptions during any taxable year then, unless the aggregate of such increases equals or exceeds one percent of the outstanding voting stock or one percent of the value of all outstanding shares of all classes of stock, the determination of whether such increases cause the foundation to have excess business holdings shall be made only at the close of the private foundation's taxable year. The five-year period described in section 4943(c)(6) or the 90-day period described in § 53.4943–2(a)(1)(ii), whichever is applicable, shall begin on the last day of such taxable year. If, however, the aggregate of such increases equals or exceeds one percent of the outstanding voting stock or one percent of the value of all outstanding shares of all classes of stock, the determination of whether such increases cause the foundation to have excess business holdings shall be made, and the applicable five-year or 90-day period shall begin, as of the date the increases, in the aggregate, equal or exceed one percent.

(6) *Examples.* The provisions of this paragraph are illustrated in § 53.4943–7(f) and by the following examples:

Example (1). (i) F, a private foundation, holds 20% of the voting stock of X corporation, an active business enterprise. No disqualified person with respect to F holds any X stock. In 1980, X redeems 10% of its outstanding shares, increasing F's holdings to 22% of the X stock. Assume the redemption by X is not a prohibited transaction.

(ii) All of F's holdings before the redemption are permitted holdings under section 4943(c)(2). There is no effective control of X by third parties so the 35% permitted holdings rule is inapplicable. F's holdings after the redemption exceed the permitted holdings under section 4943 (c)(2) (20%). Because the increase is attributable to stock that was permitted holdings prior to the readjustment, and the readjustment does not involve a prohibited transaction, the 2% increase in F's holdings of X stock is treated as acquired other than by purchase. Therefore, under section 4943(c)(6) and this section, F will have 5 years from the date of the redemption to dispose of the 2% excess.

Example (2). (i) Assume the same facts as in *Example (1)* except that the 20% of X stock held by F was donated by X corporation, was worth more than $5,000 and represented 20% of the contributions received by the foundation through the end of the taxable year in which the gift of stock was made.

(ii) X corporation is a disqualified person with respect to F under section 4946(a)(1)(A). Under subparagraph (4), the redemption of X stock is not treated as a purchase by a disqualified person merely because X is a disqualified person with respect to F. Therefore the rules of this paragraph apply as if the redemption were made by a corporation which is not a disqualified person. The analysis and result are the same as in *Example (1).*

Example (3). (i) On May 1, 1990, F, a private foundation, received a donation of 40% of the stock of X corporation, a business enterprise. Neither F nor any disqualified person with respect to F holds any other interest in X. On June 1, 1992, the X corporation redeemed F's 40% interest in exchange for 100% of the stock of Y corporation, a wholly-owned subsidiary of X. Assume the redemption by X is not a prohibited transaction.

(ii) Under section 4943(c)(6), the X stock acquired by gift is treated as held by disqualified persons through April 30, 1995. Under subparagraph (3) of this paragraph (d), 40% of the 100% interest in Y received in exchange for F's 40% interest in X is treated as F's 40% interest in X and is therefore treated as held by disqualified persons through April 30, 1995. In addition, under subparagraph (1) of this paragraph (d), the 60% interest in Y that represents an increase in holdings above the 40% held before the readjustment will be treated as acquired other than by purchase. However, F's 20% interest in X in excess of 20% permitted holdings under 4943(c)(2) would have been excess business holdings if such interest had not been treated as held by as disqualified person on June 1, 1992. Therefore, to the extent of a 30% interest in Y, (*i.e.* , the portion of the increased holdings in *Y* attributable to F's 20% holdings in X) the increased holdings will be treated as held by disqualified person only through April 30, 1995, since this is the latest date on which F's original 40% interest in X would have been treated as held by disqualified persons. The remaining 30% interest in Y will be treated as held by disqualified persons for five years from the date of the exchange (through May 31, 1997).

(e) *Constructive holdings.* Any change in holdings in a business enterprise that occurs because a corporation ceases to be actively engaged in a trade or business, thus causing its holdings to be constructively owned by its shareholders, shall be treated as acquired other than by purchase.

(f) *Certain transactions treated as purchases; cross references.* For the application of section 4943(c)(6) to holdings that were not an interest in a business enterprise when acquired but that subsequently become holdings in a business enterprise, see § 53.4943–10(d)(2).

Par. 3. A new § 53.4943–7 is added to read as follows:

§ 53.4943–7 Special rules for readjustments involving grandfathered holdings.

(a) *General rules*—(1) *Readjustments.* Except to the extent provided in paragraph (b) of this section, if a private foundation, its disqualified persons, or both together have holdings in a corporation to which section 4943(c) (4) or (5) applies, stock of a corporation received by the foundation, its disqualified persons, or both together in a readjustment (as defined in paragraph (d)(1) of this section) in exchange for such holdings to which section 4943 (c) (4) or (5) applies shall be treated, for purposes of section 4943 (c) (4) or (5), as the stock surrendered in the exchange.

(2) *No exchange necessary.* Paragraph (a)(1) of this section shall apply to all readjustments even if no exchange occurs. For purposes of this section, all stock held (directly or indirectly) before a readjustment in any corporation involved in the readjustment shall be treated as stock surrendered in the readjustment and all stock held (directly or indirectly) after the readjustment in any corporation involved in the readjustment shall be treated as stock received in the readjustment in exchange for the stock treated as surrendered.

(b) *Exceptions and limitations*—(1) *Limitation on increases in percentage of voting stock.* (i) If the percentage of voting stock in a business enterprise owned (directly or indirectly) by a private foundation by reason of its ownership of stock received in an exchange described in paragraph (a) of this section exceeds the greatest percentage of voting stock in any business enterprise owned (directly or indirectly) by the private foundation prior to such exchange by reason of its ownership of the stock surrendered by it in the exchange, then—

(A) That portion of the stock received by the private foundation in the exchange which represents such excess is to be treated as an increase in the holdings of the private foundation in accordance with § 53.4943–6 (d), and

(B) Only the remaining portion of the stock received by the private foundation in the exchange shall be treated as the stock surrendered by the private foundation in the exchange.

(ii) If the sum of the percentage of voting stock in a business enterprise owned (directly or indirectly) by disqualified persons by reason of their ownership of stock received in an exchange described in paragraph (a) of this section plus the percentage of voting stock in the business enterprise owned (directly or indirectly) by the private foundation by reason of its ownership of stock received in the exchange and treated as the stock surrendered under paragraph (b) (1) (i) of this section exceeds the greatest percentage of voting stock in any business enterprise owned (directly or indirectly) by the private foundation and its disqualified person in combination by reason of their ownership of the stock surrendered by them in the exchange, then—

(A) That portion of the stock received by the disqualified persons in the exchange which represents such excess is to be treated as an increase in the holdings of the disqualified persons in accordance with § 53.4943–6(d), and

(B) Only the remaining portion of the stock received by the disqualified persons in the exchange is to be treated as the stock surrendered by the disqualified persons in the exchange.

(2) *Limitation on increase in percentage of value.* (i) If the percentage of value of all outstanding shares of all classes of stock in a business enterprise owned (directly or indirectly) by a private foundation by reason of its ownership of stock received in an exhange described in paragraph (a) of this section exceeds the greatest percentage of such value in any business enterprise owned (directly or indirectly) by the private foundation prior to such exchange by reason of its ownership of the stock surrendered by it in the exchange, then—

(A) That portion of the stock received by the private foundation in the exchange which represents such excess is to be treated as an increase in the holdings of the private foundation in accordance with § 53.4943–6(d), and

(B) Only the remaining portion of the stock received by the private foundation in the exchange shall be treated as the stock surrendered by the private foundation in the exchange.

(ii) If the sum of the percentage of value of all outstanding shares of all classes of stock in a business enterprise owned (directly or indirectly) by disqualified persons by reason of their ownership of stock received in an exchange described in paragraph (a) of this section plus the percentage of such value in the business enterprise owned (directly or indirectly) by the private foundation by reason of its ownership of stock received in the exchange and treated as the stock surrendered under paragraph (b)(2)(i) of this section exceeds the greatest percentage of such value in any business enterprise owned (directly or indirectly) by the private foundation and its disqualified persons in combination prior to the exchange by reason of their ownership of the stock surrendered by them in the exchange, then—

(A) That portion of the stock received by the disqualified persons in the exchange which represents such excess is to be treated as an increase in the holdings of the disqualified persons in accordance with § 53.4943–6(d), and

(B) Only the remaining portion of the stock received by the disqualified persons in the exchange is to be treated as the stock surrendered by the disqualified persons in the exchange.

(3) *Increases in percentage of both voting stock and value.* (i) If, as the result of an exchange described in paragraph (a) of this section, a private foundation has excesses determined under both paragraphs (b)(1)(i) and (b)(2)(i) of this section, then—

(A) That portion of the stock received by the private foundation in the exchange that represents the larger excess is to be treated as an increase in the holdings of the private foundation in accordance with § 53.4943–6(d), and

(B) Only the remaining portion of the stock received by the private foundation in the exchange is to be treated as the stock surrendered by the private foundation in the exchange.

(ii) If as the result of an exchange described in paragraph (a) of this section, disqualified persons have excesses determined under both paragraphs (b)(1)(ii) and (b)(2)(ii) of this section, then—

(A) That portion of the stock received by the disqualified persons in the exchange that represents the larger excess is to be treated as an increase in the holdings of the disqualified persons in accordance with § 53.4943–6(d), and

(B) Only the remaining portion of the stock received by disqualified persons in the exchange is to be treated as the stock surrendered by disqualified persons in the exchange.

(4) *Exception for prohibited transactions.* If a readjustment includes a prohibited transaction, as defined in paragraph (d)(2) of this section, then this paragraph shall be applied substituting, for purposes of paragraph (b)(1) and (b)(2), the lowest percentage of voting power or value owned prior to the exchange in any business enterprise involved in the readjustment to which the exchange relates for the greatest percentage of voting power or value in any business enterprise owned by reason of ownership of the stock surrendered in the exchange.

(5) *Voting and value levels.* After an exchange described in paragraph (a) of this section, the private foundation voting and value levels, and the substituted combined voting and value levels (as defined in § 53.4943–4(d)(2)) shall be the lesser of each respective level immediately prior to the exchange with respect to the stock surrendered in the exchange and each such respective level determined immediately after the exchange by taking into account only the stock received in the exchange that is treated under this paragraph as the stock surrendered in the exchange. If the stock of more than one corporation is surrendered in exchange for stock of one corporation, the highest of each voting or value level determined immediately prior to the exchange with respect to the stock of the corporations surrendered in the exchange shall be treated as such level immediately prior to the exchange.

(6) *Determination of phases*—(i) *In general.* Stock received in an exchange

described in paragraph (a) of this section that is treated as stock surrendered in the exchange under this paragraph shall be treated as subject to the same first, second, and third phases that were applicable to the stock surrendered for it. For purposes of determining the applicable phases, stock received in an exchange shall be treated as received in exchange for particular holdings of stock surrendered based on the terms of the exchange. Where only a portion of the stock received is treated as the stock surrendered, such portion of the stock received shall be treated as exchanged for particular holdings of stock surrendered in the same proportions as the total stock received was exchanged for particular holdings of stock surrendered. For example, if 20 shares of X stock owned by a private foundation, subject to a first phase beginning on January 1, 1978 and ending on December 31, 1987, are exchanged for 20 shares of Y stock, and 40 shares of X stock owned by the private foundation, subject to a first phase beginning on June 1, 1980 and ending on May 31, 1990, are exchanged for 40 shares of Y stock, then ⅓ of the Y stock received by the private foundation is treated as received in exchanged for X stock having the January 1, 1978–December 31, 1987 first phase and ⅔ of the Y stock received by the private foundation is treated as received in exchange for the X stock having the June 1, 1980–May 31, 1990 first phase. If only 30 shares of the Y stock received by the private foundation are treated as the stock surrendered, then ⅓ (10 Y shares) will be subject to the January 1, 1978–December 31, 1987 first phase and ⅔ (20 Y shares) will be subject to the June 1, 1980–May 31, 1990 first phase.

(ii) *Transitional rule.* In any case in which holdings subject to section 4943(c)(4) or 4943(c)(5) have been consolidated prior to May 22, 1984, then the longest first phase applicable to any of the holdings surrendered in the consolidation shall be applied to the holdings received by the foundation in the consolidation that are treated as the holdings surrendered in the consolidation. For purposes of this clause, a consolidation is any readjustment that results in a reduction in the number of entities in which the foundation has direct holdings.

(c) *Plan to dispose of excess business holdings.* (1) Notwithstanding § 53.4943–4(d)(i)(4)(D) (relating to restrictions on increases in levels) and paragraphs (a) and (b) of this section, if a readjustment occurs under an approved plan to dispose of stock to which section 4943(c)(4) or (5) applies, in order to meet the requirements of section 4943(c)(4) (*i.e.*, to meet the reduced limits that will be applicable after the first phase holding period described in § 53.4943–4(c)) or to meet the requirements of section 4943(c)(2), all of the stock received in the readjustment shall be treated as held by disqualified persons through the end of the longest first phase holding period applicable to stock surrendered in the readjustment. The foundation and substituted combined voting and value levels shall not be increased on account of the readjustment.

(2) For purposes of this paragraph, a plan is an approved plan only if it is approved by the Commissioner and may be subject to such conditions as the Commissioner determines. A plan must be approved prior to any exchange or distribution pursuant to the plan except for a showing of good cause such as a business emergency.

(d) *Definitions*—(1) *Readjustments.* For purposes of this section, the term "readjustment" includes, but is not limited to—

(i) A merger or consolidation;

(ii) A recapitalization;

(iii) An acquisition of stock or assets;

(iv) A transfer of assets;

(v) A change in identity, form, or place of organization, however effected;

(vi) A redemption;

(vii) A distribution of assets or of stock, including a distribution to which section 301, 302, 331, or 355 applies or a distribution of stock of the distributing corporation.

(2) *Prohibited transaction.* A prohibited transaction is any transaction involving a private foundation that has holdings in a business enterprise which—

(i) Acquires stock (or similar interest in the case of an unincorporated entity) or assets of a business enterprise or redeems its own stock (or similar interest in the case of an unincorporated entity) using cash or other property transferred to the acquiring business enterprise (*e.g.*, as a contribution to capital) by the private foundation, its disqualified persons, or both;

(ii) Acquires stock (or similar interest in the case of an unincorporated entity) or assets of a business enterprise or redeems its own stock (or similar interest in the case of an unincorporated entity) using the proceeds of a loan made to, or guaranteed by, the private foundation, its disqualified persons, or both;

(iii) Acquires 40 percent or more of the voting stock (or similar interest in the case of an unincorporated entity), 40 percent or more of the value of all outstanding shares of all classes of stock (or similar interest in the case of an unincorporated entity), or 40 percent or more of the assets of a business enterprise if the acquiring business enterprise's net assets used in its trade or business prior to such acquisition are insubstantial when compared to the net assets acquired or when compared to the net assets of the business enterprise, the stock (or similar interest in the case of an unincorporated entity) of which was acquired. For this purpose, an insubstantial ratio means a ratio that is 15% or less; or

(iv) Is used as a device to acquire or expand excess business holdings. The determination of whether a business enterprise is used as a device to acquire or expand excess business holdings shall be determined based on all the facts and circumstances. A business enterprise shall be presumed to have been used as a device to acquire or expand excess business holdings if it acquires 40 percent or more of the voting stock (or similar interest in the case of an unincorporated entity), 40 percent or more of the value of all outstanding shares of all classes of stock (or similar interest in the case of an unincorporated entity), or 40 percent or more of the assets of a business enterprise if the consideration for the acquisition consists primarily of nonvoting stock (or similar interest in the case of an unincorporated entity) of the acquiring business enterprise.

(3) *Corporation involved in a readjustment.* A corporation shall be treated as involved in a readjustment if, as part of the readjustment, any stock of the corporation is issued or redeemed, or any stock or assets of the corporation are distributed, exchanged, purchased, sold, acquired, or otherwise transferred.

(e) *Application to unincorporated business enterprise.* The rules of this section shall apply equally to partnerships and other unincorporated business enterprises, applying the rules and substitutions provided in § 53.4943–3(c)(2), (3), and (4).

(f) *Examples.* The provisions of this section and § 53.4943–6(d) are illustrated by the following examples, which assume no prohibited transactions are involved unless otherwise stated:

Example (1). (i) F, a private foundation, has owned 80% of the one outstanding class of stock of X corporation since 1965. The X is subject to section 4943(c)(4) with a first phase ending on May 25, 1984. On January 1, 1982, X merges with Y corporation to form Z corporation. X, Y, and Z are active business corporations. F owns no Y stock. No disqualified person with respect to F owns any stock in Y, Y, or Z. After the merger, F owns 25% of the one outstanding class of Z stock. Third parties do not control Z so that

the 35% permitted holdings rule under section 4943(c)(2) is inapplicable

(ii) F's percentage of voting power and value in Z after the merger (25%) are less than F's percentages of voting power and value in X before the merger (80%). Therefore, under paragraph (a)(1) of this section, all of F's holdings in Z are treated as the X stock surrendered. Therefore, the Z stock is treated as subject to section 4943(c)(4) with a first phase ending on May 25, 1984. Under downward ratchet of paragraph (a)(5) of this section, the foundation voting and value levels and the substituted combined voting and value levels are reduced to 25%.

Example (2). (i) F, a private foundation, owns 100% of the one outstanding class of stock in X corporation and 30% of the one outstanding class of stock in Y corporation. F has held this stock continuously since 1960, and no disqualified person has even owned any stock in X or Y. Under section 4943(c)(4), F's holdings in X are treated as held by disqualified persons through the end of the first phase on May 25, 1989, and F's holdings in Y are permitted holdings during the second phase, which began on May 25, 1989, and F's holdings in Y are permitted holdings during the second phase, which began on May 26, 1979. On January 1, 1985, X and Y consolidate, forming a new corporation Z. In the consolidation, F acquires 50% of the one class of outstanding stock of Z, 40% in exchange for F's 100% interest in X and 10% in exchange for F's 30% interest in Y. Unrelated parties hold the remaining 50% of Z.

(ii) F's percentage of voting power and value in Z after the merger (50%) are less than F's percentages of voting power and value in X before the merger (100%). Thus, under paragraph (a)(1) of this section, the 50% interest in Z held by F is treated as the stock surrendered in the exchange for purposes of section 4943(c)(4). Under paragraph (b)(6) of this section, the 10% interest in Z received for the Y stock is subject to the same second phase period as the surrendered Y stock. The 40% interest first phase period as the surrendered X stock.

Example (3). (i) F, a private foundation, owns 50% of the one class of outstanding stock in X corporation which F has held continuously since 1935. No disqualified person with respect to F owns any stock in X. Neither F nor any disqualified person with respect to F owns any stock in Y corporation. On July 1, 1982, X and Y enter into an agreement to consolidate their businesses in a reorganization to which section 368(a)(1)(A) will apply. As a result of the contemplated consolidation, F will own 60% of the voting stock in Z, the resulting corporation. In addition, parties unrelated to F will own the remaining 40% of the Z voting stock and 100% of a new issue of nonvoting preferred stock in Z. Assume for purposes of this example, that the 60% of the voting stock to be held by F in Z will represent 50% of the fair market value of the outstanding Z stock.

(ii) Under the provisions of paragraph (b)(1) of this section, that portion of the Z stock held by F which represents a percentage of voting power equivalent to that held by F in X immediately prior to the consolidation (i.e., 50%) will be treated as the X stock held by F on May 26, 1969, for purposes of section 4943(c)(4). Therefore, 50% of the Y stock will be treated as subject to a second phase ending on May 25, 1994. The remaining portion of the Z voting stock held by F (10%) is subject to the provisions of § 53.4943–6(d)(1). F will have five years from the date of the merger in which to dispose of 10% of the Z stock without incurring the tax on excess business holdings.

Example (4). (i) F, a private foundation, owns 80% of the one class of outstanding stock in X corporation, an active business corporation. F has held this stock continuously since 1960 and no disqualified person with respect to F owns any stock in X. X has two operating divisions, one which manufacturers shoes and the other which manufactures refrigerators. On January 1, 1978, in a section 351(a) exchange, X transferred all of the assets of its shoe manufacturing division to Y, a corporation which X has formed for this purpose, and receives 100% of the stock of Y so that Y is a wholly-owned subsidiary of X. X then transfers all of the Y stock to F in exchange for all of F's holdings of X stock in a distribution to which section 355 applies.

(ii) Under paragraph (b)(1) of this section, 80% of the Y stock is treated as the X stock surrendered in the exchange for purposes of section 4943(c)(4). The 80% is treated under § 53.4943–4(c) as held by disqualified persons through May 25, 1984, which constitutes the 15-year first phase holding period applicable to the 80% holding in X. The 80% of the Y stock must be reduced to the permitted holdings allowed during the second and third phase as provided by section 4943(c)(4)(D) in the same manner as F's holdings of X stock would have had to have been reduced.

(iii) Under § 53.4943–6(d)(1), the remaining 20% of Y stock is treated as held by a disqualified person for five years from the date of the exchange. F will have five years from the date of the exchange in which to dispose of 20% of the Y stock without incurring the tax on excess business holdings.

Example (5). (i) X corporation, an active business corporation, has outstanding 1,000 shares of one class of stock, of which 600 shares have been held by F1, a private foundation; 100 shares have been held by F2, another private foundation; and 100 shares have been held by D, a disqualified person with respect to both F1 and F2. Unrelated parties hold the remaining 200 shares. F1 and F2 are disqualified persons with respect to each other under section 4946(a)(1)(H). Thus, F1 holds 60% of the X stock (600/1000); F2 and D each hold 10% (100/1000); and the foundation group (F1, F2 and D) holds 80% of X (800/1000). The holdings of F1 and F2 were acquired on January 1, 1980 pursuant to a pre-1969 will and are subject to section 4943(c)(5). There have been no changes in holdings since January 1, 1980.

(ii) On January 1, 1985, pursuant to a plan to dispose of excess business holdings approved by the Commissioner under paragraph (c) of this section, X redeems for cash the 600 shares held by F1. After the redemption, D and F2 each hold 25% of X (100/400). F1 no longer holds any X stocks. The foundation group's holdings (F1, F2 and D) have decreased from 80% to 50% while holdings of unrelated parties have increased from 20% to 50%. At the same time F2's and D's holdings each have increased from 10% to 25%.

(iii) Notwithstanding the increase in F2's and D's holdings, under paragraph (c) of this section, all of the X stock held by F2 will be treated as held by a disqualified person through the end of the first phase (December 31, 1994). However, the foundation voting and value levels do not increase. Therefore, after the end of the first phase, F2's holdings in X may not exceed 10 percent (if the combined holdings of F1, F2 and D exceed the permitted holdings under section 4943(c)(2)).

Example (6). (i) X corporation, an active business corporation, has outstanding 1,000 shares of its one class of stock. Since 1960, 100 shares (10%) have been held by F, a private foundation and 350 shares (35%) have been held by D, a disqualified person with respect to F. All of the stock held by F is permitted holdings under section 4943(c)(4) and the substituted combined voting and value levels are 45% (10% + 35%). Because of disagreements concerning management of X between D and A, an unrelated party who holds 300 shares (30%) of the X stock, X redeems all of A's shares on December 1, 1981.

(ii) After the redemption, F holds 14.3% (100/700) of the X stock and D holds 50% (350/700), for combined holdings of 64.3%. Because the combined holdings exceed the substituted combined voting level (45%) by more than F's entire holdings, all of the F stock is excess business holdings. However, all of F's stock will be treated as acquired other than by purchase under § 53.4943–6(d)(1) and therefore will be treated under section 4943(c)(6) and this section, as held by a disqualified person for five years from the date of the redemption (through November 30, 1986). If the combined holdings of F and its disqualified person are reduced to 45 percent by the end of the five year period, F may retain a portion of its holdings in X (limited to no more than the foundation voting and value level of 10 percent).

Example (7). Assume the same facts as in *Example (6),* except that D loaned the money to X that was used to redeem A's shares. Under these facts, the increased holdings result from a prohibited transaction described in paragraph (d)(2) of this section. Therefore, all of F's stock will be treated as acquired by purchase by a disqualified person under § 53.4943–6(d)(2). F will have 90 days after the redemption in which to dispose of its holdings or to reduce its holdings and the combined holdings to the levels held prior to the redemption as discussed in *Example (6).*

Example (8). (i) F, a private foundation, has held 100% of the outstanding stock of X corporation since 1960. F also holds 15% of the voting stock of Y corporation. Both X and Y are active business corporations. X has $1 million in net assets used in its trade or business and Y has $8.7 million used in its trade or business. On June 1, 1985, Y is merged into X. After the merger F holds 25% of the voting stock of X. No person other than F controls X after the merger.

(ii) Because more than 40% of Y was acquired and the net assets of X, the acquiring corporation, used in its trade or business prior to the merger represent less than 15% of the net assets of Y used in its trade or business, the merger is a prohibited transaction described in paragraph (d)(2)(iii). Therefore, only 15% of the stock X is treated, pursuant to paragraph (b), as the stock held by F prior to the redemption. F's holding of 5% (the excess of F's 25% holdings over the 20% permitted holdings in X (determined under section 4943(c)(2)) are treated as purchased by a disqualified person pursuant to § 53.4943–6(d)(2). F will have 90 days after June 1, 1985, in which to dispose of the 5% excess holdings.

Par. 4. Section 53.4943–8 is amended by adding new paragraphs (a) (3), (4) and (5), (c), (d), and (e) to read as follows:

§ 53.4943–8 Business holdings; constructive ownership.

(a) *Constructive ownership.* * * *

(3) *Determination of extent of constructive ownership.* If an interest in a business enterprise owned by a corporation is constructively owned by a shareholder, each shareholder's proportion of ownership is generally computed on the basis of the voting stock each shareholder has in the corporation. In determining holdings permitted under section 4943(c) (4) and (5), each shareholder's proportion of ownership in the business enterprise shall also be computed on the basis of value, taking into account both voting and nonvoting stock held by the shareholder.

(4) *Nonvoting stock.* If a private foundation, its disqualified persons, or both, own (directly or constructively) nonvoting stock of a parent corporation, the holdings of which are treated as constructively owned by its shareholders by reason of section 4943(d)(1) and this section, such nonvoting stock shall be treated as nonvoting stock of any corporation in which the parent corporation holds an interest for purposes of the limitation on the holding of nonvoting stock under section 4943(c)(2)(A) and § 53.4943–3(b)(2).

(5) *Interests held by certain disqualified persons.* In the case of an entity that is a disqualified person (other than an entity described in section 4946(a)(1)(H)), the holdings of which are treated as constructively owned by its shareholders, partners, or beneficiaries, for purposes of determining the total holdings of disqualified persons the holdings of the entity shall be considered held by a disqualified person only to the extent such holdings are treated as constructively owned by disqualified persons who are shareholders, partners, or beneficiaries of the entity. In the case of an entity described in section 4946(a)(1)(H) or an entity, the holdings of which are not treated as constructively owned by its shareholders, partners, or beneficiaries, all holdings of such entity shall be treated as held by a disqualified person if and only if the entity itself is a disqualified person.

* * * * *

(c) *Corporation actively engaged in a trade or business.*—(1) *In general.* Except as provided in paragraphs (c)(2) and (3) of this section, any interest (whether or not in a separate entity) owned by a corporation which is actively engaged in a trade or business shall not be deemed to be constructively owned by such corporation's shareholders.

(2) *Actively engaged in a trade or business.* For purposes of paragraph (c)(1) of this section—

(i) A corporation shall not be considerd to be actively engaged in a trade or business if the corporation is not a business enterprise by reason of section 4943(d)(3) (A) or (B) and § 53.4943–10 (b) or (c);

(ii) In the case of a corporation which owns passive holdings and is actively engaged in a trade or business, such corporation shall not be considered to be actively engaged in a trade or business if the net assets used in such trade or business are insubstantial when compared to passive holdings.

(3) *Exceptions.* If a corporation has been involved in a prohibited transaction, any interest in a business enterprise owned by such corporation shall be treated as constructively owned by its shareholders, whether or not such corporation is actively engaged in a trade or business. For a definition of prohibited transaction, see § 53.4943–7 (d)(2).

(4) *Affiliated group.* In applying this paragraph to the common parent in an affiliated group (as defined in § 53.4943–10 (c)(3)(ii)), the assets and activities of the affiliated group shall be treated as the assets and activities of the common parent.

(d) *Partnerships.* Any interest in a business enterprise which is owned by a partnership shall be deemed to be constructively owned by the partners in such partnerships.

(e) *Examples.* The provisions of this section are illustrated by the following examples.

Example (1). F, a private foundation, directly owns voting stock of X, a holding company described in section 4943(d)(3)(B). That stock represents 40% of the voting power in X and 20% of the value of all outstanding shares of all classes of stock in X. F also owns nonvoting stock in X that represents 10% of the value of all outstanding shares of all classes of stock in X. D, a disqualified person, owns voting stock of X that represents 40% of the voting power in X and 20% of the value. D does not own any nonvoting stock in X. X corporation's only holding is stock of Y corporation. The Y voting stock held by X represents 50% of the voting power in Y and 25% of the value of all outstanding shares of all classes of stock in Y. X also owns nonvoting stock in Y that represents 25% of the value of all outstanding shares of all classes of stock in Y. Under paragraph (a)(3) of this section, F and D each constructively owns 20% of the voting power in Y through their voting interest in X (40% of X's 50% of Y). F also constructively owns 15% of the value of all outstanding shares of all classes of stock in Y through F's interest in X (F's 30% of the value of X multiplied by X's 50% of the value of Y), while D constructively owns 10% of the value of Y (D's 20% of the value of X multiplied by X's 50% of the value of Y).

Example (2). (i) F, a private foundation, owns 50% of the one class of nonvoting stock of X corporation, a corporation described in section 4943(d)(3)(B) and paragraph (c)(2)(i) above. D, a disqualified person with respect to F as described in section 4946(a)(1)(A), owns 40% of the one class of voting stock of X. X corporation is a disqualified person with respect to F because D owns more than 35% of the voting of X. (See section 4946(a)(1)(E)). On January 1, 1980, X purchases for cash 40% of the only class of stock of Y corporation, a retail clothing store, from unrelated third parties.

(ii) Under paragraph (a)(4) of this section, F is treated as owning nonvoting stock of Y. Although X is a disqualified person, its holdings are not treated as held by disqualified persons except as constructive holdings. Therefore, the "deemed" nonvoting stock in Y is a permitted holding because D, a disqualified person with respect to F, constructively owns only 16% of the voting stock of Y (less than 20% permitted under section 4943(c)(2)).

Example (3). (i) The facts are the same as in *Example (2)*, except that X purchases 100% of this stock of Y corporation. Under paragraph (a)(4) of this section, F is treated as owning nonvoting stock of Y. The "deemed" nonvoting stock in Y is not a permitted holdings because D, a disqualified person with respect to F, constructively owns 40% of the voting stock of Y.

Example (4). (i) D, a disqualified person with respect to F, owns 40% of the one class of stock in X corporation, an active business. X is a disqualified person with respect to F. X acquires 40% of the voting stock in Y corporation. Under paragraph (a)(5) of this section, the holdings of X in Y are treated as held by a disqualified person. F cannot hold any Y stock, voting or nonvoting.

Par. 5. Section 53.4943–10 is amended by adding new paragraphs (c)(3) and (d)(2) to read as follows:

§ 53.4943–10 Business enterprise; definition.

* * * * *

(c) *Income derived from passive sources.* * * *

(3) *Affiliated group.* (i) For a common parent corporation in an affiliated group, substitute "consolidated gross income" in subparagraph (1) of this paragraph.

(ii) For purposes of this section, the term "affiliated group" shall have the same meaning as in section 1504(a), without regard to section 1504 (b) through (e).

(iii) Section 53.4943–11(d) provides a transitional rule for certain parent corporations.

(d) *Application of section 4943(c)(6).* * * *

(2) *Passive holdings, etc.* (i) Except as provided in subdivision (ii), if a private foundation holds an interest that is not an interest in a business enterprise, and the interest later becomes an interest in a business enterprise (other than by reason of a readjustment as defined in § 53.4943–7(d)(1)), the interest will be treated as having been acquired by purchase by a disqualified person at the time the interest becomes an interest in a business enterprise. The treatment of an interest that becomes an interest in a business enterprise by reason of a readjustment shall be determined under § 53.4943–6 and § 53.4943–7.

(ii) If a private foundation establishes that the events which caused an interest not originally a business enterprise to become a business enterprise were not effectively controlled by the private foundation, then such interest shall be treated as acquired other than by purchase from the time of the change for purposes of section 4943(c)(6).

(iii) See § 53.4943–3(b)(3)(ii) for the definition of effective control.

* * * * *

Par. 6. Section 53.4943–11 is amended by adding new paragraphs (c), (d) and (e) to read as follows:

§ 53.4943–11 Effective date.

* * * * *

(c) *Special transitional rule for acquisition by will, etc.* (i) The rule in § 53.4943–6(b)(1) whereby holdings not held by a decedent are not treated as acquired under a will shall not apply to acquisitions of after-acquired property of a decedent's estate occurring on or before May 22, 1984.

(ii) The rule in § 53.4943–6(b)(1) treating a purchase by an estate as a purchase by a disqualified person where the executor is a disqualified person shall not apply to purchases occurring on or before May 22, 1984.

(d) *Special transitional rule for affiliated groups.* If on or before May 22, 1984 a foundation holds an interest in a common parent corporation in an affiliated group, as defined in § 53.4943–10(c)(3)(ii), the foundation may elect to have both § 53.4943–6(c)(4) and § 53.4943–10(c)(3) not apply to such common parent corporation. No election may be made to have only one section not apply. Such election shall be made by the governing body of the private foundation at any time prior to February 22, 1985.

(e) *Special transitional rule for changes to a business enterprise.* Any interest that is not an interest in a business enterprise which becomes an interest in a business enterprise under § 53.4943–10(d)(2) prior to May 22, 1984 will be treated as having been acquired other than by purchase for purposes of section 4943(c)(6).

This Treasury decision is issued under the authority contained in sections 4943(c)(4)(A) and 7805 of the Internal Revenue Code of 1954 (83 Stat. 507, 68A Stat. 917; 26 U.S.C. 4943(c)(4)(A)(iv) and 7805).

Roscoe L. Egger, Jr.,
Commissioner of Internal Revenue.

Approved: February 6, 1984.

John E. Chapoton,
Assistant Secretary of the Treasury.

[FR Doc. 84–4697 Filed 2–21–84; 8:45 am]
BILLING CODE 4830–01–M

DEPARTMENT OF JUSTICE

Office of the Attorney General

28 CFR Part 0

[Order No 1047–84]

Delegation of Authority to Deputize Marshals

AGENCY: Department of Justice.

ACTION: Final rule.

SUMMARY: This Order delegates the Attorney General's authority to specially deputize persons as Special Deputy U.S. Marshals to the Associate Attorney General.

EFFECTIVE DATE: February 13, 1984.

FOR FURTHER INFORMATION CONTACT: D. Lowell Jensen, Associate Attorney General, Department of Justice, Room 4119, 10th & Constitution Avenue NW., Washington, D.C. 20530 (633–3752)..

SUPPLEMENTARY INFORMATION: This Order expressly provides a delegation of authority for the Associate Attorney General to exercise the authorities vested in the Attorney General by law to authorize the special deputation of persons as Deputy U.S. Marshals when appropriate. The existing independent delegation of authority to the Director of the United States Marshals Service is also continued but is modified.

This Order is not a rule within the meaning of either Executive Order 12291, Section 1(a) or the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*

The index term for Part 0 of Title 28 of the Code of Federal Regulations is as follows:

List of Subjects in 28 CFR Part 0

Authority delegations (Government agencies).

PART 0—[AMENDED]

By virtue of the authority vested in me as Attorney General by 28 U.S.C. 509, 510, 562 and 5 U.S.C. 301, Part 0 of Title 28 of the Code of Federal Regulations is hereby amended as follows:

1. Section 0.19 is amended by adding a paragraph (a) (3) to read as follows:

§ 0.19 [Amended]

(a) * * *

(3) Exercise the power and authority vested in the Attorney General to authorize the Director of the United States Marshals Service to deputize persons to perform the functions of a Deputy United States Marshall.

* * * * *

2. Section 0.112 is revised to read as follows:

§ 0.112 Special deputation.

The Director, United States Marshals Service, is authorized to deputize the following persons to perform the functions of a Deputy U.S. Marshal in any district designated by the Director:

(1) selected officers or employees of the Department of Justice;

(2) selected federal, state, or local law enforcement officers whenever the law enforcement needs of the United States Marshals Service so require;

(3) selected employees of private security companies in providing courtroom security for the Federal judiciary;

(4) other persons designated by the Associate Attorney General pursuant to 28 CFR 0.19(a)(3).

All such deputations shall expire on a date certain which shall be stated on the face of the deputation.

Dated: February 13, 1984.

William French Smith,
Attorney General.

[FR Doc. 84–4698 Filed 2–21–84; 8:45 am]
BILLING CODE 4410–01–M

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Part 2619

Valuation of Plan Benefits in Non-Multiemployer Plans; Amendment Adopting Additional PBGC Rates

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final rule.

SUMMARY: This amendment to the regulation on Valuation of Plan Benefits in Non-Multiemployer Plans contains the interest rates and factors for the period beginning March 1, 1984. The interest rates and factors are to be used to value benefits provided under terminating non-multiemployer pension plans covered by Title IV of the Employee Retirement Income Security Act of 1974.

The valuation of plan benefits is necessary because, under section 4041 of the Act, the Pension Benefit Guaranty Corporation and the plan administrator must determine whether a terminating pension plan has sufficient assets to pay all benefits under the plan that are guaranteed by the PBGC under the Title IV plan termination insurance program.

The interest rates and factors set forth in Appendix B to Part 2619 are adjusted periodically to reflect changes in financial and annuity markets. This amendment adopts the rates and factors applicable to plans that terminate on or after March 1, 1984, and will enable the PBGC and plan administrators to value the benefits provided under those plans. These rates and factors will remain in effect until Appendix B of the regulation is again amended.

EFFECTIVE DATE: March 1, 1984.

FOR FURTHER INFORMATION CONTACT: Mrs. Renae R. Hubbard, Special Counsel, Legal Department, Code 250, Pension Benefit Guaranty Corporation, 2020 K Street, NW., Washington, D.C. 20006, 202-254-4478 (not a toll-free number).

SUPPLEMENTARY INFORMATION: On January 28, 1981, the Pension Benefit Guaranty Corporation ("PBGC") published a final regulation on Valuation of Plan Benefits in Non-multiemployer Plans (46 FR 9492). That regulation, codified at 29 CFR Part 2619 (1983), set forth the methods for valuing plan benefits of terminating non-multiemployer plans covered under Title IV of the Employee Retirement Income Security Act of 1974, 29 U.S.C. 1001 *et seq.* (1976), *as amended.* The regulation contains formulas for valuing different types of benefits. Appendix B to the regulation sets forth the interest rates and factors that are to be used in the formulas. Because these rates and factors are intended to reflect current conditions in the financial and annuity markets, it is necessary to update the rates and factors periodically.

As published in the 1983 edition of 29 CFR, Appendix B of Part 2619 contains interest rates and factors for valuing benefits in plans that terminated during various periods beginning September 2, 1974 through June 1, 1983. The rates and factors adopted for valuing benefits in plans that terminated on or after June 1, 1983 remained in effect until September 1, 1983. On August 15, 1983, the PBGC published new rates and factors for plans that terminated on or after September 1, 1983 (48 FR 36617). That rate remained in effect for plan terminations through the end of January, 1984. On January 16, 1984, the PBGC published new rates and factors for plans terminating on or after February 1, 1984 (49 FR 1896). At this time, changes in the financial and annuity markets require a decrease in the rates used for valuing benefits. Accordingly, this amendment adds to Appendix B a new set of interest rates and factors for plans that terminate on or after March 1, 1984. This interest rate and these factors will remain in effect until such time as PBGC publishes another amendment concerning the rates.

Generally, the rates will be in effect for at least one month. Any change in the rates normally will be published in the **Federal Register** by the 15th of the month preceding the effective date of the new rates or as close to that date as circumstances permit.

The PBGC has determined that notice and public comment on this amendment are impracticable and contrary to the public interest. This determination is based on the need to determine and issue new interest rates and factors promptly so that the rates can reflect, as accurately as possible, current market conditions. The PBGC has found that the public interest is best served by issuing the rates and factors on a prospective basis so that plans may be able to calculate the value of plan benefits before submitting a notice of intent to terminate. Also, plans will be able to predict employer liability more accurately prior to plan termination.

Because of the need to provide immediate guidance for the valuation of benefits of plans that will terminate on or after March 1, 1984, and because no adjustment by ongoing plans is required by this amendment, the PBGC finds that good cause exists for making the rates set forth in this amendment to the final regulation effective less than 30 days after publication.

The PBGC has determined that this is not a "major rule" under the criteria set forth in Executive Order 12291, February 17, 1981, because it will not result in an annual effect on the economy of $100 million or more, a major increase in costs for consumers or individual industries, or significant adverse effects on competition, employment, investment, productivity, or innovation.

List of Subjects in 29 CFR Part 2619

Employee benefit plans, Pension insurance, and Pensions.

PART 2619—[AMENDED]

In consideration of the foregoing, Part 2619 of Chapter XXVI, Title 29, Code of Federal Regulations, is hereby amended as follows:

1. The authority citation for Part 2619 reads as follows:

Authority: Secs. 4002(b)(3), 4041(b), 4044, and 4062(b)(1)(A), Pub. L. 93-406, 88 Stat. 1004, 1020, 1025, 1029 (1974), as amended by Secs. 403(1), 403(d), and 402(a)(7), Pub. L. 96-364, 94 Stat. 1302, 1301, and 1299 (1980) (29 U.S.C. 1302, 1341, 1344, 1362).

2. Rate Set 44 of Appendix B is revised and Rate Set 45 of Appendix B is added to read as follows:

Appendix B—Interest Rates and Quantities Used To Value Immediate and Deferred Annuities

In the table that follows, the immediate annuity rate is used to value immediate annuities, to compute the quantity "G_y" for deferred annuities and to value both portions of a refund annuity. An interest rate of 5 percent shall be used to value death benefits other than the decreasing term insurance portion of a refund annuity. For deferred annuities, k_1, k_2, k_3, n_1, and n_2 are defined in § 2619.45.

Rate set	For plans with a valuation date—		Immediate annuity rate	Deferred annuities				
	On or after	Before		k_1	k_2	k_3	n_1	n_2
44	2-1-84	3-1-84	9.75	1.0900	1.0775	1.0400	7	8
45	3-1-84		9.50	1.0975	1.0750	1.0400	7	8

David M. Walker,

Acting Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 84-4628 Filed 2-21-84; 8:45 am]

BILLING CODE 7708-01-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 913

Extension of Deadline for Satisfaction of Conditions of Approval of the Illinois Permanent Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Final rule.

SUMMARY: OSM is announcing the Secretary of the Interior's decision to extend the deadline for Illinois to meet two conditions of approval of its State permanent regulatory program under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The conditions concern sediment ponds and covering coal seams with water.

EFFECTIVE DATE: February 22, 1984.

FOR FURTHER INFORMATION CONTACT: Mr. James Fulton, Field Office Director, Office of Surface Mining, 600 E. Monroe Street, Room 20, Springfield, Illinois 62701; Telephone: (217) 492–4495.

SUPPLEMENTARY INFORMATION:

Background

The Illinois program was conditionally approved by the Secretary of the Interior on June 1, 1982 (47 FR 23858). Information pertinent to the general background, revisions, modifications and amendments to the proposed program submission, as well as the Secretary's findings, the disposition of comments, and a detailed explanation of the conditions of approval can be found in the June 1, 1982 **Federal Register**.

Under 30 CFR 732.13(j), the Secretary may conditionally approve a State permanent regulatory program which contains minor deficiencies where the deficiencies are of such a size and nature as to render no part of the program incomplete, the State is actively proceeding with steps to correct the deficiencies, and the State agrees to correct the deficiencies according to a schedule set forth in the notice of conditional approval. The schedule is established in consultation with the State based on the time required for changes to be adopted under State procedures or legislative schedules.

In accepting the Secretary's conditional approval, Illinois agreed to satisfy conditions (a), (d) and (e) by December 1, 1982 and conditions (b) and (c) by June 1, 1983. Conditions (a), (d) and (e) have been removed (48 FR 23412, May 25, 1983, and 48 FR 51619, November 10, 1983). On May 23, 1983, Illinois requested a six-month extension of the June 1, 1983 deadline to satisfy conditions (b) and (c). On August 19, 1983, OSM announced the decision to extend the deadline to December 1, 1983 (48 FR 37625).

Condition (b) stipulates that Illinois must amend its program to require a cover of the pit floor and highest coal seam with a minimum of ten meters (33 feet) of water, and that pending completion of the above, Illinois may not use its authority to approve covering with less than 10 meters of water or the approval will terminate. Condition (c) stipulates that Illinois must amend its program to demonstrate that Illinois understands that at the present time the best technology currently available for sediment control is sedimentation ponds and should Illinois wish to approve any other technology, the State will first send the proposal to OSM for review and approval as either an experimental practice or a program amendment. Furthermore, pending completion of the above Illinois may not use its authority to approve siltation structures other than sedimentation ponds or the approval will terminate.

Request to Extend Deadline

On December 1, 1983, Illinois requested a further extension of the deadline for satisfying conditions (b) and (c), until June 1, 1984. In its request, the State pointed to certain developments in the litigation on the approval of the Illinois program. The State noted that the United States District Court for the Central District of Illinois had granted, on November 30, 1983, the Secretary's motion to remand the *Illinois South Project* v. *Watt* (Civ. No. 82–2229) case to the Secretary for review in light of legal developments that have occurred since the approval date. Conditions (b) and (c) concern subjects that are directly at issue in the litigation and which may be affected by the Secretary's review on remand. The litigation and remand are the subject of a separate **Federal Register** notice (48 FR 55580, December 14, 1983). In order to avoid rulemaking proceedings which may prove to be unnecessary, the State requested a six-month extension of the December 1, 1983 deadline. Illinois stated that in the interim it would continue to enforce the relevant regulations in accordance with the Federal regulations.

In accordance with the State's request, on December 19, 1983, OSM published a notice in the **Federal Register** (48 FR 56089) proposing that the deadline for the State to meet these conditions be extended until June 1, 1984. Comment was solicited for 30 days ending January 18, 1984.

Public Comment

1. The Illinois South Project (ISP) raised several objections to the proposed extension. ISP stated that neither of the conditions is directly affected by the Secretary's review on remand. In support of this contention, ISP noted that condition (b) concerns how much water may be placed over a coal seam, while the issue in litigation is whether *any* water may be placed over the coal seam. ISP also stated that condition (c) is not related to the issue in litigation concerning design criteria for sedimentation ponds, but rather that it concerns agreement that sedimentation ponds are the best technology currently available for sediment control. OSM agrees that the issues involved in conditions (b) and (c) are not identical to the issues raised in litigation. However, the conditions do concern subject areas that are directly at issue in the litigation. Further, the Secretary's review of these issues may affect the extent to which Illinois is required to amend its regulations.

2. ISP stated that delaying the deadline for the conditions until after the Secretary's review on remand does not avoid unnecessary rulemaking proceedings as alleged by the State, because the issues covered by the conditions differ from the issues involved in the litigation. However, as noted above, the same subject matter is involved, and as a result of the Secretary's decision, Illinois may be required to make additional changes to its regulations in these subject areas.

3. ISP objected that an extension until June 1, 1984 is too long, because the Secretary's decision on remand is due by March 29, 1984, and the State need only finalize the rules it has already proposed. As noted above under comment 2, Illinois may be required to engage in different or additional rulemaking as a result of the Secretary's decision. If no additional rulemaking is necessary, the Secretary does not believe that it is unreasonable to allow the State an additional 63 days beyond March 29 to finalize its rules and submit them to OSM. At this time, it would be premature to predict what, if any, effect the Secretary's decision will have.

4. ISP objected that the Secretary cannot extend the deadline because there is no indication that the State is actively proceeding with steps to correct the deficiencies as required by 30 CFR 732.13(j)(2). However, as ISP itself notes, the State proposed the required changes in the Illinois Register on March 11, 1983, and subsequently reopened the comment period until September 2, 1983. The State requested an extension of time after learning of the court order remanding the Illinois litigation to the Secretary. The Secretary believes that the State's rulemaking actions, coupled with its request for a relatively short-term extension, constitutes actively proceeding with steps to correct the deficiencies.

Secretary's Decision

After considering the State's request, the circumstances surrounding the request, and the public comments received, the Secretary has determined that an extension of the deadline for Illinois to satisfy conditions (b) and (c) is warranted. Illinois has agreed to continue to enforce its regulations in accordance with the Federal regulations until such time as the conditions are removed.

Procedural Matters

1. *Compliance with the National Environmental Policy Act:* The Secretary has determined that, pursuant to Section 702(d) of SMCRA, 30 U.S.C. 1292(d), no environmental impact statement need be prepared on this rulemaking.

PART 913—ILLINOIS

§ 913.11 [Amended]

1. Section 913.11 is amended in paragraphs (b) and (c) by substituting "June 1, 1984" for "December 1, 1983" each time it appears.

Authority: Pub. L. 95–87, 30 U.S.C. 1201 *et seq.*

2. *Executive Order No. 12291 and the Regulatory Flexibility Act:* On August 28, 1981, the Office of Management and Budget (OMB) granted OSM an exemption from Sections 3, 4, 7, and 8 of Executive Order 12291 for actions directly related to approval or conditional approval of State regulatory programs. Therefore, this action is exempt from preparation of a Regulatory Impact Analysis and regulatory review by OMB.

The Department of the Interior has determined that this rule will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This rule will not impose any new requirements; rather, it will ensure that existing requirements established by SMCRA and the Federal rules will be met by the State.

3. *Paperwork Reduction Act:* This rule does not contain information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3507.

List of Subjects in 30 CFR Part 913

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

Accordingly, Part 913 of Title 30 is amended as set forth herein.

Dated: February 15, 1984.

Leona A. Power,

Acting Assistant Secretary for Lands and Minerals Management.

[FR Doc. 84-4602 Filed 2-21-84; 8:45 am]

BILLING CODE 4310-05-M

DEPARTMENT OF DEFENSE

Department of the Navy

32 CFR Part 706

Certifications and Exemptions Under the International Regulations for Preventing Collisions at Sea, 1972; Amendment

AGENCY: Department of the Navy, DOD.

ACTION: Final rule.

SUMMARY: The Department of the Navy is amending its certifications and exemptions under the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS), to reflect that the Secretary of the Navy has determined that USS YORKTOWN (CG 48) is a vessel of the Navy which, due to its special construction and purpose, cannot comply with 72 COLREGS, Annex I, Section 3(a), pertaining to the location of the forward masthead light in the forward quarter of the ship; 72 COLREGS, Annex I, Section 3(a), pertaining to the horizontal distance between the forward and aft masthead lights. The intended effect of this rule is to warn mariners in waters where 72 COLREGS apply.

EFFECTIVE DATE: January 27, 1984.

FOR FURTHER INFORMATION CONTACT: Captain Richard J. McCarthy, JAGC, U.S. Navy, Admiralty Counsel, Office of the Judge Advocate General, Navy Department, 200 Stovall Street, Alexandria, VA 22332, Telephone number: (202) 325–9744.

SUPPLEMENTARY INFORMATION: Pursuant to the authority granted in 33 U.S.C. 1605 and Executive Order 11964, the Department of the Navy amends 32 CFR Part 706. This amendment to Part 706 provides notice that the Secretary of the Navy has certified that USS YORKTOWN (CG 48) is a vessel of the Navy which, due to its special construction and purpose, cannot comply fully with 72 COLREGS: Annex I, Section 3(a), pertaining to the location of the forward masthead light in the forward quarter of the ship; 72 COLREGS, Annex I, Section 3(a), pertaining to the horizontal distance between the forward and aft masthead lights. Full compliance with the above-mentioned 72 COLREGS provisions would interfere with the special functions and purposes of the ship. The Secretary of the Navy has also certified that the above-mentioned lights are located in closest possible compliance with the applicable 72 COLREGS requirements.

Moreover, it has been determined, in accordance with 32 CFR Parts 296 and 701, that publication of this amendment for public comment prior to adoption is impracticable, unnecessary, and contrary to public interest since it is based on technical findings that the placement of lights on this ship in a manner differently from that prescribed herein will adversely affect the ship's ability to perform its military functions.

List of Subjects in 32 CFR Part 706

Marine safety, Navigation (water), and vessels.

Accordingly, 32 CFR Part 706 is amended as follows:

PART 706—[AMENDED]

§ 706.2 [Amended]

1. Table Five of § 706.2 is amended by adding the following naval ship to the list of vessels therein to indicate the certifications issued by the Secretary of the Navy:

§ 706.2 Certifications of the Secretary of the Navy under Executive Order 11964 and 33 U.S.C. 1605.

TABLE 5

Vessel	Number	Forward masthead light not required; height above hull. Annex I, section 2(a), (i), (ii), (c), (d)	Aft masthead light less than 4.5 meters above forward masthead light. Annex I, section 2(a)(ii)	Masthead lights not over all other lights and obstructions. Annex I, section 2(f)	Vertical separation of masthead lights used when towing less than required by Annex I, section 2(a)(i)	Aft masthead lights not visible over forward light 1000 meters ahead of ship in all normal degrees of trim. Annex I, section 2(b)	Forward masthead light not in forward quarter of ship. Annex I, section 3(a)	After masthead light not less than ½ ship's length aft of forward masthead light. Annex I, section 3(a).	Percentage horizontal separation attained
USS YORKTOWN	CG 48						X	X	38.9

Authority: Executive Order 11964; 33 U.S.C. 1605.

Dated: January 27, 1984.

Approved:

James F. Goodrich,

Acting Secretary of the Navy.

[FR Doc. 84-4627 Filed 2-21-84; 8:45 am]

BILLING CODE 3810-AE-M

Department of the Air Force

32 CFR Part 821

Mission and Functions of the USAF Air Demonstration Squadron

AGENCY: Department of the Air Force, DOD.

ACTION: Final rule.

SUMMARY: The Department of the Air Force is amending its regulations by removing Part 821—Mission and functions of the USAF Air Demonstration Squadron, of Chapter VII, Title 32. The source document, Air Force Regulation (AFR) 20–25, has been determined to be for internal guidance only and has no applicability to the general public. This action is a result of departmental review in an effort to insure that only regulations which affect the public are maintained in the Air Force portion of the Code of Federal Regulations.

EFFECTIVE DATE: February 23, 1984.

FOR FURTHER INFORMATION CONTACT: SMSgt McMullen, HQ USAF/XOOOF, Washington, D.C., 20330, telephone (202) 695–4509.

SUPPLEMENTARY INFORMATION: Accordingly, 32 CFR is amended by removing Part 821.

List of Subjects in 32 CFR Part 821

Airman, Aircraft.

Authority: 10 U.S.C. 8012.

Winnibel F. Holmes,

Air Force Federal Register Liaison Officer.

[FR Doc. 84-4611 Filed 2-21-84; 8:45 am]

BILLING CODE 3910-01-M

POSTAL RATE COMMISSION

39 CFR Part 3001

[Docket No. RM83–4; Order No. 549]

Order of the Commission Amending Rules of Practice and Procedure

February 15, 1984.

AGENCY: Postal Rate Commission.

ACTION: Final rule.

SUMMARY: The Postal Rate Commission amends its rules of practice to allow the Commission to conduct informal investigations when a complaint is filed by a person who believes he or she is not receiving postal service in accordance with the policies of the Postal Reorganization Act and to delete language prohibiting administrative law judges (ALJs) from performing Commission duties inconsistent with their ALJ responsibilities. The first change allows the Commission to use informal investigative procedures in a service complaint, thereby postponing the filing of the Postal Service's formal answer. The Commission believes this option will add flexibility to a rule that experience has shown is unnecessarily rigid and will save time and litigation costs. The second change deletes language that is no longer meaningful in light of the Commission's practice of hearing cases en banc, without the services of an administrative law judge. The Commission believes this will remove any confusion that might arise regarding the ability of a Commissioner who serves as Presiding Officer to perform other functions which may be required by his or her position as a Commissioner.

EFFECTIVE DATE: February 22, 1984.

FOR FURTHER INFORMATION CONTACT: David F. Stover, General Counsel, 2000 L Street, N.W., Suite 500, Washington, D.C. 20268 (telephone: 202/254–3824).

SUPPLEMENTARY INFORMATION: On December 29, 1982, the Commission issued a notice of proposed rulemaking that identified and discussed in detail two proposed changes in the rules of practice (39 CFR Part 3001). One change would alter the Commission's procedure for handling complaints filed under 39 U.S.C. 3662 by persons who believe the United States Postal Service is rendering service not consistent with the policies of title 39, U.S. Code. The other change would delete a prohibition against administrative law judges performing duties inconsistent with their status as an independent hearing officer in Commission proceedings.

As explained in the Notice of Proposed Rulemaking, the first change would give the Commission the option of conducting informal investigations of issues raised in a service complaint, thereby postponing the filing of an answer by the Postal Service. The Commission believes that experience under the existing rule, which automatically triggers a formal adversarial process, indicates that the informal preliminary investigation option would be beneficial because many service complaints are likely to be resolved more efficiently and effectively in a nonadversarial procedure. The second change would eliminate a prohibition that is meaningless because the Commission no longer employs administrative law judges as hearing officers in its proceedings. Instead, the Commission sits en banc and the Chairman appoints one Commissioner to serve as Presiding Officer. Deleting this prohibition would conform the Commission's rules to current practice and prevent any confusion over the ability of a Commissioner who serves as a Presiding Officer to perform other functions required by his or her position as a Commissioner.

Comments on the Proposed Changes

The only response to the Commission's invitation for comments on the proposed changes was filed by the Postal Service, which generally supported the informal investigation option, but thought there was some ambiguity concerning the deadline for filing answers to complaints. The Service suggested alternative language specifying that Postal Service answers to complaints not be due until thirty days after the Commission issues an order requesting an answer. The Service did not comment on the Commission's proposal to delete language referring to administrative law judges.

Changes in the Complaint Rules

In light of the fact that proposed section 3001.85(a) provides that the Commission will give notice of whether or not it intends to use informal procedure, and, in either case, will grant the Postal Service additional time to answer the complaint if circumstances render the usual thirty-day deadline inappropriate, we believe the Service's suggestion is unnecessarily rigid. In some circumstances, it might unduly delay resolution of the issues raised in the complaint; in other cases, it might not provide sufficient time for the Service to prepare an adequate answer. Given that the Commission's proposal addresses filing deadlines beyond the standard thirty-day period (and in no circumstance ever requires that an answer be filed less than thirty days after filing of a complaint), we believe that granting additional time "as just and appropriate" is the better approach. Unlike the Service's proposal, this standard allows time periods for responses to be tailored to specific complaint cases. In many instances, we believe this flexibility will allow issues to be resolved more efficiently and expeditiously than they would be under the Service's proposal. Accordingly, we have determined to amend § 3001.84 and § 3001.85 in the manner described in the Notice of Proposed Rulemaking and set out below.

In addition, we must bear in mind that § 3001.84 must be drafted as to cover both service and rate complaints. For reasons suggested in the notice in this docket (48 FR 482), the present amendments do not apply to rate complaints. The Postal Service's suggested rewriting of § 3001.85(a) would make it applicable to rate matters, but its comment does not discuss that change. Given our decision to limit the amendment to the types of cases in which we think it would be useful, we believe that our original revisions of § 3001.84 is superior.

Amendment of § 3001.23(c). As discussed in detail in the Notice of Proposed Rulemaking, the first sentence of § 3001.23(c) of the rules of practice [39 CFR 3001.23(c)] incorporates a mandate that administrative law judges employed by the Commission are not to perform duties inconsistent with their responsibilities as hearing officers in Commission proceeding. The Commission has determined to delete this sentence because it no longer employs administrative law judges and because retaining this language in the rules of practice might cause confusion regarding the ability of a Commissioner to perform other functions while he is serving as Presiding Officer in a Commission proceeding. In light of this change, the subtitle of the section is changed from "Limitations" to "Ex parte communications" because the Commission believes the latter title provides a better description of the part of § 3001.23(c) that remains after deletion of the first sentence.

Impact of Changes

Pursuant to Executive Order 12291, the Commission finds that the rule changes do not constitute a "major rule." The changes deal with procedural matters and it is not anticipated that they could result in an appreciable change in the costs of participating in these cases, nor that they will have an adverse effect on competition, employment or the other factors listed in E.O. 12291. The conclusion that the rule changes do not constitute a major rule for purposes of E.O. 12291 applies to the Regulatory Flexibility Act as well.

The preceding impact analysis and a request for comments regarding it was inadvertently omitted from the Notice of Proposed Rulemaking. The Commission concludes that the omission was without prejudice to interested parties.

List of Subjects in 39 CFR Part 3001

Administrative practice and procedure.

PART 3001—RULES OF PRACTICE AND PROCEDURE

For the reasons set out above, the Commission amends §§ 3001.23(c) and 3001.84 and 3001.85 of the rules of practice [39 CFR 3001.23(c), 3001.84, 3001.85], as follows:

§ 3001.23 [Amended]

1. In § 3001.23(c), change the title from "*Limitation.*" to "*Ex parte communication.*" and remove the first sentence in its entirety.

2. Revise § 3001.84 introductory text to read as follows:

§ 3001.84 Answers by the Postal Service.

Within 30 days after the filing of a complaint with the Commission (unless more time is allowed under § 3001.85(a)), the Postal Service shall file and serve an answer. Such answer shall be in the form and manner required by §§ 3001.9 to 3001.12, and shall include the following:

* * * * *

3. Redesignate present § 3001.85 as paragraph (b), and add before it a new paragraph (a), as follows:

§ 3001.85 Informal procedures.

(a) In case of a complaint alleging service not in accordance with the policies of the Act, the Commission, acting through such appropriate Commission employees as the Chairman shall designate, may use correspondence, conferences, or other appropriate informal inquiry methods to define the issues, further the exchange of information and explanations between the Postal Service and the complainant, and facilitate negotiated settlement. On receiving a service complaint, the Commission will give a notice of whether or not it intends to use informal procedures, In either case, it will give the Postal Service such additional time to answer the complaint as is just and appropriate. After expeditiously conducting informal inquiries, it will issue an order summarizing the results. All correspondence and other documents issued by or lodged with the Commission during informal inquiries will be part of the public record of the case.

(39 U.S.C. 3603, 3624, and 3662)

By the Commission.

Charles L. Clapp,

Secretary.

[FR Doc. 84-4657 Filed 2-21-84; 8:45 am]

BILLING CODE 7715-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-5-FRL 2529-8]

Approval and Promulgation of Implementation Plans; Illinois

AGENCY: Environmental Protection Agency.

ACTION: Final rulemaking.

SUMMARY: USEPA announces final rulemaking on a revision to the Illinois

State Implementation Plan (SIP) for ozone. The SIP revision will provide an alternative compliance schedule for the Del Monte Corporation (Del Monte) facility located in Ogle County, Illinois. This SIP will allow Del Monte additional time to comply with the Volatile Organic Compound (VOC) emission limitations for its sheet basecoat, overvarnish, and end sealing compound can coating operations. USEPA's action is based upon a proposed revision which was submitted by the State.

This action will be effective April 23, 1984 unless notice is received within 30 days that someone wishes to submit adverse or critical comments.

DATE: This action is effective April 23, 1984.

ADDRESSES: Copies of this revision to the Illinois SIP are available for inspection at: The Office of the Federal Register, 1100 L Street NW., Room 8401, Washington, D.C. 20408.

Copies of the SIP revision, and other materials relating to this rulemaking are available for inspection at the following addresses: (It is recommended that you telephone Uylaine E. McMahan at (312) 353–0396 before visiting the Region V Office).

U.S. Environmental Protection Agency Air and Radiation Branch, Region V, 230 South Dearborn Street, Chicago, Illinois 60604.

U.S. Environmental Protection Agency, Public Information Reference Unit, 401 M Street SW., Washington, D.C. 20460

Illinois Environmental Protection Agency, Division of Air Pollution Control, 2200 Churchill Road, Springfield, Illinois 62706.

Written comments should be sent to: Gary Gulezian, Chief, Regulatory Analysis Section, Air Programs Branch (5AP–26), Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Uylaine E. McMahan, (312) 353–0396.

SUPPLEMENTARY INFORMATION: On August 15, 1983, the Illinois Environmental Protection Agency (IEPA) submitted a proposed revision to its ozone SIP for Del Monte's Can Manufacturing Plant No. 115 located in Rochelle, Ogle County, Illinois. This proposed revision is in the form of a May 19, 1983, Opinion and Order of the Illinois Pollution Control Board (IPCB 82–147). It grants a variance from the existing SIP requirements until December 31, 1984, and provides a legally enforceable compliance schedule.

USEPA's policy on approving compliance schedule extensions for controlling VOC emissions from certain can manufacturing processes was published in the March 10, 1982, **Federal Register** (47 FR 10293). The policy states that such extensions will be approved for sheet base coat and end sealing compound processes in circumstances where the extension will facilitate the expeditious conversion to low solvent technology. It is USEPA's policy that such extensions may be granted until 1985.

Under the federally approved Illinois SIP, the sheet basecoat and overvarnish coating operations and end sealing coating operations are subject to the emission control requirements contained in Rule 205(n)(1)(B)(i) and Rule 205(n)(1)(B)(vi) respectively. Rule 205(n)(1)(B)(i) requires that basecoat and overvarnish coating process VOC emissions do not exceed 2.8 pounds per gallon (lbs/gal) and Rule 205(n)(1)(B)(vi) requires that end sealing compound coating process VOC emissions do not exceed 3.7 lbs/gal. Final compliance is required by December 31, 1982.

In lieu of the compliance date contained in the existing federally approved SIP, the State is proposing an alternative schedule. The variance contains a legally enforceable compliance program whereby Del Monte will achieve final compliance with Rule 205(n)(1)(B) by December 31, 1984, utilizing a combination of the following measures:

(1) Conversion of the sheet base coatings to coating with lower VOC content;

(2) Replacement of end sealing compounds with high-solids compounds; and

(3) Replacement of one of the sheet base coatings with an ultraviolet cured coating containing no VOC.

No later than June 19, 1983, and every third month thereafter, Del Monte is required to submit written reports to IEPA detailing all progress made in achieving compliance with Rule 205(n)(1)(B). These reports will include the quantity and the VOC content of all coatings employed during the reporting period, a description of the status of the reformulation program, and any other information which may reasonably be requested by IEPA and USEPA.

Del Monte states that it has worked closely with coating suppliers to achieve some VOC reductions. It is continuing to perform evaluation tests and is working closely with other members of the can manufacturing industry.

USEPA has determined that this variance is consistent with the March 10, 1982, compliance extension policy, and that the extension will not jeopardize maintenance of the ozone national ambient air quality standards in Ogle County which is an ozone attainment area. Therefore, USEPA is approving this SIP revision.

Because USEPA considers today's action noncontroversial and routine, it is approving it today without prior proposal. The action will become effective on April 23, 1984. However, if the Agency receives notice by March 23, 1984 that someone wishes to submit critical comments, then USEPA will publish: (1) A notice that withdraws the action, and (2) a notice that begins a new rulemaking by proposing the action and establishing a comment period.

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

Under U.S.C. 605(b), the Administrator has certified that SIP approvals do not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709).

Under Section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by April 23, 1984. This action may be challenged later in proceedings to enforce its requirements. (See Sec. 307(b)(2).)

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons, Intergovernmental relations.

Note.—Incorporation by reference of the State Implementation Plan for the State of Illinois was approved by the Director of the Federal Register on July 1, 1982.

This notice is issued under authority of Sections 110 and 172 of the CAA, as amended (42 U.S.C. 7410 and 7502).

Dated: February 3, 1984.

William D. Ruckelshaus,

Administrator.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Title 40 of the Code of Federal Regulations, Chapter I, Part 52 is amended as follows:

Subpart O—Illinois

1. Section 52.720 is amended by adding paragraph (c)(46) as follows.

§ 52.720 Identification of plan.

* * * * *

(c) * * *

(46) On August 15, 1983, the Illinois Environmental Protection Agency submitted a May 19, 1983, Opinion and Order (PCB–82–147) of the Illinois Pollution Control Board (IPCB) granting Del Monte Corporation's Can Manufacturing Plant No. 115 located in Rochelle, Ogle County, Illinois a variance from the IPCB volatile organic compound emission standards under Rule 205(n)(1)(B)(i) and Rule 205(n)(1)(B)(vi) of Chapter 2: Air Pollution Regulations. The variances expires on December 31, 1984.

* * * * *

[FR Doc. 84-4888 Filed 2-21-84; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 52

[AD-FRL-2529-4]

Approval and Promulgation of Implementation Plans; Illinois

AGENCY: Environmental Protection Agency.

ACTION: Final rulemaking.

SUMMARY: The EPA announces final rulemaking on a revision to the Illinois State Implementation Plan (SIP) for total suspended particulates (TSP). The revision consists of a change to Illinois Pollution Control Board (IPCB) Rule 203(g) in the form of the addition of Rule 203(g)(1)(E). EPA's action is based upon a revision which was submitted by the State pursuant to the requirements of Section 110 of the Clean Air Act (Act).

EFFECTIVE DATE: This final rulemaking becomes effective on March 23, 1984.

ADDRESSES: Copies of this revision to the Illinois SIP are available for inspection at: The Office of the Federal Register, 1100 L Street NW., Room 8401, Washington, D.C. 20408.

Copies of the SIP revision, public comments on the notice of proposed rulemaking and other materials relating to this rulemaking are available for inspection at the following addresses: (It is recommended that you telephone Randolph O. Cano, at (312) 886–6035 before visiting the Region V Office).

Environmental Protection Agency, Air Programs Branch, Region V, 230 South Dearborn Street, Chicago, Illinois 60604

Environmental Protection Agency, Public Information Reference Unit, 401 M Street SW., Washington, D.C. 20460

Illinois Environmental Protection Agency, Division of Air Pollution Control, 2200 Churchill Road, Springfield, Illinois 62706.

FOR FURTHER INFORMATION CONTACT: Randolph O. Cano, Air Programs Branch, Region V, Environmental Protection Agency, Chicago, Illinois 60604, (312) 886–6035.

SUPPLEMENTARY INFORMATION: On May 28, 1982, (47 FR 23465), EPA proposed rulemaking on a proposed revision to the Illinois SIP for TSP in the form of an October 8, 1981, Final Order of the IPCB (R79–11). This order amends Rule 203(g)(1) which sets particulate emission standards and limitations for fuel combustion emission sources using solid fuel exclusively by adding the following subsection:

(E) Existing Coal-Fired Industrial Boilers Equipped with Flue Gas Desulfurization Systems

"Notwithstanding sub-paragraphs (A)–(D) of Rule 203(g)(1), no person shall cause or allow the emission of particulate matter into the atmosphere from existing coal-fired industrial boilers equipped with flue gas desulfurization systems to exceed 0.25 pound of particulate matter per million BTU of actual heat input in any one-hour period. Nothing in this rule shall be construed to prevent compliance with applicable regulations in Part IX of this Chapter."

This subsection (Rule 203(g)(1)(E)) provides a technology based TSP emission limitation for coal burning industrial boilers with flue gas desulfurization (FGD) systems. The IPCB has determined that a particulate matter emission limitation on industrial boilers of 0.25 lb/MMBTU is technologically feasible using either wet or dry (FGD) systems. The IPCB determined that allowing the 0.25 lb/MMBTU emission limit is economically reasonable and that requiring compliance with anything other than a technology-based emission limitation for simultaneous compliance with particulate matter and sulfur dioxide limitations would be economically unreasonable.

During the 30 day public comment period EPA received comments from two parties. The Agency's evaluation of them is summarized below.

A public interest group made the following comments:

Comment

The proposed rule is site specific in nature. Air quality impact analyses have only been prepared for four Caterpillar facilities which are equipped with FGD systems. No analyses have been performed for boilers which may be converted to coal or non-Caterpillar boilers equipped with FGD systems such as the Pfizer Chemical Company facility in East St. Louis.

The failure of the State to analyze the impact of the SIP revision in TSP nonattainment areas is particularly disturbing. Until the State prepares a comprehensive ambient impact analysis, it is unlawful for ERA to approve a general rule. We remind EPA that the Act requires attainment of the health standards as "expeditiously as practicable," but not later than December 31, 1982.

While the State may have initiated studies of nontraditional sources of fugitive dust, EPA does not state in the Federal Register notice if the State has completed the studies and adopted regulations which will result in attainment of the air quality standards by the statutory deadline.

Response

A recent decision of the United States Court of Appeals for the Seventh Circuit Sierra Club vs. Indiana-Kentucky Electric Corporation and Indiana and Michigan Electric Company (Nos. 81–1822 and 81–2173) recently invalidated EPA's approval of the Illinois particulate regulations, deleting IPCB Rules 203(g)(1)(A) through (D) and requiring Rule 203(g)(1)(E) to stand on its own merits. EPA is today approving Rule 203(g)(1)(E) as RACT for the affected sources. It constitutes an improvement in the plan in that it fills, at least in part, the gap created in the plan by the Seventh Circuit decision. EPA is here making no determination of the adequacy of Rule 203(g)(1)(E) to assure attainment and maintenance of the TSP NAAQS.

EPA approved the overall Part D TSP SIP for Illinois because it applied reasonably available control technology (RACT) to the traditional sources of TSP, and contained a commitment to study non-traditional sources. EPA's soon to be issued sanctions policy and guidance will determine what must be done in areas which were unable to attain the national ambient air quality standards (NAAQS) by December 31, 1982, using a RACT plus studies SIP.

Comment

The proposed rule does not reflect RACT for industrial FGD systems. Caterpillar has stated that "significant portions" of the excess particulate emissions are generated by the FGD systems. The excess emissions have been attributed, in part, to the carryover of sulfuric acid mist (Caterpillar Exh. 2, p. 16). This phenomenon is only experienced in wet scrubbers operated on stoker-fired boiler burning high sulfur coal. Sulfuric acid mist carryover is not a problem in dry FGD systems. In a dry system, care must be taken to maintain high flue gas temperature rates in order

to avoid condensation of solids on the surfaces of the Fabric filter. Unlike wet FGD systems, the flue gas temperatures in dry FGD systems are adequate to prevent water vapor from condensing and combining with sulfur trioxide to form sulfuric acid. With boiler flue gas temperatures ranging between 350 degrees F. and 400 degrees F. the small quantity of water in the alkali is completely evaporated in a dry system.

We note that there are two dry scrubbers operating in Illinois. In addition to the Pfizer scrubber, Argonne National Laboratories has installed a dry scrubber. These systems have been designed to meet a 0.1 lbs/MMBTU standard.

Response

Whether or not dry FGD systems do not generate excess particulate emissions is not relevant to this rulemaking. The rulemaking is concerned with the determination of RACT for existing, wet FGD systems. The State is encouraged to take the effectiveness of dry FGD systems into account as part of its new source or PSD review of any subsequently constructed or modified boilers to use FGD Emissions Controls. However, the effectiveness of dry FGD systems has no bearing on the determination of RACT for exising wet FGD systems.

Comment

The proposed rule is not enforceable because it fails to specify a test method by which compliance is to be assessed. This omission is particularly significant since the test methods for particulate emission standards may be redefined by EPA.

We understand that EPA has been experimenting with a new test method for stoker-fired boilers at General Motor's Parma Plant. This new test procedure, Method 5B, is designed to exclude the measurement of sulfuric acid and sulfate emissions during stack tests by raising the temperature of the filter and probe on an EPA Method 5 sampling train from 248 F. to 350 F. Preliminary results indicated that particulate concentrations at the outlet of the scrubber are substantially reduced when measured by Method 5B.

If this new test procedure is adopted, Caterpillar will be able to reduce the efficiency of its scrubbers and emit additional particulates into the atmosphere. The only difference will be that the test method will not measure sulfuric acid and sulfate emissions generated by the scrubber. However, hi-volume samplers in the area will measure such emissions.

To overcome this problem and prevent Caterpillar from emitting more particulates into the atmosphere than projected in the modeling analysis we believe the State should specify the use of EPA Method 5 for determining compliance. This will ensure that all particulate emissions which contribute to ambient concentrations in the vicinity of Caterpillar's plants are controlled.

Response

EPA agrees that testing at higher temperatures would tend to reduce particulate concentrations as obtained by stack testing. It is EPA's position that testing at the higher temperatures indicated in the modification to Method 5 in Subpart D (as it applies to NSPS sources) would only be appropriate for NSPS sources. The appropriate test method for the sources covered by this rule (and the test method used to generate the data to support this rule revision) is Method 5.

The following comments were made by the legal representative of the Caterpillar Tractor Company:

Comment

Rule 203(g)(1) is not a valid part of the Illinois SIP. Caterpillar's submittal of the proposed revision to Rule 203(g)(1) of the IPCB Air Pollution Control Regulations was done to allow Caterpillar to come into unquestioned compliance.

Caterpillar has maintained throughout the State proceedings and maintains a similar position with respect to the proposed revision to the Illinois SIP that Rule 203(g)(1) is invalid for State purposes and accordingly does not exist as part of the Illinois SIP. In support of this position, Caterpillar incorporates its comment letter dated August 27, 1981.

Response

EPA's position is that the invalidation of Rule 203(g)(1) (A) through (D) requires that Rule 203(g)(1)(E) stand alone on its own merits. This view is supported by the most recent edition of the State of Illinois Air Pollution Control Regulations which indicates that Rule 203(g)(1)(E) was adopted after the Court challenge of Rule 203(g)(1) and is a valid rule.

Comment

Rule 203(g)(1)(E) is applicable to all of Caterpillar's coal-fired industrial boilers equipped with flue gas desulfurization systems.

The IPCB, on September 3, 1981, clarified that Rule 203(g)(1)(E) would apply to "all boilers which are in use or under construction on the effective date of this rule." Therefore, in addition to those Caterpillar boilers listed in the proposed rule, Morton Boilers 1 and 2 and Mapleton Boilers 2, 3, 4 and 5 are sources covered by Rule 203(g)(1)(E).

Response

USEPA agrees that Morton Boilers 1 and 2 are covered by Rule 203(g)(1)(E). The State provided the following additional information to clarify whether or not Morton boilers 1 and 2 covered by Rule 203(g)(1)(E):

(1) The Morton Boilers are under 80 MMBTU and were previously subject to a limit of 0.25 lb/MMBTU.

(2) They were stack tested and found to be in compliance with this rule.

Mapleton boilers #2–5 are covered by this rulemaking action. EPA, however, has determined that these boilers are also subject to NSPS and these, more stringent, NSPS limitations control actual emissions from these boilers.

Comment

Not all of Caterpillar's boilers which are regulated by Rule 203(g)(1)(E) are located in non-attainment areas and therefore subject to RACT. The Mapleton Plant is located in Hollis Township in Peoria County. The Mossville Plant is located in Medina Township in Peoria County. The Morton Plant is located in Morton Township in Tazewell County. These three townships have been designated as primary total suspended particulate ("TSP") attainment areas 40 CFR Part 81.314. Therefore, RACT does not apply to these plants.

Response

These three townships are secondary TSP nonattainment areas. RACT is required in secondary nonattainment areas. And, as noted above, the Mapleton boilers are subject to NSPS.

In consideration of the public comments received in response to the May 28, 1982, Notice of Proposed Rulemaking (47 FR 23485), EPA has determined that Rule 203(g)(1)(E) is RACT and approves the incorporation of this rule into the Illinois SIP for TSP. This notice is not a determination that Illinois has met all Act requirements for TSP nonattainment areas. It should be noted that in portions of the May 28, 1982, Notice of Proposed Rulemaking (47 FR 23485), Rule 203(g), Rule 203(g)(1), and Rule 203(g)(1)(E) were incorrectly listed as Rule 203(q), Rule 203(q)(1), and Rule 203(q)(1)(E) due to a typographical error.

EPA is announcing final rulemaking today without re-proposal since these were obvious typographical errors and these rules were correctly cited

elsewhere in the notice of proposed rulemaking.

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of executive Order 12291.

Under Section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by April 23, 1984. This action may not be challenged later in proceedings to enforce its requirements. (See Sec. 307(b)(2).)

List of Subjects in 40 CFR Part 52

Intergovernmental relations, Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons, Incorporation by reference.

Note.—Incorporation by reference of the State Implementation Plan for the State of Illinois was approved by the Director of the Federal Register on July 1, 1982.

This notice is issued under authority of Sections 110 and 172 of the Clean Air Act, as amended (42 U.S.C. 7410 and 7502).

Dated: February 3, 1984.

William D. Ruckelshaus,

Administrator.

PART 52—[AMENDED]

Title 40 of the Code of Federal Regulations, Chapter I, Part 52 is amended as follows:

1. Section 52.720 is amended by adding paragraph (c)(41) to read as follows:

§ 52.720 Identification of plan.

* * * * *

(c) * * *

(41) On December 7, 1981, the State submitted a October 8, 1981, Illinois Pollution Control Board Final Order (R79–11). This Final Order amends Rule 203(g)(1) by adding subsection (E).

[FR Doc. 84-4568 Filed 2-21-84; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 180

[OPP-300090A; PH-FRL 2529-1]

Tolerances and Exemptions From Tolerances for Pesticide Chemicals in or on Raw Agricultural Commodities; Synthetic Petroleum Wax

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes an exemption from the requirement of a tolerance for synthetic petroleum wax when used as an inert ingredient in pesticide formulations. This rule was requested by Petrolite Corp.

EFFECTIVE DATE: Effective on February 22, 1984.

ADDRESS: Written objections should be submitted to: Hearing Clerk (A–110), Environmental Protection Agency, Rm. 3708, 401 M St., SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT:

N. Bushan Mandava, Registration Support and Emergency Response Branch, Registraton Division (TS–767C), Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460

Office location and telephone number: Registration Support and Emergency Response Branch, Rm. 716, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703–557–7700).

SUPPLEMENTARY INFORMATION: EPA issued a notice, published in the Federal Register of October 19, 1983 (48 FR 48477), which announced that Petrolite Corp., Tulsa, OK 74112; had submitted a request that 40 CFR 180.1001(c) be amended by establishing an exemption from the requirement of a tolerance for synthetic petroleum wax as a coating agent in pesticide formulations applied to growing crops or to raw agricultural commodities after harvest. Subsequent to the issuance of this notice of filing, Petrolite Corp. requested that the exemption be expanded to include the use of synthetic petroleum wax as a "binder" and a "carrier," as well as a coating agent, in pesticide formulations applied to growing crops or to raw agricultural commodities after harvest. The use of synthetic petroleum wax as a "binder" or "carrier" is generally confined to preharvest application. This addition to the final rule is of little, if any, toxicological concern, particularly in light of the published food additive uses of this biologically unavailable wax.

Inert ingredients are ingredients that are not active ingredients as defined in 40 CFR 162.3(c), and include, but are not limited to, the following types of ingredients (except when they have a pesticidal efficacy of their own): solvents such as water; baits such as sugar, starches, and meat scraps; dust carriers such as talc and clay; fillers; wetting and spreading agents; propellants in aerosol dispensers; and emulsifiers. The term "inert" is not intended to imply nontoxicity; the ingredient may or may not be chemically active.

Except for the request from Petrolite Corp., as noted above, there were no comments or requests for referral to an advisory committee received in response to the proposed rule.

The pesticide is considered useful for the purpose for which the exemption is sought. It is concluded that the exemption from the requirement of a tolerance will protect the public health and is established as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication of this notice in the Federal Register, file written objections with the Hearing Clerk, at the address given above. Such objections should specify the provisions of the regulations deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

(Sec. 408(e), 68 Stat. 514 (21 U.S.C. 346a(e)))

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests.

Dated: February 7, 1984.

Edwin L. Johnson,

Director, Office of Pesticide Programs.

PART 180—[AMENDED]

Therefore, 40 CFR 180.1001(c) is amended by adding and alphabetically inserting the inert ingredient as follows:

§ 180.1001 Exemptions from the requirement of a tolerance.

* * * * *

(c) * * *

Inert ingredients	Limits	Uses
*	*	*
Synthetic petroleum wax, conforming to 21 CFR 172.888.	.....	Binder, carrier, and coating agent.
*	*	*

* * * * *

[FR Doc. 84-4569 Filed 2-21-84; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 65

[Docket No. FEMA-6510]

Final Flood Elevation Determination; Indiana; Correction

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule; correction.

SUMMARY: The Federal Emergency Management Agency has published a list which included the final flood elevation determination for the Unincorporated Areas of Clark County, Indiana. This notice will serve to delete Clark County, Indiana from that list.

FOR FURTHER INFORMATION CONTACT: Dr. Brian R. Mrazik, Chief, Risk Studies Division, Federal Insurance Administration, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287-0230.

SUPPLEMENTARY INFORMATION: As a result of a recent engineering analysis, the Federal Emergency Management Agency has determined that the notice of final flood elevation determination for the Unincorporated Areas of Clark County, Indiana, published at 48 FR 46991, on October 17, 1983, should be deleted.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968) as amended; 42 U.S.C. 4001-4128; Executive Order 12127, 44 FR 19367; and delegation of authority to the Administrator)

Issued: February 10, 1984.

Jeffrey S. Bragg,

Administrator, Federal Insurance Administration.

[FR Doc. 84-4849 Filed 2-21-84; 8:45 am]

BILLING CODE 6718-03-M

FEDERAL MARITIME COMMISSION

46 CFR Part 503

Public Information

AGENCY: Federal Maritime Commission.

ACTION: Final rule.

SUMMARY: The Commission's public information rules are amended to reflect the availability of the Commission's guide on shipping automobiles publication entitled "Automobile Manufacturers' Measurements" from the U.S. Government Printing Office, rather than from the Commission.

EFFECTIVE DATE: February 22, 1984.

FOR FURTHER INFORMATION CONTACT: Hubert E. Bradford, Chief, Office of Domestic Tariffs, Federal Maritime Commission, 1100 L Street, N.W., Washington, D.C. 20573, Telephone: (202) 523-5856.

SUPPLEMENTARY INFORMATION: In the past, the Commission has printed the "Automobile Manufacturers' Measurements" and made it publicly available for a $5 fee. To continue to do so, however, would be contrary to the requirements of 44 U.S.C. 1701 which mandates that such work must be performed by the U.S. Government Printing Office (GPO). Accordingly, effective with the 1984 issue, this document will be printed, sold and distributed by GPO. The GPO will determine the selling price. Since 46 CFR 503.43(f) provides that copies of the publication are available from the Commission, the Commission's rule is being amended to reflect the availability of the document from GPO.

List of Subjects in 46 CFR Part 503

Government publications.

PART 503—[AMENDED]

Accordingly, 46 CFR 503.43(f) is revised to read as follows:

503.43 Fees for services.

* * * * *

(f) The FMC guide on the shipping automobiles, entitled "Automobile Manufacturers' Measurements," is available from the U.S. Government Printing Office, on a subscription basis.

* * * * *

Effective Date: Notice, public procedure and delayed effective date are not necessary for the promulgation of this amendment because of its nonsubstantive nature. Accordingly, this amendment shall be effective February 22, 1984.

(81 Stat. 54; 5 U.S.C. 552)

By the Commission.

Francis C. Hurney,

Secretary.

[Doc. 84-4834 Filed 2-21-84; 8:45 a.m]

BILLING CODE 6730-01-M

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

49 CFR Part 218

[FRA Docket No. RSOR-7, Notice 2]

Protection of Employees During Hump Operations

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Final rule.

SUMMARY: This document amends FRA's Railroad Operating Rules to require that railroads establish procedures under which train and yard crews performing certain functions on hump yard tracks will be protected from injury as the result of unanticipated movement of the rolling equipment on which they are working. This action responds to a joint request from the Association of American Railroads (AAR) and the United Transportation Union (UTU) that FRA establish uniform procedures for the protection of workmen in such facilities.

EFFECTIVE DATE: March 23, 1984.

FOR FURTHER INFORMATION CONTACT: Bruce Fine, Director, Office of Safety Analysis, FRA, Washington, D.C. 20590. Telephone: 202-472-4770.

SUPPLEMENTARY INFORMATION:

Background

Railroads assemble, disassemble, and reassemble freight trains in approximately 4,000 classification yards in the contiguous 48 states. In approximately 125 such yards, railroads employ a gravity feed system to assist in the classification of freight cars for movement to destination. These are known as "hump yards." Although the configuration of hump yards varies considerably depending on location and yard capacity, their essential feature is a single track at the apex of a hill that branches into multiple tracks on one downward side of the hill.

Freight cars are shoved by a locomotive to the apex of the hill in long strings, uncoupled singly or in groups, and allowed to roll freely into the multiple tracks on the downward slope. Mechanical devices known as retarders are used to limit the speed at which the cars move down the hill. Routing of a car of group of cars to a particular track is accomplished by aligning the

appropriate switches to direct the movement to the desired track. The group of tracks on the downside of the hill is commonly referred to as the bowl tracks of the yard.

When a freight car reaches the apex of the hill, *i.e.*, the hump, the car is uncoupled manually. The individual in charge of the hump then activates a control panel to establish the routing for that car and to determine the amount of brake force to be applied by the retarder for controlling the speed and distance the car will be allowed to travel on the bowl tracks. After a group of cars has been allowed to enter a given bowl track, a yard crew, using a locomotive, couples the cars and connects the airhoses between them in order that they can be moved as a single unit. In performing these tasks, members of the yard crew must position themselves between the cars in such a manner that unanticipated movement of the cars poses a significant risk of injury.

Movement of cars in the bowl results from use of a yard locomotive or from the impact of other cars entering the track from the hump. The risk of injury to members of the yard crew from unanticipated movement of the locomotive is remote since the person operating the locomotive is aware of their actions, of the risks associated with unanticipated movement, and of the need to be guided by the instructions of the exposed yard crew concerning when the cars can be moved safely. It is, therefore, the risk to the yard crew from unanticipated movement caused by the impact of another car arriving from the hump that FRA is addressing in this rule.

In response to a joint recommendation from the AAR and the UTU, FRA published a proposed rule to address this problem on October 4, 1983 (49 FR 45272). All eight commenters responding to that notice urged adoption of the proposed rule.

Three of the commenters suggested that FRA expand the coverage of the proposed rule as to both the type of facilities and the type of employees. FRA has decided not to implement these suggestions in adopting this final rule. To expand the application of this rule beyond hump yards would significantly alter the nature of the AAR/UTU recommendation and the impact of the rule. The AAR/UTU recommendation and the FRA's proposed rule would apply to fewer than 125 locations, whereas the suggested expansion of this rule to include all yard facilities would bring some 4,000 yards within its scope. Such broadened applicability would be beyond the scope of the notice of FRA's proposal and is not warranted either by the nature of the hazard presented in non-hump yard operations or by the available accident statistics. Nor has FRA adopted the suggestion for expanding the type of employees who are to be provided improved protection at hump yards. Those not covered by this final rule already receive adequate protection under a different set of regulatory provisions.

Several commenters suggested that FRA clarify the applicability of the proposed rule. The first area of clarification sought by these commenters involves the use of hump yards that either lack a remote control capability or, having it, are being operated without its use. Since FRA can identify only a handful of hump yards that lack remote control capability, FRA does not intend to bring operations at those facilities within the scope of this regulation. In those instances where a hump yard is capable of being remotely controlled but is functioning in a manual mode, the facility is normally underutilized or experiencing technical problems with its remote control devices. Compliance with this regulation does not appear to be warranted in either instance. FRA has added the words "remotely controlled" as a description in the regulatory language to indicate that the rule does not apply to manual humps or to remotely controlled humps that are functioning in a manual mode.

One commenter expressed concern over its ability to comply with the regulation at a single facility where routing functions for switches are computer controlled. The commenter indicated that a specially designed wedge would be inserted to prevent computer override of the desired alignment of the switch at that facility. The insertion of that wedge would be performed at the direction of the remote control operator. FRA believes that the insertion of this wedge would provide the appropriate level of protection and that alteration of the proposed rule language to specifically sanction that practice is not necessary.

The remaining comments sought clarification of FRA intent in adopting this rule so as to address possible compliance issues. One commenter sought assurance that humping operations on a particular track can be resumed if the employees working on that track have completed their initial tasks. Such intermittent humping is permissible if the employees have been appropriately notified and are again provided with protection before they resume the tasks that expose them to risk. In a similar vein, a commenter noted that normal switching operations, when the hump is not in service, would not expose the switch crew to danger of unanticipated movement caused by the arrival of cars from the hump and that compliance with the regulation should not be necessary for those switching moves. FRA agrees with that commenter's interpretation since the rule is intended to protect employees only from hump operations.

The final comment concerning FRA's intent involved the details of the notification procedure. According to the commenter, there are a number of facilities where the yardmaster or hump supervisor would be the person contacted by the crewmembers. This person would then instruct an individual at the control machine to apply the blocking or locking device. This relay system is used since the person at the control machine does not have immediate access to the appropriate communication equipment for contacting crewmembers. The commenter sought assurance that the use of the yardmaster or hump supervisor to bridge the personal communication gap between the crewmember and the control operator was permissible. FRA's regulatory language does not preclude that practice and FRA believes that such a practice should result in reliable notification procedures.

Regulatory Impact

This final rule has been evaluated in accordance with existing regulatory policies. It is neither a "major" rule as defined under Executive Order 12291 nor a "significant" rule as defined under DOT regulatory policies and procedures (44 FR 11034). The rule will have a direct impact only on the thirty railroads that operate hump yards. To the degree that individual railroads within that group already have an analogous procedure, the rule will have virtually no economic impact. Although FRA is constrained in its analysis by the absence of well-defined economic and accident data, FRA has concluded that the rule will involve only minimal costs for the railroads and should have a positive economic impact through reduced accident costs. Although FRA specifically requested information on the economic impact of this regulation, none of the commenters addressed this issue. Since FRA originally concluded that the economic impact is expected to by minimal and has received no information to the contrary, FRA has determined that further evaluation is not necessary.

Since only railroads of considerable size operate hump yards, this rule will have no adverse impact on small entities. Based on the facts set forth in this final rule, it is certified that the rule will not have a significant economic

impact on a substantial number of small entities under the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

Paperwork Reduction Act

There are information collection requirements indirectly contained in this final rule and these have been submitted to the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96–511). Although FRA specifically solicited comments on the potential paperwork burden imposed by the proposed regulations, no comments on this issue were received. The indirect information collection requirements associated with this proposed rule stem from the provisions of §§ 217.7 and 217.9 of a related regulation. That regulation (49 CFR Part 217) requires all railroads to conduct periodic operational tests to determine compliance with their rules and to provide the results of that testing together with a copy of their rules to FRA. The increase in the existing information collection requirements associated with adoption of this proposed rule has been approved by OMB (OMB Approval No. 2130–0035).

Environmental Impact

On June 16, 1980, FRA published (45 FR 40854) revised procedures for ensuring full consideration of the environmental impacts of FRA actions as required by the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*), other environmental statutes, Executive Orders, and DOT Order 5610.1C.

These FRA procedures require that an "environmental assessment" be performed prior to all major FRA actions. The procedures categorically exempt certain actions from the requirements for an environmental assessment because thay are not major actions.

The FRA environmental procedures also contain a provision that enumerates seven criteria, which, if met, demonstrate that a non-categorically exempt action is not a "major" action for environmental purposes. These criteria involve diverse factors, including the availability of adequate relocation housing; the possible inconsistency of the action with Federal, State or local law; the possible adverse impact on natural, cultural, recreational, or scenic environments; the use of properties covered by section 4(f) of the DOT Act; and the possible increase in traffic congestion. This proposed rule meets the seven criteria that establish an action as a non-major action.

List of Subjects in 49 CFR Part 218

Occupational safety and health, Penalties, Railroad employees, Railroads.

PART 218—[AMENDED]

In consideration of the foregoing, FRA is amending Part 218, Title 49, Code of Federal Regulations, as set forth below:

1. 49 CFR Part 218 is amended by adding a new § 218.39, to read as follows:

§ 218.39 Hump operations.

After June 30, 1984, each railroad that operates a remote control hump yard facility must have in effect an operating rule that adopts the following provisions in substance:

(a) when a train or engine service employee is required to couple an air hose or to adjust a coupling device and that activity will require that the employee place himself between pieces of rolling equipment located on a bowl track, the operator of any remotely controlled switch that provides access from the apex of the hump to the track on which the rolling equipment is located shall be notified;

(b) upon such notification, the operator of such remotely controlled switch shall line it against movement to the affected bowl track and shall apply a locking or blocking device to the control for that switch; and

(c) the operator shall then notify the employee that the requested protection has been provided and shall remove the locking or blocking device only after being notified by the employee that protection is no longer required on that track.

2. 49 CFR Part 218 is amended by adding a new § 218.41, to read as follows:

§ 218.41 Prohibited acts.

A railroad is subject to a penalty, as provided in Appendix A of this part, if it (a) fails to issue an operating rule as required by § 218.39 of this part or (b) fails to comply with its operating rule issued pursuant to § 218.39 of this part.

3. 49 CFR Part 218 is amended by revising Appendix A to read as follows:

APPENDIX A—SCHEDULE OF CIVIL PENALTIES

Section		Violation	Intentional violation [1]
218.23	Blue signal display	$750	$2,000
218.25	Workmen on main track	750	2,000
218.27	Workmen on other than main track	750	2,000
218.19	Alternate methods of protection	750	2,000
218.30	Remotely controlled switches:		
	(a) and (b)	750	2,000
	(c)	500	1,000
218.41	Prohibited acts:		
	(a) No rule adopted	500	2,000
	(b) Rule compliance	750	2,000

[1] For the purposes of this schedule, an intentional violation is the knowing and willful failure of a carrier, its officers or agent to comply with the provisions of this part. The Administrator reserves the authority to assess the maximum penalty of $2,500 for a violation of any section contained in Part 218.

(Sec. 202, 84 Stat. 971 (45 U.S.C. 431); sec. 1.49(m) of the Regulations of the Secretary of Transportation (49 CFR 1.49(m))

Issued in Washington, D.C. on February 14, 1984.

John H. Riley,

Administrator.

[FR Doc. 84–4403 Filed 2–21–84; 8:45 am]

BILLING CODE 4910–06–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 611

[Docket No. 31222–248]

Foreign Fishing

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule; correction.

SUMMARY: This document corrects the authority citation in the final rule that was published February 3, 1984, at 49 FR 4212. This rule revises the conditions that require redetermination of domestic annual processing capacity in the Atlantic silver and red hake fishery.

FOR FURTHER INFORMATION CONTACT: Peter Colosi, 617–281–3600 ext. 272.

Dated: February 16, 1984.

William G. Gordon,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

PART 611—[CORRECTED]

In FR Doc. 84–2976, appearing at page 4213 in the issue of February 3, 1984, preceding the regulatory text, second column, the authority citation is corrected to read "Authority: 16 U.S.C. 1801 *et seq.* unless otherwise noted."

[FR Doc. 84–4652 Filed 2–21–84; 8:45 am]

BILLING CODE 3510–22–M

50 CFR Part 652

[Docket No. 31220-245]

Atlantic Surf Clam and Ocean Quahog Fisheries

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Rule-related notice; surf clam fishing time adjustment.

SUMMARY: NOAA reduces allowable surf clam fishing time from 24 to 12 hours per week for vessels harvesting surf clams in the Mid-Atlantic Area of the fishery conservation zone. The action is required to prevent significant overharvest of surf clam allocations and avoid prolonged closure of the fishery. The action is intended to reduce the rate of harvest from the fishery.

EFFECTIVE DATE: February 26, 1984.

FOR FURTHER INFORMATION CONTACT: Bruce Nicholls (Surf Clam Management Coordinator), 617-281-3600, ext. 324.

SUPPLEMENTARY INFORMATION: Regulations implementing Amendment 3 to the Fishery Management Plan for Atlantic Surf Clam and Ocean Quahog Fisheries were published on January 29, 1982 (47 FR 4268). The regulations contain at 50 CFR 652.22(a)(3)(i) a provision for reduction of allowable surf clam fishing time if, on review of available information, the Regional Director determines during any quarter that the quarterly quota for surf clam harvest probably will be exceeded.

Logbooks submitted by fishermen and processors show that during the first five weeks of the current fishing quarter, which began on January 1, 1984, surf clam landings exceeded 348,000 bushels. Thus, 59 percent of the quota for the quarter has been harvested during only 38 percent of the quota period. The harvest rate has escalated during the quarter to the extent that no possibility exists for harvests and allocations to return to a balance without a reduction in fishing time.

The Regional Director has determined that without a reduction in fishing time for surf clams the quarterly quota and subsequent allocations will be exceeded. The Secretary of Commerce, therefore, reduces fishing time to reduce the possibility that harvests will significantly exceed allocations or annual optimum yield.

The reduction of fishing time will begin on February 26, 1984, and continue until harvests and allocations are again in balance.

This action is taken under the authority of 50 CFR Part 652 and is taken in compliance with Executive Order 12291.

(16 U.S.C. 1801 *et seq.*)

List of Subjects in 50 CFR Part 652

Fisheries, Reporting and recordkeeping requirements.

Dated: February 16, 1984.

William G. Gordon,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc 84-4653 Filed 2-21-84; 8:45 am]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 49, No. 36
Wednesday, February 22, 1984

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR PART 1049

Milk in the Indiana Marketing Area; Notice of Proposed Suspension/ Termination of Certain Provisions of the Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed suspension/ termination of rule.

SUMMARY: This notice invites written comments on a proposal to suspend for April 1984 through December 1985 the seasonal producer payment plan (Louisville plan) under the Indiana Federal milk order that was designed to encourage level production throughout the year. The action was requested by Hoosier Milk Marketing Agency, Inc., a federation of cooperative associations representing about three-fourths of producers supplying milk to the market. The federation states that the suspension is needed to maintain an appropriate alignment of producer prices with other markets.

Comments also are invited on whether the Louisville plan should be terminated.

DATE: Comments are due on or before March 8, 1984.

ADDRESS: Comments (two copies) should be filed with the Hearing Clerk, Room 1077, South Building; U.S. Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Richard A. Glandt, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447–4829.

William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this proposed action would not have a significant economic impact on a substantial number of small entities. Such action would lessen the regulatory impact of the order on dairy farmers and would not affect milk handlers.

Notice is hereby given that, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), the suspension or termination of the following provisions of the order regulating the handling of milk in the Indiana marketing area is being considered for April 1984 through December 1985:

1. In § 1049.61, paragraph (f), the words "For the months of January through March and August," and all of paragraphs (g) through (l).

2. In § 1049.75(a), the words ", and, for the months of April through July plus an additional 20 cents, or for the months of September through December minus the amount computed pursuant to § 1049.61(i)".

All persons who want to send written data, views or arguments about the proposed suspension/termination should send two copies of them to the Hearing Clerk, Room 1077, South Building, U.S. Department of Agriculture, Washington, D.C. 20250, by the 15th day after publication of this notice in the **Federal Register.**

The comments that are sent will be made available for public inspection in the Hearing Clerk's office during normal business hours (7 CFR 1.27(b)).

Statement of Consideration

The proposed suspension would make inoperative for April 1984 through December 1985, the provisions of the Indiana milk order that contain the seasonal producer payment plan or "Louisville plan," for the order. Under those provisions, 20 cents per hunderweight of producer milk is deducted from the pooled value of milk in computing the uniform prices to producers during the months of April through July. The monies then are added to the pooled funds in computing the uniform prices to producers for each month of September through December. This payment plan is intended to encourage relatively level milk production throughout the year.

Suspension of the Louisville plan for April 1984 through December 1985 was requested by Hoosier Milk Marketing Agency, Inc., a federation of cooperative associations representing most of the producers supplying the market. In supporting its request the federation states that the suspension is needed to maintain alignment of producer pay prices with adjoining markets. In support of that claim, the federation pointed out that the Louisville plan under the neighboring Louisville-Lexington-Evansville order has been replaced with a seasonal base and excess plan. In addition, the petition states that suspension of the Louisville plan will be requested for the Ohio orders as well. The federation maintains that suspension of these provisions of the Indiana order through 1985 is necessary because of uncertainties of supply that may result from enactment of the Dairy and Tobacco Adjustment Act of 1983. The paid diversion portion of that action will continue to operate through March 1985.

The Louisville plan in the Indiana order was suspended from operation in 1983. The suspension last year, together with a proposed suspension for two more years, raises questions about whether the plan should be terminated. Accordingly, commentors are requested to state their views on whether the Louisville plan is accomplishing its intended purpose and whether it should be terminated on or before April 1, 1984.

List of Subjects in 7 CFR Part 1049

Milk marketing orders, Milk, Dairy products.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674).

Signed at Washington, D.C. on: February 16, 1984.

William T. Manley,

Deputy Administrator, Marketing Program Operations.

[FR Doc. 84-4668 Filed 2-21-84; 8:45 am]
BILLING CODE 3410-02-M

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7 CFR Part 1124

Milk in the Oregon-Washington Marketing Area; Extension of Time for Filing Comments on Proposed Termination

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Extension of time for filing comments.

SUMMARY: This notice extends the time for filing comments on the proposed termination of the base-excess payment provisions of the Oregon-Washington milk order. The proposed termination was issued January 27, 1984, in response to a request from Northwest Dairymen's Association, a cooperative association representing a large number of producers pooled under the order. Farmers Cooperative Creamery, another cooperative association that is a handler under the order, has requested that the time allowed for comment be extended until March 2 to afford interested parties more time to formulate and express their views.

DATE: Comments are now due on or before March 2, 1984.

ADDRESS: Comments (two copies) should be filed with the Hearing Clerk, Room 1077, South Building, U.S. Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Robert F. Groene, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250; (202) 447-2089.

SUPPLEMENTARY INFORMATION: Prior document in this proceeding:

Proposed Termination of Certain Provisions of the Order: Issued January 27, 1984; published February 1, 1984 (49 FR 4005).

Notice is hereby given that the time for filing comments on the proposed termination of the base-excess plan used in distributing returns to producers whose milk is priced under the Oregon-Washington milk order is hereby extended to March 2, 1984.

Any comments that are received will be made available for public inspection in the Hearing Clerk's office during normal business hours (7 CFR 1.27(b)).

List of Subjects in 7 CFR Part 1124

Milk marketing orders, Milk, Dairy Products.

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674)

Signed at Washington, D.C. on: February 16, 1984.

William T. Manley,

Deputy Administrator, Marketing Program Operations.

[FR Doc. 84-4887 Filed 2-21-84; 8:45 am]

BILLING CODE 3410-02-M

NUCLEAR REGULATORY COMMISSION

10 CFR Part 50

Analysis of Potential Pressurized Thermal Shock Events

Correction

In FR Doc. 84-3297 beginning on page 4498 in the issue of Tuesday, February 7, 1984, make the following corrections:

1. On page 4498, column one, remove the semicolon in the subject heading.

2. On the same page, column two, SUPPLEMENTARY INFORMATION, paragraph two, line eight, "values" should read "valves".

3. On the same page, column three, second complete paragraph, line ten, "vessles" should read "vessels".

4. On page 4499, column one, second complete paragraph, line thirteen, "vales" should read "values".

5. On the same page column two, first complete paragraph, line sixteen, "basis" should read "bases"; also in lines twenty and twenty-one "criterion was based on generic studies, and since the purpose of the" should be removed.

6. On page 4500, column three, second complete paragraph, line two, "role" should read "rule".

§ 50.61 [Corrected]

7. On page 4501, column three, § 50.61(b)(2), Equation 2 should be corrected to read "Equation 2: $RT_{NDT}=I+M+283\ f^{0.194}$".

BILLING CODE 1505-01-M

DEPARTMENT OF ENERGY

10 CFR Part 961

Standard Contract for Disposal of Spent Nuclear Fuel and/or High-Level Radioactive Waste

AGENCY: Department of Energy.

ACTION: Proposed rule.

SUMMARY: On April 18, 1983 the Department of Energy (DOE) published a rule which established a standard contract to be used by the DOE in furnishing disposal services to the owners or generators of spent nuclear fuel and/or high level radioactive waste (48 FR 16590). This document proposes to amend Article VIII of the contract, which contains the fees and terms of payment provisions. This proposal is based in part on a request from the Utility Nuclear Waste Management Group for clarification of the one-time fee provision concerning calculating the cost of disposal services.

DATE: Comments must be submitted on or before March 23, 1984.

ADDRESS: Comments should be addressed to Michael J. Lawrence, Acting Director, Office of Civilian Radioactive Waste Management, Department of Energy, 1000 Independence Avenue, SW., Room 7B-084, Washington, D.C. 20585, (202), 252-6842.

FOR FURTHER INFORMATION CONTACT:
Michael W. Kurgan, Office of Civilian Radioactive Waste Management, Department of Energy, Room 7F-059, Washington, D.C. 20858 (202) 252-2281
James Cavanagh, Office of the Director, MA-4, Procurement and Assistance Management Directorate, Department of Energy, Room 5B-080, Washington, D.C. 20585, (202) 252-8616
Elliot Winnick, Office of General Counsel, Department of Energy, Room 6B-190, Washington, D.C. 20585, (202) 252-1526

SUPPLEMENTARY INFORMATION: Article VIII of the standard contract provides, in pertinent part, that a one-time fee is assessed for fuel used to generate electricity prior to April 7, 1983, based upon the schedule set forth in paragraph A.2. of Article VIII (48 FR 16602), which specifies that "discharged nuclear fuel is that fuel removed from the reactor core with no plans for reinsertion. In the event that any such fuel withdrawn with plans for reinsertion is not reinserted, then the applicable fee shall be calculated as set forth in this paragraph 2." Under paragraph A.3, which prescribes the fee for in-core fuel burned through April 6, 1983, it is provided that such "in-core fuel is that fuel in the reactor core as of the date specified [April 7, 1983], plus any fuel removed from the reactor with plans for reinsertion." (48 FR 16602).

DOE has received a request from an industry association, the Utility Nuclear Waste Management Group, representing 43 of the utilities that have entered into contracts with DOE for nuclear waste disposal services, which seeks clarification of the aforesaid one-time fee provisions quoted above.

Specifically, these Purchasers have requested that provision be made in the event that reinsertion plans should change subsequent to October 1, 1983, which is the date specified in Article IV.A.1(b) of the contract for providing information on the "total number of fuel assemblies removed prior to . . . April 7, 1983 for which there are plans for reinsertion" (48 FR 16601).

The Department has considered this request and now proposes to revise Article VIII of the contract as set forth

below, consistent with Article XV, "Amendments", contained therein (48 FR 16604), and recognizing that circumstances which could not be anticipated at the time the reinsertion plans were made could arise so as to require a change in those plans. Accordingly, DOE proposes to modify Part 961.11 of the final rule and the standard contract by specifying the procedures for Purchasers to notify DOE of such change in reinsertion plans and the calculation of any fee adjustment that may result therefrom.

Appendix E of the standard contract provides, in paragraph B.1. thereof, for specified "maximum nominal physical dimensions" (48 FR 16606). A number of utility Purchasers have requested that the Active Fuel Length for a Pressurized Water Reactor (PWR), which is now limited to "12 feet, 0 inches" be revised to 12 feet, 6 inches. These Purchasers point out that the requested revision is necessary to reflect and accommodate the current fuel design of one of the major domestic PWR manufacturers, the Combustion Engineering Corporation.

DOE has considered this requested technical revision and believes that such a change would be appropriate and desirable. Accordingly, DOE proposes to revise the aforesaid specification, as set forth below, recognizing that such a revision would be consistent with the current reactor fuel design now being used by several utility Purchasers whose reactors are just now attaining operational maturity. By this proposed revision to Appendix E, the specifications governing (1) overall length; and (2) active fuel length; for both PWR and Boiling Water Reactors (BWR) will be identical except for the Cross Section specification which will remain 6 inches x 6 inches for the BWR and 9 inches x 9 inches for the PWR.

For the reasons set out above, Part 961, Chapter III of title 10, Code of Federal Regulations, is proposed to be amended as set forth below.

Issued in Washington, D.C., February 14, 1984.

Berton J. Roth,

Director, Procurement and Assistance Management Directorate.

List of Subjects in 10 CFR Part 961

Government contracts, Nuclear materials, Nuclear powerplants and reactors, Radiation protection, Waste treatment and disposal.

Authority: Sec. 644, Pub. L. 95–91, 91 Stat. 599 (42 U.S.C. 7254) and Sec. 302, Pub. L. 97–425, 96 Stat. 2257 (42 U.S.C. 10222).

PART 961—[AMENDED]

§ 961.11 [Amended]

Accordingly, 10 CFR 961.11 is proposed to be amended as follows:

1. In Article VIII, following paragraph A.3. (48 FR 16602), the following new section will be added:

4. "If the Purchaser's plans for reinserting fuel assemblies are changed after October 1, 1983, the following procedure and fee calculation shall be applied:

"(a) Purchaser shall notify DOE of the specific change(s) in the reinsertion plan no later than 60 days after such change(s) is made. As part of this notification, the Purchaser shall provide the information specified in Annex B to Appendix G annexed hereto; *provided, however,* that such information need not be furnished on magnetic tape.

"(b) The one-time fee shall be calculated using the new (revised) reinsertion plan. If the revised reinsertion plan results in fuel being reclassified from in-core to discharged fuel, the fee should be calculated as specified in paragraph 2 above. If the revised reinsertion plan results in fuel being reclassified from discharged to in-core fuel, the fee should be calculated as specified in paragraph 3 above.

"(c) If no payment of the one-time fee has been made, the revised one-time fee shall replace the previously calculated one-time fee. Payment shall be made in accordance with the selected payment option under paragraph B.2. of this Article VIII.

"(d) If payment of the one-time fee or any portion thereof has been made, the one-time fee previously calculated under the prior reinsertion plan shall be subtracted from the amount derived pursuant to subparagraph (b) above to determine any addition or reduction to the said fee.

"(i) If any additional fee is due by reason of the calculations specified in subparagraphs (b) and (d) above, such additional fee shall be paid in full with interest with the next remittance advice. Interest is to be calculated from April 7, 1983 to the date of the payment based upon the 13-week Treasury bill rate, as reported on the first such issuance following April 7, 1983, and compounded quarterly thereafter by the 13-week Treasury bill rates as reported on the first such issuance of each succeeding assigned three-month period until payment.

"(ii) If any reduction in the fee results by reason of the calculations specified in subparagraph (b) and (d) above, the Purchaser may claim an adjustment equal to the amount of overpayment calculated in accordance with subparagraph (d) above on the next remittance advice (Annex B to Appendix G)."

2. In Article VIII, paragraph A.4. is renumbered A.5.

3. In Article VIII, the address shown in paragraph B.3.(b) is reivsed to read: "Department of Energy, Office of the Controller, Special Accounts and Payroll Division, P.O. Box 500, Room E–264, Germantown, Maryland 20874."

4. Appendix E, section B.1, will be revised to read as follows:

"B. *Fuel Description and Subclassification—General Specifications.*

"1. *Maximum Nominal Physical Dimensions.*

	Boiling water reactor (BWR)	Pressurized water reactor (PWR)
"Overall Length	14 feet, 11 inches	14 feet, 11 inches.
"Active Fuel Length.	12 feet, 6 inches	12 feet, 6 inches.
"Cross Section	6 inches × 6 inches.	9 inches × 9 inches.

[FR Doc. 84–4516 Filed 2–21–84; 8:45 am]

BILLING CODE 6450–01–M

FEDERAL HOME LOAN BANK BOARD

12 CFR Parts 561, 563, 570, and 584

[No. 84–81]

Net-Worth Requirements of Insured Institutions

February 15, 1984.

AGENCY: Federal Home Loan Bank Board.

ACTION: Proposed rule.

SUMMARY: The Federal Home Loan Bank Board ("Board"), as the operating head of the Federal Savings and Loan Insurance Corporation ("FSLIC"), is proposing to amend its regulations pertaining to the minimum net-worth requirements applicable to all institutions the accounts of which are insured by the FSLIC ("insured institutions"). The proposed rule would impose a net-worth requirement equal to at least three percent on any increase in liabilities after December 31, 1983. This would result in gradually eliminating the authority to (1) calculate net worth on a five-year average basis and (2) phase in the requirement over a twenty-year period. Minimum net worth would continue to include two percent of recourse liabilities plus twenty percent of scheduled items. The Board is also proposing to eliminate the requirement to calculate "statutory reserves" as a percentage of insured deposits. Instead,

compliance with the net-worth requirement would be considered sufficient.

The Board is proposing to impose the marginal net-worth requirement on new liabilities because the Board believes that the ability to leverage new liabilities beyond 33 to 1 is excessive. The proposed regulation would not necessarily require associations to generate new net worth to support net additions to liabilities after December 31, 1983. To the extent that associations have net worth above current regulatory minimums, they can use this net worth to support additions to liabilities. The Board believes that a principal problem faced by the thrift industry is the rapid growth of thrift institutions which do not have adequate levels of capital to support that growth. This problem is seriously exacerbated by current regulations which permit thrifts to use a five-year averaging formula in calculating their minimum net-worth requirements, as well as a twenty-year phase-in of required net worth for new institutions. If the proposed amendments are adopted, they would become effective for any fiscal year beginning after September 30, 1984.

DATE: Comments must be received by April 23, 1984.

ADDRESS: Director, Information Services Section, Office of the Secretariat, Federal Home Loan Bank Board, 1700 G Street NW., Washington, D.C. 20552. Comments will be publicly available at this address.

FOR FURTHER INFORMATION CONTACT: Robert S. Monheit, Attorney, Office of General Counsel, (202) 377–6465, or Edward Taubert, Assistant Director, Policy and Regulation Division, Office of Examination and Supervision, (202) 377–6484, Federal Home Loan Bank Board, 1700 G Street NW., Washington, D.C. 20552.

SUPPLEMENTARY INFORMATION: The Garn-St Germain Depository Institutions Act of 1982 ("DIA"), Pub. L. 97–320, amended the provisions of section 403(b) of the National Housing Act ("NHA"), 12 U.S.C. 1726(b), which require insured institutions to provide adequate reserves satisfactory to the FSLIC, as established in accordance with FSLIC regulations. Prior to the DIA amendment, § 403(b) of the NHA limited the FSLIC regulation to an amount no greater than six percent and no less than three percent of insured accounts, and directed the Board to permit a phase-in of this requirement over a period not exceeding twenty years. The DIA eliminated (1) the reference to insured accounts as the basis of the calculation, (2) the percentage range within which the Board had been previously limited, and (3) the direction to phase in the requirement over twenty years.

The Board implemented the requirements of section 403(b) of the NHA by promulgating 12 CFR 563.13, which set forth the "statutory reserve" requirement and also a "minimum net worth" requirement which the Board has used, in part, to gauge capital adequacy. The minimum net-worth requirement differs from the statutory reserve requirement in that net worth is calculated as a percentage of total liabilities rather than as a percentage of insured deposits, and the calculation of minimum net worth includes two percent of recourse liabilities and twenty percent of scheduled items. Both the minimum net-worth requirement and the statutory-reserve requirement permit institutions to calculate liabilities and deposits, respectively, by averaging the past fiscal year with the preceding four fiscal years (a procedure known as "five-year averaging"). Also, institutions that have not reached their twentieth anniversary of insurance are permitted to phase in the net-worth and statutory-reserve requirements by multiplying three percent of liabilities and deposits, respectively, by a fraction the numerator of which is the number of consecutive years of insurance and the denominator of which is twenty (a process known as "twenty-year phase-in").

The Board is concerned that the recent rapid growth of many insured institutions has significantly reduced the capital coverage in an industry that has experienced chronic capital deficiencies. Rapidly growing institutions have been able to achieve their high growth rates and still meet required capital levels in part due to the use of five-year averaging and twenty-year phase-in. For example, an institution that became an insured institution just prior to November, 1983, would be required to have net worth and statutory reserves equal to only 0.15 percent of liabilities and 0.15 percent of insured accounts, respectively. This, in effect, places no limit on the rate of growth of institutions since it permits a debt-to-equity ratio as high as 666 to 1. These factors thus enable FSLIC-insured institutions to increase significantly the risk exposure of the FSLIC without supporting the new liability base with adequate capital.

This risk exposure has been increased as a result of the DIA and changes to a number of state laws. These changes have significantly widened the investment powers of federal and state chartered institutions, permitting investment in areas in which insured institutions have little experience. In some states, statutory limits on the percentage of assets that an institution may commit to these new powers may not effectively require a prudent mix of these new, riskier investments with traditional, secured investments. In addition, the development of a nationwide market for insured deposits and other liabilities of insured institutions enables these institutions quickly and significantly to increase their deposits and other liabilities. The possibility of rapid growth of deposits and other liabilities has led some institutions to embark on ill-conceived plans of asset expansion, including high-risk investments made primarily for the purpose of generating fee income, without serious consideration of the safety of the underlying investments. Losses resulting from such practices cause a serious dissipation of the institution's net worth and are, ultimately, a significant risk to the FSLIC.

The Board began to address these problems in the rulemaking proceeding concerning the reserves and policies pertaining to insurance of accounts of *de novo* institutions (proposed: 48 FR 51270 (November 10, 1983); final: 48 FR 54320 (December 2, 1983)). In that proceeding, the Board found sufficient cause to require *de novo* institutions to have statutory reserves and net worth equal to at least seven percent of insured deposits and liabilities, respectively, for the first full fiscal year, with the requirement gradually decreasing to three percent of deposits and liabilities, respectively. The Board noted in the preambles of both the proposed and final rules that it would continue to review the reserve requirements and other areas of concern relating to existing institutions.

As a result of the changes to section 403(b) of the NHA made by the DIA, and for the reasons explained above, the Board is proposing to revise 12 CFR 563.13. First, the Board is proposing to eliminate the "statutory reserve" test of 12 CFR 563.13(a). The DIA amendment indicates that Congress no longer intends the Board to impose a capital adequacy standard based upon insured deposits. The Board believes that the minimum net-worth standard is a more reliable gauge of capital adequacy because it is calculated upon total liabilities, not merely insured deposits. This amendment would also alleviate the burden of calculating two measures of capital adequacy that are largely duplicative. Therefore, the Board is proposing to make compliance with the minimum net-worth requirement sufficient for compliance with the reserve requirement of section 403(b)

NHA. State requirements tied to the reserve requirement of section 403(b) would be met by compliance with the proposed net-worth requirement.

Second, the Board is proposing to impose a requirement to maintain net worth at three percent on any increase in liabilities after December 31, 1983. This action would limit leveraging of new liabilities to 33 to 1, which the Board, under existing circumstances, believes is adequate. All institutions (other than *de novo* institutions) would multiply increases in liabilities between December 31, 1983 and the date of calculation by three percent. *De novo* institutions that have not reached the three-percent requirement would continue to calculate minimum net worth as required under the existing rule, which does not permit five-year averaging. Institutions experiencing no growth in liabilities would not be adversely affected by the proposal. Institutions experiencing a decrease in liabilities after December 31, 1983, would be treated as if they had experienced no growth.

Third, the proposal would gradually eliminate five-year averaging and twenty-year phase-in. Five-year averaging would be eliminated by gradually reducing the number of fiscal years which could be averaged. For example, an institution may in the first fiscal year following September 30, 1984 average the liabilities in fiscal years 1983, 1982, 1981, 1980, and 1979. In the next fiscal year, an institution could average the fiscal years 1983 through 1980. In the third year, an institution could average fiscal years 1983 through 1981. Finally, in the fourth year, an institution could average fiscal years 1983 and 1982. Thereafter, averaging would not be permitted. The twenty-year phase-in would be gradually eliminated by permitting qualified institutions to apply this procedure only to pre-December 31, 1983 levels of liabilities. Any increase in liabilities after that date would be multiplied by three percent. Institutions having received approval for instance of accounts prior to November 3, 1983, however, would continue to multiply three percent of pre-December 31, 1983 liabilities by a fraction the numerator of which is the number of consecutive years of insurance and the denominator of which is twenty, until the institution reaches the twentieth anniversary of insurance of accounts. Once all institutions insured prior to November 3, 1983 reach the twentieth anniversary of insurance of accounts, the phase-in would be entirely eliminated.

Initial Regulatory Flexibility Analysis

Pursuant to Section 3 of the Regulatory Flexibility Act, Pub. L. 96-354, 94 Stat. 1164 (1980), the Board is providing the following regulatory flexibility analysis.

1. *Reasons, objectives and legal basis underlying the proposed rule.* These elements are incorporated above in the supplementary information regarding the proposal.

2. *Small entities to which the proposed rule would apply.* The proposed rule would apply to institutions whose accounts are insured by the FSLIC.

3. *Impact of the proposed rule on small institutions.* The proposed rule would limit the leveraging ability of rapidly growing small institutions by imposing a three percent net worth requirement on any increase in liabilities after December 31, 1983, and by gradually eliminating five-year averaging and twenty-year phase-in in the calculation of minimum net-worth requirements.

4. *Overlapping or conflicting federal rules.* There are no known federal rules that duplicate, overlap, or conflict with this proposal.

5. *Alternatives to the proposed rules.* There are no alternatives to the elimination of techniques that understate the capital adequacy of small institutions that would be less burdensome than the proposal in addressing the concerns expressed in the supplementary information set forth above.

List of Subjects in 12 CFR Parts 561, 563

Insurance of accounts, Savings and loan associations.

Accordingly, the Federal Home Loan Bank Board hereby proposes to amend Parts 561, 563, 570 and 584 of Title 12, Code of Federal Regulations, as set forth below.

SUBCHAPTER D—FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION

PART 561—DEFINITIONS

§ 561.13 [Amended]

1. Amend § 561.13(a)(2) by removing the phrase "statutory-reserve or".

PART 563—OPERATIONS

2. Amend § 561.13 by removing the phrase "reserve requirements of paragraphs (a) and (b)" in the first sentence of paragraph (c)(1) and substituting the phrase "requirement of paragraph (b)"; by removing the phrase *"statutory reserve or"* in the heading of paragraph (d); by removing the phrase "the statutory reserve requirement set forth in paragraph (a) of this section or" in the first sentence of paragraph (d); by removing the phrase "or the statutory reserve requirement set out in paragraph (a)(2) of this section" from the first sentence of paragraph (e); by removing paragraph (g); and by revising paragraphs (a), (b) (2) and (5), and (f); as follows:

§ 561.13 Regulatory net-worth requirement.

(a) *Scope.* (1) This section sets forth the requirements for the maintenance of the regulatory net worth by all insured institutions. Compliance with the requirements of this section shall be considered to be compliance with the reserve requirements of section 403(b) of the National Housing Act (12 U.S.C. 1726(b)).

(2) Items previously credited to the predecessor Federal Insurance Reserve Account shall be designated "restricted retained earnings" in the list of items comprising the net-worth account, and shall be used only for absorption of losses. Items earmarked or otherwise designated but not credited to that Account may be designated as restricted retained earnings.

(b) *Net-worth requirement.* * * *

(2) *Minimum required amount.* (i) Except as provided in paragraph (b)2(ii) of this section, the minimum required net worth shall be calculated using the formulae set forth below for all fiscal years beginning after September 30, 1984: *Provided,* that if A minus B is less than zero, then an institution using the formulae shall treat A minus B as if it were equal to zero:

r = minimum regulatory net-worth requirement
A = total liabilities as of the date of calculation
B = total liabilities as of December 31, 1983
C = total liabilities as of the end of fiscal year 1983
D = total liabilities as of the end of fiscal year 1982
E = total liabilities as of the end of fiscal year 1981
F = total liabilities as of the end of fiscal year 1980
G = total liabilities as of the end of fiscal year 1979
X = three percent or, for institutions (other than *de novo* institutions) that have not reached the twentieth anniversary of insurance of accounts, three percent multiplied by a fraction of which the numerator is the number of consecutive years of insurance of accounts and the denominator is twenty.
Y = an amount equal to two percent of recourse liabilities resulting from the sale of any loan.
Z = an amount equal to twenty percent of the institution's scheduled items.

(*a*) for the first fiscal year beginning after Sept. 30: 1984:

$r=((A-B).03)+(((C+D+E+F+G)/5)\ X)+Y+Z$

(*b*) for the second fiscal year beginning after Sept. 30: 1984:

$r=((A-B).03)+(((C+D+E+F)/4)\ X)+Y+Z$

(*c*) for the third fiscal year beginning after Sept. 30: 1984:

$r=((A-B).03)+(((C+D+E)/3)\ X)+Y+Z$

(*d*) For the fourth fiscal year beginning after Sept. 30, 1984:

$r=((A-B).03)+(((C+D)/2)\ X)+Y+Z$

(*e*) For the fifth fiscal year beginning after Sept. 30, 1984, and for all fiscal years thereafter:

$r=((A-B).03)+(CX)+Y+Z$

(ii) (*a*) Except as provided in paragraph (b)(2)(ii)(*b*) of this section, all *de novo* institutions shall have a minimum regulatory net worth equal to the sum of (*1*) an amount equal to two percent or recourse liabilities resulting from the sale of any loan; (*2*) an amount equal to twenty percent of the institution's scheduled items; and (*3*) an amount equal to seven percent of all liabilities of the institution, which shall decline by 100 basis points for each year following the beginning of the first full fiscal year until equal to five percent, and thereafter may be reduced to three percent upon the approval of the Principal Supervisory Agent.

(*b*) *De novo* institutions which elect to have their applications for insurance of accounts processed in accordance with the policy set forth in § 571.6(a)(2) of this Subchapter but which do not additionally qualify under § 571.6(a)(3), shall have a minimum regulatory net worth equal to the sum of (*1*) an amount equal to two percent of recourse liabilities resulting from the sale of any loan; (*2*) an amount equal to twenty percent of the institution's scheduled items; and (*3*) for the period between the commencement of operations and the beginning of the first full fiscal year and for three years following the beginning of the first full fiscal year, an amount equal to seven percent of all liabilities of the institution which thereafter may be reduced to five percent or, upon the approval of the Principal Supervisory Agent, to three percent.

(*c*) The Principal Supervisory Agent of the institution's Federal Home Loan Bank district is hereby delegated authority to approve a reduction to three percent, provided that the Agent does not take supervisory objection to the probable effect of such reduction on the institution's safe and sound operating condition. If approval is withheld, the institution may seek review and final decision by the Corporation.

* * * * *

(5) *Definitions.* For purposes of paragraph (b) of this section:

(i) The term "liabilities" shall include total assets, net of the following: loans in process, specific reserves, and deferred credits other than deferred taxes; minus net worth as defined by § 561.13 of this Subchapter.

(ii) The term "recourse liabilities" shall be defined as in § 561.8 of this Subchapter.

(iii) The term "*de novo* institution" means any savings and loan association, homestead association, cooperative bank or savings bank which has filed with the appropriate Federal Home Loan Bank an application for insurance of accounts, or an application to organize a Federal association, which was not approved prior to November 3, 1983, and the business of which has not been conducted previously under any charter.

* * * * *

(f) *Charging of losses to reserves.* Losses charged to reserves shall exhaust all net-worth accounts before constituting a charge against mutual capital certificates.

§ 563.7–4 [Amended]

3. Amend § 563.7–4(1)(2) (iv) and (v) by removing the phrase "statutory-reserve requirement or".

§ 563.8–1 [Amended]

4. Amend § 563.8–1(d)(1)(iv) by removing the phrase "or Federal insurance reserve".

5. Revise § 563.14 to read as follows:

§ 563.8–14 Payment of dividends.

No insured institution which has recognized losses of any kind chargeable to its net-worth account may pay dividends to insured members or other account holders, unless (1) its net-worth account, after deduction of such losses, is at least equal to the amount required under § 563.13(b)(2) of this Part, or (2) prior written approval is obtained from the Corporation. The Corporation hereby approves for any insured institution which, prior to the charging of such losses, has met the requirement of § 563.13(b)(2), the declaration of dividends to insured members or other account holders, if the insured institution provides not less than 25 percent of its net income (as defined in § 563c.12 of this Subchapter) for the affected distribution period to the restoration of its reserve capacity.

PART 570—BOARD RULINGS

§ 570.5 [Removed]

6. Remove § 570.5.

SUBCHAPTER F—REGULATIONS FOR SAVINGS AND LOAN HOLDING COMPANIES

PART 584—REGULATED ACTIVITIES

§ 584.4 [Amended]

7. Amend § 584.4(g)(1)(iv) by removing the phrase "statutory reserve and".

(Secs. 401, 402, 403, 405, 48 Stat. 1225, 1256, 1257, as amended; 12 U.S.C. 1724, 1725, 1726, 1728. Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR, 1943–48 Comp., p. 1071)

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

[FR Doc. 84–4661 Filed 2–17–84; 8:45 am]

BILLING CODE 6720–01–M

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Ch. II

Regulatory Flexibility Act; Review of Existing Rules

AGENCY: Consumer Product Safety Commission.

ACTION: Notice of review of existing rules.

SUMMARY: The Regulatory Flexibility Act requires the Commission and other Federal agencies to review all rules which were in existence on January 1, 1981, and which have a significant economic impact on a substantial number of small entities, including small businesses. The purpose of the review, which must be completed by December 31, 1990, is to determine whether the rules should be continued without change, or should be amended or revoked, consistent with the objectives of the agency, in order to minimize any impact which they may have on small businesses. The Commission continues its review of existing rules by soliciting comments on nine rules issued under provisions of the Federal Hazardous Substances Act. In prior notice the Commission solicited comments on 17 rules issued under the Consumer Product Safety Act, and on eight rules issued under the Flammable Fabrics Act. In the future, the Commission will solicit comments on rules issued under provisions of the Poison Prevention Packaging Act.

DATE: Interested persons are invited to submit written comments on any of the rules described in this notice on or before April 23, 1984.

ADDRESS: Comments and any accompanying material should be submitted to the Secretary, Consumer

Product Safety Commission, Washington, D.C. 20207, and titled "Regulatory Flexibility Act Review of FHSA Rules."

FOR FURTHER INFORMATION CONTACT: Allen F. Brauninger, Office of General Counsel, Consumer Product Safety Commission, Washington, D.C. 20207; telephone: (301) 492–6980. Inquiries from the press and broadcast media should be addressed to Lou Brott, Office of Public Affairs, telephone: (202) 634–7780.

SUPPLEMENTARY INFORMATION: The Regulatory Flexibility Act (RFA, 5 U.S.C. 601 *et seq.*) became effective on January 1, 1981, and generally requires all Federal agencies, including the Commission, to evaluate and take into consideration the impact of their rules on small entities, including small businesses.

Section 610(a) of the RFA (5 U.S.C. 610(a)) requires the Commission to review all rules which were in existence on January 1, 1981, and which have or will have a significant economic impact on a substantial number of small businesses. Section 610(a) of the RFA provides further that the purpose of this review shall be to determine whether those rules should be continued in effect without change, or should be amended or revoked, consistent with the objectives of the statutes administered by the Commission, to minimize any significant economic impact which they may have on a substantial number of small businesses. This review of existing rules must be completed by December 31, 1990. Section 610(a) also requires the Commission to review any rule issued after January 1, 1981, within 10 years of its issuance on a final basis.

Section 610(b) of the RFA (5 U.S.C. 610(b)) specifies that in the review of rules conducted in accordance with section 610, the Commission must consider the following factors:

(1) The continued need for the rule;

(2) The nature of complaints or comments received concerning the rule from the public;

(3) The complexity of the rule;

(4) The extent to which the rule overlaps, duplicates, or conflicts with other Federal rules, and, to the extent feasible with State and local governmental rules; and

(5) The length of time since the rule has been evaluated, or the degree to which technology, economic conditions, or other factors have changed in the area affected by the rule.

Plan for Review of Rules

Section 610(a) of the RFA also requires the Commission to publish in the **Federal Register** a plan for making the review of rules called for by that section. In the **Federal Register** of September 14, 1981 (46 FR 45621), the Commission published a plan for reviewing all regulations in existence on January 1, 1981, which have a significant economic impact on a substantial number of small businesses. That plan also set forth the schedule by which the Commission proposes to review rules issued after January 1, 1981, within ten years of their issuance on a final basis.

Section 610(c) of the RFA (5 U.S.C. 610(c)) requires that the Commission must publish in the **Federal Register** each year a list of the rules to be reviewed pursuant to section 610 during the next twelve months. That section requires further that the notice must include a brief description of each rule to be reviewed, the need for the rule and its legal basis, and invite public comment upon the rule.

By publication of this notice, the Commission announces that it is continuing its review of all rules in existence on January 1, 1981, which have a significant economic impact on a substantial number of small businesses by considering nine rules issued under the Federal Hazardous Substances Act (FHSA, 15 U.S.C. 1261 *et seq.*).

In earlier notices published in the **Federal Register** of October 21, 1982 (47 FR 46861) and February 2, 1984 (49 FR 4103), the Commission solicited comments from all interested persons on rules issued under provisions of the Consumer Product Safety Act (15 U.S.C. 2051 *et seq.*) and the Flammable Fabrics Act (15 U.S.C. 1191 *et seq.*). At a later date, the Commission will publish a notice in the **Federal Register** to solicit comments on existing rules issued under provisions of the Poison Prevention Packaging Act (15 U.S.C. 1471 *et seq.*).

Rules To Be Reviewed

In accordance with provisions of section 610(c) of the RFA, the Commission announces that during the next twelve months it will be reviewing the rules listed below for any significant economic impact which they may have on a substantial number of small businesses. As required by section 610(c) of the RFA, a brief description of each rule, the need for the rule, and its legal basis are set forth for each rule to be reviewed. All of these rules are published in Chapter II of Title 16 of the Code of Federal Regulations.

1. *Part 1500—Hazardous substances and articles; administration and enforcement regulations.* This part defines various terms used in the FHSA and sets forth procedural rules used by the Commission in the administration and enforcement of the FHSA. This part also prescribes methods for testing substances which are toxic, irritant or flammable, and contains test methods applicable to toys and children's articles for identifying sharp glass or metal edges, and for simulating use and abuse of such products intended for children of various ages. The regulations in this part also identify household products which contain or consist of hazardous substances; household products containing or consisting of hazardous substances which are banned from distribution in commerce; and toys or children's articles which are banned because they present a mechancial, electrical or thermal hazard. Additionally, the regulations in this part prescribe general and specific labeling requirements for household products subject to the provisions of the FHSA.

The regulations in this part are needed to implement, supplement and interpret provisions of the FHSA. They were issued under provisions of sections 2 through 5, 10, and 14, of the FHSA (15 U.S.C. 1261–1264, 1269, and 1273).

2. *Part 1501—Method for identifying toys and other articles intended for use by children under 3 years of age which present choking, aspiration or ingestion hazards because of small parts.* This rule prescribes the appartatus, procedure, and criteria for testing toys and other articles intended for children younger than three years old to determine if such products, or their detachable parts, present a choking, aspiration, or ingestion hazard because of small parts. The rule lists examples of the types of products subject to the test method in this part which are representative but not all-inclusive. It also exempts specific products from the small parts test.

The rule is needed to eliminate or reduce unreasonable risks of injury or illness to young children which might otherwise result from accidentially choking on, inhaling, or swallowing toys or articles intended for children younger than three years old, or parts from such toys or children's articles. The rule was issued under provisions of sections 2(f), 2(q), 2(s), and 3(e), and 10 of the FHSA (15 U.S.C. 1261, 1262, 1269).

3. *Part 1505—Requirements for electrically operated toys or other electrically operated articles intended for use by children.* This rule establishes requirements for the labeling, design, materials, and performance of electrically operated toys and children's articles. It is needed to eliminate or reduce personal injury or illness which might otherwise result from electrical shock, or from moving or heated parts of electrically operated toys and children's

articles. The rule was issued under provisions of sections 2(f), 2(r), 2(s), 2(t), and 3(e) of the FHSA (15 U.S.C. 1261, 1262).

4. *Part 1507—Fireworks devices.* This rule prescribes requirements for fireworks devices, other than firecrackers, which are not banned under any other provisions of the FHSA or any other rule issued under the FHSA. This rule prescribes requirements for the design, materials, and performance of fireworks. Any fireworks device which is subject to this rule and fails to comply with an applicable requirement is banned from interstate commerce.

This rule is needed to protect the public from risks of substantial personal injury or substantial illness which might otherwise result from the customary or reasonably foreseeable handling or use of fireworks devices. It was issued under provisions of section 2(q) of the FHSA (15 U.S.C. 1261) and section 710(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 371(e)).

5. *Part 1508—Requirements for full-size baby cribs.* This rule contains requirements for baby cribs intended for home use which have interior dimensions of approximately 28 inches wide by approximately 52 inches long. The rule sets forth requirements for the design, performance, materials and labeling of cribs which are subject to its provisions. Among its principal provisions are requirements that the distance between slats, spindles, crib rods, corner posts and similar components of a crib shall not be greater than 2⅜ inches, and that any cut-out design on an end panel or side panel of a crib shall not be in a configuration which could entrap the head or neck of a child occupying the crib. The rule also contains provisions applicable to certain items of hardware and to the finish and construction of cribs. It also requires that cribs must be accompanied with instructions for assembly.

The rule is needed to eliminate or reduce unreasonable risks of injury or illness which might otherwise result to children occupying full-size cribs. The rule was issued under provisions of sections 2(f), 2(q), 2(s), and 3(e) of the FHSA (15 U.S.C. 1261, 1262).

6. *Part 1509—Requirements for non-full-size baby cribs.* This rule establishes requirements for baby cribs intended for use in or around the home and for travel and other purposes which are smaller or larger than full-size cribs subject to the requirements of Part 1508. Certain products including mesh-sided cribs, cradles, and bassinets are excluded from the coverage of the requirements of Part 1509. The rule establishes requirements for the design, performance, materials, and labeling of non-full-size cribs which are similar, but not identical, to those for full-size cribs set forth in Part 1508.

The rule is needed to eliminate or reduce unreasonable risks of injury or illness which might otherwise result to children occupying full-size cribs. The rule was issued under provisions of sections 2(f), 2(q), 2(s), and 3(e) of the FHSA (15 U.S.C. 1261, 1262).

7. *Part 1510—Requirements for rattles.* This rule sets forth the apparatus, procedure, and criteria to be used for testing rattles to assure that they will not be capable of entering an infant's mouth and lodging in the throat. The rule defines the term "rattle," and lists certain products which are not included in this definition.

The rule is needed to eliminate or reduce unreasonable risks of choking and suffocation injuries associated with infants' rattles. The rule was issued under provisions of sections 2(f), 2(q), 2(s), and 3(e) of the FHSA (15 U.S.C. 1261, 1262).

8. *Part 1511—Requirements for pacifiers.* This rule establishes design and performance requirements for pacifiers to assure that they will not be capable of lodging in an infant's throat. The rule is needed to eliminate or reduce unreasonable risks of choking and suffocation injuries associated with infants' pacifiers. It was issued under provisions of sections 2(f), 2(q), 2(s), and 3(e) of the FHSA (15 U.S.C. 1261, 1262).

9. *Part 1512—Requirements for bicycles.* This rule establishes design and performance requirements for bicycles. The rules contain tests to measure the strength of the frame, front fork, and wheels; braking performance; and the structural integrity of the entire bicycle. The rule also establishes requirements for placement and performance of reflectors; for protective guards; and for labeling and assembly instructions.

The rule is needed to eliminate or reduce unreasonable risks of injury from fractures, lacerations, contusions, abrasions, and other causes associated with bicycles. The rule was issued under provisions of sections 2(f), 2(q), 2(s), and 3(e) of the FHSA (15 U.S.C. 1261, 1262).

Previous Review of Rules

The Commission reviewed two of the rules described above in 1980, in accordance with provisions of former section 27(m) of the Consumer Product Safety Act (15 U.S.C. 2076(m), repealed by the Consumer Product Safety Amendments of 1981, Pub. L. 97–35; 95 Stat. 703). The rules reviewed in 1980 were those banning vinyl chloride used as an aerosol propellant, set forth in § 1500.17(a)(10) of Part 1500; and requirements applicable to fireworks established by § 1500.17(a) (8) and (9) of Part 1500 and by Part 1507. A copy of the Commission's report concerning this earlier rule review is available in the Commission's public reading room, 8th floor, 1111 18th Street NW., Washington, D.C. or by calling the Office of the Secretary (301) 492–6800.

All interested parties are invited to submit written comments concerning any or all of the nine rules issued under the FHSA and described in this notice to the Office of the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207. To be considered in this rule review proceeding, comments must be received not later than April 23, 1984.

Dated: February 16, 1984.

Sheldon D. Butts,

Acting Secretary, Consumer Product Safety Commission.

[FR Doc. 84-4675 Filed 2-21-84; 8:45 am]

BILLING CODE 6355-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 65

[Docket No. FEMA-6547]

Proposed Flood Elevation Determination; Correction

AGENCY: Federal Emergency Management Agency.

ACTION: Proposed rule; correction.

SUMMARY: This document corrects a Notice of Proposed Determinations of base (100-year) flood elevations for selected locations in the Unincorporated Areas of Rockdale County, Georgia, previously published at 48 FR 34084 on July 27, 1983.

FOR FURTHER INFORMATION CONTACT: Dr. Brian R. Mrazik, Chief, Risk Studies Division, Federal Insurance Administration, Federal Emergency Management Agency, Washington, D.C. 20472 (202) 287–0230.

SUPPLEMENTARY INFORMATION: As result of a recent engineering analysis, the Federal Emergency Management Agency gives notice of the correction to the Notice of Proposed Determinations of base (100-year) flood elevations for selected locations in the Unincorporated Areas of Rockdale County, Georgia previously published at 48 FR 34084 on July 27, 1983, in accordance with Section 110 of the Flood Disaster Protection Act

of 1973 (Pub. L. 93–234), 87 Stat. 980, which added 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 44 CFR 67.4(a)).

The description of the location of the Base Flood Elevation Determination on Honey Creek and the existing and modified BFE Determinations which read "About 0.4 mile upstream of Turner Hill Road," "783", "783" should be corrected to read "Just upstream of Turner Hill Road," "777", "778".

List of Subjects in 44 CFR Part 67

Flood insurance, Floodplains.

The listings appears correctly as follows:

State	City/town/county	Source of flooding	Location	Depth in feet above ground *Elevation in feet (NGVD)	
				Existing	Modified
Georgia	(Uninc.) Rockdale County	Honey Creek	Just upstream of Turner Hill Road	*777	*778

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to the Administrator)

Issued: February 10, 1984.

Jeffrey S. Bragg,

Administrator, Federal Insurance Administration.

[FR Doc. 84-4625 Filed 2-21-84; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 65

[Docket No. FEMA-6538]

Proposed Flood Elevation Determination; Indiana; Correction

AGENCY: Federal Emergency Management Agency.

ACTION: Proposed rule; correction.

SUMMARY: The Federal Emergency Management Agency has published a listing which included the proposed flood elevation determination for the Unincorporated Areas of Brown County, Indiana. This notice will serve to delete Brown County, Indiana from that list.

FOR FURTHER INFORMATION CONTACT: Dr. Brian R. Mrazik, Chief, Risk Studies Division, Federal Insurance Administration, Federal Emergency Management Agency, Washington, D.C. 20472 (202) 287–0230.

SUPPLEMENTARY INFORMATION: As a result of a recent engineering analysis, the Federal Emergency Management Agency has determined that the notice of proposed flood elevation determination for the Unincorporated Areas of Brown County, Indiana, published at 48 FR 30719, on July 5, 1983, should be deleted.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to the Administrator)

Issued: February 10, 1984.

Jeffrey S. Bragg,

Administrator, Federal Insurance Administration.

[FR Doc. 84-4648 Filed 2-21-84; 8:45 am]

BILLING CODE 6718-03-M

FEDERAL MARITIME COMMISSION

46 CFR Ch. IV

[Docket No. 83-38]

Inquiry and Intent To Review Regulation of Ports and Marine Terminal Operators; Hearings

AGENCY: Federal Maritime Commission.

ACTION: Notice of oral hearings and procedure.

SUMMARY: The purpose of this Notice is to announce hearings to provide further opportunity for comment pursuant to the Notice of Inquiry published at 48 FR 41199 (September 14, 1983); to designate issues to be addressed at the hearings; and to establish a deadline for receipt of any additional written comments which the parties to this proceeding may wish to submit.

FOR FURTHER INFORMATION CONTACT: Robert Setrakian, Commissioner, Federal Maritime Commission, 1100 L Street, N.W., Washington, D.C. 20573, (202) 523–5721.

SUPPLEMENTARY INFORMATION: By Notice of Inquiry dated September 14, 1983 (48 FR 41199), the Commission solicited public comment on a number of issues regarding regulation of ports and marine terminal operators. The comment period expired on December 12, 1983, and a Synopsis of the comments received has been prepared and made publicly available.

It has since been determined that in order to provide further opportunity for the parties to this proceeding to present and clarify their views and to respond to opposing views, oral hearings will be held as follows:

March 12–14, 1984

5th Circuit Court of Appeals Bldg., East Courtroom, Room 223, 600 Camp Street, New Orleans, Louisiana 70130

March 26–29, 1984

Federal Building, Ceremonial Courtroom—19th Floor, 450 Golden Gate Avenue, San Francisco, California 94102

April 9–13, 1984

U.S. Customs Service Building, 6 World Trade Center, 7th Floor, Room 770, New York, New York 10048

The hearing sites are in the cities of the Commission's three major district offices. Gulf area interests are invited to attend the New Orleans hearing; Pacific Coast interests the San Francisco hearing; and Atlantic and Great Lakes interests and national associations the New York hearing. However, if parties wish to attend a different hearing for convenience or because of scheduling conflicts, they will certainly be accommodated.

The issues to be addressed track those in the Notice of Inquiry, with a few omissions. Generally, the hearings will concentrate on those issues raised in the Notice which proved most controversial, as indicated in the Synopsis. In the area of terminal tariffs (Part I), comment shall be focused on the need for tariff filings; whether the most appropriate tariff repository is the FMC, the port or terminal operator itself, or a third party; and whether the Commission should require copies of tariffs to be made available at the terminal operator's place of business for a fee, either as a supplement to, or a substitute for, filings with the Commission.[1]

[1] The issue of publishing charges in local shipping or commercial publications (Notice, Question 4) need not be addressed.

In the area of marine terminal agreements (Part I), comment will be invited on the types of agreements which might be exempted from filing and/or approval requirements, either pursuant to the "Classes" enumerated in the Notice or by any alternative approaches, including explanations of the reasons and the expected impact of such exemptions. Again, interested parties are referred to the Synopsis for an indication of the views and positions appropriate for further oral comment. Also, more extensive comment is invited on the possibility of the agreement approval process being used only when antitrust immunity is sought by the agreement's proponents.[2]

On Parts II and III, involving antitrust immunity and future Commission regulation, the full range of issues raised in the Notice and in the responses as reflected in the Synopsis may be addressed. In light of the likely passage of the Shipping Act of 1984, participants in the oral hearings may wish to address the implementation of the new legislation as it affects port and marine terminal operators.

While participation at hearings is not mandatory, it is hoped that the parties who provided written responses to the Notice will take the opportunity to expound on and answer questions concerning their submissions and to respond to those of the other parties. Interested parties are urged to arrange the date and time in which they wish to address the Inquiry Officer at their regional hearing. The Inquiry Officer's address and telephone number is set forth above in the headings of this Notice.

Finally, additional written submissions (original and 15 copies) will be accepted until May 14, 1984, which is 30 days after the close of the final oral hearings. Additional Written comments are not necessarily solicited, but this opportunity is provided for those who wish to respond in writing to prior written and oral comments, and also for the benefit of those who lacked the time or resources to respond as they would have liked by the December 12, 1983 deadline for initial comments.

Robert Setrakian,

Inquiry Officer.

[FR Doc. 84-4632 Filed 2-21-84; 8:45 am]

BILLING CODE 6730-01-M

[2] "Class 4" exemptions and Question 9 of the Inquiry need not be addressed further.

DEPARTMENT OF COMMERCE

48 CFR Ch. 13

Aquisition Regulations; Establishment of Chapter

AGENCY: Department of Commerce.

ACTION: Proposed rule.

SUMMARY: The Department of Commerce (DOC) issues this proposed rule to be known as the Commerce Acquisition Regulation (CAR). This proposed rule would be codified as Chapter 13 of Title 48 of the Code of Federal Regulations. The purpose of the CAR is to implement and supplement the Federal Acquisition Regulation (FAR) which has been separately promulgated by the General Services Administration, Department of Defense, and National Aeronautics and Space Administration as Chapter 1 of Title 48 of the Code of Federal Regulations. The FAR was published in the September 19, 1983 issue of the **Federal Register**. The FAR is promulgated as the uniform, simplified acquisition regulation called for by Executive Order 12352, Federal Procurement Reforms.

The FAR will supersede the Defense Acquisition Regulation, the Federal Procurement Regulations, and the National Aeronautics and Space Administration Procurement Regulation. Civilian agency implementations of the Federal Procurement Regulations will become obsolete as a result of the promulgation of the FAR. For this reason, the Department of Commerce Procurement Regulations (DOCPR), codified as Chapter 13 of Title 41 of the Code of Federal Regulations, and all related implementation and supplementation thereof will be superseded by the final rule expected to result from this proposed rule, upon the effective date of the final rule.

The intended effect of the FAR is to simplify the Federal procurement process by adopting a uniform regulation for all agencies. The uniform regulation will eliminate the confusion caused contractors by differing policies among the various Federal agencies. The intended effect of the CAR is to implement the FAR where required and to supplement the FAR in areas where thee is no FAR coverage of Commerce unique policy.

DATE: To be considered, written comments should be submitted not later than March 23, 1984.

ADDRESS: Comments should be addressed to: Hugh L. Brennan, Director, Procurement and Federal Assistance, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C. 20230.

FOR FURTHER INFORMATION CONTACT: John Dammeyer, Office of Procurement Management, U.S. Department of Commerce (202) 377–4248.

SUPPLEMENTARY INFORMATION:

I. Background
II. Procedural Requirements
A. Executive Order 12291
B. Regulatory Flexibility Act
C. Paperwork Reduction Act
D. National Environmental Policy Act
III. Public Comments

I. Background

The policies and procedures of the Federal government regarding the procurement of supplies and services have been developed in a largely independent fashion. Many statutes bearing on Federal contracting have been directed toward specific agencies. Federal agencies have traditionally developed their own contracting procedures with limited attention to uniformity among agencies. The result of this is a system of procurement policies which vary from agency to agency and cause confusion within the contracting community. In 1972, the Commission on Government Procurement recommended that there be a standard Government-wide procurement regulatory system. The Office of Federal Procurement Policy, created in 1974, has worked with the agencies and the public to create a uniform procurement regulation to be known as the Federal Acquisition Regulation (FAR).

The FAR is to be codified as Chapter 1 of Title 48 of the Code of Federal Regulations with a scheduled effective date of April 1, 1984. The FAR was published in the September 19, 1983, edition of the **Federal Register.**

Because of differing statutory authorities among Federal agencies and because as a practical matter the FAR cannot contain all the procedural details of how to implement a particular policy, the FAR authorizies the agencies to issue implementing regulations. The regulations promulgated here represent the Department's necessary implementation and supplementation of the FAR.

Lack of coverage of a particular topic in the CAR means that the Department accepts the FAR coverage of the topic without need for further implementation.

II. Procedural Requirements

A. Executive Order 12291

This proposed rule is exempt from the provisions of Executive Order 12291. The application of this exemption to this

proposed rule has been agreed to by the Office of Management and Budget.

B. Regulatory Flexibility Act

DOC certifies that this proposed rule will not have a significant economic impact on a substantial number of small entitities and, therefore, no regulatory flexibility analysis has been prepared.

C. Paperwork Reduction Act

The information collection and recordkeeping requirements imposed on the public by this proposed rulemaking will be requested of the Office of Management and Budget (OMB) in accordance with section 3504(h) of the Paperwork Reduction Act of 1980, 44 U.S.C. 3501, et seq.

D. National Environmental Policy Act

DOC has concluded that promulgation of this rule would not represent a major Federal action having significant impact on the human environment under the National Environmental Policy Act (NEPA) of 1969 (42 U.S.C. 432 et. seq. 1976) and the regulations (40 CFR Parts 1500–1508) and therefore does not require an environmental impact statement or an environmental assessment pursuant to NEPA.

III. Public Comments

Interested person are invited to participate in this rulemaking by submitting comments on the proposed CAR to the address listed in the "**ADDRESS**" section of this notice. All comments received will be available for public inspection in Room 6414, Office of Procurement Management, U.S. Department of Commerce, 14th & Constitution Ave., NW, Washington, D.C., between the hours of 8:30 a.m. and 5:00 p.m., Monday through Friday, except federal holidays. All written comments received by March 23, 1984 will be considered prior to publication of the proposed amendment as a final rule.

Comments on the collection of information requirements contained in the proposed rule should be submitted to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attn: Tim Sprehe, Desk Officer for the Department of Commerce, Washington, D.C. 20503.

List of Subjects in 48 CFR Ch. 13

Governemnt procurement, Commerce acquisition regulations.

For the reasons set forth in the preamble, Title 48 of the Code of Federal Regulations is amended as set forth below.

Issued in Washington, D.C. February 16, 1984.

Hugh L. Brennan,

Director, Office of Procurement and Federal Assistance.

Title 48 of the CFR is amended by establishing Chapter 13 to read as follows:

CHAPTER 13—COMMERCE ACQUISITION REGULATION (CAR)

SUBCHAPTER A—GENERAL

Sec.
1301 General.
1302 Definitions of Words and Terms.
1303 Improper Business Practices and Personal Conflicts of Interest.
1305 Publicizing Contract Actions.

SUBCHAPTER B—ACQUISITION PLANNING

1307 Acquisition Planning.
1308 Required Sources of Supplies and Services.
1309 Contractor Qualifications.

SUBCHAPTER C—CONTRACTING METHODS AND CONTRACT TYPES

1313 Small Purchase and Other Simplified Purchase Procedures.
1314 Formal Advertising.
1315 Contracting by Negotiation.
1316 Types of Contracts.
1317 Special Contracting Methods.

SUBCHAPTER D—SOCIOECONOMIC PROGRAMS

1319 Small Business and Small Disadvantaged Business Concerns.
1322 Application of Labor Laws to Government Acquisitions.
1324 Protection of Privacy and Freedom of Information.
1325 Foreign Acquisition.

SUBCHAPTER E—GENERAL CONTRACTING REQUIREMENTS

1331 Contract Cost Principles and Procedures.
1332 Contract Financing.
1333 Disputes and Appeals.

SUBCHAPTER F—SPECIAL CATEGORIES OF CONTRACTING

1334 Major System Acquisition.
1336 Construction and Architect-Engineer Contracts.
1337 Service Contracting.

SUBCHAPTER G—CONTRACT MANAGEMENT

1342 Contract Administration.
1345 Government Property.

SUBCHAPTER H—CLAUSES AND FORMS

1352 Solicitation Provisions and Contract Clauses.
1353 Forms.

SUBCHAPTER A—GENERAL

PART 1301—GENERAL

Subpart 1301.1—Purpose, Authority, Issuance

1301.100 Scope of subpart.

Sec.
1301.101 Purpose.
1301.102 Authority.
1301.103 Applicability.
1301.104 Issuance.
1301.104–1 Publication and code arrangement.
1301.104–2 Arrangement of regulations.
1301.104–3 Copies.

Subpart 1301.2—Administration

1301.201–1 The two FAR councils.

Subpart 1301.3—Agency Acquisition Regulations

1301.301 Policy.
1301.303 Codification and public participation.

Subpart 1301.4—Deviations

1301.402 Policy.

Subpart 1301.5—Agency and Public Participation.

1301.501 Solicitation of agency and public views.

Subpart 1301.6—Contracting Authority and Responsibilities

1301.601 General.
1301.601–70 Responsibilities of Heads of Contracting Activities.
1301.601–71 Responsibilities of the Office of Procurement and Federal Assistance.
1301.603 Selection, appointment, and termination of appointment.
1301.603–70 Ratification, of unauthorized contract awards.
1301.603–71 Responsibility of other Government personnel.

Authority: Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 486(c)), as delegated by the Secretary of Commerce in Department Organization Order 10–5 and Department Administrative Order 208–2.

Subpart 1301.1—Purpose, Authority, Issuance

1301.100 Scope of subpart.

This subpart states the relationship of the Commerce Acquisition Regulation (CAR) to the Federal Acquisition Regulation (FAR). This subpart also explains the purpose, authority and issuance of the CAR.

1301.101 Purpose.

(a) Chapter 13 of Title 48 of the Code of Federal Regulations shall be known as the Commerce Acquisition Regulation (CAR).

(b) The purpose of the CAR is to implement and supplement the FAR within the Department of Commerce. Since the CAR is intended to supplement and implement the FAR without paraphrasing or duplicating FAR language, the CAR should be read in relation to the FAR.

1301.102 Authority.

The CAR is prescribed by the Department Procurement Executive pursuant to a delegation initiating from the Secretary of Commerce in accordance with the Federal Property and Administrative Services Act of 1949, as amended, and other applicable law and regulation.

1301.103 Applicability.

The FAR and CAR apply to all acquisitions within the Department of Commerce.

1301.104 Issuance.

1301.104–1 Publication and code arrangement.

(a) The CAR is published in (1) daily issues of the Federal Register, (2) cumulative form in the Code of Federal Regulations (CFR), and (3) a separate loose-leaf edition.

(b) The CAR is issued as Chapter 13 of title 48 of the CFR.

1301.104.2 Arrangement of regulations.

(a) *General.* The CAR is divided into the same parts, subparts, sections, subsections and paragraphs as the FAR. When FAR coverage is adequate by itself, there will be no corresponding CAR coverage.

(b) *Numbering.* Where the CAR implements the FAR, the CAR part, subpart, section or further subdivision will be numbered the same as the corresponding FAR part, subpart, section, or further subdivision except that the CAR implementation will be preceded by a 13 or 130 so that there are four numbers to the left of the first decimal. Where the CAR supplements the FAR, supplementing material will be assigned the number 70 and above. The placement of the sequence of 70 numbers in relation to the decimal point will depend on what division of the FAR is supplemented.

(c) *References and citations.*

(2) This regulation may be referred to as the Commerce Acquisition Regulation (CAR).

(3) References to FAR materials will include FAR and the identifying number, for example, FAR 1.402. Reference to CAR materials will consist of the identifying number, for example 1301.402.

1301.104–3 Copies.

(a) Copies of the CAR in Federal Register or CFR form may be purchased from the Superintendent of Documents, Government Printing Office (GPO), Washington, D.C. 20402. Requests should reference the CAR as Chapter 13 of Title 48 of the Code of Federal Regulations.

(b) Loose-leaf copies of the CAR are distributed within the Department by the Office of Procurement Management, Office of Procurement and Federal Assistance.

Subpart 1301.2—Administration

1301.201–1 The two FAR councils.

(b) The Department representative to the Civilian Agency Acquisition Council will be a staff member of the Office of Procurement and Federal Assistance who will be appointed for that purpose by the Procurement Executive. The Office of Procurement and Federal Assistance (OPFA) will be responsible for coordinating and advocating Department proposed revisions to the FAR.

Subpart 1301.3—Agency Acquisition Regulations

1301.301 Policy.

(a) The Procurement Executive will issue Department acquisition policy and procedure in the CAR when necessary to implement or supplement the FAR.

(b) The Office of Procurement and Federal Assistance may issue internal Department guidance in the form of Procurement Letters, policy manuals, or model operating procedures.

(c) Heads of Contracting Activities may issue internal operating procedures for their contracting activities. These internal operating procedures may include routine office procedures, procedures which implement policy prescribed by the Office of Procurement and Federal Assistance, and the dissemination of guidance or information to program officials who may be affected by the policy. Heads of Contracting Activities shall not prescribe policy and shall not issue any procedures which appear to be in conflict with policy issued by the Office of Procurement and Federal Assistance.

1301.303 Codification and public participation.

(a) The CAR is published as Chapter 13 of Title 48 of the Code of Federal Regulations.

(b) Public participation procedure is described in 1301.5.

Subpart 1301.4—Deviations

1301.402 Policy.

Requests for authority to deviate from the provisions of the FAR or the CAR shall be submitted to the Office of Procurement and Federal Assistance as soon as the need to deviate is known. Requests shall be in writing and reasonably describe the deviation desired, the reason for the deviation, and the time by which a decision is needed. When timing is crucial, the written request should be preceded by a telephone request to the Office of Procurement and Federal Assistance. Requests for both individual deviations and class deviations shall be considered and decided upon by the Procurement Executive. When requests are received for class deviations from FAR provisions, the Procurement Executive shall consult with the chairperson of the Civilian Agency Acquisition Council. (see FAR 1.404). Individuals responsible for unauthorized deviations may be considered for disciplinary action as described in the Department Administrative Order On *Discipline* (DAO 202–751).

Subpart 1301.5—Agency and Public Participation

1301.501 Solicitation of agency and public views.

The initial CAR was published with a notice of proposed rulemaking inviting public comments, review and analysis of comments received, and publication of a final rule. The final rule included a discussion of the public comments received and described any changes made as a result of the comments. A future issuance under this title may or may not require publication for public participation, depending on whether the issuance is a significant revision of the FAR which alters the substantive meaning of any coverage in the FAR having a substantive impact on the public. Each future issuance will be considered on a case-by-case basis. If a future issuance is determined by the Procurement Executive to be a significant revision of the FAR, that issuance shall be published for public participation. Any issuance under this title shall be done by or with the concurrence of the Office of Procurement and Federal Assistance.

Subpart 1301.6—Contracting Authority and Responsibilities

1301.601 General.

Contracting authority vests with the Secretary of Commerce. The Secretary has delegated this authority to the Assistant Secretary for Administration who has delegated this authority, with the right to redelegate, to the Procurement Executive, as prescribed in the Department Administrative Order on *Procurement Authority* (DAO 208–2).

1301.601–70 Responsibilities of heads of contracting activities.

Heads of Contracting Activities shall be responsible for directing and

maintaining efficient contract operations within their contracting activities. Adequate controls shall be established to assure compliance with applicable laws, regulations, and policy guidance from the Office of Procurement and Federal Assistance. Heads of Contracting Activities shall provide the necessary coordination and cooperation required for periodic oversight reviews conducted by the Office of Procurement and Federal Assistance.

1301.601-71 Responsibilities of the Office of Procurement and Federal Assistance.

The Office of Procurement and Federal Assistance shall establish Department-wide policy for contracting activities. Also, the Office of Procurement and Federal Assistance shall conduct periodic oversight reviews of Department contracting activities to assure that Department contracting activities are operating efficiently and in accordance with the provisions of the FAR, the CAR, and OPFA policy.

1301.603 Selection, appointment, and termination of appointment.

The Department's system for selection, appointment and termination of appointment of contracting officers is contained in the *Contracting Officer Certification/Warrant Program.*

1301.603-70 Ratification of unauthorized contract awards.

(a) The Department is not bound by any formal or informal type of agreement or contractual commitment which is made by persons who are not delegated contracting authority. When these unauthorized acts are discovered they shall be immediately reported to the Head of the Contracting Activity concerned. The Head of the Contracting Activity shall:

(1) Immediately inform any person who is performing work as a result of an unauthorized commitment that the work is being performed at that person's risk;

(2) Inform the person who made the unauthorized commitment of the seriousness of the act and the possible consequences;

(3) Ensure receipt of documentation detailing the actions taken and the reasons for those actions; and

(4) Decide whether ratification of the unauthorized act is proper, and take appropriate action.

1301.603-71 Responsibility of other Government personnel.

The responsibility of other Government personnel is generally described in the Department's procurement requisitioning guides and the Department Administrative Order on the *Procurement Planning System* (DAO 208-15). These documents are designed for internal Department use.

PART 1302—DEFINITIONS OF WORDS AND TERMS

Subpart 1302.1—Definitions

1302.1-1 Definitions.

Acquisition Executive: The Acquisition Executive, as defined in OMB Circular A-109, means the Assistant Secretary for Administration. The Acquisition Executive monitors the development of major systems and reviews their progress through the major systems acquisition process.

Department: When used in the CAR, Department means the Department of Commerce.

Head of the Agency means the Secretary of Commerce and those designees which have been delegated the authority to act for the Secretary of Commerce in specifically delegated areas. The head of the agency for procurement matters is the Assistant Secretary for Administration. This authority for procurement matters has been further delegated to the Procurement Executive pursuant to the Department Administrative Order on *Procurement Authority* (DAO 208-2). Where the term "Agency head or designee" is used, that term shall mean the Procurement Executive unless otherwise indicated in the CAR.

Head of the contracting activity means the official who has overall responsibility for managing the contracting activity, as more fully described in the Department Administrative Order on *Procurement Authority* (DAO 208-2).

Head of the contracting office means the official who heads the office that awards and administers contracts, as more fully described in the Department Administrative Order on *Procurement Authority* (DAO 208-2).

Procurement Executive means the official delegated broad procurement authority under the Department Administrative Order on *Procurement Authority* (DAO 208-2). Duties of the Procurement Executive include the following:

(a) Prescribe and publish Department procurement policies, regulations and procedures;

(b) Enter into, make determinations and decisions and take other actions, consistent with appropriate policies, regulations and procedures with respect to purchases, contracts, leases, sales, agreements and other transactions, except those required by law or regulation to be made by other authority;

(c) Designate contracting officers and representatives thereof;

(d) Establish clear lines of contracting authority;

(e) Exercise priorities authority concerning the internal procurement needs of the Department, in accordance with the provisions of the Defense Production Act of 1950 (50 U.S.C. App. 2071, et seq.), Department of Defense Delegation of Priorities Authority, dated October 21, 1958, and applicable policies and regulations;

(f) Evaluate and monitor the Department's procurement system performance;

(g) Manage and enhance career development of the procurement work force;

(h) Examine, in coordination with the OFPP, the procurement system to determine specific areas where Government-wide performance standards should be established and applied and participate in the development of Government-wide procurement policies, regulations and standards;

(i) Determine areas for Department unique standard and develop unique Department-wide standards;

(j) Be the advocate for competition; and

(k) Certify to the Department head that the procurement system meets approved standards.

(Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 486(c)), as delegated by the Secretary of Commerce in Department Organization Order 10-5 and Department Administrative Order 208-2).

PART 1303—IMPROPER BUSINESS PRACTICES AND PERSONAL CONFLICTS OF INTEREST

Subpart 1303.1—Safeguards

Sec.
1303.101-3 Agency regulations.

Subpart 1303.2—Contractor Gratuities to Government Personnel

1303.203 Reporting procedures.

Subpart 1303.3—Reports of Identical Bids and Suspected Antitrust Violations

1303.302-70 Reporting requirements.

Subpart 1303.4—Contingent Fees

1303.409 Misrepresentations or violations of the Covenant Against Contingent Fees.

Subpart 1303.5—Other Improper Business Practices

1303.502 Subcontractor kickbacks.

Authority: Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 486(c)), as delegated by the Secretary of Commerce in Department

Organization Order 10-5 and Department Administrative Order 208-2.

Subpart 1303.1—Safeguards

1303.1—Safeguards

1303.101-3 Agency regulations.

The agency rules implementing Executive Order 11222 are contained in the Department Administrative Order on *Employee Responsibilities and Conduct* (DAO 202-735).

Subpart 1303.2—Contractor Gratuities to Government Personnel

1303.203 Reporting procedures.

Suspected violations of the Gratuities clause shall be reported to the head of the contracting office in writing detailing the circumstances. The head of the contracting office will evaluate the report and if the allegations appear to support a violation the matter will be referred to the Procurement Executive for disposition.

Subpart 1303.3—Reports of Identical Bids and Suspected Antitrust Violations

1303.302-70 Reporting requirements.

(a) Executive Order 12430 revoked the requirement of Executive Order 10936 to submit a report to the Attorney General on identical bids.

(b) Suspected anti-competitive practices and antitrust law violations as described in FAR 3.301 and FAR 3.303 shall be reported to the general counsel through the Head of the Contracting Activity. A copy of the report shall be sent to the Procurement Executive concurrently with the submission to the general counsel.

Subpart 1303.4—Contingent Fees

1303.409 Misrepresentations or violations of the Covenant Against Contingent Fees.

Suspected violations of the Covenant Against Contingent Fees shall be reported to the Office of Inspector General in accordance with the Department Administrative Order on *Inspector General Investigations* (DAO 207-10).

Subpart 1303.5—Other Improper Business Practices

1303.502 Subcontractor kickbacks.

Suspected violations of the Anti-Kickback Act shall be reported to the Office of Inspector General in accordance with the Department Administrative Order on *Inspector General Investigations* (DAO 207-10).

PART 1305—PUBLICIZING CONTRACT ACTIONS

Subpart 1305.5—Paid Advertisements

1305.502 Authority.

The authority to approve the publication of paid advertisements in newspapers was delegated to the heads of contracting offices.

(Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 486 (c)), as delegated by the Secretary of Commerce in Department Organization Order 10-5 and Department Administrative Order 208-2.)

Subchapter B—Acquisition Planning

PART 1307—ACQUISITION PLANNING

Subpart 1307.1—Acquisition Plans

Sec.
1307.103 Agency-head responsibilities.

Subpart 1307.3—Contractor Versus Government Performance

1307.307 Appeals.

Subpart 1307.4—Equipment Lease or Purchase

1307.401 Acquisition consideration.

Authority: Federal Property and Administrative Service Act of 1949, as amended (40 U.S.C. 486 (c)), as delegated by the Secretary of Commerce in Department Organization Order 10-5 and Department Administrative Order 208-2.

Subpart 1307.1—Acquisition Plans

1307.103 Agency-head responsibilities.

The Department's procedures for acquisition planning are contained in the Department Administrative Order on the *Procurement Planning System* (DAO 208-15) and the Department Administrative Order on *Management of Automatic Data Processing Resources* (DAO 212-1).

Subpart 1307.3—Contractor Versus Government Performance

1307.307 Appeals.

The Department's appeals procedures of the cost-comparison is contained in the Department Administrative Order on the *Acquisition of Commercial or Industrial Products and Services Needed by the Department of Commerce* (DAO 201-41).

Subpart 1307.4—Equipment Lease or Purchase

1307.401 Acquisition considerations.

The contracting officer shall decide whether to acquire equipment by lease or purchase.

PART 1308—REQUIRED SOURCES OF SUPPLIES AND SERVICES

Subpart 1308.1—Excess Personal Property

Sec.
1308.101 Definition.

Subpart 1308.8—Acquisition of Printing and Related Services

1308.802 Policy.

Authority: Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 486 (c)), as delegated by the Secretary of Commerce in Department Organization Order 10-5 and Department Administrative Order 208-2.

Subpart 1308.1—Excess Personal Property

1308.101 Definition.

The authority to designate personal property as excess is delegated to the Director of the Office of Property and Building Management or designee.

Subpart 1308.8—Acquisition of Printing and Related Services

1308.802 Policy.

The Director of the Office of Information Services is central printing authority for liaison with the Joint Committee on Printing and the Public Printer.

PART 1309—CONTRACTOR QUALIFICATIONS

Subpart 1309.4—Debarment, Suspension and Ineligibility

Sec.
1309.403 Definitions.
1309.470 Procedures for debarment, suspension and ineligibility.
1309.470-1 Scope of section.
1309.470-2 Consolidated list of debarred, suspended, and ineligible contractors.
1309.470-3 Agency records.
1309.470-4 Procedures on debarment.
1309.470-5 Period of debarment.
1309.470-6 Scope of debarment.
1309.470-7 Procedures on suspension.
1309.470-8 Period of suspension.
1309.470-9 Scope of suspension.

Authority: Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 486 (c)), as delegated by the Secretary of Commerce in Department Organization Order 10-5 and Department Administrative Order 208-2.

Subpart 1309.4—Debarment, Suspension and Ineligibility

1309.403 Definitions.

"Debarring official" means the Procurement Executive.

"Suspension official" means the Procurement Executive.

1309.470 Procedures for debarment, suspension and ineligibility.

1309.470–1 Scope of section.

This section prescribes Department procedures for: (a) Distribution, use and maintenance of GSA's consolidated list of debarred, suspended, and ineligible contractors; and (b) debarment and suspension of Government contractors.

1309.470–2 Consolidated list of debarred, suspended, and ineligible contractors.

The following procedures apply to GSA's consolidated list of debarred, suspended, and ineligible contractors:

(a) The Procurement Executive shall notify GSA of any Department imposed debarments or suspensions of a contractor or any modification or rescission of these actions.

(b) GSA's consolidated list shall be distributed to the Department contracting activities by the Office of Small and Disadvantaged Business Utilization (OSDBU).

(c) Preliminary and ordinary inquiries concerning GSA's consolidated list should be made from the contracting office to the agency or authority which took the action. When unique or complex matters are concerned, the contracting office shall also inform the Office of Procurement and Federal Assistance.

(d) Personnel in all contracting offices should be familiar with GSA's consolidated list and all updates.

1309.470–3 Agency records.

The Office of Small and Disadvantaged Business Utilization (OSDBU) shall maintain records relating to each suspension or debarment action taken by the Department.

1309.470–4 Procedures on debarment.

(a) *Investigation and referral.* Personnel in all contracting offices shall be familiar with the causes for debarment (FAR 9.406–2) and shall be alert to information which indicates that a contractor (to which the Department plans to award a contract) has committed an action which is a cause for debarment. If a contractor not on the list has committed an action which is a cause for debarment, heads of contracting offices shall determine which other agencies award contracts to this firm and if any of these agencies have initiated, or plan to initiate debarment actions.

(1) If another agency is considering debarment, the Head of the Contracting Activity shall promptly report this fact and recommend action to the Procurement Executive after discussions with general counsel. Within 30 days after receipt of notice, the Procurement Executive shall decide whether it is necessary for the Department to proceed with a debarment action.

(2) If another agency is not considering debarment, the Head of the Contracting Activity shall promptly report this fact and recommend action to the Procurement Executive after discussions with general counsel. The Head of the Contracting Activity shall attach all available documenting evidence to support the recommendation. The mere existence of a cause for debarment does not require that a contractor be debarred. The seriousness of the contractor's acts or omissions and any mitigating factors shall be considered in recommendations for action and any debarment decision.

(b) *Decision making process.* Upon receipt of a debarment recommendation, the Procurement Executive shall review all available evidence and shall promptly determine whether or not to proceed with debarment. The Procurement Executive may refer the matter to the Office of Inspector General for further investigation. After completion of any additional review or investigations, the Procurement Executive shall make a written determination. A copy of this determination shall be promptly sent to the initiating contracting office. (See FAR 9.406–3(b).)

(c) Notice of proposal to debar (See FAR 9.406–3(c).)

(d) Debarring official's decision (See FAR 9.406–3(d).)

(e) Notice of debarring official's decision (See FAR 9.406–3(e).)

1309.470–5 Period of debarment.

(See FAR 9.406–4.)

1309.470–6 Scope of debarment.

(See FAR 9.406–5.)

1309.470–7 Procedures on suspension.

(a) *Investigation and referral.* Heads of contracting offices may recommend suspension of a firm or individual based on the causes for suspension listed in FAR 9.407–2. The procedures for investigation and referral of suspension are the same as those contained in 1309.470–4(a). When using that subsection for suspension procedures, substitute the word "suspension" for the word "debarment".

(b) *Decision making process.* Procedures for the decision making process of suspensions are the same as those contained in 1309.470–4(b) except that an initial decision by the Procurement Executive regarding debarment results in a proposal to debar, whereas the initial decision for suspension results in immediate suspension. (See FAR 9.407–3(b).)

(c) Notice of suspension (See FAR 9.407–3(c).)

(d) Suspending official's decision (See FAR 9.407–3(d).)

1309.470–8 Period of suspension.

(See FAR 9.407–4.)

1309.470–9 Scope of suspension.

(See FAR 9.407–5.)

SUBCHAPTER C—CONTRACTING METHODS AND CONTRACT TYPES

PART 1313—SMALL PURCHASE AND OTHER SIMPLIFIED PURCHASE PROCEDURES

Subpart 1313.1—General

1313.106–70 Technical evaluation and written or oral discussion procedure for negotiated small purchases.

Authority: Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 486(c)), as delegated by the Secretary of Commerce in Department Organization Order 10–5 and Department Administrative Order 208–2.

Subpart 1313.1—General

1313.106–70 Technical evaluation and written or oral discussion procedure for negotiated small purchases.

(a) *Technical evaluation.* A technical evaluation may be requested for negotiated small purchases, at the discretion of the contracting officer. The manner and extent of the technical evaluation shall be determined by the contracting officer, except that the technical evaluation shall not be as formal or as extensive as required for procurements above the small purchase dollar threshold.

(b) *Written or oral discussions.* Written or oral discussions may be conducted with all qualified sources which submit quotations for negotiated small purchases. The contracting officer shall determine the manner, extent, and need for written or oral discussions, except that discussions shall not be as formal or as extensive as required for procurements above the small purchase dollar threshold.

PART 1314—FORMAL ADVERTISING

Subpart 1314.4—Opening of Bids and Award of Contract

1314.406–3 Other mistakes disclosed before award.
1314.407–8 Protests against award.

Authority: Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 486(c)), as delegated by the Secretary of Commerce in Department Organization Order 10–5 and Department Administrative Order 208–2.

Subpart 1314.4—Opening of Bids and Award of Contract

1314.406–3 Other mistakes disclosed before award.

(e) The authority to make the determinations listed in FAR 14.406–3(e) concerning mistakes in bids was delegated to the Heads of Contracting Activities.

1314.407–8 Protests against award.

(a) *General.*

(1) Protests must be received within ten working days after the basis for protest is known or should have been known unless good cause is shown to extend the time limit. However, protests based upon alleged improprieties in any type of solicitation which are apparent prior to bid opening or the closing time for receipt of initial proposals shall be filed prior to bid opening or the closing time for receipt of initial proposals.

(2) The Department-wide contact point for protests to GAO against an award of a contract is the Office of the Assistant General Counsel for Administration. This office shall represent the Department before the GAO on protests against award. This office shall furnish all necessary correspondence concerning protests to GAO, including the Department's report in response to the protest to GAO.

(b) *Protests before award.* The head of the contracting office is the designated official to approve award of a contract before a protest against award is resolved.

PART 1315—CONTRACTING BY NEGOTIATION

Subpart 1315.3—Determinations and Findings to Justify Negotiation

1315.307 Signatory authority.

Subpart 1315.4—Solicitation and Receipt of Proposals and Quotations

1315.413–2 Alternate II.

Subpart 1315.5—Unsolicited Proposals

1315.501 Definitions.
1315.504 Advance guidance.
1315.506 Agency procedures.

Subpart 1315.6—Source Selection

1315.612 Formal source selection.

Subpart 1315.8—Price Negotiation

1315.804–3 Exemptions from or waiver of submission of certified cost or pricing data.
1315.805–70 Audit as an aid in proposal analysis.

Subpart 1315.9—Profit

1315.902 Policy.

Authority: Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 486(c)), as delegated by the Secretary of Commerce in Department Organization Order 10–5 and Department Administrative Order 208–2.

Subpart 1315.3—Determinations and Findings to Justify Negotiation

1315.307 Signatory authority.

Determinations and findings for contracts negotiated under 41 U.S.C. 252(c)(11) shall be signed by the Assistant Secretary for Administration when more than $25,000 will be obligated. Determinations and findings for contracts negotiated under 41 U.S.C. 252(c)(11) which obligate $25,000 or less may be signed by the head of the contracting office.

Subpart 1315.4—Solicitation and Receipt of Proposals and Quotations

1315.413–2 Alternate II.

The procedures described in FAR 15.413–2 may be used if approved by the Head of the Contracting Activity or designee.

Subpart 1315.5—Unsolicited Proposals

1315.501 Definitions.

"Coordinating office" means the head of the contracting office.

1315.504 Advance guidance.

(a) All Department employees should encourage inquiries on Department missions, needs and methods of operation and refer inquiries to the program office concerned with the subject matter of the inquiry. Any inquiry which could reasonably lead to a procurement action should be promptly coordinated with the appropriate head of the contracting office.

(b) When it appears that a person or firm is interested in making a proposal, that person or firm should be referred to the head of the contracting office concerned who will provide instructions for submission of an unsolicited proposal.

(c) Heads of contracting offices shall provide instructions for submission of unsolicited proposals to each person or firm which expresses an interest in submitting an unsolicited proposal.

1315.506 Agency procedures.

(a) The head of the contracting office is the contact point to coordinate the receipt and handling of unsolicited proposals.

(b) The head of the contracting office shall promptly acknowledge receipt of unsolicited proposals by letter.

(c) The head of the contracting office shall comply with FAR 5.509 concerning the limited use of data.

(d) Promptly after receipt of an unsolicited proposal which conforms to this regulation, the head of the contracting office shall forward a copy of the proposal along with instructions for technical evaluation of unsolicited proposals to the appropriate program office for technical evaluation. If more than one Department activity has an interest in a proposal, copies of the proposal shall be circulated to each interested office.

(e) Program offices receiving unsolicited proposals for evaluation shall conduct the evaluation in accordance with this Subpart 1315.5, FAR Subpart 15.5, and any additional guidance provided by the Office of Procurement and Federal Assistance.

(f) Program offices shall complete the recommendation and evaluations and submit them along with all copies of the unsolicited proposal, and a written justification for a noncompetitive procurement action if appropriate, to the head of the appropriate contracting office within 60 days of receipt of a proposal for evaluation.

(g) No part of an unsolicited proposal shall be duplicated or circulated outside of the evaluation office. Each unsolicited proposal shall be closely safeguarded to prevent disclosure of any restricted data. Only heads of contracting offices or their designees may duplicate unsolicited proposals and then only to facilitate evaluation by more than one technical evaluation office.

Subpart 1315.6—Source Selection

1315.612 Formal Source selection.

(e) *Safeguarding information.* The contracting officer is designated as the releasing authority for source selection information.

Subpart 1315.8—Price Negotiation

1315.804–3 Exemptions from or waiver of submission of certified cost or pricing data.

(i) *Waiver for exceptional cases.* The head of the contracting office is delegated the authority to waive the requirement for submission of certified cost or pricing data in exceptional cases.

1315.805–70 Audit as an aid in proposal analysis.

(a) Preaward audit services include:

(1) The submission of an auditor's report which sets forth the results of review and analysis of cost data submitted by contractors as part of their pricing proposals, reviews of contractors' accounting systems, recorded contract costs, and other related matters; and

(2) Personal consultation and advice regarding the use of the auditor's report in the negotiation and award of a contract.

(b) Requests for audit services should be sent to the External Audit Division, Office of Inspector General, Herbert C. Hoover Building.

(c) Preaward audits should not be routinely requested for actions below the dollar threshold specified in FAR 15.805–5. Before requesting audits below the dollar threshold, the contracting office should consider using price or cost analysis techniques, recent audit reports, price negotiation memoranda, and other relevant information regarding the offer to establish the reasonableness of price. However, audits should be considered for proposals below the specified dollar thresholds in the following circumstances:

(1) The contracting officer has reason to doubt the adequacy of the contractor's accounting policies or cost systems;

(2) The contractor has substantially changed its methods or levels of operation;

(3) Previous unfavorable experience indicates that the contractor's estimating, accounting, or purchasing methods may be unreliable; or

(4) The proposal concerns a new product for which cost experience is lacking.

Subpart 1315.9—Profit

1315.902 Policy.

(a) Except as provided in (b) and (c) below, a structured approach for determining profit or fee prenegotiation objectives shall be used in the negotiation of all contracts, subcontracts, and contract modifications above $100,000 where adequate price competition does not exist. A structured approach for determining profit or fee prenegotiation objectives may be used at lower dollar thresholds.

(b) Regardless of whether price competition exists, the structured approach for determining profit or fee prenegotiation objectives is not required for negotiation of contracts, subcontracts, and contract modifications for the following:

(1) Architect—engineering contracts;

(2) Management contracts for operation or maintenance of Government facilities;

(3) Construction contracts;

(4) Contracts primarily requiring delivery of material supplied by subcontractors;

(5) Termination settlements;

(6) Cost-plus-award-fee contracts; and

(7) Unusual pricing situations where the structured approach has been determined to be unsuitable. This exception must be justified in writing and signed by the head of the contracting office.

(c) In many circumstances, an examination of cost and profits is not required. Where adequate price competition exists and in other situations where cost analysis is not required (e.g., established catalog or market prices of commercial items sold in substantial quantities to the general public or prices set by law or regulation), contracts may be awarded without regard to the amount of profit involved.

(d) Additional internal instruction on the use of the structured approach can be found in Procurement Letters or policy manuals issued by the Office of Procurement and Federal Assistance.

PART 1316—TYPES OF CONTRACTS

Subpart 1316.3—Cost-Reimbursement Contracts

1316.306 Cost-plus-fixed-fee contracts.

Subpart 1316.4—Incentive Contracts

1316.404–2 Cost-plus-award-fee contracts.

Subpart 1316.6—Time-and-Materials, Labor-Hour, and Letter Contracts

1316.603–3 Limitations.

Authority: Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 486(c)), as delegated by the Secretary of Commerce in Department Organization Order 10–5 and Department Administrative Order 208–2.

Subpart 1316.3—Cost-Reimbursement Contracts

1316.306 Cost-plus-fixed-fee contracts.

The contracting officer is delegated the authority to sign a determination and findings establishing the basis for application of the statutory fee limitation.

Subpart 1316.4—Incentive Contracts

1316.404–2 Cost-plus-award-fee contracts.

(d) *Fee determination plans.* The award fee determination plan shall include both technical performance (including scheduling as appropriate) and business management consideration tailored to the needs of the particular situation. The goals and evaluation criteria should be results-oriented. The award fee should concentrate on the end product of the contract. However, equal employment opportunity, small business programs, and functional management areas, such as safety and security, cannot be disregarded and may be appropriately part of the criteria upon which to base the award fee. Specific goals or objectives should be established in relation to each performance evaluation criterion against which contractor performance is measured.

Subpart 1316.6—Time-and-Materials, Labor-Hour, and Letter Contracts

1316.603–3 Limitations.

The head of the contracting office is the designated official for executing a determination and findings that no contract other than a letter contract is suitable.

PART 1317—SPECIAL CONTRACTING METHODS

Subpart 1317.4—Leader Company Contracting

1317.402 Limitations.

Subpart 1317.5—Interagency Acquisitions Under the Economy Act

1317.502 General.

Authority: Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 486(c)), as delegated by the Secretary of Commerce in Department Organization Order 10–5 and Department Administrative Order 208–2.

Subpart 1317.4—Leader Company Contracting

1317.402 Limitations.

Leader company contracting is authorized by the Department only when approved in writing by the Procurement Executive.

Subpart 1317.5—Interagency Acquisitions Under the Economy Act

1317.502 General.

The head of the contracting office is delegated the authority to determine if it is in the Government's interest to place orders for supplies or services with another agency.

Subchapter D—Socioeconomic Programs

PART 1319—SMALL BUSINESS AND SMALL DISADVANTAGED BUSINESS CONCERNS

Subpart 1319.2—Policies

1319.201 General policy.

(c) The Director of the Office of Small and Disadvantaged Business Utilization (OSDBU) is responsible for administering the Department's small and small disadvantaged business programs.

(d) The Head of the Contracting Activity or designee shall appoint a small business and disadvantaged

business specialist for the contracting activity concerned.

(Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 486(c)), as delegated by the Secretary of Commerce in Department Organization Order 10–5 and Department Administrative Order 208–2.)

PART 1322—APPLICATION OF LABOR LAWS TO GOVERNMENT ACQUISITIONS

Subpart 1322.1—Basic Labor Policies

1322.103–4 Approvals.

Subpart 1322.6—Walsh-Healey Public Contracts Act

1322.608–4 Award pending final determination.

Authority: Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 486(c)), as delegated by the Secretary of Commerce in Department Organization Order 10–5 and Department Administrative Order 208–2.

Subpart 1322.1—Basic Labor Policies

1322.103–4 Approvals.

The contracting officer is the designated official for approving the total dollar amount and use of overtime for contract performance.

Subpart 1322.6—Walsh-Healey Public Contracts Act

1322.608–4 Award pending final determination.

If the contracting officer determines that award must be made before a determination of the offeror's eligibility as a manufacturer or regular dealer by DOL or SBA, that decision must be approved by the head of the contracting office.

PART 1324—PROTECTION OF PRIVACY AND FREEDOM OF INFORMATION

Subpart 1324.1—Protection of Individual Privacy

1324.103 Procedures.

Subpart 1324.2—Freedom of Information Act

1324.202 Policy.

Authority: Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 486(c)), as delegated by the Secretary of Commerce in Department Organization Order 10–5 and Department Administrative Order 208–2.

Subpart 1324.1—Protection of Individual Privacy

1324.103 Procedures.

(b)(2) The Department's procedures for implementing the Privacy Act are contained in 15 CFR COMMERCE AND FOREIGN TRADE, SUBTITLE A, Part 4b (Privacy Act) and the Department Administrative Order on *Implementing the Privacy Act of 1974* (DAO 205–15).

Subpart 1324.2—Freedom of Information Act

1324.202 Policy.

The Department's procedures for implementing the Freedom of Information Act (the Act) are contained in 15 CFR COMMERCE AND FOREIGN TRADE, SUBTITLE A, PART 4 (Public Information) and the Department Administrative Order on *Public Information* (DAO 205–12).

PART 1325—FOREIGN ACQUISITION

Subpart 1325.1—Buy American Act—Supplies

1325.102 Policy.

(a)(4) The contracting officer is authorized to make the written determination described by FAR 25.102(a)(4). If the contract is estimated to exceed $1 million, the Head of the Contracting Activity must approve the determination.

(Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 486(c)), as delegated by the Secretary of Commerce in Department Organization Order 10–5 and Department Administrative Order 208–2.)

Subchapter E—General Contracting Requirements

PART 1331—CONTRACT COST PRINCIPLES AND PROCEDURES

Subpart 1331.2—Contracts With Commercial Organizations

1331.205–32 Precontract costs.

The payment of precontract costs must be approved in writing by the Head of the Contracting Activity.

(Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 486(c)), as delegated by the Secretary of Commerce in Department Organization Order 10–5 and Department Administrative Order 208–2.)

PART 1332—CONTRACT FINANCING

Subpart 1332.1—General

1332.102 Description of contract financing methods.

Subpart 1332.4—Advance Payments

1332.402 General.

Subpart 1332.6—Contract Debts

1332.605 Responsibilities and cooperation among Government officials.

1332.616 Compromise actions.

Authority: Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 486(c)), as delegated by the Secretary of Commerce in Department Organization Order 10–5 and Department Administrative Order 208–2.

Subpart 1332.1—General

1332.102 Description of contract financing methods.

(e)(2) Progress payments based on a percentage or stage of completion are authorized for use as a payment method under Department contracts and subcontracts for construction, alteration, repair, ship construction, ship alteration, and ship repair. For all other contracts, progress payments shall be based on costs except when the head of the contracting office determines that progress payments based on costs cannot be practically employed. In those cases, progress payments based on a percentage or stage of completion may be authorized when the head of the contracting office also determines that adequate safeguards are provided for the administration of those payments.

Subpart 1332.4—Advance Payments

1332.402 General.

(e)(1) The Head of the Contracting Activity is delegated the authority to make findings and determinations and to approve contract terms concerning any advance payments, regardless of dollar amount.

(e)(2) Before authorizing advance payments, the Head of the Contracting Activity shall coordinate with the servicing finance office.

Subpart 1332.6—Contract Debts

1332.605 Responsibilities and cooperation among Government officials.

(b) The contracting officer has primary responsibility for determining the amount of contract debt and notifying the servicing finance office of the debt due to the Government. The servicing finance office has primary responsibility for debt collection and reporting of all contract debts under the Debt Collection Act of 1982.

1332.616 Compromise actions.

The Department's policy on compromise actions is contained in the Department Administrative Order on *Collection and Other Disposition of Claims of the United States* (DAO 203–23).

PART 1333—DISPUTES AND APPEALS

Subpart 1333.70—Department Board of Contract Appeals

1333.70–1 Department Board of Contract Appeals.

The General Services Administration (GSA) Board of Contract Appeals serves as the Board of Contract Appeals for the Department.

(Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 486(c)), as delegated by the Secretary of Commerce in Department Organization Order 10–5 and Department Administrative Order 208–2.)

Subchapter F—Special Categories of Contracting

PART 1334—MAJOR SYSTEM ACQUISITION

1334.003 Responsibilities.

(a) The Department's policy, procedures and responsibilities for implementing OMB Circular A–109 are contained in the Department Administrative Order on *Major System Acquisitions for the Department of Commerce* (DAO 208–3).

(b) When the Secretary approves a mission need, the Acquisition Executive shall designate the servicing contracting office for all phases of the major systems acquisition.

(c) Within 60 days after identification of the servicing contracting office, the program manager shall complete and submit the overall acquisition plan to the Acquisition Executive for approval. The servicing contracting office shall assist in developing the overall acquisition plan. The overall acquisition plan shall include for each of the major systems acquisition phases (i.e., exploration of alternative systems, competitve demonstrations, full-scale development and production) a schedule for completion of at least each of the following functions:

(1) Solicitation development in terms of mission need;

(2) Advance publicity for the initial, exploration phase;

(3) Issuance of requests for proposals (RFPs);

(4) Closing dates for RFPs; and

(5) Evaluation and award.

(d) The program manager shall submit all changes in the overall acquisition plan to the Acquisition Executive along with a written explanation of the need for each change. (See 1307.1 for acquisition planning, in general).

(Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 486(c)), as delegated by the Secretary of Commerce in Department Organization Order 10–5 and Department Administrative Order 208–2.)

PART 1336—CONSTRUCTION AND ARCHITECT-ENGINEER CONTRACTS

Subpart 1336.2—Special Aspects of Contracting for Construction

1336.209 Construction contracts with architect-engineer firms.

Subpart 1336.6—Architect-Engineer Services

1336.602–4 Selection authority.
1336.602–5 Short selection processes for contracts not to exceed $10,000.
1336.603 Collecting data on and appraising firms' qualifications.

Authority: Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 486(c)), as delegated by the Secretary of Commerce in Department Organization Order 10–5 and Department Administrative Order 208.2.

Subpart 1336.2—Special Aspects of Contracting for Construction

1336.209 Construction contracts with architect-engineer firms.

The head of the contracting office is delegated the authority to approve the exceptional circumstances of awarding a contract for construction of a project to the firm that designed the project. Any approval of this type of award must be justified in writing and signed by the head of the contracting office.

Subpart 1336.6—Architect-Engineer Services

1336.602–4 Selection authority.

(a) The Head of the Contracting Activity is the designated selection authority for architect-engineer service contracts over the small purchase dollar threshold.

1336.602–5 Short selection processes for contracts not to exceed $10,000.

Both short selection processes prescribed in FAR 36.602–5 may be used for contracts not to exceed $10,000. However, in either case the contracting officer shall review the report, approve it and commence negotiations or return it for appropriate revision.

1336.603 Collecting data on and appraising firms' qualifications.

(a) *Establishing offices.* The Office of Small and Disadvantaged Business Utilization (OSDBU) is responsible for Department-wide receipt and maintenance of data on firms wishing to be considered for architect-engineer service contracts.

PART 1337—SERVICE CONTRACTING

Subpart 1337.2—Consulting Services

1337.202 General.
1337.205 Management controls.

Authority: Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 486(c)), as delegated by the Secretary of Commerce in Department Organization Order 10–5 and Department Administrative Order 208.2.

Subpart 1337.2—Consulting Services

1337.202 General.

The Department's contracts for consulting and related services are governed by FAR 37.2.

1337.205 Management controls.

(b) The Department's management controls for acquisition of consulting and related services are contained in FAR 37.2.

Subchapter G—Contract Management

PART 1342—CONTRACT ADMINISTRATION

Subpart 1342.1—Interagency Contract Administration and Audit Services

1342.102–70 Post award audit reviews.

(a) Generally, the final invoice shall not be approved until a close-out audit has been performed and all outstanding issues have been negotiated or resolved on the following types of contracts of $100,000 and above:

(1) Cost-reimbursement type contracts;

(2) The cost-reimbursement portion of fixed-price contracts;

(3) Letter contracts which provide for reimbursement of costs;

(4) Time and materials contracts; and

(5) Labor-hour contracts.

(b) Even though the $100,000 postaward audit threshold generally applies, an audit may be requested regardless of the dollar amount when the contracting officer determines that an audit is justified under one of the following circumstances:

(1) There is some evidence of fraud or waste;

(2) The contractor's performance under the contract has been questionable;

(3) The contractor had a high incidence of unallowable costs under a previous contract;

(4) The contract is with a newly established firm, or a firm which has just begun dealing with the Government.

(c) All requests for audit services and all relevant documents shall be sent to the address listed in 1315.805–70(b). To ensure receipt and planned action on audit requests, all requests should include a request for confirmation of receipt of the request and the date planned for delivery of the audit report.

(d) See the Department's *Model Procedures for Closeout of Completed Contracts* for further information on audits, including desk audits for contracts of less than $100,000, and waiver of the need for post award audits.

(Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 486(c)), as delegated by the Secretary of Commerce in Department Organization Order 10-5 and Department Administrative Order 208-2.)

PART 1345—GOVERNMENT PROPERTY

Subpart 1345.1—General

1345.102 Policy.

The Department's policy and procedures on government property are contained in the *Property Management Policy Manual*, the *Property Management Procedure Handbook*, and the Department Administrative Order on *Property Management* (DAO 208-17).

(Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 486 (c)), as delegated by the Secretary of Commerce in Department Organization Order 10-5 and Department Administrative Order 208-2.)

Subchapter H—Clauses and Forms

PART 1352—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

Subpart 1352.0—General

1352.000 Scope of part.
1352.001 General policy.

Subpart 1352.1—Instructions for Using Provisions and Clauses

1352.100 Incorporation by reference.

Authority: Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 486 (c)), as delegated by the Secretary of Commerce in Department Organization Order 10-5 and Department Administrative Order 208-2.)

Subpart 1352.0—General

1352.000 Scope of part.

This part implements and supplements FAR Part 52 by prescribing specific modifications, alterations, and deviations to FAR solicitation provisions and contract clauses for Department—wide use.

1352.001 General policy.

The Depatment's policy is to use the FAR and CAR prescribed solicitation provisions and contract clauses unless specific authority for deviations has been obtained. (See 1301.4 for authority to deviate.) The use of uniform solicitation provisions and contract clauses should: provide a less burdensome way for potential contractors to respond to the Government's request for information concerning the evaluation of bids and proposals; expedite solicitation and contract preparation; and facilitate contract negotiation, administration and review. Each solicitation which incorporates contract clauses or solicitation provisions which deviate from those prescribed by the FAR and the CAR must be submitted to the Office of Procurement and Federal Assistance for prior review. The Office of Procurement and Federal Assistance will coordinate requests for approval of these solicitations by the Office of Management and Budget, in accordance with the Paperwork Reduction Act of 1980 and 5 CFR Part 1320.

Subpart 1352.1—Instructions for Using Provisions and Clauses

1352.100 Incorporation by reference.

Contracting officers within the Department shall incorporate solicitation provisions and contract clauses by reference in solicitations and contracts to the maximum extent provided by applicable law and regulation. Incorporation by reference is the listing only by title, regulatory citation, and date of the provision or clause rather than the full text. The full text of the referenced solicitation provision or contract clause is contained in the Code of Federal Regulations (CFR); Chapter 1 of Title 48 for FAR provisions and clauses; and Chapter 13 ot Title 48 for CAR provisions and clauses.

PART 1353—FORMS

1353.000 Scope of part.

Subpart 1353.1-General

1353.103 Exceptions.

Subpart 1353.2—Prescription of Forms

1353.200 Scope of subpart.
1353.204 Administrative matters.
1353.204-2 Contract reporting (CD 336).
1353.232 Contract financing.
1353.232-2 (CD-45).

Authority: Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 486 (c)), as delegated by the Secretary of Commerce in Department Organization Order 10-5 and Department Administrative Order 208-2.)

1353.000 Scope of part.

This part supplements FAR Part 53 by prescribing specific exceptions to FAR prescribed forms for Departmentwide use.

Subpart 1353.1-General

1353.103 Exceptions.

The Department's policy is to use the FAR and CAR prescribed forms unless prior specific authority for exceptions or alterations has been obtained. Requests for exceptions to FAR or CAR forms shall be submitted to the Office of Procurement and Federal Assistance in the form prescribed by FAR 53.103 (See 1301.4 for authority to deviate).

Subpart 1353.2—Prescription of Forms

1353.200 Scope of subpart.

This subpart prescribes forms for Departmentwide use which are exceptions to FAR prescribed forms. This subpart is arranged by subject matter, in the same order and keyed to the parts of the FAR or CAR in which the form use requirements are addressed.

1353.204 Administrative matters.

1353.204-2 Contract reporting (CD 338).

(a) CD 338 (9/82) FPDS Code Sheet. CD 338 is prescribed for Departmentwide use in reporting individual contract actions above the small purchase dollar threshold, in lieu of SF 279.

1353.232 Contract financing.

1353.232-2 (CD 45).

CD 45 (3/76) Requisitioning Form. CD 45 is prescribed for Departmentwide use in requesting action from the servicing contract office. This form is the vehicle for administrative approvals, clearances, and certification of availability of adequate funds as specified in FAR 32.702.

This Appendix will not appear in the Code of Federal Regulations.

BILLING CODE 3510-25-M

Appendix A-Forms

BATCH NUMBER

Form CD-336 (REV 9-82) — U.S. DEPARTMENT OF COMMERCE

FEDERAL PROCUREMENT DATA SYSTEM CODE SHEET

DE2 — Contract Number (5-19) (Order Number)
Oper. U. | FY | C.O | TT | Sequential Number
5-6 Oper. Unit Procured For, Table 1, 7-8 FY issued, 9-10 P or C Off., Table 1, 11 - TranType - Table 1A (DOC Proc. Data System Handbook.), 12-16 - Sequential No. 5 digits. (12 may be alpha for OS and NBS only). Left justified zero filled (e.g., 00012). 17-19 Leave blank.

DE3 — Mod. No. (20-23)
For Mods. - Use a sequential No. to identify 1st., 2nd., 3rd., etc. mod. to parent DOC contracts or to modify delivery orders against DOC or other agency contracts. Begin at right and leave unneeded spaces blank. On original contract leave blank.

DE4 — Contract Number (24-38) (See DOC Proc. Data System Handbook.)

DE6 — Effective Date of Award (44-47) Use 2 digits for Month
CY | MO

DE7 — Type Data Entry (48)
0 - Original Record, 1 - Reversing Record, 2 - Correcting Record. (See DOC Proc. Data System Handbook for clarification)

DE8 — Report Period FY-Qtr. (49-51) For Reversing or Correcting Report enter for current fiscal year. For Qtr. use 1 - 4.

Foreign Countries. For other Country Codes See ANS X3.27-1976. (NBS LC 1067-1).

Australia	AU	China (Taiwan)	TW	India	IN
Belgium	BE	Finland	FI	Iran	IR
Brazil	BR	France	FR	Israel	IL
Canada	CA	Germany, Federal Republic of	DE	Italy	IT
Chile	CL	Greece	GR	Japan	JP
Korea, Republic of	KR	Sweden	SE		
Mexico	MX	Switzerland	CH		
Netherlands	NL	Thailand	TH		
New Zealand	NZ	Union of Soviet Socialist Republics	SU		
Norway	NO	United Kingdom	GB		
Philippines	PH	Venezuela	VE		

DE10 — Principal Place of Performance (61-67)
State or Country (61-62) | City or Place (County) (63-67)
See FIPS CODE 55 (ANS X3.47)

DE11 $ — Total Dollars Obligated or Deobligated (68-75) (Round to nearest dollar)

DE14 — Kind of Procurement Action (79)
1 - New Letter Contract. 2 - Definitive Contract Superceding Letter Contract. 3 - New Definitive Contract. 4 - Order under DOC Contract. 5 - Modification. 6 - GSA Supply Schedule. 7 - Order Under Another Agency Contract. 8 - Termination for Cause. 9 - Termination for Convenience.

DE16 — Labor Surplus Area (81)
1 - Labor Surplus Area - No Preference; 3 - Labor Surplus Area - Tie Bid Preference. 4 - (Reserved - Do Not Use). 5 - Not a Labor Surplus Area Preference Award; 6 - Combined Small Business/Partial Labor Surplus Area Set-Aside Preference. 7 - Total Labor Surplus/Small Business Set-Aside Preference (P.L. 95-89). 8 - Total Labor Surplus Set-Aside Preference (P.L. 95-89)

DE17 — Consultant Type Award (82) 1 - Yes 2 - No

DE18 — Prod./Service Code (83-86) See DOC Proc. Data System Handbook, Encl. E, Appendix I

DE19 — Procurement Method (87)
1 - Two-step Formal Advertising, 2 - Other Formal Advertising, 3 - Negotiated Competitive, 4 - Negotiated Noncompetitive, 5 - Directed Proc. for Foreign Govts. If codes 1 or 2 are used, then DE20 -Extent of Competition and DE21 - Negotiation Authority do not apply and entries must be left blank

DE20 — Extent of Competition (88-89)
Competitive Negotiated: A1 - Small Business Total Set-Aside, A2 - Small Business Partial Set-Aside, A3 - Labor Surplus Set-Aside, A4 - Labor Surplus/Small Business Total Set-Aside, A9 - Other Negotiated Competitive.
Non-Competitive Negotiated: B1 - Buy Indian, B2-8(a) Program; B3 - Follow-on After Competition, B9 - Other Negotiated Non-Competitive.

DE21 — Negotiation Authority (90-92)
C01 - National Emergency
C02 - Public Exigency
C03 - Purchases not more than $10,000
C04 - Personal or Professional Services
C05 - Services of Educational Institutions
C06 - Purchases Outside U.S.
C07 - Medicine or Medical Supplies
C08 - Supplies Purchased for Authorized Resale
C09 - Perishable or Non-Perishable Subsistence
C10 - Impractical to Secure Competition by Formal Advertising
C11 - Experimental, Developmental, Test or Research
C12 - Classified Purchases
C13 - Technical Equipment Requiring Standardization and Interchangeability of Parts
C14 - Negotiation after Advertising
C15 - Otherwise Authorized by Law

DE23 — Type of Business (94-95)
A1 - Small Business-Disadvantaged 8(a)
A2 - Small Business-Owned by Minority Group
A3 - Other Small Business
B1 - Large Minority Business
B2 - Other Large Business
C1 - Non-Profit-Private Educational Organization
C2 - Non-Profit-Hospital
C3 - Non-Profit-Research Institution, Foundation, Laboratory
C4 - Other Non-Profit Institutions
D1 - State/Local Government-Educational
D2 - State/Local Government-Hospital
D3 - State/Local Government-Research Organization
D4 - Other State/Local
E1 - Procured and Used Outside U.S./Possessions
E2 - Other Procurements Outside U.S./Possessions

DE24 — Women Owned Business (96) 0 - Exempt 1 - Yes 2 - No

DE25 — Estimated Completion Date (98-101) Use 2 digits for Month.
CY | MO

Name of Preparer
Telephone Number | Date Prepared

USCOMM-DC 1978

To Be Completed For Original Transactions Over $10,000

DE9 ☐☐☐☐☐☐☐☐☐ Contractor Establishment Code (52-60) See Duns CIC Conversion File

DE12 ☐ Subject to Stat. Req. (76)

A - Walsh-Healy Act, Manufacturer.
B - Walsh-Healy Act, Regular Dealer.
C - Service Contract Act.
D - Davis-Bacon Act.
E - Not subject to above statutory requirements.

DE13A ☐ Affirmative Action Plan on File (77) 1 - Yes 2 - No

DE13B ☐ Previously Held Contract Subject to Affirmative Action Program Requirements (78) 1 - Yes 2 - No

DE15 ☐ Multi-Year Procurement (80) 1 - Yes 2 - No

DE22 ☐ Type of Contract/Modification (93)

A - Fixed Price Redetermination
J - Firm Fixed Price
K - Fixed Price Economic Price Adjustment
L - Fixed Price Incentive
R - Cost Plus Award Fee
S - Cost No Fee
T - Cost Sharing
U - Cost Plus Fixed Fee
V - Cost Plus Incentive Fee
Y - Time and Materials
Z - Labor Hours

DE25 ☐ Cost Accounting Standards Clause (97) Required 1 - Yes 2 - No

DE27A ☐ No. of Offerors Offering Foreign Item (102) 0-9 (if none, enter 0, if nine or more, enter 9)

DE27B ☐☐ Percent Difference (103/104) 01-99 Percent difference between award price and low bidder offering foreign end item computed before application of Buy American Act differential.

DE27C ☐☐ Country of Manufacturer

DE28 _____ Reserved FPDC (107-120)

DE29 ☐ Government Furnished Property (121) 1 - Yes 2 - No

DE30 ☐ Handicapped Set Aside (See 7(h) and 15(c) SBA Act) (122) 1 - Yes 2 - No

DE31 ☐☐☐☐☐☐ Reserved OADPM Use (123-128)

DE32 ☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐ Reserved OADPM Use (129-144)

Optional

Contractor Name _____

Address _____

_____

FORM CD-346 (REV. 8-82) USCOMM-DC 1978

FORM CD-45 (REV. 3-76) U. S. DEPARTMENT OF COMMERCE

SUPPLY, EQUIPMENT OR SERVICE ORDER

FOR:

2. CHECK APPROPRIATE BLOCK

☐ PROCUREMENT ☐ OTHER *(Specify)*

1. THE NUMBER SHOWN IN BLOCK 5 MUST APPEAR ON ALL SHIPMENTS AND/OR DOCUMENTS RELATING TO THIS ORDER

3. REQUISITIONER DOCUMENT NO	4. BUREAU CONTROL NO.	5. PURCHASE ORDER NO.

6. ISSUED TO:	7. DESTINATION SHIP TO

8. ACCOUNTING CODE	9. QUOTATION REF OR CONTRACT NO.	10. DISCOUNT TERMS

11. DELIVERY F.O.B.	12. GOVT. B/L NO.	13. DELIVERY DATE

14. FUNDS AVAILABLE *(Budget Office)*	14a. STATION

ITEM NUMBER		17.	18.	19.	20.	21. ACTUAL	
15. LINE NO	16. DO NOT USE	DESCRIPTION	QUANTITY	UNIT	ESTIMATED TOTAL COST	UNIT PRICE	TOTAL COST

22. SIGNATURE OF REQUISITIONER TITLE	DATE	23. SIGNATURE APPROVING OFFICER TITLE	DATE

24. ☐ ACCOUNTABLE PROPERTY	INITIALS	25. ☐ NOT AVAILABLE-BUREAU STOCK/ EXCESS	INITIALS	26. SIGNATURE-BUREAU CONTROL OFFICER	27. ☐ NOT AVAILABLE-DEPARTMENT STOCK/EXCESS	INITIALS

28. APPROVAL	DATE	29. PURCHASING AGENT	DATE

30. RECEIPT ACTION - Quantities shown in Column 18 above have been received and accepted, except as follows: *(If additional space is needed, use reverse side.)*

31. SIGNATURE-RECEIVING OFFICER	DATE	32. PROPERTY CONTROL NO.	☐ TRADE-IN ☐ RECEIVING REPORT

33. SEND INVOICES IN DUPLICATE TO: →	

1

[FR Doc. 84-4726 Filed 2-21-84; 8:45 am]

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1057

[Ex Parte No. MC–43 (Sub–14)]

Lease and Interchange Regulations (Master Leases)

AGENCY: Interstate Commerce Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: In response to a petition seeking authorization for the use of "master" lease agreements by authorized carriers, the Commission proposes to modify its existing leasing regulations, set forth at 49 CFR Part 1057: (1) To allow the use by motor carriers engaged in trip leasing of a "master" lease covering more than one unit of equipment so long as such lease complies with all of the provisions of the leasing rules; (2) to require that a copy of the "master" lease be carried in the equipment while it is in the possession of the lessee; and (3) to allow required receipts to be transmitted by mail, telegraph, or other similar means of communication. Existing regulations require that when a lessor transfers equipment to a lessee on a trip lease, the lessee must prepare and execute a receipt for the equipment at the transfer point. Potential benefits of this proposal include reduced deadheading, increased availability of trip leasing, and a generally more efficient and economical method of operation.

DATES: Comments are due on April 9, 1984.

ADDRESS: The orginal and, if possible, 15 copies, of comments should be sent to: Ex Parte No. MC–43 (Sub–14), Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT:
Judy Ann Barnes, 202 275–7962
or
Mary A. Kelly, 202 275–7292.

SUPPLEMENTARY INFORMATION: The Common Carrier Conference—Irregular Route (CC–IR) has filed a petition seeking authorization for the use of "master" lease agreements by authorized carriers.[1] The proposed additions to the lease and interchange regulations would authorize the use of a master lease in connection with trip-lease operations, and would allow carriers to issue the initiating receipt other than "in person". CCR–IR states that since the passage of the Motor Carrier Act of 1980, its members have expanded the scope of their operating authorities, with increasing reliance on back-haul operations by the trip-leasing of equipment. Existing regulations require that when a lessor transfers equipment to a lessee on a trip lease, the lessee must prepare and execute a receipt for the equipment at the transfer point. This, it contends, decreases efficiencies and operating economies because a carrier may have to travel additional, unnecessary miles in order to have a lease executed. In addition, all information regarding the particular trip must be reported on the lease. Petitioner contends that these regulations virtually preclude the execution of lawful trip lease unless an agent of the lessee is present at the transfer point to prepare the required receipt and additional information. Petitioner argues that it is frequently more economical for a carrier to return its equipment empty rather than attempt to work out a trip-lease arrangement.

CCC–IR states that the proposed modification of the leasing rules would not result in unsafe operations. Copies of the "master" trip lease would travel with the involved equipment and would specify the possession and control of the equipment. The Conference also points out that the Department of Transportation (DOT) has initiated a proposed rulemaking seeking a modification of 49 CFR 396.3(c) to allow waiver of the vehicle inspection requirement when the involved equipment has undergone a DOT inspection within the 30-day period preceding issuance of the receipt.[2]

PCC and NAWGA strongly support the proposals of the Conference with one modification. They request that the proposed § 1057.22(e) be modified to cover not only authorized carriers, but private carriers and all other entities leasing equipment pursuant to this section. Both parties cite the decision in Ex Parte No. MC–43 (Sub-No. 12), *Leasing Rules Modifications*,[3] allowing private carriers to trip lease equipment and personnel to regulated carriers, as justification for this additional modification.

Potential benefits of this proposal include reduced deadheading, increased availability of trip leasing, and a generally more efficient and economical method of operation. The rules proposed by petitioner would restrict the use of "master" leases to operations using more than one unit of equipment. We will delete that restriction from the published proposal. While most "master leases" may cover operations involving more than one unit of equipment we find no reason to include such restrictive language. We think the benefits attainable here should also be made available to carriers which operate only one piece of equipment. In addition, we will delete the phrase "If the equipment is being leased for periods of less than 30 days" from petitioner's proposed change to § 1057.11(d)(1). That phrase is already contained in that specific regulation and need not be repeated.[4]

Finally, a definition of a "master" lease should be included in the regulations. Common usage would imply that this be defined as a standard lease agreement containing all necessary items, but leaving blank the specific information with respect to each particular trip lease. The freight and documents prepared for the specific movement would contain this latter information. We solicit comments on the proper definition of "master" lease, as well as all other aspects of this proposal.

The proposed rules are set forth in the appendix to this notice.

Regulatory Flexibility Analysis

We certify that this action will not have a significant economic impact on a substantial number of small entities. To the extent the proposal would affect small entities, the effects, although not significant, would be largely positive since the proposed rules will allow a more efficient and simplified process for leasing equipment on a trip-lease basis. This will benefit both small carriers, as well as owner-operators, by providing a more efficient and economical method for conducting trip-lease operations.

Energy and Environmental Considerations

This proposal should not have any significant adverse impact upon the quality of the human environment or

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[1] Statements in support of the petition have been filed by the Private Carrier Conference (PCC) and the National-American Wholesale Grocers' Association (NAWGA).

[2] BMCS Docket No. MC–48–1. Final rules in Docket No. MC–48–1; Amdt. No. 81–14 were published in the **Federal Register**, 48 FR 55866 (December 16, 1983).

[3] 132 M.C.C. 927 (1982); 47 FR 53858 (November 30, 1982). The effective date has been stayed pending judicial review by order of the U.S. Court of Appeals for the Eleventh Circuit on April 25, 1983 (No. 82–8787).

[4] Our proposal in Ex Parte No. MC–43 (Sub-No. 15), *Elimination of Thirty Day Leasing Requirement*, 48 FR 39251 (August 30, 1983), eliminates this same phrase from the existing section 1057.11(d)(1) as a consequence of eliminating the distinction between trip and permanent leases. If the proposal in that proceeding is ultimately adopted, it would not prevent the use of "master" leases as noticed in this case.

conservation of energy resources. We anticipate that further action by the Commission in this proceeding will improve motor carrier operating efficiencies and reduce empty mileage, thus contributing to the conservation of energy resources. Comments on these issues are also invited.

List of Subjects in 49 CFR Part 1057

Motor carriers.

This notice is issued under the authority contained in 49 U.S.C. 10321 and 11107, and at 5 U.S.C. 553.

Decided: February 6, 1984.

By the Commission, Chairman Taylor, Vice Chairman Andre, Commissioners Sterrett and Gradison.

James H. Bayne,

Acting Secretary.

Appendix

We propose to amend Title 49 CFR Part 1057 as follows:

PART 1057—LEASE AND INTERCHANGE OF VEHICLES

§ 1057.11 [Amended]

1. Section 1057.11 would be amended by adding a sentence to the end of paragraphs (b)(1) and (d)(1) to read as follows:

§ 1057.11 General leasing requirements.

* * * * *

(b) * * *

(1) * * *

The receipt identified in this section may be transmitted by mail, telegraph, or other similar means of communication.

* * * * *

(d) * * *

(1) * * *

This provision is complied with by having a copy of a "master" lease in the unit of equipment in question and where the balance of documentation called for by this paragraph is included in the freight documents prepared for the specific movement.

* * * * *

2. Section 1057.22 is amended by adding a new paragraph (c)(4) to read as follows:

§ 1057.22 Exemption for private carrier trip leasing and trip leasing between authorized carriers.

* * * * *

(c) * * *

(4) Nothing in this section shall prohibit the use, by authorized carriers, private carriers, and all other entities conducting lease operations pursuant to this section, of a "master" lease so long as a copy of that "master" lease is carried in the equipment while it is in the possession of the lessee, and so long as that "master" lease complies with the provisions of this section and receipts are exchanged in accordance with § 1057.11(b), and so long as records of the equipment are prepared and maintained in accordance with § 1057.11(d).

[FR Doc. 84-4629 Filed 2-21-84; 8:45 am]

BILLING CODE 7035-01-M

Notices

Federal Register
Vol. 49, No. 36
Wednesday, February 22, 1984

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

Committee on Rulemaking, Committee on Regulation; Public Meetings

Correction

In FR Doc. 84–4162, appearing on page 5979, in the issue of Thursday, February 16, 1984, in the First Column in the second complete paragraph, "February 6, 1984" should read "March 6, 1984".

BILLING CODE 1505-01-M

DEPARTMENT OF AGRICULTURE

Forest Service

Uinta National Forest Grazing Advisory Board; Meeting

The Uinta National Forest Grazing Advisory Board will meet at 9:30 a.m. on Friday, March 23, 1984, at the Rodeway Inn, 1292 South University Avenue, Provo, Utah 84601.

The purpose of this meeting is to review current allotment management plans and the planning and utilization of the Range Betterment Fund.

The meeting will be open to the public. Persons who wish to attend should notify Ward F. Savage, Uinta National Forest Supervisor's Office, P.O. Box 1428, Provo, UT 84601, telephone (801) 377–5780. Written statements may be filed with the Board before and after the meeting.

Dated: February 13, 1984.

Norman E. Corbridge,

Acting Forest Supervisor.

[FR Doc. 84–4664 Filed 2–21–84; 8:45 am]

BILLING CODE 3410–11–M

Soil Conservation Service

Grayson County Road Bank Critical Area Treatment RC&D Measure, Virginia; Finding of No Significant Impact

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of finding of no significant impact.

SUMMARY: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soild Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Grayson County Road Bank Critical Area Treatment RC&D Measure, Grayson County, Virginia.

FOR FURTHER INFORMATION CONTACT: Mr. Manly S. Wilder, State Conservationist, Soil Conservation Service, 400 North Eighth Street, Richmond, Virginia 23240 telephone 804–771–2455.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Manly S. Wilder, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for seeding eroding road banks in Grayson County, Virginia. The planned work will include the establishment of 26 acres of permanent vegetative cover by hydro-seeding and mulching.

The Notice of Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various Federal, State, and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address. Basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Manly S. Wilder.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the **Federal Register.**

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program. Office of Management and Budget Circular A–95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects is applicable)

Dated: February 10, 1984.

Manly S. Wilder,

State Conservationlist.

[FR Doc. 84–4659 Filed 2–1–84; 8:45 am]

BILLING CODE 3410–16–M

CIVIL AERONAUTICS BOARD

[Order 84–2–49]

Application of Silvas Air Lines, Inc. for Certificates of Public Convenience and Necessity

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Order Instituting a Fitness Investigation of Silvas Air Lines, Inc., Order 84–2–49, Docket.

SUMMARY: The Board is issuing an order instituting a fitness investigation of Silvas Air Lines, Inc.

DATES: Persons wishing to file requests for additional evidence or petitions to intervene in the *Silvas Air Lines, Inc. Fitness Investigation* shall file their petitions in Docket 41996 by March 2, 1984.

In addition, copies of such filings should be served on: Silvas Air Lines, Inc., MSJ Financial Corporation, the Secretary of Transportation, and the Attorney General.

Service will also be required on any other person filing petitions.

ADDRESS: Objections and answers to objections should be filed in Docket 41805, and addressed to the Docket Section, Civil Aeronautics Board, Washington, D.C. 20428.

FOR FURTHER INFORMATION CONTACT: Sherry L. Kinland, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428, (202) 673–5333.

SUPPLEMENTARY INFORMATION: The complete text of Order 84–2–49 is available from our Distribution Section, Room 100, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428. Persons outside the metropolitan area may send a postcard request for Order 84–2–49 to that address.

By the Bureau of Domestic Aviation:
February 13, 1984.
Phyllis T. Kaylor,
Secretary.
[FR Doc. 84-4569 Filed 2-21-84; 8:45 am]
BILLING CODE 6320-01-M

Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q of the Board's Procedural Regulations (See, 14 CFR 302.1701 et seq.); Week Ended February 10, 1984

Subpart Q Applications

The due date for answers, conforming application, or motions to modify scope are set forth below for each application following the answer period the board may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Date filed	Docket No.	Description
Feb. 6, 1984	41978	Trinidad and Tobago (BWIA International) Airways Corporation, c/o Michael Goldman, Verner, Liipfert, Bernhard and McPherson, Suite 1000, 1660 L Street, N.W., Washington, D.C. 20036. Application of Trinidad and Tobago (BWIA International) Airways requests renewal of its authority, contained in its permit, issued pursuant to Order 82–1–7, to operate over Routes 4, 5 and 6, so as to authorize BWIA to engage in the foreign air transportation of persons, property and mail in scheduled service as follows:
		4. Between the terminal point Antigua, and the terminal point New York, New York;
		5. Between the terminal point Trinidad and Tobago; the intermediate points St. Kitts; Barbados; and St. Lucia; and the terminal point New York, New York; and
		6. Between the terminal point St. Lucia, and the terminal point New York, New York.
		Answers may be filed by March 5, 1984.
Feb. 9, 1984	41990	Conrad Kalitta and Connie Kalitta Services, Inc., c/o Allan W. Markham, 4801 Mass. Ave., N.W., Suite 400, Washington, D.C. 20016. Application of Conrad Kalitta and Connie Kalitta Services, Inc. applies for transfer of a Section 418 all-cargo service certificate. Conforming Applications, Motions To Modify Scope and Answers may be filed by March 8, 1984.
Feb. 6, 1984	41835	Cook Inlet Aviation, Inc., Box 175, Homer, Alaska 99603. Corrected Application of Cook Inlet Aviatin, Inc. pursuant to Section 401(d)(1) of the Act and Subpart Q of the Board's Procedural Regulations to engage in interstate and overseas scheduled air transportation.
		Answers may be filed by March 5, 1984.
Do	41776	Aerotransportes Entre Rios S.R.L., c/o Paul Reiber, 6714 Whittier Avenue, McLean, Virginia 22101. Application of Aerotransportes Entre Rios S.R.L., amends its application to delete Cuba as an intermediate country.
Feb. 9, 1984	41842	Sun Country Airlines, Inc., c/o Dennis N. Barnes, 1800 M Street, N.W., Washington, D.C. 20036. Amendment to the Application of Sun Country Airlines, Inc. amends its application through the submission of various revised exhibits and one wording change pertaining to previous documents, all which are specified in the filing.
		Answers may be filed by March 8, 1984.
Feb. 10, 1984	41993	James M. Foode d/b/a Chitina Air Service, c/o Teresa A. Sloan, P.O. Box 731, Cordova, Alaska 99574. Application of James M. Foode d/b/a Chitina Air Service, pursuant to Section 401 of the Act and Subpart Q of the Board's Procedural Regulations applies a certificate of public convenience and necessity for an indefinite term to perform scheduled interstate air transportation of persons, property and mail within the State of Alaska between the terminal point Cordova and the intermediate points: Cape Yakataga, Icy Bay, Boswell Bay, Chitina, Tatitlek and Valdez.
		Conforming Applications, Motions To Modify Scope and Answers may be filed by March 9, 1984.

Phyllis T. Kaylor,
Secretary.
[FR Doc. 84-4570 Filed 2-21-84; 8:45 am]
BILLING CODE 6320-01-M

[Order 84–1–112]

Use-It-Or-Lose-It Test of Essential Air Transportation

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Tentative Approval of a Use-It-Or-Lose-It Test of Essential Air Transportation—Order 84–1–112, Order to Show Cause.

SUMMARY: The Board is proposing to authorize Mississippi Valley Airliens to conduct a use-it-or-lose-it test of essential air transportation at Beloit/Janesville, Wisconsin, under which a higher level of essential air service will be established for a six-month period to provide the point with an opportunity to support unsubsidized, high frequency service. If the test is unsuccessful, the community has agreed to accept a zero essential air service determination. The complete text of this order is available as noted below.

DATES: Objections—all interested persons wishing to object to the Board's tentative decision shall submit their response no later than March 13, 1984.

Reply Comments—all reply comments shall be submitted no later than March 28, 1984.

ADDRESSES: Objections and comments should be sent to Docket 39162, Docket Section, Room 714, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428 and to all persons listed in Appendix C to Order 84–1–112.

FOR FURTHER INFORMATION CONTACT: William C. Boyd, Chief, Essential Air Services Division I, Bureau of Domestic Aviation, 1825 Connecticut Avenue, NW., Washington, D.C. 20428, (202) 673–5405.

SUPPLEMENTARY INFORMATION: The complete text of Order 84–1–112 is available from the Distribution Section, Room 100, 1825 Connecticut Avenue, NW., Washington, D.C. 20428. Persons outside the metropolitan area may send a postcard request for Order 84–1–112 to the Distribution Section, Civil Aeronautics Board, Washington, D.C. 20428.

By the Civil Aeronautics Board: January 26, 1984.

Phyllis T. Kaylor,
Secretary.

[FR Doc. 84-4561 Filed 2-21-84; 8:45 am]
BILLING CODE 6320-01-M

CIVIL RIGHTS COMMISSION

Indiana Advisory Committee; Agenda and Notice of Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Indiana Advisory Committee to the Commission will convene at 7:00 p.m. and will end at 9:30 p.m., on March 8, 1984. The purpose of this meeting is to discuss the status of two projects on one block grants and another on Indiana prisons. The Committee will also discuss followup plans to its report on housing discrimination.

Person desiring additional information, or planning a presentation to the Committee, should contact the Chairperson, Dr. Joseph J. Russell, at (812) 824–7785 or the Midwestern Regional Office at (312) 353–7479.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., February 16, 1984.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 84-4673 Filed 2-21-84; 8:45 am]

BILLING CODE 6335-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Receipt of Application for Permit; Department of Interior, Minerals Management Service

Notice is hereby given that an Applicant has applied in due form for a Permit to take marine mammals as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), the Regulations, Governing the Taking and Importing of Marine Mammals (50 CFR Part 216), the Endangered Species Act of 1973 (16 U.S.C. 1531–1543), and the National Marine Fisheries Service regulations governing endangered fish and wildlife permits (50 CFR Parts 217–222).

1. Applicant:

a. Name: Department of Interior-Minerals Management Service (P210A).

b. Address: Alaska OCS Region, 800 A Street, Anchorage Alaska 99501.

2. Type of Permit: Scientific Research/ Scientific Purposes.

3. Name and Number of Animals: Gray whales *(Eschrichtius robustus)* unspecified number. Bowhead whales *(Balaena mysticetus)* unspecified number.

4. Type of Take: Potential harassment and harassment while conducting aerial and shipboard observational monitoring to determine distribution, abundance and migration routes and while determining response behavior to operational geophysical vessels.

5. Location of Activity: Beaufort, Chukchi, and Bering Seas.

6. Period of Activity: 5 yrs.

Concurrent with the publication of this notice in the **Federal Register**, the Secretary of Commerce is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors.

Written data or views, or requests for a public hearing on this application should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, U.S. Department of Commerce, Washington, D.C. 20235, within 30 days of the publication of this notice. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries.

All statements and opinions contained in this application are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

Documents submitted in connection with the above application are available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, NW., Washington, D.C.; and

Regional Director, National Marine Fisheries Service, Alaska Region, P.O. Box 1668, Juneau, Alaska 99802.

Dated: February 14, 1984.

Richard B. Roe,

Director, Office of Protected Species and Habitat Conservation, National Marine Fisheries Service.

[FR Doc. 84-4641 Filed 2-21-84; 8:45 am]

BILLING CODE 3510-22-M

Receipt of Application for Permit: Michael Graybill

Notice is hereby given that an Applicant has applied in due form for a Permit to take marine mammals as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216).

1. Applicant:

a. Name: Mr. Michael Graybill (P304A).

b. Address: Oregon Institute of Marine Biology, University of Oregon, Charleston, Oregon 97420.

2. Type of Permit: Scientific Research.

3. Name and Number of Animals: Harbor Seals (Phoca vitulina).

4. Type of Take: To tag and take specimen materials while making an initial step toward the construction of a life history table.

5. Location of Activity: Coos Bay, Oregon.

6. Period of Activity: 3 years.

Concurrent with the publication of this notice in the **Federal Register**, the Secretary of Commerce is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors.

Written data or views, or requests for a public hearing on this application should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, U.S. Department of Commerce, Washington, D.C. 20235, within 30 days of the publication of this notice. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries.

All statements and opinions contained in this application are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

Documents submitted in connection with the above application are available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, NW., Washington, D.C.; and

Regional Director, National Marine Fisheries Service, Northwest Region, 7600 Sand Point Way, NE., BIN C15700, Seattle, Washington 89115.

Dated: February 14, 1984.

Richard B. Roe,

Director, Office of Protected Species and Habitat Conservation, National Marine Fisheries Service.

[FR Doc. 84-4642 Filed 2-21-84; 8:45 am]

BILLING CODE 3510-22-M

Issuance of Letters of Authorization; Sefel Geophysical Ltd.

Notice is hereby given that on February 14, 1984 the National Marine Fisheries Service issued a Letter of Authorization under the authority of Section 101(a)(5) of the Marine Mammal Protection Act of 1972 and 50 CFR Part 228, Subpart B—Taking of Ringed Seals

Incidental to On-Ice Seismic Activities to the following: Sefel Geophysical Ltd., 201 South Cherokee Street, Denver, Colorado 80223.

This Letter of Authorization is valid for 1984 and is subject to the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), and the Regulations Governing Small Takes of Marine Mammals Incidental to Specified Activities (50 CFR Part 228, Subparts A and B).

Issuance of this Letter is based on a finding that the total level of taking will have a negligible impact on the ringed seal species or stock, its habitat and its availability for substance use.

This Letter of Authorization is available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, N.W., Washington, D.C.; and

Regional Director, National Marine Fisheries Service, Alaska Region, P.O. Box 1668, Juneau, Alaska 99802.

Dated: February 14, 1984.

Richard B. Roe,

Director, Office of Protected Species and Habitat Conservation, National Marine Fisheries Service.

[FR Doc. 84-4643 Filed 2-21-84; 8:45 am]

BILLING CODE 3510-22-M

National Technical Information Service

Intent to Grant; Exclusive Patent License

The National Technical Information Service (NTIS), U.S. Department of Commerce, intends to grant to Allied Corporation, having a place of business at Morristown, New Jersey, an exclusive right to manufacture, use, and sell products embodied in the invention "Method for Screening Bacteria and Application thereof for Field Control of Disease caused by *Gaeumannomyces Graminis,*" U.S. Patent Application Serial No. 415,778. The patent rights in this invention have been assigned to the United States of America, as represented by the Secretary of Commerce.

The proposed exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 41 CFR 101–4.1. The proposed license may be granted unless, within sixty days from the date of this published Notice, NTIS receives written evidence and argument which establishes that the grant of the proposed license would not serve the public interest.

Inquiries, comments and other materials relating to the proposed license must be submitted to the Office of Government Inventions and Patents, NTIS, Box 1423, Springfield, VA 22151.

Douglas J. Campion,

Patent Licensing, Office of Government Inventions and Patents, Department of Commerce, National Technical Information Service.

[FR Doc. 84-4607 Filed 2-21-84; 8:45 am]

BILLING CODE 3510-04-M

Intent To Grant; Exclusive Patent License

The National Technical Information Service (NTIS), U.S. Department of Commerce, intends to grant to The Upjohn Company, having a place of business at Kalamazoo, Michigan, an exclusive right to manufacture, use, and sell products embodied in the invention, Method of Treating Cancers with Methyl Glyoxal Bis-Guanyl Hydrazone," U.S. Patent Application Serial Nos. 6–268,670 and 6–410,965. The patent rights in this invention have been assigned to the United States of America, as represented by the Secretary of Commerce.

The proposed exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 41 CFR 101–4.1. The proposed license may be granted unless, within sixty days from the date of this published Notice, NTIS receives written evidence and argument which establishes that the grant of the proposed license would not serve the public interest.

Inquiries, comments and other materials relating to the proposed license must be submitted to the Office of Government Inventions and Patents, NTIS, Box 1423, Springfield, VA 22151.

Douglas J. Campion,

Patent Licensing, Office of Government Inventions and Patents, Department of Commerce, National Technical Information Service.

[FR Doc. 84-4608 Filed 2-21-84; 8:45 am]

BILLING CODE 3510-04-M

DEPARTMENT OF DEFENSE

Department of the Army; Corps of Engineers

Chief of Engineers Environmental Advisory Board Meeting

AGENCY: Department of the Army; Corps of Engineers, DOD.

ACTION: Notice of open meeting.

SUMMARY: In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), this notice addresses the schedule and proposed agenda of the forthcoming meeting of the Chief of Engineers Environmental Advisory Board (EAB). The meeting is to be jointly chaired by Dr. Laurence R. Jahn, Chairman, EAB, and Lieutenant General J. K. Bratton, Chief of Engineers, U.S. Army. The meeting is open to the public.

DATE: The meeting will be held from 8:00 a.m., Tuesday, March 6, 1984 to 12:00 noon, Thursday, March 8, 1984.

ADDRESS: The meeting will be held at the Red Lion Inn Lloyd Center, 1000 N. E. Multnomah, Portland, Oregon 97232.

FOR FURTHER INFORMATION CONTACT: Lieutenant Colonel Ronald G. Kelsey, Assistant Director of Civil Works for Environmental Programs, Office of the Chief of Engineers, Washington, D.C. 20314, (202) 272–0103.

SUPPLEMENTARY INFORMATION: The schedule and proposed agenda of the Environmental Advisory Board meeting is:

6 March—Tuesday—A.M. Session

8:00—Meeting convened—opening remarks
9:30—Civil Works update
10:15—Old business

P.M. Session

1:00—History of Water Resources Development on the Columbia River and Tributaries (CRT)
2:00 Cumulative Environmental Impacts on CRT
3:15—History of Anadromous Fish Runs on CRT
4:15—Fish Transportation Program
5:30—Meeting recessed

7 March—Wednesday—A.M. Session

8:00—Regional Power Council, Fish and Wildlife Considerations
9:00—Hatcheries on the CRT
9:35—North Pacific Division Fish Passage Development and Evaluation Program
10:30—Snake River
Sports Fishing Institute Report
Fish & Wildlife Compensation Plan
GAO Report (Crystal Springs)

P.M. Session

1:30—Justification for Mitigation
3:45—Mediation and Mitigation
5:00—Meeting recessed

8 March—Thursday—A.M. Session

8:00—EAB Report to the Chief of Engineers
9:30—Chief of Engineers Response
10:30—Public comments

12:00—Meeting adjourned

This committee meeting notice is published after the statutory prescribed deadline for publication of such notice due to an inadvertent procedural error which prevented its timely publication.

John O. Roach,

Army Liaison Officer with the Federal Register.

[FR Doc. 84-4617 Filed 2-21-84; 8:45 am]

BILLING CODE 3710-08-M

Department of the Army, Corps of Engineers

Intent To Prepare a Draft Environmental Impact Statement (DEIS) for Potential Alternatives to Provide Flood Damage Reduction in the Pearl River Basin Near Jackson, Mississippi

AGENCY: Army Corps of Engineers, DOD.

ACTION: Notice of intent to prepare a DEIS.

SUMMARY: 1. *Proposed Action:* The proposed action is to provide a more comprehensive solution to flooding in the Pearl River Basin near Jackson, Mississippi. Several interim measures have been identified allowing a level of flood protection to be in place while additional engineering and environmental evaluations are being made related to a more comprehensive solution.

2. *Alternatives*: Several alternatives are being developed for providing the comprehensive flood protection. The DEIS will include an evaluation of the environmental, social, economic, and engineering impacts associated with each alternative plan. The following alternatives are being considered:

a. No action—This alternative will be the "without" project conditions against which impacts will be measured.

b. Clearing—This alternative would consist of selective and/or total removal of vegetation within the floodway.

c. Construction of a dam—This alternative would consist of constructing a "dry dam" at the headwaters of the upper pool limits of the existing Ross Barnett Reservior, approximately 20 miles upstream of the Ross Barnett Dam.

3. *Scoping Process*:

a. The scoping process, as outlined by the Council on Environmental Quality in the November 29, 1978 **Federal Register**, National Environmental Policy Act-Regulations, have been and will continue to be utilized to involve Federal, State, and local agencies and other interested persons. Identification of significant issues to be addressed in the EIS have been and will continue to be determined through the scoping process. The agencies and individuals' views and concerns will be obtained through personal, telephone, and mail contacts in lieu of a formal scoping meeting.

b. Coordinating with the U.S. Fish and Wildlife Service, as required by the Fish and Wildlife Coordination Act and the Endangered Species Act, is being undertaken. Coordination required by other laws and regulations will also be conducted.

4. *DEIS Preparation*: It is estimated that the DEIS will be available to the public in May 1984. Questions about the proposed action and DEIS can be answered by:

Mr. Dru Barrineau, PD-ES, U.S. Army Engineer District, Mobile, P.O. Box 2288, Mobile, Alabama 36628, (205) 690-2722 or FTS 537-2722.

Dated: February 8, 1984.

Patrick J. Kelly,

Colonel, CE, District Engineer.

[FR Doc. 84-4610 Filed 2-21-84; 8:45 am]

BILLING CODE 3710-CR-M

DEPARTMENT OF EDUCATION

National Advisory Council on Continuing Education; Meeting

AGENCY: National Advisory Council on Continuing Education.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a meeting of the National Advisory Council on Continuing Education. It also describes the functions of the Council. Notice of meetings is required under Section 10(a)(2) of the Federal Advisory Committee Act. This document is intended to notify the general public of their opportunity to attend.

DATES: March 14, 15, and 16, 1984.

ADDRESS: Hyatt Regency—Washington, 400 New Jersey Avenue, NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Dr. William G. Shannon, Exeuctive Director, National Advisory Council on Continuing Education, 425 Thirteenth Street, NW., Suite 529, Washington, D.C. 20004, Telephone: (202) 376-8888.

SUPPLEMENTARY INFORMATION: The National Advisory Council on Continuing Education is established under Section 117 of the Higher Education Act (20 U.S.C. 1009), as amended. The Council is established to advise the President, the Congress, and the Secretary of the Department of Education on the following subjects:

(a) An examination of all federally supported continuing education and training programs, and recommendations to eliminate duplication and encourage coordination among these programs;

(b) the preparation of general regulations and the development of policies and procedures related to the administration of Title I of the Higher Education Act; and

(c) activities that will lead to changes in the legislative provisions of this title and other federal laws affecting federal continuing education and training programs.

The meetings of the Council are open to the public. However, because of limited space, those interested in attending are asked to call the Council's office beforehand.

The Council meeting will begin on March 14 with a dinner meeting from 7:00 P.M. to 9:00 P.M., and continue from 8:30 A.M. to 5:00 P.M. on March 15, and from 8:30 A.M. to 12:00 Noon on March 16, 1984.

The proposed agenda includes:

—Approval of Minutes.

—Approval of Agenda.

—*Discussion: Higher Education and the American Workforce:*

- Labor market information systems; their use by colleges and universities for planning purposes;
- The Higher Education Act; implications for the training and continuing education of the workforce.

—Executive Director's Report.

—Future Meetings.

Records are kept of all Council proceedings and are available for public inspection at the office of the National Advisory Council on Continuing Education, 425 Thirteenth Street, NW., Suite 529, Washington, D.C.

Signed at Washington, D.C. on February 14, 1984.

William G. Shannon,

Executive Director.

[FR Doc. 84-4651 Filed 2-21-84; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

Placid Oil Co.; Action Taken on Consent Order

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of action taken on Consent Order.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department

of Energy (DOE) announces that it has adopted a Consent Order with Placid Oil Company (Placid) as a final order of DOE.

EFFECTIVE DATE: February 22, 1984.

FOR FURTHER INFORMATION CONTACT: James O. Neet, Jr., Chief Counsel, Dallas Office, Economic Regulatory Administration, Department of Energy, 1341 W. Mockingbird, 200E, Dallas, Texas 75247, 214/767–7401.

SUPPLEMENTARY INFORMATION: On December 23, 1983, the ERA published a notice in the **Federal Register** that it had executed a Consent Order with Placid Oil Company on November 23, 1983, which would not become effective sooner than 30 days after publication of that notice. Pursuant to 10 CFR 205.199J(c) interested persons were invited to submit comments concerning the terms and conditions of the proposed Consent Order.

Comments were received from three entities. None of the comments objected to the Consent Order. All of the comments focused on the proposed distribution of funds (if any) remaining after payment to identifiable injured parties. All the comments advocated that any remaining funds be distributed on a pro-rata basis to these various states to finance energy related projects.

The proposed Consent Order stated that DOE will deposit the sum of $1,400,000.00 received from Placid into a suitable account for later disposition by DOE. The ultimate distribution of these funds will depend upon several factors, including the type of alleged violations underlying the Consent Order and the ability of the ERA to identify Placid customers which may be entitled to a refund of these funds. ERA has not yet determined an appropriate distribution for the refunded amount. Accordingly, as the Consent Order provides, the monies will be placed in a DOE interest bearing escrow account until an appropriate distribution is determined.

Having considered all comments submitted, DOE has determined that the proposed Consent Order with Placid should be made final without modification. The Consent Order was adopted as a final order on February 22, 1984.

Issued in Dallas, Texas on the 27th day of January, 1984.

Ben L. Lemos,

Director, Dallas Office Economic Regulatory Administration.

[FR Doc. 84–4877 Filed 2–21–84; 8:45 am]

BILLING CODE 6450–01–M

Energy Information Administration

Publication of Alternative Fuel Price Ceilings and Incremental Price Threshold for High Cost Natural Gas

The Natural Gas Policy Act of 1978 (NGPA) (Pub. L. 95–621) signed into law on November 9, 1978, mandated a new framework for the regulation of most facets of the natural gas industry. In general, under Title II of the NGPA, interstate natural gas pipeline companies are required to pass through certain portions of their acquisition costs for natural gas to industrial users in the form of a surcharge. The statute requires that the ultimate costs of gas to the industrial facility should not exceed the cost of the fuel oil which the facility could use as an alternative.

Pursuant to Title II of the NGPA, Section 204(e), the Energy Information Administration (EIA) herewith publishes for the Federal Energy Regulatory Commission (FERC) computed natural gas ceiling prices and the high cost gas incremental pricing threshold which are to be effective March 1, 1984. These prices are based on the prices of alternative fuels.

FOR FURTHER INFORMATION CONTACT: Leroy Brown, Jr., Energy Information Administration, 1000 Independence Avenue, S.W., Room BE–034, Washington, D.C. 20585, Telephone: (202) 252–6077.

Section I

As required by FERC Order No. 50, computed prices are shown for the 48 contiguous States. The District of Columbia's ceiling is included with the ceiling for the State of Maryland. FERC, by an Interim Rule issued on March 2, 1981, in Docket No. RM79–21, revised the methodology for calculating the monthly alternative fuel price ceilings for State regions. Under the revised methodology, the applicable alternative fuel price ceiling published for each of the contiguous States shall be the lower of the alternative fuel price ceiling for the State or the alternative fuel price ceiling for the multistate region in which the State is located.

The price ceiling is expressed in dollars per million British Thermal Units (BTU's). The method used to determine the price ceilings is described in Section III.

State	Dollars per million Btu's
Alabama	4.16
Arizona [1]	4.17
Arkansas [1]	3.86
California [1]	4.17
Colorado [2]	4.07
Connecticut [1]	4.52
Delaware [1]	4.37
Florida	4.22
Georgia [1]	4.41
Idaho [2]	4.07
Illinois	4.25
Indiana	3.86
Iowa [1]	4.16
Kansas	3.86
Kentucky [1]	4.27
Louisiana [1]	3.86
Maine [1]	4.52
Maryland [1]	4.37
Massachusetts	4.49
Michigan [1]	4.27
Minnesota [1]	4.16
Mississippi [1]	4.41
Missouri [1]	4.16
Montana [2]	4.07
Nebraska	4.13
Nevada [1]	4.17
New Hampshire [1]	4.52
New Jersey [1]	4.37
New Mexico	3.86
New York	4.35
North Carolina [1]	4.41
North Dakota [1]	4.16
Ohio	4.19
Oklahoma [1]	3.86
Oregon	4.15
Pennsylvania [1]	4.37
Rhode Island [1]	4.52
South Carolina [1]	4.41
South Dakota [1]	4.16
Tennessee	4.32
Texas [1]	3.86
Utah [2]	4.07
Vermont [1]	4.52
Virginia [1]	4.41
Washington [1]	4.17
West Virginia [1]	4.27
Wisconsin	4.25
Wyoming [2]	4.07

[1] Region based price as required by FERC Interim Rule, issued on March 2, 1981, in Docket No. RM–79–21.
[2] Region based price computed as the weighted average price of Regions E, F, G, and H.

Section II. Incremental Pricing Threshold for High Cost Natural Gas

The EIA has determined that the volume-weighted average price for No. 2 distillate fuel oil landed in the greater New York City Metropolitan area during December 1983 was $33.76 per barrel. In order to establish the incremental pricing threshold for high cost natural gas, as identified in the NGPA, Title II, Section 203(a)(7), this price was multiplied by 1.3 and converted to its equivalent in millions of BTU's by dividing by 5.8. Therefore, the incremental pricing threshold for high cost natural gas, effective March 1, 1984, is $7.57 per million BTU's.

Section III. Method Used to Compute Price Ceilings

The FERC, by Order No. 50, issued on September 29, 1979, in Docket No. RM79–21, established the basis for determining the price ceilings required by the NGPA. FERC also, by Order No. 167, issued in Docket No. RM81–27 on July 24, 1981, made permanent the rule that established that only the price paid for No. 6 high sulfur content residual

fuel oil would be used to determine the price ceilings. In addition, the FERC, by Order No. 181, issued on October 6, 1981, in Docket No. RM81–28, established that price ceilings should be published for only the 48 contiguous States on a permanent basis.

A. Data Collected

The following data were required from all companies identified by the EIA as sellers of No. 6 high sulfur content (greater than 1 percent sulfur content by weight) residual fuel oil: For each selling price, the number of gallons sold to large industrial users in the months of October 1983, November 1983, and December 1983.[3] All reports of volume sold and price were identified by the State into which the oil was sold.

B. Method Used To Determine Alternative Price Ceilings

(1) *Calculation of Volume-Weighted Average Price.* The prices which will become effective March 1, 1984, (shown in Section I) are based on the reported price of No. 6 high sulfur content residual fuel oil, for each of the 48 contiguous States, for each of the 3 months, October 1983, November 1983, and December 1983. Reported prices for sales in October 1983 were adjusted by the percent change in the nationwide volume-weighted average price from October 1983 to December 1983. Prices for November 1983 were simularly adjusted by the percent change in the nationwide volume-weighted average price from November 1983 to December 1983. The volume-weighted 3-month average of the adjusted October 1983 and November 1983, and the reported December 1983 prices were then computed for each State.

(2) *Adjusted for Price Variation.* States were grouped into the regions identified by the FERC (see Section III.C.). Using the adjusted prices and associated volumes reported in a region during the 3-month period, the volume-weighted standard deviation of prices was calculated for each region. The volume-weighted 3-month average price (as calculated in Section III.B.(1) above) for each State was adjusted downward by two times this standard deviation for the region to form the adjusted weighted average price for the State.

(3) *Calculation of Ceiling Price.* The lowest selling price within the State was determined for each month of the 3-month period (after adjusting up or down by the percent change in oil prices at the national level is discussed in Section III.B(1) above). The products of the adjusted low price for each month times the State's total reported sales volume for each month were summed over the 3-month period for each State and divided by the State's total sales volume during the 3 months to determine the State's average low price. The adjusted weighted average price (as calculated in Section III.B.(2)) was compared to this average low price, and the higher of the values was selected as the base for determining the alternative fuel price ceiling for each State. For those States which had no reported sales during one or more months of the 3-month period, the appropriate regional volume-weighted alternative fuel price was computed and used in combination with the available State data to calculate the State alternative fuel price ceiling base. The State's alternative fuel price ceiling base was compared to the alternative fuel price ceiling base for the multistate region in which the State is located and the lower of these two prices was selected as the final alternative fuel price ceiling base for the State. The appropriate lag adjustment factor (as discussed in Section III.B.4) was then applied to the alternative fuel price ceiling base. The alternative fuel price (expressed in dollars per gallon) was multiplied by 42 and divided by 6.3 to estimate the alternative fuel price ceiling for the State (expressed in dollars per million BTU's).

There were insufficient sales reported in Region G for the months of October, November, and December 1983. The alternative fuel price ceilings for the States in Region G were determined by calculating the volume-weighted average price ceilings for Region E, Region F, Region G, and Region H.

(4) *Lag Adjustment.* The EIA has implemented a procedure to partially compensate for the two-month lag between the end of the month for which data are collected and the beginning of the month for which ceiling prices become effective. It was detemined that *Platt's Oilgram Price Report* publication provides timely information relative to the subject. The prices found in *Platt's Oilgram Price Report* publication are given for each trading day in the form of high and low prices for No. 6 residual oil in 20 cites throughout the United States. The low posted prices for No. 6 residual oil in these cities were used to calculate a national and a regional lag adjustment factor. The national lag adjustment factor was obtained by calculating a weighted average price for No. 6 high sulfur residual fuel oil for the ten trading days ending February 14, 1984, and dividing that price by the corresponding weighted average price computed from prices published by Platt's for the month of December 1983. A regional lag adjustment factor was similarly calculated for four regions. These are: one for FERC Regions A and B combined; one for FERC Region C; one for FERC Regions D, E, and G combined; and one for FERC Regions F and H combined. The lower of the national or regional lag factor was then applied to the alternative fuel price ceiling for each State in a given region as calculated in Section III.B.(3).

Listing of States by Region

States were grouped by the FERC to form eight distinct regions as follows:

Region A

Connecticut
Maine
Massachusetts
New Hampshire
Rhode Island
Vermont

Region B

Delaware
Maryland
New Jersey
New York
Pennsylvania

Region C

Alabama
Florida
Georgia
Mississippi
North Carolina
South Carolina
Tennessee
Virginia

Region D

Illinois
Indiana
Kentucky
Michigan
Ohio
West Virginia
Wisconsin

Region E

Iowa
Kansas
Missouri
Minnesota
Nebraska
North Dakota
South Dakota

Region F

Arkansas
Louisiana
New Mexico
Oklahoma
Texas

Region G

Colorado
Idaho
Montana
Utah
Wyoming

Region H

Arizona
California
Nevada
Oregon
Washington

Issued in Washington, D.C., February 17, 1984.

Albert H. Linden, Jr.,

Deputy Administrator, Energy Information Administration.

[FR Doc. 84-4748 Filed 2-21-84; 8:45 am]
BILLING CODE 6450-01-M

[3] Large Industrial User—A person/firm which purchases No. 6 fuel oil in quantities of 4,000 gallons or greater for consumption in a business, including the space heating of the business premises. Electric utilities, governmental bodies (Federal, State, or Local), and the military are excluded.

Federal Energy Regulatory Commission

John L. Fraley; Order Dismissing Application and Noting Interventions

Issued: February 17, 1984

On January 26, 1983, John L. Fraley filed an application for an order declaring that his interlocking directorates in Duke Power Company (Duke), First Union Corporation (Corporation), and First Union National Bank (Bank) do not require additional Commission authorization pursuant to section 305(b) of the Federal Power Act. 16 U.S.C. 825(b) (1976). Alternatively, Mr. Fraley requests that the Commission grant him authorization to serve as a director of each of the three named companies.

Duke is a public utility within the meaning of section 305(b). Corporation is a bank holding company and Bank, a national bank, is its wholly-owned subsidiary.[1] Mr. Fraley has been a Director of both Corporation and Bank since 1975[2] and serves on the General Trust Committee of Bank. He has been a Director of Duke Power Company since 1977 and serves on the Audit and Compensation Committee of the Board of Directors. Mr. Fraley is an outside director of both companies, his principal business being vice Chairman of the Board, Director, and Chief Executive Office of Carolina Freight Carriers Corporation, an interstate motor carrier. Mr. Fraley was authorized to hold his current positions by virtue of his April 29, 1981 notification to the Commission in compliance with the Commission's order in *Edison Electric Institute*, 14 FERC ¶61,286, *order on reh.* 15 FERC ¶ 61,173 (1981).[3]

On December 15, 1982, Bank acquired the securities firm, Salem Securities, Inc., which was renamed First Union Discount Brokerage Services, Inc. (Discount), effective January 1, 1983. Discount is a retail brokerage firm or so-called "discount broker;" as discussed below, its involvement in the securities markets is limited to the execution of buy and sell orders on behalf of its customers. Mr. Fraley contends that Discount is not authorized by law to underwrite or participate in the marketing of public utility securities, and consequently that acquisition of this firm by Bank does not subject Mr. Fraley to a further filing or approval requirement with respect to his existing positions.

Notice of Mr. Fraley's application was published in the **Federal Register** with responses due on or before February 14, 1983. Duke filed a timely motion to intervene in support of the application, and Corporation and Bank jointly filed a similar motion to intervene.

Discussion

Under Rule 214 of the Commission's Rules of Practice and Procedure, 18 CFR 385.214 (1983), the timely motions to intervene serve to make Duke, Corporations, and Bank parties to this proceeding.

Section 305(b) prohibits any person from holding the position of officer or director of a public utility and the position of officer or director of a bank, trust company, bank association, or firm that is *authorized to underwrite or participate in the marketing of public utility securities*, unless the holding of such positions has been affirmatively authorized by the Commission upon a showing that neither public nor private interests will be adversely affected.

As noted above, the interlocks held by Mr. Fraley are subject to this Commission's jurisdiction in any event under the rationale expressed in *Edison Electric Institute, supra.* However, in the absence of actual underwriting or marketing activities by Bank, the limited filing requirements established in that order were controlling prior to the acquisition of Discount. The question currently before the Commission is whether the addition of Discount to the corporate family imposes more stringent filing and approval requirements upon Mr. Fraley. Stated differently, the question is whether Discount is authorized to underwrite or participate in the marketing of public utility securities as those terms are used in section 305(b). If so, the activities of Discount would be attributed to Bank and Corporation, thus potentially requiring further Commission authorization for Mr. Fraley's positions.[4]

We believe that Discount is *not* authorized to underwrite or participate in the marketing of public utility securities, and consequently that the acquisition of Discount imposes no additional filing and approval requirements.

As presented in Mr. Fraley's application, Discount's role in the securities markets is confined strictly to the mechanical execution of buy and sell orders on behalf of customers. Discount does not underwrite public utility securities, does not appear to provide securities investment counseling, does not appear to buy or sell securities on its own behalf, and does not appear to promote the purchase or sale of any particular securities. Rather, it provides the same largely mechanical service that many banks traditionally have provided as an accommodation to their customers.[5]

We note that in the context of interlocks between utilities and underwriters or securities dealers, while we must on occasion bar the underwriting or marketing of certain public utility securities as a condition of approval to protect public and private interests, we have continued to allow the buying and selling those same securities in the so-called secondary securities markets on behalf of investors who wish to buy or sell those activities.[6]

While we recognize the dangers presented by conflicting interests and the lack of arm's length bargaining which can arise from interlocking positions, we do not find those dangers to be present here.[7] The limited securities activities of Discount in the secondary or retail brokerage markets do not give rise to the concerns that underlie section 305(b).[8] The elimination

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[1] A diagram showing the relevant corporate relationships and Mr. Fraley's position is presented in Attachment A.

[2] Mr. Fraley also served in this capacity during the period 1971–1972.

[3] In *Edison Electric Institute*, the Commission concluded that interlocks between public utilities and commercial banks are jurisdictional. To the extent that a bank is not actually engaged in the marketing of public utility securities, including commercial paper, we have permitted the use of an abbreviated application to satisfy the statutory requirement and have effectively pre-granted authorization upon submission of such an application. However, where a bank's dealings are something more, be it marketing public utility commercial paper or acquiring a subsidiary that is authorized to underwrite or market public utility securities, for example, we have required a full application under Part 45 of our regulations. *See Thomas Madison McDaniel Jr.*, 24 FERC ¶ 61,026 (1983); *Edison Electric Institute*, 14 FERC ¶ 61,286, *order on reh.* 15 FERC ¶ 61,173 (1981).

[4] In a series of recent proceedings, the Commission has concluded that a company with a wholly-owned subsidiary that is an underwriter or securities dealer would itself be considered an underwriter or securities dealer. *E.g., Frederick W. Mielke, Jr.*, 22 FERC ¶ 61,004 (1983); *William T. Coleman, Jr.*, 19 Ferc ¶ 61,270 (1982); *Margery Somers Foster*, 19 FERC ¶ 61,146, *order on reh.* 19 FERC ¶ 61,312 (1982).

[5] *See generally Board of Governors of Federal Reserve System v. Investment Company Institute*, 450 U.S. 46 (1981); *Investment Company Institute v. Comp*, 401 U.S. 617 (1971); *BankAmerica Corp.*, Federal Reserve Board (January 7, 1983) *aff'd sub nom., Securities Industry Ass'n. v. Board of Governors*, 716 F.2d 92 (2d Cir. 1983), *cert. granted*, 52 U.S.L.W. 3550 (S. Ct. January 24, 1984); *Security Pacific National Bank*, Comptroller of the Currency (August 26, 1982), *aff'd in part and rev'd in part*, [Current] Fed. Sec. L. Rep. (CGH) ¶ 99,552 (D.D.C. 1983). *app. pending*, Nos. —— (D. C. Cir.).

[6] *See Thomas Madison McDaniel, Jr.*, 24 FERC ¶ 61,026 (1983); *Robert F. Gilkeson*, 22 FERC ¶ 61,226 (1983); *Frederick W. Mielke, Jr.*, 22 FERC ¶ 61,004 (1983).

[7] *See Hatch v. FERC*, 654 F.2d 825, 831–32 (D.C. Cir. 1981).

[8] *See John Edward Aldred*, 2 F.P.C. 247 (1940).

of competition, a lack of arm's length dealing, the presence of dummy or nominal directors, or other violations of the law, ethics or good business practices toward which Section 305(b) was directed are simply not implicated by Discount or by the buying and selling in the secondary, retail markets. Further, the provisions of the Glass-Steagall Act ensure that Discount will not participate in the underwriting or marketing of public utility securities. Consequently, we find that the acquisition of Discount does not subject Bank to further jurisdiction under section 305(b) and we shall accordingly dismiss the application.[9]

The Commission orders:

(A) John L. Fraley's application for approval of interlocks between Duke Power Company and both First Union Corporation and First Union National Bank, on the basis of the latter's acquisition of a discount brokerage service, is hereby dismissed for lack of jurisdiction.

(B) The Secretary shall promptly publish this order in the Federal Register.

By the Commission.

Kenneth F. Plumb,

Secretary.

Attachment A

John L. Fraley
Docket No. ID-2031-000
Diagram of Corporate Relationships

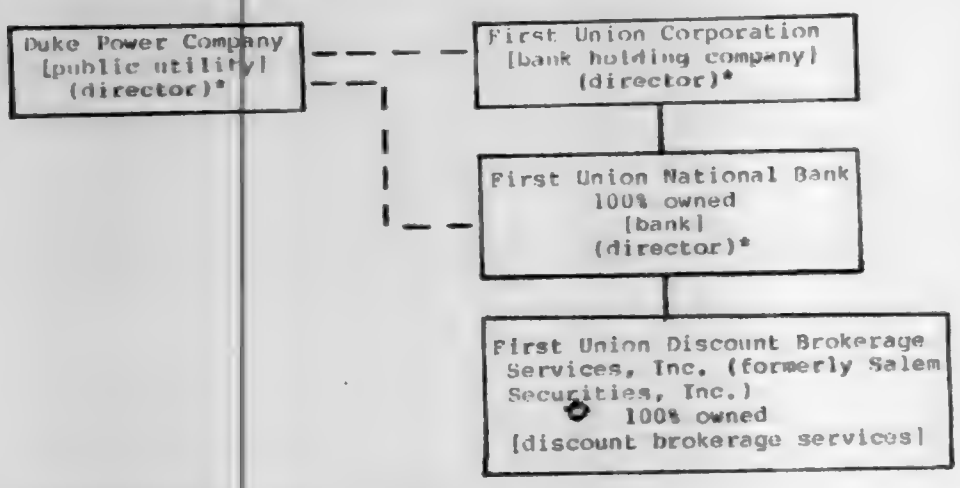

interlocking positions of John L. Fraley

FR Doc. 84-4662 Filed 2-21-84; 8:45 am]
BILLING CODE 6717-01-M

[Project No. 4314-001]

Henwood Associates, Inc.; Order Revoking Case-Specific Exemption From Licensing

Issued: February 17, 1984.

On October 28, 1981, a case-specific exemption from licensing under Part I of the Federal Power Act was issued to Henwood Associates, Inc. ("Henwood") for the proposed Dynamo Pond Project No. 4314. 17 FERC ¶62,134. The Dynamo Pond Project is to be located on Green Creek in Mono County, California. The exemption requires Henwood to comply with standard articles for case-specific exemptions, which are set forth in § 4.106 of the Commission's regulations, 18 CFR 4.106. Henwood has failed to comply with certain articles of the exemption. Therefore, the exemption will be revoked.

Article 2 of the exemption, set forth at 18 CFR 4.106(b), requires Henwood to comply with terms and conditions that any state fish-and-wildlife agency, in comments submitted in response to notice of the exemption application, has determined are appropriate to prevent loss of, or damage to, fish and wildlife resources. On October 26, 1981, the California Department of Fish and Game ("DFG") filed with the Commission the following conditions for the Dynamo Pond Project:

1. [Henwood] shall perform studies to the satisfaction of [DFG] to determine the effects of the proposed project on fish and wildlife resources and to identify feasible measures that will fully offset any adverse effects to fish and wildlife resources, and shall present a detailed report of the result of those studies to [DFG] not later than 60 days after completion of the studies.

2. [Henwood] shall provide all pertinent project information to [DFG] in sufficient time for [DFG] to utilize the necessary information in its decision-making process.

3. [Henwood] shall implement each recommendation for protection of fish and wildlife resources that may be proposed by [DFG] as a result of the studies described in Condition No. 1 or as a result of information provided under Condition No. 2.

Henwood has not contested these conditions.

According to DFG, a study submitted to it by Henwood during March 1982 did not sufficiently consider the proposed project's effect on fish in Green Creek. By letter dated April 9, 1982, DFG notified Henwood that the study was unsatisfactory and requested that Henwood supply additional information in order to evaluate the validity of Henwood's model of Green Creek, which was the basis of the study. Henwood neither furnished the requested information DFG nor asked for additional time in which to submit the requested information.

Article 3 of the exemption, which appears at 18 CFR 4.106(c), permits the Commission to revoke the exemption if actual construction or development of any proposed generating facilities of the project is not begun within eighteen months from the date on which the exemption is granted. Construction of the Dynamo Pond Project's generating facilities did not begin by April 28, 1983, the due date for start of construction under Article 3. Henwood has filed no application for an extension of this due date.

Article 5 of the exemption, set forth in 18 CFR 106(e), allows the Commission to revoke the exemption if any necessary to use or occupy Federal land for development or operation of the project is not obtained within one year from the date on which the exemption is granted. Construction and operation of the Dynamo Pond Project's penstock and transmission lines affect Federal land administered by the Bureau of Land Management, U.S. Department of the Interior ("BLM"). Henwood was required to obtain a right-of-way permit from BLM before beginning construction of the project. Henwood did not obtain this permit by October 28, 1982, the date specified by Article 5 of the exemption. Henwood has not applied for an extension of the due date for obtaining the permit.

Thus, Henwood has failed to comply with Articles 2, 3 and 5 of the exemption. Moreover, Henwood has requested that the Commission revoke

[9] Should Discount's involvement in the securities markets increase substantially beyond that described here, a different case would be before us and a different result might be warranted.

the exemption.[1] The exemption, therefore, will be revoked pursuant to § 4.106(a) of the Commission's regulations, 18 CFR 4.106(a). The effective date of the revocation will be thirty days from the date of this order.

The Commission Orders:

(A) The case-specific exemption from licensing under Part I of the Federal Power Act for the Dynamo Pond Project, FERC No. 4314, issued to Henwood Associates, Inc. on October 28, 1981, is revoked, effective thirty days from the date of this order.

(B) The Secretary shall ensure that this order is published in the Federal Register.

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-4681 Filed 2-21-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP83-44-006]

Algonquin Gas Transmission Co.; Reduction of Rate Schedule STB Demand Handling Charge in Compliance With Docket No. RP 83-44 Stipulation and Agreement

February 15, 1984.

Take notice that Algonquin Gas Transmission Company ("Algonquin Gas") on February 6, 1984, tendered for filing Second Revised Sheet No. 211 to its FERC Gas Tariff, Second Revised Volume No. 1.

Algonquin Gas states that Second Revised Sheet No. 211 is being filed in compliance with Algonquin Gas' Docket No. RP83-44-000 Stipulation and Agreement. The rates as shown on Sheet No. 211 reflect a reduction of 20¢ in the Rate Schedule STB Demand Handling Charge. Algonquin Gas will effectuate the 20¢ rate reduction as of August 1, 1983 by providing a credit on the March 1, 1984 bills equal to the 20¢ rate reduction on Rate Schedule STB sales for the period August 1, 1983 through February 29, 1984. Such credit will include interest from the date of payment of the applicable billing period to the April 7, 1984 billing date of March, 1984 sales.

Algonquin Gas notes that a copy of this filing is being served upon each affected party and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214, of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protest should be filed on or before February 27, 1984. Protest will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-4578 Filed 2-21-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-403-001]

Consolidated Gas Supply Corp., Amendment to Application

February 15, 1984.

Take notice that on February 7, 1984, Consolidated Gas Supply Corporation (Applicant), 445 West Main Street, Clarksburg, West Virginia 26301, filed in Docket No. CP83-403-001 an amendment to its application filed in Docket No. CP83-403-000 pursuant to section 7(c) of the Natural Gas Act, for a certificate of public convenience and necessity authorizing it to make certain sales to natural gas in interstate commerce for resale in addition to those proposed in the original application in Docket No. CP83-403-000, all as more fully set forth in the amendment which is on file with the Commission and open to public inspection.

Applicant states that its original proposal in Docket No. CP83-403-000 was structured and intended to compete with proposals made in *Boundary Gas, Inc.*, Docket No. CP81-107-000, and related proceedings. Applicant's proposal in Docket No. CP83-403-000 was consolidated with proceedings in Docket No. CP83-107-000 and related proceedings by Commission order dated September 29, 1983 (24 FERC ¶61,376). Applicant further states that the instant proposal is an outgrowth of certain settlement discussions which have taken place with repsect to the aforementioned consolidated proceedings.

By its amendment, Applicant proposes to sell certain quantities of natural gas to six local distribution companies and one interstate pipline company (the Phase 1A Purchasers). The Phase 1A Purchasers are Algonquin Gas Transmission Company (Algonquin), The Brooklyn Union Gas Company (Brooklyn Union), Consolidated Edison Company of New York, Inc. (Con Ed), Elizabethtown Gas Company (Elizabethtown), Long Island Lighting Company (Long Island), New Jersey Natural Gas Company (New Jersey Natural), and Public Service Electric & Gas Company (Public Service). More particularly, Applicant proposes to sell natural gas to the Phase 1A Purchasers as follows:

Purchaser	Commencement through Oct. 31, 1984, interruptible (dt/d)	Oct. 1, 1984 to Oct. 31, 1985, firm (dt/d)	Nov. 1, 1985 to Oct. 31, 1986, firm (dt/d)	Nov. 1, 1986 to termination firm (dt/d)
Algonquin	18,146	18,146	20,153	40,306
Brooklyn Union	0	0	0	8,060
Con Ed	4,500	4,500	4,500	7,575
Elizabethtown	2,000	2,000	2,000	2,020
Long Island	2,800	2,800	2,800	3,210
New Jersey Natural	0	0	0	8,060
Public Service	12,500	12,500	12,500	21,715
Total	39,946	39,946	41,953	110,936

The amendment states that for deliveries of interruptible gas, Applicant proposes to charge the rate specified in Rate Schedule RQ, expressed as a commodity rate and calculated on an imputed 100% load factor basis (currently $3.852/dt). For sales of firm gas, Applicant proposes to charge the three-part rate set forth in its Rate Schedule RQ or effective superseding rate schedule. However, it is stated, during the initial year of deliveries Applicant's sales to Algonquin will be on an interruptible basis and will be charged for at a rate based on the above Rate Schedule RQ rate calculated on an imputed 70% load factor basis (currently $3.9210/dt).

Applicant states that interruptible deliveries are proposed to commence as soon as all necessary regulatory approvals have been received and to continue until firm deliveries commence. Firm deliveries are scheduled to commence on November 1, 1984, or as soon thereafter as the Phase 1A Purchasers have secured the necessary firm transportation service. Firm deliveries continue until October 31, 1992, and from year to year thereafter. The application states that all quantities of natural gas will be delivered by Applicant, for the account of the Phase 1A Purchasers, to either Texas Eastern Transmission Corporation (Texas Eastern), to Transcontinental Gas Pipe Line Corporation (Transco), or in some cases to both Texas Eastern and Transco, at existing points of interconnection between Applicant's facilities and those of Texas Eastern and Transco at Leidy Storage Pool in Clinton County, Pennsylvania. Each of the Phase 1A Purchasers, it is stated, has arranged with Texas Eastern and/or Transco for the transportation of natural gas which

[1] On April 28, 1983, Henwood filed both its request that the exemption be revoked and an application for a preliminary permit for the Dynamo Pond Project. By letter dated October 19, 1983, the Deputy Director of the Commission's Office of Electric Power Regulation rejected the preliminary application, pursuant to § 4.104(c)(1)(i) of the Commission's regulations, 18 CFR § 4.104(c)(1)(i).

each Phase 1A Purchaser will obtain from Applicant.

No new or additional facilities need to be constructed by Applicant in order to make the proposed sales. Applicant's application states that the source of the gas will be Applicant's system supply and that Applicant has adequate available supplies of natural gas to make the proposed sales throughout the term of the sales agreements.

Any person desiring to be heard or to make any protest with reference to said amendment should on or before February 23, 1984 file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules. Persons who have heretofore filed need not file again.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-4579 Filed 2-21-84; 8:45 am]

BILLING CODE 6717-01-M

[Project Nos. 6154-002; 6154-004]

David G. DeMera; Surrender of Exemption and Dismissing Request for Extension of Time for Compliance With Exemption From Licensing

February 15, 1984.

Take notice that David G. DeMera (DeMera), Exemptee for the proposed mill and Sulphur Creeks Project No. 6154 has requested that his exemption be terminated. The exemption was issued on July 21, 1982. The project would have been located on Mill and Sulphur Creeks in Humboldt County, California.

In addition, DeMera has filed on September 30, 1983, a request for an additional six months for the term to begin construction of the same project for which he has now filed a surrender request.

DeMera filed his request for surrender on January 17, 1984, and the surrender of his exemption for Project No. 6154 is deemed accepted effective 30 days from the date of this notice. Accordingly, the request for extension of time is moot and therefore dismissed.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-4580 Filed 2-21-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA84-1-4-002; (PGA84-1B)]

Granite State Gas Transmission, Inc.; Proposed Change in Rates Pursuant to Purchased Gas Cost Adjustment Provisions

February 16, 1984.

Take notice that Granite State Gas Transmission, Inc. (Granite State) 120 Royall Street, Canton, Massachusetts 02021, on February 10, 1984 tendered for filing Substitute Alternate Sixth Revised Sheet No. 7 in its FERC Gas Tariff, First Revised Volume No. 1, containing proposed changes in rates for effectiveness on January 1, 1984.

According to Granite State, the instant rate adjustments reflect a decrease in its cost of gas purchased from Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee) which Tennessee has made effective as of January 1, 1984 pursuant to a settlement in Docket Nos. RP82-125-000, *et al.* Except for an adjustment to correct for an error that has resulted in undercollections of its gas costs since July 1, 1983 in the amount of $0.0062 per Mcf on all purchases, Granite State's filing is made pursuant to the purchased gas cost adjustment provision in Section XIX of the General Terms and Conditions of its tariff. In its filing, Granite State requests permission to reduce the Cumulative Adjustments to its Rate Schedule CD-1 and CD-2 Commodity rates by $0.0062 per Mcf to avoid further undercollections and also to restate its surcharge adjustments in the Commodity rates to reflect accumulated undercollections between July and September, 1983.

Granite State further states that its rate adjustments are applicable to its jurisdictional wholesale sales to its two affiliated distribution company customers: Bay State Gas Company and Northern Utilities, Inc. According to Granite State, the effect of the proposed rates in its filing is a decrease of approximately $8,700,000 annually in its jurisdictional rates, based on purchases and sales for the twelve months ended September 30, 1983.

According to Granite State, copies of the filing were served upon its customers and the regulatory commissions of the States of Maine, Massachusetts and New Hampshire.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before February 27, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-4581 Filed 2-21-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CS66-107-001, et al.]

Hamon Oil Co. (Jake L. Hamon), et al.; Applications for "Small Producer" Certificates[1]

February 16, 1984.

Take notice that each of the Applicants listed herein has filed an application pursuant to section 7(c) of the Natural Gas Act and 157.40 of the Regulations thereunder for a "small producer" certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce, all as more fully set forth in the applications which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make protest with reference to said application should on or before March 5, 1984, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules.

Under the procedure herein provided for, unless otherwise advised, it will be

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

unnecessary for Applicants to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

Docket Number	Date filed	Applicant
CS66-107-001	[1] 2-10-84	Harmon Oil Company, Post Office Box 663, Dallas, Texas 75221-0663.
CS72-420-001	[2] 6-17-83	Grande Oil Company, 1920 Alamo National Bank Building, San Antonio, Texas 78205.
CS72-421-000, CS72-1030-000	[3] 1-6-84	Natural Resources Corporation, 1825 Eye Street, NW., Washington, D.C. 20006.
CS74-87-002	[4] 5-20-83	NRM Petroleum Corporation, 600 W. Illinois, Suite 1000, Midland, Texas 79701.
CS76-72-000	[5] 1-27-84	Hall & Youngblood, Inc., (Panhandle Properties, Inc.), P.O. Box 798, Pampa, Texas 79065.
CS83-99-004	[6] 10-17-83	Quinoco Oil & Gas, Inc., P.O. Box 10800, Denver, Colorado 80210-0800.
CS84-32-000	1-17-83	Torch Energy Associates, a Texas limited partnership, 1300 Main, Suite 1520, Houston, Texas 77002.
CS84-33-000	1-16-84	TGG Offshore 1980, Ltd., 3050 Post Oak Blvd., Suite 200, Houston, Texas 77056.
CS84-34-000	1-16-84	Discorbis Oil Company, 1415 Alamo National Building, San Antonio, Texas 78205.
CS84-35-000	1-19-84	Texas General Petroleum Corporation, 3050 Post Oak Blvd., Suit 200, Houston, Texas 77056.
CS84-36-000	1-27-84	Enex Oil & Gas Income Program I—Series 10, One Kingwood Place, Suite 202, Kingwood, Texas 77339.
CS84-37-000	2-5-84	Lorenz & Crouch, Inc., P.O. Box 110539, Arlington, Texas 76007.
CS84-38-000	2-5-84	Charles S. Crouch, P.O. Box 110539, Arlington, Texas 76007.
CS84-39-000	2-5-84	James R. Lorenz, P.O. Box 110539, Arlington, Texas 76007.

[1] Effective January 1, 1984, Jake L. Hamon assigned and conveyed all of its interests to Hamon Oil Company.
[2] Applicant request that B.D. Production Company be covered under its small producer certificate.
[3] Applicant request termination of small producer certificate in Docket No. CS72-421-000 and that its small producer certificate in Docket No. CS72-1030-000 be amended to include the interests of Natural Resources Corporation of Texas, and of NARECO Corporation under its small producer certificate.
[4] Applicant requests to have its affiliates NRM 81-1, Ltd. and HMG Associates covered under its small producer certificate.
[5] Applicant requests that its small producer certificate be redesignated under the name of Hall & Youngblood, Inc.
[6] Applicant requests to cover Quinoco Oil & Gas Income Program 1983-2 under its small producer certificate.

[FR Doc. 84-4582 Filed 2-21-84; 8:45 am]
BILLING CODE 6717-01-M

[Docket Nos. RM 81-19; ST79-023-003]

Louisiana Intrastate Gas Corp.; Extension Reports

February 16, 1984.

The companies listed below have filed extension reports pursuant to Section 311 of the Natural Gas Policy Act of 1978 (NGPA) and Part 284 of the Commission's regulations giving notice of their intention to continue transportation and sales of natural gas for an additional term of up to 2 years. These transactions commenced on a self-implementing basis without case-by-case Commission authorization. The sales may continue for an additional term if the Commission does not act to disapprove or modify the proposed extension during the 90 days preceding the effective date of the requested extension.

The table below lists the name and addresses of each company selling or transporting pursuant to Part 284; the party receiving the gas; the date that the extension report was filed; and the effective date of the extension. A letter "B" in the Part 284 column indicates a transportation by an interstate pipeline which is extended under § 284.105. A letter "C" indicates transportation by an intrastate pipeline extended under § 284.125. A "D" indicates a sale by an intrastate pipeline extended under § 284.146. A "G" indicates a transportation by an interstate pipeline pursuant to § 284.221 which is extended under § 284.105. Three other symbols are used for transactions pursuant to a blanket certificate issued under § 284.222 of the Commission's Regulations. A "G(HS)" indicates transportation, sale or assignments by a Hinshaw pipeline; A "G(LT)" indicates transportation by a local distribution company, and a "G(LS)" indicates sales or assignments by a local distribution company.

Any person desiring to be heard or to make any protests with reference to said extension report should on or before March 15, 1984, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR § 385.211 or 385.214).

All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants party to a proceeding.

Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

Docket No.	Transporter/seller	Recipient	Date filed	Part 284 subpart	Effective date
ST79-023-003	Louisiana Intrastate Gas Corp., P.O. Box 1352, Alexandria, LA 71301	Mid Louisiana Gas Co	01-25-84	D	05-05-84
ST80-182-002	Tennessee Gas Pipeline Co., P.O. Box 2511, Houston, TX 77001	Columbia Gas Transmission Corp	01-16-84	G	04-15-84
ST80-220-002	United Texas Transmission Co., P.O. Box 1478, Houston, TX 77001	United Gas Pipe Line Co	01-24-84	C	04-26-84
ST80-224-002	Northwest Central Pipeline Corp., P.O. Box 25128, Oklahoma City, OK 73125.	Pacific Gas and Electric Co. (successor to the Natural Gas Corp. of California).	01-23-84	B	05-01-84
ST80-237-002	Valero Transmission Co., P.O. Box 500, San Antonio, TX 78292	Texas Eastern Transmission Corp	01-18-84	C	06-10-84
ST82-168-001 [1]	Northern Natural Gas Co., 2223 Dodge St., Omaha, NE 68102	Kansas Power and Light Co	01-25-84	B	02-03-84
ST82-267-001	Louisiana Resources Co., P.O. Box 3102, Tulsa, OK 74101	Trancontinental Gas Pipe Line Corp	01-19-84	C	04-19-84
ST82-270-001	Mountain Fuel Supply Co., P.O. Box 11368, Salt Lake City, UT 84139	Northwest Pipeline Corp	01-17-84	G	04-16-84
ST82-280-001 [1]	Oklahoma Natural Gas Co., 624 South Boston Ave., Tulsa, OK 74119	Transwestern Pipeline Co	01-25-84	D	04-22-84
ST82-282-001	Tennessee Gas Pipeline Co., P.O. Box 2511, Houston, TX 77001	Louisiana Intrastate Gas Corp	01-27-84	B	04-27-84
ST82-286-001	Tennessee Gas Pipeline Co., P.O. Box 2511, Houston, TX 77001	Arkansas Louisiana Gas Co	01-25-84	G	04-26-84
ST82-290-001	ANR Pipeline Co., 500 Renaissance Center, Detroit, MI 48243	Richie Gas System, Inc	01-23-84	B	04-23-84
ST82-291-001	Oklahoma Natural Gas Co., 624 South Boston Ave., Tulsa, OK 74119	Mid Louisiana Gas Co	01-26-84	D	04-26-84
ST82-308-001	Stauffer-Wyoming Pipeline Co., P.O. Box 513, Green River, WY 82935	Panhandle Eastern Pipe Line Co	01-23-84	C	05-05-84
ST84-459-001 [1]	Tennessee Gas Pipeline Co., P.O. Box 2511, Houston, TX 77001	Mid Louisiana Gas Co	01-30-84	G	07-13-83

[1] These extension reports were filed after the date specified by the Commission's Regulations, and shall be the subject of a further Commission order.
Note.—The noticing of these filings does not constitute a determination of whether the filings comply with the Commission's Regulations.

[FR Doc. 84-4583 Filed 2-21-84; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. ES84-30-000]

Maine Public Service Co.; Application

February 16, 1984.

Take notice that on February 2, 1984, Maine Public Service Company (Applicant) filed an application with the Federal Energy Regulatory Commission seeking authority, pursuant to Section 204 of the Federal Power Act, to issue not more than $25 million of unsecured short-term promissory notes maturing not more than 12 months from the date of issuance and to have maturity dates not later than December 31, 1985.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capital Street, NE., Washington, D.C. 20426, in accordance with the Requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 or 385.214). All such petitions or protests should be filed on or before March 2, 1984. The application is on file with the Commission and available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-4584 Filed 2-21-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-210-001]

Transcontinental Gas Pipe Line Corp.; Amendment

February 16, 1984.

Take notice that on January 19, 1984, Transcontinental Gas Pipe Line Corporation (Applicant), P.O. Box 1396, Houston, Texas 77251, filed in docket No. CP83-210-001 an amendment to its pending application filed February 28, 1983, in Docket No. CP83-210-000 pursuant to Section 7(c) of the Natural Gas Act so as to reflect certain changes in the proposed construction and operation of pipeline and appurtenant facilities in the offshore Texas area, all as more fully set forth in the amendment which is on file with the Commission and open to public inspection.

Applicant states that in its application filed in Docket No. CP83-210-000, it requested authority to construct and operate approximately 32.64 miles of 20-inch pipeline which would connect the existing Cities Service Oil and Gas Corporation (Cities Service) production platform A in Block 669, Matagorda Island Area, offshore Texas, to Cities Service's production platform A in Block A-76, Brazos Area, south addition, offshore Texas. It is stated that the Block A-76 platform is connected to Applicant's Central Texas Gathering System (CTGS). Applicant also proposed to construct and operate metering, regulating, and other appurtenant facilities on the Matagorda Island Block 669 A platform.

It was stated in the application that the gas to be produced from the Block 669 A platform would be gas from Matagorda Island Blocks 653, 654, and 669, that the proposed facilities would have a maximum capability of 80,000 Mcf per day, and that the estimated cost of such facilities was $27,536,000.

It was further stated that, based on information from the producers, the subject reserves should be ready for production on October 1, 1984, and that Applicant planned to construct the proposed facilities during the 1984 summer construction season.

Applicant states that, since the filing of the application the producers have changed their plans for the logistics and timing concerning production of gas from the subject blocks. Applicant asserts that gas would now be produced from both the Matagorda Island Block 669 A and B platforms. Applicant states that the producers plan to install a B platform in August 1984 and have informed Applicant that they plan for production to commence from the B platform in the first quarter of 1985 and for production to commence from the A platform in August 1985.

Additionally, Applicant notes that since the filing of the application it has determined that a less expensive route for a pipeline would be to connect the platforms in Matagorda Block 669 to the CTGS at Brazos Block A-133 rather than at Brazos Block A-76.

Applicant now requests authority to construct and operate (1) approximately 26.7 miles of 20-inch pipeline which would connect Cities Service's A platform in Matagorda Island Block 669 to Cities Service's A platform in Brazos Block A-133 (the latter platform is connected to the CTGS), and (2) approximately 0.06 mile of 12-inch pipeline which would connect Cities Service's B platform in Matagorda Island Block 669 to a subsea tap in the 20-inch pipeline in Block 669. Applicant also requests authority to construct and operate metering, regulating, and other appurtenant facilities on the Matagorda Island Block 669 A and B platforms. The proposed facilities, Applicant asserts, reflect a shorter routing from the application which would entail a savings of approximately $3,325,800. It is expected that the facilities would be constructed during the summer of 1984.

It is stated that the proposed facilities would have a maximum capability of 80,000 Mcf per day and that the estimated cost of such facilities is $24,210,200. It is anticipated that the proposed facilities would be financed with short-term loans and funds on hand.

Any person desiring to be heard or to make any protest with reference to said amendment should on or before March 8, 1984, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules. All persons who have heretofore filed need not file again.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-4585 Filed 2-21-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP84-206-000]

Trunkline Gas Co.; Application

February 16, 1984.

Take notice that on January 23, 1984, Trunkline Gas Company (Applicant), P.O. Box 1642, Houston, Texas 77001, filed in Docket No. CP84-206-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas for Southern Natural Gas Company (Southern), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to transport up to 16,000 Mcf of natural gas per day on an interruptible basis pursuant to a transportation agreement with Southern dated July 15, 1983, as amended September 20, 1983. It is stated that Southern is purchasing gas from Elf Acquitaine, Inc., pursuant to a gas purchase contract dated June 4, 1983. Applicant proposes to receive gas for Southern's account at the primary point of receipt near Katy, in Waller County, Texas, an existing interconnection between Applicant and Transcontinental Gas Pipe Line Corporation. Applicant would also accept deliveries for Southern's account at existing secondary points of receipt interconnecting Applicant and Texas Eastern Gas Pipeline Company's facilities in both Allen and Beauregard Parishes, Louisiana. Redeliveries to Southern are proposed at an existing interconnection in St. Mary Parish, Louisiana.

Applicant states that Southern would pay a unit transportation charge of 7.58 cents per Mcf for gas received in Waller County and 3.79 cents per Mcf for gas received in Allen and Beauregard Parishes.

Any person desiring to be heard or to make any protest with reference to said application should on or before March 8, 1984, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-4566 Filed 2-21-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. RP81-115-000, et al.]

United Gas Pipe Line Company, et al.; Filing of Pipeline Refund Reports and Refund Plans

February 16, 1984.

Take notice that the pipelines listed in the Appendix hereto have submitted to the Commission for filing proposed refund reports or refund plans. The date of filing, docket number, and type of filing are also shown on the Appendix.

Any person wishing to do so may submit comments in writing concerning the subject refund reports and plans. All such comments should be filed with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before February 29, 1984. Copies of the respective filings are on file with the Commission and available for public inspection.

Kenneth F. Plumb,

Secretary.

APPENDIX

Filing date	Company	Docket No.	Type filing
12/20/83	United Gas Pipe Line Company	RP81-115-000	Report.
1/04/84	Consolidated Gas Supply Corporation	RP72-157-069	Report.
1/26/84	Tennessee Gas Pipeline Company	RP81-38-007	Report.
1/27/84	Great Lakes Gas Transmission Company	RP83-34-003	Report.
1/30/84	Texas Gas Transmission Corporation	RP87-10-000	Report.
2/01/84	Mountain Fuel Supply Company	RP82-126-006	Report.
2/06/84	Inter-City Minnesota Pipelines, Ltd., Inc	RP82-81-004	Report.

[FR Doc. 84-4567 Filed 2-21-84; 8:45 am]

BILLING CODE 6717-01-M

Office of Conservation and Renewable Energy

[Docket No. CAS-RM-79-112-B]

Affordable Housing Through Energy Conservation

AGENCY: Office of Conservation and Renewable Energy, DOE.

ACTION: Notice of Inquiry.

SUMMARY: The Department of Energy announces the availability of a draft guide for home builders entitled, "Affordable Housing through Energy Conservation: A Guide to Designing and Constructing Energy Efficient Homes". The draft guides incorporate energy savings calculation and construction techniques for builders of new homes. This Notice of Inquiry is intended to solicit public comment on the draft guide. The Department is particularly interested in receiving comments on the set of questions contained in this Notice.

Congress has directed the Department to develop and promulgate voluntary energy performance standards for the design of new commercial and residential buildings. Only Federal agencies will be required to comply with these standards for the design of new Federal buildings. For all other buildings, these standards will serve as voluntary guidelines.

As defined by statute, an energy performance standard for a new building is a design requirement which prescribes an energy consumption goal and a method for calculating whether the design meets that goal.

Today's issuance provides a simplified calculation technique for analyzing whether the design of a home meets an energy consumption goal. No energy consumption goals, however, have been developed at this time, so that the goal itself could be selected by a homebuilder, financial institution, or a consumer.

Instead of establishing specific energy consumption goals, the draft guide provides a simple, reliable way to determine the cost effectiveness of different energy conservation options without prescribing a specific level of investment for energy conservation. They allow the user to consider regional differences in climatic conditions, building materials and labor costs, energy prices, and energy types.

The draft guide is primarily for the construction of what is known in the building industry as "stick-built" housing. The term "stick-built" refers to those homes built predominantly with wood-frame construction and sheathed with aluminum, vinyl, or wood siding, or a single layer of brick. It does not include housing built with double layers of brick, concrete block, logs, or other forms of massive construction. The Department has begun a project to develop a similar simplified calculation technique for analyzing the design of high mass homes. It is the intention of the Department to incorporate this research into the residential guide when it is published for public use.

The guide, which is the subject of today's notice, will contain an easy to operate slide rule which will enable home builders to calculate the amount of energy that can be saved by incorporating a variety of energy conservation options that affect space conditioning (e.g., infiltration, equipment, insulation). The slide rule will be an operable prototype for the Kansas City, Missouri area, and is only for illustrative and review purposes. When published for public use the guide will contain slide rule tabs for 45 locations. The use of the slide rule is explained in a short brochure. Accompanying the slide rule is a design and construction guidebook that explains how to construct, install, specify, and operate the several energy conservation options analyzed by the slide rule. The guidebook discusses and analyzes additional space conditioning options as well as a variety of domestic hot water and appliance options. The guidebook also provides the user with an easy to use economic evaluation technique for determining the cost effectiveness of a single or combination of options.

The slide rule, slide rule user brochure, guidebook and two technical support documents are available for public inspection at the DOE Headquarters in Washington, D.C. or at the nine DOE Regional Support Offices. Addresses for each are listed elsewhere in this Notice. Copies may be obtained by writing to the Hearings and Dockets Branch of the Office of Conservation and Renewable Energy. Because supplies of the documents are limited, respondents are asked to request the documents only if they plan to submit comments.

DATES: Written comments must be received no later than May 22, 1984. A public meeting will be held on April 3, 1984, 9:00 a.m., in Washington, D.C. at the Department of Energy, 1000 Independence Ave. SW., Roon 1E–245. The purpose of the public meeting is to provide a briefing on the draft guide to interested parties and to allow the opportunity for oral comments.

ADDRESS: Send written comments (5 copies) to: Hearings and Dockets Branch, Office of Conservation and Renewable Energy, Department of Energy, Docket Number CAS–RM–79–112–B, 1000 Independence Avenue, SW., Room 6B–025, Washington, D.C. 20585, (202) 252–9319.

FOR FURTHER INFORMATION CONTACT:

Architectural & Engineering Systems Branch, Department of Energy, Room GF–253, 1000 Independence Avenue, SW., Washington, D.C. 20585, (202) 252–9837.

Richard F. Kessler, Office of General Counsel, GC–33, Department of Energy, Room 6B–158, 1000 Independence Avenue, SW., Washington, D.C. 20585, (202) 252–9519.

SUPPLEMENTARY INFORMATION:

I. Background
II. A Revised View of Performance Standards
III. Technical Approach
IV. Summary of Guide
V. Use of Guide
VI. Questions for Public Comment
VII. Availability of Draft Guide
VIII. Comment Procedures

I. Background

The Energy Conservation Standards for New Buildings Act of 1976, as amended (Act), 42 U.S.C. Sec. 6831 *et seq.*, requires the Department of Energy DOE) to issue voluntary performance standards for the design of new commercial and residential buildings. Only Federal agencies are required to comply with the standards for the design of new Federal buildings. For all other buildings, compliance is voluntary, and the standards serve only as voluntary guidelines.

As originally enacted, Title III of the Energy Conservation and Production Act, Pub. L. 94–385, 90 Stat. 1144 *et seq.*, required the Department of Housing and Urban Development (HUD) to develop, promulgate, implement and enforce compliance with the performance standards. On August 4, 1977, the Act was amended by Section 304(a), 42 U.S.C. Sec. 7154, of the Department of Energy Organization Act, Pub. L. 95–91, 91 Stat. 565 *et seq.*, which transferred from HUD to DOE the responsibility to develop and promulgate the standards. HUD retained its implementation responsibilities.

In November 1979, DOE published proposed energy performance standards in the **Federal Register**, 44 FR 68120 *et seq.* (November 28, 1979). The Notice was controversial and generated over 40,000 comments. The comments included technical and other substantive criticisms of the proposed standards. Many commenters expressed concern that the proposed standards were not technically practicable or economically achievable. Furthermore, many commenters stated that the proposed standards placed too great a reliance upon the use of a complex computer program which many commenters said they neither understood nor could afford to use.

Less than a year after publication of the proposed standards, the Act was again amended by Section 362, 94 Stat. 1629, of the Housing and Community Development Act of 1980, Pub. L. 96–399 (October 8, 1980). This amendment required that DOE promulgate interim standards by August 1, 1981, and extended the date for promulgation of a final rule to April 1, 1983. These interim standards were only to apply to new Federal buldings and required demonstration projects in at least two geographical areas.

In August 1981, Congress again amended the Act and also deferred the appropriation for the program for fiscal year 1981 to fiscal year 1982. Subtitle D of Title 10 of the Omnibus Reconciliation Act of 1981, 97 Stat. 35 (August 13, 1981), amended the Act to create the term "voluntary performance standards"; eliminated the provision for a possible statutory sanction for noncompliance; added a provision that, except for Federal buildings, "voluntary standards will be developed solely as guidelines to provide technical assistance for the design and construction of energy efficient buildings"; and extended the time to meet a reporting requirement.

II. A Revised View of Performace Standards

The legislative changes which have taken place since enactment of the Act in 1976 have required a fundamental change in program focus. DOE retains the responsibility for developing voluntary performance standards for all new buildings but these standards now serve a dual purpose. The performance standards serve one purpose for the Federal sector where the standards would set required performance levels for Federal buildings only. However, the Act specifically directs that, except for Federal buildings, voluntary performance standards "* * * shall be developed solely as guidelines for the purpose of providing technical assistance for the design and

construction of energy efficient buildings", Section 304(a)(4) of the Act. Accordingly, the standards serve a second purpose for the private sector by providing sound technical information and examples of cost effective, energy efficient design and construction practices.

The Act defines the term "voluntary performance standards" to mean:

> an energy consumption goal or goals to be met without specification of the method, materials, and processes to be employed in achieving that goal or goals, but including statements of the requirements, criteria and evaluation methods to be used, and any necessary commentary. Section 303(a) of the Act.

As intended by the Act, the voluntary preformance standards provide an objective for energy efficiency during the design stage. Because performance standards are used at the design stage prior to construction, they do not set requirements for the operation, maintenance or energy consumption of a building once built. They operate by setting an energy consumption goal for a building; i.e., a quantified target of energy consumption at the design stage and a method to calculate whether a design meets the energy consumption goal.

Past experience with the development of standards for this program has demonstrated the need for a simple, reliable way to enable a person to determine the cost effectiveness of different energy conservation options. Comments received in response to proposed energy performance standards published in November 1979 were especially critical of the apparent need to use a complex, time-consuming computer program as the calculation method.

Use of a complex computer program alienated many and left others unconvinced of its technical accuracy. Additionally, it became clear that people will only invest in greater energy efficiency if convinced that the long term cost savings, from reduced energy consumption, justify the first cost expenditure. Accordingly, DOE has developed calculation techniques which demonstrate the effect of additional energy conservation options in a new home. One must first be able to calculate the costs and benefits of additional levels of energy conservation. Only then does it make sense to recommend a voluntary energy consumption goal which is technically achievable, economically attainable and environmentally sound. DOE has made a major effort to develop calculation techniques which are accurate, inexpensive, readily understood and easy to operate. The objective has been to develop calculation techniques, which, to borrow a term from the computer industry, are "user friendly."

Today's issuance announces the availability of what DOE hopes will prove to be a user friendly calculation technique to determine the cost effectiveness of energy conserving options for single family homes of the "stick-built" type construction.

III. Technical Approach

DOE established a technical project for the development of the guide using the management services of the American Institute of Architects Foundation (AIA–F). Steven Winter Associates, Inc. (SWA) of New York, an architectural/engineering firm, developed the comprehensive information on energy conservation options included in the guide.

Lawrence Berkeley Laboratory (LBL) conducted computer analysis work on single family homes and provided documentation of the research methods, assumptions and results. LBL was also responsible, in conjunction with SWA, for coordinating and formatting the computer analysis and preparing the single family home slide rules.

Additionally, DOE is initiating a project to develop inputs for high mass housing into the residential guide. The development process for these inputs will be along the same lines as for "stick-built" housing. LBL is responsible for technical analysis in this project, with assistance from SWA.

The project has been aided by several review panels which provided guidance and assistance to the project team: a panel of home builders and other representatives of the homebuilding industry; a research review panel composed of passive solar, climate, and project overview subpanels; and a panel of architects. The research review panel reviewed research methods, assumptions, and results. The home builder and architect panels reviewed the development of the guide as the project progressed. Representatives from utilities, public interest groups, consumer groups, environmental groups, and the financial community were asked to provide their views and advice as appropriate. Additionally, a masonry and log industry review panel has been constituted. It will review the "mass" project.

The main goal of these projects are to develop credible energy use analysis tools. Considerable attention has been given to examining all research assumptions and procedures to ensure their adequacy and accuracy. In addition, all research methods, assumptions, and results have been documented to ensure that all research results are reproducible and verifiable. The research documentation is available for review at the DOE Headquarters Office in Washington, D.C. and at the nine DOE Regional Support Offices.

The first step in the research effort was to define building prototypes. For single family detached housing they are ranch, two story, split level and mid and end-unit townhouse prototypes. Prototypes have been defined largely on the basis of data provided by the National Association of Home Builders/Research Foundation. This data included such things as demographic data for site selection, size, configuration, construction type, materials and typical glazing area. DOE–2.1 was then used to determine the rate of energy consumption of each prototype in 45 U.S. climatic locations. DOE–2.1 is a public-domain computer program. It estimates the energy consumption of a building prior to construction by using information derived from the design of a building. It estimates hour-by-hour energy use of a building at the design stage from available information such as location, construction, operation, and heating, ventilation and air-conditioning equipment specifications. It was developed by the Lawrence Berkeley Laboratory in collaboration with Los Alamos National Laboratory with financial support from DOE. Next, a variety of energy conservation options were defined, and DOE–2.1 sensitivity analyses were performed for the prototypical homes in various climates and locations to determine the energy use effects of each option.

The data from this research provided the basis for preparing a data base for displaying the research results. This process enabled the researchers to determine the energy effects of a variety of options. The results were analyzed further, and an easy to use slide rule appeared to provide the most practical format to display the information.

Fifty-one cities, included in an original DOE–2.1 data base, were selected because they included most major cities (Continental U.S., Alaska, and Hawaii) and covered the range of climate types in which there is significant building construction and acquisition.

This data base was subsequently modified through climate analyses conducted by LBL. Locations were eliminated if the changes in both heating and cooling were within 5% of that of another base city. This resulted in the elimination of eight cities. At the same time two new locations were added for

better coverage, resulting in 45 base cities (also including all of Continental U.S., Alaska, and Hawaii).

To develop results for other locations the following climate data was used: (1) Heating and cooling degree days for the 3400 National Oceanographic and Atmospheric Administration (NOAA) stations (20-year average 1951–1980), and (2) latent humidity calculated from Test Reference Year (TRY) weather tapes for 51 U.S. locations.

IV. Summary of Guide

The draft guide is written for those who desire a simple procedure for designing and constructing energy conserving homes. The calculation techniques may be used to demonstrate how investment in energy conservation strategies in different regions may increase monthly disposable income by reducing fuel bills. The guide may be used by home builders interested in improving energy efficiency and using energy cost savings as a marketing strategy to sell homes.

The design and construction of those parts of the home, which affect energy use, are influenced by a number of local, state and federal building codes and standards. These standards are designed to improve the quality and durability of the homes, but are not universally sensitive to energy efficient design. In addition, product manufacturers, lenders, and home buyers are all market forces influencing the energy efficiency of the home.

Home builders confronted with these sometimes conflicting pressures have had to rely on intuition, experience and, where available, complicated energy use and economic analysis tools to estimate the costs and savings of options designed to reduce energy use in the home. Many of the tools are ill-suited to this purpose, difficult to use and may not cover a sufficient range of possible energy improvements to allow comparisons. For example, one tool might be useful for estimating the energy and cost impacts of increased insulation levels but is not applicable for estimating the impacts from the installation of a solar domestic hot water system.

By providing user friendly energy and economic analysis procedures, the guide fills a number of gaps. First, they allow the home builder to evaluate the impact on energy use of an array of options. Next, local energy costs may be utilized to more accurately estimate the dollar savings from a given option.

Finally, by providing an easy-to-use tool for economic analysis, the guides allow the savings in energy costs to be compared with the costs of purchasing and installing the option to reveal the "net" savings to the homeowner over a period of a year. Demonstrating and documenting estimated dollar savings in this way is not only an excellent marketing tool, but it also provides data to convince a lender to finance the cost of the improvement. In addition, lenders, concerned with a potential home buyer's ability to afford a mortgage, are beginning to view energy costs as an important consideration in deciding whether or not a loan is secure. Application of this tool may encourage that trend.

V. Use of Guide

The guidebook is divided into three main chapters and an appendix. The chapters are entitled:

- Chapter 1. Overview and Using the Guide.
- Chapter 2. Design and Construction.
- Chapter 3. Selecting Energy Conservation Options.
- Appendix. Estimating Local Energy Costs.

The first chapter introduces the guide and provides a road map for using the materials presented. The second chapter contains construction, design and specification information on the energy conservation options discussed in the third chapter. Worksheets are provided which, when used in conjunction with the slide rule, are useful in selecting those energy conservation options which are most cost-effective.

The worksheets are divided into two parts. The first describes the characteristics of a "Comparison Home". The comparison home is used as a benchmark against which the energy savings of various conservation options are compared. The comparison home is representative of construction specifications typically used by home builders. The second part of the worksheet is used to identify how various components and systems (the "OPTIONS") which when added to, or substituted in, the comparison home, influence the amount of energy the home is expected to use.

Separate worksheets are provided for evaluating options in each of the major areas of energy use: space conditioning, domestic hot water and appliances. Options from all three worksheets are compared and the final selection of options is made by the home builder using a set of economic worksheets.

It is anticipated that the guide will aid the home builder in assisting the potential home buyer in selecting and financing energy conservation options. Further, by covering the most popular and effective options from each of the major areas of energy use (space conditioning, domestic hot water, and appliances), the guide helps identify a 'balanced' package of options.

The discussion which follows describes in more detail the information contained in each separate chapter of the guidebook.

Design and Construction

This chapter discusses the characteristics, affecting heating and cooling, which contribute to the overall energy efficiency of the home. The chapter is intended to be used with the slide rule and contains descriptions of energy efficient construction techniques required to achieve the performance levels estimated by the slide rule analysis procedure.

The design and construction information in the guidebook is divided into individual sections providing recommended techniques for constructing or installing each of the options evaluated by the slide rule.

It is suggested that interested persons carefully note these discussions to ensure that the home will be built properly from an energy efficiency standpoint, and that the assumptions built into the slide rule are, in fact, reflected in the construction of the actual home. In order to make these assumptions absolutely clear to the home builder, a summary is provided at the end of each discussion explicitly listing the assumptions for the particular component being reviewed.

Selecting Energy Conservation Options

The first section of this chapter explains the use of the space conditioning worksheet. The worksheet, which is filled in using the energy savings calculated from the slide rule, is designed to calculate the actual energy costs for a "comparison home" and for a series of "options" in which one or more of the characteristics of the comparison home have been changed. Properly completed, the worksheet gives the home builder a clear indication of the energy use implications for a variety of alternative methods for designing and constructing a particular home for a particular location. The information contained on the worksheet is used in the economic evaluation technique described below.

The second section of the selecting energy options chapter discusses the energy performance characteristics of the domestic hot water system in the home. The Federal Trade Commission (FTC) promulgated "Energy Guide" performance labels form the basis for

the energy use and energy cost analyses provided in this section.

A method is also provided for fine tuning the information displayed on these labels with respect to the location of a particular home, its particular energy costs, and its system characteristics. The resultant simple analysis technique allows the energy cost savings associated with domestic hot water energy conserving options to be compared. As in the preceding space conditioning section, a worksheet is provided comparing the energy costs of the various system and energy conservation options being considered.

Once completed, the worksheet give the home builder a simple and clear indication of the cost implications of utilizing a particular domestic hot water system. The information, tabulated on the worksheet, can be used with the economic evaluation technique discussed below.

The appliance section of this chapter reviews the effects on annual fuel costs of the major appliances in the home. As in the domestic hot water discussion, the FTC energy guide labels which appear on appliances manufactured since May 1980, form the basis of the energy use and cost analysis method presented.

The appliances analyzed in this section are:

- Refrigerators.
- Refrigerator-Freezers.
- Freezers.
- Dishwashers.
- Clothes Washers.

The use of the labels to calculate and compare the energy costs of various different pieces of equipment is explained in detail in the section.

A worksheet is provided and the home builder can quickly assess the energy cost implications of specifying particular pieces of equipment and of substituting other, more energy efficient models. This worksheet, like those for space conditioning and domestic hot water, is also designed to be used with the economic evaluation technique.

Having calculated the energy use and energy cost characteristics for a variety of space conditioning, domestic hot water, and appliance options and recorded this information on the appropriate worksheets, the next step is to decide which of the options are most appropriate for a particular home in a particular location. This last section of the selecting energy options chapter provides an easy-to-use economic evaluation technique for making decisions based on the relative cost effectiveness of each of the options being considered.

The technique is focused on three final worksheets which incorporate information from the preceding three worksheets and which, when properly completed, display the options for a particular home, ranked according to the order in which they are most cost effective. The resulting list of individual options can be combined into packages of options with recalculated total energy cost savings information. These packages with their accompanying technical and financial documentation will provide valuable tools for the successful marketing of cost effective, energy conserving housing.

Slide Rule User Brochure

A separate brochure entitled "Using the Slide Rule and Modifiers" outlines the procedures for quantifying energy savings due to the energy conservation options. The slide rule and additional analysis techniques are used to calculate the change in energy use associated with changing one or more of the characteristics of the new home. Energy conservation options fall into one of the following categories:

- Ceiling Insulation.
- Wall Insulation.
- Floor Insulation.
- Infiltration.
- Floor Area (as a base parameter).
- Window Characteristics.
  a. Sash material.
  b. Glazing layers.
  c. Area.
  d. Glazing materials.
- Location (climate zone).
- Equipment and Controls (efficiency).
- Fans (Whole House Type).
- Movable Window Insulation.
- Exterior Building Color.
- Thermostat Setback.
- Attached Sunspace.
- Building Orientation.
- Passive Solar.

Different sets of slide rule inserts will be provided for each of the 45 locations, thus simplifying the necessary calculations. The slide rules alone will provide quick, reliable estimates of the changes in home energy use resulting from changes in particular building characteristics.

VI. Questions for Public Comment

DOE welcomes the comments of interested persons. However, DOE is particularly interested in obtaining the views of the public, including home builders, mortgage institutions and other interested persons on the questions set forth below. DOE would appreciate receipt of all written comments and related information no later than May 22, 1984.

1. Are the documents useful to home builders in marketing conservation measures and to home buyers in purchasing energy conservation options?
2. Would a guidebook oriented to the energy related concerns of home buyers be appropriate and/or necessary?
3. Are the construction details useful, clearly presented and accurately discussed?
4. Does the economics section provide the information of most concern to sellers and purchasers?
5. Should an energy label or sticker, based on the guide, be developed for attachment to the home?

VII. Availability of Draft Guide

Copies of the slide rule, slide rule user brochure, guidebook and two technical support documents are available for inspection at the DOE Freedom of Information Office, Forrestal Building, Room 1E–190, 1000 Independence Avenue, SW., Washington, D.C., 20585, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, and at each of the DOE Regional Support Offices, which are located at the following addresses.

U.S. Department of Energy, Boston Support Office, 150 Causeway Street, Room 1002, Boston, Massachusetts 02114.

U.S. Department of Energy, New York Support Office, 26 Federal Plaza, Room 3437, New York, New York 10278.

U.S. Department of Energy, Philadelphia Support Office, 1421 Cherry St., Philadelphia, Pennsylvania 19102.

U.S. Department of Energy, Atlanta Support Office, 1655 Peachtree, N.E., 8th Floor, Atlanta, Georgia 30309.

U.S. Department of Energy, Chicago Support Office, 9800 South Cass Avenue, Argonne, Illinois 60439.

U.S. Department of Energy, Dallas Support Office, P.O. Box 35228, 2626 W. Mockingbird Lane, Dallas, Texas 75235.

U.S. Department of Energy, Kansas City Support Office, 324 East Eleventh Street, Kansas City, Missouri 64106.

U.S. Department of Energy, Denver Area Office, P.O. Box 26247–Belmar Branch, 1075 South Yukon Street, Lakewood, Colorado 80226.

U.S. Department of Energy, San Francisco Operations Office, 1333 Broadway, Oakland, California 94612.

Copies of the slide rule, slide rule brochure, a guidebook, technical support documents may be obtained by making a written request to: Hearings and Dockets Branch, Office of Conservation and Renewable Energy, Department of Energy, 1000 Independence Avenue,

SW., Room 6B–025, Washington, D.C. 20585. Because supplies of each are limited, respondents are asked to request the documents only if they plan to submit comments.

VIII. Comment Procedures

All interested persons are invited to submit written comments to DOE. The correspondence should be mailed to: Hearings and Dockets Branch, Office of Conservation and Renewable Energy, Department of Energy, 1000 Independence Avenue, SW., Room 6B–025, Washington, D.C. 20585. Comments should be identified on the document and envelopes submitted to DOE with the designation "Affordable Housing through Energy Conservation". Five (5) copies should be submitted. All written comments and related information should be received by DOE no later than May 22, 1984, to receive consideration.

Any information or data considered by the person furnishing it to be confidential must be so identified and submitted in writing, one copy only. DOE reserves the right to determine the confidential status of the information or data and to treat it according to its determination, pursuant to DOE's regulations on confidentiality (10 CFR Part 1004).

(Energy Conservation Standards for New Buildings Act of 1976, as amended, 42 U.S.C. Sec. 6831 *et. seq.*; the Department of Energy Organization Act, 42 U.S.C. Sec. 7101 *et seq.*)

Issued in Washington, D.C., January 9, 1984.

Pat Collins,

Acting Assistant Secretary, Conservation and Renewable Energy.

[FR Doc. 84–4678 Filed 2–21–84; 8:45 am]

BILLING CODE 6450–01–M

Office of Hearings and Appeals

Implementation of Special Refund Procedures

AGENCY: Office of Hearings and Appeals, DOE.

ACTION: Notice of issuance of proposed decision and order for the implementation of special refund procedures.

SUMMARY: The Office of Hearings and Appeals is seeking comments on a Proposed Decision and Order concerning refund procedures for moneys obtained from 189 crude oil producers and resellers.

DATE AND ADDRESS: Comments may be submitted on or before March 23, 1984 and should be addressed to:

Marcia B. Proctor, Chief, Docket and Publications Branch, Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue, S.W., Washington, D.C. 20585.

FOR FURTHER INFORMATION CONTACT: Terry Johnson, Deputy Assistant Director, Roger J. Klurfeld, Assistant Director, Office of Hearings and Appeals, 1000 Independence Avenue, S.W., Washington, D.C. 20585, (202) 252–2383.

SUPPLEMENTARY INFORMATION: The Department of Energy's Office of Hearings and Appeals (OHA) has issued a Proposed Decision and Order which sets forth its tentative conclusions concerning appropriate refund procedures to be adopted for disposition of moneys obtained through consent orders, remedial orders and stipulated settlements entered into by the DOE with 189 crude oil producers and resellers. The names of those firms and individuals are listed in the Appendix to the Proposed Decision which follows this Notice. The OHA proposes that a two-stage refund process be followed. In the first stage, the OHA proposes to accept refund applications in these 189 cases to be adjudicated in the same manner and using the same principles as applied to those refund applications filed pursuant to two earlier OHA determinations, *Office of Enforcement: In the Matter of Alfred B. Alkek*, 47 FR 2196 (1982), and *Office of Enforcement: In the Matter of Adams Resources and Energy, Inc.*, 47 FR 16381 (1982). As for the second stage, the OHA proposes that all residual funds (i.e., moneys remaining after all refund applications have been adjudicated) in cases in which the refund moneys were deposited in the DOE escrow account by December 17, 1982 be deemed to have been disbursed already to the states and territories of the United States by operation of section 155 of the Further Continuing Appropriations Act, 1983, Pub. L. No. 97–377 (popularly known as the Warner Amendment). The OHA reserves until a later date its determination as to (i) the appropriate disposition of any residual funds that may exceed the funds paid out pursuant to the Warner Amendment and (ii) the appropriate distribution of funds from cases in which the refund moneys were deposited with the DOE after December 17, 1982.

Specific information concerning any individual consent order, remedial order or stipulated settlement underlying these special refund proceedings may be obtained by contacting the persons whose names are listed at the beginning of this Notice. The Office of Hearings and Appeals will accept comments on the Proposed Decision that are filed within 30 days of the date of publication of this Notice in the **Federal Register.**

Issued in Washington, D.C. on February 3, 1984.

February 3, 1984.

George B. Breznay,

Director, Office of Hearings and Appeals.

February 3, 1984.

Proposed Decision and Order of the Department of Energy

Special Refund Procedures

Name of Petitioner: Economic Regulatory Administration: In the Matters of A. Johnson & Company, Inc. and others listed in Appendix.

Date of Filing: October 13, 1983 (except Cotton Petroleum Corp.); December 29, 1983 (Cotton Petroleum Corp.).

Case Number: HEF–0472, and others listed in Appendix.

Under the procedural regulations of the Department of Energy, the Economic Regulatory Administration (ERA) may request the Office of Hearings and Appeals (OHA) to formulate and implement a specially-designed process to distribute funds received as a result of an enforcement proceeding in order to remedy the effects of alleged or actual violations of DOE regulations. 10 CFR Part 205, Subpart V. In accordance with these regulatory provisions, the ERA has filed Petitions for the Implementation of Special Refund Procedures in connection with consent orders, remedial orders and stipulated settlements which it entered into with A. Johnson & Company, Inc. and 188 other firms and individuals. The names of each firm or individual, and the refund amount provided for by the corresponding consent order, remedial order or stipulated settlement are listed in the Appendix to this Decision and Order.(*1*) Pursuant to these orders, these parties have agreed to make refunds totaling approximately $77.6 million for violations and alleged violations of DOE pricing regulations. Those funds, most of which have already been paid to the DOE, are being held in an escrow account under the jurisdiction of the DOE pending receipt of instructions from the OHA regarding their final distribution.(*2*) As will be discussed in greater detail below, each alleged violation of the DOE pricing regulations in these cases is similar because it involves crude oil pricing violations, and the parties injured by each of the alleged or actual violations are for the most part identical. Therefore these cases have been consolidated for purposes of this Decision.

I. Regulatory Background

Each of the consent orders, remedial orders, and stipulations involved in this proceeding resulted from an audit or investigation conducted by the DOE and its predecessor agencies. As a result of these audits and investigations, the DOE alleged that the parties in each of these cases were involved in the sale of crude oil at prices in excess of those established in the Mandatory Petroleum Price Regulations set forth in 6 CFR Part 150 and 10 CFR Part 212.

Those regulations generally required crude oil producers to determine the first sale price of crude oil on the basis of the level of production from a property during a specified base period, *i.e.*, the base production control level (BPCL). *See* 6 CFR 150.354; 10 CFR 212.72–.74. The term "property" was defined as the right to produce crude oil which arises from a lease or fee interest. 6 CFR 150.354(b)(2); 10 CFR 212.72. Crude oil production that did not exceed the BPCL for a particular property was generally subject to the lower tier ("old" oil) ceiling price rule. 6 CFR 150.354; 10 CFR 212.73. Crude oil production that exceeded the BPCL ("new" oil) could generally be sold without regard to the ceiling price rule prior to February 1, 1976, and at the upper tier ceiling price level after that date. 6 CFR 150.354(c)(2); 10 CFR 212.74(a). Prior to February 1, 1976, in months in which new oil could be sold from a property, additional volumes of crude oil could be sold as "released" oil at prices in excess of the applicable lower tier ceiling price level. 6 CFR 150.354(c)(3); 10 CFR 212.74(b). Additionally, crude oil produced from a "stripper well property" could generally be sold at market price levels. Producers and resellers of crude oil were generally required to certify in writing to each purchaser in the distribution chain the respective volumes of the various categories of price-controlled domestic crude oil included in each purchase. 10 CFR 212.131 (a)(4), (b)(1). Refiners were required to report these certifications to the DOE and its predecessors when they processed the crude oil to enable the agency to administer the Entitlements Program, 10 CFR 211.67.

The Entitlements Program, 10 CFR 211.67, was part of the comprehensive program administered by the DOE for the mandatory pricing and allocation of crude oil, residual fuel oil and refined petroleum products. As discussed above, the federal regulations on the price of crude oil created a price disparity between, on the one hand, foreign crude and uncontrolled domestic crude oil, and old and upper-tier (price-controlled) oil on the other hand. These price controls had an unequal effect on refiners because some refiners had greater access to the cheap old oil than others. Firms which had little or no access to price-controlled oil were forced to purchase uncontrolled domestic or similarly expensive foreign crude oil. As a result, many small, independent firms, with little or no access to price-controlled domestic reserves, experienced crude oil acquisition costs so high relative to the industry as a whole that those costs threatened their viability. To remedy these imbalances, the DOE established the Entitlements Program. 39 FR 31650 (1974); 39 FR 39740 (1974). Under the Entitlements Program, refiners with proportionally greater access to cheap price-controlled oil made cash payments, in the form of the purchase of entitlements, to refiners with less access to price-controlled oil. The program was designed to restore the competitive viability of the refining industry by generally equalizing among all domestic refiners the benefits associated with access to the lower-priced domestic crude oil.

II. Factual Background

The types of violations allegedly or actually committed by the parties who entered into the consent orders, remedial orders and stipulations involved in this proceeding fall into four categories. Most of the alleged violations concern firms which were "producers" of crude oil as defined in 10 CFR 212.31. They were alleged to have incorrectly certified "old" price-controlled crude oil they produced as "new" or "stripper well" oil, which was subject to less stringent price controls. The firms were therefore alleged to have overcharged purchasers by an amount per barrel which represents the difference between the "new" or "stripper well" prices and the maximum price permitted for "old" oil. The second type of violation involved concerns producers who were alleged to have sold "old" oil at levels in excess of the applicable ceiling price. In this type of case, the producers allegedly determined May 15, 1973 posted prices for crude oil incorrectly and thus sold crude oil at a price higher than that permitted by the regulations. The third type of violation concerns resellers that were alleged to have miscertified "old" crude oil which they owned and sold it at the higher "new" or world market level (uncontrolled) oil prices. The fourth type of violation concerns refiners who obtained greater entitlements benefits than they were entitled to receive because they failed to report or misreported miscertified crude oil which they received.

In most of these cases, the Government agreed to terminate the pending investigations, administrative proceedings, and court litigation through a consent order or stipulation of settlement and the parties agreed to pay a stipulated sum of money to the DOE. Notices of some of the consent orders were published in the **Federal Register**.(*3*) Interested parties were provided an opportunity to comment on the terms of the consent orders and to submit written notices to ERA of potential claims against the settlement funds. In a number of cases the DOE also issued press releases concerning the consent orders. In a few of these cases the funds were remitted to the DOE as the result of a final remedial order or court-approved stipulation of settlement. The respective dates of the publication of the final consent orders and remedial orders, and the dates of the court orders approving the settlements, are set forth in the Appendix to this Decision. In some cases parties have submitted claims for a portion of the funds.(*4*)

III. Jurisdiction

The procedural regulations of the Department of Energy set forth general guidelines by which the Office of Hearings and Appeals may formulate and implement a plan of distribution for funds received as a result of an enforcement proceeding. 10 CFR Part 205, Subpart V. The Subpart V process may be used in situations where the Department of Energy is unable to identify readily persons who were or may have been injured by alleged or adjudicated violations. 10 CFR 205.280. For a more detailed discussion of Subpart V, *see Office of Enforcement*, 9 DOE ¶ 82,508 (1981); *Office of Enforcement*, 8 DOE ¶ 82,597 (1981) (hereinafter cited as *Vickers*). After reviewing the records developed in each of the cases involved in this proceeding, we have concluded that the implementation of Subpart V proceedings in each case in appropriate. In each of the cases there is a significant degree of difficulty inherent in identifying the persons who were injured by the alleged or actual overcharges. Moreover, even in cases where an injured person can be identified, it is difficult to ascertain the level of refunds that each person should receive. At one time crude oil and refined petroleum products were subject to a comprehensive price regulation scheme which could be utilized to facilitate the channeling of refunds to

overcharged parties including ultimate consumers. However, since the President has exempted crude oil and all refined petroleum products from the DOE regulatory program, *see* Exec. Order No. 12287, 46 FR 9909 (1981), price rollbacks are no longer an effective means of refunding money to purchasers who were overcharged in the past.

Moreover, to refund money to the parties actually affected by the alleged overcharges, a determination must be made regarding the extent to which purchasers of the crude oil involved absorbed the overcharges or passed the higher costs through to downstream customers by raising their own sales prices. In these cases, therefore, the persons entitled to refunds are not readily identifiable, and the amount of the refunds that persons should receive are not readily ascertainable. Under these circumstances, Subpart V provides a useful mechanism for devising a procedure to effect restitution. The Office of Hearings and Appeals therefore will accept jurisdiction over the funds received by the DOE in settlement of the enforcement proceedings underlying the Petitions for Implementation of Special Refund Proceedings set forth in the Appendix to this Decision.

IV. Proposed Refund Procedures

We have previously established refund procedures for consent orders involving the same type of crude oil-related violations as those which are the subject of the present proceedings. In *Office of Enforcement: In the Matter of Alfred B. Alkek*, 9 DOE ¶ 82,521 (1982) (hereinafter cited as *Alkek*) and *Office of Enforcement: In the Matter of Adams Resources and Energy, Inc.*, 9 DOE ¶ 82,553 (1982) (hereinafter cited as *Adams*), which involved consent orders and remedial orders with 58 firms, we established a two-stage refund procedure for consent order and remedial order funds received as a result of alleged crude oil regulatory violations.(5) In *Alkek* and *Adams*, we noted that the parties who purchased the crude oil covered by the consent orders involved would not necessarily qualify for refunds. Instead, only those parties who could demonstrate they were adversely affected by the alleged violations would be appropriate refund recipients. We pointed out that the entities which appeared to be most directly affected by the alleged crude oil price violations in the consent orders involved in these proceedings are refiners that directly purchased the crude oil which was the subject of the individual consent orders, and the other refiners that participated in the Entitlements Program, 10 CFR 211.67. However, we stated our view that these entities might not be the most appropriate recipients of the total pool of refund money available because the effects of crude oil miscertifications were generally spread by the Entitlements Program through the entire United States and among all domestic refiners, who in turn were permitted by DOE regulations to pass on the increased crude oil costs.

In *Alkek* and *Adams* we further stated that it was our belief that because of the Entitlements Program, refiners that purchased crude oil from the parties that had signed these consent orders were not injured in a manner distinct from all other refiners. This is because the amount the individual refiners paid in excess of the controlled price for the miscertified crude oil was balanced by the extra benefits they received by the operation of the Entitlements Program. Thus, we reasoned that if all refiners as a group were not appropriate refund recipients, individual refiners which directly purchased the crude oil involved also would not be appropriate refund recipients. Secondly, we stated that through the operation of the Entitlements Program, all refiners lost benefits and thus incurred increased costs as a result of the miscertifications of crude oil. We noted that to some extent the refiners probably passed on these increased costs to subsequent purchasers. Also, to the extent these costs were not paesed on, we stated that because of such factors as the accumulations of refiners' banks of increased costs, and changes in prevailing crude oil costs and price levels during the relatively lengthy period covered by the consent orders, it would be extremely burdensome to compute with precision the degree to which each refiner absorbed any increases in costs engendered by the miscertifications. We therefore questioned the practicality of channeling the consent order funds to Entitlements Program participants. *Adams* at 85,292. We also noted that the decontrol of crude oil was another factor which weighed against making refunds directly to the refiners that purchased the crude oil or to all refiners that participated in the Entitlements Program. We observed that refiners were no longer required to reflect as a decrease in the cost of crude oil any refunds which they received and thus affect maximum lawful selling prices of covered products. Consequently, it is unlikely that the parties further down the distribution chain that were likely to have been adversely affected by the alleged overcharges would receive some benefit associated with refunds made to refiners.

We did note, however, that certain identifiable parties might be able to show demonstrable injury from the alleged violations. We found that one such class of potentially injured parties was the group of direct purchasers of refiners that obtained crude oil from the parties which entered into consent orders in which an improper computation of the base price for crude oil was alleged. We noted that because this oil appeared to be properly certified, the alleged overcharges were not passed through the mechanisms of the Entitlements Program. We stated that these direct purchasers and refiners thus may have borne the effect of such overcharges and may be eligible for refunds to the extent that they could show that the alleged overcharges were not passed through to subsequent purchasers. *Alkek* at 85, 133–34.

Refiners were additionally included in the second class of potentially injured parties we identified. This class is composed of refiners that obtained crude oil from parties that entered into consent orders concerning violations alleged to have occurred before the commencement of the Entitlements Program on November 1, 1974. Because the effects of these overharges had not been passed through the Entitlements Program, we stated that these refiners were directly affected and may have absorbed the effects of the alleged overcharges. Thus we concluded that refiners in this class could be eligible for refunds to the extent they could show that they did not pass these increased costs on to subsequent purchasers.

We also stated that, for periods subsequent to November 1, 1974, refiners and subsequent purchasers that obtained crude oil or refined products produced or sold by the parties that entered into the consent orders involved in the proceeding could be eligible for refunds if they could show that the Entitlements Program did not negate the adverse effects caused by the alleged violations and if they could accurately calculate the impact of those effects on them. *Alkek* at 85,136–37. Finally, we noted that if our tentative conclusions were correct, the effects of the alleged overcharges were spread among all refiners by the Entitlements Program and were largely passed on by them and subsequent purchasers. In this case, at least some of the effects of the alleged overcharges would actually have been borne by ultimate consumers of refined products, and we concluded that consumers could also be appropriate

refund recipients. However, we determined that it would be premature for consumers and consumer groups to file Applications for Refund until the refiners' claims had been resolved. *Alkek* at 85,136.

Since the issuance of the *Adams* and *Alkek* Decisions, we have identified an additional class of claimant that may be able to show that it was injured by the overcharges. We are aware that some firms may have been end-users of crude oil, i.e., consumers who used crude oil as industrial boiler fuel. These consumers of crude oil would also be eligible to file claims for refunds in these cases.

As noted above, the types of alleged violations that underlie the present proceeding are substantially the same as those that were the subject of the *Alkek* and *Adams* proceedings. In particular, the Entitlements Program would have had the same distributive effect on the alleged and actual overcharges covered by these orders. We therefore propose to establish first-stage refund procedures for these 189 cases in which we will accept first-stage refund applications to be adjudicated in the same manner and using the same principles as those refund applications that were filed pursuant to the *Alkek* and *Adams* determinations.

V. Second Stage Refund Procedures

Because of the difficulty inherent in establishing injury to parties in the majority of these cases, there is likely to be a substantial portion of these refund moneys remaining after all successful first-stage claimants have been paid. In the October 13, 1983 Petition for the Implementation of Special Refund Procedures which initiated all but one of these refund proceedings, the ERA stated that $200 million of the funds collected through the 453 orders covered by the October 13 Petition had already been distributed to the states and territories of the United States pursuant to a congressional mandate. *See Section 155, Further Continuing Appropriations Act*, 1983, Pub. L. No. 97–377 (hereinafter cited as the Warner Amendment). Congress specified in the Warner Amendment that only moneys that were deposited in the DOE escrow account as of December 17, 1982, and were not likely to be paid to identified injured persons should be included in the distribution to the states. Consequently, some of the escrowed funds that are the subject of this proceeding are possible sources of the Warner Amendment distribution.

In the *Adams* and *Alkek* Decisions, which we have adopted as the model for the first-stage procedures in this determination, we suggested that any residual funds be distributed to the governments of all of the jurisdictions that were covered by the Mandatory Petroleum Price Regulations in the proportion which each jurisdiction's share of petroleum products consumption during the period of controls bore to national consumption of petroleum products. We proposed this manner of distribution because of the national impact alleged crude oil overcharges would have had through the operation of the Entitlements Program. The same rationale might be applied to the residual funds in the present cases where the funds were on deposit as of December 17, 1982, and, in fact, the manner by which Congress allocated the Warner Amendment funds among the states parallels our proposed *Adams* and *Alkek* distributions. Consequently, it might be said that Congress has already disposed of the residual funds in the cases whose funds were subject to the Warner Amendment. We therefore propose that all residual funds in these cases be deemed to have already been disbursed to the states by operation of the Warner Amendment.

With respect to cases in which escrow funds were received after December 17, 1982, we note that we reserved our final determination concerning the distribution of the *Adams* and *Alkek* second-stage funds until the amount of residual funds was established. We shall likewise hold in abeyance our determination as to appropriate second-stage procedures for these cases until we know how much money will remain after first-stage claims are paid. *See Office of Enforcement*, 9 DOE ¶ 82,508 (1982). Views concerning possible second-stage resolutions are contained in *In Re Stripper Well Exemption Litigation*, Case No. HEF–0025, 48 FR 57608 (1983).

It Is Therefore Ordered That:

The refund amounts provided in conjunction with the consent orders, remedial orders, and stipulations of settlement listed in the Appendix to this Decision and Order shall be distributed in the manner set forth in the foregoing Decision.

Footnotes

(*1*) Of the 189 cases listed in the Appendix, all but one were part of a Petition for the Implementation of Special Refund Procedures filed by the ERA on October 13, 1983. A petition involving payments remitted pursuant to a stipulation of dismissal involving Cotton Petroleum Corporation was filed on December 29, 1983. Copies of the respective refund orders and supporting materials filed by the ERA may be obtained from the OHA Public Docket Room. However, inasmuch as the majority of these orders contain little specific information regarding the crude oil pricing violations that were actually alleged prior to settlement, we have not attempted to include in this Decision any specific identification of the violations underlying these consent orders, remedial orders and stipulated settlements.

(*2*) Some of the orders involved require payments to be made in installments through 1984. All funds are deposited as collected into an escrow account which, along with accrued interest, totaled approximately $97,550,000 as of December 31, 1983.

(*3*) The DOE procedural regulations require the publication for public comment in the Federal Register of consent orders which call for the payment of sums exceeding $500,000. *See* 10 CFR 205.199J(b).

(*4*) All claims received by the ERA were included in the materials which it filed with its October 13, 1983 and December 29, 1983 Petitions for the Implementation of Special Refund Procedures. All of those claimants will receive a copy of this Proposed Decision and Order and be given an opportunity to file comments on it. In addition, all of those parties will receive a copy of the final Decision and Order setting forth the procedures for filing an application for refund.

(*5*) We subsequently added to the Alkek/Adams "pool" the portion of the Amoco consent order funds that was allocated for crude oil claims. *See* Office of Special Counsel, 10 DOE ¶ 85,048 at 88,203. We have also discussed the potential distribution of crude oil overcharge funds in In re Stripper Well Exemption Litigation, Case No. HEF–0025, 48 FR 57608 (1983).

APPENDIX

Case name	Case No.	Amount	Reference
A. Johnson & Company, Inc.	HEF-0472	$124,584	46 FR 29502 (1981).
ADCO Producing Company, Inc.	HEF-0313	89,522	45 FR 82569 (1980).
Adolph Coors Company	HEF-0283	10,000	(*)
Al Brown Oil Operator	HEF-0334	31,203	44 FR 63136 (1979).
Alpar Resources Inc.	HEF-0314	313,000	46 FR 47252 (1981).
Amax Petroleum Corporation	HEF-0315	182,450	2 DOE Par. 83,004 (1978).
Aminoil USA, Inc.	HEF-0317	2,600,000	45 FR 67716 (1980).
Arizona Fuel Corporation	HEF-0403	490,441	681 F.2d 797 (TECA 1982).
Armour Oil Company	HEF-0278	225,000	(*)

APPENDIX—Continued

Case name	Case No.	Amount	Reference
Art Machin & Assoc	HEF-0395	25,000	(1)
Atlantic Oil Company	HEF-0318	5,476	45 FR 66281 (1980).
Atlantic Oil Corporation	HEF-0319	60,000	45 FR 50852 (1980).
Axis Petroleum Company	HEF-0320	52,541	(1)
B & M Operating Co., Inc	HEF-0321	410,000	(1)
Barnhardt	HEF-0322	630,000	46 FR 22926 (1981).
Barton, A.L.	HEF-0279	100,000	(1)
Base Enterprises Production Co	HEF-0323	497,500	46 FR 38120 (1981).
Baxter, Murphy H	HEF-0324	200,000	46 FR 21411 (1981).
Belco Petroleum Corporation	HEF-0325	100,497	44 FR 42311 (1979).
Berg, Laney, & Brown	HEF-0326	240,000	45 FR 58945 (1980).
Bettis, Boyle & Stovall	HEF-0327	50,000	46 FR 40781 (1981).
Big Six Drilling Company	HEF-0330	50,000	45 FR 40202 (1980).
Big-Tex Crude Oil Company	HEF-0280	400,000	46 FR 35722 (1981).
Biglane Operating Company	HEF-0329	65,701	45 FR 34342 (1980).
Bill Forney, Inc	HEF-0382	480,000	(1)
Blackwood & Nichols Co., Ltd	HEF-0331	180,000	46 FR 31045 (1981).
Bock & Bacon	HEF-0332	180,000	46 FR 45408 (1981).
Bolin Oil Company	HEF-0333	27,500	46 FR 33084 (1981).
Buxton, F. M	HEF-0335	50,285	8 DOE Par. 83,027 (1981).
C & K Petroleum Inc	HEF-0338	265,000	(1)
C.D. Hollingsworth & Assoc	HEF-0375	147,111	(1)
C.N. Operating Company	HEF-0337	325,000	46 FR 42503 (1981).
Cajun Energy Inc	HEF-0281	45,000	46 FR 42096 (1981).
Caulkins Oil Company	HEF-0336	37,248	(1)
Centura, Inc	HEF-0339	115,000	46 FR 40780 (1981).
Century Oil Management, Inc	HEF-0340	324,316	44 FR 67498 (1979).
Cobra Oil & Gas Corporation	HEF-0342	30,000	46 FR 45409 (1981).
Coffield Pipeline Company	HEF-0282	85,000	46 FR 35723 (1981).
Comanche Oil Company	HEF-0343	170,000	46 FR 35331 (1981).
Cooper & Brain Inc	HEF-0344	465,212	45 FR 27466 (1980).
Cotton Petroleum Corp	HEF-0456	1,156,493	(N.D. Okla. 9/8/83).
Cross Oil & Ref. Co. Arkansas	HEF-0464	800,000	46 FR 29305 (1981).
Culpepper Oil Company	HEF-0346	355,000	(1)
De Vinci Company Inc	HEF-0284	500,000	45 FR 52863 (1980).
Decalta International Inc	HEF-0347	134,357	45 FR 46159 (1980).
Depco Inc	HEF-0348	335,000	(1)
Diamond Shamrock Corporation	HEF-0465	10,301	46 FR 45667 (1981).
Dolley, Chester F	HEF-0349	214,046	45 FR 65282 (1980).
Earth Resources	HEF-0466	826,000	45 FR 81256 (1980).
Eddy Refining Company	HEF-0467	24,892	46 FR 22259 (1981).
Edwards Producing Co., Inc	HEF-0352	106,732	45 FR 29878 (1980).
El Paso Natural Gas Company	HEF-0353	430,100	45 FR 59942 (1980).
Elm City Filling Stations	HEF-0468	106,770	(1)
Encorp Inc	HEF-0285	5,000	46 FR 28896 (1981).
Energy Acquisition	HEF-0354	299,000	(1)
Energy Development of California	HEF-0355	41,000	44 FR 67498 (1979).
Energy Services, Inc	HEF-0356	750,000	47 FR 19401 (1982).
Engle Enterprises Inc	HEF-0286	20,000	(1)
Equipment, Inc	HEF-0357	10,000	(1)
Estate of Claire-Benz-Stoddard	HEF-0341	50,000	44 FR 38995 (1979).
Estate of Loyce Phillips	HEF-0423	36,840	(1)
Exchange Oil & Gas Corporation	HEF-0358	151,006	46 FR 35332 (1981).
Farmers Union Central Exchange	HEF-0359	150,000	46 FR 24227 (1981).
Ferguson Oil Company	HEF-0360	98,323	6 DOE Par. 83,003 (1980).
Fletcher Oil & Refining Co	HEF-0469	41,210	46 FR 43484 (1981).
Florida Gas Exploration Co	HEF-0361	890,141	(S.D. tex. 4/20/81).
Franks, John	HEF-0363	289,015	9 DOE Par. 83,041 (1982).
Franks, John & Duggan, Don H	HEF-0350	144,499	9 DOE Par. 83,041 (1982).
Freaport Minerals Company	HEF-0364	10,506	44 FR 34631 (1979).
Geer Tank Trucks, Inc	HEF-0287	5,000	46 FR 43484 (1981).
General Exploration Company	HEF-0365	100,000	46 FR 12263 (1981).
Golden Eagle Oil Company	HEF-0470	300,000	(1)
Gonsoulin Energy Corporation	HEF-0288	96,000	(1)
Grace Petroleum Corporation	HEF-0366	1,450,000	46 FR 45667 (1981).
Guam Oil & Refining Company	HEF-0471	2,500,000	47 FR 19733 (1982).
Hankamer, Curtis	HEF-0367	410,000	46 FR 27995 (1981).
Hanover Mgmt. Company	HEF-0368	175,000	44 FR 66022 (1979).
Hassie Hunt Exploration Co	HEF-0370	158,608	(1)
Hawn Brothers	HEF-0371	70,000	45 FR 54412 (1980).
Hawthorne Oil & Gas Corp	HEF-0372	520,000	48 FR 28317 (1933).
Hewitt & Dougherty	HEF-0373	180,000	44 FR 48746 (1979).
HNG Oil Company	HEF-0374	379,616	(1)
Houston Oil & Minerals Corp	HEF-0376	3,985,000	46 FR 37751 (1981).
Howell Drilling Inc	HEF-0377	28,500	45 FR 53205 (1980).
Hudson & Hudson	HEF-0378	750,000	48 FR 22614 (1983).
Hunt Oil Company	HEF-0380	14,162	10 DOE Par. 83,016 (1982).
Hunt D.H	HEF-0381	998,540	46 FR 61499 (1981).
Independent Oil Producers Agcy	HEF-0290	290,185	46 FR 23107 (1981).
Inland Crude Purchasing Corp	HEF-0291	21,000	(1)
Johnson, E. Lyle	HEF-0384	44,051	(2)
Karchmer Pipe & Supply Co., Inc	HEF-0386	107,000	45 FR 50624 (1980).
Kimbark Operating Company	HEF-0387	11,000	46 FR 25339 (1981).
Kirkpatrick Oil & Gas Company	HEF-0388	250,000	8 DOE Par. 83,004 (1981).
Lebsack Oil Production Inc	HEF-0390	16,500	(1)
Lenoir M. Josey Inc	HEF-0385	262,500	(1)
Lindsey, W.W. & Elliott, W.E	HEF-0391	25,000	(1)
Lobo Oil Corporation	HEF-0392	205,072	23 FERC Par. 61,252 (1983).
Loeb, Herman	HEF-0393	72,993	(1)
Lyons Petroleum Inc	HEF-0394	192,620	46 FR 26660 (1981).
MacKellar Inc	HEF-0396	38,485	(1)
Manon Corporation	HEF-0475	703,570	46 FR 26370 (1981).
Marshall Pipe & Supply Co	HEF-0397	52,000	46 FR 47254 (1981).

APPENDIX—Continued

Case name	Case No.	Amount	Reference
MCBO Oil Company	HEF-0396	[illegible]	(1)
McCormick Oil & Gas Corp	HEF-0299	[illegible]	(1)
Meason Optg. Company	HEF-0400	88,129	44 FR 43506 (1979).
Mertz, Bruce	HEF-0401	82,095	44 FR 45662 (1979).
Mesa Petroleum Company	HEF-0432	[illegible]	45 FR 70970 (1980).
Mid-Plains Petroleum Company	HEF-0297	[illegible]	(1)
Mitchell, William	HEF-0433	72,893	(1)
Moncrief, W.A. Jr	HEF-0404	1,100,000	44 FR 39581 (1979).
Moore & Miller	HEF-0405	30,111	46 FR 38954 (1981).
Mosbacher Production Company	HEF-0406	[illegible]	45 FR 49840 (1980).
Mosbacher Production Company	HEF-0407	180,000	46 FR 24623 (1981).
Mountain Fuel Supply Company	HEF-0408	275,000	45 FR 70989 (1980).
Mustang Fuel Corporation	HEF-0298	[illegible]	48 FR 27129 (1983).
National Coop Refinery Assoc	HEF-0409	[illegible]	46 FR 22426 (1981).
Nevada Refining Company	HEF-0476	137,621	(1)
NFC Petroleum Corporation	HEF-0410	[illegible]	(1)
Nielson Enterprises Inc	HEF-0411	[illegible]	46 FR 20586 (1981).
North Central Oil Corporation	HEF-0412	750,000	46 FR 50407 (1981).
Northeast Nat. Gas Company	HEF-0413	[illegible]	44 FR 43506 (1979).
NRG Oil Company	HEF-0300	114,375	(1)
Oil California Exploration Inc	HEF-0414	145,369	45 FR 47783 (1980).
Olco	HEF-0301	5,000	(1)
OKC Corporation	HEF-0477	[illegible]	46 FR 28473 (1981).
Osage Oil & Transportation Inc	HEF-0302	177,000	(1)
Oxnard Refining Company	HEF-0478	[illegible]	46 FR 28473 (1981).
Panhandle Eastern Pipeline Co	HEF-0295	542,455	45 FR 15976 (1980).
Park, Robert E	HEF-0415	100,000	46 FR 5047 (1981).
Pauley Petroleum Inc	HEF-0416	27,242	(1)
Pawnee Petroleum Corporation	HEF-0417	676,562	46 FR 56754 (1981).
Payne Inc	HEF-0418	440,000	45 FR 54414 (1980).
Payne-Johnston & Byars	HEF-0419	[illegible]	(1)
Petroleum Consulting Services	HEF-0303	125,000	(1)
Petroleum Corp. of Texas	HEF-0420	100,000	44 FR 46864 (1979).
Prominerals Corporation	HEF-0304	21,250	(1)
Phillips Oil Operating Company	HEF-0421	43,000	46 FR 28897 (1981).
Phillips, B.F. Jr	HEF-0422	[illegible]	46 FR 24622 (1981).
Prudential Drilling Company	HEF-0424	162,500	(1)
R. Lacy, Inc	HEF-0294	48,000	45 FR 55807 (1980).
R. Lacy, Inc	HEF-0388	[illegible]	44 FR 68950 (1979).
R.H. Siegfried, Inc	HEF-0435	[illegible]	(1)
Ray M. Huffington Inc	HEF-0379	180,000	(1)
Riddle Oil Company	HEF-0425	1,100,000	46 FR 51429 (1981).
Roark & Hooker	HEF-0426	[illegible]	46 FR 12264 (1981).
Robinson Energy Corporation	HEF-0427	601,000	47 FR 19402 (1982).
Rose, Hubert	HEF-0428	75,000	44 FR 43507 (1979).
Ross Production Company	HEF-0429	100,000	45 FR 30672 (1980).
Rupe Oil Company Inc	HEF-0430	[illegible]	46 FR 17248 (1981).
Ryder Truck Rental Inc	HEF-0305	130,000	46 FR 30173 (1981).
Santa Fe Energy Products Co	HEF-0306	[illegible]	(1)
Sater, Ronald E	HEF-0431	[illegible]	44 FR 45662 (1979).
Sauder, Earl W	HEF-0432	[illegible]	(1)
Search Drilling Company	HEF-0433	[illegible]	46 FR 9986 (1981).
Secor Petroleum Company Inc	HEF-0307	47,500	(1)
Seminole Refining, Inc	HEF-0479	1,330,000	45 FR 55519 (1980).
Shenandoah Oil Corporation	HEF-0434	115,500	45 FR 58397 (1980).
Signal Petroleum	HEF-0437	1,500,000	47 FR 55267 (1982).
Southern Union/Midland-LEA	HEF-0308	[illegible]	(1)
Southland Drilling & Product	HEF-0438	23,014	(1)
Stevens Oil Company	HEF-0439	100,000	46 FR 35725 (1981).
Sundance Oil Company	HEF-0440	[illegible]	(D. Colo. 9/23/82).
Superior Oil Company	HEF-0441	[illegible]	46 FR 28474 (1981).
Tauber Oil Company	HEF-0309	575,000	48 FR 16316 (1983).
Texas American Petrochemicals	HEF-0310	10,000	(1)
Texas Oil & Gas Corporation	HEF-0442	1,718,800	45 FR 13803 (1980).
Texas Recovert Company	HEF-0443	81,335	(1)
Texland Petroleum	HEF-0444	[illegible]	(1)
Toco Corporation	HEF-0445	[illegible]	45 FR 74019 (1980).
Todd & Saunders Inc	HEF-0446	[illegible]	(1)
Transpac Petroleum Inc	HEF-0447	50,000	(1)
Travelers Oil Company	HEF-0448	125,332	45 FR 49325 (1980).
Twin Montana, Inc	HEF-0449	116,994	(1)
Twin Montana, Inc	HEF-0450	1,489,130	48 FR 22765 (1983)
TXO Oil Company	HEF-0311	150,000	(1)
Vallecitos Oil Company	HEF-0451	268,072	45 FR 47785 (1980).
Van Horn, James M., operator	HEF-0452	[illegible]	(1)
Varn Petroleum Company	HEF-0453	150,000	46 FR 26812 (1981).
Venture Trading Company	HEF-0312	17,946	(1)
Virginia Dare Oil Company	HEF-0454	45,000	(1)
Wadsworth Oil Company	HEF-0455	62,413	(1)
Walker, Kenneth	HEF-0292	[illegible]	(1)
Wall, Earl E	HEF-0458	[illegible]	(1)
Western Avenue Properties	HEF-0456	40,000	(1)
William Herbert Hunt Trust Est	HEF-0382	136,937	(1)
Williams Exploration	HEF-0459	13,000,000	47 FR 36265 (1982).
Wilshire Oil Co. of Texas	HEF-0460	40,632	(1)
Windfohr Oil	HEF-0461	223,500	(1)
Woods, Delton J	HEF-0462	93,546	22 FERC Par. 62175 (1983).

[1] Not published.
[2] No appeal filed.

[FR Doc. 84-4574 Filed 2-21-84; 8:45 am]

BILLING CODE 6450-01-M

Implementation of Special Refund Procedures

AGENCY: Office of Hearings and Appeals, DOE.

ACTION: Notice of implementation of special refund procedures and solicitation of comments.

SUMMARY: The Office of Hearings and Appeals of the Department of Energy solicits comments concerning the appropriate procedures to be followed in refunding a total of $24,000 (plus accrued interest) in consent order funds to members of the public. The funds are being held in escrow pursuant to a consent order involving Pan American Liquids Service Company and its subsidiary, Desertaire Oil & Gas Company, a reseller located in El Paso, Texas.

DATE AND ADDRESS: Comments must be filed within 30 days of publication of this notice in the **Federal Register** and should be addressed to the Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue, SW., Washington, D.C. 20585. All comments should conspicuously display a reference to Case Number HEF–0061.

FOR FURTHER INFORMATION CONTACT: Richard W. Dugan, Associate Director, Office of Hearings and Appeals, 1000 Independence Avenue, SW., Washington, D.C. 20585, (202) 252–2860.

SUPPLEMENTARY INFORMATION: In accordance with § 205.282(b) of the procedural regulations of the Department of Energy, 10 CFR 205.282(b), notice is hereby given of the issuance of the Proposed Decision and Order set out below. The Proposed Decision relates to a consent order entered into by Pan American Liquids Service Company and its subsidiary, Desertaire Oil & Gas Co., which settled possible pricing violations in the firm's sales of propane and butane during the period November 1, 1973 through December 13, 1973.

The Proposed Decision sets forth the procedures and standards that the DOE has tentatively formulated to distribute funds remitted by Desertaire and being held in escrow. The DOE has tentatively decided that the funds should be distributed in two stages in the manner utilized with respect to other consent order funds.

Applications for Refund should not be filed at this time. Appropriate public notice will be given when the submission of claims is authorized.

Any member of the public may submit written comments regarding the proposed refund procedures. Commenting parties are requested to submit two copies of their comments. Comments should be submitted within 30 days of publication of this notice in the **Federal Register**, and should be sent to the address set forth at the beginning of this notice. All comments received in this proceeding will be available for public inspection between the hours of 1:00 to 5:00 p.m., Monday through Friday, except federal holidays, in the public Docket Room of the Office of Hearings and Appeals, located in Room 1E–234, 1000 Independence Avenue, SW., Washington, D.C. 20585.

Dated: January 16, 1984.

George B. Breznay,

Director, Office of Hearings and Appeals.

Proposed Decision and Order of the Department of Energy—Special Refund Procedures

January 16, 1984.

Name of Petitioner: Pan American Liquids Service Co./Desertaire Oil & Gas Co.

Date of Filing: October 13, 1983.

Case Number: HEF–0061.

Under the procedural regulations of the Department of Energy, the Economic Regulatory Administration (ERA) of the DOE may petition the Office of Hearings and Appeals (OHA) to formulate and implement special refund procedures in order to remedy the effects of alleged violations of the DOE price and allocation regulations. See 10 CFR Part 205, Subpart V. The ERA filed such a petition on October 13, 1983, requesting that OHA establish special refund procedures for the distribution of monies received pursuant to a consent order entered into by the DOE and Pan American Liquids Service Co. and its subsidiary, Desertaire Oil and Gas Co. (herein jointly referred to as Desertaire).

Desertaire is a reseller of propane and butane, and is located in El Paso, Texas. A DOE audit of Desertaire's business records revealed probable pricing violations with respect to the firm's sales of propane during the period from November 1, 1973 through December 13, 1973 (the audit period). On November 4, 1977, a Notice of Probable Violation was issued to Desertaire in connection with these alleged violations. In order to settle all claims and disputes between Desertaire and the DOE regarding the firm's compliance with DOE price regulations in sales of propane and butane during the audit period, Desertaire and the DOE entered into a consent order on February 19, 1980. In the consent order, Desertaire agreed to pay $24,000 to the DOE. Notice of the consent order was published in the **Federal Register**, 45 FR 13501 (February 29, 1980), and interested parties were invited to submit comments or notice of potential claims against the Desertaire settlement fund. No comments or claims were filed.

The procedural regulations of the DOE set forth general guidelines by which OHA may formulate and implement a plan of distribution for funds received as a result of enforcement proceedings. The Subpart V process is intended for use in situations where the DOE is unable to readily identify persons who are entitled to refunds or unable to readily ascertain the amounts that such persons are entitled to receive. For a detailed discussion of Subpart V and the authority of OHA to fashion procedures to distribute refunds obtained as part of settlement agreements, *See Office of Enforcement*, 9 DOE ¶82,553 (1983); *Office of Enforcement*, 9 DOE ¶82,508 (1981).

We have considered the ERA petition to implement a Subpart V proceeding with respect to the Desertaire consent order fund and have determined that it is appropriate to establish such a proceeding. In so far as possible the $24,000 consent order fund should be distributed to Desertaire customers who were adversely affected by any overcharges that may have occurred in Desertaire's sales of propane and butane (the two covered products within the scope of the consent order) during the approximately six-week consent order period between November 1 and December 13, 1973. The NOPV that was issued to Desertaire identifies only one customer which Desertaire allegedly overcharged during the period. That firm is Farmland Industries, Inc. (Farmland) which, according to the information in the ERA's files, was Desertaire's only propane customer during the consent order period. Farmland is an agricultural cooperative association located in Kansas City, Missouri, which is owned by over 2,000 local cooperatives. Farmland provides petroleum products to farmers and ranchers throughout the midwestern United States through its local, cooperative members.

We propose to establish a claims procedure in which Farmland and any other firm that purchased propane or butane from Desertaire during the consent order period may apply for refunds. If Farmland applies for a refund, it will be required to submit data showing the volume of propane which it purchased from Desertaire during the consent order period and certify that it will distribute any refund it receives among its member cooperatives. Farmland will not be required to make the demonstration of injury generally required of reseller applicants in special refund proceedings. This is consistent with previous determinations of this Office in which agricultural cooperatives have been exempted from the demonstration of injury requirement provided they distribute the refunds they receive to their member cooperatives. *See OKC Corp./Chemical Express Carriers,* 11 DOE ¶85,051 (1983); *Tenneco Oil Co./Farmland Industries, Inc.* 9 DOE ¶82,597 (1982).

In the event that Farmland is the only claimant for a refund in this case, we may ultimately decide to distribute the entire Desertaire consent order fund to Farmland for distribution to its member-cooperatives. However, it would be premature to propose that alternative at this time. As indicated above, the Desertaire consent order covered sales of butane as well as propane during the period November 1, 1973 and December 13, 1973, and there may be other firms which purchased butane from Desertaire who would also be eligible for refunds. In addition, Desertaire may have had other customers who purchased propane during that period who were not mentioned in the NOPV or ERA records but who might be eligible for a portion of the funds obtained pursuant to the consent order. Furthermore, the possibility exists that Farmland may have passed a portion of the alleged overcharges along in sales to firms outside of its cooperative distribution system. For these reasons, we shall accept for consideration refund claims filed by other firms which purchased propane or butane from Desertaire during the consent order period, and from firms which believe they have been indirectly injured by Desertaire's propane or butane pricing practices during the consent order period.

All parties which believe they are entitled to a portion of the Desertaire settlement fund must submit documentation to support their claims. Any claimants who are end-users (which consumed the Desertaire product themselves) need not provide any documentation other than purchase verification in order to qualify for a refund. *Cf. Standard Oil Co. (Indiana/ Northwest Airlines, Inc.* 11 DOE ¶ 85,126 (1983) (end-users need not demonstrate injury).

As in order special refund proceedings, reseller applicants (wholesalers and retailers) will generally be required to demonstrate injury due to Desertaire's pricing practices, in addition to submitting documentation of their purchase volumes in order to be eligible for a refund. Injury in Subpart V proceedings has generally been construed to mean that alleged overcharges were absorbed by the claimant rather than passed along to the claimant's customers. *Id.* While there are a variety of means by which a claimant could make this showing, a reseller should generally demonstrate that market forces prevented it from increasing its sales prices to reflect any or part of the alleged overcharges. Also, a reseller advancing a refund claim must show that it maintained a "bank" of unrecouped product costs through the remaining period of price controls which is sufficient to accommodate the refund requested. This will help to confirm that the reseller did not subsequently recover the alleged overcharges by increasing its prices.

As in other special refund proceedings, we propose not to require reseller-claimants who purchased a relatively small amount of product from Desertaire to demonstrate injury. In prior cases, we have used a threshold purchase level of 50,000 gallons per month below which reseller applicants are not required to demonstrate injury in order to qualify for a refund. *See e.g., Office of Enforcement,* 8 DOE ¶ 82,597 (1981); *Office of Enforcement,* 9 DOE ¶ 82,551 (1982). In view of the fact that the consent order period in this case is approximately six weeks, we believe it would be appropriate to establish a threshold of 75,000 gallons of propane or butane. Thus, reseller applicants who purchased this amount or less of Desertaire propane or butane between November 1, 1973 and December 13, 1973 will not be required to make the demonstration of injury generally required of resellers.

These proposed procedures may be modified depending upon the comments submitted in response to this Proposed Decision. As indicated above, if Farmland files the only meritorious refund application, we may distribute the entire escrow account fund to Farmland, subject only to its agreement to distribute the refund among its member-owners.[1] If we receive claims from other eligible purchasers of propane or butane which satisfy the filing criteria we have tentatively established above, we intend to divide the settlement fund by the estimated total volume of product sold by Desertaire during the audit period in order to obtain a per gallon refund figure which would then be applied to the purchase volume data supplied by each successful claimant. This volumetric approach permits each successful claimant to receive a pro rate share of the total available fund.[2]

In the event that the entire consent order fund is not distributed to Farmland and other propane or butane customers of Desertaire or indirect purchasers of Desertaire product, we will establish procedures for a second stage of the proceeding. In that second stage, we may select from a number of alternatives. One option would be to deposit the remaining funds in the U.S. Treasury. Another would be to distribute the remaining monies to the state(s) in which Desertaire marketed its propane and butane. As in other cases, we would require that the state government(s) use the refunds for an energy related project which meets with our approval. *See Worldwide Energy Corp.,* 11 DOE ¶ 85,023 (1983).

We are unable at this time to determine what second stage option will be selected or whether a second stage will be necessary. These issues depend upon the amount of the consent order fund, if any, which remains after first stage claims are acted upon.

Refund applications in this proceeding should not be filed until issuance of a final Decision and Order in this matter. Detailed filing instructions will be provided in the final Decision and Order. However, comments regarding our proposed disposition of the Desertaire consent order fund are solicited at this time and are due within

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[1] Farmland will also be required to notify its member-owners that any refund is expressly conditioned upon redistribution of the refund by the local cooperatives to their own members. *See Standard Oil Co. (Indiana)/Agway, Inc.* 11 DOE ¶ 85,166 (1983).

[2] The volumetric method, which attributes injury on a uniform basis to each gallon of product sold, recognizes that the computation of specific overcharges in individual transactions would be impossible to establish and contrary to the purpose of the consent order which is to resolve the DOE enforcement action against Desertaire by means of a negotiated settlement. Since the volumetric method places all refund claimants on an equal footing and is relatively easy to administer, previous special refund Decisions have concluded that it is equitable, efficient, and the best available method of distributing refund monies. *Office of Special Counsel,* 10 DOE ¶ 85,048 at 88,198–99 (1982).

30 days from the publication of this determination in the Federal Register. A copy of this Proposed Decision will be sent to the only identified customer of Desertaire, Farmland Industries, Inc. In addition, notice of this proceeding will be published in the Federal Register.

It Is Therefore Ordered That:

The $24,000 refund amount supplied by Desertaire Oil & Gas will be distributed in accordance with the foregoing determination.

[FR Doc. 84-4871 Filed 2-21-84; 8:45 am]
BILLING CODE 6450-01-M

Implementation of Special Refund Procedures

AGENCY: Office of Hearings and Appeals, DOE.

ACTION: Notice of implementation of special refund procedures and solicitation of comments.

SUMMARY: The Office of Hearings and Appeals of the Department of Energy hereby gives notice of the procedures to be followed in refunding $2,000,000 (plus accrued interest) in consent order funds to members of the public. The funds are being held in escrow following the settlement of DOE allegations that Conoco, Inc. violated federal price regulations in certain 1973 sales of motor gasoline and No. 2 heating oil.

DATE AND ADDRESS: Applications for Refund must be filed within 90 days from the date of publication of this Notice in the Federal Register. Comments regarding possible second-stage procedures must be filed within 30 days of publication of this Notice in the Federal Register. Both applications and comments should be addressed to Conoco Consent Order Refund Proceeding, Case No. DFF-0003, Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue, S.W., Washington, D.C. 20585.

FOR FURTHER INFORMATION CONTACT: Thomas O. Mann, Deputy Director, Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue, S.W., Washington, D.C. 20585, (202) 252-2094.

SUPPLEMENTARY INFORMATION: In accordance with § 205.282(c) of the procedural regulations of the Department of Energy, 10 CFR 205.282(c), notice is hereby given of the issuance of the Decision and Order set out below. The Decision relates to a consent order entered onto by the agency and Conoco, Inc. in settlement of alleged pricing violations in certain sales of motor gasoline and No. 2 heating oil during the period March 5, 1973 through November 30, 1973.

The Decision sets forth the procedures and standards that the DOE has formulated to distribute the contents of an escrow account funded by Conoco pursuant to the consent order. The DOE hs decided that during the first stage of the refund process funds should be distributed to parties who purchased motor gasoline or No. 2 heating oil traceable to either M&A Petroleum Company or Foremost Petroleum Company (the first purchasers of all the product covered by the Conoco consent order) and who can show that they were injured by the alleged Conoco overcharges. In addition, a threshold for small claims has been established under which firms that purchased 50,000 gallons or less per month of motor gasoline or No. 2 heating oil from M&A or Foremost can qualify for refunds without further proof of injury. Applications for Refund should be submitted within 90 days of publication of this Notice in the Federal Register. All applications received in this proceeding will be available for public inspection between the hours of 1:00 and 5:00 p.m., Monday through Friday (except Federal holidays) in the Public Docket Room of the Office of Hearings and Appeals, located in Room 1E-234, 1000 Independence Avenue, S.W., Washington, D.C. Detailed instructions for the filing of refund applications are contained in Section III of the Decision.

The Decision also discusses possible second-stage refund procedures that might be initiated if any funds remain after payment of all meritorious claims and solicits comments from the public regarding the possible second-stage procedures. Commenting parties are requested to submit two copies of their comments. Comments should be submitted within 30 days of publication of this Notice in the Federal Register, and should be sent to the address set forth at the beginning of this Notice. Comments received in this proceeding will be available for public inspection in the same location as the Applications for Refund.

Dated: January 23, 1984.

George B. Breznay,

Director, Office of Hearings and Appeals.

Decision and Order of the Department of Energy—Special Refund Procedures

January 23, 1984.

Name of Petitioner: Office of Special Counsel: In the Matter of Conoco, Inc.

Date of Filing: April 20, 1979.

Case Number: DFF-0003.

Under the procedural regulations of the Department of Energy, the Economic Regulatory Administration's Office of Special Counsel (OSC) may request the Office of Hearings and Appeals (OHA) to formulate and implement special procedures to make refunds to injured persons in order to remedy the effects of alleged violations of the DOE regulations. *See* 10 CFR Part 205, Subpart V. In accordance with these regulator provisions, of the OSC filed a petition for the Implementation of Special Refund Procedures in connection with a consent order dated August 11, 1978, with the Continental Oil Company, now the Conoco subsidiary of E.I du Pont de Nemours and Company. *See* 43 FR 38925 (1978). Under the terms of the consent order Conoco agreed to establish a $2 million fund in settlement of DOE claims that it overcharged two firms in sales of motor gasoline and No. 2 heating oil. The funds have been paid to the DOE and are now being held in an escrow account under the jurisdiction of the agency pending receipt of instructions from the Office of Hearings and Appeals regarding their distribution.

The OHA accepted jurisdiction over the Conoco consent order funds in a decision issued on August 21, 1980. *See Office of Enforcement*, 6 DOE ¶ 82,572 (1980). We noted that implementation of a Subpart V refund process will discharge the obligations of the DOE under the Conoco consent order "to provide for a claims procedure to be followed by persons asserting a right to any portion of payment" and "to evaluate such claims and make refunds to those persons who are able to support such claims." Consent Order at 7. We concluded that the jurisdictional requirements of Subpart V had been satisfied in this case because the DOE was unable to readily identify persons who are eligible for refunds or to readily ascertain the amounts that such persons are eligible to receive. *Id. See also* 10 CFR 205.280. Our determination to exercise jurisdiction over the Conoco matter was based on the amount of money involved, the complexity of disbursing this sum, and the importance of providing notice so that persons who may have an interest in the funds have an opportunity to participate in the refund proceedings. *Office of Enforcement*, 6 DOE at 85,220.

On March 13, 1981, the OHA issued a Proposed Decision and Order which tentatively established special refund procedures to be used in adjudicating claims to the Conoco settlement fund. The Proposed Decision was published in the Federal Register. *See* 46 FR 17643 (March 19, 1981). Copies of the Proposed Decision were also sent to interested parties, and comments were solicited from the public. The comment period specified in the Federal Register has

passed, and on November 14, 1983, the OHA finally received certain essential sales and customer information of a type that it had long sought without success in connection with this proceeding. *See* n.1, *infra*. We are therefore ready to proceed with the distribution of the funds involved in this special refund proceeding.

The purpose of this Decision is to establish the mechanism by which firms that purchased motor gasoline or No. 2 heating oil in sales covered by the Conoco consent order may apply for refunds. We shall first review the Proposed Decision and discuss the comments that we received concerning the tentative first-stage refund procedures. Then we shall discuss in detail the refund procedures that we have decided to adopt. We shall not, however, establish second-stage refund procedures in this Decision. It is impossible to know whether the consent order funds may be thoroughly depleted by the first-stage refunds. In that event no second stage would be necessary. Further, our determination concerning the disposition of any residual funds will depend on the amount of money available after the first-stage claims procedure is completed. However, because all of the comments submitted in response to the Proposed Decision also addressed possible second-stage procedures, we will briefly discuss issues raised in those comments about the second stage.

I. Background

In the Proposed Decision, we described events surrounding the establishment of the Conoco consent order fund in detail. As we stated in the determination, the Conoco consent order resulted from an investigation initiated in March 1977 by the Federal Energy Administration (FEA) and later completed by the DOE. The investigation was undertaken after representatives of Conoco informed the FEA that in 1973 Conoco employees might have engaged in a scheme to sell motor gasoline and No. 2 heating oil at unlawful prices. The investigation generally confirmed the information that had been provided by Conoco and further revealed that Foremost Petroleum Company and M&A Petroleum Company, the first purchasers who resold the products involved, apparently had voluntarily participated in the arrangement. *See* 43 FR 38925 (August 31, 1978). After completing its investigation, the OSC referred the matter to the Department of Justice for investigation of possible criminal violations by Conoco Foremost, and M&A. The three firms, the DOE, and the Department of Justice subsequently agreed to the following disposition of the pending judicial proceedings: Conoco entered a plea of *nolo contendere* to a felony charge of making false records under 18 U.S.C. 1001 and a misdemeanor count of violating Cost of Living Council regulations. It paid $15,000 in criminal fines. M&A entered a plea of *nolo contendere* to one felony count of violating 18 U.S.C. 1001 and paid $10,000 in criminal fines. Foremost entered a plea of *nolo contendere* to one misdemeanor count of violating Cost of Living Council regulations and paid $5,000 in criminal fines.

Conoco, M&A, and Foremost also entered into separate consent orders with the DOE. In the Conoco consent order, the firm agreed to tender a certified check for $2,000,000 to the United States Government. This payment was deemed to satisfy any administrative remedial action that might be sought by the DOE for the refund of overcharges by Conoco in sales of gasoline and No. 2 heating oil to M&A and Foremost during the period March 6, 1973 through November 30, 1973. Additionally, Conoco agreed to pay $985,000 in civil penalties in complete settlement of all administrative remedial actions that might be undertaken by the DOE against Conoco with regard to the matters described in the consent order.

In the other two consent orders, also executed on August 11, 1978, M&A and Foremost agreed to pay $40,000 and $45,000, respectively, in civil penalties to settle all administrative remedial actions that might be undertaken in connection with the transactions with Conoco. M&A and Foremost further agreed to waive any claims for refunds which they might have against Conoco with respect to the transactions involved.

The DOE agreed in the Conoco consent order "to provide for a claims procedure to be followed by persons asserting a right to any portion of the [$2 million settlement fund]" established by Conoco and "to evaluate such claims and make refunds to those persons who are able to support such claims." Consent Order at 7. The Proposed Decision and Order tentatively established a two-stage special refund procedure for the Conoco consent order funds. We stated that in the first stage of that process the funds would be distributed to qualified claimants who purchased motor gasoline or No. 2 heating oil affected by the alleged Conoco overcharges, *i.e.*, to claimants who purchased motor gasoline or No. 2 heating oil from or traceable to Foremost or M&A. We observed that any injury attributable to the alleged Conoco overcharges would have been experienced by Foremost and M&A or by the chain of customers who purchased motor gasoline or heating oil from those two firms. Because Foremost and M&A had waived their claims to any portion of the fund, we limited our inquiry solely to the latter group of firms and individuals. (*1*)

In the Proposed Decision, we noted that Foremost and M&A contend that they did not pass through to their own purchasers any portion of the cost increases attributable to the alleged Conoco overcharges. This could not be verified, however, because on the basis of their relatively small size, neither Foremost nor M&A was subject to Cost of Living Council price restrictions in sales of refined products until June 13, 1973. On the basis of the available evidence, we concluded that the firms' contentions were not convincing. We reasoned that in the uncontrolled market environment which existed for such smaller firms during the beginning of the relevant period, the prices charged by Foremost and M&A in all likelihood were affected by their marginal costs. We concluded accordingly that absent strong evidence to the contrary, M&A and Foremost can be treated for the purpose of the Conoco refund proceeding as having passed through their increased costs to their purchasers, and we proposed to focus our first-stage refund efforts on those purchasers and their downstream customers. Despite numerous opportunities, M&A and Foremost have submitted no evidence regarding their costs or prices. (*2*)

Finally, we noted that Conoco had agreed to cooperate with the DOE in the evaluation of claims and stated that Foremost and M&A would be requested to supply lists of their motor gasoline and heating oil customers during the relevant period so that they could be individually notified of this proceeding. (*3*)

In separate section of the Proposed Decision, we considered ways of distributing any funds remaining after appropriate refunds to claimants had been made. We proposed that this second stage be effected by using rate-regulated electric utilities to pass through the remaining funds to consumers who may have been overcharged through fuel adjustment clauses or other appropriate mechanisms. We further suggested that state governments in the affected areas also might be designated as second-stage refund recipients.

II. Comments on the Proposed First Stage

In response to our request for comments on the proposed first stage, we received comments from six parties including Conoco, the General Accounting Office (GAO), two state governmental entities, and two trade associations. Each of the commenters generally supported our proposals regarding the first-stage of the special refund proceeding to distribute the Conoco consent order funds. The only objection expressed regarding any aspect of the proposed first-stage was raised by the National Oil Jobbers Council (NOJC). The NOJC contends that requiring resellers to demonstrate that market conditions prevented them from passing through any additional costs associated with the alleged overcharges would impose an "unfair burden on the small businessman." NOJC Comments at 1. The NOJC asserts that the DOE has access to the relevant information and therefore "is in a better position than the jobber to assess the market conditions prevalent at the time of the overcharge." *Id.*

Contrary to NOJC's belief, the DOE does not possess data showing how often the average reseller was constrained from raising its prices by either market forces or its maximum lawful selling price (during applicable periods). In prior refund proceedings we have attempted without success to locate that type of data. *See Office of Special Counsel (Amoco)*, 10 DOE ¶ 85,048 at 88,206. Moreover, it appears that the concerns set forth in the NOJC comments are based upon a misconception about the type of showing envisioned for refund applicants in the Proposed Decision and the Subpart V regulations. Our experience to date with more than 12,000 refund applications demonstrates that the problems which small resellers have in filing claims can be overcome by the use of presumptions. *See, e.g., id.* at 88,210–12. As discussed below, we will also establish a presumption of limited injury for smaller claimants in this case which will enable them to receive refunds without having to make a further showing that they were unable to pass through any costs associated with the alleged overcharges.

III. Application for Refund Procedures

After having considered all the comments received concerning the first-stage procedures tentatively adopted in our Proposed Decision, we have concluded that Applications for Refund should now be accepted from parties who purchased motor gasoline or No. 2 heating oil traceable to the M&A or Foremost sales affected by the alleged Conoco overcharges. We shall now discuss the specific requirements for Applications for Refund that we have decided to adopt for this proceeding.

In the Proposed Decision concerning the Conoco consent order funds we tentatively concluded that a claimant who is a refiner, reseller or retailer should demonstrate that at the time it purchased covered products from supplier(s) in the M&A and Foremost distribution chain, market conditions would not permit it to pass through the additional costs associated with the alleged overcharges. This proposed requirement that refiners, resellers, and retailers provide evidence that they did not pass on the alleged overcharges will be adopted.

To the extent that a refiner, reseller or retailer can establish that it absorbed the alleged overcharges rather than passed them on to its customers, it will be eligible to receive a portion of the consent order funds. In order to qualify for a refund, these claimants will be required to demonstrate that market conditions would not permit them to increase their prices to pass through the additional costs associated with the alleged overcharges. (*4*) In addition, a reseller of petroleum products must show that it maintained a "bank" of unrecovered costs from the first date for which it claims a refund after it became subject to price controls in order to demonstrate that it did not subsequently recover these costs by increasing its prices. (*5*)

With respect to claimants who are end-users and ultimate consumers, the above showing is not necessary in order for a firm to qualify for a refund. *See, e.g., Standard Oil Co. (Indiana)/The Hertz Corp.*, 11 DOE ¶ 85,202 (1983). Examples of the types of organizations and individuals in this group include schools, federal, state, and local government entities, research foundations, home owners, and religious institutions. In order to establish a claim, this type of applicant need demonstrate only that it purchased a specific quantity of motor gasoline or No. 2 heating oil which was sold by M&A or Foremost during the consent order period. Additionally regulated utilities and agricultural cooperatives which are required to pass on to their customers the benefit of any refund received will be exempted from the requirement that they demonstrate injury.

As in a number of previous refund cases, we have concluded that there is a class of potential claimants who may be presumed to have suffered no injury from any increased prices charged by M&A or Foremost as a result of the alleged Conoco overcharges. Those parties are firms who made spot purchases of motor gasoline or No. 2 heating oil from M&A or Foremost. As we stated in *Office of Enforcement (Vickers)*, 8 DOE ¶ 82,597 (1981), these customers tend to have considerable discretion in where and when to make purchases and would therefore not have made spot market purchases of Vickers motor gasoline at increased prices unless they were able to pass through the full amount of Vickers' quoted selling price at the time of purchase to their own customers. *Id.* at 85,396–97. We believe that the same rationale applies in this case. Consequently, we will presume that firms who made only spot purchases from M&A or Foremost were not injured by the alleged overcharges. However, this presumption is rebuttable, and a spot purchaser who can demonstrate injury will be eligible to receive a refund.

As we noted above, we have concluded that a threshold level of purchases below which a claimant need not demonstrate injury should be established for this refund proceeding. In a number of special refund proceeding cases decided since the Conoco proposed decision was issued we have adopted threshold levels. *See, e.g., Office of Enforcement (Richardson)*, 10 DOE ¶ 85,056 at 88,278–79 (1983) and cases cited therein. Our decision to adopt a threshold level below which applicants do not have to submit any further evidence of injury is based upon several factors. An important consideration is that establishing a threshold permits the OHA to conduct special refund proceedings with much greater efficiency and reduced administrative costs. It is also authorized by the Subpart V regulations. *See* 10 CFR 205.282(e).

As we discussed earlier, we also recognize that requiring small firms to produce records of transactions that occurred approximately ten years ago could prove to be an onerous, if not impossible, task. Although all regulated firms are still required to maintain these records, *see* 10 CFR 210.1, large firms are more likely to have readily available records of long-past transactions because of preexisting provisions requiring larger firms to maintain such information. *Vickers*, 8 DOE at 85,396. Nevertheless, even if the records still exist, the cost of compiling information that is sufficient to show injury would,

in many cases, exceed the refund to be gained. Subpart V offers a means of compensating many individuals who, because they either lack the resources or do not have a sufficient financial stake in the outcome to institute private lawsuits under Section 210 of the Economic Stabilization Act of 1970 (ESA), have suffered injuries which would otherwise go unredressed. Since refunding money to benefit adversely affected parties is the primary concern of Subpart V, *Amoco*, 10 DOE at 88,199, we are anxious to avoid requirements that unnecessarily discourage smaller applicants from seeking refunds.

The threshold figure selected for a refund case should strike an appropriate balance between the competing considerations regarding a claimant's expense of preparing an application and the DOE's responsibility to require certain documentation before disbursing large sums of money to applicants who claim to have sustained injury. *Richardson*, 10 DOE at 88,278; *Office of Special Counsel (Charter)*, 10 DOE ¶ 85,039 at 88,167 (1982). In order to establish a threshold which best achieves the desired balance, a number of factors should be taken into consideration. *See Richardson*, 10 DOE at 88,278–79; *Charter*, 10 DOE at 88,167.

According to information that the OHA obtained from Conoco, Foremost and M&A purchased a total of 48,180,296 gallons of motor gasoline and No. 2 fuel oil that was covered by the consent order. Based on this information, the per-gallon refund for the customers claiming refunds under the Conoco consent order will be $.0415. In applying the equitable considerations discussed above to the instant case, we find first that while the Conoco consent order spans a relatively short period of only nine months, that period ended over ten years ago and began before federal price controls were applicable to smaller petroleum firms. Furthermore, since M&A and Foremost were the initial resellers in a distribution chain for the substantial amount of motor gasoline and No. 2 heating oil involved in this case, we anticipate that we will receive Applications for Refund from a large number of downstream customers. Documenting overcharge injury for this brief and long-concluded period could well be an expensive and time-consuming process.

In a number of previous Subpart V cases we have established a purchase threshold of 50,000 gallons per month below which applicants are not required to demonstrate overcharge injury. *See, e.g., Office of Special Counsel (Pennzoil)*, 9 DOE ¶ 82,545 at 85,245; *Vickers*, 8 DOE at 85,396. Based on our application of the relevant equitable considerations to the circumstances of this case, we think that such a threshold is appropriate for larger firms that were subject to federal petroleum price controls throughout the entire consent order period. Such larger firms will therefore be eligible for a refund without further proof of injury for the first 50,000 gallons of motor gasoline and the first 50,000 gallons on No. 2 heating oil that they purchased from M&A or Foremost during any month of the Conoco consent order period. As a result, larger firms qualifying for the full threshold refund for the entire 8.75 month Conoco consent order period would receive a refund of $18,156.25 (plus interest). *Compare Richardson*, 10 DOE at 88,279–80 (varying threshold refund amounts from $21,346.50 to $26,044.74); *Charter*, 10 DOE at 88,167 (threshold refund of $21,000).

With regard to smaller firms that were not subject to price controls until June 15, 1973, we believe that a different approach is appropriate. These smaller firms were not required to maintain records documenting their costs and sales prices prior to June 15, 1973. In view of these special circumstances, it will be more difficult for those firms to demonstrate injury and they should be eligible for the per-gallon refund amount for the entire amount of gasoline or No. 2 heating oil that they purchased from or traceable to M&A or Foremost prior to June 15, 1973. From June 15, 1973 through the remainder of the Conoco consent order period, all firms will be subject to the same threshold level of 50,000 gallons per month for each covered product.

Application for Refund of a portion of the Conoco consent order funds will be accepted if filed within 90 days after the publication of this Decision and Order in the **Federal Register**. *See* 10 CFR 205.283. We will consider all applications, although we may later impose a lower dollar limit on claims. *See* 10 CFR 205.286(b). *(8)*. Applications made on behalf of a class of claimants will be considered on a case-by-case basis. An application must be in writing, signed by the applicant, and specify the special refund proceeding that the application pertains to by firm name and case number. If the applicant is not a direct purchaser from M&A or Foremost it should submit evidence indicating from whom it purchased the motor gasoline or No. 2 heating oil for which it is claiming a refund and its basis for believing that the product that it purchased was sold by one of the two firms during the consent order period.

Applications for Refund must be filed in duplicate on 8½ x 11 inch paper. Copies of all applications will be available for public inspection in the Public Docket Room of the Office of Hearings and Appeals, Room 1E–234, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. Any applicant who believes that his application contains confidential information must so indicate on the first page of his application and submit two additional copies of his application from which the information that the applicant claims is confidential has been deleted, together with a statement specifying why it believes the information is privileged or confidential. Applications should be sent to: Conoco Consent Order Refund Proceeding, Case No. DFF–0003, Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue, S.W., Washington, D.C. 20585 . All Applications for Refund received within 90 days of the date of publication of this Decision in the **Federal Register** will be processed pursuant to 10 CFR 205.284.

In order to assist applicants in establishing eligibility for a portion of the consent order funds, the following section discusses the showing that should be made by refiners, resellers, retailers and end-users of the products covered by this special refund proceeding:

A. Each applicant should furnish its name, street or post offfice address, and its telephone number. If the applicant is a business firm, the applicant should furnish any and all other names under which it operated during the period for which the claim is being filed.

B. The application for refund should contain the name and telephone number of the person who prepared the application. If the preparer was someone other than the applicant, the claimant may wish to furnish the name and telephone number of a "contact person" who is familiar with the facts set forth in the application. Unless otherwise specified, the refund check will be issued to the preparer.

C. Each application should set forth the name, address and telephone number of the supplier who sold the applicant the volumes of product for which a claim is being filed. If the supplier was a reseller other than M&A or Foremost, the applicant should state whether the reseller was supplied directly by one of those two firms. If the product was not branded, the applicant should explain the reasons why it believes that the purchased product came from M&A or Foremost during the relevant period.

D. Each applicant should report its volume of purchases of relevant product by month for the period of time for which it is claiming it was injured by the alleged overcharges. No invoices need be submitted with the application; however, the applicant should keep its supporting material in a convenient place at least until it has received a refund. We may request copies of invoices or other more detailed supporting material in certain cases.

E. Each applicant should specify how it used the product for which it is claiming a refund, *e.g.*, as a refiner, reseller, retailer, or ultimate consumer.

F. Each applicant (other than an ultimate consumer) should state the date it became subject to federal petroleum price controls.

G. An applicant who is a refiner or a reseller must state whether any of the product for which it is claiming a refund was exported from the United States.

H. If the applicant is a refiner, reseller (other than a regulated utility or agricultural cooperative), or retailer it should state whether it maintained banks of unrecouped product cost increases from the date it became subject to price controls through January 27, 1981. *See* n.5. It should also furnish cumulative monthly bank calculations for the entire period.

I. If the applicant is a refiner, reseller (other than an agricultural cooperative), or retailer, it must submit evidence to establish that it did not pass on the overcharges to its customers if its application requests a refund based on purchases averaging over the threshold amount.

J. Each application shall indicate whether the applicant or any person acting on his instructions has filed or intends to file any other application or claim of whatever nature regarding the underlying transactions between Conoco and M&A or Foremost.

K. The applicant should report whether it is or has been involved as a party in other DOE enforcement proceedings or private section 210 actions. If these actions have terminated, the applicant should furnish a copy of any final order issued in the matter. If the action is ongoing, the applicant should briefly describe the action and its current status. Of course, the applicant is under a continuing obligation to keep the OHA informed of any change in status during the pendency of its Application for Refund. *See* 10 CFR 205.9(d).

L. The application *must* contain a signed statement that the applicant swears (or affirms) that all of the information furnished in the application is true and accurate to the applicant's best knowledge, and that the signer understands that anyone who provides false information to the federal government may be subject to a jail sentence, a fine or both. *See* 18 U.S.C. 1001.

IV. Distribution of the Remainder of the Consent Order Funds

As we noted earlier, the commenters primarily addressed our proposed distribution of the remainder, if any, or the consent order funds after all meritorious claims have been paid. Those comments can be divided into three groups. First, some commenters contend that the office of Hearings and Appeals lacks the statutory or regulatory authority to implement the proposed distribution. Second, some commenters acknowledge, that the Office possess the authority to fashion such a restitutionary mechanism, but suggest alternatives to or modifications of our original proposal. A third group of comments were received from state government entities that support our alternative proposal to distribute funds through states or public utilities according to the pro rata share of gasoline or No. 2 heating oil purchased in their states during the consent order period.

Conoco is among the commenters who contend that the OHA lacks the authority to distribute any portion of the consent order funds to any parties other than individual claimants who purchased covered products directly from M&A or Foremost. The firm asserts that under the terms of the consent order, only such disbursements are allowed and then any remaining funds must be paid into the U.S. Teasury. In taking this position, Conoco expresses concern that it could be subject to double liability if we were to distribute any residual funds as proposed rather than paying any remaining moneys to the U.S. Treasury. We find no merit in Conoco's position.

We have discussed and rejected the assertion that this Office lacks the authority to distribute consent order funds to parties other than direct purchasers in a number of prior decisions. *See, e.g., Vickers,* 8 DOE at 85,398–99. Nor do we find merit in Conoco's concern that our proposal for a second-stage distribution might subject the firm to double liability that it might not otherwise face. The period covered by the Conoco consent order involved in this proceeding ended over ten years ago. Most state limitation periods governing private overcharge actions would have run during a period of this length. Further, it is not suggested that Conoco itself might have overcharged any of its customers other than M&A and Foremost, who have themselves pled *nolo contendere* to changes of voluntary participation in the underlying scheme. We cannot perceive how any second-stage distribution scheme might cause Conoco to be subject to double liability for any related overcharges. Moreover, while placement of any funds remaining after the first-stage claims procedure in the U.S. Treasury remains an option, we cannot perceive how it could better protest the firm from any possible double liability in connection with the alleged overcharges. In this Decision, we are not implementing second-stage refund procedures. Such a step would be difficult to take before the analysis and processing of Applications for Refund filed in the first stage of the distribution of the consent order funds to claimants, since the amount remaining after all meritorious claims have been paid directly affects the appropriateness of the second-stage distribution scheme. Moreover, in the present case, claimants could assert claims which, if meritorious, would completely exhaust the consent order funds. In order for members of the public to be made aware of outstanding issues and be able to comment on them, we note that we summarized and briefly addressed similar comments received concerning the proposed second-stage refund procedures in *Vickers,* 8 DOE at 85,398–99. We will not reiterate our discussion of these issues here. We continue to seek additional comments on possible second-stage distribution procedures. In considering possible comments that might be submitted, we suggest that parties also review our discussions of possible second-stage proposals set forth in more recent decisions such as *Amoco,* 10 DOE at 88,201–02. Comments on this subject in the present case should be submitted to the Conoco Consent Order Refund Proceeding at the address listed above within 30 days of publication of this Decision and Order in the **Federal Register.**

It is Therefore Ordered That:

Applications for Refund from the funds provided by the Continental Oil Company shall be filed and processed in the manner set forth in the foregoing Decision.

Dated: January 23, 1984.

George B. Breznay,

Director, Office of Hearings and Appeals.

Footnotes

1. On March 18, 1981 the Office of Hearings and Appeals served a copy of our Proposed Decision upon Thomas R. McDade, Esq., of the law firm of Fulbright & Jaworski, counsel

for Foremost and M&A. Although we invited comments on the proposed determination, the two firms failed to respond. On April 23, 1981, this Office mailed a second copy of our Proposed Decision to McDade. In our transmittal letter we stated our belief that Foremost and M&A could greatly assist the DOE's effort to fashion the most appropriate refund procedures. Our letter included the following language:

Before we implement the special refund procedures, we wish to obtain any information available from Foremost and M&A concerning the names and locations of their gasoline and heating oil customers during the period March 6, 1973 through November 30, 1973. This will allow us to refine our estimates of the area likely to have been affected by the alleged Conoco overcharges.

Again, Foremost and M&A failed to respond. In an August 28, 1981 telephone conversation with an Office of Hearings and Appeals staff attorney, McDade acknowledged receipt of our April 23 letter but stated that he did not intend to respond.

Because we felt that important information was needed regarding M&A and Foremost's sales during the Conoco consent order period, this Office issued a Special Report Order to each firm on October 22, 1981. *See* 10 CFR 205.8. The Foremost SRO requested the following information from the firms:

(1) Please state the total volume (in gallons) of Foremost's sales of motor gasoline during the relevant period of [March 6, 1973 through November 30, 1973]. Please state the total volume (in gallons) of Foremost's sales of No. 2 heating oil during the relevant period.

(2) Please submit information indicating, for each state and the District of Columbia, the total volume of motor gasoline delivered by Foremost to customers within that state or District during the relevant period. Please submit information indicating, for each state and the District of Columbia, the total volume of No. 2 heating oil delivered by Foremost to customers within that state or District during the relevant period.

(3) Please identify all states (including, if appropriate, the District of Columbia) in which Foremost has reason to believe that its motor gasoline was sold or resold during the relevant period. Please identify all states (including, if appropriate, the District of Columbia, in which Foremost has reason to believe that its No. 2 heating oil was sold or resold during the relevant period.

(4) Please submit the names and addresses of all direct purchasers of Foremost motor gasoline during the relevant period and indicate the gallonage purchased by each. Please submit the names and addressses of all direct purchasers of Foremost No. 2 heating oil during the relevant period and indicate the gallonage purchased by each.

Foremost SRO at 6. The SRO issued to M&A requested identical information regarding its sales and customers.

The firms filed a request for withdrawal of the SROs with the Office of Hearing and Appeals on November 9, 1981. That request was denied on January 19, 1982. *See* Foremost Petroleum Co., 9 DOE ¶ 82,526 (1982). Despite the denial, the firms failed to provide the requested information. On August 19, 1982, the DOE filed petitions to enforce the SROs in the United States District Court for the District of Columbia. M&A and Foremost responded by filing (1) a motion to dismiss for improper venue or alternatively, to transfer the matter, and (2) a counterclaim seeking to retract their own consent order waivers to the Conoco fund and claim the $2,000,000 themselves.

The court denied respondents' motion on December 9, 1982. *See* United States v. M&A Petroleum Co., Fed. Energy Guidelines ¶26,450 at 29,345 (D.D.C, consolidated decision issued December 9, 1982). The firms continued to contest the requirement that they respond to the SRO. However, on October 6, 1983, the Court granted summary judgment to the DOE and simultaneously dismissed the firms' counterclaims. Consequently, M&A and Foremost were ordered to provide the OHA with the requested information within 20 days of the date of its order. United States v. M&A Petroleum Co., Fed. Energy Guidelines ¶ 26,450 at 29,344. (October 6, 1983).

After the firms obtained an extension of time from the court in which to respond, the OHA finally received a response to the SRO, over two years after the DOE first requested the information. It consisted of a two-page letter from R. B. Grammer, who states that he was "associated with both Foremost and M&A during the period" in question, and a cover letter from McDade. Mr. Grammer stated that records for this period are no longer available but provided a list of 10 M&A and Foremost customers "that I am able to remember for the period." The only other information he provided is that

[t]he volume of products that was delivered to these customers to the best of my knowledge during this period was approximately sixty million gallons. This product was delivered out of the Lake Charles, Louisiana facilities of Continental Oil Company into the Colonial Pipeline and I have reason to believe that some of this volume was delivered to some of the same customers in the states of Alabama, Georgia, Mississippi and Tennessee.

In his letter forwarding the Grammer letter to the OHA, McDade states that "the information submitted represents the best evidence presently available to Foremost and M&A concerning the information sought by the Special Report Orders of Octoer 22, 1981." Letter of Thomas R. McDade, Esq., to the Office of Hearings and Appeals, dated November 10, 1983. This is not the proper place to comment upon the conduct of counsel in failing to cooperate with the DOE's request for essential information in this proceeding. It must be noted, however, that the passage of time caused by this refusal has inevitably served to dim Mr. Grammer's obviously foggy recollection. This and the delay itself have certainly been adverse to the interests of persons with a legitimate claim to the consent order funds involved here, many of which are small, struggling enterprises.

2. Throughout the SRO proceeding, *see* n.1, above, M&A and Foremost have simply maintained that their records regarding purchases and sales during the Conoco consent order period are no longer available. Neither firm has attempted to provide any other type of evidence indicating that it absorbed the costs associated with the alleged Conoco overcharges. As indicated below, our analysis in the absence of such a showing is consistent with our proposed treatment of resellers of Foremost and M&A products; the Proposed Decision tentatively placed the burden on all resellers to demonstrate that they did not pass on cost increases as a condition to receiving a share of any refund distribution. This requirement is adopted in Section IV of this Decision and Order.

3. We noted in the Proposed Decision that according to information provided by Conoco, the distribution chain for the motor gasoline and heating oil marketed by Foremost and M&A appeared to cover broad regions of the United States ranging from Texas through the New York City metropolitan area. Preliminary information which we received from Conoco reveals that Foremost and M&A conducted most of their reselling operations during 1973 in Texas and the Southeast. Conoco indicated that motor gasoline and heating oil it sold to Foremost and M&A during 1973 could be traced to Conoco's Lake Charles refinery in Lousisiana. The products were then transported through the Colonial Pipeline which, with its branches, distributes refined products in a fourteen state area (Texas, Louisiana, Mississippi, Alabama, Georiga, Tennessee, South Carilina, North Carolina, Virginia, Maryland, Pennsylvania, Delaware, New Jersey and New York) and the District of Columbia. We tentatively decided to treat this region as the area likely to have been affected by the alleged overcharges, although we noted that data supplied by Foremost and M&A and persons commenting on the Proposed Decision, might lead us to modify this determination. The information we received as a result of the SROs and notices from intended claimants in fact seem to indicate that the product in question was marketed primarily in Texas and the Southeast. *See also*, n.1, above. However, in light of the factual uncertainties which exist in this case, any firm regardless of its location, which can trace a purchase to the products covered by the Conoco consent order, may file a refund application.

4. In prior special refund proceedings we have declined to set forth a precise methodology that claimants must use to show that they were injured as a result of allegedly unlawful pricing practices. Instead, we have provided potential applicant with an understanding of the showing of injury that we look for, stating that each firm can best decide how to substantiate its claim of injury based on its factual circumstances and its recordkeeping systems. While we still believe that a flexible approach is best, we have considered showings made by various types of claimants in a number of refund decisions and suggest that potential claimants review these decisions for guidance in preparing their applications. *See e.g.*, Tenneco Oil Co./Enterprise Products Co., 10 DOE ¶ 85,107 (1982); Tenneco Oil Co./Chevron U.S.A. Inc., 10 DOE ¶ 85,104 (1982); Tenneco Oil Co./

Farmland Industries, Inc., 9 DOE ¶ 82,597 (1982).

5. We note that a firm which recouped increased product cost banked during the consent order period only after the consent order period nonetheless recovered the increased costs and thus suffered no injury as a result of the alleged overcharges. Consequently, claimants that are required to demonstrate that they did not pass through increased costs must show that they had banks until January 28, 1981, the date on which the President decontrolled all remaining covered products. It is also worth noting, however, that in previous refund application cases, the OHA has granted claims from applicants who have elected to limit their claim to the threshold amount in spite of the absence of banks. *See, e.g.*, Tenneco Oil Co./Save-a-Ton, 9 DOE ¶ 82,600 (1982); Tenneco Oil Co./Thomas Fastiggi, 9 DOE ¶ 82,582 (1982).

6. In a number of prior Subpart V refund cases we have established a $15 minimum refund due to the administrative cost involved in analyzing applications and issuing refund checks.

[FR Doc. 84-4872 Filed 2-21-84; 8:45 am]

BILLING CODE 6450-01-M

Issuance of Decisions and Orders; Week of December 19 Through December 23, 1983

During the week of December 19 through December 23, 1983, the decisions and order summarized below were issued with respect to appeals and applications for other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Copies of the full text of these decisions and orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room 1E–234, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays. They are also available in *Energy Management: Federal Energy Guidelines*, a commercially published loose leaf reporter system.

February 13, 1984.

George B. Breznay,

Director, Office of Hearings and Appeals.

Appeal

Charles Barnes, 12/23/83, HFA–0146

Charles Barnes filed an Appeal from a denial by the Director of the Division of Freedom of Information and Privacy Acts Activities of a request for a waiver of search and copying fees to be incurred in responding to a Request for Information which Barnes had submitted under the Freedom of Information Act (the FOIA). In considering the Appeal, the DOE found that Barnes had no definite plans for analyzing and disseminating to the public the information sought in his FOIA Request and that, consequently, no basis existed for concluding that granting Barnes' request for a fee waiver would primarily benefit the public. Accordingly, Barnes' Appeal was denied. The DOE further found, however, that the fee estimate that Barnes received with regard to his Request for Information was excessively broad and hindered the disclosure objectives of the FOIA. The DOE observed that if Barnes again sought the information described in his FOIA Request, a more careful estimation of fees, broken down by specific documents or types of documents where feasible, should be provided to him.

Request for Modification and or Rescission

Gulf Oil Corporation, 12/23/83, HER–0058

On May 25, 1983, Gulf Oil Corporation filed an Application for Modification of a Decision and Order that the DOE issued to Husky Oil Company on May 18, 1983. In the May 18 Decision, the DOE granted Husky exception relief from a portion of the entitlement purchase obligations that the firm incurred under the provisions of 10 CFR 211.67, but excluded from Husky's cost of sales premiums above the lawful price of the price controlled crude oil that the firm acquired during 1979 and 1980.

In its Application, Gulf contended that in calculating Husky's premium payments, the DOE erroneously allocated those payments between exempt crude oil and price controlled crude oil that Husky purchased, and disallowed the portion of premiums allocated to price controlled crude oil.

In this Decision and Order, the DOE reviewed the entire record and concluded that the premiums that Husky paid were for the purpose of acquiring price controlled crude oil, and that there was no economic reason for Husky to pay a premium for exempt crude oil which Husky purchased at market prices. The DOE therefore granted the Gulf Application and made appropriate adjustments to disallow the entire amount of the premium payments.

Motions for Discovery

Mobil Oil Corporation, 12/22/83, HRD–0029

Mobil Oil Corporation (Mobil) filed a Motion to Dismiss in which it requested the Office of Hearings and Appeals to dismiss the Proposed Order of Disallowance (POD) issued to the firm by the Econimic Regulatory Administration (ERA). In the alternative, Mobil requested the OHA to compel ERA to provide further discovery, namely to: (i) Supplement its responses to certain interrogatories; (ii) release seven documents withheld pursuant to the deliberative process privilege, and (iii) conduct an additional search for responsive documents. In considering the motions the OHA determined that it was not necessary to dismiss the proceeding to eliminate any prejudice to Mobil resulting from ERA's alleged failure to comply with its discovery obligations. Consequently, the Motion to Dismiss the POD was denied. The OHA also concluded, however, that several of ERA's interrogatory responses were inadequate. Accordingly, the OHA directed ERA to supplement its responses to the subject interrogatories. In all other respects, the Motion to Compel Discovery was denied.

San Joaquin Oil Company and San Joaquin Refining Co., Inc., Economic Regulatory Administration/San Joaquin Oil Company and San Joaquin Refining Co., Inc., 12/20/83, HRD–0076, HRZ–0166

San Joaquin Oil Company and San Joaquin Refining Co., Inc. (San Joaquin) filed a Motion for Discovery in connection with a Statement of Objections to a Proposed Remedial Order issued to the firm by the Economic Regulatory Administration. In the PRO, the ERA alleged that San Joaquin had violated the DOE regulatory program by incorrectly calculating increased product cost and thus charging prices for petroleum products which exceeded those permitted by the regulations. Much of the alleged overcharge amount was due to San Joaquin's treatment of the proceeds received from the sale of its fee-free import licenses. In its Motion for Discovery, San Joaquin sought extensive contemporaneous construction discovery related to the issue of the treatment of fee-free license proceeds. It also sought discovery related to the equal application rule and to regulations governing sales to new markets. The DOE determined that the request for discovery should be denied because it would not yield information which would be useful in the context of the enforcement proceeding. Accordingly, the San Joaquin Motion was denied. In addition, in the same decision, a Motion for Admission filed by the ERA was dismissed without prejudice because it served no helpful purpose at this point in the proceeding.

Interlocutory Order

Economic Regulatory Administration/ Transco Trading Company, 12/19/83, HRZ–0178

The Economic Regulatory Administration (ERA) filed a Motion to Join Billy Ray Jones in a proceeding involving a Proposed Remedial Order issued to Transco Trading Company (Transco) and Refiners and Producers Marketing, Inc. (RPM). In support of its Motion, the ERA contended that Mr. Jones, as Transco's president and sole authorized agent, was responsible for the crude oil transactions which are the subject of the PRO proceeding. The ERA also contended that, as RPM's sole stockholder, Mr. Jones might be personally liable for any regulatory violations which the firm may have committed. In considering the Motion to Join, the DOE determined tht Mr. Jones' role in the transactions which form the basis for the violations alleged in the PRO was such that his participation would aid in the resolution of the PRO proceeding. Accordingly, the Motion to Join was granted.

Refund Applications

ADA Resources/Metropolitan Transit Authority, 12/19/83. RQ24–31

The Metropolitan Transit Authority of Harris County, Texas (Metro) filed a plan on how it proposed to use its share of the Ada Resources settlement fund. Metro's submission related to a Decision and Order issued on October 19, 1983, which established second-stage procedures for the disbursement

of funds which Ada Resources, Inc. had placed in an escrow account to settle its alleged violations of the DOE price regulations. *Office of Enforcement*, 11 DOE ¶ 85,161 (1983). Metro proposed to use its share of the Ada settlement funds, $17,631 plus interest, to subsidize its farebox revenues to provide and expand Metro's mass transit services in Harris, Fort Bend, Montgomery and Waller counties during its 1984 fiscal year. After reviewing Metro's proposal, the Office of Hearings and Appeals found that Metro's plan would benefit the citizens of those counties, consumers who were ultimately affected by the alleged Ada overcharges. Accordingly, Metro's plan was approved.

Ozona Gas Processing Plant I/States of California, Michigan, Illinois, and Indiana, 12/19/83, RF27–5, RF27–6, RF27–7, RF27–8

The States of California, Michigan, Illinois, and Indiana filed an Application for Refund for portions of the Ozona I consent order fund on behalf of a class of ultimate consumers consisting of the citizens of these states. The States' submissions related to a Decision and Order which established procedures for the disbursement of funds which Ozona Gas Processing Plant had placed in a DOE escrow account in settlement of its alleged violations of the DOE price regulations in its sale of natural gas liquids (NGLs). The States asserted that because NGLs may have been used in the production of motor gasoline, and because citizens of the four States purchased gasoline, they were entitled to shares of the Ozona I consent order fund. After analyzing the States' claim, the Office of Hearings and Appeals found that this type of claim should not be granted in the first stage of a special refund proceeding. However, OHA stated that it would reconsider the States' request for refunds during the second stage of the Ozona I proceding, if it is determined that distributing refunds to states where end users were injured by the alleged overcharges is an appropriate mechanism for achieving restitution, and if there is any evidence that Ozona NGLs were sold in California, Michigan, Illinois or Indiana.

Ozone Gas Processing Plant II/States of California, Michigan, Illinois, and Indiana, 12/23/83, RF28–4, RF28–5, RF28–6, RF28–7

The States of California, Michigan, Illinois, and Indiana filed an Application for Refund for portions of the Ozona II consent order fund on behalf of a class of ultimate consumers consisting of the citizens of these states. The States' submission related to a Decision and Order which established procedures for the disbursement of funds which the Ozona Gas Processing Plant had placed in a DOE escrow account in settlement of its alleged violations of the DOE price regulations in its sale of natural gas liquids (NGLs). The States asserted that because NGLs may have been used in the production of motor gasoline, and because citizens of the four States purchased gasoline, they were entitled to shares of the Ozona II consent order fund. After analyzing the States' claim, the Office of Hearings and Appeals found that this type of claim should not be granted in the first stage of a special refund proceeding. However, OHA stated that it would reconsider the States' request for refunds during the second stage of the Ozona II proceeding, if it is determined that distributing refunds to states where end users were injured by the alleged overcharges is an appropriate mechanism for achieving restitution, and if there is any evidence that Ozona NGLs were sold in California, Michigan, Illinois or Indiana.

Palo Pinto Oil and Gas/State of Virginia, State of North Carolina, State of New Jersey, 12/21/83, RQ5–24, RQ5–26, RQ5–27

The Office of Hearings and Appeals issued a Decision and Order granting second stage refunds to the States of Virginia, North Carolina, and New Jersey in connection with the Palo Pinto consent order fund. *See Palo Pinto Oil and Gas*, 11 DOE ¶ 85,034 (1983). Under the plans submitted by the States and approved by OHA, Virginia will use its share of the refund moneys to promote its motor oil recycling program, North Carolina will use its refund to purchase equipment to test heating efficiency in fifteen institutional facilities throughout the state, and New Jersey will devote its portion of the refund moneys to aid public and nonprofit institutions throughout the state reduce energy consumption through a three-stage process.

Standard Oil Company (Indiana)/Alfred Robinson, D.C. Cooper Grocery & Furniture, Zeccini's Service, Larry's Amoco, 12/19/83, RF21–9875, RF21–9902, RF21–9964, RF21–12244

The DOE issued a Decision and Order concerning four Applications for Refund filed by retailers of Amoco motor gasoline. All of these firms elected to apply for a refund based upon the presumption of injury and the formulae outlined in *Office of Special Counsel*, 10 DOE ¶ 85,048 (1982). In considering these applications, the DOE concluded that each of the four applicants should receive a refund based upon the total volume of its Amoco motor gasoline purchases. The refunds granted in this proceeding total $2,116.

Standard Oil Company (Indiana)/Doug Asher Oil Co., Inc., 12/19/83, RF21–12243

The DOE issued a Decision and Order concerning an Application for Refund filed by a reseller of Amoco middle distillates. The applicant elected to apply for a refund based upon the presumption of injury and the formulae outlined in *Office of Special Counsel*, 10 DOE ¶ 85,048 (1982). In considering the application, the DOE concluded that Doug Asher Oil Co. should receive a refund based upon the total volume of its Amoco middle distillate purchases. The refund granted in this proceeding totals $45.

Standard Oil Company (Indiana)/Doug Asher Oil Company, Inc., Feather Petroleum, Inc., 12/19/83, RF 21–10010, RF21–12213

The DOE issued a Decision and Order concerning two Applications for Refund filed by wholesalers of Amoco motor gasoline. These firms elected to apply for a refund based upon the presumption of injury and the formulae outlined in *Office of Special Counsel*, 10 DOE ¶ 85,048 (1982). In considering these applications, the DOE concluded that each of the applicants should receive a refund based upon the total volume of its Amoco motor gasoline purchases. The refunds granted in this proceeding total $3,523.

Standard Oil Company (Indiana)/Johnson & Dix Fuel Corp., 12/19/83, RF 21–12234

This proceeding was initiated by a letter dated August 23, 1983, from Bassman & Mitchell, Chartered, the attorneys representing Johnson & Dix Fuel Corp. (Johnson) in the *Amoco* special refund proceeding. In this letter, Bassman & Mitchell informed the Office of Hearings and Appeals that it had inadvertently submitted duplicate Applications for Refund on behalf of Johnson. Johnson's original application, based on purchases of 5,133,090 gallons of Amoco middle distillates, was granted on August 4, 1983. A revised application, claiming a refund for purchases of 5,255,491 gallons of Amoco middle distillates, was granted on September 21, 1983. In order to rectify this double payment, Bassman & Mitchell has remitted the $1,850 refund granted to Johnson on August 4, 1983. In the present Decision and Order, the OHA directed that the remitted money be credited to the Amoco escrow account at the Department of the Treasury and that the August 4 Decision be revised accordingly.

Standard Oil Company (Indiana)/Lasalle Oil Company, Mokena Quik Serv, 12/19/83, RF 21–11535, RF21–11895

This Decision and Order addresses two Applications for Refund, one filed by Lasalle Oil Company (Lasalle), the other by Mokena Quik Serv (Mokena). Both applicants requested a supplementary refund, in addition to the refunds they received for purchases of motor gasoline at the wholesale level, for that portion of their motor gasoline purchases which was sold to consumers through retail outlets. Each elected to apply for a refund based upon the presumption of injury and the formulae set forth in the *Amoco* decision. 48 F.R. 144 at 162–63 (1983). In considering these applications, the DOE concluded that each of the applicants should receive a refund based on the total number of gallons of motor gasoline sold at the retail level. The refunds granted to Lasalle and Mokena in this Decision and Order amount to $4,067 and $47, respectively.

Dismissals

The following submissions were dismissed.

Name	Case No.
Bi-Petro, Inc.	HRO-0183 HRD-0183
William T. Halley	HEE-0052
Southern Crude Oil Resources, Inc.	HRO-0176
State of Montana	RQ5-10

[FR Doc. 84-4573 Filed 2-21-84; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[AH-FRL-2529-6]

Confidentiality Agreements; Policy Memorandum; Correction

AGENCY: Environmental Protection Agency.

ACTION: Notice of Policy Memorandum Regarding Confidentiality Agreements under section 114 of the Clean Air Act; Correction.

SUMMARY: When the notice of policy was published on January 24, 1984 (49 FR 2942 and 2943), the memorandum from the Assistant Administrators for Air and Radiation to Office Directors and the ten EPA Regional Administrator was inadvertently omitted. Also the date of the memorandum was stated as December 16, 1983, when in fact, the correct date is December 15, 1983. The purpose of this action is to correct that omission and the date of the memorandum, which is reproduced below.

EFFECTIVE DATE: December 15, 1983 (date of policy memorandum).

FOR FURTHER INFORMATION CONTACT: Donald F. Walters, U.S. Environmental Protection Agency, Office of Air Quality Planning and Standards (MD-11), Research Triangle Park, North Carolina 27711, 919-541-5641.

Sheldon Meyers,

Acting Assistant Administrator for Air and Radiation.

Subject: Execution of Confidentiality Agreements under section 114 of the Clean Air Act.

From: Sheldon Meyers for Joseph A. Cannon, Assistant Administrator for Air and Radiation.

To: Office Directors, Regional Administrators.

The purpose of this memorandum is to reveiw aspects of existing regulations and procedures with respect to agreements relating to confindantial treatment of information claimed to be trade secret.

Obtaining the information needed for rulemaking and other activities of this office is essential to carrying out the responsibilities which have been assigned to it. Section 114 provides EPA with authority to obtain the needed information. In the past we have generally sought to obtain the necessary information by requesting it in a "Section 114" letter or by entering appropriate facilities. We have sought, wherever possible, to obtain responses to such letters and to arrange such entry on a consensual basis, i.e., to avoid the necessity to use the enforcement mechanisms provided by Congress.

For that reason we have generally sought, and will continue to try, to respond favorably to reasonable company requests for clarification or explanation of information requests, for additional time, or for use of some more conveinent and equally useful form or manner of response. We have also established by regulation and by contract provision; reasonable safeguards, deterrents and sanctions against the improper disclosure of information claimed to be trade secret, including the debarment of contractors (whether or not such contractors have been designated EPA representatives) and the constituting of sources as third party beneficiaries of the terms of EPA contract provisions relating to handling of such information, 40 CFR Part 2; 41 CFR 15-1.350-1, 15-1.350-2. These protections and remedies are additional to the protections and remedies afforded by other provisions of law, e.g., common law and State criminal law.

The EPA and duly designated EPA representatives have found that many companies are willing to assist us in carrying out our responsibilities, in part because they recognize that they have a stake in ensuring that EPA has timely, adequate, and accurate information. In recent years, however, EPA and its representatives have also experienced increased difficulties in obtaining companies' early and voluntary cooperation.

A common—and increasingly frequent—source of delay and difficulty in obtaining needed information has been company requests that EPA or an authorized contractor representative sign agreements relating to confidential treatment of claimed trade secret information.

This office has not always been informed of such requests nor of the nature of contractor representatives' response to them. Requests which have been reviewed by this office and, in recent years, by the Office of General Counsel, have often been found to be inconsistent with applicable statute and regulations. Common features of such agreements have been some prejudgement as to what information constitutes nondisclosable trade secret information; reservation of some right for the company to determine what information will be provided or what part of a facility EPA or its representative may enter; reservation of some right for the company to review and edit the work of EPA officers or representatives; and provision which purported expressly or implicity to authorize enforcing the terms of a nondisclosure agreement itself against individuals or the U.S. Government. These and other features unacceptable to EPA have all too often resulted in lengthy and fruitless discussions with company representatives.

Although companies may not set conditions on their compliance with Section 114 requests, we are willing as a metter of policy to execute a standard-form memoranda where a company indicates its desire for one. Boiler-plate memoranda of this type have been used for several years. We are willing to execute such as document in part because the document is standardized and in part because its provisions are considered as protective of the company as possible under applicable statute and regulation; see 40 CFR 2.215. Execution of such a document, therefore, does not consume time and resources and, on balance, can expedite our work.

In light of this experience, this memorandum will confirm that neither EPA nor its authorized representatives may sign any confidentiality agreements or other document except the attached memoranda which (together with any nonsubstantive variations needed to adapt them to different contexts) this office believes adequate for all reasonable purposes.

[FR Doc. 84-4637 Filed 2-21-84; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

[Docket No. FEMA-REP-4-FL-1]

The Florida Radiological Emergency Management Plan for Nuclear Power Plants Site-Specific to the Crystal River Nuclear Power Plant

AGENCY: Federal Emergency Management Agency.

ACTION: Certification of FEMA findings and Determination.

In accordance with the Federal Emergency Management Agency (FEMA) rule 44 CFR 350, the State of Florida submitted its plans relating to the Crystal River Nuclear Power Plant to the Director of FEMA Region IV on August 26, 1983, for FEMA review and approval. On November 15, 1983, the Regional Director forwarded his evaluation to the Associate Director for State and Local Programs and Support in accordance with § 350.11 of the FEMA rule. Included in this evaluation is a review of the State and local plans around the Crystal River facility, and evaluations of the joint exercises conducted on March 30, 1982, and February 22-24, 1983, in accordance with section 350.9 of the FEMA rule, and a report of the public meeting held on March 29, 1982, to discuss the site-specific aspects of the State and local plans in accordance with § 350.10 of the FEMA rule.

Based on the evaluation by the Regional Director and the review by the FEMA Headquarters staff, I find and determine that, subject to the condition stated below, the State and local plans and preparedness for the Crystal River Nuclear Power Plant are adequate to protect the health and safety of the public living in the vicinity of the plant. These offsite plans and preparedness are assessed as adequate in that they provide reasonable assurance that appropriate protective actions can be taken offsite in the event of a radiological emergency and are capable of being implemented. The condition for the above approval is that the adequacy of the public alert and notification system already installed and operational must be verified as meeting

the standards set forth in Appendix 3 of the Nuclear Regulatory Commission (NRC)/FEMA criteria of NUREG–0654/FEMA–REP–1, Revision 1.

FEMA will continue to review the status of offsite plans and preparedness associated with the Crystal River Nuclear Power Plant in accordance with § 350.13 of the FEMA rule.

For further details with respect to this action, refer to Docket File FEMA–REP–4–FL–1 maintained by the Regional Director, FEMA Region IV, Gulf Oil Building, Atlanta, Georgia 30309.

Dated: February 15, 1984.

For the Federal Emergency Management Agency.

Samuel W. Speck,

Associate Director, State and Local Programs and Support.

[FR Doc. 84–4603 Filed 2–21–84; 8:45 am]

BILLING CODE 6718–01–M

[Docket No. FEMA–REP–4–FL–2]

The Florida Radiological Emergency Management Plan for Nuclear Power Plants Site-Specific to the St. Lucie Nuclear Power Plant

AGENCY: Federal Emergency Management Agency.

ACTION: Certification of FEMA findings and determination.

In accordance with the Federal Emergency Management Agency (FEMA) rule 44 CFR Part 350, the State of Florida submitted its plans relating to the St. Lucie Nuclear Power Plant to the Director of FEMA Region IV on August 26, 1983, for FEMA review and approval. On November 15, 1983, the Regional Director forwarded his evaluation to the Associate Director for State and Local Programs and Support in accordance with § 350.11 of the FEMA rule. Included in this evaluation is a review of the State and local plans around the St. Lucie facility, and evaluation of the joint exercises conducted on February 10–12, 1982, and January 20, 1983, in accordance with § 350.9 of the FEMA rule, and a report of the public meeting held on February 10, 1982, to discuss the site-specific aspects of the State and local plans in accordance with § 350.10 of the FEMA rule

Based on the evaluation by the Regional Director and the review by the FEMA Headquarters staff, I find and determine that, subject to the condition stated below, the State and local plans and preparedness for the St. Lucie Nuclear Power Plant are adequate to protect the health and safety of the public living in the vicinity of the plant. These offsite plans and preparedness are assessed as adequate in that they provide reasonable assurance that appropriate protective actions can be taken offsite in the event of a radiological emergency and are capable of being implemented. The condition for the above approval is that the adequacy of the public alert and notification system already installed and operational must be verified as meeting the standards set forth in Appendix 3 of the Nuclear Regulatory Commission (NRC)/FEMA criteria of NUREG–0654/FEMA–REP–1, Revision 1.

FEMA will continue to review the status of offsite plans and preparedness associated with the St. Lucie Nuclear Power Plant in accordance with § 350.13 of the FEMA rule.

For further details with respect to this action, refer to Docket File FEMA–REP–4–FL–2 maintained by the Regional Director, FEMA Region IV, Gulf Oil Building, Atlanta, Georgia 30309.

Dated: February 15, 1984.

For the Federal Emergency Management Agency.

Samuel W. Speck,

Associate Director, State and Local Programs and Support.

[FR Doc. 84–4604 Filed 2–21–84; 8:45 am]

BILLING CODE 6718–01–M

[Docket No. FEMA–REP–4–FL–3]

The Florida Radiological Emergency Management Plan for Nuclear Power Plants Site-Specific to the Turkey Point Nuclear Power Plant

AGENCY: Federal Emergency Management Agency.

ACTION: Certification of FEMA finding and determination.

In accordance with the Federal Emergency Management Agency (FEMA) rule 44 CFR Part 350, the State of Florida submitted its plans relating to the Turkey Point Nuclear Power Plant to the Director of FEMA Region IV on August 26, 1983, for FEMA review and approval. On November 15, 1983, the Regional Director forwarded his evaluation to the Associate Director for State and Local Programs and Support in accordance with § 350.11 of the FEMA rule. Included in this evaluation is a review of the State and local plans around the Turkey Point facility, and evaluations of the joint exercises conducted on March 14–15, 1982, and June 9, 1983, in accordance with § 350.9 of the FEMA rule, and a report of the public meeting held on June 8, 1982, to discuss the site-specific aspects of the State and local plans in accordance with § 350.10 of the FEMA rule.

Based on the evaluation by the Regional Director and the review by the FEMA Headquarters staff, I find and determine that, subject to the condition stated below, the State and local plans and preparedness for the Turkey Point Nuclear Power Plant are adequate to protect the health and safety of the public living in the vicinity of the plant. These offsite plans and preparedness are assessed as adequate in that they provide reasonable assurance that appropriate protective actions can be taken offsite in the event of a radiological emergency and are capable of being implemented. The condition for the above approval is that the adequacy of the public alert and notification system already installed and operational must be verified as meeting the standards set forth in Appendix 3 of the Nuclear Regulatory Commission (NRC)/FEMA criteria of NUREG–0654/FEMA–REP–1, Revision 1.

FEMA will continue to review the status of offsite plans and preparedness associated with the Turkey Point Nuclear Power Plant in accordance with § 350.13 of the FEMA rule.

For further details with respect to this action, refer to Docket File FEMA–REP–4–FL–3 maintained by the Regional Director, FEMA Region IV, Gulf Oil Building, Atlanta, Georgia 30309.

Dated: February 15, 1984.

For the Federal Emergency Management Agency.

Samuel W. Speck,

Associate Director, State and Local Programs and Support.

[FR Doc. 84–4605 Filed 2–21–84; 8:45 am]

BILLING CODE 6718–01–M

FEDERAL MARITIME COMMISSION

Agreements Filed

The Federal Maritime Commission hereby gives notice that the following agreements have been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. § 814).

Interested parties may inspect and may request a copy of each agreement and the supporting statement at the Washington, D.C. Office of the Federal Maritime Commission, 1100 L Street, N.W., Room 10325. Interested parties may submit protests or comments on each agreement to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after the date of the **Federal Register** in which this notice appears. The requirements for comments and protests

are found in § 522.7 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Any person filing a comment or protest with the Commission shall, at the same time, deliver a copy of that document to the person filing the agreement at the address shown below.

Agreement No. T–3813–9

Title: The State of Hawaii and Matson Terminals, Inc. Amended Terminal Lease Agreement.

Parties: The State of Hawaii (Hawaii) and Matson Terminals, Inc. (Matson).

Synopsis: Agreement No. T–3813–9 modifies Agreement No. T–3813 by deleting Easement K and restating Section 3.1(b) as follows: "Easement A and AI which are non-exclusive use easements for operation and maintenance of crane facilities." The annual rental for the premises is reduced due to the deletion of Easement K.

Filing party: Wayne J. Yamasaki, Director of Transportation, State of Hawaii, Department of Transportation, 869 Punchbowl Street, Honolulu, Hawaii 96813.

Agreement No. T–4165.

Title: The Georgia Ports Authority and Hapag-Lloyd A.G., Container Space Lease Agreement.

Parties: The Georgia Ports Authority (Authority) and Hapag-Lloyd A.G. (H.L.).

Synopsis: Agreement No. T–4165 provides for the lease of a 170 acre complex by the Authority to H.L., for exclusive use of certain paved container slots within the Authority's container terminal at Savannah, Georgia, in exchange for tonnage guarantees. The term of the agreement is for three years.

Filing party: Robert W. Goethe, Assistant Executive Director, Georgia Ports Authority, Post Office Box 2405, Savannah, Georgia 31402.

Agreement No. T–4166

Title: The Port of Oakland and Pasha Properties, Inc. Terminal Management Agreement.

Parties: The Port of Oakland (Port) and Pasha Properties, Inc. (Pasha).

Synopsis: Agreement No. T–4166 is an arrangement whereby the Port assigns to Pasha the responsibility of management, terminal operation and cargo solicitation at the Port's Outer Harbor Terminal, Berths 10, 11 and 12. The premises shall be used for the berthing of vessels and the loading and discharging of cargoes and operations related thereto. Compensation from Pasha to the Port is based on percentages relative to stated amounts of revenue received. Agreement No. T–4166 will supersede Agreement No. T–4006 between the Port and Pasha's affiliate Canal Industries Park. The agreement will terminate January 31, 1989.

Filing party: John E. Nolan, Assistant Port Attorney, Port of Oakland, 66 Jack London Square, Post Office Box 2064, Oakland, California 94604.

Agreement No. 7540–41.

Title: United States Atlantic & Gulf/Southeastern Caribbean Conference.

Parties: Concorde/Nopal Line, Puerto Rico Marine Management, Inc. (PRMSA), Sea-Land Service, Inc., Shipping Corporation of Trinidad and Tobago, Ltd. d/b/a Scott.

Synopsis: Agreement No. 7540–41 would revise the authority of the United States Atlantic & Gulf/Southeastern Caribbean Conference with respect to alternate port service.

Filing party: Nathan J. Bayer, Esquire, Freehill, Hogan & Mahar, 80 Pine Street, New York, New York 10005.

Agreement No. 10051–9.

Title: Mediterranean Force Majeure Agreement.

Parties: Compagnie Maritime D'Affretement, Costa Line, Farrell Lines, Inc., Hellenic Lines, Ltd., Ibero Lines S. A., Italian Line, Jugolinija, Lykes Bros. Steamship Co., Inc., Prudential Lines, Inc., Sea-Land Service, Inc., Spanish Line, Zim Israel Navigation Co., Ltd.,

Synopsis: Agreement No. 10051–9 would amend the basic agreement (1) to extend the scope to include the trades between non-Mediterranean ports on the Iberian peninsula and ports on the U.S. Atlantic and Gulf Coasts; (2) to provide that a carrier may withdraw from the Agreement without penalty by providing 60 days' notice in writing of its intention to withdraw; and (3) to provide that the carriers party to the agreement, by a vote of unanimous less one of the entire membership, may expel any carrier that does not abide by the terms of the Agreement.

Filing party: John A. DeVierno, Esquire, Billig, Sher & Jones, P.C., 2033 K Street, N.W., Washington, D.C. 20006.

Agreement No. 10266–10.

Title: Intercontinental Transport (ICT) B.V./Compagnie Generale Maritime Space Charter.

Parties: Compagnie Generale Maritime, Intercontinental Transport (ICT) B.V.

Synopsis: Agreement No. 10266–10 would modify the space charter agreement between the parties to permit them to coordinate their services by scheduling and advertising their sailings in the trade so as to promote optimum vessel utilization on the basis of available cargo and vessel characteristics.

Filing party: Edward Schmeltzer, Esquire, Schmeltzer, Aptaker & Sheppard, P.C., 1800 Massachusetts Avenue, Northwest, Washington, D.C. 20036.

Dated: February 16, 1984.

By Order of the Federal Maritime Commission.

Francis C. Hurney,

Secretary.

[FR Doc. 84–4636 Filed 2–21–84; 8:45 am]

BILLING CODE 6730–01–M

[Independent Ocean Freight Forwarder License No. 1343]

Chesapeake Shipping, Inc.; Order of Revocation

On February 8, 1984, Chesapeake Shipping, Inc., 5105 Andard Avenue, Baltimore, MD 21226 voluntarily surrendered its Independent Ocean Freight Forwarder License No. 1343 for revocation.

Therefore, by virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 1 (Revised), section 9.09(e) dated September 27, 1983;

It is ordered, that Independent Ocean Freight Forwarder License No. 1343, be revoked effective February 8, 1984, without prejudice to reapplication for a license in the future.

It is further ordered, that a copy of this Order be published in the **Federal Register** and served upon Chesapeake Shipping, Inc.

Robert G. Drew,

Director, Bureau of Tariffs.

[FR Doc. 84–4633 Filed 2–21–84; 8:45 am]

BILLING CODE 6730–01–M

Independent Ocean Freight Forwarder License; Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as independent ocean freight forwarders pursuant to section 44(a) of the Shipping Act, 1916 (75 stat. 522 and 46 U.S.C. 841(c)).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to communicate with the Director, Bureau of Tariffs, Federal Maritime Commission, Washington, D.C. 20573.

Travel All Over The World, Inc. dba Travel All; 108 N. State Street, Suite 910, Chicago, IL 60602; Officers:

Ibrahim Y. Elgindy President; Mohamed N. Anwar, Manager
Richard G. Salas, 118 Inglewood Drive, Glen Burnie, MD 21061
Frank E. Thompson dba F.E.T. International, 6215 Golden Forest, Houston, TX 77092
Island Forwarders, Inc., 5 Palm Court, Isle of Palms, SC 29451; Officer: Theresa H. Kessery, President/Sole Officer

Dated: February 16, 1984.

By the Federal Maritime Commission.

Francis C. Hurney,

Secretary.

[FR Doc. 84-4635 Filed 2-21-84; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

The Bank of New York Co. Inc., et al.; Applications To Engage De Novo in Permissible Nonbanking Activities

The companies listed in this notice have filed an application under § 225.23(a)(1) of the Board's Regulation Y (49 FR 794) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (49 FR 794) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than March 12, 1984.

A. **Federal Reserve Bank of New York** (A. Marshall Puckett, Vice President) 33 Liberty Street, New York, New York 10045:

1. *The Bank of New York Company Inc.*, New York, New York; to engage *de novo* through its subsidiary, Arcs Mortgage, Inc., in making, acquiring or servicing loans or other extensions of credit (including issuing letters of credit and accepting drafts) for the account of the customer or for the account of others, such as would be made by a mortgage company. Comments on this application must be received not later than March 8, 1984.

2. *Citicorp*, New York, New York; to engage *de novo* through its subsidiary Citicorp Acceptance Company, Inc. in the making or acquiring of loans and other extensions of credit, secured or unsecured, for consumer and other purposes. Comments on this application must be received not later than March 8, 1984.

B. **Federal Reserve Bank of Philadelphia** (Thomas K. Desch, Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105:

1. *United Penn Corporation*, Wilkes-Barre, Pennsylvania; to engage *de novo* through its subsidiary, UniPenn Life Insurance Company, Wilkes-Barre, Pennsylvania, in underwriting, as reinsurer, credit life insurance directly related to extensions of credit by United Penn Bank.

C. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *American Ligonier Bancorp, Inc.*, Ligonier, Indiana; to engage *de novo* in the sale of credit life and accident and health insurance directly related to the extension of credit by its subsidiary bank American State Bank, Ligonier, Indiana.

2. *Continental Illinois Corporation*, Chicago, Illinois; to engage *de novo* through its subsidiary, Continental Illinois Company Financial Futures, Chicago, Illinois, in the execution and clearance, for nonaffiliated customers, of financial futures contracts including those in bullion, foreign exchange, government securities (both U.S. and foreign), and money market investments on various commodity exchanges; and provision of incidental support and advisory services to its customers. These activities will be conducted in the United States and abroad.

3. *Farmers National Bancorp, Inc.*, Genesso, Illinois; to engage *de novo* through its subsidiary, Farmers National Bankware, Inc., Omaha, Nebraska, in acting as investment or financial advisor; providing management consulting advice to nonaffiliated financial institutions; and providing computer programs and other data processing services.

Board of Governors of the Federal Reserve System, February 15, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-4602 Filed 2-21-84; 8:45 am]

BILLING CODE 6210-01-M

First Haralson Corp.; Formation of a Bank Holding Company

The company listed in this notice has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring voting shares or assets of a bank. The factors that are considered in acting on the application are set forth in 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated. With respect to the application, interested persons may express their views in writing to the address indicated. Any comment on the application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. *First Haralson Corporation*, Buchanan, Georgia; to become a bank holding company by acquiring 96.42 percent of the voting shares of First National Bank of Haralson County, Buchanan, Georgia. Comments on this application must be received not later than March 15, 1984.

Board of Governors of the Federal Reserve System, February 15, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-4599 Filed 2-21-84; 8:45 am]

BILLING CODE 6210-01-M

First of Huron Corp.; Formation of, Acquisition by, and Mergers of Bank Holding Companies; and Acquisitions of Nonbanking Companies

The company listed in this notice has applied under § 225.14 of the Board's Regulation Y (49 FR 794) for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) to become a bank holding company or to acquire voting securities of a bank or bank holding company. The listed company has also applied under § 225.23(a)(2) of Regulation Y (49 FR 794) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8) and § 225.21(a) of Regulation Y (49 FR 794) to acquire or control voting securities or assets a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies, or to engage in such an activity. Unless othewise noted, these activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweight possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than March 14, 1984.

A. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *First of Huron Corporation*, Bad Axe, Michigan; to acquire 100 percent of the voting shares of The State Bank of Port Hope, Port Hope, Michigan, and to engage through a proposed *de novo* subsidiary to issue, on a reinsurance basis, credit life and disability insurance covering the credit life and disability insurance policies issued to customers of Applicant's subsidiary banks.

Board of Governors of the Federal Reserve System, February 15, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-4600 Filed 2-21-84; 8:45 am]

BILLING CODE 6210-01-M

Saver's Bancorp, Inc.; Formation of; Acquisition by; or Merger of Bank Holding Companies

The company listed in this notice has applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (40 FR 794) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that application or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Comments regarding this application must be received not later than March 14, 1984.

A. **Federal Reserve Bank of Boston** (Richard E. Randall, Vice President) 600 Atlantic Avenue, Boston, Massachusetts 02106:

1. *Saver's Bancorp, Inc.*, Littleton, New Hampshire; to become a bank holding company through the acquisition of 100 percent of the voting shares of The Saver's Bank (Bank), Littleton, New Hampshire and 14 percent of the voting shares of North Country Bank, Berlin, New Hampshire.

Board of Governors of the Federal Reserve System, February 15, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-4597 Filed 2-21-84; 8:45 am]

BILLING CODE 6210-01-M

USBancorp, Inc., et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (49 FR 794) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicted. Once the application has been accepted for processing, it will also be available for the inspection at the offices of the Board of Governors. Interested persons may express their views in writting to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than March 14, 1984.

A. **Federal Reserve Bank of Philadelphia,** (Thomas K. Desch, Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105:

1. *USBancorp, Inc.*, Johnstown, Pennsylvania; to acquire 100 percent of the voting shares or assets of Three Rivers Bank & Trust Company, Pittsburgh, Pennsylvania. Comments on this application must be received not later than March 12, 1984.

B. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. *F and M Holding Company, Inc.*, Manchester, Georgia; to become a bank holding company by acquiring 80 percent of the voting shares of F & M Bank and Trust Company, Manchester, Georgia.

2. *Tucker Brothers, Inc.*, and *Tucker Holding Company, Inc.*, Jacksonville, Florida; to acquire 100 percent of the voting shares of Tucker Bank of Jacksonville, Jacksonville, Florida.

C. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Bippus State Corporation*, Bippus, Indiana; to become a bank holding

company by acquiring 80 percent of the voting shares of The Bippus State Bank, Bippus, Indiana.

2. *Geiger Corporation,* Edina, Minnesota; to become a bank holding company by acquiring 98.8 percent of the voting shares of Iowa National Bank & Trust, Lytton, Iowa.

D. **Federal Reserve Bank of Dallas** (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Halton City Bancshares, Inc.,* Dallas, Texas; to become a bank holding company by acquiring 80 percent of the voting shares of Halton City Bancshares, Inc., Dallas, Texas.

Board of Governors of the Federal Reserve System, February 15, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-4601 Filed 2-21-84; 8:45 am]

BILLING CODE 6210-01-M

Agency Forms Under Review

February 15, 1984.

Background

When executive departments and independent agencies propose public use forms, reporting, or recordkeeping requirements, the Office of Management and Budget (OMB) reviews and acts on those requirements under the Paperwork Reduction Act [44 U.S.C. Chapter 35]. Departments and agencies use a number of techniques to consult with the public on significant reporting requirements before seeking OMB approval. OMB in carrying out its responsibilities under the act also considers comments on the forms and recordkeeping requirements that will affect the public. Reporting or recordkeeping requirements that appear to raise no significant issues are approved promptly. OMB's usual practice is not to take any action on proposed reporting requirements until at least ten working days after notice in the **Federal Register**, but occasionally the public interest requires more rapid action.

List of Forms Under Review

Immediately following the submission of a request by the Federal Reserve for OMB approval of a reporting or recordkeeping requirement, a description of the report is published in the **Federal Register**. This information contains the name and telephone number of the Federal Reserve Board clearance officer (from whom a copy of the form and supporting documents is available). The entries are grouped by type of submission—i.e., new forms, revisions, extensions (burden change), extensions (no change), and reinstatements.

Copies of the proposed forms and supporting documents may be obtained from the Federal Reserve Board clearance officer whose name, address, and telephone number appear below. The agency clearance officer will send you a copy of the proposed form, the request for clearance (SF 83), supporting statement, instructions, transmittal letters, and other documents that are submitted to OMB for review.

FOR FURTHER INFORMATION CONTACT:

Federal; Reserve Board Clearance Officer—Cynthia Glassman—Division of Research and Statistics, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 (202-452-3829)

OMB Reviewer—Judy McIntosh—Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3208, Washington, D.C. 20503 (202-395-6880)

Request for approval of a new report

1. Report title: Demonstration Project for Dissemination of Annual Percentage Rates.

Agency form number: FR 3029a, FR 3029b.

Frequency: FR 3029a—for 13 months; FR 3029b—twice.

Reporters: financial institutions (FR 3029a); individuals (FR 3029b).

Small businesses are affected.

General description of report:

Respondent's obligation to reply is voluntary; a pledge of confidentiality is not promised.

Congressionally mandated study to determine the feasibility and value of a "shopper's guide to credit."

Board of Governors of the Federal Reserve System, February 15, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-4599 Filed 2-21-84; 8:45 am]

BILLING CODE 6210-01-M

Agency Forms Under Review

February 15, 1984.

Background

When executive departments and independent agencies propose public use forms, reporting, or recordkeeping requirements, the Office of Management and Budget (OMB) reviews and acts on those requirements under the Paperwork Reduction Act [44 U.S.C. Chapter 35]. Departments and agencies use a number of techniques to consult with the public on significant reporting requirements before seeking OMB approval. OMB in carrying out its responsibilities under the act also considers comments on the forms and recordkeeping requirements that will affect the public. Reporting or recordkeeping requirements that appear to raise no significant issues are approved promptly. OMB's usual practice is not to take any action on proposed reporting requirements until at least ten working days after notice in the **Federal Register**, but occasionally the public interest requires more rapid action.

List of Forms Under Review

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Request for revision to an existing report

1. Report title: Country Exposure Report.

Agency form number: FFIEC 009.

Frequency: Quarterly.

Reporters: State member banks and bank holding companies.

Small businesses are not affected.

General description of report:

Respondent's obligation to reply is mandatory [12 U.S.C. 248(a), 1844(c), and Section 907 of the International Lending

Supervision Act]; a pledge of confidentiality is promised for the existing reports.

This report collects information on international claims of U.S. banks and bank holding companies used for supervisory and analytical purposes. This information is also used to analyze the country exposure of banks in order to determine the degree of risk in their portfolios and the possible impact on U.S. banks of any adverse developments in particular countries.

Request for approval of a new report

1. Report title: Country Exposure Information Report.

Agency form number: FFIEC 009a.

Frequency: Quarterly.

Reporters: State member banks and bank holding companies.

Small businesses are not affected.

General description of report:

Respondent's obligation to reply is mandatory [12 U.S.C. §§ 248(a), 1844(c), and Section 907 of the International Lending Supervision Act]; a pledge of confidentiality is not promised.

Report will disclose information on international claims for U.S. banks and bank holding companies used for supervisory and analytical purposes in determining the degree of risk in their portfolios and the possible impact on U.S. banks of any adverse developments in particular countries.

Board of Governors of the Federal Reserve System, February 15, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-4595 Filed 2-21-84; 8:45 am]

BILLING CODE 6210-01-M

Consumer Advisory Council; Meeting

The Consumer Advisory Council will meet on Wednesday, March 14, and Thursday, March 15. The meeting, which will be open to public observation, will take place in Terrace Room E of the Martin Building. The March 14 session is expected to begin at 1:00 p.m. and to continue until 5:00 p.m. The March 15 session is expected to begin at 9:00 a.m. and to conclude at 3:00 p.m., with a lunch break from 1:00 to 2:00 p.m. The Martin Building is located on C Street, Northwest, between 20th and 21st Streets in Washington, D.C.

The Council's function is to advise the Board on the exercise of the Board's responsibilities under the Consumer Credit Protection Act and on other matters on which the Board seeks its advice. Time permitting, the Council will consider the following topics:

1. *Federal Reserve Response to the Council's Report on the System's Implementation of the Community Reinvestment Act of 1977 (CRA)*

Discussion of Federal Reserve actions regarding recommendations in the Council's CRA Report.

2. *Service Charges Imposed by Financial Institutions*

Discussion regarding (1) the nature of service charges, how they are computed, and why they exist; and (2) what could be done to prevent abuses or the potential for abuse in this area.

3. *Administration of the Consumer Advisory Council*

Report of the Council's Policy and Planning Committee on its long-range agenda planning and on recommendations for improving the operation of the Council and its committees.

4. *Recommendations of Vice President Bush's Task Group on Regulation of Financial Services*

Discussion of the implications of recommendations recently proposed by the Vice President's task group.

5. *Federal Reserve's Implementation of the Equal Credit Opportunity and Fair Housing Acts*

Discussion of (1) the feasibility of expanding data collection and analysis to test the effectiveness of the federal anti-discrimination statutes and regulations; and (2) recently proposed amendments to the fair housing law.

6. *Second-Mortgage Lending Practices*

Discussion of (1) practices that may be harmful to the consumer and that are engaged in by certain creditors in second-mortgage transactions; and (2) whether the Board through its supervisory responsibilities for bank holding companies is in a position to discourage these practices on the part of creditors affiliated with bank holding companies.

7. *Regulatory Update*

Status report on recent Board regulatory actions in the area of consumer financial services.

Other matters previously considered by the Council or initiated by Council members also may be discussed.

Persons wishing to submit to the Council their views regarding any of the above topics may do so by sending written statements to Ms. Ann Marie Bray, Secretary, Consumer Advisory Council, Division of Consumer and Community Affairs, Board of Governors of the Federal Reserve System, Washington, D.C. 20551. Comments must be received no later than close of business Friday, March 9, and must be of a quality suitable for reproduction.

Information with regard to this meeting may be obtained from Mr. Joseph R. Coyne Assistant to the Board, at (202) 452-3204.

Board of Governors of the Federal Reserve System, February 15, 1984.

William W. Wiles,

Secretary of the Board.

[FR Doc. 84-4594 Filed 2-21-84; 8:45 am]

BILLING CODE 6210-01-M

[Docket No. R-0482]

Fee Schedules for Federal Reserve Bank Services

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Fee Schedule and Float Reduction Plan for the Automated Clearing House Service.

SUMMARY: The Board of Governors of the Federal Reserve System ("Board"), pursuant to the requirements of the Monetary Control Act of 1980 ("MCA") (12 U.S.C. 248a), has adopted a revised fee schedule for its automated clearing house ("ACH") services and a plan to reduce and price ACH float over the next year. The revised fee schedule is as follows:

BASIC ACH TRANSACTION FEES

	Intra-ACH	Inter-ACH		
		Unsorted deposit	Presorted deposit	New York [1]
Debits originated (cents)	1.5	3	2.5	2.5
Debits received (cents)	.5	1	1	.5
Credits originated (cents)	.5	1	.5	.5
Credits received (cents)	1.5	3	3	2.5

FIXED ACH FEES

Deposit fees:	
Tape handling	$3 per tape.
File processing	$1 per file.
Receiver handling fees: [2]	
Non-electronic	$1.75 per delivery.
Electronic [3]	$0.75 per transmission.
Telephone advice fees:	
Telephone advices, including ten pieces of information.	$2.50.
Each additional piece of information.	$0.00.
Night time deposit surcharges:	
Debits originated	6 cents.
Credits originated (next-day settlement only).	3 cents.

[1] These fees would apply where the Federal Reserve does not operate a commercial ACH.

[2] Receiver handling fees will be assessed once a day per endpoint when ACH transactions are delivered.

[3] Electronic endpoints are defined as endpoints that receive ACH transactions via data transmission or receivers that pick up ACH transactions at the Federal Reserve.

EFFECTIVE DATE: March 29, 1984.

FOR FURTHER INFORMATION CONTACT: Elliott C. McEntee, Associate Director (202/452-2231) or Florence M. Young, Program Manager (202/452-3955), Division of Federal Reserve Bank Operations; Gilbert T. Schwartz, Associate General Counsel (202/452-

3625) or Elaine M. Boutilier, Attorney (202/452–2418), Legal Division, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

SUPPLEMENTARY INFORMATION: The MCA requires that fee schedules be developed for Federal Reserve Bank services based on pricing principles established by the Board. In 1982, the Board determined to phase out its incentive pricing policy for ACH services. Accordingly, the ACH fee schedule, established on December 30, 1982, provided for recovery of 40 percent of the costs of providing commercial ACH services. Consistent with the phase-out of incentive pricing for commercial ACH services, in September 1983, the Board requested public comment on a restructured fee schedule which would recover 60 percent of commercial ACH costs. 48 FR 44650 (September 29, 1983). In addition, the Board requested comment on plans for eliminating and/or pricing ACH float, and potential near-term and long-term service enhancements. A total of 123 comments were received from the public.

Background

The ACH fee schedule that was implemented on December 30, 1982, was based on an incentive pricing policy, as noted above. The schedule is a national schedule, includes only per item fees, and assesses fees only to receivers of funds—institutions sending debits to collect payments and institutions receiving credits, such as salary payments.

The proposed fee schedule differed from the current fee schedule in several significant respects. First, the majority of fees were set at the district rather than national level. Second, per item fees were supplemented with fixed fees to recover the costs associated with handling deposits, preparing transactions for delivery and delivering them, and advising institutions of the receipt of ACH payments by telephone. Third, two surcharges were proposed that would be assessed to all originators. One, a low volume receiver surcharge, was intended to recover a portion of the costs incurred in providing services to a large number of small institutions. The other, an interregional surcharge, was intended to recover the costs of processing ACH transactions that must be handled by two Federal Reserve offices. In each case, the surcharge was based on the benefits to originators from being able to send transactions to many depository institutions throughout the country. Finally, it was proposed to assess privately operated ACHs the same fees charged to other users, when they use the same services.

Proposed ACH Fee Structure

Public commenters discussed a number of issues concerning the proposed ACH fee structure. Their concerns fell into three broad categories: (1) The pricing principles underlying the fee structure; (2) the specific fees proposed; and (3) the approach for pricing the ACH services used by privately operated ACHs.

Less than half of the commenters discussed the use of incentive pricing for the ACH service. All but two of these respondents supported the planned phase-out of the policy and indicated that an immediate move to full-cost pricing for the Federal Reserve's commercial ACH services would negatively affect ACH volume growth. Therefore, the Board has determined to continue its phase-out of incentive pricing as planned. Accordingly, the new fee schedule will recover 60 percent of the costs of commercial ACH services for 1984.

The concept of value pricing has been employed, to some extent, since ACH fees were originally implemented in August, 1981. A majority of respondents that discussed the concept of value pricing indicated that the Federal Reserve should base its fees solely on the costs it incurs in providing services. A slight majority of commenters that specifically discussed the concept of benefit-flow pricing also indicated that it was inappropriate for the Federal Reserve to make judgments about perceived benefits. Several commenters stated that the use of value pricing was inconsistent with the intent of the MCA and would inhibit private sector competition.

After taking into account the ACH incentive pricing policy, the proposed ACH fees were set so that they would recover the total costs, plus the PSAF, of providing commercial ACH services. Therefore, the proposed ACH fee schedule is consistent with the MCA, which specifies that:

> Over the long run, fees shall be established on the basis of all direct or indirect costs . . . including interest in items credited prior to actual collection, overhead, and an allocation of imputed costs which takes into account the taxes that would have been paid and the return on capital that would have been provided had the services been furnished by a private business firm. . . .[4]

[4] 12 U.S.C. 248a(c)(3).

The use of value pricing has a sound basis in economic theory. Scale economies exist in the provision of ACH services. The use of value pricing assists in the realization of the scale economies and saves real resources, because it stimulates demand by establishing prices that reflect various users' demand elasticities, that is, the relative benefits users realize.

An update of the analysis performed in 1982 indicated that receivers of funds still derive greater benefits from the ACH than payors of funds. Although all participants appear to be able to realize some operating cost savings through the ACH, receivers of funds have the additional benefit of earlier credit for payments than they would receive in payments by check. Conversely, payors of funds are charged for payments earlier than they would be if they made payments by check. The opportunity costs associated with the value of float that is lost when the ACH is used has been one of the principal deterrents to ACH volume growth.

One of the reasons for the Federal Reserve's involvement in the ACH was to provide support for the development of an electronic payments service that would improve the efficiency of the nation's payments mechanism. The Federal Reserve has played an active role in promoting the ACH since its inception during the early 1970s. The Federal Reserve's pricing policies are consistent with its historic efforts to promote the ACH. Further, to the extent that Federal Reserve commercial ACH fees are set at levels that stimulate demand for ACH services, the Federal Reserve's use of value pricing should assist depository institutions in their efforts to increase ACH usage among their customers since the fees reflect the relative demand for ACH services.

Similarly, the use of value pricing by the Federal Reserve should not inhibit private-sector competition. The private sector has as much or more flexibility in setting prices as the Federal Reserve, and, in fact, value pricing is often used by depository institutions in pricing their payment services. The Federal Reserve has adopted pricing principles that require the Reserve Banks to match costs and revenues for each separately priced service. This requirement is more stringent than the requirement in the MCA, which only indicates that all Reserve Bank services must be explicitly priced and that fees must be based on all direct and indirect costs. Further, users of payments services, including ACH services, consider a number of criteria, such as service levels, quality, and price, in determining

the supplier from which to obtain services. Therefore, price is not the only basis upon which service suppliers compete. Users of payments services are frequently willing to pay higher fees for higher levels of service or to pay a premium for a high quality of service.

Accordingly, the Federal Reserve's use of value pricing satisfies the requirements of the MCA, provided that the fees established are intended to recover all direct and indirect costs plus the PSAF, after taking into account the Federal Reserve's incentive pricing policy. Further, because scale economies exist in ACH operations, the use of value pricing should stimulate demand for ACH services and, thereby, provide for a more efficient use of real resources. Therefore, the Board determined that the ACH fee schedule continue to incorporate value pricing concepts.

Nearly 60 percent of the commenters discussed the proposal to assess fees that varied by Federal Reserve District. Approximately one-half of the commenters favored the proposal, while the other half preferred national fees. Opponents of regional fees indicated that they would encourage geographic volume shifts that might create a competitive imbalance among depository institutions and exacerbate the unit cost differentials between high and low volume Federal Reserve processing facilities.

During 1983, approximately 60 percent of all ACH transactions originated were interregional payments. Therefore, based on the composition of ACH transactions, it appears that the ACH service is primarily national in character.

Because the ACH is still an emerging payments mechanism, as ACH volume levels increase and the transition to a primarily electronic mechanism is accomplished, unit processing cost differences among Federal Reserve offices should be reduced. To the extent that higher ACH fees in lower volume Federal Reserve Districts could act as a deterrent to volume growth, such a move would be inconsistent, at this time, with the Federal Reserve's broader goal of promoting the ACH.

The Board decided that it is premature to implement regional ACH fees. Because the ACH is not a mature payments service and has not yet reached its potential as a primarily electronic mechanism, the use of regional fees may not reflect the long-run cost structure of the ACH. However, as the ACH service matures, the Federal Reserve may determine that a regional rather than a national fee structure is more appropriate.

Proposed Fee Schedule—Commenters discussed the overall impact of the proposed fee schedule as well as the individual fees. A number of commenters suggested that the proposed fee schedule, with its various surcharges, would inhibit future volume growth. Several commenters also indicated that the overall impact of the proposed fees resulted in a departure from benefit-flow pricing.

A comparison of the overall impact of the proposed fee schedule with the existing fees indicated that the proposed fee schedule departed from the concept of pure benefit-flow pricing in two ways. First, all ACH participants would be assessed fees, not just receivers of funds (originators of debit transactions and receivers of credit transactions). Second, the fees that would be assessed to the various participants did not reflect the relative benefits realized by each. Under the proposal, fees assessed to receivers of credits were lower than the present fees, even though they achieve the greatest benefit from the ACH. On the other hand, the charges to originators of credit transactions increased the most although these participants realize a lesser benefit from the ACH due to the loss of float. From the standpoint of originators of credit transactions, the level of the proposed charges could have negatively affected volume growth.

The Board has determined that the use of value pricing (and thus benefit-flow pricing) assists in stimulating ACH volume growth, yet at the same time, the use of these concepts does not preclude assessing some charges to each ACH participant, provided that the overall impact of the fee schedule reflects the relative benefits realized by each participant. Therefore, the ACH fee schedule was modified to retain the concept of benefit-flow pricing but also to assess fees to all participants.

Fixed Deposit Fees—The fixed deposit fees included in the proposed fee schudule were to be assessed for each file [5] an ACH originator deposited with the Federal Reserve. Approximately 60 percent of the commenters that discussed fixed deposit fees supported the concept. Respondents that opposed the fees indicated that they discriminated against low volume originators.

The costs involved in handling the magnetic tapes containing ACH deposit as well as processing the files included on the tapes or files transmitted to the Federal Reserve are essentially the same regardless of the number of transactions inclued in the deposit. Since deposit handling costs are fixed, operating costs cannot be recovered effectively through the use of transaction fees alone. Further, experience in the check collection service has indicated that fixed fees provide an incentive for users of payments services to use them efficiently.

Some commenters pointed out that fixed deposit fees would affect originators of ACH transactions differently. It is true that the per transaction impact of the proposed fixed deposit fee would be greater for low volume originators than for high volume originators. However, the per transaction impact of any fixed fee declines sharply as volume increases.

Finally, some commenters indicated that tape handling was more costly than file processing because tape handling is a labor-intensive activity and file processing is an automated function. A detailed analysis of the costs incurred in processing incoming ACH deposits indicated that the fixed costs of handling tapes are approximately three times greater than those for file processing.

Because the costs incurred in handling magnetic tapes and processing files do not vary in relation to the number of transactions deposited, the Board approved a fixed deposit fee. However, as the costs of handling magnetic tapes are considerably higher than the costs of processing files, the proposed deposit fee, which was originally based solely on the number of files deposited, was modified to include a tape handling fee and a file fee. These fees will apply on a per processing cycle basis for each magnetic tape and each file an originator deposits, unless an originator deposits more than one magnetic tape or file at the request of the Federal Reserve. In this case, the fee may be waived. For ACH originators that deliver deposits via data transmission only the file fee would apply.

Fixed Receiver Handling Fees—The proposed fixed receiver handling fees were to be assessed on the basis of delivery points, or endpoints, and reflected the higher costs of serving non-electronic versus electronic receivers. About half of the respondents that discussed the receiver handling fee supported the concept. However, a number of commenters indicated that the fees could potentially have a negative impact on low volume ACH participants.

As in the case of the fixed deposit fee, the fixed receiver handling fees was

[5] A file is defined as a group of transactions addressed to a specific Federal Reserve office. All unsorted deposits are addressed to the local Federal Reserve office; presorted deposits would include files addressed to several Federal Reserve offices.

intended to recover the fixed costs associated with generating ACH output, preparing it for delivery, and effecting delivery over the road or via data communications. Since these costs are comparable over wide volume ranges, the fixed receiver handling fee parallels the Reserve Bank's cost structure.

Currently, about 20,000 depository institutions participate in the ACH. However, ACH transactions are delivered to about 10,000 endpoints, since many smaller institutions have their ACH transactions intercepted by correspondent banks or service bureaus. Based on 1983 ACH volume and 10,000 endpoints, the average ACH participant received over 60 transactions per day. Thus, the impact of the proposed receiver handling fee would have ranged from less than 1.0 cent per transaction to about 3.0 cents per transaction. Although the effect of a receiver handling fee would be greater for very low volume institutions, these institutions benefit from being about to provide the ACH services their customers demand and also from achieving operating cost savings through use of the ACH. As a result, the impact of the proposed receiver handling fee should not be a significant factor in smaller institutions' decision to participate in the ACH.

The Board has determined that a fixed receiver handling fee is necessary to enable the Federal Reserve to recover the costs of providing ACH services to low volume institutions. By assessing the fee on a delivery point, or endpoint, basis, as proposed, its impact on smaller institutions whose ACH transactions are processed by correspondent banks or service bureaus will be reduced. Finally, the receiver handling fees in the original proposal were set at a lower rate for electronic receivers than for non-electronic receivers. Because of the efficiency of electronic delivery mechanisms, this differential is included in the final fee schedule. In addition, a number of depository institutions located in Federal Reserve cities, pick up their ACH transactions at the local Federal Reserve office. Because these arrangements reduce transportation costs, the electronic handling fee rather than the non-electronic handling fee will be assessed to these institutions.

Telephone Advice Fees—In conjunction with permitting all types of ACH transactions to be deposited at the night time deposit deadline, the Reserve Banks also expanded their telephone advice services for depository institutions that do not receive these night cycle transactions on the settlement date. Because the amount of information requested may vary, a fixed fee for the first ten pieces of information and a variable fee for each additional piece of information was proposed. A majority of respondents supported these proposed fees.

The provision of telephone advice services is a labor-intensive activity and fixed costs are incurred in accumulating data and in placing telephone calls. However, the amount of data provided to each receiving institution may vary due to differences in transaction volumes or the needs of the receiving institution. As a result, there is some variability in the costs of this service. Therefore, the Board determined that the telephone advice fee should be included in the fee schedule as proposed.

Basic Transaction Fee—Under the proposal, the basic transaction fees were intended to recover the costs of editing and sorting transactions and were to be assessed to originators of debit transactions and receivers of credit transactions. Several commenters suggested that all ACH participants realize benefits from the ACH and suggested that transaction fees be assessed to both parties to a transaction, like they are for the wire transfer of funds service.

Because the ACH was originally conceived as a substitute for paper checks, fees for ACH services were established on a comparable basis, that is, they have been assessed to receivers of funds and to only one party. However the ACH is an electronic payments service that offers its users many benefits they could not obtain through paper-based payments services, such as, increased certainty, convenience, and security. Thus, as commenters pointed out, all participants derive benefit from the ACH. Therefore, transaction fees will be assessed to all ACH participants, but the benefit-flow concept will be retained to reflect the relative benefits of each participant.

Low Volume Receiver Surcharge—The proposed low volume receiver surcharge was to be assessed to ACH originators for each transaction sent to an ACH participant that received fewer than 500 transactions per day. This element of the proposed fee structure was opposed by 101 commenters and was supported by only four respondents. Commenters indicated that the surcharge would inhibit volume growth because it would have a significant impact on originators of credit transactions. Further, commenters indicated that originators of ACH transactions do not influence the destination of transactions. Rather, consumers and receiving companies select their receiving depository institutions. Finally, commenters indicated that the low volume receiver surcharge was an operationally complex proposal both from the perspective of depository institutions and the Federal Reserve.

While it is true that neither depository institutions originating ACH transactions nor their corporate customers determine the institution that will receive an ACH transaction, originators do benefit from a broad base of receiving institutions. However, given the current state of ACH development, it appears the costs and potential complexity of implementing the low volume receiver surcharge could negatively impact future volume growth. Therefore, until additional analysis is done, the low volume receiver surcharge will not be implemented.

Interregional Surcharge—The current ACH fee schedule includes an interregional differential that is assessed on a benefit-flow basis to originators of debit transactions and receivers of credit transactions. The fee schedule that was published for public comment proposed assessing the interregional differential, or surcharge, to originators of both debit and credit transactions. In addition, a lower surcharge was proposed for transactions included in presorted deposits than for transactions included in unsorted or mixed deposits.

A majority of commenters supported the proposal. However, a few commenters indicated that the surcharge should continue to be assessed on a benefit-flow basis. Other commenters suggested that the surcharge should be split between originators and receivers of ACH transactions.

Assessing the interregional surcharge to all ACH originators, in conjunction with assessing them fixed deposit fees and the low volume receiver surcharge, was determined to be inconsistent with the concept of benefit-flow pricing. Therefore, the fee schedule was modified to reflect more closely the relative benefits realized by ACH participants. This was done in part, by assessing the interregional differential to all ACH participants in the same way as basic transaction fees. Further, because less processing is required when presorted deposits are received, a lower fee will be assessed to originators depositing presorted transactions.

Night Time Deposit Surcharges—The proposed fee schedule, like the current fees, included surcharges that would be assessed to originators of both debit and credit transactions deposited at the

night time deposit deadlines. Commenters indicated that the night time deposit surcharges should reflect only the specific costs associated with night time operations and that these costs would logically be the same for both debit and credit transactions.

As indicated in the discussion of value pricing, it is appropriate for the Federal Reserve to adjust fees for individual components of priced services so that they reflect the relative benefits realized by users. Originators of debit transactions realize substantial benefits from the use of night time operations through improved funds availability. Conversely, the only benefit derived by originators of next-day credit transactions from the night time deposit deadline is additional processing time. Furthermore, there is also a cost basis for assessing different fees, because the majority of float generated as a result of delayed interregional transmissions is due to debit transactions processed at night.

Because originators of debit and credit transactions realize different benefits and because there are processing costs differences, a higher night time deposit surcharge will continue to be assessed to originators of debit transactions than to originators of next-day settlement credit transactions. No night time deposit surcharge will be assessed to originators of two-day settlement credits.

Corporate Trade Payment Fees—Because very low volumes of corporate trade payments ("CTP") were being processed through the ACH, the proposal issued for public comment indicated that the CTP fee schedule implemented on June 2, 1983, would remain in effect until more experience was gained with the application. Very few commenters discussed this aspect of the proposal, but those that did generally agreed that the current fee schedule should not be modified at this time. Accordingly, the current fee schedule will remain in effect, with the exceptions that fixed deposit, receiver handling, and telephone advice fees will apply to all ACH applications, including the CTP application.

Proposed Fees for Privately Operated ACHs—Fees currently assessed to New York Automated Clearing House Association ("NYACH") are based on the same concepts underlying the present national fee structure. The basic transaction fees, however, are lower than the fees assessed to other ACH participants, because the New York Federal Reserve Bank does less processing than Reserve Banks that operate a commercial ACH. The following changes in this philosophy were proposed: (1) When privately operated ACHs use the same services that are used by depository institutions, the same fee should be assessed and (2) when unique services are provided to privately operated ACHs, they should be priced separately to reflect the actual costs incurred in providing the services.

In its response the New York Clearing House ("NYCH") indicated that the nature and level of the proposed fees would discourage competition with the Federal Reserve and might affect the Clearing House's ability to continue to operate an ACH. Specifically, the NYCH indicated that the fee structure required NYACH to pay for services that it does not use, such as, commercial ACH processing, ACH return item processing, and customer support services. Thus, the NYCH concluded that ACH fees for privately operated ACHs had not been sufficiently unbundled. However, in discussing the proposal to unbundle the settlement services provided to NYACH, the Clearing House questioned the fee because it "is not assessed against any Federal Reserve operated ACH." Finally, the NYCH indicated that the proposed, unbundled deposit, settlement, and delivery fees were higher than comparable fees in other Federal Reserve Districts.

The question of whether the proposed fee schedule required NYACH to pay for services that it does not use can be addressed by reviewing the individual elements of the fee schedule. First, NYACH deposits interregional ACH transactions in files that are presorted by receiving Federal Reserve office. The Reserve Banks plan to make this deposit option available to all ACH originators when the new ACH fee schedule is implemented. Accordingly, it was proposed that NYACH be assessed the same transaction fees and interregional surcharges as any presorted depositor. In this case, it is clear that NYACH receives the same service as other ACH originators, and this element of the proposal treats NYACH equitably.

Second, the basic transaction fees for debits originated and credits received were the same as the fees proposed in other Federal Reserve Districts. As indicated above, this is appropriate for presorted debit transactions. However, in the case of credits received, the proposed fee schedule did not reflect the fact that the New York Bank does less processing. In regions where the Federal Reserve does not operate a commercial ACH, transaction fees assessed to privately operated ACHs for receiving ACH transactions should be lower than the fees assessed to ACH participants where the Federal Reserve operates an ACH.

Third, a settlement charge consisting of a fee per settlement statement as well as a fee per settlement entry was proposed. This fee was intended to recover costs incurred in processing settlements for NYACH. Since commercial ACH transactions are processed by all other Reserve offices, the settlement of transactions is not a separate activity but an integrated processing step. As such, the costs associated with settlement are recovered through basic transaction fees.

The Federal Reserve has defined its net settlement services as the posting of net debit or net credit entries to the reserve or clearing accounts of institutions participating in clearing arrangements where the Federal Reserve does not process any of the underlying transactions. In the case of net settlements processed for the NYACH, the net entries represent both local ACH transactions, which the Federal Reserve is not involved in processing, and interregional ACH transactions, which the Federal Reserve is involved in processing. Because of the unique nature of the settlement services provided to NYACH, it is considered to be appropriate to continue to recover the costs the New York Bank incurs through transaction fees, for the present. The handling of settlements that combine transactions that the Federal Reserve has not processed with those it has been involved in processing is a complex issue. In addition, it is an increasingly important issue because procedures currently in place result in float generated by privately operated ACHs being reflected on the Federal Reserve's balance sheet. Therefore, a comprehensive analysis is being conducted of the issues concerning accounting and settling for ACH transactions in regions where the Federal Reserve does not operate a commercial ACH. (It should be noted that if a privately operated ACH requested net settlement services for ACH transactions that the Federal Reserve is not involved in processing, it would be assessed the Federal Reserve's net settlement fees.)

Fourth, it was proposed to assess fixed deposit fees and a combined settlement and ground delivery fee to privately operated ACHs. The fixed deposit fee and the ground delivery fee were set on the same basis as the fees for all ACH participants because the services provided to depository institutions and private-sector ACHs are essentially identical. The NYACH's primary concern was the level of the fees. Because the Board determined that

the ACH should continue to be considered a national service, the concerns raised by many commenters, including NYCH, regarding the range of the proposed fixed fees have been addressed by the adoption of uniform fixed fees.

ACH Software—The proposal issued for public comment also indicated that ACH associations wishing to use the Federal Reserve's new ACH software package, ACH–84, would be assessed a licensing fee as well as an annual maintenance fee. The ACH–84 software package is currently being developed by Federal Reserve staff and should be completed during the fourth quarter of 1984.

Commenters indicated their belief that the National Automated Clearing House ("NACHA") as well as the Federal Reserve has propiertary rights of the ACH–84 software, since the current ACH software is jointly owned by the Federal Reserve and NACHA. In addition, because costs associated with software development are included in the cost base used in setting commercial ACH fees, respondents believed that it was inappropriate for the Federal Reserve to assess a licensing fee. Finally, a few commenters questioned the Federal Reserve's legal authority to sell software. Because of the broad range of issues raised, additional analysis will be conducted before the Board determines whether to adopt the licensing and maintenance fees.

ACH Float

ACH float is generated whenever reserve or clearing accounts of the originators of ACH transactions are credited or debited before the offsetting debit or credit is posted to the receiving depository institution's account.[6] In order to comply with the terms of the MCA, the Reserve Banks proposed to: (1) Reduce ACH float to the extent possible through operational improvements; (2) eliminate certain types of ACH float by modifying settlement procedures; and (3) price the remaining float.

Delayed Interregional Transmission Float—The primary cause of ACH float is delayed transmissions of interregional transactions between Federal Reserve offices. During 1983, delayed transmission float amounted to approximately $36 million on a daily average basis and accounted for 53 percent of total ACH float. The Reserve Banks are in the process of implementing operating improvements that are expected to reduce this float to approximately $7.0 million by the fourth quarter of 1984. It was proposed to incorporate the annualized value of projected, fourth quarter, 1984 delayed interregional transmission float in the cost base used to derive the revised ACH fees. A majority of respondents indicated that it is inappropriate for the Federal Reserve to charge for its operational inefficiencies and that such a step would remove the incentives for further improving operations.

Inclusion of this float in the commercial ACH cost base is consistent with the MCA, since it prices Federal Reserve float remaining after implementation of operational improvements. Furthermore, this action will increase the Reserve Banks' incentives for improving operational procedures because including the value of this float in the cost base results in higher ACH fees. Therefore, the annualized value of projected, fourth quarter, 1984, delayed interregional transmissions float will be included in the 1984 commercial ACH cost base.[7]

Return Item Float—Float resulting from the inability to process ACH paper return items within the current availability schedules is the second largest source of ACH float. During 1983, return item float amounted to nearly $18 million on a daily average basis and accounted for 26 percent of total ACH float. The request for public comment proposed to eliminate the majority of this float by changing the current availability schedule for interregional ACH paper return items from same-day to next-day settlement. The majority of respondents supported this proposal, and it has been adopted by the Board. In conjunction with this action, to encourage greater use of the automated ACH return item process, the Reserve Banks plan to change the current availability schedule for automated return items deposited at the morning deposit deadline from next-day to same-day settlement. It is anticipated that the majority of return item float should be eliminated by these modifications. Any residual float will be included in the ACH cost base the next time ACH are set.

Midweek Closings and Non-standard Holiday Float—Float resulting from the inability to post ACH transactions to the accounts of depository institutions that are closed during the middle of the week (midweek closings) or on non-standard holidays amounted to about $4.0 million on a daily average basis in 1983. As a means of eliminating this float, it was proposed to debit or credit the reserve or clearing account of the closed institution as though the institution were open for business. A majority of commenters supported the proposal, although some respondents stated that accounts should not be charged when state law requires depository institutions to be closed.

Although a majority of the respondents supported the proposal to charge the accounts of institutions closed during the middle of the week as though they were open, the Board determined that it is appropriate to offer these institutions the same options as these recently adopted for the check collection service. 49 FR 4196 (January 30, 1984).

With respect to ACH debit transactions, depository institutions that elect to close during the business week will be offered the following options: (1) Having the Reserve Bank debit its account for items that are made available to it and would normally be settled on that day if the institution were open for business; or (2) paying for the value of float that is generated. Under the second option, depository institutions may pay for float explicitly through one of the following procedures: (1) Payment may be made through an "as of" adjustment to an institution's reserve or clearing account to correct for float after it has occurred; or (2) payment may be made by an explicit charge. In the case of ACH credit transactions, depository institutions' accounts will be credited for transactions that settle on midweek closing days.

With respect to float arising from institutions' observing non-standard holidays, to the extent operationally feasible, Reserve Banks will defer debiting or crediting originators of ACH transactions that are destined for institutions that will be observing a non-standard holiday on the settlement date. The value of any remaining non-standard holiday float will be recovered under the fee schedule.

Residual ACH Float—The remainder of ACH float, approximately 15 percent, amounting to about $11 million, is due to Reserve Bank operating procedures, processing or intraterritory transportation delays, and reserve adjustments. Because this float can be reduced substantially through operational improvements, it was proposed that operational improvements be implemented during 1984 and that

[6] Originators of debit transactions are receivers of funds and their accounts are credited on settlement date. If the receiving depository institution's reserve or clearing account is not debited on the settlement date, debit float is generated. Originators of credit transactions are payors of funds and their accounts are debited on settlement date. If the receiving depository institution's reserve of clearing account is not credited on the settlement date, credit float is generated.

[7] Using a 9.5 percent Federal funds rate, the value of this float amounts to $855,000.

any residual float that cannot be eliminated be included in the ACH cost base the next time ACH fees are set. One respondent suggested that delaying the pricing of residual ACH float created a competitive advantage for the Federal Reserve.

Because much of this float results from operational inefficiencies inherent in the current ACH software that will be corrected when the ACH–84 software is implemented later this year, this float will not be included in the ACH cost base until operational improvements can be realized. Since the majority of ACH float will either be included in the 1984 ACH cost base or be eliminated, this procedure does not create a competitive advantage for the Federal Reserve.

Proposed Service Enhancements

Based on a review of the current features of the ACH service, several service enhancements were identified. It as proposed to: (1) Offer several alternative levels of telephone advice services to depository institutions for items deposited at the night time deposit deadline that cannot be delivered on the settlement date; (2) offer depository institutions lower prices and/or later deadlines for deposits that are presorted by receiving Federal Reserve District and are delivered either to the local Federal Reserve office or the Federal Reserve office serving the receiving institution(s); and (3) conduct an analysis of offering same-day settlement for ACH transactions, expanding the ACH value-dating concept or providing a warehousing service, modifying the ACH to serve as a mechanism to facilitate interbank clearing and settlement of electronic payments, converting ACH paper return items to automated form at the Federal Reserve office of first receipt, and offering a separate ACH return item service.

With respect to the proposed service enhancements, the commenters offered many suggestions and raised numerous issues. At this time, only the telephone advice service and the presorted deposit option can be implemented in conjunction with the revised ACH fee schedule. Before considering whether the other proposed service enhancements should be offered, a complete analysis of their potential impact on the ACH service will be conducted.

Telephone Advice Service—In conjunction with implementing the revised ACH fee schedule, it was proposed that the following alternative telephone advice services be offered to depository institutions: (1) Advice of ACH settlement totals; (2) advice of all debit transactions; (3) advice of debit transactions above a specified dollar amount;[a] (4) advice of all credit transactions; (5) advice of credit transactions above a specified dollar amount; (6) advice of next-day settlement credit transactions only; or (7) a combination of these alternatives selected by a depository institution. In providing these services, the Reserve Banks would provide sufficient information about transactions so that depository institutions would be able to post the transactions to their customers' accounts. This proposal was supported by the majority of respondents that discussed it.

Because ACH transactions processed at night cannot be delivered to remotely located institutions via ground transportation by the settlement date, the proposed telephone advice services will be made available to depository institutions by all Reserve Banks where there is a demand for such services beginning march 29, 1984.

Presorted Deposit Option—Currently, Federal Reserve offices accept only mixed, or unsorted, ACH deposits. Since a number of depository institutions possess the capability to sort ACH transactions and are believed to be interested in reducing the costs associated with participating in the ACH, a presorted deposit option was proposed. Under this option, ACH originators would be permitted to deposit transactions sorted by receiving Federal Reserve office with their local Reserve office or to deliver presorted deposits directly to the receiving Reserve office.

A majority of commenters supported the Federal Reserve's offering a presorted deposit option, indicating that this proposal was a positive step for improving the efficiency of the ACH mechanism. Several commenters, however, noted that deposit deadlines were not identical at all Federal Reserve offices.

Since the presorted deposit option offers originators of ACH transactions a meaningful way to reduce costs or to benefit from later deposit deadlines and should contribute to ACH volume growth, the Reserve Banks will begin offering the presorted deposit option on March 29, 1984. In addition, each Federal Reserve office will make a schedule of all ACH deposit deadlines available to originating institutions that desire the schedules.

Cost, Volume, and Revenue Projections

Based on preliminary data, during 1983, total recoverable commercial ACH costs, including the PSAF, amounted to $6.2 million. Total revenues amounted to $6.6 million, resulting in a net revenue surplus of $400 thousand. These results compare favorably with the projections that were used in setting the current ACH fees. Specifically, the Reserve Banks projected that recoverable commercial ACH costs would amount to $5.7 million and that total revenues would amount to $6.0 million. The primary reason for the differences in both commercial ACH costs and revenue was the fact that commercial ACH volume exceeded projections. The Reserve Banks estimated that commercial ACH volume would amount to 151 million transactions. Preliminary volume data indicate that approximately 156 million commercial ACH transactions were processed during 1983.

The Reserve Banks project that recoverable commercial ACH costs, including the PSAF and the float that will be included in the cost base, will amount to $10.6 million during 1984. Based on the recommended ACH fee schedule, revenues are expected to amount to $11.1 million, resulting in a net revenue surplus of $500 thousand.

The increase in costs reflects the change from a 40 percent to a 60 percent recovery rate, the inclusion of ACH float in the cost base for the first time, as well as a slight increase in the proportion of commercial ACH volume to total ACH volume. During 1983, commercial ACH transactions constituted approximately 39 percent of total ACH volume. In 1984, commercial ACH volume is expected to reach a level of 187.8 million transactions to account for nearly 42 percent of the estimated 452.4 million government and commercial ACH transactions.

By order of the Board of Governors of the Federal Reserve System, February 15, 1984.

William W. Wiles,

Secretary of the Board.

[FR Doc. 84–4500 Filed 2–21–84; 8:45 am]

BILLING CODE 6210–01–M

[a] A specific dollar amount will be determined jointly by representatives of the Federal Reserve and each depository institution.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 78N-0465; DESI 64]

Human Drugs; Certain Barbiturate-Analgesic Oral Combination Drugs; Drugs for Human Use; Drug Efficacy Study Implementation; Amendment

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is amending the previous marketing requirements for certain butalbital-analgesic drug products containing acetaminophen by deleting the requirement for the submission of clinical studies and allowing for the submission of abbreviated new drug applications (ANDA's).

DATE: Manufacturers of such products who do not hold either an approved abbreviated new drug application or supplemental new drug application by August 10, 1984, will be subject to regulatory action.

ADDRESSES: Communications in response to this notice should be identified with reference number DESI 64, directed to the attention of the appropriate office named below, and addressed to the Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

Supplements to full new drug applications (identify with NDA number): Division of Neuropharmacological Drug Products (HFN-120), National Center for Drugs and Biologics.

Requests for opinion of the applicability of this notice to a specific product: Division of Drug Labeling Compliance (HFN-310), National Center for Drugs and Biologics.

Original abbreviated new drug applications and supplements thereto (identify as such): Division of Generic Drug Monographs (HFN-530), National Center for Drugs and Biologics.

Requests for guidelines or information on conducting dissolution tests and bioavailability studies: Division of Biopharmaceutics (HFN-520), National Center for Drugs and Biologics.

FOR FURTHER INFORMATION CONTACT: Herbert Gerstenzang, National Center for Drugs and Biologics (HFN-8), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3650.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of August 10, 1982 (47 FR 34634), FDA announced its effectiveness classification and conditions for approval and marketing of the following combination drug products with or without caffeine (40 milligrams (mg)): (1) Butalbital (50 mg) and acetaminophen (325 or 650 mg); (2) butalbital (50 mg), aspirin (160 to 165 mg), and acetaminophen (160 to 165 mg) formulated so that the total amount of aspirin and acetaminophen equals 325 mg; and (3) butalbital (50 mg), aspirin (325 mg), and acetaminophen (325 mg). These conditions required the submission of full new drug applications containing clinical studies showing that the combination drug product did not cause hepatic injury. In a later notice published in the **Federal Register** of August 12, 1983 (48 FR 36855), FDA postponed implementation of the August 10, 1982 notice insofar as it applied to these products. FDA took this action because reports from the scientific literature were submitted to the agency to support the contention that additional studies were unnecessary to evaluate the potential risks of the butalbital-acetaminophen combination product.

FDA has reviewed the information submitted and has concluded that clinical trials to evaluate the potential hepatic toxicity of butalbital-containing acetaminophen combination products are unnecessary.

FDA's requirement for clinical trials to evaluate the potential of butalbital-acetaminophen products to cause hepatic injury was based on the assumption that butalbital, in common with many other members of the barbiturate drug class, possessed the capacity to cause a substantial net increase in the activity of hepatic cytochrome P-450. A net increase in the activity of this hepatic enzyme system raised the possibility that the metabolism of acetaminophen might, in turn, be significantly altered, leading to the increased formation of hepatotoxic acetaminophen metabolites.

The information submitted documents that butalbital, an allyl-substituted barbiturate, is a much less potent net activator of animal hepatic cytochrome P-450 than non-allyl substituted barbiturates (i.e., phenobarbital). Although allyl-substituted barbiturates induce the formation of new hepatic microsomal enzyme protein, they react irreversibly with newly formed enzyme inhibiting enzymatic activity. Evidence from rat studies demonstrates that allyl barbiturates can depress hepatic cytochrome P-450 activity within one hour of oral dosing and that chronic oral dosing for 3 weeks does not result in an increase in hepatic cytochrome P-450 activity above the level of untreated controls. (Refs. 1, 2, 3 and 4). This information provides one reason for concluding that clinical trails of the butalbital acetaminophen combination are not needed.

There is a second basis for concluding trials would not be useful or informative. The toxic mechanism of acetaminophen is well-documented and the metabolism of acetaminophen has been studied extensively. Hepatotoxicity in toxic overdose is currently ascribed to the accumulation of an unstable toxic intermediate formed by the P-450 enzyme system. The effects of induction of the liver cytochrome P-450 enzyme system is to increase, to a varying extent, the formation of this toxic intermediate, reflected by increase of mercapturic acid in the urine. Studies have shown that in man, phenobarbital, a known P-450 inducer, can increase the measured urinary mercapturic acid by approximately 50 percent. Butalbital should, if anything, produce a smaller increase. The dose of acetaminophen necessary to produce liver toxicity has been estimated to be about 15 grams. Taking a conservative estimate of 10 grams as representing a potential risk, it can be inferred that at least 5 grams of acetaminophen plus phenobarbital would be necessary to produce liver injury. (Ref. 5). As the maximum daily recommended dose of acetaminophen in butalbital acetaminophen combinations is 1,950 milligrams, and as butalbital is unlikely to cause any net activation of hepatic cytochrome P-450, a clinical study employing any of the combination products at the doses recommended in their labeling, or at reasonable multiples (i.e., one or two fold) of these doses, could not reasonably be expected to cause acetaminophen mediated hepatotoxicity. It is, therefore, imprudent to require such a study as it would be unable to provide any information about the subject of interest: cytochrome P-450 mediated enhancement of acetaminophen toxicity.

References

The following information has been placed on display at the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, and may be seen by interested persons between 9 a.m. and 4 p.m., Monday through Friday.

1. Abbritti, G. and F. De Matteis, "Decreased Levels of Cytochrome P-450 and Catalase in Hepatic Porphyria Caused by Substituted Acetamides and Barbiturates: Importance of the Allyl Group in the Molecule of the Active Drugs," *Chemical-Biological Interactions*, 4:281-286, 1971-1972.

2. Levin, W., E. Sernatinger, M. Jacobson, and R. Kuntzman, "Destruction of Cytochrome P-450 by Secobarbital and Other Barbiturates Containing Allyl Groups," *Science*, 176:1341–1343, 1972.

3. Ortiz de Montellano, P. R. and M. A. Correia, "Suicidal Destruction of Cytochrome P-450 during Oxidative Drug Metabolism," *Annual Review of Pharmacology and Toxicology*, 23:481–503, 1983.

4. Levin W., M. Jacobson, E. Sernatinger, and R. Kuntzman, "Breakdown of Cytochrome P-450 Heme by Secobarbital and Other Allyl-Containing Barbiturates," *Drug Metabolism and Disposition*, 1:275–284, 1973.

5. Mitchell, J. R., S. S. Thorgeirsson, W. Z. Potter, D. J. Jollow, and H. Keiser, "Acetaminophen-Induced Hepatic Injury: Protective Role of Glutathione in Man and Rationale for Therapy," *Clinical Pharmacology Therapeutics*, 16:676–684, 1974.

On the basis of this information, the Director of the National Center for Drugs and Biologics has determined that the August 10, 1982 **Federal Register** notice should be amended to delete the requirement of clinical studies for these drug products and to allow for the submission of ANDA's for these drug products. The August 12, 1983 notice stated that FDA received a petition on behalf of several drug firms that requested an extension of time for complying with the August 10, 1982 requirements. Because these requirements are no longer in effect and ANDA's are acceptable, this petition is made moot by this notice.

Therefore, for the reasons stated above, the August 10, 1982 notice is superseded by this notice insofar as the 1982 notice pertains to products that contain butalbital and acetaminophen or butalbital, acetaminophen, and aspirin, with or without caffeine. The marketing conditions for drug products containing butalbital and aspirin, with or without caffeine, are unchanged from the conditions stated in the notice of August 10, 1982 and are not affected by this notice.

Amendment

Drug products containing butalbital and acetaminophen, with or without other ingredients, are regarded as new drugs (21 U.S.C. 321(p)). An approved new drug application is a requirement for marketing such drug products.

A. *Effectiveness classification.* FDA has considered all available evidence and concludes that the following combination products, with or without caffeine (40 mg), are effective for the symptom complex of tension (or muscle contraction) headache: (1) Butalbital (50 mg) and acetaminophen (325 or 650 mg); (2) butalbital (50 mg), aspirin (160 to 165 mg), and acetaminophen (160 to 165 mg) formulated so that the total amount of aspirin and acetaminophen equals 325 mg; and (3) butalbital (50 mg), aspirin (325 mg), and acetaminophen (325 mg).

B. *Conditions for approval and marketing.* FDA is prepared to approve abbreviated new drug applications and supplements to previously approved new drug applications under the conditions described herein.

1. *Form of drug.* The drug is in tablet or capsule form suitable for oral administration.

2. *Labeling conditions.* a. The label bears the statement "Caution: Federal law prohibits dispensing without prescription."

b. The drug is labeled to comply with all requirements of the Federal Food, Drug, and Cosmetic Act and regulations, and the labeling bears adequate information for safe and effective use of the drug. The Indication is as follows:

For the relief of the symptom complex of tension (or muscle contraction) headache.

3. *Marketing status.* a. Approval of an abbreviated new drug application (21 CFR 314.2) or a supplement to an approved application must be obtained for a drug product described in paragraph A of this notice no later than August 10, 1984. Any product on the market after that date without approval will be subject to regulatory action.

b. In vitro dissolution rate studies will be required in each application or supplement. These studies are to be conducted in accordance with the methods provided for in the guidelines on conducting dissolution tests and bioavailability studies, which are available from the Division of Biopharmaceutics (HFN–520) at the address given above. In vivo demonstration of bioavailability shall be required of all products that fail to achieve adequate dissolution.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 52 Stat. 1050–1053 as amended (21 U.S.C. 352, 355)) and under authority delegated to the Director of the National Center for Drugs and Biologics (21 CFR 5.70 and 5.82).

Dated: February 14, 1984.

Harry M. Meyer, Jr.,

Director, National Center for Drugs and Biologics.

[FR Doc. 84-4589 Filed 2-16-84; 10:31 am]

BILLING CODE 4160-01-M

Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). This notice also sets forth a summary of the procedures governing committee meetings and methods by which interested persons may participate in open public hearings conducted by the committees and is issued under section 10(a) (1) and (2) of the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770–776 (5 U.S.C. App. I)), and FDA regulations (21 CFR Part 14) relating to advisory committees. The following advisory committee meeting is announced:

Device Good Manufacturing Practice Advisory Committee

Date, time, and place. March 29 and 30, 9 a.m., Auditorium, Hubert H. Humphrey Bldg., 200 Independence Ave. SW., Washington, DC.

Type of meeting and contact person. Open public hearing, March 29, 9 a.m., to 12 p.m.; open committee discussion, 1 p.m. to 3:30 p.m.; open committee discussion, March 30, 9 a.m. to 3:30 p.m.; Lincoln Gluscevich, National Center for Devices and Radiological Health (HFZ–332), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–8175. If all committee business is completed on March 29, the session on March 30 will be cancelled.

General function of the committee. The committee reviews regulations and/or guidelines regarding current good manufacturing practices governing the methods used in, and the facilities and controls used for, the manufacture, packing, storage, and installation of devices, as well as any petition submitted by a manufacturer for an exemption or variance from current good manufacturing practice (CGMP) regulations applicable to medical devices.

Agenda—Open public hearing. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Those desiring to make formal presentations should notify the contact person before March 2, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time required to make their comments.

Open committee discussion. The committee will discuss the draft guideline entitled "Guideline on General Principles of Process Validation," which

was announced in the **Federal Register** of March 29, 1983 (48 FR 13096), and made available for public comment. An FDA speaker will discuss the comments received on the draft guideline and proposed revisions under consideration by the agency. A transcript of the discussion on this matter will become part of the Administrative record (82D-0350). In addition, the CGMP evaluation report describing recent inspectional findings will be discussed along with the revised 1983 CGMP Compliance Program. An update of sterilization issues will be provided and plans for future committee activities will be considered.

FDA public advisory committee meetings may have as many as four separable portions: (1) An open public hearing, (2) and open committee discussion, (3) a closed presentation of data, and (4) a closed committee deliberation. Every advisory committee meeting shall have an open public hearing portion. Whether or not it also includes any of the other three portions will depend upon the specific meeting involved. There are no closed portions for the meetings announced in this notice. The dates and times reserved for the open portions of each committee meeting are listed above.

The open public hearing portion of each meeting shall be at least 1 hour long unless public participation does not last that long. It is emphasized, however, that the 1 hour time limit for an open public hearing represents a minimum rather than a maximum time for public participation, and an open public hearing may last for whatever longer period the committee chairman determines will facilitate the committee's work.

Meetings of advisory committees shall be conducted, insofar as is practical, in accordance with the agenda published in this **Federal Register** notice. Changes in the agenda will be announced at the beginning of the open portion of a meeting.

Any interested person who wishes to be assured of the right to make an oral presentation at the open public hearing portion of a meeting shall inform the contact person listed above, either orally or in writing, prior to the meeting. Any person attending the hearing who does not in advance of the meeting request an opportunity to speak will be allowed to make an oral presentation at the hearing's conclusion, if time permits, at the chairman's discretion.

Persons interested in specific agenda items to be discussed in open session may ascertain from the contact person the approximate time of discussion.

A list of committee members and summary minutes of meetings may be requested from the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday. The FDA regulations relating to public advisory committees may be found in 21 CFR Part 14.

Dated: February 15, 1984.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 84-4592 Filed 2-21-84; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 83N-0415]

Arkansas Department of Correction; Opportunity for Hearing on Intent To Revoke U.S. License No. 477

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is giving notice of opportunity for hearing on a proposal to revoke the establishment license (U.S. License No. 477) and product license issued to the Arkansas Department of Correction for the manufacture of Source Plasma (Human). The proposed revocation is based on significant noncompliance with certain provisions of the biologics regulations specified in this document.

DATES: The firm may submit a written request for a hearing by March 23, 1984, and any data justifying a hearing must be submitted by April 23, 1984. Other interested persons may submit comments on the proposed revocation by April 23, 1984.

ADDRESS: Written requests for hearing, data, and written comments to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Steven F. Falter, National Center for Drugs and Biologics (HFN-813), Food and Drug Administration, 8800 Rockville Pike, Bethesda, MD 20205, 301-443-1306.

SUPPLEMENTARY INFORMATION: FDA is proposing to revoke the establishment license (U.S. License No. 477) and product license issued to the Arkansas Department of Correction for the manufacture of Source Plasma (Human). The Arkansas Department of Correction is headquartered at Pine Bluff, AR, with the plasma center establishment located at Grady, AR. The plasmapheresis establishment is managed and operated under contract by Health Management Association, Inc. (HMA), 120 South Walnut St., Pine Bluff, AR. The responsible head and other managerial staff of the establishment are employees of HMA. FDA is basing the proposed revocation on: (1) The continued maintenance and use of inaccurate and incomplete records relating to the collection, processing, and storage of Source Plasma (Human); (2) instances of intentional and willful disregard for prescribed standards; and (3) the apparent inadequate training and ineffective supervision of the plasma center staff.

On February 11, 12, 14, and 28, and March 1, 1983, FDA inspected the Arkansas Department of Correction's plasma center, revealing significant deviations from current good manufacturing practices for blood and blood components (21 CFR Parts 606 and 640). The deviations included, but were not limited to, the following:

1. On four separate occasions, an FDA investigator observed an employee recording responses to medical history questions which had not been asked of the prospective donor (21 CFR 606.100(b)(1) and 640.63(a));

2. The establishment failed to assure that no more than the maximum permissible amount of whole blood was collected from donors; during three separate 2-day periods, overbleeding was noted for approximately 10 percent of the units of blood drawn (21 CFR 640.65(b)(6));

3. Employees failed to follow standard operating procedure (SOP) instructions concerning the observation of plasma bags for leakage and the procedures to follow should leakage occur, nor did employees appear to be aware of such procedures (21 CFR 606.100(a) and 640.69(a));

4. The establishment failed to assure the clean and orderly storage of blood and plasma products to prevent contamination; the quarantine freezer used to store units of plasma reactive for hepatitis B surface antigen (HBsAg) had frozen plasma at the bottom of the freezer, indicating thawing and leakage of plasma (21 CFR 606.40(a) (6) and (7));

5. Container labels for plasma units held in quarantine storage provided no indication that the units had been found reactive when tested for HBsAg or to a serologic test for syphilis (21 CFR 606.120(b)(6)); and

6. FDA concluded that many of the violations, particularly items 1, 2, and 3 cited above, were indicative of inadequate training and ineffective supervision of the plasma center staff, in violation of 21 CFR 606.20 (a) and (b).

On May 10, 1983, FDA issued a Regulatory Letter to the establishment, based on the significance of the deviations noted. On June 16, 1983, before FDA could conduct a scheduled followup inspection, the responsible head of the establishment informed FDA that the new manager had discovered significant ongoing problems related to the collection of plasma from unsuitable donors. Specifically, the establishment had collected at least 30 units of Source Plasma (Human) from donors with a history of a reactive test result for HBsAg and the units had been distributed for further manufacturing. By letter of July 1, 1983, the responsible head informed FDA that the plasma center would be closed temporarily.

Subsequently, FDA's continuing investigation of the plasma center's operations revealed the following additional serious deviations from the biologics regulations that occurred over an extended period of time: (1) Individuals known to have been disqualified previously as plasma donors due to a reactive test for HBsAg were reinstated into the program and their plasma shipped for further manufacture (21 CFR 610.41); (2) records of hepatitis test results and plasma storage and shipment were inaccurate or incomplete (21 CFR 606.160(b)(1)(ii), (2)(i), and (3)); (3) records and files relevant to donor suitability and laboratory analysis had been altered to conceal the fact that donors had been disqualified previously for a variety of medical reasons, including a history of hepatitis or having exhibited signs relating to hepatitis, such as jaundice, (21 CFR 606.160(a)(1)); and (4) storage temperature charts had been fabricated to conceal the fact that plasma storage temperatures rose higher than those prescribed by regulations (21 CFR 606.160(b)(3)(iii) and 640.69(b)). Statements from current and former staff of the plasma center revealed that individuals formerly employed in management positions at the plasma center either had initiated or condoned the destruction or alteration of records concerning these activities and had acted to conceal these deviations from FDA.

By letter dated August 5, 1983, issued under § 601.6 (21 CFR 601.6), FDA suspended U.S. License No. 477 and the product license for Source Plasma (Human) issued to the Arkansas Department of Correction. The letter detailed the ground for suspension and instructed the establishment, among other things, to cease collecting and shipping Source Plasma (Human) until otherwise notified and to notify in writing the National Center for Drugs and Biologics, FDA, of the specific actions taken to correct all of the deviations noted. The letter also offered the establishment the opportunity to request that license revocation be held in abeyance pending resolution of the matters involved.

By a letter dated August 15, 1983, the establishment requested that the revocation be held in abeyance and promised corrective action. In considering the request, FDA conducted a comprehensive review of the investigational findings and the establishment's inspectional history. FDA found that the establishment has demonstrated continued noncompliance with those requirements designed to assure the safety, purity, identity, and quality of plasma, as well as the requirements for donor protection which are intended to assure a healthy donor population and that the significant deviations involved management staff as well as other employees. In summary, FDA found that these actions represent significant and continued noncompliance with the applicable standards in Title 21 of the Code of Federal Regulations and significant noncompliance with the provisions of the establishment's license for Source Plasma (Human). Furthermore, FDA found that a number of these actions represent an intentional and willful disregard of the prescribed standards. Therefore, FDA initiated revocation proceedings without providing the establishment further opportunity to achieve compliance.

Accordingly, in a letter dated September 16, 1983, issued under § 601.5(b) (21 CFR 601.5(b)), FDA provided the Arkansas Department of Correction and its responsible head notice of the agency's intent to revoke U.S. License No. 477 and to issue a notice of opportunity for a hearing. In a telephone conversation of October 25, 1983, the establishment, through its attorney, declined to waive the opportunity for a hearing. Accordingly, FDA is now issuing a notice of opportunity for hearing on the matter under § 12.21(b) (21 CFR 12.21(b)).

Copies of the List of Observations, Form 483, resulting from the inspection of February and March 1983; the Regulatory Letter of May 10, 1983; the letter dated August 5, 1983 in which FDA detailed the grounds for suspension; the establishment's letter dated August 15, 1983, in response to the suspension; and FDA's letter of September 16, 1983, setting forth the notice and intent to revoke U.S. License No. 477; are on file at the Dockets Management Branch (address above).

The Commissioner of Food and Drugs is offering an opportunity for a hearing under § 12.21(a) on the proposed revocation of the establishment license (U.S. License No. 477) and product license issued to the Arkansas Department of Correction for the manufacture of Source Plasma (Human). The establishment may submit a written request for a hearing to the Dockets Management Branch by March 23, 1984, and any data justifying a hearing must be submitted by April 23, 1984. Other interested persons may submit comments on the proposed revocation to the Dockets Management Branch by April 23, 1984. The failure of a licensee to file timely written appearance and request for a hearing constitutes an election of the licensee not to avail itself of the opportunity of a hearing concerning the proposed license revocation.

FDA's procedures and requirements governing a notice of opportunity for hearing, notice of appearance and request for hearing, grant or denial of hearing, and submission of data and information to justify a hearing are contained in 21 CFR Parts 12 and 601 and 21 CFR 314.200. A request for a hearing may not rest upon mere allegations or denials, but must set forth specific facts showing that there is a genuine and substantial issue of fact that requires a hearing. If it conclusively appears from the face of the data, information, and factual analyses in the request for a hearing that there is no genuine and substantial issue of fact that precludes the revocation of the license, or when a request for hearing is not made in the required format or with the required analyses, the Commissioner of Food and Drugs will enter summary judgment against the licensee requesting the hearing, making findings and conclusions that justify denying a hearing.

Two copies of any submissions are to be provided to FDA except that individuals may submit one copy. Submissions are to be identified with the docket number found in brackets in the heading of this document. Such submissions, except for data and information prohibited from pubic disclosure under 21 U.S.C. 331(j) or 18 U.S.C. 1905, may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under the Public Health Service Act (sec. 351, 58 Stat. 702 as amended (42 U.S.C. 262)) and the Federal Food, Drug, and Cosmetic Act (secs. 201, 501, 502, 505, 701, 52 Stat.

1040–1042 as amended 1050–1056 as amended by 70 Stat. 919 and 72 Stat. 948 (21 U.S.C. 321, 351, 352, 355, 371).)

Dated: February 15, 1984.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 84–4591 Filed 2–21–84; 8:45 am]

BILLING CODE 4160–01–M

[Docket No. 84N–0012]

Thiabendazole for Use in Pheasants; Availability of Data

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of safety, effectiveness, and environmental data to be used in support of a new animal drug application (NADA) for use of thiabendazole in pheasant feed. The data, contained in Public Master File (PMF) 3857, were compiled under Interregional Research Project No. 4 (IR–4), a national agricultural program for obtaining clearances for use of agricultural products for minor or special uses.

ADDRESS: Submit NADA's to Document Control Section (HFV–16), Bureau of Veterinary Medicine, Food and Drug Administration, Rm. 6B–45, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Adriano R. Gabuten, Bureau of Veterinary Medicine (HFV–135), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4913.

SUPPLEMENTARY INFORMATION: The uses of thiabendazole in animal feed are new animal drug uses under section 201(w) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 321(w)), and as such are subject to section 512 of the act (21 U.S.C. 360b) requiring that the uses be the subject of an approved NADA. Rutgers University, IR–4 Project, Cook College, New Brunswick, NJ 08903, has provided data and information to demonstrate effectiveness and safety to the target animal for use of thiabendazole for the treatment of gapeworms, *Syngamus trachea*, in pheasants when administered in a complete pheasant feed. The Bureau of Veterinary Medicine has provided an environmental assessment of the proposed use. The data and information are contained in PMF 3857. Sponsors of NADA's or supplemental NADA's may reference without further authorization the public master file to support approval. An NADA or supplemental NADA should include, in addition to a reference to the master file, drug labeling and other information needed for approval, such as data concerning human food safety; manufacturing methods; facilities and controls; and information addressing the potential environmental impacts of the manufacturing process. Persons desiring more information concerning the PMF or requirements for approval of an NADA may contact the individual named above.

In accordance with the freedom of information provisions of Part 20 (21 CFR Part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information in this PMF may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

Dated: February 15, 1984.

Joseph P. Hile,

Acting Commissioner of Food and Drugs.

[FR Doc. 84–4593 Filed 2–21–84; 8:45 am]

BILLING CODE 4160–01–M

Public Health Service

National Toxicology Program; Availability of Draft Report of Ad Hoc Panel on Chemical Carcinogenesis Testing and Evaluation

Notice is hereby given that the draft report of the Ad Hoc Panel on Chemical Carcinogenesis Testing and Evaluation, National Toxicology Program (NTP) Board of Scientific Counselors, U.S. Public Health Service, is available. Public review and comment is encouraged. In order for comments to be considered by the Panel, they must be received by close of business March 30, 1984. Persons currently on the Panel mailing list will automatically be sent the draft report and need not request a copy. All requests for a copy of the draft report should be addressed to the Panel Secretary, Ms. Riley, at the address below:

Dr. John Doull, Chairperson, Ad Hoc Panel on Chemical Carcinogenesis Testing and Evaluation, c/o Ms. Janet Riley, Secretary to the Panel, P.O. Box 12233, Research Triangle Park, NC 27709, 919/541–7621 or FTS 629–7621.

David P. Rall,

Director, National Toxicology Program.

[FR Doc. 84–4614 Filed 2–21–84; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[C–3–84]

California; Filing of Plat of Survey

January 31, 1984.

1. This plat of survey of the following described land will be officially filed in the California State Office, Sacramento, California, immediately:

Mount Diablo Meridian, El Dorado County

T. 11 N., R. 10 E.

2. This supplemental plat of the NE¼ Section 12, T. 11 N., R. 10 E. Mount Diablo Meridian, California, was accepted January 17, 1984.

3. The plat will immediately become the basic record for describing the land for all authorized purposes. The plat has been placed in the open files and is available to the public for information only.

4. This supplemental plat was executed to meet certain administrative needs of this Bureau.

5. All inquiries relating to this land should be sent to the California State Office, Bureau of Land Management, Federal Office Building, 2800 Cottage Way, Room E–2841, Sacramento, California 95825.

Herman J. Lyttge,

Chief, Records and Information Section.

[FR Doc. 84–4608 Filed 2–21–84; 8:45 am]

BILLING CODE 4310–40–M

[C–4–84]

California; Filing of Plat of Survey

January 31, 1984.

1. This plat of survey of the following described land will be officially filed in the California State Office, Sacramento, California, immediately:

Mount Diablo Meridian, Mariposa County

T. 4 S., R. 16 E.

2. This supplement plat of section 10, T. 4 S., R. 16 E., Mount Diablo Meridian, California, was accepted January 19, 1984.

3. The plat will immediately become the basic record for describing the land for all authorized purposes. The plat has been placed in the open files and is available to the public for information only.

4. This supplemental plat was executed to meet certain administrative needs of this Bureau.

5. All inquiries relating to this land should be sent to the California State Office, Bureau of Land Management.

Federal Office Building, 2800 Cottage Way, Room E–2841, Sacramento, California 95825.

Herman J. Lyttge,

Chief, Records and Information Section.

[FR Doc. 84–4667 Filed 2–21–84; 8:45 am]

BILLING CODE 4310–61–M

[C–5–84]

California; Filing of Plat of Survey

January 31, 1984.

1. This plat of survey of the following described land will be officially filed in the California State Office, Sacramento, California, immediately:

Mount Diablo Meridian, Mariposa County

T. 4 S., R. 18 E.

2. This supplemental plat of section 27, T. 4 S., R. 18 E., Mount Diablo Meridian, California, was accepted January 17, 1984.

3. The plat will immediately become the basic record for describing the land for all authorized purposes. The plat has been placed in the open files and is available to the public for information only.

4. This supplemental plat was executed to meet certain administrative needs of this Bureau.

5. All inquiries relating to this land should be sent to the California State Office, Bureau of Land Management, Federal Office Building, 2800 Cottage Way, Room E–2841, Sacramento, California 95825.

Herman J. Lyttge

Chief, Records and Information Section.

[FR Doc. 84–4665 Filed 2–21–84; 8:45 am]

BILLING CODE 4310–40–M

[C–6–84]

California; Filing of Plat of Survey

January 31, 1984.

1. This plat of survey of the following described land will be officially filed in the California State Office, Sacramento, California, immediately:

Mount Diablo Meridian, Lassen County

T. 28 N., R. 11 E.

2. This supplemental plat of the NW¼ section 29, T. 28 N., R. 11 E., Mount Diablo Meridian, California, was accepted January 17, 1984.

3. The plat will immediately become the basic record for describing the land for all authorized purposes. The plat has been placed in the open files and is available to the public for information only.

4. This supplemental plat was executed to meet certain administrative needs of this Bureau.

5. All inquiries relating to this land should be sent to the California State Office, Bureau of Land Management, Federal Office Building, 2800 Cottage Way, Room E–2841, Sacramento, California 95825.

Herman J. Lyttge,

Chief, Records and Information Section.

[FR Doc. 84–4666 Filed 2–21–84; 8:45 am]

BILLING CODE 4310–40–M

[I–19856]

Idaho; Airport Lease

Notice is hereby given that pursuant to the Act of May 24, 1928 (49 U.S.C. 211–214) Joseph R. Schank, Jr., has applied for an airport lease for the following land:

Boise Meridian, Idaho

T. 6 S., R. 5 E.,
sec. 33, W½SW¼
T. 7 S., R. 5 E.,
sec. 4, Lot 3, 4, S½NW¼

The purpose of this notice is to inform the public that the filing of this application segregates the described land from all other forms of use or disposal under the public land laws.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, 3948 Development Avenue, Boise, Idaho. 83705.

David Brunner,

Associate District Manager, Boise District Office.

February 13, 1984.

[FR Doc. 84–4669 Filed 2–21–84; 8:45 am]

BILLING CODE 4310–84–M

Geological Survey

Information Collection Submitted for Review

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. 3504(h)). Copies of the proposed information collection requirement and related forms and explanatory material may be obtained by contacting the Bureau's Clearance Officer at the phone number listed below. Comments and suggestions on the requirement should be made directly to the Bureau Clearance Officer and the Office of Management and Budget, Office of Information and Regulatory Affairs, Washington, D.C. 20503, Attention: Desk Officer for Interior, Telephone: 202–395–7340.

Title: Inventory of Hydrologic Data Acquisition.

Bureau Form Number: A–1.

Frequency: Annual.

Description of Respondents: Federal, State, and local agencies and an occasional contractor.

Annual Responses: 185 entities—1,500 new forms and updates.

Annual Burden Hours: 365.

Bureau Clearance Officer: Geraldine A. Wilson 703–860–7211.

Dated: February 1, 1984.

Philip Cohen,

Chief Hydrologist.

[FR Doc. 84–4655 Filed 2–21–84; 8:45 am]

BILLING CODE 4310–31–M

Minerals Management Service

Information Collection Submitted for Review

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed information collection requirement and related materials may be obtained by contacting Shirley Vaughn at (703) 860–7564. Comments and suggestions on the collection of information should be made directly to the Office of Information and Regulatory Affairs, Attention: Desk Officer for the Department of the Interior, Office of Management and Budget, Washington, D.C. 20503; with copies to David A. Schuenke; Chief, Branch of Rules, Orders, and Standards; Offshore Rules and Operations Division; Mail Stop 646; Room 6A110; Minerals Management Service; U.S. Department of the Interior; 12203 Sunrise Valley Drive; Reston, Virginia 22091.

Title: Quarterly Oil Well Test Report.

Bureau Form Number: MMS–1869.

Frequency: Quarterly.

Description of Respondents: Federal oil and gas lessees performing offshore operations under OCS Order No. 11, "Oil and Gas Production Rates, Prevention of Waste, and Protection of Correlative Rights"; 30 CFR 250.16, Well potentials and permissible flow; and 30 CFR 250.39, Tests, surveys, and samples.

Annual Responses: 8,400.

Annual Burden Hours: 16,800.

Dated: February 6, 1984.

John B. Rigg,

Associate Director for Offshore Minerals Management.

[FR Doc. 84-4616 Filed 2-21-84; 8:45 am]

BILLING CODE 4310-MR-M

DEPARTMENT OF JUSTICE

Lodging of Consent Decree Pursuant to Clean Water Act

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that on February 1, 1984, a proposed consent decree in *United States* v. *Maine Metal Finishing Company, Inc.*, C.A. No. 83-0071 P (D. Me.) was lodged with the United States District Court for the District of Maine. The proposed consent decree requires Maine Metal Finishing Company, Inc. of Gorham, Maine to pay a civil penalty, and either to comply with final effluent limitations to be established pursuant to an NPDES permit and interim effluent limitations at the Gorham facility, or to relocate its facility to Westbrook, Maine and to comply with pretreatment regulations for the publicly-owned treatment works (POTW) servicing Westbrook.

The Department of Justice will receive comments for a period of thirty (30) days from the date of this publication relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General of the Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States* v. *Maine Metal Finishing Company, Inc.*, D.J. Ref. 90-5-1-1-1887.

The proposed consent decree may be examined at the office of the United States Attorney, 156 Federal Street, Portland, Maine, at the Region I Office of the Environmental Protection Agency, JFK Federal Building, Boston, Massachusetts and at the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice, Room 1515, Ninth Street and Pennsylvania Avenue, NW., Washington, D.C. 20530. A copy of the proposed consent decree may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice. In requesting a copy of the proposed consent decree, refer to the case, proposed consent decree and D.J. reference number, and include a check payable to the United States Treasury in the amount of $1.70 ($0.10 per page reproduction charge).

F. Henry Habicht,

Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 84-4615 Filed 2-21-84; 8:45 am]

BILLING CODE 4410-01-M

Drug Enforcement Administration

[Docket No. 82-23]

Samuel Fertig, M.D.; Denial of Application

On September 15, 1982, the then-Acting Administrator of the Drug Enforcement Administration (DEA) directed an Order to Show Cause to Samuel Fertig, M.D. (Respondent) 434 W. Broadway, Cedarhurst, New York 11516, seeking to deny an application for registration under 21 U.S.C. 823 executed by Respondent on December 7, 1981. The statutory predicate for the Order to Show Cause under 21 U.S.C. 824(a)(2) was the conviction of Dr. Fertig on June 23, 1978, in the United States District Court for the Eastern District of New York of eight counts of distribution of controlled substances in violation of 21 U.S.C. 841(a)(1), a felony conviction relating to controlled substances. Respondent, through counsel, requested a hearing on the issues raised by the Order to Show Cause.

The first session of the hearing was held March 3, 1983, in New York City. Administrative Law Judge Francis L. Young presided. During the presentation of the Government's case, Respondent complained of chest pains and requested that the hearing be postponed. Judge Young granted this request after the completion of the testimony of the Government's first witness. The second hearing session was held November 8, 1983, in Washington, D.C. before Judge Young.

At that session neither Respondent nor anyone purporting to represent him appeared. Judge Young permitted the Government to present its case for the record. At the close of the Government's case, Judge Young granted a motion made by Government counsel to find that Respondent waived his opportunity for a hearing under 21 CFR 1301.54, and that the proceedings before the Administrative Law Judge be terminated. Judge Young granted this motion and terminated the proceedings before him. Accordingly, the Administrator finds that Respondent has waived his opportunity for a hearing and enters this final order based upon the record as presented by the Government at the two hearing sessions. 21 CFR 1316.67.

Diversion Investigator (DI) Sean Mahoney testified for the Government at the first hearing. DI Mahoney has been employed by DEA or its predecessor agency since 1970. He testified that Dr. Fertig first came to the attention of the DEA office in New York in 1973. During regular inventory investigations of pharmacies in the New York metropolitan area, many pharmacies had prescriptions for Schedule II controlled substances written by Dr. Fertig. These prescriptions were found in New York City and Nassau and Suffolk Counties on Long Island as well as Rockland and Westchester Counties. At about the same time, DEA began receiving numerous citizen complaints concerning Respondent's controlled substance prescribing habits. DEA was not the only recipient of these complaints. Complaints were directed to the New York City Police Department, the King's County Medical Society, the New York State Bureau of Narcotic Enforcement and the Nassau County Police Department. Most of these complaints came from parents who complained that their sons and daughters were obtaining controlled substances from Dr. Fertig. At one time in 1973, Dr. Fertig was the most complained about individual in New York City. New York State law requires that all Schedule II prescriptions be written on a triplicate prescription form. The practitioner writes the prescription and gives two copies to the patient, retaining one copy. The patient gives two copies to the pharmacy, who sends one copy to the Bureau of Prescription Analysis in Albany and retains one copy. In 1976, when the average New York State practitioner would use between 40 and 45 triplicate prescriptions per year, Dr. Fertig ordered 2,300 such prescriptions.

In the summer of 1977, the Nassau County Prescription Squad contacted DEA concerning Respondent. The Nassau squad had just arrested one Kenny Suarez for passing a forged prescription in Nassau County. Mr. Suarez indicated that he was willing to help law enforcement in its investigation of Dr. Fertig. Mr. Suarez indicated that Dr. Fertig was selling numerous prescriptions for controlled substances at the rate of three prescriptions for $20. Mr. Suarez indicated that Dr. Fertig sold these prescriptions to people using a variety of names, in any number of names the individuals requested. The most typical combination was for a prescription for Tuinal, at that time in Schedule III under New York law; Valium; and Fastin. Mr. Suarez indicated that Dr. Fertig was very

concerned about where the prescriptions were being filled. He suggested various neighborhoods in New York City or its suburbs in which to fill the prescriptions and objected to other neighborhoods.

Continuing his investigation of Respondent, DI Mahoney interviewed the parents of a young man who was obtaining prescriptions from Dr. Fertig on a regular basis. This couple related that during a five-day period in September, 1977, their son overdosed on Tuinal and Valium four times. In August, 1977, after obtaining a prescription for Valium from Respondent, the young man went to a pharmacy, filled the prescription, consumed 10 Valium, drank some whiskey, went berserk and stabbed his father. On another occasion the young man consumed 28 Tuinal of a vial of 30 in one day and overdosed on an airplane to Florida. DI Mahoney also interviewed the mother of a young woman who had been obtaining controlled substances from Dr. Fertig. The mother related a similar story, describing how her daughter, who had been an honor student, became heavily involved in drugs and regularly obtained prescriptions from Respondent. The mother's complaint to the King's County Medical Society was forwarded from the medical society to the New York Bureau of Narcotic Enforcement.

DI Mahoney also spoke to the administrators of Daytop Village, a drug treatment program that were seeing many "patients" of Dr. Fertig. Most of these patients were young people addicted to barbiturates, such as Tuinal. In a break with their usual practice, the administrators of Daytop Village were willing to work closely with law enforcement in bringing Dr. Fertig to justice. DI Mahoney also conducted two other interviews with parents, including the parents of one young man who died of an overdose of Tuinal and whiskey. An informant told DI Mahoney and Special Agent Alfred Cavuto that, like Kenny Suarez, he was able to obtain three prescriptions at a time for Tuinal, Fastin and Valium for $20. He was also able to obtain triplicate prescriptions for $50. During this time, the New York Bureau of Narcotic Enforcement, the City of New York Police and the DEA were all conducting investigations of Respondent.

SA Cavuto testified at the hearing in Washington, D.C. On August 1, 1977, he proceeded to Dr. Fertig's office at 1777 Ocean Parkway, Brooklyn, New York in an undercover capacity. The waiting room was filled with people in their late teens and early twenties waiting to see Respondent. A "bouncer" by the name of Rick kept order in Respondent's office. Kenny Suarez had earlier related to DI Mahoney that the bouncer was armed and carried an ankle holster. SA Cavuto testified that one woman appeared to be under the influence of drugs at the time. SA Cavuto was accompanied by Kenny Suarez and his wife, Kathy. The three individuals used the name "Demko". Respondent wrote a prescription for Agent Cavuto in the name Demko for Tuinal, one for Valium, and indicated that he would write a prescription for either Fastin or Ionamin. SA Cavuto indicated that he would try the Ionamin, and Dr. Fertig wrote a prescription for those three drugs for each of the three individuals. Respondent wanted to know where they would take the prescriptions to have them filled and Agent Cavuto indicated that he knew a pharmacy in Queens, New York. Dr. Fertig indicated that he would prefer to see the prescription go elsewhere. At no time did Respondent conduct a physical examination.

Similarly, on August 9, 1977, SA Cavuto and the Suarez couple visited Respondent's office. SA Cavuto gave the bouncer $10 to move him and the Suarez couple to the head of the line since the office was crowded. The three used different names than they had used eight days earlier. Respondent again wrote three prescriptions for each individual, one prescription each for Valium, Tuinal and either Ionamin or Fastin. Respondent advised them not to get the prescriptions filled near his office.

On September 8, 1977, the line at Respondent's office was so long that they could not get in to see the doctor. The three of them waited approximately eight hours. On September 20, 1977, they had to wait approximately six hours to see Respondent. On both occasions there were young people milling around, others smoking marijuana, and people discussing the ease with which Respondent would write prescriptions for controlled substances and the difficulties in getting those prescriptions filled. Again, Respondent wrote prescriptions for Valium, Tuinal and either Fastin or Ionamin for each of the three people. Again, Respondent asked where they were getting the prescriptions filled, advising them to stay out of Ozone Park, Queens because it was "to hot". On September 22, 1977, the line was again too long to wait to see Respondent.

On November 29, 1977, Agent Cavuto visited Respondent's office with another informant who frequently obtained controlled substance prescriptions from Dr. Fertig. This was the informant about whom DI Mahoney testified. When the informant got in to see Respondent, Respondent chastised him for fainting in an apparent drug overdose the day before. Dr. Fertig said "if you o.d.'d once you will o.d. again. That means you can't hold it. I can't take care of you". Respondent then made up new patient cards for the informant and asked the informant what he wanted. the informant informed Respondent that he wanted prescriptions for himself and his wife, and Respondent wrote prescriptions for Tuinal, lotusate, Valium and either Fastin or Ionamin in the name of informant and his wife. Respondent also wrote prescriptions for Valium, Tuinal and either Fastin or Ionamin for SA Cavuto. SA Cavuto then asked for prescriptions for his girl friend who couldn't make it on that day and Respondent wrote prescriptions for Tuinal, Valium and either Fastin or Ionamin For SA Cavuto's "girl friend".

SA Edward Guillen testified for Government at the hearing in November, 1983. While operating in an undercover capacity, he proceeded to Respondent's office on December 6, 1977. SA Guillen used the name of Edward Suarez and told Respondent that he wanted prescriptions for Valium, Tuinal and Ionoamin. SA Guillen told Respondent that he had been earlier that summer although he had never been there. Respondent looked for a patient card and finding none, made out a new card. SA Guillen also told Respondent he was interested in obtaining prescriptions for his girl friend, Maria Garcia, and his sister, Carmen Suarez. Respondent made out patient cards in those names and wrote prescriptions for Valium, Tuinal and Ionamin in each of the three names. Respondent also indicated that Spanish Harlem was a safe neighborhood to get the prescriptions filled. SA Cavuto then entered the room, and indicated to Respondent that he wanted prescriptions for Valium, Tuinal and Ionamin for himself, a girl friend and his brother. Respondent wrote prescriptions in the names supplied by SA Cavuto.

SA Guillen has conducted surveillance on September 20, 1977, when SA Cavuto visited Respondent's office. SA Guillen testified that in the course of the surveillance he saw young people in their late teens and early twenties congregating in the lobby of the apartment house in which Respondent's office was located; people congregating down the stairway, and actually out into the street in front of the office. SA Guillen was 22 years old at this time. A popular newspaper in New York described he and SA Cavuto as two baby-faced Federal narcotics agents

when the newspaper reported Respondent's conviction.

The Administrator is deeply disturbed by the enormous quantity of controlled substances which Samuel Fertig so wantonly prescribed. The Administrator notes that Dr. Fertig was sentenced to three years incarceration, with the requirement that he serve four months on four of the counts at a time when he was over 70 years old. Respondent was responsible, directly or indirectly, for the deaths of several young people. The Administrator is hard pressed to find any circumstances in which he would agree that the registration of Dr. Fertig with the DEA would serve the public health and safety. The Administrator makes this statement with full awareness of the fact that the State of New York has restored Respondent to full medical licensure. Nevertheless, protection of the public health and safety requires that Dr. Fertig's application for registration with DEA be denied.

It is the decision of the Administrator to deny the application filed by Respondent. Accordingly, under the authority vested in the Attorney General by 21 U.S.C. 824, and redelegated to the Administrator of the Drug Enforcement Administration, the Administrator hereby orders that the application for registration filed by Samuel Fertig, M.D., on December 7, 1981, and all other pending applications, be denied. In view of all of the facts and circumstances as set forth herein, this order is effective immediately.

Dated: February 15, 1984.

Francis M. Mullen, Jr.,

Administrator.

[FR Doc. 84-4690 Filed 2-21-84; 8:45 am]

BILLING CODE 4410-09-M

[Docket No. 83-34]

Harry Roodin, M.D.; Revocation of Registration

On October 26, 1983, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA) issued an Order to Show Cause to Harry Roodin, M.D. of 1537 Blue Hill Avenue, Mattapan, Massachusetts (Respondent) proposing to revoke his DEA Certificate of Registration AR1226706. The proposed action was predicated upon the termination of his authority to possess, dispense, prescribe or otherwise handle controlled substances in Massachusetts. Under 21 U.S.C. 824(a)(3), the DEA may suspend or revoke a registration it has granted "upon a finding that the registrant * * * has had his state license or registration suspended, revoked or denied by competent state authority and is no longer authorized by state law to engage in the manufacturing, distribution or dispensing of controlled substances."

Respondent, through counsel, requested a hearing on the issues raised by the Order to Show Cause. This letter asserted that the Massachusetts authorities had "purported to revoke" Respondent's state medical practice license, that Respondent had filed a motion for reconsideration with the state licensing board, and that "[i]n the meantime, I still have my license, and I am still permitted to practice medicine" in Massachusetts.

Administrative Law Judge Francis L. Young concluded that it was not necessary to convene an evidentiary hearing to resolve the issue of whether or not Respondent is now authorized by the State to utilize controlled substances in his practice. Accordingly, the Administrative Law Judge conducted a telephone conference with counsel on December 2, 1983. At its conclusion, he directed counsel for each side to submit copies of all orders of the state board, of all applicable Massachusetts statutes and of any other documents relevant to this issue.

On December 19, 1983, Government counsel filed copies of documents as directed. No submission was received from Respondent. The Government's submission included: A copy of a Final Order of the Commonwealth of Massachusetts Board of Registration in Medicine issued in February, 1983 which revoked Respondent's Massachusetts certificate of registration to practice medicine in the Commonwealth; a copy of a letter to Respondent from the Commonwealth of Massachusetts Department of Public Health, Division of Food and Drugs, dated June 14, 1983, that notified Respondent "of the termination of your Massachusetts Controlled Substances Registration Certificate" because "your license to practice medicine was revoked by the Massachusetts Board of Medicine on February 15, 1983 * * *"; and copies of sections of the Annotated Laws of Massachusetts. Chapter 112, Section 64 provides that the supreme judicial court of Massachusetts, upon petition, may reverse a revocation action taken by the Board of Registration On Medicine. The section further provides that prior to the entry of a decree, i.e., a final decree after appropriate review of the administrative action, "no order shall be made or entered by the court to stay or supersede any * * * revocation * * *."

On December 28, 1983, Judge Young issued his opinion and recommended findings of fact, conclusions of law, ruling and decision. No exceptions were filed and on January 23, 1984, Judge Young transmitted the record of these proceedings to the Administrator. The Administrator has considered this record in its entirety and pursuant to 21 CFR 1316.67, hereby issues his final order in this matter based upon findings of fact and conclusions of law as hereinafter set forth.

Respondent has made no attempt to show that the supreme judicial court of Massachusetts has reversed the revocation of his medical practice license. Judge Young found that Respondent has had his state controlled substances registration revoked and that Respondent is no longer authorized by state law to utilize controlled substances in the practice of medicine.

The Administrative Law Judge further concluded that, since state registration and authorization are lacking, DEA has no statutory authority to permit Respondent to have a Federal registration. See 21 U.S.C. 823(f). The agency has consistently so held. See *In Re Marshall S. Tuck, M.D.*, Docket No. 80-28, 45 FR 85845 (1980); *In Re James Waymon Mitchell, M.D.*, Docket No. 79-16, 44 FR 71466 (1979); *In Re Alfred Tennyson Smurthwaite, M.D.*, Docket No. 77-29, 43 FR 11873 (1978).

Judge Young further concludes that when no fact question is involved, a plenary, adversary administrative hearing for presenting evidence and cross-examining witnesses is not necessary—even though a pertinent statute may prescribe a hearing. The rationale is that Congress does not intend administrative agencies to perform meaningless tasks. *United States v. Consolidated Mines and Smelting Co., Ltd.*, 455 F.2d 432, 453 (9th Cir. 1971). Therefore, the Administrative Law Judge recommended that Respondent's registration be revoked. The Administrator adopts the recommended rulings, findings of fact, conclusions of law and decision of the Administrative Law Judge in their entirety. Respondent's registration must be revoked.

Having concluded that there is a lawful basis for the revocation of the Repondent's registration and having further concluded that under the facts and circumstances presented in this case the registration should be revoked, the Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 824 and 28 CFR 0.100(b), hereby orders that DEA Certificate of Registration AR1226706 previously issued to Harry Roodin, M.D., be, and it

hereby is, revoked, effective March 23, 1984.

Dated: February 13, 1984.

Francis M. Mullen, Jr.,

Administrator.

[FR Doc. 84-4669 Filed 2-21-84; 8:45 am]

BILLING CODE 4410-06-M

DEPARTMENT OF LABOR

Office of the Secretary

Agency Forms Under Review by the Office of Management and Budget (OMB)

Background

The Department of Labor, in carrying out its responsibility under the Paperwork Reduction Act (44 U.S.C. Chapter 35), considers comments on the proposed forms and recordkeeping requirements that will affect the public.

List of Forms Under Review

On each Tuesday and/or Friday, as necessary, the Department of Labor will publish a list of the Agency forms under review by the Office of Management and Budget (OMB) since the last list was published. The list will have all entries grouped into new collections, revisions, extensions, or reinstatements. The Departmental Clearance Officer will, upon request, be able to advise members of the public of the nature of any particular revision they are interested in.

Each entry will contain the following information:

The Agency of the Department issuing this form.

The title of the form.

The OMB and Agency form numbers, if applicable.

How often the form must be filled out.

Who will be required to or asked to report.

Whether small businesses or organizations are affected.

An estimate of the number of responses.

An estimate of the total number of hours needed to fill out the form.

The number of forms in the request for approval.

An abstract describing the need for and uses of the information collection.

Comments and Questions

Copies of the proposed forms and supporting documents may be obtained by calling the Departmental Clearance Officer, Paul E. Larson, Telephone 202-523-6331. Comments and questions about the items on this list should be directed to Mr. Larson, Office of Information Management, U.S. Department of Labor, 200 Constitution Avenue, N.W., Room S-5526, Washington, D.C. 20210. Comments shoud also be sent to the OMB reviewer, Arnold Strasser, Telephone 202-395-6880, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 3208, NEOB, Washington, D.C. 20503.

Any member of the public who wants to comment on a form which has been submitted to OMB should advise Mr. Larson of this intent at the earliest possible date.

Extension

Employment Standards Administration
Overpayment Recovery Questionnaire
1215-0144; OWCP-20
Annually
Individual or Households
10,600 respondents; 3,533 hours.

To determine whether or not an individual is able to pay a claim for recovery of an overpayment. Consideration must be given to the individual's present and potential income, possible concealment or improper transfer of assets; and assets of the individual who may be available in enforce collection procedures.

Reinstatement

Occupational Safety and Health Administration
Maritime Employment Regulations 1218-0003; OSHA 70, 71, and 72
Annually; on occasion
Business or other for-profit; small businesses or organizations 5,362 respondents; 35,754 hours; 3 forms

OSHA needs this information to accredit companies to inspect and provide certification for cranes and derricks used in longshoring and shipyard industries and marine terminals, using the OSHA 70, 71 and 72 forms; to provide greater protection to marine terminals employees by tracking conditions that are germaine to employee safety and health.

Signed at Washington, D.C. this 15th day of February 1984.

Richard Glesener,

Acting Departmental Clearance Officer.

[FR Doc. 84-4575 Filed 2-21-84; 8:45 am]

BILLING CODE 4510-27-M, 4510-26-M

Employment and Training Administration

Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for adjustment assistance issued during the period February 6, 1984-February 10, 1984

In order for an affirmative determination to be made and a certification of eligibility to apply for adjustment assistance to be issued, each of the group eligibility requirements of section 222 of the Act must be met.

(1) That a significant number or proportion of the workers, in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated,

(2) Tha sales or production, or both, of the firm or subdivision have decreased absolutely, and

(3) That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determinations

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA-W-15,072; National Steel Pellet Co., Hibbing, MN

TA-W-14,827; Bryant Grinder Corp., Springfield, UT

TA-W-14,961; FMC Corp., Industrial Chemical Group, South Charleston, WV

TA-W-15,038; Lee C. Moore Corp., Pittsburgh, PA

TA-W-14,773; Consolidated Bleaching Co., North Bergen, NJ

TA-W-14,873; Adirondack Steel Casting Co., Inc., Watervliet, NY

In the following cases the investigation revealed that criterion (3) has not been met. Increased imports did not contribute importantly to workers separations at the firm.

TA-W-14,974; Diamond Energy Corp., Williamson, WV

TA-W-14,816; Wheeling-Pittsburgh Steel Corp., Atlanta District, Atlanta, GA

TA-W-14,817; Wheeling-Pittsburgh Steel Corp., Chicago District, Hillside, IL

TA-W-14,819; Wheeling-Pittsburgh Steel Corp., Detroit District, Southfield, MI

TA-W-14,822; Wheeling-Pittsburgh Steel Corp., Philadelphia District, Newton Square, PA

Affirmative Determinations

TA–W–14,843; Armco, Inc., Butler Works, Butler, PA

A certification was issued covering all workers separated on or after July 11, 1982 and before March 31, 1983.

TA–W–14,877; Gulf & Western Manufacturing Co., Taylor Forge, Ackerman, MS

A certificate was issued covering all workers separated on or after July 20, 1982.

TA–W–14,880; National Advanced Systems, NAS 6100 Product Line, San Diego, CA

A certificate was issued covering all workers separated on or after November 1, 1982 and before May 1, 1983.

TA–W–14,991; Bossert Manufacturing Co., Utica, NY

A certificate was issued covering all workers separated on or after October 1, 1982.

TA–W–14,818; Wheeling-Pittsburgh Steel Corp., Cleveland District, CLeveland, OH

A cerificate was issued covering all workers separated on or after June 29, 1982 and before December 31, 1983.

TA–W–14,820; Wheeling-Pittsburgh Steel Corp., Houston District, Houston, TX

A certificate was issued covering all workers separated on or after June 29, 1982 and before December 31, 1283.

TA–W–14,821; Wheeling-Pittsburgh Steel Corp., New York District, Saddle Brook, NJ

A certification was issued covering all workers separated on or after June 2, 1982 and before December 31, 1983.

TA–W–14,824; Wheeling-Pittsburgh Steel Corp., Pittsburgh District, Pittsburgh, PA

A certification was issued covering all workers separated on or after June 29, 1982 and before December 31, 1983.

TA–W–15,084; Ford Motor Co., Los Angeles Emission Laboratory, Pico Rivera, CA

A certification was issued covering all workers separated on or after September 20, 1982.

TA–W–14,914; Amity Lamp Corp., Perth Amboy, NJ

A certification was issued covering all workers separated on or after August 12, 1982 and before January 31, 1983.

I hereby certify that the aforementioned determinations were issued during the period February 6, 1984–February 10, 1984. Copies of these determinations are available for inspection in Room 9120, U.S. Department of Labor, 601 S Street, N.W., Washington, D.C. 20213 during normal business hours or will be mailed to persons who write to the above address.

Dated: February 14, 1984.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 84–4576 Filed 2–21–84; 8:45 am]

BILLING CODE 4510–30–M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Media Arts Panel; Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Media Arts Panel (Film/Video Production) to the National Council on the Arts will be held on March 5–7, 1984, from 9:00 a.m.–6:00 p.m. in Room 716, of the Nancy Hanks Center, 1100 Pennsylvania Avenue, Washington, DC. 20506.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the Federal Register of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c) (4), (6) and 9 (b) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Acts, Washington, DC 20506, or call (202) 682–5433.

Dated: February 13, 1984.

John H. Clark,

Director Office of Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 84–4662 Filed 2–21–84; 8:45 am]

BILLING CODE 7537–01–M

Expansion Arts Advisory Panel; Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Expansion Arts Advisory Panel (Expansion Arts Organizations—Visual, Media, Design & Literary) to the National Council on the Arts will be held on March 5–6, 1984, from 9:00 a.m.–5:30 p.m. in Room 714, of the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW, Washington, DC. 20506.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c) (4), (6) and 9 (b) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call (202) 682–5433.

Dated: February 13, 1984.

John H. Clark,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 84–4663 Filed 2–21–84; 8:45 am]

BILLING CODE 7537–01–M

NUCLEAR REGULATORY COMMISSION

Documents Containing Reporting or Recordkeeping Requirements; Office of Management and Budget Review

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of the Office of Management and Budget review of information collection.

SUMMARY: The Nuclear Regulatory Commission has recently submitted to the Office of Management and Budget (OMB) for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

1. Type of submission, new, revision or extension: Extension.

2. The title of the information collection: 10 CFR Part 70—Domestic Licensing of Special Nuclear Material

3. The form number if applicable: Not applicable.

4. How often the collection is required: Applications for new licenses and amendments may be submitted at any time. Applications for renewal are submitted every five years. Reports are submitted as events occur. Nuclear material control and accounting

information is submitted in accordance with specified instructions.

5. Who will be required or asked to report: Applicants for and holders of specific licenses to receive title to, own, acquire, deliver, receive, possess, use, and initially transfer special nuclear material.

6. An estimate of the number of responses: 1,056

7. An estimate of the total number of hours needed to complete the requirement or request: 99,328

8. An indication of whether section 3504(h), Pub. L. 96–511 applies: Not applicable.

9. Abstract: 10 CFR Part 70 establishes procedures and criteria for the issuance of licenses to own, acquire, receive, possess, use, and initially transfer special nuclear material.

Copies of the submittal may be inspected or obtained for a fee from the NRC Public Document Room, 1717 H Street, N.W., Washington, DC 20555.

Comments and questions should be directed to the OMB reviewer, Jefferson B. Hill (202) 395–7340.

The NRC Clearance Officer is R. Stephen Scott, (301) 492–8585.

Dated at Bethesda, Maryland, this 16th day of February, 1984.

For the Nuclear Regulatory Commission.

Patricia G. Norry,

Dirctor, Office of Administration.

[FR Doc. 4694 Filed 2–21–84; 8:45 am]

BILLING CODE 7590–01–M

[Dockets Nos. 50–269, 50–270 and 50–287]

Duke Power Co.; Granting Relief From ASME Code Requirements

The U.S. Nuclear Regulatory Commission (the Commission) has granted relief from certain requirements of the ASME Code, Section XI, "Rules for Inservice Inspection of Nuclear Power Plant Components," to Duke Power Company, which revised the inservice inspection program for the Oconee Nuclear Station, Units Nos. 1, 2, and 3, located in Oconee County, South Carolina. The ASME Code requirements are incorporated by reference into the Commission's rules and regulations in 10 CFR Part 50. The relief is effective as of the date of issuance.

This action provides relief from performing the 10-year interval hydrostatic test on certain piping runs involved in a variety of systems, such as the steam generator drain line, Low Pressure Injection pump suction line, etc.

The request for relief compiles with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulationis in 10 CFR Chapter I, which are set forth in the related Evaluation and letter to the licensee granting relief.

The Commission has determined that the granting of this relief will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with this action.

For further details with respect to this action, see (1) the request for relief dated October 4, 1982 (supplemented on November 23, 1982, February 17, April 20 and July 6, 1983), (2) the letter to Duke Power Company dated February 14, 1984 and (3) the Commission's relates Evaluation of Relief Request. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Oconee County Library, 501 West Southbroad Street, Walhalla, South Carolina. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 14th day of February 1984.

For the Nuclear Regulatory Commission.

John F. Stolz,

Chief, Operating Reactors Branch No. 4, Division of Licensing.

[FR Doc. 84–4690 Filed 2–21–84; 8:45 am]

BILLING CODE 7590–01–M

OFFICE OF MANAGEMENT AND BUDGET

Office of Information and Regulatory Affairs

Standard Industrial Classification

AGENCY: Statistical Policy Office, Office of Information and Regulatory Affairs, OMB.

ACTION: Notice of Intent to Revise the Standard Industrial Classification Manual for 1987.

SUMMARY: The Standard Industrial Classification (SIC) of business activity is a coding system used to promote comparability of statistics describing the economy. This coding scheme is used by federal agencies for collecting, tabulating, and publishing establishment data by industry. The last major revision of the SIC was in 1972. It now needs updating

This notice explains the SIC revision process and requests proposals for specific changes in the SIC Manual, which will be reissued in 1987. The criteria used in evaluating proposed SIC changes emphasize the cost to the federal government and the private sector and the continuity of statistical series.

SUPPLEMENTARY INFORMATION:

Principles and Procedures for the Review of the SIC

A. Introduction

Standard Industrial Classification (SIC) is a system for classifying establishments by type of economic activity. Its purposes are: (1) To facilitate the collection, tabulation, presentation, and analysis of data relating to establishments; and (2) to promote uniformity and comparability in the presentation of statistical data describing the economy. The SIC is used by agencies of the U.S. government that collect or publish data by industry. It is also widely used by state agencies, trade associations, private businesses, and other organizations.

The SIC system is designed for statistical purposes. Although the classification is also used for various administrative purposes, the requirements of government agencies that use it for non-statistical purposes play no role in development and revision of the SIC.

B. Principles of Classification

The following are the basic principles underlying the SIC classification (described more fully in the SIC Manual):

(1) The classification is organized to reflect the structure of the U.S. economy. It does not follow any single principle, such as end use, nature of raw materials, product, or market structure.

(2) The unit classified is the establishment. An establishment is an economic unit that produces goods or services—for example, a farm, mine, factory, or store. In most instances, the establishment is at a single physical location and is engaged in one, or predominantly one, type of economic activity. An establishment is not necessarily identical with a company or enterprise.

(3) Each establishment is classified according to its *primary* activity. Primary activity is determined by identifying the predominant product or group of products produced or handled, or service rendered.

(4) An industry (4-digit SIC) consists of a group of establishments primarily engaged in the same activity. To be recognized as an industry, such a group of establishments must meet certain criteria of economic significance, as described in Section D.

C. Purpose and Scope of Review

The SIC is reviewed and revised periodically to reflect the changing structure of the U.S. economy. Revisions take account of technological change and the economic growth and decline of individual industries. They may include changes in industry detail or coverage, improvements to industry definitions, or the clarification of the classification of individual activities.

Review and revision of the SIC are the responsibility of the Statistical Policy Office in the Office of Information and Regulatory Affairs, Office of Management and Budget, which has developed these principles and procedures with the assistance of the Technical Committee on Industrial Classification. Committee members include the following agencies: Office of Managment and Budget, Bureau of the Census, Bureau of Economic Analysis, Bureau of Labor Statistics; Bureau of Industrial Economics, Bureau of Justice Statistics, Bureau of Mines, Economic Research Service (USDA), Energy Information Administration, Federal Emergency Management Administration, International Trade Commission, Internal Revenue Service, National Center for Education Statistics, National Center for Health Statistics, Securities and Exchange Commission, and Social Security Administration.

Proposals for revisions are accepted from Federal agencies and the public and are reviewed by the Technical Committee on Industrial Classification. Final decisions on revisions will be made by the Office of Management and Budget based on the recommendations of the Technical Committee.

Persons considering submitting proposals should note that it is not always necessary to revise the SIC to obtain more detailed statistical information. If statistical information is needed for specific products rather than establishments, it may be more appropriate to seek changes in the level of detail of data collected and published by individual government agencies than to change the SIC.

D. Guidelines for Reviewing Porposed Changes in the Classification

Proposals for revisions to the SIC will be reviewed based on the following considerations:

(1) Structure of the Classification. The overall structure is a general-purpose framework which can have its 4-digit detail rearranged for various analytical purposes. Proposed changes should be designed to fit within this structure with minimum disruption to the existing configuration.

For example, a change which consists of breaking one 4-digit industry into two or more within the same 3-digit industry group is easier and less expensive than a change which affects 3-digit groups, particularly if this in turn affects the 2-digit or divisional groupings. Changes to the basic 2- or 3-digit structure rerquire exceptionally strong justificatin showing that they reflect changes in the economy and not simply a different view of what the basic structure should be.

(2) Historical continuity. Maintaining the continunity of major Federal statistical series will be an important consideration in evaluating proposed changes in the SIC. Changes that would result in weakening principal economic indicators or that would necessitate costly backward revision of time series will require very strong justification on other grounds in order to be acceptable.

(3) Economic Significance. To be recognized as an industry, a group of establishments must have economic significance measured in terms of numbers of establishments, employment, payroll, value added, and volume of business (value of shipments or receipts). The following scoring system is used to evaluate economic significance for SIC purposes.

Values for the "average" industry are calculated by division (manufacturing, construction, retail trade, etc.) for each of the five factors. These values are used in evaluating the economic significance of a proposed SIC industry by composing the industry averages to the values for the proposed industry, ar illustrated below. For each factor, a proposed industry is assigned points. The number of points is equal to the value of the factor for a proposed industry as a percentage of the value for the average industry.

The number of employees and value added are considered more significant and reliable measures of industry importance and are therefore given double weight when calculating the final score. The table below presents calculations (based on 1977 data) for a proposed potato chip and similar snack industry in Division D (manufacturing). The final score for this industry is 59 (column E total divided by column D total).

	Proposed industry (A)	Average industry (B)	Number of points (A as percent of B) (C)	Weights (D)	Weighted points (C×D) (E)
Number of establishments	230	796	29	1	29
Number of employees (thousands)	26.7	43.0	62	2	124
Payroll (million dollars)	301.3	584.0	52	1	52
Value added (million dollars)	934.5	1,295.0	72	2	144
Shipments (million dollars)	1,929.0	3,006.0	64	1	64

In general, a score of at least 20 is needed to warrant recognition as a new SIC industry. However, an existing SIC industry will be retained if it has a score of at least 10.

The 1987 review will be based on the most recent data available. In cases where data are not available for all five factors, scores will be weighted averages of those factors for which data are available.

(4) Specialization and Coverage. In order that an industry properly reflect the activity being measured, the output of the establishments in the industry should: (1) Consist mainly of the goods or services defining the industry, and (2) account for the bulk of the specified goods and services provided by all establishments. For manufacturing industries these factors are measured by the primary product specialization ratio and the coverage ratio.

The primary product *specialization ratio* indicates how much the establishments in a given industry concentrate on the activities that define the industry. This ratio is calculated by dividing the value of the primary product shipments of the establishments classified in the industry by the value of all shipments (both primary and secondary) for the same establishments.

The *coverage ratio* indicates the volume of shipments of products which define the industry that are accounted for by establishments classified in the industry. The coverage ratio is the proportion of products defining the industry shipped by establishments classified in the industry to total shipments of these products by all manufacturing establishments.

For example, establishments classified in 1977 as primarily producing transformers (SIC 3612) had shipments of $2051.1 million for transformers, total shipments for all products of $2160.6 million, and a resulting specialization ratio of 95. Total shipments by all industries of transformers were $2117.8 million, yielding a coverage ratio of 97.

A 4-digit SIC industry should have a minimum primary product specialization ratio of 80. The minimum for the coverage ratio is generally 70 for establishments producing for commercial sale. This may be reduced some for industries having significant interplant transfers or production for use within the same establishment (e.g., Gray Iron Foundries, Iron and Steel Forgings) or for industries producing the same final product as another industry but made from materials that are at a more advanced stage of manufacture (e.g., Blended and Prepared Flour). Where existing industries have relatively few large plants producing a wide range of products, the coverage ratio criterion often precludes the establishment of further industry detail.

(5) *Other Statistical Considerations.* In general, proposed new industries should meet each of the criteria of economic significance, specialization and coverage. However, industries that substantially exceed one or two of the criteria and fall slightly short on the others also may be accepted in some cases.

For example, industries which are not yet large enough, but are growing rapidly may be accepted based on current size and evidence of growth by a specified time. Proposed industries which meet the criteria only marginally should also show substantial current growth and likelihood of future growth.

Special consideration will be given to new industries and industry changes that increase comparability of the SIC with the United Nation's International Standard Industrial Classification and that increase the capability for assessing the impact of international trade on domestic industries such an increasing possiblities for comparability with the Customs Cooperation Council's Harmonized System.

Proposed new industries will be evaluated to make sure they provide for relatively stable classification of individual establishments. In some fields of activity, if is normal for the primary activity, if defined restrictively, to fluctuate from year to year. For example, shipbuilding establishments may work on defense contracts one year and on civilian contracts the next. Or establishments may perform primarily new work one year and rebuilding another. Separate industries will not be created where the distinction would result in industry shifts for establishments that are still engaged in similar industrial activity.

In some cases a proposed industry may meet all previously stated criteria but be rejected because the remaining part of the existing industry is too small for separate industry status and cannot logically be merged into other industries.

(6) Administrative Considerations. Cost to the government, as well as cost and burden to businesses that furnish data to the government, will be major considerations in evaluating proposed changes in the SIC. Revisions that involve major changes in record-keeping by business or in government agencies' procedures, records, and data series will require very strong justification to be considered.

The ability of government agencies to classify collect, and publish data on the proposed basis will also be taken into account. Proposed changes must be such that they can be applied by agencies within their normal processing operations.

Proposed industries must also include a sufficient number of companies that industry data can be published without disclosing information about the operations of individual firms.

E. Proposals

Proposals made by either private organizations or government agencies must be in writing and should include the following:

(1) Specific detail about the activities to be covered by a proposed new industry or an industry change. This may be either a description of the activities or specific product or subindustry codes, such as 5- or 7-digit Census product codes.

(2) Specific indication of the relationship to existing industries.

(3) Statistical evidence that the proposed change meets the criteria described in Sections B and D above. Government data are preferred; however, other data that are reasonably consistent with government data are also acceptable. Major differences should be explained.

F. Time Schedule

All proposed amendments to the 1972/1977 edition of the establishment SIC Manual should be submitted to the Chairperson, Technical Committee on Industrial Classification, Statistical Policy Office, Office of Information and Regulatory Affairs, Office of Management and Budget, as soon as possible, but no later than October 1, 1984. The revised classification will become effective on January 1, 1987.

Proposals submitted for previous revisions must be resubmitted with the information specified in this statement.

G. Public Review Procedure

All proposed changes to the 1972/1977 edition of the SIC Manual recommended by the Technical Committee will be published in the **Federal Register** for review and comment prior to final action by the Office of Management and Budget. Those making proposals will be notified directly of actions taken by the Technical Committee; others will be advised through the **Federal Register**.

FOR FUTHER INFORMATION CONTACT: Pamela S. Powell-Hill, Statistical Policy Office, OIRA, Room 3019, NEOB, Washington, D.C. 20503; Telephone (202) 395–3093.

Christopher DeMuth,

Administrator, Office of Information and Regulatory Affairs, Office of Management and Budget.

[FR Doc. 84-4612 Filed 2-21-84; 8:45 am]

BILLING CODE 3110-01-M

POSTAL RATE COMMISSION

[Order No. 547; Docket No. A84–6]

Benoit, Wisconsin 54816 (Mrs. Lilly Meyers, Petitioner); Notice and Order Accepting Appeal and Establishing Procedural Schedule

Issued: February 14, 1984.

Docket Number: A84–6

Name of Affected Post Office: Benoit, Wisconsin 54816

Name(s) of Petitioner(s): Mrs. Lilly Meyers

Type of Determination: Closing

Date of Filing of Appeal Papers: January 31, 1984

Categories of Issues Apparently Raised:

1. Economic Savings [39 U.S.C. 404(b)(2)(D)].

Other legal issues may be disclosed by the record when it is filed; or, conversely, the determination made by the Postal Service may be found to dispose of one or more of these issues.

In the interest of expedition within the 120-day decision schedule [39 U.S.C. 404(b)(5)] the Commission reserves the right to request of the Postal Service memoranda of law on any appropriate issue. If requested, such memoranda will be due 20 days from the issuance of the request; a copy shall be served on the Petitioner. In a brief or motion to dismiss or affirm, the Postal Service may

incorporate by reference any such memorandum previously filed.

The Commission orders: (A) The record in this appeal shall be filed on or before February 15, 1984.

(B) The Secretary shall publish this Notice and Order and Procedural Schedule in the **Federal Register.**

By the Commission.

Charles L. Clapp,

Secretary.

Appendix

Docket No. A84–6 Benoit, Wisconsin 54816

January 31, 1984: Filing of Petition
February 14, 1984: Notice and Order of Filing of Appeal
February 21, 1984: Last day for filing of petitions to intervene [*see* 39 CFR 3001.111(b)].
March 1, 1984: Petitioner's Participant Statement or Initial brief [*see* 39 CFR 3001.115(a) and (b)].
March 16, 1984: Postal Service Answering Brief [*see* 39 CFR 3001.115(c)].
March 31, 1984: (1) Petitioner's Reply Brief should petitioner choose to file one [*see* 39 CFR 3001.115(d)].
April 9, 1984: (2) Deadline for motions by any party requesting oral argument. The Commission will exercise its discretion, as the interest of prompt and just decision may require, in scheduling or dispensing with oral argument [*see* 39 CFR 3001.116].
May 30, 1984: Expiration of 120-day decisional schedule [*see* 39 U.S.C. 404(b)(5)].

[FR Doc. 84–4679 Filed 2–21–84; 8:45 am]
BILLING CODE 7715–01–M

[Order No. 548; Docket No. A84–7]

Cotter, Iowa 52221 (Ronald and Joan Baird, Petitioners); Notice and Order Accepting Appeal and Establishing Procedural Schedule

Issued: February 14, 1984.

Docket Number: A84–7
Name of Affected Post Office: Cotter, Iowa 52221
Name(s) of Petitioner(s): Ronald and Joan Baird
Type of Determination: Closing
Date of Filing of Appeal Papers: February 6, 1984
Categories of Issues Apparently Raised:
1. Effect on Community Served by Office [39 U.S.C. 404(b)(2)(A)].

Other legal issues may be disclosed by the record when it is filed; or, conversely, the determination made by the Postal Service may be found to dispose of one or more of these issues.

In the interest of expedition within the 120-day decision schedule [39 U.S.C. 404(b)(5)] the Commission reserves the right to request of the Postal Service memoranda of law on any appropriate issue. If requested, such memoranda will be due 20 days from the issuance of the request; a copy shall be served on the Petitioner(s). In a brief or motion to dismiss or affirm, the Postal Service may incorporate by reference any such memorandum previously filed.

The Commission orders: (A) The record in this appeal shall be filed on or before February 21, 1984.

(B) The Secretary shall publish this Notice and Order and Procedural Schedule in the **Federal Register.**

By the Commission.

Charles L. Clapp,

Secretary.

Appendix

Docket No. A84–7, Cotter, Iowa 52221

February 6, 1984: Filing of Petition
February 14, 1984: Notice and Order of Filing of Appeal
February 26, 1984: Last day for filing of petitions to intervene [*See* 39 CFR 3001.111(b)].
March 7, 1984: Petitioners' Participant Statement or Initial Brief [*see* CFR 3000.115(a) and (b)].
March 22, 1984: Postal Service Answering Brief [*see* 39 CFR 3001.115(c)].
April 6, 1984: (1) Petitioners' Reply Brief should petitioner choose to file one [*see* 39 CFR 3001.115(d)].
April 13, 1984: (2) Deadline for motions by any party requesting oral argument. The Commission will exercise its discretion, as the interest of prompt and just decision may require, in scheduling or dispensing with oral argument [*see* 39 CFR 3001.116].
June 5, 1984: Expiration of 120-day decisional schedule [*see* 39 U.S.C. 404(b)(5)].

[FR Doc. 84–4680 Filed 2–21–84; 8:45 am]
BILLING CODE 7715–01–M

RAILROAD RETIREMENT BOARD

Determination of Quarterly Rate of Excise Tax for Railroad Retirement Supplemental Annuity Program

In accordance with directions in section 3221(c) of the Railroad Retirement Tax Act (26 U.S.C. 3221(c)), the Railroad Retirement Board has determined that the excise tax imposed by such section 3221(c) on every employer, with respect to having individuals in his employ, for each work-hour for which compensation is paid by such employer for services rendered to him during the quarter beginning April 1, 1984, shall be at the rate of 20 cents.

In accordance with directions in section 15(a) of the Railroad Retirement Act of 1974, the Railroad Retirement Board has determined that for the quarter beginning April 1, 1984, 25.3 percent of the taxes collected under sections 3211(b) and 3221(c) of the Railroad Retirement Tax Act shall be credited to the the Railroad Retirement Account and 74.7 percent of the taxes collected under such sections 3211(b) and 3221(c) plus one hundred percent of the taxes collected under section 3221(d) of the the Railroad Retirement Tax Act shall be credited to the Railroad Retirement Supplemental Account.

Dated: February 14, 1984.
By Authority of the Board.

Beatrice Ezerski,

Secretary to the Board.

[FR Doc. 84–4658 Filed 2–21–84; 8:45 am]
BILLING CODE 7905–01–M

Privacy Act of 1974; Proposed Changes to System of Records

AGENCY: Railroad Retirement Board.

ACTION: Notice of proposed change to system of records.

SUMMARY: The purpose of this document is to give notice of proposed routine use to one of its systems of records.

DATES: The system of records for which the new routine use is proposed shall be amended as proposed without further notice 30 calendar days from the date of publication, (March 23, 1984), unless comments are received before this date which would result in a contrary determination.

ADDRESS: Send comments to Beatrice Ezerski, Secretary to the Board, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611.

FOR FURTHER INFORMATION CONTACT: LeRoy Blommaert, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611, Telephone 312–751–4548.

SUPPLEMENTARY INFORMATION: Proposed routine use "i" to system of records RRB–19, Payroll Record System, would permit the RRB to furnish pertinent payroll information to other Federal agencies for the purpose of collecting debts to those agencies of the RRB. Among other things, the Debt Collection Act of 1982 (Pub. L. 97–365) amended 5 U.S.C. 5514, which deals with the recovery of debts to the United States by installment collections from current pay of Federal employees and members of the Armed Forces and Armed Forces Reserves. It provides for the dissemination of information, including home address of Federal employees, from one Federal agency to another for collection of past-due debts owed to the Government. The primary purpose of the proposed routine use is to enable the RRB to cooperate with other Federal

agencies in their effort to collect debts owed to them by individuals identified as RRB employees. Under the due process provisions of the Act, the agency to whom the debt is owed must notify the debtor of its intention to request the agency for whom the debtor works to collect the debt through salary offset and give the debtor the opportunity to protest or satisfy the debt prior to the salary offset being made. Through matching programs with the Office of Personnel Management the agency to whom the debt is owed may learn that the debtor is employed by the RRB. It may not have the current address of the debtor/RRB employee. The routine use would permit the RRB to furnish the home address of the debtor/RRB employee.

A secondary purpose of the proposed routine use would be to enable the RRB to release to another Federal agency information about a former RRB employee who owes a debt to the RRB in a case where the RRB has reason to believe that the former employee is not employed by another agency and the RRB seeks the assistance of that agency to collect the debt through salary offset. In such case, the RRB might need to obtain from the other agency the former RRB employee's home address to comply with the due process provisions of the Debt Collection Act. To obtain the address and also to request the collection of the debt through salary offset, the RRB would need to identify the former employee as a debtor and to provide other pertinent payroll information and information about the debt owed.

System of records RRB–19, Payroll Records System, was last published in its entirety on March 13, 1980, at 45 FR 16373–374.

The proposed action is not within the purview of the provisions of 5 U.S.C. 552(0) which requires the submission of a new or altered system report.

Dated: February 13, 1984

Beatrice Ezerski,

Secretary to the Board.

A new paragraph "i" is added to RRB–19 to read as follows:

RRB–19

SYSTEM NAME: PAYROLL RECORDS SYSTEM—RRB

* * * * *

ROUTINE USES OF RECORDS MAINTAINED BY THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

* * * * *

i. For employees identified as having defaulted in the repayment of an obligation incurred under any statutory authority except the Internal Revenue Code, the Social Security Act or the U.S. tariff laws, pertinent payroll information, including home address information, may be disclosed to other Federal agencies for the purpose of collecting debts owed to those agencies or the the RRB.

* * * * *

[FR Doc. 84–4669 Filed 2–21–84; 8:45 am]

BILLING CODE 7905–01–M

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. 23223; 70–6949]

Consolidated Natural Gas Co.; Proposed Charter Amendments

February 14, 1984.

Consolidated Natural Gas Company ("Consolidated"), Four Gateway Center, Pittsburgh, Pennsylvania 15222, a registered holding company, has filed with this Commission an application-declaration pursuant to sections 6(a)(2), 7, 10(b), 10(e), and 12(e) of the Public Utility Holding Company Act of 1935 ("Act") and Rules 62 and 65 thereunder.

The Board of Directors of Consolidated has adopted resolutions amending its Certificate of Incorporation ("Charter") and will submit the proposals for a vote of its common shareholders at the annual meeting to be held on May 15, 1984. The amendments will (1) change the provisions concerning the issuance of unsecured debt; (2) create a staggered board of directors; and (3) add provisions related to mergers and other business combinations. The affirmative vote of a majority of the outstanding common stock is required.

Under the present Charter, without the approval of the holders of a majority of the preferred stock outstanding, unsecured debt cannot exceed 20% of the aggregate of consolidated secured debt and shareholders equity, and total unsecured debt with a maturity of less than 10 years cannot exceed 10% of that aggregate. The principal exceptions are: (1) Debentures; (2) loans which mature in less than seven years which do not exceed $100 million; and (3) inventory loans of one year or less. All public financing for the system is done by Consolidated.

Consolidated proposes to amend these provisions so that it could issue or assume (1) indebtedness with a maturity of more than one year as long as such debt does not exceed 60% of the total consolidated capitalization of the company and its subsidiaries, and (2) indebtedeness with a maturity of one year or less as long as total short-term debt does not exceed 10% of total consolidated capitalization. There would be no restriction on the issuance or assumption of debt to finance gas inventory.

Another proposed amendment would divide the board of directors into three classes, with each class to have a staggered three-year term, the term of one class expiring each year. The rights of preferred shareholders to elect a majority of the whole board of directors upon certain dividend defaults would be unaffected by the proposal.

Amendments concerning mergers and certain other "business combinations" provide that the price to be paid by a Substantial Stockholder (defined as a holder of 5% or more of its common stock) to the company's other common shareholders in a business combination must be not less than the highest price per share paid by the Substantial Stockholder after the 5% acquisition, and in the same form as paid for such other shares. The "continuing directors," as specifically defined, have sole discretion to determine whether the transaction is a business combination, when 5% of the company's stock was acquired, and other specified issues.

Fees and expenses to be incurred in connection with the proposal are estimated at $96,200. No state or federal commission, other than this Commission, has jurisdiction thereover.

The application-declaration and any amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by March 8, 1984, to Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the applicant-declarant at the address specified above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing and will receive a copy of any notice or order issued. After said date, the application-declaration may be granted and permitted to become effective, or the Commission may take such other action as may be appropriate.

For the Commission, by the Office of Public Utility Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84-4623 Filed 2-21-84; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 23221; 70-6953]

New England Electric System; Proposed Amendment of Agreement and Declaration of Trust and Solicitation of Proxies

February 13, 1984.

New England Electric System ("NEES"), 25 Research Drive, Westborough, Massachusetts 01581, a registered holding company, has filed a declaration with this Commission pursuant to sections 6(a), 7, and 12(e) of the Public Utility Holding Company Act of 1935 ("Act") and Rule 62 promulgated thereunder.

NEES proposes to amend its Agreement and Declaration of trust to increase the authorized number of common shares from 30 million to 75 million and to solicit proxies in connection therewith. The company intends to submit to its shareholders at the annual meeting to be held on April 24, 1984, a management proposal to authorize the amendment. As of December 31, 1983, NEES had issued and outstanding 24,549,338 common shares. The company proposes this increase in order to have shares available for dividend reinvestment, employee share ownership, incentive thrift plans, or in the event that the Board of Directors votes to "split" the common shares.

The declaration and any amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by March 12, 1984, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the declarant at the address specified above. Proof of service (by affidavit or, in the case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the declaration, as filed or as it may be amended, may be permitted to become effective.

For the Commission, by the Office of Public Utility Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84-4621 Filed 2-21-84; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 20649; SR-NYSE-83-28]

Self-Regulatory Organizations; New York Stock Exchange, Inc.; Order Approving Proposed Rule Change

February 13, 1984.

The New York Stock Exchange, Inc. ("NYSE"), 11 Wall Street, New York, NY 10005, submitted on July 1, 1983, copies of a proposed rule change pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("the Act") and Rule 19b-4 thereunder, to change certain of its listing standards under NYSE Rule 495B as follows. Existing Rule 495B.10, governing stock distribution, would be amended to permit prospective NYSE listees to quality for listing by meeting either: (i) The existing requirement of 2,000 common stockholders of 100 or more shares, or (ii) alternatively, the dual requirements of 2,200 common stockholders (regardless of the number of shares held by each stockholder) and an average monthly trading volume for the most recent six months of 100,000 shares. Additionally, under either alternative, the minimum number of common shares that must be publicly held would be increased from 1,000,000 to 1,100,000. Proposed Rule 495B.20, captioned "Value," would be amended to increase the required minimum market value of publicly-held shares.[1]

Proposed Rule 495B.30, captioned "Demonstrated Earnings Power," would continue the NYSE's existing requirement that income before federal income taxes and under competitive conditions must be at least $2,500,000 in the most recent fiscal year and $2,000,000 in each of the preceding two years. Additionally, the rule would provide an alternative means of calculating demonstrated earnings power, providing that a company would satisfy this standard if the aggregate demonstrated earnings power for the three most recent fiscal years is at least $6,500,000 together with a minimum for the most recent fiscal year of at least $4,500,000, with the stipulation that all three years must be profitable.[2]

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by the issuance of a Commission Release (Securities Exchange Act Release No. 20030, August 1, 1983) and by publication in the **Federal Register** (48 FR 36231, August 9, 1983). All written statements filed with the Commission and all written communications between the Commission and any person relating to the proposed rule change were considered and (with the exception of those statements or communications which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552) were made available to the public at the Commission's Public Reference Room.

The Commission received comment letters from the American Stock Exchange ("Amex") [3] and from the National Association of Securities Dealers ("NASD") [4] relating to the proposed rulechange. In addition, the NYSE submitted a letter in response to a request by the Division of Market Regulation for clarification of the proposed minimum numerical listing standards and for discussion of issues raised by Amex in its August 29, 1983 letter.[5] In its letter dated August 29,

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[1] The proposed amendments would increase required market value from a range of $8-16,000,000 under the current rule to a range of $9-18,000,000. The market value is subject to adjustment, depending on market conditions. The procedures for calculation of adjustment are described in proposed NYSE Rule 495B.20.

[2] In its initial filing, the NYSE also proposed two additional alternate listing standards, included as the last two paragraphs of proposed Rule 495B.30, dealing with "funds provided from operations" and relisting of companies previously listed on the NYSE. The NYSE has stated that it does not object to partial approval of SR-NYSE-83-28, excluding the provisions noted above. *See* letter from James E. Buck, Secretary, NYSE, to Michael Cavalier, Branch Chief, Division of Market Regulation, dated January 13, 1984. The Commission therefore takes no action in this order with respect to the proposed last two paragraphs of NYSE Rule 495B.30.

[3] *See* letters from Richard O. Scribner, Executive Vice President, Amex, to George A. Fitzsimmons, Secretary, SEC, dated August 29, 1983, and December 1, 1983.

[4] *See* letter from Gordon S. Macklin, President, NASD, to George A. Fitzsimmons, Secretary, SEC, dated September 15, 1983. The NASD stated that the proposed rule change would lower NYSE listing requirements and that, in this context, the Commission should also consider the appropriateness of NYSE delisting requirements under NYSE Rule 500. Rule 500 provides that, absent special circumstances, a company's proposal to withdraw from NYSE listing must be approved by two-thirds of the outstanding security, together with a failure of 10% of individual shareholders to object. The NASD does not have such a requirement and stated that such a "restrictive" provision, in view of the increased number of companies eligible to list as a result of NYSE's proposed amendments, "perpetuates and . . . exacerbates the existing anti-competitive anomaly included in the exchange listing process."

[5] *See* letter from Richard A. Grasso, Executive Vice President, NYSE, to Richard T.Chase, Assistant Director, Division of Market Regulation, dated October 14, 1983.

1983, Amex stated that the proposed NYSE amendments appeared to lower NYSE listing criteria, thereby impairing Amex's ability to attract new listings. Amex posed a number of specific questions relating to the proposed minimum and numerical alternate listing standards under Rule 495B.30 ("Demonstrated Earning Power").[6] In addition, Amex requested further clarification concerning what type of company would qualify for listing as a "high quality growth company" for purposes of rule 495B.30, how "profitability" would be defined under that rule, and whether any minimum level of profitability in each of the three years preceding listing was required. Finally, Amex, stated that further amplification was needed regarding the potential burden on competition of the proposed amendments.

In its October 14, 1983 letter, the NYSE, among other things, (i) provided technical clarification of "demonstrated earnings power" by defining the term as "income before federal income taxes and under competitive conditions"; (ii)) stated that the phrase "high quality growth company" was not limited as to type of company but was meant to descibe the issuers the NYSE would expect to qualify under the alternate "demonstrated earnings power" standard; [7] (iii) stated that "profitable" under Rule 495B.30 means that a company may not report a net loss in any of the three years in question; and (iv) indicated that the proposed alternate standard under Rule 495B.30 does not specify any minimum level of net income.

With respect to whether the proposed amendments would impose a burden on competition within the meaning of Section 6(b)(8) of the Act, the NYSE stated that, while a greater number of Amex-listed companies might be eligible for NYSE listing under the proposed standards than are currently eligible, this did not impose a burden on competition, and that that the proposed modifications would have a very limited effect on either unlisted prospect companies or other securities exchanges.[8]

In its letter to the Commission dated December 1, 1983, the Amex reiterated the position expressed in its earlier letter that the NYSE proposal would adversely affect competition by allowing the NYSE to compete directly with the Amex and over-the-counter markets for new listings which would not currently be eligible for NYSE listing. In addition, Amex stated that the proposed amendments were "vague" and could justify "vast numbers of listings" of companies that would not currently qualify for NYSE listing.

The Commission does not believe the NYSE's proposed rule change imposes any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. To the contrary, while the proposal will not result in a substantial number of additional companies becoming eligible for NYSE listing, to the extent that the proposal has that effect it should serve to increase competition for new listings between the NYSE and other self-regulatory organizations. In this regard, the Commission notes that the NYSE listing standards, taken as a whole, remain substantially more restrictive than the current requirements of other self-regulatory organizations.[9] In addition, the Commission does not believe that the proposed alternate distribution standard and net income standards constitute a material lowering of NYSE listing criteria, despite the fact that they increase the number of potential NYSE listees. The alternate distribution standard, for example, requires a six-month trading volume minimum not present under current distribution standards, and the alternate net income standard will still require the current 3 year aggregate income requirement of $6,500,000, (although it would redistribute the aggregate among the three years preceding listing). These standards remain clearly sufficient to ensure that stocks listed on the NYSE will be suitable for auction trading. Moreover, the Commission views the NYSE's proposed alternate distribution standard, the alternate standard relating to demonstrated earnings power, and the definition of "profitable" under Rule 495B.30 as clarified in NYSE's October 14, 1983 letter as sufficiently specific to ensure that the potential number of eligible companies under such standards will not be unduly expanded.[10]

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[6] The only NYSE alternate listing standard at issue in this order is that which would permit listing of a company with aggregate pre-tax income of $6,500,000 for the last 3 fiscal years, together with a minumum of $4,500,000 in the most recent fiscal year (all three years being profitable). See note 2, *Supra*.

In addition, the Amex raised a number of specific questions relating to the proposed alternate distribution-based guidelines. The NYSE's current distribution standard under Rule 495B.10 requires 2000 holders of 100 shares or more with no specified minimum trading volume. The proposed alternate distribution standard would also permit listing of an issue with 2200 total stockholders together with a 100,000 share average monthly trading volume for the most recent 6 months. Under either standard, 1,100,000 shares must be publicly held (increased from the current 1,000,000 share requirement). In its August 29, 1983 letter, Amex asked under what circumstances the alternate volume-based guidelines would be applied (*e.g.* only when, after a good faith effort, the applicant company is unable to establish the number of shareholders or shares in the relevant categories), and how the NYSE would assure adequate public participation (*i.e.*, would the volume requirement be satisfied by a relatively small number of large trades scattered throughout the six-month period).

While the NYSE's October 14, 1983 letter did not respond to Amex's question regarding the alternative distribution standard, the Commission notes that existing Rule 495B.10 provides that an indication of a lack of public interest in the securities of a company, such as low trading volume on another exchange, lack of dealer interest in the over-the-counter market, or slow growth in number of shareholders, may require higher distribution standards to be met. The Commission believes that it is not essential for the NYSE to condition its alternate distribution standard on, for example, the applicant's inability to establish an accurate shareholder count. The primary regulatory purpose accomplished by distribution standards is the assurance of sufficient public interest in the security to provide the depth and liquidity necessary for a successful auction market in a stock. The Commission views the proposed increase in the required number of publicy-held shares, together with a level of total stockholders higher than the 2000 round-lot holders currently required, distribution standards substantially higher then those of any other exchange, as sufficient to meet that regulatory purpose.

[7] The phrase "high quality growth company" is not included in proposed Rule 495B.30, but is included in the NYSE's filing describing the proposed amendments.

[8] In its October 14, 1983 letter, the NYSE estimates that the proposed modifications might allow 12 companies currently listed on the Amex to qualify for NYSE listing and an additional 28 companies trading over-the-counter to similarly qualify. The NYSE notes, however, that this does not mean that all such companies would qualify under all applicable criteria. In addition, the NYSE estimates that about 420 companies not listed on the NYSE currently qualify for NYSE listing under existing minimum numerical standards.

[9] The NYSE, for example, requires 2000 holders of 100 shares or more; Amex requires a minimum of 1000 public stockholders, including at least 800 holders of 100 shares or more. Under its proposed alternate distribution standard, the NYSE would require 2,200 total shareholders together with an average monthly trading volume of 100,000 for the preceding six months; under Amex's current alternate distribution standard (applicable when a company is unable to provide specific distribution data), there is a minimum 800 shareholder requirement, together with an approximate 2000 share daily volume for the preceding six months.

The NYSE proposal would require that 1,100,000 shares be publicly held; Amex requires 500,000 shares. Amex requires a $3,000,000 aggregate market value for the prospective listed company's shares, compared to NYSE's $9–18,000,000 market value requirement (subject to adjustment depending on market conditions). Under the first paragraph of proposed NYSE Rule 495B.30, a company must have net pre-tax income of $2,500,000 for the latest fiscal year, and $2,000,000 for each of the preceding two years; the Amex requires a pre-tax income (before extraordinary items) of $750,000 for the year preceding the listing application, and no specific earnings requirement for preceding years. The NYSE's proposed alternative earnings standard would require $4,500,000 pre-tax earnings for the year preceding the application. *See* §§ 101, 102, and 107 of the Amex Company Guide.

[10] The Commission notes, as did the NASD (see note 4, *supra*), that the combination of a lowering of NYSE listing standards, together with the restriction in NYSE Rule 500 on listed companies seeking to

Continued

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to national securities exchanges and, in particular, the requirements of Section 6(b)(5) and 6(b)(8) and the rules and the regulations thereunder.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84-4620 Filed 2-21-84; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 13766; 812-5445]

The Prudential Series Fund, Inc.; Filing of Application

February 14, 1984.

Notice is hereby given that The Prudential Series Fund, Inc. ("Applicant"), 3003 North Central Avenue, Phoenix, Arizona 85012, filed an application on February 7, 1983, and an amendment thereto on January 5, 1984, for an order of the Commission pursuant to section 6(c) of the Investment Company Act of 1940 ("Act"), exempting Applicant from the provisions of section 2(a)(41) of the Act and Rules 2a–4 and 22c–1 promulgated thereunder, to the extent necessary to permit it to use the amortized cost valuation method for the purpose of valuing the short-term debt obligations held in certain of its portfolios. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below. Such persons are also referred to the Act for the complete text of those provisions that are relevant to the application.

The application states that Applicant is a corporation organized under the laws of Maryland and is registered under the Act as an open-end, diversified management investment company. The Prudential Insurance Company of America ("Prudential") is Applicant's investment manager. Applicant states that it has five portfolios, interests in each of which are represented by a separate class of capital stock. Applicant represents that it intends to offer its capital stock exclusively to separate accounts of Prudential or Prudential subsidiaries established in connection with variable annuity contracts. Such separate accounts are registered under the Act as unit investment trusts.

The application further states that Applicant desires to use the amortized cost valuation method for the purpose of valuing the short-term debt obligations held in its Conservatively Managed Flexible Portfolio, and its Aggressively Managed Flexible Portfolio (hereinafter referred to collectively as the "Flexible Portfolios"). According to the application, the two Flexible Portfolios seek to attain their respective investment objectives through investing in combinations of short-term debt obligations, intermediate and long-term bonds, and common stocks. Under the amortized cost method of valuation, securities are originally valued at the cost at which they were purchased, and their value is adjusted daily to account for amortization of any premium or for accretion of any discount. The provisions of the Act from which Applicant seeks exemption, however, require that investment companies calculate their net asset value for the purpose of pricing their shares for sale, repurchase and redemption by valuing at market value those securities in their portfolio for which market quotations are readily available.

According to Applicant, the primary concern that the Commission has expressed about use of the amortized cost valuation method has been that this method of valuation may, in times of sharp increases or decreases in interest rates, result in dilution of shareholders, interests in investment companies. Applicant states that in order to protect against such dilution, prior exemptions granted by the Commission and Rule 2a–7 under the Act to permit money market funds to use amortized cost valuation contain a series of conditions designed to assure that use of amortized cost valuation will not result in excessive dilution or other unfair results to shareholders. Applicant further states that, in connection with the valuation of short-term debt securities held by the Flexible Portfolios, it is willing to consent to the imposition of what are in substance the same conditions as those generally imposed by the Commission in prior exemption orders and Rule 2a–7 under the Act, except for the condition requiring a stable net asset value per share.

According to Applicant, the Flexible Portfolios cannot maintain a stable price per share, one of the conditions contained in the prior exemptive orders and Rule 2a–7, since they invest in common stock and intermediate and long-term bonds, as well as short-term debt obligations. Applicant submits that there is no necessary relationship between use of the amortized cost valuation method and the maintenence of a stable price for each share of an investment company. Applicant asserts that inclusion of this condition in prior exemptive order and Rule 2a–7 came about because money market funds that sought exemptions to permit them to use amortized cost valuation did so to facilitate their ability to maintain a stable price per share for the convenience of their shareholders. Applicant states that it seeks to use amortized cost valuation for short-term debt obligations held in the Flexible Portfolios in order to achieve significant savings in its administrative costs.

Applicant submits that use of amortized cost valuation in connection with the operations of the Flexible Portfolios is especially unlikely to result in any dilution or other unfair results to shareholders in those portfolios because they are not money market funds, but rather a particular type of investment vehicle for variable annuity contracts. The contract-holders who participate in any of the portfolios of Applicant will tend to have a longer range investment perspective than shareholders in money market funds, since withdrawals from the contracts may involve the payment of deferred sales charges and adverse federal income tax consequences. Applicant further states that such a long-range investment perspective is especially likely to be characteristic of those contract-holders who allocate their purchase payments to the Flexible Portfolios. According to the application, the Flexible Portfolios are designed to accommodate those contract-holders who not wish to allocate by themselves their purchase payments among equity, bond, and money market investments, but who rather wish Prudential to do so by varying the investments of the Flexible Portfolios among those types of securities as its appraisal of current economic and financial conditions

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withdraw from listing, conceivably could have an anti-competitive effect since it would make it possible for the NYSE to freely prospect for listings from other self-regulatory organizations while making it difficult for them to seek listings from among NYSE-listed companies. In the absence of indications that the provisions of Rule 500 currently are serving to restrain companies seeking to withdraw from NYSE listing, however, and in light of the fact that NYSE listing standards remain substantially more restrictive than those of other self-regulatory organizations, the Commission does not deem it necessary to review this issue in connection with instant proposed rule change. In the event the NYSE seeks further modifications of its listing standards, however, such a review might then be appropriate.

dictates. Applicant states that even large fluctuations in interest rates are therefore unlikely to trigger large-scale investments in or redemptions of shares of the Flexible Portfolios since participants or potential participants in those Portfolios are not likely to be the type of investors who wish to manage actively their investments.

Applicant therefore requests exemption from the provisions of section 2(a)(41) of the Act and Rules 2a–4 and 22c–1 promulgated thereunder to the extent necessary to permit it to use the amortized cost valuation method for the purpose of valuing short/term debt obligations held in its Flexible Portfolios. Applicant states it is willing to consent to the entry of an order by the Commission conditioning the grant of its exemptive request upon the following conditions:

(1) In supervising the operations of Applicant and delegating special responsibilities involving portfolio management to its investment manager, the Board of Directors of Applicant undertakes (as a particular responsibility within the overall duty of care owed to shareholders of Applicant) to establish procedures reasonably designed, taking into account current market conditions and the portfolios' investment objectives, to minimize the deviation between the value of each Flexible Portfolio's short-term debt obligations as computed through use of the amortized cost valuation method and their value as determined through use of available market quotations.

(2) Included within the procedures to be adopted by the Board of Directors shall be the following:

(a) Review by the Board of Directors, as it deems appropriate and at such intervals as are reasonable in light of current market conditions, to determine the extent of deviation, if any, between the value of the Flexible Portfolios' short-term debt obligations as determined by using available market quotations, from their values as computed through use of the amortized cost method of valuation; and the maintenance of records of such review. To fulfill this condition, Applicant will use actual quotations or estimates of market value reflecting current market conditions chosen by the Board of Directors in the exercise of its discretion to be appropriate indicators of value, which may include, *inter alia*, (1) quotations or estimates of market value for individual portfolio investments, or (2) values obtained from yield data relating to classes of money market instruments published by reputable sources.

(b) In the event such deviation from the amortized cost value of the short-term debt obligations in the Flexible Portfolios exceeds ½ of 1 percent, a requirement that the Board of Directors promptly consider what action, if any, should be initiated.

(c) If the Board of Directors believes the extent of any deviation from the amortized cost value for the short-term debt obligations in either Flexible Portfolio may result in material dilution or other unfair results to contractholders, it will take such action as it deems appropriate to eliminate or reduce to the extent reasonably practicable such dilution or unfair results, which may include: selling portfolio instruments prior to maturity to realize capital gains or losses or to shorten such portfolio's average portfolio maturity; withholding the crediting of additional shares in lieu of dividends; redeeming shares in kind; or using a net asset value per share as determined by using available market quotations.

(3)(a)(i) The Flexible Portfolios will use the amortized cost valuation method only for their short-term debt obligations—*i.e.*, obligations with remaining maturities of one year or less (except that repurchase agreements having a term of one year or less from the date of delivery of the repurchase agreement may be valued through use of the amortized cost valuation method regardless of the maturity of the underlying securities held pursuant to the repurchase agreement). (ii) Each of the Flexible Portfolios shall maintain a dollar-weighted average portfolio maturity for its short-term debt obligations appropriate to its objective of minimizing the deviation from its net asset value per share as determined through use of the amortized cost valuation method from its net asset value per share as determined through use of available market quotations, provided, however, that neither of the Flexible Portfolios shall maintain a dollar-weighted average portfolio maturity for its short-term debt obligations which exceeds 120 days. If the disposition of a portfolio instrument should result in a dollar-weighted average portfolio maturity for the short-term debt obligations of either Flexible Portfolio which exceeds 120 days, such Portfolio's available cash will be invested in such a manner as to reduce such average maturity to 120 days or less as soon as reasonably practicable.

(b) The maturity of short-term debt obligations held by these Portfolios shall be calculated as set forth in Rule 2a–7 under the Act.

(4) Applicant will record, maintain, and preserve permanently in an easily accessible place a written copy of the procedures (and any modifications thereto) described in subparagraph (1) above, and the Applicant will record, maintain, and preseve for a period of not less than six years (the first two years in an easily accessible place) a written record of the Board of Directors' considerations and actions taken in connection with the discharge of its responsibilities, as set forth above, to be included in the minutes of the Board of Directors' meetings. The documents preserved pursuant to this condition shall be subject to inspection by the Commission in accordance with section 31(b) of the Act, as if such documents were records required to be maintained pursuant to rules adopted under section 31(a) of the Act.

(5) The short-term debt obligations held in the Flexible Portfolios, including repurchase agreements, will be limited to those United States dollar-denominated instruments which the Board of Directors determines present minimal credit risks, and which are of high quality. For this purpose, "high quality" instruments shall mean those instruments that are rated by any major rating agency within its two highest rating categories or, in the case of any instrument that is not rated, of comparable quality as determined by the Board of Directors.

(6) If any action pursuant to paragraph 2(c) above was taken during the preceding fiscal quarter, Applicant will file a quarterly report on Form N–1Q and will include, as an attachment thereto, a statement describing the nature and circumstances of such action.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than March 12, 1984, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for the request, and the specific issues, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, DC. 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorner-at-law, by certificate) shall be filed with the request. After said date, an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

By the Commission.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 84-4619 Filed 2-21-84; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 23222; 70-6950]

Western Massachusetts Electric Co.; Proposal To Issue and Sell First Mortgage Bonds

February 13, 1984.

Western Massachusetts Electric Company ("WMECO"), 174 Brush Hill Avenue, West Springfield, Massachusetts 01089, an electric utility subsidiary of Northeast Utilities, a registered holding company, has filed an application-declaration with this Commission pursuant to sections 6 and 7 of the Public Utility Holding Company Act of 1935 ("Act") and Rule 50 thereunder.

WMECO proposes to issue and sell in one or more series, no later than March 31, 1985, depending upon prevailing market conditions, up to $50 million in principal amount of its First Mortgage Bonds ("Bonds"). The interest rate (which shall be multiple of ⅛ of 1%) and the price, exclusive of accrued interest, to be paid to WMECO (which shall not be less than 98% nor more than 102% of the principal amount thereof) will be determined in accordance with the Commission's Statement of Policy concerning the application of Rule 50, as set forth in Release No. 35-22623 (September 2, 1982), by using alternative methods to develop and procure two or more competitive offers for the purchase of such securities.

The Bonds will be issued under the First Mortgage Indenture and Deed of Trust dated as of May 1, 1954 ("Indenture"), between WMECO and The First National Bank of Boston, Successor Trustee, as heretofore supplemented and amended, in the case of each series of the Bonds, by a supplemental indenture setting out the terms of the Bonds. The terms applicable to each series of the Bonds will include a provision that none of the bonds of such series shall be redeemed at the applicable optional redemption price prior to a date in 1989 or 1990 (approximately five years after issuance), if such redemption is for the purpose of or in anticipation of refunding such Bonds through the use, directly or indirectly, of funds borrowed by WMECO at an effective interest cost to WMECO of less than the effective cost to WMECO of the Bonds.

The net proceeds from the issue and sale of the Bonds will be used to repay in part short-term borrowings and construction trust borrowings, which were incurred to finance WMECO's construction program and, in the case of short-term borrowings, for general working capital purposes.

The application-declaration and any amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by March 8, 1984, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the applicant-declarant at the address specified above. Proof of service (by affidavit or, in the case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the application-declaration, as filed or as it may be amended, may be granted and permitted to become effective.

For the Commission, by the Office of Public Utility Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84-4622 Filed 2-21-84; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 20650; File No. SR-NSCC-82-25]

Self-Regulatory Organization; Filing of Proposed Rule Change by the National Securities Clearing Corporation

February 13, 1984.

The National Securities Clearing Corporation (NSCC) submitted to the Commission on October 19, 1982, as amended by letter dated January 25, 1984, a proposed rule change pursuant to Rule 19b-4 under the Securities Exchange Act of 1934, that would enable NSCC to implement a new program whereby members would be permitted to anticipate receiving securities through the allocation process. This program requires new procedures for movements to the "Long Free Account" other than for the Stock Borrow Program. The new program is intended to mitigate unnecessary stock borrowing by members. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

NSCC proposes to amend Section VI, subsection E, *Controlling Receipts from CNS,* of National Securities Clearing Corporation ("NSCC") SCC Division Procedures, by adding a new section 5, *Fully Paid For Account,* As follows:

5. *Fully Paid For Account (Procedures for Movements to the Long Free Account other than for the stock Borrow Program).*

The Corporation's processing day is divided into two parts. It begins with an evening cycle on the evening preceding the business day for which the work is being processed and is followed by a day cycle which ends on the business day for which the work is processed. If a Member with a Long Position and/or a position due for settlement on the next business day, in anticipation or receiving securities from the corporation, (other than municipal securities, as that term is defined by the securities Exchange Act of 1934, as amended), as a result of the allocation process during the evening cycle, instructs that securities within its possession or control (other than municipal securities) be delivered on the next business day and is subsequently not allocated the securities during the evening cycle, the Member may, in order to meet the "custmer segregation" reguirements of Commission Rule 15c3-3, instruct the Corporation, during the following day cycle by the time specified by the Corporation, to transfer the position(s) which has not been allocated to a special CNS sub-account (the "Long Free Account"). At the end of such day cycle, if the securities have still not been allocated, the Corporation will debit the Member's settlement account for the value of the position in the Long Free Account. The Long Free Account will be guaranteed by the Corporation and will be marked to the market daily. All funds which the Corporation receives from debiting the Member's settlement account for the value of a position moved into the Long Free Account and all marks credited to the Long Free Account as a result of marking positions to the market daily, will be segregated by the Corporation from all other funds received by the Corporation. Any time that a Member determines that he no longer needs the position(s) in the Long Free Account for 15c3-3 purposes, he may instruct the Corporation to transfer back the position(s) to its Long Valued Account

and make the appropriate adjustment to its settlement account.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, NSCC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. NSCC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

Presently, participants in NSCC's Stock Borrow Program, who as a result of making securities available for borrowing by NSCC find that they have created a deficit in the amount of securities of which they must have possession or control, can instruct NSCC to convert their right to receive back the securities versus payment (represented by a Long Valued Position) into a right to receive the securities back without payment (represented by a Long Free Position). The Long Free Position is carried on NSCC's books in a separate Long Free Account. The Commission, by letter dated August 3, 1981, has taken the position that, since NSCC has already been paid for these Long Free Positions and is therefore in a position to guarantee delivery to a SIPA trustee, if one were appointed, of the securities, when received from the short valued side, the position carried in the Long Free Account representing securities due the Member may be deemed within the control of said Member for the purposes of SEC Rule 15c3-3. The proposed rule change would, subject to receipt of either an approval or a no-action letter from the Commission, expand a Member's ability to convert an obligation to receive securities from NSCC for payment (represented by a Long Valued Position) into an obligation to receive securities without payment (represented by a Long Free Position) and to have the Long Free Position representing securities due the Member be deemed within control of the Member for the purposes of SEC Rule 15c3-3. The proposed rule change is intended to address the following circumstances. Generally, Members receive at least 75% or more of the securities due from NSCC each day as a result of the normal allocation process. However, Members do not know on any given day which securities will be among the 75% allocated. Accordingly, if a particular Member has securities which are due from NSCC, at the same time owes these securities to a third party, and also has securities segregated for a customer, he only has the following options: (a) He can fail to deliver to the third party until he is actually allocated the securities by NSCC; or (b) he can go outside NSCC to borrow the securities to make the delivery and then return the securities borrowed when NSCC actually allocates the securities to him. Even though he could anticipate that he would be allocated the securities that day by NSCC, and stands at least a 75% chance of being right, he could not instruct that the securities segregated for his customer be delivered out of his control account since, if he did not receive the allocation, and was unable to borrow the securities that day, he would be in violation of SEC Rule 15c3-3. To make prompt delivery to the third party, who in many cases may be dealing on a delivery versus payment basis, Members are thus encouraged to borrow stock before the allocation process is even begun. The result is that Members borrow not only the 25% which may not be allocated but the full 100%, thus increasing borrowings unnecessarily by three-fold.

If the Commission will permit the treatment of positions in the Long Free Account under these circumstances as in the possession or control of the Member, as are positions credited to the Long Free Account under the Stock Borrow Program, the proposed rule change would mitigate the unnecessary stock borrowings by Members which currently take place. Since the proposed rule change will eliminate unnecessary stock movements, provide a guarantee and automatic mark procedure by NSCC which would not otherwise exist if the securities were borrowed outside the NSCC system, the proposed rule change is consistent with the requirements of the Securities Exchange Act of 1934, (the "Act"), as amended, and the rules and regulations thereunder applicable to NSCC in that it will enable Members to promptly settle their securities transactions more efficiently within the national clearance and settlement system.

The proposed rule change will be implemented with the same diligence and care as to the safeguarding of securities and funds in NSCC's custody and control or with which it is responsible as is now employed in the operation of the Stock Borrow Program.

(B) Self-Regulatory Organization's Statement on Burden on Competition

NSCC does not perceive that the the proposed rule change will have an impact or impose a burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No comments have been solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be approved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption abolve and should be submitted within 21 days after the date of this publication.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: February 13, 1984.
Shirley E. Hollis,
Assistant Secretary.
[FR Doc. 84-4618 Filed 2-21-84; 8:45 am]
BILLING CODE 8010-01-M

DEPARTMENT OF STATE

[Public Notice CM-8/712]

Modem Working Party of Study Group D of the U.S. Organization for the International Telegraph and Telephone Consultative Committee (CCITT); Meeting

The Department of State announces that the Modem Working Party of Study Group D of the U.S. Organization for the International Telegraph and Telephone Consultative Committee (CCITT) will meet on March 8, 1984 at the Adams-Mark Caribbean Gulf Hotel, 430 Gulf View Boulevard South, Clearwater, Florida. The meeting will begin at 8:30 a.m. This Working Party deals with matters in telecommunications relating to the development of international digital data transmission.

The agenda for the meeting is as follows:

1. Review the draft 14.4 kilobits-per-second Modem Recommendation;
2. Discuss items concerning the upcoming CCITT Study Group XVII meeting and the 14.4 kilobits-per-second Modem Rapporteurs Meeting in Paris.

Members of the general public may attend the meeting and join in the discussion subject to the instructions of the Chairman. Requests for further information may be directed to Mr. Earl Barbely, State Department, telephone 202-632-3405 or Mr. T. de Haas, Chairman of U.S. Study Group D, Department of Commerce, Boulder, Colorado, telephone 303-497-3728.

Dated: February 10, 1984
Earl S. Barbely,
Director, Office of International Communications Policy.
[FR Doc. 84-4650 Filed 2-21-84; 8:45 am]
BILLING CODE 4710-07-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD 84-004]

Port Access Routes; Approach to New York

Correction

In FR Doc. 84-3521 appearing on page 5017 in the issue of Thursday, February 9, 1984, make the following correction.

In the first column, second paragraph of the **SUMMARY**, items 1-11 should have read as follows:

(1) 40°28'15" N, 73°40'45" W
(2) 40°32'30" N, 73°11'36' W
(3) 40°32'36" N, 73°05"00" W
(4) 40°35'48" N, 70°14'12' W
(5) 40°37'00" N, 69°15'12' W
(6) 40°23'36" N, 69°14'35" W
(7) 40°22'25" N, 70°13'32' W
(8) 40°19'06" N, 73°04'56" W
(9) 40°18'54" N, 73°11'33" W
(10) 40°24'48" N, 73°41'28" W
(11) Then back to 40°28'15" N, 73°40'45" W

BILLING CODE 1505-01-M

Federal Highway Administration

National Motor Carrier Advisory Committee; Meeting

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of public meeting.

SUMMARY: The FHWA announces that the National Motor Carrier Advisory Committee will hold a meeting on March 14, 1984, beginning at 9:00 a.m., in Washington, D.C., at the Department of Transportation's Headquarters Building, 400 Seventh Street, SW., Washington, D.C., Room 2230. The meeting is open to the public.

The agenda includes the following topics: uniformity of State regulation of interstate commercial motor vehicles; study of alternatives to the heavy truck use tax; GAO Report: "The Surface Transportation Assistance Act of 1982: The General Economic Effects on the Trucking Industry;" double bottom monitoring study; proposed research contract on the bridge formula; status of designation of truck routes; Motor Carrier Safety Assistance Program; proposed National Traffic Safety Administration; Bureau of Motor Carrier Safety seat belt use requirement and enforcement; National Highway Traffic Safety Administration truck break research; and American Trucking Association's brake activities.

FOR FURTHER INFORMATION CONTACT:
Mr. James J. Stapleton, Executive Director, National Motor Carrier Advisory Committee, Federal Highway Administration, HCC-20, Room 4224, 400 Seventh Street SW., Washington, D.C. 20590, (202) 426-0834. Office hours are from 7:45 a.m. to 4:15 p.m. et, Monday through Friday.

Issued on: February 15, 1984.
R. A. Barnhart,
Federal Highway Administrator, Federal Highway Administration.
[FR Doc. 84-4654 Filed 2-21-84; 8:45 am]
BILLING CODE 4910-22-M

Urban Mass Transportation Administration

Intent To Prepare an Environmental Impact Statement on the North and South Extensions to the METROMOVER (People Mover) in Miami, Florida

AGENCY: Urban Mass Transportation Administration, DOT.

ACTION: Notice to prepare and environmental impact statement.

SUMMARY: The Urdan Mass Transportation Administration (UMTA) and Metro-Dade Transportation Administration are undertaking the preparation of an Environmental Impact Statement (EIS) for the Extension to the METROMOVER system in Miami, Florida. This EIS is being prepared in conformance with 40 CFR Part 1500, Council on Environmental Quality Regulations for Implementing the Procedural Requirements of the National Environmental Policy Act of 1969 as amended; and 49 CFR Part 622, Federal Highway Administration and Urdan Mass Transportation Administration , Environmental Impact and Related Procedures.

FOR FURTHER INFORMATION CONTACT:
Mr. Ron Nawrocki, UMTA Region IV, 1720 Peachtree Road, N.W., Suite 400, Atlanta, Georgia 30309, (404) 881-7850.
Mr. Kiyoshi Mano, Metro-Dade Transportation Administration, 44 West Flagler Street, Miami, Florida 33130, (305) 579-4505.

SUPPLEMENTARY INFORMATION:

Scoping Meeting

A public scoping meeting will be held on March 12, 1984 at 7:30 p.m. at James L. Knight Center, Hyatt Regency—Miami, 400 S.E. 2nd Avenue, Miami, Florida, to help establish the purpose, scope, framework, and approach for the environmental analysis. At the scoping meeting, staff will present a description of the proposed scope of the study using maps and visual aids, as well as a plan for an active citizen involvement program, a projected work schedule, and an estimated budget. Members of the public and interested Federal, State, and local agencies are invited to comment on the proposed scope of work, alternatives to be assessed, impacts to

be analyzed, and evaluation criteria to be used to arrive at a decision. Comments may be made either orally at the meeting or in writing. Written comments must be submitted to MDTA within two weeks after the scoping meeting.

Project Description

The Miami Central Business District (CBD) is a rapidly growing area of mixed-use development, characterized primarily by office and retail space. This area forms the central core of a larger linear business district, which extends north to the Omni shopping district and south to the Brickell area. The METROMOVER system (formerly known as Downtown People Mover) has been under construction since 1982. It is a completly automated circulation/distribution system which will interface with the METRORAIL transit system at Government Center Station and provide imporved transportation in and around the Central Business District (CBD). The METROMOVER system consists of an elevated double lane guideway loop approximately 1.9 mile long. The system, which is scheduled for completion in 1984, includes ten on-line stations and will operate with driverless vehicles at approximately two minute headways.

Additional new and planned activity centers are beyond walking distance from METRORAIL and the METROMOVER loop; therefore, additional transportation services are required north to the Omni area and south to the Brickell area.

The northern extension would serve many important areas such as the Omni shopping complex, Plaza Venetia, new Marriott Hotel, Anna Brenner Meyer Educational Telecommunication Center, Miami Herald Publishing complex, Keyes Office complex, Bicentennial Park, a proposed residential town (Park West) and Freedom Tower. The southern extension would serve areas such as the Holiday Inn Hotel, Four Ambassadors Hotel, banking institutions, commercial office complexes, government offices, shopping plazas, high and low density residences and Brickell METRORAIL Station.

Alternatives

Transportation alternatives proposed for consideration are the following:

1. A "no build" alternative would utilize the existing bus fleet reconfigured in the downtown area to provide better coordination with the METROMOVER loop and METRORAIL.

2. A circulator bus alternative which would include dedicated buses providing circulator service in the downtown area; this alternative will also include transportation system management (TSM) improvements;

3. A rail transit alternative which could provide service north of the METROMOVER loop. The southern area would be served by extending the people mover system; and

4. A people mover alternative which would build the northern and southern extensions to the METROMOVER loop system.

Comments at the scoping meeting should focus on the appropriateness of these and other options for consideration in the study, not on individual preferences for a particular alternative as most desirable for implementation.

Probable Effects

Impacts proposed for analysis include changes in the natural environment, social environment, impacts on parklands and historic sites, changes in transit service and patronage, associated changes in street traffic congestion, capital costs, operating and maintenance costs and financial implications. Impacts on the natural environment consist of noise, air quality, water quality, removal of vegetations, visual effects and river crossings. Impacts on the social environment consist of changes in land use, development, neighborhood, displacements, relocation and growth induced effects. Impacts will be identified for short term construction period and for long term operation of the alternatives. The proposed criteria for evaluation include transportation, environmental, social, economic and financial measures as required by current Federal (NEPA) and State environment laws and current CEQ and UMTA guidelines. Mitigating measures will be explored for any adverse impacts that are identified.

Comment at the scoping meeting should focus on the completeness of the proposed set of impacts and evaluation criteria. Other impacts or criteria judged relevant to local decision-making should be identified.

Issued on: February 14, 1984.

James A. O'Connor,

Regional Administrator.

[FR Doc. 84-4624 Filed 2-21-84; 8:45 am]

BILLING CODE 4910-57-M

DEPARTMENT OF THE TREASURY

Office of the Secretary

[Department Circular; Public Debt Series—No. 5-84]

Treasury Notes of February 28, 1986; Series R-1986

Washington, February 16, 1984.

1. Invitation for Tenders

1.1. The Secretary of the Treasury, under the authority of Chapter 31 of Title 31, United States Code, invites tenders for approximately $8,250,000,000 of United States securities, designated Treasury Notes of February 28, 1986, Series R-1986 (CUSIP No. 912827 QM 7). The securities will be sold at auction, with bidding on the basis of yield. Payment will be required at the price equivalent of the bid yield of each accepted tender. The interest rate on the securities and the price equivalent of each accepted bid will be determined in the manner described below. Additional amounts of these securities may be issued to Government accounts and Federal Reserve Banks for their own account in exchange for maturing Treasury securities. Additional amounts of the new securities may also be issued at the average price to Federal Reserve Banks, as agents for foreign and international monetary authorities.

2. Description of Securities

2.1. The securities will be dated February 29, 1984, and will bear interest from that date, payable on a semiannual basis on August 31, 1984, and each subsequent 6 months on February 28 and August 31 until the principal becomes payable. They will mature February 28, 1986, and will not be subject to call for redemption prior to maturity. In the event an interest payment date or the maturity date is a Saturday, Sunday, or other nonbusiness day, the interest or principal is payable on the next-succeeding business day.

2.2. The securities are subject to all taxes imposed under the Internal Revenue Code of 1954. The securities are exempt from all taxation now or hereafter imposed on the obligation or interest thereof by any State, any possession of the United States, or any local taxing authority, except as provided in 31 U.S.C. 3124.

2.3. The securities will be acceptable to secure deposits of public monies. They will not be acceptable in payment of taxes.

2.4. Securities registered as to principal and interest will be issued in denominations of $5,000, $10,000, $100,000, and $1,000,000. Book-entry securities will be available to eligible bidders in multiples of those amounts. Interchanges of securities of different denominations and of registered and book-entry securities, and the transfer of registered securities will be permitted. Bearer securities will not be available, and the interchange of registered or book-entry securities for bearer securities will not be permitted.

2.5. The Department of the Treasury's general regulations governing United States securities apply to the securities offered in this circular. These general regulations include those currently in effect, as well as those that may be issued at a later date.

3. Sale Procedures

3.1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, D.C. 20239, prior to 1:30 p.m., Eastern Standard time, Wednesday, February 22, 1984. Noncompetitive tenders as defined below will be considered timely if postmarked no later than Tuesday, February 21, 1984, and received no later than Wednesday, February 29, 1984.

3.2. The face amount of securities bid for must be stated on each tender. The minimum bid is $5,000, and larger bids must be in multiples of that amount. Competitive tenders must also show the yield desired, expressed in terms of an annual yield with two decimals, e.g., 7.10%. Common fractions may not be used. Noncompetitive tenders must show the term "noncompetitive" on the tender form in lieu of a specified yield. No bidder may submit more than one noncompetitive tender, and the amount may not exceed $1,000,000.

3.3. Commercial banks, which for this purpose are defined as banks accepting demand deposits, and primary dealers, which for this purpose are defined as dealers who make primary markets in Government securities and report daily to the Federal Reserve Bank of New York their positions in and borrowings on such securities, may submit tenders for account of customers if the names of the customers and the amount for each customer are furnished. Others are permitted to submit tenders only for their own account.

43.4. Tenders will be received without deposit for their own account from commercial banks and other banking institutions; primary dealers, as defined above; Federally-insured savings and loan associations; States, and their political subdivisions or instrumentalities; public pension and retirement and other public funds; international organizations in which the United States holds membership; foreign central banks and foreign states; Federal Reserve Banks; and Government accounts. Tenders from others must be accompanied by full payment for the amount of securities applied for (in the form of cash, maturing Treasury securities, or readily collectible checks), or by a payment guarantee of 5 percent of the face amount applied for, from a commercial bank or a primary dealer.

3.5. A noncompetitive bidder may not have entered into an agreement, or make an agreement with respect to the purchase or sale or other disposition of any noncompetitive awards of this issue in this auction prior to the designated closing time for receipt of tenders.

3.6. Immediately after the closing hour, tenders will be opened, followed by a public announcement of the amount and yield range of accepted bids. Subject to the reservations expressed in section 4, noncompetitive tenders will be accepted in full, and then competitive tenders will be accepted, starting with those at the lowest yields, through successively higher yields to the extent required to attain the amount offered. Tenders at the highest accepted yield will be prorated if necessary. After the determination is made as to which tenders are accepted, an interest rate will be established, on the basis of a ⅛ of one percent increment, which results in an equivalent average accepted price close to 100.000 and a lowest accepted price above the original issue discount limit of 99.500. That rate of interest will be paid on all of the securities. Based on such interest rate, the price on each competitive tender allotted will be determined and each successful competitive bidder will be required to pay the price equivalent to the yield bid. Those submitting noncompetitive tenders will pay the price equivalent to the weighted average yield of accepted competitive tenders. Price calculations will be carried to three decimal places on the bases of price per hundred, e.g., 99.923, and the determinations of the Secretary of the Treasury shall be final. If the amount of noncompetitive tenders received would absorb all or most of the offering, competitive tenders will be accepted in an amount sufficient to provide a fair determination of the yield. Tenders received from Government accounts and Federal Reserve Banks will be accepted at the price equivalent to the weighted average yield of accepted competitive tenders.

3.7. Competitive bidders will be advised of the acceptance or rejection of their tenders. Those submitting noncompetitive tenders will be notified only if the tender is not accepted in full, or when the price is over par.

4. Reservations

4.1. The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders in whole or in part, to allot more or less than the amount of securities specified in Section 1, and to make different percentage allotments to various classes of applicants when the Secretary considers it in the public interest. The Secretary's action under this Section is final.

5. Payment and Delivery

5.1. Settlement for allotted securities must be made at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt, wherever the tender was submitted. Settlement on securities allotted to institutional investors and to others whose tenders are accompanied by a payment guarantee as provided in section 3.4., must be made or completed on or before Wednesday, February 29, 1984. Payment in full must accompany tenders submitted by all other investors. Payment must be in cash; in other funds immediately available to the Treasury; in Treasury bills, notes, or bonds (with all coupons detached) maturing on or before the settlement date but which are not overdue as defined in the general regulations governing United States securities; or by check drawn to the order of the institution to which the tender was submitted, which must be received from institutional investors no later than Monday, February 27, 1984. When payment has been submitted with the tender and the purchase price of allotted securities is over par, settlement for the premium must be completed timely, as specified in the preceding sentence. When payment has been submitted with the tender and the purchase price is under par, the discount will be remitted to the bidder. Payment will not be considered complete where registered securities are requested if the appropriate identifying number as required on tax returns and other documents submitted to the Internal Revenue Service (an individual's social security number or an employer identification number) is not furnished. When payment is made in securities, a cash adjustment will be made to or required of the bidder for any difference between the face amount of securities presented and the amount payable on the securities allotted.

5.2. In every case where full payment has not been completed on time, an amount of up to 5 percent of the face amount of securities allotted, shall, at the discretion of the Secretary of the Treasury, be forfeited to the United States.

5.3. Registered securities tendered in payment for allotted securities are not required to be assigned if the new securities are to be registered in the same names and forms as appear in the registrations or assignments of the securities surrendered. When the new securities are to be registered in names and forms different from those in the inscriptions or assignments of the securities presented, the assignment should be to "The Secretary of the Treasury for (securities offered by this circular) in the name of (name and taxpayer identifying number)." Specific instructions for the issuance and delivery of the new securities, signed by the owner or authorized representative, must accompany the securities presented. Securities tendered in payment should be surrendered to the Federal Reserve Bank or Branch or to the Bureau of the Public Debt, Washington, D.C. 20239. The Securities must be delivered at the expense and risk of the holder.

5.4. Delivery of securities in registered form will be made after the requested form of registration has been validated, the registered interest account has been established, and the securities have been inscribed.

6. General Provisions

6.1. As fiscal agents of the United States, Federal Reserve Banks are authorized and requested to receive tenders, to make allotments as directed by the Secretary of the Treasury, to issue such notices as may be necessary, and to receive payment for and make delivery of securities on full-paid allotments

6.2. The Secretary of the Treasury may at any time issue supplemental or amendatory rules and regulations governing the offering. Public announcement of such changes will be promptly provided.

Carole Jones Dineen,

Fiscal Assistant Secretary.

[FR Doc. 4746 Filed 2-17-84; 1:52 pm]

BILLING CODE 4810-40-M

VETERANS ADMINISTRATION

Appointment of Certain Health Care Personnel

AGENCY: Veterans Administration.

ACTION: Public Notice and request for comment.

SUMMARY: The Veterans Administration is publishing notice for public review and comment of a proposed VA circular to implement the provisions of section 203 of Pub. L. 98–160, Veterans' Health Care Amendments of 1983, approved November 18, 1983. The proposed circular concerns veteran preference in the appointment of certified or registered respiratory therapists, licensed physical therapists, and licensed practical or vocational nurses in DM&S (Department of Medicine and Surgery) under excepted authority of 38 U.S.C. 4104(3). Under section 203 of Pub. L. 98–160 (38 U.S.C. 4106(g)) the Administrator of Veterans Affairs may establish qualification standards for and authorize appointments to these positions without regard to civil service requirements. When using this appointment authority, however, the Administrator is required to apply the principles of preference for the hiring of veterans and other persons established in subchapter 1 of chapter 33, Title 5, United States Code.

DATES: Comments must be received on or before March 23, 1984.

ADDRESSES: Interested persons are invited to submit written comments, suggestions, or objections regarding this proposed circular to: Administrator of Veterans Affairs (271A), Veterans Administration, 810 Vermont Avenue, NW, Washington, DC 20420. All written comments received will be available for public inspection only at the Veterans Administration Central Office, Veterans Services Unit, Room 132, at the above address between the hours of 8 a.m. to 4:30 p.m., Monday through Friday (except holidays) until April 6, 1984.

FOR FURTHER INFORMATION CONTACT: Earl W. Koteen, Chief, Title 38 Health Care Personnel Division, Department of Medicine and Surgery, (202) 389–2033.

SUPPLEMENTARY INFORMATION: This publication contains a proposed VA circular entitled "Veteran Preference in the Appointment of Certain DM&S Health Care Personnel Under 38 U.S.C. 4104(3)." The proposed circular is to be implemented after public comments have been received. The final circular shall be effective on or before May 16, 1984, as required by section 203(b)(2) of Pub. L. 98–160.

Regarding section 203 of Pub. L. 98–160, the United States Senate Committee on Veterans' Affairs Report (Report No. 98–145, dated May 23, 1983, for Senate Bill 578) expressed the Committee's intent concerning veteran preference for appointments under authority of 38 U.S.C. 4104(3): "It is the Committee's intent, by requiring the application of veterans preference principles, that the Administrator, when applicants for a position are otherwise approximately equally qualified for a particular opening, will give the advantage to a veteran or other preference eligible and particularly so in the case of a veteran with a service-connected disability."

The policy contained in this proposed circular is not being proposed for inclusion in the Code of Federal Regulations since it regulates internal appointment practices within DM&S. In addition, it is related to Agency management and personnel matters and, as such, is generally exempt from the Administrative Procedures Act (5 U.S.C. 551, et seq.)

Dated: February 15, 1984.

By direction of the Administrator.

Everett Alvarez, Jr.,

Deputy Administrator.

Circular 00–84—Veteran Preference in the Appointment of Certain DM&S Health Care Personnel Under 38 U.S.C. 4104(3)

1. *Purpose.* To implement the provisions of section 203 of Pub. L. 98–160, Veterans' Health Care Amendments of 1983, approved November 18, 1983, concerning the application of veteran preference in the appointment of certified or registered respiratory therapists, licensed physical therapists, and licensed practical or vocational nurses under excepted authority of 38 U.S.C. 4104(3) in DM&S (Department of Medicine and Surgey).

2. *Discussion.* Under section 203 of Pub. L. 98–160 (38 U.S.C. 4106(g)) the Administrator of Veterans Affairs may establish qualification standards for and authorize the above appointments without regard to civil service requirements. When using this appointment authority, the Administrator shall apply the principles of preference for the hiring of veterans and other persons established in subchapter 1 of chapter 33, Title 5, United States Code.

3. *Veteran Preference.* The following applies to appointments under authority of 38 U.S.C. 4104(3) in DM&S to the positions of certified or registered respiratory therapist, licensed physical therapist, and licensed practical or vocational nurse. When eligible candidates for such appointment are determined to be approximately equally qualified for a particular opening, hiring preference will be given to veterans and preference eligibles, as defined in 5 U.S.C. 2108. Selections from among these candidates will be made in the following order:

a. Disabled veterans who have a service-connected disability of 10 percent or more.

b. Preference eligibles under 5 U.S.C. 2108(3) (C)–(G) other than those above.

c. Preference eligibles under 5 U.S.C. 2108(3) (A) and (B).

d. All other candidates.

[FR Doc. 84-4672 Filed 2-21-84; 8:45 am]

BILLING CODE 8320-01-M

State Veterans Cemetery, Exeter, Rhode Island; Finding of No Significant Impact

The Veterans Administration (VA), in cooperation with the State of Rhode Island, has determined that potential environmental impacts will be minimal from the development of a State Veterans Cemetery in Exeter, Rhode Island.

The proposed project consists of the expansion, construction, and development of burial areas, main entrance, road system utilities, drainage, sprinkler system, committal service shelter, crypt, maintenance complex, and an Administrative and Information Center. This construction will reflect the first phase of master plan development of the 180 acres of State land. The State cemetery commenced operation as a veterans cemetery in 1974 and has received over 2,000 interments. The proposed development has been designed and will be constructed and administered by the State of Rhode Island similarly to the VA National Cemetery System.

Temporary impacts will occur associated with the construction of the proposed action. It is anticipated that these impacts will be mostly fugitive dust and raised noise levels from construction activities. These impacts are temporary and should not have a significant effect on the surrounding environment.

A permanent impact will be the change to land use and commitment of the site in perpetuity for the burial of eligible veterans and their dependents.

Temporary impacts from construction will be mitigated so as to incur minimal disruption to the environment. During the construction phase and subsequent operation, all applicable Federal, State, and local regulations and codes will be adhered to. Mitigation actions that would be instituted include erosion, air quality, and noise level controls, as well as approved solid waste disposal measures.

The VA had obtained information from the Rhode Island State Historic Preservation Officer (SHPO) that significant archaeological remains might be located in the probable area of impact of the proposed action.

The VA, in consultation with the Rhode Island SHPO, has identified and evaluated the archaeological resources that may be affected by the cemetery expansion and the construction of a new access roadway. This included a background study of the landforms and land use history of affected areas where significant historic or prehistoric archaeological objects might exist. In addition, a field reconnaissance survey and subsurface testing, in order to meet predictions derived from the background research, has been conducted. Information gathered has been evaluated according to the criteria of eligibility for inclusion in the National Register of Historic Places as set forth in 36 CFR Part 60. One site was determined eligible. Planning was modified to avoid disturing the site. Should any other archaeological resources be discovered during the construction, the State will notify the VA immediately and the work will be directed away from that area until the resources can be evaluated.

The significance of the identified impacts has been evaluated relative to the considerations of both context and intensity so defined by the Council on Environmental Quality, 40 CFR 1508.27.

The Environmental Assessment has been prepared in accordance with the requirements of the National Environmental Policy Act (NEPA) Regulations 1501.3 and 1508.9. A Finding of No Significant Impact has been reached based on the information in the assessment and VA compliance with the National Historic Preservation Act. The results of the assessment are available for public examination at the Veterans Administration, Washington, D.C. Persons wishing to examine a copy of the document may do so at the following office: Mr. William F. Sullivan, Director, Office of Environmental Affairs (088C), Room 423, Veterans Administration, 811 Vermont Avenue N.W., Washington, D.C. 20420, (202) 389-3316. Questions or requests for single copies of the Environmental Assessment may be addressed to the above office.

Dated: February 15, 1984.

By direction of the Administrator.

Everett Alvarez, Jr.,

Deputy Administrator.

[FR Doc. 4671 Filed 2-21-84; 8:45 am]

BILLING CODE 8320-01-M

Medical Research Service Merit Review Boards; Charter Renewals

In accordance with the Federal Advisory Committee Act (Pub. L. 92-463), the Veterans Administration announces renewal of the following Merit Review Boards in designated medical specialties for the period February 6, 1984 through February 6, 1986:

Merit Review Board for Basic Science Programs
Merit Review Board for Cardiovascular Programs
Merit Review Board for Clinical Pharmacology, Alcoholism and Drug Dependence Programs
Merit Review Board for Endocrinology Programs
Merit Review Board for Gastroenterology Programs
Merit Review Board for Hematology Programs
Merit Review Board for Immunology Programs
Merit Review Board for Infectious Disease Programs
Merit Review Board for Mental Health and Behavioral Science Programs
Merit Review Board for Nephrology Programs
Merit Review Board for Neurobiology Programs
Merit Review Board for Oncology Programs
Merit Review Board for Respiration Programs
Merit Review Board for Surgery Programs.

New charters for these committees have been filed in accordance with sections 9 and 14 of Pub. Law. 92-463.

Dated: February 14, 1984.

By direction of the Administrator.

Rosa Maria Fontanez,

Committee Management Officer.

[FR Doc. 84-4670 Filed 2-21-84; 8:45 am]

BILLING CODE 8320-01-M

Sunshine Act Meetings

Federal Register
Vol. 49, No. 36
Wednesday, February 22, 1984

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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1

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

February 15, 1984.

TIME AND DATE: 10:00 a.m., Thursday, February 23, 1984.

PLACE: Room 600, 1730 K Street, NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will consider and act upon the following:

1. Monterey Coal Company, Docket No. HOPE 79-323-P, Petitions for Interlocutory Review. (Issues include whether the Commission's Administrative Law Judge erred in granting the Secretary of Labor's motion to join an independent contractors as a party respondent in the proceeding.)

2. Secretary of Labor on behalf of John Cooley v. Ottawa Silica Co., Docket No. LAKE 81-163-DM. (Issues include whether the judge erred in concluding that the operators discharge of the miner violated the Mine Act and whether the judge granted appropriate remedial relief.)

CONTACT PERSON FOR MORE INFORMATION: Jean Ellen, (202) 653-5632.

Jean Ellen,

Agenda Clerk.

[FR Doc. 84-4605 Filed 2-16-84; 4:41 pm]

BILLING CODE 6735-01-M

2

FEDERAL RESERVE SYSTEM

TIME AND DATE: 10:00 a.m. Monday, February 27, 1984.

PLACE: 20th Street and Constitution Avenue, NW., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Proposed purchase of computers within the Federal Reserve System and establishment of emergency computer backup.

2. Issues relating to Federal Reserve notes. (This item originally announced for a closed meeting on February 2, 1984.)

3. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

4. Any item carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204.

Dated: February 17, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-4758 Filed 2-17-84; 2:20 pm]

BILLING CODE 6210-01-M

3

INTERNATIONAL TRADE COMMISSION

[USITC SE-84-11]

TIME AND DATE: 2:30 p.m. Monday, February 27, 1984.

PLACE: Room 117, 701 E Street, NW., Washington, D.C. 20436.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda.
2. Minutes.
3. Ratifications.
4. Petitions and complaints:
   a. Rotary wheel printers (Docket No. 1025).
   b. Tennis rackets (Docket No. 1021).
5. Any items left over from previous agenda.

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary, (202) 523-0161.

Kenneth R. Mason,

Secretary.

[FR Doc. 84-4793 Filed 2-17-84; 3:38 pm]

BILLING CODE 7020-02-M

4

INTERNATIONAL TRADE COMMISSION

[USITC SE-84-12]

TIME AND DATE: 3:00 p.m., Tuesday, February 28, 1984.

PLACE: Room 117, 701 E Street, NW., Washington, D.C. 20436.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Investigation 731-TA-123 [Final] (Carbon Steel Products from Brazil)—briefing and vote.

2. Investigation 337-TA-140 (Personal Computers)—briefing and vote.

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary, (202) 523-0161.

Kenneth R. Mason,

Secretary.

[FR Doc. 84-4794 Filed 2-17-84; 3:38 pm]

BILLING CODE 7020-02-M

5

INTERNATIONAL TRADE COMMISSION, EXECUTIVE RESOURCES BOARD (ERB)

[USITC ERB-84-2]

TIME AND DATE: 11:00 a.m., Wednesday, February 29, 1984.

PLACE: Room 117, 701 E Street, NW., Washington, D.C. 20436.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

Issues:

1. Executive Development Program Individual Development Plans.

2. Executive Development Program Evaluation.

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary, (202) 523-0161.

Kenneth R. Mason,

Secretary.

[FR Doc. 84-4792 Filed 2-17-84; 3:38 pm]

BILLING CODE 7020-02-M

6

INTERNATIONAL TRADE COMMISSION

[USITC SE-84-13]

TIME AND DATE: 11:00 a.m., Thursday, March 1, 1984.

PLACE: Room 117, 701 E Street, NW., Washington, D.C. 20436.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Petitions and complaints:
   a. Glass construction blocks (Docket No. 1027).
2. Investigation 731-TA-165 [Preliminary] (Valves, Nozzles, and Connectors of Brass from Italy)—briefing and vote.
3. Investigation 337-TA-133 (Certain Vertical Milling Machines and Parts, Attachments and Accessories Thereto)—briefing and vote.

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary, (202) 523–0161.

Kenneth R. Mason,

Secretary.

[FR Doc. 84–4795 Filed 2–17–84; 3:38 pm]

BILLING CODE 7020–02–M

7

INTERNATIONAL TRADE COMMISSION

[USITC SE–84–14]

TIME AND DATE: 9:30 a.m., Tuesday, March 6, 1984.

PLACE: Room 117, 701 E Street, NW., Washington, D.C. 20436.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda.
2. Minutes.
3. Ratifications.
4. Petitions and complaints, if necessary.
5. Investigations 701–TA–210 and –211 and 731–TA–167 and –168 [Preliminary] (Table Wine from France and Italy)—briefing and vote.
6. Investigation 731–TA–130 [Final] (Chloropicrin from the People's Republic of China)—briefing and vote.
7. Any items left over from previous agenda.

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary, (202) 523–0161.

Kenneth R. Mason,

Secretary.

[FR Doc. 84–4796 Filed 2–17–84; 3:38 pm]

BILLING CODE 7020–02–M

8

MERIT SYSTEMS PROTECTION BOARD

TIME AND DATE: 10:30 a.m., Wednesday, February 29, 1984.

PLACE: Eighth Floor, 1120 Vermont Avenue, NW., Washington, D.C. 20419.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. *James Johnson* v. *Department of Health and Human Services,* MSPB Docket No. PH07528110407.
2. *James Abrams* v. *Department of the Navy,* MSPB Docket No. PH07528110312.
3. *Benjamin Harrison* v. *Department of the Treasury,* MSPB Docket No. DC07528110622.
4. *James Honeycutt* v. *Department of Labor, Mine Safety and Health Administration,* MSPB Docket No. AT07528210386.
5. *Louis Hoffer* v. *Department of Commerce,* MSPB Docket No. SE03518210043.
6. *Neda Taylor* v. *Department of Transportation,* MSPB Docket No. DC03518180788.
7. *Special Counsel* v. *Guadalupe Saldana,* MSPB Docket No. HQ12068210023.
8. *Mabel P. Gibson* v. *Department of the Navy,* MSPB Docket No. AT07528211006.
9. *David Kulling* v. *Department of Transportation,* MSPB Docket No. CH07528210378.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Robert E. Taylor, Secretary, (202) 653–7200.

For the Board:

Dated: February 16, 1984, Washington, D.C.

Robert E. Taylor,

Secretary.

[FR Doc. 84–4699 Filed 2–17–84; 9:46 am]

BILLING CODE 7400–01–M

9

OVERSEAS PRIVATE INVESTMENT CORPORATION

Meeting of the Board of Directors.

TIME AND DATE: 9:00 a.m. (closed portion), 10:00 a.m. (open portion) Tuesday, February 28, 1984.

PLACE: Offices of the Corporation, seventh floor Board room, 1129 20th Street NW., Washington, D.C.

STATUS: The first part of the meeting from 9:00 a.m. to 10:00 a.m. will be closed to the public. The open portion of the meeting will start at 10:00 a.m.

MATTERS TO BE CONSIDERED: (Closed to the public 9:00 a.m. to 10:00 a.m.).

1. Insurance Project in African country.
2. Insurance Project in Caribbean country.
3. Insurance Project in East Asian country.
4. Claims Report.
5. Information Report: Finance.
6. Information Reports: General.
7. Information Report: China Projects.

FOR FURTHER MATTERS TO BE CONSIDERED: (Open to the public 10:00 a.m.).

8. Approval of the Minutes of the Previous Board meeting.
9. Approval of proposed Regular Meetings of the Board.
10. Insurance: Increased Coverage for Existing Insureds.
11. Personnel Actions.
12. Treasurer's Financial Statements.
13. Increase of Direct Investment Fund for FY 1984.
14. Information Reports.

CONTACT PERSON FOR INFORMATION: Information with regard to the meeting may be obtained from the Secretary of the Corporation at (202) 654–2953.

Elizabeth A. Burton,

Corporate Secretary.

February 16, 1984.

[FR Doc. 84–4700 Filed 2–17–84; 10:20 am]

BILLING CODE 3210–01–M

10

PAROLE COMMISSION

Pursuant To The Government In The Sunshine Act—Pub. L. 94–409 (5 U.S.C. 552b).

TIME AND DATE: 1:00 p.m., Friday, February 24, 1984.

PLACE: Room 420–F, One North Park Building, 5550 Friendship Boulevard, Chevy Chase, Maryland 20815, and over a conference telephone circuit.

STATUS: Open.

MATTERS: The following changes are proposed in the guidelines (28 CFR 2.20) to increase the sanctions for large scale cocaine offenses.

(a) 15 kg. or more of 100% purity, or equivalent—Category 8.
(b) 5–14 kg. of 100% purity or equivalent—Category 7.
(c) If peripheral role under (a) and (b)—Category 6.
(d) More than 1–4 kg. of 100% purity or equivalent—Category 6.
(e) If peripheral role under (d)—Category 5.

The street value chart is to be changed to $800,000 per kg. of 100% purity or equivalent. Changes in narrative labels and in language in other parts of the guidelines will be made to conform to the above.

CONTACT PERSON FOR MORE INFORMATION: James Beck, Assistant Director of Research, United States Parole Commission, Telephone: 492–5980.

Dated: February 16, 1984.

Joseph A. Barry,

General Counsel, Parole Commission.

[FR Doc. 84–4757 Filed 2–17–84; 2:28 pm]

BILLING CODE 4410–01–M

VOL
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ISS
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federal register

Wednesday
February 22, 1984

Part II

Commodity Futures Trading Commission

17 CFR Part 12

Final Rules Relating to Reparations

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 12

Final Rules Relating to Reparations

AGENCY: Commodity Futures Trading Commission.

ACTION: Final rules.

SUMMARY: On January 11, 1983, Section 14(b) of the Commodity Exchange Act, 7 U.S.C. 18(b), was amended to authorize the Commodity Futures Trading Commission to promulgate rules, regulations, and orders as it deems necessary or appropriate for the efficient and expeditious administration of its reparations program. Pursuant to Section 14(b)'s grant of authority, the Commission is adopting final rules which effect changes to its existing reparation procedures in order to streamline and simplify the entire reparation process.

DATES: Effective April 23, 1984. This Part shall apply in its entirety to all reparation complaints, and all matters relating thereto, filed on and after April 23, 1984. Sections 12.14, 12.21, 12.22, 12.23, 12.24 and 12.408 of this Part shall apply to all reparation matters, including those pending on April 23, 1984, regardless of when the reparation complaint was filed. Subpart F of this Part shall apply to all proceedings in which initial decisions, or similar dispositive orders, are served on and after April 23, 1984. Except as indicated above, this Part shall not apply to reparation complaints filed before April 23, 1984, except that parties to a formal adjudicatory proceeding commenced pursuant to any such complaint may, at any time before the initial decision is rendered, by written stipulation executed by all parties, elect to have the case heard pursuant to Subpart C of this Part. To the extent that this Part does not apply to any matter on the Commission's reparations docket pending on April 23, 1984, 17 CFR Part 12 (1983) shall apply.

FOR FURTHER INFORMATION CONTACT: Edward S. Geldermann, Attorney, Office of General Counsel, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581. Telephone: (202) 254–9880.

SUPPLEMENTARY INFORMATION:

I. Background

On January 11, 1983, Section 14(b) of the Commodity Exchange Act, 7 U.S.C. 18(b) was amended, effective May 11, 1983,[1] to authorize the Commission to:

> promulgate such rules, regulations, and orders as it deems necessary or appropriate for the efficient and expeditious administration of this section. Notwithstanding any other provision of law, such rules, regulations, and orders may prescribe, or otherwise condition, without limitation, the form, filing, and service of pleadings or orders, the nature and scope of discovery, counterclaims, motion practice (including the grounds for dismissal of any claim or counterclaim), hearings (including the waiver thereof, which may relate to the amount in controversy), rights of appeal, if any, and all other matters governing proceedings before the Commission under this section.

Futures Trading Act of 1982, Pub. L. No. 97–444, section 231, 96 Stat. 2294, 2319, 7 U.S.C. 18(b) (1982).[2]

Pursuant to Section 14(b)'s authorization, the Commission on February 15, 1983, published an advance notice of proposed rulemaking, indicating that it was considering making the following major changes to its reparation procedure: Instituting a voluntary decisional procedure, analogous to commercial arbitration, that would result in an expeditious, final, and unappealable decision; raising to $10,000 the monetary ceiling for damage claims that could be heard pursuant to the Commission's summary procedure; creating the position of "Proceedings Officer," an employee of the Commission who would assist the discovery functions of Administrative Law Judges; and dismissing reparation proceedings or respondents because of the pendency of related civil litigation, arbitration, receivership or bankruptcy proceedings.

After analyzing comments received concerning the advance notice, the Commission on May 24, 1983, adopted proposed Reparation Rules which incorporated essentially all of the concepts featured in its advance notice. On June 6, 1983, the Commission published in the **Federal Register** a notice of the availability of these proposed rules in which it invited public comment on the rules as proposed and suggestions for any other changes that would improve and expedite the reparation procedure. 48 FR 25218 (1983). In response to this invitation for public comment, the Commission received letters of comment from Robert K. Wilmouth, on behalf of the National Futures Association ("NFA"); John W. Damgard, on behalf of the Futures Industry Association; William J. Nissen, on behalf of Heinold Commodities, Inc.; Eric G. Lipoff, on behalf of Monex International Ltd.; William E. McDonnell, on behalf of Drexel Burnham Lambert, Inc.; Michael J. Hogan, on behalf of Shearson/American Express, Inc.; M. Van Smith; H. Richard Mayberry, Jr.; William O. Hoar; Leslie A. Blau, on behalf of Maduff & Sons, Inc.; and James L. Fox.

The Commission has since considered the comments in these letters as well as other suggestions for improvements in the reparations process, and has determined to adopt final rules which amend, in their entirety, the formerly existing Part 12 Reparation Rules.

II. Summary of Changes to Proposed Rules Adopted In Final Reparation Rules

In its final rules the Commission has adopted numerous changes to its proposed rules which incorporate comments received from the public as well as other suggestions for improving or expediting the reparations process. Concerning practice in the reparations forum, the Commission has amended its proposed rules to allow parties five days, instead of three as proposed, to respond to a document served upon them when service is effected by mail. The Commission has also increased the time allowed for responding to motions to amend or supplement the pleadings and for filing an application for interlocutory review, from five to ten days, and for filing an answering brief on appeal, from twenty to thirty days.

In the final rules, the Commission has reduced, from seven to five, the number of days in advance of the expiration of a time limit within which a party must file a motion for extension of the time limit. The Commission has also reduced, from two to one, the number of copies of a filed document that must be served on other parties. Finally, the Commission has modified its proposed rule which required documents, in order to be considered timely filed, to be received by the Proceedings Clerk within the time prescribed for filing. Instead, when the filing is effected by mail, a document need only be deposited in the mail within the time prescribed for filing, to be considered timely filed.

Concerning the content requirements for pleadings, the Commission has determined not to adopt its proposed

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[1] Futures Trading Act of 1982, Pub. L. No. 97–444, section 239, 96 Stat. 2294, 2327 (1983).

[2] Section 14(a) of the Act was also amended to repeal the Commission's jurisdiction over those persons who, although not registered under the Act, had engaged in activities requiring them to be registered. Amended Section 14(a) of the Act, 7 U.S.C. § 18(a), authorizes the filing of reparation complaints only for violations of the Commodity Exchange Act, or of any regulation or order issued thereunder, committed by any person registered under the Act.

rules which would have required parties at the time of filing their initial pleadings to attach copies of all documentary proof and affidavits of witnesses which the parties intended to rely upon in establishing their claims or defenses. The content requirements for a complaint, answer and reply, as adopted in the final rules, are now similar to those in effect under the Commissioner's former reparation rules. The Commission has also reduced, from $250 to $200, the non-refundable filing fee that must be paid for the formal decisional procedure.

In its final rules, the Commission has also adopted substantial modifications to its proposed rules concerning discovery. Under the proposed discovery procedure, parties seeking discovery could only apply to the decisionmaker (or, if the formal decisional procedure had been elected, a proceedings officer) for an order compelling other persons to produce documents, affidavits, responses to interrogatories, which the applying party could suggest to the decisionmaker. The decisionmaker would have the authority to accept or reject, in whole or in part, any such application for a discovery order. In the final rules, the Commission adopted a discovery procedure which allows parties, without leave of a decisionmaker, to conduct limited discovery within sixty days after a reparation proceeding had commenced. The methods and procedure would be virtually the same as utilized under the Commission's former reparation rules, except that, in a formal decisional proceeding, discovery-related motions would be decided by a Proceedings Officer. Any discovery-related ruling by a Proceedings Officer would be appealable to an Administrative Law Judge. Costs would be awardable as sanctions for an abuse of discovery.

In the Commission's final rules applicable to voluntary decisional proceedings, the Commission has determined not to adopt its proposed rules which would have granted a Judgment Officer the authority to conduct pre-decision conferences, to conduct discovery on his own motion, and to conduct oral examination of parties and their witnesses. All proof in a voluntary decisional proceeding would be required to be submitted in documentary form. The Commission has also adopted a rule which provides that a finding that a respondent violated the Act in a final decision rendered pursuant to the voluntary decisional procedure shall not be deemed a finding of the Commission for the purposes of Section 8a of the Commodity Exchange Act.

The proposed rules concerning the summary decisional procedure would have permitted a Judgment Officer to conduct oral examination of the parties and their witnesses in Washington, D.C., or by telephone, only if issues of critical importance existed which required for their resolution credibility determinations to be made. Examination by a party or his counsel would have been prohibited. In the final rules, a Judgment Officer has been afforded somewhat broader discretion to permit oral examination of parties and to allow such oral examination, including cross examination, to be conducted by the parties. The Commission has also determined not to allow parties to file proposed findings of fact and conclusions of law memoranda in a summary decisional proceeding.

In cases involving the formal decisional procedure, the Commission proposed to allow a Proceedings Officer, before a proceeding had commenced, to conduct discovery on his own motion, to conduct pre-decision conferences, to rule on motions for dismissal, and to make recommendations to an Administrative Law Judge concerning the need for an oral hearing to resolve issues of credibility, and, if no oral hearing was determined to be necessary, to make recommendations to the Administrative Law Judge concerning findings of fact and conclusions of law. In its final rules, the Commission has determined not to vest the Proceedings Officer with any of the foregoing authorities other than the authority to conduct pre-decision conferences. The final rules also vest a Proceedings Officer with authority, unless otherwise directed by the Administrative Law Judge assigned to decide the case, to rule upon discovery-related motions filed within sixty days after the proceeding commenced.

Also in its final rules applicable to formal decisional proceedings, the Commission has enlarged, from twelve to twenty, the number of cities in which oral hearings may be held. The final rules also make oral hearings, including oral direct examination, generally available to parties without requiring an Administrative Law Judge to first find that important issues of credibility exist.

In its final rules applicable to appeals, the Commission has eliminated its proposal to require parties to file an appeal bond if they were ordered to do so in the initial decision. The final rules require appealing parties to pay a $50 appellate filing fee at time of filing a notice of appeal, rather than at the time of filing an appeal brief as proposed, and eliminate the proposed reconsideration procedure which would have followed the Commission's issuance of a final reparation decision. Finally, the Commission in its final rules has delegated authority to the Chief of its Opinions Section to: Rule upon miscellaneous procedural motions after an initial decision has been filed; to remand proceedings where a motion to vacate a default judgment has been filed, where the initial decision is in need of clarification, and where a ministerial act necessary for the proper conduct of the proceeding has not been performed; to deny applications for interlocutory review and to dismiss appeals under strictly limited circumstances; and to strike any filing that does not meet the requirements of the reparations rules. Any action by the Chief pursuant to this rule would be subject to reconsideraton by the Commission upon motion by a party filed within 7 days after service of notice of such action.

III. The Commission's Final Reparation Rules

A. Definitions

The final reparation rules feature three distinct decisional procedures, each of which varies from one another in terms of probable length of time necessary to reach a decision. The most expeditious of these procedures is a low-cost, entirely new "voluntary decisional procedure," defined in § 12.2(1), and is a procedure which the complainant and the respondent have chosen voluntarily to submit their claims and counterclaims in documentary or tangible form for an expeditious resolution by a Commission decisionmaker. By electing the voluntary decisional procedure, parties agree to waive whatever right they might otherwise have had to a decision accompanied by findings of fact and conclusions of law, and agree that the decision rendered shall be final without right of Commission review and judicial review. The filing fee for the procedure is $25. A decision pursuant to the voluntary procedure can be expected within six months after the complaint is filed.

An alternative to the voluntary procedure is the summary decisional procedure, defined in § 12.2(k), which is available to parties where the amount of damages claimed or counterclaimed does not exceed $10,000 and one of the parties does not elect the voluntary procedure. The filing fee for the summary decisional procedure is $100.

The rules governing the summary decisional procedure parallel to some degree the Commission's former summary proceedings rules, except insofar as they vest the decisionmaker with discretion to permit limited oral cross examination. An initial decision rendered pursuant to the summary decisional procedure will contain a brief statement of findings and conclusions, and is appealable to the Commission, whose decision is thereafter subject to judicial review pursuant to Section 14(e) of the Act. Because of the additional time needed to prepare a decision with findings and conclusions, an initial decision pursuant to the summary decisional procedure can be expected within nine months after the complaint is filed.

As a separate alternative to the voluntary decisional procedure, the formal decisional procedure (defined in § 12.2(j)) is available to parties only where the amount of damages claimed or counterclaimed exceeds $10,000, at least one of the parties does not elect the voluntary procedure, and a filing fee of $200 is paid. A formal decisional proceeding, if commenced, affords parties the opportunity for a more traditional administrative trial-type procedure, *i.e.*, an oral hearing before an Administrative Law Judge, an opportunity to orally cross examine other parties and witnesses, an initial decision by an Administrative Law Judge containing findings and conclusions, and the right to appeal the initial decision to the Commission, whose decision may subsequently be appealed to a United States Court of Appeals. Because of the greater amount of time needed to conduct an oral hearing, an initial decision pursuant to the formal decisional procedure can be expected within one year after the complaint is filed. The Commission has received numerous comments from the public concerning the features of the voluntary, summary, and formal decisional procedures, and these comments will be addressed at length, *infra*, where the specific rules applicable to each of the decisional procedures are discussed in more detail.

In its new rules, the Commission has consolidated its organizational units responsible for administering various procedures under the former reparation rules by creating a new "Office of Proceedings." Defined in § 12.2(p) of the rules, the Office of Proceedings is an office charged with the responsibility for generally administering all of the reparation rules, except those concerning direct review by the Commission. Thus, the functions previously performed by the Complaints Section, the Hearing Clerk's office, and by the Commission's Office of the Administrative Law Judges under the Commission's former reparation procedures are now centralized in one office. The newly adopted rules also include definitions of the "Director of the Office of Proceedings," "Judgment Officer," "Proceedings Officer," and the "Proceedings Clerk," which describe positions to be occupied by employees of the Commission who are assigned responsibilities which are key to the efficient administration of several facets of the new reparation procedure.

In creating the position of "Director of the Office of Proceedings," the Commission has determined to designate one of its staff members to serve as the administrative head of that office with supervisory authority over all personnel in the office other than the Administrative Law Judges and their personally assigned law clerk. In addition to the specific functions assigned to the Director by the rules, which relate to the preliminary consideration of the pleadings and the approval of travel itineraries for the Administrative Law Judges, the Director through § 12.2(h) of the rules is vested with plenary administrative authority and responsibility to assure that the reparation rules are administered in an efficient and expeditious manner. To that end, the Director has been granted authority to assign cases and to assign, and, if necessary or appropriate, reassign the duties of, and to establish reasonable standards of performance for, all personnel in the Office of Proceedings other than the Administrative Law Judges and their personally assigned law clerk. The Director also is authorized to convene, and preside over, meetings of all personnel in the Office of Proceedings.

Concerning this proposed authority to be vested in the Director of the Office of Proceedings, several commentors indicated that any such position should be vested with far greater authority over the Administrative Law Judges, including the authority to assign and schedule cases, the authority to set deadlines for the issuance of initial decisions and rulings on motions, and the authority to require the judges to submit regular reports to the Director concerning their progress in conforming to specific performance standards established by the Director. The Commission does not believe that the Director should have the authority to establish performance standards for Administrative Law Judges, to schedule their cases, or to set deadlines for initial decisions and other rulings.[3]

The definition of "Judgment Officer" in § 12.2(o) contemplates a Commission employee conducting the proceeding and rendering a decision pursuant to the voluntary decisional procedure and the summary decisional procedure.[4] The concept of utilizing a Commission employee to hear and decide certain kinds of cases is not new to the Commission's reparation program.[5] The Commission believes that utilizing Judgment Officers, coupled with instituting the voluntary decisional procedure and raising the monetary ceiling for claims that can be heard pursuant to the summary decisional procedure, will increase the likelihood of more expeditious disposition rates and the overall efficiency of the reparations program, as it will ultimately reduce the number of backlogged reparation cases assigned to Administrative Law Judges, who must hear and decide enforcement cases in addition to reparation cases.

To further relieve the burdens on Administrative Law Judges and to expedite discovery in cases conducted pursuant to the formal decisional procedure, the Commission has created the position of "Proceedings Officer," defined in § 12.2(w), to be occupied by an employee of the Commission, who will have the initial responsibility for deciding discovery-related disputes that may arise between parties to a formal decisional proceeding, and who will be assigned default cases.[6] The "Proceedings Clerk," defined in § 12.2(x), is an employee who, acting under the supervision of the Director, is responsible for maintaining the official

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[3] We also appreciate that there may be due process notions implicit in the degree of independence from agency control that Administrative Law Judges are afforded by Section 3105 of Title 5, United States Code. We do regard the Director's supervisory authority, however, to include inherently the authority to require the Administrative Law Judges to submit regular reports concerning their dispositions of reparation cases.

[4] Section 12.2(o) also acknowledges that an Administrative Law Judge may, in appropriate cases, be called upon to perform these same duties. In such a situation, the Administrative Law Judge would continue to exercise the degree of independence from agency control that is afforded by 5 U.S.C. 3105.

[5] Under the Commission's former reparation procedures, proceedings in which the amount of damages claimed did not exceed $5,000 ($2,500 before October 1, 1978) could be heard and decided by a Presiding Officer who could be, *inter alia*, a Commission employee. *See, e.g.* 17 CFR 12.3(o) (1983).

[6] Many comments were received concerning the advisability of creating this position and those comments are addressed, *infra*, where the specific rules pertaining to the Proceedings Officer are discussed in greater detail.

docket in reparation cases, acting as custodian of the records in reparation matters, and assigning reparation cases to a decisionmaking official. In addition, the Proceedings Clerk is responsible for notifying one or more of the parties of any action taken by the Director pursuant to §§ 12.15, 12.24, 12.26, and 12.27 of the rules, or of any order entered in a reparation matter. The Proceedings Clerk is also responsible for issuing orders, to accompany notification of the commencement of a reparation proceeding, requiring parties to complete discovery within sixty days thereafter.

The terms "complaint" and "counterclaim" are defined in § 12.2 (f) and (g), respectively. Section 12.2(f) makes clear that any filing which fairly constitutes an application for a reparation award may be treated as a complaint, even though the document is not denominated as such. The Commission received several comments recommending that the scope of terms "complaint" and "counterclaim" be expanded to include third-party claims such as impleader and cross claims. While the Commission believes that it has the authority to permit third party practice in the reparations forum, at least where a third party respondent is a registrant, it nevertheless believes that the adoption of third party practice at this time would frustrate Congress' goal of making reparations a more simplified and expeditious procedure.

The allowance of third party claims would cause delay to recovery by complainants in several ways. The filing of a third party claim by a respondent will in the vast majority of cases coincide with the filing of an answer, which pursuant to Section 12.16 of the rules may be filed as late as 45 days after the complaint is forwarded. This, in turn, would require additional time by the Office of Proceedings to review the third party claim to determine whether it is properly the subject of a reparations complaint (and, if the claim is impleaded, more time would be needed by that office to accomplish service). Thereafter, a new 45 day period would run for the third party respondent to settle or file an answer. There would be obvious additional delays if the third party respondent's answer contained counterclaims. From the decisionmaking perspective, the allowance of third party claims would delay recovery to complainants unnecessarily in cases where the issue of the liability of at least one of the respondents to the complainant could be resolved simply and readily, but the added question of liability as between co-respondents involves complicated factual or legal issues requiring a much greater commitment of time for resolution.

The Commission is cognizant that the reparations program was created by Congress primarily as a forum for aggrieved customers seeking redress for losses caused by violations of the Act committed by commodity professionals. *See, e.g.*, H.R. Rep. No. 975, at 22, 93d Cong., 2d Sess. (1974). For this reason, and because Congress by vesting the Commission with plenary authority to refashion its reparation procedures intended the Commission to eliminate unnecessary delays to recovery by commodity customers,[7] the Commission has determined not to adopt third party practice for its reparation procedures. The definitions of "complainant" and of "counterclaim" in § 12.2 (e) and (g) therefore make it clear that third party impleader or cross claims are not cognizable in reparations.

The term "registrant" is defined in § 12.2(y) and enumerates only those classes of individuals or entities which are amenable to suit in reparations. Consistent with an extant Commission interpretation of Section 14(a) of the Act,[8] § 12.2(y) defines "registrant," *inter alia*, as an individual or entity registered under the Act at the time of the alleged violation. Section 12.2(y) also acknowledges as another class of "registrant" persons who, regardless of their registered status under the Commodity Exchange Act, have been specifically made subject to reparations by Section 4m of the Act. Finally, § 12.2(y) recognizes that there may be other classes of persons who, although not registered under the Act, are subject to reparation proceedings and these classes would fall within the "otherwise subject to reparation proceedings" language of § 12.2(y).[9]

Finally, the term "proceeding" is defined in § 12.2(v) as "a case in which the pleadings have been forwarded, and in which a procedure has been commenced pursuant to § 12.26(a), (b), or (c)." This definition is intended to make clear that a complainant and a respondent are not participants in a reparation proceeding unless and until the Director of the Office of Proceedings takes action pursuant to § 12.26 of the rules. Until such action is taken, the pleadings are regarded as merely under consideration by the Office of Proceedings, and, among other things, the prohibitions of § 12.7 against *ex parte* communications, the discovery rules of Subpart B, and the right to have a case heard pursuant to an elected decisional procedure do not apply. The appealability of reparation orders also depends, *inter alia*, upon whether a "proceeding" has commenced pursuant to § 12.22 or § 12.26 (a), (b),or (c).[10] Thus, a determination made by the Director of the Office of Proceedings not to forward the complaint pursuant to § 12.15 or not to take action pursuant to § 12.26, which would necessarily precede the commencement of a "proceeding," is not appealable to the Commission or, in the Commission's view, to a U.S. Court of Appeals pursuant to Section 14(e) of the Act.

B. Practice in the Reparations Forum

The new rules contain some significant modifications to the Commission's former rules relating to the time allowed for responding to specific motions, motions for extension of time, service, filing of documents with the Proceeding Clerk, withdrawal of representation by counsel, and the prohibitions against *ex parte* communications. In the final rules, the Commission has enlarged, from five to ten days, the time allowed for parties to respond to motions to amend or supplement the pleadings, to apply for interlocutory review, and, from twenty to thirty days, to file an answering brief in an appeal to the Commission.

In its proposed rules, the Commission proposed to require parties who needed an extension of a time limit on action to be taken concerning any matter to file a motion therefor at least seven days prior to the expiration of the time limit. Comments received concerning this proposed rule indicated that very often the parties cannot foresee that they will need an extension of time until immediately prior to the expiration of the time limit, and therefore, the final rules should not require any advance filing of motions for extension of time. Given that, in most instances, parties have a ten day time limit within which to take action in a reparation proceeding, and because the Commission, based on its experience, believes that a party will generally be able to foresee the need for an extension at least five days prior to the deadline of the time limit, the Commission has determined to adopt § 12.6(b) which

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[7] *See* H.R. Rep. No. 565, Pt. 1, at 56; H.R. Rep. No. 565, Pt. II, at 32, 97th Cong., 2d Sess. (1982); S. Rep. No. 384, at 48, 97th Cong., 2d Sess. (1982).

[8] See 48 FR 21923 (1983).

[9] For instance, those who have willfully aided and abetted a registrant's violation may be subject to reparation proceedings. See S. Rep. No. 384, at 48, 97–98, 97th Cong., 2d Sess. (1982).

[10] There may be situations in which, even though a proceeding had commenced pursuant to § 12.26 (a), (b), or (c), an order terminating the proceeding would not be appealable to the Commission. See § 12.24 of the Rules.

requires the filing of motions for extension five days in advance of the expiration of the time limit absent extraordinary circumstances. Truly unforeseeable and pressing conditions would likely constitute extraordinary circumstances which would relieve the moving party from the five day advance filing requirement of § 12.6(b).

The Commission's proposed rules provided that two copies of all motions and other memoranda, other than a complaint, made in the course of a proceeding shall be served on other parties. Service could be effected by making personal delivery or by first-class mail. Under the proposed rules, when service of any document was effected by first-class mail, the time within which the person served could respond thereto would be increased by three days. The proposed rules also required all documents served to be filed concurrently with the Proceedings Clerk. Under the proposed rules, to be timely filed a document was required to be received within the time prescribed for filing.

Concerning the proposed rule requirement that two copies of all documents be served on other parties, several commentors expressed a view that there was no need for two copies of each document to be served, and that the rule would add an unwarranted expense to a reparation proceeding. While the proposed two copies service requirement was originally intended to supply a served party's counsel with a copy in addition to a copy for the represented party, the Commission has reconsidered this rule and has decided that the party making service should not have to bear the cost of providing an additional copy for this purpose. Accordingly, the proposed requirement of two copies has been abandoned, and § 12.10(a)(1) of the reparation rules now requires only one copy of documents to be served.

Although no comments were received concerning the Commission's proposal to allow three additional days to the time required for a response to a document that has been served by mail, the Commission reconsidered whether the three day period accurately reflects the average time that it takes the United States Postal Service to transmit a piece of mail first-class from point of origin to destination. Recognizing that in some instances the delivery of first-class mail may take longer than three days, the Commission in adopting § 12.10(b) has determined to enlarge to five days the time for responding to a document that has been served by mail.

The Commission also received comments indicating that it should not adopt the proposed rule which required a document, in order to be considered timely filed, to be received within the time prescribed for filing. These commenters indicated that no one can control when a document is received by the Proceeding Clerk, citing the unreliability of the mails as a potential problem in this regard. The Commission agrees that it is beyond the parties' control to assure that a document that has been deposited in the mail is received by the Proceedings Clerk within the time prescribed for filing. Therefore, in accordance with these commentors' suggestions, the Commission has adopted § 12.10(a)(2) which provides, *inter alia*, that to be timely filed a document must be mailed by first-class mail, within the time prescribed for filing.[11]

The proposed rules also imposed restrictions on the withdrawal from representation by counsel to a party to a reparation proceeding. The Commission has experienced problems in the past in cases where a party's attorney has withdrawn from representation without providing adequate notice to the party that he is thereafter expected to act *pro se* in the reparation proceeding, and without making adequate provision thereafter for documents to be served directly on the party rather than on the counsel who has withdrawn. To remedy this problem, the Commission has adopted § 12.9(c) which provides that withdrawal for representation of a party shall be only by leave of the official (or the Commission) before whom the matter is then pending. Section 12.9(c) further provides that leave to withdraw may be conditioned on the withdrawing counsel's submission of an affidavit stating that the represented party has actual knowledge of the withdrawal, and either (1) that the party has determined to proceed *pro se*, in which case the party's address for service shall be provided, or (2) that a successor counsel has been retained, in which case that counsel's name and address for service shall be provided.

Although Section 14(b) of the Act has exempted the Commission from the adjudicatory procedural constraints of the Administrative Procedure Act, 5 U.S.C. 554, 556 and 557, in fashioning its reparation procedures, the Commission nevertheless has determined to retain its prohibitions against *ex parte* communications to insure fairness to the parties. Section 12.7, which contains the general prohibitions, does not apply to all *ex parte* communications. Rather, they apply to only those communications that are relevant to the merits of a proceeding. Furthermore, §12.2(i) excludes from the definition of "*ex parte* communication": (1) a discussion, after consent has been obtained from all parties, between a party and the decisionmaker, or a staff member thereof, pertaining solely to the possibility of settling the case; (2) requests for status reports and service- or registration-related questions; and (3) requests for interpretations of the reparation rules. Finally, as discussed earlier, the *ex parte* communication rule does not apply unless and until a "proceeding" has commenced pursuant to Section 12.26 of the rules. Therefore, until the Director of the Office of Proceedings takes action pursuant to § 12.26, no discussion or written commnication between a potential participant to a reparation proceeding and a staff member of the Office of Proceedings, or any other Commission employee, shall be deemed a prohibited *ex parte* communication.

C. Content Requirements and Preliminary Consideration of the Pleadings

In its proposed rules, the Commission prescribed content requirements that would have imposed upon complainants a duty to provide more information in, or accompanying, their complaints than was required by the former reparation rules, so that a more complete factual records would be made at a very early stage of the proceeding. Thus, the Commission proposed a rule which would have required a complainant, at the time of filing a complaint, to attach copies of all documentation in the complainant's possession upon which he or she intends to rely to establish the alleged violations, and, in any case where the complainant intends to rely on the testimony of third parties, to attach copies of such affidavits. See Proposed Rule 12.13. If such affidavits were not available, the complainant was required by this rule to submit an explanation of why they were not obtainable and a statement of what the complainant believed would be stated in the affidavits. Another rule prescribing the content requirements of an answer would have imposed similar duties upon respondents. See proposed rule § 12.18.

The Commission received numerous comments concerning the proposed requirements of attaching affidavits and documentary evidence to the complaint

[11] The Commission also received recommendations from a number of commentors suggesting that the Commission change its proposed rules to require the complaint to be served on the respondents named therein at the time it is filed. This matter is addressed, *infra*, where the content requirements for, and the preliminary consideration of, pleadings are discussed in detail.

and answer at the time of filing, all of which urged the Commission not to adopt such requirements. One commentor believed that a requirement that parties obtain verified statements from third party witnesses would be unduly burdensome, time-consuming, and would likely precipitate successive requests for extension of time. Another commentor indicated that requiring a complainant to attach affidavits and documentary proof when filing the complaint would be unworkable because complainants in most cases will not know what key items of proof they intend to rely on prior to discovery. Other comments also indicated that the parties frequently change the character of their cases and the number and identities of witnesses throughout the course of a proceeding.

The Commission has considered these comments, and, in light of its determination, discussed *infra*, to permit the parties to conduct their own discovery, it believes that it is not necessary to require parties to attach affidavits and documentary proof to their pleadings at the time of filing. Under the discovery rules of Subpart B, parties are required to complete discovery within sixty days after a proceeding is commenced pursuant to § 12.26. The elimination of the requirement of attaching affidavits and other proof to the pleadings and the adoption of a sixty day discovery procedure would effectively postpone the parties' obligation to perform discovery-related duties from the pleadings stage of a case until the Director of the Office of Proceedings determines that a reparation proceeding should be instituted. The Commission does not believe that such a postponement will result in any significant delay.

The proposed rules prescribed other content requirements for a complaint, answer and reply. Under these proposed requirements, complainants were required to include, *inter alia*, the name and address of each respondent; if known, the specific provisions of the Act violated; a complete description of the facts relevant to complainant's case; the amount of damages claimed and the method by which such were computed; a statement indicating whether there are pending any factually-related arbitration or civil court proceedings, and whether any respondent is subject to receivership or bankruptcy proceedings; and an election of either the voluntary decisional procedure or, depending upon whether the amount of damages claimed exceeds $10,000, the summary or formal decisional procedures. These requirements are similar to those in effect under the Commission's former reparation rules.

The Commission received several comments recommending that these content requirements be strictly enforced against complainants. A number of commentors suggested that the proposed rules be amended to require complainants to cite specifically the provisions of the Act or Commission's regulations alleged to have been violated by a respondent. Another commentor indicated that allegations of fraud should be required to be pleaded with particularity. According to these commentors, any failure to comply with these strict pleading requirements should result in a dismissal of the complaint with prejudice.

The Commission appreciates that a complainant's failure adequately to describe the factual bases for his claims against a respondent can make it virtually impossible for the respondent to submit a responsive answer to the complaint. The Commission believes that it is critical to the efficient operation of its reparation program that a complaint include an intelligible description of the conduct which the complainant alleges to be in violation of the Act. Therefore, the Commission, in § 12.13(b)(1)(iv)(A), has adopted the provisions of proposed rule § 12.13 which require a complainant to include in his complaint "[a] description of all relevant facts concerning each and every act or omission which it is claimed constitutes a violation of the Act," as well as "all facts which show or tend to show the manner in which it is claimed that the complainant was injured by the alleged violations." In adopting this rule, the Commission expects that a complaint will not be forwarded to a respondent unless it affords a respondent intelligible notice of the nature of the claims brought against him.

Concerning comments seeking a requirement that a complainant cite the specific provision of the Act violated, the Commission has determined not to adopt such a rule. From its experience in administering the reparation program, the Commission has observed that some attorneys for complainants, and, more frequently, complainants acting *pro se*, tend to be less experienced in legal matters arising under the Commodity Exchange Act than their counterparts associated with the commodities industry. Moreover, the development of a body of decisional precedent, at least at the Commission and judicial levels, concerning issues arising under the Commodity Exchange Act is still in an early stage. For these reasons, complainants in some cases should not be expected to know the specific provision of the Act violated in alleging they were injured as a result of specific conduct by a respondent.

The Commission therefore has adopted a rule requiring a complainant to cite a specific provision of the Act alleged to have been violated only if this provision of law is known. The Commission does not believe that a recitation of a particular law violated is critical to a respondent's defense against a claim, as the description in the complaint of the course of conduct complained of should provide respondents with enough information to determine whether that conduct, even if admitted, is unlawful.[12]

Section 12.13 of the rules also requires a complainant, at the time of filing the complaint, to tender a filing fee the amount of which varies depending upon which decisional procedure is elected in the complaint. Section 12.13(b)(4) restates the requirement of Section 14(c) of the Commodity Exchange Act that a complainant who is a non-resident of the United States shall, before any formal action is taken on his complaint, first furnish a bond in double the amount of damages claimed, provided that the requirement of filing a bond may be waived if the complainant is a resident of a country that permits the filing of a complaint by a resident of the United States without the furnishing of a bond.

While the Commission does not consider the timely payment of a filing fee in connection with the filing of a complaint to be "jurisdictional," *e.g.*, for statute of limitations purposes,[13] the double bond requirement of § 12.13(b)(4) is imposed by Section 14(c) of the Act, and therefore, not subject to waiver by

[12] The Commission also received a comment suggesting that the Commission provide potential complainants with a form complaint that would instruct them to include all of the specific information called for by § 12.13(b) of the rules. The Commission believes that the use of a form complaint and answer by a complainant and respondent would simplify the task of complying with the content requirements of § 12.13 and 12.18 of the rules, respectively, and the Commission intends to prepare a form complaint and answer for these purposes. These forms will also be accompanied by a package of explanatory materials discussing the alternative decisional procedures that may be elected in reparations, as well as the availability of alternative forums for resolution of the parties' dispute such as NFA arbitration and civil court litigation.

[13] The Commission does not expect to waive its rules requiring the timely payment of filing fees (e.g., to accompany the initial pleadings or a notice of appeal) in the absence of extraordinary circumstances.

the Commission unless the "reciprocity" exception of Section 14(c) applies. Accordingly, to the extent that Section 14(c) requires the filing of a bond in a given reparation case, the Commission regards a non-resident complainant's compliance with such a requirement to be "jurisdictional."[14]

Proposed rule § 12.13(b)(3) prescribed the time and place for filing a complaint and provided that "the complaint need not be served on any person or party named therein." The Commission received several comments suggesting that this proposed rule be changed to require complainants, at the time of filing the complaint with the Commission, to serve a copy thereof upon the respondents named therein without awaiting a determination by the Director of the Office of Proceedings to forward the complaint for an answer. According to these commentors, the adoption of such a requirement would effect earlier notification to respondents about a potential reparation proceeding, allowing them to assure that relevant evidence is preserved, and may also encourage early settlement discussions.

The Commission has determined not to require the complainant to serve a copy of the complaint on a respondent at the time of its filing because the Commission believes that such a practice would complicate, rather than simplify, the reparation procedure by inviting respondents to become involved, *i.e.*, through the filing of motions to dismiss, to strike, for a more definite statement, and other preliminary motions, in a matter in which the Commission has not yet found it necessary for the respondent to participate. Under the Commission's final rules, when a complaint is filed, it is first reviewed by the Office of Proceedings for patent and superficial defects, *e.g.*, the statute of limitations has clearly expired on a claim, the complaint names unregistered respondents who are not subject to reparations, or the subject matter of the complaint is otherwise clearly beyond the Commission's reparations jurisdiction.

If the Office of Proceedings determines that the matters alleged in the complaint are not suitable for a reparation proceeding, consideration of the complaint will be terminated without any need for action on the part of a respondent named therein. Thus, service of a complaint upon a respondent at the time of its filing would be premature and unnecessary. Requiring a complaint to be served at the time of its filing may also be confusing to complainant because it may cause them to believe wrongly that upon effecting service they have become parties to a reparation proceeding entitling them to engage in discovery and motions practice when such is not the case. In light of its new procedures, the Commission does not believe that the relatively short period of time that it is expected to take for the Office of Proceedings to complete its initial review of the complaint (*e.g.* two to four weeks after the complaint is filed) will be a significant delay that will prejudice a respondent's ability to preserve evidence.[15] Accordingly, the Commission has determined to adopt its proposed rule which does not require service of the complaint at the time of its filing.[16]

As indicated earlier, once a complaint is filed, the Director of the Office of Proceedings conducts a brief review of its contents to determine whether it is clearly not suitable for a reparation proceeding. Unless the Director finds the complaint is clearly unsuitable for reparations, he is required to forward the complaint to one or more of the named respondents for satisfaction of the complaint. Pursuant to § 12.17, unless the respondent satisfies the complaint within forty-five days thereafter by paying the complainant the amount of damages claimed and submitting a notice of satisfaction duly executed by both parties, he is required to file an answer within the same period of time.

If a respondent elects to file an answer, the proposed rules, in addition to prescribing content requirements, permitted a respondent to include in the answer a motion to dismiss.[17] Proposed rule § 12.18(b) also provided that the inclusion in an answer of a motion to dismiss did not require a formal response by the Office of Proceedings, meaning that if the Director determined that, notwithstanding the motion to dismiss, the facts alleged in the complaint and answer warranted commencing a reparation proceeding, the Director could take such action pursuant to what is now § 12.26 without formally denying the motion.

Concerning this proposed preliminary motion to dismiss procedure, commentors favored an amendment to this procedure which would allow respondents to file a motion to dismiss in lieu of an answer, and would require the Director of the Office of Proceedings to rule upon such a motion before an answer would be required to be filed. The Commission believes that the adoption of this type of procedure would unduly delay the reparations process, as it would postpone a respondent's duty to file an answer (for which a respondent is already afforded a 45 day period under the rules) and may require the Director of the Office of Proceedings to resolve potentially subtle and complex questions relating to whether the complainant has adequately stated a claim arising under the Commodity Exchange Act.

It was not the Commission's intention in proposing new rules to involve the Director of the Office of Proceedings in a difficult and probing review of issues relating to sufficiency of allegations in a complaint. Rather, the Commission contemplated that the Director would conduct only a superficial review of the complaint before determining whether to forward the complaint pursuant to § 12.15. Because it would make reparations less expeditious, the Commission does not believe that a separate motion to dismiss procedure should precede respondent's duty to file an answer, or that the inclusion in an answer of a motion to dismiss should create an additional time-consuming process for the Director requiring him to issue a formal ruling on the motion.

In adopting a procedure similar to the motion to dismiss procedure contemplated by proposed rule § 12.18, the Commission nevertheless has recognized that a motion by a respondent included in his answer which petitions the Director to consider patent defects in the complaint should not be denominated a "motion to dismiss," because that terminology may wrongly imply that a proceeding has been instituted and that a grant of such a motion would result in dismissal of the proceeding. In actuality, however, at the point in the process when the motion is appropriate, *i.e.*, when the respondent is required to file an answer, no proceeding has yet commenced, and the Director has only made an initial

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[14] *Cf. Kessenich* v. *Commodity Futures Trading Commission*, 684 F.2d 88, 93 (D.C. Cir. 1982).

[15] The Commission appreciates that the problem of delay and the difficulty with preserving evidence in some cases may have been serious under the Commission's former reparation procedures. However, the Commission is now no longer statutorily required to investigate a complaint, and the potential for delay arising out of such investigations has been eliminated under the new rules.

[16] The Commission also does not find it necessary, as one commentor suggested, to adopt a rule requiring the respondent to be notified when the Director determines pursuant to § 12.15 not to forward the complaint to a respondent for a response.

[17] This proposed procedure would have codified a procedure in effect under the Commission's former reparation procedures, and acknowledged in an adjudicatory proceeding, *Roberson* v. *Rosenthal & Company*, [1977–1980 Transfer Binder] Comm. Fut. L. Rep. (CCH) ¶20,748 (January 24, 1979).

cursory review of the complaint and a determination that it should be forwarded for a response by the respondent. To more accurately characterize the nature of this motion, the Commission in § 12.18 of its final rules has determined to redesignate the motion to dismiss prescribed in proposed rule § 12.18 a "motion for reconsideration of the determination to forward the complaint."

As indicated earlier, whenever a motion for reconsideration of the determination to forward the complaint is included in an answer, the Director will be expected to consider the arguments made in the motion only superficially. If the contents of the motion call to his attention any clear and unmistakable justification for declining to institute a proceeding, the Director may grant the motion, without a formal ruling, by terminating consideration of the pleadings pursuant to § 12.27. If the matters raised in the motion and the other contents of the answer do not point out to the Director any readily identifiable bases for a determination not to institute a proceeding, the Director may deny the motion, without a formal ruling, by determining to forward the pleadings for a proceeding pursuant to § 12.26. Such a denial, of course, would not be prejudicial to the respondent's right to reassert the matters cited in his motion for reconsideration in a later motion for dismissal filed after the proceeding commenced.

Section 12.18(a)(6) also authorizes a respondent to include in his answer a counterclaim which, to be capable of being heard in reparations, must either allege facts which would independently be the proper subject of a reparation complaint under § 12.13, or arise out of the same transactions or occurrences set forth in the complaint.[18] Section 12.18 also requires a respondent in his answer to elect between two of the three decisional procedures, and, if appropriate, to pay a filing fee, if the procedure elected has a more costly filing fee than the procedure elected by the complainant.

Under the proposed rules, if the amount of damages claimed does not exceed $10,000, the complainant was authorized to elect in his complaint either the voluntary decisional procedure or the summary decisional procedure, but not the formal procedure. Conversely, if the damages claimed exceeded $10,000, the complainant could elect the voluntary decisional procedure or the formal decisional procedure, but not the summary procedure. Depending upon whether the complainant elected the voluntary, summary or formal decisional procedure, under the proposed rules he would have been required to pay a filing fee in the amount of $25, $100, or $250, respectively, at the time of filing the complaint.

If the complainant elected the voluntary procedure and paid the $25 filing fee, the respondent, depending upon whether the amount of damages claimed or counterclaimed exceeded $10,000, could elect either the summary or formal decisional procedures in his answer, and the proceeding, if commenced pursuant to § 12.26, would be conducted pursuant to the respondent's election. If the respondent made such an election of a different, more costly decisional procedure, the respondent in the proposed rules would have been required to pay a filing fee of $75 or $225, respectively, depending upon whether the amount in controversy permitted him to elect the summary or formal decisional procedure. A respondent would not have been required to pay any filing fee if he, like the complainant, also elected the voluntary procedure.[19]

The Commission received numerous comments about the proposed fees required for each of the decisional procedures, and the proposed rule which required respondents to pay a portion of the filing fee in the manner outlined above. Concerning the proposed fee structure—requiring a $250 fee for the formal decisional procedure, a $100 fee for the summary decisional procedure, and a $25 fee for the voluntary decisional procedure—some commentors believed that it is designed to make the reparations process too expensive for customers so that they will be forced to use broker-sponsored arbitration. Another commentor complained that the $250 filing fee proposed for the formal decisional procedure had no rational basis, and therefore is arbitrary. Other commentors were opposed to a respondent being required to bear any portion of the filing fee unless the respondent filed a counterclaim.

The Commission does not believe that the filing fees proposed for any of the three decisional procedures were too high or that they lacked a rational basis. The actual cost to the Commission, in terms of staff personnel hours alone, of administering a reparation proceeding pursuant to the voluntary, summary, or formal decisional procedures, will be considerably higher than the $250 fee proposed for the Commission's most expensive procedure. Even so, administering the voluntary decisional procedure is expected to cost less than the two other procedures because the decisionmaker will not hear oral testimony or prepare a decision that must be accompanied by written findings of fact. The summary decisional procedure is expected to cost the Commission more than the voluntary procedure because of a possibility that the decisionmaker may hear oral testimony in Washington, D.C., or by telephone, and because he is required to prepare an initial decision containing findings and conclusions. The formal decisional procedure is expected to be most costly to the Commission because it may necessitate travel by an Administrative Law Judge to distant locations in the United States, it may involve a full trial-type hearing (with reporting and transcription costs), and because it requires an Administrative Law Judge to prepare an initial decision accompanied by findings and conclusions. These differences provide a rational justification for establishing a fee structure which makes the voluntary procedure the least expensive to elect, and the formal procedure the most expensive.

The Commission does not believe that its proposed fee structure was designed to inhibit customers from utilizing the reparations procedure. The $250 filing fee proposed for the formal decisional procedure would have been comparable to the fee required in many arbitration forums where the amount in controversy exceeds $10,000. In addition, the Commission believes that reparations will remain a desirable alternative to federal court litigation, which has a

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[18] Commentors recommended that even if the Commission finds a complaint to be defective, and therefore, not the proper subject of a proceeding, or subject to dismissal, after a proceeding has been instituted, the Commission should permit a proceeding to go forward as to counterclaims which satisfy the requirements of § 12.19 of the rules. As we recognized *supra*, Congress' overriding purpose in creating reparations was to provide a forum for aggrieved customers seeking redress for losses sustained as a result of violations of the Act committed by commodity professionals registered under the act. *See* H.R. Rep. No. 975, at 22, 93d Cong., 2d Sess. (1974). If a commodity customer's claims are not forwarded for a proceeding, or are dismissed without prejudice, because they are not cognizable in reparations, the Commission does not believe that Congress intended the Commission to devote its scarce resources to adjudicating only claims by registrants against customers. Accordingly, §§ 12.21, 12.27, 12.205, and 12.306 of the newly adopted rules only authorize either the termination of consideration of all of the pleadings or the dismissal of the entire proceeding, if none of the claims in the complaint are cognizable in reparations.

[19] Similarly, the respondent would not have been required to pay any fee if the complainant elected the summary or formal decisional procedure, and a proceeding was commenced pursuant to the complainant's elected procedure. See, however, note 20, *infra*.

lower filing fee, because in most cases overall legal expenses incurred in connection with a reparation proceeding can be expected to be less than for a case brought in federal district court.

Even though a party has elected the formal decisional procedure and paid the filing fee, he would nevertheless not be entitled to a proceeding if the Director determined not to forward the complaint pursuant to § 12.15, or not to take action pursuant to § 12.26. And none of the filing fees, as proposed, were refundable if the Director failed to take action pursuant to § 12.26. Because the administrative cost to the Commission of implementing a refund procedure for this possibility would be prohibitive in terms of meeting its reparations budget, the filing fees, once paid, are not refundable to parties. However, to alleviate some of the expense to parties who have to pay the filing fee but nonetheless do not become participants in a formal decisional proceeding, the Commission has determined to reduce its non-refundable filing fee for the formal decisional procedure from $250, as proposed, to $200.

In the event that a complainant elects the voluntary decisional procedure and pays the $25 filing fee therefor, the amount of filing fee that a respondent would have to pay for the summary decisional procedure is $75. The amount that the respondent would have to pay for the formal decisional procedure has been reduced from $225 to $175.[20] The Commission believes that there is a strong justification for imposing upon a respondent the burden of bearing a portion of the filing fee when he elects a decisional procedure that is more costly than a procedure elected by the complainant. A respondent will be called upon to pay part of the fee in cases in which the complainant has elected the voluntary decisional procedure, and in which the respondent does not wish to participate in the voluntary procedure. Since the respondent would then be the only party interested in the more costly procedure, he should be required to bear most of the expense for the procedure. If the complainant's claims ultimately prove to be groundless, the respondent may be able to recover his portion of the fee as costs. The Commission also believes that a requirement that a respondent bear part of the filing fee when he elects a decisional procedure more expensive than the voluntary procedure will provide an incentive to respondents to consider seriously the advisability of participating in a voluntary decisional proceeding whenever a complainant elects such a procedure.

As indicated earlier, once a respondent files an answer, with or without a motion for reconsideration contained therein, the Director of the Office of Proceedings will review all the matters stated therein, and, if appropriate, re-review the matters stated in the complaint. After making this review, the Director, if in his opinion the facts warrant taking such action, is required by § 12.26 to forward the pleadings and all other materials of record for an elected decisional proceeding. A reparation proceeding commences upon service of a notification to the parties that the Director has taken such action.

A number of commentors suggested that the Commission adopt express standards for determining whether the facts warrant the Director taking action pursuant to § 12.26, *i.e.*, forwarding the pleadings for a reparation proceeding. In the Commission's view, the Director is required to institute a proceeding on a complaint pursuant to § 12.26, unless from his review of the pleadings he finds that the matters stated in the complaint are not cognizable in reparations.

While standards for determining whether matters stated in the complaint are not cognizable in reparations cannot be articulated in their entirety, the following are typical examples of grounds for which the Director could decline to institute a reparation proceeding: (1) The statute of limitations applicable to the claims alleged in the complaint has expired; (2) the complaint names respondents who were not registered at the time of the alleged violation and who are not otherwise subject to reparations; (3) the complaint, because of a complainant's mistake in identifying a respondent, names the wrong respondent in his complaint; (4) there is a parallel proceeding pending, *e.g.*, an arbitration, civil court proceeding, or receivership or bankruptcy proceeding involving one or more of the claims and/or the respondents named in the complaint; and (5) the Director, after conducting a initial review of the complaint and answer, recognizes clearly that the matters stated in the complaint do not form the basis for a claim in reparations, *e.g.*, it is clear from the facts alleged in the complaint that the complainant has not suffered actual damages proximately caused by a respondent's alleged violation, or the complaint concerns only a transaction such as a cash market or a cash forward contract that is not subject to the provisions of the Act. The foregoing list of matters that are not cognizable in reparations are intended merely to be illustrative not exhaustive.

A determination by the Director of the Office of Proceedings to take action pursuant to § 12.26 resulting in the commencement of a reparation proceeding is not appealable to the Commission on an interlocutory basis. If a respondent in a summary or a formal decisional proceeding believes that the Director has erred in making such a determination, the respondent may file a motion for dismissal after the proceeding has commenced, and, as indicated earlier, if his answer included a motion for reconsideration of the Director's determination to forward the complaint, the respondent's motion for dismissal may be based on the same matters cited in the motion for reconsideration.[21]

D. Discovery

In its proposed rules, the Commission would have modified the method by which parties could obtain discovery. The proposed method would have permitted the parties to apply to the decisionmaker (or, if the formal decisional procedure had been elected, the Proceedings Officer) for an order compelling other parties and non-parties to produce documents and tangible items, affidavits, and verified written responses to interrogatories which the applying party could suggest to the decisionmaker. The decisionmaker would have the authority to accept or reject, in whole or in part, any such application for a discovery order. The proposed rules also permitted the decisionmaker, acting on his own motion, to issue orders for the production of documents, affidavits, and for responses to written interrogatories, and, thus, to conduct his own discovery.

The Commission received numerous comments about the proposed new method of discovery. Some commentors indicated that the proposed discovery procedure would be less efficient and expeditious than the discovery rules in

[20] Although § 12.25 is silent on this matter, the Commission interprets this rule as requiring a respondent who has filed a counterclaim in excess of $10,000 to pay the difference of $100 for a formal decisional proceeding, if the complainant elected the summary decisional procedure and paid the $100 fee therefor because his claims did not exceed $10,000.

In any case where a respondent is required to pay a portion of the filing fee, the respondent is required to submit the fee at the time the answer is filed. A failure by a respondent to timely submit the required fee will result in the commencement of a default proceeding against him pursuant to § 12.22.

[21] And, as also indicated earlier, a determination by the Director not to institute a proceeding pursuant to § 12.26, by virtue of § 12.27, would not be subject to appeal to the Commission.

effect under the former reparation procedure (which allowed discovery by the parties without leave of a decisionmaker), insofar as it would require each discovery request to be the subject of a motion and a ruling by the decisionmaker. According to these commentors, this process would entail a needless expenditure of Commission resources in terms of time and cost in that a decisionmaker would be required to consider the validity of each discovery request before issuing an order for discovery. Other commentors expressed concern that the proposed new discovery method would be much more time-consuming and burdensome for the parties because of the requirement that they prepare an application for a discovery request in addition to the discovery request itself. Another commentor complained that the proposed discovery rules would grant too much authority to the official administering discovery, and that if parties believed that discovery was unjustly limited, many interlocutory appeals could be expected. Many commentors indicated that the Commission's former discovery rules provided an efficient means for discovery and that they should be retained.

The Commission believes that there is considerable merit in these comments and has determined not to adopt its proposed discovery rules insofar as they would have precluded discovery by the parties except upon application to the decisionmaker. In lieu of the proposed discovery rules, the Commission has determined to adopt rules permitting parties to conduct their own discovery in substantially the same manner as they were authorized to under the Commission's former reparation rules,[22] with some important modifications.

Under the final rules, the Proceedings Clerk, at the time that he serves notification to the parties that a proceeding has been commenced pursuant to § 12.26, is required to issue an order accompanying the notification directing the parties to complete discovery within sixty days thereafter. As was the case under the Commission's former reparation rules, parties under §§ 12.31, 12.32, and 12.33, are entitled to obtain production of documents, depositions on written interrogatories from parties and non-parties, and admissions from parties, without leave of a decisionmaker or discovery official.

Some new restrictions in the final rules have been imposed on the parties' right to obtain these forms of discovery without an order from a presiding official. In the case of a request for the production of documents, parties are not entitled to obtain the personal tax returns and bank account records of any other party or person, absent the granting of a motion made therefor which shows the need for disclosure of information contained therein, and which further shows that the same information could not be obtained through other means. In the case of depositions on written interrogatories, parties are entitled to obtain responses to not more than thirty interrogatories. Leave to grant additional interrogatories will not be granted in the absence of extraordinary circumstances. Furthermore, "form interrogatories," *i.e.*, general purpose interrogatories not specifically tailored for discovery in the particular reparations proceeding, will be disfavored. Protective orders and awards of costs for the abuse of discovery can be expected to be granted readily when such interrogatories are used.

The final discovery rules also employ the protective order procedure that was in effect under the Commission's former reparation rules,[23] as well as a new procedure permitting motions to compel discovery. Whenever a discovery-related dispute culminates in a motion for a protective order or an order compelling discovery, § 12.30(c) of the new rules provides that costs (including attorney's fees) may be awarded as a sanction against the party whose conduct necessitated the motion, if the motion is granted, unless it is found that opposition to the motion was substantially justified, or against the party who filed the motion, if the motion is denied, unless it is found that the filing of the motion was substantially justified. Section 12.30(d) makes clear that the parties' right to serve a discovery notice or request expires on the fortieth day after service of the notification that the proceeding has commenced, unless an additional thirty day period is granted upon a showing of good cause.

The Commission, in § 12.34, has determined to adopt for utilization in the summary and formal decisional procedures its proposed rules permitting the decisionmaker to conduct discovery on his own motion.[24] The Commission believes that a decisionmaker's ability to make a fair decision will be enhanced, especially in close cases in which parties have failed to construct an adequate record through discovery, if he is granted the authority on his own motion to order parties and non-parties to submit documents, affidavits, and verified written responses to interrogatories formulated by the decisionmaker. This authority would not apply in voluntary decisional proceedings [25] where the Commission believes that it is incumbent upon the parties, through discovery or otherwise, to assure as complete a record as is possible.

E. The Voluntary Decisional Procedure

As indicated earlier, the Commission has determined to adopt the voluntary decisional procedure, which affords parties regardless of the amount of damages claimed or counterclaimed a low-cost, very expeditious procedure, analogous to commercial arbitration, which will result in a final, unappealable decision, with or without a reparation award. Concerning its proposal to adopt this procedure, the Commission received comments indicating that a voluntary decisional procedure, because of its similarity to commercial arbitration, is unnecessary in that it would duplicate the arbitration program established by the National Futures Association. Moreover, commentors predicted that few respondents would agree to participate in this procedure because respondents would rather have disputes decided in a broker-sponsored or other non-government arbitration forum.

The Commission does not believe that the voluntary decisional procedure will be wholly duplicative of the arbitration program offered by the National Futures Association. For example, NFA's arbitration program will not decide disputes between parties to leverage transactions, and does not mandate the arbitration of claims against floor brokers. Conversely, the Commission's voluntary procedure will not be available to a customer who, although possessing claims based on state law, has not alleged a violation of the Commodity Exchange Act, or the Commission's regulations, committed by his broker. Moreover, NFA arbitration is still in the early stages of its development, and, at this juncture, it would be premature to determine whether the existence of NFA arbitration renders unnecessary the voluntary decisional procedure. Congress created the reparations remedy and empowered the Commission to promulgate such rules as will make that remedy meaningful. For present

[22] See 17 CFR 12.62–12.65 (1983).

[23] 17 CFR 12.62(b)(2) (1983).

[24] See, e.g., Proposed rules §§ 12.208, 12.209.

[25] The Commission's reasoning for not authorizing a Judgment Officer, acting on his motion, to conduct discovery in a voluntary decisional procedure is discussed *infra*.

purposes, the Commission believes that the establishment of a voluntary decisional procedure is a useful step toward that goal. The Commission intends to work with NFA to include a description of NFA's arbitration program as part of a description of available arbitration alternatives included within a packet of explanatory materials to be made available to parties. Although it has determined to establish the voluntary decisional procedure, the Commission will continue to evaluate NFA's arbitration program and reconsider at a later time whether its voluntary procedure remains necessary.

The Commission also received comments concerning the proposed rules applicable to voluntary decisional proceedings. Specifically, commentors objected to allowing Judgment Officers to conduct pre-decision conferences to encourage settlement by the parties or to facilitate amendments of the pleadings, and to vesting authority in Judgment Officers to conduct oral examination of these parties, without permitting parties to conduct their own direct and cross examination. Other commentors expressed the view that the Commission should not be permitted to review a final decision on its own motion.

Because there is no right to appeal a decision rendered pursuant to the voluntary decisional procedure, the Commission believes that the parties' right to a fair procedure must be given the maximum degree of protection. While the Commission originally proposed to permit the decisionmaker, a Judgment Officer, to hold pre-decision conferences and to conduct discovery and oral examination of parties and their witnesses, upon considering the comments discussed above, the Commission recognizes that the exercise of these authorities by a Judgment Officer would inject an unwanted measure of unpredictability into a voluntary decisional proceeding, because parties after completing discovery would lose control over the direction of the development of proof in the proceeding. This unpredictability may be, to any party concerned about the amount of discretion vested in a Judgment Officer, a powerful disincentive to participate in a voluntary decisional proceeding. Accordingly, the Commission has determined not to adopt its proposed rules [26] which would have permitted a Judgment Officer to hold pre-decision conferences, to conduct discovery on his own motion, and to conduct oral examination of the parties and their witnesses. Therefore, pursuant to § 12.105, the Commission is requiring all proof in a voluntary decisional proceeding to be submitted only in documentary and tangible form.[27]

Because the voluntary procedure results in a final decision, unaccompanied by findings of fact, which is not appealable to the Commission or a court, one commentor requested the Commission to clarify what collateral effect, if any, a final decision in a voluntary decisional proceeding would have upon a respondent who has been found therein to have violated the Act or the Commission's regulations. Section 8a(2)(E) of the Act provides that the registration of any person may be denied, conditioned, suspended, or restricted, "upon notice but without a hearing," and may be revoked with such hearing "as may be appropriate," if it is found by the Commission that such person violated the Act or a regulation issued thereunder where such violation involves, *inter alia*, fraud, misappropriation of funds, securities or property, and similar offenses. Section 8a(4) of the Act, incorporating by reference Section 8a(3)(A), further authorizes the Commission to revoke the registration of any person if it is found, after affording such person an opportunity for a hearing, that such person, *inter alia*, has been found by the Commission to have violated any provisions of the Commodity Exchange Act or the Commission's regulations which constituted an offense not specifically set forth in Section 8a(2).

If a Judgment Officer finds in a final decision rendered in a voluntary decisional proceeding that a respondent has violated the Act, the proposed rules were not clear as to whether such a finding would constitute a finding of the Commission which could serve as the basis for revocation of the respondent's registration pursuant to Section 8a(2) or 8a(4) of the Act. Because of the nature of the voluntary decisional procedure, the Commission has determined that a final decision rendered in a voluntary decisional proceeding shall have not any effect for statutory disqualification purposes. Accordingly, the Commission does not regard a finding contained in a final decision to be a finding of the Commission for the purposes of Section 8a of the Commodity Exchange Act, and § 12.106(b) of the final rules contains a provision reflecting this view.[28] However, § 12.106(b) would not bar the Commission from instituting a proceeding pursuant to Section 6(b) of the Act based upon facts that were the subject of a voluntary decisional proceeding.

Section 12.403(b) of the new rules provides that "[i]f such action is necessary to prevent manifest injustice, the Commission may, upon its own motion, review a final decision filed pursuant to § 12.106 . . . within 30 days after service upon the parties of the final decision." The Commission interprets the term "manifest injustice" within the meaning of § 12.403(b) to extend, by analogy, only to those extraordinary conditions pertinent to reparations which would justify a federal court's decision to vacate an arbitration award pursuant to 9 U.S.C. 10,[29] or to modify an arbitration award pursuant ot 9 U.S.C. 11.[30] As indicated earlier, one commentor indicated that the Commission should not reserve to itself the authority to review on its own motion a final decision rendered in a voluntary decisional proceeding. The Commission disagrees that it should not have the power to review and take corrective action when manifest injustice would result from its failure to do so. Given the narrow interpretation of its standards for what constitutes "manifest injustice," discussed in notes

[26] Proposed rules §§ 12.105, 12.106, 12.107, 12.109(b), and 12.110.

[27] While the allocation of the burden of proof in a reparation proceeding is not controlled by Section 7(c) of the Administrative Procedure Act, 5 U.S.C. 556(d), the Commission interprets its Part 12 reparation rules as imposing upon the proponent of an order awarding monetary relief, i.e., a complainant seeking a damage award on its claims, or a respondent seeking a counterclaim award, the burden of proof.

[28] Although a final decision will not have any effect for the purposes of Section 8a of the Act, and is not considered a Commission order which is appealable pursuant to Section 14(e) of the Act, § 12.106(d) acknowledges that a final decision rendered in the course of a voluntary decisional proceeding is a final order of the Commission for all other purposes including the judicial enforcement pursuant to Section 14(d) of the Act of any award contained therein. The Commission believes that a final decision in a voluntary decisional proceeding should be accorded the same res judicata effect that any final reparation decision and order would be entitled to.

[29] Such grounds, by analogy to 9 U.S.C. 10, would include: evidence that a final decision was procured by corruption or extrinsic fraud; evident partiality or corruption on the part of the decisionmaker; unreasonably prejudicial misconduct on the part of the decisionmaker; and that the decisionmaker exceeded his authority under Subpart C of the rules in a manner that prejudiced a party.

[30] Such grounds, by analogy to 9 U.S.C. 11, would include facts which show that there had been an evident material miscalculation of the amount of damages in an award contained in a final decision, or that the final decision improperly contained findings of fact or was otherwise imperfect as a matter of form not affecting the merits.

29 and 30, *supra*, the Commission expects to exercise its authority under § 12.403(b) only in rare instances.

The Commission appreciates that the success of the voluntary decisional procedure as an efficient and expeditious dispute resolution forum depends upon the willingness of respondents as well as complainants to choose this procedure. Accordingly, the Commission has tailored the rules in Subpart C to provide what may be regarded as incentives to respondents to consider seriously the advisability of electing this procedure. Among these incentives are: (1) A respondent is relieved of any duty to pay a filing fee: (2) because no oral testimony may be received in the voluntary procedure, a respondent should not have to incur legal expenses attributable to preparing for and presenting such testimony; (3) a respondent will not be liable for prejudgment interest in connection with a reparation award rendered against him; (4) if the respondent has a successful counterclaim against the complainant, he will most likely obtain an earlier award under the voluntary procedure; (5) awards may not exceed the amount of damages claimed or counterclaimed in the pleadings; and (6) as discussed above, if a respondent is found to have violated the Act, such a finding will not constitute a basis for, *inter alia*, revocation or suspension of his registration.

The Commission believes that a voluntary decisional procedure would be beneficial to parties who have selected reparations from the many alternative forums for resolution of their dispute, and who are in need of a speedy resolution of that dispute. Moreover, to the extent that parties avail themselves of the voluntary procedure in lieu of the more time-consuming summary or formal decisional procedures, the Commission's backlog of cases would be reduced, resulting in a faster determination of claims heard under the other decisional procedures. In addition, pursuant to Section 12.1(c), the voluntary decisional procedure is available to parties to cases pending on the effective date of these rules in which an initial decision has not been rendered.[31]

[31] And, concerning cases processed entirely under the new rules, even if a summary decisional proceeding or a formal decisional proceeding has commenced, parties to such proceeding may elect to have the case heard pursuant to the voluntary decisional procedure at any time before an initial decision is rendered in the proceeding. See §§ 12.200 and 12.300 of the rules.

F. The Summary Decisional Procedure

In its proposed rules, the Commission proposed to establish a summary decisional procedure to replace the Commission's former summary proceedings rules. Under the former reparation rules, in cases in which the amount of damages claimed or counterclaimed did not exceed $5,000, all proof would be submitted in documentary form. After proof was submitted in such cases, a presiding officer employed by the Commission would render an initial decision which could be appealed to the Commission pursuant to an application for review procedure. In proposing to adopt a summary decisional procedure, the Commission proposed two significant modifications to the former summary proceedings rules: (1) Increasing to $10,000 the monetary ceiling on claims or counterclaims that could be heard pursuant to the summary procedure; and (2) authorizing the decisionmaker, in cases where issues of credibility are of critical importance, to conduct oral examination of the parties and their witnesses in Washington, D.C., or by telephone.

Because the summary decisional procedure, as finally adopted, does not afford parties full oral hearing privileges, or the opportunity to submit proposed findings of fact and conclusions of law memoranda,[32] As does the formal decisional procedure, a summary proceeding is expected to be considerably more expeditious than a formal decisional proceeding. In order to increase the number of cases that would qualify for this more expeditious procedure, the Commission proposed to raise from $5,000 to $10,000 the monetary limit on claims or counterclaims that could be heard pursuant to the summary decisional procedure.

Commentors on this proposal believed that the summary decisional procedure violated parties' due process rights by denying them the opportunity to present oral testimony and conduct oral examination of other parties and witnesses. According to these commentors, by raising the monetary ceiling for claims that could be heard according to the summary procedure, the Commission would simply be increasing the number of cases in which these rights were violated. Commentors also indicated that parties to this procedure should be granted oral hearings if they so request. Another commentor argued that the Commission's determination to fix $10,000 as the amount above which oral cross examination would be permitted had no rational basis.

[32] The Commission's basis for determining not to permit parties to file proposed findings of fact and conclusions of law is discussed *infra*.

The Commission's rationale creating a different procedure for cases involving claims for less than $10,000 than for cases where there are claims exceeding $10,000 is based on its belief that parties with smaller claims should be entitled to a less expensive, more expeditious procedure which offers a greater likelihood of an early damage award and recovery. In 1978, Congress by enacting what was then Section 14(b) of the Act, fixed $5,000 as the amount which, if claimed as damages, would determine whether parties' claims would be heard pursuant to a summary procedure which afforded no opportunity for an oral hearing. This reflected a congressional judgment that, in 1978, claims which did not exceed $5,000 were considered to be small claims entitled to a more expeditious, summary procedure.

The Commission cannot ignore the diminutive effect of continuous high rates of inflation in the years 1979 through 1982 on the value of the U.S. dollar as it existed in 1978. Considering this erosion of the value of the dollar over the past six years, the Commission believes that it is reasonable to establish $10,000 as an amount above which a damage claim will not be considered small. Moreover, because the $10,000 figure will likely serve as the designated amount for determining whether the summary or the formal procedure is available for several years in the future, it is likely to become an even less significant dollar amount as each year passes.

As indicated earlier, under the proposed rules a Judgment Officer was empowered to conduct oral examination of the parties and their witnesses in Washington, D.C., or by telephone, if he found that credibility issues of crucial importance existed in the proceeding. No oral examination by the parties, however, would have been permitted under such rules. In response to this proposal, two commentors indicated that a Judgment Officer should not be permitted to conduct oral examination of parties as this function should be reserved for Administrative Law Judges only. Some commentors also indicated that a Judgment Officer should not be vested with discretion to decide whether credibility issues are important enough to warrant oral examination of the parties.

In the final rules, the Commission has adopted a different procedure concerning oral examination from the

one it proposed. Under the newly adopted rules, a Judgment Officer, in addition to his authority to conduct oral examination of the parties, is authorized to permit parties to conduct oral direct and cross examination of other parties and witnesses in Washington, D.C. or by telephone.[33] The standard applicable to whether a Judgment Officer may conduct oral examination and permit oral testimony is also different. Section 12.208 authorizes a Judgment Officer, in his discretion, to conduct such examination and to permit such testimony "upon motion by a party, and where it is shown to be necessary or appropriate to resolve factual issues which are central to the proceeding." [34]

Because of the potential for delay associated with travel by a decisionmaker, the Commision has determined in §12.209 of the rules to permit oral examination and testimony to be heard in the presence of the decisionmaker in only one location, Washington, D.C. Under §12.209, if at least one complainant and one respondent executive a signed agreement to attend an oral hearing in Washington, D.C., the Judgment Officer, assuming that he has exercised his discretion to permit oral examination and testimony, may conduct such a hearing in that location. Any other parties who do not agree in writing to appear at such a hearing in Washington, D.C., shall be deemed to have elected to present oral testimony by telephone. If at least one party from each opposing side does not agree in writing to appear in Washington, D.C., all oral testimony will be heard only by telephone. In any such hearing, whether in Washington, D.C., or by telephone, or by both means, the Judgment Officer is vested with broad discretion to control the length and sequence of the parties' testimony, which includes the authority to terminate, at any stage of the hearing, examination by a party's counsel, and to conduct such examination himself. Oral examination in a summary decisional proceeding is required to be recorded electronically.

Concerning the Commission's proposal to allow oral examination by telephone, one commentor indicated that permitting oral examination by telephone would be an improvement over the Commission's former summary proceedings rules, which permitted no oral testimony by any means. Another commentor also regarded telephonic hearings as an improvement but expressed concern that the telephone witnesses could be coached without any awareness on the part of the Judgment Officer. The Commissioner is confident that a Judgment Officer will be able to assess the demeanor of witnesses from listening to their voices. Because the Judgment Officer can be expected to hold doubts about the credibility of any telephone witness whose testimony does not sound genuine, because he has the authority to conduct his own examination of such witnesses to confirm or dispel those doubts, and because telephone assertions can be measured against the documentary evidence of record, the Commission does not believe that the potential for the coaching of witnesses will have any effect on the Judgment Officer's ability to discern the truth.

Concerning the comment that only Administrative Law Judges, and not Judgment Officers, should be able to conduct oral examination of parties and witnesses, the Commission believes that its Judgment Officers will possess the ability to comprehend the often complex factual contexts of commodity-related disputes, to recognize critical issues of fact and law in the proceeding, to evaluate oral testimony and to conduct oral examination, and to render a well-considered initial decision in the proceeding. Accordingly, the Commission believes that there is no basis for precluding Judgment Officers from exercising any functions performed by Administrative Law Judges.

Section 12.205(c) now authorizes a Judgment Officer in a summary decisional proceeding to consider, and, if appropriate, grant motions to dismiss the entire proceeding, or any claim or party therefrom.[35] Section 12.207 permits motions for summary disposition in proceedings where there is no genuine issue of material fact and the moving party believes that he is entitled to a decision as a matter of law. Section 12.205(a) provides that "motions for relief not otherwise specifically provided for in this Subpart D of these rules, other than discovery-related motions and motions for extension of time and similar procedural orders shall not be allowed. . . ." [36]

Commentors indicated that all types of motions should be allowed, not just those specifically authorized by the rules applicable to summary decisional proceedings. The Commission proposed to limit the types of motions that could be filed in a summary proceeding because it believes that affording parties unlimited opportunities to engage in motions practice will permit delays in the proceeding and because, in view of the range of motions already permitted by these rules, it believes that any other types of motions would be unnecessary. In the interest of eliminating an unwanted potential for abuse and delay, the Commision has determined to adopt its proposal to limit the types of motions that could be filed in a summary decisional proceeding.

Although the proposed rules would have permitted parties to a summary decisional proceeding to file proposed findings of fact and conclusions of law memoranda, if so ordered by a Judgment Officer, the Commission believes that a review of the pleadings, discovery materials, the documentary proof, and, if applicable, oral submissions of proof by a Judgment Officer will be sufficient to enable him to identify the critical factual and legal issues in the proceeding. The Commission has reconsidered its proposal to allow parties to file proposed findings and conclusions memoranda, and does not believe that the value that such memoranda contribute to the factfinding and decisionmaking processes outweighs the amount of time that a Judgment Officer must afford the parties to prepare such memoranda. Accordingly, the Commission in Section 12.210 has determined not to allow the filing of proposed findings of fact and conclusions of law.

Section 12.210 provides that after the parties have concluded their submission of proof, the Judgment Officer will render an initial decision which differs from a final decision rendered in a voluntary decisional proceeding insofar as it must be accompanied by findings of fact, may include an award of costs (including, if appropriate, reasonable attorney's fees), and, if warranted, an

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[33] The Commission does not believe it necessary to address the argument made by several commentors that a party's due process rights are violated, regardless of the amount of damages claimed, whenever the party is denied oral hearing privileges, because the Commission has adopted § 12.209 of the rules which now afford parties a possibility of presenting oral testimony and conducting oral cross examination.

[34] Thus, a Judgment Officer is not required under the final rules to make a determination concerning whether credibility issues require for their resolution oral testimony to be heard, as he would have been required to do under proposed rule § 12.211(b).

[35] This represents a departure from the former reparation procedure which precluded decisionmakers from dismissing complaints for such defects as lack of subject matter jurisdiction and failure to state a claim which is justiciable in reparations. *See Antoniolli v. Clayton Brokerage Co., Inc. of St. Louis* [1977–1980 Transfer Binder], Comm. Fut. L. Rep. (CCH) ¶ 20,546 (January 18, 1978).

[36] Included in the class of prohibited motions are applications for interlocutory review, except those relating to debarment of counsel, or a decisionmaker's refusal to disqualify himself on grounds of bias, conflict of interest or similar bases.

award of prejudgment interest, and it may be appealed to the Commission. One commentor requested that the Commission set forth its standards for determining when it will award prejudgment interest in a reparation proceeding. In determining whether an award of prejudgment interest is appropriate in any given reparation case, the Commission intends to rely on the Seventh Circuit's decision in *Myron v. Chicoine,* 678 F.2d 727 (7th Cir. 1982),[37] and it own decison in *Ruddy v. First Commodity Corporation of Boston* [1980–1982 Transfer Binder], Comm. Fut. L. Rep. (CCH) ¶21,435 (March 31, 1981).[38]

Section 12.210(c) of the rules authorizing, if appropriate, an award of reasonable attorney's fees as costs in a summary decisional proceeding does not represent any departure from the Commission's policy concerning attorney's fees that was in effect under the former reparation rules. In *Sherwood v. Madda Trading Company,* [1977–1980 Tranfer Binder] Comm. Fut. L. Rep. (CCH) ¶20,728, the Commission announced that in determining whether an award of attorney's fees as costs is appropriate, it would follow the "American rule" which holds that an award of attorney's fees as costs to the prevailing party is not appropriate unless, *inter alia,* the losing party acts "in bad faith, vexatiously, wantonly, for oppressive reasons." *Sherwood, supra,* at n. 26. The Commission expects to apply the "American rule," as well as the reasoning set forth in *Sherwood,* in detemining whether an award of attorney's fees is appropriate in a summary decisional proceeding.

G. The Formal Decisional Procedure

In its proposed rules, the Commission proposed to create the new position of "Proceedings Officer," who would be an employee of the Commission granted powers and duties analogous to these performed by United States Magistrates in preparing the record for a proceeding. See Proposed Rules 12.301–12.309. Under the rules as proposed, where the parties had elected the formal decisional procedure, and the Director of the Office of Proceedings determined to forward the pleadings for the possibility of the commencement of a proceeding the pleadings and other materials of record would first be reviewed by the Proceedings Officer. At that stage, the Proceedings Officer was authorized to conduct his own discovery, to hold pre-decision conferences, to consider and rule upon motions for dismissal, and to discuss amendments or supplements to the pleadings. After these matters were concluded, the Proceedings Officer was required, if in his opinion the facts warranted taking such action, to forward the materials of record to the Proceedings Clerk for immediate assignment to an Administrative Law Judge. A formal decisional proceeding would have commenced only after the Proceedings Officer took such action.

In addition to the powers enumerated above, the Proceedings Officer under the proposal rules would have had the authority to issue orders of default, and to make recommendations to the Administrative Law Judge concerning the need for an oral hearing to resolve issues of credibility which were crucial to the outcome of the proceeding. If an oral hearing were determined to be unnecessary, the Proceedings Officer could make recommended findings of fact and conclusions of law. The Administrative Law Judge assigned to the case would be free to accept or reject, in whole or in part, all recommendations made by a Proceedings Officer.

The Commission received numerous comments concerning the utilization of a Proceedings Office for the purposes detailed above. Many commenters believed that the creation of a Proceedings Officer for those purposes would add an unnecessary extra layer of review of the case and produce an entirely new potential for delay of a proceeding. Other commentators believed that a Proceedings Officer should not be permitted to conduct discovery, either on his own motion or upon application by a party, to hold pre-decision conferences, or to make recommendations to Administrative Law Judges concerning the need for an oral hearing and concerning findings of fact and conclusions of law.

We have considered these comments, and we do not find it necessary to grant a Proceedings Officer the authority to rule upon motions for dismissal. Also, given our amendments to the proposed discovery rules (discussed *supra)* which allow paties to conduct their own discovery in a formal decisional proceeding, we do not find it necessary to vest a Proceedings Officer with authority to conduct discovery on his own motion. Finally, given our determination (discussed *infra)* not to condition the parties' opportunity for an oral hearing upon the existence of factual issues which are crucial to the outcome of the proceeding and which require for their resolution credibility determinations to be made, it is unnecessary to vest a Proceedings Officer with authority to make recommendations concerning the need for an oral hearing or concerning findings of fact and conclusions of law.[39]

The Commission does believe, however, that a Proceedings Officer should be able to perform discovery-related functions, *i.e.,* serving as the initial arbiter in discovery disputes, which will expedite a formal decisional proceeding without creating any protential for delay. It has been the Commission's experience under its former reparation procedure that, expecially during periods when there was a significant backlog of cases, a substantial period of time could pass between the commencement of a proceeding and the assignment of a case to an Administrative Law Judge. It was not uncommon for parties in such cases to delay their efforts to obtain discovery until a judge was assigned to the matter. Thus, following a delay that would occur in assigning a particular case to an Administrative Law Judge, there would be yet another period of delay to allow parties sufficient time to complete discovery. Moreover, there were no time limits imposed on the parties' ability to obtain discovery under the former reparation rules.

While the final rules impose a duty on the Proceedings Clerk to assign the case to an Administrative Law Judge "as soon as practicable" after a formal decisional proceeding has been commenced pursuant to § 12.26(c), this rule recognizes that, in some instances, the Proceedings Clerk may be unable immediately to assign the case to a particular Administrative Law Judge.[40]

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[37] In *Chicoine,* the Seventh Circuit stated that "[g]iven the compensatory basis of awarding prejudgment interest and the remedial purposes of CFTC reparation proceedings, we have no doubt that the Commission may award such relief in appropriate cases. . . . [T]he decision to award prejudgment interest rests in the sound discretion of the adjudicatory tribunal and involves a balancing of the equities between the parties under the circumstances of the particular case." 678 F.2d. at 734 (citations omitted).

[38] In *Ruddy,* the Commission announced that "[w]here . . . [prejudgment interest] awards are clearly compensatory and, as here, involve the breach of a fiduciary duty, prejudgment interest, while a matter of discretion, should hereafter be the rule, rather than the exception," *id.,* at 28,086 n. 18, *citing Rolf v. Blyth, Eastman Dillon & Co., Inc.,* 637 F.2d 77, 86–87 (2d Cir. 1980).

[39] The Commission also agrees that unwanted delays could arise by establishing a review procedure by a Proceedings Officer requiring such an official to make a determination whether to institute a "proceeding." The Commission therefore has declined to adopt its proposed rule § 12.309 which would have required a Proceedings Officer to review and forward pleadings before a formal decisional proceeding could be commenced. See Proposed rule § 12.309.

[40] Even if a case were immediately assigned to an Administrative Law Judge, the judge may not be

[illegible]

In such cases there would be no assigned decisionmaker to preside over discovery-related disputes between parties who, pursuant to § 12.30(c) of the new rules, must complete discovery within sixty days after the proceeding has commenced.

To enable discovery to proceed efficiently and expeditiously during the sixty-day period allowed by § 12.30(c), the Commission, in adopting § 12.301, has determined to authorize a Proceedings Officer during the sixty-day period allowed for discovery by § 12.30(d) to rule upon motions to enlarge the time permitted for discovery for one additional period not to exceed thirty days, as well as motions for leave to serve written interrogatories of a number exceeding thirty. Concerning any discovery notice served within the sixty-day period,[41] the Proceedings Officer is also authorized to rule upon motions for protective orders and motions for an order compelling discovery. The Proceedings Officer is also authorized during the sixty-day discovery period to hold pre-decision conferences in Washington, D.C. or by telephone, for the purposes of, *inter alia*, resolving discovery disputes, narrowing issues, obtaining stipulations and admissions of fact and of authenticity of documents, encouraging settlement of the entire case, and encouraging the early settlement of discovery-related disputes.

The Commission believes that utilizing a Proceedings Officer in the above manner will result in a substantial amount of case preparation being accomplished within the first two to three months following the commencement of a formal decisional proceeding, which would vastly improve and expedite its former reparation procedure. And because most of the Proceedings Officer's authority must be exercised, if at all, within the sixty days following the commencement of a proceeding, the Commission does not believe that the use of a Proceedings Officer for these purposes creates any new potential for delay.

Concerning the comment that the Proceedings Officer should not have any discovery-related authority, the Commission has determined to adopt a procedure for parties who are aggrieved by a discovery-related order issued by a Proceedings Officer. Pursuant to § 12.302, any such party may appeal a discovery-related ruling issued by a Proceedings Officer by filing within five days after service upon him of such order a motion to vacate or modify such ruling, or any part thereof. Upon the timely filing of such a motion, the Proceedings Clerk is required to forward the motion immediately to the Administrative Law Judge assigned to the case [42] who must rule on the motion within ten days thereafter, absent extraordinary circumstances. The Commission expects that the discovery ruling issued by the Proceedings Officer will be affirmed in the vast majority of cases. While this appeal procedure could result in delay if abused by parties who fail to honor any order issued by a Proceedings Officer, the Commission believes that the possibility of sanctions (*e.g.* being assessed costs, attorney's fees) for unjustified conduct during discovery, *see* § 12.30(c), will deter most parties from abusing this appeal procedure. In the event that any party fails to comply with a discovery-related order issued by a Proceedings Officer, the Proceedings Officer may make recommendations to the Administrative Law Judge as to what action should be taken (*e.g.*, default, dismissal) as a result of such party's refusal to comply.

The proposed rules applicable to the formal decisional procedure also conditioned the parties' opportunity for an oral hearing before an Administrative Law Judge on the existence of factual issues which are crucial to the outcome of the proceeding and which require for their resolution credibility determinations to be made. And if the Administrative Law Judge determined to grant an oral hearing to resolve such issues, the parties would be permitted to conduct only oral cross, re-direct, and re-cross examination of other parties and witnesses at such hearing. The proposed rules required direct testimony to be submitted in documentary form only.

Commentors did not favor the proposal that would allow parties an opportunity for an oral hearing only if the Administrative Law Judge determined that major issues of credibility made it necessary to conduct an oral hearing. Commentors indicated that authorizing an Administrative Law Judge to determine whether an oral hearing was necessary to resolve crucial issues of credibility would be entirely duplicative of the Commission's summary disposition procedure. And, if the summary disposition procedure were found to be inappropriate, these commentors indicated that parties' right to due process would be violated to the extent that an oral hearing was denied. Other commentors believed that the proposed standard applicable to whether an oral hearing may be granted was too nebulous and imprecise.

In cases where an Administrative Law Judge determined to grant an oral hearing, commentors indicated the Commission should not adopt a proposal which would not allow parties to present direct testimony orally. These commentors indicated that credibility determinations are based upon a party's or a witness' direct testimony just as frequently as they are based on cross examination. They also indicated that cross examination will be less effective when its scope is limited by documentary evidence. Another commentor indicated that requiring parties to present direct proof in documentary form would be unduly burdensome and costly because parties would be required to prepare additional paperwork. Finally, one commentor believed that the proposal to prohibit and direct examination at oral hearings would favor respondents which are brokerage firms because they generally have the resources to retain representation that is highly skilled at making written presentations.

The Commission agrees that parties to a formal decisional proceeding should be granted an opportunity for an oral hearing, in the discretion of the Administrative Law Judge, regardless of whether it is found that factual issues crucial to the outcome of the proceeding require for their resolution credibility determinations. Accordingly, the Commission has adopted § 12.312 making the opportunity for an oral hearing generally available to parties. Oral hearings should thus become the rule rather than the exception in formal decisional proceedings.[43]

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available to preside over discovery disputes in a timely manner, because, for instance, he may be traveling to or from an oral hearing, or otherwise involved in disposing of other cases on his docket.

[41] Section 12.30(d) requires discovery by the parties to be *completed* within sixty days. Since parties from whom discovery is sought have twenty days to respond to discovery notices, enforceable discovery notices or requests must be served by the party seeking discovery within forty days after notification is served pursuant to § 12.26 (a), (b), or (c), unless that party is granted an extension of time.

[42] Section 12.302 of the final rules also provides that if no Administrative Law Judge has been assigned to the case, or if the assigned judge is otherwise unavailable, at the time that a motion is filed pursuant to § 12.302, "the Chief Administrative Law Judge or such other Administrative Law Judge as the Chief Judge may designate" shall rule on the motion within ten days after it is forwarded by the Proceedings Clerk.

[43] Section 12.312 requires an Administrative Law Judge, if an oral hearing is ordered to be held, to issue an order requiring the parties in advance of the hearing to sumit a memorandum setting forth a statement of all issues to be tried at the hearing, an identification of each witness expected to be called by that party, and a summary of the testimony each witness is expected to provide. After receiving such memoranda, the Judge may issue an order reflecting

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The Commission, however, does not agree that a finding that the summary disposition procedure is inappropriate necessarily leads to a conclusion that the Administrative Law Judge cannot make fair credibility determinations based upon the documentary proof submitted by the parties.[44] The Commission believes that in some cases where genuine issues of material fact exist, the nature of the documentary proof submitted in the proceeding can be so convincing or persuasive as to permit fair credibility determinations to be made on some or all of the issues in the proceeding without the need for oral testimony. The Commission believes that the formal decisional procedure would be more efficient and expeditious if the Administrative Law Judge were authorized in such cases to order the parties to submit proof only in documentary form concerning such issues. Therefore it has determined to adopt new § 12.311 which authorizes an Administrative Law Judge to dispose of some or all of the issues in the proceeding without an oral hearing if he determines "that the documentary proof and other tangible forms of proof submitted by the parties are sufficient to permit resolution of some or all of the factual issues in the proceeding without the need for oral testimony."

The Commission also agrees with commentors that, where an oral hearing is held, an opportunity to assess the demeanor of witness while testifying during direct examination can assist the Administrative Law Judge in making a determination concerning the credibility of such a witness. The Commission believes that the value that oral direct testimony may hold for enabling the Administrative Law Judge to make complete appraisals of witnesses' credibility in some cases will outweigh the benefit of whatever time would be saved by requiring direct proof to be submitted only in documentary form. Accordingly, the Commission has adopted § 12.312 which, as the general rule, authorizes parties to present oral direct testimony, but which also authorizes the Administrative Law Judge, in his discretion and to expedite the hearing, to order that the direct testimony of the parties and their witnesses be presented in documentary form only.[45]

The Commission also proposed a rule which would have restricted the possible locations for oral hearings to "one of the twelve regional cities in which the United States Circuit Courts of Appeals are situated." Proposed rule § 12.318(b). The Commission in § 12.312(b) has adopted a rule which specifically enumerates twenty cities as possible locations for hearings.[46] Limiting the number of locations where oral hearings may be held is expected to increase the number of cases that, within a given period of time, will be heard in the same location. The restriction on the number of cities where oral hearings may be held will also minimize the different locations to which an Administrative Law Judge must travel, which, in turn, should minimize the amount of time a judge will have to devote to travel. The limitation of the location of possible hearing sites will also result in a significant savings to the Commission's reparations budget concerning money expended for travel by an Administrative Law Judge.

The Commission does not intend its restriction on the location of hearing sites to impose an unreasonable burden on the parties' ability to appear at an oral hearing.[47] Accordingly, in § 12.312(b), the Commission has authorized an Administrative Law Judge, in any case where a party avers that none of the twenty cities specified in that rule is located within 300 miles of his principal residence, waive the rule, and, upon giving due regard for the convenience of all of the parties, order that the hearing be held in a more convenient location. Section 12.313(b) also authorizes the Director of the Office of Proceedings, for reasons of administrative economy or practical necessity, to direct that the oral hearing be held in a location other than twenty cities specified in § 12.312(b).

The final rules have also modified the proposed rules concerning interlocutory review. Pursuant to new § 12.310(a)(4), a party may file an application for interlocutory review, even though a judge has not certified the matter, if the ruling appealed from involves controlling questions of law or policy, an immediate appeal may materially advance the ultimate resolution of the issues in the proceeding, subsequent reversal of the ruling would cause unnecessary delay or expense to the parties, and, in addition extraordinary circumstances are shown to exist.

This new provision does not render the certification requirement of § 12.309(a)(3) superfluous. An uncertified application for interlocutory review can be denied by the Chief of the Opinions Section pursuant to delegated authority in § 12.408, discussed, *infra*, without the need for formal consideration by the Commission. Section 12.309(b) also prescribes new content requirements for applications for interlocutory review. New § 12.309(c) makes clear that the Commission denial of an application for interlocutory review will not preclude the filing party from reasserting any arguments made in the application in a subsequent appeal of the initial decision.

Pursuant to § 12.314 of the final rules, as soon as practicable after parties have concluded their submissions of proof (including an oral hearing, if one is

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the contents of such memoranda and such order, unless modified, shall control the scope of the issues to be tried at the oral hearing.

[44] The standard for whether a grant of summary disposition is appropriate is whether there is no genuine issue as to any material fact and a party is entitled to a decision as a matter of law. See §§ 12.207, 12.310.

[45] The Commission also proposed a rule that would have preserved the opportunity of any party who decided not to attend an oral hearing, and who filed a notice of appearance at least seven days prior to the date of the hearing, to propose findings of fact based on the record in the proceeding. See proposed rule § 12.318(c)(2). This proposed rule was very similar to a rule in effect under the Commission's former reparation rules. See 17 CFR 12.71(c)(2) (1983). One commentor indicated that a party who announced his intention not to attend an oral hearing should not be permitted to file a post hearing brief. The Commission agrees with this comment. Parties who decline to attend an oral hearing, and thereby fail to submit to cross examination, may deprive the factfinder of a valuable opportunity to determine the credibility of that party's testimony. The Commission does not believe that such a party should have an opportunity to propose findings and conclusions that are based on a testimonial record made without that party's participation. Accordingly, the Commission has not adopted any rule permitting parties who fail to appear at an oral hearing to file post hearing briefs.

[46] These twenty cities, some of which serve as alternative sites for United States Courts of Appeals, are: Albuquerque, N.M.; Atlanta, Ga.; Boston, Mass.; Chicago, Ill.; Cincinnati, Ohio; Columbia, S.C.; Denver, Colo.; Houston, Tex.; Kansas City, Mo.; Los Angeles, Cal.; Minneapolis, Minn.; New Orleans, La.; New York, N.Y.; Oklahoma City, Okla.; Phoenix, Ariz.; San Diego, Cal.; San Francisco, Cal.; Seattle, Wash.; St. Petersburg, Fla.; and Washington, D.C.

[47] The Commission also received a request from one commentor that the Commission set forth its view concerning the enforceability of a pre-dispute venue agreement between a customer and a registrant stipulating that if a dispute ever arises between them resulting in an oral hearing in reparations, the customer will appear at an oral hearing held at a location designated in the agreement, and that the customer will be reimbursed for travel expenses only if the customer prevails in the reparation proceeding. The Commission does not believe that commodity customers should be permitted to waive, in an advance of a dispute with a registrant, the privilege of having a convenient venue for an oral hearing in a formal decisional proceeding. Therefore the Commission will not consider any such pre-dispute venue agreements to be binding upon the parties. On the other hand, if all parties to a formal decisional proceeding, after an answer is filed, execute an agreement that the venue of an oral hearing shall be one of the twenty cities specified in § 12.312(b), the Commission will regard such an agreement to be binding on the parties.

held), the Administrative Law Judge is required to issue an initial decision. Like an initial decision rendered in a summary decisional proceeding, an initial decision rendered in a formal decisional proceeding must be accompanied by a statement of findings of fact and conclusions of law, may include a reparation award and, if appropriate, an award of prejudgment interest and costs (including reasonable attorney's fees), and is appealable to the Commission.[48] Section 12.315 provides that any party who has claimed damages in excess of $10,000 in order to gain access to the formal decisional procedure may be assessed the cost of the transcript of the oral hearing as well as the cost of instituting te proceeding (*i.e.*, the $200 filing fee), if that party is ultimately adjudged to be entitled to an award that does not exceed $10,000.

H. Default Proceedings and Parallel Proceedings

Under the Commission's former reparation procedure, any party who failed to file an answer, or a reply to a counterclaim, or to appear at an oral hearing, could be adjudged to be in default. Under the former default procedure, a presiding officer could make findings and conclusions, and award damages, based on the record as it then existed. The Commission's former default procedure authorized the presiding officer to set aside his default order "at any time for good cause," and permitted defaulted parties to file a motion to set aside a default judgment within a reasonable time afer the default order was issued. In its proposed rules, the Commission proposed a default procedure very similar to its former default procedure, except that it provided (1) that defaults would be handled by the Proceedings Officer, (2) that motions to set aside a default order could not be filed after the date on which the order would become the final decision and order of the Commission, and (3) that a Proceedings Officer, acting on his own motion, could set aside a default order only before it became final. The Commission received no comment on this rule other than objections to the use of a Proceedings Officer for default purposes.

The Commission has reconsidered its proposed default rule, and is concerned that the rule prescribes no standards for setting aside default orders that are not final, and makes no provision for the setting aside of default orders that, although final, were entered without jurisdiction, by fraud or mistake, or as the result of a party's excusable neglect. Accordingly, the Commission has adopted new § 12.23 which prescribes the procedure for setting aside orders of default,[49] and which differentiates between final and nonfinal orders.

Under § 12.23, a motion to set aside a default order shall be made to the official who issued the order. If the order has not become final by the time the motion is filed, the moving party need only set forth in his motion the reasons why the act or omission for which he was defaulted was not willful, why there is a reasonable likelihood of success of his claim or defense if heard on the merits, and why no prejudice would be sustained by other parties if the default is set aside. If the order has already become final at the time the motion is filed, the order may not be set aside unless it is shown by the defaulted party that he should be relieved from the default order because of fraud perpetrated upon a decisionmaking official or the Commission, mistake, or excusable neglect, or because the order is void for want of jurisdiction. For any ground other than want of jurisdiction, a motion to set aside a final default order must be filed within one year after that order was issued.

The Commission also proposed a rule that would change its policy concerning reparation proceedings in which the claims made by reparation complainants are the subject of parallel proceedings before other tribunals, or in which one or more of the respondents have become involved in receivership or bankruptcy proceedings. The Commission's former policy was to stay such proceedings. See 41 FR 3994 (January 27, 1976). Under its proposed rule changing the policy, the Commission would dismiss without prejudice a reparation proceeding (or claim), once it is learned that, at the time when the reparation complaint was filed, the same claim alleging a violation of the Commodity Exchange Act or the Commission's regulations was the subject of a pending arbitration or civil court proceeding based on the same facts and against one or more of the same respondents. Proposed rule § 12.23. This rule would not affect a customer's rights under Commission regulation § 180.3(b)(3), 17 CFR 180.3(b)(3) (1983), so that a customer who is notified of his broker's intention to invoke arbitration under a pre-dispute agreement would still have forty-five days in which to elect to proceed in reparations.

Where a receivership involving one or more respondents would result in the resolution of customer claims against the subjects of the receivership, the Commission proposed to dismiss without prejudice from the reparation proceeding those respondents who are the subject of the receivership. The Commission also proposed to dismiss without prejudice from a reparation proceeding any respondent who became a debtor in a bankruptcy proceeding, but would continue to stay reparation proceedings in which a respondent became a debtor in the case of an involuntary petition filed pursuant to the Bankruptcy Code, 11 U.S.C. 303, until the petition had been dismissed or an order for relief was issued. The proposed rule implementing this change of policy would apply only as to reparation claims or proceedings which have yet to result in an initial decision on the merits of the claims in the proceeding.

As proposed, a parallel proceeding would include, *inter alia*, an arbitration or civil court proceeding in which one or more claims alleging violations of the Commodity Exchange Act are at issue, which is pending at the time the reparation complaint is filed, and which is based on the same facts and against one or more of the same parties named as respondents in the reparation complaint. The Commission received one comment concerning this proposal that indicated that a parallel proceeding should include arbitration or civil court proceedings that meet the description above, except that they do not involve claims alleging violations of the Commodity Exchange Act.

The Commission is cognizant that concerning private claims accruing on and after January 11, 1983, those which arise under the Commodity Exchange Act may be pursued in only one judicial forum, U.S. district court. If the Commission were to adopt this commentor's suggestion, an action instituted by a respondent in a state court proceeding based on the same facts, *e.g.* for declaratory judgment or a debit balance claim, would operate to force would-be reparations complainants to pursue their Commodity Exchange Act-related claims in a more costly forum, U.S. district court. Because the Commission has never intended to divest a complainant in those circumstances of his right to pursue his Commodity Exchange Act-related claims in reparations, it has determined not to adopt the commentor's recommendation, at least where the complainant in reparations was not

[48] The factors that would warrant an award of prejudgment interest and of reasonable attorney's fees in a formal decisional proceeding are the same as the factors discussed in notes 37 and 38, *supra*; concerning summary decisional proceedings.

[49] All orders of default, *i.e.*, those entered either before or after a proceeding had commenced pursuant to § 12.26 would be subject to this rule.

responsible for instituting the parallel proceeding in state court.

The Commission has adopted the commentor's suggestion where the complainant in reparations was responsible for instituting the parallel proceeding. Thus, if the complainant in reparations was responsible for instituting an arbitration or civil court proceeding that otherwise satisfies § 12.24(a)(1), dismissal under § 12.24 would be appropriate even though the complainant had not asserted his CEA-related claims in such a proceeding.[50]

New § 12.24 also includes an additional new category of parallel proceeding which contemplates a parallel federal judicial proceeding that would be governed by Fed. R. Civ. P. 13(a) requiring the complainant in reparations to assert all of his CEA-based claims as counterclaims in that proceeding. Section 12.24(a)(1)(iii). If a compulsory counterclaim rule is operative in such a federal judicial proceeding, the Commission interprets new § 12.24(a)(iii) as authorizing dismissal of the reparation complaint or of the entire proceeding, without prejudice.

Concerning § 12.24 (a)(2) and (a)(3), these provisions are intended to permit expeditious resolutions of customer claims by dismissing from the reparation proceeding respondents who by their presence may create the necessity for a stay of the entire reparation proceeding, see 11 U.S.C. 362, and against whom the customer may pursue his claim in a more appropriate forum, *i.e.* in a judicial proceeding against the respondent in receivership or in bankruptcy. The Commission is aware that in certain situations dismissal of a debtor from a reparation proceeding may create undue prejudice to a particular customer or debtor; *e.g.*, a statute of limitations may preclude a complainant from filing his claims against the respondent in receivership, or in bankruptcy. Accordingly, § 12.24(e) affords any party an opportunity to seek a different result in a particular case at any time before a § 12.24 (c) or (d) order becomes effective.

The Commission does not believe that it is necessary to make the application of § 12.24(d), which authorizes dismissal from a reparation proceeding without prejudice a respondent who has become subject to receivership or bankruptcy proceedings, contingent upon the issuance of a stay order as to that respondent in the receivership or the bankruptcy. The provisions of § 12.24(d) authorizing dismissal from reparations respondents in receivership would only apply where the order establishing the receivership contemplated the resolution of customer claims within the receivership.[51] In a bankruptcy proceeding, a stay of all administrative (including reparation) proceedings would be automatic, 11 U.S.C. 362(a), and not dependent upon an affirmative order issued by the Bankruptcy Court. Should the Bankruptcy Court lift the automatic stay before a debtor-respondent is dismissed pursuant to the § 12.24(d), the Commission would allow the affected reparation proceeding to continue to a final resolution.

I. Commission Review of Decisions

In its proposed rules, the Commission proposed to modify its rules by which parties could obtain Commission review of initial decisions. Under the Commission's former reparation procedure, parties were able to seek Commission review of an initial decision by filing an application for review within fifteen days after being served with an initial decision. In the application, parties were required to specify issues presented for review and provide a summary of the facts and argument which demonstrate why Commission review was necessary. If the Commission determined that review was not necessary "to resolve an important issue of law or public policy," it could deny review by issuing an order to that effect. If none of the parties filed an application for review, the Commission could nevertheless take review of an initial decision on its own motion 30 days after service thereof.

The Commission proposed to change this procedure to afford aggrieved parties a right to appeal the initial decision by filing a notice of appeal within fifteen days after service of the initial decision. The notice of appeal would need only contain a very brief expression of the appealing party's intention to appeal the initial decision. After timely filing a notice of appeal, the appeal would not be perfected, and hence, subject to dismissal, unless within 30 days after filing a notice of appeal the appealing party filed an appeal brief, paid an appellate filing fee in the amount of $50, and complied with the appeal bond requirement, if any.[52] If no party filed an appeal, the Commission would still be authorized to review an initial decision by taking review on its own motion within thirty days after the initial decision is served. Unless the Commission took review on its own motion, the proposed rules provided that the timely filing and perfecting of an appeal to the Commission would be mandatory prerequisite to judicial review of a final reparations decision of the Commission.

The proposed rules also authorized the Commission, upon its own motion or upon written application by a party, to reopen a hearing to receive additional evidence. At the conclusion of the Commission's consideration of the issues on appeal, the Commission could render an order of summary affirmance, or a more expansive opinion and order, either of which would constitute the final decision and order of the Commission effective upon service. The proposed rules also afforded parties, within seven days after service of a final decision, the opportunity to file a petition for Commission reconsideration of the final decision which was required to be confined to new questions raised by the final decision concerning which the petitioner had no prior opportunity to argue before the Commission.

Concerning these proposed rules, commentors indicated that the time allowed for filing a notice of appeal (*i.e.*, within fifteen days after service of the initial decision) and for filing an appeal brief (*i.e.*, within thirty days after the filing of a notice of appeal) should be enlarged. Citing a potential for delay, commentors indicated that the Commission should not adopt a rule affording parties an opportunity to seek leave to adduce additional evidence. Other commentors indicated that the time allowed for the filing of a petition for reconsideration should be enlarged to thirty days, that the time within which an award must be satisfied should be increased to thirty days, that the appellate filing fee should be raised in order to discourage the filing of frivolous appeals.

The Commission believes that its change of appellate review rules from an application for review procedure to an appeal procedure will be more efficient and expeditious because it will afford aggrieved parties the opportunity to

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[50] The Commission also holds the view that an arbitration proceeding otherwise satisfying § 12.24(a)(1) commenced pursuant to an enforceable pre- or post-dispute agreement shall be deemed a parallel proceeding "commenced at the instance of the complainant in reparations" within the meaning of § 12.24(a)(1)(i), regardless of whether the complainant in reparations actually took the initiative in commencing the arbitration proceeding.

[51] The Commission believes that the court, which appointed the receiver, and the receiver, as the person charged to marshall the assets and develop a plan of repayment to creditors and customers, are in a better position than the Commission to resolve customer claims against the subjects of the receivership.

[52] Under the proposed rules, parties would be required to file an appeal bond if so ordered in the initial decision. See, e.g., Proposed rules §§ 12.320(b)(6) and 12.401(b).

appeal as a matter of right, and will spare the Commission from having to consider the merits of an initial decision and an application for review separately before determining whether to review the issues on appeal and render its own decision in the case. The new appeal procedure would also relieve a burden imposed on parties by the Commission's former reparation rules that required parties to file a detailed and time-consuming application for review which often resembled a brief, followed by, if review was granted, a brief in support of the issues raised in the application for review. Under § 12.401 as adopted, parties would only have to file a single brief.

The Commission does not believe that the fifteen day period proposed for filing a notice of appeal needs to be enlarged because, as indicated earlier, a notice of appeal need only consist of a very brief expression of the appealing party's intent to appeal the initial decision, and therefore, requires very little effort on the part of such party to prepare. Because the Commission has rarely found an appendix to appellate briefs to be useful to its review, it has not adopted its proposed rule that would have required parties to an appeal to designate the contents of an appendix. Because of the much greater commitment of time needed to prepare a brief, the Commission has determined in § 12.401(c) to enlarge—from twenty to thirty days—the allowed time following the filing of an appeal brief within which a non-appealing party may file an answering brief.

The Commission believes that its proposed reconsideration procedure would create an unnecessary re-review procedure that would only delay the Commission's review of other cases on its appellate docket. Accordingly, the Commission has determined not to adopt its proposed rule allowing parties to file a petition for reconsideration of a Commission opinion and order, or a Commission order of summary affirmance.

The Commission, in § 12.405, has also determined to adopt its proposed rule authorizing the Commission to grant leave to adduce additional evidence. The Commission believes that the standards authorizing the Commission to grant such leave will be difficult for parties to satisfy,[53] and thus this rule should not create a significant potential for delay. The Commission also does not believe that the time within which an award must be satisfied should be enlarged from the proposed fifteen days to thirty days. One of Congress' purposes in fashioning the 1982 amendments to Section 14 of the Act was to achieve more expeditious recoveries for reparation claims.[54] In view of that purpose, the Commission finds no justification for enlarging the time for satisfying a reparation award to thirty days.

The Commission also does not find it appropriate to raise its proposed filing fee of $50 for appeals to the Commission in order to discourage parties from filing frivolous appeals. The Commission's purpose in proposing the appellate filing fee was to offset some of the Commission's costs associated with administering its appellate docket, not to discourage appeals. The Commission believes that a reasonable likelihood of a prejudgment interest award will adequately deter parties from filing frivolous appeals. Accordingly, the Commission in § 12.401(a) has adopted its proposed appellate filing fee of $50.[55]

The proposed rules would also have required an appealing party, in order to perfect his appeal, to file a bond if such party was so ordered in the initial decision. Proposed rule §12.401(b). Although no comments were received concerning the appeal bond requirement of proposed rule § 12.401(b), the Commission has reconsidered the need for a rule requiring an appealing party to file a bond in the amount sufficient to cover award, interest, costs and attorney's fees. In proposing this bond requirement, the Commission was mainly concerned with respondents who would become insolvent before the Commission issued its decision on appeal. However, because the Commission expects appeals to be resolved more expeditiously under the final rules, and because non-registrants, a class of respondents most likely to become insolvent during an appeal, are no longer amenable to suit in reparations,[56] the Commission does not believe that its appeal bond requirement is necessary. Therefore, it has declined to adopt any rule requiring appealing parties to file a bond.

The Commission, in § 12.408, has adopted a rule delegating to the Chief of the Opinions Section authority to issue orders which may dispose of or otherwise affect cases on the Commission's review docket. Section 12.408 authorizes the Chief of the Opinions Section or such other person under his direction as he may designate from time to time: to decide miscellaneous procedural motions directed to the Commission after an initial decision has been filed; to remand initial decisions, default or other dispositive orders, (1) where clarification or supplementation thereof is needed, (2) where a ministerial act necessary to the proper conduct of the proceeding has not been performed, and (3) where a motion to set aside a default order has been filed; to dismiss any appeal where it has not been filed or perfected in accordance with § 12.401; to strike any filing that does not meet the requirements of, or is not perfected in accordance with, the Part 12 Reparation Rules; and to enter orders that will facilitate or expedite Commission review of an initial decision or other dispositive order.

Concerning interlocutory matters, the Chief in § 12.408 has been delegated authority to deny applications for interlocutory review (not concerning the suspension of an attorney from participating in a reparation proceeding or the disqualification of a decisionmaker) where the ruling sought to be appealed has not been certified by the Administrative Law Judge, or the application has not been filed in accordance with § 12.309 of the rules. A party dissatisfied with any such ruling by the Chief of the Opinions Section is authorized by § 12.408(c) to file with the Commission a petition for reconsideration within seven days after service of the ruling.

Section 12.408 is expected to facilitate and expedite the Commission's administration of Subpart F of the rules, as well as of § 12.309, governing interlocutory review. Section 12.408 vests in the Chief of the Opinions Section the authority, without the need for separate formal consideration by the Commission, to dispose of petitions or filings which should be granted or denied for strictly technical or procedural reasons. Under the Commission's former reparation rules, the Commission formally considered many petitions for relief that were filed out of time, not authorized by the reparation rules, or otherwise flawed for

[53] The Commission will not grant such leave unless the failure to adduce evidence at the hearing was attributable to excusable neglect, or to circumstances under which the applying party, after making reasonable efforts to do so, would not reasonably be expected to acquire such evidence in time for the hearing.

[54] *See, e.g.*, H.R. Rep. No. 565, Pt. 2, at 32, 97th Cong., 2d Sess. (1982).

[55] So that aggrieved parties will give careful consideration, at the earliest possible date, to the advisability of appealing to the Commission an initial decision, the Commission in § 12.401(b) has determined to require an appealing party to file the $50 appellate filing fee at the time he files a notice of appeal—not when he files an appeal brief as proposed.

[56] See note 2, *supra*.

technical or procedural reasons (*e.g.*, not accompanied by a certificate of service).

The Commission believes that by discontinuing its former practice of devoting formal attention to matters not properly on its appellate docket it will be able to attain earlier dispositions of its other appellate reparation cases. Under § 12.408, the Chief of the Opinions Section has been delegated authority to consider all filings directed to the Commission concerning a case in which an initial decision has been rendered, or in which interlocutory review is sought. If any such filing is itself defective, or points up a ministerial defect in an initial decision or similar dispositive order, the Chief pursuant to § 12.408 delegation may rule on the filing without formal consideration by the Commission. In any case in which he believes it appropriate, the Chief is authorized in § 12.408(b) to submit the matter to the Commission for its consideration.

J. Other Miscellaneous Matters

In proposed rule § 12.1(c), the Commission indicated that to the extent that its new rules have retained without substantive modification any of the Commission's former reparation rules, the new rules shall be interpreted consistently with prior Commission interpretations of their counterparts in the former rules. The Commission has reconsidered whether it should bind itself by a rule to follow prior Commission interpretations of its rules, especially when those rules now apply to different procedures. Because the Commission's interpretation of its former rules should not necessarily be applied mechanically to its new rules, the Commission has determined not to adopt § 12.1(c) as proposed. As a matter of policy, however, the Commission expects to interpret the new rules consistently with its interpretations of identical or substantially similar provisions of the obsolete rules in a given case so long as the purposes of Section 14(b) of the Act, *i.e.*, the efficient and expeditious administration of reparation cases, would be served thereby.

The Commission has adopted a new § 12.1(c) which prescribes the effective date, April 23, 1984, for these rules, as well as the applicability of these rules to reparation cases that are pending on that date. Section 12.1(c) provides that these final rules will apply in all respects to all reparation complaints filed on and after the effective date. Section 12.1(c) also indicates that Subpart F of these rules will apply to initial decisions served on and after the effective date, regardless of when the reparation complaint was filed. In addition, § 12.14, 12.21, 12.22, 12.23, 12.24 and 12.408 of these final rules apply to all reparation cases, including those pending on the effective date, regardless of when the complaint was filed. Except as otherwise provided above, § 12.1(c) provides that these rules will not apply to reparation complaints, and matters relating thereto, filed prior to the effective date, except that parties to a reparation case that was pending on that date may at any time before an initial decision is rendered, by written stipulation signed by all parties, elect to have the case heard pursuant to the voluntary decisional procedure. To the extent that these final rules do not apply to any aspect of a case that was pending on April 23, 1984, § 12.1(c) provides that the Commission's former reparation rules, 17 CFR Part 12 (1983), shall apply.

In order to simplify and make all-inclusive the body of rules applicable to an elected decisional procedure, the Commission has decided to repeat rules that are common to all three procedures in each set of rules, perhaps creating an appearance of length and complexity in the final rules viewed as a whole. However, parties who have elected one of the three procedures in most instances would have no need to refer to the rules applicable to the other two decisional procedures. Thus, the final rules should actually simplify the reparations procedure for the infrequent reparations litigant because such person would have less difficulty understanding and familiarizing himself with rules applicable to his elected procedure than he would under the Commission's former reparation rules.

III. The Regulatory Flexibility Act

In its preamble to the proposed rules, the Commission determined that insofar as the proposed Part 12 reparation rules related solely to agency organization, procedure and practice, they are not rules which are subject to the provisions of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* Nevertheless, because they do not impose regulatory obligations on commodity professionals and small commodity firms in addition to those required by Section 14(a) and other provisions of the Commodity Exchange Act prior to the 1982 amendments, and because they will only serve to streamline, simplify and expedite the Commission's former reparations process, the Commission does not expect its final rules to have a significant economic impact on a substantial number of small business entities.

This Part shall apply in its entirety to all reparation complaints, and all matters relating thereto, filed on and after April 23, 1984. Sections 12.14, 12.21, 12.22, 12.23, 12.24 and 12.408 of this Part shall apply to all reparation matters, including those pending on April 23, 1984, regardless of when the reparation complaint was filed. Subpart F of this Part shall apply to all proceedings in which initial decisions, or similar dispositive orders, are served on and after April 23, 1984. Except as indicated above, this Part shall not apply to reparation complaints filed before April 23, 1984, except that parties to a formal adjudicatory proceeding commenced pursuant to any such complaint may, at any time before the initial decision is rendered, by written stipulation executed by all parties, elect to have the case heard pursuant to Subpart C of this Part. To the extent that this Part does not apply to any matter on the Commission's reparations docket pending on April 23, 1984, 17 CFR Part 12 (1983) shall apply.

List of Subjects in 17 CFR Part 12

Administrative practice and procedure, Commodity exchanges, Commodity futures, Reparations.

17 CFR Part 12 is revised to read as follows:

PART 12—RULES RELATING TO REPARATIONS

Subpart A—General Information and Preliminary Consideration of Pleadings

Sec.

12.1 Scope and applicability of rules of practice relating to reparations.
12.2 Definitions.
12.3 Business address; hours.
12.4 Suspension, amendment, revocation and waiver of rules.
12.5 Computation of time.
12.6 Extensions of time; adjournments; postponements.
12.7 Ex parte communications in reparation proceedings.
12.8 Separation of functions.
12.9 Practice before the commission.
12.10 Service.
12.11 Formalities of filing of documents with the proceedings clerk.
12.12 Signature.
12.13 Complaint; election of procedure.
12.14 Withdrawal of complaint.
12.15 Notification of complaint.
12.16 Response to complaint.
12.17 Satisfaction of complaint.
12.18 Answer; election of procedure.
12.19 Counterclaim.
12.20 Response to counterclaim; reply; election of procedure.
12.21 Voluntary dismissal.
12.22 Default proceedings.
12.23 Setting aside of default.
12.24 Parallel proceedings.
12.25 Filing fees.

Sec.
12.26 Commencement of a reparation proceeding.
12.27 Termination of consideration of pleadings.

Subpart B—Discovery

12.30 Methods of discovery.
12.31 Production of documents and tangible items.
12.32 Depositions on written interrogatories.
12.33 Admissions.
12.34 Discovery by a decisionmaking official.
12.35 Consequences of a party's failure to comply with a discovery order.
12.36 Subpoenas to compel discovery.

Subpart C—Rules Applicable to Voluntary Decisional Proceedings

12.100 Scope and applicability of rules.
12.101 Functions and responsibilities of the Judgment Officer.
12.102 Disqualification of Judgment Officer.
12.103 Filing of documents; subscription; service.
12.104 Amendments to pleadings; motions.
12.105 Submission of proof only in documentary or tangible form.
12.106 Final decision and order.

Subpart D—Rules Applicable to Summary Decisional Proceedings

12.200 Scope and applicability of rules.
12.201 Functions and responsibilities of the Judgment Officer.
12.202 Disqualification of Judgment Officer.
12.203 Filing of documents; subscription; service.
12.204 Amended and supplemental pleadings.
12.205 Motions.
12.206 Pre-decision conferences.
12.207 Summary disposition.
12.208 Submissions of proof.
12.209 Oral testimony.
12.210 Initial decision.

Subpart E—Rules Applicable to Formal Decisional Proceedings

12.300 Scope and applicability of rules.
12.301 Functions and responsibilities of the Proceedings Officer.
12.302 Appeal of a discovery order issued by a Proceedings Officer.
12.303 Pre-decisoin conferences.
12.304 Functions and responsibilities of the Administrative Law Judge.
12.305 Disqualification of Administrative Law Judge.
12.306 Filing of documents; subscription; service.
12.307 Amended and supplemental pleadings.
12.308 Motions.
12.309 Interlocutory review by the Commission.
12.310 Summary disposition.
12.311 Disposition of proceeding or issues without oral hearing.
12.312 Oral hearing.
12.313 Subpoenas for attendance at an oral hearing.
12.314 Initial decision.
12.315 Consequences of overstating damages claims not in excess of $10,000.

Subpart F—Commission Review of Decisions

Sec.
12.400 Scope and applicability of rules.
12.401 Appeal to the Commission.
12.402 Appeal of disposition of less than all claims or parties in a proceeding.
12.403 Commission review on its own motion.
12.404 The record of proceedings.
12.405 Leave to adduce additional evidence.
12.406 Final decision of the Commission.
12.407 Satisfaction of reparation award; enforcement; sanctions.
12.408 Delegation of authority to Chief of the Opinions Section.

Authority: 7 U.S.C. 12a(5), 18(b) (1982).

Subpart A—General Information and Preliminary Consideration of Pleadings

§ 12.1 Scope and applicability of rules of Practice relating to reparations.

(a) *Part 12 Reparation Rules.* These rules of practice are applicable to reparation applications filed pursuant to section 14 of the Commodity Exchange Act, as amended, 7 U.S.C. section 18. The rules in this Part shall be construed liberally so as to secure the just, speedy and inexpensive determination of the issues presented with full protection for the rights of all parties.

(b) *Other rules of practice.* Unless specifically made applicable, other Rules of Practice promulgated under the Commodity Exchange Act, as amended, shall not apply to reparation matters.

(c) *Applicability of these Part 12 Reparation Rules.* These rules shall apply in their entirety to all reparation complaints, and matters relating thereto, filed on and after April 23, 1984. Sections 12.14, 12.21, 12.22, 12.23, 12.24 and 12.408 of these rules shall apply to all reparation matters, including those pending on April 23, 1984 in the **Federal Register**, regardless of when the reparation complaint was filed. Subpart F of these Rules shall apply to all proceedings in which initial decisions, or similar dispositive orders, are served on and after April 23, 1984. Unless otherwise specifically provided in this rule, these Part 12 Reparation Rules shall not apply to reparation complaints filed before April 23, 1984, except that parties to a formal adjudicatory proceeding commenced pursuant to any such complaint may, at any time before the initial decision is rendered, by written stipulation executed by all parties, elect to have the case heard pursuant to Subpart C of these rules. To the extent that these Part 12 rules do not apply to any matter on the Commission's reparations docket pending on April 23, 1984, the Commission's former reparation rules, 17 CFR Part 12 (1983), shall apply.

§ 12.2 Definitions.

For purposes of this part:

(a) "Act" means the Commodity Exchange Act, as amended, 7 U.S.C. 1, *et seq.*;

(b) "Administrative Law Judge" means an administrative law judge appointed pursuant to the provisions of 5 U.S.C. 3105;

(c) "Commission" means the Commodity Futures Trading Commission;

(d) "Commission decisional employee" means an employee or employees of the Commission who are or may reasonably be expected to be involved in the decisionmaking process any proceeding, including, but not limited to:

(1) A Judgement Officer and a Proceedings Officer;

(2) Members of the personal staffs of the Commissioners, but not the Commissioners themselves;

(3) Members of the staffs of the Administrative Law Judges, but not an Administrative Law Judge;

(4) Members of the staffs of the Proceedings Officers;

(5) Members of the staffs of the Judgment Officers;

(6) Members of the Opinions Section;

(7) Members of the staff of the Office of Proceedings; and

(8) Other Commission employees who may be assigned to hear or to participate in the decision of a particular matter.

(e) "Complainant" means a person who, individually or jointly with others, has applied to the Commission for a reparation award pursuant to Section 14 (a) of the Act, but shall not include a cross claimant or any other type of third party claimant. The term "complainant" under these rules applies equally to two or more persons who have applied jointly for a reparation award;

(f) "Complaint" means any document which constitutes an application for a reparation award pursuant to Section 14(a) of the Act, regardless of whether it is denominated as such;

(g) "Counterclaim" means an application for a reparation award by a respondent against a complainant which satisfies the requirements of § 12.19 of these rules. A counterclaim does not mean a cross claim or other type of third party claim;

(h) "Director of the Office of Proceedings" means an employee of the Commission who shall serve as the administrative head of that Office, with responsibility and authority to assure that the Part 12 Reparation Rules are administered in a manner that will effectuate the purposes of Section 14(b)

of the Act. The Director is authorized to convene meetings of all personnel in the Office of Proceedings, including Administrative Law Judges and their personally assigned law clerk. The Director shall have the authority to delegate his duties to administer §§12.15, 12.24, 12.26 and 12.27 of these rules, and, shall have the authority to assign and, if necessary, reassign the duties of, and set reasonable standards for performance for, all personnel in the Office, including the Proceedings Officer and Judgment Officers, but not including Administrative Law Judges and their personally assigned law clerk;

(i) "*Ex parte* communication" means an oral or written communication not on the public record with respect to which reasonable prior notice to all parties is not given, but does not include: (1) A discussion, after consent has been obtained from all of the named parties, between a party and a Judgment Officer, Proceedings Officer, or Administrative Law Judge, or the staffs of the foregoing, pertaining solely to the possibility of settling the case without the need for a decision; (2) requests for status reports, including questions relating to service of the complaint, and the registration status of any persons, on any matter or proceeding covered by these rules: or (3) requests made to the Office of Proceedings or the Opinions Section for interpretation of these rules;

(j) "Formal decisional procedure" means, where the amount of damage claimed exceeds $10,000, exclusive of interest and costs, a procedure elected by the complainant or a respondent where the parties may be granted an oral hearing. A formal decisional proceeding is governed by Subpart E of these rules;

(k) "Summary decisional procedure" means, where the amount of damages claimed does not exceed $10,000, exclusive of interest and costs, a procedure elected by the complainant or the respondent wherein an oral hearing need not be held and proof in support of each party's case may be supplied in the form and manner prescribed by § 12.208 of these rules. A summary decisional proceeding is governed by Subpart D of these rules;

(l) "Voluntary decisional procedure" means, regardless of the amount of damages claimed, a procedure which the complainant and the respondent have chosen voluntarily to submit their claims and counterclaims, allowable under these rules, for an expeditious resolution by a Judgment Officer. By electing the voluntary decisional procedure, parties agree that a decision issued by a Judgment Officer shall be without accompanying findings of fact and shall be final without right of Commission review or judicial review. A voluntary decisional proceeding is governed by Subpart of C of these rules;

(m) "Hearing" means that part of a proceeding which involves the submission of proof, either by oral presentation or written submission;

(n) "Interested person" means any party, and includes any person or agency permitted limited participation or to state views in a reparations proceeding, or other person who might be adversely affected or aggrieved by the outcome of a proceeding (including the officers, agents, employees, associates, affiliates, attorneys, accountants or other representatives of such persons), and any other person having a direct or indirect pecuniary or other interest in the outcome of a proceeding;

(o) "Judgment Officer" means an employee of the Commission who is authorized to conduct the proceeding and render a decision in a summary decisional proceeding or a voluntary decisional proceeding. In appropriate circumstances, the functions of a Judgment Officer may be performed by an Administrative Law Judge;

(p) "Office of Proceedings" means that office within the Commission comprised of the Administrative Law Judges, Proceedings Officer, Judgment Officers, the Director of that office, the Proceedings Clerk, and members of the staffs of the foregoing, which administers these Part 12 Reparation Rules, other than the rules authorizing direct review by the Commission;

(q) "Opinions Section" means the members of the Commission's staff who provide assistance to the Commission in its direct review of any proceeding conducted pursuant to these rules;

(r) "Order" means the whole or any part of a final procedural or substantive disposition of a reparation proceeding by the Commission, an Administrative Law Judge, a Judgment Officer, a Proceedings Officer, or the Proceedings Clerk;

(s) "Party" means a complainant, respondent or any other person or agency named or admitted as a party in a reparation matter;

(t) "Person" means any individual, association, partnership, corporation or trust;

(u) "Pleading" means the complaint, the answer to the complaint, any supplement or amendment thereto, and any reply to the foregoing;

(v) "Proceeding" means a case in which the pleadings have been forwarded, and in which a procedure has been commenced pursuant to § 12.26(a), (b), or (c);

(w) "Proceedings Officer" means an employee of the Commission who is authorized to administer the procedures prescribed under §§ 12.22, 12.301, and 12.303 of these rules. In appropriate circumstances, the functions of a Proceedings Officer may be performed by an Administrative Law Judge;

(x) "Proceedings Clerk" means that member of the Commission's staff in the Office of Proceedings who shall maintain the Commission's reparations docket, assign reparation cases to an appropriate decisionmaking official, and act as custodian of the records of proceedings;

(y) "Registrant" means any persons who (1) was registered under the Act at the time of the alleged violation; (2) is subject to reparation proceedings by virtue of Section 4m of the Commodity Exchange Act, regardless of whether such person was ever registered under the Act; or (3) is otherwise subject to reparation proceedings under the Act;

(z) "Respondent" means any person or persons against whom a complainant seeks a reparation award pursuant to Section 14(a) of the Act; and

(aa) "Reparation award" means the amount of monetary damages a party may be ordered to pay.

§ 12.3 Business address; hours.

The principal office of the Commission is located at 2033 K Street, NW., Washington, D.C. 20581. It is open each day, except Saturdays, Sundays, and legal public holidays, from 8:15 a.m. until at least 4:45 p.m., eastern standard time or eastern daylight savings time, whichever is currently in effect in Washington, D.C.

§ 12.4 Suspension, amendment, revocation and waiver of rules.

(a) *Suspension or change of rules.* These rules may, from time to time, be suspended, amended or revoked in whole or in part. Notice of such action will be published in the **Federal Register.**

(b) *Commission waiver of procedures.* In the interest of expediting decision or to prevent undue hardship on any party or for other good cause the Commission may order the adoption of expedited procedures, may waive any rule in this Part in a particular case, and may order proceedings in accordance with its direction upon a determination that no party will be prejudiced thereby, and that the ends of justice will be served. Reasonable notice shall be given to all parties of any action taken pursuant to this provision.

§ 12.5 Computation of time.

(a) *In general.* In computing any period of time prescribed by these rules or allowed by the Commission, the Director of the Office of Proceedings, a Judgment Officer, Proceedings Officer, or an Administrative Law Judge, the day of the act, event, or default from which the designated period of time begins to run is not to be included. The last day of the period so computed is to be included unless it is a Saturday, a Sunday, or a legal holiday, in which event the period runs until the end of the next day which is not a Saturday, a Sunday or a legal holiday.

Intermediate Saturday, Sundays, and legal holidays shall be excluded from the computation only when the period of time prescribed or allowed is less than seven (7) days.

(b) *Date of service of orders.* In computing any period of time involving the date of service of an order, the date of service shall be the date the order is served by the Proceedings Clerk, which, unless otherwise indicated, shall be the date stamped on the order by the Proceedings Clerk.

§ 12.6 Extensions of Time; Adjournments; Postponements.

(a) *In general.* Except as otherwise provided by law or by these rules, for good cause shown, the Commission, or a Judgment Officer, Proceedings Officer, Administrative Law Judge, or the Director of the Office of Proceedings, before whom a matter is then pending, on their own motion or the motion of a party, may at any time extend or shorten the time limit prescribed by the rules for filing any document. In any instance in which a time limit is not prescribed for an action to be taken concerning any matter, the Commission or one of the other officials mentioned above may set a time limit for that action.

(b) *Motions for extension of time.* Absent extraordinary circumstances, in any instance in which a time limit that has been prescribed for an action to be taken concerning any matter exceeds seven days from the date of the order establishing the time limit, requests for extension of time shall be filed at least five (5) days prior to the expiration of time limit and shall explain why an extension of time is necessary.

§ 12.7 Ex Parte Communications in Reparation Proceedings.

(a) *Prohibitions against ex parte communications.* (1) No interested person outside the Commission shall make or knowingly cause to be made to any Commissioner, Administrative Law Judge, or Commission decisional employee an *ex parte* communication relevant to the merits of a proceeding.

(2) No Commissioner, Administrative Law Judge, or Commission decisional employee shall make or knowingly cause to be made to any interested person outside the Commission an *ex parte* communication relevant to the merits of a proceeding.

(b) *Procedures for handling ex parte communications.* A Commissioner, Administrative Law Judge or Commission decisional employee who receives, or who makes or knowingly causes to be made, an *ex parte* communication prohibited by paragraph (b) of this section shall—

(1) Place on the public record of the proceeding—

(i) All such written communications;

(ii) Memoranda stating the substance of all such oral communications; and

(iii) All written responses, and memoranda stating the substance of all oral responses, to the materials described in paragraphs (b) (1)(i) and (1)(ii) of this section; and

(2) Promptly give written notice of such communication and responses thereto to all parties to the proceedings to which the communication or responses relate.

(c) *Sanctions.* (1) Upon receipt of an *ex parte* communication knowingly made or knowingly caused to be made by a party in violation of the prohibition contained in paragraph (a)(1) of this section, the Commission, Administrative Law Judge, or Judgment Officer may, to the extent consistent with the interests of justice and the policy of the Act, require the party to show cause why his claim or interest in the proceeding should not be dismissed, denied, disregarded, or otherwise adversely affected on account of such violation.

(2) Any attorney or accountant who knowingly makes or knowingly causes to be made, or who knowingly solicits or knowingly causes the solicitation of, an *ex parte* communication which violates the prohibitions contained in paragraph (a) of this section may be deemed to have engaged in unprofessional conduct of the type proscribed by 17 CFR 14.8(c).

(3) Any Commissioner, Administrative Law Judge, or Commission decisional employee who knowingly makes or knowingly causes to be made, or who knowingly solicits or knowingly causes the solicitation of, an *ex parte* communication which violates the prohibitions contained in paragraph (a) of this section may be deemed to have engaged in conduct of the type proscribed by 17 CFR 140.735–3(b)(3).

(d) *Applicability of prohibitions and sanctions against ex parte communications.* (1) The prohibitions of this section against *ex parte* communications shall apply:

(i) To any person who has actual knowledge that a proceeding has been or will be commenced by order of the Commission; and

(ii) To all persons after public notice has been given that a proceeding has been or will be commenced by order of the Commission.

(2) The prohibitions of this section shall remain in effect until a final order has been entered in the proceeding which is no longer subject to review by the Commission or to appellate review by a court.

§ 12.8. Separation of functions.

(a) A Judgment Officer, Proceedings Officer, or Administrative Law Judge will not be responsible to or subject to the supervision or direction of any officer, employee, or agent of the Commission engaged in the performance of investigative or prosecutorial functions for the Commission.

(b) No officer, employee, or agent of the Federal Government engaged in the performance of investigative or prosecutorial functions in connection with any proceeding shall, in that proceeding or a factually related proceeding, participate or advise in the decision of a Judgment Officer, Proceedings Officer, or Administrative Law Judge, except as a witness in the proceeding, without the express written consent of the parties to the proceeding. This provision shall not apply to the Commissioners.

§ 12.9. Practice before the Commission.

(a) *Practice.*—(1) By *non-attorneys.* An individual may appear *pro se* (on his own behalf); a general partner may represent the partnership; a *bona fide* officer of a corporation, trust or association may represent the corporation, trust or association.

(2) *By attorneys.* An attorney-at-law who is admitted to practice before the highest Court in any State or territory, or of the District of Columbia, who has not been suspended or disbarred from appearance and practice before the Commission in accordance with provisions of Part 14 of this Chapter may represent parties as an attorney in proceedings before the Commission.

(b) *Debarment of counsel or representative during the course of a proceeding.* (1) Whenever, while a proceeding is pending before him, a Judgment Officer or an Administrative Law Judge finds that a person acting as counsel or representative for any party to the proceeding is guilty of contemptuous conduct, such official may

order that such person be precluded from further acting as counsel or representative in the proceeding. An immediate appeal to the Commission may be taken from any such order, pursuant to the provisions of § 12.309, but the proceeding shall not be delayed or suspended pending disposition of the appeal; Provided, that the official may suspend the proceedings for a reasonable time for the purpose of enabling the party to obtain other counsel or representative.

(2) Whenever the Judgment Officer or Administrative Law Judge has issued an order precluding a person from further acting as counsel or representative in a proceeding, such official, within a reasonable time thereafter, shall submit to the Commission a report of the facts and circumstances surrounding the issuance of the order and shall recommend what action the Commission should take respecting the appearance of such person as counsel or representative in other proceedings before the Commission.

(c) *Withdrawal of representation.* Withdrawal from representation of a party shall be only by leave of the decisionmaking official (or the Commission) before whom the proceeding is then pending. Such leave to withdraw may be conditioned on the attorney's (or representative's) submission of an affidavit averring that the party represented has actual knowledge of the withdrawal, and such affidavit shall include the name and address of a successor counsel (or representative) or a statement that the represented party has determined to proceed *pro se*, in which case, the statement shall include the address where that party can thereafter be served.

§ 12.10 Service.

(a) *General requirements.*—(1) *When service is required; number of copies.* One copy of all motions, petitions or applications made in the course of proceeding (unless made orally during a hearing), all proposed findings and conclusions (to the extent permitted by these rules), all notices of appeal, all briefs, and letters to the Commission, an employee thereof, or an Administrative Law Judge, shall be served by a party upon all other parties to the proceeding. This rule does not apply to a complaint filed pursuant to § 12.13 of these rules, which shall only be filed with the Commission.

(2) *Filing with the Proceedings Clerk; proof of service.* All documents which are required to be served upon a party shall be filed concurrently with the Proceedings Clerk, and shall meet the requirements as to form prescribed by §§ 12.11 and 12.12 of these rules. Unless otherwise provided in these rules a document shall be filed by delivering it in person or by mailing it, by first-class mail, post-paid, addressed to: Proceedings Clerk, Office of Proceedings, Commodity Futures Trading Commission, 2033 K Street, N.W., Washington, D.C. 20581. To be timely filed a document must be delivered, or mailed, by first-class mail, to the Proceedings Clerk within the time prescribed for filing. Proof of service of a document shall be made by filing with the Proceedings Clerk, simultaneously with the filing of the required document, an affidavit of service executed by any person 18 years of age or older or a certificate of service executed by an attorney-at-law qualified to practice before the Commission. The proof of service shall identify the persons served, state that service has been made, set forth the date of service, and recite the manner of service.

(3) *Service of orders and decisions.* A copy of all notices, rulings, opinions, and orders of the Proceedings Clerk, the Director of the Office of Proceedings, a Judgment Officer, Proceedings Officer, Administrative Law Judge, the Chief of the Opinions Section or the Commission shall be served by the Proceedings Clerk on each of the parties.

(b) *How service is made.* Service shall be made either by personal service or by first-class mail. Service shall be complete at the time of personal service or upon deposit in the mails of a properly addressed and post-paid document. Where service is effected by mail, the time within which the person served may respond thereto shall be increased by five (5) days. For the purposes of this Rule, service of any document by the Proceedings Clerk upon the Commission shall be regarded as service by mail.

(c) *Designation of person to receive service.* The first document filed in a proceeding by or on behalf of any party shall state on the first page thereof the name and post office address of the person who is authorized to receive service for him of all documents filed in the proceeding. Thereafter, service of documents shall be made upon the person authorized unless service on a different authorized person or on the party himself is ordered by a Judgment Officer, Proceedings Officer, Administrative Law Judge or the Commission, or unless the person authorized is changed by the party upon due notice to all other parties. Parties shall file and serve notification of any changes in the information provided pursuant to this subparagraph as soon as practicable after the change occurs.

§ 12.11 Formalities of filing of documents with the Proceedings Clerk.

(a) *Number of copies.* Unless otherwise specifically provided, an original and one conformed copy of all documents shall be filed with the Proceedings Clerk.

(b) *Title page.* All documents filed with the Proceedings Clerk must include at the head thereof, or on a title page, the name of the Commission, the title of the proceeding, the docket number (if one has yet been assigned by the Proceedings Clerk), the subject of the particular document and the name of the person on whose behalf the document is being filed. In the complaint the title of the proceeding shall include the names of all the complainants and respondents, but in documents subsequently filed it is sufficient to state the name of the first complainant and first respondent named in the complaint.

(c) *Paper, spacing, type.* All documents filed under the Reparation Rules shall be typewritten, mimeographed, printed, or, if a party is not represented by counsel, in plainly legible handwriting; shall be on one grade of good white paper no less than 8 or more than 8½ inches wide and no less than 10½ or more than 11½ inches long; and shall be bound on the top only. They shall be double-spaced, except for long quotations (3 or more lines) and footnotes which should be single-spaced.

(d) *Signature.* The original copy of all papers must be signed in ink by the person filing the same or by his duly authorized agent or attorney.

(e) *Length and form of briefs.* All briefs filed with the Proceedings Clerk containing more than 10 pages shall include an index and a table of cases and other authorities cited. The date of each brief shall appear on its front cover or title page and on its signature page. No brief shall exceed 35 pages in length, except with the permission of the Commission, or the Judgment Officer or Administrative Law Judge, before whom the matter is then pending.

§ 12.12 Signature.

(a) *By whom.* All documents filed with the Commission shall be signed personally:

(1) By the person or persons on whose behalf they are tendered for filing;

(2) By a general partner, officer or director of a partnership, corporation, association, or other legal entity; or

(3) By an attorney-at-law having authority with respect thereto.

The Proceedings Clerk may require appropriate evidence of the authority of a person subscribing a document on behalf of another person.

(b) *Effect.* The signature on any document of any person acting either for himself or as attorney or agent for another constitutes certification by him that:

(1) He has read the document subscribed and knows the contents thereof;

(2) If executed in any representative capacity, it was done with full power and authority to do so;

(3) To the best of his knowledge, information, and belief, every statement contained in the document is true and not misleading; and

(4) The document is not being interposed for delay.

§ 12.13 Complaint; Election of procedure.

(a) *In general.* Any person complaining of a violation of any provision of the Act or a rule, regulation or order of the Commission thereunder by any person who is a registrant (as defined in § 12.2(y)) may, at any time within two years after the cause of action accrues, apply to the Commission for a reparation award by filing a written complaint which satisfies the requirements of this rule.

(b) *Form of complaint.* The form of each complaint filed under paragraph (a) of this section shall meet the following requirements—

(i) The name, residence address, and telephone number (during business hours) of the complainant;

(ii) The name, address, and telephone number, if known, of each person alleged in the complaint to have violated the Act or any rule, regulation or order thereunder;

(iii) If known, the specific provisions of the Act, rule, regulation, or order claimed to have been violated;

(iv) A complete description of complainant's case, including, but not limited to:

(A) A description of all relevant facts concerning each and every act or omission which it is claimed constitutes a violation of the Act; and

(B) A description of all facts which show or tend to show the manner in which it is claimed that the complainant was injured by the alleged violations;

(v) The amount of damages the complainant claims to have suffered and the method by which those damages have been computed;

(vi) A statement indicating whether an arbitration proceeding or civil court litigation, based on the same set of facts set forth and involving any party named as a respondent in the complaint, has been instituted, and whether such a proceeding has reached a final disposition or is presently pending;

(vii) A statement indicating whether any of the respondents is the subject of receivership or bankruptcy proceedings that are presently pending;

(viii) An election of a decisional procedure pursuant to Subpart C, D, or E of these rules. (A procedure pursuant to Subpart D may be elected only if the amount of damages claimed, exclusive of interest and costs, does not exceed $10,000. A procedure pursuant to Subpart E may be elected only if the amount claimed as damages, exclusive of interest and costs, exceeds $10,000); and

(ix) A filing fee in the amount prescribed by § 12.25 of these rules shall be submitted with the complaint at the time of its filing.

(2) *Subscription and verification of the complaint.* Each complaint shall be signed personally by an individual complainant or by a duly authorized officer or agent of a complainant who is not a natural person. His signature shall be given under oath or affirmation under penalty of law attesting either that he knows the facts set forth in the complaint to be true, or that he believes that facts set forth to be true, in which event the information upon which he formed that belief shall be set forth with particularity.

(3) *Time and place of filing of complaint.* A complaint shall be filed by delivering a copy thereof, in proper form, to the Commission at its principal offices in Washington, D.C., addressed to the Office of Proceedings, attention of the Proceedings Clerk. The complaint may be filed in person, during normal business hours, or by certified mail, or registered mail with return receipt requested. If filing is by mail, it shall be addressed to the Proceedings Clerk, Office of Proceedings, Commodity Futures Trading Commission, 2033 K Street, N.W., Washington, D.C. 20581. The complaint shall not be served on any person or party named therein. Upon the filing of the complaint and the appropriate filing fee, the Proceedings Clerk shall assign a docket number to the matter and shall maintain the official docket.

(4) *Bond required if complainant is non-resident.* If a complaint in reparations is filed by a non-resident of the United States, the complainant shall first file a bond in double the amount of the claim either with a surety company approved by the Treasury Department of the United States or two personal sureties, each of whom shall be a citizen of the United States and shall qualify as financially responsible for the entire amount of the bond. The bond shall run to the respondent and be conditioned upon the payment of (1) costs, including reasonable attorney's fees, for the respondent if the respondent shall prevail; and (2) any reparation award that may be issued by the Commission against the complainant on any counterclaim asserted by respondent; Provided, that the furnishing of a bond may be waived if the complainant is a resident of a country which permits filing of a complaint by a resident of the United States against a citizen of that country without the furnishing of a bond.

§ 12.14 Withdrawal of complaint.

At any time prior to service of notification to the complainant pursuant to § 12.15(a) of the Director of the Office of Proceedings' determination to forward the complaint to a registrant, complainant may file a written notice of withdrawal of the complaint which shall terminate the Commission's consideration of the complaint without prejudice to complainant's right to re-file a reparations complaint based upon the same set of facts within two years after the cause of action accrues. If the complainant has previously filed a notice of withdrawal of a complaint based upon the same set of facts, the notice of withdrawal of complaint shall terminate the case with prejudice to complainant's rights to re-file a complaint in reparations based on the same set of facts, but such termination shall be regarded by the Commission as without prejudice to complainant's right to seek redress in such alternative forums as may be available for adjudication of his claims.

§ 12.15 Notification of complaint.

(a) *Forwarding of complaint to registrant.* If, in the opinion of the Director of the Office of Proceedings, the facts set forth in a complaint warrant such action as to any of the registrants, a copy of the complaint, together with any attachments thereto, shall be forwarded by serving by registered mail or certified mail and such registrant named therein at an address previously designated with the Commission by the registrant for receipt of reparation complaints, as provided in Commission Regulation § 3.30 17 CFR 3.30, or, if no such designation has been filed with the Commission, at such address as will accomplish actual notice to the respondent. Should the Director determine to forward the complaint, the complainant shall be notified of this determination at the time the complaint is forwarded.

(b) *Determination not to forward complaint.* The Director may, in his discretion, refuse to forward a complaint as to a particular respondent if it appears that the matters alleged therein are not cognizable in reparations, or that grounds exist pursuant to § 12.24 (c) or (d) for refusing to forward the complaint. If the Director of the Office of Proceedings should determine not to forward the complaint to all registrants named in the complaint in accordance with this Section, no proceeding shall be held thereon and the complainant shall be notified to that effect. If the Director determines to forward the complaint as to less than all of the registrants, the complainant shall be so notified. A termination of the complaint as to any registrant shall be regarded by the Commission as without prejudice to the right of the complainant to seek such alternative forms of relief as may be available.

§ 12.16 Response to complaint.

Within 45 days after the complaint has been served by the Office of Proceedings on the registrant, or within such additional time (not to exceed fifteen days absent extraordinary circumstances) as the Director of the Office of Proceedings, or his delegee, may, for good cause shown, grant, each registrant shall either (1) satisfy the complaint in accordance with § 12.17 of these rules; or (2) answer the complaint in the manner prescribed by § 12.18 of these rules.

§ 12.17 Satisfaction of complaint.

A respondent may satisfy the complaint (a) by paying to the complainant either the amount to which the complainant claims to be entitled as set forth in the complaint or such other amount as the complainant will accept in satisfaction of his claim; and (b) by submitting to the Commission notice of satisfaction and withdrawal of the complaint, duly executed by the complainant and the respondent.

§ 12.18 Answer; Election of procedure.

An answer filed pursuant to § 12.16 of these rules shall meet the following requirements—

(a) *Content*—Each answer shall contain—

(1) The full name, current address and telephone number (during business hours) of each respondent on whose behalf the answer is filed;

(2) A complete description of each registrant's case, including but not limited to, a precise and detailed statement of the facts which constitute each registrant's ground for defense;

(3) Admissions, if any, as to the registrant's liability for the amount (or any portion thereof) claimed as damages;

(4) A statement indicating whether the registrant is (and if the answer is filed on behalf of two or more registrants, which if any of them are) in receivership or subject to bankruptcy proceedings;

(5) A statement indicating whether an arbitration or civil court litigation, based on the same set of facts set forth in the complaint (involving any or all of the parties named therein), is pending;

(6) A counterclaim which the registrant wishes to pursue under § 12.19 of these rules;

(7) An election of an alternative decisional procedure pursuant to Subparts C, D or E of these rules. (A proceeding pursuant to Subpart D may be elected only if the amount of damages claimed in the complaint or as counterclaims, exclusive of interest and costs, does not exceed $10,000. A procedure pursuant to Subpart E may be elected only if the amount of damages claimed in the complaint or as counterclaims, exclusive of interest and costs, exceeds $10,000);

(8) If appropriate, a filing fee in the amount prescribed by § 12.25 shall be submitted with an answer at the time of its filing.

(b) *Motion for reconsideration of determination to forward the complaint.* An answer may include a motion for reconsideration of the determination to forward the complaint, specifying the grounds therefor, which the Director of the Office of Proceedings, in his discretion, may grant by terminating the case pursuant to § 12.27, or deny by forwarding the pleadings and matters of record for an elected decisional proceeding pursuant to § 12.26. The inclusion in an answer of a motion for reconsideration shall not preclude a respondent, if the motion is denied, from moving for dismissal at a later stage of the proceeding for the same reasons cited in a motion for reconsideration pursuant to this paragraph.

(c) *Subscription and verification of the answer.* An answer shall be signed personally by each registrant on behalf of whom it is filed or by a duly authorized officer or agent of any such registrant who is not a natural person. Each registrant's signature shall be given under oath, or by affirmation under penalty of law, attesting that he has read the answer; that to the best of his knowledge all of the statements in the answer, the counterclaim (if any), and the materials required by these rules to be appended thereto, are accurate and true, and that the answer (and counterclaim, if any) has not been interposed for delay.

(d) *Affidavit of service.* The registrant shall file with his answer an affidavit showing that he has served a true copy of the answer upon the complainant, either personally or by first-class mail addressed to the complainant at the address set forth in the complaint.

(e) *Time and place of filing an answer.* An answer shall be filed by mailing or delivering a copy thereof, in proper form, to the Commission at its principal office in Washington, D.C., addressed to the Office of Proceedings, Attention of the Proceedings Clerk. The answer may be filed in person, during normal business hours, or by certified mail, or registered mail with return receipt requested. If filing is by mail, it shall be addressed to the Proceedings Clerk, Office of Proceedings, Commodity Futures Trading Commission, 2033 K Street NW., Washington, D.C. 20581.

§ 12.19 Counterclaim.

A registrant may, at the time of filing an answer to a complaint, set forth as a counterclaim: (a) Facts alleging a violation and a request for a reparation award that would be a proper subject for a complaint under § 12.13 of these rules; or (b) any claim which at the time the complaint is served the registrant has against the complainant if it arises out of the transaction or occurrence or series of transactions or occurrences set forth in the complaint.

§ 12.20 Response to counterclaim; reply; election of procedure.

(a) *Response to counterclaim.* If an answer asserts a counterclaim, the complainant shall, within thirty (30) days after service upon him of the answer by the respondent: (1) Satisfy the counterclaim as if it were a complaint, in the manner prescribed by § 12.17 of these rules; or (2) file a reply to the counterclaim with the Commission.

(b) *Form and content of reply.* Should the complainant, under this paragraph, elect to file a reply to a counterclaim, the reply shall be strictly confined to the matters alleged in the counterclaim and shall conform to the form and content and other requirements set forth in Section 12.18 of these rules.

(c) *Election of decisional procedure.* If neither the complainant nor the respondent, in the complaint or answer respectively, has previously made an election of the summary decisional procedure or the formal decisional procedure, the complainant may make such an election in his reply.

§ 12.21 Voluntary dismissal.

(a) At any time after the Director of the Office of Proceedings has served notification to the parties pursuant to § 12.15 of these rules of his determination to forward the complaint to the respondent for a response, either the complainant or the respondent may obtain dismissal of the complaint (or the proceeding, if one has commenced) by filing a stipulation of dismissal, duly executed by all of the complainants and each respondent against whom the complaint has been forwarded (or added as a party in the course of a proceeding); *provided however*, that if the stipulation is filed after any respondent has filed an answer, the terms of the stipulation shall include a dismissal of any counterclaims in the answer.

(b) A dismissal of a complaint pursuant to this paragraph shall be with prejudice to complainant's right to re-file a claim in reparations based upon the same set of facts as alleged in the dismissed complaint. Unless otherwise stated in the stipulation, a dismissal ordered pursuant to this paragraph shall be regarded by the Commission as without prejudice to the parties' right to seek redress in such alternative forums as may be available for adjudication of their claims.

(c) Upon receiving a written stipulation of dismissal which satisfies the requirements of this rule, the official before whom the matter or proceeding is pending shall issue an order of dismissal, and serve a copy thereof upon each of the parties.

(d) This rule shall be applicable at all stages of a reparation proceeding.

§ 12.22 Default proceedings.

(a) *Institution of a default proceeding.* Failure timely to respond to a complaint or a counterclaim, as required by §§ 12.16 and 12.20 of these rules, or, if applicable, to pay a filing fee required by § 12.25(b) or (c), shall be treated as an admission of the allegations of the complaint or counterclaim by the non-responding party, shall constitute a waiver by such party of any decisional procedure afforded by these Rules on the facts set forth in the complaint or counterclaim, and shall result in the institution of a default proceeding.

(b) *Default procedure.* Upon a party's failure to respond timely to a complaint or counterclaim as prescribed in §§ 12.16 and 12.20 of these rules, or timely to comply with § 12.25(b) or (c), the Director of the Office of Proceedings shall forward the pleadings, and other materials then of record, to a Proceedings Officer who may thereafter enter findings and conclusions concerning the questions of violations and damages and, if warranted, enter a reparation award against the non-responding party. If the facts which are treated as admitted are considered insufficient to support a violation or the amount of reparations sought, the Proceedings Officer may order production of supplementary evidence from the party not in default and may enter a default order and an award based thereon.

(c) *Finality.* A default order issued pursuant to this rule, or pursuant to any other provisions of these Part 12 Reparation Rules, shall become the final decision and order of the Commission thirty (30) days after service thereof, unless the order is set aside pursuant to § 12.23(a) of these rules, or unless the Commission takes review of such order on its own motion on or before the thirtieth day.

§ 12.23 Setting aside of default.

(a) *Default order not final.* In order to prevent injustice or for good cause shown, and on such conditions as may be appropriate, a non-final default order (including any award therein) may be set aside by the official who issued the order.

(1) *Procedure for Setting Aside Non-Final Default Order.* Any party or person who is the subject of a default order issued pursuant to these rules may, at any time before the order becomes final pursuant to § 12.22(c), file and serve a motion to set aside the default, which shall set forth reasons why the act or omission for which the party was defaulted was not willful, why there is a reasonable likelihood of success for the party's claim or defense if heard on the merits, and why no prejudice will be sustained by other parties if the default is set aside. A motion to set aside a default order filed pursuant to this subparagraph shall be decided, in the first instance, by the official who issued the default order.

(2) *Review.* A denial of a motion to set aside a non-final default order by the official who issued the order shall be treated as an initial decision, which may be appealed to the Commission in accordance with the requirements of § 12.401 of these rules. A grant of a motion to set aside a non-final default order may be appealed only in accordance with the requirements of § 12.309 of these rules.

(b) *Default order final.* A default order that has become final pursuant to § 12.22(c) shall not be set aside except upon a motion filed and served by the defaulted party showing that he should be relieved from the default order because of fraud perpetrated on a decisionmaking official or the Commission, mistake, excusable neglect, or because the order is void for want of jurisdiction. Such a motion shall also show that, if the default order were set aside, there would be a reasonable likelihood of success for his claim or defense on the merits and that no party would be prejudiced thereby. Motions to set aside a final default order for fraud, mistake, or excusable neglect shall be filed within one year after the order was issued. All motions to set aside default orders shall be decided, in the first instance, by the official who issued the order. A denial of a motion to set aside a default order that has become final shall be treated as an initial decision, which may be appealed to the Commission in accordance with the requirements of § 12.401 of these rules. A grant of a motion to set aside a final default order shall be treated as a non-final order which may be appealed only in accordance with the requirements of Section 12.309 of these rules.

§ 12.24 Parallel proceedings.

(a) *Definition.* For purposes of this section, a parallel proceeding shall include—

(1) An arbitration proceeding or civil court proceeding, involving one or more of the respondents as a party, which is pending at the time the reparation complaint is filed and involves claims or counterclaims that are based on the same set of facts which serve as a basis for all of the claims in the reparations complaint, and which either:

(i) Was commenced at the instance of the complainant in reparations; or

(ii) Involves counterclaims by the complainant in reparations alleging violations of the Commodity Exchange Act, or any regulation or order issued thereunder; or

(iii) Is governed by a compulsory counterclaim rule of federal court procedure which required the complainant in reparations to assert all of his claims (including those based on alleged violations of the Commodity Exchange Act, and any regulation or order issued thereunder) as counterclaims in that proceeding;

(2) The appointment by a court of a receivership over the assets, property or proceeds of a respondent named in a reparation complaint where the responsibility of the receivership includes the resolution of claims made by customers; or

(3) A petition filed under any chapter of the Bankruptcy Code, 11 U.S.C. 101 *et seq.*, as amended, commenced pursuant to 11 U.S.C. 301 or 302 by a respondent in a reparation proceeding, or the issuance by a bankruptcy court of an

order for relief after the filing against a respondent in a reparation proceeding of an involuntary petition in bankruptcy pursuant to 11 U.S.C. 303.

(b) *Notice:* At the time a complaint in reparations is filed pursuant to these rules, or at any time thereafter, any party, receiver or trustee, or counsel to any of the foregoing with knowledge of a parallel proceeding shall promptly notify the Commission, by first-class mail addressed to the Office of Proceedings, attention of the Proceedings Clerk, and serve notice on all other parties, including the receiver or trustee. The notice shall include the following information:

(1) The caption of the parallel proceeding;

(2) The name of the court or the arbitration tribunal (including address and phone number, if known);

(3) The docket number or numbers;

(4) The date the parallel proceeding was filed (and the current status if known); and

(5) If a proceeding in bankruptcy or receivership is pending, the date of the appointment and name and address of the receiver or trustee.

A copy of any relevant complaint, petition or order shall be attached to the notice.

(c) *Effect of pending arbitration or civil court litigation.* (1) The Director of the Office of Proceedings shall refuse to institute an elected decisional procedure concerning a reparation complaint filed under this Part in which there is a parallel proceeding described in paragraph (a)(1) of this section and shall return the complaint to the complaining person. The effective date of the Director's termination of the complaint without prejudice shall be fifteen (15) days from the date of service of notice of the action taken pursuant to this subparagraph.

(2) If notice of a parallel proceeding described in paragraph (a)(1) of this section is received before the initial decision is filed (or before a final decision under § 12.106 of the rules is entered), a proceeding in which a decisional procedure has been commenced shall be dismissed, without prejudice. The effective date of the order of dismissal shall be fifteen (15) days from the date of service of the order by the Proceedings Clerk.

(d) *Effect of receivership or bankruptcy proceedings.* (1) The Director of the Office of Proceedings shall refuse to institute an elected decisional procedure as to a respondent in any reparation complaint filed pursuant to this part who is the subject of a parallel proceeding described in paragraph (a)(2) or (a)(3) of this section, and shall notify all parties, including the receiver or trustee, that as to that respondent a reparation proceeding shall not be instituted. The effective date of the Director's action shall be fifteen (15) days from the date of service of the notice thereof.

(2) A proceeding in which an elected decisional procedure has been commenced shall be ordered dismissed, without prejudice, as to any respondent who becomes the subject of a parallel proceeding described in paragraph (1)(2) or (a)(3) of this section if notice pursuant to subsection (b) of this section is received before the filing of an initial decision (or before a final decision is issued pursuant to § 12.106) as to that respondent. The Proceedings Clerk shall notify all parties, including the receiver or trustee, of the order. The effective date of the order shall be fifteen (15) days from the date of the service of the order by the Proceedings Clerk.

(e) *Exceptions.* At the time notice of a parallel proceeding is filed pursuant to paragraph (b) of this section, or any time thereafter, any party, or the receiver or trustee, may file and serve upon other parties a statement in support of or in opposition to any action taken or to be taken pursuant to paragraph (c) or (d) of this section. This statement shall be addressed to the Office of Proceedings, attention of the Proceedings Clerk. Upon receipt of any such statement, the Proceedings Clerk shall immediately forward the statement to the official with responsibility over the case. The notice and the statements filed by the parties shall be reviewed by that official who, on or before the effective date of action taken pursuant to paragraphs (c)(1), (c)(2), (d)(1), and (d)(2), of this section, may take such actions as, in his opinion, are necessary to ensure that the parties to the matter or proceedings are not unduly prejudiced.

(f) *No right of appeal to the Commission.* Any action taken, or order issued, pursuant to paragraphs (c)(1), (c)(2), (d)(1), or (d)(2), of this section that has become effective shall be deemed a final order which is not subject to appeal pursuant to Subpart F of these rules.

§ 12.25 Filing fees.

(a) *Fees payable upon filing a complaint.* (1) A complainant who, in the complaint, has elected the voluntary decisional procedure shall, at the time of filing the complaint, pay a filing fee of $25.00;

(2) A complainant who, in the complaint wherein the amount of damages claimed does not exceed $10,000, exclusive of interest and costs, has not elected the voluntary decisional procedure shall, at the time of filing the complaint, pay a filing fee of $100.00.

(3) A complainant who, in the complaint wherein the amount of damages claimed exceeds $10,000, exclusive of interest and costs, has not elected the voluntary decisional procedure shall, at the time of filing the complaint, pay a filing fee of $200.00.

(b) *Fees payable upon filing an answer.* (1) If a complainant, in the complaint, has elected the voluntary decisional procedure, a respondent who, in his answer, elects the summary decisional procedure (available only where the amount of damages claimed in the complaint or as counterclaims does not exceed $10,000) shall, at the time of filing the answer, pay a filing fee of $75.00.

(2) If a complainant, in the complaint, has elected the voluntary decisional procedure, a respondent who, in his answer, elects the formal decisional procedure (available only where the amount of damages claimed in the complaint or as counterclaims exceeds $10,000) shall, at the time of filing the answer, pay a filing fee of $175.00.

(c) *Fees payable upon filing a reply.* In any case in which a counterclaim has been made, unless a complainant in the complaint, or the respondent in an answer, has elected the decisional procedure a complainant, who in his reply elects either of these procedures, shall, at the time of filing the reply, pay a filing fee of $75.00 or $175.00, respectively, depending whether the procedure elected by complainant is pursuant to Subparts D or E.

§ 12.26 Commencement of a reparation proceeding.

(a) *Commencement of voluntary decisional proceeding.* Where complainant and respondent in the complaint and answer have elected the voluntary decisional procedure pursuant to Subpart C of these Rules and the complainant has paid the filing fee required by § 12.25 of these rules, the Director of the Office of Proceedings shall, if in his opinion the facts warrant taking such action, forward the pleadings and all materials of record to the Proceedings Clerk for a proceeding to be conducted in accordance with Subpart C of these rules. The Proceedings Clerk shall forthwith notify the parties of such action. Such notification shall be accompanied by an order issued by the Proceedings Clerk requiring the parties to complete all discovery, as provided in Subpart B of these Rules, within 60 days thereafter. A voluntary decisional proceeding

commences upon service of such notification and order. As soon as practicable after service of such notification, the Proceedings Clerk shall assign the case to a Judgement Officer for a final decision.

(b) *Commencement of summary decisional proceeding.* Where the amount claimed as damages, exclusive of interest and costs, in the complaint or in counterclaim does not exceed $10,000, and either a complainant or a respondent in the complaint, answer, or reply, has elected the summary decisional procedure pursuant to Subpart D of these rules, and has paid the filing fee required by § 12.25, the Director of the Office of Proceedings shall, if in his opinion the facts warrant taking such action, forward the pleadings and all materials of record to the Proceedings Clerk for a proceeding to be conducted in accordance with Subpart D of these rules. The Proceedings Clerk shall forthwith notify the parties of such action. Such notification shall be accompanied by an order issued by the Proceedings Clerk requiring the parties to complete all discovery, as provided in Subpart B of these rules, within 60 days thereafter. A summary decisional proceeding commences upon service of such notification. As soon as practicable after service of such notification, the Proceedings Clerk shall assign the case to a Judgement Officer for disposition.

(c) *Commencement of formal decisional proceeding.* Where the amount claimed as damages in the complaint or as counterclaims exceeds $10,000, exclusive of interest and costs, and either a complainant or a respondent in the complaint, answer or reply, has elected the formal decisional procedure pursuant to Subpart E of these rules, and has paid the filing fee required by § 12.25, the Director of the Office of Proceedings shall, if in his opinion the facts warrant taking such action, forward the pleadings and the materials of record to the Proceedings Clerk for a proceeding to be conducted in accordance with Subpart E of these rules. The Proceedings Clerk shall forthwith notify the parties of such action. Such notification shall be accompanied by an order issued by the Proceedings Clerk requiring the parties to complete all discovery, as provided in Subpart B, within 60 days thereafter. A formal decisional proceeding commences upon service of such notification and order. As soon as practicable after service of such notification, the Proceedings Clerk shall forward the pleadings and materials of record to a Proceedings Officer for discovery purposes, and assign the case to an Administrative Law Judge for disposition.

§ 12.27 Termination of consideration of pleadings.

If the Director of the Office of Proceedings should determine not to proceed in a manner set forth in §§ 12.26 (a), (b), or (c), consideration of the complaint and the answer (and reply, if any) shall terminate, and no proceeding shall be held on the allegations in any such pleadings. Such termination shall be regarded by the Commission as without prejudice to the right of the parties to seek such alternative forms of relief as may be available to them. If the consideration of the pleadings should be terminated, the Proceedings Clerk shall immediately notify the parties to that effect by registered or certified mail. A determination by the Director not to proceed in the manner set forth in §§ 12.26 (a), (b), or (c) of these rules is not subject to appeal pursuant to Subpart F of these rules.

Subpart B—Discovery

§ 12.30 Methods of discovery.

(a) *In general.* Parties may obtain discovery by the following methods in accordance with the procedures and limitations set forth in the section indicated—

(1) Production of documents or other items (§ 12.31);

(2) Deposition on written interrogatories (§ 12.32);

(3) Admissions (§ 12.33).

(b) *Scope of discovery.* The scope of discovery is as follows—

(1) *Relevancy.* Except as provided below, discovery may be obtained regarding any matter not privileged, which is relevant to the subject matter in the pending proceeding, including the existence, description, nature, custody, condition and location of any books, documents, or other tangible items, and the identity and location of persons having knowledge of any discoverable matters. Tax returns and personal bank account records shall not be discoverable, except upon motion by the party seeking discovery showing the need for disclosure of information contained therein, and that the same information could not be obtained through other means.

(2) *Protective orders.* Upon motion by a party or the person from whom discovery is sought, filed within twenty days after the objectionable discovery notice or request is served, and for good cause shown, the official presiding over discovery may issue any order to protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense, or to prevent the raising of issues untimely or inappropriate to the proceeding, or the inappropriate disclosure of trade secrets or sensitive commercial or financial information. Relief through a protective order may include one or more of the following—

(i) That discovery not be had;

(ii) That discovery may be had only on specified terms and conditions;

(iii) That certain matters not be inquired into, or that the scope of the discovery be limited to certain matters;

(iv) That a trade secret or other confidential commercial information not be disclosed or be disclosed only in a designated way; and

(v) That the parties simultaniously file specified documents or information in sealed envelopes to be opend only as directed by the decisionmaking official.

(3) *Motions for order compelling discovery.* It shall be the duty of a party to obtain an order compelling discovery from another party if the latter party fails to comply with a discovery notice, by filing a motion therefor within twenty days after the time allowed by these rules for compliance with the notice has expired.

(c) *Sanctions for abuse of discovery.* If an Administrative Law Judge or a Judgement Officer finds that any party, without substanial justification, has necessitated the filing of a motion for a protective order or for an order compelling discovery, or any other discovery-related motions, that party shall, if the motion is granted, be ordered to pay, at the termination of the proceeding, the reasonable expenses of the moving party incurred in filing the motion, unless the decisionmaking official finds that circumstances exist which would make an award of such expenses unjust. If a decisionmaking official finds that any party, without substantial justification, has filed a motion for a protective order or for an order compelling discovery, or any discovery-related motions, that party shall, if the motion is denied, be ordered to pay, at the termination of the proceeding, the reasonable expenses of an adverse party incurred in opposing the motion, unless the decisionmaker finds that circumstances exist which would make an award of such expenses unjust.

(d) *Time limit.* Absent an extension of time, all discovery notices or requests shall be served within forty (40) days (and all discovery shall be completed within sixty (60) days) after the notification and the order required by § 12.26 (a), (b), or (c) has been served on

the parties. Upon motion by a party and for good cause shown, the time allowed for discovery may be enlarged for one additional period not to exceed thirty (30) days. Motions for any additional periods of extension of time to conduct discovery shall be decided by the Chief Administrative Law Judge, or such Administrative Law Judge as he may designate, and may be granted only upon a showing of extraordinary circumstances.

§ 12.31 Production of documents and tangible items.

(a) *By a party.* Any party, within the time prescribed in § 12.30(d) and subject to the limitations in § 12.30(a), may serve on any other party, a notice to produce copies of specifically designated categories of documents, papers, books, accounts, letters, photographs, objects, or tangible things which are in the party's possession, custody or control. A copy of the notice shall be served on all other parties to the proceeding. All documents requested in the notice to produce shall be served on the party seeking the discovery within twenty (20) days after service of the notice to produce.

(b) *By a non-party.* Any party may, by filing an appropriate motion showing the need for the materials and an application for a subpoena in accordance with the procedure precribed in § 12.313 and within the time prescribed by § 12.30(d) of these rules, seek leave to serve upon a non-party a notice to produce copies of any specifically designated categories of materials as are described in paragraph (a) of this section. After an appropriate order and subpoena has been issued, such party may serve upon a non-party a notice to produce such materials. All materials requested in the notice to produce, and, if applicable, a detailed explanation of why any of the specified materials cannot be produced, shall be served on the party seeking discovery within such time (not to exceed thirty (30) days) as the subpoena shall specify. Enforcement of the order and subpoena may be sought in accordance with § 12.313.

§ 12.32 Depositions on written interrogatories.

(a) *Notice.* Any party, within the time prescribed by § 12.30(d), may serve on any other party or any officer or agent of a party a notice of the taking of a deposition on written interrogatories.

(b) *Number.* The number of written interrogatories served upon any one party shall not exceed thirty. For the purpose of this rule, each sub-interrogatory or divisible part of an interrogatory shall be regarded as one interrogatory. Leave to serve additional interrogatories shall not be granted absent extraordinary circumstances.

(c) *Reply.* (1) Each interrogatory served shall be answered by the party served or if the party is a corporation, partnership, association, or government agency, by any officer or agent thereof selected by the responding party.

(2) Each interrogatory shall be answered separately and fully in writing, unless objected to, in which event the reasons for objection shall be stated in lieu of an answer. For the purposes of this rule, an evasive or incomplete answer shall be treated as a failure to answer. The answers are to be signed and verified by the person making them. The person upon whom a notice to take a deposition on written interrogatories has been served shall serve a copy of the answers and objections within twenty (20) days after service of the interrogatories.

(d) *Deposition of a non-party.* The deposition on written interrogatories of a non-party may be taken only within the time prescribed by § 12.30(d), and only pursuant to an order entered and subpoena issued in accordance with the provisions of § 12.313 of these rules; provided however, that the deposition on written interrogatories of a Commission member or employee may only be taken upon a showing that the Commission member or employee has personal knowledge of the matters sought to be discovered (*i.e.*, not obtained pursuant to a Commission investigation), that the information sought to be discovered is material and that the information sought to be discovered is not available from other sources.

(e) *Filing of depositions on written interrogatories in a voluntary or summary decisional proceeding.* In proceedings commenced pursuant to Sections 12.26 (a) and (b) of these rules, copies of all depositions on written interrogatories shall be filed by the party on whose behalf the discovery was obtained.

§ 12.33 Admissions.

(a) *Request for admissions.* Any party may, within the time permitted by § 12.30(d) of these rules, serve upon any other party a written request for admissions of the truth of any matters set forth in the request that relate to statements or opinions of fact or of the application of law to fact, including the genuineness of any document described in the request. Copies of documents shall be served with the request unless they have been or are otherwise furnished or made available for inspection and coping. A copy of the request shall be filed with the Proceedings Clerk.

(b) *Reply.* Each matter of which an admission is requested shall be separately set forth. The matter is admitted unless within twenty (20) days after service of the request, the party upon whom the request is directed files and serves upon the party requesting the admission a verified written answer or objection to the matter. If objection is made, the reasons therefor shall be stated. The answer shall specifically deny the matter or set forth in detail the reasons why the answering party cannot truthfully admit or deny the matter. A denial shall fairly meet the substance of the requested admission and when good faith requires that a party qualify his answer and deny only a part of the matter of which an admission is requested, he shall specify so much of it as is true and qualify or deny the remainder. An answering party may not give a lack of information or knowledge as a reason for failure to admit or deny unless he states that he has made reasonable inquiry and that the information known or reasonably available to him is insufficient to enable him to admit or deny. A party who considers that a matter of which an admission has been requested presents a genuine issue for trial may not, on that ground alone, object to the request; he may deny the matter or set forth reasons why he cannot admit or deny it.

(c) *Determining sufficiency of answers or objections.* The party who has requested the admissions may move to determine the sufficiency of the answers or objections. Unless the objecting party sustains his burden of showing that the objection is justified, the official presiding over discovery shall order that an answer be served. If such official determines that an answer does not comply with the requirements of this rule, he may order either that the matter is admitted or that an amended answer be served.

(d) *Effect of admission.* Any matter admitted under this rule is conclusively established and may be used as proof against the party who made the admission. However, the discovery or decisionmaking official may permit withdrawal or amendment when the presentation of the merits of the proceeding will be served thereby and the party who obtains the admission fails to satisfy such official that withdrawal or amendments will prejudice him in maintaining his action or defense on the merits.

§ 12.34 Discovery by a decisionmaking official.

(a) *Applicability.* The provisions of this rule apply only to summary decisional proceedings and formal decisional proceedings commenced pursuant to § 12.26 (b) and (c). This rule does not apply to a voluntary decisional proceeding commenced pursuant to § 12.26(a). For the purposes of this rule, the term "decisionmaking official" shall mean a Judgment Officer or Administrative Law Judge assigned to render a decision in the proceeding.

(b) *Production of documents and tangible things.*—(1) *Order for production.* A decisionmaking official may, upon his own motion, order a party or non-party to produce copies of specifically designated documents, papers, books, accounts, or tangible things (or categories of any of the foregoing) which are in the possession, custody or control of the party, non-party or agent thereof, against whom the order is directed. Except as provided in paragraph (b)(2) of this section, a party or non-party ordered to produce documents or any of the above items under this rule shall file and serve the documents and items listed in the order within twenty (20) days from the date of service of the order, or within such period of time as the decisionmaking official may direct. The decisionmaking official may issue subpoenas to compel the production by parties or non-parties of such documents and tangible things as are described in this section.

(2) *Trade secrets, commercially sensitive or confidential information.* If any party or person against whom an order to produce has been directed acting in good faith has reason to believe that any documents or other tangible thing ordered to be produced contains a trade secret, or commercially sensitive or other confidential information, the party or person may, in lieu of serving any such document, in accordance with paragraph (b)(1) of this section, file and serve a written request for confidential treatment of such documents. Any such request for confidential treatment shall be accompanied by a verified statement identifying with particularity the information on those documents considered to be trade secrets, commercially sensitive or confidential information, with reasons therefor, and indicating which portions, if any, of those documents may be served on other parties without disclosure of such information. Upon considering a request for confidential treatment in accordance with this subsection, the decisionmaking official may, if he finds that the information identified in the request warrants confidential treatment and is not probative of any material fact in controversy, make copies of the documents produced, delete such information from the copies, and serve the copies as modified upon the other parties, with or without an appropriate protective order limiting dissemination to the parties and their counsel, if any.

(3) *Inability to produce.* Any party or person who cannot produce documents or other tangible things called for in an order for production, because those documents or things are not in his possession, custody or control, shall file and serve within the time provided in paragraph (b)(1) of this section a verified statement identifying the documents which cannot be produced and setting forth with particularity the reasons for non-production.

(c) *Order for written testimony.* The decisionmaking official may, upon his own motion, order a party or non-party witness to submit verified statements or written responses to interrogatories, or both, as to all relevant matters within the party's personal knowledge which are required in response to the order. A party or person ordered to file affidavits and/or verified written responses to interrogatories shall file and serve the documents within such period of time as the decisionmaking official may direct. The official may issue subpoenas to compel the filing by parties or non-parties of such verified statements and written responses as are described in this subsection.

§ 12.35 Consequences of a party's failure to comply with a discovery order.

If a party fails to comply with an order compelling discovery, or an order issued pursuant to § 12.34, the official assigned to render the decision in the case may, upon motion by a party or on his own motion, take such action in regard thereto as is just, including but not limited to the following—

(a) Infer that the documents or things not produced would have been adverse to the party;

(b) Rule that for the purposes of the proceeding the information in or contents of the documents or things not produced be taken as established adversely to the party;

(c) Rule that the party may not be heard to object to introduction and use of secondary evidence to show what the withheld documents or other evidence would have shown;

(d) Rule that a pleading, or part of a pleading, or a motion or other submission by the party, to which the order for production related, be stricken;

(e) Dismiss the entire proceeding with prejudice to matters alleged in the complaint, but without prejudice to counterclaims; and

(f) Issue a default order and render a decision against the party, whose rights shall thereafter be determined by §§ 12.22 and 12.23 of these rules.

§ 12.36 Subpoenas to compel discovery.

An application for a subpoena requiring a party or non-party to comply with a discovery order issued pursuant to §§ 12.31 and 12.32, may be made, in writing, by any party without notice to other parties, and may be filed simultaneously with the motion for the discovery order. The standards for issuance or denial of such an application, the service requirement, and the method for enforcing such subpoenas shall be determined by the provisions of § 12.313 of these rules.

Subpart C—Rules Applicable to Voluntary Decisional Proceedings

§ 12.100 Scope and applicability of rules.

(a) *In general.* The rules set forth in this subpart are applicable only to proceedings forwarded pursuant to § 12.26(a) of the Reparation Rules. The rules of Subpart B permitting discovery are applicable in a voluntary decisional proceeding. Unless specifically made applicable, the rules prescribed in Subparts D, E, and F shall not apply in a voluntary decisional proceeding.

(b) *Waiver by electing the voluntary decisional procedure.* By electing the voluntary decisional procedure, parties waive the opportunity for an oral hearing and whatever rights they may have otherwise had: to receive a written statement of the findings of fact upon which the final decision is based; to prejudgment interest in connection with a reparation award; to appeal to the Commission the final decision; and to appeal the final decision to a United States Court of Appeals pursuant to Section 14(e) of the Commodity Exchange Act, 7 U.S.C. 18(e).

§ 12.101 Functions and responsibilities of the judgment officer.

The Judgment Officer shall be responsible for the fair and orderly conduct of the proceeding and shall have the authority—

(a) To rule upon discovery-related motions, and to issue orders pertaining to discovery;

(b) To take such action pursuant to § 12.35 as is appropriate if a party fails to comply with a discovery order or notice;

(c) To issue subpoenas pursuant to § 12.36 of these rules;

(d) To issue orders of default for good cause shown against any party who fails to participate in the proceeding, or to comply with any provisions of these rules;

(e) To receive submissions of proof;

(f) Make the final decision in accordance with § 12.106 of these rules; and

(g) Issue such orders as are necessary and appropriate to effectuate the orderly conduct of the proceeding.

§ 12.102 Disqualification of judgment officer.

(a) *At his own request.* A Judgment Officer may withdraw from a voluntary decisional proceeding when he considers himself to be disqualified on the grounds of personal bias, conflict of interest, or similar bases. In such event he shall immediately notify the Commission and each of the parties of his withdrawal and of his basis for such action.

(b) *Upon the request of a party.* Any party may request a Judgment Officer to disqualify himself on the grounds of personal bias, conflict of interest, or similar bases. Interlocutory review of an adverse ruling by the Judgment Officer may be sought without certification of the matter by the Judgment Officer only in accordance with the procedures set forth in § 12.309 of the Reparation Rules.

§ 12.103 Filing of documents; subscription; service.

Except as otherwise specifically provided in these rules, all documents filed in a voluntary decisional proceeding, including (but not limited to) amended or supplemental pleadings, motions, discovery requests and responses thereto, and submissions of proof, shall meet the requirements of §§ 12.11 and 12.12 of the Reparation Rules as to form, and shall be filed and served in accordance with § 12.10 of the Reparation Rules.

§ 12.104 Amendments to pleadings; motions.

(a) *Amendments and supplemental pleadings.* At any time prior to the issuance of the final decision, the parties may, by unanimous express written consent, amend or supplement the pleadings. Supplemental pleadings may set forth transactions or occurrences or events which have happened since the date of the pleadings to be amended or supplemented, and which are relevant to any of the issues involved.

(b) *Motions.* Except as specifically permitted by rule in this Subpart, motions, other than discovery-related motions and motions relating to procedural orders, shall be prohibited. Motions for procedural orders, including motions for extension of time, may be acted upon at any time.

§ 12.105 Submission of proof only in documentary or tangible form.

Proof in support of the complaint and in support of the respondent's answer (including counterclaims, if any), and any reply thereto, may be found in those verified documents, in verified statements of non-party witnesses, in other verified statements of fact, and in other documents and tangible evidence. No oral testimony by, or examination of, the parties or their witnesses shall be permitted.

§ 12.106 Final decision and order.

(a) *When a final decision is required.* After all submissions of proof have been received, the Judgment Officer shall make the final decision. Upon its issuance, the final decision shall forthwith be filed with the Proceedings Clerk, and immediately served on the parties. The Proceedings Clerk shall also serve a notice, to accompany the final decision, of the effect of a failure by a party ordered to pay a reparation award to file the documents required by § 12.407(c) of these rules.

(b) *Content of final decision.* The final decision shall contain—

(1) A briefly stated conclusion, not accompanied by findings of fact, as to whether the respondent violated any provision of the Act, Commission's regulations or orders, resulting in damages to the complainant; and

(2) If one or more counterclaims have been permitted in the proceeding, a brief conclusion, not accompanied by findings of fact, as to whether the complainant is liable to the respondent for such counterclaims; and

(3) A determination of the amount of damages, if any, sustained by complainant or respondent in connection with reparation claims or counterclaims, and an order against a party found liable for damages directing that party to pay an award. An award in favor of the complainant shall not exceed the amount of damages in the complaint (including any amendment thereto), and an award in favor of a respondent shall not exceed the amount of damages claimed in a counterclaim (including any amendment thereto). A conclusion made pursuant to paragraph (b)(1) of this section shall not be deemed a finding of the Commission for the purposes of Section 8a of the Commodity Exchange Act.

(c) *No assessment of prejudgment interest or costs.* A party found liable for damages in a voluntary decisional proceeding shall not be assessed prejudgment interest, attorney's fees, or costs (other than costs assessed as a sanction for abuse of discovery).

(d) *Effect of final decision and order: No appeal.* A party may not appeal to the Commission a final decision issued pursuant to Subpart C of these rules. In accordance with the election and waivers described in Section 12.100(b), a final decision may not be appealed to a United States Court of Appeals pursuant to Section 14(e) of the Commodity Exchange Act, but a final decision shall be recognized as a final order of the Commission for all other purposes including the judicial enforcement of an award made in connection with the final decision pursuant to Section 14(d) of the Commodity Exchange Act.

(e) *Effective date of final decision.* A final decision and order shall become effective thirty (30) days after service, unless the Commission pursuant to Section 12.403 takes review of the decision on its own motion on or before the thirtieth day. Any reparation award ordered in a final decision pursuant to this rule shall be satisfied in full within forty-five (45) days after service thereof, unless the Commission pursuant to § 12.403(b) stays the duty of satisfaction. Any party who fails timely to satisfy such an award is subject to the automatic suspension provisions of § 12.407(c).

Subpart D—Rules Applicable to Summary Decisional Proceedings

§ 12.200 Scope and applicability of rules.

The rules set forth in this subpart are applicable only to proceedings forwarded pursuant to § 12.26(b) of the Reparation Rules. The rules in Subpart B permitting discovery are applicable in a summary decisional proceeding. Unless specifically made applicable, the rules prescribed in Subparts C and E shall not apply to such proceedings. Parties to a proceeding forwarded pursuant to § 12.26(b) may, by signed agreement filed at any time prior to the issuance of the initial decision, or of any other order disposing of all issues in the proceeding, elect to have all of the issues in the proceeding decided pursuant to the voluntary decisional procedure. Upon receiving a timely filed stipulation signed by all parties evidencing such an election, the Judgment Officer shall conduct the proceeding and render a decision pursuant to Subpart C of these rules.

§ 12.201 Functions and responsibilities of the Judgment Officer.

The Judgment Officer shall be responsible for the fair and orderly

conduct of the proceeding and shall have the authority—

(a) In his discretion, to conduct pre-decision conferences in accordance with § 12.206 of these rules;

(b) To rule upon all discovery-related motions, and to take such action pursuant to § 12.35 as is appropriate if a party fails to comply with a discovery order or request;

(c) To issue orders for the production of documents and tangible things and orders for written testimony, as provided in § 12.34 of these rules;

(d) To take such action as is appropriate under § 12.35 of these rules, if a party fails to comply with an order issued by the Judgment Officer pursuant to § 12.34;

(e) To rule on all motions permitted pursuant to § 12.205;

(f) To issue default orders for good cause against parties who fail to participate in the proceeding or to comply with these rules;

(g) To receive submissions of proof (which includes the authority to regulate the sequence of the submissions and to permit oral testimony and examination by the parties in accordance with § 12.209 of these rules);

(h) To issue subpoenas in accordance with the provisions of §§ 12.34, 12.36 and 12.209 of these rules;

(i) To make the initial decision in accordance with § 12.210 of these rules; and

(j) To issue such orders as are necessary and appropriate to effectuate the orderly conduct of the proceeding.

§ 12.202 Disqualification of Judgment Officer.

(a) *At his own request.* A Judgment Officer may withdraw from a summary decisional proceeding when he considers himself to be disqualified on the grounds of personal bias, conflict of interest, or similar bases. In such event, he shall immediately notify the Commission and each of the parties of his withdrawal and of his basis for such action.

(b) *Upon the request of a party.* Any party may request a Judgment Officer to disqualify himself on the grounds of personal bias, conflict of interest, or similar bases. Interlocutory review of an order denying such a request may be sought without certification of the matter by the Judgment Officer only in accordance with the procedures set forth in § 12.309 of the Reparation Rules.

§ 12.203 Filing of documents; subscription; service.

Except as otherwise specifically provided in these rules, all documents filed in a summary decisional proceeding, including (but not limited to) amended or supplemental pleadings, motions, discovery notices and responses thereto, documents produced or filed pursuant to § 12.34 of these rules, and submissions of proof, shall meet the requirements of §§ 12.11 and 12.12 of these rules as to form, and shall be filed and served in accordance with § 12.10 of the Reparation Rules.

§ 12.204 Amended and supplemental pleadings.

(a) *Amendments to pleadings.* At any time before the parties have concluded their submission of proof, the Judgment Officer may allow amendments of the pleadings either upon written consent of the parties, or for good cause shown, provided however, that any pleading as amended shall not contain an allegation of damages in excess of $10,000. Any party may file a response to a motion to amend the pleadings within ten (10) days after the date of service upon him of the motion;

(b) *Supplemental pleadings.* At any time before the parties have concluded their submissions of proof, and upon such terms as are just, the Judgment Officer may, upon motion by a party, permit a party to serve a supplemental pleading setting forth transactions, occurrences or events which have happened since the date of the pleadings sought to be supplemented and which are relevant to any of the issues in the proceeding: Provided however, that any pleading as supplemented may not contain an allegation of damages in excess of $10,000. Any party may file a response to a motion to supplement the pleadings within ten (10) days after the date of service upon him of the motion.

(c) *Pleadings to conform to the evidence.* When issues not raised by the pleadings but reasonably within the scope of a summary decisional proceeding are tried with the express or implied consent of the parties, they shall be treated in all respects as if they had been raised in the pleadings.

§ 12.205 Motions.

(a) *In general.* Motions for relief not otherwise specifically provided for in Subpart D of these rules, other than discovery-related motions and motions for extensions of time and similar procedural orders, shall not be allowed. Except as otherwise specifically provided in these rules, all motions permitted under these rules shall be directed to the Judgment Officer prior to the filing of the initial decision, and to the Commission after the initial decision has been filed. Motions for extensions of time and similar procedural orders may be acted upon at any time, without awaiting a response thereto. Any party adversely affected by such action may request reconsideration, vacation or modification of such action.

(b) *Answer to motions.* Any party may serve and file a written response to a motion within ten (10) days after service of the motion upon him, or within such longer or shorter period as is established by these rules, or as the Judgment Officer or the Commission may direct.

(c) *Dismissal.*—(1) *By the Judgment Officer.* A Judgment Officer, acting upon his own motion, may

(i) Dismiss the entire proceeding without prejudice to counterclaims, if he finds that the matters alleged in the complaint fail to state a claim cognizable in reparations; or

(ii) Order dismissal of any claim, counterclaim, or party from the proceeding if he finds, after review of the record, that such claim or counterclaim (by itself or as applied to any party) is not cognizable in reparations.

(2) *Motion for dismissal by a party.* Any party who believes that grounds exist for dismissal of the entire complaint, or of any claim therein, or of any counterclaim or party from the proceeding, may file a motion for dismissal specifying the claims or parties to be dismissed and the reasons therefor. Upon consideration of the whole record, the Judgment Officer may grant or deny such motion, in whole or in part.

(3) *Content and effect of order of dismissal.* Any order of dismissal entered pursuant to this rule shall contain a brief statement of the findings and conclusions which serve as the basis for the order. An order of dismissal of the entire proceeding pursuant to this rule shall have the effect of an initial decision (see § 12.213(d)), and may be appealed to the Commission in accordance with the requirements of § 12.401 of these rules.

§ 12.206 Pre-decision conferences.

At any time after a summary decisional proceeding has been commenced pursuant to § 12.26(b), the Judgment Officer may, in his discretion, conduct one or more pre-decision conferences to be held in Washington, D.C. or by telephone, with all parties, for the purposes of—

(a) Discussing the advisability of electing the voluntary decisional procedure;

(b) Encouraging settlement of the entire case, or any part thereof, (such discussions may be *ex parte* with the consent of all parties);

(c) Simplifying or clarifying issues;

(d) Obtaining stipulations, admissions of fact and of authenticity of documents;

(e) Discussing amendments or supplements to the pleadings;

(f) Encouraging an early settlement of disputes relating to discovery; and

(g) Discussing any matters of relevance in the proceeding.

At or following the conclusion of such a conference, the Judgment Officer may serve a pre-decision memorandum and order setting forth the agreements, if any, reached by the parties, any procedural determinations made by him, and the issues for resolution not disposed of by the admissions or agreements by the parties. Such order, when issued, shall control the subsequent course of the proceeding unless modified to prevent injustice.

§ 12.207 Summary disposition.

(a) *Filing of motions, answers.* Any party who believes that there is no genuine issue of material fact to be determined and that he is entitled to a decision as a matter of law concerning all issues of liability in the proceeding may file a motion for summary disposition at any time until the parties have concluded their submissions of proof. Any adverse party, within ten (10) days after service of the motion, may file and serve opposing papers or may countermove for summary disposition.

(b) *Supporting papers.* A motion for summary disposition shall include a statement of the material facts as to which the moving party contends there is no genuine issue, supported by the pleadings, and by affidavits, other verified statements, admissions, stipulations, and interrogatories. The motion may also be supported by briefs containing points and authorities in support of the contention of the party making the motion. When a motion is made and supported as provided in this section, unless otherwise ordered by the Judgment Officer, an adverse party may not rest upon the mere allegations, but shall serve and file in response a statement setting forth those material facts as to which he contends a genuine issue exists, supported by affidavits and other verified material. He may also submit a brief of points and authorities.

(c) *Summary disposition upon motion of the Judgment Officer.* If the Judgment Officer believes that there may be no genuine issue of material fact to be determined and that one of the parties may be entitled to a decision as a matter of law, he may direct the parties to submit papers in support of and in opposition to summary disposition, substantially as provided in paragraphs (a) and (b) of this section.

(d) *Ruling on summary disposition.* The Judgment Officer may grant summary disposition if the undisputed pleaded facts, affidavits, other verified statements, admissions, stipulations, and matters of official notice show that (1) there is no genuine issue as to any material fact; (2) there is no necessity that further facts be developed in the record; and (3) a party is entitled to a decision in his favor as a matter of law.

(e) *Review of ruling; appeal.* An application for interlocutory review of an order denying a motion for summary disposition shall not be allowed. An order granting summary disposition as to all of the issues and all of the parties in the proceeding shall have the same effect as an initial decision (see § 12.210(d)), and may be appealed to the Commission, in accordance with § 12.401 of these rules.

§ 12.208 Submissions of proof.

(a) *Documentary evidence.* Each party may file and serve verified statements of fact and affidavits of non-party witnesses with personal knowledge of the facts which they aver to be true. Proof in support of the complaint and in support of the respondent's answer may be found in those verified documents, in affidavits of non-party witnesses, in other verified statements of fact, and in other documents and tangible exhibits.

(b) *Oral testimony and examination.* Upon motion by a party, and where it is shown to be necessary or appropriate to resolve factual issues which are central to the proceeding, the Judgment Officer may, in his discretion, permit the parties to testify orally and to conduct examination of parties and their witnesses in Washington, D.C. or by telephonic hearing. Such testimony and examination shall be conducted in accordance with § 12.209 of these rules. If the Judgment Officer determines to permit oral testimony and examination by the parties, notification thereof shall immediately be served on the parties by the Proceedings Clerk. Absent extraordinary circumstances, such oral testimony and examination shall be completed within sixty days after such notification.

§ 12.209 Oral testimony.

(a) *Oral hearing in Washington, D.C.* Where a Judgment Officer, pursuant to § 12.208(b), has determined to permit oral testimony by the parties and their witnesses, and at least one complainant and one respondent execute an agreement in writing to appear at a hearing to be held in Washington, D.C., which has been filed, the parties may present such oral testimony in that location, in the presence of the Judgment Officer. Any party who does not agree to appear at an oral hearing in Washington, D.C., will be deemed to have elected to testify and conduct examination orally by telephone in accordance with the procedure prescribed in paragraph (b) of this section. In the event of an oral hearing in Washington, D.C., the hearing shall be transcribed in the manner prescribed in § 12.313(f) of these rules. The testimony of non-parties may be adduced by their appearance at the hearing in Washington, D.C., or by telephone. Oral examination and testimony may be limited to such issues as the Judgment Officer may direct. Subject to the provisions of § 12.208(b), the date and time for an oral hearing in Washington, D.C. shall be subject to approval by the Judgment Officer who, by appropriate order, shall notify the parties of the date, place and time of the hearing. If any party, after executing a written agreement to do so, fails to appear at such a hearing, he shall be deemed to have waived the opportunity to testify orally, and to conduct oral examination of other parties and witnesses. For just cause, the Judgment Officer may take such action as is appropriate pursuant to § 12.35 against such a party for his failure to appear. In such an event, any party who does appear may present his evidence orally in the presence of the Judgment Officer.

(b) *Telephonic hearings.*—(1) *In general.* Where a Judgment Officer pursuant to § 12.208(b) has determined to permit oral examination of parties and their witnesses, and any party elects to participate by telephone, the Judgment Officer shall, by appropriate order, notify all parties of the date and time of the telephonic hearing and indicate that each party will be telephoned at the number provided in their pleadings, unless a party, prior to such hearing, files and serves notice that a different telephone number is appropriate. The Judgment Officer, in his discretion, may regulate the course and sequences of oral testimony and examination of the parties, which shall include the authority to restrict examination by a party's counsel, as the Judgment Officer deems appropriate. All telephonic discussion during a hearing shall be recorded electronically, and shall be transcribed in the event of Commission review, or judicial review pursuant to Section 14(e) of the Act.

(2) *Effect of a party's failure to participate in a telephonic hearing.* If any party who has elected to participate orally by telephone fails to participate in the telephonic hearing on the scheduled date and at the specified time, he shall

be deemed to have waived the opportunity to testify orally and to conduct oral examination of other parties and witnesses. For just cause, the Judgment Officer may take such action as is appropriate pursuant to § 12.35 against any such party who fails to participate. In the event that a party who has elected to participate by telephone is in telephonic contact with the Judgment Officer at the scheduled time, and no party for the opposing side is available for participation, the party who is in contact may present his evidence orally.

(c) *Compulsory process for the participation of parties and non-parties.* An application for a subpoena requiring a party or non-party to appear at an oral hearing in Washington, D.C., pursuant to paragraph (b)(1) of this section, or to participate by telephone pursuant to paragraphs (b)(1) and (b)(2) of this section, may be made, in writing, by any party to the Judgment Officer, without notice to other parties. The standards for issuance or denial of an application for a subpoena pursuant to this Section, the service and travel fee requirements, and the method for enforcing such subpoenas shall be determined by the provisions of § 12.313 of these rules.

§ 12.210 Initial decision.

(a) *In general.* Proposed findings of fact and conclusions of law briefs shall not be allowed. As soon as practicable after all submissions of proof have been received, the Judgment Officer shall make the initial decision, which he shall forthwith file with the Proceedings Clerk. Upon filing of an initial decision, the Proceedings Clerk shall immediately serve upon the parties a copy of the initial decision and a notification of the effect of a party's failure timely to appeal the initial decision to the Commission, as provided in paragraphs (d) and (e) of this section, as well as the effect of a failure by a party who has been ordered to pay reparation award timely to file the documents required by § 12.407(c).

(b) *Content of initial decision.* In the initial decision in a summary decisional proceeding, the Judgment Officer shall—

(1) Include a brief statement of his findings as to the facts, with references to those portions of the record which support his findings;

(2) Make a determination whether or not the respondent has violated any provision of the Commodity Exchange Act, or rule, regulation or order thereunder;

(3) Make a determination whether the complainant is liable to any respondent who has made a counterclaim in the proceeding;

(4) Determine the amount of damages, if any, that the complainant has sustained as a result of respondent's violations, which shall not exceed $10,000, exclusive of interest and costs; and the amount, if any, for which complainant is liable to respondents based on counterclaims, which, in aggregate, shall not exceed $10,000, exclusive of interest and costs; and

(5) Include an order directing either the respondent or the complainant, depending upon whose liability is greater, to pay an amount based on the difference in the amounts determined pursuant to paragraph (b)(4) of this section, on or before a date fixed in the order.

(c) *Costs; prejudgment interest.* The Judgment Officer may, in the initial decision, award costs (including the costs of instituting the proceeding, and if appropriate, reasonable attorneys' fees) and, if warranted as a matter of law under the circumstances of the particular case, prejudgment interest to the party in whose favor a judgment is entered.

(d) *Effect of initial decision.* The initial decision shall become the final decision and order of the Commission thirty (30) days after service thereof, except—

(1) The initial decision shall not become the final decision as to a party who shall have timely filed and perfected an appeal thereof to the Commission in accordance with § 12.401 of these rules; and

(2) The initial decision shall not become final as to any party to the proceeding if, within thirty (30) days after service of the initial decision, the Commission itself shall have placed the case on its own docket for review or stayed the effective date of the initial decision.

(e) *Effect of failure to file and perfect an appeal to the Commission.* Unless the Commission takes review on its own motion, the timely filing and perfection of an appeal to the Commission of the initial decision is mandatory as a prerequisite to appellate judicial review of a final decision and order entered pursuant to these rules.

Subpart E—Rules Applicable to Formal Decisional Proceedings

§ 12.300 Scope and applicability of rules.

The rules set forth in this Subpart are applicable to proceedings forwarded pursuant to § 12.26(c) of the Reparation Rules. The rules in Subpart B permitting discovery are applicable in a formal decisional proceeding, as supplemented by § 12.301. Unless specifically made applicable, the rules prescribed in Subparts C and D shall not apply to formal decisional proceedings. Parties to a proceeding forwarded pursuant to § 12.26(c) may, by written agreement filed at any time prior to the issuance of an initial decision, or of any other order disposing of all issues in the proceeding, elect to have all issues in the proceeding decided pursuant to the voluntary decisional procedure. Upon receiving a timely filed stipulation signed by all parties evidencing such an election, the Administrative Law Judge shall conduct the proceeding and render a decision pursuant to Subpart C of these rules.

§ 12.301 Functions and responsibilities of the proceedings officer.

It shall be the responsibility of the Proceedings Officer to assist parties to a formal decisional proceeding in completing discovery as soon as practicable. In this regard, the Proceedings Officer, except as otherwise directed by the Administrative Law Judge who has been assigned to decide the case, shall have the authority:

(a) Concerning any discovery notice served within the time permitted for discovery pursuant to § 12.30(d), to rule upon—

(1) Motions for protective orders pursuant to § 12.30(b)(2); and

(2) Motions for an order compelling discovery pursuant to § 12.30(b)(3); and

(b) During the time period permitted for discovery pursuant to § 12.30(d), and thereafter if so directed by the Administrative Law Judge assigned to decide the case—

(1) To rule upon—

(i) Motions for leave to serve written interrogatories in excess of the number permitted by § 12.32; and

(ii) Motions to enlarge the time permitted for discovery under § 12.30(d) for one additional period not to exceed thirty days; and

(iii) Procedural motions; and

(2) To issue, if warranted, orders and subpoenas pursuant to § 12.36 directing non-parties to comply with a discovery notice; and

(3) To hold pre-decision conferences in the manner prescribed by § 12.303; and

(c) To make recommendations to the Administrative Law Judge assigned to the case as to what action should be taken pursuant to § 12.9(b), 12.30(c), or 12.35, if counsel for a party engages in abusive conduct, or if a party fails to comply with a discovery notice or request, an order compelling discovery, or otherwise abuses the discovery procedure prescribed in these rules.

§ 12.302 Appeal of a discovery order issued by a proceedings officer.

Any party aggrieved by a discovery-related order issued by a Proceedings Officer may appeal such order by filing, within five (5) days after service upon him of the discovery order, a motion to vacate or modify such order, or any part thereof, setting forth the grounds therefor, and specifying whatever other relief that the moving party may seek. Upon the timely filing of such a motion, the Proceedings Clerk immediately shall forward the motion and any other relevant materials of record to the Administrative Law Judge assigned to the proceeding, or, if no Administrative Law Judge has yet been assigned to the case, or if the assigned judge is unavailable, to the Chief Administrative Law Judge or such other Administrative Law Judge as the Chief Judge may designate, who shall, by appropriate order and within ten days after the motion is forwarded, absent extraordinary circumstances, grant or deny in whole or in part the motion and the other relief sought. A ruling on a motion to vacate or modify a discovery order issued by a Procedings Officer shall not limit or affect the authority of an Administrative Law Judge to issue orders pursuant to § 12.34 for the production of documents and tangible evidence, and the submission of written testimony.

§ 12.303 Pre-decision conferences.

Subject to § 12.301, during the time period permitted for discovery pursuant to § 12.30(d), and thereafter if so directed by the Administrative Law Judge assigned to decide the case, the Proceedings Officer may, in his discretion, conduct one or more pre-decision conferences to be held in Washington, D.C. or by telephone, with all parties, for the purposes of—

(a) Discussing the advisability of electing the voluntary decisional procedure;

(b) Encouraging a settlement of the entire case, or any part thereof (such discussions may be *ex parte* with the consent of all parties);

(c) Simplifying or clarifying issues;

(d) Obtaining stipulations, admissions of fact and of authenticity of documents;

(e) Discussing amendments or supplements to the pleadings;

(f) Encouraging an early settlement of disputes relating to discovery; and

(g) Discussing any matters of relevance in the proceeding.

At or following the conclusion of a pre-decision conference, the Proceedings Officer may serve a pre-decision memorandum and order setting forth the agreements reached by the parties, any procedural determinations made by him, and the issues for resolution not disposed of by admissions or agreements by the parties. If the Administrative Law Judge assigned to decide the case so directs, such an order shall control the subsequent course of the proceeding unless modified to prevent injustice.

§ 12.304 Functions and responsibilities of the Administrative Law Judge.

Once he has been assigned the case, the Administrative Law Judge shall be responsible for the fair and orderly conduct of a formal decisional proceeding and shall have the authority—

(a) To issue such orders as are described in § 12.34 of these rules;

(b) To issue subpoenas pursuant to §§ 12.34, 12.36, and 12.313 of these rules;

(c) To take such action as is appropriate pursuant to § 12.35 if a party fails to comply with a discovery order or request, or an order issued pursuant to § 12.34 of these rules;

(d) Except as provided in §§ 12.201 and 12.302 to consider and rule upon all motions;

(e) In his discretion, to conduct pre-decision conferences, for the purposes prescribed in § 12.303, at any time after a proceeding has commenced pursuant to § 12.26(c);

(f) To issue pre-hearing orders as required by § 12.312(a);

(g) To certify interlocutory matters to the Commission for its determination in accordance with § 12.309;

(h) To issue orders of dismissal pursuant to § 12.308;

(i) To issue default orders for good cause against parties who fail to participate in the proceeding, or to comply with these rules;

(j) If appropriate, to issue orders for summary disposition in the manner prescribed by § 12.310;

(k) If an oral hearing is ordered, to preside at the oral hearing, which shall include the authority to receive relevant evidence, to administer oaths and affirmations, to examine witnesses, and to rule on offers of proof;

(l) To make the initial decision; and

(m) To issue such orders, and take any other actions as are required to give effect to these rules.

§ 12.305 Disqualification of Administrative Law Judge.

(a) *At his own request.* An Administrative Law Judge may withdraw from a formal decisional proceeding when he considers himself to be disqualified on the grounds of personal bias, conflict of interest, or similar bases. In such event, he shall immediately notify the Commission and each of the parties of his withdrawal and of his basis for such action.

(b) *Upon the request of a party.* Any party may request an Administrative Law Judge to disqualify himself on the grounds of personal bias, conflict of interest, or similar bases. Interlocutory review of an order denying such a request may be sought without certification of the matter by an Administrative Law Judge, only in accordance with the procedures set forth in § 12.309 of these rules.

§ 12.306 Filing of documents; subscription; service.

Except as otherwise specifically provided in these rules, all documents filed in a formal decisional proceeding including, but not limited to, amended or supplemental pleadings, motions, discovery notices or requests, and responses thereto, documents filed or produced pursuant to § 12.34 of these rules, and submissions of proof, shall meet the requirements of §§ 12.11 and 12.12 of the rules as to form, and shall be filed and served in accordance with § 12.10 of the Reparation Rules.

§ 12.307 Amended and supplemental pleadings.

(a) *Amendments to pleadings.* At any time before the parties have concluded their submissions of proof, the Administrative Law Judge may allow amendments of the pleadings either upon written consent of the parties or for good cause shown. Any party may file a response to a motion to amend the pleadings within ten (10) days after the date of service upon him of the motion.

(b) *Supplemental pleadings.* At any time before the parties have concluded their submissions of proof, and upon such terms as are just, an Administrative Law Judge may, upon motion by a party, permit a party to serve a supplemental pleading setting forth transactions, occurrences or events which have happened since the date of the pleadings sought to be supplemented and which are relevant to the issues in the proceeding. Any party may file a response to a motion to supplement the pleadings with ten (10) days after the date of service upon him of the motion.

(c) *Pleadings to conform to the evidence.* When issues not raised by the pleadings but reasonably within the scope of a formal decisional proceeding are tried with the express or implied consent of the parties, they shall be treated in all respects as if they had been raised in the pleadings.

§ 12.308 Motions.

(a) *In general.* An application for a form of relief not otherwise specifically provided for in this Subpart E shall be made by a motion, which shall be in writing (unless made on the record during an oral hearing). The motion shall state the relief sought and the basis for the relief and may set forth the authority relied upon. All motions, unless otherwise provided in these rules, shall be directed to the Administrative Law Judge before the initial decision is filed, and to the Commission after the initial decision is filed.

(b) *Answer to motions.* Any party may serve and file a written response to a motion within ten (10) days after service of the motion upon him, or within such longer or shorter period as established by these rules, or as the Administrative Law Judge or the Commission may direct.

(c) *Dismissal.*—(1) *By the Administrative Law Judge.* The Administrative Law Judge, acting on his own motion, may, at any time after he has been assigned the case:

(i) Dismiss the entire proceeding, without prejudice to counterclaims, if he finds that none of the matters alleged in the complaint state a claim that is cognizable in reparations; or

(ii) Order dismissal of any claim, counterclaim, or party from the proceeding if he finds that such claim or counterclaim (by itself, or as applied to a party) is not cognizable in reparations.

(2) *Motion for dismissal by a party.* Any party who believes that grounds exist for dismissal of the entire complaint, of any claim therein, of any counterclaim, or of a party from the proceeding, may file a motion for dismissal specifying the claims, counterclaims, or parties to be dismissed and the reasons therefor. Upon consideration of the whole record, the Administrative Law Judge may grant or deny such motion, in whole or in part.

(3) *Content and effect of order of dismissal.* Any order of dismissal entered pursuant to this rule shall contain a brief statement of the findings and conclusions which serve as the basis for the order. An order of dismissal of the entire proceeding pursuant to this rule shall have the effect of an initial decision which may be appealed to the Commission in accordance with the requirements set forth in § 12.401 of these rules.

(d) *Motions for procedural orders.* Motions for procedural orders, including motions for extensions of time, may be acted on at any time, without awaiting a response thereto. Any party adversely affected by such action may request reconsideration, vacation or modification of such action.

(e) *Dilatory motions.* Repetitive or numerous motions dealing with the same subject matter shall not be permitted.

§ 12.309 Interlocutory review by the commission.

Interlocutory review by the Commission of a ruling on a motion by an Administrative Law Judge may be sought only as prescribed in this rule—

(a) *When interlocutory appeal may be taken.* An interlocutory appeal may be permitted, in the discretion of the Commission, under the following circumstances:

(1) The appeal is from a ruling pursuant to §§ 12.102, 12.202, or 12.305 refusing to grant a motion to disqualify a Judgment Officer or Administrative Law Judge;

(2) The appeal is from a ruling pursuant to § 12.9 suspending an attorney from participation in a reparation proceeding;

(3) Upon a determination by the Administrative Law Judge certified to the Commission either in writing or on the record, that (i) a ruling sought to be appealed involves a controlling question of law or policy; (ii) an immediate appeal may materially advance the ultimate resolution of the issues in the proceeding; and (iii) subsequent reversal of the ruling would cause unnecessary delay or expense to the parties; or

(4) The appeal is from a ruling which satisfies the conditions of paragraphs (a)(3)(i)(ii)(iii) of this section, despite the absence of certification, and extraordinary circumstances are shown to exist.

(b) *Procedure to obtain interlocutory review.* An application for interlocutory review may be served and filed within ten (10) days after service of a ruling described in paragraphs (a)(1), (a)(2), and (a)(4) of this section or of notice that a determination has been made pursuant to paragraph (a)(3) of this section. The application for interlocutory review shall contain—

(1) A statement of the facts necessary to an understanding of the controlling questions determined by the Administrative Law Judge, and to an understanding of the extraordinary circumstances warranting interlocutory review by the Commission;

(2) A statement of the question or issue involved in the ruling upon which the application for review is based;

(3) A statement of the reasons why, in the opinion of the party requesting review, the ruling was erroneous and should be reversed or modified; and

(4) A copy of all papers filed by the parties that relate to the subject matter of the ruling at issue, including the order containing the ruling.

Within seven (7) days after service of the application for interlocutory review, any party may file a response in opposition to the application.

(c) *Standard for review.* In the absence of extraordinary circumstances, the Commission will not review a ruling of an Administrative Law Judge prior to the Commission's consideration of the proceeding pursuant to Subpart F of these rules. A Commission denial of an application for interlocutory review shall be without prejudice to the applying party's right to raise any argument made in the application as an issue in an appeal taken pursuant to Subpart F of these rules.

(d) *Proceedings not stayed.* The filing of an application for interlocutory review and a grant of review shall not stay proceedings before an Administrative Law Judge (or a Judgment Officer, if applicable) unless that official or the Commission shall so order. The Commission will not consider a motion for a stay unless the motion shall have first been made to the Administrative Law Judge (or, if applicable, the Judgment Officer) and denied.

(e) *Interlocutory review by the Commission on its own motion.* Nothing in this rule should be construed as restricting the Commission from acting on its own motion to review on an interlocutory basis any ruling of an Administrative Law Judge, Proceedings Officer or a Judgment Officer in any proceeding commenced pursuant to § 12.26 of these rules.

§ 12.310 Summary disposition.

(a) *Filing of motions, answers.* Any party who believes that there is no genuine issue of material fact to be determined and that he is entitled to a decision as a matter of law concerning all issues of liability in the proceeding may file a motion for summary disposition at any time before a determination is made by the Administrative Law Judge to order an oral hearing in the proceeding. Any adverse party, within ten (10) days after service of the motion, may file and serve opposing papers or may countermove for summary disposition.

(b) *Supporting papers.* A motion for summary disposition shall include a statement of all material facts as to which the moving party contends that there is no genuine issue, supported by the pleadings, and by affidavits, other verified statements, admissions,

stipulations, and interrogatories. The motion may also be supported by briefs containing points and authorities in support of the contention of the party making the motion. When a motion is made and supported as provided in this Section, unless otherwise ordered by the Administrative Law Judge, an adverse party may not rest upon the mere allegations, but shall serve and file in response a statement setting forth those material facts as to which he contends a genuine issue exists, supported by affidavits and other verified material. He may also submit a brief of points and authorities.

(c) *Oral argument.* Oral argument may be heard at the discretion of the Administrative Law Judge and shall be heard in Washington, D.C., or by telephonic conference call. Such argument shall be recorded, and written transcripts shall be made in the event that a grant or denial of summary disposition is reviewed by the Commission.

(d) *Summary disposition upon motion of the Administrative Law Judge.* If the Administrative Law Judge believes that there may be no genuine issue of material fact to be determined and that one of the parties may be entitled to a decision as a matter of law, he may direct the parties to submit papers in support of and in opposition to summary disposition, and may hear oral argument, substantially as provided in paragraphs (a), (b) and (c) of the section.

(e) *Ruling on summary disposition.* The Administrative Law Judge shall grant summary disposition if the undisputed pleaded facts, affidavits, other verified statements, admissions, stipulations, and matters of official notice, show that (1) there is no genuine issue as to any material fact; (2) there is no necessity that further facts be developed in the record; and (3) a party is entitled to a decision as a matter of law.

(f) *Review of ruling; appeal.* An application for interlocutory review of an order denying a motion for summary disposition shall not be allowed. Interlocutory review of an order granting summary disposition which disposes of less than all of the issues in the proceeding may be sought only in accordance with § 12.309 of these rules. An order granting summary disposition which is dispositive of all issues, and as to all parties, in the proceeding may be appealed to the Commission in accordance with the requirements set forth in § 12.401 of these rules.

§ 12.311 Disposition of proceeding or issues without oral hearing.

If the Administrative Law Judge determines that the documentary proof and other tangible forms of proof submitted by the parties are sufficient to permit resolution of some or all of the factual issues in the proceeding without the need for oral testimony, he may order that all proof relating to such issues be submitted in documentary and tangible form, and dispose of such issues without an oral hearing. In such an event, proof in support of the complaint, answer, and reply, may be found in those verified documents, in depositions on written interrogatories, in admissible documents obtained through discovery, in other verified statements of fact, documents and tangible evidence.

§ 12.312 Oral hearing.

(a) *Notification; prehearing order.* If and when the proceeding has reached the stage of an oral hearing, the Administrative Law Judge, giving due regard for the convenience of the parties, shall set a time for hearing, as well as a location prescribed by paragraph (b) of this section, and shall file with the Proceedings Clerk, for immediate service upon the parties—

(1) An order requiring the parties to file and serve, within fifteen days after service of the order, a prehearing memorandum setting forth briefly—

(i) A statement of all issues to be tried at the hearing;

(ii) An identification of each witness expected to be called by that party;

(iii) A summary of the testimony each witness is expected to provide; and

(2) A notice stating the time and location of the hearing.

Prior to the hearing, the Administrative Law Judge may issue an order based on the contents of the parties' memoranda filed pursuant to paragraph (a)(1) of this section, which, unless modified to prevent injustice, shall control the scope of matters to be tried at the oral hearing. If any change in the time or place of the hearing becomes necessary, it shall be made by the Administrative Law Judge, who, in such event, shall file with the Proceedings Clerk a notice of the change. Such notice shall be served upon the parties, unless it is made during the course of an oral hearing and made a part of the transcript. Hearings shall proceed expeditiously and, absent extraordinary circumstances, shall be held in one location and shall continue, without suspension, until concluded.

(b) *Location of hearing.* Unless the Director of the Office of Proceedings for reasons of administrative economy or practical necessity determines otherwise, and except as provided in this subparagraph, the location of an oral hearing shall be in one of the following cities: Albuquerque, N.M.; Atlanta, Ga.; Boston, Mass.; Chicago, Ill.; Cincinnati, Ohio; Columbia, S.C.; Denver, Colo.; Houston, Tex.; Kansas City, Mo.; Los Angeles, Cal.; Minneapolis, Minn.; New Orleans, La.; New York, N.Y.; Oklahoma City, Okla.; Phoenix, Ariz.; San Diego, Cal.; San Francisco, Cal.; Seattle, Wash.; St. Petersburg, Fla.; and Washington, D.C. The Administrative Law Judge may, in any case where a party avers, in an affidavit, that none of the foregoing cities is located within 300 miles of his principal residence, waive this subparagraph and, upon giving due regard for the convenience of all of the parties, order that the hearing be held in a more convenient locale.

(1) *Who may appear.* The parties may appear in person, by counsel, or by other representatives of their choosing, subject to the provisions of § 12.9 of these rules concerning practice before the Commission.

(2) *Effect of failure to appear.* If any party to the proceeding fails to appear at the hearing, or at any part thereof, he shall to that extent be deemed to have waived the opportunity for an oral hearing in the proceeding. The Administrative Law Judge, for just cause, may take such action as is appropriate pursuant to § 12.35 of these rules against a party who fails to appear at the hearing. In the event that a party appears at the hearing and no party appears for the opposing side, the party who is present may present his evidence, in whole or in part, in the form of affidavits or by oral testimony, before the Administrative Law Judge.

(c) *Public hearings.* All oral hearings shall be public except that upon application of a party or affected witness the Administrative Law Judge may direct that specific documents or testimony be received and retained non-publicly in order to prevent unwarranted disclosure of trade secrets or sensitive commercial or financial information or an unwarranted invasion of personal privacy.

(d) *Conduct of the hearing.* Subject to paragraph (f) of this section, and except as otherwise provided, at an oral hearing every party shall be entitled to—

(1) *Conduct direct and cross-examination of parties and witnesses.* All witnesses at a hearing for the purpose of taking evidence shall testify under oath or affirmation, which shall be administered by the Administrative

Law Judge. Unless otherwise ordered by the Administrative Law Judge, parties shall be entitled to present oral direct testimony and other documentary proof, and to conduct direct examination and cross examine adverse parties and witnesses. To expedite the hearing, the Administrative Law Judge may, in his discretion, order that the direct testimony of the parties and their witnesses be presented in documentary form, by affidavit, interrogatory, and other documents. In any event, the Administrative Law Judge, in his discretion, may permit cross examination, without regard to the scope of direct testimony, as to any matter which is relevant to the issues in the proceeding;

(2) *Introduce exhibits.* The original of each exhibit introduced in evidence or marked for identification shall be filed unless the Administrative Law Judge permits the substitution of copies for the original documents. A copy of each exhibit introduced by a party or marked for identification at his request shall be supplied by him to the Administrative Law Judge and to each other party to the proceeding. Exhibits shall be maintained by the reporter who shall serve as custodian of the exhibits until they are transmitted to the Proceedings Clerk pursuant to paragraph (f) of this section;

(3) *Make objections.* A party shall timely and briefly state the grounds relied upon for any objection made to the introduction of evidence. Formal exception to an adverse ruling shall not be required; and

(4) *Make offers of proof.* When an objection to a question propounded to a witness is sustained, the examiner may make a specific offer of what he expects to prove by the answer of the witness. Rejected exhibits, adequately marked for identification, shall be retained in the record so as to be available for consideration by any reviewing authority.

(e) *Admissibility of evidence.* Relevant, material and reliable evidence shall be admitted. Irrelevant, immaterial, unreliable and unduly repetitious evidence shall be excluded.

(f) *Record of an oral hearing.* Oral hearings for the purpose of taking evidence shall be recorded and shall be transcribed in written form under the supervision of the Administrative Law Judge by a reporter employed by the Commission for that purpose. The original transcript shall be a part of the record and shall be the sole official transcript. Copies of transcripts, except those portions granted non-public treatment, shall be available from the reporter at rates not to exceed the maximum rates fixed by the contract between the Commission and the reporter. As soon as practicable after the close of the hearing, the reporter shall transmit to the Proceedings Clerk the transcript of the testimony and the exhibits introduced in evidence at the hearing, except such portions of the transcript and exhibits as shall have already been delivered to the Administrative Law Judge.

(g) *Proposed findings of fact and conclusions law; briefs.* An Administrative Law Judge, upon his own motion or upon motion of a party, may permit the filing of post-hearing proposed findings of fact and conclusions of law. Absent an order permitting such findings and conclusions, none shall be allowed. Unless otherwise ordered by the Administrative Law Judge and for good cause shown, the proposed findings and conclusions (including briefs in support thereof), shall not exceed twenty-five (25) pages and shall be filed not later than forty-five (45) days after the close of the oral hearing.

§ 12.313 Subpoenas for attendance at an oral hearing.

(a) *In general.*—(1) *Application for issuance of subpoenas.* An application for a subpoena requiring a party or other person to appear and testify at an oral hearing (subpoena *ad testificandum*) or to appear and testify and to produce specified documentary or tangible evidence at the hearing (subpoena *duces tecum*), shall (unless made orally at a hearing) be filed in writing and in duplicate, but need not be served upon other parties. The application shall be accompanied by the original and one copy of the subpoena.

(2) *Standards for issuance or denial of subpoenas.* The Administrative Law Judge considering any application for a subpoena shall issue the subpoena if he is satisfied the application complies with this rule and the request is not unreasonable, oppressive, excessive in scope or unduly burdensome. In the event the Adminstrative Law Judge determines that a requested subpoena or any of its terms are unreasonable, oppressive, excessive in scope, or unduly burdensome, he may refuse to issue the subpoena, or may issue it only upon such conditions as he determines fairness requires.

(b) *Special Requirements Relating to Application for an Issuance of Subpoenas for the Appearance of Commission Employees.*—(1) *Form.* An application for the issuance of a subpoena shall be made in the form of a written motion served upon all other parties, if the subpoena would require the appearance of a Commissioner or an official or employee of the Commission.

(2) *Content.* The motion shall specifically describe the material to be produced, the information to be disclosed, or the testimony to be elicited from the witness, and shall show (i) the relevance of the material, information, or testimony to the matters at issue in the proceeding; (ii) the reasonableness of the scope of the proposed subpoena; and (iii) that such material, information, or testimony is not available from other sources.

(3) *Rulings.* The motion shall be decided by the Administrative Law Judge and his order shall provide such terms and conditions for the production of the material, the disclosure of the information, or the appearance of the witnesses as may appear necessary and appropriate for the protection of the public interest.

(c) *Service of subpoenas.*—(1) *How effected.* Service of a subpoena upon a party shall be made in accordance with § 12.10 of these rules. Service of a subpoena upon any other person shall be made by delivering a copy of the subpoena to him as provided in paragraph (c) (2) or (3) of this section, and by tendering to him the fees for one day's attendance and the mileage as specified in paragraph (e) of this section. When the subpoena is issued at the instance of any officer or agency of the United States, fees and mileage need not be tendered at the time of service.

(2) *Service upon a natural person.* Delivery of a copy of a subpoena and tender of fees and mileage to a natural person may be effected by (i) handing them to the person; (ii) leaving them at his office with the person in charge thereof or, if there is no one in charge, by leaving the subpoena in a conspicuous place therein; (iii) leaving them at his dwelling place or usual place of abode with some person of suitable age and discretion then residing therein; (iv) mailing them by registered or certified mail to him at his last known address; or (v) any other method whereby actual notice is given to him and the fees and mileage are timely made available.

(3) *Service upon other persons.* When the person to be served is not a natural person, delivery of a copy of the subpoena and tender of the fees and mileage may be effected by (i) handing them to a registered agent for service, or to any officer, director, or agent in charge of any office of such person; (ii) mailing them by registered or certified mail to any such representative at his last known address; or (iii) any other method whereby actual notice is given

to any such representative and the fees and mileage are timely made available.

(d) *Motion to quash subpoena.* At or any time before the time specified in the subpoena for compliance therewith, a person upon whom a subpoena has been served may file a motion to quash or modify the subpoena with the Administrative Law Judge who issued the subpoena, and serve a copy of the motion on the party who requested the subpoena. Such motion shall include a brief statement of the reasons therefor. After due notice to the person upon whose request the subpoena was issued, and an opportunity for that person to respond, the Administrative Law Judge may (1) quash or modify the subpoena, or (2) condition denial of the application to quash or modify the subpoena upon just and reasonable terms, including, on the case of a subpoena *duces tecum*, a requirement that the person on whose behalf the subpoena was issued shall advance the reasonable cost of producing documentary or other tangible evidence.

(e) *Attendance and mileage fees.* Persons summoned to testify at a hearing under requirement of subpoenas are entitled to the same fees and mileage as are paid to witnesses in the courts of the United States. Fees and mileage shall be paid by the party at whose instance the persons are subpoenaed or called.

(f) *Enforcement of subpoenas.* Upon failure of any person to comply with a subpoena issued at the request of a party, that party may petition the Commission, in its discretion, to institute an action in an appropriate United States District Court for enforcement of the subpoena.

§ 12.314 Initial decision.

(a) *In general.* The Administrative Law Judge as soon as practicable after the parties have completed their submissions of proof, or after the conclusion of an oral hearing if one is held, shall render the initial decision, which he shall forthwith file with the Proceedings Clerk, and a copy of which shall be served immediately by the Proceedings Clerk upon each of the parties. The Proceedings Clerk shall also serve a notice, to accompany the initial decision, of the effect of a party's failure timely to appeal to the Commission the initial decision, as provided in paragraphs (d) and (e) of this section, and the effect of a failure of a party who has been ordered to pay a reparation award timely to file the documents required by § 12.407(c).

(b) *Content of initial decision.* In the initial decision the Administrative Law Judge shall:

(1) Include a brief statement of his findings as to the facts, with references to those portions of the record which support his findings;

(2) Make a determination whether or not the respondent has violated any provision of the Commodity Exchange Act, or rule, regulation or order thereunder;

(3) Make a determination whether the complainant is liable to any respondent who has made a counterclaim in the proceeding;

(4) Determine the amount of damages, if any, that the complainant has sustained as a result of respondent's violations, and the amount, if any, for which complainant is liable to a respondent based on a counterclaim; and

(5) Include an order directing either the respondent or the complainant, depending upon whose liability is greater, to pay an amount based on the difference in the amounts determined pursuant to paragraph (b)(4) of this section, on or before a date fixed in the order.

(c) *Costs.* Except as provided in §§ 12.30(c) and 12.315 of these rules, the Administrative Law Judge may, in the initial decision, award costs (including the cost of instituting the proceeding and, if appropriate, reasonable attorney's fees) to the party in whose favor a judgment is entered.

(d) *Effect of initial decision.* The initial decision and order shall become the final decision and order of the Commission, without further order by the Commission, thirty (30) days after service thereof, except that—

(1) The initial decision shall not become the final decision as to a party who shall have timely filed and perfected an appeal thereof to the Commission, in accordance with § 12.401 of these rules; and

(2) The initial decision shall not become final as to any party to the proceeding if, within thirty (30) days after service of the initial decision, the Commission itself shall have placed the case on its own docket for review or stayed the effective date of the initial decision.

(e) *Effect of failure to file and perfect an appeal to the Commission.* Unless the Commission takes review of an initial decision on its own motion, the timely filing and perfection of an appeal to the Commission of the initial decision is mandatory as a prerequisite to appellate judicial review of a final decision and order entered pursuant to these rules.

§ 12.315 Consequences of overstating damages claims not in excess of $10,000

If a party, who has claimed damages in excess of $10,000, is adjudged to be entitled to recover less than the sum or value of $10,000, computed without regard to a damage award to which an opposing party may be adjudged to be entitled, and exclusive of interest and costs, the Administrative Law Judge may assess such party the cost of the transcript of an oral hearing, if such a hearing is held, and, depending upon whether such party paid any part of the filing fee for the proceeding, deny the party such costs or impose such costs on that party.

Subpart F—Commission Review of Decisions

§ 12.400 Scope and applicability of rules.

The rules set forth in this subpart are applicable to proceedings forwarded pursuant to Subparts D and E of these rules. Except as provided in §§ 12.106(e) and 12.403(b) of these rules, the rules set forth in this subpart are not applicable to proceedings forwarded pursuant to Subpart C of the Reparation Rules.

§ 12.401 Appeal to the Commission.

(a) *How effected.* Any aggrieved party to a proceeding forwarded pursuant to § 12.26 (b) or (c) of these rules may appeal to the Commission an initial decision or other disposition of the entire proceeding by complying with the requirements of this section. An appealing party shall serve upon all parties and file with the Proceedings Clerk a notice of appeal within fifteen (15) days after service of the initial decision or other order disposing of the entire proceeding. The notice need consist only of a brief statement indicating the filing party's intent to appeal the initial decision, and shall include the date upon which the initial decision was rendered, the names of all parties, and the docket number of the proceeding. An appellate filing fee in the amount of $50 shall be paid at the time of filing a notice of appeal. The failure of a party timely to file and serve a notice of appeal, and to pay the appellate filing fee, in accordance with this paragraph, or to perfect the appeal in accordance with paragraph (b) of this section, shall constitute a voluntary waiver of any objection to the initial decision, or other order disposing of the proceeding, and of all further administrative or judicial review under these rules and the Commodity Exchange Act.

(b) *Perfecting the appeal; appeal brief.* An appeal shall be perfected by the appealing party by timely filing with the

Proceedings Clerk an appeal brief which meets the requirements of paragraphs (b) and (d) of this section. An original and one copy of the appeal brief shall be filed within thirty (30) days after filing of the notice of appeal. By motion of the appealing party, the Commission may, for good cause shown, extend the time for filing the appeal brief. If the appeal brief is not filed within the time prescribed in this subparagraph, the Commission may, upon its own motion or upon motion by a party, dismiss the appeal, in which event the initial decision shall become the final decision and order of the Commission, effective upon service of the order of dismissal.

(c) *Answering brief.* Any party upon whom the appealing party serves a brief may, within thirty (30) days after service of the appeal brief, file an original and one copy of an answering brief, and serve one copy thereof, unless the time limit is extended by the Commission upon motion of the party and for good cause shown.

(d) *Briefs.* Parties filing an appeal brief or answering brief pursuant to this § 12.401 shall meet the requirements of § 12.11 of these rules as to form. The content of briefs shall satisfy the requirements of § 10.102(d) of the Commission's Regulations, 17 CFR 10.102(d), except that any party, with leave of the Commission, may file an informal document in lieu of a brief. No brief shall exceed thirty-five (35) pages in length without leave of the Commission.

(e) *Oral argument.* Any party may request, in writing and within the time provided for filing the initial briefs, the opportunity to present oral argument before the Commission, which the Commission may, in its discretion, grant or deny. In the event the Commission affords the parties the opportunity to present oral argument before the Commission, the oral argument shall proceed in accordance with the provisions of § 10.103 of the Commission's Regulations, 17 CFR 10.103.

(f) *Scope of review.* On review, the Commission may, in its discretion, consider *sua sponte* any issues arising from the record and may base its determination thereon, or limit the issues to those presented in the statement of issues in the briefs, treating those issues not raised as waived.

§ 12.402 Appeal of disposition of less than all claims or parties in a proceeding.

(a) *In general.* Where two or more different claims for relief are presented, or where multiple parties are involved, in a proceeding forwarded pursuant to § 12.26 (b) or (c) of these rules, the Judgment Officer or Administrative Law Judge, may upon his own motion or by motion of a party, direct that an initial decision or other order disposing of one or more, but fewer than all of the claims or parties, shall be final and immediately appealable to the Commission. Such a direction may be made only upon an express determination that there is no just reason for delay. When such a direction is made, a party may appeal the initial decision or order in accordance with the procedure prescribed by § 12.401 of these rules.

(b) *When decision is not appealable.* In the absence of such a direction by the Judgment Officer or an Administrative Law Judge, an initial decision or order disposing of fewer than all of the claims or all of the parties shall be subject to revision by the decisionmaker at any time before a disposition is made of all remaining claims or parties, and no appeal may be taken to the Commission pursuant to this rule.

§ 12.403 Commission review on its own motion.

(a) *In general.* The Commission may on its own motion, within 30 days after it has been served on all parties, determine to review an initial decision, or other order disposing of all issues in the proceeding as to all claims and all parties, in a proceeding forwarded pursuant to § 12.26 (b) and (c) of these rules. In such event, the Commission may determine the scope of the issues on review, and make provisions for the filing of briefs or, if deemed appropriate, such other means for the parties to present their views. The parties shall be duly notified thereof by the Proceedings Clerk.

(b) *Commission review of a final decision in a voluntary decisional proceeding.* If such action is necessary to prevent manifest injustice, the Commission may, upon its own motion, review a final decision issued pursuant to § 12.106 of these rules by appropriate order filed with the Proceedings Clerk within 30 days after service upon the parties of the final decision. In such event, the Commission may determine the scope of the issue on review, make provisions for the filing of briefs (or, if deemed appropriate, such other means for the parties to present their views). The parties shall be duly notified thereof by the Proceedings Clerk

§ 12.404 The record of proceedings.

The record of proceeding on appeal of reveiw before the Commission shall include: The pleadings; motions and requests filed, and rulings thereon; the transcript of the testimony taken at an oral hearing, together with the exhibits filed therein; the transcript of testimony taken during an oral examination by telephone; any statements or stipulations filed in any proceeding; any documents or papers filed in connection with prehearing conferences; such proposed findings of fact, conclusions, and orders and briefs as may have been permitted to be filed in connection with an oral hearing; such statements of objections, and briefs in support thereof, as may have been filed in the proceedings; and the initial (or final) decision, or other order disposing of issues in the proceeding.

§ 12.405 Leave to adduce additional evidence.

Any time prior to issuance of its final decision pursuant to § 12.406, the Commission may, after notice to the parties and an opportunity for them to present their views, reopen the hearing to receive further evidence. The application shall show to the satisfaction of the Commission that the additional evidence is material, and that there were reasonable grounds for failure to adduce such evidence at the hearing. The Commission may receive the additional evidence or may remand the proceeding to the Judgment Officer or Administrative Law Judge to receive the additional evidence.

§ 12.406 Final decision of the Commission.

(a) *Opinion and order.* Unless the Commission, in accordance with paragraph (b) of this section, orders summary affirmance of the initial decision, the Commission's opinion and order in a proceeding appealed pursuant to § 12.401 of these rules shall constitute the Commission's final decision, effective upon service. On review, the Commission may affirm, reverse, modify, set aside or remand for further proceedings, in whole or in part, the initial decision and make any findings or conclusions which in its judgment are warranted based on the record in the proceeding.

(b) *Order on summary affirmance.* If the Commission, in its opinion, finds that the result reached in the initial decision is substantially correct and that none of the arguments on appeal made by the appealing party raise any important question of law or policy, the Commission may, by appropriate order, summarily affirm the initial decision and order without opinion, which shall constitute the Commission's final decision, effective upon service. Unless the Commission expressly indicates otherwise in its order, an order of summary affirmance does not reflect a

Commission determination to adopt the initial decision, including any rationale contained therein, as its opinion and order, and neither initial decision nor the Commission's order of summary affirmance shall serve as a Commission precedent in other proceedings.

(c) *Filing and service of final decision.* The Commission shall, upon issuance of a final decision pursuant to this § 12.406, file the final decision with the Proceeding's Clerk, who shall forthwith serve upon each of the parties a copy of the final decision as well as notice of the effect of a party's failure to pay a reparation award as provided in § 12.407 of these rules, and of an aggrieved party's right to obtain judicial review of the final decision pursuant to Section 14(e) of the Act, 7 U.S.C. 18(e).

§ 12.407 Satisfaction of reparation award; enforcement; sanctions.

(a) *Satisfaction of reparation award.*—(1) *Where initial decision has become the final decision.* Any reparation award ordered in an initial decision, or similar dispositive order (but not a final decision issued pursuant to § 12.106 of these rules), shall be satisfied in full within forty-five (45) days after service of the initial decision, unless a timely appeal thereof has been perfected pursuant to § 12.401, or unless the Commission, pursuant to § 12.403(a), has stayed the effective date of the initial decision.

(2) *Final decision pursuant to § 12.406.* Any reparation award ordered in a final decision of the Commission issued pursuant to § 12.406 of these rules shall be satisfied in full within fifteen (15) days after service of the final decision, or such other longer period of time as may be specified in the final decision, unless a petition for review is filed in accordance with section 14(e) of the Act, 7 U.S.C. 18(e).

(b) *Enforcement of reparation award.* If any person against whom a reparation award has been made does not timely comply with paragraph (a) of this section, the party in whose favor the award is made is entitled to seek enforcement of award in accordance with the procedure prescribed in section 14(d) of the Commodity Exchange Act, 7 U.S.C. 18(d).

(c) *Automatic suspension.* A person required to pay a reparation award shall be prohibited from trading on all contract markets and if such person is registered, his registration shall be suspended automatically, without further notice, unless such person shall, within fifteen (15) days after the time limit for satisfaction of an award (as prescribed in paragraph (a) of this section) expires, file with the Proceedings Clerk and serve on the other parties—

(1) A copy of a certified check or the equivalent showing statisfaction of the award; or

(2) A sworn release executed by each recipient of a reparation award, which has not been satisfied by payment with a certified check or the equivalent; or

(3) A verified statement that a judicial appeal has been filed and perfected in accordance with section 14(e) of the Act, 7 U.S.C. 18(e). (This subsection is applicable only in proceedings commenced pursuant to § 12.26 (b) or (c), and only if the person has timely filed and perfected an appeal to the Commission as prescribed in § 12.401.)

(d) *Reinstatement.* The sanctions imposed in accordance with paragraph (c) of this section shall remain in effect until the person required to pay the reparation award demonstrates to the satisfaction of the Commission that he has paid the amount required in full with interest at the prevailing rate computed in accordance with section 6621 of the Internal Revenue Code from the date directed in the final order to the date of payment.

(e) *Automatic suspension after appeal.* If on appeal to the United States Court of Appeals the appellee prevails, or if the appeal is dismissed, the automatic prohibition against trading and suspension of registration shall become effective at the expiration of thirty (30) days from the date of judgment on the appeal, but if the judgment is stayed by a court of competent jurisdiction, the suspension shall become effective ten (10) days after the expiration of such stay, unless prior thereto the judgment of the court or the final order of the Commission has been satisfied.

§ 12.408 Delegation of authority to Chief of the Opinions Section.

Pursuant to the authority granted under Section 2(a)(4) and 2(a)(11) of the Commodity Exchange Act, as amended, 7 U.S.C. 4a(c) and 4a(j), the Commission hereby delegates, until such time as it orders otherwise, the following functions to the Chief of the Opinions Section, to be performed by him or by such person or persons under his direction as he may designate from time to time:

(a) With respect to reparation proceedings conducted pursuant to Section 14 of the Commodity Exchange Act, as amended, 7 U.S.C. 18, and subject to the Commission's Reparation Rules as set forth in Part 12 of this Chapter, to:

(1) Consider and decide miscellaneous procedural motions that may be directed to the Commission pursuant to Part 12 of these rules after the initial decision or other order disposing of the entire proceeding has been filed;

(2) Remand, with or without specific instructions, initial decisions or other orders disposing of the entire proceeding to the appropriate officer (Director of the Office of Proceedings, Judgment Officer, Proceedings Officer or Administrative Law Judge) in the following situations—

(i) Where a default order or award has been made pursuant to Part 12 of these rules and a motion to vacate the default or an equivalent request has been made; or

(ii) Where, in his judgment, clarification or supplementation of an initial decision or other order disposing of the entire proceeding prior to Commission review is appropriate; and

(iii) Where, in his judgment, a ministerial act necessary to the proper conduct of the proceeding has not been performed.

(3) Deny applications for interlocutory review by the Commission of a ruling of an Administrative Law Judge in cases in which the Administrative Law Judge has not certified the ruling to the Commission in the manner prescribed by § 12.309 of these rules, and the ruling does not concern the disqualification of, or a motion to disqualify, an Administrative Law Judge, Proceedings Officer, or Judgment Officer, or the suspension of, or failure to suspend, an attorney from participating in reparation proceedings;

(4) Dismiss any appeal from an initial decision or other disposition of the entire proceeding by an Administrative Law Judge (or Judgment Officer), in a proceeding where such appeal is not filed or perfected in accordance with § 12.401, and deny any application for interlocutory review if it is not filed in accordance with § 12.309 of these rules;

(5) Strike any filing that does not meet the requirements of, or is not perfected in accordance with, Part 12 of these rules; and

(6) Enter any order that, in his judgment, will facilitate or expedite Commission review of an initial decision or other order disposing of the entire proceeding.

(b) Notwithstanding the provisions of paragraph (a) of this section, in any case in which he believes it appropriate, the Chief of the Opinions Section may submit the matter to the Commission for its consideration.

(c) Within seven (7) days after service of a ruling issued pursuant to this § 12.408, a party may file with the Commission a petition for reconsideration of the ruling. Unless the

Commission orders otherwise, the filing of a petition for reconsideration shall not operate to stay the effective date of such ruling.

Issued in Washington, D.C., on February 15, 1984.

Jane K. Stuckey,

Secretary of the Commission.

[FR Doc. 84-4523 Filed 2-21-84; 8:45 am]

BILLING CODE 6351-01-M

VOL 49 ISS 36 FE 22 1984 UMI

federal register

Wednesday
February 22, 1984

Part III

Department of Education

34 CFR Parts 75, 76, and 98

Student Rights in Research, Experimental Activities, and Testing; Proposed Rulemaking

34 CFR Part 98

Student Rights in Research, Experimental Activities and Testing; Hearings; Proposed Rulemaking

DEPARTMENT OF EDUCATION

34 CFR Parts 75, 76, and 98

Student Rights in Research, Experimental Activities, and Testing

AGENCY: Department of Education.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Secretary of Education proposes regulations under section 439 of the General Education Provisions Act (GEPA). Section 439(a) of GEPA requires that, under most programs administered by the Department of Education, an award recipient or contractor make all instructional material used in connection with any research or experimental program or project available to parents of children involved in the program or project. Section 439(b) of GEPA requires a recipient of funds under these programs to obtain the permission of the parent of a child before requiring the child to submit to certain kinds of psychiatric or psychological examination, testing, or treatment.

This Notice of Proposed Rulemaking proposes procedures for handling inquiries and complaints under the section.

The Department currently has regulations that restate the substantive requirements of section 439 of GEPA. The purpose of this document is to assure compliance with section 439 of GEPA.

DATES: To be assured of consideration, comments must be received on or before May 22, 1984.

ADDRESSES: Send your comments to Charles L. Heatherly, Deputy Under Secretary for Management, Department of Education, Room 3181, 400 Maryland Avenue, SW., Washington, D.C. 20202.

FOR FURTHER INFORMATION CONTACT: Monika Harrison, Special Advisor to the Deputy Under Secretary for Management, at the address specified above or call (202) 245–9582.

SUPPLEMENTARY INFORMATION:

Background

The Department of Education proposes regulations to further implement section 439 of the General Education Provisions Act (GEPA). Subsection (a) of section 439 provides—

> All instructional material, including teacher's manuals, films, tapes, or other supplementary instructional material which will be used in connection with any research or experimentation program or project shall be available for inspection by the parents or guardians of the children engaged in such program or project. For the purpose of this section "research or experimentation program or project" means any program or project in any applicable program designed to explore or develop new or unproven teaching methods or techniques.

Subsection (b) of section 439 provides—

> No student shall be required as part of any applicable program, to submit to psychiatric examination, testing, or treatment, or psychological examination, testing, or treatment in which the primary purpose is to reveal information concerning one or more of the following:
>
> (1) Political affiliations;
>
> (2) Mental and psychological problems potentially embarrassing to the student or his family;
>
> (3) Sex behavior and attitudes;
>
> (4) Illegal anti-social, self-incriminating and demeaning behavior;
>
> (5) Critical appraisals of other individuals with whom respondents have close family relationships;
>
> (6) Legally recognized privileged and analogous relationships such as those of lawyers, physicians, and ministers; or
>
> (7) Income (other than that required by law to determine eligibility for participation in a program or for receiving financial assistance under such program), without the prior consent of the student (if the student is an adult or emancipated minor), or in the case of [an] unemancipated minor, without the prior written consent of the parent.

Notice of Proposed Rulemaking

The Department currently has regulations that essentially restate section 439 of GEPA. These regulations may be found in Title 34 of the Code of Federal Regulations at §§ 75.741 and 76.741 (34 CFR 75.741 and 76.741). The Secretary proposes rules to establish procedures for handling complaints that arise under section 439. The proposed procedures parallel those that are used to resolve complaints under the Family Educational Rights and Privacy Act (FERPA). The FERPA regulations are contained in 34 CFR Part 99.

Under the proposed procedures the Secretary would designate an office within the Department to investigate and review complaints of violations under section 439 of GEPA, and to provide information about the requirements of this section. The office would investigate complaints and, if it discovered a failure to comply, would give the award recipient time to remedy the violation on a voluntary basis. If a recipient fails to comply on a voluntary basis, the Secretary would be authorized to issue a notice to cease and desist, or to terminate or withhold funds, as appropriate under the laws applicable to the program involved. A grantee or contractor could appeal a termination or withholding decision based on section 439 of GEPA.

Section 439 of GEPA applies to programs that, prior to the establishment of the Department, were administered by the Commissioner of Education. Also, as a general rule, section 439 of GEPA applies to programs, administered by the Secretary, that have been authorized since the establishment of the Department. This interpretation is based on section 421 of GEPA and on two provisions in the Department of Education Organization Act (DEOA), sections 427 and 507. Section 421 of GEPA makes section 439 applicable to programs formerly administered by the Commissioner of Education.

Section 427 of the DEOA provides that GEPA applies to functions transferred by the DEOA to the extent applicable on the day preceding the effective date of the DEOA. Taken by itself, this provision would limit the applicability of section 439 to those programs formerly administered by the Commissioner. However, section 507 of the DEOA has the effect of translating "Commissioner" in section 421 of GEPA into "Secretary." Thus, for a program which is administered by the Secretary under an authority established after the effective date of the DEOA, section 439 of GEPA applies. Of course, if the law authorizing a new program specifically provides for a different outcome, section 439 would not apply. Finally, if a statute which is subject to section 439 is amended after the effective date of the DEOA, the amendment is subject to section 439 also. While this interpretation excludes some programs administered by the Secretary, most programs are covered by the provisions of section 439, including, for example, programs authorized under Chapters 1 and 2 of the Education Consolidation and Improvement Act of 1981 (ECIA), and programs under the Education of the Handicapped Act.

Section 439(a) applies to "any program or project in any applicable program." Also, section 439(b) applies to certain requirements "as part of any applicable program." Under these applicability provisions a recipient of Federal education funds is not subject in all its activities to the requirements of section 439 of GEPA merely because the recipient receives funds under a program to which section 439 appiies. Instead, the procedures in these proposed regulations would apply only if there appears to be a violation under the particular program or project under a statute subject to section 439.

Based on a review of the legislative history for subsection (b), the Secretary interprets the consent requirement stated in section 439(b)(7) to apply to all of the items listed in the subsection. Thus, these proposed regulations have

been drafted so that the consent provision applies to all of the items listed in the subsection.

Finally, these proposed regulations reflect the Secretary's view that section 439(a) applies only to children. Therefore, the proposed regulations limit the coverage of section 439(a) to programs for children not above the age of 21 who are enrolled in programs or projects not above the elementary or secondary education level. The question of what constitutes the end of secondary education is a matter to be determined by the relevant State law. In contrast to subsection 439(a), subsection 439(b) applies to both adults and minors.

Invitation to Comment

The Secretary requests comments and recommendations on this Notice of Proposed Rulemaking. He is interested in receiving comments on whether the proposed procedures provide sufficient flexibility to resolve complaints on a voluntary basis. The Secretary is also interested in comments on whether a recipient should be required to advise parents, guardians, or students of their opportunity to file complaints under the proposed complaint procedures and, if so, in what manner they should be informed.

The recordkeeping requirement that would be imposed by these proposed regulations has been stated in broad terms to leave the greatest possible discretion to educational agencies and institutions to determine what records to keep. An educational agency or institution should keep records sufficient to show compliance with the section. The Secretary is interested in receiving comments on the need for guidance regarding the kind of records an educational agency or institution should keep.

The Department, in complying with the specific requirements of Executive Order 12291 and the Paperwork Reduction Act of 1980 and their overall requirements to reduce regulatory burden, invites comments on whether there may be further opportunities to reduce any regulatory burdens found in the proposed regulations.

Written comments and recommendations in response to this Notice of Proposed Rulemaking may be sent to the address given at the beginning of this document. To be assured of consideration, comments in response to the Notice of Proposed Rulemaking must be received on or before the date specified at the beginning of this document. All comments received in response to the Notice of Proposed Rulemaking will be available for public inspection, during and after the comment period, at Room 3181, 400 Maryland Avenue, SW., Washington, D.C., between the hours of 8:30 a.m. and 4:00 p.m., Monday through Friday, except on Federal Holidays.

Executive Order 12291. These proposed regulations have been reviewed in accordance with Executive Order 12291. They are classified as non-major because they do not meet the criteria established in the order for major regulations.

Regulatory Flexibility Act Certification. The Secretary certifies that these proposed regulations will not have a significant economic impact on a substantial number of small entities. These proposed regulations would affect small entities that are recipients of funds under applicable programs of the Department of Education. However, the proposed regulations would not have a significant economic impact on these entities because the proposed regulations do not establish prescriptive reporting or recordkeeping requirements or impose other regulatory burdens in excess of statutory requirements.

Paperwork Reduction Act. The information collection requirements contained in these proposed regulations will be sent to OMB for review under the provisions of Section 3504(h) of the Paperwork Reduction Act of 1980 (Pub. L. 96–511).

Comments concerning information collection requirements only should be addressed to the Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3208, 17th and Pennsylvania Avenue, NW., Washington, D.C. 20503. Attention: Desk Officer for the U.S. Department of Education. All other comments regarding these proposed regulations should be sent to the Department of Education at the address given at the beginning of this preamble.

List of Subjects in 34 CFR Part 98

Educational research, Privacy, Students, Complaint, Notice of, Complaints, Consent, Examination, Experimental programs, Family, Findings, Notice of, Inspection, Instructional material, Political affiliations, Psychiatric, Psychological, Research, Sex, Teaching methods, Teaching techniques, Testing, Treatment.

Citation of Legal Authority: A citation of statutory or legal authority is placed in parentheses on the line following each substantive provision of these regulations.

(Catalog of Federal Domestic Assistance Number does not apply)

Dated: February 13, 1984.

T. H. Bell,

Secretary of Education.

The Secretary proposes to amend Parts 75 and 76 and to add a new Part 98 to Subtitle A of Title 34 as follows:

PART 75—DIRECT GRANT PROGRAMS

§ 75.741 [Removed]

1. Section 75.741 is removed.

PART 76—STATE-ADMINISTERED PROGRAMS

§ 76.741 [Removed]

2. Section 76.741 is removed.

3. A new Part 98 is added, to read as follows:

PART 98—STUDENT RIGHTS IN RESEARCH, EXPERIMENTAL PROGRAMS, AND TESTING

Sec.

98.1 Applicability of part.
98.2 Definitions.
98.3 Access to instructional material used in a research or experimentation program.
98.4 Protection of students' privacy in examination, testing, or treatment.
98.5 Information and investigation offfice.
98.6 Reports and records.
98.7 Filing a complaint.
98.8 Notice of the complaint.
98.9 Investigation and findings.
98.10 Enforcement of findings.

Authority: Sec. 514(a) of Pub. L. 93–380, 88 Stat. 574 (20 U.S.C. 1232h(a)); Sec. 1250 of Pub. L. 95–561, 92 Stat. 2355–2356 (20 U.S.C. 1232h(b)); and Sec. 408(a)(1) of Pub. L. 90–247, 88 Stat. 559–560, as amended (20 U.S.C. 1221e-3(a)(1)).

§ 98.1 Applicability of part.

This part applies to any program administered by the Secretary of Education that—

(a)(1) Was transferred to the Department by the Department of Education Organization Act (DECA); and

(2) Was administered by the Commissioner of Education on the day before the effective date of the DECA; or

(b) Was enacted after the effective date of the DECA, unless the law enacting the new Federal program has the effect of making section 439 of the General Education Provisions Act inapplicable.

(20 U.S.C. 1221e–3(a) (1), 1230, 1232h, 3487, 3507)

(c) The following chart lists the funded programs to which Part 98 does not apply as of February 16, 1984.

Name of program	Authorizing statute	Implementing regulations
1. High School Equivalency Program and College Assistance Migrant Program.	Section 418A of the Higher Education Act of 1965 as amended by the Education Amendments of 1980 (Pub. L. 96-374) 20 U.S.C. 1070d-2).	Part 206.
2. Programs administered by the Commissioner of the Rehabilitative Services Administration.	The Rehabilitation Act of 1973 as amended by Pub. L. 95-602 (29 U.S.C. 700, et seq.).	Parts 351-356, 361, 362, 365, 366, 369-375, 378, 379, 385-390, and 395.
3. Transition program for refugee children.	Immigration and Nationality Act, as amended by the Refugee Act of 1980, Pub. L. 96-212 (8 U.S.C. 1522(d)).	Part 536.
4. College housing.	Title IV of the Housing Act of 1950, as amended (12 U.S.C. 1749, et seq.).	Part 614.
5. Programs administered by the Director of the National Institute of Education.	Section 405 of the General Education Provisions Act (20 U.S.C. 1221e).	Parts 703, 709, 710, 716, 718, and 720.
6. Programs administered by the Administrator of the National Center for Education Statistics.	Section 406 of the General Education Provisions Act (20 U.S.C. 1221-1).	Part 725.

§ 98.2 Definitions.

(a) The following terms used in this part are defined in 34 CFR 77: "Department," "Recipient," "Secretary."

(b) The following definitions apply to this part: "Act" means the General Education Provisions Act.

"Office" means the information and investigation office specified in § 98.5.

(20 U.S.C. 1221e-3(a)(1))

§ 98.3 Access to instructional material used in a research or experimentation program.

(a) All instructional material—including teachers' manuals, films, tapes, or other supplementary instructional material—which will be used in connection with any research or experimentation program or project shall be available for inspection by the parents or guardians of the children engaged in such program or project.

(b) For the purpose of this part "research or experimentation program or project" means any program or project in any program under § 98.1 (a) or (b) that is designed to explore or develop new or unproven teaching methods or techniques.

(c) For the purpose of the section "children" means persons not above age 21 who are enrolled in a program not above the elementary or secondary education level, as determined under State law.

(20 U.S.C. 1221e-3(a)(1), 1232h(a))

§ 98.4 Protection of students' privacy in examination, testing, or treatment.

(a) No student shall be required, as part of any program specified in § 98.1 (a) or (b), to submit without prior consent to psychiatric examination, testing, or treatment, or psychological examination, testing, or treatment, in which the primary purpose is to reveal information concerning one or more of the following—

(1) Political affiliations;

(2) Mental and psychological problems potentially embarrassing to the student or his or her family;

(3) Sex behavior and attitudes;

(4) Illegal, anti-social, self-incriminating and demeaning behavior;

(5) Critical appraisals of other individuals with whom the student has close family relationships;

(6) Legally recognized privileged and analogous relationships, such as those of lawyers, physicians, and ministers; or

(7) Income, other than that required by law to determine eligibility for participation in a program or for receiving financial assistance under a program.

(b) As used in paragraph (a) of this section, "prior consent" means—

(1) Prior consent of the student, if the student is an adult or emancipated minor; or

(2) Prior written consent of the parent, if the student is an unemancipated minor.

(20 U.S.C. 1232h(b))

§ 98.5 Information and investigation office.

(a) The Secretary has designated an office to provide information about the requirements of section 439 of the Act, and to investigate, process, and review violations and complaints that may be filed concerning alleged violations of the provisions of the section.

(b) The following is the name and address of the office designated under paragraph (a) of this section: Family Educational Rights and Privacy Act Office, U.S. Department of Education, 400 Maryland Avenue, SW., Washington, D.C. 20202.

(20 U.S.C. 1231e-3(a)(1), 1232h)

§ 98.6 Reports and records.

(a) A recipient or contractor subject to this part shall keep records necessary to assure compliance with section 439 of the Act.

(b) The recipient or contractor shall give the Secretary access to the records kept under paragraph (a) of this section.

(c) The Secretary may require the recipient to submit reports containing information necessary to administer section 439 of the Act and the regulations in this part.

(20 U.S.C. 1221e-3(a)(1), 1232h)

§ 98.7 Filing a complaint.

(a) Any individual wishing to file a complaint regarding an alleged violation of rights accorded parents or students by section 439 of the Act shall submit the complaint in writing to the Office.

(b) The complaint filed under paragraph (a) of this section must contain specific allegations of fact giving reasonable cause to believe that a violation of either § 98.3 or § 98.4 exist.

(c) The Office investigates each complaint which the Office receives that meets the requirements of paragraph (b) of this section to determine whether the recipient or contractor failed to comply with the provisions of section 439 of the Act.

(U.S.C. 1221e-3(a)(1), 1232h)

§ 98.8 Notice of the complaint.

(a) If the Office receives a complaint that meets the requirements of §98.7(b), it provides written notification to the complainant and the recipient or contractor against which the violation has been alleged that the complaint has been received.

(b) The notice to the recipient or contractor under paragraph (a) of this section must—

(1) Include the substance of the alleged violation; and

(2) Inform the recipient or contractor that the Office will investigate the complaint and that the recipient may submit a written response to the complaint.

(20 U.S.C. 1221e-3(A)(1), 1232h)

§ 98.9 Investigation and findings.

(a) The Office may permit the parties to submit further written or oral arguments or information.

(b) Following its investigations, the Office provides to the complainant and recipient or contractor written notice of its findings and the basis for its findings.

(c) If the Office finds that the recipient or contractor has not complied with section 439 of the Act, the Office includes in its notice under paragraph (b) of this section—

(1) A statement of the specific steps that the Secretary recommends the recipient or contractor take to comply; and

(2) Provides a reasonable period of time, given all of the circumstances of the case, during which the recipient or contractor may comply voluntarily.

(U.S.C. 1221e–3(a)(1), 1232h)

§ 98.10 Enforcement of the findings.

(a) If the recipient or contractor does not comply during the period of time set under § 98.9(c), the Secretary may either—

(1) For a recipient—

(i) Issue a notice of intent to terminate funds under 34 CFR 78.21;

(ii) Issue a notice to withhold funds under 34 CFR 78.21, 200.94(b), or 298.45(b), depending upon the applicable program under which the notice is issued; or

(iii) Issue a notice to cease and desist under 34 CFR 78.31, 200.94(c) or 298.45(c), depending upon the program under which the notice is issued; or

(2) For a contractor, direct the contracting officer to issue a termination for default decision.

(b) If, after an investigation under § 98.9, the Secretary finds that a recipient or contractor has complied voluntarily with section 439 of the Act, the Secretary provides the complainant and the recipient written notice of the decision and the basis for the decision.

(20 U.S.C. 1221e–3(a)(1), 1232h).

[FR Doc. 84–4289 Filed 2–15–84; 8:45 am]
BILLING CODE 4000–01–M

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34 CFR Part 98

Student Rights in Research, Experimental Activities and Testing

AGENCY: Department of Education.

ACTION: Notice of Public Hearings.

SUMMARY: The Secretary gives notice of hearings to be conducted on proposed regulations that would implement section 439 of the General Education Provisions Act (GEPA) which pertains to student rights in research, experimental activities and testing. This notice provides the dates and locations of these hearings.

DATES: The dates for these hearings are: March 13, 16, 19, 21, 23, 27, 1984. The time for each of these hearings is 9:00 a.m. to 4:30 p.m. local time.

ADDRESSES: Written comments should be addressed to Monika Edwards Harrison, Special Advisor to the Deputy Under Secretary for Management, Room 3021, 400 Maryland Avenue, SW., Washington, D.C. 20202.

The locations and dates for the public hearings are:

Seattle, March 13, 1984—Federal Building, North Auditorium, 915 Second Avenue, Seattle, Washington.
Pittsburgh, March 16, 1984—William S. Moorehead Building, Room 2212–2218, 1000 Liberty Avenue, Pittsburgh, Pennsylvania.
Kansas City, March 19, 1984—American K.C. Hotel, Fairway Room, 1301 Wyandotte, Kansas City, Missouri.
Phoenix, March 20, 1984—Federal Building, 7th Floor, 230 North First Avenue, Phoenix, Arizona.
Concord, March 21, 1984—N.H. Highway Hotel, Pierce Ballroom, Fort Eddy Road, Concord, New Hampshire.
Orlando, March 23, 1984—Orange County Administration Office, School Board Meeting Room, 434 North Tampa Avenue, Orlando, Florida.
Washington, D.C. March 27, 1984—Regional Office Building #3, Main Auditorium, Seventh and D Streets, SW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Ms. Monika Edwards Harrison, (202) 245–9582.

For Information on Regional Hearings Contact:

Seattle—Mr. Sam Kerr, Department of Education, 2901 Third Avenue, Seattle, Washington 98121, (206) 442–0460.
Kansas City—Mr. Harry L. Kellman, Department of Education, 324 East 11th Street, Kansas City, Missouri 64106, (816) 374–2276.
Pittsburgh—Mr. Sonny Kane, Department of Education, 3535 Market Street, Philadelphia, Pennsylvania 19101, (215) 596–1001.
Concord—Ms. Evelyn Piazza, Department of Education, McCormack, P.O. and Court House Building, Boston, Massachusetts 02109, (617) 223–7500.
Phoenix—Dr. Albert Piltz, Department of Education, Room 205, 50 United Nations Plaza, San Francisco, California 94102, (415) 556–4920.
Orlando—Dr. John Lovegrove, Department of Education, 101 Marietta Tower Building, Atlanta, Georgia 30323, (404) 221–2063.
Washington—Mr. Brent Marriott, Department of Education, 400 Maryland Avenue, SW., Room 2001, Washington, D.C. 20202 (202) 472–9444.

SUPPLEMENTARY INFORMATION: Subsection (a) of section 439 provides that instructional material, including teacher's manuals, films, tapes, or other supplementary instructional material which will be used in connection with any research or experimentation program or project shall be made available for inspection by the parents or guardians of the children included in programs or projects. In addition, no student may be required to submit to psychiatric examination, testing, or treatment in which the primary purpose is to reveal specific information about the student or his/her family. Prohibited areas include:

(1) Political affiliation;

(2) Mental and psychological problems potentially embarrassing to the student or his family;

(3) Sex behavior and attitudes;

(4) Illegal, anti-social, self-incriminating and demeaning behavior;

(5) Critical appraisals of other individuals with whom respondents have close family relationships;

(6) Legally recognized privileged and analogous relationships such as those of lawyers, physicians, and ministers; or

(7) Income (other than that required by law to determine eligibility for participation in a program or for receiving financial assistance under such program).

The Department is publishing a Notice of Proposed Rulemaking in this issue of the **Federal Register** that would further implement section 439 of GEPA. The Notice proposes procedures for enforcement of the provisions in section 439 and designates an office within the Department to investigate and review complaints of violations under the regulations. The Secretary has requested comments and recommendations on the proposed regulations. The Secretary is especially interested in receiving comments on whether the proposed procedures would provide sufficient flexibility to resolve complaints on a voluntary basis. The Secretary is also interested in comments on whether a recipient should be required to advise parents, guardians, or students of their opportunity to file complaints under the proposed complaint procedures and, if so, in what manner they should be informed.

The recordkeeping requirement that would be imposed by these proposed regulations has been stated in broad terms to leave the greatest possible discretion to educational agencies and institutions to determine what records to keep. An educational agency or institution should keep records sufficient to show compliance with the section. The Secretary is interested in receiving comments on the need for guidance regarding the kind of records an educational agency or institution should keep.

The Department, in complying with the specific requirements of Executive Order 12291 and the Paperwork Reduction Act of 1980 and their overall

requirements to reduce regulatory burden, invites comments on whether there may be further opportunities to reduce any regulatory burdens found in the proposed regulations.

Persons wishing to present testimony at the hearing are requested to contact the appropriate contact person listed above in order to establish a scheduled time to speak. Those persons not planning to testify, but wishing to submit written comments, should send their comments to Monika Edwards Harrison at the address given above.

Dated: February 15, 1984.

T. H. Bell,

Secretary of Education.

[FR Doc. 84-4630 Filed 2-21-84; 8:45 am]

BILLING CODE 4000-01-M

VOL 49 ISS 36 FE 22 1984 UMI

federal register

Wednesday
February 22, 1984

Part IV

Department of Energy

Federal Energy Regulatory Commission

Determinations by Jurisdictional Agencies, Under the Natural Gas Policy Act of 1978; Notices

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Vol. 1064]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: February 16, 1984.

The following notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" before the section code. Estimated annual production (PROD) is in million cubic feet (MMCF).

The applications for determination are available for inspection except to the extent such material is confidential under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol St., Washington, D.C. Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 275.204, file a protest with the Commission within fifteen days after publication of notice in the Federal Register.

Source data from the Form 121 for this and all previous notices is available on magnetic tape from the National Technical Information Service (NTIS). For information, contact Stuart Weisman (NTIS) at (703) 487-4808, 5285 Port Royal Rd, Springfield, Va 22161.

Categories within each NGPA section are indicated by the following codes:

Section 102-1: New OCS lease
- 102-2: New well (2.5 Mile rule)—
- 102-3: New well (1000 Ft rule)
- 102-4: New onshore reservoir
- 102-5: New reservoir on old OCS lease.

Section 107-DP: 15,000 feet or deeper
- 107-GB Geopressured brine
- 107-CS: Coal Seams
- 107-DV: Devonian Shale
- 107-PE: Production enhancement
- 107-TF: New tight formation
- 107-RT: Recompletion tight formation

Section 108: Stripper well
- 108-SA: Seasonally affected
- 108-ER: Enhanced recovery
- 108-PB: Pressure buildup

Kenneth F. Plumb,

Secretary.

NOTICE OF DETERMINATIONS
ISSUED FEBRUARY 16, 1984

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
LOUISIANA OFFICE OF CONSERVATION									
-HAWTHORNE OIL & GAS CORPORATION				RECEIVED:	01/16/84	JA: LA			
8416584	82-1576	1701920881		102-4		KLUMPP #1	SOUTH LAKE CHARLES FI	545.0	LOUISIANA GAS SYS
8416583	82-1577	1701920911		102-4		KLUMPP #2	SOUTH LAKE CHARLES	548.0	LOUISIANA GAS SYS
8416582	82-1578	1701920972		102-4		KLUMPP #4	SOUTH LAKE CHARLES FI	365.0	LOUISIANA GAS SYS
-WEAVER EXPLORATION CO				RECEIVED:	01/16/84	JA: LA			
8416585	82-1236	1705300000		102-4		CHAPPUIS ESTATE #1	DUSON NORTH	900.0	SUGAR BOWL GAS CO
MONTANA BOARD OF OIL & GAS CONSERVATION									
-BEREN CORPORATION				RECEIVED:	01/16/84	JA: MT			
8416590	12-83-175	2503521451		108		IRA SURBER #5	LITTLE ROCK GAS	17.1	FOUREM CO
-CONSOLIDATED OIL & GAS INC				RECEIVED:	01/16/84	JA: MT			
8416602	1183153	2508321482		103		FORT GILBERT #5	FORT GILBERT	11.0	MGPC INC
8416604	1183154	2508321539		103		FORT GILBERT #7	FORT GILBERT	10.0	
8416603	1183156	2508321585		103		FORT GILBERT #9	FORT GILBERT	5.8	
-J BURNS BROWN				RECEIVED:	01/16/84	JA: MT			
8416598	7-83-116	2501121439		108		NICHOLS 1-28	BROWN COULEE	6.0	NORTHERN NATURAL
-MIDLANDS GAS CORPORATION				RECEIVED:	01/16/84	JA: MT			
8416589	12-83-171	2507121877		102-2		1441-2	BOWDOIN	20.0	K N ENERGY INC
-TORCH ENERGY CORP				RECEIVED:	01/16/84	JA: MT			
8416601	1183158	2508321646		103		FLARE ENERGY 84X-6 BORG	OTIS CREEK SOUTH	33.0	MGPC INC
-TRICENTROL UNITED STATES INC				RECEIVED:	01/16/84	JA: MT			
8416596	11-83-160	2500521405		108		BLACKWOOD 12-1	TIGER RIDGE	7.1	NORTHERN NATURAL
8416587	11-83-165	2504121060		108		ERHARD 27-6	BULLHOOK UNIT	6.3	NORTHERN NATURAL
8416599	11-83-167	2504121484		108		WILLBRANDT 34-6	BULLHOOK UNIT	3.2	NORTHERN NATURAL
8416592	12-83-174	2500522228		102-4		JACOBSON 1-2	SHERARD	743.4	NORTHERN NATURAL
8416600	1283173	2501521513		102-4		MCLEISH 17-9	SHERARD	4.0	NORTHERN NATURAL
8416591	12-83-176	2500522151		102-4		O'CONNELL 24-13	SHERARD	27.0	NORTHERN NATURAL
8416597	11-83-161	2500521424		108		RAMBERG 22-13	TIGER RIDGE	1.7	NORTHERN NATURAL
8416593	11-83-162	2500521012		108		ROBERTS 27-10	TIGER RIDGE	2.7	NORTHERN NATURAL
8416588	11-83-166	2504121042		108		STATE 20-11	BULLHOOK UNIT (TIGER	2.0	NORTHERN NATURAL
8416595	11-83-159	2500521963		108		STATE 36-9	TIGER RIDGE	3.5	NORTHERN NATURAL
8416596	11-83-163	2500521939		108		WILLIAMSON 12-16	SHERARD UNIT	1.5	NORTHERN NATURAL
8416586	11-83-164	2504121149		108		WODARZ 2-7	BULLHOOK UNIT (TIGER	4.4	NORTHERN NATURAL
NEW MEXICO DEPARTMENT OF ENERGY & MINERALS									
-AMAX PETROLEUM CORPORATION				RECEIVED:	01/16/84	JA: NM			
8416488		3003900000		108-PB		BISHOP #2	SOUTH BLANCO	18.8	EL PASO NATURAL G
-AMOCO PRODUCTION CO				RECEIVED:	01/16/84	JA: NM			
8416523		3004520374		108-PB		BRUINGTON GAS COM C #1	BASIN	0.0	EL PASO NATURAL G
8416492		3004524171		108		GALLEGOS CANYON UNIT #188E	BASIN DAKOTA	14.0	EL PASO NATURAL G
8416522		3004524171		108-PB		GALLEGOS CANYON UNIT #188E	BASIN	0.0	EL PASO NATURAL G
8416507		3004508694		108		STATE GAS COM "I" #1	BLANCO MESAVERDE	20.0	EL PASO NATURAL G
-CITIES SERVICE OIL & GAS CORP				RECEIVED:	01/16/84	JA: NM			
8416494		3002528325		103		BYERS B #1	NADINE BLINEBRY WEST	45.0	

BILLING CODE 6717-01-M

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-EL PASO NATURAL GAS COMPANY				RECEIVED:	01/16/84	JA: NM			
8416524		3002524506		108-PB		RHODES STORAGE UNIT #20 WDRL	RHODES	0.0	EL PASO NATURAL G
-ENERGY RESERVES GROUP INC				RECEIVED:	01/16/84	JA: NM			
8416489		3004509636		108-PB		FARNSWORTH GAS COM B #1	BASIN DAKOTA	11.0	EL PASO NATURAL G
8416490		3004510077		108-PB		STATE GAS COM "BH" #1	BASIN DAKOTA	7.9	EL PASO NATURAL G
-EXXON CORPORATION				RECEIVED:	01/16/84	JA: NM			
8416498		3001524594		103		NEW MEXICO DP STATE #1	UNDESIG DELAWARE	29.0	PHILLIPS PETROLEU
-GULF OIL CORPORATION				RECEIVED:	01/16/84	JA: NM			
8416508		3002504747		108		ARNOTT-RAMSAY (NCT-C) #14	EUNICE MONUMENT	9.3	PHILLIPS PETROLEU
8416509		3001508294		108		ATOKA SAN ANDRES UNIT #127	ATOKA SAN ANDRES	1.0	PHILLIPS PETROLEU
8416511		3002520208		108		LEARCY MCBUFFINGTON #14	JUSTIS BLINEBRY	20.1	EL PASO NATURAL G
8416512		3002511208		108		PLAINS-KNIGHT #2	FOWLER UPPER YESO	17.2	EL PASO NATURAL G
8416510		3002511210		108		PLAINS-KNIGHT #3	FOWLER UPPER PADDOCK	5.4	EL PASO NATURAL G
-KERN CO				RECEIVED:	01/16/84	JA: NM			
8416499		3002500000		103		EUNICE COOPER #3	LANGLIE MATTIX	9.0	EL PASO NATURAL G
-MARATHON OIL COMPANY				RECEIVED:	01/16/84	JA: NM			
8416480		3002500000		108		SOUTH EUNICE SEVEN RIVERS QUEEN 503	SOUTH EUNICE	2.0	PHILLIPS PETROLEU
-MARBOB ENERGY CORPORATION				RECEIVED:	01/16/84	JA: NM			
8416485		3001523391		108		STATE U #2	ARTESIA QUEEN GRAYBUR	3.5	PHILLIPS PETROLEU
-PHILLIPS PETROLEUM COMPANY				RECEIVED:	01/16/84	JA: NM			
8416491		3002500433		108		MEXCO-A #3	MALJAMAR GB/SA	1.0	EL PASO NATURAL G
-POGO PRODUCING COMPANY				RECEIVED:	01/16/84	JA: NM			
8416493		3001500000		103		LIGHTFOOT "COM" #1	MALAGA (STRAWN)	295.0	
-SONNEYS OIL FIELD SERVICES INC				RECEIVED:	01/16/84	JA: NM			
8416506		3002500000		108		SIMMONS #1	BISHOP CANYON SAN AND	6.4	PHILLIPS PETROLEU
-SOUTHLAND ROYALTY CO				RECEIVED:	01/16/84	JA: NM			
8416520		3004511821		108-PB		CULPEPPER MARTIN #16	BASIN	0.0	SOUTHERN UNION GA
8416518		3004507831		108-PB		MANGUM #5	BASIN	0.0	SOUTHERN UNION GA
8416519		3004508712		108-PB		MCGRATH A #1	BASIN	0.0	SOUTHERN UNION GA
8416521		3004523067		108-PB		PAGE #2A	BLANCO	0.0	SOUTHERN UNION GA
-SUN EXPLORATION & PRODUCTION CO				RECEIVED:	01/16/84	JA: NM			
8416486		3002500000		108		E W WALDEN #2	PENROSE SKELLY GRBG	6.0	GETTY OIL CO
-TEXACO INC				RECEIVED:	01/16/84	JA: NM			
8416525		3002500000	D	108		EUNICE MONUMENT UNIT #34	EUNICE MONUMENT GRAYB	0.7	PHILLIPS PETROLEU
8416526		3002500000	D	108		EUNICE MONUMENT UNIT #5	EUNICE MONUMENT GRAYB	0.8	PHILLIPS PETROLEU
8416527		3002500000	D	108		J R PHILLIPS #3	EUNICE MONUMENT GRAYB	12.0	WARREN PETROLEUM
8416528		3002500000	D	108		V M HENDERSON #5	PADDOCK	2.1	GETTY OIL CO
-WARREN PETROLEUM CO				RECEIVED:	01/16/84	JA: NM			
8416517		3002506015		108		BERTIE WHITMIRE #5	MONUMENT BLINEBRY	12.4	EL PASO NATURAL G
8416516		3002506621		108		HARRY LEONARD (NCT-E) #2	BLINEBRY	20.9	EL PASO NATURAL G
8416515		3002522329		108		LEA "OG" STATE #1	NORTH BAGLEY PENN	8.5	EL PASO NATURAL G
8416487		3002528323		103		LEA "TZ" STATE #3	SCHARB BONE SPRINGS	0.0	EL PASO NATURAL G
8416513		3002521620		108		W A RAMSAY (NCT-B) #4	PENROSE SKELLY	13.1	EL PASO NATURAL G
8416514		3002523324		108		W A RAMSAY (NCT-B) #3	PENROSE SKELLY	13.2	EL PASO NATURAL G
-YATES PETROLEUM CORPORATION				RECEIVED:	01/16/84	JA: NM			
8416505		3001524277		103		ALMOST TEXAS UNIT #1	UNDES WOLFCAMP	0.0	
8416500		3001524235		103		CHUMBLEY "XS" COM #1	WEST ATOKA MORROW	0.0	
8416502		3000520409		103		CONE STATE #2	TOM TOM S/A	0.0	
8416501		3002528158		103		DOVE "VK" ST #3	LAZY J PENN	0.0	WARREN PETROLEUM
8416481		3000562034		107-TF		GROOMS "XB" COM #1	PECOS SLOPE ABO	0.0	TRANSWESTERN PIPE
8416497		3000562053		103		IBIS "XU" ST #1	UNDES FOOR RANCH PRE-	0.0	TRANSWESTERN PIPE
8416482		3000561729		102-4		LONG ARROYO "OD" ST COM #2	UND SPRINGER BASIN MO	0.0	TRANSWESTERN PIPE
8416504		3001524575		103		MERCHANT "XT" COM #1	UND EAST EAGLE CREEK	0.0	
8416495		3001524619		103		PLATT "PA" #8	ATOKA YESO	0.0	TRANSWESTERN PIPE
8416483		3000562003		102-3		SACRA "SA" #10	PECOS SLOPE ABO	0.0	TRANSWESTERN PIPE
8416484		3000561960		102-2		SACRA "SA" COM #7-Z	PECOS SLOPE ABO	0.0	TRANSWESTERN PIPE
8416503		3000520914		103		UNION "XJ" ST #2	TOM TOM S/A/	0.0	
8416496		3004120688		103		WILCOX "TS" #2	TOMAHAWK S/A	0.0	
OKLAHOMA CORPORATION COMMISSION									
-AMAREX INC				RECEIVED:	01/16/84	JA: OK			
8416658	26871	3512920830		107-DP		ARMSTRONG #1-29	WEST BERLIN	150.0	
-ARCO OIL AND GAS COMPANY				RECEIVED:	01/16/84	JA: OK			
8416664	25559	3513722381		103		E VELMA W BLK HUMPHREYS SAND #108	SHO VEL TUM	7.3	GETTY OIL CO
8416665	25560	3513722380		103		E VELMA W BLK HUMPHREYS SAND #109	SHO VEL TUM	7.3	GETTY OIL CO
8416680	12142	3505100000		108-PB		THOMAS CHARLSON #6	CHICKASHA	12.0	ARKANSAS LOUISIAN
-BAMCO OIL & GAS INC				RECEIVED:	01/16/84	JA: OK			
8416630	25608	3507323167		103		POSPISIL #2	CANEY DEL	22.0	PANHANDLE EASTERN
-BEASLEY OIL CO				RECEIVED:	01/16/84	JA: OK			
8416660	25517	3507323829		103		PAUL KUNNEMAN #1	NORTHWEST OMEGA	125.0	PHILLIPS PETROLEU
-BILL O ANDRESS				RECEIVED:	01/16/84	JA: OK			
8416631	25654	3512121040		103		BOWLBY 4-3	N E CANADIAN	75.0	TRANSOK PIPE LINE
-BOGERT OIL CO				RECEIVED:	01/16/84	JA: OK			
8416614	25429	3501722586		103		MEYER 1-15	SOONER TREND	225.0	PHILLIPS PETROLEU
-BROOKS B B				RECEIVED:	01/16/84	JA: OK			
8416627	25897	3511124174		103		COKER #2	BRINTON POOL	11.0	PHILLIPS PETROLEU
-CHEW-COAST & SONS				RECEIVED:	01/16/84	JA: OK			
8416610	23640	3514723635		102-2		RUTH #1		20.0	DIAMOND S GAS SYS
-CHIEF WELL SERVICE INC				RECEIVED:	01/16/84	JA: OK			
8416640	25808	3503700000		103		P E LACEY #4-F	OLIVE	0.7	ARCO OIL & GAS CO
-CIMARRON PETROLEUM CORP				RECEIVED:	01/16/84	JA: OK			
8416634	23808	3500722468		102-2		ELSTON #181-3 CPC		144.0	PHILLIPS PETROLEU
-CITIES SERVICE OIL & GAS CORP				RECEIVED:	01/16/84	JA: OK			
8416697	25527	3504520301		108		WENTZ A #1	WEST VICI	2.0	PANHANDLE EASTERN
-CLAREMONT CORP				RECEIVED:	01/16/84	JA: OK			
8416616	25776	3508322321		103		CLARK #15-1		63.9	SUN EXPLORATION &
-COTTON PETROLEUM CORPORATION				RECEIVED:	01/16/84	JA: OK			
8416657	26865	3505121256		107-DP		ALFRED #1	COTTONWOOD S W	0.0	UNITED GAS PIPELI
-D & J OIL COMPANY				RECEIVED:	01/16/84	JA: OK			
8416692	23413	3505321065		102-4		LUCY 1-5	SOUTH MEDFORD	193.0	FARMLAND INDUSTRI
-DEM OPERATIONS				RECEIVED:	01/16/84	JA: OK			
8416670	25604	3505321239		103		DUVALL #2	SOUTHEAST SALT FORK F	50.0	FARMLAND INDUSTRI
-DONEGHY JAMES				RECEIVED:	01/16/84	JA: OK			
8416615	24649	3511124224		103		HUDSON 1-A	COALTON DISTRICT	36.0	PHILLIPS PETROLEU
-DRILLEX INC				RECEIVED:	01/16/84	JA: OK			
8416635	23820	3513122656		102-2		PENNER #1	PENNER	438.0	DIAMOND S GAS SYS
-ENSERCH EXPLORATION INC				RECEIVED:	01/16/84	JA: OK			
8416613	24262	3514900000		103		WALLIS-LOFTISS #1	BURNS FLAT	999.0	NATURAL GAS PIPEL
-FALCON PETROLEUM COMPANY				RECEIVED:	01/16/84	JA: OK			
8416698	23407	3500722398		102-4		ADELMAN #1	S W ELMWOOD	237.6	PHILLIPS PETROLEU
-GETTY OIL COMPANY				RECEIVED:	01/16/84	JA: OK			
8416688	24638	3501700000		107-PE		GOLD STOVER UNIT #1	WATONGA TREND	98.0	MUSTANG FUEL CORP
8416677	25651	3513900000		103		SCHLUCKEBIER #2	N E GUYMON	36.5	NORTHWEST CENTRAL

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME			
-GULF OIL CORPORATION				RECEIVED:	01/16/84	JA: OK			
8416655	25893	3505121434		103		E L WOOD #4-29			
8416695	23451	3501121751		102-3		GULF SCOTT-BENEDA #1-29			
8416679	01633	3512920075		108-PB		HORRELL #1			
-HARPER OIL COMPANY				RECEIVED:	01/16/84	JA: OK			
8416656	25894	3509322712		103		RUFUS PARKER #2			
-HAWKINS OIL & GAS INC				RECEIVED:	01/16/84	JA: OK			
8416673	25619	3506520809		103		SALISBURY #1-16 L			
8416672	25618	3513921723		103		STEINKUEHLER #1-15A			
-IRA E ROWSEY				RECEIVED:	01/16/84	JA: OK			
8416686	22483	3503724579		102-2		GRIFFIN #1			
8416688	22485	3503723917		102-2		LEWIS #3			
8416687	22484	3503724680		102-2		NOMA LEE #1			
8416689	22486	3503724580		102-2		SHACKELFORD #1			
-J M MCNEAL OIL OPERATIONS INC				RECEIVED:	01/16/84	JA: OK			
8416638	25493	3510322020		103		KENNETH EDGAR #2			
-J M MUBER CORPORATION				RECEIVED:	01/16/84	JA: OK			
8416669	25590	3500722547		103		WALLACE "D" #1			
-KEITH F WALKER				RECEIVED:	01/16/84	JA: OK			
8416628	25788	3501922699		103		SEAY #2			
-LIBERTY EXPLORATION CO				RECEIVED:	01/16/84	JA: OK			
8416612	23841	3508322207		102-4		DUNLAP #1			
-LOCATORS OIL & GAS INC				RECEIVED:	01/16/84	JA: OK			
8416641	25810	3508320860		103		COFFIN #2			
-LOUIS KAHAN				RECEIVED:	01/16/84	JA: OK			
8416647	25859	3513322113		103		ARHALOKOCHE			
8416649	25861	3504723391		103		JENKINS			
8416648	25860	3504723458		103		WUERFLEIN "A" #1			
-M & L PETROLEUM CORP				RECEIVED:	01/16/84	JA: OK			
8416671	25609	3510321435		103		TERI #1 OTC PROD #103-71926			
-MAGIC CIRCLE ENERGY CORP				RECEIVED:	01/16/84	JA: OK			
8416661	25543	3501722478		103		MEYER #2			
-MARATAN RESOURCES CORP				RECEIVED:	01/16/84	JA: OK			
8416689	24876	3501700000		103		RALPH #2			
-MARATHON OIL COMPANY				RECEIVED:	01/16/84	JA: OK			
8416654	25892	3504521097		103		SCHOENHALS #1			
-MESONLERO OIL & GAS CO INC				RECEIVED:	01/16/84	JA: OK			
8416617	25676	3510120350		103		GERNER #1			
-MILESTONE PETROLEUM INC				RECEIVED:	01/16/84	JA: OK			
8416633	23769	3505320965		102-2		BENDA #1			
-MOBIL OIL CORP				RECEIVED:	01/16/84	JA: OK			
8416682	17817	3504700000		108-PB		C LAMBERT #3			
8416653	25841	3506120570		103		GLADYS HENDERSON UNIT #2			
8416624	25830	3513700000		108		J L MARTIN #13			
8416643	25831	3503700000		108		SAM VANCE #2			
8416644	25833	3509500000		108		WARD-HENDRICKS UNIT #2			
-OKLAHOMA PETROLEUM MANAGEMENT CORP				RECEIVED:	01/16/84	JA: OK			
8416626	25845	3510721133		103		SEXTON #1			
8416646	25844	3510721474		103		WHITESIDES #1			
-OTEX ENERGY INC				RECEIVED:	01/16/84	JA: OK			
8416678	26722	3501521323		107-DP		SMITH #1-36 015-82617			
-PHILLIPS PETROLEUM COMPANY				RECEIVED:	01/16/84	JA: OK			
8416605	22384	3501721828		108-ER		KROUTIL A #1			
8416632	23677	3503121069		102-4		STEPHENS B #1			
8416659	19263	3504700088		108-ER		SWART "A" #1			
-PRODUCERS 88 OIL CORP				RECEIVED:	01/16/84	JA: OK			
8416666	25578	3510721677		103		GLEN NORTON - MB2			
-RED EAGLE OIL CO				RECEIVED:	01/16/84	JA: OK			
8416619	25768	3509322677		103		KARBER #1			
8416618	25767	3501121817		103		SHIRLEY #1			
-REGENCY EXPLORATION INC				RECEIVED:	01/16/84	JA: OK			
8416693	23433	3505321037		102-2		BETTY ANN LEFORCE #1-14			
-SAMEDAN OIL CORPORATION				RECEIVED:	01/16/84	JA: OK			
8416652	25886	3508720546		103		WILLIAMS #1			
-SANTA FE-ANDOVER OIL CO				RECEIVED:	01/16/84	JA: OK			
8416629	25242	3501722184		103		BOMHOFF #20-2			
-SCC DEVELOPMENT CO INC				RECEIVED:	01/16/84	JA: OK			
8416663	25552	3503724904		103		CRAIG #1			
-SHELL OIL CO				RECEIVED:	01/16/84	JA: OK			
8416694	23449	3505121387		102-4		HILL #1-23			
-SKI ENERGY				RECEIVED:	01/16/84	JA: OK			
8416675	25627	3514322641		103		SKI - A6 - 9 #1			
-SOUTHLAND ROYALTY CO				RECEIVED:	01/16/84	JA: OK			
8416685	21185	3515321170		108-PB		COX #1-13			
8416681	13836	3513921240		108-PB		CRAIG #1-6			
8416684	19495	3513900377		108-PB		ELMORE #1			
8416696	23455	3515121083		108-PB		RORING #2-29			
-SOUTHPORT EXPLORATION INC				RECEIVED:	01/16/84	JA: OK			
8416628	25908	3505121450		103		KAHLE #2-14			
-SPECTRA ENERGY CORP				RECEIVED:	01/16/84	JA: OK			
8416683	18525	3502520528		102-4 103		HAMPTON #1			
-SPRING TIDE PETROLEUM INC				RECEIVED:	01/16/84	JA: OK			
8416650	25865	3511123538		108		KOERNER "A" LEASE WELL #2			
8416651	25866	3511123414		108		KOERNER LEASE WELL #1			
-STANTON ENERGY INC				RECEIVED:	01/16/84	JA: OK			
8416674	25623	3514322423		103		JOSH #1			
8416691	23409	3514322439		102-4 103		LUVENA #2			
-TEXACO INC				RECEIVED:	01/16/84	JA: OK			
8416686	22971	3505321062		102-2		C LEFORCE #1			
8416622	25807	3513921775		103		E L ADDINGTON #3			
8416621	25806	3502520582		103		RUTH BRYAM UNIT #3			
-TEXINIA CORP				RECEIVED:	01/16/84	JA: OK			
8416667	25587	3500722473		103		WEST ELMWOOD WATERFLOOD UNIT 20-2	WEST ELMWOOD	10.2	PHILLIPS PETROLEU
-THE WIL-MC OIL CORP				RECEIVED:	01/16/84	JA: OK			
8416625	25842	3505321083		103		BREEN #1	EAST WAKITA	6.8	SUN EXPLORATION &
8416668	25589	3505321212		103		DORIS #1	NORTH DEER CREEK	17.0	
-TXO PRODUCTION CORP				RECEIVED:	01/16/84	JA: OK		0.0	DELHI GAS PIPELIN
8416687	23381	3507920256		102-4		ROBERT MCDONALD #1			
-UNIT DRILLING & EXPLORATION CO				RECEIVED:	01/16/84	JA: OK			
8416662	25558	3505121388		103		SNEDEKER #1-11	EAST CEMENT	75.0	
-VAUGHAN OILBY				RECEIVED:	01/16/84	JA: OK			
8416637	25225	3510100000		108		DULLE #1	BALD HILL	0.0	PHILLIPS PETROLEU
8416634	25224	3510100000		108		NEWTON 2-C	BALD HILL	409.0	PHILLIPS PETROLEU
-VAUGHN OOGD				RECEIVED:	01/16/84	JA: OK			

FIELD NAME	PROD	PURCHASER
LAVERTY (MARCHAND)	28.5	PHILLIPS PETROLEU
UNDESIGNATED (MISSISS	257.0	
TONKAWA	0.0	PANHANDLE EASTERN
NORTH DANE	0.0	DELHI GAS PIPELIN
N W CARMARGO	148.0	
S SLEEPER	109.0	PHILLIPS PETROLEU
GLENPOOL	14.6	PHILLIPS PETROLEU
GLENPOOL	31.0	PHILLIPS PETROLEU
GLENPOOL	45.6	PHILLIPS PETROLEU
GLENPOOL	7.3	PHILLIPS PETROLEU
GANSEL	24.0	ARCO OIL & GAS CO
LIGHT	200.0	PANHANDLE EASTERN
	27.4	AMINOIL USA INC
	0.0	CHAMPLIN PETROLEU
W LAURIE	22.8	EASON OIL CO
SOUTH CROMWELL POOL	492.0	WELLHEAD ENTERPRI
ENID NORTHEAST	109.0	GRACE PETROLEUM C
ENID NORTHEAST	33.0	GRACE PETROLEUM C
	186.0	AMINOIL USA INC
EAST OKARCHE	26.0	PHILLIPS PETROLEU
	50.0	PHILLIPS PETROLEU
GOODWIN SOUTH	60.0	
BOYNTON	876.0	PHILLIPS PETROLEU
	25.0	FARMLAND INDUSTRI
GOLDEN TREND	13.7	WARREN PETROLEUM
KINTA	0.0	OKLAHOMA NATURAL
SHOVELTUM	8.1	AMINOIL USA INC
CUSHING	1.2	ARCO OIL & GAS CO
AYLESWORTH	2.9	PIONEER GAS PRODU
	0.0	GOLDEN ARROW GAS
	0.0	SWAB CORP
W/C	1030.4	CALICHE PIPELINE
SOONER TREND	4.6	
	0.0	
SOONER TREND	13.0	PANHANDLE EASTERN
SOUTH CLEARVIEW	108.0	PHILLIPS PETROLEU
N W OKEENE	108.0	PIONEER GAS PRODU
N W OKEENE	365.0	PIONEER GAS PRODU
	0.0	UNION TEXAS PETRO
S FLINT	40.0	SUN EXPLORATION &
	150.0	DELHI GAS PIPELIN
GLENPOOL	0.0	PHILLIPS PETROLEU
TABLER N E	133.2	
	0.0	PHILLIPS PETROLEU
PERSIMMON CREEK	18.0	TENNESSEE GAS PIP
CAPLE	16.0	NORTHERN NATURAL
EAST HOOKER	21.5	NORTHERN NATURAL
FREEDOM 76	10.0	PANHANDLE EASTERN
NINNEKAH	19.0	ARKANSAS LOUISIAN
KEYS GAS AREA	0.0	TRANSWESTERN PIPE
NORTH BEGGS	25.6	PHILLIPS PETROLEU
NORTH BEGGS	69.4	PHILLIPS PETROLEU
KEYSTONE	25.0	COLORADO GAS COMP
KEYSTONE	25.0	COLORADO GAS COMP
VICAR NORTH POOL	53.9	NORTHWEST CENTRAL
EVA N W	4.9	
MIDWELL	3.3	

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8416642	25818	3508100000		103		LANE #1	LINCOLN	44.0	
8416623	25819	3505300000		103		WILKENS #2-15	SOONER TREND	0.0	UNION TEXAS PETRO
-VIERSEN & COCHRAN				RECEIVED:		01/16/84 JA: OK			
8416676	25631	3501121849		103		HEIRS OF YELLOW WOMAN #2-31	WATONGA TREND	54.0	PHILLIPS PETROLEU
-WOODS PETROLEUM CORPORATION				RECEIVED:		01/16/84 JA: OK			
8416611	23835	3512920959		102-2		ANDERSON #8-1	SW LEEDEY	558.0	DELHI GAS PIPELIN
-WORLDWIDE ENERGY CORPORATION				RECEIVED:		01/16/84 JA: OK			
8416645	25838	3500700000		108		KULOW #1	DUMBEY	8.0	K M ENERGY INC
-101 ENERGY CORP				RECEIVED:		01/16/84 JA: OK			
8416639	25744	3505321191		103		WILKENS 15-2	S POND CREEK	100.0	UNION TEXAS PETRO
**********									
WEST VIRGINIA DEPARTMENT OF MINES									
**********									
-ALLEGHENY LAND & MINERAL COMPANY				RECEIVED:		01/16/84 JA: WV			
8416559		4701703146		103		A-1149	SOUTHWEST DISTRICT	0.0	CONSOLIDATED GAS
-ASHLAND EXPLORATION INC				RECEIVED:		01/16/84 JA: WV			
8416579		4708100575		107-TF		BEDFORD LAND CO #19 - 092651	PAINT CREEK	64.0	COLUMBIA GAS TRAN
8416581		4701900482		107-TF		CHRISTIAN COLLIERY #4 - 094261	PAINT CREEK	31.0	COLUMBIA GAS TRAN
8416576		4701900479		107-TF		EASTERN GAS & FUEL #75 - 092991	PAINT CREEK	10.0	COLUMBIA GAS TRAN
8416580		4701900490		107-TF		RIVERSIDE PARK INC #3 - 094561	LOUP CREEK	28.0	COLUMBIA GAS TRAN
-CALTEK MINERALS CORP				RECEIVED:		01/16/84 JA: WV			
8416529		4701702556		103		FLORA FREEMAN NO 1	UNION	24.3	COLUMBIA GAS TRAN
-CHESTERFIELD ENERGY CORP				RECEIVED:		01/16/84 JA: WV			
8416564		4709702254		108		GOODEN WELL #1 47-097-2254	WASHINGTON	0.0	COLUMBIA GAS TRAN
-COLUMBIA GAS TRANSMISSION CORP				RECEIVED:		01/16/84 JA: WV			
8416530		4703903638		102-4		GEORGES CK LAND & MIN CO 820520	INDIAN CREEK	57.0	COLUMBIA GAS TRAN
8416531		4703903631		102-4		KANAWHA HOCKING COAL & COKE 820349	INDIAN CK	48.0	COLUMBIA GAS TRAN
-HAUGHT INC				RECEIVED:		01/16/84 JA: WV			
8416567		4708504518		103		J F DEEM H-917	GRANT DISTRICT	0.0	CONSOLIDATED GAS
-HECK OIL CO INC				RECEIVED:		01/16/84 JA: WV			
8416571		4708506041		103		JOE GOFF #1	UNION DISTRICT	0.0	CARNEGIE NATURAL
-J & J ENTERPRISES INC				RECEIVED:		01/16/84 JA: WV			
8416574		4703302447		103		B-403	COAL	0.0	CONSOLIDATED GAS
8416565		4709702333		103		B-431	MEADE	0.0	COLUMBIA GAS TRAN
8416561		4708505998		103		J-733	CLAY	0.0	CONSOLIDATED GAS
8416560		4709702533		103		J-739	UNION	0.0	EASTERN AMERICAN
-J F DEEM OIL & GAS				RECEIVED:		01/16/84 JA: WV			
8416563		4708506352		103		HARRIS #1	GRANT	0.0	CONSOLIDATED GAS
-JACKSON DEVELOPMENT CO INC				RECEIVED:		01/16/84 JA: WV			
8416577		4703903949		103		MARGARET Y DICKENSON #31	MALDEN	91.3	CONSOLIDATED GAS
-KEPCO INC				RECEIVED:		01/16/84 JA: WV			
8416562		4708506162		103		B B HARPER #3 (WK-212)	CLAY DISTRICT	27.0	TENNESSEE GAS PIP
8416573		4709702537		103		JOHN R SHOMO #1 (WK-231)	WARREN DISTRICT	22.0	TENNESSEE GAS PIP
8416569		4708506257		103		R T ROBERTSON #3 (WK-213)	CLAY DISTRICT	35.0	TENNESSEE GAS PIP
8416568		4708506431		103		R T ROBERTSON #4 (WK-96)	CLAY DISTRICT	35.0	TENNESSEE GAS PIP
-L & M PETROLEUM INC				RECEIVED:		01/16/84 JA: WV			
8416575		4707301680		103		HAMMETT #3	JEFFERSON	10.0	CONSOLIDATED GAS
-MID-AMERICA PETROLEUM INC				RECEIVED:		01/16/84 JA: WV			
8416570		4708506403		103		WEST PALM #2	UNION DISTRICT	0.0	CARNEGIE NATURAL
-PEAKE OPERATING CO				RECEIVED:		01/16/84 JA: WV			
8416539		4710900877		103		BOND 1-A	OCEANA	5.0	ROARING FORK GAS
8416557		4703903853		103		ENNIS 1-A	JEFFERSON	5.0	COLUMBIA GAS TRAN
8416533		4710900903		107-TF		GEORGIA PACIFIC #2-AGP	(OCEANA DISTRICT)	5.0	
8416532		4710900885		107-TF		GEORGIA-PACIFIC #3-AGP	(OCEANA DISTRICT)	5.0	CONSOLIDATED GAS
8416547		4703903895		103		JOHNSON 1A	JEFFERSON	5.0	COLUMBIA GAS TRAN
8416538		4708100601		107-TF		JONES & GIBSON #5-AJ	(TRAP HILL DISTRICT)	5.0	
8416536		4708100618		107-TF		JONES & GIBSON #6-AJ	(TRAP HILL DISTRICT)	5.0	
8416535		4708100621		107-TF		JONES & GIBSON #8-AJ	(TRAP HILL DISTRICT)	5.0	
8416541		4708100576		103		JONES & GIBSON 2AJ	TRAP HILL	5.0	COLUMBIA GAS TRAN
8416540		4708100577		103		JONES & GIBSON 3 AJ	TRAP HILL	5.0	COLUMBIA GAS TRAN
8416543		4704302549		103		KING 1A	WASHINGTON	5.0	COLUMBIA GAS TRAN
8416545		4703903905		103		MARTIN 1A	JEFFERSON	5.0	COLUMBIA GAS TRAN
8416544		4703903906		103		MARTIN 2-A	JEFFERSON	5.0	COLUMBIA GAS TRAN
8416553		4703903864		103		MORRIS 1A	WASHINGTON	5.0	COLUMBIA GAS TRAN
8416537		4708100614		107-TF		NEW RIVER #14-AR	(TOWN DISTRICT)	5.0	
8416550		4703903887		103		PAULEY 1A	WASHINGTON	5.0	COLUMBIA GAS TRAN
8416556		4703903853		103		PEARSON 1A	JEFFERSON	5.0	
8416558		4701900465		103		PRICE HEIRS 1-BR	PLATEAU	5.0	
8416554		4703903859		103		ROGERS 1A	JEFFERSON	5.0	COLUMBIA GAS TRAN
8416549		4703903893		103		ROGERS 3A	JEFFERSON	5.0	COLUMBIA GAS TRAN
8416542		4705901032		103		SIGNIAGO #1-A	STAFFORD	5.0	COLUMBIA GAS TRAN
8416534		4710900895		107-TF		SMITH #1-A	(OCEANA DISTRICT)	5.0	
8416555		4703903855		103		STEELE 1A	JEFFERSON	5.0	COLUMBIA GAS TRAN
8416548		4703903896		103		STEELE 2A	JEFFERSON	5.0	COLUMBIA GAS TRAN
8416546		4703903892		103		WISMAN 1A	WASHINGTON	5.0	
8416552		4703903881		103		WOOD 1-A	WASHINGTON	5.0	
8416551		4703903882		103		YODER 1A	WASHINGTON	5.0	COLUMBIA GAS TRAN
-PRIOR LA VERNE				RECEIVED:		01/16/84 JA: WV			
8416566		4708505989		103		JOE GOFF #1 (6.37) ACRES	UNION DISTRICT	0.0	CARNEGIE NATURAL
-RARE EARTH ENERGY INC				RECEIVED:		01/16/84 JA: WV			
8416572		4708506458		103		HAZELBAKER #1	CLAY DISTRICT	0.0	CONSUMER GAS UTIL
-STERLING DRILLING AND PROD CO INC				RECEIVED		01/16/84 JA: WV			
8416578		4700501400		102-4		APPALACHIAN POWER CO #673-REV	SCOTT DISTRICT	29.5	

[FR Doc. 84-4663 Filed 2-21-84; 8:45 am]

BILLING CODE 6717-01-C

[Vol. 1065]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: February 16, 1984.

The following notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104, Negative determinations are indicated by a "D" before the section code. Estimated annual production (PROD) is in million cubit feet (MMCF).

The applications for determination are available for inspection except to the extent such material is confidential under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol St., Washington, D.C. Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 275.204, file a protest with the Commission within fifteen days after publication of notice in the **Federal Register.**

Source data from the Form 121 for this and all previous notices is available on magnetic tape from the National Technical Information Service (NTIS). For information, contact Stuart Weisman (NTIS) at (703) 487–4808, 5285 Port Royal Rd, Springfield, Va 22161.

Categories within each NGPA section are indicated by the following codes:

Section 102–1: New OCS lease
102–2: New well (2.5 Mile rule)
102–3: New well (1000 Ft rule)
102–4: New onshore reservoir
102–5: New reservoir on old OCS lease

Section 107–DP: 15,000 feet or deeper
107–GB: Geopressured brine
107–CS: Coal Seams
107–DV: Devonian Shale
107–PE: Production enhancement
107–TF: New tight formation
107–RT: Recompletion tight formation

Section 108: Stripper will
108–SA: Seasonally affected
108–ER: Enhanced recovery
108–PB: Pressure buildup

Kenneth F. Plumb,
Secretary.

NOTICE OF DETERMINATIONS
ISSUED FEBRUARY 16, 1984

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
LOUISIANA OFFICE OF CONSERVATION									
-MCCORMICK OPERATING CO				RECEIVED:	01/18/84	JA: LA			
8416698	83-1610	1711321218		102-4		FRED STOVALL #10	LIVE OAK 6116	388.0	LOUISIANA RESOURC
-WILLIAMS EXPLORATION COMPANY				RECEIVED:	01/18/84	JA: LA			
8416699	83-1612	1702321464		103		J W MECOM FEE #10	SECOND BAYOU	1241.0	LOUISIANA RESOURC
MICHIGAN DEPARTMENT OF NATURAL RESOURCES									
-AMOCO PRODUCTION CO				RECEIVED:	01/19/84	JA: MI			
8416806	C894618	2105536244		102-4		LAW UNIT #1-B-31	UNION 31-A-26N-9W	468.0	CONSUMERS POWER C
8416807	C894618	2105536037		102-4		STATE WHITEWATER "J" 4-20	WHITEWATER 20-27N-9W	16.4	CONSUMERS POWER C
NORTH DAKOTA INDUSTRIAL COMMISSION									
-AMERADA HESS CORPORATION				RECEIVED:	01/17/84	JA: ND			
8416748	891	3305301711		102-3		L WHEELER 18-23	BLUE BUTTES	61.0	MONTANA DAKOTA UT
-CENTURY OIL & GAS CORP				RECEIVED:	01/17/84	JA: ND			
8416751	894	3301301804		103		SCHULTZ #14-6	FLAXTON	45.0	CITIES SERVICE OI
-GULF OIL CORPORATION				RECEIVED:	01/17/84	JA: ND			
8416750	893	3302500359		102-2		KULISH 2-30-2C	LITTLE KNIFE	9.6	
8416749	892	3305301713		102-2		STATE ZABOLOTNY 2-36-3C	LITTLE KNIFE (MISSION	0.0	MONTANA DAKOTA UT
-TOM BROWN INC				RECEIVED:	01/17/84	JA: ND			
8416747	889	3305301674		102-2		NOVAK 25-11	ELK	73.0	PHILLIPS PETROLEU
-UNIVERSAL RESOURCES CORPORATION				RECEIVED:	01/17/84	JA: ND			
8416746	890	3305301729		102-4		ERNEST #1-29	KEENE	0.0	AMINOIL USA INC
NEW MEXICO DEPARTMENT OF ENERGY & MINERALS									
-AMOCO PRODUCTION CO				RECEIVED:	01/19/84	JA: NM			
8416818		3004525670		103		ABRAMS "L" #1	ARMENTA - GALLUP	9.0	NORTHWEST PIPELIN
8416815		3004525671		103		ARMENTA COM "F" #1	ARMENTA - GALLUP	15.0	
8416828		3004525559		103		BRUINGTON GAS COM "C" / TRUE #1E	BASIN - DAKOTA	29.0	NORTHWEST PIPELIN
8416816		3004525672		103		POLLOCK COM "D" #1	ARMENTA - GALLUP	14.0	NO PURCHASER
8416814		3004525743		103		POLLOCK COM "E" #1	ARMENTA - GALLUP	0.0	EL PASO NATURAL G
-EL PASO NATURAL GAS COMPANY				RECEIVED:	01/19/84	JA: NM			
8416824		3004521098		108-PB		ATLANTIC D COM L #13 PC	BLANCO	0.0	EL PASO NATURAL G
8416823		3003920487		108-PB		SAN JUAN 27-5 UNIT #135	TAPACITO	0.0	EL PASO NATURAL G
8416822		3003906979		108-PB		SAN JUAN 27-5 UNIT #41 PC & MV	TAPACITO & BLANCO	0.0	EL PASO NATURAL G
-ENERGY RESERVES GROUP INC				RECEIVED:	01/19/84	JA: NM			
8416825		3004509636		108-PB		FARNSWORTH GAS COM B #1	BASIN DAKOTA	10.6	EL PASO NATURAL G
-MOBIL PRDG TEXAS & NEW MEXICO INC				RECEIVED:	01/19/84	JA: NM			
8416817		3003923240		103		W O HUGHES #6	WEST LINDRITH GALLUP	93.8	NORTHWEST PIPELIN
-TENNECO OIL COMPANY				RECEIVED:	01/19/84	JA: NM			
8416819		3004525656		103		VALDEZ 2	UNDESIGNATED GALLUP	63.0	EL PASO NATURAL G
-TEXACO INC				RECEIVED:	01/19/84	JA: NM			
8416813		3002528385		103		NEW MEXICO "AN" STATE #12	SAUNDERS (PERMO UPPER	95.3	WARREN PETROLEUM
-WARREN PETR CO A DIV OF GULF OIL CO				RECEIVED:	01/19/84	JA: NM			

BILLING CODE 6717-01-M

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8416821		3002528292		103		HUGH #15	WANTZ ABO	0.0	EL PASO NATURAL G
OHIO DEPARTMENT OF NATURAL RESOURCES									
-ALTHEIRS OIL INC				RECEIVED: 01/19/84 JA: OH					
8416833		3410522772		103	107-TF	FOWLER #4	RUTLAND TWA	5.0	COLUMBIA GAS TRAN
-ARAPAHO VENTURES OF NEW YORK INC				RECEIVED: 01/19/84 JA: OH					
8416834		3416725968		107-TF		GOLDIE HAAS #6	WILDCAT	0.1	COLUMBIA GAS TRAN
8416835		3416726095		107-TF		UNION CARBIDE #1	WILDCAT	0.1	COLUMBIA GAS TRAN
8416836		3416726096		107-TF		UNION CARBIDE #2	WILDCAT	0.1	COLUMBIA GAS TRAN
-ATLAS ENERGY GROUP INC				RECEIVED: 01/19/84 JA: OH					
8416838		3413323186		103	107-TF	TOMSING UNIT #1	DEERFIELD	0.0	REPUBLIC STEEL CO
8416837		3413322920		103	107-TF	ZINZ #2	DEERFIELD	0.0	REPUBLIC STEEL CO
-B & B ENTERPRISES				RECEIVED: 01/19/84 JA: OH					
8416839		3411523284		107-TF		LYLE APPERSON #1	MCCONNELLSVILLE	40.0	
-BELDEN & BLAKE & CO #3				RECEIVED: 01/19/84 JA: OH					
8416841		3401921671		103	107-TF	M & E MYERS #2 - 341356	[illegible]	36.5	
8416840		3401921562		103	107-TF	M PONTONES COMM #2	[illegible]	0.0	
8416842		3413323027		103	107-TF	T & N INVESTMENT CO COMM #1-341322	AURORA	0.0	
-BERRESFORD ENTERPRISES INC				RECEIVED: 01/19/84 JA: OH					
8416843		3411523119		107-DP		RALPH ROCKER #1	CENTER	0.0	
-BLAUSER WELL SERVICE INC				RECEIVED: 01/19/84 JA: OH					
8416844		3400922801		107-TF		CURTIS A RECTOR #1	CATHAGE	6.0	COLUMBIA GAS TRAN
8416845		3416725131		107-TF		DAVID D DUNBAR #4	FAIRFIELD	0.5	COLUMBIA GAS TRAN
-COASTAL PETROLEUM CORP				RECEIVED: 01/19/84 JA: OH					
8416851		3410323561		107-TF		BROOKSIDE #15-A	MONTVILLE	9.0	EAST OHIO GAS CO
8416847		3410323319	D	107-TF		BROOKSIDE #4	MONTVILLE	9.0	EAST OHIO GAS CO
8416846		3410323318	D	107-TF		BROOKSIDE #6	MONTVILLE	9.0	EAST OHIO GAS CO
8416848		3410323369	D	107-TF		BROOKSIDE #7	MONTVILLE	9.0	EAST OHIO GAS CO
8416849		3410323395		107-TF		GRINDLE/THOMPSON #1	[illegible]	9.0	EAST OHIO GAS CO
8416850		3410323526		107-TF		SHUMATE #2	[illegible]	9.0	EAST OHIO GAS CO
-EAGLE MOUNTAIN ENERGY CORP				RECEIVED: 01/19/84 JA: OH					
8416852		3411523283		103	107-TF	DELMAR WILSON #1	MORGAN	45.0	PANHANDLE EASTERN
8416853		3411523288		103	107-TF	SELLS-RIBBLE UNIT #1	CENTER	45.0	PANHANDLE EASTERN
-ENERGY DEVELOPMENT CORP				RECEIVED: 01/19/84 JA: OH					
8416855		3400722327		107-TF		GALE #1	CHERRY VALLEY	16.0	
8416854		3400722255		103	107-TF	PAVLECHKO UNIT #1	CHERRY VALLEY	12.0	
8416856		3405520162		107-RT		STANLEY B SMITH #1	PARKMAN	9.0	COLUMBIA GAS TRAN
-ENINUN INC				RECEIVED: 01/19/84 JA: OH					
8416857		3411926403		103	107-TF	BRAILER #1	LICKING	20.0	NATIONAL GAS & OI
-ENTERPRISE ENERGY CORP				RECEIVED: 01/19/84 JA: OH					
8416858		3416727495		107-TF		DOAK #1	WATERFORD	27.3	
-FUTURE ENERGY CORPORATION				RECEIVED: 01/19/84 JA: OH					
8416859		3411523261		103	107-TF	PIERCE #2	MALTA	30.0	
-GASEARCH INC				RECEIVED: 01/19/84 JA: OH					
8416861		3415522373		103	107-TF	SNYDER #1	MESOPOTAMIA	20.0	GAS OHIO TRANSPOR
8416860		3415522372		103	107-TF	SNYDER #2	MESOPOTAMIA	20.0	GAS OHIO TRANSPOR
8416862		3415522430		103	107-TF	SNYDER #3	MESOPOTAMIA	20.0	GAS OHIO TRANSPOR
-GENERAL ELECTRIC CO				RECEIVED: 01/19/84 JA: OH					
8416863		3415522356		103	107-TF	PRESBYTERY OF CLEVELAND #3	MESOPOTAMIA	20.0	EAST OHIO GAS CO
-GEO ENERGY INC				RECEIVED: 01/19/84 JA: OH					
8416864		3410322606		107-TF		TOLSMA #12-3-1	LIVERPOOL	1.0	COLUMBIA GAS TRAN
-GILBERT OIL CO				RECEIVED: 01/19/84 JA: OH					
8416867		3413322756		102-4		DOOLEY #1	SUFFIELD	11.0	(DOEHLER-JARVIS)
8416865		3413322754		102-4		JACKSON #1	SUFFIELD	10.0	(DOEHLER-JARVIS)
8416866		3413322755		102-4		JACKSON #2	SUFFIELD	10.0	(DOEHLER-JARVIS)
-GREEN ENERGY				RECEIVED: 01/19/84 JA: OH					
8416868		3409321228		107-TF		BARTTER #10	COLUMBIA	10.0	COLUMBIA GAS TRAN
-GREENLAND PETROLEUM CO				RECEIVED: 01/19/84 JA: OH					
8416869		3412726022		107-TF		JONES COAL CO #8	COAL	20.0	FORACKER GAS CO I
-H I SMITH OIL & GAS INC				RECEIVED: 01/19/84 JA: OH				2.0	COLUMBIA GAS TRAN
8416870		3407521815		108		WEAVER-MCKEE #1		7.0	COLUMBIA GAS TRAN
8416871		3407523056		108		WEAVER-MCKEE #2			
-HYDROCARBON RESOURCES INC				RECEIVED: 01/19/84 JA: OH					
8416872		3410323477		107-TF		LEIBY #5	CRAWFORD	18.0	
-INTEGRATED PETROLEUM COMPANY INC				RECEIVED: 01/19/84 JA: OH					
8416873		3413321822		103	107-RT	PORTAGE BEAGLE CLUB #2	DEERFIELD	200.0	AMERICAN ENERGY S
-K S T OIL & GAS CO INC				RECEIVED: 01/19/84 JA: OH					
8416874		3415321453		103	107-TF	K S T FARMS #1	ETON	40.0	
-KEN-TRAK VII				RECEIVED: 01/19/84 JA: OH					
8416875		3410522532		107-TF		J LIGHTFOOT #4	LOWER MISSISSIPPIAN	0.0	
-KEN-TRAK XII				RECEIVED: 01/19/84 JA: OH					
8416876		3410522782		107-TF		R COMPTON #1	LOWER MISSISSIPPIAN	0.0	
-L & M EXPLORATION INC				RECEIVED: 01/19/84 JA: OH					
8416877		3401921101		108		HADORN #1		10.0	BONANZA GAS LIME
8416878		3401921159		108		PRICE #1		10.0	BONANZA GAS LIME
8416879		3401921250		108		WATSON #3		10.0	BONANZA GAS LIME
-LAKE REGION OIL INC				RECEIVED: 01/19/84 JA: OH					
8416880		3402920990		103	107-TF	THOMAS RILL #1	BUTLER	10.0	YANKEE RESOURCES
-LANDPROVEST INC				RECEIVED: 01/19/84 JA: OH					
8416881		3405923501		107-TF		OSTRANDER #1-83	BLOOMFIELD	25.0	
-LANGASCO DRILLING CO				RECEIVED: 01/19/84 JA: OH					
8416882		3402920969		107-TF		LUDWIG WHITELEATHER #2	WEST	45.0	YANKEE RESOURCES
-LARRY M WRIGHT INC				RECEIVED: 01/19/84 JA: OH					
8416883		3407523707		103	107-TF	EMANUEL HERSHBERGER #2	PAINT	10.0	COLUMBIA GAS TRAN
-LIBERTY OIL & GAS CORP				RECEIVED: 01/19/84 JA: OH					
8416884		3410521819		107-DV		ELMER KAYLOR #1	ORANGE	18.0	COLUMBIA GAS TRAN
8416885		3410522714		107-DV		IHLA FAE KIMES #1	ORANGE	18.0	COLUMBIA GAS TRAN
8416886		3410522715		107-DV		RICHARD P BUCKLEY #1	ORANGE	18.0	COLUMBIA GAS TRAN
-LOMAK PETROLEUM INC				RECEIVED: 01/19/84 JA: OH					
8416892		3405520517		103	107-TF	A DALE #2	CLARIDON	24.0	
8416893		3405525340		103	107-TF	A DALE #5	CLARIDON	24.0	
8416890		3405520468		103	107-TF	A GOLLWITZER #1	CLARIDON	24.0	
8416889		3405520399		103	107-TF	C INEMAN #1	CLARIDON	24.0	
8416888		3405520532		103	107-TF	F DIVELY #1	CLARIDON	24.0	
8416891		3405520470		103	107-TF	L MUNSON #1	CLARIDON	24.0	
8416887		3405520526		103	107-TF	L NONNAMAKER UNIT #1	CLARIDON	24.0	
-M B OPERATING CO INC				RECEIVED: 01/19/84 JA: OH					
8416894		3415123885		103	107-TF	CASTLE NURSING HOMES #2	BETHLEHEM	54.8	EAST OHIO GAS CO
8416895		3415123980		103	107-TF	V CRAMER UNIT #1	BETHLEHEM	43.8	EAST OHIO GAS CO
-NOBLE OIL CORP				RECEIVED: 01/19/84 JA: OH					
8416899		3413323077		107-TF		CORBETT #1	PARIS	20.0	GENERAL ELECTRIC
8416896		3400722284		107-TF		FETTERS #3	NEW LYME	20.0	EAST OHIO GAS CO
8416898		3413322975		107-TF		THOMAS-FAGERT #15	PALMYRA	20.0	GENERAL ELECTRIC

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8416897		3413322728		107-TF		MEISEL #3	PALMYRA	20.0	GENERAL ELECTRIC
-OXFORD OIL CO				RECEIVED:	01/19/84	JA: OH			
8416914		3411926661		107-TF		MURPHY FARM #3.	PERRY	10.0	
-PETRO EVALUATION SERVICES INC				RECEIVED:	01/19/84	JA: OH			
8416900		3408520486		103	107-TF	SQUARE #1	PERRY	35.0	
-PINETOP ESTATES				RECEIVED:	01/19/84	JA: OH			
8416901		3415321356		103	107-TF	ALDEN #1	NORTHAMPTON	0.0	EAST OHIO GAS CO
-POI ENERGY INC				RECEIVED:	01/19/84	JA: OH			
8416903		3408722335		103	107-TF	BOGDAN #CG-2	ROME	27.0	
8416902		3408722069		103	107-TF	R SIRRINE #1	ROME	35.0	EAST OHIO GAS CO
-QUAKER STATE OIL REFINING CORP				RECEIVED:	01/19/84	JA: OH			
8416907		3411923099		107-RT		KING UNIT #1	BLUE ROCK	29.2	NATIONAL GAS & OI
8416904		3407322821		103	107-TF	SUNDAY CREEK COAL CO #76	WARD	4.4	COLUMBIA GAS TRAN
8416905		3407322877		103	107-TF	SUNDAY CREEK COAL CO #84	WARD	18.3	COLUMBIA GAS TRAN
8416906		3407322878		103	107-TF	SUNDAY CREEK COAL CO #89	WARD	25.6	COLUMBIA GAS TRAN
-R H HUTCHESON				RECEIVED:	01/19/84	JA: OH			
8416908		3415723712		107-TF		TWILIGHT MINING #2	FRANKLIN	60.0	EAST OHIO GAS CO
8416909		3415723713		107-TF		TWILIGHT MINING #3	FRANKLIN	60.0	EAST OHIO GAS CO
-RCH CO				RECEIVED:	01/19/84	JA: OH			
8416910		3403521193		107-TF		HUGE HENDRICKS & C E I C081	OLMSTEAD	0.0	COLUMBIA GAS OF O
-STARK OILFIELD SERVICES INC				RECEIVED:	01/19/84	JA: OH			
8416911		3408722414		103	107-TF	MERICKA #1	NEW LYME	0.0	
-STONEY HILL RESOURCES				RECEIVED:	01/19/84	JA: OH			
8416912		3415321431		107-TF		STONEY HILL #1	BATH	20.0	EAST OHIO GAS CO
-THE BENATTY CORPORATION				RECEIVED:	01/19/84	JA: OH			
8416913		3412123861		103	107-TF	D MORRIS #3-114	JACKSON	40.0	
-UNIVERSAL EXPLORATION				RECEIVED:	01/19/84	JA: OH			
8416917		3415321525		107-TF		BAUER #2	HORTON	0.0	YANKEE RESOURCES
8416915		3410323527		107-TF		CHRISTIAN UNIT #1	WADSWORTH	0.0	YANKEE RESOURCES
8416916		3410323528		107-TF		SILCHUK #1	WADSWORTH	0.0	YANKEE RESOURCES
-YANKEE EXPLORATION INC				RECEIVED:	01/19/84	JA: OH			
8416913		3415723916		103	107-TF	DONALD FISHER #2	FAIRFIELD	0.0	YANKEE RESOURCES
8416921		3405923518		103	107-TF	GEORGE FRIESS #1	MONROE	0.0	YANKEE EXPLORATIO
8416922		3415123863		103	107-TF	HOOVER UNIT #1	WASHINGTON	0.0	YANKEE RESOURCES
-VICTOR PETROLEUM CORP				RECEIVED:	01/19/84	JA: OH			
8416918		3411123003		103	107-TF	LOHRI #16	ANTIOCH FIELD	0.0	RIVER GAS CO
-VIKING RESOURCES CORP				RECEIVED:	01/19/84	JA: OH			
8416919		3408520439		103	107-TF	POULSON #1	PERRY	30.0	
8416920		3408520440		103	107-TF	POULSON #2	PERRY	30.0	
OKLAHOMA CORPORATION COMMISSION									
-ALVIN PETROLEUM INC				RECEIVED:	01/18/84	JA: OK			
8416744	25556	3311124397		103		TUCKER #1 OTC UNIT PROD #111-81581	SCHULTER FIELD	38.0	PHILLIPS PETROLEU
-AMES OIL AND GAS CORP				RECEIVED:	01/19/84	JA: OK			
8416791	23713	3311721753		102-2		C B AMES #14-4	SOUTH ARKANSAS RIVER	21.6	COLORADO GAS COMP
8416790	23712	3311721751		102-2		CECIL MORRIS #2-1	SOUTH ARKANSAS RIVER	140.0	COLORADO GAS COMP
-AMQUEST CORP				RECEIVED:	01/18/84	JA: OK			
8416712	25902	3504521057		103		WORD #1	GRAND WEST	101.0	
-AN-SON CORPORATION				RECEIVED:	01/18/84	JA: OK			
8416704	25812	3508720927		103		C D WALKER #1-17	S BLANCHARD	244.6	
8416705	25813	3508720867		103		LUCY #1-24	SOUTH COLE	36.5	
-ANADARKO LAND & EXPLORATION CO				RECEIVED:	01/18/84	JA: OK			
8416723	25939	3509322763		103		ELSIE MILLER #1-34	CAMPELL	73.0	PHILLIPS PETROLEU
-ANDERMAN/SMITH OPERATING CO				RECEIVED:	01/19/84	JA: OK			
8416804	26022	3503920942		103		J JOE SMITH #1		1095.0	
-ARCO OIL AND GAS COMPANY				RECEIVED:	01/19/84	JA: OK			
8416767	25778	3505921212		103		HUCKABY #1	N W LOVEDALE	73.0	
8416778	26015	3505900000		156		ROSA LEE KUHN #2	NORTH BUFFALO	14.6	MICHIGAN WISCONSI
-AUTUMN ENERGY CORP				RECEIVED:	01/18/84	JA: OK			
8416720	25363	3503725300		103		GRACE #5	KELLYVILLE	250.0	
-BEASLEY OIL CO				RECEIVED:	01/19/84	JA: OK			
8416771	26004	3501121888		103		SCOTT #1	NORTHWEST OMEGA	125.0	PHILLIPS PETROLEU
-BLUE QUAIL ENERGY INC				RECEIVED:	01/18/84	JA: OK			
8416734	25426	3501722510		103		JOHN DARROW #1	MUSTANG	667.1	PHILLIPS PETROLEU
-BOB L LOFTIS				RECEIVED:	01/19/84	JA: OK			
8416753	25943	3506321921		103		ROGERS #1	EAST HORNTOWN	27.0	WELLHEAD ENTERPRI
-BOREN JAMES B ESTATE				RECEIVED:	01/19/84	JA: OK			
8416756	25969	3511100000		103		CRUZ #1 111 77 19	MATURA	33.2	PHILLIPS PETROLEU
-BURKHART PETROLEUM CORP				RECEIVED:	01/19/84	JA: OK			
8416752	25942	3503920921		103		CONKLING #1-35	S E THOMAS	500.0	PUBLIC SERVICE CO
-BURNS-MITCHELL				RECEIVED:	01/19/84	JA: OK			
8416779	21699	3514322244		102-2		WOLFE #4	WILDCAT	60.0	DIAMOND "S" GAS S
-C J CASSELMAN				RECEIVED:	01/18/84	JA: OK			
8416725	26017	3511124302		108		LONG 1-A	MORRIS	18.3	PHILLIPS PETROLEU
8416724	26016	3511124303		108		LONG 2-A	MORRIS	18.3	PHILLIPS PETROLEU
-CHOCTAW GAS CO				RECEIVED:	01/19/84	JA: OK			
8416772	26001	3512120873		103		BROWNE #2	FEATHERSTONE	60.0	SE TRANSMISSION &
-CLARK RESOURCES INC				RECEIVED:	01/18/84	JA: OK			
8416711	25901	3509322727		103		ELLA 2-1	SOONER TREND	20.0	UNION TEXAS PETRO
-CLINKENBEARD CHARLES				RECEIVED:	01/19/84	JA: OK			
8416788	23658	3514723319		102-2		CLINKENBEARD #1	HOGSHOOTER	100.0	BARTLESVILLE GATH
-DYCO PETROLEUM CORPORATION				RECEIVED:	01/18/84	JA: OK			
8416745	26707	3503920944		107-DP		KERR #1-19		0.0	MUSTANG FUEL CORP
-EDWIN L & BERRY R COX				RECEIVED:	01/19/84	JA: OK			
8416768	25964	3504321639		103		WELCH #1	NW PUTNAM	300.0	
-ERH OIL CO				RECEIVED:	01/18/84	JA: OK		50.0	BUCKEYE NATURAL G
8416700	25632	3508322274		103		FLORINE JINDRA #1			
-EXXON CORPORATION				RECEIVED:	01/18/84	JA: OK			
8416730	23549	3508920532		102-2		EVERRITT LONG GAS UNIT #1	ELK CITY WEST	834.0	
-GAMEL LARRY				RECEIVED:	01/18/84	JA: OK			
8416714	23321	3511124024		102-2		QUAIL CREEK #1 111-24024	MOUNDS DISTRICT	127.0	PHILLIPS PETROLEU
-GREER TOM R & MELENA				RECEIVED:	01/18/84	JA: OK			
8416701	25633	3510700000		103		MARETTE MILLS #1		30.0	SWAB CORP
-HENDERSON EXPLORATION CO				RECEIVED:	01/19/84	JA: OK			
8416784	23023	3503724781		102-2		LOYD JONES #1		335.8	
-HUNGERFORD OIL & GAS INC				RECEIVED:	01/19/84	JA: OK			
8416769	26006	3508320842		103		JESS CRONIN #1	MELENA	1200.0	UNION TEXAS PETRO
-KAISER-FRANCIS OIL COMPANY				RECEIVED:	01/18/84	JA: OK			
8416732	25311	3505120717		108-PB		HURST #1		0.0	ARKANSAS - LOUISI
-KANOKLA ENERGY CORP				RECEIVED:	01/18/84	JA: OK			
8416709	25837	3513322371		102-4	103	HUGHES #1	HUGHES	36.5	KANOKLA ENERGY CO
8416706	25836	3513322385		102-4	103	HUGHES #2	HUGHES	36.5	KANOKLA ENERGY CO
8416707	25835	3513322391		102-4	103	HUGHES #3	HUGHES	36.5	KANOKLA ENERGY CO

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8416708	25836	3513322398		102-4	103	HUGHES #4	HUGHES	36.5	KANOKLA ENERGY CO
-KANOKLA ENERGY CORP				RECEIVED:		01/19/84 JA: OK			
8416764	24086	3513322303		102-2	103	GAINES #2	GAINES	72.0	KANOKLA ENERGY CO
8416780	22719	3513321732		102-4		JEFFERSON #1		36.5	KANOKLA ENERGY CO
8416781	22720	3513300000		102-4		JORDAN #2	JORDAN	36.5	KANOKLA ENERGY CO
8416782	22721	3513321900		102-4		JORDAN #3	JORDAN	73.0	KANOKLA ENERGY CO
8416795	24411	3513322244		102-4	101	PARKS #1	PARKS	11.0	KANOKLA ENERGY CO
8416796	24528	3513322316		102-4	105	PARKS #2	PARKS	11.0	KANOKLA ENERGY CO
8416783	22381	3513321770		102-4		REED TRUST "A" #1	REED FARM	110.0	KANOKLA ENERGY CO
8416800	25060	3513322339		102-4	101	V-LINE GIBSON #1	V-LINE GIBSON	20.0	KANOKLA ENERGY CO
8416798	25058	3513322340		102-4	103	V-LINE GIBSON #2	V-LINE GIBSON	20.0	KANOKLA ENERGY CO
8416797	25057	3513322344		102-4	105	V-LINE GIBSON #3	V-LINE GIBSON	20.0	KANOKLA ENERGY CO
8416799	25059	3513322345		102-4	107	V-LINE GIBSON #4	V-LINE GIBSON	20.0	KANOKLA ENERGY CO
-KEPCO INC				RECEIVED:		01/19/84 JA: OK			
8416792	23821	3501722481		102-2		WHEATLEY - SMITH #1-34	NORTH YUKON	0.0	CONOCO INC
-KERR-MCGEE CORPORATION				RECEIVED:		01/18/84 JA: OK			
8416736	25496	3504921948		103		M E ROGERS #1	MAYSVILLE	0.0	WARREN PETROLEUM
-KLEIN OIL CO				RECEIVED:		01/19/84 JA: OK			
8416785	23195	3503100000		102-2		PITTMAN NO 3	PUMPKIN CENTER	0.0	ARKANSAS LOUISIAN
-KWB OIL PROPERTY MANAGEMENT INC				RECEIVED:		01/19/84 JA: OK			
8416763	23956	3500320951		102-4		FEELY #1-23	WAKITA	183.0	SUN EXPLORATION &
-L E JONES PRODUCTION COMPANY				RECEIVED:		01/19/84 JA: OK			
8416787	23323	3506720505		102-2		JONES - KALKMAN #1		11.0	AMINOIL USA INC
-LADD PETROLEUM CORPORATION				RECEIVED:		01/18/84 JA: OK			
8416721	25913	3504320839		108		CONNELL #2	S W CANTON	15.3	TRANSOK PIPELINE
8416722	25914	3504320606		108		ISAAC SMOKER #1	S W CANTON	14.2	OKLAHOMA GAS & EL
-LEAR PETROLEUM EXPLORATION INC				RECEIVED:		01/19/84 JA: OK			
8416805	26864	3514920406		107-DP		HECK #1-12B	SW LIBBIE	4.0	EL PASO NATURAL G
-LEEDE OIL & GAS INC				RECEIVED:		01/18/84 JA: OK			
8416710	25639	3508720911		101		FALLON #2		226.0	TRANSOK PIPE LINE
-M M RESOURCES INC				RECEIVED:		01/19/84 JA: OK			
8416793	23836	3500320848		102-2	103	DOROTHY #1		100.1	UNION TEXAS PETRO
-MAGIC CIRCLE ENERGY CORP				RECEIVED:		01/18/84 JA: OK			
8416741	25545	3515121395		103		FAYE #2-28	EAST WAYNOKA	11.0	MAGIC CIRCLE GAS
-MAGIC CIRCLE ENERGY CORP				RECEIVED:		01/19/84 JA: OK			
8416776	26013	3515121383		103		ENGLISH #2-5	S W WAYNOKA	16.0	MAGIC CIRCLE GAS
8416775	26010	3507323784		103		MCCARTHY #1	EAST OKARCHE	105.0	PHILLIPS PETROLEU
-MARION CORPORATION				RECEIVED:		01/19/84 JA: OK			
8416761	23201	3514723756		102-2		COLPITT "A" M-3	HOGSHOOTER N	73.0	NORTHWEST CENTRAL
8416759	23199	3514723894		102-2		KITTRELL M-2	HOGSHOOTER S	36.5	NORTHWEST CENTRAL
8416760	23200	3514723757		102-2		WEEKS RALSTON M-3	HOGSHOOTER N	109.5	NORTHWEST CENTRAL
-MEWBOURNE OIL COMPANY				RECEIVED:		01/18/84 JA: OK			
8416718	23825	3504521108		102-4		HENDERSON "23" #1 OTC #			
-NOVA ENERGY CORPORATION				RECEIVED:		01/18/84 JA: OK			
8416735	25480	3501720884		103		GRUMMER HUGGLER #1-3	SOUTH HIGGINS (MORROW	263.0	
-PACE OIL & CHEMICAL				RECEIVED:		01/19/84 JA: OK			
8416774	25985	3507122719		103		WOODERSON #3	N RICHLAND	0.0	TRANSOK PIPE LINE
-PHILLIPS PETROLEUM COMPANY				RECEIVED:		01/19/84 JA: OK			
8416757	25971	3504721307		105		KOSTED A #1	KAMAN	100.0	ARKANSAS LOUISIAN
8416801	25417	3504721621		108		KOSTED B #2			
8416758	25975	3501721877		108		KREMEIER B #1	SOONER TREND	16.0	TRANSOK PIPELINE
-PITCO				RECEIVED:		01/18/84 JA: OK	SOONER TREND	16.5	TRANSOK PIPELINE
8416715	23708	3510920704		102-2	103	MIDWAY #1-4	NORTH CONCHO	8.0	ONG WESTERN INC
8416716	23709	3510920712		102-2	103	WOOD #1-3		1058.5	
-R & M PETROLEUM INC				RECEIVED:		01/18/84 JA: OK		529.3	
8416742	25548	3503725249		103		CHIEF #1	STROUD	55.0	
-R & M PETROLEUM INC				RECEIVED:		01/19/84 JA: OK			
8416786	23275	3503723313		102-2		BRYSON OTC #37-67773	PUNKIN FIELD	30.0	COLORADO GAS COMP
-RAMCO OIL CO				RECEIVED:		01/18/84 JA: OK		7.3	HJD GAS CO
8416703	25708	3511721858		101		GRIESEL #2			
-RED EAGLE OIL CO				RECEIVED:		01/19/84 JA: OK	N W OKEENE	0.0	PIONEER GAS PRODU
8416766	25997	3509322698		103		A J #1	N W OKEENE	273.0	PHILLIPS PETROLEU
8416770	25996	3509322688		103		MONAHAN #1			
-RICHARD WHEELER JR				RECEIVED:		01/18/84 JA: OK	ANTELOPE	36.0	ARCO OIL & GAS CO
8416726	26019	3504723425		103		KIM #1			
-RICHARD WHEELER JR				RECEIVED:		01/19/84 JA: OK	ANTELOPE	15.0	ARCO OIL & GAS CO
8416803	26020	3504723443		103		KIM #2			
-ROBINOWITZ OIL CO				RECEIVED:		01/18/84 JA: OK	NORTHEAST ENID	150.0	GRACE PETROLEUM C
8416738	25539	3504723410		103		HELBERG #16-1			
-ROY LAWRENCE DRILLING CO INC				RECEIVED:		01/19/84 JA: OK		50.0	PHILLIPS PETROLEU
8416765	25569	3511700000		103		RYAN-OSBORN #4			
-SAMEDAN OIL CORPORATION				RECEIVED:		01/18/84 JA: OK		40.0	EL PASO NATURAL G
8416719	23827	3501521128		102-2		FLANSBURG #1-12			
-SANTA FE-ANDOVER OIL CO				RECEIVED:		01/19/84 JA: OK		150.0	DELMI GAS PIPELIN
8416794	23865	3501722184		102-2		BOMHOFF #20-2		47.0	DELMI GAS PIPELIN
8416762	23950	3501721528		102-2	103	ROTHER #10-1			
-SENECA OIL CO				RECEIVED:		01/18/84 JA: OK		730.0	PHILLIPS PETROLEU
8416729	23457	3501722432		102-4		SIMPSON #2-5			
-STEVE JERNIGAN INC				RECEIVED:		01/18/84 JA: OK		0.0	PHILLIPS PETROLEU
8416728	23505	3510920585		102-4		MARY HEINEN #1			
-SUN EXPLORATION & PRODUCTION CO				RECEIVED:		01/19/84 JA: OK	MOCANE (CHESTER)	2.0	PANHANDLE EASTERN
8416777	26014	3500721929		104		BAXTER UNIT #2			
-TENNECO OIL COMPANY				RECEIVED:		01/18/84 JA: OK	CHESTER WEST	110.0	NATURAL GAS PIPE
8416743	25547	3515320781		103		FOX #2-4			
-TEXACO INC				RECEIVED:		01/18/84 JA: OK	ARDMORE	0.0	ARKANSAS-LOUISIAN
8416731	23901	3513700000		108-PB		W G BARNARD #1			
-TEXACO INC				RECEIVED:		01/19/84 JA: OK	TERLTON N	4.8	HJD CATTLE CO
8416773	25982	3511700000		104		W J LAUDERDALE #10			
-TEXANA RESOURCES CORP				RECEIVED:		01/18/84 JA: OK	WEST BINGER	3.0	PHILLIPS PETROLEU
8416702	25681	3501500000		103		THOMAS HEIRS #1			
-THE WIL-MC OIL CORP				RECEIVED:		01/18/84 JA: OK	PERRY	14.0	
8416713	25938	3510300000		103		BAETZ "A" #1			
-THREE SANDS OIL INC				RECEIVED:		01/19/84 JA: OK		94.8	AMINOIL USA INC
8416755	25967	3510322022		103		BEN #5-25			
-TOM F MARSH INC				RECEIVED:		01/18/84 JA: OK	KEYES	4.0	PHILLIPS PETROLEU
8416739	25541	3502500000		104		HAGAN A #2		8.0	PHILLIPS PETROLEU
8416740	25542	3502500000		108		HAGAN A #3			
-TRANS-WESTERN EXPLORATION INC				RECEIVED:		01/18/84 JA: OK		140.0	OKLAHOMA GAS & EL
8416717	23767	3514920303		103		HUMBARGER #1-34			
-TXO PRODUCTION CORP				RECEIVED:		01/18/84 JA: OK	N PUTNAM	0.0	DELMI GAS PIPELIN
8416733	25422	3504321772		103		BUTLER "D" #1	NW OKEENE	0.0	DELMI GAS PIPELIN
8416737	25538	3509322732		103		KLIEWER "C" #1	STRONG CITY	0.0	DELMI GAS PIPELIN
8416727	23509	3512920967		102-2		MOONEY "A" #1			
-TXO PRODUCTION CORP				RECEIVED:		01/19/84 JA: OK			

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8416789	25698					WHITE "K" #1	E CARPENTER	0.0	DELHI GAS PIPELIN
-VIERLING C C		3503920875		102-2					
8416862	25624			RECEIVED:	01/19/84	JA: OK	BALD HILL	0.0	PHILLIPS PETROLEU
-HARD PETROLEUM CORP		3511100000		108		VAUGHAN #1-D		130.0	PHILLIPS PETROLEU
8416759	25965			RECEIVED:	01/19/84	JA: OK			
		3505121363		103		ELIZABETH #1			
** DEPARTMENT OF THE INTERIOR, BUREAU OF LAND MANAGEMENT, DENVER,CO									
-ARCO OIL AND GAS COMPANY				RECEIVED:	01/19/84	JA: CO 1			
8416811	CD 0191-83	0506706386		107-TF		SOUTHERN UTE 14-2 32-10 (TF) (TC)	DAKOTA	35.0	NORTHWEST PIPELIN
-BEREN CORPORATION				RECEIVED:	01/19/84	JA: CO 1	SOONER	17.2	KN ENERGY INC
8416810	CD 0190-83	0512309901		108		DUNCAN-FEDERAL #1	DOUGLAS CREEK NORTH	21.0	NORTHWEST PIPELIN
-CHANDLER & ASSOCIATES INC				RECEIVED:	01/19/84	JA: CO 1	CATHEDRAL CREEK	25.0	NORTHWEST PIPELIN
8416808	CD 0141-83	0510307773		108		NORTH DOUGLAS CREEK FED 5-6	UNNAMED	150.0	NORTHWEST PIPELIN
-MASTORAKOS D A				RECEIVED:	01/19/84	JA: CO 1			
8416812	CD 0199-83	0510300000		103	107-TF	FEDERAL 11-1			
-RIVIERA DRILLING & EXPLORATION				RECEIVED:	01/19/84	JA: CO 1			
8416809	CD 0189-83	0505106008		102-2		PETRO-LEWIS 811-90-7 NE			
** DEPARTMENT OF THE INTERIOR, BUREAU OF LAND MANAGEMENT, CASPER,WY									
-LOMAX EXPLORATION COMPANY				RECEIVED:	01/17/84	JA: UT 5			
8416828	074-83	4301330751		102-2		MONUMENT FEDERAL #6-35	MONUMENT BUTTE	36.0	MOUNTAIN FUEL SUP
-NATURAL GAS CORPORATION OF CALIF				RECEIVED:	01/17/84	JA: UT 5	PLEASANT VALLEY	54.0	PG & E SUPPLY CO
8416827	046-83	4301330680		102-2		NGC WELL #12-8-H	UNDESIGNATED	194.0	NORTHWEST PIPELIN
-TXO PRODUCTION CORP				RECEIVED:	01/17/84	JA: UT 5	BIRD CANYON	200.0	NORTHWEST PIPELIN
8416826	075-83	4301930799		103		HOUGEN FEDERAL "A" #1			
-APACHE CORPORATION				RECEIVED:	01/17/84	JA: WY 5	EAST PAINTER RESERVOI	1180.0	
8416829	W671-2	4903520604		103		BIRD CANYON FEDERAL #3-14	EAST PAINTER RESERVOI	180.0	
-CHEVRON U S A INC				RECEIVED:	01/17/84	JA: WY 5	EAST PAINTER RESERVOI	480.0	
8416831	W783-2	4904120400		102-4		PRU 13-8A			
8416830	W782-2	4904120339		102-4		PRU 24-32 B			
8416832	W784-2	4904120418		102-4		PRU 31-18A			

[FR Doc. 84-4804 Filed 2-21-84; 8:45 am]

BILLING CODE 6717-01-C

[Vol. 1066]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: February 16, 1984.

The following notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" before the section code. Estimated annual production (PROD) is in million cubic feet (MMCF).

The applications for determination are available for inspection except to the extent such material is confidential under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol St., Washington, D.C. Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 275.204, file a protest with the Commission within fifteen days after publication of notice in the **Federal Register.**

Source data from the Form 121 for this and all previous notices is available on magnetic tape from the National Technical Information Service (NTIS). For information, contact Stuart Weisman (NTIS) at (703) 487–4808, 5285 Port Royal Rd, Springfield, Va. 22161.

Categories within each NGPA section are indicated by the following codes:

Section 102–1: New OCS lease
102–2: New well (2.5 Mile rule)
102–3: New well (1000 Ft rule)
102–4: New onshore reservoir
102–5: New reservoir on old OCS lease

Section 107–DP: 15,000 feet or deeper
107–GB: Geopressured brine
107–CS: Coal Seams
107–DV: Devonian Shale
107–PE: Production enhancement
107–TF: New tight formation
107–RT: Recompletion tight formation

Sectoin 108: Stripper well
108–SA: Seasonally affected
108–ER: Enhanced recovery
108–PB: Pressure buildup

Kenneth F. Plumb,

Secretary.

NOTICE OF DETERMINATIONS
ISSUED FEBRUARY 16, 1984

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
TEXAS RAILROAD COMMISSION									
-AGAR & AGAR INC				RECEIVED:	01/20/84	JA: TX			
8417205	F-8A-076555	4211531494		103		CLAY #1 ID #63311	PATRICIA WEST (SPRABE	6.6	PHILLIPS PETROLEU
-AMOCO PRODUCTION CO				RECEIVED:	01/20/84	JA: TX			
8417138	F-06-076127	4236531401		103		BURNETT BROTHERS "C" #1	CARTHAGE (TRAVIS PEAK	28.0	
8417119	F-10-075995	4219530889		103		C W LAIRD #3	SHAPLEY - MORROW	68.4	PHILLIPS PETROLEU
8416991	F-05-072029	4237930107		102-2		DELLA GARNER GAS UNIT #1	DUNBAR (SMACKOVER)	500.0	LONE STAR GAS CO
8417120	F-10-075996	4229595002		103		DOROTHEA ROBERTS #2	DARROUZETT-TONKAWA	87.0	PHILLIPS PETROLEU
8417108	F-10-075903	4221131580		103		ETHEREDGE GAS UNIT #5	HEMPHILL - GRANITE WA	250.0	WESTAR TRANSMISSI
8417107	F-10-075902	4221131581		103		ETHEREDGE GAS UNIT #6	HEMPHILL - GRANITE WA	250.0	WESTAR TRANSMISSI
-ARCO OIL AND GAS COMPANY				RECEIVED:	01/20/84	JA: TX			
8416993	F-7C-072216	4210334117		103	107-TF	C W MEADOWS #1	OZONA (CANYON SAND)	60.0	
8417051	F-04-074909	4213136254		102-4		GORMAN GAS UNIT #5	E SEVEN SISTERS (8-55	520.0	TEXAS EASTERN TRA
-ASHTOLA EXPLORATION CO INC				RECEIVED:	01/20/84	JA: TX			
8417121	F-7B-075999	4242900008		102-4		G D DICKIE INC #1	DICKIE RANCH (CONGL)	50.0	DAMSON GAS PROCES
-AZMUTH PRODUCTION CO				RECEIVED:	01/20/84	JA: TX			
8417155	F-02-076245	4246932039		102-4		VIVIAN WILLIAMS #1	WILLIAMS (FRIO 3950')	1277.5	HOUSTON PIPE LINE
-BALLARD EXPLORATION CO INC				RECEIVED:	01/20/84	JA: TX			
8417061	F-05-075143	4216130787		102-4		CHARLES D HETTLE #1	RISCHERS STORE (NETTL	350.0	LONE STAR GAS CO
8417140	F-05-076140	4221330380		102-4		W R KINABREW #1	INGRAM TRINITY (RODES	0.0	LONE STAR GAS CO
-BEN J TAYLOR				RECEIVED:	01/20/84	JA: TX			
8417087	F-7B-075659	4236732537		102-4		DUNN #1 20231	MOBY DICK (MARBLE FAL	20.0	EMPIRE PIPELINE -
-BJB EXPLORATION CO				RECEIVED:	01/20/84	JA: TX			
8417041	F-02-074578	4246900008		102-4		TUCH #1-T	COLOGNE (4350)	100.0	
-BLACKFOOT PRODUCTION CORP				RECEIVED:	01/20/84	JA: TX			
8416980	F-04-070521	4224931636		102-4		JOHN B LACEY	PAISANO (VICKSBURG)	144.0	SOUTHERN GAS PIPE
-BRAMMER ENGINEERING INC				RECEIVED:	01/20/84	JA: TX			
8417035	F-06-074130	4220331055		102-4		C F FRANCIS UNIT #2	HARLETON N E (PETTIT)	140.0	TEJAS GAS CORP
-BRECK OPERATING CORP				RECEIVED:	01/20/84	JA: TX			
8417184	F-09-076386	4250336697		103		SECTION 606 "A" #6	JAMES	912.5	EAGLE PETROLEUM C
-BTA OIL PRODUCERS				RECEIVED:	01/20/84	JA: TX			
8417198	F-08-076475	4231732808		103		MUSTANG 'D' #12 7422 JV-S	LACAFF (WOLFCAMP)	18.3	PHILLIPS PETROLEU
8417082	F-08-075597	4213534325		103		SABINE #5	COWDEN NORTH	3.4	AMOCO PRODUCTION
8417094	F-08-075733	4217331480		102-4		8102 JV-P FRY #3	BLALOCK LAKE S E (WOL	33.6	PHILLIPS PETROLEU
-CACHARA OIL & GAS CO				RECEIVED:	01/20/84	JA: TX			
8417054	F-03-074986	4228700000		102-2		BOWERS #1	GIDDINGS "AUSTIN CHAL	0.0	PHILLIPS PETROLEU
-CHAMPLIN EXPLORATION INC				RECEIVED:	01/20/84	JA: TX			
8417117	F-8A-075978	4207931812		103		RJR RANCH-YOUNG 3-2	BONANZA (SAN ANDRES)	4.2	WARREN PETROLEUM
-CHAMPLIN PETROLEUM COMPANY				RECEIVED:	01/20/84	JA: TX			
8417079	F-06-075545	4236500000		IWA		CARTHAGE GAS UNIT 22 #1	CARTHAGE (PETTIT UPPE	12.7	TENNESSEE GAS PIP
8417123	F-03-076002	4205132520		102-2		L J KOCUREK #4	GIDDINGS (AUSTIN CHAL	236.9	FERGUSON CROSSING
8417045	F-03-071618	4204131010		102-2		P RUFFINO JR "A" #1	KURTEN (BUDA)	109.5	
-CHAPTER PETROLEUM				RECEIVED:	01/20/84	JA: TX			
8417183	F-10-076384	4217900000		103		LANGHAM #5A	PANHANDLE - GRAY	0.0	COLTEXO CORP
-CLAYTON W WILLIAMS JR				RECEIVED:	01/20/84	JA: TX			
8417008	F-03-072817	4228700000		102-2		G H KOUDELKA #1	HOOKER CREEK (NAVARRO	0.0	VALERO TRANSMISSI
-COASTAL OIL & GAS CORP				RECEIVED:	01/20/84	JA: TX			

BILLING CODE 6717-01-M

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME
8416982	F-04-071101	4221531522		103		PENNZOIL FEE 1-V
8416990	F-04-071098	4221531322		102-4		PENNZOIL FEE 1-V
				RECEIVED:	01/20/84	JA: TX
-CORDOVA RESOURCES INC						
8417038	F-08-073977	4218300000		108		SHELL-MOSELEY 03
8417029	F-08-073976	4218300008		108		SHELL-MOSELEY 05
				RECEIVED:	01/20/84	JA: TX
-CORPUS CHRISTI OIL AND GAS CO						
8417059	F-03-075082	4270300000		102-4		STATE TRACT 520-L SE/4 WELL 02
				RECEIVED:	01/20/84	JA: TX
-CRYSTAL OIL & LAND CO						
8417118	F-04-075982	4206730441		102-4		TERRY "B" 01-U
				RECEIVED:	01/20/84	JA: TX
-CYCLONE EXPLORATION INC						
8417007	F-7C-072794	4243532894		103	107-TF	FIELDS-PACIFIC TIM 01-24
				RECEIVED:	01/20/84	JA: TX
-DAVID ALBERT OIL & GAS						
8416948	F-09-058742	4223700000		108-ER		THACKER 01
				RECEIVED:	01/20/84	JA: TX
-DIAMOND SHAMROCK CORPORATION						
8416927	F-10-031503	4210540048		108-ER		C M FARMS 02
8416945	F-10-063945	4221100000		108-ER		FRASS 01-107
8416933	F-10-040647	4221100008		108-ER		JOHN C ISAACS JR K 01-206
8416924	F-10-005436	4221100000		108-ER		LOWE 01
				RECEIVED:	01/20/84	JA: TX
-DIAMOND SHAMROCK EXPLORATION CO						
8417187	F-10-076414	4234100000		108		BRELSFORD 01
				RECEIVED:	01/20/84	JA: TX
-DORCHESTER EXPLORATION INC						
8417032	F-10-074033	4221131571		103		LUCILLE WRIGHT 04
8417201	F-08-076511	4243131356		103		TERRY 6-03
				RECEIVED:	01/20/84	JA: TX
-DYCO PETROLEUM CORPORATION						
8417022	F-10-073628	4240331120		107-DP		CHANDLER 03
				RECEIVED:	01/20/84	JA: TX
-DYNE OIL & GAS INC						
8417199	F-10-076484	4223300000		103		STEVENSON 05 (RRC 001595)
				RECEIVED:	01/20/84	JA: TX
-EADS OPERATING CO						
8417014	F-04-073238	4200730233		102-4		STATE TRACT 387 01
				RECEIVED:	01/20/84	JA: TX
-EDEN EXPLORATION INC						
8417200	F-7B-076488	4236732591		102-4		T D HALE 01
				RECEIVED:	01/20/84	JA: TX
-EDWIN L & BERRY R COX						
8416939	F-04-058275	4226731421		102-4	107-TF	ARNOLDO A MARTINEZ 01
				RECEIVED:	01/20/84	JA: TX
-EMERALD PETROLEUM CORP						
8417071	F-09-075336	4207733861		108		DAVID D 01
				RECEIVED:	01/20/84	JA: TX
-EXCELSIOR OIL CORP						
8417130	F-06-076078	4245930577		103	107-TF	ODOM GAS UNIT 01-WELL 02
8417129	F-06-076069	4245930588		103	107-TF	WILL MCKNIGHT GAS UNIT 01-2
				RECEIVED:	01/20/84	JA: TX
-EXXON CORPORATION						
8417004	F-05-072717	4248132474		105		H C COCKBURN 0110
8417156	F-08-076247	4210333244		105		J B TUBB A/C 1 0285
8417203	F-7C-076542	4243131335		103		LOU E JOHNSON ESTATE A/C 1 052
8417000	F-8A-072548	4216532535		103		ROBERTSON CLEARFORK UNIT 04103
8417124	F-8A-076009	4216532636		103		ROBERTSON CLEARFORK UNIT 07801
8416964	F-08-067367	4231732163		103		STATE UNIVERSITY DD 03
8417009	F-7C-072835	4218533724		103	107-TF	STATE UNIVERSITY ET 01
8417099	F-08-075794	4200333602		103		STATE UNIVERSITY MUTEX CONS 025
8417043	F-04-074629	4213133917		103		V KOHLER A-127 107439
				RECEIVED:	01/20/84	JA: TX
-FAMCO ENERGY CORP						
8417053	F-03-074981	4214900000		102-2		MART 01
				RECEIVED:	01/20/84	JA: TX
-FEIB EXPLORATION CO						
8417069	F-03-075259	4208931301		102-4		REPUBLIC BANK DALLAS TR ET AL
				RECEIVED:	01/20/84	JA: TX
-FUNK EXPLORATION INC						
8416943	F-10-062495	4235731179		102-4		BAXTER 01
				RECEIVED:	01/20/84	JA: TX
-GEORGE L ROUSSEAU						
8417052	F-03-074912	4205132431		102-4		GREEN "B" 02
				RECEIVED:	01/20/84	JA: TX
-GETTY OIL COMPANY						
8416963	F-02-066700	4205700000		102-4		TEXAS STATE TRACT 113 01
				RECEIVED:	01/20/84	JA: TX
-GHR ENERGY CORP						
8416974	F-04-069828	4250531599		103	107-TF	MCMURREY 029
8417011	F-04-072975	4247933568		102-4		SCHWARZ 06
				RECEIVED:	01/20/84	JA: TX
-GILLRING OIL CO						
8417083	F-04-075600	4233500909		102-4		SIMMONDS & PERRY 04
				RECEIVED:	01/20/84	JA: TX
-GRACE PETROLEUM CORPORATION						
8416953	F-06-065679	4241930345		103		EMMIT STOCKMAN
8416954	F-06-065681	4241930315		103		J R GRAVES 01
8416952	F-06-065678	4234730476		103		JOPLING 01
				RECEIVED:	01/20/84	JA: TX
-GRAHAM ENERGY LTD						
8416981	F-7C-070985	4208103114		103		J S WALKER "A" 02
				RECEIVED:	01/20/84	JA: TX
-GROWTEX INC						
8417091	F-7B-075785	4236732221		102-4		NASH HEIRS 01-C (GAS) (107817)
8417092	F-7B-075786	4236732221		102-4		NASH HEIRS 01-T (GAS) (107828)
				RECEIVED:	01/20/84	JA: TX
-GULF OIL CORPORATION						
8417036	F-10-074143	4229531208		107-TF		PEARL WHEAT 05-765
				RECEIVED:	01/20/84	JA: TX
-H & L OPERATING COMPANY						
8417153	F-10-076252	4235731416		102-4		HOCKING "B" 02-31
				RECEIVED:	01/20/84	JA: TX
-H L BROWN JR						
8417066	F-08-075243	4213533964		103		NELSON 05 RRC 020728
				RECEIVED:	01/20/84	JA: TX
-HAMCO EXPLORATION & DEVELOPMENT CO						
8417194	F-02-076453	4229733318		102-4	103	HAMCO-WEATHERSBY 01 107086
				RECEIVED:	01/20/84	JA: TX
-HCH EXPLORATION INC						
8417076	F-09-075464	4223732296		108		CAMPBELL-WOOD 01 I D 0019025
				RECEIVED:	01/20/84	JA: TX
-HENRY PETROLEUM CORP						
8416973	F-7C-069907	4234100000		103		COX "A" 82-IY
8416955	F-7C-066800	4238300000		103		UNIVERSITY 29-1Y
				RECEIVED:	01/20/84	JA: TX
-HILL INTERNATIONAL PRODUCTION CO						
8417180	F-03-076343	4204130908		102-2		B W MOOREHEAD 01
				RECEIVED:	01/20/84	JA: TX
-HINTON PRODUCTION COMPANY						
8416983	F-05-071327	4226130769		103	107-TF	MILLS GAS UNIT WELL 01
				RECEIVED:	01/20/84	JA: TX
-HLH PETROLEUM CORP						
8417113	F-06-075926	4245930565		102-4	107-TF	S P VICTORY JR 01
				RECEIVED:	01/20/84	JA: TX
-HONDO ENERGY LTD						
8417110	F-7B-075967	4242953641		102-4		JANETTA JENNINGS 01
				RECEIVED:	01/20/84	JA: TX
-HUDSON W H						
8417161	F-7C-076253	4210532697		103		PFLUGER ET AL 02 (06749)
8417157	F-7C-076249	4210533676		103		PFLUGER ET AL 03 (06749)
8417162	F-7C-076254	4210531037		103		STRAUSS ETAL 01 (07188)
8417164	F-7C-076256	4210531169		103		STRAUSS-PFLUGER ET AL 01 (07221)
8417159	F-7C-076251	4210532702		103		UNIVERSITY LANDS 12 01 (08463)
8417158	F-7C-076250	4210533684		103		UNIVERSITY LANDS 12 02 (09638)
8417163	F-7C-076255	4210532701		103		UNIVERSITY LANDS 13 01 (08435)
8417160	F-7C-076252	4210533683		103		UNIVERSITY LANDS 13 02 (09847)
-HUFO PRODUCTION CORP						
8416978	F-10-070304	4234100000		103		JOHNSON "B" 05

FIELD NAME	PROD	PURCHASER
JEFFRESS S F (VICKSBU	1460.0	
JEFFRESS SE (VICKSBUR	1460.0	
BAYVIEW	1.5	PHILLIPS PETROLEU
BAYVIEW	2.7	PHILLIPS PETROLEU
EL GORDO (13,700')	0.0	HOUSTON PIPELINE
RODESSA	270.0	BRECKENRIDGE GASD
SAWYER (CANYON)	150.0	INTRATEX GAS CO
PERRIN EAST	0.0	CITIES SERVICE CO
HANSFORD	0.0	NORTHERN NATURAL
CANADIAN	0.0	NORTHERN NATURAL
CANADIAN WEST	0.0	NORTHERN NATURAL
TEXAS HUGOTON	0.0	NORTHERN NATURAL
PANHANDLE WEST	0.0	NORTHERN NATURAL
CANADIAN S E	0.0	ARKANSAS LOUISIAN
CONGER (PENN)	290.0	VALERO TRANSMISSI
ALLISON PARKS CU MORR	200.0	EL PASO NATURAL G
PANHANDLE	0.0	DIAMOND SHAMROCK
GOOSE ISLAND NORTH (R	201.0	
DENNIS WEST (STRAWN)	0.0	PARKER GAS INC
PETROLEO HONDO	185.0	
BLUE GROVE (CADDO)	54.0	FAGADAU ENERGY CO
ROSEWOOD (COTTON VALL	500.0	WESTERN GAS CORP
ROSEWOOD (COTTON VALL	500.0	WESTERN GAS CORP
MAGNET WITHERS (F-15	300.0	
SAND HILLS (JUDKINS)	25.0	EL PASO NATURAL G
JAMESON (STRAWN)	20.0	
ROBERTSON N (CLEAR FO	15.0	PHILLIPS PETROLEU
ROBERTSON N (CLEAR FO	15.0	PHILLIPS PETROLEU
M A K (SPRABERRY)	17.0	PHILLIPS PETROLEU
INGHAM (CANYON 6400)	195.0	SOUTHWESTERN GAS
HUTEX (DEVONIAN)	5.0	PHILLIPS PETROLEU
KOHLER (QUEEN CITY)	25.0	TENNESSEE GAS PIP
GIDDINGS (AUSTIN CHAL	73.0	PHILLIPS PETROLEU
NORTH CHESTERVILLE	200.0	SEAGULL PIPELINE
FUNK (CHESTER BASAL)	36.0	PHILLIPS PETROLEU
HOOKER CREEK (NAVARRO	98.0	PHILLIPS PETROLEU
PANTHER REEF N W (FRI	0.0	ALUMINUM CO OF AM
J C MARTIN (LOBO)	908.0	GHR PIPELINE CORP
SCHWARZ (10500)	350.0	GHR PIPELINE CORP
BRAYTON N	0.0	CHANNEL INDUSTRIE
GARRISON SOUTH (PETTI	0.0	UNITED GAS PIPELI
GARRISON SOUTH (PETTI	0.0	UNITED GAS PIPELI
GARRISON SOUTH (PETTI	0.0	UNITED GAS PIPELI
SILVER (CANYON)	0.0	SUN GAS CO
NASH (STRAWN)	50.0	EMPIRE PIPELINE C
NASH (CADDO)	89.0	EMPIRE PIPELINE C
PEERY (CLEVELAND)/CLE	9.5	TRANSWESTERN PIPE
BOOKER N (MORROW UPPE	120.0	NORTHERN GAS PROD
BOB (PENN)	37.5	SHELL PIPELINE CO
MT LUCAS N W (HOCKLEY	75.0	REATA INDUSTRIAL
NEWPORT SOUTH (DEVD C	1.7	CITIES SERVICE CO
SPRABERRY (TREND AREA	0.0	PHILLIPS PETROLEU
SPRABERRY (TREND AREA	0.0	J L DAVIS
KURTEN (BUDA)	0.0	FERGUSON CROSSING
TEAGUE W (COTTON VALL	500.0	TEXAS UTILITIES F
GLADEWATER (HAYNESVIL	600.0	TEJAS GAS CORP
JILL (DUFFER) FIELD	54.0	SOUTHWESTERN GAS
WEGER (SAN ANDRES)	3.6	CROCKETT COUNTY G
WEGER (SAN ANDRES)	3.6	CROCKETT COUNTY G
WEGER SW (GRAYBURG-SA	3.6	CROCKETT COUNTY G
WEGER SW (GRAYBURG-SA	3.6	CROCKETT COUNTY G
WEGER SW (GRAYBURG-SA	3.6	CROCKETT COUNTY G
WEGER (SAN ANDRES)	3.6	CROCKETT COUNTY G
WEGER SW (GRAYBURG-SA	3.6	CROCKETT COUNTY G
WEGER (SAN ANDRES)	3.6	CROCKETT COUNTY G
PANHANDLE	0.0	PANHANDLE EASTERN

JD NO	JR DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME
8416977	F-10-070303	4234100844		103		JOHNSON "B" 89
-INDIAN WELLS OIL CO				RECEIVED:		01/20/84 JA: TX
8417047	F-7C-074709	4223532105		103		ROCKER B 1949-3
8417048	F-7C-074710	4223532107		103		WHEELHOUS #10-1
-INVESTEX INC				RECEIVED:		01/20/84 JA: TX
8417146	F-09-070177	4223700000		102-4		J E HENDERSON "B" 81
8417147	F-09-070174	4223700000		102-4		J E HENDERSON A 84
-J BROCK				RECEIVED:		01/20/84 JA: TX
8417046	F-03-074668	4204100000		102-2		HALEN #1
-J-O'S OPERATING CO & ENTERPRISE RES				RECEIVED:		01/20/84 JA: TX
8417074	F-08-075424	4234730960		102-4		T M PETERSON #2
-JACKSON EXPLORATION INC				RECEIVED:		01/20/84 JA: TX
8417093	F-08-075724	4233732727		103		HAGGARD #1
-JOHN H HENDRIX CORP				RECEIVED:		01/20/84 JA: TX
8417178	F-08-076283	4213334443		102-4	103	ABELL CITY "C" 83
-JOHN L COX				RECEIVED:		01/20/84 JA: TX
8416972	F-7C-069668	4236132020		103		MOBIL NEAL "C" 88
8416999	F-7C-072354	4246132033		103		MOBIL-TXL "15" 81
8417072	F-7C-075335	4246132039		103		MUBIL-NEAL "36" 81
8417078	F-7C-075518	4236332652		103		ROCKER B "E" 89
8417077	F-7C-075516	4238332647		103		ROCKER B "M" 828
8417075	F-7C-075449	4238332652		103		ROCKER B "M" 829 RRC 094895
-KAISER-FRANCIS OIL COMPANY				RECEIVED:		01/20/84 JA: TX
8416932	F-10-068422	4229500000		108-SR		SLOUGH #1-8
-KETAL OIL PRODUCING CO				RECEIVED:		01/20/84 JA: TX
8416988	F-7C-071758	4208158188		103		PENTECOST "D" 81
-LARIAT OIL CO				RECEIVED:		01/20/84 JA: TX
8417151	F-10-076198	4217931403		103		MEERS #1
-LEONARD BROTHERS OPERATING CO				RECEIVED:		01/20/84 JA: TX
8417122	F-7B-070001	4242933659		102-4		A FAMBRO "D" 81
8416986	F-7B-071687	4213334682		102-4		MATTHEWS #1 (20222)
-LEWIS & ATKINS OIL & GAS INC				RECEIVED:		01/20/84 JA: TX
8417027	F-7C-073842	4238332504		103		UNIVERSITY 15 "A" 81
8417154	F-7C-070240	4238332505		103		UNIVERSITY 15 "B" 81
8417026	F-7C-073845	4238332503		103		UNIVERSITY 15 "D" 82
-MALOUF ABRAHAM CO INC.				RECEIVED:		01/20/84 JA: TX
8417188	F-10-075836	4221131574		103		HEXT "A" 81
-MAPCO PRODUCTION COMPANY				RECEIVED:		01/20/84 JA: TX
8417137	F-08-076116	4217331420		103		WHIT 81-35
-MARALO INC				RECEIVED:		01/20/84 JA: TX
8417084	F-08-075608	4210333240		103		T C BARNSLEY #3
-MCMURREY PETROLEUM INC				RECEIVED:		01/20/84 JA: TX
8417020	F-03-073570	4204138970		102-4	103	CANDY HILL #1 RRC LEASE NO 18340
-MEWBOURNE OIL COMPANY				RECEIVED:		01/20/84 JA: TX
8417103	F-10-075880	4229530614		103	107-TF	PEERY #2 ID #05161
8417102	F-10-075848	4235731356		103	107-TF	SWINK #1 ID #05387
-MITCHELL ENERGY CORPORATION				RECEIVED:		01/20/84 JA: TX
8416925	F-09-019808	4249700000		108-ER		A E ALBRIGHT #1
8417197	F-09-070466	4249732574		103		ALVORD SOUTH (CADDO CONGL) #9-A
8417068	F-09-075252	4249700000		108		ARDATH B ALLEN #2 042317
8416938	F-7B-056601	4249700000		108-ER		BESSIE BOYD #2
8416928	F-7B-036960	4213300000		108-ER		C J OCONNOR #3
8416958	F-09-065154	4249700000		108-ER		C R BRIDGES GU-A #1
8416946	F-09-064345	4249700000		108-ER		CHANDLER-DAVIS #1
8416957	F-09-053782	4249700000		108-ER		CHANDLER-DAVIS #2
8417139	F-09-076133	4249700000		108		D P EVERETT #1 0821859
8417081	F-7B-075990	4236700000		108		F B BALLARD #1 102340
8417196	F-7C-076465	4245131261		102-4	103	FREYSCHLAG 220-A-#2
8417058	F-7B-075039	4236700000		108		HAROLD MOORE #1 076592
8416949	F-09-065019	4249700000		108		HUDSON-KING #2 0877531
8416958	F-7B-066311	4236700000		108		J T BAKER #3 093728
8416957	F-09-066309	4249700000		108-ER		JESSIE LOVELL #2
8416959	F-09-066315	4249700000		108		JOE C HANNA #1 #101127
8416951	F-09-065156	4223700000		108		JOHNSON-CHERRYHOLMES #1 0047246
8416936	F-09-053776	4249700000		108-ER		L F JONES #1
8416948	F-09-065001	4249700000		108		M L WAGGONER #24 #100082
8417166	F-09-076259	4249700000		108		MARY REDDELL #1 028790
8417109	F-7C-075904	4245131262		102-4	103	MCCARTY KRIST #1 570655
8417067	F-03-075250	4208900000		108		MCDERMOTT #5 092142
8416944	F-09-063847	4249700000		108-ER		ORNEG STEWART #4
8417005	F-7B-072748	4236700000		108		SARA JANE HOWARD #2 082433
8417165	F-09-076257	4249700000		108		T J MEADOWS -A- #1 036084
8416935	F-09-053775	4249700000		108-ER		T W WOMACK #4
8417167	F-09-076261	4249700000		108		TARRANT CO WATER BOARD #18 035535
8416967	F-09-067728	4249700000		108-ER		V D ROSS #1
8416926	F-09-028065	4223700000		108-ER		WILLIE R RICHARDS #2
8416934	F-09-049185	4249700000		108-ER		WINFORD W CARTER #1
-MOBIL PRDG TEXAS & NEW MEXICO INC				RECEIVED:		01/20/84 JA: TX
8417080	F-08-075556	4222733077		103		CHALK ESTATE #19
8417142	F-08-076152	4237134499		103		IDA-STATE MONTGOMERY SEC 20 #1
8416987	F-08-071713	4232931188		103		PARKS FIELD UNIT 2 #2311
8417195	F-08-076461	4210333235		103		SAND HILLS TUBB UNIT #54
8417182	F-08-076365	4230130428		102-4		W D JOHNSON 22-S #1
-MOLE OPERATING COMPANY INC				RECEIVED:		01/20/84 JA: TX
8417143	F-8A-076153	4211500000		102-4		S-12 BAPT FOUND OF TX #1
-MONSANTO COMPANY				RECEIVED:		01/20/84 JA: TX
8417150	F-8A-076188	4207931776		103		MASTEN #40
-MOSELEY PETROLEUM CORP				RECEIVED:		01/20/84 JA: TX
8417141	F-02-076151	4246932035		102-4		CRABTREE #1-T
-MR OIL CO				RECEIVED:		01/20/84 JA: TX
8417172	F-08-076300	4249531558		103		UNIVERSITY 25 #3
-MUELLER ENGINEERING CORP				RECEIVED:		01/20/84 JA: TX
8417062	F-04-075159	4213100000		103		HOWARD & ROGER WRIGHT #1
-NORTH CENTRAL OIL CORPORATION				RECEIVED:		01/20/84 JA: TX
8417024	F-7C-073643	4209530640		102-2	103	FRANK SMITH #1 #103453
-NORTHERN NATURAL GAS PRODUCING CO				RECEIVED:		01/20/84 JA: TX
8417181	F-10-076364	4217931398		103		DUNCAN SEC 135 #1
-OIL CREEK ENERGY INC				RECEIVED:		01/20/84 JA: TX
8417136	F-09-076101	4233700000		102-4		PIPKIN-RUTLEDGE UNIT #1
-OXTEX INC				RECEIVED:		01/20/84 JA: TX
8417021	F-04-073582	4204700000		108-ER		J L CAGE D #3
-OZARK EXPLORATION INC				RECEIVED:		01/20/84 JA: TX
8417105	F-7C-075894	4210534520		102-4	107-TF	JOE BEAN "D" #132
8417104	F-7C-075893	4210534521		102-4	107-TF	JOE BEAN "E" #1-51

FIELD NAME	PROD	PURCHASER
PANHANDLE	0.0	PANHANDLE EASTERN
ELK SUGG (WOLFCAMP)	0.0	NORTHERN NATURAL
BROOKS (CANYON K)	0.0	NORTHERN NATURAL
HENDERSON (ATOKA)	105.0	TEXAS UTILITIES F
WALL (CONGL)	30.0	SOUTHWESTERN GAS
KURTEN (GEORGETOWN)	1095.0	FERGUSON CROSSING
WACONICHE CREEK (TRAV	540.0	UNITED GAS PIPE L
SPRABERRY (TREND AREA	12.0	ADOBE OIL & GAS C
WATCO (GRAYBURG)	96.9	EL PASO NATURAL G
BENEDUM (FUSSELMAN)	10.0	PHILLIPS PETR CO
PEGASUS S (BEND)	10.0	MOBIL PRODUCING T
BENEDUM (FUSSELMAN)	10.0	PHILLIPS PETR CO
SPRABERRY (TREND AREA	10.0	EL PASO NATURAL G
SPRABERRY (TREND AREA	10.0	EL PASO NATURAL G
SPRABERRY (TREND AREA	10.0	EL PASO NATURAL G
BECHTOLD	0.0	NORTHERN NATURAL
MEADOW CREEK (CANYON)	89.1	SUN EXPLORATION &
PANHANDLE GRAY COUNTY	57.0	CITIES SERVICE OI
MCKNIGHT (BEND CONGL)	300.0	SOUTHWESTERN GAS
I C (CADDO)	8.0	LONE STAR GAS CO
SPRABERRY (TREND AREA	73.0	J L DAVIS
SPRABERRY (TREND AREA	73.0	J L DAVIS
SPRABERRY (TREND AREA	73.0	J L DAVIS
SPARKS (TONKAWA)	0.0	DIAMOND CHEMICAL
BIG WHIT	27.0	PHILLIPS PETROLEU
LEA (SAN ANDRES)	5.5	WARREN PETROLEUM
BRYAN	0.0	FERGUSON CROSSING
PEERY (CLEVELAND)	30.0	TRANSWESTERN PIPE
DUTCHER (CLEVELAND)	6.0	TRANSWESTERN PIPE
BOONSVILLE,	0.0	NATURAL GAS PIPEL
ALVORD SOUTH (CADDO C	8.5	NATURAL GAS PIPEL
BOONSVILLE (BEND CONG	0.0	NATURAL GAS PIPEL
BOONSVILLE	0.0	NATURAL GAS PIPEL
LEE RAY	0.0	LONE STAR GAS CO
BOONSVILLE	0.0	NATURAL GAS PIPEL
BOONSVILLE	0.0	NATURAL GAS PIPEL
ALVORD (CADDO CONGL)	0.0	NATURAL GAS PIPEL
POOLVILLE SW (CONGL &	0.0	CORONADO TRANSMIS
K W B (STRAWN)	8.3	ESPERANZA PIPELIN
LAKE MINERAL WELLS (4	0.0	NATURAL GAS PIPEL
BOONSVILLE (BEND CONG	0.0	NATURAL GAS PIPEL
MINERAL WELLS N (BIS	0.0	CORONADO TRANSMIS
BOONSVILLE	0.0	NATURAL GAS PIPEL
BOONSVILLE (BEND CONG	0.0	NATURAL GAS PIPEL
JACK COUNTY REGULAR (	0.0	NATURAL GAS PIPEL
BOONSVILLE	0.0	NATURAL GAS PIPEL
BOONSVILLE (BEND CONG	0.0	NATURAL GAS PIPEL
BOONSVILLE (BEND CONG	0.0	NATURAL GAS PIPEL
K W B (STRAWN)	8.2	ESPERANZA PIPELIN
NADA (2300)	0.0	TENNESSEE GAS PIP
CUNDIFF SOUTH	0.0	NATURAL GAS PIPEL
LAKE MIN WELLS (4800	0.0	NATURAL GAS PIPEL
BOONSVILLE (BEND CONG	0.0	NATURAL GAS PIPEL
BOONSVILLE	0.0	NATURAL GAS PIPEL
BOONSVILLE (BEND CONG	0.0	NATURAL GAS PIPEL
BOONSVILLE	0.0	NATURAL GAS PIPEL
CARY-MAG SOUTH	0.0	SOUTHWESTERN GAS
BOONSVILLE	0.0	NATURAL GAS PIPEL
HOWARD GLASSCOCK (GLO	0.4	PHILLIPS PETROLEU
MOKIT (PENNSYLVANIAN)	511.0	
PARKS (FUSSELMAN)	203.0	EL PASO NATURAL G
SAND HILLS (TUBB)	6.6	WARREN PETROLEUM
DIMMIT (CHERRY CANYON	4.4	INTRATEX GAS CO
CHRISTINE (SPRAYBERRY	0.0	GETTY OIL CO
LEVELLAND	13.0	CITIES SERVICE OI
	0.0	HOUSTON PIPE LINE
WAR-WINK N (DELAWARE)	1500.0	TEXACO INC
CHARAMOUSCA W (ROSENB	73.0	REATA INDUSTRIAL
S W PAINT ROCK	256.0	LONE STAR GAS CO
PANHANDLE GRAY COUNTY	14.6	NORTHERN NATURAL
OIL CREEK (CADDO LIME	36.0	TEXAS UTILITIES F
CAGE RANCH	0.0	TRUNKLINE GAS CO
UNIVERSITY 32 (STRAWN	440.0	
UNIVERSITY 33 (STRAWN	585.0	

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME
-PALO PETROLEUM INC				RECEIVED:	01/20/84	JA: TX
8416984	F-7C-071529	4238332639		102-2		MERTZ "4" #2
-PAN AMERICAN SALES CORP				RECEIVED:	01/20/84	JA: TX
8417114	F-04-075935	4226731491		102-4		F G TREVINO ESTATE #1-A (107805)
-PARKER & PARSLEY INC				RECEIVED:	01/20/84	JA: TX
8417034	F-08-074065	4232900000		103		COLLINS "A" #1
8417017	F-08-073267	4232900000		103		FASKEN "H" #1
8417065	F-08-075193	4232900000		103		MABEE #1
8417064	F-08-075192	4232900000		103		MABEE #2
8417063	F-08-075191	4232900000		103		MABEE #3
8417016	F-08-073263	4232900000		103		MURRAY "C" #1
8417015	F-08-073262	4232900000		103		MURRAY "C" #2
8417037	F-08-074193	4232900000		103		STIMSON-BURLEY "18" #1
8417033	F-08-074058	4231731992		103		WOLCOTT "C" #1
-PENNZOIL PRODUCING COMPANY				RECEIVED:	01/20/84	JA: TX
8417145	F-04-076102	4235532121		103		HELEN P AUSTIN #4-F
-PETRO-BETH INC				RECEIVED:	01/20/84	JA: TX
8417073	F-7B-075406	4208333667		103		BIRDWELL #1 (OIL)
-PETRO-TECH INC				RECEIVED:	01/20/84	JA: TX
8417202	F-06-076531	4208131438		102-2	103	MILLER FARMS #4
-PETRUS OPERATING CO INC				RECEIVED:	01/20/84	JA: TX
8417186	F-05-076411	4236933461		102-4		CARPENTER-ROWE UNIT #1
-PHILLIPS PETROLEUM COMPANY				RECEIVED:	01/20/84	JA: TX
8416967	F-10-064952	4229531233		103		CRUISE E #2
8417179	F-08-076335	4238931417		102-4		ORLA-A #1
8417128	F-10-076068	4242100000		103		RINEMILL #1
-PICKARD & KIRKPATRICK OIL CO				RECEIVED:	01/20/84	JA: TX
8417050	F-02-074995	4217531655		102-4		SPANGLE #1 (M/A)
-PIONEER PRODUCTION CORPORATION				RECEIVED:	01/20/84	JA: TX
8416989	F-10-071866	4239330946		102-3	103	PAYNE #1
-PRAIRIE PRODUCING CO				RECEIVED:	01/20/84	JA: TX
8417055	F-03-074995	4224130299		102-4		KIRBY LUMBER CO #1
-PRECISION DRILLING CO INC				RECEIVED:	01/20/84	JA: TX
8416956	F-7C-066163	4239932484		103		M S HALE #2 30226
-PRUDENTIAL DRILLING CO				RECEIVED:	01/20/84	JA: TX
8417146	F-03-076168	4224531648		102-4		WILBER UNIT #1
-PURE ENERGY CO				RECEIVED:	01/20/84	JA: TX
8416970	F-03-069318	4247300000		102-4		KENNETH P SHULTE #1 - 8104674
-PYRON EXPLORATION & DRILLING CORP				RECEIVED:	01/20/84	JA: TX
8417083	F-7B-072569	4242933687		103		DOUGLAS #1
-QUANAH DRILLING & EXPLORATION INC				RECEIVED:	01/20/84	JA: TX
8417085	F-7B-075628	4236732407		102-4		BRUMBAUGH #1
-R A W ENERGY CORP				RECEIVED:	01/20/84	JA: TX
8417028	F-7B-073853	4236333151		102-4		A RITCHIE #1
8417125	F-7B-076017	4236333207		102-4		HOPKINS #1
-R K G ENGINEERING INC				RECEIVED:	01/20/84	JA: TX
8417171	F-08-076289	4217300000		102-4		BOOKS #1
-RANSONE EXPL CO/ROBERT RANSON INC				RECEIVED:	01/20/84	JA: TX
8417088	F-7B-07565	4205934341		102-4		SEALY-SMITH FOUNDATION #2 (OIL)
-REISS ROYAL W				RECEIVED:	01/20/84	JA: TX
8417192	F-7B-076441	4213334395		103		L A LOWRANCE #3 (GAS)
-RICHARD W THOMPSON INC				RECEIVED:	01/20/84	JA: TX
8417031	F-7B-074826	4244733603		102-4		DAWS #2
-RISEDEN LTD				RECEIVED:	01/20/84	JA: TX
8417169	F-02-076265	4205700000		102-4		W CERVENKA UNIT #1
-ROBERTS & HAMMACK INC				RECEIVED:	01/20/84	JA: TX
8416960	F-7C-066348	4246131920		103		ELKIN
-ROME EXPLORATION CO INC				RECEIVED:	01/20/84	JA: TX
8416976	F-01-070153	4250700000		102-4		H & F PROPERTIES SECTION 24 #2
-ROYAL OIL & GAS CORPORATION				RECEIVED:	01/20/84	JA: TX
8416997	F-01-072371	4231100000		102-4	103	DAN FOSTER #1A
-SABIO OIL & GAS INC				RECEIVED:	01/20/84	JA: TX
8416930	F-09-044294	4249700000		108-ER		FANNIE M KNOX #1
8416931	F-09-044295	4249700000		108-ER		P M STONE #1
-SAN PATRICIO CORP				RECEIVED:	01/20/84	JA: TX
8417013	F-01-073182	4212700000		102-4	103	SETH WOODS #1-T
8417012	F-01-073181	4212700000		102-4	103	SETH WOODS #1C
-SAXON OIL COMPANY				RECEIVED:	01/20/84	JA: TX
8417038	F-8A-074246	4226300000		103		HAMLIN "B" #1
-SCHRIMSHER EXPLORATION LTD				RECEIVED:	01/20/84	JA: TX
8417144	F-08-076157	4243131318		102-4		J C REED #1-9
-SERENDIPITY EXPLORATION INC				RECEIVED:	01/20/84	JA: TX
8417176	F-7B-076305	4236732607		102-4		JONES ESTATE #1
-SHA JAM OPERATING CORP				RECEIVED:	01/20/84	JA: TX
8416985	F-03-071606	4228731336		102-2		BARBARA RUE #1
8417042	F-7B-074598	4214330785		102-4		DIANE MARIE #1
-SHELL OIL CO				RECEIVED:	01/20/84	JA: TX
8417204	F-04-076551	4213136289		102-4		J F WELDER HEIRS #2
8417111	F-01-075908	4231131905		102-4		L S MCCLAUGHERTY "A" #5
-SPOOL OIL CO				RECEIVED:	01/20/84	JA: TX
8416942	F-10-061629	4223300000		108-ER		TARBOX #4
-STAHL PETROLEUM CO				RECEIVED:	01/20/84	JA: TX
8416962	F-10-066401	4248330895		108		LULA #1-A
8416961	F-10-066400	4248330812		108		WOODRUFF #1
-SUN EXPLORATION & PRODUCTION CO				RECEIVED:	01/20/84	JA: TX
8417057	F-08-075033	4233532071		103		B ANDERSON "A" #9
8416941	F-09-061185	4249700000		108-ER		HENRY KELLEY UNIT #2
8417040	F-03-074562	4207100000		108		STATE TRACT 307 #3
-SUPERIOR OIL CO				RECEIVED:	01/20/84	JA: TX
8417025	F-02-073603	4228531735		103	107-TF	FRED MELNAR ESTATE UNIT #3
-TANA OIL & GAS CORP				RECEIVED:	01/20/84	JA: TX
8417006	F-01-072760	4228330958		102-4		J C MARTIN #1
-TEMPLETON CO				RECEIVED:	01/20/84	JA: TX
8417049	F-7C-074764	4239931571		102-4		JAMES R CURTIS #1
-TENNECO OIL COMPANY				RECEIVED:	01/20/84	JA: TX
8417056	F-04-075013	4235531319		103		EAST SIDE BLOCK UNIT 18 ID #N/A
-TEON ENERGY INC				RECEIVED:	01/20/84	JA: TX
8416996	F-03-07236	4205132170		102-2		FALKENBERG "C" -2- #2
-TEPCO ENGINEERING INC				RECEIVED:	01/20/84	JA: TX
8416979	F-02-070626	4202532000		102-4	103	H A HUGHES WELL #1
-TEXACO INC				RECEIVED:	01/20/84	JA: TX
8417112	F-8A-075920	4216532426		103		J B ROBERTSON #59
8417096	F-8A-075740	4216532624		103		J H SYLER #9
8417044	F-09-074648	4218100000		108		LEAFY KLAS #1

FIELD NAME	PROD	PURCHASER
SPRABERRY (TREND AREA	0.0	EL PASO HYDROCARB
TRAVIS WARD (WILCOX)	3650.0	VALERO TRANSMISSI
SPRABERRY (TREND AREA	15.0	PHILLIPS PETROLEU
SPRABERRY (TREND AREA	15.0	PHILLIPS PETROLEU
SPRABERRY (TREND AREA	15.0	ADOBE OIL & GAS C
SPRABERRY (TREND AREA	15.0	ADOBE OIL & GAS C
SPRABERRY (TREND AREA	15.0	ADOBE OIL & GAS C
SPRABERRY (TREND AREA	15.0	PHILLIPS PETROLEU
SPRABERRY (TREND AREA	15.0	PHILLIPS PETROLEU
SPRABERRY (TREND AREA	15.0	ADOBE OIL & GAS C
BREEDLOVE SOUTH (SPRA	1.5	PHILLIPS PETROLEU
AGUA DULCE (8100')	203.0	UNITED GAS PIPE L
WILLIAMS	31.0	UNION TEXAS PETRO
BOIS D'ARC (RODESSA)	73.0	ESPERANZA PIPELIN
INGRAM TRINITY (RODES	0.0	DELHI GAS PIPELIN
BRADFORD CLEVELAND	0.0	TRANSWESTERN PIPE
JESS BURNER (DELAWARE	47.0	
TEXAS HUGOTON-DOLOMIT	0.0	PANHANDLE EASTERN
MARSHALL S W	146.0	DELHI GAS PIPELIN
RFC (MORROW UPPER)	0.0	WESTAR TRANSMISSI
GIST WEST (6700-FB-1)	365.0	
BERHARD	14.4	LONE STAR GAS CO
BIG HILL N W (NODOSAR	730.0	WINNIE PIPELINE C
BROOKSHIRE CAT	1825.0	TEJAS-SOUTHWESTER
STEPHENS COUNTY REGUL	73.0	BRAZOS ELECTRIC P
GROGAN (1300)	47.0	TEXAS UTILITIES F
POSSUM KINGDOM (BEND	200.0	
FORUM (BEND CONGL)	300.0	SOUTHWESTERN GAS
BOOKS (STRAWN)	0.0	UNION TEXAS PETRO
PARROTT (ELLENBURGER)	20.0	
EASTLAND COUNTY REGUL	14.0	LONE STAR GAS CO
JOE & GRADY DAWS	73.0	HASKELL GATHERING
SEE W (6810) FIELD	38.0	FLORIDA GAS TRANS
CALVIN (DEAN)	60.0	PHILLIPS PETROLEU
CRYSTAL CITY (BRACERO	0.0	VALERO TRANSMISSI
A W P (OLMOS)	85.0	HOUSTON PIPE LINE
BOONSVILLE	0.0	NATURAL GAS PIPEL
BOONSVILLE	0.0	NATURAL GAS PIPEL
EVERGREEN FARMS (3RD	91.3	CORPUS CHRISTI GA
EVERGREEN FARMS (3RD	147.8	CORPUS CHRISTI GA
WALLACE RANCH NE (NOO	0.0	
STERLING N	16.0	
DENNIS WEST (STRAWN)	90.0	NORTHERN GAS PROD
GIDDINGS (AUSTIN CHAL	219.0	PHILLIPS PETROLEU
LEDBETTER (MARBLE FAL	45.6	LONE STAR GAS CO
BOLD FORBES (CARRIZO	400.0	
A W P (OLMOS)	100.0	HPI TRANSMISSION
PANHANDLE HUTCHINSON	0.0	PHILLIPS PETROLEU
EAST PANHANDLE	0.0	TRANSWESTERN PIPE
EAST PANHANDLE	0.0	TRANSWESTERN PIPE
JAMESON NORTH	32.0	LONE STAR GAS CO
BOONSVILLE	0.0	NATURAL GAS PIPEL
RED FISH REEF S W	13.0	UNITED TEXAS TRAN
WORD (EDWARDS)	300.0	UNITED TEXAS TRAN
SUN TSH	200.0	VALERO TRANSMISSI
GERLACH (ELLENBERGER)	175.0	UNION TEXAS PETRO
AGUA DULCE (8100)	90.0	TENNECO OIL CO
GIDDINGS (AUSTIN CHAL	0.0	PHILLIPS PETROLEU
MALONE RANCH (PETTUS	146.0	SOUTHERN GAS PIPE
ROBERTSON N (CLEARFOR	0.0	PHILLIPS PETROLEU
ROBERTSON N (CLEARFOR	13.9	PHILLIPS PETROLEU
BIG MINERAL S E (V SA	4.0	UNION TEXAS PETRO

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8417177	F-8A-076318	4221934087		103		MONTGOMERY ESTATE-DAVIES NCT-2 #109	LEVELLAND	17.9	AMOCO PRODUCTION
8417097	F-8A-075755	4221934083		103		MONTGOMERY ESTATE-DAVIES NCT-2 #114	LEVELLAND	15.0	AMOCO PRODUCTION
8417010	F-08-072955	4238931404		102-4		REEVES "AD" FEE #3	JESS BURNER	35.4	CONOCO INC
8417060	F-08-075189	4243131381		103		STERLING "M" FEE #4	CONGER (PENN)	0.0	VALERO TRANSMISSI
8417086	F-08-075644	4243131373		102-4		STERLING "T" FEE #8	CONGER SW	0.0	VALERO TRANSMISSI
8417101	F-8A-075837	4216532550		103		WHARTON UNIT #119	HARRIS	11.3	PHILLIPS PETROLEU
8417095	F-8A-075739	4216532665		103		WHARTON UNIT #139	HARRIS	49.3	PHILLIPS PETROLEU
8417168	F-8A-076263	4216532666		103		WHARTON UNIT #140	HARRIS	11.3	PHILLIPS PETROLEU
-TEXCOLADA OIL CO				RECEIVED:	01/20/84	JA: TX			
8417133	F-7B-076081	4213331151		102-4		A E MENSLEE #2	TIM CUP	58.0	NORTHERN GAS PROD
8417132	F-7B-076078	4213331894		102-4		BOWEN WALTON #1	TIM CUP	20.0	NORTHERN GAS PROD
8417134	F-7B-076087	4214300000		108		FRED HUFFMAN #1	DESDEMONA E	21.0	NORTHERN GAS PROD
8417131	F-7B-076075	4213331445		102-4		MENSLEE "A" #3	TIM CUP	30.0	NORTHERN GAS PROD
-THOMPSON J CLEO & JAMES CLEO JR				RECEIVED:	01/20/84	JA: TX			
8416994	F-7C-072270	4210534472		103		INGHAM "C" #1	INGHAM (DEVONIAN)	790.0	
8416968	F-7C-068733	4210500000		107-TF		UNIVERSITY 30-7M #2	UNIVERSITY 31 (STRAWN	0.0	PHILLIPS PETROLEU
-THROCKMORTON GAS SYSTEMS				RECEIVED:	01/20/84	JA: TX			
8416929	F-7B-038908	4244700000		102-4		R A BROWN "Q" #5 (05056)	VAIDA (CADDO)	0.0	WARREN PETROLEUM
-TOM BROWN INC				RECEIVED:	01/20/84	JA: TX			
8417098	F-7C-075757	4243533001		103	107-TF	HILL-MRS MAY M RAY "H" #1	ALDWELL (RANCH) CANYO	73.0	LONE STAR GAS CO
-TOM MCGEE CORP				RECEIVED:	01/20/84	JA: TX			
8417023	F-10-073637	4229531297		107-TF		DICKINSON #1	PEERY (CLEVELAND)	365.0	DIAMOND CHEMICALS
-TXO PRODUCTION CORP				RECEIVED:	01/20/84	JA: TX			
8416965	F-06-067428	4240131221		102-4		BOLTON "A" #4	MINDEN (TRAVIS PEAK 8	361.0	DELHI GAS PIPELIN
8417185	F-08-076389	4238900000		103		BURNEM #1	JESS BURNER	15.0	CONOCO INC
8416973	F-10-069726	4235731274		103		DANIEL "E" #1	DANIEL	270.0	DELHI GAS PIPELIN
8416992	F-04-072154	4235500000		103		DRYDEN #1	EAST STRATTON (MIDDLE	0.0	DELHI GAS PIPELIN
8417070	F-7C-075320	4223500000		103		LINDLEY "48" #8	ROCK PEN (CANYON)	75.0	NORTHERN NATURAL
8416969	F-10-069081	4229531252		102-4		METHODIST HOME #2	D G	292.0	DELHI GAS PIPELIN
8417001	F-02-072543	4223931843		102-4		MOORE J-1	MORALES (3480)	0.0	DELHI GAS PIPELIN
8416998	F-02-072389	4223900000		102-4		POWERS G-1	MORALES (4410)	0.0	DELHI GAS PIPELIN
8417018	F-06-073348	4206730425		102-4		SIMPSON "D" #4	AVINGER (PETTIT)	0.0	DELHI GAS PIPELIN
8417178	F-10-076326	4235731444		102-4		SPICER #3	BOOKER N (MORROW UPPE	360.0	DELHI GAS PIPELIN
8416966	F-06-067698	4240131346		102-4		TEXAS UTILITIES #1	LANEVILLE NE (PETTIT	0.0	DELHI GAS PIPELIN
8416999	F-7B-072417	4241735194		102-4		WALKER-BUCKLER 79 #2	ROCKWELL (PALO PINTO)	30.0	DELHI GAS PIPELIN
8417002	F-02-072545	4223931637		102-4		WATSON B-2	MORALES (4260)	0.0	DELHI GAS PIPELIN
8416971	F-10-069644	4229531257		103		YAUCK #1	FOLLETT WEST	300.0	DELHI GAS PIPELIN
-UNION OIL COMPANY OF CALIF				RECEIVED:	01/20/84	JA: TX			
8417127	F-08-076049	4200333586		103		DOLLARHIDE UNIT #14-23-C	DOLLARHIDE (CLEAR FOR	18.0	DOLLARHIDE GASOLI
8417126	F-08-076048	4200333584		103		DOLLARHIDE UNIT #14-24-C	DOLLARHIDE (CLEAR FOR	15.0	DOLLARHIDE GASOLI
8417193	F-08-076451	4200333676		103		DOLLARHIDE UNIT #8-25-C	DOLLARHIDE (CLEAR FOR	30.0	DOLLARHIDE GASOLI
-UNITED PETROLEUM CORP				RECEIVED:	01/20/84	JA: TX			
8417135	F-10-076091	4223331699		103		CROSBY-HATCHER "B" #1	PANHANDLE-HUTCHINSON	54.0	DIAMOND CHEMICALS
-VERNON E FAULCONER INC				RECEIVED:	01/20/84	JA: TX			
8417019	F-06-073567	4240100000		108-ER		BURTON #1 GAS UNIT #039429	OAKHILL (TRAVIS PEAK)	0.0	LONE STAR GAS CO
-VORTY EXPLORATION CO INC				RECEIVED:	01/20/84	JA: TX			
8417039	F-7B-074284	4236300000		102-4		MURPHY-STONE UNIT WELL #1	MINERAL WELLS SOUTH (	0.0	SOUTHWESTERN GAS
-WARREN PETR CO A DIV OF GULF OIL CO				RECEIVED:	01/20/84	JA: TX			
8417089	F-08-075685	4210333194		103		W N WADDELL ETAL (TRA) #1285	SAND HILLS (TUBB)	193.6	EL PASO NATURAL G
8417090	F-08-075686	4210333192		103		W N WADDELL ETAL (TRA) #1287	SAND HILLS (TUBB)	28.2	EL PASO NATURAL G
-WESLEY SENKEL INC				RECEIVED:	01/20/84	JA: TX			
8417189	F-09-076437	4250336446		103		SENKEL-HAWKINS #A-1	LANGSTON-KLIENER (STR	0.0	MID-STATE GAS COR
8417190	F-09-076438	4250337218		103		SENKEL-HAWKINS #A-3	LANGSTON-KLEINER (STR	0.0	MID-STATE GAS COR
8417191	F-09-076439	4250337318		103		SENKEL-HAWKINS #A-4	LANGSTON-KLEINER (STR	0.0	MID-STATE GAS COR
-WICHITA INDUSTRIES INC				RECEIVED:	01/20/84	JA: TX			
8417116	F-7B-075945	4242932969		103		PETER SWENSON #53	STEPHENS COUNTY REGUL	36.5	WARREN PETROLEUM
8417115	F-7B-075914	4242933523		102-4		PETER SWENSON #56	SMOKEN-HAG	54.7	WARREN PETROLEUM
-WILLIAMS OIL CO				RECEIVED:	01/20/84	JA: TX			
8417149	F-08-076178	4249531615		103		MCCUTCHEN #1	KEYSTONE (COLBY)	91.0	CABOT PIPELINE CO
-WILSON ENERGY INC				RECEIVED:	01/20/84	JA: TX			
8417173	F-08-076301	4232931199		102-4		EVELYN KOONCE #1	BETTY SUE (STRAWN)	77.0	PHILLIPS PETROLEU
8417175	F-7C-076304	4210533988		103		UNIVERSITY 8 "B" 6 "G"	FARMER (SAN ANDRES)	9.0	J L DAVIS
8417174	F-7C-076303	4210533987		103		UNIVERSITY 8 "B" 8 "G"	FARMER (SAN ANDRES)	10.0	J L DAVIS
-WOLSEY OIL INC				RECEIVED:	01/20/84	JA: TX			
8417152	F-09-076206	4223700000		107-PE		J B CLAY "D" 045892	PLEMONS CONGLOMERATE	28.0	LONE STAR GAS CO
-WOOD MCSHANE & THAMS				RECEIVED:	01/20/84	JA: TX			
8417106	F-08-075897	4249531628		103		KEYSTONE CATTLE #11-C RRC #27106	KEYSTONE (COLBY)	12.3	WESTAR TRANSMISSI
-WOOLF & MAGEE INC				RECEIVED:	01/20/84	JA: TX			
8417188	F-03-076427	4237338554		102-4		JACK DILLON #1	DALLARDSVILLE (WILCOX	176.0	HOUSTON PIPELINE

[FR Doc. 84-4685 Filed 2-21-84; 8:45 am]

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VOL
49
ISS
36
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federal register

Wednesday
February 22, 1984

Part V

Department of Education

34 CFR Part 690

Pell Grant Program; Cost of Attendance; Final Rule

DEPARTMENT OF EDUCATION

34 CFR Part 690

Pell Grant Program; Cost of Attendance

AGENCY: Department of Education.

ACTION: Final regulations.

SUMMARY: The Secretary is issuing final regulations governing the calculation of student's cost of attendance for the Pell Grant Program for the 1984–85 award year. These regulations are based upon Section 4 of the Student Loan Consolidation and Technical Amendments Act of 1983, Pub. L. 98–79. This regulation will affect the institution's calculation of room and board for students who do not reside at home or in institutionally owned or operated housing. This will increase the cost of attendance for these students, thus increasing their scheduled awards.

EFFECTIVE DATE: These regulations take effect 45 days after publication in the **Federal Register** or later if Congress takes certain adjournments. If you want to know the effective date of these regulations, call or write the Department of Education contact person. When these regulations become effective, they will apply to Pell Grant awards made for the 1984–85 award year (beginning July 1, 1984).

FOR FURTHER INFORMATION CONTACT: Brian Kerrigan, Chief, Pell Grant Policy Section or Gail Cornish, Pell Grant Program Specialist, Office of Student Financial Assistance, ROB–3, Room 4318, 400 Maryland Avenue, S.W., Washington, D.C. 20202, Telephone (202) 472–4300.

SUPPLEMENTARY INFORMATION: Section 4 of the Student Loan Consolidation and Technical Amendments Act of 1983, Pub. L. 98–79, provides that, with one exception, the cost of attendance criteria used for calculating Pell Grant awards for the 1983–84 award year shall be used to calculate such awards for the 1984–85 award year. The exception covers the room and board allowance for students who neither reside at home nor in institutionally owned or operated housing.

For the 1983–84 award year, the room and board allowance for these students is $1,100. However, for the 1984–85 award year, institutions which these students are attending will have some discretion in determining that allowance. Institutions are to establish a standard allowance based on the expenses reasonably incurred by these students for room and board costs which shall be at least $1,100 but not more than $1,600.

In order to fully implement this new provision, changes have been made to cover the situation where a student contracts with the institution for room or board. For the 1983–84 award year, students contracting with the institution solely for board receive a $475 room allowance. Conversely, students contracting with the institution solely for a room, receive a $625 board allowance. For the 1984–85 award year, a student contracting with the institution solely for board will receive a room allowance equal to 40 percent of the standard allowance of between $1,100 and $1,600 developed by the institution for room and board, while students contracting with the institution solely for a room will receive a board allowance equal to 60 percent of that standard allowance. These percentages maintain the proportional relationship between room and board costs in the existing regulation since the $475 room allowance in the existing regulation is approximately 40 percent of the $1,100 room and board allowance while the $625 board allowance is approximately 60 percent of that room and board allowance.

For example, if a student contracts with an institution for room, but does not contract for board, and the standard allowance determined by the institution for room and board is $1,400, the room and board for this student for the 1984–85 award year would be $840 for board expenses (i.e. 60 percent of $1,400) plus the contracted amount for room.

Finally, for a student who contracts with the institution for board for less than 7 days a week, a daily board rate will be computed for the student based on 60 percent of the standard amount established by the institution for room and board. Thus to continue the previous example, if sixty percent of the standard amount is $840 and the academic year consists of 280 days, the daily rate for board would be $3 ($840 divided by 280). This daily rate would then be multiplied by the number of days in the academic year that are not covered by the board contract, and the result would be added to the contracted amount for board. Assuming the contracted amount for board is $700 for the academic year, and the contract provides for three meals a day for 200 days, the number of days not covered by contract would be 80 (280 minus 200). Eighty multiplied by the daily rate of $3 equals $240. Thus the allowance for board in this example is $940 ($240 + $700).

To further simplify these regulations, § 690.56—"Attendance costs for students who are charged for a program whose length is less then the academic year"—has been deleted and combined with § 690.55 to read—"Attendance costs for students are charged for a program whose length is greater than or less than an academic year." The components of both of these sections were the same, therefore a consolidation simplifies the regulations.

Executive Order 12291

These regulations have been reviewed by the Department in accordance with Executive Order 12291. They are classified as non-major because they do not meet the criteria for major regulations established in the order.

Regulatory Flexibility Act Certification

The Secretary certifies that these regulations will not have a significant economic impact on a substantial number of small entities. These regulations will only affect the determination of a student's cost of attendance and the amount of the Pell Grant award a student receives. They will not have an impact on small entities as defined in the Act.

Waiver of Notice of Proposed Rulemaking

Section 4 of Pub. L. 98–79 specifies that, with one exception, the cost of attendance criteria used to calculate grants in award year 1983–84 for the Pell Grant Program shall be used for that purpose for award year 1984–85. The exception, i.e. the allowance for room and board for students who neither live at home nor in institutionally owned or operated housing, is also quite specific in the statute. Further, the proportional relationship between room and board costs is maintained in the situation where a student contracts only for a room or only for board. Therefore, since the regulations merely restate the law and establish no new substantive policy, the Secretary has determined that resort to proposed rulemaking in this instance is unnecessary within the meaning of 5 U.S.C. 553(b).

List of Subjects in 34 CFR Part 690

Administrative practice and procedure, Education, Education of disadvantaged, Grant programs—education, Student aid.

Citation of Legal Authority

A citation of statutory or other legal authority is placed in parentheses on the line following each substantive provision of these regulations.

(Catalog of Federal Domestic Assistance Number 84.063, Pell Grant Program)

Dated: February 15, 1984.

T. H. Bell,

Secretary of Education.

The Secretary amends Part 690 of Title 34 of the Code of Federal Regulations as set forth below:

1. Subpart E of the Table of Contents of Part 690 is revised to read as follows:

PART 690—PELL GRANT PROGRAM

Subpart E—Cost of Attendance

Sec.
690.51 Allowable costs of attendance—general.
690.52 Tuition and fees.
690.53 Room and board.
690.54 Attendance costs for students in correspondence study programs.
690.55 Attendance costs for students who are charged for a program whose length is greater than or less than an academic year.
690.56 Attendance costs for incarcerated students.
690.57 Attendence costs for students at U.S. Armed Forces Academies.

2. Subpart E of Part 690 is revised to read as follows:

Subpart E—Costs of Attendance

§ 690.51 Allowable costs of attendance—general.

(a) Except as provided in §§ 690.54–690.57, a student's cost of attendance means—

(1) The tuition and fees charged to a full-time undergraduate student for an academic year by the institution he or she is attending as determined under § 690.52;

(2) Room and board costs for an academic year as determined under § 690.53; and

(3) An allowance of $400 for books, supplies, and miscellaneous expenses for an academic year.

(b) An institution must be able to justify and document the cost of attendance figures established under this subpart.

(Sec. 4 of Public Law 98–79)

§ 690.52 Tuition and Fees.

(a)(1) An institution shall determine the tuition and fees charged a full-time undergraduate student by calculating either—

(i) The actual amount it charges each full-time undergraduate student for tuition and fees for an academic year, or

(ii) The average amount it charges full-time undergraduate students for tuition and fees for an academic year.

(2) However, the institution must use the option it selects under paragraph (a)(1) of this section to determine the tuition and fee charges of all its students under this part.

(b) If an institution establishes its tuition and fee charges on a residency requirement basis (e.g. In-State and Out-of-State) and elects to calculate an average tuition and fee charge, it shall establish a separate average charge for each different residency based classification.

(c) An institution may determine a separate average charge for any other distinct classification upon which it bases tuition and fee charges.

(Sec. 4 of Public Law 98–79)

§ 690.53 Room and board.

The institution shall determine a student's room and board costs for an academic year as follows—

(a) For a student who enters into a contract with the institution for room and/or board, the institution shall choose one of the following cost options but must use the option it selects for all students. The two options are:

(1) The actual amount it charges each student for:

(i) Room and board for an academic year,

(ii) Room only, plus an allowance equal to 60 percent of the standard allowance established by the institution in paragraph (b)(2) of this section, for board for an academic year, or

(iii) Board only, plus an allowance equal to 40 percent of the standard allowance established by the institution in paragraph (b)(2) of this section, for room for an academic year, or

(2) The average amount it charges most students for:

(i) Room and board for an academic year,

(ii) Room only, plus an allowance equal to 60 percent of the standard allowance established by the institution in paragraph (b)(2) of this section, for board for an academic year, or

(iii) Board only, plus an allowance equal to 40 percent of the standard allowance established by the institution in paragraph (b)(2) of this section, for room for an academic year.

(b) For a student who does not enter into a contract with the institution for either room or board, the student shall receive—

(1) An allowance of $1,100 for an academic year if he or she lives in the home of his or her parents, or

(2) An allowance of at least $1,100 but not more than $1,600 for an academic year if he or she does not live in the home of his or her parents. This amount shall be a standard amount determined by the institution based upon the expenses reasonably incurred by such students, and shall apply to all students covered under this subparagraph.

(c) If a student enters into a contract with the institution for board for less than 7 days a week, a daily rate will be computed based upon an allowance of 60 percent of the standard amount established by the institution in paragraph (b)(2) of this section and used for those days of the academic year not covered by the contract. This amount will be added to the cost established under paragraph (a)(1) or (a)(2) of this section.

(Sec. 4 of Public Law 98–79)

§ 690.54 Attendance costs for students in correspondence study programs.

The cost of attendance for a student enrolled in a correspondence study program means—

(a) Actual tuition and fees charged to the student for an academic year; and

(b) If incurred in fulfilling a required period of residential training, room and board costs based on—

(1) The actual amount charged to the student by the institution; or

(2) The standard allowance established in § 690.53(b) prorated in the same ratio as the course work completed in residential training bears to the course work for the academic year.

(Sec. 4 of Public Law 98–79)

§ 690.55 Attendance costs for students who are charged for a program whose length is greater than or less than an academic year.

The cost of attendance for a student who is charged tuition and fees for a program whose length is greater than or less than the length of the academic year at the institution, is determined by adding—

(a)

$$\text{Tuition and fees} \times \frac{\text{clock or credit hours in the academic year}}{\text{clock or credit hours in the program}}$$

and

(b) Room and board costs as determined under § 690.53; and

(c) An allowance of $400 for books, supplies and miscellaneous expenses.

(Sec. 4 of Public Law 98–79)

§ 69.56 Attendance costs for incarcerated students.

(a) The cost of attendance for a student who is incarcerated for whom at least one-half of his or her room and board expenses is provided includes—

(1) Tuition and fees as determined under § 690.52; and

(2) An allowance of $150 for books and supplies.

(b) The cost of attendance for a student who is incarcerated and for whom less than one-half of his or her room and board expenses is provided is the same as that allowed for a student who is not incarcerated.

(Sec. 4 of Public Law 98–79)

§ 690.57 Attendance costs for students at U.S. Armed Forces Academies.

A student enrolled at the U.S. Military Academy at West Point, the U.S. Naval Academy, the U.S. Air Force Academy or the U.S. Coast Guard Academy is considered to have no cost of attendance.

(Sec. 4 of Public Law 98–79)

[FR Doc. 84–4628 Filed 2–21–84; 8:45 am]
BILLING CODE 4000–01–M

VOL 49 ISS 36 FE 22 1984 UMI

federal register

Wednesday
February 22, 1984

Part VI

Department of Health and Human Services

Food and Drug Administration

21 CFR Part 172

Food Additives Permitted for Direct Addition to Food for Human Consumption; Aspartame; Denial of Requests for Hearing; Final Rule

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 172

[Docket Nos. 75F-0355 and 82F-0305]

Food Additives Permitted for Direct Addition to Food for Human Consumption; Aspartame

AGENCY: Food and Drug Administration.

ACTION: Denial of requests for hearing; final rule-related.

SUMMARY: The Food and Drug Administration (FDA) is denying the requests for a hearing on certain safety issues related to the amendment to the food additive regulation concerning aspartame that provides for the safe use of the substance in carbonated beverages and carbonated beverage syrup bases. After reviewing the objections to the amendment and the requests for a hearing, FDA has concluded that the objections do not raise issues of material fact that justify granting a hearing on a food additive regulation.

FOR FURTHER INFORMATION CONTACT: Anthony P. Brunetti, Bureau of Foods (HFF-334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-427-5690.

SUPPLEMENTARY INFORMATION:

I. Introduction

Aspartame (*N*-*L*-*α*-aspartyl-*L*-phenylalanine 1-methyl ester) is the nutritive methyl ester of a dipeptide formed from phenylalanine and aspartic acid. G. D. Searle & Co., 4901 Searle Parkway, Skokie, IL 60077, originally petitioned in 1973 for approval of its use as a sweetener and flavor enhancer in dry foods. FDA approved the petition in a final regulation published in the **Federal Register** of July 26, 1974 (39 FR 27317), and codified at 21 CFR 172.804.

FDA received formal objections to this regulation and requests for a hearing to investigate certain alleged toxic effects of aspartame. FDA granted the request for a hearing and established a Public Board of Inquiry (the Board), nominated from scientists outside the agency, to hear expert testimony and evaluate the scientific issues raised in the objections. Subsequently, FDA stayed the regulation (40 FR 56907; December 5, 1975) and delayed the Board's convening while an extensive audit of the authenticity of certain toxicological studies on aspartame was conducted. Of the 15 pivotal studies, 3 were reviewed by an FDA task force and 12 by scientists from Universities Associated for Research and Education in Pathology, Inc. (UAREP), a consortium of 9 universities. Following the finding by UAREP that the animal studies were authentic, the Board convened a public hearing; it completed the hearing and issued its report in 1980 (Aspartame, Decision of the Public Board of Inquiry, Docket No. 75F-0355) (Board's decision).

In the **Federal Register** of July 24, 1981 (46 FR 38285), the Commissioner of Food and Drugs reviewed the Board's conclusions and announced his final decision that aspartame was safe within the meaning of section 409(c) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 348(c)). The Commissioner specifically determined that, on the basis of available data, aspartame consumption would not cause brain damage such as mental retardation, brain lesions, or endocrine dysfunction, nor would it cause brain tumors. FDA then reinstated the original regulation (46 FR 50947; October 16, 1981), approving aspartame for the following uses as a sweetener: dry sugar substitutes in free-flowing and tablet form; cold cereals; chewing gum; and dry bases for beverages, instant coffees and teas, puddings and gelatins, and dairy analog toppings (21 CFR 172.804(c)). None of the parties who originally requested a hearing on the regulation objected to or sought judicial review of the agency's final decision to reinstate the regulation approving the dry uses of aspartame.

II. Aspartame For Use In Carbonated Beverages

A. Regulation Approving Use

In the **Federal Register** of July 8, 1983 (48 FR 31376), FDA issued a final rule that amended § 172.804 by adding new paragraph (c)(6) to permit the additional use of aspartame as a sweetener in carbonated beverages and carbonated beverage syrup bases. That regulation responded to a petition filed by G. D. Searle & Co. (47 FR 46140; October 15, 1982). Before approving this new use, the agency reviewed, among other safety issues, the potential neurotoxicity of the components and decomposition products of aspartame, the stability of aspartame in carbonated beverages, and the potential impact on health of increased consumption of aspartame resulting from its additional use in carbonated beverages.

In the preamble to the final rule, FDA also considered and responded to a number of safety issues raised in comments on the carbonated beverage petition (48 FR 31376 at 31378-31381). These comments expressed particular concern about potential adverse effects of aspartame's component amino acids on the brain, and the potential for exposure to toxic levels of decomposition products, including methanol, from aspartame's use in carbonated beverages. FDA based its approval of aspartame for use in carbonated beverages on its evaluation of clinical studies which were submitted by the petitioner to supplement animal study data supplied with the dry uses petition, data from other relevant studies in the scientific literature, and data contained in comments submitted on the petition (*id.*). These data are all included in the administrative record of Docket No. 82F-0305.

B. Objections and Requests for a Hearing and a Stay

Two objections were filed to the July 8, 1983 regulation approving the use of aspartame in carbonated beverages. The objections contended that numerous safety issues had not been adequately considered by the agency before the promulgation of the regulation, and requested that the regulation be stayed pending examination of those issues in a public hearing. The two parties objecting to the regulation on the basis of unresolved safety issues were James S. Turner, 1424 16th St. NW., Washington, DC 20036, objecting on behalf of himself and the Community Nutrition Institute, 1146 19th St. NW., Washington, DC 20036; and Woodrow C. Monte, Director, Food Science and Nutritional Laboratories, Arizona State University, Tempe, AZ. In addition, Richard J. Wurtman, Massachusetts Institute of Technology, Cambridge, MA, commented on the regulation, but did not request a hearing or a stay of the regulation. Before publication of the final rule approving the use of aspartame in carbonated beverages, Dr. Wurtman wrote a series of letters to FDA in which he expressed his concern about potential adverse effects on brain function of ingesting high levels of carbohydrate and aspartame, and reported the results of some experiments conducted in his laboratory.

FDA denied the requests to stay the effectiveness of the carbonated beverage regulation (48 FR 52899; November 23, 1983), because the public interest did not require it. FDA briefly evaluated each contention of the objections, and concluded that they failed to create doubts about the safety of aspartame significant enough to stay the regulation approving the use of aspartame in carbonated beverages. In that document, FDA also confirmed July 8, 1983, as the effective date of the

regulation authorizing the use of aspartame in carbonated beverages.

C. Standard for Granting a Hearing and Character of the Objections

Section 409(f) of the act provides that any person adversely affected by a final food additive regulation may file objections, specifying with particularity the provisions of the order "deemed objectionable, stating reasonable grounds therefor," and request a public hearing based upon such objections. However, the Commissioner may deny the hearing request if the objections to the regulation do not raise genuine and significant issues of fact that can be resolved at a hearing. Specific criteria for determining whether a request for a hearing has been justified are codified at 21 CFR 12.24(b). The pertinent criteria in 21 CFR 12.24(b) for granting a hearing are:

(1) There is a genuine and substantial issue of fact for resolution at a hearing. A hearing will not be granted on issues of policy or law.

(2) The factual issues can be resolved by available and specifically identified reliable evidence. A hearing will not be granted on the basis of mere allegations or denials or general descriptions of positions and contentions.

(3) The data and information submitted, if established at a hearing, would be adequate to justify resolution of the factual issue in the way sought by the person. A hearing will be denied if the Commissioner concludes that the data and information submitted are insufficient to justify the factual determination urged, even if accurate.

(4) Resolution of the factual issue in the way sought by the person is adequate to justify the action requested. A hearing will not be granted on factual issues that are not determinative with respect to the action requested, e.g., if the Commissioner concludes that the action would be the same even if the factual issue were resolved in the way sought * * *.

A party seeking a hearing is required to meet a "threshold burden of tendering evidence suggesting the need for a hearing." *Costle* v. *Pacific Legal Foundation*, 445 U.S. 198, 214–215 (1980) *reh. den.* 448 U.S. 947 (1980), citing *Weinberger* v. *Hynson, Westcott & Dunning, Inc.*, 412 U.S. 609, 620–621 (1973). An allegation that a hearing is necessary to "sharpen the issues" or "fully develop the facts" does not meet this test. *Georgia Pacific Corp.* v. *U.S. E.P.A.*, 671 F.2d 1235, 1241 (9th Cir. 1982). If a hearing request fails to identify any evidence that would be the subject of a hearing, there is no point in holding one. In judicial proceedings, courts are authorized to issue summary judgment without an evidentiary hearing whenever they find that there are no material issues of fact in dispute and a party is entitled to judgment as a matter of law. See Rule 56, Federal Rules of Civil Procedure. The same principle applies in administrative proceedings.

A hearing request must not only contain evidence, but that evidence should raise a material issue of fact concerning which a meaningful hearing might be held. *Pineapple Growers Association* v. *FDA*, 673, F.2d 1083, 1085 (9th Cir. 1982) (where the issues raised in the objection are, even if true, legally insufficient to alter the decision, the agency need not grant a hearing). *Dyestuffs and Chemicals, Inc.* v. *Flemming*, 271 F.2d 281 (8th Cir. 1959) *cert. denied*, 362 U.S. 911 (1960). FDA need not grant a hearing in each case where an objection submits additional information or posits a novel interpretation of existing information. See *United States* v. *Consolidated Mines & Smelting Co.*, 455 F.2d 432 (9th Cir. 1971). Stated another way, a hearing is justified only if the objections are made in good faith and if they "draw in question in a material way the underpinnings of the regulation at issue." *Pactra Industries* v. *CSPC*, 555 F.2d 677 (9th Cir. 1977). Finally, courts have uniformly recognized that a hearing need not be held to resolve questions of law or policy. See *Citizens for Allegan County, Inc.* v. *FPC*, 414 F.2d 1125 (D.C. Cir. 1969); *Sun Oil Co.*, v. *FPC*, 256 F.2d 233, 240 (5th Cir.), *cert. denied*, 358 U.S. 872 (1958).

Even if the objections raise material issues of fact, FDA need not grant a hearing if those same issues were adequately raised and considered in the earlier aspartame proceeding leading to the approval of aspartame for dry uses. Once an issue has been so raised and considered, a party is estopped from raising that same issue in a later proceeding without new evidence. It is illogical not to recognize that the various judicial doctrines dealing with finality can be validly applied to the administrative process. In explaining why these principles "self-evidently" ought to apply to an agency proceeding, the D.C. Circuit wrote:

> The underlying concept is as simple as this: Justice requires that a party have a fair chance to present his position. But overall interests of administration do not require or generally contemplate that he will be given more than a fair opportunity.

Retail Clerks Union, Local 1401, R.C.I.A., v. *NLRB*, 463 F.2d 316, 322 (D.C. Cir. 1972). See *Costle* v. *Pacific Legal Foundation, supra* at 1106. See also *Pacific Seafarers, Inc.* v. *Pacific for East Line, Inc.*, 404 F.2d 804 (D.C. Cir. 1968).

In sum, a hearing request should present sufficient credible evidence to raise a material issue of fact which has not already been the subject of an administrative hearing. As is detailed in section III below, the hearing requests of Mr. Turner and Dr. Monte either do not present sufficient credible evidence to warrant a hearing or, where credible evidence is presented, even if true, that evidence does not raise a material issue of fact. Moreover, the hearing request of Mr. Turner, who was a participant in the hearing on the dry uses of aspartame, raises substantially the same objections that he had presented in the administrative hearing on the dry uses of aspartame. Those issues were considered by the Board's decision at p. 2 and reviewed in the Commissioner's decision (46 FR 38285), and Mr. Turner did not seek judicial review or administrative reconsideration of the agency's final approval for the dry uses of aspartame. Mr. Turner has thus had a fair opportunity to present his position on these issues and an additional hearing on the same issues is unwarranted.

III. Analysis of the Objections

A. Introduction

This section examines the specific issues identified in the objections to the regulations approving the use of aspartame in carbonated beverages. This document deals with each issue, but certain of the issues are considered at greater length because they have not been covered as extensively in public documents. Similar issues have been combined for ease of discussion and analysis. The general categories are: brain damage, decomposition products, consumption levels, cancer, interpretation of data from clinical studies, quality of data, and labeling. In responding to the various issues raised by the objections, the agency incorporates by reference all materials in the administrative record (Docket Nos. 75F–0355 and 82F–0305).

B. Brain Damage

1. *Brain lesions and mental retardation.* Mr. Turner's objection has expressed concern about aspartame's potential for causing mental retardation, brain lesions, and other adverse behavorial and physiological effects, because of adverse responses to its component amino acids, phenylalanine and aspartate. The issue was raised by Mr. Turner (p. 2) at the hearing on the dry uses of aspartame and was fully

considered by the Board and the Commissioner. Thus, further hearing on this issue is unwarranted. The following discussion summarizes the agency's consideration of this brain damage issue and explains the basis for the agency's conclusion that aspartame has been shown to be safe.

Because the phenylalanine and aspartate constituents of aspartame are also constituents of normal dietary protein, any risk from aspartame ingestion would occur because of the exposure to these amino acids in excess of normal exposure from dietary sources.

Very high doses of aspartate given by gavage or injection have been associated with discrete lesions in the brains of rodents. However, when the same high levels of aspartate or aspartame are administered in the diet to rodents, plasma levels of aspartate do not reach the concentrations required to produce lesions in rodent brains (46 FR 38285 at 38287). Continuous, extremely high plasma levels of phenylalanine, the other constituent amino acid of aspartame, have been known to produce mental retardation in the fetus of phenylketonuric mothers and in infants with phenylketonuria (PKU). However, an adequate margin of safety exists between the levels of phenylalanine known to produce mental retardation and those resulting even from exaggerated exposure to aspartame in carbonated beverages.

The possibility of brain lesions and mental retardation resulting from the use of aspartame was one of the major issues raised by Mr. Turner in his objection to the regulation approving the dry uses of aspartame and was fully considered at the hearing. The Board concluded that the ingestion of aspartame at levels that would be higher than those expected from consumption of aspartame for dry uses and in carbonated beverages could not be expected to increase the incidence of mental retardation, brain damage, or dysfunction of neuroendocrine regulatory system (Board's decision at p. 39). Subsequently, the Commissioner again reviewed the available evidence regarding brain lesions in rodents associated with asparatate and mental retardation related to phenylalanine. The Commissioner concluded that an adequate margin of safety exists between the amino acid levels resulting even from exaggerated exposure to aspartame and those observed to produce brain lesions in the rodent and mental retardation in PKU-related conditions (46 FR 38285 at 38288).

This issue has already been thoroughly considered in the earlier proceeding leading to the approval of aspartame for dry uses and Mr. Turner was given a full and fair opportunity to present his views in the earlier proceeding. Moreover, Mr. Turner could have sought judicial review or administrative reconsideration of the Commissioner's decision on this point, but did not challenge it. Accordingly, he is now estopped from raising the issue without new evidence unavailable at the time of the earlier proceeding. His objection presents no new information on this issue. A hearing is not justified if no data and information are submitted to support the factual determination urged (21 CFR 12.24(b)(3)).

2. *Potential adverse behavioral effects.* The amino acids, phenylalanine, tyrosine (a metabolite of phenylalanine), and tryptophan serve as precursors in the biosynthesis of neurotransmitters in both the periphery and the brain. According to the objections (Turner, p. 4; Monte, p. 5), the data submitted by Dr. Wurtman require the agency to hold a hearing to determine whether aspartame ingestion may alter the brain levels of these precursor amino acids and, in turn, neurotransmitter function, thereby leading to potentially adverse behavioral effects.

Although theories have been postulated to correlate changes in neurotransmitter function with cognitive or affective behavior, the state-of-the-art is such that little definitive evidence is available to support such relationships.

The data submitted by Dr. Wurtman (Ref. 1) in his comments on the carbonated beverage petition demonstrate increases in the plasma amino acid concentrations of phenylalanine and tyrosine in the human and rat following administration of large doses of aspartame to fasted subjects. The same data also demonstrate increases in the concentration of phenylalanine and tyrosine in the brain of the rat. Dr. Wurtman asserts that these increases in brain tyrosine and phenylalanine might result in changes in catecholamine neurotransmitters synthesized from these precursor amino acids. Drs. Wurtman (Ref. 2) and LaChance (Ref. 3) submitted comments that also postulated that these potential changes in neurotransmitters might lead to unpredictable behavioral effects, but submitted no evidence that would demonstrate that such behavioral effects have been observed or that they might plausibly be anticipated other than on the basis of the theories presented.

In the final regulation approving the use of aspartame for use in carbonated beverages, FDA discussed the data submitted by Drs. Wurtman and LaChance and the related literature on neurochemistry and behavior, and concluded that exposure to aspartame in foods would not result in adverse behavioral effects (48 FR 31376 at 31379–31380). After FDA had approved the use of aspartame in carbonated beverages, Dr. Wurtman submitted additional data in which he measured the levels of rat brain serotonin (5–HT) and its metabolite, 5-hydroxy-indoleacetic acid (5-HIAA) (Ref. 1). An increase in 5-HT and 5-HIAA occurring after high levels of glucose intake in fasted rats was blocked by concurrent administration of a high dose of aspartame. Dr. Wurtman suggested that this inhibition or "blockage" of glucose-mediated increases in brain levels of 5-HT and 5-HIAA by very high doses of aspartame, which he observed in animal studies, might mean that consumption of aspartame by humans could interfere with their normal pattern of carbohydrate consumption. Dr. Wurtman did not provide any evidence that the observed changes in brain 5-HT and 5-HIAA levels produced a change in the eating habits, preferences, or any other behavior of the animals tested.

FDA has reviewed the data dealing with the effect of aspartame in glucose-mediated changes in brain neurotransmitters that were submitted and has concluded that they are consistent with expected results following simultaneous administration of any food containing protein with glucose. The findings represent normal physiological variations in brain neurochemicals, which are a response to a specific dietary regimen, and thus would not be expected to be associated with adverse behavioral effects.

Drs. Wurtman and Lachance have developed interesting, but untested, hypotheses. The hypotheses do not, even if true, suggest that aspartame is not safe; they suggest merely that certain chemical changes may occur as the result of ingesting aspartame. For this reason, no purpose would be served by holding a hearing, because no issue of material fact is raised by the hypotheses. Moreover, even if the hypotheses raised an issue of material fact, a hypothesis, standing alone, does not justify a hearing in the absence of data on which to base a resolution of the issue raised. No such data are identified in Dr. Wurtman's submission or in the objections. FDA, therefore, denies the request for a hearing on these issues.

C. Decomposition and Reaction Products

There is a customary battery of toxicological tests in various animal

species that is required to demonstrate the safety of a direct food additive. These tests generally are familiar to sponsors of food additive petitions. To disseminate information about these tests further, the agency has developed and published a set of publicly available guidelines describing these tests "Toxicological Principles for the Safety Assessment of Direct Food Additives and Color Additives Used in Food" ("REDBOOK" (Ref. 4)). The "REDBOOK" also sets forth certain tests beyond the customary battery of tests that the agency requires if the chemical structure of the additive or some other factor suggests particular reasons for concern.

In support of its petition for the use of aspartame for dry uses, Searle performed a complete series of traditional toxicological studies involving laboratory animals to verify the safety of aspartame during chronic exposure (Ref. 5). The design of the studies meets or exceeds that stated in the "REDBOOK" guidelines. In addition, because a consumer could be exposed to significant quantities of aspartame on a daily basis, and occasionally to high levels of aspartame, the petitioner conducted clinical studies (studies in humans) that provided ample evidence of the safety of aspartame under predicted levels of chronic ingestion or unusual situations of high, acute exposure (Refs. 6 and 7).

Before FDA approved aspartame, Searle submitted, and FDA evaluated, more than the usual tests with respect to the decomposition of this food additive. Because it is not feasible to require manufacturers to test every decomposition product, the agency routinely does not require testing of all of them unless a particular decomposition product poses a safety question, or little is known about its toxicological profile.

With respect to the toxicity of diketopiperazine (DKP), a primary decomposition product of aspartame, Searle submitted data in support of its petition for aspartame's dry uses to establish DKP's safety (Ref. 8). The agency also anticipated that a safety problem might arise in the use of aspartame in carbonated beverages if DKP, in solution, formed nitrosamines. Accordingly, Searle submitted, and FDA evaluated, studies on the likelihood of nitrosamine formation from the use of aspartame in carbonated beverages (Ref. 9).

FDA was aware of significant scientific literature on the toxicity of the following components of aspartame: phenylalanine, aspartic acid, and methanol. The agency reviewed the safety data submitted by Searle in support of its petition for dry uses derived from animal and clinical studies and consumption studies, as well as the existing body of scientific data, and concluded that the studies demonstrated the safety of these components. The Board's decision at p. 20 and p. 38 and the Commissioner both concluded that these components are safe (46 FR 38285 at 38287).

The objections now contend that FDA has failed to dispose of the possibility that decomposition and reaction products created by the addition of aspartame to carbonated beverages and carbonated beverages syrup bases may make those products unsafe (Turner, II, p. 9).

1. *Unidentified and unsafe decomposition and reaction products.* The objections present no evidence to support their contention that unidentified decomposition products or reaction products of aspartame may be harmful (Turner, p. 9; Monte, p. 8). One objection refers to an abstract of a scientific talk which discusses the reactivity of aspartame with certain flavor components of food (aldehydes and ketones) (Monte, p. 9). Reactions between food components occur too commonly to warrant specific testing for each individual class of reaction or decomposition products. Food itself undergoes a number of reactions, for example, in cooking. As the agency pointed out in the final regulation approving the use of aspartame in carbonated beverages, the similarity of the basic dipeptide structure of aspartame to normal dietary protein provides an added measure of assurance of its safety in regard to reactivity with food components and its metabolic fate (48 FR 31376 at 31382). Because the objection has presented no data to support its concern, and because the agency has no independent basis for concern, there is no basis upon which to grant a hearing. The agency will not grant a hearing on the basis of mere unsubstantiated allegations. Further, in the absence of any data, the simple charge that there may be a safety issue regarding decomposition products calls into question the agency's policy regarding the threshold for requiring scientific testing of such products. This question is one of both policy and law, i.e., the proper legal interpretation of the safety standards of the act, and thus is not a proper issue for an evidentiary hearing.

2. *Inability to account for up to 30 percent of the sweetener.* The objection states that Searle is unable to account for as much as 30 percent of the sweetener, despite having analyzed for components expected in the usual breakdown pathways, and that a more complete breakdown occurs at temperatures above 30° C (86° F) (Turner, p. 10). As detailed in the preamble to the carbonated beverage rule, the petition for this use of aspartame included the results of extensive stability studies on carbonated beverages (48 FR 31376 at 31377). These experiments were performed with beverages stored at various temperatures for periods of up to 52 weeks. Four beverage flavors were analyzed for aspartame and five decomposition products at various intervals. Essentially all of the analyses of beverages stored at 30° C for up to 40 weeks accounted for 90 to 100 percent of the original added aspartame. The contention that 30 percent of the decomposition products are unknown is misleading, because it focuses on the results at high temperatures (40° C (104° F); 55° C (131° F)) in which the results of the analysis are not as complete as those at lower temperatures. The more complete breakdown at higher temperatures is not unexpected, and, more important, is not crucial to the determination of the safety of the breakdown products. The sum of the decomposition studies submitted with the aspartame food additive petition for use in carbonated beverages provided the necessary identification of the decomposition products and evidence of their safety. The objections present no evidence in support of the implied increase in risk from greater decomposition at the higher temperature, other than the contention that the decomposition products are "unidentified" and that higher levels of free methanol would be present. After evaluating the studies and the general body of literature on the subject, FDA concluded that there was no reason to believe that the additional decomposition products would be substantially different from those formed at lower temperatures (48 FR 31376 at 31377). The objection does not justify a hearing because it presents no evidence that calls into question the safety of these decomposition products. As discussed above in section III.C.1., the allegation that all decomposition products should be presumed to be unsafe and therefore tested raises a legal and policy issue and is not appropriate for resolution at a hearing. (The toxicity of the decomposition product methanol is discussed below.)

3. *Methanol ingestion from decomposed aspartame.* Both objections argued that aspartame's decomposition can result in exposure to adverse levels

of methanol, "a known poison," (Monte, p. 2) and that the metabolism of methanol in the body yields formaldehyde, "a known carcinogen" (Turner, p. 12) (see section III.E. below). The agency evaluated the safety issues related to the ingestion of methanol derived from aspartame in its evaluation of aspartame for dry uses and concluded that the levels of methanol resulting from the use of aspartame in carbonated beverages did not pose any safety issues because they were well below levels of exposure expected to produce toxicity (Ref. 10).

Dr. Monte's objection argued (1) that "free" methanol produced by the decomposition of aspartame in carbonated beverages is more toxic than "dietary" methanol formed by the metabolism of aspartame in the gastrointestinal tract because of the differences in metabolism and a more complete amount of absorption of "free" rather than "dietary" methanol; and (2) that the amount of "free" methanol absorbed as a result of aspartame consumption is of sufficient quantity to produce a "significant and rapid rise in methyl alcohol and formate levels in the plasma" (Monte, p. 4). The objections allege that these levels are of toxicological concern under acute or chronic use conditions, but they neither submitted nor referred to available data in support of that allegation.

a. *Free Methanol Is Not More Toxic Than Methanol Produced by the Metabolism of Aspartame in the Gastrointestinal Tract.* The objection proffered a hypothesis that the decomposition of aspartame to methanol or to any of its secondary metabolities prior to consumption poses additional safety questions regarding the continued use of aspartame in carbonated beverages, but provided no evidence to support that position (Monte, p. 3). FDA analyzed the methanol safety issue before the agency approved aspartame for dry uses and again in its evaluation of the petition for use in carbonated beverages (Ref. 10). The objection has presented no evidence of any kind to alter FDA's original evaluation. FDA cannot accept as a basis for conducting a hearing unsubstantiated hypotheses concerning issues the agency already satisfactorily resolved.

Metabolic studies performed in monkeys and submitted by Searle in support of its petition for aspartame for dry uses demonstrate that the overall metabolic disposition of the methanol moiety from aspartame is similar to that of methanol administered alone to monkeys (Ref 11). The methyl moiety appears to be rapidly and completely cleaved from aspartame in the gastrointestinal tract, and this methyl group is oxidized in essentially the same manner as "free" methanol. The only detectable difference in the pharmacokinetic properties between "free" methanol and "dietary" methanol derived from the hydrolysis of aspartame is a faster rate of absorption of the "free" methanol within the first hour. "Free" methanol is readily absorbed from the stomach whereas aspartame must pass into the small intestine before hydrolysis and absorption of the methanol can occur. This small difference in the rate of methanol absorption is not significant because the metabolism of methanol is slow and because the overall amount of methanol ultimately absorbed as a result of consumption of a given quantity of aspartame-sweetened beverage is the same.

Thus, there is no scientific basis for differentiating the "free" from the "dietary" methanol in analyzing the toxicological profile of aspartame. The agency evaluated the metabolism data early in its evaluation of the data in support of the dry use petition, and assumed that methanol was completely hydrolyzed from aspartame in the gastrointestinal tract (Ref. 11). Exposure to methanol from aspartame can be calculated on a one-to-one molar basis independent of the decomposition rate in carbonated beverages, which can vary with storage conditions. Therefore, an estimate of methanol exposure following ingestion of aspartame is provided by taking 10 percent of the weight of the aspartame dose. The objection submits no data that supports its position or discredit the agency's conclusions based on the earlier studies performed by Searle. Thus, there is no basis for granting the hearing request.

b. *The Amount of Free Methanol Absorbed from Aspartame Does Not Produce a Significant and Rapid Rise in Plasma Methyl Alcohol and Formate Levels.* One objection (Turner, p. 11) contended that FDA had incorrectly concluded that the level of dietary exposure to methanol is not of "prime importance" in assessing the safety of aspartame (48 FR 31376 at 31380). The objection did not, however, present evidence showing at what concentration methanol is toxic or that the consumption of aspartame would result in the consumption of toxic levels of methanol.

The agency does not believe that methanol exposure equivalent to 10 percent of the aspartame dose is of sufficient quantity to be of toxicological concern under acute or chronic use conditions. A study (Ref. 12) submitted by Searle in support of its petition for the dry uses of aspartame showed no detectable levels of methanol in the blood of human subjects following the ingestion of aspartame at 34 milligrams per kilogram (mg/kg) body weight (the 99th percentile level of projected ingestion across all age groups). Assuming complete hydrolysis after ingestion, this 34 mg/kg dose of aspartame is equivalent to a dose of 3.4 mg/kg body weight of methanol. The agency reviewed this study and others dealing with methanol toxicity prior to approving aspartame for dry uses and cited the data in the preamble to the final regulation approving the use of aspartame in carbonated beverages (48 FR 31376 at 31380).

Even following administration of an abuse dose of aspartame of 200 mg/kg body weight (equivalent to 20 mg/kg body weight of methanol or drinking more than 13 quarts of aspartame-sweetened orange soda) in a clinical study conducted by Searle, the mean peak blood methanol concentration reached only 26 mg per liter. The hearing request contains no evidence to suggest that even this level of methanol, consumed in free form, is toxic. Thus even if all aspartame in soft drinks decomposed prior to their consumption, the agency has no reason to believe any danger of methanol poisoning would exist. FDA remains convinced that the studies submitted by Searle in support of the dry use, and reviewed by FDA prior to the dry uses approval and again in its evaluation of the carbonated beverage petition, adequately support the agency's conclusion that there was "no cause for concern from the levels of dietary methanol resulting from the highest projected levels of aspartame consumption" (48 FR 31376 at 31381).

The agency has recently become aware, however, of clinical data that further buttress the agency's determination. Although FDA did not rely on these studies in approving the carbonated beverage petition, nor is it necessary to rely on the studies here, the agency believes that they present pertinent information that is consistent with that contained in the Searle data. This document discusses them to some extent. FDA has placed copies of the reports in the administrative record for Docket No. 82F–0305. Among these studies are some that indicate that the toxic effects of methanol are due to formate accumulation and not to formaldehyde or methanol itself (Refs. 13, 14, and 15). Formate is the oxidation product of formaldehyde which is itself formed from the metabolism of

methanol. In the Searle clinical study using abuse doses of aspartame equivalent to 20 mg/kg body weight of methanol, no significant increases were observed in plasma concentrations of formate, suggesting that the rate of formate production does not exceed its rate of urinary excretion. In fact, studies in human subjects given oral dosages of methanol of 71 to 84 mg/kg body weight showed no toxic effects with blood levels of methanol reaching 47 to 76 mg per liter 2 to 3 hours afterwards (Ref. 16). From estimates based on blood levels in methanol poisonings, it appears that the ingestion of methanol on the order of 200 to 500 mg/kg body weight is required to produce a significant accumulation of formate in the blood which may produce visual and central nervous system toxicity (Refs. 17 and 18).

The toxic doses of methanol (200 to 500 mg/kg body weight) are approximately one hundred times that ingested when aspartame is consumed at the 99th percentile level of projected chronic ingestion (10 percent of 34 mg/kg body weight aspartame, or 3.4 mg/kg body weight methanol). Moreover, orange soda, which may contain the highest concentration of aspartame in carbonated beverages (335 mg aspartame per 12 fluid ounces or 930 mg per liter), results in a lower methanol level (93 mg per liter) than that found in the average fruit juice (140 mg per liter) (Ref. 19). Under the most conservative assumption, the complete hydrolysis of aspartame to methanol, an adequate margin of safety exists for the use of aspartame in carbonated beverages. The consumption of aspartame would not result in toxicologically significant methanol and formate levels.

Finally, it is well known that much food contains significant quantities of methanol. In fruit juices, the average content of methanol is 140 mg per liter and grain alcohols (such as gin and whiskey) contain as much as 1,000 mg per liter (Ref. 19). Moreover, fresh fruits and vegetables also contain compounds that are metabolized in the body to methanol (Refs. 20 and 21). Normal metabolic processes such as purine and pyrimidine biosynthesis and amino acid metabolism require methyl groups from compounds like methanol (Ref. 22). It also appears that either methanol or formaldehyde may serve as precursors for the methyl groups in choline synthesis (Ref. 23).

The agency has concluded that, because the objection has failed to present evidence establishing at what level methanol is toxic and whether consumption of carbonated beverages containing aspartame would exceed that level, no hearing is required to reevaluate the significance of exposure to methanol from aspartame consumption. The objection submitted no data and the agency is aware of none in support of the objection's position. FDA will not grant a hearing on the basis of a mere allegation.

4. *Nitrosamines formation from DKP and toxicity of DKP.* The objections allege that the agency has "mischaracterized" and "failed to consider" data dealing with potential toxicity from DKP (Turner, p. 10) and has failed to assess the "potential danger" of nitrosamine formation by intestinal bacteria after prolonged exposure to DKP (Monte, p. 7).

a. *Nitrosation of DKP.* FDA reviewed studies conducted by Searle aimed at evaluating the nitrosation potential of aspartame and DKP before the original approval of aspartame in 1974. These studies attempted to form, under ideal conditions, the nitrosamines of aspartame and DKP and demonstrated that stable nitrosamine derivatives were difficult to form at a level detectable with the then current analytical methodology (Ref. 24). The study also demonstrated that nitrosamine derivatives of aspartame or DKP intermediates, formed under ideal laboratory conditions, were extremely unstable under physiological or aqueous conditions. Given these results, FDA concluded that it was most unlikely that any nitrosamines could remain in the gastrointestinal tract or in an aqueous solution, such as soft drinks, containing aspartame or DKP (Ref. 25).

The objections further contend that the agency has been remiss in not reexamining the nitrosamine issue, employing more sensitive, modern analytical methodology. In support of this contention, one objection (Monte, p. 7) cites a recent publication describing the low level detection at parts per billion levels of structurally unrelated nitrosamines in malt beverages. The objection offered no evidence that the formation of nitrosamines in malt beverages has any possible relevance to structurally dissimilar nitrosamine formation in soft drinks containing aspartame. Nor did the objection present any evidence to rebut the data submitted by the petitioner that these compounds cannot be readily formed in aspartame. The agency therefore concludes that no hearing is required because the objection did not provide any evidence to refute the previous safety determination on nitrosamine formation. Thus, the objection states an allegation, but raises no issue of fact on which to base a hearing.

b. *Toxicity of DKP.* An additional issue raised by the objection was that FDA had "mischaracterized" the results from Lederer's study on DKP and that the agency had "failed to consider adequately the concern" for fetal toxicity (Turner, p. 10). The teratology and reproduction studies conducted by the petitioner in support of its petition for dry uses of aspartame rebut that position (Ref. 25). Moreover, the agency notes that Dr. Lederer acknowledged, prior to the publication of the carbonated beverage rule, that "the conclusions of my work are concordant with those of the U.S.A." (Ref. 26; see also the discussion at 48 FR 31376 at 31380). Consequently, the agency also finds that the objections raise no material issue of fact with regard to potential embryotoxicity, but make an unsupported allegation. FDA will not hold a hearing based on a mere allegation.

D. Consumption Levels

Mr. Turner's objection alleges that in concluding that aspartame was safe for carbonated beverage use, the agency improperly estimated consumption levels of aspartame because (1) FDA failed to include additional individuals likely to consume carbonated beverages; (2) FDA based consumption levels on understated or nonexistent calculations; (3) the use patterns on consumption in the petition were not correct; (4) FDA did not consider the consumption of products containing aspartame at the three main meals; (5) FDA did not include consumption of aspartame in hot weather in the estimate; (6) FDA used the "gross national population consumption formula" to calculate consumption; (7) intake greater than the previous acceptable daily intake is unsafe (Turner, pp. 19–23).

Various consumption estimates, including estimates of aspartame exposure resulting from the consumption of carbonated beverages containing aspartame, were exhaustively considered by the Board's decision at p. 14 to p. 22 and by the Commissioner in his final decision approving aspartame for dry uses (46 FR 38285 at 38289–38290). Mr. Turner argued in the earlier proceeding that the consumption levels were underestimated and the Board and the Commissioner considered but rejected these arguments. Thus, Mr. Turner has been given a full opportunity to present his views on consumption.

FDA believes further that the objection demonstrates a basic misunderstanding of how the agency

calculates the estimated daily intake (EDI) of food additives, and how these dietary exposure estimates relate to the acceptable daily intake (ADI) of the additive. The agency is therefore discussing the important principles used to develop consumption estimates.

The EDI is a measure of chronic dietary exposure of the additive from all food sources in which it is used; it is the day-in and day-out estimated intake over a particular span of an individual's lifetime. The ADI is the amount of a compound that can be safely consumed each day on a chronic basis; it is derived primarily from chronic toxicological studies in animals. Levels of consumption may occasionally rise above or fall below the EDI. Daily carbonated beverage consumption, for example, may be greater in hot weather. The important safety issue is whether the EDI exceeds the ADI. Both of these figures may change as chronic consumption patterns change. The EDI will increase as the use of the additive is extended to other food categories, and the ADI may be revised as more toxicological information is evaluated. For example, prior to the approval of the use of aspartame in carbonated beverages, the agency increased the ADI from 20 to 50 mg/kg body weight, because additional toxicological data from clinical studies submitted by the petitioner demonstrated that the new level was safe (Ref. 10).

The allegations that FDA failed to include additional individuals likely to consume carbonated beverages, that carbonated beverage consumption was understated or that consumption calculations do not exist are simply untrue. Searle and FDA calculated the maximum EDI of aspartame during the proceedings leading to the approval of aspartame for dry use and again during the evaluation of the carbonated beverage petition using three different methods. FDA reviewed each of these estimates (46 FR 38285 at 38289; 48 FR 31376 at 31377). Each of the EDI exposure estimates, including the 34 mg/kg body weight estimate ultimately accepted by the Commissioner (46 FR 38285 at 38290), explicitly included aspartame intake from carbonated beverages or was even broader in scope. (See 46 FR 38289–38290 for a complete discussion of consumption levels.) One estimate assumed that aspartame replaced all sucrose in the diet of an average male, and another assumed that aspartame replaced all carbohydrate in that diet.

The objection alleges that the patterns of consumption in the petition were not correct but submitted no data to show that actual use patterns differ from those calculated by Searle and FDA. FDA calculates dietary exposure estimates of new direct food additives by applying data on food consumption, as established by surveys, and data on the concentration of the additive in foods. The data submitted by Searle dealt with all aspects of aspartame consumption including consumption with other foods, such as the three main meals. In its petition for carbonated beverage approval, Searle included a new calculation that relied on the most recent survey data compiled by the Market Research Corp. of America (MRCA). MRCA survey data are compiled from dietary records kept throughout the year by 4,000 U.S. households. Estimates using MRCA data are based on the foods actually eaten by people in various age brackets and include data from both average and heavy users in particular food categories. Prior to approving aspartame for use in carbonated beverages, the agency reviewed the Searle calculation and computed its own values for aspartame exposure from all foods (Ref. 27). The agency's evaluation specifically recorded the percentage increases in estimated aspartame exposure resulting from carbonated drink consumption, and concurred with the petitioner's method of calculation, but restated the exposure estimate to reflect "eaters only." This estimate of EDI is based on those people who actually consume the product and maximizes EDI figures for any particular age group, because it does not average in the nonconsumer in the survey population.

On an occasional day, for example in hot weather, intake levels of aspartame may exceed the ADI. However, this occasional excess would not result in chronic intake above the ADI. Whether it is safe to ingest levels of a substance on some days in excess of the established ADI depends on how acutely toxic the additive is. Clinical tests of aspartame at doses of 200 mg/kg body weight, which exceeds the ADI, were performed and submitted by Searle in support of its petition (Ref. 6). In these studies, the acute effect of the ingestion of single doses of 200 mg/kg of aspartame on blood levels of amino acids and methanol were found to be well below toxicological levels of concern (48 FR 31376 at 31381). Thus, Mr. Turner's observation that the consumption of six cans of beverage containing aspartame on a hot day will result in exposure that exceeds the ADI is not a credible basis for alleging that the agency has "understated" consumption levels (Turner, p. 21). The consumption by a 20 kg child of six 12-ounce cans of orange beverage sweetened with aspartame would result in an exposure of 100 mg/kg of aspartame, which is well below the 200 mg/kg dose administered in Searle's clinical study without any sign of acute toxicity (Ref. 6) and even further below the levels of toxicological concern. (Six 12-ounce cans of orange beverage sweetened with aspartame (.93 mg per milliliter) would contain approximately 2,008 mg of aspartame.) Accordingly, the objection fails to present credible evidence raising a material issue of fact. The objection is also based on a demonstrably false premise.

As discussed above, the agency has estimated that the highest likely chronic consumption of aspartame per day would be 34 mg/kg body weight. The objection contended that aspartame consumption will not always occur in a "throughout the day" pattern, but would occur principally in large doses, that is, at meals when individuals are most likely to consume food and aspartame-containing beverages at the same time (Turner, p. 20). The agency does not regard the possible consumption of aspartame in a single large dose as posing any safety problem whatsoever. During the evaluation of the petition for the dry uses of aspartame, the agency analyzed the toxicity from acute exposure to aspartame. FDA relied upon a study in which high single doses of up to 200 mg of aspartame per kg of body weight were given to human subjects (Ref. 6). With respect to acute toxicity, the pattern of aspartame ingestion over the day is not important as long as the total amount ingested per day does not exceed the 200 mg/kg level shown to be safe.

Finally, FDA is not familiar with the term "gross national population consumption formula" mentioned in the objection and is unable to determine its relevance to the issue of aspartame consumption (Turner, p. 22). Presumably, the objection is suggesting that FDA should adopt an entirely new policy regarding estimates for food additive consumption instead of its current policy, which is described above and is used in estimating the projected consumption of food additives. The current policy and possible alternatives to it are not at issue in this proceeding, nor are they proper issues for a formal evidentiary public hearing. Moreover, the objection presents no evidence describing this proposed new consumption formula, or establishing its validity.

FDA is denying the request for a hearing on the consumption issue for a

number of reasons. First, Mr. Turner was a party to the earlier proceeding in which consumption estimates were an important issue. He raised essentially the same consumption issue there. The Board's decision at p. 14 to p. 22 and the Commissioner's decision (46 FR 38285 at 38307) each discussed the matter and ruled against Mr. Turner's objection. Mr. Turner could have sought judicial or administrative review of the earlier decision. He did not do so. He cannot now complain, because he has had a full and fair opportunity to present his views and be heard. Moreover, his objections present no data in support of his position.

E. Carcinogenicity Potential of Aspartame and its Metabolites

1. *Aspartame's potential for causing brain tumors.* Mr. Turner objects to the approval of aspartame for use in carbonated beverages because "the Commissioner and the agency have not adequately dealt with the recommendation of the Public Board of Inquiry that approval of aspartame be withheld pending results from further oncogenic studies with the additive" (Turner, p. 15). Interpretation of the results of the chronic rat feeding studies designed to determine aspartame's potential for causing brain tumors was one of the major scientific issues before the Board, and consequently one of the most comprehensively deliberated issues bearing on aspartame's safety. The Board found that the results of these tests were not sufficiently conclusive and recommended that approval of aspartame be withheld pending results from further oncogenic studies with the additive (Board's decision at p. 49). The Commissioner disagreed with the Board's findings and concluded that there was a reasonable certainty that aspartame does not cause brain tumors in rats (46 FR 38285 at 38295). Mr. Turner was a party to that earlier proceeding and made the same objection to the regulation approving dry uses of aspartame. He recieved a formal hearing on that objection. Mr. Turner now contends that the Board's findings, rather than the Commissioner's findings, were correct. Mr. Turner's current objection did not, however, submit any new data on this issue.

In his final decision (46 FR 38285 at 38295), the Commissioner explained why he disagreed with the Board's findings that more studies were needed on the carcinogenic potential of aspartame. This decision is supported by the record which included not only the three chronic studies before the Board but also negative results observed in a subsequent animal study not available to the Board (Ref. 28).

The administrative record shows that the approval of aspartame in supported by a complete series of toxicological tests in animals. These studies have been thoroughly reviewed by FDA scientists. Based on that review and for the reasons stated in the Commissioner's decision, the agency reaffirms the conclusion that there is a reasonable certainty that aspartame does not cause brain tumors in rats.

Mr. Turner had a fair opportunity to present his arguments and have them fully considered in the proceeding leading to the approval of aspartame for dry uses. He had an opportunity to challenge the Commissioner's decision in the Court of Appeals. He chose not to do so, and is thus estopped from relitigating the issue in the absence of new evidence. He has presented no new evidence in support of his position here, and thus has raised no material issue of fact that justifies a further hearing in this proceeding.

2. *Uterine polyps in rats.* Mr. Turner's objection states that "* * * neither the Commissioner nor the agency has recognized 'precancerous polyps' in the approval of aspartame for use in carbonated beverages" (Turner, p. 34). The polyps in question originated in the uteri of rats chronically administered the diketopiperazine-derivative of aspartame (DKP) for 2 years (Ref. 29). The study data in question were submitted to the agency in support of Searle's original food additive petition for aspartame. Subsequently, as a result of FDA's concern over the issue, the agency referred the raw data to four independent teams of pathologists at FDA, the Massachusetts Institute of Technology, the Armed Forces Institute of Pathology, and G.D. Searle for review. Prior to convening the Board, those teams identified cystic endometrial hyperplasia, which is commonly referred to as uterine polyps, as the most common lesion. Cystic endometrial hyperplasia occurs in aging rats spontaneously and is most commonly associated with age-related endocrine disturbances. Uterine polyps are considered to be a localized form of endometrial hyperplasia and have no tendency to undergo malignant transformation and, therefore, are not considered precancerous in nature (Ref. 30).

The Searle study also supports a safety factor of about 1,000 with respect to the induction of uterine polyps. Thus, the agency concludes that the possibility that uterine polyps will occur as the result of aspartame ingestion is very remote (Ref. 29).

Because the polyps were not considered precarcinogenic, they were not an issue specifically addressed by the Board and the Commissioner. Nonetheless, Mr. Turner could have raised the issue at the hearing or before the Commissioner. He could have sought judicial review of the Commissioner's decision, but did not. He has had an adequate opportunity to be heard.

3. *Carcinogenic potential of formaldehyde.* The objections stated that there are no studies available for FDA to use in assessing the chronic toxicity and carcinogenic potential of methanol and formaldehyde formed from methanol metabolism in the body (Monte, p. 4; Turner, p. 12).

The agency does not agree with this assertion. In its original submission to FDA in support of the use of aspartame for dry uses, Searle included the results of chronic feeding studies of aspartame in the dog, the mouse, and the rat (Ref. 31). The results of another chronic study that corroborate the Searle study are available through the open literature (Ref. 28). One of the major objectives of this type of chronic study is a comprehensive histopathological examination of virtually all organ systems in order to assess both the chronic toxic and carcinogenic potential of the administered compounds.

Before approving the original petition for aspartame for dry uses, FDA analyzed the chronic feeding studies and concluded that aspartame was safe. Although these studies were designed to assess the toxicity and potential carcinogenicity of aspartame, they also tested the toxicity and potential carcinogenicity of aspartame's metabolites. The metabolic studies submitted by the petitioner demonstrate that all ingested aspartame is broken down in the gastrointestinal tract into its constituents, aspartic acid, phenylalanine, and methanol. Because the aspartame molecule is 10 percent methanol by weight and because the dosages used in the chronic studies were quite high (rat: 1 to 8 g/kg body weight, mouse: 1 to 4 g/kg body weight, and dog: 1 to 4 g/kg body weight), the exposure of these species to methanol in these four chronic studies was as high as 400 to 800 mg/kg body weight per day, a very significant dose. Based on an ADI for human exposure of 50 mg of aspartame per kg body weight per day (or 5 mg/kg body weight of methanol), these doses represent an 80- to 160-fold exaggeration of methanol exposure in the chronic animal studies when compared with the very high but

conceivable levels of human exposure to methanol through aspartame ingestion.

The Searle studies also ensured comparable dosages and durations of exposure to formaldehyde, because, as discussed above, methanol is metabolized to formaldehyde on a one-to-one molar basis. Thus, contrary to the objections, both methanol and formaldehyde were thoroughly tested, and FDA reviewed the results of those tests prior to approving aspartame for dry uses.

The hearing request cites a recent study indicating that formaldehyde, administered intranasally to rats, produced carcinomas at the site of application—the nasal turbinates (Ref. 32). The site of the carcinomas strongly indicates that the neoplastic process is a localized, not a systemic, reaction to the known irritating and cytotoxic properties of formaldehyde. No increase in tumor incidence was observed at sites remote to direct exposure (Ref. 32). The same study supports the further conclusion that direct exposure to relatively high concentrations of formaldehyde gas is necessary before the carcinogenic process occurs.

In addition, there is another series of chronic studies in the scientific literature, which FDA considered prior to the approval of aspartame for dry uses, in which hexamethylenetetramine was administered in the drinking water in doses of 0.5 to 5 percent to three strains of mice for 80 weeks and to Wistar rats in drinking water at 1 percent for 104 weeks (Ref. 33). Because hexamethylenetetramine is broken down in the acid medium (Ref. 34) of the stomach to formaldehyde, these studies directly tested whether orally administered formaldehyde is carcinogenic (Ref. 33). In the hexamethylenetetramine studies, no evidence of carcinogenic activity was found in any of the test groups.

The fact that aspartame when ingested in doses up to 8 gm/kg body weight (800 mg/kg formaldehyde) produced no carcinogenic effect is strong evidence that formaldehyde exposure from the oral route of administration is without carcinogenic risk. Any question regarding adequacy of dosing from these studies is resolved by the results from the studies with hexamethylenetetramine where doses of up to 1,500 mg/kg body weight formaldehyde were ingested by mice and rats without any carcinogenic effect. Thus, the inhalation study is not appropriate for use in determining whether formaldehyde is a systemic carcinogen and in evaluating the safety of aspartame. There is no issue of fact, because it has been demonstrated that formaldehyde is not a systemic carcinogen. No hearing is required, because the objection does not submit sufficient evidence to raise a serious question about aspartame's systemic carcinogenicity. Although the agency does not believe that a hearing is justified in view of the hexamethylenetetramine studies, the objectors may request reconsideration as provided in 21 CFR 10.33 and are free to submit comments on the hexamethylenetetramine studies, or on any other studies that are or may become available.

4. *Two human cancers in clinical studies.* One of the objections claims that the Commissioner failed to assign sufficient significance in his decision approving aspartame for dry uses to the finding of two human cancers at the eleventh week of a 13-week study on aspartame (Turner, p. 17). One insulin-dependent diabetic developed an adenocarcinoma of the breast and one non-insulin-dependent diabetic developed a reticulosarcoma of the stomach.

The agency as well as a reviewing pathologist concluded that these types of cancer are associated with a pathological process requiring many months to years for development into a malignant phase. Therefore, the cancers arising in these two patients receiving aspartame were considered to be coincidental and unrelated to aspartame intake.

As with so many of Mr. Turner's objections, that issue was before the Board and the Commissioner in the earlier proceeding. Mr. Turner could have appealed the Commissioner's decision. That he chose not to do so means that he may not raise the issue again at this time. He has had an adequate opportunity to be heard, and no new hearing is required.

F. Interpretation of Data From Clinical Studies

Mr. Turner's objection alleges that FDA failed to give adequate credence to the potential for adverse reactions related to the use of aspartame observed in the clinical studies (Ref. 35). The objection pointed out that there were five times as many complaints reported by aspartame users as by the control group in that study (Turner, p. 22).

FDA did evaluate these results. The clinical study referred to in the objection was only one of several clinical studies, which included normal adults and children, as well as obese and diabetic adults, conducted by the petitioner and submitted to the agency in support of its petition on dry uses of aspartame (Ref. 7). Based on an analysis of the results from all these studies, FDA concluded that there was no evidence of any consistent or obvious pattern of specific complaints from aspartame use.

All the data from these studies were available prior to the earlier hearings. Mr. Turner could have raised the issue at the hearing or before the Commissioner but did not do so. He has had an adequate opportunity to be heard, and no hearing is required on the issue. Moreover, in the absence of any additional data bearing on the clinical study, Mr. Turner's objection constitutes nothing more than an allegation, and raises no material issue of fact upon which a hearing could he held.

G. Quality of Data

One objection claims that the research submitted by G. D. Searle should not have been relied upon for evaluating the safety of aspartame because the research was conducted in a flawed and inaccurate manner (Turner, p. 23). This issue was presented to the Commissioner in the earlier proceeding on the dry uses of aspartame and although decided adversely to Mr. Turner, he failed to seek judicial or administrative review of the issue. Although Mr. Turner is estopped from relitigating this issue a second time, the agency has nevertheless considered it and concluded that the quality of the data is adequate.

The agency believes that there has been an adequate confirmation of the quality of the studies to provide reliable evidence for the safety assessment of aspartame. In fact, a comprehensive review of the authenticity of the aspartame research data was performed on the 15 pivotal studies submitted by G. D. Searle. Three of these studies were audited by FDA and 12 by UAREP. This was a massive undertaking and took over 2 years to complete. UAREP concluded that the studies were authentic and, on December 13, 1978, submitted to FDA its 1,062 page report. The agency agreed with UAREP that those 12 studies, as well as the 3 studies which it had reviewed, were indeed authentic. In addition to determining the authenticity of these studies, the report by UAREP also contained detailed observations of how these studies were conducted.

Although UAREP, like the agency, noted some procedures and irregularities that warranted improvement, none were of such a serious nature as to invalidate an entire study. In view of the fact that the objection has provided no new information on the quality or design of Searle's data, the agency believes that it

is adequately addressed in the Commissioner's final decision on aspartame (46 FR 38285 at 38301).

H. Labeling of Food Containing Aspartame

One objection contends that foods containing aspartame are not adequately labeled, but provides no information to support the position that current requirements are insufficient (Monte, p. 10). Current regulations require that the label of any food containing aspartame shall bear a prominent and conspicuous notice to phenylketonurics that the product contains phenylalanine.

No other susceptible consumer group has been identified by the objection, nor has it identified the "substantial dangers" (Monte, p. 10) posed by the regulated uses of aspartame. Accordingly, the agency concludes that the issue raised is one of policy, not fact, and is not resolvable by a hearing.

V. Summary and Conclusions

Under 21 CFR 170.3(i), the safety of a food additive means that there is a reasonable certainty in the minds of competent scientists that the substance is not harmful under the intended conditions of use. FDA's regulations reflect the Congressional judgment that the additive must be properly tested and the tests carefully evaluated, but the additive need not, indeed cannot, be shown to be safe to an absolute certainty. As the House of Representatives Report on the Food Additives Amendment stated:

> Safety requires proof of a reasonable certainty that no harm will result from the proposed use of the additive. It does not—and cannot—require proof beyond any possible doubt that no harm will result under any conceivable circumstance.

H.R. Report No. 2284, 85th Cong., 2d Sess., 1958.

Aspartame has been exhaustively tested for safety and the data have been reviewed by the agency over the course of 11 years. In addition, FDA referred portions of the safety on aspartame to outside groups of scientists for additional review, prior to approving aspartame for dry uses. The safety testing conducted for aspartame surpasses the testing requirements for direct food additives developed by the agency and set forth in its "REDBOOK" (Ref. 4). As discussed in Section I. above, the safety issues associated with the dry uses of aspartame were the subject of additional scrutiny at a hearing before the Public Board of Inquiry conducted by three scientists. Finally, the Commissioner reviewed the safety issues and the Board's conclusions on them so that he could reach a final decision on the safety of aspartame for dry uses.

After reviewing all the points raised in the objections, FDA concludes that the following issues were fully dealt with in the earlier proceeding leading to the approval of aspartame for dry uses: brain lesions and mental retardation, consumption levels, aspartame's potential for causing brain tumors, uterine polyps in rats, two human cancers and other alleged adverse reactions in clinical studies, and the quality of Searle's safety data submitted in support of the dry uses of aspartame. In the current proceeding, Mr. Turner submitted an objection covering each of these points even though, as had been pointed out before, he was a participant in the earlier proceeding. He had the opportunity to present evidence before the Board of Inquiry; he had the opportunity to question participants in that hearing; and he had the opportunity to and did file exceptions to the Board's findings. He also had the opportunity to appeal the Commissioner's decision on the dry use petition to the Court of Appeals as provided by section 409(g)(1) of the act (21 U.S.C. 348(g)(1)) or to petition for administrative reconsideration under 21 CFR 10.33. He has thus had a full and fair opportunity to present his case and have it considered in the proceeding on the dry uses of aspartame. No more is required.

The objections in the current proceeding have raised some points that present issues of law and policy, not issues of fact, specifically the allegations concerning safety testing requirements for decomposition products, consumption estimates, and labeling requirements. As explained in the specific sections discussing these points, FDA will not hold a hearing where the objection raises only issues of law or policy because these kinds of issues are not proper for resolution at a hearing.

One objection argued that because formaldehyde produced tumors at the site of administration (intranasally) in rats, FDA could not properly conclude that this metabolite of aspartame was not a systemic carcinogen. The objection offered no additional data, other than the reference to the intranasal study, that could be relied upon to solve the issue at a hearing. Considered in its factual setting, this study is inadequate to justify a conclusion that formaldehyde is a systemic carcinogen. FDA will not grant a hearing if the material submitted, even if accurate, is insufficient to justify the factual determinations urged.

Finally, the objections made a number of unsubstantiated allegations, specifically that aspartame might cause potential adverse behavioral effects, that various decomposition products of aspartame may be toxic, that the consumption estimates of aspartame are inaccurate, and that aspartame may cause cancer. In each of these cases, the objections have proferred no data on which a meaningful hearing might be based. Thus, no hearing is required on those issues.

For the reasons stated in this conclusion and in the discussion above, FDA is denying the objections and requests for a hearing.

Dated: February 17, 1984.

Mark Novitch,

Acting Commissioner of Food and Drugs.

Appendix—References

The following information has been placed on display in the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, and may be reviewed in that office between 9 a.m. and 4 p.m., Monday through Friday.

1. Letter from R. J. Wurtman to Sanford A. Miller, July 21, 1983.

2. Wurtman, R. J. letter to the editor, *New England Journal of Medicine*, 309:429–430.

3. Letter from P. A. LaChance to Anthony Brunetti, December 2, 1982.

4. Food and Drug Administration, "Toxicological Principles for the Safety Assessment of Direct Food Additives and Color Additives Used in Food," Federal Register of October 15, 1982 (47 FR 46141).

5. Kokoski, C. J., Transcript of Aspartame Public Board of Inquiry, Vol. 1, January 30, 1980, pp. 16–24.

6. Stegink. L. D., M. C. Brummel, K. McMartin, G. Martin-Amat. L. J. Filer, Jr., G. L. Baker, and R. R. Tephly, "Blood Methanol Concentrations in Normal Adult Subjects Administered Abuse Doses of Aspartame," *Journal of Toxicology and Environmental Health*, 7:281–290, 1981.

7. Food Additive Master File 134, Studies E–60, E–61, E–64, E–65, and E–67.

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9. Food Additive Master File 134, Studies E–50, E–68, and E–71.

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[FR Doc. 84–4744 Filed 2–17–84; 12:48 pm]

BILLING CODE 4160–01–M

federal register

Wednesday
February 22, 1984

Part VII

Department of Energy

Office of Secretary
Economic Regulatory Administration

Natural Gas Imports; Policy Guidelines and Delegation Orders; Procedural Orders

DEPARTMENT OF ENERGY

Office of the Secretary

New Policy Guidelines and Delegation Orders From Secretary of Energy to Economic Regulatory Administration and Federal Energy Regulatory Commission Relating to the Regulation of Imported Natural Gas

AGENCY: Department of Energy.

ACTION: Issuance by the Secretary of Energy of new policy guidelines and delegation orders, superseding current delegation orders, to the Administrator of the Economic Regulatory Administration and to the Federal Energy Regulatory Commission relating to importation of natural gas.

SUMMARY: These new delegation orders and policy guidelines are the result of a review of the federal government's policies and procedures for regulating the importation of natural gas into the United States. The guidelines set forth a new policy direction for gas import arrangements and provide the basis for authorizing import arrangements through revised regulatory procedures. The policy emphasis is on import agreements structured to supply natural gas to American consumers at competitive prices and responsive to changes in the markets served. The revised regulatory procedures are designed to implement the policy guidelines.

Modifications are made to the regulatory responsibilities for gas imports shared by the Economic Regulatory Administration and the Federal Energy Regulatory Commission. These are set forth in new delegation orders from the Secretary of Energy to the ERA Administrator and the Commission.

Introduction

The United States presently imports approximately 5 percent of its natural gas. Although this percentage is small on a national basis, certain regions of the country are dependent on imported gas for over 50 percent of their needs. While the quantity of gas imported into the U.S. has dropped significantly during the recent period of surplus domestic gas deliverability, imported gas will likely be increasingly required over the longer term to supplement domestic gas production. Most industry projections suggest a growing demand for imported gas later in this decade.

Natural gas is currently imported from Canada, Mexico, and Algeria. In 1983, 78 percent of imported gas came from Canada, 14 percent from Algeria, and 8 percent from Mexico. Most import contracts are relatively long-term, with some involving significant capital investment for transportation systems and related facilities. These costs, along with higher prices charged by gas exporters, have generally resulted in imported gas being more expensive than domestic natural gas.

Pipelines were willing to pay the higher cost of imported gas, until recently, because the higher cost imports were combined with substantial volumes of less expensive, price-controlled domestic gas in pipeline systems. In fact, many long-term import contracts were negotiated by U.S. pipelines on the assumption that lower priced domestic gas would continue to be available to offset higher cost imports and that competing oil prices would continue to rise. The Natural Gas Policy Act of 1978, which established a new system of price controls on domestic gas, reinforced the economic rationale of long-term import arrangements for high-priced gas. These economic factors, along with the determination of U.S. pipeline companies to protect against recurrence of the gas shortages experienced in the 1970's, were the major impetus behind many import arrangements in effect today.

Few foresaw five years ago the gas deliverability surplus that exists in the United States today. The effects of the economic recession, falling world oil prices, conservation efforts, and the increasing ability of industry to switch between oil and gas have lowered the demand for natural gas. This decreased demand—combined with long-term contracts containing high take-or-pay requirements for expensive domestic and imported gas, and the pricing regulations of the NGPA—has had severe economic consequences for the American gas consumer.

The cause of the situation can be traced to government regulation. In particular, wellhead price controls imposed by the NGPA, with 28 categories of gas at different prices, have thwarted the effects of supply and demand that otherwise would force competitive pricing and supply arrangements. Legislative proposals to reform the NGPA are currently before the Congress, and the Administration has proposed—and supports—legislation that removes price controls on gas and allows market forces to operate.

In its efforts to deregulate natural gas, the Administration has considered the question of legislative or administrative action affecting imported gas and has held the position that U.S. governmental action requiring changes to existing gas import contracts is inappropriate. While it is recognized that many import arrangements are similar to domestic supply contracts, with inflexible take-or-pay and pricing terms, important distinctions exist between international and domestic contracts that require a different approach to the problems associated with gas imports.

The foremost distinction is the matter of jurisdiction. Gas import arrangements are international commercial agreements, subject to the policies and laws of both the buyer's and the seller's governments. United States trade policy strongly supports contract sanctity as an important factor in international commercial transactions. Unilateral legislative or administrative action by the government to change agreements undermines this policy and the long-standing principles generally adhered to by this country in conducting trade.

Another distinction is the long-term need for, and reliance on, imported gas the the United States. While the U.S. is now experiencing a domestic gas deliverability surplus, the situation will likely change in the future. Governmental action that, in effect, unilaterally renegotiates gas import contracts to the short-term advantage of the U.S. could jeopardize gas import supplies when the demand for imported gas increases in the future.

The inappropriateness of unilateral governmental action to modify existing import arrangements does not argue against the need for changes. There is ample evidence that most imported gas is not competitive in the markets served, placing a heavy financial burden on U.S. gas consumers. Present import arrangements have all been subject to U.S. government regulatory review and authorization pursuant to provisions of the Natural Gas Act under policies of the former Federal Power Commission and, since 1977, the Department of Energy. The decisions on import applications issued by the FPC and the Administrator of the Economic Regulatory Administration (under authority delegated by the Secretary of Energy) have constituted governmental policy on natural gas imports.

In view of today's changed circumstances and the need to establish natural gas trade on a market-competitive basis, it is appropriate that the previous policies be assessed and policy changes be made, as needed. The policy guidelines set forth here are designed to establish natural gas trade on a market-competitive basis and to provide immediate as well as long-term benefits to the American economy from this trade.

The application of the policy to gas import regulatory proceedings is also set forth, as are changes in the regulatory responsibilities for imported gas shared by the Economic Regulatory Administration and Federal Energy Regulatory Commission. The Department of State, with its primary responsibility for foreign policy, will continue to be consulted on the foreign policy aspects of gas import regulatory decisions.

Gas Imports Policy Goal

The goal of these policy guidelines conforms with the goal of the President's 1983 National Energy Policy Plan " * * * to foster an adequate supply of energy at reasonable costs." The U.S. government has adopted two strategies to achieve this goal:

- To minimize federal control and involvement in energy markets, and
- To promote a balanced and mixed energy resource system.

The government's objective in the area of natural gas imports is that a supply of gas supplemental to domestic production be available to the American consumer at competitive prices, while avoiding undue dependence on unreliable sources of supply.

The market, not government, should determine the price and other contract terms of imported gas. U.S. buyers should have full freedom—along with the responsibility—for negotiating the terms of trade arrangements with foreign sellers. The federal government's primary responsibility in authorizing imports should be to evaluate the need for the gas and whether the import arrangement will provide the gas on a competitively prices basis for the duration of the contract while miminizing regulatory impediments to a freely operating market. In addition, the government must determine that the U.S. does not become unduly dependent on unreliable supplies.

The policy and regulatory guidelines herein will accomplish several important objective. First, they outline the basis upon which the federal government, to the extent that it regulates natural gas trade, concludes that future gas trade should be conducted. Suppliers of imported gas, and governmental authorities regulating the export of this gas, will have the benefit of knowing the policy and regulatory considerations that will be applied by this government in authorizing gas imports.

Second, the guidelines establish a regulatory framework for buyers and sellers to negotiate contracts based on traditional competitive and market considerations, with minimal regulatory constraints and conditions. The government, while ensuring that the public interest is adequately protected, should not interfere with buyers' and sellers' negotiation of the commercial aspects of import arrangements. The thrust of this policy is to allow the commercial parties to structure more freely their trade arrangements, tailoring them to the markets served. Thus, with the presumption that commercial parties will develop competitive arrangements, parties opposing an import will bear the burden of demonstrating that the import arrangement is not consistent with the public interest.

Third, the regulatory procedures and process are being simplified and rendered more expeditious, permitting prompter government review of proposed import arrangements.

Background on U.S. Gas Imports

In 1938 the Congress passed the Natural Gas Act, which assigned the Federal Power Commission responsibility, under section 3, for authorizing imports and exports of natural gas. The FPC was required to grant import and export authorizations unless it determined that they would "not be consistent with the public interest." Prior to the 1950's, imports of gas were negligible, with section 3 proceedings primarily involving gas exports.

In the early 1950's, the FPC started to authorize gas imports from Canada and Mexico. Imports from Mexico began in 1952, reaching about 50 Bcf annually in the mid-sixties, and by 1982, nearly 100 Bcf annually. Imports from Canada in the early 1950's were small, amounting to approximately 3 Bcf per year. The demand for Canadian gas increased, however, with annual imports in the 1970's averaging approximately 900 Bcf. Canadian gas exports in 1983 amounted to 713 Bcf, representing 78 percent of all U.S. natural gas imports.

Until the mid-1970's, the price for Canadian gas was negotiated by U.S. buyers and Canadian sellers on a cost-of-service basis.(*1*) The prices negotiated differed depending on the point of importation and market factors. The Canadian government, however, maintained the requirement of government approval of gas export prices.

As the volume of gas exports increased in the mid-1970's, the Canadian government took a more active pricing role, with the National Energy Board requiring exported gas to be priced "in relation to energy alternatives in the United States." (*2*) In 1973, after finding that gas exports were under-priced in relation to alternative fuels in the U.S., the NEB pursuaded exporters to increase prices, and in 1975, directed price escalations that increased the average border price from $1.00 to $1.60 (Cdn) per MMBtu. This development essentially ended the pricing of Canadian gas through buyer-seller negotiations.

In 1976, the NEB proposed a further increase in the average border price together with differentiated border prices set by the Canadian government that significantly raised the costs to U.S. customers. With the government of Canada now acting as a single seller of Canadian pipeline gas to the United States and about to unilaterally impose a system of differential border prices, the U.S. government objected. In a series of government-to-government consultations, the United States strongly opposed the price increases and the manner in which they were being determined without reliance upon buyer-seller negotiations. Rather than accept differential prices determined by the Canadian government, the U.S. proposed the concept of a uniform border price, which the Canadian government adopted in June 1976.

By April 1977, Canada had become a substantial net importer of crude oil, and the NEB determined that exported gas would be priced on the basis of the cost of displacing imported crude oil in Eastern Canada with Canadian gas. This concept—called "substitution value"—became the main criterion for the Canadian government's determination of the export price of gas. Because of the rapid escalation of the price of imported oil in the late 1970's, the NEB, using the substitution value concept, raised the border price six times between 1977 and 1981—from $1.94 (Cdn) to $4.94 (U.S.) per MMBtu.(*3*) These increases were approved by U.S. regulatory agencies because of rising prices of alternate fuels in the U.S.

Also in 1977, the Department of Energy Organization Act was passed by Congress. This Act abolished the Federal Power Commission and transferred authority over gas imports to the Secretary of Energy. The Secretary delegated primary responsibility for authorizing imports to the Administrator of the Economic Regulatory Administration. In reviewing gas import applications under section 3 of the Natural Gas Act, the ERA Administrator followed the guidelines set forth by the Secretary that required consideration of "the price proposed to be charged at the point of importation." (*4*) To this end, the Administrator assessed the reasonableness of the unit cost of an import on a case-by-case basis, using

the price of alternate fuels in the relevant geographic region as a basis for comparision.

When, in January 1980, the NEB announced an increase in the export price from $3.45 to $4.47 per MMTu, questions were raised by U.S. energy officials as to whether the Canadian substitution value approach resulted in reasonble prices to U.S. gas consumers. Discussions on this issue were held with Canadian energy officials in February 1980. On March 25, 1980, Canadian Energy Minister Lalonde proposed in a letter to U.S. Secretary of Energy Duncan a "Statement of Principles on Canadian Gas Export Pricing." This proposal suggested that Canadian gas exports be based on the average cost of crude oil imported into Eastern Canada, with certain transportation adjustments.

Secretary Duncan responded on March 26, 1980, that "To the extent the pricing mechanism * * * meets our regulatory requirements * * * [he] would support this mechanism for the pricing of Canadian natural gas." This exchange of letters constitutes what is now sometimes called the "Duncan-Lalonde agreement."

U.S. energy officials belived this understanding would result in greater price predictability and market stability. The Economic Regulatory Administration began using a national comparison test instead of comparing the import price with alternate fuels prices in a particular geographic region. The agency developed a composite alternate fuel oil price based on prices in major U.S. markets.(5) This method of measuring alternate fuels prices was considered appropriate when assessing a uniform border price for Canadian gas. It also provided gas importers guidance for use in negotiations with Canadian suppliers.

Near the time of the Duncan-Lalonde letters, new volumes of Mexican gas began to be imported. Uniformity in border prices for Canadian and Mexican gas was viewed by the U.S. as a desirable policy objective, and the ERA thus established a maximum authorized border price for Mexican gas equal to the Canadian border price.(6)

During the late 1960's and early 1970's, several American firms introduced plans to import liquefied natural gas from Algeria and Indonesia in the face of projected declines in U.S. gas supplies. Although Boston Gas Company occasionally imported Algerian LNG during the late 1960's, the Distrigas Corporation of Boston became the first regular LNG importer in 1971, with an authorization to import annually 15.4 million MMBtu from Algeria, primarily for winter peaking purposes in New England, New York, and New Jersey.

In early 1978 Columbia LNG Corporation, Consolidated System LNG Company and Southern Energy Company began to import approximately one Bcf per day of Algerian LNG for use in the mid-Atlantic and southeastern states. However, this project was suspended and effectively terminated in April 1980 when the parties failed to agree on price changes proposed by Sonatrach, the Algerian exporter. Several other proposed LNG import projects also were terminated, either after the ERA found that the pricing methods did not contain adequate consumer safeguards or because the projects encountered environmental opposition. On the other hand, the FPC authorized in 1977 an LNG import by the Trunkline LNG Company, which began in 1982 to import approximately 450,000 Mcf per day of Algerian LNG for base load use in the Midwest.

By the fall 1982, Canadian gas imports were entering U.S. pipelines in volumes and at a price that began to be uncompetitive in most U.S. markets. Consumers served by Canadian gas, as well as high-cost domestic gas and Algerian LNG, experienced large increases in the price of delivered gas. These circumstances were especially acute in the north central and western coastal states.

Late in 1982, informal discussions between the U.S. and Canadian governments began on problems relating to gas trade. These were followed by reactivation of the U.S.-Canadian Energy Consultative Mechanism (ECM), a forum established in 1979 by the governments for periodic exchanges on bilateral energy issues. A meeting of the ECM was held in February 1983, at which natural gas trade was a key agenda item; and following working group meetings and informal diplomatic discussions, a second ECM session was held in late September. At this second meeting, the U.S. proposed discontinuance of the uniform border price and the establishment of a new trade framework designed to put gas trade on a market-sensitive basis.

During 1983, the Canadian government announced three actions that affected the pricing of gas exports. In April it announced a reduction in the uniform border price from $4.94 to $4.40 per MMBtu and, in July, a price-discount arrangement, termed the Volume Related Incentive Pricing (VRIP) program, whereby gas purchased above certain base volumes is discounted to $3.40 per MMBtu.

A third action was taken on November 1, which involved changes to the VRIP program giving U.S. importers more flexibility in purchasing discounted gas.

Diplomatic efforts relating to imported gas from Algeria and Mexico were also undertaken in 1983. Officials from the departments of State and Energy held discussions with energy officials of the Algerian government, and although no governmental agreements or understandings encompass U.S.-Algerian gas trade, these discussions enabled both governments to review fully the current conditions and problems relating to their gas trade. Algerian officials received briefings on the U.S. gas market, the competitive position of Algerian gas, and U.S. policy direction with respect to domestic and imported gas. Similarly, U.S. energy officials met with Mexican officials in Mexico City in March 1983 to discuss U.S. gas market conditions. Mexico matched Canada's reduction of the border price from $4.94 to $4.40 per MMBtu on May 1, 1983.

During this period when the U.S. demand for imported gas dropped significantly, U.S. importers began efforts to renegotiate their contracts with foreign suppliers. These efforts resulted primarily in volume relief, providing substantial savings to U.S. gas consumers. Most recently, the importer of the largest volume of Algerian gas announced that effective December 12, 1983, it was suspending LNG purchases for an indefinite period. At this time, contract renegotiation activity between U.S. importers and foreign sellers continues, with some renegotiated contracts now before regulatory agencies for approval.

The Review of Gas Import Policy

During the past year an interagency review of U.S. gas import policy and regulations was undertaken involving the Department of Energy, Federal Energy Regulatory Commission, and Department of State, along with consultations with members of Congress and congressional staff. Public participation came primarily through two public conferences on imported gas sponsored by the Department of Energy.(7)

The first conference, held January 18, 1983, addressed problems of existing gas import arrangements. The majority of the conference participants—which included pipeline companies, distribution companies, end-users, state agencies, and consumer interests—asserted that a more flexible approach to pricing was needed, that prices

should be set by direct buyer-seller negotiations, and that governments should establish a simplified regulatory review process. Many indicated that load loss was a result of NGPA-allowed price rises, provisions of current contracts with high take-or-pay clauses and conservation effects from high gas costs—which could be reduced or reversed if buyers could negotiate more competitive prices and more reasonable take-or-pay provisions.

The second conference, held September 7–9, 1983, addressed specific issues relating to the implementation of policy changes recommended at the first conference. The majority of the nearly 90 presentations stated that the U.S. and Canadian governments should eliminate the uniform border price and develop a regulatory system that would allow for direct buyer-seller negotiations. General guidelines were favored over strict regulatory standards or criteria, with preference that the government maintain an oversight role to ensure that the interests of importers and their customers are protected.

The conclusions reached from the policy review process appear to be shared broadly by all interested parties to the gas trade issue. There is a common view that imported gas is generally not competitive in today's U.S. markets and that changes are required in governmental policy and regulations to bring about competitive gas trade. Buyers and sellers believe that government regulation prevents freely negotiated import arrangements and market-responsive adjustments to these arrangements. Virtually all parties believe that the governments, in regulating the terms and conditions of gas import trade, have previously sanctioned arrangements that are now uncompetitive in the marketplace.

Policy Guidelines

The U.S. policy goal for gas imports, as earlier stated, is to have a supply of natural gas supplemental to domestic production available on a competitive, market-responsive basis, while avoiding undue dependence on unreliable sources of supply. Government regulation of imports should facilitate trade arrangements consistent with this policy goal.

Section 3 of the Natural Gas Act requires the government to authorize an import of natural gas unless "the proposed importation will not be consistent with the public interest" (emphasis added).

Congress did not define "public interest," thus giving broad discretion to the government in establishing criteria that an importer must fail to meet for the government to deny an authorization to import. The policy guidelines herein are intended to provide a clear definition of public interest.

The policy cornerstone of the public interest standard is competition. Competitive import arrangements are an essential element of the public interest, and natural gas imported under agreements that provide for the sale of gas in volumes and at prices responsive to market demands largely meets the public interest test. On the other hand, import arrangements with contract terms and conditions that restrict the competitiveness of the gas over time should be considered, presumptively, not in the public interest.

This policy approach presumes that buyers and sellers, if allowed to negoitate free of constraining governmental limits, will construct competitive import agreements that will be responsive to market forces over time. The specific commerical terms and conditions of a particular arrangement should be negotiated by the parties pursuant to the discrete requirements of the buyer's market and not directed by government regulators. The government's role in authorizing such agreements should be to evaluate whether the arrangement assures the competitiveness of the import throughout the contract period and to provide a review process whereby affected parties have sufficient opportunity to demonstrate that the import is not consistent with the public interest. Those market participants who stand to benefit or suffer as a result of the importation have the best available knowledge of their market and should provide the information upon which the competitiveness of the arrangment can be judged.

The price paid for imported gas by U.S. importers has often been considered the key test of an import's competitiveness. The price of gas, however, is only one factor in determining the market competitiveness of the import. Pricing considerations, standing alone, will not longer be the base for authorizing or denying an import application, or for modifying or revoking an authorization. The emphasis will be on the provisions of the import agreement that establish the basis price and that allow price adjustments during the life of the agreement.

While the competitiveness of an import arrangement is now the primary consideration for authorization, other considerations will continue to be relevant. The security of the foreign supply, in particular, remains a regulatory consideration in meeting the objective of avoiding undue dependence on unreliable sources of supply. Need will continue as a consideration; however, it is recognized to be a function of competitiveness. Under competitive gas import trade arrangements, buyers will be presumed to have markets for gas actually purchased, unless otherwise demonstrated by participants in the regulatory process.

Thus, proposed import arrangements that are found competitive are presumed to have demonstrated the need for the import. National energy requirements will remain a factor in assessing long-term import arrangments, as the nation's energy security is a continuing policy consideration.

Finally, it is recognized that uniform regulatory strictures do not facilitate the establishment of competitive, market-responsive import arrangements and will not be applied. The terms and conditions of an arrangement that is competitive for one market may not be competitive in another. Thus, new import arrangements dependent on substantial capital financing that will provide new supplies to regions needing additional gas may require contract provisions, such as minimum volumes and prices, that may not be competitive in other regions. There also may be unique situations involving extensions or modifications of existing gas import arrangements, such as the prebuild portions of the Alaske Natural Gas Transportation System, that merit special consideration.

Regulatory Guidelines

Pursuant to section 3 of the Natural Gas Act and the Delegation Order from the Secretary of Energy to the ERA Administrator, an application to import gas must be approved unless it is determined that the import is not consistent with the public interest. This determination is based on a number of "considerations" addressed in an import authorization proceedding and stated in the Delegation Order. These considerations provide, in effect, the test that a proposed import arrangement must fail for an authorization to be denied. These policy guidelines provide notice of the manner in which the Administrator will exercise authority under section 3 of the Natural Gas Act to review natural gas import applications. The guidelines do not establish binding and inflexible rules; rather they set forth certain rebuttable presumptions and contemplate flexible application of the considertions outlined below to the facts of individual cases.

The following are the considerations now applicable to import arrangements

which, as of this date, have not received Section 3 approval by the Economic Regulatory Administration or the Federal Energy Regulatory Commission. They shall apply to applications currently pending that seek approval of amendments or extensions to existing import arrangements, as well as applications involving new imports. The application of these guidelines to authorizations previously granted with no pending application for amendment or extension is addressed in the discussion below on implementation. These considerations are contained in Delegation Order No. 0204–111 signed by the Secretary of Energy on February 15, 1984.

The competitiveness of the import

The terms and conditions of the gas purchase contract, taken together, must provide a supply of gas that the importer can market competitively over the term of the contract. The contract arrangement must be sufficiently flexible to permit pricing and volume adjustments, as required by market conditions and available competing fuels, including domestic natural gas. Contract flexibility is a function of certain provisions which may include, but are not limited to: the volume of gas under contract, base price, price review or adjustment mechanisms, take-or-pay obligations, make-up provisions, length of the contract, and other terms which may affect marketability of the gas. No prescribed set of provisions are being dictated as determinative of contract flexibility, allowing the importer to negotiate the import arrangement it considers necessary for the gas to remain marketable over the life of the contract. The importer will be required to demonstrate that the provisions in the proposed import arrangement, collectively, ensure that the gas will be competitive.

Contracts should also contain provisions to protect the parties in the event of changes in the circumstances in which the contract is expected to operate, and to permit contractual adjustments in such circumstances. Examples of such provisions include renegotiation clauses, arbitration clauses, "market-out" clauses, and similar arrangements. Again, no specific or predetermined provision to permit contract adjustments is favored, allowing the contracting parties discretion to determine the approach most suitable to their import arrangement.

Import agreements that are negotiated between buyer and seller should result in contracts that provide a competitive energy source for the duration of the import. The competitiveness of an import arrangement will not be assessed by a narrow inquiry into individual contract terms but rather a consideration of the whole fabric of the arrangement. Those opposing an import have to show that the arrangement, as a whole, is not competitive or sufficiently flexible to respond to changing market conditions.

Need for the natural gas

The need for the imported gas will be addressed in terms of the marketability of the proposed import. Need for a gas supply is intrinsically related to its anticipated marketability. Thus, if the imported gas is competitive in the proposed market area and, through its contract terms, will remain competitive throughout the contract period, then the rebuttable presumption exists that the gas is needed in that market. To the extent that there is a specific objection on the grounds of need for the import, the focus should be on the overall energy requirements in the market that can be competitively met by domestic natural gas and other fuels.

National energy requirements will also be a factor, particularly in assessing long-term import arrangements, as the energy security of the nation remains a policy consideration.

Security of supply

The security of gas supply and its transportation to the U.S. border remain important components of the public interest, especially those under long-term arrangements. An import will be considered secure if it does not lead to undue dependence on unreliable sources of supply. Thus, imports involving relatively larger volumes and longer time periods must demonstrate relatively greater reliability of supply than smaller scale imports for a shorter time period in the application for authorization.

Security of a proposed import supply can be demonstrated by reference to the historical reliability of the supplier to provide a dependable source of gas to the United States and other countries. Reference can be made to any gas reserves committed to the import arrangement for the term of the contract.

Attention will be given to the advantage provided to the nation by a reliable supply of imported natural gas, which adds to the diversity of energy sources and provides an added measure of energy security during any period of energy shortage or emergency.

In additon to the above considerations, the Administrator will consider international trade policy, foreign policy, and national security interests that may bear on an import authorization. In so considering these and other factors as may be appropriate, the Department of State will be consulted in accordance with section 102(10) of the DOE Organization Act.

Regulation of Gas Imports by ERA and FERC

Under the Department of Energy Organization Act, the Secretary of Energy was given responsibility for implementing the provisions of the Natural Gas Act relating to natural gas imports and exports. This authority, formerly vested in the Federal Power Commission, was given to the Secretary in recognition that a policy official accountable to the President should have jurisdiction over the regulation of gas imports to the extent that the regulatory decisions affect national and international energy policy, foreign policy, and national security interests.

The Department of Energy legislation also established the Federal Energy Regulatory Commission, in which was vested the authority to regulate certain aspects of domestic natural gas within the United States. This authority, exercised *inter alia* under the Natural Gas Act and Natural Gas Policy Act, includes the regulation of wellhead prices and transportation rates for gas produced in the United States and gas transported in interstate commerce to the American consumer. In view of the fact that imported gas reaches the consumer through the same transportation systems that deliver domestically produced gas, the Secretary delegated to the FERC certain regulatory responsibilities for imports that it exercises over domestic gas, including siting, construction of facilities, and ratemaking. This authority was delegated to the FERC with the recognition that the Secretary maintained the policy responsibilities for gas imports, and that the FERC should exercise its authority in a manner consistent with the gas import policy determinations established by the Secretary.

In delegating his responsibility to authorize imports to the Administrator of the Economic Regulatory Administration, the Secretary made an exception for imported gas transported through the Alaska Natural Gas Transportation System (ANGTS). Authority was delegated to the FERC to authorize the importation of Canadian gas using the "prebuild" portions of the system while these portions were being financed, constructed, and placed in

initial operation, along with the financing of the overall ANGTS project.

The division of regulatory responsibilities for imported natural gas brought about by the Department of Energy Organization Act, and the assignment of these responsibilities to the ERA Administrator and the FERC, presented inherent problems of coordination and regulatory consistency that did not exist when this responsibility was all exercised by the FPC. While the ERA and the FERC have carried out their respective responsibilities in an effective and conscientious manner, the lines of jurisdiction and authority between the two agencies have not been entirely clear. This lack of clarity is a concern that was expressed by a number of gas importers during the policy review process, with the observation that the ERA and the FERC sometimes both review the same issues.

While a two-part regulatory process is unavoidable under the enabling legislation, some efficiencies can be achieved through clarification of the ERA and FERC gas import responsibilities and through streamlining some aspects of the process. This is the objective in the issuance of new delegation orders to the ERA Administrator and the Commission. These revised orders seek to make a clearer distinction between the responsibility of the Administrator in exercising the Secretary's authority to approve natural gas imports and the FERC's responsibility to regulate the imported gas within the domestic natural gas system. These orders are also issued with the goal of achieving uniform application of these policy guidelines to all natural gas imports.

Under the new delegation orders, all gas imports—including gas transported through the ANGTS prebuild—will be authorized by the ERA Administrator. Delegation Order No. 0204–8, which gave this authority for ANGTS to the FERC, is being rescinded. The Administrator will exercise this authority consistent with the policy guidelines set forth in this notice and contained in new Delegation Order No. 0204–111.

The FERC, under the revised delegation orders, maintains its responsibilities for exercising sections 4, 5, and 7 authority under the Natural Gas Act over gas authorized for import by the Administrator. Gas authorized for importation is subject to the FERC's review of issues pertaining to siting, construction, and operation of pipeline facilities, and to the rates proposed to be charged for the interstate transportation and sale of the gas. The FERC review, in effect, will address the regulatory matters relevant to the imported gas upon its entry into the United States and as it flows through domestic gas transportation systems. In its regulatory decisions on a gas supply authorized for importation, the Commission will adopt the terms and conditions attached by the ERA Administrator to the import authorization, thus acting consistently with the determinations made by the Administrator and the policy considerations reflected in the authorization.

The goal of this Administration is to have a deregulated natural gas market, whereby buyers and sellers operating entirely under market forces can provide gas to consumers at prices competitive with alternative fuels. Until this goal is fully reached, natural gas transported and sold within the United States will remain subject to certain regulatory considerations. Gas delivered to U.S. markets from foreign sources is subject to these considerations. Under these policy guidelines and delegated authorities, the ERA Administrator and the FERC can fulfill their respective regulatory responsibilities in a manner that improves the regulatory process while establishing competitive natural gas trade.

Implementation

The policy guidelines herein set forth are now effective, and the regulatory considerations presented above and contained in the new delegation orders will be applied to all gas import arrangements that have not received section 3 authorization by either the Economic Regulatory Administration or Federal Energy Regulatory Commission. Import applications, including requests for modification of existing authorizations and authorizations of new contracts currently pending before either agency, will be reviewed within this new policy and regulatory framework by the Economic Regulatory Administration. Pending applications that require expeditious approval and that do not fully comport with these guidelines may be granted conditional authorizations.

Pursuant to Section (j) of Delegation Order No. 0204–111, imports previously authorized by the ERA and FERC shall remain in full force and effect unless or until they are rescinded, amended or superseded through appropriate regulatory proceedings. The ERA will not on its own motion initiate such proceedings unless an agreement between the United States and the government of a gas exporting country so requires. The guidelines will apply to pending cases including requests to modify existing authorizations. The ERA Administrator will issue a procedural order that specifies the dockets that are directly and immediately affected by these new guidelines.

U.S. companies that import natural gas under arrangements that are not fully consistent with these policies and the provisions of Delegation Order No. 0204–111 are encouraged to negotiate changes to such arrangements to bring them into conformity with these policies and provisions. The ERA will give prompt attention to import authorization amendments submitted by importers as a result of these negotiation efforts. To the extent that such amendments bring an import arrangement more into conformity with these guidelines, they will benefit from the presumption that they are in the public interest, and opposing parties will bear the burden to rebut the presumption.

These policy guidelines and regulatory changes are designed to avoid instability or uncertainty in existing natural gas trade and establish a smooth transition to competitive trade arrangements, with minimal regulatory requirements and governmental involvement. The policy guidelines should permit parties engaged in gas trade to craft arrangements competitive for the markets served. The import authorization process is designed to fulfill the governments's statutory responsibilities without regulating the specific terms and conditions of individual trade arrangements.

The delegation orders are effective February 22, 1984, the date of publication in the **Federal Register**.

Issued in Washington, D.C. on February 15, 1984.

Donald Paul Hodel,

Secretary of Energy.

Notes

1. Cost of service is defined as the sum total of proper operating and depreciation expenses, taxes, and a reasonable return on the net valuation of the property devoted to providing natural gas service. A two-part demand-commodity rate, with periodic price adjustments, is then designed to produce revenues equivalent to the cost of service.

2. National Energy Board Act.

3. On January 3, 1977, $1.94 (Cdn) was equal to $193 (U.S.).

4. DOE Delegation Order No. 0204–54 to the Economic Regulatory Administration (44 FR 58735, October 2, 1979). In recognition of the expertise of the Federal Energy Regulatory Commission in the areas of interstate transportation and resale of natural gas and construction and operation of facilities, the Secretary delegated to FERC authority over certain activities related to gas imports. (DOE Delegation Order No. 0204–55 to the Federal

Energy Regulatory Commission [44 FR 56735, October 2, 1979]).

5. DOE/ERA Opinion No. 14B, *Inter-City Minnesota Pipelines Ltd. Inc., et al.*, 1 ERA para 70508 (*Federal Energy Guidelines*, May 15, 1980).

6. DOE/ERA Opinion No. 16A, *Border Gas, Inc.*, 1 ERA para 70511 (*Federal Energy Guidelines*, May 15, 1980).

7. 47 FR 57756, December 28, 1982; 48 FR 34501, July 29, 1983.

[Delegation Order No. 0204–110]

Rescission of Delegation to the Federal Energy Regulatory Commission

Pursuant to the authority vested in me as Secretary of Energy, Department of Energy Delegation Order Nos. 0204–8 and 0204–14 are hereby rescinded.

All actions pursuant to Delegation Order Nos. 0204–8 and 0204–14 taken prior to and in effect on the date of this Order shall remain in full force and effect unless or until rescinded, amended or superseded.

This Order is effective February 22, 1984, the date of publication in the **Federal Register.**

Donald Paul Hodel,

Secretary of Energy.

[Delegation Order No. 0204–111]

To the Administrator of the Economic Regulatory Administration

Pursuant to the authority vested in me as the Secretary of Energy ("Secretary") by the Natural Gas Act (Act of June 21, 1938, ch. 556, 52 Stat. 821 (15 U.S.C. § 717)) ("NGA") and Sections 301(b), 402(f), and 642 of the Department of Energy Organization Act (Pub. L. No. 95–91, 91 Stat. 565 (42 U.S.C. § 7101 *et seq.*)), there is hereby delegated to the Administrator of the Economic Regulatory Administration ("Administrator") the authority under section 3 of the NGA to regulate the imports and exports of natural gas.

(a) The Administrator shall regulate imports (including place of entry) based on a consideration of such matters as the Administrator finds in the circumstances of a particular case to be appropriate, which may include, but are not limited to, the following matters:

1. Competitiveness of the import;
2. Need for the natural gas;
3. Security of supply.

(b) The Administrator shall regulate exports (including place of exit) based on a consideration of the domestic need for the gas to be exported and such other matters as the Administrator finds in the circumstances of a particular case to be appropriate.

(c) In exercising the authority delegated by this Order, the Administrator may attach such terms and conditions as the Administrator shall determine to be appropriate.

(d) The authority delegated by this Order does not include the authority to approve the construction and operation of particular facilities, the site at which such facilities shall be located, and, with respect to natural gas that involves the construction of new domestic facilities, the place of entry for imports or exit for exports, except the Administrator is authorized to disapprove the construction and operation of particular facilities, the site at which such facilities shall be located, and, with respect to natural gas that involves the construction of new domestic facilities, the place of entry for imports or exit for exports, on the basis of matters considered pursuant to paragraphs (a) and (b) of this Order.

(e)(1) With respect to ERA Docket No. 77–001–LNG, in addition to the functions enumerated in paragraphs (a), (b) and (c) above (and notwithstanding paragraph (d) above), the Administrator is authorized to perform all functions related to the regulation of the importation and distribution of natural gas through, and construction and operation of, facilities at Oxnard, California.

(2) This delegation does not amend or supersede 10 CFR § 1000.1(d) (42 FR 55534, October 17, 1977) or DOE Delegation Order No. 0204–1.

(f) The authority delegated to the Administrator may be further delegated (except to the Federal Energy Regulatory Commission) in whole or in part, as may be appropriate.

(g) Paragraph 6 of Delegation Order No. 0204–4, is amended to read as follows:

"6. The functions delegated to the Administrator of ERA by Delegation Order No. 0204–111."

(h) This Order supersedes Delegation Order No. 0204–54.

(i) In exercising the authority delegated by this Order, or redelegated pursuant thereto, the delegates shall be governed by the rules, regulations and procedures of the Department of Energy and the policies prescribed by the Secretary or the Secretary's delegate.

(j) All actions pursuant to any authority delegated prior to this Order, or pursuant to any authority delegated by this Order taken prior to and in effect on the date of this Order, are hereby confirmed and ratified, and shall remain in full force and effect as if taken under this Order, unless or until rescinded, amended, or superseded.

(k) Nothing in this delegation shall preclude the Secretary from exercising any of the authority so delegated whenever in the Secretary's judgment the exercise of such authority is necessary or appropriate to adminsiter the functions vested in the Secretary.

This Order is effective February 22, 1984, the date of publication in the **Federal Register.**

Donald Paul Hodel,

Secretary of Energy.

[Delegation Order No. 0204–112]

Federal Energy Regulatory Commission

Pursuant to the authority vested in me as the Secretary of Energy ("Secretary") by sections 301(b), 402 (e) and (f), and 642 of the Department of Energy Organization Act (Pub. L. No. 95–91, 91 Stat. 565 [42 U.S.C. § 7101 *et seq.*]) the Natural Gas Act (Act of June 21, 1938, ch. 556, 52 Stat. 821 [15 U.S.C. § 717]) ("NGA"), and Executive Order No. 10485, as amended by Executive Order No. 12038, there is hereby delegated to the Federal Energy Regulatory Commission ("FERC") the authority to perform the following functions with respect to the regulation of imports and exports of natural gas:

(a) Approval or disapproval of the construction and operation of particular facilities, the site at which such facilities shall be located, and, with respect to natural gas that involves the construction of new domestic facilities, the place of entry for imports or exit for exports, except when the Administrator of the Economic Regulatory Administration ("Administrator") exercises the disapproval authority delegated pursuant to paragraph (d) of Delegation Order No. 0204–111.

(b) All functions under sections 4, 5, and 7 of the NGA.

(c) Issue orders, authorizations, and certificates which the FERC determines to be necessary or appropriate to implement the determinations made by the Administrator under Delegation Order No. 0204–111 and by the FERC under this Order. The FERC shall not issue any order, authorization, or certificate unless such order, authorization, or certificate adopts such terms and conditions as are attached by the Administrator pursuant to the authority delegated to the Administrator by Delegation Order No. 0204–111.

The delegate(s) may take such action as may be necessary and appropriate to carry out the functions delegated by this Order.

This Order supersedes Delegation Order No. 0204–55.

The authority delegated to the FERC may be further delegated within the FERC, in whole or in part, as may be appropriate.

In exercising the authority delegated by this Order, or redelegated pursuant thereto, the delegates shall be governed by the rules, regulations, and procedures of the FERC and shall be guided by the policies prescribed by the Secretary or the Secretary's delegate.

All actions pursuant to any authority delegated prior to this Order, or pursuant to any authority delegated by this Order taken prior to and in effect on the date of this Order, are hereby confirmed and ratified, and shall remain in full force and effect as if taken under this Order, unless or until rescinded, amended, or superseded.

Nothing in this Order shall preclude the Secretary from exercising any of his authority so delegated whenever in the Secretary's judgment the exercise of such authority is necessary or appropriate to administer the functions vested in the Secretary.

This Order is effective February 22, 1984, the date of publication in the **Federal Register.**

Donald Paul Hodel,

Secretary of Energy.

[FR Doc. 84-4748 Filed 2-22-84; 8:45 am]

BILLING CODE 6450-01-M

Economic Regulatory Administration

Natural Gas Imports; Procedural Order Applying New DOE Policy Guidelines Relating to Importation of Natural Gas

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of issuance of a procedural order.

SUMMARY: The Secretary of Energy has issued new policy guidelines and delegation orders to the Administrator of the Economic Regulatory Administration and to the Federal Energy Regulatory Commission relating to the importation of natural gas. The Administrator has issued a procedural order initiating action to begin implementation of those new guidelines. The procedural order is attached as an appendix to this notice and is being published concurrently with the policy guidelines and delegation orders.

FOR FURTHER INFORMATION CONTACT:

Constance L. Buckley (Natural Gas Division, Office of Fuels Programs), Economic Regulatory Administration, Forrestal Building, Room GA-007, 1000 Independent Avenue, S.W., Washington, D.C. 20585, (202) 252-9482

Michael T. Skinker (Office of General Counsel, Natural Gas and Mineral Leasing), U.S. Department of Energy, Forrestal Building, Room 6E-042, 1000 Independence Avenue, S.W., Washington, D.C. 20585, (202) 252-6667

Issued in Washington, D.C., February 16, 1984.

Rayburn Hanzlik,

Administrator, Economic Regulatory Administration.

United States of America Department of Energy—Economic Regulatory Administration

Company name	*ERA Docket Nos.*
Borders Gas, Inc	79-31-NG.
Boundary Gas, Inc	81-04-NG.
Distrigas Corporation	77-011-LNG, 82-13-LNG.
Gas Service, Inc.; Manchester Gas Company.	81-22-LNG.
Great Lakes Gas Transmission Company.	80-02-NG, 81-01-NG, 83-07-NG.
Inter-City Minnesota Pipelines, Ltd.	80-01-NG, 82-15-NG.
Michigan Wisconsin Pipe Line Company.	80-04-NG, 81-18-NG, 81-34-NG.
Midwestern Gas Transmission Company.	80-06-NG, 81-16-NG, 81-32-NG.
Midwestern Gas Transmission Company; Great Lakes Gas Transmission Company.	83-08-NG.
Montana Power Company.	80-03-NG, 81-21-NG.
Natural Gas Pipeline Company of America.	82-01-NG.
Natural Gas Pipeline Company of America; Michigan Wisconsin Pipe Line Company; Tennessee Gas Pipeline Company; Texas Eastern Gas Pipeline Company.	79-15-NG.
Northern Natural Gas Company.	79-24-NG, 82-09-NG, 82-11-NG.
Northwest Pipeline Corporation.	80-05-NG, 81-31-NG, 83-06-NG.
Pacific Gas Transmission Company.	80-07-NG, 81-09-NG, 82-16-NG.
St. Lawrence Gas Company, Inc.	80-09-NG, 81-13-NG.
Tennessee Gas Pipeline Company.	81-24-NG, 82-10-NG, 82-18-NG.
Texas Eastern Gas Pipeline Company.	82-05-NG, 82-07-NG.
Texas Gas Transmission Corporation.	82-08-NG.
Transcontinental Gas Pipe Line Corp.	80-14-NG, 81-29-NG, 81-30-NG.
Transcontinental Gas Pipe Line Corp.; Tennessee Gas Pipeline Company.	79-06-NG.
Transcontinental Gas Pipe Line Corp.; Algonquin Gas Transmission Company; Texas Eastern Gas Pipeline Company.	81-02-NG.
Vermont Gas Systems, Inc.	80-10-NG, 83-09-NG.

Order Directing Applicants With Pending Gas Import Applications To Supplement Those Applications, Directing Importers With Existing Authorizations, To Report on Conformance of Arrangements With Guidelines, Providing Guidance on Alaska Natural Gas Transportation System Filings, and Terminating Suspended Proceedings

February 16, 1984.

I. Introduction

On February 15, 1984, the Secretary of Energy issued new policy guidelines and delegation orders to the Administrator of the Economic Regulatory Administration (ERA) and to the Federal Energy Regulatory Commission (FERC) relating to the authorization of imports of natural gas into the United States. The guidelines set forth a new policy designed to encourage greater participation of buyers and sellers of imported natural gas in establishing price and contract terms, and to ensure that import arrangements result in gas being imported on a competitive and market-responsive basis.

This order initiates action to implement the new policy guidelines. It requires applicant that have pending import applications and authorization amendments before the ERA to supplement their applications. The order also requests all importers with existing authorizations to assess their current import arrangements from the standpoint of conformity with the new policy and regulatory considerations, and to report to the ERA the results of this assessment. This report should include information on modifications the importer believes would be required for the arrangement to comply fully with the policy guidelines. The order further terminates earlier proceedings involving flowing gas imports from Canada that were suspended on December 16, 1980.

II. Pending Applications

This section addresses applications to import natural gas now pending before the ERA listed in Appendix A.[1] Importers with applications for new import authorizations, or modifications or extensions of existing authorizations, now pending before the ERA should notify the ERA on or before April 16, 1984, whether their applications meet or will require modification to meet the policy guidelines before being reviewed by the ERA. Applicants should review their pending applications to determine to what extent their proposed import arrangements are consistent with the policy guidelines and whether steps will be taken to renegotiate the contracts and amend the applications. This information should be submitted in writing and filed as a "supplement" to the application; copies should be served on all intervenors.

If importers wish the ERA to take action on pending applications, they should so state in their supplemental filings. For applicants who report that efforts will be undertaken to amend their arrangements to bring them into conformity with the guidelines, the ERA will defer further consideration until the amendments or new applications are filed. Applicants who determine not to pursue their import arrangements at this time may file notices to withdraw their current applications without prejudice to filing new applications at a later time.

III. Existing Imports

Previously authorized imports shall remain in full force and effect, unless or until they are rescinded, amended, or superseded through appropriate regulatory proceedings. The ERA will not on its own motion initiate such proceedings, unless an agreement between the United States and the government of a gas exporting country so requires. However, consistent with the policy goals and objectives set forth in the new policy guidelines, parties of currently authorized gas import arrangements that are not fully consistent with the new guidelines are encouraged to make every effort, working with all parties to their arrangement, to bring the arrangement into conformity with the new policy.

All importers with existing authorizations listed in Appendix B should review their existing arrangements for conformity with the new policy and should determine whether the contract terms and conditions need to be modified. On or before April 16, 1984, existing importers are requested to inform the ERA by letter of the results of this review, along with information on any modifications they deem necessary to bring their arrangement into conformity with the policy guidelines. Information on steps they intend to take to remedy these deficiencies is also requested. In addition, the letter should describe the progress made during the past year in adjusting import arrangements to respond to market problems through renegotiation as well as provide information on ongoing activities of this nature.

Applications to amend existing authorizations based on contract modifications resulting from this effort will be processed on an expedited basis, with a presumption that they are in the public interest. Opposing parties will bear the burden of rebutting this presumption.

IV. ANGTS Prebuild

The authority to approve the importation of natural gas that is transported through the Alaska Natural Gas Transportation System (ANGTS)—which previously has been exercised by the FERC—was delegated to the ERA by the Secretary of Energy on February 15, 1984, through Delegation Order No. 0204–110. All future applications for NGA section 3 authorization to import natural gas through the ANGTS should be made to the ERA. Action will be taken to transfer the section 3 portions of cases pending before the FERC to the ERA.

Two applications filed by Texas Gas Transmission Corporation (Texas Gas) to import gas through ANGTS now pending before the FERC in Docket Nos. CP82–403–000 and CP82–418–000 will be transferred to the ERA. At the time these cases are transferred, Texas Gas will be asked to comply with section II of this order.

Northwest Alaskan Pipeline Company (Northwest Alaskan) was recently issued conditional authorizations by the FERC in Docket Nos. CP78–123–020 and CP78–123–021 to import additional volumes of Canadian natural gas through the ANGTS for a period of time extending through October 31, 1992. The authorizations were specifically conditioned on Northwest Alaskan making a showing that the gas will be marketable and that the terms and conditions for its importation will not be inconsistent with the public interest. Since no final decision on these matters has been made, the section 3 proceedings will be conducted by the ERA after those portions of the cases relating to section 3 have been transferred from the FERC to the ERA. Therefore, any supplemental filing Northwest Alaskan may submit under its conditional authorizations should be made to the ERA.

V. Suspended Proceedings

A number of existing authorizations were previously the subject of ERA proceedings. Appendix C identifies these dockets. On May 15, 1980, the ERA issued DOE/ERA Opinion and Order No. 14B[2] in Docket No. 80–01–NG, *et al.*, which initiated proceedings to review the ERA's general import policy in nine consolidated dockets representing all the gas imports then flowing from Canada.

Similar proceedings paralleling those in Docket No. 80–01–NG, *et al.*, were ordered in *Transcontinental Gas Pipe Line Corporation, et al.*, Docket No. 79–08–NG,[3] and *Northern Natural Gas Company*, Docket No. 79–24–NG.[4] Further, in DOE/ERA Opinion and Order No. 24,[5] issued October 31, 1980, in Docket No. 80–14–NG, Transcontinental Gas Pipe Line Corporation was authorized to import natural gas from Canada by displacement, subject to such conditions as the ERA may order to conform with any policy and precedent established in Docket Nos. 80–01–NG, *et al.*, and 79–08–NG.

On December 16, 1980, the ERA suspended further consideration of the issues in Docket Nos. 80–01–NG, *et al.*, 79–08–NG, 79–24–NG, and 80–14–NG.

These proceedings are hereby terminated as a result of establishment of the new policy. The previously approved authorizations will remain in full effect as discussed in section III.

VI. Where to File

All filings shall be made to the Natural Gas Division Docket Room, RG–43, GA–007, Economic Regulatory Administration, 1000 Independence Avenue, SW., Washington, D.C. 20585, between the hours of 8:00 a.m. and 4:30 p.m.

Order

In accordance with the new policy guidelines and delegation orders issued by the Secretary of Energy relating to natural gas imports, and for reasons set

[1] Trunkline LNG Company's import project, Docket Nos. 82–12–LNG/83–04–LNG, is not addressed in this order because of the extensive record already developed and will be subject to a separate order.

[2] 1 ERA ¶ 70,508, Federal Energy Guidelines.

[3] See DOE/ERA Opinion and Order 17, issued July 7, 1980 (1 ERA ¶ 70,512), and the Prehearing Order issued August 12, 1980 (order unpublished).

[4] See DOE/ERA Opinion and Order 19, issued August 29, 1980 (1 ERA ¶ 70,518).

[5] 1 ERA ¶ 70,523.

forth above, it is hereby ordered pursuant to section 3 of the Natural Gas Act that:

A. Applicants with natural gas import authorizations pending before the ERA listed in Appendix A of this order are directed to supplement their existing applications providing the information required in section II. Supplemental filings shall be made on or before April 16, 1984.

B. All importers with existing authorizations listed in Appendix B shall review their import arrangements and report to the Administrator as discussed in section III of this order on or before April 16, 1984.

C. The suspensions initiated by four DOE/ERA orders dated December 16, 1980, Docket Nos. 80–01–NG, *et al.*, 79–08–NG, 79–24–NG and 80–14–NG, are terminated.

D. The proceedings initiated in ordering paragraph C of DOE/ERA Opinion and Order No. 14B, dated May 15, 1980, Docket No. 80–01–NG, *et al.*, and in ordering paragraph A of a DOE/ERA Prehearing Order, dated July 9, 1980, same docket, are terminated.

E. The proceedings initiated in ordering paragraph B of DOE/ERA Opinion and Order No. 17, dated July 7, 1980, Docket No. 79–08–NG, and in ordering paragraph A of a DOE/ERA Prehearing Order, dated August 12, 1980, same docket, are terminated.

F. The proceedings initiated in ordering paragraph E of DOE/ERA Opinion and Order No. 19, dated August 29, 1980, Docket No. 79–24–NG, are terminated.

Issued in Wasington, D.C., February 16, 1984.

Rayburn Hanzlik,

Administrator, Economic Regulatory Administration.

Appendix A—Pending Applications

Company name	*ERA Docket No.*
Transcontinental Gas Pipe Line Corporation; Algonouin Gas Transmission Company; Texas Eastern Gas Pipeline Company.	81–02–NG.
Transcontinental Gas Pipe Line Corporation.	81–29–NG.
Midwestern Gas Transmission Company.	81–32–NG.
Michigan Wisconsin Pipe Line Company.	81–34–NG.
Natural Gas Pipeline Company of America.	82–01–NG.
Texas Eastern Gas Pipeline Company.	82–05–NG.
Texas Eastern Gas Pipeline Company.	82–07–NG.
Texas Gas Transmission Corporation.	82– 08–NG.
Tennessee Gas Pipeline Company.	82–10–NG.
Northern Natural Gas Company.	82–11–NG.
Distrigas Corporation	82–13–NG.
Pacific Gas Transmission Company.	82–16–NG.
Tennessee Gas Pipeline Company.	82–18–NG.
Northwest Pipeline Corporation	83–06–NG.
Great Lakes Gas Transmission Company.	83–07–NG.

Appendix B—Existing Authorizations*

Company name	*ERA Docket No.*
Border Gas, Inc	79–31–NG.
Boundary Gas, Inc	81–04–NG.
Distrigas Corporation	77–011–LNG.
Gas Service, Inc	81–22–LNG.
Manchester Gas Company	
Great Lakes Gas Transmission Company.	81–10–NG.
Inter-City Minnesota Pipelines, Ltd.	82–15–NG.
Michigan Wisconsin Pipe Line Company.	81–18–NG.
Midwestern Gas Transmission Company.	81–16–NG.
Midwestern Gas Transmission Company.	83–08–NG.
Great Lakes Gas Tramsmission Company.	
Montana Power Company	81–21–NG.
Natural Gas Pipeline Company of America.	79–15–NG.
Michigan Wisconsin Pipe Line Company.	
Tennessee Gas Pipeline Company.	
Texas Eastern Gas Pipeline Company.	
Northern Natural Gas Company.	82–09–NG.
Northwest Pipeline Corporation	81–31–NG.
Pacific Gas Transmission Company.	81–09–NG.
St. Lawrence Gas Company, Inc.	81–13–NG.
Tennessee Gas Pipeline Company.	81–24–NG.
Transcontinental Gas Pipe Line Corp.	80–14–NG. 81–30–NG.
Vermont Gas Systems, Inc	83–09–NG.

*The docket number represents the most recent proceeding before the ERA involving the import.

Appendix C—Suspending Proceedings

Company name	*ERA Docket No.*
Transcontinental Gas Pipe Line Corp.	79–08–NG.
Tennessee Gas Pipeline Company.	
Northern Natural Gas Company.	79–24–NG.
Inter-City Minnesota Pipelines Ltd., Inc.	80–01–NG.
Great Lakes Gas Transmission Company.	80–02–NG.
Montana Power Company	80–03–NG.
Michigan Wisconsin Pipe Line Company.	80–04–NG.
Northwest Pipeline Corporation	80–05–NG.
Midwestern Gas Transmission Company.	80–06–NG.
Pacific Gas Transmission Company.	80–07–NG.
St. Lawrence Gas Company, Inc.	80–09–NG.
Vermont Gas Systems, Inc	80–10–NG.
Transcontinental Gas Pipe Line Corp.	80–14–NG.

[FR Doc. 84–4747 Filed 2–22–84; 8:45 am]
BILLING CODE 6450–01–M

VOL
49
ISS
36
FE
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1984
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federal register

Wednesday
February 22, 1984

Part VIII

Environmental Protection Agency

40 CFR Part 180
21 CFR Parts 193 and 561
Ethylene Dibromide; Proposed Rules

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[00000/P325; PH-FRL 2526-7]

Ethylene Dibromide; Proposed Revocation of Exemption From the Requirement of a Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule to revoke exemption from requirement of a tolerance.

SUMMARY: This notice proposes the revocation of 40 CFR 180.1006, which exempts organic bromide residues on a variety of grains resulting from the use of ethylene dibromide (EDB) as a post-harvest fumigant from the requirement of a tolerance. EPA is proposing this action because of the health and safety concerns posed by residues of EDB. The comment period on this action has been expedited pursuant to Article 2.6.1, related to notification of urgent problems of health, safety and environmental protection, under The Agreement on Technical Barriers to Trade (Standards Code).

DATE: Written comments must be received on or before March 23, 1984.

ADDRESSES:

By mail, submit written comments to: Program Management and Support Division (TS-757C), Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

In person, bring comments to: Rm. 236, CM #2, 1921 Jefferson Davis Highway, Arlington, VA.

FOR FURTHER INFORMATION CONTACT:

By mail: Richard Johnson, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

Office location and telephone number: Rm. 711, CM #2, 1921 Jefferson Davis Highway, Arlington, VA (703-557-7420).

SUPPLEMENTARY INFORMATION: On September 28, 1983, the Administrator issued a notice, published in the **Federal Register** of October 11, 1983 (48 FR 46234), of intent to cancel registrations of ethylene dibromide (EDB) for use as a fumigant of grain stored in bulk and as a fumigant for spot treatment of grain milling equipment, as well as the other major uses of EDB. This action was based on a determination that the carcinogenic, mutagenic, and adverse reproductive risks posed by the use of EDB outweighed the benefits associated with the use of the chemical as a pesticide. The detailed risk and benefit analysis which provides the basis for this regulatory action is contained in a Position Document 4 (PD 4), which is available from the Agency at the address given above. Requests for an adjudicatory hearing to challenge the proposed cancellation of the major uses of EDB have been filed by registrants and user groups.

On February 3 of this year (49 FR 4452, February 6, 1984), the Agency issued an emergency suspension for the use of EDB as a fumigant of grain stored in bulk and as a fumigant for spot treatment of grain milling equipment. This emergency suspension bans the sale, distribution, and use in the United States of EDB products registered for these grain uses during the pendency of the on-going cancellation hearing. The support document which provides detailed risk and benefit information in support of the Agency's emergency suspension action is available from the Agency at the address given above.

The organic bromide residues (including EDB) resulting from use of EDB as a fumigant after harvest are currently exempted from the requirement of a tolerance for the following grains: barley, corn, oats, popcorn, rice, rye, sorghum (milo), and wheat. This exemption was granted in 1956 based on available toxicology studies and the conclusion that the 5–10 ppm levels of inorganic bromide which resulted in the consumed food (ready-to-eat) did not have any toxicological significance. These residue levels were determined by the less sophisticated analytical methodology available at the time which was not capable of detecting EDB *per se*. Currently available analytical methods are now capable of detecting EDB *per se* down to a limit of detection of 1 part per billion (ppb).

EPA is proposing to revoke the exemption from the requirement of a tolerance in 40 CFR 180.1006 for organic bromide residues (including EDB) on the grains enumerated above resulting from use of EDB as a fumigant after harvest. The totality of the risk information available to the Agency and the availability of analytical methods capable of detecting EDB residues *per se* dictate that the Agency propose to revoke the exemption from this requirement of a tolerance for organic bromide residues resulting from EDB use on grain. Revocation of this exemption is necessary to assure that unlimited residues of EDB cannot be legally present in grain and grain products.

Elsewhere in this issue of the **Federal Register**, the Agency is proposing (1) the establishment of a tolerance of 900 ppb for EDB *per se* on the following grains which were fumigated after harvest with EDB: barley, corn, oats, popcorn, rice, rye, sorghum (milo), and wheat; (2) the revocation of the tolerance of 50 ppm in 40 CFR 180.146 for residues of inorganic bromide (calculated as Br) in or on the grains enumerated above; (3) the revocation of the food additive regulation in 21 CFR 193.250(b), for residues of inorganic bromides (calculated as Br) as a result of the use of a mixture of methyl bromide and ethylene dibromide as a fumigant in or on certain processed foods; and (4) the revocation of the food additive regulation in 21 CFR 561.260(b) for residues of inorganic bromides (calculated as Br) of 125 ppm in or on milled fractions for animal feed from barley, corn, grain sorghum (milo), oats, rice, rye, and wheat, resulting from carryover and concentration of residues of inorganic bromides from fumigation of the grains with EDB.

The Agency has calculated the potential oncogenicity risk resulting from the dietary consumption of treated grain products based on an analysis of all available residue data, much of which was collected over the past several months, and food consumption estimates from a nationwide survey conducted by the United States Department of Agriculture in 1977–78. These calculations were performed using the models described in detail in the Agency's EDB Position Documents 2/3 and 4, and the results of a long-term National Cancer Institute bioassay study of Osborne Mendel rats. The Agency's estimates of the potential oncogenic risk associated with the consumption of EDB residues in grain products are set forth in detail in the Support Document for the emergency suspension action, available from the Agency at the address given above.

Based on the considerations set forth above, the Agency is hereby proposing revocation of the exemption from a requirement of a tolerance in 40 CFR 180.1006 for residues of EDB resulting from use as a fumigant after harvest on the following grains: barley, corn, oats, popcorn, rice, rye, sorghum (milo), and wheat. As noted above, concurrent with this proposal EPA is proposing elsewhere in this issue of the **Federal Register** the establishment of a 900 ppb tolerance for residues of EDB *per se* on a variety of grains.

The data and information available to the Agency indicates that the vast majority of milled products processed from raw grain containing 900 ppb or less of EDB should, following good

manufacturing practice, contain less than 150 ppb EDB. Likewise, the cooking process is expected to reduce the EDB level in the milled product to less than 30 ppb in the finished (ready-to-eat) consumer product, assuming good manufacturing practice is followed.

Any person who has registered or submitted an application for the registration of a pesticide under the Federal Insecticide, Fungicide, and Rodenticide Act, as amended, which contains EDB may request within 30 days after publication of this notice in the **Federal Register** that this proposal to revoke the exemption from the requirement of a tolerance for EDB be referred to an advisory committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act. Requests must bear the notation indicating the document control number [00000/P325], and must be submitted to the mailing address provided above.

Interested persons are invited to submit written comments on this proposal to revoke the exemption from the requirement of a tolerance for EDB in 40 CFR 180.1006. Comments must bear the notation indicating the document control number [00000/P325]. Three copies of the comments should be submitted to facilitate the work of the Agency and of others interested in reviewing the comments. All written comments filed pursuant to this Notice will be available for public inspection in the Program Management and Support Division at the above address between 8:00 am to 4:00 pm, Monday through Friday, except legal holidays.

This document has been sent to the Office of Management and Budget for review as required by Section 3 of Executive Order 12291.

In order to satisfy requirements for analysis as specified by Executive Order 12291, the Regulatory Flexibility Act and the Paperwork Reduction Act, the Agency has analyzed the costs and benefits of the revocation of the exemptions from tolerances for EDB. Documents containing these analyses are available at the address identified elsewhere in this notice.

Executive Order 12291

This proposal would revoke the exemption from a requirement of a tolerance for residues resulting from EDB use as a post-harvest fumigant on grains and products made from grains. The economic and health impacts of this proposal have been analyzed vis-a-vis several optional values at which tolerance levels could be established. At the level being proposed, the incidence of adverse economic impacts have been judged likely to be isolated and not involve significant portions of the grain markets, grain milling, or bakery products industries. The true economic impacts would depend on the distribution of EDB residues in grain and grain-based products. The Agency does not have definitive, statistically valid estimates of this distribution. However, the various studies received by the Agency suggest that, at the tolerance level proposed, there would not be widespread product seizures.

Regulatory Flexibility Act

This rulemaking has been reviewed under the Regulatory Flexibility Act of 1980 (Pub. L. 96-354; 94 Stat. 1165, 5 U.S.C. 60 *et seq.*) and it has been determined that it will not have a significant economic impact on a substantial number of small businesses, small governments, or small organizations. This conclusion is based on the Agency's cost/benefit analyses cited above.

The revocation of exemptions from tolerances would potentially affect firms in the grain milling and bakery products industries as well as grain farmers. Products found to contain EDB residues in excess of a tolerance level may be subject to enforcement action. However, it is anticipated that many farms and grain milling operations will employ a variety of practices such as aeration, heating and holding of the grain in order to reduce EDB residues below the tolerance level. The sampling of products is not intended to focus specifically on small firms, hence small firms would face no greater probability than the industry as a whole of having their products sampled or otherwise subjected to federal enforcement efforts.

Any impacts on small businesses are expected to be isolated. To an individual firm, enforcement action could have serious financial consequences. Such actions, however, should not be widespread; furthermore, the overall residue levels are expected to decline in the future so that the possibilities of enforcement actions should decline with time.

Accordingly, I certify that this regulation does not require a separate regulatory flexibility analysis under the Regulatory Flexibility Act.

Paperwork Reduction Act

This proposed rule does not contain any information collection requirements subject to OMB review under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.* (Sec. 408(m) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a(m))).

List of Subjects in 40 CFR Part 180

Administrative practice and procedures, Agricultural commodities, Pesticides and pests.

Dated: February 17, 1984.

William D. Ruckelshaus,

Administrator.

PART 180—[AMENDED]

Therefore, it is proposed that 40 CFR Part 180 be amended by removing § 180.1006 to read as follows:

§ 180.1006 [Removed]

[FR Doc. 84-4878 Filed 2-21-84; 11:23 am]
BILLING CODE 6560-50-M

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40 CFR Part 180

[00000/P329; PH-FRL 2531-3]

Ethylene Dibromide; Proposed Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This document proposes that a tolerance of 900 ppb be established for residues of the insecticide ethylene dibromide (EDB) *per se* in or on the grains barley, corn, oats, popcorn, rice, rye, sorghum (milo), and wheat as a result of post-harvest fumigation with EDB prior to the effective date of the Agency's emergency suspension order prohibiting EDB grain uses.

DATE: Written comments must be received on or before March 23, 1984.

ADDRESSES:

By mail, submit written comments to: Program Management and Support Division (TS-757C), Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20406.

In person, bring comments to: Rm. 236, CM #2, 1921 Jefferson Davis Highway, Arlington, VA.

FOR FURTHER INFORMATION CONTACT:

By mail: Richard Johnson, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20406.

Office location and telephone number: Rm. 711, CM #2, 1921 Jefferson Davis Highway, Arlington, VA (703-557-7420).

SUPPLEMENTARY INFORMATION: On September 28, 1983, the Administrator issued a notice, published in the **Federal Register** of October 11, 1983 (48 FR 46234), of intent to cancel registrations of ethylene dibromide (EDB) for use as a

fumigant of grain stored in bulk and as a fumigant for spot treatment of grain milling equipment, as well as the other major uses of EDB. This action was based on a determination that the carcinogenic, mutagenic, and adverse reproductive risks posed by the use of EDB outweighed the benefits associated with the use of the chemical as a pesticide. The detailed risk and benefit analysis which provides the basis for this regulatory action is contained in a Position Document 4 (PD 4), which is available from the Agency at the address given above. Requests for an adjudicatory hearing to challenge the proposed cancellation of the major uses of EDB have been filed by registrants and user groups.

On February 3 of this year, the Administrator issued an emergency suspension for the use of EDB as a fumigant of grain stored in bulk and as a fumigant for spot treatment of grain milling equipment. (49 FR 4452, February 6, 1984.) This emergency suspension bans the sale, distribution, and use in the United States of EDB products registered for these grain uses during the pendency of the on-going cancellation hearing. The support document which provides detailed risk and benefit information in support of the Agency's emergency suspension action is available from the Agency at the address given above.

The totality of the risk information available to the Agency and the availability of analytical methods capable of detecting EDB residues *per se* dictate that the Agency propose to revoke the exemption from the requirement of a tolerance in 40 CFR 180.1006 for organic bromide residues resulting from EDB use on grain. Based on available data and information, the Agency has also determined that it is appropriate to replace this exemption with a tolerance level in barley, corn, oats, popcorn, rice, rye, sorghum (milo), and wheat of 900 ppb to cover residues of EDB *per se* which resulted from treatment of the grain with EDB prior to the effective date of the suspension order (February 3, 1984).

Concurrent with this proposal, the Agency is recommending to FDA that action levels be set for various grain products once the final rule revoking the exemption from the requirement of a tolerance is published. These action levels are consistent with the maximum permissible residue levels recommended by the Administrator to the states on February 3. The procedures governing FDA's establishment of action levels are set forth in 21 CFR 109.4(b)(2). The specific action levels which the Agency is recommending to FDA are 150 ppb for milled products (e.g., flour) and 30 ppb for finished products (ready-to-eat consumer products).

Based on the data and information available to the Agency, the vast majority of milled products processed from raw grain containing 900 ppb or less of EDB should, following good manufacturing practice, contain less than 150 ppb EDB. Accordingly, enforcement efforts directed at raw grain will serve to drive down the actual residue levels in the milled and finished products. Likewise, the cooking process is expected to reduce the EDB level in the milled product to less than 30 ppb in the finished (ready-to-eat) consumer product, assuming good manufacturing practice is followed.

Following revocation of the exemption and establishment of a tolerance by EPA, the Food and Drug Administration (FDA) can take enforcement action on raw grain under the Federal Food, Drug, and Cosmetic Act (FFDCA) if the tolerance is exceeded. The FDA can also take action under the FFDCA against grain-based processed foods containing EDB residues, in accordance with the action levels to be set by FDA based on the EPA recommendations.

Elsewhere in this issue of the **Federal Register**, the Agency is proposing (1) the revocation of 40 CFR 180.1006, which exempts organic bromide residues on the following grains resulting from the use of EDB as a post-harvest fumigant: barley, corn, oats, popcorn, rice, rye, sorghum (milo), and wheat; (2) the revocation of the tolerance of 50 ppm in 40 CFR 180.146 for residues of inorganic bromide (calculated as Br) in or on the grains enumerated above; (3) the revocation of the food additive regulation in 21 CFR 193.250(b) for residues of inorganic bromides (calculated as Br) as a result of the use of a mixture of methyl bromide and ethylene dibromide as a fumigant in or on certain processed foods; and (4) the revocation of the food additive regulation in 21 CFR 561.260(b) for residues of inorganic bromides (calculated as Br) of 125 ppm in or on milled fractions for animal feed from barley, corn, grain sorghum (milo), oats, rice, rye, and wheat, resulting from carryover and concentration of residues of inorganic bromides from fumigation of the grains with EDB.

The Agency has calculated the potential oncogenicity risk resulting from the dietary consumption of treated grain products based on an analysis of all available residue data, much of which was collected over the past several months, and food consumption estimates from a nationwide survey conducted by the United States Department of Agriculture in 1977–78. These calculations were performed using the model described in detail in the Agency's EDB Position Document 4, and the results of a long-term National Cancer Institute bioassay study of Osborne Mendal rats. The Agency's estimates of the potential oncogenic risk associated with the consumption of EDB residues in grain products are set forth in detail in the Support Document for the emergency suspension action, available from the Agency at the address given above.

Based on the considerations set forth above, the Agency is hereby proposing the establishment of a tolerance level of 900 ppb on the grains: barley, corn, oats, popcorn, rice, rye, sorghum (milo), and wheat as a result of post-harvest fumigation with EDB prior to the effective date of the Agency's emergency suspension order prohibiting the grain uses of EDB (February 3, 1984).

The nature of the residues is adequately understood. An adequate analytical method, using a gas chromatograph equipped with an electron detector capable of measuring residue levels of EDB *per se*, is available for enforcement purposes. This analytical method is available to interested persons at the address provided above, and from the Bureau of Foods, Food and Drug Administration. As discussed above, the Agency has issued an emergency suspension notice to prohibit the sale, distribution, and use of EDB products registered for the grain uses during the pendency of the on-going cancellation proceedings. Based on the above information considered by the Agency, the tolerance established by amending 40 CFR Part 180 would protect the public health. Therefore, it is proposed that the tolerance be established as set forth below.

Any person who has registered or submitted an application for registration of a pesticide, under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended, which contains any of the ingredients listed herein, may request within 30 days after publication of this notice in the **Federal Register** that this rulemaking proposal be referred to an Advisory Committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act. Requests must bear the notation indicating the document control number [00000/P329] and must be submitted to the mailing address provided above.

Interested persons are invited to submit written comments on the proposed regulation. Comments must

bear a notation indicating the document control number, [00000/P329]. All written comments filed in response to this proposal will be available in the Program and Management Support Division at the address given above from 8:00 am to 4:00 pm, Monday through Friday, except legal holidays.

This document has been sent to the Office of Management and Budget for review as required by Section 3 of the Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96–534, 94 Stat. 1164, 5 U.S.C. 601–612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

(Sec. 408(e), of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a(e)))

List of Subjects in 40 CFR Part 180

Administrative practice and procedures, Agricultural commodities, Pesticides and pests.

Dated: February 17, 1984.

William D. Ruckelshaus,

Administrator.

PART 180—[AMENDED]

Therefore, it is proposed that 40 CFR 180.397 be amended by designating the current paragraph as paragraph (a) and adding a new paragraph (b) as follows:

180.397 [Amended]

* * * * *

(B) A tolerance of 900 ppb for residues of ethylene dibromide *per se* is established on the following grains as a result of the use of EDB as a post-harvest fumigant prior to February 3, 1984: barley, corn, oats, popcorn, rice, rye, sorghum (milo), and wheat.

[FR Doc. 84-4879 Filed 2-21-84; 11:23 am]
BILLING CODE 6560-50-M

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40 CFR Part 180

[00000/P324; PH–FRL 2527–2]

Ethylene Dibromide; Proposed Revocation of Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed revocation of tolerance.

SUMMARY: This notice proposes the revocation of the first paragraph of 40 CFR 180.146, which lists tolerances of 50 ppm for residues of inorganic bromides (calculated as Br) in or on certain grains which were fumigated after harvest with ethylene dibromide (EDB). EPA is proposing this action because of the health and safety concerns posed by residues of EDB. The comment period on this action has been expedited pursuant to Article 2.6.1, related to notification of urgent problems of health, safety and environmental protection, under The Agreement on Technical Barriers to Trade (Standards Code).

DATE: Written comments must be received on or before March 23, 1984.

ADDRESSES:

By mail, submit written comments to: Program Management and Support Division (TS–757C), Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

In person, bring comments to: Rm. 236, CM #2, 1921 Jefferson Davis Highway, Arlington, VA.

FOR FURTHER INFORMATION CONTACT:

By mail: Richard Johnson, Registration Division (TS–767C), Office of Pesticide Programs, 401 M St., SW., Washington, D.C. 20460.

Office location and telephone number: Rm. 711, CM #2, 1921 Jefferson Davis Highway, Arlington, VA. (703 557–7420).

SUPPLEMENTARY INFORMATION: On September 28, 1983, the Administrator issued a notice, published in the **Federal Register** of October 11, 1983 (48 FR 46234), of intent to cancel registrations of ethylene dibromide (EDB) for use as a fumigant of grain stored in bulk and as a fumigant for spot treatment of grain milling equipment, as well as the other major uses of EDB. This action was based on a determination that the carcinogenic, mutagenic, and adverse reproductive risks posed by the use of EDB outweighed the benefits associated with the use of the chemical as a pesticide. The detailed risk and benefit analysis which provides the basis for this regulatory action is contained in a Position Document 4 (PD 4), which is available from the Agency at the address given above. Requests for an adjudicatory hearing to challenge the proposed cancellation of the major uses of EDB have been filed by registrants and user groups.

On February 3 of this year, the Administrator issued an emergency suspension for the use of EDB as a fumigant of grain stored in bulk and as a fumigant for spot treatment of grain milling equipment (49 FR 4452, February 6, 1984). This emergency suspension bans the sale, distribution, and use of EDB products registered for these grain uses during the pendency of the ongoing cancellation hearing. The support document which provides detailed risk and benefit information in support of the Agency's emergency suspension action is available from the Agency at the address given above.

Tolerances of 50 parts per million (ppm) are currently established in 40 CFR 180.146 for residues of inorganic bromides (calculated as Br) in or on the following grains that have been fumigated after harvest with EDB: barley, corn, oats, popcorn, rice, rye, sorghum (milo), and wheat. The organic bromide residues (including EDB) resulting from use of EDB as a post-harvest fumigant are currently exempted in 40 CFR 180.1006 from the requirement of a tolerance for the following grains: barley, corn, oats, popcorn, rice, rye, sorghum (milo), and wheat.

The totality of the risk information available to the Agency and the availability of analytical methods capable of detecting EDB residues *per se* dictate that the Agency propose to revoke the tolerances of 50 ppm for residues of inorganic bromide (calculated as Br) in or on grains which were fumigated after harvest with EDB. Revocation of these tolerances is necessary to assure consistency with the revocation of the exemption for EDB residues and with the establishment of a tolerance for organic EDB residues.

The Agency is also proposing in this issue of the **Federal Register** to (1) revoke the exemption from the requirement of a tolerance in 40 CFR 180.1006 for organic bromide residues (including EDB) in or on the grains barley, corn, oats, popcorn, rice, rye, sorghum (milo), and wheat resulting from the use of EDB as a post-harvest fumigant; (2) set a tolerance level of 900 ppb for residues of EDB *per se* in or on these grains, resulting from post-harvest fumigation with EDB prior to the effective date of the Agency's emergency suspension order; (3) revoke the food additive regulation in 21 CFR 193.250(b) for residues of inorganic bromides (calculated as Br) as a result of the use of a mixture of methyl bromide and ethylene dibromide as a fumigant in or on certain processed foods; and (4) revoke the food additive regulation in 21 CFR 561.260(b) for residues of inorganic bromides (calculated as Br) of 125 ppm in or on milled fractions for animal feed from certain grains resulting from carryover and concentration of residues of inorganic bromides from fumigation of the grains with EDB.

The Agency has calculated the potential oncogenicity risk resulting from the dietary consumption of treated grain products at various level of EDB, based on an analysis of all available residue data, much of which was collected over the past several months, and food consumption estimates from a nationwide survey conducted by the United States Department of Agriculture in 1977–78. These calculations were performed using the model described in detail in the Agency's Position Document 4, and the results of a long-term National Cancer Institute bioassay study of Osborne Mendel rats. The Agency's estimates of the potential oncogenic risk associated with the consumption of EDB residues in grain products are set forth in detail in Support Document for the emergency suspension action, available from the Agency at the address given above.

Based on the considerations set forth above, the Agency is hereby proposing to revoke the 50 ppm tolerances in 40 CFR 180.146 for residues of inorganic bromides (calculated as Br) in or on the following grains that have been fumigated after harvest with EDB: barley, corn, oats, popcorn, rice, rye, sorghum (milo), and wheat. As noted above, the Agency is also in this issue of the **Federal Register** proposing to establish a tolerance of 900 ppb for residues of EDB *per se* on the grains enumerated above. A discussion of the rationale for this tolerance level is contained in that document.

Any person who has registered or submitted an application for the registration of a pesticide under the Federal Insecticide, Fungicide, and Rodenticide Act, as amended, which contains EDB may request within 30 days after publication of this notice in the **Federal Register** that this proposal to revoke the 50 ppm tolerance in 40 CFR 180.146 for residues of inorganic bromides be referred to an advisory committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act. Requests must bear the notation indicating the document control number [00000/P324] and must be submitted to the mailing address provided above.

Interested persons are invited to submit written comments on this proposal to revoke the 50 ppm tolerances in 40 CFR 180.146 for residues of inorganic bromides (calculated as Br) in or on the following grains that have been fumigated after harvest with ethylene dibromide: barley, corn, oats, popcorn, rice, rye, sorghum (milo), and wheat. Comments must bear the notation indicating the document control number [00000/P324]. Three copies of the comments should be submitted to facilitate the work of the Agency and of others interested in reviewing the comments. All written comments filed pursuant to this Notice will be available for public inspection in the Program Management and Support Division at the above address between 8:00 am and 4:00 pm, Monday through Friday, except legal holidays.

This document has been sent to the Office of Management and Budget for review as required by Section 3 of Executive Order 12291.

In order to satisfy requirements for analysis as specified by Executive Order 12291, the Regulatory Flexibility Act and the Paperwork Reduction Act, the Agency has analyzed the costs and benefits of the revocation of the exemption from the requirement of a tolerance for EDB. Documents containing these analyses are available at the address identified elsewhere in this notice.

Executive Order 12291

This notice proposes to revoke the tolerances for residues of inorganic bromides (calculated as Br) in or on certain grains which were fumigated after harvest with EDB. The economic and health impacts of this proposal have been analyzed vis-a-vis several optional values at which tolerance levels could be established. At the tolerance level being proposed, the incidence of adverse economic impacts has been judged likely to be isolated and not involve significant portions of the grain markets, grain milling, or bakery products industries. The true economic impacts would depend on the distribution of EDB residues in grain and grain-based products. The Agency does not have definitive, statistically valid estimates of this distribution. However, the various studies received by the Agency suggest that, at the tolerance level proposed, there would not be widespread product seizures.

Regulatory Flexibility Act

This rulemaking has been reviewed under the Regulatory Flexibility Act of 1980 (Pub. L. 96–354; 94 Stat. 1165, 5 U.S.C. 60 *et seq.*) and it has been determined that it will not have a significant economic impact on a substantial number of small businesses, small governments, or small organizations. This conclusion is based on the Agency's cost/benefit analyses cited above.

The revocation of these tolerances would potentially affect firms in the grain milling and bakery products industries as well as grain farmers. Products found to contain EDB residues in excess of tolerance levels may be subject to enforcement action. However, it is anticipated that many farms and grain milling operations will employ a variety of practices such as aeration, heating, and holding of the grain in order to reduce EDB residues below the tolerance level. The sampling of products is not intended to focus specifically on small firms, hence small firms would face no greater probability than the industry as a whole of having their products sampled or otherwise subjected to federal enforcement efforts.

Any impacts on small businesses are expected to be isolated. To an individual firm, enforcement action could have serious financial consequences. Such actions, however, should not be widespread; furthermore, the overall residue levels are expected to decline in the future so that the possibilities of enforcement actions should decline with time.

Accordingly, I certify that this regulation does not require a separate regulatory flexibility analysis under the Regulatory Flexibility Act.

Paperwork Reduction Act

This proposed rule does not contain any information collection requirements subject to OMB review under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*

(Sec. 408(m) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346(m)))

List of Subjects in 40 CFR Part 180

Administrative practice and procedures, Agricultural commodities, Pesticides and pests.

Dated: February 17, 1984.

William D. Ruckelshaus,

Administrator.

PART 180—[AMENDED]

§ 180.146 [Amended]

Therefore, it is proposed that 40 CFR 180.146 be amended by removing the first paragraph of the section.

[FR Doc. 84-4877 Filed 2-21-84; 11:23 am]

BILLING CODE 6560-50-M

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21 CFR Part 193

[00000/P326; PH-FRL 2526-8]

Ethylene Dibromide; Proposed Revocation of Food Additive Regulation

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed revocation of food additive regulation.

SUMMARY: This document proposes the revocation of 21 CFR 193.250(b) which lists a food additive regulation for residues of inorganic bromides (calculated as Br) as a result of the use of a mixture of methyl bromide and ethylene dibromide (EDB) as a fumigant in or on certain processed foods. EPA is proposing this action because of the health and safety concerns posed by residues of EDB. The comment period on this action has been expedited pursuant to Article 2.6.1, related to notification of urgent problems of health, safety and environmental protection, under The Agreement on Technical Barriers to Trade (Standards Code).

DATE: Written comments must be received on or before March 23, 1984.

ADDRESSES:

By mail, submit written comments to: Program Management and Support Division (TS–757C), Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

In person, bring comments to: Rm. 236, CM #2, 1921 Jefferson Davis Highway, Arlington, VA.

FOR FURTHER INFORMATION CONTACT:

By mail: Richard Johnson, Registration Division (TS–767C), Office of Pesticide Programs, 401 M St., SW., Washington, D.C. 20460.

Office location and telephone number: Rm. 711, CM #2, 1921 Jefferson Davis Highway, Arlington, VA (703) 557–7420.

SUPPLEMENTARY INFORMATION: On September 28, 1983, the Administrator issued a notice, published in the **Federal Register** of October 11, 1983 (48 FR 46234), of intent to cancel registrations of ethylene dibromide (EDB) for use as a fumigant of grain stored in bulk and as a fumigant for spot treatment of grain milling equipment, as well as other major uses of EDB. This action was based on a determination that the carcinogenic, mutagenic, and adverse reproductive risks posed by the use of EDB outweighed the benefits associated with the use of the chemical as a pesticide. The detailed risk and benefit analysis which provides the basis for this regulatory action is contained in a Position Document 4 (PD 4), which is available from the Agency at the address given above. Requests for an adjudicatory hearing to challenge the proposed cancellation of the major uses of EDB have been filed by registrants and user groups.

On February 3 of this year the Administrator issued an emergency suspension for the use of EDB as a fumigant of grain stored in bulk and as a fumigant for spot treatment of grain milling equipment. (49 FR 4452, February 6, 1984). This emergency suspension bans the sale, distribution, and use of EDB products registered for these grain uses during the pendency of the on-going cancellation hearing. The support document which provides detailed risk and benefit information in support of the Agency's emergency suspension action is available from the Agency at the address given above.

Section 193.250(b) of 21 CFR currently provides that the residues of inorganic bromides (calculated as Br) shall not exceed the following levels when the food additive is present as the result of the use of a mixture of methyl bromide and ethylene dibromide as a fumigant:

400 ppm in or on dried eggs and processed herbs and spices

125 ppm in or on bread, biscuit, cake, cookie, and pie mixes; breading; cereal flours and related products complying with Part 15 of this chapter; cracked rice; dried vegetables; flours of barley, milo (sorghum), oats, rice, and rye; macaroni and noodle products complying with Part 16 of this chapter; and soya flour

Section 193.250(a) of 21 CFR provides that the food additive inorganic bromide may be present in certain processed food as a result of fumigation of the processed food with methyl bromide or from such fumigation in addition to the authorized use of methyl bromide, ethylene dibromide or the nematocide 1,2-dibromo-3-chloropropane on the source raw agricultural commodity.

The totality of the risk information available to the Agency and the availability of analytical methods capable of detecting EDB residues *per se* dictate that the Agency propose to revoke the food additive regulation in 21 CFR 193.250(b) for residues of inorganic bromides (calculated as Br) as a result of the use of a mixture of methyl bromide and ethylene dibromide as a fumigant in or on the processed foods enumerated above.

Elsewhere in this issue of the **Federal Register**, the Agency is proposing to (1) revoke the exemption from the requirement of a tolerance in 40 CFR 180.1006 for organic bromide residues (including EDB) resulting from use of EDB as a post- harvest fumigant for a variety of grains; (2) establish a tolerance level of 900 ppb for residues of EDB *per se* in or on these grains as a result of the post-harvest fumigation use of EDB prior to the effective date of the emergency suspension order; (3) revoke the first paragraph of 40 CFR 180.146 which lists tolerances of 50 ppm for residues of inorganic bromides in or on certain grains which were fumigated after harvest with EDB; and (4) revoke the food additive regulation in 21 CFR 561.260(b) for residues of inorganic bromides (calculated as Br) of 125 ppm in or on milled fractions for animal feed from various grains resulting from carryover and concentration of residues of inorganic bromides from fumigation of the grains with EDB.

The Agency has calculated the potential oncogenicity risk resulting from the dietary consumption of treated grain products at various levels of EDB, based on an analysis of all available residue data, much of which was collected over the past few months, and food consumption estimates from a nationwide survey conducted by the United States Department of Agriculture in 1977–78. These calculations were performed using the model described in detail in the Agency's Position Document 4, and the results of a long-term National Cancer Institute bisoassay study of Osborne Mendel rats. The Agency's estimates of the potential oncogenic risk associated with the consumption of EDB residues in processed grain products are set forth in detail in the Support Document for the emergency suspension action, available from the Agency at the address given above.

Based on the considerations set forth above, the Agency is hereby proposing to revoke the following food additive regulation listed in 21 CFR 193.250(b) for residues of inorganic bromides (calculated as Br) as a result of the use of a mixture of methyl bromide and ethylene dibromide as a fumigant:

400 ppm in or on dried eggs and processed herbs and spices

125 ppm in or on bread, biscuit, cake, cookie, and pie mixes; breading; cereal flours and related products complying with Part 15 of this chapter; cracked rice; dried vegetables; flours of barley, milo (sorghum), oats, rice, and rye; macaroni and noodle products complying with Part 16 of this chapter; and soya flour

The Agency is also proposing that the words "ethylene dibromide" be removed from 21 CFR 193.250(a).

Interested persons are invited to submit written comments on this proposal to revoke the food additive regulations set forth in 21 CFR 193.250 for residues of inorganic bromides (calculated as Br) as a result of the use of a mixture of methyl bromide and ethylene dibromide as a fumigant in or on the processed food enumerated above. Comments must bear the notation indicating the document control number [00000/P328]. Three copies of the comments should be submitted to facilitate the work of the Agency and of

others interested in reviewing the comments. All written comments filed pursuant to this Notice wil be available for public inspection in the Program and Management Support Division at the above address between 8:00 am to 4:00 pm, Monday through Friday, except legal holidays.

This document has been sent to the Office of Management and Budget for review as required by Section 3 of Executive Order 12291.

This proposed action has been analyzed under the Regulatory Flexibility Act, ad the requirements of Executive Order 12291. The analysis contained in the proposals for the revocation of the exemption from the requirement of a tolerance in 40 CFR 180.1006 for organic bromide residues in a variety of grains resulting from the post-harvest fumigation of EDB, and for the revocation of the inorganic bromide tolerances in 40 CFR 180.146 on a variety of grains resulting from the post-harvest fumigation of EDB applies equally to the proposed action set forth in this notice. Accordingly, I certify that this proposed regulation does not require a separate regulatory flexibility analysis under the Regulatory Flexibility Act.

(Sec. 409(h) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 348(h)))

List of Subjects in 21 CFR Part 193

Food additives, Pesticides and pests.

Dated: February 17, 1984.

William D. Ruckelshaus,

Administrator.

PART 193—[AMENDED]

Therefore, it is proposed that 21 CFR Part 193 be amended as follows:

§ 193.250 [Amended]

By amending § 193.250 by deleting the reference to "ethylene dibromide" appearing in the introductory text of paragraph (a) and removing and reserving paragraph (b).

[FR Doc. 84-4876 Filed 2-21-84; 11:24 am]
BILLING CODE 6560-50-M

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21 CFR Part 561

[00000/P327; PH-FRL 2527-1]

Ethylene Dibromide; Proposed Revocation of Food Additive Regulation

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed revocation of food additive regulation.

SUMMARY: This document proposes the revocation of the provision in 21 CFR 561.260(b) which lists a food additive regulation for residues of inorganic bromides (calculated as Br) of 125 ppm in or on milled fractions for animal feed from barley, corn, grain sorghum (milo), oats, rice, rye, and wheat, resulting from carryover and concentration of residues of inorganic bromides from fumigation of the grains with ethylene dibromide (EDB). EPA is proposing this action because of the health and safety concerns posed by residues of EDB. The comment period on this action has been expedited pursuant to Article 2.6.1, related to notification of urgent problems of health, safety and environmental protection, under The Agreement on Technical Barriers to Trade (Standards Code).

DATE: Written comments must be received on or before March 23, 1984.

ADDRESSES:

By mail, submit written comments to: Program Management and Support Division (TS–757C), Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

In person, bring comments to: Rm. 236, CM #2, 1921 Jefferson Davis Highway, Arlington, VA.

FOR FURTHER INFORMATION CONTACT:

By mail: Richard Johnson, Registration Division (TS–767C), Office of Pesticide Programs, 401 M St., SW., Washington, D.C. 20460.

Office location and telephone number: Rm. 711, CM #2, 1921 Jefferson Davis Highway, Arlington, VA (703 557–7420).

SUPPLEMENTARY INFORMATION: On September 28, 1983, the Administrator issued a notice, published in the **Federal Register** of October 11, 1983 (48 FR 46234), of intent to cancel registrations of ethylene dibromide (EDB) for use as a fumigant of grain stored in bulk and as a fumigant for spot treatment of grain milling equipment, as well as other major uses of EDB. This action was based on a determination that the carcinogenic, mutagenic, and adverse reproductive risks posed by the use of EDB outweighed the benefits associated with the use of the chemical as a pesticide. The detailed risk and benefit analysis which provides the basis for this regulatory action is contained in a Position Document 4 (PD 4), which is available from the Agency at the address given above. Requests for an adjudicatory hearing to challenge the proposed cancellation of the major uses of EDB have been filed by registrants and user groups.

On February 3 of this year, the Administrator issued an emergency suspension for the use of EDB as a fumigant of grain stored in bulk and as a fumigant for spot treatment of grain milling equipment (49 FR 4452, February 6, 1984). This emergency suspension bans the sale, distribution, and use of EDB products registered for these grain uses during the pendency of the on-going cancellation hearing. The support document which provides detailed risk and benefit information in support of the Agency's emergency suspension action is available from the Agency at the address given above.

Section 561.260(b) of 21 CFR currently provides that tolerances are established for residues of inorganic bromides (calculated as Br) as follows:

> 125 ppm for residues in or on milled fractions for animal feed from barley, corn, grain sorghum (milo), oats, rice, rye, and wheat, resulting directly from fumigation with methyl bromide or from carryover with concentration of residues of inorganic bromides from fumigation of the grains with methyl bromide or ethylene dibromide.

The totality of the risk information available to the Agency and the availability of analytical methods capable of detecting EDB residues *per se* dictate that the Agency propose to revoke the food additive regulation in 21 CFR 561.260(b) for residues of inorganic bromides (calculated as Br) in or on milled fractions for animals fed from barley, corn, grain sorghum (milo), oats, rice, rye, and wheat, resulting from carryover and concentration of residues of inorganic bromides from fumigation of the grains with EDB.

Elsewhere in this issue of the **Federal Register**, the agency is proposing to (1) revoke the exemption from the requirement of a tolerance in 40 CFR 180.1006 for organic bromide residues (including EDB) resulting from use of EDB as a post-harvest fumigant for a variety of grains; (2) establish a tolerance level of 900 ppb for residues of EDB *per se* in or on these grains as a result of the post-harvest fumigation use of EDB prior to the effective date of the emergency suspension order; (3) revoke the first paragraph of 49 CFR 180.146, which lists tolerances of 50 ppm for residues of inorganic bromides (calculated as Br) in or on certain grains which were fumigated after harvest with EDB; and (4) revoke the food additive regulation in 21 CFR 193.250(b) for residues of inorganic bromides (calculated as Br) in or on certain processed foods as a result of the use of a mixture of methyl bromide and ethylene dibromide as a fumigant.

Based on the considerations set forth above, the Agency is hereby proposing

the revocation of the food additive regulation in 21 CFR 561.260(b) of 125 ppm for residues of inorganic bromides (calculated as Br) in or on milled fractions for animal feed from barley, corn, grain sorghum (milo), oats, rice, rye, and wheat, resulting from carryover and concentration of residues of inorganic bromides from fumigation of the grains with EDB. This proposal is consistent with the Agency's proposal, published in this edition of the **Federal Register**, to revoke the inorganic bromide tolerances in 40 CFR 180.146 on various grains resulting from fumigation after harvest with EDB, and to set a tolerance level of 900 ppb for residues of EDB *per se* on such grains. The support document for the emergency suspension action, available from the Agency at the address given above, contains a discussion of the method used by the Agency to calculate potential oncogenic risk to humans from the dietary consumption of products containing EDB residues, and a summary of these risk estimates.

Interested persons are invited to submit written comments on this proposal to revoke the food additive regulations set forth in 21 CFR 561.260(b) for residues of 125 ppm of inorganic bromides (calculated as Br) in or on milled fractions for animal feed from barley, corn, grain sorghum (milo), oats, rice, rye, and wheat, resulting from carryover and concentration of residues of inorganic bromides from fumigation of the grains with EDB. Comments must bear the notation indicating the document control number [00000/P327]. Three copies of the comments should be submitted to facilitate the work of the Agency and of others interested in reviewing the comments. All written comments filed pursuant to this Notice will be available for public inspection in the Program and Management Support Division at the above address between 8:00 am to 4:00 pm, Monday through Friday, except legal holidays.

This document has been sent to the Office of Management and Budget for review as required by section 3 of Executive Order 12291.

This proposed action has been analyzed under the Regulatory Flexibility Act, and the requirements of Executive Order 12291. The analysis contained in the proposals for the revocation of the exemption from the requirement of a tolerance in 40 CFR 180.1006 for organic bromide residues in a variety of grains resulting from the post-harvest fumigation of EDB, and for the revocation of the inorganic bromide tolerances in 40 CFR 180.146 on a variety of grains resulting from the post-harvest fumigation of EDB applies equally to the proposed action set forth in this notice. Accordingly, I certify that this proposed regulation does not require a separate regulatory flexibility analysis under the Regulatory Flexibility Act.

(Sec. 409(h) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 348(h)))

List of Subjects in 21 CFR Part 561

Feed additives, Pesticides and pests.

Dated: February 17, 1984.

William D. Ruckelshaus,

Administrator.

PART 561—[AMENDED]

Therefore, it is proposed that 21 CFR 561.260 be amended by revising paragraph (b) by deleting all references to ethylene dibromide so as to read as follows:

§ 561.260 Inorganic bromides.

* * * * *

(b) 125 parts per million for residues in or on milled fractions for animal feed from barley, corn, grain sorghum (milo), oats, rice, rye, and wheat, resulting directly from fumigation with methyl bromide or from carryover and concentration of residues of inorganic bromides from fumigation of the grains with methyl bromide.

* * * * *

[FR Doc. 84-4875 Filed 2-21-84; 8:45 am]

BILLING CODE 6560-50-M

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2-23-84
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federal register

Thursday
February 23, 1984

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Federal Register
(ISSN 0097-6326)

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2-23-84
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FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

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Questions and requests for specific information may be directed to the telephone numbers listed under INFORMATION AND ASSISTANCE in the READER AIDS section of this issue.

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 84-NM-06-AD; Amdt. 39-4815]

Airworthiness Directives; Lockheed-California Company Model L-1011 Series Airplanes

AGENCY: Federal Aviation Administration (FAA) DOT.

ACTION: Final rule.

SUMMARY: This amendment adds a new airworthiness directive (AD) that requires inspection of certain electrical wire bundles in the cockpit and modification, if necessary, on Lockheed Model L-1011 series airplanes. This AD is prompted by reports of wire chafing and subsequent arcing that may result in a fire hazard.

DATES: Effective February 27, 1984. Compliance schedule as prescribed in the body of the AD, unless already accomplished.

ADDRESSES: The applicable service information may be obtained from: Lockheed-California Company, P.O. Box 551, Burbank, California 91520, Attention: Commercial Support Contracts, Dept. 63-11, U-33, B-1. This information also may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or at 4344 Donald Douglas Drive, Long Beach, California.

FOR FURTHER INFORMATION CONTACT: Mr. Harry Wasinger, Aerospace Engineer, Systems & Equipment Branch, ANM-130L, FAA, Northwest Mountain Region, Los Angeles Aircraft Certification Office, 4344 Donald Douglas Drive, Long Beach, California 90808, telephone (213) 548-2831.

SUPPLEMENTARY INFORMATION: One L-1011-385 operator experienced an in-flight electrical harness fault that resulted in visible arcing and smoke in the cockpit ceiling just forward of the Flight Engineer's panel. A fire extinguisher was used by the flight crew as a precautionary measure. The fault was caused by mechanical damage to wire insulation due to continuing chafing on screw threads that protruded above the upper sill trim panel. The resulting arcing severed the wire bundle supplying power for windshield and cockpit side window heating and caused the associated circuit breakers to trip. In addition to the wire bundle damage, some of the covering on the fiberglass insulation batts had locally burned away. Therefore, in consideration of the hazardous consquence of this type of fault, this AD is considered to be necessary. The Lockheed-California Company has issued L-1011 Service Bulletin 093-30-055 dated July 1, 1983, which describes inspection procedures and modification to provide wire bundle protection, if required.

Since this condition is likely to exist or develop on other airplanes of the same type design, this AD requires inspection of the electrical wire bundle in the cockpit and installation of insulation, if necessary.

Since a situation exists that requires immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable, and good cause exists for making this amendment effective in less than 30 days.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new Airworthiness Directive:

Lockheed-California Company: Applies to Lockheed Model L-1011-385 series airplanes, certificated in all categories. Compliance required as indicated unless previously accomplished.

To prevent the possibility of electrical arcing in the cockpit windshield and side window heating electrical wire bundle, accomplish the following:

A. Within 300 flight hours after the effective date of this AD, perform the aircraft wiring inspection and modification, if required, in accordance with Part 2, Accomplishment Instructions, in Lockheed-California Company L-1011 Service Bulletin 093-30-055, dated July 1, 1983, or later revision approved by the Manager, Los Angeles Aircraft Certification Office, FAA, Northwest Mountain Region.

B. Alternate means of compliance which provide an equivalent level of safety may be used when approved by the Manager, Los Angeles Aircraft Certification Office, FAA, Northwest Mountain Region.

Note.— Airplanes previously inspected in accordance with the procedures specified in Lockheed L-1011 Service Bulletin 093-30-055, dated July 1, 1983, or in accordance with alternate inspection procedures since June 6, 1983, approved by an FAA Principal Maintenance Inspector (PMI), are considered to comply with the inspection requirements of this AD.

C. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

All persons affected by this directive who have not already received these documents from the manufacturer may obtain copies upon request to Lockheed-California Company, P.O. Box 551, Burbank, California 91520, Attention: Commercial Support Contracts, Dept. 63-11, U-33, B-1. These documents also may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Los Angeles Aircraft Certification Office, 4344 Donald Douglas Drive, Long Beach, California.

This Amendment becomes effective Feb. 27, 1984.

(Secs. 313(a), 314(a), 601 through 610, and 1102 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421 through 1430, and 1502); 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89)

Note.—The FAA has determined that this regulation is an emergency regulation that is not major under Section 8 of Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034 February 26, 1979). If this action is subsequently determined to involve a significant/major regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation is not required). A copy of it, when filed, may be obtained by contacting the person identified under the caption "**FOR FURTHER INFORMATION CONTACT.**"

Issued in Seattle, Washington on February 7, 1984.

David E. Jones,

Acting Director, Northwest Mountain Region.

[FR Doc. 84-4806 Filed 2-22-84; 8:45 am]

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14 CFR Part 71

[Airspace Docket No. 83-ASW-16]

Alteration of Transition Area and Control Zone; Tulsa, OK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment will alter the transition area and control zone at Tulsa, OK. The intended effect of the amendment is to provide adequate controlled airspace for aircraft executing standard instrument approach procedures (SIAPs) to the Richard Lloyd Jones, Jr., Airport. This amendment is necessary since the FAA has relocated the Glenpool VOR, and this action will alter the SIAP to the airport and change the designated airspace requirements.

EFFECTIVE DATE: May 10, 1984.

FOR FURTHER INFORMATION CONTACT: Kenneth L. Stephenson, Airspace and Procedures Branch (ASW-535), Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, TX 76101, Telephone (817) 877-2630.

SUPPLEMENTARY INFORMATION:

History

On April 4, 1983, a notice of proposed rulemaking was published in the **Federal Register** (48 FR 14388) stating that the Federal Aviation Administration proposed to alter the Tulsa, OK, transition area and control zone. Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the Federal Aviation Administration. Comments were received without objections. Except for editorial changes, this amendment is that proposed in the notice.

List of Subjects in 14 CFR Part 71

Control zones, Transition areas, Aviation safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, by the Administrator, Subpart G of Part 71, § 71.181, and Subpart F of Part 71, Section 71.171, of the Federal Aviation Regulations (14 CFR Part 71) as republished in Advisory Circular AC 70-3A dated January 3, 1983, are amended, effective 0901 G.m.t., May 10, 1984, as follows:

Subpart F—71.171

Tulsa Richard Lloyd Jones, Jr., Airport, OK [Revised]

Within a 5-mile radius of Richard Lloyd Jones, Jr., Airport (latitude 36°02'18" N., longitude 95°59'05" W.). This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Subpart G—§ 71.181

Tulsa, OK [Revised]

By adding "and within a 6.5-mile radius of Richard Lloyd Jones, Jr., Airport (latitude 36°02'18" N., Longitude 95°59'05" W.)."

(Sec. 307(a), Federal Aviation Act of 1958, as amended (49 U.S.C. 1348(a)); Sec. 6(c), 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); and 14 CFR 11.61(c))

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Fort Worth, TX, on February 9, 1984.

Henry J. Christianson,

Acting Director, Southwest Region.

[FR Doc. 84-4801 Filed 2-22-84; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 83-ASO-41]

Designation of Federal Airways, Area Low Routes, Controlled Airspace, and Reporting Points; Alteration of VOR Federal Airways Palm Beach, FL

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment alters the descriptions of several VOR Federal Airways located in the vicinity of Palm Beach, FL. Due to loss of a property lease, the Palm Beach VORTAC has been relocated to a new site on the Palm Beach Airport (lat. 26°40'47" N., long. 80°05'12" W.). This action amends the descriptions of all airways affected by the relocation.

DATES: Effective date—May 10, 1984. Comments must be received on or before April 9, 1984.

ADDRESSES: Send comments on the rule in triplicate to: Director, FAA, Southern Region, Attention: Manager, Air Traffic Division, Docket No. 83-ASO-41, Federal Aviation Administration, P.O. Box 20636, Atlanta, GA 30320.

The official docket may be examined in the Rules Docket, weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m. The FAA Rules Docket is located in the Office of the Chief Counsel, Room 916, 800 Independence Avenue, SW., Washington, D.C.

An informal docket may also be examined during normal business hours at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Lewis W. Still, Airspace and Air Traffic Rules Branch (AAT-230), Airspace—Rules and Aeronautical Information Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426-8626.

SUPPLEMENTARY INFORMATION:

Request for Comments on the Rule

Although this action is in the form of a final rule, which involves changes to the descriptions of several VOR Federal Airways located in the vicinity of Palm Beach, FL, and, thus, was not preceded by notice and public procedure, comments are invited on the rule. When the comment period ends, the FAA will use the comments submitted, together with other available information, to review the regulation. After the review, if the FAA finds that changes are appropriate,, it will initiate rulemaking proceedings to amend the regulation. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in evaluating the effects of the rule and determining whether additional rulemaking is needed. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy aspects of the rule that might suggest the need to modify the rule.

The Rule

The purpose of this amendment to § 71.123 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is to amend the descriptions of V-3, V-492 and V-531 located in the vicinity of

Palm Beach, FL. The Palm Beach VORTAC has been relocated to a new site on the Palm Beach Airport at lat. 26° 40'47" N., long. 80° 05'12" W. Section 71.123 of Part 71 of the Federal Aviation Regulations was republished in Advisory Circular AC 70-3A dated January 3, 1983.

Under the circumstances presented, the FAA concludes that there is an immediate need for a regulation to amend the descriptions of the airways affected by the relocation of the Palm Beach, FL, VORTAC. Since this amendment is mandatory due to the loss of property lease, I find that notice and public procedure under 5 U.S.C 553(b) is unnecessary and that good cause exists for making this amendment effective on the next charting date.

List of Subjects in 14 CFR Part 71

VOR Federal airways, Aviation safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, § 71.123 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as amended (48 FR 6958 and 38810) is further amended, effective 0901 G.m.t., May 10, 1984, as follows:

V-3—[Amended]

By deleting the words "Vero Beach, FL, including an E alternate via INT Palm Beach 358° and Vero Beach 143° radials; Vero Beach 343° INT Melbourne, FL, 161° radials Melbourne; Melbourne 341° radials INT Ormond Beach, FL, 161° radials Ormond Beach" and substituting the words "Vero Beach, FL; Melbourne, FL".

V-492—[Revised]

From La Belle, FL; Pahokee, FL; Palm Beach, FL; INT Palm Beach 356° and Vero Beach, FL, 143° radials; to Vero Beach.

V-531—[Revised]

From Palm Beach, FL; INT Palm Beach 324° and Orlando, FL, 162° radials; to Orlando.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); (49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983)); and 14 CFR 11.69)

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Washington, D.C., on February 9, 1984.

John W. Baier,

Acting Manager, Airspace—Rules and Aeronautical Information Division

[FR Doc. 84-4803 Filed 2-22-84; 8:45 am]

BILLING CODE 4910-13-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 211

[Release Nos. 33-6512; 34-20654; 35-23225; IC-13770; FR 16]

Rescission of Interpretation Relating to Certification of Financial Statements

AGENCY: Securities and Exchange Commission.

ACTION: Rescission of interpretation.

SUMMARY: The Commission announces the rescission of its interpretation, originally issued in Accounting Series Release No. 115, relating to certification of financial statements based on its review of the application of that release to the integrated disclosure system. This action will permit registrants to offer securities, notwithstanding an accountant's report that is qualified because of uncertainties about an entity's continued existence, provided that full and fair disclosure is made of the registrant's financial difficulties and plans to overcome such difficulties. Financial statements will continue to be considered defective, however, if those statements are prepared on the assumption of a going concern but should more appropriately be based on the assumption of liquidation or if the amounts and classifications of assets and liabilities in the statements should be otherwise adjusted.

EFFECTIVE DATE: February 23, 1984.

FOR FURTHER INFORMATION CONTACT: Andrea E. Bader or Lawrence S. Jones, (202-272-2130), Office of the Chief Accountant; or Howard P. Hodges, Jr., (202-272-2553), Division of Corporation Finance, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION: In Accounting Series Release No. 115 ("ASR 115")[1] "Certification of Financial Statements," (Feb. 19, 1970) (35 FR 4121), the Commission stated that it would consider financial statements not to be certified for purposes of the Securities Act of 1933 ("the Securities Act") [15 U.S.C. 77a et seq.] if the accountant's report on those financial statements was so qualified as to indicate serious doubt as to whether the financial statements should be presented on a going concern basis. The Commission did not intend to preclude companies with pressing financial problems from raising funds by offering securities for public sale. It stated, however, that such qualified financial statements would be considered certified (for the purposes of Rule 2-02 of Regulation S-X [17 CFR 210]) only if the registrant could arrange its financial affairs to remove the immediate threat to its continuation as a going business and satisfy its accountant that the financial statements prepared on a going concern basis were fairly presented.

The Commission is rescinding its interpretation originally issued in ASR 115 because it has concluded that the interpretation expressed therein is inconsistent with the objectives and operation of the Commission's integrated disclosure system.[2] An important objective of integration was the identification of information which is material to security holders and investors in both the distribution process and the trading markets. The restricted application of the ASR 115 interpretation to Securities Act filings is anomalous to this system.

This Commission action will permit registrants to offer securities notwithstanding an accountant's report which is qualified as a result of questions about the entity's continued existence. However, all financial statements will continue to be considered false and misleading if those statements are prepared on the assumption of a going concern but should more appropriately be based on the assumption of liquidation or if the classification and amounts of assets and liabilities should be otherwise adjusted. Moreover, filings containing accountant's reports that are qualified as a result of questions about the entity's continued existence must

[1] In Financial Reporting Release No. 1 (April 15, 1982) [47 FR 21028] the Commission rescinded ASR 115 and removed that release from Subpart A of 17 CFR 211. The substance of ASR 115, however, was transferred to Section 607.02 of the Codification of Financial Reporting Policies which was issued at the same time.

[2] In Securities Act Release No. 6383 (March 3, 1982) [47 FR 11380], the Commission adopted major revisions to the disclosure rules promulgated under the Securities Act and the Securities Exchange Act of 1934 [15 U.S.C. 78a et seq.]. These revisions were designed, among other things, to facilitate the integration of the disclosure systems under those acts by attaining uniformity between financial statements in annual and other periodic reports to shareholders and those included in registration statements.

contain appropriate and prominent disclosure of the registrant's financial difficulties and viable plans to overcome these difficulties. Such disclosure is required by existing rules and by the antifraud provisions of the federal securities laws.[3]

For example, the requirements of Item 303 of Regulation S–K, Management's Discussion and Analysis, insofar as they relate to disclosure of any known demands, commitments or uncertainties that will result in (or that are reasonably likely to result in) the registrant's liquidity increasing or decreasing in any material way, are intended to and should elicit detailed cash flow discussions from any registrant whose independent accountant's report is qualified because of doubt about the entity's continued existence. In responding to these requirements, any registrant with such pressing financial problems should include a reasonably detailed discussion of its ability or inability to generate sufficient cash to support its operations during the twelve month period following the date of the financial statements being reported upon. Thereafter, this discussion would be updated as necessary on a quarterly basis.

The Commission notes that generally accepted auditing standards provide in Statement on Auditing Standards No. 34 ("SAS 34") [4] that the auditor who issues a report that is qualified as a result of questions about the entity's continued existence must evaluate the disclosure about the financial problems giving rise to the accountant's qualification. The Commission believes that in such cases Paragraph 10 of SAS 34 requires the auditor to include in his report, if not otherwise disclosed in the financial statements, appropriate "disclosure of the principal conditions that raise [the] question about [the] entity's ability to continue in existence, the possible effects of such conditions, and management's evaluation of the significance of those conditions and any mitigating factors". The Commission also believes that paragraph 10 of SAS 34 requires auditors to assure the adequacy of disclosure about plans to resolve the doubts about the entity's continued existence.[5]

Codification Update

The "Codification of Financial Reporting Policies" announced in Financial Reporting Release No. 1 (April 15, 1982) [47 FR 21028] is updated to:

1. Delete old § 607.02, entitled as follows: 607.02 Uncertainty About an Entity's Continued Existence.
2. Add new § 607.02, entitled as follows: 607.02 Uncertainty About an Entity's Continued Existence.
3. Include in § 607.02 the following, followed by the last two paragraphs of this release:

Financial statements will be considered false and misleading if those statements are prepared on the assumption of a going concern but should more appropriately be based on the assumption of liquidation or if the classification and amounts of assets and liabilities should be otherwise adjusted. Moreover, filings containing accountant's reports that are qualified as a result of questions about the entity's continued existence must contain appropriate and prominent disclosure of the registrant's financial difficulties and viable plans to overcome these difficulties. Such disclosure is required by existing rules and by the antifraud provisions of the federal securities laws.[6]

This codification is a separate publication issued by the SEC. It will not be published in the **Federal Register**/ Code of Federal Regulations system.

List of Subjects in 17 CFR Part 211

Accounting, Reporting and recordkeeping requirements, Securities.

PART 211—[AMENDED]

Commission Action: The Commission hereby amends Subpart A 17 CFR Part 211 by adding a reference to this release.

By the Commission.

Shirley E. Hollis,

Assistant Secretary.

February 15, 1984.

[FR Doc. 84–4773 Filed 2–22–84; 8:45 am]

BILLING CODE 8010–01–M

[3] See, *e.g.*, Items 101, 303, 503 and 504 of Regulation S–K [17 CFR 229], Description of Business, Management's Discussion and Analysis, Summary Information and Risk Factors, and Use of Proceeds, respectively, and Rule 408 [17 CFR 230.408], Additional Information.

[4] SAS 34, "The Auditors Considerations When a Question Arises About an Entity's continued Existence", issued in 1981, provides guidance regarding the auditor's responsibilities when there are questions about an entity's continued existence and outlines the appropriate form of the auditor's report when such questions exist.

[5] Paragraph 10 of SAS 34 concludes by stating "* * * [i]f disclosure is necessary and a satisfactory resolution of the question [about an entity's ability to continue in existence] depends primarily on the realization of particular plans of management, the disclosure should deal with that fact and such plans."

[6] See, *e.g.*, Items 101, 303, 503 and 504 of Regulation S–K [17 CFR 229], Description of Business, Management's Discussion and Analysis, Summary Information and Risk Factors, and Use of Proceeds, respectively, and Rule 408 [17 CFR 230.408], Additional Information.

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17 CFR Part 270

[Release No. 33–6510; IC–13768]

Revised Procedures for Processing Registration Statements, Post-Effective Amendments and Preliminary Proxy Materials Filed by Registered Investment Companies

AGENCY: Securities and Exchange Commission.

ACTION: Announcement of new procedures.

SUMMARY: The Commission's Division of Investment Management, which is responsible for reviewing disclosure documents filed by registered investment companies, is adopting new procedures for the selective review of investment company registration statements and post-effective amendments. The Division is also implementing new processing procedures for preliminary proxy solicitation materials filed by registered investment companies, and is withdrawing its previously published procedures for the limited review of certain proxy materials. These steps are being taken so that the Division's resources may be concentrated on those filings that most need review and to ensure that the review of investment company disclosure filings is thorough, timely and accomplished in a manner that is fair to all registrants.

EFFECTIVE DATE: March 26, 1984.

FOR FURTHER INFORMATION CONTACT: Jane A. Kanter, Special Counsel (202) 272–2115, or Larry L. Greene, Esq. (202) 272–7320, Office of Disclosure Legal Services, Division of Investment Management, Securities and Exchange Commission, Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION: Consistent with its practice of publishing staff views to assist issuers, their counsel and accountants, and other interested persons, the Commission is announcing the implementation by the Division of Investment Management ("Division") of certain new procedures for the review of registration statements, post-effective amendments and preliminary proxy materials filed by registered investment companies. These steps are being taken to help assure that the processing of disclosure filings by investment companies is accomplished in a prompt and orderly manner.

Background

In recent years, the number of filings by investment companies has increased. Because of this, the Division has implemented various procedures to

avoid delay in processing these filings. Since September of 1976, the staff has revised its procedures for processing certain disclosure filings three times.[1] During the same period, the Commission adopted three new rules under the Securities Act of the 1933 (the "Securities Act") [15 U.S.C. 77a *et seq.*] that permit most post-effective amendments filed by open-end management investment companies and unit investment trusts, and certain registration statements filed by registered unit investment trust to become effective automatically without staff review.[2]

These changes have helped the Division to make more efficient use of its resources. The number of filings made by investment company registrants has, however, continued to dramatically increase.[3] As a result, the Division is again revising its review procedures in order to ensure that its resources are directed to those filings which most need review, and that these filings are reviewed in a prompt and orderly manner.[4]

Discussion

Many registration statements and post-effective amendments filed by investment companies that are members of the same fund complex are similar to filings by other funds in the complex.[5] The staff's current practice is to fully review each new registration statement even though the staff may have already reviewed a similar filing by a fund in that complex and resolved many substantive issues in that context.[6] Also, under current procedures, all post-effective amendments filed by any one fund under paragraph (a) of rules 485 [17 CFR 230.485] or 486 [17 CFR 230.486] [7] are subject to full review despite the fact that many matters in the filing may have been considered by the staff in processing other filings by that fund, e.g., in proxy solicitation materials. The Division's experience has been that such filings, generally, do not present novel questions of law or fact, and are routine in many respects. Further, fund complexes usually try to use in their filings disclosure from prior filings that already have been subject to staff review and comment. As a result, the Division believes that staff time currently devoted to reviewing such disclosure could be better used elsewhere.

Registration Statements

In view of the foregoing, the Division is instituting new selective review procedures for all investment company registration statements and post-effective amendments. Under the new procedures, any registration statement filed by a fund in a complex for an offering that: (1) Employs investment objectives, policies and techniques that are similar to a recent prior offering by another fund in that complex, and (2) contains disclosure that is not substantially different than the disclosure contained in one or more prior filings by funds in the complex, generally, will be subject only to a cursory review by the staff to determine that the registration statement contains no other information that should be reviewed. To facilitate this process, registrants should describe in their transmittal letters to the Commission: (1) Any material changes from the most recent filing of the same kind by that fund complex, (2) any problem areas that in the registrant's view warrant particular attention, (3) any new investment techniques, products or methods of distribution covered by the filings, and (4) the identity of any prior filings, or portions thereof, that the registrant considers similar to, or intends as precedent for, the current filing.

The Division will determine whether the current filing is similar to a prior filing by the same sponsor or fund complex by considering various factors including: (1) Type of fund, e.g., money market fund, equity fund, bond fund (taxable and tax-exempt), or balanced fund; (2) the fund's investment objective, e.g., growth, income, total return or preservation of capital; and (3) the investment techniques used by the fund, e.g., use of repurchase agreements, puts, options, futures, when issued securities, or reverse repurchase agreements. In identifying prior filings which are intended to serve as disclosure precedent, funds will not be restricted to a single filing, but may rely on any number of prior filings by that fund complex. The cover letter accompanying the filing, however, should identify all prior filings relied on and should identify those portions of the prior filing that the registrant considers similar to its latest filing.

In order to determine whether a particular filing would be subject to full review, each reviewing branch will designate one or more senior staff members to perform a cursory review of every filing subject to this procedure. Based on the information available to the staff, including the information contained in the cover letter, the branch will determine whether the filing needs: (1) A full review, (2) a partial review of only certain portions of the filing, or (3) no further review.

The Division will try to notify each registrant promptly concerning what level of review will be accorded their filing. In most cases, the staff expects to notify registrants concerning the status of their filings within ten calendar days of the filing date. Under these procedures, certain registration statements may not be reviewed, in

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[1] *See* Securities Act Release No. 5738 (September 3, 1976) [41 FR 39013 (September 14, 1976)]; Securities Act Release No. 5988 (October 19, 1978) [43 FR 49866 (October 25, 1978)]; and Securities Act Release No. 6353 (October 2, 1981) [46 FR 50649 (October 14, 1981)].

[2] *See* Securities Act Release No. 6229 (August 25, 1980) [45 FR 57702 (August 29, 1980)]; Securities Act Release No. 6402 (May 14, 1982) [47 FR 22356 (May 24, 1982)]; and Securities Act Release No. 6401 (May 7, 1982) [47 FR 20290 (May 12, 1982)].

[3] From fiscal year 1979 to fiscal year 1983, the annual number of registration statements, post-effective amendments and proxy statements filed with the Commission increased by 226%, 68% and 34%, respectively. The Division expects that this trend will continue and that there will be an approximately 34% increase from fiscal year 1983 in all filings requiring staff review during the current fiscal year.

[4] At the same time, the Commission is proposing for comment amendments to rules 485(b) and 486(b) under the Securities Act to expand the category of filings that may become automatically effective upon filing to include post-effective amendments filed by registered investment companies in compliance with an undertaking to file financial statements, which may be unaudited, within four to six months after the effective date of an investment company's Securities Act registration statement.

[5] While certain funds in a complex may have different investment objectives and techniques, in many instances their prospectuses contain similar disclosure concerning other aspects of the funds' operations (e.g., procedures for purchase and redemption, and the description of the investment adviser, underwriters, officers and directors). On the other hand, prospectuses of funds in the same complex having similar investment objectives or techniques may contain different disclosure for other items (e.g., presence or absence of a rule 12b-1 plan).

[6] Certain registration statements filed by unit investment trusts are permitted to become effective automatically pursuant to Rule 487. *See* Securities Act Release No. 6401 (May 7, 1982) [47 FR 20290 (May 12, 1982)]. Under that rule, a registration statement filed by a unit investment trust, except the first series of such a trust, that, among other things: (1) is composed of portfolio securities that do not differ materially from those deposited in the first series of the trust, and (2) does not contain disclosures that differ in any material respect from those contained in the registration statement of the prior series identified by the registrant, may become automatically effective on a date and time designated by the registrant. During fiscal year 1983, approximately 590 registration statements were filed under this rule.

[7] Rule 485 is applicable to all open-end management investment companies and unit investment trusts, except separate accounts of insurance companies. Rule 486 is solely applicable to insurance company separate accounts. Rules 485(a) and 486(a) permit most post-effective amendments filed by open-end management investment companies and unit investment trusts to become effective automatically either on the sixtieth day after its filing, or on, any day between the sixtieth and eightieth day after its filing as designated by the registrant.

which case requests for acceleration of effectiveness will be treated as confirmation by those registrants of their awareness of their statutory obligations under the federal securities laws.

Post-Effective Amendments

With regard to post-effective amendments to investment company registration statements, the Division will employ similar review procedures. Currently, post-effective amendments filed pursuant to rules 485(b) [17 CFR 230.485(b)] or 486(b) [17 CFR 230.486(b)] may become effective on the date that they are filed with the Commission and are, therefore, normally not reviewed by the staff. Only post-effective amendments filed pursuant to rules 485(a) [17 CFR 230.485(a)] or 486(a) [17 CFR 230.486(a)] are given staff review. In most cases, the Division limits its review of such post-effective amendments to an examination of: (1) The financial statements, (2) narrative material that is underscored or otherwise marked to indicate textual changes, and (3) areas in which recent developments suggest that changes in prospectus disclosure are likely to be necessary.[8]

To expedite the processing of such filings under the new procedures, the Division requests that issuers describe in their transmittal letters to the Commission the reason, or reasons, for filing their current post-effective amendment under paragraph (a) of rules 485 or 486, and whether the material portions of the issuer's registration statement that are being amended have been reviewed by the staff in some other context (i.e., in proxy solicitation materials for that fund or in the registration statement or post-effective amendment of another fund in that complex). As in the case of registration statements, based on the information available to the staff, the branch will determine whether the filing should be given: (1) A full review, (2) a partial review of only certain portions of the filing, or (3) no further review. Under these procedures, when a post-effective amendment is not being reviewed, requests for acceleration of effectiveness will be considered as an acknowledgement by the issuer of their statutory obligations under the federal securities laws to provide appropriate disclosure of material information.

Revised Proxy Review Procedures

Currently, preliminary proxy materials containing only proposals relating to: (1) Uncontested election of directors, (2) ratification of the selection of accountants, (3) the continuation of a current advisory contract, (4) increases in the number or amount of shares authorized to be issued by the registrant, and (5) continuation of any current contract relating to the distribution of shares issued by the registrant that is not associated with a distribution plan permitted by Rule 12b–1 under the Investment Company Act of 1940, are reviewed by the staff only to make sure that these proxy materials contain no other proposals or information which should be reviewed.[10] Under normal circumstances, proxy materials concerning other material matters continue to receive full staff review.[10]

These procedures for the processing of proxy statements have, for the most part, worked well, but can be improved. Therefore, the Division is withdrawing the existing procedures for processing proxy materials enumerated in Securities Act Release Nos. 5988 and 6353[11] and is implementing new ones.

Under the new procedures, an issuer whose preliminary proxy statement or information statement has been on file for the required ten days may mail such materials without first receiving any notice or comments from the staff, except for proxy materials which contain proposals subject to the information requirements of Item 14 of Schedule 14A under the Securities Exchange Act of 1934 [17 CFR 240.14a–101]. If the staff has comments, or will have comments, on a preliminary proxy statement or information statement, the staff will advise the issuer promptly (but in no event later than the tenth day after filing). If an issuer is not alerted by the staff within that ten-day period, the issuer should consider itself free to mail its proxy materials without waiting to hear from the staff. The staff will no longer advise issuers or respond to issuer inquiries concerning the review status of a preliminary proxy statement or information statement. However, clerical assistants in the appropriate branch will be prepared to answer inquiries as to the date of receipt of such filings. Since proxy materials containing proposals subject to Item 14 of Schedule 14A involve a significant alteration in the operation of an investment company, and, generally, will require staff review, those proxy materials are not subject to the new review procedures.

By the Commission.
Dated: February 15, 1984.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 84–4750 Filed 2–22–84; 8:45 am]

BILLING CODE 8010–01–M

[8] *See* Securities Act Release No. 5988 (October 2, 1981) [43 FR 49686 (October 25, 1978)]. In addition, the Division does not review certain post-effective amendments or proxy statements that otherwise would be subject to review when necessary to maintain the timely processing of all filings pursuant to its "stand-by procedures" *See* Securities Act Release No. 6353 (October 2, 1981) [46 FR 50649 (October 14, 1981)]. Pursuant to the "stand-by procedures" announced in that release, filings are selected for review based on: (1) random sampling, (2) information in the transmittal letter suggesting a need for review, (3) unusual findings resulting from a test check of the financial statements, or (4) staff experience through review of other filings of a particular registrant or inspection of the registrant which indicates that review would be appropriate.

[9] *See* Securities Act Release No. 5988 (October 19, 1978) [43 FR 49686 (October 25, 1978)]; Securities Act Release No. 6353 (October 2, 1981).

[10] *See* Securities Act Release No. 6353 (October 2, 1981) concerning certain "stand-by procedures" for the review of proxy materials which might be implemented by the Division if necessary to maintain the timely and orderly processing of all filings.

[11] Securities Act Release No. 5988 (October 19, 1978) and Securities Act Release No. 6353 (October 2, 1981). The Division is withdrawing the procedures described in these releases because they are not entirely consistent with the new procedures, e.g., those releases request issuers to ascertain that the staff has no comments on proxy materials, even if they contain only the routine proposals described in those releases. The Division will, however, select proxy materials for review on a basis that reflects the process described in these releases.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 155

[Docket No. 83N–0327]

Certain Other Canned Vegetables; Amendment of Standards of Identity

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the standards of identity for canned bean sprouts, lima beans, carrots, green sweet peppers, red sweet peppers, and potatoes to permit the use of safe and suitable calcium salts. This action will promote honesty and fair dealing in the interest of consumers.

DATES: Effective July 1, 1985, for all affected products initially introduced or initially delivered for introduction into interstate commerce on or after this date. Voluntary compliance may begin April 23, 1984. Objections by March 26, 1984.

ADDRESS: Written objections to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: F. Leo Kauffman, Bureau of Foods (HFF–214), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–485–0107.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of October 21, 1983 (48 FR 48836), FDA published a proposal to amend the standards of identity for canned bean sprouts, lima beans, carrots, green sweet peppers, red sweet peppers, and potatoes in § 155.200 (21 CFR 155.200) to provide for the use of safe and suitable calcium salts as optional firming agents. Interested persons were given until December 20, 1983, to comment on the proposal. FDA received only one comment. The comment supported the proposal.

The regulation will provide a food processor the flexibilty to use different safe and suitable calcium salts without having to initiate lengthy and costly proceedings to amend a given food standard each time a processor wants to use a new or different calcium salt. Accordingly, consumers and manufacturers will benefit from this regulation. In light of the absence of any negative comments and of the benefits of this regulation, the agency is issuing the proposed rule as a final rule with no changes.

List of Subjects in 21 CFR Part 155

Canned vegetables, Food standards, Vegetables.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 401, 701(e), 52 Stat. 1046 as amended, 70 Stat. 919 as amended (21 U.S.C. 341, 371(e))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), Part 155 is amended in § 155.200 by revising paragraph (c)(6) to read as follows:

PART 155—CANNED VEGETABLES

§ 155.200 Certain other canned vegetables.

* * * * *

(c) * * *

(6) In the case of bean sprouts, lima beans, carrots, green sweet peppers, red sweet peppers, and potatoes, any safe and suitable calcium salts may be added as a firming agent.

* * * * *

Any person who will be adversely affected by the foregoing regulation may at any time on or before March 26, 1984 submit to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, written objections thereto and may make a written request for a public hearing on the stated objections. Each objection shall be separately numbered and each numbered objection shallspecify with particularity the provision of the regulation to which objection is made. Each numbered objection on which a hearing is requested shall specifically so state; failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held; failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this regulation. Received objections may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Effective date. Except as to any provisions that may be stayed by the filing of proper objections, compliance with this final regulation, including any required labeling changes, may begin April 23, 1984, and all affected products initially introduced or initially delivered for introduction into interstate commerce on or after July 1, 1985, shall fully comply. Notice of the filing of objections or lack thereof will be published in the **Federal Register.**

(Secs. 401, 701(e), 52 Stat. 1046 as amended, 70 Stat. 919 as amended (21 U.S.C. 341, 371(e)))

Dated: February 14, 1984.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 84–4703 Filed 2–22–84; 8:45 am]

BILLING CODE 4160–01–M

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21 CFR Part 558

New Animal Drugs for Use in Animal Feeds; Tylosin

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a supplemental new animal drug application (NADA) filed for Walnut Grove Products, Division of W. R. Grace & Co., providing for manufacture of a 40-gram-per-pound tylosin premix. The premix will subsequently be used to make finished feeds for swine, beef cattle, and chickens.

EFFECTIVE DATE: February 23, 1984.

FOR FURTHER INFORMATION CONTACT: Benjamin A. Puyot, Bureau of Veterinary Medicine (HFV-130), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4913.

SUPPLEMENTARY INFORMATION: Walnut Grove Products, Division of W. R. Grace & Co., 201 Linn St., Atlantic, IA 50022, is the sponsor of a supplement to NADA 98–595 submitted on its behalf by Elanco Products Co. This supplement provides for the manufacture of a 40-gram-per-pound premix subsequently used to make complete feeds for swine, beef cattle, and chickens for use as in 21 CFR 558.625(f)(1)(i) through (vi). The supplement is approved and the regulations are amended accordingly. The basis for approval of this supplement is discussed in the freedom of information summary.

In accordance with the freedom of information provisions of Part 20 (21 CFR Part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

The Bureau of Veterinary Medicine has determined pursuant to 21 CFR 25.24(d)(1)(i) (proposed December 11, 1979; 44 FR 71742) that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects in 21 CFR Part 558

Animal drugs, Animal feeds.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83), Part 558 is amended in § 558.625 by revising paragraph (b) (28) to read as follows:

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

§ 558.625 Tylosin.

* * * * *

(b)* * *

(28) To 034139: 0.8 gram and 4 grams per pound, paragraph (f)(1)(vi)(*a*) of this section; 10 grams per pound, paragraph (f)(1)(i), (iii), (iv), and (vi) of this section;

40 grams per pound, paragraph (f)(1)(i) through (vi) of this section.

* * * * *

Effective date. February 23, 1984.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)))

Dated: February 14, 1984.

Richard A. Carnevale,

Acting Associate Director for Scientific Evaluation.

[FR Doc. 84-4902 Filed 2-22-84; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

24 CFR Subtitle A and Chs. II, IV, V, VII, VIII, IX, X, and XXII

[Docket No. R-84-1163; FR-1846]

Reorganization of Rules Relating to Housing Management, the Section 8 Program, and Public and Indian Housing Programs

AGENCY: Office of the Secretary, HUD.

ACTION: Final rule.

SUMMARY: This document redesignates the material in several Chapters of HUD's regulations. These changes are designed to help implement a recent reorganization within the Department and the creation of a new position of Assistant Secretary for Public and Indian Housing. These changes, which include clarifying amendments to some Chapter headings in Title 24, should enhance the usability of HUD's regulations.

EFFECTIVE DATE: March 26, 1984.

FOR FURTHER INFORMATION CONTACT: Susan E. Schruth, Department of Housing and Urban Development, Room 10276, 451 Seventh Street, S.W., Washington, D.C. 20410 (202) 755-7055. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION:

Background

The Secretary of Housing and Urban Development recently established within the Department a new position of Assistant Secretary for Public and Indian Housing to carry out the Department's programs relating to public housing and Indian housing. These functions were transferred to the new Assistant Secretary by a delegation of authority signed by the Secretary on September 7, 1983 (published in the **Federal Register** on September 13, 1983, 48 FR 41097).

On September 27, 1983 the Secretary established a new Chapter IX in Title 24 for the regulations of the Assistant Secretary of Public and Indian Housing. To create this new Chapter IX, the Secretary moved existing material in Chapter IX to a new Chapter X, and existing material in Chapter X to a new Chapter XI. (See 48 FR 44071, September 27, 1983, effective December 13, 1983). The September 1983 document allowed the Assistant Secretary to promulgate new regulations; the document did not move existing regulations on public and Indian housing into Chapter IX, but noted that this would be done by a later, more complete reorganization document.

This Document

This document reorders portions of HUD's regulations to reflect the new organization of the Department. Because the functions of the new Assistant Secretary for Public and Indian Housing were previously carried out by the Assistant Secretary for Housing-Federal Housing Commissioner, the Department must redesignate portions of its regulations contained in Chapter VIII to a new Chapter VII and new Chapter IX. Existing Chapter VIII contains regulations on the Section 8 housing assistance programs, the Section 202 direct loan program for the elderly or handicapped and public and Indian housing programs. Chapter VIII retains those regulations applicable to the Section 8 housing programs and to other authorities retained by the Assistant Secretary for Housing-Federal Housing Commissioner. New Chapter IX contains regulations pertaining to the public and Indian housing programs. New Chapter VII contains regulations issued by the Secretary that apply both to the Section 8 housing programs and to public and Indian housing programs.

Old Chapter VII has been given a new Chapter assignment of XXII. In addition to these changes, the Department is taking this opportunity to make other technical changes to HUD regulations that are designed to enhance their usability. These changes include removing Part 470 from the CFR and moving all other material currently in Chapter IV to other parts of Title 24. Existing Chapter IV, regulations of the Assistant Secretary for Housing Management, no longer reflects the organizational structure of the Department. Regulations in this Chapter have been moved to Chapter II or Chapter V, depending on which Assistant Secretary administers the regulations. In addition, the Department is clarifying the titles of Chapters VIII and X. Tables following the Preamble to this rule show in list format the redesignation changes being made by this rule, as well as the Chapters and Chapter titles which now make up the Department's regulations.

This document does not represent a complete recodification and updating of the Department's regulations, but, rather, is limited to those areas specifically identified above. The Department will continue to revise other outdated references in regulations as they are amended substantively.

The Department has determined that this reorganization of regulations need not be published as a proposed rule, as generally required by the Administrative Procedure Act (APA), since this rulemaking merely reflects agency practice. It is thus exempt under section 553(b)(A) of the APA.

A Finding of No Significant Impact with respect to the environment required by the National Environmental Policy Act (42 U.S.C. 4321-4347) is unnecessary, since this redesignation of regulations is categorically excluded under HUD regulations at 24 CFR 50.21(k).

This rule does not constitute a "major rule" as that term is defined in Section 1(b) of Executive order 12291 on Federal Regulation issued on February 17, 1981. Analysis of the rule indicates that it does not: (1) Have an annual effect on the economy of $100 million or more; (2) cause a major increase in cost or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; or (3) have a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

As required by section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601), the Undersigned hereby certifies that this rule does not have a significant economic impact on a substantial number of small entities because it merely changes the organization of the Department's regulations.

This rule was not listed in the Department's Semiannual Agenda of Regulations published on October 17, 1983 (48 FR 47418).

List of Subjects

24 CFR Part 799

Great programs—housing and community development, Intergovernmental relations, Housing, Waiver authority.

24 CFR Part 899

Grant programs—housing and community development, Low and

moderate income housing, Rent subsidies, Waiver authority.

24 CFR Part 941

Loan programs—housing and community development, Public housing, Prototype costs, Cooperative agreements, Turnkey.

24 CFR Part 999

Public housing, Indians, Waiver authority.

Department of Housing and Urban Development Chapter Designation and Titles

Subtitle A—Office of the Secretary, Department of Housing and Urban Development

Subtitle B—Regulations Relating to Housing and Urban Development

Chapter I—Office of Assistant Secretary for Equal Opportunity, Department of Housing and Urban Development
Chapter II—Office of Assistant Secretary for Housing—Federal Housing Commissioner, Department of Housing and Urban Development
Chapter III—Government National Mortgage Association, Department of Housing and Urban Development
Chapter V—Office of Assistant Secretary for Community Planning and Development, Department of Housing and Urban Development
Chapter VI—Office of Assistant Secretary for Community Planning and Development, Department of Housing and Urban Development
Chapter VII—Office of the Secretary, Department of Housing and Urban Development
Chapter VIII—Office of Assistant Secretary for Housing—Federal Housing Commissioner, Department of Housing and Urban Development
Chapter IX—Office of Assistant Secretary for Public and Indian Housing, Department of Housing and Urban Development
Chapter X—Office of Assistant Secretary for Housing—Federal Housing Commissioner, Department of Housing and Urban Development
Chapter XI—Solar Energy and Energy Conservation Bank, Department of Housing and Urban Development
Chapter XV—Mortgage Insurance and Loan Programs under the Emergency Homeowners' Relief Act, Department of Housing and Urban Development
Chapter XX—Office of Assistant Secretary for Housing—Federal Housing Commissioner, Department of Housing and Urban Development
Chapter XXII—New Community Development Corporation, Department of Housing and Urban Development

Distribution Table *

Note.—This table will appear in the Finding Aids Section of the 1984 edition of Title 24 of the Code of Federal Regulations.

24 CFR old designation (chapter)	24 CFR new designation (chapter)
401 (IV)	245 (II)
Subpart A	Subpart D.
§ 401.1	§ 245.305.
§ 401.2	§ 245.310.
§ 401.3	§ 245.315.
§ 401.4	§ 245.320.
§ 401.5	§ 245.325.
§ 401.6	§ 245.330.
403 (IV)	246 (II).
445 (IV)	510 (V).
§ 445.1	§ 510.120.
450 (IV)	247 (II).
470 (IV)	Removed.
490 (IV)	598 (V).
491 (IV)	599 (V).
700 (VII)	3700 (XXII).
710 (VII)	3710 (XXII).
720 (VII)	3720 (XXII).
800 (VIII)	No change.
804 (VIII)	904 (IX).
805 (VIII)	905 (IX).
811 (VIII)	No change.
812 (VIII)	812 (VIII) and 912 (IX).
841 (VIII)	941 (IX).
860 (VIII)	960 (IX).
865 (VIII)	965 (IX).
866 (VIII)	966 (IX).
867 (VIII)	967 (IX).
868 (VIII)	968 (IX).
869 (VIII)	969 (IX).
870 (VIII)	970 (IX).
880 (VIII)	No change.
881 (VIII)	No change.
882 (VIII)	No change.
883 (VIII)	No change.
884 (VIII)	No change.
885 (VIII)	No change.
886 (VIII)	No change.
888 (VIII)	No change.
889 (VIII)	No change.
890 (VIII)	990 (IX).
891 (VIII)	791 (VII).
899 (VIII)	799 (VII).
	899 (VIII) and 999 (IX).

* Each new Part will contain a parallel numbering system to the redesignated Part, unless specific section designations are indicated above.

Derivation Table

Note.—This table will appear in the Finding Aids Section of the 1984 edition of Title 24 of the Code of Federal Regulations.

24 CFR new designation (chapter)	24 CFR old designation (chapter)
245 (II)	401 (IV).
§ 245.305	§ 401.1
§ 245.310	§ 401.2
§ 245.315	§ 401.3
§ 245.320	§ 401.4
§ 245.325	§ 401.5
§ 245.330	§ 401.6
246 (II)	403 (IV).
247 (II)	450 (IV).
510 (V)	445 (IV).
§ 510.120	§ 445.1.
598 (V)	490 (IV).
599 (V)	491 (IV).
791 (VII)	891 (VIII).
799 (VII)	899 (VIII).
800 (VIII)	Same.
811 (VIII)	Same.
812 (VIII)	Same.
880 (VIII)	Same.
881 (VIII)	Same.
882 (VIII)	Same.
883 (VIII)	Same.
884 (VIII)	Same.
885 (VIII)	Same.
886 (VIII)	Same.
888 (VIII)	Same.
889 (VIII)	Same.
904 (IX)	804 (VIII).
905 (IX)	805 (VIII).
912 (IX)	812 (VIII).
941 (IX)	841 (VIII).
960 (IX)	860 (VIII).
965 (IX)	865 (VIII).
966 (IX)	866 (VIII).
967 (IX)	867 (VIII).
968 (IX)	868 (VIII).
969 (IX)	869 (VIII).
970 (IX)	870 (VIII).
990 (IX)	890 (VIII).
999 (IX)	899 (VIII).
3700 (XXII)	700 (VII).
3710 (XXII)	710 (VII).
3720 (XXII)	720 (VII).

Accordingly, the Department hereby amends 24 CFR Chapters II, IV, V, VII, VIII, IX, X, and XXII as follows:

1. By redesignating the material including the authority citation in Part 401—Notice to Tenants and Consideration of Their Comments in Effecting Rent Increases, as material in Part 245—Tenant Participation in Multifamily Housing Projects, Subpart D—Procedures for Requesting Approval of an Increase in Maximum Permissable Rents, as shown in the table below and by vacating the existing Part 401 heading:

Old	New
Part 401	Part 245,
Subpart A	Subpart D
§ 401.1	§ 245.305.
§ 401.2	§ 245.310
§ 401.3	§ 245.315.
§ 401.4	§ 245.320
§ 401.5	§ 245.325.
§ 401.6	§ 245.330.

2. By redesignating Part 403—Local Rent Control, as Part 246—Local Rent Control.

3. By redesignating the material in Part 445—Application of Payments, (§ 445.1) as § 510.120, Application of Payments, and by vacating the existing Part 445 heading.

4. By redesignating Part 450—Evictions from Certain Subsidized and HUD-Owned Projects, as Part 247—Evictions from Certain Subsidized and HUD-Owned Projects.

5. By removing Part 470—Temporary Housing Pre-Termination Procedure.

6. By redesignating Part 490—Advances for Public Works Planning, as Part 598—Advances for Public Works Planning.

7. By redesignating Part 491—Grants for Advance Acquisition of Land, as

Part 599—Grants for Advance Acquisition of Land.

8. By vacating the Chapter IV heading, which includes all Subchapter designations.

9. By redesignating Chapter VII—New Community Development Corporation, Department of Housing and Urban Development (Parts 700–799), as Chapter XXII—New Community Development Corporation, Department of Housing and Urban Development (Parts 3700–3799), and redesignating Part 700 as Part 3700, Part 710 as Part 3710 and Part 720 as Part 3720.

10. By adding a new Chapter VII, entitled Office of the Secretary, Department of Housing and Urban Development (Section 8 Housing Assistance Programs and Public and Indian Housing Programs) (Parts 700–799), and by redesignating Part 891 as Part 791.

11. By revising the Chapter heading, Chapter VIII—Low Income Housing, Department of Housing and Urban Development, as Chapter VIII—Office of the Assistant Secretary for Housing—Federal Housing Commissioner, Department of Housing and Urban Development (Section 8 Housing Assistance Programs and Section 202 Direct Loan Program).

12. By redesignating the following Parts from Chapter VIII to Chapter IX:

Chapter VIII	Chapter IX
804	904
805	905
841	941
860	960
865	965
866	966
867	967
868	968
869	969
870	970
890	990

13. Whenever, in Chapter VIII and new Chapters VII and IX, reference is made to any section of a redesignated Part, that reference shall be changed according to the following table (for example, a reference to § 804.101 would be changed to read § 904.101):

Old section prefix	New section prefix
§ 804.	§ 904.
§ 805.	§ 905.
§ 841.	§ 941.
§ 860.	§ 960.
§ 865.	§ 965.
§ 866.	§ 966.
§ 867.	§ 967.
§ 868.	§ 968.
§ 869.	§ 969.
§ 870.	§ 970.
§ 890.	§ 990.
§ 891.	§ 791.

14. Part 812—Definitions of Family and Other Related Terms; Occupancy by Single Persons, remains in Chapter VIII. However, the text of this Part is duplicated as a new Part 912—Definitions of Family and Other Related Terms; Occupancy by Single Persons, which is added to Chapter IX.

15. In the list below, for each section indicated in the left column, remove the reference indicated in the middle column from wherever it appears in the section and add the reference indicated in the right column:

Section	Remove	Add
941.103, definition of "Household Type" (old § 841.103).	24 CFR Part 812.	Part 912 of this chapter.
960.403 (old § 860.403)	Part 812	Part 912.

16. In the list below, for each section indicated in the left column, remove the reference indicated in the middle column from wherever it appears in the section and add the reference indicated in the right column:

Section	Remove	Add
Part 570, Table of contents entry for § 570.437.	Applicability of 24 CFR Part 891.	Applicability of 24 CFR Part 791.
570.306(a)(4)(i)	Part 891	Part 791.
570.306(b)(2)(iii)	Part 891	Part 791.
570.306(b)(3)(ii)	Part 891	Part 791.
570.306(c)(1)(ix)	Part 891	Part 791.
570.312(b)(3)	Part 891	Part 791.
570.404(b)	Part 891	Part 791.
570.437, section heading.	Applicability of 24 CFR Part 891.	Applicability of 24 CFR Part 791.
570.437	Part 891	Part 791.
570.909(e)(2)(ii)(C)	24 CFR 891.404(a)(3).	791.404(a)(3) of this title.
570.909(f)(2)	Part 891	Part 791.
571.606	24 CFR 805	Part 905 of this [illegible]
600.180	Part 891	Part 791.
600.200	Part 891	Part 791.
600.240(b)	891.503(f)	791.503(f).
Part 600, Appendix I, section II, B.	Part 891	Part 791.
1800.43(d)(1)(iii)	Part 805	Part 905.

17. In the list below, for each section indicated in the left column, remove the title indicated in the middle column from wherever it appears in the section, and add the title indicated in the right column:

Section	Remove	Add
40.5	Assistant Secretary for Housing Production and Mortgage Credit	Appropriate Assistant Secretary.
200.40	Assistant Secretary for Housing Production and Mortgage Credit	Assistant Secretary for Housing.
200.41	Assistant Secretary for Housing Production and Mortgage Credit (HPMC)—Federal Housing Commissioner.	Assistant Secretary for Housing—Federal Housing Commissioner.
200.41	Deputy Assistant Secretary for Housing Production and Mortgage Credit—Deputy Federal Housing Commissioner.	Deputy Secretary for Housing—Deputy Federal Housing Commissioner.
791.401 (old § 891.401)	Assistant Secretary for Housing	Appropriate Assistant Secretary.
791.403(a) (old § 891.403(a))	Assistant Secretary for Housing	Appropriate Assistant Secretary.
791.403(b) (old § 891.403(b))	Assistant Secretary for Housing	Appropriate Assistant Secretary.
791.403(b)(6) (old § 891.403(b)(6))	Assistant Secretary for Housing	Appropriate Assistant Secretary.
791.407(a)(4) (old § 891.407(a)(4))	Assistant Secretary for Housing	Appropriate Assistant Secretary.
791.407(c) (old § 891.407(c))	Assistant Secretary for Housing	Appropriate Assistant Secretary.
811.103	Assistant Secretary for Housing	Assistant Secretary.
811.109(a)(2)	Assistant Secretary for Housing	Assistant Secretary.
811.110(b)(2)	Assistant Secretary for Housing	Assistant Secretary.
811.115(a)	Assistant Secretary for Housing	Assistant Secretary.
811.205(a)(3)	Assistant Secretary for Housing	Assistant Secretary.
811.207(a)(2)	Assistant Secretary for Housing	Assistant Secretary.
880.201	Assistant Secretary for Housing	Assistant Secretary.
880.204(b)(1(ii)(B)	HUD Assistant Secretary for Housing	Assistant Secretary.
880.204(c)(1)(iii)	Assistant Secretary for Housing	Assistant Secretary.
880.205(a) (1) and (2)	Assistant Secretary for Housing	Assistant Secretary.
880.303 (b) and (d)	Assistant Secretary for Housing	Assistant Secretary.
880.307(b)	Assistant Secretary for Housing	Assistant Secretary.
881.204(b)(1)(i)(B)	HUD Assistant Secretary for Housing	Assistant Secretary.
881.204(c)(1)(iii)	Assistant Secretary for Housing	Assistant Secretary.
881.205(b) (1) and (2)	Assistant Secretary for Housing	Assistant Secretary.
881.303 (b) and (d)	Assistant Secretary for Housing	Assistant Secretary.
881.307(b)	Assistant Secretary for Housing	Assistant Secretary.
881.705(b)	Assistant Secretary for Housing	Assistant Secretary.
882.104(a)	Assistant Secretary for Housing—Federal Housing Commissioner	Assistant Secretary.
883.203(a)(2)	Assistant Secretary for Housing	Assistant Secretary.

Section	Remove	Add
883.207 (a) and (b)	Assistant Secretary for Housing	Assistant Secretary.
883.207(c)(2)	Assistant Secretary for Housing	Assistant Secretary.
883.302, definition of "Partially-Assisted Project"	Assistant Secretary for Housing	Assistant Secretary.
883.302, definition of "Replacement Cost"	Assistant Secretary for Housing	Assistant Secretary.
883.305(b)(1)(iii)(B)	HUD Assistant Secretary for Housing	Assistant Secretary.
883.305(c)(1)(iii)	Assistant Secretary for Housing	Assistant Secretary.
883.306(b)(1)	Assistant Secretary for Housing	Assistant Secretary.
883.306(b)(2)	Assistant Secretary for Housing	Assistant Secretary.
883.307(d)(2)	Assistant Secretary for Housing	Assistant Secretary.
883.603(a)(2)	Assistant Secretary for Housing	Assistant Secretary.
883.603(b)(3)	Assistant Secretary for Housing	Assistant Secretary.
905.203(f)(2) (old § 905.203(f)(2))	Assistant Secretary for Housing	Assistant Secretary.
905.219(a)(4) (old § 905.219(a)(4))	Assistant Secretary for Housing	Assistant Secretary.
905.220 (old § 905.220)	HUD Assistant Secretary for Housing	Assistant Secretary.
905.404(g) (old § 905.404(g))	HUD Assistant Secretary for Housing	Assistant Secretary.
941.204(a) (old § 841.204(b))	Assistant Secretary for Housing	Assistant Secretary.
941.204(d) (old § 841.204(d))	Assistant Secretary for Housing	Assistant Secretary.
941.204(d)(4) (old § 841.204(d)(4))	Assistant Secretary for Housing	Assistant Secretary.
941.206 (old § 841.206)	Assistant Secretary for Public and Indian Housing	Assistant Secretary.
941.403(c)(3) (old § 841.403(c)(3))	Assistant Secretary for Housing	Assistant Secretary.
941.404(g) (old § 841.404(g))	Assistant Secretary for Housing	Assistant Secretary.
965.503 (intro) (old § 865.503 (intro))	Assistant Secretary for Housing—Federal Housing Commissioner	Assistant Secretary.
965.503 (d) and (e) (old § 865.503 (d) and (e))	Assistant Secretary for Housing—Federal Housing Commissioner	Assistant Secretary.
970.5 (old § 870.5)	Assistant Secretary for Housing	Assistant Secretary.

18. In the list below, for each section indicated in the left column, remove the reference indicated in the middle column from wherever it appears in the section and add the reference in the right column:

Section	Remove	Add
207.19(e)(3)	Part 403 of this title	Part 246 of this chapter.
220.511(d)	Part 403 of this title	Part 246 of this chapter.
221.531(c)(5)	Part 403 of this title	Part 246 of this chapter.
236.72(b)(3)	Part 256 and Part 426 of this title	This part.
247.6(c) (old § 450.6(c))	24 CFR Part 403	Part 246 of this chapter.
290.15(c)	24 CFR Part 450, Subpart B	Part 247, Subpart B of this chapter.
570.438(c)	§§ 470.495 and 470.629	§§ 246.495 and 246.499 of this title.
886.328(a)	24 CFR Part 450	Part 247 of this title.

19. By adding a new Part 799 to new Chapter VII to read as follows:

PART 799—WAIVER AUTHORITY

Sec.
799.101 Waivers.

Authority: Sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

§ 799.101 Waivers.

(a) *Basic provision.* Upon determination of good cause, the Secretary of Housing and Urban Development may, subject to statutory limitations, waive any provision of this chapter. Each such waiver shall be in writing and shall be supported by documentation of the pertinent facts and grounds.

(b) *Reservation of authority by the Secretary.* The authority under paragraph (a) of this section is reserved to the Secretary and no delegation of this waiver authority shall be effective unless executed subsequent to June 7, 1976, for the Assistant Secretary for Housing—Federal Housing Commissioner on September 6, 1983, for the Assistant Secretary for Public and Indian Housing. Authority to waive by either Assistant Secretary is limited to each Assistant Secretary's respective programs.

20. By removing, in Part 899, Subpart B (§§ 899.201, 899.202 and 899.203), by removing the Subpart A heading—Miscellaneous Provisions, and by revising the Part heading to read Part 899—Waiver Authority.

21. In § 941.101, paragraph (a) is revised to read as follows:

§ 941.101 Purpose and scope.

(a) *Purpose.* The United States Housing Act of 1937 (Act) authorizes HUD to assist public housing agencies (PHAs) for the development and operation of lower income housing projects and financial assistance in the form of loans and annual contributions under Sections 4, 5 and 9 of the Act. This part is the regulation under which lower income housing (excluding Indian housing), herein called public housing, is developed. The regulations for development of other housing assisted under the Act are contained in Part 905 of this Chapter (Indian housing) and in Chapter VIII (Section 8 housing). The requirements for the administration of a PHA and for the operation and management of public housing projects are stated in this Chapter, in Chapter VII, and in the Annual Contributions Contract (ACC). Regulations that relate to the public housing program include:

(1) Part 791—Application review and fund allocations.

(2) Part 799—Waiver authority.

(3) Part 912—Definition of family and single person occupancy.

(4) Part 960—Income limits, tenant selection, and rents.

(5) Part 965—Project management.

(6) Part 966—Lease and grievance procedure.

(7) Part 967—Personnel policies and compensation.

(8) Part 968—Modernization.

(9) Part 969—Demolition and disposition.

(10) Part 990—Operating subsidy.

(11) Part 999—Waiver authority.

* * * * *

22. By adding a new Part 999 to Chapter IX to read as follows:

PART 999—WAIVER AUTHORITY

Sec.
999.101 Waivers.

Authority: Sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

§ 999.101 Waivers.

(a) *Basic provision.* Upon determination of good cause, the Secretary of Housing and Urban Development may, subject to statutory limitations, waive any provision of this chapter. Each such waiver shall be in writing and shall be supported by documentation of the pertinent facts and grounds.

(b) *Reservation of authority by the Secretary.* The authority under paragraph (a) of this section is reserved to the Secretary and no delegation of this waiver authority shall be effective unless executed subsequent to September 6, 1983.

23. By revising the Chapter heading, Chapter X—Office of Assistant Secretary for Housing—Federal Housing Commissioner, Department of Housing

and Urban Development as Chapter X—Office of Assistant Secretary for Housing—Federal Housing Commissioner, Department of Housing and Urban Development (Interstate Land Sales Registration Program).

(Sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d))

Dated: February 14, 1984.

Samuel R. Pierce, Jr.,

Secretary of Housing and Urban Development.

[FR Doc. 84-4522 Filed 2-22-84; 8:45 am]

BILLING CODE 4210-32-M

Office of the Assistant Secretary for Public and Indian Housing

24 CFR Part 865

[Docket No. R-84-853]

PHA-Owned or Leased Projects; Maintenance and Operation; Tenant Allowances for Utilities

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Technical amendment.

SUMMARY: This document amends 24 CFR Part 865 of HUD regulations to include OMB control numbers at the place where current information collection requirements are described.

EFFECTIVE DATE: February 23, 1984.

FOR FURTHER INFORMATION CONTACT: Charles Field, Office of the General Counsel, (202) 755-8247. This is not a toll-free number.

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

The information collection requirement contained in the regulatory section listed below has been approved by the Office of Management and Budget under the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96-511) and assigned the control number listed.

List of Subjects in 24 CFR Part 865

Reporting and recordkeeping requirements.

Text of the Amendment

PART 865—[AMENDED]

§§ 865.473, 865.478, 865.480 [Amended]

Following the text of §§ 865.473, 865.478, and 865.480 of Title 24, add the following statement:

(Approved by the Office of Management and Budget under OMB Control Number 2502-0293.)

Dated: February 16, 1984.

Grady J. Norris,

Assistant General Counsel for Regulations.

[FR Doc. 84-4621 Filed 2-22-84; 8:45 am]

BILLING CODE 4210-33-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 5f

[T.D. 7942]

Income Tax; Elections and Miscellaneous Matters

Correction

In FR Doc. 84-3460 beginning on page 4722 in the issue of Wednesday, February 8, 1984, make the following corrections.

1. On page 4723, first column, twelfth line from the bottom of the page, "1983" should read "1982"; second column, third full paragraph, tenth line, "338(g)(6)(B)" should read "338(h)(6)(B)"; and in the eighth line from the bottom of the page, insert "also" after "was".

2. On page 4730, first column, § 5f.338-2, paragraph (e)(3)(i), third line, "August 3, 1982" should read "August 31, 1982".

BILLING CODE 1505-01-M

DEPARTMENT OF JUSTICE

Parole Commission

28 CFR Part 2

Paroling, Recommitting, and Supervising Federal Prisoners

AGENCY: United States Parole Commission, Justice.

ACTION: Final rule.

SUMMARY: The United States Parole Commission is making an amendment to its standard conditions of release for all parolees and mandatory releasees, to permit limited seizures of contraband by Probation Officers. The amendment will authorize Probation Officers to seize contraband observed in plain view in the parolee's residence, place of business or occupation, vehicles or on his person. This amendment is intended as a supervision tool to aid in early detection of parole violations and in crime prevention.

EFFECTIVE DATE: April 1, 1984.

FOR FURTHER INFORMATION CONTACT: Joseph A. Barry, General Counsel, U.S. Parole Commission, 5550 Friendship Boulevard, Chevy Chase, Maryland 20815, telephone (301) 492-5959.

SUPPLEMENTARY INFORMATION:

The Proposed Rule

In October 1982, pursuant to its continuing study of the desirability of permitting some types of limited searches and seizures by Probation Officers, the Commission published a proposal at 47 FR 46548 to amend its rule on conditions of release, 28 CFR 2.40(a). The Commission proposed first to modify the condition of release which proscribes unauthorized possession or use of drugs, by adding to this condition a requirement that the releasee submit to a reasonable search of his person for detection of drug use when so directed by his Probation Officer.

Resort to drug activity by a parolee is very often a sign of imminent failure on parole and early discovery of drug use enhances prospects of salvage of the releasee through prompt treatment. Early confirmation of drug use is also seen as an effective tool in the prevention of criminal behavior.

The proposal noted that many releasees are already engaged in drug aftercare programs which utilize urinalysis testing. However, the search permitted by the proposed amendment (e.g., for fresh needle marks) would be an additional and much quicker means of detecting drug usage. The Commission contemplated that enhanced training procedures for Probation Officers would enable accurate interpretation of physical indicia of drug use, noting that such training had been successfully employed in both State and Federal programs.

The second proposed amendment was to add a new condition which would permit seizure of contraband materials when observed by the Probation Officer in plain view during his contacts with the releasee. This condition was meant to refer only to materials, such as drugs or firearms, in plain or open view of the Probation Officer. Like the limited search proposal outlined above, this condition would constitute a useful tool in supervision, and also, like the search provision, would aid in crime prevention.

In both of the proposed amendments, use of force would not be permitted where the releasee refused cooperation, but such a refusal could be used in considering revocation of the conditional release.

The Public Comment

The Commission received 27 responses to its request for comment, of which all but three were from U.S. Probation Officers. The Administrative Office of the U.S. Courts had mailed

copies of the proposal as published in the **Federal Register** to all U.S. Probation Officers. Of the 24 Federal Probation Officers responding, only two took positions against the proposal. A few of those officers endorsing the proposal opined that broader search and seizure authority should be provided. Some expressed the need (perceived in previous dialogue with Probation Officers) for furnishing instructions as well as training in the new procedures, as the limited search and seizure provisions were implemented.

The Chief Probation Officer for the Central District of California wrote that "the community—needs to be confident that aggressive precautions are being taken by the parole officer to ensure drug usage is promptly detected and corrective action immediately instituted." He reported that the management staff of his office supported the seizure of contraband for the same reasons they supported the rule's search provision. One State official, the Chief Probation Officer for the County of Sacramento, also wrote to encourage adoption of the proposals. An organization engaged in training probation officials in detecting narcotics usage wrote to offer its services to the U.S. Probation Service. One district sent in nine letters enthusiastically endorsing the proposal.

Two Probation Officers opposed the proposal as did a private criminal law practitioner. These Probation Officers felt that the rehabilitative and counseling role of the Probation Officer would be diminished by the proposal, with the releasee seeing his assigned Probation Officer as a law enforcement official rather than a helper. (The Commission is of the view that the officers need to be aware at the earliest possible time of behavior deviating from release conditions. Moreover, the Commission believes that the authority to act in such situations is consistent with the Probation Officer's counseling role and will enhance effective supervision.) The attorney's letter suggested that improper use of the new conditions could violate a releasee's constitutional rights.

The Final Rule

The Commission has decided that the proposed limited searches of releasees for drug-use detection can be accomplished by amplification of the procedures now in use under the drug after-care condition, i.e., without addition of the limited search condition to all certificates of parole, special parole and mandatory release.

The Commission believes that these limited search procedures, to be authorized for persons released under drug after-care conditions, will provide the earliest possible detection of drug abuse. They are based on the Commission's authority under 18 U.S.C. 4209 to impose conditions of release related to the nature of the offense and the history of the parolee. The additional authority in 18 U.S.C. 4209 to "Provide for such supervision and other limitations as are reasonable to protect the public welfare," also supports the search procedures (as well as the new condition for limited seizures of contraband discussed below.)

Reasonable searches would include, e.g., instructions to exhibit the arms or legs for inspection of needle marks and other visual observation of the releasee for obvious indicia of drug use, such as appearance of the eyes. Examinations would be made with due concern for the dignity and privacy of the parolee and would not normally include strip searches or body cavity searches. Whenever possible officers of the same sex would perform the searches, or at the least a person of the parolee's sex would be present. Use of force would be prohibited but refusal to permit a reasonable examination might be charged as a violation of parole.

The Commission has decided to adopt the proposed addition, to the standard conditions of release, of a condition permitting confiscation of plain view contraband. Where plain view contraband is seized, Probation Officers will be instructed in proper methods of identification and in protection of the chain of custody for use of such materials for revocation of release and for criminal prosecution. As has always been required, evidence of crimes will be reported to prosecuting authorities. In the new condition, as noted in the proposal, use of force would not be permitted, and safety considerations would be made paramount; but refusal of cooperation would constitute evidence of parole violation. Instructions on the interpretation of plain view would be provided to the Probation Officers. The new standard condition will be added to all certificates issued after the effective date of this rule change; and where deemed necessary it may be added as a special condition to earlier issued certificates.

Implementation

All standard parole, special parole and mandatory release certificates issued on or after April 1, 1984 will include the new condition described above concerning seizure of contraband.

List of Subjects in 28 CFR Part 2

Administrative practice and procedure, Prisoners, Probation and parole.

PART 2—[AMENDED]

Accordingly, pursuant to the provisions of 18 U.S.C. 4203(a)(1) and 4204(a)(6), 28 CFR 2.40(a)(12) is added as follows:

§ 2.40 Conditions of release.

(a) * * *

* * * * *

(12) The parolee shall permit confiscation by his Probation Officer of any materials which the Probation Officer believes may constitute contraband in the parolee's possession and which he observes in plain view in the parolee's residence, place of business or occupation, vehicle(s), or on his person.

* * * * *

I certify that this rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act.

Dated: February 2, 1984.

Benjamin F. Baer,

Chairman, U.S. Parole Commission.

[FR Doc. 84-4700 Filed 2-22-84; 8:45 am]

BILLING CODE 4410-01-M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1910

Occupational Exposure to Cotton Dust

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Administrative stay.

SUMMARY: The current OSHA cotton dust standard (29 CFR 1910.1043) requires that by March 27, 1984, all operations to which the standard applies must be in compliance with the permissible exposure limit using engineering and work practice controls. Pending completion of an ongoing review of the standard, OSHA is issuing a stay of the effective date of this provision for some operations of ring spinning of coarse count cotton yarns. During this period all other applicable provisions of the standard will apply. It appears that some coarse count cotton ring spinning operations will have feasibility problems coming into compliance by March 27, 1984, and the

stay will give OSHA time to review the record and make final determinations.

DATE: This stay is effective from March 27, 1984 to September 27, 1984.

FOR FURTHER INFORMATION CONTACT: James Foster, Occupational Safety and Health Administration, Room N–3657, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20210, Telephone (202) 523–8151.

SUPPLEMENTARY INFORMATION: The Occupational Safety and Health Act requires OSHA to set occupational health standards which most adequately assure employee safety and health "to the extent feasible." In the preamble to the 1978 OSHA cotton dust standard (43 FR 27350, June 23, 1978), the Agency presented a substantial amount of evidence to demonstrate the technical feasibility of the standard in the textile industry based on the evidence then available.

Beginning in 1981 as evidence of actual implementation of the cotton dust standard became available, OSHA undertook a further review of the feasibility of the standard. As part of this review, OSHA hired a consulting firm, Centaur Associates, to examine a number of issues including the current state of compliance and to review the technological feasibility of completing the compliance programs within the deadline specified by the standard (March 27, 1984).

After visiting 15 plants and interviewing numerous industrial engineers and manufacturers of dust control equipment, Centaur reported that textile experts generally consider the requirements of the 1978 standard to come into compliance with the engineering control provisions by March 27, 1984 to be feasible. The Centaur Report (Exhibit 185) documented that in 1982, a large percentage of textile operations were already in compliance with the permissible exposure limit.

Nevertheless, Centaur found that a problem does exist for specific processes in the manufacturing of certain types of yarn to come into compliance with engineering controls by March 27, 1984. These problem areas were concentrated in the ring spinning operations for high-cotton-content, coarse count yarn. These yarns are used in denim, duck, heavy terry cloth, and heavy industrial fabrics. Recent experience with these particular ring spinning processes indicates that ventilation systems may not always be effective and that this production equipment cannot generally be isolated.

There are several possible solutions to the dust control problem, including the rapid advent of open-end spinning systems. This relatively new technology reduces the dust levels because the fibers are spun within enclosed rotors and ventilation is designed into the machinery. There are, however, some current problems with open-end spun yarn. For instance, open end-yarn is currently weaker than ring-spun yarns, and broken ends in weaving operations may sometimes result in negative wear and appearance properties in the finished fabric. These factors have led some garment manufacturers to insist that fabric for their apparel be made with ring-spun yarn.

It appeared, therefore, that it might not be feasible for employers to lower dust levels to the permissible exposure limit by March 27, 1984 for high-cotton-content, coarse count ring spinning operations. However, it also appeared that these problems could be overcome in several years. Control technology, including open-end spinning, is rapidly advancing and compliance with the standard should be possible in all operations in the relatively near future.

Based on this information, OSHA proposed in its June 10, 1983 **Federal Register** notice (48 FR 26962) to extend the deadline for compliance using engineering and work practice controls found in § 1910.1043(m)(2)(ii). The deadline was proposed to be extended from March 27, 1984 to March 27, 1986. The extension would apply only to ring spinning, spooling and winding of coarse (yarn count of 14 or lower), high-cotton-content (equal to or greater than 80%) yarn.

This proposal was discussed at length by some of the commenters and additional evidence and testimony were presented on this issue at the hearings. Percy Thackston, Executive Vice President of the Bahnson Company, a supplier of ventilation equipment, testified to the inadequacy of control equipment for these operations (Tr. at 676). James A. King, Vice President of the Textile Manufacturing Division of Cone Mills Corporation, gave examples of his company's efforts to reduce dust levels below the PEL in the ring spinning of coarse count yarns (Tr. at 682–683). Commissioner John Brooks of North Carolina stated that these operations were the primary component of spinning areas which are not in compliance with the PEL in the State of North Carolina and concurred that a two-year extension would be reasonable (Tr. 1274, 1283). However, the evidence indicated that there are some coarse count, high-cotton-content yarn spinning operations which have achieved the limit by already switching to open end spinning.

The post-hearing briefs of both the Amalgamated Clothing and Textile Workers Union (Exhibit 279) and the American Textile Manufacturers Institute (Exhibit 280) recommended, based on the above evidence, that the two year extension proposed by OSHA be granted but with some slight modification to the specifications that OSHA originally proposed for the yarn operations to be covered. The testimony of Percy Thackston (Tr. at 689) and James King (Tr. at 684, 699) pointed out that a somewhat broader range of criteria for the yarn was needed.

The record for OSHA's June 10, 1983 proposal closed December 14, 1983. OSHA is now analyzing the record and will issue its final standard in the near future. However, this process will not be completed by March 27, 1984. Based on the evidence in the record and the joint recommendations of both the affected union and industry association, it is likely that OSHA's final decision will incorporate an extension similar to that jointly recommended. If the March 27, 1984 deadline is ultimately extended, it would be wasteful for employers in the meantime to install ventilation equipment which would probably not achieve the permissible exposure limit since better and more efficient equipment will be available shortly which can achieve the level. Therefore, based on this factor, the evidence in the record, and the joint recommendations of the affected parties, the Agency is hereby temporarily staying the effective date of the engineering control requirement of 29 CFR 1910.1043(m)(2)(ii) for the operations of ring spinning and winding, twisting, spooling, beaming, and warping following ring spinning, where the yarns meet the following criteria:

Where the average by weight of the yarn being run is *100 percent cotton*, the stay applies where the average yarn count by weight is *18 or below*.

Where the average by weight of the yarn being run is *80 percent or more cotton*, the stay applies where the average yarn count by weight is *16 or below*.

Where the average by weight of the yarn being run is *50 percent or more cotton*, the stay applies where the average yarn count by weight is *14 or below*.

This stay of enforcement is for a six month period, beginning on March 27, 1984 and ending on September 27, 1984.

This stay will permit the Agency to complete its review of the record and make appropriate final decisions with full supporting rationale. In the interim all the other provisions of the standard are in effect for these operations including the respiratory protection provisions which should reduce employee exposures below the permissible exposure limit. Except for this stay all provisions of the cotton dust standard 29 CFR 1910.1043 become fully effective for yarn production and slashing and weaving operations on March 27, 1984.

The Agency received a petition from the Graniteville Company, a textile manufacturing company with facilities in South Carolina and Georgia, requesting a stay and deferral of the effective date of 29 CFR 1910.1043(e) Methods of Compliance for the ring spinning operations using coarse, high cotton content yarns. OSHA believes that the stay issued by this notice responds to the petition submitted by the Graniteville Company.

The matter temporarily stayed have already been subject to a specific proposal and comment by interested parties. The extent of the stay reflects both the record evidence and the views of both union and industry participants. The stay is for a brief fixed period to permit appropriate final decisions to be taken after careful and complete review of the record. Accordingly, the Agency determines that further notice and comment on this limited stay would serve no useful informational purpose and finds that this is good cause for finding further notice and comment unnecessary within the meaning of The Administrative Procedure Act, 5 U.S.C. 553(b).

List of Subjects in 29 CFR Part 1910

Cotton dust, Occupational safety and health.

Authority: This document was prepared under the direction of Thorne G. Auchter, Assistant Secretary of Labor for Occupational Safety and Health, 200 Constitution Avenue, NW., Washington, D.C. It is issued pursuant to sections 6(b) and 8(g) of the Occupational Safety and Health Act. (84 State. 1593, 1600, 29 U.S.C. 655, 657), 29 CFR Part 1911; Secretary of Labor's Order No. 9–83 (48 FR 35736) and 5 U.S.C. 551 et seq.

Signed at Washington, D.C. this 17th day of February 1984.

Thorne G. Auchter,

Assistant Secretary of Labor.

[FR Doc. 84–4785 Filed 2–22–84; 8:45 am]

BILLING CODE 4510–26–M

DEPARTMENT OF THE TREASURY
Internal Revenue Service

31 CFR Part 10

Regulations Governing the Practice of Attorneys, Certified Public Accountants, Enrolled Agents, and Enrolled Actuaries Before the Internal Revenue Service

AGENCY: Department of the Treasury.

ACTION: Final rule.

SUMMARY: This document contains final regulations governing practice before the Internal Revenue Service (IRS) to set standards for providing opinions used in the promotion of tax shelter offerings. The final regulations reflect the Treasury Department's concern about the proliferation of abusive tax shelters in recent years and the role of the IRS practitioner's opinion in the promotion of such shelters. The regulations address the problem by imposing duties upon IRS practitioners who furnish opinions for use in connection with tax shelter offerings.

DATES: These final regulations are effective with respect to tax shelter opinions provided after May 23, 1984.

FOR FURTHER INFORMATION CONTACT: Mr. Leslie S. Shapiro, Director of Practice, Department of the Treasury, Washington, D.C. 20220, (202) 634–5135 (non toll free).

SUPPLEMENTARY INFORMATION:

Background

On September 4, 1980, the **Federal Register** (45 FR 58594) published for public comment a proposed rule that would amend the regulations governing practice before the IRS contained in 31 CFR, Part 10 (Treasury Department Circular No. 230). Among other things, the proposed rule would have required an IRS practitioner to comply with certain standards when providing a tax shelter opinion.

In addition, on November 17, 1980, the **Federal Register** (45 FR 75835) published a notice inviting comments from the public on the desirability of establishing an advisory committee to advise the Treasury Department on issues arising out of the standards proposed in the regulations for tax shelter opinions.

On January 29, 1982, the American Bar Association (ABA) issued a revised Formal Opinion 346 relating to the obligations of an attorney in issuing a tax shelter opinion. Unless otherwise noted, references herein to "ABA Opinion 346" refer to the Opinion in its revised form.

On December 15, 1982, a modified proposed rule was published in the **Federal Register** (47 FR 56144) (hereinafter referred to as the "proposed rule") which substantially modified the 1980 proposal in order to follow standards more nearly consistent with those set forth in ABA Opinion 346. The proposed rule required a practitioner who renders a tax shelter opinion to exercise responsibility with respect to the accuracy of the relevant facts; apply the law to the particular facts of the tax shelter offering; ascertain that all material Federal tax issues have been considered; where possible, provide an opinion as to the likely outcome on the merits of each material tax issue; provide an evaluation of the extent to which the material tax benefits in the aggregate will be realized; and assure that the nature and extent of the tax shelter opinion is described correctly in the offering materials.

Approximately fifteen written comments on the proposed rule were received from bar associations, accounting groups, individual attorneys, and accountants. After consideration of all comments regarding the proposed rule, it is hereby adopted as modified for clarification.

Explanation of Changes

The final rule adopted herein continues to follow the general guidelines of ABA Opinion 346, as did the proposed rule, and the "Supplementary Information" contained in the December 15, 1982, Notice of Proposed Rulemaking. However, various changes of a clarifying and stylistic nature have been made in the final rule. The more important changes, and the reasons for not making certain other suggested changes, are discussed below.

General Comments

A number of comments were received which generally supported the proposed rule, while others suggested that the proposed rule should be withdrawn. Some of the reasons given to withdraw the proposal included the contention that the proposed rule exceeded Treasury's statutory authority; that the rule is unnecessary in light of the publication of ABA Opinion 346 and recent statutory provisions directed at tax shelters added to the tax law; and that it would have little effect on persons who wish to participate in abusive tax shelters.

Treasury determined that the proposed rule should be finalized for several reasons. First, the legal profession has, by publication of ABA Opinion 346, recognized that attorneys have unique ethical responsibilities when they render tax shelter opinions to persons who are not their clients. This

action by the ABA reinforces Treasury's belief that tax practitioners must meet minimum standards of conduct with respect to tax shelter opinions, and that those who do not may be subject to suspension or disbarment from practice before Treasury.

Treasury has independent statutory authority to discipline incompetent and unethical conduct by practitioners,[1] while the ABA lacks such authority. State regulatory bodies may choose not to exercise their authority to regulate tax shelter opinions, or they may fail to follow uniform regulatory standards. In addition, certified public accountants, enrolled agents and enrolled actuaries also may practice before the IRS. For these reasons, action by Treasury is needed.

Finally, rules relating to tax shelter opinions complement the new penalties and other tax law changes made by Congress relating to tax shelters. For example, the new penalty for substantial understatements of tax liability under Internal Revenue Code section 6661 has increased the significance of determining whether there is sufficient legal authority for a position taken on a tax return. Thus, it is even more important than before that a prospective investor receive accurate and complete tax advice in the opinion as to the merits of the tax shelter offering. The final rule should help to improve the quality of this advice.

However, the regulations in this final rule are not intended to preclude local law and regulation from governing the preparation, issuance and dissemination of tax shelter opinions. However, regardless of the existence of local authority on the subject, the tax practitioner must observe and comply with the Treasury Department's regulations in order to avoid Treasury sanctions for misconduct thereunder.

Several commenters requested clarification of Treasury's position regarding "negative opinions" as set forth in the Supplementary Information accompanying the proposed rule. The final rule does not prohibit negative opinions, provided that all of the other requirements of the tax shelter opinion rules are met. However, it should be noted that a negative opinion may subject a practitioner to discipline under the final rule if it is not correctly, fairly and clearly described in the offering materials.

Specific Comments

1. Due Diligence as to Factual Matters

The proposed rule required a practitioner to exercise a degree of diligence with respect to the accuracy of factual matters relevant to a tax shelter opinion. Several comments stated that the proposed rule on this subject was unclear as to the scope of the practitioner's responsibility to verify the facts.

The Supplementary Information for the proposed rule stated that the applicable standards in this area generally were the same as those set forth in ABA Formal Opinion 346 and ABA Formal Opinion 335 (dealing with assumed fact opinions in connection with sale of unregistered securities). The final rule has been modified to incorporate a statement of the appropriate standards directly into the rule. Section 10.33(a)(1) now provides that a practitioner generally need not conduct an independent verification of the facts unless he knows, or should know, that the facts provided to him by the promoter or another person are untrue. Furthermore, a practitioner may accept without further inquiry an asserted valuation of property, an appraisal, or a projection, as support for the matters claimed therein only if they make sense on their face, and, in the case of an appraisal or projection, the practitioner reasonably believes that the person providing the appraisal or projection is competent to do so. Finally, if a valuation of purchased property is based on its stated purchase price, the practitioner must examine the circumstances surrounding the purchase to determine whether the stated purchase price reasonably may be considered to be the fair market value of the property.

2. Opinion on Each Material Tax Issue

Under the proposed rule, practitioners were required to render an opinion on each material tax issue in the offering. The final rule clarifies that an opinion is necessary only with respect to material issues that involve a reasonable possibility of a challenge by the IRS.

Under the rule, opinions are required only "where possible." Treasury will give cases in which practitioners conclude that opinions are not possible special scrutiny to prevent recurrence of the practice of rendering tax shelter "opinions" that do not truly express any opinion at all. Such "opinions" may be sued to mislead investors, who may believe that the practitioner's participation in the shelter offering is an endorsement of the shelter.

3. Overall Evaluation

The proposed rule required a practitioner to make an overall evaluation of the extent to which the tax benefits of the tax shelter in the aggregate were likely to be realized. The final rule has been clarified to provide that such an overall opinion need be rendered only where it is possible to do so. As with opinions on material tax issues, Treasury expects that it will be possible to render an overall evaluation in the great majority of cases (a view shared by ABA Opinion 346).

The final rule specifically requires that the existence of an unfavorable overall evaluation, or an opinion that concludes that an overall evaluation is not possible, must clearly be disclosed in the offering materials.

One comment suggested that reference to "aggregate" tax benefits is ambiguous since no guidelines were provided for making the evaluation. The final rule clarifies the purported ambiguity by defining a favorable overall evaluation as one concluding that substantially more than half of the material tax benefits of the tax shelter, in terms of their financial impact on a typical investor, more likely than not will be realized. Any other conclusion should be viewed as a less than favorable overall evaluation and should be set forth prominently in the opinion as such. Further, several examples of how the overall evaluation requirement is to be applied in typical tax shelter situations are provided.

4. Partial Opinions

The proposed rule permitted a practitioner to render an opinion on less than all the material tax issues if certain conditions were met. In particular, a partial opinion could be given only if the practitioner had no reason to believe that the overall evaluation of the tax shelter provided by another practitioner was incorrect.

Several comments expressed concern that the duty to examine the correctness of the overall evaluation is unduly burdensome to a practitioner hired to render only a partial opinion. The proposed rule was not intended to impose unreasonable burdens on practitioners who give partial opinions. The final rule now provides that the practitioner giving the partial opinion must have no reason to believe that the

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[1] 31 U.S.C. 330(b), relating to suspension or disbarment from practice before Treasury, provides:

(b) After notice and opportunity for a proceeding, the Secretary [of the Treasury] may suspend or disbar from practice before the Department [of the Treasury] a representative who—

(1) Is incompetent;

(2) Is disreputable;

(3) Violates regulations prescribed under this section; or

(4) With intent to defraud, willfully and knowingly misleads or threatens the person being represented or a prospective person to be represented.

overall evaluation is incorrect on its face. It is anticipated that practitioners will meet this requirement by reviewing the overall evaluation to determine if it makes sense on its face, based on the practitioner's knowledge and experience, and if it is internally consistent with the opinions rendered on each material tax issue of the shelter.

In addition, comments by certified public accountants have requested clarification of the applicability of the final rule to practitioners who are associated with financial forecasts or projections included in tax shelter offering materials. The final rule states that practitioners who provide such forecasts or projections must comply with the general rules applicable to partial tax shelter opinions.

Financial forecasts or projections often include assumptions as to the tax return reporting positions to be taken with respect to material tax issues. Tax shelter forecasts or projections therefore could mislead investors by implicitly suggesting that the tax return positions they reflect are proper. For this reason, the final rule treats forecasts or projections involving any tax assumptions as "tax shelter" opinions. If the forecasts or projections themselves do not address all of the material tax issues in the required manner, all material tax issues that form the basis for such forecasts or projections must be fully addressed by the practitioner or some other practitioner in a tax opinion (or elsewhere in the offering materials) that meets the criteria set forth in the rules. Furthermore, the practitioner associated with the forecasts or projections will be responsible for rendering an opinion on any material tax issue not addressed in the tax opinion by the other practitioner. Finally, the nature and extent of the forecasts or projections must be described correctly in the offering materials.

5. Definitions

The definition of a tax shelter generated the greatest number of comments. Some comments suggested that the definition used (patterned after that in ABA Opinion 346) was overbroad, and that it should be made consistent with the definition of a tax shelter in Internal Revenue Code section 6661 (penalty for substantial understatements of tax liability). The final rule does not incorporate this suggestion because section 6661 is intended to identify a relatively narrow category of transactions that should be subject to more stringent penalty requirements because their principal purpose is tax avoidance. In contrast, the tax shelter opinion rules serve a different purpose. Merely because an investment has a business or profit objective and is not principally tax motivated does not mean that it does not also have substantial tax shelter features in the eyes of potential investors, or that a full and complete tax opinion is not necessary.

The tax shelter definition in the final rule provides that the tax shelter effect of a transaction must be both substantial and intended. The reason for this modification is to avoid "retroactive" reclassification of an investment as a tax shelter if unintended losses exceed income in a year (for example, when an unsuccessful investment is disposed of or terminated). The offering materials will be given significant weight to determine whether tax shelter benefits are an intended result of the transaction.

The tax shelter definition also was modified to negate an erroneous interpretation by some that real estate investments are not considered tax shelters unless they produce tax losses in every year. If net losses are foreseeable in *any* year, a real estate investment is a tax shelter. The exclusion from the tax shelter definition for "family trusts" also was amended so that it applied only to family trusts provided in direct practitioner-client relationships, and not to trust schemes that are publicly marketed by promoters.

The definition of "tax shelter opinion" was changed to clarify the fact that an opinion letter or a tax description in a tax shelter offering circular is a tax shelter opinion even if the practitioner's name is not used.

6. Disciplinary Standards, Firm Opinions

In response to several comments, the standards of culpability required to discipline a practitioner for failing to comply with the tax shelter opinion rules or the prohibition against false opinions have been conformed. A violation of the tax shelter opinion rules or the rule relating to false opinions will be subject to discipline if the practitioner violates the rules willfully (or knowingly), recklessly, through gross incompetence, or if the violation is part of a pattern of repeated violations.

The proposed rule provided that in certain circumstances an entire firm could be disciplined for firm opinions that violated the tax shelter opinion standards. In light of comments pointing to the difficulty of imposing sanctions on firms rather than on individual practitioners, this provision has been deleted from the final rule.

7. Advisory Committee

The provision authorizing formation of an Advisory Committee for the Director of Practice has been modified to provide that action by the Committee is to be taken at the request of the Director of Practice.

One comment questioned the ability of the Director of Practice to enforce the tax shelter opinion rules in an impartial manner. Although the Director of Practice is now an official of the Internal Revenue Service, assessment of individual cases is made on an independent basis. Further, the administrative and judicial appeals described in the Supplementary Information accompanying the proposed rule continue to be applicable to disciplinary actions. Treasury believes that these safeguards are sufficient to assure that the tax shelter opinion rules will be administered in a fair and equitable manner.

8. Return Preparation

In order to clarify § 10.7 of the regulations, the heading is being changed to address its full scope.

Executive Order 12291

It has been determined that this rule is not a major rule as defined in Executive Order 12291. This rule relates solely to practice before the IRS and is not expected to have any significant economic consequences.

Regulatory Flexibility Act

This rule is not subject to the provisions of the Regulatory Flexibility Act since the initial Notice of Proposed Rulemaking was published before January 1, 1981, the effective date of the Act.

Drafting Information

The principal author of these regulations is Mr. Leslie S. Shapiro, Director of Practice, Department of the Treasury. Other present and former personnel in the Treasury Department participated in the development of the regulations, both as to substance and style.

List of Subjects in 31 CFR Part 10

Administrative rules and procedures, Lawyers, Accountants, Enrolled agents, and Enrolled actuaries.

Authority: These final rules are issued under authority of Sec. 3, 23 Stat. 258, secs. 2–12, 60 Stat. 237 et seq.; 5 U.S.C. 301; 31 U.S.C. 330; 31 U.S.C. 321 (Reorg. Plan No. 26 of 1950, 15 FR 4935, 64 Stat. 1280, 3 CFR, 1949–53 Comp., p. 1017).

Adoption of Amendments to Regulations

Accordingly, 31 CFR Part 10 is amended as follows:

§ 10.2 [Amended]

1. In § 10.2, paragraph (a) is amended by removing the third sentence.

2. Section 10.7 is amended by revising the heading and by adding paragraph (c), to read as follows:

§ 10.7 Limited practice; special appearances; return preparation and furnishing information.

* * * * *

(c) *Preparation of tax returns and furnishing information.* Any person may prepare a tax return, may appear as a witness for the taxpayer before the Internal Revenue Service, or furnish information at the request of the Internal Revenue Service or any of its officers or employees.

3. Section 10.33 is added to read as follows:

§ 10.33 Tax shelter opinions.

(a) *Tax shelter opinions and offering materials.* A practitioner who provides a tax shelter opinion analyzing the Federal tax effects of a tax shelter investment shall comply with each of the following requirements:

(1) *Factual matters.* (i) The practitioner must make inquiry as to all relevant facts, be satisfied that the material facts are accurately and completely described in the offering materials, and assure that any representations as to future activities are clearly identified, reasonable and complete.

(ii) A practitioner may not accept as true asserted facts pertaining to the tax shelter which he/she should not, based on his/her background and knowledge, reasonably believe to be true. However, a practitioner need not conduct an audit or independent verification of the asserted facts, or assume that a client's statement of the facts cannot be relied upon, unless he/she has reason to believe that any relevant facts asserted to him/her are untrue.

(iii) If the fair market value of property or the expected financial performance of an investment is relevant to the tax shelter, a practitioner may not accept an appraisal or financial projection as support for the matters claimed therein unless:

(A) The appraisal or financial projection makes sense on its face;

(B) The practitioner reasonably believes that the person making the appraisal or financial projection is competent to do so and is not of dubious reputation; and

(C) The appraisal is based on the definition of fair market value prescribed under the relevant Federal tax provisions.

(iv) If the fair market value of purchased property is to be established by reference to its stated purchase price, the practitioner must examine the terms and conditions upon which the property was (or is to be) purchased to determine whether the stated purchase price reasonably may be considered to be its fair market value.

(2) *Relate law to facts.* The practitioner must relate the law to the actual facts and, when addressing issues based on future activities, clearly identify what facts are assumed.

(3) *Identification of material issues.* The practitioner must ascertain that all material Federal tax issues have been considered, and that all of those issues which involve the reasonable possibility of a challenge by the Internal Revenue Service have been fully and fairly addressed in the offering materials.

(4) *Opinion on each material issue.* Where possible, the practitioner must provide an opinion whether it is more likely than not that an investor will prevail on the merits of each material tax issue presented by the offering which involves a reasonable possibility of a challenge by the Internal Revenue Service. Where such an opinion cannot be given with respect to any material tax issue, the opinion should fully describe the reasons for the practitioner's inability to opine as to the likely outcome.

(5) *Overall evaluation.* (i) Where possible, the practitioner must provide an overall evaluation whether the material tax benefits in the aggregate more likely than not will be realized. Where such an overall evaluation cannot be given, the opinion should fully describe the reasons for the practitioner's inability to make an overall evaluation. Opinions concluding that an overall evaluation cannot be provided will be given special scrutiny to determine if the stated reasons are adequate.

(ii) A favorable overall evaluation may not be rendered unless it is based on a conclusion that substantially more than half of the material tax benefits, in terms of their financial impact on a typical investor, more likely than not will be realized if challenged by the Internal Revenue Service.

(iii) If it is not possible to give an overall evaluation, or if the overall evaluation is that the material tax benefits in the aggregate will not be realized, the fact that the practitioner's opinion does not constitute a favorable overall evaluation, or that it is an unfavorable overall evaluation, must be clearly and prominently disclosed in the offering materials.

(iv) The following examples illustrate the principles of this paragraph:

Example (1). A limited partnership acquires real property in a sale-leaseback transaction. The principal tax benefits offered to investing partners consist of depreciation and interest deductions. Lesser tax benefits are offered to investors by reason of several deductions under Internal Revenue Code section 162 (ordinary and necessary business expenses). If a practitioner concludes that it is more likely than not that the partnership will not be treated as the owner of the property for tax purposes (which is required to allow the interest and depreciation deductions), then he/she may not opine to the effect that it is more likely than not that the material tax benefits in the aggregate will be realized, regardless of whether favorable opinions may be given with respect to the deductions claimed under Code section 162.

Example (2). A corporation electing under subchapter S of the Internal Revenue Code is formed to engage in research and development activities. The offering materials forecast that deductions for research and experimental expenditures equal to 75% of the total investment in the corporation will be available during the first two years of the corporation's operations, other expenses will account for another 15% of the total investment, and that little or no gross income will be received by the corporation during this period. The practitioner concludes that it is more likely than not that deductions for research and experimental expenditures will be allowable. The practitioner may render an opinion to the effect that based on this conclusion, it is more likely than not that the material tax benefits in the aggregate will be realized, regardless of whether he/she can opine that it is more likely than not that any of the other tax benefits will be achieved.

Example (3). An investment program is established to acquire offsetting positions in commodities contracts. The objective of the program is to close the loss positions in year one and to close the profit positions in year two. The principal tax benefit offered by the program is a loss in the first year, coupled with the deferral of offsetting gain until the following year. The practitioner concludes that the losses will not be deductible in year one. Accordingly, he/she may not render an opinion to the effect that it is more likely than not that the material tax benefits in the aggregate will be realized, regardless of the fact that he/she is of the opinion that losses not allowable in year one will be allowable in year two, because the principal tax benefit offered is a one-year deferral of income.

Example (4). A limited partnership is formed to acquire, own and operate residential rental real estate. The offering material forecasts gross income of $2,000,000 and total deductions of $10,000,000, resulting in net losses of $8,000,000 over the first six taxable years. Of the total deductions, depreciation and interest are projected to be $7,000,000, and other deductions $3,000,000. The practitioner concludes that it is more

likely than not that all of the depreciation and interest deductions will be allowable, and that it is more likely than not that the other deductions will not be allowed. The practitioner may render an opinion to the efect that it is more likely than not that the material tax benefits in the aggregate will be realized.

(6) *Description of opinion.* The practitioner must assure that the offering materials correctly and fairly represent the nature and extent of the tax shelter opinion.

(b) *Reliance on other opinions*—(1) *In general.* A practitioner may provide an opinion on less than all of the material tax issues only if:

(i) At least one other competent practitioner provides an opinion on the likely outcome with respect to all of the other material tax issues which involve a reasonable possibility of challenge by the Internal Revenue Service, and an overall evalution whether the material tax benefits in the aggregate more likely than not will be realized, which is disseminated in the same manner as the practitioner's opinion; and

(ii) The practitioner, upon reviewing such other opinions and any offering materials, has no reason to believe that the standards of paragraph (a) of this section have not been complied with. Notwithstanding the foregoing, a practitioner who has not been retained to provide an overall evaluation whether the material tax benefits in the aggregate more likely than not will be realized may issue an opinion on less than all the material tax issues only if he/she has no reason to believe, based on his/her knowledge and experience, that the overall evaluation given by the practitioner who furnishes the overall evaluation is incorrect on its face.

(2) *Forecasts and projections.* A practitioner who is associated with forecasts or projections relating to or based upon the tax consequences of the tax shelter offering that are included in the offering materials, or are disseminated to potential investors other than the practitioner's clients, may rely on the opinion of another practitioner as to any or all material tax issues, provided that the practitioner who desires to rely on the other opinion has no reason to believe that the standards of paragraph (a) of this section have not been complied with by the practitioner rendering such other opinion, and the requirements of paragraph (b)(1) of this section are satisfied. The practitioner's report shall disclose any material tax issue not covered by, or incorrectly opined upon, by the other opinion, and shall set forth his/her opinion with respect to each such issue in a manner that satisfies the requirements of paragraph (a) of this section.

(c) *Definitions.* For purposes of this section:

(1) "Practitioner" is any person authorized under § 10.3 of this part to practice before the Internal Revenue Service.

(2) A "tax shelter," as the term is used in this section, is an investment which has as a significant and intended feature for Federal income or excise tax purposes either of the following attributes: (i) Deductions in excess of income from the investment being available in any year to reduce income from other sources in that year, or (ii) credits in excess of the tax attributable to the income from the investment being available in any year to offset taxes on income from other sources in that year. Excluded from the term are municipal bonds; annuities; family trusts (but not including schemes or arrangements that are marketed to the public other than in a direct practitioner-client relationship); qualified retirement plans; individual retirement accounts, stock option plans; securities issued in a corporate reorganization; mineral development ventures, if the only tax benefit would be percentage depletion; and real estate where it is anticipated that in no year is it likely that deductions will exceed the tax attributable to the income from the investment in that year. Whether an investment is intended to have tax shelter features depends on the objective facts and circumstances of each case. Significant weight will be given to the features described in the offering mateials to determine whether the investment is a tax shelter.

(3) A "tax shelter opinion," as the term is used in this section, is advice by a practitioner concerning the Federal tax aspects of a tax shelter either appearing or referred to in the offering materials, or used or referred to in connection with sales promotion efforts, and directed to persons other than the client who engaged the practitioner to give the advice. The term includes the tax aspects or tax risks portion of the offering materials prepared by or at the direction of a practitioner, whether or not a separate opinion letter is issued or whether or not the practitioner's name is referred to in the offering materials or in connection with the sales promotion efforts. In addition, a financial forcast or projection prepared by a practitioner is a tax shelter opinion if it is predicated on assumptions regarding Federal tax aspects of the investment, and it meets the other requirements of the first sentence of this subparagraph. The term does not, however, include rendering advice solely to the offeror or reviewing parts of the offering materials, so long as neither the name of the practitioner, nor the fact that a practitioner has rendered advice concerning the tax aspects, is referred to in the offering materials or in connection with the sales promotion efforts.

(4) A "material" tax issue as the term is used in this section is (i) any Federal income or excise tax issue relating to a tax shelter that would make a significant contribution toward sheltering from Federal taxes income from other sources by providing deductions in excess of the income from the tax shelter investment in any year, or tax credits available to offset tax liabilities in excess of the tax attributable to the tax shelter investment in any year; (ii) any other Federal income or excise tax issue relating to a tax shelter that could have a significant impact (either benefical or adverse) on a tax shelter investor under any reasonably foreseeable circumstances (e.g., depreciation or investment tax credit recapture, availability of long-term capital gain treatment, or realization of taxable income in excess of cash flow, upon sale or other disposition of the tax shelter investment); and (iii) the potential applicability of penalties, additions to tax, or interest charges that reasonably could be asserted against a tax shelter investor by the Internal Revenue Service with respect to the tax shelter. The determination of what is material is to be made in good faith by the practitioner, based on information available at the time the offering materials are circulated.

4. Section 10.51 is amended by adding new paragraph (j) to read as follows:

§ 10.51 Disreputable conduct.

* * * * *

(j) Giving a false opinion, knowingly, recklessly, or through gross incompetence, including an opinion which is intentionally or recklessly misleading, or a pattern of providing incompetent opinions on questions arising under the Federal tax laws. False opinions described in this paragraph include those which reflect or result from a knowing misstatement of fact or law; from an assertion of a position known to be unwarranted under existing

law; from counseling or assisting in conduct known to be illegal or fraudulent; from concealment of matters required by law to be revealed; or from conscious disregard of information indicating that material facts expressed in the tax opinion or offering material are false or misleading. For the purpose of this paragraph, reckless conduct is a highly unreasonable omission or misrepresentation, involving not merely simple or inexcusable negligence, but an extreme departure from the standards of ordinary care that is either known or is so obvious that the competent practitioner must or should have been aware of it. Gross incompetence includes conduct that reflects gross indifference, preparation which is grossly inadequate under the circumstances, and a consistent failure to perform obligations to the client.

5. In § 10.52, (a) introductory text is added, the rest of the existing paragraph is designated as paragraph (a), and new paragraph (b) is added to read as follows:

§ 10.52 Violation of regulations.

(a) *In General.* * * *

(b) *Tax shelter opinions.* An attorney, certified public accountant, enrolled agent or enrolled actuary may be disbarred or suspended from practice before the Internal Revenue Service for violating any part of § 10.33 of this part, if such violation is willfull, reckless or through gross incompetence (within the meaning of § 10.51(j) of this part); or if the violation is part of a pattern of providing tax shelter opinions that fail to comply with § 10.33 of this part.

6. Section 10.76 is added to read as follows:

§ 10.76 Advisory committee.

For purposes of advising the Director of Practice whether an individual may have violated § 10.33 of this part, the Director of Practice is authorized to establish an Advisory Committee, composed of at least five individuals authorized to practice before the Internal Revenue Service. Under procedures established by the Director of Practice, such Advisory Committee shall, at the request of the Director of Practice, review and make recommendations with regard to alleged violations of § 10.33 of this part.

Dated: February 14, 1984.

Peter J. Wallison,

General Counsel, Department of the Treasury.

[FR Doc. 84-4814 Filed 2-22-84; 8:45 am]

BILLING CODE 4810-25-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[AD-FRL-2529-2]

Approval and Promulgation of Implementation Plans; Ohio

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rulemaking.

SUMMARY: EPA announces final approval of the carbon monoxide (CO) attainment demonstrations for the Cincinnati urban area. EPA is not taking action on the Cleveland CO attainment demonstration at this time. EPA's action is based upon a revision which was submitted by the Ohio Environmental Protection Agency (OEPA) to satisfy the requirements of Part D of the Clean Air Act (hereafter referred to as the Act).

EFFECTIVE DATE: This final rulemaking becomes effective on March 26, 1984.

ADDRESSES: Copies of this revision to the Ohio SIP are available for inspection at: The Office of the Federal Register, 1100 L Street, NW., Room 8401, Washington, D.C.

Copies of the SIP revision, public comments on the notice of the proposed rulemaking and other materials relating to this rulemaking are available for inspection at the following addresses: (It is recommended that you telephone Debra Marcantonio at (312) 886-6088 before visting the Region V Office.)

Environmental Protection Agency, Region V, Air Programs Branch, 230 South Dearborn Street, Chicago, Illinois 60604.

Environmental Protection Agency, Public Information Reference Unit, 401 M Street, SW., Washington, D.C. 20460.

Ohio Environmental Protection Agency, Office of Air Pollution Control, 361 East Broad Street, Columbus, Ohio 43216.

SUPPLEMENTARY INFORMATION: This notice presents a discussion of EPA's review of Ohio's revisions to the CO attainment plans in five parts: I. Background Information, II. Demonstration of Attainment for Cleveland, III. Demonstration of Attainment for Cincinnati, IV. Public Comments, and V. Final Action.

I. Background Information

The 1977 Amendments added new Part D to Title I of the Act. Under this Part, the States were required to revise their SIPs for all nonattainment areas and to submit the revisions to EPA by January 1, 1979 [sections 171-178 of the Act; Section 129(c) [not codified in the United States Code] of Pub. L. 95-95]. The revised plans were to provide for attainment by December 31, 1982, unless the States demonstrated that they could not attain either the ozone or CO standard by that date despite the implementation of all reasonably available control measures (sections 172(a)(1), 172(a)(2)).

If EPA approved this demonstration, the attainment date for ozone or CO could be extended up to December 31, 1987. States receiving such extensions were to submit second SIP revisions that provide for attainment by the approved attainment date and comply with all of the Part D requirements (section 172(c)). These second SIP revisions had to be submitted by July 1, 1982 (section 129(c) (uncodified), Pub. L. 95-95).

On July 27, 1979, OEPA submitted initial SIP revisions to EPA for the Cleveland and Cincinnati urban ozone and CO attainment areas with amendments submitted to EPA on September 13, 1979; December 28, 1979; January 16, 1980; April 24, 1980; and September 17, 1980. In these SIP revisions, the State of Ohio could not demonstrate attainment of the NAAQS by December 31, 1982, for both ozone and CO, in the Cleveland and Cincinnati urban areas. Therefore, OEPA requested and EPA granted an extension of the attainment date for the standards in these areas until December 31, 1987. EPA conditionally approved the 1979 plan revisions in separate actions on October 31, 1980 (45 FR 72122) and on June 18, 1981 (46 FR 31881).

In accordance with section 129(c) of the Act, OEPA submitted 1982 SIP revisions which they believed demonstrated that the ozone and CO standards would be attained in the Cleveland and Cincinnati urban areas by December 31, 1982. EPA proposed to approve the ozone and CO attainment demonstrations on February 3, 1983 (48 FR 5118). Today's action approves the CO attainment demonstration for the Cincinnati urban area. As discussed below, EPA is not taking action on the Cleveland CO attainment demonstration at this time. EPA is reproposing action on the ozone demonstration for these areas in a separate **Federal Register** notice.

II. Demonstration of Attainment for Cleveland

The Cleveland CO nonattainment area consists of Cuyahoga County. The SIP revisions incorporating the CO attainment demonstration was submitted to EPA on June 9, 1982,

November 9, 1982, March 8, 1983 and March 16, 1983.

On December 5, 1983 Ohio submitted additional information regarding carbon monoxide standard exceedances which occurred on March 3 and 4, 1983. The purpose of this letter was to explain that a combination of an open burning of tires and adverse meteorology caused abnormally high carbon monoxide readings in Cleveland. EPA is currently reviewing these data to determine if the exceedances can be explained by an upwind fire. EPA has requested further information from the State. EPA cannot take final action on the Cleveland CO SIP, until the review of these data is completed. Therefore, EPA will act on the Clevaland CO SIP in a separate **Federal Register** notice.

III. Demonstration of Attainment for Cincinnati

The Cincinnati CO nonattainment area consists of Hamilton County. The SIP revisions incorporating the CO attainment demonstration was submitted to EPA on May 24, 1982, September 23, 1982, November 4, 1982 and March 16, 1983.

OEPA developed the Cincinnati urban area CO attainment demonstration by evaluating air quality data gathered at five monitors in Hamilton County. Four of these five monitors showed no violations of the CO air quality standards in the period from 1979 to 1981. OEPA demonstrated attainment by using concentration data from the monitor which did show violations. Using a proportional rollback approach, OEPA determined that a 6.2 percent reduction in CO emissions was necessary to achieve the standard. OEPA also defined an area surrounding the monitor encompassing the principal set of emissions responsible for the observed violations. OEPA evaluated CO emissions in this principal impact area to assess the achieved emission reduction percentage.

Ohio EPA calculated that a 6.5 percent emissions reduction occurred between November 1981, and the end of 1982, thus showing attainment by the end of 1982 with a 0.3 percent margin. EPA recalculated both the reduction requirement and the reduction achieved using different assumptions than Ohio EPA. The EPA analysis also demonstrated attainment of the CO standard with a similar growth margin. Further discussion of this analysis is provided in the notice of proposed rulemaking, 48 FR 5118 (February 3, 1983).

In the notice of proposed rulemaking EPA requested further documentation of several of the assumptions used in calculating the emissions inventory. Each of the issues clarified by the State are addressed below along with EPA's evaluation of the State's response.

State Response: Ohio EPA stated that the temperature used in calculating mobile source CO emission factors was the same temperature used in the hydrocarbon emissions calculations (i.e., 74°F). Ohio noted further that emissions are constant between 54°F and 74°F.

EPA Response: For a rollback analysis, the emissions inventory would most appropriately be representative of conditions when violations have occurred. As discussed in the notice of proposed rulemaking, the violations occurred in November, so the CO emission factors would most appropriately be calculated for somewhat lower temperature than Ohio used. MOBILE 2, which Ohio used to calculate mobile source emission factors, assumes constant emissions between 66°F and 86°F (i.e., a somewhat higher temperature range than implied by Ohio) and generally calculates slightly higher emissions at typical November temperatures. However, both the 1980 and the 1982 emissions are likely to be affected similarly, so the percentage emission reductions would be expected to be about the same using typical November temperatures as they would using 74°F.

State Response: In response to EPA's questions of whether any major point sources were located in the principal impact areas, Ohio EPA responded that there were no major point sources located in the principal impact area. Minor point source emissions were calculated by assuming that the same ratio of point source emission to 1980 mobile source emission exists in the principal impact area as exists in the whole of Hamilton County.

EPA Response: EPA believes that the State has provided an acceptable assessment of these emissions.

State Response: Regarding area source emissions, Ohio EPA stated that as with point source emissions, Ohio assumed that the same ratio of area source emissions to 1980 mobile source emissions exists in the principal impact area as exists in the whole of Hamilton County.

EPA Response: EPA believes the approach used by Ohio provides an acceptable assessment of area source emissions.

IV. Public Comments

During the public comment period, no comments were received regarding the CO demonstrations of attainment except for the State's response which was discussed above.

V. Final Action

Review of the monitoring, modeling and emission inventories submitted by the Ohio EPA indicates that the Cincinnati urban area achieved attainment of CO NAAQS by December 31, 1982. Therefore, EPA is approving this demonstration as part of the CO SIP for the Cincinnati urban area. In addition, EPA is removing the extension of the attainment date for CO to 1987 for Hamilton County (Cincinnati) as requested by the State. Approval of the CO demonstrations and removal of the post-1982 attainment date extensions in turn remove the requirement of an I/M program as part of the CO SIP for this area. However, an I/M program is still required as part of the State's ozone SIP. EPA is taking action on Ohio's ozone SIP in a separate **Federal Register** notice. EPA will also address the Cleveland CO SIP in a separate notice.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by (60 days from today). This action may not be challenged later in proceedings to enforce its requirements. (See 307(b)(2).)

List of Subjects in 40 CFR Part 52

Intergovernmental relations, Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons.

Note.—Incorporation by reference of the State Implementation Plan for the State of Ohio was approved by the Director of the **Federal Register** on July 1, 1983.

This notice is issued under authority of sections 110 and 172 of the Clean Air Act, as amended (42 U.S.C. 7410 and 7502).

Dated: February 15, 1984.

William D. Ruckelshaus,

Administrator.

PART 52—[AMENDED]

Subpart KK—Ohio

1. Section 52.1870 is amended by adding paragraph (c)(60) as follows:

§ 52.1870 Identification of the plan.

(c)* * *

(60) The State of Ohio submitted a revised demonstration that showed attainment by December 31, 1982, of the Carbon Monixide (CO) National

Ambient Air Quality Standards (NAAQS) for the Cincinnati area (Hamilton County) on May 24, 1982. Supplemental information was submitted on September 23, 1982, November 4, 1982, and March 16, 1983. The May 24, 1982, submittal also requested that the five year extension for meeting the NAAQS requested on July 29, 1979, and granted on October 31, 1980, be rescinded for this area. EPA has rescinded this extension only for the Cincinnati demonstration area for CO.

2. The carbon monoxide attainment date and footnote in the table of Section 52.1875(a) are revised for the Cincinnati Interstate and the Toledo Interstate (correction to table) to read as follows. (EPA is not revising the attainment dates for particulate matter, sulfur oxides, nitrogen dioxide or ozone nor is its revising the other notes, footnotes or subsections).

§ 52.1875 Attainment Dates for National Standards.

(a) * * *

Air quality control region	Pollutant						
	Particulate matter		Sulfur oxides		Nitrogen dioxide	Carbon monoxide	Ozone
	Primary	Secondary	Primary	Secondary			
Metropolitan Cincinnati Interstate (AQCR 079):							
a. Primary/Secondary Non-Attainment Areas	* * *	* * *	* * *	* * *	* * *	d	* * *
b. Remainder of AQCR	* * *	* * *	* * *	* * *	* * *	b	* * *
* * *							
Metropolitan Toledo Interstate (AQCR 124):							
a. Primary/Secondary Non-Attainment Areas	* * *	* * *	* * *	* * *	* * *	d	* * *
b. Remainder of AQCR	* * *	* * *	* * *	* * *	* * *	h	* * *

* * *

d. December 31, 1982.

* * *

[FR Doc. 84-4648 Filed 2-22-84; 8:45 am]

BILLING CODE 6560-50-M

GENERAL SERVICES ADMINISTRATION

41 CFR Chap. 1

[FPR Temp. Reg. 76]

Revision of Labor Standards for Federal Service Contracts

AGENCY: Office of Acquisition Policy, GSA.

ACTION: Temporary regulation.

SUMMARY: This temporary regulation prescribes the revised labor standards for Federal service contracts in accordance with revised Department of Labor (DOL) regulations (29 CFR Part 4). The basis for this revision is the DOL's revised final regulation on labor standards for Federal service contracts issued under the Service Contract Act (48 FR 49736, October 27, 1983). The intended effect of this temporary regulation is to provide minimum essential guidance pending analysis of the DOL regulation and development of necessary changes to the procurement regulations. Agencies are required to follow the referenced DOL regulations on service contracts pending publication of permanent coverage in the FPR.

DATES: *Effective date:* February 23, 1984. *Expiration date:* January 31, 1986.

FOR FURTHER INFORMATION CONTACT: Ms. Gwendolyn B. White, Office of Federal Acquisition and Regulatory Policy (VR), Office of Acquisition Policy (202-523-3847).

Authority

Sec. 205(c) 63 Stat. 390; 40 U.S.C. 486(c).

In 41 CFR Chapter 1, the following temporary regulation is added to the appendix at the end of the chapter to read as follows:

February 14, 1984.

Federal Procurement Regulations Temporary Regulation 76

To: Heads of Federal agencies

Subject: Revision of labor standards for Federal service contracts

1. *Purpose.* This temporary regulation prescribes revised labor standards for Federal service contracts in accordance with revised Department of Labor regulations (29 CFR Part 4).

2. *Effective date.* This regulation is effective February 23, 1984.

3. *Expiration date.* This regulation expires January 31, 1986, unless earlier revised or superseded.

4. *Background.*

a. The Department of Labor (DOL) issued revised final regulations on labor standards for Federal service contracts under the Service Contract Act (SCA) on October 27, 1983 (48 FR 49736). Recently, the DOL postponed the December 27, 1983, effective date of these regulations to January 27, 1984.

b. Many of the provisions of the Service Contract Act Regulations (29 CFR Part 4) reflect existing policies and interpretations of the Act or are procedural in nature. However, significant changes have been made in contract clauses, contract coverage, exemptions from coverage, and provisions relating to wage determinations. DOL Memorandum No. 136, dated November 18, 1983, is a copy of the revised regulations, which includes a further discussion of the changes. A copy was forwarded to all contracting agencies of the Federal Government and the District of Columbia. Major changes to 29 CFR Part 4 are highlighted below:

(1) *Section 4.1b(b)—Limitation of Section 4(c) of the Act:* This section has been revised to provide that the rates contained in new or changed collective bargaining agreements (CBAs) consummated during the period of performance of the predecessor contract will not be effective for purposes of the successorship requirements of section 4(c) of the Act, if notification of the terms of the new CBA is received by the contracting agency (1) in the case of a competitively advertised procurement, less than 10 days before the date of bid opening, provided the agency makes an affirmative finding that there is not a reasonable time still available to notify bidders; or (2) in the case of a negotiated procurement or execution of a renewal option or extension, after award, provided contract start of performance is written 30 days after the award, option, or extension—otherwise, the former "10 days before commencement" rule would apply.

(2) *Sections 4.3, 4.4, and 4.53—Locality Basis of Wage Determinations When Place of Contract Performance is Unknown at Time of Bid Solicitation:* These sections have been revised to establish a new "two-step" procurement procedure for issuing separate wage determinations, to the extent feasible, for each of the various localities where the particular contract work might be performed in instances when the place of contract performance cannot be determined at the time of bid solicitation.

(3) *Section 4.4(a)—Notice of Intention to Make a Service Contract (SF-98):* This revised section provides that contracting agencies must file SF-98s not less than 60 days (nor more than 120 days without approval) prior to invitations for bids, requests for proposals, commencement of

negotiations, exercise of options or extensions, etc., in the case of recurring, known procurements, and not later than 30 days prior to such contracting actions for unplanned and/or emergency procurement actions.

(4) *Section 4.5(a)(2)—Incorporation of Revised Wage Determinations:* This section provides that revisions of a wage determination received by the contracting agency later than 10 days prior to the date of bid opening (in the case of competitively advertised procurements) are not effective if the agency makes an affirmative finding that there is not reasonable time still available to notify bidders of the revision. In the case of negotiated procurements (or options or extensions of the initial contract term), revisions received after award (or execution, as appropriate) are not effective *provided* that contract start of performance is within 30 days of the award (or option or extension); if the contract does not specify a start of performance within 30 days and/or performance does not commence within the 30-day period, DOL is to be notified by the agency and any subsequent notice of a revision received by the agency not less than 10 days before commencement of the contract will be effective.

(5) *Section 4.5(c)(2)—Erroneous Contracting Agency Determinations of Noncoverage:* This new subsection requires that when DOL finds that the contracting agency made an erroneous determination that the SCA did not apply and/or failed to include an appropriate wage determination in a covered contract, the agency must include the SCA contract stipulations and any applicable wage determination in such contract within 30 days of notification by DOL.

(6) *Sections 4.6 and 4.7—Labor Standards Clauses for Federal Service Contracts:* These sections set forth the revised contract clauses discussed in paragraph 5b below.

(7) *Section 4.6(b)(2)—Conformance of Wage Rates for Classifications of Employees Not Listed in a Wage Determination:*

Revisions in the conformance procedures in this contract clause provide for an "indexing" procedure which allows a contractor to apply a specified mathematical formula to a previously conformed rate in establishing a new conformed rate, without requiring DOL approval. The indexed conformance is based upon the average percentage change between the rates listed in the current wage determination for all classifications to be used on the contract and those rates specified for the corresponding classifications in the previously applicable wage determination.

In addition, the revised procedures require that a contractor initiate the conformance action before an unlisted class of employees performs any contract work. Furthermore, except where the indexing procedure is utilized, the revised regulations require that the contractor submit information regarding the agreement or disagreement of the affected employees to the conformed rate and also require the contracting officer to promptly submit all conformance actions to DOL for review and approval. Conformed wage rates and/or fringe benefits must be paid to all employees in the conformed classification retroactive to the date such class of employees commenced any contract work.

(8) *Section 4.6(1)(2)—Seniority List:* In cases of a contract performed at a Federal facility where employees may be hired/retained by a succeeding contractor, this new subsection requires the incumbent prime contractor to furnish a certified list of all service employees on the contractor's or subcontractor's payroll during the last month of the contract, together with anniversary dates of employment, to the contracting officer no later than 10 days before contract completion.

(9) *Section 4.6(n) Certification of Eligibility:* This section provides a new requirement that the contractor certify it is not a debarred person or firm and thus not ineligible to be awarded the contract, and also prohibits subcontracting to debarred persons.

(10) *Sections 4.6(r) and 4.187—Disputes Concerning Labor Standards:* For clarification, a new paragraph (r) has been added to the contract clauses in section 4.6 specifying that disputes involving the labor standards provisions of the contract are resolved by DOL under its regulations (29 CFR Parts 4, 6, and 8) and are not subject to the general disputes clause of the contract.

(11) *Section 4.8—Notice of Awards:* Section 4.8 provides that a Standard Form 99 need not be submitted to DOL for contract awards exceeding $10,000 that are subject to the SCA if the contracting agency submits Standard Form 279, FPDS Individual Contract Action Report (or its equivalent) to the FPDS, or if the contracting agency makes other arrangements with the Wage and Hour Division for notification of such contract awards. However, this action does not alter the statutory requirement that contracting agencies incorporate the proper stipulations in all contracts exceeding $2,500.

(12) *Section 4.10—Substantial Variance Proceedings Under Section 4(c) of the Act:* This section provides revised procedures relative to requests for hearings under section 4(c) of the Act to determine whether the collectively bargained wages and/or fringe benefits otherwise required to be paid are "substantially at variance" with those which prevail for similar services in the locality.

(13) *Section 4.11—Arm's Length Proceedings:* This section, in conjunction with revised 29 CFR Part 6, provides new hearing procedures relative to questions as to whether the wages and fringe benefits contained in a predecessor contractor's collective bargaining agreement were reached as a result of "arm's length negotiations".

(14) *Section 4.12—Substantial Interest Proceedings:* This section, in conjunction with revised 29 CFR Part 6, provides new hearing procedures relative to determinations of whether persons or firms whose names appear on the ineligible bidders list pursuant to section 5 of the Act have a "substantial interest" in any firm, corporation, partnership, or association other than those appearing on the ineligible list.

(15) *Subpart B—Wage Determination Procedures:* This new Subpart explains DOL's overall policies and procedures concerning the issuance and review of wage determinations.

(16) *Section 4.55—Review and Reconsideration of Wage Determinations:* This section provides that interested parties affected by a wage determination may obtain review and reconsideration by the Wage and Hour Administrator of the wage determination upon request.

(17) *Section 4.114(b)—Liability of Prime Contractor for Violations by Subcontractors:* This section provides that the prime contractor is liable in the event its subcontractors violate the Act by failing to pay the wages and fringe benefits required under the provisions of the prime contract.

(18) *Sections 4.116(b) and 4.131(f)—Coverage of Contracts For Property Demolition, Dismantling, and Removal:* As provided in these revised sections, where the facts show the principal purpose of a demolition contract is the furnishing of dismatling and removal services, and no further construction is contemplated (in which case the contract would be subject to the Davis-Bacon Act), such a contract is covered by the SCA even though the contractor received salvaged materials.

(19) *Section 4.117—Work Subject to the Walsh-Healey Act: Overhaul and Modification of Equipment:* This new section provides detailed guidelines for delineating when contracts for major

overhaul of equipment would be considered "remanufacturing" subject to the Walsh-Healey Pulbic Contracts Act (PCA) rather than the SCA. Contracting agencies are required to initially determine whether work to be performed under a proposed contract would involve principally "remanufacturing" work based on the guidelines, and incorporate the appropriate labor standards clauses (SCA *or* PCA) into the contract prior to soliciting bids.

(20) *Section 4.118—Contracts for Carriage Subject to Published Tariff Rates:* This section discusses application of the staturory exemption in section 7(3) of the SCA for contracts for carriage of freight or personnel subject to published tariff rates, as well as the administrative exemption provided for certain contracts where such carriage is subject to and in accordance with applicable regulations governing rates covered by section 10721 of the Interstate Commerce Act (see revised section 4.123(d)(3) of the regulations).

(21) *Section 4.123(e)—Exemptions from Coverage for Contracts for Maintenance and Repair of Certain ADP, Scientific and Medical, and Office/Business Equipment:* An administrative exemption from the provisions of the Act has been granted for certain contracts for the maintenance, calibration and/or repair of: (1) automated data processing equipment and office information/word processing systems, (2) scientific equipment and medical apparatus or equipment where the application of microelectronic circuitry or similar technology is an essential element, and (3) office/business machines where the work is performed by the manufacturer or supplier of the equipment.

(22) *Sections 4.130(a) and 4.131(f)—Coverage of Contracts for the Sale of Timber:* The Department has reexamined the issue of the applicability of the SCA to timber sales contracts and has concluded that the services provided under these contracts are only incidental to the principal purpose of the contracts, which is the sale of timber and that certain contracts which in fact are principally for some purpose other than the sale of timber, such as clearing land or removal of diseased or dead timber, will continue to be subject to the SCA.

(23) *Section 4.132—Coverage of Separate Contract Specifications:* Section 4.132 (and other appropriate sections) has been modified to eliminate coverage of separate bid specifications (i.e., line items for specific work in a contract) principally for services when the principal purpose of the entire contract is not for services.

(24) *Section 4.133—Beneficiary of Contract Services:* This revised section provides that where the principal purpose of a Government contract is to provide services through the use of service employees, the contract is covered by the Act, regardless of the direct beneficiary of the services. However, an exemption is provided for certain kinds of concession contracts, but visitor information center services have been deleted from the terms of the exemption.

(25) *Section 4.145—Extended Term Contracts:* This section has been revised to clarify that for purposes of the SCA, where such contracts are subject to annual appropriations, they are deemed newly entered into upon the contract anniversary date which occurs in each new fiscal year, rather than at the beginning of each fiscal year, if those two dates are different.

(26) *Section 4.152(c)—Trainee Classifications:* This section emphasizes that conformance procedures may not be used to artifically subdivide classifications listed in the wage determination. Where the wage determination lists a series of classes within a job classification family, the lowest level listed is considered to be the entry level and establishment of lower (or intermediate) levels through conformance is not permissible. Further, conformance procedures may only be used if the work which an employee is to perform under the contract is not within the scope of any classification listed in the wage determination.

(27) *Subpart D—Compensation Standards (Sections 4.159 through 4.185):* These sections incorporate additional updated policies regarding a contractor's compliance with the Act's minimum monetary wage and fringe benefit requirements.

(28) *Section 4.163—Section 4(c) of the Act:* As set forth in revised section 4.163(i), this successorship provision applies only to successor contracts which are performed *in the same locality* as the predecessor contract. However, wage determinations issued pursuant to section 4(c) and included in a contract will continue to apply if the successor prime contractor subsequently changes the place(s) of contract performance or subcontracts any part of the contract work to a firm in a different locality.

(29) *Subpart E—Enforcement (Sections 4.187 through 4.191):* These sections provide additional information and guidance regarding enforcement procedures for the recovery of underpayments in debarment cases.

5. *Explanation of changes.*

a. Pending the publication of permanent revised regulations in FPR Subpart 1–12.9, agencies shall follow the provisions of 29 CFR Part 4, Labor Standards for Federal Service Contracts (48 FR 49736, October 27, 1983). To the extent that FPR Subpart 1–12.9 differs from the DOL regulations after January 27, 1984, the DOL regulations shall apply.

b. The revised contract clauses required by the DOL regulations for contracts over and under $2,500 are set forth in sections 4.6 and 4.7 of revised 29 CFR Part 4 (see 48 FR 49766, October 27, 1983) are attached. These clauses are applicable only to contracts entered into pursuant to invitations for bids issued or negotiations concluded on or after January 27, 1984 and shall be used in lieu of the clauses set forth in § 1–12.904.

6. *Submission of comments.* Time did not permit the solicitation of comments prior to the issuance of this regulation. Agencies and interested parties are invited to comment on the impact of this regulation and the policy and procedures that should be adopted in the future during the 30-day period following publication in the **Federal Register**. Comments should be forwarded to the General Services Administration, Office of Federal Acquisition and Regulatory Policy (VR), Attn: Ms. Gwendolyn B. White, Washington, DC 20405.

Ray Kline,

Acting Administrator of General Services.

§ 4.6 Labor standards clauses for Federal service contracts exceeding $2,500.

The clauses set forth in the following paragraphs shall be included in full by the contracting agency in every contract entered into by the United States or the District of Columbia, in excess of $2,500, or in an indefinite amount, the principal purpose of which is to furnish services through the use of service employees:

(a) Service Contract Act of 1965, as amended: This contract is subject to the Service Contract Act of 1965, as amended (41 U.S.C. 351 *et seq.*) and is subject to the following provisions and to all other applicable provisions of the Act and regulations of the Secretary of Labor issued thereunder (29 CFR Part 4).

(b)(1) Each service employee employed in the performance of this contract by the contractor or any subcontractor shall be paid not less than the minimum monetary wages and shall be furnished fringe benefits in accordance with the wages and fringe benefits determined by the Secretary of Labor or authorized representative, as specified in any wage determination attached to this contract.

(2)(i) If there is such a wage determination attached to this contract, the contracting officer shall require that any class of service

employee which is not listed therein and which is to be employed under the contract (i.e., the work to be performed is not performed by any classification listed in the wage determination), be classified by the contractor so as to provide a reasonable relationship (i.e., appropriate level of skill comparison) between such unlisted classifications and the classifications listed in the wage determination. Such conformed class of employees shall be paid the monetary wages and furnished the fringe benefits as are determined pursuant to the procedures in this section. (The information collection requirements contained in the following paragraphs of this section have been approved by the Office of Management and Budget under OMB control number 1215–0150.)

(ii) Such conforming procedure shall be initiated by the contractor prior to the performance of contract work by such unlisted class of employee. A written report of the proposed conforming action, including information regarding the agreement or disagreement of the authorized representative of the employees involved or, where there is no authorized representative, the employees themselves, shall be submitted by the contractor to the contracting officer no later than 30 days after such unlisted class of employees performs any contract work. The contracting officer shall review the proposed action and promptly submit a report of the action, together with the agency's recommendation and all pertinent information including the position of the contractor and the employees, to the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, for review. The Wage and Hour Division will approve, modify, or disapprove the action or render a final determination in the event of disagreement within 30 days of receipt or will notify the contracting officer within 30 days of receipt that additional time is necessary.

(iii) The final determination of the conformance action by the Wage and Hour Division shall be transmitted to the contracting officer who shall promptly notify the contractor of the action taken. Each affected employee shall be furnished by the contractor with a written copy of such determination or it shall be posted as a part of the wage determination.

(iv)(A) The process of establishing wage and fringe benefit rates that bear a reasonable relationship to those listed in a wage determination cannot be reduced to any single formula. The approach used may vary from wage determination to wage determination depending on the circumstances. Standard wage and salary administration practices which rank various job classifications by pay grade pursuant to point schemes or other job factors may, for example, be relied upon. Guidance may also be obtained from the way different jobs are rated under Federal pay systems (Federal Wage Board Pay System and the General Schedule) or from other wage determinations issued in the same locality. Basic to the establishment of any conformable wage rate(s) is the concept that a pay relationship should be maintained between job classifications based on the skill required and the duties performed.

(B) In the case of a contract modification, an exercise of an option or extension of an existing contract, or in any other case where a contractor succeeds a contract under which the classification in question was previously conformed pursuant to this section, a new conformed wage rate and fringe benefits may be assigned to such conformed classification by indexing (i.e., adjusting) the previous conformed rate and fringe benefits by an amount equal to the average (mean) percentage increase (or decrease, where appropriate) between the wages and fringe benefits specified for all classifications to be used on the contract which are listed in the current wage determination, and those specified for the corresponding classifications in the previously applicable wage determination. Where conforming actions are accomplished in accordance with this paragraph prior to the performance of contract work by the unlisted class of employees, the contractor shall advise the contracting officer of the action taken but the other procedures in paragraph (b)(2)(ii) of this section need not be followed.

(C) No employee engaged in performing work on this contract shall in any event be paid less than the currently applicable minimum wage specified under section 6(a)(1) of the Fair Labor Standards Act of 1938, as amended.

(v) The wage rate and fringe benefits finally determined pursuant to paragraphs (b)(2) (i) and (ii) of this section shall be paid to all employees performing in the classification from the first day on which contract work is performed by them in the classification. Failure to pay such unlisted employees the compensation agreed upon by the interested parties and/or finally determined by the Wage and Hour Division retroactive to the date such class of employees commenced contract work shall be a violation of the Act and this contract.

(vi) Upon discovery of failure to comply with paragraphs (b)(2) (i) through (v) of this section, the Wage and Hour Division shall make a final determination of conformed classification, wage rate, and/or fringe benefits which shall be retroactive to the date such class of employees commenced contract work.

(3) If, as authorized pursuant to section 4(d) of the Service Contract Act of 1965 as amended, the term of this contract is more than 1 year, the minimum monetary wages and fringe benefits required to be paid or furnished thereunder to service employees shall be subject to adjustment after 1 year and not less often than once every 2 years, pursuant to wage determinations to be issued by the Wage and Hour Division, Employment Standards Administration of the Department of Labor as provided in such Act.

(c) The contractor or subcontractor may discharge the obligation to furnish fringe benefits specified in the attachment or determined conformably thereto by furnishing any equivalent combinations of bona fide fringe benefits, or by making equivalent or differential payments in cash in accordance with the applicable rules set forth in Subpart D of 29 CFR Part 4, and not otherwise.

(d)(1) In the absence of a minimum wage attachment for this contract, neither the contractor nor any subcontractor under this contract shall pay any person performing work under the contract (regardless of whether they are service employees) less than the minimum wage specified by section 6(a)(1) of the Fair Labor Standards Act of 1938. Nothing in this provision shall relieve the contractor or any subcontractor of any other obligation under law or contract for the payment of a higher wage to any employee.

(2) If this contract succeeds a contract, subject to the Service Contract Act of 1965 as amended, under which substantially the same services were furnished in the same locality and service employees were paid wages and fringe benefits provided for in a collective bargaining agreement, in the absence of the minimum wage attachment for this contract setting forth such collectively bargained wage rates and fringe benefits, neither the contractor nor any subcontractor under this contract shall pay any service employee performing any of the contract work (regardless of whether or not such employee was employed under the predecessor contract), less than the wages and fringe benefits provided for in such collective bargaining agreements, to which such employee would have been entitled if employed under the predecessor contract, including accrued wages and fringe benefits and any prospective increases in wages and fringe benefits provided for under such agreement. No contractor or subcontractor under this contract may be relieved of the foregoing obligation unless the limitations of § 4.1b(b) of 29 CFR Part 4 apply or unless the Secretary of Labor or his authorized representative finds, after a hearing as provided in § 4.10 of 29 CFR Part 4 that the wages and/or fringe benefits provided for in such agreement are substantially at variance with those which prevail for services of a character similar in the locality, or determines, as provided in § 4.11 of 29 CFR Part 4, that the collective bargaining agreement applicable to service employees employed under the predecessor contract was not entered into as a result of arm's-length negotiations. Where it is found in accordance with the review procedures provided in 29 CFR 4.10 and/or 4.11 and Parts 6 and 8 that some or all of the wages and/or fringe benefits contained in a predecessor contractor's collective bargaining agreement are substantially at variance with those which prevail for services of a character similar in the locality, and/or that the collective bargaining agreement applicable to service employees employed under the predecessor contract was not entered into as a result of arm's-length negotiations, the Department will issue a new or revised wage determination setting forth the applicable wage rates and fringe benefits. Such determination shall be made part of the contract or subcontract, in accordance with the decision of the Administrator, the Administrative Law Judge, or the Board of Service Contract Appeals, as the case may be, irrespective of whether such issuance occurs prior to or after the award of a contract or subcontract. 53 Comp. Gen. 401 (1973). In the case of a wage determination issued solely as a result of a finding of

substantial variance, such determination shall be effective as of the date of the final administrative decision.

(e) The contractor and any subcontractor under this contract shall notify each service employee commencing work on this contract of the minimum monetary wage and any fringe benefits required to be paid pursuant to this contract, or shall post the wage determination attached to this contract. The poster provided by the Department of Labor (Publication WH 1313) shall be posted in a prominent and accessible place at the worksite. Failure to comply with this requirement is a violation of section 2(a)(4) of the Act and of this contract. (Approved by the Office of Management and Budget under OMB control number 1215–0150.)

(f) The contractor or subcontractor shall not permit any part of the services called for by this contract to be performed in buildings or surroundings or under working conditions provided by or under the control or supervision of the contractor or subcontractor which are unsanitary or hazardous or dangerous to the health or safety of service employees engaged to furnish these services, and the contractor or subcontractor shall comply with the safety and health standards applied under 29 CFR Part 1925.

(g)(1) The contractor and each subcontractor performing work subject to the Act shall make and maintain for 3 years from the completion of the work records containing the information specified in paragraphs (g)(1) (i) through (vi) of this section for each employee subject to the Act and shall make them available for inspection and transcription by authorized representatives of the Wage and Hour Division, Employment Standards Administration of the U.S. Department of Labor. (Sections 4.6(g)(1) (i) through (iv) approved by the Office of Management and Budget under OMB control number 1215–0017 and sections 4.6(g)(1) (v) and (vi) approved under OMB control number 1215–0150.):

(i) Name and address and social security number of each employee.

(ii) The correct work classification or classifications, rate or rates of monetary wages paid and fringe benefits provided, rate or rates of fringe benefit payments in lieu thereof, and total daily and weekly compensation of each employee.

(iii) The number of daily and weekly hours so worked by each employee.

(iv) Any deductions, rebates, or refunds from the total daily or weekly compensation of each employee.

(v) A list of monetary wages and fringe benefits for those classes of service employees not included in the wage determination attached to this contract but for which such wage rates or fringe benefits have been determined by the interested parties or by the Administrator or authorized representative pursuant to the labor standards clause in paragraph (b) of this section. A copy of the report required by the clause in paragraph (b)(2)(ii) of this section shall be deemed to be such a list.

(vi) Any list of the predecessor contractor's employees which had been furnished to the contractor pursuant to § 4.6(l)(2).

(2) The contractor shall also make available a copy of this contract for inspection or transcription by authorized representatives of the Wage and Hour Division.

(3) Failure to make and maintain or to make available such records for inspection and transcription shall be a violation of the regulations and this contract, and in the case of failure to produce such records, the contracting officer, upon direction of the Department of Labor and notification of the contractor, shall take action to cause suspension of any further payment or advance of funds until such violation ceases.

(4) The contractor shall permit authorized representatives of the Wage and Hour Division to conduct interviews with employees at the worksite during normal working hours.

(h) The contractor shall unconditionally pay to each employee subject to the Act all wages due free and clear and without subsequent deduction (except as otherwise provided by law or Regulations, 29 CFR Part 4), rebate, or kickback on any account. Such payments shall be made no later than one pay period following the end of the regular pay period in which such wages were earned or accrued. A pay period under this Act may not be of any duration longer than semi-monthly.

(i) The contracting officer shall withhold or cause to be withheld from the Government prime contractor under this or any other Government contract with the prime contractor such sums as an appropriate official of the Department of Labor requests or such sums as the contracting officer decides may be necessary to pay underpaid employees employed by the contractor or subcontractor. In the event of failure to pay any employees subject to the Act all or part of the wages or fringe benefits due under the Act, the agency may, after authorization or by direction of the Department of Labor and written notification to the contractor, take action to cause suspension of any further payment or advance of funds until such violations have ceased. Additionally, any failure to comply with the requirements of these clauses relating to the Service Contract Act of 1965, may be grounds for termination of the right to proceed with the contract work. In such event, the Government may enter into other contracts or arrangements for completion of the work, charging the contractor in default with any additional cost.

(j) The contractor agrees to insert these clauses in this section relating to the Service Contract Act of 1965 in all subcontracts subject to the Act. The term "contractor" as used in these clauses in any subcontract, shall be deemed to refer to the subcontractor, except in the term "Government prime contractor."

(k)(1) As used in these clauses, the term "service employee" means any person engaged in the performance of this contract other than any person employed in a bona fide executive, administrative, or professional capacity, as those terms are defined in Part 541 of Title 29, Code of Federal Regulations, as of July 30, 1976, and any subsequent revision of those regulations. The term "service employee" includes all such persons regardless of any contractual relationship that may be alleged to exist between a contractor or subcontractor and such persons.

(2) The following statement is included in contracts pursuant to section 2(a)(5) of the Act and is for *informational purposes only:*

The following classes of service employees expected to be employed under the contract with the Government would be subject, if employed by the contracting agency, to the provisions of 5 U.S.C. 5341 or 5 U.S.C. 5332 and would, if so employed, be paid not less than the following rates of wages and fringe benefits:

Employee class	Monetary wage-fringe benefits

(l)(1) If wages to be paid or fringe benefits to be furnished any service employees employed by the Government prime contractor or any subcontractor under the contract are provided for in a collective bargaining agreement which is or will be effective during any period in which the contract is being performed, the Government prime contractor shall report such fact to the contracting officer, together with full information as to the application and accrual of such wages and fringe benefits, including any prospective increases, to service employees engaged in work on the contract, and a copy of the collective bargaining agreement. Such report shall be made upon commencing performance of the contract, in the case of collective bargaining agreements effective at such time, and in the case of such agreements or provisions or amendments thereof effective at a later time during the period of contract performance, such agreements shall be reported promptly after negotiation thereof. (Approved by the Office of Management and Budget under OMB control number 1215–0150.)

(2) Not less than 10 days prior to completion of any contract being performed at a Federal facility where service employees may be retained in the performance of the succeeding contract and subject to a wage determination which contains vacation or other benefit provisions based upon length of service with a contractor (predecessor) or successor (§ 4.173 of Regulations, 29 CFR Part 4), the incumbent prime contractor shall furnish to the contracting officer a certified list of the names of all service employees on the contractor's or subcontractor's payroll during the last month of contract performance. Such list shall also contain anniversary dates of employment on the contract either with the current or predecessor contractors of each such service employee. The contracting officer shall turn over such list to the successor contractor at the commencement of the succeeding contract. (Approved by the Office of Management and Budget under OMB control number 1215–0150.)

(m) Rulings and interpretations of the Service Contract Act of 1965, as amended, are contained in Regulations, 29 CFR Part 4.

(n)(1) By entering into this contract, the contractor (and officials thereof) certifies that neither it (nor he or she) nor any person or firm who has a substantial interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of the sanctions imposed pursuant to section 5 of the Act.

(2) No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract pursuant to section 5 of the Act.

(3) The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.

(o) Notwithstanding any of the clauses in paragraphs (b) through (m) of this section relating to the Service Contract Act of 1965, the following employees may be employed in accordance with the following variations, tolerances, and exemptions, which the Secretary of Labor, pursuant to section 4(b) of the Act prior to its amendment by Pub. L. 92–473, found to be necessary and proper in the public interest or to avoid serious impairment of the conduct of Government business:

(1) Apprentices, student-learners, and workers whose earning capacity is impaired by age, physical, or mental deficiency or injury may be employed at wages lower than the minimum wages otherwise required by section 2(a)(1) or 2(b)(1) of the Service Contract Act without diminishing any fringe benefits or cash payments in lieu thereof required under section 2(a)(2) of that Act, in accordance with the conditions and procedures prescribed for the employment of apprentices, student-learners, handicapped persons, and handicapped clients of sheltered workshops under section 14 of the Fair Labor Standards Act of 1938, in the regulations issued by the Administrator (29 CFR Parts 520, 521, 524, and 525).

(2) The Administrator will issue certificates under the Service Contract Act for the employment of apprentices, student-learners, handicapped persons, or handicapped clients of sheltered workshops not subject to the Fair Labor Standards Act of 1938, or subject to different minimum rates of pay under the two acts, authorizing appropriate rates of minimum wages (but without changing requirements concerning fringe benefits or supplementary cash payments in lieu thereof), applying procedures prescribed by the applicable regulations issued under the Fair Labor Standards Act of 1938 (29 CFR Parts 520, 521, 524, and 525).

(3) The Administrator will also withdraw, annul, or cancel such certificates in accordance with the regulations in Parts 525 and 528 of Title 29 of the Code of Federal Regulations.

(p) Apprentices will be permitted to work at less than the predetermined rate for the work they perform when they are employed and individually registered in a bona fide apprenticeship program registered with a State Apprenticeship Agency which is recognized by the U.S. Department of Labor, or if no such recognized agency exists in a State, under a program registered with the Bureau of Apprenticeship and Training, Employment and Training Administration, U.S. Department of Labor. Any employee who is not registered as an apprentice in an approved program shall be paid the wage rate and fringe benefits contained in the applicable wage determination for the journeyman classification of work actually performed. The wage rates paid apprentices shall not be less than the wage rate for their level of progress set forth in the registered program, expressed as the appropriate percentage of the journeyman's rate contained in the applicable wage determination. The allowable ratio of apprentices to journeymen employed on the contract work in any craft classification shall not be greater than the ratio permitted to the contractor as to his entire work force under the registered program.

(q) An employee engaged in an occupation in which he or she customarily and regularly receives more than $30 a month in tips may have the amount of tips credited by the employer against the minimum wage required by section 2(a)(1) or section 2(b)(1) of the Act in accordance with section 3(m) of the Fair Labor Standards Act and Regulations, 29 CFR Part 531: *Provided, however,* That the amount of such credit may not exceed $1.24 per hour beginning January 1, 1980, and $1.34 per hour after December 31, 1980. To utilize this proviso:

(1) The employer must inform tipped employees about this tip credit allowance before the credit is utilized;

(2) The employees must be allowed to retain all tips (individually or through a pooling arrangement and regardless of whether the employer elects to take a credit for tips received);

(3) The employer must be able to show by records that the employee receives at least the applicable Service Contract Act minimum wage through the combination of direct wages and tip credit; (approved by the Office of Management and Budget under OMB control number 1215–0017);

(4) The use of such tip credit must have been permitted under any predecessor collective bargaining agreement applicable by virtue of section 4(c) of the Act.

(r) *Disputes concerning labor standards.* Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR Parts 4, 6, and 8. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.

§ 4.7 Labor standards clause for Federal service contracts not exceeding $2,500.

Every contract with the Federal Government which is not in excess of $2,500 but has as its principal purpose the furnishing of services through the use of service employees shall contain the following clause:

Service Contract Act. Except to the extent that an exemption, variation or tolerance would apply if this were a contract in excess of $2,500, the contractor and any subcontractor hereunder shall pay all of his employees engaged in performing work on the contract not less than the minimum wage specified under section 6(a)(1) of the Fair Labor Standards Act of 1938, as amended. Regulations and interpretations of the Service Contract Act of 1965, as amended, are contained in 29 CFR Part 4.

[FR Doc. 84–4710 Filed 2–22–84; 8:45 am]

BILLING CODE 6820–61–M

DEPARTMENT OF THE INTERIOR

Office of the Secretary

43 CFR Part 20

Employee Responsibilities and Conduct; Repeal of the Secretary of the Interior's Authority To Sell or Lease to a Bureau of Land Management Employee, or the Spouse of an Employee, Stationed in Alaska, One Tract of Land

AGENCY: Office of the Secretary, Interior.

ACTION: Final rulemaking.

SUMMARY: This final rulemaking removes a regulation concerning the authority to sell or lease one tract of land to a Bureau of Land Management employee or the spouse of an employee stationed in Alaska. The regulation is being removed because it is no longer authorized by law.

EFFECTIVE DATE: February 23, 1984.

ADDRESS: Any suggestions or comments should be sent to: Director (140), Bureau of Land Management, 1800 C Street, NW., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: David R. Shepard, (202) 343–8735.

SUPPLEMENTARY INFORMATION: Revised Statutes Section 452, (43 U.S.C. 11) prohibits employees of the Bureau of Land Management from directly or indirectly purchasing any of the public land. However, section 4 of the Act of June 28, 1938, as added June 8, 1954, (43 U.S.C. 682d) authorized the Secretary of the Interior to sell or lease one tract of land for residence or recreation purposes to any employee of the Department of the Interior stationed in Alaska. These provisions of law were implemented by the regulations in 43 CFR 20.735–22(c)(1). The Act of June 28, 1938 as added to, was repealed by the Federal Land Policy and Management Act (43 U.S.C. 1701 et seq.).

Because the law authorizing the Secretary of the Interior to sell public lands to employees of the Department of the Interior no longer exists, such authority cannot be incorporated in regulations. Accordingly it is necessary to repeal that section of the regulations.

This final rulemaking merely removes a superfluous provision of the

regulations. It will have no additional impact on the public. Therefore, it is being published as final rulemaking and will be effective upon publication.

It is hereby determined that this document is not a major Federal action significantly affecting the quality of the human environment and that no detailed statement pursuant to section 201(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) is required.

The Department of the Interior has determined that this document is not a major rule under Executive Order 12291 and will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.).

This final rulemaking contains no additional information collection requirements.

The principal author of this final rulemaking is David R. Shepard, Office of Legislation and Regulatory Management, Bureau of Land Management.

List of Subjects in 43 CFR Part 20

Conflict of interest.

PART 20—[AMENDED]

Under the authority of the Federal Land Policy and Management Act (43 U.S.C. 1701 et seq.) Part 20, Subtitle A of Title 43 of the Code of Federal Regulations is amended as set forth below.

§ 20.735-22 [Amended]

Section 20.735-22(c)(1) is amended by removing the second sentence of that section in its entirety.

Dated: February 13, 1984.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

[FR Doc. 84-4647 Filed 2-22-84; 8:45 am]

BILLING CODE 4310-10-M

Bureau of Land Management

43 CFR Part 8370

Special Recreation Permit Policy

AGENCY: Bureau of Land Management, Interior.

ACTION: Final special recreation permit policy; correction.

SUMMARY: The Part heading in the Final Special Recreation Permit Policy of the Bureau of Land Management, Department of the Interior, published on Friday, February 10, 1984, at 49 FR 5300, reading "43 CFR Part 8560", should have read, "43 CFR Part 8370".

FOR FURTHER INFORMATION CONTACT: Bruce R. Brown (202) 343-9353.

Dated: February 21, 1984.

James M. Parker,

Acting Director.

[FR Doc. 84-4850 Filed 2-22-84; 8:45 am]

BILLING CODE 4310-84-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Part 401

[CGD 83-064]

Great Lakes Pilotage Rates

Correction

In FR Doc. 84-3809 beginning on page 5347 in the issue of Monday, February 13, 1984, make the following corrections:

§ 401.405 [Corrected]

1. On page 5348, column one, § 401.405 introductory text, line five, "subscribed" should read "described".

§ 401.420 [Corrected]

2. On the same page, column two, § 401.420(a), line nine, "basis" should read "basic"; also in lines twelve through fifteen, "$33 for each hour or part of an hour during which each interruption lasts with a maximum basic rate of" was inadvertently repeated and should be removed.

BILLING CODE 1505-01-M

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 81-04; Notice 5]

Federal Motor Vehicle Safety Standards; Glazing Materials

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Final rule.

SUMMARY: This notice amends Standard No. 205, *Glazing materials*, to adopt by reference the 1980 version of American National Standard Z26, the safety code for glazing materials promulgated by the American National Standards Institute. Adoption of the most recent version of Z26 will permit the use of the latest technological developments in glazing. This notice also amends the standard to permit the use of a new type of bullet resistant glazing material and sets appropriate performance requirements for that glazing. The new glazing would be used in bullet resistant shields that would be installed inside a vehicle behind the windshield and other areas of the vehicle. Since the new glazing materials are lightweight, small businesses would be able to provide ballistic protection for their employees at a lower cost.

DATES: The amendments are effective on February 23, 1984. Any petition for reconsideration must be received by March 26, 1984.

ADDRESSES: Any petition for reconsideration should refer to the docket and notice number and be submitted by March 26, 1984. to: Docket Section, Room 5109, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, D.C. 20590.

FOR FURTHER INFORMATION CONTACT: Mr. Edward Jettner, Office of Vehicle Safety Standards, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, D.C. 20590 (202-426-2264).

SUPPLEMENTARY INFORMATION: Safety Standard No. 205, *Glazing materials*, (49 CFR 571.205) sets performance requirements for glazing materials used in motor vehicles and motor vehicle equipment. The standard incorporates by reference the American National Standard Institute's "Safety Code for Safety Glazing Materials for Glazing Motor Vehicles Operating on Land Highways" Z-26.1-1966, as supplemented by Z26.1a-1969 (ANS Z26). The requirements of Standard No. 205 are set forth in terms of performance tests that the various types or "items" of glazing must meet. Currently there are 14 items of glazing materials permitted under Standard No. 205.

On November 18, 1980, NHTSA granted petitions for rulemaking filed by Rohm and Haas and General Electric (GE). The petitioners requested the agency to amend the standard to incorporate a revised edition of ANS Z26 that was published on January 26, 1977. They said that the revised edition would enable manufacturers to take advantage of the latest technological developments in glazing and would reduce test burdens by eliminating unnecessary testing.

Additionally, GE requested that Standard No. 205 be amended to permit the use of a new type of bullet resistant glazing, which could be used as a shield in vehicle areas requisite for driving visibility. This transparent barrier would be mounted separately inside the vehicle behind glazing materials that independently comply with the requirements of Standard No. 205. Since the plastic glazing materials are light weight, GE claimed that small

businesses would be able to provide ballistic protection to their employees at a lower cost.

ANS Z26 Revision

Subsequent to the Rohm and Haas and GE petitions, the American National Standards Institute published a 1980 revision to ANS Z26. In July 1982, the agency proposed (47 FR 32749) to incorporate the 1980 revision. (Please refer to the July 29, 1982 notice for an extensive discussion of the provisions of the 1980 version of ANS Z26.)

All commenters supported adoption of the 1980 edition of ANS Z26, citing the advantages gained by using a more modern technical reference. The major benefits of the 1980 version are that it adds metric equivalents to the test procedures and performance requirements, eliminates certain tests which are not necessary to assess the resistance to delamination and light stability of tempered glass, and expands the permissible glazing materials to accommodate technological advances in glazing technology, particularly for bullet resistant glazing.

The elimination of Humidity Test No. 3 and Boil Test No. 4 for tempered glass will not adversely affect safety. These tests are unnecessary because, unlike laminated glass which contains intervening layers of glazing materials, tempered glass is a single layer of material and therefore cannot delaminate. Likewise the elimination of ANS Z26 Section 5.1.4 of Light Stability Test No. 1 for tempered glass also will not have an adverse safety effect. This section of Test No. 1 is designed to detect decomposition of laminates after exposure to ultraviolet radiation. Since tempered glass does not contain laminates, the test is superfluous. The agency therefore has decided to incorporate by reference the 1980 version of ANS Z26 in Standard No. 205.

Bullet Resistant Shields

In the July 29, 1982 notice, NHTSA also proposed to amend Standard No. 205 to establish a new item of glazing, "Item 11C." The new item would permit the use of new plastic glazing materials which are lighter and less costly than bullet-resistant glass used on steel-armored vehicles. Use of these lighter glazing materials should increase fuel economy by reducing vehicle weight.

Most commenters favored the use of the new bullet resistant shields, which would be mounted behind glazing material that also must comply with Standard No. 205. Several manufacturers of armored vehicles and armored vehicle equipment, however, expressed doubts about the safety, durability, and adequacy of plastic bullet resistant shields. Those comments are discussed below.

Head Impact

One of the purposes of Standard No. 205 is to reduce glazing related injuries in motor vehicle crashes. No commenter specifically addressed the possibility of injuries due to the increased use of bullet resistant shields made of the new glazing materials. The agency recognizes that bullet resistant shields are thicker and more rigid than ordinary safety glazing and may cause injury during a crash. However, the same possibility exists for other items of bullet resistant glazing materials, such as currently used item AS–10 glazing materials.

The agency estimates overall effect on occupant injuries due to the use of bullet resistant shields is minor since no more than several hundred vehicles per year will be so equipped and the probability of a crash leading to severe injuries is small. The agency also believes that specially armored vehicles are operated by trained drivers who, because of the possibility of having to do sudden high-speed maneuvers, will wear seat belts while driving. The agency concludes that permitting the use of new bullet resistant glazing materials represents a reasonable compromise between crash safety and protection from armed attack.

Shield Retention

Several commenters said that bullet resistant shields are potentially unsafe because the attachment could loosen due to the shock and vibration caused by high speed manuevering or could be shot off. Brinks, however, reported that it had not experienced any shock or vibration problem with the bullet resistant shields it has used.

The agency agrees that the shield attachment must be designed to accommodate shock or vibration. These problems are no different than the problem in designing attachments for other items of automotive glazing for use as windshields or side windows, for example. In the absence of field data showing there is an actual problem, the agency does not see a need to specify attachment requirements at this time.

Ballistic Adequacy

Goodyear Aerospace expressed concern that the public might be misled as to the ballistic adequacy of the plastic shields. The agency recognizes that there are limitations to the bullet resistance of any type of glazing. However, all bullet resistant glazing must meet at least one of the four types of bullet resistant requirements set forth in Test No. 27 of ANS Z26. Standard No. 205 requires bullet resistant glazing to be marked to indicate the degree of ballistic protection provided by that particular glazing material. The markings will adequately convey the necessary information to the purchaser who must then determine whether the shield meets his protection needs.

Light Degradation

Moore and Sons commented that polycarbonate plastics degrade when exposed to ultraviolet radiation. It said that these materials lose their bullet resisting capability as plastic continues to be exposed. GE furnished data that illustrated that certain older types of polycarbonates are sensitive to ultraviolet light. However, data gathered on newer, improved versions of polycarbonates, which are coated and ultraviolet light stabilized, show substantial resistance to this effect. Purolator, which operates a fleet of armored vehicles, said that its field experience has not found ultraviolet light to cause a problem for the newer polycarbonates.

To ensure the ultraviolet light resistant performance of bullet resistant glazing the agency is adopting in the final rule a requirement that such glazing pass a light stability test (Test No. 30). Test No. 30 provides a ultraviolet radiation exposure similar to the light stability test specified for other glazing materials for use in locations requisite for driving visibility, such as windshields.

Chemical Durability

Moore and Sons also expressed concern that plastic materials could be damaged by ordinary chemicals used in cleaning vehicle interiors. However, Saint Gobain Vitrage, a manufacturer of automotive glazing, reported that bullet resistant laminates, such as polycarbonates have proved durable after extensive use. GE said that for over ten years, special U.S. Government vehicles and vehicles designed for use in foreign countries have been equipped with bullet resistant plastic glazing materials without any reported optical degradation. Based on this information, the agency has concluded that with normal use plastic ballistic shields meeting the chemical resistance tests set in the final rule should have adequate chemical durability.

In addition, to minimize durability and optical clarity problems, the agency is requiring manufacturers to provide cleaning instructions on a label on the glazing materials. The instructions will inform owners of the proper choice of

cleaning materials and procedure for both cleaning and frost and ice removal. The agency believes that the labels will be adequate to avoid cleaning problems with ballistic shields.

Defogging Problems.

Moore and Sons also raised questions about whether the close proximity of the bullet resistant shield to the vehicle's windshield may cause inadequate defogging and defrosting. Goodyear and GE commented that the defogging or defrosting of the windshield should not be compromised if an air space is maintained between the windshield and the ballistic shield. Since the final rule requires ballistic shields to be installed behind and separate from other glazing materials, the agency does not expect there to be defogging or defrosting problems. Likewise, the final rule requires the ballistic shield to be readily removable; thus making it easy to clean the inside of the windshield and other windows of the vehicle.

Double Vision

Goodyear said that the ballistic shield, because it is mounted behind the windshield, may cause multiple image problems during night time driving. This could occur whenever bright sources of lights, such as headlights, are viewed at an angle through the two separated pieces of glazing. The agency recognizes that the separated glazing materials can cause reflections under certain conditions leading to an illusion of double vision. The secondary images, however, should be faint because only a small amount of incoming light is reflected from the surface of a transparent glazing material. As previously mentioned, GE has reported that plastic ballistic shields have been in use for ten years without any reported optical problems. The agency therefore has concluded that the multiple image problem, if any, should be minor.

Effective Date

Although the effective date was proposed as three months after publication of the final rule, the agency has determined that this delay is not necessary. The portions of the final rule adopting the 1980 version of ANS Z26 will not require glazing test laboratories to purchase additional test equipment nor require additional training in new test protocols. Since the provision on ballistic shields does not require the use of such glazing, but instead gives the manufacturer the option of using the new glazing, having an immediate date will not impose any burdens on manufacturers. The agency has determined that it is in the public interest to make the use of the new bullet resistant glazing materials immediately available and therefore has set an immediate effective date for the amendments made by this notice.

Marking

The final rule requires prime glazing material manufacturers to mark the new bullet resistant glazing material as "AS 11C" materials. In addition, this rule requires manufacturers of the glass-plastic glazing material permitted by the agency on November 16, 1983 (48 FR 52061) to mark those materials as "AS 14" materials. This marking will help ensure that the materials are used in the appropriate locations in motor vehicles.

Costs

The agency has evaluated the economic and other effects of this final rule and determined that they are neither major as defined by Executive Order 12291 nor significant as defined by the Department's Regulatory Poicies and Procedures. The agency has determined that the economic effects of ths final rule are so minimal that a full regulatory evaluation is not required.

The adoption of the 1980 version of ANS Z26 will likely reduce costs through the elimination of unnecessary tests. The new bullet resistant glazing materials permitted by this rule will be initially more costly than conventional bullet resistant glass. However, the final rule does not mandate the use of the new bullet resistant shields, it merely gives manufacturers the option of using the new materials. Those materials will only be used on a very limited number of vehicles per year. In addition, although the new materials may be initially more costly, the cost may be offset by reduced vehicle weight and increased fuel economy.

In accordance with the Regulatory Flexibility Act, the agency has evaluated the effects of this action on small entities. As previously discussed, this rule does not mandate the use of the new materials, it permits their use. The rule may assist small businesses by providing ballistic protection to their employees at a lower overall cost. Based on the agency's evaluation, I certify that the final rule will not have a significant economic effect on a substantial number of small entities.

Finally, the agency has analyzed the effects of this action under the National Environmental Policy Act. The agency has determined that the final rule will not have a significant effect on the quality of the human environment.

The information collection requirements contained in this rule have been submitted to and approved by the Office of Management and Budget (OMB), pursuant to the requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*). Those requirements have been approved through September 30, 1985 (OMB # 2127-0512).

List of Subjects in 49 CFR Part 571

Imports, Motor vehicle safety, Motor vehicles, Rubber and rubber products, Tires.

PART 571—[AMENDED]

In consideration of the foregoing, § 571.205, *Glazing materials*, of Title 49 of the Code of Federal Regulations is amended as follows:

§ 571.205 [Amended]

1. Section S4 is amended by adding a new definition to read as follows:

* * * * *

"Bullet resistant shield" means a shield or barrier that is installed completely inside a motor vehicle behind and separate from glazing materials that independently comply with the requirements of this standard.

* * * * *

2. Paragraph S5.1.1 is revised to read as follows:

* * * * *

S5.1.1 Glazing materials for use in motor vehicles, expect as otherwise provided in this standard shall conform to the American National Standard "Safety Code for Safety Glazing Materials for Glazing Motor Vehicles Operating on Land Highways" Z-26.1-1977, January 26, 1977, as supplemented by Z26.1a, July 3, 1980 (hereinafter referred to as "ANS Z26"). However, Item 11B glazing as specified in that standard may not be used in motor vehicles at levels requisite for driving visibility, and Item 11B glazing is not required to pass Test Nos. 17, 30, and 31.

* * * * *

3. Paragraph S5.1.2 is revised to read as follows:

* * * * *

S5.1.2 In addition to the glazing materials specified in ANS Z26, materials conforming to S5.1.2.1, S5.1.2.2, S5.1.2.3 or S5.1.2.4 may be used in the locations of motor vehicles specified in those sections.

* * * * *

4. Paragraph S5.1.2.1 is revised to read as follows:

* * * * *

S5.1.2.1 *Item 11C—Safety Glazing Material for Use in Bullet Resistant Shields.* Bullet resistant glazing that complies with Test Nos. 2, 17, 19, 20, 21, 24, 27, 28, 29, 30 and 32 of ANS Z26 and

the labeling requirements of S5.1.2.5 may be used only in bullet resistant shields that can be removed from the motor vehicle easily for cleaning and maintenance. A bullet resistant shield may be used in areas requisite for driving visibility only if the combined parallel luminous transmittance with perpendicular incidence through both the shield and the permanent vehicle glazing is at least 60 percent.

* * * * *

5. Paragraph S5.1.2.2 is revised to read as follows:

* * * * *

S5.1.2.2 *Item 12—Rigid Plastics.* Safety plastics materials that comply with Test Nos. 10, 13, 16, 19, 20, 21 and 24 of ANS Z26, with the exception of the test for resistance to undilated denatured alcohol Formula SD No. 30, and that comply with the labeling requirements of S5.1.2.5, may be used in a motor vehicle only in the following specified locations at levels not requisite for driving visibility.

(a) Window and doors in slide-in campers and pick-up covers.

(b) Motorcycle windscreens below the intersection of a horizontal plane 15 inches vertically above the lowest seating position.

(c) Standee windows in buses.

(d) Interior partitions.

(e) Openings in the roof.

(f) Flexible curtains or readily removable windows or in ventilators used in conjunction with readily removable windows.

(g) Windows and doors in motor homes, except for the windshield and windows to the immediate right or left of the driver.

(h) Windows and doors in buses except for the windshield and window to the immediate right and left of the driver.

* * * * *

6. Paragraph S5.1.2.3 is revised to read as follows:

* * * * *

S5.1.2.3 *Item 13—Flexible plastics.* Safety plastic materials that comply with Tests Nos. 16, 19, 20, 22, and 23 or 24 of ANS Z26, with the exception of the test for resistance to undiluted denatured alcohol Formula SD No. 30, and that comply with the labeling requirements of S5.1.2.5 may be used in the following specific locations at levels not requisite for driving visibility.

(a) Windows, except forward-facing windows, and doors in slide-in campers and pick-up covers.

(b) Motocycle windscreens below the intersection of a horizontal plane 15 inches vertically above the lowest seating position.

(c) Standee windows in buses.

(d) Interior partitions.

(e) Openings in the roof.

(f) Flexible curtains or readily removable windows or in ventilators used in conjunction with readily removable windows.

(g) Windows and doors in motor homes, except for the windshield, forward-facing windows, and windows to the immediate right or left of the driver.

* * * * *

7. A new paragraph S5.1.2.4 is added to read as follows:

* * * * *

S5.1.2.4 *Item 14—Glass-Plastics.* Glass-plastic glazing materials that comply with the labeling requirements of S5.1.2.5 and Tests Nos. 1, 2, 3, 4, 9, 12, 15, 16, 17, 18, 19, 24, 26, and 28, as those tests are modified in (a), (b), (c), and (d) of this paragraph, may be used anywhere in a motor vehicle, except that it may not be used in convertibles, in vehicles that have no roof or in vehicles whose roofs are completely removable.

(a) Tests Nos. 9, 16, and 18 shall be conducted on the glass side of the specimen, i.e., the surface which would face the exterior of the vehicle. Tests Nos. 17, 19, 24, and 26 shall be conducted on the plastic side of the specimen, i.e., the surface which would face the interior of the vehicle. Test No. 15 should be conducted with the glass side of the glazing facing the illuminated box and the screen, respectively. For Test No. 19, add the following chemical to the specified list: an aqueous solution of isopropanol and glycol ether solvents in concentration no greater than 10% or less than 5% by weight and ammonium hydroxide no greater than 5% or less than 1% by weight, simulating typical commercial windshield cleaner.

(b) Glass-plastic specimens shall be exposed to an ambient air temperature of $-40^{\circ}C(+5^{\circ})$ $(-40^{\circ}F+9^{\circ})$ for a period of 6 hours at the commencement of Test No. 28, rather than at the initial temperature specified in that test. After testing, the glass-plastic specimens shall show no evidence of cracking, clouding, delaminating, or other evidence of deterioration.

(c) Glass-plastic specimens tested in accordance with Test No. 17 shall be carefully rinsed with distilled water following the abrasion procedure and wipe dry with lens paper. After this procedure, the arithmetic mean of the percentage of light scattered by the three specimens as a result of abrasion shall not exceed 4.0 percent.

(d) Data obtained from Test No. 1 should be used when conducting Test No. 2.

* * * * *

8. A new paragraph S5.1.2.5 is added to read as follows:

* * * * *

S5.1.2.5 *Cleaning instructions.* (a) Each manufacturer of glazing materials designed to meet the requirements of S5.1.2.1, S5.1.2.2, S5.1.2.3, or S5.1.2.4 shall affix a label, removable by hand without tools, to each item of such glazing material. The label shall identify the product involved, specify instructions and agents for cleaning the material that will minimize the loss of transparency, and instructions for removing frost and ice, and, at the option of the manufacturer, refer owners to the vehicle's Owner's Manual for more specific cleaning and other instructions.

(b) Each manufacturer of glazing materials designed to meet the requirements of paragraph S5.1.2.4 may permanently and indelibly mark the lower center of each item of such glazing material, in letters not less than 5/16 inch nor more than ¼ inch high, the following words, "GLASS PLASTIC MATERIAL—SEE OWNER'S MANUAL FOR CARE INSTRUCTIONS."

* * * * *

9. The second sentence of paragraph S6.1 is amended to read as follows:

* * * * *

S6.1 * * * The materials specified in S5.1.2.1, S5.1.2.2, S5.1.2.3 and S5.1.2.4 shall be identified by the marks "AS 11C", "AS 12", "AS 13" and "AS 14", respectively.

* * * * *

(Secs. 103, 119, Pub. L. 89-563, 80 Stat. 719 (15 U.S.C. 1392, 1407); delegations of authority at 49 CFR 1.50)

Issued on February 14, 1984.

Diane K. Steed,

Administrator.

[FR Doc. 84-4001 Filed 2-22-84; 8:45 am]

BILLING CODE 4910-01-M

Proposed Rules

Federal Register
Vol. 49, No. 37
Thursday, February 23, 1984

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

FEDERAL HOME LOAN BANK BOARD

12 CFR Part 564

Insurance Coverage of Accounts Held by Investment Companies, Insurance of Joint Accounts

AGENCY: Federal Home Loan Bank Board.

ACTION: Proposed rule.

SUMMARY: The Federal Home Loan Bank Board ("Board"), as the operating head of the Federal Savings and Loan Insurance Corporation ("FSLIC"), proposes to amend its regulations pertaining to the settlement of insurance to address the treatment of accounts held by mutual funds and other investment companies to provide that accounts held by such companies would be insured up to $100,000 in the aggregate. The Board believes this treatment would be consistent with the purposes of the Investment Company Act of 1940. The Board also proposes to amend its regulations pertaining to joint accounts to exempt certificates of deposit and negotiable instruments from signature-card requirements. The Board believes the current rule is unnecessary and adds to the recordkeeping burden on institutions.

DATE: Comments must be received by March 22, 1984.

ADDRESS: Director, Information Services Section, Office of the Secretariat, Federal Home Loan Bank Board, 1700 G Street, NW., Washington, D.C. 20552. Comments will be publicly available at this address.

FOR FURTHER INFORMATION CONTACT: Christopher P. Bolle, Law Clerk (202) 377–7057, or Gerard Champagne, Attorney (202) 377–6455, Office of General Counsel, Federal Home Loan Bank Board, 1700 G Street, NW., Washington, D.C. 20552.

SUPPLEMENTARY INFORMATION: The Board is proposing two amendments to its insurance-of-accounts regulations. The first would provide that accounts held by an entity which would be required to file a registration statement with the Securities and Exchange Commission pursuant to section 8 of the Investment Company Act of 1940 ("1940 Act company"), if such entity were organized or otherwise created under the laws of the United States or of a State, are insured up to $100,000 in the aggregate, regardless of the form which that entity takes. The Board believes that it would be inappropriate to extend federal deposit insurance to investor interests in 1940 Act companies, because these interests are more in the nature of shareholder interests in corporations than beneficial interests in traditional trust arrangements. This treatment would be consistent with the purposes of the Investment Company Act of 1940, and with the rules of the Federal Deposit Insurance Corporation ("FDIC"). *See* 12 CFR 330.5(b). The Board sees no reason for its regulations to differ on this issue, in its primary form, from those of the FDIC.

There are, however, two respects in which the Board deems it necessary for its regulation to differ from the FDIC's. First, the FDIC's regulation covers only entities actually subject to 1940 Act registration. Thus, mutual funds organized under the laws of a foreign country which, if they are not doing business in the United States, are not required to register under the 1940 Act, are accorded a pass-through of insurance under the FDIC's regulation. The Board believes that such an anomaly is inappropriate. Therefore, the proposal would cover not only entities actually subject to registration under the 1940 Act, but also those which would be required to register if domiciled or doing business in the United States. Second, the 1940 Act exempts bank common trust funds from registration, but contains no similar express exemption for trust departments of savings associations. The Board believes that, in view of the virtually identical functions performed by bank and savings association trust departments, equal treatment should be afforded by the Insurance Regulations. Therefore, the proposal would expressly exempt common trust funds of savings associations from its operation.

In applying the proposed regulation, at the time of a payout of insurance or a transfer of insured accounts, the FSLIC would regard a "no-action" letter from the staff of the Securities and Exchange Commission stating that the account-holding entity is not required to register under section 8 of the Investment Company Act of 1940 as conclusive as to the status of that entity. In regard to entities not organized or created under the laws of the United States or of a State, to which the 1940 Act does not apply, or those which have not been issued no-action letters, the FSLIC would consider, among other factors, an opinion of counsel based upon no-action letters issued to domestic entities under similar fact patterns.

The second proposed amendment pertains to the Board's regulations with respect to certain joint accounts. The Board's current regulations require that, in order for separate insurance of joint accounts to be effective, each of the joint holders of an account must personally execute a signature card for that account. This provision was intended to ensure that joint account relationships were not fabricated in order to increase insurance coverage. The FSLIC's recent experience in liquidating institutions in default indicates that the current regulation often causes unnecessary hardship to depositors who, usually through no fault of their own, have failed to comply with the technical signature-card requirement. The Board believes that, with respect to certificates of deposit and accounts evidenced by negotiable instruments, the requirement imposed by the current provision is unnecessary and merely serves to add to the recordkeeping burden on institutions. The Board believes that, in the case of certificates of deposit and negotiable instruments, the account records of the issuing institution provide a sufficient safeguard against fraudulent claims of joint ownership, and notes that the FDIC has for some time exempted such accounts from signature-card requirements. *See* 12 CFR 330.9(b) (1983). The Board is therefore proposing to exempt such deposits from the signature-card requirement otherwise applicable to joint accounts.

Initial Regulatory Flexibility Analysis

Pursuant to Section 3 of the Regulatory Flexibility Act, Pub. L. No. 96–354, 94 Stat. 1164 (Sept. 19, 1980), the Board is providing the following regulatory flexibility analysis:

1. *Reasons, objectives, and legal bases underlying the proposed rules.* These elements have been incorporated elsewhere in the supplementary information regarding the proposal.

2. *Small entities to which the proposed rules would apply.* The rules would apply only to savings associations the accounts of which are insured by the FSLIC.

3. *Impact of the proposed rules on small institutions.* With respect to the proposed amendment pertaining to the insurance of accounts held by 1940 Act companies, it is not anticipated that the proposal will have a disproportionate impact on the ability of small institutions to attract deposits. With respect to the proposed amendment pertaining to the insurance of joint accounts, the proposal will ease the recordkeeping burden on such institutions.

4. *Overlapping or conflicting federal rules.* There are no known federal rules that may duplicate, overlap, or conflict with the proposal.

5. *Alternatives to the proposed rules.* To the extent that there are alternatives to any elements of the proposed rules, discussion of them has been incorporated into the supplementary information.

List of Subjects in 12 CFR Part 564

Banks, Bank deposit insurance, Banking, Federal Home Loan Bank Board, Federal Savings and Loan Insurance Corporation, Savings and loan associations. .

Accordingly, the Board hereby proposes to amend Part 564 of Subchapter D, Chapter V, Title 12 of the Code of Federal Regulations, as set forth below.

SUBCHAPTER D—FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION

PART 564—SETTLEMENT OF INSURANCE

1. Add § 564.13 as follows:

§ 564.13 Accounts held by investment companies.

Accounts held by, or funds in accounts held for the benefit or, any entity required to file a registration statement with the Securities and Exchange Commission pursuant to section 8 of the Investment Company Act of 1940, or which would be required to so file if it were organized or otherwise created under the laws of the United States or of a State, shall be insured up to $100,000 in the aggregate. This section shall not apply to common trust funds operated by an insured institution pursuant to Part 550 of this Chapter or in conformity with § 571.15 of this Subchapter.

2. Revise § 564.9(b) as follows:

§ 564.9 Joint accounts.

* * * * *

(b) *Qualifying joint accounts.* A joint account shall be deemed to exist, for purposes of insurance of accounts, only if each coowner has personally executed an account signature card and possesses withdrawal rights, except with respect to a certificate account (as defined in § 526.1(b) of this Chapter) or to an account evidenced by a negotiable instrument, but such accounts must in fact be jointly owned.

* * * * *

(Secs. 401, 402, 403, 405, 48 Stat. 1225, 1256, 1257, as amended; 12 U.S.C. 1724, 1725, 1726, 1728. Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR, 1943–48 Comp., p. 1071)

Dated: February 15, 1985.

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

[FR Doc. 84-4680 Filed 2-22-84; 8:45 am]

BILLING CODE 6720-01-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 210 and 229

[Release Nos. 33-6514; 34-20657; 35-23226; IC-13772; File No. S7-10-84]

Proposals Regarding Industry Segment and Other Interim Financial Reporting Matters, Management's Discussion and Analysis, and Off Balance Sheet Financing Disclosures

AGENCY: Securities and Exchange Commission.

ACTION: Proposed rules.

SUMMARY: The Commission is today soliciting public comments on the costs and benefits of proposed amendments intended to improve disclosures related to industry segment reporting and other matters. The proposals would require (1) presentation of certain industry segment information for interim periods; (2) a discussion of reportable segments in the management's discussion and analysis; and (3) separate disclosure of amounts of notes payable, accounts payable, and the current portion of long-term debt at interim dates; the presentation, in quarterly reports, of the balance sheet as of the end of the corresponding interim period of the prior fiscal year (in lieu of the prior fiscal year-end balance sheet); and timely disclosure of the effects of a retroactive prior period restatement on results of operations for each of the last three fiscal years. The Commission is also providing advance notice of possible rulemaking regarding (1) additional segment reporting disclosures and (2) uniform disclosure of off balance sheet financing arrangements.

DATE: Comments should be received by the Commission on or before May 15, 1984.

ADDRESS: Comment letters should refer to File No. S7–10–84 and should be submitted in triplicate to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, 450 5th Street, NW., Stop 6–9, Washington, D.C. 20549. All comments received will be available for public inspection and copying in the Commission's Public Reference Room, 450 5th Street, NW., Washington, D.C. 20549.

FOR FURTHER INFORMATION CONTACT: Robert K. Herdman, Lawrence S. Jones, or Andrea E. Bader (202/272–2130), Office of the Chief Accountant; or Betsy Callicott Goodell (202/272–2589), Division of Corporation Finance, Securities and Exchange Commission, Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION:

Background and Excutive Summary

The Commission has recently become aware of concerns about the adequacy of its interim financial information requirements and certain other disclosures about registrants' financial condition and results of operations. Based on its staff's review of these areas, it has determined to propose the following actions:

1. Amendments to Regulation S–X [17 CFR 210] to require presentation of certain industry segment information for interim periods.

2. Amendments to Regulation S–K [17 CFR 229] to require registrants to generally focus on reportable segments in the Management's Discussion and Analysis of Financial Condition and Results of Operations ("MDA") in order to provide an understanding of a registrant's business as a whole.

3. Amendments to the existing interim reporting provisions to require (a) separate disclosure of notes payable, accounts payable, and the current portion of long-term debt; (b) the presentation, for comparative purposes, of the balance sheet as of the end of the corresponding interim period of the prior fiscal year (in lieu of the prior year-end balance sheet currently required); and (c) timely disclosure of the effects of a retroactive prior period restatement on results of operations for each of the last three fiscal years.

The Commission is also providing advance notice of possible rulemaking action regarding (a) additional segment reporting disclosures and (b) uniform disclosure of off balance sheet financing arrangements.

These proposals are consistent with suggestions for improvements received from frequent users of Commission-mandated disclosure documents. Some of the suggestions have resulted from recent initiatives sponsored by the Commission to enhance the role such users play in the Commission's rulemaking process and thereby improve the usefulness to investment decision-making of specific disclosures required by the Commission. The initial effort was a Research Forum, conducted by the Commission in November 1982 and attended by approximately 40 professionals represnting various types of users of Commission disclosure documents, such as securities analysts, institutional investors, investment advisers, rating organizations and shareholder groups.

Users of financial information, and the Commission, have consistently emphasized the importance of timely reporting of financial information. The interim information contained in reports on Form 10–Q [17 CFR 249.308a] permits identification and analysis of trends in a registrant's financial condition and results of operations, including the impact of seasonality. Users of financial information have stated that segment information is as important to effective analysis of the interim financial statements as it is to analysis of the annual financial statements of registrants engaged in multiple businesses.

Notwithstanding their belief about the importance of segment data, certain users have also expressed some reservations about the industry segment information currently provided in annual reports. For example, they state that the basis of segmentation is often too broad for meaningful analysis and that adequate information on a segmented basis is not always provided in the MD&A. Restatements of prior year segment information also present analytical problems.

In addition to interim segment information, it has been suggested that interim financial information would be improved if the required financial statements were as detailed as statements included in annual reports.[1] Of particular interest is separate disclosure of the amounts of accounts payable, notes payable, and the current portion of long-term debt. Also, experience suggests that a comparative balance sheet as of the end of the comparable interim period of the prior year, which has not been required since 1981, is frequently used for analytical purposes.

Finally, questions have been raised about the adequacy of disclosures concerning off balance sheet financing arrangements. Registrants have entered into off balance sheet arrangements with increasing frequency in recent years. Disclosures of the various types of transactions may be contained in several different places throughout the financial statements and, as a result, the aggregate effects of significant and complex transactions may be difficult to assess. It has been suggested that user understanding of the impact of off balance sheet financing arrangements on financial position and future cash flows would be enhanced by disclosure of such arrangements in one standard footnote.

In its rulemaking activities, the Commission attempts to balance the information needs of investors with the costs to registrants of providing that information. The financial information users from whom the Commission has had recent input have provided valuable insight as to the views of the user community and the Commission believes that many of their suggestions have considerable merit. By issuing these rule proposals and requesting comments on other matters, the Commission seeks additional input from the user community, registrants, and other interested parties. Further, the Commission specifically requests comments on the costs to registrants of the adoption of the proposals published in this release.

The remainder of this release contains a discussion of the Commission's specific proposals and the reasons therefor in the order indicated below:

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A. Industry Segment Information

1. Disclosure of Interim Segment Data

The Commission has long been aware of the importance of meaningful segment information to reasoned investment decision-making in multisegment companies.[2] In May 1977, the Commission issued Release No. 33–5826 (May 10, 1977) [42 FR 26010; May 20, 1977], which proposed rules intended to coordinate its line of business information with the industry segment information required by the then recently issued Statement of Financial Accounting Standards No. 14, "Financial Reporting for Segments of a Business Enterprise" ("SFAS 14"). With respect to interim reporting of segment information, that coordination took two forms. The first was a proposed clarification of the Commission's interpretation that SFAS 14 required presentation of segment information pertaining to interim periods for which complete financial statements were presented in documents filed with the Commission.[3] The second was a request for comments on the recommendation of the Advisory Committee on Corporate Disclosure tht segment information be required in quarterly reports on Form 10–Q.[4] At that time, commentators were strongly opposed to the idea of either form of disclosure.

Concurrent with the Commission's deliberations in this area, the Financial Accounting Standards Board ("FASB") was asked to interpret the requirements of paragraph 4 of SFAS 14. In November 1977, the FASB amended SFAS 14 by the issuance of Statement of Financial Accounting Standards No. 18, "Financial Reporting for Segments of a Business Enterprise—Interim Financial Statements, an amendment of FASB

[1] The Commission's existing Article 10 of Regulation S–X permits registrants to present condensed interim financial statements within prescribed guidelines.

[2] In this regard, the Commission implemented line of business reporting requirements in 1969 that significantly expanded the previous requirement (Release No. 33–4988) (July 14, 1969) [34 FR 12176; July 23, 1969].

[3] When it was issued, paragraph 4 of SFAS 14 required presentation of segment information in "a complete set of (interim) financial statements that are expressly described as presenting financial position, results of operations, and changes in financial position in conformity with generally accepted accounting principles * * * * At that time, the Commission's registration proxy, and information statement requirements generally mandated full financial statements, including footnotes, for interim periods required to be presented.

[4] It was the Advisory Committee's view that quarterly segment information would assist users in evaluating earnings statements. *See, Report of the Advisory Committee on Corporate Disclosure to the Securities and Exchange Commission* at D–18—D–20, D–38 380–90 (1977).

Statement No. 14" ("SFAS 18"). In SFAS 18, the FASB announced that it had decided to eliminate the interim segment information requirement from SFAS 14, pending further study of its project on interim financial reporting. That project included consideration of the type of financial information that should be presented for interim periods.

As announced in Accounting Series Release No. ("ASR") 236, (December 23, 1977) [42 FR 65554; December 30, 1977], the Commission decided not to propose amendments to require segment information for interim periods at that time. This decision was based on the expectation of better assurance of a well-reasoned decision on the issue after completion of the FASB's interim reporting project[5] *and* consideration of the experiences of both registrants and investors with the information required to be provided by SFAS 14. Further, it was believed that, in the intervening period, adequate disclosure would be included in registration statements pursuant to the requirements of Regulation S–K[6], and in reports on Form 10–Q pursuant to the Commission's expression of its view that a management's discussion of interim financial information which focuses on a segmented approach would be consistent with the requirements for an interim period MD&A which explains material changes in consolidated results.[7]

The Commission believes that a reconsideration of the question of interim segment reporting is now appropriate. Registrants, analysts, and the investing public have had several years of experience with segment disclosures. Experience indicates that interim segment information may enhance the analysis of trends in a registrant's financial condition and results of operations and facilitate an appraisal of future results and cash flows. The consolidated interim financial information alone may not permit timely identification of the future effects of differing trends experienced by different segments. Analytical problems can also result when one or more segments' operations are seasonal in nature. The Commission further notes that certain companies are already providing some interim segment information in reports on Form 10–Q (or in their informal quarterly reports to shareholders, as to which the Commission has no presentation requirements). Finally, since the requirements of SFAS 14 have been in place for approximately seven years, registrants have had the opportunity to develop systematic approaches to the development of the required disclosures.[8]

Accordingly, the Commission believes that it is appropriate to propose a requirement for disclosure, for each period presented, of interim sales, operating profit or loss, and identifiable assets for each reportable segment and geographic area determined pursuant to the guidance in SFAS 14 and presented in the same degree of detail as for annual purposes. As set forth in proposed new Rule 10–01(a)(6) of Regulation S–X, disclosure of intersegment and interarea sales and transfers and export sales would also be required, consistent with the requirements of SFAS 14 and the Commission's existing rules and disclosure of annual segment information.[9]

The Commission believes that the information proposed to be required would generally be sufficient for purposes of interim analysis and thus has excluded from the scope of the proposal information concerning the other items required to be disclosed by SFAS 14 (i.e., property additions, provisions for depreciation, and information about major customers) and the classes of similar products information required for annual purposes by items 101 of Regulation S–K. The Commission requests specific comment on the scope of the proposed disclosures.

The proposed rules would apply to all registrants, regardless of size, that are engaged in multiple businesses. However, the Commission requests specific comment on whether there are special cost-benefit considerations related to provision of interim segment information by smaller public companies.

2. Segment Approach to MD&A

The Commission's requirements in Regulation S–K for the preparation of the MD&A are designed to be flexible in order that registrants may discuss their business in the manner most appropriate to individual circumstances. At the time that it provided flexibility, however, the Commission contemplated that registrants would include a discussion focused on individual segments when such a focus is necessary for an adequate understanding of a registrant's business. Accordingly, Item 303(a) of Regulation S–K provides that "where in the registrant's judgment a discussion of segment information or of other subdivisions of the registrant's business would be appropriate to an understanding of such business, the discussion shall focus on each relevant, reportable segment or other subdivision of the business and on the registrant's business as a whole."[10]

In 1981, the Commission's staff reported on its review of MD&A disclosures made in the first year following issuance of the revised requirements.[11] The staff then noted major improvement in the quality of MD&As as compared to the often mechanistic approaches previously taken and also noted that many registrants had focused their analysis on segment data, resulting in presentations which were generally more readable and informative than previous discussions. However, there continue to be some registrants that do not provide information in their MD&A focusing on the segments of their business in situations where it appears to be necessary for an adquate understanding of the business. Accordingly, the Commission now believes its requirements should be more explicit in this area and is proposing to amend Item 303(a) to require that generally the MD&A focus on segments in order to provide an understanding of a multisegment business.

This proposal would affect MD&As relating to interim as well as annual periods. Because the interim MD&A discusses material changes in the various items required to be discussed since the end of the preceding fiscal year, the proposal would require the interim MD&A to discuss individual segments to the extent necessary to

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[5] That project was removed from the Board's agenda in 1979 pending further progress by the FASB on the elements of financial statements and other phases of its conceptual framework project.

[6] Item 101(b)(2) of Regulation S–K requires that, in instances where interim financial information is presented in a document filed with the Commission that also includes annual financial information (e.g., and registration statement), a registrant is required to "discuss any facts relating to the performance of any of the segments during the interim period which, in the opinion of management, indicates that the three year segment financial data may not be indicative of current or future operations of the segment." No such explicit requirement exists for interim information included in reports on Form 10–Q.

[7] Now embodied in the Instructions to Item 303(b) of Regulation S–K.

[8] As part of its study of this issue, the Commission's staff asked the FASB whether it would undertake a project in this area. On January 4, 1984, the FASB decided that it should not now do so.

[9] The proposed rules would not require that registrants disclose the bases used for pricing such sales and transfers (unless subsequent changes have occurred), because investors have access to the latest annual reports.

[10] Adopted in ASR 279 (September 2, 1980) [45 FR 63630; September 25, 1980].

[11] ASR 299 (September 28, 1981).

explain material changes from the information provided for the most recent fiscal year, or to otherwise discuss any facts which indicate that the prior year segment data may not be indicative of current or future operations of the segment.

3. Potential Further Rule Proposals

There are two additional areas regarding segment reporting which the Commission intends to study further to determine whether it should propose rules or take other action to improve disclosures.[12]

a. *Industry Segment Determination.* In SFAS 14, the FASB provided broad guidance to determine reportable segments because, after examination of various systems for classifying business activities, it determined that no single set of characteristics or factors is universally applicable to determine the industry segments of all business enterprises.[13]

Since the FASB's adoption of SFAS 14, the Commission has expressed its views regarding the importance of the determination of appropriate reportable segments and has sought to assist registrants by discussing the segmentation provided by companies in selected industries.[14]

The Commission continues to be concerned about the way that registrants determine and report information about segments. For example, some companies assert they operate in only one segment even though the nature of the business suggests there should be some disaggregation. The Commission is not now proposing more specific guidance for determining appropriate industry segments, but sees merit in giving further consideration to whether more specific disclosure about the segmentation process should be required. The Commission invites comment on whether a requirement to specifically disclose the criteria used to determine reportable segments would lead to better segmentation and/or better user understanding of the conclusions reached by registrants in deciding on the appropriate segment disclosures. The Commission also requests suggestions for any other improvements in disclosures about segments.

b. *Changes in Segments.* SFAS 14 provides that a company should include appropriate disclosure of the nature and effect of restatements of previously reported segment information, but does not specifically require a detailed summary of the adjustments to prior years' data.[15]

The disclosure requirements contained in Regulation S–K for changes in segments basically conform to those of SFAS 14. A company must retroactively restate prior period information (1) when the financial statements of the registrant as a whole have been restated retroactively; or (2) when there has been a change in the way the registrant's products or services are grouped into industy segments and such change affects the segment information being reported. Restatement is not required when a registrant's reportable segments change solely as a result of a change in the nature of its operations or as a result of a change in the relative significance of a segment. When restatement is required, the changed segment information must be presented for only the two prior years because the present requirements call for only three years of segment data.

The Commission sees merit in giving further consideration to requiring more specific information about restated segment information in order to provide for a better understanding of the effects of such restatements on past trends and to assist in assessments of future prospects.

Specifically, the Commission invites comment on whether any restatements of segment data should be accompanied by a reconciliation of the prior data to the changed data, detailing the principal causes for the changes, and whether such a reconciliation should be required for more than the two prior years. Alternatively, should the Commission require expanded narrative disclosure of the nature of any restatements including a discussion of the effect of the changes on past trends?

Finally, the Commission requests comment on whether present disclosure requirements concerning the effects of changes in the bases of accounting for intersegment sales or transfers or changes in the methods used to allocate operating expenses among segments allow for an adequate understanding of their effects on past trends. For example, should the Commission require disclosure of the pro forma effect of such changes on segment operating profit or loss of the two prior years?

B. Miscellaneous Amendments to Interim Financial Information Requirements

1. Degree of Detail in Interim Financial Statements

In 1975, the Commission considered how much detail should be provided in interim financial statements and proposed to require full statements.[16] Commentators asserted that such full statements would be more detailed than required by investors, would be costly to prepare, and would encourage the placement of unwarranted reliance on the accuracy of the statements. In response, the Commission adopted the current rules now included in Article 10, which provide that interim financial statements may be condensed to include only the captions identified as major (i.e., numbered) in the applicable sections of Regulation S–X.[17] The only exception to this general rule is for inventories, as to which the details of raw materials, work in process, and finished goods must be presented either on the face of the balance sheet or in the notes to the financial statements.[18]

The Commission believes that the separate amounts of accounts payable, notes payable, and current portion of long-term debt are of considerable importance in evaluating the significance of interim changes in financing activities of registrants.[19]

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[12] The Commission intends to discuss comments and suggestions pertaining to these areas with the FASB in keeping with the Commission's stated policy of encouraging the private sector to establish and improve accounting principles and standards.

[13] SFAS 14 provides that reportable segments should be determined by:

(a) Identifying the individual products and services from which the enterprise derives its revenue,

(b) Grouping those products and services by industry lines into industry segments, and

(c) Selecting those industry segments that are significant with respect to the enterprise as a whole.

The FASB also indicated that certain factors should be considered in grouping products and services by industry line such as the nature of the product, the nature of the production process and markets or marketing methods.

[14] ASR 244 (March 3, 1978) [43 FR 9599; March 9, 1978].

[15] SFAS 14 also requires disclosure of the nature of and effect on segment operating profit or loss in the period of change, of changes in the basis of accounting for intersegment sales or transfers and any changes in the methods used to allocate operating expenses among industry segments.

[16] Release No. 33–5549 (December 19, 1973) [40 FR 1079; January 6, 1974] and Release No. 33–5579 (April 17, 1975) [40 FR 20308; May 9, 1975].

[17] ASR 177 (September 10, 1975) [40 FR 46107; October 6, 1975]. Further condensation is also permitted based on prescribed materiality guidelines. For example, a major balance sheet caption can be combined with others if it comprises less than 10% of total assets, and the amount in the caption has not increased or decreased by more than 25% since the end of the preceding fiscal year. Additionally, *de minimis* amounts need not be shown separately.

[18] Presentation of inventory components was required because users of financial statements had indicated that those subcaptions were of considerable importance in evaluating the significance of changes in the aggregate amount of inventories.

[19] Accounts payable, notes payable, and the current portion of long-term debt are not separate

Continued

Further, the Commission believes that these particular amounts should be separately presented in other disclosures where condensed financial statements are permitted (e.g., pro forma information). Therefore, the Commission is proposing to amend Article 5 of Regulations S–X to establish these items as separate major captions so that they will be presented in all condensed balance sheets when material.

While the Commission is not proposing at this time to require full interim financial statements, the Commission is requesting the views of commentators as to the advantages and disadvantages of the current system compared with the perceived costs and benefits of requiring that interim financial statements be presented in the same degree of detail as annual financial statements. The impact any such change would have on the timeliness of interim reporting should be addressed as well. Any future proposal to require more detailed interim financial statements would only be made if the Commission receives additional justification for such a proposal.

2. Comparative Interim Balance Sheets

Article 10 of Regulation S–X currently requires that a comparative balance sheet be provided as of the end of the most recent fiscal year. A comparative balance sheet as of the end of the comparable quarter of the prior year is required *only* if it is necessary for an understanding of seasonal fluctuations in the registrant's financial condition. These requirements, which have been in place for three years, were adopted as a result of comments received on the Commission's proposal to require a discussion of interim changes in financial condition during the last twelve months.[20] Commentators suggested, and the Commission agreed, that the MD&A of interim changes in financial condition should focus on changes since the end of the prior year, unless a registrant's operations were seasonal, in which case the MD&A should focus on changes during both periods. Consistent with its decision regarding the interim MD&A requirements, the Commission changed the comparative balance sheet requirement.

Based on three years of experience with the current interim balance sheet requirements, the Commission believes that effective analysis of interim financial information would be enhanced by inclusion of the prior year's comparative interim balance sheet in the most recent report on Form 10–Q. That balance sheet is used to calculate comparative income statement to balance sheet ratios and, while the previous interim balance sheet is available in a prior report on Form 10–Q, its use would be greatly facilitated by inclusion in the current report. Also, when financial statements are restated, the restated prior year's statement of income is not comparable with the interim balance sheet in the prior year's reports because the latter does not reflect the restatement. Most important is the fact that the basic framework for interim financial reporting contemplates that users of the interim financial information have read or have access to the audited financial statements for the preceding fiscal year and that the adequacy of additional interim disclosure needed for fair presentation may generally be determined in that context. As a result, most footnote and other disclosures are not reiterated at the interim dates.[21] Thus, there should be no need to present the year-end balance sheet in reports on Form 10–Q unless there has been an accounting change made by retroactive restatement of prior periods.

The Commission, therefore, is proposing to amend Rule 10–01(c)(1) of Regulation S–X to delete the requirement for presentation of a comparative year-end balance sheet and to instead require presentation of a comparative balance sheet as of the end of the corresponding quarter of the preceding fiscal year, as was required prior to the amendments adopted in ASR 286. The proposed amendments to Rule 10–01(b)(7) discussed in the next section of this release would, however, require presentation in Form 10–Q of a restated condensed balance sheet as of the end of the most recent fiscal year in the event of a retroactive accounting change.

The Commission wishes to make clear that this proposed change in the comparative balance sheet requirement is not intended to effect a substantive change in the interim MD&A requirements with respect to the periods to be covered (i.e., generally only the most recent quarter and the period since the prior year-end). Registrants with seasonal operations will continue to be required to discuss material changes in financial condition from the date of the previous year's interim balance sheet to the date of the corresponding current year interim balance sheet.

3. Timely Reporting of Effect on Annual Financial Statements of Retroactive Restatements Made in Interim Periods

Generally accepted accounting principles ("GAAP") require retroactive restatement of financial statements of prior periods to correct errors in preparation that are discovered subsequent to issuance of the financial statements. Registrants generally report such corrections in a timely manner by the filing with the Commission of an amendment to the document which contains the incorrect financial statements.

There are three other events which, under current GAAP, require restatement of prior periods' financial statements: business combinations accounted for by the pooling of interests method, disposals of business segments, and retroactive prior period adjustments (e.g., certain voluntary changes in accounting principles and adoptions of new standards). When such an event occurs subsequent to issuance of a registrant's most recent annual financial statements, a registration statement must include audited restated balance sheets as of the end of each of the last two fiscal years, statements of income and changes in financial position for the latest three fiscal years, and notes to financial statements.[22]

The Commission requires that such events also be reported in Exchange Act quarterly or current reports, but the financial information requirements of those reports are inconsistent with those for registration statements. Specifically, a restated balance sheet is only required as of the end of the most recent fiscal year and income statements are only required for the periods, which differ, specified in the table below. In each case, the restated financial statements, which need not be audited, may be condensed.

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major captions of Regulation S–X. Therefore, while they are required to be disclosed separately in annual financial statements, for interim purposes accounts and notes payable may be reported in the aggregate as one major caption [Rule 5–02.19] and the current portion of long-term debt may be included within the amount of other current liabilities [Rule 5–02.20].

[20] Final rules were adopted in ASR 286 (February 9, 1981) [46 FR 12480; February 17, 1981]. Prior to that time, Form 10–Q required presentation of a comparative interim balance sheet as of the end of the corresponding quarter of the preceding fiscal year. Also, there was no requirement to discuss interim changes in financial condition.

[21] Rule 10–01(a)(5) of Regulation S–X.

[22] *See*, Item 11 of Form S–2 [17 CFR 239.12] and Item 11 of Form S–3 [17 CFR 239.13].

Event	Exchange Act form	Periods required
Pooling of interests business combination.	8-K (Item 7(b))	Three most recent fiscal years and interim period from most recent fiscal year-end to most recent interim date for which balance sheet is required (Rule 11-02(c)(2)(ii) of Regulation S-X).
Disposal of business segment	8-K (Item 7(b))	Most recent fiscal year and interim period (Rule 11-02(c)(2)(ii) of Regulation S-X.
Retroactive prior period adjustment.	10-Q	All periods presented in Form 10-Q (Rule 10-01(b)(7) of Regulation S-X).

Equivalency of information relevant to all investment decisions is an important element of the Commission's integrated disclosure system. The Commission believes that consistency would be improved if restated income statements were included in quarterly or current reports filed under the Exchange Act for the same periods for which such statements are required to be included in registration statements. Accordingly, proposed new Rule 11-02(c)(2)(iii) of Regulation S-X would require that condensed pro forma income statements following the disposal of a business segment be presented for all periods for which historical income statements are required. The proposed amendments also clarify the Commission's view that pro forma information related to such a disposal may generally be in the form of disclosures prescribed by Accounting Principles Board Opinion No. 30, "Reporting the Results of Operations—Reporting the Effects of Disposal of a Segment of a Business, and Extraordinary, Unusual and Infrequently Occurring Events and Transactions" ("APB 30").[23] Similarly, Rule 10-01(b)(7) of Regulation S-X is proposed to be amended to require presentation of condensed restated income statements, in the first Form 10-Q subsequent to the date of a retractive prior period adjustment, in order to provide disclosure of the effects of such adjustment on the annual results of operations for each of the three preceding fiscal years.

C. Off Balance Sheet Financing Arrangements

The Commission has noted that during recent years registrants have become increasingly involved in various activities which may generally be referred to as "off balance sheet financing arrangements."[24] Such arrangements have also increased in complexity. The Commission is concerned about the adequacy of disclosure about these arrangements. While the Commission expects each such material arrangement to be fully disclosed in financial statements[25] and in the MD&A where appropriate, such disclosures may be presented in various different places. As a result, both the identification and analysis of the aggregate impact of the various types of arrangements may be difficult.

Accordingly, the Commission is considering proposing an amendment to Regulation S-X to require a standard footnote[26] to summarize and highlight these various arrangements. The Commission believes that such a requirement would facilitate identification and analysis, and thus improve the usefulness of finanical reports furnished to investors.

The Commission envisions that such a footnote would be appropriately captioned and would include a tabular display of known cash commitments as well as narrative information about other arrangements for which the potential impact on cash flows cannot be quantified. The Commission does not intend that such a footnote duplicate other disclosures that are typically included in a separate footnote (e.g., leasing transactions).

Specifically, the Commission believes that financial statement users would be better informed about the aggregate impact of off balance sheet financing arrangements on the registrant's future cash flows if registrants provided a tabular summary of known cash commitments for those financing arrangements that are required to be disclosed in financial statements and that are quantifiable (e.g., operating leases and take-or-pay contacts), showing the details and aggregate totals for the following five years and the remainder in total.[27] Nonquantifiable commitments, or those where only a maximum, worst case amount could be quantified, such as guarantees or other contingencies, would be disclosed in a narrative format to provide complete information in a central location.

The Commission believes there is substantial merit to a requirement for a standard footnote which would contain such a cash requirements table. Therefore, the Commission specifically requests comments on factors which should be considered in developing such a proposal. In this connection, commentators are asked to focus on the following points:

—The appropriate title for such a footnote.
—The appropriate contents for such a footnote.
—How such a footnote should relate to other disclosures included in financial statements.
—Whether a cash requirements table should include other known commitments for recordable liabilities, such as long-term debt and capitalized leases.
—Whether the Commission should also propose to amend the MD&A to required a specific discussion and analysis of the information disclosed in such a footnote, *or* whether it would be more appropriate to require such disclosures in the MD&A rather than the financial statements.

The Commission also invites suggestions for alternative solutions for improved disclosures about off balance sheet financing arrangements.

D. Text of Proposed Rules

List of Subjects in 17 CFR Parts 210 and 229

Accounting, Reporting and recordkeeping requirements, Securities.

Chapter II Title 17 of the Code of Federal Regulations is proposed to be amended as follows:

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[23] Thus, it would generally be sufficient to present statements of income wherein the results of operations of the discontinued segment are reported separately as a component of income before extraordinary items and the cumulative effect of accouting changes (if applicable), with disclosure of the amount of revenues related to the discontinued segment for each period presented.

[24] There is no standard definition of the term "off balance sheet financing arrangements." However, it is generally used to describe those arrangements which create definite or potential commitments that are not considered to be liabilities recordable in the primary financial statements. Some examples of these arrangements include operating leases, captive finance subsidiaries, take or pay contracts, and certain partnerships, joint ventures, and trust arrangements.

[25] The FASB has issued certain standards to deal with off balance sheet financing arrangements. In addition, the FASB has undertaken a long-term project to study the broad issue of consolidations and the reporting entity which is expected to deal with certain aspects of off balance sheet financing.

[26] In March 1978, The Commission on Auditor's Responsibilities ("Cohen Commission") issued its final report which included a broad range of conclusions and recommendations aimed at improving accountability and the audit function. The Cohen Commission recommended requiring a separate note to disclose contingencies. The FASB subsequently addressed the question of a standardized note for contingencies and commitments, but decided to defer consideration of the issue until further progress had been made in its conceptual framework project.

[27] Such a tabular format might be patterned after the present requirements of Statement of Financial Accounting Standards No. 47, "Disclosure of Long-Term Obligations," for unrecorded, unconditional purchase obligations, but would also include any other types of quantifiable commitments.

PART 210—FORM AND CONTENT OF AND REQUIREMENTS FOR FINANCIAL STATEMENTS, SECURITIES ACT OF 1933, SECURITIES EXCHANGE ACT OF 1934, PUBLIC UTILITY HOLDING COMPANY ACT OF 1935, INVESTMENT COMPANY ACT OF 1940, AND ENERGY POLICY AND CONSERVATION ACT OF 1975

1. By revising paragraphs (19) and (20) and adding new paragraphs 19A and 20A of § 210.5–02 as follows:

§ 210.5–02 Balance sheets * * *

19. *Accounts payable.* State separately amounts payable to (1) trade creditors; (2) related parties (see § 210.4–08(k)); (3) underwriters, promoters, and employees (other than related parties); and (4) others.

A. *Notes payable.* (a) State separately amounts payable to (1) banks for borrowings; (2) factors or other financial institutions for borrowings; (3) holders of commercial paper; (4) trade creditors; (5) related parties (see § 210.4–08(k)); (6) underwriters, promoters, and employees (other than related parties); and (7) others. Amounts applicable to (1), (2) and (3) may be stated separately in the balance sheet or in a note thereto.

(b) The amount and terms (including commitment fees and the conditions under which lines may be withdrawn) of unused lines of credit for short term financing shall be disclosed, if significant, in the notes to the financial statements. The amount of these lines of credit which support a commercial paper borrowing arrangement or similar arrangements shall be separately identified.

20. *Current portion of long-term debt.*

20A. *Other current liabilities.* State separately, in the balance sheet or in a note thereto, any item in excess of 5 percent of total current liabilities. Such items may include, but are not limited to, accrued payrolls, accrued interest, and taxes, indicating the current portion of deferred income taxes. Remaining items may be shown in one amount.

* * * * *

2. By redesignating paragraph (a)(6) as (a)(7), adding new paragraph (a)(6) and revising paragraphs (b)(7) and (c)(1) of § 210.10–01 as follows:

§ 210.10–01 Interim financial statements.

(a) *Condensed statements.* * * *

(6) Interim financial statements (or the notes thereto) shall also include the information listed below about industry segments and foreign and domestic operations and export sales. Such information shall be determined and presented pursuant to the provisions of Statement of Financial Accounting Standards No. 14, "Financial Reporting for Segments of a Business Enterprise," including those appliable to disclosure of the effects on segment information of changes in accounting principles, changes in the way segments and geographic areas are determined and changes in the bases used for pricing intersegment and interarea sales and transfers and for allocating operating expenses.

(i) The amounts of revenue (with sales to unaffiliated customers and sales or transfers to other industry segments shown separately), operating profit or loss, and identifiable assets attributable to each of the registrant's industry segments.

(ii) The amounts of revenue (with sales to unaffiliated customers and sales or transfers to other geographic areas shown separately), operating profit or loss, and identifiable assets attributable to each of the registrant's geographic areas and the amount of export sales in the aggregate or by appropriate geographic area.

* * * * *

(b) *Other instructions as to content.* * * *

(7) Disclose any retroactive prior period adjustment made during any period covered by the interim financial statements for the current fiscal year. Such disclosure shall include the effect of the adjustment on net income—total and per share—of each current and prior period included and on the balance of retained earnings. The report on Form 10–Q for the quarter in which such retroactive adjustment occurs shall present a condensed restated balance sheet as of the end of the most recent fiscal year and condensed restated income statements and disclosure of the effect of the change on net income for each of the last three fiscal years.

* * * * *

(c) *Periods to be covered.* * * *

(1) Interim balance sheets as of the end of the most recent fiscal quarter and the corresponding quarter of the preceding fiscal year. The balance sheet as of the end of the corresponding quarter of the preceding fiscal year may be condensed to the same degree as the most recent interim balance sheet provided.

* * * * *

3. By revising Instruction 3 to paragraph (b) of § 210.11–02, revising paragraph (c)(2)(ii), and adding new paragraph (c)(2)(iii) as follows:

§ 210.11–02 Preparation requirements.

(b) *Form and content.* * * *

Instructions. * * *

3. For a disposition transaction, the pro forma financial information shall begin with the historical fianancial statements of the existing entity and show the deletion of the business to be divested along with the pro forma adjustments necessary to arrive at the remainder of the existing entity. For example, pro forma adjustments would include adjustments of interest expense arising from revised debt structures and expenses which will be or have been incurred on behalf of the business to be divested such as advertising costs, executive salaries and other costs. For a disposal of a segment of a business (as defined in paragraph 13 of Accounting Principles Board Opinion No. 30), it will ordinarily be sufficient to only present statements wherein the results of operations of the discontinued segment are reported separately as a component of income before extraordinary items and the cumulative effect of accounting changes, together with footnote disclosure of the amount of revenues related to the discontinued segment for each period presented.

* * * * *

(c) *Periods to be presented.* * * *

(2)(ii) For a business combination accounted for a pooling of interests, the pro forma income statements (which are in effect a restatement of the historical income statements as if the combination had been consummated) shall be filed for the same periods for which historical income statements of the registrant are required to be included in registration statements by § 210.3–02.

(2)(iii) For a disposal of a segment of a business (as defined in paragraph 13 of Accounting Principles Board Opinion No. 30), the pro forma income statements shall be filed for all periods for which historical income statements of the registrant are required to be included in registration statements by § 210.3–02.

* * * * *

PART 229—STANDARD INSTRUCTIONS FOR FILING FORMS UNDER SECURITIES ACT OF 1933, SECURITIES EXCHANGE ACT OF 1934, AND ENERGY POLICY AND CONSERVATION ACT OF 1975—REGULATION S–K

4. By revising paragraphs (a) introductory text and (b)(1) of § 229.303 as follows:

§ 229.303 (Item 303) Management's discussion and analysis of financial condition and results of operations. * * *

(a) *Full fiscal years.* Discuss registrant's financial conditions, changes in financial condition and results of operations. The discussion shall provide information as specified in paragraphs (a) (1), (2) and (3) with respect to liquidity, capital resources and results of operations and also shall provide such other information that the registrant believes to be necessary to an

understanding of its financial condition, changes in financial condition and results of operations. Discussions of liquidity and capital resources may be combined whenever the two topics are interrelated. In order to provide an understanding of the registrant's business, the discussion shall generally focus on each relevant, reportable segment or other subdivision of the business and on the registrant as a whole.

* * * * *

(b) * * *

(1) *Material changes in financial condition.* Discuss any material changes in financial condition from the end of the preceding fiscal year to the date of the most recent interim balance sheet provided. If necessary for an understanding the impact of seasonal fluctuations on the registrant's financial condition, any material changes in financial condition from the date of the interim balance sheet as of the end of the corresponding quarter of the preceding fiscal year to the date of the most recent interim balance sheet provided also shall be discussed. If discussions of changes from both the end and the corresponding interim date of the preceding fiscal year are required, the discussions may be combined at the discretion of the registrant.

* * * * *

Authority

These amendments are being proposed pursuant to the authority in Section 6, 7, 8, 10, 19(a) and Schedule A [25] and [26] [15 U.S.C. 77f, 77g, 77h, 77j, 77s(a) and 77aa [25] and [26]] of the Securities Act of 1933; Section 12, 13, 15(d) and 23(a) [15 U.S.C. 781, 78m, 78o(d), 78w(a)] of the Securities Exchange Act of 1934; Sections 5(b), 14 and 20(a) [15 U.S.C. 79e(b), 79n, and 79t(a)] of the Public Utility Holding Company Act of 1935 and Sections 8, 30, 31(c) and 38(a) [15 U.S.C. 80a–8, 80–29, 80a–30(c), 80a–37(a)] of the Investment Company Act of 1940.

Pursuant to Section 23(a)(2) of the Securities Exchange Act, the Commission has considered the impact of these proposals on competition and it is not aware at this time of any burden that such rules, if adopted, would impose on competition. However, the Commission specifically invites comments as to the competitive impact of these proposals, if adopted.

By the Commission.

Dated: February 15, 1984

Shirley E. Hollis,

Assistant Secretary.

Initial Regulatory Flexibility Analysis

This initial regulatory flexibility analysis, which relates to proposed amendments to the segment and interim financial reporting disclosure requirements of Regulation S–X and Regulation S–K, has been prepared in accordance with 5 U.S.C. 603.

1. Reasons for Proposed Action and Objectives

As discussed in the section of the release "Background and Executive Summary," the Commission is proposing amendments to Regulations S–X and S–K to improve the usefulness of industry segment and other interim financial information included in disclosure documents mandated by the Commission. The ability of users of financial information to understand registrants' financial statements and to determine the existence of trends in operations is expected to improve as a result of the disclosure of the following information:

—Amounts of sales, operating profit or loss and identifiable assets by reportable business segment and geographical area, including intersegment and interarea sales and transfers and the amount of export sales in interim financial statements.
—A greater focus in the MD&A included in registration statements and periodic reports on the individual segments of the registrant's business.
—Separate disclosure of various amounts of current liabilities in interim financial statements.
—The comparative balance sheet as of the end of the comparable quarter of the prior fiscal year in lieu of the balance sheet as of the end of the most recent fiscal year in reports on Form 10–Q.
—Timely reporting of restated statements of income for the last three fiscal years in the event of the disposal of a business segment or a prior period adjustment in a current or quarterly report.

2. Legal Basis

The Commission is proposing the amended rules pursuant to the authority in Sections 6, 7, 8, 10, 19a and Schedule A [25] and [26] of the Securities Act of 1933, 15 U.S.C. 77f, 77g, 77h, 77j, 77s(a), 77aa [25] and [26]; Sections 12, 13, 15(d), and 23(a) of the Securities Exchange Act of 1934, 15 U.S.C. 78*l*, 78m, 78o(d), 78w(a); Sections 5(b), 14 and 20(a) of the Public Utility Holding Company Act of 1935, 15 U.S.C. 79e(b), 79n, and 79t(a); and Sections 8, 30, 31(c) and 38(a) of the Investment Company Act of 1940, 15 U.S.C. 80a–8, 80–29, 80a–30(c), 80a–37(a).

3. Small Entities Subject to Rule

For purposes of this analysis, the Commission is using the definition of "small business" as adopted in Securities Act Release No. 6380.[28] That release provides that, when used in reference to the Securities A small business means any issuer whose total assets on the last day of its most recent fiscal year were $3 million or less and is engaged or proposes to engage in "small business financing".[29] When used with reference to an issuer or a person other than an investment company under the Securities Exchange Act, small business means an issuer or person that, on the last day of its most recent fiscal year, had total assets of $3 million or less. Investment companies with net assets of $50 million or less as of the end of their most recent fiscal years are small businesses. Accordingly, the amendments would affect all entities that fall within the Commission's definition of a "small entity" and file periodic reports or registration statements (except on form S–18) containing interim information.

4. Reporting, Recordkeeping, and Other Compliance Requirements

The proposed rules would introduce certain new reporting obligations; several of these may entail additional recordkeeping or compliance requirements. The Commission feels that the additional burdens, if any, are justified by the availability to investors and other users of Commission-mandated disclosure documents of material information regarding registrants' performance.

As discussed in the section of the release entitled "Industry Segment Information—Disclosure of Interim Segment Data," the requirements for annual reporting of financial information by business segment and geographical area have been in existence for approximately seven years. Adoption of proposed new Rule 10–01(a)(6) would represent the first instance of a requirement that segment data be provided on a quarterly basis. Although some registrants are already providing such data voluntarily, it is not certain that all small businesses routinely assemble this data from the existing accounting records on an interim basis. However, since the segment information proposed to be required represents only a disaggregation of data routinely generated for and included in interim financial statements, it is assumed that the same procedures employed by

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[28] Securities Act Release No. 6380 (January 28, 1982) [47 FR 5215].

[29] Small business financing is defined to mean conducting or proposing to conduct an offering of securities which does not exceed the dollar limitation prescribed by Section 3(b). Such limitation is presently $5 million.

registrants at year end to calculate the annual segment data can be duplicated at interim dates. The professional skills required would be the same as those already required to produce the comparable year-end disclosure. It is possible that the efforts which would be required by those small businesses which are engaged in multiple segments to assemble this information would represent an additional compliance requirement.

As discussed in the section of the release entitled "Industry Segment Information—Segment Approach to MD&A," the proposed amendment to Rule 303(a) of Regulation S–X represnts a clarification of the existing rule consistent with current practice and policy as monitored and enforced by the Commission's Staff. As such it should not impose and additional compliance burden.

As discussed in the section of the release entitled "Miscellaneous Amendments to Interim Financial Information Requirements—Degree of Detail in Interim Financial Statements," the amendment to Rules 5–02.19 and 5–02.20 of Regulation S–X would only require the addition of several line items to a registrant's interim balance sheet if the amounts of such items are material. Such amounts must be reported in annual financial statements, so the requisite information is already collected on an ongoing basis in the general ledger accounts.

As discussed in the section of the release entitled "Miscellaneous Amendments to Interim Financial Information Requirements—Comparative Interim Balance Sheets," the proposed amendment to rule 10–01(c)(1) would only change the date of the comparative balance sheet to be included in reports on Form 10–Q. This change should not impose any additional burden on registrants since the number of balance sheets provided would remain constant and, in most cases, the revised requirement would only involve the reprinting of the same condensed financial information that was filed with the Commission in the previous year. The new requirements, therefore, would be based on the company's existing records and would not call for adoption of any new record keeping procedures.

As discussed in the section of the release entitled "Miscellaneous Amendments to Interim Financial Information Requirements—Timely Reporting of Effect on Annual Financial Statements of Retroactive Restatements made in Interim Periods," proposed new Rule 11–02(c)(2)(iii) would accelerate the time when restated income statements for periods prior to the most recent fiscal year must be filed pursuant to the Securities Exchange Act in the event of a disposal of a business segment. Proposed amended Rule 10–01(b)(7) would accelerate presentation of restated statements of income in the event of a prior period adjustment from the time of filing the next Form 10–K to the time of filing the next Form 10–Q. Although accelerated disclosure would result from these changes, the registrant skills needed to comply with the changes should not extend beyond those already needed to fulfill existing requirements.

5. Overlapping or Conflicting Federal Rules

The Commission believes that no present Federal rules duplicate or conflict with the proposals.

6. Significant Alternatives

Pursuant to Section 603 of the Regulatory Flexibility Act the following types of alternatives were considered:

(1) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities;

(2) The clarification, consolidation, or simplification or compliance and reporting requirements under the rule for such small entities;

(3) The use of performance rather than design standards; and

(4) An exemption from coverage of the rule, or any part thereof, for small entities. Notwithstanding consideration of these alternatives, no distinction for small entities is incorporated into the proposed rules for a variety of reasons. In light of the lack of any new significant reporting, recordkeeping, or other compliance requirements imposed by the proposed MD&A rule change, the proposals to require disclosure of the comparative prior year interim balance sheet in lieu of the prior year-end balance sheet, and disclosure of certain current liabilities, there is little reason to restrict the benefit to the public of such disclosure by failing to require small entities to comply with the new requirements. The expansion of the periods for which statements of income would be restated for purposes of timely interim reporting does accelerate somewhat the timing of the disclosure of such restated statements, but registrants will have already performed the restatement calculations in order to comply with the existing requirements for timely disclosure following the events specified.

The Commission believes that the incremental task of accelerating the timing of such disclosure is small in relation to the benefit to investors of more timely disclosure of the impact of such changes.

Although many businesses may now have in place systems which provide for the assembly of the segment information in light of the longstanding requirement that such be disclosed on an annual basis, the proposed disclosure of interim segment information might impose an additional cost on some small businesses. For that reason, the release requests specific comment on whether there are unique cost/benefit consideration related to provision of interim segment information by smaller public companies, which would include "small businesses". However, the rules as proposed would apply to all registrants because the Commission believes that segment information is important for all registrants, regardless of size, that are engaged in multiple businesses.

In the Commission's view, the fundamental performance standard for financial reporting is the presentation of all information material for rational investment decisions. However, the existence of many alternative approaches to disclosure may result in reduced comparability in the data reported and the form of presentation, thereby adversely affecting the ability to analyze the financial information. Because comparability in financial reporting is important in evaluating issuers' operational and managerial performance, the Commission has historically acted to minimize excessive diversity in reporting of material information when it occurs among companies in essentially the same circumstances. This is generally accomplished by establishing design standards for reporting as the Commission seeks to do in the present case with the proposal ot require segment data on a quarterly basis from all registrants.

7. Solicitation of Comments

The Commission encourages the submission of comments with respect to any aspect of this initial regulatory flexibility analysis and such comments will be considered in the preparation of the final regulatory flexibility analysis if the proposed amendments are adopted. The Commission is especially interested in any empirical data on the costs and/or benefits of the proposed amendments. Persons wishing to submit written comments should file four copies thereof with George A. Fitzsimmons, Secretary, Securities and Exchange Commission, 450 5th Street, NW., Washington, D.C. 20549. All submission should refer to

File No. S7-10-84 and will be available for public inspection at the Commission's Public Reference Room, 450 5th Street NW., Washington, D.C. 20549.

[FR Doc. 84-4791 Filed 2-22-84; 8:45 am]
BILLING CODE 8010-01-M

17 CFR Part 275

[IA-899; File No. S7-7-84]

Amendment to Investment Adviser Recordkeeping Rule

AGENCY: Securities and Exchange Commission.

ACTION: Proposed rule amendment.

SUMMARY: The Commission is publishing for comment a proposed amendment to the recordkeeping rule under the Investment Advisers Act of 1940 to permit advisers to preserve required records on microfilm without having to retain hard copies for two years. This amendment would make this part of the rule consistent with other Commission recordkeeping rules and result in cost savings to registered investment advisers using microfilm. The Commission also is requesting comment on whether to permit advisers to store records only in computer systems and, if so, under what conditions.

DATE: Comments must be received on or before April 16, 1984.

ADDRESS: Comments should be sent in triplicate to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549. Comment letters should refer to File No. S7-7-84. All comments will be available for public inspection and copying in the Commission's Public Reference Room, 450 Fifth Street, NW., Washington, D.C. 20549.

FOR FURTHER INFORMATION CONTACT: R. Michael Parker, Senior Compliance Examiner, (202) 272-2025 or Mary Podesta, Special Counsel, Division of Investment Management, (202) 272-2039, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION: Rule 204-2 (17 CFR 275.204-2) under the Investment Advisers Act of 1940 (15 U.S.C. 80b-1 et seq.) (the "Advisers Act") specifies the records which advisers subject to registration under the Advisers Act must make and keep and make available to the Commission's representatives for examination. Generally, records must be maintained for at least five years after the end of the fiscal year in which the last entry on the record is made. Under rule 204-2, a record must be preserved in hard copy form for two years, after which a photograph on film can be substituted. The recordkeeping rules adopted by the Commission for investment companies under the Investment Company Act of 1940 ("Investment Company Act") and for brokers and dealers under the Securities Exchange Act of 1934 ("Exchange Act") (15 U.S.C. 78a et seq.) permit immediate substitution of microfilm for hard copy.[1]

The Commission proposes to amend rule 204-2 to permit immediate substitution of microfilm for hard copy under conditions which permit Commission examination of the records and minimize the risk that records will be permanently lost or destroyed. The conditions in the proposed amendment are identical to those contained in rule 31a-2(f)(1) under the Investment Company Act and rule 17a-4(f) under the Exchange Act. The Commission is proposing this amendment to make the Advisers Act recordkeeping rule consistent with other recordkeeping rules adopted by the Commission. The amendment would reduce the cost of record retention for advisers using microfilm.

The Commission also requests comment on whether the proposed amendment should be expanded to permit advisers who maintain required records in computer systems to rely on computer storage systems, rather than on hard copy or microfilm, for compliance with rule 204-2 and, if so, under what conditions.

Both the protection of investors and sound business practice require that records be maintained and preserved in a manner which minimizes the risk of loss, destruction, or tampering and which ensures that records are available for review. In view of the increasing use of computer systems by advisers, the Commission believes it should begin the process of determining to what extent storage of information on, for example, computer tapes or discs, and not in hard copy form or microfilm, would be both useful and consistent with the protection of investors. Accordingly, the Commission requests specific comment on the following:

(1) Would advisers maintain records required by rule 204-2 only in computer systems, and not in hard copy or microfilm, if permitted to do so under rule 204-2; what particular records might be so maintained, and why?

(2) Can appropriate safeguards be designed to minimized the risk that records stored only in computers can be altered, lost, or destroyed?

(a) Because magnetic tape is a relatively fragile storage medium and computer security is often a difficult problem, what safeguards could adequately protect investors and the Commission's ability to examine adviser records pursuant to Section 204 of the Advisers Act (15 U.S.C. 80b-4)?

(b) Should the Commission require that a duplicate of the computer storage medium be maintained separately from the original and, if so, should the duplicate be stored in a separate location and not in the adviser's office; how frequently should the duplicate be updated to incorporate new records entered into the operational data bank?

(c) What other requirements might be appropriate in addition to, or as an alternative to, a duplicate computer storage medium?

(3) What procedural requirements should be imposed to ensure that advisory computer records are furnished promptly to Commission staff for examination pursuant to Section 204 of the Advisers Act?

(a) Should advisers storing records only in computers be required to assume the responsibility of furnishing print-outs of records to Commission staff within 24 hours of a request?

(b) If an adviser using a computer record retention system discontinues its use or changes to a non-compatible system, how can the ability of the Commission to examine the adviser's records pursuant to Section 204 be preserved?

(4) What would be the relative costs and benefits of permitting advisers to store records only in computers and of the various safeguards which might be required?

(5) What other factors or information should the Commission consider in determining whether to permit investment advisers to store required records only in computer systems?

List of Subjects in 17 CFR Part 275

Investment advisers, Reporting and recordkeeping requirements, Securities.

Text of Proposed Rule

Chapter II of Title 17 of the Code of Federal Regulations would be amended by revising paragraph (g) of § 275.204-2 as follows:

[1] 17 CFR 270.31a-2(f)(1) and 17 CFR 240.17a-4(f).

PART 275—RULES AND REGULATIONS, INVESTMENT ADVISERS ACT OF 1940

§ 275.204–2 Books and records to be maintained by investment advisers.

* * * * *

(g) The records required to be maintained and preserved pursuant to this rule may be immediately produced or reproduced by photograph on film and be maintained and preserved for the required time in that form. If such photographic film substitution for hard copy is made by the investment adviser, the investment adviser shall (1) at all times have available for Commission examination of its records, pursuant to Section 204 of the Investment Advisers Act of 1940, facilities for immediate, easily readable projection of the microfilm and for producing easily readable facsimile enlargements, (2) arrange the records and index and file the films in such a manner as to permit the immediate location of any particular record, (3) be ready at all times to provide, and immediately provide, any facsimile enlargement which the Commission by its examiners or other representatives, may request, and (4) store separately from the original one other copy of the microfilm for the time required.

* * * * *

Summary of Regulatory Flexibility Act Analysis

The Commission has prepared an Initial Regulatory Flexibility Analysis in accordance with 5 U.S.C. 603 regarding the proposed amendment to rule 204–2. The Analysis relates to the proposed amendment relating to microfilm and to the discussion in this release concerning computer records. The Analysis states that allowing advisers to maintain required records on microfilm without having to retain hard copies for two years and to maintain required records in a computer storage medium may have a significant impact on small investment advisers. The Analysis notes that this will provide greater flexibility to advisers in maintaining required records and will result in cost savings by eliminating the need for advisers to store hard copies of required records for prescribed time periods. However, the Analysis states that it is not possible to estimate the significance of the economic impact on small advisers, in part, because it is not possible to estimate the extent to which advisers will choose to preserve required records on microfilm or computer storage medim rather than in hard copy form. A copy of the Initial Regulatory Flexibility Analysis may be obtained by contacting R. Michael Parker, Division of Investment Management, Securities and Exchange Commission, Room 5066, 450 Fifth Street, NW., Washington, D.C. 20549.

Statutory Basis

The amendment proposed herein would be adopted pursuant to the authority contained in Sections 204 (15 U.S.C. 80b–4) and 211(a) (15 U.S.C. 80b–11(a)) of the Advisers Act.

By the Commission.

Shirley E. Hollis,

Assistant Secretary.

February 15, 1984.

[FR Doc. 84–4789 Filed 2–22–84; 8:45 am]

BILLING CODE 8010–01–M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 4

Proposed Customs Regulations Amendments Relating to Manifesting Empty Cargo Containers

AGENCY: Customers Service, Treasury.

ACTION: Proposed rule.

SUMMARY: This document proposes to amend the Customs Regulations to simplify current procedures for manifesting empty cargo containers carried by vessels in foreign and domestic trades. To implement the new alternative manifesting procedure, it is proposed to allow empty containers to be listed on a separate sheet of paper rather than on the inward foreign manifest. Further, the sheet of paper would identify only the total number of containers; not the marks and numbers of each container. Pen and ink corrections could be made to the listing in place of filing a diversion report and having it approved. If adopted, the amendments would expedite the handling of empty containers, reduce the paperwork burden for Customs and container carriers, and eliminate the problems carriers are experiencing with the current manifest requirements.

DATE: Comments must be received on or before April 23, 1984.

ADDRESS: Written comments (preferably in triplicate) should be addressed to the Commissioner of Customs, Attention: Regulation Control Branch, U.S. Customs Service, 1301 Constitution Avenue, NW., Room 2426, Washington, D.C. 20229. Comments relating to the information collection aspects of the proposal should be addressed to the Commissioner of Customs, as noted above, and also to the Office of Information and Regulatory Affairs, Attention: Desk Officer for U.S. Customs Service, Office of Management and Budget, Washington, D.C. 20503.

FOR FURTHER INFORMATION CONTACT: Donald Reusch, Carriers, Drawback and Bonds Division, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229 (202–566–5706).

SUPPLEMENTARY INFORMATION:

Background

Section 401(c), Tariff Act of 1930, as amended (19 U.S.C. 1401(c)), defines the term "merchandise" as "goods, wares, and chattels of every description." Section 431, Tariff Act of 1930, as amended (19 U.S.C. 1431), provides that every vessel arriving in the United States shall have on board a manifest which, among other things, shall contain "a detailed account of all merchandise on board such vessel", with the marks, numbers, and description of each package. Because empty containers are considered merchandise, they must be manifested. The manifest requirements are set forth in sections 4.7 and 4.7a, Customs Regulations (19 CFR 4.7, 4.7a).

Under current procedures for manifesting empty containers, as set forth in Customs Manual Supplement No. 3276–01, dated September 10, 1980, the complete inward foreign manifest (traveling manifest) presented at the vessel's first domestic port of arrival is required to contain a listing of all empty containers on board by their marks and numbers and show their destination as the last domestic port on the vessel's itinerary. Diversions of empty containers to ports other than the port shown on the traveling manifest could then be permitted pursuant to the procedures set forth in § 4.33(c) Customs Regulations (19 CFR 4.33(c)). Due to the necessities of commercial vessel operation, container carriers reportedly are having serious problems satisfying these requirements. These problems are most prevalent with empty containers on board vessels arriving from foreign ports manifested for discharge at one or more United States ports, and those containers already in the United States being moved from one port to another as instruments of international traffic incidental to their use in international commerce. Both foreign and United States-flag container vessels often arrive in the United States with empty containers to be unladed at various ports. The containers are often filled with export cargo and subsequently reladed aboard a container vessel to be carried to a foreign country. Due to the exigencies of the shipping trade.

frequently, before the vessel departs for another United States port, additional empty containers, in excess of the manifested quantity, are unladed at that port. Similarly, the vessel may not unlade as many empty containers as are listed for that port on the traveling manifest.

If the carrier does not have sufficient time to amend the traveling manifest, this manipulation of empty containers, which often occurs outside of regular business hours, often results in the assessment of penalties because the manifest is incorrect. This is especially true with respect to correctly listing the individual marks and numbers of the containers. At times carriers may refuse to unlade empty containers in excess of the manifested quantity in order to avoid being assessed penalties, which is costly and burdensome on their operations.

To eliminate these problems, it is proposed to implement a simplified procedure for manifesting empty containers. This would be accomplished by allowing empty containers arriving in vessels from foreign ports and empty containers already in the United States being moved as instruments of international traffic to be listed on a separate sheet of paper identified as a "Cargo Declaration Limited to Empty Containers" which would be attached to the traveling manifest rather than requiring empty containers to be identified on the traveling manifest. The listing on the separate sheet of paper would identify only the total number of containers; not the marks and numbers of each container as is presently required. The diversion of empty containers to ports other than the ports shown on the listing could be done by an authorized representative of the vessel during the voyage to the next port in lieu of filing a diversion report under § 4.33(c), Customs Regulations (19 CFR 4.33(c)), with the appropriate Customs officer and having it approved.

To implement the new procedure, the following amendments would be made to Part 4, Customs Regulations (19 CFR Part 4). Section 4.7a(c), Customs Regulations (19 CFR 4.7a(c)), relating to cargo requirements for inward foreign cargo, would be amended by adding a new subparagraph (4) to paragraph (c), to allow empty containers to be manifested on a separate sheet of paper by their quantity only.

Section 4.85, Customs Regulations (19 CFR 4.85), relating to vessels with residue cargo (e.g., empty containers) for domestic ports, would be amended by adding a new paragraph (f) to require the separate sheet of paper to become part of and accompany the traveling manifest. Also, in the case of diversions of containers to ports not listed on the traveling manifest, the vessel representative would be allowed to make the appropriate pen and ink corrections to the separate listing on the sheet of paper at each port where the containers are unladed.

Section 4.93(c), Customs Regulations (19 CFR 4.93(c)), relating to the coastwise transportation of empty containers of international traffic, would be revised by including the proposed listing requirement on a separate sheet of paper as an alternative to manifesting requirements set forth in section 4.93(c) and section 4.81(e), Customs Regulations (19 CFR 4.81(e), 4.93(c)).

It adopted, these amendments would expedite the handling of empty containers, reduce the paperwork burden for Customs and container carriers, and eliminate the problems carriers are now experiencing with the current manifest requirements.

Executive Order 12291

This document will not result in a regulation which is a "major rule" as defined by section 1(b) of E.O. 12291. Accordingly, a regulatory impact analysis is not required.

Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act relating to an initial and final regulatory flexibility analysis (5 U.S.C. 603, 604) are not applicable to this proposal because the proposed amendments are not expected to have significant effects on a substantial number of small entities or impose or otherwise cause a significant increase in the reporting, recordkeeping, or other compliance burdens on a substantial number of small entities. On the contrary, they are expected to reduce the paperwork burden for Customs and the affected carriers, and consequently, reduce operating costs.

Accordingly, it is certified under the provisions of section 3, Regulatory Flexibility Act (5 U.S.C. 605(b)), that the proposed amendments, if promulgated, will not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act

The document is subject to the Paperwork Reduction Act. Accordingly, the listing requirements contained in the document have been submitted to the Office of Management and Budget for review and comment pursuant to 44 U.S.C. 3504(h). Public comments relating to the information collection aspects of the proposal should be addressed to the Customs Service and to the Office of Management and Budget at the addresses set forth in the ADDRESS portion of this document.

Comments

Before adopting this proposal, consideration will be given to any written comments (preferably in triplicate) that are submitted to the Commissioner of Customs. Comments submitted will be available for public inspection in accordance with § 103.11(b), Customs Regulations (19 CFR 103.11(b)), on regular business days between the hours of 9:00 a.m. and 4:30 p.m. at the Regulations Control Branch, Room 2426, Headquarters, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229.

Authority

These amendments are proposed under the authority of R.S. 251, as amended (19 U.S.C. 66), sections 431, 432, 439, 624, 46 Stat. 710, as amended, 712, 759 (19 U.S.C. 1431, 1432, 1439, 1624).

Drafting Information

The principal authors of this document were Jesse V. Vitello and John E. Elkins, Regulations Control Branch, Office of Regulations & Rulings, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

List of Subjects in 19 CFR Part 4

Cargo manifest, Customs duties and inspection, Empty containers, Imports, Inspection and control, Residue cargo, Vessels.

Proposed Amendments

It is proposed to amend Part 4, Customs Regulations (19 CFR Part 4), as set forth below.

PART 4—VESSELS IN FOREIGN AND DOMESTIC TRADES

1. It is proposed to amend § 4.7a(c) by adding a new paragraph (4) to read as follows:

§ 4.7a Inward manifest; information required; alternative forms.

* * * * *

(c) *Cargo Declaration.* * * *

(4) As an alternative to the manifesting procedures described in this section, if the merchandise consists, in whole or in part, of empty containers, the containers may be manifested on a separate sheet of paper, which may be typed or printed, and identified as a "Cargo Declaration Limited to Empty Containers." The "Cargo Declaration Limited to Empty Containers" shall list (i) the name of the vessel, (ii) the port of

entry, (iii) the flag of the vessel, (iv) the name of the master, (v) the port of lading of the empty containers, and (vi) the port of ultimate discharge of the empty containers. Only the total number of empty containers entered for each port in the United States shall be listed. The marks and numbers of each empty container shall not be listed.

* * * * *

2. It is proposed to amend § 4.85 by adding a new paragraph (f) to read as follows:

§ 4.85 Vessels with residue cargo for domestic ports.

* * * * *

(f) The separate sheet of paper identified as a "Cargo Declaration Limited to Empty Containers" shall be considered part of and shall accompany the traveling manifest. When empty containers are manifested on a "Cargo Declaration Limited to Empty Containers" in accordance with § 4.7a(c)(4), and there is a change in the number of containers on board the vessel when it proceeds to the next and each succeeding port in the United States from the port of first arrival, the vessel representative shall indicate the actual number of empty containers still on board the vessel by pen and ink notation to the listing. When delivered to the district director at the next succeeding domestic port with the traveling manifest, the listing with the pen and ink notations, shall be considered a sufficient correction, if any is necessary, of the "Cargo Declaration Limited to Empty Containers" presented at the first port. If the total number of empty containers listed on the "Cargo Declaration Limited to Empty Containers" and presented in accordanace with § 4.7a is accounted for by the pen and ink notations on the listing when it is surrendered at the final domestic port in accordance with paragraph (e), no controls such as a report of diversion or overage or shortage report shall be required and no penalty action relating to any empty containers shall be taken. If at any time Customs officers determine by inspection that a container listed on a "Cargo Declaration Limited to Empty Containers" is not empty, or determine that the actual number of empty containers discharged at any port is more or less than the number indicated (with pen and ink notations) as discharged at the port, appropriate penalty action shall be taken.

3. It is proposed to amend § 4.93 by adding two new sentences at the end of paragraph (c) to read as follows:

§ 4.93 Coastwise transportation by certain vessels of empty vans, tanks, and barges, equipment for use with vans and tanks; empty instruments of international traffic; stevedoring equipment and material; procedures.

* * * * *

(c) * * * As an alternative to the above manifesting requirement and § 4.81(e), if the merchandise consists of empty containers, they may be manifested at the domestic port of lading on a separate sheet of paper, identified as a "Cargo Declaration Limited to Empty Containers" in the manner described in § 4.7a(c)(4). The separate listing shall be delivered to Customs at domestic ports of unlading in accordance with § 4.85(f).

Robert P. Schaffer,

Acting Commissioner of Customs.

Approved: November 30, 1983.

John M. Walker, Jr.,

Assistant Secretary of the Treasury.

[FR Doc. 84-4771 Filed 2-22-84; 8:45 am]

BILLING CODE 4820-03-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 817

Surface Coal Mining and Reclamation Operations Permanent Program Performance Standards for Underground Mining Activities

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Request for public comment on a petition for rulemaking.

SUMMARY: OSM seeks comments and recommendations regarding the granting or denying of a petition, submitted pursuant to Section 201(g) of the Surface Mining Control and Reclamation Act (the Act), 30 U.S.C. 1211(g), to amend OSM's subsidence regulations in 30 CFR 817.121(d) and (e).

In those situations where the mining technology to be used requires planned subsidence in a predictable and controlled manner, the suggested change in the rule would allow mining under specified structures and facilities and bodies of water without a demonstration to the regulatory authority that subsidence will not cause material damage to, or reduce the reasonably foreseeable use of, such features or facilities and would not allow the regulatory authority to limit the percentage of coal to be extracted to minimize the potential for material damage to the features or facilities.

DATE: Comments must be received no later than 5:00 p.m. on March 26, 1984.

ADDRESS: Written comments must be mailed or hand-delivered to: Office of Surface Mining, U.S. Department of the Interior, Room 152, South Building, 1951 Constitution Avenue, N.W., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: C. Y. Chen or Rafael Gonzalez, Division of Engineering Analysis, Office of Surface Mining, Washington, D.C. 20240; phone (202) 343-2160 or (202) 343-5244.

SUPPLEMENTARY INFORMATION:

I. Commenting Procedures

Public Comment Period: The comment period on the petition will extend until the date listed above. All written comments must be received at the address listed above by 5:00 p.m. on that date. Comments received after that date may not necessarily be considered or included in the administrative record on the petition. OSM cannot insure that written comments received or delivered during the comment period to any location other than that specified above will be considered and included in the administrative record on this petition.

Availability of copies: In addition to its publication here, copies of the petition and copies of 30 CFR 784.20 and 817.121-122 (48 FR 24638-24652, June 1, 1983) are available for inspection and may be obtained at the address indicated above.

Public meetings: No public hearing is being set. However, the Headquarters staff of OSM will be available to meet with the public during business hours, 8:00 a.m. to 4:00 p.m., during the comment period. In order to arrange such a meeting, the person listed above for further information should be contacted.

II. Background and Substance of Petition

OSM received a letter dated November 30, 1983, from the Vice President, Environmental Affairs of Consolidation Coal Company, presenting a petition for revision of the subsidence regulations found in 30 CFR 817.121(d) and (e). Pursuant to section 201(g) of the Act, 30 U.S.C. 1211(g), any person may petition for a change in OSM's permanent program rules which appear in 30 CFR Chapter VII. The Act allows for a period of 90 days within which to decide to grant or deny a petition. Section 201(g)(4); 30 U.S.C. 1211(g)(4). Under the applicable regulations for rulemaking petitions, 30

CFR 700.12(c), the Director must first determine whether the petition has a reasonable basis. If it has, notice is to be published in the **Federal Register** seeking comments on the petition. The Director has determined that the petition for amendment of the subsidence regulation has a sufficiently reasonable basis to seek further comments. The text of the petition appears as an Appendix to this notice.

This notice seeks public comments on the suggested amendment. At the close of the comment period, a decision will be made whether to grant or deny the petition. If the decision is made to grant the petition, rulemaking proceedings will be initiated in which public comment will again be sought before a final rulemaking notice appears, and a decision may be made to suspend the regulation on an interim basis pending a final determination. If the decision is made to deny the petition no further rulemaking action will occur.

OSM revised the certain portions of its subsidence performance standards in 30 CFR Part 817 as a part of regulatory reform. However, the rules were not revised as the petition now seeks to do, which is to provide an exception from the requirement of a showing that the subsidence will not cause material damange where full extraction mining methods are to be employed. The paragraphs at issue, 30 CFR 817.121(d) and (e), provide as follows:

(d) Underground mining activities shall not be conducted beneath or adjacent to (1) public buildings and facilities; (2) churches, schools, and hospitals; or (3) impoundments with a storage capacity of 20 acre-feet or more or bodies of water with a volume of 20 acre-feet or more, unless the subsidence control plan demonstrates that subsidence will not cause material damage to, or reduce the reasonably foreseeable use of, such features or facilities. If the regulatory authority determines that it is necessary in order to minimize the potential for material damage to the features or facilities described above or to any aquifer or body of water that serves as a significant water source for any public water supply system, it may limit the percentage of coal extracted under or adjacent thereto.

(e) If subsidence causes material damage to any of the features or facilities covered by paragraph (d) of this section, the regulatory authority may suspend mining under or adjacent to such features or facilities until the subsidence control plan is modified to ensure prevention of further material damage to such features or facilities.

The current provision in § 817.121(d) which the petition seeks to revise has been a source of contention with industry. Industry challenged the rule's predecessor as being beyond the authority granted the Secretary in the Act to promulgate. The court in *In Re: Permanent Surface Mining Regulation Litigation*, No. 79–1144, upheld previous § 817.126, which is similar to the recently revised (June 1, 1983, 48 FR 24638) final rule in § 817.121(d). 14 Envir. Rep. Cas. at 1108 (1980). While industry has challenged the revised subsidence rules in a continuation of the litigation cited above, they have not challenged § 817.121 (d) or (e). Rather, the current complaint is aimed at the restoration requirement of § 817.121(c), in part, because it too fails to provide an exception for full extraction mining where subsidence could occur in a predictable and controlled manner.

Section 817.121(e) authorizes the regulatory authority to suspend mining under or adjacent to the features and facilities protected under paragraph (d) until the subsidence control plan is modified to prevent further material damage. It is a new provision added in the 1983 revision.

In addition to comments generally as to the need and authroiry for the rule change, comments are specifically requested as to the following issues: 1. Is it not just as important to assure the prevention of material damage associated with planned subsidence as it is with regard to unplanned subsidence? 2. Is the showing that no material damage will result from subsidence that occurs in a planned and predictable manner more difficult to make than such a showing related to unplanned subsidence? 3. Is not such a showing essential in aiding the regulatory authority to make the permit finding required by Section 510(b)(4) of the Act that no surface coal mining operations will be permitted in areas that are unsuitable for mining under section 522(e)(4) and (5) of the Act?

III. Procedural Matters

Publication of this notice of the receipt of the petition for rulemaking is a preliminary step in the rulemaking process. If a decision is made to grant the petition, a formal rulemaking process will be commenced. Thus, no regulatory flexibility analysis is needed at this stage; nor is a regulatory impact analysis necessary under Executive Order No. 12291.

Publication of this notice does not constitute a major Federal action having a significant effect on the human environment for which an environmental impact statement under the National Environmental Policy Act, 42 U.S.C. 4322(2)(C), is needed.

List of Subjects in 30 CFR Part 817

Coal mining, Environmental protection, Reporting and recordkeeping requirements, Underground mining.

Dated: February 16, 1984.

James R. Harris,

Director, Office of Surface Mining.

Appendix

The text of the petition dated November 30, 1983, from the Vice President of Environmental Affairs, Consolidation Coal Compnay, is as follows:

As authorized by Section 201(g) of the Federal Surface Mining Control and Reclamation Act (Pub. L. 95–87), Consolidation Coal Company (Consol) hereby formally petitions the Director to revise rules 30 CFR 817.121 (d) and (e) as published in the **Federal Register** dated June 1, 1983. We ask that the rules be revised to include the additional underlined language as follows:

(d) Underground mining activities shall not be conducted beneath or adjacent to (1) public buildings and facilities; (2) churches, schools, and hospitals; or (3) impoundments with a storage capacity of 20 acre-feet or more or bodies of water with a volume of 20 acre-feet or more, unless the subsidence control plan demonstrates *either* that subsidence will not cause material damage to, or reduce the reasonably foreseeable use of such features or facilities *or that the mining technology to be used requires planned subsidence in a predictable and controlled manner.* If the regulatory authority determines that it is necessary in order to minimize the potential for material damage to the features or facilities described above or any aquifer or body of water that serves as a significant water source for any public water supply system, it may limit the percentage of coal extracted under or adjacent thereto *except where the mining technology to be used involves th full extraction of the coal resource and requires planned subsidence in a predictable and controlled manner.*

and

(e) If subsidence causes material damage to any of the features or facilities covered by paragraph (d) of this section the regulatory authority may suspend mining under or adjacent to such features or facilities, *except where the mining technology used requires planned subsidence in a predictable and controlled manner,* until the subsidence control plan is modified to ensure

prevention of further material damage to such features or facilities.

These changes address full extraction mining in a manner consistent with present day sound mining practices as well as responsible operator attitudes toward effects on the surface.

Full extraction mining allows for increased coal recovery ratios which maximizes the coal resource. If the coal is not taken as part of a planned mining operation it can seldom be recovered by subsequent operations. It becomes imperative therefore, for operators to develop plans that remove as much coal as is possible for any given mine. The additional benefits associated with full extraction mining are:

- The subsidence is immediate
- The subsidence can be planned and controlled
- There is no lingering liability for subsequent subsidence
- Danger to surface occupants is minimized
- Operator is available to mitigate damages

Although Consol believe that these regulations in their present form are unauthorized by Pub. L. 95–87 and should be struck down by Judge Flannery in pending litigation in Washington, D.C. (C.A. No. 79–1144), Consol believes that the changes for which we hereby petition are necessary at least in the meantime, or if the regulations are upheld, for the rules to more properly address the intent of Congress as to planned subsidence as stated in Section 516(b)(1) of Pub. L. 95–87 and OSM's own preamble statements to the June 1, 1983, final rules.

The language of Section 516(b)(1) clearly exempts planned subsidence;

(b) Each permit issued under any approved State or Federal program pursuant to this Act and releating to underground coal mining shall require the operator to—(1) adopt measures consistent with known technology in order to prevent subsidence causing material damage to the extent technologically and economically feasible, maximize mine stability, and maintain the value and reasonably foreseeable use of such surface lands, *except in thoses instances where the mining technology used requires planned subsidence in a predictable and controlled manner:* Provided, That nothing in this subsection shall be construed to prohibit the standard method of room and pillar mining. (emphasis added).

While the exact intentions of the underlined portion have been the subject of considerable debate and litigation, it is readily apparent to all that some special considerations were intended for full extraction mining. The House Report (HR 95–218) on Pub. L. 95–87 provides further insight on page 126;

It is the intent of this section to provide the Secretary with the authority to require the design and conduct of underground mining methods to control subsidence to the extent technologically and economically feasible in order *to protect the value and use of surface lands.* Some of the measures available for subsidence control include:

(1) Leaving sufficient original mineral for support,

(2) Refraining from mining under certain areas except allowing headings to be driven for access to adjacent mining areas, or

(3) *Causing subsidence to occur at a predictable time and in a relatively uniform and predictable manner.* This specifically allows for the uses of longwall and other mining techniques which completely remove the coal. (emphasis added)

Since one of the above subsidence control measures includes causing subsidence to occur at a predictable time and in a uniform manner, it seems reasonable to assume that as a control measure it does not reducé the reasonably foreseeable use of surface features or facilities.

Congress by Section 516(b)(1), made clear that planned subsidence mining did not impermissibly reduce the reasonable foreseeable use of surface features or facilities. Since Congress itself identified such planned subsidence mining as an acceptable subsidence control measure it connot be said that Congress intended to prohibit it nor prevent it.

OSM's preamble to the June 1, 1983, rules (page 24639) recognizes that subsidence cannot be prevented when utilizing full extraction mining techniques. OSM states:

"The exception [516(b)(1) of SMCRA] recognizes this and does not require subsidence prevention measures in such instances [full extraction mining]. It allows for full extraction methods to be used which inevitably cause subsidence to occur."

Relative to OSM's subsequent concerns in that same paragraph, this petition *is not* asking for an exemption from having to submit subsidence control plans nor from complying with performance standards. The petition merely asks that the regulations be revised to properly reflect the statutory exemption for planned subsidence mining technology by making clear that such mining operations do have to demonstrate that material damage will not occur in order to begin or to continue mining.

Your prompt consideration of this petition will be appreciated.

[FR Doc. 84–4734 Filed 2–22–84; 8:45 am]
BILLING CODE 4310–05–M

GENERAL SERVICES ADMINISTRATION

41 CFR Chs. 1, 101, and 201

Establishment of the Federal Information Resources Management Regulation (FIRMR)

AGENCY: Office of Information Resources Management, GSA.

ACTION: Notice of proposed rulemaking.

SUMMARY: The General Services Administration (GSA) proposes to establish the FIRMR in 41 CFR Ch 201 to replace current Government-wide regulations in 41 CFR Ch 1, the Federal Procurement Regulations (FPR) (Subparts 1–4.11, 1–4.12, and 1–4.13) and in 41 CFR Ch 101, the Federal Property Management Regulations (FPMR) (Parts 101–35, 101–36, and 101–37 and portions of Part 101–11). Technological merging of automatic data processing, office automation, records management, and telecommunications is requiring that information resources be managed, acquired, and used in a single coordinated manner. The intended effect is to provide a single, logically organized, clear and understandable issuance to promote economy and efficiency including increased productivity.

ADDRESS: Requests for copies of the proposed initial issuance should be addressed to GSA, Office of Information Resources Management, Policy Branch (KMPP), Room 3224, 18th and F Sts., NW, Washington, DC 20405.

FOR FURTHER INFORMATION CONTACT: Roger W. Walker, Chief, Policy Branch (KMPP), Office of Information Resources Management, telephone (202) 566–0194 FTS 566–0194.

SUPPLEMENTARY INFORMATION: The initial issuance will consist of interim FIRMR provisions designated from current FPR/FPMR regulations (see Summary) and a new Part 201–1 establishing the purpose, authority applicability, and issuance of the FIRMR.

(2) The effectivity will be April 1, 1984 so that no void will exist in Government-wide regulations applicable to procurement and contracting for information resources. Current FPR

provisions will be replaced on April 1, 1984 by the Federal Acquisition Regulation (48 CFR Part 1). However, the FAR does not contain the referenced FPR provisions.

(3) No new authorities, policies, or procedures are involved in this action. Therefore, comments are not specifically solicited but will be considered in conjunction with development of the next issuance step for the FIRMR. The next step will consist of reformatting current FPR/FPMR information resources provisions into the FIRMR General Structure (to be included in the initial issuance).

(4) This action is listed on GSA's Unified Agenda of Federal Regulations as Item 36 (RIN: 3090–AA15) (48 FR 47956, October 17, 1983).

List of Subjects in 41 CFR Ch. 201

Government information resources activities, Government procurement.

Dated: February 16, 1984.

Frank J. Carr,

Assistant Administrator, Office of Information Resources Management.

[FR Doc. 84–4701 Filed 2–22–84; 8:45 am]
BILLING CODE 6820–25–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

[Docket No. FEMA–6586]

Proposed Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations and proposed modified base flood elevations listed below for selected locations in the nation. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of the proposed rule in a newspaper of local circulation in each community.

ADDRESSES: See table below.

FOR FURTHER INFORMATION CONTACT: Dr. Brian R. Mrazik, Chief, Risk Studies Division, Federal Insurance Administration, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287–0230.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency gives notice of the proposed determinations of base (100-year) flood elevations and modified base flood elevations for selected locations in the nation, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448)), 42 U.S.C. 4001–4128, and 44 CFR 67.4(a).

These elevations, together with the flood plain management measures required by Section 60.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

Pursuant to the provisions of 5 U.S.C. 605(b), the Administrator, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that the proposed flood elevation determinations, if promulgated, will not have a signficant economic impact on a substantial number of small entities. A flood elevation determination under section 1363 forms the basis for new local ordinances, which, if adopted by a local community, will govern future construction within the flood plain area. The elevation determinations, however, impose no restriction unless and until the local community voluntarily adopts flood plain ordinances in accord with these elevations. Even if ordinances are adopted in compliance with Federal standards, the elevations prescribe how high to build in the flood plain and do not proscribe development. Thus, this action only forms the basis for future local actions. It imposes no new requirement; of itself it has no economic impact.

List of Subjects in 44 CFR Part 67

Flood insurance, Flood plains.

The proposed modified base flood elevations for selected locations are:

PROPOSED MODIFIED BASE FLOOD ELEVATIONS

State	City/town/county	Source of flooding	Location	Depth in feet above ground. *Elevation in feet (NGVD)	
				Existing	Modified
California	Pittsburg (city of), Contra Costa County	Lawlor Creek	30 feet upstream from center of Willow Pass Road.	Not previously shown	*43
		Los Medanos wasteway	30 feet upstream from center of Southern Pacific Railroad spur.	Not previously shown	*25
		Kirker Creek	100 feet upstream from center of Buchanan Road.	Not previously shown	*168
		Suisun Bay (New York Slough)	Confluence of middle slough and New York slough at the southeastern corner of Browns Island.	Not previously shown	*6
Maps are available for review at the Engineering Department, 65 Civic Avenue, Pittsburg, California.					
Send comments to the Honorable Joseph DeTorres, Mayor, City of Pittsburg, 2020 Railroad Avenue, Pittsburg, California 94565.					
Georgia	(Unincorporated) Gwinnett County	Chattahoochee	Approximately 1.52 miles upstream of confluence of Richland Creek.	*920	*920
			Approximately 2 miles upstream of confluence of Richland Creek.	*922	*920
Map available for inspection at the Planning Office, 240 Oak Street, Lawrenceville, Georgia.					
Send comments to the Honorable Charles W. Ashworth, Chairman, County Commissioners, Gwinnett County, 240 Oak Street, Lawrenceville, Georgia, 30245.					
Georgia	City of LaGrange, Troup County	Airport Branch 1	At confluence with Airport Branch 2	*668	*669
			Just downstream of Executive Drive	*665	*664

PROPOSED MODIFIED BASE FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	Depth in feet above ground. *Elevation in feet (NGVD)	
				Existing	Modified
			Just upstream of Lafayette Industrial Drive.	*852	[illegible]
			At southern corporate limits	*646	[illegible]

Maps available for inspection at City Hall, 200 Ridley Avenue, LaGrange, Georgia.
Send comments to Honorable J. Gardner Newman, Mayor, City of LaGrange, P.O. Box 430, LaGrange, Georgia 30241.

Oklahoma	Oklahoma City, city, Canadian, Cleveland, McClain, Oklahoma, & Pottawatomie Counties	Chisholm Creek	Approximately 350' upstream NW. 122nd Street.	*1,145	*1,146
			Approximately 650' upstream NW. 122nd Street.	*1,146	*1,146
			Approximately 900' upstream NW. 122nd Street.	*1,147	*1,149

Maps available for inspection at the City Hall, 200 North Walker Street, Oklahoma City, Oklahoma.
Send comments to Honorable Andy Coats, Mayor of Oklahoma City, 200 North Walker Street, Suite 302, Oklahoma City, Oklahoma 73102.

Texas	Guadalupe County	San Marcos River	U.S. Route 90 (upstream side)	*382	[illegible]
			State Route 671 (upstream side)	*411	[illegible]
			County Route 239 (upstream side)	*427	[illegible]
			Farm Market 1977 (upstream side)	*488	[illegible]
			Farm Market 1979 (upstream side)	*518	*521
			Upstream County boundary	*546	[illegible]
		York Creek	At confluence with San Marcos River.	*417	*416

Maps available for inspection at the Guadalupe County Courthouse, 100 Court Street, Seguin, Texas.
Send comments to Honorable Jim Sagebiel, Guadalupe County Judge, County Courthouse, 100 Court Street, Seguin, Texas 78155

Virginia	Pulaski, town, Pulaski County	Peak Creek	Upstream of Norfolk and Western Railway (downstream crossing).	*1,902	*1,900
			Upstream of Norfolk and Western Railway (2nd crossing).	*1,910	*1,909
			Upstream of downstream crossing of Commerce.	*1,930	*1,928
		Sproules Run	Confluence with Peak Creek	*1,902	*1,901

Maps available for inspection at the Town Hall, Pulaski, Virginia.
Send comments to Honorable Raymond F. Ratcliffe, Mayor of Pulaski, P.O. Box 660, Pulaski, Virginia 24301.

The proposed base flood elevations for selected locations are:

PROPOSED BASE FLOOD ELEVATIONS

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
California	Redding (city), Shasta County	Sacramento River	50 feet upstream from center of Market Street	*488
		Sulphur Creek	Intersection of Creek and Sulphur Creek Road	*522
		Olney Creek	15 feet upstream from center of Sacramento Drive	*458
		Tributary to Churn Creek	Intersection of Hartnell Avenue and Lawrence Road	*534
		Churn Creek	50 feet upstream from center of Hartnell Avenue	*511

Maps are available for inspection at Department of Planning, 760 Park View Avenue, Redding, California.
Send comments to the Honorable Barbara Ellen Gard, 760 Park View Avenue, Redding, California 96001.

California	Santee (city), San Diego County	San Diego River	100 feet upstream of Carlton Hills Boulevard	*325
		Forester Creek	Intersection of Cuyamaca Street and Prospect Avenue	*349

Maps available for inspection at Department of Public Works, 10765 Woodside Avenue, Santee, California.
Send comments to the Honorable Jane Claussen, 10765 Woodside Avenue, Santee, California 92071-3198.

Colorado	Black Hawk (town), Gilpin County	North Clear Creek	25 feet upstream from the center of Chase Street	*8,074
		Gregory Gulch	20 feet west from center of intersection of Main Street and Gregory Street.	*8,059
		Chase Gulch	35 feet west from center of intersection of Dubois Street and Chase Street	*8,130

Maps available for inspection at Town Hall, Gregory Street, Black Hawk, Colorado.
Send comments to the Honorable Bobby Clay, P.O. Box 327, Black Hawk, Colorado 80422.

Colorado	Limon (town), Lincoln County	Main tributary	At the center of U.S. Highway 40 crossing	*5,353
		East tributary	50 feet upstream from the center of 7th Street	*5,355
		Middle tributary	60 feet upstream from the center of 8th Street	*5,357
		West tributary	50 feet upstream from the center of E Avenue	*5,357
		Big Sandy Creek	At center of Chicago-Rock Island and Pacific Railroad (abandoned) crossing.	*5,352

Maps are available for inspection at Town Manager's Office, Town Hall, 2nd & F Avenue, Limon, Colorado.
Send comments to the Honorable Dennis E. Coomts, Box 8, Limon, Colorado 80828.

Connecticut	Canterbury, town, Windham County	Quinebaug River	Corporate limits	*102
			Upstream of Buttsridge Road	*102
			Confluence of Mill Brook	*108
			Approximately 400' upstream of State Route 14	*112

PROPOSED BASE FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		Mill Brook	Confluence with Quinebaug River	*108
			Corporate limits	*122

Maps available for inspection at the Town Clerk's Office, Canterbury, Connecticut.
Send comments to Honorable David Gennetti, First Selectman of the Town of Canterbury, P.O. Box 26, Canterbury, Connecticut 06331.

Connecticut	Griswold, town, New London County	Quinebaug River	Downstream corporate limits	*77
			Upstream of Connecticut Turnpike	*83
			Most upstream corporate limits	*100
		Pachaug River	Downstream corporate limits	*124
			Upstream of Connecticut Turnpike	*134
			Upstream of Bitgood Road (downstream crossing)	*152
			Downstream of dam located at confluence of Pachaug Pond.	*155
		Pachaug Pond	Entire shoreline within corporate limits	*160
		Glasgo Pond	Entire shoreline within corporate limits	*187

Maps available for inspection at the Building Inspector's Office, 50 School Street, Griswold, Connecticut.
Send comments to Honorable Donald Burdick, First Selectman for the Town of Griswold, 50 School Street, Griswold, Connecticut 06351-2398.

Connecticut	Lisbon, town, New London County	Shetucket River	Downstream corporate limits	*37
			Upstream of Norwich Avenue	*39
			Upstream of Taftville Dam	*57
			Upstream corporate limits	*64
		Quinebaug River	Downstream corporate limits	*37
			Upstream of dam	*51
			Approximately 1.5 miles upstream of dam	*59
			Approximately 3 miles upstream of downstream corporate limits.	*70
			Upstream of Connecticut Turnpike	*83
			Upstream of Sylvandale Road	*86
			Upstream of dam	*100
			Upstream corporate limits	*101
		Blissville Brook	At confluence with Shetucket River	*37
			Upstream of Ice House Road	*72
			Upstream of Bundy Hill Road	*94
			Upstream of School House Road	*99
			Approximately 150' downstream of State Route 169	*124

Maps available for inspection at the Town Clerk's Office, Lisbon, Connecticut.
Send comments to Honorable Jeremiah Shea, Chairman of the Board of Selectmen for the Town of Lisbon, RFD #2, Lisbon, Connecticut 06351.

Connecticut	Preston, town, New London County	Shetucket River	At downstream corporate limits	*33
			At confluence of Quinebaug River/corporate limits	*37
		Joe Clark Brook	At confluence with Poquetanuck Cove	*13
			At upstream corporate limits	*21
		Thames River	Downstream corporate limits	*13
			Upstream corporate limits	*14
		Quinebaug River	At confluence with Shetucket River	*37
			Upstream of dam	*51
			Approximately 1 mile downstream of upstream corporate limits.	*70
			Upstream corporate limits	*77

Maps available for inspection at the Building Inspector's Office, Town Hall, Norwich, Connecticut.
Send comments to Honorable Henry Piaczek, First Selectman for the Town of Preston, Town Hall, R.F.D. #1, Norwich, Connecticut 06360.

Connecticut	Sprague, town, New London County	Shetucket River	At confluence of Little River	*65
			Upstream of Occum Dam	*75
			Approximately 0.88 mile downstream of Scotland Drive	*81
			Approximately 525 inches upstream of Scotland Road	*88
		Little River	Confluence with Shetucket River	*65
			Upstream of dam	*83
			Upstream of Conrail	*91
			Approximately 0.52 mile upstream of State Route 138	*100
		Beaver Brook	At confluence with Shetucket River	*85
			Upstream of Willimantic Road (upstream crossing)	*127
			Corporate limits	*135

Maps available for inspection at the Selectman's Office, 1 Main Street, Sprague, Connecticut.
Send comments to Honorable Matthew P. Delaney, First Selectman for the Town of Sprague, 1 Main Street, Baltic, Connecticut 06330.

Connecticut	Thompson, town, Windham County	French River	Confluence with Quinebaug River	*295
			Upstream State Route 193	*310
			Downstream Blain Road	*326
			Approximately 1,400 feet upstream of Buckley Hill Road	*358
		Quinebaug River	Downstream corporate limits	*293
			Confluence of French River	*295
			Just upstream of Fabyan Road	*346
			Approximately 150 inches upstream of upstream corporate limits.	*357
		North Grosvenordale Pond	Entire shoreline within community	*374
		Langers Pond	Entire shoreline within community	*385
		Quaddick Reservoir	Entire shoreline within community	*406

PROPOSED BASE FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Maps available for inspection at the Office of the Building Official, Town Hall, Thompson, Connecticut. Send comments to Honorable Geri Langlois, First Selectman for the Town of Thompson, Thompson, Connecticut 06255				
Georgia	City of Toccoa, Stephens County	Eastanollee Creek	Just downstream of Davis Avenue	*940
			Just upstream of Collins Road	*951
		Tributary A	Just downstream of Morgan Road	*934
		Toccoa Creek	Approximately 50 feet downstream of Scenic Drive	*[illegible]
Maps available for inspection at City Hall, 203 North Alexander Street, Toccoa, Georgia 30577. Send comments to Mayor James Neal or Jim Calvin, City Manager, City Hall, P.O. Box 579, Toccoa, Georgia 30577.				
Idaho	Canyon County (unincorporated areas)	Boise River	At center of intersection of Parma-Roswell Road (State Highway 19) and Boise River.	*2,[illegible]
			At center of intersection of Middleton Road and Boise River.	*2,[illegible]
		Indian Creek	50 feet upstream from center of Lone Tree Lane	*2,412
			75 feet upstream from center of Robinson Boulevard	*2,524
		Willow Creek	Center of intersection of State Highway 44 and Cemetery Road.	*2,401
		Renshaw Canal	125 feet upstream from center of Arena Valley Road	*2,[illegible]
		Renshaw Canal overflow	75 feet southeast from center of intersection of Arena Valley Road and Notus-Greenleaf Road.	*2,[illegible]
		Mason Creek	50 feet downstream of intersection of Karcher Road and the channel.	*2,462
Maps are available for inspection at the Office of County Commissioners, 1115 Albany Street, Caldwell, Idaho. Send comments to the Honorable Carlos Bledsoe, 1115 Albany Street, Caldwell, Idaho 83605.				
Idaho	Nampa (city), Canyon County	Indian Creek	10 feet upstream from the center of 14th Avenue North.	*2,475
		Mason Creek	10 feet upstream from the center of 12th Avenue North.	*2,490
Maps are available for inspection at the Planning Department, 411 3rd Street, South, Nampa, Idaho. Send comments to the Honorable Winston K. Goering, 411 3rd Street, South, Nampa, Idaho 83651				
Idaho	Twin Falls (city), Twin Falls County	Rock Creek	200 feet upstream from the center of Addison Avenue West.	*3,632
			150 feet downstream from the center of Orchard Drive	*3,727
		Perrine Coulee	50 feet upstream from center of Pole Line road	*3,690
			At the intersection of Heyburn Avenue and Madrona Street.	*3,715
			Area 500 feet northwest of the intersection of Grant Avenue and Filmore Street.	#2
Maps available for inspection at City Engineer's Office, 321 2nd Avenue East, Twin Falls, Idaho. Send comments to the Honorable Thomas J. Courtney, 321 2nd Avenue East, Twin Falls, Idaho 83301.				
Idaho	Twin Falls County (unincorporated areas)	Snake River	400 feet downstream from the center of U.S. Highway 30.	*2,881
		Salmon Creek Falls	100 feet downstream from the center of U.S. Highway 30.	*2,904
		Rock Creek (below Twin Falls)	500 feet southwest of the intersection of 2700 East Road and Falls Avenue West.	*3,563
		Rock Creek (near 3400 North Road)	60 feet upstream from the center of 3400 North Road	*3,[illegible]
		Rock Creek (near Niles Gulch)	30 feet upstream from the center of Rock Creek Road (3600 East Road).	*[illegible]
Maps available for inspection at Zoning Administration Department, Twin Falls County Courthouse, Twin Falls, Idaho. Send comments to the Honorable Ann S. Cover, Twin Falls County Courthouse, Twin Falls, Idaho 83301.				
Illinois	(V) Barrington, Cook and Lake Counties	Flint Creek tributary	Just upstream of Hart Road	*796
			About 360 downstream of Surrey Lane	*817
			About 1,850 feet upstream of Main Street	*[illegible]
Maps available for inspection at the Clerk's Office, Municipal Building, 206 S. Hough Street, Barrington, Illinois. Send comments to Honorable Robert Woodsome, Village President, Village of Barrington, Municipal Building, 206 S. Hough Street, Barrington, Illinois 60010.				
Illinois	(C) Charleston, Coles County	Ripley Creek	About 0.05 mile downstream of State Route 16	*607
			About 0.4 mile upstream of County Road	*612
		Town Branch Creek	About 0.05 mile downstream of Norfolk Southern Railway.	*616
			Just downstream of 11th Street	*[illegible]
Maps available for inspection at the Clerk's Office, City Hall, 520 Jackson Avenue, Charleston, Illinois. Send comments to Honorable Clarence Pfeiffer, Mayor, City of Charleston, City Hall, 520 Jackson Avenue, Charleston, Illinois 61920.				
Illinois	(V) Dalton City, Moultrie County	Dalton City drain	About 700 feet downstream of Old Route 121	*[illegible]
			Just downstream of State Route 128	*[illegible]
		Lateral B	Mouth at Dalton City drain	*683
			About 450 feet upstream of State Route 128	*[illegible]
Maps available for inspection at the Village Hall, Dalton City, Illinois. Send comments to Honorable Robert Weltig, Village President, Village of Dalton City, Village Hall, Dalton, Illinois 61925.				
Illinois	(V) Divernon, Sangamon County	Brush Creek	About 100 feet downstream of Illinois Central Gulf Railroad.	*599
			About 1,300 feet upstream of dam	*609

PROPOSED BASE FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Maps available for inspection at the Village Hall, Divernon, Illinois. Send comments to Honorable James Crawford, Village President, Village of Divernon, Village Hall, Divernon, Illinois 62530.				
Indiana	(T) Geneva, Adams County	Wabash River	About 1.2 miles downstream of confluence of Loblolly Creek,.	*831
			At confluence Loblolly Creek	*832
		Loblolly Creek	Just downstream of Conrail	*832
			About 2,000 feet upstream of U.S. Route 27	*833
Maps available for inspection at the Town Hall, Geneva, Indiana. Send comments to Honorable Stan Mosser, Town Board President, Town of Geneva, Town Hall, Geneva, Indiana 46740.				
Indiana	(T) Utica, Clark County	Ohio River	Within the community	*452
Maps available for inspection at the Town Hall, 108 Farmound Road, Utica, Indiana. Send comments to Honorable Bob Conn, Town Board President, Town of Utica, Town Hall, 108 Farmound Road, Utica, Indiana 41130.				
Iowa	(C) Fairfax, Linn County	Prairie Creek	About 1,100 feet downstream of Chicago and Northwestern Railroad.	*747
			About 1,800 feet upstream of Williams Boulevard	*755
Maps available for inspection at City Hall, P.O. Box 93, Fairfax, Iowa. Send comments to Honorable James Stallman, Mayor, City of Fairfax, City Hall, P.O. Box 93, Fairfax, Iowa 52228.				
Kansas	(C) Osawatomie, Miami County	Marais des Cygnes River	About 0.25 mile downstream of First Street	*860
			About 1.2 miles upstream of Eighth Street	*863
		Pottawatomie Creek	About 0.2 mile south of intersection of I-169 and Main Street.	*858
			About 0.66 mile south of intersection of I-169 and Main Street.	*858
Maps available for inspection at City Hall, Osawatomie, Kansas. Send comments to Honorable Sherman W. Cole, Mayor, City of Osawatomie, City Hall, Osawatomie, Kansas 66064.				
Kansas	(C) Ottawa, Franklin County	Marias des Cygnes River	1.2 miles downstream of Main Street (at easternmost corporate limits).	*898
			Confluence of Wilson Creek	*900
Maps available for inspection at City Hall, 4th and Walnut Street, Ottawa, Kansas. Send comments to Honorable Charlene C. Lister, Mayor, City of Ottawa, City Hall, 4th and Walnut Street, Ottawa, Kansas 66067.				
Maine	Andover, town, Oxford County	Ellis River	Downstream corporate limits	*633
			Confluence of Gardner Brook	*636
			Lovejoy covered bridge (upstream side)	*643
			Confluence of west branch Ellis River	*647
			Back Andover Road (upstream side)	*661
		West branch Ellis River	Confluence with Ellis River	*647
			State Route 120 (upstream side)	*550
			At State Route 5	*678
			Approximately 1 mile upstream of State Route 5	*711
			Access Road (upstream side)	*755
			Approximately 1,720' upstream of confluence of Stony Brook.	*799
Maps available for inspection at the Planning Board, Andover, Maine. Send comments to Honorable James Rich, Chairman of the Board of Selectmen for the Town of Andover, Main Street, Andover, Maine 04216.				
Maine	Falmouth, town, Cumberland County	Presumpscot River	Upstream of Interstate 295 (first crossing)	*11
			Upstream of abandoned dam located approximately 0.25 mile upstream of Allen Avenue.	*17
			Confluence of Piscataqua River	*28
			At upstream corporate limits	*33
		Piscataqua River	Confluence with Presumpscot River	*28
			Upstream of Maine Central Railroad	*30
			Upstream of Leighton Road	*32
			Upstream of Mill Road	*49
			Upstream of Falmouth Road	*52
			Approximately 850 feet upstream of State Route 100	*59
		Atlantic Ocean	Shoreline at northern corporate limits	*13
			Shoreline at Madakawanpo Landing	*15
			Shoreline at Prince Point	*14
			Shoreline at Waites Landing	*13
			Shoreline at Mackworth Point	*12
			Shoreline at Bartlett Point	*16
			Eastern shore of Mackworth Island	*27
			North shore of Clapboard Island	*13
Maps available for inspection at the Office of George Thetay, Code Enforcement Office, Town Hall, 271 Falmouth Road, Falmouth, Massachusetts. Send comments to Honorable George Burns, Chairman of the Board of Selectmen, Town Hall, 271 Falmouth Road, Falmouth, Maine 04105.				
Maryland	Calvert County	Chesapeake Bay	Shoreline at northern county boundary	*9
			Shoreline at Dogwood Avenue (extended)	*8
			Shoreline at Drum Point	*7
			Shoreline at William Memorial Drive (extended)	*7
			Shoreline of Patuxent River upstream of confluence with Chesapeake Bay.	*8
			Shoreline of Patuxent River at Quarles Road (extended).	*7

PROPOSED BASE FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			Shoreline of Patuxent River at Deep Landing Road (extended).	*8
			Shoreline of Patuxent River at upstream corporate limits.	*8
		Hall Creek	At confluence with Patuxent River	*8
			Upstream of confluence of Fowlers Mill Branch	*10
			Upstream of State Route 4 (Southern Maryland Boulevard).	*10
			Upstream of State Route 2 (Solomons Island Road)	*62
			Upstream of Grovers Turn Road	*66
			360 feet upstream of State Route 260 (Chesapeake Beach Road).	*73

Maps available for inspection at the Department of Planning and Zoning, Calvert Courthouse Annex, Prince Frederick, Maryland.
Send comments to Honorable William Bowen, Calvert County Commissioner, Calvert County Courthouse, Prince Frederick, Maryland 20678.

Maryland	Easton, town, Talbot County	North branch Tred Avon River	Entire shoreline within community	*6
		South branch Tred Avon River	Entire shoreline of Papermill Road	*6
		Tanyard Branch	Bay Street (upstream side)	*7
			Aurora Street (upstream side)	*24
			Approximately 130 feet upstream of Maryland and Delaware Railroad bridge.	*25
		Windmill Branch	Easton Parkway (upstream side)	*6
			3rd Street (upstream side)	*22
			Approximately 1,800 feet upstream of confluence of unnamed tributary No. 3.	*27
		Unnamed tributary No. 3	Confluence with Windmill Branch	*24
			Chesapeake Avenue (downstream)	*26

Maps available for inspection at the Town Hall, Easton, Maryland.
Send comments to Honorable George P. Murphy, Mayor of the Town of Easton, P.O. Box 520, Easton, Maryland 21601.

Maryland	Leonardtown, town, St. Mary's County	Breton Bay	Entire shoreline within community	*6
		McIntosh Run	Downstream of Jefferson Street	*11
			Approximately 0.6 mile upstream of confluence with Breton Bay.	*6
			At confluence with Breton Bay	*6

Maps available for inspection at the Town Commissioner's Office, Courthouse Drive, Leonardtown, Maryland.
Send comments to Honorable Lanny Mummert, Town Supervisor of Leonardtown, P.O. Box 1, Leonardtown, Maryland 20650.

Maryland	North Beach, town, Calvert County	Chesapeake Bay	Entire shoreline within community	*9

Maps available for inspection at the residence of Betty Freensland, 9236 Chesapeake Avenue, North Beach, Maryland.
Send comments to Honorable Alan Gott, Mayor of the Town of North Beach, 8916 Chesapeake Avenue, North Beach, Maryland 20714.

Maryland	Oxford, town, Talbot County	Tred Avon River	Entire shoreline within community	*6
		Town Creek	Entire shoreline within community	*6

Maps available for inspection at the Town Hall, Oxford, Maryland.
Send comments to Honorable Emery L. Balderson, President of the Town of Oxford, Town Hall, Oxford, Maryland 21564.

Maryland	St. Michael's, town, Talbot County	Miles River	Entire shoreline within community	*7
		San Domingo Creek	Entire shoreline within community	*6

Maps available for inspection at the Town Hall, St. Michael's, Maryland.
Send comments to Honorable Richard E. Brown, President of the Town of St. Michael's, Town Hall, P.O. Box 206, St. Michael's, Maryland 21663.

Maryland	Talbot County	Chesapeake Bay	Shoreline at Black Walnut Point	*9
			Shoreline at Bay Shore Road (extended)	*9
			Shoreline at Green Marsh Point	*9
			Shoreline at Lowes Point	*8
		Eastern Bay	Shoreline at Bayshore Road	*6
			Shoreline at Wades Point	*6
			Shoreline at Clairborne Landing	*10
			Shoreline at Tilghman Point	*10
		Miles River	Shoreline at Fairview Point	*8
			Intersection of Easton Clairborne Road and Cedar Grove Road.	*6
			Shoreline at the Anchorage	*6
		Choptank River	Shoreline at Jenaloo Farm	*9
			Shoreline at Lucy Point	*9
			Shoreline at Benoni Point	*9
			Shoreline at Chiora Point	*6
			Shoreline at Howell Point	*6
			Shoreline upstream of confluence of Porpoise Creek	*6
		Wye East River	Eastern shoreline of Bruffs Island	*6
			Shoreline upstream of Quarter Cove	*7
		Harris Creek	Shoreline at Nelson Point	*6
			Upstream of Indian Point	*6

PROPOSED BASE FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		Broad Creek	Shoreline at Deep Neck Point	*9
			Upstream of Edgar Cove	*6
		Windmill Branch	Confluence of Unnamed tributary No. 1	*13
			Dutchmans Lane bridge (upstream side)	*23
			Bridge approximately 1,140 feet upstream of confluence of unnamed tributary No. 4 (upstream side).	*29
		Unnamed tributary No. 4	Confluence with Windmill Branch	*26
			Chesapeake Avenue bridge (upstream side)	*26

Maps available for inspection at the Talbot County Courthouse, Easton, Maryland.
Send comments to Honorable Herb Andrews, III, President of the Talbot County Council, Talbot County Courthouse, Easton, Maryland 21601.

Massachusetts	Nahant, town, Essex County	Atlantic Ocean	Shoreline at Black Rock Point	* 13
			Shoreline at Bass Point	* 18
			Shoreline at the southern end of Foxhill Road (extended)	* 25
			Shoreline at East Point	* 30
			Shoreline at the northern end of Castle Road (extended).	* 14

Maps available for inspection at the Town Clerk's Office, Town Hall, Nahant, Massachusetts.
Send comments to Honorable Richard J. Lombard, Chairman of the Board of Selectmen for the Town of Nahant, Town Hall, Nahant, Massachusetts 01908.

Massachusetts	Revere, city, Suffolk County	Mill Creek	At confluence with Chelsea River	* 11
			Upstream side of Broadway	* 13
			Upstream side Access Road	* 14
		Atlantic Ocean	Shoreline at Pearl Avenue (extended)	* 16
			Shoreline at Pierview Avenue (extended)	* 15
			Shoreline at Agawam Street (extended)	* 17
			Shoreline 200 feet north of Revere Street (extended)	* 16
			Shoreline at Mills Avenue (extended)	* 19
		Saugus River	Shoreline downstream State Route 1A bridge	* 10
		Pines River	At Boston & Maine Railroad crossing	* 9
		Chelsea River	Entire shoreline within community	* 11
		Sells Inlet	Entire shoreline within community	* 10

Maps available for inspection at the Office of Planning and Community Development, Revere, Massachusetts.
Send comments to Honorable George Colella, Mayor of the City of Revere, 281 Broadway, Revere, Massachusetts 02151.

Massachusetts	Westport, town, Bristol County	Rhode Island Sound	Shoreline approximately 900' west of Quicksand Point	* 31
			John Reed Road (extended)	* 19
			South end of 16th Avenue (extended)	* 18
			Shoreline at Gooseberry Neck	* 16
			Entire shoreline Richmond Pond	* 15
			Shoreline at Horseneck Point	* 14

Maps available for inspection at the Building Inspector's Office, Westport, Massachusetts.
Send comments to Honorable Richard P. Desjardil, Chairman of the Board of Selectmen for the Town of Westport, 260 Main Street, Westport, Massachusetts 02790.

Michigan	(Twp) Green Oak, Livingston County	Huron River	About 9,400 feet downstream of Rickett Road	*860
			Just downstream of Kent Lake Dam	*873
		Davis Creek	Mouth at Huron River	*864
			Just downstream of Chessie System	*896
		Walker drain	Mouth at Sandy Bottom Lake	*874
			Just downstream of Eight Mile Road	*902
		South branch Walker drain	Mouth at Sandy Bottom Lake	*874
			About 900 feet upstream of Four Lakes Drive	*874
		Fonda Lake	At shoreline	*888
		Island Lake	At shoreline	*889
		Inchwagh Lake	At shoreline	*891
		Sandy Bottom Lake	At shoreline	*874
		Limekiln Lake	At shoreline	*874
		Crooked Lake	At shoreline	*874
		Kent Lake	At shoreline	*886
		Fish Lake	At shoreline	*874

Maps available for inspection at the Township Hall, 10789 Silver Lake Road, South Lyon, Michigan.
Send comments to Honorable Ronald Neice, Township Supervisor, Township of Green Oak, Township Hall, 10789 Silver Lake Road, South Lyon, Michigan 48178.

Minnesota	(Uninc.) Clay County	Red River of the North	About 7.5 miles downstream of County Highway 36	*877
			About 12.4 miles upstream of confluence of Comstock Coulee.	*915
		Buffalo River	At confluence with Red River of the North	*881
			About 6.84 miles upstream of U.S. Highway 75	*884
			About 1.35 miles upstream of County Highway 37	*1,175
		South branch Buffalo River	At confluence with Buffalo River	*913
			Just downstream of County Highway 11	*941
		South branch Wild Rice River	At downstream county boundary	*920
			Just upstream of State Highway 32	*1,121
		Unnamed creek at section 6	Within county boundary	*891
		Comstock Coulee	At confluence with Red River of the North	*911
			Just downstream of County Road 50	*923
		County ditch No. 20	At confluence with Red River of the North	*888
			Just upstream of County Highway 22	*904
		Stoney Creek	At confluence with south branch Buffalo River	*923
			Just downstream of County Highway 10	*924

PROPOSED BASE FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Maps available for inspection at the Clay County Planning Department, County Courthouse, P.O. Box 280, Moorhead, Minnesota. Send comments to Honorable Martin Holsen, Chairman, Clay County Board, County Courthouse, P.O. Box 280, Moorhead, Minnesota 56560.				
Minnesota	(Uninc.) Nicollet County	Minnesota River	Approximately 2.1 miles downstream of confluence of Barney Fry Creek.	*749
			Approximately 4.1 miles upstream of the confluence of Ridgely Creek.	*815
Maps available for inspectoin at the County Auditor's Office, Nicollet County Courthouse, P.O. Box 69, St. Peter, Minnesota. Send comments to Honorable Warren Roding, Chairman, Nicollet County Board, Nicollet County Courthouse, P.O. Box 69, St. Peter, Minnesota 56082.				
Missouri	(C) Boonville, Cooper County	Missouri River	About 1.3 miles downstream of U.S. Highway 40	*589
			About 0.7 mile upstream of Missouri, Kansas, Texas Railroad.	*[illegible]
Maps available for inspection at City Hall, 6th and Spring Streets, Boonville, Missouri. Send comments to Honorable Dale Robinson, Mayor, City of Boonville, City Hall, 6th and Spring Streets, Boonville, Missouri 65233.				
Missouri	(Uninc.) Franklin County	Browns Branch	At confluence with Dubois Creek	*490
			About 4,800 feet downstream of North Goodes Mill Road.	*527
			Just downstream of North Goodes Mill Road	*[illegible]
		Brush Creek	About 300 feet upstream of County Highway N	*476
			Just downstream of Gray Summit Road	*528
		Busch Creek	At confluence with Dubois Creek	*486
			At city of Washington corporate limits	*486
		Southwest branch Busch Creek	About 5,300 feet downstream of Bieker Road	*492
			Just upstream of Country Club Road	*533
			About 4,800 feet downstream of Country Club Road	*[illegible]
		Calvey Creek	Just upstream of Burlington Northern Railroad	*481
			About 2,000 feet upstream of Calvey Creek Road	*500
		Dubois Creek	Just downstream of Missouri Pacific Railroad	*486
			About 200 feet downstream of Bieker Road	*515
			About 1.2 miles upstream of State Highway 47	*[illegible]
		Fiddle Creek	Just upstream of Labadie Bottom Road	*478
			Just downstream of private road (about 700 feet upstream of second crossing of Fiddle Creek Road).	*510
			Just upstream of private road (about 800 feet upstream of second crossing of Fiddle Creek Road).	*522
			Just downstream of fourth crossing of Fiddle Creek Road.	*[illegible]
		Flat Creek	Just upstream of city of Union corporate limits	*580
			Just downstream of Judith Spring Road	*625
		Happy Sock Creek	At confluence with Bourbeuse River	*524
			Just upstream of County Highway AD	*536
			About 1,500 feet upstream of County Highway AB	*631
		Labadie Creek	At mouth at Missouri River	*481
			Just downstream of County Highway MM	*500
		Labadie Creek tributary	At confluence with Labadie Creek	*489
			About 0.6 mile upstream of County Highway T	*497
		Missouri River	About 3.4 miles downstream of confluence of Tavern Creek.	*473
			About 3.9 miles downstream of State Highway 19 (upstream county boundary).	*514
		Little Meramec River	Just upstream of confluence of Pierce Creek	*529
			About 500 feet upstream of County Highway FF	*561
			About 1.25 miles upstream of County Highway FF	*[illegible]
		Little Calvey	About 1.5 miles downstream of Woodland Hills Road	*513
			Just upstream of Woodland Hills Road	*548
			About 0.85 mile upstream of Finney Road	*[illegible]
		Little Tavern Creek	Just upstream of Chicago, Rock Island and Pacific Railroad.	*478
			Just upstream of County Highway T	*[illegible]
			About 2,400 feet upstream of County Highway T	*518
		Pin Oak Creek	At mouth at Bourbeuse River	*[illegible]
			Just downstream of County Highway AT	*517
		Pin Oak Creek tributary	At confluence with Pin Oak Creek	*515
			About 800 feet upstream of confluence	*519
		St. Johns Creek	Just upstream of Missouri Pacific Railroad	*494
			About 1.3 miles upstream of State Highway 100	*498
		Winch Creek	At confluence with Meramec River	*468
			About 1.9 miles upstream of County Highway O	*[illegible]
		Winsel Creek	Just upstream of Bacon Ridge Road	*[illegible]
			About 200 feet upstream of Interstate 44 (downstream crossing).	*[illegible]
			Just downstream of East Springfield Road	*[illegible]
			About 250 feet upstream of Interstate 44 (upstream crossing).	*885
			About 2,400 feet upstream of County Highway AF	*[illegible]
		Meramec River	Just downstream of County Highway F	*485
			About 0.8 mile downstream of State Highway 30	*[illegible]
			About 800 feet upstream of State Highway 185	*[illegible]
		Bourbeuse River	At mouth at Meramec River	*490
			About 1.3 miles downstream of State Highway 155	*[illegible]
			About 2.5 miles upstream of Shewnee Ford Road	*[illegible]

PROPOSED BASE FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Maps available for inspection at the Franklin County Courthouse, P.O. Box 311, Union, Missouri.				
Send comments to Honorable Hugh W. McCans, Presiding Judge, Franklin County, Franklin County Courthouse, P.O. Box 311, Union, Missouri 63084.				
Nebraska	(C) Milford Seward County	Big Blue River	About 0.74 mile downstream of confluence of Coon Creek.	*1,403
			About 2.44 miles upstream of U.S. Highway 6	*1,412
Maps available for inspection at City Hall, P.O. Box 13, 505 1st Street, Milford, Nebraska.				
Send comments to Honorable Willis Heyen, Mayor, City of Milford, City Hall, P.O. Box 13, 505 1st Street, Milford, Nebraska 68405.				
New Jersey	Helmetta, borough, Middlesex County	Manalapan Brook	Corporate limits (upstream)	*37
			Confluence of Sawmill Brook	*37
			Old Forge Road (upstream side)	*29
			Corporate limits (downstream)	*26
		Sawmill Brook	Approximately 685' upstream of Washington Avenue	*45
			Conrail (upstream side)	*45
			Spotswood-Cranbury Road (upstream side)	*39
			Confluence with Manalapan Brook	*37
		Tributary to Sawmill Brook	Confluence with Sawmill Brook	*45
			Corporate limits	*45
Maps available for inspection at the Office of Donald Brundage, Borough Hall, 60 Main Street, Helmetta, New Jersey.				
Send comments to Honorable Eve A. Dicks, Mayor of the Borough of Helmetta, Borough Hall, 60 Main Street, Helmetta, New Jersey 08828.				
New Jersey	Readington, township, Hunterdon County	Lamington River	Downstream corporate limits	*97
			Lamington Road—upstream side	*106
			Interstate Route 78—upstream side	*115
			Upstream corporate limits	*116
		Rockaway Creek	Confluence with Lamington River	*99
			Island Road—downstream side	*103
			Lamington Road—downstream side	*113
			Mill Road—upstream side	*122
			Oldwick Road—upstream side	*146
			Interstate 78—upstream side	*159
			Upstream side of dam near Rockaway Road	*182
			Upstream corporate limits	*201
		South branch Rockaway Creek	Confluence with Rockaway Creek	*124
			U.S. Route 22—upstream side	*128
			Cushetunk Lake Dam—upstream side	*143
			Upstream side of access road upstream of Cushetunk Lake.	*146
			Mountain Road—upstream side	*158
			Upstream corporate limits	*173
		Chambers Brook	Downstream corporate limits	*94
			County Line Road—upstream side	*99
			Ridge Road—upstream side	*119
			Coddington Road—upstream side	*133
			Approximately 400 feet downstream of Pulaski Road	*158
		Holland Brook	Downstream corporate limits	*88
			Centerville Road—upstream side	*103
			Downstream side of Pinebank Road—downstream crossing.	*125
			Upstream side of Holland Brook Road—dowstream crossing.	*134
			Upstream side of dam downstream of Holland Brook Road—second crossing.	*142
			Upstream side of Holland Brook Road—upstream crossing.	*149
			Upstream side of access road upstream of Holland Brook Road—upstream crossing.	*158
			Downstream side of access road downstream of Whitehouse Road.	*181
		Pleasant Run	Downstream corporate limits	*95
			Old York Road—upstream side	*101
			U.S. Route 202—downstream side	*104
		South branch Raritan River	Downstream corporate limits	*87
			Higginsville Road—upstream side	*93
			Main Street—upstream side	*99
			U.S. Route 202—downstream side	*103
			Downstream side of dam upstream of Rockefellows Mill Road.	*106
			Upstream side of Conrail second crossing	*111
			State Route 523—downstream side	*115
		Tributary A to the south branch Raritan River.	Confluence with the south branch Raritan River	*106
			Conrail culvert—upstream side	*115
			Approximately 1 mile upstream of Conrail culvert	*131
			Barley Sheaf Road—upstream side	*155
Maps available for inspection at the Readington Township Municipal Building, Whitehouse Station, New Jersey.				
Send comments to Honorable Donald Laird, Mayor of the Township of Readington R.D. 3, Box 1, Route 523, Whitehouse Station, New Jersey 0889.				
New York	Cortlandt, town, Westchester County	Annsville Creek	At confluence with Hudson River	*8
			At confluence with Peekskill Hollow Brook and Sprout Brook.	*8
		Peekskill Hollow Brook	At confluence with Annsville Creek and Sprout Brook	*8
			Upstream of Pump House Dam	*31
			Approximately 3,850' upstream of Gallows Hill Road	*50

PROPOSED BASE FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			At first upstream corporate limits	*99
			At third upstream corporate limits	*123
		Sprout Brook	At confluence with Annsville Creek and Peekskill Hollow Brook.	*8
			Upstream of abandoned road	*14
			Upstream of Cortlandt Lake Dam	*97
		Furnace Brook	Approximately 130' downstream of Furnace Dock Road.	*77
			Upstream of Washington Street	*186
			Upstream of Furnace Brook Drive	*238
			Approximately 2,000' upstream of Furnace Brook Drive (second crossing).	*251
		Croton River	At downstream corporate limits	*9
			Upstream of Quaker Bridge Road (First crossing)	*44
			At upstream corporate limits	*50

Maps available for inspection at the Town Clerk's Office, Municipal Building, Croton-on-Hudson, New York.
Send comments to Honorable Charles DiGiacomo, Cortlandt Town Supervisor, Municipal Building, Croton-on-Hudson, New York 10520.

New York	Elmira, town, Chemung County	Chemung River	Downstream corporate limits	*833
			At downstream corporate limits of city of Elmira	*847
			At upstream corporate limits of city of Elmira	*859
			Upstream corporate limits	*870
			East side Newtown Creek (before levee overtopping) at confluence with Chemung River.	*848
			At corporate boundary upstream of Industrial Park Boulevard.	*868
			At upstream corporate limits	*869
			West side Newtown Creek (after levee overtopping) upstream of Industrial Park Boulevard.	*861
		McCann's tributary	Entire flooding within community	*883
		Diven Creek	Entire flooding within community	*883
		Baldwin Creek	Downstream corporate limits	*880
			Jenkins Road downstream	*898
			Confluence of Goldsmith Creek	*904
			Lowman Road upstream	*908
			Greatsinger Road upstream	*920
		Goldsmith Creek	Confluence with Baldwin Creek	*894
			Jenkins Road upstream	*911
			Approximately 2,500 feet upstream of Jenkins Road	*929

Maps available for inspection at the Town Hall, Elmira, New York.
Send comments to Honorable William Youngstrom, Elmira Town Supervisor, Town Hall, 1255 West Water Street, Elmira, New York 14905.

New York	Elmira Heights, village, Chemung County	McCann's tributary	McCann's Boulevard	*883
			Footbridge to School upstream located near E. Eighth Street, extended.	*864
			Upstream corporate limits	*874

Maps available for inspection at the Village Hall, 13th Street, Elmira, New York.
Send comments to Honorable Chester Lummer, Mayor of the Village of Elmira Heights, Village Hall, 13th Street, Elmira Heights, New York 14903.

New York	Gallatin, town, Columbia County	Roeliff Jansen Kill	Gallatin-Livingston corporate limits	*244
			Approximately 1.55 miles downstream of upstream corporate limits.	*269
			Downstream Gallatin-Pine Plains corporate limits	*289
			Gallatin-Pine Plains corporate limits	*295
			Approximately 1 mile upstream of Gallatin-Pine Plains corporate limits.	*346
			Approximately 0.6 mile upstream of confluence of Shekomeko Creek.	*371
		Shekomeko Creek	Confluence with Roeliff Jansen Kill	*267
			Upstream of access road	*381
			Upstream corporate limits	*389
		Doove Kill	Downstream corporate limits	*362
			Upstream of Taghkanic Road	*420
			Upstream of Green Acres Road	*458
			Upstream of County Route 8	*545
			Taconic State Parkway (upstream side)	*606

Maps available for inspection at the Town Clerk's Office, Gallatin, New York.
Send comments to honorable Kenneth Jones, Gallatin Town Supervisor, P.O. Box 245, Elizaville, New York 12523.

New York	Hume, town, Allegany County	Wiscoy Creek	Confluence with Genesee River	*1,174
			Upstream State Route 19A	*1,150
			Approximately 250 feet upstream Tenally Road	*1,179
		Genesee River	Confluence of Rush Creek	*1,174
			Upstream Snyder Hill Road	*1,175
			Approximately 6,000 feet upstream of Snyder Hill Road.	*1,179
		Rush Creek	Confluence with Genesee River	*1,174
			Upstream Snyder Hill Road	*1,193

Maps available for inspection at the Town Hall, Fillmore, New York.
Send comments to Honorable Ted Hopkins, Town Supervisor of Hume, Town Hall, P.O. Box 302, Fillmore, New York 14735.

New York	Montgomery, town, Orange County	Wallkill River	At downstream corporate limits	*262
			At confluence of Tin Brook	*257

PROPOSED BASE FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			At downstream corporate limits of village of Walden	*270
			At upstream corporate limits of village of Walden	*331
			Approximately 6,000 feet downstream of dam	*333
			Upstream side of dam	*344
			Approximately 200' upstream State Route 17K	*350
			At confluence of Muddy Kill	*355
			Approximately 1 mile upstream of confluence of Muddy Kill	*356
			State Route 211 upstream side	*358
			Interstate Route 84 (upstream side)	*359
			At upstream corporate limits	*361

Maps available for inspection at the Building Inspector's Office, Town Hall, 74 Main Street, Montgomery, New York.
Send comments to Honorable Carl Halstrom, Montgomery Town Supervisor, Town Hall, 74 Main Street, Walden, New York 12586.

New York	Montgomery, village, Orange County	Walkill River	Downstream corporate limits	*335
			Dam (upstream side)	*344
			State Route 17K (upstream side)	*349
			Upstream corporate limits	*354

Maps available for inspection at the Village Hall, Montgomery County, New York.
Send comments to Honorable William Devitt, Mayor of the Village of Montgomery, Village Hall, 133 Clinton Street, Montgomery County, New York 12549.

New York	Norwich, town, Chenango county	Chenango River	Downstream corporate limits	* 984
			Hall Street (upstream side)	* 995
			State Route 23 (upstream side)	* 1,001
			Upstream corporate limits	* 1,010
		Unadilla River	Downstream corporate limits	* 1,037
			Upstream corporate limits	* 1,050
		Canasawacta Creek	Confluence with Chenango River	* 992
			West Main Street (upstream side)	* 1,018
			State Route 23 (upstream side)	* 1,039
			Upstream corporate limits	* 1,069

Maps available for inspection at the Town Hall, Norwich, New York.
Send comments to Honorable Adolph L. Chiarino, Town Supervisor of Norwich, R.D. #1, Norwich, New York 13815.

New York	Pawling, town, Dutchess County	East branch Croton River	Downstream corporate limits	* 434
			Upstream Conrail (third crossing)	* 441
			Upstream corporate limits	* 444
		Tributary to the east branch Croton River.	Downstream corporate limits	* 612
			Upstream of Conrail (first crossing)	* 676
			Upstream of second upstream dam	* 688
			Upstream of Conrail (second crossing)	* 699
			Upstream of Conrail (third crossing)	* 720
		Swamp River	Downstream corporate limits	* 423
			Downstream Swamp Road	* 429
			Upstream corporate limits	* 433
		Whaley Lake Stream	Downstream corporate limits	* 657
			Upstream State Route 292	* 686
			Upstream of Conrail	* 695
			Upstream of dam	* 711

Maps available for inspection at the Town Hall, 160 Charles Colman Boulevard, Pawling, New York.
Send comments to Honorable Warren Martin, Pawling Town Supervisor, Town Hall, 160 Charles Colman Boulevard, Pawling, New York 12564.

New York	Red Hook, town, Dutchess County	Hudson River	Entire shoreline within community	* 9
		Saw kill	At confluence with Hudson River	* 9
			Upstream of most downstream dam	* 74
			Upstream County Route 103	* 151
			Upstream of upstream crossing of Aspinwall Road	* 172
			Upstream of Mill Road	* 204
			Upstream of State Route 199	* 228

Maps available for inspection at the Town Hall, 107 South Broadway, Red Hook, New York.
Send comments to Honorable Samuel Lore, Red Hook Town Supervisor, Town Hall, 107 South Broadway, Red Hook, New York 12571.

New York	Rome, city, Oneida County	Mohawk River	Downstream corporate limits	*420
			Upstream of New York State Barge Canal weir	*426
			Upstream of East Whitesboro Street	*426
			Upstream of East Bloomfield Street	*447
			Upstream of East Chestnut Street	*458
			Upstream of Wright Settlement Road	*466
			Upstream of Golf Course Road	*490
		Fish Creek	Downstream corporate limits	*386
			Upstream of State Route 49	*389
			Approximately 2.1 miles upstream of State Route 49	*396
			At upstream corporate limits	*402
		Wood Creek	Approximately 750 feet downstream of Fort Bull Road	*424
			Upstream of Conrail	*431
			Upstream of West Court Street	*445
			Upstream of Union Street	*452
			Upstream of Merrick Street	*459
			Approximately 0.71 mile upstream of Halpin Road	*481

Maps available for inspection at the City Engineer's Office, City Hall, Rome, New York.
Send comments to Honorable Carle Eilenberg, Mayor of the City of Rome, City Hall, Rome, New York 13440.

New York	Scio, town, Allegany County	Genesee River	At downstream corporate limits	*1,427
			Upstream Knight Creek Road	*1,445
			2,000 feet upstream of confluence of Vandermark Creek.	*1,452

PROPOSED BASE FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			6,000 feet downstream of confluence of Brimmer Brook.	*1,466
			Upstream corporate limits	*1,478
		Brimmer Brook	At confluence with Genesee River	*1,475
			At first upstream corporate limits	*1,482
			2,270 feet downstream of downstream crossing of Perrolia Road.	*1,708
			300 feet upstream of downstream crossing of Perrolia Road.	*1,760
			800 feet downstream of Yeager Hill Road	*1,830
			950 feet upstream Perrolia Road crossing	*1,870
		Knight Creek	At confluence with Genesee River	*1,436
			Downstream side of second crossing of Knight Creek Road.	*1,470
			Downstream side of third crossing of Knight Creek Road.	*1,505
			3,250 feet upstream of third crossing of Knight Creek Road.	*1,584
		Vandermark Creek	At confluence with Genesee River	*1,448
			Downstream side of first crossing of Vandermark Road	*1,520
			Downstream side of second crossing of Vandermark Road.	*1,566

Maps available for inspection at the Town Hall, Scio, New York.

Send comments to Honorable Cathleen Linnecke, Scio Town Supervisor, Town Hall, Vandermark Road, Scio, New York 14880.

Ohio	(C) Findlay, Hancock County	Blanchard River	About 0.36 mile downstream of Interstate 75	*774
			About 0.04 mile upstream of the confluence of Rush Creek.	*783
		Howard Run	At mouth	*776
			About 0.5 mile upstream of Conrail	*785
		Lye Creek	Within community	*780
		Rush Creek	At mouth	*783
			About 0.21 mile upstream of Greendale Avenue	*789
		Eagle Creek	At mouth	*789
			About 0.16 mile upstream of U.S. Route 68 Bypass	*795

Maps available for inspection at the City Engineer's Office, Municipal Building, 119 Court Place, Findlay, Ohio.

Send comments to Honorable W. Bentley Burr, Mayor, City of Findlay, Municipal Building, 119 Court Place, Findlay, Ohio 45840.

Ohio	(C) St. Bernard, Hamilton County	Mill Creek	About 2,650 feet downstream of Spring Grove Avenue	*496
			About 750 feet upstream of Chesse System (5,900 feet upstream of Spring Grove Avenue).	*516

Maps available for inspection at the City Hall, 110 Washington Avenue, St. Bernard, Ohio.

Send comments to Honorable Jack Hausfeld, Mayor, City of St. Bernard, City Hall, 110 Washington Avenue, St. Bernard, Ohio 45217.

Ohio	(V) West Farmington, Trumbull County	Grand River	About 1.05 miles downstream of Girdle Road	*845
			About 0.38 mile upstream of Girdle Road	*850

Maps available for inspection at the Village Hall, Fourth Street, West Farmington, Ohio.

Send comments to Honorable James Richards, Mayor, Village of West Farmington, Village Hall, Fourth Street, West Farmington, Ohio. 44491.

Oregon	Coquille (city), Coos County	Budd Creek	50 feet upstream of North Central Boulevard	*21
		Cunningham Creek	50 feet upstream of Fairview Road	*21
		Coquille River	Intersection of River and State Highway 42 South	*20

Maps available for inspection at Public Works Department, 99 East 2nd, Coquille, Oregon.

Send comments to the Honorable Richard Hopkins, 99 East 2nd, Coquille, Oregon 97423.

Pennsylvania	Duncansville, borough, Blair County	Blair Gap Run	Downstream corporate limits	*977
			Upstream of Conrail (second crossing)	*1,019
			At most upstream corporate limits	*1,049
		Gillans Run	Entire length within community	*1,021
		Tributary to Gillans Run	At downstream corporate limits	*1,034
			Approximately 90 feet upstream of State Route 764	*1,047

Maps available for inspection at the Borough Building, Duncansville, Pennsylvania.

Send comments to Honorable James Haines, President of the Duncansville Borough Council, 1146 3rd Avenue, Duncansville, Pennsylvania 16635.

Pennsylvania	Logan, township, Blair County	Burgoon Run	Most downstream corporate limits	*1,080
			Approximately 0.21 mile upstream of most downstream corporate limits.	*1,089
			Approximately 0.32 mile upstream of most downstream corporate limits.	*1,096
			Approximately 0.37 mile upstream of most downstream corporate limits.	*1,101
			Approximately 1.96 mile upstream of most downstream corporate limits.	*1,240
			Approximately 2.56 mile upstream of most downstream corporate limits.	*1,294
		Mill Run	Approximately 110 feet downstream of downstream corporate limits.	*1,054
			At second upstream corporate limits	*1,063
			Upstream of Union Avenue	*1,080
			Most upstream corporate limits	*1,105
		Brush Run	Downstream corporate limits	*961
			Upstream Lakemont Park bridge	*1,813
			Approximately 0.5 mile upstream Franklstown Road	*1,043
		Homer Gap Run	Approximately 0.21 mile upstream from confluence with Little Juniata River.	*1,188

PROPOSED BASE FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			Upstream Ponderosa Drive	*1,140
			Upstream Township Route 483 (first crossing)	*1,207
			Approximately 1 mile downstream of Township Route 483 (second crossing).	*1,271
			Approximately 0.4 mile downstream of Township Route 483 (second crossing).	*1,344
			Approximately 550 feet upstream of Township Route 483 (second crossing).	*1,416
		Sandy Run	Downstream corporate limits	*1,087
			Approximately 675 feet downstream of Bellmead Drive	*1,144
			Approximately 200 feet upstream of Princeton Road	*1,201
		Spring Run	Approximately 100 feet downstream Avalon Road	*1,447
			Approximately 0.7 mile upstream of Avalon Road	*1,634
			Approximately 1.2 miles upstream of Avalon Road	*1,815

Maps available for inspection at the Township Building, 900 39th Street, Altoona, Pennsylvania.
Send comments to Honorable Cloyd Forscht, Chairman of the Logan Township Board of Supervisors, 800 39th Street, Altoona, Pennsylvania 16602.

Texas	Kennedale, city, Tarrant County	Village Creek	Downstream corporate limits	*567
			Upstream of Mansfield Highway	*573
			Upstream of New Orleans (Southern Pacific) Railroad	*577
		Stream VC-3	Confluence with Village Creek	*568
			Downstream of Kennedale-Bowman Springs Road	*570
			Downstream of Kennedale-Surlett Road	*617
		Stream VC-4	Confluence with Village Creek	*571
			Upstream of New Orleans (Southern Pacific) Railroad	*584
			Upstream of Averott Road	*600
			Upstream corporate limits	*613
		Stream VC-4A	Confluence with Stream VC-4	*611
			Approximately 0.3 mile upstream of Kennedale-New Hope Road.	*630

Maps available for inspection at the Kennedale City Hall, Kennedale, Texas.
Send comments to Honorable Steve Radakovich, Mayor of the City of Kennedale, P.O. Box 266, Kennedale, Texas 76060.

Utah	Logan (city), Cache County	Logan River	110 feet upstream from the center of 100 North Street	*4,573
			250 feet upstream from the center of the Union Pacific Railroad Bridge.	*4,472
		Blacksmith fork	100 feet upstream from the center of the Union Pacific Railroad Bridge.	*4,470
		Spring Creek	200 feet upstream from the center of Dairy Farm Field Road.	4,474

Maps available for inspection at Planning Office, 61 W. 100 North, Logan, Utah.
Send comments to the Honorable Newel G. Daines, 61 W. 100 North, Logan, Utah 84321.

Vermont	Fair Haven, town, Rutland County	Castleton River	Approximately 164 feet upstream of confluence with Poultney River.	*304
			Upstream U.S. Route 4	*307
			Upstream Adams Street Dam	*319
			Upstream State Route 22A	*343
			Upstream River Street	*369
			Upstream corporate limits	*371

Maps available for inspection at the Town Clerk's Office, North Park Place, Fair Haven, Vermont.
Send comments to Honorable John Tobin, Chairman of the Board of Selectmen for the Town of Fair Haven, North Park Place, Fair Haven, Vermont 05743.

Washington	Burlington (city), Skagit County	Skagit River	20 feet upstream from center of Interstate Highway 5	*30
		Overbank flow path #1	At center of intersection of Pine Street and Olympia Avenue.	*31

Maps available for inspection at City Hall, 900 East Fairhaven, Burlington, Washington.
Send comments to the Honorable Raymond C. Henery, 900 East Fairhaven, Burlington, Washington 98223.

Washington	Mount Vernon (city), Skagit County	Skagit River	50 feet west from center of intersection of Main and Kincaid Streets.	*28
		Shallow flooding (ponding)	100 feet northeast from center of intersection of Kimble and Britt Slouth Roads.	*15
		Shallow flooding (sheet flow)	Center of intersection of West Division and Baker Streets.	#3
		Shallow flooding (sheet flow)	20 feet south of intersection of Douglas Street and Blackburn Road.	#2
		Shallow flooding (sheet flow)	Center of intersection of Hazel Street and Cleveland Avenue.	#1
		Deep ponding	Center of intersection of College Way and Riverside Drive.	*30

Maps are available for inspection at City Hall, Mount Vernon, Washington.
Send comments to the Honorable Raymond T. Reep, Jr., P.O. Box 809, Mount Vernon, Washington 98273.

West Virginia	Davy, town, McDowell County	Tug fork	Downstream corporate limits	*1,181
			Main Street bridge (upstream side)	*1,190
			Upstream corporate limits	*1,200
		Davy Branch	At confluence with Tug Fork	*1,190
			Helena Street Bridge	*1,217
			Upstream corporate limits	*1,332

Maps are available for inspection at the Town Hall, Davy, West Virginia.
Send comments to the Honorable Mary Hale, Mayor of the Town of Davy, P.O. Box 485, Davy, West Virginia 24828.

West Virginia	Iaeger, town, McDowell County	Tug fork	Downstream corporate limits	*975
			U.S. Route 52 and State Route 80 (upstream side)	*979
			Upstream corporate limits	*986

PROPOSED BASE FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		Dry fork	At confluence with Tug fork	*978
			State Route 80	*978
			Upstream corporate limits	*965

Maps are available for inspection at the Town Hall, Iaeger, West Virginia.
Send comments to the Honorable Perry H. Roberts, Mayor of the Town of Iaeger, P.O. Box 254, Iaeger, West Virginia 24844.

West Virginia	War, town, McDowell County	Dry fork	At downstream corporate limits	*1,326
			Upstream County Route 12/4	*1,342
			Upstream State Route 16 (upstream crossing)	*1,356
			Approximately 0.24 mile upstream of upstream corporate limits.	*1,368
		War Creek	Confluence with Dry fork	*1,336
			Upstream of fourth upstream County Route 12/4 crossing.	*1,393
			Upstream of Crescent Street	*1,445
			Upstream corporate limits	*1,466

Maps are available for inspection at the Town Hall, War, West Virginia.
Send comments to the Honorable Floyd Jones, Mayor of the Town of War, P.O. Box 1026, War, West Virginia 24892.

Wisconsin	(V) Avoca, Iowa County	Wisconsin River	About 32,800 feet downstream of Chicago, Milwaukee, St. Paul and Pacific Railroad.	* 687
			About 27,400 feet downstream of Chicago, Milwaukee, St. Paul, and Pacific Railroad.	*
		Morrey Creek	About 0.66 mile downstream of State Highway 133	*
			About 0.41 mile upstream of State Highway 133	* 706

Maps available for inspection at the Village President's Office, Village hall, Rt. 1, P.O. Box 183AA, Avoca, Wisconsin.
Send comments to Honorable Paul H. Zajicek, Village President, Village of Avoca, Village Hall, Rt. 1, P.O. Box 183AA, Avoca, Wisconsin 53506.

Wisconsin	(v) Browntown, Green County	Skinner Creek	Within corporate limits	* 790

Maps available for inspection at the Village Hall, Rt. 1, Browntown, Wisconsin.
Send comments to Honorable Nathan Garwell, Village President, Village of Browntown, Village Hall, Rt. 1, Browntown, Wisconsin 535422.

Wisconsin	(C) Clintonville, Waupeca County	Pigeon River	About 1.8 miles downstream of the Chicago and Northwestern Railroad.	* 795
			Just downstream of dam	*
			Just upstream of Hemlock Street (at Pigeon Lake)	*

Maps available for inspection at the Building Inspector's Office, City Hall, Clintonville, Wisconsin.
Send comments to Honorable Karen Siewert, Mayor, City of Clintonville, City Hall, 50 Tenth Street, Clintonville, Wisconsin 54925.

Wisconsin	(C) Hartford, Washington County	Rubicon River	At western corporate limit (about 2,500 feet downstream of Treatment Plant Road).	* 953
			About 100 feet downstream of Rural Street	* 964
			About 100 feet downstream of Mill Pond Dam	* 974
			Just upstream of Mill Pond Dam	* 981
			About 4,800 feet upstream of Wisconsin Southern Railroad.	* 992

Maps available for inspection at the City Engineer's Office, City Hall, 109 N. Main Street, Hartford, Wisconsin.
Send comments to Honorable R. W. Witt, Mayor, City of Hartford, City Hall, 100 N. Main Street, Hartford, Wisconsin 53027.

Wisconsin	(V) LaValle, Sauk County	Baraboo River	About 0.53 mile downstream of LaValle Mill Pond Dam	*895
			About 0.39 mile upstream of State Highway 58	*899

Maps available for inspection at the Village Clerk's Office, Village Hall, P.O. Box 13, LaValle, Wisconsin.
Send comments to Honorable Wayne D. Blinston, Village President, Village of LaValle, Village Hall, P.O. Box 13, LaValle, Wisconsin 53941.

Wisconsin	(V) North Freedom, Sauk County	Baraboo River	About 2.05 miles downstream of South Maple Street	*
			About 1.35 miles upstream of West Walnut Street	*

Maps available for inspection at the Superintendant's Office, Village Hall, P.O. Box 247, North Freedom, Wisconsin.
Send comments to Honorable Duane Stieve, Village President, Village of North Freedom, Village Hall, P.O. Box 247, North Freedom, Wisconsin 53951.

Wisconsin	(V) Oconomowoc Lake, Waukesha County	Oconomowoc River	At U.S. Highway 16	*862
			At Oconomowoc Lake Dam	*
		Oconomowoc Lake	Shoreline	*

Maps available for inspection at the Village Administrator's Office, Village Hall, 35328 Pabst Road, Oconomowoc Lake, Wisconsin.
Send comments to Honorable William F. Roberts, Village President, Village of Oconomowoc Lake, Village Hall, 35328 Pabst Road, Oconomowoc Lake, Wisconsin. 53066.

Wisconsin	(V) West Baraboo, Sauk County	Baraboo River	About 0.28 mile downstream of Shaw Street	*943
			About 0.50 mile upstream of Highway 12	*954

Maps available for inspection at the Village President's Office, Village Hall, P.O. Box 261, West Baraboo, Wisconsin.
Send comments to Honorable Max J. Hill, Village President, Village of West Baraboo, Village Hall, P.O. Box 261, West Baraboo, Wisconsin 53913.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to the Administrator, Federal Insurance Administration)

Issued: February 10, 1984.

Jeffrey S. Bragg,

Administrator, Federal Insurance Administration.

[FR Doc. 84–2963 Filed 2–22–84; 8:45 am]
BILLING CODE 6718–03–M

Notices

Federal Register
Vol. 49, No. 37
Thursday, February 23, 1984

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Office of the Secretary

Forms Under Review by Office of Management and Budget

February 17, 1984.

The Department of Agriculture has submitted to OMB for review the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35) since the last list was published. This list is grouped into new proposals, revisions, extensions, or reinstatements. Each entry contains the following information:

(1) Agency proposing the information collection; (2) Title of the information collection; (3) Form number(s), if applicable; (4) How often the information is requested; (5) Who will be required or asked to report; (6) An estimate of the number of responses; (7) An estimate of the total number of hours needed to provide the information; (8) An indication of whether section 3504(h) of Pub. L. 96–511 applies; (9) Name and telephone number of the agency contact person.

Questions about the items in the listing should be directed to the agency person named at the end of each entry. Copies of the proposed forms and supporting documents may be obtained from: Department Clearance Officer, USDA, OIRM, Room 108–W Admin. Bldg., Washington, D.C. 20250, (202) 447–4414.

Comments on any of the items listed should be submitted directly to: Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503, Attn: Desk Officer for USDA.

If you anticipate commenting on a submission but find that preparation time will prevent you from doing so promptly, you should advise the OMB Desk Officer of your intent as early as possible. Theodore Peterson, (608) 262–0249.

REVISED

• Farmers Home Administration
7 CFR 1965A, Servicing Farm Real Estate Security and Certain Note—Only Cases
FmHA 443–16, 465–1, 465–5
On Occasion
Individuals or Households, Farms, Small Businesses: 34,130 responses; 28,965 hours; not applicable under 3504(h)
M. K. Smith, (202) 475–4016

NEW

• Farmers Home Administration
7 CFR 1951–L, Servicing Cases Where Unauthorized Loan or Other Financial Assistance was Received—Farmer Programs
On Occasion
Farms Small Businesses: 1,180 responses; 1,180 hours; not applicable under 3504(h)
Frances Calhoun, (202) 382–1452
• Farmers Home Administration
7 CFR 1951–M, Servicing Cases Where Unauthorized Loan or Other Financial Assistance was Received—Single Housing
On Occasion
Individuals or Households, Non-Profit Institutions: 2,150 responses; 2,125 hours; not applicable under 3504(h)
Frances Calhoun, (202) 382–1452
• Farmers Home Administration
7 CFR 1951–N, Servicing Cases Where Unauthorized Loan or Other Financial Assistance was Received—Multiple Family Housing
On Occasion
Individuals or Households, State or Local Governments, Farms, Businesses, Non-Profit Institutions: 700 responses; 800 hours; not applicable under 3504(h)
Frances Calhoun, (202) 382–1452
• Farmers Home Administration
7 CFR 1951–O, Servicing Cases Where Unauthorized Loan or Other Financial Assistance was Received—Community and Business Programs
On Occasion
State or Local Government: 10 responses; 10 hours; not applicable under 3504(h)
Frances Calhoun, (202) 382–1452

Susan B. Hess,
Acting Department Clearance Officer.

[FR Doc. 84-4799 Filed 2-22-84; 8:45 am]
BILLING CODE 3410-01-M

Soil Conservation Service

Kimberling Creek Road Bank Critical Area Treatment RC&D Measure, Virginia; Finding of No Significant Impact

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of a finding of no significant impact.

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Kimberling Creek Road Bank Critical Area Treatment RC&D Measure, Bland County, Virginia.

FOR FURTHER INFORMATION CONTACT: Mr. Manly S. Wilder, State Conservationist, Soil Conservation Service, 400 North Eighth Street, Richmond, Virginia 23240, telephone 804–771–2455.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Manly S. Wilder, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for seeding ten (10) acres of eroding road banks in Bland County, Virginia. The planned work will include establishing ten (10) acres of permanent vegetative cover by hydro-seeding and mulching on about ten (10) miles of road banks.

The Notice of Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various Federal, State, and local agencies and interested parties. A limited number of

copies of the FONSI are available to fill single copy requests at the above address. Basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Manly S. Wilder.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the **Federal Register**.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program. Office of Management and Budget Circular A-95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects is applicable)

Dated: February 10, 1984.

Manly S. Wilder,

State Conservationist.

[FR Doc. 84-4723 Filed 2-22-84; 8:45 am]

BILLING CODE 3410-16-M

AGENCY FOR INTERNATIONAL DEVELOPMENT

Housing Guaranty Program; Investment Opportunity

The Agency for International Development (A.I.D.) has authorized a guaranty of a loan in an amount not to exceed Twelve Million Five Hundred Thousand Dollars ($12,500,000) to finance a housing reconstruction program for low income families affected by national disasters in Northern Peru. Eligible investors as defined below are invited to make proposals to the Housing Bank of Peru (Borrower). The full repayment of the loan will be guaranteed by A.I.D. The A.I.D. guaranty will be backed by the full faith and credit of the United States of America and will be issued pursuant to authority in Section 222 of the Foreign Assistance Act of 1961, as amended (the Act).

This project is referred to as Project No. 527-HG-011 Part II. Lenders (Investors) eligible to receive an A.I.D. guaranty are those specified in section 238(c) of the Act. They are (1) U.S. citizens; (2) domestic U.S. corporations, partnerships, or associations substantially beneficially owned by U.S. citizens; (3) foreign corporations whose share capital is at least 95 percent owned by U.S. citizens; and foreign partnerships or associations wholly owned by U.S. citizens.

Selection of an eligible investor and the terms of the loan are subject to approval by A.I.D. The investor and A.I.D. shall enter into a Contract of Guaranty, covering the loan. Disbursements under the loan will be subject to certain conditions required of the Borrower by A.I.D. as set forth in an Implementation Agreement between A.I.D. and the Borrower. To be eligible for Guaranty, the Loan must be repayable in full no later than the Thirtieth anniversary of the first disbursement of the principal amount thereof and the interest rate may be no higher than the maximum rate established from time to time by A.I.D.

The Borrower desires to receive proposals from eligible investor as defined above. The Borrower desires proposals containing two alternative disbursement schedules. One schedule should project a single disbursement of $12,500,000 during April 1984. The other schedule should project a disbursement of $6,250,000 during April 1984, and a disbursement of $6,250,000 in October 1984. A proposal containing only one of these schedules is acceptable. Since investor selection will be made on the basis of the proposals, the proposals should contain the best terms to be offered by investors. The proposals should state:

A. Preferably a fixed interest rate per annum for a period not to exceed thirty (30) years from the first disbursement. Proposals with variable interest rates will also be considered and could be accepted.

B. A grace period of three (3) years on payment of interest.

C. The grace period of a minimum of three (3) years for repayment of principal; such period not to exceed ten (10) years.

D. Specification of the frequency of payments and capitalization of interest (quarterly, semi-annual, annual).

E. The minimum time, if any, during which prepayment of principal by the Borrower will not be accepted.

F. The investor's commitment or service fee, if any, and schedule of payments of such fee.

G. The period during which the proposal may be accepted which shall be at least forty-eight (48) hours, after the closing date specified below.

The proposal may state other terms and conditions which the investor desires to specify. After investor selection by the Borrower and approval by A.I.D., the Borrower and Investor shall negotiate all other terms and conditions of the Loan Agreement.

The closing date by which prospective investors are requested to submit proposals to the Borrower is by 2:00 p.m. (EST) on Tuesday, February 28, 1984. Negotiation of the Loan Agreement and Contract of Guaranty is expected to take place in Washington, D.C. in mid-March 1984. Eligible investors are invited to consult promptly with the Borrower.

Those investors interested in extending a loan to the Borrower should communicate with the Borrower at the following address: Mr. Oscar Bauer Cotrina, General Manager, Housing Bank of Peru, P.O. Box No. 5425, Lima 1. Peru, Telephone No. 28-61-31, Telex No. 20037-PE-BVP. Telex and telephone communication should be followed by letter.

Information as to the eligibility of investors and other aspects of the A.I.D. Housing Guaranty Program can be obtained from: Director, Office of Housing, Agency for International Development, Room 625, SA-12, Washington, D.C. 20523, Telephone No. 202/632-9637. Telex ITT: 44-00-01, RCA: 24-83-79, WUI 64154, WU 89-27-03.

To facilitate A.I.D. approval, copies of proposals made to the Borrower shall be sent to A.I.D. at the above address on or after the closing date noted above. This notice is not an offer by A.I.D. or by the Borrower. The Borrower and not A.I.D. will select an investor and negotiate the terms of the proposed loan.

Sean P. Walsh,

Acting Deputy Director, Office of Housing and Urban Programs.

February 17, 1984.

[FR Doc. 84-4818 Filed 2-22-84; 8:45 am]

BILLING CODE 4710-02-M

CIVIL RIGHTS COMMISSION

Georgia Advisory Committee; Agenda and Notice of Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Georgia Advisory Committee to the Commission will convene at 3:30 p.m. and will end at 6:30 p.m., on March 9, 1984, at the Marriott Hotel Downtown, Hermitage West, International Boulevard and Courtland Street, Atlanta, Georgia 30303. The purpose of this meeting is to discuss the reorganization of the Commission and program planning.

Persons desiring additional information, or planning a presentation to the Committee, should contact the Chairperson, Mr. Clayton Sinclair, Jr., at (404) 681-0797 or the Southern Regional Office at (404) 221-4391.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., February 17, 1984.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 84-4775 Filed 2-22-84; 8:45 am]

BILLING CODE 6335-01-M

Kentucky Advisory Committee; Agenda and Notice of Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Kentucky Advisory Committee to the Commission will convene at 1:00 p.m. and will end at 4:00 p.m., on March 6, 1984, at the Seelbach Hotel, Gray Room, 500 4th Street, Louisville, Kentucky 40202. The purpose of this meeting is to discuss the reorganization of the Commission and program planning.

Persons desiring additional information, or planning a presentation to the Committee, should contact the Chairperson, Mr. James M. Rosenblum at (502) 636-1411 or the Southern Regional Office at (404) 221-4391.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., February 17, 1984.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 84-2774 Filed 2-22-84; 8:45 am]

BILLING CODE 6335-01-M

Mississippi Advisory Committee; Agenda and Notice of Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Mississippi Advisory Committee to the Commission will convene at 3:30 p.m. and will end at 6:30 p.m., on March 7, 1984, at the Holiday Inn Downtown, 200 East Amite Street, Jackson, Mississippi 39201. The purpose of this meeting is to discuss the reorganization of the Commission and program planning.

Persons desiring additional information, or planning a presentation to the Committee, should contact the Chairperson, Ms. Mary Ramberg, at (601) 982-2431 or the Southern Regional Office at (404) 221-4391.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., February 17, 1984.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 84-4776 Filed 2-22-84; 8:45 am]

BILLING CODE 6335-01-M

DEPARTMENT OF COMMERCE

Office of the Secretary

President's Commission on Industrial Competitiveness

AGENCY: Office of Economic Affairs, Commerce.

ACTION: Notice of meeting.

SUMMARY: This notice announces the forthcoming meeting of the Committee on Human Resources, a subcommittee of the President's Commission on Industrial Competitiveness (Commission). The Commission was established by Executive Order 12428 on June 28, 1983 and its charter was approved on August 23, 1983. The Commission shall review means of increasing the long-term competitiveness of United States industries at home and aboard, with particular emphasis on high technology, and provide appropriate advice to the President through the Cabinet Council on Commerce and Trade and the Department of Commerce.

TIME AND PLACE: The Committee on Human Resources (a subcommittee of the Commission) will meet on March 7-8, 1984 from 9:00 a.m. to 5:00 p.m. at the AFL-CIO Building, 815 16th Street, N.W., Suite 301, Washington, DC 20006.

PUBLIC PARTICIPATION: The meeting will be open to public attendance. A limited number of seats will be available for the public on a first-come, first-served basis.

FOR FURTHER INFORMATION CONTACT: Barbara Gleason, President's Commission on Industrial Competitiveness, 736 Jackson Place, N.W., Washington, DC 20503, telephone: 202-395-4527 on substantive issues or Marilyn McLennan, Chief, Information Management Division, 202-377-4217, on issues regarding administration of the Commission.

SUPPLEMENTARY INFORMATION: The purpose of the meeting is to discuss partnerships in education and labor management relations.

Dated: February 16, 1984.

Egils Milbergs,

Executive Director, President's Commission on Industrial Competitiveness.

[FR Doc. 84-4749 Filed 2-22-84; 8:45 am]

BILLING CODE 3510-15-M

International Trade Administration

[C-435-001]

Carbon Steel Wire Rod From Poland; Preliminary Negative Countervailing Duty Determination

February 16, 1984.

AGENCY: International Trade Administration/Import Administration, Commerce.

ACTION: Notice.

SUMMARY: We preliminarily determine that Congress did not exempt nonmarket economy countries from the countervailing duty law. However, based on the facts presented in the record, we preliminarily find that no benefits which constitute bounties or grants within the meaning of the countervailing duty law are being provided to manufacturers, producers, or exporters in Poland of carbon steel wire rod. Therefore, we have not ordered the U.S. Customs Service to suspend liquidation. If this investigation proceeds normally, we will make our final determination by May 1, 1984.

EFFECTIVE DATE: February 23, 1984.

FOR FURTHER INFORMATION CONTACT: Laura Campobasso, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230, telephone (202) 377-3174.

SUPPLEMENTARY INFORMATION:

Preliminary Determination

Based upon our investigation to date, we preliminarily determine that nonmarket economy countries are not exempt *per se* from the countervailing duty law. Yet, in this case there is no reason to believe or suspect that certain benefits which constitute bounties or grants within the meaning of section 303 of the Tariff Act of 1930, as amended ("the Act"), are being provided to manufacturers, producers or exporters in Poland of carbon steel wire rod. For the purposes of this investigation, the following programs are preliminarily found not to confer bounties or grants:

—a multiple exchange rate system whereby different rates are applied to (1) commercial transactions with capitalist countries, (2) commercial transactions with socialist countries, and (3) non-commercial transactions and tourism;

—a currency retention program that allows exporting companies to keep 20 percent of their hard-currency export earnings;

—price equalization payments to the foreign trade organizations and the industrial enterprises involved in foreign trade, to compensate them for losses incurred when the Foreign Trade Ministry sells goods for less than their domestic price; and
—adjustment coefficients that increase the effective exchange rate.

Case History

On November 23, 1983, we received a petition from counsel for Atlantic Steel Company, Continental Steel Company, Georgetown Steel Corporation and Raritan Steel Company, filed on behalf of the United States industry producing carbon steel wire rod. In compliance with the filing requirements of § 355.26 of the Commerce Regulations (19 CFR 355.26), petitioners allege that manufacturers, producers or exporters in Poland of carbon steel wire rod receive, directly or indirectly, benefits which constitute bounties or grants within the meaning of section 303 of the Act.

On December 13, 1983, we initiated a countervailing duty investigation on those allegations. We stated we would issue a preliminary determination on or before February 16, 1984.

On December 16, 1983, we presented a questionnaire concerning the allegations in the petition to the government of Poland in Washington, D.C. We received a response on January 16, 1984

Poland is not a "country under the Agreement" within the meaning of section 701(b) of the Act. Therefore, section 303 of the Act applies to this investigation. Under this section, because the merchandise under investigation is dutiable, the domestic industry is not required to allege that, and the U.S. International Trade Commission is not required to determine whether, imports of this product cause or threaten to cause material injury to a U.S. industry.

Scope of Investigation

For the purpose of this investigation, the term "*carbon steel wire rod*" covers a coiled, semi-finished, hot-rolled carbon steel product of approximately round solid cross section, not under 0.20 inch nor over 0.74 inch in diameter, not tempered, not treated, not partly manufactured; and valued over 4 cents per pound, as currently provided for in item 607.17 of the *Tariff Schedules of the United States*. The period for which we are measuring alleged subsidization is January 1 to December 31, 1983.

Applicability of the Act

This proceeding raises the issue, not yet decided, whether section 303 (or the countervailing duty provisions of title VII) applies to a nonmarket economy country. Based upon our review of the countervailing duty provisions of the Act, their legislative history, and briefs filed in the conference on novel issues held November 3–4, 1983, in connection with our countervailing duty investigation of textiles, apparel and related products from the People's Republic of China (PRC) (48 FR 46600, and 46092, 1983), we believe that Congress did not exempt nonmarket economy countries from section 303 of the Act. By its terms, that section applies to "*any* country, dependency, colony, province, or other political subdivision of government" (emphasis added).

Some participants in the conference on novel issues in the PRC case's argued that, nonetheless, the countervailing duty law effectively excludes nonmarket economy countries. Briefly, the argument is that the countervailing duty law, based as it is on market principles, is aimed at neutralizing the results of government intervention in an otherwise free market. Such intervention is viewed as unfair if it confers a competitive advantage. Moreover, such intervention can affect the allocation of resources within an economy, and consequently international trade, by providing assistance to comparatively inefficient producers. In nonmarket economy countries, on the other hand, government intervention is the rule rather than the exception. There can be no misallocation of resources according to market principles since there is no free market. Under such conditions, arguably, there is no identifiable or measurable deviation from private market behavior.

The answer to the question of whether our countervailing duty law applies to nonmarket or state-controlled economies is not clear, as is evident from the diversity of opinion on this issue. Yet the weight of informed opinion and our narrow reading of the Act disposes us to not exclude nonmarket or state-controlled economies from its application without further review in each particular case. Therefore, we will proceed to examine the particular allegations and facts in this case.

Analysis of Programs

In initiating a countervailing duty proceeding on carbon steel wire rod from Poland, we undertook to investigate whether certain practices by the government of Poland confer bounties or grants within the meaning of section 303 of the Act. As stated above, we investigated similar programs in the countervailing duty proceedings on textiles, apparel and related products from the PRC. However, since petitioners withdrew the petition in that case, this our first opportunity to determine preliminarily whether practices by a government of a so-called nonmarket economy country confer countervailable benefits.

The administration of the countervailing duty law since 1890 has relied on identifying and quantifying the benefits which arise when producers or their products receive differential treatment. Export bounties or grants arise, for example, when export sales are benefited over domestic sales. When the benefits are not contingent upon export, we identify domestic benefits based in part on differential treatment of an industry or group of industries within that country.

If an industry or industry group is treated preferentially, we need to quantify any benefit conferred. In our countervailing duty cases to date—which have all involved products from market economies—we have used prices or costs to calculate benefits. In market economies, government subsidies generally cause changes in prices facing a firm—the prices paid for goods or services purchased, or the prices received for sale of a product. In our investigations, we usually seek the price the firm would have paid or received absent government intervention or preferentiality. Any difference between that "benchmark" price, based on operation of a market, and what the firm pays or receives as a result of the government intervention is a subsidy. For example, for a government loan, the amount of the subsidy is determined by comparing the terms of the government loan with the terms of the loan that could be obtained in the borrowing market.

Our reliance on prices to quantify subsidies is based on the economic theory that prices are the signals to which firms react. For example, receiving a higher price, and hence higher profits, for export sales will induce a firm to increase its exports. In imposing countervailing duties, we seek to remove any incremental revenue brought about by government intervention, and thus neutralize the effect of that intervention on the price signal.

Recognizing that prices—the subsidized price and the "benchmark" price—are the tools we use to identify subsidies and to calculate the benefits arising from them, we approach this investigation with a certain amount of apprehension. We know through our

experience in administering the antidumping law that prices in nonmarket economy countries usually are economically unrealistic. It is because nonmarket economy prices are suspect that the Congress directed us not to use them in antidumping investigations.

In nonmarket economies, central planners typically set the prices of goods without any regard to their economic value. As such, these prices do not reflect scarcity or abundance. For example, when a product is scarce in a market economy, its price will increase. In a nonmarket economy, however the price of the scarce good will not go up unless the central planners mandate a new, higher price. Even if we can identify an internally set price, that price does not have the same meaning as a price in a market economy.

Furthermore, to the extent that a firm's activity is centrally directed, prices and profits do not stimulate increased production. A decision to increase or decrease output must be consistent with the central plan. There is no apparent correlation between the demand, price and production when the latter two factors are centrally controlled.

Thus, our traditional tools—prices—are of questionable value in determining whether the programs alleged by petitioners are bounties or grants within the meaning of the Act. Recognizing this, we have analyzed the programs used in two steps. First, we have asked whether the program would confer a subsidy in a market economy. Second, we have asked whether our first conclusion would differ if the program were conducted in a nonmarket economy country.

Our analysis of the specific allegations follow:

I. Programs Preliminarily Determined Not To Confer Bounties or Grants

We preliminarily determine that the following programs do not confer bounties or grants within the meaning of the Act upon the manufacturers, producers or exporters in Poland of carbon steel wire rod:

A. Multiple Exchange Rates

Petitioners allege that the government of Poland employs a multiple exchange rate system. They identify seven different exchange rates: a basic valuta-zloty rate, an effective valuta-zloty, an effective rate, a resident travel rate, a nonresident investment rate, a tourist rate and a black market rate. Petitioners contend that such a multiple exchange rate constitutes, in and of itself, a countervailable benefit.

The Polish government responded that it sets only one rate of exchange vis-a-vis the U.S. dollar, and applies that rate uniformly to all exports and imports to and from capitalist countries. Between the member states of the Council of Mutual Economic Assistance (CMEA), which include Bulgaria, Czechoslovakia, Hungary, Rumania, Poland, Mongolia, Cuba, Vietnam, USSR and East Germany (all of which are nonmarket economies), trade is conducted in transferable rubles, which have no interrelation with the U.S. dollar rate of exchange.

For purposes of analysis, we have separated these exchange rates into three categories: Non-trade rates, possibly including the official exchange rate; and exchange rate for trade with capitalist countries; and an alleged exchange rate for trade with socialist countries. Petitioners have asked us to compare the exchange rate for trade with capitalist countries with the official rate.

1. *The exchange rate trade with capitalist countries and the official exchange rate may be the same.* Based upon historical information submitted by petitioners, in 1979 the effective or trade rate was 31.16 zloties to the U.S. dollar (31.16:1), while the official rate was 3.32:1. However, petitioners' information also indicates that the official rate was inoperative.

More recent information (submitted by petitioners and respondent) indicates that a higher rate applies to trade with capitalist countries (both imports and exports), and this rate is also characterized by the Bank of America as the official exchange rate. Hence, comparing the official rate and the rate for trade with capitalist countries would yield no bounty or grant, since these rates are apparently identical.

2. *The exchange rate for trade with capitalist countries does not confer a bounty or grant even if different from the official (non-trade) rate.* Our experience in investigating the use of multiple exchange rates has been limited to market economy countries. Certain of our findings have been reviewed by the courts. Based on our earlier determinations and judicial precedent, we believe that when trade (importation and exportation) takes place at a uniform rate, no countervailable benefit is conferred.

The most recent findings that are pertinent to this issue have arisen in investigations of the Mexican dual exchange rate, where there is a controlled rate and a free rate. In our final affirmative determination on carbon black from Mexico (48 FR 29567), we stated:

> We verified that Mexican reporters of carbon black who receive U.S. dollars for their products must deposit these dollars in accounts where they are exchanged for pesos at a Mexican government "controlled" rate. Currently, the controlled rate is significantly less than the "free" rate of exchange. Thus, the program appears to harm rather than benefit Mexican exporters.

Thus, we have found that when dollar earnings are repatriated at a lower rate (compared to some higher rate), the exporter appears to have been harmed. We must then ask, if the exporter repatriated his dollar at a rate higher than another rate, would he be benefitted?

Petitioners have cited two cases where the Department of the Treasury found differential exchange rates applied to export transactions to confer countervailable subsidies. The first was *F.W. Woolworth* v. *United States*, 115 F. 2d 348 (CCPA 1940), where the U.S. importer was able to purchase the goods in question with a combination of registered Reichsmarks and "free" Reichsmarks. The different marks were bought at different costs to the U.S. purchaser.

The second case raised by petitioners was *Wool Tops from Uruguay* (18 FR. 2653, 1953). At that time, Uruguayan government maintained a multiple exchange rate system whereby exporters of different goods repatriated their dollar earnings at different exchange rates; *i.e.*, different rates applied to different goods.

In both *F.W. Woolworth* and *Uruguayan Wool Tops*, different exchange rates were applied to trade transactions. In *F.W Woolworth*, different rates were applied to the same transaction. In *Wool Tops*, different rates were applied depending on the good exported.

In calculating the bounty or grant which arose in the *Wool Tops* case, Treasury compared the exchange rate applicable to wool tops with the weighted average of all the exchange rates applicable to other merchandise trade. When this determination was reviewed by the court, the Court of Customs and Patent Appeals ("CCPA") disagreed with Treasury's use of 1953 exchange rates and 1951 trade levels, but did not disapprove of its essential methodology. *Energetic Worsted Corp.* v. *United States*, 53 CCPA 36 (1966). Implicit in Treasury's methodology is that if trade (importation and exportation) occurred at a uniform rate, no subsidy would arise.

To the extent that a uniform trade rate differs from a non-trade rate (or rates), the economic effect would be identical

to a devaluation or revaluation of the currency. If the uniform trade rate were less than the non-trade rate, it would be equivalent to a revaluation. If the uniform trade rate were higher than the non-trade rate, it would be equivalent to a devaluation.

As recognized by the CCPA in *United States* v. *Hammond Lead Products, Inc.*, 440 F.2d 1024, 1030 (1971), a devaluation in a market economy stimulates exports, but, nevertheless, does not confer a subsidy:

> Nothing, at least in the short range, stimulates exports more than a devaluation of the currency. After a devaluation, the exporter gets more home currency for each article he exports, and with it can purchase more goods and services at home, and he obtains these benefits largely at the expense of a producer for the home market who now gets paid in devalued currency. Yet we do not assess countervailing duties against countries which devalue their currency.

The purpose of an exchange rate is to provide equilibrium between one country's economy and the world economy. When an exchange rate is overvalued, strain is placed on the entire economy. If uncorrected, the problem progressively worsens until the country becomes unable to pay for necessary imports. Devaluation restores the necessary international equilibrium. Thus, it is an economy-wide adjustment, and as such is not a bounty or grant.

Based on our experience and judicial precedent, we do not believe that, in a market economy country, a multiple exchange rate system including both a non-trade exchange rate (or rates) and a uniform exchange rate applied to trade transactions confers a bounty or grant within the meaning of the Act. To the extent that the uniform exchange rate applied to trade has any meaning in a nonmarket economy country, like Poland, the economic effects would be identical to those in a market economy. The divergence between a trade rate and non-trade rate (or rates) would be equivalent to a devaluation or revaluation, and hence we would not find the multiple exchange rate to confer a subsidy.

Moreover, we are doubtful that the exchange rate is meaningful to Polish enterprises. The exchange rate is a price—it is the dollar price of a zloty or the zloty price of a dollar. Like any other price in a nonmarket economy country, this price can be set without regard to economic value.

Furthermore, we have no reason to believe that the exchange rate has any effect on the decision to export. A central plan determines what and how much will be exported. As such, a devaluation will not stimulate exports over domestic sales in Poland or otherwise distort trade.

Therefore, we have concluded that if the exchange rate was meaningful, Poland's multiple exchange rate system—in applying a unified rate for trade with capitalist countries—would not confer a subsidy. Furthermore, to the extent that the exchange rate does not affect the decision to export, it would not confer a subsidy. Thus we preliminarily determine that the coexistence of a uniform trade exchange rate and non-trade rates in Poland does not confer a bounty or grant within the meaning of the Act.

3. *The existence of a separate exchange rate for trade with socialist countries does not confer a bounty or grant.* Petitioners have identified separate exchange rates for Polish transactions with capitalist countries and for Polish transactions with socialist countries. They contend that this favors exports to the U.S. over exports to the USSR. In its response the Polish government confirmed that trade between the CMEA member states is conducted in transferable rubles.

In analyzing whether such a system confers a bounty or grant, we cannot find a market analogy for different exchange rates applied to different currency zones. No market economy participates in any extensive way in the CMEA transferable ruble system.

The existence of different rates for trade with market and nonmarket economies is not at all surprising. In effect, Poland is selling its carbon steel wire rod for two different things: (1) western hard currencies which are convertible; and (2) socialist, non-convertible currencies. Convertible currencies and non-convertible currencies are by definition different. Hence, we would not expect them to have the same price.

Furthermore, we have concluded that the transferable rule is not actually an exchange rate at all. It is an accounting unit used as a collective currency between the CMEA countries. Its purchasing power is secured by planned trade and stable prices during the year.

The use of a collective currency, rather than a national currency ensures the quality of these trading partners. Without it, one country possibly could achieve dominance and compel the other countries to adapt to its economy.

The system operates with the help of the International Bank for Economic Cooperation (IBEC). Settlements in the collective currency are made by transferring resources from the account of one country in the IBEC to that of another. Therefore, actual cash is unnecessary since the process is carried out completely through the account books.

The credit nature of the transferable ruble is exhibited in that the value of the goods in transferable rubles is credited to the exporter's account in IBEC; the goods' importer must repay this value with countershipments of other goods and services. The transferable ruble is secure against inflation and any adverse non-socialist influence because it is only issued as an international payment in the amount the member country really needs to pay for the goods and service. The repayment by shipments of goods once the credit has been exended must take place in a certain time period. This ensures the return of resources loaned and keeps the accounts balanced.

Therefore: (1) The transferable ruble is not an actual exchange rate; (2) there is no means by which to convert this ruble into one of the CMEA currencies or into Western currency; (3) it is predominantly used for trade within the CMEA countries on a barter basis, (trade which is based on need rather than the market prices); and (4) its primary purpose is to keep the balance of payments between the CMEA countries on an even base, through internal settlements. Thus, we preliminarily determine that a multiple exchange rate, as described in the instant case does not confer a bounty or grant within the meaning of the Act.

B. Currency Retention Scheme

Petitioners allege that Polish government maintains a currency retention scheme. This program allows Polish exporting companies to keep an average of 20 percent of their hard foreign currency. Petitioners argue that because it is the exporters who retain these hard currency funds for their own use, the scheme provides an incentive to increase exports. Petitioners further state that the officials in Poland view the scheme as an "important export incentive".

The Polish government responded that Poland does allow enterprises to retain part of their hard currency earnings from exports of goods and services. The foreign exchange earnings are accumulated in a special account in a domestic bank, and may be used by the enterprise to finance imports. The Council of Ministers defines the levels of hard currency retained and how the funds will be used for particular enterprises. The Ministry of Foreign Trade establishes the rate of retention for a given year for particular enterprises.

Whether Polish officials characterize the establishment of a currency

retention scheme as an incentive to export is not determinative. As the CCPA has stated:

> Neither form nor nomenclature being decisive in determining whether a bounty or grant has been conferred, *it is the economic result* of the foreign government's action *which controls* (emphasis added).

United States v. *Zenith Radio Corp.*, 64 CCPA 130, 138–9, 562 F.2d 1209, 1216 (1977), *aff'd*, 437 U.S. 443 (1978).

As petitioners have pointed out, currency retention schemes which involve a bonus on exports are enumerated in Annex A to the Agreement on Interpretation of Articles VI, XVI, XXIII of the General Agreement on Tariffs and Trade ("GATT Subsidies Code"). Therefore, they are included as subsidies under the provisions of 19 U.S.C. sections 1677(5) and 1303.

We have never countervailed a currency retention program and have no precedent to guide us. Therefore, we must first determine whether a currency retention program in a market economy country would confer a bounty or grant.

The value of owning foreign currency is that it allows the owner to purchase foreign goods. Foreign currency is a claim on foreign goods. This would be true in a nonmarket economy country as well as in a market economy country.

When foreign currency holdings are limited, two possible benefits could arise: (1) The foreign currency could possibly be sold—at a premium—to others desiring foreign goods; or (2) by holding the foreign currency, the owner would not have to apply to monetary authorities to obtain it. The record in this investigation lacks any evidence that Polish enterprises sell their retained hard currency at a premium. Consequently, the only advantage of having foreign exchange is a lessening of the process for securing permission to use foreign exchange (*i.e.*, a reduction in "red tape"). In other words, the enterprise does not have to apply for the hard foreign currency, but rather has direct access to an account already containing it.

Because there is no reasonable basis for quantifying such an advantage, such alleged benefits do not constitute a bounty or grant. As the CCPA stated in *Hammond Lead*, *supra*, at 1028:

> If the Court does not know how to calculate the bounty or grant, how does it know there was one?

The record in this investigation lacks any evidence of amounts of benefits allegedly conferred on the product under investigation. Further, we are unaware of any reasonable methodology to quantify any benefit presumed to arise from the mere reduction of "red tape." Therefore, we conclude that because any attempt to quantify the alleged benefit would be arbitrary and capricious, the Polish currency retention scheme does not confer a bounty or grant.

Of course, as required by the Act, we will verify information relating to currency retention prior to our final determination.

C. Price Equalization Payments

Petitioners contend further subsidies are provided to exporters through price equalization payments. Payments allegedly are made to the foreign trade organizations and those industrial enterprises involved in foreign trade to compensate them for losses incurred when the Foreign Trade Ministry sells their goods for less than their domestic price. The payments come in the form of both direct price equalization payments and subject payments, the latter provided to compensate enterprises for particular lines of production planned to be unprofitable.

The government of Poland denies that any bounties or grants are conferred through price equalization payments, but does not clearly deny that such a program exists.

As discussed above, prices in a nonmarket economy country are typically administered; they are set by the government without regard to the market value of the goods. When taken in isolation, such a system is potentially sustainable. However, once that nonmarket economy country participates in international trade, especially with market economy countries where prices reflect value, it becomes apparent that the government-set prices are artificial or distorted.

Application of a uniform exchange rate does nothing to remove the discrepancies that exist between the market and nonmarket prices. Instead, the market-determined prices of imports have to be translated into the nonmarket economy's internal prices. Similarly, internal prices must be translated into world market prices when the nonmarket economy's goods are exported. Otherwise, either the nonmarket economy country will not be able to export because its internal prices exceed market prices, or it will forego profits because internal prices are significantly lower than market prices.

The information provided in the record indicates that nonmarket economy countries use different mechanisms to translate or equate the market-determined external prices and the centrally administered domestic prices. For example, trade adjustment coefficients multiply a static exchange rate for all goods to ensure competitiveness for each good. Price equalization payments are added to the static exchange rate to achieve the same result.

A price equalization scheme, when perfectly administered, would function much like an exchange rate system designed to maintain or preserve the artificial internal prices of the nonmarket economy country. Government payments would exist solely to equate the revenue earned on an export transaction with revenue earned on domestic transactions. In such a system, we would expect the level of payment to vary as often and to the extent that the world market price does. Similarly, the payment would have to be altered if the administered domestic price was changed.

At this point, we ask ourselves whether a similar system in a market economy country would be countervailable. Governments of market economy countries typically set or administer the prices of some goods. When those prices are set above the world market price, producers of those goods have no incentive to export (at least until domestic demand is satisfied) unless the government raises the price they receive for their exports to at least the level of the domestic price. The government can raise the price these producers receive from selling abroad by a direct payment on export.

Clearly, we would contervail such payments by the government of a market economy. Implicit in our decision to do so is, however, our recognition that the export payments work to stimulate production which is not economically justifiable. Economic theory tells us that when a price is set too high, too much of the good will be produced. The artificially high price allows economically inefficient, high-cost producers to make a profit they would otherwise not make. The payments that the government makes on exports, which are necessary to induce the producers to sell abroad, are the evidence that economically inefficient production is occurring.

In a nonmarket economy country, we cannot assume that an export price payment evidences the existance of economically inefficient production. As discussed above, domestic prices in a nonmarket economy do not affect an enterprise's decision of what and how much to produce and to export. Not only is the price for its output centrally set, but its costs, which are the prices paid for inputs, are also centrally determined. With administrated costs and prices,

profits are effectively administrated as well.

We cannot even assume that profits have meaning in a nonmarket economy system. When resources are allocated centrally—*i.e.*, enterprises are told how much to produce and how to distribute their production—it is the central authorities who determines whether "revenues" cover "losses".

The prices attributed to inputs and the prices attributed to output, whether for the domestic or export market, are virtually accounting devices.

Where prices and profits do not have some economic meaning, we cannot find programs like Poland's price equalization scheme to confer a subsidy. Thus we preliminarily determine that Poland's price equalization payments do not confer a bounty or grant within the meaning of the Act.

Program Preliminarily Determined Not To Be Used

Adjustment Coefficient

Petitioners further allege that Poland uses "adjustment coefficients" or "exchange multipliers" (hereinafter referred to as "coefficients") to adjust its varied exchange rates depending on the industry involved and the currency regime of the trading partner. Petitioners argue that the exchange rate is multiplied by these coefficients to convert the foreign currency earned in a given transaction into Polish zloties. Through the use of these coefficients, the Polish government allegedly promoted certain exports.

The Polish government responded that it does not apply adjustment coefficients or foreign trade multiplies to foreign currency earned.

On the basis we preliminarily determine that adjustment coefficients do not confer a bounty or grant within the meaning of the Act. Uses of a foreign government's response in our preliminary determination is consistent with our normal practice. As required by the Act in all investigations, we intend to verify the information provided by the Polish governemnt using our normal procedures. If we are not able to verify the Polish assertions, we will of course use the best information available in reaching our final determination.

Verification

In accordance with section 776(a) of the Act, we intend to verify all information used in reaching our final determination.

Public Comment

In accordance with section 355.35 of the Commerce Department Regulations, if requested, we will hold a public hearing to afford interested parties an opportunity to comment on this preliminary determination at 10 a.m. on March 19, 1984, at the U.S. Department of Commerce, Room 3092, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230. Individuals who wish to participate in the hearing must submit a request to the Deputy Assistance Secretary for Import Administration, Room 3099B, at the above address within 10 days of this notice's publication. Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; (3) the reason for attending; and (4) a list of the issues to be discussed. In addition, prehearing briefs must be submitted to the Deputy Assistant Secretary by March 13, 1984. Oral presentations will be limited to issues raised in the briefs. All written views should be filed in accordance with 19 CFR 355.46 at the above address and in at least 10 copies.

Dated: February 16, 1984.

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 84-4761 Filed 2-22-84; 8:45 am]

BILLING CODE 3510-DS-M

[C-435-001]

Carbon Steel Wire Rod From Czechoslovakia; Preliminary Negative Countervailing Duty Determination

AGENCY: International Trade Administration/Import Administration; Commerce.

ACTION: Notice.

SUMMARY: We preliminarily determine that Congress did not exempt nonmarket economy countries from the countervailing duty law. However, based on the facts presented in the record, we preliminarily find that no benefits which constitute bounties or grants within the meaning of the countervailing duty law are being provided to manufacturers, producers, or exporters in Czechoslovakia of carbon steel wire rod. Therefore, we have not ordered the U.S. Customs Service to suspend liquidation. If we proceed normally with this preliminary determination, we will announce the final determination by May 1, 1984.

EFFECTIVE DATE: February 23, 1984.

FOR FURTHER INFORMATION CONTACT: Laura Campobasso, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, D.C. 20230, telephone (202) 377-3174.

SUPPLEMENTARY INFORMATION:

Preliminary Determination

Based upon our investigation to date, we preliminarily determine that nonmarket economy countries are not exempt *per se* from the countervailing duty law. Yet, in this case there is no reason to believe or suspect that certain benefits which constitute bounties or grants within the meaning of section 303 of the Tariff Act of 1930, as amended ("the Act"] are being provided to manufacturers, producers or exporters in Czechoslovakia of carbon steel wire rod. For the purposes of this investigation, the following programs are preliminarily found not to confer bounties or grants:

—a multiple exchange rate system whereby different rates are applied to (1) commercial transactions with capitalist countries, (2) commercial transactions with socialist countries, and (3) non-commercial transactions and tourism;
—a currency retention program that allows exporting companies to keep a certain portion of their hard-currency export earnings;
—conversion coefficients that increase the effective exchange rate; and
—tax exemption on foreign trade earnings.

Case History

On November 23, 1983, we received a petition from counsel for Atlantic Steel Company, Continental Steel Company, Georgetown Steel Corporation and Raritan Steel Company, filed on behalf of the United States industry producing carbon steel wire rod. In compliance with the filing requirements of section 355.26 of the Commerce Regulations (19 CFR 355.26), petitioners allege that manufacturers, producers or exporters in Czechoslovakia of carbon steel wire rod receive, directly or indirectly, benefits which constitute bounties or grants within the meaning of section 303 of the Act.

On December 13, 1983, we initiated a countervailing duty investigation on those allegations. We stated we would issue a preliminary determination on or before February 16, 1984.

On December 16, 1983, we presented a questionnaire concerning the allegations in the petition to the government of Czechoslovakia in Washington, D.C. Communications were received from the Czech government January 13 and February 13, 1984. Neither addresses the allegations made by petitioners.

The Czech government has chosen not to cooperate in this investigation. Our practice, when a respondent refuses to reply, is to use the "best information available", according to section 776(b) of the Act. This is frequently adverse to respondent.

In this case we have analyzed petitioners' submissions, the government of Poland's response and other information in the record. Our preliminary determination is based on our interpretation of that information, and not on petitioners' interpretation.

Petitioners have provided us with supplemental information, some of which was received too late for use in the preliminary determination. We will take it into account in reaching our final determination.

Czechoslovakia is not a "country under the Agreement" within the meaning of section 701(b) of the Act. Therefore, section 303 of the Act applies to this investigation. Under this section, because the merchandise under investigation is dutiable, the domestic industry is not required to allege that, and the U.S. International Trade Commission is not required to determine whether, imports of this product cause or threaten to cause material injury to a U.S. industry.

Scope of Investigation

For the purpose of this investigation, the term "*carbon steel wire rod*" covers a coiled, semi-finished, hot-rolled carbon steel product of approximately round solid cross section, not under 0.20 inch nor over 0.74 inch in diameter, not tempered, not treated, not partly manufactured; and valued over 4 cents per pound, as currently provided for in item 607.17 of the *Tariff Schedule of the United States*. The period for which we are measuring alleged subsidization is January 1 to December 31, 1983.

Applicability of the Act

This proceeding raises the issue, not yet decided, whether section 303 (or the countervailing duty provisions of Title VII) applies to a nonmarket economy country. Based upon our review of the countervailing duty provisions of the Act, their legislative history, and briefs filed in the conference on novel issues held November 3-4, 1983, in connection with our countervailing duty investigations of textiles, apparel and related products from the People's Republic of China (PRC) (48 FR 48600 and 48092), we believe that Congress did not exempt nonmarket economy countries from section 303 of the Act. By its terms, that section applies to "*any* country, dependency, colony, province, or other political subdivision of government" (emphasis added).

Some participants in the conference on novel issues in the PRC cases argued that, nonetheless, the countervailing duty law effectively excludes nonmarket economy countries. Briefly, the argument is that the countervailing duty law, based as it is on market principles, is aimed at neutralizing the results of government intervention in an otherwise free market. Such intervention is viewed as unfair if it confers a competitive advantage. Moreover, such intervention can affect the allocation of resources within an economy, and consequently international trade, by providing assistance to comparatively inefficient producers. In nonmarket economy countries, on the other hand, government intervention is the rule rather than the exception. There can be no misallocation of resources according to market principles since there is no free market. Under such conditions, arguably there is no identifiable or measurable deviation from private market behavior.

The answer to the question of whether our countervailing duty law applies to nonmarket or state-controlled economies is not clear, as is evident from the diversity of opinion on this issue. Yet the weight of informed opinion and our narrow reading of the Act disposes us to not exclude nonmarket or state-controlled economies from its application without further review in each particular case. Therefore, we will proceed to examine the particular allegations and facts in this case.

Analysis of Programs

In initiating a countervailing duty proceeding on carbon steel wire rod from Czechoslovakia, we undertook to investigate whether certain practices by the government of Czechoslovakia confer bounties or grants within the meaning of section 303 of the Act. As stated above, we investigated similar programs in the countervailing duty proceedings on textiles, apparel and related products from PRC. However, since petitioners withdrew the petition in that case, this is our first opportunity to determine preliminarily whether practices by a government of a so-called nonmarket economy country confer countervailable benefits.

The administration of the countervailing duty law since 1890 has relied on identifying and quantifying the benefits which arise when producers or their products receive differential treatment. Export bounties or grants arise, for example, when export sales are benefitted over domestic sales. When the benefits are not contingent upon export, we identify domestic benefits based in part on differential treatment of an industry or group of industries within that country.

If an industry or industry group is treated preferentially, we need to quantify and benefit conferred. In our countervailing duty cases to date—which have all involved products from market economies—we have used prices or costs to calculate benefits. In market economies, government subsidies generally cause changes in prices facing a firm—the prices paid for goods or services purchased, or the prices received for sale of a product. In our investigations, we usually seek the price the firm would have paid or received absent government intervention or preferentiality. Any difference between that "benchmark" price, based on operation of a market, and what the firm pays or receives as a result of the government intervention is a subsidy. For example, when a government offers a preferential loan, the amount of the subsidy is determined by comparing the terms of the government loan with the terms of the loan that could be obtained in the borrowing market.

Our reliance on prices to quantify subsidies is based on the economic theory that prices are the signals to which firms react. For example, receiving a higher price, and hence higher profits, for export sales will induce a firm to increase its exports. In imposing countervailing duties, we seek to remove any incremental revenue brought about by government intervention, and thus neutralize the effect of that intervention on the price signal.

Recognizing that prices—the subsidized price and the "benchmark" price—are the tools we use to identify subsidies and to calculate the benefits arising from them, we approach this investigation with a certain amount of apprehension. We know through our experience in administering the antidumping law that prices in nonmarket economy countries usually are economically unrealistic. It is because nonmarket economy prices are suspect that the Congress directed us not to use them in antidumping investigations.

In nonmarket economies, central planners typically set the prices of goods without any regard to their economic value. As such, these prices do not reflect scarcity or abundance. For example, when a product is scarce in a market economy, its price will increase. In a nonmarket economy, however, the price of the scarce good will not go up

unless the central planners mandate a new, higher price. Even if we can identify an internally set price, that price does not have the same meaning as a price in a market economy.

Furthermore, to the extent that a firm's activity is centrally directed, prices and profits do not stimulate increased production. A decision to increase or decrease output must be consistent with the central plan. There is no apparent correlation between the demand, price and production when the latter two factors are centrally controlled.

Thus, our traditional tools—prices—are of questionable value in determining whether the programs alleged by petitioners are bounties or grants within the meaning of the Act. Recognizing this, we have analyzed the programs used in two steps. First, we have asked whether the program would confer a subsidy in a market economy. Second, we have asked whether our first conclusion would differ if the program were conducted in a nonmarket economy country.

Our analysis of the specific allegations follow:

I. Programs Preliminarily Determined Not To Confer Bounties or Grants

We preliminarily determine that the following programs do not confer bounties or grants within the meaning of the Act upon the manufacturers, producers or exporters in Czechoslovakia of carbon steel wire rod:

A. Multiple Exchange Rates

Petitioners allege that the government of Czechoslovakia employs a multiple exchange rate system. They identify eight different exchange rates: an official rate, an effective rate applicable to most commercial transactions, a rate for nonresident currency accounts set up by foreign companies in Czechoslovakia, a tourist rate, a clearing rate for commercial trade with "socialist" countries, a resident travel rate, a black market rate and a rate for Tuzex-Koruna (bearer coupons denominated in U.S. dollars). Petitioners contend that such a multiple exchange rate constitutes, in and of itself, a countervailable benefit.

For purposes of analysis we have separated these exchange rates into three categories: non-trade rates, possibly including the official exchange rate; an exchange rate for trade with capitalist countries; and an alleged exchange rate for trade with socialist countries. Petitioners have asked us to compare the exchange rate for trade with capitalist countries with the official rate.

1. *The exchange rate for trade with capitalist countries and may be lower than the official exchange rate.* Information submitted by petitioners indicates that as of June 30, 1979, the offical rate was 5.97 Koruna/$1. The effective rate, applicable to most transactions, was 5.45 Koruna/$1. Hence, a comparison of the official rate and the rate for trade with capitalist countries would yield no bounty or grant, since the official rate is less than the effective rate applied to most transactions with capitalist countries.

2. *The exchange rate for trade with capitalist countries does not confer a bounty or grant even if different from the official (non-trade) rate.* Our experience in investigating the use of multiple exchange rates has been limited to market economy countries. Certain of our findings have been reviewed by the courts. Based on our earlier determinations and judicial precedent, we believe that when trade (importation and exportation) takes place at a uniform rate, no countervailable benefit is conferred.

The most recent findings that are pertinent to this issue have arisen in investigations of the Mexican dual exchange rate, where there is a controlled rate and a free rate. In our final affirmative determination on carbon black from Mexico (48 FR 29567), we stated:

> We verified that Mexican exporters of carbon black who receive U.S. dollars for their products must deposit these dollars in accounts where they are exchanged for pesos at a Mexican government "controlled" rate. Currently, the controlled rate is significantly less than the "free" rate of exchange. Thus, the program appears to harm rather than benefit Mexican exporters.

Thus, we have found that when dollar earnings are repatriated at a lower rate (compared to some higher rate) the exporter appears to have been harmed. We must then ask, if the exporter repatriated his dollar at a rate higher than another rate, would he be benefitted?

Petitioners have cited two cases where the Department of the Treasury found differential exchange rates applied to export transactions to confer countervailable subsidies. The first was *F. W. Woolworth* v. *United States*, 115 F.2d 348 (CCPA 1940), where the U.S. importer was able to purchase the goods in questioni with a combination of registered Reichsmarks and "free" Reichsmarks. The different marks were bought at different costs to the U.S. Purchaser.

The second case raised by petitioners was *Wool Tops from Uruguay* (18 FR 2653, 1953). At that time, the Uruguayan government maintained a multiple exchange rate system whereby exporters of different goods repatriated their dollar earnings at different exchange rates; *i.e.*, different rates applied to different goods.

In both *F. W. Woolworth* and *Uruguayan Wool Tops*, different exchange rates were applied to trade transactions. In *F. W. Woolworth*, different rates were applied to the same transaction, In *Wool Tops*, different rates were applied depending on the good exported.

In calculating the bounty or grant which arose in the *Wool Tops* case, Treasury compared the exchange rate applicable to wool tops with the weighted average of all the exchange rates applicable to other merchandise trade. When this determination was reviewed by the court, the Court of Customs and Patent Appeals ("CCPA") disagreed with Treasury's use of 1953 exchange rates and 1951 trade levels, but did not disapprove of its essential methodology. *Energetic Worsted Corp.* v. *United States*, 53 CCPA 36 (1966). Implicit in Treasury's methodology is that if trade (importation and exportation) occurred at a uniform rate, no subsidy would arise.

To the extent that a uniform trade rate differs from a non-trade rate (or rates), the economic effect would be indentical to a devaluation or revaluation of the currency. If the uniform trade rate were less than the non-trade rate, it would be equivalent to a revaluation. If the uniform trade rate were higher than the non-trade rate, it would be equivalent to a devaluation.

As recognized by the CCPA in *United States* v. *Hammond Lead Products, Inc.*, 440 F.2d 1024, 1030 (1971), a devaluation in a market economy stimulates exports but, nevertheless, does not confer a subsidy:

> Nothing, at least in the short range, stimulates exports more than a devaluation of the currency. After a devaluation, the exporter gets more home currency for each article he exports, and with it can purchase more goods and services at home, and he obtains these benefits largely at the expense of a producer for the home market who now gets paid in devalued currency. Yet we do not assess countervailing duties against countries which devalue their currency.

The purpose of an exchange rate is to provide equilibrium between one country's economy and the world economy. When an exchange rate is overvalued, strain is placed on the entire economy. If uncorrected, the problem progressively worsens until the country becomes unable to pay for necessary imports. Devaluation restores

the necessary international equilibrium. Thus, it is an economy-wide adjustment, and as such is not a bounty or grant.

Based on our experience and judicial precedent, we do not believe that, in a market economy country, a multiple exchange rate system including both a non-trade exchange rate (or rates) and a uniform exchange rate applied to trade transactions confers a county or grant within the meaning of the Act. To the extent that the uniform exchange rate applied to trade has any meaning in a nonmarket economy country, like Czechoslovakia, the economic effects would be identical to those in a market economy. The divergence between a trade rate and non-trade rate (or rates) would be equivalent to a devaluation or revaluation, and hence we would not find the multiple exchange rate to confer a subsidy.

Moreover, we are doubtful that the exchange rate is meaningful to Czech enterprises. The exchange rate is a price—it is the dollar price of a koruna or the koruna price of a dollar. Like any other price in a nonmarket economy country, this price can be set without regard to economic value.

Furthermore, we have no reason to believe that the exchange rate has any effect on the decision to export. A central plan determines what and how much will be exported. As such, a devaluation will not stimulate exports over domestic sales in Czechoslovakia or otherwise distort trade.

Therefore, we have concluded that if the exchange rate was meaningful, Czechoslovakia's multiple exchange rate system—in applying a unified rate for trade with capitalist countries—would not confer a subsidy. Furthermore, to the extent that the exchange rate does not affect the decision to export, it would not confer a subsidy. Thus, we preliminarily determine that the coexistence of a uniform trade exchange rate and non-trade rates in Czechoslovakia does not confer a bounty or grant within the meaning of the Act.

3. *The existence of a separate exchange rate for trade with socialist countries does not confer a bounty or grant.* Petitioners have identified separate exchange rates for Czech transactions with capitalist countries and for Czech transactions with socialist countries. They contend that this favors exports to the U.S. over exports to the U.S.S.R.

In analyzing whether such a system confers a bounty or grant, we cannot find a market analogy for different exchange rates applied to different currency zones. No market economy participates in any extensive way in the CMEA transferable rule system.

The existence of different rates for trade with market and nonmarket economies is not at all surprising. In effect, Czechoslovakia is selling its carbon steel wire rod for two different things: (1) Western hard currencies which are convertible; and (2) socialist, non-convertible currencies. Convertible currencies and non-convertible currencies are by definition different. Hence, we would not expect them to have the same price.

Furthermore, we have concluded that the transferable ruble is not actually an exchange rate at all. It is an accounting unit used as a collective currency between CMEA countries. Its purchasing power is secured by planned trade and stable prices during the year.

The use of a collective currency, rather than a national currency, ensures the equality of these trading partners. Without it, one country possibly could achieve dominance and compel the other countries to adapt to its economy.

The system operates with the help of the International Bank for Economic Cooperation (IBEC). Settlements in the collective currency are made by transferring resources from the account of one country in the IBEC to that of another. Therefore, actual cash is unnecessary since the process is carried out completely through the account books.

The credit nature of the transferable ruble is exhibited in that the value of the goods in a transferable ruble is credited to the exporter's account in IBEC; the good's importer must repay this value with countershipments of other goods and services. The transferable ruble is secure against inflation and any adverse non-socialist influence because it is only issued as an international payment in the amount the member country really needs to pay for the goods and service. The repayment by shipments of goods once the credit has been extended must take place in a certain time period. This ensures the return of resources loaned and keeps the accounts balanced.

Therefore: (1) The transferable ruble is not an acutal exchange rate; (2) there is no means by which to convert this ruble into one of the CMEA currencies into Western currency; (3) it is predominantly used for trade within the CMEA countries on a barter basis as described (trade which is based on need rather than the market prices); and (4) its primary purpose is to keep the balance of payments between the CMEA countries on an even base, through internal settlements. Thus, we preliminarily determine that a multiple exchange rate as described in the instant case does not confer a bounty or grant within the meaning of the Act.

B. Currency Retention Scheme

Petitioners allege that the Czech government maintains a currency retention scheme. This program allows Czech exporting companies to keep a certain portion of their hard foreign currency. Petitioners contend that the system is designed to "encourage further exports."

As petitioners have pointed out, currency retention schemes which involve a bonus on exports are enumerated in Annex A to the Agreement on Interpretation of Articles VI, XVI, XXIII of the General Agreement on Tariffs and Trade ("GATT Subsidies Code"). Therefore, they are included as subsidies under the provisions of 19 U.S.C. 1677(5) and 1303.

We have never countervailed a currency retention program and have no precedent to guide us. Therefore, we must first determine whether a currency retention program in a market economy country would confer a bounty or grant.

The value of owning foreign currency is that it allows the owner to purchase foreign goods. Foreign currency is a claim on foreign goods. This would be true in a nonmarket economy country as well as in a market economy country.

When foreign currency holdings are limited, two possible benefits could arise: (1) The foreign currency could possibly be sold—at a premium—to others desiring foreign goods; or (2) by holding the foreign currency, the owner would not have to apply to monetary authorities to obtain it. The record in this investigation lacks any evidence that Czech enterprises are able to sell their retained hard currency at a premium. Consequently, the only advantage of having foreign exchange is a lessening of the process for securing permission to use foreign exchange (*i.e.*, a reduction in "red tape"). In other words, the enterprise does not have to apply for the hard foreign currency, but rather has direct access to an account already containing it.

Because there is no reasonable basis for quantifying such an advantage, such alleged benefits do not constitute a bounty or grant. As the CCPA stated in *Hammond Lead, supra*, at 1028:

> If the Court does not know how to calculate the bounty or grant, how does it know there was one?

The record in this investigation lacks any evidence of amounts of benefits allegedly conferred on the product under investigation. Further, we are unaware of any reasonable methodology to

quantify any benefit presumed to arise from the mere reduction of "red tape." Therefore, we conclude that because any attempt to quantify the alleged benefit would be arbitrary and capricious the Czech currency retention scheme does not confer a bounty or grant.

Of course, as required by the Act, we will verify information relating to currency retention prior to our final determination.

C. Trade Conversion Coefficients

Petitioners contend further subsidies are provided to exporters through trade conversion coefficients. Different coefficients are allegedly applied to the official exchange rate depending on the industry involved and the currency regime of the trading partner.

As discussed above, prices in a nonmarket economy country are typically administered; they are set by the government without regard to the market value of the goods. When taken in isolation, such a system is potentially sustainable. However, once that nonmarket economy country participates in international trade, especially with market economy countries where prices reflect value, it becomes apparent that the government-set prices are artificial or distorted.

Application of a uniform exchange rate does nothing to remove the discrepancies that exist between the market and nonmarket prices. Instead, the market-determined prices of imports have to be translated into the nonmarket economy's internal prices. Similarly, internal prices must be translated into world market prices when the nonmarket economy's goods are exported. Otherwise, either the nonmarket economy country will not be able to export because its internal prices exceed market prices, or it will forego profits because internal prices are significantly lower than market prices.

The information provided in the record indicates that nonmarket economy countries use different mechanisms to translate or equate the market-determined external prices and the centrally administered domestic prices. For example, price equalization payments are added to the static exchange rate to ensure competitiveness for each good. Trade conversion coefficients multiply a static exchange rate to achieve the same result.

When perfectly administered, a conversion coefficient scheme would function much like an exchange rate system designed to maintain or preserve the artificial internal prices of the nonmarket economy country. The government-set conversion coefficients would exist solely to equate the revenue earned on an export transaction with revenue earned on domestic transactions. In such a system, we would expect the coefficient to vary as often and to the extent that the world market price does. Similarly, the coefficient would have to be altered if the administered domestic price were changed.

At this point, we ask ourselves whether a similar system in a market economy country would be countervailable. Governments of market economy countries typically set or administer the prices of some goods. When those prices are set above the world market price, producers of those goods have no incentive to export (at least until domestic demand is satisfied) unless the government raises the price they receive for their exports to at least the level of the domestic price. The government can raise the price these producers receive from selling abroad by applying a coefficient.

Clearly, we would countervail such a program by the government of a market economy. Implicit in our decision to do so, however, our recognition that the program would work to stimulate production which is not economically justifiable. Economic theory tells us that when a price is set too high, too much of the good will be produced. The artificially high price allows economically inefficient, high-cost producers to make a profit they would otherwise not make. The premium on export made available by the governments programs, which is necessary to induce the producers to sell abroad, is the evidence that economically inefficient production is occurring.

In a nonmarket economy country, we cannot assume that a conversion coefficient evidences the existence of economically inefficient production. As discussed above, domestic prices in a nonmarket economy do not affect an enterprise's decision of what and how much to produce and to export. Not only is the price for its output centrally set, but its costs, which are the prices paid for inputs, are also centrally determined. With administered costs and prices, profits are effectively administered as well.

We cannot even assume that profits have meaning in a nonmarket economy system. When resources are allocated centrally—*i.e.*, enterprises are told how much to produce and how to distribute their production—it is the central authorities who determine whether "revenues" cover "losses." The prices attributed to inputs and the prices attributed to output, whether for the domestic or export market, are virtually accounting devices.

Where prices and profits do not have some economic meaning, we cannot find programs like Czechoslovakia's trade conversion coefficients to confer a subsidy. Thus, we preliminarily determine that Czechoslovakia's trade conversion coefficients do not confer a bounty or grant within the meaning of the Act.

Program for Which More Information is Needed

Tax Exemption on Foreign Trade

Petitioners alleged on February 7 in a supplemental submission that this program allows complete tax exemption for foreign trade earnings and is designed to stimulate exports.

We received this allegation too late to provide the Czech government an adequate opportunity to reply before this preliminary determination.

Verification

In accordance with section 776(a) of the Act, we intend to verify all information used in reaching our final determination.

Public Comment

In accordance with section 355.35 of the Commerce Department Regulations, if requested, we will hold a public hearing to afford interested parties an opportunity to comment on this preliminary determination at 10 a.m. on March 20, 1984, at the U.S. Department of Commerce, Room 3092; 14th Street and Constitution Avenue, NW., Washington, D.C. 20230. Individuals who wish to participate in the hearing must submit a request to the Deputy Assistant Secretary for Import Administration, Room 3099B, at the above address within 10 days of this notice's publication. Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; (3) the reason for attending; and (4) a list of the issues to be discussed. In addition, prehearing briefs must be submitted to the Deputy Assistant Secretary by March 13, 1984. Oral presentations will be limited to issues raised in the briefs. All written views should be filed in accordance with 19 CFR 355.46 at the above address and in at least 10 copies.

Dated: February 16, 1984.

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 84-4782 Filed 2-22-84; 8:45 am]

BILLING CODE 3510-DS-M

[C-475-403]

Certain Table Wine From Italy; Initiation of Countervailing Duty Investigation

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: On the basis of a petition filed with the United States Department of Commerce, we are initiating a countervailing duty investigation to determine whether producers or exporters in Italy of certain table wine, as described in the "Scope of Investigation" section of this notice, receive benefits which constitute subsidies within the meaning of the countervailing duty law. We are notifying the United States International Trade Commission (ITC) of this action so that it may determine whether imports of this merchandise are materially injuring, or are threatening to materially injure, a United States industry.

If this investigation proceeds normally, the ITC will make its preliminary determination on or before March 12, 1984, and we will make our preliminary determination on or before April 23, 1984.

EFFECTIVE DATE: February 23, 1984.

FOR FURTHER INFORMATION CONTACT: Gary Taverman, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230, telephone: (202) 377-0161.

SUPPLEMENTARY INFORMATION:

Petition

On January 27, 1984, we received a petition in proper form filed jointly on behalf of the American Grape Growers Alliance for Fair Trade (the Alliance) and its members as individual co-petitioners. As the Alliance itself is not a manufacturer, producer or wholesaler of wine in the United States, and it is unclear whether a majority of the members of the Alliance are engaged in the manufacture, production, or wholesale of wine in the United States, for purposes of this initiation, we consider the petitioners to be those members of the Alliance that are producers or wholesalers of wine in the United States.

In compliance with the filing requirements of § 355.26 of the Commerce Regulations (19 CFR 355.26), the petition alleges that producers or exporters in Italy of certain table wine receive, directly or indirectly, subsidies within the meaning of section 771 of the Tariff Act of 1930, as amended (the Act), and that imports of this merchandise are materially injuring, or threatening to materially injure, a United States industry.

Italy is a "country under the Agreement" within the meaning of section 701(b) of the Act. Title VII of the Act, therefore, applies to this investigation and an injury determination is required.

Initiation

Under section 702(c) of the Act, we must determine, within 20 days after the petition is filed, whether a petition sets forth the allegations necessary for the initiation of a countervailing duty investigation and whether it contains information reasonably available to the petitioner supporting the allegations. We have examined the petition on certain table wine and we have found that the petition meets these requirements.

Therefore, we are initiating a countervailing duty investigation to determine whether the producers or exporters in Italy of certain table wine as described in the "Scope of Investigation" section of this notice receive subsidies. If the investigation proceeds normally, the ITC will make its preliminary determination by March 12, 1984, and we will make our preliminary determination by April 23, 1984.

Scope of Investigation

The merchandise covered by this investigation is certain table wine, defined as still wine produced from grapes containing not over 14 percent alcohol by volume, and in containers each holding not over 1 gallon. This does not include wine categorized by the appropriate Italian authorities as "Denominazione di Origine Controllata." The merchandise covered by this investigation is currently provided for under item numbers 167.3005, 167.3015, 167.3025, 167.3030, 167.3045, and 167.3060 of the *Tariff Schedules of the United States Annotated* (TSUSA).

Allegations of Subsidies

The petition alleges that producers or exporters in Italy of certain table wine receive the following benefits that constitute subsidies:

A. Subsidies received through the European Agricultural Guidance and Guarantee Fund of the European Communities (EC):

1. Distillation subsidies for surplus wine and by-products;
2. Intervention subsidies for placing wine in storage;
3. Export refunds which permit wine produced in the EC to be sold at competitive prices in foreign markets;
4. Grants to grower cooperatives for the replanting or conversion of vineyards to other uses and for; abandonment of vineyards in locations ill-suited to wine production; and
5. Grants for investments in buildings and equipment and for marketing purposes.

B. Subsidies from the Government of Italy:

1. Preferential financing;
2. Subsidies to cover administrative costs incurred by wine cooperatives in certain regions;
3. Preferential interest rates;
4. Financing for cost of operations; and
5. Preferential interest rates for financing export receivables.

C. Subsidies from the Regional Governments of Sicily and Emilia-Romagna:

1. Financial grants for grapes delivered to cooperatives;
2. Financial grants to encourage grape collection at wine cooperatives;
3. Financial grants to increase the availability of low interest rate loans for wine making and bottling;
4. Financial grants for wine marketing;
5. Aids and interest subsidies to wine cooperatives for bottling plants;
6. Refinancing connected with sterilization of land, greenhouse construction, and modernization of agricultural installations;
7. Aid for the planting of vines;
8. Supplementary interest rate subsidies for farms;
9. Grants to partially cover the cost of projects approved but not funded by the European Agricultural Guidance and Guarantee Fund;
10. Aid for a syndicate aimed at obtaining the best return for table grapes and other aids to cooperatives;
11. Aids for wine/grape growers to cover administrative costs;
12. Aids to encourage industrial use of grapes;
13. Reimbursement of 50 percent of the costs of selling "Italia" grapes in non-EC countries;
14. Investment aids for processing and marketing;
15. Matching funds to build bottling plants;
16. Grants for modernization of processing and marketing structures; and
17. Capital grants and interest rate reductions.

D. Regional Subsidies in Latium, Tuscany, and Apulia: Petitioners also allege that increased wine production in

the regions of Latium, Tuscany, and Apulia suggest there are similar subsidies there.

E. Cassa per il Mezzogiorno Program: We will also include in this investigation the above regional development program, previously determined to confer subsidies in the Administrative Review in the Countervailing Duty Order on Float Glass from Italy (48 FR 25255) and the Final Affirmative Countervailing Duty Determination on Certain Steel Products from Italy (47 FR 39356). Subsidies conferred through this program include grants, preferential loans, state and local income tax reductions and exemptions, and social security tax reductions.

Allegations of Subsidies Insufficient To Warrant Investigation

1. Export refunds received through the European Agricultural Guidance and Guarantee Fund for the European Communities;

2. Preferential interest rates for financing export receivables received from the government of Italy; and

3. Subsidies to Latium, Tuscany and Apulia, as described above.

Information from the petitioners states that the export refunds are not available on wine sold to the United States. Since we assess countervailing duties on merchandise entering the United States, we must measure subsidies on the same basis. Thus, as set forth in the countervailing duty investigation of Canned Tuna from the Philippines (48 FR 50133), when faced with an export subsidy, we measure the amount of the export subsidy conferred on the merchandise entering the United States, whenever possible, and divide this by U.S. exports to obtain an *ad valorem* subsidy rate. Likewise, we do not believe a subsidy is conferred upon exports to the U.S. when only exports to other countries benefit from an export subsidy program. Moreover, when an export subsidy is only conferred on countries other than the U.S., the recipient has no incentive to increase its exports to the U.S.

With regard to the alleged preferential rates of interest for financing export receivables, this allegation consists solely of an unsubstantiated allegation contained in a countervailing duty petition before the government of Canada and does not constitute a sufficient allegation of subsidy to warrant an investigation.

In addition, there is no evidence in the petition to reinforce the allegation that there are other unspecified subsidies to other regions in Italy. Absent some particular information regarding this allegation, we will not include this allegation in the initiation.

Notification to the ITC

Section 702(d) of the Act requires us to notify the ITC of this action and to provide it with the information we used to arrive at this determination. We will notify the ITC and make available to it all nonprivileged and nonconfidential information. We will also allow the ITC access to all privileged and confidential information in our files, provided it confirms that it will not disclose such information either publicly or under an administrative protective order without the written consent of the Deputy Assistant Secretary for Import Administration.

Preliminary Determination by the ITC

The ITC will determine by March 12, 1984, whether there is a reasonable indication that imports of certain table wine from Italy are materially injuring, or are threatening to materially injure, a United States industry. If its determination is negative, this investigation will terminate; otherwise it will proceed according to the statutory procedures.

Dated: January 16, 1984.

John L. Evans,

Acting Deputy Assistant Secretary for Import Administration.

[FR Doc. 84-4763 Filed 2-22-84; 8:45 am]

BILLING CODE 3510-DS-M

[C-427-402]

Certain Table Wine From France; Initiation of Countervailing Duty Investigation

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: notice.

SUMMARY: On the basis of a petition filed with the United States Department of Commerce, we are initiating a countervailing duty investigation to determine whether producers or exporters in France of certain table wine, as described in the "Scope of Investigation" section of this notice, receive benefits which constitute subsidies within the meaning of the countervailing duty law. We are notifying the United States International Trade Commission (ITC) of this action so that it may determine whether imports of this merchandise are materially injuring, or are threatening to materially injure, a United States Industry. Petitioners allege that "critical circumstances" exist; however, petitioners provided insufficient information to support this allegation. Therefore, we will not undertake to determine whether "critical circumstances" exist. If this investigation proceeds normally, the ITC will make its preliminary determination on or before March 12, 1984, and we will make our preliminary determination on or before April 23, 1984.

EFFECTIVE DATE: February 23, 1984.

FOR FURTHER INFORMATION CONTACT: John J. Kenkel, Office of Investigations, Import Administration, International Trade Administration, United States Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230, telephone: (202) 377-3464.

SUPPLEMENTARY INFORMATION:

Petition

On January 27, 1984, we received a petition in proper form filed jointly on behalf of the American Grape Grower Alliance for Fair Trade (the Alliance) and its members as individual co-petitioners. As the Alliance itself is not a manufacturer, producer, or wholesaler of wine in the United States, and it is unclear whether a majority of the members of the Alliance are engaged in the manufacture, production, or wholesale of wine in the United States, for purposes of this initiation we consider the petitioners to be those members of the Alliance that are producers or wholesalers of wine in the United States.

In compliance with the filing requirements of § 355.26 of the Commerce Regulations (19 CFR 355.26), the petition alleges that producers or exporters in France of certain table wine receive, directly or indirectly, subsidies within the meaning of section 771 of the Tariff Act of 1930, as amended (the act), and that imports of this merchandise are materially injuring, or threatening to materially injure, a United States industry.

France is a "country under the Agreement" within the meaning of section 701(b) of the Act. Title VII of the Act, therefore, applies to this investigation and an injury determination is required.

Initiation

Under section 702(c) of the Act, we must determine, within 20 days after the petition is filed, whether a petition sets forth the allegations necessary for the initiation of countervailing duty investigation and whether it contains information reasonably available to the petitioner supporting the allegations. We

have examined the petition on certain table wine, and we have found that the petition meets these requirements.

Therefore, we are initiating a countervailing duty investigation to determine whether the producers or exporters in France of certain table wine as described in the "Scope of Investigation" section of this notice receive subsidies. If the investigation proceeds normally, the ITC will make its preliminary determination by March 12, 1984, and we will make our preliminary determination by April 23, 1984.

Scope of Investigation

The merchandise covered by this investigation is certain table wine, defined as still wine produced from grapes containing not over 14 percent alcohol by volume, and in containers each holding not over 1 gallon. This does not include wine categorized by the appropriate French authorities as "Appelation d'Origine Controlee" or "Vins Delimites de Qualite Superieure." The merchandise covered by this investigation is currently provided for under item numbers 167.3005, 167.3015, 167.3025, 167.3030, 167.3045, and 167.3060 of the *Tariff Schedules of the United States Annotated* (TSUSA).

Allegations of Subsidies

The petition alleges that producers or exporters in France of certain table wine receive the following benefits that constitute subsidies:

A. Subsidies received through the European Agricultural Guidance and Guarantee Fund of the European Communities (EC):

1. Distillation subsidies for surplus wine and by-products;
2. Intervention subsidies for placing wine in storage;
3. Export refunds which permit wine produced in the EC to be sold at competitive prices in foreign markets;
4. Grants to grower cooperatives for the replanting or conversion of vineyards to other uses and for abandonment of vineyards in locations ill-suited to wine production; and
5. Grants for investments in buildings and equipment and for marketing purposes.

B. Subsidies from the Government of France:

1. Preferential financing for new vineyards, the improvement of vineyards, and the purchase of equipment and other facilities by cooperatives;
2. Short- and Long-term low-interest financing for working capital; and
3. Various insurance benefits to protect French exports.

Allegations of Subsidies Insufficient to Warrant Investigation

Export refunds received through the European Agricultural Guidance and Guarantee Fund for the European Communities Information from the petitioners states that the export refunds are not available on wine sold to the United States. Since we assess countervailing duties on merchandise entering the United States, we must measure subsidies on the same basis. Thus, as set forth in the countervailing duty investigation of Canned Tuna from the Philippines (48 FR 50133), when faced with an export subsidy, we measure the amount of the export subsidy conferred on the merchandise entering the United States, whenever possible, and divide this by U.S. exports to obtain an *ad valorem* subsidy rate. Likewise, we do not believe a subsidy is conferred upon exports to the U.S. when only exports to other countries benefit from an export subsidy program. Moreover, when an export subsidy is only conferred on countries other than the U.S., the recipient has no incentive to increase its exports to the U.S.

Critical Circumstances

Petitioners also allege that critical circumstances exist with respect to wine imported from France. However, information supplied in the petition does not demonstrate massive imports of table wine over a relatively short period as required in section 703(e)(1)(B) of the Act. That information shows that for the period 1980–1982, shipments of table wine from France grew from 14.4 to 27.6 million liters, but that this represents an increase from 1.05 percent to 1.83 percent of total wine shipments in the U.S. during the same period. No information is presented for 1983 or any part thereof. Since this information does not support petitioners' allegation of critical circumstances, we will not investigate this allegation at this time.

Notification to the ITC

Section 702(d) of the Act requires us to notify the ITC of this action and to provide it with the information we used to arrive at this determination. We will notify the ITC and make available to it all nonprivileged and nonconfidential information. We will also allow the ITC access to all privileged and confidential information in our files, provided it confirms that it will not disclose such information either publicly or under an administrative protective order without the written consent of the Deputy Assistant Secretary for Import Administration.

Preliminary Determination by the ITC

The ITC will determine by March 12, 1984, whether there is a reasonable indication that imports of certain table wines from France are materially injuring, or are threatening to materially injure, a United States industry. If its determination is negative, this investigation will terminate; otherwise it will proceed according to the statutory procedures.

Dated: January 16, 1984.

John L. Evans,

Acting Deputy Assistant Secretary for Import Administration.

[FR Doc. 84-4764 Filed 2-22-84; 8:45 am]

BILLING CODE 3510-DS-M

[A-427-401]

Certain Table Wine From France; Initiation of Antidumping Duty Investigation

AGENCY: International Trade Administration, Import Administration, Commerce.

ACTION: Notice.

SUMMARY: On basis of a petition filed in proper form with the United States Department of Commerce, we are initiating an antidumping duty investigation to determine whether certain table wine from France is being, or is likely to be, sold in the United States at less than fair value. We are notifying the United States International Trade Commission (ITC) of this action so that it may determine whether imports of this product are materially injuring, or are threatening to materially injure, a United States industry. The allegation of sales at less than fair value includes an allegation that home market sales are being made at less than the cost of production in France. Also, critical circumstances have been alleged under section 733(e) of the Tariff Act of 1930, as amended (19 U.S.C. 1673) (the Act). If this investigation proceeds normally, the ITC will make its preliminary determination on or before March 12, 1984, and we will make ours on or before July 5, 1984.

EFFECTIVE DATE: February 23, 1984.

FOR FURTHER INFORMATION CONTACT: Terry Link, Office of Investigations, Import Administration, International Trade Administration, United States Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone (202) 377-0189.

SUPPLEMENTARY INFORMATION:

The Petition

On January 27, 1984, we received a petition in proper form filed jointly on behalf of the American Grape Growers Alliance for Fair Trade ("Alliance") and its members as individual copetitioners. As the Alliance itself is not a manufacturer, producer or wholesaler of wine in the United States, and it is unclear whether a majority of the members of the Alliance are engaged in the manufacture, production or wholesale of wine in the United States, for purposes of this initiation, we consider the petitioners to be those members of the Alliance that are producers or wholesalers of wine in the United States.

In compliance with the filing requirements of section 353.36 of the Commerce Regulations (19 CFR 353.36), the petition alleges that imports of the subject merchandise from France are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Tariff Act of 1930, as amended (19 U.S.C. 1673) (the Act), and that these imports are materially injuring, or are threatening to materially injure, a United States industry. Petitioners calculate United States price based on 1982 Bureau of Census statistics with deductions for inland freight, wharfage, and insurance. Since petitioners were unable to secure home market or third country prices for the merchandise subject to this investigation, foreign market value was based on the United States producer's costs for the merchandise adjusted, where appropriate, for differences in France. Using this comparison, petitioners show a dumping margin of 53 to 54 percent for France.

Initiation of Investigation

Under section 732(c) of the Act, we must determine, within 20 days after a petition is filed, whether it sets forth the allegations necessary for the initiation of an antidumping duty investigation and whether it contains information reasonably available to the petitioners supporting the allegations. We have examined the petition on certain table wine, and we have found that it meets the requirements of section 732(b) of the Act. Therefore, in accordance with section 732 of the Act, we are initiating an antidumping investigations to determine whether certain table wine from France is being, or is likely to be, sold in the United States at less than fair value. Although the petitioners alleged that home market sales are being made at less than the cost of production of the subject merchandise in France, they provided no home market or third country prices on which to base their allegation. Petitioners also alleged that critical circumstances exist; however, they provided no information to support this allegation. Therefore, we will not undertake to determine whether there are sales at less than the cost of production, or whether critical circumstances exist, at this time. If our investigation proceeds normally, we will make our preliminary determination by July 5, 1984.

Scope of Investigation

The merchandise covered by this investigation is certain table wine, defined at still wine produced from grapes, containing not over 14 percent of alcohol by volume, and in containers each holding not over one gallon. This does not include wine categorized by the appropriate authorizes in France as "Appelation d'Origine Controllee" or "Vins Delimites de Qualite Superieure." Certain table wine is currently classified under item number 167.3005, 167.3015, 167.3025, 167.3030, 167.3045 and 167.3060 of the *Tariff Schedules of the United States Annotated* (TSUSA).

Notification to ITC

Section 732(d) of the Act requires us to notify the ITC of this action and to provide it with the information we used to arrive at this determination. We will notify the ITC and make available to it all nonprivileged and nonconfidential information. We will also allow the ITC access to all privileged and confidential information in our files, provided it confirms that it will not disclose such information either publicly or under an administrative protective order without the consent of the Deputy Assistant Secretary for Import Administration.

Preliminary Determination by ITC

The ITC will determine by March 12, 1984, whether there is a reasonable indication that imports of certain table wine from France are materially injuring, or are likely to materially injure, a United States industry. If its determinations is negative, the investigation will terminate; otherwise, it will proceed according to the statutory procedures.

Dated: February 16, 1984.

John L. Evans,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 84-4765 Filed 2-22-84; 8:45 am]

BILLING CODE 3510-DS-M

[A-475-402]

Certain Table Wine from Italy; Initiation of Antidumping Duty Investigation

AGENCY: International Trade Administration, Import Administration, Commerce.

ACTION: Notice.

SUMMARY: On the basis of a petition filed in proper form with the United States Department of Commerce, we are initiating an antidumping duty investigation to determine whether certain table wine from Italy is being, or is likely to be, sold in the United States at less than fair value. We are notifying the United States International Trade Commission (ITC) of this action so that it may determine whether imports of this product are materially injuring, or are threatening to materially injure, a United States industry. The allegation of sales at less than fair value includes an allegation that home market sales are being made at less than the cost of production in Italy. Also, critical circumstances have been alleged under section 733(e) of the Tariff Act of 1930, as amended (19 U.S.C. 1673) (the Act). If this investigation proceeds normally, the ITC will make its preliminary determination on or before March 12, 1984, and we will make ours on or before July 5, 1984.

EFFECTIVE DATE: February 23, 1984.

FOR FURTHER INFORMATION CONTACT: Terry Link, Office of Investigations, Import Administration, International Trade Administration, United States Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone (202) 377-0189.

SUPPLEMENTARY INFORMATION:

The Petition

On January 27, 1984, we received a petition in proper form filed jointly on behalf of the American Grape Growers Alliance for Fair Trade ("Alliance") and its members as individual co-petitioners. As the Alliance itself is not a manufacturer, producer or wholesaler of wine in the United States, and it is unclear whether a majority of the members of the Alliance are engaged in the manufacture, production or wholesale of wine in the United States, for purposes of this initiation, we consider the petitioners to be those members of the Alliance that are producers or wholesalers of wine in the United States.

In compliance with the filing requirements of section 353.36 of the

Commerce Regulations (19 CFR 353.36), the petition alleges that imports of the subject merchandise from Italy are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Tariff Act of 1930, as amended (19 U.S.C. 1673) (the Act), and that these imports are materially injuring, or are threatening to materially injure, a United States industry. Petitioners calculate United States price based on 1982 Bureau of Census statistics with deductions for export certificate costs and inland freight. Since petitioners were unable to secure home market or third country prices for the merchandise subject to this investigation, foreign market value was based on the United States producer's costs for the merchandise adjusted, where appropriate, for differences in Italy. Using this comparison, petitioners show a dumping margin of 80 percent for Italy.

Initiation of Investigation

Under section 732(c) of the Act, we must determine, within 20 days after a petition is filed, whether it sets forth the allegations necessary for the initiation of an antidumping duty investigation and whether it contains information reasonably available to the petitioners supporting the allegations. We have examined the petition on certain table wine, and we have found that it meets the requirements of section 732(b) of the Act. Therefore, in accordance with section 732 of the Act, we are initiating an antidumping investigation to determine whether certain table wine from Italy is being, or is likely to be, sold in the United States at less than fair value. Although the petitioners alleged that home market sales are being made at less than the cost of production of the subject merchandise in Italy, they provided no home market or third country prices on which to base their allegation. Petitioners also alleged that critical circumstances exist; however, they provided no information to support this allegation. Therefore, we will not undertake to determine whether there are sales at less than the cost of production, or whether critical circumstances exist, at this time. If our investigation proceeds normally, we will make our preliminary determination by July 5, 1984.

Scope of Investigation

The merchandise covered by this investigation is certain table wine, defined as still wine produced from grapes, containing not over 14 percent of alcohol by volume, and in containers each holding not over one gallon. This does not include wine categorized by the appropriate authorities in Italy as "Denominazione di Origine Controllata". Certain table wine is currently classified under item numbers 167.3005, 167.3015, 167.3025, 167.3030, 167.3045, and 167.3060 of the *Tariff Schedules of the United States Annotated* (TSUSA).

Notification to ITC

Section 732(d) of the Act requires us to notify the ITC of this action and to provide it with the information we used to arrive at this determination. We will notify the ITC and make available to it all nonprivileged and nonconfidential information. We will also allow the ITC access to all privileged and confidential information in our files, provided it confirms that it will not disclose such information either publicly or under an administrative protective order without the consent of the Deputy Assistant Secretary for Import Administration.

Preliminary Determination by ITC

The ITC will determine by March 12, 1984, whether there is a reasonable indication that imports of certain table wine from Italy are materially injuring, or are likely to materially injure, a United States industry. If its determination is negative, the investigation will terminate; otherwise, it will proceed according to the statutory procedures.

Dated: February 16, 1984.

John L. Evans,

Acting Deputy Assistant Secretary for Import Administration.

[FR Doc. 84-4766 Filed 2-22-84; 8:45 am]

BILLING CODE 3510-DS-M

Computer Systems Technical Advisory Committee; Partially Closed Meeting

A meeting of the Computer Systems Technical Advisory Committee will be held March 7, 1984, 2:00 p.m., Herbert C. Hoover Building, Room 7808, 14th Street and Constitution Avenue, NW., Washington, D.C. The Committee advises the Office of Export Administration with respect to technical question which affect the level of export controls applicable to computer systems or technology.

General Session

1. Opening remarks by the Chairman.
2. Presentation of papers or comments by the public.
3. Review of progress on Committee's 1984 annual plan.
4. Report on current work program of the subcommittees:
   a. Foreign Availability,
   b. Hardware, and
   c. Licensing Procedures.
5. New Business.
6. Action items underway.
7. Action items due at next meeting.

Executive Session

Discussion of matters properly classified under Executive Order 12356, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

The General Session of the meeting will be open to the public and a limited number of seats will be available. To the extent time permits, members of the public may present oral statements to the Committee. Written statements may be submitted at any time before or after the meeting.

The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on February 6, 1984, pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended by Section 5(c) of the Government In The Sunshine Act, Pub. L. 94-409, that the matters to be discussed in the Executive Session should be exempt from the provisions of the Federal Advisory Committee Act relating to open meetings and public participation therein, because the Executive Session will be concerned with matters listed in 5 U.S.C. 552b(c)(1) and are properly classified under Executive Order 12356.

A copy of the Notice of Determination to close meetings or portions thereof is available for public inspection and copying in the Central Reference and Records Inspection Facility, Room 6628, U.S. Department of Commerce, Telephone: 202-377-4217. For further information or copies of the minutes contact Margaret A. Cornejo (202) 377-2583.

Dated: February 16, 1984.

Milton M. Baltas,

Director of Technical Programs, Office of Export Administration.

[FR Doc. 84-4767 Filed 2-22-84; 8:45 am]

BILLING CODE 3510-DT-M

Foreign Availability Subcommittee of the Computer Systems Technical Advisory Committee; Open Meeting

A meeting of the Foreign Availability Subcommittee of the Computer Systems Technical Advisory Committee will be held March 7, 1984, 9:00 a.m., Herbert C. Hoover Building, Room 7808, 14th Street and Constitution Avenue, NW., Washington, D.C. The Foreign Availability Subcommittee was formed to ascertain if certain kinds of

equipment are available in non-COCOM and Communist countries, and if such equipment is available, then to ascertain if it is technically the same or similar to that available elsewhere.

Agenda

1. Opening remarks by the Subcommittee Chairman.
2. Presentation of papers or comments by the public.
3. Test cases for foreign availability certification.
4. Foreign availability organization development.
5. Data base development report.
6. DOD participation in foreign availability certification.
7. Review of the Senate's Export Administration Act legislation and the foreign availability provisions.
8. New Business.
9. Action items underway.
10. Action items due at next meeting.

The meeting will be open to the public with a limited number of seats available. For further information or copies of the minutes contact Margaret A. Cornejo (202) 377–2583.

Dated: February 16, 1984.

Milton M. Baltas,

Director of Technical Programs, Office of Export Administration.

[FR Doc. 84-4769 Filed 2-22-84; 8:45 am]

BILLING CODE 3510-DT-M

Hardware Subcommittee of the Computer Systems Technical Advisory Committee; Closed Meeting

A meeting of the Hardware Subcommittee of the Computer Systems Technical Advisory Committee will be held March 8, 1984, 9:30 a.m., Herbert C. Hoover Building, Room 3708, 14th Street and Constitution Avenue, NW., Washington, D.C. The Hardware Subcommittee was formed to continue the work of the performance Characteristics and Performance Measurements Subcommittee, pertaining to (1) maintenance of the processor performance tables and further investigation of total systems performance; and (2) investigation of array processors in terms of establishing the significance of these devices and determining the differences in characteristics of various types of these devices.

The Subcommittee will meet only in executive session to discuss matters properly classified under Executive Order 12356, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

A Notice of Determination to close meetings or portions of meetings of the Subcommittee to public on the basis of 5 U.S.C. 552b(c)(1) was approved on February 6, 1984, in accordance with the Federal Advisory Committee Act. A copy of the Notice is available for public inspection and copying in the Central Reference and Records Inspection Facility, Room 6628, U.S. Department of Commerce, (202) 377–4217.

FOR FURTHER INFORMATION CONTACT: Mrs. Margaret A. Cornejo (202) 377–2583.

Dated: February 16, 1984.

Milton M. Baltas,

Director of Technical Programs, Office of Export Administration.

[FR Doc. 84-4770 Filed 2-22-84; 8:45 am]

BILLING CODE 3510-DT-M

Licensing Procedures Subcommittee of the Computer Systems Technical Advisory Committee; Open Meeting

A meeting of the Licensing Procedures Subcommittee of the Computer Systems Technical Advisory Committee will be held March 7, 1984, 11:00 a.m., Herbert C. Hoover Building, Room 7808, 14th Street and Constitution Avenue, NW., Washington D.C. The Licensing Procedures Subcommittee was formed to review the procedural aspects of export licensing and recommend areas where improvements can be made.

Agenda

1. Opening remarks by the Subcommittee Chairman.
2. Presentation of papers or comments by the public.
3. Report on raising the threshold levels.
4. Cost benefit study of alternate strategies.
5. OEA response to:
   a. Procedures for exhibits.
   b. Acceleration of post-COCOM procedures.
   c. Designated point-of-contact for technical consultation with exporters in order to establish pre-agreement on the technical parameters of export items.
6. New Business.
7. Action items underway.
8. Action items due at next meeting.

The meeting will be open to the public with a limited number of seats available. For further information or copies of the minutes contact Margaret A. Cornejo (202) 377–2583.

Dated: February 16, 1984.

Milton M. Baltas,

Director of Technical Programs, Office of Export Administration.

[FR Doc. 84-4768 Filed 2-22-84; 8:45 am]

BILLING CODE 3510-DT-M

National Oceanic and Atmospheric Administration

Marine Mammals; Issuance of General Permits; Federazione Nazional delle Impese di Pesca, et al.

On February 10, 1984 general permits to incidentally take marine mammals during commercial fishing operations in 1984 were issued to:

1. The Federazione Nazional delle Impese di Pesca, Rome, Italy, in Category 1: Towed or Dragged Gear to take up to 5 harbor seals and 10 cetaceans in the North Atlantic Ocean squid fishery.

2. The Asociacion Nacional de Armadores de Buques Congeladores de Pesquerias Varias, Vigo, Spain, in Category 1: Towed or Dragged Gear, to take up to 5 harbor seals and 10 cetaceans in the North Atlantic Ocean squid fishery.

3. The VEB Fish Fang Rostock German Democratic Republic in Category 1: Towed or Dragged Gear to take up to 8 harbor seals and 10 cetaceans in the North Atlantic Ocean.

All takings are incidental to commercial fishing operations within the United States Fishery Conservation Zone, pursuant to 50 CFR 216.24 (45 FR 72187–72196).

These general permits are available for public review in the Office of the Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street NW., Washington, D.C.

Dated: February 16, 1984.

Richard B. Roe,

Director, Office of Protected Species and Habitat Conservation, National Marine Fisheries Service.

[FR Doc. 84-4770 Filed 2-22-84; 8:45 am]

BILLING CODE 3510-22-M

North Pacific Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

ACTION: Notice of public meetings.

SUMMARY: Two working groups of the North Pacific Fishery Management Council will meet in Seattle, Washington, during the week of March 5. The Inter-council Salmon Coordinating Committee will meet on Thursday, March 8, beginning at 9 a.m., in the auditorium of the Northwest and Alaska Fisheries Center, NMFS, 2725 Montlake Boulevard, East. On Friday,

March 9, a workgroup on Council/Alaska State Board of Fisheries working procedures will begin at 9 a.m., in Room 438, at the Center.

The Inter-council Salmon Coordinating Committee, consisting of representatives of the North Pacific Fishery Management Council; Alaska Department of Fish and Game; Pacific Fishery Management Council, Washington Department of Fisheries, and the Oregon Department of Fish and Wildlife, was created to ensure and facilitate the coordinated planning, development, and implementation of salmon management activities of mutual concern to the North Pacific and Pacific Fishery Management Councils, and to ensure full and complete communication between them. Subjects to be discussed will include organization of the committee; the need for and role of a coastwide technical team; facilitation of interagency dialogue; interactions with Canada, and future meetings.

The Council's workgroup on Board/Council working procedures was developed to standardize meeting procedures for joint meetings of the Board and Council when they consider management of fisheries of concern to both the State of Alaska and the North Pacific Fishery Management Council. Procedures for the late March meeting of the Board and the Council will be discussed at this workgroup meeting.

FURTHER INFORMATION: Clarence Pautzke, Deputy Director, North Pacific Fishery Management Council, P.O. Box 103136, Anchorage, Alaska 99510, Telephone: (907) 274–4563.

Dated: February 16, 1984.

Roland Finch,

Director, Office of Fisheries Management, National Marine Fisheries Service.

[FR Doc. 84–4712 Filed 2–22–84; 8:45 am]

BILLING CODE 3510-22-M

National Technical Information Service

Intent To Grant; Exclusive Patent License

The National Technical Information Service (NTIS), U.S. Department of Commerce, intends to grant to California Citrus Producers, Inc., having a place of business at Lindsay, California, an exclusive right to manufacture, use, and sell products embodied in the invention, "Novel Strain of *Corynebacterium Fascians* and Use Thereof to Reduce Limonoid Bitterness in Citrus Products," U.S. Patent Application Serial No. 456,954. The patent rights in this invention have been assigned to the United States of America, as represented by the Secretary of Commerce.

The proposed exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 41 CFR 101–4.1. The proposed license may be granted unless, within sixty days from the date of this published Notice, NTIS receives written evidence and argument which establishes that the grant of the proposed license would not serve the public interest.

Inquiries, comments and other materials relating to the proposed license must be submitted to the Office of Government Inventions and Patents, NTIS, Box 1423, Springfield, VA 22151.

Douglas J. Campion,

Patent Licensing, Office of Government Inventions and Patents, U.S. Department of Commerce, National Technical Information Service.

[FR Doc. 84–4721 Filed 2–22–84; 8:45 am]

BILLING CODE 3510-04-M

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Science Board Task Force on New Generation Computing Applications; Advisory Committee Meeting

The Defense Science Board Task Force on New Generation Computing Applications will meet in open session on 30 March 1984 at the Rockefeller University, New York, New York.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Research and Engineering on scientific and technical matters as they affect the perceived needs of the Department of Defense.

At the meeting on 30 March 1984 the Task Force will conduct a review of the Defense Department's programs to apply the emerging capacity of computers to contribute to military programs and issues. It will attempt to identify areas where the expected many orders of magnitude improvements in computing power can be of aid to the Defense establishment.

Persons interested in attending should contact Commander R. B. Ohlander, Task Force Executive Secretary, Telephone: (202) 696–5051. Space will be awarded on a first come first served basis.

Dated: February 16, 1984.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 84–4729 Filed 2–22–84; 8:45 am]

BILLING CODE 3810-01-M

Privacy Act of 1974; Deletions of and Amendments to Notices for Systems of Records; Corrections

In FR Doc. 84–3883 appearing at pages 5170 in the issue of Friday, February 10, 1984, please make the following corrections:

a. In column three of page 5170, change the system designator "A012. 09aDASG" to read "A01012.09aDASG."

b. In column one of page 5171, change the system designator "A0319.DACA" to read, "A0319.01DACA".

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

February 16, 1984.

[FR Doc. 84–4728 Filed 2–22–84; 8:45 am]

BILLING CODE 3810-01-M

Department of the Air Force

USAF Scientific Advisory Board; Cancellation of 25 June–6 July Summer Study at National Academy of Sciences Woods Hole Study Center

The USAF Scientific Advisory Board has cancelled the Summer Study scheduled 25 June through 6 July 1984, at the National Academy of Sciences Woods Hole Study Center, Woods Hole, MA. Any government organization having a requirement for the use of this facility during that timeframe should contact Major Christopher A. Waln, HQ USAF/NB, Washington, DC 20330, (202) 697–8404 for more information.

Winnibel F. Holmes,

Air Force Federal Register Liaison Officer.

[FR Doc. 84–4722 Filed 2–22–84; 8:45 am]

BILLING CODE 3910-01-M

Defense Intelligence Agency

Privacy Act of 1974; Amendments to the Notice for a System of Records

AGENCY: Defense Intelligence Agency, DOD.

ACTION: Amendments to the notice for a system of records.

SUMMARY: The Defense Intelligence Agency proposes to amend and update the notice for a system of records subject to the Privacy Act of 1974. The system notice as amended is set forth below.

DATES: The amendment will be effective March 26, 1984, unless public comments are received which result in a contrary determination.

ADDRESS: Send comments to: Deputy Director for Management and Operations, Defense Intelligence Agency, Washington, DC 20301.

FOR FURTHER INFORMATION CONTACT: Mrs. Helen E. Shuford, (RTS-1), Defense Intelligence Agency, Washington, DC 20301 Telephone: (202) 695-0364.

SUPPLEMENTARY INFORMATION: The Defense Intelligence Agency notices for systems of records subject to the Privacy Act of 1974, as amended, (5 U.S.C. 552a) were published in the **Federal Register** at FR Doc. 83-12048 (48 FR 25950) June 6, 1984.

The system notice has been rewritten to clarify its contents and to update the information contained therein.

This change does not require an altered system report (5 U.S.C. 552a(o)).

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

February 16, 1984.

L DIA 1728

SYSTEM NAME:

Southeast Asia Operational Casualty Records

SYSTEM LOCATION:

Defense Intelligence Agency, Washington, D.C. 20301.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals identified as casualties in Southeast Asia and other persons of Department of Defense interest because of their substantive or alleged knowledge of the status of the casualties.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records maintained by this system include, but are not limited to operational and information reports, biographic records, personal statements and correspondence, interviews and media reports.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 552; 5 U.S.C. 5512; 5 U.S.C. 5513; 5 U.S.C. 5514; 5 U.S.C 5584; 5 U.S.C. 5705; 10 U.S.C. 2274; 10 U.S.C. 2776; 31 U.S.C. 3322; 31 U.S.C. 3527; 31 U.S.C. 3702; 31 U.S.C. 3711; 31 U.S.C. 3718; 37 U.S.C. 1007; 40 U.S.C. 721-729.

PURPOSE(S):

Information is collected to develop a detailed factural and viable data base concerning Southeast Asian casualties.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM INCLUDING CATEGORIES OF USERS, AND THE PURPOSE OF SUCH USES:

Information in this system will be used to produce evaluated information to be provided to agencies and offices within the Department of Defense concerned with casualty matters and to Federal agencies at the national level as background for the promulgation of national policy. Disclosures are made under the Freedom of Information Act.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Manual in paper files and automated on magnetic tape.

RETRIEVABILITY:

By name.

SAFEGUARDS:

Records are maintained in a restricted access building protected by security guards and are stored in a secured vaulted work area. Records are accessible only to authorized personnel who are properly screened, cleared and trained in the protection of privacy information.

RETENTION AND DISPOSAL:

Records in this system will be retained in office files until such time as the Secretary of Defense and/or the Executive Office terminates the effort. Records will then be transferred to the Washington National Records Center where they will be reviewed by the Defense Intelligence Agency at five year intervals for continued retention or destruction by shredding or tearing or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Deputy Director for Management and Operations, Defense Intelligence Agency, Washington, D.C. 20301.

NOTIFICATION PROCEDURE:

To obtain information as to whether this system of records contains information pertaining to yourself, you must submit a written request to: The Freedom of Information Office (RTS-1), Defense Intelligence Agency, Washington, D.C. 20301. You must include in your request your full name, current address, telephone number and social security account number or date of birth.

RECORD ACCESS PROCEDURES:

All requests for copies of records pertaining to yourself must be in writing. You must include in your request: your full name, current address, telephone number and social security account number or date or birth. Also, you should state that whatever cost is involved is acceptable or acceptable up to a specific limit. Requests can be mailed to: RTS-1 (FOIA Office), Defense Intelligence Agency, Washington, D.C. 20301.

CONTESTING RECORD PROCEDURES:

An individual who disagrees with the Agency's initial determination, with respect to his or her request, may file a request for administrative review of the determination. Requests are to be in writing and made within 30 days of the date of notification of the initial determination. The requester shall provide a statement setting forth the reasons for his or her disagreement with the initial determination and provide such additional material to support his or her appeal. Requests can be mailed to: RTS-1 (FOIA Office), Defense Intelligence Agency, Washington, D.C. 20301. An individual who disagrees with the content of any information contained in a record pertaining to him or her, may request an administrative review of the record. Such request should be submitted in writing to the office cited above. It should include a statement setting forth the reasons for his or her disagreement with the contents of the record and it should be augmented by any appropriate supporting documentation.

RECORD SOURCE CATEGORIES:

Information is obtained from Department of Defense and Federal agencies, private citizens, and organizations, resident aliens, foreign sources, and overt publications.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None

[FR Doc. 84-4730 Filed 2-22-84; 8:45 am]

BILLING CODE 3810-01-M

DEPARTMENT OF EDUCATION

Intergovernmental Advisory Council on Education; Meeting

AGENCY: Intergovernmental Advisory Council on Education.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a meeting of the Executive Committee of the Intergovernmental Advisory Council on Education. Notice of this meeting is required under Section 10(a)(2) of the Federal Advisory Committee Act.

DATE: March 10, 1984.

ADDRESS: Quality Inn—Capitol Hill, 415 New Jersey Avenue NW., Washington, D.C. 20001 (Room will be posted.)

FOR FURTHER INFORMATION CONTACT: Laverne Johnson, Intergovernmental Advisory Council on Education, Department of Education, 300 7th Street, SW., Room 513, Washington, D.C. 20202 (202) 245-7925.

SUPPLEMENTARY INFORMATION: The Intergovernmental Advisory Council on Education is established under section 213 of the Department of Education Organization Act (20 U.S.C. 3423). The Council was established to provide assistance and make recommendations to the Secretary and the President concerning intergovernmental policies and relations pertaining to education.

The Executive Committee will meet on March 10 from 9 a.m. to 2 p.m. The proposed agenda includes:

— Evaluation of Intergovernmental Issues
— Development of Upcoming Hearings/ Forums Agenda
— Discussion on Distribution and Dissemination of 1983 Hearing Report

Records are kept of all Council proceedings and are available for public inspection at the Office of the Intergovernmental Advisory Council on Education, Reporters Building, 300 7th Street, SW., Room 513, Washington, D.C.

Signed at Washington, D.C. on Wednesday, February 15, 1984.

Nancy L. Harris,

Acting Deputy Under Secretary for Intergovernmental and Interagency Affairs.

[FR Doc. 84-4779 Filed 2-22-84; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 5372-001]

Tehama County Flood Control & Water Conservation District; Surrender of Preliminary Permit

February 17, 1984.

Take notice that Tehama County Flood Control & Water Conservation District, Permittee for the Thomas Creek Site #1 Power Project, FERC No. 5372, has requested that its preliminary permit be terminated. The preliminary permit for Project No. 5372 was issued on February 17, 1982, and expired on January 31, 1984. The project would have been located on Thomas Creek, in Tehama County, California.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-4822 Filed 2-22-84; 8:45 am]

BILLING CODE 5717-01-M

[Docket No. CP84-211-000]

Texas Eastern Transmission Corp.; Request Under Blanket Authorization

February 17, 1984.

Take notice that on January 26, 1984, Texas Eastern Transmission Corporation (Texas Eastern), P.O. Box 2521, Houston, Texas 77252, filed in Docket No. CP84-211-000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) that Texas Eastern proposes to construct a new sales delivery point to Public Service Electric and Gas Corporation (Public Service) in Middlesex County, New Jersey, under the authorization issued in Docket No. CP82-535-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

Texas Eastern states the estimated cost of constructing the new delivery point is approximately $650,000. Public Service would reimburse Texas Eastern for the cost of the facilities as proposed. Texas Eastern further states that there would be no change in the total volumes covered under the current service agreement with Public Service.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-4823 Filed 2-22-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-266-000]

Washington Water Power Co.; Filing

February 17, 1984.

The filing Company submits the following:

Take notice that on February 8, 1984, Washington Water Power Company (Washington) tendered for filing a service schedule applicable to what Washington refers to as a Surplus Energy Agreement (DWP No. 10583) between Washington and the Department of Water and Power of the City of Los Angeles. Washington states that the Agreement applies to sales of energy which is surplus from Washington's portion of the Centralia coal-fired steam plant.

Washington requests an effective date of May 11, 1981, and therefore requests waiver of the Commission's notice requirements.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulation Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before March 5, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-4824 Filed 2-22-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CI84-204-000, et al.]

Union Oil Company of California, et al.; Applications for Certificates, Abandonment of Service and Petitions to Amend Certificates[1]

February 16, 1984.

Take notice that each of the Applicants listed herein has filed an application or petition pursuant to Section 7 of the Natural Gas Act for authorization to sell natural gas in interstate commerce or to abandon service as described [herein, all as more fully described] in the respective applications and amendments which are

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

on file with the Commission and open to public inspection.

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than 10 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said application should on or before February 27, 1984, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or to be represented at the hearing.

Kenneth F. Plumb,

Secretary.

Docket No. and date filed	Applicant	Purchaser and location	Price per Mcf	Pressure base
C184-204-000 (C164-204-85) B February 9, 1984.	Union Oil of California, Union Oil Center, P.O. Box 7600, Los Angeles, California 90051..	Arkansas Louisiana Gas Company, S. W. Waukomis Field, Garfield County, Oklahoma.	(1).....	.....
C184-210-000 B June 13, 1984.....	Alex W. McCoy Associates, Suite 309, McFarlin Building, Tulsa, Oklahoma 74103..	Arkansas Louisiana Gas Company, S. W. Waukomis Field, Garfield County, Oklahoma..	(2).....	.....

[1] Gathering System no longer available for delivery to Arkansas Louisiana Gas Company due to higher delivery pressure requirements for proposed rollover contracts. Low pressure line of an alternate buyer is available.

[2] Uneconomical to compress gas.

Filing Code: A—Initial Service. B—Abandonment. C—Amendment to add acreage. D—Amendment to delete acreage. E—Total Succession. F—Partial Succession.

[FR Doc. 84-4825 Filed 2-22-84; 8:45 am]

BILLING CODE 6717-01-M

Southwestern Power Administration

Proposed Wholesale Rates for Power and Energy Sold to Tex-La Electric Cooperative, Inc. Opportunity for Public Review and Comment

AGENCY: Southwestern Power Administration, Energy.

ACTION: Notice of proposed wholesale rates for Power and Energy sold to Tex-La and opportunity for Public Review and Comment.

SUMMARY: The Administrator, SWPA, has made a study regarding rates for service under Contract No. 14-02-001-864, which shows the need for a $293,300 increase, as applied to Tex-La, in SWPA annual revenues. This increase is caused by an increase in the costs SWPA experiences in providing service under the contract. Following SWPA's system rate increase on August 1, 1983, TP&L increased it rates to SWPA for service to Tex-La, which rates have been approved by the Public Utility Commission of Texas (Docket No. 5345, dated Septemer 28, 1983). Since SWPA's estimated annual costs of providing service to Tex-La must be recoved by equal revenues from that cooperative the proposed rate increase will not alter the net repayment results of the 1982 Repayment Study. The 1982 Power Repayment Study is, therefore, used as the basis for the proposed rate increase. SWPA's proposed rates to Tex-La would increase system annual revenues by 0.3 percent (less than 1%) or would increase estimated annual revenues from Tex-La by 56 percent from $523,200 to $816,500. An opportunity is presented for Tex-La and other interested parties to receive copies of pertinent information used in developing the proposed rates and to submit written comments. Following review of written comments, the Administrator will finalize these rates, submit them to the Deputy Secretary of Energy for confirmation and approval on an interim basis and also submit them to the Federal Energy Regulatory Commission (FERC) for confirmation and approval on a final basis.

DATES: Written Comments on the proposed rate schedule are due on or before March 26, 1984.

FOR FURTHER INFORMATION CONTACT:

Walter M. Bowers, Director, Power Marketing, Southern Power Administration, Department of Energy, P.O. Box 1619, Tulsa, Oklahoma 74101, (918) 581-7529.

Fred A. Sheap, Office of Power Marketing Coordination, Conservation and Renewable Energy, Department of Energy, 1000 Independence Avenue, SW., Room 6B-104, Washington, D.C. 20585.

SUPPLEMENTARY INFORMATION: The U.S. Department of Energy was created by an Act of the U.S. Congress, Department of Energy Organization Act, Pub. L. 95-91, dated August 4, 1977, and SWPA's activities were transferred from the Department of the Interior to the Department of Energy, effective October 1, 1977. The only party affected by the proposed rate increase is Tex-La Electric Cooperative, Inc. Pursuant to a tripartite power exchange, TP&L purchases 35 MW of hydro peaking power generated at the Denison Dam, a hydroelectric project owned and operated by the U.S. Government, which power is marketed by SWPA, an agency of the United States Department of Energy. TP&L, in turn, sells to SWPA 15 MW of firm power, pursuant to its tariff schedule entitled "SPA Withdrawals," for delivery and sale to Tex-La Electric Cooperative, Inc. The rates that SWPA charges TP&L have been approved on a final basis by FERC effective August 1, 1983. Effective August 19, 1983, TP&L increased its rates to SWPA which have increased SWPA's costs for power sold under the Tex-La contract thus requiring a commensurate increase in the Tex-La contract rate.

The current SWPA rates for power and energy sold to Tex-La (Contract 14-02-001-864) went into effect on April 1, 1979, (FERC Docket No. EF-79-4011). In order to assure more stable rates the SWPA/Tex-La contract provided that SWPA could not change its rates to Tex-La but every five years. April 1, 1984, is the earliest date that SWPA can increase its rates to Tex-La. It is estimated that SWPA expenses (paid to TP&L) will exceed its revenues (received from Tex-La) by $141,200 for the period between August 20, 1983 and April 1, 1984. Historically the SWPA rate to Tex-La has been based on the costs to SWPA for power and energy withdrawn from the TP&L system. Since the above revenue shortfall is directly attributable to Tex-La, SWPA is proposing to recover these costs directly from Tex-La, in equal adjustments to Tex-La's monthly payments for the duration of the above contract (expires June 30,

1987). SWPA's proposed rate increase which only passes SWPA costs to Tex-La is a minor rate adjustment as defined in 10 CFR Part 903. The Administrator has, therefore, determined that written comments will provide adequate opportunity for public participation in the development of the rate proposal. Therefore, written comments are due on or before thirty (30) days following publication of this notice in the **Federal Register**. Five copies of written comments should be submitted to the Administrator, Southwestern Power Administration, U.S. Department of Energy, P.O. Box 1619, Tulsa, Oklahoma, 74101. Five copies should also be submitted to the Assistant Secretary for Conservation and Renewable Energy, 1000 Independence Avenue, S.W., Washington, D.C. 20585. Following review of the written comments, the Administrator will develop rates which will be submitted to the Deputy Secretary of Energy for approval on an interim basis and to FERC for approval on a final basis.

Issued in Tulsa, Oklahoma, February 10, 1984.

William H. Clagett,

Acting Administrator.

[FR Doc. 84-4788 Filed 2-22-84; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[Docket No. ECAO-HA-79-6; ORD-FRL 2530-2]

Asbestos Health Assessment Update

AGENCY: Environmental Protection Agency.

ACTION: Notice of availability of external review draft.

SUMMARY: This notice announces the availability of an external review draft of the *Asbestos Health Assessment Update* document. Those persons interested in commenting on the scientific merit to this document will be able to obtain a copy as follows:

(1) The document will be available in single copy quantity from EPA at that following address: ORD Publications—CERI–FRN, U.S. Environmental Protection Agency, 26 W. St. Clair, Cincinnati, Ohio 45268 [(513) 684–7562].

Requesters should be sure to cite the EPA number assigned to the document, EPA–600/8–84–003A. To receive the document, requesters should send their names and addresses to CERI at this time.

(2) The document will also be available for public inspection and copying at the EPA Library at Waterside Mall, 401 M Street, SW., Washington, D.C. 20460.

Commenters must submit comments in writing, addressed to: Project Officer for Asbestos, Environmental Criteria and Assessment Office (MD–52), U.S Environmental Protection Agency, Research Triangle Park, N.C. 27711.

DATES: The Agency will make this document available for public comment on or about Monday, February 27, 1984. Comments must be received by close of business on Friday, April 27, 1984, or postmarked by that date.

SUPPLEMENTARY INFORMATION: The objective of the *Asbestos Health Assessment Update* is to provide EPA with a sound scientific basis for review and revision, as appropriate, of the national emission standards for asbestos, 40 CFR Part 61, subpart B.

FOR FURTHER INFORMATION CONTACT: Diane Chappell, U.S. Environmental Protection Agency, Environmental Criteria and Assessment Office, MD–52, Research Triangle Park, N.C. 27711 [(919) 541–3637].

Dated: February 14, 1984.

Bernard D. Goldstein,

Assistant Administrator for Research and Development.

[FR Doc. 84-4711 Filed 2-22-84; 8:45 am]

BILLING CODE 6560-50-M

[OW-FRL-2530-4]

Draft General National Pollutant Discharge Elimination System (NPDES); Permit for Long Transfer Facilities in the State of Alaska; Fact Sheet

AGENCY: Environmental Protection Agency.

ACTION: Notice.

SUMMARY: The Regional Administrator of Region 10 is today giving notice of a draft general National Pollutant Discharge Elimination System (NPDES) permit for certain discharges associated with log transfer facilities (LTFs) in Alaska. This general permit proposes effluent limitations, performance standards, best management practices and operational requirements. Facilities defined at 40 CFR Parts 429 and 430 will not be authorized to discharge by this permit. The facilities to be covered by this permit are located within the State of Alaska. EPA proposes that the term of this permit will be five (5) years from date of final issuance.

This draft general NPDES permit is based on the administrative record available for public review at: the EPA Region 10 Office, the EPA Alaska Operations Offices in Anchorage and Juneau, Alaska, and EPA Headquarters in Washington, D.C. (addresses below). The fact sheet, published below, sets for the principal facts and the significant factual, legal, and policy questions considered in the development of the draft permit. Copies of the draft permit and fact sheet are available at the addresses below.

DATES: Interested persons may submit comments on the draft general permit and administrative record to EPA Region 10 at the address below no later than April 2, 1984. A public hearing has been scheduled on March 28, 1984, at 9:00 a.m. Any person wishing to make a statement at the hearing must notify Mr. Wally Scarburg at the address below no later thn 4:00 p.m. on March 20, 1984. If EPA does not receive any such notices the hearing will be cancelled. Persons may telephone any of the four contact people listed below after March 21, 1984, to determine whether the hearing will be held.

ADDRESSES: Comments should be submitted to the Regional Administrator, U.S. Environmental Protection Agency, Region 10, 1200 Sixth Avenue, Seattle, Washington, 98101. The public hearing has been scheduled for the Medenhall Glacier Visitor Center, Juneau, Alaska.

FOR FURTHER INFORMATION CONTACT:

Mr. William Lawrence, Alaska Operations Office, Room E 556, Federal Building, 701 C Street, Box 19, Anchorage, Alaska 99513, (907) 271–5083; Mr. Wally Scarburgh, Alaska Operations Office, Pouch O, Juneau, Alaska 99811, (907) 465–2698; Ms. Marcia Lagerloef, Ocean Programs Section, M/S 430, US EPA Region 10, 1200 Sixth Avenue, Seattle, Washington 98101, (206) 442–1265;
Mr. Edward Ovsenik, Permits Division (EN–336), EPA Headquarters 401 M Streets, SW., Washington, D.C. 20460, (202) 426–7035.

The attached Fact Sheet contains the following sections:

I. Background
  A. General NPDES permits
  B. Log Transfer Facilities (LTFs)
II. Nature and Effects of the Discharges
  A. Description of Discharges from Log Transfer Devices and Log Booms
  B. Runoff from Log Storage and Sorting Yards
III. Ocean Discharge Criteria
IV. Environmental Fates and Effects
  A. Logs, Bark, Wood Waste, and Similar Organic Debris
  B. Oil, Grease, and Petroleum Products
  C. Rainwater and Surface Runoff
V. Conditions in the General Permit
  A. Geographic Area

B. Request to be Covered
C. Effluent Limitations and BMPs
D. Monitoring and Reporting Requirements
VI. Other Legal Requirements
A. State Certification
B. Water Quality Standards
C. Endangered Species
D. Coastal Zone Management
E. Marine Protection, Research and Sanctuaries Act
F. Executive Order 12291
G. Paperwork Reduction Act
H. Regulatory Flexibility Act

FACT SHEET AND SUPPLEMENTARY INFORMATION

I. Background

A. General NPDES Permits

Section 301(a) of the Clean Water Act (the Act) provides that the discharge of pollutants is unlawful except in accordance with a NPDES permit. Under EPA's regulations (40 CFR 122.28), EPA may issue a single, general permit to a category of point sources located within the same geographic area if the regulated point sources (1) involved the same or substantially similar types of operations; (2) discharge the same types of wastes; (3) require the same effluent limitations or operating conditions; (4) require the same or similar monitoring requirements; and (5) in the opinion of the Regional Administrator (RA), are more appropriately controlled under a general permit than under individual permits. The Regional Administrator of Region 10 has determined that log transfer facilities operating in the area described in this general NPDES permit are more appropriately controlled by a general permit than by individual permits.

The decision of the Regional Administrator is also based on an evaluation of the Section 403(c) Ocean Discharge Criteria document and a review of the Agency's information and decisions regarding previous Section 10/Section 404 permits issued to these facilities by the U.S. Army Corps of Engineers. The 403(c) document discusses the criteria to be reviewed before a Section 402 permit authorizing discharges to the marine environment is issued. This document reviews the environmental impacts on the marine ecosystem, including benthic and free-swimming finfish and shellfish. The Section 10/404 permits are issued to log transfer facilities that conduct dredge and fill activities in constructing their permanent facilities. These permits are issued only after a review of environmental impacts and alternate siting is completed. The 403(c) document and the Section 10/404 permits further indicate that a general permit is appropriate for these facilities.

The Regional Administrator may require any person authorized by a general permit to apply for and obtain an individual permit. In addition, any person(s) may petition the Regional Administrator to take this action. A request for an individual permit for an existing facility may be made by submitting an NPDES permit application, together with reasons supporting the request no later than 90 days after issuance of this permit in final form. Facilities not existing at the time this permit is issued in final form may submit a request to be authorized to discharge either under this general NPDES permit or an individual NPDES permit. Requests for authorization to discharge must be made at least 45 days prior to the anticipated start of operations.

The Regional Administrator may consider the issuance of individual permits according to the criteria in 40 CFR 122.28(b). These criteria include: (1) The discharge(s) is(are) a significant contributor of pollution; (2) the discharger is not in compliance with the terms and conditions of the general permit; (3) a change has occurred in the availability of demonstrated technology or practices for the control or abatement of pollutants applicable to the point source; (4) effluent limitation guidelines are subsequently promulgated for the point sources covered by the general permit; (5) a Water Quality Management Plan containing requirements applicable to such point sources is approved; or (6) the requirements listed in 40 CFR 122.28(a) and identified in the paragraph above are not met.

Procedures for modification, revocation, and termination of general permits are provided by 40 CFR 122.62.

As in the case of individual permits, violation of any condition of a general permit constitutes a violation of the Act and subjects the discharger to the penalties specified in Section 309 of the Act.

B. Log Transfer Facilities (LTFs)

Intensive logging began in Alaska in the early 1950's. Virtually all logs are transferred from land to marine waters, stored there for varying time periods, and then transported by water to a regional location for further processing or export. The use of coastal waters for log transfer, storage, and transportation is necessary because the coastal geography does not allow for extensive road construction. The majority of timber harvesting in Alaska is done in Southeast Alaska. Lesser amounts of harvesting takes place in Prince William Sound, Lower Cook Inlet, Kodiak Island, and Afognak Island. The timber harvested in Alaska is primarily western hemlock, Sitka spruce, and cedar.

LTFs may include any or all of the following: log storage and sorting yards; log transfer devices; log boom make-up areas; and log boom storage areas. These facilities are point source dischargers under the Clean Water Act and therefore require an NPDES permit to discharge pollutants to the waters of the United States.

There are at least six general devices used to transfer logs from land to water. The devices are briefly described as follows:

1. *Slides*—Log bundles are placed on slides by machinery. The bundles move down the slides. Variations to this method are based on the incline angle of the slides. Extremes range from virtual unrestrained free fall slides to operations where log bundles are pushed down slides into the water.

2. *Continuous Chain*—Somewhat similar to the slide transfer method, but the speed of the log bundle is retarded by a continuous chain with cogs. The speed of the chain can be regulated.

3. *Single A-frame*—The single A-frame is a stationary device with both legs of the "A" parellel to the shore. It is placed at an angle with the top of the "A" over the water so that bundles can be moved from land, by cable and hook, over the surface of the water. At the appropriate time, the hook is tripped and the bundle is placed into the water. A great deal of discretion is involved with single A-frame operations. If the single A-frame has good brakes and is operated properly, log bundles can be lowered before the hook is tripped. If there are no brakes, or the operator is careless and the hook is tripped while the bundle is above the water, the logs crash into the water.

4. *Double A-frame*—A second A-frame is added in front of and parallel to the first A-frame. This second A-frame can move vertically, and thus the log bundles can be hoisted into or out of the water. The double A-frame provides the added capability of directing where, perpendicular to the shoreline, the logs are placed into the water.

5. *Crane*—Various types of cranes place log bundles into the water.

6. *Front End Loader*—Machinery on wheels picks up log bundles. The loader is driven, usually down a ramp, and the logs are placed in the water.

EPA is considering including helicopters as a log transfer device under this permit, and is soliciting comments on their inclusion under this permit. The Agency believes that helicopters provide mobile transfer capabilities and will generally use a

controlled entry technique to lower the logs into the water.

The U.S. Army Corps of Engineers has issued permits for construction of 152 log transfer facilities in Alaska, although only 90 sites are currently active. EPA has not issued NPDES permits for discharges from these facilities, although three applications were submitted in 1983 by Shee Atika, Inc., for activities at Cube Cove, on Admiralty Island, and in Chatham Strait.

II. Nature and Effects of the Discharges

A. Description of Discharges From Log Transfer Devices and Log Booms

Log transfer device waste is defined as all wood, bark, particulate matter and related material which enters the receiving water as a result of the placement of logs into the water by any device, machine or means designed and used for that purpose. The waste includes associated debris which is dislodged and/or lost during the transfer of logs into the receiving waters, oil and grease and other petroleum products used for log handling machinery, and water soluble components of the logs, wood debris, and bark deposits.

Potential effects of the waste on water quality include increases in: suspended solids and turbidity; settleable solids; floating solids and debris; and other materials used in the logging process, such as metal banding. The majority of the wood waste initially floats, then sinks after becoming saturated with water. With time water leaches soluble organic compounds and lignin-like substances out of the logs and bark, affecting both the color and toxicity of the water.

B. Runoff from Log Storage and Sorting Yards

Log storage and sorting yard runoff is defined as all waste which enters the water from upland log sort yard facilities except for the waste generated by movement of logs over the log transfer devices.

The waste includes wood, bark, and associated debris that is characteristically lost during log handling operations exclusive of log transfer facility waste; oil and grease and other petroleum products used for log handling machinery; rainwater and surface water which flows over or through the log sort yard causing leachate to enter receiving waters; and soil and other particulate matter which would not normally be transported from the area of the log sort yard.

Water quality effects due to the waste include increased suspended solids, turbidity, settleable solids, floating solids, and oil and grease in the receiving water. Oil pollutants can also be trapped with sediments and with floating or suspended solids.

III. Ocean Discharge Criteria

Section 403 of the Act requires that an NPDES permit for a discharge into ocean waters be issued in compliance with EPA's guidelines for determining the degradation of marine waters. The final 403(c) Ocean Discharge Criteria guidelines published on October 3, 1980, set forth specific criteria for a determination of unreasonable degradation that must be addressed prior to the issuance of an NPDES permit. A Draft Ocean Discharge Criteria Evaluation document [403(c) document], which explains the Agency's determinations under the 403(c) criteria, is contained in the administrative record for the draft permit. A summary of the information regarding the environmental fate and effects of the discharges is contained in section IV below.

For many areas where log transfer facilities are located, a baseline marking the landward boundary of ocean waters has not been officially designated. It is expected that the majority of facilities authorized to discharge under this general permit will be located inside the baseline of Alaska's territorial seas, because of their siting in coves or embayments. Facilities discharging inside the baseline of the territorial seas are not subject to the 403(c) Ocean Discharge Criteria.

The Regional Administrator has concluded that the limited number of log transfer facilities operating outside of the baseline under the effluent limitations and conditions in this permit will not cause unreasonable degradation of the marine environment pursuant to the Ocean Discharge Criteria guidelines.

In accordance with regulations promulgated under Section 403 [40 CFR 125.123(d)(4)] of the Act, the general permit may be modified or revoked at any time if, on the basis of new information, the Regional Administrator determines that continued discharges may cause unreasonable degradation of the marine environment.

IV. Environmental Fate and Effects

A. Logs, Bark, Wood Waste and Similar Organic Debris

Bark which is dislodged during the log transfer process settles and accumulates on the bottom of the receiving water body. This bark is considered to cause the most serious impact in the maritime environment, specifically on the benthic community. Bark deposits have both physical (smothering action) and chemical (leachate from logs and bark causing increased BOD and COD, or containing toxics) impacts.

Accumulations of bark can cover the bottom and smother plants and animals. Reductions in benthic infauna have been observed at existing LTF sites. These effects have also been measured at sites which have been inactive for many years. Recent studies have noted losses in suspension-feeding bivalves with a deposition of more than 1 cm of bark. At bark depths greater than 5 cm the majority of dominant polychaete organisms were eliminated. Changes in the infaunal benthic community may lead to significant changes in the food supply of organisms that are economically important, including king crab, Dungeness crab, halibut, and salmon. Impacts on epifauna are not clear. Scattered bark deposits may provide additional substrate for epifauna. When bark deposition is extensive, however, epifauna may avoid the area. In addition, recent studies have indicated that Dungeness crabs that remain in areas of bark deposits may exhibit reproductive or somatic deficiencies. These results are discussed in the 403(c) document which is part of the administrative record. There generally is a lack of field data which correlates water quality, bark depths, circulation, and biological information. The information reviewed for this permit was laboratory data or non-correlative field data.

Chemical water quality impacts involve leachates, primarily tannins and lignin, from bark deposits and from floating log rafts. Leaching rates are concentration dependent and therefore related to the flushing of the overlying water. However, variables such as temperature, salinity and tidal currents make it difficult to make accurate rate predictions for the field. Leaching rate also is related to the species of wood. Hydrogen sulfide and ammonia levels may be significant in the interstitial waters of bark deposits.

Laboratory toxicity tests have been conducted on juvenile salmon, shrimp larvae and adults, and Dungeness crab larvae. The data are difficult to compare because of differences in extracting methods for leachates, test conditions, and methods of reporting results. Although leachates are toxic to pink salmon fry, they likely do not kill these fry or other fish because the fish may not remain in areas of high leachate concentrations.

Large log rafts, which are stationary for long time periods, can reduce solar radiation on the bottom directly beneath the rafts. Light availability can also be

reduced in the water column. These are localized effects and are not considered major adverse impacts on the overall aquatic environment.

As noted above, tidal flushing is an important mechanism for transporting and dispersing leachates. There is a lack of information on current velocities necessary to transport and/or resuspend floatable and water saturated bark, and also on the relationship between bark size and required current.

Ongoing research in this area is being sponsored by the Alaska Working Group on Cooperative Forestry—Fisheries Research. This group was formed in 1981 "to facilitate interagency coordination among researchers, and timber and fishery managers in planning, initiating cooperative research of issues involving timber and fish." Two technical subgroups were formed. The function of one subgroup, Terminal Transfer Facilities (TTF), is to identify logging/fishery problems and concerns in the marine environment and submit the list to the Working Group. Through this process the Working Group recommended that three investigations be funded: (1) Biological effects of Terminal Transfer Facilities (impacts of bark and what threshold amount of bark causes serious effects on aquatic resources (2) Restoration of Terminal Transfer Facilities (potential for rehabilitation of sites covered with bark) (3) Bark Deposition (where bark is lost during marine phases of timber harvest operations).

Studies 2 and 3 are to be implemented during the 1984 logging season. Study 1 was conducted in 1982 and 1983. Results of this study are discussed in the 403(c) document and were considered in the development of the permit terms.

B. Oil, Grease and Petroleum Products

The source of these pollutants is the operation and maintenance of equipment used in the log handling and transfer operation. A catastrophic spill event is not reasonably expected to occur as a result of these operations at a log transfer facility. This potential problem is covered by other State and Federal Regulations, including Section 311 of the Clean Water Act, not NPDES permits. Examples of these catastrophic spill events are loss of fuel from fuel tank trucks or fuel storage areas.

Persistent loss of small volumes of fuel, lubricants, hydraulic fluids, and similar products can result from normal operations, including mechanical failures. These compounds can migrate from land or be transported by surface water or rainwater to the receiving waters. Small volumes of petroleum products are a legitimate concern as concentrations of water soluble compounds have been shown to be toxic to marine larvae and eggs at concentrations of 0.1 mg/l. Another concern is oil accumulation in bottom deposits of bark and wood debris. In addition to the BOD of the bark deposits, accumulations of petroleum products may, under these circumstances, exert additional BOD.

C. Rainwater and Surface Runoff

The ground and soil at LTFs is typically disturbed from heavy use by equipment associated with log handling and sorting. Rainwater and surface runoff can transport soils, abraded wood waste, petroleum products, and other pollutants into the receiving waters in the form of settleable and suspended solids. Both suspended and settleable solids have adverse impact on water quality. Impacts in the water column are well documented; in the context of runoff from LTFs, there may be indirect effects on fish, however, these effects in most cases should be minimal. Benthic impacts from solids settled to the bottom include physical smothering of the benthic flora and fauna, elimination of epifauna, interference with spawning and rearing, and increased BOD loadings.

V. Conditions in the General Permit

EPA Region 10 reserves the right to notify facilities located in the geographic area of this general NPDES permit and conducting operations defined at page 1 of the permit to submit a notice of intent to be covered by the general permit.

Facilities which are not covered by either a general permit or an individual permit are not authorized to discharge into navigable waters, and enforcement action may ensue for discharging without an NPDES permit under the Clean Water Act.

This permit will not authorize discharges from facilities meeting the definitional requirements of 40 CFR Parts 429 and 430. These defined facilities are subject to the published BPT guidelines at Parts 429 and 430.

A. Geographic Area

The proposed general permit will authorize discharges from LTFs within the State of Alaska to the "waters of the United States" as defined at 40 CFR 122.2.

B. Request To Be Covered by General Permit

Owners or operators of LTFs located in the permit area must make a written request to the Regional Administrator for authorization to discharge under the general permit. Unless otherwise notified in writing by the Regional Administrator within 45 days after submission of their request, these owners or operators will be authorized to discharge under the general permit.

Owners or operators of existing LTFs must submit their written request within 45 days of issuance of the final general permit. New facilities must submit their written request at least 45 days prior to commencement of operations within the general permit area. All requests shall include the name and legal address of the owner or operator, the name and location of the LTF, a description of the log handling facilities, a sketch of the layout of the LTF indicating the water depth contours and placement of the log sorting yard and log transfer devices, the name of the receiving water body, the date of, or expected date of, initiation of discharges, the projected period of operation, and the expected volume and species of logs to be transferred.

Temporary LTFs not needing a Section 10/404 permit will be required to submit an application for this permit 45 days before the expected start of transfer activities. The notice of intent will include the same information as provided for a permanent facility. If the temporary facility will not be using log sorting and storage yards, this information need not be submitted.

In making a determination regarding coverage, EPA may request limited environmental data from the applicant. EPA does not intend to cover with this general permit LTFs located at a site which is biologically significant or otherwise unique. Because log transfer facilities need protection from wind and waves, operators typically site these facilities in protected bays and estuaries. These shallow areas often provide valuable habitat and optimal conditions for significant populations of fish and shellfish. Generally, fish and shellfish populations can coexist with well-managed LTFs. However, there are certain sites which warrant higher levels of protection than provided by the BMPs of this general permit, in order to avoid unacceptable adverse effect on shellfish beds and fishery areas. These sites should be identified during the Section 10/404 permit issuance process. If no Section 10/404 permit is issued, during the review of the application for authorization to discharge under this permit EPA will confer with the State of Alaska Department of Environmental Conservation and Department of Fish and Game to determine biologically significant areas.

Virtually all permanent LTFs require either a Rivers and Harbors Act Section

10 permit or a Clean Water Act Section 404 permit, or both for their material construction. The U.S. Army Corps of Engineers, as the permitting authority, issues public notices for permit applications, receives comments from the public, the State of Alaska, and appropriate Federal Agencies. Because of EPA's mutual responsibilities with the Corps in the Section 404 program, EPA is always notified of proposed log transfer facilities and log sort yards applying for Section 10/404 permits, and is generally aware of water quality, biological or other significant concerns associated with them. Many of these concerns are raised and addressed by regulatory and resource management agencies during the Section 10/404 permit review process. EPA will consider all such concerns raised during the Section 10/404 permit review process in determining whether an individual permit or this general permit is appropriate for a particular facility. Where the operation also requires that the Corps issue a Section 10 or 404 permit, the permittee will not be authorized to discharge under this general permit until all applicable Corps permits are issued.

C. Effluent Limitations and Best Management Practices

All permits issued or effective after July 1, 1984, are required by Section 301(b)(2) of the Act to contain effluent limitations representing Best Conventional Pollutant Control Technology (BCT) for all categories and classes of point sources. BCT effluent limits apply to conventional pollutants (pH, BOD, oil and grease, suspended solids, and fecal coliform). Permits effective or issued after July 1, 1984, are also required to contain effluent limitations which control toxic (40 CFR 401.15) pollutants to the level achievable by means of the Best Available Technology Economically Achievable (BAT). EPA has not promulgated National Effluent Limitation Guidelines for these facilities. Therefore, as provided for by Section 402(a) of the Act, EPA has made a Best Professional Judgment (BPJ) determination of the BAT/BCT effluent limitations for these facilities.

The general permit prohibits the discharge of oil or petroleum products (whether direct or in runoff from the log sort yard) that would produce a visible sheen on the surface of the receiving water, or a sludge or emulsion to be deposited beneath the surface of the receiving water.

The permit also prohibits the discharge of bark or wood debris in runoff from the log storage and sorting yard.

EPA recognizes that a prohibition of discharge of bark, wood debris, and particulates from the specific LTF at the shoreline is not feasible. In the absence of appropriate "end-of-pipe" technology EPA has developed BMPs intended to minimize the discharge of bark, wood debris, particulates and leachates to the receiving waters.

These BMPs and their supporting rationale are:

a. Individual logs shall be placed into bundles before being moved over or through the log transfer facility;

Placing logs into bundles will minimize tumbling and the loss of bark from individual logs. As such, the surface area exposed to abrasion will be reduced. Also, the likelihood of individual logs escaping from the log boom will be reduced. This BMP should pose no unreasonable burden on industry, as constructing log bundles is presently standard procedure for most operations.

b. All log bundles shall be placed into receiving waters using controlled entry techniques or methods which minimize abrasion and loss of bark and wood debris. Controlled entry is defined as the capability of stopping or reducing the speed of a log bundle any time during the transfer process before the log bundle reaches the surface of the water. Diesel and gasoline powered equipment used to place log bundles into the receiving water shall be operated to prevent loss of petroleum and lubricating products into the receiving waters. Logs shall not hit the bottom of the water body during entry.

This management practice requires that logs be gently lowered into the water in order to reduce the loss of bark and wood debris. Available information indicates benthic bark deposits can cause adverse impact on water quality and the aquatic resources. All log transfer systems contribute to loss of bark and wood debris. Certain types of log transfer systems result in less bark being dislodged and lost, however. For example, placing log bundles into the water using a controlled hoist or crane is environmentally preferable to an uncontrolled beaver slide. The emphasis of this BMP is to allow only those devices or types of operations that constitute a controlled lowering of logs into the water (e.g. an inclined device with iron rails with a slope of 4:1, horizontal:vertical, or less). Therefore any operation that allows uncontrolled acceleration of logs during the time between initiating and completing the transfer is precluded from coverage under the permit. This BMP will require industry to re-equip single A-frame operations, which constitute free-fall log dumps, with machinery that allows for controlled entry. Also, beaver slide dumps, which are uncontrolled slides, are not authorized by the general permit. The use of front-end loaders is an appropriate mechanism for controlled lowering of logs into the water, however, there is concern regarding the potential for leakage from hydraulic lines or fuel spills in the receiving water. The Agency invites comment relative to the economic burden of implementing this BMP and on alternative transfer facilities which may accomplish the intended purpose of this BMP.

c. Drainage sumps, or appropriate filtration, shall be used to sufficiently remove Total Suspended Solids (TSS) from runoff from log storage and sorting yards to meet state water quality standards. Treatment shall also include oil skimming equipment or oil absorbents, where necessary, to prevent the discharge of oil in runoff.

The intent of this management practice is to prevent discharge of pollutants into receiving waters during log handling and transfer operations. Many facilities constructed relatively recently have designed construction and operation techniques that minimize TSS and oil from entering receiving waters. The BMP should only reinforce these state-of-the-art techniques.

d. Log sort yards and log transfer devices shall be operated so that accumulations of bark and wood debris are contained on the uplands.

e. A periodic (e.g., weekly or biweekly) removal program shall be implemented to dispose of bark and wood debris accumulations, that are accessible with land equipment or by hand, such that they are prevented from entering the receiving water due to run-off or via a high tide. This material shall be placed at an appropriate upland site.

Basic control and cleanup techniques on land can reduce the amount of bark and wood debris which can potentially enter the water and accumulate on the bottom. Therefore the objective of these BMP's is to prevent loose material on the upland from entering the waterway. These BMP's will require innovations and may pose some burden on industry. However, these remedial actions are no more than "good housekeeping" practices. Only materials that are accessible with land based equipment need to be removed due to the cost involved. Furthermore, retrieval of material further out in the receiving water may require other measures that may have a further affect on the marine environment.

f. To prevent abrasion of logs, and abrasion between logs and the bottom, log bundles which have been transferred to water shall remain floating at all times and shall not be allowed to rest on or touch the bottom.

When log rafts rise and fall with the tides, abrasion occurs and bark is lost. Log raft storage in intertidal areas also compacts the bottom sediments and eliminates the benthos. The intent is that the discharge of logs should have minimal impact on the intertidal community. Implementing this BMP should prevent this problem. Industry

presently attempts to avoid grounding of logs in intertidal areas. Similar to other requirements in the general permit, this BMP should reinforce a practice which is presently in place. The BMP may require more planning and logistical expertise when handling logs, but imposes no unreasonable burden on industry.

g. Logs used to construct log booms shall be stripped of bark prior to their use to avoid abrasion of bark from these logs, and to minimize abrasion between log booms and log bundles.

Considerable abrasion occurs between log rafts and boom logs resulting in bark loss. This bark ultimately becomes part of the overall accumulation. Implementing this BMP will limit bark which is potentially abraded, loosened and dislodged from entering the water. Based on available information, stripping of boom logs is not a common practice in Alaska. However, by reducing friction between boom logs and log bundles a source of bark is eliminated.

h. Log bundles shall be moved out of the log boom make-up areas at the earliest possible time.

This BMP will reduce the leachates from logs into the receiving waters by reducing the retention time of the logs in the water near to the shoreline.

i. Discharges from the LTFs shall be located to avoid shallow embayments and areas of poor circulation in order to obtain maximum dispersion of the discharge in the receiving water and avoid water quality problems.

Log transfer facilities have usually been located in areas which do not have optimal circulation. As such, bark that is abraded or loosened during the handling and transfer process remains in the area and sinks to the bottom. These BMP's will encourage siting to maximize dispersion of dislodged bark, and also moving log rafts to areas with better circulation and deeper water while still providing protection necessary for storage area. These BMP's should not place an unreasonable burden on the industry. Planning and logistical expertise will be required to expeditiously move logs from the transfer location to a storage site.

D. Monitoring and Reporting Requirements

The general permit will require annual reporting of the facility operations. The general permit requires that each owner/operator of an LTF visually monitor the receiving waters daily, during operating periods, for the presence of an oil sheen. The permittee should also monitor the implementation of the BMPs to assure their effectiveness in reducing pollutant inputs to the receiving water.

The annual report shall provide information on any oil sheen observed during the operating period (date, cause or source, corrective measures), shall describe the BMPs implemented, and also include:

(a) The location, including latitude and longitude, of the LTF;

(b) The name of the owner(s) and/or operator(s) of the facility;

(c) A description of the log handling facility, including the type of "let down" equipment;

(d) The starting and ending dates of log transfer activities and the number of operating days at the facility;

(e) The amount of lumber transferred (in board feet) during the operating period;

(f) A listing of the tree species transferred, including an estimate of the percentage of total lumber transferred each species represents;

(g) The number of log booms towed from the facility, the average size (in board feet) of the booms; and

(h) The average retention period of each boom before moving the boom from the LTF.

In developing the permit requirements, the Agency has considered available information as well as ongoing research. There is existing evidence indicating that log handling activities can cause benthic bark deposits that may cause adverse impacts on water quality and aquatic resources. The ongoing research discussed in Section IV above, addresses many of the problems that concern both the fishery and forestry managers and industry. When the studies are completed the Agency will review the results and may revise this permit to address issues identified (40 CFR 122.62(a)(2)). Such revisions may include changes in the BMPs or other effluent limitations incorporated in this permit. In view of the ongoing research the permit does not impose on all individual operators a requirement to monitor bark loss or benthic accumulations.

VI. Other Legal Requirements

A. State Certification

Under Section 401(a)(1) of the Act EPA may not issue an NPDES permit until the state in which the discharge will originate grants or waives certification to ensure compliance with appropriate requirements of the Act and State law, including water quality standards. Region 10 has requested the State of Alaska to certify the general permit under 40 CFR 124.53(c). State certification shall fulfill the requirements of 40 CFR 124.53(d).

B. Water Quality Standards

Section 301(b)(1)(c) of the Act requires that NPDES permits contain limitations necessary to ensure compliance with water quality standards established pursuant to State law or regulations, or any other Federal law or regulation, or required to implement any applicable water quality standard established pursuant to the Act. This proposed general permit contains effluent limitations which, in EPA's opinion, meet the requirements of Section 301(b)(1)(c) including the water quality standards of the State of Alaska. At no time shall the maximum values contained in the effluent exceed the water quality standards after mixing with the receiving stream. The general criteria and numerical criteria which make up the water quality standards are provided in Title 18, Alaska Administrative Code, Chapter 70.

C. Endangered Species

The Endangered Species Act (ESA) requires that each Federal Agency shall ensure that any of its actions, such as permit issuance, do not jeopardize the continued existence of any endangered or threatened species, or result in the destruction or adverse modifications of their habitat.

Based on available information on endangered species to be found in the geographic area of this permit, including environmental impact statements for other activities in the area, EPA has determined that this action will not endanger the species involved, nor result in destruction of their habitats.

EPA is requesting comments from the National Fisheries Service and the U.S. Fish and Wildlife Service and will consider all comments received in making the final permit decision. EPA will initiate consultation should new information reveal impacts not previously considered, should the activities be modified in a manner beyond the scope of the original consultations, or should the activities affect a newly listed endangered species.

D. Coastal Zone Management

The Coastal Zone Management Act (CZMA) and its implementing regulations (15 CFR Part 930) require that any Federally licensed or permitted activity affecting the coastal zone of a State with an approved Coastal Zone Management Program (CZMP) be determined to be consistent with that CZMP (Section 307(c)(3)(A) Subpart D).

EPA has determined that the activities authorized by this general NPDES permit are consistent with the Alaska Coastal Zone Management Plan. The proposed permit and consistency certification will be submitted to the State of Alaska for State interagency

review at the time of public notice issuance. The requirements for State Coastal Zone Management review and approval must be satisfied before this general permit may be issued.

(E). The Marine Protection, Research and Sanctuaries Act

The Marine Protection, Research and Sanctuaries Act (MPRSA) of 1972 regulates the dumping of all types of materials into ocean waters and establishes a permit program for ocean dumping. The discharges authorized by this permit are Clean Water Act Section 402 point source discharges, not discharges covered by the MPRSA. In addition the MPRSA establishes the Marine Sanctuaries Program implemented by the National Oceanic and Atmospheric Administration (NOAA), which requires NOAA to designate ocean waters as marine sanctuaries for the purpose of preserving or restoring their conservation, recreational, ecological, or esthetic values.

There are presently no existing marine sanctuaries or active candidates for marine sanctuary designation in the proposed permit area. The Agency has contacted the appropriate NOAA office and has been informed that, since there are no designated sites in the proposed general permit geographic area, this permit is not subject to MPRSA review.

F. Executive Order 12291

The Office of Management and Budget (OMB) has exempted this action from the review requirements of Executive Order 12291 pursuant to Section 8(b) of that order.

G. Paperwork Reduction Act

EPA has reviewed the requirements imposed on regulated facilities in this draft general NPDES permit under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.* The information collection and notification requirements of this permit have already been approved by the Office of Management and Budget under submissions made for the NPDES permit program under provisions of the Act. The final general NPDES permit will explain how the information collection requirements respond to any OMB or public comments.

H. Regulatory Flexibility Act

After review of the facts presented in the notice printed above, I hereby certify, pursuant to the provisions of 5 U.S.C. 605(b), that this draft general permit will not have a significant impact on a substantial number of small entities. Moreover, it reduces a significant administrative burden on regulated sources.

Dated: February 17, 1984.

Ernesta B. Barnes,

Regional Administrator, Environmental Protection Agency, Region 10.

[FR Doc. 84-4828 Filed 2-22-84; 8:45 am]

BILLING CODE 6560-50-M

[PF-366; PH-FRL 2530-5]

Rohm and Haas Company; Withdrawal of Pesticide Petition

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Rohm and Haas Company has withdrawn its petition which requested the reduction of established tolerances for the combined residues of the herbicide 2,4-dichlorophenyl-*p*-nitrophenyl ether and its metabolites containing the diphenyl ether linkage in or on certain commodities.

FOR FURTHER INFORMATION CONTACT:

By Mail: Robert Taylor, Product Manager (PM) 25, Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

Office location and telephone number, Rm. 245, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202. (703-557-1800).

SUPPLEMENTARY INFORMATION: EPA issued a notice published in the **Federal Register** of July 20, 1981 (46 FR 37323), which announced that Rohm and Haas Company, Independence Mall West, Philadelphia PA 19105, had submitted pesticide petition 1F2504 proposing to amend 40 CFR 180.223 by reducing the established tolerances for the combined residues of the herbicide 2,4-dichlorophenyl-*p*-nitrophenyl ether and its metabolites containing the diphenyl ether linkage from 0.75 part per million (ppm) to 0.1 ppm on broccoli, brussel sprouts, cabbage, cauliflower, celery, kohlrabi and onions (dry bulb form).

Rohm and Haas Company has withdrawn this petition in accordance with section 408 of the Federal Food, Drug, and Cosmetic Act.

(Sec. 408(d)(2), 68 Stat. 512, (21 U.S.C. 346a))

Dated: February 10, 1984.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 84-4830 Filed 2-22-84; 8:45 am]

BILLING CODE 6560-50-M

[PF-368, PH-FRL 2531-1]

Shell Oil Co.; Pesticide and Feed Additive Petitions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received pesticide and feed additive petitions relating to the establishment of tolerances for residues of the insecticide cyano (3-phenoxyphenyl) methyl-4-chloro-alpha-(1-methylethyl) benzeneacetate in or on certain commodities.

ADDRESS:

By mail submit written comments to: Program Management and Support Division (TS-757C), Attn: Product Manager (PM) 17, Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

In person, deliver comments to: Rm. 236, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202.

Written comments must be identified by the document control number [PF-368]. All written comments filed in response to this notice will be available for public inspection in the Program Management and Support Division office at the address above from 8:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT:

Timothy A. Gardner, PM-17, CM#2, RM. 207, (703-557-2600).

SUPPLEMENTARY INFORMATION: EPA has received pesticide and feed additive petitions as follows from Shell Oil Co., Suite 200, 1025 Conn. Ave., NW., Washington, 20036, proposing to amend 40 CFR 180.379 (raw agricultural commodities) and 21 CFR Part 561 (animal feed commodities), by establishment of tolerances and or regulation for residues of the insecticide cyano (3-phenoxyphenyl) methyl-4-chloro-alpha-(1-methylethyl) benzeneacetate in or on certain commodities in accordance with the Federal Food, Drug, and Cosmetic Act. The analytical method for determining residues is gas chromatography.

Petition ID	CFR affected	Commodities	Parts per million (ppm)
PP 4F3021	40 CFR 180.379	Barley, forage	40.0
		Barley, grain	5.0
		Barley, hay	40.0
		Barley, straw	40.0
		Wheat, forage	25.0
		Wheat, grain	1.0
		Wheat, hay	25.0
		Wheat, straw	25.0
FAP 4H5423	21 CFR Part 561	Wheat milled products (except flour)	5.0
PP 4F3022	40 CFR 180.379	Citrus fruits	2.0
FAP 4F5424	21 CFR Part 561	Dried citrus pulp	20.0
PP 4F3023	40 CFR 180.379	Celery	10.0
PP 4F3027	40 CFR 180.379	Stone fruits (crop grouping)	10.0
PP 4F3030	40 CFR 180.379	Brussel sprouts	10.0

Sec. 408(e), 68 Stat. 514, (21 U.S.C. 346a(e)) and 409(c)(1), 72 Stat. 1786 (21 U.S.C. 348(c)(1))

Dated: February 10, 1984.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 84-4831 Filed 2-22-84; 8:45 am]

BILLING CODE 6560-50-M

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Agency Report Forms Under OMB Review

AGENCY: Equal Employment Opportunity Commission.

ACTION: Request for Comments.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35), agencies are required to submit proposed information collection requests to OMB for review and approval, and to publish a notice in the **Federal Register** notifying the public that the agency has made such a submission. The proposed report form under review is listed below.

DATE: Comments must be received on or before April 9, 1984. If you anticipate commenting on a report form but find that the time necessary to prepare comments will prevent you from submitting comments promptly, you should advise the OMB Reviewer and the Agency Clearance Officer of your intent as early as possible.

ADDRESS: Copies of the proposed report form, the request for clearance (S.F. 83), supporting statement, instructions, transmittal letters, and other documents submitted to OMB for review may be obtained from the Agency Clearance Officer. Comments on the item listed should be submitted to the Agency Clearance Officer and the OMB Reviewer.

FOR FURTHER INFORMATION CONTACT:

EEOC Agency Liaison Officer: Gary G. Papritz, Information Resource Management Division, Room 281, 2401 E Street, N.W. Washington, D.C. 20507; Telephone (202) 634-6990.

OMB Reviewer: Joseph Lackey, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, DC 20503; Telephone (202) 395-6880.

Type of Request—Extension (No Change)

Title: Recordkeeping Requirements of Uniform Guidelines on Employee Selection Procedures.

Form Number: None.

Frequency of Report: On Occasion.

Type of Respondent: Business/other institutions, State or local governments, farms.

Standard Industrial Classification (SIC) Code: Multiple.

Description of Affected Public: Any employer, labor organization, or employment agency covered by Federal equal employment opportunity laws.

Responses: 666,000.

Reporting Hours: 1,910,000.

Applicable under Section 3504(h) of Pub. L. 96-511: Not applicable.

Number of Forms: None.

Abstract—Needs/Uses: Data used by the EEOC and the co-signatories in investigating, conciliating, and litigating charges of employment discrimination, by complainants in establishing violations of Federal equal employment laws, and by respondents in defending against allegations of employment discrimination.

Dated: February 15, 1984.

For the Commission.

Clarence Thomas,

Chairman, Equal Employment Opportunity Commission.

[FR Doc. 84-4784 Filed 2-22-84; 8:45 am]

BILLING CODE 6570-06-M

FEDERAL HOME LOAN BANK BOARD

Charter Federal Savings and Loan Association Bristol, Virginia; Final Action Approval of Conversion Application

February 15, 1984.

Notice is hereby given that on January 31, 1984, the Office of General Counsel of the Federal Home Loan Bank Board, acting pursuant to the authority delegated to the General Counsel or his designee, approved the application of Charter Federal Savings and Loan Association, Bristol, Virginia, for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of said Corporation, 1700 G Street, N.W., Washington, D.C. 20552 and at the Office of Supervisory Agent of said Corporation at the Federal Home Loan Bank of Atlanta, P.O. Box 56527, Peachtree Center Station, Atlanta, Georgia 30343.

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

[FR Doc. 84-4817 Filed 2-22-84; 8:45 am]

BILLING CODE 6720-01-M

Financial Reporting Requirements

February 17, 1984.

AGENCY: Federal Home Loan Bank Board.

ACTION: Notice of change in reporting requirements.

SUMMARY: The public is advised that the Federal Home Loan Bank Board has submitted a modified version of its "Periodic Reports Required of Savings Institutions, Sections A, B, C, D, E, F, G, H, I, and K" to the Office of Management and Budget for approval pursuant to 5 CFR 1320.12, pertaining to the clearance of information collection requests.

The Board has asked OMB for expedited approval of these reports. Comments are welcomed and will be considered at a future time for possible revisions to the reporting system. Comments on the proposal should be directed to: Office of Information ane Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503, Attention: Desk Office for the Federal Home Loan Bank Board.

The Board would appreciate commenters also sending copies of their comments to the Board.

Requests for information including copies of the proposed information collection request and supporting

documentation are obtainable from the Board address given below: Director, Information Services Section, Office of the Secretariat, Federal Home Loan Bank Board, 1700 G Street, NW., Washington, D.C. 20552.

FOR FURTHER INFORMATION CONTACT: Richard Pickering, Office of Policy and Economic Research, Federal Home Loan Bank Board, 202–377–6770.

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

[FR Doc. 84-4615 Filed 2-22-84; 8:45 am]

BILLING CODE 6720-01-M

Survey of Broker Originated Deposits

February 17, 1984.

AGENCY: Federal Home Loan Bank Board.

ACTION: Notice.

SUMMARY: The public is advised that the Federal Home Loan Bank Board has submitted a new information collection request, "Survey of Broker-Originated Deposits", to the Office of Management and Budget for approval pursuant to 5 CFR 1320.12 pertaining to clearance of information collection requests.

The Board has asked OMB for expedited approval of the collection of information. Comments are welcome and must be postmarked no later than March 9, 1984. Comments on the proposal should be directed to: Office of Management and Budget, Office of Information and Regulatory Affairs, Washington, D.C. 20503, Attention: Desk Officer for the Federal Home Loan Bank Board.

The Board would appreciate commenters also sending copies of their comments to the Board.

Requests for information including copies of the proposed information collection request and supporting documentation are obtainable from the Board address given below: Director, Information Services Section, Office of Secretariat, Federal Home Loan Bank Board, 1700 G Street, N.W., Washington, D.C. 20552.

FOR FURTHER INFORMATION CONTACT: Richard Pickering, Office of Policy and Economic Research, Federal Home Loan Bank Board, phone 202–377–6770.

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

[FR Doc. 84-4616 Filed 2-22-84; 8:45 am]

BILLING CODE 6720-01-M

FEDERAL RESERVE SYSTEM

First Lake Forest Corporation, et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (49 FR 794) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than March 15, 1984.

A. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *First Lake Forest Corporation,* Lake Forest, Illinois; to become a bank holding company by acquiring 100 percent of the voting shares of The First National Bank of Lake Forest, Lake Forest, Illinois.

B. **Federal Reserve Bank of Minneapolis** (Bruce J. Hedblom, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Battle Lake Banchares, Inc.,* Battle Lake, Minnesota; to become a bank holding company by acquiring 80 percent of the voting shares of First National Bank, Battle Lake, Minnesota.

Board of Governors of the Federal Reserve System, February 16, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-4714 Filed 2-22-84; 8:45 am]

BILLING CODE 6210-01-M

The Hong Kong and Shanghai Banking Corporation, et al.; Applications To Engage de Novo in Permissible Nonbanking Activities

The companies listed in this notice have filed an application under § 225.23(a)(1) of the Board's Regulation Y (49 FR 794) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (49 FR 794) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than March 12, 1984.

A. **Federal Reserve Bank of New York** (A. Marshall Puckett, Vice President) 33 Liberty Street, New York, New York 10045:

1. *The Hong Kong and Shanghai Banking Corporation,* Hong Kong, B.C.C.; Kellett, N.V., Curacao, Netherlands Antilles; HSBC Holdings, B.V., Amsterdam, The Netherlands; and Marine Midland Banks, Inc., Buffalo, New York; to engage *de novo* through their subsidiary, Marine Midland Realty Credit Corporation, in originating, making, acquiring, and servicing, for its

own account or for the account of others, loans and other extensions of credit, either unsecured or principally secured by mortgages on residential or commercial properties or lease-hold interests therein; and acting as investment or financial adviser to the extent of servicing as the advisory company for a mortgage or real estate investment trust, furnishing general economic information and advice on real estate matters, and providing portfolio investment advice on real estate matters; and arranging commercial real estate equity financing.

B. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *BancOklahoma Corp.*, Tulsa, Oklahoma; to invest *de novo*, through its subsidiary, Pacesetter Building Corporation (to be renamed Transfund, Inc.), in a Texas limited partnership for the purpose of purchasing, installing, maintaining, and operating automated teller machines in Safeway stores.

C. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President) 101 Market Street, San Francisco, California 94105:

1. *Valley National Corporation*, Phoenix, Arizona; to engage *de novo* through its subsidiary, Valley National Financial Services Company of Utah, Salt Lake City, Utah, in the activities of consumer and dealer financing, leasing of personal property, and offering credit life and disability insurance as agent or broker.

Board of Governors of the Federal Reserve System, February 16, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-4716 Filed 2-22-84; 8:45 am]

BILLING CODE 6210-01-M

Lower Rio Grande Valley Bancshares, Inc.; Acquisition of Bank Shares by a Bank Holding Company

The company listed in this notice has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire voting shares or assets of a bank. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated. With respect to the application, interested persons may express their views in writing to the address indicated. Any comment on the application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. **Federal Reserve Bank of Dallas** (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Lower Rio Grande Valley Banchares, Inc.*, LaFeria, Texas and Collier Bancshares Holding Company, McAllen, Texas; to acquire 67 percent of the voting shares of City National Bank, Weslaco, Texas. Comments on this application must be received not later than March 16, 1984.

Board of Governors of the Federal Reserve System, February 16, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-4715 Filed 2-22-84; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 84N-0026]

Drug Experience Reports; NADA's 8-473, 8-766, 9-504, 10-148, 10-458, 12-219, 13-028; Opportunity for Hearing on Proposal To Withdraw Approval

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Director of the Bureau of Veterinary Medicine, Food and Drug Administration (FDA), is providing an opportunity for a hearing on a proposal to withdraw approval of seven new animal drug applications (NADA's) for which the applicants have repeatedly failed to file reports of experience with new animal drugs required under § 510.310 (21 CFR 510.310).

DATE: A written appearance requesting a hearing giving the reason(s) why the application(s) should not be withdrawn is required by March 26, 1984.

ADDRESS: Written appearances to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: David N. Scarr, Bureau of Veterinary Medicine (HFV-214), Food and Drug Administration, 56 Fishers Lane, Rockville, MD 20857, 301-443-1846.

SUPPLEMENTARY INFORMATION: The Director of the Bureau of Veterinary Medicine (the Director) is providing an opportunity for hearing to the applicants who hold approvals for NADA's 8-473, 8-766, 9-504, 10-148, 10-458, 12-219, and 13-028, and to any other interested persons who may be adversely affected, on a proposal to withdraw approval of these NADA's The NADA's are identified below by each applicant's name and last known address in the Bureau of Veterinary Medicine's records; the NADA number; the trade name of any new animal drug product approved under the NADA; and the date of approval applicable to the new animal drug (based on a new drug application, master file, antibiotic regulation, or food additive regulation):

1. Dawes Laboratories, Inc., 450 State St., Chicago, IL 60411, NADA 8-473, Arsonic Growth Stimulant, approved June 9, 1952.

2. J. B. Garland & Son, 15 Grayton, St., Worcester, MA 01604, NADA 8-766, Liquamycin Injection, approved March 25, 1953.

3. Hance Brothers & White Co., 12th & Hamilton Sts., Philadelphia, PA 19123, NADA 9-504, Xylocide, approved September 1, 1954.

4. E. R. Squibb & Sons, Inc., P.O. Box 4000, Princeton, NJ 08540, NADA 10-148, Serpasil Tablets 0.25 milligram, approved October 28, 1955.

5. Parlam Division, Ormont Drug & Chemical Co., Inc., 520 South Dean St., Englewood, NJ 07631, NADA 10-458, Mikedimide, approved September 17, 1956.

6. Premier Malt Products, Inc., 1037 West McKinley Ave., Milwaukee, WI 53201, NADA 12-219, Zymo-Pabst, approved June 15, 1960.

7. Balfour Guthrie & Co., Ltd., 315 North H St., Fresno, CA 93701, NADA 13-028, Balfour Medicated Chicken, approved September 14, 1961.

Withdrawal of approval of each of the NADA's is proposed under section 512(e)(2)(A) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360b(e)(2)(A)) on the grounds that "the applicant * * * has repeatedly * * * failed * * * to make required reports in accordance with a regulation under subsection (1) [section 512(1) of the act (21 U.S.C. 360b(1))] * * *." The reports that each applicant has repeatedly failed to make are required under § 510.310, as amended on June 24, 1980 (45 FR 42260). That regulation was promulgated under section 512(1) of the act to assist FDA in determining whether there are grounds for withdrawal of approval of NADA's approved prior to June 20, 1963. Essentially, § 510.310 assists FDA in determining whether such new animal drug products continue to be demonstrated to be safe and effective.

Section 510.310 required applicants who hold approvals for new animal drugs approved before June 20, 1963, to file a report by November 21, 1980, for each dosage form of each such drug. The report was to contain the information on adverse drug reactions and other information specified in § 510.310(b)(1) if the new animal drug was currently being marketed or the information specified in § 510.310(b)(2) if the new animal drugs was no longer marketed, but was the subject of an approval that was still in effect. Also, § 510.310(e) requires each applicant who holds approval for a new animal drug approved before June 20, 1963, to submit yearly reports of the kind required by § 510.300 (e.g., information on adverse reactions, labeling, and quantity distributed).

For each of the NADA's specified above, the report required by November 21, 1980, has not been received by FDA. Nor has FDA received any of three yearly reports required starting November 21, 1981, for each dosage form of each of the new animal drugs specified above. None of the approvals for the NADA's specified above has been previously withdrawn, nor has any supplemental approval for the NADA's been granted on or after June 20, 1963. Thus, the applicants who hold approval for those NADA's are not exempt under § 510.310(d) from the reporting requirements in § 510.310. Based on the foregoing, the Director concludes that each applicant who holds approval for an NADA listed above has repeatedly failed to make reports required in accordance with § 510.310.

Withdrawal of approval of these NADA's would not require revocation in whole or in part of any regulations issued pursuant to section 512(i) of the act (21 U.S.C. 360b(i)), because approval of the NADA's has not been codified.

In accordance with the provisions of section 512 of the act (21 U.S.C. 360b) and under authority delegated under 21 CFR 5.84, the Director hereby gives the applicants and any interested persons who would be adversely affected by an order withdrawing such approval an opportunity for a hearing at which time such persons may produce evidence and arguments to show why approval of the new animal drug applications listed above and all supplements thereto should not be withdrawn. Any hearing would be subject to the provisions of 21 CFR Part 12.

If an applicant listed above or any other interested person elects to avail himself or herself of an opportunity for a hearing pursuant to section 512(e) of the act (21 U.S.C. 360b(e)) and § 514.200 (21 CFR 514.200), the party must file with the Dockets Management Branch (address above) a written appearance requesting such a hearing by March 26, 1984. Such appearance must also give reasons why approval of the application(s) should not be withdrawn.

The failure of the applicant to file a timely written appearance and request for hearing as required by § 514.200 constitutes an election not to avail himself or herself of the opportunity for a hearing, and the Director will summarily enter a final order withdrawing approval of the application(s) and all supplements thereto.

A request for a hearing may not rest upon mere allegations or denials, but must set forth specific facts showing that there is a genuine and substantial issue of fact that requires a hearing. If it conclusively appears from the face of the information in the request for the hearing that there is no genuine and substantial issue of fact that precludes the withdrawal of approval of the application(s), or if a request for hearing is not made in the required format or with the required reasons, the Commissioner of Food and Drugs will enter summary judgment against the persons who request that hearing, making findings and conclusions denying a hearing.

All submissions pursuant to this notice must be filed in quintuplicate with the Dockets Management Branch. Except for data and information prohibited from public disclosure pursuant to 21 U.S.C. 331(j) or 18 U.S.C. 1905, responses to this notice may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

If a hearing is requested and is justified by the applicant's response to this notice of opportunity for hearing, the issues will be defined, an administrative law judge will be assigned, and a written notice of the time and place at which the hearing will commence will be issued as soon as practicable.

Any hearing on the withdrawal of approval of these NADA's will be open to the public. If, however, the Director finds that portions of the applications that serve as a basis for such hearing contain information concerning data that are entitled to protection as a trade secret, the part of the hearing involving such portions will not be public, unless so specified by the respondent(s).

This action is governed by the provisions of 5 U.S.C. 556 and 557 and is, therefore, excluded from Executive Order 12291 by section 1(a)(1) of the Order.

Dated: February 15, 1984.

Lester M. Crawford,

Director, Bureau of Veterinary Medicine.

[FR Doc. 84-4975 Filed 2-22-84; 8:45 am]
BILLING CODE 4160-01-M

[Docket No. 80N-0382; DESI NOS. 64, 1205, 5064, 5597, 6303, 7337, 9630, 10998, 13416, 11792, and 16109]

Human Drugs; Prescription and Over-the-Counter Drug Products Containing Phenacetin; Amendment

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is amending the notice that withdrew approval of new drug applications or parts of new drug applications that provide for drug products containing phenacetin. This notice identifies certain abbreviated new drug applications that have been supplemented to delete phenacetin from the formulation. The former notice is also amended to advise manufacturers who reformulate a product to delete phenacetin that a new National Drug Code (NDC) number is required for the reformulated product.

EFFECTIVE DATE: February 23, 1984.

ADDRESS: Information about the discontinuance of the old NDC number and assignment of a new NDC number should be reported to the Drug Listing Branch (HFN-315), National Center for Drugs and Biologics, Food and Drug Administration, 6500 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Herbert Gerstenzang, National Center for Drugs and Biologics (HFN-8), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3650.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** on October 5, 1983 (48 FR 45466), the Director of the National Center for Drugs and Biologics withdrew approval, effective November 4, 1983, of new drug applications (NDA's) and abbreviated new drug applications (ANDA's) or parts of such applications that provided for products containing phenacetin.

That notice listed the NDA's and ANDA's for prescription drug products subject to the withdrawal action in two sections (designated as I.A and I.B.) that specified whether the application had been supplemented to provide for a reformulated product without phenacetin as an ingredient. For those applications that had been supplemented, the action withdrawing

approval was limited to those parts of the applications providing for a phenacetin-containing product (section I.A. list). Approval of the entire application was withdrawn if the application had not been supplemented (section I.B. list).

This notice amends the October 5, 1983 notice to identify additional ANDA's which have been supplemented and for which only part of the application was subject to withdrawal of approval. The following applications, therefore, are removed from section I.B. of the October 5, 1983 notice and added to section I.A. In addition, ANDA's 86–285 and 87–635, omitted from the earlier notice, are added to section I.A.

1. Those parts of ANDA 83–077 that pertain to Propoxyphene Compound 65 Capsules containing aspirin 227 milligrams (mg), caffeine 32.4 mg, phenacetin 162 mg, and propoxyphene hydrochloride 65 mg; Zenith Laboratories Inc., 140 Le Grand Ave., Northvale, NJ 07647.

2. Those parts of ANDA 83–101 that pertain to Propoxyphene Compound 65 Capsules containing aspirin 227 mg, caffeine 32.4 mg, phenacetin 162 mg, and propoxyphene hydrochloride 65 mg; Cord Laboratories, Inc., 2555 West Midway Blvd., Broomfield, CO 80020.

3. Those parts of ANDA 85–441 that pertain to APC with Butalbital Tablets containing aspirin 200 mg, butalbital 50 mg, caffeine 40 mg, and phenacetin 130 mg; Zenith Laboratories, Inc.

4. Those parts of ANDA 86–162 that pertain to Butalbital with APC Tablets containing aspirin 200 mg, butalbital 50 mg, caffeine 40 mg, and phenacetin 130 mg; West-Ward Inc., 465 Industrial Way West, Eatontown, NJ 07724.

5. Those parts of ANDA 86–285 that pertain to Phenorial Tablets containing aspirin 200 mg, butalbital 50 mg, caffeine 40 mg, and phenacetin 130 mg, Phoenix Laboratories, Inc., 175 Lavman Lane, Hicksville, NY 11801.

6. Those parts of ANDA 86 –398 that pertain to Butal Compound Tablets containing aspirin 200 mg, butalbital 50 mg, caffeine 40 mg, and phenacetin 130 mg; Cord Laboratories, Inc.

7. Those parts of ANDA 86–432 that pertain to Butal Compound Capsules containing aspirin 200 mg, butalbital 50 mg, caffeine 40 mg, and phenacetin 130 mg; Cord Laboratories, Inc.

8. Those parts of ANDA 86–488 that pertain to Propoxyphene Compound 65 Capsules containing aspirin 227 mg, caffeine 32.4 mg, phenacetin 162 mg, and propoxyphene hydrochloride 65 mg; Lemmon Co., P.O. Box 30, Sellersville, PA 18960.

9. Those parts of ANDA 87–142 that pertain to Dolene Compound–65 Capsules containing aspirin 227 mg, caffeine 32.4 mg, phenacetin 162 mg, and propoxyphene hydrochloride 65 mg. Lederle Laboratories, Pearl River, NY 10965.

10. Those parts of ANDA 87–635 that pertain to Butalbital with APC Tablets containing aspirin 200 mg, butalbital 50 mg, caffeine 40 mg, and phenacetin 130 mg; Lederle Laboratories.

In addition, this amendment serves as notice to manufacturers and distributors of products that are reformulated by deleting or replacing phenacetin that they are required to discontinue the old NDC number and to assign a new NDC number to the reformulated product. This type of NDC number change is required because the removal from a product of phenacetin, an active ingredient, creates a change in product characteristics that distinguish one drug product version from another (21 CFR 207.35(b)(4)(i)). The discontinuance of the old NDC number and replacement with a new NDC number should be reported to the Drug Listing Branch at the address given above using the standard Listing Forms FD 26570.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 52 Stat. 1050–1053 as amended (21 U.S.C. 352, 355)) and under the authority delegated to the Director of the National Center for Drugs and Biologics (21 CFR 5.70 and 5.82).

Dated: February 14, 1984.

Harry M. Meyer, Jr.,

Director, National Center for Drugs and Biologics.

[FR Doc. 84–4704 Filed 2–22–84; 8:45 am]

BILLING CODE 4160–01–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AA–6665–B]

Alaska Native Claims Selection

In accordance with Departmental regulation 43 CFR 2656.7(d), notice is hereby given that a decision to issue conveyance under the provisions of sec. 12(c) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1611 (1976)) ANCSA), will be issued to False Pass Corporation, for approximately 9 acres. The lands involved are within T. 59 S., R. 94 W., Seward Meridian, Alaska.

The decision approving conveyance will be published once a week, for four (4) consecutive weeks, in the ANCHORAGE TIMES upon issuance of the decision. For information on obtaining copies, contact the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513.

Any party claiming a property interest in lands affected by this decision, an agency of the Federal government, or regional corporation may appeal the decision to the Interior Board of Land Appeals, Office of Hearings and Appeals, in accordance with the regulations in 43 CFR Part 4, Subpart E, as revised.

If an appeal is taken, the notice of appeal must be filed in the Bureau of Land Management, Alaska State Office, Division of Conveyance Management (960), 701 C Street, Box 13, Anchorage, Alaska 99513. Do not send the appeal directly to the Interior Board of Land Appeals. The appeal and copies of pertinent case files will be sent to the Board from this office. A copy of the appeal must be served upon the Regional Solicitor, 701 C Street, Box 34, Anchorage, Alaska 99513.

The time limits for filing an appeal are:

1. Parties receiving service of the decision by personal service or certified mail, return receipt requested, shall have thirty days from the receipt of the decision to file an appeal.

2. Unknown parties, parties unable to be located after reasonable efforts have been expended to locate, parties who failed or refused to sign their return receipt, and parties who received a copy of the decision by regular mail which is not certified, return receipt requested, shall have until March 26, 1984 to file an appeal.

Any party known or unknown who is adversely affected by the decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Bureau of Land Management, Alaska State Office, Division of Conveyance Management.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeal. Further information on the manner of and requirements for filing an appeal may be obtained from the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513.

If an appeal is taken, the parties to be served with a copy of the notice of appeal are:

O. Earle Williams, Jr., Chief, Logistics and Property Management, 17th Coast Guard District, P.O. Box 3–5000, Juneau, Alaska 99802

False Pass Corporation, False Pass, Alaska 99583

The Aleut Corporation, 2550 Denali Street, Suite 900, Anchorage, Alaska 99503

Helen Burleson,

Section Chief, Branch of ANCSA Adjudication.

[FR Doc. 84-4753 Filed 2-22-84; 8:45 am]

BILLING CODE 4310-JA-M

[F-70029]

Alaska Native Claims Selection

In accordance with Departmental regulation 43 CFR 2650.7(d), notice is hereby given that the decision to issue conveyance to Cook Inlet Region, Inc., published in the Federal Register on September 1, 1983, is modified as to page 39705.

The time limit to filing an appeal is March 26, 1984.

Copies can be obtained by contacting the Bureau of Land Management, Alaska State Office, Division of Conveyance Management (960), 701 C Street, Box 13, Anchorage, Alaska 99513.

Except as modified by this decision, the decision published September 1, 1983, stands as written.

Kamilah Rasheed,

Section Chief, Branch of ANSCA Adjudication.

[FR Doc. 84-4754 Filed 2-22-84; 8:45 am]

BILLING CODE 4310-JA-M

[F-81353]

Alaska Native Claims Selection

In accordance with Departmental regulation 43 CFR 2650.7(d), notice is hereby given that a decision to issue conveyance under the provisions of sec. 12(b)(6) of the act of January 2, 1976 (89 Stat. 1151), and LC.(2) of the Terms and Conditions for Land Consolidation and Management in the Cook Inlet Area, as clarified August 31, 1976 (90 Stat. 1935), will be issued to Cook Inlet Region, Inc., for approximately 0.4328 acre. The land involved is within T. 1 S., R. 1 W., Fairbanks Meridian, Alaska.

The decision to issue conveyance will be published once a week, for four (4) consecutive weeks, in the FAIRBANKS DAILY NEWS-MINER upon issuance of the decision. For information on how to obtain copies, contact the Bureau of Land Management, Alaska State Office, 701 C Street , Box 13, Anchorage, Alaska 99513.

Any party claiming a property interest in lands affected by this decision, an agency of the Federal Government, or regional corporation may appeal the decision to the Interior Board of Land Appeals, Office of Hearing and Appeals, in accordance with the regulations in 43 Code of Federal Regulation (CFR) Part 4, Subpart E, as revised.

If an appeal is taken, the notice of appeal must be filed in the Bureau of Land Management, Alaska State Office, Division of Conveyance Management (960), 701 C Street, Box 13, Anchorage, Alaska 99513. Do not send the appeal directly to the Interior Board of Appeals. The appeal and copies of pertinent case files will be sent to the Board from this office. A copy of the appeal must be served upon Regional Solicitor, 701 C Street, Box 34, Anchorage, Alaska 99513.

The time limits for filing an appeal are:

1. Parties receiving service of the decision by personal service or certified mail, return receipt requested, shall have thirty days from the receipt of the decision to file an appeal.

2. Unknown parties, parties unable to be located after reasonable efforts have been expended to locate, parties who failed or refused to sign their return receipt, and parties who received a copy of the decision by regular mail which is not certified, return receipt requested, shall have until March 26, 1984 to file an appeal.

Any party known or unknown who is adversely affected by the decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Bureau of Land Management, Alaska State Office, Division of Conveyance Management.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeal. Further information on the manner of and requirements for filing an appeal may be obtained from the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513.

If an appeal is taken, the parties to be served with a copy of the notice of appeal are:

Cook Inlet Region, Inc., P.O. Box Drawer 4–N, Anchorage, Alaska 99509

Retained Lands Unit—Easements, Division of Land and Water Management, Alaska Department of Natural Resources, Pouch 7–005, Anchorage, Alaska 99510

Kamilah Rasheed,

Section Chief, Branch of ANCSA Adjudication.

[FR Doc. 84-4752 Filed 2-22-84; 8:45 am]

BILLING CODE 4310-JA-M

[F-14943-A]

Alaska Native Claims Selection

In accordance with Departmental regulation 43 CFR 2650.7(d), notice is hereby given that a decision to issue conveyance under the provisions of sec. 14 of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1611) (1976)) (ANCSA), will be issued to Tanacross Incorporated, for the following lands:

Lot 5, Block 5, U.S. Survey N. 3726, Alaska, Townsite of Tanacross, situated on the right bank of the Tanana River, approximately 10 miles northeast of Tok Junction, Alaska.

Containing 1.6 acres.

The decision to issue conveyance will be published once a week, for four (4) consecutive weeks, in the THE TUNDRA TIMES upon issuance of the decision.

For information on how to obtain copies, contact Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513.

Any party claiming a property interest in land affected by this decision, an agency of the Federal government, or regional corporation may appeal the decision to the Interior Board of Land Appeals, Office of Hearings and Appeals, in accordance with the regulations in 43 CFR Part 4, Subpart E, as revised.

If an appeal is taken, the notice of appeal must be filed with the Bureau of Land Management, Alaska State Office, Division of Conveyance Management (960), 701 C Street, Box 13, Anchorage, Alaska 99513. Do not send the appeal directly to the Interior Board of Land Appeals. The appeal and copies of pertinent case files will be sent to the Board from this office. A copy of the appeal must be served upon the Regional Solicitor, 701 C Street, Box 34, Anchorage, Alaska 99513.

The time limits for filing an appeal are:

1. Parties receiving service of the decision by personal service or certified mail, return receipt requested, shall have thirty days from the receipt of the decision to file an appeal.

2. Unknown parties, parties unable to be located after reasonable efforts have been expended to locate, parties who failed or refused to sign their return receipt, and parties who received a copy of the decision by regular mail which is not certified, return receipt requested, shall have until March 26, 1984 to file an appeal.

An party known or unknown who is adversely affected by the decision shall be deemed to have waived those rights

which were adversely affected unless an appeal is timely filed with the Bureau of Land Management, Alaska State Office, Division of Conveyance Management.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeals. Further information on the manner of and requirements for filing an appeal may be obtained from the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513.

If an appeal is taken, the parties to be served with a copy of the notice of appeal are:

Retained Lands Unit—Easements, Division of Land and Water Management, Alaska Department of Natural Resources, Pouch 7–005, Anchorage, Alaska 99510
Bureau of Indian Affairs, Juneau Area Office, P.O. Box 3–8000, Juneau, Alaska 99801
Tanacross, Incorporated, Tanacross, Alaska 99776
Doyon, Limited, Land Department, Doyon Building, 201 First Avenue, Fairbanks, Alaska 99701

Helen Burleson,

Section Chief, Branch of ANCSA Adjudication.

[FR Doc. 84–4751 Filed 2–22–84; 8:45 am]

BILLING CODE 4310–JA–M

Environmental Impact Statement (EIS) on Coal Preference Right Lease Applications (PRLAs) Located in Kane and Garfield Counties, Utah; Indefinite Postponement of Public Scoping Meetings

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Notice of indefinite postponement of scoping meetings.

SUMMARY: Notice is hereby given that scoping meetings scheduled for February 28, in Kanab, Utah; February 29, in Escalante, Utah; and March 1, 1984, in Salt Lake City, Utah, have been indefinitely postponed (See **Federal Register** Notice Vol. 49, No. 16, Tuesday, January 24, 1984, page 2963 for reference). These meetings were scheduled in support of preparation of an EIS considering coal PRLAs in Kane and Garfield Counties, Utah. Information on possible rescheduling of the meetings will be made available at a later date.

FOR FURTHER INFORMATION CONTACT: Ronald B. Bolander, (801) 524–3133, address—Bureau of Land Management, Utah State Office, University Club Building, 136 East South Temple, Salt Lake City, Utah 84111.

Dated: February 16, 1984.

Roland G. Robinson,

State Director.

[FR Doc. 84–4706 Filed 2–22–84; 8:45 am]

BILLING CODE 4310–DQ–M

[M–59614, M–59615, M–59616, M–59617, M–59618]

Exchange of Public and Private Lands; Montana

AGENCY: Bureau of Land Management, Miles City District Office, Interior.

ACTION: Notice of Realty Action M–59614, M–59615, M–59616, M–59617, M–59618, exchange of public and private lands in Garfield County, Montana.

SUMMARY: The following described lands have been determined to be suitable for disposal by exchange under Section 206 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1716:

M–59614

Principal Meridian, Montana

T. 19 N., R. 40 E.,
Sec. 20: SW¼SE¼;
Sec. 28: NW¼SE¼.
T. 18 N., R. 41 E.,
Sec. 6: Lot 3;
Sec. 7: Lot 1, NE¼NW¼.
T. 19 N., R. 41 E.,
Sec. 31: Lot 1.

M–59615

Principal Meridian, Montana

T. 16 N., R. 40 E.,
Sec. 1: Lot 1;
Sec. 2: SW¼SE¼.
T. 16 N., R. 41 E.,
Sec. 6: Lots 1–3.

M–59616

Principal Meridian, Montana

T. 18 N., R. 35 E.,
Sec. 1: Lots 1, 2, SE¼NE¼, NE¼SE¼.
T. 18 N., R. 36 E.,
Sec. 17: SE¼NE¼.
T. 20 N., R. 33 E.,
Sec. 6: NE¼SW¼;
Sec. 9: NW¼SW¼.

M–59617

Principal Meridian, Montana

T. 18 N., R. 40 E.,
Sec. 3: SE¼NE¼, NW¼SE¼.

M–59618

Principal Meridian, Montana

T. 21 N., R. 33 E.,
Sec. 28: NE¼NW¼.
T. 21 N., R. 34 E.,
Sec. 34: NW¼SE¼.

Aggregating 834.84 acres.

In exchange for these lands, the United States Government will acquire the surface estate in the following described lands:

M–59614

Principal Meridian, Montana

T. 19 N., R. 40 E.,
Sec. 24: S½NE¼;
Sec. 29: S½SW¼.
T. 19 N., R. 41 E.,
Sec. 19: Lots 2, 3.

M–59615

Principal Meridian, Montana

T. 16 N., R. 40 E.,
Sec. 2: Lots 1–4, 6.

M–59616

Principal Meridian, Montana

T. 21 N., R. 33 E.,
Sec. 30: Lots 1–4, E½NW¼.
T. 20 N., R. 33 E.,
Sec. 6: Lot 3.

M–59617

Principal Meridian, Montana

T. 18 N., R. 40 E.,
Sec. 10: SE¼SW¼;
Sec. 15: NE¼NW¼.

M–59618

Principal Meridian, Montana

T. 21 N., R. 34 E.,
Sec. 20: SW¼SE¼;
Sec. 27: NW¼SW¼.

Aggregating 830.36 acres.

DATES: For a period of 45 days from the date of this notice, interested parties may submit comments to the Bureau of Land Management, District Manager, P.O. Box 940, Miles City, Montana 59301. Any comments will be evaluated by the BLM Montana State Director, who may vacate or modify this realty action and issue a final determination. In the absence of any action by the State Director, this realty action will become the final determination of the Department of Interior.

FOR FURTHER INFORMATION CONTACT: Information related to this exchange is available at the Miles City District Office, West of Miles City, Montana.

SUPPLEMENTARY INFORMATION: The publication of this notice segregates the public lands described above from settlement, sale, location and entry under the public land laws, including the mining laws, but not from exchange pursuant to Section 206 of the Federal Land Policy and Management Act of 1976.

The exchange will be made subject to:

1. A reservation to the United States of a right-of-way for ditches or canals in accordance with 43 U.S.C. 945.

2. All mineral ownership under the public and private lands involved will remain with the present owners.

3. All valid existing rights (e.g., rights-of-way, easements and leases of record).

4. The exchange is based on a final appraised fair market value on the public and private lands involved in this action.

This exchange is consistent with Bureau of Land Management policies; planning and state and local officials have been contacted. The public interest will be served by completion of this exchange.

Dated: February 14, 1984.

Ray Brubaker,

District Manager.

[FR Doc. 84-4707 Filed 2-22-84; 8:45 am]

BILLING CODE 4310-DN-M

[M 57761 (SD)]

South Dakota; Conveyance of Public Land

AGENCY: Bureau of Land Management, Montana State Office, Interior.

ACTION: Notice of Conveyance of Public Land in Custer County, South Dakota (M 57761(SD)).

SUMMARY: Notice is hereby given that pursuant to Section 203 of the Act of October 21, 1976 (43 U.S.C. 1713 (1976)), the surface only of the following described land was conveyed to Claude Smith or Annette Smith:

Black Hills Meridian

T. 6 S., R. 2 E.
Sec. 25, NE¼NW¼.
Containing 40 acres.

The purpose of this notice is to inform State and local governmental officials and other interested parties of the conveyance of the land to the Smiths.

FOR FURTHER INFORMATION CONTACT: Ed Croteau, Montana State Office, 406-657-6082.

Dated: February 10, 1984.

Edward H. Croteau,

Chief, Lands Adjudication Section.

[FR Doc. 84-4708 Filed 2-22-84; 8:45 am]

BILLING CODE 4310-DN-M

[OR-35745 (Wash)]

Washington; Order Providing for Opening of Lands

Correction

In FR Doc. 84-2868, appearing on page 4159 in the issue of Thursday, February 2, 1984, make the following corrections:

1. In the middle column, in the third column of the list of numbers in paragraph "1." the seventh number from the top reading "5405" should read "5404".

2. In the third column, fourth line of paragraph "3." "theyt" should read "they".

BILLING CODE 1505-01-M

[N-36461]

Nevada; Realty Action—Noncompetitive Sale of Public Land in Lyon County, Nevada

Correction

In FR Doc. 84-2044 appearing on page 3144 in the issue of Wednesday, January 25, 1984, make the following corrections.

On page 3144, first column, in the land description of Mount Diablo Meridian, Nevada, second line, "NE¼" at the end of the line should read "NW¼"; remove "S" at the end of the seventh line; and the eighth line should read "SW¼SW¼ NW¼".

On the same page, second column, first full paragraph, first line, "The" should read "This"; same paragraph, fourth line, "of" should read "for"; and in the fifth line, "qnd" should read" "and".

BILLING CODE 1505-01-M

[OR-35885]

Oregon; Conveyance

Notice is hereby given that, pursuant to section 203 of the Act of October 21, 1976 (90 Stat. 2743, 2750; 43 U.S.C. 1701, 1713), the following described public land in Douglas County, was purchased by modified competitive sale and conveyed to the parties shown:

John E. and Margaret A. Kasunich, 285 Bluff Rd., Watsonville, CA 95076

Willamette Meridian, Oregon

T. 22 S., R. 6 W.,
Sec. 8, Lot 7.

The purpose of this Notice is to inform the public and interested State and local governmental officials of the issuance of the conveyance document to Mr. & Mrs. Kasunich.

Harold A. Berends,

Chief, Branch of Lands and Minerals Operations.

February 15, 1984.

[FR Doc. 84-4780 Filed 2-22-84; 8:45 am]

BILLING CODE 4310-33-M

[OR-36328A]

Oregon; Conveyance

Notice is hereby given that, pursuant to section 203 of the Act of October 21, 1976 (90 Stat. 2743, 2750; 43 U.S.C. 1701, 1713), the following described public land in Gilliam County, was purchased by modified competitive sale and conveyed to the party shown:

Joseph K. Irby, Oley Star Route, Arlington, OR 97812

Willamette Meridian, Oregon

T. 1 S., R. 21 E.,
Sec. 25, NW¼NW¼.

The purpose of this Notice is to inform the public and interested State and local governmental officials of the issuance of the conveyance document to Mr. Irby.

Harold A. Berends,

Chief, Branch of Lands and Minerals Operations.

February 15, 1984.

[FR Doc. 84-4781 Filed 2-22-84; 8:45 am]

BILLING CODE 4310-33-M

[OR-36328-B]

Oregon; Conveyance

Notice is hereby given that, pursuant to section 203 of the Act of October 21, 1976 (90 Stat. 2743, 2750; 43 U.S.C. 1701, 1713), the following described public land in Gilliam County, was purchased by modified competitive sale and conveyed to the party shown:

Odom Ranches, Box 398, Arlington, OR 97812

Willamette Meridian, Oregon

T. 1 N., R. 22 E.,
Sec. 24, NW¼SE¼.

The purpose of this Notice is to inform the public and interested State and local governmental officials of the issuance of the conveyance document to Odom Ranches.

Harold A. Berends,

Chief, Branch of Lands and Minerals Operations.

February 15, 1984.

[FR Doc. 84-4782 Filed 2-22-84; 8:45 am]

BILLING CODE 4310-33-M

[OR-36328-D]

Oregon; Conveyance

Notice is hereby given that, pursuant to section 203 of the Act of October 21, 1976 (90 Stat. 2743, 2750; 43 U.S.C. 1701, 1713), the following described public land in Gilliam County, was purchased by modified competitive sale and conveyed to the party shown:

Leo G. Graham, 520 S.W. Yamhill, Portland, OR 97204

Willamette Meridian, Oregon

T. 1 S., R. 20 E.,
Sec. 18, SW¼SE¼.

The purpose of this Notice is to inform the public and interested State and local governmental officials of the issuance of the conveyance document to Mr. Graham.

Harold A. Berends,

Chief, Branch of Lands and Minerals Operations.

February 15, 1984.

[FR Doc. 84-4783 Filed 2-22-84; 8:45 am]
BILLING CODE 4310-33-M

[OR-34957, OR-36020]

Realty Action; Modified Competitive Sale in Lake County, Oregon

The following described parcels of land have been examined and identified as suitable for disposal by sale under Section 203 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2750, 43 U.S.C. 1713) at no less than the appraised fair market value shown:

Sale No.	Parcel No.	Legal description	Acreage	Fair market value
OR-34957	1	T. 27 W., R. 17 E., Willamette Meridian, Oregon: Section 15: SW¼, SE¼	40	$8,200
OR-36020		T. 28 S., R. 16 E., Willamette Meridian: Section 11: SW¼, NW¼, NW¼, SW¼	80	14,400

The sale will be held on Wednesday, May 16, 1984, at 10:00 a.m., Bureau of Land Management Conference Room, 1000 South Ninth Street, Lakeview, Oregon 97630.

Sale bidding will be limited to sealed bids and must be for at least the appraised value. Individuals with a preference right to purchase a parcel must be present at the sale and must submit a sealed bid, appraised value or higher, in order to qualify to meet the high sealed bid. Sale Parcel No. 1, OR-34957 and sale parcel OR-36020 will be offered for sale at public auction through modified competitive bidding with Lloyd Ginter and Kenneth Greene, respectively, given preference to meet the high selling bid. Refusal or failure by either Mr. Ginter or Mr. Greene to meet the high selling bid immediately after the close of bidding shall constitute a waiver of such right.

Modified competitive bidding procedures are being used to recognize the needs of adjoining landowners and historical use by these landowners. Preference to meet the high selling bid is authorized under Section 203 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1713; 43 CFR 2711.3-2(a)(2)).

This sale is consistent with the land use plan developed in accordance with the Department's planning regulations, public participation and in coordination with local governmental entities. The sale involves isolated land compeletely surrounded by private land, that is difficult and uneconomical to manage as part of the public lands, and is not suitable for management by another Federal department or agency. The public interest will be served by offering this land for sale.

Federal law requires that all bidders be U.S. citizens, 18 years of age or more, a state or state instrumentality authorized to hold property, or in the case of corporations, be authorized to own real estate in the state in which the sale land is offered.

Sealed written bids will be considered only if received by the Bureau of Land Management, 1000 South Ninth Street, P.O. Box 151, Lakeview, Oregon 97630, prior to 10:00 a.m., Wednesday, May 16, 1984. A separate written bid should be submitted for each sale parcel desired. Each written sealed bid must be accompanied by a certified check, postal money order, bank draft or cashiers check, made payable to the Department of the Interior-BLM for at least twenty percent (20%) of the amount bid and shall be enclosed in a sealed envelope clearly marked, "Bid for Public Land Sales OR-34957, OR-36020, Sale Parcel Number —, Lake County, Oregon, May 16, 1984". The written sealed bids will be opened and publicly declared at the beginning of each sale. If 2 or more envelopes containing valid bids of the same amount are received, the determination of which is to be considered the highest bid, shall be by drawing.

The terms and conditions applicable to the sale are:

1. The apparent high bidder shall submit the remainder of the full bid price within 30 days from the date of sale. Failure to submit the full bid price within 30 days from the date of sale shall result in sale cancellation of the specific parcel and the twenty percent (20%) deposit shall be forefeited.

2. The authorized officer may reject the highest qualified bid and release the bidder from his/her obligation and withdraw any tract from the sale, if he determines that consummation of the sale would be inconsistent with the provisions of any existing law, or collusive or other activities have hindered or restrained free and open bidding, or consummation of the sale would encourage or promote speculation in public lands.

3. The patents will contain a reservation to the United States for ditches and canals.

4. The sale is for surface estate only. The patents will contain a reservation to the United States for all minerals.

5. The sale will be subject to all valid existing rights.

Parcels not sold on the day of the sale will remain available for sale until sold or withdrawn. Sealed bids will be solicited on these parcels at the Lakeview District during regular business hours, (7:45 a.m. to 4:40 p.m.). The sealed bids will be opened June 6, 1984 and every first Wednesday of each subsequent month until the land is either sold, or withdrawn.

Detailed information concerning the sale, including the planning documents, environmental assesment and the record of public involvement, is available for review at the Lakeview District Office, Bureau of Land Management, 1000 South Ninth Street, Lakeview, Oregon 97630.

For a period of 45 days from the date of issuance of this notice, interested parties may submit comments to the District Manager, Lakeview District Office, Bureau of Land Management, P.O. Box 151, 1000 South Ninth Street, Lakeview, Oregon 97630. Any adverse comments received as a result of the Notices of Realty Action or notification to the congressional committees and delegations pursuant to Public Law 96-146, will be evaluated by the District Manager who may vacate or modify this realty action and issue a final determination. In the absence of any action by the District Manager, this realty action will become a final determination of the Department of the Interior. Interested parties should continue to check with the District Office to keep themselves advised of any changes.

Dated: February 13, 1984.

Dick Harlow,

Associate District Manager.

[FR Doc. 84-4777 Filed 2-22-84; 8:45 am]
BILLING CODE 4310-33-M

Availability of Public Land for Purchase in Lake County, Oregon

The parcel of public land described below has been previously offered for public auction sale by the Bureau of Land Management pursuant to Section 203 of the Federal Land Policy and Management Act of 1976, (90 Stat. 2750, 43 U.S.C. 1713) but remains unsold. Sealed bids for this parcel will now be accepted at the Lakeview District Office. Bids may be submitted by qualified persons either by mail or delivered in person during regular business hours. Bids will not be accepted for less than the minimum bid listed below for the parcel.

All bids received will be opened the first Wednesday of each month, beginning on March 7, 1984. To be considered, bids must be received by 10:00 a.m. on the day of the bid opening. Each bid must be accompained by a certified check, postal money order, bank draft, or cashier's check, made payable to the Department of the Interior—BLM for not less than one-fifth of the amount of the Bid. Bids must be enclosed in a sealed envelope marked in the lower left-hand corner as follows: "Public Sale Bid, Serial No. ———." If two or more envelopes are received each containing acceptable bids of the same amount for the same parcel, the successful bid shall be determined by drawing. In all cases the highest sealed bid will determine the successful purchaser. The successful purchaser will be notified in writing and will be required to submit the remainder of the amount bid within 30 days. Failure to submit the full sale price within 30 days shall result in cancellation of the sale and the bidder's deposit will be forefeited. All unsuccessful bids will be returned.

The parcel will remain available for purchase as described above until sold or withdrawn from sale by the authorized officer. The parcel available for sale is described as follows:

Parcel serial No.	Legal description/acreage Willamett Meridian, Oregon	Minimum bid
OR-36018	T. 28 S., R. 16 E., W.M. Sec. 25: SW¼ 160 Acres	$24,500

Bids or requests for information on the above parcel should be directed to the Lakeview District Office, 1000 S. 9th Street, P.O. Box 151, Lakeview, Oregon 97630, telephone (503) 947–2177.

Dated: February 10, 1984.

Larry Duncan,

Acting District Manager.

[FR Doc. 84–4778 Filed 2–22–84; 8:45 am]

BILLING CODE 4310–33–M

Fish and Wildlife Service

Endangered Species Permit; Receipt of Applications

The following applicants have applied for permits to conduct certain activities with endangered species. This notice is provided pursuant to Section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531, et seq.):

Applicant: John Chason Gray, Daphne, AL; APP #116987.

The applicant requests a permit to purchase in interstate commerce one pair of captive-bred Hawaiian (=nene) geese [*Neosochen* (=*Branta*) *sandvicensis*] for enhancement of propagation.

Applicant: Suncoast Seabird Sanctuary, Indian Shores, FL; APP #146852.

The applicant requests a permit to export to Canada and reimport two brown pelicans (*Pelecanus occidentalis*) for enhancement of survival.

Applicant: Dr. Malcolm H. Hast, Chicago, IL; APP #583768.

The applicant requests a permit to import tissue specimens (larynx) of captive endangered monotremes and marsupials, that have died in Australian zoos, for scientific research.

Applicant: Western Ecological Services Company, Novato, CA; APP #591791.

The applicant requests a permit to live-trap and release salt marsh harvest mice (*Reithrodontomys raviventris*) in the San Francisco Bay area, for scientific research.

Applicant: 7 Oaks Game Farm, Wilmington, NC; APP #586721.

The applicant requests a permit to purchase in interstate commerce five pairs of masked bobwhite (*Colinus virginianus ridgwayi*) from various U.S. sources, for enhancement of propagation.

Applicant: George Jackson Tankersley, Pittsburgh, PA; APP #147556.

The applicant requests a permit to import one bontebok (*Damaliscus dorcas dorcas*) trophy culled from the ranch of Francis Bowker, Grahamstown, South Africa, for enhancement of the survival of the species.

Applicant: Rio Grande Zoo, Albuquerque, NM; APP #116995.

The applicant requests a permit to import three captive-born cheetahs (*Acinonyx jubatus*) from Whipsnade Park, England, for enhancement of propagation.

Applicant: International Animal Exchange, Ferndale, MI; APP #146429.

The applicant requests a permit to purchase in interstate commerce one female white-cheeked gibbon (*Hylobates concolor*) from Lafayette Park Zoo, Norfolk, VA, and export it to Seoul Grand Park Zoo, Seoul, Korea, for enhancement of propagation.

Applicant: International Animal Exchange, Ferndale, MI; APP #143995.

The applicant requests a permit to import six female captive-born hog deer [*Axis* (=*Cervis*) *porcinus annamiticus*] for enhancement of propagation.

Documents and other information submitted with these applications are available to the public during normal business hours (7:45 am to 4:15 pm) in Room 601, 1000 North Glebe Road, Arlington, Virginia, or by writing to the Director, U.S. Fish and Wildlife Service, P.O. Box 3654, Arlington, Virginia 22203.

Interested persons may comment on any of these applications within 30 days of the date of this publication by submitting written views, arguments, of data to the Director at the above address. Please refer to the appropriate PRT 2 # or APP # when submitting comments.

Dated: February 17, 1984.

R. K. Robinson,

Federal Wildlife Permit Office, U.S. Fish and Wildlife Service.

[FR Doc. 84–4798 Filed 2–22–84; 8:45 am]

BILLING CODE 4310–07–M

Minerals Management Service

Development Operations Coordination Document

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the Receipt of a Proposed Development Operations Coordination Document (DOCD).

SUMMARY: Notice is hereby given that Pennzoil Exploration and Production Company has submitted a DOCD describing the activities it proposes to conduct on Lease OCS–G 5186, Block 252, West Cameron Area, offshore Louisiana. Proposed plans for the above area provide for the development and production of hydrocarbons with support activities to be conducted from an onshore base located at Galveston, Texas.

DATE: The subject DOCD was deemed submitted on February 15, 1984.

ADDRESSES: A copy of the subject DOCD is available for public review at the Office of the Regional Manager, Gulf of Mexico Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana (Office Hours: 9 a.m. to 3:30 p.m., Monday through Friday).

FOR FURTHER INFORMATION CONTACT: Mr. Mike Joseph, Minerals Management Service, Gulf of Mexico Region; Rules and Production; Plans, Platform and Pipeline Section, Exploration/ Development Plans Unit; Phone (504) 838–0887.

SUPPLEMENTARY INFORMATION: The purpose of this Notice is to inform the public, pursuant to sec. 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the DOCD and that it is available for public review.

Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in DOCDs available to affected states, executives of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in revised Section 250.34 of Title 30 of the CFR.

Dated: February 15, 1984.

John L. Rankin,

Regional Manager, Gulf of Mexico Region.

[FR Doc. 84-4785 Filed 2-22-84; 8:45 am]

BILLING CODE 4310-MR-M

Oil and Gas and Sulphur Operations in the Outer Continental Shelf; Exxon Co.; U.S.A.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the Receipt of a Proposed Development and Production Plan.

SUMMARY: This Notice announces that Exxon Company, U.S.A., Unit Operator of the South Timbalier Block 54 Federal Unit Agreement No. 14–08–001–3444, submitted on February 9, 1984, a proposed supplemental plan of development/production describing the activities it proposes to conduct on the South Timbalier Block 54 Federal Unit.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the plan and that it is available for public review at the offices of the Regional Manager, Gulf of Mexico Region, Minerals Management Service, 3301 N. Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: Minerals Management Service, Records Management Section, Room 143, open weekdays 9:00 a.m. to 3:30 p.m., 3301 N. Causeway Blvd., Metairie, Louisiana 70002, Phone (504) 838–0519.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in development and production plans available to affected States, executives of affected local governments, and other interested parties became effective on December 13, 1979 (44 FR 53685). Those practices and procedures are set out in a revised Section 250.34 of Title 30 of the Code of Federal Regulations.

Dated: February 13, 1984.

John L. Rankin,

Regional Manager, Gulf of Mexico Region.

[FR Doc. 84-4709 Filed 2-22-84; 8:45 am]

BILLING CODE 4310-MR-M

National Park Service

Availability of Environmental Assessment Access Study; Playalinda Beach, and Canaveral National Seashore Florida; Public Meeting

An Environmental Assessment of alternatives for public access to Playalinda Beach, Canaveral National Seashore, is available for public review and comment.

The assessment considers the need for security in the area during space shuttle activity and the National Park Service's commitment to provide public access to this area.

As part of the Service's program for public participation in planning, a public meeting on the assessment will be held at the following time and location:

March 7, 1984, 7 p.m.—Brevard Community College, Titusville Campus, 1111 N. Washington Avenue, Titusville, Florida.

Written and oral comments on the assessement and its contents will be received for consideration at the meeting. In addition, written comments will be received by the Regional Director, Southeast Region, National Park Service, 75 Spring Street, SW, Atlanta, Georgia 30303, or by the Acting Superintendent, Canaveral National Seashore, P.O. Box 2583, Titusville, Florida 32780, until March 22, 1984.

Dated: February 10, 1984.

Robert M. Baker,

Regional Director, Southeast Region.

[FR Doc. 84-4731 Filed 2-22-84; 8:45 am]

BILLING CODE 4310-70-M

United States World Heritage Nomination Process; Calendar Year 1984

AGENCY: National Park Service, Interior.

ACTION: Public Notice and Request for Comment.

SUMMARY: The Department of the Interior, through the National Park Service, announces the process that will be used in calendar 1984 to identify possible U.S. nominations to the World Heritage List. This notice lists the properties that are included in the inventory of potential future U.S. World Heritage nominations, and solicits public comments and suggestions on properties that should be considered as potential U.S. World Heritage nominations this year. This notice identifies the requirements that U.S. properties must satisfy to be considered for nomination, and references the rules that the Department of the Interior has adopted to implement the World Heritage Convention. In addition, this notice contains the criteria which cultural or natural properties must satisfy for World Heritage status, and the 12 U.S. properties inscribed on the World Heritage List as of January 1, 1984.

DATES: Comments or suggestions of cultural or natural properties as potential 1985 U.S. World Heritage nominations must be received within 60 days of this notice. Comments should pertain to the merits of properties included on the draft inventory or others which the respondent believes should be considered for nomination to the World Heritage List of 1985. Comments should also specify how the recommended property satisfies one or more of the World Heritage criteria. The Department will decide the issue of nominations for this year and will publish the decision in the **Federal Register**, with a request for further public comment in the event that potential nominations are identified. Comments on potential U.S. nominations which may be listed must be received within 30 days of the second notice. In the event that nominations are favorably identified and received, the Department of Interior will subsequently publish in the **Federal Register** a final list of proposed 1985 U.S. World Heritage nominations. A detailed nomination document will be prepared

for each such proposed nomination. In November, the Federal Interagency Panel for World Heritage will review the accuracy and completeness of draft 1985 U.S. nominations, and will make recommendations to the Department of the Interior. The Assistant Secretary for Fish and Wildlife and Parks will subsequently transmit approved nomination(s) on behalf of the United States to the World Heritage Committee Secretariat, through the Department of State, by December 15, 1984, for evaluation by the World Heritage Committee in a process that could lead to inscription on the World Heritage List by fall 1985.

ADDRESS: Written comments or recommendations should be sent to the Director, National Park Service, U.S. Department of the Interior, Washington, D.C. 20240. Attention: World Heritage Convention—773.

FOR FURTHER INFORMATION CONTACT: Mr. David G. Wright, Associate Director, Planning and Development, National Park Service, U.S. Department of the Interior, Washington, D.C. 20240 (202/343-6741).

SUPPLEMENTARY INFORMATION: The Convention Concerning the Protection of the World Cultural and Natural Heritage, ratified by the United States and 77 other countries, has established a system of international cooperation through which cultural and natural properties of outstanding universal value to mankind may be recognized and protected. The Convention seeks to put into place an orderly approach for coordinated and consistent heritage resource protection and enhancement throughout the world. The Convention complements each participating nation's heritage conservation programs, and provides for:

(a) The establishment of an elected 21-member World Heritage Committee to further the goals of the Convention and to approve properties for inclusion on the World Heritage Lists;

(b) The development and maintenance of a World Heritage List to be comprised of natural and cultural properties of outstanding universal value;

(c) The preparation of a List of World Heritage in Danger;

(d) The establishment of a World Heritage Fund to assist participating countries in identifying, preserving, and protecting World Heritage properties;

(e) The provision of technical assistance to participating countries, upon request; and

(f) The promotion and enhancement of public knowledge and understanding of the importance of heritage conservation at the international level.

Participating nations identify and nominate their sites for inclusion on the World Heritage List. The World Heritage Committee judges all nominations against established criteria. Under the Convention, each participating nation assumes responsibility for taking appropriate legal, scientific, technical, administrative, and financial measures necessary for the identification, protection, conservation, and rehabilitation of World Heritage properties situated within its borders.

In the United States, the Department of the Interior is responsible for directing and coordinating U.S. participation in the World Heritage Convention. The Department implements its responsibilities under the Convention in accordance with the statutory mandate contained in Title IV of the National Historic Preservation Act Amendments of 1980 (Pub. L. 96-515; 16 U.S.C. 470 a-1, a-2). On May 27, 1982, the Interior Department published in the **Federal Register** the policies and procedures which will be used to carry out this legislative mandate (47 FR 23392). The rules contain additional information on the Convention and its implementation in the United States, and identify the specific requirements that U.S. properties must satisfy before they can be nominated for World Heritage status, i.e., the property must have previously been determined to be of national significance, its owner must concur in writing to its nomination, and its nomination must include evidence of such legal protections as may be necessary to ensure preservation of the property and its environment.

The Federal Interagency Panel for World Heritage assists the Department in implementing the Convention by making recommendations on U.S. World Heritage policy, procedures, and nominations. The Panel is chaired by the Assistant Secretary for Fish and Wildlife and Parks, and includes representatives from the Office of the Assistant Secretary for Fish and Wildlife and Parks, the National Park Service, and the U.S. Fish and Wildlife Service within the Department of the Interior; the President's Council on Environmental Quality; the Smithsonian Institution; the Advisory Council on Historic Preservation; National Oceanic and Atmospheric Administration, Department of Commerce; Forest Service, Department of Agriculture; and the Department of State.

I. Potential U.S. World Heritage Nominations

The Department encourages any agency, organization, or individual to submit written comments on how one or more properties on the U.S. World Heritage indicative inventory which follows, or other qualified property, relates to and satisfies one or more of the World Heritage criteria (Section II of this notice). In order for a United States property to be considered for momination to the World Heritage List, it must satisfy the requirements set forth earlier, i.e., (a) it must have previously been determined to be of national significance, (b) its owner must concur in writing to such nomination, and (c) its nomination document must include evidence of such legal protections as may be necessary to preserve the property and its environment. Information provided by interested parties will be used in evaluating the World Heritage potential of a particular cultural or natural property.

The following properties were published in the **Federal Register** on May 6, 1982, as the inventory of potential future U.S. World Heritage nominations (47 FR 19648) and amended in (48 FR 38100). The inventory discusses briefly the significance of each site, and identifies the specific World Heritage criteria that the sites appear to satisfy. The properties included on the inventory minus properties nominated in intervening years are as follows:

Natural

Acadia National Park, Maine
Aleutian Islands Unit of the Alaska Maritime National Wildlife Rufuge, Alaska
Arches National Park, Utah
Arctic National Wildlifer Refuge, Alaska
Big Bend National Park, Texas
Bryce Canyon National Park, Utah
Canyonlands National Park, Utah
Capitol Reef National Park, Utah
Carlsbad Caverns National Park, New Mexico
Colorado National Monument, Colorado
Crater Lake National Park, Oregon
Death Valley National Monument, California
Denali National Park, Alaska
Gates of the Arctic National Park, Alaska
Glacier Bay National Park, Alaska
Glacier National Park, Montana
Grand Teton National Park, Wyoming
Guadalupe Mountains National Park, Texas
Haleakala National Park, Hawaii
Hawaii Volcanoes National Park, Hawaii
Joshua Tree National Monument, California
Katmai National Park, Alaska
Mount Rainier National Park, Washington

North Cascades National Park, Washington
Okefenokee National Wildlife Refuge, Georgia-Florida
Organ Pipe Cactus National Monument/ Cabeza Prieta National Wildlife Ranges, Arizona
Point Reyes National Seashore, California
Rainbow Bridge National Mounment, Utah
Rocky Mountain National Park, Colorado
Saguaro National Monument, Arizona
Sequoia/Kings Canyon National Parks, California
Virginia Coast Reserve, Virginia
Zion National Park, Utah

Cultural

Aleutian Island Unit of the Alaska Maritime National Wildlife Refuge (Fur Seal Rookeries), Alaska
Auditorium Building, Illinois—Chicago
Bell Telephone Laboratories, New York—New York City
Brooklyn Bridge, Brooklyn, New York
Cape Krusenstern Archaeological District, Kotzebue, Alaska
Carson, Pirie, Scott and Company Store, Chicago, Illinois
Casa Grande National Monument, Coolidge, Arizona
Chaco Culture National Historical Park, New Mexico
Chapel Hall, Gallaudet College, District of Columbia
Eads Bridge, Illinois-Missouri
Fallingwater, Mill Run, Pennsylvania
Frank Lloyd Wright Home and Studio, Oak Park, Illinois
General Electric Research Laboratory, Schenectady, New York
Goddard Rocket Launching Site, Auburn, Massachusetts
Hohokam Pima National Monument, Arizona
Leiter II Building, Chicago, Illinois
Lindenmeier Site, Colorado
Lowell Observatory, Flagstaff, Arizona
Marquette Building, Chicago, Illinois
McCormick Farm and Workshop, Walnut Grove, Virginia
Monticello, Charlottesville, Virginia
Mound City Group National Monument, Ohio
Moundville Site, Alabama
New harmony Historic District, New Harmony, Indiana
Ocmulgee National Monument, New Mexico
Poverty Point, Bayou Macon, Louisianna
Prudential (Guaranty) Building, Buffalo, New York
Pupin Physics Laboratories, Columbia University, New York
Reliance Building, Chicago, Illinois
Robie House, Chicago, Illinois
Rookery Building, Chicago, Illinois
San Xavier Del Bac, Tucson, Arizona
Savannah Historic District
South Dearborn Street-Printing House Row North Historic District, Chicago, Illinois
Taliesin, Spring Green, Wisconsin
Taos Pueblo, Taos, New Mexico
Trinity Site, Bingham, New Mexico
Unity Temple, Oak Park, Illinois
University of Virginia Historic District, Charlottesville, Virginia
Ventana Cave, Arizona
Wainwright Building, St. Louis, Missouri
Warm Springs Historic District, Georgia
Washington Monumnent, District of Columbia

Additional information on each of the properties listed above may be found in the May 6, 1982, **Federal Register** notice (47 FR 19648), which includes a description of the properties on the U.S. World Heritage inventory. This notice is available from the National Park Service (see addresses). Written comments are welcome on these and other qualified properties.

II. World Heritage Criteria

The following criteria are used by the World Heritage Committee in evaluating the World Heritage potential of cultural and natural properties nominated to it:

A. Criteria for the Inclusion of Cultural Properties on the World Heritage List:

(1) A monument, group of buildings or site which nominated for inclusion on the World Heritage List will be considered to be of outstanding universal value for the purposes of the Convention when the Committee finds that it meets one or more of the following criteria *and* the test of authenticity. Each property nominated should therefore:

(i) Represent a unique artistic achievement, a masterpiece of the creative genius; or

(ii) Have exerted great influence, over a span of time or within a cultural area of the world, on developments in architecture, monumental arts or townplanning and landscaping; or

(iii) Bear a unique or at least exceptional testimony to a civilization which has disappeared; or

(iv) Be an outstanding example of a type of structure which illustrates a significant stage in history; or

(v) Be an outstanding example of a traditional human settlement which is representative of a culture and which has become vulnerable under the impact of irreversible change; or

(vi) Be directly or tangibly associated with events or with ideas or beliefs of outstanding universal significance. (The Committee considered that this criterion should justify inclusion in the List only in exceptional circumstances or in conjunction with other criteria); and

In addition, the property must meet the test of authenticity in design, materials, workmanship, or setting.

(2) The following additional factors will be kept in mind by the Committee in deciding on the eligibility of a cultural property for inclusion on the List:

(i) The state of preservation of the property should be evaluated relatively, that is, it should be compared with that of other property of the same type dating from the same period, both inside and outside the country's borders; and

(ii) Nominations of immovable property which is likely to become movable will not be considered.

(B) Criteria for the Inclusion of Natural Properties on the World Heritage List:

(1) A nautral heritage property which is submitted for inclusion in the World Heritage List will be considered to be of outstanding universal value for the purposes of the Convention when the Committee finds that it meets one or more of the following criteria and fulfills the conditions of integrity set out below. Properties nominated should therefore:

(i) Be outstanding examples representing *the major stages of the Earth's evolutionary history.* This category would include sites which represent the major "eras" of geological history such as "the age of reptiles" where the development of the planet's natural diversity can well be demonstrated and such as the "ice age" where early man and his environment underwent major changes; or

(ii) Be outstanding examplees representing *significant ongiong geological processes, biological evolution, and man's interaction with his natural environment;* as distinct from the periods of the Earth's development, this focuses upon ongoing processes in the development of communities, of plants and animals, landforms, and marine and fresh water bodies; or

(iii) *Contain superlative natural phenomena, formations or features or areas of exceptional natural beauty.* such as superlative examples of the most important ecosystems, natural features, spectacles presented by great concentrations of animals, sweeping vistas covered by natural vegetation and exceptional combinations of natural and cultural elements; or

(iv) *Contain the foremost natural habitats where threatened species of animals or plants of outstanding universal value* from the point of view of science or conservation still survive.

(2) In addition to the above criteria, the sites should also fulfill the conditions of integrity:

(i) The areas described in (i) above should contain all or most of the key interrelated and interdependent elements in their natural relationships; for example, an "ice age" area would be expected to include the snow field, the glacier itself, and samples of cutting patterns, deposition, and colonization (striations, moraines, pioneer stages of plant succession, etc.).

(ii) The areas described in (ii) above should have sufficient size and contain the necessary elements to demonstrate the key aspects of the process and to be self-perpetuating. For example, an area of "tropical rain forest" may be expected to include some variation in elevation above sea level, changes in topography and soil types, river banks or oxbow lakes, to demonstrate the diversity and complexity of the system.

(iii) The areas described in (iii) above should contain those ecosystem components required for the continuity of the species or of the objects to be conserved. This will vary according to individual cases; for example, the protected area of a waterfall would include all, or as much as possible, of the supporting upstream watershed; or a coral reef area would be provided with control over siltation or pollution through the stream flow or ocean currents which provide its nutrients.

(iv) The area containing threatened species as described in (iv) above should be of sufficient size and contain necessary habitat requirements for the survival of the species.

(v) In the case of migratory species, seasonal sites necessary for their survival, wherever they are located, should be adequately protected. If such sites are located in other countries, the Committee must receive assurances that the necessary measures be taken to ensure that the species are adequately protected throughout their full life cycle. Agreements made in this connection, either through adherence to international conventions or in the form of other multilateral or bilateral arrangements, would provide this assurance.

(3) The property should be evaluated relatively, that is, it should be compared with other properties of the same type, both inside and outside the country's borders, within a biogeographic province, or migratory pattern.

III World Heritage List

As of January 1, 1984, the World Heritage Committee had approved the following 12 cultural and natural properties in the United States for inscription on the World Heritage List. (The World Heritage List currently includes 165 properties worldwide.)

Cahokia Mounds State Historic Site
Everglades National Park
Grand Canyon National Park
Great Smoky Mountains National Park
Independence Hall
Mammoth Cave National Park
Mesa Verde National Park
Olympic National Park
Redwood National Park
San Juan National Historic Site and La Fortaleza
Wrangell-St. Elias National Park
Yellowstone National Park

Dated: February 9, 1984.

G. Ray Arnett,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 84-4733 Filed 2-22-84; 8:45 am]

BILLING CODE 4310-70-M

INTERNATIONAL TRADE COMMISSION

[Investigations Nos. 701-TA-212 and 731-TA-169 through 182 (Preliminary)]

Certain Carbon Steel Products From Argentina, Australia, Finland, South Africa, and Spain

AGENCY: United States International Trade Commission.

ACTION: Institution of preliminary countervailing duty and antidumping investigations and scheduling of a conference to be held in connection with the investigations.

EFFECTIVE DATE: February 10, 1984.

SUMMARY: The United States International Trade Commission hereby gives notice of the institution of countervailing duty investigation No. 701-TA-212 (Preliminary) under section 703(a) of the Tariff Act of 1930 (19 U.S.C. 1671b(a)) to determine whether there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of allegedly subsidized imports from Australia of galvanized carbon steel sheet provided for in items 608.07 and 608.13 of the Tariff Schedules of the United States (TSUS).

The Commission also gives notice of the institution of the following antidumping investigations under section 733(a) of the Tariff Act (19 U.S.C. 1673b(a)) to determine whether there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from the specified countries of the following carbon steel products, which are alleged to be sold in the United States at less than fair value:

Carbon steel plate not in coils provided for in TSUS item 607.66 from—

Finland (investigation No. 731-TA-169 (Preliminary));

South Africa (investigation No. 731-TA-170 (Preliminary)); and

Spain (investigation No. 731-TA-171 (Preliminary));

Carbon steel plate in coils provided for in TSUS item 607.66 from—

South Africa (investigation No. 731-TA-172 (Preliminary)); and

Spain (investigation No. 731-TA-173 (Preliminary));

Hot-rolled carbon steel sheet provided for in TSUS items 607.67 and 607.83 from—

South Africa (investigation No. 731-TA-174 (Preliminary));

Cold-rolled carbon steel sheet provided for in TSUS item 607.83 from—

Argentina (investigation No. 731-TA-175 (Preliminary)); and

South Africa (investigation No. 731-TA-176 (Preliminary)); and

Spain (investigation No. 731-TA-177 (Preliminary));

Galvanized carbon steel sheet provided for in TSUS items 608.07 and 608.13 from—

Australia (investigation No. 731-TA-178 (Preliminary));

South Africa (investigation No. 731-TA-179 (Preliminary)); and

Spain (investigation No. 731-TA-180 (Preliminary)); and

Carbon steel angles, shapes, and sections having a maximum cross-sectional dimension of 3 inches or more provided for in TSUS item 609.80 from—

South Africa (investigation No. 731-TA-181 (Preliminary)); and

Spain (investigation No. 731-TA-182 (Preliminary)).

FOR FURTHER INFORMATION CONTACT: Judith Zeck (202-523-0339), Office of Investigations, U.S. International Trade Commission, 701 E Street, NW., Washington D.C. 20436.

SUPPLEMENTARY INFORMATION:

Background

These investigations are being instituted in response to petitions filed on February 10, 1984, by the United States Steel Corp., Pittsburgh, Pa. The Commission must make its determinations in these cases within 45 days after the date of the filing of the petitions, or by March 26, 1984 (19 CFR 207.17).

Participation in the Investigations

Persons wishing to participate in these investigations as parties must file an entry of appearance with the Secretary to the Commission, as provided in § 201.11 of the Commission's Rules of Practice and Procedure (19 CFR 201.11), not later than seven (7) days after the publication of this notice in the **Federal Register**. Any entry of appearance filed after this date will be referred to the Chairman, who shall determine whether to accept the late entry for good cause shown by the person desiring to file the entry.

Service of Documents

The Secretary will compile a service list from the entries of appearance filed in these investigations. Any party submitting a document in connection with the investigations shall, in addition to complying with § 201.8 of the Commission's rules (19 CFR 201.8), serve a copy of each such document on all other parties to the investigations. Such service shall conform with the requirements set forth in § 201.16(b) of the rules (19 CFR 201.16(b)).

In addition to the foregoing, each document filed with the Commission in the course of these investigations must include a certificate of service setting forth the manner and date of such service. This certificate will be deemed proof of service of the document. Documents not accompanied by a certificate of service will not be accepted by the Secretary.

Written Submissions

Any person may submit to the Commission on or before March 9, 1984, a written statement of information pertinent to the subject matter of these investigations (19 CFR 207.15). A signed original and fourteen (14) copies of such statements must be submitted (19 CFR 201.8).

Any business information which a submitter desires the Commission to treat as confidential shall be submitted separately, and each sheet must be clearly marked at the top "Confidential Business Data." Confidential submissions must conform with the requirements of section 201.6 of the Commission's rules (19 CFR 201.6). All written submissions, except for confidential business data, will be available for public inspection.

Conference

The Director of Operations of the Commission has scheduled a conference in connection with these investigations for 9:30 a.m. on March 7, 1984, at the U.S. International Trade Commission Building, 701 E Street, NW., Washington, D.C. Parties wishing to participate in the conference should contact Ms. Judith Zeck (202–523–0339) not later than March 2, 1984, to arrange for their appearance. Parties in support of the imposition of countervailing duties and/or antidumping duties in these investigations will be collectively allocated one hour within which to make an oral presentation at the conference. Parties in opposition to the imposition of such duties will be collectively allocated two hours within which to make an oral presentation at the conference.

Public Inspection

A copy of the petitions and all written submissions, except for confidential business data, will be available for public inspection during regular business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street, NW., Washington, D.C.

For further information concerning the conduct of these investigations, and rules of general application, consult the Commission's Rules of Practice and Procedure, Part 207, subparts A and B (19 CFR Part 207), and Part 201, subparts A through E (19 CFR Part 201). Further information concerning the conduct of the conference will be provided by Ms. Zeck.

This notice is published pursuant to § 207.12 of the Commission's rules (19 CFR 207.12).

By order of the Commission.

Issued: February 16, 1984.

Kenneth R. Mason,

Secretary.

[FR Doc. 84–4806 Filed 2–22–84; 8:45 am]

BILLING CODE 7020–02–M

[Investigation No. 337–TA–160]

Certain Composite Diamond Coated Textile Machinery Components; Commission Decision Reversing Initial Determination Designating More Complicated

AGENCY: International Trade Commission.

ACTION: Notice is hereby given that the Commission has reversed the initial determination of the presiding officer designating the above-referenced investigation more complicated.

Authority: 19 U.S.C. 1337; 19 CFR 210.56(c).

SUPPLEMENTARY INFORMATION: On January 12, 1984, the presiding officer issued an initial determination (Order No. 21) in which she designated this investigation more complicated. On January 24, 1984, the Commission determined on its own motion to review the initial determination. 49 FR 4047 (Feb. 1, 1984). Having examined the record in this investigation, including the initial determination and the written submissions of the parties, the Commission has determined to reverse the initial determination designating this investigation more complicated.

Copies of the Commission's Action and Order and all other non-confidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, telephone 202–523–0161.

FOR FURTHER INFORMATION CONTACT: Judith M. Czako, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone (202) 523–0148.

By order of the Commission.

Issued: February 17, 1984.

Kenneth R. Mason,

Secretary.

[FR Doc. 84–4812 Filed 2–22–84; 8:45 am]

BILLING CODE 7020–02–M

[Investigation No. 337–TA–154]

Certain Dot Matrix Line Printers and Components Thereof; Receipt of Initial Determination Terminating Respondents on the Basis of Consent Order Agreement

AGENCY: International Trade Commission.

ACTION: Notice is hereby given that the Commission has received an initial determination from the presiding officer in the above-captioned investigation terminating the following respondents on the basis of a consent order agreement:

Citizen Watch Co., Ltd., C. Itoh & Col., Ltd., C. Itoh Electronics, Inc., EIE Terminals, Inc. and ACRO Corporation (collectively respondents).

SUPPLEMENTARY INFORMATION: This investigation is being conducted pursuant to section 337 of the Tariff Act of 1930 (19 U.S.C. 1337). Under the Commission's rules, the presiding officer's initial determination will become the determination of the Commission thirty (30) days after the date of its service upon the parties, unless the Commission orders review of the initial determination. The initial

determination in this matter was served upon the parties on February 16, 1984.

Copies of the initial determination, the consent order agreement, and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street, NW., Washington, D.C. 20436, telephone 202–523–0161.

Written Comments: Interested persons may file written comments with the Commission concerning termination of the aforementioned respondents. The original and 14 copies of all such comments must be filed with the Secretary to the Commission, 701 E Street, NW., Washington, D.C. 20436, no later than 10 days after publication of this notice in the **Federal Register**. Any person desiring to submit a document (or portion thereof) to the Commission in confidence must request confidential treatment. Such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why confidential treatment should be granted. The Commission will either accept the submission in confidence or return it.

FOR FURTHER INFORMATION CONTACT: Ruby J. Dionne, Office of the Secretary, U.S. International Trade Commission, telephone 202–523–0176.

By order of the Commission.

Issued: February 16, 1984.

Kenneth R. Mason,

Secretary.

[FR Doc. 84-4809 Filed 2-22-84; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337–TA–177]

Certain Film Web Drive Stretch Apparatus and Components Thereof; Receipt of Initial Determination Terminating Respondents on the Basis of Consent Order Agreement

AGENCY: International Trade Commission.

ACTION: Notice is hereby given that the Commission has received an initial determination from the presiding officer in the above-captioned investigation terminating the following respondents on the basis of a consent order agreement:

Muller Manufacturing, Ltd., and Muller Packaging Systems, Inc.

SUPPLEMENTARY INFORMATION: This investigation is being conducted pursuant to section 337 of the Tariff Act of 1930 (19 U.S.C. 1337). Under the Commission's rules, the presiding officer's initial determination will become the determination of the Commission thirty (30) days after the date of its service upon the parties, unless the Commission orders review of the initial determination. The initial determination in this matter was served upon the parties on February 16, 1984.

Copies of the initial determination, the consent order agreement, and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, telephone 202–523–0161.

Written Comments: Interested persons may file written comments with the Commission concerning termination of the aforementioned respondents. The original and 14 copies of all such comments must be filed with the Secretary to the Commission, 701 E Street, NW., Washington, D.C. 20436, no later than 10 days after publication of this notice in the **Federal Register**. Any person desiring to submit a document (or portion thereof) to the Commission in confidence must request confidential treatment. Such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why confidential treatment should be granted. The Commission will either accept the submission in confidence or return it.

FOR FURTHER INFORMATION CONTACT: Ruby J. Dionne, Office of the Secretary, U.S. International Trade Commission, telephone 202–523–0176.

By order of the Commission.

Issued: February 16, 1984.

Kenneth R. Mason,

Secretary.

[FR Doc. 84-4810 Filed 2-22-84; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337–TA–183]

Certain Indomethacin; Investigation

AGENCY: International Trade Commission.

ACTION: Institution of investigation pursuant to 19 U.S.C. 1337 and 19 U.S.C. 1337a.

SUMMARY: Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on January 17, 1984, under section 337 of the Tariff Act of 1930, 19 U.S.C. 1337, and under 19 U.S.C. 1337a, on behalf of Merck & Co., Inc., Rahway, New Jersey 07065. The complaint alleges unfair methods of competition and unfair acts in the importation of certain indomethacin, or in its sale, by reason of alleged infringement of at least claims 1, 2, 4 and 7 of U.S. Letters Patent No. 3,629,284. The complaint further alleges that the effect or tendency of the unfair methods of competition and unfair acts is to destroy or substantially injure an industry, efficiently and economically operated, in the United States.

The complainant requests that the Commission institute an investigation and, after a full investigation, issue both a permanent exclusion order and permanent cease and desist orders.

Authority: The authority for institution of this investigation is contained in 19 U.S.C. 1337 and 1337a and in § 210.12 of the Commission's Rules of Practice and Procedure (19 CFR 210.12).

Scope of Investigation: Having considered the complaint, the U.S. International Trade Commission, on February 14, 1984, Ordered That:

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930 an investigation be instituted to determine whether there is a violation of subsection (a) of section 337 in the unauthorized importation of certain indomethacin, or in its sale, by reason of alleged infringement of claims 1, 2, 4 and 7 of U.S. Letters Patent No. 3,629,284, the effect or tendency of which is to destroy or substantially injure an industry, efficiently and economically operated, in the United States;

(2) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainant is—Merck & Co., Inc., Rahway, New Jersey 07065.

(b) The respondents are the following companies, alleged to be in violation of section 337, and are the parties upon which the complaint is to be served:

Fabrica Italiana Sintetici S.p.A., Viale Milano, 26, 36041 Alte di Montecchio Maggiore, Vincenza, Italy

Industrie Chimiche Farmaceutiche Italiana S.p.A., 33045 Nimis (Udine), Italy,

B.T.B. Industria Chemical S.p.A., 20067 Tribiano, Milan, Italy

Lodzkie Zaklady Farmaceutyczne POLFA, u.l. Drewnowska 43/47, Lodz, Poland

ACIC Ltd., 60 St. Clair Avenue East, Suite 304, Toronto, Ontario M4T 1N5, Canada

Chemi, Via Valdisi, 5, Patricia, 03010, Italy

INDUSPAL, Auda, Virgin Monserrat 12, Entlo, Barcelona, 24, Spain

Lederle Laboratories, Division of American Cyanamid, Pearl River, N.Y. 10965
European Manufacturers Associates, Ltd., 745 Fifth Ave., Suite 403, New York, N.Y. 10151
S.S.T. Corporation, 1373 Broad Street, P.O. Box 1649, Clifton, N.J. 07015
GYMA Laboratories of America, Inc., 65 Commercial Ave., Garden City, N.Y. 11530
Zenith Laboratories, 140 LeGrand, Northvale, N.J. 07647
Agvar Chemicals, Inc., One Lincoln Plaza, New York, N.Y. 10036
Borge International, Inc., 52 First St., Hackensack, N.J. 07601
Conray Chemicals, Inc., 97 Ongley St., Rockville Centre, N.Y. 11571
Pharma Development Corp., 750 Third Avenue, New York, N.Y. 10017
Henley & Co., 750 Third Avenue, New York, N.Y. 10017
Ganes Chemicals, Inc., 1114 Avenue of the Americas, New York, N.Y. 10036
Maypro Industries, Inc., 11 Penn Plaza, New York, N.Y. 10001
Chelsea Laboratories, 482 Doughty Boulevard, Inwood, N.Y. 11696
Par Pharmaceutical Inc., 12 Industrial Ave., Upper Saddle River, N.J. 07458
Rugby Laboratories, Inc., 20 Nassau Avenue, Rockville Centre, N.Y. 11570
Ellis Pharmaceuticals, Inc., 280 Walnut Street, Ormond Beach, Florida 32074

(c) Deborah S. Strauss, Esq., Unfair Import Investigations Division, U.S. International Trade Commission, 701 E Street NW., Room 126, Washington, D.C. 20436, shall be the Commission investigative attorney, a party to this investigation; and

(3) For the investigation so instituted, Donald K. Duvall, Chief Administrative Law Judge, U.S. International Trade Commission, shall designate the presiding officer.

Responses must be submitted by the named respondents in accordance with § 210.21 of the Commission's Rules of Practice and Procedure (19 CFR 210.21). Pursuant to §§ 201.16(d) and 210.21(a) of the rules, such responses will be considered by the Commission if received not later than 20 days after the date of service of the complaint. Extensions of time for submitting a response will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the presiding officer and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter both an initial determination and a final determination containing such findings.

The complaint, except for any confidential information contained therein, is available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street, NW., Room 156, Washington, D.C. 20436, telephone 202–523–0471.

FOR FURTHER INFORMATION CONTACT: Deborah S. Strauss, Esq., Unfair Import Investigations Division, Room 126, U.S. International Trade Commission, telephone 202–523–1233.

By order of the Commission.
Issued: February 16, 1984.

Kenneth R. Mason,
Secretary.

[FR Doc. 84-4007 Filed 2-22-84; 8:45 am]
BILLING CODE 7020-02-M

[Investigation No. 337-TA-155]

Certain Liquid Crystal Display Watches With Rocker Switches; Commission Determination Not To Review Four Initial Determinations Terminating Five Respondents and the Investigation

AGENCY: International Trade Commission.

ACTION: The Commission has determined not to review four initial determinations (I.D.'s), terminating the above-captioned investigation. The first three I.D.'s terminate the following three respondents on the basis of consent order agreements: Criterion Watch Co., Inc., Regency Time Ltd., and Far East United Electronics Ltd. The fourth I.D. terminates with prejudice the last two respondents, Bella Watch Corp. and Cycle Time Electronics, Ltd., thereby terminating the investigation.

Authority: 19 U.S.C. 1337, 19 CFR § 210.51, 19 CFR § 211.21.

SUPPLEMENTARY INFORMATION: Notices soliciting public comment on the I.D.'s terminating Criterion Watch Co., Inc., Regency Time Ltd., and Far East United Electronics Ltd. on the basis of consent order agreements were published in the **Federal Register** of January 26, 1984, 49 FR 3278–3279. The Commission received neither petitions for review of any of the I.D.'s, nor comments from the public or other Government agencies.

FOR FURTHER INFORMATION CONTACT: William E. Perry, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202–523–0499.

By order of the Commission.
Issued: February 16, 1984.

Kenneth R. Mason,
Secretary.

[FR Doc. 84-4037 Filed 2-22-84; 8:45 am]
BILLING CODE 7020-02-M

[Investigative No. 337-TA-155]

Certain Liquid Crystal Display Watches With Rocker Switches; Commission Determination Not To Review Initial Determinations Terminating Six Respondents on the Basis of Consent Order Agreements

AGENCY: International Trade Commission.

ACTION: The Commission has determined not to review six initial determinations (I.D.'s) terminating this investigation as to the following six respondents on the basis of consent order agreements: Madison Watch Co., Jupiter Time Corp., Collins Industrial Co., Ltd., Dunbar Electronics Corp., Ltd., M.Z. Berger Co., and Sharp International Corp.

Authority: 19 U.S.C. 1337, 19 FR § 211.21.

SUPPLEMENTARY INFORMATION: Notice of the I.D.'s was published in the **Federal Register** of January 18, 1984, 49 CFR 2167. The Commission has received neither petitions for review of any of the I.D.'s nor comments from the public or other Government agencies.

FOR FURTHER INFORMATION CONTACT: William E. Perry, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202–523–0499

By order of the Commission.
Issued: February 14, 1984.

Kenneth R. Mason,
Secretary.

[FR Doc. 84-4011 Filed 2-22-84; 8:45 am]
BILLING CODE 7020-02-M

INTERSTATE COMMERCE COMMISSION

[Ex Parte No. 388 (Sub-Nos. 2, 29, 30 and 35)]

State Intrastate Rail Rate Authority; Arkansas, et al.

AGENCY: Interstate Commerce Commission.

ACTION: Notice of decision.

SUMMARY: The Commission makes final certification of the State Commissions of Arkansas, South Carolina, Tennessee, and West Virginia under 49 U.S.C.

11501(b), to regulate intrastate rail transportation, subject to a condition precedent that they modify their standards and procedures as noted in the full decision. These States must also inform the Commission that their standards, with the modifications, have been officially and finally adopted.

DATES: If the necessary changes are made, certification will begin on March 26, 1984.

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer, (202) 275–7245.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write T. S. InfoSystems, Inc., Room 2227, Interstate Commerce Commission, Washington, DC 20423, or call 289–4357 (DC Metropolitan area) or toll free (800) 424–5403.

Decided: February 10, 1984.

By the Commission, Chairman Taylor, Vice Chairman Andre, Commissioners Sterrett and Gradison.

James H. Bayne,

Acting Secretary.

[FR Doc. 84–4725 Filed 2–22–84; 8:45 am]

BILLING CODE 7035–01–M

DEPARTMENT OF JUSTICE

Information Collections Under Review

February 17, 1984.

OMB has been sent for review the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35) since the last list was published. The list has all the entries grouped into new forms, revisions, or extensions. Each entry contains the following information:

(1) The name and telephone number of the Agency Clearance Officer (from whom a copy of the form and supporting documents is available); (2) The office of the agency issuing this form; (3) The title of the form; (4) The agency form number, if applicable; (5) How often the form must be filled out; (6) Who will be required or asked to report; (7) An estimate of the number of responses; (8) An estimate of the total number of hours needed to fill out the form; (9) An indication of whether section 3504(H) of Pub. L. 96–511 applies; (10) The name and telephone number of the person or office responsible for OMB review. Copies of the proposed forms and supporting documents may be obtained from the Agency Clearance Officer whose name and telephone number appear under the agency name. Comments and questions about the items on this list should be directed to the reviewer listed at the end of each entry and to the Agency Clearance Officer. If you anticipate commenting on a form but find that time to prepare will prevent you from submitting comments promptly, you should advise the reviewer and the Agency Clearance Officer of your intent as early as possible.

DEPARTMENT OF JUSTICE

Agency Clearance Officer Larry E. Miesse—202–633–4312.

Extension of the Expiration Date of a Currently Approved Collection Without any Change in the Substance or in the Method of Collection

FOREIGN CLAIMS SETTLEMENT COMMISSION, DEPARTMENT OF JUSTICE

Request for Confirmation of Naturalization (FCSC–13)
On occasion
Individuals or households
Form is used to provide information on the United States naturalization of claimants before the Commission as required by Public Law 96–606 and Public Law 97–127 to determine eligibility for awards for losses in foreign countries: 20 respondents; 5 hours; not applicable under 3504(h).
Robert Veeder—395–4814

IMMIGRATION AND NATURALIZATION SERVICE, DEPARTMENT OF JUSTICE

Application for Stay of Deportation (I–246)
On occasion
Individuals or households
Used to determine eligibility of applicant for stay of deportation as prescribed in 8 CFR 243.4: 1,250 respondents; 312 hours; not applicable under 3504(h).
Robert Veeder—395–4814

IMMIGRATION AND NATURALIZATION SERVICE, DEPARTMENT OF JUSTICE

Petition to Classify Status of Alien Fiance or Fiancee for Issuance of Nonimmigrant Visa (I–129F)
On occasion
Individuals or households
Use by an unmarried U.S. Citizen to classify the status of an alien beneficiary as a nonimmigrant fiance or fiancee, as defined in Section 101(a)(15)(k) of the Immigration and Nationality Act, and who seeks to enter the United States to conclude a valid marriage within 90 days of entry into the United States: 12,000 responses; 6,000 hours; not applicable under 3504(h).
Robert Veeder—395–4814

New Collection

LEGAL ACTIVITIES, PROCUREMENT AND CONTRACTS STAFF, JUSTICE MANAGEMENT DIVISION, DEPARTMENT OF JUSTICE

Category III, Information Necessary To Evaluate, Both Technically and Financially, Responses by Potential Vendors to the Department's Invitations for Bids and Requests for Proposals
On occasion
Businesses or other for-profit, non-profit institutions, small businesses or organizations
Collection is necessary to evaluate responses to solicitations and used to determine technical proposal validity, suitability of the item offered, adequacy of the proposed business management plan, and the offeror's financial responsibility, affecting all bidders/offerors who respond: 375 respondents; 7,500 hours: not applicable under 3504(h).
Robert Veeder—395–4814

Larry E. Miesse,

Agency Clearance Officer, Systems Policy Staff, Office of Information Technology, Justice Management Division, Department of Justice.

[FR Doc. 84–4727 Filed 2–22–84; 8:45 am]

BILLING CODE 4410–01–M

Lodging of Proposed Consent Decree Pursuant to the Clean Water Act

In accordance with Departmental pocicy, 28 CFR 50.7, notice is hereby given that on January 19, 1984 a proposed consent decree in *United States* v. *City of Niagara Falls,* Civil Action No. 81–363C, was lodged with the United States District Court for the Western District of New York. The proposed consent decree concerns the discharge of pollutants from the City of Niagara Falls' Wastewater Treatment Plant.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General of the Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States* v. *City of Niagara Falls,* D.J. Ref. 90–5–1–1–1342.

The proposed consent decree may be examined at the Office of the United States Attorney, 502 U.S. Courthouse, Court and Franklin Streets, Buffalo, New York 14202 and at the Region II Office of the Environmental Protection Agency, 26 Federal Plaza, Room 900, New York, New York 10007. Copies of the consent

decree may be examined at the Enforcement Section, Land and Natural Resources Division of the Department of Justice, Room 1517, Ninth Street and Pennsylvania Avenue, NW., Washington, D.C. 20530. A copy of the proposed consent decree may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice. In requesting a copy, please enclose a check in the amount of $2.60 (10 cents per page reproduction cost) payable to the Treasurer of the United States.

F. Henry Habicht, II,

Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 84-4717 Filed 2-22-84; 8:45 am]

BILLING CODE 4410-01-M

Logging of consent Decree Pursuant to Clean Water Act

In accordance with Departmental policy, 28, CFR 50.7, notice is hereby given that on February 3, 1984 a proposed consent decree in *United States* v. *Pasadena Chemical Corporation,* Civil Action No. H–83–1573 was lodged with the United States District Court for the Southern District of Texas. The proposed consent decree requires the Pasadena Chemical Corporation to comply with the effluent limitations of its NPDES permit and requires payment of a civil penalty.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General of the Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States* v. *Pasadena Chemical Corporation,* D.J. Ref. 90–5–2–1–575.

The proposed consent decree may be examined at the office of the United States Attorney, 515 Rusk Avenue, Houston, Texas, at the Region VI Office of the Environmental Protection Agency, 1201 Elm Street, Dallas, Texas 75270 and at the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice, Room 1517, Ninth Street and Pennsylvania Avenue, N.W., Washington, D.C. 20530. A copy of the proposed consent decree may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice. In requesting a copy of the proposed consent decree, refer to the case, proposed consent decree and D. J. reference number. Please enclose a check in amount of $1.10 (10 cent per page reproduction cost) payable to the Treasurer of the United States.

F. Henry Habicht, II,

Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 84-4716 Filed 2-22-84; 8:45 am]

BILLING CODE 4410-01-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Arts; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as mended, notice is hereby given that a meeting of the Inter-Arts Advisory Panel (Folk Arts Section) to the National Council on the Arts will be held on March 8–10, 1984, from 9:00 a.m.–5:30 p.m. in Room 730 of the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW, Washington, DC 20506.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c) (4), (6) and 9(b) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call (202) 682–5433.

John H. Clark,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

February 14, 1984.

[FR Doc. 84-4786 Filed 2-22-84; 8:45 am]

BILLING CODE 7537-01-M

NATIONAL TRANSPORTATION SAFETY BOARD

Hearing Postponement; Responses, Availability of

Hearing

Notice is hereby given that the hearing in the matter of the accident involving Air Illinois, Inc., Hawker Siddley 748–2A, of United States Registry, N748LC, near Pinckneyville, Illinois, on October 11, 1983, originally scheduled (see 49 FR 0036, Feb. 10, 1984) to reconvene on February 27, 1984, has been postponed indefinitely.

Responses From

Railroad—*Illinois Central Gulf Railroad: Feb. 8: R–81–64:* Effective Feb. 2, 1984, the southward home signal at ILES, ILLINOIS, will display "Restricting" indication (Rule 290) when switch and signal at KC Junction are lined for Track No. 2.

Duluth, Missabe and Iron Range Railway Company: Feb. 8: R–83 –60 and –61: Has established procedures whereby management supervisory personnel are required to observe and/or contact operating department employees as they are reporting for duty and on many occasions when they report off duty. However, these requirements, although they are strictly enforced, are not a part of any written procedures manual for management personnel. The annual number of contacts made is a variable number dependent on the actual period sampled due to fluctuating numbers of yard crews and trains operating under the current volatile business levels.

Highway—*Graco Children's Products, Inc.: Feb. 9: H–83 –60 and –61:* Made some clarifications and additions to its child safety seats in early 1983 to clarify automobile belt routing, and revised its instruction booklet to make to warnings and the sequence of stops easier to follow.

State of South Carolina: Feb. 8: H–83–52: Office of Highway Safety plans to conduct a statewide public information and awareness campaign on the proper use of child safety seats. The South Carolina Highway Patrol has incorporated into its accident investigation reports safety seat use data.

Marine—*Department of Transportation, State of Washington: Jan. 17: M–82–24:* Each vessel has been instructed to comply with 33 CFR 164.33(a) by having charts of the area to be transited published by the National Ocean Survey, U.S. Army Corps of Engineers, or a river authority that are large enough scale and have enough detail to enable safe navigation of the area; and are the most recently published and available for the area and currently corrected. *M–82–25:* Policy Circular #G–13 of April 15, 1982, details distance and running time between terminals of the Washington State Ferries. These are considered prescribed routes and deviation from these routes is considered only in the event of emergency or safety. *M–82–26:* Is developing ferry maneuvering information, as described under 33 CFR 164.35(g), and will have such information posted in the ferry pilothouse for pilot use. As of March 1, 1984, 12 vessels will have the information. *M–82–27:* Has directed all masters to make and record periodic magnetic compass observations so as to detect any changes in deviation. *M–82–28:* Gyrocompass and plotting head installation is proceeding on schedule. Completion of this project is coordinated with annual lay-up schedule. *M–82–29:* Deems impractical and unnecessary the recommendation to require that ferry bridgewatch personnel, who regularly use radiotelephone equipment, to observe proper vessel identification and communications procedures and also include course and

speed information when exchanging communications with other vessels during close maneuvering encounters. Ferry pilots are obligated under U.S. Coast Guard regulations and local Puget Sound Vessel Traffic System regulations. *M–82–30:* Deems impractical the recommendation to review schedules on ferry routes and consider the feasibility of instituting special schedules that allow for reduced speeds during periods of restricted visibility. Ferry pilots are obligated to observe Rule 19 of the International Steering and Sailing Rules with respect to speed during times of restricted visibility. *M–82–31:* Washington State Ferries has implemented an entry-level training program designed to familiarize the new employee with safety and firefighting procedures as well as CPR, Basic First Aid, and Public Relations with the traveling public.

Note.—Single copies of these response letters are available on written request to: Public Inquiries Section, National Transportation Safety Board, Washington, D.C. 20594. Please include respondent's name, date of letter, and recommendation number(s) in your request. The photocopies will be billed at a cost of 14 cents per page ($1 minimum charge).

H. Ray Smith, Jr.,

Federal Register Liaison office.

February 16, 1984.

[FR Doc. 84–4631 Filed 2–22–84; 8:45 am]

BILLING CODE 4910–58–M

SECURITIES AND EXCHANGE COMMISSION

Agency Information Collection Activities Under OMB Review

Agency clearance officer—Kenneth A. Fogash, 202–272–2142

Upon written request copy available from: Securities and Exchange Commission, Office of Consumer Affairs and Information Services, Washington, D.C. 20549.

Amendment
Rule 204–2
File No. 270–215

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.), the Securities and Exchange Commission has submitted for clearance a proposed amendment to Rule 204–2 (17 CFR 275.204–2) under the Investment Advisers Act of 1940 (15 U.S.C. 80b–1 et seq.) which would permit registered investment advisers to comply with the recordkeeping rule by maintaining required records on microfilm or microfiche without having to retain hard copies of the records for two years. Adoption of this rule would make this part of rule 204–2 consistent with other Commission recordkeeping rules and would decrease the burden of compliance for registered advisers using microfilm and microfiche to retain records.

The potential respondents are investment advisers subject to registration who use or may use microfilm or microfiche to retain records.

Submit comment to OMB Desk Officer: Katie Lewin, 202–395–7231, Office of Information & Regulatory Affairs, NEOB Room 3235, Washington, D.C. 20503.

George A. Fitzsimmons,

Secretary.

February 15, 1984.

[FR Doc. 84–4734 Filed 2–22–84; 8:45 am]

BILLING CODE 8010–01–M

Agency Information Collection Activities Under OMB Review

Agency Clearance Officer—Kenneth Fogash, (202) 272–2142

Upon written request, copy available from: Securities and Exhange Commission, Office of Consumer Affairs and Information Services, Washington, D.C. 20549.

Extension/New
Proposed New Guide and Amendments to Regualtion S–X and Item 601 of Regulation S–K (17 CFR 210 and 229.601)
SEC File Nos. 270–3; 270–2

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission has submitted for approval proposed amendments and a proposed guide relating to disclosures concerning reserves for unpaid losses and loss adjustment expenses for property-casualty insurance underwriters.

The potential respondents include all entities that have significant property-casualty reserve liabilities and file registration statements or reports pursuant to the Securities Act of 1933 or the Securities Exchange Act of 1934.

Submit comments to OMB Desk Officer: Katie Lewin (202) 395–7231, Office of Information and Regulatory Affairs, Room 3235 NEOB, Washington, D.C. 20503.

George A. Fitzsimmons,

Secretary.

February 15, 1984.

[FR Doc. 84–4735 Filed 2–22–84; 8:45 am]

BILLING CODE 8010–01–M

Agency Information Collection Activities Under OMB Review

Agency Clearance Officer: Kenneth A. Fogash, (202) 272–2142

Upon Written Request Copy Available from: Securities and Exchange Commission, Office of Consumer Affairs and Information Services, 450 5th Street, NW., Washington, D.C. 20549.

Amendments
Rule 485 [17 CFR 230.485]
Rule 486 [17 CFR 230.486]
File No. 270–68

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission has submitted for clearance proposed amendments to Rules 485 and 486 of Regulation C under the Securities Act of 1933, which permit post-effective amendments filed by registered investment companies to become effective automatically without staff review.

Comments should be submitted to OMB Desk Officer: Ms. Katie Lewin, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 3235 NEOB, Washington, D.C. 20503.

February 15, 1984.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84–4736 Filed 2–22–84; 8:45 am]

BILLING CODE 8010–01–M

Agency Information Collection Activities Under OMB Review

Agency Clearance Officer: Kenneth Fogash, (202) 272–2142

Upon written request, copy available from: Securities and Exchange Commission, Office of Consumer Affairs and Information Services, Washington, D.C. 20549.

Extension
Proposed Amendments to Articles 5, 10 and 11 of Regulation S–X and Item 303 of Regulation S–K [17 CFR 210.5–01, 210.10–01, 210.11–01, and 229.303]
SEC File Nos. 270–3; 270–2

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission has submitted for approval proposed amendments regarding industry segments, and other interim financial reporting matters and the requirements for managements' discussions and analyses.

The potential respondents include all entities that file registration statements and reports under the Securities Act of 1933 and the Securities Exchange Act of 1934.

Submit comments to OMB Desk Officer: Katie Lewin, (202) 395–7231,

Office of Information and Regulatory Affairs, Room 3235 NEOB, Washington, D.C. 20503.

February 15, 1984.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84-4737 Filed 2-22-84; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 13776; 812-5666]

Paine Webber Cashfund, Inc., et al.; Filing of Application for Order Permitting Offers of Exchange, and for an Exemption

February 16, 1984.

Notice is hereby given that Paine Webber CASHFUND, Inc., Paine Webber RMA Money Fund, Inc., Paine Webber RMA Tax-Free Fund, Inc. (herein collectively referred to as the "No-load Funds"), and Paine Webber AMERICA Fund, Inc. ("AMERICA Fund"), and Paine Webber ALTAS Fund, Inc. (herein together with AMERICA Fund referred to as the "Load Funds"), c/o Paine, Webber, Jackson & Curtis Incorporated, 140 Broadway, New York, New York 10005, open-end management investment companies registered under the Investment Company Act of 1940 (the "Act"), and Paine, Webber, Jackson & Curtis Incorporated ("Paine Webber"), principal underwriter or distributor of the No-load Funds and the Load Funds (the "Funds;" Paine Webber herein referred to collectively with the Funds as "Applicants"), filed an application on October 3, 1983, and an amendment thereto on December 20, 1983, for an order (1) pursuant to Section 11(a) of the Act approving certain proposed offers of exchange of shares among the Funds on a basis other than their respective net asset values per share at the time of exchange and, (2) pursuant to Section 6(c) of the Act, granting an exemption from Section 22(d) of the Act in connection with certain related exchanges. The exemptions are also requested to be applicable to investment companies ("Additional Funds") for which Paine Webber may in the future serve as principal underwriter or distributor. All interested persons are referred to the application on file with the Commission for a statement of the representations therein, which are summarized below, and to the Act and the rules thereunder for the complete text of the provisions thereof which are relevant to any consideration of the application.

Applicants state that the shares of each No-load Fund are registered under the Securities Act of 1933 ("1933 Act") and presently are offered for sale to the public in continous offerings. Shares of each Load Fund are registered under the 1933 Act and each Load Fund proposes to commence continuous offerings shortly after its initial subscription period ends. Paine Webber proposes to maintain a continuous public offering of the Load Funds at their respective net asset values per share plus a maximum sales charge of 8.5% of the offering price, with reductions reflecting the amount being invested and certain other factors, such as rights of accumulation and statements of intention. Shares of AMERICA Fund initially will be sold without any sales charge, but will be subject to a fee associated with the escrow and exchange of shares of American Telephone and Telegraph Co. common stock deposited for exchange into the Fund. In addition, Paine Webber proposes to offer Additional Funds not yet in existence whose shares may be issued (a) without a sales charge, (b) with a maximum sales charge of 8.5% of the offering price or (c) at a lower maximum sales charge (the "Reduced Load Funds"). Furthermore, at the initiation of certain new Load Funds and Reduced Load Funds, an offering may be made whereby shares would be sold at net asset value plus a sales charge lower than that applicable during their later continuous offerings.

Applicants propose to allow shareholders of any Load Fund and of any Reduced Load Fund to exchange all or a portion of their shares (including shares acquired through reinvestment of dividends and capital gains distributions) for shares of any other Load Fund or Reduced Load Fund on the basis of the relative net asset values of the two Funds at the time of the exchange without any sales charge, but only if each shareholder has owned such shares for at last 180 days. Shareholders of Load Funds or Reduced Load Funds who have held their shares for less than 180 days may exchange those shares into other Load Funds or Reduced Load Funds but only at a price based on relative net asset values at the time of exchange plus an additional sales charge equal to the difference, if any, between the applicable sales charge on the Fund into which the shares are being exchanged and the sales charge initially paid on the shares being exchanged. Rights of accumulation and other arrangements described in the prospectuses allowing for reduced sales charges will be considered in determining the applicable sales charge of the second Fund. In addition, if the sales charge paid on the shares of the Fund from which the exchange is being made was reduced as a result of a prior exchange, that sales charge initially paid will be treated as the aggregate of that charge and all previous sales charges paid on the purchase of shares of other Funds. The Applicants also propose to allow shares of any No-load Fund, except those acquired as a result of a previous exchange from a Load Fund or a Reduced Load Fund acquired in any manner, to be exchanged for shares of any Load Fund or Reduced Load Fund based on relative net asset values at the time of the exchange plus the payment of the sales charge which would have been paid had the Load Fund or Reduced Load Fund Shares been acquired directly. The application states that Paine Webber intends to charge each exchanging shareholder an administrative fee of $5.00 for effecting each exchange.

Applicants assert that the purpose of the proposed exchange offers is to permit a shareholder of any Fund who changes his investment objective to exchange, in a simple transaction, his or her Fund shares for shares of any other Fund on an equitable basis. If certain exchanges were made at their relative net asset values, Applicants claim that it could disrupt the distribution systems of the Load Funds and Reduced Load Funds since an investor could easily avoid the sales charge of such Fund by first purchasing No-load Fund shares or Reduced Load Fund shares and immediately exchange them for Load Fund shares or Reduced Load Fund shares sold with a higher effective sales charge. The basis for these exchanges proposed by Applicants would avoid this problem, it is contended, and would also benefit exchanging shareholders by crediting them for sales charges previously paid as well as not discriminating unjustly against any class of investors.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than March 12, 1984, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicants at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 84-4739 Filed 2-22-84; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 20658; SR-AMEX-83-32]

Self-Regulatory Organizations; American Stock Exchange, Inc.; Order Approving Proposed Rule Change

February 15, 1984.

The American Stock Exchange, Inc. ("Amex"), 86 Trinty Place, New York, New York 10006, submitted on November 10, 1983, copies of a proposed rule change pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act") and Rule 19b-4 thereunder, to modify Amex Rule 175, ("Specialist Prohibitions"), which applies to all Amex specialists, their member organizations, or any members, limited partners, officers, employees, approved persons, and persons approved pursuant to Article IV, Section 2(j) of the Amex Constitution. The proposed rule change would: (i) Eliminate the existing prohibition in the rule's subsection (a) against the specialist acquiring, holding, or granting any interest in any right or warrant in any security in which the specialist is registered when such right or warrant is not admitted to trading on the Amex; and (ii) eliminate in its entirety the rule's subsection (c) which prohibits specialists from acquiring or holding any security that is convertible into any security in which such specialist is registered when such convertible security is not admitted to trading on the Amex.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by the issuance of a Commission Release (Securities Exchange Act Release No. 20451, December 6, 1983) and by publication in the **Federal Register** (48 FR 55661, December 14, 1983). No comments were received with respect to the proposed rule filing.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange and, in particular, the requirements of Section 6 and the rules and the regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 84-4742 Filed 2-22-84; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 20660; File No. SR-MSRB-83-15]

Self-Regulatory Organizations; Filing of Proposed Rule Change; Municipal Securities Rulemaking Board

February 15, 1984.

The Municipal Securities Rulemaking Board ("MSRB"), 1120 Connecticut Avenue, NW., Washington, D.C. 20006, on October 4, 1983, filed with the Securities and Exchange Commission a proposed rule change (MSRB-83-15) pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act") and Rule 19b-4 thereunder. The MSRB also filed amendments to that rule change on January 4, 1984.

The proposed rule change would amend MSRB Rule G-12(e)(ii)(B) to permit persons who receive the delivery of new issue municipal securities imprinted with incorrect CUSIP numbers to reject the delivery. In addition, the proposed rule change would permit rejection of delivery of new issue municipal securities without CUSIP numbers when the underwriter is required under Rule G-34 to obtain a CUSIP number for the security, which ocurs whenever the security is CUSIP-eligible. MSRB Rule G-34 requires an underwriter to arrange for the correct CUSIP number to be affixed to a new issue municipal security where the security is eligible for CUSIP number assignment. The MSRB believes that underwriters should not be permitted to deliver new issues bearing either incorrect CUSIP numbers or no CUSIP numbers when those securities are eligible for CUSIP number assignment. The proposed rule change also deletes the former effective date in MSRB Rule G-12(e).

In order to assist the Commission in determining whether to approve the proposed rule change or institute proceedings to determine whether the proposed rule change should be disapproved, interested persons are invited to submit written comments concerning the submission within 21 days after the date of publication in the **Federal Register**. Persons submitting written comments should file six copies with the Secretary of the Commission, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549. Comments should refer to File No. SR-MSRB-83-15.

Copies of the submission and all related items, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room. Copies of the filing and of any subsequent amendments also will be available for inspection at the office of the MSRB.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority. 17 CFR 200.30-3(a)(12).

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 84-4743 Filed 2-22-84; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 20661; File No. SR-NSCC-84-2]

Self-Regulatory Organizations; Filing of Proposed Rule Change; National Securities Clearing Corp.

February 15, 1984.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on January 30, 1984, the National Securities Clearing Corporation ("NSCC") filed with the Securities and Exchange Commission the proposed rule change as described herein. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

The proposed rule change adds new Section 3 to NSCC Rule 9, relating to the delivery and receipt of securities through NSCC's Envelope Settlement System ("ESS"). [1] The filing codifies an existing NSCC procedure for NSCC members who receive incomplete delivery of securities, [2] with one modification. The existing procedure was previously set forth by NSCC in a September 29, 1980 "Important Notice" issued to NSCC members.

Under the existing procedure, a member receiving an incomplete envelope delivery of securities can choose not to reclaim the envelope [3] but

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[1] ESS enables NSCC members physically to deliver securities certificates in envelopes to each other via NSCC. Member physical securities delivery obligations are generated in NSCC's Balance Order Accounting System and "Special Trade" procedure. In addition, members use ESS to effect member-to-member stock loans.

[2] Incomplete delivery can occur when a member receives: (1) Partial delivery of the securities, (2) no securities, or (3) no envelope.

[3] Under the NSCC Rule 9 reclamation procedure, a receiving member can return an incomplete delivery to the delivering member through ESS until 10:00 a.m. on the day after delivery.

may request the delivering member to provide certificate numbers of the missing securities. The delivering member must respond to this request within two business days. If the delivering member fails to furnish the missing certificate numbers within this time frame, and if NSCC determines that the receiving member's request was prompt, NSCC may choose to reverse the charges related to the delivery (*i.e.*, deduct the credit from the deliverer's settlement account, and credit the receiver's settlement account).

Under the proposal, the time in which the delivering member must supply certificate numbers on any day following delivery day has been shortened. When the receiving member's request is on delivery day, the delivering member has two business days. If the request is on any day following delivery day, the delivering member must supply the certificate numbers by the end of the first business day after the request. Recently, industry groups had requested that NSCC consider reducing the two business day time period to one business day during which the delivering member is required to report certificate numbers to the receiving member. NSCC conducted a survey of its members and found that two-thirds of the respondents preferred the shorter time frame.

NSCC believes that the proposal should enable receiving members' more promptly to advise transfer agents of instances of lost certificates and to obtain replacement certificates. In addition, NSCC states in its filing that it has incorporated the revised policy into its Rules to facilitate members' reference to the policy. For the reasons stated above, NSCC believes that the proposed rule change is consistent with Section 17A of the Act in that it facilitates the prompt and accurate clearance and settlement of securities.

In order to assist the Commission in determining whether to approve the proposed rule change or institute proceedings to determine whether the proposed rule change should be disapproved, interested persons are invited to submit written data, views and arguments concerning the submission within 21 days after the date of publication in the **Federal Register**. Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549. Reference should be made to File No. SR–NSCC–84–2.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change which are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room, 450 Fifth Street, NW., Washington, D.C. Copies of the filing and of any subsequent amendments also will be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 84-4738 Filed 2-22-84; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 20662; File No. SR–PSE–83–17]

Self-Regulatory Organization; Filing of Proposed Rule Change; Pacific Stock Exchange, Inc.

February 16, 1984.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on November 4, 1983, the Pacific Stock Exchange, Inc. ("PSE") filed with the Securities and Exchange Commission the proposed rule change as described herein.[1] The commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

The PSE is amending PSE Rule I, Section 5(f), to clarify the Exchange's rule which requires that only members transact business on the Exchange floor.[2] The PSE notes in its filing that it has determined it necessary to expand the current prohibition against trading by clerks, contained in Rule I, Section 5(f), to include all non-members. According to the Exchange, the effect of the proposed rule change will be to allow only members to consummate transactions on the floor of the Exchange. The PSE states that the proposed rule change is consistent with Section 6(b)(5) of the Act in that it promotes just and equitable principles of trade, as well as protects investors, and the public interest, by insuring that only qualified individuals execute trades at the Exchange.

In order to assist the Commission in determining whether to approve the proposed rule change or institute proceedings to determine whether the proposed rule change should be disapproved, interested persons are invited to submit written data, views and arguments concerning the submission within 21 days after the date of publication in the **Federal Register**. Persons desiring to make written comment should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 450 5th Street, NW., Washington, D.C. 20549. Reference should be made to File No. SR–PSE–83–17.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change which are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room, 450 5th Street, NW., Washington, D.C. Copies of the filing and of any subsequent amendments also will be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 84-4741 Filed 2-22-84; 8:45 am]

BILLING CODE 8010-01-M

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[1] On January 30, 1984, the PSE filed Amendment No. 1 which clarified the purpose of and statutory basis for the proposed rule change.

[2] The PSE proposed to amend Rule 1, Section 5(f) as follows (brackets indicate deletions, italics indicate new language):

Section 5(f) [Clerks] *Non-members* shall not [participate in any controversies or] consummate transactions *on the trading floor* [for his or any other member firm].

[Release No. 34–20651; File No. SR-PHLX 84–2]

Self-Regulatory Organizations; Proposed Rule Change; Philadelphia Stock Exchange, Inc. Relating to Initiation Fee

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on February 6, 1984, the Philadelphia Stock Exchange, Inc. filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II and III below, which Items have been prepared by the

self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Pursuant to By-Law 12–8, the Philadelphia Stock Exchange, Inc. ("Exchange") proposes to increase the initiation fee payable by non-members upon election to membership.

[Brackets indicate deletions; Italics indicate new material]:

(a) An initiation fee [of five hundred dollars] of one thousand dollars shall be paid to the corporation by a member promptly after election, unless an extension is granted by the *Admission* Committee [on Admissions]. If the initiation fee of a member is not paid within five days after election, such election shall be void. No initiation fee shall be imposed in connection with a corporate membership authorized under the provisions of this Article. An initiation fee shall not be paid by a lessor upon the reversion of legal title of a leased membership to him.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statements of the Purpose of, and Statutory Basis for the Proposed Rule Change

In order to recover expenses associated with processing of initial applications for membership and provide for equitable allocation of charges among applicants elected to membership, the PHLX proposes to increase its initiation fee. The initiation fee is payable by a non-member upon election to membership and is non-recurring unless there is a lapse in membership and the former member subequently applies for admission.

The statutory basis under the Securities Exchange Act of 1934 (Act) for this rule change concerning the Exchange initiation fee is Section 6(b)(4) which requires that reasonable fees be allocated equitably.

B. Self-Regulatory Organization's Statement on Burden on Competition

The PHLX does not believe that the proposed rule change will impose any burden on competition.

C. Self-Regulatory Orginigation's Statement on Comments on the Proposed Rule Change Received from Members or Others

Comments on the proposed rule change were solicited from the membership under Exchange Circular 83–36.

No comments on this proposed rule change have been received from members.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3) of the Securities Exchange Act of 1934 and subparagraph (e) of Securities Exchange Act Rule 19b–4. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, D.C. 20549. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted within 21 days after the date of this publication.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: February 14, 1984.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 84–4740 Filed 2–22–84; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34–20652; File No. SR–MSE–84–2]

Self-Regulatory Organizations; Proposed Rule Change by Midwest Stock Exchange, Inc.; Relating to a Mandatory Training Program for New Members

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on February 6, 1984, the Midwest Stock Exchange, Incorporated filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement on the Terms of Substance of the Proposed Rule Change

Attached to the filing as Exhibit A is the Notice to Floor Members announcing a mandatory training program for new members.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections (A), (B), and (C) below of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The proposed rule change will help insure that new floor members have sufficient experience and knowledge to properly conduct a securities business. The Exchange's Rules governing membership qualifications provide that

member organizations must include personnel possessing such expertise and knowledge (See Article I, Rule 3(d)). Floor members should be cognizant of the Exchange's Rules and policies, as well as their obligation to properly serve investors.

The proposed mandatory program will provide new members with an opportunity to gain the requisite knowledge and training. A panel comprised of experienced floor members and Exchange personnel will lead a discussion of regulation by the Commission and self-regulatory organizations. New members will also be instructed in the operation of key trading floor functions, including trade recording and routing, the Intermarket Trading System and various execution services offered by the Exchange. Additionally, specialists' and floor brokers' computer terminals will be made available to provide "hands-on" experience.

New members will receive approximately twelve hours of training under this program. The Exchange anticipates that the program will ultimately result in improved conduct of trading floor activities.

The proposed rule change is consistent with the Exchange Act provisions governing registration of a national securities exchange. In particular, Section 6(c)(3) gives a national securities exchange authority to deny or condition membership based on a member's achievement of standards of training, experience and competence as prescribed by the rules of the exchange. Similarly, under Section 6(b) an exchange's ability to enforce compliance by its members is a factor the Commission must consider in granting exchange registration. The proposed mandatory training for new members is consonant with the Exchange Act's focus on regulating securities industry professsionals.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Midwest Stock Exchange, Incorporated does not believe that any burdens will be placed on competition as a result of the proposed rule change.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Comments have neither been solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3) of the Securities Exchange Act of 1934 and subparagraph (e) of Securities Exchange Act Rule 19b–4. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Securites Exchange Act of 1934.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 5th Street, NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted within 21 days after the date of this publication.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

Dated: February 14, 1984.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 84-4820 Filed 2-22-84; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

Reporting and Recordkeeping Requirement Under OMB Review

ACTION: Notice of Reporting Requirements Submitted for OMB Review.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35), agencies are required to submit proposed reporting and recordkeeping requirement to OMB for review and approval, and to publish notice in the **Federal Register** that the agency has made such a submission.

DATE: Comments must be received on or before March 30, 1984. If you anticipate commenting on a submission but find that time to prepare will prevent you from submitting comments promptly, you should advise the OMB reviewer and the Agency Clearance Officer of your intent as early as possible.

COPIES: Copies of the proposed form and surveys, the requests for clearance (S.F. 83), supporting statements, instructions, and other documents submitted to OMB for review may be obtained from the Agency Clearance Officer. Comments on the item listed should be submitted to the Agency Clearance Officer and the OMB Reviewer.

FOR FURTHER INFORMATION CONTACT:

Agency Clearance Officer: Elizabeth M. Zaic, Small Business Administration, 1441 L St., NW., Room 200, Washington, D.C. 20416, Telephone: (202) 653–8538.

OMB Reviewer: J. Timothy Sprehe, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 3235, New Executive Office Building, Washington, D.C. 20503, Telephone: (202)395–4814.

Informaton Collections Submitted for Review

Title: Access to Capital by Subcategories of Small Business
Frequency: One time, nonrecurring
Description of Respondents: Owners of small businesses
Annual Responses: 2,000
Annual Burden Hours: 1,000
Type of Request: New

Title: Measuring the Flow of Capital and Credit to Small Firms
Frequency: One time, nonrecurring
Description of Respondents: Owners of small businesses
Annual Responses: 300
Annual Burden Hours: 90
Type of Request: New

Title: Statement of Personal History (For use by non-bank lenders)
Form No. SBA 1081
Frequency: On Occasion
Description of Respondents: Non-bank lenders
Annual Responses: 144
Annual Burden Hours: 72
Type of Request: Extension

Dated: February 17, 1984.

Elizabeth M. Zaic,

Chief, Paperwork Management Branch, Small Business Administration.

[FR Doc. 84-4840 Filed 2-22-84; 8:45 am]

BILLING CODE 8025-01-M

California; Region IX Advisory Council; Public Meeting

The Small Business Administration, Region IX Advisory Council, located in the geographical area of San Diego, will hold a public meeting at 9:00 A.M., February 29, 1984, in the Federal Building, 880 Front Street, Room 2–S–14, San Diego, California, to discuss such matters as may be presented by members, staff of the Small Business Administration, or others present.

For further information, write or call George P. Chandler, Jr., District Director, U.S. Small Business Administration, 880 Front Street, Room 4–S–29, San Diego, California (619) 293–5430.

Dated: February 10, 1984.

Jean M. Nowak,

Director, Office of Advisory Councils.

[FR Doc. 84-4841 Filed 2-22-84; 8:45 am]

BILLING CODE 8025-01-M

California; Region IX Advisory Council Meeting

The U.S. Small Business Administration Region IX Advisory Council located in the geographical area of Los Angeles, will hold a public meeting at Fu Ling Restaurant, 970 North Broadway, Los Angeles, on Monday, March 19 at 10:30 A.M., to discuss such matters as may be presented by members, staff to the U.S. Small Business Administration, or others present.

For further information, write or call, M. Hawley Smith, Acting District Director, U.S. Small Business Administration, 350 South Figueroa Street, Suite 600, Los Angeles, California 9071, (213) 688–2977.

Dated: February 16, 1984.

Jean M. Nowak,

Director, Office of Advisory Councils.

[FR Doc. 84-4843 Filed 2-22-84; 8:45 am]

BILLING CODE 8025-01-M

Iowa; Region VII; Advisory Council Public Meeting

The Small Business Administration, Region VII Advisory Council, located in the geographical area of Des Moines, will hold a public meeting at 10:00 A.M. on Tuesday, April 3, 1984, at Valley National Bank, 5th floor Board Room, 6th and Walnut, Des Moines, Iowa, to discuss such matters as may be presented by members, staff to the Small Business Administration, or others present.

For further information, write or call Conrad E. Lawlor, District Director, U.S. Small Business Administration, 210 Walnut Street, Room 749, Des Moines, Iowa 50309, (515) 284–4567.

Dated: February 16, 1984.

Jean M. Nowak,

Director, Office of Advisory Councils.

[FR Doc. 84-4846 Filed 2-22-84; 8:45 am]

BILLING CODE 8025-01-M

Minnesota; Region V Advisory Council Public Meeting

The Small Business Administration, Region V Advisory Council, located in the geographical area of Minneapolis/St. Paul, will hold a public meeting at 3:00 P.M. on Monday, March 5, 1984, in Room 405 of the O'Shaughnessy Education Center, College of St. Thomas, 2115 Summit Avenue, St. Paul, MN, to discuss such matters as may be presented by members, staff to the Small Business Administration, or others present.

For further information, write or call Celso C. Moreno District Director, U.S. Small Business Administration, 610–C Butler Square, 100 North Sixth Street, Minneapolis, MN 55403, (612) 349–3530.

Dated: February 16, 1984.

Jean M. Nowak,

Director, Office of Advisory Councils.

[FR Doc. 84-4842 Filed 2-22-84; 8:45 am]

BILLING CODE 8025-01-M

Missouri; Region VII St. Louis District Advisory Council Public Meeting

The U.S. Small Business Administration Region VII St. Louis District Advisory Council, located in the geographical area of St. Louis and Eastern Missouri, will hold a public meeting at 10:00 a.m. on Thursday, March 8, 1984, at the Sheraton West Port Inn, 191 West Port Plaza, St. Louis, Missouri, to discuss such matters as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information, write or call Robert L. Andrews, District Director, U.S. Small Business Administration, 815 Olive Street, Room 242, St. Louis, Missouri, 63101, (314) 425–6600.

Dated: February 16, 1983.

Jean M. Nowak,

Director, Office of Advisory Councils.

[FR Doc. 84-4847 Filed 2-22-84; 8:45 am]

BILLING CODE 8025-01-M

Missouri; Region VII; Advisory Council Public Meeting

The Small Business Administration, Region VII Advisory Council, located in the geographical area of Kansas City, will hold a public meeting at 9:00 a.m. on Thursday, March 29, 1984, at the Scarritt Building, 818 Grand Avenue, (3rd Floor), Kansas City, Missouri, to discuss such matters as may be presented by members, staff of the Small Business Administration, or others present.

For further information, write or call Patrick E. Smythe, District Director, U.S. Small Business Administration, Fourth Floor, Scarritt Building, 818 Grand Avenue, Kansas Avenue, Missouri, 64106, (816) 374–5557.

Dated: Februray 16, 1984.

Jean M. Nowak,

Director, Office of Advisory Councils.

Montana; Region VIII Advisory Council Public Meeting

The Small Business Administration Region VIII Advisory Council, located in the geographical area of Helena, Montana, will hold a public meeting at 9:30 a.m. on Friday, April 6, 1984, at the Federal Office Building, 301 South Park, Room 289, Helena, Montana, to discuss such matters as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information, write or call John R. Cronholm, District Director, U.S. Small Business Administration, Federal Office Building, 301 South Park, Drawer 10054, Helena, Montana 59626, (406) 449–5381.

Dated: February 16, 1984.

Jean M. Nowak,

Director, Office of Advisory Councils.

[FR Doc. 84-4845 Filed 2-22-84; 8:45 am]

BILLING CODE 8025-01-M

Vermont; Region I; Advisory Council Public Meeting

The Small Business Administration, Region I Advisory Council, located in the geographical area of Montpelier, Vermont, will hold a public meeting at 11:00 A.M. on March 15, 1984, at the Lobster Pot Meeting and Party Room at 118 Main Street, Montpelier, Vermont, to discuss such matters as may be presented by members, staff of the

Small Business Administration, or others present.

For further information, write or call David C. Emery, District Director, U.S. Small Business Administration, Federal Office Building, 87 State Street, P.O. Box 605, Montpelier, Vermont 05602 (802) 229–0538.

Dated: February 16, 1984.

Jean M. Nowak,

Director, Office of Advisory Councils.

[FR Doc. 84–4844 Filed 2–22–84; 8:45 am]

BILLING CODE 8025–01–M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Reports, Forms, and Recordkeeping Requirements; Submittals to OMB January 28–February 7, 1984

AGENCY: Department of Transportation (DOT), Office of the Secretary.

ACTION: Notice.

SUMMARY: This notice lists those forms, reports, and recordkeeping requirements, transmitted by the Department of Transportation, during the period Jan. 28–Feb. 7, 1984, to the Office of Management and Budget (OMB) for its approval. This notice is published in accordance with the requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35).

FOR FURTHER INFORMATION CONTACT: John Windsor, John Chandler, or Annette Wilson, Information Requirements Division, M–34, Office of the Secretary of Transportation, 400 7th Street, S.W., Washington, D.C. 20590, (202) 426–1887 or Gary Waxman or Sam Fairchild, Office of Management and Budget, New Executive Office Building, Room 3228, Washington, D.C. 20503, (202) 395–7340.

SUPPLEMENTARY INFORMATION:

Background

Section 3507 of Title 44 of the United States Code, as adopted by the Paperwork Reduction Act of 1980, requires that agencies prepare a notice for publication in the **Federal Register**, listing those information collection requests submitted to the Office of Management and Budget (OMB) for approval under that Act. OMB reviews and approves agency submittals in accordance with criteria set forth in that Act. In carrying out its responsibilities, OMB also considers public comments on the proposed forms, reporting and recordkeeping requirements.

As needed, the Department of Transportation will publish in the **Federal Register** a list of those forms, reporting and recordkeeping requirements that it has submitted to OMB for review and approval under the Paperwork Reduction Act. The list will include new items imposing paperwork burdens on the public as well as revisions, renewals and reinstatements of already existing requirements. OMB approval of an information collection requirement must be renewed at least once every three years. The published list also will include the following information for each item submitted to OMB:

(1) A DOT control number.

(2) An OMB approval number, if the submittal involves the renewal, reinstatement or revision of a previously approved item.

(3) The name of the DOT Operating Administration or Secretarial Office involved.

(4) The title of the information collection request.

(5) The form numbers used, if any.

(6) The frequency of required responses.

(7) The persons required to respond.

(8) A brief statement of the need for, and uses to be made of, the information collection.

Information Availability and Comments

Copies of the DOT information collection requests submitted to OMB may be obtained from the DOT officials listed in the "For Further Information Contact" paragraph set forth above.

Comments on the requests should be forwarded, as quickly as possible, directly to the OMB officials listed in the "For Further Information Contact" paragraph set forth above. If you anticipate submitting substantive comments, but find that more than 5 days from the date of publication is needed to prepare them, please notify the OMB officials of your intent immediately.

Items Submitted for Review by OMB

The following information collection requests were submitted to OMB from Jan. 28–Feb. 7, 1984:

DOT No: 2357
OMB No: 2115–0110
By: U.S. Coast Guard
Title: Documentation of Vessels
Forms: CG–1258, 1261, 1280, 1322, 1340, 1356, 4593
Frequency: On Occasion
Respondents: Owners and builders of yachts and commercial vessels of at least 5 net tons

Need/Use: This information collection is needed to establish a vessel's (1) nationality, (2) eligibility to engage in a particular employment, and (3) eligibility to become an object for a preferred ship's mortgage. The information is used by Coast Guard documentation officers or other authorized personnel to establish eligibility for the aforementioned items.

DOT No: 2358
OMB No: New
By: U.S. Coast Guard
Title: Subchapter "S" Stability Regulations
Forms: N/A
Frequency: On Occasion
Respondents: Naval Architects, shipbuilders and operators

Need/Use: This information is needed and used by the Coast Guard to determine if a vessel meets the appropriate stability requirements. The plans are required to be on the vessel at all times. They are also used by vessel operating personnel for safe and proper operation of the vessel. These plans are developed by a shipyard, designer, or manufacturer for construction of the vessel; they are not developed solely for submission to the Coast Guard.

DOT No: 2359
OMB No: 2127–0050
By: National Highway Traffic Safety Administration
Title: 49 CFR Part 574, Tire Identification and Recordkeeping
Forms: None
Frequency: On Occasion
Respondents: Manufacturers of tires, dealers and purchasers

Need/Use: This regulation requires manufacturers to secure and record names and addresses of purchasers of new tires so that the purchasers can be notified in case of a safety recall.

DOT No: 2360
OMB No: New
By: Federal Highway Administration
Title: Utility Use and Occupancy Agreements
Forms: None
Frequency: On Occasion
Respondents: Utility Companies and State Highway Agencies

Need/Use: Serves to document the arrangement made between the State highway agency and a utility to allow the utility to use public right-of-way under the control of the highway agency.

DOT No: 2361
OMB No: New
By: Federal Highway Administration
Title: Authorization to Transport Passengers in a Truck
Forms: None
Frequency: On Occasion
Respondents: Motor Carriers

Need/Use: To meet Federal Highway Administration requirements prohibiting the transportation of passengers in a truck unless specifically authorized by the motor carrier in writing.

DOT No: 2362
OMB No: New
By: Federal Highway Administration
Title: Annual Program of Projects
Forms: None
Frequency: Annually
Respondents: State Highway Agencies

Need/Use: Necessary in order for Federal Highway Administration to study the overall program of proposed highway projects the State intends to finance with Federal-aid funds.

DOT No: 2363
OMB No: New
By: Federal Highway Administration
Title: Developing and Recording Costs for Railroad Adjustments
Forms: None
Frequency: As needed
Respondents: Railroad Companies

Need/Use: Railroad companies are required to maintain adequate records to support costs incurred for reimbursable railroad adjustments on Federal-aid highway projects.

DOT No: 2364
OMB No: 2130–0033
By: Federal Railroad Administration
Title: Bad Order and Home Shop Card
Forms: None
Frequency: On Occasion
Respondents: Railroads

Need/Use: This tag or card is attached to defective cars to indicate movement is being made to a repair station or facility and may not be loaded for use.

DOT No: 2365
OMB No: 2130–0004; 2130–0025; 2130–0501 (To be combined in 2130–004)
By: Federal Railroad Administration
Title: Railroad Locomotive Safety Administration
Forms: FRA–6180.49a
Frequency: On Occasion and Recordkeeping
Respondents: Railroads

Need/Use: The Federal Railroad Administration uses this information to assure that locomotives are inspected, repaired, and maintained in a safe condition.

DOT No: 2366
OMB No: New
By: Federal Highway Administration
Title: Develop and Submit Emergency Relief Funding Applications
Forms: None
Frequency: On Occasion
Respondents: State or Local Governments

Need/Use: The collection of information on emergency relief is necessary to allow the Federal Highway Administration to make determinations on funding emergency work to repair damaged highway facilities.

DOT No: 2367
OMB No: 2125–0028
By: Federal Highway Administration
Title: Highway Performance Monitoring System
Forms: None
Frequency: Annually
Respondents: State highway agencies

Need/Use: To evaluate the effectiveness of Federal-aid highway and highway safety programs. Also used in the development and implementation of legislation and in responding to inquiries from Congress.

DOT No: 2368
OMB No: 2130–0504
By: Federal Railroad Administration
Title: Special Notice for Repairs
Forms: FRA–F–6180.8 and FRA–F–6180.8a
Frequency: On Occasion
Respondents: Railroads

Need/Use: The Federal Railroad Administration uses this information to determine that proper repairs have been made to freight cars, locomotives or tracks which have previously been found unsafe and removed from service.

DOT No: 2369
OMB No: 2115–0022
By: U.S. Coast Guard
Title: Application for Registration
Forms: CG–4509
Frequency: On Occasion and Other
Respondents: Applicants for registered pilots (ports & waterways)

Need/Use: Used by the Coast Guard to determine if the individuals applying to be registered pilots meet the requirements of a registered pilot.

DOT No: 2370
OMB No: 2115–0505
By: U.S. Coast Guard
Title: Title 46 CFR Subchapter I–A; Plan Approval and Records for Mobile Offshore Drilling Units (MODU's)
Forms: None
Frequency: On Occasion
Respondents: MODU Builders, Designers, Owners and Operators

Need/Use: Used by the Coast Guard to determine if the MODU's construction and equipment meet the applicable regulations for safety of life and property in marine transportation. Plan submissions by builders, designers, owners and operators are necessary to determine if requirements ahave been met.

DOT No: 2371
OMB No: 2115–0502
By: U.S. Coast Guard
Title: Department of Justice Application Form
Forms: FD–258
Frequency: On Occasion
Respondents: U.S. Merchant Seaman Applicants

Need/Use: This information collection is needed to ensure (1) that alien applicants are legal entrants to the United States; (2) that the applicants have not been convicted on narcotics charges within the past 10 years; and (3) citizenship in some instances. The Coast Guard's Office of Merchant Marine Safety reviews the information provided on the applications to initiate a Department of Justice fingerprint search.

DOT No: 2372
OMB No: New
By: Federal Aviation Administration
Title: 1984 General Aviation Pilot and Aircraft Activity Survey (Triennial)
Forms: Federal Aviation Form 1800–OT
Frequency: Every Third Year
Respondents: Individuals and Businesses

Need/Use: The Federal Aviation Act of 1958 empowers and directs the Secretary of Transportation to collect and disseminate information relative to civil aeronautics, to study the responsibilities of development of air commerce and the aeronautical industries, to make long-range plans and to formulate policy. This survey produces part of such planning and policy making data.

Issued in Washington, D.C. on February 15, 1984.

Jon H. Seymour,

Deputy Assistant Secretary for Administration.

[FR Doc. 84–4638 Filed 2–22–84; 8:45 am]
BILLING CODE 4910–62–M

Federal Aviation Administration

Advisory Circular on Installation of Fuel Flowmeters in Small Airplanes With Continuous Flow, Fuel-Injection, Reciprocating Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Revised Draft Advisory Circular (AC) Availability and Request for Comments.

SUMMARY: This revised draft AC sets forth acceptable means, but not the only means, of showing compliance with Part 3 of the Civil Air Regulations (CAR) and Part 23 of the Federal Aviation Regulations (FAR) applicable to the installation of fuel flowmeters/fuel totalizers in small airplanes with continuous flow, fuel-injection, reciprocating engines.

DATE: Commenters must identify File AC 23.1305–XX; Subject: Installation of Fuel Flowmeters in Small Airplanes With Continuous Flow, Fuel-Injection, Reciprocating Engines, and comments must be received on or before April 9, 1984.

ADDRESS: Send all comments on the draft AC to: Federal Aviation Administration, ATTN: Regulations and Policy Office (ACE–110), 601 East 12th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Mr. Ervin Dvorak, Aerospace Engineer, Regulations and Policy Office (ACE–110), Aircraft Certification Division, Federal Aviation Administration, 601 East 12th Street, Kansas City, Missouri 64106; Commercial Telephone (816) 374–6941, or FTS 758–6941.

SUPPLEMENTARY INFORMATION: Any person may obtain a copy of this revised draft AC by writing to: Federal Aviation Administration, Aircraft Cetification Division, Regulations and Policy Office (ACE–110), 601 East 12th Street, Kansas City, Missouri 64106.

Comments invited: Interested parties are invited to submit comments on the revised draft AC. The revised draft AC and comments received may be inspected at the offices of the Regulations and Policy Office (ACE–110), Room 1656, Federal Office Building, 601 East 12 Street, Kansas City, Missouri, between the hours of 7:30 a.m. and 4:00 p.m. on weekdays, except Federal holidays.

BACKGROUND

A Notice of Availability of draft AC 23.1305–XX, Installation of Fuel Flowmeters in Small Airplanes With Continuous Flow, Fuel-Injection, Reciprocating Engines, was published in the **Federal Register** on April 25, 1983. As a result of the comments received, this draft AC has been revised. Many changes were made for clarification and to make editorial improvements. The primary administrative changes were as follows: permitting a fuel flowmeter to replace a fuel pressure indicator when approved under an equivalent level of safety; deleting reference to the fuel-injection system be manufacturers; including more evaluation items for consideration when installing fuel flow transducer; and deleting some of the common administrative procedures involved under a certification process.

Issued in Kansas City, Missouri.

Murray E. Smith,

Director, Central Region.

[FR Doc. 84–4800 Filed 2–22–84; 8:45 am]

BILLING CODE 4910–13–M

Radio Technical Commission for Aeronautics (RTCA) Special Committee 137—Airborne Area Navigation Systems; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App. I) notice is hereby given of a meeting of RTCA Special Committee 137 on Airborne Area Navigation Systems (RNAV) to be held on March 21–23, 1984, in the RTCA Conference Room, One McPherson Square, 1425 K Street, NW., Suite 500, Washington, D.C. commencing at 9:30 a.m.

The Agenda for this meeting is as follows: (1) Chairman's Introductory Remarks; (2) Approval of Minutes of the Fifteenth Meeting Held on October 17–19, 1983; (3) Briefing on RNAV Position Computation Methods; (4) Briefing on the Delta Airlines and Lockheed Aircraft Company Experience with 4D RNAV; (5) Review Proposed Final Draft of Committee Report on Minimum Operational Performance Standards for Multi-Sensor Based Area Navigation Equipment; (6) Review Proposed Final Draft of Committee Report on Minimum Operational Performance Standards for Omega Based Area Navigation Equipment; (7) Status Report on the Draft of Committee Report on Minimum Operational Performance Standards for LORAN-C Based Area Navigation Equipment; and (8) Other Business.

Attendance is open to the interested public but limited to space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the RTCA Secretariat, One McPherson Square, 1425 K Street, NW., Suite 500, Washington, D.C. 20005; (202) 682–0266. Any member of the public may present a written statement to the committee at any time.

Issued in Washington, D.C. on February 14, 1984.

Karl F. Bierach,

Designated Officer.

[FR Doc. 84–4804 Filed 2–22–84; 8:45 am]

BILLING CODE 4910–13–M

Radio Technical Commission for Aeronautics (RTCA) Special Committee 135—Environmental Conditions and Test Procedures for Airborne Equipment; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App. I) notice is hereby given of a meeting of RTCA Special Committee 135 on Environmental Conditions and Test Procedures for Airborne Equipment to be held on March 7–9, 1984 in the RTCA Conference Room, One McPherson Square, 1425 K Street, NW., Suite 500, Washington, D.C. commencing at 9:30 a.m.

The Agenda for this meeting is as follows: (1) Chairman's Introductory Remarks; (2) Approval of Minutes of the Fourth Meeting Held on December 7–9, 1983; (3) Review and discussion of Proposed Changes to RTCA Document DO–160A, "Environmental Conditions and Test Procedures for Airborne Equipment"; (4) Report on the Status of Coordination with the European Organization for Civil Aviation Electronics (EUROCAE) Working Group 14; and (5) Other Business.

Attendance is open to the interested public but limited to space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the RTCA Secretariat, One McPherson Square, 1425 K Street, NW., Suite 500, Washington, D.C. 20005; (202) 682–0266. Any member of the public may present a written statement to the committee at any time.

Issued in Washington, D.C. on February 7, 1984.

Karl F. Bierach,

Designated Officer.

[FR Doc. 84–4805 Filed 2–22–84; 8:45 am]

BILLING CODE 4910–13–M

Federal Highway Administration

Environmental Impact Statement; Westchester County, New York

AGENCY: Federal Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for proposed highway project in the City of White Plains, Westchester County, New York.

FOR FURTHER INFORMATION CONTACT: Victor E. Taylor, Division Administrator, Federal Highway Administration, Clinton Avenue and North Pearl Street, Albany, New York, 12207, Telephone (518) 472–3616.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the New York State Department of Transportation (NYSDOT) and the City of White Plains, will be preparing an EIS on a proposal to construct a section of

arterial in the City of White Plains, Westchester County, New York, to be known as the Grove Street Extension. This project provides a new connection across the railroad and Bronx River from Grove Street and Lexington Avenue on the east side of the Bronx River to the Central Avenue and Tarrytown Road intersection on the west side.

This project is a reduced version of the Northern Arterial. Studies for a combined arterial plan, including the Feeder Route and Northern Arterial, were conducted during the 1960's and a corridor public hearing was held for both on June 24, 1969. A draft Environmental Impact Statement was circulated for the Northern Arterial in 1972. The Feeder Route plan underwent substantial change in scope through public involvement. In order to meet existing traffic needs, a portion of it has been reconstructed while another portion is under construction. A previous Notice of Intent for the Grove Street Extension proposal was issued in 1980. The Grove Street Extension is a proposal to meet future traffic needs and is closely associated with the ongoing Urban Renewal efforts in the City of White Plains. It has had continuous exposure to the public and advisory agencies for over a decade from its initial inception as the Northern Arterial to the present proposal. Recent input from the advisory agencies have broadened the traffic needs to be addressed by this proposal.

All feasible and prudent design alternatives within the established location band for the proposed project will be considered, along with the no-build alternative. Design studies will consider variations in horizontal and vertical alignment and typical sections; the need for grade separation of crossing roads; and necessary modifications to the Bronx River.

Letters describing the proposed action and soliciting comments will be sent to appropriate Federal, State and local agencies, and to private organizations and citizens who have previously expressed interest in this proposal. Scoping meetings will be held with involved Federal and State Agencies. A public information meeting will be held after additional study. The EIS will be made available for public and agency review and comment followed by a Public Hearing. To ensure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to Mr. Roger H. Edwards, Director, Facilities Design Subdivision, New York State Department of Transportation, State Campus, Building 5, Room 405, 1220 Washington Avenue, Albany, New York 12232; or Mr. Victor E. Taylor, Federal Highway Administration, Leo W. O'Brien Federal Building, Clinton Avenue and North Pearl Street, Albany, New York 12207.

Issued on February 13, 1984.

Victor E. Taylor,

Division Administrator.

[FR Doc. 84-4720 Filed 2-22-84; 8:45 am]

BILLING CODE 4910-22-M

DEPARTMENT OF THE TREASURY

Office of the Secretary

Treasury Department Announces Postponement of February Meeting of Working Group on Worldwide Unitary Taxation

The Treasury Department announces that although there has been substantial progress in resolving the unitary tax issue, it is necessary to postpone the third meeting of the Worldwide Unitary Taxation Working Group, originally scheduled for February 24, 1984. The delay in the meeting has been prompted by the need to conduct further analysis of recently developed options.

Secretary of the Treasury Donald T. Regan has expressed his satisfaction at the progress made to date and hopes that this analysis will form the basis for final recommendations. The Working Group will meet shortly after the analysis is completed and evaluated by the staff-level task force at a three-day meeting on March 20–22, 1984. When the meeting is rescheduled, the time and place will be announced. It is expected that this will be the last meeting of the Working Group.

Inquiries concerning the Working Group should be addressed to its Staff Director, Dr. Charles E. McLure, Jr., Deputy Assistant Secretary (Tax Analysis), Room 3106, Main Treasury Building, 15th Street and Pennslyvania Avenue, NW., Washington, D.C. 20220.

Dated: February 22, 1984.

Ronald A. Pearlman,

Acting Assistant Secretary (Tax Policy).

[FR Doc. 84-4619 Filed 2-22-84; 8:45 am]

BILLING CODE 4810-25-M

UNITED STATES INFORMATION AGENCY

Culturally Significant Objects Imported for Exhibition; Determination

Notice is hereby given of the following determination: Pursuant to the authority vested in me by the act of October 19, 1965 (79 Stat. 985, 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978 (43 FR 13359, March 29, 1978), and the Delegation of Authority from the Director, USIA (47 FR 57600, December 27, 1982), I hereby determine that the objects in the exhibit, "The Romance of the Middle East in Western Painting from Delacroix to Matisse" (included in the list [1] filed as a part of this determination) imported from abroad for the temporary exhibit without profit within the United States are of cultural significance. These objects are imported pursuant to loan agreements between the National Gallery of Art and foreign lenders. I also determine that the temporary exhibition or display of the listed exhibit objects at the National Gallery of Art, Washington, D.C., beginning on or about July 1, 1984, to on or about October 28, 1984, is in the national interest.

Public notice of this determination is ordered to be published in the **Federal Register.**

Thomas E. Harvey,

General Counsel and Congressional Liaison.

[FR Doc. 84-4639 Filed 2-23-84; 8:45 am]

BILLING CODE 8230-01-M

Culturally Significant Objects Imported for Exhibition; Determination

Notice is hereby given of the following determination: Pursuant to the authority vested in me by the act of October 19, 1965 (79 Stat. 985, 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978 (43 FR 13359, March 29, 1978), and the Delegation of Authority from the Director, USIA (47 FR 57600, December 27, 1982), I hereby determine that the objects in the exhibit, "Jean-Antoine Watteau (1684–1721)" (included in the list [1] filed as a part of this determination) imported from abroad for the temporary exhibit without profit within the United States are of cultural significance. These objects are imported pursuant to loan agreements between the National Gallery of Art and foreign lenders. I also determine that the temporary exhibition or display of the

[1] An itemized list of objects included in the exhibit is filed as part of the original document.

[1] An itemized list of objects included in the exhibit is filed as part of the original document.

listed exhibit objects at the National Gallery of Art, Washington, D.C., beginning on or about June 17, 1984, to on or about September 23, 1984, is in the national interest.

Public notice of this determination is ordered to be published in the **Federal Register.**

Dated: February 17, 1984.

Thomas E. Harvey,

General Counsel and Congressional Liaison.

[FR Doc. 4838. Filed 2-22-84; 8:45 am]

BILLING CODE 8230-01-M

Culturally Significant Objects Imported for Exhibition; Determination

Notice is hereby given of the following determination: Pursuant to the authority vested in me by the act of October 19, 1965 (79 Stat. 985, 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978 (43 FR 13359, March 29, 1978), and the Delegation of Authority from the Director, USIA (47 FR 57600, December 27, 1982), I hereby determine that the objects in the exhibit, "A Day in the Country: Impressionism and the French Landscape" (included in the list [1] filed as a part of this determination) imported from abroad for the temporary exhibit without profit within the United States are of cultural significance. These objects are imported pursuant to loan agreements between the Los Angeles County Museum of Art and foreign lenders. I also determine that the temporary exhibition or display of the listed exhibit objects at the Los Angeles County Museum of Art, Los Angeles, California, beginning on or about June 28, 1984, to on or about September 16, 1984; and The Art Institute of Chicago, Chicago, Ill., beginning on or about October 18, 1984, to on or about January 6, 1985, is in the national interest.

Public notice of this determination is ordered to be published in the **Federal Register.**

Dated: February 17, 1984.

Thomas E. Harvey,

General Counsel and Congressional Liaison.

[FR Doc. 84-4840 Filed 2-22-84; 8:45 am]

BILLING CODE 8230-01-M

[1] An itemized list of objects included in the exhibit is filed as part of the original document.

Sunshine Act Meetings

Federal Register
Vol. 49, No. 37
Thursday, February 23, 1984

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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1

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

DATE AND TIME: 9:30 AM (Eastern Time), February 28, 1984.

PLACE: Commission Conference Room No. 200–C on the 2nd Floor of the Columbia Plaza Office Building, 2401 "E" Street, NW., Washington, D.C. 20507.

STATUS: Part will be open to the public and part will be closed to the public.

MATTERS TO BE CONSIDERED:

1. Announcement of Notation Votes
2. A Report on Commission Operations (Optional)
3. Enforcement of Nondiscrimination on the Basis of Handicap in EEOC programs—Proposed Rulemaking to Implement Section 504

Closed

1. Litigation Authorization; General Counsel Recommendations
2. Consideration of Certain Subpoenas

Note.—Any matter not discussed or concluded may be carried over to a later meeting. (In addition to publishing notices on EEOC Commission Meetings in the **Federal Register**, the Commission also provides recorded announcements a full week in advance on future Commission sessions. Please telephone (202) 634–6748 at all times for information on these meetings).

CONTACT PERSON FOR MORE INFORMATION: Treva McCall, Executive Secretary to the Commission at (202) 634–6748.

Dated: February 21, 1984.

Treva McCall,

Executive Secretary to the Commission.

[FR Doc. 84-4961 Filed 2-21-84; 3:12 pm]

BILLING CODE 6750-06-M

2

FEDERAL COMMUNICATIONS COMMISSION

The Federal Communications Commission will hold an Open Meeting on the subjects listed below on Friday, February 24, 1984, which is scheduled to commence at 9:30 A.M., in Room 856, at 1919 M Street, NW., Washington, D.C.

Agenda, Item No. and Subject

General—1—*Title:* Requirements for Licensed Operators in Various Radio Services; Docket 83–322; RM–3292, RM–2843. *Summary:* The Commission will consider comments filed in Docket 83–322 and adoption of a Report and Order concerning the requirements for licensed operators in the Experimental Broadcast, International Broadcast, and Auxiliary Broadcast Service; the Private Land Mobile, Fixed, and Personal Radio Services; and the Domestic Public Fixed and Cable Television Relay Services; as well as certain changes in commercial radio operator licensing procedures and policies.

General—2—*Title:* Inquiry into Section 73.1910 of the Commission's Rules and Regulations Concerning the General Fairness Doctrine Obligations of Broadcast Licensees. *Summary:* The Commission will consider whether to institute a notice of inquiry concerning the general fairness doctrine obligations applicable to broadcast licensees.

Issued: February 16, 1984

Private Radio—1—*Title:* Amendment of parts 2 and 87 of the Commission's rules regarding aeronautical flight test telemetering operations. (RM–4077). *Summary:* The Commission will consider whether to adopt a Notice of Proposed Rule Making regarding the expansion of aeronuatical flight test telemetering operations to the 2310–2390 MHz band and the modification of the technical criteria that govern such operations.

Private Radio—2—*Title: Memorandum Opinion and Order.* In the Matter of Application of Guardian Alarm Company of Michigan for New Radio Station Authorization for New Specialized Mobile Radio System to serve Southfield, Michigan. Application for Review. *Summary:* The Commission will consider Guardian Alarm Company's Application for Review requesting reinstatement of its 800 MHz Special Mobile Radio System application in the Detroit, Michigan area. This action was preceded by the Private Radio Bureau's dismissal of Guardian Alarm Company's Petition for Reconsideration.

Video—1—*Title:* Petition for Partial Reconsideration of the freeze on low power television and television translator applications. *Summary:* The State of Alaska has requested that the Commission exempt Alaska from its freeze on the filing of new and major change low power television and television translater application.

Video—2—*Title:* Petitions for reconsideration (RM–4098) filed January 14 and 17, 1983, by Major League Baseball, the National Basketball Association, the National Hockey League, North American Soccer League, and the Major Indoor Soccer League. *Summary:* Various professional sports associations seek clarification or reconsideration of the Commission's *Memorandum Opinion and Order in RM–4098*, 92 FCC 2d 1058 (1982), regarding the notifications required to obtain sports blackout protection on cable systems.

This meeting may be continued the following work day to allow the Commission to complete appropriate action.

Additional information concerning this meeting may be obtained from Maureen Peratino, FCC Public Affairs Office, telephone Number (202) 254–7674.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 84-4970 Filed 2-21-84; 3:58 pm]

BILLING CODE 6712-01-M

3

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Meeting.

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 2:30 p.m. on Monday, February 27, 1984, the Federal Deposit Insurance Corporation's Board of Directors will meet in closed session, by vote of the Board of Directors, pursuant to sections 552b(c)(2), (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), (c)(9)(B), and (c)(10) of Title 5, United States Code to consider the following matters:

Summary Agenda: No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors

requests that an item be moved to the discussion agenda.

Recommendations with respect to the initiation, termination, or conduct of administrative enforcement proceedings (cease-and-desist proceedings, termination-of-insurance proceedings, suspension or removal proceedings, or assessment of civil money penalties) against certain insured banks or officers, directors, employees, agents or other persons participating in the conduct of the affairs thereof:

Names of persons and names and locations of banks authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6), (c)(8), and (c)(9)(A)(ii)).

Note.—Some matters falling within this category may be placed on the discussion agenda without further public notice if it becomes likely that substantive discussion of those matters will occur at the meeting.

Discussion Agenda:

Application for Federal deposit insurance and for consent to establish three branches:

Citicorp Financial Services Corporation, an operating noninsured industrial loan and thrift company converting to an industrial bank located at 28 White Bridge Road, Nashville, Tennessee, for Federal deposit insurance and for consent to establish branches at 2062 North Gallatin Road, Madison, Tennessee, 8078 Kingston Pike, Knoxville, Tennessee, and 1250 Park Place Center, Memphis, Tennessee.

Application for consent to establish a branch:

Mitsui Manufacturers Bank, Los Angeles, California, for consent to establish a branch at 150 Almaden Boulevard, San Jose, California.

Recommendation regarding the liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Case No. 45,948–L (Amended) United American Bank in Knoxville, Knoxville, Tennessee, City and County Bank of Knox County, Knoxville, Tennessee, City and County Bank of Anderson County, Lake City, Tennessee, City & County Bank of Washington County, Johnson City, Tennessee, City and County Bank of Hawkins County, Rogersville, Tennessee, City and County Bank of Roane County, Kingston, Tennessee

Personnel actions regarding appointments, promotions, administrative pay increases, reassignments, retirements, separations, removals, etc.:

Names of employees authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(2) and (c)(6) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(2) and (c)(6)).

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550—17th Street, NW., Washington, D.C.

Requests for further information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 389–4425.

Dated: February 17, 1984.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 84-4914 Filed 2-21-84; 12:57 pm]

BILLING CODE 6714-01-M

4

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Meeting.

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that the Federal Deposit Insurance Corporation's Board of Directors will meet in open session at 2:00 p.m. on Monday, February 27, 1984, to consider the following matters:

Summary Agenda: No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Disposition of minutes of previous meetings.

Application for consent to merge:

The Nodaway Valley Bank, Maryville, Missouri, an insured State nonmember bank, for consent to merge, under its charter and title, with the Interim Bank of Nodaway Valley, Maryville, Missouri, a proposed new bank.

Application for consent to merge and establish one branch:

Maine Savings Bank, Portland, Maine, an insured mutual savings bank, for consent to merge, under its charter and title, with First Federal Savings and Loan Association of Old Town, Old Town, Maine, a non-FDIC insured institution, and for consent to establish the sole office of First Federal Savings and Loan Association of Old Town as a branch of the resultant bank.

Application for consent to establish a branch:

Bank of Jasper, Jasper, Missouri, for consent to establish a branch at the intersection of Fox and High Streets, Alba, Missouri.

Application for consent to establish a remote service facility:

Heritage County Bank and Trust Company, Blue Island, Illinois, for consent to establish a remote service facility at 12935 Gregory Street, Blue Island, Illinois.

Memorandum and resolution re: Amendments to the FDIC Policy Statement Regarding Eligibility to Make Application to Become an Insured Bank Under Section 5 of the Federal Deposit Insurance Act in order to conform that Statement to those amendments to the Federal Deposit Insurance Act effected by the Garn-St Germain Depository Institutions Act of 1982.

Memorandum and resolution re: Withdrawal of proposed amendments to Part 329 of the Corporation's rules and regulations, entitled "Interest on Deposits" which would have removed the $150,000 maximum balance limitation that applies to savings deposits accepted by commercial banks from corporations, partnerships, associations or certain other organizations.

Memorandum re: Request to expend funds for auditing services for certain liquidation sites.

Reports of committees and officers:

Minutes of actions approved by the standing committees of the Corporation pursuant to authority delegated by the Board of Directors.

Reports of the Division of Bank Supervision with respect to applications, requests, or actions involving administrative enforcement proceedings approved by the Director or an Associate Director of the Division of Bank Supervison and the various Regional Directors pursuant to authority delegated by the Board of Directors.

Report of the Director, Division of Liquidation:

Memorandum re: Sales of Mortgages Loans, Consolidated Costa Mesa, California Liquidation Office (Case No. 45,686–L).

Discussion Agenda:

No matters scheduled.

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550–17th Street NW., Washington, D.C.

Requests for further information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 389–4425.

Dated: February 17, 1984.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 84-4915 Filed 2-21-84; 12:57 pm]

BILLING CODE 6714-01-M

5

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Meeting.

Pursuant to the provisions of the

"Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 4:05 p.m. on Thursday, February 16, 1984, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session, by telephone conference call, to consider the following matter:

Recommendation regarding the liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Case No. 45,949–L City & County Bank of Knox County, Knoxville, Tennessee

In calling the meeting, the Board determined, on motion of Chairman William M. Isaac, seconded by Director Irvine H. Sprague (Appointive), concurred in by Mr. Doyle L. Arnold, acting in the place and stead of Director C. T. Conover (Comptroller of the Currency), that Corporation business required its consideration of the matter on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matter in a meeting open to public observation; and that the matter could be considered in a closed meeting pursuant to subsections (c)(4), (c)(6), (c)(9)(B), and (c)(10) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(4), (c)(6), (c)(9)(B), and (c)(10)).

Dated: February 17, 1984.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 84–4916 Filed 2–21–84; 12:57 pm]

BILLING CODE 6714–01–M

6

FEDERAL ELECTION COMMISSION

DATE AND TIME: Tuesday, February 28, 1984 at 10:00 a.m.

PLACE: 1325 K Street, NW., Washington, D.C.

STATUS: This meeting will be closed to the public.

ITEMS TO BE DISCUSSED: Compliance. Litigation. Audits. Personnel.

PERSON TO CONTACT FOR INFORMATION: Mr. Fred Eiland, Information Officer, Telephone: 202–423–4065.

Marjorie W. Emmons,

Secretary of the Commission.

[FR Doc. 84–4880 Filed 2–21–84; 10:40 am]

BILLING CODE 6715–01–M

7

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

TIME AND DATE: 10:00 a.m., Wednesday, February 29, 1984

PLACE: Room 1730 K Street, N.W., Washington, D.C.

STATUS: Open

MATTERS TO BE CONSIDERED: The Commission will hear oral argument on the following:

1. James Eldridge v. Sunfire Coal Company, Docket No. KENT 82–41–D. (Issues include whether the Commission's Administrative Law Judge erred in concluding that the operator's discharge of the miner violated section 105(c) of the Mine Act, and whether the judge made an appropriate remedial award.)

TIME AND DATE: Immediately following oral argument, February 29, 1984.

STATUS: Closed (Pursuant to 5 U.S.C. 552b(c) (10)).

MATTERS TO BE CONSIDERED: The Commission will consider and act on the above docket.

CONTACT PERSON FOR MORE INFORMATION: Jean Ellen, Agenda Clerk (202) 653–5632

Jean H. Ellen,

Agenda Clerk.

[FR Doc. 84–4980 Filed 2–21–84; 3:12 pm]

BILLING CODE 6735–01–M

8

SECURITIES AND EXCHANGE COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENTS: (To be published)

STATUS: Closed Meeting.

PLACE: 450 Fifth Street, N.W., Washington, D.C.

DATE PREVIOUSLY ANNOUNCED: Tuesday, February 7, 1984.

CHANGE IN THE MEETING: Additional item.

The following item was considered at a closed meeting scheduled for Tuesday, February 14, 1984, at 9:30 a.m.

Settlement of injunctive action.

Chairman Shad and Commissioners Treadway and Cox determined that Commission business required the above change and that no earlier notice thereof was possible.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postoned, please contact: Bruce Kohn at (202) 272–3195.

George A. Fitzsimmons,

Secretary.

February 17, 1984.

[FR Doc. 84–4910 Filed 2–21–84; 12:43 am]

BILLING CODE 8010–01–M

9

TENNESSEE VALLEY AUTHORITY (MEETING NO. 1326)

TIME AND DATE: 2:00 p.m. (EST), Monday, February 27, 1984

PLACE: TVA West Tower Auditorium, 400 West Summit Hill Drive, Knoxville, Tennessee

STATUS: Open

Agenda Items

Approval of minutes from meeting on February 1, 1984.

Discussion Item

1. TVA skills development program.

Action Items

B—Purchase Awards

B1. Invitation C3–675205—Indefinite quantity term contract for No. 2 diesel fuel oil for various TVA locations.

B2. Requisition 71—Term coal for Kingston and John Sevier steam plants.

B3. Supplement to Requisition 86—Coal for Johnsonville and Widows Creek steam plants.

B4. Negotiation 62–925567–2—Low-pressure turbine parts and repair services for Browns Ferry Nuclear Plant.

B5. Amendment to contract 71C62–54114–2 with Babcock and Wilcox for nuclear steam supply system for the Bellefonte Nuclear Plant.

B6. Conversion of TVA's uranium enrichment contracts to the new Department of Energy utility services contract.

B7. Proposal J3–693515—Lease of CDC Hardware and Services.

C—Power Items

C1. Proposed form agreement amending agreements covering TVA's Load Management Commercial and Industrial Heat and Cool Storage Demonstration Project to provide for direct control of energy storage systems.

D—Personnel Items

D1. Revised salary structure and pay rates for salary Schedule SG—Public Safety Service employees.

E—Real Property Transactions

E1. Grant of permanent easement to the State of Alabama for the construction, operation, and maintenance of a highway affecting approximately 7.4 acres of Guntersville Reservoir land in Jackson County, Alabama—Tract No. XTGR—135H.

E2. Grant of permanent easement to Clay County, North Carolina, for the construction, operation, and maintenance of a public road affecting approximately 3.3 acres of Chatuge Reservoir land in Clay County, North Carolina—Tract No. XTCHR–27H.

E3. Grant of permanent easement to the Town of Dandridge, Tennessee, for a sewerline affecting approximately 0.09 acre of Douglas Reservoir land in Jefferson County, Tennessee—Tract No. XTDR–29S.

F—Unclassified

F1. Amendment to TVA Code II—Claims and Litigations.
F2. Retention of net power proceeds and nonpower proceeds pursuant to section 26 of the TVA Act.
F3. Contract between TVA and the Greater Kingsport Area Chamber of Commerce providing for assistance under TVA's economic impact mitigation program (TV–63503A).
F4. Supplement to contract between TVA and Middle Tennessee Industrial Development Association providing for additional funds under TVA's economic impact mitigation program (TV–61517A).
F5. Supplement to memorandum of understanding with the U.S. Army Corps of Engineers covering arrangements for participation by TVA in the development of a recreation trail system at Big South Fork National River and Recreational Area Project (TV–58724A).
F6. Long-term timber sale contract with Sullivan Timber Company at Land Between The Lakes (TV–63285A).

CONTACT PERSON FOR MORE INFORMATION: Craven H. Crowell, Jr., Director of Information, or a member of his staff can respond to requests for information about this meeting. Call (615) 632–8000, Knoxville, Tennessee. Information is also available at TVA's Washington Office (202) 245–0101.

Dated: February 17, 1984.

John G. Stewart,

Assistant General Manager.

[FR Doc. 84–4934 Filed 2–21–84; 2:16 pm]

BILLING CODE 8120–01–M

10

UNIFORMED SERVICES UNIVERSITY OF THE HEALTH SCIENCES

Meeting.

AGENCY HOLDING THE MEETING: Uniformed Services University of the Health Sciences.

TIME AND DATE: 8:00 a.m., February 27, 1984.

PLACE: Uniformed Services University of the Health Sciences, Room D3–001, 4301 Jones Bridge Road, Bethesda, Maryland 20814.

STATUS: Part of the meeting will be open to the public and part will be closed to the public.

MATTERS TO BE CONSIDERED:

8:00 Meeting—Board of Regents.

(1) Approval of Minutes—November 14, 1983—Revision of Action Taken; (2) Faculty Appointments; (3) Report—Admission; (4) Report—Associate Dean for Operations: (a) Budget, (b) Amount of Grant Monies/Department; (5) Report—President, USUHS: (a) Graduate Education: (1) Self-Study, (2) Military Medical/Surgical Clinical Congress; (b) Certification of Graduate Student; (c) Hebert School of Medicine: (1) U.S. Medicine Article, (2) Dedication Date; (d) Part I, National Board of Medical Examiners Results; (e) Elective Program Analysis; (f) Graduate Medical Education Comparative Study; (g) Defense Officer Personnel Management Act; (h) Jackson Foundation: (i) Board of Regents: (1) Retreat, (2) Travel, (3) Future Meeting Dates; (j) USUHS Awards Program; (k) Information Items; (6) Comments by the Chairman of the Board; (7) Faculty Research Presentations; (8) Awards Presentation.

Closed to the Public: (9) Faculty Salaries New Business.

SCHEDULED MEETINGS: May 19, 1984.

CONTACT PERSON FOR MORE INFORMATION: Donald L. Hagengruber, Executive Secretary of the Board of Regents, 202/295–3049.

GENERAL COUNSEL CERTIFICATION: The General Counsel, in accordance with section 3(f)(1) of the Government in the Sunshine Act, 5 U.S.C. 552b(f)(1) and the Board of Regents' rules issued under that Act, 32 CFR 242a.6(g), hereby certifies that portion of the Board of Regents' meeting of February 27, 1984, at which the Board will consider the salary of two individuals, pursuant to 10 U.S.C. 2113(f), may properly be closed to the public on the basis of the exemption set forth in the Board of Regents' rules at 32 CFR 242a.4(b) and (f).

Merel P. Glaubiger,

General Counsel.

M. S. Healy,

OSD Federal Register Liason Officer, Department of Defense.

February 17, 1984.

[FR Doc. 84–4891 Filed 2–21–84; 11:54 am]

BILLING CODE 3810–01–M

VOL
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ISS
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federal register

Thursday
February 23, 1984

Part II

Department of Transportation

Federal Aviation Administration

14 CFR Parts 23, 25, 27, 29, and 33

Aircraft Engine Regulatory Review Program; Aircraft Engine and Related Powerplant Installation Amendments; Final Rule

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 23, 25, 27, 29, and 33

[Docket No. 16919; Amdt. Nos. 23-29; 25-57; 27-20; 29-22; and 33-10]

Aircraft Engine Regulatory Review Program; Aircraft Engine and Related Powerplant Installation Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment updates the airworthiness standards applicable to the type certification of aircraft engines and of aircraft with respect to engine installations. The changes implement the President's Regulatory Reform Program by simplifying a number of technical requirements, by eliminating unnecessary rules where appropriate, and by removing administrative burdens on regulated persons and the FAA through amendment of regulations from which exemptions have been granted. The regulations update and modernize technical requirements to reflect engineering advances in the state-of-the-art and take into account accumulated service experience and recommendations of the National Transportation Safety Board (NTSB).

EFFECTIVE DATE: March 26, 1984.

FOR FURTHER INFORMATION CONTACT: George F. Mulcahy, Engine and Propeller Standards Staff, ANE-110, Aircraft Certification Division, New England Region, Federal Aviation Administration, 12 New England Executive Park, Burlington, Massachusetts 01803; telephone: (617) 273-7330.

SUPPLEMENTARY INFORMATION:

Background

Following recodification in 1965, the first significant revision to the Code of Federal Regulations (CFR) Title 14, Part 33—Airworthiness Standards: Aircraft Engines, was made late in 1974 by Amendment 33-6. The amendment sought to accommodate the increasing complexity of airframes and engines and their interfaces and the further impact of supersonic flight. During ensuing years, as the industry became even more complex and specialized, the need for clarification and elimination of redundancies in test and design requirements became evident.

Responding to these needs, the FAA in mid-1977 announced an Aircraft Engine Regulatory Review Program, solicited rule change proposals from the aviation and general community, and held a week-long Regulatory Review Conference in January 1978, attended by over 100 industry and public representatives.

Based on information received during the review program and conference, the Administrator issued Notice of Proposed Rulemaking (NPRM) 80-21, Aircraft Engine Regulatory Review Program; Aircraft Engine and Related Powerplant Installation Proposals (45 FR 76872; November 20, 1980), which proposed to upgrade the airworthiness standards applicable to the type certification of aircraft engines and of aircraft with respect to engine installations. Comments on the proposals were invited until February 18, 1981.

Interested persons now have been given an opportunity to participate in the making of these amendments, and due consideration has been given to all matters presented. The proposals and comments are discussed below. Substantive changes and changes of an editorial and clarifying nature have been made to the proposed rules based upon relevant comments received and further review within the FAA. Except for minor editoral and clarifying changes and the substantive changes discussed below, these amendments and the reasons for them are the same as those proposed and explained in Notice 80-21.

Discussion of comments

The following discussion summarizes the comments received from the public, from industry, and from foreign authorities. Proposals are numbered as in Notice 80-21.

Proposal 1. This amendment clarifies § 23.901(d), which calls for a determination that installation effects do not cause any deterioration of powerplant rain ingestion tolerance as demonstrated by the engine in compliance with the engine certification standards of § 33.77.

One commenter advises that it is not clear whether a specific determination for deterioration of powerplant rain ingestion tolerance is required for the intake-engine combination or whether the test of Part 33 would suffice. The intent of the proposed rule is to ensure that installation effects do not result in any deterioration of powerplant rain ingestion tolerance. This requires a separate determination for the engine installation, other than that required by 14 CFR Part 33.

A commenter recommends that flight idle be included in the evaluation of operation in rainfall conditions. The FAA agrees that the regulation, as proposed, does not specify operating conditions for the rain ingestion investigation and the operating conditions of takeoff and flight idle are added to the rule as adopted.

One commenter recommends that the specified liquid water content be compared to engine induction airflow rate. It is the intent of the regulation to proportion the ingested liquid water content in relation to the induction airflow, and this recommendation would afford clarification. Therefore, the proposed rule is revised by adding the phrase "4 percent of engine airflow by weight."

A commenter recommends that the requirement for 3 minutes of operation at flight idle in rain be deleted. The FAA disagrees. Satisfactory operation of an engine for 3 minutes at flight idle in the rain conditions specified will provide assurance that it will satisfactorily operate throughout the rain conditions likely to occur in service. The 3-minute time period is therefore retained.

A commenter recommends that the regulations be clarified by removal of words such as "safe" and "hazardous," which are considered ambiguous. The FAA believes that these words have a common interpretation in aviation and that § 23.901 is sufficiently clear without further change.

Proposal 2. This amendment to § 23.903(a) permit the installation of an engine approved under standards other than those of 14 CFR Part 33, such as Part 13 of the Civil Air Regulations (CAR) or Part 21 of the Federal Aviation Regulations (FAR). In addition, provision is made for approving installation of a type certificated engine on the basis of satisfactory service experience if the engine has not specifically complied with § 33.77. Proposed § 23.903(b) also will require that precautions be taken in the design of aircraft to protect vital components from the effects of uncontained rotor failures and engine fires.

Four commenters request that § 23.903(a) be revised to include reference to § 21.29(a)(1)(ii), which pertains to certification of import products. To be eligible for installation in a U.S. type certificated aircraft, an engine must have a U.S. type certificate. Engines imported from a foreign country type certificated in accordance with § 21.29 are covered by the amended wording of § 23.903(a), and no further action is required.

One commenter advises that under the proposed wording of § 23.903(a)(2)(i) existing engines could be disqualified each time § 33.77 was amended, a condition which would be unreasonable. The intent of this rule change is to ensure an acceptable level of safety for all engine installations with relation to

foreign object ingestion(FOI). A certificated engine which has shown compliance with an approved standard and has had a satisfactory FOI service history when installed in a similar aircraft location will continue to be eligible for installation in an aircraft under paragraph (a)(2)(ii). Therefore, no further change to the proposed rule is necessary.

A commenter advises that the proposed wording of § 23.903(a)(2)(ii) would deny an applicant the right to apply service experience from a particular aircraft engine installation to justify certification at a different location on the aircraft. The commenter states that there is no proof that some installation locations have a higher frequency of ingestion than others, wing mounted versus aft mounted, for example, nor has frequency of ingestion been found to be related to engine capability to withstand ingestion of objects. FAA policy is to certify engines independently of installation location and/or number of engines per aircraft. Nevertheless, when satisfactory service experience is used as a basis of approval of an engine installation, the location of the engine during the time this experience was accumulated must be considered to determine whether the new installation is more or less subject to FOI, and whether similar results may be expected in the proposed installation. This policy is adequately expressed in the proposal, and no further change is necessary.

One commenter recommends clarifying § 23.903(a) with a third qualifying condition: that the engine be shown to comply with § 33.77 in effect at the time of engine type certification. The FAA has determined that addition of a third alternative might result in an unacceptable level of safety under FOI conditions. Section 33.77 in effect October 1, 1974, or thereafter is specifically referenced to preclude this eventuality.

A commenter recommends that § 23.903(b) be revised to specify the areas needing protection from rotor burst, such as fuel systems, flight control systems, and occupied areas of the fuselage. The FAA notes that areas which may be critical in one aircraft with respect to the effects of rotor burst may not be critical in another. Accordingly, it is left to the designer to determine which areas must be protected and how to protect them, and the proposed general language provides such latitude. However, the FAA will evaluate each design for compatibility with the intent of this regulation.

One commenter objects to the wording of the proposed regulation and does not consider turbine engine rotor failure or casing burn-through a problem for small aircraft engines. Turbine engine rotor failure has been reported in small turbine engines, although problems have not been noted in recent years. As long as the potential for failure continues to exist, however, the problem should remain under consideration. Measures taken to protect aircraft from effects of rotor burst also are expected to resist burn-through. Proposed § 23.903(b) as drafted ensures protection appropriate to the risk involved and is therefore adopted as proposed.

Proposal 3. This amendment revises existing § 23.905 to allow installation of a propeller approved under standards other than 14 CFR Part 35. Commenters agree with this rule change. Therefore, except for deletion of the qualifier "approved," which is not applicable in reference to a type certificate, the rule is adopted as proposed.

Proposal 4. This amendment to § 23.975(b) requires that each fuel injection engine employing vapor return provisions, as well as carburetor engines having such provisions, have a separate vent line to return vapor to the vapor space in one of the fuel tanks. Four commenters recommend that the proposed regulation be revised to require fuel vapor to be returned to the fuel tank but not specifically to the vapor space, provided the return line location is carefully selected. However, carburetors with vapor elimination features currently in service have a very low return fuel pressure with which to overcome flow resistance in the line, so that the static fuel pressure head at a particular location might be sufficient to prevent proper venting of the carburetor. Also, discharging the vapor return line into the fuel tank at a location near the fuel tank outlet could result in vapors being reintroduced to the engine with subsequent loss of power. The proposed amendment is changed in accordance with these comments to specify that the vapor be returned to the top of one of the fuel tanks.

One commenter recommends that it would be preferable to return the vapor to the selected tank (the tank being used). The FAA agrees but considers this requirement to be a substantial change which would add significant complexity and cost to the fuel system of airplanes certificated under Part 23 without a commensurate increase in safety.

Proposal 5. This amendment to § 23.994 redefines the required protection against fuel spillage in terms of that occurring after wheels-up landing on a paved runway. One commenter questions whether any amount of fuel spillage should be allowed during a wheels-up landing. Another suggests that a specified amount of spillage would be more appropriate. The FAA agrees that it would be desirable to prevent any fuel spillage during a wheels-up landing on any type of landing surface, but it also recognizes that release of minute quantities of fuel would not be likely to present a fire hazard and that complete avoidance of fuel spillage or approval of a specific amount would be very difficult. Therefore, the regulation is adopted as proposed.

Proposal 6. This amendment adds a new § 23.995(g) specifying that fuel tank selector valves must take a separate and distinct action to place the selector in the "OFF" position and that the selector must not pass through the "OFF" position when changing from one tank to another.

One commenter recommends that the proposed wording be changed to read "The valve shall be designed so that it is not necessary to move the selector through 'OFF' position when switching tanks." The FAA believes that the proposed phrasing is more positive, and the rule is adopted in this form. This change is in accordance with National Transportation Safety Board (NTSB) Safety Recommendation No. A–79–72.

Proposal 7. Part of the proposed amendment to § 23.997 was intended to make it clear that an aircraft manufacturer need not duplicate equipment or tests of fuel strainers or filters if they were provided and approved as part of a certificated engine and if they also meet the requirements of this subpart. The proposed wording, however, inadvertently exempted such provided equipment from the latter requirement. The intended relief is already provided as an option to aircraft and engine manufacturers under the current rule. Therefore, the portion of the proposed rule exempting engine-supplied devices is withdrawn.

The rule also corrects terminology and relieves design requirements for mounting fuel strainers or filters.

Commenters question the meaning of the words "fuel metering device," recommend that filtration standards be included for the filters/strainers, and recommend that the fuel filter be placed ahead of any other fuel system component subject to contamination. The FAA has determined that a fuel metering device is commonly understood to be one which regulates or "meters" fuel flow and that fuel filtration standards should not be included in the regulation but covered by policy material. The rule, in

conjunction with § 23.977, assures that filters and strainers are properly located to prevent contaminants from blocking components other than pumps and controls. In some installations the suggested locations would in fact be unfeasible.

Proposals 8 and 9. The proposed changes to §§ 23.1013 and 23.1015, which deal with oil tanks approved and provided as part of an engine, are withdrawn for the same reasons given in Proposal 7 for withdrawing the portion of the wording exempting engine-supplied devices.

Also, a commenter questions whether an equivalent provision originally proposed for Part 25 applies to engines certificated to the standards of Part 33 before Amendment 33–6 and suggests that this be clarified. The commenter asserts that the oil tanks may be unsafe if not substantiated under Amendment 33–6. The concern expressed by the commenter has been taken into account by withdrawing the proposal.

Proposal 10. This change to § 23.1019 corrects terminology and is intended to relieve the airplane manufacturer from duplicating compliance with oil strainer/filter design requirements if they are provided and approved as part of the engine to be installed. The proposed rule, except for that portion which corrects terminology, is withdrawn for the reasons given in Proposal 7.

One commenter recommends that oil filtration standards be included in the regulations. The FAA believes that filtration standards would be more appropriately covered by an advisory circular or equivalent advisory information.

Proposal 11. This proposal amends § 23.1021 to permit the use of multiple oil system drains, if necessary, to provide more efficient drainage. All commenters agree with the change, and the regulation is adopted as proposed.

Proposal 12. The proposed change of § 23.1093 brings the ground idle induction system icing test conditions into conformance with Appendix C of 14 CFR Part 25 and permits periodic operation at increased power or thrust higher than ground idle as an ice protection measure.

One commenter questions whether "momentary operation at takeoff power" is adequate. Another commenter questions whether allowing engine runup on an icy taxiway would be a safe condition. The FAA agrees that the second comment may have merit under certain conditions. However, the relaxatory nature of this part of the regulation need not be denied applications where safety is not compromised. On icy runways, the decision to use momentary power or thrust to remove induction ice would remain with the flightcrew. The first comment addresses part of the current regulation not raised under Notice 80–21 and therefore is outside the scope of the proposed change.

One commenter recommends a referenced military specification, MIL–E–5007D, which would be a somewhat more severe requirement (25°F, mean effective drop diameter 30 microns, and .4 grams per cubic meter liquid water content). Actual meteorological data, as presented at the Aircraft Engine Regulatory Review Conference, does not support this severe requirement. It is considered that the revised test criteria take into consideration actual ground icing conditions, including an adequate margin of safety, and that compliance with MIL–E–5007D is not warranted. Therefore, § 23.1093 is adopted as proposed.

Proposal 13. This proposed change would add a new § 23.1143(e) to: (1) state engine control requirements not only for antidetonant injection (ADI) systems, but for other fluid injection systems (other than fuel) as well; (2) make it clear that any fluid injection system and its controls provided and approved as part of the engine need not be duplicated by the aircraft manufacturer; and (3) specify a separate control for fluid injection pumps.

Five commenters object to proposed § 23.1143(e)(1) on the grounds that it restricts design of fluid control to one of a number of satisfactory types. It is their view that fluid injection requirements are influenced by other factors which may not relate to the amount of power produced by an engine in service. In some cases, the engine installations have fluid systems that do not vary the fluid flow with power. Fluid is injected in a fixed amount, and power is varied by the engine fuel control via the power lever. The proposed paragraph is rephrased to permit more flexibility in design.

One commenter requests that the regulations be clarified so that separate control for fluid injection pumps is required regardless of whether or not the injection system is approved as part of the engine. Another suggests deletion of this paragraph as some current systems do not use pumps. The FAA agrees with the commenters, and the proposed regulation is revised accordingly.

The portion of the proposed rule exempting engine-supplied devices from the requirements of this section is withdrawn for the reason given for § 23.997.

Proposal 14. This amendment revises § 23.1163(a) to make it clear that it is the ultimate responsibility of the aircraft manufacturer who installs an engine to assure proper sealing of engine oil lubricated accessories.

Three commenters request clarification of paragraph (a)(3) to define what is to be sealed. The FAA concurs that the intent is unclear and proposed paragraph (a)(3) is changed to define the extent of sealing.

Proposal 15. The amendment to § 23.1183 would raise the limiting capacity of reciprocating engine oil sumps from 20 to 25 quarts before fireproofing or shielding is required. Also, the regulation exempts components, as well as lines and fittings that have been approved as part of the engine, from these requirements. These changes remove unjustified engine design limitations and afford increased range capabilities.

One commenter recommends that the 20-quart capacity limit required by paragraph (a) be retained. The proposal is seen as an arbitrary accommodation of a particular application for type certification, but the commenter does not supply specific information or data to support this claim. A search of FAA records has not disclosed such an application.

Neither service with 20-quart capacity oil systems nor any other evidence has shown that there would be any compromise of safety associated with a sump capacity of 25 quarts of oil as opposed to 20 quarts in the case of a powerplant fire. The amendment is adopted as proposed.

Proposal 16. The amendments to § 23.1189(a)(1) and (b)(2) clarify the requirements for shutoff means for flammable fluids in multiengine aircraft and for turbine engine oil systems.

One commenter recommends that this rule be cross-referenced to 14 CFR Part 33. Another commenter suggests addition of the word "installation" to paragraph (a)(1) for the sake of clarity.

The FAA does not consider a cross reference to Part 33 necessary since the emphasis of this section is upon the aircraft manufacturers' responsibility to ensure a fireproof engine installation. Adding the word "installation," however, will provide additional clarification. The proposed regulation is adopted with this change.

Other comments contain proposals for Part 23 which were not on the agenda of the Aircraft Engine Regulatory Review Program. These include the addition of a new § 23.907 concerning acceptable propeller stress levels and addition of a rule requiring that positive pressure be

maintained within fuel tanks to prevent vapor formation. These recommendations are outside the scope of the proposed amendment and are not addressed by this rulemaking.

Proposal 17. This revision of § 25.33(a)(2) corrects and updates an obsolete reference to the rules and does not constitute a substantive change. No unfavorable comments were received, and the proposal is adopted.

Proposal 18. No unfavorable comments were received with respect to revising § 25.697(a) to correct reference to obsolete rules. The proposal is therefore adopted without change.

Proposal 19. For a discussion of comments on the proposed amendment to § 25.903(a), see the proposal for § 23.903(a).

Proposal 20. This proposal revises § 25.905(a) to allow installation of a propeller type certificated under the procedures of CAR Part 14 or § 21.29 of the FAR, as well as Part 35 of the FAR. No unfavorable comments were received with respect to revising § 25.905(a). Therefore, except for deletion of the qualifier "approved," which is not applicable in reference to a type certificate, the rule is adopted as proposed.

Proposal 21. Six commenters object to and recommend deleting the proposed change to § 25.939(b). The consensus is that determination of surge and stall margins in quantitative terms is beyond the current state-of-the-art and that adequate investigation of engine stall, surge, and flameout characteristics is currently covered by the requirements of § 25.939(a). Therefore, the proposed change to § 25.939(b) is withdrawn. The comparable proposal to amend § 33.65 also is withdrawn.

Proposal 22. This amendment to § 25.961 restores test conditions for hot weather fuel system operation previously deleted.

One commenter recommends deleting proposed paragraph (a)(4)(i)(D), arguing that the center of gravity is not relevant to hot fuel tests. This reference to the most unfavorable center of gravity was continued over from the deleted § 25.65(a)(4) as one of the conditions for demonstrating all engine climb in cruising configuration. The FAA agrees that unfavorable center of gravity is not relevant to the hot fuel test, and paragraph (a)(4)(i)(D) of the proposed change is deleted. The proposed amendment is adopted as revised.

Proposal 23. For a discussion of comments on and disposition of the proposed amendment to § 25.994, see the proposal for § 23.994.

Proposal 24. For a discussion of comments on and disposition of the proposed amendemt to § 25.997, see the proposal for § 23.997.

Proposal 25. The proposed revision of § 25.1001 removes the distinction between fuel jettisoning systems for reciprocating and turbine engine-powered airplanes, deletes obsolete sections, and corrects references to climb performance sections. Other changes are editorial in nature, eliminate redundancies, and clarify the text.

No unfavorable comments on the proposed change of § 25.1001 were received. However, two commenters recommend rephrasing the requirement of paragraph (b)(3) to specify that fuel or fumes do not enter any part of the airplane in sufficient quantity to constitute a fire or explosion hazard, maintaining that not all fuel or fumes necessarily constitute a fire or explosion hazard. A third commenter recommends revising paragraph (b) to rectify a condition in which the intended reduction in airplane weight cannot be achieved when jettisoning is initiated with the fuel quantity and distribution associated with takeoff at maximum zero fuel weight (that is, for short range with high cabin load).

Fuel or fumes should not be allowed to reenter any part of the airplane during an emergency condition such as jettisoning. It would be difficult to establish the amount of fuel or fumes that does constitute a hazard. Regarding the wording in paragraph (b), the FAA agrees that the comment has merit; however, it is outside the scope of the proposed change. The rule is adopted as proposed.

Proposals 26 and 27. No unfavorable comments were received in response to the proposed changes to §§ 25.1013 and 25.1015. However, the portion of the proposals dealing with oil tanks provided and approved as part of an engine is withdrawn for the reasons stated for § 23.997. For a discussion of reciprocating engine oil sump capacity in relation to fireproofing requirements in § 25.1013, see the proposal for § 23.1183.

Proposal 28. No adverse comments were received on the proposal to amend § 25.1019, and the change is adopted as proposed. For a discussion of this change, see the proposal for § 23.1019.

Proposal 29. No adverse comments were received on the proposal for § 25.1021, and it is adopted as proposed (See the proposal for § 23.1021).

Proposal 30. This amendment to § 25.1045(d) corrects references to performance requirements which have become obsolete. In addition, a commenter would delete the cooling test configuration center of gravity requirement as irrelevant. Another commenter suggests the following rewording: ". . . the most unfavorable center of gravity position at which the airplane can be flown safely."

Reference to the most unfavorable center of gravity was carried over from deleted § 25.67, which governed demonstration of one engine inoperative climb. Section 23.121(c) is the new reference, and it has no requirement for center of gravity position. In any case, the airplane must be flown within the airplane limitations.

The FAA agrees that for this cooling test the effect of center of gravity position is negligible and does not affect the outcome. The proposed amendment is revised and adopted.

Proposal 31. This amendment to § 25.1091(e) requires the foreign object ingestion criteria of § 33.77 to be applied to vulnerable portions of induction systems.

Comments received were generally favorable. Two commenters recommend, however, that additional wording be included to specify the air induction system parts or components to be considered under this rule.

The FAA believes that the proposed change adequately states the performance objectives of the airplane air induction system and the criteria to be applied. Listing specific components to be protected would ignore possible future developments. The change to § 25.1091(a) therefore is adopted as proposed.

Proposal 32. For a discussion of comments on and disposition of the proposed amendment to § 25.1093(b)(2), see the proposal for § 23.1093(b)(2).

Proposal 33. For a discussion of comments on and disposition of the proposed amendment to § 25.1143(d), see the proposal for § 23.1143(e).

Proposal 34. For a discussion of comments on and disposition of the proposed amendment to § 25.1163(a), see the proposal for § 23.1163(a).

Proposal 35. For a discussion of comments on and disposition of the proposed amendment to § 25.1183(b)(1), see the proposal for § 23.1183(b)(1).

Proposal 36. For a discussion of comments on and disposition of the proposed amendments to § 25.1189(a) (1) and (2), see the proposals for § 23.1189(a)(1) and (b)(2).

Proposal 37. This amendment would have deleted § 25.1305(d)(3), which calls for a rotor system unbalance indicator in each turboject installation.

One commenter disagrees, stating that the requirement should be retained and arguing that foregoing the monitoring of airborne vibration would be a

retrograde step. The commenter claims that well developed systems have shown more than adequate reliability and are considered capable of giving advance warning of impending failures.

Service experience has not shown that installation and use of airborne vibration monitor (AVM) systems are universally beneficial, as they are not totally effective in providing advance warning of all hazardous engine failure modes. However, recent experience, since this amendment was proposed, has demonstrated the potential of an AVM to provide a safety improvement as discussed by the first commenter. Therefore, the proposal to delete § 25.1305(d)(3) is withdrawn pending further study.

Proposal 38. No unfavorable comments were received regarding the proposed change to § 25.1323(b)(2), which deletes an obsolete reference to § 25.59, and it is adopted without change.

Nonsubstantive changes are made to §§ 25.1359 and 25.1521 which were not included in the Regulatory Review Conference Agenda or in Notice 80–21. These amendments correct typographical errors and references.

Proposals 2 and 19 modify §§ 23.903(a) and 25.903(a), respectively, to require an "approved type certificate" for each engine installed, rather than a type certificate issued under Part 33 only. The discussion presented for the proposal for § 23.903(a) also applies to §§ 27.903(a) and 29.903(a). Therefore, substantively identical changes to these sections are adopted.

A commenter suggests that in connection with the revised wording, turbine engines installed in rotorcraft should be required to comply with the foreign object ingestion requirements of § 33.77, which is now the case for engines type certificated after October 1, 1974. For engines for which application for type certificate was made before that date, this suggestion constitutes a substantive change beyond the scope of this rulemaking and is not adopted.

Proposal 39. For a discussion and disposition of the proposed amendment to § 27.997, see also the proposal for § 23.997.

One commenter questions the rationale behind deleting the phrase "and the mesh" and claims that without this phrase only filter capacity is addressed by the rule. The term "mesh" is not applicable to filters or filter elements. However, fuel filtration requirements, including mesh, particle size, and density, if not satisfied by the engine manfacturer, will be prescribed in the instruction manual for installing and operating the engine (§ 33.5). Therefore, in this case, compliance would be assured by reference to § 33.5 in § 27.901(c)(1) and the requirements in § 27.977 (§§ 29.901(b)(1)(i) and 29.977 for Part 29).

Proposals 40, 41, 42 and 43. For discussion and disposition of the proposed amendments to §§ 27.1013, 27.1015, 27.1019, and 27.1021, see the proposals for §§ 23.997, 23.1019, and 23.1021.

Proposals 44 and 54. These proposals would delete §§ 27.1093(b)(2) and 29.1093(b)(2), which are the current requirements for demonstrating satisfactory powerplant operation when exposed to atmospheric icing during ground operating conditions. The basis for deletion is the contention that engine induction system icing during ground idle operation has not been a significant problem with rotorcraft, assuming they are not required to queue up for takeoff as are airplanes. Subsequent FAA review of rotorcraft utilization discloses that extended ground operation of rotorcraft during icing conditions, although infrequent, must be expected. The proposals to delete §§ 27.1093(b)(2) and 29.1093(b)(2) therefore are withdrawn and the sections are reworded as in §§ 23.1093(b)(2) and 25.1093(b)(2).

For further discussions on this amendment, see Proposal 75 for § 33.68 and Proposal 12 for § 23.1093.

Proposals 45 and 55. These amendments add new §§ 27.1143(d) and 29.1143 (d) and (e) specifying that fluid injection (other than fuel) controls be in the throttle controls and eliminating duplicate certification requirements, as in §§ 23.1143 and 25.1143. However, the term "throttles" is a misnomer for modern turbine engines installed in rotorcraft. Changes needed to rectify the terminology would be beyond the scope of this review. The proposals to amend §§ 27.1143 and 29.1143 are withdrawn and will be referred to the Rotorcraft Regulatory Review Program for consideration.

Proposals 46 and 56. For a discussion and disposition of the proposed amendments to §§ 27.1163(a) and 29.1163(a), see the proposal for § 23.1163(a).

Proposals 47 and 57. These amendments to §§ 27.1183 and 29.1183 establish a new capacity limit of 25 quarts instead of 20 quarts for reciprocating engine integral oil sumps before requiring the sumps to be fireproof or have fireproof shielding. For a discussion of comments on and disposition of the proposals, see the proposal for § 23.1183.

Proposals 48 and 58. For a discussion and disposition of the proposed amendments to §§ 27.1189 and 29.1189, see the proposal for § 23.1189.

Proposals 49, 50, 51, 52, and 53. For discussion and disposition of the proposed amendments to §§ 29.997, 29.1013, 29.1015, 29.1019, and 29.1021, see the corresponding proposals for Part 23.

Proposal 59. This amendment to § 33.7 revises the engine operating limit requirements for fuel and oil temperature and pressure, overhaul, and windmilling r.p.m.

All comments support adoption of this proposal. Additionally, two commenters propose changing Appendix A of Part 33 to be compatible with deleting the word "overhaul," as proposed in the amendments to §§ 33.7(c)(17) and 33.90. However, reference to the term "overhaul" is still appropriate to many turbine and basically all reciprocating engines. While the FAA believes there is merit in considering a restructuring of Appendix A, it goes beyond the scope of the Notice 80–21. Accordingly, the amendment is adopted as proposed.

Proposal 60. This amendment to § 33.14 revises and clarifies the rules establishing engine low-cycle fatigue limits.

One commenter suggests that the definition of start-stop cycle fails to account for reduced power takeoff and therefore should be modified to read ". . . accelerating to takeoff thrust levels . . ." rather than ". . . accelerating to maximum rated power or thrust. . . ." Reduced power takeoff is an operational procedure determined by prevailing factors such as aircraft weight, runway length, and density altitude. The FAA believes the fatigue life used for certification should be the minimum service life based on maximum ratings since the engine operational characteristics will vary for each aircraft installation. Both cyclic and hourly life credits for reduced stress levels experienced by some discs during reduced power takeoff can be adjusted by the use of approved methodology. One engine manufacturer has done so by creating "disc life factors" to apply to those cycles or hours of operation under required conditions. The established life thus has a certain conservative bias, as it is based on maximum ratings.

Another commenter objects to the proposed wording of this section because it eliminates the distinction between maximum predicted and initial service life and suggests that a part could continue in service up to its maximum predicted life without undergoing the specified sampling program. The commenter suggests that some fixed percentage of the predicted life be established as the initial service

life. The FAA does not agree that a lack of distinction will exist between initial and predicted life. The predicted life of a disc is evaluated by the applicant using approved low-cycle fatigue methodology involving factors such as material properties, engine thermodynamics, etc., which when used in the analysis result in a confidence level for the predicted life. Based on this confidence level, the service life may vary from one-third to three-fourths or more of the predicted life. To require the initial service life to be a fixed proportion of the predicted life, i.e., 50 percent for instance, would place an undue burden on the applicant with no commensurate safety benefit. Any program to increase the initial service life must include sampling or inspection procedures. For these reasons, the rule, except for some editorial changes, is adopted as proposed.

Proposal 61. No unfavorable comment was received on the proposal to amend § 33.15(b) by deleting the phrase "or Technical Standard Orders," given erroneously as a standard for engine materials, and the proposal is adopted without change.

Proposal 62. This amendment to § 33.17 increases the limiting oil capacity for reciprocating engine integral oil sumps from 20 to 25 quarts before fireproofing is required.

One commenter takes exception to the wording of § 33.17(a), which implies that any structural failure or overheating in turbine engines would represent a hazardous condition. The same language has been carried under deleted § 33.17(f) and has presented no problems in interpretation.

A commenter recommends that the present 20-quart oil limit be retained, implying that it was established by fire testing. The FAA has no records which show that the 20-quart limit was derived from fire test data. Its original intent was to exclude the integral oil tanks of small reciprocating engines from fireproofing requirements, and it was based on years of satisfactory service experience. The FAA does not believe that raising this limit to 25 quarts as proposed will violate the original intent (see also the proposal for § 23.1183). Since the 25-quart limit was proposed over 4 years ago, the FAA has received no evidence that would indicate this change would compromise safety. Therefore, the amendment is adopted as proposed.

Proposal 63. This amendment to § 33.19(a) requires an applicant for an engine type certificate to define the trajectories of rotor blade fragments exiting outside compressor or turbine rotor cases.

Two commenters object to the last word of § 33.19(a) in that it is unduly restrictive. The commenters state that the requirement that fragment energy levels and trajectories be "defined" can be interpreted to mean precisely defined by tests, whereas in practice they may be determined by engine tests, component tests, and/or analysis. The FAA disagrees that use of the word "defined" is unduly restrictive. It is the FAA's intent that the boundary condition for possible fragments be set and therefore defined. The method used may include engine tests or other means acceptable to the Administrator.

Another commenter suggests that a corresponding change be made to § 33.5 to provide for the location of the data on fragment energy levels and trajectories. However, a change to § 33.5 is not required since the actual location of this data will be referenced on the engine data sheet.

Another commenter suggests a clarification of the rule is required to specify that only where fragments leave the engine through the inlet or turbine exhaust should the energy and trajectories be defined. The FAA believes this clarification is unnecessary. The first portion of the current rule requires containment of damage from blade failures. The new sentence would require definition of the boundary conditions for debris generated by the blade failure and ejected by the engine. It is this possible secondary damage due to debris exiting the inlet, fan, or core exhaust that is pertinent. Accordingly, the proposal is adopted without change.

Proposal 64. This revision of § 33.23 refines definitions and load limits for engine mounting attachments and structure.

Several commenters suggest changing § 33.23(b) to make the wording similar to the aircraft primary structural requirements of §§ 23.305 (a) and (b) and 25.305 (a) and (b). It is suggested that "permanent deformation" in § 33.23(b)(1) be changed to "detrimental permanent deformation." This change would recognize the slight deformations associated with structural hysteresis which do not adversely affect the structure.

It is further suggested that any deformation at limit load which interferes with engine operation should not be permitted, although § 33.23 does not so state, and that the § 25.305, 3-second criterion for demonstration of ultimate load is also appropriate for § 33.23(b)(2); otherwise, the rule could be interpreted to require the structure to withstand ultimate load for an indefinite period of time.

The FAA believes that the primary structural requirements of § 25.305 are appropriate where a variety of designs serving the many structural needs of an aircraft must be evaluated under a single rule. Engine mounting attachment structure represents a much narrower range of design for which the additional provisions of § 25.305 are not needed. Current practice and service experience support this opinion. Therefore, the wording "permanent deformation" is retained.

One commenter would also specify that the engine mounting attachments and structure withstand repeated application of normal loads; that is, there should be fatigue substantiation of critical structural components. Although not currently required, engine mounting attachments and structures are in fact being confirmed under repetitive loading. Adopting this requirement would, however, add regulatory demands beyond those of the proposal. The question of requiring substantiation of mounting attachments and structures under cyclic loads will be considered for future rulemaking action.

One commenter suggests inserting the word "engine" in § 33.23 (a) and (b) to modify "structure" and thus avoid implying that aircraft structure is meant. The FAA agrees, and the proposal is adopted with the wording changed accordingly.

Proposal 65. No unfavorable comment was received on the proposal to amend § 33.25 to delete an unnecessary sentence relating to load requirements already specified in § 33.49(a) and § 33.87(a)(6) for reciprocating and turbine engines, respectively. The amendment permits a minute amount of oil leakage from the engine interior and assigns ultimate responsibility for engine/accessory drive sealing to the aircraft manufacturer. Accordingly, the amendment is adopted as proposed.

Proposal 66. This amendment to § 33.27 revises overspeed test conditions and strength requirements for turbine, compressor, and turbosupercharger rotors and extends these criteria to fan rotors.

Two commenters object to the proposed wording of the posttest acceptability criteria in the last sentence, stating that it is unnecessarily loose and subject to varied interpretation. The FAA disagrees. The intent of the test is to ensure that compressor and turbine rotors have sufficient structural strength to provide reliability and safety during an inservice overspeed situation. The acceptability criterion is that parts show no evidence of incipient failure or distortion which

could cause hazards. Such evidence will differ for each engine type design, and a determination must be made for each case. Although the wording of the current rule is revised, it continues to state that for each type design a proven acceptable condition must be met and demonstrated.

Two commenters recommend that § 33.27(c)(2) (v) and (vi) need not apply if the failure events described are considered improbable. The FAA disagrees. Service experience shows that most severe engine failures, including those caused by disc and shaft failures, would have been judged improbable beforehand. Attempts to apply probability to this rule would not be in the interest of airworthiness.

Two commenters request that maximum permissible r.p.m. be defined as the highest steady state r.p.m. at which an engine shaft can rotate in service. The FAA disagrees. If an engine has a transient rotor speed limitation higher than the steady state limitation, maximum permissible r.p.m. would be the maximum transient speed limit.

Another commenter suggests rearranging § 33.27(c)(2) for clarification and allowing rotor discs with sections thinner than type design to be used to produce equivalent stresses at lower r.p.m. The FAA does not believe that the proposed rearrangement of paragraph (c)(2) would significantly clarify the requirements of the section. While the use of thinned rotor discs as test articles may be justified under certain circumstances, the practice should not be considered typical or normal. The conditions under which the expedient might be acceptable must be evaluated on an individual basis and a determination of equivalency made. Accordingly, the amendment is adopted as proposed.

Proposal 67. This amendment proposes to delete § 33.29(b), which requires that each turboject engine be provided with a connection for a rotor system unbalance indicator.

A commenter objects to deletion of the requirement for a connection for rotor system unbalance indication. The commenter states that a well-developed system has more than adequate reliability and has capability of giving advance warning of failures which could lead to hazardous events. Two commenters agree to the deletion of the requirement for rotor system unbalance indication. However, one of the commenters adds that airborne vibration monitoring (AVM) could be applicable to some engines and that in cases where reliable AVM systems have been developed, credit could be claimed for the AVM system in showing compliance with various FAR Part 33 (and Part 25) requirements as part of the basic engine type design. Recent experience has demonstrated that in some instances AVM can provide a safety improvement as discussed by the first commenter. Therefore, the requirement is being retained in Part 33 to provide an engine connection for AVM. Retention of the requirement does not impose a significant burden on the engine manufacturer. Accordingly, the proposal to delete § 33.29(b) is withdrawn.

Proposal 68. This amendment adds requirements for fluid injection (other than fuel) system controls under a new § 33.35(e).

A commenter suggests the proposal be changed to read: "the flow of the injected fluid is adequately controlled," and that paragraph (e)(2) be deleted. The commenter explains there exist systems which inject fluid at a fixed rate independent of power lever position. The commenter adds that some systems do not use pumps but utilize engine bleed air for pressurization and control it manually or automatically with power lever or throttle motion. The FAA agrees with the commenter, and the section is revised accordingly.

Proposal 69. This amendment to § 33.43 removes the requirement to comply with established shaft endurance stress limits when operating an engine with one cylinder not firing.

The single commenter concurs with the intent of this proposal but requests that shaft critical speeds for the cylinder-out condition be included in the operating instructions. The FAA considers that testing done under this section will provide safe operating information, including critical speeds, which must appear in the engine operating instructions in accordance with § 33.5. The proposed amendment is adopted without change.

Proposal 70. No comments were received on the proposal to correct a typographical error in § 33.49, and it is adopted without change.

Proposal 71. No unfavorable comment was received on the proposal to amend § 33.63 by deleting the word "normal," which tended to unduly restrict the operating range of rotational speeds when considering vibratory force and stress on engine and structure. The proposal is adopted without change.

Proposal 72. This proposed change to § 33.65 is based on a similar proposal deferred from Notice 75–31 (40 FR 29410; July 11, 1975) and was introduced into the NPRM after the Aircraft Engine Regulatory Review conference held in January 1978.

The stated objective of this proposed change is to allow flightcrews to completely avoid surge and stall conditions severe enough to cause engine malfunction or damage.

One commenter agrees with the proposal with no amplifying statements. Another commenter, a rotorcraft manufacturer, expects this proposal would supply urgently needed quantitative operating margins. Considering the installation effects of rotorcraft applications, the FAA does not believe this proposal will alleviate the rotorcraft manufacturers' requirements for in-flight investigation of stall and surge characteristics (§§ 27.939 and 29.939).

The combined comments from the other respondents can be summarized as follows:

(1) The objective of the proposed change is commendable; however,

(2) Technology or state-of-the-art does not allow attainment of the objective as stated;

(3) The magnitude of testing, just in terms of variables that would need to be investigated, would be formidable and costly with little or no accompanying increase in safety;

(4) The FAA has not established documentation to justify such a rule change;

(5) An appropriate advisory circular should be issued and coordinated with industry prior to changes to this regulation;

(6) Terms such as "severity of the surge and stall" are ambiguous and unamendable to quantitative testing; and

(7) The current regulation adequately provides the desired information.

At this time, the FAA concurs with the first six items above. It further concurs that item (5) may be the first approach to correcting any FAA disagreement with item (7).

As stated under the "Explanation" of the proposed rule, the current rule is objected to for not being able to define an acceptable or rejectable degree of compliance. After further review, it is concluded that this same objection might apply to the proposed rule. Furthermore, the regulation as proposed will not meet the stated objective. The proposed regulation would still be subject to the interpretive process used to determine compliance during certification. Knowledgeable comments and other information received on this proposal make it doubtful that the objectives can be met at this time.

Considering the above, the FAA is at this time deleting this proposed change.

Proposal 73. This amendment to § 33.66 clarifies standards for bleed air system performance and for indication of the functioning of ice protection systems, if bleed air is used and can be controlled.

There were no dissenting comments. However, one commenter objects to the words "aircraft powerplant" in connection with the ice protection system, as the reader might confuse the engine anti-icing system with the aircraft anti-icing or ice protection system provided for the powerplant. The FAA concurs with the comment to use the word "engine" in place of "aircraft powerplant," and the proposal is modified accordingly.

Proposal 74. This amendment to § 33.67 brings engine fuel system standards into conformity with corresponding sections of the aircraft rules. It also adds new fuel control standards.

Since a large number of comments were received on the various sections of the proposed rule, the following discussion has been subdivided into segments for simplicity of discussion.

Ref § 33.67(a). Although no unfavorable comment was received on the proposal to amend § 33.67 by deleting all but the first sentence of §33.67(a), the dropping of proposed § 33.67(d) introduces the need to restore, in § 33.67(a), the requirements for proper fuel control system functioning, adjustment, locking, and sealing. Therefore, the proposal is modified by deleting only the last sentence of § 33.67(a).

Ref § 33.67(b). A commenter states the proposed revision should specify that the fuel strainer or filter be installed ahead of the first engine fuel system component which is susceptible to restricted fuel flow due to contaminants. The commenter adds that this would assure that the complete engine fuel system is protected from fuel flow interruption due to contamination.

While there is merit to considering amending § 33.67(b), it goes beyond the scope of the present NPRM. These comments should properly be handled by a future NPRM to allow other interested persons time to submit their views. Therefore, the proposal is adopted without change.

Ref § 33.67(b)(3). No comment was received on the proposal to amend § 33.67(b)(3). Accordingly, the proposal, with respect to § 33.67(b)(3), is adopted without change.

Ref § 33.67(b)(4). A commenter suggested that the last sentence of proposed § 33.67(b)(4) be amended to read: "The applicant must provide evidence. . . ." This is intended to provide experience or alternative means, other than testing, for showing compliance. The FAA agrees that the word "demonstrate" as used in this paragraph would mean to prove by operation of the device, which was not intended as the only acceptable method of substantiation. Therefore, the proposal is modified accordingly.

Ref § 33.67(b)(4)(ii). A commenter suggests deleting proposed § 33.67(b)(4)(ii) and replacing § 33.67(a) with the sentence: "Each fuel system must be capable of sustained operation throughout its flow and pressure range with fuel initially saturated with water at 80°F and having 0.75 cc of free water per gallon added and cooled to the most critical conditions for icing likely to be encountered in operation." The commenter adds that manufacturers should be allowed to show that the total fuel system is capable of operation under those conditions without establishing any specific design criteria such as use of heaters or additives. The commenter further states that some current successful systems use neither anti-icing additives nor fuel heaters.

Another commenter states that although it may be reasonable to accept that a fuel heater can cope with water saturated fuel, the effectiveness of anti-icing additives should be evaluated.

The commenter suggests that the second sentence of § 33.67(b)(4)(ii) be amended to read: "This requirement may be met by showing the effectiveness of specified approved fuel anti-icing additives or that the fuel system is fitted with a fuel heater which is capable of maintaining the fuel temperature at the fuel strainer or fuel inlet above 32°F (0°C) under the most critical conditions."

The FAA does not agree with the first commenter since the proposed change does not restrict the manufacturer to specific design criteria, but rather provides for recognized equivalent means of compliance.

The FAA substantially agrees with the suggestion of the second commenter which rectifies the objections raised and which editorially corrects the proposed changes. Accordingly, the second sentence of proposed § 33.67(b)(4)(ii) is revised except that the words ". . . which is capable of maintaining. . . ." are further changed to ". . . which maintains. . . ."

Ref § 33.67(b)(5). A commenter strongly supports the substance of the proposed revision to § 33.67(b)(5) to require demonstration of filter capability that is related to fuel contamination ". . . likely to be encountered in service. . . " Another commenter suggests quantifying the degree of contamination to provide a consistent unambiguous requirement which can be applied fairly and consistently. Two commenters suggest the proposal be canceled and the present wording be retained since engine control system malfunctions due to fuel contamination are not a service problem.

Proposed §33.67(b)(5) is clarifying; however, the rule for engine certification should not relate to ambiguous aircraft flight requirements, but rather to the time of continued satisfactory engine operation in the mode of partial filter blockage.

Also, there is merit to the comment relative to quantifying the degree of contamination; but, further research is required before such limits can be established. Accordingly, proposed § 33.67(b)(5) is revised as discussed.

Ref § 33.67(c). Two commenters suggest the proposal be changed to read: "(1) The flow of the injected fluid is adequately controlled," and one of the two commenters further suggests deletion of (2). The commenters explain there exist systems which inject fluid at a fixed rate independent of power lever position. The second commenter adds that some systems do not use pumps but use engine bleed air for pressurization and control it manually or automatically with power lever or throttle motion. A third commenter suggests that the flow of injected fluid must be controlled in relation to the design requirements of the engine since power produced by an engine can be influenced by a number of factors. The FAA agrees with the commenters and has revised the section accordingly.

Ref § 33.67(d). A commenter suggests that the proposal should provide for consideration of electric/electronic components which have a documented satisfactory service history. Two commenters state that it seems unnecessary to apply the proposed rule to other than full-authority control systems with electrical or electronic input.

Ref § 33.67(d)(1). One commenter suggests deletion of this section of the proposed rule on the basis that definition of reliability level would be subjective. Two commenters state that a comparative reliability level should not be imposed, the first since it was never required to hydromechanical units and the second since a comparable hydromechanical control for a given engine type may not exist. One of the commenters suggests that electronic control system reliability should be based on in-flight shutdown rate. The same commenter questions the meaning of ". . . combined level."

Another commenter states that adequacy of the secondary systems in controlling the engine for continued flight can only be determined by evaluation on the specific aircraft in conjunction with minimum crew requirements. It is noted that the requirement for continued safe operation of the installed engine after failure or malfunction is addressed in §§ 23.903, 25.903, and 29.903. However, the FAA agrees that the proposed wording is not completely consistent with engine certification requirements.

Another commenter submits a counterproposal which it is claimed will permit control functions not historically available with hydromechanical controls and will allow dispatch of an airplane with one channel of a dual system inoperative.

Another commenter supports the substance of the proposal and suggests the requirement be extended to other components susceptible to external electromagnetic interferences. The FAA agrees that the rule should be so extended; however, since the suggestion is beyond the scope of this review, the commenter is invited to submit it in proposal form for future consideration.

Ref § 33.67(d)(2). Two commenters suggest revising proposed § 33.67(d)(2) to read "Provide a means to monitor the operational status of each function critical for safe engine operation." Another commenter states it is not clear how monitoring the operational status can assure redundancy. The commenter adds that the designer should be permitted to establish compliance in a manner best suited to his particular design.

Ref § 33.67(d)(3). One commenter suggests that the term "independent power source" be clarified to more clearly state the intent. Two commenters suggest the proposal be revised since it is unnecessary to have an independent power source on the engine where a backup hydromechanical control is used in the event of power supply failure.

Ref § 33.67(d)(4). A commenter states that the proposal is too specific and that the engine manufacturer should be permitted to establish the power supply and environmental condition characteristics, including lightning or other electromagnetic interference, in which the control system will satisfactorily operate.

The scope of comments to § 33.67(d) has been extensive and raised several valid points and suggestions. Due to the extent of these comments, it is believed a major modification to this proposed change is required. Therefore, proposed § 33.67(d) is withdrawn. After reevaluation, another NPRM will be published, and the public will be given an opportunity to comment.

Proposal 75. The amendment to § 33.68 revises the requirements which govern performance under icing conditions.

A number of commenters support the proposed exemption of rotorcraft from the ground idling icing requirements, basing their justification on the unique characteristics of rotorcraft and rotorcraft operations. Others who wish to include rotorcraft under this rule point out, for instance, that oil rig operations may include lengthy loading cycles in icing conditions with rotors turning.

One commenter points out that wheel-equipped rotorcraft awaiting departure clearance can be subjected to the same delays as fixed-wing aircraft in foggy weather with temperatures conducive to induction system icing. The FAA agrees that, as a general practice, rotorcraft cannot expect preferential handling or to avoid queuing up at runways. Furthermore, the operation of a helicopter rotor system can itself, within the proposed envelope:

(1) Intensify icing conditions when ground fog on freezing drizzle under stable cloud layers is present; and

(2) Generate freezing ground fog when atmospheric conditions are close to forming natural freezing fog.

Other commenters contend that no rotorcraft have been certificated for intentional flight in icing conditions. The FAA considers this contention somewhat irrelevant in considering ground induction icing conditions. As mentioned above, ground operation can produce induction system icing without the existence of conditions conducive to in-flight icing as defined in Appendix C of Part 25 of the FAR.

Considering the above, and after further review, the FAA sees no justification for excluding rotorcraft from § 33.68(b) and has revised the proposal accordingly.

It also is suggested that a certification time of less than the 30-minute idle specified in the proposed amendment could be applied to rotorcraft engines. This suggestion may have merit, but it is believed that additional operating data are required to support a lower test time. This question will be considered in future rulemaking.

Concerning the envelope to use for testing, one commenter suggests using more general terms to describe the icing envelope, while another suggests adoption of a somewhat more severe military specification.

As was presented during the Aircraft Engine Regulatory Review Conference, recorded meteorological data, from the most severe ground icing experience during civil operation, does not support more stringent criteria. Therefore, the FAA does not agree with the proposal to adopt the military specifications.

In response to the comment to state the requirements in broad terms, the proposed regulation as stated presents minimum atmospheric parameters for all engines to meet. A lack of specific requirements could lead to a generation of engines all meeting different atmospheric conditions. This would not lead to uniformity in the certification process.

One comment was received opposed to allowing periodic engine run-up to shed ice. The comment was based on the possibility of icy taxiways and run-up pads making this procedure risky. The FAA agrees that this comment has merit under certain conditions. However, there are installations where this procedure could be perfectly acceptable under adverse ground conditions. Rotorcraft operation is one such application. The relaxatory nature of this part of the regulation need not be denied applications where safety is not compromised. It should be noted that the manner of this procedure may be controlled by limitations in the engine data sheet and/or operating instructions if appropriate. It is envisioned that run-up power excursions that are excessive or operationally untenable will be disallowed.

Therefore, with the exception of the change to § 33.68(b) discussed earlier, the proposal is adopted without change.

Proposal 76. This amendment to § 33.71 revises the standards for engine lubrication systems and makes them consistent with proposed §§ 23.1019 and 23.1021 and corresponding changes to Parts 25, 27, and 29.

A commenter disagrees with the proposal to delete the requirement for a strainer or filter ahead of each scavenge pump, stating that protecting the scavenge pump is essential to safe operation. The commenter adds that the rule already allows the applicant to size the strainer as needed to protect the pump. The FAA believes that design flexibility should be carried even further and that the need for a scavenge strainer/filter and its sizing should be determined by the engine designer.

Another commenter suggests that § 33.71(b) be further amended to read: "There must be an oil strainer or oil filter, other than at the oil tank outlet, through which all of the engine oil flows." However, this change would not provide additional clarity and would add an unnecessary restriction.

A commenter suggests that § 33.71(c)(5) be amended or deleted to permit marking the word "oil" on adjacent cowlings instead of the engine oil tank oil filler and that the corresponding aircraft rule be amended to conform. Sections 23.1557, 25.1557, 27.1557, and 29.1557 already specify exterior markings as suggested by the commenter. The proposed oil tank filler marking drops the capacity requirement from the current rule but retains the "oil" marking in the interest of safety.

A commenter suggests that proposed § 33.71(c)(12)(ii) call for provision of makeup oil equivalent to that expected to leak from a deteriorated engine. The FAA believes that this requirement is implicit in the proposed rule and would have to be met by airworthy engines under § 33.19 and 33.75.

A commenter suggests that proposed § 33.71(f) be deleted because loss of lubrication during "negative g" operation has not been a problem in commercial service. Another commenter suggests deleting the reference to § 25.333 in this section since engines for general aviation fixed-wing and rotary-wing applications do not necessarily comply with it. The commenter further suggests that the amendment require the applicant to define the maximum applied loads as in § 33.23 for mounting attachments. The FAA has no records to indicate the extent of the problem with engine lubrication during negative g operation, and it is correctly noted that a Part 25 requirement should not be imposed on an engine not intended for Part 25 application. The present regulations covering lubrication system design for both reciprocating and turbine engines have been found adequate. The proposed new paragraph (f) is withdrawn as recommended, and the remainder of the proposal is adopted without change.

Proposal 77. This amendment adds a new § 33.74 which defines thrust or power augumentation systems for transport category airplanes.

After further consideration, the FAA has found it to be impractical for an engine manufacturer to comply with § 25.945 as referenced in the new section since this paragraph requires detailed knowledge of the aircraft engine installation, aircraft flight envelope, and power augmentation system hardware supplied by the manufacturer for each aircraft type. This information is seldom available to the engine manufacturer at the time of engine certification. The proposed amendment therefore is withdrawn.

Proposal 78. Two commenters object to the word "hazardous" as proposed for § 33.75, which amplifies and redefines burst limits and corrects a reference to allowable loads in amended § 33.23. They submit that an engine manufacturer is not in a position to judge what is hazardous at the time of engine certification. The commenters recommend using "release of fragments having significant residual energy" as the burst criterion.

The FAA disagrees. Released fragments are important because they may represent a hazard to the aircraft. The hazard may be related to residual energy, but even fragments which have a low residual energy may constitute a hazard. Judgment must be used under either definition by the manufacturer and the FAA during certification to determine what is hazardous. Section 33.75(b), therefore, except for the descriptive parenthetical statement, is adopted as proposed. Reference to § 33.23(b)(2) in proposed paragraph (c) is corrected by substituting § 33.23(a).

Proposal 79. This amendment adds a new § 33.76, which applies the standards of § 25.933, airplane reversing systems, to engine airworthiness.

Two commenters object to the proposed amendment on the grounds that compliance requires an evaluation of the engine thrust reverser as a part of a particular aircraft reversing system. The engine manufacturer cannot anticipate or have available the aircraft design and performance data necessary to comply with § 25.933 (a) and (b). The FAA agrees, and this proposal is withdrawn.

Proposal 80. This amendment to § 33.77 updates the engine foreign object ingestion requirements. For comments on the amendment to § 33.77 (a)(2) and (a)(3), see the proposals for § 33.75 (b) and (c), respectively.

A commenter expresses the opinion that ingestion tests should be conducted with simulated engine installation hardware and gearbox loading. The FAA finds merit in these comments but considers the suggested changes beyond the scope of the NPRM. The FAA will review these suggestions for future rulemaking action.

A commenter questions whether an engine running for 5 minutes following the bird ingestion event is adequate. In the absence of an obviously dangerous condition, however, the 5-minute run time is sufficient to demonstrate engine integrity. This commenter also suggests that in addition to the other requirements, any potentially hazardous physical damage following the bird test be considered a failure. The FAA has made this a practice in the past, and the section is changed accordingly.

A commenter submits information from an actual aircraft accident which suggests that bird ingestion certification requirements should be made stricter. The accident cited involved an engine certificated before the current requirements were adopted at a time when less demanding tests were the rule, so that the commenter's remarks may not be currently relevant. The FAA is continually reviewing bird ingestion incident data in terms of possible rulemaking action.

A commenter objects to deletion of the sand and gravel ingestion requirement, stating that the absence of sand/gravel ingestion problems in service is due to the presence of the requirement in the current rule. The commenter points out that in addition to blade erosion, adverse effects on engine seals, bleed ports, and oil sumps may lead to in-flight operating abnormalities. Although it is recognized that sand and gravel ingestion may adversely affect various turbine engine mechanisms, service experience has shown that ingestion of these materials does not possess the potential for causing sudden loss of engine power as does other ingested matter. On this basis, the requirement is withdrawn.

A commenter points out that the specified 4 percent water to air ratio is less than that which may be encountered in the atmosphere and also suggests conducting water ingestion tests at altitude conditions. The FAA agrees that in some severe rain conditions, the water to air ratio exceeds 4 percent but considers that such occurrences represent an environmental extreme rarely encountered in service. Incorporating an increased water-to-air ratio or imposing altitude conditions on the water ingestion requirements are beyond the scope of this review. The FAA will continue to review ingestion tests requirements for possible rulemaking action in the future.

Several commenters question the requirement to maintain a 4 percent water-to-air ration during acceleration and deceleration of the engine. Two of these commenters also question how evaporative effects are to be accounted for in the water-to-air ratio. It is suggested that the wording of § 33.77(c) be changed to "while ingesting water following stabilized operation. . . ." The FAA intends that the 4 percent water-to-air ratio be maintained during transients to simulate actual conditions. It is not expected that this ratio will be maintained exactly but that a minimum of 4 percent water-to-air ratio will be used during transients. The practicality of such testing has been demonstrated.

The goal of water ingestion tests is to simulate flight in heavy rain in which saturation of the air is assumed. If the engine air available during the certification test is not saturated, additional water must be added to ensure a 4 percent liquid water-to-air-ratio at the engine inlet. The proposal for § 33.77(c) is changed to clarify this intent.

A commenter recommends that § 33.77(d) be further amended to require protection from pieces of objects which, although unable to pass through the protective device when whole, may break apart upon striking the protective device and enter the engine. This protection is already provided under proposed § 33.77(d) since it does not exempt from demonstration foreign objects of a size which will pass through the protective device.

Two commenters recommend further amending § 33.77(d)(3) to read ". . . sustained reduction in power or thrust greater than those values required by paragraphs 33.77 (b) and (c)." The FAA agrees. The intent is not to require greater thrust recovery for engines with protective devices than for those without them. The proposed rule is changed as recommended.

One commenter disagrees with the wording of § 33.77(e) under ice test quantity. The words "typical inlet cowl" are intended to mean an inlet cowl typical of an installation of the engine being tested. The "slab of ice" is intended to be of a size and weight which provides a test of at least equal severity to the inlet cowl and engine face ice accumulation. The meaning of these phrases is clear, and the proposed wording is adopted.

One commenter objects to the proposed distinction in § 33.77(e) between engines with inlet guide vanes and engines without inlet guide vanes in the 4-pound bird injection test conditions. The commenter states that service records do not justify such a distinction and that bird injection is an environmental condition not related to fan/inlet design. However, there is reason to distinguish between turbine engines with and without inlet guide vanes in order to test each design under its most critical bird ingestion condition. This does not imply a difference in environment but is believed to provide the best test for each design type. FAA report No. FAA–RD–77–55, "Improved Resistance to Engine Bird Ingestion," dated March 1977, indicates that rotating blade damage is inversely proportional to the entering velocity of the bird due to the addition of the bird velocity vector and the blade velocity vector. An engine with inlet guide vanes is likely to be struck on a vane rather than a blade, and the vane damage will increase with increasing bird velocity. The proposed wording is retained. The FAA will continue to study the bird ingestion hazard.

Proposal 81. This amendment to § 33.83 broadens the vibration test requirements and affords added flexibility to the test methods.

Two commenters suggest that the title be changed in order to better describe the purpose of the test and avoid confusion with §§ 33.33 and 33.63. The FAA disagrees. Section 33.33 is a requirement for the design of reciprocating engines, § 33.63 is a similar requirement for design and construction fo turbine aircraft engines, while § 33.83 relates to the block testing of aircraft turbine engines. Section 33.63 is a design consideration for turbine engines, whereas § 33.83 is a substantiation means.

Two commenters object to the use of the term "maximum permissible takeoff speed" since takeoff speed may not be the maximum permissible speed for certain engines. The FAA agrees, and the word "takeoff" is deleted from the first sentence of § 33.83(a).

Three commenters object to the wording of § 33.83(b) concerning acceptable methods for showing compliance. One commenter suggests that stress margins which are appropriate to the components being evaluated be recognized, while the others maintain that compliance can be shown by engine test as well as by analysis. The FAA agrees with both comments but believes the proposed wording is adequate. Each method of showing compliance with this section during the certification process is reviewed by the FAA.

Another commenter suggests insertion of the word "hazardous" before "failure" in § 33.83(a). The commenter points out that there could be minor failures during this test. The FAA considers that all failures should be evaluated in terms of each engine design, as the distinction between minor and hazardous conditions cannot always be pre-established for a new design.

A commenter suggests that some clarification of the term "loading device" would be of assistance. As used in this regulation, the term "loading device" (i.e., dynamometer) applies primarily to turboshaft and turboprop engines. Turbofan and turbojet engines are not usually loaded externally during the endurance test. The intent of this regulation is to assure that the turboshaft and turboprop engines are loaded in the same manner as during the endurance test.

The amendment to § 33.83 is adopted as proposed except for the change described.

Proposal 82. This amendment to § 33.87 clarifies the 150-hour endurance test procedure, provides alternative means of compliance, and adjusts the test schedule for helicopters.

One commenter questions the validity of conducting the endurance test of an accessory drive and mounting attachment on a separate rig, as provided by proposed § 33.87(a)(6). The commenter suggests that rig testing be supplemented by running the accessories on an engine. The FAA has found that when properly conducted, the gearbox rig tests with accessory loading provide sufficient data for endurance certification. In addition, such tests are often a more practical solution to the problem of environmental control and data collection encountered during endurance engine running. The accessory weights and overhung moments must be simulated during full engine testing, but power extraction effects may be substantiated by rig test.

A commenter suggests eliminating operation at rated 2½-minute power during the third and sixth takeoff power periods for one of the twenty-five 1-hour sequences specified by current § 33.87(d)(1). The commenter argues that proposed § 33.87(d)(2) increases the cumulative endurance test time at the 2½-minute power condition and that the increase should be compensated for in § 33.87(d)(1). The FAA does not agree. One reason for including proposed § 33.87(d)(2) is to establish a margin of safety for the 2½-minute power rating. Compensation for the increased time at 2½-minute power would cancel, to some extent, the intent of the proposal. The FAA recognizes that the total time required at 2½-minute power will be increased by 5 minutes but does not consider this increase to be significantly burdensome. However, the wording of proposed § 33.87(d)(2) is revised to make it clear that the 5-minute test at 2½-minute power is to be included within, rather than in addition to, the 30-minute test period.

One commenter requests that an "Emergency Power Rating" (EPR) be established for rotorcraft. The EPR would be a power greater than 2½-minute power and used for one engine inoperative takeoff in multiengine rotorcraft. The EPR would be permitted for up to a 30-second duration. The commenter proposes that the 30-second EPR be included in the 150-hour endurance test in this section. The FAA

finds that although this proposal has merit, it is beyond the scope of the Engine Review. Therefore, the amendment to § 33.87 is adopted as proposed except for the changes described.

Proposal 83. This amendment to § 33.88 relieves the overtemperature test requirements by reflecting actual conditions more realistically.

One commenter recommends less reduction in test time than that proposed and suggests that such a reduction be made based on analysis of service experience that shows this to be acceptable. The commenter also recommends that the second sentence be revised to state that the turbine assembly be within dimensional limits established for allowing it to remain in continued service.

The FAA does not agree that the time reduction is drastic since engines certified before Amendment 33–6 were in fact tested for the 5-minute condition. Service experience with these engines, with regard to overtemperature capability is excellent. Additionally, all post-Amendment 33–5 certified engines have been granted exemptions from the existing 30-minute requirement and were tested for 5 minutes as is now proposed. The dimensional limits quoted in the proposal are in fact service limits as suggested by the commenter, which are determined during the certification process. Therefore, the FAA finds further clarification to be redundant.

Another commenter objects that the engine overtemperature test requirements inherently involve blade creep life, which is considered an economic item rather than an airworthiness item. The commenter states that the true need is to evaluate rotor disc integrity under conditions of possible overtemperature due to disc cooling system failure which might result in temperatures higher than the specified 75°F above maximum rated. The FAA position is that the regulation will ensure that the turbine assembly can satisfactorily withstand an overtemperature of 75°F above the maximum operating temperature for a period of time consistent with what could reasonably be expected in service. The test is designed to evaluate gross effects of a 5-minute overtemperature condition on the engine turbine assembly, which includes blades, discs, drums, spacers, shafts, seals, stators, nozzles, and support structure. Therefore, § 33.88 is adopted as proposed.

Proposal 84. This amendment to § 33.89 broadens the operational test requirements by calling for testing, if necessary, throughout the operating envelope of the engine.

A commenter complains that the tests do not demonstrate that rapid throttle movement does not constitute an operational hazard. It should be noted that § 33.89(a), through reference to § 33.73, requires demonstrating rapid throttle movement from minimum to maximum position. This commenter also considers it unreasonable to expect flight crewmembers to monitor engine controls during emergency conditions. The FAA, on the contrary, considers it reasonable to expect pilot monitoring and appropriate manipulation of engine controls within the context of the operational situations addressed by this comment.

One commenter objects that the proposed change has the same meaning as the current regulation while being less explicit. However, the proposed amendment contains all of the previous considerations implicitly within the new wording and at the same time has been expanded to include the entire operating envelope of the engine. Accordingly, the proposed rule is adopted without change.

Proposal 85. This amendment to § 33.90 discontinues use of the word "overhaul" and recognizes the validity of alternative maintenance programs.

One commenter suggests that the rule approve the process of reconditioning after test and inspection if it is determined that such process is required. The FAA agrees that if the test results show that maintenance action is required, it should be so specified. Another commenter suggests that substituting "initial maintenance inspection" for "overhaul test" merely replaces one contentious phrase with another and urges that § 33.90 be deleted as being unnecessary to safety. The FAA does not agree since not all Part 33 turbine engines come under the regimen of a structured reliability program. Recent experience with two new engine certification programs under current rules has shown the need for an initial inspection interval of certain hot section components. Significant deterioration of engine operating and performance characteristics would exist without the specified inspection and repair requirements. Accordingly, the proposed amendment is adopted with the change noted above.

Proposal 86. This amendment to § 33.92 deletes the windmilling test requirement for subsonic turbine engines and amplifies the rotor burst and load limitations as in the proposal for § 33.75(b).

In addition to comments previously discussed for § 33.75, two commenters question deleting the windmilling test requirement for subsonic engines. The commenters suggest that existence of the current requirement may account for the lack of service problems associated with windmilling engines. The FAA disagrees. Most engines currently in service have a certification basis which predates the windmilling test requirement of § 33.92 but, nevertheless, have accumulated years of service with no reported incidents of windmilling hazards. It has not been demonstrated that an engine test of windmilling capability is required for all subsonic engines.

One commenter recommends adding a requirement that the applicant provide evidence to show that the engine windmilling without lubricating oil would not result in a condition which would jeopardize the aircraft. The FAA agrees but believes that § 33.75 provides this assurance. Proposed § 33.92 therefore is adopted with the addition of the reference to mount load limits as proposed for § 33.75.

Proposal 87. No comment was received on the proposal to amend § 33.93(b) by substituting the word "part" for "component" to preclude ambiguity, and the proposal is adopted without change.

Proposal 88. This amendment provides a new § 33.94 which adds blade failure containment testing of engines for certification.

Several commenters object to the requirement of § 33.94(a) that the engine run for at least 15 seconds before initiating shutdown after the event, claiming that it is unduly restrictive. They state that an engine which shuts down in less than 15 seconds would be acceptable, provided it does not burst, catch fire, or generate excessive mount loads. The same commenters propose that § 33.94(a)(1) be changed to permit use of component rig containment tests to supplement the engine test whenever facility limitations prevent attaining maximum permissible speed on a complete engine.

The FAA agrees that certain engines may not be able to operate for 15 seconds after the failure event. Accordingly, § 33.94(a) is modified to allow for instances where the resulting damage prevents the engine running for the required 15 seconds..

The FAA agrees that rig tests are valid, as reflected in proposed § 33.94(b), and in fact manufacturers' rig tests are being used to supplement complete engine blade containment tests for certification proposes. It is concluded, however, that such determinations will be made on a case-

by-case basis under the authority provided by proposed § 33.94(b).

Another commenter suggests that § 33.94(a)(2) should be changed so that the engine test is based on the most critical engine casing temperature rather than the most critical turbine blade. Analysis leading to determining the most critically operating turbine blade would be expected to include analysis of case material properties at critical temperatures in an engine operating at maximum permissible r.p.m. Therefore, additional clarification is not considered necessary, and the amendment to paragraph (a)(2) is adopted as proposed.

Regulatory Evaluation

The FAA conducted a detailed regulatory evaluation which is included in the regulatory docket. Based on a review of available FAA data, cost data supplied by the Aerospace Industries Association (AIA) and the General Aviation Manufacturers Association (GAMA), and data from the National Transportation Safety Board (NTSB) accident data file, FAA determined that this overall rule provides cost savings that substantially outweigh the additional costs imposed on society.

The amendments in this final rule provide benefits in the aggregate to the aviation public, most specifically to airframe and engine manufacturers. These amendments provide general benefits by deleting obsolete requirements and clarifying the text, by updating and modernizing technical requirements to reflect engineering advances in the state-of-the-art, by reflecting the changing interface between the airframe and engine manufacturers, and by taking into account FAA accumulated service experience. This rule imposes no costs on the Federal Government.

Industry estimates of costs and benefits provided to the FAA for specific amendments were aggregate undiscounted 10-year estimates stated in 1981 dollars. The FAA was unable to break down these aggregate estimates into annual estimates because of the uncertainty of the number of new type certificated engines and aircraft models in a given year as well as the subsequent production of these engines and aircraft in a given year. Furthermore, industry was unwilling to supply information pertaining to the number of companies impacted by each of these amendments, or specific information on the number of estimated new type certificated engines and aircraft in a given year as well as subsequent production estimates, for reasons of individual company confidentiality.

Since it was assumed the Aircraft Engine Regulatory Review initiative would become final rule in 1983, the FAA adjusted the cost estimates to 1983 dollar values and then discounted these values for the years 1984 and 1992 to arrive at a range of values for the 10-year period of 1983–1992. The FAA did this because it was not known in which of these years the costs and benefits associated with the proposals would occur; therefore, by discounting the values in 1984 (assuming all benefits and costs occur in this year would result in the highest possible discounted values) and in 1992 (assuming all benefits and costs occur in this year would result in the lowest possible discounted values), a representative range is developed. The discount rate for 1984 is 0.91 and the discount rate for 1992 is 0.38. This range was conducted for all beneficial or cost imposing proposals except § 23.903(b) where FAA was able to obtain more refined data.

Major Benefits—Regulatory amendments that are expected to yield major benefits are summarized below (first-order discounted cost savings are stated in 1983 dollars and represent the range of savings for the *10-year period* of CY 1983 through CY 1992):

1. Section 23.903—The proposal allows the use of satisfactory foreign object ingestion (FOI) service experience for turbine engines as an alternate to meeting § 33.77 in effect on October 31, 1974, or as subsequently amended, to be eligible for installation. Currently, an airframe manufacturer would have to conduct FOI tests on any inservice turbine engine that is installed on a new airplane even though the engine may have a satisfactory FOI service experience. Estimated discounted test cost savings from eliminating this requirement in terms of 1983 dollars are $2.11 to $5.05 million for the period of CY 1983–1992. Considerable costs could be imposed on airframe manufacturers that choose to install engines certified to Part 33 FOI requirements prior to October 31, 1974, on future type certificated airplanes that have a bad FOI service experience. FAA considers that those instances would be rare from a technological state-of-the-art standpoint.

2. Section 33.14—This proposal provides engine manufacturers with more latitude in the type of procedures they can use for establishing low-cycle fatigue service lives for rotating components and for increasing these lives. This proposal also increases the applicability of the rule, redefines the term "start-stop stress cycle," and permits an alternative to parts temperature stabilization if justified. The current rule is unduly restrictive, because it prescribes only a fixed reduction factor for determining the initial service life and only one method for increasing these lives based on testing of parts removed from service. Estimated discounted test cost savings in terms of 1983 dollars are $16.15 to $38.69 million for the period of CY 1983–1992.

3. Section 33.68—This proposal relaxes the 30-minute idle with freezing fog requirement test criteria, permits periodic engine runups, and permits temperature variation, all with regard to induction system icing. The current test requirement is unnecessarily severe because it is outside the maximum icing envelope of Appendix C of Part 25, and because no tolerances are permitted on the temperature and liquid water content. Program and production cost savings will be achieved through reduced anti-icing system hardware and installation costs and through simplification of the engine design and manufacturing process. Specifically, this amendment eliminates in almost all cases the design and installation of components for a supplementary heating system. Estimated discounted savings in terms of 1983 dollars are $214.02 to $517.17 million for the period of CY 1983–1992.

4. Section 33.71—This amendment deletes the requirement for scavenge oil strainers and marking oil tank filler capacity. Service experience shows that scavenge oil strainers do not necessarily improve safety but do tend to restrict design of the oil system. There is no safety need to mark tank capacity on the oil tank filler. Estimated discounted component, installation, and labor cost savings in terms of 1983 dollars are $2.11 to $5.05 million for the period of CY 1983–1992.

5. Section 33.77—This proposal eliminates the tire, sand, and gravel FOI test requirements. The tire test requirement is deleted because service experience has shown that hazardous consequences from ingestion of a piece of tire are no greater than those associated with ingestion of a 4-pound bird. Furthermore, service experience has shown that ingestion of sand and gravel does not possess the potential for causing sudden loss of engine power as does other ingested matter. Eliminating these requirements will result in some test cost savings and reduced hardware (engine) burnup. Estimated discounted test cost savings in terms of 1983 dollars are $9.62 to $23.02 million for the period of CY 1983–1992.

6. Section 33.83—This proposal allows the use in certain cases of a modified

version of the endurance test loading configuration for the required vibration survey which would enable the use of a modified configuration if that loading device is incompatible with the necessary vibration instrumentation. The current regulation is unduly restrictive because it requires that the vibration survey must be conducted using the same configuration of the loading device which is used for the endurance test. A comparable test on the engine will serve the same results. Estimated discounted labor cost savings in terms of 1983 dollars are $4.18 to $10.01 million for the period of CY 1983–1992.

7. Section 33.87—This section allows separate, more convenient rig testing of accessory drives and mounting attachments. The FAA has found that gearbox rig tests with accessory loading provide comparable data to endurance certification tests. The current regulation requires that load testing of accessory drives and mounting attachments must be performed on the engine. The FAA has found this to be too stringent a requirement. There will be possible small cost savings in equipment to operate the accessory drive. Estimated discounted cost savings in terms of 1983 dollars are $1.17 to $2.80 million for the period of CY 1983–1992.

8. Section 33.88—This proposal reduces the duration of the overtemperature test from 30 minutes to 5 minutes. The current rule has been found unnecessarily severe since service experience has shown that none of the turbine engines subjected to 5-minute overtemperature tests have experienced inservice rotor disc primary failure due to overtemperature. Significantly reducing the duration of the overtemperature test adequately demonstrates the integrity of rotor discs without subjecting them to unnecessarily hazardous conditions and saves development of hardware for blades, discs, drums, etc. Estimated discounted test and hardware cost savings in terms of 1983 dollars are $9.03 to $21.62 million for the period of CY 1983–1992.

9. Section 33.92—This amendment deletes the windmilling without oil test for subsonic turbine engines. There have been no reported incidents involving windmilling hazards to aircraft resulting from loss of engine oil, and it has not been demonstrated that an engine test of windmilling capability is required. Estimated discounted test cost savings in terms of 1983 dollars are $0.96 to $2.30 million for the period of CY 1983–1992.

Major Costs—Regulatory amendments that are expected to impose major costs are summarized below (first-order discounted costs are stated in 1983 dollars and represent the range (except § 23.903) of new costs imposed for the *10-year period* of CY 1983 through CY 1992):

1. Section 23.903—This amendment requires that design precautions be incorporated in Part 23 certified airplanes to protect these airplanes from uncontained rotor failure events. As the use of turbine engines on Part 23 certified airplanes increases, especially in for-hire operations, airplanes certified under Part 23 should be afforded the same level of safety from uncontained rotor failures as airplanes certified under Part 25. The FAA obtained information pertaining to two cases in the past 10 years involving uncontained rotor failures in Part 23 certified airplanes. In terms of 1983 dollars, the cost of these accidents (injuries and aircraft damage) is approximately $1.1 million based on values contained in the *Economic Values for Evaluation of FAA Investment and Regulatory Programs.* Assuming that this proposed rule would protect against all uncontained rotor failure events, $0.93 to $2.2 million is the discounted exposure adjusted benefit (cost savings) range for a 10-year period beginning CY 1983. These estimates include the projected increase in the number of hours flown by turbine-powered general aviation airplanes. It is noted in both cases that uncontained rotor failure was the secondary cause of these accidents (incidents), both of which were precipitated by worn components in the gear assemblies according to the NTSB. It is also noted that this rule is proposed in order to prevent a future problem in certain Part 23 airplanes because installation of turbine engines in these airplanes is expected to increase significantly in the next 10 years. Furthermore, a significant increase in the number of Part 23 certified turbine-powered airplanes used in air taxi and corporate operations is expected, and the FAA believes that protection comparable to that required under Part 25 is needed when carriage of passengers is involved.

This requirement places an economic burden on the manufacturers of these small airplanes. This requirement may influence future airframe design in areas such as armor protection and engine location.

In an attempt to derive cost estimates, the FAA contacted GAMA and various airframe manufacturers. Most of these organizations indicated that the proposed regulation would impose significant costs, but they were not able to provide specific estimates because of the complexity of the issues and the amount of time it would take to compile estimates. Additionally, the extent of specific design changes to future type certificated airplanes was not immediately known.

One industry organization estimates that the cost to the manufacturer of compliance per airplane could easily reach $20,000, including increased engine price, cost of materials, design, development, testing, tooling expense, labor, and normal factory overhead. Specifically, this organization stated that the typical engine would require a containment shield (using a Kevlar fabric which is believed to be the most weight efficient installation) and that design adjustments would be required to provide for proper cooling, assurance of cowling drainage, and access to service points. Furthermore, the organization stated that considerable engineering and flight test development would be involved in assuring that maintenance could be accomplished on the engine, and the development of ballistic confirmation tests and certification would be extensive. The FAA ascertained through discussions with industry that an estimated 10 new turbine-powered airplane models would be eligible to be certified to Part 23 standards during the next decade. Because it is not certain in what years these airplane models will be certified, the FAA assumes that one airplane will be certified each year from 1983 through 1992. Furthermore, the projected production levels for each of these models in future years is not known. Based on past production levels of certain Part 23 turbine-powered airplanes, the FAA assumes an average annual production of 75 airplanes for each newly-certified model in each year following the year of certification.

Using this assumption, 3,375 airplanes will be manufactured between 1983–1992 of models which were newly-certified to Part 23 during this period.

The following table shows that the discounted value of costs over the 10-year period of 1983–1992 in 1983 dollars of requiring design precautions to minimize rotor failure events is $37.8 million. It assumes that the cost of compliance per airplane is $20,000. These are first-order costs which are initially borne by the airframe manufacturers, and the costs do not take into account the effect of increased prices with respect to the impact on domestic sales and foreign competition implications.

DISCOUNTED VALUE OF COSTS OF PROPOSED RULE

Year	Airplane production	Cost of compliance per airplane	Present worth discount	Discounted value of cost of rule
1983	0	[illegible]	1.00	0
1984	75	[illegible]	.91	$1,365,000
1985	150	[illegible]	.83	2,490,000
1986	225	[illegible]	.75	3,375,000
1987	300	[illegible]	.68	4,080,000
1988	375	[illegible]	.62	4,650,000
1989	[illegible]	[illegible]	.56	[illegible]
1990	[illegible]	[illegible]	.51	5,355,000
1991	500	[illegible]	.47	5,640,000
1992	875	[illegible]	.43	5,805,000
Total	3,375			37,800,000

This rule would also impose certain second-order costs on purchasers of these airplanes in terms of increased inspection costs (removing and installing the system at each inspection interval) and decreased airplane performance due to a maximum 100-pound increase in airplane empty weight. The benefit/cost considerations may improve because increased use of turbine engines in Part 23 certified airplanes will increase the risk of rotor failure accidents.

2. Section 25.1091—This amendment requires that the FOI criteria of § 33.77 be applied to vulnerable portions of the air induction system such as inlet splitter vanes, duct-mounted instrumentation, and annular rings. Parts of the air induction system such as annular rings and splitter vanes are physically located in front of the engine. These parts were installed to reduce engine inlet noise in a limited number of airplanes. If these components are included, they should be subject to the same FOI requirements as the engine because of their possible breakoff into the engine. Most aircraft induction systems do not use splitters, etc., and therefore most aircraft designs would not be affected by this rule. This requirement was inadvertently left out of Amendment 33–6 in 1974. The estimates of the discounted cost range of improved materials and testing for these specific items to meet the criteria of § 33.77 in terms of 1983 dollars are $2.11 to $5.05 million for the 10-year period of CY 1983–1992. However, the actual cost of compliance will be much lower because compliance with FOI standards may be shown by analysis as well as testing, and the FAA sees little application of such devices in the future.

3. Section 33.77—This amendment requires that a 4 percent water-to-air ratio be maintained during transients in order to simulate actual flying maneuvers in heavy rain. The current rule requires that the ratio be maintained only for takeoff and idle conditions but does not require any demonstration of the ability to accelerate or decelerate safely under water ingestion conditions. Such ability is essential for safe flight in heavy rains. The FAA obtained information pertaining to one case in the past 10 years involving turbine engine failures due to water ingestion during transients, a Southern Airways accident in 1977. The NTSB reported that the probable cause of the accident was a loss of thrust of both engines while penetrating severe thunderstorms. The NTSB also reported the accident resulted from a loss of thrust caused by ingestion of massive amounts of water and hail which, in combination with thrust lever movement, induced severe stalling in and major damage to the engine compressors.

In terms of 1983 dollars, the cost of this case (injuries and aircraft damage) based on values contained in the *Economic Values for Evaluation of FAA Investment and Regulatory Programs* is approximately $47.0 million. Assuming that this proposed rule would protect against all accidents and incidents involving turbine engine water ingestion, $39.29 to $94.09 million is the discounted exposure adjusted benefit range (cost savings) for the period of CY 1983–1992. This estimate includes the projected increase in the number of hours flown by turbine powered aircraft.

This amendment would require engine manufacturers to conduct a more precise water ingestion test and to collect more test data to verify engine performance as its relates to water ingestion. It could require the engine manufacturer to purchase additional test equipment. The estimated additional discounted cost to the engine manufacturers to perform this test in terms of 1983 dollars is $1.05 to $2.50 million for the period of CY 1983–1992.

The first-order discounted benefit and cost ranges of these major proposals are summarized in Table 1. This table shows that the most conservative benefit/cost ratio for the entire evaluation is $299.57 to $45.35 million of 6.61 to 1.00.

TABLE 1[1]—AIRCRAFT ENGINE REVIEW BENEFIT/COST MATRIX BY MAJOR AMENDMENT, FOR THE 10-YEAR PERIOD OF CALENDAR YEAR 1983 THROUGH CALENDAR YEAR 1992

[Dollars in millions]

FAR		Benefits		Costs	
23	23.903(a)(2)	$2.11	$5.05	.....	.....
	23.903(b)	0.93	2.22	$37.80	$37.80
	Subtotal	3.04	7.27	37.80	—
25	25.1091(e)	—	—	2.11	5.05
	Subtotal	—	—	2.11	5.05
27	none	—	—	—	—
	Subtotal	—	—	—	—
29	none	—	—	—	—
	Subtotal	—	—	—	—
33	33.14	16.15	[illegible]	—	—
	33.68	214.02	517.17	—	—
	33.71(b)	2.11	5.05	—	—
	33.77	48.91	[2]117.11	1.05	2.50
	33.83(a)	4.18	10.01	—	—
	33.87(a)(b)	1.17	[illegible]	—	—
	33.88	9.03	21.62	—	—
	33.92(c)	0.96	2.30	—	—
	Subtotal	296.53	714.75	1.05	2.50
	Total	299.57	722.02	40.96	45.35

[1] Benefit and cost values are stated in 1983 dollars.
[2] Of this amount, $39.29 million to $94.05 million is the benefit attributed to an accident caused by water ingestion.

TABLE 1[1]—AIRCRAFT ENGINE REVIEW BENEFIT/COST MATRIX BY MAJOR AMENDMENT, FOR THE 10-YEAR PERIOD OF CALENDAR YEAR 1983 THROUGH CALENDAR YEAR 1992—Continued

[Dollars in millions]

FAR		Benefits		Costs	
	Subtotal	—	—	2.11	5.05
27	none	—	—	—	—
	Subtotal	—	—	—	—
29	none	—	—	—	—
	Subtotal	—	—	—	—
33	33.14	16.15	[illegible]	—	—
	33.68	214.02	517.17	—	—
	33.71(b)	2.11	5.05	—	—
	33.77	48.91	[2]117.11	1.05	2.50
	33.83(a)	4.18	10.01	—	—
	33.87(a)(b)	1.17	[illegible]	—	—
	33.88	9.03	21.62	—	—
	33.92(c)	0.96	2.30	—	—
	Subtotal	296.53	714.75	1.05	2.50
	Total	299.57	722.02	40.96	45.35

[1] Benefit and cost values are stated in 1983 dollars.
[2] Of this amount, $39.29 million to $94.05 million is the benefit attributed to an accident caused by water ingestion.

List of Subjects

14 CFR Part 23

Air transportation, Aircraft, Aviation safety, Safety, Tires.

14 CFR Part 25

Air transportation, Aircraft, Aviation safety, Safety, Tires.

14 CFR Part 27

Air transportation, Aircraft, Aviation safety, Safety, Tires.

14 CFR Part 29

Air transportation, Aircraft, Aviation safety, Rotorcraft, Safety, Tires.

14 CFR Part 33

Air transportation, Aircraft, Aviation safety, Engines, Safety.

Adoption of Amendment

Accordingly, Parts 23, 25, 27, 29, and 33 of the Federal Aviation Regulations (14 CFR Parts 23, 25, 27, 29, and 33) are amended as follows, effective March 26, 1984.

PART 23—AIRWORTHINESS STANDARDS: NORMAL, UTILITY, AND ACROBATIC CATEGORY AIRPLANES

1. By revising § 23.901(d) to read as follows:

§ 23.901 Installation.

* * * * *

(d) Each turbine engine powerplant must be constructed, arranged, and installed to provide continued safe operation without a hazardous loss of

power or thrust for a period of 3 minutes each at rated takeoff power or thrust and flight idle in rainfall with an ambient liquid water content of not less than 4 percent of engine airflow by weight.

* * * * *

2. By revising § 23.903 (a) and (b) to read as follows:

§ 23.903 Engines.

(a) *Engine type certificate.*

(1) Each engine must have a type certificate.

(2) Each turbine engine must either—

(i) Comply with § 33.77 of this chapter in effect on October 31, 1974, or as later amended; or

(ii) Be shown to have a foreign object ingestion service history in similar installation locations which has not resulted in any unsafe condition.

(b) *Turbine engine installations.* For turbine engine installations—

(1) Design precautions must be taken to minimize the hazards to the airplane in the event of an engine rotor failure or of a fire originating inside the engine which burns through the engine case.

(2) The powerplant systems associated with engine control devices, systems, and instrumentation must be designed to give reasonable assurance that those operating limitations that adversely affect turbine rotor structural integrity will not be exceeded in service.

* * * * *

3. By revising § 23.905(a) to read as follows:

§ 23.905 Propellers.

(a) Each propeller must have a type certificate.

* * * * *

4. By revising § 23.975(b) to read as follows:

§ 23.975 Fuel tank vents and carburetor vapor vents.

* * * * *

(b) Each carburetor with vapor elimination connections and each fuel injection engine employing vapor return provisions must have a separate vent line to lead vapors back to the top of one of the fuel tanks. If there is more than one tank and it is necessary to use these tanks in a definite sequence for any reason, the vapor vent line must lead back to the fuel tank to be used first, unless the relative capacities of the tanks are such that return to another tank is preferable.

* * * * *

5. By revising § 23.994 to read as follows:

§ 23.994 Fuel system components.

Fuel system components in an engine nacelle or in the fuselage must be protected from damage which could result in spillage of enough fuel to constitute a fire hazard as a result of a wheels-up landing on a paved runway.

6. By adding a new § 23.995(g) to read as follows:

§ 23.995 Fuel valves and controls.

* * * * *

(g) Fuel tank selector valves must—

(1) Require a separate and distinct action to place the selector in the "OFF" position; and

(2) Have the tank selector positions located in such a manner that it is impossible for the selector to pass through the "OFF" position when changing from one tank to another.

7. By amending § 23.997 by removing the term "and the mesh" from paragraph (d) and by revising paragraph (c) to read as follows:

§ 23.997 Fuel strainer or filter.

* * * * *

(c) Be mounted so that its weight is not supported by the connecting lines or by the inlet or outlet connections of the strainer or filter itself, unless adequate strength margins under all loading conditions are provided in the lines and connections; and

* * * * *

§ 23.1019 [Amended]

8. By removing the phrases "and the mesh" and "of the screen" from § 23.1019 (a)(2) and (a)(3), respectively.

9. By revising § 23.1021 to read as follows:

§ 23.1021 Oil system drains.

A drain [or drains] must be provided to allow safe drainage of the oil system. Each drain must—

(a) Be accessible; and

(b) Have manual or automatic means for positive locking in the closed position.

10. By revising § 23.1093(b)(2) to read as follows:

§ 23.1093 Induction system icing protection.

* * * * *

(b) * * *

(2) Each turbine engine must idle for 30 minutes on the ground, with the air bleed available for engine icing protection at its critical condition, without adverse effect, in an atmosphere that is at a temperature between 15° and 30°F (between −9° and −1°C) and has a liquid water content not less than 0.3 grams per cubic meter in the form of drops having a mean effective diameter not less than 20 microns, followed by momentary operation at takeoff power or thrust. During the 30 minutes of idle operation, the engine may be run up periodically to a moderate power or thrust setting in a manner acceptable to the Administrator.

* * * * *

11. By amending § 23.1143 by redesignating present paragraph (e) as paragraph (f) and by adding a new paragraph (e) to read as follows:

§ 23.1143 Engine controls.

* * * * *

(e) For each fluid injection (other than fuel) system and its controls not provided and approved as part of the engine, the applicant must show that the flow of the injection fluid is adequately controlled.

* * * * *

12. By revising § 23.1163(a) to read as follows:

§ 23.1163 Powerplant accessories.

(a) Each engine mounted accessory must—

(1) Be approved for mounting on the engine involved;

(2) Use the provisions on the engine for mounting; and

(3) Be sealed to prevent contamination of the engine oil system and the accessory system.

* * * * *

13. By amending § 23.1183 by revising the title; by removing "20 quart" in paragraph (a) and inserting, in its place, "25-quart"; and by revising paragraph (b)(1) to read as follows:

§ 23.1183 Lines, fittings, and components.

* * * * *

(b) * * *

(1) Lines, fittings, and components which are already approved as part of a type certificated engine; and

* * * * *

14. By amending § 23.1189 by adding the phrase "or located in areas not subject to engine fire conditions" at the end of paragraph (b)(2) and by revising paragraph (a)(1) to read as follows:

§ 23.1189 Shutoff means.

(a) * * *

(1) Each engine installation must have means to shut off or otherwise prevent hazardous quantities of fuel, oil, deicing fluid, and other flammable liquids from flowing into, within, or through any engine compartment, except in lines, fittings, and components forming an integral part of an engine.

* * * * *

PART 25—AIRWORTHINESS STANDARDS: TRANSPORT CATEGORY AIRPLANES

15. By revising § 25.33(a)(2) to read as follows:

§ 25.33 Propeller speed and pitch limits.

(a) * * *

(2) Compliance with the performance requirements of §§ 25.101 through 25.125.

* * * * *

§ 25.697 [Amended]

16. By revising § 25.697(a) by removing the phrase "established under § 25.47." at the end of the first sentence and inserting, in its place, the phrase "established under § 25.101(d)."

17. By revising § 25.903(a) to read as follows:

§ 25.903 Engines.

(a) *Engine type certificate.*

(1) Each engine must have a type certificate.

(2) Each turbine engine must either—

(i) Comply with § 33.77 of this chapter in effect on October 31, 1974, or as subsequently amended; or

(ii) Be shown to have a foreign object ingestion service history in similar installation locations which has not resulted in any unsafe condition.

* * * * *

18. By revising § 25.905(a) to read as follows:

§ 25.905 Propellers.

(a) Each propeller must have a type certificate.

* * * * *

19. By revising § 25.961(a)(4)(i) to read as follows:

§ 25.961 Fuel system hot weather operation.

(a) * * *

(4) * * *

(i) For reciprocating engine powered airplanes, the maximum airspeed established for climbing from takeoff to the maximum operating altitude with the airplane in the following configuration:

(A) Landing gear retracted.

(B) Wing flaps in the most favorable position.

(C) Cowl flaps (or other means of controlling the engine cooling supply) in the position that provides adequate cooling in the hot-day condition.

(D) Engine operating within the maximum continuous power limitations.

(E) Maximum takeoff weight; and

* * * * *

20. By revising § 25.994 to read as follows:

§ 25.994 Fuel system components.

Fuel system components in an engine nacelle or in the fuselage must be protected from damage which could result in spillage of enough fuel to constitute a fire hazard as a result of a wheels-up landing on a paved runway.

21. By amending § 25.997 by removing the term "and the mesh" from paragraph (d) and by revising paragraph (c) to read as follows:

§ 25.997 Fuel strainer or filter.

* * * * *

(c) Be mounted so that its weight is not supported by the connecting lines or by the inlet or outlet connections of the strainer or filter itself, unless adequate strength margins under all loading conditions are provided in the lines and connections; and

* * * * *

22. By amending § 25.1001 by removing present paragraphs (a) through (g) and inserting in place thereof new paragraphs (a) through (d) as follows and by redesignating present paragraphs (h) through (l) as paragraphs (e) through (i):

§ 25.1001 Fuel jettisoning system.

(a) A fuel jettisoning system must be installed on each airplane unless it is shown that the airplane meets the climb requirements of § 25.119 and § 25.121(d) at maximum takeoff weight, less the actual or computed weight of fuel necessary for a 15-minute flight comprised of a takeoff, go-around, and landing at the airport of departure with the airplane configuration, speed, power, and thrust the same as that used in meeting the applicable takeoff, approach, and landing climb performance requirements of this part.

(b) If a fuel jettisoning system is required it must be capable of jettisoning enough fuel within 15 minutes, starting with the weight given in paragraph (a) of this section, to enable the airplane to meet the climb requirements of §§ 25.119 and 25.121(d), assuming that the fuel is jettisoned under the conditions, except weight, found least favorable during the flight tests prescribed in paragraph (c) of this section.

(c) Fuel jettisoning must be demonstrated beginning at maximum takeoff weight with flaps and landing gear up and in—

(1) A power-off glide at 1.4 Vs_1;

(2) A climb at the one-engine inoperative best rate-of-climb speed, with the critical engine inoperative and the remaining engines at maximum continuous power; and

(3) Level flight at 1.4 Vs_1; if the results of the tests in the conditions specified in paragraphs (c) (1) and (2) of this section show that this condition could be critical.

(d) During the flight tests prescribed in paragraph (c) of this section, it must be shown that—

(1) The fuel jettisoning system and its operation are free from fire hazard;

(2) The fuel discharges clear of any part of the airplane;

(3) Fuel or fumes do not enter any parts of the airplane; and

(4) The jettisoning operation does not adversely affect the controllability of the airplane.

* * * * *

§ 25.1013 [Amended]

23. By amending § 25.1013 by removing "20-quart" in paragrph (a) and inserting "25-quart" in its place.

§ 25.1019 [Amended]

24. By removing the phrases "and the mesh" and "of the screen" from §§ 25.1019 (a)(2) and (a)(3), respectively.

25. By revising the title and text of § 25.1021 to read as follows:

§ 25.1021 Oil system drains.

A drain [or drains] must be provided to allow safe drainage of the oil system. Each drain must—

(a) Be accessible; and

(b) Have manual or automatic means for positive locking in the closed position.

26. By amending § 25.1045(d) by removing the reference to § 25.67(d) and inserting § 25.121(c) in its place and by adding the following material to the end of paragraph (d):

§ 25.1045 Cooling test procedures.

* * * * *

(d) * * * The airplane must be in the following configuration:

(1) Landing gear retracted.

(2) Wing flaps in the most favorable position.

(3) Cowl flaps (or other means of controlling the engine cooling supply) in the position that provides adequate cooling in the hot-day condition.

(4) Critical engine inoperative and its propeller stopped.

(5) Remaining engines at the maximum continuous power available for the altitude.

* * * * *

27. By revising § 25.1091(e) to read as follows:

§ 25.1091 Air induction.

* * * * *

(e) If the engine induction system contains parts or components that could be damaged by foreign objects entering the air inlet, it must be shown by tests or, if appropriate, by analysis that the induction system design can withstand the foreign object ingestion test conditions of § 33.77 of this chapter without failure of parts or components that could create a hazard.

28. By revising the title of § 25.1093 and by revising paragraph (b)(2) to read as follows:

§ 25.1093 Induction system icing protection.

* * * * *

(b) * * *

(2) Each turbine engine must idle for 30 minutes on the ground, with the air bleed available for engine icing protection at its critical condition, without adverse effect, in an atmosphere that is at a temperature between 15° and 30°F (between −9° and −1°C) and has a liquid water content not less than 0.3 grams per cubic meter in the form of drops having a mean effective diameter not less than 20 microns, followed by momentary operation at takeoff power or thrust. During the 30 minutes of idle operation, the engine may be run up periodically to a moderate power or thrust setting in a manner acceptable to the Administrator.

29. By revising § 25.1143(d) to read as follows:

§ 25.1143 Engine controls.

* * * * *

(d) For each fluid injection (other than fuel) system and its controls not provided and approved as part of the engine, the applicant must show that the flow of the injection fluid is adequately controlled.

* * * * *

30. By revising § 25.1163(a) to read as follows:

§ 25.1163 Powerplant accessories.

(a) Each engine mounted accessory must—

(1) Be approved for mounting on the engine involved;

(2) Use the provisions on the engine for mounting; and

(3) Be sealed to prevent contamination of the engine oil system and the accessory system.

* * * * *

31. By amending § 25.1183 by removing "20 quart" in paragraph (a) and inserting "25-quart" in its place and by revising paragraph (b)(1) to read as follows:

§ 25.1183 Flammable fluid-carrying components.

* * * * *

(b) * * *

(1) Lines, fittings, and components which are already approved as part of a type certificated engine; and

* * * * *

32. By amending § 25.1189 by inserting the word "installation" after "engine" in paragraph (a) and by revising paragraphs (a) (1) and (2) to read as follows:

§ 25.1189 Shutoff means.

(a) * * *

(1) Lines, fittings, and components forming an integral part of an engine; and

(2) Oil systems for turbine engine installations in which all components of the system in a designated fire zone, including oil tanks, are fireproof or located in area not subject to engine fire conditions.

* * * * *

§ 25.1323 [Amended]

33. By removing the phase "§ 25.59 or" from § 25.1323(b)(2).

§ 25.1359 [Amended]

34. By removing "§ 25.1205" in § 25.1359(a) and inserting "§ 25.867" in its place.

§ 25.1521 [Amended]

35. By removing the phrase "paragraphs (a) (1) through (3) of this section" in § 25.1521(b)(4) and inserting "paragraphs (b) (1) through (3) of this section" in its place.

PART 27—AIRWORTHINESS STANDARDS: NORMAL CATEGORY ROTORCRAFT

36. By revising § 27.903(a) to read as follows:

§ 27.903 Engines.

(a) *Engine type certification.* Each engine must have a type certificate.

* * * * *

37. By amending § 27.997 by removing the term "and the mesh" from paragraph (d) and by revising paragraph (c) to read as follows:

§ 27.997 Fuel strainer or filter.

* * * * *

(c) Be mounted so that its weight is not supported by the connecting lines or by the inlet or outlet connections of the strainer or filter itself, unless adequate strength margins under all loading conditions are provided in the lines and connections; and

* * * * *

§ 27.1019 [Amended]

38. By removing the phrases "and the mesh" and "of the screen" from § 27.1019 (a)(2) and (a)(3), respectively.

39. By revising § 27.1021 to read as follows:

§ 27.1021 Oil system drains.

A drain [or drains] must be provided to allow safe drainage of the oil system. Each drain must—

(a) Be accessible; and

(b) Have manual or automatic means for positive locking in the closed position.

40. By revising § 27.1093(b)(2) to read as follows:

§ 27.1093 Induction system icing protection.

* * * * *

(b) * * *

(2) Each turbine engine must idle for 30 minutes on the ground, with the air bleed available for engine icing protection at its critical condition, without adverse effect, in an atmosphere that is at a temperature between 15° and 30°F (between −9° and −1°C) and has a liquid water content not less than 0.3 gram per cubic meter in the form of drops having a mean effective diameter not less than 20 microns, followed by momentary operation at takeoff power or thrust. During the 30 minutes of idle operation, the engine may be run up periodically to a moderate power or thrust setting in a manner acceptable to the Administrator.

* * * * *

41. By revising § 27.1163(a) to read as follows:

§ 27.1163 Powerplant accessories.

(a) Each engine-mounted accessory must—

(1) Be approved for mounting on the engine involved;

(2) Use the provisions on the engine for mounting; and

(3) Be sealed in such a way as to prevent contamination of the engine oil system and the accessory system.

* * * * *

42. By amending § 27.1183 by revising the title; by removing "20 quart" in paragraph (a) and inserting "25-quart" in its place; and by revising paragraph (b)(1) to read as follows:

§ 27.1183 Lines, fittings, and components.

* * * * *

(b) * * *

(1) Lines, fittings, and components which and are already approved as part of a type certificated engine; and

* * * * *

43. By amending § 27.1189 by redesignating (a)(2) as (a)(3) and by revising (a)(1) and adding a new (a)(2) to read as follows:

§ 27.1189 Shutoff means.

(a) * * *

(1) Lines, fittings, and components forming an integral part of an engine;

(2) For oil systems for which all components of the system, including oil tanks, are fireproof or located in areas not subject to engine fire conditions; and

* * * * *

PART 29—AIRWORTHINESS STANDARDS: TRANSPORT CATEGORY ROTORCRAFT

44. By revising § 29.903(a) to read as follows:

§ 29.903 Engines.

(a) *Engine type certification.* Each engine must have a type certificate.

* * * * *

45. By amending § 29.997 by removing the term "and the mesh" from paragraph (d) and by revising paragraph (c) to read as follows:

§ 29.997 Fuel strainer or filter.

* * * * *

(c) Be mounted so that its weight is not supported by the connecting lines or by the inlet or outlet connections of the strainer or filter inself, unless adequate strengh margins under all loading conditions are provided in the lines and connections; and

* * * * *

§ 29.1019 [Amended]

46. By removing the phrases "and the mesh" and "of the screen" from § 29.1019(a)(2) and (a)(3), respectively.

47. By revising § 29.1021 to read as follows:

§ 29.1021 Oil system drains.

A drain [or drains] must be provided to allow safe drainage of the oil system. Each drain must—

(a) Be accessible; and

(b) Have manual or automatic means for positive locking in the closed position.

48. By revising § 29.1093(b)(2) to read as follows:

§ 29.1093 Induction system icing protection.

* * * * *

(b) * * *

(2) Each turbine engine must idle for 30 minutes on the ground, with the air bleed available for engine icing protection at its critical condition, without adverse effect, in an atmosphere that is at a temperature between 15° and 30°F (between –9° and –1°C) and has a liquid water content not less than 0.3 grams per cubic meter in the form of drops having a mean effective diameter not less than 20 microns, followed by momentary operation at takeoff power or thrust. During the 30 minutes of idle operation, the engine may be run up periodically to a moderate power or thrust setting in a manner acceptable to the Administrator.

* * * * *

49. By revising § 29.1163(a) to read as follows:

§ 29.1163 Powerplant accessories.

(a) Each engine mounted accessory must—

(1) Be approved for mounting on the engine involved;

(2) Use the provisions on the engine for mounting; and

(3) Be sealed in such a way as to prevent contamination of the engine oil system and the accessory system.

* * * * *

50. By amending § 29.1183 by revising the title; by removing "20 quart" in paragraph (a) and inserting "25–quart" in its place; and by revising paragraph (b)(1) to read follows:

§ 29.1183 Lines, fittings, and components.

* * * * *

(b) * * *

(1) Lines, fittings, and components which are already approved as part of a type certificated engine; and

* * * * *

51. By revising § 29.1189 (a)(1) and (a)(2) to read as follows:

§ 29.1189 Shutoff means.

(a) * * *

(1) For lines, fittings, and components forming an integral part of an engine;

(2) For oil systems for turbine engine installations in which all components of the system, including oil tanks, are fireproof or located in areas not subject to engine fire conditions; or

* * * * *

PART 33—AIRWORTHINESS STANDARDS: AIRCRAFT ENGINES

52. By amending § 33.7 by removing paragraph (c)(17) and by revising paragraphs (c)(5)(i), (c)(5)(iv), (c)(6)(ii), and (c)(16) to read as following:

§ 33.7 Engine ratings and operating limitations.

* * * * *

(c) * * *

(5) * * *

(i) Oil at a location specified by the applicant;

* * * * *

(iv) Fuel at a location specified by the applicant; and

* * * * *

(6) * * *

(ii) Oil at a location specified by the applicant;

* * * * *

(16) For engines to be used in supersonic aircraft, engine rotor windmilling rotational r.p.m.

53. By revising § 33.14 to read as follows:

§ 33.14 Start-stop cyclic stress (low-cycle fatigue).

By a procedure approved by the FAA, operating limitations must be established which specify the maximum allowable number of start-stop stress cycles for each rotor structural part (such as discs, spacers, hubs, and shafts of the compressors and turbines), the failure of which could produce a hazard to the aircraft. A start-stop stress cycle consists of a flight cycle profile or an equivalent representation of engine usage. It includes starting the engine, accelerating to maximum rated power or thrust, decelerating, and stopping. For each cycle, the rotor structural parts must reach stabilized temperature during engine operation at a maximum rate power or thrust and after engine shutdown, unless it is shown that the parts undergo the same stress range without temperature stabilization.

54. By revising § 33.15(b) to read as follows:

§ 33.15 Materials.

* * * * *

(b) Conform to approved specifications (such as industry or military specifications) that ensure their having the strength and other properties assumed in the design data.

55. By amending § 33.17 by removing the term "20-quart" in paragraph (c) and inserting the term "25-quart" in its place; by removing paragraph (f); and by revising paragraph (a) to read as follows:

§ 33.17 Fire prevention.

(a) The design and construction of the engine and the materials used must minimize the probability of the occurrence and spread of fire. In addition, the design and construction of turbine engines must minimize the probability of the occurrence of an internal fire that could result in

structural failure, overheating, or other hazardous conditions.

* * * * *

§ 33.19 [Amended]

56. By amending § 33.19(a) by inserting after the last sentence a new sentence as follows: "Energy levels and trajectories of fragments resulting from rotor blade failure that lie outside the compressor and turbine rotor cases must be defined."

57. By revising § 33.23 to read as follows:

§ 33.23 Engine mounting attachments and structure.

(a) The maximum allowable limit and ultimate loads for engine mounting attachments and related engine structure must be specified.

(b) The engine mounting attachments and related engine structure must be able to withstand—

(1) The specified limit loads without permanent deformation; and

(2) The specified ultimate loads without failure, but may exhibit permanent deformation.

58. By revising § 33.25 to read as follows:

§ 33.25 Accessory attachments.

The engine must operate properly with the accessory drive and mounting attachments loaded. Each engine accessory drive and mounting attachment must include provisions for sealing to prevent contamination of, or unacceptable leakage from, the engine interior. A drive and mounting attachment requiring lubrication for external drive splines, or coupling by engine oil, must include provisions for sealing to prevent unacceptable loss of oil and to prevent contamination from sources outside the chamber enclosing the drive connection. The design of the engine must allow for the examination, adjustment, or removal of each accessory required for engine operation.

59. By revising § 33.27 to read as follows:

§ 33.27 Turbine, compressor, fan, and turbosupercharger rotors.

(a) Turbine, compressor, fan, and turbosupercharger rotors must have sufficient strength to withstand the test conditions specified in paragraph (c) of this section.

(b) The design and functioning of engine control devices, systems, and instruments must give reasonable assurance that those engine operating limitations that affect turbine, compressor, fan, and turbosupercharger rotor structural integrity will not be exceeded in service.

(c) The most critically stressed rotor component (except blades) of each turbine, compressor, and fan, including integral drum rotors and centrifugal compressors in an engine or turbosupercharger, as determined by analysis or other acceptable means, must be tested for a period of 5 minutes—

(1) At its maximum operating temperature, except as provided in paragraph (c)(2)(iv) of this section; and

(2) At the highest speed of the following, as applicable:

(i) 120 percent of its maximum permissible r.p.m. if tested on a rig and equipped with blades or blade weights.

(ii) 115 percent of its maximum permissible r.p.m. if tested on an engine.

(iii) 115 percent of its maximum permissible r.p.m. if tested on turbosupercharger driven by a hot gas supply from a special burner rig.

(iv) 120 percent of the r.p.m. at which, while cold spinning, it is subject to operating stresses that are equivalent to those induced at the maximum operating temperature and maximum permissible r.p.m.

(v) 105 percent of the highest speed that would result from failure of the most critical component or system in a representative installation of the engine.

(vi) The highest speed that would result from the failure of any component or system in a representative installation of the engine, in combination with any failure of a component or system that would not normally be detected during a routine preflight check or during normal flight operation.

Following the test, each rotor must be within approved dimensional limits for an overspeed condition and may not be cracked.

60. By adding a new § 33.35(e) to read as follows:

§ 33.35 Fuel and induction system.

* * * * *

(e) If provided as part of the engine, the applicant must show for each fluid injection (other than fuel) system and its controls that the flow of the injected fluid is adequately controlled.

61. By amending § 33.43 by removing the second sentence of paragraph (a) and by adding a new paragraph (d) to read as follows:

§ 33.43 Vibration test.

* * * * *

(d) The vibration survey described in paragraph (a) of this section must be repeated with that cylinder not firing which has the most adverse vibration effect, in order to establish the conditions under which the engine can be operated safely in that abnormal state. However, for this vibration survey, the engine speed range need only extend from idle to the maximum desired takeoff speed, and compliance with paragraph (b) of this section need not be shown.

62. By revising § 33.49(e)(1)(ii) to read as follows:

§ 33.49 Endurance test.

* * * * *

(e) * * *

(1) * * *

(ii) The portions of the runs specified in paragraphs (b) (2) through (7) of this section at rated maximum continuous power must be made at critical altitude pressure, and the portions of the runs at other power must be made at 8,000 feet altitude pressure; and

* * * * *

§ 33.63 [Amended]

63. By removing the word "normal" from § 33.63.

64. By revising § 33.66 to read as follows:

§ 33.66 Bleed air system.

The engine must supply bleed air without adverse effect on the engine, excluding reduced thrust or power output, at all conditions up to the discharge flow conditions established as a limitation under § 33.7(c)(11). If bleed air used for engine anti-icing can be controlled, provision must be made for a means to indicate the functioning of the engine ice protection system.

65. By amending § 33.67 by removing the last sentence of paragraph (a); by removing paragraph (b)(7); by revising paragraphs (b)(3), (b)(4), and (b)(5); and by adding a new paragraph (c) to read as follows:

§ 33.67 Fuel system.

* * * * *

(b) * * *

(3) It must be mounted so that its weight is not supported by the connecting lines or by the inlet or outlet connections of the strainer or filter, unless adequate strength margins under all loading conditions are provided in the lines and connections.

(4) It must have the type and degree of fuel filtering specified as necessary for protection of the engine fuel system against foreign particles in the fuel. The applicant must show:

(i) That foreign particles passing through the specified filtering means do not impair the engine fuel system functioning; and

(ii) That the fuel system is capable of sustained operation throughout its flow

and pressure range with the fuel initially saturated with water at 80°F (27°C) and having 0.025 fluid ounces per gallon (0.20 milliliters per liter) of free water added and cooled to the most critical condition for icing likely to be encountered in operation. However, this requirement may be met by demonstrating the effectiveness of specified approved fuel anti-icing additives, or that the fuel system incorporates a fuel heater which maintains the fuel temperature at the fuel strainer or fuel inlet above 32°F (0°C) under the most critical conditions.

(5) The applicant must demonstrate that the filtering means has the capacity (with respect to engine operating limitations) to ensure that the engine will continue to operate within approved limits, with fuel contaminated to the maximum degree of particle size and density likely to be encountered in service. Operation under these conditions must be demonstrated for a period acceptable to the Administrator, beginning when indication of impending filter blockage is first given by either:

(i) Existing engine instrumentation; or

(ii) Additional means incorporated into the engine fuel system.

* * * * *

(c) If provided as part of the engine, the applicant must show for each fluid injection (other than fuel) system and its controls that the flow of the injected fluid is adequately controlled.

66. By revising § 33.68(b) to read as follows:

§ 33.68 Induction system icing.

* * * * *

(b) Idle for 30 minutes on the ground, with the available air bleed for icing protection at its critical condition, without adverse effect, in an atmosphere that is at a temperature between 15° and 30°F (between −9° and −1°C) and has a liquid water content not less than 0.3 grams per cubic meter in the form of drops having a mean effective diameter not less than 20 microns, followed by a momentary operation at takeoff power or thrust. During the 30 minutes of idle operation the engine may be run up periodically to a moderate power or thrust setting in a manner acceptable to the Administrator.

67. By amending § 33.71 by removing the phrase "and the mesh" from paragraph (b)(3); by revising paragraph (b) introductory text; by revising paragraphs (b)(4), (c)(5), (c)(11), and (d); and by adding a new paragraph (c)(12) to read as follows:

§ 33.71 Lubrication system.

* * * * *

(b) *Oil strainer or filter.* There must be an oil strainer or filter through which all of the engine oil flows. In addition:

* * * * *

(4) For each strainer or filter required by this paragraph, except the strainer or filter at the oil tank outlet, there must be means to indicate contamination before it reaches the capacity established in accordance with paragraph (b)(3) of this section.

* * * * *

(c) * * *

(5) Each oil tank filler must be marked with the word "oil."

* * * * *

(11) Each oil tank must have an oil quantity indicator or provisions for one.

(12) If the propeller feathering system depends on engine oil—

(i) There must be means to trap an amount of oil in the tank if the supply becomes depleted due to failure of any part of the lubricating system other than the tank itself;

(ii) The amount of trapped oil must be enough to accomplish the feathering opeation and must be available only to the feathering pump; and

(iii) Provision must be made to prevent sludge or other foreign matter from affecting the safe operation of the propeller feathering system.

(d) *Oil drains.* A drain (or drains) must be provided to allow safe drainage of the oil system. Each drain must—

(1) Be accessible; and

(2) Have manual or automatic means for positive locking in the closed position.

* * * * *

68. By revising § 33.75 (b) and (c) to read as follows:

§ 33.75 Safety analysis.

* * * * *

(b) Burst (release hazardous fragments through the engine case);

(c) Generate loads greater than those ultimate loads specified in § 33.23(a); or

* * * * *

69. By revising § 33.77 to read as follows:

§ 33.77 Foreign object ingestion.

(a) Ingestion of a 4-pound bird, under the conditions prescribed in paragraph (e) of this section, may not cause the engine to—

(1) Catch fire;

(2) Burst (release hazardous fragments through the engine case);

(3) Generate loads greater than those ultimate loads specified in § 33.23(a); or

(4) Lose the capability of being shut down.

(b) Ingestion of 3-ounce birds or 1½-pound birds, under the conditions prescribed in paragraph (e) of this section, may not—

(1) Cause more than a sustained 25 percent power or thrust loss;

(2) Require the engine to be shut down within 5 minutes from the time of ingestion; or

(3) Result in a potentially hazardous condition.

(c) Ingestion of water, ice, or hail, under the conditions prescribed in paragraph (e) of this section, may not cause a sustained power or thrust loss or require the engine to be shut down. It must be demonstrated that the engine can accelerate and decelerate safely while inducting a mixture of at least 4 percent water by weight of engine airflow following stabilized operation at both flight idle and takeoff power settings with at least a 4 percent water-to-air ratio.

(d) For an engine that incorporates a protection device, compliance with this section need not be demonstrated with respect to foreign objects to be ingested under the conditions prescribed in paragraph (e) of this section if it is shown that—

(1) Such foreign objects are of a size that will not pass through the protective device;

(2) The protective device will withstand the impact of the foreign objects; and

(3) The foreign object, or objects, stopped by the protective device will not obstruct the flow of induction air into the engine with a resultant sustained reduction in power or thrust greater than those values required by paragraphs (b) and (c) of this section.

(e) Compliance with paragraphs (a), (b), and (c) of this section must be shown by engine test under the following ingestion conditions:

Foreign object	Test quantity	Speed of foreign object	Engine operation	Ingestion
Birds: 3-ounce size	One for each 50 square inches of inlet area or fraction thereof up to a maximum of 16 birds. Three-ounce bird ingestion not required if a 1½-pound bird will pass the inlet guide vanes into the rotor blades.	Liftoff speed of typical aircraft	Takeoff	In rapid sequence to simulate a flock encounter and aimed at selected critical areas.

Foreign object	Test quantity	Speed of foreign object	Engine operation	Ingestion
1½-pound size	One for the first 300 square inches of inlet area, if it can enter the inlet, plus one for each additional 600 square inches of inlet area or fraction thereof up to a maximum of 8 birds.	Initial climb speed of typical aircraft	Takeoff	In rapid sequence to simulate a flock encounter and aimed at selected critical areas.
4-pound size	One, if it can enter the inlet	Maximum climb speed of typical aircraft if the engine has inlet guide vanes.	Maximum cruise	Aimed at critical area.
		Liftoff speed of typical aircraft, if the engine does not have inlet guide vanes.	Takeoff	Aimed at critical area.
Ice	Maximum accumulation on a typical inlet cowl and engine face resulting from a 2-minute delay in actuating anti-icing system, or a slab of ice which is comparable in weight or thickness for that size engine.	Sucked in	Maximum cruise	To simulate a continuous maximum icing encounter at 25°F.
Hail (0.8 to 0.9 specific gravity).	For all engines: With inlet area of not more than 100 square inches: one 1-inch hailstone. With inlet area of more than 100 square inches: one 1-inch and one 2-inch hailstone for each 150 square inches of inlet area or fraction thereof.	Rough air flight speed of typical aircraft	Maximum cruise at 15,000 feet altitude.	In a volley to simulate a hailstone encounter. One-half the number of hailstones aimed at random area over the face of the inlet and the other half aimed at the critical face area.
	For supersonic engines (in addition): 3 hailstones each having a diameter equal to that in a straight line variation from 1 inch at 35,000 feet to ¼ inch at 60,000 feet using diameter corresponding to the lowest supersonic cruise altitude expected.	Supersonic cruise velocity. Alternatively, use subsonic velocities with larger hailstones to give equivalent kinetic energy.	Maximum cruise	Aimed at critical engine face area.
Water	At least 4 percent of engine airflow by weight	Sucked in	Flight idle, acceleration, takeoff, deceleration.	For 3 minutes each at idle and takeoff, and during acceleration and deceleration in spray to simulate rain.

NOTE.—The term "inlet area" as used in this section means the engine inlet projected area at the front face of the engine. It includes the projected area of any spinner or bullet nose that is provided.

70. By revising § 33.83 (a) and (b) to read as follows:

§ 33.83 Vibration test.

(a) Each engine must undergo a vibration survey to establish the vibration characteristics of the rotor discs, rotor blades, rotor shafts, stator blades, and any other components that are subject to vibratory exciting forces which could induce failure at the maximum inlet distortion limit. The survey is to cover the range of rotor speeds and engine power or thrust, under steady state and transient conditions, from idling speed to 103 percent of the maximum permissible speed. The survey must be conducted using the same configuration of the loading device which is used for the endurance test, except that the Administrator may allow the use of a modified configuration if that loading device type is incompatible with the necessary vibration instrumentation.

(b) The vibration stresses (or strains) of rotor and stator components determined under paragraph (a) of this section must be less, by a margin acceptable to the Administrator, than the endurance limit of the material from which these parts are made, adjusted for the most severe operating conditions.

* * * * *

71. By amending § 33.87 by revising (a) introductory text; by revising paragraphs (a)(3), (a)(5), (a)(6), and (d)(2); and by adding a new paragraph (d)(3) to read as follows;

§ 33.87 Endurance test.

(a) *General.* Each engine must be subjected to an endurance test that includes a total of 150 hours of operation and, depending upon the type and contemplated use of the engine, consists of one of the series of runs specified in paragraphs (b) through (e) of this section, as applicable. For engines tested under paragraph (b), (c), or (d) of this section, the prescribed 6-hour test sequence must be conducted 25 times to complete the required 150 hours of operation. The following test requirements apply:

* * * * *

(3) Except as provided in paragraph (a)(5) of this section, power or thrust, gas temperature, rotor shaft rotational speed, and, if limited, temperature of external surfaces of the engine must be at least 100 percent of the value associated with the particular engine operation being tested. More than one test may be run if all parameters cannot be held at the 100 percent level simultaneously.

* * * * *

(5) Maximum air bleed for engine and aircraft services must be used during at least one-fifth of the runs. However, for these runs, the power or thrust or the rotor shaft rotational speed may be less than 100 percent of the value associated with the particular operation being tested if the Administrator finds that the validity of the endurance test is not compromised.

(6) Each accessory drive and mounting attachment must be loaded. The load imposed by each accessory used only for aircraft service must be the limit load specified by the applicant for the engine drive and attachment point during rated maximum continuous power or thrust and higher output. The endurance test of any accessory drive and mounting attachment under load may be accomplished on a separate rig if the validity of the test is confirmed by an approved analysis.

* * * * *

(d) * * *

(2) In each 6-hour test sequence specified in paragraph (c) of this section, 30 minutes must be run at rated 30-minute power except that the last 5 minutes of one rated 30-minute power test period must be run at 2½-minute power.

(3) The tests required in paragraphs (c)(3) through (c)(6) of this section.

* * * * *

72. By revising the title and text of § 33.88 to read as follows:

§ 33.88 Engine overtemperature test.

Each engine must be run for 5 minutes at maximum permissible r.p.m with the gas temperature at least 75°F (42°C) higher than the maximum operating limit. Following this run, the turbine assembly must be within serviceable limits.

73. By revising § 33.89(b) to read as follows:

§ 33.89 Operation test.

* * * * *

(b) The operation test must include all testing found necessary by the Administrator to demonstrate that the engine has safe operating characteristics throughout its specified operating envelope.

74. By revising the title and text of § 33.90 to read as follows:

§ 33.90 Initial maintenance inspection.

Each engine, except engines being type certificated through amendment of an existing type certificate or through supplemental type certification procedures, must undergo an approved test run that simulates the conditions in which the engine is expected to operate in service, including typical start-stop cycles, to establish when the initial maintenance inspection is required. The test run must be accomplished on an engine which substantially conforms to the final type design.

75. By amending § 33.92 by inserting an intital phrase at the beginning of (a) and by revising (a)(2) and (a)(3) to read as follows:

§ 33.92 Windmilling tests.

(a) For engines to be used in supersonic aircraft, * * *

* * * * *

(2) Bursting (releasing hazardous uncontained fragments); or

(3) Generating loads greater than those ultimate loads specified in § 33.23(a).

§ 33.93 [Amended]

76. By amending § 33.93(b) by removing the word "component" and inserting the word "part" in its place.

77. By adding a new § 33.94 to read as follows:

§ 33.94 Blade containment and rotor unbalance tests.

(a) Except as provided in paragraph (b) of this section, it must be demonstrated by engine tests that the engine is capable of containing damage without catching fire and without failure of its mounting attachments when operated for at least 15 seconds, unless the resulting engine damage induces a self shutdown, after each of the following events:

(1) Failure of the most critical compressor or fan blade while operating at maximum permissible r.p.m. The blade failure must occur at the outermost retention groove or, for integrally-bladed rotor discs, at least 80 percent of the blade must fail.

(2) Failure of the most critical turbine blade while operating at maximum permissible r.p.m. The blade failure must occur at the outermost retention groove or, for integrally-bladed rotor discs, at least 80 percent of the blade must fail. The most critical turbine blade must be determined by considering turbine blade weight and the strength of the adjacent turbine case at case temperatures and pressures associated with operation at maximum permissible r.p.m.

(b) Analysis based on rig testing, component testing, or service experience may be substitute for one of the engine tests prescribed in paragraphs (a)(1) and (a)(2) of this section if—

(1) That test, of the two prescribed, produces the least rotor unbalance; and

(2) The analysis is shown to be equivalent to the test.

(Secs. 313(a), 601, and 603. Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, and 1423); and 49 U.S.C. 106(g) Revised, Pub. L. 97–449, January 12, 1983)

Note.—The FAA has determined that this amendment yields overall cost benefits by eliminating unnecessarily stringent design requirements and by simplifying and clarifying existing rules without reducing the level of safety of engine installations. The amendment simplifies a number of technical requirements and removes administrative burdens on regulated persons and the FAA through amendment of regulations from which exemptions have been granted. Therefore, it has been determined that this is not a major regulation under Executive Order 12291. In addition, the FAA has determined that this amendment is not significant under the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). The evaluation prepared for this action is contained in the regulatory docket. A copy of it may be obtained by contacting the person identified under the caption **"FOR FURTHER INFORMATION CONTACT."**

Issued in Washington, D.C., on December 16, 1983.

Michael J. Fenello,

Acting Administrator.

[FR Doc. 84–4577 Filed 2–22–84; 8:45 am]

BILLING CODE 4910–13–M

federal register

Thursday
February 23, 1984

Part III

Department of Energy

Federal Energy Regulatory Commission

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978; Notice

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Vol. No. 1067]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: February 17, 1984.

The following notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" before the section code. Estimated annual production (PROD) is in million cubic feet (MMCF).

The applications for determination are available for inspection except to the extent such material is confidential under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol St., Washington, D.C. Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 275.204, file a protest with the Commission within fifteen days after publication of notice in the **Federal Register**.

Source data from the Form 121 for this and all previous notices is available on magnetic tape from the National Technical Information Service (NTIS). For information, contact Stuart Weisman (NTIS) at (703) 487-4808, 5285 Port Royal Rd., Springfield, Va 22161.

Categories within each NGPA section are indicated by the following codes:

Section 102-1: New OCS lease
102-2: New well (2.5 Mile rule)
102-3: New well (1000 Ft rule)
102-4: New onshore reservoir
102-5: New reservoir on old OCS lease

Section 107-DP: 15,000 feet or deeper
107-GB: Geopressured brine
107-CS: Coal Seams
107-DV: Devonian Shale
107-PE: Production enhancement
107-TF: New tight formation
107-RT: Recompletion tight formation

Section 108: Stripper well
108-SA: Seasonally affected
108-ER: Enhanced recovery
108-PB: Pressure buildup

Kenneth F. Plumb,
Secretary.

NOTICE OF DETERMINATIONS

ISSUED FEBRUARY 17, 1984

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
TEXAS RAILROAD COMMISSION									
-A D MAMMEL PROPERTIES INC				RECEIVED:	01/20/84	JA: TX			
8417242	F-86-076681	4220330889		103		MCBRIDE #1	LANSING NORTH (RODESS	237.0	ARKLA INC
-ADEMA EXPLORATION INC				RECEIVED:	01/20/84	JA: TX			
8417396	F-88-076968	4213534096		103		E F COWDEN "A" NO 1-40	ADDIS (SAN ANDRES)	8.0	EL PASO HYDROCARB
-ADOBE OIL & GAS CORPORATION				RECEIVED:	01/20/84	JA: TX			
8417366	F-8A-076890	4244531157		103		CLARE "B" #4	PRENTICE NW (SAN ANDR	12.0	AMOCO PRODUCTION
8417432	F-8A-077141	4244531158		103		CLARE "B" #5	PRENTICE NW SAN ANDRE	8.0	AMOCO PRODUCTION
-AMERICAN PETROFINA COMPANY OF TEXAS				RECEIVED:	01/20/84	JA: TX			
8417362	F-8A-076867	4207931716		102-4	103	NICHOLS WELL #1	BONANZA (SAN ANDRES)	10.0	
-ARCO OIL AND GAS COMPANY				RECEIVED:	01/20/84	JA: TX			
8417244	F-88-076488	4213534175		103		GOLDSMITH CUMMINS (DEEP) UNIT #182	GOLDSMITH (CLEARFORK)	40.0	PHILLIPS PETROLEU
8417245	F-88-076489	4213534176		103		GOLDSMITH CUMMINS (DEEP) UNIT #183	GOLDSMITH (CLEARFORK)	6.0	PHILLIPS PETROLEU
-ASHFORD OIL & GAS CO				RECEIVED:	01/20/84	JA: TX			
8417453	F-82-077242	4228531761		102-4		SAM CUTBIRTH #5	ASHFORD (YEGUA)	187.0	UNITED TEXAS TRAN
-AWS PETROLEUM CO				RECEIVED:	01/20/84	JA: TX			
8417235	F-7B-076668	4213335376		102-4		HARBIN #2	FLATWOOD EAST (GARDNE	0.0	FLATWOOD GAS INC
8417236	F-7B-076670	4213334663		102-4		HAYNES (19886)	FLATWOOD EAST (GARDNE	0.0	FLATWOOD GAS INC
8417234	F-7B-076667	4213334875		102-4		NOLEN #1A	FLATWOOD EAST (GARNER	0.0	FLATWOOD GAS INC
8417233	F-7B-076666	4213335375		102-4		NOLEN #2A	FLATWOOD EAST (GARDNE	0.0	FLATWOOD GAS INC
-B L S DRILLING				RECEIVED:	01/20/84	JA: TX			
8417270	F-7B-076729	4204933799		102-4		BRANDT #3	BRANDT (FRY)	157.0	EL PASO HYDROCARB
8417269	F-7B-076728	4204933798		102-4		BRANDT #4	BRANDT (FRY)	37.0	EL PASO HYDROCARB
-BRUNER OIL & GAS INC				RECEIVED:	01/20/84	JA: TX			
8417389	F-7B-076948	4213334664		102-4		JAMES G LEE #1	D R S SE (CONGL)	73.0	EL PASO HYDROCARB
-C R GOBER				RECEIVED:	01/20/84	JA: TX			
8417444	F-7B-077196	4244733677		102-4		R C LITTLE #3 (20226)	KINGS CREEK (CADDO)	109.0	HST GATHERING CO
-CABOT PETROLEUM CORP				RECEIVED:	01/20/84	JA: TX			
8417454	F-10-077243	4239330951		103		LOWE #49-1	LEDRICK RANCH S (MORR	70.0	TRANSWESTERN PIPE
-CHAMBERS OIL & GAS INC				RECEIVED:	01/20/84	JA: TX			
8417232	F-88-076662	4237100000		103		J W BREEN "B-R" #1	PECOS VALLEY (HIGH GR	0.0	APACHE GAS CORP
8417231	F-88-076661	4237133796		103		J W BREEN "B-R" #3	PECOS VALLEY (LOW GRA	0.0	APACHE GAS CORP
8417230	F-88-076660	4237100000		103		J W BREEN "B-R" #4	PECOS VALLEY (HIGH GR	0.0	APACHE GAS CORP
8417229	F-88-076659	4237100000		103		J W BREEN "B-R" #5	PECOS VALLEY (HIGH GR	0.0	APACHE GAS CORP
8417228	F-88-076658	4237133793		103		J W BREEN "B-R" #6	PECOS VALLEY (LOW GAT	0.0	APACHE GAS CORP
8417227	F-88-076655	4237133929		103		SANFORD GRAY "P" #3	PECOS VALLEY (HIGH GR	0.0	APACHE GAS CORP
-CHAPMAN EXPLORATION INC				RECEIVED:	01/20/84	JA: TX			
8417255	F-89-076702	4223734497		103		CHERRYHOMES "M" #3	CHAPMAN CHERRYHOMES C	17.5	LONE STAR GAS CO
8417254	F-89-076701	4223732361		103		CHERRYHOMES "M" #4	CHAPMAN CHERRYHOMES C	70.0	LONE STAR GAS CO
8417253	F-89-076700	4223734496		103		CHERRYHOMES "M" #5	CHAPMAN CHERRYHOMES C	70.0	LONE STAR GAS CO
8417256	F-89-076703	4223734055		103		CHERRYHOMES M-2	CHAPMAN-CHERRYHOMES C	10.2	LONE STAR GAS CO
-CHEVRON U S A INC				RECEIVED:	01/20/84	JA: TX			
8417390	F-88-076955	4247532963		103		J F YORK #559	WARD SOUTH	15.0	NUECES CO
-CITIES SERVICE OIL & GAS CORP				RECEIVED:	01/20/84	JA: TX			
8417371	F-8A-076912	4216532613		103		WEST SEMINOLE SAN ANDRES UNIT #184	SEMINOLE WEST	85.0	CITIES SERVICE OI
8417370	F-8A-076911	4216532609		103		WEST SEMINOLE SAN ANDRES UNIT #507	SEMINOLE WEST	47.0	CITIES SERVICE OI
-COBATA ENERGY INC				RECEIVED:	01/20/84	JA: TX			

BILLING CODE 6717-01-M

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8417359	F-7B-076851	4205934266		103		HARRIS #1	CALDWELL (ELLEN)	18.0	SIOUX PIPELINE CO
-COMPUTECH ENERGY & EXPLORATION INC		RECEIVED:		01/20/84	JA: TX				
8417264	F-7B-076722	4244132446		103		THORNTON #2-A (19810)	THORNTON (MORRIS)	0.0	UNION TEXAS PETRO
-CONE & PETREE OIL & GAS EXPL INC		RECEIVED:		01/20/84	JA: TX				
8417352	F-7C-076842	4239932730		103		KIRKHAM #1	KIRKHAM (GARDNER UPPE	21.9	UNION TEXAS PETRO
-CONOCO INC		RECEIVED:		01/20/84	JA: TX				
8417440	F-08-077169	4249531666		103		BROWN ALTMAN E #2 ID 26889	EMPEROR DEEP	73.0	WEST TEXAS GATHER
-CRESWELL ALVIN L		RECEIVED:		01/20/84	JA: TX				
8417276	F-09-076737	4250334022		102-4		HUNTER #1A 23577	MORELAND (STRAWN)	21.0	MID-STATE GAS COR
8417275	F-09-076736	4250336641		102-4		M T PHILLIPS "B" #2B 23176	CRESWELL (BEND CONGL)	36.0	MID-STATE GAS COR
8417277	F-09-076738	4250336988		102-4		PHILLIPS "A" #5A 23684	CRESWELL (MARBLE FALL	49.0	MID-STATE GAS COR
8417274	F-09-076735	4250336715		102-4		S R RAGLAND "B" #1A 23156	CRESWELL (MARBLE FALL	105.0	MID-STATE GAS COR
-DAHALO LEASE CORP		RECEIVED:		01/20/84	JA: TX				
8417414	F-10-077043	4217900000		103		VANDERBURG #1 04852	PANHANDLE GRAY	40.0	CABOT PIPELINE CO
8417413	F-10-077042	4217900000		103		VANDERBURG "A" 04853	PANHANDLE FIELD	40.0	CABOT PIPELINE CO
-DAWKINS ENERGIES INC		RECEIVED:		01/20/84	JA: TX				
8417368	F-10-076899	4206531429		103		DAWKINS #2 (ID#)	PANHANDLE CARSON	40.0	GETTY OIL CO
-DENALI EXPLORATION INC		RECEIVED:		01/20/84	JA: TX				
8417408	F-10-077019	4219530882		103		MARY #1	SHAPLEY (MORROW)	73.0	PHILLIPS PETROLEU
-ENERGY-AGRI PRODUCTS INC		RECEIVED:		01/20/84	JA: TX				
8417263	F-10-076717	4217931401		103		GOOBER #1 (ID 005476)	PANHANDLE GRAY	66.0	CABOT PIPELINE CO
-ESENJAY PETROLEUM CORP		RECEIVED:		01/20/84	JA: TX				
8417369	F-06-076900	4240931802		103		I RAMSOWER #1	WILLMAN (3600)	38.3	SOUTHERN GAS PIPE
-EXXON CORPORATION		RECEIVED:		01/20/84	JA: TX				
8417250	F-03-076696	4215731459		103		BRAZOS FARMS #34	SUGARLAND	55.0	UNITED TEXAS TRAN
8417272	F-03-076733	4233930606		103		CONROE FIELD UNIT #3619	CONROE	0.0	MORAN UTILITIES C
8417248	F-03-076694	4207131047		103		DOUBLE BAYOU CONS GAS UNIT 1 #6	DOUBLE BAYOU (FRIO 9)	438.0	ENTEX INC
8417259	F-06-076710	4207330476		102-4		H C KELLY GAS UNIT 1 #1	REKLAW (TRAVIS PEAK)	420.0	ARMCO STEEL CORP
8417252	F-06-076699	4200131442		103		H S DAVENPORT ESTATE #4	NECHES (WOODBINE)	29.0	UNITED GAS PIPELI
8417402	F-06-076994	4249931187		103		HAWKINS FIELD UNIT #113	HAWKINS	41.0	
8417271	F-06-076731	4249931175		103		HAWKINS FIELD UNIT #4065	HAWKINS	110.0	
8417438	F-08-077163	4210332213		108		J B TUBB A/C 1 #214	SAND HILLS (JUDKINS)	0.0	EL PASO NATURAL G
8417243	F-08-076683	4210333255		103		J B TUBB A/C 2 #282	SAND HILLS (JUDKINS)	25.0	EL PASO NATURAL G
8417391	F-08-076957	4210333286		103		J B TUBB F #22	SAND HILLS (JUDKINS)	25.0	EL PASO NATURAL G
8417364	F-04-076870	4227331675		102-4		KING RANCH TIJERINA A-75 (107780)	T-C-B EAST (J-43)	281.0	ARMCO STEEL CORP
8417273	F-06-076734	4207330492		102-4		MARY S FITCH #1	REKLAW (TRAVIS PEAK)	85.0	ARMCO STEEL CORP
8417406	F-04-077012	4226130743		102-4		MRS S K EAST ESTATE "B" 4 (105350)	POTRERO FARIAS (G-94)	725.0	ARMCO STEEL CORP
8417404	F-04-077010	4226130827		102-4		MRS S K EAST ESTATE "B" 5-D 107782	POTRERO FARIAS (G-94)	730.0	ARMCO STEEL CORP
8417405	F-04-077011	4204731267		102-4		RJ KLEBERG JR TR QUITERIA PAST 112	VIBORAS (8500 SOUTH)	109.0	ARMCO STEEL CORP
8417355	F-10-076846	4229531237		103		ROLAND IMBODEN #1	HIGGINS WEST (TONKAWA	7.0	
8417372	F-04-076915	4248930713		103		S H BELL 6 (07987)	WILLAMAR WEST	100.0	NATURAL GAS PIPEL
8417249	F-03-076695	4220131615		103		WEBSTER FIELD UNIT #2142	WEBSTER	16.0	HOUSTON PIPELINE
-FARGO EXPLORATION CO		RECEIVED:		01/20/84	JA: TX				
8417423	F-7C-077094	4239932822		102-4		J B MCCORD #1 (GAS) (107803)	SERVICE (GARDNER)	806.0	UNION TEXAS PETRO
-FLAG-REDFERN OIL CO		RECEIVED:		01/20/84	JA: TX				
8417246	F-08-076692	4237134552		103		BECKEN "65" #4	CHEMOT (WOLFCAMP)	365.0	DELHI GAS PIPELIN
-FLOURNOY PRODUCTION COMPANY		RECEIVED:		01/20/84	JA: TX				
8417416	F-04-077078	4235532220		102-4		RACKLEY-RUTLAND GAS UNIT #1	CLARA DRISCOLL SOUTH	180.0	HOUSTON PIPELINE
-FORUM EXPLORATION INC		RECEIVED:		01/20/84	JA: TX				
8417422	F-7B-077091	4208333645		102-4		C W HEMPHILL "A" #2 (107038)	HEMPHILL (KING SAND)	441.0	EL PASO HYDROCARB
8417421	F-7B-077090	4208333697		102-4		C W HEMPHILL "A" #3 (107460)	HEMPHILL (KING SAND)	270.0	EL PASO HYDROCARB
-GENERAL PRODUCTION CO INC		RECEIVED:		01/20/84	JA: TX				
8417431	F-03-077137	4205132366		102-2		JOHN PLASEK "A" #2 017038	WILLARD SE (NAVARRO B	0.0	FERGUSON CROSSING
-GETTY OIL COMPANY		RECEIVED:		01/20/84	JA: TX				
8417420	F-7B-077085	4243300000		108		FLOWERS CANYON SAND UNIT #164	FLOWERS (CANYON SAND)	0.7	CITIES SERVICE OI
8417419	F-7B-077084	4243300000		108		FLOWERS CANYON SAND UNIT #64	FLOWERS (CANYON SAND)	0.7	CITIES SERVICE OI
8417418	F-7B-077083	4243300000		108		FLOWERS CANYON SAND UNIT #7	FLOWERS (CANYON SAND)	0.3	CITIES SERVICE OI
8417417	F-7B-077082	4243300000		108		FLOWERS CANYON SAND UNIT #9	FLOWERS (CANYON SAND)	0.7	CITIES SERVICE OI
8417430	F-08-077120	4210333297		103		NORTH MCELROY #3953-F 20377	MCELROY	0.0	PHILLIPS PETROLEU
8417241	F-06-076680	4236500000		108		WERNER-ANDREWS #1	CARTHAGE	18.0	TEXAS GAS TRANSMI
-GULF OIL CORPORATION		RECEIVED:		01/20/84	JA: TX				
8417224	F-08-076649	4247532994		103		ESTES W A #118	WARD-ESTES NORTH	3.0	CABOT CORP
8417225	F-08-076650	4213534302		103		GOLDSMITH C A ETAL #1402	GOLDSMITH (CLEARFORK)	34.0	PHILLIPS PETROLEU
8417226	F-08-076651	4213534331		103		GOLDSMITH SAN ANDRES UNIT #B-179	GOLDSMITH	27.0	PHILLIPS PETROLEU
-HEXAGON OIL & GAS INC		RECEIVED:		01/20/84	JA: TX				
8417447	F-7B-077205	4236332709		102-4		BROCK #1	BRANSON (STRAWN)	4.0	INTRASTATE GATHER
8417446	F-7B-077204	4236332653		102-4		DUNAWAY #1	BRANSON (STRAWN)	16.0	INTRASTATE GATHER
8417445	F-7B-077203	4236332698		102-4		KIMBERLIN-LOCKHART #1	BRANSON (STRAWN)	18.0	INTRASTATE GATHER
8417428	F-7C-077118	4245131219		102-4	103	MUNN #1	FORTSON-BURKE (CANYON	880.0	LONE STAR GAS CO
8417429	F-7C-077119	4245131289		102-4	103	MUNN #2A	MUNN-WESTEX (CANYON)	156.0	LONE STAR GAS CO
8417448	F-7B-077206	4236332711		102-4		RIVERS #1	BRANSON (STRAWN)	5.0	INTRASTATE GATHER
8417449	F-7B-077207	4236332675		102-4		WILLIAMS #1	BRANSON (STRAWN)	19.0	INTRASTATE GATHER
-HRUBETZ OIL CO		RECEIVED:		01/20/84	JA: TX				
8417354	F-7C-076845	4239932804		102-4		R L HILL #1	OUTLAW BRAGG (FRY)	25.0	UNION TEXAS PETRO
-J A LEONARD		RECEIVED:		01/20/84	JA: TX				
8417441	F-03-077173	4205100000		102-4		JONES-LEWIS #1	INEZ JAMESON (NAVARRO	35.0	FERGUSON CROSSING
8417442	F-03-077174	4205100000		102-4		JONES-LEWIS #2	INEZ JAMESON (NAVARRO	43.0	FERGUSON CROSSING
8417443	F-03-077175	4205100000		102-4		JONES-LEWIS #4	INEZ JAMESON (NAVARRO	40.0	FERGUSON CROSSING
-J K J CO		RECEIVED:		01/20/84	JA: TX				
8417258	F-09-076708	4250300000		108		M C HEROY #1 (045165)	YOUNG COUNTY REGULAR	2.2	SOUTHWESTERN GAS
-J R HAMILTON		RECEIVED:		01/20/84	JA: TX				
8417349	F-04-076830	4213136273		102-4		F PALZER #1	FIVE GATES-J R FIELD-	0.0	HOUSTON NATURAL G
-JAMES K ANDERSON INC		RECEIVED:		01/20/84	JA: TX				
8417403	F-7B-077008	4244132440		102-4		PERINI #4	PERINI (HOME CREEK)	150.0	UNION TEXAS PETRO
-KLH OIL & GAS INC		RECEIVED:		01/20/84	JA: TX				
8417268	F-7B-076727	4204900000		108		B L TAYLOR #1 (064540)	BROWN COUNTY REGULAR	13.0	EL PASO HYDROCARB
8417267	F-7B-076726	4204900000		108		B L TAYLOR #2 (072612)	BROWN COUNTY REGULAR	9.0	EL PASO HYDROCARB
8417266	F-7B-076725	4204900000		108		B L TAYLOR #3 (071422)	BROWN COUNTY REGULAR	4.0	EL PASO HYDROCARB
8417265	F-7B-076724	4204932022		103		B L TAYLOR #5 (082729)	BROWN COUNTY REGULAR	1898.0	EL PASO HYDROCARB
-LYN-SAN CO		RECEIVED:		01/20/84	JA: TX				
8417398	F-08-076980	4210333123		103		REIDLAND #3	SAND HILLS (MCKNIGHT)	68.2	WARREN PETROLEUM
8417397	F-08-076979	4210333276		103		REIDLAND #4	SAND HILLS (MCKNIGHT	65.5	WARREN PETROLEUM
-MALOUF ABRAHAM CO INC.		RECEIVED:		01/20/84	JA: TX				
8417388	F-10-076943	4221131601		103		COOK #1 (ID NO 107143)	CANADIAN SE (DOUGLAS)	0.0	WESTAR TRANSMISSI
-MARALO INC		RECEIVED:		01/20/84	JA: TX				
8417345	F-08-076815	4208333590		103		MILES "C" #2	DEEP ROCK (PENN)	26.0	PHILLIPS PETROLEU
-MARATHON OIL COMPANY		RECEIVED:		01/20/84	JA: TX				
8417450	F-03-077221	4232131327		103		OHIO-SUN UNIT #16-E	NORTH MARKHAM-NORTH B	8.8	TRANSCONTINENTAL
-MITCHELL ENERGY CORPORATION		RECEIVED:		01/20/84	JA: TX				
8417247	F-09-076693	4249732633		103		E B CLABORN #1	ALVORD SOUTH (ATOKA)	16.8	NATURAL GAS PIPEL
8417394	F-09-076962	4223734683		103		JACK GRACE RANCH #8	JACK COUNTY REGULAR	14.2	NATURAL GAS PIPEL
8417395	F-09-076963	4249732589		103		TARRANT CNTY WATERBD #43 017160	CAP YATES (CONSOLIDAT	352.2	NATURAL GAS PIPEL
-MOBIL PRDG TEXAS & NEW MEXICO INC		RECEIVED:		01/20/84	JA: TX				
8417410	F-08-077033	4210303599		108		SAND HILLS TUBB UNIT #33	SAND HILLS (TUBB)	2.4	WARREN PETROLEUM

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME
8417411	F-08-077034	4218333234		103		SAND HILLS TUBB UNIT #52
8417407	F-08-077013	4232901116		108		SHACKELFORD SPRABERRY UNIT #1-22
8417412	F-08-077041	4218332338		108		TEXAS UNIVERSITY SEC 15 & 16 #1558
				RECEIVED:	01/20/84	JA: TX
-MONTERO OPERATING INC						
8417344	F-08-076813	4235331452		103		JAMESON #2
8417251	F-08-076697	4233532623		103		WILSON #1
				RECEIVED:	01/20/84	JA: TX
-OAKWOOD RESOURCES INC						
8417452	F-10-077236	4219530589		103		A R HENDERSON 4-95
				RECEIVED:	01/20/84	JA: TX
-ORLA PETCO INC						
8417434	F-08-077144	4238931409		102-4		AGNES #1
8417433	F-08-077143	4238931425		102-4		AGNES #2
				RECEIVED:	01/20/84	JA: TX
-PANSTAR OIL & GAS INC						
8417427	F-10-077116	4206531481		103		FIELDS #2 (ID# 05524)
				RECEIVED:	01/20/84	JA: TX
-PARKER & PARSLEY INC						
8417426	F-8A-077103	4207900000		103		MASTEN #1
8417425	F-8A-077102	4238300000		103		MASTEN #2
8417424	F-7C-077100	4238300000		103		MULHOLLAND #1
				RECEIVED:	01/20/84	JA: TX
-PENNZOIL COMPANY						
8417356	F-08-076847	4237134424		102-4		NUTT 1-15
8417357	F-08-076848	4237134540		102-4		NUTT 1-7
				RECEIVED:	01/20/84	JA: TX
-PHILLIPS PETROLEUM COMPANY						
8417218	F-08-076637	4213501026		108		CLYDE-B #158 (038208)
8417353	F-10-076843	4242100000		108		LOGAN A #1
8417219	F-08-076638	4213520790		108		NO PENWELL U #13 (21556)
8417220	F-08-076639	4213520180		108		NO PENWELL U #49 (21556)
8417262	F-10-076715	4217900000		108		PHIL-PAMPA #7-14
				RECEIVED:	01/20/84	JA: TX
-PRAIRIE OIL CO						
8417361	F-10-076865	4206531514		103		COOPER #1 (ID# 05565)
8417360	F-10-076864	4206531513		103		COOPER #2 (ID# 05565)
				RECEIVED:	01/20/84	JA: TX
-QUESTA OIL & GAS CO				103	107-TF	V I PIERCE 46-1
8417257	F-7C-076704	4210534413		RECEIVED:	01/20/84	JA: TX
-RANKIN OIL CO						
8417346	F-08-076816	4200333608		103		PEBSWORTH "C"
				RECEIVED:	01/20/84	JA: TX
-REEF GAS & OIL INC						
8417436	F-10-077154	4206531450		103		MCCONNELL 1A
8417435	F-10-077153	4206531449		103		MCCONNELL 2A
				RECEIVED:	01/20/84	JA: TX
-RENDOVA OIL CO						
8417261	F-08-076712	4216532706		103		NORMAN #3
				RECEIVED:	01/20/84	JA: TX
-RICHEY & CO INC						
8417393	F-7B-076961	4213335157		102-4		W C SCHNEIDER #1
				RECEIVED:	01/20/84	JA: TX
-RIDGE OIL CO						
8417399	F-7B-076984	4213335273		102-4	103	HAGAMAN (SOUTH) #8
				RECEIVED:	01/20/84	JA: TX
-RKG ENGINEERING INC						
8417237	F-08-076672	4237100000		102-4		CRAWFORD 21-1 #107683
8417238	F-08-076674	4237100000		102-4		PRICE 20-1 107401
				RECEIVED:	01/20/84	JA: TX
-RYDER SCOTT OIL CO						
8417214	F-09-076628	4223734758		102-4		CAMPSEY #5
8417213	F-09-076627	4212735331		102-4		HORN #1
				RECEIVED:	01/20/84	JA: TX
-SABINE PRODUCTION COMPANY						
8417415	F-08-077069	4217331457		103		TXL "C" #2
				RECEIVED:	01/20/84	JA: TX
-SENTINEL PETROLEUM CORP						
8417212	F-7B-076608	4213333447		102-4		GARLAND ANDREWS #1
				RECEIVED:	01/20/84	JA: TX
-SHELL OIL CO						
8417211	F-08-076583	4213500000		108		E HARPER UNIT #128
8417210	F-08-076582	4213500000		108		E HARPER UNIT #328
8417209	F-08-076581	4213500000		108		E HARPER UNIT #373
8417206	F-8A-076578	4216500000		108		GAINES WASSON CLEARFORK #66160
8417208	F-08-076580	4213500000		108		TXL NORTH UNIT #333-L
8417207	F-8A-076579	4250100000		108		YOAKUM WASSON CLEARFORK UNIT #3911Y
				RECEIVED:	01/20/84	JA: TX
-STRATA PETROLEUM CO						
8417365	F-08-076886	4231700000		108		KELLY "B" WELL #1
				RECEIVED:	01/20/84	JA: TX
-SUN EXPL. & PROD. CO. - HOUSTON						
8417319	F-7B-076786	4242900000		108		VEALE PARKS CADDO UNIT #5
				RECEIVED:	01/20/84	JA: TX
-SUN EXPLORATION & PRODUCTION CO						
8417300	F-7B-076767	4215100000		108		A E PARDUE AC/1 #3
8417327	F-04-076794	4242700000		108		BENTSEN BROS -A- #3
8417278	F-7B-076743	4243300000		108		BOYD CONGLOMERATE UNIT #58
8417279	F-7B-076744	4243300000		108		BOYD CONGLOMERATE UNIT #72
8417333	F-04-076800	4242700000		108		C LAUREL #7
8417308	F-7C-076775	4209500000		108		C M & THELMA ELLIS #1
8417294	F-04-076761	4242700000		108		C M HALL #6U
8417375	F-7C-076925	4208100000		108		CENTRAL NATIONAL BANK #11
8417309	F-7B-076776	4242900000		108		CHARLES BINNEY #83
8417290	F-7B-076756	4213300000		108		CHRISTMAS STATE #1
8417321	F-7B-076788	4213300000		108		D K SCOTT #1
8417343	F-08-076810	4213500000		108		EAST GOLDSMITH HOLT #6-4L & 6-4U
8417340	F-7B-076807	4236300000		108		ELLEN G STUART "A" #2
8417322	F-7B-076789	4236300000		108		ELLEN G STUART "C" #2
8417286	F-7B-076751	4213300000		108		F BREWER #2
8417287	F-7B-076752	4213300000		108		F BREWER #4
8417291	F-7B-076757	4213300000		108		FERGUSON FARM #1
8417351	F-09-076836	4209700000		108		FRED SNUGGS #14
8417316	F-7B-076783	4242900000		108		G B WALKER #12
8417299	F-02-076766	4223900000		108		G T BROOKING #27
8417293	F-04-076760	4242700000		108		GARZA RIVAS #3-1
8417386	F-04-076938	4242700000		108		GEORGE H SPEER #7
8417295	F-04-076762	4242700000		108		GEORGE H SPEER "B" #15
8417373	F-04-076922	4242700000		108		GEORGE H SPEER STATE -B- #24
8417315	F-7B-076782	4242900000		108		H E WILSON #1
8417376	F-7C-076926	4208100000		108		H L BLOODWORTH #5
8417374	F-04-076924	4242700000		108		H P LEE -A- #4
8417328	F-04-076795	4242700000		108		I V MONTALVO -C- #29
8417378	F-08-076928	4233500000		108		J F MCCABE "A" #12
8417377	F-08-076927	4233500000		108		J F MCCABE "A" #2
8417341	F-7B-076808	4236300000		108		J H STUART #161
8417337	F-7B-076804	4236300000		108		J H STUART #167
8417336	F-7B-076803	4236300000		108		J H STUART #168
8417304	F-7B-076771	4236300000		108		J H STUART #171
8417331	F-7B-076798	4236300000		108		J H STUART #173
8417330	F-7B-076797	4236300000		108		J H STUART #174
8417329	F-7B-076796	4236300000		108		J H STUART #175
8417334	F-7B-076801	4236300000		108		J H STUART #176
8417339	F-7B-076806	4236300000		108		J H STUART #180
8417338	F-7B-076805	4236300000		108		J H STUART #182

FIELD NAME	PROD	PURCHASER
SAND HILLS (TUBB)	27.4	WARREN PETROLEUM
SPRABERRY (TREND AREA	0.4	EL PASO NATURAL G
[illegible]	2.5	PHILLIPS PETROLEU
JAMESON N (STRAWN GRE	55.0	SUN EXPLORATION &
JAMESON N (ODOM)	55.0	SUN EXPLORATION &
HANSFORD NORTH (MORRO	59.0	
JESS BURNER (DELAWARE	7.3	CONOCO INC
JESS BURNER (DELAWARE	18.2	CONOCO INC
PANHANDLE CARSON	80.0	CABOT PIPELINE CO
LEVELLAND	1.0	CITIES SERVICE OI
LEVELLAND	1.5	CITIES SERVICES O
PRICE (GRAYBURG)	1.0	CROCKETT COUNTY G
NUZ (WOLFCAMP)	0.0	UNITED TEXAS TRAN
NUZ (WOLFCAMP)	0.0	UNITED TEXAS TRAN
GOLDSMITH (GRAYBURG)	17.0	EL PASO NATURAL G
	0.0	MICHIGAN WISCONSI
PENWELL	2.0	EL PASO NATURAL G
PENWELL	0.0	EL PASO NATURAL G
PANHANDLE GRAY	0.0	GETTY OIL CO
PANHANDLE CARSON	65.0	GETTY OIL CO
PANHANDLE CARSON	40.0	GETTY OIL CO
OZONA (CANYON SAND)	0.0	NORTHERN NATURAL
NIX SOUTH	0.0	PHILLIPS PETROLEU
PANHANDLE	16.8	KERR MCGEE CORP
PANHANDLE	0.0	KERR MCGEE CORP
MEANS N (QUEEN SD)	15.5	PHILLIPS PETROLEU
PIPPEN	110.0	CORONADO TRANSMIS
RANGER NW (MARBLE FAL	27.5	COMPRESSOR RENTAL
ALPHA (QUEEN)	0.0	NORTHERN NATURAL
ALPHA (QUEEN)	0.0	NORTHERN NATURAL
COOPER (CONGLOMERATE)	42.0	TEXAS UTILITIES F
COOPER (CONGLOMERATE)	256.0	TEXAS UTILITIES F
SPRABERRY (TREND AREA	0.0	EL PASO NATURAL G
LAKE LEON (COMYN)	0.0	
HARPER	1.4	PHILLIPS PETROLEU
HARPER	4.8	PHILLIPS PETROLEU
HARPER	0.9	PHILLIPS PETROLEU
WASSON 72	1.6	COLTEXO CORP
TXL (TUBB)	6.9	SHELL OIL CO
WASSON 72	4.5	COLTEXO CORP
SPRABERRY (TREND AREA	0.0	PHILLIPS PETROLEU
STEPHENS COUNTY REGUL	0.3	WARREN PETROLEUM
PARDUE	0.9	DAMSON GAS PROCES
LA COPITA	18.0	TRANSCONTINENTAL
BOYD CONGLOMERATE	0.5	CITIES SERVICE OI
BOYD CONGLOMERATE	0.1	CITIES SERVICE OI
SUN NORTH	22.0	FLORIDA GAS TRANS
SPECK S	8.0	LONE STAR GAS CO
RINCON M	19.0	TRANSCONTINENTAL
LYGAY	6.0	LONE STAR GAS CO
STEPHENS COUNTY REGUL	0.9	
EASTLAND COUNTY REGUL	4.0	
EASTLAND COUNTY REGUL	1.0	
GOLDSMITH EAST	3.0	PHILLIPS PETROLEU
STRAWN N W	17.0	SOUTHWESTERN GAS
STRAWN NW	17.0	SOUTHWESTERN GAS
RANGER	4.0	LONE STAR GAS CO
RANGER	7.0	LONE STAR GAS CO
RANGER	3.0	
WALNUT BEND	0.3	UNION TEXAS PETRO
VEALE	14.0	SOUTHWESTERN GAS
SWAN LAKE	10.0	ALUMINUM CO OF AM
RINCON M	18.0	TRANSCONTINENTAL
SUN	4.0	TRANSCONTINENTAL
SUN	1.0	FLORIDA GAS TRANS
SUN	15.0	FLORIDA GAS TRANS
STEPHENS COUNTY REGUL	10.0	WARREN PETROLEUM
BLOODWORTH 5700	0.3	LONE STAR GAS CO
RINCON M	15.0	TRANSCONTINENTAL
SUN NORTH	9.0	FLORIDA GAS TRANS
N JAMESON	2.0	LONE STAR GAS CO
N JAMESON	1.0	LONE STAR GAS CO
PALO PINTO COUNTY REG	0.1	SOUTHWESTERN GAS
STUART	4.0	SOUTHWESTERN GAS
PALO PINTO COUNTY REG	0.1	SOUTHWESTERN GAS
PALO PINTO COUNTY REG	0.1	SOUTHWESTERN GAS
PALO PINTO COUNTY REG	0.1	SOUTHWESTERN GAS
PALO PINTO COUNTY REG	0.1	SOUTHWESTERN GAS
PALO PINTO COUNTY REG	0.1	SOUTHWESTERN GAS
PALO PINTO COUNTY REG	0.1	SOUTHWESTERN GAS
PALO PINTO COUNTY REG	0.9	SOUTHWESTERN GAS

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8417342	F-7B-076809	4236300000		108		J M STUART #196	PALO PINTO COUNTY REG	0.1	SOUTHWESTERN GAS
8417311	F-7B-076778	4236300000		108		J R STUART #5	PALO PINTO COUNTY REG	9.0	
8417292	F-6E-076758	4218300000		108		J S ELDER #12	EAST TEXAS	0.3	WARREN PETROLEUM
8417379	F-7C-076929	4208100000		108		J S WALKER #6	BLOODWORTH	6.0	LONE STAR GAS CO
8417323	F-7B-076790	4236300000		108		JULIA R STUART #1	STRAWN NW	2.0	SOUTHWESTERN GAS
8417296	F-7B-076763	4215100000		108		KITTIE WOODALL #1	TOLAR	0.6	DAMSON GAS PROCES
8417302	F-7B-076769	4215100000		108		KITTIE WOODALL #2	TOLAR	0.1	DAMSON GAS PROCES
8417326	F-6E-076793	4218300000		108		M T COLE #17	EAST TEXAS	0.3	ARCO OIL & GAS CO
8417313	F-04-076780	4242700000		108		MARRS-MCLEAN #10	LOCKHART	7.0	TENNESSEE GAS PIP
8417305	F-7B-076772	4242900000		108		MCDONALD RYAN UNIT #1	EAST RYAN	0.5	
8417382	F-02-076933	4246900000		108		MCFADDIN #1-13	MCFADDIN	10.0	TENNESSEE GAS PIP
8417282	F-7B-076747	4243300000		108		MCMILLIN A/C-8 #6	GUEST	1.0	CITIES SERVICE OI
8417284	F-7B-076749	4243300000		108		MCMILLIN A/C-8 #7	GUEST	0.8	CITIES SERVICE OI
8417283	F-7B-076748	4243300000		108		MCMILLIN CANYON SU #26	GUEST	0.8	CITIES SERVICE OI
8417280	F-7B-076745	4243300000		108		MCMILLIN CANYON SU #44	GUEST	0.4	CITIES SERVICE OI
8417281	F-7B-076746	4243300000		108		MCMILLIN CANYON SU #9	GUEST	0.9	CITIES SERVICE OI
8417332	F-09-076799	4209700000		108		MURRELL-GRIGSBY UNIT #2	COOKE COUNTY REGULAR	0.7	UNION TEXAS PETRO
8417384	F-7B-076936	4213300000		108		N CENTRAL RANGER UNIT #3-52	EASTLAND COUNTY REGUL	19.0	
8417288	F-7B-076753	4213300000		108		NORTH CENTRAL RANGER UNIT # 2-28	EASTLAND COUNTY REGUL	0.6	LONE STAR GAS CO
8417285	F-7B-076750	4213300000		108		NORTHWEST RANGER UNIT #20-4	EASTLAND COUNTY REGUL	11.0	LONE STAR GAS CO
8417383	F-7B-076935	4213300000		108		NORTHWEST RANGER UNIT #37-1	EASTLAND COUNTY REGUL	0.3	
8417298	F-7B-076765	4213300000		108		O H DELANO #2	EASTLAND COUNTY REGUL	0.1	LONE STAR GAS CO
8417325	F-7B-076792	4213300000		108		O H DELANO #3	EASTLAND COUNTY REGUL	0.1	LONE STAR GAS CO
8417381	F-04-076931	4224900000		108		P CANALES #108	T-C-B	0.6	FLORIDA GAS TRANS
8417335	F-7B-076802	4214300000		108		PORTER STATE UNIT #1U	INDIANOLA	18.0	SOUTHWESTERN GAS
8417317	F-7B-076784	4242900000		108		R J BROWN #1	STEPHENS COUNTY REGUL	0.0	
8417324	F-7B-076791	4242900000		108		R J BROWN #2	STEPHENS COUNTY REGUL	2.0	
8417312	F-7B-076779	4242900000		108		R L BUCHANAN #3	STEPHENS COUNTY REGUL	0.3	WARREN PETROLEUM
8417289	F-7B-076754	4213300000		108		R L HOWARD #8	EASTLAND COUNTY REGUL	2.0	LONE STAR GAS CO
8417301	F-7B-076768	4213300000		108		RANGER MCCLESKY SU #9	RANGER	19.0	SUN GAS TRANSMISS
8417314	F-7B-076781	4236700000		108		ROCK CREEK UNIT #3	SANDRA K AND LAKE MIN	36.0	SOUTHWESTERN GAS
8417388	F-08-076930	4249500000		108		S M HALLEY -B- #10	WEINER/COLBY SAND/	0.3	NORTHERN NATURAL
8417385	F-08-076937	4249500000		108		S M HALLEY -B- #9	WEINER/COLBY SAND/	0.3	NORTHERN NATURAL
8417297	F-04-076764	4224900000		108		SEELIGSON UNIT #16-97T	SEELIGSON	8.0	TENNESSEE GAS PIP
8417392	F-03-076958	4219931592		103		SUN FEE LOT 28 #1	SARATOGA WEST	12.0	UNITED TEXAS TRAN
8417387	F-04-076939	4242700000		108		V L DE PENA #2	KELSEY	13.0	FLORIDA GAS TRANS
8417307	F-7B-076774	4242900000		108		VEALE PARKS (CADDO) UNIT #23	STEPHENS COUNTY REGUL	3.0	WARREN PETROLEUM
8417320	F-7B-076787	4242900000		108		VEALE PARKS CADDO UNIT #14	STEPHENS COUNTY REGUL	0.3	WARREN PETROLEUM
8417318	F-7B-076785	4242900000		108		VEALE PARKS CADDO UNIT #16	STEPHENS COUNTY REGUL	2.0	WARREN PETROLEUM
8417306	F-7B-076773	4242900000		108		VEALE PARKS CADDO UNIT #20	STEPHENS COUNTY REGUL	2.0	WARREN PETROLEUM
8417310	F-7B-076777	4242900000		108		VEALE PARKS CADDO UNIT #25	STEPHENS COUNTY REGUL	0.8	WARREN PETROLEUM
8417303	F-7B-076770	4242900000		108		VEALE PARKS CADDO UNIT #26	STEPHENS COUNTY REGUL	0.9	WARREN PETROLEUM
-SUNNYBROOK OIL & GAS INC				RECEIVED:	01/20/84	JA: TX			
8417260	F-06-076711	4240131680		103		D K GOODE #1	BRACHFIELD (TRAVIS PE	456.0	TEXAS UTILITIES F
-TEXACO INC				RECEIVED:	01/20/84	JA: TX			
8417363	F-08-076876	4217331194		102-4		G W CURRIE #1	GARDEN CITY S	109.5	PHILLIPS PETROLEU
8417348	F-10-076827	4217900000		108		M B DAVIS NCT-1 #2	PANHANDLE GRAY COUNTY	0.5	COLTEXO CORP
8417347	F-10-076826	4217900000		108		M B DAVIS NCT-1 #26	PANHANDLE GRAY COUNTY	3.6	COLTEXO CORP
8417350	F-08-076833	4243131346		107-TF		STERLING "J" FEE #7	CONGER (PENN)	144.5	REATA INDUSTRIAL
-THREE B OIL CO				RECEIVED:	01/20/84	JA: TX			
8417439	F-08-077168	4237134551		103		CREDO-STARK #2	CATLYNN WEST (CLEARFO	32.8	DELHI GAS PIPELIN
-TRITON OIL & GAS CORP				RECEIVED:	01/20/84	JA: TX			
8417455	F-8A-077245	4203330580		102-4		WOLF #1	WOLF (CANYON)	18.0	GETTY OIL CO
-TXO PRODUCTION CORP				RECEIVED:	01/20/84	JA: TX			
8417400	F-7B-076991	4236732467		103		ECHO VALLEY #1	KUZELL (CONGLOMERATE)	350.0	SOUTHWESTERN GAS
8417401	F-7B-076992	4236732573		103		ECHO VALLEY #2	CABBAGE PATCH (BIG SA	250.0	SOUTHWESTERN GAS
-UNITED CO				RECEIVED:	01/20/84	JA: TX			
8417358	F-8A-076849	4207930546		108		MARTY WRIGHT 930 072328	LEVELLAND (SAN ANDRES	19.5	EL PASO NATURAL G
-W B D OIL & GAS CO				RECEIVED:	01/20/84	JA: TX			
8417437	F-10-077159	4234131014		103		DEBI #3 (ID# 05485)	PANHANDLE MOORE	40.0	DIAMOND CHEMICALS
-W L BRUCE OPERATOR				RECEIVED:	01/20/84	JA: TX			
8417217	F-10-076636	4234130878		103		PETER #1 (ID #05292)	PANHANDLE MOORE	40.0	TRANS-PAN GATHERI
8417216	F-10-076635	4234130890		103		PETER #2 (ID #05292)	PANHANDLE MOORE	116.0	TRANS-PAN GATHERI
8417215	F-10-076634	4234130997		103		PETER #3 (ID #05292)	PANHANDLE MOORE	146.0	TRANS-PAN GATHERI
-WAGNER & BROWN				RECEIVED:	01/20/84	JA: TX			
8417409	F-08-077022	4243131358		103		GLASS "D" 86-25	CONGER (PENN)	115.5	TEXAS UTILITIES F
-WARREN PETR CO A DIV OF GULF OIL CO				RECEIVED:	01/20/84	JA: TX			
8417223	F-08-076642	4210333160		103		J B TUBB B (TR A) #67	SAND HILLS (MCKNIGHT)	244.5	EL PASO NATURAL G
8417222	F-08-076641	4210333214		103		P J LEA ETAL (TR B) #153	LEA (SAN ANDRES)	43.1	EL PASO NATURAL G
8417221	F-08-076640	4210333266		103		P J LEA ETAL (TR B) #158	LEA SOUTH (CLEARFORK)	43.1	EL PASO NATURAL G
-WILLIAMS EXPLORATION COMPANY				RECEIVED:	01/20/84	JA: TX			
8417240	F-03-076678	4219932018		103		CHOATE BLOCK 4 LOT 3 #11	NEW BATSON	4.0	MATADOR PIPELINE
8417239	F-03-076677	4219932019		103		CHOATE BLOCK 4 LOT 3 #12	NEW BATSON	6.0	MATADOR PIPELINE
-WOODBINE EXPLORATION				RECEIVED:	01/20/84	JA: TX			
8417451	F-7B-077226	4225332738		103		GRIFFITH #2	MOODLE N (CISCO LOWER	22.0	UNITED TEXAS TRAN
-WY-VEL CORP				RECEIVED:	01/20/84	JA: TX			
8417367	F-10-076897	4217931438		103		AEBERSOLD (84984) #12	PANHANDLE	18.0	CABOT CORP

[FR Doc. 84-4852 Filed 2-22-84; 8:45 am]

BILLING CODE 6717-01-C

[Vol. No. 1068]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: February 17, 1984.

The following notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" before the section code. Estimated annual production (PROD) is in million cubic feet (MMCF).

The applications for determination are available for inspection except to the extent such material is confidential under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol St., Washington, D.C. Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 275.204, file a protest with the Commission within fifteen days after publication of notice in the **Federal Register.**

Source data from the Form 121 for this and all previous notices is available on magnetic tape from the National Technical Information Service (NTIS). For information, contact Stuart Weisman (NTIS) at (703) 487–4808, 5285 Port Royal Rd., Springfield, Va. 22161.

Categories within each NGPA section are indicated by the following codes:

Section 102–1: New OCS lease
102–2: New well (2.5 Mile rule)
102–3: New well (1000 Ft rule)
102–4: New onshore reservoir
102–5: New reservoir on old OCS lease
Section 107–DP: 15,000 feet or deeper
107–GB: Geopressured brine
107–CS: Coal Seams
107–DV: Devonian Shale
107–PE: Production enhancement
107–TF: New tight formation
107–RT: Recompletion tight formation
Section 108: Stripper well
108–SA: Seasonally affected
108–ER: Enhanced recovery
108–PB: Pressure buildup

Kenneth F. Plumb,
Secretary.

NOTICE OF DETERMINATIONS
ISSUED FEBRUARY 17, 1984

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
KANSAS CORPORATION COMMISSION									
-ANADARKO PRODUCTION COMPANY				RECEIVED:	01/20/84	JA: KS			
8417468	K-83-0505	1506700000		108		GALL A #2	PANOMA	18.0	PANHANDLE EASTERN
8417480	K-83-0581	1517500000		108		HOWLAND A #1	SHUCK	17.0	CIMARRON-QUINQUE
8417509	K-83-0288	1518920640		103		LAIRD A #1	PANOMA	391.0	PANHANDLE EASTERN
8417503	K-83-0715	1512920354		103		LOW E #7	SANTA FE TRAIL	2.0	CIMARRON-QUINQUE
8417481	K-83-0578	1517520540		108		MCGILL A #1	ADAMSON	16.8	CIMARRON QUINQUE
8417505	K-83-0713	1512920319		103		SNYDER C #2	SANTA FE TRAIL	38.0	CIMARRON-QUINQUE
8417504	K-83-0714	1512920577		103		SNYDER C #3	SANTA FE TRAIL	13.0	CIMARRON-QUINQUE
-ANADARKO PRODUCTION COMPANY				RECEIVED:	01/23/84	JA: KS			
8417683	K-83-0638	1517520629		102-4		GODDARD C #1	SHUCK	250.0	CIMARRON-QUINQUE
8417635	K-83-0656	1512920542		108		LOW B #2	CIMARRON VALLEY S W	6.0	CIMARRON-QUINQUE
-ASSOCIATED PETROLEUM CONSULTANTS IN				RECEIVED:	01/23/84	JA: KS			
8417656	K-83-0666	1500721605		103		Z BAR RANCH 2-11	SALT FORK	8.0	DELHI GAS PIPELIN
8417657	K-83-0667	1500721613		103		Z BAR RANCH 3-1	SALT FORK	8.0	DELHI GAS PIPELIN
-ATTICA GAS VENTURE CORP				RECEIVED:	01/23/84	JA: KS			
8417643	K-83-0706	1507720902		103		CITY OF ATTICA #3	SULLIVAN-STALNAKER	360.0	PEOPLES NATURAL G
-AURORA INC				RECEIVED:	01/20/84	JA: KS			
8417466	K-83-0525	1515520876		108		R L KREHBIEL #1	FISHBURN	18.0	PEOPLES NATURAL G
-BENSON MINERAL GROUP				RECEIVED:	01/20/84	JA: KS			
8417492	K-82-0479	1512524391		108		WISE 5-5	JEFFERSON-SYCAMORE	9.8	UNION GAS SYSTEMS
-BENSON MINERAL GROUP				RECEIVED:	01/23/84	JA: KS			
8417659	K-83-0665	1514521058		103		DITUS 3-4	BURDETT	403.0	NORTHERN NATURAL
8417681	K-83-0648	1514520801		102-2		HAMMEKE C #1-20	STEFFEN SO	3.8	NORTHERN NATURAL
8417682	K-83-0647	1514521060		102-2		THOMPSON C #1-17	STEFFEN SOUTH	10.9	NORTHERN NATURAL
8417661	K-83-0671	1514521091		102-2		TINDALL-AKERS 2-25	BURDETT EXT	4.6	NORTHERN NATURAL
-BURK LEROY E				RECEIVED:	01/23/84	JA: KS			
8417645	K-83-0662	1512526369		102-2		BURK #10	COFFEYVILLE-CHERRYVAL	0.0	CITIES SERVICE CO
8417647	K-83-0660	1512522236		102-2		BURK #2	COFFEYVILLE-CHERRYVAL	0.0	CITIES SERVICE CO
8417646	K-83-0661	1512524226		102-2		BURK #6	COFFEYVILLE-CHERRYVAL	0.0	CITIES SERVICE CO
-CHAMPLIN PETROLEUM COMPANY				RECEIVED:	01/20/84	JA: KS			
8417458	K-83-0685	1517520609		103		FITZGERALD "A" #1-2	SILVERMAN	0.0	NORTHERN NATURAL
8417459	K-83-0686	1517520610		103		FITZGERALD "B" #1-11	SILVERMAN	0.0	NORTHERN NATURAL
8417457	K-83-0684	1517520624		103		FITZGERALD "C" #1-11	SILVERMAN	0.0	NORTHERN NATURAL
-CITIES SERVICE COMPANY				RECEIVED:	01/20/84	JA: KS			
8417586	K-82-0429	1518920543		102-4		RENNICK "A" #2	KINNEY FIELD	201.9	PANHANDLE EASTERN
-E S ENERGY SOURCES INC				RECEIVED:	01/23/84	JA: KS			
8417680	K-83-0652	1512525664		102-2		EUDALY #1 (API NO 15-125-25,664)	SALT FORK	14.4	PELICAN PIPELINE
8417685	K-83-0637	1512524628		102-2		FIELDS #1 (API NO 15-125-24,620)	SALT FORK	14.4	PELICAN PIPELINE
8417686	K-83-0636	1512525766		102-2		FIELDS #2 (API NO 15-125-25,766)	SALT FORK FIELD	14.4	PELICAN PIPELINE
-EDGAR W WHITE				RECEIVED:	01/20/84	JA: KS			
8417514	K-83-0013	1512920485		108		INTERSTATE RED CAVE #4	INTERSTATE RED CAVE	36.0	COLORADO INTERSTA
8417515	K-83-0014	1512920616		108		SCHWEIZER RED CAVE #4	INTERSTATE RED CAVE	13.0	PANHANDLE EASTERN
-ENERGY EXPLORATION & PRODUCTION INC				RECEIVED:	01/20/84	JA: KS			
8417467	K-83-0518	1505520371		103		KLEYSTEUBER-GILLEN "B" #1	HUGOTON	0.0	K N ENERGY INC
-FAIRWAY PETROLEUM INC				RECEIVED:	01/20/84	JA: KS			
8417495	K-83-0519	1500520028		102-2		BRACKE #1	LEAVENWORTH	50.0	NORTHWEST CENTRAL

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME
8417496	K-83-0591	1510320280		102-2		CHAPMAN #1
8417487	K-83-0693	1510320219		102-2		WILKES #1
-GATES & COFFMAN INC				RECEIVED:	01/20/84	JA: KS
8417478	K-83-0584	1503521904		108		DALE #1
-HINKLE OIL COMPANY				RECEIVED:	01/20/84	JA: KS
8417482	K-83-0570	1514520544		108-ER		GATTERMAN #1
-INTEGRATED ENERGY INC				RECEIVED:	01/20/84	JA: KS
8417494	K-83-0587	1515520947		101		MORRIS #2
-INTERNORTH INC				RECEIVED:	01/23/84	JA: KS
8417636	K-83-0681	1503320362		102-2		GIRK 11 #1
-J & N GAS CO				RECEIVED:	01/20/84	JA: KS
8417489	K-83-0623	1512720436		102-2		DOMANN #32-1
-JIM OSBORN OIL & GAS EXPLORATION				RECEIVED:	01/20/84	JA: KS
8417483	K-83-0619	1509120504		102-4		ARNDT #1
8417484	K-83-0620	1509120526		102-4		ARNDT #2
-LADD PETROLEUM CORPORATION				RECEIVED:	01/20/84	JA: KS
8417501	K-83-0675	1502520616		102-2		E F HARRIS #1-3
8417502	K-83-0674	1502520615		102-2		GOELLER #1-4
8417500	K-83-0676	1502520703		102-2		SCHLICHTING #1-2
8417499	K-83-0677	1505720321		102-2		SHELOR #1-33
-LADD PETROLEUM CORPORATION				RECEIVED:	01/23/84	JA: KS
8417663	K-83-0673	1502520671		102-2		FAGER #2-3
8417639	K-83-0678	1502520669		102-2		TEDFORD #2-10
-LUFF EXPLORATION CO				RECEIVED:	01/23/84	JA: KS
8417631	K-83-0682	1503320602		103		LUFF #G-26 LGK
-M C E TRUST GROUP				RECEIVED:	01/23/84	JA: KS
8417638	K-83-0679	1509921898		102-2		BLANKENSHIP #4
-MCCOY PETROLEUM CORP				RECEIVED:	01/23/84	JA: KS
8417630	K-83-0622	1507720925		101		HONN "A" #2
-MCGINNESS OIL COMPANY				RECEIVED:	01/23/84	JA: KS
8417634	K-83-0655	1508721640		103		MOLZ FARMS INC #1 (#2 STERLING)
-MESA PETROLEUM CO				RECEIVED:	01/20/84	JA: KS
8417526	K-83-0598	1511920592		103		ADAMS #1-9
-MIDLANDS GAS CORPORATION				RECEIVED:	01/20/84	JA: KS
8417508	K-83-0271	1502320174		108		WILMER HILT #1
-MOBIL OIL CORP				RECEIVED:	01/20/84	JA: KS
8417513	K-82-1340	1518920576		103		F F RAPP UNIT "B" #2
8417497	K-83-0592	1507120285		103		KANSAS AGRICULTURAL DEVELOPMENT #1
8417498	K-83-0593	1518920586		103		R CRAWFORD UNIT #3
8417488	K-83-0687	1518920613		103		WRD #2 UNIT #4
-MURFIN DRILLING CO				RECEIVED:	01/20/84	JA: KS
8417506	K-83-0718	1518521569		103		ENGLISH-REID "C" #2
-MURFIN DRILLING CO				RECEIVED:	01/23/84	JA: KS
8417640	K-83-0709	1502520720		102-2		TEDFORD #4-10
-NORTHERN NATURAL GAS PRODUCING CO				RECEIVED:	01/20/84	JA: KS
8417485	K-83-0705	1518920490		101		K BROWN UNIT #2
8417528	K-83-0594	1518920649		103		WAYLAND #1 UNIT #3 WELL
-NORTHERN NATURAL GAS PRODUCING CO				RECEIVED:	01/23/84	JA: KS
8417637	K-83-0680	1518920629		103		LIGHTCAP #2 FARM #3
-OIL LIFT INC				RECEIVED:	01/20/84	JA: KS
8417493	K-83-0586	1509921871		102-2		BARNDOLLAR #10 (API#15-099-21,871)
8417486	K-83-0694	1512526251		102-2		BLECHA #1 (API#15-125-26,251)
8417456	K-83-0683	1512526132		102-2		WALTRIP #1 (API#15-125-26132)
8417477	K-83-0585	1512524006		102-2		ZIMMERMAN #1 (API#15-125-24006)
-OILWELL EQUIPMENT CO				RECEIVED:	01/20/84	JA: KS
8417516	K-83-0206	1510320190		102-2		J GURSS #1
-OILWELL EQUIPMENT CO INC				RECEIVED:	01/23/84	JA: KS
8417633	K-83-0654	1500520029		102-2		HIGHFILL #1
8417632	K-83-0653	1500520030		102-2		TEAGUE #1
-PETRO-VALLEY SERVICES CORP				RECEIVED:	01/20/84	JA: KS
8417472	K-83-0555	1501120561		102-2		CHAMBER #1
8417471	K-83-0556	1501120907		102-2		CHAMBERS #2
8417517	K-83-0566	1501121707		102-2		COYAN #1
8417519	K-83-0564	1501121718		102-2		D FINK #1
8417462	K-83-0548	1501121621		102-2		D RUSSELL #5
8417518	K-83-0565	1501126014		102-2		DANIELS #1
8417520	K-83-0563	1501120564		102-2		GRIFFITH #1
8417470	K-83-0557	1501121015		102-2		L COMSTOCK #1
8417469	K-83-0558	1501121717		102-2		L COMSTOCK #2
8417521	K-83-0562	1501120520		102-2		L HARTMAN #1
8417522	K-83-0561	1501121711		102-2		L HARTMAN #2
8417523	K-83-0560	1501121714		102-2		L HARTMAN #4
8417524	K-83-0559	1501121709		102-2		M COMSTOCK #1
8417463	K-83-0547	1501121018		102-2		PIOTROWSKI #1
8417465	K-83-0545	1501120580		102-2		R HARTMAN #1
8417464	K-83-0546	1501121713		102-2		R HARTMAN #2
8417461	K-83-0549	1501120583		102-2		R RUSSELL #1
8417460	K-83-0550	1501120850		102-2		R RUSSELL #2
8417476	K-83-0551	1501121718		102-2		R RUSSELL #4
8417475	K-83-0552	1501121708		102-2		TODD #1
8417474	K-83-0553	1501120710		102-2		TOEPFER #1
8417473	K-83-0554	1501121716		102-2		TOEPFER #2
-RAINS & WILLIAMSON OIL CO INC				RECEIVED:	01/23/84	JA: KS
8417660	K-83-0672	1518521709		101		COPELAND #1
-RCR DRILLING & PLUGGING CO				RECEIVED:	01/23/84	JA: KS
8417687	K-83-0634	1512525683		102-2		VAVERKA #2
8417684	K-83-0635	1512525846		102-2		VAVERKA #3
-REACH OIL CORP				RECEIVED:	01/23/84	JA: KS
8417641	K-83-0708	1507720893		103		BASSFORD #1
-RESOURCE VENTURES CORP				RECEIVED:	01/20/84	JA: KS
8417525	K-83-0617	1507720911		103		JAMES J & NYLA J FERRELL #5
-RICKS EXPLORATION CO				RECEIVED:	01/20/84	JA: KS
8417587	K-82-1410	1517520577		102-4		KEATING 23-A
-ROBERT F WHITE				RECEIVED:	01/23/84	JA: KS
8417662	K-83-0670	1511521030		103		DAVIS-ALBRECHT
-SAGE DRILLING CO INC				RECEIVED:	01/20/84	JA: KS
8417512	K-82-1025	1517520578		103		BLACK #1-1
-SOUTHLAND ROYALTY CO				RECEIVED:	01/23/84	JA: KS
8417658	K-83-0668	1517520495		102-4		TUCKER #1-25
-TGT PETROLEUM CORPORATION				RECEIVED:	01/23/84	JA: KS
8417642	K-83-0707	1509720958		103		ASHLEY "A" #2
-THE MAURICE L BROWN COMPANY				RECEIVED:	01/23/84	JA: KS
8417644	K-83-0663	1509720947		103		DORSETT #2
-THOMAS E L				RECEIVED:	01/20/84	JA: KS

FIELD NAME	PROD	PURCHASER
LEAVENWORTH	50.0	NORTHWEST CENTRAL
LEAVENWORTH	45.0	NORTHWEST CENTRAL
GURSKEY	25.0	BUCKEYE NATURAL G
GATTERMAN	9.0	NATURAL GAS PIPEL
SW YODER	730.0	PEOPLES NATURAL G
COLLIER FLATS	0.0	NORTHERN NATURAL
WILDCAT	36.5	FOOR PIPELINE COR
OLATHE	0.0	NORTHWEST CENTRAL
OLATHE	0.0	NORTHWEST CENTRAL
NORCAN EAST	8.2	KANSAS POWER & LI
NORCAN EAST	13.7	KANSAS POWER & LI
WILDCAT	693.5	
WILDCAT	524.8	KANSAS POWER & LI
NORCAN EAST	37.0	KANSAS POWER & LI
NORCAN EAST	28.7	
SCHUETTE	532.0	KANSAS GAS SUPPLY
CHERRYVALE-COFFEYVILL	20.0	SALEM PIPELINE CO
SPIVEY-GRABS	30.0	PEOPLES NATURAL G
HARDTNER	200.0	KANSAS GAS SUPPLY
UNDESIGNATED MORROW	756.0	KANSAS POWER & LI
CHERRY CREEK GAS AREA	21.0	K-N ENERGY INC
PANOMA COUNCIL GROVE	36.0	NORTHWEST CENTRAL
BRADSHAW	39.4	NATURAL GAS SALES
	205.5	NORTHERN NATURAL
GENTZLER	175.3	NORTHERN NATURAL
MACKSVILLE EAST	41.0	
NORCAN EAST	6.0	KANSAS POWER & LI
WALKEMEYER LOWER MORR	200.0	NORTHERN NATURAL
PANOMA COUNCIL GROVE	12.5	NORTHERN NATURAL
PANOMA COUNCIL GROVE	24.9	NORTHERN NATURAL
VALEDA	11.0	REM INDUSTRIES IN
JEFFERSON SYCAMORE	7.3	PELICAN PIPELINE
JEFFERSON SYCAMORE	5.1	PELICAN PIPELINE
JEFFERSON SYCAMORE	7.3	PELICAN PIPELINE
	20.0	WESTERN CRUDE OIL
HIGHFILL	7.0	LAGGS INC
TEAGUE	7.0	LAGGS INC
SOUTH REDFIELD	7.0	NORTHWEST CENTRAL
SOUTH REDFIELD	7.0	NORTHWEST CENTRAL
SOUTH REDFIELD	4.0	NORTHWEST CENTRAL
SOUTH REDFIELD	7.0	NORTHWEST CENTRAL
SOUTH REDFIELD	7.0	NORTHWEST CENTRAL
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SOUTH REDFIELD	4.0	NORTHWEST CENTRAL
SOUTH REDFIELD	7.0	NORTHWEST CENTRAL
SOUTH REDFIELD	7.0	NORTHWEST CENTRAL
HARTER POOL	36.0	CENTRAL STATES GA
COFFEYVILLE - CHERRYV	29.2	NORTHWEST CENTRAL
COFFEYVILLE-CHERRYVAL	73.0	NORTHWEST CENTRAL
WILDCAT	45.0	QUIVIRA GAS CO
SULLIVAN	70.0	PEOPLES NATURAL G
WILDCAT	100.0	PANHANDLE EASTERN
LOST SPRINGS	18.0	NORTHWEST CENTRAL
SOUTH KISMET	90.5	PANHANDLE EASTERN
ARCHER	118.0	NORTHERN NATURAL
EINSEL	45.0	PANHANDLE EASTERN
ALFORD EXTENSION	25.0	KANSAS GAS SUPPLY

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8417587	K-83-0269	1509500000		108		KREMBIEL #1	SPIVEY-GRABS BASIL	9.0	PEOPLES NATURAL G
-TRIAD ENERGIES INC				RECEIVED:	01/23/84	JA: KS			
8417655	K-83-0633	1512523307		108-ER		MYERS NORTH #1	COFFEYVILLE-CHERRYVAL	21.6	NORTHWEST CENTRAL
8417654	K-83-0632	1512523308		108-ER		MYERS NORTH #2	COFFEYVILLE-CHERRYVAL	21.6	NORTHWEST CENTRAL
8417651	K-83-0629	1512523582		108-ER		MYERS NORTH #5	COFFEYVILLE-CHERRYVAL	21.6	NORTHWEST CENTRAL
8417650	K-83-0628	1512523583		108-ER		MYERS NORTH #6	COFFEYVILLE-CHERRYVAL	21.6	NORTHWEST CENTRAL
8417649	K-83-0627	1512523584		108-ER		MYERS NORTH #7	COFFEYVILLE-CERRYVALE	21.6	NORTHWEST CENTRAL
8417652	K-83-0630	1512523585		108-ER		MYERS NORTH #8	COFFEYVILLE-CHERRYVAL	21.6	NORTHWEST CENTRAL
8417653	K-83-0631	1512523586		108-ER		MYERS NORTH #9	COFFEYVILLE-CHERRYVAL	21.6	NORTHWEST CENTRAL
-TXO PRODUCTION CORP				RECEIVED:	01/20/84	JA: KS			
8417527	K-83-0597	1509521362		102-2		ALBERS "E" #1	KOMAREK	150.0	DELHI CORP
8417478	K-83-0624	1515121305		102-4		BORTZ #2	BRANT	100.0	DELHI CORP
8417529	K-83-0723	1500721569		102-4		MEANS "B" #2	SAWYER SOUTH	210.0	CENTRAL STATES GA
8417530	K-83-0725	1500721606		102-4		RANDELS "A" #1	TONI-MIKE	140.0	KANSAS POWER & LI
8417531	K-83-0726	1509720743		102-4		WALKER "M" #3	GLICK	90.0	KANSAS GAS SUPPLY
8417491	K-83-0625	1515121317		102-4		WAYLAN #1	BRANT	150.0	DELHI CORP
-TXO PRODUCTION CORP				RECEIVED:	01/23/84	JA: KS			
8417648	K-83-0626	1502510718		102-2		HUFF "A" #1	FAGER SE	100.0	
-ZENITH DRILLING CORPORATION INC				RECEIVED:	01/20/84	JA: KS			
8417479	K-83-0583	1504721104		103		SETTE #4	WIL	36.0	CENTRAL STATES GA
-ZINKE & TRUMBO LTD				RECEIVED:	01/20/84	JA: KS			
8417510	K-83-0493	1511920611		103		JOHANNSEN #1-32	MISSOM MOHLER NE	5.0	
8417511	K-83-0494	1511920602		103		LOLA WURDEMAN #1-31	MOHLER NE	5.0	
LOUISIANA OFFICE OF CONSERVATION									
-GOUDRICH OIL CO				RECEIVED:	01/20/84	JA: LA			
8417532	83-1653	1706120287		107-TF		DYE #1 LCV RA SUI	TERRYVILLE	730.0	TEXAS GAS TRANSMI
-INEXCO OIL COMPANY				RECEIVED:	01/20/84	JA: LA			
8417533	82-3081	1703920223		102-4		LAHAYE BROTHERS INC #1D	PINE PRAIRIE	28.0	LOUISIANA INTRAST
MONTANA BOARD OF OIL & GAS CONSERVATION									
-CENERGY EXPLORATION CO				RECEIVED:	01/23/84	JA: MT			
8417621	12-83-189	2508321674		103		RASMUSSEN #27-1	NOHLY	0.0	MGPC INC
-MIDLANDS GAS CORPORATION				RECEIVED:	01/23/84	JA: MT			
8417627	4-83-64	2507121801		108		KELLY RANCH 1 2821	BOWDOIN	5.0	KN ENERGY INC
-MILESTONE PETROLEUM INC				RECEIVED:	01/23/84	JA: MT			
8417626	12-83-179	2508321672		102-2		BN 44-5	SAGEBRUSH	300.0	SHELL OIL CO
-SHELL OIL CO				RECEIVED:	01/23/84	JA: MT			
8417619	12-83-192	2502521240		103		PENNEL UNIT 11-17B	PENNEL	27.7	MONTANA DAKOTA UT
8417618	12-83-191	2502521242		103		PENNEL UNIT 33-5B	PENNEL	2.1	MONTANA DAKOTA UT
-TRICENTROL UNITED STATES INC				RECEIVED:	01/23/84	JA: MT			
8417617	12-83-178	2504122245		103		MYSTROM 14-5	BULLHOOK UNIT	473.7	NORTHERN NATURAL
-XENO INC				RECEIVED:	01/23/84	JA: MT			
8417628	12-83-188	2500521999		108		XENO BATTLE 11-23	BATTLE CREEK	6.6	BATTLE CREEK GAS
8417622	12-83-185	2500522011		108		XENO BATTLE 13-15	BATTLE CREEK	15.7	BATTLE CREEK GAS
8417624	12-83-183	2500521964		108		XENO BATTLE 7-22	BATTLE CREEK	15.3	BATTLE CREEK GAS
8417623	12-83-184	2500522057		108		XENO E CHOUTEAU 12-8	BATTLE CREEK	49.2	BATTLE CREEK GAS
8417628	12-83-181	2507121697		108		XENO N SACO 13-19	BOWDOIN DOME	9.9	MONTANA-DAKOTA UT
8417629	12-83-180	2507121730		108		XENO N SACO 2-19	BOWDOIN DOME	10.6	MONTANA-DAKOTA UT
8417625	12-83-182	2507121729		108		XENO N SACO 5-19	BOWDOIN DOME	9.5	MONTANA-DAKOTA UT
NEW MEXICO DEPARTMENT OF ENERGY & MINERALS									
-AMOCO PRODUCTION CO				RECEIVED:	01/24/84	JA: NM			
8417675		3004509255		108		MCCOY GAS COM "C" #1	FLORA VISTA - MESAVER	10.0	EL PASO NATUAL GA
8417669	C0106063	3001523549		103		STATE MV #1	WILDCAT WOLFCAMP	63.0	TRANSWESTERN PIPE
8417674		3004509214		108		STEDJE GAS COM #1	BASIN DAKOTA	14.0	EL PASO NATURAL G
-EXXON CORPORATION				RECEIVED:	01/24/84	JA: NM			
8417667		3002526363		108		NEW MEXICO "Z" STATE #2	LANGLIE MATTIX	5.0	EL PASO NATURAL G
-GULF OIL CORPORATION				RECEIVED:	01/24/84	JA: NM			
8417664		3002511612		108-PB		ARNOTT-RAMSAY (NCT-E) #2	JALMAT GAS	17.8	NORTHERN NATURAL
8417671		3002511612		108-PB		ARNOTT-RAMSAY (NCT-E) #2	JALMAT GAS	17.8	NORTHERN NATURAL
8417672		3002511612		108-PB		ARNOTT-RAMSAY (NCT-E) #2	JALMAT GAS	18.8	NORTHERN NATURAL
8417670		3002509468		108-PB		MANDA (NCT-C) #1	JALMAT GAS	15.7	NORTHERN NATURAL
-LIVELY EXPLORATION COMPANY				RECEIVED:	01/24/84	JA: NM			
8417678		3004521262		108-PB		LIVELY #15	BASIN	0.0	EL PASO NATURAL G
8417677		3004521579		108-PB		LIVELY #25	BASIN	0.0	EL PASO NATURAL G
8417679		3004521349		108-PB		LIVELY COM #14	BASIN	0.0	EL PASO NATURAL G
-MOBIL PROD TEXAS & NEW MEXICO INC				RECEIVED:	01/24/84	JA: NM			
8417666		3003923037		103		LINDRITH B UNIT #24	CHACON-DAKOTA ASSOCIA	128.0	NORTHWEST PIPELIN
8417665		3003923247		103		LINDRITH B UNIT #25	CHACON-DAKOTA ASSOCIA	73.0	NORTHWEST PIPELIN
-RAY WESTALL				RECEIVED:	01/24/84	JA: NM			
8417673		3001524399		103		MOBIL STATE #1	UND N SO LAKE B-SA	0.0	PHILLIPS PETROLEU
-TEXACO INC				RECEIVED:	01/24/84	JA: NM			
8417676		3002528408		103		NEW MEXICO "AT" STATE #11Y	SAUNDERS PERMO UPPER	213.9	WARREN PETROLEUM
-UNION TEXAS PETROLEUM				RECEIVED:	01/24/84	JA: NM			
8417668		3002528198		103		W B BARNHILL #1	SOUTH KING (DEVONIAN)	110.0	WARREN PETROLEUM
OKLAHOMA CORPORATION COMMISSION									
-ALEXANDER ENERGY CORP				RECEIVED:	01/20/84	JA: OK			
8417603	26066	3513723471		103		STEELE #1-35		0.0	
-ANDERMAN/SMITH OPERATING CO				RECEIVED:	01/20/84	JA: OK			
8417589	23866	3504321663		102-2		FISK #1	S W LEEDEY	125.0	
-BENSON-MONTIN & CO				RECEIVED:	01/20/84	JA: OK			
8417604	26079	3510300000		103		GAFFORD #1	WEST PERRY	10.0	ARCO OIL & GAS CO
-BRAMLETT CORP				RECEIVED:	01/20/84	JA: OK			
8417606	26084	3505321161		103		FERDA #1-28	N HUMA	197.0	FARMLAND INDUSTRI
8417605	26082	3505321107		103		MARSHALL #1-21	NE ZION	14.0	UNION TEXAS PETRO
-BROCK HYDROCARBONS INC				RECEIVED:	01/20/84	JA: OK			
8417588	23707	3504520997		102-4		NORMAN #1-10	ROCKDALE SE GAGE	0.0	DELHI GAS PIPELIN
-CHAMPLIN PETROLEUM COMPANY				RECEIVED:	01/20/84	JA: OK			
8417602	26028	3515100000		108		C & R CAMPBELL #1	STATE LINE	14.0	PANHANDLE EASTERN
8417600	26023	3515100000		108		CLEO CAMPBELL UNIT #1	STATE LINE	13.0	PANHANDLE EASTERN
8417601	26024	3507300000		108-SA		NORA O'HERN CAIN #1	DOVER MENNESSEY	7.0	MUSTANG GAS PRODU
-DECK OIL CO				RECEIVED:	01/20/84	JA: OK			
8417592	23975	3506300000		102-2		FURGERSON #1	CALVIN	0.0	HILLTOP INVESTMEN
8417591	23976	3506300000		102-2		LONDON #1	CALVIN	0.0	HILLTOP INVESTMEN
-GOLDKING PRODUCTION COMPANY				RECEIVED:	01/20/84	JA: OK			
8417594	25326	3509322117		108		A S ECK #2	NORTHWEST RINGWOOD	0.0	UNION TEXAS PETRO
8417595		3519322187		108		E E ROBERTSON #2	NORTHWEST RINGWOOD	0.0	UNION TEXAS PETRO
-HELMERICH & PAYNE INC				RECEIVED:	01/20/84	JA: OK			

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8417590	23948	3512920994		102-2		WICKHAM #1-1	N E STRONG CITY	730.0	DELHI GAS PIPELIN
-HUNGERFORD OIL & GAS INC				RECEIVED:	01/20/84	JA: OK			
8417607	26086	3504722792		103		SIMMERING #1	#1 SIMMERING	92.0	ARCO OIL & GAS IN
-LAEL OIL & GAS PRODUCTION CO				RECEIVED:	01/20/84	JA: OK			
8417608	26089	3510121992		103		STEVENS #3	BALD HILL	241.6	PHILLIPS PETROLEU
-MARATAN RESOURCES CORP				RECEIVED:	01/20/84	JA: OK			
8417609	26091	3507323845		103		WILLARD #1-5	SOONER TREND	30.0	PHILLIPS PETROLEU
-MOBIL OIL CORP				RECEIVED:	01/20/84	JA: OK			
8417599	25992	3513700000		108		ALMA PICKENS #2-10 C S GOODWIN #10	SHO VEL TUM	0.0	OKLAHOMA NATURAL
8417598	25991	3513700000		108		COUNTYLINE #7-4 GERTIE MARTIN #4	SHO VEL TUM	1.7	OKLAHOMA NATURAL
8417597	25990	3513700000		108		WILDHORSE UNIT #19-4 (W B KREBS #4)	SHO VEL TUM	0.0	OKLAHOMA NATURAL
-RIVONDALE OIL CO INC				RECEIVED:	01/20/84	JA: OK			
8417611	26109	3513322408		103		DAVIS #2-26		47.0	SOUTHWEST GATHERI
8417610	26108	3513321828		103		LOY #1		47.0	SOUTHWEST GATHERI
-UNIT DRILLING & EXPLORATION CO				RECEIVED:	01/20/84	JA: OK			
8417593	24043	3504321287		102-3		SQUIRES #1	S E LENORA	280.0	PANHANDLE EASTERN
-WORLDWIDE ENERGY CORPORATION				RECEIVED:	01/20/84	JA: OK			
8417596	25839	3500700000		108		ELLEXSON #1	DOMBEY FIELD	23.0	K N ENERGY INC
**********									
WEST VIRGINIA DEPARTMENT OF MINES									
**********									
-ALLEGHENY LAND & MINERAL COMPANY				RECEIVED:	01/20/84	JA: WV			
8417553		4706103097		108		A - 1047	COURT HOUSE DISTRICT	0.0	CONSOLIDATED GAS
8417552		4706103168		108		A - 1148	FREEMANS CREEK DISTRI	0.0	CONSOLIDATED GAS
8417551		4706103171		108		A - 1179	FREEMONS CREEK DISTRI	0.0	CONSOLIDATED GAS
-ASHLAND EXPLORATION INC				RECEIVED:	01/20/84	JA: WV			
8417550		4701900479		108		EASTERN GAS & FUEL #75 -092991	PAINT CREEK	10.0	COLUMBIA GAS TRAN
-ASTRAL ENERGY INC				RECEIVED:	01/20/84	JA: WV			
8417578		4708506229		103		JAY GOFF #2	UNION DISTRICT	0.0	CARNEGIE NATURAL
-ATLAS ENERGY CORP				RECEIVED:	01/20/84	JA: WV			
8417579		4704700899		103		ROBERT TYSON #4	WELCH QUAD	0.0	CITY OF WELCH W V
8417580		4704700897		103		ROBERT TYSON JR #1	WELCH QUAD (BROWNS CR	0.0	CITY OF WELCH W V
-BRAXTON OIL AND GAS CORP				RECEIVED:	01/20/84	JA: WV			
8417563		4702103800		108		DARNALL #4	GILMER 7.5	10.0	CONSOLIDATED GAS
8417564		4700701673		108		HUFFMAN #2	BURNSVILLE	10.0	CONSOLIDATED GAS
-CABOT OIL & GAS CORP				RECEIVED:	01/20/84	JA: WV			
8417555		4707901040		108		J L MCLEAN A-94	UNION	10.2	TENNESSEE GAS PIP
8417559		4703501579		108		PARSONS B-1	RIPLEY	8.7	TENNESSEE GAS PIP
8417581		4703903801		107-DV		PAUL ROBERTS #1	WASHINGTON	15.0	TENNESSEE GAS PIP
8417554		4707901050		108		PUTNAM B-18	UNION	14.4	TENNESSEE GAS PIP
-CHASE PETROLEUM				RECEIVED:	01/20/84	JA: WV			
8417572		4708504801		108		WEEKLEY #1	CLAY DISTRICT	5.0	CONSOLIDATED GAS
8417571		4708504802		108		WEEKLEY #2	CLAY DISTRICT	9.0	CONSOLIDATED GAS
-CLAY RESOURCES INC				RECEIVED:	01/20/84	JA: WV			
8417535		4710700659		108		LETHA BUNGARD #3	CLAY DISTRICT	0.0	CONSOLIDATED GAS
8417534		4710700777		108		LETHA BUNGARD #4	CLAY DISTRICT	0.0	CONSOLIDATED GAS
-CONSOLIDATED GAS SUPPLY CORPORATION				RECEIVED:	01/20/84	JA: WV			
8417549		4708505145		108		BLANCHE STEWART 12682	CLAY	18.0	GENERAL SYSTEM PU
8417560		4704700850		108		CONSOLIDATED COAL CORP #865 12654	ELKHORN	16.0	GENERAL SYSTEM PU
8417565		4703301142		108		CONSOLIDATION COAL CO 12358	CLAY	4.0	GENERAL SYSTEM PU
8417561		4703302768		108		CONSOLIDATION COAL CO 12750	CLAY	5.0	GENERAL SYSTEM PU
8417562		4702103878		108		EDNA STALNAKER 12743	CENTER	1.0	GENERAL SYSTEM PU
8417566		4701701848		108		S F & F E JOSEPHS 12139	MCCLELLAN	13.0	GENERAL SYSTEM PU
-FALCON SCIENCES INC				RECEIVED:	01/20/84	JA: WV			
8417575		4708502729		108		BRISSEY #1	DRAXIE BRISSEY	2.6	EQUITABLE GAS CO
-GENE STALNAKER INC				RECEIVED:	01/20/84	JA: WV			
8417577		4708506563		103		LANGFORD S-118	UNION	0.0	CONSOLIDATED GAS
-INLAND EXPLORATION INC				RECEIVED:	01/20/84	JA: WV			
8417585		4708505521		102-4		D & S REYNOLDS #1	GRANT	70.4	CONSOLIDATED GAS
8417583		4708505871		102-4		ECHARD #1	GRANT	51.1	CONSOLIDATED GAS
8417582		4708505872		102-4		M SIMMONS #1	MURPHY	18.0	CONSOLIDATED GAS
8417584		4708505832		102-4		REYNOLDS #2	GRANT	160.0	CONSOLIDATED GAS
-J & J ENTERPRISES INC				RECEIVED:	01/20/84	JA: WV			
8417536		4708504887		108		J-301	UNION	0.0	CONSOLIDATED GAS
8417539		4701702926		108		J-337	GREENBRIER	0.0	CONSOLIDATED GAS
8417538		4703302517		108		J-388	GRANT	0.0	CONSOLIDATED GAS
8417537		4703302633		108		J-504	UNION	0.0	CONSOLIDATED GAS
-J C BAKER & SONS INC				RECEIVED:	01/20/84	JA: WV			
8417573		4700701767		108		GLADYS BULL	SALT LICK DIST	6.0	CONSOLIDATED GAS
-KAISER ENERGY INC				RECEIVED:	01/20/84	JA: WV			
8417574		4703500669		108		BUSD & RITCHIE INC #2 SIV #30	SILVERTON	0.5	GAS TRANSPORT INC
-KAISER EXPLORATION & MINING CO				RECEIVED:	01/20/84	JA: WV			
8417548		4703501616		107-DV		GRANT DONOHEW KEM #110	ELK/POCA	36.5	KAISER ALUMINUM &
-MCINTOSH AND GRIMM				RECEIVED:	01/20/84	JA: WV			
8417576		4701303357		108		MARY HAYS HEIRS #5	LEE	11.0	CONSOLIDATED GAS
-PEAKE OPERATING CO				RECEIVED:	01/20/84	JA: WV			
8417558		4710900859		108		EASTER #1-A	(OCEANA DISTRICT)	5.0	ROARING FORK GAS
8417556		4710900879		108		GEORGIA PACIFIC #1-AGP	(OCEANA DISTRICT)	5.0	CONSOLIDATED GAS
8417557		4710900879		108		GEORGIA PACIFIC #1-AGP	(OCEANA DISTRICT)	5.0	CONSOLIDATED GAS
8417547		4705901034		107-DV		SIGNIAGO #4-A	(STAFFORD DISTRICT)	5.0	COLUMBIA GAS TRAN
-R & B PETROLEUM INC				RECEIVED:	01/20/84	JA: WV			
8417567		4700101469		108		D DURRETT #1	VALLEY	14.0	PARTNERSHIP PROPE
8417568		4700101292		108		ORION HATHAWAY #1	VALLEY	12.8	PARTNERSHIP PROPE
8417570		4708300370		108		R WILSON #1	ROARING CREEK	7.0	PARTNERSHIP PROPE
8417569		4709701847		108		WRIGHT #1	WARREN-UNION	1.8	COLUMBIA GAS TRAN
-STERLING DRILLING AND PROD CO INC				RECEIVED:	01/20/84	JA: WV			
8417541		4701502037		108		BRAGG #625	OTTER DISTRICT	9.0	BROOKLYN UNION GA
8417540		4701502040		108		BRAGG #628	OTTER DISTRICT	8.7	BROOKLYN UNION GA
-STONEWALL GAS CO				RECEIVED:	01/20/84	JA: WV			
8417545		4703302690		108		MARTS #1 104-S	UNION DISTRICT	17.0	CONSOLIDATED GAS
8417544		4703302691		108		MARTS #2 105-S	UNION	57.0	CONSOLIDATED GAS
8417543		4703302692		108		MARTS #3 108-S	UNION DISTRICT	22.0	CONSOLIDATED GAS
8417542		4704100000		108		RINEHART #1 84-S	MACKERS CREEK DISTRIC	21.0	CONSOLIDATED GAS
-UNIVERSAL COAL CO				RECEIVED:	01/20/84	JA: WV			
8417546		4709700927		108		HINKLE #1 - 47-097-927	WARREN	0.0	CONSOLIDATED GAS
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** DEPARTMENT OF THE INTERIOR, BUREAU OF LAND MANAGEMENT, CASPER,WY									
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-AMOCO PRODUCTION CO				RECEIVED:	01/20/84	JA: WY 5			
8417616	W65-3	4904120381		102-2		CUMMINGS FEDERAL #1-MISSION CANYON	WHITNEY CANYON - MISS	1000.0	NATURAL GAS PIPEL
-ANADARKO PRODUCTION COMPANY				RECEIVED:	01/20/84	JA: WY 5			
8417612	W-109-3	4903721991		102-2		SEVEN MILE GULCH UNIT #14	SEVEN MILE GULCH	198.0	NORTHWEST PIPELIN
-NATURAL GAS CORPORATION OF CALIF				RECEIVED:	01/20/84	JA: WY 5			
8417613	W57-3	4902320519		107-TF		NGC 2-20 FED	ANDERSON CANYON	914.0	PACIFIC GAS TRANS
-NORTH WEST PRODUCTION CORP				RECEIVED:	01/20/84	JA: WY 5			
8417614	W47-3	4903520671		103		NEW FORK #1	WILDCAT	373.0	NORTHWEST PIPELIN
8417615	W28-3	4903520671		107-TF		NEW FORK #1	WILDCAT FT UNION	373.0	NORTHWEST PIPELIN

[FR Doc. 84-4853 Filed 2-22-84; 8:45 am]

BILLING CODE 6717-01-C

VOL
49
ISS
37
FE
23
1984
UMI

federal register

Thursday
February 23, 1984

Part IV

Environmental Protection Agency

40 CFR Part 50

Proposed Reaffirmation of the National Ambient Air Quality Standards for Nitrogen Dioxide; Proposed Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 50

[FRL 2345-6 Docket No. OAQPS 78-9]

Proposed Reaffirmation of the National Ambient Air Quality Standards for Nitrogen Dioxide

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: In accordance with sections 108 and 109 of the Clean Air Act, EPA has reviewed and revised the criteria upon which the existing primary and secondary nitrogen dioxide (NO_2) national ambient air quality standards (NAAQS) are based. The revised criteria document is being published simultaneously with this notice. The existing primary and secondary standards for (NO_2) are both currently set at 0.053 ppm (100 $\mu g/m^3$) as an annual arithmetic average. As a result of the review and revision of the health and welfare criteria, EPA proposes to retain the existing annual average standards. EPA is continuing to evaluate the evidence bearing on whether a separate short-term standard is requisite to protect public health. Consequently, EPA is not proposing to set a separate short-term standard at this time. Public comment is specifically requested on the question of the need for a separate short-term standard.

DATES: *Comments.* Written comments on this proposal must be submitted on or before May 23, 1984. *Public Hearing.* If anyone contacts EPA requesting to speak at a public hearing by March 23, 1984, a public hearing will be held on April 12, 1984 beginning at 10:00 a.m. Persons interested in attending the hearing should call Mr. Harvey Richmond at (919) 541-5655 to determine whether a hearing will occur.

Request to Speak at Hearing. Persons wishing to present oral testimony must contact EPA by March 23, 1984.

ADDRESSES: Submit comments (duplicate copies are preferred) to: Central Docket Section (A-130), Environmental Protection Agency, Attn: Docket No. OAQPS 78-9, 401 M Street, S.W., Washington, D.C. 20460. Docket No. OAQPS 78-9, Containing material relevant to this proposed decision, is located in the Central Docket Section of the U.S. Environmental Protection Agency, West Tower Lobby Gallery I, 401 M St., SW., Washington, D.C. The docket may be inspected between 8:00 a.m. and 4:00 p.m. on weekdays, and a reasonable fee may be charged for copying.

Public Hearing. If anyone contacts EPA requesting to speak at a public hearing, it will be held at EPA's Environmental Research Auditorium, Research Triangle Park, North Carolina. Persons wishing to present oral testimony should notify Mr. Harvey Richmond, Ambient Standards Branch (MD-12), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone number (919) 541-5655.

Availability of Related Information

The revised Criteria Document, "Air Quality Criteria for Oxides of Nitrogen" (EPA-600/8-82-026F, December 1982; PB-83-16337, $53.50 paper copy), and the final revised OAQPS Staff Paper, "Review of the National Ambient Air Quality Standards for Nitrogen Oxides: Assessment of Scientific and Technical Information" (EPA-450/5-82-002, August 1982; PB 83-132829, $13.00 paper copy and $4.50 microfiche), are available from: U.S. Department of Commerce, National Technical Information Service, 5285 Port Royal Road, Springfield, Virginia 22161.

A limited number of copies of other documents generated in connection with this standard review, such as the Control Techniques Document, Regulatory Impact Analysis, and Environmental Impact Statement can be obtained from: U.S. Environmental Protection Agency Library (MD-35), Research Triangle Park, N.C. 27711, telephone (919) 541-2777 (FTS 629-2777).

FOR FURTHER INFORMATION CONTACT: Mr. Michael Jones, Strategies and Air Standard Division (MD-12), Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, N.C. 27711, telephone (919) 541-5531 (FTS 629-5531).

SUPPLEMENTARY INFORMATION:

Background

Legislative Requirements Affecting This Proposal

Two sections of the Clean Air Act govern the establishment and revision of NAAQS. Section 108 (42 U.S.C. 7408) directs the Administrator to identify pollutants which may reasonably be anticipated to endanger public health or welfare and to issue air quality criteria for such pollutants. Such air quality criteria are to reflect the latest scientific information useful in indicating the kind and extent of all identifiable effects on public health or welfare that may be expected from the presence of the pollutant in the ambient air.

Section 109(a) (42 U.S.C. 7409) directs the Administrator to propose and promulgate "primary" and "secondary" NAAQS for pollutants identified under section 108. Section 109(b)(1) defines a primary standard as one the attainment and maintenance of which in the judgment of the Administrator, based on the criteria and allowing for an adequate margin of safety, is requisite to protect the public health. The secondary standard, as defined in section 109(b)(2), must specify a level of air quality the attainment and maintenance of which in the judgement of the Administrator, based on the criteria, is requisite to protect the public welfare from any known or anticipated adverse effects associated with the presence of the pollutant in the ambient air. Welfare effects are defined in section 302(h) (42 U.S.C. 7602(h)) and include effects on soils, water, crops, vegetation, man-made materials, animals, weather, visibility, hazards to transportation, economic values, personal comfort and well-being, and similar factors.

As indicated above, the Act requires not only that primary standards be based on the section 108 criteria, but also that they provide an adequate margin of safety. This requirement was intended to address uncertainties associated with inconclusive scientific and technical information available at the time as well as to provide a reasonable degree of protection against hazards that research has not yet identified.(*1*),(*2*) These uncertainties in the available information and about unidentified human health effects are both components of the risk associated with pollution at levels below those at which human health effects can be said to occur with reasonable scientific certainty. Thus, in providing an adequate margin of safety, the Administrator is regulating not only to prevent pollution levels that have been demonstrated to be harmful, but also so as to prevent pollutant levels for which the risk of harm, even if not precisely identified as to nature or degree, are considered unacceptable. In weighting such risks for margin of safety purposes, EPA considers such factors as the nature and severity of the health effects involved, the size of the sensitive population(s) at risk, and the kind and degree of the uncertainties that must be addressed. The selection of any particular approach to providing an adequate margin of safety is a policy choice left specifically to the Administrator's judgment.(*1*)

As indicated above, section 109(b) specifies that NAAQS are to be based on the scientific criteria issued under

section 108. Several recent judicial decisions make clear that the economic and technological feasibility of attaining NAAQS are not to be considered in setting them, although such factors may be considered to a degree in the development of state plans to implement the standards.(*1*),(*2*)

Section 109(d) of the Act (42 U.S.C. 7409(d)) requires periodic review and, if appropriate, revision of existing criteria and standards. If, in the Administrator's judgment, the Agency's review and revision of criteria make appropriate the proposal of new or revised standards, such standards are to be revised and promulgated in accordance with section 109(b). Alternatively, the Administrator may find that revision of the standards is not appropriate and conclude the review by reaffirming them. The process by which EPA has reviewed the original criteria and standards for nitorgen oxide under section 109(d) is described in a later section of this notice. In addition, section 109(c) specifically requires the Administrator to promulgate a primary standard for NO_2 with an averaging time of not more than 3 hours unless he or she finds no significant evidence that such a short-term standard is required to protect public health.

States are primarily responsible for assuring attainment and maintenance of ambient air quality standards. Under section 10 of the Act (42 U.S.C. 7410), States are to submit to EPA for approval State implementation plans (SIPs) that provide for the attainment and maintenance of such standards through control programs directed to sources of the pollutants included. Other federal programs provide for nationwide reductions in emissions of these and other air pollutants through the federal motor vehicle control program, which involves controls for automobile, truck, bus, motorcycle, and aircraft emission under Title II of the act (42 U.S.C. 7501 to 7534), and through the development of new source performance standards for various categories of stationary sources under section 111 (42 U.S.C. 7411).

Nitrogen Oxides and Existing Standards for NO_2

A variety of nitrogen oxide (NO_x) compounds and their transformation products occur naturally and as a result of human activities. Nitric oxide (NO), nitrogen dioxide (NO_2), gaseous nitric acid (HNO_3), in addition to nitrite and nitrate aerosals, have all been found in the ambient air. The formation of nitrosamines in the atmosphere by reaction of NO_x with amines has been suggested, but not yet convincingly demonstrated.

Despite considerable scientific research on the potential health and welfare effects of NO_x compounds, there exists little evidence linking specific health or welfare effects to near ambient concentrations of most of these substances. The one significant exception is NO_2. Therefore, EPA has focused its review primarily on the health and welfare effects that have been reported to be associated with exposure to NO_2.

NO_2 is an air pollutant generated by the oxidation of NO and is emitted from a variety of mobile and stationary sources. At elevated concentrations, NO_2 can adversely affect human health, vegetation, materials, and visibility. Nitrogen oxide compounds may also contribute to increased rates of acidic deposition. Typical long-term ambient concentrations of NO_2 range from 0.001 ppm in isolated rural areas to a maximum annual concentration of appróximately 0.08 ppm in one of the nation's most populated urban areas. The mean annual NO_2 concentration for 186 urbanized areas during 1977–1979 was 0.029 ppm. Over 95 percent of these urbanized areas had annual average NO_2 concentrations below the current 0.053 ppm standard during this same period. During 1977–1979, peak 1-hour average NO_2 concentrations ranged from 0.06 to 0.5 ppm in urbanized areas. In most of these areas, 1-hour average concentrations seldom exceeded 0.30 ppm.

On April 30, 1971, EPA promulgated NAQS for NO_2 under section 109 of the Clean Air Act (36 FR 8186). Identical primary and secondary standards for NO_2 were set at 0.053 ppm (100 $\mu g/m^3$), averaged over one year. The scientific and medical bases for these standards are contained in the document, "Air Quality Criteria for Nitrogen Oxides," published by EPA in January 1971 (AP–84). The primary standard set in 1971 was based largely on a group of epidemiology studies (*3*),(*4*),(*5*) conducted in Chattanooga which reported respiratory effects in children exposed to low-level NO_2 concentrations over a long-term period. Reevaluation of the Chattanooga studies based on more recent information (especially regarding the accuracy of the air quality monitoring method for NO_2 used in the studies) indicates that these studies provide only limited evidence for an association between health effects and ambient exposures to NO_2. These data and other new information, discussed later in this notice, confirm the need for maintaining NO_2 ambient standards.

Development of Revised Air Quality Criteria for NO_x and Summary of Findings

As required by the Clean Air Act Amendments of 1977, EPA has been reviewing the need for revised NO_2 standards since September 1977. In addition to reviewing the existing annual NO_2 standard, the Administrator is required to promulgate a short-term (1 to 3 hours) NO_2 primary standard unless he or she finds that there is no significant evidence that such a standard is required to protect public health. During the summer of 1978, EPA however, expanded the review to include both short- and long-term exposures and standards. This change was made because of the difficulty in attributing reported effects to a particular exposure duration and because of the uncertainty regarding the relative importance of short- and long-term exposures.

On December 12, 1978 (43 FR 58117), EPA announced that it was in the process of reviewing and updating the 1971 document, "Air Quality Criteria for Nitrogen Oxides," in accordance with section 109(d)(1) of the Clean Air Act, as amended. In developing the revised criteria document, EPA has provided a number of opportunities for review and comment by organizations and individuals outside the Agency. Three drafts of the revised NO_x criteria document have been made available for external review. EPA has received and considered numerous comments on each of these drafts. The Clean Air Scientific Advisory Committee (CASAC) of EPA's Science Advisory Board has held two public meetings (January 30, 1979 and November 13–14, 1980) to review successive drafts of the document, "Air Quality Criteria for Oxides of Nitrogen" (Criteria Document). These meetings were open to the public and were attended by many individuals and organization representatives who provided critical reviews and new information for consideration. The CASAC's June 19, 1981, closure letter (*6*) to the Administrator stated that the revised Criteria Document presented a balanced and comprehensive critical review of the pertinent literature on human health effects and that the document accurately reflected the latest scientific knowledge useful in indicating the kind and extent of all identifiable effects on public health or welfare from NO_x in the ambient air.

From the extensive review of scientific information presented in the Criteria Document, findings in several key areas have particular relevance for

consideration in decision making regarding primary and secondary NAAQS for NO_x compounds.

1. Of all the oxides of nitrogen which occur in the atmosphere, NO_2 is the compound of most concern to human health at or near ambient levels.

2. During the period 1975–1980, ambient air NO_2 monitoring data in the United States indicate that peak 1-hour NO_2 concentrations rarely exceeded 0.4 to 0.5 ppm. During that same period, annual average concentrations exceeding 0.05 ppm were found only in a relatively few scattered locations, including population centers such as Chicago and Southern California.

3. At concentrations of 5.0 ppm or above, exposure to NO_2 for as little as 15 minutes both increases airway resistance in healthy human adults and impairs the normal transport of gases between the blood and the lungs.

4. In healthy adults, concentrations of 2.5 ppm NO_2 for 2 hours have been reported to increase airway resistance significantly without altering arterialized oxygen pressure. Single exposures for 3 minutes to NO_2 at concentrations of 1.6 ppm are also likely to increase airway resistance in healthy adults and individuals with chronic bronchitis but are not likely to interfere with the transport of gases between blood and lungs.

5. Single exposures to NO_2 for periods ranging from 3 minutes to 2 hours at concentrations of 1.0 ppm or below have not been shown to affect respiratory function in healthy individuals or in those with bronchitis.

6. Whether asthmatic subjects are more sensitive than healthy adults in experiencing NO_2-induced pulmonary function changes remains to be resolved. One controlled human exposure study suggests that some asthmatics may experience chest discomfort, dyspnea, headache, and/or slight nasal discharge following 2-hr exposures to 0.5 ppm NO_2, but the study did not provide convincing evidence of pulmonary function changes in asthmatics at that NO_2 concentration.

7. Certain animal studies demonstrate various mechanisms of action which may also be the mechanisms by which potential health effects are induced in humans at relatively low NO_2 exposure levels. At higher (generally greater than ambient) NO_2 exposure levels and after long-term exposure, more serious changes such as emphysematous effects have been found in several animal species. Long-term exposures also cause other structural alterations of the lungs as well as biochemical and physiological changes in the lungs and increased susceptibility to respiratory infection in animals.

8. Ongoing studies of the effects of indoor air pollution suggest that, in some instances, an increased incidence of respiratory illness in young children may be associated with the use of gas stoves and possibly with NO_2 produced by these appliances. Caution must be applied, however, in using these findings for standard-setting purposes until (a) they are confirmed by further analyses of data subsequently gathered in the ongoing studies; (b) the significance of potential confounding factors is more clearly understood; and (c) clearer exposure/effect relationships are defined through more intensive NO_2 monitoring in homes using gas stoves.

9. No definitive estimates can yet be provided for peak 1–2 hours, 24 hour, weekly, or annual average NO_2 exposure levels that may be associated with any increased respiratory illness in young children residing in homes using gas stoves, although some basis exists for suggesting that repeated exposures to peak levels are most likely to be involved.

10. Data from human and animal studies are comparable in some ways. Estimates of repeated, short-term peak concentrations of NO_2 possibly associated with increased respiratory illness in homes with gas stoves are only slightly below the lowest (0.5 to 1.0 ppm) repeated exposure concentrations found to increase susceptibility to respiratory infections in animal infectivity studies.

11. At elevated concentrations, NO_2 has been associated with visibility impairment, adverse effects on vegetation, and materials damage. NO_x compounds also may contribute to increased rates of acidic deposition.

Review of Primary NO_2 Standards

In the fall of 1980, the Office of Air Quality Planning and Standards (OAQPS) prepared a paper, "Review of the National Ambient Air Quality Standards for Nitrogen Dioxide: Assessment of scientific and Technical Information (OAQPS Staff Paper)," (7) based on the Criteria Document, which evaluated the available scientific and technical information most relevant to the review of the NO_2 NAAQS. The OAQPS Staff Paper also presented recommendations on alternative approaches to revising the standards. Two successive versions of the OAQPS Staff Paper were reviewed at three CASAC meetings (November 13–14, 1980; February 6, 1981; and November 18, 1981). Based on this review, CASAC concluded that the OAQPS Staff Paper provided the kind and amount of technical guidance needed to make any appropriate revisions to the primary and secondary standards. The CASAC's July 6, 1982, closure letter(8) to the Administrator stated that the revised OAQPS Staff Paper was a balanced and thorough interpretation of the scientific evidence pertaining to NO_2.

The current primary NAAQS for NO_2 is 0.053 ppm (100 $\mu g/m^3$), averaged over one year. As indicated above, the Act requires review of the existing criteria and standards for NO_2 and other pollutants every five years. In addition section 109(c) specifically requires the Administrator to promulgate a primary standard for NO_2 with an averaging time of not more than 3 hours unless he or she finds no significant evidence that such a short-term standard is required to protect public health. Thus, during the current standard review for NO_2, EPA is required to determine whether to initiate rulemaking (1) to revise the current NO_2 standards and/or (2) to establish a new short-term standard for NO_2. For the reasons detailed below, EPA has concluded that the current 0.053 ppm annual average standards adequately protect against adverse health and welfare effects associated with long-term exposures and provide some measure of protection against possible short-term health and welfare effects. EPA is continuing to evaluate the evidence bearing on whether a separate shour-term standard is requisite to protect public health. Consequently, EPA is not proposing to set a separate short-term standard at this time.

As indicated above, section 109(b)(1) of the clean Air act requires EPA to set primary standards, based on the air quality criteria and allowing an adequate margin of safety, which in the Administrator's judgment are requisite to protect the public health. The legislative history of the Act makes clear the Congressional intent to protect sensitive persons who in the normal course of daily activity are exposed to the ambient environment. Air quality standards are to be established with reference to protecting the health of a representative, statistically related, sample of persons comprising the sensitive group rather than a single person in such a group.

EPA's objective, therefore, is to determine whether new or revised primary standards are required, based on the existing scientific evidence, assessment of the uncertainties in this evidence, and a reasonable provision for scientific and medical knowledge yet to be acquired, so as to protect sensitive population groups with an adequate margin of safety. None of the evidence presented in the Criteria Document shows a clear threshold of adverse health effects for NO_2. Rather, there is a

continuum, ranging from NO_2 levels at which health effects are undisputed, through levels at which many, but not all scientists generally agree that health effects have been convincingly shown, down to levels at which the indications of health effects are less certain and more difficult to identify. This does not necessarily mean that there is no threshold, other than zero, for NO_2 related health effects; it simply means no precise threshold can be identified with certainty based on existing medical evidence. Thus, the standard-setting decision does not involve appending an exact margin of safety to a known threshold effect level. Rather, it involves a public health policy judgment that must take into account both the known continuum of effects and any gaps and uncertainties in the existing scientific evidence.

In reviewing the need for any new or revised primary NO_2 standards, EPA must make assessments and judgments in the following areas:

1. Identification of reported effect levels and associated averaging times that medical research has linked to health effects insensitive persons.

2. Characterization of scientific uncertainties with regard to the health effects evidence and judgments concerning which effects are important to consider in reviewing or setting primary standards.

3. Description of the most sensitive population groups and estimates of the size of those groups.

4. Consideration of NO_2 standard levels and averaging times that provided an adequate margin of safety based on NO_2 levels and exposure periods that may affect sensitive population groups, taking into account the various uncertainties.

Assessment of Health Effects Evidence

The OAQPS Staff Paper, which has been placed in the public docket (Docket No. OAQPS 78-9, II-A-7), presents a detailed and comprehensive assessment by EPA staff of the key health effect studies contained in the Criteria Document and critical scientific issues relevant to the review of the existing annual NO_2 standard and the need, if any, for a separate short-term (1 to 3 hour) NO_2 standard. This assessment is summarized below.

A variety of respiratory system effects have been reported to be associated with exposure in humans and animals to NO_2 concentrations less than 2.0 ppm. The most frequent and significant NO_2-induced respiratory effects reported in the scientific literature to date include: (1) Altered lung function and symptomatic effects observed in controlled human exposure studies, (2) increased incidence of acute respiratory illness and symptoms observed in outdoor community epidemiological studies and in indoor community epidemiological studies involving homes with gas stoves, and (3) lung tissue damage and increased susceptibility to infection observed in animal toxicology studies. As the Criteria Document concludes, results from these several kinds of studies collectively provide evidence indicating that certain human health effects may occur as a result of exposures to NO_2 concentrations at or approaching recorded ambient NO_2 levels.

It is important to note that the Criteria Document, OAQPS Staff Paper, and CASAC have identified various limitations and uncertainties that must be considered in interpreting the health effects evidence for NO_2. For example, controlled human exposure studies generally provide information on the effects of NO_2 on healthy adults and certain potentially sensitive population groups exposed to single, short-term exposures to NO_2 or to simple combinations of NO_2 and other pollutants. However, these human exposure studies have not examined the health implications of repeated exposure to such short-term NO_2 concentrations. In addition, controlled human exposure studies tested only for mild "reversible" effects and have excluded certain potentially sensitive population groups (e.g., children and elderly individuals) for ethical reasons. While the various animal studies are very useful for identifying the kinds of effects that may be caused in humans due to exposure to NO_2 and probable mechanisms by which NO_2 may affect the respiratory system, there is not a satisfactory method, at this time, to quantitatively extrapolate to human exposure-response relationships. Finally, the existing community epidemiological studies, which represent real-world conditions, provide information on probable associations between NO_2 exposures and observed health effects, but conclusions from these studies must be qualified because of the presence of other pollutants and other confounding factors.

In assessing the health effects evidence for NO_2 EPA has carefully evaluated each study cited in this preamble, taking into account the limitations and uncertainties discussed in the Criteria Document and by CASAC, as appropriate. However, except as noted, neither CASAC nor the Agency found that these limitations disqualified the studies discussed below for standard-setting purposes.

Animal Toxicology Evidence. Animal toxicology studies improve the understanding of human health effects associated with acute and chronic exposures to NO_2 by providing information on health effects and exposure conditions which would be considered unethical for human testing. Thus, a larger array of potential effects, at known levels of NO_2 exposure, can be evaluated in animals than in humans. The major limitation of animal toxicology studies on NO_2 for standard-setting purposes is that methods for quantitatively extrapolating the exposure-response results from animal studies such as those on NO_2 to humans exposed to NO_2 under ambient conditions are still in the developmental stage.

While the animal toxicology literature does not permit estimation of human effect levels at this time, it does indicate a variety of effects from acute, chronic, and chronic with repeated peak exposures to NO_2. Findings from animal studies (e.g., emphysematous alterations in the lung, (*9*) other morphological changes in the lung, (*10*) and increased susceptibility to infection (*11*), (*12*) involving chronic exposures to 0.5 ppm NO_2 or greater or chronic exposures to 0.1 ppm with repeated peaks of 1.0 ppm NO_2 suggest that chronic exposures to NO_2 may lead to serious adverse health effects in humans. While such exposure levels cannot be quantitatively extrapolated to humans, given the similarities between man and animals, it is likely that the above types of effects observed in several animal species also occur in man, albeit at unknown exposure levels. These effects may include development of chronic respiratory diseases and increased incidence of acute respiratory infection or disease. Less severe and generally reversible effects (e.g., biochemical changes, (*13*), (*14*) interference with hormone metabolism, (*15*) and possible interference with liver metabolism (*16*) have been reported in animals exposed once to NO_2 concentrations in the range 0.2–0.5 ppm.

Interpretation of the community epidemiology studies involving homes with gas stoves, discussed later in this notice, can be aided by supporting evidence from animal toxicology studies indicating increased susceptibility to infection. It has been demonstrated that long-term (21–33 week) exposures of mice to concentrations as low as 0.5 ppm NO_2 with 1-hour peaks of 2.0 ppm NO_2 can cause complete deterioration of alveolar macrophage cells.(*10*) This effect results in a decreased ability of the pulmonary system to defend against

infection. Numerous other animal studies, with exposure periods ranging from three hours to twelve months and exposure concentrations ranging from 0.5 to 7.0 ppm, also show that NO_2 exposures reduce resistance to bacterial lung infections.(*11*),(*12*),(*17–22*)

Controlled Human Exposure Evidence. Controlled human exposure studies provide important data concerning the effects of single, short-term NO_2 exposures on healthy adults and certain groups suspected of being sensitive to NO_2. As discussed above, however, the human exposure studies leave unanswered questions concerning the health impact of repeated short-term exposures or effects on potentially sensitive population groups which have not been tested for ethical reasons, such as children or elderly individuals. Due to current limitations in the sensitivity of pulmonary function testing, controlled human exposure studies are also unable at present to detect any damage to the distal airways of the lung which may be due to NO_2 exposures at or near ambient levels.

The lowest level at which single, short-term peak exposures have been observed to produce effects of definite health concern is approximately 1.0 ppm NO_2. In particular, significant pulmonary function changes have been shown in controlled human exposure studies (*23*), (*24*) in the range of 1.0 to 2.0 ppm for short durations (3 to 10 minutes). The effects were observed in healthy adults and chronic bronchitics at these levels. One study (*25*) indicates that subtle effects that are of uncertain significance for the primary standard, such as mild and reversible symptomatic effects, may occur in some asthmatics after a 2-hour exposure to 0.5 ppm NO_2.

Two controlled human exposure studies (Orehek et al., 1976 (*26*) and Von Nieding et al., 1977 (*27*) report increases in sensitivity to a bronchoconstrictor in asthmatics and healthy adults, respectively, at relatively low levels (0.1 and 0.05 ppm NO_2) for 1–2 hour exposures. The Von Nieding et al. study also involved exposure to 0.025 ppm ozone (O_3) and 0.11 ppm sulfur dioxide (SO_2) in addition to 0.05 ppm NO_2. EPA, however, concurs with the recommendation made by CASAC that these studies not be considered in establishing a lowest observed effect level.(*5*) This conclusion reflects concerns expressed in the Criteria Document and by CASAC over uncertainties in the statistical analysis of the experimental data and uncertainty regarding the significance of responses observed in studies that use a bronchoconstrictor to detect effects. EPA is considering the results of these studies solely as a factor in judging which standard(s) will provide an adequate margin of safety.

Community Epidemiological Evidence. The existing annual primary standard (0.053 ppm) is based in large part on a series of community epidemiology studies (*3*),(*4*),(*5*) conducted in Chattanooga during the late 1960's. The distances of three study communities from a large point source of NO_2 resulted in an apparent gradient of exposure for a six month average of 24-hour values over which illness rates and lung function were determined. The incidence of acute respiratory illness was reported to be higher for each family segment (mothers, fathers, and children) in the high-NO_2 exposure neighborhood than in the intermediate- and low-NO_2 areas. The studies also reported small but statistically significant decreases in lung function in school children living in areas of apparently higher NO_2 concentrations than for children living in areas with lower NO_2 concentrations. However, since measurements of NO_2 for these studies conducted in 1968–1969 employed the Jacobs-Hocheiser method, which was subsequently found to be unreliable, meaningful quantitative estimates of population exposure to NO_2 are not available for the three study areas. In addition, no basis was provided for distinguishing the relative contribution of NO_2 exposures from those of other pollutants present in the study areas. Thus, the Chattanooga studies which used the Jacobs-Hocheiser method to measure NO_2 concentrations provide limited evidence of an association between elevated long-term NO_2 exposures and the occurrence of increased acute respiratory illness and lung function impairment.

In a recently published reanalysis of different acute respiratory illness data collected in Chattanooga in 1972–1973, Love et al. (1982)(*28*) report higher rates of respiratory illness for families living in a designated "high pollution" area compared to families living in "intermediate" and "low pollution" areas. This reanalysis relied on NO_2 monitoring data employing the Saltzman method for 24-hour values and, for part of the study period, continuous chemiluminescent monitoring. The absence of reliable daily NO_2 measurements for part of the study, the small magnitude of differences in annual mean concentrations for the three study areas, and the variability of short-term exposure levels across the three study areas led the authors to conclude that the excesses in illness could not be clearly attributed to specific pollutants or exposure periods. While the Love et al. study appeared after completion of the Criteria Document and has not been reviewed by CASAC, EPA concludes that its findings do not suggest any alteration of EPA's assessment of the health effects evidence.

The only other published outdoor epidemiological study reviewed by CASAC or known to EAP which used valid monitoring techniques and reports effects associated with NO_2 is a Japanese study (*29*) of school children. While impairment of pulmonary function was reported, the effects found in the study were generally not associated with NO_2 alone, but rather with various combinations of air pollutants, including SO_2, particulate matter, and O_3. The data from this study are not sufficient to permit quantitative estimates of specific NO_2 levels that might have been associated with pulmonary function impairment.

In summary, the results of the Chattanooga and Japanese community studies provide some qualitative evidence of a possible association between human exposure to low levels of NO_2 and human health effects, but little, if any, quantitative evidence to relate health effects to specific NO_2 concentrations. The findings of these studies are, however, not inconsistent with the hypothesis, discussed below, that NO_2 in a complex mix with other pollutants in the ambient air adversely affects lung function and/or respiratory illness in children.

Evidence from Epidemiological Studies Involving Homes with Gas Stoves. A series of ongoing epidemiological studies have been conducted in the United States and Britain which investigate the effects of indoor air pollution on individuals living in homes with gas stoves compared to those living in homes with electric stoves. Since several investigators have found significantly higher levels of NO_2 in gas stove versus electric stove homes, these studies provide an opportunity to assess the potential health impacts of repeated, short-term peaks and elevated, long-term exposures of NO_2 on children and adults. The use of data from indoor air pollution studies is solely for the purpose of learning about possible health effects associated with NO_2 and is not related to providing protection from indoor sources.

A series of studies by a British group of investigators (*30–33*) Provide some evidence that children living in gas stove homes experienced an increased incidence of acute respiratory illness

and respiratory symptoms (e.g., coughing, wheezing) compared to children living in homes which use electric stoves. The authors of the British studies have expressed some concern that the effects observed may be due to factors other than NO_2, such as increased water vapor pressure in gas stove homes in Britain. No information is currently available, however, to confirm or refute the possible contribution of other factors, such as increased humidity, to the increases in acute respiratory illness and sysmptoms observed in these studies. Due to the incomplete analysis of possible confounding or covarying factors (e.g., temperature and humidity) and the lack of short-term NO_2 measurements in the homes of the subjects studied, the apparent relationship between NO_2 exposure and respiratory illness in British "gas stove" studies must be qualified at this time.

Initial results from an ongoing prospective epidemiological study (*34*). (*35*) of six communities in the United States ("Six-City Study") provide suggestive evidence that acute respiratory illness was increased in young children before age 2 who were living in homes which used gas stoves for cooking. The Six-City Study also reports small but statistically significant decrements in pulmonary function measurements in children 6 to 9 years of age who lived in gas stove homes. The authors of the study present a biologically plausible hypothesis that the small impairments observed in these children might, if continued over time make them more susceptible to developing respiratory problems during their adult life.

As part of the Six-City Study, 24–hour average NO_2 concentrations were monitored over a 1-year period in the "activity room" (but not the kitchen) of several (5-11) electric and gas stove homes in each of the six communities studies. (*35*) The monitoring results show that NO_2 levels in the gas stove homes were higher than outside levels, while 24-hour average concentration in electric stove homes generally approximated the NO_2 levels observed in the outdoor air. In the same study, (*35*) continuous measurements made in one kitchen of a gas stove home during a 2-week period found that NO_2 levels exceeding 0.25 ppm and even 0.50 ppm can occur during cooking, with such high levels lasting from minutes to hours. The authors speculate that kitchen annual means may exceed 0.06 ppm NO_2 if one extrapolates from other studies. (*35*) Further, short-term hourly NO_2 kitchen levels during cooking were noted as possibly being 5 to 10 times higher than measured mean values. This is in contrast to annual average NO_2 levels of about 0.02 ppm (and no marked peaks) in homes with electric stoves.

The findings from the Six-City Study provide preliminary evidence suggesting that repeated peak short-term exposures to NO_2 may be associated with increased incidence of acute respiratory illness in young preschool-age children and small decrements in lung function in school age children. The hypothesis that such effects are associated with repeated short-term peak NO_2 exposures is based in part on annual average NO_2 levels not being very different in the gas stove versus electric stove homes studied.

A series of studies (*36*), (*37*) by another group of investigators found no association between the use of gas stoves and increased rates of respiratory disease in either children or adults. However, the number of children used in these studies was approximately a factor of 10 smaller than in both the British and Six-City gas stove studies, which yielded an association between increased prevalence of respiratory illness and gas cooking. The relatively small sample size would tend to lessen the likelihood of these studies finding statistically significant differences, since the main health effects being investigated are relatively small differences in disease and symptom prevalence rates.

The cumulative findings from several animal studies support the hypothesis that NO_2 may be the principal agent responsible for the effects observed in the British and Six-City gas stove studies. As discussed previouly, a variety of animal toxicology studies (*11*), (*12*), (*17–22*) in different species have demonstrated that NO_2 exposure impairs respiratory defense mechanisms and increases susceptibility to infection. The findings from these animal studies provide a plausible basis for inferring that NO_2 is associated with the reported increase in incidence of acute respiratory illness in children living in homes with gas stoves. The results from one animal study (*21*) which showed increased susceptibility to infection also suggest that repeated, short-term peak exposures may be a more important factor than long-term, low-level exposures of equivalent dose in causing or contributing to the effects observed in the gas stove home.

Unfortunately, as discussed previously short-term (less than 24-hour) NO_2 values have been monitored in only one home in the Six-City Study to date.(*35*) Based on a review of other studies which have monitored short-term NO_2 levels in American gas stove homes (other than those studied in the Six-City study), (*38*) it would appear that daily maximum 1-hour NO_2 levels rarely exceed 0.5 ppm, but that residents of gas stove homes are exposed frequently to daily peak 1-hour exposures in the range 0.15–0.30 ppm each year. Based on the same review, (*38*) on any given day peak 1-hour NO_2 levels in the kitchen may range from 0.03 to 0.80 ppm. While there is only a small amount of data available to base conclusions on the frequency of exposure to short-term peak NO_2 levels, the data reviewed in the OAQPS Staff Paper suggest that residents, including children, living in American gas stove homes, such as those included in the Six-City Study, might have been exposed to hourly NO_2 concentrations in the range 0.15 to 0.30 ppm on 20 to 50 percent of the days in a year (approximately 75 to 180 days per year).

Population Groups Most Sensitive to NO_2 Exposures

On the basis for the review of the health effects evidence presented in the Criteria Document, EPA believes that the following groups may be more sensitive to NO_2 exposures: young children, asthmatics, chronic bronchitics, and individuals with emphysema or other chronic respiratory diseases. In addition, there is reason to believe that persons with cirrhosis of the liver or other liver, hormonal, and blood disorders, or persons undergoing certain types of drug therapies may also be more sensitive to NO_2 based on the findings from animal studies showing increased systemic, hematological, and hormonal alterations after exposure to NO_2. Due to the lack of human experimental data for these latter groups, however, EPA is considering the potential effects on such persons only as a factor in providing an adequate margin of safety.

In EPA's judgment, the available health effects data identify young children and asthmatics as the groups at greatest risk from ambient exposures to NO_2. Several epidemiological studies (30),(31),(34) in gas stove homes suggest that young children are at increased risk of respiratory symptoms and infection from exposures to elevated levels of NO_2. Although there are no data on this question, this increased sensitivity may be due to (1) the higher activity level of children which can increase the dose experience, (2) a potential difference in the delivered dose of NO_2, which is independent of activity levels, (3) some inherently greater biological sensitivity of children to NO_2, or (4) a combination of some or all of these potential factors.

One human clinical study (*25*) provides evidence that some asthmatics suffer mild symptomatic effects (e.g., nasal discharge, headaches, dizziness, and labored breathing) after light to moderate exercise during an exposure to 0.5 ppm NO_2 for two hours.

Other groups that may be susceptible to NO_2 exposures are chronic bronchitics and individuals suffering from emphysema. One human clinical study (*24*) reports increased airway resistance in a group of chronic brochitics following approximately three-minute exposures at or above 1.6 ppm NO_2. Although there are no human experimental studies of NO_2 involving individuals with emphysema, it seems reasonable to include such persons in the category of high risk individuals since they suffer from major impairment in breathing capacity even in the absence of NO_2.

The U.S. Bureau of the Census (*39*) estimated that the total number of children under five years of age in 1970 was 17,163,000 and the number between five and thirteen years was 36,575,000. Data from the U.S. National Health Survey (*40*) for 1970 indicate that there were 6,526,000 chronic bronchitics, 6,031,000 asthmatics, and 1,313,000 emphysematics at the time of the Survey. Although there is overlap on the order of about one million persons for these last three categories, it is estimated that over twelve million persons experienced these chronic respiratory conditions in the U.S. In 1970.

Margin of Safety Considerations

Selecting an ambient air quality standard with an adequate margin of safety requires that uncertainties in the health effects evidence be considered in arriving at the standard. While the lowest NO_2 concentrations reliably linked to identifiable health effects due to single or repeated peak exposures appear to be in the range of 0.5–1.6 ppm NO_2 (based in symptomatic effects (*25*) and pulmonary function impairment (*23, 24*), a clear threshold for adverse health effects has not been established. Several factors make it difficult, if not impossible, to identify the minimum NO_2 level associated with adverse health effects.

As discussed earlier, for ethical reasons, clinical investigators have generally excluded from studies individuals who may be very sensitive to NO_2 exposures, such as children, elderly individuals, and people with severe pre-existing cardio-pulmonary diseases. In addition, human susceptibility to health effects varies considerably among individuals. Thus, it is not certain that the available experimental evidence for NO_2 has accounted for the full range of effects and human susceptibility. Finally, there is no assurance that all adverse health effects related to low level NO_2 exposures have been identified.

Factors that have been considered in assessing whether the current NO_2 standard provides an adequate margin of safety include: (1) Concern for potentially sensitive populations that have not been adequately tested, (2) concern for repeated peak exposures and delayed effects seen in animal studies but seldom examined in controlled human exposure studies, (3) implications of the Orehek et al. (1976) study(*26*) in which a bronchoconstrictor was used, (4) possible synergistic or additive effects between NO_2 and other pollutants or environmental stresses,(*27*) and (5) uncertainty about the exposure levels and averaging times associated with effects reported in the "gas stove" studies.

Determinations Concerning the Averaging Time and Standard Level

As discussed previously, EPA is required both to review the adequacy of the existing 0.053 ppm annual NO_2 standard and to determine whether a short-term (less than 3 hours) NO_2 standard is required to protect public health. Although the scientific literature supports the conclusion that NO_2 does pose a risk to human health, there is no single study or group of studies that clearly defines human exposure-response relationships at or near current ambient NO_2 levels. This situation exists because of both methodological limitations of health effects research and the lack of sufficient studies involving population groups suspected of being particularly sensitive to NO_2. Based on the review of the health effects evidence presented in the Criteria Document, however, both EPA and the CASAC have concluded that the studies reviewed above have demonstrated the occurrence of health effects resulting from both short-term and long-term NO_2 exposures. However, the various uncertainties in the health effects data make it impossible to specify at this time the lowest level at which adverse health effects are believed to occur in humans due to either short- or long-term NO_2 exposures.

Annual Standard. In reviewing the scientific basis for an annual standard, EPA finds that the evidence showing the most serious health effects associated with NO_2 exposures (e.g., emphysematous alterations in the lung and increased suceptibility to infection) comes from animal studies conducted at concentrations well above those permitted in the ambient air by the current annual standard. The major limitation of these studies for standard-setting purposes is that currently there is no satisfactory method for quantitatively extrapolating exposure-response results from these animal studies directly to humans. However, the seriousness of these effects, the biological similarities between humans and test animals, and the absence of animal studies showing that these effects do not occur at NO_2 exposure levels at or near ambient concentrations suggest that there is some risk, presently unquantifiable, to human health from long-term exposure to elevated NO_2 levels.

Other evidence suggesting health effects relating to long-term, low-level exposures, such as the community epidemiology and gas stove community studies, provides some qualitative evidence of a relationship between human exposure to near ambient levels of NO_2 and adverse health effects. However, various limitations in these studies (e.g., unreliable monitoring data, lack of sufficient monitoring data, and inadequate treatment of potential confounding factors such as humidity and other pollutants) preclude derivation of quantitative dose-response relationships.

Given the uncertainty associated with the extrapolation from animal to man, the seriousness of the observed effects, and the inability to determine from the available data an effects level for humans, EPA believes it would be prudent public health policy to maintain the current annual standard of 0.053 ppm. While it is not possible currently to quantify the margin of safety provided by the existing annual standard. Two observations are relevant: (1) A 0.053 ppm standard is consistent with CASAC's recommendation to set the annual standard at the lower end of the range (0.05 to 0.08 ppm) cited in the OAQPS Staff Paper to ensure an adequate margin of safety against both long-term and short-term health effects, (*8*) (2) a 0.053 ppm standard would keep annual NO_2 concentrations considerably below the long-term levels for which serious chronic effects have been observed in animals. Therefore, the Agency is proposing to retain the annual standard at 0.053 ppm. The Agency welcomes comments on this proposal, the arguments presented for selecting this standard, and any additional information on the efects of chronic exposure to NO_2.

Short-Term Standard. EPA also has carefully examined the health effects data base to determine whether a separate short-term standard is needed at this time. As discussed previously, adverse health effects (e.g., significant but reversible changes in lung function) in humans resulting from single, short-term peak exposures have been observed only at relatively high NO_2 concentrations (above 1 ppm). However, since such levels do not appear to occur in the ambient air, the Agency does not believe that existing information from clinical studies necessitates a short-term standard designed to limit single hourly exposures. While animal studies report some responses from single, short-term exposures in the range of 0.2 to 0.5 ppm $NO_2$the health significance of these findings for humans has not been established.

Finally, both EPA and CASAC have extensively examined the community indoor epidemiology studies (the "gas stove" studies) and concluded that there is some limited and in-conclusive evidence that repeated peak NO_2 exposures may cause increases in acute respiratory illness and small decrements in lung function in children. The findings from numerous animal studies demonstrating reduced resistance to infection due to NO_2 exposure support the hypothesis that NO_2 is the primary agent responsible for the effects observed in the gas stove studies. While the Criteria Document warns that considerable caution should be used in drawing firm conclusions from the gas stove studies, the tentative conclusion is that the observed health effects can be attributed, at least in part, to NO_2. In addition, findings from animal toxicology studies suggest that short-term, peak exposures probably are more important in causing such effects than long-term peak exposures of equivalent dose. The CASAC also stated that the effects observed in the Six-City Study(*34*) may be caused by repeated, short-term peak exposures rather than long-term, lower level NO_2 concentrations, although this has not yet been conclusively demonstrated. Both CASAC and the study authors have cautioned EPA against overinterpretation of these data in reviewing the basis and need for NO_2 primary standards.

While the findings from the gas stove studies are preliminary and must be qualified, in EPA's judgment they do suggest that multiple exposures to peak short-term NO_2 concentrations may pose some unquantified health risk for young children. This judgement is based on EPA's assessment of (1) community studies reporting adverse health effects for young children potentially exposed to repeated peak NO_2 concentrations in gas stove homes, and (2) several toxicology studies which report biological damage in animals exposed repeatedly to short-term peak NO_2 concentrations. Unfortunately, as previously stated, indoor community studies have not adequately controlled for potential confounding variables (factors that vary with NO_2) that could alter the magnitude of the observed relationship between NO_2, and the health effects variables and the statistical significance of the relationship. Moreover, even if such effects are attributable solely to NO_2, neither the indoor community studies nor the animal toxicology studies adequately address what short-term concentration levels and frequencies of exposure produce them. (Information on NO_2 exposures in gas stove homes is limited to totally separate studies that indicate the 1–2 hour levels in the range of 0.15 to 0.30 ppm may occur on 75 to 180 days per year).(*38*)

Analysis of Short-Term Peaks in the Ambient Air

Despite the uncertainties mentioned above, both the Agency and the CASAC are concerned that frequent and repeated exposures for one to two hours to NO_2 levels in the range of 0.15 to 0.30 ppm may be of concern for children. For that reason, the Agency conducted an analysis of existing ambient air quality data to determine the frequency and levels of short-term ambient concentrations in areas that have annual average concentrations less than or equal to 0.053 ppm (the existing primary standard level). While the evidence concerning the health effects from short-term exposures is limited and uncertain, the purpose of the analysis was to assess the extent to which alternative annual standards would protect against short-term concentrations.

The results of the analysis are discussed in the OAQPS Staff Paper (OAQPS 78–9, II–A–7) for ambient data collected during 1977 through 1979. A similar analysis of ambient data collected during the period 1979–1981 has been placed in the docket (OAQPS 78–9, II–A–9). The Agency is conducting an exposure analysis to determine the actual population exposure to various concentrations given the daily activity patterns of exposed populations and will make it available before promulgation.

The results of the air quality analyses indicate that the number of short-term peak NO_2 concentrations in areas currently experiencing annual levels at the lower end of the CASAC range of 0.05–0.08 ppm is far less than the number of short-term peak concentrations estimated to occur in gas stove homes. Based on a detailed statistical analysis of the new data, if air quality just met the current NO_2 annual standard, EPA's best estimate is that daily maximum 1-hour concentrations would not be expected to exceed even 0.15 ppm (the lowest end of the range of potential concern) on more than 35 days per year. For all counties with annual averages currently at or below the existing 0.053 annual standard and having at least one day with a maximum 1-hour value at or above 0.15 ppm, the mean number of days with daily maximum concentrations exceeding 0.15 ppm is only 7.1 days, and the median is 3.5 days. As mentioned previously, data collected in homes separate from the community health studies indicate that levels in the range of 0.15 to 0.30 ppm NO_2 may have occurred for 1–2 hour periods on 20 to 50 percent of the days in the year (approximately 75 to 180 days per year). (*38*) For the reasons discussed above, it is not clear whether repeated exposures to NO_2 at these levels have any health significance.

Because of the large scatter in the NO_2 air quality data, the Agency could not derive a highly correlated relationship between annual concentrations and one hour levels at the same site. Therefore meeting a specified annual average does not assure that a given specified short-term level will not be exceeded (or depending on the level, will not be exceeded many times). However, there is a trend of lower one hour maxima being associated with lower annual averages. Despite the lack of a firm relationship between these averaging times, it has also been observed that where the annual average is at or below the current 0.053 standard, days with one-hour concentrations in excess of any specified level (including levels in the range of 0.15 to 0.30 ppm) tend to be fewer in number than at locations where the 0.053 ppm level is exceeded. Based on a review of the information presented in the Criteria Document and the OAQPS Staff Paper, CASAC concluded that

> * * * the primary annual standard to control long-term NO_2 concentrations can * * * be set at a level that also provides adequate protection against repeated short term exposures.
>
> The staff paper suggests an annual standard set within the range of .05–.08 ppm. Based on the above discussion, the need to provide adequate protection against repeated short-term peak exposures, and due to the

uncertainties of the data base, the CASAC recommends that you consider selecting a primary annual standard level at the lower end of the .05–.08 ppm range to ensure an adequate margin of safety of protection against both long-term and short-term health effects.

Proposed Action on Standard. Based on the data presented in the Criteria Document, analyses summarized in the OAQPS Staff Paper and docket report (II–A–9), and CASAC's recommendations, the Agency concludes that the current 0.053 ppm annual average standard adequately protects against adverse health effects associated with long-term exposures and provides some measure of protection against possible short-term health effects. EPA is continuing to evaluate the evidence bearing on whether a separate short-term standard is requisite to protect public health. Consequently, EPA is not proposing to set a separate short-term standard at this time.

On the basis of the preceding analyses and in view of CASAC's recommendation, EPA proposes to retain the existing 0.053 ppm annual standard. In assessing whether this standard will protect the public health with an adequate margin of safety, the Agency has considered the following factors, all of which have been discussed previously in the OAQPS Staff Paper and in this notice: (1) Concern for potentially sensitive populations that have not been adequately tested, (2) concern for repeated peak exposures and delayed effects, seen in animal studies but seldom tested in human clinical studies, (3) implications of the Orehek et al. (1976) study (*26*) in which a bronchoconstrictor was used, (4) possible synergistic or additive effects with other pollutants or environmental stresses (*27*), (5) uncertainty about exposure levels and averaging times associated with effects reported in the gas stove studies, and (6) uncertainties regarding the relationship between annual average and short-term peak NO_2 concentrations based on air quality analyses discussed above.

In view of the uncertainties mentioned above, EPA specifically solicits public comments on the proposal to retain the current 0.053 ppm annual NO_2 primary standard and the need, if any, for a separate short-term primary NO_2 standard. Public comments on this issue should identify any scientific evidence that supports any particular standard level and other relevant elements of the standard, such as averaging time, number of exceedances, and form of the standard.

Welfare Effects and the Secondary Standard

As indicated above, section 109(b) of the Clean Air Act mandates the setting of secondary NAAQS to protect the public welfare from any known or anticipated adverse effects associated with an air pollutant in the ambient atmosphere. A variety of effects on public welfare have been attributed to NO_2 and NO_x compounds. These effects include increased rates of acidic deposition, symtomatic effects in humans, vegetation effects, materials damage, and visibility impairment. The OAQPS Staff Paper (OAQPS 78–9, II–A–7) discusses each of the welfare effects of concern in detail. The following discussion summarizes the welfare-related effects discussed in the OAQPS Staff Paper, and CASAC's comments relating to the secondary NO_2 NAAQS.

The issue of acidic deposition was not directly assessed in the OAQPS Staff Paper because EPA has followed the guidance given by CASAC on this subject at its August 20–22, 1980 public meeting on the draft document, "Air Quality Criteria for Particulate Matter and Sulfur Oxides." The CASAC concluded that acidic deposition is a topic of extreme scientific complexity because of the difficulty in establishing firm quantitative relationships between emissions of relevant pollutants, formation of acidic wet and dry deposition products, and effects on terrestrial and aquatic ecosystems. Secondly, acidic deposition involves, at a minimum, the criteria pollutants of oxides of sulfur, oxides of nitrogen, and the fine particulate fraction of suspended particulates. Finally, the Committee felt that any document on this subject should address both wet and dry deposition, since dry deposition is believed to account for at least one-half of the total acid deposition problem. For these reasons, the Committee felt that a separate comprehensive document on acidic deposition should be prepared prior to any consideration of using NAAQS as a regulatory mechanism for control of acidic deposition. CASAC also suggested that a discussion of acidic precipitation be included in the criteria documents for both NO_x and particulate matter/sulfur oxides as well. In response to these recommendations, EPA is in the process of developing an acidic deposition document that will provide comprehensive treatment of this subject. EPA anticipates that a draft of this document will be reviewed by CASAC in the early summer of this year.

As defined in section 302(h) of the Act, welfare effects include effects on personal comfort and well being. Mild symptomatic effects were observed in 1 of 7 bronchitics and in 7 of 13 asthmatics during or after exposure to 0.5 ppm NO_2 for 2 hours in the Kerr et al. (1979) study. (*25*) The authors indicate that the symptoms were mild and reversible and included slight headache, nasal discharge, dizziness, chest tightness and labored breathing during exercise. In EPA's judgment, these mild symptomatic effects affect personal comfort and well being and could be considered adverse in certain situations. CASAC generally agreed with this judgment, but felt that short-term peaks associated with these effects are rarely observed in areas where the current annual standard of 0.053 ppm was met.

Evidence in the Criteria Document and information provided by plant physiologists (*41–43*) have indicated that visible injury to vegetation due to NO_2 alone occurs at levels which are above ambient concentrations generally occurring within the U.S., except around a few point sources. Several studies (*44–48*) on the effects of NO_2 alone on vegetation have failed to show plant injury at concentrations below 2 ppm for short-term exposures. For long-term exposures, such as a growing season, the lowest concentration reported to depress growth is approximately 0.25 ppm. (*43*) The concentrations which produced injury or impaired growth in these studies are higher than those which would be expected to occur in the atmosphere for extended periods of time in areas attaining a 0.053 ppm annual standard.

In regard to vegetation effects from NO_2 in combination with other pollutants, plant responses to pollutant mixtures appear to vary with concentration, ratio(s) of pollutants, sequence of exposure, and other variables. Studies examining exposure to NO_2 and SO_2 as well as to O_3 and SO_2 (*49*), (*50*) have shown that the synergistic response is most pronounced near the threshold doses of the gas combinations tested and that, as concentrations increase beyond the threshold doses, the synergistic response diminishes, often becoming additive, or in some cases, antagonistic. Therefore, although the limited evidence available indicates that low levels of NO_2 and SO_2 can have a synergistic effect, this type of response is extremely variable and has not been sufficiently documented as to low-level effects. CASAC concurred with EPA's judgment that the data do not suggest significant effects of NO_2 on vegetation at or below current ambient levels and that an annual standard of 0.053 ppm would

provide sufficient protection against significant effects on vegetation.

In regard to visibility impairment due to NO_2, the scientific evidence indicates that light scattering by particles is generally the primary cause of degraded visual air quality and that aerosol optical effects alone can impart a reddish brown color to a haze layer. Thus while it is clear that particles and NO_2 contribute to brown haze, the CASAC concurred with EPA's judgment that the quantitative relationships between NO_2 concentrations and visibility impairment useful in selecting the level of a secondary standard based on visibility have not been sufficiently established.

Finally, while NO_2 has been qualitatively associated with materials damage, CASAC concurred with EPA's judgment that the available data do not suggest major effects of NO_2 on materials for concentrations at or below the current annual standard of 0.053 ppm.

Based on an evaluation of symptomatic effects in humans, vegetation damage, visibility impairment, and materials damage and the levels at which these effects are observed, it is EPA's judgment that the current annual standard provides adequate protection against both long- and short-term welfare effects and that there is no need for a different secondary standard. For these reasons, EPA proposes to retain the secondary standard with the same level, and averaging time as the primary standard.

Form of the Standards

EPA proposes to retain the current form of the primary and secondary NAAQS for NO_2 which specifies that the annual arithmetic average must not exceed 0.053 ppm (100$\mu g/m^3$). However, EPA is considering changing the form of the standards to a statistical form and using the available annual arithmetic averages from the last three years of data to determine compliance. This would mean that the standards would be expressed as an expected annual arithmetic average (i.e., the expected annual average would be determined by averaging the annual arithmetic averages available from several years of data). EPA has previously promulgated or proposed changing from deterministic to statistical forms for the ozone and carbon monoxide standards, both of which have short-term (less then 24-hour) averaging times (44 FR 8202, 45 FR 55066).

This alternative is being considered because the current deterministic form of the standards does not fully take into account the random nature of meteorological variations. In general, annual mean NO_2 concentrations will vary from one year to the next, even if precursor emissions remain constant, due to the random nature of meteorological conditions which affect the formation and dispersion of NO_2 in the atmosphere. This means that with the deterministic form compliance with the standard, and consequently emission control requirements, may be determined on the basis of a year with unusually adverse weather conditions. At the same time, it should be noted that the problem of year to year variability is much less significant for annual average concentration standards than for short-term standards.

A change to a statistical form annual average standard could result in a slightly less stringent standard. This is because control measures would be determined by the average of the annual arithmetic averages available from up to three years of data rather than the single highest annual average in that period. While this difference would probably be small, it is of concern in assessing the health protection afforded by the primary standard and would be considered in choosing the level of the annual standard if EPA decided to restate it in a statistical form.

While EPA does not propose to make a change in the form of the NO_2 standards at this time, comments are solicited from the public on the form of the standards and the desirability of using the average of the available annual arithmetic mean concentrations from the last three years of data for determining attainment of the NO_2 primary and secondary standards.

EPA is proposing to make some minor changes in the Part 50 regulations concerning the NO_2 standards. These include restating the NO_2 primary and secondary standards to improve understanding by the public and explicitly adding a rounding convention to aid in the interpretation of the standards by State and local air pollution agencies.

Significant Harm Levels

Section 303 of the Clean Air Act authorizes the Administrator to take certain emergency actions if pollution levels in an area constitute "an imminent and substantial endangerment to the health of persons." EPA's regulations governing adoption and submittal of SIP's contain a provision (40 CFR 51.16) that requires the adoption by States of contingency plans to prevent ambient pollutant concentrations from reaching specified significant harm levels. The existing significant harm levels for NO_2 were established in 1971 (36 FR 24002) at the following levels:

2.00 ppm (3750 $\mu g/m^3$)— 1-hour average

0.50 ppm (937 $\mu g/m^3$)—24-hour average

On the basis of EPA's reassessment of the early data and assessment of more recent scientific evidence, no modifications are being proposed to the existing significant harm designations. EPA has assessed the medical evidence on exposure to higher NO_2 concentrations that could lead to significant harm. This assessment can be found in Chapter 15 of the Criteria Document. Table 15–3 of the Criteria Document indicates the types and levels of effects reported for exposure to high levels of NO_2.

Regulatory and Environmental Impacts

Regulatory Impact Analysis

As has been noted, the Clean Air Act specifically requires that NAAQS be based on scientific criteria relating to the level that should be attained to protect public health and welfare adequately. The courts (*1*), (*2*) have interpreted the Act as excluding any consideration of the cost or feasibility of achieving such a standard in determining the level of the ambient standards. However, to comply with Executive Order 12291, EPA must judge whether a regulation is a "Major" regulation for which a regulatory impact analysis (RIA) is required. The Agency has judged the NO_2 NAAQS proposal to be a major action, and, therefore, has analyzed the costs and benefits associated with attainment of alternative ambient NO_2 standards. In view of the court decisions mentioned above, EPA's analysis, "Regulatory Impact Analysis of the National Ambient Air Quality Standard for Nitrogen Dioxide (Draft)," has not been considered in issuing this proposal and will not be considered in final action on this proposal. The document is available from the address given above in the Availability of Related Information section of this notice. A final RIA will be issued at the time of promulgation.

Both the RIA and this proposal were submitted to the Office of Management and Budget (OMB) for review under Executive Order 12291. Any comments from OMB and any EPA responses to those comments are available for public inspection at EPA's Central Docket Section, Docket No. OAQPS 78–9, West Tower Lobby, Gallery I, Waterside Mall, 401 M Street, S.W., Washington, D.C.

The draft RIA contains estimates of the projected costs of alternative control

strategies associated with attainment of alternative annual standards and the projected number of urban areas exceeding alternative annual standard levels. EPA's approach to addressing benefits in the RIA focuses on reductions in exposure to short- and long-term NO_2 concentrations that are expected upon attainment of alternative annual standards. Several simplifying assumptions were made so that exposure estimates could be produced for the RIA. EPA is in the process of preparing an exposure analysis report based on the "NAAQS Exposure Model" (NEM) (*51*) which will provide exposure estimates for two urban areas based on fewer simplifying assumptions. That document will be completed and submitted to the public docket (OAQPS 78–9) prior to promulgation. Finally, the draft RIA contains estimates of the incremental cost per exposure reduction associated with attainment of alternative annual standards.

The cost and economic analysis section of the RIA is a hypothetical analysis using generalized data. Because of the complex nature of the task and wide scope of the problem, the analysis cannot be as specific as those performed by States in their SIP development process. Thus, results of the RIA can only be used in a qualitative sense and cannot be used to determine the actual attainment status of an area or the control strategies that should be implemented in a non-attainment area. The analysis predicts that only a few areas of the United States may have ambient levels near or above the proposed 0.953 ppm NO_2 NAAQS. By 1990, depending upon the assumptions used, the RIA estimates that between zero and two urban areas will need controls beyond the federal motor vehicle control program (FMVCP) for cars and trucks. These additional controls could be a motor vehicle inspection and maintenance (I&M) program or retrofit controls for utility or commercial boilers. Net annualized 1990 costs of adding these controls are estimated to be $40–$210 million in constant 1980 dollars. These costs are in addition to approximately $1,970–$2,100 million per year required for the NO_x portion of the FMVCP, and in addition to almost $150–$245 million per year incurred by industry to meet NO_x new source performance standards (NSPS). FMVCP and NSPS expenditures are not directly related to a NO_2 NAAQS, and therefore do not vary with the alternative ambient standards investigated.

Environmental Impacts

Environmental impacts associated with control of NO_x emissions have been examined in a draft environmental impact statement (EIS) that is available in the docket (OAQPS 78–9, II–A–6). The EIS indicates that controlling NO_x emissions probably results in biological, ecosystem, and esthetic benefits.

Impact on Small Entities

The Regulatory Flexibility Act requires that all federal agencies consider the impacts of final regulations on small entities, which are defined to be small businesses, small organizations, and small governmental jurisdictions (5 U.S.C. 601 et seq.). EPA's analysis pursuant to this Act is summarized in a section of the draft report, "Cost and Economic Assessment of Regulatory Alternatives for NO_2 NAAQS." An NAAQS for NO_2 by itself has no direct impact on small entities. However, it forces each State to design and implement control strategies for those areas not in attainment. Three possible sources of impacts on small entities include (1) the FMVCP for cars and trucks, (2) the I&M program, and (3) the stationary source control program.

FMVCP requirements fall primarily on automobile manufacturers, none of which are classified as small businesses. Additionally, the incremental cost of NO_x control, which is passed on to purchasers of motor vehicles—including small entities—is a small fraction of the purchase price and, thus, the impact to these purchasers should be negligible.

An I&M program for NO_x control may have a slight negative economic impact on small entities, but it may also have a positive economic impact on some small entities. The estimated per vehicle average annual cost for an NO_x I&M program is expected to be less than $25 for a failed vehicle and $0.50 for a passed vehicle. These costs should not impose a significant negative economic impact on small entities. On the other hand, some small entities, such as gas stations and garages will be repairing failed vehicles resulting in a net increase in receipts due to an NO_x I&M program. In addition, if a decentralized I&M program is implemented using small businesses to inspect motor vehicles, then their net receipts will also increase due to receipt of the inspection fee, most of which they retain. (The remainder goes to the governmental unit sponsoring the area-wide I&M program.)

Finally only the largest stationary source NO_x entities hypothetically need to implement controls to attain an annual NO_2 standard. These large entities are among the largest facilities within their standard industrial class, and therefore are not likely to be small entities.

Based on the analysis summarized above, EPA concludes that no small entity group will be significantly negatively affected due to reaffirmation of the 0.053 ppm NO_2 NAAQS. Therefore, pursuant to 5 U.S.C. 605(b) the Administrator certifies that this regulation will not have a significant economic impact on a substantial number of small entities.

Impact on Reporting Requirements

There are no reporting requirements directly associated with an ambient air quality standard promulgated under section 109 of the Clean Air Act (42 U.S.C. 7409). There are, however, reporting requirements associated with related sections of the Act, particularly sections 107, 110, 160, and 317 (42 U.S.C. 7407, 7410, 7460, and 7617). EPA anticipates that this proposal will not result in any significant changes in these reportng requirements since it would retain the existing level and averaging times for the primary and secondary standards.

Revisions to Part 50 Regulations

In proposing to reaffirm the annual NO_2 standards, EPA has proposed some minor revisions to Part 50 which are described above in the section Form of the Standards.

Part 51 Regulations and SIP Development

Part D of the Clean Air Act Amendments of 1977 required States to submit revisions to their State implementation plans (SIP's) by January 1, 1979 which provided for attainment of the ambient air quality standards that were not being attained as of the date of those Amendments. Currently, there are several counties in each of three major metropolitan areas (Los Angeles, Chicago, and Denver) that are classified in whole or part as being "nonattainment" for NO_2. Since today's action proposes a reaffirmation of the NO_2 ambient standards upon which the 1979 NO_2 SIP's were based, this action will not alter any requirements of those Part D SIP's.

Federal Reference Method

The measurement principle and calibration procedure applicable to reference methods for measuring ambient NO_2 concentrations to determine compliance with the standards are not affected by this proposal. The measurement principle and the current calibration procedure

are set forth in Appendix F of 40 CFR Part 50. Reference methods—as well as equivalent methods—for monitoring NO_2 are designated in accordance with 40 CFR Part 53. A list of all methods designated by EPA as reference of equivalent methods for measuring NO_2 is available from any EPA Regional Office, or from EPA, Department E (MD-76), Research Triangle Park, N.C. 27711.

Public Participation

Due to the many complex issues which developed as criteria document revision and standard reevaluation proceeded, EPA established a standard review docket on January 31, 1980 (45 FR 6958). With this proposal, the docket already established for criteria document revision (Docket No. ECAO-CD–78-2) is being incorporated in this standard review docket (Docket No. OAQPS 78–9).

As discussed earlier in this notice, EPA has solicited public comments on succesive drafts of the revised Criteria Document and on successive drafts of the OAQPS Staff Paper. Comments on the three drafts of the revised Criteria Document have been considered in the final document, issued simultaneously with this proposal. A summry of EPA's responses to these comments has been placed in the public docket (Docket No. OAQPS 78–9).

The Clean Air Scientific Advisory Committee (CASAC) of EPA's Science Advisory Board has held four public meetings (January 30, 1979; November 12–14, 1980; February 6, 1981; and November 18, 1981) to review various drafts of the revised Criteria Document and OAQPS Staff Paper. Transcripts of all four meetings are available in docket number OAQPS 78–9. The CASAC's June 19, 1981, closure letter (*6*) to the Administrator stated that the Criteria Document was scientifically adequate for standard-setting purposes. The CASAC's July 6, 1982, closure letter (*8*) to the Administrator stated that the revised OAQPS Staff Paper (*7*) was a balanced and thorough interpretation of the scientific evidence pertaining to NO_2. During August 1982, EPA released the final OAQPS Staff Paper (*7*) which reflects the various suggestions and comments made by CASAC and members of the public.

During the CASAC meetings mentioned above and afterwards, comments were received on a variety of issues related to the review of the NO_2 standards. These comments are summarized below and have been considered in the development of this proposal.

During the public review process the areas of greatest controversy centered on various aspects of the primary standard. Many of the health studies of potential relevance to the primary standards were criticized by both the CASAC and members of the public. In particular, some commenters saw the epidemiology studies conducted in Japan by Kagawa and Toyama (1975) (*29*) and in Chattanooga, Tennessee by Shy et al. (1970) (*3,4*) and Pearlman et al. (1971) (*5*) as providing only limited qualitative support for the view that NO_2 may affect lung function and/or the onset of respiratory illness in children. Their criticism was based primarily on problems associated with the collection of air quality data.

Several epidemiology studies assessing NO_2 exposures to people living in homes with gas stoves were carefully reviewed by CASAC and generated considerable public comment. Comments submitted by industrial representatives and individual scientists indicated that various uncontrolled factors (e.g., humidity, carbon monoxide, formaldehyde) may confound the results. In addition, CASAC concluded (*8*) that the Melia et al. studies (*30–33*) do not provide quantitative dose-response data for NO_2 exposures due to the absence of short-term NO_2 measurements in the residences of the subjects evaluated. Similarly, the Speizer et al. study (*34*) was criticized for its scarcity of short-term NO_2 monitoring data.

In trying to identify the lowest convincingly demonstrated health effects level, the CASAC focused primarily on the human controlled exposure studies. With respect to short-term exposures, the Committee concluded (*8*) that "none of the controlled human exposure studies offer definitive evidence that adverse health effects occur at levels below one part per million (ppm)." Two studies in particular which generated much public controversy were conducted by Orehek et al. (1976) (*26*) and Von Nieding et al. (1977).(*27*) These studies reported effects after short-term exposure of human subjects to 0.1 ppm NO_2 or less, but CASAC recommended that the studies "not be considered in establishing a lowest observed effect level." However, CASAC did recommend that these studies be used in judging which standard provides an adequate margin of safety.

After considering these factors, the CASAC advised EPA that, while no single study provides a basis for retaining or revising the primary standards for NO_2, an accumulation of evidence from animal toxicology, human clinical, and epidemiological studies furnishes both qualitative and quantitative support for such action. CASAC also concluded that any revised primary NO_2 standard(s) needs to protect against both short- and long-term effects. However, after reviewing data on the short-term peaks observed in areas meeting alternative annual standards under consideration, CASAC concluded that an annual average standard could provide protection against both short- and long-term exposures of concern. Further, CASAC recommended that the Agency maintain a primary annual standard for NO_2 at the lower end of the 0.05 to 0.08 ppm range to ensure an adequate margin of safety against both long-term and short-term health effects.

Regarding the secondary standard review, CASAC agreed with EPA that acidic deposition was such a complex issue that it should be evaluated separately in a critical assessment document. CASAC concurred with the OAQPS Staff Paper conclusion that an annual secondary standard in the 0.05 to 0.08 ppm range would provide sufficient protection against other adverse effects on the environment and public welfare.

In developing this proposal, EPA has carefully reviewed CASAC's comments and recommendations on the NO_2 standards review, which are summarized in the two closure letters (*6,*)(*8*) to the Administrator. Based on this review, EPA believes that this proposal is consistent with CASAC's recommendations and comments.

List of Subjects in 40 CFR Part 50

Air pollution control, Carbon monoxide, Ozone, Sulfur Oxides, Particulate matter, Nitrogen dioxide, Lead.

Dated: February 17, 1984.

William D. Ruckelshaus,

Administrator.

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PART 50—NATIONAL PRIMARY AND SECONDARY AMBIENT AIR QUALITY STANDARDS

For the reasons set forth in the preamble, EPA proposes to amend Title 40, Chapter I, Part 50 of the Code of Federal Regulations as follows:

1. 40 CFR Part 50 is amended by revising § 50.11 to read as follows:

§ 50.11 National primary and secondary ambient air quality standards for nitrogen dioxide.

(a) The level of the national primary ambient air quality standard for nitrogen dioxide is 0.053 parts per million (100 micrograms per cubic meter) for an annual arithmetic mean concentration.

(b) The level of the national secondary ambient air quality standard for nitrogen dioxide is 0.053 parts per million (100 micrograms per cubic meter) for an annual arithmetic mean concentration.

(c) The levels of the standards shall be measured by:

(1) A reference method based on Appendix F and designated in accordance with part 53 of this Chapter, or

(2) An equivalent method designated in accordance with part 53 of this Chapter.

(d) The standards are attained when the annual arithmetic mean concentration is less than or equal to 0.053 ppm, rounded to three decimal places (fractional parts equal to or greater than 0.0005 ppm should be rounded up).

(42 U.S.C. 7408)

[FR Doc. 84-4813 Filed 2-22-84; 8:45 am]
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H.J. Res. 290/Pub. L. 98–218

To permit free entry into the United States of the personal effects, equipment, and other related articles of foreign participants, officials, and other accredited members of delegations involved in the games of the XXIII Olympiad to be held in the United States in 1984. (Feb. 17, 1984; 98 Stat. 10) Price: $1.50

H.R. 2898/Pub. L. 98–219

To declare certain lands to be held in trust for the benefit of the Paiute Indian Tribe of Utah, and for other purposes. (Feb. 17, 1984; 98 Stat. 11) Price: $1.50

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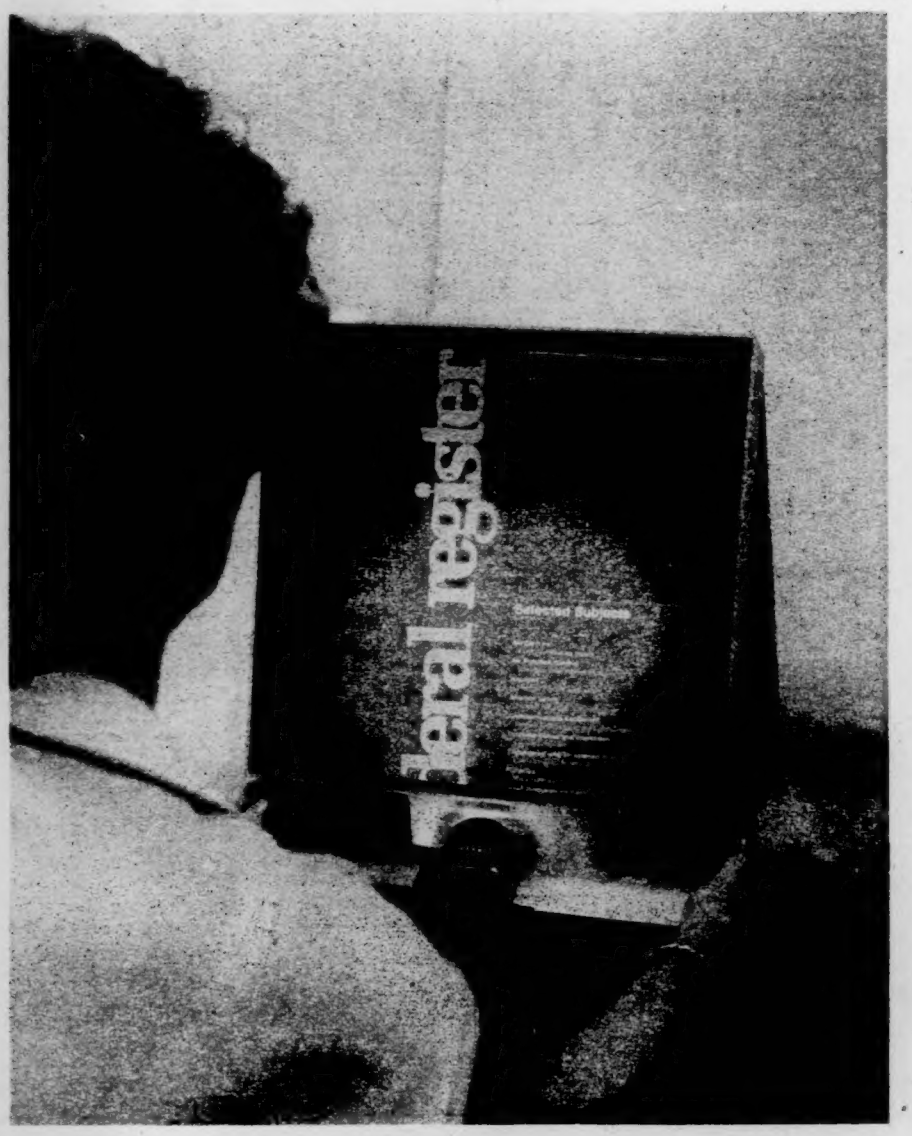

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